

THE
JERUSALEM
TALMUD

A Translation and Commentary

ON CD

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PREFACE

This multi-volume translation of the Talmud of the Land of Israel (Yerushalmi) combines a translation with commentary on the same twenty-eight tractates of the Mishnah that are also treated in the later Talmud of Babylon (Bavli), together with a translation of the remaining eleven tractates of Yerushalmi not treated in the Bavli. All thirty-nine tractates found in this work comprise a complete translation of Yerushalmi (less, of course, those tractates of the Mishnah not commented upon by Yerushalmi).

General Discussion of the Commentary on Twenty-Eight Tractates

Both the translation and the commentary re-presents the Talmud of the Land of Israel in a graphic manner, but the commentary more so as is described below, so as to render the document accessible to ordinary academic inquiry into the rationality and order of a document. My main purpose is to identify the completed units of discourse of the document, that is, the “compositions,” and to show how these are formed into larger groups or “composites”; to delineate the structure and sequence of composites, showing the logic that governs their order; and to underscore the principles of rationality and order that govern throughout. In this way I show how the document works—how it holds together and makes sense. I demonstrate that the Yerushalmi forms not a random collection of “this and that” but an orderly and purposive compilation, following rules of structure and setting forth a systematic logic. Specifically, the document reveals itself to form a commentary to the Mishnah and an amplification of the laws of the Mishnah, providing also topical appendices to amplify topics deemed relevant to the Mishnah. The composites in Yerushalmi that do not carry out those two purposes are few.

The orderly traits of the document emerge first of all in its formal structures. The analytical translation that is now complete marked the first step in the identification of those structures, and the visual commentary set forth here, the second. These attest to a cogent system that comes to express in an orderly manner. The goal of the commentary therefore is to set forth in a systematic and detailed manner the complete structure and governing system of the document’s tractates that provide Gemara to the twenty-eight Mishnah-tractates treated in the Talmud of Babylonia.

The Purpose of the Commentary

Not a mere introduction or topical presentation of information, this commentary, the first one ever addressed to the academy in particular, asks questions urgent here but not necessarily elsewhere. When the Yerushalmi is studied under other, native auspices, it is for the education of theoretical jurists, able to make informed and reliable decisions on complex problems of law. Here we ask a different set of questions, resting on a distinctive corpus of premises. Specifically, an academic commentary makes possible the utilization of that document not only in bits and pieces but in its entirety.¹² Here the first Talmud enters public, academic discourse concerning the study of questions of general intelligibility. It is given a standard reference system, no longer appearing as long columns of undifferentiated words. Its coherent and complete units of discourse are identified, so that we may first ask how the document is put together and then propose a theory of primary and secondary discourse covering the entirety of the pertinent tractates. This academic commentary means to present its main points in a simple way, principally through graphics that convey the information just now identified. But the promise that is set forth here for the definition of future research should not be missed.

Accordingly, the commentary everywhere pursues the same inquiry into the character of the document's composition, its composites and their construction into what I maintain is a highly disciplined and cogent formation. At any given passage in the document questions of documentary composition on the one hand, and intellectual context on the other, are addressed. What is at stake is access to the whole, viewed in detail. If we know in detail how the document works, meaning, its principles of formulation and composition on the one hand, and its governing program and modes of thought on the other, then through a labor of mediation we may find useful examples for the pursuit of generalizations of weight and consequence. For, its structure and system fully exposed, the document may make its contribution to the heritage of cases and instances of applied reason and practical logic in expression of a profound sense for rationality and order. And that is what I conceive to be the task of an academic commentary.

Other commentaries are abundant, and many, excellent for their manifest purposes. But after many centuries of generally-successful exegesis for the purpose of clarification of thought and determination of law from the time of its closure in the fifth century to our own day, the Talmud of the Land of Israel is ready to make the move into that larger world of public discourse concerning issues of the social order that, in their time and place, its framers—authors of its compositions, compilers of its compositions—proposed to address. That presentation requires an account of the coherence of the document—cogency that is both formal and intellectual—that has to this time not been fully grasped. Such an account has to specify the rules of composition, the laws of rhetoric, and the principles of cogent discourse that govern throughout. The Yerushalmi often appears meandering and

tedious. I want to know how someone can have purposively made it so: what goal did he achieve and what effect did he wish to create (whether aesthetic or intellectual) in laying matters out in this way, rather than in some other.

How the whole holds together at any one passage, then, requires explanation. Questions of structure pertain to how the document is put together and is so framed as to convey its framers' messages in consistent forms. The coherent formal program contains ample indication of the character and purpose of any given detailed analytical discussion. Questions of system concern the points of emphasis and current stress, the agenda that comes to expression in whatever topic is subject to analysis. The framers of the composites that comprise the document pursue a uniform analytical program throughout. Here too, they never leave us in doubt as to what they wish to discover or demonstrate. In the concluding chapter of each tractate, therefore, through the familiar procedure of an analytical outline of the whole tractate, this commentary aims at exposing in rich, complete, and accurate detail precisely how the compositors of the Yerushalmi make connections and draw conclusions. By explaining the coherence of the whole through the identification of the parts and the systematic specification of what links one part to another, I mean to show the Talmud of the Land of Israel for what it is: a document that—like all enduring works of intellect—in a monotonous voice says the same thing about many things.

That is not how the Talmud of the Land of Israel up to now has been understood within the processes of philological inquiry and phrase-by-phrase exegesis conducted in other than academic settings, in yeshivas and Jewish seminaries, for example. In that setting the Talmud of the Land of Israel serves as a source of information, opinion, and authoritative fact, but it is rarely perceived as a cogent and systematic statement overall. Issues of detail overwhelm concern for structure and order. The received exegetical tradition, essential in its theological and political setting of faith and useful also in the academic one, yields a mass of detail, but no coherent account formed of the details. People quote sayings but grasp little of their broader intellectual context. Setting forth bits and pieces while never gaining sight of the whole (and in recent times some even claiming there is no whole, only parts to be detached and reassembled as one likes), the received exegetical and philological tradition addresses few questions of serious academic concern. But it forms the basis for this next step in a centuries-old labor of mediation. On the successes of this past labor, we build. Responding to questions it did not address, we move forward.

The Character of the Commentary

The stakes now clear, we turn to the character of this commentary. The Talmud of the Land of Israel, completed ca. 400 C.E., is shaped as a commentary to the Mishnah, a philosophical law code completed ca. 200 C.E. It follows that Yerushalmi's definitive character as a commentary requires description, analysis,

and interpretation. Its further components, beyond Mishnah-commentary, have also to be identified and defined. The progress lies through a detailed, line-by-line rereading of the document, with a uniform program of questions always guiding our progress. Since Mishnah-exegesis defines the Yerushalmi's purpose, though not its character, we have to identify, and then frame our discussion around, the Talmud's definitive units of discourse, which are those organized around Mishnah-paragraphs.¹³ The commentary on Yerushalmi's structure then asks how the Mishnah-paragraph before us has been analyzed, and whether that analysis has then dictated the introduction of further discussion. The question of structural cogency is answered by the information produced by a description of the Yerushalmi as Mishnah-commentary. But the Talmud of the Land of Israel commonly moves beyond the limits of the Mishnah-paragraph that defines the starting point of its discussion.

The essential work of an academic commentary—showing how things cohere, when they do, or pointing out their incoherence, when they do not hold together—now comes into view. It is accomplished for twenty-eight of the thirty-nine tractates in the concluding chapter of each. Without that outline and the explanation of its coherence and anomalies, the commentary is only partial and occasional; with it, the commentary makes its full and, I believe, quite fresh statement about the tractate and its re-presentation in Yerushalmi. My task is to explain where that further discussion that the Talmud of the Land of Israel introduces has led us and, if we can, also to account for the cogency of the result. For the critical issue of structure centers upon coherence and cogency: the whole that is made up of the parts, and that, in this context, exceeds the sum of the parts. If we can explain how connections are made, then we can also describe those principles of reasoning that lead us to link this to that thing, but not to the other thing. And when we can define the principles of making selections and imputing connections, we also can identify bases for drawing the coherent conclusions from selecting those connections. That is to say, through the uniformities of selection, connection, and conclusion, we may define that governing system that the structure's cogency both supports and also expresses in formal language. That simple statement sufficiently explains the purpose of the academic commentary. It is a re-presentation to the academy of a document that, for many centuries more than the academy has existed, defined the social order of the community of the faith to which the writers addressed themselves.

In three summary-statements now in print, I have introduced each document of Rabbinic literature, including this one, and set forth the history of the formation of Judaism that all the documents seen as a whole reveal.¹⁴ The historical work, inclusive of the history of documents and the ideas set forth as systems therein, is complete, at least for now. A whole new set of problems comes to the fore. Here, therefore, I carry on a labor not of introduction and historical recapitulation but of analytical reconstruction. That is accomplished by moving the document into not

only the language but the visual idiom of our times. As I said, much of the contents of my commentary is conveyed through the way in which I place the text in paragraph form, the type faces that I use, and other manners of formal presentation. When working with large aggregates of material, I find graphic exegesis economical and efficient to make my points.

What are the specific points of interest here? Four important traits of the visual portrait of the Talmud of the Land of Israel as I present it in the commentary portions of this multi-volume set form the foundation of this work, because they define the units of coherent discourse and place them into documentary context. They call to the reader's attention the traits of structure that predominate, consistently, throughout the thirty-nine tractates of the Talmud of the Land of Israel. When we speak of "structure," we begin with a clear account of what is primary to a sustained discussion and what is secondary, and how the whole holds together. In the twenty-eight tractates with commentary, I indent what is secondary, and further indent what is tertiary and so forth. What is striking is that it is possible to indent as the discussion unfolds in its subordinated units and to work fairly systematically from the left to the right hand margin—a mark of the fact that the Yerushalmi is an exceedingly well-crafted document. I also indent and mark off interpolations, as will be readily discerned.

The Graphic Visual Signals of the Commentary

By these visual signals, I make possible the immediate recognition of the traits of the writing, seen both whole and in its component parts. These four visual signals form an integral part of my commentary. These concern sources, language, the specification of original compositions and the identification of the work of the compositors.

(1) The document comprises the Mishnah and the Gemara of Yerushalmi

To set off what is the text with which Yerushalmi is working, that is (Mishnah) from what is commentary (Gemara), I provide the Mishnah in bold typeface. I do the same with passages that occur in the Tosefta, the Mishnah's first and most important commentary, as well as in the three Tannaite compilations, *Sifra* and the two *Sifrés*. The twin-sources of all discussion therefore stand out.⁶⁵ The framers of the Talmud of the Land of Israel accomplished the same goal by framing their compositions and composites in language that set off their statements from the Mishnah's, or by signals that accomplished the same purpose, e.g., "Our rabbis have taught..." for formulations in Mishnah-language not found in the Mishnah, and similar ubiquitous signals of the prevailing distinction between text and commentary. (In Midrash-compilations the same distinction is uniformly drawn between Scriptural-verse and Midrash-commentary.)

(2) The Talmud of the Land of Israel is composed in two languages (at least), Hebrew and Aramaic

Passages in Hebrew are in Roman type; passages in Aramaic, in italics. This allows one to see very quickly how the framers have used language as a means of signaling where we stand at any given point.¹⁶ In this way the taxonomic power of language in a multi-lingual document becomes apparent.

(3) The Talmud of the Land of Israel is made up of composites that are formed out of compositions.

A composition is a complete and coherent statement, containing everything we need to understand the intent of the author(s). A composite is a construction of two or more compositions, in which the formation and juxtaposition of completed thoughts serve to hold together a variety of propositions in a single coherent statement. To show what I take to be compositions, I have marked each smallest whole unit of thought (that is, a sentence) with a letter, A, B, C, then signaled with an Arabic numeral what I hold is a complete set of such smallest whole units of thought to make a single cogent point. Thus I.A. signals the opening sentence of a complete, cogent statement (that is, a paragraph). A sequence of such cogent statements that itself imposes sense and meaning upon all of the statements (that is, a propositional construction) then is given a Roman numeral. Thus I.1.A. is the first sentence of a paragraph, and the paragraph is the first component of a proposition.¹⁷

(4) The Talmud includes further defining statements.

The Yerushalmi includes compositions and composites that do not play a role in the exposition of a cogent thought set forth as Mishnah-commentary or propositional composition, but that do supply important data for the advancement of the purposes of the framers of a commentary or a composition or a composite. That is a somewhat abstract way of referring to what in our own day we know as footnotes and appendices. This systematic indentation to mark what is inserted or tacked on forms a considerable medium for my message. The most important novelty of this commentary consists in what I set forth through the graphics of the presentation. Much therefore is at stake in the systematic indentation that carries out the shank of the commentary. It should be noted that this extra indentation is not provided in the translation of the eleven tractates of Yerushalmi that are not also treated in the Talmud of Babylonia.

In this work a footnote adds information that is relevant to a proposition but that in the context of an exposition would interrupt the flow of the statement. An appendix sets forth a sizable block of information that the author deems necessary to the presentation, but that can find no economical location in the shank of a book. Since the authors of compositions and the framers of composites did not possess the technical capacity for subordinating information into footnotes or

appendices, they inserted into the body of their text materials that interrupt the exposition at hand. To show what I take to be necessary but disruptive formations, I indent a composition or even a whole composite, so indicating in a clear, visual way what is primary to a composite (or composition) and what is secondary or even tertiary. I discovered the systematic intrusion of what we should now call footnotes and appendices only late in my work of translation, and in the commentary I systematically introduce into the presentation of the Yerushalmi all of the necessary indicators. That permits us to see with great perspicacity the precise components of a given composite and how they are put together.¹⁸ The outline at the end of each tractate that is provided with commentary sets forth the results all together in one place, and the conclusions to be drawn concerning structure and system emerge with great clarity.

Since critical to this commentary is the identification of the structure of discussion and the specification of what is primary and what is secondary, as explained above, I have introduced throughout an entirely fresh system of visual presentation, involving successive indentations and other signals of what is subordinate or intrusive. These concern my conception of the way in which the document is composed. The introduction of the system of indentations of secondary and subordinated compositions utilized by composites marks the present work as completely new, beginning to end.

Translations into English

Until now the only complete English translation is this writer's *Talmud of the Land of Israel. A Preliminary Translation and Explanation* (35 vols.; Chicago: University of Chicago Press, 1984–1995). Tractates in that translation were contributed by Tzvee Zahavy (*Berakhot*), Roger Brooks (*Peah* and *Ma'aser Sheni*), Richard S. Sarason (*Demai*), Irving Mandelbaum (*Kilayim*), Alan J. Avery-Peck (*Shebi'it* and *Terumot*) Martin Jaffee (*Ma'aserot*), B. Barry Levi (*Megillah*), and Edward Goldman (*Rosh Hashanah*). I translated *Hallah*, *'Orlah*, and *Bikkurim* and all the tractates of the second, third, and fourth divisions except *Megillah* and *Rosh Hashanah*.

A set of corrections of the preliminary translation may be found in my *In the Margins of the Yerushalmi: Glosses on the English Translation* (BJS 55; Chico, Calif.: Scholars Press, 1984).

The University of Chicago Press gave me permission to reproduce, in my *Talmud of the Land of Israel. An Academic Commentary* (28 vols.; Atlanta, Ga.: Scholars Press, 1998–1999, [now Lanham, Md.: University Press of America]), *Berakhot* and all of the second, third, and fourth divisions and *Niddah* in the sixth division of the Yerushalmi.

This edition reproduces the English translations of the second, third, and fourth divisions of *The Talmud of the Land of Israel. A Preliminary Translation and Explanation* and *Berakhot* in the first division and *Niddah* in the sixth division as these appeared in the tractates of the academic commentary, and it contains my fresh translations of the first division of the Yerushalmi. To prepare the translation of Yerushalmi *Peah*, *Demai*, *Kilayim*, *Shebi'it*, *Terumot*, *Ma'aserot*, *Ma'aser Sheni*, *Hallah*, *'Orlah*, and *Bikkurim* I consulted the tractates of the first division published in *Talmud of the Land of Israel: A Preliminary Translation and Explanation*.

Translations of the Hebrew Bible are the authors own unless marked RSV.

Acknowledgments

I did most of the work on the twenty-eight tractates with commentary at the University of South Florida. No work of mine can omit reference to the exceptionally favorable circumstances in which I conducted my research as Distinguished Research Professor in the Florida State University System at the University of South Florida. Other parts of the work on the tractates with commentary were carried out at Bard College, Annandale-on-Hudson, New York, which provided an important research grant; and at the University of Göttingen in Germany, where I was Von Humboldt Research Professor for the summer semester of 1995. The eleven tractates translated without commentary have been carried out at Bard College. I thank these centers of higher learning for their nurture of my work.

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Endnotes

- ^{ft1} This commentary was part of a larger effort to compare and contrast the common tractates found in the Yerushalmi and the Bavli. These are found in Jacob Neusner, *The Two Talmuds Compared* (3 vols.; SPSFS; Atlanta, Ga.: Scholars, 1997).
- ^{ft2} I have already conducted a systematic comparison of the two Talmuds in *The Bavli's Unique Voice: A Systematic Comparison of the Talmud of Babylonia and the Talmud of the Land of Israel* (7 vols.; Scholars Press for South Florida Studies in the History of Judaism; Atlanta, Ga.: Scholars, 1993).
- ^{ft3} These are, in general, to be divided into two types, sources and traditions, as I have defined the basic taxonomy of types of compositions of the Bavli in Jacob Neusner, *Sources and Traditions: Types of Composition in the Talmud of Babylonia* (SFSHJ; Atlanta, Ga.: Scholars, 1992). Note also the following: idem., *The Bavli's One Voice: Types and Forms of Analytical Discourse and their Fixed Order of*

Appearance (SFSHJ; Atlanta, Ga.: Scholars, 1991); idem., *The Bavli's Massive Miscellanies: The Problem of Agglutinative Discourse in the Talmud of Babylonia* (SFSHJ; Atlanta, Ga.: Scholars, 1992); idem., *Mishnah Commentary, its Rhetorical Paradigms and their Theological Implications in the Talmud of Babylonia Tractate Moed Qatan* (SFSHJ; Atlanta, Ga.: Scholars, 1992). I have provided a systematic and detailed account of the other theories, both earlier and contemporary, of the same matter in idem., *The Modern Study of the Mishnah* (Leiden: Brill, 1973) and idem., *The Formation of the Babylonian Talmud: Studies on the Achievements of Late Nineteenth and Twentieth Century Historical and Literary-Critical Research* (Leiden: Brill, 1970) In addition, my discussion of the literary-historical and exegetical theories of David W. Halivni, in addition to the treatment of his work in those two volumes, is presented in my *Sources and Tradition*. Note also the section edited by me concerning Halivni's ideas in comparison to those of Shamma Friedman in William Scott Green, *Law as Literature* (*Semeia* 27; Chico, Calif.: Scholars, 1983).

^{ft4} Jacob Neusner, *Introduction to Rabbinic Literature* (ABRL; New York: Doubleday, 1994); idem., *Rabbinic Judaism: The Documentary History of the Formative Age*. Bethesda, Md: CDL, 1994); and idem, *Rabbinic Judaism: Its Structure and its System in the Formative Age*. Minneapolis: Fortress Press, 1995).

^{ft5} The relationship of the Tosefta to the Mishnah is systematically set forth in Jacob Neusner, *History of the Mishnaic Law* (43 vols.; Leiden: Brill, 1974–1985), in great detail in connection with the Division of Purities, then briefly, through a rapid, shorthand system, for the other divisions I cover. My students' presentation of the Division of Agriculture does so thoroughly and in great detail as well. I have not addressed the problem of the baraita-formulations, that is, statements of the law in the language and model of statements now located in the Mishnah or in the Tosefta. These are identified for us by the sages' system, which attaches some combination or other of TNY to those statements, e.g., TN' or TNY' or TNW RBBNN and the like. It may have made sense to put these formulations into bold face type as well, but I am not certain that they derive from the same circles of formulation and presentation as stand behind the Mishnah, on the one side, and the Tosefta, on the other, and I have no theory on where and how these discrete sentences circulated. Since they are already clearly marked off, and since, like the Tosefta, most of these statements appear to depend for context and meaning on the Mishnah, they form part of that same "first Talmud" to the Mishnah that the Tosefta sets forth for us, as I argue in Jacob Neusner, *The Bavli That Might Have Been: The Tosefta's Theory of Mishnah-Commentary Compared with that of the Babylonian Talmud* (SFSHJ; Atlanta, Ga.: 1990).

^{ft6} I have explained this matter in Jacob Neusner, *Language as Taxonomy: The Rules for Using Hebrew and Aramaic in the Babylonian Talmud* (SFSHJ; Atlanta, Ga.: Scholars, 1990).

^{ft7} I first defined these points of analytical distinction among the components of a composition and composite—the counterpart to sentences, paragraphs, and chapters—in a thorough and theoretical framework in Jacob Neusner, *A History of the*

Mishnaic Law of Purities: The Redaction and Formulation of the Order of Purities in the Mishnah and Tosefta–XXI (43 vols.; Leiden: Brill, 1977).

^{fn8} This matter is spelled out in *The Rules of Composition of the Talmud of Babylonia: The Cogency of the Bavli's Composite* (SFSHJ; Atlanta, Ga.: Scholars, 1991).

GENERAL INTRODUCTION

Identifying Yerushalmi within Rabbinic Literature

A Talmud is formed by a law code and a discursive commentary to, and extension of, that code. There are two Talmuds. Both are constructed on the same law code, the Mishnah, which was compiled ca. 200 C.E. The earlier of these is the Talmud of the Land of Israel (also called the Jerusalem Talmud and commonly referred to as Yerushalmi), which was completed ca. 400 C.E. The later of the two is the Talmud of Babylonia (also called the Babylonian Talmud and commonly referred to as Bavli), which was completed ca. 600 C.E. Technically the commentary on the Mishnah that is supplied by each of the two Talmuds is called the Gemara but it is more commonly referred to simply as the Talmud.

The Mishnah is comprised by six massive topical expositions, each exposition subdivided into up to a dozen further sub-topics. The Mishnah's six divisions in order are "agriculture," "appointed times," "women," "damages (having to do with civil law)," "holy things," and "purities." The topical subdivisions found within the divisions are called tractates and there are sixty-two in all.

The Yerushalmi treats most of the tractates in the first four divisions of the Mishnah's six divisions, while the Bavli treats most of the tractates in the second through the fifth divisions. The laws of the first division ("agriculture") apply only in the Land of Israel, hence the earlier Talmud's interest in the matter and the later Talmud's neglect of it, though Bavli does treat the first of the tractates of the first division, *Berakhot*. But in the centuries in which both Talmuds took shape, there was no Temple either in the Land of Israel or in Babylonia, and why one Talmud (Bavli) treated the entire division of "holy things" and the other (Yerushalmi) ignored that topic is not clear. Both Talmuds take up one tractate of the sixth division, *Niddah*, which deals with the matters set forth in Leviticus 15.

As to the relationship between them, each Talmud is independent of the other. The two, for the most part, meet only at parts of the Mishnah. They do share some sayings attributed to authorities from the period after the Mishnah that are found in the Tosefta, a collection of supplements to the Mishnah as well as some sayings that float freely. What the earlier Talmud, the Yerushalmi, contributed to rabbinic literature was the definition of a Talmud in which received "facts" (traditions) were treated as active and consequential, requiring analysis and deep thought. Exegesis of the Mishnah in the Yerushalmi may take the form of (1) explanation of the

meaning, or (2) expansion upon the meaning, of a given passage. The later Talmud transformed thought into argument, subordinating “fact” to the fully-realized processes of dialectical argument and reasoning.

Both Talmuds—Yerushalmi and Bavli—are formed into commentaries to some of the same passages of the Mishnah. Both are laid out in the same way, that is, as ad hoc treatments of phrases or even whole paragraphs of the Mishnah. The two Talmuds are identical in form; species of a genus. Both Talmuds defined Mishnah-commentary in a distinctive way, through their active program of supplying not merely information about, but guidance on, its meaning: Both provide a program of inquiry, a set of consequential issues, in place of mere information. That program would, however, be fully realized only in the later of the two Talmuds.

The Historical Setting for Yerushalmi

The Judaism to which the Talmud of the Land of Israel (Yerushalmi) gives testimony forms one plank in the bridge that leads from antiquity to the beginning of the Middle Ages, from the Middle East to Europe, from the end of the classical age to the nascent moment of our own time and place. The Mishnah, completed in ca. 200 C.E., describes an orderly world, in which Israelite society is neatly divided among its castes, arranged in priority around the center that is the Temple, systematically engaged in a life of sanctification remote from the disorderly events of the day. It is a utopian system. The Yerushalmi, completed in ca. 400 C.E., portrays the chaos of Jews living among Gentiles, governed by a diversity of authorities, Roman and Israelite, lacking all order and arrangement, awaiting a time of salvation for which, through sanctification, they make themselves ready. The Mishnah’s Israel in imagination is governed by an Israelite king, high priest, and Sanhedrin. The Yerushalmi’s Jews lived under both rabbis near at hand who settle everyday disputes of streets and households, and also distant archons of a nameless state who must be manipulated and placated on earth as in heaven. The Mishnah’s Judaism breathes the pure air of public piazza and stoa, the Yerushalmi’s, the ripe stench of private alleyway and courtyard. The image of the Mishnah’s Judaism is evoked by the majestic Parthenon, perfect in all its proportions, conceived in a single moment of pure rationality. The Yerushalmi’s Judaism is a scarcely-choate cathedral in process, the labor of many generations, each of its parts the conception of diverse moments of devotion, all of them the culmination of an on-going and evolving process of revelation in the here and now.

The Mishnah and its legal system is Judaism’s counterpart to Plato’s *Republic* and Aristotle’s *Politics*, a noble theory of it all. When we study the Mishnah, we contemplate a fine conception of nowhere in particular, addressed to whom it may concern. When we turn to the Yerushalmi, we see a familiar world, as we have known it from that day to our own. So the Mishnah marks the end of the ancient and Near Eastern, the Yerushalmi the beginning of the modern and the Western (as well as the Near Eastern) epoch in the history of Judaism. That is why the Talmud

of the Land of Israel deserves attention, in the setting not only of the history of Judaism but also of the formation of the civilization of the West in the period from about 200 to 400 C.E., to which this Talmud attests.

The Talmud of the Land of Israel testifies to the existence of a coherent world view and way of life embodied in a distinct and distinctive society or estate, of Jews: the rabbis—masters and disciples—of the third and fourth century in the Land of Israel. Before us in the Yerushalmi is not a complete system of Judaism, contained in a single document. The Yerushalmi is not like the Mishnah, which provides a full and exhaustive account of its system and its viewpoint. Whatever we know about the Mishnah's system is in that book itself. The Judaism to which the Yerushalmi testifies defines the matrix in which, among other documents, the Yerushalmi came into being. But the Yerushalmi does not constitute the sole important corpus of evidence about that kind of Judaism. Nor is there a single document that expresses that whole.

In this regard as in many other ways, the Yerushalmi and the Mishnah are really not comparable to one another. The Yerushalmi is continuous with the Mishnah. But the character of the document, and therefore also the world to which its evidence pertains, presents us with a mirror-image of the Mishnah. The first and most important difference, as I said, is simply that the Mishnah, brought to closure at ca. 200 C.E., constitutes the only document deriving from the period in which it took shape. By contrast, materials of the Yerushalmi often intersect with materials in other such documents, such as the Tosefta and the early precedents to Babylonian Talmud. For the Mishnah, the sole point of intersection is with the Tosefta, but even that compilation is demonstrably later than the Mishnah and dependent upon it for structure, for organization, for style, and for subject matter. Accordingly, the Judaism in the Talmud of the Land of Israel is not the Judaism only of that book, in the same way in which the Judaism to which the Mishnah testifies is, expressed within the Mishnah, whole and complete.

The Program of the Yerushalmi

When we speak of “the Yerushalmi,” it is because the document, while drawing on a variety of voices, presents a single message. To appreciate what that means, we must remember that the Yerushalmi is broken up into multiple brief discourses, discussions of the meaning and sense of the phrases and sentences of the Mishnah. Nearly every discourse—perhaps 90% of the whole—of the Yerushalmi addresses one main point: the meaning of the Mishnah. For the Yerushalmi, the life of Israel reaches the level of analysis within the integument of the Mishnah. That is to say, the Mishnah is about life, while the Yerushalmi is about the Mishnah. Accordingly, the traits of the Mishnah defined the problematic, of both intellect and politics, confronting the heirs of the Mishnah, the disciples of the final generation of the

Mishnah's redaction and formulation onward. They, for their part, set the patterns that followed, treating the Mishnah as Torah, proposing to receive and realize its revelation. But then how can people make a statement of their own, when their focus is upon the statements of others made prior to themselves?

The reason is simple. The Yerushalmi speaks about the Mishnah in essentially a single voice, about fundamentally few things. Its mode of speech, as much as of thought, is uniform throughout. Diverse topics produce slight differentiation in modes of analysis. The same sorts of questions phrased in the same rhetoric—a moving, or dialectical, argument, composed of questions and answers—turn out to pertain equally well to every passage of the Mishnah; it generally takes up a single, not very complex or diverse, program of inquiry. The Yerushalmi also utilizes a single, rather limited repertoire of exegetical initiatives and rhetorical choices for whatever discourse about the Mishnah the framers of the Yerushalmi propose to undertake. Accordingly, as is clear, the Yerushalmi presents us with both a uniformity of discourse and a monotony of tone. The Yerushalmi speaks in a single voice. That voice by definition is collective, not greatly differentiated by traits of individuals. Individuals in the Yerushalmi, unlike those in the Mishnah, do not speak uniformly, but the differences are not marked.

The Yerushalmi identifies no author or collegium of authors. When I say that the Yerushalmi speaks in a single voice, I mean to say that it everywhere speaks uniformly, consistently, and predictably. The voice is the voice of a book, the voice of an author, the voice we hear when we read: one voice. The message is, however, one deriving from a community, the collectivity of sages or textual community for whom and to whom the book speaks. The document seems, in the main, to intend to provide notes, an abbreviated script which anyone may use to reconstruct and reenact formal discussions of problems: about this, one says that. Curt and often arcane, these notes can be translated for the modern reader only with immense bodies of inserted explanation. All of this script of information is public and undifferentiated, not individual and idiosyncratic. We must assume people took for granted that, out of the signs of speech, it would be possible for anyone to reconstruct speech, doing so in accurate and fully conventional ways.

The Yerushalmi is made up of “compositions,” complete in themselves, which have been formed into “composites” (for a more detailed explanation of these terms and how they are graphically displayed in the commentary portions, see the Preface. The framers of the document then resort to two distinct logics of coherent discourse to form of their materials whole and cogent documents. Philosophical logic ordinarily holds together into cogent paragraphs the discrete sentences of a given composition. The logic of fixed association then connects into protracted statements of a cogent character otherwise unrelated sequential sentences, and also joins into sizable compositions entire paragraphs that on their own, through their own propositions, in no way coalesce. The authorship of the document, in the

making of medium and large-scale logical connections, thus resorted to two distinct principles of cogent discourse: the one of propositional connection within completed units of thought, a connection discovered through the pursuit of reasoned speculative inquiry, and the second, the other of the fixed associative connection between and among those same completed units of thought, producing large-scale compositions. Sizable numbers of the completed units of thought find inner cogency through the development of a proposition concerning a given theme. Overall, these units of completed thought are linked to one another through the connections supplied for the Talmuds extrinsically by both the Mishnah and Scripture. The framers of the Talmud of the Land of Israel had in hand a tripartite corpus of inherited materials awaiting composition into a final, closed document. They took up materials, in various states and stages of completion, (1) pertinent to the Mishnah or to the principles of laws that the Mishnah had originally brought to articulation. They also had in hand received materials, again in various conditions, pertinent to the Scripture, (2) both as the Scripture related to the Mishnah and also (3) as the Scripture laid forth its own narratives.

The Two Talmuds When Independent of the Mishnah

The question has now to be asked, when do the Talmuds speak for themselves and not for the Mishnah? Second, what sorts of units of discourse contain such passages that bear what is “Talmudic” in the two Talmuds? These two questions produce the same answers for both Talmuds, allowing us to characterize in a single statement the topical or propositional program for both this Yerushalmi and the later Bavli.

(1) Theoretical questions of law not associated with a particular passage of the Mishnah.

In the Yerushalmi there is some tendency, and in the Bavli, a very marked tendency, to move beyond the legal boundaries set by the Mishnah’s rules themselves. More general inquiries are taken up. These of course remain within the framework of the topic of one tractate or another, although there are some larger modes of thought characteristic of more than a single tractate.

(2) Exegesis of Scripture separate from the Mishnah.

It is under this rubric that we find the most important instances in which both Talmuds present materials essentially independent of the Mishnah.

(3) Historical statements.

The Talmuds contain a fair number of statements that something happened, or narratives about how something happened. While many of these are replete with biblical quotations, in general they do not provide exegesis of Scripture, which serves merely as illustration or reference point.

(4) Stories about, and rules for, sages and disciples, separate from discussion of a passage of the Mishnah.

The Mishnah contains a tiny number of tales about rabbis. These serve principally as precedents for, or illustrations of, rules. The Talmuds by contrast contain a sizable number of stories about sages and their relationships to other people.

When the Talmuds present us with ideas or expressions of a world related to, but fundamentally separate from, that of the Mishnah, that is, when the Talmuds wish to say something other than what the Mishnah says and means, they will take up one of two modes of discourse. Either we find exegesis of biblical passages, with the value system of the rabbis read into the Scriptural tales; or we are told stories about holy men and paradigmatic events, once again through tales told in such a way that a didactic and paranetic purpose is served. It follows that the Talmuds are composites of three kinds of materials: (a) exegeses of the Mishnah (and other materials classified as authoritative, that is, of the period of the Mishnah, called Tannaite), (b) exegeses of Scripture, and (c) accounts of the men who provide both types of exegeses.

Both Talmuds then constitute elaborate reworkings of the two antecedent documents: the Mishnah, which lacks much reference to Scripture, and the Scripture itself. The Talmuds bring the two together into a synthesis of their compilers' own making, both in reading Scripture into Mishnah, and in reading Scripture alongside of, and separate from, Mishnah.

If, therefore, we want to point to what is Talmudic in either of the two Talmuds it is the exegesis of Scripture, on the one side, and the narration of historical or biographical tales about holy men, on the other. Since much of the biblical exegesis turns upon holy men of biblical times, we may say that the Talmuds speak for themselves alone, as distinct from addressing the problems of the Mishnah, when they tell about holy men now and then. But what is genuinely new in the Talmuds, in comparison and contrast to the Mishnah, is the inclusion of extensive discourse on the meaning imputed to Scripture.

It follows that the two Talmuds stand essentially secondary to two prior documents: Mishnah, on the one hand, and Scripture, on the other. The Mishnah is read in the Talmuds pretty much within the framework of meaning established by the Mishnah itself. Scripture is read as an account of a world remarkably like that of the rabbis of the Talmuds. When the rabbis speak for themselves, as distinct from the Mishnah, it is through exegesis of Scripture. But any other mode of reading Scripture, to them, would have been unthinkable. They took for granted that they and Scripture's heroes and sages lived in a single timeless plane. So far, in the history of human civilization, they are right.

ABBREVIATIONS

General

b.	<i>ben</i> , son (of)
B.	Babylonian Talmud
B.C.E.	before the common era
BJS	Brown Judaic Studies
ca.	circa
C.E.	common era
e.g.,	<i>exempli gratia</i> , for example
i.e.,	<i>id est</i> , that is
M.	Mishnah
R.	Rabbi
SFSHJ	Scholars Press for South Florida Studies in the History of Judaism
T.	Tosefta

Books of the Bible

1–2 Chr.	1–2 Chronicles
1–2 Kgs.	1–2 Kings
1–2 Sam.	1–2 Samuel
Am.	Amos
Dan.	Daniel
Deut.	Deuteronomy
Eccl.	Ecclesiastes
Esth.	Esther
Ex.	Exodus
Ezek.	Ezekiel
Ezra	Ezra
Gen.	Genesis
Hab.	Habakkuk
Hag.	Haggai
Hos.	Hosea

Isa.	Isaiah
Jer.	Jeremiah
Job	Job
Joel	Joel
Jon.	Jonah
Josh.	Joshua
Judg.	Judges
Lam.	Lamentations
Lev.	Leviticus
Mal.	Malachi
Mic.	Micah
Nah.	Nahum
Neh.	Nehemiah
Num.	Numbers
Ob.	Obadiah
Prov.	Proverbs
Ps(s).	Psalms(s)
Ruth	Ruth
Song	Song of Songs
Zech.	Zechariah
Zeph.	Zephaniah

Tractates of the Mishnah

<i>Abod. Zar.</i>	<i>Avodah Zarah</i>
<i>Abot</i>	<i>Avot</i>
<i>Arak.</i>	<i>Arakhin</i>
<i>B. Bat.</i>	<i>Bava Batra</i>
<i>B. Mes.</i>	<i>Bava Metzi'a</i>
<i>B. Qam.</i>	<i>Bava Qamma</i>
<i>Bek.</i>	<i>Bekhorot</i>
<i>Ber.</i>	<i>Berakhot</i>
<i>Besah</i>	<i>Betzah (= Yom Tov)</i>
<i>Bik.</i>	<i>Bikkurim</i>
<i>Demai</i>	<i>Demai</i>
<i>Ed.</i>	<i>Eduyyot</i>
<i>Erub.</i>	<i>Eruvin</i>
<i>Git.</i>	<i>Gittin</i>

<i>Hag.</i>	<i>Hagigah</i>
<i>Hal.</i>	<i>Hallah</i>
<i>Hor.</i>	<i>Horayot</i>
<i>Hul.</i>	<i>Hullin</i>
<i>Kelim</i>	<i>Kelim</i>
<i>Ker.</i>	<i>Keritot</i>
<i>Ketub.</i>	<i>Ketubbot</i>
<i>Kil.</i>	<i>Kil'ayim</i>
<i>Ma'as.</i>	<i>Ma'aserot</i>
<i>Ma'as. Sh.</i>	<i>Ma'aser Sheni</i>
<i>Mak.</i>	<i>Makkot</i>
<i>Maksh.</i>	<i>Makhshirin</i>
<i>Meg.</i>	<i>Megillah</i>
<i>Me'il.</i>	<i>Me'ilah</i>
<i>Menah.</i>	<i>Menahot</i>
<i>Mid.</i>	<i>Middot</i>
<i>Miqw.</i>	<i>Mikwa'ot</i>
<i>Mo'ed</i>	<i>Mo'ed</i>
<i>Mo'ed Qat.</i>	<i>Mo'ed Qatan</i>
<i>Nash.</i>	<i>Nashim</i>
<i>Naz.</i>	<i>Nazir</i>
<i>Ned.</i>	<i>Nedarim</i>
<i>Neg.</i>	<i>Nega'im</i>
<i>Nez.</i>	<i>Neziqin</i>
<i>Nid.</i>	<i>Niddah</i>
<i>Ohal.</i>	<i>Ohalot</i>
<i>Or.</i>	<i>Orlah</i>
<i>Parah</i>	<i>Parah</i>
<i>Pe'ah</i>	<i>Pe'ah</i>
<i>Pesah.</i>	<i>Pesahim</i>
<i>Qinnim</i>	<i>Qinnim</i>
<i>Qidd.</i>	<i>Qiddushin</i>
<i>Qod.</i>	<i>Qodashim</i>
<i>Rosh Hash.</i>	<i>Rosh HaShanah</i>
<i>Shabb.</i>	<i>Shabbat</i>
<i>Sanh.</i>	<i>Sanhedrin</i>
<i>Sheb.</i>	<i>Shevi'it</i>
<i>Shebu.</i>	<i>Shevu'ot</i>

<i>Seder</i>	<i>Seder</i>
<i>Sheqal.</i>	<i>Sheqalim</i>
<i>Sotah</i>	<i>Sotah</i>
<i>Sukkah</i>	<i>Sukkah</i>
<i>Ta'an.</i>	<i>Ta'anit</i>
<i>Tamid</i>	<i>Tamid</i>
<i>Tem.</i>	<i>Temurah</i>
<i>Ter.</i>	<i>Terumot</i>
<i>Tehar.</i>	<i>Teharot</i>
<i>T. Yom</i>	<i>Tevul Yom</i>
<i>Uq.</i>	<i>Uqtzin</i>
<i>Yad.</i>	<i>Yadayim</i>
<i>Yebam.</i>	<i>Yevamot</i>
<i>Yoma</i>	<i>Yoma</i>
<i>Zabim</i>	<i>Zavim</i>
<i>Zebah.</i>	<i>Zevahim</i>
<i>Zera.</i>	<i>Zera'im</i>

TRACTATE

BERAKHOT

Berakhot or “blessings” deals with (1) declaring the Shema or creed, (2) reciting the prayer, (3) blessings recited on the occasion of enjoying the benefits of creation including communal meals and their protocol, and (4) blessings on exceptional occasions. The law of *Berakhot* bears no direct connection to the Torah, though it cites or systemically encompasses passages thereof, for instance, the Shema invokes Deut 6:4–9. The order of topics is simple and logical, following the natural sequence of the day, from formal worship, to conduct in connection with eating, to other occasions of worship. We have, then, a handbook of practical piety. The sequence within each unit moves from general to particular, with rules of broad applicability to special cases.

I. The Declaration of the Creed (the Shema)

- A. Reciting the Shema, evening and morning
- B. The attitude and the manner in which one recites the Shema: to carry out one’s obligation to do so
- C. Those exempt from the obligation to recite the Shema and certain other obligatory prayers

II. Reciting the Prayer

- A. Reciting the Prayer, morning and evening
- B. The correct attitude for reciting the Prayer
- C. Inclusion of prayers for special occasions in the recitation of the Prayer
- D. Inclusion of votive prayers in the recitation of the Prayer: errors in the recitation of the Prayer

III. Blessings recited on the occasion of enjoying the benefits of creation.

- A. The requirement to recite blessings
- B. Appropriate blessings for various edibles

IV. Communal meals and their protocol

- A. Establishing the communal character of a meal: private and public gatherings and the recitation of blessings
- B. Declaring a quorum for the recitation of grace: special problems

C. Special problems debated by the houses of Shammai and Hillel in regard to the protocol of blessings at table: The normative law

V. Blessings on exceptional occasions

A. Blessings for evil as much as for good

B. Blessings in commemoration of miracles or other exceptional events

C. Prayers and protocol in connection with entering a given location: a town and the Temple in Jerusalem.

YERUSHALMI BERAKHOT

CHAPTER ONE

1:1

- [A] From what time do [people] recite the Shema' in the evening?
- [B] From [after sunset, that is] the hour that the priests enter [the Temple court] to eat their heave-offering,
- [C] “[They may recite the Shema' at any time thereafter up to three hours into the night, that is,] until the end of the first watch [in the Temple],”
- [D] the words of R. Eliezer.
- [E] And sages say, “[They may recite the Shema'] until midnight.”
- [F] Rabban Gamaliel says, “Until the break of day.”
- [G] Once [Gamaliel's] sons came from the banquet hall.
- [H] And they said to him, “We have not [yet] recited the Shema'.”
- [I] He said to them, “If the day has not yet broken, you are obligated to recite [the Shema'].”
- [J] And it is not only [in] this [case that the sages] said [that one may perform a religious obligation until daybreak]. But regarding all cases in which the sages said [that one must carry out his obligation] “until midnight,” [if a person should perform] the religious obligation by daybreak [it is acceptable].
- [K] [For example, one may acceptably perform the obligation to] offer the fats and entrails [of sacrifices in the Temple and to eat the paschal sacrifices] until the break of day.
- [L] [Another example:] All [sacrifices] which must be eaten within one day [i.e. before midnight of the day they are offered], their obligation [may legitimately be carried out and they may be eaten] until the break of day.
- [M] If so why did [sages] say [that these actions should be performed only] until midnight?

[N] **In order to keep man far from sin.**

- [I:1 A] *We learn as the Tannaite rule: [People may recite the Shema' after sunset, that is] from the hour that the priests enter [the Temple court] to eat their heave offering.*
- [B] *R. Hiyya taught, “[They may recite the Shema’] from the hour that people are accustomed to enter [their houses] to eat their bread on Sabbath eve,” [the words of R. Meir. (Regarding the recitation of the Shema’, when does night begin?) An indication for (when night begins is) the emergence of the stars.] [Tosefta Ber. 1:1.]*
- [C] *And it was taught regarding these rules [in A and B]: These opinions [in M. and T.] are nearly identical.” [That is, they refer to the same time of day.]*
- [D] *But observe [by way of objection that M.’s rule appears to conflict with T.’s law]: **From the hour that the priests enter [the Temple court] to eat their heave offering** [is right after the end of] the day [i.e. before the time that people enter their houses to eat the meal on the Sabbath].*
- [E] *But [T. rules that one may recite the Shema’ from] **the hour that people enter [their houses] to eat their bread on Sabbath eves** [which] is after [the emergence of the] stars, that is already an hour or two into the night!*
- [F] *And yet you say that, “These opinions are nearly identical!”*
- [G] *Said R. Yosé, “[This apparent contradiction between M. and T.] may be resolved [by explaining that Tosefta’s ruling refers to a special case wherein people return home early, i.e., those residents of] small villages who leave [their weekday work and return home] while it is still day, who prepare [and eat their Sabbath meals] while it is still early. [P.M. Under these circumstances the rulings of M. and T. do not disagree. They refer to nearly identical times of day. According to both rules, one may recite the Shema’ right after sunset.]”*
- [I:2 A] *It was taught: One who recites [the Shema’] before the time [that the priests enter the Temple court at sunset to eat their heave offering, cf. M. 1:1B] does not [thereby] fulfill his obligation [to recite the Shema’].”*
- [B] *If so why do they recite [the Shema’] in the synagogue [where they say the service while it is still day]?*
- [C] *Said R. Yosé, “They do not recite it in the synagogue in order to fulfill the obligation [to recite the Shema’]. Rather [they recite the Shema’ in*

the synagogue] so that they will rise to [recite] the Prayer [of Eighteen blessings] after speaking the words of Torah [that comprise the passages of the Shema’].”

- [I:3 A] R. Zeira in the name of R. Jeremiah, “If one had a doubt whether or not he had recited the grace after his meal, he must recite the grace,
- [B] “for it is written, “And you shall eat and be full, and you shall bless [the Lord your God for the good land he has given you]” [Deut 8:10]. [Since the obligation to recite the grace after meals is derived from a verse in Scripture, if one had any doubt whether he had recited it, he must say the grace forthwith. The principle behind this reasoning is: one must be especially scrupulous in any case of doubt concerning the performance of an obligation based directly on a verse in Scripture.]
- [C] “But if one was in doubt whether he had recited the Prayer [of Eighteen blessings], he need not recite it [for it is a rabbinic obligation, not derived directly from a verse in Scripture. And the corresponding principle is that one need not be as scrupulous regarding such an obligation.]”
- [D] But this rule [that one need not recite the Prayer in a case of doubt] does not accord with the view of R. Yohanan. For said R. Yohanan, “But oh, that a person might [have the opportunity to] pray all day long.” [That is to say, nothing is lost by repeating the Prayer.]
- [E] Why [does Yohanan say that one may pray all day long]? Because prayer never loses its value.
- [F] [In light of this distinction, Y. poses a question.] If one was in doubt whether or not he had recited [the Shema’, what is the ruling? Must he recite it or not?]
- [G] *Let us deduce the answer from the rule [stated above]:* “One who recites the Shema’ before the time [that the priests enter the Temple court at sunset to eat their heave offering] has not fulfilled his obligation [to recite the Shema’].”
- [H] *Is it not [reasonable to draw the following conclusion:]* [The phrase] “before the time [that the priests enter]” [may be understood to refer to and include] a case in which one was in doubt [whether he had fulfilled his obligation to recite the Shema’. How so? For instance, the phrase may refer to a case of one who recites the Shema’ at the moment of sunset and is not sure whether at that time it is day or night.]

[I] Yet [in such a case] the rule is, “He must recite [the Shema] again because by reciting it too early he may not have fulfilled his obligation to recite it at night.” It then follows that [we may state a general rule on the basis of this reasoning]: “If one was in doubt whether he had recited [the Shema], he must recite it.”

[I:4 A] [With respect to the obligation to recite the Shema, when does night begin?] We may find an indication concerning this [in the verse]: “Until the stars come out” (Neh. 4:21). Even though there is no proof [in Scripture that night begins when the stars come out], there is an allusion [in the verse,] “So we labored at the work and half of them held the spears from the break of dawn until the stars came out (Neh. 4:21).” [T. 1:1 E-F.]

[B] And it is written, “[Let every man and his servant pass the night within Jerusalem,] that they may be a guard for us by night and may labor by day (Neh. 4:22).” [They labored until night, i.e. when the stars came out. These verses thus imply that it is night when the stars come out.]

[C] How many stars must come out so that it is deemed night?

[D] R. Pinhas in the name of R. Abba bar Pappa, “[If one sees] one star, it is certainly day. [If one sees] two [stars], there is doubt [whether it is] night. [If one sees] three [stars], it is certainly night.”

[E] “[If one sees] two [stars], there is doubt.” [Why is there any doubt?] For it is written, “Until the stars came out! (Neh. 4:21).” The minimum number of stars [plural] is two. [After two stars come out it should be deemed night.]

[F] [There is doubt because] we do not count the first star of the evening, [for when it appears, it is deemed still to be day. Hence when two stars appear it still may be day. We therefore must wait for three stars to appear before we deem it to be night.]

[G] [*It was taught, in support of Pinhas' teaching at D:*] On the Sabbath eve, if one saw a single star and then unintentionally performed labor which is forbidden on the Sabbath, he is free [from any liability because it is still day]. [If one saw] two [stars and unintentionally performed an act forbidden on the Sabbath,] he must bring a suspensive guilt offering [i.e. a sacrifice offered in a case of doubtful transgression, because we do not know whether he transgressed the Sabbath]. [If one saw] three [stars and performed an action which is forbidden on the Sabbath], he must bring a sin offering [because we are sure that

night has fallen and that he has transgressed a Sabbath prohibition].

[H] [Analogously,] at the end of the Sabbath, if one saw a single star and then [unintentionally] performed labor which is forbidden on the Sabbath, he must bring a sin offering [for it is surely still the Sabbath day]. [If one saw] two [stars and he unintentionally performed a forbidden act], he must bring a suspensive guilt offering [for we do not know if it was day or night, and, accordingly whether he transgressed a Sabbath prohibition]. [If one saw] three [stars and unintentionally performed some act which would be forbidden on the Sabbath], he is free [from any liability for it surely is night and the Sabbath has ended. This discussion supports Pinhas' premise that we determine the onset of nightfall by counting the number of stars which one can see].

[I] *R. Yosé b. R. Bun speculated, "If you say 'If one saw] two [stars], there is a doubt,' [then consider the following case in which a person certainly would be liable for transgressing a Sabbath prohibition even if he performed a forbidden act during the time that only two stars were visible – that period of doubt – at either the beginning of the Sabbath on Friday night or at the end of the Sabbath on Saturday night:] One saw two stars on the Sabbath eve [just at the time of nightfall] and witnesses warned him [that labor is forbidden on the Sabbath] and [nonetheless at that time] he performed forbidden labor. Then he saw two stars at the termination of the Sabbath, and they warned him, and [nonetheless again] he performed forbidden labor.*

[J] "Any way you look at it [he should be guilty of transgressing a Sabbath prohibition, because he was duly warned and then he deliberately performed a forbidden labor on the Sabbath according to the following reasoning:]

[K] "For if [we determine that] the first [two stars he saw at the beginning of the Sabbath were deemed to be seen] in the day, then [we conclude that] the last [two stars which he saw at the end of the Sabbath also were deemed to be seen] in the day. And [therefore] he should be liable [for transgressing a Sabbath prohibition] by virtue of [performing a forbidden act during the Sabbath day while] the last [stars which he saw just prior to the end of the Sabbath were visible].

[L] “And if [we determine that] the last stars [which he saw at the end of the Sabbath were deemed to have been seen] at night, then [we conclude that] the first [stars, which he saw at the beginning of the Sabbath were deemed to have been seen] at night, and he should be liable [for transgressing a Sabbath prohibition] by virtue of [performing a forbidden act while] the first [stars were visible, after the Sabbath had already commenced].” [Hence as described one would be guilty of transgressing a Sabbath prohibition by virtue of a forbidden act which he performed at the time that two stars were visible. It can then be said that depending on the circumstances in the eyes of the law this time period is either day or night, not an interim of doubtful status.]

[M] “[Alternatively another case could be constructed in which a person certainly would be guilty of transgressing a prohibition of the Sabbath even if when he performed a forbidden act only two stars were visible at the beginning of the Sabbath on Friday or at the end of the Sabbath on Saturday night:] [The law is that the act of harvesting produce equivalent to the measure of a fig’s bulk on the Sabbath constitutes a forbidden act.] “If one saw two stars on Sabbath eve and harvested [the equivalent of a measure of] half-a-fig, [and] on Sabbath morning he harvested [the equivalent of a measure of] half-a-fig, [and] if one saw two stars at the end of the Sabbath and harvested [the equivalent of a measure of] half-a-fig,

[N] “in any event [he should be liable for transgressing a Sabbath prohibition according to the following reasoning:] if [we deem that the two] first stars [on Friday were seen by] day, then also the last [i.e. those two stars which he sees at nightfall on Saturday] were [deemed to be] seen by the day, and [the measure harvested in] the morning should combine with that harvested near the end of the Sabbath, and he should be liable [for completing the performance of a forbidden act on the Sabbath at the time he sees the] last stars [on Saturday night].

[O] “And if [when he sees] the last stars [on Saturday] it is [deemed to be] night, then also [when he sees] the first stars [on Friday] it is [deemed to be] night, and the

[measure harvested in] the morning should combine with that [harvested] after the onset of the Sabbath on Friday evening and he should be liable [for the completed act of violating a Sabbath prohibition which he began at the time he saw the] first stars [on Friday night].”

- [I:5 A]** *The [stars] about which we speak of are those which do not customarily shine by day. As to those which do customarily shine by day, we take no account [of them].*
- [B] *Said R. Yosé b. R. Bun, “[When one sees three stars, it is night,] provided that three others are seen besides the first star [i.e. four stars in all. We are sure that when he sees the first star it is still day. Thus we do not take it into account.]”*
- [C] R. Jacob of the south in the name of R. Judah b. Pazzi, “[If one sees] a single star it is certainly still day. [If one sees] two [stars] it is night.”
- [D] *And does he not allow for a case in which there is doubt? [Does his definition not admit the possibility of defining a time period as twilight?]*
- [E] *He allows for doubt in discerning one star from another [i.e. in deciding which stars one may count to determine whether it is night].*
- [I:6 A]** *It was taught [as an alternative definition of twilight:] As long as the eastern horizon is red, it is [still deemed to be] day. Once [the horizon] darkens, then [we deem it to be] twilight. Once [the horizon] blackens, so that the skies above and [near the earth] below are equally [dark], then [we deem it to be] night.*
- [B] [Another alternative:] Rabbi says, “When the moon is full, [the period of time between when] the orb of the sun begins to set and the orb of the moon begins to rise is twilight.”
- [C] [Hanina disputes the preceding:] Said R. Hanina, “[The period of time between when] the orb of the sun sets fully, and the orb of the moon begins to rise [is twilight].”
- [D] [The following implies that there is a period of time, twilight, between when the sun sets and when the moon rises, in reference to and support of B and C:] *Samuel taught thus, “The moon does not shine at the time that the sun sets [i.e. it rises later]. And [the moon] does not set at the time that the sun shines [in the morning. It sets earlier].”*

[E] [The twilight period may be explained in another way based on the law of Tebul Yom, i.e. the requirement that an unclean priest who immerses to purify himself must wait for sunset before he can eat heave offering.] R. Samuel bar R. Hiyya bar Judah in the name of R. Hanina, “[Consider a case where] the orb of the sun begins to set. A man [who is an unclean priest] standing on top of Mount Carmel [sets out to] run down to immerse in the Mediterranean [to purify himself at the end of the day] and [when he] comes up to eat of heave offering [he may do so because it is night]. The presumption is that he dipped while it was still day [as required in Scripture, cf. Lev. 22:6, and when he returns to the top it is night, and he may legitimately eat heave offering. Twilight is the intervening period of time during which he ascends the mountain.]”

[F] *This [rule at E] applies to one who goes [up the mountain from the sea] the short way, but not concerning one who went [the long way] on the main road. [Such period of time in which one climbed the mountain the long way would not be an accurate representation of the length of the interval of twilight.]*

[G] [Further traditions regarding twilight:] What is [the duration of] “twilight”? Said Rabbi Tanhuma, “[One may define it] as [the time it takes for] a drop of blood, which was placed on the cutting edge of a sword, to split in half. That [short time-span] is [the duration of] twilight.”

[H] What is [the duration of] “twilight”? “[The time from] when the sun sets until [the time it would take a person to] walk a half-a-mile,” the words of R. Nehemiah.

[I] R. Yosé says, “Twilight is like the blink of an eye.” And the sages could not determine [the length of this last interval].

[J] *R. Yosé and R. Aha were sitting [and discussing the apparent dispute between Nehemiah and the elder Yosé concerning the duration of twilight.] Said R. Yosé to R. Aha, “Is it not reasonable to assume that the end of R. Nehemiah’s interval, [of the period of twilight i.e. from when the sun sets until one could] walk half a mile, would be [considered to be the exact moment of] R. Yosé’s interval of the blink of an eye?” [Hence according to Yosé’s view, Nehemiah’s interval of “twilight” is entirely part of the day.] He said to him, “I agree.”*

[K] R. Hezekiah did not agree. [He argued that Nehemiah’s opinion does not preclude Yosé’s view.] Rather he said that [we may harmonize the two views as follows: Yosé’s rule

tells us that] we [may] have a doubt concerning each moment of R. Nehemiah's [interval of the time it takes to walk] half a mile [whether that moment is twilight. Thus according to Yosé, Nehemiah's entire interval of "twilight" is a period of doubt. In Hezekiah's view the opinions of Yosé and Nehemiah are not mutually exclusive.]

[L] *Said R. Mana* "[By way of objection to Hezekiah's preceding conclusion,] I posed the [following] question before R. Hezekiah. It was taught there: **If [a person suffering from seminal discharges] saw one [emission] by day and one by twilight, or one at twilight and one on the morrow [what is the law? Do we say that he saw both emissions on the same day or do we conclude that he saw emissions on two successive days?] If he knows that part of his observed [emission] belongs to this day and part to the morrow – he is certainly unclean and certainly must bring a sacrifice. [The law is that one who sees emissions on successive days is deemed unclean.] But if he has a doubt that part of his observed [emission] belongs to this day and part to the morrow – [we deem him to be] certainly unclean. [The principle is that in a case of doubt with regard to uncleanness we decide in favor of the more stringent alternative.] But [in this case] there remains a doubt whether he must bring a sacrifice. [M. Zab. 1:6.]**

[M] *[And Mana explained based on this law in the Mishnah,] "R. Hiyya bar Joseph inquired before R. Yohanan, 'Who was it that taught that one observation [of an emission at twilight] may be divided into two? R. Yosé.'"* [Cf. T. Zabim 1:4. It is according to his view that twilight is as the blink of an eye. You count the one emission at twilight as if it was two emissions on two consecutive days. And if one observes emissions on consecutive days he must bring a sacrifice.]

[N] *[Accordingly, Mana] said to [Hezekiah,] "Your opinion [that Yosé's ruling concerning twilight may refer to several moments over an extended time] is problematic. For you said that [according to Yosé] there is a doubt concerning each moment of R. Nehemiah's [interval of twilight, i.e. the time it takes to walk] half-a-mile. [If each moment of that interval is twilight, then we cannot say that a seminal*

emission which occurs at twilight belongs partly to one day and partly to the next and thus may be counted as two emissions. Rather we must conclude that such an emission which occurs at twilight remains a case of doubt and cannot be divided between two separate days. There is doubt about the time of the entire emission. Did it occur during one day or the next? This leaves Hezekiah with a problem. How does he explain the statement above that according to Yosé we may divide between two days one observation of an emission seen at twilight?]

[O] [Hezekiah responded to Mana, “The objection which you raised is not only] a problem [according to my interpretation of Yosé’s ruling. Any interpretation of Yosé’s ruling poses problems.] For when Elijah [the prophet] comes [to clarify all doubts of the law] and says this [moment] is twilight [at that time, Yosé’s opinion above, that one observation of an emission may be divided into two, will be rendered illogical. For Elijah will determine the exact time of the instant of twilight. Then it will not be logical to say that one can divide into two an emission that occurs at twilight, as Yosé claims, because after Elijah determines the instant of twilight, then an emission which occurs at twilight will last only for that one brief instant, as long as the blink of an eye. We must conclude then that it is Yosé’s view which is problematical, not Hezekiah’s interpretation of it. And if Yosé’s view can be explained as at all tenable, then Hezekiah’s interpretation of Yosé’s view in conjunction with Nehemiah’s will be as plausible as any other interpretation.]”

[I:7 A] *Who disputed [the views stated above, that if one observes two or three stars we deem it to be night]? R. Hanina the associate of the rabbis [disputed this view].*

[B] *[By way of objection to this definition of the beginning of night Hanina] asked, “[This ruling is not logical, because] if you say, ‘In the evening if three stars were observed, even if the sun is yet [visible] in the middle of the firmament, it is night, would you [likewise] say that in the morning the same [is true and if the sun were visible and three stars were out still it is night’]? [But of course not. Everyone agrees that the day begins with the*

break of dawn. Hence the notion that the appearance of stars determines the beginning of the night is not tenable.]”

[C] Said R. Abba, “[The rise and set of the sun and not the appearance of stars defines the beginning and end of the night.] It is written, ‘The sun had risen on the earth when Lot came to Zoar’ [Gen. 19:23]; and it is written, ‘When the sun is down he shall be clean’ [Lev. 22:7]. [These verses indicate that] we link our definition of the sun’s rise to its setting [and that these events determine the beginning and end of the day]. Just as its setting [and the beginning of the night] occurs when [the sun] is concealed from all creatures so its rising [and the start of the day] occurs when [the sun] is revealed to all creatures.” [The observation of stars does not determine when night or day begins.]

[D] [Another teaching indicates that neither the appearance of stars nor the rise and set of the sun determine the beginning of day or night:] Said R. Ba, “It is written, ‘As soon as the morning was light’ [Gen. 44:3]. The Torah called ‘light,’ morning [and does not refer to visible stars or to sunrise as determining factors].”

[E] [The discussion moves on to define the factors which determine the beginning of the day.] *Taught R. Ishmael*, “[Scripture uses the phrase,] ‘Morning by morning’ [Ex. 16:21]. [The Torah used this expression to teach that the period of time from the first glow of the light of dawn before sunrise] is an extension of [the day in] the morning.” [The verse indicates that there is a time called the morning, i.e. from the first glow of light, before the time usually referred to as the morning, i.e. the rise of the sun.]

[F] Said R. Yosé b. R. Bun [by way of objection to the preceding], “If you assign [the time period when the sun is in] the firmament to the [time we call] night both in the evening [after sunset] and morning [before sunrise], we must conclude that [the duration of the] day and night are never equal. [Night is always longer than day.] But [to the contrary] it was taught, ‘On the first of the season of Nissan and on the first of the season of Tishré [i.e.

the equinoxes] the [duration of the] day and night are equal.”

[G] *Said R. Huna, “Let us deduce [a basis for this ruling about the extension of the day in the morning from analogy to] common custom. [In anticipation of a royal entourage, people may commonly say,] ‘The king’s officers have gone forth.’ Even though they have not yet [actually] gone forth they [tend to] say, ‘They have gone forth.’ [Likewise even before the sun has come out, while it is thought to be concealed in firmament, people tend to say, ‘The day has begun.’ But in fact it begins at sunrise.]”*

[H] *“But [to continue this analogy, concerning] the hosts of heaven [like those of the king], they do not say, ‘They have gone back,’ until the time they [actually] have gone back. [Likewise people do not say that the day ends until the sun disappears into the darkness of the firmament.]”*

[I:8 A] One who stands and prays must keep his feet even.

[B] *Two Amoraim [disputed the interpretation of A]: R. Levi and R. Simon. One said, “[He must keep his feet even] like the angels.” And one said, “Like the priests.”*

[C] *The one who said, “Like the priests,” [referred to this saying:] “And you shall not go up by steps to my altar” [Exod. 20:26]. [We interpret this verse to mean] that they used to walk heel to toe, and toe to heel. [Similarly one’s feet should be positioned in this manner during prayer.]*

[D] *And the one who said, “Like the angels,” [referred to the verse,] “Their legs were straight” [Ezek. 1:7] [i.e. next to one another, toe to toe and heel to heel. Likewise one’s feet should be together in this fashion during prayer].*

[E] [Another teaching about this last verse, Ezek. 1:7:] *R. Hanina bar Andrey in the name of R. Samuel bar Soter, “The angels do not have knee-joints [in their legs. That is what the word ‘straight’ in this verse implies.]”*

[F] *And what is the reason [they have no need for joints? Another verse explains,] “I approached one of them who stood there” [Dan. 7:16] – [the angels] stood [all the time].*

- [G] [The reference to the priests in the preceding leads to a discussion of the verses which members of the congregation must recite while the priests stand before the congregation to bless them.] Said R. Huna, “One who sees the priests in the synagogue [reciting the priestly blessing during the morning service must do as follows].
- [H] “Upon hearing the first blessing [which the priests recite, Num. 6:24,] he must say, ‘Bless the Lord, O you his angels’ [Ps. 103:20].
- [I] “For the second [Num. 6:25, he must say], ‘Bless the Lord, all his hosts’ [Ps. 103:21].
- [J] “For the third, [Num. 6:26,] ‘Bless the Lord, all his works’ [Ps. 103:22].
- [K] “Upon hearing the [priestly blessing during the] additional service: for the first blessing one must say, ‘A Song of Ascents. Come Bless the Lord, all you servants of the Lord, who stand by night in the house of the Lord’ [Ps. 134:1].
- [L] “For the second [one must say], ‘Lift up your hands to the holy place’ [Ps. 134:2].
- [M] “And for the third, ‘May the Lord bless you from Zion’ [Ps. 134:3].
- [N] “If there were four [services recited on one day, such as on public fast days or on the Day of Atonement], then for the third [service in the afternoon] one repeats [the verses] of the first [the Morning Service], and for the fourth [in the *Ne’ilah* he repeats the verses] of the second [the Additional Service].”

[I:9 A] [This unit expands upon the discussion of the terms used to refer to the period of time preceding sunrise.] Said R. Hinnena, “From the [time in the morning sometimes called the] ‘hind of the dawn’ [a poetic expression comparing the pattern of the first rays of light to the antlers of a deer,] until the [sky in the] east is lit [entirely] one [has enough time to] walk four miles. [‘Mile’ refers to 2000 paces, about 1470 meters, that is somewhat less than the modern English mile of about 1609 meters.] From [the time] the east is lit until sunrise [one has enough time to walk another] four miles.”

[B] And whence [do we know] that from [the time] the east is lit until sunrise [one has enough time to walk] four miles? As it is written, “When morning dawned [the angels urged Lot saying, “Arise, take your wife and your two daughters who are here, lest you be consumed in the punishment of the city]” [Gen.19:15]. And it is written, “The

sun had risen on the earth when Lot came to Zoar” [Gen. 19:23].
[Between the first light and the rise of the sun Lot walked from Sodom to Zoar.]

[C] But is the distance from Sodom to Zoar four miles? It is more!

[D] Said R. Zeira, “The angel shortened the way for them.” [Though it was more, he made it as if it were four miles.]

[E] And whence [do we know] that from the first rays of dawn [‘hind of dawn’] to [the time] the eastern sky is lit [completely, one can walk] four miles? [Scripture says,] “wkmw [lit: and like] – When morning dawned” [Gen. 19:15]. And kmw is a comparative term. [It implies that the two intervals, from when the eastern sky is lit until dawn, and from when the first rays of light appear until the eastern sky is lit, are of equal duration.]

[F] *Said R. Yosé b. R. Bun, “[Concerning] this term ‘the [time of the appearance of the] hind of dawn,’ he who says it refers to [time of the appearance of] a [morning] star, [presumably Venus,] is in error. For at times [this star] appears earlier, and at times, later.”*

[G] *What is then [the definition of this term]? It refers to [the appearance of] two rays of light which originate in the eastern sky and illuminate [the heaven]. [The word qrn means both ‘ray’ and ‘antler’.]*

[H] *And once R. Hiyya the Elder and R. Simeon ben Halafta were walking in the valley Arbel at daybreak. And they saw the first rays of dawn [‘hind of dawn’] as the daylight broke forth [into the sky].*

[I] Said R. Hiyya the Elder to R. Simeon ben Halafta b. Rabbi, “[Like the break of day] so is the redemption of Israel. It begins little by little and, as it proceeds, it grows greater and greater.”

[J] What is his basis [for this comparison of daybreak and redemption]? [Scripture says,] “When I sit in darkness the Lord will be a light to me” [Micah 7:8, i.e. he will redeem me].

[K] [By way of illustration of this last teaching:] So it was at the outset [the redemption of Israel in the time of Esther, for example, proceeded slowly as it says,] “And Mordecai was sitting at the king’s gate” [Esther 2:21].

[L] And thereafter [it grew greater as the passage indicates],
“So Haman took the robes and the horse [and he
arrayed Mordecai]” [Esther 6:11].

[M] And thereafter, “Then Mordecai went out from the
presence of the king in royal robes” [Esther 8:15].

[N] And thereafter, “The Jews had [the] light [of
redemption] and gladness and joy and honor” [Esther
8:16]. [The redemption proceeds slowly at first and then
quickly shines forth like light, a term used in the last
verse.]

[I:10 A] *And R. Hiyya’s [teaching that one can walk four miles in the time between the appearance of the first rays of light in the morning and the time that the eastern sky is lit entirely, and that one can walk another four miles from the time that the sky is lit and the rise of the sun] is in accord with [the view] of R. Judah. For it was taught in the name of R. Judah, “[To traverse the distance of that area of the heavens called] ‘the darkness of the firmament’ is a journey of fifty years.” [That is, it would take a person fifty years to walk across this part of the heavens.]*

[B] [We calculate that] an average man can walk forty miles a day. [We now know that from the start of the sun’s passage through the firmament in the morning] until the sun passes out of [the darkness into] the firmament is a journey of [the distance a person can walk in] fifty years [and, according to Haninah the sun traverses that distance in the time] a man can walk four miles.

[C] Consequently we may conclude that the [distance the sun travels through the] darkness of the firmament is one tenth [of the total distance it travels] in a day [i.e. a day equals the time it takes an average man to walk forty miles and the sun passes through the darkness of the firmament in the time that it takes an average person to walk four miles, one tenth of that time. We may calculate then that in one day the sun travels the equivalent of ten times the distance it crosses as it moves through the darkness of the firmament. Accordingly, in one day the sun travels the distance that a man can cover in a five hundred years’ journey. The formula for this calculation is expressed by a ratio. The time to traverse darkness : is to the time to traverse entire firmament: as the distance to traverse darkness : is to the distance to traverse entire firmament.]

[D] And just as the [width of the] darkness of the firmament is [equivalent to the distance one may travel in] a fifty-year journey, so too the [width

of other spheres of the heaven such as the] darkness of the earth and the darkness of tehom [interior of the earth] are [equivalent to the distance one may travel in] a fifty-year journey.

[E] And what is the basis [for this conclusion about these other heavenly distances? Scripture says,] “It is he who sits above the circle of the earth [hwg h’rs]” [Isa. 40:22]. And it is written, “And he walks on the circle of heaven [hwg smym]” [Job 22:14]. And it is written, “When he drew a circle on the face of the deep [hwg ‘l pny thwm]” [Prov. 8:27]. [The use of the same words] hwg, hwg [teaches through] gezerah sawa [a process of deduction based on the use of common words, that the widths of the darkness of the firmament, of the earth, and of the tehom are the same length, i.e. the distance one can cover in a journey of fifty years].

[I:11 A] *It was taught* [another teaching about the cosmological bodies]: The Tree of Life [was as wide as] the distance one can walk [in a journey of] five hundred years.

[B] Said R. Judah b. R. Ilai, “[This measure does] not [include] the [width of the] branches which spread out from the foliage, but [it includes only the width of] its trunk.”

[C] And the source of every stream of the waters of creation flows from beneath [the Tree of Life]. And what is the basis [in Scripture for this statement]? “He is like a tree planted by streams of water” [Ps. 1:3]. [The Tree of Life is the source of all the world’s streams.]

[D] *It was taught* [another teaching concerning cosmological distances]: The Tree of Life is one sixtieth [of the area] of the garden. The garden is one sixtieth of Eden. [This calculation is based on the verse which says,] “A river flowed out of Eden to water the garden” [Gen. 2:10]. [The calculation is based on the following principles: the rule of thumb is that] the effluence of a koor irrigates a tirqab [and a koor=30 seah=180 qab. So the effluence of a koor waters three qab, or one sixtieth its measure. Eden’s effluence waters the garden which was accordingly one sixtieth its area.]

[E] The effluence of Ethiopia irrigates Egypt [i.e. the Nile which flows out of Ethiopia can irrigate Egypt, one sixtieth the area of Ethiopia]. Then we conclude that to walk across Egypt is a forty days’ journey and to walk across Ethiopia is more than a seven years’ journey [or sixty times the area, actually – 2400 days, or 78 days less than seven lunar years.]

- [F] And [in another related tradition] the rabbis say, “[The number of years it takes to traverse the width of the firmament is equivalent to] the [sum of the] years of the lives of the patriarchs.” [This is alluded to in the verse,] “That your days and the days of your children may be multiplied in the land which the Lord swore to your fathers to give them [and they lived] as long as the heavens are above the earth” [Deut. 11:21]. [This verse implies that there is a connection between the distances of areas in the heavens and the days of the lives of the forefathers. The sum total of both is the same. The width of the firmament is the distance one may travel in a journey of five hundred years. And the lives of the patriarchs add up to five hundred years: Abraham, 173 years, Isaac 180, and Jacob, 147.]
- [G] And just as [the distance] between the earth and the firmament [is equivalent to the distance one may travel in] a journey of five hundred years, so [the distance] between one firmament and the next firmament [is equivalent to the distance one may travel in] a journey of five hundred years, and the [width of the] darkness of the firmament is [itself equal to the distance a person may travel in] a five hundred years’ journey. [This disputes Judah’s view at XI, A that the width is a fifty year’s journey.]
- [H] *And what could the source be for the statement, “The [width of the] darkness of the firmament is [equal to the distance a person can travel in a journey of] five hundred years?”*
- [I] Said R. Bun, “[The source is the verse which says,] ‘Let there be a firmament in the midst of the waters’ [Gen. 1:6]. [This implies] let the [width of the] firmament in the middle [be equal in width to the distance on either side of it, that is the distance one can traverse in a five hundred years’ journey].”
- [J] [There are other interpretations of this verse:] Rab said, “The heavens were wet on the first day [of creation] and on the second they dried up.”
- [K] Rab said, “‘Let there be a firmament’ [means] let the firmament be strong, let the firmament be dry, let the firmament be hardened, let the firmament be stretched out.”
- [L] Said R. Judah b. Pazzi, “[‘Let there be a firmament’ means God] would let the firmament be hammered out like metal [is processed]. As it was said, ‘And gold leaf was hammered out [wyrq’w]’ [Exod. 39:3].”

[M] [Another alternative to Judah's view above,] *it was taught in the name of R. Joshua*, "The darkness of the firmament is as [wide as] two fingers."

[N] *The words of R. Haninah are in dispute [with Joshua's view]. For* said R. Aha in the name of R. Haninah, "[A verse in Scripture says,] 'Can you, like him, spread out [trqy] the skies, hard as a cast mirror' [Job 37:18]? Spread out teaches that they were formed like a tray [thinner than two fingers].

[O] "One might infer that [the skies] are not firm [because they are so thin]. [Scripture] teaches that [the firmament] is 'hard.' One might infer that [the skies] may weaken [i.e. deteriorate]. [Scripture] teaches that [the firmament] is 'as a cast mirror.' At all times it appears [as if it were just] cast [i.e. as if brand new]."

[P] R. Yohanan and R. Simeon b. Laqish [made the following observations in reference to this verse, "Hard as a cast mirror"]. R. Yohanan said, "It is expected that when one spreads his tent after a while it weakens [and sags]. But here [concerning the heavens it is written, 'Who stretches out the heavens like a curtain,] and spreads them like a tent to dwell in' [Isa. 40:22]. And it is written, they are hard [Job 37:18]. [They do not sag and weaken!]"

[Q] R. Simeon b. Laqish said, "It is expected that when one pours vessels [into a mold] after a while they corrode. But here [we are told they are] 'As a cast mirror,' [which implies] at all times they appear as [new as they did] at the time of their casting!"

[R] R. Azariah said concerning this [teaching] of R. Simeon b. Laqish, "[Scripture says,] 'Thus the heavens and the earth were finished, and all the host of them. And on the seventh day God finished his work. So God blessed the seventh day' [Gen. 2:1-2]. What is written thereafter? 'These are the generations of the heavens [and the earth when they were created]' [Gen. 2:4]. And what has the former [subject] to do with the latter? [They are juxtaposed to teach that] days come and go, weeks come and go, months come and go, years come and go, but it is written, 'These are the generations of the heavens and the earth when they were created.' [The verse implies that the heavens remain in the same

condition as] ‘In the day the Lord God made the earth and the heavens’ [Gen. 2:4]!”

[I:12 A] **Rabbi says, “There are four watches [ashmorot] in the day and four watches in the night.”**

[B] **The ‘onah is one twenty-fourth of an hour. The ‘et is one twenty-fourth of an ‘onah. The rega’ is one twenty-fourth of an ‘et. [Tosefta 1:1H-J].**

[C] How much is a rega’? R. Berekhiah in the name of R. Helbo said, “As long as it takes to say [the word] ‘rega’”.

[D] And the rabbis say, “The rega’ is [a momentary interval like] the blink of an eye.”

[E] *Taught Samuel*, “The rega’ is one 56,848th of an hour [i.e. about 1/15 of second].”

[F] **R. Nathan says, “There are three watches in the night.**

[G] **“As it says, ‘At the beginning of the middle watch” [Judges 7:19] [T.1:1.].**

[H] *R. Zerekin and R. Ammi in the name of R. Simeon b. Laqish [suggested] the basis [in Scripture] of Rabbi’s [teaching]. [One verse says concerning King David,] “At midnight I rise to praise thee, because of thy righteous ordinances” [Ps. 119:62]. And [another verse] says, “My eyes are awake before the watches of the night” [ashmorot] [Ps. 119:148]. [This implies that there are two watches left in the night after he awakens at midnight].*

[I] *R. Hezekiah said that R. Zerekin and R. Ba: One suggested the [scriptural] basis for Rabbi’s [teaching] and the other suggested [the scriptural] basis for R. Nathan’s.*

[J] *The one who stated the basis for Rabbi’s view [explained that] “Midnight” [Ps. 119:62] is his basis in Scripture. And the other who stated the basis for R. Nathan’s opinion [explained that] “At the beginning of the middle watch” [Judges 7:19] is his Scriptural basis.*

[K] *How does R. Nathan interpret [the verses in Scripture which serve as] the basis for Rabbi’s [teaching in H above]? “Midnight” – [means] sometimes [he awakens at] “midnight” and sometimes, “My eyes are awake before the watches of the night,” [he awakens before two watches of the night, before midnight].*

[L] How so? When David dined at the royal dinner, he would rise at “midnight.” And when he dined at his own [private] dinner, he would rise [at the time about which it says] “My eyes awake before the watches of the night.”

[M] In either case, at dawn one would not find David asleep. As David said, “Awake, my glory! Awake, O harp and lyre! I will awake before dawn [Ps. 57:8].”

[N] [One should interpret the verse as follows:] In glory I awaken to recite my words. My glory is as naught until I recite my words [of praise for you].

[O] “I will awake the dawn” [means] *I will awaken before the dawn. The dawn will not awaken me.*

[P] But his [evil] impulse tried to seduce him [to sin]. And it would say to him, “David. It is the custom of kings that the dawn awakens them. And you say, ‘I will awake the dawn.’ It is the custom of kings that they sleep until the third hour [of the day]. And you say, ‘At midnight I rise,’” And [David] used to say [in reply], “[I rise early.] ‘Because of thy righteous ordinances’ [Ps. 119:62].”

[Q] And what would David do? R. Pinhas in the name of R. Eleazar b. R. Menahem, “He used to take a harp and lyre and set them as his bedside. And he would rise at midnight and play them so that the associates of Torah should hear. And what would the associates of Torah say? ‘If King David involves himself with Torah, how much more so should we.’” [S adds: We find that all of Israel was engaged in Torah study on account of David.]

[R] Said R. Levi, “A lyre was suspended at David’s window. And the north wind would blow at night, set it swinging around, and it would play by itself [and wake him]. Similarly [Scripture says concerning Elisha], ‘And when the minstrel [lit.: the instrument] played [kngn hmngn] [2 Kings 3:15]. It does not say, ‘When he played on the instrument [kngn bmngn]’ but rather when the instrument played [kngn hmngn]. The lyre would play by itself.”

[S] [*We return to the previous discussion of the text.*] *How does Rabbi interpret [the verses which serve as] the basis for R.*

Nathan's [teaching, i.e.] "At the beginning of the middle watch" [Judges 7:19]?

[T] Said R. Huna, "[It means] the end of the second and the beginning of the third watch – that is the division of the night. [Var. reading: the beginning of the second and the end of the third – these [watches] divide the night.]

[U] Said R. Mana "Very well! But does it say, 'The middle ones [plural]?' No it says, 'The middle one [singular].' [The verse in Judges does refer to a single middle watch. For] *the first is not taken into account, because up to [the end of the first watch] people remain awake [and there is no need for guards to be set around the camp. So there may be four watches which divide the night, but guards are out only in the latter three watches.]*

[II:1 A] And sages say, "[They may recite the evening Shema'] until midnight." [M. 1:1E]. R. Yosa in the name of R. Yohanan, "The law follows the sages."

[B] *R. Yosa directed his students [hbryyh], "If you wish to be involved in [the study of] the Torah [all night], then [remember to] recite the Shema' before midnight and be involved [thereafter with the study of Torah]."*

[C] *From his words we may deduce that, "The law follows the sages." And from his words we may deduce, "He recited additional [prayers] after 'True and upright' [cf. M. 2:2 G]."* [He did not go right to sleep after reciting the evening Shema'.]

[II:2 A] *It was taught, "One who recited the Shema' in a synagogue in the morning fulfilled his obligation. [One who recited the Shema' in the synagogue] in the evening [i.e. at the time of the public evening service] did not fulfill his obligation."* [He must recite again at home because he recited before nightfall.]

[B] What is the difference between one who recites [in the synagogue] in the morning and one who recites in the evening? [Why did they not establish the practice of reciting the evening Shema' later so that people would not have to repeat the recitation at home later?]

[C] [We may infer from the following that a person has an additional reason to recite the Shema' at home at night.] R. Huna in the name of R. Joseph "On what basis must one recite the Shema' in his house in the evening?"

[D] “So that he may chase away the demons.” [Reciting in the synagogue does not serve to keep demons away from one’s house when one is asleep.]

[E] *We may infer [from the words of R. Huna] that one may not recite more [prayers] after ‘True and upright’. [Contrary to the second inference based on Yosa’s dictum in C above.]*

[F] *We may [in turn] deduce this from the words of R. Samuel bar Nahmani. [The story is told that] when R. Samuel bar Nahmani would go down to [celebrate the] intercalation [of the year] he would be received [as a guest] by R. Jacob Gerosa. And R. Zeira would hide in the closet to hear how he [Samuel] would recite the Shema’. [Zeira saw the following:] And he [Samuel] would recite over and over until he fell asleep. [This shows that Samuel bar Nahmani recited nothing else afterwards.]*

[II:3 A] And on what basis [is one obligated to recite the Shema’ at bedtime]? R. Aha and R. Tahlifa his son-in-law in the name of R. Samuel bar Nahman, “[It is based on the verse], ‘Be angry but sin not; commune with your own hearts on your beds and be silent. Selah’ [Ps. 4:4]. [This also implies that the Shema’, whose recitation requires intention, “directing one’s heart,” be recited at bedtime, and that nothing be said thereafter.]”

[B] *This [teaching of R. Samuel bar Nahmani from which we deduce that one may not recite any prayers after reciting ‘True and upright’, the paragraph of liturgy which follows the Shema’] disputes [the following tradition concerning R. Joshua b. Levi]. For R. Joshua b. Levi used to recite psalms after [reciting the Shema’ at bedtime].*

[C] *And lo, it was taught, “One may not recite more [prayers] after [reciting the paragraph of liturgy which follows the Shema’ which begins with the words] ‘True and upright’.”*

[D] [Joshua b. Levi] resolved this [apparent contradiction by explaining that L refers to a different case, the recitation of the paragraph of liturgy which begins with the words] ‘True and upright’ [recited after the recitation of the Shema’] in the morning. [This implies that one may not recite more prayers after the morning Shema’ before one recites the Prayer of Eighteen.]

[E] Accordingly, said R. Zeira in the name of R. Abba bar Jeremiah, “These are three [cases in which one must] juxtapose [without interruption two consecutive actions]:

- [F] One must juxtapose [the ritual of] laying of hands [on an animal sacrifice] with [the act of] slaughtering [the sacrifice];
- [G] One must juxtapose [the ritual of] washing one's hands with the recitation of the blessing [before eating bread];
- [H] One must juxtapose [the recitation of] the "Redemption" [i.e., benediction of the liturgy which follows the Shema' in the morning] with [the recitation of the] Prayer [of Eighteen blessings]."
- [I] One must juxtapose [the ritual of] laying of hands [on an animal sacrifice] with [the act of] slaughtering [the sacrifice, as it is written,] "He shall lay his hand, then he shall kill" [Lev. 1:4-5].
- [J] One must juxtapose [the ritual of] washing one's hands with the recitation of the blessing [before eating bread, as it is written,] "Lift up your hands to the holy place, [i.e. this suggests the act of washing one's hands,] and bless the Lord!" [Ps. 134:2].
- [K] One must juxtapose [the recitation of] the "Redemption" [i.e., the liturgical benediction which follows the Shema' in the morning] with [the recitation of the] Prayer [of Eighteen, as it is written,] "Let the words of my mouth [and the meditation of my heart be acceptable in thy sight, O Lord, my rock and my redeemer]" [Ps. 19:14]. [This is an allusion to the redemption liturgy.] And what is written thereafter? "The Lord answers you in the day of trouble" [Ps. 20:1]. [A reference to the requests in the Prayer of Eighteen.]
- [L] Said R. Yosé b. R. Bun, "Any time one juxtaposes [the ritual of] laying of hands [on an animal sacrifice] with [the act of] slaughtering [the sacrifice], no impropriety will occur in [the ensuing offering of] that sacrifice [to invalidate it].
- [M] "And any time one juxtaposes [the ritual of] washing one's hands with the recitation of the blessing [before eating bread], Satan will not intervene to disrupt that meal.
- [N] "And any time one juxtaposes [the recitation of] the "Redemption" [the liturgy which follows the Shema' in the morning] with [the recitation of the] Prayer [of Eighteen], Satan will not intervene to disrupt [one's activities during] that day."
- [O] *Said R. Zeira, "I juxtaposed my [recitation of] the "Redemption" to [my recitation of] the Prayer and*

[nevertheless I got into trouble]. I was conscripted through the angaria [service-tax] to haul a myrtle tree to the palace.”

[P] *They said to him, “Master, is this such a big deal? [It is to your benefit, not trouble.] Some people would pay good money [for a chance] to visit the palace.”*

[Q] Said R. Ammi, “To whom may one who does not juxtapose [his recitation of the] Prayer [of Eighteen] to [his recitation of the] “Redemption” be compared? To a beloved friend of the king who came and knocked on the king’s door [and then departed]. The king went out to find out what he wanted and he found that he [the beloved] had gone away. And so he [the king] went away [and the beloved lost his opportunity to address his request to the king].” [Accordingly, one should not interrupt between his recitation of these two prayers and lose the chance to address one’s requests to God.]

[III:1 A] Rabban Gamaliel says, “Until the break of day [M.1:1 F].

[B] *Rabban Gamaliel’s [ruling] agrees with [that of] R. Simeon. For it was taught in the name of R. Simeon: **Sometimes one recites the Shema’ [twice in one night,] once before the dawn and once after the dawn, and we find that he fulfills his obligation for the [recitations of the Shema’] of the day and of the night [Tos. 1:1 G-H].***

[C] Lo, [the opinion of] Rabban Gamaliel agrees with [the view of] R. Simeon regarding the evening [recitation of the Shema’]. Both masters rule that one may recite it until dawn].

[D] Is this also the case [that the masters agree as to the rule] for the morning [recitation of the Shema’], that Gamaliel would agree one may recite it right after dawn]?

[E] *Or shall it be [that we say that he agrees with] this [alternative view]: Said R. Zeira, “The brother of R. Hiyya bar Ashia and R. Abba bar Hannah taught, ‘One who recites [the Shema’] with the men of the watch [in the Temple] did not fulfill his obligation. For they used to rise up early [and recite it before sunrise, i.e. too early.]”*

[IV:1 A] Once [Gamaliel’s] sons came from the banquet hall. And they said to him, “We have not yet recited the Shema’.” He said to them, “If

the day has not yet broken, you are obligated to recite [the Shema'. M. 1:1 G-I]."

- [B] *And Rabban Gamaliel disputed the [view of the] sages [who said one may recite, **Until midnight [M. 1:1 E]**. But did he [then go ahead to defy their ruling and] act in accord with his own view?*
- [C] *And lo, [in another instance] R. Meir disputed the [view of the] sages and he did not act in accord with his own view. [He accepted sages' ruling as authoritative.]*
- [D] *And lo, [in yet another case] R. Aqiba disputed the [view of the] sages and he did not act in accord with his own view. [S adds: "And lo, R. Simeon..." cf. K-M below.]*
- [E] *And where do we find that R. Meir disputed the sages and [nevertheless he] did not act in accord with his own view?*
- [F] *For it was taught: **They may prepare [and administer] a wine-potion for a sick person on the Sabbath. Under what circumstances? When it was [already] mixed [with wine and oil] on the eve of the Sabbath. But if it was not mixed by the eve of the Sabbath [but on the Sabbath proper] it is forbidden [for a person to then go and to mix it on the Sabbath because one may not initially prepare medicine to administer it on the Sabbath.***
- [G] *It was taught [in the continuation of this passage]: **Said R. Simeon b. Eleazar, "R. Meir used to permit them to mix wine and oil [as a potion] for a sick person on the Sabbath. And one time R. Meir fell ill, and we wanted to prepare it [i.e. a potion] for him, but he did not let us do so. And we said to him, 'Master, will you nullify [by your actions] your own opinion during your lifetime?' And he said to us, 'Even though I do rule leniently for others, I rule stringently for myself because my colleagues disagree with me [T. Shabbat 12:12].***
- [H] *And where do we find that R. Aqiba disputed the sages and did not act in accord with his own view?*
- [I] *In this which was taught in the Mishnah: [A house which contains:] **The backbone and the skull from two corpses, or a quarter-log from two corpses, or a quarter qab of bones from two corpses, or limbs [taken] from two corpses, or a limb [taken] from two living men – R. Aqiba declares unclean [by virtue of the corpse-uncleanness which is transmitted in an***

enclosed area] and sages declare clean [because the corpse material in the house is not of sufficient quantity to transmit uncleanness in an enclosed area] [M. Ohalot 2:6].

[J] *It was taught, M'SH: They brought buckets of bones from Kefar Tabya and they left them in the open air [i.e. not in a closed container] at the synagogue in Lod.*

[K] **Theodorus the physician came in, with all the physicians with him [to examine the remains].**

[L] **Theodorus said, “There is not present a backbone from a single corpse, nor a skull from a single corpse.”**

[M] **They said, “Since some of us here declare [a house which contains such material] unclean and some of us here declare [such a house] clean, let us arise for a vote.”**

[N] **They began from R. Aqiba, and he declared [such a house] clean. They said to him, “Since you, who [in the past] declared [a house which contains such matter to be] unclean, [and now you] have declared [it] clean, let such cases [now surely] be clean [Tos. Ahilot 4:2].**

[O] *And where do we find that R. Simeon [b. Yohai] disputed the sages and did not act in accord with his own view?*

[P] *In this which was taught in the Mishnah: R. Simeon [b. Yohai] says, “All aftergrowths [i.e. crops which grow wild] are permitted [to be harvested and eaten in the Seventh year], except for the aftergrowths of cabbage, for there is no other like it among the greens of the field. [It grows so wildly that they fear people may plant and eat it in the seventh year.]”*

[Q] **And sages say, “All aftergrowths are forbidden [to be harvested for consumption].” [M. Shebi'it 9:1].**

[R] **R. Simeon b. Yohai acted in this manner in the Seventh year. He saw a person gathering aftergrowths of the Seventh year.**

[S] **He said to him, “Is it not forbidden? Are these not aftergrowths?”**

[T] **He said to him, “Are you [Simeon b. Yohai] not the one who permits?”**

[U] He [Simeon] said to him, “Do my colleagues not dispute me and recite this verse about me: “And a serpent will bite him who breaks through a wall” [Qohelet 10:8]?” And so it was [that he acted in accord with the ruling of the sages].

[V] *And [in spite of the fact that these other rabbis submitted to the views of the sages who ruled against them, nevertheless, as our Mishnah indicates,] Rabban Gamaliel disputed the sages and acted according to his own view!*

[W] *We may explain this case is different because [one might explain that in practice he accepted the view of sages and still] he permitted [his sons to recite the Shema’] in order to study [the biblical passages and not to fulfill the obligation of recitation.]*

[X] [But this is not a satisfactory explanation.] For, if so, even after the break of day [they should be permitted to recite for the purpose of study. And Gamaliel specifically tells them that they may recite only if the day has not yet broken.]

[Y] *But you may say that [this instance differs from the preceding cases]. Elsewhere [in the cases of Meir, Aqiba, and Simeon] they [actually] could follow the view of the sages [in practice, and thus did not act in accord with their own views].*

[Z] *Here [in the case of Gamaliel’s ruling concerning his son’s recitation of the Shema’,] midnight already passed, and they could not follow the view of the sages. He said to them [i.e. Gamaliel said to his sons, in this case], “Act according to my view.”*

[V:1 A] And it is not only [in] this [case that the sages] said [that one may perform a religious obligation until daybreak]. But regarding all cases in which the sages said [that one must carry out his obligation] “until midnight,” [if a person should perform] the religious obligation by daybreak [it is acceptable]. [For example, one may acceptably perform the obligation to] offer of the fats and entrails [of sacrifices in the Temple and to eat the Paschal sacrifices] until the break of day. [M. 1:1J-K].

[B] *[In some versions of M.] we have the phrase, “And the eating of Paschal sacrifices.” Other versions omit the phrase.*

[C] *Which authority stands behind the version which includes [the phrase], “And the eating of Paschal sacrifices?” The sages.*

[D] *And which authority stands behind the version which omits, “And the eating of Paschal sacrifices?” R. Eliezer.*

[E] *And what [source serves] as R. Eliezer's basis? One verse says, "[They shall eat the flesh that] night" [Exod. 12:8], and another verse says, "[For I will pass through the land of Egypt that] night" [Exod. 12:12]. Just as the latter [period referred to in the second verse ends at] midnight, so the former [period in the first verse ends at] midnight. [So according to Eliezer one may not eat the Paschal sacrifice after midnight and Mishnah should omit any reference to it here].*

[F] *Said R. Huna, "[The phrase,] 'The eating of Paschal sacrifices' should not appear here even according to the [view of] sages. For it was taught, **The Paschal sacrifice after midnight renders the hands unclean [i.e., it is no longer fit for consumption]**" [M. Pes. 10:9].*

[VI:1 A] **All [sacrifices] which must be eaten within one day [i.e. before midnight of the day they are offered, their obligation [may legitimately be carried out and they may be eaten] until the break of day. [M. 1:1 L].**

[B] **All which must be eaten within one day** – [this refers to offerings classified as] the lesser holy things.

[C] And [what is the explanation of,] **If so why did [sages] say [that these actions should be performed only] until midnight? [M. 1:1 M]?**

[D] If you say, Until the break of day, one might [erroneously] think the day did not yet break, and he might eat [late] and become liable [to be punished].

[E] But if you say to him, **Eat until midnight**, even if he eats [late], after midnight, he will not become liable for transgressing the law. [This is what sages meant in saying, **In order to keep man far from sin [M. 1:1 M]**].

1:2

[A] **From what time do they recite the Shema' in the morning?**

[B] **From [the time that] one can distinguish between blue and white.**

[C] **R. Eliezer said, "Between blue and green."**

[D] **[And one completes the recitation] before sunrise.**

[E] **R. Joshua says, "[One may recite] until the third hour."**

[F] **"For it is the practice of royalty to rise at the third hour."**

[G] One who recites after this time has not lost [the purpose of the action. For though he does not fulfill the obligation of reciting the Shema', he is] like one who recites [passages] from the Torah.

[I:1 A] *Interpret the Mishnah [B] in this way:* Between the blue [fringes on the corner of a garment] and the white [ones] on it.

[B] *And what [verse] serves as the basis for the rabbis' view?*

[C] “[And it shall be to you a fringe] to look upon” [Num. 15:39]. [At the time one recites this in the Shema', one should be able to discern the blue in the fringe from the white] next to it.

[D] *And what serves as the basis for R. Eliezer's view?*

[E] “To look upon,” [refers to the cord of blue in Num. 15:38. At the time one recites the Shema' there must be enough daylight] so that one may distinguish it [i.e. the blue in the fringe] from other colored material [close to it in hue, i.e. green].

[F] *It was taught in the name of R. Meir, “To look upon it' [using the feminine pronoun] is not what is written here [in the verse.] Rather, 'To look upon it' [using the masculine pronoun]. This suggests to us that it is as if anyone who fulfills the commandment of [wearing] fringes stands in the divine presence, [of Him, i.e. God].”*

[G] [One may associate the blue fringe with the presence of God in another way.] [S omits: It tells us that] the blue [color of the fringe, Num. 15:38] is like that [color] of the sea. And the sea resembles the grasses. And the grasses resemble the firmament. And the firmament resembles the throne of glory. And the throne resembles the sapphire. As it is written, “Then I looked, and behold, on the firmament that was over the heads of the cherubim there appeared above them something like a sapphire, in form resembling a throne” [Ezek. 10:1, an association with the divine presence].

[H] Others say [you may understand the verse], “To look upon [him' i.e. another person. Before one recites the Shema' it should be daylight enough] so that one may be four cubits from his fellow and recognize him [T. 1:2 B].”

[I] *R. Hisda said concerning that [statement] of “others,” “To what [kind of “fellow” do they refer]? If it is [a case of one who sees] a familiar person, then even from further [than*

four cubits away] he will recognize him. And if it is [a case of] an unfamiliar person, then even closer [than four cubits] he will not recognize him.

[J] *“Rather we hold that it is a case of one [who sees a “fellow”] who is familiar, but not so familiar, such as a person who comes occasionally to him for lodging.”*

[K] *There is a Tannaite authority who taught, “[He may not recite the Shema’ in the morning until it is light enough so that he can distinguish] between a wolf and a dog, or between a donkey and a wild ass.”*

[L] *And there is a Tannaite authority who taught, “[One may recite the Shema’ when it is light enough] so that one may be four cubits from his fellow and recognize him.”*

[M] *He [R. Hisda] would say that he who says, “[One may recite when it is light enough to distinguish] between a wolf and a dog, between a donkey and a wild ass,” [holds the same view] as the one who said, “**Between blue and green [M. 2:1 C, Eliezer].**”*

[N] *And he who said, “[**One may recite when it is light enough] so that one may be four cubits from his fellow and recognize him [T. 1:2 B],” [holds the same view] as the one who says, “[**One may recite when it is light enough to distinguish between blue and white [M. 2:1 B].**” [This is an earlier time.]***

[I:2 A] **[Concerning the requirement to recite the Shema’ in the morning:] truly they said, “Its obligation is [best fulfilled] at sunrise so that one may adjoin [the blessing following the Shema’ called] ‘Redemption’ to the Prayer [of Eighteen blessings] and it turns out that [thereby] he recites the Prayer in the daytime [T. 1:2C].”**

[B] *Said R. Zeira, “And I explained that the basis [of this rule is in this verse], ‘May they fear Thee [i.e. by reciting the Shema’] while the sun endures’ [Ps. 72:5, i.e. at sunrise].”*

[C] *Said Mar Uqba, “The pious used to rise early to recite [the Shema’] so that they might adjoin to it [the recitation of] their prayers at sunrise.”*

[D] *It was taught: **Said R. Judah, “Once I was walking on the road behind R. Eleazar b. Azariah and behind R. Aqiba.***

[E] “And they were preoccupied with [fulfilling] commandments.

[F] “And the time came [at sunrise] for the recitation of the Shema’ [and they did not recite].

[G] “And I thought that they perhaps had neglected to recite the Shema’ [that morning because they were preoccupied with other religious obligations].

[H] “And I recited and studied and afterwards they began.

[I] “And the sun [had risen earlier and] was already visible across the mountaintops” [T. 1:2 D-H].

[II:1 A] [And one completes the recitation of the Shema’] before sunrise [M. 1:2 D].

[B] [When is sunrise?] R. Zebadiah b. R. Jacob bar Zabedi in the name of R. Jonah, “When the sun begins to shine across the mountaintops [that is sunrise].”

[III:1 A] **R. Joshua says, “[They may recite the Shema’] until the third hour” [M. 1:2 E].**

[B] R. Idi and R. Hamnuna and R. Ada bar Aha in the name of Rab, “The law follows R. Joshua [only] in the case of one who forgets [to recite earlier at sunrise].”

[C] *R. Huna said, “Two Amoraim [disputed the interpretation of Joshua’s lemma]. One said [that Joshua’s ruling applies only] to the case of one who forgets [to recite at sunrise].”*

[D] *His associate responded to him, “And is there a law [which applies only] to one who forgets?*

[E] “The law is the law. [It must apply to everyone in all cases.]

[F] “And why then did they say that it applies [only] to one who forgets?

[G] “So that a person should be zealous to recite it in its proper time.”

[III:2 A] *There we have learned on Tannaite authority: **They interrupt [activities such as a bath, meal, or a trial] for the recitation of the Shema’ but they do not interrupt [these activities] for the [recitation of the] Prayer [M. Shabbat 1:2].***

[B] Said R. Aha, “[The reasoning behind this rule is based on this distinction.] The recitation of the Shema’ [is an obligation which]

derives from the Torah. But the [obligation to recite the] Prayer does not derive from the Torah.” [And the principle is that only a practice based on the Torah takes precedence over other obligations.]

[C] Said R. Ba, “[The reasoning behind the rule in M. Shabbat is based on another distinction.] The recitation of the Shema’ [is an obligation] whose time is fixed. But the Prayer [is one] whose time is not fixed.” [And the principle is that a practice which may only be carried out at a fixed time takes precedence over another practice which need not be carried out at a fixed time.]

[D] Said R. Yosé, “[The rule is based on another distinction.] The recitation of the Shema’ [is an obligation which] does not require intention [for the entire ritual]. The Prayer [is one] which does require intention.” [A person involved in other activities cannot have the requisite intention to recite the Prayer and so does not stop to do so.]

[E] *Said R. Mana, “[Concerning the issue of intention for the recitation of the Shema’] I raised this objection to R. Yosé, ‘But even if you say that the recitation of the Shema’ does not require intention [for the entire recitation of at least] the first three verses [you surely] require intention.’ [How then does this distinction help us explain why one can interrupt those activities mentioned in M. Shabbat to recite the Shema’? Because he is preoccupied he will not be able to muster the proper intention. He therefore should not interrupt even to recite the Shema’.]”*

[F] *[He replied,] “Because, [unlike the Prayer of Eighteen blessings, the Shema’] is short, so one can [muster the proper] intention [for these three initial verses even if one interrupts other activities to do so].”*

[III:3 A] R. Yohanan in the name of R. Simeon b. Yohai, “Those [professional scholars] like us who are engaged [constantly] in the study of Torah, do not interrupt it even for the recitation of the Shema’.”

[B] *R. Yohanan said on his own, “Those [people] like us who are not engaged [constantly] in the study of Torah [must] interrupt [our activities, including our study,] even for the [recitation of the] Prayer [which requires intense concentration].”*

[C] *Each man’s opinion [in A-B] is consistent [in principle] with his ruling elsewhere.*

[D] *R. Yohanan [in B is consistent] with his opinion [elsewhere]: For said R. Yohanan, “But oh, that a person might [have the opportunity to] pray all the day long. Why? For prayer never loses its value.”*

[E] *R. Simeon b. Yohai [in A is consistent] with his opinion [elsewhere]: For R. Simeon b. Yohai said, “If I had been at Mount Sinai at the time the Torah was given to Israel, I would have asked God to give man two mouths, one to talk of the Torah and one to use for all his other needs [including prayer among them so that a person would not have to interrupt his study when reciting prayers].”*

[F] *[On second thought,] he reconsidered and said, “But the world can barely continue to exist because of the slander [spoken by each person out of] one [mouth]. It would be worse if there were two [mouths for each person to speak with].”*

[G] *Said R. Yosé before R. Jeremiah, “R. Yohanan [in B] follows the view of R. Hanina b. Aqabya. For it was taught, **Those [scribes] who are writing [Torah] scrolls [i.e. they are like those who study Torah], phylacteries and mezuzot, interrupt [their writing] for the recitation of the Shema’ but do not interrupt for the [recitation of the] Prayer [T. 2:6 A].”***

[H] ***R. Hanina b. Aqabya says, “Just as they [the scribes] interrupt for the recitation of the Shema’, so too they interrupt for the [recitation of the] Prayer [T. 2:6 C], and for the [ritual of putting on] tefillin, and for [performing] all the other commandments of the Torah [in their proper time].”*** [This agrees with Yohanan’s rule in B.]

[I] *But [going back to the rule of A,] does not R. Simeon bar Yohai admit that they interrupt [even the study of the Torah] to make a sukkah or a lulab in its proper time? Why then did he say in A that one does not interrupt study to fulfill other commandments?]*

[J] *And [furthermore] does not R. Simeon bar Yohai hold [that] one who learns in order to practice [acts properly]. But one who learns without concern for practice does not [act properly].*

[K] *For it would have been better for a person who learns without concern for practice not to have been born.*

[L] *And said R. Yohanan, “It would have been better for a person who learns without concern for practice if his*

placenta smothered him [at birth] and he never entered the world.”

[M] [*Now to return to the analysis of A:*] *The basis of R. Simeon bar Yohai’s [teaching is derived not from the preceding principle but from a different argument. He would say the study of Torah and the recitation of the Shema’ are equal in importance]. They are both acts of study. And one does not desist from one act of study for another act of study.*

[N] *But, lo, it was taught [in apparent contradiction of this argument,] **One who recites after this time has not lost [the purpose of the action. For though he does not fulfill the obligation of reciting the Shema’, he is] like one who recites [passages] from the Torah. [M. 1:2 G].***

[O] [This implies that the recitation of the Shema’] in its proper time is a more desirable act than [the study of] words of Torah. [They are not equivalent.]

[P] That is so [for most people but not for Simeon. For] said R. Yudan, “Because R. Simeon b. Yohai constantly studied words of Torah, therefore [for him the recitation of the Shema’] was not more desirable than [the study of] words of Torah.”

[Q] *Said R. Abba Mari. “[In addition to this last argument we may defend R. Simeon’s position at A in another way.] Did we not learn [one who recited Shema’ after the proper time is] like, **One who recites from the Torah [M. 1:2 G].** Lo, [we may infer from this that the recitation of the Shema’] in its proper time is like [a higher form of study, i.e. equivalent to] the [study of] Mishnah.” [Simeon studied Mishnah. Hence he did not have to interrupt his study for an equivalent action, the recitation of the Shema’ in its proper time.]*

[R] [*Accordingly,] R. Simeon bar Yohai is consistent with his own view [as follows:]*

[S] R. Simeon b. Yohai said, “Engaging in the study of Scripture is not such a big deal.” [It is less significant than the study of Mishnah.]

[T] And the rabbis considered [study of] Scripture equal to [study of] Mishnah. [As a rule they interrupted their study to recite the Shema' at its proper time.]

1:3

[A] The House of Shammai says, “In the evening everyone should recline and recite, and in the morning they should stand.

[B] “As it says, ‘When you lie down and when you rise’ [Deut. 6:7].”

[C] And the House of Hillel says, “Everyone recites according to his own manner.”

[D] “As it says, ‘And you walk by the way’ [ibid].”

[E] If so why does [the verse] say, “When you lie down and when you rise up?”

[F] [It means recite the Shema'] at the hour that people lie down [at night] and at the hour that people rise up [in the morning].

[G] Said. R. Tarfon, “I was coming by the road and I reclined to recite the Shema' in accordance with the words of the House of Shammai. And I placed myself in danger of [attack by] bandits.”

[H] They said to him, “Fittingly, you have only yourself to blame [for what might have befallen you]. For you violated the words of the House of Hillel.”

[I:1 A] *The House of Hillel [M. 1:3 F] derives its [rules] from two Scriptural passages [as M. 1:3 D-E explains]. What [rules] do the House of Shammai derive from the passage, “When you sit in your house, and when you walk by the way” [Deut. 6:7]?*

[B] [They derive the following, as we see in T.] “When you sit in your house,” excludes those who are [out] engaged in fulfilling commandments [from the obligation to recite the Shema']. And “When you walk by the way,” excludes the bridegroom [because he is involved in the obligations of marriage]. [T. 1:3 B.]

[I:2 A] *And it was taught: M'SH: R. Eleazar b. Azariah and R. Ishmael were staying in a certain place.*

[B] And R. Eleazar b. Azariah was reclining and R. Ishmael was sitting upright.

[C] When the time came for the recitation of the [morning] Shema', R. Eleazar b. Azariah sat up and R. Ishmael reclined.

- [D] **Said R. Eleazar b. Azariah to R. Ishmael, “I will say [it is analogous to] an individual from the marketplace [who was asked], ‘Why do you grow your beard long?’ And he said, ‘It is a protest against the destroyers [who cut their beards. But there is no other reason for it].”**
- [E] **“I who was reclining, sat up [to recite in the proper posture]. And you, who was upright reclined [for no good reason just as a protest to my action].”**
- [F] **He [Ishmael] said to him, “[Eleazar,] you sat up in accordance with the words of the House of Shammai [who said to recite while upright]. And I reclined in accordance with the words of the House of Hillel [who said one may recite in any position].”**
- [G] **An alternate explanation: “[I reclined] so that the students should not observe me [standing] and establish the law in accordance with the words of the House of Shammai.” [T. 1:4. See Eleazar, pp. 16-20 for a discussion of the several versions of this story.]**
- [I:3 A] **Said. R. Tarfon, “I was coming by the road and I reclined to recite the Shema’ in accordance with the words of the House of Shammai. And I placed myself in danger of [attack by] bandits.”**
- [B] **They said to him, “Fittingly, you have only yourself to blame [for what might have befallen you]. For you violated the words of the House of Hillel.”**
- [C] The associates in the name of R. Yohanan, “The words of the scribes [i.e. rabbinic teachings] are relative [in importance] the words of Torah and dear like the words of Torah.” [As it says,] “And your palate [i.e., the words of the scribes are] like the best wine [i.e., the words of the Torah]” [Song of Songs 7:9].
- [D] Simeon bar Abba [Wawa] in the name of R. Yohanan, “The words of the scribes are relative [in importance] to the words of Torah and more dear than the words of Torah.” [As it says,] “For your love [that is, words of the scribes,] is better than wine [i.e., words of Torah]” [Song of Songs 1:2].
- [E] R. Ba [Abba] bar Kohen in the name of R. Judah ben Pazzi, “I will prove to you that the words of the scribes are more dear than the words of the Torah. For lo, if R. Tarfon [in the story] did not recite [the Shema’ at all] at most he would have been liable for neglecting to fulfill a positive commandment [of the Torah for which there is no punishment].

[F] “But because he violated the words of the House of Hillel, [words of the scribes,] he was liable to be put to death [at the hands of bandits], in accord with [the principle,] ‘And a serpent will bite him who breaks through a wall [i.e. one who violates a rabbinic regulation]’ [Qohelet 10:8].”

[G] *R. Ishmael taught*, “The words of the Torah contain some prohibitions, permissions, leniencies and stringencies. But the words of the scribes are all stringencies.”

[H] *I will prove to you that this is true. For it was taught in the Mishnah*, **One who says, ‘There are no [such obligations to wear] tefillin,’ in order to transgress the words of Torah, he is free [from any punishment]. [But if he says,] ‘There are five compartments [in the tefillin],’ in order to add to the words of the scribes, he is liable [to punishment] [M. Sanhedrin 11:3].**

[I] *R. Haninah the son of R. Ada in the name of R. Tanhum b. R. Hiyya*, “The words of the elders are more stringent than the words of the prophets.” As it is written, “[I tell them,] ‘Do not preach’ – thus they preach. [I tell them,] ‘One should not preach of such things,’ [and they say,] ‘Disgrace will not overtake us’ [Micah 2:6].” And it is written, “[If a man should go about and utter empty words and lies, saying,] ‘I will preach to you of wine and strong drink,’ [he would be the preacher for this people] [Micah 2:11].” [That is, if the people do not wish to hear words of the prophet, God says do not preach it to them. But you must preach to them the words of the elders whether they want to hear them or not.]

[J] To what may the [relation between] prophet and elder be compared? [This parable explains:] A king sent his two agents to a province. Concerning one he wrote, “If he does not display to you my seal and my stamp do not give him credence.” And concerning the other he wrote, “Even if he does not display to you my seal, lend him credence without seal or stamp.”

[K] Accordingly concerning the prophet it is written, “[If a prophet arises among you...] and gives you a sign or a wonder [Deut. 13:1] [then you should give him credence].”

[L] However here [concerning the elders] it is written, “That [you shall heed the priests and the judge] according to the instructions which they give you” [Deut. 17:11] [you must give them credence even though they do not display any sign or wonder].

- [I:4 A] This [principle that one who follows the Shammaite view endangers himself] applies only after the heavenly voice [echo] went forth [to decree that the law follows the view of the House of Hillel]. But before the Heavenly voice went forth anyone who wished to adopt for himself a stringency [in the law] and act according to the stringent rulings of both the Houses of Shammai and Hillel – [they permitted him to do so but] concerning him it was said, “The fool walks in darkness” [Qoh. 2:14].
- [B] [And one who wished to adopt for himself] the leniencies of both [Houses] was called “wicked.”
- [C] Rather [one could follow] the leniencies of one [House] and stringencies of that house or the leniencies of the second and the stringencies of that house.
- [D] All this applied [to the period] before the Heavenly voice went forth. But once the Heavenly voice went forth, thereafter the law always followed the words of the House of Hillel. And whosoever violated the words of the House of Hillel was liable to [be put to] death [T. Suk. 2:3].
- [E] *It was taught:* A Heavenly voice went forth and proclaimed, “Both [Houses speak] the living words of God. But the law follows the words of the House of Hillel.”
- [F] In what place did the Heavenly voice go forth? R. Bibi said in the name of R. Yohanan, “In Yavneh the Heavenly voice went forth.”

1:5

- [A] In the morning one recites two blessings before [the Shema’] and one after it.
- [B] And in the evening two before it and two after it.
- [C] Whether a long or a short [blessing, the rule is the same].
- [D] Where they said to lengthen [the formula of a blessing by both beginning and ending with the formula “Blessed art Thou”] one is not permitted to shorten it [by omitting it].
- [E] [Where they said] to shorten [by only beginning with “Blessed at Thou,” one is not permitted to lengthen it by also closing with “Blessed art Thou”].
- [F] [Where they said] to seal [to conclude a blessing with the formula “Blessed art Thou” at the end], one is not permitted not to seal.

[G] [Where they said] not to seal, one is not permitted to seal [by adding to it].

- [I:1 A]** R. Simon in the name of R. Samuel bar Nahman, “[They recite these blessings before and after the Shema’] based on [the verse], “But you shall meditate on it day and night” [Joshua 1:8]. [That implies] that the meditations [i.e. the number of blessings] of the day and the night should be equal. [The additional blessing after the Shema’ in the evening substitutes for the third scriptural paragraph, Num. 15:37-41, which is not recited at night. If one counts the blessings before and after together with the scriptural paragraphs, the number of sections in the day and night recitations come out equal [P.M].]
- [B]** R. Yosé bar Abin in the name of R. Joshua b. Levi, “[These seven blessings, two before and one after in the morning, and two before and two after in the evening, are recited] based on [the verse.] ‘Seven times a day I praise thee for thy righteous ordinances’ [Ps. 119:164].”
- [C]** R. Nahman in the name of R. Mana, “All who fulfill [the obligations of the verse,] ‘Seven times a day I praise thee,’ [by reciting the Shema’, morning and evening with its blessings,] it is as if they had fulfilled [as well the verse,] ‘But you shall meditate on it day and night.’ [That is, it is as if they had studied Torah all day and night.]”
- [I:2 A]** Why do they recite these two passages [Deut. 6:4-9 and Deut. 11:13-21] each day? R. Levi and R. Simon [disputed this question].
- [B]** R. Simon said, “Because in them we find mention of lying down and rising up [in Deut. 6:7 and Deut. 11:19. These are allusions to the beginning and end of each day when the Shema’ is recited].”
- [C]** R. Levi said. “Because the ten commandments are embodied in the [paragraphs of the Shema’ as follows:]
- [D]** [1] “I am the Lord your God” [Exod. 20:2], [is implied by the phrase], “Hear, O Israel the Lord our God” [Deut. 6:4].
- [E]** [2] “You shall have no other Gods before me” [Exod. 20:3], [is implied by the phrase], “One Lord” [Deut. 6:4].
- [F]** [3] “You shall not take the name of the Lord your God in vain” [Exod. 20:7], [is implied by the phrase], “And you shall love the Lord your God” [Deut. 6:5]. [How so?] One who loves the king does not swear falsely in his name.
- [G]** [4] “Remember the Sabbath day, to keep it holy” [Exod. 20:8], [is implied by the phrase], “So that you shall remember [and do all my commandments]” [Num. 15:40].

- [H] [Rabbi teaches that the Sabbath is equivalent in importance to all the commandments as follows:] Rabbi says, “[The phrase, ‘All my commandments,’ refers to the commandment [to keep] the Sabbath which is equivalent in weight to all the other commandments of the Torah. As it is written, “And you did make known to them thy holy Sabbath and command them commandments and statutes and laws by Moses thy servant” [Neh. 9:14]. This informs you that it [the Sabbath] is equal in weight to all of the commandments of the Torah.”
- [I] [5] “Honor your father and your mother [that your days in the land may be long]” [Exod. 20:12], [is implied by the phrase], “That your days and the days of your children may be multiplied” [Deut. 11:21]. [The reference to a long life is an allusion to the reward for honoring one’s parents.]
- [J] [6] “You shall not murder” [Exod. 20:13], [is implied by the phrase], “And you [shall] perish quickly” [Deut. 11:17]. [This implies that] whoever murders, will be killed.
- [K] [7] “You shall not commit adultery” [Exod. 20:14], [is implied by the phrase], “[And remember,] not to follow after your own heart and your own eyes” [Num. 15:39].
- [L] [This accords with the following teaching.] Said R. Levi. “The heart and the eyes are the two procurers of sin. As it is written, ‘My son, give me your heart, and let your eyes observe my ways’ [Prov. 23:26. In the verses which follow, Prov. 23:27-35, the harlot is a metaphor for sin.]
- [M] Said the Holy One, Blessed be He, “If you give me your heart and your eyes than I shall know that you are mine.”
- [N] [8] “You shall not steal” [Exod. 20:15], is implied by the phrase], “That you may gather in your grain [and your wine and oil]” [Deut. 11:14]. [Your grain implies that you may gather only yours] and not the grain of your fellow.
- [O] [9] “You shall not bear false witness against your neighbor” [Exod. 20:16], [is implied by the phrase] “I am the Lord your God” [Num. 15:41]. [This is followed in the liturgy of the blessings of the Shema by the word “true.” Just as God is true, so should a person tell the truth.]
- [P] And [in further support of this teaching] it is written, “But the Lord is the true God” [Jer. 10:10].

[Q] What is [another interpretation of the word, 'True']? Said R. Abun, "That means he is the living God and King of the Universe." [The word 'mt, true, is an acronym for the Hebrew 'lwhm mlk tmyd, God the everlasting king]

[R] Said R. Levi, "Said the Holy One blessed be He, 'If you bore false witness against your friend, I deem it as if you had borne witness against me, that I did not create the heavens and the earth.'"

[S] [10] "You shall not covet your neighbor's house" [Exod. 20:17], [is implied by the phrase], "And you shall write them on the doorposts of your house" [Deut. 6:9]. [Write them on, "Your house" and not on those of your friend's house [Do not covet your neighbor's house].

[I:3 A] *It was taught in the Mishnah [Tamid 5:1]: The officer said to them, "Recite a single blessing." And they recited a blessing.*

[B] What blessing did they recite? R. Matna said in the name of Samuel, "It was the blessing over the Torah." [Because they next recited passages from the Torah concerning the ten commandments.]

[C] **And they recited the Ten Commandments, [the passage,] "Hear O Israel," [Deut. 6:4-9], [the passage,] "And if you will obey my commandments" [Deut. 11:13-21], [the passage,] "The Lord said to Moses" [Num. 15:37-41] [M. Tamid 5:1].**

[D] R. Ammi in the name of Resh Laqish, "This implies that [if one omits reciting] the blessings [before and after the Shema' it] does not invalidate [his recitation. From this M. we deduce that the blessings are dispensable because in M.'s example they did not recite them]."

[E] *Said R. Ba [Abba], "From this [Mishnah] you would not deduce at all [that the blessings are dispensable]. For the Ten Commandments are the essence of the Shema' [as Levi explained above]. [And once one has recited them he has fulfilled his obligation to recite the Shema' and need not recite it again with its blessings [P.M.].]*

[F] [F-J discusses the practice of not reciting the verses of the Ten Commandments and the story of Balaam.] *For both R. Matna and R. Samuel bar Nahman said, "By rights they should recite the verses of the Ten Commandments every day. And why do they not do so? On account of the claims of the heretics. So that people should not have any cause to say that only these [Ten Commandments] were given to Moses on Mount Sinai."*

[G] R. Samuel bar Nahman [said] in the name of R. Judah bar Zebuda, “By rights they should recite the passages [which recount the story of] Balak and Balaam [Num. 22-24] every day. And why do they not recite them? In order not to trouble the congregation [with too much daily recitation].”

[H] [And on what basis could they justify the recitation of the story of Balak and Balaam?] R. Huna said, “Because that passage contains a reference to lying down and rising up. [Like the Shema’ it should be recited twice daily. For it says, ‘Behold a people! As a lioness it rises up and as a lion lifts itself; it does not lie down till it devours the prey’ [Num. 23:24].]”

[I] R. Yosé be R. Bun said, “[They could have justified the recitation of the story of Balaam] because that passage contains a reference to the exodus from Egypt, [‘God brings them out of Egypt’ [Num. 23:22],] and to kingship [‘And the shout of a king is among them’ [Num. 23:21].]”

[J] Said R. Eliezer, “[They could have justified the recitation of the story of Balaam] because the story is referred to in the Torah [Num. 22-24], in the Prophets, [‘My people remember what Balak king of Moab devised and what Balaam the son of Beor answered him’ [Micah 6:5]] and in the Writings [‘No Ammonite or Moabite should ever enter the assembly of God; for they did not meet the children of Israel with bread and water but hired Balaam against them to curse them’ [Neh. 13:1-2]].”

THE FOLLOWING IS OUT OF PLACE HERE

[K] [K-L repeats A-B.] The officer said to them, “Recite a single blessing.” And they recited a blessing [M. Tamid 5:1].

[L] What blessing did they recite? Said R. Matna in the name of Samuel, “The blessing over the [study of] Torah.”

[M] But did they not recite [the blessing which concludes,] “Who creates the luminaries?” R. Samuel the brother of R. Berahiah, “[They began reciting early and] the luminaries had not yet appeared. How then could they say, ‘Who creates the luminaries’?”

[N] [M. Tamid 5:1 continues: They recited three blessings for the people: [1] “True and upright”; [2] and [a blessing for the]

Temple service; [3] and the Priestly Blessing.] And on the Sabbath they added one blessing for the departing priestly watch.

[O] What is this blessing? Said R. Helbo, “This is it: ‘May he who dwells in this Temple set in your midst fraternity, and love, and peace and friendship.’”

[I:4 A] Samuel said, “One who awoke early [in order to begin] to study [Torah] before reciting the Shema’, must [first] recite the blessings [for study of Torah].”

[B] [But if he began to study] after reciting the Shema’, he need not recite the blessings [for the study of Torah, because the [Ahavah Rabbah] blessing he recites before the Shema’ serves in their stead.]

[C] Said R. Ba, “[This rule only applies] if he studies right away [after he recites the Shema’].”

[D] R. Huna said, “This is my view of matters: [If one studies] Midrash, he must recite the blessings [for Torah study]. [If one studies laws] halakhot he need not recite the blessings.”

[E] R. Simon in the name of R. Joshua b. Levi, “For [the study of] either Midrash or halakhot, he must recite the blessings.”

[F] *Said R. Hiyya bar Ashi, “We were accustomed to sit before Rab. And he required us to recite the blessings for both [the study of] Midrash and for halakhot.”*

[I:5 A] *It was taught:* One who recited [the Shema’] with the members of the watch [ma’amad] did not fulfill his obligation because they used to delay [and recite too late]. [These were the members of the Israelite delegations who came to the Temple to watch over their offerings.]

[B] *R. Zeira in the name of R. Ammi, “In the days of R. Yohanan we used to go out [to gather for prayer] on the public fast day and recite the Shema’ after the third hour and he did not intervene [to prohibit us from so doing].”*

[C] *R. Yosé and R. Aha went out [to pray] on a public fast day. The congregation went ahead and recited the Shema’ after the third hour. R. Aha wanted to stop them.*

[D] Said to him R. Yosé, “They have already recited it on time! They are only reciting it [now again] so that they can rise to recite the Prayer from amidst words of Torah.”

[E] He said to him, “[Nevertheless I object to this] on account of the simple folk, lest they conclude that they now are reciting it on time [when it really is already after the third hour and too late to recite.]”

[I:6 A] These are the blessings [whose formulae] they may lengthen: those for the New Year, the Day of Atonement, and the blessings for a public fast.

[B] From a man’s blessings one can tell whether he is a boor or a disciple of the sages.

[C] These are the blessings [whose formulae] they may shorten: [those recited over] the [performance of individual] Commandments, over the produce, the blessing of the invitation [to bless after the meal], and the last meal-blessing after the meal [T. 1:6].

[D] Lo, may one then lengthen all other blessings?

[E] *Said Hezekiah, “That which was taught, ‘He who lengthens [his blessings] is blameworthy, and he who shortens [his blessings] is praiseworthy,’ implies that this is not a valid generalization [and one must be discouraged from lengthening the texts of blessings.]”*

[F] *It was taught:* On a public fast day one must lengthen [the blessing which concludes] “Redeemer of Israel” [the seventh of the Prayer of Eighteen].

[G] [The implication of this teaching is] that he may not lengthen those six [other blessings for a public fast day] which he adds [to the Prayer of Eighteen, contrary to T.’s ruling in A that one may lengthen the blessings added on a public fast day.]

[H] Said R. Yosah, “[No you may not deduce this. But the teaching serves to teach us] that you should not infer that since it [the blessing ‘Redeemer of Israel’] is one of the eighteen, one should not lengthen it. And because that [might be your conclusion], it had to say [specifically], ‘On a public fast day, one must lengthen [the blessing which concludes] redeemer of Israel.’”

[I:7 A] These are the blessings for which they bow [when they recite them]: For the first [paragraph of the Prayer of Eighteen at the] beginning and end [of the paragraph, for the eighteenth blessing,] “We give thanks,” [at the] beginning and end.

- [B] **One who bows for each and every blessing [of the Prayer of Eighteen,] they instruct him not to bow [so that he should not appear arrogant] [T. 1:8].**
- [C] R. Isaac bar Nahman in the name of R. Joshua b. Levi, “The high priest bows [upon reciting] the conclusion of each and every blessing. The king [bows upon reciting] the beginning of each and every blessing, and at the conclusion of each and every blessing.” [This shows their piety and humility.]
- [D] R. Simon in the name of R. Joshua b. Levi, “Once the king kneels he does not rise until he completes all his prayers.” [This rule disputes C.]
- [E] *What is the basis [for this teaching? It is the verse,]* “Now as Solomon finished offering all this prayer and supplication to the Lord, he arose from before the altar of the Lord, where he had knelt [with hands outstretched towards heaven]” [I Kings 8:54].
- [I:8 A] What is “kneeling”? And what is “genuflection” [from the word brykh which also implies bending the knee]? [Are they different actions?]
- [B] [The following shows that they are distinct actions.] R. Hiyya the Elder demonstrated “genuflection” before Rabbi, and became lame, but was cured.
- [C] R. Levi bar Sisi demonstrated “kneeling” before Rabbi, and became lame, but was not cured.
- [D] [Return now to discuss I Kings 8:54, Solomon’s prayer, cited above at E:] “With hands outstretched to heaven.” Said R. Abo, “[That means] he would stand still like these spots [without moving].”
- [E] Said R. Eleazar bar Abyna, “[He wanted to show that,] ‘These hands did not benefit from the building of the Temple.’”
- [F] *Taught R. Halafta b. Saul,* “All bow with the cantor [when he recites the blessing of] thanksgiving.”
- [G] R. Zeira said, “[The obligation is to bow along with the leader] specifically [at the time he recites] the words, ‘We give thanks.’” [As he recited,] R. Zeira sought to follow [the leader] closely so that he could bow at the beginning and end [of the blessing, “We give thanks” along with the leader].
- [H] *When R. Yasa came here [to the land Israel] he saw them bowing and whispering [during the recitation of the Blessing of Thanksgiving in the Prayer of Eighteen].*

[I] *He said to us, "What are they whispering?"*

[J] *[They said to him,] "Did you not hear what R. Helbo [and] R. Simeon [said] in the name of R. Yohanan in the name of R. Jeremiah, R. Haninah in the name of R. Misha, R. Hiyya in the name of R. Simai, and some say that the associates said in the name of R. Simai? '[While the leader recited the blessing, the congregation said in an undertone,] Master of all creatures, God of all praises, rock of ages, eternal, creator, resurrector, who brought us life and sustained us, and gave us the merit, and helped us, and brought us near, to give thanks to thy name. Blessed art Thou, O Lord, God of praises.'"*

[K] R. Ba bar Zabda in the name of Rab, "[The congregation says this prayer in an undertone:] We give thanks to thee. For we must praise thy name. 'My lips will shout for joy when I sing praises to thee; my soul also, which thou hast rescued' [Ps. 71:23]. Blessed art thou, O Lord, God of praises."

[L] R. Samuel bar Mina in the name of R. Aha said the congregation recited the following in an undertone], "Thanksgiving and praise to Thy name. Greatness is Thine. Power is Thine. Glory is Thine. May it be Thy will, Lord, our God, and God of our fathers that You support us when we fall and straighten us when we bow over, for Thou support the fallen and straighten those who are bowed over, and are full of mercy, and there is none beside Thee. Blessed art Thou, O Lord, God of praises."

[M] Bar Qappara said [they recited the following], "We kneel to Thee, we bow over to Thee, we prostrate ourselves to Thee, we genuflect to Thee. For to Thee every knee must bend, every tongue must swear. 'Thine, O Lord is the greatness, and the power, and the glory, and the victory, and the majesty; for all that is in the heavens and in the earth is Thine; Thine is the kingdom, O Lord, and Thou art exalted as head above all. Both riches and honor come from Thee, and Thou rulest over all. In Thy hand are power and might; and it is in Thy hand to make great and to give strength to all. And now we thank Thee, our God, and praise Thy glorious name' [I Chron. 29:11-13].

[N] “With all our heart, and with all our soul we prostrate ourselves. All my bones shall say, ‘O Lord, who is like Thee, Thou who deliverest the weak from him who is too strong for him, the weak and needy from him who despoils him?’ [Ps. 35:10]. Blessed art Thou, O Lord, God of praises.”

[O] *Said R. Yudan, “The rabbis are accustomed to say all of these [prayers in C-G in an undertone while the leader recites, ‘We give thanks.’]”*

[P] *And some say, “[They said only] one or the other of these [prayers].”*

- [I:9 A] *It was taught:* [One may bow during prayer] as long as he does not bow too much.
- [B] Said. R. Jeremiah, “[One may bow during prayer] provided he does not position himself like a turtle [that is, bow his body down while holding the head up]. Rather [one must bow every bone in his body as the verse implies.] ‘All my bones shall say, O Lord, who is like Thee’” [Ps. 35:10]. [The verse also suggests that one must bow before reciting the name of God.]
- [C] *A tradition of Hanan bar Ba disputes this [latter teaching]. For Hanan bar Ba said to his associates, “Let me tell you about something good which I saw Rab do. [He bowed in a certain way during his prayer,] and I described this in front of Samuel, and he got up and kissed me on the mouth.”*
- [D] [And this is what Rab did. When he said,] “Blessed art Thou,” he bowed. When he mentioned the name [of God, “O Lord,] he straightened up. [Rab straightened before reciting the name of God.]
- [E] *Samuel said, “I will tell you that the basis for this [Rab’s action is the verse,] ‘The Lord lifts up those who are bowed down’ [Ps. 146:8].” [Accordingly, when one who is bowed down recites the name of the Lord, he should straighten up.]*
- [F] *Said R. Ammi, “This does not stand to reason [because another verse says,] ‘He bowed in awe of my name’ [Mal. 2:5].”*
- [G] *Said R. Abin, “If it was written in the verse, ‘At my name [bsmy] he bowed, very well, [i.e. that would contradict Rab’s practice.]’ But is it not written, ‘He bowed in awe of my name?’ [That could mean] previously, before he mentioned the name, he was already bowing down. [It could then be said that*

when he mentioned God's name he straightened up. That is not a contradiction of Rab's custom.]

[H] R. Samuel bar Nathan in the name of R. Hama bar Haninah, "Once a [leader of the service] bowed too much and Rabbi removed him [from leading the service]."

[I] R. Ammi said, "R. Yohanan used to remove [a leader who bowed too much]."

[J] Said to him R. Hiyya bar Ba, "He [Yohanan] would not remove him. Rather he reprimanded him [to stop bowing so much]."

[I:10 A] These are the blessings which begin with [the formula] "Blessed [art thou,]" All the blessings begin with "Blessed," [except, the blessings which adjoin the recitation of the Shema' and any blessing which adjoins another blessing. They need not begin these with [the formula] "Blessed" [T. 1:9].]

[B] And if a blessing adjoined another as in the case of the recitation of the Shema' or the Prayer, they do not have to begin these with "Blessed."

[C] *R. Jeremiah objected*, "What about the 'Redemption' [i.e. the blessing recited after the Hallel in the Passover Seder liturgy? Is it not a blessing which adjoins another? Yet it begins with 'Blessed.']"

[D] This case is different. [It is not a good example of a blessing which adjoins another. How so?] As R. Yohanan said, "If one heard the Hallel recited in the synagogue, he fulfills his obligation." [One may omit it from the Seder liturgy at home. In such a case the Redemption blessing will not adjoin another blessing. Hence, it must begin with "Blessed," and Jeremiah's objection is of no consequence. T.'s rule still holds true.]

[E] *R. Eliezer b. R. Yosah objected before R. Yosah*, "What about the conclusion [of the Redemption blessing]?" [It ends with a formulaic sentence beginning with "Blessed." Why does it follow this form, beginning and ending with "Blessed"?)

[F] He said to him, "This blessing is really two blessings. One for the future [redemption]. One for the past [redemption]."

[G] *They raised another objection*, "What about the Prayer of Division?" [The blessing of the Prayer of Division recited on Saturday night adjoins the blessing for the light, yet it begins with "Blessed".]

[H] This case is different. [There may be some cases where it is not an instance of a blessing which adjoins another. Thus the Prayer of Division blessing must begin with blessed.] As R. Ba bar Zabda said, “Rabbi used to split up [his recitation of the blessings of the Prayer of Division service] and afterwards repeat them together over a cup of wine. [Because in some instances they may be recited separately, each needs to have a complete opening formula of its own.]

[I] R. Hiyya the Elder used to gather them together [and say all the blessings of the *Prayer of Division service at once*].

[J] They raised another objection [to B based on the rule for the blessing following the meal], “What about [the invitation to recite the blessings after the meal,] ‘Let us recite the blessings.’ [Does it not adjoin the first blessing of the meal? Why then does that first meal blessing begin with the formula “Blessed”?]”

[K] This case is different. If [only] two people sat and ate, they do not say, “Let us recite the blessings.” [They do not extend an invitation to recite the blessings unless three or more eat together. Hence the first blessing must contain a full opening formula in case they say it without the preceding invitation.]

[L] What about [the conclusion of the first blessing after the meal], “He who sustains all?” [Why does it conclude with a full formula].

[M] That is a valid question. [There is no adequate explanation for its formulary construction.]

[N] What about [the fourth blessing of the meal,] “He who is good and does good”? [Why does it open with the formula “Blessed”?]

[O] This case is different. For said R. Huna, “When the martyrs of Betar [the last fortress to fall in the Bar Kokhba war] were interred the [blessing] “Who is good and does good” was established [as part of the blessings of the meal. Since it was formulated apart from the original meal-liturgy, it has a complete formulary structure and begins with “Blessed.” It retained that form when it was added to the original blessings for the meal].”

[P] [How does this blessing relate to the martyrs of the Bar Kokhba war?] [When we recite,] “He who is good,” [we give thanks]

that the bodies did not decompose. [When we say,] “He who does good,” [we give thanks] that they were able to inter them.

[Q] What about the [Friday evening] Prayer of Sanctification? [On Sabbath and festivals the Prayer of Sanctification adjoins the blessing for the wine. Why does it open with “Blessed”?]

[R] This case is different. For if he was sitting and drinking while it was yet day, [and night fell] and the Sabbath began, he [recites the Prayer of Sanctification but] does not say [the blessing over the wine,] “Who createst the fruits of the vine” [before the Prayer of Sanctification liturgy. Thus it must have a full formulary structure of its own because in some cases it does not adjoin another blessing.]

[S] What about its conclusion? [Why does the Prayer of Sanctification also end with the formula “Blessed”?]

[T] Said R. Mana, “The form of blessings is this way [as Yudan next explains, blessings follow either a long or a short pattern.]”

U. Said R. Yudan, “[One who recites blessings of the] short formula begins them with ‘Blessed,’ but does not conclude them with ‘Blessed.’ [At the end of the paragraph he does not once again recite a short blessing-formula.]

V. “[One who recites blessings of the] long formula begins them with ‘Blessed’ and concludes them with ‘Blessed.’” [At the end of the paragraph he recites another short blessing formula. For Mana and Yudan the relative position or context of a blessing does not determine its composition.]

[I:11 A] [A rule regarding the recitation of blessings:] [The efficaciousness of] a blessing is determined by [the correct recitation of the blessing at] its conclusion. [That is if one erred and at first recited the wrong formula for the blessing but concluded with the correct formula for the blessing, that constitutes valid recitation.]

[B] [Another rule which seems to contradict the previous is,] They do not split up the recitation of a blessing. [One does not say parts of a blessing separately. For it to be effective, one must say the entire blessing correctly.]

[C] *R. Isaac b. R. Eleazar objected before R. Yosah, “Since you say, ‘It is based on its conclusion,’ [how can you also say,] ‘One does not split*

up the recitation of a blessing'?" [B appears to contradict A. If one recites the wrong concluding or starting formula it is as if he has split up the blessing.]

- [D] *He said, "Take a look at this kid. He thought, What does ['a blessing] is based on its conclusion' mean? [It means] that if one was standing reciting the morning prayer and he forgot and mentioned the [formula of the] evening prayer and then returned and ended [his recitation properly] with the [conclusion] for the morning liturgy, he then fulfilled his obligation. [But this is not the correct interpretation of this statement. Rather it means that the conclusion of the liturgy of all long blessings makes reference to its main theme. For example, in the first blessing of the Prayer of Eighteen ["Shield of Abraham"] refers back to the preceding theme of the liturgy, God as "protector." [P.M.]]"*
- [E] [Accordingly,] said R. Aha, "All blessings resemble [in content], their conclusions [i.e. the formulary close of the liturgy].
- [F] *And those who say, "Shout and sing for joy, O inhabitant of Zion" [Isa. 12:6] [in the third blessing of the meal, this is [not a case of] a split-up blessing.*

1:6

[A] **They mention the exodus from Egypt at night.**

[B] **Said R. Eleazar b. Azariah to them, "I am like a seventy-year-old and was not worthy [of understanding why] the exodus from Egypt [in the third paragraph of the Shema] is said [in the recitation] at night until Ben Zoma expounded it."**

[C] **As it says, "So that all the days of your life you may remember the day when you came out of the land of Egypt" [Deut. 16:3].**

[D] **"The days of your life" [implies only] the days. "All the days of your life" [includes] the nights.**

[E] **And sages say, "'The days of your life' [includes only your life in] this world. 'All the days of your life' also encompasses the messianic age."**

[I:1 A] [Why does it say concerning Eleazar b. Azariah, **I am like a seventy year old**? It teaches us that] even though he achieved greatness, he lived a long life. [He became the Patriarch after the deposition of Gamaliel. See Eleazar pp. 146-159.]

[B] *But this means* that [normally, achieving] greatness shortens one's life. [Nevertheless, Eleazar lived a long life.]

- [I:2 A] *They say there [in Babylonia], “He should not begin [to recite] ‘And God said’ [the third paragraph of the Shema’, Num. 15:37-41, at night.] But if he began he may finish [reciting the passage].”*
- [B] *And our rabbis here [in the Land of Israel] say, “He may begin [to recite] but he may not finish [reciting the passage. He must omit the last verse which mentions the exodus.]”*
- [C] *Our Mishnah contradicts the [view of] the rabbis here [in the Land of Israel]. [For we learned in the Mishnah,] **They mention the exodus from Egypt at night [M. 1:5 A].***
- [D] [To resolve this contradiction] R. Ba [said in the name of] R. Judah in the name of Rab, “[They may mention the exodus at night not by saying the verse in Num. 15:41, but by reciting the following:] ‘We give thanks to thee for thou brought us forth from Egypt and freed us from the house of bondage to give thanks to thy name.’”
- [E] [A statement in the] Mishnah [Ber. 2:2] disputes [the view of] those rabbis [in Babylonia]. [For the Mishnah says,] **“And God said” [Num. 15:37-41] is customarily [recited] only by day.** [That implies that] the entire passage “And God said” may be recited only by day. [And the rabbis said in A that if one began at night to recite, one may recite this passage.]
- [F] *R. Ba bar Aha went there [to Babylonia]. He saw them beginning and finishing [the recitation of this passage, Num. 15:37-41]. [And he was surprised that they recited at all. For he had not heard] that there they say [in a baraita,] “He should not begin to recite the paragraph, ‘And God said.’ But if he began, he may finish.”*
- [G] *But our rabbis here [in the Land of Israel] say, “He may begin, but he may not finish. [He may not recite the last verse, Num. 15:41.]”*
- [H] *The question was posed to R. Ahya b. R. Zeira, “What was your father’s custom? Did he practice according to [the views of] these rabbis [of the Land of Israel] or according to those rabbis [of Babylonia]? [Zeira had moved from Babylonia to Israel.]*
- [I] *R. Hezekiah said [Zeira practiced,] “According to [the custom of] these rabbis [of the Land of Israel, i.e. not to recite]”*
- [J] *R. Yosah said, “[Zeira practiced] according to [the custom of] those rabbis [of Babylonia].”*

[K] *Said R. Haninah, “R. Yosah’s view makes more sense. For R. Zeira was strict and we [in Babylonia] are strict, and we always acted alike.”*

- [I:3 A] *It has been taught as a Tannaite statement: **One who recites the Shema’ in the morning must mention the exodus from Egypt in [the blessing which follows the Shema’ and begins with the words] “True and upright.”***
- [B] **Rabbi says, “One must mention [God’s] kingship in [that paragraph].”**
- [C] **Others say, “One must mention the [miracles of the] splitting of the sea and the smiting of the first-born.” [T. 2:1.]**
- [D] R. Joshua b. Levi says, “One must mention all of these and he must say [in addition], ‘The rock of Israel and its redeemer.’”
- [I:4 A] R. Simon in the name of R. Joshua b. Levi said, “If one did not mention the Torah in [the blessing of] the Land, [the first blessing of the Grace after the meal,] they make him repeat it. On what basis? [Scripture says,] ‘[So he led forth his people with joy...] and he gave them the lands of the nations.’ Why [did he give them the lands]? In order that, ‘They should keep his statutes and observe his Torah’ [Ps. 105:43-45].
- [B] R. Ba b. R. Aha in the name of Rabbi, “If one did not mention the covenant [of circumcision] in the blessing of the Land, or if one did not mention in the blessing concerning the rebuilding of Jerusalem [the third blessing of the Grace] the Kingdom of the House of David, they make him repeat [the recitation].”
- [I:5 A] Bar Qappara said, “One who calls Abraham, Abram violates a positive commandment.”
- [B] R. Levi said, “[He violates both] a positive and a negative commandment:
- [C] ““And you shall not be called by your name Abram” [Gen. 17:5] [is the source of] the negative commandment.
- [D] ““And your name shall be Abraham’ [ibid.] [is the source of] the positive commandment. “
- [E] *They raised an objection:* Lo, the Men of the Great Assembly called him Abram [as we see in the verse,] “Thou art the Lord who chose Abram” [Neh. 9:7].

[F] This case is different. Because [it merely implies that earlier] while he was [still called] Abram, you chose him [not that later he called him Abram].

[G] *And similarly*, one who calls Sarah, Sarai violates a positive commandment [but not a negative commandment because] only [Abraham] was commanded not to call her [Sarai].

[H] *And similarly*, does one who calls Israel, Jacob violate a positive commandment?

[I] No. This case is different. The [new name] was added. The first name was not taken away from him.

[J] And why was the name of Abraham changed and the name of Jacob changed, but the name of Isaac was not changed?

[K] [Because] these others were given their names by their parents. And Isaac was given his name by God. As it says, “And you shall call his name Isaac” [Gen 17:19].

[I:6 A] Four persons were named before they were born. And these are they: Isaac, Ishmael, Josiah, and Solomon.

[B] [Regarding] Isaac [Scripture says,] “And you shall call his name Isaac” [ibid.].

[C] [Regarding] Ishmael [Scripture says,] “And you shall call his name Ishmael” [16:11].

[D] [Regarding] Josiah [Scripture says,] “Behold a son is to be born to the House of David. Josiah is his name.” [I Kings 13:2]

[E] [Regarding] Solomon [Scripture says,] “Solomon shall be his name” [I Chron. 22:9].

[F] This is the case with regard to the righteous people [God may give some of them names before they are born]. But regarding the wicked people [Scripture says,] “The wicked are strangers from the womb” [Psalms 58:4]. [They are not given names before they are born.]

[I:7 A] Ben Zoma says, “Israel is destined not to mention the exodus from Egypt in the future age.”

[B] What is the basis for this statement? “And thus the days are coming says the Lord, you shall no longer say, ‘God lives, who took us out of the Land of Egypt;’ but ‘God lives, who took out and who brought the

seed of the House of Israel from the Land in the North” [Jeremiah 23:7-8].

- [C] This does not mean that the exodus from Egypt will be removed [and no longer mentioned]. Rather [mention of the redemption from] Egypt will be added to the [mention of] the redemption from the Kingdom [of the North]. The [mention of the redemption from the] Kingdom [of the North] will be primary and [the mention of the redemption from] Egypt will be secondary.”
- [D] And so it says, “Your name shall no longer be called Jacob. Israel shall be your name.”
- [E] They said, “That does not mean that the name Jacob will be removed. Rather Jacob will be added to Israel. Israel will be the primary name and Jacob will be secondary.”
- [F] And so its says, “Do not mention the first [redemption]” – this refers to [the redemption from] Egypt. “And pay no heed to the early [redemption]” – this refers to [the redemption from] the Kingdom of the North. “Lo, I am making a new [redemption]” – this refers to [the redemption to come in the time of] Gog.
- [G] They gave a parable. To what case is this matter similar? To the case of a person who was walking by the way and he met up with a wolf and was saved from it. He began to tell the story of [his salvation from] the wolf.
- [H] Afterwards he met up with a lion and was saved from it. He forgot the story of [his salvation from] the wolf and began to tell the story of [his salvation from] the lion.
- [I] Afterwards he met up with a serpent and was saved from it. He forgot both the previous incidents and began to tell the story of [his salvation from] the serpent.
- [J] Just so was the case for Israel. Their [salvation from] the later troubles caused them to forget [to mention the story of their salvation from] the earlier troubles.

YERUSHALMI BERAKHOT

CHAPTER TWO

2:1

- [A] One who was reciting from the Torah [at Deut. 6:4] and the time came for the recitation of the Shema',
- [B] If he had intention [to do so] he fulfilled his obligation [to recite the Shema'].
- [C] And if he did not [have intention to do so], he did not fulfill his obligation.
- [D] "At the breaks [between the paragraphs of the Shema'] one may extend a greeting [to his fellow] out of respect, and respond [to a greeting extended to him].
- [E] "And in the middle [of reciting a paragraph] one may extend a greeting out of fear and respond," the words of R. Meir.
- [F] R. Judah says, "In the middle [of a paragraph] one may extend a greeting out of fear and respond out of respect.
- [G] "At the breaks [between the paragraphs] one may extend a greeting out of respect and respond to the greeting of any man."
- [I:1 A] Said R. Ba, "That is to say [we deduce from M.'s rule at 2:1 A] that [if one omits the recitation of the] blessings, it does not invalidate [his recitation. Ba derives this from M.'s case: a person was reciting from the Torah and presumably did not recite the rabbinic liturgical formulae before and after the Shema'. Still, the Mishnah says that if he had the proper intention, he fulfilled his obligation.]"
- [B] Said R. Yosa, "If you say [contrary to R. Ba] that one must recite the blessings [to fulfill his obligation, then our M. may be explained as follows:] once he has recited the blessings he must have the proper intention [while reciting] all of the scriptural passages." [That is, according to Yosa one may still infer from this ruling in M. that blessings are a necessary part of the effective performance of the ritual.]

[C] *They asked [concerning R. Ba's inference]: [We know that] one may not interrupt [between the paragraphs of the Shema'] even though it is not taught explicitly in our Mishnah. [That is, while reading from the Torah when one comes to Deut. 6:4 and finishes reciting the first paragraph of the Shema', he then must go directly and recite Deut. 11 to complete the second paragraph.] Here [too, we may argue that] while it is not taught explicitly in our M., we know that [to fulfill his obligation] one must recite the blessings. [We may deduce no conclusion from M.]*

[D] [Now, if we follow Yosa in B to his logical conclusion,] that means that one must have proper intention for all the passages [of the Shema' including the blessings, for it is a single act of recitation and hence requires intention throughout].

[E] *Let us learn [that this is not the case] from the following: R. Ahi said in the name of R. Judah, **If one had intention [to fulfill his obligation] during his recitation of the first paragraph, even though he did not have intention during his recitation of the second paragraph, he fulfilled his obligation [T. 2:2].**' [From T. we may deduce that even though the blessings and scriptures together comprise one unit and must all be recited, one must have intention only for the first paragraph of Scripture but need not have special intention during the recitation of the blessings. C's objection then remains valid and we may conclude that Ba's deduction is wrong. But we must not extend Yosa's ruling too far either.]*

[F] What is the difference between the first and second scriptural paragraphs?

[G] Said R. Haninah, "All that we find written in the latter is already written in the former."

[H] If so why not read only one?

[I] Said R. Ila, "The first is addressed to the individual [in the second person singular]. The second is addressed to the congregation [in the second person plural]. The first is [primarily to teach us regarding the] study [of the laws]. The second is [mainly to teach us regarding the] practice [of the laws]."

[J] Bar Qappara said, "One needs to have intention while reciting only the first three verses."

[K] *And it was taught in support of this [in the fourth verse, Deut. 6:7], "And you shall teach them." Up to here you must have*

[special] intention [to fulfill the commandment to recite]. From here on you may recite [without special intention to fulfill the commandment as one does when reciting something he is studying.]

- [I:2 A] R. Huna, R. Uri, R. Joseph, R. Judah in the name of Samuel, “One must accept upon himself the yoke of the Kingdom of Heaven [i.e. recite the first verse of the Shema’ in Deut. 6:4] while standing.”
- [B] What [does this mean]? If one was sitting must he stand up? No. [It means] if one was walking he must stand still.
- [I:3 A] *It was taught:* One must stretch out his pronunciation of the word, “One” [i.e. ‘ehad the last word in Deut. 6:4].
- [B] R. Nahman b. R. Jacob said, “[One must stretch out his pronunciation of] only the [last letter,] dalet, [of the word, ‘ehad’].”
- [C] Symmachus bar Joseph says, “Whoever stretches out the pronunciation of [the word] ‘ehad, his days and years are stretched out for him, and his years are filled with goodness.”
- [D] R. Jeremiah used to stretch out his pronunciation too long [of the word, “One”]. *Said to him R. Zeira, “You need not [stretch it out] that much. But only enough time for you [to have contemplate upon the thought,] to enthrone Him in the heavens and the earth and the four corners of the world.’*
- [E] *Rab asked R. Hiyya the Elder, “[Why is it that] I never saw Rabbi accept upon himself the yoke of the kingdom of heaven [i.e. recite the Shema’]?”*
- [F] *He [Hiyya] said to him, “When you saw him put his hand over his eyes [at that moment] he was accepting upon himself the yoke of the kingdom of heaven [and reciting the first verse of the Shema’].”*
- [G] He [Rab] said to him, “Was he not obliged to make mention of the exodus from Egypt [by reciting the third paragraph of the Shema’, something which Rab apparently never saw him do]?”
- [H] *He [Hiyya] said to him, “It is impossible that [Rabbi] did not utter a word [concerning the exodus at all during the day. Rather, at another time each day he spoke of the exodus during his teaching and he did thereby fulfill his obligation].”*
- [I] *R. Tabyomi asked R. Hezekiah, “Does this [i.e. Rabbi’s practice] not imply that [to fulfill your obligation] you need to*

have intention for [the recitation of] only the first verse. [Rabbi covered his eyes for an instant, enough time to recite one verse]?" [This contradicts Bar Qappara in section I where he says that one must have intention while reciting the first three verses.]

[J] He said to him, "He had enough time to recite [the first three verses] until, "And you shall teach." [Accordingly Rabbi's actions do not contradict Bar Qappara's teaching]."

- [II:1 A] R. Mana said in the name of R. Judah who said in the name of R. Yosé the Galilean, "If one interrupted [his recitation] long enough for him to recite it [the Shema'] entirely, he did not fulfill his obligation."
- [B] R. Ba, R. Jeremiah, in the name of Rab, "The law follows R. Mana who said in the name of R. Judah who said in the name of R. Yosé the Galilean."
- [C] R. Yohanan in the name of R. Simeon b. Yehozadaq, "Also concerning the [recitation of] Hallel and the recitation of the Megillah it is so [i.e. the law follows Mana. One who interrupts his recitation long enough to recite it all does not fulfill his obligation]."
- [D] *Abba bar R. Huna and R. Hisda were sitting* [together reviewing the preceding law]. They said, "So too concerning the soundings [of the shofar on New Year's day. An interruption whose duration equals the time it would take to complete the sounding of the entire sequence of blasts invalidates the ritual]."
- [E] *They went off to the house of Rab. There they heard [the teaching of] R. Huna in the name of Rab* [MS R omits: Huna], "Even if one heard them [i.e. nine shofar blasts] over a span of nine hours, he fulfilled his obligation."
- [F] *Said R. Zeira, "While I was there [in Babylonia] I was in doubt [concerning this law]. When I came here [to the Land of Israel] I heard [the teaching of] R. Yosa in the name of R. Yohanan, 'Even if one heard them over a span of an entire day, he fulfilled his obligation as long as he heard them in the proper sequence.'"*
- [G] *R. Yosé asked, "[If two persons heard the same shofar-blast,] and one needed to hear the first blast [of the New Year sequence to fulfill his obligation for he had heard nothing yet] and the other needed to hear the last blast [to fulfill his obligation for he had heard the entire sequence of blasts elsewhere, except for the last] – can this one blast serve to*

fulfill the obligation of both these persons?” [Yosé’s question is not answered.]

[H] *R. Abun bar Hiyya asked*, “[How do we figure the time span of an interruption which invalidates the recitation of the Shema’, A above? The time it takes to recite both] the scriptural verses and the blessings? Or the verses without the blessings? Or the blessings without the verses?”

[I] [And he asked further: “What if one began reciting,] then interrupted for a third of the time it takes to recite the whole, then continued reciting a bit, then interrupted for another interval of a third of the time [it would take to recite the whole, and so on. Do the intervals of interruptions combine together to invalidate the recitation?]

[J] [And he asked further:] “Do we measure the time span [of the interruption which invalidates the] recitation differently for each individual? Or do we measure according to the average time it takes all persons to recite?”

[K] Said R. Mattenaiah, “It makes [no] sense to go according to the time it takes each individual to recite.” [MS R and the parallel version in Y. Meg. 2:2 add the word “no” insisting then on an average interval to be applied to all cases.]

[L] *R. Abbahu asked R. Yohanan*, “*While I was reciting the Shema’, if I passed by filthy alleyways and interrupted my recitation*, have I fulfilled my obligation?” [According to T. 2:17, one is forbidden to recite near filthy alleyways.]

[M] He [Yohanan] said to him, “*Abbahu my son*. If you interrupted for an interval long enough to complete the entire recitation, you did not fulfill your obligation.”

[N] *R. Eleazar went to visit R. Simeon bar Abba [who was ill]*. He said to him, “*While I was weak I dozed off while I recited the Shema’*. Did I fulfill my obligation?” He said to him, “Yes.”

[O] *R. Jeremiah asked before R. Zeira*, “*Was it because R. Eleazar knew that R. Simeon bar Abba was particularly scrupulous in*

fulfilling commandments that he so ruled in this case? Or was it because he was ill that he so ruled? [If so the leniency should apply only to a sick person.]

[P] He said to him, “[The law for this case of a sick person who dozed off while reciting the Shema’] is an explicit dispute. R. Eleazar said, ‘He fulfilled his obligation.’ R. Yohanan said, ‘He did not fulfill his obligation.’”

[Q] *They dispute* [this rule in the case of one who dozed off during the] recitation of the Shema’ because it is made up of separate paragraphs [from three different places in the Torah]. But concerning the recitation of the Hallel and of the Megillah, even R. Eleazar would be forced to admit [that interruptions for a nap invalidate the ritual because these are made up of contiguous passages from scripture in the book of Psalms and the scroll of Esther respectively.]

[II:2 A] *It was taught:* [One who wishes to interrupt his recitation of the Shema’] to greet his teacher or [to greet] one who is greater than he in Torah-learning – he is permitted to do this. *From this rule we deduce that* a person must greet one who is greater than him in Torah-learning.

[B] *And also from this* [next discussion we deduce that same practice.]
For it was taught: If one tore [his garment as a sign of mourning for a relative who appeared to have died] and he [the relative] was revived and then died, if this happens right away [after he first tore his garment] he need not tear [his garment again]. If it happens over some time, he must tear [his garment again].

[C] How long is “right away”? The time it takes to utter [a greeting]. How much time is that? R. Simon in the name of R. Joshua b. Levi, “The time it takes a man to greet his associate.”

[D] Abba bar bar Hannah in the name of R. Yohanan, “The time it takes a student to greet his teacher and say to him, ‘May peace be upon you, my teacher.’” [From this we learn that a student must greet his teacher.]

- [E] *R. Yohanan was leaning on R. Jacob bar Idi [as they were walking]. R. Eleazar saw them and hid from them.*
- [F] *He [Yohanan] said, “This Babylonian [Eleazar] did two [improper] things to me. First, he did not greet me [even though I am his teacher]. Second, he did not attribute a teaching to me.”*
- [G] *He [Jacob bar Idi] said to him, “That is the way they act towards each other [in Babylonia out of respect]. The lower among them [in status] does not greet the greater [among them in status so as not to bother him to respond]. For they uphold the verse, ‘The young men saw me and withdrew [Job 29:8].’”*
- [H] *While they were walking he [Jacob bar Idi] showed him [Yohanan] a certain study hall.*
- [I] *He said to him, “That is where R. Meir used to sit and expound. He [Meir] recited teachings in the name of R. Ishmael but he did not recite teachings in the name of R. Aqiba.”*
- [J] *He [Yohanan] said to him, “Everyone knows that R. Meir was a student of R. Aqiba. [He did not have to attribute any teaching to him. All of his anonymous teachings came from Aqiba.]”*
- [K] *He [Jacob] said to him [Yohanan], “[Likewise] everyone knows that R. Eleazar is a student of R. Yohanan [and he need not directly attribute traditions to him].” [In this way Jacob justified Eleazar’s act of reciting one of Yohanan’s teachings without attributing it to him.]*
- [L] *He [Jacob] said to him [later], “May we pass before a procession of an idol?”*
- [M] *He [Yohanan] said to him, “Do you wish to give it honor [by going out of your way to avoid it, thereby imputing some importance to it]? Rather pass before it and close your eyes [and ignore it].”*
- [N] *He [Jacob] said to him, “R. Eleazar acted well. By not passing before you [he treated you with reverence].”*
- [O] *He [Yohanan] said to him, “Jacob bar Idi, you certainly know how to appease someone.”*
- [II:3 A]** *Now R. Yohanan required that [his students] attribute his teachings to him [whenever they repeated them].*

[B] Accordingly, even King David [implied that a person who repeats his words attribute them to him]. He asked [God] for mercy, “Let me dwell in thy tent for ever!” [Ps. 61:4].

[C] [How should one interpret this verse?] R. Pinhas, R. Jeremiah in the name of R. Yohanan, “Did it ever cross David’s mind that he would live forever? Rather so said David, ‘Let me merit that my words be spoken in my name in the synagogues and in the study halls.’”

[D] *And what benefit is there [in attributing a teaching to another sage]?*

[E] Levi bar Nezira said, “When one recites a tradition in the name of its original author [who has passed away], the author’s lips move in unison with him in the grave [reciting the tradition. On account of the attribution the author merits a moment of life after death in the world to come].”

[F] What is the scriptural basis for this teaching? “[And your kisses are like the best wine that goes down smoothly] gliding over the lips of sleepers [Song 7:9].” [After death one’s lips move] like the wine which glides off of grapes ripening in a basket [if someone recites a teaching in his name].

[G] R. Haninah bar Papai and R. Simon [explained the verse cited above].

[H] One said as follows, “Compare this [case in the verse] to one who drinks [spiced] conditon-wine.”

[I] *And the other said, “Compare this [case in the verse] to one who drinks aged wine.” Even though he finished drinking, the taste remains on his lips. [So too, one who recites Torah. The words remain on his lips after his death. When others repeat the tradition in his name, his lips move along with theirs.]*

[J] [The following relates to Ps. 61:4 cited above]: Every generation has its scoffers. What did the wiseacres of David’s generation do? They would go before David’s windows and say to him, “David, when will you build the Temple? When shall we go to the house of the Lord?”

[K] And he would say, “Even though they intend to anger me I affirm that inwardly I am happy [as this verse implies] ‘I was glad when they said to me, Let us go to the house of the Lord’ [Ps. 122:1].”

[L] [The next is a related teaching regarding David:]
“When your days are fulfilled [and you lie down with your fathers, I will raise up your offspring after you, who shall come forth from your body, and I will establish his kingdom] [2 Samuel 7:12].” Said R. Samuel bar Nahami, “God said to David, ‘David, I have apportioned for you a full life-span. I have not apportioned for you a shortened life-span.

[M] “Why will Solomon your son build the Temple if not to offer the sacrifices there?

[N] “[Nevertheless I will not shorten your life to hasten the building of the Temple because you perform good deeds for me.] The deeds of justice and charity which you perform are more beloved to me than sacrifices.”

[O] And what is the basis for this in Scripture? “To do righteousness and justice is more acceptable to the Lord than sacrifice [Prov. 21:3].”

[II:4 A] **And at the breaks [between the paragraphs of the Shema’] one may [interrupt to] extend a greeting out of respect and respond [to another person’s greeting] [M.2:1 D].** For what purpose may one respond? Out of fear or out of respect [as well]?

[B] *Let us deduce the answer from the following: **And in the middle [of the paragraphs] one may extend a greeting out of fear and respond** out of fear, **the words of R. Meir [M. 2:1 E].** That implies that in the preceding rule one may [stop to] greet [another person] out of respect and respond [to a greeting] out of respect [during his recitation].*

[C] **And in the middle [of one’s recitation of one of the paragraphs of the Shema’] one may extend a greeting out of fear and respond,” the words of R. Meir [M. 2:1 E].** For what purpose may one respond? Out of fear or [also] out of respect?

[D] *Let us deduce the answer from the following: **R. Judah says, “In the middle [of the paragraphs] one may greet [another person] out of fear and respond [to a greeting] out of respect” [M. 2:1 F].** That implies that in the preceding rule, he may greet [another person] out of fear and respond [to a greeting] out of fear.*

[E] Until now we spoke of [a case of interruption in] the middle of the paragraph. What about [one who is reciting and is in] the middle of a verse [may he interrupt]?

[F] *R. Jeremiah would remain silent [in such an instance].*

[G] *R. Jonah would speak.*

[H] R. Huna [and] R. Joseph [say], “‘And you shall talk of them’ [Deut. 6:7]. From here [we learn] that you have permission to speak [in the middle] of [reciting] them [i.e. interrupt even in the middle of a verse as R. Jonah did].”

2:2-3

[A] **These are the breaks [in the Shema’]:**

[B] **Between the first blessing and the second [of those which precede the scriptural passages of the Shema’].**

[C] **Between the second blessing and [the second paragraph which begins] “Hear O Israel” [Deut. 6:4-9].**

[D] **Between [the two sections which begin] “Hear O Israel” and “And it shall come to pass if you shall hearken [Deut. 11:13-21].”**

[E] **Between [the two sections beginning] “And it shall come to pass” and “And God said to Moses [Num. 15:37-41].”**

[F] **Between [the two sections] “And God said” and “True and upright” [the blessing which follows the scriptural passages].**

[G] **R. Judah said, “Between [the two sections] ‘And God said’ and ‘True and upright’ one may not interrupt.”**

[H] **[In the printed text, the following stands at the head of M. 2:3:] Said R. Joshua b. Qorha, “Why does [the recitation of] ‘Hear O Israel’ precede [the recitation of] ‘And it shall come to pass’?”**

[I] **“So that one should first accept upon himself the yoke of the kingdom of heaven [by reciting the first paragraph] and afterwards [accept] the yoke of the commandments [by reciting the second paragraph].”**

[J] **“[Why does the recitation of] ‘And it shall come to pass’ [precede the recitation of] ‘And God said’?”**

[K] **“For ‘And it shall come to pass’ is recited both by day and night. ‘And God said’ is recited only by day.” [The principle is that a more frequent requirement takes precedence over a less frequent requirement.]**

[I:1 A] *Said R. Levi, “The scriptural basis for R. Judah [in G] is [the following]. It says, “I am the Lord your God” [Num. 15:41]. And it is written “The Lord is the true God” [Jer. 10:10]. [Thus Scripture links the words “true” and “Lord your God” together].*

FREE-STANDING COMPOSITE ON THE WEARING OF TEFILLIN

[II:1 A] R. Hiyya in the name of R. Yohanan, “Why did they say, ‘A person should put on tefillin, then recite the Shema’, then pray’? So that he may accept the yoke of the kingdom of heaven completely [i.e. he recites the Shema’ while wearing the tefillin which contain the verses of the Shema’ on a parchment.]”

[B] Rab said, “One recites the Shema’, and then puts on his tefillin, and then prays [reciting the eighteen blessings].”

[C] *A teaching [in a baraita] contradicts Rab: Lo, one who was occupied with burying a corpse, when it comes time for him to recite the Shema’, lo, he moves [at least four cubits] to a clean place, and then puts on his tefillin, and then recites the Shema’, and then prays.*

[D] *A teaching [in the Mishnah] supports Rab: **A person should first accept upon himself the yoke of the kingdom of heaven [i.e. recite the Shema’] and then accept upon himself the yoke of the commandments [e.g. the obligation to wear tefillin] [M. 2:2 I].***

[II:2 A] Said R. Yannai, “[One who wears] tefillin must have a clean body.”

[B] Why did they not make a presumption concerning them [that one may trust any person who wears tefillin that he keeps the commandments, such as the laws of cleanness]? Because of the impostors.

[C] *[Some people put on tefillin as a ruse to deceive their fellows as in the following story:] One time a person entrusted an article to his fellow [to watch for him]. And later he denied [having received it]. He said to him, “It was not you that I trusted [when I gave you the article]. I trusted the [tefillin] upon your head.” [I thought that it was a sign that you were trustworthy. I was misled.]*

[D] After recovering from an illness, R. Yannai used to wear them [his tefillin, all day long] for three days to show that illness cleanses [the body. His reference above in A to a “clean body” should be understood figuratively – “clean of sin.”] What is the scriptural basis for this practice? “[Bless the Lord,] who forgives all your iniquity, who heals all your diseases” [Ps. 103:3]. [The verse juxtaposes sin and disease. This suggests that disease removes sin.]

[E] *Rabban Yohanan b. Zakkai never took off his tefillin. Not in the summer. Not in the winter. And R. Eliezer his disciple also acted accordingly. In the winter when R. Yohanan could tolerate it, he wore both [the tefillin of the head and the arm]. But in the summer when he could not tolerate it [because of the heat] he wore only the tefillin of the arm.*

[F] [But how is Yohanan's practice permissible?] Is it not forbidden [to wear tefillin constantly] lest they be exposed to one's nakedness [when one is in the bathhouse or latrine]?

[G] Said R. Hiyya bar Abba, "He wore undergarments inside [the latrine and did not expose his nakedness]. And when he went to the baths, when he reached the bath-attendant he removed them [the tefillin]."

[H] Said R. Isaac, "He wore them until he reached Jacob the Thermasarius [the attendant outside of the bathhouse]. *And when he returned from bathing he [Jacob] gave them back to him.*"

[I] *And when he gave them to him, Yohanan would tell this to him:* Two arks went along with the Israelites in the desert – the ark of the Eternal [containing the tablets of the law] and the ark of Joseph [i.e. the coffin containing the bones of Joseph].

[J] The nations of the world said, "What is the nature of these arks?"

[K] Israel said to them, "This is Joseph's coffin and this is the ark of the Eternal."

[L] And the nations of the world ridiculed Israel and said, "Is it possible that a coffin goes alongside the ark of the Eternal?"

[M] And Israel said, "It is because this person [Joseph] kept [the commandments of the Torah] which this one [God] wrote [on the tablets of the law]."

[N] *And why did [Yohanan] tell this [story] to him [Jacob]?*

[O] *Said R. Haninah, "He wanted to tell him a teaching of Torah."*

[P] *Said to him R. Mana, "Did he have no other teaching of Torah to tell him?" But rather [this tradition is relevant*

because Jacob made him wait to get his tefillin back]. He wanted to chastise him saying, “Joseph merited being the progenitor of the tribe from which kings descended only because he kept God’s commandments. And we merit all of our honors only because we keep God’s commandments. And you wish to disrupt us from keeping this commandments. [Hurry up and give us back our tefillin.]”

- [II:3 A] In what way does one recite the blessings over them [the tefillin]?
- [B] R. Zerikin in the name of R. Jacob bar Idi, “When one puts on the tefillin of the arm what does he say? ‘Blessed, who sanctified us with his commandments and commanded us concerning the commandment of tefillin.’ When he puts on the tefillin of the head what does he say? ‘Blessed, who sanctified us with his commandments and commanded us concerning the commandment of putting on tefillin.’
- [C] “When he [who wears tefillin all day] takes them off [at the end of the day] what does he say? ‘Blessed, who sanctified us with his commandments and commanded us to keep his statutes.’”
- [D] *And this accords with the one who holds the view that the verse, “[You shall therefore keep this ordinance at its appointed time from day to day” (Ex. 13:10)] refers to the statute regarding tefillin [mentioned in Ex. 13:9]. [Accordingly, there is a special commandment to remove the tefillin after the appointed time, at the end of the day.] But according to the one who holds the opinion that the verse refers only to the statutes of Passover [Ex. 13:6-8, and that tefillin may be worn at night], it [the obligation to recite a blessing] does not apply. [He has no obligation to remove them at night and so does not recite any blessing when he removes them.]*
- [E] R. Abbahu in the name of R. Eleazar, “One who puts on tefillin at night violates a positive commandment.” And what is the scriptural basis? “You shall therefore keep this ordinance at its appointed time from day to day” [Ex. 13:10]. “[From] day” – and not at night. “Today” – [the repetition of the phrase comes] to exclude Sabbaths and festivals [as a time for wearing tefillin].
- [F] *But lo, R. Abbahu sat and taught at night with his tefillin on. [This does not contradict the preceding because] they were on [his head] sideways and fastened on his arm as if for safe-keeping [but not fastened the way one would fulfill the commandment. So Abbahu did not act improperly.]*

[G] *[Alternatively] it is possible to say that [the prohibition against wearing tefillin at night] applies only to one who puts them on [at night]. But if they were on him already during the day, he is permitted [to continue wearing them at night].*

[H] *Alternatively it is possible to say that the obligation to wear them persists until pedestrian traffic ceases in the marketplace [at night].)*

[I] *It is possible to say that we derive the rule [that tefillin are not to be worn on Sabbaths and holidays] from the following: “And it shall be to you as a sign” [Ex. 13:9] – [you should wear] that which can serve as a sign for you. [This verse comes] to exclude [one from wearing tefillin] on Sabbaths and festivals. [These days are] entirely “signs” [of sanctity. Wearing tefillin on these days is not an effective sign of sanctity because these days are completely holy to begin with. In Ex. 31:17, for instance, the Sabbath day itself is called a “sign.”]*

[J] *Is this exclusion not also derived from the [next verse, “From day to day” [Ex. 13:10]? [Why have we two verses teaching the same thing?] We need both, in accordance with this opinion of R. Yohanan, “Concerning any matter [of practice] which is not clearly evident [from a direct reference in a verse], we bring support for it from several places.”*

[II:4 A] We learned there, Women and slaves [and minors] are exempt from [the obligations of] the recitation of the Shema’ and [wearing] tefillin [M. 3:3 A].

[B] *Whence [do we learn the exemption for] women? “And you shall teach them to your sons” [Deut. 11:19] and not to your daughters. Whoever is obligated [to perform the commandment] to study Torah is obligated [to perform the commandment] to wear tefillin. Women who are not obligated to study Torah, are not obligated to wear tefillin.*

[C] *They asked: Lo, Michal daughter of Kushi used to wear tefillin. And Jonah’s wife used to go up to Jerusalem on the pilgrimages, and the sages did not object.*

[D] *R. Hezekiah in the name of R. Abbahu, “They sent the wife of Jonah home and the sages objected to Michal the daughter of Kushi’s actions.”*

- [II:5 A] *It is taught as a Tannaite statement: One who enters a bath house, [when he stands] in a place where people stand dressed, he may recite the Shema' or Prayer (Y. has the reading 'wear tefillin') there, and it goes without saying that he may extend a greeting there. He may put on his tefillin and it goes without saying that he need not remove them [if he enters wearing them].*
- [B] *[When he stands] in a place where most people stand naked, one may not extend a greeting, and it goes without saying that he may not recite the Shema' or Prayer there. And he must remove his tefillin, and it goes without saying that he may not put them on.*
- [C] *[When he stands] in a place where some stand naked and some stand dressed, one may extend a greeting and one may not recite the Shema' or Prayer. And one need not remove his tefillin, but he may not put them on. [T. 2:20.]*
- [D] *He may not put them on until he goes completely outside the bath house. And this supports that which R. Isaac said concerning R. Yohanan, "He used to wear them until he reached Jacob the Thermasarius."*
- [II:6 A] *R. Jeremiah posed a question before R. Zeira, "If a bath-house is used for bathing in the summer months but not in the winter months [does it have the status of a bath house in the winter with respect to the recitation of the Shema' and the Prayer and wearing the tefillin?]"*
- [B] *He said to him, "[It has the status of a] bath house even when not in use for bathing. And a latrine [has the status of a latrine] even when [it is not in use and] contains no waste matter. [One may not recite the Shema', the Prayer, or wear tefillin in that place]."*
- [C] *Mar Uqbah said, "A swine is like a moving latrine [and one may not wear tefillin or pray near it]."*
- [D] *R. Jonah asked, "What is law regarding [reciting the Prayer or wearing tefillin near] dried waste matter on the seashore?"*
- [E] *Said R. Ammi the physician, "R. Jeremiah taught, 'One removes it with a cloth [before praying nearby].' But they do not rely on his teaching."*
- [II:7 A] *R. Zeira in the name of R. Abba bar Jeremiah, "[While wearing tefillin] one may eat a snack but not a regular meal, and one may take a nap but not a regular sleep."*

- [B] *[This teaching accords with another.] One authority teaches that one recites the blessing [for wearing tefillin] once a day and another teaches [that one recites the blessing for tefillin] twice.*
- [C] *According to the one who says “Twice” it makes sense. [He takes them off when he eats his regular meal and recites the blessing when he puts them back on.] But according to the one who says “Once” how is it possible [that he not recite a blessing when he puts on his tefillin after eating?] When he ate he surely did not have on his tefillin!*
- [D] Said R. Zeira, “[The one who says one recites the blessing “Once”] holds the view of Abba bar Jeremiah [in A] who says that one may eat a snack [without removing his tefillin and this is what he does. Thus he need not remove his tefillin to eat, and does not put them back on with another blessing].”
- [E] R. Zeira in the name of R. Abba bar Jeremiah, “One may not enter the water closet while carrying his scrolls or wearing his tefillin.”
- [F] *When R. Yohanan was carrying his scrolls he would give them to another person [to hold when he entered the water closet]. When he was wearing his tefillin he would stand with them on [in the water closet].*
- [G] *A teaching disputes Abba bar Jeremiah: “A person may enter the water closet with his scrolls or tefillin.”*
- [H] *Said R. Zeira, “Abba bar Jeremiah’s view agrees with that teaching as well. [He may continue to wear them in the water closet] if he will yet [have some time left to] wear them [while it is still day]. [He must remove them] if he will not [have any time left to] wear them [while it is still day]. [We reason that] since he fulfills no commandment with them [by wearing them at night when he comes out] we should [not permit him] to degrade them [by wearing them into the water closet].”*
- [I] At first they used to give them [tefillin] to their associates [when they entered the water closet]. But some [unscrupulous individuals] used to take the [tefillin] and flee. They decreed that they may put them into crevices [in the walls of the facility]. But when a certain incident occurred they decreed that one may enter with them on. [A student left his tefillin in a crevice. A harlot stole them, came to the study hall and proclaimed, “Look what so and so gave me as my payment.” The student, distraught, took his own life by leaping from a roof. B. Ber 23a.]

[J] R. Jacob bar Aha in the name of R. Zeira said, “That is [he may enter with them] only if there will be time left in the day to wear them [when he comes out]. But if there will be no time left in the day to wear them [after he is finished], he is forbidden [to enter with them]. *For since he fulfills no commandment with them [when he comes out at night wearing them] why should he [be permitted] to degrade them [by wearing them into the water closet]?”*

[K] *Meyasha the grandson of R. Joshua b. Levi said, “Whoever wishes to follow the best practice should make a pouch the size of a handbreadth [for his tefillin] and place them [in it and hang it on his chest] near his heart. What is the Scriptural basis for this? ‘I keep the Lord always before me [Ps. 16:8].”*

[L] *They said there [in Babylonia], “Whoever is not [as pure as] Elisha the Winged-one [whose tefillin changed miraculously into the wings of a dove in order to protect him from the Romans who sought to kill him for wearing tefillin,] should not wear tefillin [all day long, rather just during the recitation of the Shema’ and the Prayer].”*

- [II:8 A] R. Zeira in the name of R. Abba bar Jeremiah, “A person should not enter a cemetery and relieve himself there. But concerning one who did so Scripture says, ‘He who mocks the poor [i.e. the dead] insults his Maker’ [Prov. 17:5].”
- [B] Once R. Hiyya the Elder and R. Jonathan were walking in front of the coffin of R. Simeon bar Yosé bar Leqonia, and R. Jonathan walked over some graves.
- [C] *Said to him R. Hiyya the Elder, “[Because of what you are doing] they [the dead] shall say, ‘Tomorrow they shall join us [in the grave]. But now they trample upon us.’”*
- [D] *He said to him, “Do they [the dead] know anything [about what the living do]? Is it not so written, ‘The dead know nothing’ [Qohelet 9:5].”*
- [E] He [Hiyya] said to him, “You know how to recite [Scripture] but you do not know how to interpret [the verse]: ‘For the living know that they will die’ [ibid.] refers to the righteous who are called ‘the living’ even when they are dead; ‘And the dead know nothing’ [ibid.] refers to the wicked who are called ‘the dead’ even when they are alive.”

[F] And whence do we know that the wicked are called ‘the dead’ even when alive? For it is written, ‘For I have no pleasure in the death of the dead’ [Ezek. 18:23]. Can a dead person die? Rather this refers to the wicked who are called the dead even when alive.

[G] And whence do we know that the righteous are called ‘the living’ even when dead? For it is written, ‘This is the land which I swore to Abraham, to Isaac, and to Jacob saying’ [Deut. 34:4]. What does ‘saying’ teach us? [It means] He [God] said to him, ‘Go and tell the forefathers that all that which I contracted with you I have done for your descendants after you.’” [He is told to go and speak with the forefathers as if they were still alive.]

[II:9 A] [The unit first cites three traditions of R. Idi, then deals with the subject of prayer.] [A scribe] who connected two letters together [in a scroll] – *there is one opinion that it is valid, and there is another opinion that it is invalid.*

[B] *R. Idi in the name of R. Simeon in the name of R. Yohanan [says there is no dispute]. The ruling which says it is valid [refers to a case of one who connected them together] at the bottom. And the ruling which says it is not valid [refers to a case of one who connected them together] at the top.*

[C] For example: two words [whose last two letters are connected together at the bottom, we would say that it is valid. And if they were connected at the top it should be judged invalid.] But in the case of two words [whose last two letters were connected at the center, in such a case] we have a doubt [whether or not the scroll is valid].

[D] R. Idi b. R. Simeon in the name of R. Yohanan, “A person should not stand on a high place and pray.” What is the Scriptural basis for this? Said R. Abba b. R. Papi, “Out of the depths I cry to thee, O Lord [Ps. 130:1].”

[E] Said R. Idi b. R. Simeon in the name of R. Yohanan, “A person should not stand up to pray if he needs to relieve himself.” What is the Scriptural basis for this? “Prepare to meet your God, O Israel [Amos 4:12].”

[F] Said R. Alexander, “‘Guard your feet when you go to the house of God’ [Qoh. 4:17] – [means] guard yourself from the drops which fall from between your legs [when you urinate].”

[G] This [Idi’s statement] refers to urination. But regarding defecation, if he can restrain himself, he may do so [and pray].

[H] R. Jacob bar Abbayye in the name of R. Aha, “Guard your feet when you go to the house of God’ – [means] guard yourself so that when you are called to the house of God [i.e. after you die,] you are pure and clean.”

[I] Said R. Abba, “Let your fountain [mqwrk] be blessed [Prov. 5:18]’ – [means] may your being called [mqr’k] to the grave be blessed.”

[J] Said R. Berekhiah, “There is a time to be born and a time to die’ [Qoh. 3:2]. [This implies,] happy is the person whose hour of dying is like the hour of his birth. [That is] just as at the hour of his birth he is clean [of sin] so at the hour of his death he should be clean [of sin].”

2:4

[A] One who recites the Shema’ but does not articulate it [out loud] fulfills his obligation.

[B] R. Yosé says, “He did not fulfill his obligation.”

[C] If he recited but was not careful about [pronunciation of] the letters [of each word] –

[D] R. Yosé says, “He fulfilled his obligation.”

[E] R. Judah says, “He did not fulfill his obligation.”

[F] One who recites it backwards [i.e. recites the verses or paragraphs out of order] does not fulfill his obligation.

[G] One who recited and erred – he must return to the place where he erred [and repeat his recitation].

[I:1 A] Rab said, “In both [disputes A-B and C-E] we follow the lenient ruling,” [i.e. the anonymous law (A) in the first, and Yosé (D) in the second].

[B] *[Why must Rab tell us this?] Without this [explicit statement] do we not say [that the principle is that in any case of a dispute between] an anonymous rule and R. Yosé, the law follows the anonymous rule? [Moreover, the principle is that in any dispute between] R. Yosé and R. Judah, the law follows R. Yosé. So why does Rab have to say that in both disputes we follow the lenient ruling? [It is self-evident.]*

[C] *But it is because he [Rab] learned that R. Hiyya [in another version, identified by P.M. with T. 2:13] taught [the equivalent of M.’s anonymous rule] in the name of R. Meir. [And the principle is that in a dispute between Meir and Yosé, we follow Yosé.] Therefore [Rab] had*

to [explicitly] say, “In both disputes we follow the lenient ruling [to teach us that we follow the anonymous rule of A in M., not Yosé].”

- [I:2 A] *We learned: “If one recited the Prayer but did not articulate it – he fulfilled his obligation.”* For whom is it necessary to state this law?
- [B] For R. Yosé. *Which [ruling of] R. Yosé [appears to contradict this]?*
- [C] *That which we learned [in M.], One who recites the Shema’ but does not articulate it – he fulfills his obligation. R. Yosé says, “He does not fulfill his obligation.”*
- [D] [*We learned elsewhere: All are fit to recite the Megillah except for the deaf-mute, idiot, and minor [M. Meg. 2:4].*] Said R. Mattenah, “[The law that a deaf-mute may not recite] is according to R. Yosé [who says in B of our M. that one must articulate his recitation].”
- [E] *Said R. Yosé [the Amora], “[If not for Mattenah’s teaching] I would have assumed that the rabbis and R. Yosé were in dispute only regarding the Shema’. For it is written concerning that, ‘Hear [O Israel]’ [Deut. 6:4] [i.e. aloud]. But [I would assume that] they were not in dispute concerning other religious obligations. Since R. Mattenah said that [the rule in M. Meg. 2:4] accords with R. Yosé’s view, [I see that he holds the same opinion whether for the Shema’ or] for all other religious obligations. [Where one must recite, Yosé holds he must articulate the words in order to hear them.]”*
- [F] What is the Scriptural basis for R. Yosé’s ruling? “And give heed [wh’znt] to his commandments” [Exodus 15:26] – [this means] let your ears [‘znyk] hear what your mouth speaks.
- [G] *Said R. Hisda, “[M. Meg 2:4 does not accord with Yosé’s view.] The deaf-mute should not appear there [in M. Meg. 2:4’s list. It appears there mistakenly] as part of a familiar idiom [“deaf-mute, idiot and minor” which often appear together as a triplicate in M.]*
- [H] *Said R. Yosé [the Amora], “It makes sense that R. Hisda will admit that [M.] Terumot [1:2] follows R. Yosé: [The deaf person who can speak but not hear shall not set aside heave-offering. But if he set it aside, his heave-offering is valid. The argument is, first, according to R. Judah we need not initially prohibit the deaf person from setting aside the heave-offering. And, second, according to Yosé one can be more lenient regarding heave-offering since he must only recite a blessing when he separates it. Reciting a blessing is a rabbinic obligation, not derived explicitly from the Torah. Accordingly, Yosé*

rules that the recitation of the blessing by a deaf person is effective. And so] said R. Haninah in the name of R. Hisda, “[M. Ter. 1:2] is in accord with [the view of] R. Yosé.”

[I] *Said R. Yosé b. R. Bun, “You are compelled to conclude [by virtue of another argument] that it [M. Ter. 1:2] is in accord with R. Yosé. For Mishnah first listed five, [Five shall not set aside heave-offering. And if they set it aside, their heave-offering is not valid: the deaf-mute, the idiot, the minor, and he who sets aside heave-offering from that which is not his own, and a gentile who sets aside heave-offering from that which belongs to an Israelite (M. Ter. 1:1)], and [the deaf person who can speak] was not included with them. And if you argue that it is because the heave-offering which he separates is not valid, [and that of the deaf person who speaks is valid] lo, M. lists five more, [Five shall not set aside heave-offering. And if they set it aside, their heave-offering is valid: the mute, the drunk, the nude person, the blind person, and one who suffered a seminal emission shall not set aside heave-offering. But if they set it aside, their heave-offering is valid (M. Ter. 1:6)], and [the deaf person who speaks] is not included with them [in the list] either. You must at last conclude that this [rule] is in accord with R. Yosé [and therefore taught separately at M. Ter. 1:2].”*

[I:3 A] The following [phrases in the Shema’] require special care [for their pronunciation lest one combine two words together]: ‘l lbbk, ‘l lbbkm, ‘sb bsdk, w’bdtm mhrh, hknp ptyl, ‘tkm m’rs [in each case the last letter of the first word and the first letter of the second word are identical].

[B] R. Haninah in the name of R. Aha [added], “‘sr nsb’ ‘dny [the second and the third words might combine.]”

[C] R. Samuel bar Haninah in the name of R. Hoshaiah, “[In the blessing before the Shema’, one must take care to say], ‘Who formed light and created darkness [hwsk] [cf. Isa. 45:7] so that he should not say, ‘Who formed light and created brightness [nwgh].”’ [One must contrast light and darkness. The word nwgh is an ambiguous term which can mean brightness or darkness.]

[D] R. Haggai in the name of R. Abba bar Zabda, “[One should say,] ‘They sang [srw] to you there’ and not ‘They praised you [hllw] there.”’ [In the blessings after the Scriptural passages of the Shema’ one must also take care in recitation. The phrase referred to

is not found in traditional Prayer books. P.M. explains, in light of A, that one might run hllw lk together to become hllwk.]

[E] R. Levi, R. Abdima of Haifa in the name of R. Levi bar Sisi, “One must enunciate lm’n tzkwr, ‘So that they shall remember,’ [so it does not sound like lm’n tskwr, ‘So they shall hire,’ i.e. perform commandments for reward].”

[F] R. Jonah in the name of R. Hisda, “One must enunciate ky l’wlm hsdw, ‘His mercy is forever,’ [so it does not sound like hsdw – his suspicions, or hs dw – the mercy of a dualistic divinity].”

[G] *It was taught:* They do not permit [the following persons] to pass before the ark [as leaders of Prayer]: neither residents of Haifa, nor of Bet Shean, nor of Tibon because they pronounce the letter heh like the letter het and the letter ‘ayin like the letter ‘aleph. But if any [person from these towns] is able to enunciate properly, he is permitted [to lead the Prayers].

[II:1 A] **One who recites it backwards does not fulfill his obligation [M. 2:3F].** *R. Jonah said, “R. Nahman bar Ada taught [the following].” And R. Yosé said, “Nahman Saba taught [the following]:*

[B] “[Scripture says, ‘And these words,] shall be’ [Deut. 6:6] – the way they are [ordered in Scripture] so they shall be [in your recitation of the Shema’ and not in a different order].”

[C] *It was taught: So too regarding the Hallel, [and the recitation of the Prayer,] and the recitation of the Megillah* [one who recites in the wrong order does not fulfill his obligation] [T. 2:3].

[D] *This makes sense regarding* the recitation of the Megillah. For it is written therein, “According to what was written” [Esther 9:27]. [This implies that one must recite it in the order things appear in Scripture].

[E] *But what about the [order for the recitation of] Hallel? [What basis is there in Scripture to justify the requirement to recite it in order?] Because it is written [in the Hallel itself], “From the rising of the sun to its setting the name of the Lord is to be praised” [Ps. 113:3]. What may you deduce from this? [That one must recite the verses in order, just as the day has its order.]*

[F] Said R. Abun, “[Not only must one recite the verses in order within each paragraph, but the paragraphs themselves] also

must be recited in the correct order. [The original order of the Psalms convey a logical progression in their praises as follows:]

[G] “When Israel went forth from Egypt” [Ps. 114], [refers to the events of] the past.

[H] “Not to us, O Lord, not to us” [Ps. 115], [refers to the events of] the present generations.

[I] “I love the Lord, because he has heard my voice and my supplications” [Ps. 116], [refers to the future events of] the messianic age.

[J] “Bind the festal procession with branches” [Ps. 118:27], [refers to the future events of] the age of Gog and Magog. [The word “Bind” is an allusion to the time following the festival. Bind over or hold over the festival to celebrate it in the future.]

[K] “Thou art my God and I will give thanks” [Ps. 118:28], [the use of the future tense refers to] the future age [after the messianic conflict and triumph].”

[II:2 A] R. Aha in the name of R. Joshua b. Levi, “Also when the Prayer was ordained, they ordained it according to [a logical] order [as follows]:”

[B] The first three blessings and the last three blessings are praises of God. And the middle blessings [deal as follows with] the needs of all creatures: Grant us knowledge. Now that you have granted us knowledge, accept our repentance. Now that you have accepted our repentance, forgive us [our sins]. Now that you have forgiven us, redeem us. Now that you have redeemed us, heal our sickness. Now that you have healed our sickness, bless our years [with plenty]. Now that you have blessed our years, gather us together. Now that you have gathered us together, judge us in righteousness. Now that you have judged us in righteousness, defeat our opponents. Now that you have defeated our opponents, exonerate us in judgement. Now that you have exonerated us in judgement, build your House for us, and hear our entreaties, and accept us into it.

[C] But should it not be [in a different order] from “First build the House, then hear our entreaties, and accept us into it”? [Rather only after hearing our entreaties, God should respond by building the Temple.] *But [the reason for the variation is that] according to the order of the [following] verse, that is the order of the teaching [by which they decreed the order for the text of the Prayer:]* “These I will bring to my

holy mountain [i.e. build the House], and make them joyful in my House of Prayer [i.e. hear their entreaties]; their burnt offerings and their sacrifices will be accepted on my altar for my House shall be called a House of Prayer for all peoples [Isa. 56:7].”

- [D] Said R. Jeremiah, “One hundred and twenty elders, and among them more than eighty prophets, ordained this Prayer [of Eighteen Blessings].”
- [E] And why did they see fit to juxtapose [the third blessing] “O Lord holy God” with [the fourth] “Gracious giver of knowledge”? In accord [with the verse of the prophet], “They will sanctify the holy one of Jacob” [Isa. 29:23]. What is written following that? “And those who err in spirit will come to understanding” [Isa. 29:24]. [After sanctification comes understanding].
- [F] [And why did they juxtapose the fourth blessing, concerning] knowledge with [the fifth blessing, regarding] repentance? [In accord with this verse,] “Make the hearts of his people fat, and their ears heavy, and shut their eyes; lest they see with their eyes and hear with their ears and understand with their hearts, and turn and be healed” [Isa. 6:10]. [After understanding comes repentance.]
- [G] [And why did they juxtapose the fifth blessing regarding] repentance with [the sixth regarding] pardon? [In accord with this verse,] “Let him return to the Lord, that he may have mercy on him, and to our God, for he will abundantly pardon” [Isa. 56:7]. [After turning to repent comes pardon.]
- [H] [And why did they juxtapose the sixth and seventh blessings regarding] pardon and redemption? [In accord with this verse,] “Bless the Lord, who forgives all your iniquity, who heals all your diseases, who redeems your life from the Pit” [Ps. 103:3-4]. [After forgiveness comes redemption.]
- [I] [But in accord with this verse] one should say [the eighth blessing concerning] the healing of the sick before [the seventh blessing concerning redemption].
- [J] Said R. Aha, “Why did they ordain ‘Redeemer of Israel’ as the seventh blessing? To teach you that Israel will be redeemed only in the seventh year [the sabbatical year].”
- [K] R. Jonah in the name of R. Aha, “‘A Song of Ascents. When the Lord restored the fortunes of Zion’ [Ps. 126:1] is the seventh song of ascents to teach you that Israel will be redeemed only in the seventh year.”

[L] Said R. Hiyya bar Abba, “Why did they ordain [the blessing concerning] healing the sick as the eighth blessing? It is a reference to circumcision which is on the eighth day. In accord with [this verse], ‘My covenant with him was a covenant of life and peace’ [Malachi 2:5]. [The covenant, whose symbol is the circumcision is associated with life and, thereby, with healing.]”

[M] Said R. Alexander, “Why did they ordain the blessing, ‘Who blesses the years’ as the ninth blessing? In accord with [this verse,] ‘The voice of the Lord breaks cedars’ [Ps. 29:5] [the ninth use of the term ‘Voice’ in this psalm]. For in the future He will break [the hold of] those who set the prices [too high in order to extort money from the people and He will bring prosperity].” [The teaching plays on the word for cedars, ‘rzym, which may also mean the tradesmen who set the prices of goods.]

[N] R. Levi in the name of R. Aha bar Haninah, “Why did they juxtapose [the ninth and tenth blessings,] ‘Who blesses the years’ and ‘Who gathers the dispersed of thy people Israel’? In accord with [this verse:] ‘But you, O mountains of Israel, shall shoot forth your branches and yield your fruit to my people Israel; Why? For they will soon come home [Ezek. 36:8].’ [Prosperity is linked to the gathering of exiles.]

[O] [As to the order of the remaining blessings:] Once the exiles have been gathered in [the tenth blessing], then justice is done [the eleventh], then the arrogant are humbled [the twelfth blessing], then the righteous are happy [the thirteenth blessing].

[P] *And it was taught concerning this:* One includes the references regarding the heretics and the wicked in the blessing ‘Who humbles the arrogant [12].’

[Q] [And one includes references] to the proselytes and the elders [in the blessing] ‘Trust of the righteous [13].’

[R] [And one includes reference] to David [in] ‘Who rebuilds Jerusalem [14]’ [based on this verse:] “Afterward the children of Israel shall return and seek the Lord their God and David their king [Hosea 3:5].” [After they return to Jerusalem, they shall seek David.]

[II:3 A] *[The reference to David in the preceding leads to this digression regarding the Messiah.] The rabbis said, “If this Messiah-king comes from among the living, David will be his name; if he comes from among the dead, it will be David himself.”*

[B] *Said R. Tanhuma, “I say that the Scriptural basis for this teaching is, ‘And he shows steadfast love to his Messiah, to David’ [Ps. 18:50].”*

[C] *R. Joshua b. Levi said, “Semah is his name.”*

[D] *R. Yudan son of R. Aybo said, “Menahem is his name.”*

[E] *Said Hananiah son of R. Abbahu, “They do not disagree. The numerical value of the letters of one name equals the numerical value of the other. Semah [=138] is equal to Menahem [=138].”*

[F] *And this [following story] supports the view of R. Yudan son of R. Aybo.*

[G] *Once a Jew was plowing and his ox snorted once before him. An Arab who was passing and heard the sound said to him, “Jew, Jew. Loosen your ox, and loosen your plow [and stop plowing]. For today your Temple was destroyed.”*

[H] *The ox snorted again. He [the Arab] said to him, “Jew, Jew. Bind your ox, and bind your plow. For today the Messiah-king was born.”*

[I] *He said to him, “What is his name?”*

[J] *[The Arab replied,] “Menahem.”*

[K] *He said to him, “And what is his father’s name?”*

[L] *He [the Arab] said to him, “Hezekiah.”*

[M] *He said to him, “Where is he from?”*

[N] *He said to him, “From the royal capital of Bethlehem in Judea.”*

[O] *He [the Jew] went and sold his ox and sold his plow. And he became a peddler of infants' clothes [diapers]. And he went from place to place until he came to that very city. All of the women bought from him. But Menahem's mother did not buy from him.*

[P] *He heard the women saying, "Menahem's mother, Menahem's mother, come buy for your child."*

[Q] *She said, "I want to choke this enemy of Israel. For on the day he was born the Temple was destroyed."*

[R] *He [this Jew] said to her, "We are sure that on this day it was destroyed, and on this day [of the year] it will be rebuilt. [Do not abandon the child. Provide for him.]"*

[S] *She said to him [the peddler], "I have no money."*

[T] *He said to her, "It is of no matter to me. Come and buy for him and if you have no money, pay me when I return."*

[U] *After a while he returned. He went up to that place.*

[V] *He said to her, "What happened to the infant?"*

[W] *She said to him, "Since the time you saw him a spirit came and carried him up and took him away from me."*

[X] Said R. Bun, "Why must we learn this [that the Messiah was born on the day that the Temple was destroyed] from [a story about] an Arab? Do we not have explicit Scriptural evidence for it? 'Lebanon with its majestic trees will fall' [Isa. 10:34]. And what follows this? 'There shall come forth a shoot from the stump of Jesse' [Isa. 11:1]. [Right after an allusion to the destruction of the Temple the prophet speaks of the Messiah.]"

- [II:4 A] [Now we return to the discussion regarding the Prayer.] Said R. Tanhuma, “Why did they ordain ‘Who harkens to Prayer’ as the fifteenth [in the standard service it is the sixteenth] blessing [of the Prayer]? In accord with the verse, ‘The Lord sits enthroned over the flood’ [Ps. 29:10]. [This is the fifteenth occurrence of the Lord’s name in the Psalm.] He [hears our prayers and] withholds punishment from the world [as he withholds another deluge].”
- [B] [Why is the blessing concerning] the Temple service [juxtaposed] to the blessing of Thanksgiving [the standard service’s seventeenth and eighteenth blessings]? [In accord with this verse,] “He who brings thanksgiving as his sacrifice honors me; to him who orders his way aright I will show the salvation of God” [Ps. 50:23]. [The verse links Thanksgiving and the Temple service.]
- [C] And [the Prayer] concludes with the blessing for peace because all [the priestly] blessings conclude with [the word] “Peace.”
- [D] Said R. Simeon b. Halafta, “There is no stronger way to conclude one’s blessings than with [the word] ‘Peace.’ And what is the Scriptural basis for this? ‘May the Lord give strength to his people! May the Lord bless his people with peace!’ [Ps. 29:11].”
- [III:1 A] **One who recited and erred, he must return to the place where he erred [and recite again] [M. 2:3G]. If one errs and skips from the first phrase, ‘And you shall write them’ [Deut. 6:9] to the second phrase, ‘And you shall write them’ [Deut. 11:20], he returns to the first phrase [and recites to the end]. If one errs, and does not know where he erred, he returns to the first place he knows clearly [that he recited]. [Cf. T. 2:5.]**
- [B] *Once R. Hiyya, R. Yasa, and R. Ammi went off to set up the marriage canopy for R. Eleazar. They heard R. Yohanan’s voice.*
- [C] [They said,] “He may speak of some new subject. Who will go down to hear it from him?”
- [D] *They said, “Let R. Eleazar go down for he is the most industrious scholar [among us].”*
- [E] *He went down and came back and told them, “This is what R. Yohanan said, ‘One who recited and [his attention lapsed and] he found himself reciting “That your days,” [Deut. 11:21], the presumption is that he recited it straight through [to that place properly].”*

[F] R. La [and] R. Yasa in the name of R. Aha the Elder, “One who was reciting the Prayer, and found himself reciting the blessing, ‘Who harkens to Prayer’ [the sixteenth], the presumption is that he recited straight through [to that place].”

[G] R. Jeremiah in the name of R. Eliezer, “One who was reciting the prayer and his concentration lapsed, if he knows that he can go back and concentrate, he should go back and recite the Prayer. And if not, he should not go back and recite the Prayer.”

[H] *Said R. Hiyya the Elder, “In all my days I never concentrated [properly on my Prayer.] One time I wanted to concentrate and I meditated. And I said to myself, ‘Who goes up first before the king? The Arkafra [a high dignitary in Persia, Jastrow, p. 73] or the Exilarch?’” [To induce the proper state of mind to help him concentrate on his prayers he thought about the Persian hierarchy.]*

[I] *Samuel said, “I count the birds [or clouds, to help me induce the proper state of mind].”*

[J] *R. Bun bar Hiyya said, “I count rows of bricks [in a building to aid me in achieving the proper state of mind].”*

[K] *Said R. Mattenah, “I consider myself lucky. For when I reach the Thanksgiving blessing [the eighteenth], I bow instinctively. [I need employ no special means to maintain the proper state of mind for my Prayer.]”*

2:5

[A] Craftsmen may recite [the Shema’] from atop a tree or atop a scaffold – something which they are not permitted to do for the [recitation of the] Prayer.

[I:1 A] *We must emend the Mishnah as follows:* Workers may recite [the Shema’] from atop a tree and craftsmen from atop a scaffold.

[B] *And so it was taught: [Workers may recite [the Shema’] from atop a tree,] and they may recite the Prayer from atop an olive tree or from atop a fig tree.*

[C] **But from all other kinds of trees one must come down to recite the Prayer below.**

[D] **And the householder must always come down and recite the Prayer below. [T.. 2:8.] [Though craftsmen are accustomed to the**

height, they are not as adept as fruit pickers who work in the trees and so may not recite the Shema' while up in a tree.]

[E] And why [does T. say workers need not come down from] atop an olive tree or a fig tree?

[F] *R. Abba and R. Simon both say*, “Because it is a great trouble [to the householder to have his workers take the time to come down from these trees to recite the Shema' or recite the Prayer and then to go back up.]”

[I:2 A] *It was taught: The porter – even with his burden on his shoulder, lo, he may recite the Shema'.*

[B] **But when he is [loading or] unloading he may not [start to] recite because he cannot concentrate [properly].**

[C] **In any case he may not recite the Prayer until he unloads.**

[D] **But if his burden is [less than] four qabs he is permitted [to recite the Prayer while it is on his shoulder]. [T.. 2:7.]**

[E] Said R. Jonathan, “This is so if he balanced his load.”

[F] What is meant by “balanced his load”? [*It means he placed] two bundles behind him and one in front of him.*

[G] *It was taught: One may not gesture with his eyes and recite [the Shema' at the same time. This action shows that he is not concentrating.]*

[I:3 A] *It was taught: Workers who were working with the householder [and stopped to eat], lo, they recite [two blessings after eating].*

[B] [They say] the first blessing and then include the [third blessing] concerning Jerusalem in [their second] concerning the Land and conclude [their second blessing with the usual conclusion for the second blessing] concerning the Land.

[C] **But if they were working with him [in return for a] meal or if the householder was eating with them, lo, they recite four blessings. [T.. 5:24.]**

[D] Said R. Mana, “That [rule in Tosefta 5:24] implies that one may not do work at the time he is reciting a blessing. *For if this is not so, why did we have to say that he may do work and recite the blessings [at the same time]?*” [According to Tosefta, the special rule is that the servants recite a shorter version of the blessings following the meal.]

- [I:4 A] R. Samuel bar R. Isaac in the name of R. Huna, “A person may not stand and recite the Prayer while he holds coins in his hands. [He is concerned not to drop them and will not concentrate on his prayer].
- [B] “And if they were wrapped around him in a pouch in front of him he is forbidden [to recite the Prayer], in back of him, he is permitted [to recite the Prayer for they are out of sight and out of mind.]”
- [C] R. Yasa used to bind them [in a pouch] and hold them in his hand [while praying].
- [D] And we learned in accord with this: Said R. Isaac, “‘And bind up the money in your hand’ [Deut. 14:25] – specifically in your hand.” [One who binds up money in this way will not worry.]
- [E] *R. Yosé bar Abun instructed R. Hillel his son-in-law as follows: R. Hezekiah and R. Jacob bar Aha were sitting in one place and R. Jacob bar Aha had with him some coins. The time came to recite the Prayer and he tied [the coins up] and gave them to R. Hezekiah [to hold for him. He watched to see what Hezekiah would do.]*
- [F] *He [Hezekiah] tied the ends [adding knots to the pouch] and bound them with a strap.*
- [G] *He [Jacob] said to him, “How [with these actions, do you account for the verse,] ‘In your hand.’ [No matter how well you tie it, to properly guard it, you must have it in your hand.]”*
- [I:5 A] Said R. Hanina, “Even one [priest] who is carrying the water [of the sin-offering] on his shoulders, lo, he may recite the Shema’ and recite the Prayer.” [The law is that if one diverts his attention from this water, it becomes unfit. Since the rule is that he still may recite the Shema’ and recite the Prayer while carrying the water, we conclude that these latter acts do not require one’s concentration.] [Cf. M. Parah 7:9.]
- [B] R. Huna said, “Does the recitation of the Shema’ and the recitation of the Prayer not require concentration?” [When he concentrates on his recitation, he diverts his attention from the water and it should be rendered unfit].
- [C] *Said R. Mana, “I posed this question before R. Pinhas, ‘Even if one says [rhetorically], Does the recitation of the Shema’ require concentration? [it implies that only the first verse does, and that is why the water remains fit, if he recites the Shema’ while he is carrying it]. Can we [then] say, Does the recitation of the Prayer not require*

concentration? [It certainly does throughout. And according to Hanina the water should be unfit.]”

[D] *Said R. Yosé, “I can uphold it [Hanina’s rule] according to that which R. Jacob bar Aha said in the name of R. Yohanan: ‘You are forced to say that [the case here is one of a priest who was carrying the water] during the last part of the Water-ritual. There is no support in the Torah [to say that diverting one’s attention at this point renders the water unfit].’ [Since it is a rabbinic law, not a direct Torah law, that one must not divert his attention while carrying the water of the sin-offering, the rabbis could allow a person to recite the Prayer or recite the Shema’ while performing this ritual.]”*

2:6

[A] **A bridegroom is exempt from the recitation of the Shema’ from the first night [after the wedding] until after the Sabbath**

[B] **if he did not consummate the marriage.**

[C] **Once: R. Gamaliel recited [the Shema’] on the first night after his marriage.**

[D] **His students said to him, “Did our master not teach us that a bridegroom is exempt [from the recitation of the Shema’ on the first night]?”**

[E] **He said to them, “I cannot listen to you. [For I do not wish] to suspend myself from accepting the yoke of the kingdom of heaven [i.e. reciting the Shema’] even for a short time.”**

[I:1 A] R. Eleazar b. Antigonos in the name of R. Eliezer of the house of R. Yannai, “This means that [a bridegroom] is permitted to have initial intercourse [with his virgin bride] on the Sabbath.” [M. 2:5A allows the bridegroom until after the Sabbath to consummate the marriage. This implies that he may consummate the marriage on the Sabbath. Even though they presume this act will cause bleeding, which is not permitted on the Sabbath.]

[B] *Said R. Haggai before R. Yosé, “You could explain [that the case in M. concerns one who married] a widow. Intercourse with her would not cause bleeding [as it might for a virgin and, accordingly, it is permissible on the Sabbath].”*

[C] *He said to him, “And lo, we learned [M. Niddah 10:1]: [A girl, who reached the age of menstruation and was married, the House of Hillel says, “They wait until after the Sabbath,] four days [to see if*

she bleeds after intercourse].” *And do you wish to say that* [the statement,] “They wait four days” [refers there to a case of one who marries] a widow [who then must wait after having intercourse with her to see if she will bleed]? [This inference makes no sense. You must say that both M. Niddah and our M.’s case refer to the instance of one who marries a virgin. We then may conclude on the basis of our M. that one is permitted to engage in the first intercourse with a virgin on the Sabbath.]

[D] *Said R. Jacob bar Zebedi, “I posed this question before R. Yosé, [As to the theory of the law of the Sabbath,] what is the difference between this case [of one who engages in the first act of intercourse with a virgin,] and the case of one who breaks a barrel [on the Sabbath] to eat raisins that are inside?” [In the first instance, he may violate the Sabbath by causing a wound, but this is incidental to the main purpose of the act of having intercourse. In the second case, he may violate the Sabbath by breaking the vessel, but this is incidental to the main purpose of his act, to get the raisins to eat from the barrel. Should not both actions be permissible on the Sabbath because the forbidden action is incidental to the main intent of the action? M. Shabbat 22:3 says, **A person may break a barrel to eat from it raisins as long as he does not intend to make a vessel out of the broken barrel.**]*

[E] He [Yosé] said to him, “Consider the latter part of M.’s rule, **As long as he does not intend to make of it a vessel.** Here [in the case of one who has intercourse] he does intend to make of her a ‘non-virgin’. So he is like one who intended to make a vessel [by breaking a barrel in the case of M. Shabbat].” [Yosé argues that the comparison is not valid because the cases are not parallel. In the case of intercourse one cannot separate the act from the result. But one can say that he breaks a vessel for another purpose, in order to get some object out of it or to make a container.]

[F] *R. Isaac bar Mesharshia [said,] “One may pose this question: What is the difference [as regards the theory of the law] between this case [of having intercourse with a virgin on the Sabbath] and the case of one who breaks open an abscess on the Sabbath?” [M. Eduyot 2:5 says, **One who breaks open an abscess on the Sabbath – in order to make an opening – he is liable; but in order to let out pus – he is free of liability.**]*

[G] *He said to him, “Consider the latter part of M.’s rule, **As long as he does not intend to make an opening** [he is not liable to punishment for violating the Sabbath] [M. Shabbat 22:3]. Here [in*

the case of intercourse] he does intend to make of her a ‘non-virgin’. He is like one who intended to make [an opening for the abscess (Y. reads: “a vessel”).]” [As above, Yosé responds that the objection is not valid.]

[H] *It was taught*, “A person should not have initial intercourse [with his wife] on the Sabbath, because it may cause her to bleed. And others permit.”

[I] *Said R. Yosé of the house of R. Abun*, “*The reasoning of the ruling of ‘others’* is that he [the husband] has intention to perform the act [of intercourse]. The wound comes about on its own.” [It is in the category of an unintended forbidden result of a permitted action. One is not liable for that on the Sabbath].

[J] Assi said that it is forbidden.

[K] *Benjamin of Gazaca came and said in the name of Rab* that it is permissible.

[L] *Samuel heard and got angry at him and Benjamin died.*

[M] And they said about him, “Blessed is the one who was smitten.”

[N] And about Rab they said, “No ill befalls the righteous” [Prov. 12:21].

[I:2 A] *Samuel said*, “*All of those laws at the beginning of the last chapter of M. Niddah [regarding intercourse with a child] are laws [for study] but not for practice.*”

[B] R. Yannai abstained [after his first intercourse] with a child whom he married who had not reached the age of menstruation. [He imposed a stringency on himself and assumed that the bleeding was due to menstruation. Because Yannai’s practice does not follow the law of M. Niddah 10:1, it shows that Samuel’s statement in A is correct.]

[C] *They posed a question before R. Yohanan*, “Is one permitted to have intercourse a second time [with his newlywed wife on the Sabbath]? [Even the second act may cause bleeding.]

[D] [But why is this an issue at all?] We say that we do not presume [in such a case that] the bleeding [from the first intercourse] results from [a wound caused by]

penetration. [In accord with Yannai, Yohanan's teacher, we assume it was menstrual blood.] Shall we then permit him to have intercourse [with her] a second time on the Sabbath? [We rule stringently on these matters and she is unclean as a menstruant.]”

[E] In what case is there uncertainty [about whether or not to permit the husband to engage in a second act of intercourse on the Sabbath]? [In a case] where on the days which intervened [after the first act of intercourse] she was clean [i.e there was no bleeding. If she did bleed after the first act, and it was menstrual blood, in any case she will be clean on a subsequent Sabbath. The uncertainty is whether they fear that the second act of intercourse may cause bleeding on the Sabbath because of irritation.]

[F] *Said R. Abbahu, “I was an attendant at the wedding of R. Simeon bar Abba. He asked R. Eleazar, ‘Is one permitted to have intercourse a second time [on the Sabbath]?’ And he permitted him for he ruled in accord with Samuel. For Samuel said, ‘One may enter through a tight opening on the Sabbath even if he dislodges pebbles [for this is an unintended result of his act].’”* [So too one may have intercourse even if it causes bleeding.]

[G] *Said R. Haggai, “I was an attendant at the wedding of R. Samuel of Cappadocia. He asked R. Yoshiah [whether he could have intercourse a second time on the Sabbath] and he shied away [from answering the question]. He asked R. Samuel bar R. Isaac. He said to him, “How can you tell which is menstrual blood and which is blood of virginity?”* [It is forbidden to have intercourse with her because of the possibility of menstrual uncleanness.]

[H] *It was taught [in support of this]: “A bride is forbidden to her husband for seven days. And he is forbidden to take a cup from her in order to recite a blessing. [She is unclean and he may have no contact with her.]”* The words of R. Eliezer.

[I] *What is R. Eliezer's reason?* [He believes that] some menstrual blood will certainly come out with the blood of virginity.

2:7

[A] **[Gamaliel] bathed on the first night after his wife died.**

[B] **[His students] said to him, "Did not our master teach us that a mourner is forbidden to bathe?"**

[C] **He said to them, "I am not like other men. I am of frail constitution."**

- [I:1 A] *Who taught that a mourner is forbidden to bathe all of the seven days [of mourning]? R. Nathan.*
- [B] *R. Ammi was bereaved and he asked R. Hiyya bar Ba [for a ruling]. And he ruled [that a mourner is forbidden to bathe] all of the seven days in accord with R. Nathan.*
- [C] *R. Yosé was bereaved and he asked R. Ba bar Kohen.*
- [D] *He said to him, "Did not [the master] teach us as follows, 'R. Ammi was bereaved and he asked Resh Laqish [for a ruling]. And he ruled in accord with R. Nathan [that a mourner is forbidden to bathe] all of the seven days.'?"*
- [E] *He said to him, "Perhaps there were two cases of bereavement [suffered by Ammi]. We speak of [the ruling received by R. Ammi from] R. Hiyya bar Ba and you speak of [a ruling he received from] Resh Laqish."*
- [F] *And furthermore [in response to Yosé] from the following [we see that a mourner is forbidden to bathe all seven days]: R. Hama the father of R. Oshaia was bereaved. He asked the rabbis [for a ruling] and they forbade him [to bathe all seven days].*
- [G] *R. Yosé asked, "Which 'rabbis' were these? The rabbis here or the rabbis of the South? If you say it refers to the rabbis here that is fine. If you say it refers to the rabbis of the South, that means that even though all the great rabbis were here in front of him, he went and asked the lesser rabbis [of the South].*
- [H] *"And if you say [it means Hama asked] the rabbis of the South [their rulings contradict each other]. Some permit [bathing as in the following] and some forbid [as in the answer received by Hama]."*

[I] *For it was taught, “In a place where they were accustomed to bathe after [burying] the coffin, they may bathe. And in the South they [were accustomed to] bathe.”*

[I:2 A] Said R. Yosé of the House of R. Abun, “Whoever permits such bathing [i.e. right after the burial] makes it [just as permissible for the mourner to engage in throughout the seven days] as eating and drinking [are permitted].”

[B] *That which we have been discussing up to now has been recreational bathing. But non-recreational bathing is permitted in accord with [this incident concerning] Samuel bar Abba: He had sores on his skin. They went and asked R. Yasa whether he may bathe. He said to them, “In a case where if he does not bathe he may die, he may bathe even on the ninth of Ab and even on the Day of Atonement.”*

[C] They saw R. Yosé b. R. Hanina immerse himself [in a ritual bath while he was a mourner] and they did not know whether he did so on account of [uncleanness due to] an emission, or whether he did so in order to cool himself off. For, bathing in cold water is not [considered to fall into the category of] bathing [and is permitted for a mourner].

[D] R. Ba ruled in accord with this teaching: R. Aha ruled, “[Regarding] one who came off the road [on a major fast day] whose feet were sore – he is permitted to bathe them in water.”

[I:3 A] *It was taught, “A mourner and a banished person who were walking on the road are permitted to wear leather shoes. And when they come to a city they should remove them. And so too [people may do the same] on the Ninth of Ab, and so too on a public fast day [cf. M. Ta’an. 1:6].”*

[B] *It was taught, “In a place where they were accustomed to greet mourners on the Sabbath, they may greet them. And in the South they would greet them.”*

[C] *R. Hoshia the Elder went to a place where he saw mourners on the Sabbath and he greeted them.*

[D] He said to them, “I do not know the custom in your town, but peace be with you in accord with the custom of my town.”

[E] *R. Yosé of the house of R. Halafta was praising R. Meir before the townsfolk of Sepphoris.*

[F] “He was a great man, a holy man, a modest man. Once he saw mourners on the Sabbath and he greeted them.”

[G] *They said to him, “Is this how you praise him?”*

[H] *He said to them, “What’s the matter?”*

[I] *They said to him, “Why did you praise him by saying that] he saw mourners on the Sabbath and greeted them?”*

[J] *He said to them, “You should know that was his strength. [He taught a positive approach to life through his own actions.]*

[K] This incident teaches us that there may be no mourning on the Sabbath. [This is] in accord with what is written, ‘The blessing of the Lord makes rich’ [Prov. 10:22], this refers to the blessing of the Sabbath; ‘And toil [‘sb] adds nothing to it’ [ibid.], this refers to mourning. As it says, ‘The king is grieving [n’sb] for his son’ [II Sam. 19:2].”

2:8

[A] **When Tabi [Gamaliel’s] servant died he accepted condolences on his account.**

[B] **[His students] said to him, “Did you not teach us that one does not accept condolences for slaves?”**

[C] **He said to them, “My slave Tabi was not like other slaves. He was proper.”**

[I:1 A] [B says that one does not accept condolences for slaves in general. It does not specify that they must be one’s own slaves. This seems to imply that] one may accept condolences for unrelated free-men. [And we know that this is not the practice. The Talmud answers,] *this is how the Mishnah stated the law, **One does not accept condolences for slaves.*** [But one should not draw any general inferences from the way the rule was stated.]

[B] *A Tannaite formulation of the rule is as follows:* One time the maidservant of R. Eliezer died and his students came to him to extend condolences to him. And he did not wish to accept [their condolences]. He went into the courtyard to avoid them, and they followed him. [He went] into the house, and they followed him.

[C] He said to them, “It seems to me that you did not take my mild hint [when I went out to avoid you the first time] and you did not take my more heated hint [when I went in to avoid you the second time].”

- [D] “Have they not said, ‘They do not accept condolences on account of slaves because slaves are [one’s property] as are animals’?”
- [E] “If for unrelated free-men they may not accept condolences, they surely may not for slaves.” [Eliezer disputes Gamaliel’s teaching.]
- [F] [To] one whose slave or animal died – [to comfort him] you say to him, “May God restore your loss.”

[I:2 A] *When R. Hiyya bar Adda, the nephew of Bar Qappara, died Resh Laqish accepted [condolences] on his account because he [Resh Laqish] had been his teacher. We may say that [this action is justified because] a person’s student is as beloved to him as his son.*

- [B] *And he [Resh Laqish] expounded concerning him [Hiyya] this verse: “My beloved has gone down to his garden, to the bed of spices, to pasture his flock in the gardens, and to gather lilies” [Song 6:2]. It is not necessary [for the verse to mention, ‘To the bed of spices’]. [It is redundant if you interpret the verse literally, for most gardens have spice beds.]*
- [C] Rather [interpret the verse as follows:] My beloved – this is God; has gone down to his garden – this is the world; to the beds of spices – this is Israel; to pasture his flock in the gardens – these are the nations of the world; and to gather lilies – these are the righteous whom he takes from their midst.
- [D] They offer a parable [relevant to this subject]. To what may we compare this matter [of the tragic death of his student]? A king had a son who was very beloved to him. What did the king do? He planted an orchard for him.
- [E] As long as the son acted according to his father’s will, he would search throughout the world to seek the beautiful saplings of the world, and to plant them in his orchard. And when his son angered him he went and cut down all his saplings.
- [F] Accordingly, so long as Israel acts according to God’s will he searches throughout the world to seek the righteous persons of the nations of the world and bring them and join them to Israel, as he did with Jethro and Rahab. And when they [the Israelites] anger him he removes the righteous from their midst.
- [G] *Once R. Hiyya bar Abba and his associates, and some say it was R. Yosé b. Halafta and his associates, and some say it was R. Aqiba and his associates, were sitting discussing Torah under a certain fig tree.*

And each day the owner of the fig tree would awaken early and gather [the ripe figs].

- [H] They said, “Perhaps he suspects [that we are taking his figs]. Let us change our place.”
- [I] *The next day the owner of the fig tree came and said to them, “My masters, you have deprived me of the one commandment which you were accustomed to fulfill with me [i.e. under my tree].”*
- [J] *They said to him, “We feared perhaps you suspected us [of taking your figs.]”*
- [K] The next morning he [thought he would] let them see [why he picked the figs early]. He waited until the sun shined upon them and his figs got worm-eaten.
- [L] At that time they said, “The owner of the fig tree knows when it is the right time to pick a fig, and [at that time] he picks it.”
- [M] So too God knows when it is the right time to take the righteous from the world, and [at that time] he takes them.
- [N] *When R. Bun bar R. Hiyya died [at a young age] R. Zeira came up and eulogized him [by expounding this verse]: “Sweet is the sleep of a laborer [whether he eats little or much; but the surfeit of the rich will not let him sleep]” [Qoh. 5:12]. It does not say whether he sleeps [little or much] but rather whether he eats little or much. [Even though R. Bun died young and did not study for too many years, he will still have a sweet repose in the world to come.]*
- [O] To what [story] may [the life of] R. Bun bar R. Hiyya be compared? [To this story.] A king hired many workers. One worker excelled very much in his work. What did the king do? He took him and walked with him back and forth [through the rows of crops and did not let him finish his day’s work]. Towards evening, when all the workers came to be paid, he gave him a full day’s wages along with [the rest of] them.
- [P] The workers complained and said, “We toiled all day, and this one toiled only two hours, and he gave him a full day’s wages!”
- [Q] The king said to them, “This one worked [and accomplished] more in two hours than you did in a whole day.”
- [R] So R. Bun toiled in the study of the Torah for twenty-eight years, [and he learned] more than an aged student could learn in a hundred years.”

[S] *When R. Simon bar Zebid died, R. Ilya came up and eulogized him [by expounding as follows]:* Four things are essential for the [existence of the] world. But if they are lost, they can be replaced [as we see from the following verse], “Surely there is a mine for silver, and a place for gold which they refine. Iron is taken out of the earth, and copper is smelted from the ore” [Job 28:1-2]. If these are lost they can be replaced.

[T] But if a disciple of the sages dies, who shall bring us his replacement? Who shall bring us his substitute? “But where shall wisdom be found and where is the place of understanding?” [Job 28:12]. “It is hid from the eyes of all living” [Job 28:21].

[U] Said R. Levi, “If the hearts of Joseph’s brothers failed them when they found [something valuable – the money in their bags] as it is written, ‘At this their hearts failed them’ [Gen. 42:28], how much more so should we [feel deeply saddened] who have lost [someone valuable –] R. Simon bar Zebid.”

[V] *When R. Levi bar Sisi died Samuel’s father came up and eulogized him [by expounding]:* “The end of the matter; all has been heard. Fear God,” [Qoh. 12:13].

[W] To what [may the life of] R. Levi bar Sisi be compared? [To the story of] a king who had a vineyard, and in it were one hundred vines, which produced one hundred barrels of wine each year. [As his estate dwindled] he was left with fifty, then forty, then thirty, then twenty, then ten, then one [vine]. And still it [alone] produced one hundred barrels of wine. And he loved this vine as much as the whole vineyard.

[X] In this way was R. Levi bar Sisi beloved to God as much as all other persons together. This is as it is written, “For this is the whole of man [ibid.].” (Var.: Meaning [he loved] this one as much as all mankind [for he was a great God-fearing person].)

[I:3 A] *The young] Kahana was a prodigy [in rabbinic learning]. When he arrived here [in the Land of Israel], a scoffer saw him and said to him, “What did you hear up in heaven?”*

[B] *He said to him, “Your fate is sealed.” And so it was. He died.*

[C] *Another [scoffer] met him and said, “What did you hear up in heaven?”*

[D] *He said to him, “Your fate is sealed.” And so it was.*

- [E] *He [Kahana] said, “What is this? I came here to [gain] merit [and study Torah]. And now I have sinned. Did I come here to kill the inhabitants of the Land of Israel? I must go back to whence I came.”*
- [F] *He went before R. Yohanan. He said to him, “Where should a person go whose mother mocks him and whose step-mother honors him?”*
- [G] *He said to him, “He should go to whomever honors him.”*
- [H] *So Kahana went back to [Babylonia] whence he came.*
- [I] *They came and told R. Yohanan, “Behold Kahana has gone off to Babylonia.”*
- [J] *He said, “How could he go without asking permission?”*
- [K] *They said to him, “From the words you spoke to him, he took it that he had permission [to go back to Babylonia].”*
- [L] *When R. Zeira came here [to Israel] he went to have some of his blood let. [Afterwards] he went to buy a liter [i.e. a dry measure] of meat from the butcher [to restore his strength].*
- [M] *He said to him, “How much is this liter?”*
- [N] *He said to him, “Fifty coins and one blow with an iron.”*
- [O] *He said to him, “Take sixty and spare me the blow. Take seventy and spare me the blow. Take eighty and spare me the blow. Take ninety and spare me the blow.”*
- [P] *He got as far as, “Take one hundred and spare me the blow.” [And he gave up.]*
- [Q] *He said to him, “Do as you are accustomed. [Smite me.]”*
- [R] *That evening he came to the meeting house. He said to the rabbis, “What is the meaning of this evil practice? Must a person who eats a liter of meat first receive a blow with an iron?”*
- [S] *They said to him, “Who does this?”*
- [T] *He said to them, “That butcher.”*
- [U] *They inquired after him. They found that he had died and encountered his funeral procession.*
- [V] *They said to him [Zeira], “Rabbi, did you have to go so far [in your anger towards him as to kill him]?”*

- [M] *He said to them, “Honestly I was not angry at him. I thought it was the custom [to receive a blow].”*
- [X] *When R. Yasa came here [to Israel] he went once to get a haircut. He wanted thereafter to go bathe in the hot springs of Tiberias. He met a wise-guy who smacked him on the neck with a staff. He said, “What a weak neck this man has.”*
- [Y] *[At that very time] an archon [magistrate] was judging a bandit. He [the wise-guy] went to stand and laugh at him.*
- [Z] *The magistrate said, “Who was with you [during the theft]?”*
- [AA] *He [the bandit] looked around and saw this man laughing and said, “That one who is laughing was with me.”*
- [BB] *They seized him, and tried him, and he confessed to a murder he had committed.*
- [CC] *When the two of them [the convicted criminals] came out bearing beams [on which to be hanged] they encountered R. Yasa coming from the bath. He [the wise-guy] said to him [to Yasa], “Your soft neck has made it hard for me. [It is on account of you that I am going to be put to death].”*
- [DD] *He said to him, “That is your own bad luck. Is it not written, ‘Now therefore do not scoff lest your bonds be made strong’ [Isa. 28:22]?”*

[EE] R. Pinhas, R. Jeremiah in the name of R. Samuel bar R. Isaac:
“Scoffing brings hardship upon a person. For first it brings punishment and later it brings destruction. First it brings punishment, as it is written, ‘Now therefore do not scoff lest your bonds be made strong’ [ibid.]. And later it brings destruction, as it is written, ‘For I have heard a decree of destruction from the Lord God of hosts upon the whole land’ [ibid.]”

2:9

- [A] **A bridegroom – if he wishes to recite the Shema’ on the first night [after his wedding] – he may recite.**
- [B] **Rabban Simeon b. Gamaliel says, “Not all who wish to take [the liberty of reciting] the name [of God by reciting the Shema’ and its blessings] may do so.”**

- [I:1 A] *It was taught:* In all matters [of religious obligations] entailing pain [such as a fast], anyone who wishes to single himself out [to observe them] may do so. A disciple of the sages may observe them and will receive a blessing. [Not everyone who wishes to assume upon himself the title (disciple of the sages) may do so.]
- [B] And in all matters [of religious obligation] entailing benefit [such as wearing a special Prayer shawl], not everyone who wishes to single himself out [to observe them] may do so. A disciple of the sages may do so unless they appoint him an administrator of the community [lest people suspect him of taking graft].
- [C] *It was taught:* They may move over to walk on the sides of the road [on private property] to avoid [walking on] the hardened clay of the roads. And at a time when one sinks into [the mud of the road, he may move over to walk on the private fields on the side of the road] even to a field filled with crocuses [though it may cause considerable loss to the owner].
- [D] Said R. Abbahu: Once Rabban Gamaliel and R. Joshua were walking on the road and moved over to walk on the sides of the road on account of the hardened clay of the road. And they saw R. Judah b. Pappos who was sinking into the mud as he came towards them.
- [E] Said Rabban Gamaliel to R. Joshua, “Who is this who singles himself out [as so righteous a person who does not traverse private property even though he is sinking in the mud]?”
- [F] He [Joshua] said to him, “It is Judah b. Pappos whose every action is for the sake of heaven.”
- [G] He [Gamaliel] said to him, “*Is it not taught*, ‘In all matters entailing benefit not everyone who wishes to single himself out may do so. A disciple of the sages may do so unless they appointed him administrator of the city’!?” [Even in this matter, where Judah was permitted to benefit by leaving the road, he chose to act righteously. This seems to be a haughty attitude.]
- [H] He [Joshua] said to him, “*Behold it is taught*, ‘In all matters [of obligations] entailing pain anyone who wishes to single himself out may do so. A disciple of the sages may observe them and he will receive a blessing.’” [Judah did not act in a haughty way. He followed the rule, since walking in the mud is a matter which entails pain.]

- [I:2 A] Said R. Zeira, “[A disciple of the sages may follow a course of action which will entail for him pain] only if he does not cause others ridicule.”
- [B] [*The following story illustrates this:*] Once R. Meyasha [var: Yasa] and R. Samuel bar R. Isaac were sitting and eating in one of the upstairs synagogues. And it came time to pray. R. Samuel bar R. Isaac got up and prayed [interrupting his meal].
- [C] R. Meyasha said to him, “Did not Rabbi teach, ‘If they started [eating] they do not interrupt [to pray]’?”
- [D] “*And [did not] Hezekiah teach, ‘Anyone who is exempt from an obligation and performs it is called a simpleton?’*”
- [E] He [Samuel] said to him, “*Lo we learned, A bridegroom is exempt, A bridegroom – if he wishes to recite, he may recite [M. 2:7-8].*”
- [F] He [Meyasha] said to him, “Does this not apply only to R. Gamaliel [while we would regard another who acted in this way as a simpleton]?”
- [G] He [Samuel] said to him, “*I can explain [my actions in interrupting my meal to pray] as did R. Gamaliel.* For R. Gamaliel said, ‘**I cannot listen to you. [For I do not wish] to suspend myself from [accepting] the yoke of the kingdom of heaven even for a short time**’ [M. 2:5].” [Samuel considered Prayer to be a special case and he prayed, even if it caused him inconvenience, even in the presence of others].

YERUSHALMI BERAKHOT

CHAPTER THREE

3:1

[A] He whose deceased relative is lying before him [not yet buried], is exempt from the obligations to recite the Shema' and to wear tefillin.

[B] The [first set of] pallbearers, and the [next people] who replace them, and the [next people] who replace their replacements – whether they go [in the procession to the cemetery] before the bier, or they go behind the bier –

[C] If they are needed to [carry] the bier, they are exempt [from reciting the Shema' and wearing tefillin].

[D] And if they are not needed to [carry] the bier, they are obligated [to recite the Shema' and to wear tefillin].

[E] Both are exempt from [reciting] the Prayer [of Eighteen blessings]. [Y. printed ed. continues here with M. 3:2-6, given below at the appropriate places.]

[I:1 A] *It was taught*, [He whose deceased relative is not yet buried, is] exempt from [the obligations to recite the Shema' and to wear] tefillin. [M. 3:1A]. A mourner does not put on tefillin on the first day of mourning. On the second day he may put on tefillin. Throughout the entire seven days of mourning, if a new person comes [to console him,] he removes [the tefillin while that person remains with him because it is as though the presence of a new person renews the mourner's grieving],” the words of R. Eliezer.

[B] R. Joshua says, “On the first and second days he does not put on tefillin. On the third day he puts on tefillin. And if a new person comes [to console him] he does not remove them.”

[C] [Now, to raise a question:] If on the second day he does not put on tefillin [in accord with Joshua], *do we need to say* [in M. 3:1A] **He whose deceased relative is not yet buried is exempt from tefillin?**

[D] *[The answer is, it is redundant. However,] because they taught [in the M.] the rule concerning the [recitation by a mourner of the] Shema', they taught [together with it the rule] concerning the tefillin as well.*

[E] R. Zeira, R. Jeremiah in the name of Rab, “The law follows R. Eliezer with regard to putting on tefillin [i.e., he may put them on the second day]. And [the law follows] R. Joshua with regard to taking them off [i.e., from the third day he does not have to remove them if someone new comes to console him].”

[F] *R. Zeira asked, “What if he puts on tefillin on the second day in accord with R. Eliezer’s rule? Can he act in accord with R. Joshua and not remove them [if someone new comes to console him] while [at the same time] he follows R. Eliezer [and wears them on the second day]?” [This appears to be a self-contradictory position.]*

[G] Said R. Yosé b. R. Bun, “In truth, the law follows R. Eliezer with regard to putting on tefillin [i.e. he may do so] on the second day. And while following R. Eliezer, we act in accord with R. Joshua and do not remove them on the second day either.”

[H] *Then why, if this is true, do we not just say, “The law follows R. Eliezer [with regard to putting them on]?” [Then we could infer that the law follows Joshua and that one does not remove them following the third day. It would be clearer for Rab (E) to say only that we follow Eliezer with regard to putting on tefillin. This then would imply that we do not follow his opinion with regard to taking them off. Why does Rab also add that we follow Joshua’s view, thereby leaving unresolved the issue of what the practice is on the second day? The Talmud leaves this objection unresolved.]*

[I:2 A] Said R. Bun, “It is written, ‘That all the days of your life you may remember the day when you came out of the Land of Egypt’ [Deut. 16:3]. On days when you are taking care of the living [you must recite the Shema’ and remember the exodus], but not on days when you are taking care of the dead.” [The verse is used to support the exemption of a mourner from the obligation to recite the Shema’.]

[C] *It was taught, “If he [a mourner] wished to be strict with himself [and recite the Shema’] they do not allow him to.” Why? Is it out of respect for the dead or because there will be no one else to bear his burden [assisting in the interment while he recites]?*

- [D] *What is the difference [with regard to the law between these two explanations]?*
- [E] [The difference is apparent in a case where] there was another to bear his burden for him. If you say the reason he may not recite [the Shema'] is out of respect for the dead, [in this case] he is still forbidden to recite. But if you say the reason is because no one else will bear his burden, lo, [in this case] there is someone who will bear his burden [and he should be permitted to recite].
- [F] *But it was taught*, “[A mourner] is exempt from taking the lulab.” [They do not perform a burial on the festival day. Accordingly, he could not be exempt from taking the lulab on account only of his involvement in the burial. This proves that one is exempt from the obligation to recite out of respect for the dead.]
- [G] [This is not probative.] We may explain that this refers to [a case of one who is exempt from taking the lulab on an intermediate day of the festival [on which burial is permitted. It could be that he is exempt out of respect for the dead or because of his involvement in the burial. This case is no proof one way or the other.]
- [H] *But it was taught*, “[A mourner] is exempt from the obligation of hearing the blasts of the shofar.” *In this case can you say* it refers to an intermediate day? No, it must refer to a festival day [because the shofar is sounded on the New Year festival days only. Accordingly, the reason one does not recite the Shema' must be out of respect for the dead, and not because he is involved with the burial.]
- [I] Said R. Haninah, “[From this case of the shofar on the New Year there is still no proof one way or the other.] Because [even on the festival] one is obliged to bring a coffin and shrouds [for the deceased] *in accord with that which we learned* [**M. Shab. 24:2**]: **They may await nightfall at the Sabbath limit to see to the business of a bride or of a corpse, to bring for it a coffin and a shroud, flutes and weepers.**
- [J] “[Even on the festival day, as on the Sabbath, he may have tasks to do for the deceased. It is no different from an ordinary case of] one who has a burden to bear [for the burial. On the New Year festival either reason for the exemption from his obligation may apply and we have no proof one way or the other.]” [The question remains unresolved. If there is someone who will attend to his tasks for him, we do not know whether or not the mourner is exempt.]

- [I:3 A] When do they turn over the beds [making it lower to the floor in a house of mourning, as a sign of mourning]?
- [B] “When the body is taken out through the courtyard gate,” the words of R. Eliezer.
- [C] And R. Joshua says, “When the stone is set in place [closing the burial chamber].”
- [D] When R. Gamaliel died, as soon as they went out through the courtyard gate [with the body,] R. Eliezer said to his students, “Turn over the beds.”
- [E] When the stone was set in place R. Joshua said, “Turn over the beds.”
- [F] They said to him, “We have already turned them over in accord with [the words of the] Elder [Eliezer].”
- [G] On the Sabbath eve one turns the beds upright [again] and after the Sabbath one turns them over [since they do not permit one to show signs of mourning on the Sabbath].
- [H] *It was taught:* The state-bed [a low bed] may be left upright and need not be turned over.
- [I] R. Simeon b. Eleazar says, “One detaches the straps [from the bed], and that is enough [of a sign of mourning].”
- [J] R. Yosa in the name of R. Joshua b. Levi, “The law follows R. Simeon b. Eleazar.”
- [K] R. Jacob bar Aha in the name of R. Yosé, “In the case of a bed with a curtain frame, it is enough [of a sign of mourning] to detach it.”
- [L] What is the difference between a bed [mth] and a state-bed [drgs]?
- [M] Said R. Jeremiah, “A bedstead on which the girths [interlaced straps] are drawn over the frame is called a bed. And a bedstead [which is lower] on which the girths are not drawn over the frame [but are attached in another way] is called a state-bed [Jastrow, p. 1022, s.v. srg].”
- [N] *But have we not learned as a Tannaite statement: **The bed and cot [become susceptible to uncleanness] after they are rubbed over with fish skin [to smooth them? Before that time, they cannot be used, because they are too rough.] [M. Kel. 16:1.]*** If they are girted over the top [of the frame, thus

covering the top of the frame,] what purpose is served by rubbing [the bed frame to smooth it]?

[O] *Said R. Eleazar, “We may solve this problem [as follows: Mishnah refers to] those cots from Caesarea which have openings [for the straps to go through. Since the top of the frame is exposed, rubbing it with skin serves the purpose of finishing it for use.]”*

[P] What is the basis for [the custom of] turning over the beds?

[Q] R. Qerispa in the name of R. Yohanan, “[They justify the practice based on the verse] ‘And they sat with him near to the ground’ [l’rs] [Job 2:13]. It does not say, ‘On the ground’ but, ‘Near to the ground,’ implying they sat on something close to the ground. From here we see that they slept on beds which were turned over.”

[R] Bar Qappara [explained the custom as follows], “[God] says, ‘I had a fine likeness of myself in your house and you caused me to turn it over [to the ground, to die, through your sins]. Now [as a sign for this] you shall turn over your beds.’”

[S] [Some interpret this explanation of Bar Qappara differently: Not, “You caused me to turn it over,”] but, “You forced [his likeness from the world].” As in the saying, “May the agent of sin be forced [away].” [So now you are forced to turn over your beds. P.M. explains that this is just a semantic difference.]

[T] R. Jonah and R. Yosé both [taught] in the name of R. Simeon b. Laqish: One said, “Why does one sleep on an overturned bed? So that if he should awaken at night, he will remember that he is a mourner.”

[U] And the other said, “Since he sleeps on an overturned bed, he will awaken at night and remember that he is a mourner.”

[I:4 A] A mourner must eat at the house of his fellow until the corpse of his deceased relative is buried. And if he has no fellow [with whom he can eat], he should eat in a stranger’s house. And if he has no stranger’s house [nearby in which to eat] he should construct a partition [in his

own house] and eat there. And if he cannot construct a partition, he should turn his face to the wall [of his own house] and eat.

- [B] And he [the mourner before the body is buried] may neither recline and eat, nor eat and drink a full meal, nor eat meat, nor drink wine. And they do not [count him in the quorum] to extend the invitation [to recite the blessing over the meal as a group]. And if he recited the blessing [over the meal], others do not respond [to it] “Amen.” And [when he hears] blessings of others, he does not respond [to them] “Amen.”
- [C] All of these [rules] apply during the week. But on the Sabbath he may recline and eat, and he may eat meat and drink wine, and he may eat and drink a full meal, and they may [count him to establish the needed quorum in order] to extend the invitation to recite the blessing of the meal, and if he recited a blessing, others may respond “Amen,” and for the blessings of others, he may respond “Amen.”
- [D] Said Rabban Simeon b. Gamaliel, “Once I have permitted [the mourner] to do all this, I may as well obligate him to keep all the commandments of the Torah. For if I permit him [to partake fully] of temporal life [by eating and drinking on the Sabbath], should I not surely permit him [to partake fully] of eternal life [by keeping all the commandments on the Sabbath]?”
- [E] R. Judah b. Pazzi in the name of R. Joshua b. Levi, “The law follows Rabban Simeon b. Gamaliel.”
- [F] Once it [the body] has been given over to the [burial] association, [the mourner] may eat meat and drink wine. Once it was given over the corpse-bearers, it is as if it was given over to the [burial] association.
- [G] *When R. Yosa died, R. Hiyya bar Wawa [i.e. Abba] took it upon himself to mourn [for his teacher]. Even so he ate meat and drank wine [before the body was buried].*
- [H] *When R. Hiyya bar Abba died, R. Samuel bar R. Isaac took it upon himself to mourn [for his teacher]. Even so he ate meat and drank wine [before the body was buried].*
- [I] *When R. Samuel bar R. Isaac died, R. Zeira took it upon himself to mourn [for his teacher]. But he ate [only] lentils. That tells us that we act according to the custom [of a place. What one eats if he accepts upon himself mourning for his teacher is not fixed by law.]*
- [J] *As R. Zeira was dying he instructed his disciples saying, “Do not take it upon yourselves to mourn for me today but wait*

until tomorrow to begin mourning. [This accords with P.M.'s second explanation. He wanted to delay them to be sure that they would not get carried away in their mourner's meal, get drunk, and act foolishly, as in the following story.]

[K] *R. Isaac the son of Rab [R: son of R. Hiyya] at Toba [P.M.'s reading] suffered an untimely bereavement. R. Mana and R. Yudan went up [to console him], and they had some good wine, and they drank until they became silly.*

[L] *The next day when they wished to visit him [Isaac] again, he said to them, "Rabbis, is this how a person acts toward his associate? The only thing we missed yesterday was to get up and to dance [and we would have had a time of festivity rather than of mourning]."*

- [I:5 A] *It was taught: **They drink ten cups [of wine] in a house of mourning – two before the meal, and five during the meal, and three after the meal.***
- [B] ***Regarding these three after the meal – over the first [they recite] the blessings following the meal, over the second [they recite a blessing concerning the] acts of loving kindness [of those who came to console the mourners], and over the third [they recite a blessing] to console the mourners themselves. [T. 3:23-24. T.'s version refers to two blessings: "Comforting the mourners" and "Merciful works." The present text directs that one recite each of these blessings over a cup of wine.]***
- [C] *When Rabban Gamaliel died they added another three [cups] – one for the Hazzan [sexton] of the Congregation, one for the Head of the Congregation [to praise them for their public service], and one for Rabban Gamaliel [because he permitted people to perform a simple inexpensive funeral].*
- [D] *And when the court saw that people were getting drunk [on account of the extra three cups], they issued a decree forbidding [people to drink] these cups, and [the custom] reverted to its previous state [i.e. ten cups].*
- [I:6 A] *May a priest render himself unclean [by coming into proximity or contact with a corpse, by participating in his teacher's funeral] out of honor to his master?*
- [B] *R. Yannai the younger's father-in-law died. He had been both his father-in-law and his master. He [Yannai] asked R. Yosé [whether he*

could take part in the funeral and render himself unclean]. And [R. Yosé] forbade him.

- [C] R. Aha heard this and said, “His students may become unclean on his account.” [He considered one’s master to be equivalent to one’s father.]
- [D] R. Yosé [died and his] students became unclean on his account [by taking part in his funeral], and [before the funeral] they ate meat and drank wine.
- [E] *Said R. Mana to them, “You cannot have it both ways. If you are mourners, why did you eat meat and drink wine? And if you are not mourning, why did you render yourselves unclean?”*
- [F] May a priest render himself unclean in order to honor [i.e. study] the Torah?
- [G] *R. Yosé was sitting and teaching, and a corpse was brought up [to the study hall for a eulogy]. To [all those priests studying there] who went out, so as not to become unclean, he did not say anything. And to all those who remained seated, he did not say anything. [For he was in doubt about this matter.]*
- [H] *R. Nehemiah, son of R. Hiyya bar Abba said, “My father would not pass under the arch at Caesarea [even though this was the shortest way for him to go to study Torah, for the arch could transmit the uncleanness of a corpse as a tent].” R. Ammi [L omits: would pass under the arch].*
- [I] *R. Hezekiah and R. Kohen and R. Jacob bar Aha were walking in the plazas of Sepphoris [R: Caesarea]. When they reached the arch, R. Kohen separated from them. And when they reached a clean area, he rejoined them.*
- [J] *He [Kohen] said to them, “What were you discussing [in my absence]?”*
- [K] *R. Hezekiah said to R. Jacob bar Aha, “Do not tell him anything.”*
- [L] *[And this story does not prove anything because we do not know] whether [he instructed Jacob to remain silent] because he was angry that he [R. Kohen] left, because [a priest] is permitted to become unclean in order to study Torah, or whether [Hezekiah told Jacob to be silent] because [he did not wish to be detained by*

a lengthy] discussion. [S.H.: He wanted to go ahead to finish his own lesson.]

- [I:7 A] *It was taught:* **A priest is permitted to go out of the Land of Israel, and thereby render himself unclean, for monetary judgments, for capital judgments, for sanctifying the new moon, for intercalating the year, and to save a field from seizure by a gentile. And he may go out even with a claim to contest [the seizure]. [The principle is that all lands outside of Israel are unclean with a form of uncleanness decreed by the rabbis.]**
- [B] **[And a priest may leave Israel] to study Torah and to get married. R. Judah says, “If he has somewhere to study [in Israel] he may not render himself unclean [by leaving the Land].”**
- [C] **R. Yosé says, “Even if he [the priest] has somewhere to study [in Israel], he may render himself unclean [and leave Israel to study]. For one may not be worthy enough to learn from all persons. [He may need a different teacher.]”**
- [D] **They said concerning Joseph the priest that he used to go out and defile himself [by leaving the Land of Israel] to follow his teacher to Sidon.**
- [E] **But they said: a priest should not leave the Land of Israel [to get married on the chance that he may find a wife. He may leave] only if he was promised a bride [in a place outside of the Land of Israel] [T. A.Z. 1:8-9].**
- [I:8 A] **May a priest render himself unclean in order to recite the priestly blessing [in a synagogue in which there is uncleanness]?**
- [B] *Magbilah the brother of R. Abba bar Kohen said in the presence of R. Yosé in the name of R. Aha, “A priest may render himself unclean to make the priestly blessing.”*
- [C] *R. Aha heard this and said, “I never told him any such thing.”*
- [D] **He [Aha] retracted, “It could be that he heard me teach [and misinterpreted] that which R. Judah b. Pazzi said in the name of R. Eleazar, ‘Any priest who stands in the synagogue and does not raise his hands [to recite the priestly blessing] violates a positive commandment.’ And he [Yosé] concluded that to perform this positive commandment [to bless the people] one may override a negative commandment [to avoid uncleanness]. [But this is a grave error.] *I never said any such thing. Bring him before me and I shall flog him.*”**

- [E] *R. Abbahu was sitting and teaching in the synagogue of the city gate in Caesarea.*
- [F] *And there was [in the synagogue] a corpse [for a funeral]. When it came time [to recite] the priestly blessing [his students who were priests] did not ask him [whether they should stop studying to recite the blessing. For once they stopped studying they would then have to leave, since they thought one may continue to render himself unclean in the presence of a corpse only to study Torah, but not in order to recite the priestly blessing.] When it came time for eating they asked him [whether or not to stop studying].*
- [G] *He said to them, “You did not ask me [whether to stop studying] for the priestly blessing! You now ask me [whether to stop studying] in order to eat?”*
- [H] *When they heard this, they ran.*
- [I] *Said R. Yannai, “A priest may defile himself in order to see the emperor. When the emperor Diocletian came here, they saw R. Hiyya bar Abba [a priest] walking over Tyrian graves in order to see him.”*
- [J] *[This accords with the following teaching:] R. Hezekiah and R. Jeremiah in the name of R. Yohanan [said], “It is an obligation to see great royalty [even a Gentile king], so that when the royalty of the House of David [the Messiah] comes, one will know how to distinguish between one kind of royalty and another [i.e. between the ordinary king and the Messiah].”*
- [K] *May a priest render himself unclean in honor of a patriarch [by attending his funeral]?*
- [L] *When R. Judah the patriarch died, R. Yannai announced, “For today, the [prohibition against becoming unclean applicable to members of the] priesthood is suspended [i.e. priests may come to the funeral].”*
- [M] *When R. Judah II the patriarch, grandson of Judah I the patriarch, died, R. Hiyya bar Abba pushed R. Zeira into the synagogue in the vineyard near Sepphoris [where the funeral was held], and rendered him unclean. [The room transmitted the corpse-uncleanness as a “tent.”]*

[N] *When Nehorai, the sister of R. Judah II the patriarch, died, R. Haninah sent for R. Mana [a priest, to attend the funeral], and he did not come.*

[O] He [Mana] said to him, “If we do not render ourselves unclean on their account when they are alive [i.e. we remove ourselves from having relations with women when they menstruate], all the more so [shall we take care not to render ourselves unclean on account of women] when they are dead.”

[P] Said R. Nasa, “[When a woman of stature such as a sister of the patriarch dies] we may render ourselves unclean for her, just as [we may render ourselves unclean] for a neglected corpse for which we are obliged to defile ourselves. [So a priest may render himself unclean for the sister of the patriarch.]

[Q] May a priest render himself unclean in order to honor his father or mother [in their lifetime, e.g. to visit them outside the Land of Israel]?

[R] *[This case may clarify the matter.] R. Yosa heard that his mother was going to Bozrah. He went to ask R. Yohanan whether he may go out [of the Land of Israel with her].*

[S] He said to him, “If you wish to go [to protect her] on account of the dangers of the road [in her travels], then go. If you wish to go in order to honor your mother, then I do not know whether to allow you to go or not.”

[T] *Because [Yosa] pressured R. Yohanan [about this issue] he said, “If you have decided to go, then come back in peace.”*

[U] *Said R. Samuel bar R. Isaac, “R. Yohanan is still in doubt concerning this issue.”*

[V] R. Eleazar heard this and said, “You could not have better permission than that [which Yohanan gave to Yosa saying, ‘Come back in peace’].”

[W] May a priest render himself unclean for the public honor?

[X] *[This will clarify the question.] It was taught:* If there were two alternative routes [for going to console a mourner], one longer [and through an area which is] clean, the other shorter but [passing through] unclean [precincts] – if the majority of people goes by

way of the longer route, he [a priest] should go by way of the longer route. And if not, he may go by the way of the shorter [unclean] route out of deference to the public honor.

[Y] This is the case for uncleanness ordained by the rabbis. But [how do we know the same law applies in] a case of uncleanness ordained in Scripture?

[Z] *Based on that which R. Zeira said, “The public honor is so important. In some instances it [even temporarily] overrides prohibitions [against becoming unclean]. As in the case [for instance, of the obligation to bury an unknown corpse]. That is to say, [for the sake of the public honor one may render himself unclean] even with [a form of uncleanness] prohibited by Scripture.”*

- [I:9 A] R. Jonah, R. Yosé the Galilean, in the name of R. Yasa bar R. Hanina, “They do not inquire into decisions of law in the presence of a coffin of the dead.” [This is disrespectful to the dead, for they can no longer learn.]
- [B] [*This case appears to contradict the following ruling:*] *But lo, R. Yohanan inquired of R. Yannai in the presence of the coffin of R. Samuel b. Yosedeq, “If one consecrated to the Temple treasury his [animal previously designated for a] burnt-offering [what is the outcome]? [Must he pay its value to the treasury? Or did he have no right to consecrate an animal which was already sanctified for use as a sacrifice on the altar? Clearly this is a question requiring a decision of law.]*
- [C] *And he [Yannai even] answered him! We may say that [in this case] they were far [from the bier], or that they already had completed the service.*
- [D] *But lo, [another apparent contradiction:] R. Jeremiah inquired of R. Zeira [about a legal ruling] in the presence of the coffin of R. Samuel bar R. Isaac [and he answered him]!*
- [E] *We may say that [when he asked him a question while] he was far [from the coffin], he answered him. [When he asked him a question while] he was close [to the coffin], he would not answer him.*
- [F] *It was taught: The pallbearers are prohibited to wear sandals, lest the [strap of the] sandal of one of them break and as a result he be prevented from performing his obligation [of carrying the bier].*

[G] *R. Zeira fainted while speaking. They came and tried to lift him up and found he was too weak.*

[H] *They said to him, “What is causing this?”*

[I] *He said to them, “Because we came to [study laws which deal with the subject of death and mourning, I became weak,] in accord with the verse, ‘[It is better to go to the house of mourning than to go to the house of feasting; for this is the end of all men,] and the living will lay it to heart’ [Qoh. 7:2]. [When I study these subjects, it makes my heart faint.]”*

3:2

[A] **Once they [the mourners] have buried the deceased and returned [from the grave site] –**

[B] **if they have time to begin and complete [the recitation of the Shema’] before they reach the line [of those who come to console the mourners] – they may begin.**

[C] **And if not – they may not begin.**

[D] **And those who stand in line – the innermost [closest to the mourners] are exempt [from the recitation of the Shema’] and the outermost are obligated [to recite].**

[I:1 A] *It was taught:* They do not bring out the deceased [for burial] close to [the time of] the recitation of the Shema’, unless they do so some time before or after [the appointed time for recitation] so that they may [have enough time to] recite [the Shema’] and the Prayer [of Eighteen blessings at their appointed hours].

[B] *But was it not taught [in the Mishnah],* **Once they buried the deceased and returned?** [This implies that they apparently took out the body for burial close to the time for recitation.]

[C] *We may resolve the contradiction [as follows: Mishnah speaks of] those who thought they had enough time [to finish the burial before the time for the recitation of the Shema’] but [because of unexpected delays it turned out that they] did not have enough time.*

[I:2 A] *It was taught,* **The one who eulogizes and all those who participate in the eulogy, may interrupt to recite the Shema’, but may not interrupt to recite the Prayer. One time the rabbis interrupted [a eulogy] to recite the Shema’ and the Prayer [T. 2:11J-K].**

[B] *Did was it not taught in the Mishnah, **If they have time to begin and complete [the recitation] before they reach the line, they may begin?*** [Surely they are not allowed to interrupt the service or eulogy!]

[C] *[The contradiction may be resolved by explaining that] the Mishnah refers to [a eulogy given on] the first day [i.e. the day of the funeral]. What the Tannaite authority taught [in Tosefta] refers to [a eulogy given on] the second day [i.e. the day after the funeral, when one may interrupt the eulogy to recite the Shema' or Prayer.]*

[I:3 A] Said R. Samuel bar Abdoma, “One who enters a synagogue and finds [the congregation] standing and praying – if he knows that he can begin and finish reciting [the Prayer] before the leader begins [his recitation], so that he can respond ‘Amen’ to it – he may [go ahead and recite the] Prayer. But if not – he may not [recite the] Prayer [at that time, but he must wait until the leader is finished].”

[B] To which “Amen” do they refer [in this teaching]? *[This is a dispute between] two Amoraim.*

[C] *One said, “The ‘Amen’ following [the third blessing], ‘The holy God.’”*

[D] *The other said, “The ‘Amen’ following [the sixteenth blessing], ‘Who harkenest unto prayer’ [the last of the intermediate thirteen blessings].”*

[E] *Said R. Pinhas, “They do not dispute one another. The one who holds [that Samuel refers to] the ‘Amen’ following ‘The holy God’ [so rules] for the Sabbath [when the intermediate thirteen blessings are omitted]. And the one who holds [that Samuel refers to] the ‘Amen’ following ‘Who harkenest unto prayer’ [so rules] for weekdays [when one recites the intermediate blessings].”*

[I:4 A] *It was taught: R. Judah says, “**If they [who came to console the mourners] all were standing in a single line, those who stand there for the sake of honor [to be first to console the mourners], are obligated [to recite the Shema’].***

[B] *[Those who stand there] for the sake of the mourner, are exempt [from reciting the Shema’].”*

[C] *Once they have gone down to [hear the] the eulogy, those who can see the faces [of the mourners] are exempt [from reciting]. And those who cannot see the faces [of the mourners] are obligated [to recite] [T. 2:11].*

[D] [T.'s distinction between those who can and cannot see the mourners does not contradict M.] *That which was taught in the Mishnah, **Those who stand in the line – the innermost are exempt and the outermost are obligated**, is a later teaching. And that which we learned [in Tosefta], **Those who stand there for the sake of honor are obligated, [those who stand there] for the sake of the mourner are exempt**, is an earlier teaching. [The earlier practice, reflected in T., was for the mourners to stand in place and the consolers to stand in one line and pass before the mourners. Those who demanded the honor of going first to console the mourners were obligated to recite. And those who put the honor of the mourners first and were willing to wait for their turn in line were exempt from the obligation to recite. The later practice was for the consolers to all stand in several lines and for the mourners to pass before them, as M. indicates.]*

[E] *And that [distinction between early and late teachings] accords with that which was taught elsewhere, **And when he [the high priest] consoles the others [i.e. the mourners], it is the practice of the people to pass one after the other, and the prefect of the priests places him [the high priest] between himself and the people [M. San. 2:1].** [This M. passage implies that the mourners stood while those who came to console them passed before them, contrary to our Mishnah]. This is an earlier [L: later] teaching, [and our Mishnah is a later teaching and it is authoritative].*

[F] Said R. Hanina, “At first the families [of those who came to console the mourners] used to stand and the mourners passed before them [in accord with our M.]. When contention [between those vying for places to stand] increased in Sepphoris, R. Yosé b. Halafta ordained that the families [of those who came to console] should pass, and the mourners should stand still.”

[G] Said R. Simeon of Tosfa [alt. in the Tosefta], “[According to Yosé b. Halafta] the situation has reverted to the old way [to accord with the earlier teaching as reflected in T., i.e. the consolers pass before the mourners. Simeon expresses disapproval of Yosé’s decree.]

3:3

[A] **Women, slaves and minors are exempt from the [obligation of the] recitation of the Shema’, and from [wearing] tefillin.**

[B] **And they are obligated [to recite the] Prayer [of Eighteen blessings],**

[C] **in the [obligation to post] a mezuzah [on the doorpost],**

[D] **and [to recite] the blessing following the meal.**

- [I:1 A] Whence [do we learn] that women [are exempt from the obligation to recite the Shema’]? [From the verse,] “And you shall teach them to your sons” [Deut. 11:9]. [This implies that the obligation applies] “to your sons,” and not to your daughters.
- [B] Whence [do we learn] that slaves [are exempt from the obligation to recite the Shema’]? As it says, “Hear, O Israel: The Lord is our God, the Lord is one” [Deut. 6:4]. Whoever has no master except God [is obligated]. The slave is excluded [from the obligation to recite the Shema’], because he has another master.
- [C] Whence [do we learn] that minors [are exempt from the obligation to recite the Shema’]? [From the verse,] “That the law of the Lord may be in your mouth” [Ex.13:9]. At the time you can regularly [observe these commandments, you will be obligated to wear tefillin and to recite the Shema’. Minors cannot regularly observe them so they are not obligated.]
- [D] **And they are obligated in [reciting the] Prayer [M. 3:3]**, so that each and every person may ask for mercy for him or herself.
- [E] **[and to post a] mezuzah**, as it is written, “And you shall write them on the doorposts of your house and on your gates” [Deut. 6:9] [implying that the obligation falls upon even the women, slaves and minors in your house].
- [F] **And [to recite] the blessing following the meal [M. 3:3B]**, as it says, “And you shall eat and be full and you shall bless the Lord your God” [Deut. 8:10]. [All those who eat are obligated to recite the blessings.]
- [I:2 A] *It was taught elsewhere in the Mishnah, For all positive religious obligations which are restricted to a specific time – men are obligated [to perform them] and women are exempt. And for all positive religious obligations which are not restricted to a specific time – both men and women alike are obligated [M. Qid. 1:7].*
- [B] **What is a positive religious obligation which is restricted to a specific time? For instance: [dwelling in a] sukkah, [taking a] lulab, [hearing the] shofar, and [wearing] tefillin.**
- [C] **And what is a positive religious obligation which is not restricted to a specific time? For instance: [returning] a lost item, sending away the mother bird from the nest [before taking the offspring], [building] a guard-rail [on the roof of your house], and [wearing] fringes [on your four-cornered garment].**

- [D] **R. Simeon exempts women from the commandment [to wear] fringes [on a four-cornered garment] since it is a positive religious obligations which is restricted to a specific time, because a covering which one wears at night is exempt from fringes. [The obligation applies only by day.] [T. Qid. 1:10].**
- [E] *Said R. Layya, “The reason the rabbis [dispute Simeon and hold that the obligation to wear fringes is not restricted by time and that women are obligated and may fulfill the obligation] is because if a [specific] garment was designated for use [both] by day and night, one is obligated to have fringes on it.” [The obligation to wear a garment with fringes, may continue to be fulfilled even at night.]*
- [I:3 A] *It was taught:* Any commandment from which a person is exempt [because he already fulfilled it] – that person may exempt others from their obligation [by performing it again on their behalf] – except for [the obligation to recite] the blessing following the meal.
- [B] *And it was taught in the Mishnah, **Anyone who is not obligated [to perform a religious obligation] may not free others from their obligation [M. R.H. 3:8].*** Lo [this implies] if he was once obligated, even if he is already free from his obligation, he may free others [by performing the action on their behalf. [Why then can he not do so for the blessing of the meal?]
- [C] *Said R. Layya, “The [obligation to recite the] blessing of the meal is different. For it is written concerning it, “And you shall eat and be full and you shall bless the Lord your God” [Deut. 8:10]. [Only one] who ate [together with others and has not yet recited the blessing] may recite the blessing [on behalf of the others].”*
- [I:4 A] *R. Yosé and R. Judah b. Pazzi were sitting [and discussing the obligations of reciting blessings]. They said, “Is it not reasonable [that with regard] to the recitation of the Shema’, each person must speak it distinctly from his own mouth, just as it is reasonable [that with regard to] Prayer, each person should ask for mercy on his own behalf.” [Why then does the M. obligate women, slaves, and minors in the Prayer and exempt them from the Shema’?]*
- [B] [Yosé and Judah asked further:] What is the difference between the [obligation to recite blessings for the commandment to dwell in a] sukkah and [the commandment to take hold of the] lulab?
- [C] For the sukkah, one needs to recite a blessing only on the first night. For the lulab, one needs to recite a blessing each of the seven days. [And why must we distinguish between the two obligations?]

- [D] *R. Yosé and R. Aha were sitting and [discussing this same question]. They said, “What is the difference between [the two religious obligations – to dwell in a] sukkah and [to take hold of] a lulab?*
- [E] [The commandment to dwell in a] sukkah applies by night and day [throughout the festival]. [The commandment to take hold of a] lulab applies only by day.” [Accordingly, as C directs, one recites a blessing for the sukkah only once, when he enters it the first night, and the blessing applies throughout the festival without interruption. But each day he takes hold of the lulab, after the night interrupts, and hence he recites the blessing again.]
- [F] R. Jacob of the South objected, “Lo, the commandment to study Torah applies by night as well as by day! [Yet we recite a new blessing each day for Torah study.]
- [G] *What is the resolution of this problem?* [The explanation is as follows.] Can one suspend himself from dwelling in the sukkah? [No. Because when one eats and sleeps there he fulfills his obligation]. But can one not suspend oneself the study of Torah? [He must interrupt his study in order to sleep or eat. So he must recite a new blessing each morning].
- [I:5 A] *It was taught, Truly they said: a woman may recite a blessing for her husband, a son may recite a blessing for his father, a slave may recite a blessing for his master [T. 5:17.]*
- [B] We may grant that a woman may recite a blessing for her husband and that a slave may recite for his master, but a son for his father? [A minor has no religious obligations. How can he exempt his father?] [L: omits B.]
- [C] Did not R. Aha say as follows in the name of R. Yosé b. R. Nehorai: “All that they said about a minor [performing religious obligations should not imply that he has any obligation to fulfill them. Rather he does them] so that one may train him”? [How then can a minor recite a blessing on behalf of his father?]
- [D] You may resolve this question [by stipulating that the case under discussion is one in which the father] responds “Amen” after the blessing. [P.M.’s version omits the word “Amen”. His reading is, “The father repeats the blessing after the son.”]
- [E] *This accords with that which was taught elsewhere [M. Sukkah 3:10]: Whoever has his slave, or wife, or a minor recite [the Hallel] for him, must repeat after them what they say.*

- [F] **And let this be an embarrassment for him** [i.e. it is an insult to him that he does not know how to recite it himself.]
- [G] Truly they said, “And let it be an embarrassment for a twenty-year-old who needs a ten-year-old [to recite for him].”

3:4

- [A] **One who has discharged semen may silently meditate [the Shema’] but may not recite the blessings [because the rabbis deem him to be unclean].**
- [B] **Neither [may he recite those blessings] before nor after [the Shema’].**
- [C] **And [regarding the blessings] for the meal – one [who suffered such a discharge] may recite the blessings after it, but may not recite the blessings before it.**
- [D] **R. Judah says, “He may recite the blessings before and after [the Shema’ and the meal].”**
- [I:1 A] What [words] does he meditate? [Those of the] blessings. [But he must recite out loud the scriptural passages of the Shema’. Alternatively, P.M. interprets this comment to refer to Mishnah’s rule in C regarding the recitation of the meal blessing.]
- [B] *The rule of our Mishnah applies only to a case where there is no water [of a miqveh bath available for immersing oneself. But if a miqveh is available, one may not even meditate before he goes into it.]*
- [C] *And this accords with the ruling of R. Meir. As it was taught: **One who has discharged semen who does not have water [of a miqveh available] to immerse himself in –***
- [D] **“Lo, he may recite the Shema’ [to himself] but not out loud, and he may not recite the blessings before it or after it,” the words of R. Meir.**
- [E] **And sages say, “He may recite the Shema’ out loud, and recite the blessings before it and after it [T. 2:13].”**
- [F] *It was taught: **One who was ill and discharged semen, upon whom was poured nine qabs of water –***
- [G] **and a clean person [who suffered a discharge] upon whom was poured three logs of drawn water, he has purified himself [with this action and may recite] but**
- [H] **he cannot exempt others from their obligation until he has gone into a pool of forty seahs [of water].**

[I] **R. Judah says, “In either case [he must go into a pool of forty seahs [even before he may recite for himself] [T. 2:12].”**

- [I:2 A] R. Jacob bar Aha, R. Yosa in the name of R. Joshua b. Levi, “The discharge of semen [which renders one unclean, referred to in Mishnah] refers only to that resulting from sexual intercourse.”
- [B] R. Huna said, “Even if he [discharged semen as a result of] dreaming about having intercourse [he is unclean].” That must mean only [if he dreamed of intercourse] with a woman.
- [C] *R. Jonah and R. Yosé both said*, “Even [if he dreamed] of something else [and discharged semen, he is unclean].”
- [D] *It was taught in the Mishnah*, **On the Day of Atonement it is forbidden to eat, drink, wash, anoint oneself, wear shoes, or have sexual intercourse [M. Yoma 8:1].**
- [E] *And concerning this we learned*, **Those who have discharged semen may immerse themselves privately as is their practice on the Day of Atonement [T. Kippurim 4:5, following the reading of the first printed edition].**
- [F] *And does this not contradict R. Joshua b. Levi who says [in A] that the only discharge of semen which causes uncleanness is that [which results] from sexual relations [which is forbidden on the Day of Atonement]?*
- [G] We may resolve the contradiction as follows: The case is that he had intercourse while it was yet day [on the eve of the Day of Atonement] and he forgot and did not immerse himself.
- [H] *But did we not learn*, “Once they saw R. Yosé b. Halafta immerse himself privately on the Day of Atonement.” *Can you imagine that such a holy person [had intercourse while it was yet daytime and] forgot [to immerse himself before sundown]? [This implies that Joshua b. Levi was wrong. The discharge of semen in circumstances other than sexual intercourse also renders one unclean.]*
- [I:3 A] Said R. Jacob bar Abun, “They only ordained that one must immerse himself [after discharging semen] so that the Israelites should not act [in their sexual behavior] like roosters. [That is, they should not] have sexual intercourse, get right up and go to eat.”
- [B] *R. Haninah was passing the gate of the bathhouse at daybreak. He said*, “What are those early-morning dippers doing here? Why don’t

they go and study?” [They need not immerse themselves before studying.]

[C] *Regarding those [who immerse themselves] in the morning he said, “Whoever has work to do should go and do it [and not spend time needlessly immersing himself].”*

[D] May one meditate [about matters of Torah] while in the outhouse?

[E] Hezekiah said, “It is permissible.”

[F] R. Yosé said, “It is forbidden.”

[G] *Said R. Zeira, “All the difficult [thought] problems I have had I have worked out while in there.”*

[H] *Said R. Eleazar bar Simeon, “All the difficult [legal] problems concerning [the legal matter of] ‘One who immersed himself on the selfsame day’ I have worked out while in there.”*

[I] R. Aha in the name of R. Tanhum b. R. Hiyya, “In the days of R. Joshua b. Levi they tried to abolish this [different related practice of] immersing oneself [before engaging in intercourse] on account of some Galilean women who were abandoned because [their husbands abstained from intercourse with them in the winter so they would not have to immerse themselves in] the cold water [of the bath].

[J] “Said R. Joshua b. Levi to them, ‘Do you wish to abolish something which keeps the people of Israel from sinning?’”

[K] How does it keep [the people of] Israel from sinning? Once a vineyard keeper wanted to have sexual relations with a married woman. Before they were able to find a place in which to immerse themselves, people passed by [and saw them] and prevented the sin.

[L] And one time a man came to have sexual relations with the gentile maid of Rabbi. She said to him, “If the gentleman will not immerse himself then neither will I.”

[M] He said to her, “Are you not like an animal anyway. [Immersion has no relevance to you because you are a non-Jew.]”

[N] She retorted, “Do you not know that one who has sexual relations with an animal is put to death by stoning? As it

says, ‘Whoever lies with a beast shall be put to death’ [Ex. 22:19].”

[O] Said R. Hiyya bar Abba [Wawa], “They only established this practice of immersing oneself [after engaging in sexual relations] on account of [concern that people should spend more time engaged in] study. For if you were to say it is always permissible [for a man to have intercourse with his wife and then go and study even without immersing himself afterwards] one will say, ‘I will go satisfy my [sexual] needs, then I will come to fulfill my [spiritual] need to study.’ But since you say it is forbidden [to study after intercourse unless one immerses himself], he will come and fulfill his need to study [first and not so easily be diverted].”

[P] There [in Babylonia] they said, “It is even forbidden to go and listen to words of Torah [after intercourse unless one first immerses himself].”

[Q] Said R. Judah bar Titus, R. Aha in the name of R. Eleazar [in accord with the above statement], “[Our practice is consonant with that of] ancient times. [When the Israelites first heard the words of the Torah at Sinai, they were clean, as it says,] ‘Be ready by the third day; do not go near a woman’ [Ex. 19:15].”

- [I:4 A] *It was taught: Zabim and Zobot [those persons who suffer discharge], menstruating women and women after childbirth may recite from the Torah, [Prophets and Writings] and may study [Mishnah,] Midrash, law and lore.*
- [B] **And one who has discharged semen is forbidden [to engage] in all [those activities].**
- [C] **R. Abba bar Aha in the name of Rabbi, “He may study law but he may not study lore [lest he become too involved in his study and forget to immerse].” [Tosefta 2:12.]**
- [D] *It was taught in the name of R. Yosé: One may study routine law as long as he does not cite the Mishnah [lest he become too involved in his study] [T. 2:12]. Some wish to say, “[One may study when he is unclean on account of an emission] as long as he does not mention the divine names [in the texts].”*

- [E] *R. Zeira raised a question before R. Yosa, “Did [you] my master not study with me a chapter each night [even after you had intercourse with your wife and before you went to immerse yourself]?”*
- [F] *He said to him, “Yes.”*
- [G] *R. Hiyya bar Abba studied a chapter each night with R. Nehemiah his son.*
- [H] *The next morning he would say, “Whoever has work to do should go and do it [and he need not delay to immerse himself].”*
- [I] Once a man [who had suffered a seminal emission] rose to recite from the Torah in Nisibis. When he came to [reading] a divine name he began to mumble [because he had not yet immersed himself and thought that he was not allowed to pronounce the name, as we saw above].
- [J] Said to him R. Judah b. Beterah, “Open your mouth and speak clearly, for words of Torah are not susceptible to uncleanness.” [He told him that one need not immerse himself before studying Torah after previously having suffered an emission.]
- [K] *Said R. Jacob bar Aha, “There [in Babylonia] they follow [the opinion of] R. Ilai concerning the disposition of the first shearings, and [the opinion of] R. Josiah concerning mixed kinds in a vineyard, and [the opinion of] R. Judah b. Beterah concerning those who discharged semen.*
- [L] “They follow R. Ilai concerning the disposition of the first shearings, *as it was taught*: R. Ilai said, ‘The law of the first shearings applies only in the Land of Israel.’
- [M] “They follow R. Josiah concerning mixed kinds in the vineyard, *as it was taught*: R. Josiah says, ‘One is not liable [for mixed kinds] until he sows wheat, barley and grapes in one throw of the hand.’
- [N] “And they follow R. Judah b. Beterah concerning those who discharged semen, *as it was taught*: R. Judah says, ‘The words of Torah are not susceptible to uncleanness.’”
- [O] *R. Yosé bar Halafta was walking down a path at night and a donkey driver was walking behind him. He came to a watering hole.*
- [P] *He [the donkey driver] said to him, “I need to go into the water.”*

[Q] *He said to him, “Do not endanger yourself!”*

[R] *He said to him, “On account of [having intercourse] with a menstruating woman and with a married woman I must go into the water.”*

[S] *Even so he [Yosé] said to him, “Do not endanger yourself!”*

[T] *[He went in the water anyway.] When he did not listen, Yosé said to him [to warn him], “You shall go down and you shall not come up.” And so it was.*

[U] *R. Yosé b. Yosé was travelling on a ship. He saw someone lowering himself by rope to go down into the water [to immerse to purify himself].*

[V] *He said, “Do not endanger yourself!”*

[W] *He said to him, “I need to eat.”*

[X] *He [Yosé] said to him, “Eat!”*

[Y] *“I need to drink.”*

[Z] *He said to him, “Drink!”*

[AA] *When they came to port he [Yosé] said to him, “[Out] there I permitted you [to eat and drink] only because of the mortal danger [you faced in lowering yourself into the water]. But here you are forbidden to taste a thing before you immerse yourself.”*

[BB] *Said R. Yannai, “I understand that some are lenient and some are strict in this matter [of immersing oneself after discharging semen]. And all who are strict shall live a long, good life.”*

[CC] *[To what does Yannai refer?] Some are lenient, and permit a person to wash in drawn water. Some are strict, and permit immersing oneself only in a pool of fresh water.*

3:5

[A] One who was standing and reciting the Prayer [of Eighteen]

[B] and remembered that he had discharged semen,

[C] should not interrupt [his recitation]

[D] but should shorten [the Prayer].

[E] One who went down to immerse himself [in a ritual bath] –

- [F] if he has time to come up [out of the bath] and cover himself and recite [the Shema'] before the sun rises –
- [G] he should come up and cover himself and recite.
- [H] And if not, he should submerge himself [partially] in the water to cover himself and recite.
- [I] But one may submerge himself neither in foul water, nor in water used for soaking [flax].
- [J] [And one may not pray near a chamber pot] until one mixes into it [some fresh] water.
- [K] And how far must one move away from [undiluted urine] and from excrement [before praying]?
- [L] Four cubits.
- [I:1 A] *The Mishnah [A-D refers to one who was praying with others] in public [and remembered that he had suffered a seminal emission]. But a person praying by himself [who remembered that he had suffered a seminal emission] must interrupt. And this accords with the view of R. Meir [as preserved in T.].*
- [B] **One who has discharged semen who does not have water [of a miqveh available] in which to immerse himself –**
- [C] **“Lo, he may recite the Shema' [to himself] but not out loud, and he may not recite the blessings before it or after it,” the words of R. Meir.**
- [D] **And sages say, “He may recite the Shema' out loud, and may recite the blessings before it and after it.” [T. 2:13.]**
- [E] But according to the view of R. Judah [who rules leniently in M. 3:4D, and accords with the view of the sages in T. 2:13] even in the case of a person praying by himself, he need not interrupt if he has no water available to immerse himself in [T. 2:13]. But if he has water available, even R. Judah would admit that he must interrupt [his recitation to immerse himself].
- [F] [Concerning] a sick person who had intercourse [does he have to immerse himself? If he immerses himself in a pool, he may die]. Said R. Ammi, “If he initiated the intercourse let him immerse himself and face death! But if he suffered an accidental discharge, we do not trouble him [to immerse himself].”
- [G] R. Haggai in the name of R. Abba bar Zabeda, “In either case we do not trouble him.”

[H] A sick person who had normal intercourse, must [wash with] nine qabs of water. A healthy person who had normal intercourse, must [immerse himself in a pool of] forty seahs [of water].

[I] A sick person who suffered an accidental discharge is not troubled [to wash]. A healthy person who suffered an accidental discharge must wash with nine qabs of water.

[J] R. Zabedi [Zebediah] son of R. Jacob bar Zabedi in the name of R. Jonah, “In a city whose spring is far away, lo, one may recite the Shema’, and go down and immerse himself, and come up and recite the Prayer.

[K] And for an exceptional person [P.M.: an obese person who has difficulty going to immerse himself] they permitted him to follow this practice [of immersing himself after reciting the Shema’, as was prescribed for residents of a city whose spring is far away.”

[II:1 A] And if not, he should submerge himself in the water and recite [M. 3:5H]. *The Mishnah refers to [a case of a pool of] cloudy water.*

[B] But it is forbidden [to go into a pool of] clear water [to cover one’s nakedness in order to recite]. But if he can cloud [the clear water] by stirring it with his feet he may cloud it [and is permitted to recite in such water].

[II:2 A] It was taught, [Before praying] they move away [four cubits] from human excrement, and [four cubits] from canine excrement if they use [that substance] for tanning hides [T. 2:16].

[B] R. Jeremiah in the name of R. Zeira, “[Before praying] one must move away four cubits from a decomposing animal carcass.”

[C] *Said R. Abina, “And does not a rule in the Mishnah implies this?: And how far should one distance oneself from it [urine, water used for soaking or by extension, any foul-smelling substance] and from excrement? Four cubits [M. 3:5K].* [Why does Jeremiah need to repeat this as a special rule?]

[D] Said R. Ammi, said R. Shammai, “We may resolve this [question by explaining that one might think Mishnah refers here only to] water used for soaking laundry [which is foul-smelling because of the dirt found in it]” [So Zeira’s rule is not necessarily redundant.]

[E] *Said to him R. Mana, “If it refers to water used for soaking laundry, Mishnah already taught [a rule about that in M. 3:5I]:*

Neither in foul water, nor in water used for soaking. [M.'s rule is not specific and may include water which is foul smelling because of excrement in it or because of other substances. This implies that one may not pray near any foul-smelling object. Accordingly, Zeira's rule is redundant after all.]”

[II:3 A] *It was taught: A child who is able to eat an olive's bulk of grain [i.e. sufficiently weaned to eat solid foods] – we must move away from his excrement and urine four cubits [before we pray].*

[B] *And if he is not able to eat an olive's bulk of grain [but still nurses] – we need move away neither from his excrement nor from his urine [in order to pray] [T. 2:16].*

[C] *They raised this question before R. Abbahu: Why must we move away [four cubits] from the [child's] excrement and urine [before we pray]?*

[D] *He said to them, “Because his thoughts may be evil.” [A child's urine may have a bad odor as soon as he can have evil thoughts.]*

[E] *They said to him, “But he is only a child? [How can he have evil thoughts?]”*

[F] *He said to them, “Does not the verse say, ‘For the imagination of man's heart is evil from his youth’ [Gen. 8:21]?” [And ‘youth’ may imply infancy in accord with that which] R. Yudan said, “The word meaning ‘from his youth’ is written [without the vowel and may be read n'ryw] – from the time he moves [nn'r] and enters the world [i.e. from birth].” [This verse supports Abbahu's assertion that infants may have evil thoughts.]*

[G] *R. Yosé bar R. Haninah said, “We must move away four cubits from animal droppings [before we may pray].”*

[H] *R. Samuel bar R. Isaac said, “This rule only applies to soft ones and only to those of an ass.”*

[I] *R. Hiyya bar Abba said, “[It refers only to that which the animal eliminates] right after coming in off the road.”*

[J] *Levi said, “We must move away four cubits from the excrement of a swine [before we may pray].”*

[K] *And so it was taught: We must move away four cubits from swine excrement, and four cubits from marten excrement, and four cubits from chicken excrement.*

[L] R. Yosé bar Abun in the name of R. Huna, “This last rule only [applies to the excrement of] red chickens [which has a foul odor].”

[M] *It was taught:* We must move away four cubits from a [source of a] foul odor.

[N] Said R. Ammi, “From a foul odor which is dissipating, one must stand away four cubits.”

[O] *And the rule [of M. that one must move away four cubits] applies [if the source of the odor is] behind him. But if it is in front of him, he must move away so he can no longer see it.*

[P] *This accords with the story of R. Lya [Ilai] and [his] colleagues who were sitting before an inn in the evening. [They smelled an odor but could not see its source.]*

[Q] *They said to him, “May we discuss Torah here?”*

[R] *He said to them, “Since we would be able to see what is in front of us if it were daytime, in this case it is forbidden [for us to discuss Torah here].”*

[II:4 A] *It was taught:* A chamber pot – one must stand four cubits away from it whether it contains excrement or urine.

[B] [The chamber pot] of the bedroom – if one poured some water into it, one may recite [the Shema’] near it. If not – one may not recite [near it] [T. 2:16].

[C] R. Zakkai said, “If one poured a quarter-log of water into it – he may recite. If not – he may not recite.”

[D] But what does Zakkai mean by] the amount of a quarter-log? [He means one must add] one quarter-log [of water] for each quarter-log [of urine]. The same rule applies whether it is a small pot or a large pot.

[E] R. Simeon b. Gamaliel said, “[Near the pot] behind the bed one may recite. [Near the pot] in front of the bed one may not recite.”

[F] R. Simeon b. Eleazar said, “Even in a large house of ten [cubits] by ten [cubits] one may not recite unless he covers the pot or places it under the bed” [T. 2:16].

[G] *R. Jacob bar Aha in the name of R. Hiyya bar Abba [Wawa], “R. Haninah of Tartiah ruled in accord with R. Simeon b. Eleazar.”*

[H] R. Benjamin bar Yapet in the name of R. Yohanan, “One may dilute a small amount of excrement with spittle [and may then pray near it].”

[I] *R. Zeira [and] R. Jacob bar Zabedi were sitting where they could see some excrement. R. Jacob bar Zabedi got up and spit on it.*

[J] *Said to him R. Zeira, “[That is of use only for a brief instant,] until the spit dries.”*

[II:5 A] One must place a box containing scrolls at the head of the bed, not at the foot of the bed. [It is not befitting scrolls to lie about in a bedroom.]

[B] R. Abun in the name of R. Huna, “This rule applies when the bed is ten handbreadths high, as long as the cords of the bed do not touch the box.”

[C] *R. Yasa in the place of R. Samuel bar R. Isaac taught in accord with R. Huna.*

[D] A person may not engage in sexual relations if there is a Torah scroll in the house with him.

[E] R. Jeremiah in the name of R. Abbahu, “If it is wrapped in a cover or placed up in a window recess ten handbreadths high – it is permitted.”

[F] R. Joshua b. Levi [said], “He must make an enclosure for it.”

[G] A person may not sit on a bench upon which a Torah scroll is resting.

[H] Once R. Eliezer was sitting on a bench upon which a Torah scroll was resting, and [when he noticed it] he recoiled from it as one would recoil from a serpent.

[I] If the Torah was resting on some other object it is permissible [to sit on the same bench with a Torah scroll].

[J] How thick [must the object be on which the Torah rests]?

[K] R. Abba in the name of R. Huna, “A handbreadth.”

[L] R. Jeremiah in the name of R. Zeira, “Any thickness.”

[M] A saddlebag full of scrolls, or in which there were [human] bones – he must set them behind him and he may ride [on the same animal with them].

[N] Tefillin – one must hang them over the head of the bed, and one may not hang them at the foot of the bed.

[O] R. Samuel, R. Abbahu, R. Eleazar, in the name of R. Haninah, “Rabbi used to hang his tefillin at the head of the bed.”

[P] R. Hezekiah in the name of R. Abbahu, “One should not hang them like a basket [i.e. with the straps above and the container dangling below]. Rather the tefillin [must hang] above and the straps [may dangle] down.”

[Q] *R. Halafta b. Saul taught*, “One who breaks wind while wearing his tefillin – this is a bad sign for him.” [But the same does not apply to one who sneezes.] This accords with that which has been said, “[Breaking wind] below [is a bad sign]. But [sneezing] above is not.”

[R] *This accords with that which R. Haninah said*, “I saw Rabbi yawn, and sneeze and cover his mouth with his hand [to yawn during his recitation of the Prayer]. But I did not see him spit.”

[S] R. Yohanan said, “Even spitting [is permitted] if it serves to clear one’s throat.”

[T] Spitting in front of oneself is forbidden. Behind is permitted. To his right is forbidden. To his left is permitted. This follows what is written, “A thousand may fall at your side; [ten thousand at your right hand]” [Ps. 91:7] [i.e., the right side is more important].

[U] *Everyone agrees that one who needs to spit into his jacket [or a handkerchief is permitted to do so, but he] is forbidden [to spit anywhere else during his recitation of Prayer].*

[V] R. Joshua b. Levi said, “Spitting in the synagogue is like spitting in [God’s] eye.”

[W] R. Jonah used to spit and then smooth over it [with his foot].

[X] R. Jeremiah, R. Samuel bar Halafta in the name of R. Ada b. Ahvah, “One who prays should not spit until he moves four cubits [from the place in which he prays].”

[Y] Said R. Yosé b. R. Abun, “Likewise one who spits should not pray until he moves four cubits [from the place he spit].”

[II:6 A] *It was taught: One who is praying should not urinate until he moves four cubits [from the place he prays].*

[B] *And likewise, one who urinates should not pray until he moves four cubits [from the place he urinates] [T. 2:19].*

[C] Said R. Jacob bar Aha, “It is not only the case that one must actually move away four cubits. But it is also sufficient if he waits [before praying in that place] the amount of time it would take to move away four cubits.”

[D] Said R. Ammi, “If you insist that one should actually move away four cubits [from a place where someone urinated long before] then I could say [about every single place that maybe] someone urinated there [before and it should be forbidden to pray anywhere.]” [Ammi supports Jacob bar Aha’s comment.]

[E] R. Abba in the name of Rab, “[It is forbidden to pray near] excrement until it is as dry as a bone and near urine as long as it is moist.”

[F] Geniba said, “As long as the outline of the urine is discernible [on the ground, one may not pray nearby].”

[G] Samuel said, “[One may not pray near excrement] until its [outer] surface hardens.”

[H] Samuel bar Abba [Wawa] in the name of R. Yohanan, “Until its [outer] surface hardens.”

[I] R. Jeremiah, R. Zeira in the name of Rab, “It is forbidden [to pray] near excrement even if it is dry as a bone.”

[J] Samuel said, “Until its surface hardens.”

[K] Simeon bar Abba [Wawa] said in the name of R. Yohanan, “Until its surface hardens.”

[L] Said Hezekiah, “R. Abba rules more strictly regarding urine than regarding excrement.”

[M] *R. Mana said to him [Hezekiah], “Do you refer to Geniba’s statement?”*

[N] He said to him [Mana], “[Even aside from that,] it is forbidden [to pray near excrement] until it as dry as a bone because it is tangibly present. [But urine even though] it is not tangibly there [even if it is merely moist, it is still forbidden to pray nearby. This is a stricter ruling.]”

3:6

[A] A Zab who had a [seminal] emission, and a Niddah who discharged semen [after intercourse], and the woman who had intercourse and then had a menstrual discharge, must immerse themselves [in a ritual bath to remove the uncleanness caused by the emission or intercourse before they can recite the Shema’. They must do this even though they remain unclean on account of their more severe condition of uncleanness.]

[B] And R. Judah exempts them [from the requirement of immersing themselves because in his view nothing is accomplished through the immersion. They remain unclean by virtue of the more severe uncleanness.]

[I:1 A] *Thus far [from M. we understand that] if a Zab experienced an emission [Judah exempts him from immersion]. [Does this imply that] one who had [previously] experienced an emission and then suffered the flow of a Zab may immerse himself? [Does the immersion have any effect if afterwards he remains unclean from the more severe form of uncleanness?] [From M. we deduce that Judah thinks that one who is severely unclean as a Zab cannot become further unclean due to an emission, and is not required to immerse himself to cleanse himself of the latter, rabbinically ordained uncleanness due to an emission. But does Judah exempt a person from immersing himself if he first becomes unclean due to an emission, and then becomes severely unclean due to the flow of a Zab. In such a case, according to Judah, does the individual have to immerse himself to remove the first uncleanness?]*

[B] *Let us deduce the answer from the following: The woman who had intercourse and then saw a menstrual discharge, must immerse herself. R. Judah exempts.*

- [C] *Now, what is Judah's reasoning?* Is it because he reasons, "What good is immersing oneself [in this case since even if she removes the lesser uncleanness [of the nocturnal emission], the severe uncleanness remains]"? Or is it because [he holds that] lesser uncleanness does not persist in the presence of more severe uncleanness [and therefore there is no moderate uncleanness to remove here, it is gone, and there is no reason for him to immerse himself]?
- [D] *In what instance is there a practical difference between these alternative lines of reasoning? [In our case above] one who first suffered an emission [then later came into the category of Zab].*
- [E] *If your reasoning is "What good is immersing oneself [because the more severe uncleanness persists]" – here it [the immersion] is effective. [The person initially was required to immerse himself to remove the lesser uncleanness. And by immersing himself he may fulfill this requirement.]*
- [F] *So the basis must be that moderate uncleanness does not persist in the presence of severe uncleanness. [This is our problem.]*
- [G] This is only the case where the lesser uncleanness follows the severe uncleanness [and cannot therefore change the status of a person who is already severely unclean].
- [H] Is it also so in a case where the lesser uncleanness precedes the severe uncleanness [and when the person becomes severely unclean, that action suspends the moderate uncleanness, so there is no need for him to immerse himself on account of the lesser uncleanness]?
- [I] *We may deduce [the solution] from the following [in our M. **A woman who had intercourse and then had a menstrual discharge, must immerse, And R. Judah exempts.***
- [J] *This [M.] we say is parallel to our case. [The lesser uncleanness precedes the more severe uncleanness. We may then conclude that Judah exempts her from immersing herself because severe uncleanness suspends lesser uncleanness. Hence there remains no obligation for her to immerse herself.]*

YERUSHALMI BERAKHOT

CHAPTER FOUR

4:1

[A] The Morning Prayer [may be recited] until midday.

[B] R. Judah says, “Until the fourth hour [of the day].”

[C] The Afternoon Prayer [may be recited] until the evening.

[D] R. Judah says, “Until mid-afternoon.”

[E] The Evening Prayer has no fixed rule.

[F] And the prayers of the Additional Service [may be recited] throughout the day.

[G] R. Judah says, “Until the seventh hour.”

- [I:1 A] It is written, “To love the Lord your God, and to serve him with all your heart and with all your soul” [Deut. 11:13]. Is there [such a thing as] a service of the heart and what is it? It is prayer.
- [B] And so it says, “[The king said to Daniel,] ‘May your God, whom you serve continually, deliver you’” [Dan. 6:17]. And was there [such a thing as] a service in Babylonia? And what was it? It was prayer.
- [I:2 A] **One might think that he may combine the three [Prayer Services] together. It was said concerning Daniel, “And he got down upon his knees three times a day [and prayed and gave thanks before his God]” [Dan. 6:10].**
- [B] **One might think that he may pray facing any direction he wishes. [On the contrary,] Scripture states, “[He went to his house where] he had windows in his upper chamber open toward Jerusalem” [Dan. 6:10].**
- [C] **One might think [that they prayed in this way] only after they came to the Diaspora. [On the contrary,] Scripture states, “As he had done previously” [Dan. 6:10].**

[D] **One might think that he may recite the three [daily prayers] at any time he wishes. David already stated, “Evening and morning and noon [I utter my complaint and moan]” [Ps. 55:17].**

[E] **One might think that he must raise his voice and pray. It was stated concerning Hannah, “Hannah was speaking in her heart” [I Samuel 1:13]. [T. 3:6].**

[F] One might think that he may just meditate [during Prayer]. [On the contrary,] Scripture states, “Only her lips moved” [I Samuel 1:13].

[G] What does that mean? That she spoke with her lips [i.e. articulated the words quietly].

[H] Said R. Yosé bar Haninah, “From this verse [I Sam. 1:13] you learn four things.

[I] ‘Hannah was speaking in her heart:’ from this you learn that Prayer requires concentration. [The heart was considered to be the source of thought.]

[J] ‘Only her lips moved:’ from this you learn that one must mouth the Prayer with one’s lips.

[K] ‘And her voice was not heard:’ from this you learn that one may not raise his voice and pray.

[L] ‘And Eli took her to be a drunken woman’: from this you learn a drunken person is forbidden to pray.”

[M] *A teaching of Hanan bar Abba conflicts [with Yosé bar Haninah’s teaching that one may not pray aloud]. [According to the following story, he heard Rab pray out loud.] For Hanan bar Ba said to the associates, “Let me tell you about something good which I saw Rab do. [He bowed in a certain way during his prayer,] and I described this in front of Samuel, and he got up and kissed me on the mouth.”*

[N] [And this is what Rab did. When he said,] “Blessed art thou,” he bowed. When he mentioned the name [of God, “O Lord,”] he straightened up. [Rab straightened before reciting the name of God.]

[O] *Samuel said, “I will tell you that the basis for this [Rab’s action is the verse,] ‘The Lord lifts up those who are bowed down’ [Ps. 146:8].” [Accordingly, when one who is bowed down recites the name of the Lord, he should straighten up.]*

[P] *Said R. Ammi, "This does not make sense [because another verse says,] 'He bowed in awe of my name' [Mal. 2:5]."*

[Q] *Said R. Abin, "If it was written in the verse, 'At my name [bsmy] he bowed, very well [that would contradict Rab's practice.]" But is it not written, 'He bowed in awe of my name?' [That could mean] previously, before he mentioned the name, he was already bowing down. [It could then be said that when he mentioned God's name he straightened up. That is not a contradiction of Rab's custom.] [Cf. above, M. 1:4.]*

[I:3 A] *R. Abba bar Zabedi used to pray [reciting the Eighteen Blessings] in a loud voice.*

[B] *When R. Jonah prayed in a synagogue he prayed quietly. And when he prayed at home, he prayed in a loud voice so that his family would learn from him how to pray.*

[C] *Said R. Mana, "My father's family learned how to pray from him."*

[I:4 A] *Whence did they derive the [obligation to recite daily] three prayers? R. Samuel bar Nahmani said, "They parallel the three changes people undergo each day.*

[B] *"In the morning a person must say, 'I give thanks, Lord, my God and God of my fathers, for you have brought me forth from darkness into light!'*

[C] *"In the afternoon a person must say, 'I give thanks to you, Lord, my God and God of my fathers, for just as I have merited seeing the sun [rise] in the east, now may I merit seeing it [set] in the west.'*

[D] *"In the evening he must say, 'May it be thy will, Lord, my God and God of my fathers, that just as I have been in darkness before and you have brought me forth to light, so shall you once again bring me forth from darkness to light.'"*

[E] *R. Joshua ben Levi said, "They learned the [obligation to recite the three daily] prayers from the [actions of the] patriarchs.*

[F] *"[They derived the obligation to recite] the Morning Prayer from [the action of] our forefather Abraham: 'And Abraham went early in the morning to the place where he had stood before the Lord' [Gen. 19:27]. And 'Standing' must refer to [the recitation of the] Prayer. As it says, 'Then Phineas stood up and prayed' [Ps. 106:30].*

[G] “[They derived the obligation to recite] the Afternoon Prayer, [from the action of] our forefather Isaac: ‘And Isaac went out to meditate in the field in the evening’ [Gen. 24:63]. And ‘meditation’ must refer to [the recitation of the] Prayer. As it says, ‘A prayer of one afflicted, when he is faint and pours out his meditation before the Lord’ [Ps. 101:1].

[H] “[They derived the obligation to recite] the Evening Prayer, from [the action of] our forefather Jacob: ‘And he came to [wypg’] a certain place, and stayed there that night because the sun had set’ [Gen. 28:11]. And [the Hebrew term for] ‘Coming to’ [pgy’h] must refer to [the recitation of the] Prayer. As it says, ‘Let them intercede [ypg’w] with the Lord of hosts’ [Jer. 28:18]. And it says, ‘As for you, do not pray for this people, or lift up cry or Prayer for them, and do not intercede [tpg’] with me, for I do not hear you’ [Jer. 7:16].”

[I] And our rabbis said: The [obligation to recite three daily] Prayers is derived from the [comparison to the order of the] daily sacrifices.

[J] The [obligation to recite the] Morning Prayer, [is derived] from the daily morning sacrifice: ‘The one lamb you shall offer in the morning’ [Numbers 28:4].

[K] The [obligation to recite the] Afternoon Prayer, [is derived] from the daily evening sacrifice: ‘And the other lamb you shall offer in the evening’ [ibid.].

[L] For the Evening Prayer, they found no support. So they just taught [that one is obliged to recite it] without elaborating [on the sources of the obligation]. *This is as we learned, The Evening Prayer has no fixed rule. And the Additional Prayer may be recited throughout the day [M. 4:1].*

[M] Said R. Tanhuma, “[The Evening Prayer also had a parallel in the sacrificial service of the Temple.] They established it parallel to the consumption [by burning] of the fats and entrails. For they were consumed on the altar throughout the night.”

[I:5 A] From words in Scripture R. Judah [M. 4:1B] derived [his rule, that one may recite the Prayer until the fourth hour of the day]. *As R. Ishmael taught, “When the sun grew hot, it [the manna] melted’ [Exod. 16:21] – that was at the fourth hour.”*

[B] Must you say it was at the fourth hour? Or [can you not argue that it was rather at the sixth hour [that is, at noon]?

- [C] When it says, “In the heat of the day” [Gen. 18:1], lo, this implies [it was at] is the sixth hour [in the middle of the day].
- [D] We may then infer that, “When the sun grew hot, it melted,” refers to [a slightly earlier time of day –] the fourth hour.
- [E] And you may expound upon the verse, “Morning by morning [they gathered it]” [Exod. 16:21, the first part of the verse cited above,] as follows. Just as the word “morning” here [Exod. 16:21] [means until] the fourth hour [one may gather the manna], so also “morning” elsewhere [“The one lamb shall you offer in the morning” in Numbers 28:4] means until the fourth hour [one may offer the morning sacrifice. Accordingly, until the fourth hour one may recite the Morning Prayer].
- [F] [According to C-D why does, “When the sun grew hot,” refer to the fourth hour and, “The Heat of the day,” refer to the sixth hour?] *At the fourth hour, it is hot in the sun, and it is cool in the shade. At the sixth hour, it is hot in the sun, and it is hot in the shade.*
- [G] Said R. Tanhuma, “What does ‘In the heat of the day’ mean? A time when no creature can find shade.”
- [H] *R. Yasa would pray at the third hour. R. Hiyya bar Abba [Wawa] would pray at the third hour.*
- [I] *R. Berekhiah Hamuniah would recite the Shema’ and pray after the third hour.*
- [J] *But lo, it was taught, **One who recites from here onwards, has not lost [the purpose of the act entirely since he is] like one who recites from the Torah. [M. 1:2].*** [But if he recites this late, he does not fulfill his obligation even according to Joshua who says he may recite, **Until the third hour (M. 1:2E)!]**
- [K] *Let us say that* in this case he [Berekhiah] had already accepted the yoke of heaven [i.e. recited the Shema’] in its proper time. [He was repeating it later.]
- [L] Alternatively, R. Judah [M. 4:1B] derived [his rule, Until the fourth hour] from a testimony [described in to M. Eduyyot].
- [M] As R. Simon in the name of R. Joshua b. Levi said, “In the days of Seleucid rule they used to lower down [over the wall, from the besieged Temple of Jerusalem,] two vessels of gold. And in return they [the besiegers] sent back up two lambs [for the daily sacrifice].

[N] “One time they lowered down two vessels of gold and in return they sent back up two goats [instead of lambs]. At that very time the Holy One revealed to them two lambs in the Temple Store. Based on that event [when they offered the sacrifice late in the morning], **R. Judah b. Baba testified that the daily morning sacrifice is to be offered at the fourth hour [M. Eduyyot 6:1].**”

[O] Said R. Levi, “[The following event occurred] also during [the period of subjugation to] these wicked rulers [i.e. Rome]. They would lower down two vessels of gold, and in return they [the Romans] used to send back up two lambs. At the end [of the siege] they sent down two vessels of gold and they [the Romans] sent back up two pigs. They had raised them less than half way up the wall, and a pig became stuck in the wall. And the wall shook. And the pig sprang [away, alt.: and the land shook for] forty parasangs away from the Land of Israel. At that very time, because of the sins [of Israel], the daily sacrifice was suspended, and the Temple was destroyed.”

- [I:6 A] *What is the basis for the rule of the rabbis [The Morning Prayer may be recited until midday (M. 4:1A)]?* The verse says, “There are two [sacrifices] each day” [Num. 28:3]. [This implies that] you should divide the day into two equal parts.
- [B] And how does R. Judah interpret this phrase? He says, “Two each day” serves as the Scriptural basis for the obligation [to bring two daily sacrifices. It does not teach us anything regarding the time for the sacrifice].
- [C] Or, “Two each day” – [you may say he explains] they serve as two defenders [of Israel] through each day [one the first half, the other the second half].
- [D] Or, “Two each day” – [you may say he explains] they should be slaughtered for the sake of use that day [as a daily sacrifice, not another day.]
- [E] Or, “Two each day” – [you may say he explains] they should be slaughtered [outside] in the daylight. [These are possible alternative interpretations in support of Judah’s view against the view of the sages.]

- [F] *This [last alternative] accords with that which was taught: **The daily morning sacrifice was slaughtered in the northwestern corner, near the second ring [of the altar], in the daylight.***
- [G] **And the evening sacrifice was slaughtered in the northeastern corner, near the second ring, in the daylight [M. Tamid 4:1].**
- [H] And this is done [i.e. they are slaughtered in different places,] so that they will know which of them was slaughtered in the morning and which in the evening [when the remains are later burned on the altar].
- [I:7 A] R. Hiyya in the name of R. Yohanan, “[In the afternoon, if one has not yet recited both] the Afternoon Prayer and the Additional Prayer [on a Sabbath or festival] – the Afternoon Prayer takes precedence. [He must recite it first.] *You must say* [this rule applies only] when there is not enough time left in the day to recite both [prayers]. But if there is enough time to recite both, the Additional Prayer takes precedence.”
- [B] R. Zeira in the name of R. Yohanan, “Even if there is enough time left in the day to recite both prayers, the Afternoon Prayer takes precedence.”
- [C] R. Nathan bar Tobiah in the name of R. Yohanan, “Even if there is enough time left in the day to recite both prayers, the Afternoon Prayer takes precedence.”
- [D] *But was it not taught*, “One who recited the Afternoon Prayer in advance of the Additional Prayer fulfilled his obligation”? [This rule applies to] and action in the past [post facto]. *But [ab initio] to begin with [this rule] does not apply.* [This appears to contradict A, Yohanan’s teaching. The Additional Prayer takes precedence.]
- [E] You may resolve this contradiction [by explaining that this baraita refers to a case where one prays] before the proper time for the Afternoon Prayer [i.e. before six and one half hours of the day have elapsed. In some cases one may recite the Afternoon Prayer before the Additional Prayer.]
- [F] *[And] this accords with [the following:] R. Joshua b. Levi would instruct his students, “If you are going to have a big meal [and fear it may last into the night], and if it is past the sixth hour of the day before you go to the meal, then you should recite the Afternoon Prayer before you go to the meal. [You may pray a little bit early to avoid possibly missing the time for the Prayer later, when you are involved in the meal. Yohanan above may refer to a case such as this one.]*

- [II:1 A] [The Afternoon Prayer ...R. Judah says, “Until mid-afternoon. M. 4:1D]: And when is mid-afternoon? Ten and three quarters hours into the day. [The “short measure of afternoon” begins at nine and one-half hours into the day (about 3:30 p.m.) with day finishing at 6:00 p.m. The mid-afternoon by this reckoning is about 4:45 p.m. And note that the length of an “hour” is adjusted according to the seasonal variation in the amount of daylight.] [See T. 3:1.]
- [B] *There we learned a Tannaite statement: The Daily Sacrifice is slaughtered at eight and one-half hours, and offered on the altar at nine and one-half hours. On Passover eve it was slaughtered at seven and one-half hours, and offered on the altar at eight and one-half hours, whether it fell on a weekday or on the Sabbath [M. Pes. 5:1].*
- [C] *R. Jeremiah posed this objection, “Here [in the baraita in A] you specify the time for the Afternoon [Sacrifice and Prayer] as two and one-half hours before sunset. And here [in M. Pes. cited in B-C] you specify the time for the Afternoon [Sacrifice and Prayer] as three and one-half hours [before sunset].”*
- [D] Said R. Yosé, “The [rule for the] Afternoon Prayer is not to be connected to [the rule for] the Afternoon Sacrifice [which is slaughtered at eight and one-half hours]. Rather [the rule is connected] to [the law for bringing the Afternoon] Incense Offering [which takes place one hour after the Daily Sacrifice is offered upon the altar, at nine and one-half hours. The time at which the Incense Offering is brought is also the time for the recitation of the Afternoon Prayer, i.e. from nine and one half to twelve hours.]”
- [E] What is the Scriptural basis [for this calculation]? “Let my Prayer be counted as incense before thee, and the lifting up of my hands as an evening sacrifice” [Ps. 141:2]. You may exclude [from your reckoning of the time of afternoon] one hour for its preparations [before the incense sacrifice is brought to the altar and is lit]. That makes the afternoon [up to] two and one-half hours long.
- [II:2 A] R. Yosé b. Haninah used to recite [the Afternoon] Prayer at sunset, so that he would be in fear of heaven all the day long.
- [B] Said R. Yosé b. Haninah, “May my lot be cast with those who recite their prayers at sunset.” What is the Scriptural basis [for this practice]? “Therefore, let everyone who is worthy offer prayers to thee; at a time they are pressed” [Ps. 32:6]. What is a time they are pressed [msw’]? A time in the day [when people] are pressed [i.e. at the end of the day – mswyw sl ywm, lit. the squeezing of the day – a word play].

- [C] *R. Ada's mother's brother [uncle] used to hold the Prayer cloak of Rab on the great fast [the Day of Atonement]. He [Rab] said to him, "When you see the sun reach the tops of the palm trees, give me my Prayer cloak so that I may recite the Afternoon Prayer." [This implies that Rab asked for his prayer shawl early – before the sun was setting.]*
- [D] *[At the time of day] while the sun is yet at the tops of the palm trees there [in Babylonia where the terrain of settlement is level, the time when the sun reaches the tops of the trees may be close to nightfall, but] it is [often still] daytime here [in the Land of Israel where settlements are found on varying terrains and the time the sun reaches the tops of the trees may be early in the afternoon].*
- [E] As R. Yohanan said, "Who says to the deep, 'be dry' [Isa 44:27] – this is Babylonia for it is in the lowest part of the earth."
- [F] Said R. Yohanan, "Why is it called 'The deep'? Because those who died in the generation of the flood sank down there." [This verse supports this teaching:] 'Babylon must fall for the slain of Israel, as in Babylon have fallen the slain of all the earth' [Jer. 51:49].
- [G] It is written, "They found a plain in the land of Shinar and settled there [Gen. 11:2]." [Shinar is in Babylonia and the Talmud assumes that the incidents in the story of the Tower of Babel took place in Babylonia.]
- [H] Said Resh Laqish, "Why did they call it 'Shinar'? [The explanations which follow are based on word plays.] Because all the corpses of the generation of the flood were dumped there [nn'rw]."
- [I] Another explanation [of the meaning of] "Shinar" – they are dying, choking in the smoke and odor, for they are without oil lamps [nr], without a bathhouse.
- [J] Another explanation of "Shinar" – they are stripped [mnw'rym] of the commandments. [For they are outside the Land of Israel,] without [the obligations to give] heave-offerings or tithes.
- [K] Another explanation of "Shinar" – its officials die as lads [n'rym].
- [L] Another explanation of "Shinar" – it produced an enemy and hater [swn' w'r] of the Holy One, blessed be He. And who was that? The evil Nebuchadnezzar [who destroyed the Temple].

[M] *Does Rab [returning to the story above, C, who recited the Afternoon Prayer early, before mid-afternoon] then follow the rule of R. Judah [against the view of sages, i.e. that one must recite the Afternoon Prayer before nine and one half hours into the day? Yes, for the following reason.] If you act in accord with the view of the rabbis [and pray later than mid-afternoon], R. Judah will not agree [that this is proper]. But if you act in accord with the view of R. Judah [and pray only before mid-afternoon] even the rabbis will agree [that this is proper and you will have satisfied both views].*

- [II:3 A] Whence [do we derive the obligation to recite] the Closing Service [Ne'ilah, on the Day of Atonement and other public fast days]?
- [B] Said R. Levi, “‘Even though you make many prayers I will not listen’ [Isa. 1:15]. [Only in that instance will he not listen. Ordinarily he would listen.] From here we learn that all those who add more prayers, are answered.” [The Closing Prayer is an instance of an added prayer.]
- [C] [It appears that] R. Levi holds the opposite view elsewhere [i.e. that adding Prayers may be detrimental].
- [D] There [cf. Y. Bik. 2:1.] said R. Abba son of R. Pappi, R. Joshua of Sakhnin in the name of R. Levi, “‘In all toil there is profit, but mere talk tends only to want’ [Prov. 14:23]. By adding to her prayers, Hannah shortened Samuel’s life.
- [E] “‘[She asked that he live for fifty years. How so?] For she said, [‘As soon as the child is weaned, I will bring him, that he may appear in the presence of the Lord,] and abide there forever’ [I Sam. 1:22]. ‘Forever’ for a Levite means for fifty years. As it is written, ‘From the age of fifty years they shall withdraw from the work of the service and serve no more’ [Num. 8:25].”
- [F] *But [Samuel] lived fifty-two years!*
- [G] Said R. Yosé b. R. Bun, “[Add] two years [before] he was weaned.” [In any case, Hannah’s added prayers were heard, and her son Samuel’s life was shortened accordingly.]
- [H] *Does [Levi] then say [in D that increasing Prayer may be detrimental]? If he does, it is only regarding the Prayer of an individual [such as Hannah]. But regarding communal Prayer [Levi holds the view that adding to it is beneficial, as in B above.]*

- [I] R. Hiyya in the name of R. Yohanan, R. Simeon b. Halafta in the name of R. Meir, “‘As she continued praying before the Lord’ [I Sam. 1:12] – from this we learn that all who add to their prayers are answered. [Even an individual benefits by adding prayers, contrary to Levi’s view.]”
- [J] When [does one recite] the Closing Prayer?
- [K] *The rabbis of Caesarea [may be: Katzrin] said, “Rab and R. Yohanan disputed this issue.”*
- [L] Rab said, “At the [time of the] closing of the gates of heaven [i.e. sunset].”
- [M] And R. Yohanan said, “At the [time of the] closing of the gates of the Temple courtyard [after the Incense Offering of the Afternoon Sacrifice].”
- [N] *R. Yudan Antordia said, “The Mishnah supports [the view of] R. Yohanan: **On three occasions the priests raise their hands [to bless the people] four times during the day – at the Morning Service, at the Additional Service, at the Afternoon Service, and at the Close of the Gates – on fast days, on the days of changing the watch, and on the Day of Atonement [M. Ta’anit 4:1].***
- [O] Can you say that this refers to the [priests blessing the people after the] close of the gates of heaven [i.e. after sunset? The text of M. says they raised their hands four times] during the day. [It must refer to the [time of the] close of the gates of the courtyard while it is still day. This supports Yohanan against Rab.]
- [P] [*But as we saw above:*] *R. Ada’s mother’s brother [uncle] used to hold Rab’s prayer cloak on the great fast [the Day of Atonement]. He [Rab] said to him, “When you see the sun reach the tops of the palm trees [in the afternoon], give me my Prayer cloak so that I may recite the [service of the] Closing of the Gates.” [This implies that Rab asked for his prayer shawl early – before the sun was setting.]*
- [Q] *It appears that the opinion of Rab is reversed.* There [in L] he says [the Closing Prayer is to be recited], “At the close of the gates of heaven [i.e. at sunset].” *Here he says [to recite it], “At the close of the gates of the Temple courtyard [in the afternoon].”*

[R] *Said R. Mattenah, “[There is no contradiction.] Since Rab extended [his recitation of] his Prayer so much, [though he may have started reciting early] he would continue until the [time of the] close of the gates of heaven [i.e. sunset].”*

[S] [According to the view that one recites it after sunset,] does [the recitation of] the Closing Prayer exempt one from [the obligation to recite] the Evening Prayer?

[T] R. Abba and R. Huna in the name of Rab, “[The recitation of] the Closing Prayer exempts one from [the obligation to recite] the Evening Prayer.”

[U] R. Abba said to R. Huna [by way of objection], “[If one does not recite the Evening Prayer,] how then does one mention the Prayer of Division [the Habdalah, Prayer of Separation or Distinction, normally inserted in the fourth blessing of the Evening Prayer at the conclusion of a holiday]?”

[V] Said R. Yona to R. Abba [by way of another objection], “How does [reciting a prayer service of] seven [i.e. the Closing Prayer] exempt one from [the obligation to recite a Prayer of] Eighteen [the Evening Prayer]?”

[W] *Said [R. Abba] to R. Yona, “Did I not already raise one objection?”*

[X] *Said R. Yona to R. Abba, “Because of your [weak] objection, shall we invalidate [Rab’s ruling]?”*

[Y] *Said R. Yosé, “[On the contrary.] R. Abba’s question is a very good one. R. Yona’s question is not a very good one. For in this case, [on the Day of Atonement a person is weak and we may explain that] they allowed for a leniency because of the fast. [In this instance they allowed that reciting a Prayer of] seven blessings exempts one from the obligation to recite eighteen blessings.”*

[Z] *R. Abba bar Mamal said to the associates, “I have learned from all of you that [reciting] the Closing Prayer does not exempt one from [the obligation to recite] the Evening Prayer.”*

[AA] [Likewise] R. Simon in the name of R. Joshua b. Levi, “[Reciting] the Closing Prayer does not

exempt one from the [obligation to recite the] Evening Prayer.”

[BB] Said R. Yosé b. R. Bun *and* R. Hiyya *taught as a Tannaite rule*, “A person must recite the Prayer of Eighteen every day — [including the] the evening following the Sabbath, the evening following the Day of Atonement, and the evening following a public fast day [that coincides with the Sabbath. They must recite the Prayer of Eighteen so that they may insert the Prayer of Division formula in the fourth blessing of the Eighteen]”

- [II:4 A] R. Isaac bar Nahman in the name of R. Joshua b. Levi, “When the Day of Atonement coincides with the Sabbath, even though [ordinarily they recite] no Closing Prayer on the Sabbath day, [in this case] one inserts a mention of the Sabbath in the Closing service.”
- [B] They added to this [the following related teachings], “When the new moon coincides with a public fast day, even though [ordinarily they recite] no Closing Prayer on the new moon, [in this case] one inserts a mention of the new moon in the Closing Prayer.”
- [C] R. Simon in the name of R. Joshua b. Levi, “When the Sabbath coincides with Hanukkah, even though [ordinarily they recite no Additional Service on Hanukkah, [in this case] one inserts a mention of Hanukkah in the Additional service [of the Sabbath day].”
- [D] They added to this [further teachings], “When the new moon coincides with Hanukkah, even though [ordinarily they recite] no Additional Service for Hanukkah, [in this case] one inserts a mention of Hanukkah in the Additional Service [for the new moon].”
- [E] When a new moon coincides with a fast day (B) – where [in the Closing Service] does one insert a mention of the new moon?
- [F] R. Zeira says, “In the blessing of thanksgiving [the sixth].”
- [G] R. Abba bar Mamal said, “In the blessing of the Temple service [the fifth].”
- [H] R. Abina said, “In a fourth blessing [S.H. and M.H: fifth blessing].”

[I] Said R. Abba, “What is the rule in other instances? One inserts [a mention of the day] in the fourth blessing. Here too one inserts [a mention of the new moon] in the fourth blessing.”

[J] *And so it was the practice to act according to R. Abba’s statement.*

- [II:5 A] What passage do they read [from the Torah on the new moon which coincides with a fast day]?
- [B] R. Yosé said, “They read the blessings and curses [Deut. 28, the passage usually read on the fast day].”
- [C] *R. Mana said to him, “[Do you read the passage for a fast day] in order to inform the people that it is a fast day? They will be bowing over already [to recite the Tahanun Service]. And will they not know it is a fast day [since otherwise that practice is omitted on the new moon]?”*
- [D] R. Yosé said to R. Mana, “[I stated this rule] to inform you that the practice is to read the passage concerning the blessings and curses. [Indeed, this practice is not intended to be a sign for the people that it is a fast day. Rather it is to lead people to repent.]”
- [E] *R. Yudan of Cappadocia said before R. Yosé in the name of R. Judah b. Pazzi, “[On a new moon that coincides with a fast day] they read the passage for the new moon.”*
- [F] *R. Yosé arose [to inquire about this] with R. Judah b. Pazzi. He [Yosé] said to him [Judah], “Did you learn this from your father?”*
- [G] *He said to him, “My father said this applied only for the village of Ein Tob. Since they knew for sure that it was the new moon, [since the court which sanctified the new moon was located there,] they read the passage for the new moon. But in all other places they read [the passage for a fast day –] the blessings and curses.”*
- [H] Jeremiah the scribe asked R. Jeremiah, “On a new moon which coincides with the Sabbath, what [passage from the prophets] do they read?”
- [I] He said to him, “They read the passage [usually read on] the new moon.”
- [J] *R. Helbo said before R. Ammi, “The Mishnah so teaches: **They interrupt [the regular order of the readings from the prophets on the Sabbath] on all [those Sabbaths which coincide with these holidays]: for new moons, for Hanukkah, and for Purim,***

**[for fast days, for watch days, and for the Day of Atonement]
[M. Meg. 3:4].”**

[K] Isaac the merchant asked R. Isaac, “On the new moon which coincides with Hanukkah, what [passage from the Torah] do they read?”

[L] He said to him, “They first read three sections from [the passage for] the new moon and then one section from [the passage for] Hanukkah.”

[M] *R. Pinhas, and R. Simon, and R. Abba bar Zemina who cited it in the name of R. Abdima of Haifa*, “They [first] read three sections from [the passage for] Hanukkah and then read one section from [the passage for] the new moon to indicate that the fourth [portion] is read only on account of the new moon.”

[N] Bar Shalmaya the scribe asked R. Mana, “Take notice that when the new moon of Hanukkah coincides with the Sabbath, do we not read seven [portions]? Can you possibly contend that anyone will know that ‘the fourth is read only on account of the new moon’?” (P.M. omits: “I have asked the scribes [this question].”)

[O] *He said to him, “Is that [worthy enough to be] a scribe’s question? [It is a foolish objection because they always read seven portions on the Sabbath. How can you compare that to the case of the weekday readings?]”*

[II:6 A] *Rabbi instructed his spokesman Abedan to announce to the congregation, “Whoever wishes to recite the [Saturday] Evening Prayer may do so, even while it is still daytime [after mid-afternoon].”*

[B] *R. Hiyya bar Abba [Wawa] instructed his spokesman to announce to the congregation, “Whoever wishes to recite the [Saturday] Evening Prayer may do so, even while it is still daytime.”*

[C] *Said R. Haninah, “R. Ishmael b. R. Yosé took me to a certain inn and said to me, “Here my father once recited the Evening Sabbath Prayer on the eve of the Sabbath [while it was yet day].”*

[D] *Said R. Ammi, “R. Yohanan disputed [this practice of saying the Sabbath Eve Prayer while it is yet day].” But he had no cause to dispute this. Why? For we are permitted to take [time] from the*

profane [weekdays] and add it to the holy [Sabbath]. [Reciting the Sabbath Eve Service early is surely permissible.]

[E] *And furthermore [a story supports the practice]: The donkey drivers came from Araba to Sepphoris and said, “R. Haninah b. Dosa already began the Sabbath [while it was still daytime] in his village.” [Yohanan surely would not dispute this practice.]*

[F] *So concerning what practice did he [Ammi] say [that Yohanan disputed]? Concerning this: For R. Haninah said, “R. Ishmael b. R. Yosé took me to a certain inn and said to me, ‘Here my father once recited the Evening Prayer of the conclusion of the Sabbath on the Sabbath day.’”*

[G] *And even concerning this he [Yohanan] had no cause to dispute [because this was an accepted practice]: For Rabbi instructed Abedan his spokesman to announce to the congregation, “Whoever wishes to recite the [Saturday] Evening Prayer may do so, even while it is still daytime.”*

[H] *R. Hiyya bar Abba [Wawa] instructed his spokesman to announce to the congregation, “Whoever wishes to recite the [Saturday] Evening Prayer may do so even while it is still daytime.”*

[I] *The house of R. Yannai said concerning [the recitation of the Evening Prayer], “They do not require a person [who had not recited the Evening Prayer at night and had already recited the Evening Prayer early, during the day and] who is in bed [at night], to get out in order to recite the Evening Prayer.”*

[J] *Said R. Zeira, “Whenever I followed this practice [and did not say the Evening Prayer at home at night], I was afraid the whole night.”*

[K] *You have then only this [one leniency which applies to the recitation of the Evening Prayer]: For Rabbi instructed his spokesman Abdan to announce to the congregation, “Whoever wishes to recite the Evening Prayer may do so, even while it is still daytime.”*

[L] *R. Hiyya bar Abba [Wawa] instructed his spokesman to announce to the congregation, “Whoever wishes to recite the Evening Prayer may do so, even while it is still daytime.”*

- [II:7 A]** *Said R. Jacob bar Aha, “It was taught there: What is the rule concerning the Evening Prayer? Rabban Gamaliel says, ‘It is compulsory.’ R. Joshua says, ‘It is optional.’”*
- [B] *R. Haninah said, “This dispute [concerning the obligation to recite the Evening Prayer] parallels this dispute [above, whether one who recites the Closing Prayer of the Day of Atonement is exempt from reciting the Evening Prayer].*
- [C] *The one who holds [the view that the Evening Prayer is] compulsory, [also holds the view that reciting] the Closing Prayer does not exempt one from reciting the Evening Prayer.*
- [D] *And the one who holds [the view that the Evening Prayer is] optional, [also holds the view that reciting] the Closing Prayer exempts one from reciting the Evening Prayer.”*
- [II:8 A]** Once a student came and asked R. Joshua, “What is the rule concerning the Evening Prayer?”
- [B] He said to him, “It is optional.”
- [C] He came and asked Rabban Gamaliel, “What is the rule concerning the Evening Prayer?”
- [D] He said to him, “It is compulsory.”
- [E] He said to him, “But behold, R. Joshua told me that it is optional.”
- [F] He said to him, “Tomorrow, when I enter the meeting house, stand and ask me concerning this law.”
- [G] The next day this student stood up and asked Rabban Gamaliel, “What is the rule concerning the Evening Prayer?”
- [H] He said to him, “It is compulsory.”
- [I] He said to him, “But lo, R. Joshua told me it is optional.”
- [J] Said Rabban Gamaliel to R. Joshua, “Are you the one who said it is optional?”
- [K] He said to him, “No.” He said to him, “Stand on your feet and they will testify [that you said it].”
- [L] And Rabban Gamaliel sat and expounded, and R. Joshua stood [in disgrace] until the people cried out.
- [M] And they said to R. Huspit the Meturgaman, “Dismiss the people.”

- [N] And they said to R. Zenon the Hazzan, “Begin saying.” He began to say. The people began.
- [O] And they stood up and they said to him [Gamaliel], “For upon whom has not come your unceasing evil [Nahum 3:19]?”
- [P] They [deposed Gamaliel and] appointed R. Eleazar ben Azariah to [head] the Academy. He was sixteen years old and all his hair had turned grey.
- [Q] And R. Aqiba sat, troubled [that he had not been selected]. And he said [concerning Eleazar], “It is not that he is more learned in Torah than I. Rather he is of greater parentage than I. Happy is the person who has ancestral merit! Happy is the person who has a ‘peg’ to hang upon!”
- [R] And what was R. Eleazar b. Azariah’s ‘peg’? He was the tenth generation [in descent] from Ezra.
- [S] And how many benches were there [in the Academy]?
- [T] R. Jacob bar Sisi said, “There were eighty benches full of scholars besides those who stood behind the partition.”
- [U] R. Yosé b. R. Abun said, “There were three hundred there besides those who stood behind the partition.”
- [V] *And this refers to what was taught elsewhere: **On the day that they seated R. Eleazar b. Azariah in the Academy [M. Zeb. 1:3, M. Yad. 3:5, 4:2].***
- [W] *And it was taught elsewhere, **This teaching R. Eleazar b. Azariah expounded before the sages at the vineyard at Yavneh [M. Ket. 4:6].*** And was there a vineyard there [where they sat and learned]? Rather this refers to the scholars who were arranged in rows, like [vines in] a vineyard.
- [X] Rabban Gamaliel immediately went to each one’s house to appease him. He went to Joshua. He found him sitting and making needles.
- [Y] He said to him, “Is this how you make a living?” He said to him, “Are you finally finding out [how hard it is for us to make a living]? Woe to the generation of which you are the steward.” He [Gamaliel] said, “I submit to you.”

[Z] And they sent a fuller to R. Eleazar b. Azariah [to inform him of the reconciliation]. And some say it was R. Aqiba.

[AA] He said to him [Eleazar], “He who is [a priest authorized] to sprinkle [the water of purification], the son of one who sprinkles, let him sprinkle. He who is neither [a priest authorized] to sprinkle, nor the son of a sprinkler, shall he [have the authority] to say to one who sprinkles, who is the son of one who sprinkles, ‘[You are unfit for your duties.] Your water is water from a cave, and your ashes are from wood’?” [Shall you, Eleazar, have the authority to replace Gamaliel, the legitimate heir to the patriarchate?]

[BB] He [Eleazar] said to him, “You have appeased me. Let us go to Rabban Gamaliel’s door [and inform him].”

[CC] Even so they did not depose him [Eleazar] from his high position. Rather they appointed him Chief Judge.

4:2

[A] R. Nehuniah b. Haqqanneh used to recite a short Prayer when he entered the study hall and when he exited.

[B] They said to him, “What is the nature of this Prayer?”

[C] He said to them, “When I enter, I pray that I will cause no offense. And when I exit, I give thanks for my portion.”

[I:1 A] When he enters [the study hall] what does he say? “May it be thy will, Lord my God, God of my fathers that I shall not be angry with my associates, and that my associates shall not be angry with me; that we not declare the clean to be unclean, that we not declare the unclean to be clean; that we not declare the permissible to be forbidden, that we not declare the forbidden to be permissible; lest I find myself put to shame in this world and in the world to come [for rendering a wrong decision].”

[B] And when he exits [the study hall] what does he say? “I give thanks to thee, Lord my God, God of my fathers, that you cast my lot with those who sit in the study hall and the synagogues, and you did not cast my lot with those who sit in the theaters and circuses. For I toil and they toil. I arise early and they arise early. I toil so that I shall inherit [a share of] paradise [in the world to come] and they toil [and shall end up] in a pit of destruction. As it says, ‘For thou dost not give me up to Sheol, or let thy godly one see the pit’ [Ps. 16:10].”

- [I:2 A] R. Pedat in the name of R. Jacob bar Idi, “R. Eleazar used to recite three prayers after his recitation of the Prayer [of Eighteen]. What did he say? ‘May it be thy will, Lord my God, and God of my fathers, that no person come to hate us, nor that we come to hate any person, and that no person come to envy us, not that we come to envy any person. And let [the study of] your Torah be our occupation all the days of our lives. And let our words be supplications before you.’”
- [B] R. Hiyya bar Abba adds [to this prayer recited after the recitation of the Prayer of Eighteen], “And unite our hearts to fear your name. And keep us far from that which you despise. And bring us near to that which you love. And deal justly with us for the sake of your name.”
- [C] The house of R. Yannai says, “When one wakes up from his sleep, he must say, ‘Blessed are you Lord who resurrects the dead. My master, I have sinned before you. May it be thy will, Lord my God, that you give to me a good heart, a good portion, a good inclination, a good associate, a good name, a good eye, and a good soul, and a humble soul and a modest spirit. And do not allow your name to be profaned among us. And do not make us the subject of [evil] talk among your creatures. And do not lead us in the end to destruction. And [do not turn] our hope to despair. And do not make our welfare depend on gifts from other people. And do not make us depend for sustenance on other people. For the beneficence of others is small and their hatred is great. And set our portion with your Torah, with those who do your will. Rebuild your house, your [Temple] courtyard, your city, and your Temple speedily in our days.’”
- [D] R. Hiyya bar Abba [Wawa] prayed, “May it be thy will, Lord our God, and God of our fathers, that you put in our hearts [the ability] to repent fully before you so that we not be put to shame in the presence of our forefathers in the world to come [after our death, on account of our sins].”
- [E] *R. Yudan b. R. Ishmael established the practice that his spokesman say this [Hiyya’s Prayer above] after he recited the portion [of Torah].*
- [F] R. Tanhum bar Scholasticus prayed, “And may it be thy will, Lord my God, God of my fathers, that you break the yoke of the evil inclination and vanquish it from our hearts. For you created us to do your will. And we are obligated to do your will. You desire [that we do your will]. And we desire [to do your will]. And what prevents us? That bacteria [the evil inclination] which infect us [lit.: the yeast which makes the dough rise]. It is obvious to you that we do not have the strength to resist it. So let it be thy will,

Lord my God, and God of my fathers, that you vanquish it from before us, and subdue it, so that we may do thy will as our own will, with a whole heart.”

[G] R. Yohanan used to pray, “May it be thy will, Lord my God, and God of my fathers that you imbue our portion [of life] with love and brotherhood, peace and friendship. And bring [our lives] to a happy end and [fulfill] all our hopes. And fill our dominion with disciples. And grant that we may enjoy our portion in paradise [in the world to come]. And provide for us a good heart and a good associate. And grant that we may rise early and find [each day] our hearts’ desires. And let our souls’ yearnings come before you for [our future] good.”

[II:1 A] And when I exit I give thanks for my portion [M. 4:2]. Said R. Abun, “[I give thanks to] the God who has bestowed upon me understanding and good works.”

4:3

[A] **Rabban Gamaliel says, “Each day one must recite a Prayer of Eighteen [blessings].”**

[B] **And R. Joshua says, “[it suffices to recite] an Abstract of Eighteen.”**

[C] **R. Aqiba says, “If one is fluent in prayer, he recites a Prayer of Eighteen. And if not, [he recites] an Abstract of Eighteen [blessings].”**

[I:1 A] And why [do they recite] eighteen [blessings]?

[B] Said R. Joshua b. Levi, “It corresponds with the first eighteen psalms, from the beginning [of the book] of Psalms until, ‘The Lord will answer you in the day of trouble’ [Ps. 20:1].”

[C] But if someone will say to you [that up to that place in the book of Psalms] there are nineteen psalms, tell him that [Psalm 2] – ‘Why do the nations conspire?’ – is not counted among them [as a separate psalm, but is considered to be the continuation of Psalm 1].

[D] Based on this verse [‘The Lord will answer you in the day of trouble,’ Psalm 20:1] they said, “One who prays and is not answered, must fast.” [God will answer one who fasts.]

[E] Said R. Mana, “[This verse contains] a hint for a disciple of the sages that a person must say to his master, ‘[The Lord will answer you.] May your prayer be heard.’”

- [F] Said R. Simon, “[The eighteen blessings of the Daily Prayer] correspond to the eighteen vertebrae of the spinal cord. For when a person stands and prays he must bend them all to bow. What is the basis in Scripture for this? ‘All my bones shall say, O Lord, who is like Thee?’ [Ps. 35:10].”
- [G] Said R. Levi, “[**The eighteen blessings**] correspond to the **eighteen invocations [of God’s name in Psalm 29]: ‘Ascribe to the Lord’ [T. 3:25].**
- [H] R. Huna said, “And if someone will say to you that there are nineteen [invocations in that psalm], tell him that the rabbis at Yavneh established a [nineteenth blessing] concerning the heretics.” [The twelfth blessing in the Daily Prayer.]
- [I] *R. Eleazar b. R. Yosé [accordingly] objected before R. Yosé, “Lo it is written, ‘The God (El) of glory thunders’ [Ps. 29:3] [in the psalm there is yet another invocation of God’s name (El). They should have established another blessing on its account.]”*
- [J] *He said to him, “It was taught, **They insert the references to the heretics and the sinners in the blessing concerning the slanderers [the twelfth], and the references to the elders and the proselytes in the blessing concerning the righteous [the thirteenth], and the reference to David in the blessing concerning the rebuilding of Jerusalem [the fourteenth]** [T. 3:25]. We have enough invocations [in the chapter] for each and every one of these subjects [and no more]”*
- [K] R. Haninah in the name of R. Pinhas, “[The eighteen blessings] correspond to the eighteen times that the [names of the] patriarchs Abraham, Isaac and Jacob are mentioned together in the Torah.”
- [L] And if someone says to you that there are nineteen [instances], tell him that we do not count this one: “And behold the Lord stood above it [or: ‘beside him’, and said, ‘I am the Lord, the God of Abraham your father and the God of Isaac; the land on which you lie I will give to you and to your descendants’” [Gen. 28:13]. [Jacob is not named there.]
- [M] If someone tells you that there are only seventeen [instances], tell him that we do count this one: “And in them let my name [Jacob] be perpetuated, and the name of my father Abraham and Isaac” [Gen. 48:16].
- [N] R. Samuel bar Nahmani in the name of R. Yohanan, “[The eighteen blessings] correspond to the eighteen commands [i.e. the words, ‘As

the Lord had commanded'] in the passage concerning the building of the Tabernacle [Exod. 38:21ff.].”

[O] Said R. Hiyya bar Abba [Wawa], “Only [those commands mentioned] between, ‘And with him was Oholiab the son of Ahisamach, of the tribe of Dan’ [Exod. 38:23] and the end of the book [are counted, excluding the first command in verse 22].”

[I:2 A] Whence [is the source for ordaining the liturgy of] the seven [blessings] for the Sabbath [Prayer]?

[B] Said R. Isaac, “They correspond to the seven mentions of voices in [Psalm 29] ‘Ascribe to the Lord.’”

[C] Said R. Yudan Antorihah [Antordia], “They correspond to the seven invocations of God’s name in [Psalm 92], ‘A Psalm. A Song for the Sabbath.’”

[I:3 A] Whence [is the source for ordaining the liturgy of] the nine [blessings] of the New Year’s [Prayer]?

[B] Said R. Abba of Carthage, “They correspond to the nine invocations [of God’s name] in the passage concerning Hannah [I Samuel 2]. And [this is an appropriate source because] it is written at the end [of the passage], ‘The Lord will judge the ends of the earth’ [I Samuel 2:10]. [This is a reference to the judgement of the New Year].”

[I:4 A] Whence [is the source for ordaining the liturgy of] the twenty-four [blessings] of the fast day [Prayer]?

[B] R. Helbo and R. Simon bar R. Nahman both say, “They correspond to the twenty-four times that it says in the passage concerning Solomon [I Kings 8]: song, Prayer, or supplication.

[I:5 A] R. Zeira in the name of R. Jeremiah, “An individual who recites the Prayer [of Eighteen Blessings] alone on a public fast day must mention the occasion in his Prayer.” Where does he do so? Between [the seventh blessing,] “Redeem us” and [eighth blessing,] “Heal us.”

[B] And what does he say? “Answer us, O Lord, answer us, in this time and season. For we are in great trouble. Hide not your face from us and forsake not our supplications. For you are the Lord who answers us in times of trouble, who redeems us, and saves us in all our times of distress. ‘Then they cried to the Lord in their trouble and he delivered them from their distress’ [Ps. 107:28]. Blessed are you who answers us in a time of trouble.”

- [C] R. Yannai in the name of R. Ishmael in the name of the house of R. Yannai says, “[An individual who recites the Prayer mentions the fast day] in [the sixteenth blessing regarding] the hearing of prayer.”
- [D] R. Jonah in the name of Rab, “Even an individual who ordained for himself a fast day must mention the occasion [in his recitation of the Prayer].”
- [E] Where does he say it? R. Zeira in the name of R. Huna, “[In the same place one inserts a mention] on the Sabbath eve and day [in the fourth blessing].” [S.H.: In the evening, morning and afternoon services as on the Sabbath eve and day.]
- [F] *Said R. Mana, “I was uncertain whether the practice [for inserting a reference to the individual’s fast day into the Prayer of Eighteen] followed the view of R. Jeremiah [that it be mentioned as a separate blessing between the seventh and eighth blessings] or the view of R. Yannai in the name of R. Ishmael [that it be inserted into the sixteenth blessing].*
- [G] “*Then I went to the session [in the study hall] and heard R. Huna in the name of Rab [say], ‘Even an individual who declared a fast day for himself must insert [as a separate blessing] a mention of the occasion.’*
- [H] “*R. Yosé objected, ‘But lo, this contradicts a teaching: Every day one must recite the Prayer of Eighteen – [including the evenings following] the Sabbath, and the Day of Atonement, and a public fast day. [One may not add blessings].’ [Cf. M. 4:1, above.]*
- [I] “*From Yosé’s statement that this [rule of Rab] contradicts a [different] teaching, [we can deduce that] he objected [to the interpretation of Rab’s view that the mention of a special prayer on an individual’s fast day be inserted as a separate blessing between the seventh blessing,] ‘Redeem us,’ and [eighth blessing,] ‘Heal us.’ [We should rather interpret that Rab intended for the mention of a fast of an individual to be inserted in the sixteenth blessing, the practice which accords with R. Jeremiah’s ruling regarding insertion in prayer on a public fast day.]”*
- [J] Said R. Aha bar Isaac in the name of R. Hiyya of Sepphoris, “On the ninth day of Ab, an individual [who recites the Prayer of Eighteen] must insert a mention of the occasion.”
- [K] What does he say? “Have mercy, Lord our God, out of your bountiful mercy and true loving kindness, upon us, and upon your nation Israel, and upon your city Jerusalem, and upon

Zion your honored dwelling, and upon the city of mourning, ruin, destruction, and desolation, which has been given over into the hands of strangers, which the wicked devastated, foreign legions inherited, and idolaters desecrated. For you gave it as an inheritance to your people Israel, and bequeathed it as an inheritance to the descendants of Yeshurun. Lo, you destroyed it with fire, and you shall rebuild it in a conflagration. As it says, ‘For I will be to her a wall of fire round about, says the Lord, and I will be the glory within her’ [Zech. 2:5 (RSV)].”

[L] *R. Abdima of Sepphoris posed a question to R. Mana.*
“Where do they say this Prayer?”

[M] He said to him, “Do you still not know?” [There is a rule:] all references [like this one] to events of the future [such as the rebuilding of the Temple], you insert in the [seventeenth blessing concerning] the Temple service. And all references to events of the past, you insert in the [eighteenth blessing concerning] Thanksgiving. And the Mishnah alludes to this: And he gives thanks for the past, and he cries out for the future [M. 9:4C].

[II:1 A] What is the meaning of an **Abstract of Eighteen [M. 4:3C]**?

[B] Rab said, “They say the end of each blessing.”

[C] And Samuel said, “[They say] the beginning of each blessing.”

[D] *There is one Tannaite version* [of Joshua’s statement in Mishnah], “Seven [blessings], an Abstract of [the Prayer of] Eighteen.”

[E] *And there is another version*, “Eighteen [blessings], an Abstract of [the Prayer of] Eighteen.”

[F] *One who holds the view that the version is*, “Seven [blessings], an Abstract of [the Prayer of] Eighteen” accords with Samuel’s view. [They omit the closing invocations of the middle blessings and condense the beginnings of the thirteen middle blessings into one].

[G] *One who holds the view that the version is*, “Eighteen [blessings], an Abstract of [the Prayer of] Eighteen” accords with Rab’s view. [They shorten the beginning of the text of each blessing and recite the closing blessing formula of each paragraph].

[H] R. Zeira sent [a question] to R. Nahum who was with R. Yannai b. R. Ishmael. He asked him, “What is the meaning of, ‘Seven

[blessings], an Abstract of [the Prayer of] Eighteen' according to Samuel's view?"

[I] He said to him, "[It means one should condense the middle thirteen blessings as follows], 'Give us intelligence, accept our repentance, forgive us, redeem us, heal our sickness, bless our years,'"

[J] Said R. Haggai, "If it was [during] the [winter] rainy season, they add, '[Bless our years] with the blessed rains.' If it was [during the season of] the dew [the summer], they add, '[Bless our years] with the blessed dew.'"

[K] [Continuing F, Nahum's text of the Abstract of Eighteen:] "Gather us for we are scattered, we depend upon you for justice, bring your hand down on the wicked, and all who trust in you shall rejoice in the rebuilding of your city, and in the restoration of your Temple, and in the rejuvenation of [the house of] David your servant. For before we call out to you, you will answer us. As it says, 'Before they call I will answer, while they are yet speaking I will hear' [Isa. 65:24]. Blessed art thou, O Lord who hears [our] Prayer."

[L] "And he says the first three [of the Eighteen] blessings [before saying this abstract], and he says the last three blessings, [after saying this text]. And he says [in conclusion], 'Blessed be the Lord, for he has heard the voice of my supplications' [Ps. 28:6]."

4:4

[A] **R. Eliezer says, "One who fixes [the recitation of] his Prayer, his Prayer is not supplication."**

[B] **R. Joshua says, "One who goes through a dangerous place should recite a short Prayer [some texts: an Abstract of Eighteen Blessings]."**

[C] **"And he should say, 'God save your people Israel. In all their crises let their needs come before you. Blessed art thou, O Lord who hears our Prayer and supplications.'"**

[I:1 A] R. Abbahu in the name of R. Eleazar, "[R. Eliezer means] one should not [recite one's prayers] as if he were reading a letter [i.e. fixed without emotion]."

[B] R. Aha in the name of R. Yosé, "[Eliezer means] one must add some new [dimension] each day [to one's prayer]."

[C] Ahitofel used to recite three new prayers each day. *R. Zeira said, "Whenever I did this, I would make mistakes [in my prayer]."*

[D] Rather [here is the correct version of the preceding set of teachings, A-C] as R. Abbahu said in the name of R. Eleazar, “One should not [recite one’s prayers] as if he were reading a letter.”

[E] R. Eleazar used to recite a new prayer each day.

[F] R. Abbahu used to recite a new blessing each day.

[I:2 A] R. Yosé of Tyre in the name of R. Yohanan, “Before his [recitation of the] Prayer one should say, ‘O Lord, open thou my lips, and my mouth shall show forth thy praise’ [Ps. 51:15]. And after his [recitation of the] Prayer one should say, ‘Let the words of my mouth and the meditation of my heart be acceptable in thy sight, O Lord, my rock and my redeemer’ [Ps. 19:14].

[B] *R. Yudan recited both of these verses before his [recitation of the] Prayer.*

[I:3 A] One who was standing and praying and remembered that he had already prayed – Rab said, “He should break off [from praying].”

[B] And Samuel said, “He should not break off.” [He may complete the second recitation of the Prayer.]

[C] Simeon bar Abba [Wawa] said in the name of R. Yohanan, “O that one might [have the opportunity to] pray all day long [in accord with Samuel]. Why [does Yohanan say that one may pray all day long]? Because [the recitation of the] Prayer never loses its value.” [Cf. M. 1:1]

[D] *R. Zeira posed a question before R. Yosé, “Do we not know that R. Yohanan said, ‘One who is in doubt whether or not he prayed, should not pray’?” And he [Yosé] did not answer him.*

[E] R. Abbuha brought [this teaching] in the name of R. Yohanan, “One who is in doubt whether or not he prayed, should not pray.”

[F] R. Haninah did not say this [version of Yohanan’s teaching]. Rather [he gave this version]: *They posed a question before R. Yohanan, “One who is in doubt whether or not he prayed, [what should he do]?”*

[G] He said to them, “O that one might [have the opportunity to] pray all day long. Why [does Yohanan say that one may pray all day long]? Because [the recitation of the] Prayer never loses its value.”

[I:4 A] One who was praying on the Sabbath and he forgot [to say] the Sabbath Prayer, but [instead] he said the weekday Prayer – R. Huna

says, “[Concerning this case] there is a dispute between R. Nahman bar Jacob and R. Sheshet.

- [B] “One said, ‘[When he remembers] he must break off from reciting [even in the middle of] a blessing.’
- [C] “And the other said, ‘He should finish [saying] the blessing [he is reciting when he remembers it is the Sabbath].’
- [D] “And all agree that he must finish [saying the fourth blessing], ‘Who bestows knowledge,’ [if that is where he remembers he erred].”
- [E] And this [last rule] accords with Rabbi’s view. For Rabbi said, “I am surprised that they deleted [the fourth blessing], ‘Who bestows knowledge,’ from the Sabbath [Prayer]. [For] without knowledge how can there be Prayer?”
- [F] Said R. Isaac, “Great is knowledge. For it is enclosed between two invocations [of God’s names in a verse]. As it says, ‘A God of knowledge is the Lord’ [I Samuel 2:3].”
- [G] Some say we learn [this teaching] from this verse, ‘Then you will understand the fear of the Lord and find knowledge of God’ [Prov. 2:5].

[II:1 A] **[One who goes through a dangerous place (M. 4:4B):]** R. Simeon bar Abba in the name of R. Haninah, “All roads are presumed to be dangerous.”

[B] *When R. Yona would go [on an overnight trip] to an inn, he would first give instructions to his household [concerning his last will and testament].*

[C] *When R. Mana would go to bathe in a heated bathhouse, he would first give instructions to his household [concerning his last will and testament].*

[D] R. Haninah son of R. Abbahu, R. Simeon bar Abba in the name of R. Joshua b. Levi, “All sicknesses are presumed dangerous. [One who falls ill should recite the short Prayer of M. 4:4C, In all their crises].”

[III:1 A] R. Aha in the name of R. Asa, “[**In all their crises (prst h’ybwr) (M. 4:4C)** – that short prayer asks that you, God, heed] all that the leader of the prayers asks of you when he goes before the ark [‘wbr lpny htybh] and places the request for the needs of your people before you.” [Aha calls attention to the similarity of the words ‘ybwr, ‘wbr]

[B] R. Pinhas, R. Levi, R. Yohanan in the name of Menahem the Galilean, “[To invite] one to go before the ark they do not say [to him], ‘Come and pray.’ Rather they say [to him], ‘Come and draw near. Come and make our offerings for us, provide for us, fight for us, make peace for us.’”

[C] Others say [the text of the short Prayer is as follows]: **“The needs of your people Israel are great and their ability [to express them] is limited. But let it be your will, Lord our God, and God of our fathers, that you provide for each and every creature his needs, and for each and every person that which he lacks. ‘Blessed be the Lord, for he has heard the voice of my supplications’ [Ps. 28:6]. Blessed art thou, O Lord who hears [our Prayer].”** [T. 3:7F.]

[D] R. Hisda said, “The practice [for reciting the short Prayer] follows the [teaching of] ‘Others’ [in C]. [We recite their text of the short Prayer.]”

[E] R. Hisda said, “[The short Prayer consists of] the first three and the last three blessings [of the Prayer of Eighteen with the special text recited between them].”

[III:2 A] *There is a Tannaite authority who taught*, “One prays and then asks for his [individual] needs.”

[B] *And there is a Tannaite authority who taught*, “One asks for his [individual] needs and then prays.”

[C] *One who holds the view that* one prays and then asks for his [individual] needs [bases his view on the verse which says,] “A Prayer of one afflicted, when he is faint,” and after that [the verse continues,] “And pours out his complaint before the Lord” [Ps. 102:1].

[D] *And one who holds the view that* one first asks for his [individual] needs and then prays [bases his view on the verse,] “O Lord my God, hearkening to the cry,” and after that, “And to the Prayer” [I Kings 8:28].

[E] The view of the sages [does not accord with the preceding but with the view of] R. Zeira in the name of R. Huna, “An individual asks for his needs in the [sixteenth] blessing, ‘Who hears our prayer.’”

[III:3 A] R. Abba, R. Hiyya in the name of R. Yohanan, “A person must pray in a place designated for Prayer [i.e. a synagogue].

[B] “And what is the basis [in Scripture for this rule]? ‘In every place where I cause my name to be remembered I will come to you and bless

you' [Exod. 20:24]. It is not written, 'Where you shall [happen to] remember my name.' But rather, 'In every place where I cause my name to be remembered' [i.e. where there is regular service or Prayer – the Temple, and, after its destruction, the synagogue].”

[C] Said R. Tanhum bar Haninah, “A person must designate for himself a place to pray in the synagogue.

[D] “And what is the basis [in Scripture for this rule]? ‘When David came to the summit where he worshipped God’ [II Sam. 15:32]. It is not written, ‘Where he shall worship God.’ [The verse implies that he regularly worshipped in that place.]”

[III:4 A] R. Yasa, R. Helbo, R. Berekhiah, R. Helbo of Tobah, in the name of R. Abduma from Haifa, “A person must turn to face a wall to pray. What is the basis [in Scripture for this view]? ‘Then Hezekiah turned his face to the wall [and prayed to the Lord]’ [Isa. 38:2].

[B] What to wall did he [Hezekiah] turn?

[C] R. Joshua b. Levi said, “He turned to the wall of Rahab. [As the verse says,] ‘For her house was built into the city wall’ [Joshua 2:15]. He [Hezekiah] recited before it, ‘[Master of the Universe,] Rahab the harlot saved only two people for you. Look at how many people you saved for her.’

[D] In this regard it is written, ‘So the young men who had been spies went in, [and brought out Rahab, and her father and mother and brother and all who belonged to her]’ [Joshua 6:23].”

[E] Said R. Simeon bar Yohai, “Even though her family included two hundred people who each married into two hundred [different] families, they all were saved on account of her merits.”

[F] [Hezekiah argued in his prayer,] “My forefathers brought to you so many proselytes [i.e. saved so many souls]. How much more [should I be rewarded on account of their merits].”

[G] R. Haninah bar Papa said, “He [Hezekiah] turned to the walls of the Temple [to pray, as this verse implies,] ‘By setting their threshold by my threshold and their doorposts beside my doorposts, with only a wall between me and them’ [Ezek. 43:8]. These were great people. And they were not able to go up and pray in the Temple all the time. And they used to pray

in their houses. Yet the Holy one, blessed be He, gave them credit as if they were praying in the Temple.

[H] “[Hezekiah argued further in his Prayer,] ‘[Master of the universe,] my forefathers praised you so much [in all their worship in the Temple]. How much more [should you give me credit on their account].’”

[I] R. Samuel bar Nahman said, “He turned to the wall of the [house of the] Shunamite [woman]. As it says, ‘Let us make a small roof chamber with walls’ [II Kings 4:10].

[J] “[Hezekiah] said before him, ‘Master of the universe, [the Shunamite woman] made one small wall for Elisha and you resurrected her son [on its account]. My forefathers praised you so much [and built for you the Temple]. How much more should you grant me life [on their account].’”

[K] And sages say, “He turned inward to the wall of his heart. [As it says,] ‘My anguish, my anguish! I writhe in pain! Oh the walls of my heart’ [Jer. 4:19].

[L] “[Hezekiah] said before him, ‘Master of the Universe, I have looked into the 248 bones of my body and have not found even one with which I angered you. How much more should you grant me life [on account of the sincerity of my heart].’”

4:5

[A] One who was riding on an ass should dismount [to recite the Prayer].

[B] If he cannot dismount he should turn [to face towards Jerusalem].

[C] And if he cannot turn, he should direct his thoughts to the chamber of the Holy of Holies [in the Temple of Jerusalem].

4:6

[A] One who was travelling on a boat or a raft – he should direct his thoughts to [the chamber of] the Holy of Holies.

[I:1 A] *It was taught:* One who was riding on an ass – if there is someone who can hold the ass, he should dismount and pray. If not, he may pray where he is.

[B] Rabbi says, “In either case he should pray where he is for that way his mind is more at ease [and he can better concentrate] [T. 3:18].”

[C] R. Judah b. Pazzi, in the name of R. Joshua b. Levi, “The law accords with [the view of] Rabbi.”

[I:2 A] Said R. Jacob bar Aha, “*It was taught there*: one may not face in any direction [to recite the Prayer,] except East.”

[B] Said R. Yosé bar Abun, “At first [in ancient times they prayed] ‘With their backs to the Temple of the Lord and their faces toward the East, worshipping the sun toward the East’ [Ezek. 8:16].”

[I:3 A] *It was taught*: **A blind man or anyone who is not able to discern directions [whether he faces east or west,] lo, they pray [by turning their thoughts] towards heaven. As it says, ‘And they pray to the Lord [toward the city which thou hast chosen and the house which I have built for thy name] [I Kings 8:44] [T. 3:14].**

[B] **Those who stand and pray outside the Land of Israel, turn to face the Land of Israel [to pray]. And what is the basis [in Scripture for this rule]? ‘And pray to thee toward their land which thou gavest their fathers’ [I Kings 8:48].**

[C] **Those who stand and pray in the Land of Israel turn to face Jerusalem. And what is the basis [in Scripture for this rule]? ‘Toward the city which thou hast chosen’ [ibid. cf. II Chron. 6:34] [T. 3:15].**

[D] **Those who stand and pray in Jerusalem, turn to face the Temple mount. And what is the basis [in Scripture]? ‘And the house which I have built for thy name’ [ibid. cf. II Chron 6:32].**

[E] **And those who stand and pray on the Temple mount, turn to face the chamber of the Holy of Holies. And what is the basis [in Scripture for this rule]? ‘[And hearken to the supplication of thy servant and of thy people Israel,] when they pray toward this place; yea, hear thou in heaven thy dwelling place; and when thou hearest, forgive’ [I Kings 8:30].**

[F] **It turns out that [when they pray] those who stand north [of the Temple], face south, those who stand in the south, face north, those who stand in the east, face west, those who stand in the west, face east. It turns out that all of Israel prays towards one place [T. 3:16].**

[G] That accords with [the verse], ‘For my house shall be called a House of Prayer for all peoples’ [Isa. 56:7].

- [I:4 A] Said R. Joshua b. Levi, “[We find the following phrase in a verse referring to the Temple,] ‘The house, that is, the nave in front of the inner sanctuary’ [I Kings 6:17] – [this phrase suggests they stood during prayer in front of] the nave [of the Temple – the place] to which all people faced.”
- [B] This [rule that one must pray facing the Temple] applies at a time when the Temple was standing. How do we know [it applies] when the Temple is destroyed [i.e. that all must still face the Temple mount when praying]?
- [C] Said R. Abun, [“We may derive this from the following verse, ‘Your neck is like the tower of David] an arsenal [the Hebrew word can be split into two: tl pyot] (Song of Songs 4:4) – that means [we call the Temple mount] a hill [tel – implying that even after it stands destroyed as a Tel, it is the place] to which all mouths [pyot] pray.
- [D] [One should pray for Jerusalem] in the blessing [of the meal], in the recitation of the Shema’, and in the Prayer [of Eighteen].
- [E] In the blessing of the meal [they say, “Blessed art Thou] who rebuilds Jerusalem.”
- [F] In the Prayer [of Eighteen they say the blessing concerning], the Lord of David [i.e. “And speedily establish in Jerusalem the throne of David. Blessed art Thou] God of David who rebuilds Jerusalem” [the fourteenth blessing].
- [G] And in the recitation of the Shema’ [on Sabbaths and Festivals they say at the conclusion of the evening recitation], “Who spreads his tabernacle of peace upon us, and upon his people Israel, and upon Jerusalem.”
- [H] One verse says, “I will return again to my place” [Hosea 5:16]. And a second verse says, “My eyes and my heart will be there for all time” [I Kings 9:3].
- [I] How is this possible? [The verses contradict each other.] [You may explain that although] His presence [lit. face] remains above [in heaven, to return later,] but His eyes and heart [are always turned] below [to watch over the place of the Temple].
- [II:1 A] **And if not, let him direct his thoughts to the chamber of the Holy of Holies [M. 4:5C].** To which chamber of the Holy of Holies? R. Hiyya the Elder, “Towards the [chamber of the] Holy of Holies above [in heaven].”

[B] R. Simeon b. Halafta said, “Towards the chamber of the Holy of Holies below [in the Temple].”

[C] Said R. Pinhas, “They do not dispute one another. For the chamber of the Holy of Holies down below is opposite the chamber of the Holy of Holies up above, [as implied in the verse,] ‘The place [mkwn]; O Lord, which thou hast made for thy abode’ [Exod. 15:17]. [Read the verse rather as follows:] Situated opposite [mkwn instead of mkwn] thy abode.’ [What is situated opposite it? It is, ‘The sanctuary, O Lord, which thy hands have established’ (ibid.).”

[II:2 A] “[Then Solomon began to build the house of the Lord in Jerusalem on] Mount Moriah” [II Chron. 3:1]. R. Hiyya the Elder and R. Yannai [disputed over the reason it was called mwryh, Moriah]. One said it was because from that place instruction [hwryh] goes forth to the world. The other said it was because from that place fear [yr’h] goes forth to the world.

[B] The ark [‘rwn] – [what is the explanation of this word]? R. Hiyya the Elder and R. Yannai [disputed this matter]. One said [it was called ‘rwn] because from there light [‘wrh] shone forth to the world. And the other said [it was called ‘rwn] because from there curses [‘ryrh] went forth to the world [to the idolaters – P.M.].

[C] Debir – the Holy of Holies – [what is the explanation of this word]? R. Hiyya and R. Yannai [disputed]. One said [it was called Debir] because from there a pestilence [dbr] goes forth to the world. And the other said [it was called Debir] because from there the utterances [dybrwt, the ten commandments] go forth to the world.

[III:1 A] **One who was sitting in the boat or on a raft should direct his thoughts toward the chamber of the Holy of Holies [M. 4:6].**

[B] The term ‘raft’ [Hebrew: ‘sd’], means the same as the term ‘float’ [‘skry’], which means the same as the term rafts [rpswdwt] mentioned in the verse, “And we will cut whatever timber you need from Lebanon, and bring it to you in rafts by sea to Joppa” [II Chron. 3:16].

4:7

[A] R. Eleazar b. Azariah says, “The Additional Prayer is said only with the congregation of the town.”

[B] And sages say, “Both with the Heber ‘yr and apart from the Heber ‘yr.”

[C] **R. Judah said in his [Eleazar’s] name, “Any place where there is a Heber ‘yr [i.e. a place where they recite the Prayer in public] an individual is exempt from [reciting] the Additional Prayer.”**

[I:1 A] R. Bibi in the name of R. Hannah said, “The law follows R. Judah who said [the law] in the name of R. Eleazar b. Azariah [i.e. M. 4:7C].”

[B] *A dictum of Samuel accords with this statement. For Samuel said, “All my days I never recited the Additional Prayer [because I fulfilled my obligation by virtue of the public recitation of the Service]. Except for one time when the son of the Exilarch died. And the congregation did not recite [the Additional Prayer because they were preoccupied with the loss], and [on that one occasion] I recited it myself.”*

[C] *A dictum of the sages disputes [Bibi’s statement]. For R. Jacob bar Idi said in the name of R. Simeon the pious, “[This law applies only] to the shepherds and the field watchmen [who are separated from the communities which assemble for Prayer]. Lo, the Mishnah referred [only] to shepherds and field watchmen. But other people are obligated [to recite the Additional Prayer].”*

[D] *A dictum of R. Yohanan accords with this [statement of R. Bibi]. For R. Yohanan said, “I saw R. Yannai standing and reciting [the Morning Prayer] in the marketplace of Sepphoris. And he walked four cubits and [then] recited the Additional Prayer.”*

[E] And was there no Heber ‘yr in Sepphoris? [Surely there was.] *You learn from this story three things.*

[F] You learn that [in some respects the marketplace] of Sepphoris is considered to be part of the city of Sepphoris [even though it was situated far from the town].

[G] You learn that [in this case only] they dispute the ruling of R. Judah who spoke in the name of R. Eleazar b. Azariah [M. 4:7C]. Because the marketplace was so far from the city, Yannai recited the Additional Prayer himself].

[H] And you learn that a person may recite [the Morning Prayer], walk four cubits, and then recite the Additional Prayer.

[I] Said R. Abba, “Do not take it literally that one must walk four cubits [after reciting the Morning Prayer and before reciting the Additional Prayer]. But even if one pauses for an interval long enough [for a person] to walk four cubits [after reciting the Morning Prayer, he may then recite the Additional Prayer].”

- [I:2 A] Rab said, “[One who recites the Additional Prayer right after the morning Prayer] must add something new [in the Additional Prayer].”
- [B] Samuel said, “He does not have to add something new.”
- [C] *R. Zeira posed a question before R. Yosé, “What new thing must one add [so as to fulfill his obligation in reciting the Additional Prayer]?”*
- [D] He said to him, “Even if he just added [the phrase], ‘And let us fulfill our obligations before you of offering the Daily Sacrifices and the Additional Sacrifice,’ he fulfilled his obligation.”
- [I:3 A] R. Shila in the name of Rab, “One who already prayed [in private] and later found ten people praying, should pray [again in public] with them.”
- [B] *R. Zeira and R. Nahman bar Jacob were sitting together. After they had prayed, a [group of ten other people] came to pray. R. Nahman bar Jacob got up to pray [with them].*
- [C] *R. Zeira said to him, “Didn’t we already pray?”*
- [D] *He said to him, “[Nevertheless] I am going to pray.”*
- [E] And he went to pray again with them. [He acted in accord with the rule (A) which] R. Shila said in the name of Rab, “One who already prayed in private and later found ten people praying, should pray [again in public] with them.”
- [F] R. Aha, R. Jonah, in the name of R. Zeira, “One who had recited the Morning Prayer and came and found them [a congregation] reciting the Additional Prayer, should [go ahead and] pray with them. One who had not recited the Morning Prayer and came and found [a congregation] reciting the Additional Prayer – if he knows that he has enough time to begin [reciting the Morning Prayer] and finish it, before the leader starts [reciting the Additional Prayer,] so that he will be able to respond ‘Amen’ [to the leader’s recitation,] he may recite [first the Morning Prayer]. But if [he knows he will] not [have enough time], he may not recite [the Morning Prayer until the reader completes the recitation of the Additional Prayer].”

[G] Which responses of “Amen” do they refer to [in the case above of a person who came to synagogue and found the congregation in the middle of reciting the Prayer?

[H] [This is disputed by] two Amoraim.

[I] One said [it refers to] the “Amen” to be said after [the third blessing] “The Holy God”.

[J] The other says [it refers to] the “Amen” to be said after [the sixteenth blessing] “Who hears Prayer”.

[K] *Said R. Pinhas, “There is no dispute [between these parties. They refer to different cases.]”*

[L] *The one who says* [it refers to] the “Amen” after [the third blessing] “The Holy God” [refers to the recitation of the Prayer on the] Sabbath [when they do not recite the thirteen intermediate blessings].

[M] *The one who says* it refers to the “Amen” after [the sixteenth blessing] “Who hears prayer” refers to [the recitation of the Prayer on a] weekday [when they do recite the intermediate thirteen blessings].

[I:4 A] *It was taught there:* Rabban Gamaliel said, “The leader [of the Prayer, by virtue of his recitation of the Prayer] exempts the congregation of its obligation [to recite the Prayer].”

[B] R. Huna the Elder of Sepphoris in the name of R. Yohanan, “The law follows R. Gamaliel with regard to [the prayers of the New Year’s day, the day of] the sounding of the shofar. [This service is long and unfamiliar to the congregation].”

[C] *R. Zeira and R. Hisda were sitting together on [New Year’s day, the day of] the sounding of the shofar. After they had prayed [by themselves in private, a congregation] came together to pray [together in public]. R. Hisda got up and prayed [again].*

[D] *R. Zeira said to him, “Didn’t we already pray?”*

[E] *He said to him, “[Nevertheless] I am going to pray.”*

[F] *And he went to pray again with them. [He explained his action as follows:] “When some Jews of the West [i.e. the Land of Israel] came here [i.e. to Babylonia], they said in the name of R. Yohanan, ‘The law follows Rabban Gamaliel with regard to the prayers of [the New Year’s day] the day of the sounding of the shofar.’*

[G] *“And I was not concentrating when I first prayed. But if I had been concentrating [at first], I would already have fulfilled my obligation.” [In this case, by virtue of the leader’s recitation, he fulfilled his obligation. But in other cases, such as one who erred*

in his recitation, he could not fulfill his obligation through the leader's recitation.]

[H] *Said R. Zeira, "Very well. [You acted in accord with the view of] those who taught, that the law follows Rabban Gamaliel [in a case like yours]. But R. Hoshayya taught that the law follows the sages [in all other cases]."*

[I] R. Ada of Caesarea in the name of R. Yohanan, "This law [that the leader's recitation exempts members of the congregation from their obligation to recite applies only] to those who are present from the beginning of [the leader's recitation of] the Prayer."

[J] *Said R. Tanhum bar Jeremiah, "One may infer this rule from the Mishnah: **This is the order of the blessings for the New Year's Prayer.**" [M. R.H. 4:5 implies that one must recite the blessings in the specified order. One who joins the group after the leader begins reciting must later go back and recite the blessings he missed. He does not fulfill his obligation because he recites the blessings out of their prescribed order. M. there continues: **Blessings which mention] (1) the patriarchs, (2) God's wonders, (3) the sanctity of God's name. He included [the New Year's blessings concerning] kingship with those, but he does not sound the shofar. [He recites the blessing concerning] the sanctity of the day, and sounds the shofar. He recites the [New Year's blessing concerning] the remembrances and sounds the shofar. He [recites the blessings which refer to] the sounding of the shofar, and sounds the shofar. And he says the section concerning the sacrificial order, and the thanksgiving blessing, and the priestly blessing," the words of R. Yohanan b. Nuri.]***

YERUSHALMI BERAKHOT

CHAPTER FIVE

5:1

- [A] **One may rise to recite the Prayer only with a solemn frame of mind.**
- [B] **The ancient saints used to tarry for a while, and then pray so that they could first direct their thoughts [to God].**
- [C] **[One who is praying,] even if a king extends to him a greeting, he should not respond; even if a serpent is coiled to strike at his heel, he should not interrupt [his recitation].**
- [I:1 A] R. Jeremiah in the name of R. Abba, “One who comes in off the road [from travelling] is forbidden to recite the Prayer [right away because the events of his journey distract his thoughts].
- [B] “And what is the basis [in Scripture for this]? ‘And therefore hear this, you [exiles] who are afflicted, who are drunk, but not with wine’ [Isa. 51:21]. [Those who are exiled from their land are distracted as if they were intoxicated.]”
- [C] R. Zerikan, R. Yohanan in the name of R. Eleazar the son of R. Yosé the Galilean, “One who is afflicted with anguish is forbidden to recite the Prayer.”
- [D] “*This ruling runs counter to one’s intuition [since we would think that anguish is a good justification for prayer]. [It is, nonetheless, the case.] As the same verse says, ‘And therefore hear this, you who are afflicted, who are drunk, but not with wine’ [ibid.].*” [The verse compares an afflicted person with a drunk person. The Talmud infers that just as a drunk person may not pray, so also an afflicted person may not pray.]
- [I:2 A] *It was taught:* **One may stand to recite the Prayer neither after conversation, nor after laughter, nor after levity, nor after any trivial matter, but only after words of Torah.**

- [B] **And likewise one may depart from his associate neither after conversation, nor after laughter, nor after levity, nor after any trivial matter, but only after words of Torah. [And one may not depart after words of sorrow or anguish.] For so we find that the ancient prophets concluded their messages with words of praise and consolation [T. 3:21].**
- [C] Said R. Eleazar, “[All the prophets concluded with praise and consolation] except for Jeremiah who concluded with reproof.”
- [D] Said R. Yohanan to him, “Even he concluded [his prophecy] with words of consolation saying, ‘Thus shall Babylon sink, [to rise no more, because of the evil that I am bringing upon her. Thus far are the words of Jeremiah]’ [Jer. 51:64].”
- [E] Because Jeremiah continues [in chapter 52] to prophesy regarding the Temple, you might argue that he concludes [his prophecy with a message of sorrow,] with the account of [the destruction of] the Temple. [Accordingly] it teaches explicitly that this [at the end of Jer. 51:64,] is the conclusion of Jeremiah’s message, “Thus far are the words of Jeremiah.”
- [F] [And are the concluding words of the prophet Isaiah not words of sorrow and anguish?] He concludes with a description of those who seek to destroy God, can you say these are not words of reproof? “[And they shall go forth and look on the dead bodies of the men that have rebelled against me; for their worm shall not die, their fire shall not be quenched,] and they shall be an abhorrence to all flesh” [Isa. 66:24].
- [G] [Are these not words of reproof? To answer this objection you could say] this refers to those idolaters [who are enemies of God, not to Jews].
- [H] [And does the book of Lamentations not conclude with words of reproof?] As it is written, “Or hast thou utterly rejected us? [Art thou exceedingly angry with us?]” [Lam. 5:22].
- [I] [Here too you may interpret this conclusion as consolation because the writer requests in the verse before,] ‘Restore us [to thyself, O Lord, that we may be restored! Renew our days as of old!]’ [Lam. 5:21] and do not utterly reject us.
- [J] Elijah too took leave of Elisha only after speaking words of Torah: ‘As they still went on and talked, [wdbw] [behold, a chariot of fire and horses of fire separated the two of them.

And Elijah went up by a whirlwind into heaven]’ [II Kings 2:11].

[K] [What follows refers to places where the word ‘talk’, dbr appears.] And what were they talking about? R. Ahwa b. R. Zeira said, “They were discussing the recitation of the Shema’. In accord with what is said [in the Shema’ itself], ‘And you shall talk [dbrt] of them’ [Deut. 6:7].”

[L] R. Judah b. Pazzi says, “They were discussing the creation of the world. In accord with what is said, ‘By the word [dbr] of the Lord the heavens were made [and all the host by the breath of his mouth]’ [Ps. 33:6].”

[M] R. Yudan son of R. Ayybo said, “They were discussing the consolations of Jerusalem. As it says, ‘Speak [dbrw] tenderly to Jerusalem, [and cry to her that her warfare is ended, that her iniquity is pardoned, that she has received from the Lord’s hand double for all her sins]’ [Isa. 40:2].”

[N] And sages say, “They were discussing [description of the Merkabah [chariot]. In accord with what is said, ‘[And behold they were walking and talking [wdbr], and behold here was] a chariot of fire and horses of fire’ [II Kings 2:11].”

- [I:3 A]** R. Jeremiah said, “One should stand to recite the Prayer only after [speaking of a] decision of the law.”
- [B] R. Jeremiah said, “He who is involved with communal needs is like one who is involved [in the study of] words of Torah. [And he may pray immediately after he finishes serving a communal need.]”
- [C] R. Huna said, “[Before praying one should speak of a law such as the following:] ‘A woman who sees [a discharge of] a drop of blood the size of a mustard seed must sit and keep seven clean days [during which she sees no discharge, then immerse herself before resuming regular marital relations].’ Then [after reciting this law] one may go and pray.” [After reciting this strict decision one will be able to turn one’s attention away from further contemplation of the laws of the Torah.]
- [D] Zeira bar R. Hinenah said, “[Before praying one should speak of a law such as the following:] ‘One who lets blood from animals dedicated to the Temple [and uses the blood for ordinary purposes] has misappropriated Temple property.’ This too is one of the fixed laws

[which one may recite to divert his thoughts from his studying before praying].”

[E] *It was taught:* Bar Qappara said, “[Recite this law before praying:] ‘The [minimum number of] eleven days [which by law one must reckon] between one menstrual period and another, is based on a tradition received by Moses at Sinai.’”

[F] *It was taught:* R. Hoshaiia [said], “[Recite this lenient law before praying:] ‘A person may mix his grain with stalks [before bringing it into his storehouse] as an artifice to free it from the tithing requirement [since thereby it will resemble grain which has not been winnowed, and will not become liable to tithes].’” [According to Hoshaiia, reciting a lenient law puts one in the proper frame of mind for prayer.]

[G] [Before he went to recite the Prayer,] Abedan asked Rabbi, “How many levels of holy things are there?”

[H] And he said to them, “Four.”

[I] “How many levels of Heave-offering are there?”

[J] He said to him, “Three.”

[K] Then [after speaking of these facts of the law, Abedan] went and prayed.

[I:4 A] R. Hezekiah, R. Jacob bar Aha, R. Yasa in the name of R. Yohanan, “[Before you recite your Prayer,] this verse should always be on your lips, ‘The Lord of hosts is with us; the God of Jacob is our refuge. Selah’ [Ps. 46:11].”

[B] R. Yosé b. R. Abun, R. Abbahu in the name of R. Yohanan and the associates, “[Before you recite your Prayer, this verse should always be on your lips,] ‘O Lord of hosts, blessed is the man who trusts in thee!’ [Ps. 84:12].”

[C] R. Hezekiah in the name of R. Abbahu, “[After you say those verses, recite this short prayer,] ‘May it be thy will, Lord our God, and God of our fathers, that You save us in the times of rebellion, the hard times, the evil times, which are approaching and coming to the world.’”

[I:5 A] **One may stand to recite the Prayer only with a solemn frame of mind [M. 5:1].** R. Joshua b. Levi said, “[Scripture says,] ‘Worship the Lord in holy array’ [hdrt qds] [Ps. 29:2]. [You should read the phrase:] ‘[Worship the Lord] in fear of the holy’ [hrdt qds, the interpretation rests on a play on words] [i.e. a solemn frame of mind].”

- [B] R. Yosé b. Haninah said, “[Scripture says,] ‘Serve the Lord with fear [i.e. with a solemn frame of mind], rejoice with trembling’ [Ps. 2:11]. [How can one rejoice while trembling?]”
- [C] Said R. Aha, “When the day of trembling comes you shall rejoice. [If you have been pious, when you are judged, you will be rewarded.]”
- [I:6 A] Said R. Joshua b. Levi, “One who is standing and saying the Prayer must sit down twice [to pause], once before saying the Prayer, and once after saying the Prayer.
- [B] “Before saying the Prayer – [as it says,] ‘Blessed are those who sit in thy house, ever singing thy praise’ [Ps. 84:4]. And after saying the Prayer – [as it says], ‘Surely the righteous shall give thanks to thy name; the upright shall sit in thy presence’ [Ps. 140:13].”
- [I:7 A] **The ancient saints used to tarry for a while**, pray a while, and tarry a while after their Prayer. When did they [have time to] study Torah? When did they [have time to] do their work?
- [B] Said R. Isaac b. R. Eleazar, “Because they were saints, their Torah-study was blessed, and their work was blessed, [and they were able to complete them expeditiously].”
- [I:8 A] Huna said, “One who prays behind a synagogue is called a wicked person, as it says, ‘On every side the wicked prow!’ [Ps. 12:8].”
- [B] R. Huna said, “Anyone who does not enter the synagogue [during his lifetime] in this world will not enter the synagogue in the afterlife. What is the basis [in Scripture for this view]? ‘On every side [shall] the wicked prow! [ythlkwn. In the future, in the world to come, they will prow! They will not enter paradise.]”
- [C] Said R. Yohanan, “It is as if an iron wall surrounds one who prays at home.” [He will be protected and his prayers will be heard.]
- [D] *But another contradictory tradition is ascribed to R. Yohanan: Elsewhere* said R. Abba, said R. Hiyya in the name of R. Yohanan, “A person must pray in a place designated for prayer [i.e. a synagogue, cf. above, 4:4, VIII].” And here you say this [in his name]!
- [E] [You may reconcile the discrepancy between them as follows: He said them both, and] the first [teaching] refers to [the prayer of] an individual. [It is better that one pray at home if there is no communal prayer.] The second [teaching] refers to [the prayer of] a

congregation. [When there is communal prayer, one must pray in a synagogue].

[F] R. Pinhas in the name of R. Yohanan Hoshai, “He who recites the Prayer in the synagogue is as if he offered a pure meal offering [at the Temple].

[G] “What is the basis [in Scripture for this view]? ‘[They shall declare my glory to my holy mountain Jerusalem, says the Lord.] just as the Israelites bring their cereal offerings in a clean vessel to the house of the Lord’ [Isa. 66:19-20].”

[H] R. Jeremiah in the name of R. Abbahu, “‘Seek the Lord while he may be found’ [Isa. 55:6]. Where may he be found? In the synagogues and study halls. ‘Call upon him while he is near’ [ibid.]. Where is he near? [In the synagogues and study halls.]”

[I] Said R. Isaac b. R. Eleazar, “Moreover, it is as if God stands next to those [who are in synagogues and study halls]. *What is the basis [in Scripture for this view]*? ‘God has taken his place in the divine congregation; in the midst of the gods he holds judgment’ [Ps. 82:1].”

[J] R. Hisda said, “One who enters the synagogue must go in past [the entrance a space equal to twice the width of the] two doors [of the entrance way]. *What is the basis [in Scripture for this view]*? ‘Happy is the man who listens to me, watching daily at my gates, waiting beside my doors’ [Prov. 8:34]. [The verse uses the plural] gates, not gate, and doors, not door, [to imply one must enter beyond the door, at least a space equal to the width of two door’s to make room at the entrance or to give himself a chance to settle his thoughts before praying].”

[K] And concerning one who acts in this way, it is written, ‘For he who finds me finds life’ [Prov. 8:35].

[L] R. Huna said, “One who is on his way to synagogue must walk quickly. *What is the basis [in Scripture for this view]*? ‘Let us know, let us press on to know the Lord’ [Hosea 6:3].

[M] “And when one leaves he must walk slowly. *What is the basis [in Scripture for this view]*? ‘For then thou would number my steps’ [Job 14:16].”

[N] Said R. Yohanan, “It is as certain as the covenant that what one studies in a synagogue, one does not quickly forget.”

[O] Said R. Yohanan [var.: Haninah] of Anathoth, “It is as certain as the covenant that what one studies in private, one does not quickly forget. What is the basis [in Scripture for this view]? ‘With the secluded is wisdom’ [Prov. 11:12].”

[P] Said R. Yohanan, “It is as certain as the covenant that one who learns a homily from a book, does not quickly forget it.”

[Q] Said R. Tanhum, “One who has thoroughly analyzed his studies, does not quickly forget. What is the basis [in Scripture for this view]? ‘[Only take heed, and keep your soul diligently,] lest you forget the things which your eyes have seen, [and lest they depart from your heart all the days of your life]’ [Deut. 4:9]. [The verse implies that you do not forget what ‘your eyes have seen,’ i.e. what you have analyzed.]”

- [I:9 A] R. Jonah in the name of R. Tanhum b. R. Hiyya, “One who has a bad dream must say, ‘May it be thy will, Lord my God and God of my fathers, that all the dreams I have dreamed during this past night or other nights, whether my own dreams, or dreams of others concerning me, if they be for good, may they come to pass and bring for me joy and happiness, blessing and life.
- [B] “But if they be otherwise [i.e. for bad], then just as you changed the bitter waters at Marah to sweet waters, and [just as you changed the bitter] waters of Jericho to sweet waters through [the work of] Elisha, and just as you changed the curse of [Balaam] the son of Beor to a blessing, so [I pray,] may you change all of [my own] bad dreams, and all other bad dreams concerning me to [bring me] good, blessing, and health, and life, happiness, and joy and peace.
- [C] “‘Thou hast turned for me my mourning into dancing; thou hast loosed my sackcloth and girded me with gladness, that my soul may praise thee and not be silent. O Lord my God, I will give thanks to thee forever’ [Ps. 30:11-12]. ‘Nevertheless the Lord your God would not hearken to Balaam; but the Lord your God turned the curse into a blessing for you, because the Lord your God loved you’ [Deut. 23:5]. ‘Then shall the maidens rejoice in the dance, and the young men and

the old shall be merry. I will turn their mourning into joy, I will comfort them, and give them gladness for sorrow' [Jer. 31:13].”

[II:1 A] Even if a king extends to him a greeting, he should not respond [M. 5:1]. Said R. Aha, “This applies only to an Israelite king. But to the greeting of a gentile king, one may return a greeting [lest he be offended and punish you].”

[B] *It was taught: If one was writing God’s name [in a Torah scroll], Even if a king extends to him a greeting, he should not respond. If one was writing two or three consecutive divine names – such as El, Elohim, Yahweh – lo he should finish writing one and return the greeting [T. 3:22].*

[C] *R. Yohanan was sitting and reciting before a congregation of Babylonians in Sepphoris. An archon passed by but [R. Yohanan] did not stand before him. The [archon’s guards] went to strike him.*

[D] *He [the archon] said to them, “Let him be! He is busy paying homage to his Creator.”*

[II:2 A] *R. Haninah and R. Joshua b. Levi went before the proconsul of Caesarea. When he saw them he stood up. They [his courtiers] said to him, “Why do you stand up for these Jews?”*

[B] *He said to them, “I saw in them the faces of angels.”*

[C] *R. Jonah and R. Yosé went before Ursicinus, [the governor] in Antioch. When he saw them he stood up. They [his courtiers] said to him, “Why do you stand up for these Jews?”*

[D] *He said to them, “I see their faces in a vision when I go out to battle and [on account of that vision] I am victorious.”*

[E] *R. Abin went before the king. When he was leaving he turned his back [on the king to go]. They sought [on account of this affront] to execute him. But they saw two streaks of fire [miraculously] emanating from his back and they let him alone.*

[F] [This fulfills that which Scripture] says, “And all the peoples of the earth shall see that you are called by the name of the Lord; and they shall be afraid of you” [Deut. 28:10].

[II:3 A] *R. Simeon b. Yohai taught, “And all the people of the earth shall see [that you are called by the name of the Lord; and they shall be afraid of*

you]' [ibid.]. 'All' – even the spirits and even the demons [shall be afraid of you]."

[B] *R. Yannai and R. Yohanan were walking down the street when they saw one [demon]. It greeted them and said to them, "May your peace be increased."*

[C] They said, "It even addressed us in friendly terms! It cannot do us any harm!"

[II:4 A] *Resh Laqish was accustomed to becoming deeply absorbed in [thoughts concerning] the Torah. [Once while lost in thought] he wandered out of the Sabbath limit [i.e. more than 2000 cubits from the boundary of the village], and he did not realize it. This fulfills that which Scripture says, 'Be infatuated always with her [the Torah's] love' [Prov. 5:19].*

[B] *R. Yudan b. R. Ishmael was accustomed to becoming deeply absorbed in [thoughts of] the Torah. [One time] his cloak fell off him and a serpent stood guard over it.*

[C] *His students said to him, "Master, your cloak has fallen."*

[D] *He said to them, "Is not this deadly serpent guarding it [that no one touch it]?"*

[III:1 A] **Even if a serpent is coiled to strike at his heel, he should not interrupt' [M. 5:1C]:** R. Huna in the name of R. Yosé, "This only applies to a serpent. But one may interrupt for [fear of] a scorpion. Why? Because it may sting at any time."

[B] R. Ila said, "This only applies to the case of a serpent which is coiled nearby. But if it is slithering towards him, lo, he may move aside, so long as he does not interrupt his Prayer."

[C] *It was taught [in this regard]:* **If one was standing and praying in a wide-street or a public place, lo he may move aside to let an ass or a wagon pass, as long as he does not interrupt his Prayer.**

[D] **They said concerning R. Haninah b. Dosa that while he was standing and praying, a poisonous lizard bit him, but he did not interrupt his Prayer. They went and found the lizard dead at the entrance to its hole. They said, "Woe to the person who is bitten by the lizard. Woe to the lizard who bit R. Hanina Ben Dosa [T. 3:20]."**

[E] Regarding this matter of a poisonous lizard which bites a person [they say] – if the person drinks water first, the lizard dies. But if the lizard drinks water first, the person dies.

[F] His [Ben Dosa's] students said to him, "Master, didn't you feel anything [when the lizard bit you]?"

[G] He said to them, "I swear! I was concentrating on my Prayer and felt nothing."

[H] Said R. Isaac bar Eleazar, "God created a spring beneath his [Ben Dosa's] feet to fulfill the verse which says, 'He will fulfill the desire of all who fear him, he also will hear their cry, and will save them' [Ps. 145:19]. [God heard Ben Dosa's prayer and created for him a spring of water to drink to save him from the serpents venom.]"

5:2

[A] They mention the [liturgical formula which deals with the] "Wonders of the rains" [i.e. "Who causes the winds to blow and the rain to fall" during the rainy season] in [the second blessing of the Prayer of Eighteen, called] "The Resurrection of the Dead."

[B] And they [add during the winter the phrase, "Grant us dew and rain for blessing," to] ask for rain in [the ninth blessing, called] "The Blessing of the Years."

[C] And [they insert] the Prayer of Division [recited at the conclusion of a Sabbath or Festival day] in [the fourth blessing of the Prayer of Eighteen on Saturday night, called] "Endower of Knowledge."

[D] R. Aqiba says, "One says it as a separate fourth blessing."

[E] R. Eliezer says, "[One inserts it] in the 'Thanksgiving,' [the name of the eighteenth blessing of the prayer of Eighteen]."

[I:1 A] [Why do they mention the rain in the blessing which deals with resurrection?] Just as resurrection [restores] life to the world, so too does rainfall [restore] life to the world.

[B] *R. Hiyya bar Abba derived [the association between rain and resurrection] from the following:* "After two days he will revive us; on the third day he will raise us up, that we may live before him. Let us know, let us press on to know the Lord; his going forth is sure as the dawn; he will come to us as the showers, as the spring rains that water the earth" [Hosea 6:2-3].

- [C] It is written [elsewhere], “Now Elijah the Tishbite of the settlers in Gilead, said to Ahab, ‘As the Lord God of Israel lives, before whom I stand, there shall be neither dew nor rain in these years, except by my word’” [I Kings 17:1]. [This provides a link between rain and resurrection, since the story which follows in Scripture deals with the resurrection of a child.]
- [D] R. Berekhiah [said regarding this verse], “R. Yasa and the sages [disputed]. One said, ‘He [God] listened to [Elijah] about [withholding] both the dew and the rain.’ The other said, ‘He listened to him about [withholding] the rains but not about the dew.’”
- [E] *The one who said*, “He [God] listened to him about [withholding] the rains but not about the dew,” derived his teaching from the following, “[After many days the word of the Lord came to Elijah; in the third year, saying,] ‘Go, show yourself to Ahab; and I will send rain upon the earth.’” [I Kings 18:1].
- [F] *And according to the one who said*, “He listened to him about [withholding] both the dew and the rain,” [we may ask the following question]. Where does Elijah [later] nullify his vow [I Kings 17:1] to withhold the dew? [The verse in chapter 18 says only that God will send rain.]
- [G] *R. Tanhuma of Idrea*, “*It can be argued that if one nullifies one part of a vow, one thereby nullifies the entire vow.*”
- [H] *There are those who propose to maintain that* Elijah nullified his vow concerning withholding the dew elsewhere,] as it says in the story of the child of the woman of Zarephath, “Then he stretched himself upon the child three times and cried to the Lord, ‘O Lord my God, [let this child’s soul come into him again]’” [I Kings 17:21].
- [I] [And what does this story have to do with Elijah’s vow?] Said R. Judah b. Pazzi, “[It may be understood through the following parable:] Someone stole a physician’s satchel. After [the thief] leaves, his son [later] is stricken, he returns [to the physician]. And he says to him, “My lord physician, treat my son.”
- [J] He says to him, “Return my satchel to me. For in it are all kinds of medications. Then I shall be able to treat your son.”
- [K] Thus did God tell Elijah, “Go and nullify your vow concerning [withholding] the dew. For the dead will come to life only

through the dew. Then I shall resurrect the son of the Zarephath woman.”

[L] And whence [was it taught] that the dead come to life only through the dew? “Thy dead shall live, their bodies shall rise. O dwellers in the dust, awake and sing for joy! For thy dew is a dew of light, and on the land of the shades thou wilt let it fall” [Isa. 26:19].

[M] Said R. Tanhum of Idrea, “[Interpret the end of this verse literally as follows:] ‘And the land will give forth its surety’ [i.e. the dead will rise from their graves].”

[N] R. Jacob of the village of Hanan in the name of Resh Laqish, “[God said,] ‘When your ancestor Abraham acted according to my will, I swore to him that I would never withhold the dew from his descendants.’ What is the basis [in Scripture for this statement]? ‘[From the womb of the morning,] the dew will come to your youth.’ Thereafter Scripture says, ‘The Lord has sworn and will not change his mind’ [Ps. 110:3-4].”

[O] Said R. Judah b. Pazzi, “[God said,] ‘That [dew] which I gave as a bequest [which may be nullified] to Abraham, I give as a gift [which can never be nullified to his descendants].’ [As it says,] ‘May God give you of the dew of heaven, [and of the fatness of the earth, and plenty of grain and wine]’ [Gen. 27:28].”

[P] Said R. Samuel bar Nahmani, “When Israel sins and does evil deeds, the rains are withheld. When they bring an elder, such as R. Yosé the Galilean, to intercede for them, the rains fall again.

[Q] “But the dew does not fall on account of the merit of any living being. What is the basis [in Scripture for this view]? ‘Then the remnant of Jacob shall be in the midst of many peoples like dew from the Lord, like showers upon the grass, which tarry not for [the sake of] men nor wait for the [merit of] sons of men’ [Micah 5:7].”

[I:2 A] R. Zeira in the name of R. Haninah, “If one was standing [and praying before the congregation] in the [winter] rainy season, and he mentioned [in error] the request for dew, they do not make him repeat the Prayer. [If one was praying for the congregation in the summer

season when they pray for] dew, and he mentioned [in error] the request for rain, they make him repeat the Prayer.”

- [B] *But lo, it was taught:* [In the summer season] the sages did not obligate a person to mention the dew and the winds [in his Prayer]. But if he wishes to mention it, he may do so.
- [C] *[These are different cases. If one omits the request for dew in the summer, he need not repeat the Prayer. But one who erroneously requests rain in the summer, must repeat the Prayer.] For one who requests a curse [i.e. rain out of its season] is different from one who neither prays [for dew], nor requests a curse [of summer rain].*
- [I:3 A] R. Zeira in the name of R. Haninah, “If one was standing and praying for the congregation] in the rainy season, and he mentioned the request for dew, they do not make him repeat the Prayer.”
- [B] *But it was taught: If one did not ask [for the rains] in the [ninth blessing, i.e.] the Blessing of the Years, or if one did not mention the wonders of the rains in [the second blessing, i.e.], the Resurrection of the Dead, they make him repeat [his recitation of the Prayer] [T. 3:9].*
- [C] *[These two rulings are not contradictory. In T.’s case] he mentions neither dew nor rain [so he must repeat. In R. Zeira’s case he mentions one, and thus need not repeat.]*
- [D] R. Zeira in the name of R. Haninah, “If [by error] one did not ask [for rain] in the [ninth blessing], the Blessing of the Years, he may say [the formula] in [the sixteenth], Who Hears Prayer.
- [E] “And likewise if [by error] one did not mention the wonders of the rains in the [second blessing], the Resurrection of the Dead, he may say [the formula] in [the sixteenth], Who Hears Prayer.”
- [F] [But why tell us both rules? The second is obvious!] For [one who omits] the request [for rains] which are essential [to sustain life] from the ninth [blessing] may still [request the needed rains in the sixteenth blessing], Who Hears Prayer. The mention [of the rain in the second blessing] serves as a supplement to the praise of God’s attributes. Because the dew is] a luxury, surely [if one forgets to recite the formula in the second blessing he need not repeat the Prayer. He may insert the formula in the sixteenth blessing].
- [G] *But lo it was taught: If one did not ask for the rains in the [ninth blessing] concerning the blessing of the years, or if one did not mention the wonders of the rains in [the second blessing]*

concerning the resurrection of the dead, they make him repeat [his recitation of the Prayer] [T. 3:9]!

- [H] Said R. Abedimi the brother of R. Yosé, “[In T.’s cases] he did not [remember soon enough even to] say the formula in the [sixteenth blessing], Who Hears Prayer.”
- [I] [They make him repeat his recitation of the Prayer.] What must he repeat? This accords with that said by R. Simeon b. Abba [Wawa] in the name of R. Yohanan, “[Concerning one who forgot to mention the occasion of the new moon in the Prayer for the] new moon, if he began to walk away [after completing his recitation of the Prayer and only then remembered that he had omitted the formula] he must repeat the whole Prayer from the beginning. But if not [i.e. if he remembers before he walks away,] he must repeat from [the seventeenth blessing], the Temple Service, [and insert thereafter the mention of the occasion].”
- [J] Also in the present case, if he walks away [after completing the Prayer, then remembers,] he must repeat the Prayer from the beginning. But if not [i.e. if he remembers before he walks away,] he must repeat [the seventeenth blessing], the Temple Service [after again reciting the sixteenth blessing] Who Hears Prayer [and insert the request for rain].
- [I:4 A] *Once in Nineveh they had to declare a fast day after Passover [and to pray for rain]. They went and asked Rabbi [what to do regarding the Prayer]. Rabbi told them, “Go and do so [declare a fast day] but do not change the structure of the Prayer [by adding a special mention of rain].”*
- [B] Where then do they recite [the request for rain]? *R. Jeremiah thought they should recite it in [the sixteenth blessing], “Who Hears Prayer.”*
- [C] Said to him R. Yosé, “Did not R. Zeira say in the name of R. Huna [Haninah], ‘If one did not request rain in [the ninth blessing], the Blessing of the Years, or if one did not mention rain in [the second blessing], the Resurrection of the Dead, they make him insert it in [the sixteenth blessing], Who Hears Prayer.’? [Only post facto, if one forgot, did the sages permit insertion of the formula in the sixteenth blessing. But ab initio, they required one to insert the formula earlier in the structure of the Prayer!] And Rabbi said, ‘Go and do so [insert the formula] as long as you do not change the structure of the Prayer.’ [He implied that they may change the regular practice and insert the formula in the sixteenth blessing.]”

[D] *According to R. Yosé, where do they insert [the request for rains in this special case of a fast day declared after Passover]? They insert it in the six [special blessings which they add to the Prayer on a fast day].*

[E] *This [solves the problem] for the congregation, which recites the six additional blessings. [But what of] an individual, who does not recite the six [additional blessings in his private Prayer]? Where [does he insert the request for rain]?*

[F] *Said R. Haninah, “Did not R. Zeira say as follows in the name of R. Huna, ‘An individual inserts a request for his personal needs in [the sixteenth blessing], Who Hears Prayer’? And this [request for rain] is also a personal need.”*

[II:1 A] And [they insert] the Prayer of Division in [the fourth blessing] “Endower of knowledge.”

[B] R. Aqiba says, “One says it as a separate fourth blessing.”

[C] R. Eliezer says, “In the ‘Thanksgiving’ [M. 5:2C-E].”

[D] *Simeon bar Abba posed this question to R. Yohanan, “How is it possible that the sages engage in a dispute over such a common practice?” He said to him, “Because [over the generations the Prayer of Division was] removed [from the Prayer-liturgy and recited primarily] over a cup [of wine as a separate ritual], they forgot [where it was to be inserted] in the Prayer.”*

[E] *From his [Yohanan’s] statement we deduce that one’s primary [obligation is to recite the Prayer of Division] over a cup of wine [as a separate ritual].*

[F] *R. Jacob bar Idi in the name of R. Isaac the elder, “If one recited [the Prayer of Division] over a cup of wine, he must [still] recite it in the Prayer [of Eighteen]. [For they say it over wine only] for the sake of the children [in his household who do not recite the Prayer, so they may hear the recitation of the Prayer of Division].”*

[G] *From his [Isaac’s] statement we deduce that one’s primary [obligation is to recite] the Prayer of Division in the Prayer [of Eighteen].*

[H] *R. Zeira, R. Judah in the name of Samuel, “If one recited it over a cup he [also] must recite it in the Prayer [of Eighteen]. If one recited it in the Prayer [of Eighteen], he [also] must recite it over a cup.”*

[I] *From his [Samuel's] statement we deduce that one's primary [obligation is to recite] the Prayer of Division in both ways [over a cup of wine and in the Prayer of Eighteen].*

[III:1 A] R. Eliezer says, “[One inserts it] in the ‘Thanksgiving.’ [M. 5:2E].”

R. Yohanan in the name of Rabbi, “We incline to accept R. Eliezer’s view in the case of [the recitation of Prayer of Division] between the Sabbath and a festival day which falls immediately thereafter.”

[B] R. Isaac Rabbah in the name of Rabbi, “The law follows R. Eliezer [in the case of the recitation of Prayer of Division] between a Sabbath and festival day.”

[C] R. Isaac bar Nahman in the name of R. Haninah b. Gamaliel, “The law follows R. Eliezer in all cases.”

[D] R. Abbahu in the name of R. Eleazar, “The law follows R. Eliezer in all cases.”

[E] *Said R. Jacob bar Aha, “It is not on account of the two [independent] traditions [that I accept this as the law,] but because R. Isaac bar Nahman and R. Eleazar both [transmitted the tradition] in the name of [the Tannaite authority] R. Haninah b. Gamaliel [that], ‘The law follows R. Eliezer in all cases.’”*

[IV:1 A] And [they insert] Prayer of Division in [the fourth blessing] “Endower of knowledge,” the words of the sages.

[B] R. Aqiba says, “One says it as a separate fourth blessing.”

[C] R. Jacob b. Aha in the name of Samuel says, “[They say it in place of] the fourth blessing.”

[D] Said R. Yudan, “He recites the formula of the [regular fourth] blessing and afterward [he recites] the Prayer of Division.”

[E] *And this accords with [a tradition ascribed to] Rabbi. For Rabbi says, “I am amazed that they eliminated the [fourth blessing] ‘Endower of knowledge’ [from the Prayer of Eighteen] on the Sabbath. Without knowledge how can there be prayer?”*

[F] Likewise without knowledge, [Rabbi would argue,] how can there be Prayer of Division? [One must say both the regular fourth blessing and the Prayer of Division.]

[G] Said R. Isaac b. R. Eleazar, “[One recites] the Prayer of Division and afterward he recites the formula of the [regular fourth] blessing.”

- [IV:2 A]** R. Eleazar b. R. Hoshaiyah, “[One’s recitation of Prayer of Division is effective] so long as he mentions no fewer than three forms of division,” [i.e. “He who divides sacred from profane, light from darkness, Israel from the nations, the seventh day from the six days of creation”].
- [B] Said R. Yohanan, “They said, ‘One who usually says fewer [forms of division in Prayer of Division] should say no fewer than three, and one who usually adds more, should say no more than seven divisions.’”
- [C] Levi said, “One’s recitation of Prayer of Division [is effective] so long as he mentions ‘divisions’ which appear in the Torah.”
- [D] *Nahum b. R. Simai went and said in the name of his father*, “Even if one says a single ‘division’ [his Prayer of Division is effective].”
- [E] And said R. Abbahu, “One must close [the Prayer of Division with a blessing which mentions] ‘division,’” [i.e. “Blessed art Thou, O Lord, who divides the sacred from the profane”].
- [F] *R. Mana posed a question*, “According to this [i.e. the view of Abbahu in light of the position of Nahum, is one’s Prayer of Division effective if he says nothing more, but just] opens with “[Blessed art Thou, Lord our God, king of the universe,] who divides sacred from profane,” and immediately closes repeating, “[Blessed art Thou, O Lord,] who divides sacred from profane”?”
- [G] Said R. Yosé b. R. Bun, “[Mana, why do you raise such a question?] Is this not one of those blessings which open with the formula ‘Blessed art Thou’ and close with the formula ‘Blessed art Thou’?” [Accordingly the blessing surely would be effective in the form given above.]
- [IV:3 A]** R. Eleazar b. Antigonus in the name of R. Eleazar b. R. Yannai, “[R. Isaac b. Eleazar’s ruling above, ‘One recites the Prayer of Division and afterward he recites the formula of the (regular fourth) blessing’] implies that before one recites the Prayer of Division [on Saturday night] it is forbidden for him to perform labor.
- [B] “For you can say, [this law,] ‘Before one recites the Prayer of Division it is forbidden for him to perform labor,’ is parallel to [this law,] ‘Before one recites the Prayer of Division it is forbidden for him to ask for his needs.’” [Because one must recite the Prayer of Division towards the beginning of the Prayer of Eighteen, we may infer that one may neither make petition nor perform labor, before reciting the Prayer of Division.]

- [IV:4 A] R. Zeira, R. Eleazar bar Antigonos [his son] in the name of R. Yannai, in the name of R. Judah his son, “If one did not recite the Prayer of Division at the termination of the Sabbath, he may recite the Prayer of Division [later in the week,] even on the following Thursday.”
- [B] *What you say applies to [the blessing of division,]* “Who divides sacred from profane, etc.” But “Who creates the light of the fire,” [recited over the light,] may be recited [only if he says the Prayer of Division] right away [at the close of the Sabbath day, but not later in the week].
- [IV:5 A] R. Zeira in the name of R. Judah, R. Abba in the name of Abba bar Jeremiah, “Even [at the conclusion of] a festival day that falls in the middle of the week, one says [the same formula in the Prayer of Division,] ‘Who divides the seventh day from the six days of creation.’”
- [B] Said R. Zeira to R. Judah, “[How can one say this?] Do the six days of the week precede [the festival]?”
- [C] He said to him, “[One may say, ‘Who divides the clean from the unclean.’] Are there clean and unclean objects before him? [One speaks of the division of the categories not of the division of actual time or objects.]”
- [IV:6 A] R. Jeremiah, R. Zeira in the name of R. Hiyya bar Ashi, “One must say [in the Prayer of Division in the fourth blessing of the Evening Prayer], ‘May the six days, the days of creation, which are approaching us, begin for us in peace.’”
- [B] R. Abba adds, “And may we hear on them sounds of joy and happiness.”
- [C] R. Hezekiah in the name of R. Jeremiah [would add], “Cause us to understand and teach us.”
- [D] R. Hezekiah in the name of R. Jeremiah, “Those who respond ‘Amen’ to the blessings of the Prayer of Division must look at the cup [when its blessing is recited] and look at the light [when its blessing is recited].”
- [E] R. Hezekiah in the name of R. Jeremiah, “One must hold the four species [of the lulab on Sukkot] in the manner in which they grow.”

5:3

[A] They silence one who says [in leading the Prayer of Eighteen], “May thy mercy reach [even] the nest of a bird,” or “May thy name be invoked for the good,” or “We give thanks, we give thanks.” [These are not sanctioned liturgical formulae, because they have heretical overtones.]

[B] He who goes before the ark [to lead the recitation of the Prayer of Eighteen] and erred, they replace him with another.

[C] And one may not decline at that time [if asked to replace the one who errs].

[D] Whence does [the replacement] begin [to recite]?

[E] From the beginning of the blessing in which [the previous leader] erred.

[I:1 A] R. Pinhas in the name of R. Simon, “[One who recites, ‘May thy mercy reach the nest of a bird’] is like one who reproaches God’s traits [saying], ‘Thy mercy reached a bird’s nest, but thy mercy did not reach so-and-so.’”

[B] R. Yosé in the name of R. Simon, “[One who recites that formula] is like one who limits God’s nature [saying], ‘Thy mercy reaches only to a bird’s nest [not beyond].’”

[C] *One version of the Mishnah reads, “Upon [‘l] a bird’s nest,” and one version of the Mishnah reads, “Until [‘d] a bird’s nest.”*

[D] *One who holds* [that the correct version is] “Upon” supports the view of R. Pinhas.

[E] *And one who holds* that [the correct version is] “Until” supports R. Yosé.

[F] Said R. Yosé b. R. Bun, “It is not good to imply that God’s traits [are derived from his attribute of] mercy. [In this regard] those who translate [‘And whether the mother is a cow or a ewe, you shall not kill both her and her young in one day’ [Lev. 22:28] as follows]: ‘My people, children of Israel, just as I am merciful in heaven, so shall you be merciful on earth: A cow or a ewe, you shall not kill both her and her young in one day,’ – that [also] is not good – for it implies that God’s traits [are derived from his attribute of] mercy.”

[II:1 A] “We give thanks, we give thanks,” they silence him [M. 5:3A].

[B] Said R. Samuel bar R. Isaac, “‘For the mouth of liars will be stopped’ [Ps. 63:11]. This applies only in public [prayer]. But for an individual it is supplication [to repeat phrases in one’s recitation of the Prayer of Eighteen].”

[III:1 A] He who goes before the ark and erred, [they replace with another] [M. 5:3B].

[B] R. Yosé b. Haninah in the name of R. Haninah b. Gamaliel, “If he erred in reciting one of the first three blessings [of the Prayer of Eighteen, the new leader] goes back to the beginning [and repeats the entire Prayer].”

[C] Ada bar bar Hannah, Genibah in the name of Rab, “If he erred in reciting one of the last three blessing, [of the Prayer of Eighteen the new leader] goes back to [the seventeenth blessing] ‘The Temple Service.’”

[D] R. Helbo, R. Huna in the name of Rab, “If he erred in the first three blessings, [of the Prayer of Eighteen, and they replace him, the new leader] goes back to the beginning. If he erred in the last three blessings, [the new leader] goes back to [the seventeenth blessing] ‘The Temple Service.’ If he erred and is not sure where he erred, [the new leader] goes back to the place he is certain [he recited correctly].”

[III:2 A] R. Aha and R. Judah b. Pazzi were sitting in a certain synagogue. A person got up before the ark [to lead the Prayer of Eighteen] and he skipped a blessing. They went and asked R. Simon [what to do about this case].

[B] R. Simon said to them in the name of R. Joshua b. Levi, “If a leader of the Prayer [of Eighteen] skipped two or three blessings, they do not make him repeat [the Prayer of Eighteen].”

[C] *We find that there is a teaching which contradicts this [ruling of Joshua b. Levi],* “They do not make anyone [who skips a blessing] repeat except for one who did not say [the second blessing] ‘Who resurrects the dead,’ [the twelfth blessing] ‘Who humbles the arrogant,’ and [the fourteenth blessing] ‘Who builds Jerusalem.’ I say [one who omits these blessings] is a heretic.”

[D] *Samuel the younger went before the ark and skipped [the twelfth blessing] ‘Who humbles the arrogant.’ When he finished he turned and looked at them [in the congregation to see what they would say].*

[E] They said to him, “The sages did not take into account one such as you [when they said that one who omits this blessing is a heretic].” [Samuel was credited with the original formulation of that blessing.]

- [III:3 A]** R. Jacob bar Aha, R. Simeon bar Abba in the name of R. Eleazar, “If there was a doubt whether or not he mentioned the new moon [in the Prayer of Eighteen], they make him repeat it.”
- [B] From where [in the Prayer] where does he repeat? Simeon bar Abba [Wawa] in the name of R. Yohanan, “If he already started to walk away, he must repeat [the whole Prayer of Eighteen] from the beginning. But if not, he repeats from [the seventeenth blessing] ‘The Temple service,’ [and inserts the mention of the new moon thereafter].”
- [C] Said R. Judah b. Pazzi, “One who turns his attention away [from the Prayer of Eighteen after finishing his recitation] is the same as one who started to walk away [after finishing his recitation of the Prayer of Eighteen].”
- [D] *[And what of one who began to doubt whether he omitted mention of the new moon while reciting] the supplications after the Prayer [of Eighteen, before he starts to walk away]? It is a question [whether he must repeat from the beginning, as if he had walked away, or he may repeat from the ‘Temple Service’, as if he had not yet walked away.]*
- [III:4 A]** R. Abba son of R. Hiyya bar Abba, R. Hiyya in the name of R. Yohanan, “If while one was reading [for the congregation] from the Torah he was struck dumb, the one who takes his place should start [reading] from the place where the first [reader] started.
- [B] “For if you say he should start from the place where the first one stopped [when he became mute], then [there is a problem concerning the blessings recited by each over the verses he reads]. [If he starts where the first reader stopped, it turns out that] they recited a blessing before [reading] the previous verses, but they did not recite a blessing after [reading them because the reader became dumbstruck].
- [C] “And they recited a blessing after [reading] the latter verses [which the new reader reads], but they did not recite a blessing before reading them. [They relied on the initial blessing of the previous reader.] And it is written, ‘The law of the Lord is perfect, reviving the soul’ [Ps. 19:7].” All [the reading] must be perfect [i.e. complete with blessing before and after each portion].

[D] *It was taught: They do not permit two persons to read from the Torah while another one translates [T. Meg. 3:20].*

[E] Said R. Zeira, “[This is prohibited] because of [a problem in reciting] the blessing. [Two persons may not recite the blessings for the same portion.]”

[F] *But lo it was taught [in the second half of the Tosefta-passage], They do not permit two persons to translate while one reads from the Torah. Can you say it [is prohibited] because [two persons may not recite] the blessing [over the same portion? Here only one recites a blessing.] Rather [the reason they do not permit these practices is based on the principle that] one ear cannot hear [clearly] two voices [at the same time].*

[G] *It was taught [contrary to D]: Two persons may read [together from the same portion in] the Torah. [Because the Torah reading is important, people will pay attention.] But two may not read [together] the portion from the prophets. [It is less important and people will not listen as carefully]*

[H] Said R. Ulla, “[Several persons] may be called to read from the Torah, but not to read from the prophets.”

[III:5 A] Said R. Joshua of the South, “Concerning three things – too much or too little of them is bad; but a moderate amount of them is good: [They are] yeast, and salt, and unwillingness [to serve as leader of the Prayer of Eighteen when called upon].

[B] At the first [request by the official of the congregation to a person to lead the Prayer of Eighteen], one may express unwillingness. At the second request, one may express indecision. And at the third request one should hurry to go [recite].”

[C] *R. Huna was sitting in a certain synagogue. The Hazzan went and tried to impose upon one person to go up [before the ark to lead the Prayer of Eighteen]. He would not accept [the call to go]. [R. Eleazar got angry.]*

[D] *Afterward the person went to R. Eleazar and said, “Please master, do not be angry at me. Because I could not gather up [enough strength] I did not go up.”*

[E] *He [Eleazar] said to him, “I was not angry at you. I was angry at the person who tried to impose upon you [to lead the Prayer of Eighteen].”*

- [III:6 A]** Batyty [was leading the Prayer of Eighteen] and he was struck dumb while reciting the [liturgy preceding the Shema’], “And the Ophanim [and the holy Hayyot with a noise of great rushing, raise themselves up towards the Seraphim and over against them offer praise and say, ‘Blessed be the Glory of the Lord from his place.’” This is the standard version.]
- [B] They went and asked R. Abun [where the leader who replaces him should commence reciting the service?]
- [C] Said to them R. Abun in the name of R. Joshua b. Levi, “The person who replaces him should commence from the place where the first stopped.”
- [D] They said to him, “*But lo, we learned, ‘[He should commence] from the beginning of the blessing in which the [previous] erred [M. 5:3E].’*”
- [E] He said to them, “Since [when he recited, ‘And the Ophanim’] the congregation [already] answered ‘Blessed be the Glory of the Lord from his place,’ it is as if this [place in the service] is the beginning of a blessing.”

5:4

- [A] He who goes before the ark [to lead the Prayer of Eighteen] shall not answer “Amen” after the [blessing recited by the] priests [in the eighteenth blessing of the Prayer].**
- [B] Because of the confusion [which might arise by virtue of engaging in such an act].**
- [C] And if [the leader] is the only priest present [at the service], he should not raise his hands [to recite the Priestly Blessing].**
- [D] But if he is sure that he can raise his hands [to recite the blessing] and return to his [recitation of the] Prayer [of Eighteen without becoming confused], he is permitted [to raise his hands].**
- [I:1 A] *It was taught:* He who leads the liturgy of the Shema’, and he who goes before the ark [to lead the recitation of the Prayer of Eighteen], and he who raises his hands, and he who reads the Torah, and he who reads from the prophets, and he who recites a blessing over any of the commandments of the Torah, should not respond “Amen” to his own blessing. And if he so responds, lo he is a boor [T. Meg. 3:27].**
- [B] [There are two versions of the last sentence of the preceding teaching.] *One Tannaite authority taught,* “He is a boor.”

[C] *The other Tannaite authority taught, “He is a sage.”*

[D] *Said R. Hisda, “The one who holds the view, “He is a sage,” [refers to a case wherein] he answers at the conclusion [of all the liturgy, e.g. after reciting the entire Prayer of Eighteen].*

[E] *“The one who holds the view, “He is a boor,” [refers to a case wherein] he answers ‘Amen’ to each and every blessing [e.g. each blessing which he recites in the Prayer of Eighteen].”*

[I:2 A] Said R. Hanina, “[If three persons walk down the road,] two Israelites and one a priest, they permit the priest to walk in the middle [as a sign of respect for his status].

[B] “When is this so? When they are all equal in status. But if one of them [the Israelites] is a disciple of the sages, they permit this associate to walk in the middle.”

[C] Said R. Joshua b. Levi, “In my entire life, I have never recited the blessings [for the meal] when in the presence of a priest. And [when there was no priest present] I never allowed an Israelite to recite a blessing in my presence [because I, a Levite, took precedence over an Israelite].”

[I:3 A] R. Judah b. Pazzi in the name of R. Eleazar, “Any priest who stands in the synagogue [during the recitation of the Prayer of Eighteen] and does not raise his hands [to recite the Priestly Blessing] violates a positive precept of the Torah.” [‘Thus shall you bless the people of Israel’ (Numbers 6:23).]

[B] *When R. Judah b. Pazzi was weak [and could not raise his hands to recite the Priestly Blessing] he would bandage his head [to show that he was ill] and remain behind the pillar [in the synagogue when the other priests went up to recite the Priestly Blessing].*

[C] *R. Eleazar [when he was weak and could not raise his hands] would go outside [the synagogue when the other priests went up to recite the blessing].*

[D] R. Aha, R. Tanhuma b. R. Hiyya in the name of R. Simlai, “In a city comprised entirely of priests, they all raise their hands [to recite the Priestly Blessing.] [No one remains in the congregation in front of them when they go to the front of the synagogue to recite the blessing.] For whom [then] do they recite the blessing? [They recite] for their brethren in the north, for their brethren in the south, for their brethren in the east, and for their brethren in the

west. And who respond ‘Amen’ to their blessings? The women and children [in the synagogue].”

[E] Abbaye b. R. Benjamin taught, “Those who stand behind the priests [while they recite the Priestly Blessing] are not included in the blessing.”

[F] Those who stand in front of the priests – said R. Hiyya bar Abba [Wawa], “Even [if they stand behind] an iron wall, the blessing will reach through to them.”

[G] *[And what of] those who stand off to the sides? Let us derive the answer from the following: **If the priest intended to sprinkle in front of him [the purification water with a hyssop onto those who are unclean on account of corpse uncleanness], and he [inadvertently] sprinkled behind him, or if he intended to sprinkle behind him, and he sprinkled in front, his [act of] sprinkling is not valid. [But if he intended to sprinkle directly] in front, and he sprinkled to the sides in front, his [act of] sprinkling is valid [M. Parah 12:2].***

[H] *From this we may deduce [the principle] that even those who stand off to the sides [during the recitation of the Priestly Blessing] are included in the blessing.*

[I] Said R. Hisda, “The Hazzan [who leads the recitation of the Prayer] must be an Israelite [so that he can call out [the invitation] to the priests to recite the blessing, ‘Priests!’]”

[J] R. Nahman bar Jacob said, “If there is only one priest [reciting the blessing, the Hazzan] calls out, ‘Priest.’ If there are two [or more] he calls out, ‘Priests.’”

[K] Said R. Hisda, “Even if there is but one priest, he calls out, ‘Priests’ [i.e. plural]. For [in this invitation to the priest to recite the Priestly Blessing] he calls out to the [collective] tribe [of priests to exercise their obligation to bless the nation].”

5:5

[A] **He who recites the Prayer and erred, it is a bad sign for him.**

[B] **And if he is an agent of the congregation [to lead the Prayer], it is a bad sign for them that appointed him.**

[C] **[The principle is that] a person’s agent personifies him [i.e. stands in his stead].**

[D] They said concerning R. Haninah b. Dosa that he used to pray for the sick and could say who would live and who would die.

[E] They said to him, “Whence do you know?”

[F] He said to them, “If my prayer is fluent, then I know it is accepted.

[G] “And if not, then I know it is rejected.”

[I:1 A] R. Aha bar Jacob said, “[It is only a bad sign if one errs in the first blessing,] ‘The Patriarchs.’”

[I:2 A] Once Rabban Gamaliel’s son fell ill and he sent two students to R. Haninah b. Dosa in his town [to find out from him what his son’s fate would be]. He [Haninah] said to them [the students], “Wait for me while I go up to the attic [to pray].”

[B] He went up to the attic, came down, and said to them, “I am certain that Rabban Gamaliel’s son has recovered from his illness.”

[C] [The students] made note [of the time of day that this happened]. [Later they confirmed that] at that very moment [back in Gamaliel’s town, his son recovered] and asked for food.

[I:3 A] Said R. Samuel bar Nahmani, “If you concentrate during your prayer, it is like good news for your prayers are heard. And what is the basis [in Scripture for this view]? ‘Thou wilt strengthen their heart [to concentrate], thou wilt incline thy ear [to their prayer]’ [Ps. 10:17].”

[B] Said R. Joshua b. Levi, “If a person feels that [his prayers] flow smoothly from his lips, it is like good news, for his prayers are heard. What is the basis [in Scripture for this view]? ‘He creates the fruits of the lips. Peace, peace, to the far and to the near, says the Lord; and I will heal him’ [Isa. 57:18-19].”

YERUSHALMI BERAKHOT

CHAPTER SIX

6:1

[A] What blessings do they recite over produce?

[B] Over produce of the tree he says, “[Blessed art Thou, O Lord our God, King of the Universe,] creator of the fruit of the tree.”

[C] Except for wine, for over wine he says, “[Blessed art Thou, O Lord our God, King of the Universe] creator of the fruit of the vine.

[D] Over vegetables [produce which grows in ground] he says, “[Blessed art Thou, O Lord our God, King of the Universe] creator of the fruit of the ground.”

[E] Except for bread, for over bread he says, “[Blessed art Thou, O Lord our God, King of the Universe] who brings forth bread from the earth.”

[F] And over [salad] greens he says, “Creator of the fruit of the ground.”

[G] R. Judah says, “Creator of diverse kinds of herbs.”

[I:1 A] [One may not taste anything until he recites a blessing.] It is written, “The earth and all therein is the Lord’s” [Ps. 24:1]. One who derives any benefit from the world without first reciting a blessing, has committed a sacrilege. [He may not derive any benefit] until [he fulfills all the obligations] which permit him [to derive benefit, i.e. recites the proper blessings] [T. 4:1].

[B] Said R. Abbuha, “It is written, ‘[You shall not sow your vineyard with two kinds of seed,] lest the whole yield be forfeited to the sanctuary, the crop which you have sown and the yield of the vineyard’ [Deut. 22:9]. The [produce of the] entire world is [sacred] like [the fruits of such] a vineyard. How does one redeem it? [By reciting] a blessing.”

[C] R. Hezekiah, R. Jeremiah, R. Abun in the name of R. Simeon b. Laqish, “I say to the Lord, ‘Thou art my Lord; I have no good apart from you’ [Ps. 16:2]. If you eat and recite the

blessings [for the meal], it is as if you have eaten of your own produce.” [Only God bestows good upon you, i.e. “Apart from you” implies without you, that is, God has no claim against you.]

[D] Another interpretation of, “I have no good apart from you:” My goodness will endure in your body. [“Apart from you” implies that it will not depart from you quickly.]

[E] Another interpretation of, “I have no good apart from you:” May all that is good be combined together, and be bestowed upon you. [“Apart” (bl) implies let goodness not be apart, but be mixed (bll) together for you.]

[F] Said R. Aha, “What does, ‘Apart from you [bl ‘lyk]’ mean? Only with your consent [mbl’dyk] will I bring good into the world.” As it says, “[Moreover Pharaoh said to Joseph, ‘I am Pharaoh, and] without your consent [mbl’dyk] no man shall lift up hand or foot [in all the Land of Egypt]” [Gen. 41:44].

[G] *R. Hiyya taught*, “‘An offering of praises’ [the verse uses the plural form, hlwlym] [Lev. 19:24] – this teaches that a blessing must be recited before and after [eating of the produce of the land].”

[H] On this basis R. Aqiba used to say, “A person may not taste a thing until he recites a blessing.”

[I:2 A] *R. Haggai and R. Jeremiah went to a [grocery] store [to inspect its scales for accuracy]. R. Haggai eagerly recited a blessing [over this obligation to examine the scales. He said the blessing, “Who sanctified us with his commandments and commanded us to sanctify the weights and the scales and to establish the measures.”].*

[B] Said to him R. Jeremiah, “You have acted very well. For blessings must be [recited] for the performance of all the commandments.”

[C] And whence [do we find support in Scripture] that blessings must be recited over all the commandments?

[D] R. Tanhuma, R. Abba bar Kahana in the name of R. Eleazar, “[Scripture says,] ‘I will give you the tables of stone, with the Torah and the commandment, which I have written for their instruction’ [Ex. 24:12]. Scripture juxtaposes the Torah with the commandments. [This teaches that] just as a blessing must be recited over the recitation of the Torah, so also a blessing must be recited over the performance of the commandments.”

- [I:3 A] *R. Yohanan ate olives and recited blessings before and after. And R. Hiyya bar Abba [Wawa] stared at him.*
- [B] Said to him R. Yohanan, “Babylonian, what are you staring at? Don’t you know that blessings must be recited before and after eating any food of the seven kinds of produce [of the Land of Israel]?”
- [C] [The Talmud explains:] *He knew the law. So what was his question? [He had a doubt whether one should recite a blessing over the olive] because [when you remove] the olive’s pit, it leaves you with less [than an olive’s bulk of volume, i.e. less than the minimum volume for which one recites a blessing.]*
- [D] *And did R. Yohanan not know that [when you remove] the olive’s pit, you are left with less [than the minimum volume]?*
- [E] R. Yohanan acted as he did because [he held the opinion that a minimum bulk is not required for a piece of] food in its [full] natural form. [One must consume a minimum of an olive’s bulk only for cut up or processed food.]
- [D] *From R. Yohanan’s words we may conclude that if one ate even a single grape or pomegranate seed, a blessing must be recited before and after it.*
- [I:4 A] **“Over wine when it is in its natural state [thick, undiluted] they recite, ‘Blessed [art Thou, O Lord our God, King of the Universe] creator of the fruit of the tree.’ And they may not wash their hands with it. [T. has, “May”]**
- [B] **“Once the wine has been diluted, they say over it, ‘Blessed [art Thou, O Lord our God, King of the Universe] creator of the fruit of the vine.’ And they may wash their hands with it,” the words of R. Eliezer. [T. has, “May not”].**
- [C] **And sages say, “Both over natural [thick wine] and over diluted [wine] they say, ‘Blessed [art Thou, O Lord our God, King of the Universe] creator of the fruit of the vine.’ And they may wash their hands with it” [T. 4:3].**
- [D] Said R. Abba, “[They may wash with undiluted wine according to Eliezer because such action] is not considered destruction of food [since the raw wine is not ready for consumption].”
- [I:5 A] R. Jacob bar Zabedi in the name of R. Abbuha, “Over olive oil one recites, ‘Blessed [art Thou, O Lord our God, King of the Universe] creator of the fruit of the tree.’”

- [B] *Said R. Hiyya bar Papa before R. Zeira, “Does not our Mishnah imply [that one should recite a different blessing over the oil? For it says,] **Except for wine, for over wine he says, ‘[Blessed art Thou, O Lord our God, King of the Universe] creator of the fruit of the vine’ [M. 6:1C].** And is wine not squeezed [from grapes? Since we recite a different blessing over wine, should we not recite a different blessing over oil squeezed from olives?]*
- [C] “[This is not a valid inference because] the Mishnah specifies, **Except for wine.** [This implies that with regard to the blessing which we recite we make no similar distinction] for other liquids. Even if the produce is squeezed, [we treat the juice or oil] as if it was [the fruit] intact [and we recite for it the same blessing].”
- [I:6 A] R. Abba said, “*Rab and Samuel both say, ‘Over a cooked vegetable one says, “[Blessed art Thou, O Lord our God, King of the Universe] for all came into being by his word.”’*”
- [B] R. Zeira in the name of Samuel, “Over cooked turnip-heads, if [one eats them when] they are intact [in their original form], one says, ‘Creator of vegetables.’ If he grinds them up [to eat them] one says, ‘For all came into being by his word.’”
- [C] *Said R. Yosé, “Does not our Mishnah imply [that one should recite a different blessing over ground up vegetables. For it says,] **Except for bread, for over bread he says, ‘[Blessed art Thou, O Lord our God, King of the Universe] who brings forth bread from the earth’ [M. 6:1E].** And is bread not [made from] ground [grain? Since we recite a different blessing over bread should we not recite a different blessing over cooked vegetables if they are ground up, contrary to R. Abba’s citation of the ruling of Rab and Samuel above?]*
- [D] “[This is not a valid inference because] the Mishnah specifies, **Except for bread.** [This implies that with regard to the blessing we recite, we make no similar distinction] for other foods. Even if the food is ground up, [we treat it] as if it was intact [and we recite for it the same blessing.]”
- [I:7 A] R. Hiyya bar Abba [Wawa] in the name of R. Yohanan, “Over a pickled olive one recites, ‘Creator of the fruit of the tree.’”
- [B] R. Benjamin bar Japheth in the name of R. Yohanan, “Over a cooked vegetable one recites, ‘For all came into being by his word.’” [And the same rule should apply to a pickled vegetable, contrary to Hiyya bar Abba.]

- [C] *Said R. Samuel bar R. Isaac, “A tradition in the Mishnah supports the ruling of R. Benjamin bar Japheth: [These are the greens with which one may fulfill his obligation on Passover. One may fulfill his obligation] neither with pickled, nor with marinated, nor with cooked vegetables [M. Pes. 2:6].* If indeed they [the cooked vegetables] are [to be treated as if they were] intact, a person should be able to fulfill his obligation with them on Passover.” [Since he cannot, we deduce that neither pickled nor cooked vegetables are treated as if they were intact, supporting Benjamin’s version of R. Yohanan’s teaching, that they recite over both of them ‘For all,’ and contradicting Hiyya’s version that they recite over pickled olives, ‘Creator of the fruit of the tree.’]
- [D] *Said R. Zeira, “Who knows R. Yohanan’s teaching better? R. Hiyya bar Abba [Wawa] or R. Benjamin bar Japheth? Is it not R. Hiyya bar Abba [Wawa] [who was Yohanan’s best disciple]?”*
- [E] *Furthermore the following [supports Hiyya bar Abba’s version of Yohanan’s teaching]: We saw the great rabbis going to get refreshments [to eat]. They took lupine [to eat] and recited over it, ‘[Blessed art Thou, O Lord our God, King of the Universe] creator of vegetables.’ And are not lupine [generally eaten] cooked? [Yet what they recited accords with Hiyya and appears to contradict the proof against Hiyya from the ruling in Mishnah Pesahim (C).]*
- [F] *And if you argue that the ruling in the Mishnah deals with a different issue, [that one cannot fulfill his obligation on Passover by eating cooked vegetables] since the Torah specified that [the herbs one eats on Passover] must taste bitter [we may respond as follows].*
- [G] *Cooked [vegetables like] lupine, once they are [thoroughly] cooked, lose their bitterness. [Accordingly, aside from this special consideration for bitter herbs for Passover, Hiyya is right. Cooked and uncooked vegetables fall into the same category. One recites the same blessing before eating either. See P.M.]*
- [H] *Said R. Yosé b. R. Bun, “There [really] is no dispute [between Hiyya and Benjamin over Yohanan’s ruling. For Hiyya’s version applies to] an olive. Because one normally eats it raw, even when it is pickled we treat it as [if it is] intact [and recite over it ‘Creator of vegetables’]. [And Benjamin’s version applies to] green vegetables. Once you cook them, they change [so you recite over them, ‘For all came into being by his word’].”*
- [I:8 A] *R. Jacob bar Aha said, “R. Nahman disputed with the sages [over the correct formula for the blessing recited over bread].”*

- [B] R. Nahman said, “Who brings forth [hmwsy’] bread from the earth,” [indicating past and continuous action].
- [C] And sages said, “Brings forth [mwsy’] bread from the earth,” [indicating continuous and future action].
- [D] *This dispute parallels the following dispute: [What is the meaning of the term] lepet [relish that one eats with bread]? R. Haninah bar Isaac and R. Samuel bar Immi disputed.*
- [E] *One said lepet means there was [l’ pt] no [need for this] food [in the past. In paradise, bread grew from the ground fully seasoned.]*
- [F] *And the other said lepet means there will be [l’ pt] no [need for this] food in the future, [in messianic times – see Jastrow s.v. lpt]. [As the verse in Psalms says,] “May there be abundance of grain in the land; on the tops of the mountains may it wave” [Ps. 72:16]. [May there be no need in the future for you to have relish with your bread.]*
- [G] *R. Jeremiah recited the blessing “Who brings forth [hmwsy’] bread from the earth,” before R. Zeira, and he [Zeira] praised him.*
- [H] Why did he act in accord with the view of R. Nahman [and not in accord with sages]? [He did so] in order not to elide the consonant sounds [at the end of one word and the beginning of the next: mlk h’wlm – mwsy’ in the blessing formula].
- [I] Why then did he not say also lhm – hmn h’rs [adding a letter H’ to separate the two consonants Mem] so as not to elide the consonant sounds [between two words elsewhere in the same blessing]? [The Talmud gives no answer.]
- [I:9 A] *According to the view of R. Nehemiah [over wine] one recites, “Who creates [hbwr’] the fruits of the vine.”*
- [B] *And according to the view of the sages one recites, “Creator of the [bwr’] fruits of the vine.”*
- [I:10 A] R. Zeriqin said, “*R. Zeira posed this question: One who took lupine to eat and recited the blessing over it, and dropped it, [before eating it, when he goes to take another piece to eat] what does he do? Must he recite the blessing a second time before eating it [since it is a different piece]? How does this case differ from the case of one who drinks from a [flowing] channel of water [where the water over which he recites the blessing flows by and he then drinks other water]?*
- [B] “[But these are different situations.] We may say there [in the case of one who drinks from a channel], he had in mind when he recited the

blessing [that it should apply to the water which will flow down the stream]. But here [in the case of one who dropped the lupine over which he recited a blessing], he initially did not have in mind to eat another piece. [Accordingly he should recite the blessing again.]”

- [C] *R. Hiyya taught*, “They recite the blessing over bread only right at the time they break the bread [to eat it, but not before lest after they recite the blessing, they are distracted and do not get a chance to eat the loaf over which they recited the blessing].”
- [D] *Said R. Hiyya bar Abba [Wawa]*, “*This accords with that which was said concerning one who took a radish [var. a round loaf of bread] and recited the blessing over it but [unexpectedly] did not get a chance [to eat it]. [Later when he does eat it] he must recite the blessing over it a second time [before eating it].*”
- [E] Said R. Tanhum bar Yudan, “[In such a case where one recited a blessing but was not able to eat,] he must say, ‘Blessed be his glorious name for ever and ever,’ [after he recites the unnecessary blessing] so that he does not invoke the Divine Name in vain.”
- [I:11 A] What is the minimum quantity [of bread] for which [before eating it] one recites the blessing?
- [B] R. Hanina and R. Mana [disputed this matter].
- [C] One said, “An olive’s bulk.”
- [D] And the other said, “Even less than an olive’s bulk.”
- [E] *The one who said, “An olive’s bulk” accords with that which it was taught elsewhere [M. Menahot 6:5]: [All meal-offerings that are made ready in a vessel must be broken into pieces.] And all of them must be broken into pieces the size of an olive [or larger].*
- [F] *The one who said, “Even less than an olive’s bulk,” accords with that which R. Ishmael taught, [There was no prescribed minimum measure, as in M. Menahot 6:7]: Even if he grinds them into meal [that is acceptable, implying that even a small amount of meal is enough]*
- [G] *It was taught: This is the general rule: All [those foods over which] after eating one recites three blessings [i.e. grace after meals], one recites over them before eating, “He who brings forth bread from the earth [T. 4:7E-G].”*

[G] [From this we may infer] all those foods over which after eating one does not recite three blessings, one does not recite over them before eating, “He who brings forth bread from the earth.”

[H] *They objected* [accordingly]: Behold, one who ate less than an olive’s bulk of bread does not recite three blessings after eating and therefore should not recite the blessing before eating, “He who brings forth bread from the earth.” [This contradicts the view above in B, that one recites the blessing before eating even on less than an olive’s bulk.]

[I] [In response to this question] R. Jacob bar Aha says, “[The general rule in Tosefta was formulated] to exclude other categories of bread. [Over bread not made from the five principal grains, one does not recite the three concluding blessings after eating, and thus does not recite before eating, the blessing, “He who brings forth.” But T.’s general rule was not formulated to exclude a person who ate less than an olive’s bulk, from the requirement to recite the blessing before eating.]

[I:12 A] R. Abba in the name of Rab, “It is forbidden for those who are seated to taste even a morsel, until the one who recites the blessing [on behalf of all assembled at the meal] tastes first.”

[B] R. Joshua b. Levi said, “[Those who are assembled] may drink even before he [who blesses on their behalf] drinks.”

[C] *This is not a dispute [for the cases of eating and drinking are different]. Rab’s [dictum applies in a case where] all assembled partake from a single loaf. [They must wait for the leader to break bread before they eat.]*

[D] *R. Joshua ben Levi’s [dictum applies to a case where] each of those assembled had his own cup in his hand. [They need not wait for the leader before they drink.]*

[E] *It was taught: **The one who recites the blessing [before eating] stretches forth his hand first [to partake of the food]. But if he wished to give the honor [of partaking first] to his teacher or to one who is greater than he in [mastery of] Torah, he may do so [T. 5:7C].***

[F] *When Rab broke bread he used to partake [of the bread quickly] with his left hand and [at the same time] distribute [pieces to those assembled] with his right hand. [From this we*

may infer that he who recites the blessing must hurry to partake first.]

- [I:13 A] *R. Huna said, “[After reciting the blessing over the bread, but before partaking of it,] he who says [aloud to others some command related to the meal such as], ‘Take [this food] and recite the blessing,’ ‘Take [that food] and recite the blessing,’ – this is not a [significant] interruption between the recitation of the blessing [and partaking of the food. Therefore he need not recite another blessing.] [But he who says after reciting the blessing and before partaking of the food,] ‘Give fodder to the oxen’ – this does constitute a [significant] interruption [because it is not directly related to the meal. Therefore he must subsequently recite another blessing for the food.]”*
- [B] *R. Huna said, “Over shattita [a mixture made of barley flour and honey], and over ground murta [made of myrrh-gum] one recites the blessing, ‘For all came into being by his word.’”*
- [C] *R. Huna said, “[What should one do if] he forgot and put something into his mouth without first reciting a blessing? In the case of liquids, he should spit them out [and recite the blessing]. In the case of solid food, he may hold it in one side of his mouth [and recite the blessing].”*
- [D] *R. Isaac bar Mari in the presence of R. Yosé b. R. Abun in the name of R. Yohanan, “Even in the case of solid food, he must spit it out [and recite the blessing]. As it is written, ‘My mouth is filled with thy praise, and with thy glory all the day’ [Ps. 71:8]. [One’s mouth should not be filled with food when he recites a blessing.]”*
- [I:14 A] **He who chews grains of wheat, recites over them [the blessing], “Creator of types of seeds.”**
- [B] **If one baked or cooked [a dish using pieces of wheat bread in his recipe] – as long as the pieces remain intact, he must recite over [the dish] before eating, “He who brings forth bread from the earth,” and he must recite over it three blessing [i.e. grace] after eating. [It has the same requirements as the bread itself.]**
- [C] **If the pieces do not remain intact [in the dish] he must recite over it [before eating], “Creator of types of grains,” and must recite over it after eating one blessing which is an abstract of the three blessings [T. 4:6].**
- [D] **What minimum size must the pieces be [to be considered ‘intact’]? R. Yosé b. R. Abun, Kahana bar Malkiah in the name of Rab, “At least [the size of] olives.”**

- [E] **He who chews grains of rice, recites over them the blessing, “Creator of types of seeds.”**
- [F] **If one baked or cooked [a dish using pieces of rice loaves in his recipe], even if the pieces remain intact he recites over [the dish] before eating, “Creator of types of grains” and he need not recite a blessing over it after eating. [It has the same requirements as the rice loaves themselves] [T. 4:7].**
- [G] R. Jeremiah said, “[One recites over this type of dish,] ‘Creator of the produce of the earth [vegetables].’”
- [H] *Bar Marina in the presence of R. Zeira, and in the presence of R. Hiyya bar Abba [Wawa] recited the blessing [over such a dish], “For all came into being by his word.”*
- [I] R. Simeon the Pious says [over such a dish one recites], “Creator of kinds of delicacies.”
- [J] *Said R. Yosé b. R. Abun, “There is no dispute [among these four views concerning the blessing for this dish]. He who holds the view that one must recite, ‘Creator of types of grains’ [i.e. T. 4:7 above] refers to a dish into which one mixed [rice cakes with grains of the five primary kinds].*
- [K] *“He who holds the view that one must recite, ‘Creator of vegetables’ [i.e. Jeremiah] refers to a dish made solely [of rice cakes].*
- [L] *“He who holds the view that one must recite, ‘For all things came into being by his word’ [i.e. Bar Marina] refers to a dish [of rice cakes] which was cooked.*
- [M] *“And he who holds the view that one must recite, ‘Creator of kinds of delicacies’ [i.e. Simeon] refers to a dish [of rice cakes] which was scrambled [together with eggs and other foods and spices].”*
- [I:15 A] The preceding discussion refers to [the blessing one recites at] the outset [before eating a dish made with rice cakes]. What about after [eating? What blessings does one recite?] R. Jonah in the name of R. Simeon the pious, “[One says, ‘Blessed art Thou, Lord our God, King of the Universe,] who created all kinds of delicacies to delight with them all living souls. Blessed art Thou O Lord for the land and for its delicacies.’”
- [B] R. Abba bar Jacob in the name of R. Isaac the Elder, “When Rabbi used to eat meat or eggs he used to say [afterward], ‘Blessed [art Thou,

O Lord our God, King of the Universe] who created many souls to give life through them to all living things. Blessed art Thou O Lord who lives forever!”

[C] The preceding refers to [the blessing recited] after [eating meat or eggs]. What [does one recite at] the outset [before eating]? Said R. Haggai, “[Blessed art Thou, O Lord our God, King of the Universe] creator of many forms of life.”

[D] *R. Yosé objected [to the rule of R. Haggai], “Lo, the Mishnah disputes this: **Over vinegar, or over unripe fruit, or over edible locusts one recites, ‘For all things came into being by his word’ [M. 6:3B]. Are not locusts a form of life? [Yet one recites over them, ‘For all.’ Haggai was wrong.]”***

[E] *R. Simeon the Pious’ ruling [i.e. in A, one recites after eating a dish made from rice cakes the blessing, “Who created kinds of delicacies”] accords with Rabbi’s ruling [i.e. in B, one recites after meat or eggs, “Who created many souls”]. And both accord with R. Gamaliel’s ruling [in the following passage].*

[F] *For it was taught: **This is the general rule, R. Judah says in his [Gamaliel’s] name, “All [dishes] that are made from the seven kinds [of produce of the Land of Israel], but not of kinds of breadstuff, or made of kinds of breadstuff, but not baked into a loaf, Rabban Gamaliel says, ‘One recites three blessings after eating it.’***

[G] *And sages say, ‘One blessing!’*

[H] *“**And all dishes which are made neither from the seven kinds, nor from kinds of breadstuff, Rabban Gamaliel says, ‘One recites [before and] after it [one blessing].’***

[I] *And sages say, ‘**[One recites a blessing before eating, and one recites after it] nothing.’” [T. 4:15]. [Both Simeon’s and Rabbi’s opinions above accord with the latter view of Rabban Gamaliel that one recites a blessing after eating such dishes.]***

[I:16 A] *R. Jacob bar Idi in the name of R. Hanina, “Over all foods which resemble porridge [flour cooked in water], or resemble dumplings [dough cooked in boiling water], and are made of one of the five [major] kinds of grain, one recites [before eating it], ‘Creator of types of grains.’ And one recites after eating it one blessing which is an abstract of three blessings.”*

- [B] And over all foods which resemble porridge, or resemble dumplings, but are not made of one of the five kinds of grain [what blessing does one recite after eating]?
- [C] *Said R. Jonah, “R. Zeira sent [this question] to those of the house of R. Yannai and they told me [the answer], but I am not certain what they told me.”*
- [D] *And what is the answer?*
- [E] *Said R. Yosé, “It makes sense that one should recite, ‘For all came into being by his word’ [over foods like porridge or dumplings]”*
- [F] *R. Jeremiah posed the question, “What blessing does one who eats porridge recite after eating?”*
- [G] *Said R. Yosé, “[Jeremiah never knew the answer to this question.] For this reason R. Jeremiah never in his life ate porridge. He had a doubt that perhaps one should not [recite one blessing which is an abstract of three, but rather, ‘Creator of many souls’].”*

- [I:17 A] Why does one conclude [the blessing after eating which is an abstract of three] with mention of the Land, [“Blessed art Thou O Lord, for the land, and for the sustenance”]?
- [B] *They formulated it [this blessing] like the blessing of the laborers [which also concludes with mention of the land, as we see in the following passage.]*
- [C] *For it was taught: Laborers [who ate] while they were working with the householder, recite two blessings [after eating instead of four, to save time]. They recite the first blessing, and they include [the mention] of Jerusalem in the blessing for the Land [i.e. in the second], and they conclude with [the blessing] for the Land.*
- [D] **But if they were working with him in exchange for their meals, or if the householder was eating with them, lo they recite [all] four blessings [T. 5:24].**
- [E] *Members of the house of R. Yannai established a standardized formula [for the conclusion of all blessings which were abstracts of three, i.e. “Blessed art Thou, O Lord for the Land, and for the sustenance.” Regardless of whether one recited the blessing after eating foods made from the five types of grains, or after eating foods of the seven kinds of produce of the Land of Israel, the conclusion was to be the same.]*

[F] Does one mention the occasion [of a Sabbath, festival, or new moon] in [the abstract of three blessings]?

[G] Said R. Abba bar Zimna, “R. Zeira used to mention the occasion in [the abstract of three blessings].”

[H] Said R. Jeremiah, “Since R. Zeira was scrupulous in this practice, we too should be scrupulous in the practice [and mention the occasion in the abstract].”

[I:18 A] *It was taught:* [When a person has before him several foods to eat,] one should recite the blessing over the breadstuff which is of the highest quality.

[B] **How so? [If one has before him] a [whole] fine loaf and a whole home-made loaf [of the same grain], he says [the blessing] over the whole fine loaf.**

[C] **[If one has] a piece of a fine loaf and a whole home-made loaf, he says [the blessing] over the whole home-made loaf.**

[D] **[If one has] wheat bread and barley bread he says [the blessing] over the wheat bread.**

[E] **[If one has] a piece of wheat bread and a whole barley bread, he says [the blessing] over the piece of wheat bread.**

[F] **[If one has] a barley bread and a spelt bread, one says [the blessing] over the barley bread.**

[G] **But is not spelt bread better [quality] than barley bread?**

[H] **But this [grain, i.e. barley] is one of the seven kinds [of produce of the Land of Israel, mentioned in Deut. 8:8] and that [grain, i.e. spelt] is not one of the seven kinds [T. 4:15].**

[I] *R. Jacob bar Aha in the name of R. Zeira, “This [last rule (H)] accords with R. Judah: [If one had before him many different kinds of foods –] R. Judah says, ‘If among them there are foods of the seven kinds [of produce of the Land of Israel], one must recite the blessing over that [food]’ [M. 6:4].”*

[J] [If one has before him to eat] an unclean bread and a clean bread, R. Hiyya bar Abba [Wawa] said, “One says [the blessing] over the clean bread.”

[K] [If one has before him] an unsoiled [ritually] unclean bread and a soiled [ritually] clean bread, R. Hiyya bar Ada in the name of R.

Aha, “One may recite the blessing over whichever one he chooses.”

- [I:19 A] R. Jacob bar Aha in the name of Samuel, “One recites over palm-marrow [the edible part of the branch of the palm tree], ‘Creator of the fruit of trees [as if it were a fruit].’”
- [B] *Taught R. Halafta b. Saul*, “[They recite over the marrow,] ‘For all came into being by his word.’”
- [C] *Taught R. Joshua*, “[They recite over marrow,] ‘Creator of kinds of herbs [as if it were an herb].’”
- [D] *A teaching of R. Hoshai* contradicts this [view of Joshua]: “These are the species of herbs [over which one recites ‘Creator of kinds of herbs’]: globe artichoke, mallow, dymw’ [a teardrop shaped herb] and boxthorn.”

6:2

- [A] **If over the fruit of trees one [by error] recited the blessing, “Blessed [art Thou, O Lord our God, King of the Universe] creator of the fruit of the ground,” he fulfilled his obligation [to recite a blessing over the food because trees do grow in the ground].**
- [B] **If over vegetables [one by error recited the blessing, “Blessed art Thou, O Lord our God, King of the Universe] creator of the fruit of the trees,” he did not fulfill his obligation [because produce of the ground does not grow on trees].**
- [C] **If over any [fruits or vegetables] one [by error] recited, “For all came into being by his word,” he fulfilled his obligation.**
- [I:1 A] *R. Hezekiah in the name of R. Jacob bar Aha*, “This [rule, M. 6:2A,] accords with the view of R. Judah. For R. Judah considers [the trunks of] trees to be like stalks [of grain. Just as grains of wheat are fruits of the ground even though they grow off the ground on stalks, so too fruits of trees are fruits of the ground even though they grow off the ground on branches.]” [Cf. M. Bik. 1:1. Judah says one may bring fruits of trees as first fruits and recite over them the formula of avowal of Deut. 26:5ff. even though Scripture specifies that you should bring, “The first fruits of your ground” [Ex. 23:19]. In Judah’s view the formula, “Fruits of the ground,” may apply to fruits of trees.]
- [B] Said R. Yosé, “Everyone agrees that fruits of trees are included in [the category of] fruits of the ground [vegetables], but fruits of the ground are not included in [the category of] fruits of trees.”

[C] *R. Huna said, “Excluding [from this general rule of M. 6:2A] wine and bread.” Mishnah itself implies [this exclusion], **Except for wine. For over wine one recites, ‘Creator of the fruits of the vine.’ Except for bread. For over bread one recites, ‘Who brings forth bread from the earth’ [M. 6:1].*** [As to their blessings, wine and bread are different from fruits and vegetables. One may not substitute another formula of blessing for their prescribed formula.]

[I:2 A] *It was taught: R. Yosé says, “Anyone who alters the formula [for blessings] established by the sages does not fulfill his obligation.”*

[B] **R. Judah says, “[If one ate] any food which was changed from its natural state [through any processing], and he changed [Var.: he did not change] [the formula of] the blessing, he fulfilled [Var.: did not fulfill] his obligation” [T. 4:5B-C].**

[C] **R. Meir says, “Even if one said, ‘Blessed be He who created this object. How beautiful it is,’ he fulfilled his obligation” [T. 4:4F].**

[D] R. Jacob bar Aha in the name of Samuel, “The law accords with the view of R. Meir.”

[E] *A tradition concerning Rab supports this [conclusion]: A Persian [Jew] once came before Rab [and asked], “I ate a loaf of bread but because I did not know which blessing to recite over it, I said, ‘Blessed be He who created the loaf of bread.’ Did I fulfill my obligation?”*

[F] *He [Rab] said to him, “You did [in accord with the view of R. Meir].”*

[I:3 A] *R. Judah in the name of Abba bar bar Hannah, “Bar Qappara and two of his students once stayed over with a certain householder at an inn in the village of Birkata. He brought before them chicken, and plums, and leeks [porret].*

[B] “They said ‘If we recite the blessing over the leeks, we will exempt [ourselves from the obligation to recite the blessing over] the plums [since one can fulfill his obligation for both with the blessing for vegetables, ‘Creator of the produce of the ground’]. But we shall not exempt [ourselves from the obligation to recite the blessing over] the chicken. [It requires a different blessing, ‘For all.’]

[C] “And if we recite the blessing over the plums [‘Creator of the fruit of the tree’] we shall exempt [ourselves from the obligation to recite the blessing for] neither one [i.e. the leeks] nor the other [i.e. the chicken].’

- [D] “One student jumped in and recited over the chicken the blessing, ‘For all came into being by his word.’ *His associate laughed at him.*
- [E] “Bar Qappara said to them, ‘He [who jumped to bless] should not have been so gluttonous, but you [who laughed] should not have mocked him. What he did, was out of gluttony. Why did you mocked him? [His choice of blessing was acceptable.]’
- [F] “And he said to that [student who jumped in to bless], ‘Is there not a sage present? Is there not an elder present? [You should have waited to see what I would do.]’”
- [G] They said [concerning these students] that before the year was out they died [because of their misconduct].
- [H] *Said R. Yosé, “Two lives have been lost. Do we not learn something from this incident?”*
- [I] *What is the resolution of this issue? It makes sense that one should recite [first] the blessing over the leeks [‘Creator of the produce of the ground’]. [Because the blessing over the chicken] ‘For all came into being by his word’ is secondary to it [and should be recited over the chicken after the former blessing].*

6:3

- [A] **Over something which does not grow in the earth, one says [the blessing], “For all came into being by his word.”**
- [B] **Over vinegar, and over unripe fruit, and over edible [i.e. permitted] locusts, one says [the blessing], “For all came into being by his word.”**
- [C] **R. Judah says, “Over anything which is accursed [i.e. results from a destructive effort], one does not recite a blessing.”**
- [I:1 A] If one’s wine turned to vinegar he says, “Blessed be the true judge.” If he goes to drink it he says, “For all came into being by his word.”
- [B] If one saw locusts he says, “Blessed be the true judge.” If he goes to eat them he says, “For all came into being by his word.”
- [C] If one saw fruit which did not ripen he says, “Blessed be the true judge.” If he goes to eat them he says, “For all came into being by his word.”

6:4

- [A] **If one had before him many kinds [of food] –**

[B] R. Judah says, “If among them there is a food of the seven kinds [of foods of the Land of Israel], one must recite the blessing over that [food first].”

[C] And sages say, “[One may recite the blessing] over any [food] he wishes.”

[I:1 A] *R. Joshua b. Levi said, “Concerning what case do R. Judah and sages dispute? [A case] where one had in mind [when he ate many kinds of produce] to eat bread [thereafter]. But if he had no intention of eating bread [thereafter], all would agree [with Judah] that if [among the varieties of produce] there is a food of the seven kinds one must recite the blessing over that food.” [The reason for this rule is based on the principle that to increase one’s prayers, one should, where possible, eat the food for which after eating it one recites the lengthiest blessing. The blessing recited after eating is connected to the blessing one recites before eating. The food one eats and the blessing one recites before eating it, determine which blessing one recites after eating. In general the law is that where one eats bread, he recites the full grace after meals. Where one does not eat bread, and where one recited the blessing before eating over one of the seven kinds of produce, he recites after eating the abstract of three blessings. Otherwise, where one recites a blessing over any other food before eating, he recites the short blessing, “Creator of many forms of life,” after he finishes the repast.]*

[B] Said R. Abba, “One must recite a blessing afterwards. [One must recite the proper blessing after eating the produce, even if one had in mind to eat bread at the same meal after eating the produce.]”

[C] *Said R. Yosé, “R. Abba’s ruling contradicts R. Joshua b. Levi. For R. Joshua b. Levi said, ‘Concerning what case do R. Judah and sages dispute? [A case] where one had in mind to eat bread [thereafter]. But if he had no intention of eating bread [thereafter], all would agree that if there is a food of the seven kinds one must recite the blessing over that food.’*

[D] “And R. Abba said, ‘One must recite a blessing after [eating the produce even if he had in mind to eat bread at the same meal after eating the produce].”

[E] If he did not recite the blessing [over the produce right after eating it], then we may consider it to be [a food which is] secondary [to the bread he then eats]. [And the meal blessing which one recites after eating the bread also covers his obligation to recite a blessing after eating foods

secondary to the bread. He has no need to recite a separate blessing after eating the produce – following the second explanation of P.M.]

[F] *For we have learned as a Tannaite rule there in the Mishnah: **Over any primary food [main dish] which is accompanied by a secondary food [side dish], one recites the blessing over the primary food and exempts [himself from the obligation to recite the blessing over] the secondary food [M. 6:7].***

[I:2 A] Concerning the dessert tray [of assorted nuts and fruits] – R. Jeremiah in the name of R. Ammi, “One recites the blessing over the lupine [even though he may also have before him fruits of the seven kinds],”

[B] Said R. Levi, “[This rule is] based on [the verse], ‘Do not rob the poor, because he is poor’ [Prov. 22:22].” [The application of the verse here is, “Do not deprive lupine, a common food, of its blessing.”]

[C] This rule applies to one who has in mind to eat bread [after partaking of the dessert tray, for then he may recite the blessing over whichever food he wishes in accord with the view of sages in M. 6:4A]. But it does not apply to one who does not have in mind to eat bread [after the dessert tray, for then he must recite the blessing over a food of the seven kinds rather than over lupine, in accord with the view of Judah in M. 6:4B].

[D] *Rabban Gamaliel Zuga [the twin] visited the members of the House of R. Yannai. He saw them taking olives [to eat] and reciting blessings both before and after [eating them even if they were going to eat bread afterward].*

[E] *He said to them, “Is this any way to act?”* [The grace after meals of three blessings which you will recite afterward over the bread should suffice to fulfill your obligation to recite a blessing after eating the olives as well. The Talmud records no response to this question, indicating its approval of Gamaliel’s view.]

[F] R. Zeira sent a question to R. Samuel bar Nahman. [What is the rule in the case where one had before him many kinds of food and did not have in mind to eat bread afterward? – P.M.]

[G] [Samuel b. Nahman responded as follows:] R. Kahana in the name of R. Abina, “*Everyone agrees that if among*

them there is a food of the seven kinds he must recite the blessing over it.”

[H] *Said R. Zeira, “Very well. This also accords with what we have seen. When the sages went to sanctify the new moon, they used to eat grapes but did not recite a blessing after eating them. Was this not because they had in mind to eat bread afterward [and saying the meal blessing after eating bread sufficed for them to fulfill their obligation to recite a blessing after eating the grapes as well.]”*

- [I:3 A] If one had before him several foods of the seven kinds, over which does he recite the blessing? [What is the order of priority among the foods of the seven kinds?]
- [B] There [in Babylonia] they said, “Whichever appears first in Scripture [in Deut. 8:8, ‘A land of wheat and barley, of vines and fig trees and pomegranates, a land of olive trees and honey’] takes priority [with regard to the rule] for reciting a blessing [over these foods].”
- [C] And [the following exception applies to this rule:] those foods mentioned after the word ‘land’ in the verse [i.e. wheat and olives] take priority over the other foods.” [Wheat and olives, take priority over foods made from barley, grapes, figs, and pomegranates.]

6:5

- [A] **If one recited the blessing over wine [which he drank] before the meal, he exempted [himself from the obligation to recite a blessing over] the wine [which he drinks] after the meal.**
- [B] **If one recited the blessing over an appetizer [which he ate] before the meal, he exempted [himself from the obligation to recite a blessing over] the appetizer [which he eats] after the meal.**
- [C] **If one recited the blessing over bread, he exempted [himself from the obligation to recite the blessing over] the appetizer.**
- [D] **If one recited the blessing over the appetizer, he did not exempt [himself from the obligation to recite a blessing over] the bread.**
- [E] **The House of Shammai say, [By reciting a blessing over the appetizer one does] not even [exempt himself from his obligation to recite a blessing over] a potted dish.”**
- [I:1 A] *Said R. Hisda, “Mishnah teaches [specifically],* **If one recited the blessing over wine [which he drank] before the meal, he exempted [himself from the obligation to recite a blessing over] the wine**

[which he drinks] after the meal [M. 6:5A]. But [this implies] if one recited the blessing over wine during the meal, he does not exempt [himself from the obligation to recite a blessing over] wine after the meal.”

[B] There [in Babylonia] they said, “Even if one recited the blessing over wine before the meal he did not exempt wine after the meal.”

[C] *But lo, the Mishnah teaches, If one recited the blessing over wine [which he drank] before the meal, he exempted [himself from the obligation to recite a blessing over] the wine [which he drinks] after the meal [M. 6:5A].*

[D] *R. Huna and R. Joshua b. Levi resolve this contradiction. One explains [that Mishnah refers to a special case] of one who drinks conditon-wine [a rich wine which is flavored with honey and spices, customarily drunk only on special occasions when it is the focus of the meal. With its blessing one fulfills his obligation to recite a blessing over the wine he drinks after the meal.]*

[E] *And the other explains [that M. refers to a case of] one who drinks wine after coming from the bath-house [also a special occasion for drinking when the wine is the focus of the meal and by its blessing one fulfills his obligation to recite a blessing over the wine he drinks after the meal. Jastrow has a different interpretation cf. s.v. blny, p. 174.]*

[I:2 A] R. Helbo, R. Huna, Rab in the name of R. Hiyya the Elder, “**Over a dessert cake [which one eats] after the meal [before he recites the blessings after the meal], one is required to recite blessings before and after [eating it, because it is so special.]**” [Cf. T. 5:12].

[B] *Said R. Ammi, “R. Yohanan disputes this.”*

[C] *Said R. Mana to R. Hezekiah, “In what case does he dispute? Is it only if one ate food of the same kind [of grain as the cakes] during the meal [that later he need not recite another blessing before eating the cakes]?”*

[D] He said to him, “Even if during the meal he did not eat food of the same kind [of grain as the cakes he still need not recite another blessing before eating the cakes].”

[E] R. Haggai came [and taught the same rule] in the name of R. Zeira, “Even if during the meal he did not eat food of the same kind, [he need not recite another blessing before eating the dessert cakes].”

[F] Said R. Haninah, “Bar Sisi [acted as follows:] when the members of the House of the Patriarch sent [premium] Nicolaos dates to him, set them aside until after he ate his meal, and then recited blessings before and after [he ate them].”

[G] R. Huna used to eat dates with his bread.

[H] *R. Hiyya bar Ashi said to him, “Do you dispute your master [Rab, cited in A above]? You should set them aside until after you eat your meal, and then recite blessings before and after [you eat them].”*

[I] *He said to him, “Both this [the bread] and that [the dates] are essential to my refectation.”*

[J] *R. Jonah and R. Yosé went to the feast of R. Hanina of Antonia [Alt.: Anath]. They brought before them dessert cakes after the meal.*

[K] *They said, “Let us leave aside our own teachings and let us adopt for ourselves the Tannaite rule.*

[L] *“For it was taught: **R. Mana said in the name of R. Judah who said in the name of R. Yosé the Galilean, ‘A dessert cake which one eats after the meal, requires the recitation of blessings before and after [eating it]’**” [Y.’s version of T. 5:12].*

[M] *They [the others at Hanina’s feast] said, “Because this [law] is the ruling of individuals, and [since] the rabbis dispute it, let us act in accord with the rabbis.”*

[I:3 A] *Said Marinus of the household R. Joshua, “Where one ate from a dessert tray [of nuts and fruits], and ate porridge [made from flour], even if he recites a blessing after [eating from] the dessert tray, he does not exempt [himself from the obligation to recite a blessing over] the porridge.”*

[B] *Does this accord with the House of Shammai’s [ruling in Mishnah 6:5E]? As The House of Shammai say, [By reciting a blessing over the appetizer one does] not even [exempt himself from his obligation to recite a blessing over] a potted dish.” [The House of Shammai thereby extend the ruling of M. 6:5D.]*

[C] *Said R. Yosé, “Everyone agrees [that the blessing over fruits and nuts does not suffice for porridge made with flour.]”*

- [D] *[How then do we explain the House of Shammai's ruling? It disputes M. 6:5C in the following manner:]* **If one recited the blessing over bread, he exempted [himself from the obligation to recite blessings over] the appetizer and a potted dish, in accord with the words of the House of Hillel.**
- [E] **The House of Shammai say, “[Reciting a blessing over bread does not even [exempt him from his obligation to recite a blessing over] a potted dish. [M. 6:5E].**
- [F] **But, If one recited first a blessing over the appetizer first, everyone agrees that, He did not exempt [himself from the obligation to recite a blessing] over bread [M. 6:5C] nor [does he exempt himself from his obligation to recite a blessing over] a potted dish.**
- [G] *R. Abba son of R. Papa posed the question, “One who ate porridge [made with flour], who had in mind to [later] eat bread, must he recite a blessing after eating porridge?”*
- [H] *The rabbis of Caesarea [or Katzrin] answer, “He must recite a blessing after eating it.”*

6:6

- [A] **When they are sitting [together prior to a meal], each person recites the blessings for himself.**
- [B] **When they have reclined [on couches at the meal together], one person recites the blessings for all of them.**
- [C] **When they have brought to them wine during the meal, each person recites the blessing for himself [because they drink by themselves].**
- [D] **[When they have brought to them wine] after the meal, one person recites the blessing for all of them [because they drink together].**
- [E] **And [that person] says the blessing over the incense, even though they bring out the incense only after dinner.**
- [I:1 A] *R. Joshua b. Levi said, “The Mishnah refers to [the feast after] the circumcision of one's son [or some similar special occasion, in making the distinction between sitting and reclining at the meal]. But for the [ordinary meal of a] householder at home [there is] no [such distinction. The householder recites on behalf of his household].”*
- [B] *R. Hiyya taught [that this distinction applies] even for the [ordinary meal of a] householder at home [T. 4:8].*
- [I:2 A] *It was taught: What is the order of the dinner?*

- [B] When the guests enter, they sit on benches or on chairs while all [the guests] assemble.
- [C] Once they all have assembled, and they bring out [water for washing] their hands, each person washes one hand [so that he may hold in it the cup of wine.]
- [D] When [they bring out and] mix the wine, each person recites the blessing for himself.
- [E] When they bring out appetizers each person recites the blessing for himself.
- [F] When they get up [from the chairs] and recline [on couches for the meal], and they bring out [water for washing] their hands, even though they each had already washed one hand they now must wash both hands [to eat].
- [G] When they [bring out and] mix the wine, even though they recited a blessing over the first cup, they now recite a blessing over the second cup. [And one person recites the blessing for all of them].
- [H] When they bring out an appetizer, [even though they recited a blessing over the first, they now recite a blessing over the second]. And one person recites the blessing for all of them.
- [I] [According to custom] a guest may not enter [to join the meal] if he comes after three appetizers are served [as this is sure sign that the dinner is underway] [T. 4:8].
- [J] [Because the passage just cited speaks of the order of a meal, the Talmud deems it relevant to discuss here the order of the meal at the conclusion of the Sukkot holiday.] *It was taught there:* What is [the procedure for leaving] the sukkah on the seventh day [of the festival]?
- [K] When one finishes eating he does not take apart his sukkah. Rather he takes his utensils out in the afternoon [and brings them into his house to use them inside] in honor of the last day of the festival [i.e. Shemini Aseret].
- [L] R. Abba b. Kahana, R. Hiyya bar Ashi in the name of Rab, “A person must render his sukkah invalid [by taking down some essential part of the structure] while it is still day [on the seventh day of the festival to indicate thereby that he is not adding another day to the festival.” Then if he wishes, he may dwell in it even on the eighth day.]

- [M] R. Joshua b. Levi says, “One must recite the Prayer of Sanctification in his house [on the eighth day even though he may eat outside in the sukkah].”
- [N] R. Jacob bar Aha, in the name of Samuel, “One who recited the Prayer of Sanctification in one house, and decided to eat in another house, must recite the Prayer of Sanctification [again in the second house].”
- [O] R. Aha, R. Hanina in the name of R. Joshua [var: Hoshaiiah] [in the name of Rab], “Whoever enjoys [eating in] his sukkah may recite the Prayer of Sanctification in his house on the last eve of the festival and go out and eat in his sukkah.”
- [P] *Said R. Abun, “[Rab and Samuel] are not in dispute. What Rab said [applies to a person] who had in mind [while reciting the Prayer of Sanctification] to eat in another house [e.g. in his sukkah]. What Samuel says [applies to a person] who did not have in mind [while reciting the Prayer of Sanctification] to eat in another house [but later changed his mind].” [This translation follows P.M.’s explanation.]*
- [Q] *Said R. Mana, “Samuel’s teaching [that one must recite the Prayer of Sanctification again (D)] accords with R. Hiyya’s ruling [that one must render his sukkah invalid on the seventh day (B)]. And R. Joshua’s [var.: Hoshaiiah’s] ruling [that one may recite the Prayer of Sanctification on the eighth night in his house and eat in his sukkah (E)] accords with R. Joshua bar Levi’s ruling [that one must recite the Prayer of Sanctification in his house on the eighth night (C)].” [Samuel and Hiyya hold that one must recite in the sukkah where he then eats. But one invalidates the sukkah first lest he appear to add to the Sukkot festival. Hoshaiiah and Joshua ben Levi permit one to recite the Prayer of Sanctification in one place and eat in another. Accordingly, one need not invalidate the sukkah because he may recite the Prayer of Sanctification in the house to show that he is not adding to the festival.]*
- [R] Said R. Ammi, “This [T. 4:8] implies that there is a dispute [whether one must recline] for [a meal of] fruits [pyrwt].”
- [I:3 A] **They asked Ben Zoma, “Why [does it say], ‘When they bring out wine during the meal, each person recites the blessing for himself’ [M. 6:6C]?”**
- [B] **He said to them, “It is because [while one eats] his esophagus is not clear. [He may choke if he speaks to respond ‘Amen’ to the leader’s blessing]” [T. 4:12].**

[C] *Said R. Mana, “This implies that during the meal one may not say, ‘Bless you’ to a person who sneezes, because he may endanger himself [by speaking while eating, for his esophagus is not clear].”*

[II:1 A] And [that person] says [the blessing] over the incense [M. 6:6F].
[M. implies that anytime they bring out incense, one person recites the blessing for all.]

What is the difference between incense and wine? [Why during the meal does each person who drinks wine recite his own blessing?] All [who are present] smell the incense [at once]. But each person tastes his wine [individually].

[C] R. Zeira in the name of R. Jeremiah, “One must recite the blessing over the incense when the smoke from it rises up.”

[D] *R. Jeremiah wanted to test R. Zeira. He said to him, “What [blessing] does one say over spiced oil?”*

[E] He said to him, “[Blessed art Thou, O Lord our God, King of the Universe] who provided a good fragrance for spiced oil.”

[F] He said to him, “[You may also say, ‘Blessed art Thou, O Lord our God, King of the Universe] who provided a good fragrance for spice trees.””

[G] *Isaac bar Abba bar Mehasiah and R. Hananel were sitting together [when they smelled the fragrance of spiced oil]. One said, “Blessed [art Thou, O Lord our God, King of the Universe] who provided a good fragrance for spice trees.” And the other said, “Blessed [art Thou, O Lord our God, King of the Universe] who provided a good fragrance to the grasses of the earth.”*

[H] *The one who said [the blessing should be], “Grasses of the earth,” posed a question to the one who said [the blessing should be], “Spice trees”: “Are these [spice plants] really trees?”*”

[I] He said to him, “Lo it is written, ‘She hid them with the trees [i.e. stalks] of flax’ [Joshua 2:6]. Are these [flax-stalks] really trees? [Scripture calls them, ‘trees.’ I also call spice-plants, ‘trees.’]”

[J] *They went to the house of Rab and [heard from] Simeon bar Huna in the name of Rab [that the proper blessing over incense*

is,] “[Blessed art Thou, O Lord our God, King of the Universe] who provided a good fragrance for the spice trees.”

- [II:2 A] Geniba said, “[One who rubs his hands with] oil to [remove] the dirt [from them] need not recite a blessing.”
- [B] Said R. Yudan, “Even if he holds the oil in his hands [to smell its fragrance before using it to cleanse himself, he need not recite a blessing over its fragrance].”
- [C] R. Helbo, R. Huna in the name of Rab, “One who sprays the inside of his house with oenanthe [an aromatic liquid grape derivative] need not recite a blessing [over the fragrance].”
- [D] Said R. Hisda, “Over all [fragrances] one says, ‘Blessed [art Thou, O Lord our God, King of the Universe] who provided a good fragrance for the spice trees,’ except for the fragrance of musk over which one says, ‘[Blessed art Thou, O Lord our God, King of the Universe] who provided a good fragrance for all kinds of spices.’”

6:7

[A] **When they bring out for him first a salted relish, and with it bread, he recites the blessing over the salted relish, and exempts [himself from the requirement of reciting a blessing over] the bread, for [in such a case] the bread is secondary to it.**

[B] **This is the general rule: Over any primary food which is accompanied by a secondary food, one recites the blessing over the primary food and exempts [himself thereby from reciting the blessing over the] secondary food.**

- [I:1 A] *R. Samuel bar Nahman in the name of R. Jonathan, “The Mishnah refers to the time before they learned the dinner customs of royalty [to eat a full course dinner with appetizers, a main course and dessert]. And it refers to a place where they make the salted relish the primary food [of the meal]. But [the rule of the Mishnah] does not apply to a place where they do not make the salted relish the primary food [of the meal].”*
- [B] R. Jeremiah in the name of Rab, “[When one has before him] bread and morsels [made from bread crumbs], one recites the blessing over the morsels, in a place where they serve morsels as the main food [of the meal]. But [this rule] does not apply in a place where they do not serve morsels as the main food [of the meal].”
- [C] R. Simon in the name of R. Simeon b. Laqish, “[When one has before him] nut-cakes and bread, one recites the blessing over the nut-cakes in

a place where they serve nut-cakes as the main food [of the meal]. But [this rule] does not apply in a place where they do not serve nut-cakes as the main food [of the meal].”

6:8

- [A] **“If one ate figs, or grapes, or pomegranates [as the main dish of his meal], he recites over them [after eating them the grace after meals comprised of] three blessings,”** the words of Rabban Gamaliel.
- [B] **And sages say, “[He recites] one blessing [which embodies the substance of the full grace after meals].”**
- [C] **R. Aqiba says, “Even if one ate cooked vegetables, and that was [the main dish of] his meal, [after eating them] he recites over them three blessings.”**
- [D] **One who drinks water to quench his thirst says, “Blessed [art Thou, O Lord our God, King of the Universe,] for all came into being by his word.”**
- [E] **R. Tarfon says, “He says, [‘Blessed art Thou, O Lord our God, King of the Universe,] Creator of many living things and their needs.”**
- [I:1 A] R. Simon, R. Tadaï in the name of R. Joshua, “If one ate on the east side of a fig tree, and then went and ate on the west side, he must recite the blessing [a second time because when he changed his place, it is as if he began a new meal].”
- [B] Abba bar R. Huna said, “[If one drank] aged wine [and then drank] new wine, he must recite the blessing [a second time].”
- [C] “If one drank another kind of wine [but both were aged, or both were new], he need not recite the blessing [a second time].
- [D] “If one moved to another place [to drink or eat], he must recite the blessing [a second time].
- [E] “If one diverted his attention [from drinking and then decided to continue, the rule for that case is] like [the rule for the case of] one who moved to another place. [He must recite the blessing a second time.]”
- [F] Rabbi used to recite a blessing over each new barrel of wine which he opened. What did he say? R. Isaac the Elder in the name of Rabbi, “Blessed be He who is good and does good.”
- [G] Once R. Aqiba made a feast for his son Simeon. He recited a blessing over each barrel of wine which he opened. And he said, *“Good wine! Here’s to the life of the rabbis and their students!”*

- [II:1 A] **He who drinks water to quench his thirst says, “Blessed [art Thou, O Lord our God, King of the Universe,] for all came into being by his word.” [M. 6:8D]**
- [B] Said R. Jonah, “[He recites the blessing over all water which he drinks] except for medicinal [e.g. laxative] water.”
- [C] Said R. Yosé, “[He recites it] over all water which he drinks on account of thirst.”
- [D] Said R. Abun, “What blessing does one who drinks medicinal [e.g. laxative] waters recite? ‘Blessed [art Thou, O Lord our God, King of the Universe] who created healing waters.’”
- [E] [*There are two versions:*] *One Tannaite authority teaches, “dkrym-water.” And the other Tannaite authority teaches, “dklym-water.”*
- [F] *According to the one who holds, “dkrym-water,” [the term means], “They purge [dkr] the bitterness [as laxatives].”*
- [G] *According to the one who holds, “dklym-water,” [the term refers to spring water such as that of a spring] which comes out from between two palm trees [dklym].*

YERUSHALMI BERAKHOT

CHAPTER SEVEN

7:1

[A] Three who ate together are obligated [to designate one person among them] to invite [the others at the meal to recite together the blessings over the meal].

[B] One who ate

[C] Demai [doubtfully tithed produce], or

[D] first tithe from which heave-offering was taken, or

[E] second tithe or produce given to the Temple which has been redeemed, or

[F] the servant who ate an olive's bulk [of food], or

[G] the Samaritan [who ate together with Israelites], may be counted [for the quorum] for extending the invitation [to recite together the blessings over the meal].

[H] But one who ate

[I] tebel [untithed produce], or

[J] first tithe from which heave-offering was not taken, or

[K] second tithe or that which has been consecrated which had not been redeemed, or

[L] the servant who ate less than an olive's bulk, or

[M] the Gentile may not be counted [for the quorum] for extending the invitation [to recite together the blessings over the meal].

[I:1 A] *There [M. 7:4] it says: [Three who ate together] are not permitted to separate. [This implies that if they finished eating at the same time, they must recite the blessings together.] And here [M. 7:1A] it says, [Three who ate together] are obligated to invite. [This implies that once they start eating together, they must recite the blessings together, even if they do not finish together. Is this not contradictory?]*

- [B] Samuel says, “One [Mishnah refers to a case of three who] started [eating together]. And one [refers to a case of three who] finished [eating together. And they are not contradictory rules.]”
- [C] What is [a case of “three who] began [eating together]”? And what is [a case of “three who] finished [eating together]”?
- [D] *Two Amoraim [dispute this]. One said, “When [three persons] had decided to eat together [at the outset, this is a case of ‘three who] began [eating together.’ And they are obligated to recite the blessings together as our Mishnah implies.]*
- [E] “And when [one or two persons had already] eaten an olive’s bulk [and then the other one or two join him, this is a case of ‘three who] finished [eating together.’ And, as the other Mishnah indicates, they are not permitted to split up to recite the blessings after the meal.]”
- [F] *And the other [Amora] said, “When [one or two persons have already eaten] and olive’s bulk [and others join, it is also a case of ‘three who] began [eating together.’ All present do continue eating the major portion of the meal together. Accordingly they are obligated to recite the blessings together.]*
- [G] “And [if someone joined them] when they had finished eating together [the entire meal, but before they recited the blessings of the meal, this is a case of ‘three who] finished [eating together’ and in such a case we say they are not permitted to separate.]”
- [I:2 A] R. Abba in the name of R. Huna, and R. Zeira in the name of Abba bar Jeremiah, “It is compulsory for three [who ate together to designate one person from among them to invite the others to recite the blessing after eating]. It is optional for two [to do so].”
- [B] *R. Zeira stated this [law] before R. Yasa. He [Yasa] said to him, “I accept only [the law of] the Mishnah: **Three who ate together are obligated to invite.** [Two may not!]”*
- [C] *[The rulings of] the rabbis here [in the Land of Israel] are consistent. [R. Yasa accords with the principle of R. Yohanan and R. Simeon b. Laqish below.] [And the rulings of] the rabbis there [in Babylonia] are consistent. [R. Abba and R. Zeira accord with Samuel’s principle below.]*
- [D] Samuel said, “If two [persons entered into a] judgement [as a court], their judgement is valid. [Three is the usual minimum number of judges in monetary cases.] But it is called a presumptuous court.”

[E] R. Yohanan and R. Simeon b. Laqish both said, “Even if two [persons entered into a] judgement [as a court], their judgement is not valid.”

- [I:3 A] R. Huna said, “Three who ate by themselves and then came together, may [designate one among them] to invite [the others to recite the blessings over the meal].”
- [B] R. Hisda said, “[They may join together as a quorum of three] only if each one came from his own group [which had eaten together with a quorum of three].”
- [C] *And in accord with the view of R. Zeira and his associates [i.e. R. Yasa, above – in order to join for a quorum] each one [must come from a group of] three who ate the meal together.*
- [D] *R. Jonah observed concerning R. Huna’s [rule in A, that three who ate by themselves later may constitute a quorum, if each one had eaten previously with a quorum accords in principle with the following:]*
- [E] If he [the priest] dipped three hyssop branches individually [in the water of purification mixed with the ashes of the red heifer] and then combined them, he may sprinkle with them [the water, to purify an unclean person].
- [F] R. Hisda said, “Only if each [hyssop branch] comes from its own bunch [of three which previously had been dipped together].”
- [G] *And in accord with the view of R. Zeira and his associates [i.e. R. Yasa] each hyssop branch [must come from a group of three] which he dipped [previously in the water] together.*
- [H] *If you [object] and say, “One cannot derive [rules for sprinkling with] the hyssop branch from [rules for reciting] blessings,” [because purity and liturgy are not related realms of the law,] we [may respond that they are related, because we] observed the rabbis discussing [the laws of] the sukkah and deriving [the basis for some of] them from [the laws regarding immersing in] the soft clay [in the pool of a bath]. [Cf. Miq. 7:1.]*
- [I] **As it was taught there: If one sets the roofing [of a sukkah] away from the walls [more than] three handbreadths, it is invalid [M. Sukkah 1:9].** But [if he sets it away] less than this distance, it is valid. May one sleep under it [the open space in the roofing in such a sukkah]?

[J] *R. Isaac b. Eliashib responded*, “Behold [the rule is that] we may count soft clay as part of [the minimum of forty seahs of liquid needed to fill] a pool, but one still may not dip in [the clay]. So too here – we may count [this space of less than three handbreadths as part of the minimum size] for a sukkah, but one [still] may not sleep under [the space to fulfill his obligation of dwelling in a sukkah].” [A principle derived from one area of the law in purities, may be applied to a totally different legal issue, regarding festivals. Accordingly, principles of the laws of sprinkling of the purification water and ashes of the red heifer can be relevant to the laws of the blessings after eating.]

[I:4 A] If three ate together and one wanted to leave – the house of Rab said, “Let him recite the first blessing and leave.”

[B] What is “the first blessing”? The house of Rab said, “It is the invitation blessing,” [the formula, “Let us recite the blessing”].

[C] R. Zeira in the name of R. Jeremiah, “It is the [first blessing of the blessings after the meal, which concludes], ‘Blessed who provides for all.’”

[D] R. Helbo bar Hanan in the name of Rab, “It is the [first blessing after the meal], ‘Who provides for all.’”

[E] *R. Sheshet objected [to the ruling of the house of Rab]. “Behold a Tannaite teaching contradicts it: ‘Two or three [who eat together] are obligated to recite the blessings of the meal [even if each knows and recites only one or two of the blessings].’*

[F] “It does not say ‘four.’ Yet if you consider the invitation blessing to be the first blessing [of the blessings after the meal] then why not say, ‘Two or three or four are obligated’?”

[G] “*But we do have a version which teaches ‘four.’*”

[H] “*Now [according to this version] if you say [the first blessing is the paragraph which ends,] ‘Who provides for all’ we are faced with a question. [Which one is the fourth blessing?]*”

[I] “*And [to resolve this] you cannot answer that [we may count as the fourth] the blessing, ‘Blessed [art thou] who is good and does good.’”*”

[J] [For this is a blessing ordained on the authority of the rabbis after the Bar Kokhba revolt.] As R. Huna said, “When they [the Romans] allowed the martyrs of Betar to be buried, the blessing

‘Who is good and does good’ was established. ‘Who is good’ [praises God] because the bodies did not decompose and ‘Who does good’ [praises God] because they allowed them to be buried.”

[K] Said R. Huna, “You may resolve this issue [that ‘four’ refers to the first three blessings and to the fourth, ‘Who is good and does good’] in accord with the view of R. Ishmael. For R. Ishmael said, ‘The blessing “Who is good and does good” was ordained on the authority of Scripture.’”

[L] **“[This claim is further supported by the following: All the meal blessings were ordained on the authority of Scripture.] As it is written, ‘And you shall eat and be satisfied, and you shall bless [the Lord your God for the good land he has given you]’ [Deut. 8:10] – this refers to the invitation-blessing.**

[M] **“‘The Lord your God’ – this refers to [the first blessing of the blessings of the meal], ‘Who provides for all.’”**

[N] **“‘For the [good] land’ – this refers to [the second] blessing, [concerning] the land.**

[O] **“‘For the good [land]’ – this refers to [the third] blessing, [concerning] the rebuilding of Jerusalem. As it says, ‘That goodly hill country and Lebanon’ (Deut. 3:25).**

[P] **“‘He has given you’ – this refers to [the fourth] blessing], ‘Who is good and does good’ [T. 6:1].**

[I:5 A] It is written in the Torah [i.e. one may find a basis in Scripture concerning the obligation to recite] a blessing before it [i.e. studying Torah]. But it is not written in the Torah [i.e. one can find no basis in Scripture for the obligation to recite] a blessing after it [i.e. studying Torah].

[B] Where do we find it written in the Torah [i.e. support in Scripture for the obligation to recite] a blessing before it [studying Torah]? “For I will proclaim the name of the Lord. [This implies that when coming to study first one must recite a blessing –] Ascribe greatness to our God” [Deut. 32:3].

[C] It is written [in the Torah, i.e. one may find a basis in Scripture for the obligation to recite] a blessing after the meal. But it is not written [in the Torah, i.e. one can find no basis in Scripture for the obligation to recite] a blessing before [the meal].

- [D] Where do we find it is written [i.e. support in Scripture for the obligation to recite a blessing] after [the meal]? “And you shall eat and be satisfied, and you shall bless the Lord your God” [Deut. 8:10].
- [E] And whence that we apply the rule specified for the former [that one must recite a blessing before Torah study] to the latter [to require one to recite a blessing before the meal], and that we apply the rule specified for the latter [that one must recite a blessing after the meal] to the former [to require one to recite a blessing after Torah study]?
- [F] R. Samuel bar Nahmani in the name of R. Jonathan, “We derive it [by inference from a gezerah shawah, the presence of the identical word] God’s name [in both verses]. Just as [the word] ‘Lord’ [Deut. 32:3] is present [in the verse on which we base the obligation to recite a blessing] for the [study of] Torah [and it requires that one recite] a blessing before it [study], [the word] ‘Lord’ [Deut. 8:10] is also present [in the verse on which we base the obligation to recite a blessing] for the meal, [and by implication, it extends the obligation to recite] a blessing before it [the meal].
- [G] “And [vice versa]: just as [the word] ‘Lord’ is present [in the verse on which we base the obligation to recite a blessing] for the meal [and on the basis of that verse we require that one recite] a blessing after it [the meal], [the word] ‘Lord’ is also present [in the verse on which we base the obligation to recite a blessing] before the [study of] Torah, [and by implication, because of the common word we extend to that the obligation to recite] a blessing after it [the study of Torah].”
- [H] This solves the problem [of the Scriptural basis of these blessings] according to R. Aqiba [who believes it to be legitimate to extend the law through implication of the presence of the identical word in two verses – gezerah shawah]. But according to R. Ishmael [who does not consider it legitimate to employ this hermeneutical principle to extend the law, what is the basis for reciting these blessings, before the meal and after Torah study]?
- [I] R. Yohanan in the name of R. Ishmael, “A qal wahomer [argument serves as the logical basis to derive the obligation for reciting the blessings]: What [is the case regarding] the meal? One need not recite a blessing before [the meal, implying that it is a lighter, less restrictive, ritual] but one still must recite a blessing after [the meal]. [The case regarding the study of] Torah [is that] one must recite a blessing before [Torah study, implying that it is a heavier, more restrictive, ritual, surely] it is logical to conclude that one must recite a blessing after [Torah study]. This solves the problem

[of the logical basis for the obligation to recite a blessing after the study of] Torah.

[J] “What [can we say regarding the logical basis for the obligation to recite a blessing before eating] the meal? If [it is the case regarding] Torah [study] for which one need not recite a blessing after [Torah study], [that nevertheless] one must recite a blessing before [Torah study], [then for] the meal for which one must recite a blessing even after [eating a meal], [it is logical to conclude] that one must also recite a blessing beforehand.”

[K] [Regarding the basis in Scripture of the obligation to recite a blessing before eating a meal] R. Isaac and R. Nathan [disputed].

[L] R. Isaac said [the source is], “Since he must bless the sacrifice; afterward those eat who are invited” [I Sam. 9:13].

[M] R. Nathan said [the source is], “You shall serve the Lord your God, and I will bless your bread and your water” [Ex. 23:25].

[N] When is it called your bread and your water? Before you eat it. [After you, “Serve the Lord” by reciting a blessing.]

[O] Rabbi says [the logical argument for the obligation to recite a blessing before eating is as follows], “If he must recite a blessing when he has eaten and is full, he surely must recite a blessing when he is hungry.”

[P] This solves the problem of [the logical basis for the obligation to recite a blessing before] the meal. What [is the logical basis for obligation to recite a blessing after the study of Torah]?

[Q] If you must recite blessings before and after the meal, which provides only for [your] temporal sustenance, surely [you must recite blessings before and after] Torah study, which provides for [your] eternal sustenance [in the World to Come].

[I:6 A] *R. Zeira posed a question, “To what case shall we compare the practice of calling three persons [to read from the Torah on Saturday afternoon and Monday and Thursday mornings]? To a case of three who ate together? Or to a case of three who ate each one by himself?”*

[B] *If we compare it to a case of three who ate together [where one person recites the meal blessings on behalf of all those present], then we shall*

have to conclude that the first [to read from the Torah] recites the first blessing [before reading, on behalf of all three who read thereafter] and the last [to read] recites the last blessing [after reading, on behalf of all who read prior], and the middle person recites no blessing at all.

- [C] *And if we compare it to a case of three who ate, each one by himself [where each one recites his own blessings], then even the middle person [called to the Torah] must recite the blessings before and after [reading his portion].*
- [D] Said R. Samuel bar Abdimi, “[Zeira’s question implies that] they derive inferences concerning the rules for reciting the blessings over the Torah [reading] from the rules for reciting the invitation blessing [of the meal] only in the case of public practice.
- [E] “And if [they wish to derive this with regard to] public practice, will you say that an individual [who studies Torah] privately, need not recite a blessing?”
- [F] Said R. Abba Mari brother of R. Yosé, “They treated [an individual’s obligation of reciting blessings over private Torah study] like all of the other commandments of the Torah. Just as one must recite blessings over all of the commandments of the Torah [whether in public or private], one also must recite blessings over this [private Torah study].”

[II:1 A] One who ate demai [produce purchased from an ‘am ha’ares, a person who may not have separated tithes from it] [may be counted for a quorum] [M. 7:1B]. *In accord with this they have said:* one who ate produce [of his own] concerning which there was doubt whether or not tithes had been separated from it – they may extend the invitation [to him to join in a quorum for the recitation of the blessings after the meal. Why did the Mishnah not include this law?]

- [B] Said R. Simeon brother of R. Berakhiah, “At the time they ordained [the rules of] demai-produce the majority of ‘ammé ha’ares used to bring [their produce] into their houses [and separate tithes. Hence the case of demai is different from the ordinary case of doubt regarding whether tithes have been separated from one’s own produce and although one who ate demai is accepted, one who had a doubt about his own produce is not.]”
- [C] *Whence then do we derive [the above rule concerning doubtfully-tithed produce (A)]? From the following: **They may invite [to join as a quorum for the recitation of the blessings after the meal on account of] the Samaritan [M. 7:1B].***

- [D] And is not the Samaritan a case of doubt [whether he is an Israelite, yet we accept him. Therefore we should also accept a person who ate doubtfully tithed food, A's case.]
- [E] Said R. Abba, "We may resolve this issue [as to why Mishnah did not include this law of A] as follows: [Our Mishnah follows the opinion that a Samaritan has the status of a Jew.]
- [F] "[And this is a matter of dispute between two Tannaim as follows:] 'A Samaritan has the status of a Gentile,' the words of Rabbi.
- [G] R. Simeon b. Gamaliel says, 'A Samaritan has the status of a Jew in every respect.'" [The case of doubt regarding one's own produce is not included in Mishnah because it is different from the case of doubt regarding both demai, as we saw in B, and the Samaritan, as we see here.]

7:2

- [A] **Women, slaves, or minors [who ate together with adult Israelite males] may not be counted [in the quorum] for extending the invitation [to recite the blessings over the meal].**
- [B] **What is the minimum amount [that one must eat] so that he may be counted [in the quorum] for extending the invitation [to recite the blessings over the meal]?**
- [C] **At least an olive's bulk.**
- [D] **R. Judah says, "At least an egg's bulk."**
- [I:1 A] R. Simon in the name of R. Joshua b. Levi, R. Yosé b. Saul in the name of Rabbi, "They may count in one minor to [be included in] the ten [which they need in order to establish a bigger quorum to invoke the name of God in inviting the others in the group to recite the blessing of the meal. However one may not count a child as one of the three to constitute the basic quorum for extending the invitation to others to join as a quorum for the recitation of the blessings after the meal. Cf. M. 7:3 below]."
- [B] *But behold is it not taught: One is not strict regarding a minor [T. 5:18]?* [This implies that one may count a minor even as one of the three needed for the basic quorum.]
- [C] Said R. Yosé, "[The following teaching of] R. Simon [in the name of R. Joshua ben Levi] accords with this teaching: R. Hanina, R. Simon, in the name of R. Joshua b. Levi, "[The minor referred to] is a minor [in terms] of years [i.e. who is less than thirteen years old, but is not a minor in terms of physical signs of maturity]. For [in most cases of the

law] if he is a minor [in this respect], they treat him as a case of doubt [whether or not he is an adult].

- [D] [But with regard to our law, whether they may count him for the requisite number for extending the invitation to others to join as a quorum for the recitation of the blessings after the meal], they resolve this case of doubt [and do not treat him like a child. That is in T., **One is not strict regarding a minor** – i.e. they treat him like an adult.]”
- [E] R. Judah bar Pazzi in the name of R. Yosé, “In a case where nine [persons who ate together] appear to be ten [because they were close together], may they extend the invitation [to recite the blessings over the meal on account of those nine?]
- [F] [Of course not! They must have the] exact number.
- [G] Rather [Judah must mean,] “If there was among them a minor, [they then may regard the presence of nine adults as if they were ten in accord with the rule of A].”
- [H] *R. Berekhiah said, “R. Jacob bar Zabedi asked R. Yosé, It is logical that just as they said there that they may count one minor in the ten, they also should allow them to count one minor in the three. For there, when they count a minor [in the ten], they invoke God’s name [on his account]. Here they surely [should allow a minor to be counted in the three, for in this case they] would not even invoke God’s name [on his account].”*
- [I] He answered him, “Your logic a fortiori is not sound. [In fact, the opposite of what you argue makes sense.] There [in the case of reciting the invitation with a quorum of ten,] only in order to invoke God’s name [by constituting a quorum of ten,] may they count him!
- [J] But here [in the case of three,] where they would not [by counting him for the minimum] invoke God’s name [for extending the invitation with a quorum of three not as much is gained by counting the child, hence,] they may not count him in.”
- [K] *It was taught:* They may count in a minor or a Torah-scroll [with nine adults to reach the quorum of ten].
- [L] *Said R. Yudan, “The correct version of the teaching is:* They may count in a minor [with six adults to count as one of the seven who read from] the Torah-scroll.”

[M] At what stage may a minor be counted in with adults? *R. Abina* said, “*R. Huna* and *R. Judah* disputed this matter. Both [cited traditions] in the name of *Samuel*.”

[N] “One said, ‘As soon as he knows [how to recite] the form of the blessings.’”

[O] “The other said, ‘As soon as he understands to whom he directs his blessings.’”

[P] *Said R. Nasa*, “*I ate many times with my father R. Tahalifa and with my uncle Hanania bar Sisi and they did not invite [others to recite the blessing] on my account until I showed signs of puberty.*” [They did not accept *T.*’s rule (B).]

[I:2 A] *Samuel bar Shilat* posed this question to *Rab*, and some say they posed this question to *Samuel bar Shilat*, “[What is the practice] if nine [people are eating] bread, and one [is eating] vegetables? [Do they designate one of them to invite the others in the group to recite the blessings over the meal with the invocation of God’s name, as is the practice with a group of ten who eat bread together?]”

[B] He said to them, “They invite.”

[C] “[If there were] eight [eating] bread, and two [eating] vegetables?”

[D] He said to them, “They invite.”

[E] “[If there were] seven [eating] bread, and three [eating] vegetables?”

[F] He said to them, “They invite.”

[G] *R. Abina* posed the question. “What about [a case of] half [of those present at the meal who were eating bread] and half [eating vegetables]?”

[H] *Said R. Zeira*, “*While I was there [in Babylonia] I did not clarify that question. Now I am sorry I did not ask [Rab or Samuel bar Shilat] about it.*”

[I:3 A] *R. Jeremiah* posed the question. “May one who ate vegetables recite the [invitation and] blessings [for the meal on behalf of those who ate bread]?”

[B] [Here *Jeremiah* raises this question. Elsewhere he treats it as a closed issue.] *Jeremiah* contradicts himself [as is evident from the end of the lengthy story which follows:]

- [C] *It was taught:* Three hundred Nazarites went up [to Jerusalem to have their vows annulled] in the time of R. Simeon b. Shetah.
- [D] He [Simeon] found a way out of the vows for one hundred and fifty of them. But he could not find a way out of the vows for [the remaining] one hundred and fifty.
- [E] *He went to Yannai the king and said to him, “We have here three hundred Nazarites who must offer nine hundred sacrifices [to fulfill their vows]. If you donate half, I will donate half.”*
- [F] *He [Yannai] sent him four hundred and fifty [animals]. One talebearer then went and told Yannai that [Simeon] did not contribute any [animals] of his own. Yannai the king heard this and became angry. Simeon ben Shetah feared the consequences and fled.*
- [G] *After some time, several esteemed individuals from the kingdom of Persia came to visit Yannai the king.*
- [H] *When they were sitting and eating they said to him, “We recall that a certain elder used to be here, and used to speak words of wisdom to us.”*
- [I] *Yannai told them what had happened [to Simeon]. They said to him, “Send for him and bring him back.” He sent for him with assurance [that no harm would befall him].*
- [J] *And Simeon came back and took his place of honor between the king and the queen.*
- [K] *Yannai said to him, “Why did you deceive me?”*
- [L] *Simeon said to him, “I did not deceive you. You gave your part out of your wealth. And I gave my part out of my knowledge of the Torah [by finding a way out of their vows for half the Nazarites,] as it is written, ‘For the protection of wisdom is like the protection of money’ [Qoh. 7:12].”*
- [M] *Yannai said to him, “Why then did you flee?”*
- [N] *He said to him, “I heard that my master was angry at me and I wanted to fulfill this verse: ‘Hide yourselves for a little while until the wrath is past’ [Isa. 26:20]. And it was said concerning me, ‘And the advantage of knowledge is that wisdom preserves the life of him who has it’ [Qoh. 7:12].”*
- [O] *And Yannai said to him, “Why did you take a seat between the king and queen?”*

- [P] He said to him, “In the book of Ben Sira it is written, ‘The wisdom of a humble man will lift up his head, and will seat him among the great’ [Ben Sira 11:1].”
- [Q] *He [Yannai] said, “Bring him the cup so that he may recite the blessing [after the meal over it].”*
- [R] *They brought Simeon the cup and he said, “Let us recite a blessing for the food which Yannai and his associates have eaten.”*
- [S] *Yannai said to him, “Must you persist in your stubbornness? [Are you making fun of us because we did not serve you any food?]”*
- [T] Simeon said to him, “What then should I say, ‘Let us recite the blessing for the food which we have not eaten’?”
- [U] *Yannai said, “Bring him food so that he may eat.”*
- [V] *And so they brought out the food [vegetable]. And he ate, and then he said, “Let us recite the blessing for the food which we have eaten.”*
- [W] Said R. Yohanan, “There are those who dispute on the matter with Simeon b. Shetah.”
- [X] R. Jeremiah said he [Yohanan] refers to the first [account of Simeon’s actions in reciting the invitation even though he had not eaten with them].
- [Y] And R. Abba said [Yohanan refers to] the second [account of Simeon’s action of reciting the invitation at the meal even though he did not eat bread with them. Simeon did not eat the meal with them. How then could he recite the invitation on their behalf?]
- [Z] *R. Jeremiah’s view here contradicts his view above [at A]. Above he questioned [whether one who ate only vegetables could recite the invitation and blessings for others who had eaten bread]. Here he takes for granted [that Simeon could recite the invitation for Yannai even though he had only eaten vegetables with him].*
- [AA] *[We may explain this contradiction as follows:] Where [Jeremiah] had a question, it was in accord with the ruling of sages. And where [Jeremiah] took the law for granted, it was in accord with the ruling of R. Simeon b. Gamaliel. [The Talmud now spells this out.]*
- [BB] **As it was taught: R. Simeon b. Gamaliel says, “When they arose [from their chairs] and reclined [on their couches] and [one who dips his food] joined them, even though he did not eat**

an olive's bulk of breadstuff [with them], they may count him [in the quorum] for extending the invitation [T.

5:20].” [According to this rule, Jeremiah approved of Simeon b. Shetah's action.]

[CC] And the words of the sages [were as follows]: R. Jacob bar Aha in the name of R. Yohanan, “They may never count him [in the quorum] for extending the invitation unless he has eaten an olive's bulk of breadstuff.” [According to this rule, Jeremiah was unclear in A whether or not one could join with a group if he had eaten only vegetables.]

[DD] *But was it not taught:* If two [ate] bread and one [ate] vegetables they could [constitute a quorum on account of the third to] invite [others in the recitation of the blessings after the meal]?

[EE] [We must conclude that] this teaching accords with R. Simeon b. Gamaliel. [But sages dispute it.]

7:3

[A] **How do they invite [the others eating with them to join together to recite the blessings after the meal]?**

[B] (1) **For three [who ate together the leader] says, “Let us recite the blessings.” For three [others] and himself he says, “Recite the blessings.”**

[C] (2) **For ten he says, “Let us recite the blessings to our God.” For ten and himself he says, “Recite the blessings [to our God].”**

[D] **The same [rule applies] for ten or for ten thousand.**

[E] (3) **For one hundred he says, “Let us recite the blessings to the Lord our God.” For one hundred and himself he says, “Recite the blessings.”**

[F] (4) **For one thousand he says, “Let us recite the blessings to the Lord our God, God of Israel.” For one thousand and himself he says, “Recite the blessings.”**

[G] (5) **For ten thousand he says, “Let us recite the blessings to the Lord our God, God of Israel, God of Hosts, who is enthroned on the cherubim, for the food we have eaten.” For ten thousand and himself he says, “Recite the blessings.”**

[H] **(And as he recites the blessings, so do they answer after him, “Blessed be the Lord our God, God of Israel, God of hosts, who is enthroned on the cherubim, for the food we have eaten.”)**

- [I] R. Yosé the Galilean says, “The [form of the] blessing they recite depends on the size of the congregation, as it says, ‘Bless God in the great congregations, the Lord, O you who are of Israel’s fountain’ [Ps. 68:27].”
- [J] Said R. Aqiba, “What do we find [concerning the form of the call to recite the Prayer] in the synagogue? Whether there are many or few they say, ‘Recite the blessings to the Lord.’” [The same rule should apply for the collective recitation of the blessings after the meal.]
- [K] R. Ishmael says, “[The form of the call to Prayer is:] ‘Recite the blessings to the Lord who is blessed.’”
- [I:1 A] *Once [four rabbis] R. Zeira, and R. Jacob bar Aha, and R. Hiyya bar Abba, and R. Hanina, the associates of the sages, were sitting and eating. R. Jacob bar Aha took the cup and recited [the invitation to recite the blessings of the meal]. And he said, “Let us recite the blessings.” He did not say, “Recite the blessings” [as M. 7:3B says one should say with four persons present].*
- [B] R. Hiyya bar Abba said to him, “Why did you not say, ‘Recite the blessings’?”
- [C] He said to him, “*Was it not taught: One is not strict regarding the matter [T. reads: a minor]. Whether one said, ‘Let us recite the blessings,’ or ‘Recite the blessings,’ they do not take him to task for it. But the over-scrupulous take him to task for it [T. 5:18].*”
- [D] *And R. Zeira was angry because R. Jacob bar Aha had declared [by citing this passage] that R. Hiyya bar Abba was over-scrupulous.*
- [I:2 A] Samuel said, “I will not exclude myself from the rest [by saying ‘Recite’ instead of ‘Let us recite’].”
- [B] *They posed this question: What about the blessing we recite over the reading of the Torah? [The one who recites] says, “Recite the blessings to the Lord.” [He does thereby remove himself from the rest.]*
- [C] Said R. Abin, “Because he continues, ‘Who is blessed’ he does not remove himself from the rest.” [The implication is that, ‘He is blessed by us all.’]
- [I:3 A] *R. Abba bar Zimna used to serve Zeira. He [once] mixed a cup of wine for him.*
- [B] *He [Zeira] said to him, “Take it and recite the blessing [and by so doing, exempt me from my obligation]. He said to him.] Have in mind that you will drink another cup.”*

- [C] *For it was taught:* The servant recites a blessing over each cup. But he does not recite a blessing over each piece of bread.
- [D] *He [Abba] said to him, “Just as I may have in mind to exempt you from your obligation with my blessing [over the wine now], so you should have in mind to exempt me from my obligation [when you respond], ‘Amen’ [to my blessing].”* [We have a principle: the one who answers ‘Amen’ fulfills the obligation better than the one who recites the blessing.]
- [E] *Said R. Tanhum bar Jeremiah, “In this regard the Mishnah teaches: **One who [sounds the shofar while he] is practicing does not fulfill his obligation [to hear the shofar on the New Year’s Day]. And one who hears [the sound of the shofar] from one who is practicing does not fulfill his obligation [M. R.H. 4:8].”*** [The principle operative here is – one who practices does not have in mind that a person who hears the sounds will fulfill his obligation through these sounds. Accordingly, the servant should have in mind that the master may fulfill his obligation when responding “Amen” to the servant’s blessing.]

[II:1 A] For one hundred he says, [“Let us recite the blessings to our God.”] [M. 7:3E]. Said R. Yohanan, “This is [in accord with] the words of R. Yosé the Galilean. But according to sages, **The same [rule applies] for ten or for ten thousand [M. 7:3D].”**

[B] Raba said, “The law follows the [sages] view which says, **The same [rule applies] for ten or for ten thousand.”**

[II:2 A] Whence [is the Scriptural basis] that ten comprise a congregation? R. Abba and R. Yasa in the name of R. Yohanan, “[Scripture] uses [the word] ‘Congregation’ in one instance [‘The congregation shall judge, And the congregation shall rescue’ [Num. 35:24, 25], and uses [the word] ‘Congregation’ in another instance [‘How long shall this wicked congregation murmur against me?’ (Num. 14:27)].

[B] “Just as [the word] ‘Congregation’ in the latter instance refers to ten persons [the twelve spies excluding Joshua and Caleb], [the word] ‘Congregation’ in the former instance refers to ten persons. [And accordingly all judgments should take place in the presence of ten].”

[C] Said R. Simon, “[Scripture] uses [the word] ‘Among’ in one instance. [‘I will be hallowed among the children of Israel’ [Lev. 22:32], and] uses [the word] ‘Among’ in another instance, ‘Thus the children of Israel came to buy among the others who came’ [Gen. 42:5].

- [D] “Just as [the word] ‘Among’ in the latter case is a reference to ten [persons, i.e. the twelve brothers excluding Joseph and Benjamin], it also implies ten [are needed in other instances to comprise a congregation for sanctification of God’s name].”
- [E] Said to him R. Yosé b. R. Bun, “If you base your teaching on the word ‘Among,’ why, it appears many more times [in Scripture]! [Rather base your teaching on the words ‘The children of Israel’ which Scripture uses in both the preceding verses.
- [F] “It says here ‘Children of Israel’ and it says there ‘Children of Israel.’ Just as [the words] ‘Children of Israel’ there refer to ten [in Gen 42:5], they also imply ten [persons are needed to comprise a congregation in other instances].”
- [II:3 A] How do sages deal with R. Yosé the Galilean’s Scriptural proof [in M. 7:3I]? [They say,] “In the congregation [Ps. 68:27]” means in each congregation [shall you bless the same way. It does not mean according to the size of the congregation shall you bless.]
- [B] Said R. Haninah son of R. Abbahu, “‘Congregation,’ is written mqhlt [instead of mqhlwt] in the defective form [which implies the singular, not the plural, to teach that there is one correct way to recite the blessing in all instances].”
- [III:1 A] **Said R. Aqiba, “What do we find [concerning the form of the call to recite the Prayer] in the synagogue? Whether there are many or few they say, ‘Recite the blessings to the Lord.’” [The same rule should apply for the collective recitation of the blessings after the meal.] [M. 7:3J].**
- [B] *R. Hiyya bar Ashi came up to read from the Torah. He said, “Recite the blessings to the Lord,” but he did not say, “Who is blessed.” They tried to silence him.*
- [C] *Rab said to them, “Let him be. For he is following R. Aqiba’s practice.”*
- [D] *R. Zeira came up to read from the Torah as a priest in place of a Levite. He recited the blessings both before and after reading. And they tried to silence him.*
- [E] *R. Hiyya bar Abba said to them, “Let him be. For that is their practice in his place [Babylonia].”*

- [III:2 A] It is written, ‘And Ezra blessed the Lord, the great God [hgdwl]’ [Neh. 8:6]. And how did he magnify [hgdy] Him? He magnified Him by invoking the divine name.
- [B] R. Matna said, “He magnified Him with a blessing.”
- [C] R. Simon in the name of R. Joshua b. Levi, “Why were they called the Men of the Great Assembly? Because they restored [God’s] greatness to its former stature.”
- [D] Said R. Pinhas, “Moses ordained the form of the prayer: Great and mighty and awesome God. Jeremiah said, ‘Great and mighty God’ [Jer. 32:18] but he did not say ‘awesome.’ Why did he call Him ‘mighty?’ Because it is fitting to call ‘mighty’ one who is able to witness the destruction of his Temple and keep silent.
- [E] “And why did he not call him ‘awesome?’ Because ‘awesome’ refers only to the Temple, as it says, ‘Awesome is God in his sanctuary’ [Ps. 68:35].
- [F] “Daniel said, ‘O Lord, the great and awesome’ [Dan. 9:4]. And why did he not call Him ‘mighty?’ Because when we, His children are [in captivity] in chains, how can we call Him ‘mighty?’
- [G] And why did he call Him ‘awesome?’ It is fitting to call Him ‘awesome’ because of the awesome deeds He did [to save] us in the fiery furnace.
- [H] “And when the Men of the Great Assembly arose, they returned the greatness to its former stature [and ordained that they should say,] ‘The great and mighty and awesome God’ [Neh. 9:32].”
- [I] But do men of flesh and blood [i.e. Jeremiah, Daniel] have the authority to place a limit on such things [as the praise of God]?
- [J] Said R. Isaac b. Eleazar, “The prophets know that God is always true and they do not try to flatter [Him]. [They are justified when they limit Prayer.]”

7:4

- [A] Three who ate together are not permitted to separate [to recite the meal blessings because if they do so they will not have the minimum quorum of three needed to be able to extend to others the invitation to recite together the blessings after the meal.]**

- [B] **And so too four, and so too five [who are eating together may not separate because if they do, some of them will not be able to recite the blessings after the meal with a quorum.]**
- [C] **Six [or more] may separate [into two groups of at least three each] until [they reach] ten.**
- [D] **Ten [or more] may not separate [because they invoke the name of God in the invitation that they recite with the more substantial quorum of ten, and if they separate, some will not be able to recite the meal blessings with the fuller invitation formula] until [they reach] twenty [then they may separate into two groups of ten].**
- [I:1 A] *It was taught:* One who was sitting and eating on the Sabbath and forgot and did not mention the Sabbath [in the blessings after the meal] – Rab says, “He must repeat [his recitation of the blessings after the meal].” And Samuel says, “He need not repeat.”
- [B] Simeon bar Ba in the name of R. Yohanan, “If one had a doubt whether or not he mentioned the new moon, they do not make him repeat [his recitation of the blessings after the meal].”
- [C] *We find a teaching which contradicts this:* **Any day on which there is an Additional Sacrifice [and accordingly, they recite the Additional Service], such as the new moon or an intermediate day of the festival, [in the Morning and Afternoon Services one recites the Prayer of Eighteen] and one says a prayer corresponding to the occasion [and in the Additional Prayer one says a prayer concerning the sanctity of the day in the seventeenth blessing,] the Temple service. If one did not say it, they make him repeat [his recitation of the Prayer] [T. 3:10].** [This implies that if he forgot to say the appropriate prayers in the meal blessings, they should make him repeat his recitation of the blessings after the meal.]
- [D] **And any day on which there is no Additional Sacrifice [and accordingly, they do not recite the Additional Service], such as Hanukkah or Purim, [in the Morning and Afternoon Services one recites the Prayer of Eighteen and] says [a prayer] corresponding to the occasion. If he did not say it, they do not make him repeat [T. 3:10].**
- [E] *Hanan bar Abba and the associates were sitting and eating on the Sabbath. When they finished eating and reciting the blessings, [Hanan] got up and left. When he later returned, he found them reciting the blessings [again]. He said, “Have we not already recited the blessings?”*

- [F] They said to him, “We recited the blessings. But now we are repeating the blessings *because [the first time] we forgot to make mention of the Sabbath.*”
- [G] [Hanan replied,] “But did not R. Ba say in the name of R. Huna, R. Jeremiah of Tobah in the name of Rab, “If one forgot and did not mention the Sabbath [in the blessings after the meal] he should say [at the end of the blessings], ‘Blessed be he who gave a time for rest to his people Israel’?”
- [H] [You may resolve this question as follows:] Here [the associates repeated because in that case they already] turned their attention away [from the blessings]. There [Rab rules they may add a sentence at the end of the liturgy because in that case] they had not yet turned their attention away [from the blessings].
- [I:2 A] *It was taught: Ten people who were travelling on the road [and eating], even if they all eat from the same loaf, each recites the blessings [after the meal] for himself.***
- [B] If they [stopped travelling and] sat down and ate [together], even if each eats from his own loaf, one person recites the blessings for the meal on behalf of all of them [T. 5:23].**
- [C] *R. Jeremiah invited his associates to recite [the blessings for the meal] when [they were travelling only in a case where] they had stopped [to eat] in an inn [but not by the roadside].*

7:5

- [A] Two groups [of people] eating in the same house, may combine together for the invitation [i.e. Zimmin, to designate one representative to invite members of both groups to recite the meal blessings only] if some members of each group can see one another.**
- [B] But if not, each group by itself [designates its own representative who] invites [the others in the group to recite together the blessings].**
- [C] “And they may not recite the blessing over the wine [which they drink] unless they dilute it with water,” the words of R. Eliezer.**
- [D] And sages say, “They may recite [the blessing even over undiluted wine which they drink].”**
- [I:1 A] [The ruling at M. 7:5A is obvious. Why does M. teach it?] R. Jonah and R. Abba bar Zimna in the name of R. Zeira, “[We need the ruling in M. 7:5A to teach us the law that two groups may combine together if they can see one another even if they are eating] in two separate**

houses.” [And the phrase in M. 7:5A, “in the same house” applies only to the case of M. 7:5B.]

[B] Said R. Yohanan, “[Two groups may combine] only if they had entered [to eat] from the outset with this intention.”

[C] *Do we consider the Patriarch’s house* [where the doors between the rooms may be opened or closed] like one house or like two [with regard to the present law]? We may say [it depends –] if it is customary [for people] to pass from one room to the other [during the meal, then the two groups in both rooms] may combine to [constitute a quorum to] extend the invitation [to recite the blessings after the meal.] But if not, they may not combine to extend the invitation.

[D] *R. Berekhiah set up his expounder [interpreter] in the middle hall of the house of study [between the rooms] and he [the expounder] invited [those assembled to recite] on behalf of both groups.*

[II:1 A] “They do not recite the blessing over the wine unless they dilute it with water,” the words of R. Eliezer.

[B] **And sages say, “They may recite [the blessing]” [M. 7:5C-D].**

[C] R. Zeriqa in the name of R. Yosé b. Hanina, “The sages will agree with R. Eliezer that one should put [at least] a bit of water into the cup of wine over which one recites the blessing [of the meal].”

[D] *The rabbis customarily [diluted with a bit of water] the cup of wine over which they recited the Prayer of Sanctification.*

[E] *R. Yosé [b. Haninah’s] tradition contradicts [a ruling of] R. Jonah. For R. Jonah used to first take a sip from the cup [after reciting the blessing over it] and then he would prepare it [by diluting it properly for drinking].*

[F] *[Now] if you say that [Jonah’s wine] was already mixed [when he recited the blessing and after tasting it he diluted it more to suit his taste] lo, it was taught: One who drinks liquids which had been mixed for drinking and left to stand overnight – may his blood be upon his own head [because he puts himself in danger].*

[G] Said R. Yohanan, “This applies [only to liquid] which was left overnight in a metal container.”

[II:2 A] R. Jeremiah in the name of R. Yohanan, “The ancient [sages] used to ask, ‘Can the left hand help the right hand out [to hold the cup] when one is reciting the blessing [after the meal] over a cup of wine?’

- [B] *“You learn three things from this question.*
- [C] *“You learn that one must hold the cup in his right hand.*
- [D] *“And you learn that one must hold his hand up at least a handbreadth above the table [and not rest it on the table].*
- [E] *“And you learn that one must pay attention to the cup [and not put it down and take his mind off it].”*
- [F] Said R. Aha, “Three things were said concerning the cup over which one recites the blessing.
- [G] “It must be full.
- [H] “It must be decorated.
- [I] “It must be clean.
- [J] “And all three [are suggested] in one verse, ‘O Naphtali, satisfied with favor, and full of the blessing of the Lord’ [Deut. 33:23]. [This implies that for the cup over which one recites, ‘The blessing of the Lord,’ one must be] ‘Satisfied’ with decorations.
- [K] “‘Favor’ [implies the cup must be] clean.
- [L] “And [when one recites the blessings over the cup it must be] as it implies, ‘Full.’”
- [M] Said R. Haninah, “Since you have gone [and interpreted part of the verse,] what does [the remainder] of the verse mean, ‘Possess the lake and the south?’” [It implies that when you follow the advice of the verse] you will be worthy to inherit [a share in] both in this world and the world to come.
- [N] Said R. Eleazar, “One does not recite a blessing over a defective cup. Once he sips it [i.e a cup which has exactly the minimum], he renders it defective.”
- [O] *You learn from this three things.*
- [P] *You learn that one does not recite a blessing [after the meal] over a defective cup.*
- [Q] *You learn that a cup must contain a minimum quantity.*
- [R] *And you learn that when one sips [a cup which has exactly the minimum] he renders it defective.*

- [II:3 A] Said R. Tanhum bar Yudan, “[If on the Sabbath or festival one had just a single cup of wine] the honor of the day takes precedence over the honor of the night. [He should drink it in the meal he eats during the day.]
- [B] “[If one had enough for just a single cup of wine,] [Y. has:] the Prayer of Sanctification of the [Sabbath] night takes precedence over the Prayer of Sanctification of the [Sabbath] day. [T. adds: And the [Prayer of] Sanctification of the [Sabbath] day takes precedence over the honor of the day and the honor of the night] [T. 3:8].”
- [C] And what is the honor of the day? R. Yosé in the name of R. Jacob bar Aha and R. Eleazar bar Joseph in the name of Rab, “[Reciting the blessing,] ‘Creator of the fruits of the vine.’”
- [II:4 A] R. Zeriqan, the brother-in-law of R. Zeriqan, mentioned Hanukkah in the [second blessing of the meal], “For the land” and they praised him.
- [B] R. Ba, son of R. Hiyya bar Ba mentioned “The true judge” [the mourner’s blessing] in the [fourth blessing of the meal], “Who is good and does good” and they praised him.
- [II:5 A] R. Ba, son of R. Hiyya bar Abba, “One who eats while walking, should stand still to recite the blessings. One who eats while standing, should sit to recite the blessings. One who eats while sitting, should recline to recite the blessings. One who eats while reclining, should wrap himself in his cloak to recite the blessings.
- [B] “And if he does [wrap himself around], lo, he is like the ministering angels.
- [C] “*What is the basis in Scripture for this?* ‘Above him stood the seraphim; each had six wings: with two he covered his hands and with two he covered his feet.’” [Isa. 6:2].

YERUSHALMI BERAKHOT

CHAPTER EIGHT

8:1

- [A] These are the matters disputed by the House of Shammai and the House of Hillel concerning the dinner:
- [B] The House of Shammai say, “[In the Prayer of Sanctification at the dinner on the eve of the Sabbath or festival] they recite the blessing over [the Sabbath or festival] day, and then they recite the blessing over the wine.”
- [C] And the House of Hillel say, “They recite the blessing over the wine, and then they recite the blessing over the day.”
- [I:1 A] What is the basis of the House of Shammai’s view? [They reason that] one uses wine on account of the sanctity of the [Sabbath] day. And one is obligated to recognize the sanctity of the day [through recitation of the Prayer of Sanctification of the Sabbath or festival] before he uses the wine.
- [B] And what is the basis of the House of Hillel’s view? [They reason that] the presence of wine [at the meal] allows a person to say the [blessing for the] sanctification of the day. [That is, without the wine there is no opportunity to recite the blessing for the day. Therefore one first recites the blessing over the wine.]
- [C] Another explanation [to support the view of the House of Hillel]: The [blessing over the] wine is a frequent action. The [sanctification blessing over the day] is not a frequent action. [And the principle is – that which is more frequent takes precedence in the order of performance] [T. 5:25].
- [I:2 A] Said R. Yosé, “[We may deduce [that] both [Houses] agree [with regard to the order of the blessing over] the wine and the Prayer of Division [at the conclusion of the Sabbath], the blessing over the wine comes first.

- [B] “[The House of Shammai’s above argument does not apply in this case.] The House of Shammai’s reason [in the case of reciting the blessings on Friday eve at the meal at the beginning of the Sabbath] was that they use the wine on account of the sanctity of the [Sabbath] day. And here [in the case of the recitation of the Prayer of Division at the conclusion of the Sabbath] they do not use the wine on account of the Prayer of Division [which marks the end of the Sabbath day. One fulfills his obligation to recite a Prayer of Division when he recites the appropriate words in the Prayer of Eighteen in the Evening Service at the conclusion of the Sabbath. The recitation of another Prayer of Division at home is a secondary requirement.] So the blessing over the wine comes first.
- [C] “The House of Hillel’s reason [in the case of reciting the blessings on Friday eve at the meal at the beginning of the Sabbath] was that they first [recite the blessing over] the wine because [reciting it] is a frequent action, and [reciting the blessing for] the Sanctification of the day is infrequent. Likewise here [in the case of the recitation of the Prayer of Division at the conclusion of the Sabbath], since [reciting the blessing over] the wine is frequent and [reciting] the Prayer of Division is infrequent, they first [recite the blessing over] the wine.”
- [D] Said R. Mana, “[We may deduce] from the statements of the two parties [the opposite, that is that] both Houses agree that with regard to [the blessing over] the wine and Prayer of Division, the Prayer of Division comes first.
- [E] “The House of Shammai’s reason [in the case of reciting the blessings on Friday eve at the meal at the beginning of the Sabbath] was that one is already obligated to recite the blessing for the day [when it gets dark on Friday night] before he uses the wine. And likewise here [in the case of the recitation of the Prayer of Division at the conclusion of the Sabbath], since one is obligated to recite the Prayer of Division [when it gets dark on Saturday night] before he obtains the wine, the recitation of the Prayer of Division comes first.
- [F] “And the House of Hillel’s reason [in the case of reciting the blessings on Friday eve at the meal at the beginning of the Sabbath] was that the [presence of wine] allows one to recite the blessing for the [Sanctification of the] day. But here [in the case of the recitation of the Prayer of Division at the conclusion of the Sabbath], since one does not need wine to enable him to recite the Prayer of Division [because he may fulfill his obligation by reciting a Prayer of Division in the Prayer of Eighteen on Saturday night], the Prayer of Division comes first.”

[I:3 A] Said R. Zeira, “[We may deduce that] both [R. Yosé and R. Mana] agree that one is permitted to recite the Prayer of Division without wine, but one may recite the Prayer of Sanctification of the Sabbath only with wine.”

[B] *This is [indeed also] R. Zeira’s own view.*

[C] For R. Zeira said, “One may recite the Prayer of Division over beer [if they have no wine]. But one must go searching from place to place [to find wine] in order to recite [the Prayer of] the Sanctification [of the Sabbath day].”

[D] Said R. Yosé b. Rabbi, “This is the custom [in Babylonia] in a place where they have no wine [available for the recitation of the Prayer of Sanctification]. The leader goes before the ark [to recite the Prayer on Friday eve] and he recites the [special Sabbath] blessing which embodies an abstract of the seven [intermediate blessings of the daily Prayer of Eighteen] and he concludes it by saying, ‘Blessed art thou O Lord, who sanctifies Israel and the Sabbath Day.’” [Through this recitation, they fulfill their obligation to recite the Prayer of Sanctification.]

[I:4 A] *And that poses a question regarding the view of the House of Shammai: On the Sabbath eve, how should one act? If one was sitting and eating on the eve of the Sabbath, and night fell and the Sabbath commenced, and he had only one cup of wine, you say that he should set it aside until he finishes the meal, and then recite all [the blessings] together over it [i.e. the blessings over the meal, the day, and wine].*

[B] What do you prefer [that one do according to the view of the House of Shammai]?

[C] Should he first recite the blessing over the [Sabbath] day [as they say in Mishnah]? [This makes no sense because] the meal came before it!

[D] Should he first recite the blessing over the meal? [This makes no sense because] the wine came before it! Should he first recite the blessing over the wine? [This makes no sense because] the [sanctity of the] day came before it!

[E] *Let us deduce [the proper order] from the following: **If they obtained wine after finishing the meal, and they had only one cup: [The House of Shammai say, “They recite the***

blessing over the wine, and then they recite the blessing over the meal]” [M. 8:8].

[F] Said R. Ba, “[That citation from M. 8:8 is no proof] because the blessing over the wine is a short blessing. [In that case we may say that he must recite it first] lest he forget [to recite it after saying the blessing over the meal] and then drink the wine [without a blessing]. *But here* [in our present case], since he recites the blessings together and recites them over the cup he will not forget [to recite the blessing for the wine].

[G] “What should he do to act in accord with the opinion of the House of Shammai? He should first recite the blessing over the meal, and afterwards over the day, and afterwards over the wine.”

[H] *And a question was raised regarding the view of the House of Hillel: At the conclusion of the Sabbath, how should one act?*

[I] If one was sitting and eating on the Sabbath, and night fell and the Sabbath ended, and he had only one cup of wine, you say that he should set it aside until he finishes the meal, and then recite all [the blessings] together over it [i.e. the blessings over the wine, the light, the spices, the Prayer of Division, and the blessings after the meal].

[J] What do you prefer [that one do according to the House of Hillel]? Should he first recite the blessing over the wine? [This makes no sense because] the meal came before it!

[K] Should he first recite the blessing over the meal? [This makes no sense because] the light came before it!

[L] Should he first recite the blessing over the light? [This makes no sense because] the Prayer of Division came before it!

[M] *Let us deduce [the proper order] from the following: Said R. Judah, “The House of Shammai and the House of Hillel did not dispute that the blessing over the meal comes first, and the Prayer of Division comes last.*

[N] “What did they dispute? [The order of the blessings] over the light and over the spices.

[O] **“For the House of Shammai say, ‘Spices and then light.’**

[P] **“And the House of Hillel say, ‘Light and then spices’** [T. 5:30]. [The order is first the meal blessing then the Prayer of Division.]

[Q] Raba and R. Judah, “The law accords with the one who says, ‘Spices and then light.’” [The House of Shammai.]

[R] How does one proceed in accord with the opinion of the House of Hillel?

[S] He first recites the blessing over the meal, and afterwards recites the blessing over the wine, and after that recites the blessing over the light.

[I:5 A] A festival day which fell on the day after the Sabbath [i.e. on Sunday]: R. Yohanan said, “[The order of the blessings at the meal at the conclusion of the Sabbath is] wine, Sanctification [for the festival], light, Prayer of Division.”

[B] Hanin bar Ba said in the name of Rab, “[The order of the blessings at the meal at the conclusion of the Sabbath is] wine, Sanctification [for the festival], light, Prayer of Division, [‘Who sanctified us with his commandments and commanded us to dwell in a] sukkah,’ [said on Sukkot,] and [‘Who gave us life and kept us alive and brought us to this] season,’ [said on the festivals.]

[C] R. Haninah said, “[The order of the blessings at the meal at the conclusion of the Sabbath is] wine, light, Prayer of Division, and Sanctification [for the festival].”

[D] *And did not Samuel rule in accord with this opinion of R. Hanina?*

[E] For said R. Aha in the name of R. Joshua b. Levi, “When a king [i.e. the Sabbath] departs and a governor [i.e. the festival] enters, they first accompany the king out [they recite the Prayer of Division to mark the end of the Sabbath] and then bring in the governor [they recite the Prayer of Sanctification for the festival].”

[F] Levi says, “Wine, Prayer of Division, light, Sanctification.”

[G] It stands to reason that Levi ruled by combining both [the views of Hanina, because he puts the Prayer of Division before the Sanctification, and Yohanan, because he juxtaposes the blessing for the light and the Prayer of Division].”

- [H] *Said R. Zeira, “R. Yosé posed this question before me: ‘What is our practice [in the present case]?’”*
- [I] He said to him, “[We act] according to Rab and according to R. Yohanan [A-B].”
- [J] *And so was the decision in accord with Rab and with R. Yohanan.*
- [K] *And when R. Abbahu went south, he acted in accord with R. Hanina [C]. And when he went to Tiberias he acted in accord with R. Yohanan [A]. For one does not act contrary to [the view of] a person in the place where he is the authority.*
- [L] *There is no problem if one acts according to the opinion of R. Hanina [(C) one recites the blessing over the wine, then one recites the blessing over the light].*
- [M] But if one acts according to the opinion of R. Yohanan [A], [why does he recite the Prayer of Sanctification first]? Why does he not recite the blessing over the light [as soon as possible after the blessing over the wine], lest the light go out, as is the practice [on every regular Sabbath] throughout the year? Here too [on this special occasion] he should recite the blessing [as soon as possible] over the light lest the light go out [if the oil is used up]
- [N] *How then may one justify R. Yohanan’s practice?*
- [O] Since he has wine [for his meal we may rest assured that] his light will not go out. [He will have enough oil. We presume one first secures enough oil for his lamp, and then buys wine for his meal.]
- [P] So why then does he not postpone the blessing over the light until the very end?
- [Q] In order not to disrupt the routine for [the recitation of the blessings in the Prayer of Division for] other Sabbaths to come.

8:2

- [A] **The House of Shammai say, “They wash their hands [before beginning the meal], and then they mix the cup [of concentrated wine with water to prepare it for drinking].”**
- [B] **And the House of Hillel say, “They mix the cup, and then they wash their hands.”**
- [I:1 A] **What is the basis for the [ruling of] the House of Shammai?**
- [B] **[They first wash their hands] so they do not render the liquids on the sides of the cup unclean [by contact] with their hands, which in turn [through contact] could render [the outside of] the cup unclean.**
- [C] **What is the basis for the [ruling of] the House of Hillel?**
- [D] **[They reject the Shammaite position because they hold the view that] the outside of the cup is perpetually unclean. [Since the outside of the cup is already unclean, it makes no difference at what point one washes, whether before or after mixing the cup.**
- [E] **[Why then must one wash after mixing the cup? The explanation is:] Another matter: One must juxtapose washing his hands with the recitation of the blessing [at the beginning of the meal]. [The act of mixing the cup may not intervene.] [T. 5:26.]**
- [F] *R. Biban in the name of R. Yohanan, “The opinion of the House of Shammai accords with the view of R. Yosé, and the opinion of the House of Hillel accords with the view of R. Meir.”*
- [G] *As we have learned in the Mishnah: [With regard to the laws of uncleanness, the grip is not considered to be part of the cup.] R. Meir says, “This applies [if a person touches the grip with either] clean or unclean hands.” [If one holds a cup by the grip he renders unclean neither the outside nor the contents. Like the House of Hillel, Meir is not concerned about the hands rendering the cup unclean.]*
- [H] **And R. Yosé says, “This is true only with regard to [a person who touches the grip with] clean hands.” [He is afraid that one who holds a cup by the grip with unclean hands will render unclean the liquids on the outer surface of the cup, just as the House of Shammai fear in our case.] [M. Kelim 25:7-8.]**
- [I:2 A] **R. Yosé in the name of R. Shabbetai and R. Hiyya in the name of R. Simeon b. Laqish, “[To find water to wash one’s utensils before**

kneading dough and separating] the dough-offering, and to [find water to] wash one's hands [before the meal], a person must go up to four miles." ['Mile' refers to 2000 paces, about 1470 meters, that is somewhat less than the modern English mile of about 1609 meters.]

- [B] R. Abbahu in the name of R. Yosé b. R. Haninah, "*This applies to* [one who was travelling on the road], who must go ahead [up to four miles to find water]. But [to find water] they do not trouble him to go back [in the direction from which he came on his journey]."
- [C] *In what status do they place* guards of gardens and orchards [who do not have water available for washing before they eat]? [Do we require that they do search for water to wash with before eating] like those who must journey ahead [up to four miles to find water]? [Or do we not require that they search to find water, just as we do not trouble a person to] go back [on his journey. For if the guard leaves his post, thieves may steal the produce]?
- [D] *Let us derive the rule from this:* **A woman may sit and cut off dough offering while naked [and recite the blessing] because [by sitting down] she can cover herself. But a man may not [separate dough offering and recite the blessing while naked] [M. Hallah 2:3].**
- [E] Now is this not a case of a woman who is sitting in her house? Yet we do not trouble her [to get dressed before separating the dough offering]. Accordingly, here [regarding guards of produce] we do not trouble them [to go search for water to wash with before eating].
- [I:3 A] *It was taught:* **[Washing one's hands with] water before the meal is optional.**
- [B] **[Washing one's hands with] water after the meal is compulsory.**
- [C] **But with regard to the first case [i.e. before the meal] one washes and waits. And with regard to the second case [i.e. after the meal] one washes and does not wait [T. 5:13].**
- [D] What does "washes and waits" mean?
- [E] R. Jacob bar Aha said, "One washes twice [i.e. he washes and waits a moment and washes again]."
- [F] R. Samuel bar Isaac said, "You say one must wash twice. How can you [also consistently] say [washing before the meal is] optional? [It must be compulsory.]"
- [G] [Washing both before and after the meal is compulsory in accord with the following:] Said R. Jacob bar Idi, "On account

of [neglect of] the first [washing before the meal], they came to eat swine's meat.

[H] “And on account of [neglect of] the second [washing after the meal] a woman [was divorced and] went forth from her house.”

[I] And some say, “[On account of [neglect of] the second [washing after the meal] three persons were killed.” [The first refers to a story of a butcher who sold both kosher meat to Jews and non-kosher meat to gentiles. A Jew once came to buy meat but did not wash his hands. On account of this the butcher sold him pork. The second refers to a story concerning Judah, Yosé and Meir in Babli Yoma 83b, cf. ad loc. They outwitted a swindler because he neglected to wash after eating. When the swindler found out he was outwitted he killed his wife in a fit of anger. The third refers to the version of this story in which after killing his wife in anger, he also kills his son in anger, and then he commits suicide.]

[I:4 A] *Samuel went to stay with Rab.*

[B] *He saw him eating with his hands covered [by a napkin].*

[C] He said to him, “What are you doing? [Did you not wash your hands?]”

[D] Samuel answered, “I am sensitive [and even though I washed my hands, I need to act according to my own habits].”

[E] *When R. Zeira came here [to the Land of Israel] he saw priests eating [heave-offering] with their hands covered [by napkins without first washing!].*

[F] *He said to them, “This [nevertheless] accords with the story told of Rab and Samuel [because the priests are more careful, so they need not wash before eating].”*

[G] Came R. Yosé bar bar Kahana and said in the name of Samuel, “Those who eat unconsecrated food [i.e. ordinary people] must wash their hands [before eating]. But those who eat heave-offering [i.e. priests] need not wash their hands [before eating even unconsecrated food.]”

- [H] R. Yosé says, “Both [those ordinary persons who eat] unconsecrated food and [those priests who eat] heave-offering [must wash before eating unconsecrated food].”
- [I] R. Yosah in the name of R. Hiyya bar Ashi and R. Jonah, and R. Hiyya bar Ashi in the name of Rab, “[Before eating] heave-offering they [the priests] must wash their hands up to their wrists, and [before eating] unconsecrated food, they [all persons] must wash their hands up to their knuckles.”
- [J] *Meyasha the grandson of R. Joshua b. Levi said, “Any person who wanted to eat ordinary food with my grandfather, but who did not wash his hands up to his wrists, could not eat with him.”*
- [K] R. Huna said, “They must wash their hands only [before eating] bread.”
- [L] *R. Hoshai taught, “[They wash before eating] anything which can absorb liquid.”*
- [M] *R. Zeira said, “Even when I eat lupine he would wash his hands.”*
- [N] Rab said, “One who washed his hands in the morning, they do not trouble him to wash again in the afternoon.” [He may rely on that washing for eating throughout the entire day.]
- [O] *R. Abina instructed donkey drivers [who travel out on the road], “When you are somewhere where there is water for washing, wash your hands [in the morning], and you may rely on that [washing] for [eating throughout] the entire day.”*
- [I:5 A] *R. Zeira went to R. Abbahu in Caesarea. He found [Abbahu] and he said, “Let us go and eat.”*
- [B] *He [Abbahu] gave him a round loaf of bread for slicing and he said, “Let the elder recite the blessing.”*

[C] He [Zeira] said to him, “The host should know the value of his loaf. [You should recite the blessing.]”

[D] When they had eaten, Abbahu said, “Let the elder recite the blessing.”

[E] [Zeira] said to him, “My master surely knows that R. Huna was a great man and he used to say, ‘The one who opens [the meal by reciting the blessing], should also close [the meal and recite the blessing at the end of the meal].’”

[F] *The teaching [in Tosefta] disputes R. Huna. For it was taught: **This is the order for washing hands.***

[G] **For [a group of] up to five people – they start [washing] with the highest in rank.**

[H] **For more than this – they start [washing] with the lowest in rank [so the important people do not have to wait for long between washing and the meal].**

[I] **[This is the order for mixing the cup.] In the middle of the meal they start [to mix the cup] from the highest [in rank].**

[J] **At the end of the meal, they start from the one who recites the blessing [T. 5:6].**

[K] Do they not do this so that he may [have time to] prepare himself to recite the blessing?

[L] [However] if you say that, ‘The one who opens [the meal by reciting the blessing], should also close [the meal and recite the blessing at the end of the meal],’ is he not prepared already?

[M] *Said R. Isaac, “We may explain that this is a case wherein the participants came [to join the meal in stages] a few at a time. And some did not know who was to recite the blessing. [Even though they accept Huna’s*

rule (E), ‘The one who opens (the meal by reciting the blessing), should also close (the meal and recite the blessing at the end of the meal),’ they need another way to designate who will recite the blessing since some came to the meal after the first blessing was recited.]

8:3

[A] The House of Shammai say, “[To avoid spreading uncleanness] one wipes his hands on a napkin and places it on the table.”

[B] And the House of Hillel say, “[He places the napkin] on the cushion.”

[I:1 A] *The Mishnah speaks of a marble table, or a table which may be taken apart, which is not susceptible to uncleanness.*

[I:2 A] **What is the basis for the House of Shammai’s view?**

[B] **[He must put the napkin on the table] so that the liquid in the napkin does not become unclean through contact with the cushion, and in turn render unclean the person’s hands.**

[C] **And what is the basis for the House of Hillel’s view? [The principle is that] in all cases where there is doubt [whether there was contact between unclean] liquids and one’s hands, [the law is that one’s hands are considered] clean. [Here there is doubt whether the cushion is unclean, and whether the liquid in the napkin becomes unclean and renders one’s hands unclean.]**

[D] **Another explanation: [According to the House of Hillel there is no need to maintain clean] hands in order to eat unconsecrated food [T. 5:27].**

[E] **And according to the House of Shammai, is it necessary to maintain clean hands in order to eat unconsecrated foods? [Yes, as a precaution lest priests accidentally eat heave-offering with unclean hands.]**

[F] **You may explain [it is necessary] either in accord with R. Simeon b. Eleazar, or with R. Eleazar b. R. Sadoq.**

[G] ***In accord with R. Simeon b. Eleazar, as it was taught: R. Simeon b. Eleazar says in the name of R. Meir, “One’s hands are considered to be unclean in the first degree with regard to unconsecrated food, and unclean in the second degree with regard to heave-offering [T. Toh. 1:4].”***

- [H] *Or in accord with R. Eleazar b. R. Sadoq, as it was taught there:*
Unconsecrated food, prepared as if it was consecrated food, is to be treated as if it were unconsecrated food.
- [I] **R. Eleazar b. R. Sadoq says, “Lo it is treated as if it were heave-offering and [accordingly] can become unclean in the second degree and become unfit [for use] in a [third] degree [of uncleanness]” [M. Toh. 2:8].**
- [I:3 A] *It was taught there:* **One who anointed himself with clean oil, and became unclean, and went and dipped [in a ritual bath]: The House of Shammai say, “Even though it [the oil] drips from him, it remains clean.”**
- [B] **And the House of Hillel say, “It is unclean.”**
- [C] **And if the oil was unclean from the outset: The House of Shammai say, “[If there is on him up to] the amount of oil it would take to anoint a little finger, [it is clean].”**
- [D] **And the House of Hillel say, “[If there remains on him] any amount of dripping liquid, [it is unclean].”**
- [E] **R. Judah says in the name of the House of Hillel, “[If there remains on him] any amount which may drip and moisten something else, [it is unclean] [M. Ed. 4:6]”**
- [F] *The opinions of the House of Hillel [in our Mishnah and in M. Ed.] are contradictory!*
- [G] *There [concerning the status of dripping oil] they say, “It is unclean.” Here [concerning the status of liquid which may drip from the napkin] they say, “It is clean.”*
- [H] [We may resolve this contradiction because they are different cases.] There [in the case in M. Ed. the oil] is visible [on his body]. Here [in the case in our M. the liquid] is absorbed in the napkin.

8:4

- [A] **The House of Shammai say, “[To avoid wasting food] they clean the house [and gather the scraps of food after the meal], and afterward wash their hands.”**
- [B] **And the House of Hillel say, “They wash their hands, and afterward clean the house.”**
- [I:1 A] **What is the basis for the House of Shammai’s view?**

[B] [They clean the house first] so as not to waste food [by dripping water upon it when cleaning up after washing one's hands making the food susceptible to uncleanness].

[C] And what is the basis for the House of Hillel's view?

[D] If the servant is clever, he gathers up the pieces which are larger than an olive's bulk. [Then even if the scraps of food that remain become wet, and touch a source of uncleanness, they cannot become unclean, based on the principle that a scrap of food smaller than an olive's bulk cannot become unclean.] And they wash their hands and afterwards clean the house [without concern over wasting food] [T. 5:28].

8:5

[A] The House of Shammai say, "[The order of the blessings in the service of the Prayer of Division when it is recited at the meal at the conclusion of the Sabbath is:] Light, meal, spices, Prayer of Division."

[B] And the House of Hillel say, "[The order is:] Light, spices, meal, Prayer of Division."

[C] The House of Shammai say, "[The formula for the blessing over the light is,] 'Who created the light of the fire.'"

[D] And the House of Hillel say, "[It is,] 'Who creates the lights of the fire.'"

[I:1 A] *It was taught:* Said R. Judah, "The House of Shammai and the House of Hillel did not dispute [concerning the order of the blessings] that the blessing for the meal comes first, and the Prayer of Division comes last.

[B] "Concerning what did they dispute? [They disputed over the order of the blessings] for the spices and for the light.

[C] "For the House of Shammai say, 'Spices and then light.'

[D] "And the House of Hillel say, 'Light and then spices' [T. 5:30]. [This version of the dispute is contrary to our Mishnah.]

[E] R. Ba and R. Judah in the name of Rab, "The law follows the one who says, 'Spices and then light' [i.e the House of Shammai]."

[I:2 A] The House of Shammai say, "One holds the cup of wine in his right hand, and the perfumed oil in his left hand. And he says the

blessing over the cup of wine, and then he says the blessing over the perfumed oil.”

- [B] **And the House of Hillel say, “One holds the perfumed oil in his right hand, and the cup of wine in his left hand. And he says the blessing over the perfumed oil, and smears it on the head of his servant. And if the servant is a disciple of the sages, he smears it on the wall. For it is not befitting a disciple of the sages to go outside perfumed [T. 5:29].”**
- [C] *Abba bar bar Hannah and R. Huna were sitting and eating and R. Zeira was standing and serving them. He came before them carrying both [the cup of wine and the perfumed oil] in one hand. Abba bar bar Hannah said to him [Zeira], “Has your other hand been cut off?”*
- [D] *And his father [Bar Hannah] got angry at him. He said to him, “Is it not bad enough that you recline, and he stands before you to serve? And besides, he is a priest [and should not be serving you]!”*
- [E] *And [do you not know that] Samuel said, “One who makes improper use of the priesthood has misappropriated the property of the Temple? Now [on top of this] you even make fun of him! I decree that he shall sit, and you shall serve him!”*
- [F] *Whence that, “One who makes use of the priesthood, has misappropriated the property of the Temple”?*
- [G] *R. Aha in the name of Samuel said, “[It is based on this verse:] ‘You are holy to the Lord and the vessels are holy’ [Ezra 8:28]. Just as one who makes use of the vessels [of the Temple] has misappropriated Temple property, so too one who makes use of the [services of the] priests, has misappropriated Temple property.”*

- [II:1 A] **[The House of Shammai say,] “Who created [past tense] the light [singular] of the fire.” (M. 8:5C-D).** [One might argue that] according to the view of the House of Shammai, one should say [as a blessing over wine the formula], “Who created [past tense] the fruit of the vine.”
- [B] *And [it makes sense only] according to the view of the House of Hillel that one should say [over wine], “Who creates the fruit of the vine” [as is the accepted practice].*
- [C] *[No. The argument is not valid! Even according to the Shammaites there is a difference between reciting a blessing over light and over wine. The difference is that] wine is renewed each year [in the new crop]. Fire is not renewed at every hour. [And because fire was created*

once, long ago, its blessing should indicate an action completed in the past: “created.”]

[II:2 A] Fire and mules, though not actually created in the six days of creation, were thought of [by God] during the six days of creation [T. 5:31].

[B] [When were] mules [first created]? [As it says,] “These are the sons of Zibeon: Aiah and Anah: he is the Anah who found hyymym in the wilderness” [Gen. 36:24].

[C] What are hyymym? R. Judah b. Simon says, “Mules [Greek: hemionos].” And sages say, “Read it hymsw, split. [That is, an animal which is] half horse, half ass.”

[D] And what are the signs [one should know concerning a mule]?
Said R. Judah, “All those with small ears had a horse for a mother, and an ass for a father. [Those with] big ears had an ass for a mother, and a horse for a father.”

[E] *R. Mana instructed the [servants of the] patriarchate, “If you wish to purchase a mule, buy one with small ears. For its mother was a horse and its father was an ass.”*

[F] What did Zibeon and Anah do? They mated a she-ass and a male horse and from that union there came forth a mule.

[G] Said to them the Holy One, blessed be he, “You have brought into being a creature which will cause damage. So I shall bring upon this man [Zibeon] a creature which will cause him harm.”

[H] What did God do? He mated a snake and a lizard and from that union there came forth a poisonous lizard.

[I] No man will ever say to you that a poisonous lizard bit him and he survived, or that a mad dog bit him and he survived, or that a she-mule kicked him and he survived. [This last reference is] only to a white she-mule.

[II:3 A] Fire [T. 5:31]: R. Levi in the name of R. Bezira [or Nezira], “The light created on the first day lasted thirty-six hours: twelve on the Sabbath eve, twelve on the night of the Sabbath, and twelve on the Sabbath day.

[B] And Adam gazed out [in the primeval light] upon the whole world.

- [C] When the light did not cease the whole world sang out, as it says, “Under the whole heaven they sang out to Him whose light extends to the corners of the earth” [Job 37:2].
- [D] When the Sabbath ended, darkness began to minister [over the world].
- [E] Adam became frightened and said, “Concerning this Scripture says, ‘He [Man] will bruise your head, and you [the serpent] shall bruise his heel’ [Gen. 3:15].” Perhaps now [that it is dark] he will come to bruise me. [Because] it says [elsewhere], ‘In darkness he will bruise me’ [Ps. 139:11].”
- [F] Said R. Levi, “At that very time God summoned two flints and he [Adam] struck them against each other and light came forth from them. This is as it is written, ‘And the night around me be light’ [Ps. 139:11]. And he [Adam] recited the blessing, ‘Who creates the lights of the fire.’”
- [G] Samuel said, “We therefore recite the blessing over fire at the conclusion of the Sabbath, for that was when it was first created.”
- [H] R. Huna in the name of R. Abbahu in the name of R. Yohanan, “They even recite the blessing [over the fire] at the conclusion of the Day of Atonement, for the light ‘rested’ throughout that day.” [That is, it is forbidden to kindle a fire on that day, and so after the day it is as if fire was created anew.]

8:6

- [A] **They recite a blessing [over the light in the Prayer of Division Service at the conclusion of the Sabbath] neither over the light and spices of gentiles, nor the light and spices [used in honor] of the dead, nor the light and spices used before idolatry.**
- [B] **And they do not recite the blessing over the light [in the Prayer of Division Service at the conclusion of the Sabbath] until they make use of its illumination.**
- [I:1 A] *R. Jacob taught before R. Jeremiah, “They may recite a blessing over the spices of gentiles.”*
- [B] *Regarding what do they, [the rule in M. and this ruling,] differ? This ruling refers to spices used in front of a store [to attract customers. One is permitted to recite a blessing over the fragrance of a gentile’s spices used for such a purpose.]*
- [I:2 A] **Over a lantern, even if it was not extinguished [i.e., it burned throughout the Sabbath], they may recite the blessing over it [for**

the light used in the Prayer of Division Service at the end of the Sabbath].

[B] [They do not recite the blessing over] a light whose source is hidden by a garment, or in a lamp, or over a light behind a glass, or for any light where they see the flame, but can not make use of its illumination, or can make use of its illumination, but can not see the flame. They recite the blessing over it only if they both can see the flame, and make use of its illumination [T. 5:31].

[I:3 A] Five things were said about [the glow of] a glowing coal, and five things about [the flame of] a torch. [In the following cases, the principle is that the flame of a torch is considered to be pure fire, without any material substance.]

[B] (1) It is a sacrilege to use [the light of] a glowing coal belonging to the Temple, but it is neither [a matter of] any [forbidden] benefit nor a sacrilege to use the light of a torch of the Temple.

[C] (2) It is forbidden to use [the light of] a glowing coal used for idolatry. But it is permissible [to use the light of] a torch [used for idolatry].

[D] (3) One who vows not to benefit from his associate, may not use [the light of] his glowing coals, but is permitted to use [the light of] his torch.

[E] (4) One who takes a glowing coal out to the public thoroughfare [on the Sabbath] is liable [for punishment]. But one who takes a torch out is free [from any liability].

[F] (5) They may recite the blessing [for the light after the Sabbath] over a torch. But they may not recite the blessing over a glowing coal.

[G] R. Hiyya bar Ashi in the name of Rab, “If the coals were flaming, they may recite the blessing over them.”

[H] R. Yohanan of Kersion [perhaps: Katzrin] in the name of Nahum bar Simai, “Only if the flame shoots up.”

[I:4 A] *It was taught:* **[At the end of the Sabbath in the Prayer of Division Service, they may recite the blessing over the light of] a gentile who lit a light from an Israelite’s flame, and [the light of] an Israelite who lit from a gentile [T. 5:31].**

[B] It makes sense that [they may recite the blessing over the light of] a gentile who lit it from [the flame of] an Israelite [because the light of the Israelite was certainly kindled anew after the Sabbath. But from the present ruling that one may use a light of an Israelite who lit it from the

light of a gentile, we may infer that one may recite the blessing over the light] even of a gentile who lit a light from another gentile [after the Sabbath].

[C] *But we find that it was taught:* They do not recite the blessing over a light lit by a gentile from the light of a gentile. [The Talmud suggests that the latter rule is accepted.]

[D] R. Abbahu in the name of R. Yohanan, “They may recite the blessing over a light which emanates from an alleyway populated by gentiles where even one Israelite lives, on account of that one Israelite. [We may presume that the light comes from his house.]”

[I:5 A] R. Abbahu in the name of R. Yohanan, “They may recite the blessing neither over the spices used on the Sabbath eve in Tiberias, nor over the spices used at the conclusion of the Sabbath in Sepphoris, nor over the light nor over the spices used on Friday morning in Sepphoris, for these are all prepared for another purpose [i.e. for freshening clothes].”

[II:1 A] **[Nor over the light nor spices of the dead [M. 8:6]:]**

[B] R. Hezekiah and R. Jacob bar Aha in the name of R. Yosé b. R. Hanina, “Those to which we refer are [the lights and spices] placed over [on top of] the coffin. But over those placed before [and around] the coffin, they may recite the blessing. For I say they are put there for the convenience of the living.”

[III:1 A] **Nor over the light and the spices used before idolatry.**

[B] Are those [lights and spices] of gentiles not the same as those of idolatry?

[C] We may explain that [the latter] refers to [the light and spices of] an Israelite idolater.

[IV:1 A] **And they do not recite the blessing over the light until they make use of its illumination.**

[B] R. Zeira son of R. Abbahu expounded, “‘And God saw the light that it was good’ [Gen. 1:4]. And after that it says, ‘And God divided the light from the darkness’ [Gen. 1:5]. [This implies that first he saw the light then he divided. Likewise one should see the light before ‘dividing,’ i.e. reciting the blessing in the Prayer of Division.]”

[IV:2 A] Said R. Berekhiah, “Two great men, R. Yohanan and R. Simeon b. Laqish, expounded accordingly, ‘And God divided’ [means] he permanently divided [light from darkness and put them into separate realms in the world].”

- [B] R. Judah b. R. Simon said, “He divided them [set them aside] for Himself [but not for the world].”
- [C] And sages said, “He divided them [set them aside] for the righteous [to have light] in the world to come.”
- [D] They gave a parable: To what may we compare this matter? To a king who had two generals.
- [E] One said, “I shall serve by day.”
- [F] And the other said, “I shall serve by day.”
- [G] The king called in the first and said, “Sir, the daytime is your territory.” And he called in the second and said, “Sir, the nighttime is your territory.”
- [H] This accords with what was written, “And God called the light, day, and the darkness he called night” [Gen. 1:5]. To the light he said, “The day will be your territory.” And to the darkness he said, “The night will be your territory.”
- [I] Said R. Yohanan, “This is what God said to Job, ‘Have you commanded the morning since your days began [as God did in the parable above] and caused the dawn to know its place?’ [Job 38:12]. [God asked Job if he knew the secret of] where the light of the six days of creation is stored.”
- [J] Said R. Tanhuma, “I shall tell you what is the basis [in Scripture of the teaching of R. Yohanan and R. Simeon b. Laqish, in A]: “Who creates light and makes darkness and makes peace” [Isa. 45:7]. When they [light and darkness] went forth [into the world], God made peace between them [and assigned each to a separate domain].”
- [V:1 A] They do not recite the blessing over the light until they make use of [y’wtw] its illumination [M. 8:6].**
- [B] Rab says, “[The correct spelling of ‘make use of’ is] y’wtw [meaning] ‘use’ [with an ‘aleph].”
- [C] And Samuel says, “[The correct spelling is] y’wtw [meaning] ‘timely use’ [with an ‘ayin].”
- [D] *The one who says* “use” [is correct bases his teaching on the verse where we find an appropriate usage,] “Only on this condition will we consent to you [n’wt, implying permission to use]” [Gen. 34:15].

[E] *The one who says “timely”* [is correct bases his teaching on the verse where we find an appropriate usage,] “How to sustain with a timely [l’wt] word, him that is weary” [Isa. 50:4].

[F] [*A similar dispute:*] *It was taught there:* “How do they extend the Sabbath boundaries [m’bryn] of towns?”

[G] [Commenting on m’bryn] Rab said, “[It means] they add a segment [spelled with an aleph, m’bryn].”

[H] And Samuel said, “[It means] they expand the area [m’bryn, spelled with an ayin].”

[I] *The one who said,* “They add a segment [with an aleph,” means literally,] “They add on a limb [to the town].”

[J] *The one who said,* “They expand the area [with an ayin, means literally,] “They expand [the boundary outward] like a pregnant woman [expands outward].”

[K] [*A similar dispute:*] *It was taught there* **[M. A.Z. 1:1], Before the festivals [‘ydyhn] of the idolaters.**

[L] [Commenting on the meaning of ‘ydyhn] Rab said, “[It means] before their testimonies [idols, spelled with an ‘ayin].”

[M] And Samuel said, “[It means] before their festivals [spelled with an ‘aleph].”

[N] *The one who said* “festivals” [‘ydyhn] based his teaching on the verse, “For near is the day of their calamity [‘ydm]” [Deut. 32:35].

[O] *The one who said* “testimonies” [‘dym] based his teaching on the verse, “Their testimonies [idols] neither see nor know, that they may be put to shame” [Isa. 44:9].

[P] How does Samuel explain [the verse cited in defense of] Rab’s explanation? He will say that [it means], “Their testimonies [i.e. idols]” will bring shame upon those who worship them on the day of judgment [when they are called upon to testify against the idolaters].

[V:2 A] They do not recite the blessing over the light, until they make use of its illumination [M. 8:6].

[B] R. Judah in the name of Samuel, “[How much illumination must there be in order to recite the blessing over the light?] Enough so that women could spin yarn by its light.”

- [B] Said R. Yohanan, “Enough [light] so that one can determine what is in a cup or bowl.”
- [C] Said R. Hanina, “Enough [light] so that one could distinguish between two different coins.”
- [D] *Taught R. Oshaia*, “They may recite the blessing [over the light] even if it is [far from them] in a large room of ten by ten cubits.”
- [E] *R. Zeira used to get very close to the light [to recite the blessing]. His students said to him, “Master, why are you so strict with us about this? Lo, R. Oshaia taught, ‘Even [where the light is far from a person] in a room up to ten by ten [one may recite the blessing over the light]!’”*

8:7

- [A] **He who ate [a meal] and forgot, and did not recite the blessing [over the meal and left the place where he ate the meal]:**
- [B] **The House of Shammai say, “He must go back to his place [where he ate] and recite the blessing.”**
- [C] **And the House of Hillel say, “He may recite the blessing in the place he remembers.”**
- [D] **And until when [after the meal] may he recite the blessings?**
- [E] **Until he digests the food.**

- [I:1 A] *R. Yusta bar Shunam said, “Two Amoraim [interpreted this Mishnah]. One explained the House of Shammai’s view and the other explained the House of Hillel’s view.*
- [B] *The one who explained the House of Shammai’s view [argued as follows:] if one forgot a purse filled with precious stones and pearls, would he not go back to get his purse? So in this case as well, **He must go back to his place and recite the blessing.***
- [C] *The one who explained the House of Hillel’s view [argued as follows:] if a worker were up in a tree or down in a pit, do we trouble him to go back to his place to recite the blessing? [No. That is absurd.] He may recite the blessing in the place he remembers. So, too, [in general,] He may recite the blessing in the place he remembers. [We do not trouble him to go back.]*

[II:1 A] **Until when may he recite the blessings? [M. 8:7D-E].**

- [B] R. Hiyya in the name of Samuel, “Until he digests the food.”
- [C] “And sages say.” As long as he is thirsty on account of the meal.”

[C] R. Yohanan said, “Until he gets hungry [he may recite the blessing].”

8:8

[A] **If they obtained wine after finishing the meal and they had only one cup:**

[B] **The House of Shammai say, “They recite the blessing over the wine, and then they recite the blessing over the meal.”**

[C] **And the House of Hillel say, “They recite the blessing over the meal, and then they recite the blessing over the wine.”**

[D] **They may answer ‘Amen’ after an Israelite who recites a blessing. But they may not answer ‘Amen’ after a Samaritan who recites a blessing, unless they hear the entire blessing [and are certain that he did not say anything unacceptable in the blessing].**

[I:1 A] Said R. Ba, “[The House of Shammai reasons as follows:] Since [the blessing over the wine] is a short blessing, one may forget and drink [wine without a blessing after reciting the long meal blessing. So he must recite the blessing over the wine first.]. But when he strings it together with another blessing which he recites over the same cup [as in M. 8:1B, he may recite it second since], he will not forget.

[I:2 A] [They may answer ‘Amen’ after an Israelite who recites a blessing. But they may not answer ‘Amen’ after a Samaritan who recites a blessing, unless they hear the entire blessing [and are certain that he did not say anything unacceptable in the blessing. The Mishnah at D seems to imply] that one may answer “Amen” after hearing a blessing recited by an Israelite even if he did not hear [the entire blessing].

[B] *But did we not learn [regarding the recitation of a blessing, to the contrary]?* “If one heard [a blessing] and [in the event that he] did not answer [Amen], he [nevertheless] fulfilled his obligation [to recite the blessing through the other person’s recitation of the blessing]. But [in a case where] he answered [Amen] without hearing [the entire blessing,] he did not fulfill his obligation [to recite the blessing through the other person’s recitation].”

[C] *Hiyya the son of Rab said, “Our Mishnah [refers to a case of one] who did not eat an olive’s bulk with those at the meal. [He was not required to recite the meal blessing. In such a case he may answer ‘Amen’ even if he did not hear the whole blessing because he is not obligated to recite a blessing anyway.]”*

[C] *It was taught [that one may interpret this rule cited in A not as a rule regarding the recitation of blessings and the response ‘Amen’, but as a*

rule regarding the responsive recitation of the Hallel in the synagogue, as follows:] “If one heard [the leader reciting the verses of the Hallel], but did not answer [by repeating responsively each verse], he fulfilled his obligation. If one answered, but did not hear, he did not fulfill his obligation.”

[D] Rab in the name of Abba bar Hannah, *and some say* Abba bar Hannah in the name of Rab, “[The rule in C applies] as long as one answers [the leader] at the paragraph headings [by responding with the first word of each section, he fulfills his obligation through the other person’s recitation].”

[E] R. Zeira asked, “What are these paragraph headings?” [They are e.g.,] “Praise the Lord, praise the servants of the Lord, praise the name of the Lord” [Ps. 113:1].

[F] *They asked this question of R. Hiyya bar Abba*, “Whence that if one heard [the leader reciting the verse of Hallel] but did not answer [by repeating responsively each verse], he fulfills his obligation?”

[G] *He said*, “[I learned this] from what I saw the great rabbis do. When reciting in public [the Hallel on a festival or the new moon], one [group] recited, ‘Blessed is he that comes,’ and another [group] answered, ‘In the name of the Lord’ [Ps. 118:26].

[H] “And [in this manner, each group reciting only half of each verse, members of] both groups fulfilled their obligations [to recite the Hallel].”

[I:3 A] *Taught R. Oshaia*, “A person may answer ‘Amen,’ [upon hearing the blessings after the meal] even if he did not eat [at that meal]. But one may not say, ‘Let us recite the blessings to Him of whose bounty we have eaten’ [the invitation to recite the blessing over the meal], unless he has eaten [at that meal].”

[B] *It was taught*, “They do not answer with an orphaned [isolated] ‘Amen,’ or with a cut off ‘Amen,’ or with a hasty ‘Amen.’”

[C] Ben Azzai says, “One who answers with an orphaned ‘Amen,’ his children shall be orphans, with a cut off ‘Amen,’ his years will be cut off, with a hasty ‘Amen,’ his soul will be cut down.

[D] “[But one who answers] with a long ‘Amen,’ his days and his years will be lengthened with goodness.”

[E] What [case] is an “orphaned ‘Amen’”? R. Huna said, “One who was obligated to recite a blessing who responded ‘Amen,’ but who did not know to whose blessing he answered.”

[F] *It was taught, A gentile who recited a blessing using God’s name, they may answer after it, ‘Amen.’*

[G] Said R. Tanhuma, “If a gentile blessed you, answer ‘Amen,’ as it is written, ‘Blessed will you be by all peoples’ [Deut. 7:14].”

[H] *A gentile met R. Ishmael and blessed him. He [Ishmael] said to him, “You have already been answered.”*

[I] *Another gentile met him and cursed him. He said to him, “You have already been answered.”*

[J] *His students said to him, “Master, how is it that you answered this one in the same way you answered that one?”*

[K] He said to them, “So it is written, ‘Those that curse you will be cursed, and those that bless you will be blessed’ [Gen. 27:29]. [In both cases, they have already been answered.]”

YERUSHALMI BERAKHOT

CHAPTER NINE

9:1

- [A] **One who sees a place where miracles were performed for Israel says, “Blessed [art Thou, O Lord, our God, King of the Universe] who performed miracles for our forefathers in this place.”**
- [B] **[One who sees] a place from which idolatry was uprooted says, “Blessed [art Thou, O Lord, our God, King of the Universe] who uprooted idolatry from our land.”**
- [I:1 A] *The Mishnah speaks of miracles which occurred to Israel [as a nation]. But for miracles which occurred only to individuals one is not required to recite a blessing.*
- [B] *May a person recite a blessing [at places where] miracles occurred to his father, or his teacher?*
- [C] *And [may a person recite a blessing at a place where miracles occurred to] a great hero, such as Joab b. Zeruyah and his associates [II Sam. 20], or to a person who sanctified God’s name [by risking martyrdom] such as Hananiah, Mishael and Azariah [Shadrach, Meshach, Abednego, in Dan. 3]? [These questions in B-C are not answered.]*
- [D] *And [when a person comes to a place where a miracle occurred on behalf of] one of the tribes of Israel [may he recite a blessing]?*
- [E] *One who holds the view that you may call every tribe “a congregation,” would say one must recite a blessing [at a place where a miracle occurred to a tribe].*
- [F] *One who holds the view that you may only call all the tribes together “a congregation,” would say one need not recite a blessing [at a place where a miracle occurred to just one tribe].*
- [I:2 A] **One who sees Babylonia must recite five blessings:**

- [B] When he sees the Euphrates river he says, “Blessed [art Thou, O Lord, our God, King of the Universe] who is the carries out the works of creation.”
- [C] When he sees the statue of Mercury he says, “Blessed [art Thou, O Lord, our God, King of the Universe] who is patient.”
- [D] When he sees [the ruins of] the palace of Nebuchadnezzar he says, “Blessed [art Thou, O Lord, our God, King of the Universe] who destroyed this wicked one’s house.”
- [E] When he sees the place of the fiery furnace and the lion’s den [associated with the narratives in Daniel 3 and 6] he says, “Blessed [art Thou, O Lord, our God, King of the Universe] who performed miracles for our forefathers in this place.”
- [F] When he sees the place from which they quarry gravel [for idolatrous purposes], he says, “Blessed is He who speaks and acts; Blessed is He who decrees and upholds his word.”
- [G] When one sees Babylonia he [further] says, “I will sweep it with the broom of destruction” [Isa. 14:23].
- [I:3 A]** R. Zeira and R. Judah in the name of Rab, “Any blessing which does not include [a reference to] God’s kingdom, is not a valid blessing.”
- [B] *Said R. Tanhuma, “I will tell you what is the basis [in Scripture for this rule]: ‘I will extol thee my God and King’ [Ps.145:1].”*
- [C] Rab said, “One must say, ‘[Blessed] art Thou [‘th]’.”
- [D] And Samuel Said, “One need not say, ‘art thou.’”
- [I:4 A]** *R. Yohanan and R. Jonathan went to help bring peace to the villages of the South. They came to one place and found the leader reciting [in the first blessing of the Prayer of Eighteen Blessings], “God, the great, mighty, awesome, powerful [‘byr] and valiant [‘mys]” [adding these last two terms]. And they silenced him. They said to him, “You do not have the right to add to the [standard] formula which the sages established for the blessings.”*
- [B] [The following traditions support the use of standardized liturgy.] R. Huna in the name of Rab, “‘The Almighty [sdy] – we cannot find him; he is great in power [and justice, and abundant righteousness he will not violate]’ [Job 37:23]. [The verse implies] we cannot find [adequate words to describe] God’s power and might.”

- [C] R. Abbahu in the name of R. Yohanan, “‘Shall it be told him that I would speak? Did a man ever wish that he would be swallowed up?’ [Job 37:20]. If a person tries to [fully] describe God’s might, he will be swallowed up [in the process and lost] from the world.”
- [D] Said R. Samuel bar Nahman, “‘Who can utter the mighty doings of the Lord, [or show forth all his praise]?’ [Ps. 106:2]. [‘Who is better at prayer,’ asked the Psalmist,] ‘than me or my associates?’”
- [E] Said R. Abun, “[The question in the verse is rhetorical:] ‘Who can utter the mighty doings of the Lord?’ [No one can.]”
- [F] R. Jacob of the village of Naburaya in Tyre explained [this verse], ‘Praise is due to [dwmyh] thee O God, in Zion’ [Ps. 65:1]:
“Silence sums it all up [a reference to the word dwmyh – silence]. As regarding a priceless pearl, all who attempt to praise it, [by so doing merely] diminish its value.”

[I:5 A] *It was taught: One who opens [his blessings] with [the invocation of the divine name] “Lord” [yhwh] and closes his blessing with the divine name “Lord,” lo, he is a sage.*

[B] **[One who opens with the divine name] “God” [lwhym] and closes with “God,” lo, he is a boor.**

[C] **One who opens with “God,” and closes with “Lord,” lo, this is a middle way.**

[D] **One who opens with “Lord,” and closes with “God,” lo, this is “the other way” [heresy] [T. 6:20].**

[I:6 A] The heretics asked R. Simlai, “How many gods created the world?”

[B] He said to them, “Why are you asking me? Go and ask Adam himself [i.e. look in the verse]. As it says, ‘For ask now of the days that are past, [which were before you since the day that God created man upon the earth’ [Deut. 4:32]. It is not written in the plural form,] ‘That gods created man upon the earth,’ but [in the singular form,] ‘That God created man upon the earth’.”

[C] They said to him, “Is it not written, ‘In the beginning God [l’hym] created’ [Gen. 1:1] [using what appears to be a plural noun – ‘Gods’]?”

[D] He said to them, “It is not written [plural] ‘gods created,’ but [singular] ‘God created.’”

- [E] Said R. Simlai, “In every instance that the heretics have raised a question [out of Scripture] the answer [to their question] is right beside it [in Scripture].”
- [F] [The heretics] returned and asked him, “What is this which is written, ‘Let us make man in our image, after our likeness’ [Gen. 1:26]?”
- [G] He said to them, “It does not say, ‘The gods created [plural] man in their own images’ [Gen. 1:27]. But it says, ‘So God created [singular] man in his own image.’”
- [H] His [Simlai’s] students said to him, “You have deflected their question with a straw [i.e. a weak argument]. What will you answer us? [How will you explain this verse to us?]”
- [I] He said to them, “At first Adam was created from dust and Eve was created from Adam’s rib. From that time on [man propagates], ‘In our image, after our likeness.’ [That means] a man must have a woman, a woman must have a man, and both must have the divine presence [together with them in order to propagate].”
- [J] [The heretics] returned and asked him, “What is this which is written, ‘The mighty one, God, the Lord! The mighty one, God, the Lord! He knows.’ [Joshua 22:22]? [This appears to imply that there are three powers in heaven.]”
- [K] He said to them, “It does not say, ‘They know.’ But it says, ‘He knows’ [supporting the unity, and not the trinity, of God].”
- [L] His students said to him, “Master you deflected their question with a straw. How will you answer us?”
- [M] He said to them, “These are three titles for one individual, just the same as Basilius Caesar Augustus [are three titles for the Roman Emperor].”
- [N] [The heretics] returned and asked him, “What is this which is written, ‘The Mighty One, God, the Lord, speaks and summons the earth’ [Ps. 50:1]?” [The verse give three names of God.]
- [O] He said to them, it does not say, ‘Speak and summon [plural], but it says speaks and summons [singular].”
- [P] His students said to him, “Master you deflected their question with a straw. How will you answer us?”
- [Q] He said to them, “These are three titles for one individual, just as artisan, builder, architect [are three titles for one master craftsman].”

- [R] [The heretics] returned and asked him, “What of that which is written, ‘For he is a holy God [‘lwhym – a plural form modified by a plural adjective]’ [Joshua 24:19]?”
- [S] He said to them, “It is not written, ‘They [plural] are holy.’ But it says, ‘He [singular] is a holy God; he is a jealous God’ [ibid.]”
- [T] His students said to him, “Master you deflected their question with a straw. How will you answer us?”
- [U] [He answered, as it was taught:] said R. Isaac, “He is holy in many ways.” [The verse suggests this through the use of the plural form of ‘holy’.]
- [V] For as R. Yudan said in the name of R. Aha, “The Holy One, blessed be He, His ways are holy, His speech is holy, His throne is holy, the range of His arms is holy. [God is] awesome and majestic in His holiness.”
- [W] His ways are holy [as it says], ‘Thy way, O God, is holy’ [Ps. 77:13]. His processions are holy [as it says,] ‘The processions of my God, my king, into the holy’ [Ps. 68:24]. His throne is holy [as it says,] ‘God sits on his holy throne’ [Ps. 47:9]. His speech is holy [as it says,] ‘God speaks in his holiness’ [Ps. 108:7]. His arm’s range is holy [as it says,] ‘The Lord has bared his holy arm’ [Isa. 52:10]. God is awesome and majestic in his holiness [as it says,] ‘Who is like thee, majestic in holiness, awesome in glorious deeds’ [Ex. 15:11].
- [X] [The heretics] returned and asked him [Simlai], “What is this which is written, ‘For what great nation is there that has a God so near [plural form of the adjective] to it’ [Deut. 4:7]?”
- [Y] He said to them, “It does not say, ‘Whenever we call upon them.’ But it says, ‘Whenever we call upon him’ [ibid.]”
- [Z] His students said to him, “Master, you deflected their question with a straw. How will you answer us?”
- [AA] He said to them, “[The plural form of ‘near’ is used because God] is near to us in many different respects.”
- [BB] As R. Pinhas said in the name of R. Judah b. Simon, “An idol appears to be nearby, but it is really distant. What is the basis [in Scripture for this statement]? ‘They lift it upon their shoulders, they carry it, [they set it in its place, and it stands there; it cannot move from its place. If one cries to it, it does not answer or save him from his trouble]’ [Isa. 46:7].

In the end, his god is there with him in his house, and he may cry out to it until he dies, but it cannot hear him and cannot save him from his trouble.

[CC] “But the Holy one, Blessed be He appears to be distant yet nothing is closer than he.”

[I:7 A] As Levi said, “From the earth to the firmament is [equivalent to the distance one may travel in] a journey of five hundred years. And [the distance] from one firmament to the next firmament is [equivalent to the distance one may travel in] a journey of five hundred years. And the width of the darkness of the firmament is [equivalent to the distance one may travel in] a journey of five hundred years. And it is the same for each of the [seven] firmaments.”

[B] And R. Berekhiah and R. Helbo said in the name of R. Abba Semuqah, “Even the hoofs of the beasts [of heaven] are [equivalent to the distance one may travel in] a journey of five hundred and fifteen years. Whence [was this taught? From the verse, ‘And their legs were] straight’ [Ezek. 1:7] [the numerical value of the Hebrew word for straight – ysrah is 515].”

[C] See how high the Holy One, blessed be He, is above his world. Yet a person can enter a synagogue, stand behind a pillar, and pray in an undertone, and the Holy One, blessed be He, hears his prayers. As it says, ‘Hannah was speaking in her heart; only her lips moved, and her voice was not heard’ [I Sam. 1:13]. Yet the Holy One, blessed be He, heard her prayer.

[D] And so too [does God listen to] all his creatures. As it says, ‘A prayer of one afflicted, when he is faint [and pours out his complaint before the Lord...Incline thy ear to me]’ [Ps. 102:1-2]. [One who prays to God] is like a person who speaks into his fellow’s ear and he hears him. And is it possible that a God could be closer to his creatures than this? For he is so close to his creatures [when they pray] it is as if they speak directly into his ear.

[I:8 A] [Regarding this [relationship between God and his people,] R. Yudan in the name of R. Isaac gave four discourses [in the form of parables]:

[B] [1] A person had a human patron. [One day] they came and told him [the patron], “A member of your household has been arrested.”

[C] He said to them, “Let me take his place.”

[D] They said to him, “Lo, he is already going out to trial.”

- [E] He said to them, “Let me take his place.”
- [F] They said to him, “Lo, he is going to be hanged.”
- [G] Now where is he and where is his patron [when ultimately he needs him]?
- [H] But the Holy One, blessed be He, [will save his subjects, just as he] saved Moses from [execution by] the sword of Pharaoh.
- [I] *This is in accord with what is written*, ‘He delivered me from the sword of Pharaoh’ [Ex. 18:4].
- [J] Said R. Yannai, “It is written, ‘Moses fled from Pharaoh’ [Ex. 2:15]. Is it possible for a person to flee from the government? [No.] But when Pharaoh arrested Moses, he ordered that they decapitate him. But [when they tried to do so,] the sword bounced off Moses’ neck and broke.
- [K] “This accords with what is written, ‘Your neck is like an ivory tower’ [Song of Songs 7:4]. This refers to Moses’ neck.”
- [L] Rabbi said, R. Abyatar [said], “Moreover, the sword bounced off Moses’ neck, and it fell on Quaestionarius’ [the executioner’s] neck, and killed him. This accords with that which is written, ‘He delivered me from the sword of Pharaoh’ [Ex. 18:4]. He delivered me, and the executioner was killed.”
- [M] R. Berekhiah recited concerning [the story of this incident] the verse, “The ransom of the righteous is the wicked” [Prov. 21:18].
- [N] R. Abun recited, “The righteous is delivered from trouble; and the wicked gets into it instead” [Prov. 11:8].
- [O] *Taught Bar Qappara*, “An angel came down, and took Moses’ appearance. And they arrested the angel, and Moses escaped.”
- [P] Said R. Joshua b. Levi, “When Moses fled from Pharaoh, all his people became either dumb, deaf, or blind. He said to the mute ones, ‘Where is Moses?’ And they could not speak. He asked the deaf ones, and they could not hear. He asked the blind ones, and they could not see.
- [Q] “This accords with what the Holy One, blessed be He, said to Moses [when Moses was afraid to go before Pharaoh], ‘Who has made a man’s mouth? Who makes him dumb, or deaf, or seeing, or blind? Is it not I, the Lord?’ [Ex. 4:11].

[R] “[God told Moses,] ‘I saved you there [when you fled from Pharaoh]. Shall I not stand up for you now [when you go before Pharaoh to bring down the plagues on Egypt]?’

[S] “In this regard [the verse says], ‘For what great nation is there that has a god so near to it as the Lord our God is to us, whenever we call upon him’ [Deut. 4:7].”

[T] R. Yudan in the name of R. Isaac gave another discourse [in the form of a parable.] [2] A person had a human patron. [One day] they came and told the patron, “A member of your household has been arrested.”

[U] He said, “Let me take his place.”

[V] They said to him, “Lo, he is already going out to trial.”

[W] He said to them, “Let me take his place.”

[X] They said to him, “Lo, he is going to be thrown into the water [to be executed].”

[Y] Now where is he and where is his patron?

[Z] But the Holy One, blessed be He, [saves his subjects, just as he] saved Jonah from the belly of the fish. Lo it says, “And the Lord spoke to the fish, and it vomited out Jonah upon dry land” [Jonah 2:10].

[AA] R. Yudan in the name of R. Isaac gave another discourse [in the form of a parable.] [3] A person had a human patron. [One day] they came and told the patron, “A member of your household has been arrested.”

[BB] He said to them, “Let me take his place.”

[CC] They said to him, “He is going out to trial.”

[DD] He said to them, “Let me take his place.”

[EE] They said to him, “Lo, he is going to be thrown into the fire [to be executed].”

[FF] Now where is he and where is his patron?

[GG] But the Holy One, blessed be He, is not like that. He [saves his subjects, just as he] saved Haninah, Mishael and Azariah [Shadrach, Meshach, Abednego] from the fiery furnace.

[HH] In this regard [it says], “Nebuchadnezzar said, ‘Blessed be the God of Shadrach, Meshach, and Abednego, [who has sent his angel and delivered his servants, who trusted in him]’” [Dan. 3:28].

[II] R. Yudan in the name of R. Isaac gave another discourse [in the form of a parable.] [4] A person had a human patron. [One day they came and told the patron, “A member of your household has been arrested.”

[JJ] He said to them, “Let me take his place.”

[KK] They said to him, “He is going out to trial.”

[LL] He said to them, “Let me take his place.”]

[MM] They said to him, “He is to be thrown to the beasts [to be executed].”

[NN] [Now where is he and where is his patron?]

[OO] But the Holy One, blessed by He, [saves his subjects, just as he] saved Daniel from the lions’ den.

[PP] In this regard [it says], “My God sent his angels and shut the lions’ mouths, and they have not hurt me” [Dan. 6:22].

[QQ] R. Yudan [gave another discourse in the form of a parable] in his own name: [5] A man has a human patron. When this man faces trouble, he does not suddenly burst in [on his patron to ask for help]. Rather he comes and stands at his patron’s gate and calls to his patron’s servant or some member of his household. And he [the servant] in turn informs the patron, “So and so is standing at the gate of your courtyard. Do you wish me to let him enter, or shall I let him stand outside?”

[RR] But the Holy One, blessed by He, is not like that. [God says,] “If a person faces trouble, he should not cry out to the angels Michael or Gabriel. But he should cry out to me and I will immediately answer him.”

[SS] In this regard [it says], “All who call upon the name of the Lord shall be delivered” [Joel 2:32 RSV].

[TT] *Said R. Pinhas, "This incident occurred to Rab."*

[UU] *He was coming up from the hot spring of Tiberias. He met some Romans. They asked him, "Who are you?"*

[VV] *He said to them, "I am a member of [the governor] Severus' [entourage]." They let him pass.*

[WW] *That night they came to [the governor] and said to him, "How much longer will you put up with these Jews?"*

[XX] *He said to them, "What do you mean?"*

[YY] *They said to him, "We encountered a person. He said he was a Jew. We asked him who he was. And he said he was from Severus' [entourage]."*

[ZZ] *He [the governor] said to them, "What did you do for him?"*

[AAA] *They said to him, "Is it not enough that we let him alone?"*

[BBB] *He said to them, "You acted very well."*

[CCC] *[The lesson of this story is:] One who relies on the protection of mere flesh and blood may be saved. How much more will one who relies on the protection of the Holy One, blessed be He, [be saved from harm].*

[DDD] *In this regard [it says,] "All who call upon the name of the lord shall be delivered" [ibid].*

[EEE] *Said R. Alexander, "This incident occurred concerning an archon named Alexandrus."*

[FFF] *He was presiding over the trial of a thief. He [the judge] asked [the defendant], "What is your name?"*

[GGG] *[He responded,] "Alexandrus."*

[HHH] He said to him, “Alexandrus [you are free to go]. Be off to Alexandria.”

[III] [The lesson is] if a man is saved because he invokes the name of a mere human judge, all the more will a person be saved if he invokes the name of the Holy One, blessed be He.

[JJJ] In this regard [it says,] “All who call upon the name of the Lord shall be delivered” [ibid.].

- [I:9 A] *R. Pinhas said [concerning this] two [parables], one in the name of R. Zeira, one in the name of R. Tanhum bar Hanilai.*
- [B] *R. Pinhas in the name of R. Zeira said, “A person has a human patron. If he bothers his patron, the patron will say, ‘Did you ever see a fellow who can bother you so much?’*
- [B] “But the Holy One, blessed be He, is not like this. Rather he accepts whatever you burden him with.
- [C] “In this regard it says, ‘Cast your burden on the Lord and he will sustain you’ [Ps. 55:22].”
- [D] R. Pinhas in the name of R. Tanhum bar Hanilai, “A person has a human patron. If his enemies come and seize him at the gate of his patron’s courtyard, *before he can cry out, before anyone can come forth [to save him], the enemies’ sword will sever his neck and kill him.*
- [E] “But God saved Jehoshaphat from the sword of the Syrians. As it is written, ‘And Jehoshaphat cried out and the Lord helped him. God drew them away from him’ [II Chron. 18:31]. The verse teaches us that just as they were about to decapitate him, ‘God drew them away from him.’”
- [I:10 A] R. Zeira, son of R. Abbahu, and R. Abbahu in the name of R. Eleazar, “‘Happy is he whose help is the God of Jacob, whose hope is the Lord his God.’ What follows that verse? ‘He made heaven and earth, [the sea and all that is in them, who keeps faith forever]’ [Ps. 146:5-6].
- [B] “[Why are these passages juxtaposed? In accord with this parable.] A person has a patron who is a human king. The king may rule over one province, but not over another. Even [a king] who would rule the whole world, would rule only over the dry land, but not over the seas.

- [C] “But the Holy One, blessed be He rules over the seas, and rules over the land. He can save one from [the perils of] the waters of the seas, and from [the perils of] the fire on dry land.
- [D] “He saved Moses from the sword of Pharaoh. He saved Jonah from the belly of the whale, Shadrach, Meshach and Abednego from the fiery furnace, and Daniel from the lion’s den. In this regard [the verse says], ‘He made heaven and earth, the sea and all that is in them.’”
- [E] Said R. Tanhuma: Once a boat load of gentiles was sailing the Mediterranean. There was one Jewish child on the boat. A great storm came upon them in the sea. Each person took his idol in his hand and cried out. But it did not help them.
- [F] Once they saw that their cries were of no avail, they turned to the Jewish child and said, “Child, rise up and call out to your God. For we have heard that he answers you when you cry out to him, and that he is heroic.”
- [G] The child immediately rose up and cried out with all his heart. The Holy One, blessed be He accepted his prayer and quieted the seas.
- [H] When the ship reached dry land [at the port] everyone disembarked to purchase his needed staples. *They said to the child, “Don’t you wish to buy anything?”*
- [I] *He said to them, “What do you want of me? I am just a poor traveller.”*
- [J] *They said to him, “You are just a poor traveller? They are the poor travellers. Some of them are here, and their idols are in Babylonia. Some of them are here, and their idols are in Rome. Some of them are here and their idols are with them, but they do them no good. But wherever you go, your God is with you.”*
- [K] In this regard [the verse says], “All who call upon the name of the Lord shall be delivered” [Joel 2:32 RSV].
- [I:11 A]** R. Simeon b. Laqish said, “A person has a relative. If [the relative] is rich, he admits [that he is his relative]. And if [the relative] is poor he denies [that he is his relative]. But not so the Holy One, blessed be He. Even when the Jews are down at their lowest depths, God calls them, ‘My brethren and companions.’ And what is the Scriptural basis [for this statement]? ‘For my brethren and companions’ sake [I will say, ‘Peace be with you’] [Ps. 122:8].”
- [B] R. Abun and R. Aha and R. Simeon b. Laqish, “A person has a relative. If [his relative] is [a literate person], a philosopher, he says of

him that he is a relative. But the Holy One, blessed be He calls all of Israel his relatives. In this regard [the verse says], ‘He has raised up a horn for his people; [praise for all his saints, for the people of Israel who are near to him [literally: relatives], Praise the Lord]’ [Ps. 148:14]!” [All people are his kin.]

- [II:1 A] **[One who sees] a place from which idolatry was uprooted says, “Blessed [art Thou, O Lord, our God, King of the Universe,] who uprooted idolatry from our land [M. 9:1].”**
- [B] *The Mishnah* [speaks of a time when idolatry] was uprooted from every place in the Land of Israel. But if it was uprooted only from one location one says [a different blessing,] “Blessed [art Thou, O Lord, our God, King of the Universe,] who uprooted idolatry from this place.”
- [C] **If idolatry was uprooted from one location and established in another, when one comes to the place to which it was located, he says, “Blessed [art Thou, O Lord, our God, King of the Universe,] who is patient.” And when one comes to the place from which it was uprooted, he says, “Blessed [art Thou, O Lord, our God, King of the Universe,] who uprooted idolatry from this place.**
- [D] **“May it be thy will, Lord our God, God of our fathers, that just as you uprooted it from this place, so shall you uproot it from all other places. And you shall return the hearts of those who worship it, to worship thee, and no more shall there be found [in the Land] any worshipper of idolatry [Y.’s version of parts of T. 6:2].”**
- [E] **[Outside of the Land of Israel one need not say this prayer because the majority of the inhabitants are gentiles.]**
- [F] *It was taught:* **R. Simeon b. Gamaliel says, “Even outside of the Land of Israel one must say this [blessing when he comes to the place from which idolatry has been removed].” [T. 6:2].**
- [G] Said R. Yohanan, “‘But he who is joined [with all the living has hope]’ [Qoh. 9:4]. It is written ybhr [literally, will be selected], and it is read yhbr – joined with. [If they so choose the gentiles will be joined with Israel].
- [H] “‘[But he who is joined] with all the living has hope’ [ibid]. As long as a person lives there is hope for him [because he can repent and be saved]. Once he dies, his hope is lost. What is the basis [in Scripture for this statement]? ‘When a wicked man dies his hope is lost.’”

- [II:2 A] *It was taught:* **R. Judah says, “A person must recite three blessings each day: ‘Blessed [art Thou, O Lord, our God, King of the Universe,] who did not make me a gentile’; ‘Blessed [art Thou, O Lord, our God, King of the Universe,] who did not make me a boor’; ‘Blessed [art Thou, O Lord, our God, King of the Universe,] who did not make me a woman.’**
- [B] “[What is the basis for these blessings?] ‘Blessed [art Thou, O Lord, our God, King of the Universe,] who did not make me a gentile,’ because the gentiles are of no matter. [As it says,] ‘All the nations are as nothing before him’ [Isa. 40:17].
- [C] “‘Blessed [art Thou, O Lord, our God, King of the Universe,] who did not make a boor,’ for, A boor does not fear sin [M. Abot 2:5].
- [D] “‘Blessed [art Thou, O Lord, our God, King of the Universe,] who did not make me a woman,’ for, women are not obligated to perform the commandments [T. 6:18].”
- [II:3 A] Said R. Aha, “‘But he who is joined with all the living has hope’ [Qoh. 9:4]. Even those [soldiers] who stretched forth their hands [to destroy] the Sanctuary have hope. [In what is their hope?] They cannot be brought near [to enter paradise] because they have already stretched forth their hands [to destroy] the Sanctuary. They cannot be driven away [to damnation], because they have repented. [They are not judged and cannot be condemned.] Concerning such persons it is said, ‘[They shall] sleep a perpetual sleep and not wake, say the Lord’ [Jer. 51:39]. [They remain in a state of limbo forever.]”
- [B] The rabbis of Caesarea said [in dispute with R. Aha], “The small [armies] of the gentiles and the other armies of Nebuchadnezzar [who did not directly stretch forth their hands to destroy the Temple], these [are the ones who] will not live [in eternal paradise] but will not be judged [for eternal damnation]. Concerning these persons the verse says, ‘[They shall] sleep a perpetual sleep’ [ibid.]”
- [II:4 A] One who passes before a house of idolatry says, “The Lord tears down the house of the proud” [Prov. 15:25].
- [B] R. Yosé b. R. Bun in the name of R. Levi, “If one saw [idolaters] offering sacrifices to an idol, he says, ‘Whoever sacrifices to any god, save the Lord only, shall be utterly destroyed’ [Ex. 23:20].”
- [II:5 A] **One who sees a black, a red, or a white skinned person, or a hunchback, or a dwarf says, “Blessed [art Thou, O Lord, our God, King of the Universe,] who varies his creatures.”**

[B] **[One who sees an] amputee, or the lame, a blind person, or a person afflicted with boils says, “Blessed [art Thou, O Lord, our God, King of the Universe,] the true judge [T. 6:3].”**

[C] *This [second] teaching applies [to those who see handicapped individuals who were born] normal and later were handicapped [– became crippled, blinded or afflicted]. But if one sees a person who was born that way [handicapped] he says, “Blessed [art Thou, O Lord, our God, King of the Universe,] who changes the creatures.”*

[II:6 A] One who sees handsome people or beautiful trees says, “Blessed [art Thou, O Lord, our God, King of the Universe,] who created handsome creatures in his world” [T. 6:4].

[B] Once R. Gamaliel saw a beautiful gentile woman and recited a blessing on her account.

[C] But did not R. Zeira in the name of R. Yosé bar Haninah, R. Ba, R. Hiyya in the name of R. Yohanan say, “‘You shall not make marriages [thnm] with them’ [Deut. 7:3]. [This means] you shall not attribute beauty [hn] to them!” [A play on the words.]

[D] What did [R. Gamaliel] say? He did not exclaim, “Abascanta, may no harm befall you [for you are beautiful]!” But he merely noted that God created beautiful creatures in the world. For even if he saw a beautiful camel, horse or donkey he would say, “Blessed [art Thou, O Lord, our God, King of the Universe,] who created beautiful creatures.”

[E] Was it R. Gamaliel’s practice to gaze at women? It must have been [that he encountered her along] a winding street, like a narrow passage, and he could not avoid [passing close by and] looking at her.

[II:7 A] When one hears the cock crow he says, “Blessed [art Thou, O Lord, our God, King of the Universe,] who knows the secrets.” [This accords with the verse,] “Who has put wisdom in the clouds, or given understanding to the cock” [Job 38:36].

[B] Said R. Levi, “In Arabia they call the goat, yobla [in accord with the verse,] ‘And when they make a long blast with the ram’s horn [krm hywbl]’ [Joshua 6:5].

[C] “In Africa they call the menstruating woman a galmuda [in accord with the verse,] ‘I was bereaved and barren [glmwdh]’ [Isa. 49:21].

[D] “*And in Rome they call the cock a skwy [in accord with the verse,] ‘Who has given understanding to the cock [skwy].’”*

[II:8 A] One who sees a crowd says, “Blessed [art Thou, O Lord, our God, King of the Universe,] who knows the secrets. Just as their faces are different one from the other, so are their opinions different one from the other.”

[B] When Ben Zoma saw crowds in Jerusalem [T.: on the Temple Mount] he would say, “Blessed is he who created all these people to serve me. How hard did Adam have to toil, before eating even a morsel. He first plowed, seeded, weeded, irrigated, reaped, made sheaves, threshed, winnowed, separated, ground, sifted, kneaded, baked and only then could he eat a morsel. But I arise in the morning and find all this prepared before me.

[C] “See how hard Adam toiled before he had a shirt to wear. He sheared, bleached, separated, dyed, spun, wove, washed, sewed and only then did he have a shirt to wear. But I arise in the morning and find all this prepared for me. How many craftsmen must rise early and retire late [to prepare my food and clothing]. And I arise in the morning and find all this before me.”

[D] And so Ben Zoma would say, “What does an ungrateful guest say? ‘What did I take from this householder to eat or drink? I ate just one slice of his bread and drank just one cup of his wine. He expended his energies [to prepare the meal] only on behalf of his wife and children.’

[E] “But the grateful guest says, ‘Blessed be this householder. May this householder be remembered for good. How much wine did he bring before me! How many slices [of bread, meat and cake] did he bring before me! How much energy did he expend on my behalf. He expended his energies only for me. And so he says, ‘Remember to extol his work, of which men have sung’ [Job 36:24] [T. 6:2].”

9:2

[A] For [seeing] meteors, and for earth tremors, and for lightning, and for thunder, and for the winds, one recites, “Blessed [art Thou, O Lord, our God, King of the Universe,] whose power fills the world.”

[B] For [seeing] the mountains, and for the hills, and for the seas, and for the rivers, and for the deserts, one recites, “Blessed [art Thou, O Lord, our God, King of the Universe,] the maker of [all of] creation.”

- [C] **R. Judah** says, “One who sees the Mediterranean sea recites, ‘Blessed [art Thou, O Lord, our God, King of the Universe,] who made the Mediterranean sea.’”
- [D] “[He only recites this blessing] when he sees it [the sea] at intervals.”
- [E] For the rains, and for good tidings, one recites, “Blessed [art Thou, O Lord, our God, King of the Universe,] who is good and does good.”
- [F] And for bad tidings one recites, “Blessed [art Thou, O Lord, our God, King of the Universe,] true judge.”
- [I:1 A] *Taught Bar Qappara*, “They sound the shofar [and fast and pray] on account of [the fear of the destructive power of] earth tremors.”
- [I:2 A] Samuel said, “The world would be destroyed if a comet passed through the constellation of Orion.”
- [B] *Someone raised an objection to Samuel’s teaching*, “I witnessed a comet pass through [the constellation of Orion].”
- [C] He said to him, “It is impossible [for that to occur]. It must have passed above it, or below it.”
- [D] *Samuel said*, “I know the ‘byways’ of the heavens as well as I know the byways of my city Nehardea. But I do not know about [the path of] this comet.”
- [E] And did Samuel ascend to explore the heavens [to learn its byways? No, he learned them by study and observation] in accord with the verse, “Who can number the clouds by wisdom?” [Job 38:37].
- [I:3 A] Elijah [the prophet] of blessed memory asked R. Nehorai, “Why do earthquakes occur?” He said to him, “On account of the sins of [those who do not separate] heave-offerings and tithes [from their produce].”
- [B] One verse says, “[God protects the Land of Israel], the eyes of the Lord your God are always upon it” [Deut. 11:12]. And a second verse says, “[God] who looks upon the earth and it trembles, who touches the mountains and they smoke” [Ps. 104:32].
- [C] How can one reconcile these two verses? When Israel obeys God’s will and properly separates tithes then, “The eyes of the Lord your God are always upon it, from the beginning of the year to the end of the year” [Deut. 11:12], and the Land cannot be damaged. But when Israel does not obey God’s will, and does not properly separate tithes [from the produce of the earth], then he, “Looks upon the earth and it trembles” [Ps. 104:32].”

- [D] [Elijah] said to him [Nehorai], “My son, on your life, what you say [about earthquakes] does make sense. But this is the main [reason that there are earthquakes]. When the Holy One, blessed be He, looks down on the theaters and circuses that sit secure, serene and peaceful, and [he looks down] on the ruins of the Temple, he shakes the world to destroy it [and the earth trembles]. In this regard [the verse says], ‘The Lord will roar from on high, and from his holy habitation utter his voice’ [Jer. 25:30]. [It means he will roar] on account of [the destruction of] his Temple.”
- [E] Said R. Aha, “[The earth quakes] on account of the sin of homosexual acts. God said, ‘You made your genitals throb in an unnatural act. By your life, I shall shake the earth on account of [the act of] this person’”.
- [F] And the sages said, “[The earth quivers] on account of disputes. [As it says, ‘And the valley of my mountains shall be stopped up, for the valley of the mountains shall touch the side of it;] and you shall flee as you fled from the earthquake in the days of Uzziah king of Judah’ [Zech. 14:5].” [Uzziah contested the authority of the priesthood and attempted to enter the Temple and offer an incense-offering, cf. II Chron. 26:16-23. This dispute caused an earthquake.]
- [G] Said R. Samuel, “An earthquake is a sign of the cessation of kingship. As it says, ‘The land trembles and writhes in pain.’ On what account? ‘For the Lord’s purposes against Babylon stand, to make the land of Babylon a desolation, without inhabitant.’ [Jer. 51:29].”
- [I:4 A] Elijah of blessed memory asked R. Nehorai, “Why did God create insects and creeping things in his world?”
- [B] He said to him, “They were created to serve a need. When God’s creatures sin, he looks upon them and says, ‘Lo, I sustain those creatures that serve no [useful] purpose, all the more must I sustain those creatures that serve some [useful] purpose [even though they sin].”
- [C] He [Elijah] said to him, “They serve other useful purposes: flies [may be crushed and used as ointment] for a wasp’s sting; bed bugs [may be prepared in a potion to remove] a leech; lizards [may be made into an ointment] for sores; snails [may be used to treat] skin eruptions; spiders [may be used in an ointment to treat] a scorpion’s bite.”
- [II:1 A] **[For seeing meteors, and for earth tremors,] and for lightning, and for thunder, and for the winds, one recites, “Blessed art**

Thou, O Lord, our God, King of the Universe, whose power fills the world.”] [M. 9:2].

- [B] R. Jeremiah and R. Zeira in the name of R. Hasdai, “It is sufficient [if one recites this blessing] once during the day [even if the lightning continues throughout the day].”
- [C] *Said R. Yosé, “How do we explain [this previous view]? In a case where the storm continues steadily it is sufficient that he recites the blessing once during the day. But if the storm intermittently ceases, he must recite the blessing each time [there is new lightning or thunder].”*
- [D] *Support for R. Yosé’s view comes from the following: **One who was sitting the whole day in a spice dealer’s shop, recites the blessing [for the fragrance of the spices] only once. One who was going in and out [of the shop throughout the day] recites the blessing each time [he enters] [T. 5:32].***
- [E] R. Aha and R. Hanina came and said in the name of R. Yosé, “If the storm continues steadily, it is sufficient that he recite the blessing once during the day. If the storm intermittently ceases he must recite the blessing each time [there is new lightning or thunder].”

[II:2 A] If one was sitting in an outhouse or privy [where one is not permitted to recite a blessing, and he hears thunder], if he can go outside and recite the blessing right away [upon hearing the thunder], he must go out. But if not, he need not go out [for the purpose of reciting the blessing].

[B] *R. Jeremiah posed the question, “If one was sitting naked in his house what should he do [upon hearing thunder]? Should he imagine the house is his garment and stick his head out the window and recite the blessing?*

[C] *“If one was sitting naked in a tower what should he do? Should he imagine the tower is his garment and stick his head out the window, and recite the blessing?” [No answer is given.]*

[III:1 A] **For the winds he recites, “Blessed [art Thou, O Lord, our God, King of the Universe,] whose power fills the world.” [M. 9:2].**

[B] The Mishnah speaks of strong winds. But for gentle winds one recites, “Blessed [art Thou, O Lord, our God, King of the Universe,] who made all creation.”

[III:2 A] Said R. Joshua b. Hananiah, “When a wind comes upon the earth, the Holy one, blessed be He, breaks it up on the mountains, and weakens it

on the hills and says to it, ‘Make sure you do not damage my creations.’”

[B] What is the basis [in Scripture for this statement]? “For from me proceeds the spirit [wind]” (Isa. 57:16). He weakens it, as it says, “When my spirit [wind] is faint” (Ps. 142:3).

[C] And why does he do all this [i.e. weaken the winds]?

[D] R. Huna in the name of R. Aha, “I have made the breath [souls] of life [conclusion of Isa. 57:16] – [I weakened the winds] on behalf of [the safety of] those souls which I have made.”

[E] Said R. Huna, “In three instances the winds went forth without bounds and sought to destroy the entire world. Once in the time of Jonah, once in the time of Elijah, and once in the time of Job.

[F] “In the time of Jonah [as it says], ‘But the Lord hurled a great wind upon the sea’ (Jonah 1:4).

[G] “In the time of Job [as it says], ‘And behold a great wind came across the wilderness’ (Job 1:19).

[H] “Whence in the time of Elijah? ‘And behold, the Lord passed by, and a great and strong wind rent the mountains’ (I Kings 19:11).”

[I] Said R. Yudan bar Shalom, “One can argue that the wind [in the time] of Job sought to destroy only him, and the wind [in the time of Jonah] sought to destroy only him. Only the wind in Elijah’s time went forth to destroy the entire cosmos. [As it says,] ‘And behold the Lord passed by and a great and strong wind rent the mountains, and broke in pieces the rocks before the Lord, but the Lord was not in the wind; and after the wind an earthquake; but the Lord was not in the earthquake; and after the earthquake a fire; but the Lord was not in the fire’ (I Kings 19:11-12).”

[III:3 A] R. Judah says, “One who sees the Mediterranean Sea recites, ‘Blessed [art Thou, O Lord, our God, King of the Universe,] who made the Mediterranean Sea.’”

[B] [He only recites this blessing] when he see it [the sea] at intervals [M. 9:2].

[C] How long is an interval? Thirty days.

[III:4 A] *Simeon Qamatraya asked R. Hiyya bar Ba, “Because I am a donkey driver and I go to Jerusalem [regularly] throughout the year [to deliver goods], must I rend my garments [each time I go there as a sign of mourning over the destruction of the Temple]?”*

[B] He said to him, “If [you return] within thirty days [to Jerusalem] you need not rend your garments. [If you return] after thirty days, then you must rend your garments.”

[III:5 A] R. Huna, Simeon Qamatraya in the name of R. Samuel bar Nahman, “‘And Jonathan the son of Gershom, son of Menasseh [alt. reading in Judges: Moses], and his sons were priests to the tribe of the Danites until the day of captivity of the Land’ (Judges 18:30). The letter nun [in the name mnsh] is suspended [above the other letters]. [This teaches that] if he was worthy, [they called him] Son of Moses [msh, without the nun]. But if not, [they called him] Son of Menasseh [who was evil, cf. II Kings 21].”

[B] *The associates posed the following question to R. Samuel bar Nahman, “If he [Jonathan] was a priest to a foreign god, why was he granted longevity? [The verse says, “His sons were priests until the day of the captivity of the Land. So they set up Micah’s graven image which he made, as long as the house of God was at Shiloh” (Judges 18:30-31).]*

[C] He said to them, “[He was granted longevity] because he acted maliciously toward his idol.”

[D] *How did he act maliciously toward his idol? A person would come to him to make an offering to the idol of a bull, a goat, or a ram, and would say to him “May this be recompense for me.”*

[E] He [Jonathan] would say to the person, “What good will this do for you? [This idol] neither sees, nor hears, nor eats, nor drinks, nor does good, nor does evil, nor speaks.”

[F] The person would say to him, “By your life! *Then what shall I do [instead]?”*

[G] *And Jonathan would say to him, “Go, make and bring to me container of fine flour, and prepare with it ten eggs, and bring it to me. And he [the idol] shall eat from all that you bring, and I shall seek recompense for you from him.” As soon as the person [brought all this and] left, Jonathan ate the food.*

[H] *One time a scoundrel came before him [to offer a sacrifice to the idol], and Jonathan told him the same thing [“What good will this do for you, etc.”]. He said to Jonathan, “If it is of no use [to offer a*

sacrifice to the idol] then what are you doing here [serving as its priest]?” He said to him, “This is my livelihood.”

[I] When David became king, he sent for and brought [Jonathan] before him. He said to him, “You are the grandson of that righteous man [Moses]. How can you worship a foreign god?”

[J] He said to him, “I have received this tradition from my grandfather’s house. ‘It is better to sell yourself into service of a foreign god than to go begging for sustenance.’”

[K] [David] said to him, “God forbid. He [your grandfather] never said such a thing! [You have corrupted the tradition and erred.] Rather he said, ‘It is better to sell yourself into service that is foreign to you [‘bwdh shy’ zrh lk and not ‘bwdh zrh,] than to go begging.’”

[L] Since David saw how much [Jonathan] loved money, what did he do? He made him his treasurer.

[M] In this regard [the verse says], “And Shebuel the son of Gershom, son of Moses, was chief officer in charge of the treasuries” (I Chron. 26:24). [Jonathan was called] Shebuel because he returned [sb] to serve God [‘I] with all his heart and with all his might. “He was the chief officer in charge of the treasuries,” that is, David appointed him [Jonathan] to be his treasurer.

[N] *They raised an objection to R. Samuel bar Nahman*, “Lo, it is written, ‘[Jonathan] and his sons were priests to the tribe of the Danites until the day of the captivity of the Land’ (Judges 18:30). [How can you say that David appointed him treasurer?]”

[O] He said to them, “When David died, Solomon succeeded him, and replaced his officers. And [Jonathan] went back to his old corrupt ways [and served as a priest of idolatry for the Danites].

[P] In this regard [the verse says, ‘Now there dwelt an old prophet in Bethel’ (I Kings 13:11). They say that [idolater in Jereboam’s kingdom] was him, [Jonathan the Danite].”

[III:6 A] One who sees the sun in its full cycle, [once in twenty-eight years] or the moon in its full cycle, or the clear firmament recites the blessing, “Blessed [art Thou, O Lord, our God, King of the Universe,] who made creation.” (Cf. T. 6:6)

[B] *Said R. Huna, “This refers only [to one who sees the clear firmament] during the rainy season and only after three [consecutive rainy] days.” In this regard [the verse says,] “And now men cannot look on the light [when it is bright in the skies, when the wind has passed and cleared them. Out of the north comes golden splendor; God is clothed with terrible majesty]” (Job 37:21-22).*

[C] One who sees the new moon recites, “Blessed [art Thou, O Lord, our God, King of the Universe] who renews the months.” For how long [during the first phase of the moon may one recite this blessing]?

[D] R. Jacob bar Aha in the name of R. Yosé, “During the first quarter.”

[E] R. Aha and R. Hanina in the name of R. Yosé, “Until the crescent fills. [Until the half moon appears].”

[F] The rabbis from Caesarea said, “Until fourteen days pass.”

[G] Said R. Yosé b. R. Bun, “Very well. [E and F say the same thing.] The crescent does not fill up until fourteen days pass. So for the first fourteen days [one who sees the moon], must recite the blessing.”

[III:7 A] In the Prayer [of the Additional Service for the new moon] R. Yosé bar Nehorai said, “[You conclude the middle blessing:] ‘Who sanctifies Israel and renews the months.’”

[B] R. Hiyya bar Ashi said, “[You conclude it:] ‘Who sanctifies Israel and the new moons.’”

[C] Samuel said, “One must recite [on the new moon the paragraph recited on the festivals:] ‘O Lord our God, bestow upon us the blessing of thy holy festivals, etc.’.”

[D] Rab said, “One must mention the season [as on the festival: ‘Thou hast given us in love, O Lord our God, appointed times for gladness, festivals and seasons for joy this day of the new moon, etc.’]”

[E] *Taught R. Hoshaiiah, “And let them be for signs and for seasons and for days and for years” (Gen. 1:14). [This verse is brought to support A and C, that one recites a blessing when one sees the sun in its cycle (“years”) and the new moon (“seasons”).]*

[III:8 A] One who passes between graves [in a cemetery], what does he recite? “Blessed [art Thou, O Lord, our God, King of the Universe,] who resurrects the dead.” (Cf. T. 6:6.)

- [B] R. Hiyya in the name of R. Yohanan [says he recites], “Blessed [art Thou, O Lord, our God, King of the Universe] who is true to his word to resurrect the dead.”
- [C] R. Hiyya in the name of R. Yohanan [says he recites], “He who knows your numbers, He shall awaken you, He shall remove the dust from your eyes. Blessed [art Thou, O Lord, our God, King of the Universe,] who resurrects the dead.”
- [D] R. Eliezer in the name of R. Hanina [says he recites], “He who created you with justice, and sustained you with justice, and removed you [from the world] with justice, and will resurrect you with justice; He who knows your numbers, He shall remove the dust from your eyes. Blessed [art Thou, O Lord, our God, King of the Universe,] who resurrects the dead.”
- [E] This is the case [that one recites this blessing only if he passes among the graves of] the Israelite dead. But concerning [one who passes among the graves of] the gentile dead, he says, “Your mother shall be utterly shamed, and she who bore you shall be disgraced. Lo, she shall be the last of the nations, a wilderness dry and desert” (Jer. 50:12).

[III:9 A] One who sees a rainbow in the sky recites, “Blessed [art Thou, O Lord, our God, King of the Universe,] who remembers the covenant” [T. 6:5].

- [B] R. Hiyya in the name of R. Yohanan, “Blessed [art Thou, O Lord, our God, King of the Universe,] who is true in his covenant and who remembers his covenant.”
- [C] R. Hezekiah in the name of R. Jeremiah, “All the days of the life of R. Simeon B. Yohai, not one rainbow was seen in the sky.” [His merit alone sustained the generation and there was no need for the rainbow as a reminder to God that he would not again bring a destructive flood to the world.]

[III:10 A] R. Hezekiah in the name of R. Jeremiah, “If R. Simeon b. Yohai would say, ‘Valley, valley. Fill up with gold coins!’ It filled up.” [So great was his power.]

- [B] R. Hezekiah in the name of R. Jeremiah, “So R. Simeon b. Yohai would say, ‘I saw [in a vision] the inhabitants of the world-to-come [heaven] and they will be few! *But even if there be just three, my son and I will be among them. And if there be [just] two, my son and I will be those two!*’”

[C] R. Hezekiah in the name of R. Jeremiah, “So R. Simeon b. Yohai would say, ‘Let [the merit of] Abraham come before God [on behalf of all those who lived] from his time to mine. Let my merit come before God [for those who shall live] from my time until the end of all generations. And if [my merit] will not suffice, then combine the merit of Ahiyah the Shilonite [cf. I Kings 11-15] with mine, and we shall come before God [on behalf of] the entire nation.’”

[IV:1 A] **[For rain, and for good tidings, one recites, “Blessed art Thou, O Lord, our God, King of the Universe, who is good and does good.” And for bad tidings one recites, “Blessed art Thou, O Lord, our God, King of the Universe, true judge:]** How come they saw fit to juxtapose [in Mishnah 9:2D-E the rule regarding the blessing one recites for] good tidings and [the rule regarding the blessing one recites] for the rains?

[B] R. Berekhiah in the name of R. Levi, “On account of [the juxtaposition of these matters in the verse], ‘Like cold water to a thirsty soul [i.e. like rain], so is good news from a far country’ (Prov. 25:25).”

[C] How much rain must fall before one is required to recite a blessing?

[D] R. Hiyya in the name of R. Yohanan, “At the beginning [of the season to require a blessing, enough must fall] so that there is flow [of some water on the ground]. And at the end [of the season, enough must fall] to completely soak the surface [of the ground].”

[E] R. Yannai in the name of R. Ishmael in the name of R. Simeon b. Laqish, “At the beginning [of the season enough rain must fall] so that there is flow; at the end [of the season] enough [rain must fall] enough to dissolve the wine-barrel-sealing clay.”

[F] Do you need [the rain to actually] dissolve the clay seal? Rather [it means enough must fall so that the mud on the ground looks] like clay which was dissolved [for sealing].

[G] R. Yosé in the name of R. Judah, and R. Jonah in the name of Samuel, “At the beginning [of the season enough must fall] so that there is a flow; and at the end [of the season] even a small amount.”

[H] R. Yosah in the name of R. Zeira, “[All these measures] were given [to specify the amount of rainfall needed to permit people] to suspend a fast [which was declared on account of a drought].”

[I] *R. Hezekiah and R. Nahum [Tanhum] and R. Ada and R. Bimi [R. Ada bar Abimi] were in session.*

[J] Said R. Tanhum to R. Ada bar Abimi, “Is it not reasonable [that these amounts specify the minimum rainfall needed before one may recite] a blessing?”

[K] He [Ada] said to him, “Yes.”

[L] Said R. Hezekiah to R. Ada bar Abimi, “Is it not reasonable [that these amounts specify the minimum rainfall needed before one may] suspend a fast [decreed on account of a drought]?”

[M] He [Ada] said to him, “Yes.”

[N] [Hezekiah] said to him, “Why did you say yes to him [Tanhum]?”

[O] He [Ada] said to him, “I answered him [Tanhum] in accord with my master’s view.”

[P] Said R. Mana to R. Hezekiah, “And who is your master?”

[Q] He said to him, “R. Zeira.”

[R] *He said to him, “We have said: R. Yosé in the name of R. Zeira, ‘[The measures specify the minimum rainfall] to suspend a fast. [How then did you agree with Tanhum that these measures also refer to the minimum rainfall before one must recite a blessing?]’ [No answer is given.]*

[IV:2 A] R. Judah bar Ezekiel said, “My father used to recite this blessing over rainfall: ‘May your name our king be magnified, and sanctified, and blessed, and glorified for each and every drop of rain which you cause to fall for our sake. For you separate each droplet by itself [as it says], ‘For he draws up the drops of water, [he distills his mist in the rain]’ (Job 36:27).”

[B] [Draws up, ygr’, means that he separates each drop] as it says [in the usage], “And a deduction shall be made [wngr’] from your valuation” (Lev. 27:18). [A small amount shall be separated from it.]

[C] Said R. Yudan, “Moreover, [Ezekiel’s prayer suggests that he caused the raindrops to fall by measures [according to the needs of each field]. As it says, ‘He meted out the waters by measure’ (Job 28:25).”

[D] *R. Yosé bar Jacob went to visit R. Yudan of Migdal. When he got there, rain began to fall. And he heard his voice saying [in prayers], “Thousands and ten of thousands of times must we give thanks to Your name, our king, for each and every drop of rain which You cause to fall on our behalf. For You render favor for those who need it.”*

[E] *He [Yosé] said to him [Yudan], “Where did you get [this prayer]?”*

[F] *He said to him, “This is the blessing R. Simon recited over rainfall.”*

[G] And how much rainfall will create “a flow [to soak into the ground to irrigate it]?”

[H] “Enough [must fall] to fill a vessel three handbreadths deep,” the words of R. Meir.

[I] R. Judah says, “At the beginning of the season [the first two weeks of Heshvan], if one handbreadth [falls in the first rainfall of the season, it will saturate the ground]. In the second [part of the season, the third week of Heshvan], if two handbreadths [fall in the first rainfall of the season, it will saturate the ground because the ground is harder]. In the third [part of the season, the third week of Heshvan and the first week of Kislev], if three handbreadths [fall in the first rainfall of the season, it will saturate the ground because the ground is even harder by that time].”

[J] *It was taught:* R. Simeon b. Eleazar says, “For each handbreadth of rain which falls from above, the earth gives forth from below two handbreadths.

[K] “*What is the basis [in Scripture for this statement]? ‘Deep calls to deep at the thunder of thy cataracts’ (Ps. 42:7).’*”

[L] And R. Levi said, “The waters up above are masculine, and the waters down below are feminine.”

[M] *What is the basis [in Scripture for this statement]?* “[Shower, O heavens from above, and let the skies rain down righteousness;] let the earth open” (Isa. 45:8) – like a woman who opens to a man; “That they may bring forth salvation” (ibid.) – this refers to procreation; “And sprout forth righteousness” – this refers to the rainfall; “I the Lord have created it” (ibid.) – for this purpose I created it, to set in order and populate the world.

[N] *R. Aha taught it in the name of R. Simeon b. Gamaliel, “Why is it called a flow [which soaks in], rby’h? Because it makes the earth fertile [rwb’h].” [The same word refers both to irrigation and sexual relations.]*

[O] R. Haninah bar Yaqa in the name of R. Judah, “The roots of wheat stalks go down three [var.: fifty] cubits into the ground. The roots of young fig trees penetrate even through rock-hard ground.”

[P] *It was taught:* R. Ishmael b. Eleazar says, “The ground only absorbs enough to saturate the [soil’s] uppermost layer.”

[Q] If that is so how will the [deep] roots of the carob or of the sycamore [ever find moisture]?

[R] Said R. Haninah, “Once every thirty days waters rise up from the deep to water them.”

[S] *And what is the basis [in Scripture for this statement]?* “I, the Lord, am its keeper; every moment [lrg’ym, at intervals] I water it” (Isa. 27:3).

[IV:3 A] Said R. Zeira, “If one sees prices decline, or that produce is abundant, or that the river provides enough to irrigate the province, he recites, ‘Blessed [art Thou, O Lord, our God, King of the Universe,] who is good and does good.’

[B] “If they told someone his father died, he recites, ‘Blessed [art Thou, O Lord, our God, King of the Universe,] the true judge’.”

[C] If someone’s father died and [later] he inherited his estate, he [also] recites, “Blessed [art Thou, O Lord, our God, King of the Universe,] who is good and does good’.”

9:3

[A] One who built a new house, or bought new clothes says, “Blessed [art Thou, O Lord, our God, King of the Universe, who kept us alive, and sustained us, and] brought us to this occasion.”

[B] One recites a blessing over evil, as he would recite over good. And one recites a blessing over good, as he would recite over evil.

[C] And one who cries out over a past occurrence, lo, this is a vain prayer.

[D] How so? One whose wife was pregnant and he recited, “May it be thy will that she bear a male child,” lo, this is a vain prayer.

[E] One who was coming down the road, and he heard cries in the city and recited, “May it be thy will that these [cries] do not come from my house,” lo, this is a vain prayer.

- [I:1 A] Said R. Hiyya bar Ba, “[This rule that he recites a blessing applies] not only to new clothes, but also to worn clothes, if they are new for him.”
- [B] R. Jacob bar Zabedi in the name of R. Hiyya bar Abba said, “If one buys [new clothes] he says, ‘Blessed [art Thou, O Lord, our God, King of the Universe,] who kept us alive, and sustained us, and brought us to this occasion.’”
- [C] “If they are given to him he says, ‘Blessed [art Thou, O Lord, our God, King of the Universe,] who is good and does good’.”
- [D] R. Ba, the father of R. Ba Mari, in the name of R. Aha, “If one buys them he says, ‘Blessed [art Thou, O Lord, our God, King of the Universe, who kept us alive and sustained us, and] brought us to this occasion.’”
- [E] “If they were given to him he says, ‘Blessed [art Thou, O Lord, our God, King of the Universe,] who is good and does good.’”
- [F] “When one puts on clothing, he says, ‘Blessed [art Thou, O Lord, our God, King of the Universe,] who clothes the naked.’”
- [I:2 A] **[One recites a blessing over the performance of all the commandments.]**
- [B] **One who makes for himself a sukkah recites, “Blessed [art Thou, O Lord, our God, King of the Universe,] who sanctified us with his commandments and commanded us to make a sukkah” [T. 6:9].**
- [C] **[One who makes a sukkah] for others [recites, “Blessed art Thou, O Lord, our God, King of the Universe,] to make for Him a sukkah for his sake.”**
- [D] **When he enters to dwell in it he recites, “Blessed [art Thou, O Lord, our God, King of the Universe,] who sanctified us with his commandments and commanded us to dwell in a sukkah.”**
- [E] **Once he recites the blessing for [the commandment to dwell in] it on the first night of the festival he need not recite it again [for the remainder of the festival].**
- [F] **Likewise, one who makes for himself a lulab recites, “Blessed [art Thou, O Lord, our God, King of the Universe,] who sanctified us with his commandments and commanded us to make a lulab.”**
- [G] **[One who makes a lulab] for another [recites, “Blessed art Thou, O Lord, our God, King of the Universe] to make lulab for his sake.”**

- [H] When he takes hold of it [to fulfill the commandment] he recites, Blessed [art Thou, O Lord, our God, King of the Universe, who commanded us to take hold of the lulab,” and “Blessed [art Thou, O Lord, our God, King of the Universe,] who has kept us alive, [and sustained us, and brought us to] this occasion.” And he must recite the blessings each time he takes hold of it.
- [I] One who makes for himself a mezuzah recites, “Blessed [art Thou, O Lord, our God, King of the Universe, who sanctified us with his commandments and commanded us] to make a mezuzah.”
- [J] [One who makes a mezuzah] for another [recites, “Blessed art Thou, O Lord, our God, King of the Universe, who sanctified us with his commandments and commanded us] to make a mezuzah for his sake.”
- [K] When he sets it [in the door post] he recites, “Blessed [art Thou, O Lord, our God, King of the Universe,] who sanctified us with his commandments and commanded us regarding the commandments of the mezuzah.
- [L] One who makes for himself tefillin [recites, “Blessed art Thou, O Lord, our God, King of the Universe, who sanctified us with his commandments and commanded us to make tefillin.”]
- [M] One who makes for others tefillin [recites, “Blessed art Thou, O Lord, our God, King of the Universe, who sanctified us with his commandments and commanded us to make tefillin for his sake.”]
- [N] When he puts them on he recites, “Blessed [art Thou, O Lord, our God, King of the Universe,] concerning the commandment of the tefillin.
- [O] One who makes fringes [in a garment] for himself [recites, “Blessed art Thou, O Lord, our God, King of the Universe, who sanctified us with his commandments and commanded us to make fringes.”]
- [P] [One who makes fringes] for others [recites, “Blessed art Thou, O Lord, our God, King of the Universe, who sanctified us with his commandments and commanded us to make fringes for his sake.”]
- [Q] When he puts them on, [he recites, “Blessed art Thou, O Lord, our God, King of the Universe, who sanctified us with his commandments and commanded us concerning the commandment of fringes.”]

- [R] One who separates heave-offerings and tithes recites, “Blessed [art Thou, O Lord, our God, King of the Universe] who sanctified us with his commandments and commanded us to separate heave-offering and tithes.”
- [S] [One who separates these] for others recites, “Blessed [art Thou, O Lord, our God, King of the Universe,] to separate heave-offering and tithes for his sake.”
- [T] He who slaughters must recite, “Blessed [art Thou, O Lord, our God, King of the Universe, who sanctified us with his commandments and] commanded us regarding slaughtering.”
- [U] He who covers the blood recites, “Blessed [art Thou, O Lord, our God, King of the Universe, who sanctified us with his commandments and commanded us] concerning the covering of the blood.”
- [V] He who circumcises must recite, “Blessed [art Thou, O Lord, our God, King of the Universe, who sanctified us with his commandments] and commanded us regarding circumcision.”
- [M] The child’s father recites, “Blessed [art Thou, O Lord, our God, King of the Universe, who sanctified us with his commandments] and commanded us to bring him into the covenant of Abraham our forefather.”
- [X] Those [guests] who are standing [at the ceremony] must recite, “Just as you have brought him into the covenant, so shall you bring him to Torah, and marriage [and good deeds].”
- [Y] The one who recites the blessing [which follows the ceremony] must recite this blessing, “Blessed [art Thou, O Lord, our God, King of the Universe] who sanctified [Isaac] the beloved in the womb and placed the mark of His statute in his flesh, and [placed it] on his offspring as a seal the sign of the sacred covenant. So on the merits of this, living God, our support, our rock, you commanded us [to circumcise our sons] so we may save our beloved kindred from destruction. Blessed art Thou O Lord, who establishes the covenant.” [The version of this passage in T. 6:9 has several additions and omissions and a slightly different order. Some identify Abraham as the “beloved.”]
- [I:3 A] When does one recite the blessing over [the performance of] the commandments?
- [B] R. Yohanan says, “Prior to performing them.”

- [C] R. Huna says, “At the same time one performs them.”
- [D] *R. Huna follows Samuel’s view.*
- [E] For R. Yosé b. Bun said in the name of Samuel, “All of the commandments require that one recite a blessing at the time one performs them, with the exception of the sounding of the shofar [on the New Year’s day], and of immersing oneself [in a ritual bath].”
- [F] And some say [to exclude also from those acts for which one recites a blessing before performing them, the act of] consummating a marriage. [In these cases you recite the blessing after the action because there is the possibility in the case of shofar and consummating the marriage that one may not be able to complete the proper action. And in the case of immersing in a bath, in some instances, one is not permitted to recite a blessing beforehand because he is unclean.]
- [G] *Said R. Jonah, “There are other [commandments for which one may recite the blessing after performing the action. For example, you may recite the blessings over] the tefillin of the arm [after putting it on, anytime] before you remove it. And [you must recite the blessing over] the head-tefillin before you set it in place [on your head].*
- [H] *“But if you recited the blessing [over the head-tefillin] after you put it on, lo, it is on already [and it is too late to recite the blessing.]”* [It is too late to recite two separate blessings over the tefillin because one must follow this sequence. First one puts on the arm tefillin, then one recites the blessing for the head tefillin before putting it on. Later one may recite the blessing over the arm tefillin, before removing it. But one may not put on the arm tefillin, then put on the head tefillin, and subsequently recite the blessing over the head tefillin. In that case the single blessing will apply willy nilly to both the arm and head tefillin, and one will forfeit the opportunity to recite two separate blessings.]
- [I] When does one recite the blessing for slaughtering [an animal]? R. Yohanan says, “Before one slaughters [the animal].” Yosé b. Nehorai says, “After one slaughters it.” Why [after slaughtering it]? Lest the slaughtering be invalid [and the blessing be in vain.]
- [J] [If this is a concern], he should wait to recite the blessing until he examines the animal’s neck passages [to see if the windpipe and esophagus were severed properly and until he also

examines the animal's entrails for defects which might render it prohibited for consumption.]

[K] [This is not necessary for we have a principle:] The presumption is that the entrails will be found fit.

[L] *It was taught [in this regard:]* If one slaughtered [an animal] and wolves dragged its entrails away [before he could examine them, we rule that the animal] is fit for consumption. Should we not suspect perhaps that [the intestines] were [previously] punctured [and the animal was unfit for consumption]?

[M] R. Ba in the name of sages there [in Babylonia], "The presumption is that the entrails will be found fit."

[II:1 A] And one who cries out over a past occurrence, lo, this is a vain prayer.

[B] How so? One whose wife was pregnant and he recited, "May it be thy will that she bear a male child," lo, this is a vain prayer [M. 9:3C-D].

[B] The House of Yannai say, "Our Mishnah refers to a situation where the woman is sitting in the labor chair. But before that time one may pray [for a male child.]"

[C] Said R. Judah b. Pazzi, "Even if she is sitting in the labor chair, the sex of the fetus can be changed [by God], in accord with the verse, 'Behold, like the clay in the potter's hand, so are you in my hand, O house of Israel' (Jer. 18:6)."

[D] Rabbi [said] in the name of the House of Yannai, "Originally [as a fetus], Dinah was a male. After Rachel prayed, she was changed into a female. In this regard it says, 'Afterwards she bore a daughter, and called her name Dinah' (Gen. 30:21). After Rachel prayed, Dinah was changed into a female."

[E] And R. Judah b. Pazzi said in the name of the House of R. Yannai, "Our mother Rachel was one of the earliest prophetesses. She said, 'Another shall descend from me.'

[F] "In this regard it is written, 'She called his name Joseph, saying, 'May the Lord add to me another son'' (Gen. 30:24). She did not say, 'other sons.' Rather she said, 'Let another one be descended from me.'" [She knew that Jacob would have one more son and she prayed that it would be through her. At that moment, Leah's fetus changed into a female.]

[II:2 A] What may one who was coming home off the road say [if he hears cries in the city, M. 9:3E]? “I am sure that they do not come from my house [showing his faith in God].”

[B] Hillel the Elder says, “[He should recite this verse,] ‘He is not afraid of evil tidings’ (Ps. 112:7).”

9:4

[A] One who enters a town recites two prayers; one on his entry, and one on his exit.

[B] Ben Azzai says, “[He recites] four [prayers], two on his entry, and two on his exit.

[C] “He gives thanks for the past and cries out for the future [both upon his arrival and his departure].”

[I:1 A] One who enters a town recites two prayers, one on his entry and one on his exit.

[B] What does he say when he enters? “May it be thy will, Lord my God, God of my fathers, that you bring me into this town in peace.”

[C] When he exits what does he say? “I give thanks to thee, Lord my God, that you brought me into this town in peace. So may it be thy will that you bring me forth from this town in peace.”

[D] Ben Azzai says, “[He recites] four [blessings]: two on his entry and two on his exit.”

[E] He says, “May it be thy will, Lord my God, God of my fathers, that you bring me into this town in peace.”

[F] Once he has entered, he says, “I give thanks to thee, Lord my God, God of my fathers, that you brought me in in peace. So may it be thy will that you bring me forth in peace.”

[G] When he is exiting he says, “May it be thy will, Lord my God, that you bring me forth in peace.”

[H] Once he has exited, he says, “I give thanks to thee, Lord my God, God of my fathers, that you brought me forth in peace. So may it be thy will to bring me to my house in peace.” Or, “[That you bring me] to such and such a place in peace” [T. 6:16].

[I] [*These laws apply*] in regard to [one who travels through] an area of gentile settlement. But [one who travels through] an area of Jewish settlement, need not recite the blessings.

- [J] But if it is known as a place where executions occur, even if it is an area of Jewish settlement, one must recite the blessings.
- [I:2 A] One who enters an outhouse recites two blessings, one when he enters, one when he leaves.
- [B] When he enters what does he say? “May you be honored, most honorable ministering angels. These are our ways. Make the way clear for us. Blessed is the most honored God.” And when he leaves what does he say? Blessed [art Thou, O Lord, our God, King of the Universe,] who formed man in his wisdom...”
- [I:3 A]] **One who enters a bathhouse recites two prayers, one when he enters, one when he leaves [T. 6:17].**
- [B] What does he say when he enters? “May it be thy will, Lord my God, that you protect me from the flames of the fire, and from injury by the steam, and from the collapse of the building. And may nothing occur to endanger my life. But if something happens, may my death atone for all of my sins. And save me from this and similar dangers in times to come.”
- [C] And what does he say when he leaves? “I give thanks to you, Lord my God, for you saved me from the fire.”
- [D] *Said R. Abbahu, “All this refers only to a bathhouse which is heated by a furnace [artificially]. But when one uses a bathhouse that is not [artificially] heated by a furnace, he says only, “[Protect me from] injury by the steam.”*
- [E] R. Hilkiyah and R. Simon in the name of R. Joshua b. Levi, “When reciting the prayers for [protection in] the bathhouse, one does not have to stand up.”

9:5

- [A] **A person is obligated to recite a blessing over bad fortune, just as he recites a blessing over good fortune.**
- [B] **As it says, “And you shall love the Lord your God with all your heart, and with all your soul, and with all you might” (Deut. 6:5).**
- [C] **“With all your heart” – with your two desires, with your desire for good, and with your desire for evil.**
- [D] **“With all your soul” – even if He takes your soul.**
- [E] **“With all your might” – with all your wealth.**

- [F] **Another interpretation: “With all your might [m’dk]” – for every measure [mydh] which He metes out for you [mwdd lk], thank Him [mwdh lw] greatly [m’d m’d]. [This interpretation is based on a play on words.]**
- [G] **A person should not act frivolously opposite the Eastern Gate [of the Temple] for it faces the Chamber of the Holy of Holies.**
- [H] **One shall not enter the Temple mount with this walking stick, or with his overshoes, or with his money bag, or with dust on his feet.**
- [I] **And one should not use [the Temple mount] for a shortcut.**
- [J] **And spitting [while on the Temple mount is forbidden, based on an inference] from a qal wahomer [an argument a minori ad majus].**
- [K] **[At one time] they used to say, “Forever,” at the conclusion of all blessings recited in the Temple.**
- [L] **After the heretics tried to corrupt [the tradition] by saying, “[Based on what you say,] there is only one world [and no afterlife in the world to come],” they ordained that one should say “Forever and ever.”**
- [M] **And they ordained that a person should greet his associate with God’s name.**
- [N] **As it says, “And behold Boaz came from Bethlehem and he said to the reapers, ‘The Lord be with you!’ And they answered, ‘The Lord bless you’” (Ruth 2:4).**
- [O] **And [as further support for this practice] it says, “[The angel greeted Gideon saying,] ‘The Lord be with you mighty man of valor’ (Judges 6:12).**
- [P] **And it says, “[Harken to your father for he gave birth to you and] do not despise your mother when she is old” (Prov. 23:22).**
- [Q] **And it says, “It is time for the Lord to act, for thy law has been broken” (Ps. 119:126).**
- [R] **R. Nathan says, “Thy law has been broken. It is time ‘to act’ for the Lord.”**
- [I:1 A] **R. Berekhiah in the name of R. Levi, “[One must recite a blessing over misfortune] on account of the verse, ‘But Thou, O Lord, art on high forever’ (Ps. 92:8). Whatever you [O Lord] do is justified.**
- [B] **“It is the way of the world that when a human king sits and grants a pardon, all praise him. But when he invokes the death penalty, all murmur against him. [They ask] why has he gotten carried away in his judgments? But this is not [how people respond to judgments] of the Holy One, blessed be He. Rather [whatever his judgment, they always**

say,] ‘But Thou, O Lord, art on high forever.’ Whatever you [O Lord] do is justified.”

[C] R. Huna in the name of R. Aha, “‘A Psalm of David. I will sing of loving kindness and justice; to thee, O Lord, I will sing’ (Ps 101:1). David said to the Holy One, blessed be He, ‘If you act towards me out of loving kindness, I will sing, and if you act towards me out of justice, I will sing. Either way, to thee O Lord, I will sing.’”

[D] Said R. Tanhuma b. Judah, “‘In God, whose word I praise, in the Lord, whose word I praise’ (Ps. 56:10). For both [God’s] attribute of justice, and the [Lord’s] attribute of mercy, I praise.”

[E] And sages say, “‘I will lift up the cup of salvation and call on the name of the Lord’ (Ps. 116:13). ‘I suffered distress and anguish. Then I called on the name of the Lord’ (Ps. 116:3-4). For both [salvation and distress] he, ‘Called on the name of the Lord.’”

[F] Said R. Yudan b. Pilah, “Thus Job said, ‘The Lord gave and the Lord has taken away; blessed be the name of the Lord’ (Job 1:21). Just as he gave with mercy, so he took with mercy. Moreover, when he gave, he consulted with no one. But when he took, he consulted with his court.”

[G] [This accords with the following tradition:] Said R. Eleazar, “Anywhere it says [in Scripture], ‘And the Lord,’ [it means] he acted together with his court.

[H] “The primary source [in Scripture] of this general principle [is the following:] ‘And Michaiah said, I saw the Lord sitting on this throne, and all the host of heaven standing beside him on his right hand and on his left; and the Lord said ‘Who will entice Ahab?’ ‘Now, therefore behold, the Lord has put a lying spirit in the mouth of all these your prophets; and] the Lord has spoken evil concerning you’ (I Kings 22:19-23).”

[I:2 A] Let love motivate your actions and let fear motivate your actions. [How so?] Let love motivate your actions. And if you begin to despise [the commandments or Torah], recall that you love [God]. And one who loves [God] cannot despise [His commandments].

[B] Let fear [also] motivate your actions. And if you begin to rebel [against God’s commandments or Torah], recall that you fear him. And one who fears does not rebel.

[C] There are seven kinds of Pharisees [perushim]: The showy [Pharisee], the haughty [Pharisee], the bookkeeper [Pharisee], the parsimonious

[Pharisee], the repaying [Pharisee], the fearing [Pharisee], the loving [Pharisee].

- [D] *The “showy [Pharisee]” carries his good deeds on his shoulder [to show them off].*
- [E] *The “haughty [Pharisee]” says, “Wait for me. I am [busy using my time] to fulfill the commandments! [I have no time for you.]”*
- [F] *The “bookkeeper [Pharisee]” pays off each debt [i.e. sin] by performing a commandment [good deed].*
- [G] *The “parsimonious [Pharisee]” says, “From the little I have, what can I set aside for performing commandments?”*
- [H] *The “repaying [Pharisee]” says, “Tell me what sin I have committed and I will perform a commandment to offset it.” [These five types are negative, pompous, ostentatious models.]*

[I] The “fearing” [Pharisee emulates] Job. The “loving” [Pharisee emulates] Abraham. And none is more beloved of God than the “loving” [Pharisee who emulates] Abraham.

[J] Abraham, our forefather, even transformed the evil desire [within him] into good. As it is written, ‘And Thou didst find his heart (lbbw – suggesting more than one) faithful before thee’ (Neh. 9:8). [Both his ‘hearts desires’ were faithful.]

[K] Said R. Aha, “He made a deal [with his evil desire so that he could control it. As it says,] ‘And didst make with him the covenant, etc.’ (ibid).

[L] “But David could not withstand [the power of his evil desire] and he had to kill it.

[M] “*What is the basis [in Scripture for this statement]? ‘My heart [lby – the evil desire] is stricken within me’ (Ps. 109:22).’*”

[I:3 A] *R. Aqiba was being tortured [lit.: being judged] by the evil Tinneius Rufus. When [he was close to death,] the time to recite the Shema’ approached. He began to recite the Shema’ and he smiled.*

- [B] He [Tinneius] said to him, “Elder, either you are a sorcerer [who does not feel pain] or you mock the torture [which I inflict upon you].
- [C] He [Aqiba] said to him, “Woe unto you. I am neither a sorcerer, nor a mocker. But [I now was thinking,] all my life when I recited this verse, I was troubled and wondered when I would be able to fulfill all three aspects [of this verse]: ‘And you shall love the Lord your God with all

you heart, and with all your soul, and with all you might' (Deut. 6:5). I have loved Him with all my heart. And I have loved him with all my wealth. *But I did not know how I would [fulfill the verse and] love him with all my soul.*

[D] "And now the time has come [for me to love him] with all my soul, and the time has come to recite the Shema'. It is now clear to me [how I shall serve Him with all my soul]. For this reason I now am reciting and smiling." And just as he said this his soul passed from him.

[E] Nehemiah Emsoni served R. Aqiba for twenty-two years [as his disciple]. And [Aqiba] taught him [what one could include in the interpretation of a verse based on the presence of the particles in the Torah] 't and gm [and what one could exclude in the interpretation of a verse based on each particle] 'k and rq.

[F] He said to him, "What about that which is written, You shall fear ['t] the Lord your God' (Deut. 6:13)?"

[G] He said to him," [The presence in the verse of the particle 't teaches: You shall fear] Him and His Torah."

[II:1 A] A person should not act frivolously. (M. 9:5).

[B] *It was taught:* [One who is north of the Temple Mount] when he passes water, he should face north. When he moves his bowels, lo he should face South.

[C] Said R. Yosé b. R. Bun, "*In this regard it was taught:* 'From Mount Scopus or closer [to the Temple one must follow this practice.]'"

[D] R. Aqiba says, "[One must follow this practice] in any place. And especially in a place where there is no wall [separating between the person and the Temple Mount]."

[E] *It was taught:* One who moves his bowels should not face east-west but should face in another direction.

[F] R. Judah says, "[This practice only applied] during the time the Temple was standing."

[G] R. Yosé says, "From Mount Scopus or closer [one must follow this practice]."

[H] R. Aqiba says, "In any place and especially in a place where there is no wall [separating between the person and the Temple Mount]."

[I] Said R. Aqiba, "I followed R. Joshua to observe his habits."

[J] They said to him, “What did you see?”

[K] He said to them, “I saw him sitting with his side facing west. He did not uncover himself until he sat down. He did not sit down until he had rubbed the place [he sat to clean it]. And he did not wipe with his right hand, but with his left.”

[L] So Simeon b. Azzai used to say, “I followed R. Aqiba to observe his habits.” They said to him, “What did you see?” [Etc., as in J.]

- [III:1 A] *It was taught:* **One should not enter the Temple mount [with his walking stick] or with his overshoes, [or with his money bag] or with dust on his feet, [M. 9:5]**
- [B] **Or with his money tied in his purse [lit.: garment], or with his money bag tied about him.**
- [C] **What is the basis [in Scripture for this statement]? ‘Guard your steps when you go to the house of the Lord’ (Qoheleth 5:1 RSV).**
- [D] **R. Yosé b. R. Judah says, Lo, it says, “He went up to the entrance of the king’s gate, for no one might enter the king’s gate clothed with sackcloth” (Esther 4:2) [T. 6:19]. He said, “If this is how one must act before the gate of such spittle how much more so must one [dress properly when one comes] before the gate of God.”**
- [E] **One should not use [the Temple Mount] for a shortcut. And spitting [there is forbidden, based on an inference] from qal wahomer, [M. 9:5] [as follows:] If out of respect alone wearing a shoe is forbidden by the Torah, spitting which is a disgrace is surely forbidden [T. 6:19].**
- [IV:1 A] *It was taught:* **They did not respond ‘Amen’ [after a blessing was recited] in the Temple. What did they respond? “Blessed be the name of his glorious kingdom for everlasting.”**
- [B] **Whence that they did not respond ‘Amen’ in the Temple? We derive it from the verse, “[Then the Levites] said, ‘Stand up and bless the Lord your God from everlasting to everlasting. Blessed be thy glorious name which is exalted above all blessing and praise”” (Neh. 9:5).**
- [C] **Whence that one must so respond to every blessing? We derive it from, “Exalted above all blessing” (ibid) [T. 6:22].**
- [V:1 A] **Said R. Joshua of the South, “In three instances a decree was issued by an earthly court and the heavenly court confirmed it.**

- [B] And they are (1) [the decree concerning] the ban on using the property of Jericho [that it either go to the treasury of the Lord, or be destroyed, cf. Joshua 6:18-19]; (2) [the decree concerning the obligation to read on Purim] the scroll of Esther; (3) [the decree to] greet one's fellow with God's name.
- [C] The ban on using the property of Jericho [was confirmed by God and the Heavenly court, as the verse says,] "Israel has sinned" (Joshua 9:11). [They took from the property which God forbade them.] Was it not Joshua who issued the decree? The verse teaches that the heavenly court confirmed their decree.
- [D] The [obligation to read] the scroll of Esther [was confirmed by God and the Heavenly court as its says,] "The Jews ordained and they accepted" (Esther 9:27). Rab said, "'Accepted' means the heavenly court confirmed [the obligation to celebrate Purim and read the scroll of Esther]."
- [E] [The practice of] greeting one's fellow with God's name [was confirmed by the heavenly court as it says,] "And behold Boaz came from Bethlehem [and he said to the reapers, 'The Lord be with you!' And they answered, 'The Lord bless you']" (Ruth 2:4).
- [F] But whence that the heavenly court confirmed [the propriety of this practice]? We derive this from another verse, "And the angel of the Lord appeared to him [Gideon] and said to him, 'The Lord is with you, you mighty man of valor.'" (Judges 6:12)
- [G] R. Abun in the name of R. Joshua b. Levi, "[The practice] of tithing [during the period of the second Temple] also [was decreed by man and confirmed by God in the heavenly court]. As it says, 'Bring the full tithes [into the storehouse, that there may be good in my house; and thereby put me to the test, says the Lord of hosts, if I will not open the windows of heaven for you and pour down for you an overflowing blessing]" (Mal. 3:10).
- [H] What does, "An overflowing blessing [d bly dy]" mean? R. Yosé bar Simeon bar Ba in the name of R. Yohanan, "It is something about which one can never say, 'We had enough [dyy] of this blessing.'"
- [I] R. Berekhiah and R. Helbo and R. Abba bar Ilai in the name of Rab, "[It means you shall receive so many blessings] that your lips will tire from saying [in thanksgiving] 'Enough blessing for us! Enough blessing for us!'"

[VI:1 A] “Do not despise your mother when she is old” (Prov. 23:22). [M. 9:5P]

[B] Said R. Yosé bar Bun, “If the words of the Torah seem old when you say them, do not despise them.” *What is the basis [in Scripture for this statement]?* “Do not despise your mother when she is old.”

[B] Said R. Zeira, “If your motherland [lit: ‘wmh, nation] becomes weak, arise and fortify it, as Elkanah did when he led Israel to the pilgrimage festivals. In this regard it says, ‘Now this man [Elkanah] used to go up year by year from his city to worship and sacrifice to the Lord of hosts at Shiloh.’ (I Sam. 1:3). [And he encouraged others to join with him.]”

[VII:1 A] It is the time for the Lord to act, for thy law has been broken” (Ps. 119:126). R. Nathan transposed the verse. “Thy law has been broken, it is the time for the Lord to act.” [M. 9:5.]

[B] R. Hilkiah in the name of R. Simon, “One who only studies Torah occasionally [‘tym], lo, it is as if he destroys the covenant.”

[C] *What is the basis for this?* [He reads and interprets the verse as follows:] “They break thy law, who only on occasion [‘t] act for the Lord.”

[D] *It was taught:* R. Simeon ben Yohai says, “If you see that people have abandoned the Torah, stand right up and fortify it and you shall receive reward on behalf of all of them [who return to the Torah].”

[E] *What is the basis [in Scripture for this statement]?* [He reads the verse:] “If they have abandoned thy law, it is time to act for the Lord.”

[VII:2 A] Hillel the Elder used to say, “You should scatter at the time of gathering. And you should gather in at the time of scattering.”

[B] **And so Hillel used to say, “When you see that the Torah is beloved to all Israel and all rejoice in it, the you must spread it about. And if this is not the case, then you must gather it in [T. 6:24].”**

[C] Said R. Eleazar, “Just as an infant must nurse all through the day, so every person in Israel must toil in the study of Torah all through the day.”

[D] *R. Jonah in the name of R. Yosé b. Gezerah, “All discussions are bad. But discussions concerning the Torah are good. All fictions [var.: silences] are good. But fictions concerning [the study of the] Torah are bad. [So Jastrow, s.v. kdyb’.]”*

[E] Said R. Simeon b. Laqish, “In the Scroll of the Pious they found the following written: ‘If you forsake me for one day, I shall forsake you for two.’”

[F] “[This may be explained through a parable:] Two persons set out on the road, one from Tiberias and one from Sepphoris. They meet at one place of lodging. Then they take leave of one another [and go in different directions]. After each has travelled one mile they find themselves two miles apart. [So it is as if God and Israel go off in different directions.]”

[G] [Another parable:] Concerning a woman who awaits a certain man. As long as he intends to marry her, she sits and waits for him. But if he directs his intentions elsewhere, she may go and marry another. [So it is as if Israel turns its attention from God.]

[VII:3 A] *It was taught:* **R. Meir used to say, “There is no person in Israel who does not perform one hundred commandments each day [and recite blessings for them].**

[B] **“One recites the Shema’ and recites blessings before and after it. And one eats his bread and recites blessings before and after. And one recites the Prayer of Eighteen Blessings three times. And one performs all the other commandments and recites blessings for them.”**

[C] **And so R. Meir used to say, “There is no person in Israel who is not surrounded by commandments.**

[D] **“[Every person wears] tefillin on his head, tefillin on his arm, and has a mezuzah on his door post, the mark of circumcision in his flesh, and four fringes on his garment around him.”**

[E] **So did David say, “Seven times a day I praise thee for thy righteous ordinances” (Ps. 119:164). And so he says, “The angel of the Lord encamps around those who fear him and delivers them” (Ps. 34:7).**

[F] **When he [David] entered the bathhouse and realized that he was naked, he said, ‘Woe is me for I am stripped of the commandments.’ But when he saw the mark of circumcision in his flesh he praised the Lord [in his Psalm] saying, “To the choirmaster according to the sheminith” (Ps. 12:1) [The eighth, sheminith, is an allusion to circumcision on the eighth day] [T. 6:24-5].**

[G] Said R. Eleazar in the name of R. Haninah, “Disciples of the sages foster peace in the world. What is the basis [in Scripture for this statement]? ‘All your sons shall be taught by the Lord, and great shall be the prosperity of your sons’ (Isa. 54:13).”

CHAPTER TEN

THE STRUCTURE OF YERUSHALMI BERAKHOT

Whether or not the Talmud of the Land of Israel is carefully organized in large-scale, recurrent structures and guided by a program that we may call systematic forms the principal question addressed by an academic commentary. The preceding chapters therefore have pointed toward the presentation set forth here. By “structure” I mean, a clearly-articulated pattern that governs the location of fully-spelled out statements. By “system,” I mean, a well-crafted and coherent set of ideas that explain the social order of the community addressed by the writers of a document, a social philosophy, a theory of the way of life, world view, and character of the social entity formed by a given social group. I see a collective, anonymous, and political document, such as the one before us, as a statement to, and about, the way in which people should organize their lives and govern their actions. At issue then in any document such as the remarkable one before us is simple: does this piece of writing present information or a program, facts to whom it may concern, or a philosophically and aesthetically cogent statement about how things should be? The connection between structure and system is plain to see. From the way in which people consistently frame their thoughts, we move to the world that, in saying things in one way rather than in some other, they wish to imagine. Modes of formulating thought adumbrate modes of imagining the world in which people wish to live, to which they address these thoughts.

If the document exhibits structure and sets forth a system, then it is accessible to questions of rationality. We may ask about the statement that its framers or compilers wished to make by putting the document together as they did. But if we discern no structure and perceive no systematic inquiry or governing points of analysis, then all we find here is inert and miscellaneous information, facts but no propositions, arguments, viewpoints. Now as a matter of fact the Talmud of the Land of Israel commonly finds itself represented as lacking organization and exhibiting a certain episodic and notional character. That view moreover characterizes the reading and representation of the document by learned and

experienced scholars, who have devoted their entire lives to Talmud study and exegesis. It must follow that upon the advocate of the contrary view – the one implicit in the representation of the document for academic analysis – rests the burden of proof. I set forth the allegation that the Talmud of the Land of Israel exhibits a structure and follows a system and therefore exhibits a commonly-intelligible rationality. The claim to write an academic commentary explicitly states that proposition. For the tractate before us, I have therefore to adduce evidence and argument.

I maintain that through the normal procedures of reasoned analysis we may discern in the tractate a well-crafted structure. I hold that the structure made manifest, we may further identify the purpose and perspective, the governing system of thought and argument, of those who collected and arranged the tractate's composites and put them together in the way in which we now have them. By "structure" I mean, how is a document organized? and by "system," what do the compilers of the document propose to accomplish in producing this complete, organized piece of writing? The answers to both questions derive from a simple outline of the tractate as a whole, underscoring the types of compositions and composites of which it is comprised. Such an outline tells us what is principal and what subordinate, and how each unit – composition formed into composites, composites formed into a complete statement – holds together and also fits with other units, fore and aft. The purpose of the outline then is to identify the character of each component of the whole, and to specify its purpose or statement. The former information permits us to describe the document's structure, the latter, its system.

While the idea of simply outlining a Talmud-tractate beginning to end may seem obvious, I have never made such an outline before, nor has anyone else. (I have provided complete outlines for the Mishnah and for the Tosefta in relationship to the Mishnah, and, not always in outline form, for the Midrash-compilations of late antiquity as well) Yet, as we shall now see, the character of the outline dictates all further analytical initiatives. Specifically, when we follow the layout of the whole, we readily see the principles of organization that govern. These same guidelines on organizing discourse point also to the character of what is organized: complete units of thought, with a beginning, middle, and end, often made up of smaller, equally complete units of thought. The former we know as composites, the latter as compositions.

Identifying and classifying the components of the tractate – the composites, the compositions of which they are made up – we see clearly how the document coheres: the plan and program worked out from beginning to end. When we define that plan and program, we identify the facts of a pattern that permit us to say in a specific and concrete way precisely what the compilers of the tractate intended to accomplish. The structure realizes the system, the program of analysis

and thought that takes the form of the presentation we have before us. From what people do, meaning, the way in which they formulate their ideas and organized them into cogent statements, we discern what they proposed to do, meaning, the intellectual goals that they set for themselves.

These goals – the received document they wished to examine, the questions that they brought to that document – realized in the layout and construction of their writing, dictate the points of uniformity and persistence that throughout come to the surface. How people lay out their ideas guides us into what they wished to find out and set forth in their writing, and that constitutes the system that defined the work they set out to accomplish. We move from how people speak to the system that the mode of discourse means to express, in the theory that modes of speech or writing convey modes of thought and inquiry.

We move from the act of thought and its written result backward to the theory of thinking, which is, by definition, an act of social consequence. We therefore turn to the matter of intention that provokes reflection and produces a system of inquiry. That statement does not mean to imply I begin with the premise of order, which sustains the thesis of a prior system that defines the order. To the contrary, the possibility of forming a coherent outline out of the data we have examined defines the first test of whether or not the document exhibits a structure and realizes a system. So everything depends upon the possibility of outlining the writing, from which all else flows. If we can see the order and demonstrate that the allegation of order rests on ample evidence, then we may proceed to describe the structure that gives expression to the order, and the system that the structure sustains.

The present work undertakes the exegesis of exegesis, for the Yerushalmi, like its counterpart in the one of Babylonia, is laid out as a commentary to the Mishnah. That obvious fact defined the character of my academic commentary, since we have already faced the reality that our tractate is something other than a commentary, though it surely encompasses one. The problems that captured my attention derived from the deeper question of how people make connections and draw conclusions. To ask about how people make connections means that we identify a problem – otherwise we should not have to ask – and what precipitated the problem here has been how a composition or a composite fits into its context, when the context is defined by the tasks of Mishnah-commentary, and the composition or composite clearly does not comment on the Mishnah-passage that is subjected to comment.

The experience of analyzing the document with the question of cogency and coherence in mind therefore yields a simple recognition. Viewed whole, the tractate contains no gibberish but only completed units of thought, sentences formed into intelligible thought and self-contained in that we require no further information to understand those sentences, beginning to end. The tractate

organizes these statements as commentary to the Mishnah. But large tracts of the writing do not comment on the Mishnah in the way in which other, still larger tracts do. Then how the former fit together with the latter frames the single most urgent question of structure and system that I can identify.

Since we have already examined enormous composites that find their cogency in an other than exegetical program, alongside composites that hold together by appeal to a common, prior, coherent statement – the Mishnah-sentences at hand – what justifies my insistence that an outline of the document, resting on the premise that we deal with a Mishnah-commentary, govern all further description? To begin with, the very possibility of outlining this tractate derives from the simple fact that the framers have given to their document the form of a commentary to the Mishnah. It is in the structure of the Mishnah-tractate that they locate everything together that they wished to compile. We know that is the fact because the Mishnah-tractate defines the order of topics and the sequence of problems.

Relationships to the Mishnah are readily discerned; a paragraph stands at the head of a unit of thought; even without the full citation of the paragraph, we should find our way back to the Mishnah because at the head of numerous compositions, laid out in sequence one to the next, clauses of the Mishnah-paragraph are cited in so many words or alluded to in an unmistakable way. So without printing the entire Mishnah-paragraph at the head, we should know that the received code formed the fundamental structure because so many compositions cite and gloss sentences of the Mishnah-paragraph and are set forth in sequence dictated by the order of sentences of said Mishnah-paragraph. Internal evidence alone suffices, then, to demonstrate that the structure of the tractate rests upon the Mishnah-tractate cited and discussed here. Not only so, but the sentences of the Mishnah-paragraphs of our tractate are discussed in no other place in the entire Talmud of the Land of Israel in the sequence and systematic exegetical framework in which they are set forth here; elsewhere we may find bits or pieces, but only here, the entirety of the tractate.

That statement requires one qualification, and that further leads us to the analytical task of our outline. While the entire Mishnah-tractate of treated here is cited in the Talmud of the Land of Israel, the framers of the Talmud of the Land of Israel by no means find themselves required to say something about every word, every sentence, every paragraph. On the contrary, they discuss only what they choose to discuss, and glide without comment by large stretches of the tractate. A process of selectivity, which requires description and analysis, has told the compilers of the Talmud of the Land of Israel's composites and the authors of its compositions (This statement requires refinement. I do not know that all available compositions have been reproduced, and that the work of authors of compositions of Mishnah-exegesis intended for a talmud is fully exposed in the document as we

have it. That is not only something we cannot demonstrate – we do not have compositions that were not used, only the ones that were – but something that we must regard as unlikely on the face of matters. All we may say is positive: the character of the compositions that address Mishnah-exegesis tells us about the concerns of the writers of those compositions, but we cannot claim to outline all of their concerns, on the one side, or to explain why they chose not to work on other Mishnah-sentences besides the ones treated here. But as to the program of the compositors, that is another matter: from the choices that they made (out of a corpus we cannot begin to imagine or invent for ourselves) we may describe with great accuracy the kinds of materials they wished to include and the shape and structure they set forth out of those materials. We know what they did, and that permits us to investigate why they did what they did. What we cannot know is what they did not do, or why they chose not to do what they did not do. People familiar with the character of speculation and criticism in Talmudic studies will understand why I have to spell out these rather commonplace observations. I lay out an argument based on evidence, not on the silences of evidence, or on the absence of evidence – that alone.) what demands attention, and what does not. Our outline has therefore to signal not only what passage of the Mishnah-tractate is discussed, but also what is not discussed, and we require a general theory to explain the principles of selection (“making connections, drawing conclusions” meaning, to begin with, making selections). For that purpose, in the outline, I reproduce the entirety of a Mishnah-paragraph that stands at the head of a Talmudic composite, and I underscore those sentences that are addressed, so highlighting also those that are not.

It follows that the same evidence that justifies identifying the Mishnah-tractate as the structure (therefore also the foundation of the system) of Yerushalmi-tractate before us also presents puzzles for considerable reflection. The exegesis of Mishnah-exegesis is only one of these. Another concerns the purpose of introducing into the document enormous compositions and composites that clearly hold together around a shared topic or proposition, e.g., my appendix on one theme or another, my elaborate footnote providing information that is not required but merely useful, and the like. My earlier characterization of composites as appendices and footnotes signalled the fact that the framers of the document chose a not-entirely satisfactory way of setting out the materials they wished to include here, for large components of the tractate do not contribute to Mishnah-exegesis in any way at all. If these intrusions of other-than-exegetical compositions were proportionately modest, or of topical composites negligible in size, we might dismiss them as appendages, not structural components that bear much of the weight of the edifice as a whole. Indeed, the language that I chose for identifying and defining these composites – footnotes, appendices, and the like – bore the implication that what is not Mishnah-commentary also is extrinsic to the Talmud of the Land of Israel’s structure and system.

But that language served only for the occasion. In fact, the outline before us will show that the compositions are large and ambitious, the composites formidable and defining. Any description of the tractate's structure that dismisses as mere accretions or intrusions so large a proportion of the whole misleads. Any notion that "footnotes" and "appendices" impede exposition and disrupt thought, contribute extraneous information or form tacked-on appendages – any such notion begs the question: then why fill up so much space with such purposeless information? The right way is to ask whether the document's topical composites play a role in the re-presentation of the Mishnah-tractate by the compilers of the Talmud of the Land of Israel. We have therefore to test two hypotheses:

1. the topical composites ("appendices," "footnotes") do belong and serve the compilers' purpose

or

2. the topical composites do not participate in the re-presentation of the Mishnah-tractate by Yerushalmi and do not belong because they add nothing and change nothing.

The two hypotheses may be tested against the evidence framed in response to a single question: is this topical composite necessary? The answer to that question lies in our asking, what happens to the reading of the Mishnah-tractate in light of the topical composites that would not happen were we to read the same tractate without them? The outline that follows systematically raises that question, with results specified in due course. It suffices here to state the simple result of our reading of the tractate, start to finish: the question of structure, therefore also that of system, rests upon the position we identify for that massive component of the tractate that comprises not Mishnah-commentary but free-standing compositions and composites of compositions formed for a purpose other than Mishnah-commentary.

The principal rubrics are given in small caps. The outline takes as its principal rubrics two large-scale organizing principles.

The first is the divisions of the Mishnah-tractate to which the Talmud of the Land of Israel-tractate serves as a commentary. That simple fact validates the claim that the tractate exhibits a fully-articulated structure. But the outline must also underscore that the Mishnah-tractate provides both more and less than the paramount outline of the Talmud of the Land of Israel-tractate. It is more because sentences in the Mishnah-tractate are not analyzed at all. These untreated Mishnah-sentences are given in bold face lower case caps, like the rest of the Mishnah, but then are specified by underlining and enclosure in square brackets.

Second, it is less because the structure of the tractate accommodates large composites that address topics not defined by the Mishnah-tractate. That brings us

to the second of the two large-scale modes of holding together both sustained analytical exercises and also large sets of compositions formed into cogent composites. These are treated also as major units and are indicated by Roman numerals, alongside the Mishnah-paragraphs themselves; they are also signified in small caps. But the principal rubrics that do not focus on Mishnah-commentary but on free-standing topics or propositions or problems are not given in boldface type. Consequently, for the purposes of a coherent outline we have to identify as autonomous entries in our outline those important composites that treat themes or topics not contributed by the Mishnah-tractate.

I. YERUSHALMI BERAKHOT 1:1

[A] FROM WHAT TIME DO [PEOPLE] RECITE THE SHEMA' IN THE EVENING? FROM [AFTER SUNSET, THAT IS] THE HOUR THAT THE PRIESTS ENTER [THE TEMPLE COURT] TO EAT THEIR HEAVE-OFFERING, "[THEY MAY RECITE THE SHEMA' AT ANY TIME THEREAFTER UP TO THREE HOURS INTO THE NIGHT, THAT IS,] UNTIL THE END OF THE FIRST WATCH [IN THE TEMPLE]," THE WORDS OF **R. ELIEZER.**

- 1. I:1:** We learn as the Tannaite rule: [People may recite the Shema' after sunset, that is] from the hour that the priests enter [the Temple court] to eat their heave offering. R. Hiyya taught, "[They may recite the Shema'] from the hour that people are accustomed to enter [their houses] to eat their bread on Sabbath eve," [the words of R. Meir. (Regarding the recitation of the Shema', when does night begin?) An indication for (when night begins is) the emergence of the stars.] [Tosefta Ber. 1:1.] And it was taught regarding these rules [in A and B]: These opinions [in M. and T.] are nearly identical." [That is, they refer to the same time of day.]
- 2. I:2:** It was taught: One who recites [the Shema'] before the time [that the priests enter the Temple court at sunset to eat their heave offering, cf. M. 1:1B] does not [thereby] fulfill his obligation [to recite the Shema']."
- a. I:3:** Zeira in the name of R. Jeremiah, "If one had a doubt whether or not he had recited the grace after his meal, he must recite the grace, for it is written, "And you shall eat and be full, and you shall bless [the Lord your God for the good land he has given you]" [Deut 8:10]. [Since the obligation to recite the grace after meals is derived from a verse in Scripture, if one had any doubt whether he had recited it, he must say the grace forthwith. The principle behind this reasoning is: one must be especially

scrupulous in any case of doubt concerning the performance of an obligation based directly on a verse in Scripture.] But if one was in doubt whether he had recited the Prayer [of Eighteen blessings], he need not recite it [for it is a rabbinic obligation, not derived directly from a verse in Scripture. And the corresponding principle is that one need not be as scrupulous regarding such an obligation.]” But this rule [that one need not recite the Prayer in a case of doubt] does not accord with the view of R. Yohanan. For said R.

Yohanan, “But oh, that a person might [have the opportunity to] pray all day long.” [That is to say, nothing is lost by repeating the Prayer.] Why [does Yohanan say that one may pray all day long]? Because prayer never loses its value. [In light of this distinction, Y. poses a question.] If one was in doubt whether or not he had recited [the Shema’, what is the ruling? Must he recite it or not?]

3. **I:4:** [With respect to the obligation to recite the Shema’, when does night begin?] We may find an indication concerning this [in the verse]: “Until the stars come out,” (Neh. 4:21). Even though there is no proof [in Scripture that night begins when the stars come out], there is an allusion [in the verse,] “So we labored at the work and half of them held the spears from the break of dawn until the stars came out (Neh. 4:21).” [T. 1:1 E-F.]
4. **I:5:** The [stars] about which we speak of are those which do not customarily shine by day. As to those which do customarily shine by day, we take no account [of them]. Said R. Yosé b. R. Bun, “[When one sees three stars, it is night,] provided that three others are seen besides the first star [i.e. four stars in all. We are sure that when he sees the first star it is still day. Thus we do not take it into account.]”
5. **I:6:** It was taught [as an alternative definition of twilight:] As long as the eastern horizon is red, it is [still deemed to be] day. Once [the horizon] darkens, then [we deem it to be] twilight. Once [the horizon] blackens, so that the skies above and [near the earth] below are equally [dark], then [we deem it to be] night.
 - a. **I:7:** Gloss of the foregoing.
6. **I:8:** One who stands and prays must keep his feet even. Two Amoraim [disputed the interpretation of A]: R. Levi and R. Simon. One said, “[He must keep his feet even] like the angels.” And one said, “Like the priests.” The one who said, “Like the priests,” [referred to this saying:] “And you shall not go up by steps to my altar” [Exod. 20:26]. [We interpret this verse to mean] that they used to walk heel to toe, and toe to heel. [Similarly one’s feet should be positioned in this manner

during prayer.] And the one who said, “Like the angels,” [referred to the verse,] “Their legs were straight” [Ezek. 1:7] [i.e. next to one another, toe to toe and heel to heel. Likewise one’s feet should be together in this fashion during prayer].

7. **I:9:** [This unit expands upon the discussion of the terms used to refer to the period of time preceding sunrise.] Said R. Hinnena, “From the [time in the morning sometimes called the] ‘hind of the dawn’ [a poetic expression comparing the pattern of the first rays of light to the antlers of a deer,] until the [sky in the] east is lit [entirely] one [has enough time to] walk four miles. [‘Mile’ refers to 2000 paces, about 1470 meters, that is somewhat less than the modern English mile of about 1609 meters.] From [the time] the east is lit until sunrise [one has enough time to walk another] four miles.”
8. **I:10:** And R. Hiyya’s [teaching that one can walk four miles in the time between the appearance of the first rays of light in the morning and the time that the eastern sky is lit entirely, and that one can walk another four miles from the time that the sky is lit and the rise of the sun] is in accord with [the view] of R. Judah. For it was taught in the name of R. Judah, “[To traverse the distance of that area of the heavens called] ‘the darkness of the firmament’ is a journey of fifty years.” [That is, it would take a person fifty years to walk across this part of the heavens.]
9. **I:11:** It was taught [another teaching about the cosmological bodies]: The Tree of Life [was as wide as] the distance one can walk [in a journey of] five hundred years.
10. **I:12:** Rabbi says, “There are four watches [ashmorot] in the day and four watches in the night.” The ‘onah is one twenty-fourth of an hour. The ‘et is one twenty-fourth of an ‘onah. The rega’ is one twenty-fourth of an ‘et. [Tosefta 1:1H-J]. R. Nathan says, “There are three watches in the night. As it says, “At the beginning of the middle watch” [Judges 7:19].” [T.1:1.]

[B] AND SAGES SAY, “[THEY MAY RECITE THE SHEMA’] UNTIL MIDNIGHT.”

1. **II:1:** R. Yosa in the name of R. Yohanan, “The law follows the sages.” R. Yosa directed his students [hbryyh], “If you wish to be involved in [the study of] the Torah [all night], then [remember to] recite the Shema’ before midnight and be involved [thereafter with the study of Torah].” From his words we may deduce that, “The law follows the sages.” And from his words we may deduce, “He recited additional

[prayers] after ‘True and upright’ [cf. M. 2:2 G].” [He did not go right to sleep after reciting the evening Shema’.]

2. **II:2:** It was taught, “One who recited the Shema’ in a synagogue in the morning fulfilled his obligation. [One who recited the Shema’ in the synagogue] in the evening [i.e. at the time of the public evening service] did not fulfill his obligation.” [He must recite again at home because he recited before nightfall.]

- a. **II:3:** And on what basis [is one obligated to recite the Shema’ at bedtime]? R. Aha and R. Tahalifa his son-in-law in the name of R. Samuel bar Nahman, “[It is based on the verse], ‘Be angry but sin not; commune with your own hearts on your beds and be silent. Selah’ [Ps. 4:4]. [This also implies that the Shema’, whose recitation requires intention, “directing one’s heart,” be recited at bedtime, and that nothing be said thereafter.]”

[C] **RABBAN GAMALIEL SAYS, “UNTIL THE BREAK OF DAY.”**

1. **III:1:** Rabban Gamaliel’s [ruling] agrees with [that of] R. Simeon. For it was taught in the name of R. Simeon: Sometimes one recites the Shema’ [twice in one night,] once before the dawn and once after the dawn, and we find that he fulfills his obligation for the [recitations of the Shema’] of the day and of the night [T. 1:1 G-H].

[D] **ONCE [GAMALIEL’S] SONS CAME FROM THE BANQUET HALL. AND THEY SAID TO HIM, “WE HAVE NOT [YET] RECITED THE SHEMA’.” HE SAID TO THEM, “IF THE DAY HAS NOT YET BROKEN, YOU ARE OBLIGATED TO RECITE [THE SHEMA’].”**

1. **IV:1:** And Rabban Gamaliel disputed the [view of the] sages [who said one may recite, Until midnight [M. 1:1 E]]. And did he [then go ahead to defy their ruling and] act in accord with his own view?

[E] **AND IT IS NOT ONLY [IN] THIS [CASE THAT THE SAGES] SAID [THAT ONE MAY PERFORM A RELIGIOUS OBLIGATION UNTIL DAYBREAK]. BUT REGARDING ALL CASES IN WHICH THE SAGES SAID [THAT ONE MUST CARRY OUT HIS OBLIGATION] “UNTIL MIDNIGHT,” [IF A PERSON SHOULD PERFORM] THE RELIGIOUS OBLIGATION BY DAYBREAK [IT IS ACCEPTABLE]. [FOR EXAMPLE, ONE MAY ACCEPTABLY PERFORM THE OBLIGATION TO] OFFER THE FATS AND ENTRAILS [OF SACRIFICES IN THE TEMPLE AND TO EAT THE PASCHAL SACRIFICES] UNTIL THE BREAK OF DAY:**

1. **V:1:** [In some versions of M.] we have the phrase, “And the eating of Paschal sacrifices.” Other versions omit the phrase. Which authority stands behind the version which includes [the phrase], “And the eating

of Paschal sacrifices?” The sages. And which authority stands behind the version which omits, “And the eating of Paschal sacrifices?” R. Eliezer.

[F] [ANOTHER EXAMPLE:] ALL [SACRIFICES] WHICH MUST BE EATEN WITHIN ONE DAY [I.E. BEFORE MIDNIGHT OF THE DAY THEY ARE OFFERED], THEIR OBLIGATION [MAY LEGITIMATELY BE CARRIED OUT AND THEY MAY BE EATEN] UNTIL THE BREAK OF DAY. IF SO WHY DID [SAGES] SAY [THAT THESE ACTIONS SHOULD BE PERFORMED ONLY] UNTIL MIDNIGHT? IN ORDER TO KEEP MAN FAR FROM SIN:

1. **VI:1:** All which must be eaten within one day – [this refers to offerings classified as] the lesser holy things. And [what is the explanation of,] If so why did [sages] say [that these actions should be performed only] until midnight? [M. 1:1 M]? If you say, Until the break of day, one might [erroneously] think the day did not yet break, and he might eat [late] and become liable [to be punished]. But if you say to him, Eat until midnight, even if he eats [late], after midnight, he will not become liable for transgressing the law. [This is what sages meant in saying, In order to keep man far from sin [M. 1:1 M].

II. YERUSHALMI BERAKHOT 1:2

[A] FROM WHAT TIME DO THEY RECITE THE SHEMA' IN THE MORNING? FROM [THE TIME THAT] ONE CAN DISTINGUISH BETWEEN BLUE AND WHITE. R. ELIEZER SAID, “BETWEEN BLUE AND GREEN.”

1. **I:1:** Interpret the Mishnah [B] in this way: Between the blue [fringes on the corner of a garment] and the white [ones] on it.
2. **I:2:** [Concerning the requirement to recite the Shema' in the morning:] Truly they said, “Its obligation is [best fulfilled] at sunrise so that one may adjoin [the blessing following the Shema' called] ‘Redemption’ to the Prayer [of Eighteen blessings] and it turns out that [thereby] he recites the Prayer in the daytime [T. 1:2C].”

[B] [AND ONE COMPLETES THE RECITATION] BEFORE SUNRISE.

1. **II:1:** [When is sunrise?] R. Zebadiah b. R. Jacob bar Zabedi in the name of R. Jonah, “When the sun begins to shine across the mountaintops [that is sunrise].”

[C] R. JOSHUA SAYS. “[ONE MAY RECITE] UNTIL THE THIRD HOUR.” “FOR IT IS THE PRACTICE OF ROYALTY TO RISE AT THE THIRD HOUR.” ONE WHO RECITES AFTER THIS TIME HAS NOT LOST [THE PURPOSE OF THE ACTION. FOR THOUGH

HE DOES NOT FULFILL THE OBLIGATION OF RECITING THE **SHEMA'**, HE IS] LIKE ONE WHO RECITES [PASSAGES] FROM THE **TORAH**.

1. **III:1:** R. Idi and R. Hamnuna and R. Ada bar Aha in the name of Rab, “The law follows R. Joshua [only] in the case of one who forgets [to recite earlier at sunrise].”
2. **III:2:** There it was taught [M. Shabbat 1:2]: They interrupt [activities such as a bath, meal, or a trial] for the recitation of the Shema' but they do not interrupt [these activities] for the [recitation of the] Prayer. Said R. Aha, “[The reasoning behind this rule is based on this distinction.] The recitation of the Shema' [is an obligation which] derives from the Torah. But the [obligation to recite the] Prayer does not derive from the Torah.” [And the principle is that only a practice based on the Torah takes precedence over other obligations.] Said R. Ba, “[The reasoning behind the rule in M. Shabbat is based on another distinction.] The recitation of the Shema' [is an obligation] whose time is fixed. But the Prayer [is one] whose time is not fixed.” [And the principle is that a practice which may only be carried out at a fixed time takes precedence over another practice which need not be carried out at a fixed time.]
3. **III:3:** R. Yohanan in the name of R. Simeon b. Yohai, “Those [professional scholars] like us who are engaged [constantly] in the study of Torah, do not interrupt it even for the recitation of the Shema'.” R. Yohanan said on his own, “Those [people] like us who are not engaged [constantly] in the study of Torah [must] interrupt [our activities, including our study,] even for the [recitation of the] Prayer [which requires intense concentration].”

III. YERUSHALMI BERAKHOT 1:3-4

[A] **THE HOUSE OF SHAMMAI SAYS, “IN THE EVENING EVERYONE SHOULD RECLINE AND RECITE, AND IN THE MORNING THEY SHOULD STAND.” AS IT SAYS, ‘WHEN YOU LIE DOWN AND WHEN YOU RISE’ [DEUT. 6:7].” AND THE HOUSE OF HILLEL SAYS, “EVERYONE RECITES ACCORDING TO HIS OWN MANNER.” “AS IT SAYS, ‘AND YOU WALK BY THE WAY’ [IBID].” IF SO WHY DOES [THE VERSE] SAY, “WHEN YOU LIE DOWN AND WHEN YOU RISE UP?” [IT MEANS RECITE THE SHEMA'] AT THE HOUR THAT PEOPLE LIE DOWN [AT NIGHT] AND AT THE HOUR THAT PEOPLE RISE UP [IN THE MORNING].**

1. **I:1:** The House of Hillel [M. 1:3 F] derives its [rules] from two Scriptural passages [as M. 1:3 D-E explains]. What [rules] do the

House of Shammai derive from the passage, “When you sit in your house, and when you walk by the way” [Deut. 6:7]?

2. **I:2:** And it was taught: M'SH: R. Eleazar b. Azariah and R. Ishmael were staying in one place. And R. Eleazar b. Azariah was reclining and R. Ishmael was sitting upright. When the time came for the recitation of the [morning] Shema', R. Eleazar b. Azariah sat up and R. Ishmael reclined. Said R. Eleazar b. Azariah to R. Ishmael, “I will say [it is analogous to] an individual from the marketplace [who was asked], ‘Why do you grow your beard long?’ And he said, ‘It is a protest against the destroyers [who cut their beards. But there is no other reason for it].’” “I who was reclining, sat up [to recite in the proper posture]. And you, who was upright reclined [for no good reason just as a protest to my action].” He [Ishmael] said to him, “[Eleazar,] you sat up in accordance with the words of the House of Shammai [who said to recite while upright]. And I reclined in accordance with the words of the House of Hillel [who said one may recite in any position].” An alternate explanation: “[I reclined] so that the students should not observe me [standing] and establish the law in accordance with the words of the House of Shammai.” [T. 1:4. See Eleazar, pp. 16-20 for a discussion of the several versions of this story.]
3. **I:3:** Said. R. Tarfon, “I was coming by the road and I reclined to recite the Shema' in accordance with the words of the House of Shammai. And I placed myself in danger of [attack by] bandits.” They said to him, “Fittingly, you have only yourself to blame [for what might have befallen you]. For you violated the words of the House of Hillel' [=M. 1:4 in the printed text].
4. **I:4:** Regarding this [principle that one who follows the Shammaite view endangers himself] applies only after the heavenly voice [Bat Qol or echo] went forth [to decree that the law follows the view of the House of Hillel]. But before the Heavenly voice went forth anyone who wished to adopt for himself a stringency [in the law] and act according to the stringent rulings of both the Houses of Shammai and Hillel – [they permitted him to do so but] concerning him it was said, “The fool walks in darkness” [Qoh. 2:14]. [And one who wished to adopt for himself] the leniencies of both [Houses] was called “wicked.” Rather [one could follow] the leniencies of one [House] and stringencies of that house or the leniencies of the second and the stringencies of that house.

IV. YERUSHALMI BERAKHOT 1:5

[A] IN THE MORNING ONE RECITES TWO BLESSINGS BEFORE [THE SHEMA'] AND ONE AFTER IT. AND IN THE EVENING TWO BEFORE IT AND TWO AFTER IT. WHETHER A LONG OR A SHORT [BLESSING, THE RULE IS THE SAME]. WHERE THEY SAID TO LENGTHEN [THE FORMULA OF A BLESSING BY BOTH BEGINNING AND ENDING WITH THE FORMULA "BLESSED ART THOU"] ONE IS NOT PERMITTED TO SHORTEN IT [BY OMITTING IT]. [WHERE THEY SAID] TO SHORTEN [BY ONLY BEGINNING WITH "BLESSED AT THOU," ONE IS NOT PERMITTED TO LENGTHEN IT BY ALSO CLOSING WITH "BLESSED ART THOU"]. [WHERE THEY SAID] TO SEAL [TO CONCLUDE A BLESSING WITH THE FORMULA "BLESSED ART THOU" AT THE END], ONE IS NOT PERMITTED NOT TO SEAL. [WHERE THEY SAID] NOT TO SEAL, ONE IS NOT PERMITTED TO SEAL [BY ADDING TO IT].

1. **I:1:** R. Simon in the name of R. Samuel bar Nahman, "[They recite these blessings before and after the Shema'] based on [the verse], "But you shall meditate on it day and night" [Joshua 1:8]." R. Yosé bar Abin in the name of R. Joshua b. Levi, "[These seven blessings, two before and one after in the morning, and two before and two after in the evening, are recited] based on [the verse,] 'Seven times a day I praise thee for thy righteous ordinances' [Ps. 119:164]."
2. **I:2:** Why do they recite these two passages [Deut. 6:4-9 and Deut. 11:13-21] each day?
3. **I:3:** It was taught in the Mishnah [Tamid 5:1]: The officer said to them, "Recite a single blessing." And they recited a blessing. What blessing did they recite? R. Matna said in the name of Samuel, "It was the blessing over the Torah." [Because they next recited passages from the Torah concerning the ten commandments.]
4. **I:4:** Samuel said, "One who awoke early [in order to begin] to study [Torah] before reciting the Shema', must [first] recite the blessings [for study of Torah]." [But if he began to study] after reciting the Shema', he need not recite the blessings [for the study of Torah, because the [Ahavah Rabbah] blessing he recites before the Shema' serves in their stead.]
5. **I:5:** It was taught: One who recited [the Shema'] with the members of the watch [ma'amad] did not fulfill his obligation because they used to delay [and recite too late]. [These were the members of the Israelite delegations who came to the Temple to watch over their offerings.]

6. **I:6:** These are the blessings [whose formulae] they may lengthen: those for the New Year, the Day of Atonement, and the blessings for a public fast. From a man's blessings one can tell whether he is a boor or a disciple of the sages. These are the blessings [whose formulae] they may shorten: [those recited over] the [performance of individual] Commandments, over the produce, the blessing of the invitation [to bless after the meal], and the last meal-blessing after the meal [T. 1:6].
7. **I:7:** These are the blessings for which they bow [when they recite them]: For the first [paragraph of the Prayer of Eighteen at the] beginning and end [of the paragraph, for the eighteenth blessing,] "We give thanks," [at the] beginning and end. One who bows for each and every blessing [of the Prayer of Eighteen,] they instruct him not to bow [so that he should not appear arrogant] [T. 1:8].
8. **I:8:** What is "kneeling"? And what is "genuflection" [from the word brykh which also implies bending the knee]? [Are they different actions?]
9. **I:9:** It was taught: [One may bow during prayer] as long as he does not bow too much. Said. R. Jeremiah, "[One may bow during prayer] provided he does not position himself like a turtle [that is, bow his body down while holding the head up]. Rather [one must bow every bone in his body as the verse implies,] 'All my bones shall say, O Lord, who is like Thee'" [Ps. 35:10]. [The verse also suggests that one must bow before reciting the name of God.]
10. **I:10:** These are the blessings which begin with [the formula] "Blessed [art thou,]." All the blessings begin with "Blessed," [except, the blessings which adjoin the recitation of the Shema' and any blessing which adjoins another blessing. They need not begin these with [the formula] "Blessed" [T. 1:9].]
11. **I:11:** [A rule regarding the recitation of blessings:] [The efficaciousness of] a blessing is determined by [the correct recitation of the blessing at] its conclusion. [That is if one erred and at first recited the wrong formula for the blessing but concluded with the correct formula for the blessing, that constitutes valid recitation.] [Another rule which seems to contradict the previous is,] They do not split up the recitation of a blessing. [One does not say parts of a blessing separately. For it to be effective, one must say the entire blessing correctly.]

V. YERUSHALMI BERAKHOT 1:6

- [A] THEY MENTION THE EXODUS FROM EGYPT AT NIGHT. SAID R. ELEAZAR B. AZARIAH TO THEM, “I AM LIKE A SEVENTY-YEAR-OLD AND WAS NOT WORTHY [OF UNDERSTANDING WHY] THE EXODUS FROM EGYPT [IN THE THIRD PARAGRAPH OF THE SHEMA’] IS SAID [IN THE RECITATION] AT NIGHT UNTIL BEN ZOMA EXPOUNDED IT.” AS IT SAYS, “SO THAT ALL THE DAYS OF YOUR LIFE YOU MAY REMEMBER THE DAY WHEN YOU CAME OUT OF THE LAND OF EGYPT” [DEUT. 16:3]. “THE DAYS OF YOUR LIFE” [IMPLIES ONLY] THE DAYS. “ALL THE DAYS OF YOUR LIFE” [INCLUDES] THE NIGHTS. AND SAGES SAY, “‘THE DAYS OF YOUR LIFE’ [INCLUDES ONLY YOUR LIFE IN] THIS WORLD. ‘ALL THE DAYS OF YOUR LIFE’ ALSO ENCOMPASSES THE MESSIANIC AGE.”
1. **I:1:** Why does it say concerning Eleazar b. Azariah, I am like a seventy year old? It teaches us that] even though he achieved greatness, he lived a long life.
 2. **I:2:** They say there [in Babylonia], “He should not begin [to recite] ‘And God said’ [the third paragraph of the Shema’, Num. 15:37-41, at night.] But if he began he may finish [reciting the passage].” And our rabbis here [in the Land of Israel] say, “He may begin [to recite] but he may not finish [reciting the passage. He must omit the last verse which mentions the exodus.]” Our Mishnah contradicts the [view of] the rabbis here [in the Land of Israel]. [For we learned in the Mishnah,] They mention the exodus from Egypt at night [M. 1:5 A].
 3. **I:3:** We learned: One who recites the Shema’ in the morning must mention the exodus from Egypt in [the blessing which follows the Shema’ and begins with the words] “True and upright.” Rabbi says, “One must mention [God’s] kingship in [that paragraph].” Others say, “One must mention the [miracles of the] splitting of the sea and the smiting of the first-born.” [T. 2:1.]
 4. **I:4:** R. Simon in the name of R. Joshua b. Levi said, “If one did not mention the Torah in [the blessing of] the Land, [the first blessing of the Grace after the meal,] they make him repeat it. On what basis? [Scripture says,] ‘[So he led forth his people with joy...] and he gave them the lands of the nations.’ Why [did he give them the lands]? In order that, ‘They should keep his statutes and observe his Torah’ [Ps. 105:43-45].
 5. **I:5:** Bar Qappara said, “One who calls Abraham, Abram violates a positive commandment.” R. Levi said, “[He violates both] a positive

and a negative commandment.” “And you shall not be called by your name Abram” [Gen. 17:5] [is the source of] the negative commandment. “And your name shall be Abraham” [ibid.] [is the source of] the positive commandment.

a. I:6: The same theme extended.

6. I:7: Ben Zoma says, “In the future age Israel is destined not to mention the exodus from Egypt.”

VI. YERUSHALMI BERAKHOT 2:1

[A] ONE WHO WAS RECITING FROM THE TORAH [AT DEUT. 6:4] AND THE TIME CAME FOR THE RECITATION OF THE SHEMA’, IF HE HAD INTENTION [TO DO SO] HE FULFILLED HIS OBLIGATION [TO RECITE THE SHEMA’]. AND IF HE DID NOT [HAVE INTENTION TO DO SO], HE DID NOT FULFILL HIS OBLIGATION.

1. I:1: Said R. Ba, “That is to say [we deduce from M.’s rule at 2:1 A] that [if one omits the recitation of the] blessings, it does not invalidate [his recitation. Ba derives this from M.’s case: a person was reciting from the Torah and presumably did not recite the rabbinic liturgical formulae before and after the Shema’. Still, the Mishnah says that if he had the proper intention, he fulfilled his obligation.]”
2. I:2: R. Huna, R. Uri, R. Joseph, R. Judah in the name of Samuel, “One must accept upon himself the yoke of the Kingdom of Heaven [i.e. recite the first verse of the Shema’ in Deut. 6:4] while standing.”
3. I:3: It was taught: One must stretch out his pronunciation of the word, “One” [i.e. ‘ehad the last word in Deut. 6:4].

[B] “AT THE BREAKS [BETWEEN THE PARAGRAPHS OF THE SHEMA’] ONE MAY EXTEND A GREETING [TO HIS FELLOW] OUT OF RESPECT, AND RESPOND [TO A GREETING EXTENDED TO HIM]. AND IN THE MIDDLE [OF RECITING A PARAGRAPH] ONE MAY EXTEND A GREETING OUT OF FEAR AND RESPOND,” THE WORDS OF R. MEIR. R. JUDAH SAYS, “IN THE MIDDLE [OF A PARAGRAPH] ONE MAY EXTEND A GREETING OUT OF FEAR AND RESPOND OUT OF RESPECT. “AT THE BREAKS [BETWEEN THE PARAGRAPHS] ONE MAY EXTEND A GREETING OUT OF RESPECT AND RESPOND TO THE GREETING OF ANY MAN.”

1. II:1: R. Mana said in the name of R. Judah who said in the name of R. Yosé the Galilean, “If one interrupted [his recitation] long enough for him to recite it [the Shema’] entirely, he did not fulfill his obligation.”

2. **II:2:** It was taught: [One who wishes to interrupt his recitation of the Shema'] to greet his teacher or [to greet] one who is greater than he in Torah-learning – he is permitted to do this. From this rule we deduce that a person must greet one who is greater than him in Torah-learning.
 - a. **II:3:** Secondary supplement to the foregoing.
3. **II:4:** And at the breaks [between the paragraphs of the Shema'] one may [interrupt to] extend a greeting out of respect and respond [to another person's greeting] [M.2:1 D]. For what purpose may one respond? Out of fear or out of respect [as well]? Let us deduce the answer from the following: And in the middle [of the paragraphs] one may extend a greeting out of fear and respond out of fear, the words of R. Meir [M. 2:1 E]. That implies that in the preceding rule one may [stop to] greet [another person] out of respect and respond [to a greeting] out of respect [during his recitation]. And in the middle [of one's recitation of one of the paragraphs of the Shema'] one may extend a greeting out of fear and respond," the words of R. Meir [M. 2:1 E]. For what purpose may one respond? Out of fear or [also] out of respect?

VII. YERUSHALMI BERAKHOT 2:2

- [A] THESE ARE THE BREAKS [IN THE SHEMA']: BETWEEN THE FIRST BLESSING AND THE SECOND [OF THOSE WHICH PRECEDE THE SCRIPTURAL PASSAGES OF THE SHEMA']. BETWEEN THE SECOND BLESSING AND [THE SECOND PARAGRAPH WHICH BEGINS] "HEAR O ISRAEL" [DEUT. 6:4-9]. BETWEEN [THE TWO SECTIONS WHICH BEGIN] "HEAR O ISRAEL" AND "AND IT SHALL COME TO PASS IF YOU SHALL HEarken [DEUT. 11:13-21]." BETWEEN [THE TWO SECTIONS BEGINNING] "AND IT SHALL COME TO PASS" AND "AND GOD SAID TO MOSES [NUM. 15:37-41]." BETWEEN [THE TWO SECTIONS] "AND GOD SAID" AND "TRUE AND UPRIGHT" [THE BLESSING WHICH FOLLOWS THE SCRIPTURAL PASSAGES]. R. JUDAH SAID, "BETWEEN [THE TWO SECTIONS] 'AND GOD SAID' AND 'TRUE AND UPRIGHT' ONE MAY NOT INTERRUPT."**
1. **I:1:** Said R. Levi, "The scriptural basis for R. Judah [in G] is [the following]. It says, "I am the Lord your God" [Num. 15:41]. And it is written "The Lord is the true God" [Jer. 10:10]. [Thus Scripture links the words "true" and "Lord your God" together].
- [B] SAID R. JOSHUA B. QORHA, "WHY DOES [THE RECITATION OF] 'HEAR O ISRAEL' PRECEDE [THE RECITATION OF] 'AND IT SHALL COME TO PASS'? SO THAT ONE SHOULD FIRST ACCEPT UPON HIMSELF THE YOKE OF THE KINGDOM**

OF HEAVEN [BY RECITING THE FIRST PARAGRAPH] AND AFTERWARDS [ACCEPT] THE YOKE OF THE COMMANDMENTS [BY RECITING THE SECOND PARAGRAPH].” “[WHY DOES THE RECITATION OF] ‘AND IT SHALL COME TO PASS’ [PRECEDE THE RECITATION OF] ‘AND GOD SAID’? FOR ‘AND IT SHALL COME TO PASS’ IS RECITED BOTH BY DAY AND NIGHT. ‘AND GOD SAID’ IS RECITED ONLY BY DAY.” [THE PRINCIPLE IS THAT A MORE FREQUENT REQUIREMENT TAKES PRECEDENCE OVER A LESS FREQUENT REQUIREMENT.]

[C] FREE-STANDING COMPOSITE ON THE WEARING OF TEFILLIN

1. **II:1:** R. Hiyya in the name of R. Yohanan, “Why did they say, ‘A person should put on tefillin, then recite the Shema’, then pray’? So that he may accept the yoke of the kingdom of heaven completely [i.e. he recites the Shema’ while wearing the tefillin which contain the verses of the Shema’ on a parchment.]” Rab said, “One recites the Shema’, and then puts on his tefillin, and then prays [reciting the eighteen blessings].”
2. **II:2:** Said R. Yannai, “[One who wears] tefillin must have a clean body.” Why did they not make a presumption concerning them [that one may trust any person who wears tefillin that he keeps the commandments, such as the laws of cleanness]? Because of the impostors. [Some people put on tefillin as a ruse to deceive their fellows as in the following story:] One time a person entrusted an article to his fellow [to watch for him]. And later he denied [having received it]. He said to him, “It was not you that I trusted [when I gave you the article]. I trusted the [tefillin] upon your head.” [I thought that it was a sign that you were trustworthy. I was misled.]
3. **II:3:** In what way does one recite the blessings over them [the tefillin]?
4. **II:4:** We learned there, Women and slaves [and minors] are exempt from [the obligations of] the recitation of the Shema’ and [wearing] tefillin [M. 3:3 A]. Whence [do we learn the exemption for] women? “And you shall teach them to your sons” [Deut. 11:19] and not to your daughters. Whoever is obligated [to perform the commandment] to study Torah is obligated [to perform the commandment] to wear tefillin. Women who are not obligated to study Torah, are not obligated to wear tefillin.
5. **II:5:** We learned: One who enters a bath house, [when he stands] in a place where people stand dressed, he may recite the Shema’ or Prayer (Y. has the reading ‘wear tefillin’) there, and it goes without saying that he may extend a greeting there. He may put on his tefillin and it goes without saying that he need not remove them [if he enters

wearing them]. [When he stands] in a place where most people stand naked, one may not extend a greeting, and it goes without saying that he may not recite the Shema' or Prayer there. And he must remove his tefillin, and it goes without saying that he may not put them on. [When he stands] in a place where some stand naked and some stand dressed, one may extend a greeting and one may not recite the Shema' or Prayer. And one need not remove his tefillin, but he may not put them on. [T. 2:20.]

6. **II:6:** R. Jeremiah posed a question before R. Zeira, “If a bath house is used for bathing in the summer months but not in the winter months [does it have the status of a bath house in the winter with respect to the recitation of the Shema' and the Prayer and wearing the tefillin?]”
7. **II:7:** R. Zeira in the name of R. Abba bar Jeremiah, “[While wearing tefillin] one may eat a snack but not a regular meal, and one may take a nap but not a regular sleep.”
8. **II:8:** R. Zeira in the name of R. Abba bar Jeremiah, “A person should not enter a cemetery and relieve himself there. But concerning one who did so Scripture says, ‘He who mocks the poor [i.e. the dead] insults his Maker’ [Prov. 17:5].”
9. **II:9:** [The unit first cites three traditions of R. Idi, then deals with the subject of prayer.] [A scribe] who connected two letters together [in a scroll] – there is one opinion that it is valid, and there is another opinion that it is invalid. R. Idi in the name of R. Simeon in the name of R. Yohanan [says there is no dispute]. The ruling which says it is valid [refers to a case of one who connected them together] at the bottom. And the ruling which says it is not valid [refers to a case of one who connected them together] at the top. For example: two words [whose last two letters are connected together at the bottom, we would say that it is valid. And if they were connected at the top it should be judged invalid.] But in the case of two words [whose last two letters were connected at the center, in such a case] we have a doubt [whether or not the scroll is valid]. R. Idi b. R. Simeon in the name of R. Yohanan [L: Yosa], “A person should not stand on a high place and pray.” What is the Scriptural basis for this? Said R. Abba b. R. Papi, “Out of the depths I cry to thee, O Lord [Ps. 130:1].” Said R. Idi b. R. Simeon in the name of R. Yohanan, “A person should not stand up to pray if he needs to relieve himself.” What is the Scriptural basis for this? “Prepare to meet your God, O Israel [Amos 4:12].”

VIII. YERUSHALMI BERAKHOT 2:4

[A] **ONE WHO RECITES THE SHEMA' BUT DOES NOT ARTICULATE IT [OUT LOUD] FULFILLS HIS OBLIGATION. R. YOSÉ SAYS, "HE DID NOT FULFILL HIS OBLIGATION." IF HE RECITED BUT WAS NOT CAREFUL ABOUT [PRONUNCIATION OF] THE LETTERS [OF EACH WORD] – R. YOSÉ SAYS, "HE FULFILLED HIS OBLIGATION." R. JUDAH SAYS, "HE DID NOT FULFILL HIS OBLIGATION."**

- I:1:** Rab said, "In both [disputes A-B and C-E] we follow the lenient ruling," [i.e. the anonymous law (A) in the first, and Yosé (D) in the second].
- I:2:** We learned: "If one recited the Prayer but did not articulate it – he fulfilled his obligation." For whom is it necessary to state this law? For R. Yosé. Which [ruling of] R. Yosé [appears to contradict this]? That which we learned [in M.], One who recites the Shema' but does not articulate it – he fulfills his obligation. R. Yosé says, "He does not fulfill his obligation."
- I:3:** The following [phrases in the Shema'] require special care [for their pronunciation lest one combine two words together]: 'lbbk, 'lbbkm, 'sb bsdk, w'bdtm mhrh, hkn ptyl, 'tkm m'rs [in each case the last letter of the first word and the first letter of the second word are identical].

[B] **ONE WHO RECITES IT BACKWARDS [I.E. RECITES THE VERSES OR PARAGRAPHS OUT OF ORDER] DOES NOT FULFILL HIS OBLIGATION.**

- II:1:** R. Jonah said, "R. Nahman bar Ada taught [the following]." And R. Yosé said, "Nahman Saba taught [the following]." "[Scripture says, 'And these words...'] shall be' [Deut. 6:6] – the way they are [ordered in Scripture] so they shall be [in your recitation of the Shema' and not in a different order]."
- II:2:** R. Aha in the name of R. Joshua b. Levi, "Also when the Prayer was ordained, they ordained it according to [a logical] order [as follows]:" The first three blessings and the last three blessings are praises of God. And the middle blessings [deal as follows with] the needs of all creatures: Grant us knowledge. Now that you have granted us knowledge, accept our repentance. Now that you have accepted our repentance, forgive us [our sins]. Now that you have forgiven us, redeem us. Now that you have redeemed us, heal our sickness. Now that you have healed our sickness, bless our years [with plenty]. Now

that you have blessed our years, gather us together. Now that you have gathered us together, judge us in righteousness. Now that you have judged us in righteousness, defeat our opponents. Now that you have defeated our opponents, exonerate us in judgement. Now that you have exonerated us in judgement, build your House for us, and hear our entreaties, and accept us into it.

a. II:3: Gloss of a detail of the foregoing.

3. **II:4:** Said R. Tanhuma, “Why did they ordain ‘Who harkens to Prayer’ as the fifteenth [in the standard service it is the sixteenth] blessing [of the Prayer]? In accord with the verse, ‘The Lord sits enthroned over the flood’ [Ps. 29:10]. [This is the fifteenth occurrence of the Lord’s name in the Psalm.] He [hears our prayers and] withholds punishment from the world [as he withholds another deluge].”
4. **II:4:** [Now we return to the discussion regarding the Prayer.] Said R. Tanhuma, “Why did they ordain ‘Who harkens to Prayer’ as the fifteenth [in the standard service it is the sixteenth] blessing [of the Prayer]? In accord with the verse, ‘The Lord sits enthroned over the flood’ [Ps. 29:10]. [This is the fifteenth occurrence of the Lord’s name in the Psalm.] He [hears our prayers and] withholds punishment from the world [as he withholds another deluge].”

[C] **ONE WHO RECITED AND ERRED — HE MUST RETURN TO THE PLACE WHERE HE ERRED [AND REPEAT HIS RECITATION].**

1. **III:1:** One who recited and erred, he must return to the place where he erred [and recite again] [M. 2:3G]. If one errs and skips from the first phrase, ‘And you shall write them’ [Deut. 6:9] to the second phrase, ‘And you shall write them’ [Deut. 11:20], he returns to the first phrase [and recites to the end]. If one errs, and does not know where he erred, he returns to the first place he knows clearly [that he recited]. [Cf. T. 2:5.]

IX. YERUSHALMI BERAKHOT 2:5

[A] **CRAFTSMEN MAY RECITE [THE SHEMA’] FROM ATOP A TREE OR ATOP A SCAFFOLD — SOMETHING WHICH THEY ARE NOT PERMITTED TO DO FOR THE [RECITATION OF THE] PRAYER.**

1. **I:1:** We must emend the Mishnah as follows: Workers may recite [the Shema’] from atop a tree and craftsmen from atop a scaffold. And it was taught: [Workers may recite [the Shema’] from atop a tree,] and

they may recite the Prayer from atop an olive tree or from atop a fig tree. But from all other kinds of trees one must come down to recite the Prayer below. And the householder must always come down and recite the Prayer below. [T. 2:8.]

2. **I:2:** It was taught: The porter – even with his burden on his shoulder, lo, he may recite the Shema'. But when he is [loading or] unloading he may not [start to] recite because he cannot concentrate [properly]. In any case he may not recite the Prayer until he unloads. But if his burden is [less than] four qabs he is permitted [to recite the Prayer while it is on his shoulder]. [T. 2:7.]
3. **I:3:** It was taught: Workers who were working with the householder [and stopped to eat], lo, they recite [two blessings after eating]. [They say] the first blessing and then include the [third blessing] concerning Jerusalem in [their second] concerning the Land and conclude [their second blessing with the usual conclusion for the second blessing] concerning the Land. But if they were working with him [in return for a] meal or if the householder was eating with them, lo, they recite four blessings. [T. 5:24.]
4. **I:4:** R. Samuel bar R. Isaac in the name of R. Huna, “A person may not stand and recite the Prayer while he holds coins in his hands.” [He is concerned not to drop them and will not concentrate on his prayer].
5. **I:5:** Said R. Hanina, “Even one [priest] who is carrying the water [of the sin-offering] on his shoulders, lo, he may recite the Shema' and recite the Prayer.” [The law is that if one diverts his attention from this water, it becomes unfit. Since the rule is that he still may recite the Shema' and recite the Prayer while carrying the water, we conclude that these latter acts do not require one's concentration.] [Cf. M. Parah 7:9.]

X. YERUSHALMI BERAKHOT 2:6

[A] **A BRIDEGROOM IS EXEMPT FROM THE RECITATION OF THE SHEMA' FROM THE FIRST NIGHT [AFTER THE WEDDING] UNTIL AFTER THE SABBATH IF HE DID NOT CONSUMMATE THE MARRIAGE. ONCE: R. GAMALIEL RECITED [THE SHEMA'] ON THE FIRST NIGHT AFTER HIS MARRIAGE. HIS STUDENTS SAID TO HIM, “DID OUR MASTER NOT TEACH US THAT A BRIDEGROOM IS EXEMPT [FROM THE RECITATION OF THE SHEMA' ON THE FIRST NIGHT]?” HE SAID TO THEM, “I CANNOT LISTEN TO YOU. [FOR I DO NOT WISH] TO SUSPEND MYSELF FROM**

ACCEPTING THE YOKE OF THE KINGDOM OF HEAVEN [I.E. RECITING THE SHEMA'] EVEN FOR A SHORT TIME.”

1. **I:1:** R. Eleazar b. Antigonos in the name of R. Eliezer of the house of R. Yannai, “This means that [a bridegroom] is permitted to have initial intercourse [with his virgin bride] on the Sabbath.” [M. 2:5A allows the bridegroom until after the Sabbath to consummate the marriage. This implies that he may consummate the marriage on the Sabbath. Even though they presume this act will cause bleeding, which is not permitted on the Sabbath.]
 - a. **I:2:** Gloss of a secondary detail of the foregoing

XI. YERUSHALMI BERAKHOT 2:7

[A] [GAMALIEL] BATHED ON THE FIRST NIGHT AFTER HIS WIFE DIED. [HIS STUDENTS] SAID TO HIM, “DID NOT OUR MASTER TEACH US THAT A MOURNER IS FORBIDDEN TO BATHE?” HE SAID TO THEM, “I AM NOT LIKE OTHER MEN. I AM OF FRAIL CONSTITUTION.”

1. **I:1:** Who taught that a mourner is forbidden to bathe all of the seven days [of mourning]? R. Nathan.
2. **I:2:** Said R. Yosé of the House of R. Abun, “Whoever permits such bathing [i.e. right after the burial] makes it [just as permissible for the mourner to engage in throughout the seven days] as eating and drinking [are permitted].”
3. **I:3:** It was taught, “A mourner and a banished person who were walking on the road are permitted to wear leather shoes. And when they come to a city they should remove them. And so too [people may do the same] on the Ninth of Ab, and so too on a public fast day [cf. M. Ta’an. 1:6].” It was taught, “In a place where they were accustomed to greet mourners on the Sabbath, they may greet them. And in the South they would greet them.”

XII. YERUSHALMI BERAKHOT 2:8

[A] WHEN TABI [GAMALIEL’S] SERVANT DIED HE ACCEPTED CONDOLENCES ON HIS ACCOUNT. [HIS STUDENTS] SAID TO HIM, “DID YOU NOT TEACH US THAT ONE DOES NOT ACCEPT CONDOLENCES FOR SLAVES?” HE SAID TO THEM, “MY SLAVE TABI WAS NOT LIKE OTHER SLAVES. HE WAS PROPER.”

1. **I:1:** [B says that one does not accept condolences for slaves in general. It does not specify that they must be one's own slaves. This seems to imply that] one may accept condolences for unrelated free-men. [And we know that this is not the practice. The Talmud answers,] this is how the Mishnah stated the law, One does not accept condolences for slaves. [But one should not draw any general inferences from the way the rule was stated.]
2. **I:2:** When R. Hiyya bar Adda, the nephew of Bar Qappara, died Resh Laqish accepted [condolences] on his account because he [Resh Laqish] had been his teacher. We may say that [this action is justified because] a person's student is as beloved to him as his son.
3. **I:3:** The young] Kahana was a prodigy [in rabbinic learning]. [According to legend R. Yohanan caused Kahana to die. Yohanan then prayed and he was resurrected.] When he arrived here [in the Land of Israel], a scoffer saw him and said to him, "What did you hear up in heaven?" He said to him, "Your fate is sealed." And so it was. He died. Another [scoffer] met him and said, "What did you hear up in heaven?" He said to him, "Your fate is sealed." And so it was. He [Kahana] said, "What is this? I came here to [gain] merit [and study Torah]. And now I have sinned. Did I come here to kill the inhabitants of the Land of Israel? I must go back to whence I came."

XIII. YERUSHALMI BERAKHOT 2:9

[A] **A BRIDEGROOM — IF HE WISHES TO RECITE THE SHEMA' ON THE FIRST NIGHT [AFTER HIS WEDDING] — HE MAY RECITE. RABBAN SIMEON B. GAMALIEL SAYS, "NOT ALL WHO WISH TO TAKE [THE LIBERTY OF RECITING] THE NAME [OF GOD BY RECITING THE SHEMA' AND ITS BLESSINGS] MAY DO SO."**

1. **I:1:** It was taught: In all matters [of religious obligations] entailing pain [such as a fast], anyone who wishes to single himself out [to observe them] may do so. A disciple of the sages may observe them and will receive a blessing. [Not everyone who wishes to assume upon himself the title (disciple of the sages) may do so.] And in all matters [of religious obligation] entailing benefit [such as wearing a special Prayer shawl], not everyone who wishes to single himself out [to observe them] may do so. A disciple of the sages may do so unless they appoint him an administrator of the community [lest people suspect him of taking graft].

2. **I:2:** Said R. Zeira, “[A disciple of the sages may follow a course of action which will entail for him pain] only if he does not cause others ridicule.”

XIV. YERUSHALMI BERAKHOT 3:1

[A] HE WHOSE DECEASED RELATIVE IS LYING BEFORE HIM [NOT YET BURIED], IS EXEMPT FROM THE OBLIGATIONS TO RECITE THE SHEMA’ AND TO WEAR TEFILLIN. THE [FIRST SET OF] PALLBEARERS, AND THE [NEXT PEOPLE] WHO REPLACE THEM, AND THE [NEXT PEOPLE] WHO REPLACE THEIR REPLACEMENTS – WHETHER THEY GO [IN THE PROCESSION TO THE CEMETERY] BEFORE THE BIER, OR THEY GO BEHIND THE BIER – IF THEY ARE NEEDED TO [CARRY] THE BIER, THEY ARE EXEMPT [FROM RECITING THE SHEMA’ AND WEARING TEFILLIN]. AND IF THEY ARE NOT NEEDED TO [CARRY] THE BIER, THEY ARE OBLIGATED [TO RECITE THE SHEMA’ AND TO WEAR TEFILLIN]. BOTH ARE EXEMPT FROM [RECITING] THE PRAYER [OF EIGHTEEN BLESSINGS].

1. **I:1:** It was taught, [He whose deceased relative is not yet buried, is] exempt from [the obligations to recite the Shema’ and to wear] tefillin. [M. 3:1A]. A mourner does not put on tefillin on the first day of mourning. On the second day he may put on tefillin. Throughout the entire seven days of mourning, if a new person comes [to console him,] he removes [the tefillin while that person remains with him because it is as though the presence of a new person renews the mourner’s grieving,]” the words of R. Eliezer. R. Joshua says, “On the first and second days he does not put on tefillin. On the third day he puts on tefillin. And if a new person comes [to console him] he does not remove them.”
2. **I:2:** Said R. Bun, “It is written, ‘That all the days of your life you may remember the day when you came out of the Land of Egypt’ [Deut. 16:3]. On days when you are taking care of the living [you must recite the Shema’ and remember the exodus], but not on days when you are taking care of the dead.” [The verse is used to support the exemption of a mourner from the obligation to recite the Shema’.] It was taught, “If he [a mourner] wished to be strict with himself [and recite the Shema’] they do not allow him to.” Why? Is it out of respect for the dead or because there will be no one else to bear his burden [assisting in the interment while he recites]?
3. **I:3:** When do they turn over the beds [making it lower to the floor in a house of mourning, as a sign of mourning]? “When the body is taken

out through the courtyard gate,” the words of R. Eliezer. And R. Joshua says, “When the stone is set in place [closing the burial chamber].”

- 4. I:4:** A mourner must eat at the house of his fellow until the corpse of his deceased relative is buried. And if he has no fellow [with whom he can eat], he should eat in a stranger’s house. And if he has no stranger’s house [nearby in which to eat] he should construct a partition [in his own house] and eat there. And if he cannot construct a partition, he should turn his face to the wall [of his own house] and eat. And he [the mourner before the body is buried] may neither recline and eat, nor eat and drink a full meal, nor eat meat, nor drink wine. And they do not [count him in the quorum] to extend the invitation [to recite the blessing over the meal as a group]. And if he recited the blessing [over the meal], others do not respond [to it] “Amen.” And [when he hears] blessings of others, he does not respond [to them] “Amen.” All of these [rules] apply during the week. But on the Sabbath he may recline and eat, and he may eat meat and drink wine, and he may eat and drink a full meal, and they may [count him to establish the needed quorum in order] to extend the invitation to recite the blessing of the meal, and if he recited a blessing, others may respond “Amen,” and for the blessings of others, he may respond “Amen.”
- 5. I:5:** It was taught: They drink ten cups [of wine] in a house of mourning – two before the meal, and five during the meal, and three after the meal. Regarding these three after the meal – over the first [they recite] the blessings following the meal, over the second [they recite a blessing concerning the] acts of loving kindness [of those who came to console the mourners], and over the third [they recite a blessing] to console the mourners themselves. [T. 3:23-24. T.’s version refers to two blessings: “Comforting the mourners” and “Merciful works.” The present text directs that one recite each of these blessings over a cup of wine.]
- 6. I:6:** May a priest render himself unclean [by coming into proximity or contact with a corpse, by participating in his teacher’s funeral] out of honor to his master? May a priest render himself unclean in order to honor [i.e. study] the Torah?
- 7. I:7:** It was taught: A priest is permitted to go out of the Land of Israel, and thereby render himself unclean, for monetary judgments, for capital judgments, for sanctifying the new moon, for intercalating the year, and to save a field from seizure by a gentile. And he may go out

even with a claim to contest [the seizure]. [The principle is that all lands outside of Israel are unclean with a form of uncleanness decreed by the rabbis.] [And a priest may leave Israel] to study Torah and to get married. R. Judah says, “If he has somewhere to study [in Israel] he may not render himself unclean [by leaving the Land].” R. Yosé says, “Even if he [the priest] has somewhere to study [in Israel], he may render himself unclean [and leave Israel to study]. For one may not be worthy enough to learn from all persons. [He may need a different teacher.]” They said concerning Joseph the priest that he used to go out and defile himself [by leaving the Land of Israel] to follow his teacher to Sidon. But they said: a priest should not leave the Land of Israel [to get married on the chance that he may find a wife. He may leave] only if he was promised a bride [in a place outside of the Land of Israel] [T. A.Z. 1:8-9].

8. **I:8:** May a priest render himself unclean in order to recite the priestly blessing [in a synagogue in which there is uncleanness]? May a priest render himself unclean in honor of a patriarch [by attending his funeral]? May a priest render himself unclean in order to honor his father or mother [in their lifetime, e.g. to visit them outside the Land of Israel]? May a priest render himself unclean for the public honor?
9. **I:9:** R. Jonah, R. Yosé the Galilean, in the name of R. Yasa bar R. Hanina, “They do not inquire into decisions of law in the presence of a coffin of the dead.” [This is disrespectful to the dead, for they can no longer learn.]

XV. YERUSHALMI BERAKHOT 3:2

[A] ONCE THEY [THE MOURNERS] HAVE BURIED THE DECEASED AND RETURNED [FROM THE GRAVE SITE] — IF THEY HAVE TIME TO BEGIN AND COMPLETE [THE RECITATION OF THE SHEMA’] BEFORE THEY REACH THE LINE [OF THOSE WHO COME TO CONSOLE THE MOURNERS] — THEY MAY BEGIN. AND IF NOT — THEY MAY NOT BEGIN. AND THOSE WHO STAND IN LINE — THE INNERMOST [CLOSEST TO THE MOURNERS] ARE EXEMPT [FROM THE RECITATION OF THE SHEMA’] AND THE OUTERMOST ARE OBLIGATED [TO RECITE].

1. **I:1:** It was taught: They do not bring out the deceased [for burial] close to [the time of] the recitation of the Shema’, unless they do so some time before or after [the appointed time for recitation] so that they may [have enough time to] recite [the Shema’] and the Prayer [of Eighteen blessings at their appointed hours].

2. **I:2:** It was taught, The one who eulogizes and all those who participate in the eulogy, may interrupt to recite the Shema', but may not interrupt to recite the Prayer. One time the rabbis interrupted [a eulogy] to recite the Shema' and the Prayer [T. 2:11J-K]. Did was it not taught in the Mishnah, If they have time to begin and complete [the recitation] before they reach the line, they may begin? [Surely they are not allowed to interrupt the service or eulogy!]
3. **I:3:** Said R. Samuel bar Abedoma, "One who enters a synagogue and finds [the congregation] standing and praying – if he knows that he can begin and finish reciting [the Prayer] before the leader begins [his recitation], so that he can respond 'Amen' to it – he may [go ahead and recite the] Prayer. But if not – he may not [recite the] Prayer [at that time, but he must wait until the leader is finished]."
4. **I:4:** It was taught: R. Judah says, "If they [who came to console the mourners] all were standing in a single line, those who stand there for the sake of honor [to be first to console the mourners], are obligated [to recite the Shema']. [Those who stand there] for the sake of the mourner, are exempt [from reciting the Shema']." Once they have gone down to [hear the] the eulogy, those who can see the faces [of the mourners] are exempt [from reciting]. And those who cannot see the faces [of the mourners] are obligated [to recite] [T. 2:11].

XVI. YERUSHALMI BERAKHOT 3:3

- [A] WOMEN, SLAVES AND MINORS ARE EXEMPT FROM THE [OBLIGATION OF THE] RECITATION OF THE SHEMA', AND FROM [WEARING] TEFILLIN. AND THEY ARE OBLIGATED [TO RECITE THE] PRAYER [OF EIGHTEEN BLESSINGS], IN THE [OBLIGATION TO POST] A MEZUZAH [ON THE DOORPOST], AND [TO RECITE] THE BLESSING FOLLOWING THE MEAL.**
1. **I:1:** Whence [do we learn] that women [are exempt from the obligation to recite the Shema']? [From the verse,] "And you shall teach them to your sons" [Deut. 11:9]. [This implies that the obligation applies] "to your sons," and not to your daughters. Whence [do we learn] that slaves [are exempt from the obligation to recite the Shema']? As it says, "Hear, O Israel: The Lord is our God, the Lord is one" [Deut. 6:4]. Whoever has no master except God [is obligated]. The slave is excluded [from the obligation to recite the Shema'], because he has another master. Whence [do we learn] that minors [are exempt from the obligation to recite the Shema']? [From the verse,]

“That the law of the Lord may be in your mouth” [Ex. 13:9]. At the time you can regularly [observe these commandments, you will be obligated to wear tefillin and to recite the Shema’. Minors cannot regularly observe them so they are not obligated.]

2. **I:2:** It was taught elsewhere in the Mishnah, For all positive religious obligations which are restricted to a specific time – men are obligated [to perform them] and women are exempt. And for all positive religious obligations which are not restricted to a specific time – both men and women alike are obligated [M. Qid. 1:7]. What is a positive religious obligation which is restricted to a specific time? For instance: [dwelling in a] sukkah, [taking a] lulab, [hearing the] shofar, and [wearing] tefillin. And what is a positive religious obligation which is not restricted to a specific time? For instance: [returning] a lost item, sending away the mother bird from the nest [before taking the offspring], [building] a guard-rail [on the roof of your house], and [wearing] fringes [on your four-cornered garment] [T. Qid. 1:10].
3. **I:3:** It was taught: Any commandment from which a person is exempt [because he already fulfilled it] – that person may exempt others from their obligation [by performing it again on their behalf] – except for [the obligation to recite] the blessing following the meal. And it was taught in the Mishnah, Anyone who is not obligated [to perform a religious obligation] may not free others from their obligation [M. R.H. 3:8]. Lo [this implies] if he was once obligated, even if he is already free from his obligation, he may free others [by performing the action on their behalf. [Why then can he not do so for the blessing of the meal?]
4. **I:4:** R. Yosé and R. Judah b. Pazzi were sitting [and discussing the obligations of reciting blessings]. They said, “Is it not reasonable [that with regard] to the recitation of the Shema’, each person must speak it distinctly from his own mouth, just as it is reasonable [that with regard to] Prayer, each person should ask for mercy on his own behalf.” [Why then does the M. obligate women, slaves, and minors in the Prayer and exempt them from the Shema’?] [Yosé and Judah asked further:] What is the difference between the [obligation to recite blessings for the commandment to dwell in a] sukkah and [the commandment to take hold of the] lulab?
5. **I:5:** It was taught, Truly they said: a woman may recite a blessing for her husband, a son may recite a blessing for his father, a slave may recite a blessing for his master [T. 5:17.]

XVII. YERUSHALMI BERAKHOT 3:4

[A] ONE WHO HAS DISCHARGED SEMEN MAY SILENTLY MEDITATE [THE SHEMA'] BUT MAY NOT RECITE THE BLESSINGS [BECAUSE THE RABBIS DEEM HIM TO BE UNCLEAN]. NEITHER [MAY HE RECITE THOSE BLESSINGS] BEFORE NOR AFTER [THE SHEMA']. AND [REGARDING THE BLESSINGS] FOR THE MEAL — ONE [WHO SUFFERED SUCH A DISCHARGE] MAY RECITE THE BLESSINGS AFTER IT, BUT MAY NOT RECITE THE BLESSINGS BEFORE IT. R. JUDAH SAYS, "HE MAY RECITE THE BLESSINGS BEFORE AND AFTER [THE SHEMA' AND THE MEAL]."

1. **I:1:** What [words] does he meditate? [Those of the] blessings. [But he must recite out loud the scriptural passages of the Shema'. Alternatively, P.M. interprets this comment to refer to Mishnah's rule in C regarding the recitation of the meal blessing.] The rule of our Mishnah applies only to a case where there is no water [of a miqveh bath available for immersing oneself. But if a miqveh is available, one may not even meditate before he goes into it.]
2. **I:2:** R. Jacob bar Aha, R. Yosa in the name of R. Joshua b. Levi, "The discharge of semen [which renders one unclean, referred to in Mishnah] refers only to that resulting from sexual intercourse." R. Huna said, "Even if he [discharged semen as a result of] dreaming about having intercourse [he is unclean]." That must mean only [if he dreamed of intercourse] with a woman. R. Jonah and R. Yosé both said, "Even [if he dreamed] of something else [and discharged semen, he is unclean]."
3. **I:3:** Said R. Jacob bar Abun, "They only ordained that one must immerse himself [after discharging semen] so that the Israelites should not act [in their sexual behavior] like roosters. [That is, they should not] have sexual intercourse, get right up and go to eat."
4. **I:4:** It was taught: Zabim and Zobot [those persons who suffer discharge], Nidot and Yoledot [menstruating women and women after childbirth] may recite from the Torah, [Prophets and Writings] and may study [Mishnah,] Midrash, halakhot and aggadot. And one who has discharged semen is forbidden [to engage] in all [those activities]. R. Abba bar Aha in the name of Rabbi, "He may study halakhot but he may not study aggadot [lest he become too involved in his study and forget to immerse]." [Tosefta 2:12.] It was taught in the name of R. Yosé: One may study routine halakhot as long as he does not cite the Mishnah [lest he become too involved in his study] [T. 2:12]. Some

say, “[One may study when he is unclean on account of an emission] as long as he does not mention the divine names [in the texts].”

XVIII. YERUSHALMI BERAKHOT 3:5

[A] ONE WHO WAS STANDING AND RECITING THE PRAYER [OF EIGHTEEN] AND REMEMBERED THAT HE HAD DISCHARGED SEMEN, SHOULD NOT INTERRUPT [HIS RECITATION] BUT SHOULD SHORTEN [THE PRAYER]. ONE WHO WENT DOWN TO IMMERSE HIMSELF [IN A RITUAL BATH] – IF HE HAS TIME TO COME UP [OUT OF THE BATH] AND COVER HIMSELF AND RECITE [THE SHEMA’] BEFORE THE SUN RISES – HE SHOULD COME UP AND COVER HIMSELF AND RECITE.

- 1. II:1:** The Mishnah [A-D refers to one who was praying with others] in public [and remembered that he had suffered a seminal emission]. But a person praying by himself [who remembered that he had suffered a seminal emission] must interrupt. And this accords with the view of R. Meir [as preserved in T.]. One who has discharged semen who does not have water [of a miqveh available] in which to immerse himself – “Lo, he may recite the Shema’ [to himself] but not out loud, and he may not recite the blessings before it or after it,” the words of R. Meir. And sages say, “He may recite the Shema’ out loud, and may recite the blessings before it and after it.” [T. 2:13.] But according to the view of R. Judah [who rules leniently in M. 3:4D, and accords with the view of the sages in T. 2:13] even in the case of a person praying by himself, he need not interrupt if he has no water available to immerse himself in [T. 2:13]. But if he has water available, even R. Judah would admit that he must interrupt [his recitation to immerse himself].

[B] AND IF NOT, HE SHOULD SUBMERGE HIMSELF [PARTIALLY] IN THE WATER TO COVER HIMSELF AND RECITE. BUT ONE MAY SUBMERGE HIMSELF NEITHER IN FOUL WATER, NOR IN WATER USED FOR SOAKING [FLAX]. [AND ONE MAY NOT PRAY NEAR A CHAMBER POT] UNTIL ONE MIXES INTO IT [SOME FRESH] WATER. AND HOW FAR MUST ONE MOVE AWAY FROM [UNDILUTED URINE] AND FROM EXCREMENT [BEFORE PRAYING]? FOUR CUBITS.

- 1. II:1:** The Mishnah refers to [a case of a pool of] cloudy water. But it is forbidden [to go into a pool of] clear water [to cover one’s nakedness in order to recite]. But if he can cloud [the clear water] by stirring it with his feet he may cloud it [and is permitted to recite in such water].
- 2. II:2:** It was taught, [Before praying] they move away [four cubits] from human excrement, and [four cubits] from canine excrement if they use [that substance] for tanning hides [T. 2:16].

3. **II:3:** It was taught: A child who is able to eat an olive's bulk of grain [i.e. sufficiently weaned to eat solid foods] – we must move away from his excrement and urine four cubits [before we pray]. And if he is not able to eat an olive's bulk of grain [but still nurses] – we need move away neither from his excrement nor from his urine [in order to pray] [T. 2:16].
4. **II:4:** It was taught: A chamber pot – one must stand four cubits away from it whether it contains excrement or urine. [The chamber pot] of the bedroom – if one poured some water into it, one may recite [the Shema'] near it. If not – one may not recite [near it] [T. 2:16]. R. Simeon b. Gamaliel said, “[Near the pot] behind the bed one may recite. [Near the pot] in front of the bed one may not recite.” R. Simeon b. Eleazar said, “Even in a large house of ten [cubits] by ten [cubits] one may not recite unless he covers the pot or places it under the bed” [T. 2:16].
5. **II:5:** One must place a box containing scrolls at the head of the bed, not at the foot of the bed. [It is not befitting scrolls to lie about in a bedroom.]
6. **II:6:** It was taught: One who is praying should not urinate until he moves four cubits [from the place he prays]. And likewise, one who urinates should not pray until he moves four cubits [from the place he urinates] [T. 2:19].

XIX. YERUSHALMI BERAKHOT 3:6

[A] A ZAB WHO HAD A [SEMINAL] EMISSION, AND A NIDDAH WHO DISCHARGED SEMEN [AFTER INTERCOURSE], AND THE WOMAN WHO HAD INTERCOURSE AND THEN HAD A MENSTRUAL DISCHARGE, MUST IMMERSE THEMSELVES [IN A RITUAL BATH TO REMOVE THE UNCLEANNESS CAUSED BY THE EMISSION OR INTERCOURSE BEFORE THEY CAN RECITE THE SHEMA'. THEY MUST DO THIS EVEN THOUGH THEY REMAIN UNCLEAN ON ACCOUNT OF THEIR MORE SEVERE CONDITION OF UNCLEANNESS.] AND R. JUDAH EXEMPTS THEM [FROM THE REQUIREMENT OF IMMERSING THEMSELVES BECAUSE IN HIS VIEW NOTHING IS ACCOMPLISHED THROUGH THE IMMERSION. THEY REMAIN UNCLEAN BY VIRTUE OF THE MORE SEVERE UNCLEANNESS.]

1. **I:1:** Thus far [from M. we understand that] if a Zab experienced an emission [Judah exempts him from immersion]. [Does this imply that] one who had [previously] experienced an emission and then suffered the flow of a Zab may immerse himself? [Does the immersion have

any effect if afterwards he remains unclean from the more severe form of uncleanness?]) [From M. we deduce that Judah thinks that one who is severely unclean as a Zab cannot become further unclean due to an emission, and is not required to immerse himself to cleanse himself of the latter, rabbinically ordained uncleanness due to an emission. But does Judah exempt a person from immersing himself if he first becomes unclean due to an emission, and then becomes severely unclean due to the flow of a Zab. In such a case, according to Judah, does the individual have to immerse himself to remove the first uncleanness?]

XX. YERUSHALMI BERAKHOT 4:1

[A] THE MORNING PRAYER [MAY BE RECITED] UNTIL MIDDAY. R. JUDAH SAYS, “UNTIL THE FOURTH HOUR [OF THE DAY].”

- 1.** **I:1:** It is written, “To love the Lord your God, and to serve him with all your heart and with all your soul” [Deut. 11:13]. Is there [such a thing as] a service of the heart? And what is it? It is prayer.
- 2.** **I:2:** One might think that he may combine the three [Prayer Services] together. It was said concerning Daniel, “And he got down upon his knees three times a day [and prayed and gave thanks before his God]” [Dan. 6:10]. One might think that he may pray facing any direction he wishes. [On the contrary,] Scripture states, “[He went to his house where] he had windows in his upper chamber open toward Jerusalem” [Dan. 6:10]. One might think [that they prayed in this way] only after they came to the Diaspora. [On the contrary,] Scripture states, “As he had done previously” [ibid.]. One might think that he may recite the three [daily prayers] at any time he wishes. David already stated, “Evening and morning and noon [I utter my complaint and moan]” [Ps. 55:17]. One might think that he must raise his voice and pray. It was stated concerning Hannah, “Hannah was speaking in her heart” [I Samuel 1:13]. [T. 3:6].
- 3.** **I:3:** R. Abba bar Zabedi used to pray [reciting the Eighteen Blessings] in a loud voice.
- 4.** **I:4:** Whence did they derive the [obligation to recite daily] three prayers? R. Samuel bar Nahmani said, “They parallel the three changes people undergo each day. In the morning a person must say, ‘I give thanks, Lord, my God and God of my fathers, for you have brought me forth from darkness into light!’ In the afternoon a person must say, ‘I

give thanks to you, Lord, my God and God of my fathers, for just as I have merited seeing the sun [rise] in the east, now may I merit seeing it [set] in the west.’ In the evening he must say, ‘May it be thy will, Lord, my God and God of my fathers, that just as I have been in darkness before and you have brought me forth to light, so shall you once again bring me forth from darkness to light.’” R. Joshua ben Levi said, “They learned the [obligation to recite the three daily] prayers from the [actions of the] patriarchs. And our rabbis said: The [obligation to recite three daily] Prayers is derived from the [comparison to the order of the] daily sacrifices.

5. **I:5:** From words in Scripture R. Judah [M. 4:1B] derived [his rule, that one may recite the Prayer until the fourth hour of the day]. As R. Ishmael taught, “‘When the sun grew hot, it [the manna] melted’ [Exod. 16:21] – that was at the fourth hour.”
6. **I:6:** What is the basis for the rule of the rabbis [The Morning Prayer may be recited until midday (M. 4:1A)]? The verse says, “There are two [sacrifices] each day” [Num. 28:3]. [This implies that] you should divide the day into two equal parts.
7. **I:7:** R. Hiyya in the name of R. Yohanan, “[In the afternoon, if one has not yet recited both] the Afternoon Prayer and the Additional Prayer [on a Sabbath or festival] – the Afternoon Prayer takes precedence. [He must recite it first.] You must say [this rule applies only] when there is not enough time left in the day to recite both [prayers]. But if there is enough time to recite both, the Additional Prayer takes precedence.” R. Zeira in the name of R. Yohanan, “Even if there is enough time left in the day to recite both prayers, the Afternoon Prayer takes precedence.” R. Nathan bar Tobiah in the name of R. Yohanan, “Even if there is enough time left in the day to recite both prayers, the Afternoon Prayer takes precedence.”

[B] THE AFTERNOON PRAYER [MAY BE RECITED] UNTIL THE EVENING. R. JUDAH SAYS, “UNTIL MID-AFTERNOON.” THE EVENING PRAYER HAS NO FIXED RULE. AND THE PRAYERS OF THE ADDITIONAL SERVICE [MAY BE RECITED] THROUGHOUT THE DAY. R. JUDAH SAYS, “UNTIL THE SEVENTH HOUR.”

1. **II:1:** And when is mid-afternoon? Ten and three quarters hours into the day. [The “short measure of afternoon” begins at nine and one-half hours into the day (about 3:30 p.m.) with day finishing at 6:00 p.m. The mid-afternoon by this reckoning is about 4:45 p.m. And note that the length of an “hour” is adjusted according to the seasonal variation in the amount of daylight.] [See T. 3:1.]I:1:

2. **II:2:** R. Yosé b. Haninah used to recite [the Afternoon] Prayer at sunset, so that he would be in fear of heaven all the day long. Said R. Yosé b. Haninah, “May my lot be cast with those who recite their prayers at sunset.” What is the Scriptural basis [for this practice]? “Therefore, let everyone who is worthy offer prayers to thee; at a time they are pressed” [Ps. 32:6]. What is a time they are pressed [msw’]? A time in the day [when people] are pressed [i.e. at the end of the day – mswyw sl ywm, lit. the squeezing of the day – a word play]. [We follow S.H. here. P.M. interprets differently.]
3. **II:3:** Whence [do we derive the obligation to recite] the Closing Service [Ne’ilah, on the Day of Atonement and other public fast days]?
4. **II:4:** R. Isaac bar Nahman in the name of R. Joshua b. Levi, “When the Day of Atonement coincides with the Sabbath, even though [ordinarily they recite] no Closing Prayer on the Sabbath day, [in this case] one inserts a mention of the Sabbath in the Closing service.”
5. **II:5:** What passage do they read [from the Torah on the new moon which coincides with a fast day]?
6. **II:6:** Rabbi instructed his spokesman Abdan to announce to the congregation, “Whoever wishes to recite the [Saturday] Evening Prayer may do so, even while it is still daytime [after mid-afternoon].” R. Hiyya bar Abba [Wawa] instructed his spokesman to announce to the congregation, “Whoever wishes to recite the [Saturday] Evening Prayer may do so, even while it is still daytime.”
7. **II:7:** Said R. Jacob bar Aha, “It was taught there: What is the rule concerning the Evening Prayer? Rabban Gamaliel says, ‘It is compulsory.’ R. Joshua says, ‘It is optional.’”
 - a. **II:8:** Once a student came and asked R. Joshua, “What is the rule concerning the Evening Prayer?” He said to him, “It is optional.” He came and asked Rabban Gamaliel, “What is the rule concerning the Evening Prayer?” He said to him, “It is compulsory.” He said to him, “But behold, R. Joshua told me that it is optional.”

XXI. YERUSHALMI BERAKHOT 4:2

- [A] **R. NEHUNIAH B. HAQQANEH USED TO RECITE A SHORT PRAYER WHEN HE ENTERED THE STUDY HALL AND WHEN HE EXITED. THEY SAID TO HIM, “WHAT IS THE**

NATURE OF THIS PRAYER?” HE SAID TO THEM, “WHEN I ENTER, I PRAY THAT I WILL CAUSE NO OFFENSE.”

- 1.** **I:1:** When he enters [the study hall] what does he say? “May it be thy will, Lord my God, God of my fathers that I shall not be angry with my associates, and that my associates shall not be angry with me [S.H.]; that we not declare the clean to be unclean, that we not declare the unclean to be clean; that we not declare the permissible to be forbidden, that we not declare the forbidden to be permissible; lest I find myself put to shame in this world and in the world to come [for rendering a wrong decision].” And when he exits [the study hall] what does he say? “I give thanks to thee, Lord my God, God of my fathers, that you cast my lot with those who sit in the study hall and the synagogues, and you did not cast my lot with those who sit in the theaters and circuses. For I toil and they toil. I arise early and they arise early. I toil so that I shall inherit [a share of] paradise [in the world to come] and they toil [and shall end up] in a pit of destruction. As it says, ‘For thou dost not give me up to Sheol, or let thy godly one see the pit’ [Ps. 16:10].”
- 2.** **I:2:** R. Pedat in the name of R. Jacob bar Idi, “R. Eleazar used to recite three prayers after his recitation of the Prayer [of Eighteen]. What did he say? ‘May it be thy will, Lord my God, and God of my fathers, that no person come to hate us, nor that we come to hate any person, and that no person come to envy us, not that we come to envy any person. And let [the study of] your Torah be our occupation all the days of our lives. And let our words be supplications before you.’”

[B] AND WHEN I EXIT, I GIVE THANKS FOR MY PORTION.”

- 1.** **I:1:** And when I exit I give thanks for my portion [M. 4:2]. Said R. Abun, “[I give thanks to] the God who has bestowed upon me understanding and good works.”

XXII. YERUSHALMI BERAKHOT 4:3

[A] RABBAN GAMALIEL SAYS, “EACH DAY ONE MUST RECITE A PRAYER OF EIGHTEEN [BLESSINGS].”

- 1.** **I:1:** And why [do they recite] eighteen [blessings]? Said R. Joshua b. Levi, “It corresponds with the first eighteen psalms, from the beginning [of the book] of Psalms until, ‘The Lord will answer you in the day of trouble’ [Ps. 20:1].” Said R. Simon, “[The eighteen

blessings of the Daily Prayer] correspond to the eighteen vertebrae of the spinal cord. For when a person stands and prays he must bend them all to bow. What is the basis in Scripture for this? ‘All my bones shall say, O Lord, who is like Thee?’ [Ps. 35:10].” Said R. Levi, “[The eighteen blessings] correspond to the eighteen invocations [of God’s name in Psalm 29]: ‘Ascribe to the Lord’ [T. 3:25]. R. Huna said, “And if someone will say to you that there are nineteen [invocations in that psalm], tell him that the rabbis at Yavneh established a [nineteenth blessing] concerning the heretics.” [The twelfth blessing in the Daily Prayer.] R. Haninah in the name of R. Pinhas, “[The eighteen blessings] correspond to the eighteen times that the [names of the] patriarchs Abraham, Isaac and Jacob are mentioned together in the Torah.” R. Samuel bar Nahmani in the name of R. Yohanan, “[The eighteen blessings] correspond to the eighteen commands [i.e. the words, ‘As the Lord had commanded’] in the passage concerning the building of the Tabernacle [Exod. 38:21ff.]”

2. **I:2:** Whence [is the source for ordaining the liturgy of] the seven [blessings] for the Sabbath [Prayer]?
3. **I:3:** Whence [is the source for ordaining the liturgy of] the nine [blessings] of the New Year’s [Prayer]?
4. **I:4:** Whence [is the source for ordaining the liturgy of] the twenty-four [blessings] of the fast day [Prayer]?
5. **I:5:** R. Zeira in the name of R. Jeremiah, “An individual who recites the Prayer [of Eighteen Blessings] alone on a public fast day must mention the occasion in his Prayer.” Where does he do so? Between [the seventh blessing,] “Redeem us” and [eighth blessing,] “Heal us.”

[B] AND R. JOSHUA SAYS, “[IT SUFFICES TO RECITE] AN ABSTRACT OF EIGHTEEN.” R. AQIBA SAYS, “IF ONE IS FLUENT IN PRAYER, HE RECITES A PRAYER OF EIGHTEEN. AND IF NOT, [HE RECITES] AN ABSTRACT OF EIGHTEEN [BLESSINGS].”

1. **II:1:** What is the meaning of an Abstract of Eighteen [M. 4:3C]? Rab said, “They say the end of each blessing.” And Samuel said, “[They say] the beginning of each blessing.”

XXIII. YERUSHALMI BERAKHOT 4:4

- [A] **R. ELIEZER SAYS, “ONE WHO FIXES [THE RECITATION OF] HIS PRAYER, HIS PRAYER IS NOT SUPPLICATION.”**
- I:1:** R. Abbahu in the name of R. Eleazar, “[R. Eliezer means] one should not [recite one’s prayers] as if he were reading a letter [i.e. fixed without emotion].” R. Aha in the name of R. Yosé, “[Eliezer means] one must add some new [dimension] each day [to one’s prayer].”
 - I:2:** R. Yosé of Tyre in the name of R. Yohanan, “Before his [recitation of the] Prayer one should say, ‘O Lord, open thou my lips, and my mouth shall show forth thy praise’ [Ps. 51:15]. And after his [recitation of the] Prayer one should say, ‘Let the words of my mouth and the meditation of my heart be acceptable in thy sight, O Lord, my rock and my redeemer’ [Ps. 19:14].
 - I:3:** One who was praying and he remembered that he had already prayed – Rab said, “He should break off [from praying].” And Samuel said, “He should not break off.” [He may complete the second recitation of the Prayer.]
 - I:4:** One who was praying on the Sabbath and he forgot [to say] the Sabbath Prayer, but [instead] he said the weekday Prayer – R. Huna says, “[Concerning this case] there is a dispute between R. Nahman bar Jacob and R. Sheshet. One said, ‘[When he remembers] he must break off from reciting [even in the middle of] a blessing.’ And the other said, ‘He should finish [saying] the blessing [he is reciting when he remembers it is the Sabbath].’
- [B] **R. JOSHUA SAYS, “ONE WHO GOES THROUGH A DANGEROUS PLACE SHOULD RECITE A SHORT PRAYER [SOME TEXTS: AN ABSTRACT OF EIGHTEEN BLESSINGS.] AND HE SHOULD SAY, ‘GOD SAVE YOUR PEOPLE ISRAEL.’**
- II:1:** R. Simeon bar Abba in the name of R. Haninah, “All roads are presumed to be dangerous.”
- [C] **IN ALL THEIR CRISES LET THEIR NEEDS COME BEFORE YOU. BLESSED ART THOU, O LORD WHO HEARS OUR PRAYER AND SUPPLICATIONS.”**
- III:1:** Aha in the name of R. Asa, “[In all their crises (prst h’ybw) (M. 4:4C) – that short prayer asks that you, God, heed] all that the leader of the prayers asks of you when he goes before the ark [‘wbr l’pny

htybh] and places the request for the needs of your people before you.” [Aha calls attention to the similarity of the words ‘ybwv, ‘wbr] R. Pinhas, R. Levi, R. Yohanan in the name of Menahem the Galilean, “[To invite] one to go before the ark they do not say [to him], ‘Come and pray.’ Rather they say [to him], ‘Come and draw near. Come and make our offerings for us, provide for us, fight for us, make peace for us.’” Others say [the text of the short Prayer is as follows]: “The needs of your people Israel are great and their ability [to express them] is limited. But let it be your will, Lord our God, and God of our fathers, that you provide for each and every creature his needs, and for each and every person that which he lacks. ‘Blessed be the Lord, for he has heard the voice of my supplications’ [Ps. 28:6]. Blessed art thou, O Lord who hears [our Prayer].” [T. 3:7F.]

2. **III:2:** There is a Tannaite authority who taught, “One prays and then asks for his [individual] needs.” And there is a Tannaite authority who taught, “One asks for his [individual] needs and then prays.”
3. **III:3:** R. Abba, R. Hiyya in the name of R. Yohanan, “A person must pray in a place designated for Prayer [i.e. a synagogue].”
4. **III:4:** R. Yasa, R. Helbo, R. Berekhiah, R. Helbo of Tobah, in the name of R. Abedoma from Haifa, “A person must turn to face a wall to pray. What is the basis [in Scripture for this view]? ‘Then Hezekiah turned his face to the wall [and prayed to the Lord]’ [Isa. 38:2].

XXIV. YERUSHALMI BERAKHOT 4:5-6

[A] ONE WHO WAS RIDING ON AN ASS SHOULD DISMOUNT [TO RECITE THE PRAYER]. IF HE CANNOT DISMOUNT HE SHOULD TURN [TO FACE TOWARDS JERUSALEM].

1. **I:1:** It was taught: One who was riding on an ass – if there is someone who can hold the ass, he should dismount and pray. If not, he may pray where he is. Rabbi says, “In either case he should pray where he is for that way his mind is more at ease [and he can better concentrate] [T. 3:18].”
2. **I:2:** Said R. Jacob bar Aha, “It was taught there: one may not face in any direction [to recite the Prayer,] except East.”
3. **I:3:** It was taught: A blind man or anyone who is not able to discern directions [whether he faces east or west,] lo, they pray [by turning their thoughts] towards heaven. As it says, ‘And they pray to the Lord

[toward the city which thou hast chosen and the house which I have built for thy name] [1 Kings 8:44] [T. 3:14]. Those who stand and pray outside the Land of Israel, turn to face the Land of Israel [to pray]. And what is the basis [in Scripture for this rule]? ‘And pray to thee toward their land which thou gavest their fathers’ [1 Kings 8:48]. Those who stand and pray in the Land of Israel turn to face Jerusalem. And what is the basis [in Scripture for this rule]? ‘Toward the city which thou hast chosen’ [ibid. cf. 2 Chron. 6:34] [T. 3:15]. Those who stand and pray in Jerusalem, turn to face the Temple mount. And what is the basis [in Scripture]? ‘And the house which I have built for thy name’ [ibid. cf. 2 Chron 6:32]. And those who stand and pray on the Temple mount, turn to face the chamber of the Holy of Holies. And what is the basis [in Scripture for this rule]? ‘[And hearken to the supplication of thy servant and of thy people Israel,] when they pray toward this place; yea, hear thou in heaven thy dwelling place; and when thou hearest, forgive’ [1 Kings 8:30]. It turns out that [when they pray] those who stand north [of the Temple], face south, those who stand in the south, face north, those who stand in the east, face west, those who stand in the west, face east. It turns out that all of Israel prays towards one place [T. 3:16].

4. **I:4:** Said R. Joshua b. Levi, “[We find the following phrase in a verse referring to the Temple,] ‘The house, that is, the nave in front of the inner sanctuary’ [1 Kings 6:17] – [this phrase suggests they stood during prayer in front of] the nave [of the Temple – the place] to which all people faced.”

[B] AND IF HE CANNOT TURN, HE SHOULD DIRECT HIS THOUGHTS TO THE CHAMBER OF THE HOLY OF HOLIES [IN THE TEMPLE OF JERUSALEM].

1. **II:1:** To which chamber of the Holy of Holies? R. Hiyya the Elder, “Towards the [chamber of the] Holy of Holies above [in heaven].”
2. **I:2:** “[Then Solomon began to build the house of the Lord in Jerusalem on] Mount Moriah” [II Chron. 3:1]. R. Hiyya the Elder and R. Yannai [disputed over the reason it was called mwryh, Moriah]. One said it was because from that place instruction [hwryh] goes forth to the world. The other said it was because from that place fear [yr’h] goes forth to the world.

[C] ONE WHO WAS TRAVELLING ON A BOAT OR A RAFT – HE SHOULD DIRECT HIS THOUGHTS TO [THE CHAMBER OF] THE HOLY OF HOLIES.

1. **III:1:** The term ‘raft’ [Hebrew: ‘sd’], means the same as the term ‘float’ [‘skry’], which means the same as the term rafts [rpswdwt]

mentioned in the verse, “And we will cut whatever timber you need from Lebanon, and bring it to you in rafts by sea to Joppa” [II Chron. 3:16].

XXV. YERUSHALMI BERAKHOT 4:7

[A] **R. ELEAZAR B. AZARIAH SAYS, “THE ADDITIONAL PRAYER IS SAID ONLY WITH THE CONGREGATION OF THE TOWN.” AND SAGES SAY, “BOTH WITH THE HEBER ‘YR AND APART FROM THE HEBER ‘YR.” R. JUDAH SAID IN HIS [ELEAZAR’S] NAME, “ANY PLACE WHERE THERE IS A HEBER ‘YR [I.E. A PLACE WHERE THEY RECITE THE PRAYER IN PUBLIC] AN INDIVIDUAL IS EXEMPT FROM [RECITING] THE ADDITIONAL PRAYER.”**

- 1. I:1:** R. Bibi in the name of R. Hannah said, “The law follows R. Judah who said [the law] in the name of R. Eleazar b. Azariah [i.e. M. 4:7C].” A dictum of Samuel accords with this statement. For Samuel said, “All my days I never recited the Additional Prayer [because I fulfilled my obligation by virtue of the public recitation of the Service]. Except for one time when the son of the Exilarch died. And the congregation did not recite [the Additional Prayer because they were preoccupied with the loss], and [on that one occasion] I recited it myself.”
- 2. I:2:** Rab said, “[One who recites the Additional Prayer right after the morning Prayer] must add something new [in the Additional Prayer].” Samuel said, “He does not have to add something new.”
- 3. I:3:** R. Shila in the name of Rab, “One who already prayed [in private] and later found ten people praying, should pray [again in public] with them.”
- 4. I:4:** It was taught there: Rabban Gamaliel said, “The leader [of the Prayer, by virtue of his recitation of the Prayer] exempts the congregation of its obligation [to recite the Prayer].”

XXVI. YERUSHALMI BERAKHOT 5:1

[A] **ONE MAY RISE TO RECITE THE PRAYER ONLY WITH A SOLEMN FRAME OF MIND. THE ANCIENT SAINTS USED TO TARRY FOR A WHILE, AND THEN PRAY SO THAT THEY COULD FIRST DIRECT THEIR THOUGHTS [TO GOD].**

1. **I:1:** R. Jeremiah in the name of R. Abba, “One who comes in off the road [from travelling] is forbidden to recite the Prayer [right away because the events of his journey distract his thoughts]. And what is the basis [in Scripture for this]? ‘And therefore hear this, you [exiles] who are afflicted, who are drunk, but not with wine’ [Isa. 51:21]. [Those who are exiled from their land are distracted as if they were intoxicated.]” R. Zerikan, R. Yohanan in the name of R. Eleazar the son of R. Yosé the Galilean, “One who is afflicted with anguish is forbidden to recite the Prayer.”
2. **I:2:** It was taught: One may stand to recite the Prayer neither after conversation, nor after laughter, nor after levity, nor after any trivial matter, but only after words of Torah. And likewise one may depart from his associate neither after conversation, nor after laughter, nor after levity, nor after any trivial matter, but only after words of Torah. [And one may not depart after words of sorrow or anguish – see S.H., ad. loc.] For so we find that the ancient prophets concluded their messages with words of praise and consolation [T. 3:21].
3. **I:3:** R. Jeremiah said, “One should stand to recite the Prayer only after [speaking of a] decision of the law.” R. Jeremiah said, “He who is involved with communal needs is like one who is involved [in the study of] words of Torah. [And he may pray immediately after he finishes serving a communal need.]” It was taught: Bar Qappara said, “[Recite this law before praying:] ‘The [minimum number of] eleven days [which by law one must reckon] between one menstrual period and another, is based on a tradition received by Moses at Sinai.’” It was taught: R. Hoshaiia [said], “[Recite this lenient law before praying:] ‘A person may mix his grain with stalks [before bringing it into his storehouse] as an artifice to free it from the tithing requirement [since thereby it will resemble grain which has not been winnowed, and will not become liable to tithes].’” [According to Hoshaiia, reciting a lenient law puts one in the proper frame of mind for prayer.]
4. **I:4:** Hezekiah, R. Jacob bar Aha, R. Yasa in the name of R. Yohanan, “[Before you recite your Prayer,] this verse should always be on your lips, ‘The Lord of hosts is with us; the God of Jacob is our refuge. Selah’ [Ps. 46:11].” R. Yosé b. R. Abun, R. Abbahu in the name of R. Yohanan and the associates, “[Before you recite your Prayer, this verse should always be on your lips,] ‘O Lord of hosts, blessed is the man who trusts in thee!’ [Ps. 84:12].” R. Hezekiah in the name of R. Abbahu, “[After you say those verses, recite this short prayer,] ‘May it be thy will, Lord our God, and God of our fathers, that You save us in

the times of rebellion, the hard times, the evil times, which are approaching and coming to the world.”

5. **I:5:** One may stand to recite the Prayer only with a solemn frame of mind [M. 5:1]. R. Joshua b. Levi said, “[Scripture says,] ‘Worship the Lord in holy array’ [hrt qds] [Ps. 29:2]. [You should read the phrase:] ‘[Worship the Lord] in fear of the holy’ [hrt qds, the interpretation rests on a play on words] [i.e. a solemn frame of mind].”
6. **I:6:** Said R. Joshua b. Levi, “One who is standing and praying must sit down twice [to pause], once before praying, and once after praying.”
7. **I:7:** The ancient saints used to tarry for a while, pray a while, and tarry a while after their Prayer. When did they [have time to] study Torah? When did they [have time to] do their work? Said R. Isaac b. R. Eleazar, “Because they were saints, their Torah-study was blessed, and their work was blessed, [and they were able to complete them expeditiously].”
8. **I:8:** Huna said, “One who prays behind a synagogue is called a wicked person, as it says, ‘On every side the wicked prow’ [Ps. 12:8].” R. Huna said, “Anyone who does not enter the synagogue [during his lifetime] in this world will not enter the synagogue in the afterlife. What is the basis [in Scripture for this view]? ‘On every side [shall] the wicked prow [ythlkwn. In the future, in the world to come, they will prow. They will not enter paradise.]”
9. **I:9:** Jonah in the name of R. Tanhum b. R. Hiyya, “One who has a bad dream must say, ‘May it be thy will, Lord my God and God of my fathers, that all the dreams I have dreamed during this past night or other nights, whether my own dreams, or dreams of others concerning me, if they be for good, may they come to pass and bring for me joy and happiness, blessing and life.”

[B] [ONE WHO IS PRAYING,] EVEN IF A KING EXTENDS TO HIM A GREETING, HE SHOULD NOT RESPOND:

1. **II:1:** Even if a king extends to him a greeting, he should not respond [M. 5:1]. Said R. Aha, “This applies only to an Israelite king. But to the greeting of a gentile king, one may return a greeting [lest he be offended and punish you].” It was taught: If one was writing God’s name [in a Torah scroll], Even if a king extends to him a greeting, he should not respond. If one was writing two or three consecutive divine names – such as El, Elohim, Yahweh – lo he should finish writing one and return the greeting [T. 3:22].

2. **II:2:** R. Haninah and R. Joshua b. Levi went before the proconsul of Caesarea. When he saw them he stood up. They [his courtiers] said to him, “Why do you stand up for these Jews?” He said to them, “I saw in them the faces of angels.”
3. **II:3:** R. Simeon b. Yohai taught, ““And all the people of the earth shall see [that you are called by the name of the Lord; and they shall be afraid of you]’ [ibid.]. ‘All’ – even the spirits and even the demons [shall be afraid of you].”
4. **II:4:** Resh Laqish was accustomed to becoming deeply absorbed in [thoughts concerning] the Torah. [Once while lost in thought] he wandered out of the Sabbath limit [i.e. more than 2000 cubits from the boundary of the village], and he did not realize it. This fulfills that which Scripture says, ‘Be infatuated always with her [the Torah’s] love’ [Prov. 5:19].

[C] EVEN IF A SERPENT IS COILED TO STRIKE AT HIS HEEL, HE SHOULD NOT INTERRUPT [HIS RECITATION].

1. **III:1:** R. Huna in the name of R. Yosé, “This only applies to a serpent. But one may interrupt for [fear of] a scorpion. Why? Because it may sting at any time.” R. Ila said, “This only applies to the case of a serpent which is coiled nearby. But if it is slithering towards him, lo, he may move aside, so long as he does not interrupt his Prayer.” It was taught [in this regard]: If one was standing and praying in a wide-street or a public place, lo he may move aside to let an ass or a wagon pass, as long as he does not interrupt his Prayer. They said concerning R. Haninah b. Dosa that while he was standing and praying, a poisonous lizard bit him, but he did not interrupt his Prayer. They went and found the lizard dead at the entrance to its hole. They said, “Woe to the person who is bitten by the lizard. Woe to the lizard who bit R. Hanina Ben Dosa [T. 3:20].

XXVII. YERUSHALMI BERAKHOT 5:2

[A] THEY MENTION THE [LITURGICAL FORMULA WHICH DEALS WITH THE] “WONDERS OF THE RAINS” [I.E. “WHO CAUSES THE WINDS TO BLOW AND THE RAIN TO FALL” DURING THE RAINY SEASON] IN [THE SECOND BLESSING OF THE PRAYER OF EIGHTEEN, CALLED] “THE RESURRECTION OF THE DEAD.” AND THEY [ADD DURING THE WINTER THE PHRASE, “GRANT US DEW AND RAIN FOR BLESSING,” TO] ASK FOR RAIN IN [THE NINTH BLESSING, CALLED] “THE BLESSING OF THE YEARS.”

1. **I:1:** [Why do they mention the rain in the blessing which deals with resurrection?] Just as resurrection [restores] life to the world, so too does rainfall [restore] life to the world. R. Hiyya bar Abba derived [the association between rain and resurrection] from the following: “After two days he will revive us; on the third day he will raise us up, that we may live before him. Let us know, let us press on to know the Lord; his going forth is sure as the dawn; he will come to us as the showers, as the spring rains that water the earth” [Hosea 6:2-3].
2. **I:2:** R. Zeira in the name of R. Haninah, “If one was standing [and praying before the congregation] in the [winter] rainy season, and he mentioned [in error] the request for dew, they do not make him repeat the Prayer. [If one was praying for the congregation in the summer season when they pray for] dew, and he mentioned [in error] the request for rain, they make him repeat the Prayer.”
3. **I:3:** Zeira in the name of R. Haninah, “If one was standing and praying for the congregation] in the rainy season, and he mentioned the request for dew, they do not make him repeat the Prayer.” But it was taught: If one did not ask [for the rains] in the [ninth blessing, i.e.] the Blessing of the Years, or if one did not mention the wonders of the rains in [the second blessing, i.e.], the Resurrection of the Dead, they make him repeat [his recitation of the Prayer] [T. 3:9].
4. **I:4:** Once in Nineveh they had to declare a fast day after Passover [and to pray for rain]. They went and asked Rabbi [what to do regarding the Prayer]. Rabbi told them, “Go and do so [declare a fast day] but do not change the structure of the Prayer [by adding a special mention of rain].”

[B] AND [THEY INSERT] THE PRAYER OF DIVISION [RECITED AT THE CONCLUSION OF A SABBATH OR FESTIVAL DAY] IN [THE FOURTH BLESSING OF THE PRAYER OF EIGHTEEN ON SATURDAY NIGHT, CALLED] “ENDOWER OF KNOWLEDGE.” R. AQIBA SAYS, “ONE SAYS IT AS A SEPARATE FOURTH BLESSING.”

1. **II:1:** Simeon bar Abba posed this question to R. Yohanan, “How is it possible that the sages engage in a dispute over such a common practice?” He said to him, “Because [over the generations the Prayer of Division was] removed [from the Prayer-liturgy and recited primarily] over a cup [of wine as a separate ritual], they forgot [where it was to be inserted] in the Prayer.”

[C] R. ELIEZER SAYS, “[ONE INSERTS IT] IN THE ‘THANKSGIVING,’ [THE NAME OF THE EIGHTEENTH BLESSING OF THE PRAYER OF EIGHTEEN].”

1. **III:1:** R. Eliezer says, “[One inserts it] in the ‘Thanksgiving.’ [M. 5:2E].” R. Yohanan in the name of Rabbi, “We incline to accept R. Eliezer’s view in the case of [the recitation of Prayer of Division] between the Sabbath and a festival day which falls immediately thereafter.”

[D] **R. AQIBA SAYS, “ONE SAYS IT AS A SEPARATE FOURTH BLESSING.”**

1. **IV:1:** R. Jacob b. Aha in the name of Samuel says, “[They say it in place of] the fourth blessing.” Said R. Yudan, “He recites the formula of the [regular fourth] blessing and afterward [he recites] the Prayer of Division.”
2. **IV:2:** Eleazar b. R. Hoshaiiah, “[One’s recitation of Prayer of Division is effective] so long as he mentions no fewer than three forms of division,” [i.e. “He who divides sacred from profane, light from darkness, Israel from the nations, the seventh day from the six days of creation”]. Said R. Yohanan, “They said, ‘One who usually says fewer [forms of division in Prayer of Division] should say no fewer than three, and one who usually adds more, should say no more than seven divisions.’” Levi said, “One’s recitation of Prayer of Division [is effective] so long as he mentions ‘divisions’ which appear in the Torah.” Nahum b. R. Simai went and said in the name of his father, “Even if one says a single ‘division’ [his Prayer of Division is effective].” And said R. Abbahu, “One must close [the Prayer of Division with a blessing which mentions] ‘division,’” [i.e. “Blessed art Thou, O Lord, who divides the sacred from the profane”].
3. **IV:3:** R. Eleazar b. Antigonos in the name of R. Eleazar b. R. Yannai, “[R. Isaac b. Eleazar’s ruling above, ‘One recites the Prayer of Division and afterward he recites the formula of the (regular fourth) blessing’] implies that before one recites the Prayer of Division [on Saturday night] it is forbidden for him to perform labor. For you can say, [this law,] ‘Before one recites the Prayer of Division it is forbidden for him to perform labor,’ is parallel to [this law], ‘Before one recites the Prayer of Division it is forbidden for him to ask for his needs.’” [Because one must recite the Prayer of Division towards the beginning of the Prayer of Eighteen, we may infer that one may neither make petition nor perform labor, before reciting the Prayer of Division.]
4. **IV:4:** R. Zeira, R. Eleazar bar Antigonos [L: his son] in the name of R. Yannai, in the name of R. Judah his son, “If one did not recite the Prayer of Division at the termination of the Sabbath, he may recite the

Prayer of Division [later in the week,] even on the following Thursday.”

5. **IV:5:** R. Zeira in the name of R. Judah, R. Abba in the name of Abba bar Jeremiah, “Even [at the conclusion of] a festival day that falls in the middle of the week, one says [the same formula in the Prayer of Division,] ‘Who divides the seventh day from the six days of creation.’”
6. **IV:6:** R. Jeremiah, R. Zeira in the name of R. Hiyya bar Ashi, “One must say [in the Prayer of Division in the fourth blessing of the Evening Prayer], ‘May the six days, the days of creation, which are approaching us, begin for us in peace.’” R. Abba adds, “And may we hear on them sounds of joy and happiness.” R. Hezekiah in the name of R. Jeremiah [would add], “Cause us to understand and teach us.”

XXIX. YERUSHALMI BERAKHOT 5:3

- [A] **THEY SILENCE ONE WHO SAYS [IN LEADING THE PRAYER OF EIGHTEEN], “MAY THY MERCY REACH [EVEN] THE NEST OF A BIRD,” OR “MAY THY NAME BE INVOKED FOR THE GOOD:”**
1. **I:1:** R. Pinhas in the name of R. Simon, “[One who recites, ‘May thy mercy reach the nest of a bird’] is like one who reproaches God’s traits [saying], ‘Thy mercy reached a bird’s nest, but thy mercy did not reach so-and-so.’” R. Yosé in the name of R. Simon, “[One who recites that formula] is like one who limits God’s nature [saying], ‘Thy mercy reaches only to a bird’s nest [not beyond].”
- [B] **OR “WE GIVE THANKS, WE GIVE THANKS.” [THESE ARE NOT SANCTIONED LITURGICAL FORMULAE, BECAUSE THEY HAVE HERETICAL OVERTONES.]**
1. **II:1:** Said R. Samuel bar R. Isaac, “‘For the mouth of liars will be stopped’ [Ps. 63:11]. This applies only in public [prayer]. But for an individual it is supplication [to repeat phrases in one’s recitation of the Prayer of Eighteen].”
- [C] **HE WHO GOES BEFORE THE ARK [TO LEAD THE RECITATION OF THE PRAYER OF EIGHTEEN] AND ERRED, THEY REPLACE HIM WITH ANOTHER. AND ONE MAY NOT DECLINE AT THAT TIME [IF ASKED TO REPLACE THE ONE WHO ERRS]. WHENCE DOES [THE REPLACEMENT] BEGIN [TO RECITE]? FROM THE BEGINNING OF THE BLESSING IN WHICH [THE PREVIOUS LEADER] ERRED.**

1. **III:1:** R. Yosé b. Haninah in the name of R. Haninah b. Gamaliel, “If he erred in reciting one of the first three blessings [of the Prayer of Eighteen, the new leader] goes back to the beginning [and repeats the entire Prayer].”
2. **III:2:** R. Aha and R. Judah b. Pazzi were sitting in a certain synagogue. A person got up before the ark [to lead the Prayer of Eighteen] and he skipped a blessing. They went and asked R. Simon [what to do about this case]. R. Simon said to them in the name of R. Joshua b. Levi, “If a leader of the Prayer [of Eighteen] skipped two or three blessings, they do not make him repeat [the Prayer of Eighteen].”
3. **III:3:** R. Jacob bar Aha, R. Simeon bar Abba in the name of R. Eleazar, “If there was a doubt whether or not he mentioned the new moon [in the Prayer of Eighteen], they make him repeat it.”
4. **III:4:** Abba son of R. Hiyya bar Abba, R. Hiyya in the name of R. Yohanan, “If while one was reading [for the congregation] from the Torah he was struck dumb, the one who takes his place should start [reading] from the place where the first [reader] started. “For if you say he should start from the place where the first one stopped [when he became mute], then [there is a problem concerning the blessings recited by each over the verses he reads]. [If he starts where the first reader stopped, it turns out that] they recited a blessing before [reading] the previous verses, but they did not recite a blessing after [reading them because the reader became dumbstruck]. And they recited a blessing after [reading] the latter verses [which the new reader reads], but they did not recite a blessing before reading them. [They relied on the initial blessing of the previous reader.] And it is written, ‘The law of the Lord is perfect, reviving the soul’ [Ps. 19:7].” All [the reading] must be perfect [i.e. complete with blessing before and after each portion].
5. **III:5:** Said R. Joshua of the South, “Concerning three things – too much or too little of them is bad; but a moderate amount of them is good: [They are] yeast, and salt, and unwillingness [to serve as leader of the Prayer of Eighteen when called upon]. At the first [request by the official of the congregation to a person to lead the Prayer of Eighteen], one may express unwillingness. At the second request, one may express indecision. And at the third request one should hurry to go [recite].”
6. **III:6:** Batyty [was leading the Prayer of Eighteen] and he was struck dumb while reciting the [liturgy preceding the Shema’], “And the

Ophanim [and the holy Hayyot with a noise of great rushing, raise themselves up towards the Seraphim and over against them offer praise and say, ‘Blessed be the Glory of the Lord from his place.’” This is the standard version.]

XXX. YERUSHALMI BERAKHOT 5:4

[A] HE WHO GOES BEFORE THE ARK [TO LEAD THE PRAYER OF EIGHTEEN] SHALL NOT ANSWER “AMEN” AFTER THE [BLESSING RECITED BY THE] PRIESTS [IN THE EIGHTEENTH BLESSING OF THE PRAYER]. BECAUSE OF THE CONFUSION [WHICH MIGHT ARISE BY VIRTUE OF ENGAGING IN SUCH AN ACT]. AND IF [THE LEADER] IS THE ONLY PRIEST PRESENT [AT THE SERVICE], HE SHOULD NOT RAISE HIS HANDS [TO RECITE THE PRIESTLY BLESSING]. BUT IF HE IS SURE THAT HE CAN RAISE HIS HANDS [TO RECITE THE BLESSING] AND RETURN TO HIS [RECITATION OF THE] PRAYER [OF EIGHTEEN WITHOUT BECOMING CONFUSED], HE IS PERMITTED [TO RAISE HIS HANDS].

- 1. I:1:** It was taught: He who leads the liturgy of the Shema’, and he who goes before the ark [to lead the recitation of the Prayer of Eighteen], and he who raises his hands, and he who reads the Torah, and he who reads from the prophets, and he who recites a blessing over any of the commandments of the Torah, should not respond “Amen” to his own blessing. And if he so responds, lo he is a boor [T. Meg. 3:27].
- 2. I:2:** Said R. Hanina, “[If three persons walk down the road,] two Israelites and one a priest, they permit the priest to walk in the middle [as a sign of respect for his status]. When is this so? When they are all equal in status. But if one of them [the Israelites] is a disciple of the sages, they permit this associate to walk in the middle.”
- 3. I:3:** R. Judah b. Pazzi in the name of R. Eleazar, “Any priest who stands in the synagogue [during the recitation of the Prayer of Eighteen] and does not raise his hands [to recite the Priestly Blessing] violates a positive precept of the Torah.” [‘Thus shall you bless the people of Israel’ (Numbers 6:23).]

XXXI. YERUSHALMI BERAKHOT 5:5

[A] HE WHO RECITES THE PRAYER AND ERRED, IT IS A BAD SIGN FOR HIM. AND IF HE IS AN AGENT OF THE CONGREGATION [TO LEAD THE PRAYER], IT IS A BAD SIGN FOR THEM THAT APPOINTED HIM. [THE PRINCIPLE IS THAT] A PERSON’S AGENT

PERSONIFIES HIM [I.E. STANDS IN HIS STEAD]. THEY SAID CONCERNING R. HANINAH B. DOSA THAT HE USED TO PRAY FOR THE SICK AND COULD SAY WHO WOULD LIVE AND WHO WOULD DIE. THEY SAID TO HIM, “WHENCE DO YOU KNOW?” HE SAID TO THEM, “IF MY PRAYER IS FLUENT, THEN I KNOW IT IS ACCEPTED. “AND IF NOT, THEN I KNOW IT IS REJECTED.”

1. **I:1:** R. Aha bar Jacob said, “[It is only a bad sign if one errs in the first blessing,] ‘The Patriarchs.’”
2. **I:2:** Once Rabban Gamaliel’s son fell ill and he sent two students to R. Haninah b. Dosa in his town [to find out from him what his son’s fate would be]. He [Haninah] said to them [the students], “Wait for me while I go up to the attic [to pray].” He went up to the attic, came down, and said to them, “I am certain that Rabban Gamaliel’s son has recovered from his illness.” [The students] made note [of the time of day that this happened]. [Later they confirmed that] at that very moment [back in Gamaliel’s town, his son recovered] and asked for food.
3. **I:3:** Said R. Samuel bar Nahmani, “If you concentrate during your prayer, it is like good news for your prayers are heard. And what is the basis [in Scripture for this view]? ‘Thou wilt strengthen their heart [to concentrate], thou wilt incline thy ear [to their prayer]’ [Ps. 10:17].”

XXXII. YERUSHALMI BERAKHOT 6:1

[A] WHAT BLESSINGS DO THEY RECITE OVER PRODUCE? OVER PRODUCE OF THE TREE HE SAYS, “[BLESSED ART THOU, O LORD OUR GOD, KING OF THE UNIVERSE,] CREATOR OF THE FRUIT OF THE TREE.” EXCEPT FOR WINE, FOR OVER WINE HE SAYS, “[BLESSED ART THOU, O LORD OUR GOD, KING OF THE UNIVERSE] CREATOR OF THE FRUIT OF THE VINE. OVER VEGETABLES [PRODUCE WHICH GROWS IN GROUND] HE SAYS, “[BLESSED ART THOU, O LORD OUR GOD, KING OF THE UNIVERSE] CREATOR OF THE FRUIT OF THE GROUND.” EXCEPT FOR BREAD, FOR OVER BREAD HE SAYS, “[BLESSED ART THOU, O LORD OUR GOD, KING OF THE UNIVERSE] WHO BRINGS FORTH BREAD FROM THE EARTH.” AND OVER [SALAD] GREENS HE SAYS, “CREATOR OF THE FRUIT OF THE GROUND.” R. JUDAH SAYS, “CREATOR OF DIVERSE KINDS OF HERBS.”

1. **I:1:** [One may not taste anything until he recites a blessing.] It is written, “The earth and all therein is the Lord’s” [Ps. 24:1]. One who derives any benefit from the world without first reciting a blessing, has committed a sacrilege. [He may not derive any benefit] until [he

fulfills all the obligations] which permit him [to derive benefit, i.e. recites the proper blessings] [T. 4:1].

2. **I:2:** R. Haggai and R. Jeremiah went to a [grocery] store [to inspect its scales for accuracy]. R. Haggai eagerly recited a blessing [over this obligation to examine the scales. He said the blessing, “Who sanctified us with his commandments and commanded us to sanctify the weights and the scales and to establish the measures.”]. Said to him R. Jeremiah, “You have acted very well. For blessings must be [recited] for the performance of all the commandments.”
3. **I:3:** Yohanan ate olives and recited blessings before and after. And R. Hiyya bar Abba [Wawa] stared at him. Said to him R. Yohanan, “Babylonian, what are you staring at? Don’t you know that blessings must be recited before and after eating any food of the seven kinds of produce [of the Land of Israel]?” [The Talmud explains:] He knew the law. So what was his question? [He had a doubt whether one should recite a blessing over the olive] because [when you remove] the olive’s pit, it leaves you with less [than an olive’s bulk of volume, i.e. less than the minimum volume for which one recites a blessing.]
4. **I:4:** “Over wine when it is in its natural state [thick, undiluted] they recite, ‘Blessed [art Thou, O Lord our God, King of the Universe] creator of the fruit of the tree.’ And they may not wash their hands with it. [T. has, “May”] “Once the wine has been diluted, they say over it, ‘Blessed [art Thou, O Lord our God, King of the Universe] creator of the fruit of the vine.’ And they may wash their hands with it,” the words of R. Eliezer. [T. has, “May not”.] And sages say, “Both over natural [thick wine] and over diluted [wine] they say, ‘Blessed [art Thou, O Lord our God, King of the Universe] creator of the fruit of the vine.’ And they may wash their hands with it” [T. 4:3].
5. **I:5:** R. Jacob bar Zabedi in the name of R. Abbahu, “Over olive oil one recites, ‘Blessed [art Thou, O Lord our God, King of the Universe] creator of the fruit of the tree.’”
6. **I:6:** R. Abba said, “Rab and Samuel both say, ‘Over a cooked vegetable one says, “[Blessed art Thou, O Lord our God, King of the Universe] for all came into being by his word.’”
7. **I:7:** R. Hiyya bar Abba [Wawa] in the name of R. Yohanan, “Over a pickled olive one recites, ‘Creator of the fruit of the tree.’” R. Benjamin bar Japheth in the name of R. Yohanan, “Over a cooked vegetable one recites, ‘For all came into being by his word.’” [And the

same rule should apply to a pickled vegetable, contrary to Hiyya bar Abba.]

8. **I:8:** Jacob bar Aha said, “R. Nahman disputed with the sages [over the correct formula for the blessing recited over bread].” R. Nahman said, “Who brings forth [hmwsy’] bread from the earth,” [indicating past and continuous action]. And sages said, “Brings forth [mwsy’] bread from the earth,” [indicating continuous and future action].
9. **I:9:** According to the view of R. Nehemiah [over wine] one recites, “Who creates [hbwr’] the fruits of the vine.” And according to the view of the sages one recites, “Creator of the [bwr’] fruits of the vine.”
10. **I:10:** R. Zeriqin said, “R. Zeira posed this question: One who took lupine to eat and recited the blessing over it, and dropped it, [before eating it, when he goes to take another piece to eat] what does he do? Must he recite the blessing a second time before eating it [since it is a different piece]? How does this case differ from the case of one who drinks from a [flowing] channel of water [where the water over which he recites the blessing flows by and he then drinks other water]? [But these are different situations.] We may say there [in the case of one who drinks from a channel], he had in mind when he recited the blessing [that it should apply to the water which will flow down the stream]. But here [in the case of one who dropped the lupine over which he recited a blessing], he initially did not have in mind to eat another piece. [Accordingly he should recite the blessing again.]”
11. **I:11:** What is the minimum quantity [of bread] for which [before eating it] one recites the blessing?
12. **I:12:** R. Abba in the name of Rab, “It is forbidden for those who are seated to taste even a morsel, until the one who recites the blessing [on behalf of all assembled at the meal] tastes first.” R. Joshua b. Levi said, “[Those who are assembled] may drink even before he [who blesses on their behalf] drinks.”
13. **I:13:** R. Huna said, “[After reciting the blessing over the bread, but before partaking of it,] he who says [aloud to others some command related to the meal such as], ‘Take [this food] and recite the blessing,’ ‘Take [that food] and recite the blessing,’ – this is not a [significant] interruption between the recitation of the blessing [and partaking of the food. Therefore he need not recite another blessing.] [But he who says after reciting the blessing and before partaking of the food,] ‘Give fodder to the oxen’ – this does constitute a [significant] interruption

[because it is not directly related to the meal. Therefore he must subsequently recite another blessing for the food.]”

- 14. I:14:** He who chews grains of wheat, recites over them [the blessing], “Creator of types of seeds.” If one baked or cooked [a dish using pieces of wheat bread in his recipe] – as long as the pieces remain intact, he must recite over [the dish] before eating, “He who brings forth bread from the earth,” and he must recite over it three blessing [i.e. grace] after eating. [It has the same requirements as the bread itself.] If the pieces do not remain intact [in the dish] he must recite over it [before eating], “Creator of types of grains,” and must recite over it after eating one blessing which is an abstract of the three blessings [T. 4:6]. If one baked or cooked [a dish using pieces of rice loaves in his recipe], even if the pieces remain intact he recites over [the dish] before eating, “Creator of types of grains” and he need not recite a blessing over it after eating. [It has the same requirements as the rice loaves themselves] [T. 4:7].
- a. I:15:** Gloss of the foregoing. The preceding discussion refers to [the blessing one recites at] the outset [before eating a dish made with rice cakes]. What about after [eating? What blessings does one recite?] R. Jonah in the name of R. Simeon the pious, “[One says, ‘Blessed art Thou, Lord our God, King of the Universe,] who created all kinds of delicacies to delight with them all living souls. Blessed art Thou O Lord for the land and for its delicacies.”
- 15. I:16:** R. Jacob bar Idi in the name of R. Hanina, “Over all foods which resemble porridge [flour cooked in water], or resemble dumplings [dough cooked in boiling water], and are made of one of the five [major] kinds of grain, one recites [before eating it], ‘Creator of types of grains.’ And one recites after eating it one blessing which is an abstract of three blessings.”
- 16. I:17:** Why does one conclude [the blessing after eating which is an abstract of three] with mention of the Land, [“Blessed art Thou O Lord, for the land, and for the sustenance”]?
- 17. I:18:** It was taught: [When a person has before him several foods to eat –] one should recite the blessing over the breadstuff which is of the highest quality. How so? [If one has before him] a [whole] fine loaf and a whole home-made loaf [of the same grain], he says [the blessing] over the whole fine loaf. [If one has] a piece of a fine loaf and a whole home-made loaf, he says [the blessing] over the whole home-made loaf. [If one has] wheat bread and barley bread he says [the blessing] over the wheat bread. [If one has] a piece of wheat bread and a whole

barley bread, he says [the blessing] over the piece of wheat bread. [If one has] a barley bread and a spelt bread, one says [the blessing] over the barley bread. But is not spelt bread better [quality] than barley bread? But this [grain, i.e. barley] is one of the seven kinds [of produce of the Land of Israel, mentioned in Deut. 8:8] and that [grain, i.e. spelt] is not one of the seven kinds [T. 4:15].

18. **I:19:** R. Jacob bar Aha in the name of Samuel, “One recites over palm-marrow [the edible part of the branch of the palm tree], ‘Creator of the fruit of trees [as if it were a fruit].’”

XXXIII. YERUSHALMI BERAKHOT 6:2

[A] **IF OVER THE FRUIT OF TREES ONE [BY ERROR] RECITED THE BLESSING, “BLESSED [ART THOU, O LORD OUR GOD, KING OF THE UNIVERSE] CREATOR OF THE FRUIT OF THE GROUND,” HE FULFILLED HIS OBLIGATION [TO RECITE A BLESSING OVER THE FOOD BECAUSE TREES DO GROW IN THE GROUND]. IF OVER VEGETABLES [ONE BY ERROR RECITED THE BLESSING, “BLESSED ART THOU, O LORD OUR GOD, KING OF THE UNIVERSE] CREATOR OF THE FRUIT OF THE TREES,” HE DID NOT FULFILL HIS OBLIGATION [BECAUSE PRODUCE OF THE GROUND DOES NOT GROW ON TREES]. IF OVER ANY [FRUITS OR VEGETABLES] ONE [BY ERROR] RECITED, “FOR ALL CAME INTO BEING BY HIS WORD,” HE FULFILLED HIS OBLIGATION.**

1. **I:1:** R. Hezekiah in the name of R. Jacob bar Aha, “This [rule, M. 6:2A,] accords with the view of R. Judah. For R. Judah considers [the trunks of] trees to be like stalks [of grain. Just as grains of wheat are fruits of the ground even though they grow off the ground on stalks, so too fruits of trees are fruits of the ground even though they grow off the ground on branches].” [Cf. M. Bik. 1:1. Judah says one may bring fruits of trees as first fruits and recite over them the formula of avowal of Deut. 26:5ff. even though Scripture specifies that you should bring, “The first fruits of your ground” [Ex. 23:19]. In Judah’s view the formula, “Fruits of the ground,” may apply to fruits of trees.]
2. **I:2:** It was taught: R. Yosé says, “Anyone who alters the formula [for blessings] established by the sages does not fulfill his obligation.” R. Judah says, “[If one ate] any food which was changed from its natural state [through any processing], and he changed [Var.: he did not change] [the formula of] the blessing, he fulfilled [Var.: did not fulfill] his obligation” [T. 4:5B-C]. R. Meir says, “Even if one said, ‘Blessed be He who created this object. How beautiful it is,’ he fulfilled his obligation” [T. 4:4F].

- 3.** **I:3:** Judah in the name of Abba bar bar Hannah, “Bar Qappara and two of his students once stayed over with a certain householder at an inn in the village of Birkata. He brought before them chicken, and plums, and leeks [porret]. “They said ‘If we recite the blessing over the leeks, we will exempt [ourselves from the obligation to recite the blessing over] the plums [since one can fulfill his obligation for both with the blessing for vegetables, ‘Creator of the produce of the ground’]. But we shall not exempt [ourselves from the obligation to recite the blessing over] the chicken. [It requires a different blessing, ‘For all.’] “And if we recite the blessing over the plums [‘Creator of the fruit of the tree’] we shall exempt [ourselves from the obligation to recite the blessing for] neither one [i.e. the leeks] nor the other [i.e. the chicken].” One student jumped in and recited over the chicken the blessing, ‘For all came into being by his word.’ His associate laughed at him. “Bar Qappara said to them, ‘He [who jumped to bless] should not have been so gluttonous, but you [who laughed] should not have mocked him. What he did, was out of gluttony. Why did you mocked him? [His choice of blessing was acceptable.]’ “And he said to that [student who jumped in to bless], ‘Is there not a sage present? Is there not an elder present? [You should have waited to see what I would do.]””

XXXIV. YERUSHALMI BERAKHOT 6:3

[A] **OVER SOMETHING WHICH DOES NOT GROW IN THE EARTH, ONE SAYS [THE BLESSING], “FOR ALL CAME INTO BEING BY HIS WORD.” OVER VINEGAR, AND OVER UNRIPE FRUIT, AND OVER EDIBLE [I.E. PERMITTED] LOCUSTS, ONE SAYS [THE BLESSING], “FOR ALL CAME INTO BEING BY HIS WORD.” R. JUDAH SAYS, “OVER ANYTHING WHICH IS ACCURSED [I.E. RESULTS FROM A DESTRUCTIVE EFFORT], ONE DOES NOT RECITE A BLESSING.”**

- 1.** **I:1:** If one’s wine turned to vinegar he says, “Blessed be the true judge.” If he goes to drink it he says, “For all came into being by his word.” If one saw locusts he says, “Blessed be the true judge.” If he goes to eat them he says, “For all came into being by his word.” If one saw fruit which did not ripen he says, “Blessed be the true judge.” If he goes to eat them he says, “For all came into being by his word.”

XXXV. YERUSHALMI BERAKHOT 6:4

[A] IF ONE HAD BEFORE HIM MANY KINDS [OF FOOD] – R. JUDAH SAYS, “IF AMONG THEM THERE IS A FOOD OF THE SEVEN KINDS [OF FOODS OF THE LAND OF ISRAEL], ONE MUST RECITE THE BLESSING OVER THAT [FOOD FIRST].” AND SAGES SAY, “[ONE MAY RECITE THE BLESSING] OVER ANY [FOOD] HE WISHES.”

- 1.** **I:1:** R. Joshua b. Levi said, “Concerning what case do R. Judah and sages dispute? [A case] where one had in mind [when he ate many kinds of produce] to eat bread [thereafter]. But if he had no intention of eating bread [thereafter], all would agree [with Judah] that if [among the varieties of produce] there is a food of the seven kinds one must recite the blessing over that food.” [The reason for this rule is based on the principle that to increase one’s prayers, one should, where possible, eat the food for which after eating it one recites the lengthiest blessing. The blessing recited after eating is connected to the blessing one recites before eating. The food one eats and the blessing one recites before eating it, determine which blessing one recites after eating. In general the law is that where one eats bread, he recites the full grace after meals. Where one does not eat bread, and where one recited the blessing before eating over one of the seven kinds of produce, he recites after eating the abstract of three blessings. Otherwise, where one recites a blessing over any other food before eating, he recites the short blessing, “Creator of many forms of life,” after he finishes the repast.]
- 2.** **I:2:** Concerning the dessert tray [of assorted nuts and fruits] – R. Jeremiah in the name of R. Ammi, “One recites the blessing over the lupine [even though he may also have before him fruits of the seven kinds],” Said R. Levi, “[This rule is] based on [the verse], ‘Do not rob the poor, because he is poor’ [Prov. 22:22].” [The application of the verse here is, “Do not deprive lupine, a common food, of its blessing.”]
- 3.** **I:3:** If one had before him several foods of the seven kinds, over which does he recite the blessing? [What is the order of priority among the foods of the seven kinds?]

XXXVI. YERUSHALMI BERAKHOT 6:5

[A] IF ONE RECITED THE BLESSING OVER WINE [WHICH HE DRANK] BEFORE THE MEAL, HE EXEMPTED [HIMSELF FROM THE OBLIGATION TO RECITE A BLESSING OVER] THE WINE [WHICH HE DRINKS] AFTER THE MEAL. IF ONE RECITED THE BLESSING OVER AN APPETIZER [WHICH HE ATE] BEFORE THE MEAL, HE EXEMPTED [HIMSELF FROM THE OBLIGATION TO RECITE A BLESSING OVER] THE APPETIZER [WHICH HE EATS] AFTER THE MEAL. IF ONE RECITED THE BLESSING OVER BREAD, HE EXEMPTED [HIMSELF FROM THE OBLIGATION TO RECITE THE BLESSING OVER] THE APPETIZER. IF ONE RECITED THE BLESSING OVER THE APPETIZER, HE DID NOT EXEMPT [HIMSELF FROM THE OBLIGATION TO RECITE A BLESSING OVER] THE BREAD. THE HOUSE OF SHAMMAI SAY, [BY RECITING A BLESSING OVER THE APPETIZER ONE DOES] NOT EVEN [EXEMPT HIMSELF FROM HIS OBLIGATION TO RECITE A BLESSING OVER] A POTTED DISH.”

1. I:1: Said R. Hisda, “Mishnah teaches [specifically], If one recited the blessing over wine [which he drank] before the meal, he exempted [himself from the obligation to recite a blessing over] the wine [which he drinks] after the meal [M. 6:5A]. But [this implies] if one recited the blessing over wine during the meal, he does not exempt [himself from the obligation to recite a blessing over] wine after the meal.”
2. I:2: R. Helbo, R. Huna, Rab in the name of R. Hiyya the Elder, “Over a dessert cake [which one eats] after the meal [before he recites the blessings after the meal – P.M.], one is required to recite blessings before and after [eating it, because it is so special.]” [Cf. T. 5:12].
3. I:3: Said Marinus of the House of R. Joshua, “Where one ate from a dessert tray [of nuts and fruits], and ate porridge [made from flour], even if he recites a blessing after [eating from] the dessert tray, he does not exempt [himself from the obligation to recite a blessing over] the porridge.”

XXXVII. YERUSHALMI BERAKHOT 6:6

[A] WHEN THEY ARE SITTING [TOGETHER PRIOR TO A MEAL], EACH PERSON RECITES THE BLESSINGS FOR HIMSELF. WHEN THEY HAVE RECLINED [ON COUCHES AT THE MEAL TOGETHER], ONE PERSON RECITES THE BLESSINGS FOR ALL OF THEM. WHEN THEY HAVE BROUGHT TO THEM WINE DURING THE MEAL, EACH PERSON RECITES THE BLESSING FOR HIMSELF [BECAUSE THEY DRINK BY THEMSELVES]. [WHEN THEY HAVE BROUGHT TO THEM WINE] AFTER THE MEAL, ONE PERSON RECITES THE BLESSING FOR ALL OF THEM [BECAUSE THEY DRINK TOGETHER].

1. **I:1:** R. Joshua b. Levi said, “The Mishnah refers to [the feast after] the circumcision of one’s son [or some similar special occasion, in making the distinction between sitting and reclining at the meal]. But for the [ordinary meal of a] householder at home [there is] no [such distinction. The householder recites on behalf of his household.]
2. **I:2:** It was taught: What is the order of the dinner? When the guests enter, they sit on benches or on chairs while all [the guests] assemble. Once they all have assembled, and they bring out [water for washing] their hands, each person washes one hand [so that he may hold in it the cup of wine – P.M.] When [they bring out and] mix the wine, each person recites the blessing for himself. When they bring out appetizers each person recites the blessing for himself. When they get up [from the chairs] and recline [on couches for the meal], and they bring out [water for washing] their hands, even though they each had already washed one hand they now must wash both hands [to eat]. When they [bring out and] mix the wine, even though they recited a blessing over the first cup, they now recite a blessing over the second cup. [And one person recites the blessing for all of them]. When they bring out an appetizer, [even though they recited a blessing over the first, they now recite a blessing over the second]. And one person recites the blessing for all of them. [According to custom] a guest may not enter [to join the meal] if he comes after three appetizers are served [as this is sure sign that the dinner is underway] [T. 4:8].
3. **I:3:** [They asked Ben Zoma, “Why [does it say], When they bring out wine during the meal, each person recites the blessing for himself [M. 6:6C]?” He said to them, “It is because [while one eats] his esophagus is not clear. [He may choke if he speaks to respond ‘Amen’ to the leader’s blessing]” [T. 4:12].

[B] AND [THAT PERSON] SAYS THE BLESSING OVER THE INCENSE, EVEN THOUGH THEY BRING OUT THE INCENSE ONLY AFTER DINNER:

1. **II:1:** [M. implies that anytime they bring out incense, one person recites the blessing for all.] What is the difference between incense and wine? [Why during the meal does each person who drinks wine recite his own blessing?] All [who are present] smell the incense [at once]. But each person tastes his wine [individually].
2. **II:2:** Geniba said, “[One who rubs his hands with] oil to [remove] the dirt [from them] need not recite a blessing.”

XXXVIII. YERUSHALMI BERAKHOT 6:7

[A] WHEN THEY BRING OUT FOR HIM FIRST A SALTED RELISH, AND WITH IT BREAD, HE RECITES THE BLESSING OVER THE SALTED RELISH, AND EXEMPTS [HIMSELF FROM THE REQUIREMENT OF RECITING A BLESSING OVER] THE BREAD, FOR [IN SUCH A CASE] THE BREAD IS SECONDARY TO IT. THIS IS THE GENERAL RULE: OVER ANY PRIMARY FOOD WHICH IS ACCOMPANIED BY A SECONDARY FOOD, ONE RECITES THE BLESSING OVER THE PRIMARY FOOD AND EXEMPTS [HIMSELF THEREBY FROM RECITING THE BLESSING OVER THE] SECONDARY FOOD.

1. I:1: R. Samuel bar Nahman in the name of R. Jonathan, “The Mishnah refers to the time before they learned the dinner customs of royalty [to eat a full course dinner with appetizers, a main course and dessert]. And it refers to a place where they make the salted relish the primary food [of the meal]. But [the rule of the Mishnah] does not apply to a place where they do not make the salted relish the primary food [of the meal].”

XXXIX. YERUSHALMI BERAKHOT 6:8

[A] “IF ONE ATE FIGS, OR GRAPES, OR POMEGRANATES [AS THE MAIN DISH OF HIS MEAL], HE RECITES OVER THEM [AFTER EATING THEM THE GRACE AFTER MEALS COMPRISED OF] THREE BLESSINGS,” THE WORDS OF RABBAN GAMALIEL. AND SAGES SAY, “[HE RECITES] ONE BLESSING [WHICH EMBODIES THE SUBSTANCE OF THE FULL GRACE AFTER MEALS].” R. AQIBA SAYS, “EVEN IF ONE ATE COOKED VEGETABLES, AND THAT WAS [THE MAIN DISH OF] HIS MEAL, [AFTER EATING THEM] HE RECITES OVER THEM THREE BLESSINGS.”

1. I:1: R. Simon, R. Tadaï in the name of R. Joshua, “If one ate on the east side of a fig tree, and then went and ate on the west side, he must recite the blessing [a second time because when he changed his place, it is as if he began a new meal].” Abba bar R. Huna said, “[If one drank] aged wine [and then drank] new wine, he must recite the blessing [a second time].”

[B] ONE WHO DRINKS WATER TO QUENCH HIS THIRST SAYS, “BLESSED [ART THOU, O LORD OUR GOD, KING OF THE UNIVERSE,] FOR ALL CAME INTO BEING BY HIS WORD.” R. TARFON SAYS, “HE SAYS, [‘BLESSED ART THOU, O LORD OUR GOD, KING OF THE UNIVERSE,] CREATOR OF MANY LIVING THINGS AND THEIR NEEDS.”

1. **II:1:** Said R. Jonah, “[He recites the blessing over all water which he drinks] except for medicinal [e.g. laxative] water.” Said R. Yosé, “[He recites it] over all water which he drinks on account of thirst.”

XL. YERUSHALMI BERAKHOT 7:1

[A] THREE WHO ATE TOGETHER ARE OBLIGATED [TO DESIGNATE ONE PERSON AMONG THEM] TO INVITE [THE OTHERS AT THE MEAL TO RECITE TOGETHER THE BLESSINGS OVER THE MEAL].

1. **I:1:** There [M. 7:4] it says: [Three who ate together] are not permitted to separate. [This implies that if they finished eating at the same time, they must recite the blessings together.] And here [M. 7:1A] it says, [Three who ate together] are obligated to invite. [This implies that once they start eating together, they must recite the blessings together, even if they do not finish together. Is this not contradictory?] Samuel says, “One [Mishnah refers to a case of three who] started [eating together]. And one [refers to a case of three who] finished [eating together. And they are not contradictory rules.]”
2. **I:2:** R. Abba in the name of R. Huna, and R. Zeira in the name of Abba bar Jeremiah, “It is compulsory for three [who ate together to designate one person from among them to invite the others to recite the blessing after eating]. It is optional for two [to do so].” R. Zeira stated this [law] before R. Yasa. He [Yasa] said to him, “I accept only [the law of] the Mishnah: Three who ate together are obligated to invite. [Two may not!]” The rulings of] the rabbis here [in the Land of Israel] are consistent. [R. Yasa accords with the principle of R. Yohanan and R. Simeon b. Laqish below.] [And the rulings of] the rabbis there [in Babylonia] are consistent. [R. Abba and R. Zeira accord with Samuel’s principle below.]
3. **I:3:** R. Huna said, “Three who ate by themselves and then came together, may [designate one among them] to invite [the others to recite the blessings over the meal].” R. Hisda said, “[They may join together as a quorum of three] only if each one came from his own group [which had eaten together with a quorum of three].” And in accord with the view of R. Zeira and his associates [i.e. R. Yasa, above – in order to join for a quorum] each one [must come from a group of] three who ate the meal together.
4. **I:4:** If three ate together and one wanted to leave – the house of Rab said, “Let him recite the first blessing and leave.” What is “the first

blessing”? The house of Rab said, “It is the invitation blessing,” [the formula, “Let us recite the blessing”]. R. Zeira in the name of R. Jeremiah, “It is the [first blessing of the blessings after the meal, which concludes], ‘Blessed who provides for all.’” R. Helbo bar Hanan in the name of Rab, “It is the [first blessing after the meal], ‘Who provides for all.’”

- 5.** **I:5:** It is written in the Torah [i.e. one may find a basis in Scripture concerning the obligation to recite] a blessing before it [i.e. studying Torah]. But it is not written in the Torah [i.e. one can find no basis in Scripture for the obligation to recite] a blessing after it [i.e. studying Torah]. Where do we find it written in the Torah [i.e. support in Scripture for the obligation to recite] a blessing before it [studying Torah]? “For I will proclaim the name of the Lord. [This implies that when coming to study first one must recite a blessing –] Ascribe greatness to our God” [Deut. 32:3]. It is written [in the Torah, i.e. one may find a basis in Scripture for the obligation to recite] a blessing after the meal. But it is not written [in the Torah, i.e. one can find no basis in Scripture for the obligation to recite] a blessing before [the meal]. Where do we find it is written [i.e. support in Scripture for the obligation to recite a blessing] after [the meal]? “And you shall eat and be satisfied, and you shall bless the Lord your God” [Deut. 8:10]. And whence that we apply the rule specified for the former [that one must recite a blessing before Torah study] to the latter [to require one to recite a blessing before the meal], and that we apply the rule specified for the latter [that one must recite a blessing after the meal] to the former [to require one to recite a blessing after Torah study]?
- 6.** **I:6:** R. Zeira posed a question, “To what case shall we compare the practice of calling three persons [to read from the Torah on Saturday afternoon and Monday and Thursday mornings]? To a case of three who ate together? Or to a case of three who ate each one by himself?” If we compare it to a case of three who ate together [where one person recites the meal blessings on behalf of all those present], then we shall have to conclude that the first [to read from the Torah] recites the first blessing [before reading, on behalf of all three who read thereafter] and the last [to read] recites the last blessing [after reading, on behalf of all who read prior], and the middle person recites no blessing at all. And if we compare it to a case of three who ate, each one by himself [where each one recites his own blessings], then even the middle person [called to the Torah] must recite the blessings before and after [reading his portion].

[B] ONE WHO ATE DEMAI [DOUBTFULLY TITHED PRODUCE], OR FIRST TITHE FROM WHICH HEAVE-OFFERING WAS TAKEN, OR SECOND TITHE OR PRODUCE GIVEN TO THE TEMPLE, WHICH HAS BEEN REDEEMED, OR THE SERVANT WHO ATE AN OLIVE'S BULK [OF FOOD], OR THE SAMARITAN [WHO ATE TOGETHER WITH ISRAELITES], MAY BE COUNTED [FOR THE QUORUM] FOR EXTENDING THE INVITATION [TO RECITE TOGETHER THE BLESSINGS OVER THE MEAL]. BUT ONE WHO ATE TEBEL [UNTITHED PRODUCE], OR FIRST TITHE FROM WHICH HEAVE-OFFERING WAS NOT TAKEN, OR SECOND TITHE OR PRODUCE GIVEN TO THE TEMPLE WHICH HAD NOT BEEN REDEEMED, OR THE SERVANT WHO ATE LESS THAN AN OLIVE'S BULK, OR THE GENTILE MAY NOT BE COUNTED [FOR THE QUORUM] FOR EXTENDING THE INVITATION [TO RECITE TOGETHER THE BLESSINGS OVER THE MEAL].

- 1. II:1:** In accord with this they have said: one who ate produce [of his own] concerning which there was doubt whether or not tithes had been separated from it – they may extend the invitation [to him to join in a quorum for the recitation of the blessings after the meal. Why did the Mishnah not include this law?] =Said R. Simeon brother of R. Berekhiah, “At the time they ordained [the rules of] demai-produce the majority of ‘ammé ha’ares used to bring [their produce] into their houses [and separate tithes. Hence the case of demai is different from the ordinary case of doubt regarding whether tithes have been separated from one’s own produce and although one who ate demai is accepted, one who had a doubt about his own produce is not.]”

XLI. YERUSHALMI BERAKHOT 7:2

[A] WOMEN, SLAVES, OR MINORS [WHO ATE TOGETHER WITH ADULT ISRAELITE MALES] MAY NOT BE COUNTED [IN THE QUORUM] FOR EXTENDING THE INVITATION [TO RECITE THE BLESSINGS OVER THE MEAL]. WHAT IS THE MINIMUM AMOUNT [THAT ONE MUST EAT] SO THAT HE MAY BE COUNTED [IN THE QUORUM] FOR EXTENDING THE INVITATION [TO RECITE THE BLESSINGS OVER THE MEAL]? AT LEAST AN OLIVE'S BULK. R. JUDAH SAYS, “AT LEAST AN EGG'S BULK.”

- 1. I:1:** R. Simon in the name of R. Joshua b. Levi, R. Yosé b. Saul in the name of Rabbi, “They may count in one minor to [be included in] the ten [which they need in order to establish a bigger quorum to invoke the name of God in inviting the others in the group to recite the blessing of the meal. However one may not count a child as one of the three to constitute the basic quorum for extending the invitation to

others to join as a quorum for the recitation of the blessings after the meal.]”

2. **I:2:** Samuel bar Shilat posed this question to Rab, and some say they posed this question to Samuel bar Shilat, “[What is the practice] if nine [people are eating] bread, and one [is eating] vegetables? [Do they designate one of them to invite the others in the group to recite the blessings over the meal with the invocation of God’s name, as is the practice with a group of ten who eat bread together?]” He said to them, “They invite.” “[If there were] eight [eating] bread, and two [eating] vegetables?” He said to them, “They invite.” “[If there were] seven [eating] bread, and three [eating] vegetables?” He said to them, “They invite.”
3. **I:3:** R. Jeremiah posed the question. “May one who ate vegetables recite the [invitation and] blessings [for the meal on behalf of those who ate bread]?” [Here Jeremiah raises this question. Elsewhere he treats it as a closed issue.] Jeremiah contradicts himself [as is evident from the end of the lengthy story which follows.]

XLII. YERUSHALMI BERAKHOT 7:3

[A] **HOW DO THEY INVITE [THE OTHERS EATING WITH THEM TO JOIN TOGETHER TO RECITE THE BLESSINGS AFTER THE MEAL]? (1) FOR THREE [WHO ATE TOGETHER THE LEADER] SAYS, “LET US RECITE THE BLESSINGS.” FOR THREE [OTHERS] AND HIMSELF HE SAYS, “RECITE THE BLESSINGS.” (2) FOR TEN HE SAYS, “LET US RECITE THE BLESSINGS TO OUR GOD.” FOR TEN AND HIMSELF HE SAYS, “RECITE THE BLESSINGS [TO OUR GOD].” THE SAME [RULE APPLIES] FOR TEN OR FOR TEN THOUSAND. (3) FOR ONE HUNDRED HE SAYS, “LET US RECITE THE BLESSINGS TO THE LORD OUR GOD.”**

1. **I:1:** Once [four rabbis] R. Zeira, and R. Jacob bar Aha, and R. Hiyya bar Abba, and R. Hanina, the associates of the sages, were sitting and eating. R. Jacob bar Aha took the cup and recited [the invitation to recite the blessings of the meal]. And he said, “Let us recite the blessings.” He did not say, “Recite the blessings” [as M. 7:3B says one should say with four persons present]. R. Hiyya bar Abba said to him, “Why did you not say, ‘Recite the blessings’?” He said to him, “Was it not taught: One is not strict regarding the matter [T. reads: a minor]. Whether one said, ‘Let us recite the blessings,’ or ‘Recite the blessings,’ they do not take him to task for it. But the over-scrupulous take him to task for it [T. 5:18].”

2. **I:2:** Samuel said, “I will not exclude myself from the rest [by saying ‘Recite’ instead of ‘Let us recite’].” They posed this question: What about the blessing we recite over the reading of the Torah? [The one who recites] says, “Recite the blessings to the Lord.” [He does thereby remove himself from the rest.]
3. **I:3:** R. Abba bar Zimna used to serve Zeira. He [once] mixed a cup of wine for him. He [Zeira] said to him, “Take it and recite the blessing [and by so doing, exempt me from my obligation]. He said to him.] Have in mind that you will drink another cup.” For it was taught: The servant recites a blessing over each cup. But he does not recite a blessing over each piece of bread. He [Abba] said to him, “Just as I may have in mind to exempt you from your obligation with my blessing [over the wine now], so you should have in mind to exempt me from my obligation [when you respond], ‘Amen’ [to my blessing].” [We have a principle: the one who answers ‘Amen’ fulfills the obligation better than the one who recites the blessing

[B] FOR ONE HUNDRED AND HIMSELF HE SAYS, “RECITE THE BLESSINGS.” (4) FOR ONE THOUSAND HE SAYS, “LET US RECITE THE BLESSINGS TO THE LORD OUR GOD, GOD OF ISRAEL.” FOR ONE THOUSAND AND HIMSELF HE SAYS, “RECITE THE BLESSINGS.” (5) FOR TEN THOUSAND HE SAYS, “LET US RECITE THE BLESSINGS TO THE LORD OUR GOD, GOD OF ISRAEL, GOD OF HOSTS, WHO IS ENTHRONED ON THE CHERUBIM, FOR THE FOOD WE HAVE EATEN.” FOR TEN THOUSAND AND HIMSELF HE SAYS, “RECITE THE BLESSINGS.” AND AS HE RECITES THE BLESSINGS, SO DO THEY ANSWER AFTER HIM, “BLESSED BE THE LORD OUR GOD, GOD OF ISRAEL, GOD OF HOSTS, WHO IS ENTHRONED ON THE CHERUBIM, FOR THE FOOD WE HAVE EATEN.”) R. YOSÉ THE GALILEAN SAYS, “THE [FORM OF THE] BLESSING THEY RECITE DEPENDS ON THE SIZE OF THE CONGREGATION, AS IT SAYS, ‘BLESS GOD IN THE GREAT CONGREGATIONS, THE LORD, O YOU WHO ARE OF ISRAEL’S FOUNTAIN’ [PS. 68:27].”

1. **II:1:** For one hundred he says, [“Let us recite the blessings to our God.”] [M. 7:3E]. Said R. Yohanan, “This is [in accord with] the words of R. Yosé the Galilean. But according to sages, The same [rule applies] for ten or for ten thousand [M. 7:3D].” Raba said, “The law follows the [sages] view which says, The same [rule applies] for ten or for ten thousand.”
2. **II:2:** Whence [is the Scriptural basis] that ten comprise a congregation? R. Abba and R. Yasa in the name of R. Yohanan, “[Scripture] uses [the word] ‘Congregation’ in one instance [‘The congregation shall judge, And the congregation shall rescue’ [Num. 35:24, 25], and uses [the word] ‘Congregation’ in another instance

[‘How long shall this wicked congregation murmur against me?’ (Num. 14:27)]. Just as [the word] ‘Congregation’ in the latter instance refers to ten persons [the twelve spies excluding Joshua and Caleb], [the word] ‘Congregation’ in the former instance refers to ten persons. [And accordingly all judgments should take place in the presence of ten.]” Said R. Simon, “[Scripture] uses [the word] ‘Among’ in one instance. [‘I will be hallowed among the children of Israel’ [Lev. 22:32], and] uses [the word] ‘Among’ in another instance, ‘Thus the children of Israel came to buy among the others who came’ [Gen. 42:5]. Just as [the word] ‘Among’ in the latter case is a reference to ten [persons, i.e. the twelve brothers excluding Joseph and Benjamin], it also implies ten [are needed in other instances to comprise a congregation for sanctification of God’s name].”

3. **II:3:** How do sages deal with R. Yosé the Galilean’s Scriptural proof [in M. 7:3I]? [They say,] “In the congregation [Ps. 68:27]” means in each congregation [shall you bless the same way. It does not mean according to the size of the congregation shall you bless.]

[C] SAID R. AQIBA, “WHAT DO WE FIND [CONCERNING THE FORM OF THE CALL TO RECITE THE PRAYER] IN THE SYNAGOGUE? WHETHER THERE ARE MANY OR FEW THEY SAY, ‘RECITE THE BLESSINGS TO THE LORD.’” [THE SAME RULE SHOULD APPLY FOR THE COLLECTIVE RECITATION OF THE BLESSINGS AFTER THE MEAL.] R. ISHMAEL SAYS, “[THE FORM OF THE CALL TO PRAYER IS:] ‘RECITE THE BLESSINGS TO THE LORD WHO IS BLESSED.’”

1. **III:1:** Hiyya bar Ashi came up to read from the Torah. He said, “Recite the blessings to the Lord,” but he did not say, “Who is blessed.” They tried to silence him. Rab said to them, “Let him be. For he is following R. Aqiba’s practice.” R. Zeira came up to read from the Torah as a priest in place of a Levite. He recited the blessings both before and after reading. And they tried to silence him. R. Hiyya bar Abba said to them, “Let him be. For that is their practice in his place [Babylonia].”
2. **III:2:** It is written, ‘And Ezra blessed the Lord, the great God [hgdwl]’ [Neh. 8:6]. And how did he magnify [hgdyl] Him? He magnified Him by invoking the divine name. R. Matna said, “He magnified Him with a blessing.” R. Simon in the name of R. Joshua b. Levi, “Why were they called the Men of the Great Assembly? Because they restored [God’s] greatness to its former stature.” Said R. Pinhas, “Moses ordained the form of the prayer: Great and mighty and awesome God. Jeremiah said, ‘Great and mighty God’ [Jer. 32:18] but he did not say ‘awesome.’ Why did he call Him ‘mighty?’ Because it is fitting to call

‘mighty’ one who is able to witness the destruction of his Temple and keep silent. “And why did he not call him ‘awesome?’ Because ‘awesome’ refers only to the Temple, as it says, ‘Awesome is God in his sanctuary’ [Ps. 68:35]. “Daniel said, ‘O Lord, the great and awesome’ [Dan. 9:4]. And why did he not call Him ‘mighty?’ Because when we, His children are [in captivity] in chains, how can we call Him ‘mighty?’ And why did he call Him ‘awesome?’ It is fitting to call Him ‘awesome’ because of the awesome deeds He did [to save] us in the fiery furnace. “And when the Men of the Great Assembly arose, they returned the greatness to its former stature [and ordained that they should say,] ‘The great and mighty and awesome God’ [Neh. 9:32].”

XLIII. YERUSHALMI BERAKHOT 7:4

[A] THREE WHO ATE TOGETHER ARE NOT PERMITTED TO SEPARATE [TO RECITE THE MEAL BLESSINGS BECAUSE IF THEY DO SO THEY WILL NOT HAVE THE MINIMUM QUORUM OF THREE NEEDED TO BE ABLE TO EXTEND TO OTHERS THE INVITATION TO RECITE TOGETHER THE BLESSINGS AFTER THE MEAL.] AND SO TOO FOUR, AND SO TOO FIVE [WHO ARE EATING TOGETHER MAY NOT SEPARATE BECAUSE IF THEY DO, SOME OF THEM WILL NOT BE ABLE TO RECITE THE BLESSINGS AFTER THE MEAL WITH A QUORUM.] SIX [OR MORE] MAY SEPARATE [INTO TWO GROUPS OF AT LEAST THREE EACH] UNTIL [THEY REACH] TEN. TEN [OR MORE] MAY NOT SEPARATE [BECAUSE THEY INVOKE THE NAME OF GOD IN THE INVITATION THAT THEY RECITE WITH THE MORE SUBSTANTIAL QUORUM OF TEN, AND IF THEY SEPARATE, SOME WILL NOT BE ABLE TO RECITE THE MEAL BLESSINGS WITH THE FULLER INVITATION FORMULA] UNTIL [THEY REACH] TWENTY [THEN THEY MAY SEPARATE INTO TWO GROUPS OF TEN].

- 1. I:1:** It was taught: One who was sitting and eating on the Sabbath and forgot and did not mention the Sabbath [in the blessings after the meal] – Rab says, “He must repeat [his recitation of the blessings after the meal].” And Samuel says, “He need not repeat.” Simeon bar Ba in the name of R. Yohanan, “If one had a doubt whether or not he mentioned the new moon, they do not make him repeat [his recitation of the blessings after the meal].” We find a teaching which contradicts this: Any day on which there is an Additional Sacrifice [and accordingly, they recite the Additional Service], such as the new moon or an intermediate day of the festival, [in the Morning and Afternoon Services one recites the Prayer of Eighteen] and one says a prayer corresponding to the occasion [and in the Additional Prayer one says a prayer concerning the sanctity of the day in the seventeenth blessing,] the Temple service, If one did not say it, they make him repeat [his

recitation of the Prayer] [T. 3:10]. [This implies that if he forgot to say the appropriate prayers in the meal blessings, they should make him repeat his recitation of the blessings after the meal.] And any day on which there is no Additional Sacrifice [and accordingly, they do not recite the Additional Service], such as Hanukkah or Purim, [in the Morning and Afternoon Services one recites the Prayer of Eighteen and] says [a prayer] corresponding to the occasion. If he did not say it, they do not make him repeat [T. 3:10].

2. **I:2:** It was taught: Ten people who were travelling on the road [and eating], even if they all eat from the same loaf, each recites the blessings [after the meal] for himself. If they [stopped travelling and] sat down and ate [together], even if each eats from his own loaf, one person recites the blessings for the meal on behalf of all of them [T. 5:23].

XLIV. YERUSHALMI BERAKHOT 7:5

[A] TWO GROUPS [OF PEOPLE] EATING IN THE SAME HOUSE, MAY COMBINE TOGETHER FOR THE INVITATION [I.E. ZIMMUN, TO DESIGNATE ONE REPRESENTATIVE TO INVITE MEMBERS OF BOTH GROUPS TO RECITE THE MEAL BLESSINGS ONLY] IF SOME MEMBERS OF EACH GROUP CAN SEE ONE ANOTHER. BUT IF NOT, EACH GROUP BY ITSELF [DESIGNATES ITS OWN REPRESENTATIVE WHO] INVITES [THE OTHERS IN THE GROUP TO RECITE TOGETHER THE BLESSINGS].

1. **I:1:** [The ruling at M. 7:5A is obvious. Why does M. teach it?] R. Jonah and R. Abba bar Zimna in the name of R. Zeira, “[We need the ruling in M. 7:5A to teach us the law that two groups may combine together if they can see one another even if they are eating] in two separate houses.” [And the phrase in M. 7:5A, “in the same house” applies only to the case of M. 7:5B.] Said R. Yohanan, “[Two groups may combine] only if they had entered [to eat] from the outset with this intention.” Do we consider the Patriarch’s house [where the doors between the rooms may be opened or closed] like one house or like two [with regard to the present law]? We may say [it depends –] if it is customary [for people] to pass from one room to the other [during the meal, then the two groups in both rooms] may combine to [constitute a quorum to] extend the invitation [to recite the blessings after the meal.] But if not, they may not combine to extend the invitation.

[B] “AND THEY MAY NOT RECITE THE BLESSING OVER THE WINE [WHICH THEY DRINK] UNLESS THEY DILUTE IT WITH WATER,” THE WORDS OF R. ELIEZER. AND

SAGES SAY, “**THEY MAY RECITE [THE BLESSING EVEN OVER UNDILUTED WINE WHICH THEY DRINK].**”

1. **II:1:** Zeriqa in the name of R. Yosé b. Hanina, “The sages will agree with R. Eliezer that one should put [at least] a bit of water into the cup of wine over which one recites the blessing [of the meal].” The rabbis customarily [diluted with a bit of water] the cup of wine over which they recited the Prayer of Sanctification. R. Yosé [b. Haninah’s] tradition contradicts [a ruling of] R. Jonah. For R. Jonah used to first take a sip from the cup [after reciting the blessing over it] and then he would prepare it [by diluting it properly for drinking].
2. **II:2:** Jeremiah in the name of R. Yohanan, “The ancient [sages] used to ask, ‘Can the left hand help the right hand out [to hold the cup] when one is reciting the blessing [after the meal] over a cup of wine?’ “You learn three things from this question. “You learn that one must hold the cup in his right hand. “And you learn that one must hold his hand up at least a handbreadth above the table [and not rest it on the table]. “And you learn that one must pay attention to the cup [and not put it down and take his mind off it].”
3. **II:3:** Said R. Tanhum bar Yudan, “[If on the Sabbath or festival one had just a single cup of wine] the honor of the day takes precedence over the honor of the night. [He should drink it in the meal he eats during the day.] [If one had enough for just a single cup of wine,] [Y. has:] the Prayer of Sanctification of the [Sabbath] night takes precedence over the Prayer of Sanctification of the [Sabbath] day. [T. adds: And the [Prayer of] Sanctification of the [Sabbath] day takes precedence over the honor of the day and the honor of the night] [T. 3:8].”
4. **II:4:** R. Zeriqa, the brother-in-law of R. Zeriqa, mentioned Hanukkah in the [second blessing of the meal], “For the land” and they praised him.
5. **II:5:** R. Ba, son of R. Hiyya bar Abba, “One who eats while walking, should stand still to recite the blessings. One who eats while standing, should sit to recite the blessings. One who eats while sitting, should recline to recite the blessings. One who eats while reclining, should wrap himself in his cloak to recite the blessings. And if he does [wrap himself around], lo, he is like the ministering angels. What is the basis in Scripture for this? ‘Above him stood the seraphim; each had six wings: with two he covered his hands and with two he covered his feet.’” [Isa. 6:2].

XLV. YERUSHALMI BERAKHOT 8:1

[A] THESE ARE THE MATTERS DISPUTED BY THE HOUSE OF SHAMMAI AND THE HOUSE OF HILLEL CONCERNING THE DINNER: THE HOUSE OF SHAMMAI SAY, “[IN THE PRAYER OF SANCTIFICATION AT THE DINNER ON THE EVE OF THE SABBATH OR FESTIVAL] THEY RECITE THE BLESSING OVER [THE SABBATH OR FESTIVAL] DAY, AND THEN THEY RECITE THE BLESSING OVER THE WINE.” AND THE HOUSE OF HILLEL SAY, “THEY RECITE THE BLESSING OVER THE WINE, AND THEN THEY RECITE THE BLESSING OVER THE DAY.”

1. **I:1:** What is the basis of the House of Shammai’s view? [They reason that] one uses wine on account of the sanctity of the [Sabbath] day. And one is obligated to recognize the sanctity of the day [through recitation of the Prayer of Sanctification of the Sabbath or festival] before he uses the wine. And what is the basis of the House of Hillel’s view? [They reason that] the presence of wine [at the meal] allows a person to say the [blessing for the] sanctification of the day. [That is, without the wine there is no opportunity to recite the blessing for the day. Therefore one first recites the blessing over the wine.] Another explanation [to support the view of the House of Hillel]: The [blessing over the] wine is a frequent action. The [sanctification blessing over the day] is not a frequent action. [And the principle is – that which is more frequent takes precedence in the order of performance] [T. 5:25].
 - a. **I:2:** Said R. Yosé, “[We may deduce that] both [Houses] agree [with regard to the order of the blessing over] the wine and the Prayer of Division [at the conclusion of the Sabbath], the blessing over the wine comes first. “[The House of Shammai’s above argument does not apply in this case.] The House of Shammai’s reason [in the case of reciting the blessings on Friday eve at the meal at the beginning of the Sabbath] was that they use the wine on account of the sanctity of the [Sabbath] day. And here [in the case of the recitation of the Prayer of Division at the conclusion of the Sabbath] they do not use the wine on account of the Prayer of Division [which marks the end of the Sabbath day. One fulfills his obligation to recite a Prayer of Division when he recites the appropriate words in the Prayer of Eighteen in the Evening Service at the conclusion of the Sabbath. The recitation of another Prayer of Division at home is a secondary requirement.] So the blessing over the wine comes first. “The House of Hillel’s reason [in the case of reciting the blessings on Friday eve at the meal at the beginning of the Sabbath] was that they first [recite the blessing

over] the wine because [reciting it] is a frequent action, and [reciting the blessing for] the Sanctification of the day is infrequent. Likewise here [in the case of the recitation of the Prayer of Division at the conclusion of the Sabbath], since [reciting the blessing over] the wine is frequent and [reciting] the Prayer of Division is infrequent, they first [recite the blessing over] the wine.” Said R. Mana, “[We may deduce the opposite, that is that] both Houses agree that with regard to [the blessing over] the wine and Prayer of Division, the Prayer of Division comes first. “The House of Shammai’s reason [in the case of reciting the blessings on Friday eve at the meal at the beginning of the Sabbath] was that one is already obligated to recite the blessing for the day [when it gets dark on Friday night] before he uses the wine. And likewise here [in the case of the recitation of the Prayer of Division at the conclusion of the Sabbath], since one is obligated to recite the Prayer of Division [when it gets dark on Saturday night] before he obtains the wine, the recitation of the Prayer of Division comes first. “And the House of Hillel’s reason [in the case of reciting the blessings on Friday eve at the meal at the beginning of the Sabbath] was that the [presence of wine] allows one to recite the blessing for the [Sanctification of the] day. But here [in the case of the recitation of the Prayer of Division at the conclusion of the Sabbath], since one does not need wine to enable him to recite the Prayer of Division [because he may fulfill his obligation by reciting a Prayer of Division in the Prayer of Eighteen on Saturday night], the Prayer of Division comes first.”

- b.** I:3: Said R. Zeira, “[We may deduce that] both [R. Yosé and R. Mana (P.M.)] agree that one is permitted to recite the Prayer of Division without wine, but one may recite the Prayer of Sanctification of the Sabbath only with wine.”
- c.** I:4: And a question was raised regarding the view of the House of Shammai: On the Sabbath eve, how should one act? If one was sitting and eating on the eve of the Sabbath, and night fell and the Sabbath commenced, and he had only one cup of wine, you say that he should set it aside until he finishes the meal, and then recite all [the blessings] together over it [i.e. the blessings over the meal, the day, and wine]. What do you prefer [that one do according to the view of the House of Shammai]? Should he first recite the blessing over the [Sabbath] day [as they say in Mishnah]? [This makes no sense because] the meal came before it! Should he first recite the blessing over the meal? [This makes no sense because] the wine came before it! Should he first recite the blessing over the

wine? [This makes no sense because] the [sanctity of the] day came before it!

- 3.** **I:5:** A festival day which fell on the day after the Sabbath [i.e. on Sunday]: R. Yohanan said, “[The order of the blessings at the meal at the conclusion of the Sabbath is] wine, Sanctification [for the festival], light, Prayer of Division.” Hanin bar Ba said in the name of Rab, “[The order of the blessings at the meal at the conclusion of the Sabbath is] wine, Sanctification [for the festival], light, Prayer of Division, [‘Who sanctified us with his commandments and commanded us to dwell in a] sukkah,’ [said on Sukkot,] and [‘Who gave us life and kept us alive and brought us to this] season,’ [said on the festivals.] R. Haninah said, “[The order of the blessings at the meal at the conclusion of the Sabbath is] wine, light, Prayer of Division, and Sanctification [for the festival].”

XLVI. YERUSHALMI BERAKHOT 8:2

[A] **THE HOUSE OF SHAMMAI SAY, “THEY WASH THEIR HANDS [BEFORE BEGINNING THE MEAL], AND THEN THEY MIX THE CUP [OF CONCENTRATED WINE WITH WATER TO PREPARE IT FOR DRINKING].” AND THE HOUSE OF HILLEL SAY, “THEY MIX THE CUP, AND THEN THEY WASH THEIR HANDS.”**

- 1.** **I:1:** What is the basis for the [ruling of] the House of Shammai? [They first wash their hands] so they do not render the liquids on the sides of the cup unclean [by contact] with their hands, which in turn [through contact] could render [the outside of] the cup unclean. What is the basis for the [ruling of] the House of Hillel? [They reject the Shammaite position because they hold the view that] the outside of the cup is perpetually unclean. [Since the outside of the cup is already unclean, it makes no difference at what point one washes, whether before or after mixing the cup. [Why then must one wash after mixing the cup? The explanation is:] Another matter: One must juxtapose washing his hands with the recitation of the blessing [at the beginning of the meal]. [The act of mixing the cup may not intervene.] [T. 5:26.]
- 2.** **I:2:** R. Yosé in the name of R. Shabbetai and R. Hiyya in the name of R. Simeon b. Laqish, “[To find water to wash one’s utensils before kneading dough and separating] the dough-offering, and to [find water to] wash one’s hands [before the meal], a person must go up to four miles.” [‘Mile’ refers to 2000 paces, about 1470 meters, that is somewhat less than the modern English mile of about 1609 meters.] R. Abbahu in the name of R. Yosé b. R. Haninah, “This applies to [one

who was travelling on the road], who must go ahead [up to four miles to find water]. But [to find water] they do not trouble him to go back [in the direction from which he came on his journey].”

- 3. I:3:** It was taught: [Washing one’s hands with] water before the meal is optional. [Washing one’s hands with] water after the meal is compulsory. But with regard to the first case [i.e. before the meal] one washes and waits. And with regard to the second case [i.e. after the meal] one washes and does not wait [T. 5:13].
- a. I:4:** Samuel went to stay with Rab. He saw him eating with his hands covered [by a napkin]. He said to him, “What are you doing? [Did you not wash your hands?]” Samuel answered, “I am sensitive [and even though I washed my hands, I need to act according to my own habits].” When R. Zeira came here [to the Land of Israel] he saw priests eating [heave-offering] with their hands covered [by napkins without first washing!]. He said to them, “This [nevertheless] accords with the story told of Rab and Samuel [because the priests are more careful, so they need not wash before eating].”
- b. I:5:** Zeira went to R. Abbahu in Caesarea. He found [Abbahu] and he said, “Let us go and eat.” He [Abbahu] gave him a round loaf of bread for slicing and he said, “Sit and recite the blessing.” He [Zeira] said to him, “The host should know the value of his loaf. [You should recite the blessing.]” [D] When they had eaten, Abbahu said, “Sit and recite the blessing.” [Zeira] said to him, “My master surely knows that R. Huna was a great man and he used to say, ‘The one who opens [the meal by reciting the blessing], should also close [the meal and recite the blessing at the end of the meal].’” The teaching disputes R. Huna. For it was taught: This is the order for washing hands. For [a group of] up to five people – they start [washing] with the highest in rank. For more than this – they start [washing] with the lowest in rank [so the important people do not have to wait for long between washing and the meal]. [This is the order for mixing the cup.] In the middle of the meal they start [to mix the cup] from the highest [in rank]. At the end of the meal, they start from the one who recites the blessing [T. 5:6].

XLVII. YERUSHALMI BERAKHOT 8:3

[A] THE HOUSE OF SHAMMAI SAY, “[TO AVOID SPREADING UNCLEANNESS] ONE WIPES HIS HANDS ON A NAPKIN AND PLACES IT ON THE TABLE.” AND THE HOUSE OF HILLEL SAY, “[HE PLACES THE NAPKIN] ON THE CUSHION.”

1. **I:1:** The Mishnah speaks of a marble table, or a table which may be taken apart, which is not susceptible to uncleanness.
2. **I:2:** What is the basis for the House of Shammai’s view? [He must put the napkin on the table] so that the liquid in the napkin does not become unclean through contact with the cushion, and in turn render unclean the person’s hands. And what is the basis for the House of Hillel’s view? [The principle is that] in all cases where there is doubt [whether there was contact between unclean] liquids and one’s hands, [the law is that one’s hands are considered] clean. [Here there is doubt whether the cushion is unclean, and whether the liquid in the napkin becomes unclean and renders one’s hands unclean.] Another explanation: [According to the House of Hillel there is no need to maintain clean] hands in order to eat unconsecrated food [T. 5:27].
3. **I:3:** It was taught there: One who anointed himself with clean oil, and became unclean, and went and dipped [in a ritual bath]: The House of Shammai say, “Even though it [the oil] drips from him, it remains clean.” And the House of Hillel say, “It is unclean.” And if the oil was unclean from the outset: The House of Shammai say, “[If there is on him up to] the amount of oil it would take to anoint a little finger, [it is clean].” And the House of Hillel say, “[If there remains on him] any amount of dripping liquid, [it is unclean].” R. Judah says in the name of the House of Hillel, “[If there remains on him] any amount which may drip and moisten something else, [it is unclean] [M. Ed. 4:6]” The opinions of the House of Hillel [in our Mishnah and in M. Ed.] are contradictory! There [concerning the status of dripping oil] they say, “It is unclean.” Here [concerning the status of liquid which may drip from the napkin] they say, “It is clean.”

XLVIII. YERUSHALMI BERAKHOT 8:4

[A] THE HOUSE OF SHAMMAI SAY, “[TO AVOID WASTING FOOD] THEY CLEAN THE HOUSE [AND GATHER THE SCRAPS OF FOOD AFTER THE MEAL], AND

AFTERWARD WASH THEIR HANDS.” AND THE HOUSE OF HILLEL SAY, “THEY WASH THEIR HANDS, AND AFTERWARD CLEAN THE HOUSE.”

- 1.** **I:1:** What is the basis for the House of Shammai’s view? [They clean the house first] so as not to waste food [by dripping water upon it when cleaning up after washing one’s hands making the food susceptible to uncleanness]. And what is the basis for the House of Hillel’s view? If the servant is clever, he gathers up the pieces which are larger than an olive’s bulk. [Then even if the scraps of food that remain become wet, and touch a source of uncleanness, they cannot become unclean, based on the principle that a scrap of food smaller than an olive’s bulk cannot become unclean.] And they wash their hands and afterwards clean the house [without concern over wasting food] [T. 5:28].

XLIX. YERUSHALMI BERAKHOT 8:5

[A] THE HOUSE OF SHAMMAI SAY, “[THE ORDER OF THE BLESSINGS IN THE SERVICE OF THE PRAYER OF DIVISION WHEN IT IS RECITED AT THE MEAL AT THE CONCLUSION OF THE SABBATH IS:] LIGHT, MEAL, SPICES, PRAYER OF DIVISION.” AND THE HOUSE OF HILLEL SAY, “[THE ORDER IS:] LIGHT, SPICES, MEAL, PRAYER OF DIVISION.”

- 1.** **I:1:** It was taught: Said R. Judah, “The House of Shammai and the House of Hillel did not dispute [concerning the order of the blessings] that the blessing for the meal comes first, and the Prayer of Division comes last. “Concerning what did they dispute? [They disputed over the order of the blessings] for the spices and for the light. “For the House of Shammai say, ‘Spices and then light.’ “And the House of Hillel say, ‘Light and then spices’ [T. 5:30]. [This version of the dispute is contrary to our Mishnah.]
- 2.** **I:2:** The House of Shammai say, “One holds the cup of wine in his right hand, and the perfumed oil in his left hand. And he says the blessing over the cup of wine, and then he says the blessing over the perfumed oil.” And the House of Hillel say, “One holds the perfumed oil in his right hand, and the cup of wine in his left hand. And he says the blessing over the perfumed oil, and smears it on the head of his servant. And if the servant is a disciple of the sages, he smears it on the wall. For it is not befitting a disciple of the sages to go outside perfumed [T. 5:29].”

[B] THE HOUSE OF SHAMMAI SAY, “[THE FORMULA FOR THE BLESSING OVER THE LIGHT IS,] ‘WHO CREATED THE LIGHT OF THE FIRE.’” AND THE HOUSE OF HILLEL SAY, “[IT IS,] ‘WHO CREATES THE LIGHTS OF THE FIRE.’”

1. **II:1:** [One might argue that] according to the view of the House of Shammai, one should say [as a blessing over wine the formula], “Who created [past tense] the fruit of the vine.” And [it makes sense only] according to the view of the House of Hillel that one should say [over wine], “Who creates the fruit of the vine” [as is the accepted practice].
2. **II:2:** Fire and mules, though not actually created in the six days of creation, were thought of [by God] during the six days of creation [T. 5:31]. [When were] mules [first created]? [As it says,] “These are the sons of Zibeon: Aiah and Anah: he is the Anah who found hyymym in the wilderness” [Gen. 36:24].
3. **II:3:** Fire [T. 5:31]: R. Levi in the name of R. Bezira [or Nezira], “The light created on the first day lasted thirty-six hours: twelve on the Sabbath eve, twelve on the night of the Sabbath, and twelve on the Sabbath day. And Adam gazed out [in the primeval light] upon the whole world. When the light did not cease the whole world sang out, as it says, “Under the whole heaven they sang out to Him whose light extends to the corners of the earth” [Job 37:2]. When the Sabbath ended, darkness began to minister [over the world]. Adam became frightened and said, “Concerning this Scripture says, ‘He [Man] will bruise your head, and you [the serpent] shall bruise his heel’ [Gen. 3:15].” Perhaps now [that it is dark] he will come to bruise me. [Because] it says [elsewhere], ‘In darkness he will bruise me’ [Ps. 139:11].” Said R. Levi, “At that very time God summoned two flints and he [Adam] struck them against each other and light came forth from them. This is as it is written, ‘And the night around me be light’ [Ps. 139:11]. And he [Adam] recited the blessing, ‘Who creates the lights of the fire.’”

L. YERUSHALMI BERAKHOT 8:6

[A] THEY RECITE A BLESSING [OVER THE LIGHT IN THE PRAYER OF DIVISION SERVICE AT THE CONCLUSION OF THE SABBATH] NEITHER OVER THE LIGHT AND SPICES OF GENTILES:

1. **I:1:** R. Jacob taught before R. Jeremiah, “They may recite a blessing over the spices of gentiles.”

2. **I:2:** Over a lantern, even if it was not extinguished [i.e., it burned throughout the Sabbath], they may recite the blessing over it [for the light used in the Prayer of Division Service at the end of the Sabbath]. [They do not recite the blessing over] a light whose source is hidden by a garment, or in a lamp, or over a light behind a glass, or for any light where they see the flame, but can not make use of its illumination, or can make use of its illumination, but can not see the flame. They recite the blessing over it only if they both can see the flame, and make use of its illumination [T. 5:31].
3. **I:3:** Five things were said about [the glow of] a glowing coal, and five things about [the flame of] a torch. [In the following cases, the principle is that the flame of a torch is considered to be pure fire, without any material substance.] It is a sacrilege to use [the light of] a glowing coal belonging to the Temple, but it is neither [a matter of] any [forbidden] benefit nor a sacrilege to use the light of a torch of the Temple. (2) It is forbidden to use [the light of] a glowing coal used for idolatry. But it is permissible [to use the light of] a torch [used for idolatry]. (3) One who vows not to benefit from his associate, may not use [the light of] his glowing coals, but is permitted to use [the light of] his torch. (4) One who takes a glowing coal out to the public thoroughfare [on the Sabbath] is liable [for punishment]. But one who takes a torch out is free [from any liability]. (5) They may recite the blessing [for the light after the Sabbath] over a torch. But they may not recite the blessing over a glowing coal.
4. **I:4:** It was taught: [At the end of the Sabbath in the Prayer of Division Service, they may recite the blessing over the light of] a gentile who lit a light from an Israelite's flame, and [the light of] an Israelite who lit from a gentile [T. 5:31].
5. **I:5:** R. Abbahu in the name of R. Yohanan, "They may recite the blessing neither over the spices used on the Sabbath eve in Tiberias, nor over the spices used at the conclusion of the Sabbath in Sepphoris, nor over the light nor over the spices used on Friday morning in Sepphoris, for these are all prepared for another purpose [i.e for freshening clothes]."

[B] NOR THE LIGHT AND SPICES [USED IN HONOR] OF THE DEAD:

1. **II:1:** R. Hezekiah and R. Jacob bar Aha in the name of R. Yosé b. R. Hanina, "Those to which we refer are [the lights and spices] placed over [on top of] the coffin. But over those placed before [and around]

the coffin, they may recite the blessing. For I say they are put there for the convenience of the living.”

[C] NOR THE LIGHT AND SPICES USED BEFORE IDOLATRY.

- 1. III:1:** Are those [lights and spices] of gentiles not the same as those of idolatry? We may explain that [the latter] refers to [the light and spices of] an Israelite idolater.

[D] AND THEY DO NOT RECITE THE BLESSING OVER THE LIGHT [IN THE PRAYER OF DIVISION SERVICE AT THE CONCLUSION OF THE SABBATH]:

- 1. IV:1:** R. Zeira son of R. Abbahu expounded, “‘And God saw the light that it was good’ [Gen. 1:4]. And after that it says, ‘And God divided the light from the darkness’ [Gen. 1:5]. [This implies that first he saw the light then he divided. Likewise one should see the light before ‘dividing,’ i.e. reciting the blessing in the Prayer of Division.]”
- 2. IV:2:** Said R. Berekhiah, “Two great men, R. Yohanan and R. Simeon b. Laqish, expounded accordingly, ‘And God divided’ [means] he permanently divided [light from darkness and put them into separate realms in the world].” R. Judah b. R. Simon said, “He divided them [set them aside] for Himself [but not for the world].” And sages said, “He divided them [set them aside] for the righteous [to have light] in the world to come.”

[E] UNTIL THEY MAKE USE OF ITS ILLUMINATION.

- 1. V:1:** Rab says, “[The correct spelling of ‘make use of’ is] y’wtw [meaning] ‘use’ [with an aleph].” And Samuel says, “[The correct spelling is] y’wtw [meaning] ‘timely use’ [with an ayin].” The one who says “use” [is correct bases his teaching on the verse where we find an appropriate usage,] “Only on this condition will we consent to you [n’wt, implying permission to use]” [Gen. 34:15]. The one who says “timely” [is correct bases his teaching on the verse where we find an appropriate usage,] “How to sustain with a timely [l’wt] word, him that is weary” [Isa. 50:4].
- 2. V:2:** R. Judah in the name of Samuel, “[How much illumination must there be in order to recite the blessing over the light?] Enough so that women could spin yarn by its light.” Said R. Yohanan, “Enough [light] so that one can determine what is in a cup or bowl.” Said R. Hanina, “Enough [light] so that one could distinguish between two different coins.”

LI. YERUSHALMI BERAKHOT 8:7

[A] HE WHO ATE [A MEAL] AND FORGOT, AND DID NOT RECITE THE BLESSING [OVER THE MEAL AND LEFT THE PLACE WHERE HE ATE THE MEAL]: THE HOUSE OF SHAMMAI SAY, “HE MUST GO BACK TO HIS PLACE [WHERE HE ATE] AND RECITE THE BLESSING.” AND THE HOUSE OF HILLEL SAY, “HE MAY RECITE THE BLESSING IN THE PLACE HE REMEMBERS.”

1. I:1: Yusta bar Shunam said, “Two Amoraim [interpreted this Mishnah]. One explained the House of Shammai’s view and the other explained the House of Hillel’s view. The one who explained the House of Shammai’s view [argued as follows:] if one forgot a purse filled with precious stones and pearls, would he not go back to get his purse? So in this case as well, He must go back to his place and recite the blessing. The one who explained the House of Hillel’s view [argued as follows:] if a worker were up in a tree or down in a pit, do we trouble him to go back to his place to recite the blessing? [No. That is absurd.] He may recite the blessing in the place he remembers. So, too, [in general,] He may recite the blessing in the place he remembers. [We do not trouble him to go back.]

[B] AND UNTIL WHEN [AFTER THE MEAL] MAY HE RECITE THE BLESSINGS? UNTIL HE DIGESTS THE FOOD.

1. II:1: R. Hiyya in the name of Samuel, “Until he digests the food.” [Texts have, “And sages say.”] As long as he is thirsty on account of the meal.” R. Yohanan said, “Until he gets hungry [he may recite the blessing].”

LII. YERUSHALMI BERAKHOT 8:8

[A] IF THEY OBTAINED WINE AFTER FINISHING THE MEAL AND THEY HAD ONLY ONE CUP: THE HOUSE OF SHAMMAI SAY, “THEY RECITE THE BLESSING OVER THE WINE, AND THEN THEY RECITE THE BLESSING OVER THE MEAL.” AND THE HOUSE OF HILLEL SAY, “THEY RECITE THE BLESSING OVER THE MEAL, AND THEN THEY RECITE THE BLESSING OVER THE WINE.” THEY MAY ANSWER ‘AMEN’ AFTER AN ISRAELITE WHO RECITES A BLESSING. BUT THEY MAY NOT ANSWER ‘AMEN’ AFTER A SAMARITAN WHO RECITES A BLESSING, UNLESS THEY HEAR THE ENTIRE BLESSING [AND ARE CERTAIN THAT HE DID NOT SAY ANYTHING UNACCEPTABLE IN THE BLESSING].

1. **I:1:** Said R. Ba, “[The House of Shammai reasons as follows:] Since [the blessing over the wine] is a short blessing, one may forget and drink [wine without a blessing after reciting the long meal blessing. So he must recite the blessing over the wine first.]. But when he strings it together with another blessing which he recites over the same cup [as in M. 8:1B, he may recite it second since], he will not forget.
2. **I:2:** [They may answer ‘Amen’ after an Israelite who recites a blessing. But they may not answer ‘Amen’ after a Samaritan who recites a blessing, unless they hear the entire blessing [and are certain that he did not say anything unacceptable in the blessing. The Mishnah at D seems to imply] that one may answer “Amen” after hearing a blessing recited by an Israelite even if he did not hear [the entire blessing]. But did we not learn [regarding the recitation of a blessing, to the contrary]? “If one heard [a blessing] and [in the event that he] did not answer [Amen], he [nevertheless] fulfilled his obligation [to recite the blessing through the other person’s recitation of the blessing]. But [in a case where] he answered [Amen] without hearing [the entire blessing,] he did not fulfill his obligation [to recite the blessing through the other person’s recitation].”
3. **I:3:** Taught R. Oshaia, “A person may answer ‘Amen,’ [upon hearing the blessings after the meal] even if he did not eat [at that meal]. But one may not say, ‘Let us recite the blessings to Him of whose bounty we have eaten’ [the invitation to recite the blessing over the meal], unless he has eaten [at that meal].” It was taught, “They do not answer with an orphaned [isolated] ‘Amen,’ or with a cut off ‘Amen’ or with a hasty ‘Amen.’” Ben Azzai says, “One who answers with an orphaned ‘Amen,’ his children shall be orphans, with a cut off ‘Amen,’ his years will be cut off, with a hasty ‘Amen,’ his soul will be cut down. “[But one who answers] with a long ‘Amen,’ his days and his years will be lengthened with goodness.”

LIII. YERUSHALMI BERAKHOT 9:1

[A] **ONE WHO SEES A PLACE WHERE MIRACLES WERE PERFORMED FOR ISRAEL SAYS, “BLESSED [ART THOU, O LORD, OUR GOD, KING OF THE UNIVERSE] WHO PERFORMED MIRACLES FOR OUR FOREFATHERS IN THIS PLACE.”**

1. **I:1:** The Mishnah speaks of miracles which occurred to Israel [as a nation]. But for miracles which occurred only to individuals one is not required to recite a blessing. May a person recite a blessing [at places

where] miracles occurred to his father, or his teacher? And [may a person recite a blessing at a place where miracles occurred to] a great hero, such as Yoab b. Zeruyah and his associates [II Sam. 20], or to a person who sanctified God's name [by risking martyrdom] such as Hananiah, Mishael and Azariah [Shadrach, Meshach, Abednego, in Dan. 3]?

- 2.** **I:2:** One who sees Babylonia must recite five blessings: When he sees the Euphrates river he says, "Blessed [art Thou, O Lord, our God, King of the Universe] who is the creator." When he sees the statue of Mercury he says, "Blessed [art Thou, O Lord, our God, King of the Universe] who is patient." When he sees [the ruins of] the palace of Nebuchadnezzar he says, "Blessed [art Thou, O Lord, our God, King of the Universe] who destroyed this wicked one's house." When he sees the place of the fiery furnace and the lion's den [associated with the narratives in Daniel 3 and 6] he says, "Blessed [art Thou, O Lord, our God, King of the Universe] who performed miracles for our forefathers in this place." When he sees the place from which they quarry gravel [for idolatrous purposes], he says, "Blessed is He who speaks and acts; Blessed is He who decrees and upholds his word." When one sees Babylonia he [further] says, "I will sweep it with the broom of destruction" [Isa. 14:23].
- 3.** **I:3:** Zeira and R. Judah in the name of Rab, "Any blessing which does not include [a reference to] God's kingdom, is not a valid blessing." Said R. Tanhuma, "I will tell you what is the basis [in Scripture for this rule]: 'I will extol thee my God and King' [Ps.145:1]." Rab said, "One must say, '[Blessed] art Thou [‘th]’." And Samuel Said, "One need not say, 'art thou.'"
- 4.** **I:4:** R. Yohanan and R. Jonathan went to help bring peace to the villages of the South. They came to one place and found the leader reciting [in the first blessing of the Prayer of Eighteen Blessings], "God, the great, mighty, awesome, powerful [‘byr] and valiant [‘mys]" [adding these last two terms]. And they silenced him. They said to him, "You do not have the right to add to the [standard] formula which the sages established for the blessings."
- 5.** **I:5:** It was taught: One who opens [his blessings] with [the invocation of the divine name] "Lord" [yhwh] and closes his blessing with the divine name "Lord," lo, he is a sage. [One who opens with the divine name] "God" [‘lwhym] and closes with "God," lo, he is a boor. One who opens with "God," and closes with "Lord," lo, this is a middle

way. One who opens with “Lord,” and closes with “God,” lo, this is another way [heresy] [T. 6:20].

- 6.** **I:6:** The heretics asked R. Simlai, “How many gods created the world?” He said to them, “Why are you asking me? Go and ask Adam himself [i.e. look in the verse]. As it says, ‘For ask now of the days that are past, [which were before you since the day that God created man upon the earth’ [Deut. 4:32]. It is not written in the plural form,] ‘That gods created man upon the earth,’ but [in the singular form,] ‘That God created man upon the earth’.” They said to him, “Is it not written, ‘In the beginning God [‘lhy] created’ [Gen. 1:1] [using what appears to be a plural noun – ‘Gods’]?” He said to them, “It is not written [plural] ‘gods created,’ but [singular] ‘God created.’” Said R. Simlai, “In every instance that the heretics have raised a question [out of Scripture] the answer [to their question] is right beside it [in Scripture].” [The heretics] returned and asked him, “What is this which is written, ‘Let us make man in our image, after our likeness’ [Gen. 1:26]?” He said to them, “It does not say, ‘The gods created [plural] man in their own images’ [Gen. 1:27]. But it says, ‘So God created [singular] man in his own image.’” His [Simlai’s] students said to him, “You have deflected their question with a straw [i.e. a weak argument]. What will you answer us? [How will you explain this verse to us?]”
- a.** **I:7:** Levi said, “From the earth to the firmament is [equivalent to the distance one may travel in] a journey of five hundred years. And [the distance] from one firmament to the next firmament is [equivalent to the distance one may travel in] a journey of five hundred years. And the width of the darkness of the firmament is [equivalent to the distance one may travel in] a journey of five hundred years. And it is the same for each of the [seven] firmaments.” And R. Berekhiah and R. Helbo said in the name of R. Abba Semuqah, “Even the hoofs of the beasts [of heaven] are [equivalent to the distance one may travel in] a journey of five hundred and fifteen years. Whence [was this taught? From the verse, ‘And their legs were] straight’ [Ezek. 1:7] [the numerical value of the Hebrew word for straight – ysrh is 515].”
- 7.** **I:8:** [Regarding this [relationship between God and his people,] R. Yudan in the name of R. Isaac gave four discourses [in the form of parables]: A person had a human patron. [One day] they came and told him [the patron], “A member of your household has been arrested.” He said to them, “Let me take his place.” They said to him, “Lo, he is already going out to trial.” He said to them, “Let me take his place.”

They said to him, “Lo, he is going to be hanged.” Now where is he and where is his patron [when ultimately he needs him]? But the Holy One, blessed be He, [will save his subjects, just as he] saved Moses from [execution by] the sword of Pharaoh. This is in accord with what is written, ‘He delivered me from the sword of Pharaoh’ [Ex. 18:4].

- 8.** **I:9:** Pinhas said [concerning this] two [parables], one in the name of R. Zeira, one in the name of R. Tanhum bar Hanilai. R. Pinhas in the name of R. Zeira said, “A person has a human patron. If he bothers his patron, the patron will say, ‘Did you ever see a fellow who can bother you so much?’ “But the Holy One, blessed be He, is not like this. Rather he accepts whatever you burden him with. “In this regard it says, ‘Cast your burden on the Lord and he will sustain you’ [Ps. 55:22].” R. Pinhas in the name of R. Tanhum bar Hanilai, “A person has a human patron. If his enemies come and seize him at the gate of his patron’s courtyard, before he can cry out, before anyone can come forth [to save him], the enemies’ sword will sever his neck and kill him. “But God saved Jehoshaphat from the sword of the Syrians. As it is written, ‘And Jehoshaphat cried out and the Lord helped him. God drew them away from him’ [2 Chron. 18:31]. The verse teaches us that just as they were about to decapitate him, ‘God drew them away from him.’”
- 9.** **I:10:** Zeira, son of R. Abbahu, and R. Abbahu in the name of R. Eleazar, “‘Happy is he whose help is the God of Jacob, whose hope is the Lord his God.’ What follows that verse? ‘He made heaven and earth, [the sea and all that is in them, who keeps faith forever]’ [Ps. 146:5-6]. “[Why are these passages juxtaposed? In accord with this parable.] A person has a patron who is a human king. The king may rule over one province, but not over another. Even [a king] who would rule the whole world, would rule only over the dry land, but not over the seas. “But the Holy One, blessed be He rules over the seas, and rules over the land. He can save one from [the perils of] the waters of the seas, and from [the perils of] the fire on dry land. “He saved Moses from the sword of Pharaoh. He saved Jonah from the belly of the whale, Shadrach, Meshach and Abednego from the fiery furnace, and Daniel from the lion’s den. In this regard [the verse says], ‘He made heaven and earth, the sea and all that is in them.’”
- 10.** **I:11:** Said R. Simeon b. Laqish, “A person has a relative. If [the relative] is rich, he admits [that he is his relative]. And if [the relative] is poor he denies [that he is his relative]. But not so the Holy One, blessed be He. Even when the Jews are down at their lowest depths, God calls them, ‘My brethren and companions.’ And what is the

Scriptural basis [for this statement]? ‘For my brethren and companions’ sake [I will say, ‘Peace be with you’] [Ps. 122:8].” R. Abun and R. Aha and R. Simeon b. Laqish, “A person has a relative. If [his relative] is [a literate person], a philosopher, he says of him that he is a relative. But the Holy One, blessed be He calls all of Israel his relatives. In this regard [the verse says], ‘He has raised up a horn for his people; [praise for all his saints, for the people of Israel who are near to him [literally: relatives], Praise the Lord]’ [Ps. 148:14]!” [All people are his kin.]

[B] [ONE WHO SEES] A PLACE FROM WHICH IDOLATRY WAS UPROOTED SAYS, “BLESSED [ART THOU, O LORD, OUR GOD, KING OF THE UNIVERSE] WHO UPROOTED IDOLATRY FROM OUR LAND.”

- 1. II:1:** The Mishnah [speaks of a time when idolatry] was uprooted from every place in the Land of Israel. But if it was uprooted only from one location one says [a different blessing,] “Blessed [art Thou, O Lord, our God, King of the Universe,] who uprooted idolatry from this place.” If idolatry was uprooted from one location and established in another, when one comes to the place to which it was located, he says, “Blessed [art Thou, O Lord, our God, King of the Universe,] who is patient.” And when one comes to the place from which it was uprooted, he says, “Blessed [art Thou, O Lord, our God, King of the Universe,] who uprooted idolatry from this place. “May it be thy will, Lord our God, God of our fathers, that just as you uprooted it from this place, so shall you uproot it from all other places. And you shall return the hearts of those who worship it, to worship thee, and no more shall there be found [in the Land] any worshipper of idolatry [Y.’s version of parts of T. 6:2].” [Outside of the Land of Israel one need not say this prayer because the majority of the inhabitants are gentiles.] It was taught: R. Simeon b. Gamaliel says, “Even outside of the Land of Israel one must say this [blessing when he comes to the place from which idolatry has been removed].” [T. 6:2].
- 2. II:2:** It was taught: R. Judah says, “A person must recite three blessings each day: ‘Blessed [art Thou, O Lord, our God, King of the Universe,] who did not make me a gentile’; ‘Blessed [art Thou, O Lord, our God, King of the Universe,] who did not make me a boor’; ‘Blessed [art Thou, O Lord, our God, King of the Universe,] who did not make me a woman.’ “[What is the basis for these blessings?] ‘Blessed [art Thou, O Lord, our God, King of the Universe,] who did not make me a gentile,’ because the gentiles are of no matter. [As it says,] ‘All the nations are as nothing before him’ [Isa. 40:17]. “‘Blessed [art Thou, O Lord, our God, King of the Universe,] who did

not make a boor,' for, A boor does not fear sin [M. Abot 2:5].

“‘Blessed [art Thou, O Lord, our God, King of the Universe,] who did not make me a woman,' for, women are not obligated to perform the commandments [T. 6:18].”

3. **II:3:** Said R. Aha, “‘But he who is joined with all the living has hope’ [Qoh. 9:4]. Even those [soldiers] who stretched forth their hands [to destroy] the Sanctuary have hope. [In what is their hope?] They cannot be brought near [to enter paradise] because they have already stretched forth their hands [to destroy] the Sanctuary. They cannot be driven away [to damnation], because they have repented. [They are not judged and cannot be condemned.] Concerning such persons it is said, ‘[They shall] sleep a perpetual sleep and not wake, say the Lord’ [Jer. 51:39]. [They remain in a state of limbo forever.]”
4. **II:4:** One who passes before a house of idolatry says, “‘The Lord tears down the house of the proud” [Prov. 15:25].
5. **II:5:** One who sees a black, a red, or a white skinned person, or a hunchback, or a midget says, “‘Blessed [art Thou, O Lord, our God, King of the Universe,] who changes the creatures.” [One who sees an] amputee, or the lame, a blind person, or a person afflicted with boils says, “‘Blessed [art Thou, O Lord, our God, King of the Universe,] the true judge [T. 6:3].”
6. **II:6:** One who sees handsome people or beautiful trees says, “‘Blessed [art Thou, O Lord, our God, King of the Universe,] who created handsome creatures in his world” [T. 6:4]. Once R. Gamaliel saw a beautiful gentile woman and recited a blessing on her account. But did not R. Zeira in the name of R. Yosé bar Haninah, R. Ba, R. Hiyya in the name of R. Yohanan say, “‘You shall not make marriages [thnm] with them’ [Deut. 7:3]. [This means] you shall not attribute beauty [hn] to them!” [A play on the words.] What did [R. Gamaliel] say? He did not exclaim, “‘Abascanta, may no harm befall you [for you are beautiful]!” But he merely noted that God created beautiful creatures in the world. For even if he saw a beautiful camel, horse or donkey he would say, “‘Blessed [art Thou, O Lord, our God, King of the Universe,] who created beautiful creatures.”
7. **II:7:** When one hears the cock crow he says, “‘Blessed [art Thou, O Lord, our God, King of the Universe,] who knows the secrets.” [This accords with the verse,] “‘Who has put wisdom in the clouds, or given understanding to the cock” [Job 38:36].

8. **II:8:** One who sees a crowd says, “Blessed [art Thou, O Lord, our God, King of the Universe,] who knows the secrets. Just as their faces are different one from the other, so are their opinions different one from the other.” When Ben Zoma saw crowds in Jerusalem [T.: on the Temple Mount] he would say, “Blessed is he who created all these people to serve me. How hard did Adam have to toil, before eating even a morsel. He first plowed, seeded, weeded, irrigated, reaped, made sheaves, threshed, winnowed, separated, ground, sifted, kneaded, baked and only then could he eat a morsel. But I arise in the morning and find all this prepared before me. “See how hard Adam toiled before he had a shirt to wear. He sheared, bleached, separated, dyed, spun, wove, washed, sewed and only then did he have a shirt to wear. But I arise in the morning and find all this prepared for me. How many craftsmen must rise early and retire late [to prepare my food and clothing]. And I arise in the morning and find all this before me.” And so Ben Zoma would say, “What does an ungrateful guest say? ‘What did I take from this householder to eat or drink? I ate just one slice of his bread and drank just one cup of his wine. He expended his energies [to prepare the meal] only on behalf of his wife and children.’ “But the grateful guest says, ‘Blessed be this householder. May this householder be remembered for good. How much wine did he bring before me! How many slices [of bread, meat and cake] did he bring before me! How much energy did he expend on my behalf. He expended his energies only for me. And so he says, ‘Remember to extol his work, of which men have sung’ [Job 36:24] [T. 6:2].”

LIV. YERUSHALMI BERAKHOT 9:2

[A] FOR [SEEING] METEORS, AND FOR EARTH TREMORS,

1. **I:1:** Taught Bar Qappara, “They sound the shofar [and fast and pray] on account of [the fear of the destructive power of] earth tremors.”
2. **I:2:** Samuel said, “The world would be destroyed if a comet passed through the constellation of Orion.”
3. **I:3:** Elijah [the prophet] of blessed memory asked R. Nehorai, “Why do earthquakes occur?” He said to him, “On account of the sins of [those who do not separate] heave-offerings and tithes [from their produce].” One verse says, “[God protects the Land of Israel], the eyes of the Lord your God are always upon it” [Deut. 11:12]. And a second verse says, “[God] who looks upon the earth and it trembles, who

touches the mountains and they smoke” [Ps. 104:32]. How can one reconcile these two verses? When Israel obeys God’s will and properly separates tithes then, “The eyes of the Lord your God are always upon it, from the beginning of the year to the end of the year” [Deut. 11:12], and the Land cannot be damaged. But when Israel does not obey God’s will, and does not properly separate tithes [from the produce of the earth], then he, “Looks upon the earth and it trembles” [Ps. 104:32].” [Elijah] said to him [Nehorai], “My son, on your life, what you say [about earthquakes] does make sense. But this is the main [reason that there are earthquakes]. When the Holy One, blessed be He, looks down on the theaters and circuses that sit secure, serene and peaceful [in Israel], and [he looks down] on the ruins of the Temple, he shakes the world to destroy it [and the earth trembles]. In this regard [the verse says], ‘The Lord will roar from on high, and from his holy habitation utter his voice’ [Jer. 25:30]. [It means he will roar] on account of [the destruction of] his Temple.”

4. **I:4:** Elijah of blessed memory asked R. Nehorai, “Why did God create insects and creeping things in his world?” He said to him, “They were created to serve a need. When God’s creatures sin, he looks upon them and says, ‘Lo, I sustain those creatures that serve no [useful] purpose, all the more must I sustain those creatures that serve some [useful] purpose [even though they sin].’” He [Elijah] said to him, “They serve other useful purposes: flies [may be crushed and used as ointment] for a wasp’s sting; bed bugs [may be prepared in a potion to remove] a leech; lizards [may be made into an ointment] for sores; snails [may be used to treat] skin eruptions; spiders [may be used in an ointment to treat] a scorpion’s bite.”

[B] AND FOR LIGHTNING, AND FOR THUNDER, AND FOR THE WINDS, ONE RECITES, “**BLESSED [ART THOU, O LORD, OUR GOD, KING OF THE UNIVERSE,] WHOSE POWER FILLS THE WORLD.**” FOR [SEEING] THE MOUNTAINS, AND FOR THE HILLS, AND FOR THE SEAS, AND FOR THE RIVERS, AND FOR THE DESERTS, ONE RECITES, “**BLESSED [ART THOU, O LORD, OUR GOD, KING OF THE UNIVERSE,] THE MAKER OF [ALL OF] CREATION.**”

1. **II:1:** R. Jeremiah and R. Zeira in the name of R. Hasdai, “It is sufficient [if one recites this blessing] once during the day [even if the lightning continues throughout the day].” Said R. Yosé, “How do we explain [this previous view]? In a case where the storm continues steadily it is sufficient that he recites the blessing once during the day. But if the storm intermittently ceases, he must recite the blessing each time [there is new lightning or thunder].”

2. **II:2:** If one was sitting in an outhouse or lavatory [where one is not permitted to recite a blessing, and he hears thunder], if he can go outside and recite the blessing right away [upon hearing the thunder], he must go out. But if not, he need not go out [for the purpose of reciting the blessing].

[C] **R. JUDAH SAYS, “ONE WHO SEES THE MEDITERRANEAN SEA RECITES, ‘BLESSED [ART THOU, O LORD, OUR GOD, KING OF THE UNIVERSE,] WHO MADE THE MEDITERRANEAN SEA.’ “[HE ONLY RECITES THIS BLESSING] WHEN HE SEES IT [THE SEA] AT INTERVALS.”**

1. **III:1:** The Mishnah speaks of strong winds. But for gentle winds one recites, “Blessed [art Thou, O Lord, our God, King of the Universe,] who made all creation.”
2. **III:2:** Said R. Joshua b. Hananiah, “When a wind comes upon the earth, the Holy one, blessed be He, breaks it up on the mountains, and weakens it on the hills and says to it, ‘Make sure you do not damage my creations.’” What is the basis [in Scripture for this statement]? “For from me proceeds the spirit [wind]” (Isa. 57:16). He weakens it, as it says, “When my spirit [wind] is faint” (Ps. 142:3). And why does he do all this [i.e. weaken the winds]? R. Huna in the name of R. Aha, “I have made the breath [souls] of life [conclusion of Isa. 57:16] – [I weakened the winds] on behalf of [the safety of] those souls which I have made.”
3. **III:3:** [He only recites this blessing] when he see it [the sea] at intervals [M. 9:2]. How long is an interval? Thirty days.
4. **III:4:** Simeon Qamatraya asked R. Hiyya bar Ba, “Because I am a donkey driver and I go to Jerusalem [regularly] throughout the year [to deliver goods], must I rend my garments [each time I go there as a sign of mourning over the destruction of the Temple]?”
5. **III:5:** Huna, Simeon Qamatraya in the name of R. Samuel bar Nahman, “‘And Jonathan the son of Gershom, son of Menasseh [alt. reading in Judges: Moses], and his sons were priests to the tribe of the Danites until the day of captivity of the Land’ (Judges 18:30). The letter nun [in the name mnsh] is suspended [above the other letters]. [This teaches that] if he was worthy, [they called him] Son of Moses [msh, without the nun]. But if not, [they called him] Son of Menasseh [who was evil, cf. 2 Kings 21].” The associates posed the following question to R. Samuel bar Nahman, “If he [Jonathan] was a priest to a foreign god, why was he granted longevity? [The verse says, “His sons were priests until the day of the captivity of the Land. So they set up

Micah's graven image which he made, as long as the house of God was at Shiloh" (Judges 18:30-31).] He said to them, "[He was granted longevity] because he acted maliciously toward his idol."

6. **III:6:** One who sees the sun in its full cycle, [once in twenty-eight years] or the moon in its full cycle, or the clear firmament recites the blessing, "Blessed [art Thou, O Lord, our God, King of the Universe,] who made creation." (Cf. T. 6:6.) Said R. Huna, "This refers only [to one who sees the clear firmament] during the rainy season and only after three [consecutive rainy] days." In this regard [the verse says,] "And now men cannot look on the light [when it is bright in the skies, when the wind has passed and cleared them. Out of the north comes golden splendor; God is clothed with terrible majesty]" (Job 37:21-22).
7. **III:7:** In the Prayer [of the Additional Service for the new moon] R. Yosé bar Nehorai said, "[You conclude the middle blessing:] 'Who sanctifies Israel and renews the months.'" R. Hiyya bar Ashi said, "[You conclude it:] 'Who sanctifies Israel and the new moons.'" Samuel said, "One must recite [on the new moon the paragraph recited on the festivals:] 'O Lord our God, bestow upon us the blessing of thy holy festivals, etc.'" Rab said, "One must mention the season [as on the festival: 'Thou hast given us in love, O Lord our God, appointed times for gladness, festivals and seasons for joy this day of the new moon, etc.']"
8. **III:8:** One who passes between graves [in a cemetery], what does he recite? "Blessed [art Thou, O Lord, our God, King of the Universe,] who resurrects the dead." (Cf. T. 6:6.) R. Hiyya in the name of R. Yohanan [says he recites], "Blessed [art Thou, O Lord, our God, King of the Universe] who is true to his word to resurrect the dead." R. Hiyya in the name of R. Yohanan [says he recites], "He who knows your numbers, He shall awaken you, He shall remove the dust from your eyes. Blessed [art Thou, O Lord, our God, King of the Universe,] who resurrects the dead." R. Eliezer in the name of R. Hanina [says he recites], "He who created you with justice, and sustained you with justice, and removed you [from the world] with justice, and will resurrect you with justice; He who knows your numbers, He shall remove the dust from your eyes. Blessed [art Thou, O Lord, our God, King of the Universe,] who resurrects the dead."
9. **III:9:** One who sees a rainbow in the sky recites, "Blessed [art Thou, O Lord, our God, King of the Universe,] who remembers the covenant" [T. 6:5]. R. Hiyya in the name of R. Yohanan, "Blessed [art

Thou, O Lord, our God, King of the Universe,] who is true in his covenant and who remembers his covenant.”

- 10. III:10:** Hezekiah in the name of R. Jeremiah, “If R. Simeon b. Yohai would say, ‘Valley, valley. Fill up with gold coins!’ It filled up.” [So great was his power.] R. Hezekiah in the name of R. Jeremiah, “So R. Simeon b. Yohai would say, ‘I saw [in a vision] the inhabitants of the world-to-come [heaven] and they will be few! But even if there be just three, my son and I will be among them. And if there be [just] two, my son and I will be those two!’” R. Hezekiah in the name of R. Jeremiah, “So R. Simeon b. Yohai would say, ‘Let [the merit of] Abraham come before God [on behalf of all those who lived] from his time to mine. Let my merit come before God [for those who shall live] from my time until the end of all generations. And if [my merit] will not suffice, then combine the merit of Ahiyah the Shilonite [cf. I Kings 11-15] with mine, and we shall come before God [on behalf of] the entire nation.’”

[D] FOR RAIN, AND FOR GOOD TIDINGS, ONE RECITES, “BLESSED [ART THOU, O LORD, OUR GOD, KING OF THE UNIVERSE,] WHO IS GOOD AND DOES GOOD.” AND FOR BAD TIDINGS ONE RECITES, “BLESSED [ART THOU, O LORD, OUR GOD, KING OF THE UNIVERSE,] TRUE JUDGE.”

- 1. IV:1:** Why did they see fit to juxtapose [in Mishnah 9:2D-E the rule regarding the blessing one recites for] good tidings and [the rule regarding the blessing one recites] for the rains? R. Berekhiah in the name of R. Levi, “On account of [the juxtaposition of these matters in the verse], ‘Like cold water to a thirsty soul [i.e. like rain], so is good news from a far country’ (Prov. 25:25).”
- 2. IV:2:** R. Judah bar Ezekiel said, “My father used to recite this blessing over rainfall: ‘May your name our king be magnified, and sanctified, and blessed, and glorified for each and every drop of rain which you cause to fall for our sake. For you separate each droplet by itself [as it says], ‘For he draws up the drops of water, [he distills his mist in the rain]’ (Job 36:27).”
- 3. IV:3:** Said R. Zeira, “If one sees prices decline, or that produce is abundant, or that the river provides enough to irrigate the province, he recites, ‘Blessed [art Thou, O Lord, our God, King of the Universe,] who is good and does good.’ If they told someone his father died, he recites, ‘Blessed [art Thou, O Lord, our God, King of the Universe,] the true judge’.” If someone’s father died and [later] he inherited his estate, he [also] recites, “Blessed [art Thou, O Lord, our God, King of the Universe,] who is good and does good’.”

LV. YERUSHALMI BERAKHOT 9:3

[A] **ONE WHO BUILT A NEW HOUSE, OR BOUGHT NEW CLOTHES SAYS, “BLESSED [ART THOU, O LORD, OUR GOD, KING OF THE UNIVERSE, WHO KEPT US ALIVE, AND SUSTAINED US, AND] BROUGHT US TO THIS OCCASION.” ONE RECITES A BLESSING OVER EVIL, AS HE WOULD RECITE OVER GOOD. AND ONE RECITES A BLESSING OVER GOOD, AS HE WOULD RECITE OVER EVIL.**

- 1.** **I:1:** Said R. Hiyya bar Ba, “[This rule that he recites a blessing applies] not only to new clothes, but also to worn clothes, if they are new for him.” R. Jacob bar Zabedi in the name of R. Hiyya bar Abba said, “If one buys [new clothes] he says, ‘Blessed [art Thou, O Lord, our God, King of the Universe,] who kept us alive, and sustained us, and brought us to this occasion.’ “If they are given to him he says, ‘Blessed [art Thou, O Lord, our God, King of the Universe,] who is good and does good’.” R. Ba, the father of R. Ba Mari, in the name of R. Aha, “If one buys them he says, ‘Blessed [art Thou, O Lord, our God, King of the Universe, who kept us alive and sustained us, and] brought us to this occasion.’ “If they were given to him he says, ‘Blessed [art Thou, O Lord, our God, King of the Universe,] who is good and does good.’ “When one puts on clothing, he says, ‘Blessed [art Thou, O Lord, our God, King of the Universe,] who clothes the naked.”
- 2.** **I:2:** [One recites a blessing over the performance of all the commandments.] One who makes for himself a sukkah recites, “Blessed [art Thou, O Lord, our God, King of the Universe,] who sanctified us with his commandments and commanded us to make a sukkah” [T. 6:9]. [One who makes a sukkah] for others [recites, “Blessed art Thou, O Lord, our God, King of the Universe,] to make for Him a sukkah for his sake.” When he enters to dwell in it he recites, “Blessed [art Thou, O Lord, our God, King of the Universe,] who sanctified us with his commandments and commanded us to dwell in a sukkah.” Once he recites the blessing for [the commandment to dwell in] it on the first night of the festival he need not recite it again [for the remainder of the festival]. Likewise, one who makes for himself a lulab recites, “Blessed [art Thou, O Lord, our God, King of the Universe,] who sanctified us with his commandments and commanded us to make a lulab.” [One who makes a lulab] for another [recites, “Blessed art Thou, O Lord, our God, King of the Universe] to make lulab for his sake.” When he takes hold of it [to fulfill the commandment] he recites, Blessed [art Thou, O Lord, our God, King

of the Universe, who commanded us to take hold of the lulab,” and “Blessed [art Thou, O Lord, our God, King of the Universe,] who has kept us alive, [and sustained us, and brought us to] this occasion.” And he must recite the blessings each time he takes hold of it. One who makes for himself a mezuzah recites, “Blessed [art Thou, O Lord, our God, King of the Universe, who sanctified us with his commandments and commanded us] to make a mezuzah.” [One who makes a mezuzah] for another [recites, “Blessed art Thou, O Lord, our God, King of the Universe, who sanctified us with his commandments and commanded us] to make a mezuzah for his sake.” When he sets it [in the door post] he recites, “Blessed [art Thou, O Lord, our God, King of the Universe,] who sanctified us with his commandments and commanded us regarding the commandments of the mezuzah. One who makes for himself tefillin [recites, “Blessed art Thou, O Lord, our God, King of the Universe, who sanctified us with his commandments and commanded us to make tefillin.”] One who makes for others tefillin [recites, “Blessed art Thou, O Lord, our God, King of the Universe, who sanctified us with his commandments and commanded us to make tefillin for his sake.”] When he puts them on he recites, “Blessed [art Thou, O Lord, our God, King of the Universe,] concerning the commandment of the tefillin. One who makes fringes [in a garment] for himself [recites, “Blessed art Thou, O Lord, our God, King of the Universe, who sanctified us with his commandments and commanded us to make fringes.”] [One who makes fringes] for others [recites, “Blessed art Thou, O Lord, our God, King of the Universe, who sanctified us with his commandments and commanded us to make fringes for his sake.”] When he puts them on, [he recites, “Blessed art Thou, O Lord, our God, King of the Universe, who sanctified us with his commandments and commanded us concerning the commandment of fringes.”] One who separates heave-offerings and tithes recites, “Blessed [art Thou, O Lord, our God, King of the Universe] who sanctified us with his commandments and commanded us to separate heave-offering and tithes.” [One who separates these] for others recites, “Blessed [art Thou, O Lord, our God, King of the Universe,] to separate heave-offering and tithes for his sake.” He who slaughters must recite, “Blessed [art Thou, O Lord, our God, King of the Universe, who sanctified us with his commandments and] commanded us regarding slaughtering.” He who covers the blood recites, “Blessed [art Thou, O Lord, our God, King of the Universe, who sanctified us with his commandments and commanded us] concerning the covering of the blood.” He who circumcises must recite, “Blessed [art Thou, O Lord, our God, King of the Universe, who sanctified us with his commandments] and commanded us

regarding circumcision.” The child’s father recites, “Blessed [art Thou, O Lord, our God, King of the Universe, who sanctified us with his commandments] and commanded us to bring him into the covenant of Abraham our forefather.” Those [guests] who are standing [at the ceremony] must recite, “Just as you have brought him into the covenant, so shall you bring him to Torah, and marriage [and good deeds].” The one who recites the blessing [which follows the ceremony] must recite this blessing, “Blessed [art Thou, O Lord, our God, King of the Universe] who sanctified [Isaac] the beloved in the womb and placed the mark of His statute in his flesh, and [placed it] on his offspring as a seal the sign of the sacred covenant. So on the merits of this, living God, our support, our rock, you commanded us [to circumcise our sons] so we may save our beloved kindred from destruction. Blessed art Thou O Lord, who establishes the covenant.” [The version of this passage in T. 6:9 has several additions and omissions and a slightly different order. Some identify Abraham as the “beloved.”]

- 3.** **I:3:** When does one recite the blessing over [the performance of] the commandments? R. Yohanan says, “Prior to performing them.” R. Huna says, “At the same time one performs them.”

[B] **AND ONE WHO CRIES OUT OVER A PAST OCCURRENCE, LO, THIS IS A VAIN PRAYER. HOW SO? ONE WHOSE WIFE WAS PREGNANT AND HE RECITED, “MAY IT BE THY WILL THAT SHE BEAR A MALE CHILD,” LO, THIS IS A VAIN PRAYER. ONE WHO WAS COMING DOWN THE ROAD, AND HE HEARD CRIES IN THE CITY AND RECITED, “MAY IT BE THY WILL THAT THESE [CRIES] DO NOT COME FROM MY HOUSE,” LO, THIS IS A VAIN PRAYER.**

- 1.** **II:1:** The House of Yannai say, “Our Mishnah refers to a situation where the woman is sitting in the labor chair. But before that time one may pray [for a male child.]” Said R. Judah b. Pazzi, “Even if she is sitting in the labor chair, the sex of the fetus can be changed [by God], in accord with the verse, ‘Behold, like the clay in the potter’s hand, so are you in my hand, O house of Israel’ (Jer. 18:6).” Rabbi [said] in the name of the House of Yannai, “Originally [as a fetus], Dinah was a male. After Rachel prayed, she was changed into a female. In this regard it says, ‘Afterwards she bore a daughter, and called her name Dinah’ (Gen. 30:21). After Rachel prayed, Dinah was changed into a female.” And R. Judah b. Pazzi said in the name of the House of R. Yannai, “Our mother Rachel was one of the earliest prophetesses. She said, ‘Another shall descend from me.’”

2. **II:2:** What may one who was coming home off the road say [if he hears cries in the city, M. 9:3E]? “I am sure that they do not come from my house [showing his faith in God].”

LVI. YERUSHALMI BERAKHOT 9:4

[A] ONE WHO ENTERS A TOWN RECITES TWO PRAYERS; ONE ON HIS ENTRY, AND ONE ON HIS EXIT. BEN AZZAI SAYS, “[HE RECITES] FOUR [PRAYERS], TWO ON HIS ENTRY, AND TWO ON HIS EXIT. HE GIVES THANKS FOR THE PAST AND CRIES OUT FOR THE FUTURE [BOTH UPON HIS ARRIVAL AND HIS DEPARTURE].”

1. **I:1:** One who enters a town recites two prayers, one on his entry and one on his exit. What does he say when he enters? “May it be thy will, Lord my God, God of my fathers, that you bring me into this town in peace.” When he exits what does he say? “I give thanks to thee, Lord my God, that you brought me into this town in peace. So may it be thy will that you bring me forth from this town in peace.” Ben Azzai says, “[He recites] four [blessings]: two on his entry and two on his exit.” He says, “May it be thy will, Lord my God, God of my fathers, that you bring me into this town in peace.” Once he has entered, he says, “I give thanks to thee, Lord my God, God of my fathers, that you brought me in peace. So may it be thy will that you bring me forth in peace.” When he is exiting he says, “May it be thy will, Lord my God, that you bring me forth in peace.” Once he has exited, he says, “I give thanks to thee, Lord my God, God of my fathers, that you brought me forth in peace. So may it be thy will to bring me to my house in peace.” Or, “[That you bring me] to such and such a place in peace” [T. 6:16].
2. **I:2:** One who enters an outhouse recites two blessings, one when he enters, one when he leaves. When he enters what does he say? “May you be honored, most honorable ministering angels. These are our ways. Make the way clear for us. Blessed is the most honored God.” And when he leaves what does he say? Blessed [art Thou, O Lord, our God, King of the Universe,] who formed man in his wisdom...”
3. **I:3:** One who enters a bathhouse recites two prayers, one when he enters, one when he leaves [T. 6:17]. What does he say when he enters? “May it be thy will, Lord my God, that you protect me from the flames of the fire, and from injury by the steam, and from the collapse of the building. And may nothing occur to endanger my life. But if something happens, may my death atone for all of my sins. And save me from this and similar dangers in times to come.” And what does he

say when he leaves? “I give thanks to you, Lord my God, for you saved me from the fire.”

LVII. YERUSHALMI BERAKHOT 9:5

[A] A PERSON IS OBLIGATED TO RECITE A BLESSING OVER BAD FORTUNE, JUST AS HE RECITES A BLESSING OVER GOOD FORTUNE. AS IT SAYS, “AND YOU SHALL LOVE THE LORD YOUR GOD WITH ALL YOUR HEART, AND WITH ALL YOUR SOUL, AND WITH ALL YOU MIGHT” (DEUT. 6:5). “WITH ALL YOUR HEART” – WITH YOUR TWO DESIRES, WITH YOUR DESIRE FOR GOOD, AND WITH YOUR DESIRE FOR EVIL. “WITH ALL YOUR SOUL” – EVEN IF HE TAKES YOUR SOUL. “WITH ALL YOUR MIGHT” – WITH ALL YOUR WEALTH. ANOTHER INTERPRETATION: “WITH ALL YOUR MIGHT [M’DK]” – FOR EVERY MEASURE [MYDH] WHICH HE METES OUT FOR YOU [MWDD LK], THANK HIM [MWDH LW] GREATLY [M’D M’D]. [THIS INTERPRETATION IS BASED ON A PLAY ON WORDS.]

1. I:1: R. Berekhiah in the name of R. Levi, “[One must recite a blessing over misfortune] on account of the verse, ‘But Thou, O Lord, art on high forever’ (Ps. 92:8). Whatever you [O Lord] do is justified. “It is the way of the world that when a human king sits and grants a pardon, all praise him. But when he invokes the death penalty, all murmur against him. [They ask] why has he gotten carried away in his judgments? But this is not [how people respond to judgments] of the Holy One, blessed be He. Rather [whatever his judgment, they always say,] ‘But Thou, O Lord, art on high forever.’ Whatever you [O Lord] do is justified.” R. Huna in the name of R. Aha, “‘A Psalm of David. I will sing of loving kindness and justice; to the, O Lord, I will sing’ (Ps 101:1). David said to the Holy One, blessed be He, ‘If you act towards me out of loving kindness, I will sing, and if you act towards me out of justice, I will sing. Either way, to thee O Lord, I will sing.’” Said R. Tanhuma b. Judah, “‘In God, whose word I praise, in the Lord, whose word I praise’ (Ps. 56:10). For both [God’s] attribute of justice, and the [Lord’s] attribute of mercy, I praise.” And sages say, “‘I will lift up the cup of salvation and call on the name of the Lord’ (Ps. 116:13). ‘I suffered distress and anguish. Then I called on the name of the Lord’ (Ps. 116:3-4). For both [salvation and distress] he, ‘Called on the name of the Lord.’”

2. I:2: Let love motivate your actions and let fear motivate your actions. [How so?] Let love motivate your actions. And if you begin to despise [the commandments or Torah], recall that you love [God]. And one who loves [God] cannot despise [His commandments]. Let fear [also]

motivate your actions. And if you begin to rebel [against God's commandments or Torah], recall that you fear him. And one who fears does not rebel. There are seven kinds of pietists: The showy [pietist], the haughty [pietist], the bookkeeper [pietist], the parsimonious [pietist], the repaying [pietist], the fearing [pietist], the loving [pietist]. The "showy [pietist]" carries his good deeds on his shoulder [to show them off]. The "haughty [pietist]" says, "Wait for me. I am [busy using my time] to fulfill the commandments! [I have no time for you.]" The "bookkeeper [pietist]" pays off each debt [i.e. sin] by performing a commandment [good deed]. The "parsimonious [pietist]" says, "From the little I have, what can I set aside for performing commandments?" The "repaying [pietist]" says, "Tell me what sin I have committed and I will perform a commandment to offset it." [These five types are negative, pompous, ostentatious models.] The "fearing" [pietist emulates] Job. The "loving" [pietist emulates] Abraham. And none is more beloved of God than the "loving" [pietist who emulates] Abraham.

- 3. I:3:** Aqiba was being tortured [lit.: being judged] by the evil Tinneius Rufus. When [he was close to death,] the time to recite the Shema' approached. He began to recite the Shema' and he smiled. He [Tinneius] said to him, "Elder, either you are a sorcerer [who does not feel pain] or you mock the torture [which I inflict upon you]. He [Aqiba] said to him, "Woe unto you. I am neither a sorcerer, nor a mocker. But [I now was thinking,] all my life when I recited this verse, I was troubled and wondered when I would be able to fulfill all three aspects [of this verse]: 'And you shall love the Lord your God with all you heart, and with all your soul, and with all you might' (Deut. 6:5). I have loved Him with all my heart. And I have loved him with all my wealth. But I did not know how I would [fulfill the verse and] love him with all my soul. "And now the time has come [for me to love him] with all my soul, and the time has come to recite the Shema'. It is now clear to me [how I shall serve Him with all my soul]. For this reason I now am reciting and smiling." And just as he said this his soul passed from him. Nehemiah Emsoni served R. Aqiba for twenty-two years [as his disciple]. And [Aqiba] taught him [what one could include in the interpretation of a verse based on the presence of the particles in the Torah] 't and gm [and what one could exclude in the interpretation of a verse based on each particle] 'k and rq. He said to him, "What about that which is written, You shall fear ['t] the Lord your God' (Deut. 6:13)?" He said to him," [The presence in the verse of the particle 't teaches: You shall fear] Him and His Torah."

[B] A PERSON SHOULD NOT ACT FRIVOLOUSLY OPPOSITE THE EASTERN GATE [OF THE TEMPLE] FOR IT FACES THE CHAMBER OF THE HOLY OF HOLIES.

- 1. II:1:** It was taught: [One who is north of the Temple Mount] when he passes water, he should face north. When he moves his bowels, lo he should face South. Said R. Yosé b. R. Bun, “In this regard it was taught: ‘From Mount Scopus or closer [to the Temple one must follow this practice.]’” R. Aqiba says, “[One must follow this practice] in any place. And especially in a place where there is no wall [separating between the person and the Temple Mount].” It was taught: One who moves his bowels should not face east-west but should face in another direction.

[C] ONE SHALL NOT ENTER THE TEMPLE MOUNT WITH THIS WALKING STICK, OR WITH HIS OVERSHOES, OR WITH HIS MONEY BAG, OR WITH DUST ON HIS FEET. AND ONE SHOULD NOT USE [THE TEMPLE MOUNT] FOR A SHORTCUT. AND SPITTING [WHILE ON THE TEMPLE MOUNT IS FORBIDDEN, BASED ON AN INFERENCE] FROM A QAL WAHOMER [AN ARGUMENT A MINORI AD MAJUS]. [AT ONE TIME] THEY USED TO SAY, “FOREVER,”

- 1. III:1:** It was taught: One should not enter the Temple mount [with his walking stick] or with his overshoes, [or with his money bag] or with dust on his feet, [M. 9:5] Or with his money tied in his purse [lit.: garment], or with his money bag tied about him. What is the basis [in Scripture for this statement]? ‘Guard your steps when you go to the house of the Lord’ (Qoheleth 5:1 RSV). R. Yosé b. R. Judah says, Lo, it says, “He went up to the entrance of the king’s gate, for no one might enter the king’s gate clothed with sackcloth” (Esther 4:2) [T. 6:19]. He said, “If this is how one must act before the gate of such spittle how much more so must one [dress properly when one comes] before the gate of God.” One should not use [the Temple Mount] for a shortcut. And spitting [there is forbidden, based on an inference] from qal wahomer, [M. 9:5] [as follows:] If out of respect alone wearing a shoe is forbidden by the Torah, spitting which is a disgrace is surely forbidden [T. 6:19].

[D] AT THE CONCLUSION OF ALL BLESSINGS RECITED IN THE TEMPLE. AFTER THE HERETICS TRIED TO CORRUPT [THE TRADITION] BY SAYING, “[BASED ON WHAT YOU SAY,] THERE IS ONLY ONE WORLD [AND NO AFTERLIFE IN THE WORLD TO COME],” THEY ORDAINED THAT ONE SHOULD SAY “FOREVER AND EVER.”

- 1. IV:1:** It was taught: They did not respond ‘Amen’ [after a blessing was recited] in the Temple. What did they respond? “Blessed be the name of his glorious kingdom for everlasting.” Whence that they did not respond ‘Amen’ in the Temple? We derive it from the verse, “[Then

the Levites] said, ‘Stand up and bless the Lord your God from everlasting to everlasting. Blessed be thy glorious name which is exalted above all blessing and praise’” (Neh. 9:5). Whence that one must so respond to every blessing? We derive it from, “Exalted above all blessing” (ibid) [T. 6:22].

[E] AND THEY ORDAINED THAT A PERSON SHOULD GREET HIS ASSOCIATE WITH GOD’S NAME. AS IT SAYS, “AND BEHOLD BOAZ CAME FROM BETHLEHEM AND HE SAID TO THE REAPERS, ‘THE LORD BE WITH YOU!’ AND THEY ANSWERED, ‘THE LORD BLESS YOU’” (RUTH 2:4). AND [AS FURTHER SUPPORT FOR THIS PRACTICE] IT SAYS, “[THE ANGEL GREETED GIDEON SAYING,] ‘THE LORD BE WITH YOU MIGHTY MAN OF VALOR’ (JUDGES 6:12).

- 1. V:1:** Said R. Joshua of the South, “In three instances a decree was issued by an earthly court and the heavenly court confirmed it. And they are (1) [the decree concerning] the ban on using the property of Jericho [that it either go to the treasury of the Lord, or be destroyed, cf. Joshua 6:18-19]; (2) [the decree concerning the obligation to read on Purim] the scroll of Esther; (3) [the decree to] greet one’s fellow with God’s name. The ban on using the property of Jericho [was confirmed by God and the Heavenly court, as the verse says,] “Israel has sinned” (Joshua 9:11). [They took from the property which God forbade them.] Was it not Joshua who issued the decree? The verse teaches that the heavenly court confirmed their decree. The [obligation to read] the scroll of Esther [was confirmed by God and the Heavenly court as its says,] “The Jews ordained and they accepted” (Esther 9:27). Rab said, “‘Accepted’ means the heavenly court confirmed [the obligation to celebrate Purim and read the scroll of Esther].” [The practice of] greeting one’s fellow with God’s name [was confirmed by the heavenly court as it says,] “And behold Boaz came from Bethlehem [and he said to the reapers, ‘The Lord be with you!’ And they answered, ‘The Lord bless you’”] (Ruth 2:4). But whence that the heavenly court confirmed [the propriety of this practice]? We derive this from another verse, “And the angel of the Lord appeared to him [Gideon] and said to him, ‘The Lord is with you, you mighty man of valor.’” (Judges 6:12)

[F] AND IT SAYS, “[HARKEN TO YOUR FATHER FOR HE GAVE BIRTH TO YOU AND] DO NOT DESPISE YOUR MOTHER WHEN SHE IS OLD” (PROV. 23:22).

- 1. VI:1:** Said R. Yosé bar Bun, “If the words of the Torah seem old when you say them, do not despise them.” What is the basis [in Scripture for this statement]? “Do not despise your mother when she is old.” Said R. Zeira, “If your motherland [lit: ‘wmh, nation] becomes weak, arise and fortify it, as Elkanah did when he led Israel to the pilgrimage festivals.

In this regard it says, 'Now this man [Elkanah] used to go up year by year from his city to worship and sacrifice to the Lord of hosts at Shiloh.' (1 Sam. 1:3). [And he encouraged others to join with him.]"

[G] AND IT SAYS, "IT IS TIME FOR THE LORD TO ACT, FOR THY LAW HAS BEEN BROKEN" (PS. 119:126). R. NATHAN SAYS, "THY LAW HAS BEEN BROKEN. IT IS TIME 'TO ACT' FOR THE LORD."]

- 1. VII:1:** It is the time for the Lord to act, for thy law has been broken" (Ps. 119:126). R. Nathan transposed the verse. "Thy law has been broken, it is the time for the Lord to act." [M. 9:5.] R. Hilkiyah in the name of R. Simon, "One who only studies Torah occasionally [‘tym], lo, it is as if he destroys the covenant." What is the basis for this? [He reads and interprets the verse as follows:] "They break thy law, who only on occasion [‘t] act for the Lord."
- 2. VII:2:** Hillel the Elder used to say, "You should scatter at the time of gathering. And you should gather in at the time of scattering." And so Hillel used to say, "When you see that the Torah is beloved to all Israel and all rejoice in it, the you must spread it about. And if this is not the case, then you must gather it in [T. 6:24]."
- 3. VII:3:** It was taught: R. Meir used to say, "There is no person in Israel who does not perform one hundred commandments each day [and recite blessings for them]. "One recites the Shema' and recites blessings before and after it. And one eats his bread and recites blessings before and after. And one recites the Prayer of Eighteen Blessings three times. And one performs all the other commandments and recites blessings for them." And so R. Meir used to say, "There is no person in Israel who is not surrounded by commandments. "[Every person wears] tefillin on his head, tefillin on his arm, and has a mezuzah on his door post, the mark of circumcision in his flesh, and four fringes on his garment around him." So did David say, "Seven times a day I praise thee for thy righteous ordinances" (Ps. 119:164). And so he says, "The angel of the Lord encamps around those who fear him and delivers them" (Ps. 34:7). When he [David] entered the bathhouse and realized that he was naked, he said, 'Woe is me for I am stripped of the commandments.' But when he saw the mark of circumcision in his flesh he praised the Lord [in his Psalm] saying, "To the choirmaster according to the sheminith" (Ps. 12:1) [The eighth, sheminith, is an allusion to circumcision on the eighth day.] [T. 6:24-5.]

TRACTATE

PE'AH

For tractate *Pe'ah*, Scripture forms the starting point of the halakhah of the oral Torah for all topics but the soup-kitchen and the dole. The *pe'ah*-portion consists of a part of a field left unharvested, specified at Lev 19:9; gleanings at the same verse (Lev 19:9); forgotten produce (Deut 24:19–20); the separated grapes (Lev 19:10); defective clusters (Lev 19:10); Poorman's Tithe (Deut 26:12–13); and the definition of the poor (Lev 19:10; Deut 24:19, 21). Only the provision of the soup kitchen and the permanent dole, treated as an essentially secular procedure here, stand outside of Scripture.

The halakhah knows four classes of produce reserved by God for the support of the poor, and, as usual, the Tosefta provides a convenient handbook. Matters are systematized by reference to the taxonomic traits of what is given and why. Thus the construction — a two-dimensional grid — is divided by the classification of the source: vineyard, grain-field, fruit-tree at the vertical lines and the classification of the character of the produce — neglected, imperfect — at the horizontal lines. So, in an exemplary case, we uncover orderly data in the usual grid-construction through which the Halakhic classics, the Mishnah and the Tosefta, organize matters in the manner of natural history, by appeal to the indicative traits that inhere in things:

There are four gifts that must be designated for the poor from the produce of a vineyard:

- (1) separated grapes,
- (2) forgotten sheaves,
- (3) *pe'ah*,
- (4) and defective clusters.

There are three gifts that must be designated for the poor from a field of grain:

- (1) gleanings,
- (2) forgotten sheaves,
- (3) and *pe'ah*.

There are two gifts that must be designated for the poor from the fruit of a tree:

- (1) forgotten sheaves,
- (2) and *pe'ah*.

None of these gifts to the poor may be given to a specific poor person as a favor. Even a poor Israelite — they take any produce given to him as a favor from his hand. But any other gifts, which are designated for the priesthood, such as the shoulder, the two cheeks, and the stomach of a sacrificial animal which are given to the Levites as simple gifts, may be given to a specific Levite or priest as a favor. And the householder may give them to whichever priest he wishes. They may not take a priestly gift from a priest to whom it has been given as a favor, nor a Levitical gift from a Levite to whom it has been given as a favor. (*t. Pe'ah* 2:13)

The Tosefta's formulation covers the topic of *pe'ah*, and points toward one dimension of the problematic that guides sages' reading, with its emphasis that none of these gifts to the poor may be given to a specific poor person as a favor.

The difference between gifts to the poor and those to the priesthood then emerges: the former must be treated as ownerless, assigned to the entire class of the poor, not to a specific person. The halakhah then treats the gifts to the poor in the category of produce in the Sabbatical Year, which must be treated as ownerless. Part of the produce distinguished through the passage of the Sabbatical cycle, moreover, Poorman's Tithe, like Second Tithe, is subject to God's very particular regulations. Second Tithe is preserved and eaten in the holy city. Poorman's Tithe is selected for the poor by God's intervention into the harvesting process. The disposition of both kinds of tithe then is subject to God's will in very particular ways, and in both cases, God dictates the rules that govern possession of what none in Israel rightly owns at all.

Defined in one way or in another by relationship to the Land, the poor constitute yet another scheduled caste, to whom the householder hands over a part of God's share of the crops.

{Reference is made throughout to Roger Brooks, *Support for the Poor in the Mishnaic Law of Agriculture: Tractate Peah* (Chico, Calif. Scholars Press, 1983), for the Mishnah and the Tosefta, and *The Talmud of the Land of Israel. A Preliminary Translation and Explanation. Volume 2. Peah* (Chicago: Chicago UP, 1990), for the Yerushalmi.}

Brooks explains the matter in this language:

The Rabbis who wrote and edited Tractate Peah believed that all estate holders in the Land of Israel were responsible for the material welfare of the poor in their vicinity. Their view stemmed from the Rabbinic understanding of a few verses scattered throughout the Hebrew Bible. These passages specified constraints upon normal agricultural procedures, all designed to allow poor and indigent Israelites to eke out a living by gathering scraps of food from fields and orchards. Leviticus 19:9 commanded Israelites to leave a corner of their fields unharvested, so that poor people might reap a bit of grain; Leviticus 19:10 extended this provision by ruling that stalks of grain or clusters of grapes that accidentally fell to the earth were not to be gathered by the harvesters, but left behind for the poor. Deuteronomy 26:19 ruled that produce that workers left behind in a field, orchard, or vineyard, should be abandoned so that the poor, once again, might gain some benefit of the Land's yield. And finally, Deuteronomy 26:12-13 described poorman's tithe, a portion of the yield set aside during the third and sixth years of the Sabbatical cycle.

These various and scattered laws of the corner-offering (*peah*, from which the Tractate takes its name), of grain-gleanings and separated grapes, of forgotten produce, and of poorman's tithe, provide the entire foundation of Tractate Peah. (Brooks, *Yerushalmi*, 1.)

It follows that the poor have (in Brooks's language) "a proprietary entitlement" to part of the crop. Brooks further links the diverse claims of the poor to those of the priesthood:

By placing the tractate in this context [that of Zeraim], Mishnah's redactors indicate that in their view the poor, and the poor-offerings due them, are in some way analogous to the priests and the priestly rations given them. In fact, Mishnah's framers make this analogy explicit when they compare the poor with the priests (see M. 1:6, 4:6-8) and assert that just as the priestly caste receives tithes from each householder, so the poor should receive a part of each crop. God grants both an exclusive right to a portion of the crops grown on the Land of Israel. The poor, no less than the priests, seem to be counted as a distinctive caste of Israelite society. What conception stands behind this analogy between the poor and the priests? It is their common claim on God for protective support. Because neither group possesses a portion of the Land of Israel, neither can produce the food it needs. The priests, for their part, are forbidden by Scriptural law to own land (Dt. 18:1-5). Instead, they act as God's servants in the Temple and are accorded food on that account. Similarly, the poor have lost whatever portion of the Land they may have possessed and so are entitled to receive some of its yield. God supports both the priests and the poor because they neither own land nor attain the economic prosperity promised to all Israelites who live in the Land (Dt. 8:7-10). (Brooks, *Support for the Poor*, 17)

Here, again, we see how Israel and God relate through the nexus of the Land.

YERUSHALMI PEAH

CHAPTER ONE

1:1

- [A] These are things that are not [subject to a specific] measure: (1) [the quantity of produce designated as] *peah*, (2) [the quantity of produce designated as] first fruits, [and brought to the Temple on Pentecost] (see Deut. 26:1-11), (3) [the value of] the appearance-offering, [brought to Jerusalem on each of the three pilgrim festivals] [Deut. 16:16-17], (4) [the quantity of] acts of loving kindness [performed], (5) and [time spent in] study of Torah.
- [B] These are things the benefits of which a person enjoys in this world, while the principal remains for him in the world-to-come: [deeds done in] honor of father and mother, [performance of] righteous deeds, and [acts that] bring peace between one person and another.
- [C] But the study of Torah is equivalent to all of them [together].
- [I:1 A] These are things that are not [subject to a specific] measure:
- [B] *R. Benjamin b. Levi said, "R. Isaac and R. Immi were in session and reflecting on this statement. One asked, 'Why do we not include heave-offering on the list?'*
- [C] "Said R. Immi, 'It is on account of the dispute' [at M. Ter. 4:4: **One who separates much heave-offering — R. Eliezer says, "[He may separate as much as] one tenth, [an amount] equal to [that separated as] heave-offering of the tithe. [If he wishes to separate] more than this, let him designate it [i.e., the surplus] heave-offering of the tithe for a different batch."** R. Ishmael says, "[He may separate so much as to render] half [of the batch] unconsecrated produce and half [of the batch] heave-offering." R. Tarfon and R. Aqiba say, "[He may separate as much heave-offering as he wishes] provided that he leaves there [some] unconsecrated produce."]

- [D] Said R. Yosé, “**A farmer may designate his field’s entire crop as firstfruits [M. Bik. 4:5]** but he may not designate the entire crop as heave-offering.”
- [E] They responded, “Lo, the list includes peah, and **one may not designate his entire field as peah [T. Pe. 1:1].**”
- [F] Said R. Yosé, “The cutting of the field’s first stalk [which renders the crop liable to peah] compared to smoothing over a heap of grain at the threshing floor [when the grain becomes subject to heave-offering.] If he wants to designate all of the pile of grain as heave-offering, he may not do so, *in line with the Tannaite statement*, **One who says, “All [the produce of] my threshing floor is heave-offering,” or, “All my dough is dough-offering,” has not made a valid declaration. [Any such declaration is invalid] unless he leaves a little [produce or dough unconsecrated (M. Ter. 4:5)] [M. Hal. 1:6].**
- [I:2 A] The first stalk that a householder cuts when he starts to reap the harvest — what is the law as to subjecting that stalk itself to designation as peah?
- [B] Is it possible to say [the stalk is subject to designation]? If reaping it made the entire field liable to designation as peah, could this stalk itself be liable to peah? [The field becomes liable only when the farmer takes the first stalk for himself. It remains the property of the farmer and so is exempt from liability as peah.]
- [I:3 A] If the farmer cut the first stalk and the stalk was burned up [so he has not taken a stalk for himself], what is the law as to his having to cut a second stalk?
- [B] *Let us find the answer in the following:* **If the farmer harvested half [of his field, and then sold] this harvested produce [or if he] harvested half [of his field], and then dedicated [to the Temple] this harvested produce, [the farmer] designates peah from the one [remaining half] for the entire [field] [even for the grain that he no longer has in hand] [T. Pe. 1:9].**
- [C] Now isn’t the produce sanctified to the Temple [comparable to the present case, in which the single stalk of grain] was burned? That indicates that if he cut the first stalk and it was burned, he does not have to cut a single stalk; the field is subject to designation as peah.
- [D] If he finished reaping his entire field [and did not designate a portion of the grain as peah], you say the obligation to designate peah reverts to the produce that has been bound up as sheaves. Does the

householder now have to set aside peah including the first stalk [that he cut, which is mixed together with the produce in sheaves?]

[E] Said R. Yosé, “Let us derive the rule for peah designated from sheaves from the rule for peah designated from standing grain. Just as with peah set aside from standing grain the obligation to designate peah does not apply to the first stalk that has been cut, so in the case of peah set side from sheaves, the obligation to designate peah does not apply to the first stalk that is cut.”

[II:1 A] Peah has a minimum measure but it has no maximum measure [T. Pe. 1:1].

[B] Firstfruits and the animal presented as an appearance offering are subject to neither an upper nor a lower limit.

[C] *There is a Tannaite authority who teaches: Peah, firstfruits and the animal presented as an appearance offering are subject to neither an upper nor a lower limit.*

[D] What’s the difference between these two rulings?

[E] [If the householder to begin with] gives less than the specified minimum, [which is one part in sixty] and then wants to add to what he has designated]. [Is the produce he adds as peah held to be true peah? If it is, the grain is exempt from tithing. But the small volume of grain, less than a sixtieth of the crop, may not suffice. Then the produce is ordinary food, not peah, and is subject to tithing.]

[F] *He who says peah is subject to a minimum measure but not to a maximum measure holds that the peah he has assigned to the poor is a gift but not peah, since it is less than the minimum measure. When he goes and adds, all of the produce he has assigned to the poor, including the original portion, is subject to tithing. That is so unless he completes his designation by setting aside the full one sixtieth of the grain. He who says that peah, firstfruits, and the appearance offering are subject to neither an upper nor a lower limit maintains that the grain he designates as peah for the poor is already exempt from tithing because it is peah. If the farmer goes and adds to the designated peah for the poor, the grain he adds is not peah and is subject to tithing.*

[II:2 A] R. Berekhiah asked: “Why don’t we repeat as the Tannaite rule governing items without a specified limit the following as well: the volume of ashes used in the ordeal of the woman accused of adultery [Num. 5:11-31], the quantity of ashes used in the rite of the red cow [Num. 19:1ff.], the quantity of the levirate widow’s spit [Dt. 25:7-10],

the quantity of blood of a bird offering brought by a person declared clean of the skin ailment [Lev. 14:1-8] [since Scripture specifies no measure for these, they belong at M. Pe. 1:1]?

[B] We include in the Mishnah-passage only items that one does over and over, without an upper limit, and through the additional practice of the rite, one obeys an additional commandment. [But as to the items listed by Berekhiah,] even though one does the rites over and over [there being no upper limit,] through the additional practice of the rite, one does not get credit for obeying an additional commandment.

[III:1 A] [the value of] the appearance-offering, [brought to Jerusalem on each of the three pilgrim festivals] [Deut. 16:16-17]:

[B] That refers to the number of physical appearances one makes in the Temple court on the pilgrim festivals. But the value of the appearance offering is subject to a specific minimum value.

[C] *And that is in accord with R. Yohanan, for said R. Yohanan, “The specification of a maah of silver or two pieces of silver derives from the laws of the Torah.”*

[D] *R. Yosé taught before R. Yohanan, “An appearance-offering may be of any value whatsoever. It is the sages who ruled that it must be worth a maah of silver or two pieces of silver.”*

[E] He said to him, “And is such a thing possible [that sages could impose a fixed value where the Torah specified none]?”

[F] Said R. Jonah, “And is it not so that as to all fixed measurements of the law, it is the sages who set those measurements: an olive’s bulk being the minimum volume of corpse-matter that imposes corpse-uncleanness, an olive’s bulk of carrion, a lentil’s bulk of a dead creeping-thing, [and the like]?”

[G] “The purpose of the question had only to do *with that which R. Hoshaiah has taught:*

[H] *“For R. Hoshaiah taught: “They shall not appear before the Lord empty-handed” (Deut. 16:16) — but even any volume at all [suffices]. It is the sages who rule that it must be worth a maah of silver or two pieces of silver.’*

[I] *“Now the question is, ‘Where did sages derive support in the Torah for ruling that the offering must be worth a maah of silver or two pieces of silver?’”*

- [J] *Said R. Yosé b. R. Bun, “R. Yohanan is consistent with his principles and R. Hoshaiah is consistent with his.*
- [K] *“R. Yohanan is consistent with his principles, for it is R. Yohanan who has said, ‘All fixed measurements were revealed as a law to Moses at Sinai.’ That is why he maintains that the requirement that the animals be worth a *maah* of silver or two pieces of silver is based on the authority of the Torah.*
- [L] *“R. Hoshaiah is consistent with his principles, for it is R. Hoshaiah who has said, ‘He who eats forbidden food at this time has to make a record for himself of the volume that he has eaten. It is possible that another court will come along and change the measurements of the volume subject to liability. Then he will have a record of how much he has eaten. [Since he takes account of the possibility that the measurements change, he assumes the court, not the Torah, prescribes them.]’ Accordingly, he has said, ‘The value of an appearance-offering may be any amount of money at all, but it is sages who have ruled that it must be a *maah* of silver or two pieces of silver.’”*
- [M] *They say that R. Yohanan retracted.*
- [N] *Both R. Jonah and R. Jonathan maintain that he did not retract.*
- [O] *There further is the following [evidence that R. Yohanan did not retract]:*
- [P] *Said R. La in the name of R. Immi, “Hezekiah and R. Yohanan disputed as follows:*
- [Q] *“Hezekiah said, ‘A man may split up his obligation [for a festal-offering, which should be worth two pieces of silver. among two separate beasts [each of them worth a single piece of silver].’*
- [R] *“R. Yohanan said, ‘A man may not divide up his obligation among two beasts [each worth half of the required sum], but he has to provide two pieces of silver for each beast.’”*
- [S] *And R. Simeon b. Laqish said, in the name of Hezekiah, “A man may add unconsecrated beasts to the beast he uses for his festal-offering [so as to provide what is needed for all those whom he must feed], but a man may not add coins to the coins designated for the purchase of the festal-offering.”*
- [T] *R. Yohanan said, “A man may add coins to the money he has designated, but a man may not add additional, unconsecrated beasts to the beast [through which he meets his obligation for a festal-offering].”*

- [U] *What would be a practical case [to illustrate what is at issue in this matter]?*
- [V] If a man had designated ten animals [for his festal-offering], if he then offered up five [of them. on the first day of the festival — as to the surplus, what is the law on his putting them off to [and offering them on. the last day of the festival? [Even though thank-offerings and freewill offerings are not offered on a festival, these *were* set aside as offerings. They may be offered. Or, alternatively, whatever is not offered on the first day of the festival is not deemed a festal-offering at all and is not postponed to the final day of the festival.
- [W] *R. Qerispai said, “There is a dispute on this subject between R. Yohanan and R. Simeon b. Laqish.*
- [X] *“One of them said, ‘One postpones [sacrificing the animals to the last festival day].’*
- [Y] *“And the other said, ‘One does not postpone them.’*
- [Z] *“But we do not know which one has said this, and which one has said that.”*
- [AA] *Said R. Zeira, “Let us derive the opinions of the two rabbis from the statements [they have made elsewhere].*
- [BB] *“For R. Yohanan, who said, ‘A man may add money to money already designated for a festal-offering, but a man may not add unconsecrated beasts to the beast he has consecrated for that purpose,’ is [thus] the one who has said, ‘One may postpone offering them [and sacrifice them on the last day of the festival since these beasts have been purchased by money designated for use for the festal-offering, and so they are fit for use on the festival].’*
- [CC] *“R. Simeon b. Laqish, who said, ‘A man may add [unconsecrated] beasts to the beast [he has set aside for the festal-offering], but a man may not add [unconsecrated] coins to the money [he has set aside],’ is [thus] the one who has said, ‘One may put off the animals [for offering at the end of the festival so the leftover animals are not subject to the sanctification for the festal-offering at all]. [Hence they are nothing more than animals for use in fulfilling a vow or for a thank-offering, and these may not be offered on the last festival day.]”*
- [DD] *Simeon bar Ba came along in the name of R. Yohanan: “A man may continue adding [to the beasts for his festal offering, and all of them] may then be put off to the last day of the festival, until he says, ‘I no*

longer have it in mind to add any more animals.’ [At that point he cannot designate any more animals as sacrifices for the festival.]”

[IV:1 A] [the quantity of] acts of loving kindness [performed]:

- [B] *That which you say pertains to* acts of loving kindness carried out by the person of the actor, [for which there is no limit], but as to acts of loving kindness done with one’s property [charitable deeds for example] there are subject to a limit.
- [C] *And that accords with what R. Simeon b. Laqish said in the name of R. Yosé b. Hanina:* “In Usha they voted that a person may set aside a fifth of his property to carry out a particular religious duty.”
- [D] To what extent [is the lower limit for setting aside property to carry out a particular religious duty]?
- [E] R. Gamaliel b. Ininya and R. Abba bar Kahana — one said, “As little as the proper amount to be given as heave-offering [a fiftieth of the yield of the field] or the heave-offering of the tithe [a hundredth of the yield of the field.” And the other said, “ ‘Honor the Lord with your wealth and with the first fruits of all your grain’ (Prov. 3:9) — [one may set aside as little as the amount given] as firstfruits of your grain [one fiftieth of he field].”
- [F] R. Gamaliel b. Ininya *asked before* R. Mana, “If one designates for acts of loving kindness a fifth of his property annually, in five years he will have nothing left.”
- [G] He said to him, “In the first year he separates a fifth of the principal. In subsequent years he designates a fifth of the interest [he gets from the estate].”

[IV:2 A] R. Huna said, “For carrying out a religious duty one designates up to a third of his estate.”

- [B] What is the law? Does this mean for carrying out all religious duties all together one may designate a third of his estate, or may he set aside one third of his estate in order to perform each separate religious duty?
- [C] They reckoned on ruling: for carrying out all religious duties all together one may designate a third of his estate.
- [D] Said R. Abun, “One may set aside one third of his estate in order to perform each separate religious duty.”

[IV:3 A] R. Habiba in the name of Rabbis from over there: “What is the law? As to a third of a person’s estate, it applies to adding a third of the

price paid for merchandise to perform a religious duty through much finer produce.”

[B] *What is a practical case?*

[C] If someone bought stuff for performing a religious duty, if he then found higher quality stuff, how much does the law require him to pay to buy the new stuff? Up to a third more than the price he paid for the original merchandise.

[IV:4 A] A Tannaite statement: R. Ishmael: “‘This is my God and I will glorify him’ (Ex. 15:2), And is it possible for someone to glorify his creator? Rather, ‘I will glorify him by my performance of religious duties. I will make before him a lovely lulab, Sukkah, Shofar, show fringes and phylacteries.’”

[B] Abba Saul says, “I shall emulate him. Just as he is merciful and kind, so you must be merciful and kind.”

[C] There was the incident involving R. Yeshebab, who went and divided all his property among the poor. Rabban Gamaliel sent word to him: Didn’t they say, ‘a person may set aside a fifth of his property to carry out a particular religious duty.’”

[D] Didn’t Rabban Gamaliel flourish prior to the consistory at Usha?

[E] R. Yosé b. R. Bun in the name of R. Levi, “That was the law as they had received it, but they had forgotten it, and then the pairs went and [reasoned the law, and so] came to the same conclusion as their predecessors.”

[F] This serves to teach you that in the case of any matter for which a court is prepared to give up its life, in the end that matter will endure in their hand.

[G] *This is in line with what was said to Moses at Sinai, and accords with what R. Mana said,* “‘For it is no trifle for you, but it is your life, and thereby you shall live long in the land which you are going over the Jordan to possess’ (Deut. 32:47). And if it is a trifle for you, why should that be the case? Because you do not devotedly labor in it. ‘For it is your life’ — under what circumstances is it your life? When you devotedly labor in it.”

[IV:5 A] R. Tanhuma in the name of R. Huna: “‘Bezalel b. Uri b. Hur of the tribe of Judah made all that the Lord commanded Moses’ (Ex. 38:22). What is written here is not, ‘Bezalel b. Uri b. Hur of the tribe of Judah made all that the Lord commanded him,’ but ‘Bezalel b. Uri b. Hur of

the tribe of Judah made all that the Lord commanded Moses' — even those things that God described to Moses but that Bezalel had never heard his master describe, Bezalel on his own arrived at Moses's thoughts and made the items just as they were described to Moses at Sinai."

[IV:6 A] R. Yohanan in the name of R. Banai: "'Just as the Lord commanded his servant Moses, so Moses commanded Joshua, and so did Joshua do. He left nothing undone of all that the Lord has commanded Moses' (Josh. 11:15). What is written here is not, Joshua did all that Moses commanded here, but rather, 'all that the Lord has commanded Moses' — even those things that God described to Moses but that he had never heard his master describe, he on his own arrived at Moses's thoughts and made the items just as they were described to Moses at Sinai.'"

[IV:7 A] R. Yohanan in the name of R. Banai, R. Huna in the name of Rabbi: "'Proper rulings were in his mouth' (Mal. 2:6) — those matters that he explicitly heard from his master. 'And nothing perverse was on his lips' (Mal. 2:6) — Levi performed even those matters that he had never heard from his master.'"

[IV:8 A] And rabbis say, "'For the Lord will be your trust, he will keep your feet from being caught' (Prov. 3:26) — even those things of which you are ignorant.

[B] R. Dosa said, "'he will keep your feet from being caught' — He will keep your feet from being caught in erroneous judgments.'"

[C] And rabbis say, "'he will keep your feet from being caught' — He will keep your feet from being caught in transgression.'"

[D] R. Levi says, "...from demons.'"

[E] Said R. Abba: "'For the Lord will be your trust, he will keep your feet from being caught' (Prov. 3:26) — If you give charity out of your pocket, the Holy One blessed be he will keep you from taxes, penalties, the poll tax, and the crop tax.'"

[IV:9 A] **Monoba[ses the King [of Adiabene] went and gave away [to the poor all of] his treasures during years of famine. His brothers sent [the following message] to him:**

[B] **"Your ancestors stored up treasures and increased the wealth [left for them by] their ancestors. But you went and gave away all of these treasures, both your own and those of your ancestors!"**

- [C] He replied to them, “My ancestors stored up treasures for this lower [world], but I, [through giving charity], have stored up treasures for [the heavenly world] above, as it is stated [in Scripture], ‘Faithfulness will spring up from the ground below, [and righteousness will look down from the sky]’ (Ps. 85:11).
- [D] “My ancestors stored up treasures [for the material world], where the [human] hand can reach but I have stored up treasures [for the non-material world], where the [human] hand cannot reach, as it is stated [in Scripture], ‘Righteousness and justice are the foundation of your throne, [steadfast love and faithfulness go before you] (Ps. 89:14).
- [E] “My ancestors stored up treasures [of a type] that produce no [real] benefits,
- [F] “but I have stored up treasures [of the sort] that do produce benefits, as it is stated [in Scripture], ‘Tell the righteous that it shall be well with them, for they shall reap the benefits of their deeds’ (Is. 3:10).
- [G] “My ancestors stored up treasures of money, but I have stored up treasures of souls, as it is stated [in Scripture], ‘The fruit of the righteous is a tree of life, and a wise man saves the souls [of poor people]’ (Prov. 11:30).
- [H] “My ancestors stored up treasures [that eventually, after their deaths, would benefit only] others, but I have stored up treasures [that will benefit] myself [both in life and in death], as it is stated [in Scripture], ‘It shall be a righteousness to you before the Lord your God’ (Deut. 24:13).
- [I] “My ancestors stored up treasures in this world, but I have stored up treasures for myself in the world-to-come, as it is stated [in Scripture], ‘Your righteousness shall go before you, [and the glory of the Lord shall be your rear-guard]’ (Is. 58:8)” [T. Pe. 4:18].
- [J] Charity and righteous deeds outweigh all other commandments in the Torah.
- [K] Nevertheless, charity [can be given only to the] living, but righteous deeds [can be performed for the] living and the dead.
- [L] Charity [is given only] to poor people, but righteous deeds [are done for both] poor and rich people.

[M] **Charity [is given as an aid for a poor person's] finances, but righteous deeds [aid both a poor person's] finances and his physical needs [T. Pe. 4:19].**

[IV:10 A] R. Yohanan bar Marya in the name of R. Yohanan: “We do not know which is more important, philanthropy or acts of loving kindness. Since it is said, ‘But the Lord’s acts of loving kindness are for ever, and his philanthropy is for the children’s children’ (Ps. 103:17), that is to say that acts of loving kindness are more beloved than philanthropy.”

[V:1 A] **But the study of Torah is equivalent to all of them [together]:**

[B] **They asked R. Joshua, “What is the law as to a man’s teaching his son a book in Greek?” He said to them, “Let him teach [Greek to his son] at the hour that is neither day nor night, as it is said, ‘And you will meditate there in the Torah day and night’ (Josh. 1:8)” [T. A.Z. 1:20].**

[C] *And did not R. Ishmael state a Tannaite judgment: “‘Choose life’ (Dt. 30:19) — that refers to a craft.”*

[D] But it should be forbidden for a man to teach his son a craft, because it is written, ‘And you will meditate there in the Torah day and night’ (Josh. 1:8)”

[E] R. Ba b R. Hiyya bar Vava in the name of R. Yohanan: “[One is forbidden to teach Greek to one’s son because of informers.”

[F] R. Abbahu in the name of R. Yohanan: “It is permitted for someone to teach his daughter Greek, because it is an adornment for her.”

[G] When Simeon bar Va heard this he said, “Since he wanted to teach Greek to his daughters, he assigned his opinion to R. Yohanan.”

[H] May something bad happen to me if I didn’t hear that teaching from R. Yohanan!”

[VI:1 A] **[deeds done in] honor of father and mother:**

[B] R. Abbahu in the name of R. Yohanan: “They asked R. Eliezer, ‘To what extent must one go to honor father and mother?’”

[C] “He said to them, ‘Me do you ask? Go and ask Dama b. Natina.’”

[D] Dama ben Natina was the head of the city councilors. Once his mother hit him in front of his whole council, and the slipper with which she hit him dropped from her hand. He bent down and picked up the slipper for her so that she should not be troubled to do it.

- [VI:2 A] Said R. Hezekiah, “An Ashkelon gentile who was head of the town council — during his entire life he never sat on the stone seat on which his father would sit. When his father died, he treated the stone as his god.”
- [VI:3 A] Once the jaspis stone corresponding to the tribe of Benjamin in the high priest’s breast plate was lost. *They said, “Does anybody have a gemstone to replace it?”*
- [B] *They said, “Dama ben Natina has one. They went to him and agreed with him on a price of a hundred dinars. He went and wanted to bring it to them, but found his father sleeping. Some say the key to the jewelry box was attached to his father’s finger, and others say his father’s feet were resting on the jewelry box. Dama returned and said to them, “I can’t bring you the stone.”*
- [C] *They said, “Maybe he wants more money, so let’s raise the price to two hundred or even a thousand dinars.” [But he wouldn’t bring them the gem.]*
- [D] *When his father woke up from his sleep, he went down and brought them the gem. They wanted to give him the amount of money that they had offered to him at the end. He wouldn’t take it from them. He said, “Shall I sell you’re my father’s honor for money? I won’t profit from honoring my father.”*
- [E] How did the Holy One, blessed be he, reward him?
- [F] Said R. Yosé b. R. Abun, “That very night his cow produced a red heifer [for preparation of purification water, Num. 19]m and all Israel paid him the cow’s weight in gold and bought the cow.”
- [G] Said R. Shabbetai, “It is written, ‘He is great in power and justice, he does not torment those abundant in righteousness’ (Job 37:23). The Holy One, blessed be he, does not delay paying the reward to a gentile who performs a religious duty.”
- [VI:4 A] The mother of R. Tarfon went down to take a walk in her courtyard on the Sabbath, and her slipper fell off, and R. Tarfon went and placed his two hands under the soles of her feet, so that she could walk on them until she got to her couch.
- [B] One time sages went to call on him. She said to them, “Pray for Tarfon, my son, who pays me altogether too much honor.”
- [C] *They said to her, “What does he do for you?” She repeated the story to them.*

- [D] *They said to her, “Even if he did a thousand times more than this, he still would not have paid even half of the honor of which the Torah has spoken.”*
- [VI:5 A] The mother of R. Ishmael went and complained to the rabbis about him. She said, “Rebuke Ishmael, my son, because he does not pay respect to me.”
- [B] *At that moment the faces of our rabbis grew dark. They said, “Is it at all possible that R. Ishmael does not pay honor to his parents?”*
- [C] *They said to her, “What did he do to you?”*
- [D] *She said, “When he comes home from the council house, I want to wash his feet in water and drink the water, and he does not let me do it.”*
- [E] *They said, “Since that is what she deems to be the honor she wants for herself, that indeed is just the kind of honor he must pay to her.”*
- [F] *Said R. Mana, “Well do the millers say, ‘Everyone’s merit is in his own basket.’ [That is, there is a different way of doing good for every man. The mother of R. Tarfon said one thing to them, and they responded thus, and the mother of R. Ishmael said something else to them, and they responded so.”*
- [VI:6 A] *R. Zeira was distressed, saying, “Would that I had a father and a mother, whom I might honor, and so inherit the Garden of Eden.” When he heard these two teachings [about Tarfon and Ishmael], he said, “Blessed be the All-Merciful, that I have no father and mother. I could not behave either like R. Tarfon or like R. Ishmael.”*
- [B] *Said R. Abin, “I am exempt from the requirement of honoring father and mother.”*
- [C] *They say that when his mother became pregnant, his father died, and when his mother gave birth, she died.*
- [VI:7 A] *There is he who feeds his father fattened [birds. and inherits Gehenna. and there is he who ties his father to the millstones [to pull them] and inherits the Garden of Eden.*
- [B] *How does one feed his father fattened [birds] and inherit Gehenna? There was a man who gave his father fattened chickens to eat. One time the father said to him, “My son, how do you come by these things?” He said to him, “Old man, eat and shut up, just like dogs that eat and shut up.” So he turns out to feed his father fattened [birds] and to inherit Gehenna.*

[C] How does he tie his father to the millstones and inherit the Garden of Eden? *There was a man who was a miller, pulling the stones. The government orders came to the millers [for the corvée]. He said to him, “Father, go and pull the wheel in my place. If the [labor for the government] should be dishonorable, it is better that I do it and not you, and if there should be floggings, it is better that I get them and not you.”* So he turns out to tie his father to the millstones and inherits the Garden of Eden.

[VI:8 A] “Every one of you shall revere his mother and his father, [and you shall keep my Sabbaths]” (Lev. 19:3).

[B] And it is said, “You shall fear the Lord your God; [you shall serve him and swear by his name]” (Deut. 6:13).

[C] Scripture so compares the reverence owing to father and mother to the reverence owing to the Omnipresent.

[D] It is said, “Whoever curses his father or his mother shall be put to death” (Ex. 21:17).

[E] And it is said, “[And say to the people of Israel,] ‘Whoever curses his God shall bear his sin’” (Lev. 25:15).

[F] Scripture so compares the penalty for cursing the father and mother to the penalty for cursing the Omnipresent.

[G] But it is not possible to introduce the matter of smiting Heaven.

[H] But these [C, F] are reasonable, for the three of them are partners.

[VI:9 A] What is the way one expresses reverence for the father? He does not sit in his place or speak in his place, he does not contradict him.

[B] And what is the form of honor owing to the father?

[C] **Giving him food to eat, something to drink, clothing him, and covering him and taking him out and bringing him in and washing his face, his hands, and his feet** [T. Qid. 1:1B].

[D] *Whose [food and the like must be given to the father]? [Does the son have to provide it?]*

[E] Huna bar Hiyya said [that the father must supply what is needed for himself]. But there are some who wish to say, “His own must provide what is necessary to support the father.”

[F] And did not R. Abbahu concur, saying in the name of R. Yosé bar Hanina, “How do we know that even if his father said to him, ‘Throw

that wallet into the sea,’ the son must obey? Because even though this upsets him, it makes his father happy.”

[G] **All the same are men and women. But the husband has sufficient means to do these things for the child, and the wife does not have sufficient means to do them, for others have power over her [T. Qid. 1:11].**

[H] If she is widowed or divorced, she is in the same status as he.

[I] *The following saying of R. Hiyya bar Ba differs, for R. Hiyya bar Ba [said], “R. Judah, son of the daughter of R. Simeon b. Yohai taught that R. Simeon b. Yohai taught: ‘Great is the honor owing to father and mother, for the Holy One, blessed be he, gave preference to it, even over the honor owing to God.’ Here is stated, ‘Honor your father and mother, [that your days may be long in the land which the Lord your God gives you]’ (Ex. 20:12). And elsewhere it is stated, ‘Honor the Lord with your substance [and with the firstfruits of all your produce]’ (Prov. 3:9). How then do you honor God? It is with your substance. You set aside gleanings, the forgotten sheaf, and the corner of the field. You set aside heave-offering and first tithe, second tithe and poor man’s tithe, dough offering, you make a tabernacle [for the festival of Sukkot], and take a lulab, a shofar, phylacteries and show fringes, feed the hungry and give drink to the thirsty. Now if you have enough, you are liable for all these things, and if you do not have, you are not liable for any one of them. But when it comes to the matter of honoring father, and mother, whether you have sufficient or whether you do not have, you must honor your father and mother, even if you have to go begging at doorways.”*

[VI:10 A] R. Aha in the name of R. Abba bar Kahana, “It is written, ‘She does not take heed to the path of life. her ways wander and she does not know it’ (Prov. 5:6). The Holy One, blessed be he, took [and kept to himself the reward that is coming to those who carry out their religious duties, so that they should do them in true faith [and without expecting a reward].”

[B] R. Aha in the name of R. Isaac, “‘Keep your heart with all vigilance; for from it flows the springs of life’ (Prov. 4:23). [The meaning is this:] ‘As to all the things about which I spoke to you in the Torah, keep [and do them all], for you do not know from which of them the springs of life will flow to you.’”

[C] Said R. Abba bar Kahana, “The Scripture has compared the easiest of all the religious duties to the most difficult of them all. The easiest of them all is sending forth the dam from the fledglings. The most

difficult of them all is honoring father and mother. Yet in regard to both of them, the same reward is specified: ‘that your days may be long.’”

- [D] Said R. Abun, “Now if in respect to a matter that is tantamount to paying back a debt [that is, the debt one owes one’s father and mother], it is written, ‘[You shall walk in all the way which the Lord your God has commanded you, that you may live,] and that it may go well with you, and that you may live long in the land which you shall possess’ (Deut. 5:33), as to a matter that involves a loss of money and endangerment to life [as some religious duties may require], how much the more so [will there be the reward of long life].”
- [E] Said R. Levi and an [unnamed] rabbi. “A matter that is tantamount to paying back a debt is still greater than a matter that is not tantamount to paying back a debt.”
- [F] *It was taught as a Tannaite rule:* R. Simeon b. Yohai says. “Just as the reward that is coming for doing the two of them is equivalent, so the punishment applying to not doing the two of them is the same: ‘The eye that mocks a father and scorns to obey a mother will be picked out by the ravens of the valley and eaten by the vultures’ (Prov. 30:17). The eye that has ridiculed the notion of honoring the father and mother and that scorns the duty of not taking the dam with the fledglings. ‘will be picked out by the ravens of the valley’: Let the raven come, which is cruel, come and pluck it, but not derive benefit from it. ‘and eaten by the vultures’: Let the vulture come, which is merciful, and eat it and derive benefit from it.”
- [G] *R. Yannai and R. Jonathan were in session. Someone came and kissed the feet of R. Jonathan. R. Yannai said to him, “What is the meaning of this [honor that] he pays you today?”*
- [H] *[Jonathan] said to him, “One time he came to complain to me about his son, so that the son would support him. I said to him to go to the synagogue and get some people to rebuke him [and tell him to support his father].”*
- [I] *[Yannai] said to him, “And why did you not force [the son to do so, by court order]?”*
- [J] *He said to him, “And do they force [children to do so]?”*
- [K] *Yannai] said to him, “And are you still [in doubt about] that?”*
- [L] *They say that R. Jonathan reverted and established the tradition on the matter in his [Yannai’s] name.*

[M] *[So too did] R. Jacob bar Aha come [and give evidence].*

[N] R. Samuel b. Nahman said in the name of R. Jonathan that they force the son to support the father.

[O] Said R. Yosé, “Would that all the traditions I know were so clear and self-evident to me as this one, that they do force the son to support the father.”

[VII:1 A] [the quantity of] acts of loving kindness [performed]:

[B] For it is written, “He who strives to do good and kind deeds attains life, success and honor” (Prov. 21:21). He gets honor in this world and life in the world to come.

[VII:2 A] R. Samuel bar R. Isaac *would take a branch [of-a cedar] and [dance, so] praising a bride [at her wedding, and thereby giving happiness to the bride].*

[B] *The rabbis would ridicule them [for lowering himself by doing so]. Said to them R. Zeira, “Leave him be. Does the old man not know what he is doing?”*

[C] *When he died, a flame came forth from heaven and intervened between his bier and the congregation. For three hours there were voices and thunderings in the world: “Come and see what a sprig of cedar has done for this old man!”*

[D] *[Further] an echo came forth and said, “Woe that Samuel b. R. R. Isaac has died, the doer of merciful deeds.”*

[VIII:1 A] and [acts that] bring peace between one person and another:

[B] It is written, “Shun evil and do good, seek peace and pursue it” (Ps. 34:15) — “seek peace” where you are, “and pursue it” (even elsewhere.

[C] Said R. Tabyomi, “Here it is said, ‘pursue it,’ and there it is said, ‘pursue it’ (Prov 21:21). Just as pursue in the latter setting means one gets honor in this world and life in the world to come,’ so in the initial setting one attains rewards both in this world and in the world to come.”

[IX:1 A] But the study of Torah is equivalent to all of them [together]:

[B] R. Berekhiah and R. Hiyya of Kefar Tehumin: one said, “Even the entire world is not equivalent to a single teaching of the Torah.” And the other said, “Even all the religious duties of the Torah are not equivalent to a single teaching of the Torah.”

[C] *R. Tanhuma and R. Yosé b. Zimra: one ruled in accord with the former and the other with the latter.*

[IX:2 A] R. Abba father of R. Abba bar Mari in the name of R. Aha: “One verse of Scripture says, ‘No goods can equal her’ (Prov. 8:11), and another verse says, ‘All your goods cannot equal her’ (Prov. 3:15). ‘Goods’ — these are precious stones and pearls; ‘your goods’ in the latter verse refers to words of Torah, as it is written, ‘For these I find good’ says the Lord’ (Jer. 9:23).”

[IX:3 A] *Ardavan sent to our holy Rabbi a fine, priceless pearl. He said to him, “Send me something is food as this.”*

[B] *He sent him a single mezuzah.*

[C] *He said to him, “I sent you something beyond price and you sent me something worth one follarion.”*

[D] He sent to him, “Your possessions and my possessions all together are not worth a single word of the Torah. Moreover, you sent me what I have to guard from thieves, and I sent you something that will guard you when you sleep: ‘When you walk it will lead you, when you lie down it will watch over you’ (Prov. 6:22).”

[IX:4 A] *R. Mana identified all the items from the following verse of Scripture: “‘For this is not a trifling thing for you, it is your very life; through it you will long last on the land that you are to possess upon crossing the Jordan’ (Dt., 32:47). ‘For this is not a trifling thing for you,’ — this is study of the Torah. ‘...it is your very life — this refers to honoring father and mother. ‘...through it you will long last’ — this speaks of acts of loving kindness. ‘...on the land that you are to possess upon crossing the Jordan’ — this refers to bringing peace between one person and his fellow.”*

[IX:5 A] **For these things they punish a person in this world, while the principal [i.e., eternal punishment] remains for the world-to-come: (1) for [acts of] idolatrous worship, (2) for incest, (3) for murder, and for gossip, [which is] worse than all of them together [T. Pe. 1:2],**

[B] **for [acts of] idolatrous worship:** “Because he has spurned the word of the Lord and violated his commandment, that person shall be cut off, he bears his guilt” (Num. 15:31). Why does Scripture say, he bears his guilt” (Num. 15:31)? This teaches you that even though he suffers extirpation, still his sin remains within him.

- [C] And it is written, “Moses went back to the Lord and said, ‘Alas, this people is guilty of a great sin in making for themselves a god of gold’” (Ex. 32:31).
- [D] **for incest:** how do we derive [from Scripture eternal punishment for this sin]? “How then could I do this great wicked thing and sin before God?” (Gen. 39:9).
- [E] **for murder:** how do we derive [from Scripture eternal punishment for this sin]? “Cain said to the Lord, ‘My punishment is too great to bear’” (Gen. 4:13).
- [F] **and for gossip:** when Scripture comes to gossip, what does it say? Not “great” nor “large” but “huge”— “May the Lord cut off all flattering lips, every tongue that speaks huge arrogance” (Ps. 12:4).
- [IX:6 A] “And Joseph brought back bad reports of them to their father” (Gen. 37:2) — what did he say?
- [B] R. Meir said, “They were suspect of eating a limb cut off a living animal.”
- [C] R. Judah says, “They were treating disrespectfully the sons of the hand maids, treating them like slaves.”
- [D] R. Simeon says, “They lusted after the local girls.”
- [E] Said R. Judah b. Pazzi, “‘Honest scales and balances are the Lord’s, all the weights in the bag are his work’ (Prov. 16:11).”
- [F] What did Joseph say to his father? As to eating a limb cut off a living animal — said the Holy One blessed be he, “Thus I will prove that they properly slaughter before eating meat: ‘They slaughtered a kid and dipped the tunic in the blood’ (Gen. 37:31).”
- [G] What did Joseph say to his father? They were treating disrespectfully the sons of the hand maids, treating them like slaves — “Joseph was sold into slavery” (Ps. 105:170).
- [H] What did Joseph say to his father? They lusted after the local girls — That same temptation will take over you: “After a time his master’s wife cast her eyes on Joseph” (Gen., 39:7).
- [IX:7 A] R. Yosé in the name of R. Yohanan: “Somebody who is going to speak gossip doesn’t do it unless he has denied the fundamental principle [that there is a God].”

- [B] What verse of Scripture indicates it? “By our tongues we shall prevail, with lips such as ours who can be our master” (Ps. 12:5).
- [C] All transgressions someone commits against mankind but these transgressions [listed at T. Pe. 1:2] he commits against Heaven and earth.
- [D] What verse of Scripture indicates it? “They set their mouths against heaven and their tongues range over the earth” (Ps. 73:9).
- [E] Said R. Isaac, “‘Mark this, you who are unmindful of God, lest I tear you apart and no one save you’ (Ps. 50:22).”
- [F] Said R. Joshua b. Levi, “‘You are busy maligning your brother, defaming the son of your mother’ (Ps. 50:20). What is written there? ‘And to the wicked God said, Who are you top recite my laws and mouth the terms of my covenant’ (Ps. 50:16).”
- [IX:8 A] Whence do we derive the prohibition of gossip? “Be on guard against any wicked thing” (Dt. 29:10).
- [B] Said R. La, “R. Ishmael *taught as a Tannaite statement*: “‘Do not go about as a talebearer among your countrymen” (Lev. 19:16) — that bears the prohibition of gossip.”
- [C] R. Nehemiah *taught as a Tannaite statement*: “A person should not be like a peddler who carries this one’s opinions to that one and vice versa.”
- [IX:9 A] Said R. Hanina, “Come and see how awful is the penumbra of gossip. For these verses of Scripture must circumlocute to keep the peace between Abraham and Sarah: ‘And Sarah laughed to herself, saying, “Now that I am withered, am I to have enjoyment, with my husband so old?”’ But to Abraham God did not cite these words but said, ‘Why did Sarah laugh and say, “Shall I really bear a child, old as I am?”’ (Gen. 18:13). ‘And my husband is old’ is not stated, rather, ‘I am old.’”
- [B] Said Rabban Simeon b. Gamaliel, “Come and see how awful is the penumbra of gossip. For these verses of Scripture must circumlocute to keep the peace between Joseph and his brothers: It is written in Scripture after Jacob died, ‘So they sent this message to Joseph, “Before his death your father left this instruction: ‘So shall you say to Joseph, Forgive I urge you the offense and guilt of your brothers, who treated you so harshly’ — *yet we find no indication* that Jacob gave any such commandment.”

- [IX:10 A]** R. Samuel bar Nahman in the name of R. Jonathan: “It is permitted to express gossip about parties to a dispute.”
- [B] What verse of Scripture indicates it? [In the matter of David and Adoniyah’s dispute over the kingship, Nathan the prophet told Bathsheba to inform against Adoniyah for his usurping activities and then said, “While you are still talking with the king,] I will come in after you and confirm your statement” (1 Kgs. 1:14).
- [C] *R. Zeira asked R. Yosé*, “How come was Adoniyah b. Hagit put to death? Was it because he asked to marry Abishag the Shunamite [even though she was David’s concubine and was fit for marriage only to the new king, Solomon?] [1 Kgs 2:13-17].
- [D] He said to him, “They wanted a pretext to shed the blood of their adversary in a dispute.”
- [IX:12 A]** *They asked before R. Yohanan*, “What is the definition of gossip?”
- [B] It includes all types, even one who says something truthful but with innuendo, so that the hearer can know something about a third party.”
- [C] *Linen dealers got a summons to work for the king. There was a person called “Beater’s Son,” who did not go to the royal linen works. Those who did go said, “What shall we eat today?” One said, “Something beaten.” [The overseer was reminded of Beater’s Son and said, “Beater’s Son must come and do the work.”*
- [D] Said R. Yohanan, “This one has gossiped by innuendo.”
- [E] The councilors of Sepphoris was gathered at the royal court. Among their number was a man named Yohanan, who did not come. Said one to another, “Shall we not go and visit R. Yohanan today?” The overseer at the royal court was reminded of him and said, “Yohanan must come forward.”
- [F] Said R. Simeon b. Laqish, “This one has gossiped by innuendo.”
- [IX:13 A]** Said R. Abba bar Kahana, “The generation of David was made up entirely of righteous persons. But because of informers in their midst, they went to war and died. This is what David said, ‘I lie down among man-eating lions whose teeth are spears and arrows, whose tongue is a sharp sword’ (Ps. 57:5).
- [B] “‘I lie down among ... lions:’ this speaks of Abner and Amasa, who were lions but who were killed [2 Sam. 3:27, 20:10];

- [C] “‘man-eating lions:’ this speaks of Doeg and Ahitofel, who were eaten alive by gossip [2 Sam. 22:20-23]
- [D] “‘whose teeth are spears and arrows:’ this speaks of Keilah, as it is written, ‘will the men of Keilah deliver me into his hands? Will Saul come down as your servant heard’ (1 Sam. 23:11);
- [E] “‘whose tongue is a sharp sword:’ this speaks of the Ziphites: ‘when the Ziphites came and told Saul, Know, David is hiding among us’ (Ps. 54:2).”

[IX:14 A] At that moment David said to the Holy One, blessed be he, “Lord of the world! Will your presence descend upon the earth? May your presence rise up from among them!”

- [B] That is in line with Scripture: “Exalt yourself over the heavens, God, let your glory be over all the earth” (Ps. 57:6).
- [C] [By contrast to David’s generation,] Ahab’s generation was made up entirely of idolators. Yet because there were no informers in their midst, when they went down to battle they were victorious.
- [D] That is in line with what Obadiah said to Elijah, “My lord has surely been told what I did when Jezebel was killing the prophets of the Lord, how I hid a hundred prophets of the Lord, fifty men to a cave, and provided them with food and drink” (1 Kgs. 18:13).
- [E] [with food and drink]: if bread is mentioned, why mention water, and if water is mention, by mention bread? Both are requires to teach you that water was more difficult to provide than bread.
- [F] “Then Elijah said to the people on Mount Carmel, ‘I am the only prophet of the Lord left’” (1 Kgs. 18:22).
- [G] *All the people knew that the prophets were alive but did not inform the king.*

[IX:15 A] Why is gossip called the three pronged weapon? Because it kills three, the one who spreads it, the one who listens to it, and the one about whom it is spread.

- [B] In the time of Saul four were killed, Doeg, who spread the gossip, Saul, who listened to it, Ahimelech, about whom it was told, and Abner.
- [C] Why was Abner killed?
- [D] R. Joshua b. Levi, R. Simeon b. Laqish, and rabbis:

- [E] R. Joshua b. Levi: “Because when he set up Saul’s son Ishbosheth as king over the Northern Kingdom, he treated the blood of young men lightly: ‘Abner said to Joab, Let the young men come forward and sport before us. Yes let them, Joab replied’ (2 Sam. 2:14).”
- [F] R. Simeon b. Laqish: “Because he put his own name before the name of King David: ‘Abner immediately sent messengers to David, saying, To whom shall the land belong’ (2 Sam. 3:12). He wrote, ‘From Abner to David.’”
- [G] and rabbis: “Because he did not allow Saul to be appeased by David: ‘Please, sir, take a close look at the corner of your cloak in my hand, for when I cut off the corner of your cloak, I did not kill you. You must see plainly that I have done nothing evil or rebellious, and I have never wronged you. Yet you are aiming at taking my life (1 Sam. 24:12). [Abner] said to him, Why do you pay attention to his murmurings. Your cloak was caught in a thornbush. But when they came to the encampment, Saul said, Did you not, Abner, explain about the edge of the robe, saying, Your cloak was caught in a thornbush? Will you also claim that the spear and cruse of oil were caught in a thornbush?”
- [H] Some say, “Because he had a chance to warn the city of the priests but didn’t do so.”

[IX:16 A] “What can you profit, O deceitful tongue? A warrior’s sharp arrows, with hot coals of broom wood” (Ps. 120:3-4) —

- [B] Most weapons strike only within arm’s reach but gossip strikes from a distance.
- [C] Most types of coals, when they were put out on the outside, are put out on the inside as well. But these coals [wounds of gossip], even though they are extinguished on the outside still are not extinguished on the inside.
- [D] There is the story of someone who left coals burning on the Festival of Tabernacles and he came and found them still glowing on Passover.

[IX:17 A] Said R. Samuel bar Nahman, “They say to the snake, ‘Why do you go around with your tongue darting in and out?’ He said to them, ‘Because my tongue gossiped in the Garden of Eden, it caused me to go about on the ground.

- [B] “‘What benefit do you get when you bite? A lion tears an animal apart to eat, and a wolf tears an animal apart to eat. But what do you get out of it?’ He said to them, “‘If the snake bites because no spell was uttered,

no advantage is gained by the charmer” (Qoh. 10:11). *Had I not been told by Heaven to strike I would not strike.*’

[C] “‘How come you bite one limb but all the other limbs feel the pain of the venom?’ He said to them, ‘Don’t ask me, ask the gossip, for he spreads gossip here and kills someone in Rome, he spreads gossip in Rome and kills someone in Syria.’

[D] “‘How come you hang around fences?’ He said to them, ‘Because through my act of gossip in the Garden of Eden I broke the fence of the world and opened the way to lawlessness.’”

[IX:18 A] A meritorious deed creates principle and produces a yield. A transgression creates principle but bears no yield.

[B] **A meritorious deed creates principle and produces a yield, as it is said, “Hail the just man, for he will fare well, he shall eat the fruit of his deeds” (Is. 3:10) [T. Pe. 1:2].**

[C] **A transgression creates a principal [i.e., eternal punishment, in the world-to-come] but bears no interest [in this world], as it is stated [in Scripture], “Woe to the wicked! It shall be ill with him, for what his hands have done shall be done to him” (Is. 3:11),**

[D] **If so, how shall I interpret [the following verse], “Because they hated knowledge and did not choose the way of the Lord, would have none of my counsel and despised all my reproof, therefore they shall suffer the consequences of their way” (Prov. 1:29-31)?**

[E] **[The verse should be interpreted to mean:] A transgression that bears fruit [i.e., causes other transgressions] brings a penalty [in this world],**

[F] **[but] one that does not bear fruit [i.e., does not cause other transgressions] brings no penalty [in this world].**

[G] **[As regards] a good intention — the Omnipresent, blessed be He, refines it, so that it produces a corresponding deed].**

[H] **[As for] an evil intention — the Omnipresent does not refine [it, so that it does not produce a corresponding deed]. as it is stated [in Scripture], “The Lord has heard and noted it and a scroll of remembrance has been written at his behest” (Mal. 3:16).**

[I] **[As for] an evil intention — the Omnipresent does not refine [it, so that it does not produce a corresponding deed]. as it is stated [in Scripture], “If I had cherished iniquity in my heart, the Lord would not have listened” (Ps. 66:18) [T. Pe. 1:2].**

[J] *That which you say applies to Israelites. But among gentiles it is the opposite.* As to a gentile's good intentions, the Omnipresent does not convert it to a corresponding deed. But as to a gentile's evil intention, the Omnipresent converts it to a corresponding deed.

[K] As to a gentile's good intentions, the Omnipresent does not convert it to a corresponding deed: "Upon hearing that, the king was much disturbed and he decided to sage Daniel and until the sun set made every effort to rescue him" (Dan. 6:14). But it is not written, "And he saved him" [so the good intention came to nothing].

[L] But as to a gentile's evil intention, the Omnipresent converts it to a corresponding deed: "'For the outrage to your brother Jacob disgrace shall engulf you" (Obad. 1:10). Did he really kill him? Rather, it teaches that he intended to kill him and Scripture credited it to him as if he had in fact killed him.

[IX:19 A] **R. Simeon b. Yohai says, "If a man was righteous his entire life but at the end he rebelled, he loses the whole, for it is said, 'The righteousness of the righteous shall not deliver him in the day of his transgression' (Ezek. 33:12).**

[B] R. Simeon b. Laqish said, "This is one who renounces his prior good deeds."

[C] "And even if one is completely wicked all his life but repents at the end, he is not reproached with his wickedness, for it is said, 'And when a wicked man turns back from his wickedness and does what is just and right, it is he who shall live by virtue of these things' (Ezek. 33:19)" [T. Qid. 1:13-15].

[D] Said R. Yohanan, "Not only so, but also all the transgression that he committed are deemed righteous deeds."

[E] What verse of Scripture indicates it? "All your robes are fragrant with myrrh and aloes and cassia" (Ps. 34:9). [God says,] "All the rebellious acts that you have committed against me shall be like myrrh and aloes and cassia."

[IX:20 A] **As to one who did many good deeds and few transgressions — If the greater part of his record consisted of honorable deeds, and the smaller part, transgressions, they exact punishment from him [in this world]. If the smaller part of the transgressions which he has done are of the lesser character, [he is punished] in this world so as to pay him his full and complete reward in the world to come. If the greater part of his record consisted of transgressions**

and the lesser part of honorable deeds, they pay him off with the reward of the religious deeds which he has done entirely in this world, so as to exact punishment from him in a whole and complete way in the world to come.

- [B] But he who casts off the yoke of the commandments or denies the covenant or perverts the Torah, even though he has some good deeds to his credit, they exact punishment from him in this world and the principal remains for him in the world to come.
- [C] As to idolatry and fornication,
- [D] R. Jonah and R. Yosah —
- [E] One of them said, “These are among the lesser violations of the law [which are punished in this world only].”
- [F] The other of them said, “They are among the greater violations of the law [which are punished in the world to come].” [This is clarified shortly.]
- [G] Under what circumstances? With one who repented. No transgression can stand before one who has repented. But one who has not repented should die in a state of suffering and be punished in the world to come.
- [H] *There we learned in the Mishnah:*
- [I] **And these are the ones who have no portion in the world to come:**
- [J] **He who says, the resurrection of the dead is a teaching which does not derive from the Torah, and the Torah does not come from Heaven; and an Epicurean.**
- [K] **R. Aqiba says, “Also: He who reads in heretical books,**
- [L] **“and he who whispers over a wound and says, ‘I will put none of the diseases upon you which I have put on the Egyptians, for I am the Lord who heals you’ (Ex. 15:26).”**
- [M] **Abba Saul says, “Also: He who pronounces the divine Name as it is spelled out” [M. San. 10:1].**
- [N] **They added to the list of those [who have no portion in the world to come (M. San. 10:1)]:**
- [O] **he who breaks the yoke, violates the covenant, deals arrogantly with the Torah, pronounces the Divine Name as it is spelled out [M. 10:1G] —**

[P] they have no portion in the world to come [T. San. 12:9].

[Q] **he who breaks the yoke:** this is one who says, “The Torah was revealed on Sinai but that makes no difference to me.”

[R] **violates the covenant:** this is one who restores his circumcised foreskin.

[S] **deals arrogantly with the Torah: this is one who says,** “The Torah was not given from heaven.”

[T] But haven’t you already taught, **and the Torah does not come from Heaven?**

[U] *R. Hananiah ben Hananiah taught before R. Mana,* “This is one who publicly violates the words of the Torah, like Jehoiakim king of Judah and his colleagues” [2 Kgs. 23:36-7].

[IX:21 A] If the greater part of his record consisted of honorable deeds, he will inherit the Garden of Eden. If the greater part consisted of transgressions, he will inherit Gehenna.

[B] [If the record] was evenly balanced —

[C] Said R. Yosé b. Haninah, “... forgives sins...’ is not written here, but rather, ‘... forgives [a] sin’ (Num. 14:18). That is to say, the Holy One, blessed be he, tears up one bond [recorded] among the transgressions, so that the honorable deeds then will outweigh the others.”

[D] Said R. Eleazar, “‘And that to thee, O Lord, belongs steadfast love. For thou dost requite a man according to his work’ (Ps. 62:13). ‘His deed’ is not written here, but ‘like his deed’ — if he has none, you give him one of yours.”

[E] *That is the view of R. Eleazar.* R. Eleazar said, “‘[The Lord passed before him, and proclaimed, The Lord, the Lord, a God merciful and gracious, slow to anger,] and abounding in steadfast love [and faithfulness]’ (Ex. 34:6). He tips the scale in favor of mercy.”

[F] *R. Jeremiah said R. Samuel bar R. Isaac asked about the following:* “‘Righteousness guards him whose way is upright, but sin overthrows the wicked’ (Prov. 3:6). ‘Misfortune pursues sinners, but prosperity rewards the righteous’ (Prov. 13:21). ‘Toward the scorner he is scornful, but to the humble he shows favor’ (Prov. 3:34). ‘He will guard the feet of his faithful ones; but the wicked shall be cut off in darkness; [for not by might shall a man prevail]’ (1 Sam. 2:9). ‘The wise will inherit honor, but fools get disgrace’ (Prov. 3:35).

- [G] “Now do they build a fence and lock the doors? And thus indeed is the way, that they do build a fence and lock the doors, [as we shall now see that God makes it possible for the righteous to do righteous deeds and confirms the wicked in their way too].”
- [H] R. Jeremiah in the name of R. Samuel bar R. Isaac: “[If] a man keeps himself from transgression once, twice, and three times, from that time forth, the Holy One, blessed be he, keeps him from it.”
- [I] *What is the Scriptural basis for this statement?*
- [J] “Behold, God does all these things, twice, three times, with a man” (Job 33:29).
- [K] *Said R. Zeira, “And that is on condition that the man not revert [to his evil deeds].”*
- [L] *What is the Scriptural basis for this statement?*
- [M] “‘A threefold cord is never broken’ is not written, but rather:
- [N] “‘[And though a man might prevail against one who is alone, two will withstand him.] A three fold cord is not quickly broken’” (Qoh. 4:12).
- [O] For if one lays stress on it, indeed it will snap.
- [P] R. Huna in the name of R. Abbahu: “The Holy One, blessed be he — before him there is no forgetting, as it were.
- [Q] “But — as it were — in behalf of Israel he turns absentminded.”
- [R] *What is the Scriptural basis for this statement?*
- [S] “[Who is a God like thee,] pardoning iniquity [and passing over transgression for the remnant of his inheritance]?” (Mic. 7:1 8).
- [T] And so did David say, “Thou didst forgive the iniquity of thy people; thou didst pardon all their sin” (Ps. 85:2).

1:2

- [A] **They designate as *peah* no less than one-sixtieth [of a field’s produce].**
- [B] **And even though they said, “*Peah* has no [specified] measure,” [the quantity designated] should always accord with the size of the field, the number of poor people in the vicinity], and the extent of the yield.**

- [I:1 A] **They designate as *peah* no less than one-sixtieth [of a field's produce].** *It was taught as a Tannaite statement:* [Where there are few poor people to collect *peah*, the farmers are] not obliged to say to a poor person, "Bring camels and gather [all the *peah* set aside in this field," but he lets them carry what they can and holds on to what they leave].
- [B] *That Tannaite statement deals with a case in which the farmer designated more than the required volume of grain. But where the farmer designates only the required volume of grain, where there are few poor people to collect *peah*, the farmers are] obliged to say to a poor person, "Bring camels and gather [all the *peah* set aside in this field."*
- [II:1 A] **[the quantity designated should always accord with the size of the field, the number of poor people in the vicinity, and the extent of the yield]:** If his field yielded abundantly and the poor are few, the farmer sets aside the larger amount that is dictated by the abundance of the field. If the yield is modest but the poor are numerous, the householder designates the larger volume, that dictated by the number of the poor.
- [B] R. Simeon expounded the two cases to favor the householder: if his field is abundant and the poor are few, the farmer designates the smaller amount, that indicated by the number of the poor. If the yield of the field as modest and the poor many, the householder designates the smaller volume, that indicated by the yield of the field.
- [C] *But that is not what the Mishnah rules, but rather: **the quantity designated should always accord with the size of the field, the number of poor people in the vicinity, and the extent of the yield.***

1:3

- [A] **They may designate [produce as] *peah* [while harvesting] the front of the field and [while harvesting] the middle [of the field].**
- [B] R. Simeon says, "[This is true] providing that [the farmer] designates [as *peah*] the [required] measure [of produce while harvesting] the rear [of the field]."
- [C] R. Judah says, "If [the farmer] retained one stalk [of grain for himself, he may declare the] adjoining [field] as *peah* [for the poor]."

[D] **“But if [he did] not [retain at least one stalk for his own use, but rather designated the entire field’s produce as *peah*], he has not [actually] designated [the produce in the field as *peah*].**

[E] **“Rather, [he has designated it] as ownerless property.”**

[I:1 A] R. Yosé in the name of R. Simeon b. Laqish: “When you reap the harvest of your land, you shall not reap all the way to the edges of the field as you harvest’ (Lev. 19:9) — why does Scripture conclude ‘as you harvest’? It implies that the farmer sets aside *peah* even when there is a great deal left in the field to harvest. **[So they may designate [produce as] *peah* [while harvesting] the front of the field and [while harvesting] the middle [of the field].”**

[B] R. Jonah in the name of R. Simeon b. Laqish: “When you reap the harvest of your land, you shall not reap all the way to the edges of the field as you harvest’ (Lev. 19:9) — why does Scripture conclude ‘as you harvest’? It implies that the farmer sets aside *peah* at the rest of the field just as he sets aside *peah* at the front of the field.”

[C] R. Yosé in the name of R. Joshua b. Levi: “When you reap the harvest of your land, you shall not reap all the way to the edges of the field as you harvest’ (Lev. 19:9) — why does Scripture conclude ‘as you harvest’? It implies that the same rule applies whether [the crop that the farmer owns] has been purchased with funds sanctified for the Temple or with secular funds. [The repetition of ‘as you harvest’ implies that since the ordinary Israelite harvests the crop, part of the crop is liable for designation as *peah*, and that is without regard to the classification of the funds used in the purchase.”

[D] *R. Yudan asked*, “Can money designated for the Temple be secularized through the purchase of unharvested grain, that is attached to the ground? [Surely not.]”

[E] Said R. Hanina, “[‘as you harvest’ is included] lest you hold that the harvest of the Temple is treated like the harvest of an ordinary Israelite.”

[II:1 A] **[They may designate produce as *peah* while harvesting the front of the field and while harvesting the middle of the field]:**

[B] If one set aside *peah* only at the front of the field, what is [the classification of the produce? Is it *peah* and exempt from tithes or is it an additional gift to the poor and liable to tithes?]

[C] *It is in line with what is taught as a Tannaite statement:* **[A farmer may designate [produce as] *peah* [while harvesting] the front, the**

middle, or the rear of his field (cf. M. Peah 1:3A). And if he has designated this produce as peah, whether while harvesting the front, the middle, or the rear of his field, he has fulfilled his obligation regarding peah]. R. Simeon says, “If he has designated [produce as peah], whether [while harvesting] the front, the middle, or the rear [of his field] — lo, [that which he has designated] is deemed peah. But he must designate as peah the required measure of produce while harvesting the rear of the field” (M. Peah 1:3B) [T. Pe. 1:5]. That is to say he had sanctified the produce set aside at the front of the field as peah [and the grain I exempt from tithing].

- [D] But he must designate as peah the required measure of produce while harvesting the rear of the field — what is the required measure?
- [E] Is it one-sixtieth of the entire yield [or must he designate only some produce at the front of the field, one sixtieth of the grain left over in the middle and rear of the field]?
- [F] Is it possible to say that he has consecrated the produce at the front of the field as peah and also claim that he must still designate at the rear of the field the required volume of grain for the entire field? Rather, he designates at the rear of the field only the required volume of grain for the part of the field that remains.

[III:1 A] **R. Judah says, “If [the farmer] retained one stalk [of grain for himself, he may declare the] adjoining [field] as *peah* [for the poor]. But if [he did] not [retain at least one stalk for his own use, but rather designated the entire field’s produce as *peah*], he has not [actually] designated [the produce in the field as *peah*]. Rather, [he has designated it] as ownerless property.”** [Is the single stalk left unharvested in the rear of the field or may it be left anywhere so long as it has grown in the rear of the field?]

[B] R. Hiyya in the name of R. Yohanan: “Read **If the farmer retained attached one stalk [of grain for himself, he may declare the] adjoining [field] as *peah* [for the poor]**. [If in addition to the grain he leaves at the front or the middle of the field he leaves unharvested at the rear of the field only a single stalk as peah, he will have fulfilled his duty to set aside peah for the field.]”

[C] R. Yosé in the name of R. Yohanan: “Read **If the farmer retained plucked one stalk [of grain for himself, he may declare the] adjoining [field] as *peah* [for the poor]**. [If in addition to the grain he leaves at the front or the middle of the field he leaves plucked at the

rear of the field only a single stalk as peah, he will have fulfilled his duty to set aside peah for the field.]”

- [D] Did the farmer intend when he left produce at the front of the field to exempt the entire field from peah? Or is that not the case?
- [E] *Let us derive the answer from the following:* R. Yosé said in the name of R. Yohanan: “He may continue adding at all times during the harvest to the peah he gave at the front of the field.”
- [F] *How do we interpret the matter?* [If he designated grain at the front of the field] intending to render the entire field exempt from the further designation of peah, then the produce he leaves at the rear of the field is exempt [from designation as peah and the farmer is not permitted continuously to add to the designated peah.] Rather, when he designated grain at the front of the field] he was not intending to render the entire field exempt from the further designation of peah.

1:4

- [A] **They stated a general principle governing [the designation of produce as] peah:**
- [B] **Whatever is edible, cultivated [as private-property], grown from the Land [of Israel], harvested as a crop, and can be preserved in storage, is subject to [designation as] peah.**
- [C] **Grain and legumes are included in this general principle.**
- [D] **And among types of trees: [the fruit of] (1) a sumac tree, (2) carob trees, (3) walnut trees, (4) almond trees, (5) grape vines, (6) pomegranate trees, (7) olive trees, (8) and date palms, is subject to [designation as] peah.**
- [I:1 A] **They stated a general principle governing [the designation of produce as] peah:** “‘When you reap the harvest of your land, you shall not reap all the way to the edges of the field as you harvest’ (Lev. 19:9) — [On the basis of Lev. 19:9’s opening phrase, “When you reap your harvest of your field...,”] I can derive only [that the obligation to set aside peah applies to produce] while one reaps [it].
- [B] **From what [phrase, then, might I determine that the obligation likewise relates to produce] while one merely plucks [it for a random snack]?**
- [C] **Scripture states [at the end of Lev. 19:9, “...you shall not completely reap the corner of your field] as you harvest.” [The repetition of the word “harvest” is taken to mean that the**

obligation of setting aside peah applies to all types of harvesting, both reaping and snacking.]

- [D] From what [phrase, then, might I determine that the obligation to set aside peah applies not only to grain as one reaps it, but also to grain] already harvested [and brought to the threshing floor, but from which peah was not set aside]?**
- [E] Scripture states, “[When you reap] your harvest...,” [thereby implying that peah must be set aside from all produce the Israelite harvests].**
- [F] [On the basis of Lev. 19:9’s phrase, “When you reap the harvest of your Land,”] I can discern only [that the obligation to set aside peah applies to] grain.**
- [G] From what [phrase, then, might I determine that the obligation likewise applies to] legumes?**
- [H] Scripture states, “[When you harvest] your Land...,” [thereby implying that all produce of the Land of Israel is subject to the law of peah].**
- [I] From what [phrase, then, might I determine that peah must also be set aside from [groves of] trees?**
- [J] Scripture states, “When you reap the harvest of your field...,” [thereby implying that the produce of any field, even an orchard, is subject to the law].**
- [K] [On the basis of Lev. 19:9’s phrase, “the harvest of your field...,”] it is possible that vegetables, squash, gourds, melons, and cucumbers all are included in the [above stated] general rule [that all of the Land’s yield is subject to the law of peah]. [From what phrase might I determine that this is not the case?]**
- [L] Scripture states, “[When you harvest] the yield [of your land]...”**
- [M] Now the term “yield” is reserved only for [produce that is] (1) edible, (2) privately owned, (3) grown from the Land [of Israel], (4) harvested as a single crop, and (5) can be preserved in storage [M. Peah 1:4B-C].**
- [N] This [general rule likewise] excludes vegetables, for even though they are harvested as a crop, one cannot preserve them in storage [T. Peah 1:7A]**

- [O] **This [general rule likewise] excludes dates, for even though one can preserve them in storage, they are not harvested as a crop [T. Peah 1:7B].**
- [P] **Grain and legumes are included in this general principle [M.1:4C].**
- [Q] **And among types of trees, the fruit of (a) a sumac tree, (2) carob trees, (3) walnut trees, (4) almond trees, (5) grapevines, (6) pomegranate trees, (7) olive trees, (8) and date palms is subject to designation as peah [M. Peah 1:5A-C] [Sifra CXCVI:II.1ff.]**
- [I:2 A] *It has been taught on Tannaite authority: They plant grain seeds and saplings in a single field. But one who sows any type of grape pits with wheat is flogged for violating the prohibition against sowing mixed seeds [T. Kil. 1:15].*
- [B] Said R. Zeira, “It is written in Scripture, ‘You shall not sow your field with diverse-kinds’ (Lev. 19:19). For what reason does Scripture say, ‘You shall not sow your vineyard with diverse kinds’ (Dt. 22:9)? In addition to the principal crop in a vineyard [the grape vines planted there] one may not sow a second crop that would form diverse kinds.”
- [C] *R. Yudan the Cappodocian asked in the presence of R. Yosé, “There you said, ‘tree-seeds are not called seeds, [and may be sown with seeds of herbs or grain] but here you say that tree-seeds are called seeds [and may contract uncleanness].”*
- [D] He said to him, “There in the case of diverse-kinds Scripture said, ‘the seed that you have sown’ (Dt. 22:9) and so excluded what people are not accustomed to call seeds. *But here* Scripture included them, ‘And if any part of their carcass falls upon any seed for sowing that is to be sown, [it is clean. But if water be put on the seed and any part of their carcass falls on it, it is unclean to you’ (Lev. 11:37).”
- [I:3 A] **And there are those that want to derive the liability of trees and not only grain to designation as peah from the following:**
- [B] “When you gather the grapes of your vineyard do not pick it over again” (Dt. 24:21).
- [C] *What do you derive from this verse?*
- [D] Said R. Jonah, “‘Do not be too meticulous about gathering the grapes at the rear corner of the vineyard.’ So the vineyard is liable to the laws of peah, and that is the case for trees in general.]”
- [E] “When you beat down the fruit of your olive trees, do not go over them again” (Dt. 24:20).

- [F] *What do you derive from this verse?*
- [G] Said R. Jonah, “ ‘You shall not reap the corner of your crown’ (Lev. 19:27). [The laws of peah apply to olives that remain on the head of the tree.]”
- [H] [The proof concerning grapes and olives now is extended to other species of trees.] Just as olives and grapes are characterized by the traits that their produce is harvested in a single lot and may be stored away is subject to peah, so any kind of produce that is characterized by the trait that their produce is harvested in a single lot and may be stored away is subject to peah.
- [I] Maybe just as olives and grapes are characterized by the trait that they both are liable for firstfruits and thus are subject to the laws of peah, so any type of fruit that is liable for firstfruits is subject to the laws of peah.
- [J] Scripture says, “When you reap the harvest ... you shall not reap all the way to the edges of your field” (Lev. 19:9) — even a crop of rice or millet.
- [K] Let Scripture speak of olive trees [marking them as subject to peah] and not speak of grapevines [which are redundant].
- [L] If Scripture had spoken of olive trees and not grapevines, I might have said, “Olive trees are exempt from the gift to the poor that is called separated grapes [Lev. 19:10] are subject to peah. But grapevines, which are subject to designation as separated grapes, are not subject to peah. Scripture indicates that a householder must set aside two types of poor offerings from the grape crop, separated grapes and peah, and Scripture therefore had to say that grapevines are liable to peah.
- [M] Or perhaps: if Scripture had said that grapevines are liable to peah but did not say that olive trees are subject to peah, I might have said that grapevines, which are liable to separated grapes, are liable to peah, but olive trees, which are not liable to separated grapes, are also exempt from peah. Scripture therefore had to state that olive trees are subject to designation as peah and Scripture had to state that grapevines are subject to peah.
- [N] If Scripture had specified that olive trees are liable, so indicating that all types of trees are liable to peah, may we hold that Scripture singled out grapevines to imply that all types of trees are subject to the law of separated produce?

- [O] May one say: Just as Scripture specified that olive trees are liable to peah, so all types of trees are liable to peah, thus Scripture specified that grapevines are liable to separated produce, indicating that all types of trees are subject to the law of separated produce?
- [P] Said R. Abun, “A trait that is equivalent for both of them teaches the rule governing the gross category of trees. But a trait that is not equivalent for both of them does not teach the rule governing the gross category of trees.”
- [I:4 A] *That is in line with the view of R. Ishmael, for R. Ishmael expounded, “If a matter was covered by an encompassing rule but then was singled out for some innovative purpose, is excluded from the general category [and you have not got the right to restore the matter to the rubric of the encompassing rule unless Scripture itself explicitly does so.] But the item is held to form a new category [with its own restrictions].” [Scripture separately mentions vineyards in the context of separated grapes so their fruit is subject to the law of separated grapes but is exempt from the restrictions that apply to trees in general. [So grates are exempt from peah]. So Scripture has to state that the law of peah applies to vineyards.*
- [B] *In regard to the rabbis, who say that an item that normally falls into a general category but is explicitly mentioned by Scripture in regard to a separate rule, is subject to the rule governing both the general category and the new category, why did Scripture mention the laws of peah in the context of a vineyard?*
- [C] Said R. Abun, “If Scripture had specified only the case of vineyards [in connection with peah], that would be all right. But Scripture singled out both vineyards and olive trees. If Scripture had mentioned olive trees as subject to peah but did not specify that vineyards are liable to peah, I should have said that olive trees, exempt from the category of separated produce, are subject to peah. But grapevines, subject to separated grapes, are not subject to peah. Thus Scripture had to say that grapevines are subject to peah.”
- [II:1 A] As you have said, **harvested as a crop, and can be preserved in storage, is subject to [designation as] peah**, would you say the same of the worker [of Dt 23:25] [who may snack on a small portion while he harvests your crop]?[May he snack only on items that form a harvest?]
- [B] Said R. Jonah, “That is a different case, for Scripture says, ‘When you enter another man’s field of standing grain, you may pluck ears with your hand but must not put a sickle to your neighbor’s grain’ (Dt.

23:26) — even from a type that is not a crop and is not preserved in storage.”

- [II:2 A] *It was taught as a Tannaite rule: R. Yosé b. R. Judah says, “Figs [that are picked immediately after they ripen, while they still are] moist [and full], are exempt from [designation as] peah, since the first and last do not ripen at the same time [lit., the first do not wait for the last].” [This being the case, they are not harvested as a crop] [T. Pe. 1:7].*
- [B] Well did R. Yosé b. R. Judah state matters. *What is the reasoning of rabbis?*
- [C] Said R. Zeira, “Because all the crops swells with juice at the same time.”
- [II:3 A] Both R. Isaac Haqoli and R. Joshua b. Levi say, “Colocasia has the same status as a vegetable for the purpose of the laws of tithing, the Sabbatical year, peah and firstfruits. But as to laws of vowing to abstain from vegetables, they must inquire if he intends to abstain from colocasia.”

1:5

- [A] “At any time [after the harvest, the farmer] may designate [produce] as *peah*, [with the result that the produce he designates] is exempt from [the separation of] tithes,
- [B] “until [the grain-pile] is smoothed-over. [At this point the entire heap of grain becomes subject to the separation of tithes. The farmer therefore must tithe the produce, and then designate *peah*.]
- [C] “And [the farmer] may give away [produce] as ownerless property, [with the result that the produce he gives away] is exempt from [the separation of] tithes,
- [D] “until [the grain-pile] is smoothed-over. [At this point the produce becomes subject to the separation of tithes and remains so even if he later declares it to be ownerless.]
- [E] “And [the farmer] may feed cattle, wild animals, and fowl [from the produce that he harvests, with the result that the produce he feeds them] is exempt from [the separation of] tithes,
- [F] “until [the grain-pile] is smoothed-over. [At this point the produce becomes subject to the separation of tithes.]
- [G] “And [the farmer] may collect [grain] from the threshing floor, and sow [it, with the result that the grain he sows] is exempt from [the separation of] tithes,

- [H] “until [the grain-pile] is smoothed-over. [At this point the produce becomes subject to the separation of tithes],” the words of R. Aqiba.
- [I] [As regards] a priest and a Levite who bought [grain at] the threshing floor—the tithes [that otherwise would be separated from the produce that they have purchased] belong to them,
- [J] unless [the grain-pile] is smoothed-over. [If this is the case, the farmer must separate tithes before he sells the produce, and may give them to the priest of his choice.]
- [K] [As regards] one who dedicates [produce to the Temple], and then redeems [the produce he redeems] is subject to [the separation] of tithes,
- [L] unless [the Temple]-treasurer smoothed-over [the grain-pile]. [If this is the case, the farmer incurs no liability to separate tithes when he redeems the produce, for the Temple owned the produce when it normally would have become subject to the separation of tithes.]
- [I:1 A] At any time [after the harvest, the farmer] may designate [produce] as *peah*, [with the result that the produce he designates] is exempt from [the separation of] tithes, until [the grain-pile] is smoothed-over:
- [B] R. Yosé, R. Jacob bar Zebedee in the name of R. Abbahu, R. Nehemiah bar Mar Uqban, some say in the name of R. Yohanan: “One who separated firstfruits from a grain pile after it was smoothed over [and made liable to tithes and offerings] — it is exempt from designation as heave-offering.”
- [C] Said R. Haggai before R. Yosé, “*The Mishnah has said the same thing: At any time [after the harvest, the farmer] may designate [produce] as peah, [with the result that the produce he designates] is exempt from [the separation of] tithes, until [the grain-pile] is smoothed-over. [At this point the entire heap of grain becomes subject to the separation of tithes. The farmer therefore must tithe the produce, and then designate peah.]* Lo, if he smoothed over the grain pile, the grain in the pile would be subject to the separation of tithes. But that would not be the rule as to designating heave-offering [which is not mentioned in the Mishnah.]”
- [D] And say that the grain in the pile is subject to designation of firstfruits and that is the case even before the pile is smoothed over?

[E] But why is it called firstfruits? **Because the offering takes precedence over all other agricultural dues [M. Ter. 3:7].** [The firstfruits take precedence even though it is not mentioned in so many words.]

[F] [As to any two offerings] one that takes precedence over the other, the grain set aside as the latter offering is subject to designation of the former offering [but the reverse is not true, so produce set aside as firstfruits is exempt from all other agricultural offerings].

[II:1 A] [**“And [the farmer] may give away [produce] as ownerless property, [with the result that the produce he gives away] is exempt from [the separation of] tithes, until [the grain-pile] is smoothed-over. [At this point the produce becomes subject to the separation of tithes and remains so even if he later declares it to be ownerless.] Contrast with M. Peah 6:1: The House of Shammai say, “[Property that is declared] ownerless [exclusively] for [the benefit of] the poor [fully enters the status of] ownerless property.” But the House of Hillel say, “[Such produce] has [the status of] ownerless property only if it is declared ownerless also for [the benefit of] the rich, as is the case with [produce that grows during a year of] release.”** *The Mishnah is in line with the view of the House of Shammai, for the House of Shammai say, “[Property that is declared] ownerless [exclusively] for [the benefit of] the poor [fully enters the status of] ownerless property.”* [Peah is ownerless property and tithes are not separated from it.]

[B] *The rulings that are assigned to R. Aqiba are cited by him but do not represent his opinion.*

[C] *For it has been taught as a Tannaite statement: On what account were the shops of Beth Hini destroyed three years before Jerusalem was destroyed? It is because they based their actions only upon the teachings of the Torah [rather than on the Torah as the scribes interpreted it].*

[D] For they would say, “‘You shall surely tithe...and you shall *eat*’ (Dt. 14:22) — but not if you sell.

[E] “‘the increase of your seed’ — but not if it is purchased.”

[III:1 A] [**As regards] a priest and a Levite who bought [grain at] the threshing floor—the tithes [that otherwise would be separated from the produce that they have purchased] belong to them, unless [the grain-pile] is smoothed-over. [If this is the case, the farmer**

must separate tithes before he sells the produce, and may give them to the priest of his choice.]

- [B] [As to a grain pile that has been smoothed over, so the grain is subject to the separation of tithes and the farmer must separate tithes before he sells the produce and may give them to the priest he chooses], said R. Yohanan, “That is a penalty on the priest and Levite, [denying them the agricultural offerings in the crops they bought],] so as to stop them from running around to the wine presses and threshing floors, [and buying up the crops and holding on to the tithes, which should be available to all the priests].”
- [C] A priest who was a butcher — associates in the name of R. Joshua b. Levi: “He is exempt for a week from the laws requiring him to give the shoulder, cheeks and stomach of each animal he slaughters to another priest.”
- [D] *Said R. Yosé, “I went to the South and heard R. Hanan, father of R. Simeon in the name of R. Simeon b. Levi: ‘He is exempt for a week from the laws requiring him to give the shoulder, cheeks and stomach of each animal he slaughters to another priest.’”*
- [E] *R. Yudan compared the situation to the statement, “That is a penalty on the priest and Levite, [denying them the agricultural offerings in the crops they bought], so as to stop them from running around to the wine presses and threshing floors, [and buying up the crops and holding on to the tithes, which should be available to all the priests].”*
- [F] Said to him R. Yosé, “If it’s a penalty, he shouldn’t be exempt even for a week.”
- [G] A priest who was a meat merchant — R. Yudan said, “On becoming a meat merchant, they exempt him for one week from the laws requiring him to give the shoulder, cheeks and stomach of each animal he slaughters to another priest.”
- [H] But R. Yosé said, “They do not exempt him during the first week.”
- [I] In the opinion of R. Yosé, what is the difference between a meat merchant and a butcher? A meat merchant can deceive his customers y falsely claiming he has slaughtered all the meat that he sells and is entitled to the priestly share. A butcher cannot deceive his customers, selling only meat he himself has slaughtered.

[III:2 A] *It was taught on Tannaite authority:*

- [B] Rabbi and R. Judah the Patriarch did not differ concerning [whether grain is subject to the separation of tithes. The issue is whether or not an Israelite owns the crop when it is reaped.] As to an Israelite who buys unharvested grain from a gentile [they concur that] the produce is subject to the separation of tithes. As to a case in which one Israelite contracts to harvest grain for another Israelite, [they concur that] the first is responsible to set aside offerings for the second. If one buys harvested produce from a gentile, [they concur that] the Israelite's purchase is exempt from the separation of tithes.
- [C] About what did they differ? Concerning one who buys produce that is harvested from his fellow Israelite during a year when the poor man's tithe is set aside. [If the purchaser is rich he must set aside poor man's tithe. If he is poor, may he hold onto the grain as poor man claiming poor man's tithe?] R. Judah the Patriarch says, "The same rule applies to poor and rich: the buyer separates the poor man's tithe and gives it to a poor person and removes it from the buyer's possession." Rabbi says, "The rich man gives poor man's tithe to a poor person. From the possession of the poor person they do not remove it."
- [D] What is the reason for the ruling of R. Judah the Patriarch? Just as someone is not entitled to receive the gleanings, forgotten sheaves or peah from his own field, so he is not allowed to receive the poor man's tithe from his own field. What is the reason for the ruling of Rabbi? The fact that gleanings, forgotten sheaves and peah have not yet been separated from the crop does not make the produce untithed. [The farmer may dispose of his produce even before he has separated tithes. But the fact that poor man's tithe has not yet been separated from the crop does render the produce untithed. The crop is untithed even in the possession of the first party [who has reaped the grain]. So the grain is prohibited from use until the poor man's tithe has been carried out.]
- [E] The reason for the ruling of R. Judah the Patriarch that the poor man cannot keep poor man's tithe separated from his own field because the sages have penalized the poor to prevent them from hoarding poor man's tithes that belong to all the poor.
- [F] The reason for the ruling of Rabbi that a rich person may not keep the poor man's tithe but the poor person may is that a rich person has the money to buy several fields and can hoard the poor man's tithe, but a poor person hasn't got the money to buy fields; [poor folk may hold on to poor man's tithe from their own fields.]
- [G] R. Judah the Patriarch says, "A poor man can borrow money to buy unharvested fields."

[H] Rabbi says, “A poor man cannot borrow enough money to buy fields and hoard the poorman’s title.”

YERUSHALMI PEAH

CHAPTER TWO

2:1

- [A] And these [landmarks] establish [the boundaries of a field] for [purposes of designating] *peah*:
- [B] (1) a river, (2) pond, (3) private road, (4) public road, (5) public path, (6) private path that is in regular use both in the dry season and in the rainy season, (7) uncultivated land, (8) newly-broken land, (9) and [an area sown with] a different [type of] seed.
- [C] “And [as regards] one who harvests unripe grain [for use as fodder] — [the area he harvests] establishes [the boundaries of a field, since it now may be deemed uncultivated land],” the words of R. Meir.
- [D] But sages say, “[The area he harvests] does not establish [the boundaries of a field], unless he also has ploughed [the stubble] under, [thereby creating newly-broken land].”

- [I:1 A] And these [landmarks] establish [the boundaries of a field] for [purposes of designating] *peah*: That is in line with what is said: “When you reap the harvest of your land you shall not reap all the way to the edges of your field” (Lev. 19:9). [“Your field” means *peah* must be designated from every field the farm owns.]
- [B] And the verse indicates that the farmer should not set aside produce as *peah* from one field I behalf of another field.
- [II:1 A] [The Mishnah speaks of landmarks] that are discontinuous.
- [B] For if you say that [the Mishnah] speaks of landmarks that are continuous [throughout the tract], then consider: such a landmark should establish a boundary even in a grove of trees. *For we learn in the Mishnah: All [of the] landmarks establish [the boundaries of a field planted with] seeds, but as for establishing [the boundaries of an orchard of] trees, only a fence [does so] [M. Pe. 2:3].*

- [C] The fence [that cuts through a grove of trees] may be continuous or discontinuous. [So do we refer to landmarks that are continuous?]
- [D] For if you say that [the Mishnah] speaks of landmarks that are continuous [throughout the tract], then consider: wouldn't such a fence form a boundary even between two trees the branches of which are intertwined. *That is in line with what we learn in the Mishnah: **But if the branches [of several trees] are intertwined with each other [even a fence] does not establish [a boundary between them]. Rather, [the farmer] designates [a single portion of a produce as] peah on behalf of all [of the trees whose branches are intertwined] [M. Peah 2:3].*** [The fence does not set a boundary between the trees, so the Mishnah must refer] to a fence that is discontinuous. [The landmarks in our Mishnah likewise must be discontinuous.]
- [E] For if you say that [the Mishnah] speaks of landmarks that are continuous [throughout the tract], then consider: could such a fence establish a boundary even between two trees, the branches of one of which extend over the fence and intertwine with the other tree's] far to one side? [The fence would be a formality and not correspond with a real division between the trees. This fence does not establish a boundary between two trees, in line with what follows:] *We learn as a Tannaite statement: If the branches of two trees intertwine, the trees sitting equally on opposite sides of the fence and touching directly above the fence, the fence does not establish a boundary between the trees, which physically touch. Could you say that the fence establishes a boundary between trees the branches of which intertwine far to one side of the fence? [Not at all. The fence is discontinuous.]*
- [I:2 A] [Each field must yield its own portion designated as peah.] R. Yosé in the name of R. Yosé bar Hanina: "If the farmer designated peah from one field for another field, he has not sanctified the grain he designated, and this produce is secular and subject to tithes."
- [B] R. Zeira asked before R. Yosé, "Two adjacent fields separated only by a depression between them — if the farmer intended to set aside peah in the depression between the two fields in behalf of both of the fields, what is the law?"
- [C] *R. Yosé turned away from him [and didn't answer].*
- [D] *The position of R. Yosé is confused.*[Yosé holds that the farmer must set aside distinct portions of peah from any two patches of grain that are distinct from one another.] *For we have learned in the Mishnah there: [As regards] one who reaps [the ripe portions] of his field having left the unripe stalks [unharvested] — R. Aqiba says, "He*

designates [a separate portion of produce] as *peah* from each and every [area, as he harvests it].” But sages say, “[He designates *peah*] from one [area] on behalf of all [of the areas together].” And sages concede to R. Aqiba that one who sows dill or mustard in three [distinct] places designates [a separate portion of produce as] *peah* from each and every [plot].

- [E] *This is the sense of the Mishnah:* One who sows dill in three distinct parts or mustard in three distinct plots [excluding a case in which dill and mustard are sown within one plot; then a single portion of *peah* suffices.]
- [F] Samuel said, “Each plot must have its own *peah*, because **the first and last do not ripen at the same time [T. Pe. 1:7].**”
- [G] R. Yosé in the name of R. Yohanan: “Each plot must have its own *peah*, because farmers ordinarily sow species in garden beds within the field. [They are not planted as a single unit, and the farmer gives *peah* for each. Yosé maintains that distinct patches of produce, even in a single field, require separate portions of *peah*.]”
- [H] *Yet here you say this!* [Yosé permits a single portion to serve as *peah* for both fields separated by a depression!]
- [I] *It is clear to [Yosé] that* the depression establishes a boundary [and one may not set aside *peah* from one for the other.]
- [J] *[There is no reason to ask whether the farmer’s designation of *peah* from one field on behalf of the field on the other side of the depression] would render the produce sanctified as *peah* or in any way at all. For R. Hoshaiah taught as a Tannaite statement:* “If a householder designated *peah* from one field for another, he has not consecrated the designated grain and it is not *peah*.” *That implies that one should include* even a depression between two fields in the catalogue of what establish boundaries for *peah*.]
- [I:3 A] R. Yosé b. Hanina says, “Cistus-shrubs mark boundaries between fields for purposes of *peah*.”
- [B] *R. Hisda asked,* “Did Joshua use them to mark out the boundaries of the Land of Israel among the tribes?”
- [C] R. Hanina came along in the name of R. Hisda: “Joshua used them to mark off the boundaries of the Land of Israel itself [but not to delineate the territories of individual tribal homelands.]”

- [II:1 A] **A pond** establishes the boundaries of a field for designating peah if it extends throughout the field continuously.
- [B] **A river** establishes the boundaries of a field for designating peah even if it does not extend throughout the field continuously.
- [III:1 A] **(3) private road, (4) public road:**
- [B] *Since we learn in the Mishnah that the law applies to a private road, what need is there to specify a public road?*
- [C] It is to leave out a public road that is in regular use in the dry season but cannot be used in the rainy season.
- [IV:1 A] **(7) uncultivated land, (8) newly-broken land:**
- [B] Rab said, “**Uncultivated land and newly-broken land** form a boundary for purposes of peah only if the area takes a quarter-qab of seed. But **an area sown with] a different [type of] seed** is separate no matter how small.”
- [C] R. Yohanan said, “**Uncultivated land and newly-broken land and an area sown with] a different [type of] seed** establish a boundary if it is made up of at least three hewn ridges.”
- [D] *Is there a dispute here?*
- [E] *Rab rules on the minimum area that is subject to peah, and R. Yohanan speaks of an area that is exempt from peah.*
- [F] *And has it not been taught on Tannaite authority: An area of uncultivated land or newly broken land is subject to peah?*
- [G] *From Rab’s perspective this statement refers to a square field [that is subject to the law if it is larger than a hundred square cubits.*
- [H] *From R. Yohanan’s perspective this statement refers to a narrow field of fifty y two cubits.*
- [V:1 A] **“And [as regards] one who harvests unripe grain [for use as fodder] — [the area he harvests] establishes [the boundaries of a field, since it now may be deemed uncultivated land],” the words of R. Meir. But sages say, “[The area he harvests] does not establish [the boundaries of a field], unless he also has ploughed [the stubble] under, [thereby creating newly-broken land].”**
- [B] R. Zeira in the name of R. Eleazar: “R. Meir and R. Judah have said the same thing. Just as R. Meir said, **And [as regards] one who harvests unripe grain [for use as fodder] — [the area he harvests]**

establishes [the boundaries of a field, since it now may be deemed uncultivated land], so R. Judah held, One who harvests unripe grain for use as fodder — the area he harvests defines the boundaries of a field [as uncultivated land.

- [C] “And just as R. Judah said, An area of land that is subject to the laws of peah marks a boundary between two tracts of land on either side, so R. Meir said, An area of land that is subject to the laws of peah marks a boundary between two tracts of land on either side.”
- [D] Lo, we find that R. Meir says, “An area of land that is subject to the laws of peah marks a boundary between two tracts of land on either side.” *That is in line with the following that is taught as a Tannaite statement:*
- [E] **[As regards an area within the field that] grasshoppers ate, edible locusts ate, ants destroyed, or which wind or cattle destroyed all agree that if [the farmer] ploughed [the stubble] under, [the newly broken ground that he creates] establishes [a boundary] (cf. M. 2:1D). [All agree that if the farmer] did not [plough the stubble under, the area that was destroyed] does not establish [a boundary]. [T. Pe. 1:8].**
- [F] *Who is represented by “all agree”?* Isn’t it R. Meir, who held that since the area was exempt from the laws of peah, it establishes a boundary for the purpose of the law only if the farmer ploughs the area. If the area had been subject to the law, then it establishes a boundary even if the farmer did not plough the stubble under.
- [G] *[That Judah concurs] is in accord with what we have learned as a Tannaite rule elsewhere:* Said R. Judah, “Under what circumstances? When one begins [to reap] before the crop reaches a third of its full growth. But if the grain had reached a third of its growth, it is forbidden to harvest it even for animal fodder. I he nonetheless reaps such grain, it is subject to peah. And anything that is itself subject to peah establishes a boundary between two tracts of land.”
- [H] *R. Zeira asked,* “[How far does the agreement between Meir and Judah extend?] Might one maintain, Just as R. Judah has said, ‘So long as he begins [to reap] before the crop reaches a third of its full growth, and even if the grain later reaches a third of its growth, the gain is exempt from gleaning, forgotten sheaf, and peah,’ so R. Meir would maintain, ‘So long as he begins [to reap] before the crop reaches a third of its full growth, and even if the grain later reaches a third of its growth, the gain is exempt from gleaning, forgotten sheaf, and peah’?”

2:2

- [A] [As regards] an irrigation ditch that [divides a tract of land so that the tract] cannot be harvested as one —
- [B] R. Judah says, “[It] establishes [the boundaries of a field].”
- [C] And any hills that are hoed with mattock [i.e., hills that divide a tract of land and that are hoed manually] (Is. 7:25) —
- [D] even though an ox cannot cross over [them] with its plough,
- [E] [the farmer] designates *peah* for the entire [tract of land, as one field].
- [I:1 A] [[As regards] an irrigation ditch that [divides a tract of land so that the tract] cannot be harvested as one]:
- [B] *They proposed to say, “There is no dispute [with R. Judah about whether a large irrigation ditch forms a boundary for peah.]”*
- [C] *But you find that it is taught as a Tannaite rule: A permanent irrigation ditch establishes a boundary.*
- [D] *They proposed to say, “From that which R. Judah said, he refers to a person who stands on one side of the irrigation ditch and cannot reach over and harvest the other side. But if the person stands in the middle of the ditch and can harvest produce on either side, the ditch does not establish a boundary.”*
- [E] *But you find that it is taught on a Tannaite basis: R. Judah says, “If [the ditch is so wide that the farmer must] stand in the middle [of the irrigation ditch, in order to] harvest [the produce] on either side, [the ditch] establishes [the boundaries of a field (cf. M. 2:2B)]. But if [the ditch is sufficiently narrow that the farmer does] not [need to stand in the middle, but can harvest the produce on both sides while standing on one side of the ditch, the irrigation ditch] does not establish [the boundary between two fields]” [T. Pe. 1:8].*
- [II:1 A] And any hills that are hoed with mattock [i.e., hills that divide a tract of land and that are hoed manually] (Is. 7:25) — even though an ox cannot cross over [them] with its plough, [the farmer] designates *peah* for the entire [tract of land, as one field]: Hiyya bar Ada in the name of R. Simeon b. Laqish: “If there was a rocky patch across his entire field, if to plough the field the farmer has to lift the hoe from the earth on one side of the rocks and put it on the other side, the rocks form a boundary between the two areas on either side. But if

he can plough the entire rock patch as if only on one side of the rocks and doesn't have to lift the hoe, the rocks do not establish a boundary.”

- [B] *And has it not been taught as a Tannaite rule: As regards embankments that are higher than ten-handbreadths — [the farmer] designates [a separate portion of produce as] peah from each [of the fields that they demarcate]. But if the ends of the rows touch one another [because the embankments have broken down] [the farmer] designates peah from one [of the areas that the embankments demarcate] for all [of the areas together] [T. Pe. 1:9].*
- [C] Won't the farmer have to lift the hoe from the earth on one side of the rocks and put it on the other side? [Indeed] even if the terraces are shorter than ten handbreadths, the farmer will need to lift his hoe from one side to the other.
- [D] We specify that the terraces must be ten handbreadths only because of the case at the end of the same passage: **But if the ends of the rows touch one another [because the embankments have broken down] [the farmer] designates peah from one [of the areas that the embankments demarcate] for all [of the areas together] [T. Pe. 1:9].**

2:3

- [A] All [of the] landmarks establish [the boundaries of a field planted with] seeds,
- [B] but as for establishing [the boundaries of an orchard of] trees, only a fence [does so].
- [C] But if the branches [of several trees] are intertwined with each other [even a fence] does not establish [a boundary between them].
- [D] Rather, [the farmer] designates [a single portion of a produce as] *peah* on behalf of all [of the trees whose branches are intertwined].
- [E] And as regards carob trees, [which have extensive root systems that intertwine, as do the branches at D], all that are within sight of each other [constitute a single orchard, and a single portion of fruit is designated as *peah* on behalf of all of them together].
- [F] Said Rabban Gamaliel, “In my father's household they used to designate one [portion of produce as] *peah* on behalf of all of the olive trees that they owned in every direction [i.e., all that they owned together].

- [G] **“But as regards carob trees, all that are within sight of each other [constitute a single orchard, and a single portion of produce is designated as *peah* for all of them together].”**
- [H] **R. Eliezer bar Sadoq says in [Gamaliel’s] name, “So too: [They designated one portion of produce as *peah* for all] of the carob trees that they owned in the locale, [whether or not they were in sight of each other].”**
- [I:1 A] **All [of the] landmarks establish [the boundaries of a field planted with] seeds:**
- [B] What is meant by **But if the branches [of several trees] are intertwined with each other?** Does it mean that the fence is intertwined among the branches and rises out of them like a pestle in a mortar? Or does it mean that the branches themselves are intertwined by not the fence and that they grow above the fence?
- [C] *From what the Mishnah says, if the branches [of several trees] are intertwined with each other,* it follows that the fence itself is not intertwined. So the branches intertwine and grow above the fence.
- [II:1 A] **But if the branches [of several trees] are intertwined with each other [even a fence] does not establish [a boundary between them]:**
- [B] R. Mana said, “Sometimes we say that the trees must be within four cubits of the fence, and sometimes we say they must be within ten handbreadths of the fence, when we speak of fewer than ten saplings in an area large enough for a seah of seed. Thus the trees must be within four cubits of the fence refers to the distance mature trees may be from the fence. Then they must be within ten handbreadths of the fence applies to the distance between the branches of the tree on the one side of the fence and the branches of the tree on the other side of the fence, when fewer than ten saplings are planted in an area large enough for a seah of seed.”
- [III:1 A] **And as regards carob trees, [which have extensive root systems that intertwine, as do the branches], all that are within sight of each other [constitute a single orchard, and a single portion of fruit is designated as *peah* on behalf of all of them together]. Said Rabban Gamaliel, “In my father’s household they used to designate one [portion of produce as] *peah* on behalf of all of the olive trees that they owned in every direction [i.e., all that they owned together]. But as regards carob trees, all that are within sight of each other [constitute a single orchard, and a single portion of produce is designated as *peah* for all of them together]”**

- [B] Who lays out for the farmers the directions in each of which a separate portion of produce must be designated as Peah?
- [C] The town lays out the directions. [The layout of the town and its streets indicates the areas from each of which farmers designate a separate peah.
- [D] Said R. Yosé b. R. Bun, “At the household of Rabbi they had four poles indicating the four directions of the city, and they would set aside peah for each pole according to the trees in that direction.”
- [E] If there were there three carob trees. The outer ones were within sight of the middle tree and the middle trees were within sight of the outer ones on either side. But the two outer trees were not within sight of one another. [Do they form a single unit for peah?]
- [F] [No, the outer trees are not within sight of one another. But the ones that are within sight do form a unit. The farmer] sets aside peah from the outer trees for the inner tree or from the inner trees for the outer ones. But he may not set aside peah from one outer tree for the other.

2:4

- [A] **One who sows his field with [only] one type [of seed], even if he brings the crop to the threshing floor in two lots,**
- [B] **designates one [portion of produce as] *peah* [from the entire crop].**
- [He] **designates two [separate portions of produce as] *peah*, [one from each type of produce].**
- [E] **He who sows his field with two [distinct] types of wheat —**
- [F] **[if] he brings all of [the wheat] to the threshing floor in only one lot, [he] designates one portion of produce as] *peah*.**
- [G] **[But if he brings the wheat] to the threshing floor in two lots, [he] designates two [portions of produce as] *peah*.**
- [H] **Once R. Simeon of Misphah sowed [his field with two types of wheat],**
- [I] **[The matter came] before Rabban Gamaliel. So they went up to the Chamber of Hewn Stone, and asked [about the law regarding sowing two types of wheat in one field].**
- [J] **Said Nahum the Scribe, “I have received [the following ruling] from R. Miasha, who received it from his father, who received it from the Pairs, who received it from the Prophets, [who received] the law [given] to Moses on Sinai, regarding one who sows his field with two types of wheat:**

[K] **“If he brings [the wheat] to the threshing floor in only one lot, [he] designates one [portion of produce as] *peah*.**

[L] **“If he brings [the wheat] to the threshing floor in two lots, he designates two [portions of produce as] *peah*.”**

[I:1 A] The farmer harvested half his white wheat and half of his red wheat, planning to bring both to the threshing floor in a single lot. He changed his mind and [after reaping the rest of the field] brought the two separate crops to the threshing floor in two distinct lots. He may not designate *peah* from the white wheat for the red. [That is so whether we speak of the white and red wheat that grew at the front of the field and that he repeated planning to transport it as a single crop, or whether we speak of grain growing at the rear of the field, which he harvested intending to transport it as two distinct crops. One way or the other he has to give *peah* from each variety of wheat.]

[B] The farmer harvested half his white wheat and half his red wheat planning to bring them to the threshing floor in two distinct lots. He changed his mind and [after reaping the rest of the field] brought the two separate crops to the threshing floor in a single lot. He may designate *peah* from the white wheat growing at the rear of the field for red wheat growing at the rear of the field, because he brings the two varieties to the threshing floor in a single lot. He may designate *peah* from the white wheat growing at the front of the field for the red wheat growing at the front of the field, because he brings the two varieties to the threshing floor in a single lot. He may set aside *peah* from the white wheat that grew at the rear of the field for the white wheat that grew at the front, so long as he has completed reaping the field and has brought all the grain to the threshing floor in a single lot. But if he has not yet finished reaping his field but has brought some of the grain to the threshing floor while some is still in the field that is going to be brought to the threshing floor in a separate lot, he may not designate *peah* even from one lot of white wheat for the other lot of white wheat.

[C] The farmer harvested half his white wheat and all his red wheat planning to bring them to the threshing floor in a single lot. He changed his mind and [after reaping the rest of the field] brought the two separate crops to the threshing floor in a two lots. [He completed harvesting one variety of wheat while planning to bring all the white to the threshing floor in a single lot. [Since he completed reaping before changing his mind,] She sets aside *peah* from the white wheat that grew in the front part of the field for the white wheat that grew in the rear. All of the red wheat at the same threshing floor is exempt from *peah*.

- [II:1 A]** Once R. Simeon of Mispah sowed [his field with two types of wheat], [The matter came] before Rabban Gamaliel. So they went up to the Chamber of Hewn Stone, and asked [about the law regarding sowing two types of wheat in one field]. Said Nahum the Scribe, “I have received [the following ruling] from R. Miasha, who received it from his father, who received it from the Pairs, who received it from the Prophets, [who received] the law [given] to Moses on Sinai, regarding one who sows his field with two types of wheat: If he brings [the wheat] to the threshing floor in only one lot, [he] designates one [portion of produce as] *peah*. If he brings [the wheat] to the threshing floor in two lots, he designates two [portions of produce as] *peah*.”
- [B] R. Zeira in the name of R. Yohanan: “If a law comes to hand and you do not know its nature, do not reinterpret it [as applying] to another matter, for lo, many laws were stated to Moses at Sinai, and all of them have been imbedded in the Mishnah.”
- [C] Said R. Abun, “And that is so. Lo, there is the law about two kinds of wheat. Now had Nahum not come and explained the matter to us, should we have known its meaning cf. M. Pe. 2:4?”
- [II:2 A]** R. Zeira in the name of R. Eleazar: “‘Were I to write for him most of my laws, would they not be regarded as a strange thing?’ (Hos. 8:12). Now is the greater part of the Torah written down? [Surely not. The oral part is much greater.] But more abundant are the matters that are derived by exegesis from the written Torah than those derived by exegesis from the oral Torah.”
- [B] *And is that so?*
- [C] But more cherished are those matters that rest upon the written Torah and those that rest upon the oral Torah.
- [D] R. Judah bar Pazzi says, “‘Were I to write for him most of my laws’ — this refers to the admonitions.”
- [E] “Even so, would they not be regarded as a strange thing?”
- [F] Said R. Abun, “‘Were I to write for him most of my laws, would they not be regarded as a strange thing?’ What is the difference between them and [the sages of] the nations? These produce their books, and those produce theirs. These produce their documents, and those produce theirs.” [Thus, the oral Torah serves to distinguish between Israel and the nations.]

- [II:3 A]** R. Haggai in the name of R. Samuel bar Nahman, “Some teachings were handed on orally, and some things were handed on in writing, and we do not know which of them is the more precious. But on the basis of that which is written, ‘And the Lord said to Moses, Write these words; in accordance with [lit., the mouth of] these words I have made a covenant with you and with Israel’ (Exod. 34:27), that is to say that the ones that are handed on orally are the more precious.”
- [B] R. Yohanan and R. Yudan b. R. Simeon — One said, “If you have kept what is preserved orally and also kept what is in writing, I shall make a covenant with you, and if not, I shall not make a covenant with you.”
- [C] The other said, “If you have kept what is preserved orally and you have kept what is preserved in writing, you shall receive a reward, and if not, you shall not receive a reward.”
- [D] [With reference to Deut. 9:10: “And on them was written according to all the words that the Lord spoke with you in the mount,”] said R. Joshua b. Levi, “[He could have written] ‘On them,’ [but wrote] ‘And on them.’ [He could have written] ‘All,’ [but wrote] ‘According to all.’ [He could have written] ‘Words,’ [but wrote] ‘The words.’ [These then serve as three including clauses, serving to include] Scripture, Mishnah, Talmud, laws, and lore. Every [decision] that an experienced student in the future will render before his master already has been stated to Moses at Sinai.”
- [E] *What is the scriptural basis for this view?*
- [F] “There is no remembrance of former things, nor will there be any remembrance of later things yet to happen among those who come after” (Qoh. 1:11).
- [G] If someone says, “See, this is a new thing,” his fellow will answer him, saying to him, “This has been around before us for a long time.”
- [II:4 A]** R. Zeira in the name of Samuel: “One does not make a decision on the basis of laws [revealed to Moses at Sinai] or lore, or Tosefta-teachings, but only on the basis of Talmud.”
- [B] *But did not R. Halapta bar Saul teach as a Tannaite rule,* “The law [in M. Pe. 2:6] governing two types of wheat is the same as the law governing two types of barley” [and this conclusion was reached only on the basis of reasoning, not on the basis of laws revealed to Moses at Sinai].

[C] R. Zeira said,]”That was precisely how they had received the law, but they had forgotten it: The same law applies to two types of wheat and to two types of barley.

[D] *And lo, we have learned: If he uprooted fresh onions for the market and left others to remain and dry for the storage chamber, he must give peah for these by themselves and for those by themselves [M. Pe. 3:3].* [Now this law runs parallel to M. Pe. 2:6’s rule, confirmed by Nahum the Scribe, that if one sowed his field in two kinds of wheat and threshed them together, he gives one *peah*, but if he threshed them separately, he gives two distinct *peahs*.]

[E] *Now can you say* that the matter of the marketplace and the threshing floor constituted laws that they had had in hand but forgot [and not laws that they had derived through a process of analogy, that is, the rule on the onions from the rule on the wheat]? [Surely not!]

[II:5 A] R. Hananiah in the name of Samuel: “They do not derive rules of law from instructions [handed down in particular situations].”

[B] All concur that they do not derive rules of law from [the decisions rendered] in particular situations [without further confirmation].

[C] *Said to him R. Mana, “That which you have said applies to a case in which one did not give a reason for his ruling. But in a case in which one gave a reason for his ruling, one may apply the law likewise.”*

[D] *He said to him, “Whether one gave a reason for his ruling or did not give a reason for his ruling, it applies in a case in which there is contrary opinion. But in a case in which there is no contrary opinion, whether one has given a reason for his ruling or not, one may apply the law in accord with the stated view.”*

2:5

[A] [As regards] a field that

[B] (1) gentiles harvested [without the permission of the Israelite owner],

[C] robbers harvested,

[D] ants destroyed,

[E] or wind or cattle devastated —

[F] [the produce of such a field] is exempt [from designation as *peah*].

[G] [If a farmer] had harvested half [of his field], and robbers [then] harvested [the remaining] half —

- [H] [the produce that the farmer harvested] is exempt [from designation as *peah*], since the obligation [to designate] *peah* pertains to the [produce that] stands [in the rear corner of the field, and that segment the robbers later harvested].
- [I] If robbers had harvested half [of a field], and [then the farmer] harvested [the remaining] half —
- [J] [the farmer] must designate *peah*, from that which he harvested, [on behalf of the entire field].
- [K] [If the farmer] had harvested half [of his field], and [then] sold [the remaining] half —
- [L] the buyer must designate *peah* on behalf of the entire [field].
- [M] [If the farmer] had harvested half [of his field], and [then] dedicated [the remaining] half [to the Temple] —
- [N] he who redeems the produce from the [Temple]-Treasurer is the one who designates *peah* on behalf of the entire [field].
- [I:1 A] [As regards] a field that gentiles harvested [without the permission of the Israelite owner]:
- [B] *The rule of the Mishnah applies to a case in which the gentiles have harvested the field for their own benefit. But if they harvested it for the Israelite farmer, the grain is liable to peah.*
- [C] *And so it is taught as a Tannaite rule: They may not hire gentile workers [to harvest], because [gentile workers are not expert in the laws of] gleanings [T. Pe. 3:1].*
- [II:1 A] [As regards] a field that robbers harvested:
- [B] *The Mishnah speaks of a case in which the robbers reaped the crop merely to destroy it, but if it was not for destruction but to sell the crop, the produce is liable to peah.*
- [C] Said R. Hoshaiya bar Shimi, “Even if you say that the cut the crop down not for sheer destruction it is exempt from *peah*, because *peah* must be set aside from grain that remained attached to the ground that the robbers stole. [They don’t have the legal standing to set aside *peah*. Ownership of] landed property [e.g., grain attached to the ground] cannot be acquired through robbery.]
- [III:1 A] [If a farmer] had harvested half [of his field], and robbers [then] harvested [the remaining] half — [the produce that the farmer harvested] is exempt [from designation as *peah*], since the obligation [to designate] *peah* pertains to the [produce that] stands [in the rear corner of the field, and that segment the robbers later

harvested]. That is because the farmer designates peah from standing grain on behalf of other standing grain, or from standing grain on behalf of grain already harvested. But he may not set aside peah from harvested grain either on behalf of other grain harvested from the same field or on behalf of grain that remains standing in the same field.

[B] There are times that a farmer sets aside peah from harvested grain for grain that remains standing in the same field. *What would be a practical case?* If the farmer finished harvesting his field and had left standing just enough grain for peah, from the moment that he harvests for himself the first stalk of what he left beyond in the field for peah, the obligation to set aside peah applies to grain from the same field then it is made into sheaves. It turns out that the farmer must set aside peah from harvested grain in behalf of grain standing in the same field.

[C] And it is not the end of the matter that when he finishes reaping his field without setting aside peah that he might have to designate the offering from harvested grain. Rather, he may be required to set aside peah from harvested produce in the following case: if he was harvesting the field and said, “From here onward I designate the grain as peah,” the moment that he later harvests for himself the first stalk of what he had left behind in the field for designation as peah, the obligation to set aside peah applies to the grain from the rear of the field after it has been bound into sheaves. It turns out that the farmer must set aside peah from harvested grain in behalf of grain standing in the same field.

[IV:1 A] [If the farmer] had harvested half [of his field], and [then] sold [the remaining] half — the buyer must designate *peah* on behalf of the entire [field]:

[B] As to the seller [who is a poor man] what is the law as to his receiving the peah that the buyer will designate from the rear of the field, which will render the seller’s own sheaves from the front of the field exempt?

[C] *Let us derive the rule from the following:* **A poor man who contracts to harvest a field is forbidden [to take for himself] gleanings, forgotten sheaves, *peah*, or poorman’s tithe, [designated from that field]. Said R. Judah, “Under what circumstances does the rule apply? [It applies] if [the laborer] contracted with [the householder to harvest the field and be paid] one-half, one-third, or one-fourth [of the entire yield]. [In these cases, the harvester becomes a partial owner of the entire crop, and so may not gather its produce as poor-offerings.] But if [the householder] said to him, ‘A third of [the produce] that you harvest [and bring to the**

threshing floor] shall belong to you [as your payment],’ [the laborer] is permitted [to take for himself] gleanings, forgotten sheaves, and *peah*, [designated from that field]. [Since these offerings never are brought to the threshing floor, the worker has no claim of ownership upon them.] [M. Pe. 5:5].

[D] What is the difference between the latter case [where the worker may take the poorman’s tithe] and the former case [in which he can’t]? When he is allowed to receive the gifts to the poor, the owner has said, **“A third of [the produce] that you harvest [and bring to the threshing floor] shall belong to you [as your payment].”**

[E] Said R. Bun bar Hiyya, *“That is to say*, the seller may receive the very *peah* that renders his own sheaves exempt from the law.”

[F] Said R. Yosé, *“[The analogy is null.] There [in the case of one who contracts to harvest a field] the field was not under his ownership at the critical time when the law of *peah* took effect. [The contractor takes his share of the grain only after he finishes reaping the field. But the obligation to set aside *peah* operates as soon as he begins to reap the field. At that moment the contractor did not own any part of the field. He does not have to designate *peah*.] But here the field is under his ownership when the law of *peah* takes effect. The analogy to the case of the contractor is as follows: if the farmer harvested half of the field and sold the grain that he reaped, the buyer can receive gleanings, forgotten sheaves and *peah* from the grain he purchases. [The buyer had no claim to own the grain when the law of *peah* became operative.]”*

[H] A field that was half harvested and then sold — what is the law as to the buyer’s receiving the *peah* that the seller must designate, that in fact renders the seller’s own sheaves exempt?

[H] *It is in line with the dispute of Rabbi and R. Judah the Patriarch: The reason for the ruling of R. Judah the Patriarch that the poor man cannot keep poorman’s tithe separated from his own field because the sages have penalized the poor to prevent them from hoarding poorman’s tithes that belong to all the poor. The reason for the ruling of Rabbi that a rich person may not keep the poorman’s tithe but the poor person may is that a rich person has the money to buy several fields and can hoard the poorman’s tithe, but a poor person hasn’t got the money to buy fields; [poor folk may hold on to poorman’s tithe from their own fields.]*

[V:1 A] **[If the farmer] had harvested half [of his field], and [then] dedicated [the remaining] half [to the Temple] — he who redeems**

the produce from the [Temple]-Treasurer is the one who designates *peah* on behalf of the entire [field].

- [B] Grain harvested outside the Land of Israel [where the gifts to the poor are not obligatory] but that is imported into the Land — what is the law as to the grain's being subject to *peah*?
- [C] Don't you say that a field of grain owned by the Temple is exempt from *peah*, and grain harvested outside the Land of Israel is exempt from *peah*. If when grain owned by the Temple is redeemed by an ordinary Israelite, the grain becomes subject to *peah*, should it not be the rule that when produce harvested outside the Land of Israel is imported and sold to ordinary Israelites, it should become subject to *peah*.
- [D] *But it has been taught on Tannaite authority:* “When you reap the harvest of your land you shall not reap all the way to the edges of your field” (Lev. 19:9) — but not produce harvested outside of the Land.
- [E] If the Temple treasurer reaped half of the half of the field dedicated to the Temple and had not finished harvesting the remainder when an ordinary Israelite redeemed all that grain from the Temple. [Since the Temple owned the grain when the law of *peah* would take effect, at the beginning of the harvest, we do not know whether the Israelite who redeems the produce has to set aside *peah*.
- [F] [Since the Temple harvested only half of the consecrated produce, the Israelite] sets aside *peah* from the grain he will harvest on behalf of the grain that he will harvest. [But all the grain cut under the Temple's auspices was exempted since it was not privately owned when it was harvested.

YERUSHALMI PEAH

CHAPTER THREE

3:1

- [A] [As regards] rectangular [plots] of grain [sown] among olive trees —
- [B] the House of Shammai say, “*Peah* [is designated separately] from each one [of the plots].”
- [C] The House of Hillel say, “[*Peah* is designated] from one [plot] on behalf of all [of the plots together].”
- [D] And [the Shammaites] concede [to the Hillelites] that if the ends of rows [at the edge of each plot] touch [one another], [the farmer] designates *peah* from one [plot] for all [of the plots together].
- [E] [As regards] one who reaps [the ripe portions] of his field having left the unripe stalks [unharvested] —
- [F] R. Aqiba says, “He designates [a separate portion of produce] as *peah* from each [area, as he harvests it].”
- [G] But sages say, “[He designates *peah*] from one [area] on behalf of all [of the areas together].”
- [H] And sages concede to R. Aqiba that one who sows dill or mustard in three [distinct] places designates [a separate portion of produce as] *peah* from each and every [plot].
- [I:1 A] [As regards] rectangular [plots] of grain [sown] among olive trees:
- [B] We repeat the Tannaite rule: [the rectangular plots are sown] **among olive trees**. Yet the Household of Rabbi recite, “that are sown among trees.”
- [C] *The formulation of the Mishnah is required by the Household of Rabbi, and the formulation of the Household of Rabbi is required by the Mishnah.*
- [D] *With regard to the formulation of the House of Shammai, if we repeated only the version of the Mishnah [among olive trees] but did*

not teach the verse of the Household of Rabbi [among trees], we should conclude: we speak only of plots sown among olive trees that itself are subject to peah [and which establish boundaries between the plots of grain. They yield separate portions of peah. But with respect to plots of grain planted among trees of a species that is exempt from peah, even the House of Shammai would concur that these trees do not create a boundary between the plots of grain. Each plot sown among olive trees must have a separate portion of produce for peah. But as to plots of grain planted among trees of a species exempt from peah, even the House of Shammai would concur that these trees do not create a boundary between plots of grain and the farmer may designate a single peah for all of them. We require the version of the House of Rabbi, among trees, to yield the right view of the House of Shammai.

[E] *With regard to the formulation of the House of Hillel, if we repeated only the version of the Household of Rabbi [among trees] and did not repeat the version in the Mishnah [among olive trees] we would suppose we speak only of plots of grain sown among trees in general, exempt from the requirement of peah. [The trees do not establish boundaries among plots of grain.] So a single portion of peah suffices for all the plots. But we would suppose with regard to plots sown among other plants that are subject to the designation of peah, even the House of Hillel would agree that the plants create a boundary between the plots of grain, so the farmer must set aside a separate portion of produce as peah on behalf of every plot. So we require the version of the Mishnah and that of the Household of Rabbi.*

[I:2 A] [As regards] rectangular [plots] of grain [sown] among olive trees: how do we interpret the case at hand?

[B] If it is a case in which the trees are planted far apart from one another and yield no clear boundaries between the plots of grain, then the House of Shammai concur that the farmer may give a single peah for all the plots together. But if the trees are planted closely and demarcate a boundary between the plots of grain then even the House of Hillel would concur that the farmer designates peah for each plot.

[C] *But here is how we interpret the case at hand: It involves ten saplings that are planted in an area of a seah of seed. The House of Shammai regard them as sufficiently close together to establish clear boundaries between the plots of grain and have the farmer set aside a separate portion of peah for each plot. The House of Hillel see the trees as sufficiently far apart to establish no clear boundaries among the plots of grain and rule that a single peah suffices.*

- [I:3 A] *What is the reason for the House of Shammai?* People do not commonly intersperse grain among trees [and regard the grain as a single field with a single peah, but they plant several smaller fields, marked off by trees and each yielding a single peah.
- [B] The House of Shammai accord with the position of R. Yosé **[Parent-ions are subject to [designation as] peah. But R. Yosé declares them exempt (M. Pe. 3:4).** Thus: people do not commonly intersperse onions among vegetables but plant them as separate fields, each liable for peah, to too the House of Shammai maintain p People do not commonly intersperse grain among trees [and regard the grain as a single field with a single peah, but they plant several smaller fields, marked off by trees and each yielding a single peah.
- [C] It stands to reason that the House of Shammai would concur with R. Yosé, but R. Yosé would not concur with the House of Shammai. The House of Shammai would concur with R. Yosé that but R. Yosé would not concur with the House of Shammai: people do not commonly intersperse onions among vegetables but plant them as separate fields, each liable for peah. But R. Yosé would not concur with the House of Shammai but holds: People do commonly intersperse grain among trees.
- [I:4 A] If there was a fence [separating the trees into orchards, the plots of grain should be treated in accord with the law that governs trees. [The fence splits the grove of trees into two orchards, each yielding a peah.
- [II:1 A] **And [the Shammaites] concede [to the Hillelites] that if the ends of rows [at the edge of each plot] touch [one another], [the farmer] designates *peah* from one [plot] for all [of the plots together].**
- [B] Up to now we have dealt only with a case in which the middle plot of grain is intertwined with the plots on both sides [all forming a single field, despite the trees]. Lo, if the middle plot was intertwined with the next plot only on one side, do all three plots form a single field with one peah, or do the two contiguous plots form a single field?
- [C] If the intervening area is small, either less than three ridges in a furrowed field or smaller still, then all three parts form a single field with a single peah.
- [III:1 A] **One who reaps [the ripe portions] of his field having left the unripe stalks [unharvested]:**

[B] The field looks like a leopard [harvested in spots but not harvested in spots]. An area spread with manure comes up first, and this pattern is called a leopard.

[III:2 A] To this point we have dealt with a case in which the grain in the areas on either edge of the plot was fully ripe, but in the middle it was still green. But if the field ripened so that the grain on either edge was still green, while the grain in the middle was ripe, what is the law?

[B] R. Abba. R. Hiyya in the name of R. Yohanan: “*R. Meir concurs with the theory of R. Aqiba his master. Just as here R. Aqiba said that grain that is still green and grain that is fully ripe are classified as two separate species [each getting a peah of its own], so R. Meir said that grain that is still green and grain that is fully ripe are classified as two separate species [each getting a peah of its own].*”

[C] *Said the Associates before R. Yosé, “Why specify that he concurs in particular with R. Aqiba, when even in accord with the position of rabbis his view is consistent. [The farmer who reaps green produce separately from fully ripe produce must designate two peahs.] For we have learned in the Mishnah: **One who picks fresh onions [in order to sell them] in the market, and who allows dried [onions to remain in the ground in order later to bring them] to the threshing floor designates peah from the former [i.e., the fresh onions] by themselves and from the latter [i.e., the dried onions] by themselves.**”* [Why identify his position with a schismatic party when the norm governs his view.]

[D] Said R. Yosé, “We have heard [the rabbis’ rule on produce grown] for the marketplace and grown for the threshing floor. [The farmer intended the crops for different purposes.] It follows that the two types of onions are different species, each assigned its own peah. But is it the same for two batches of grain, one green and the other fully ripe? [The grain ripens unevenly by chance, and the farmer did not intend to raise separate crops. Meir accords in particular with Aqiba’s view that a separate designation of peah is required for each plot.]”

[E] [If the farmer gathered half grain that was still green and half grain that was fully ripe, then even R. Aqiba concurs that a single peah serves for both. [The farmer’s actions define the status of the crops.]

[F] *Have we not learned in the Mishnah: **And sages concede to R. Aqiba that one who sows dill or mustard in three [distinct] places designates [a separate portion of produce as] peah from each and every [plot].***

- [G] *Thus the Mishnah is to be understood: one who sows dill in three [distinct] places or mustard in three [distinct] places.* [The entire passage of the Mishnah speaks of plots that were planted in distinct patches and not in contiguous plots.]
- [H] Samuel said, “[The reason for Aqiba’s insistence on a separate peah for each plot] is that the first and the last do not ripen at the same time [but unevenly.]”
- [I] R. Yosé in the name of R. Yohanan said, “It is because farmers ordinarily sow in distinct patches.”
- [J] *In the judgment of Samuel* he separates peah for every stalk. *In the judgment of R. Yohanan* he separates peah for each furrow.

3:2

- [A] **One who picks fresh onions [in order to sell them] in the market, and who allows dried [onions to remain in the ground in order later to bring them] to the threshing floor**
- [B] **designates *peah* from the former [i.e., the fresh onions] by themselves and from the latter [i.e., the dried onions] by themselves.**
- [C] **And [this ruling applies] to beans and to [the produce of] a vineyard.**
- [D] **He who thins [his vines] designates [*peah*] from the remaining [produce] on behalf of that which he has left.**
- [E] **But if he clears [part of his field, intending to use both that which he clears and that which he leaves] for a single purpose, he designates [*peah*] from the remaining [produce] on behalf of all [of the produce, i.e., on behalf of both the produce he clears and the produce the remains in the field].**
- [I:1 A] *It was taught as a Tannaite rule: One who selects [the ripe onions from his field and leaves the others to dry] is obligated [to designate *peah* from] the former, [ripe onions], and is obligated [to designate *peah* from] the latter, [dry onions, because he harvests them for different purposes, and so they are deemed separate crops; cf. M. Peah 3:3A-B] [T. Pe. 1:9].*
- [B] What does “one who selects” mean?
- [C] Said R. Jeremiah, “*It is in line with what we have learned in the Mishnah: One who picks fresh onions [in order to sell them] in the market, and who allows dried [onions to remain in the ground in*

order later to bring them] to the threshing floor designates *peah* from the former [i.e., the fresh onions] by themselves and from the latter [i.e., the dried onions] by themselves.

[D] *Said R. Yosé, “It refers to black cumin. When you sow cumin it produces small seed bulbs, but when you plant the seed bulbs it produces large bulbs.”* [T. Pe. 1:9 produce grown from cumin seeds forms two distinct crops, each getting its *peah*.]

[E] [If it were not the fact that the Tosefta refers to small seed bulbs and big ones and regards them both as subject to *Peah*,] what should we rule about the double crop of cumin? [Since small seed bulbs are for seed to produce larger bulbs,] the seed bulbs should be exempt from *peah*. [But the seed bulbs for a crop that is edible and liable to *peah*.]

[F] But isn't wheat used for sowing? [Each full crop of wheat is used for food and a small part is saved for sowing.] But most small seed bulbs produced by black cumin are used for seeds [and only a small portion is used for spice].

[G] In the theory of R. Jeremiah [who rules that fresh onions are subject to *peah*, it appears that] vegetables are subject to designation as *peah*. [But they cannot be stored and so are exempt.]

[H] It is a species that can be stored [and unlike vegetables are subject to the law of *peah*].

[I] *What does R. Yosé do [with the small seed bulbs]?*

[J] He holds that the produce is fully processed and needs only drying [in storage. The seed bulbs are subject to storage and are liable to *peah*.]

[I:2 A] *It was taught as a Tannaite statement: [The verse says,] “The gleaning of your harvest” (Lev. 19:9), not the gleaning of your random plucking [but only those dropped during the harvest itself] [T. Peah 2:14].*

[B] R. Zeira, R. Hiyya in the name of R. Yohanan: “One who plucks stalks of grain to make a loaf of bread, even if it is a lot, the produce plucked in this way is exempt from *peah*.”

[C] R. Eleazar said, “Even if he did it with a sickle.” [What counts is that it is done stalk by stalk, so he has not harvested grain and does not have to set aside *peah*.]

[D] Said R. Yosé, “The exemption from *peah* is on condition that he leaves some of the crop for normal harvesting.”

[E] *And has it not been taught on a Tannaite basis: [If a farmer] had four or five vines he may harvest the grapes and bring them into his house, [with the result that they] are exempt from [the laws of] the separated [grape] (M. Peah 7:3), forgotten sheaf (M. Peah 7:8), and peah, [since they are harvested merely as a random snack, not as a crop]. But the grapes are subject to the law of gleanings (M. Peah 4:10-5:2), [since this law applies to all produce, whether or not it is harvested as a crop] [T. Pe. 1:10]. [He has not leaves some of the crop for normal harvesting.]*

[F] Said R. Yudan, “Here we deal with a crop of grain that is fully developed. [The growth is complete, and the farmer must leave peah as well as produce for harvesting in the normal way.] But there [in the Tosefta] we deal with a crop of grain that is not fully developed. [The farmer doesn’t have to set aside a part of the crop as peah and may pick it all.]”

[G] Said R. Yosé, “You may even say here and there we deal with a crop of grain that is fully developed, here and there we deal with a crop of grain that is not fully developed. Here in the Tosefta the farmer wants to eat grapes [and there is no further processing; the farmer may pluck the entire field as if for a snack and ignores the law of peah. But there the householder planned to turn the grapes into wine and does so. [It is fully processed and the law of peah is in effect.]”

[H] *The one rule teaches us about the other:* If he wishes to eat the grapes buy the handful, then even if he doesn’t leave some of the fruit behind for normal harvesting, what he picks is exempt from peah.

[I] *and the other rule tells us about the one:* if he wanted to make grapes into wine, he has to leave behind some grapes for normal harvesting.

[II:1 A] **He who thins [his vines] designates [peah] from the remaining [produce] on behalf of that which he has left:**

[B] *It has been taught as a Tannaite statement: Said R. Judah, “Under what circumstances [does this apply]? It applies if the farmer] thins [his field in order to sell the produce he thins] in the market. [Such produce is not subject to the designation of peah. Hence, the farmer need only designate peah on behalf of the produce that remains in the field.] But if he thins [his field in order to bring the produce] into his home, [hence using the entire crop for a single purpose], he designates [peah] from the remaining [produce] on behalf of all [of the field’s produce].” [T. Pe. 1:10].*

[C] Said R. Zeira, “That is the rule if he sows the plants close together, planning to thin them out. But if he sowed the plants close together without planning to thin them out, won’t it turn out that he brings all the produce into his home? Rather, it must be that even if he thins out some of the produce for the market, he must designate *peah* from what remains in behalf of the whole produce of the field.”

3:3

[A] **Mother-onions are subject to [designation as] *peah*.**

[B] **But R. Yosé declares them exempt.**

[C] **[As regards] rectangular [plots] of onions [sown] among [plots of] vegetables—**

[D] **R. Yosé says, “[The farmer designates] *peah* from each and every one [of the plots of onions].”**

[E] **But sages say, “[He designates *peah*] from one [plot] for all [of the plots together].”**

[I:1 A] **Mother-onions are subject to [designation as] *peah*:**

[B] Rab said, “It refers to a sprouting bulb.”

[C] Samuel said, “It refers to a seed onion.”

[II:1 A] **But R. Yosé declares them exempt.**

[B] R. Jacob bar Abun in the name of R. Hanina: “R. Yosé speaks only of a case in which the householder deems the seed onions left in the field as ownerless property. [Since they do not belong to anyone, they are ownerless property [and the law of *peah* does not apply].”

[C] *R. Abun bar Hiyya asked before R. Mana*, “Can ownerless property be subject to *peah*? [Certainly not. So seed onions deemed ownerless property are not at issue.]”

[D] He said to him, “[R. Yosé’s statement that seed onions are exempt from *peah* speaks of a case in which the householder] gathers the onions one by one. [They are not put into storage and *peah* is not collected.”

[E] *But has it not been taught as a Tannaite statement*: Even if one does not store produce in bulk, one may store it in small quantities. [The householder may store the seed onions he collects one by one and they will be liable to *peah*.]

[F] Can there be any other consideration than that the household places the onions in storage? [And Yosé holds that they are eaten one by one as

they are picked, and peah is no at issue, since the produce was never stored any way.]

3:4

- [A] **[Two] brothers who divided [ownership of a field that they had inherited],**
- [B] **give two [separate portions of produce] as *peah* [i.e., each designates *peah* on behalf of the produce growing in his half of the field].**
- [C] **[If they] once again jointly owned [the field],**
- [D] **[together] they designate one [portion of produce] as *peah* [on behalf of the entire field].**
- [E] **Two [householders] who [jointly] purchased a tree,**
- [F] **[together] designate one [portion of produce] as *peah* [on behalf of the entire tree].**
- [G] **But if one purchased the northern [part of the tree], and the other purchased the southern [part of the tree],**
- [H] **the former designates *peah* by himself, and the latter designates *peah* by himself.**
- [I:1 A] [If the partners harvested half of the field jointly, then divided ownership so one took the produced that had been reaped, the other took the remainder of the grain] — the farmer who took the harvested grain does not have to designate peah from his own produce, neither at the beginning when he first took the gar nor at the end when the former partner completes reaping the field. [The obligation to designate peah applies to produce in the rear of the field alone. Only the other partner, who owns and reaps the crop in the rear of the grain, is responsible for setting aside the offering for the entire field.
- [B] But if the two farmers revert to joint ownership of the field, divide ownership, and then take up joint ownership, and harves5ed the remaining half of the field as joint owners, and then divided ownership, then the farmer who took possession of the harvested grain must designate peh from his own produce in behalf of his partner’s produce, [but only from grain in the rear of the field, the area they reaped under joint ownership.
- [C] But the farmer who had already harvested half the field does not need to designate peah from his own produce [the grain that grew in the front of the field] on behalf of the grain owned by the other [in the front of his portion of the field. [When the two initially divided

ownership of the field, this partner was exempt from responsibility to designate as *peah* a portion of the grain that grew in the front of the field. Even if he now agreed to joint ownership again, this decision does not have an effect on the earlier exemption.]

- [I:2 A] Said R. Yohanan, “If one farmer began to harvest his half of the field but the other farmer harvested only half of his half of the field, the second farmer didn’t finish harvesting the remaining part of his half of the field, the second quarter, before the first farmer completed harvesting his entire half of the field [so one side of the field is completely harvested but only the adjacent strip of the other half has been harvested — the first farmer may designate *peah* from the first half of the field that has been harvested. On behalf of the middle, the harvested portion of the second half of the field, and vice versa. He may not designate *peah* from the one end of the field in behalf of the other end of the field [in behalf of the harvested portion of the second half of the field.]
- [B] Said R. Joshua b. Levi, “If he had a field, one half of which had produced grain that reached a third of its full growth, and the other half had not produced grain a third ripe. The farmer began to harvest the first half, but had not completed harvesting that half before the other half produced grain that was a third ripe. He may designate *peah* from the first quarter of the field for the middle of the field and vice versa. But he may not designate *peah* from the first quarter of the field for the first quarter of the rear portion of the field.”

3:5

- [A] **[As regards] one who sells [only] the trees in his field, [but not the earth in which they are planted],**
- [B] **[the buyer] designates *peah* from each and every [tree]. [The trees do not comprise an orchard, because the buyer does not own the land in which they grow.]**
- [C] **Said R. Judah, “Under what circumstances [does this apply]?**
- [D] **[“It applies] if the owner of the field does not retain [any of the trees for himself].**
- [E] **“But if the owner of the field had retained [some of the trees for himself],**
- [F] **“[the owner] designates *peah* for all [of the trees, i.e., both those that he sells and those that he retains].”**
- [I:1 A] To this point we have dealt with a case in which the seller had already begun to harvest the trees in the orchard so the law of *peah* took effect

forthwith, [That is why the original owner incurs responsibility for designating peah for the whole orchard.] But what is the seller had not yet begun to harvest the trees? [How could the original owner incur responsibility for peah for the entire orchard?]

- [B] *Let us derive the answer from the following: **He who purchases the fleece of the flock of his fellow — if the seller left [himself some fleece], the seller is liable. [If] he did not leave himself [some fleece], the buyer is liable [M. Hul. 11:2].***
- [C] R. Jeremiah in the name of R. Yohanan: “Does this belong to R. Judah? *In that case there is a difference to him* as to whether the seller had begun to fleece his sheep, *while in the present case it makes no difference to him* whether or not the farmer who sells his orchard had begun to harvest it?”
- [D] “What is the real reason for R. Judah’s position [that the law applies only if the farmer retained for himself some of the produce]? Is it because he holds that the obligation to designate peah on behalf of that fruit that has been harvested resides in the fruit that remains unharvested? Or perhaps his reason is that the farmer sells the buyer a portion of the field for which he has not yet incurred the obligation to designate peah??”
- [E] *Let us derive the answer from the following: **He who purchases the fleece of the flock of his fellow — if the seller left [himself some fleece], the seller is liable. [If] he did not leave himself [some fleece], the buyer is liable [M. Hul. 11:2].***
- [F] Said R. Jeremiah in the name of R. Yohanan: “Does this represent the opinion of R. Judah? Can you say there [regarding peah] that the obligation to set aside peah for the produce that has already been harvested is located in the produce that remains unharvested and not because the seller sells to the buyer a portion of the crop for which he has no responsibility to designate peah, yet do you claim in this case [the wool offering] the seller sold the buyer a portion of the wool for which he had no obligation to designate wool offering?”
- [G] *What’s the difference between these two accounts of the operative consideration?*
- [H] If the buyer went ahead and designated the offering [peah]. If you say that the obligation to set aside peah for the produce that has already been harvested is located in the produce that remains unharvested, that which has been designated has been designated [and is peah and tithe free]. But if you say that it is because the seller sells to the buyer a

portion of the crop for which he has no responsibility to designate peah, that which the buyer had set aside is peah but the buyer may collect from the seller the value of the designated produce.

- [I] What if the portion that the seller retained was burned up?
- [J] If you say that the obligation to set aside peah for the produce that has already been harvested is located in the produce that remains unharvested, then the portion that was burned up has been burned up [and the seller suffers the loss]. But if you say that it is because the seller sells to the buyer a portion of the crop for which he has no responsibility to designate peah, then despite the fact that the produce the seller has retained was burned up, the buyer may collect from the seller the value of the designated produce.

3:6

- [A] **R. Eliezer says, “[An area] of land [within which is planted] a quarter-[qab of seed] is subject to [the laws of] peah.”**
- [B] **R. Joshua says, “[An area of land that] produces two seahs [of grain is subject to the laws of peah].”**
- [C] **R. Tarfon says, “[An area of land measuring] six-by-six handbreadths [is subject to the laws of peah].”**
- [D] **R. Judah b. Beterah says, “[An area of land that produces] sufficient [grain that the farmer must] cut twice [i.e., with two strokes of a sickle is subject to the laws of peah].”**

And the law accords with his opinion.

- [I:1 A] *What is the scriptural basis for the position of R. Eliezer?* “You shall not reap all the way to the edges of your field” (Lev. 19:9), and “You shall not sow your field with two kinds of seed” (Lev. 19:19). Just as in the latter instance “your field” implies an area large enough for a quarter-qab of seed, so too here with peah “your field” implies an area large enough for a quarter-qab of seed
- [B] *What is the scriptural basis for the position of R. Joshua?* “You shall not reap all the way to the edges of your field” (Lev. 19:9), and “If you overlooks a sheaf in the field” (Dt. 24:19). Just as with the forgotten sheaf, we interpret the field to comprise no more than two seahs of grain, so here with Peah “your field” involves two seahs of grain.
- [C] *What is the scriptural basis for the position of R. Tarfon?* “A field” means a garden bed [which must be six by six handbreadths to be subject to the law against mixed seeds.

[D] **R. Judah b. Beterah says, “[An area of land that produces] sufficient [grain that the farmer must] cut twice [i.e., with two strokes of a sickle is subject to the laws of *peah*].” And the law accords with his opinion.** To what type of cutting does he refer? Is it cutting in the manner of a harvester, or to any stroke of the sickle [however unproductive]? From what is written in Scripture, “Let them be like grass on roofs that fades before it can be pulled up, that affords no handful for the reaper nor armful for the gatherer of sheaves” (Ps. 129:6) — he refers to cutting in the manner of reapers [with broad strokes of the sickle].

3:7

[A] **R. Aqiba says, “Land of any size at all is subject [to the laws of] *peah* and [to the laws of] first fruits (cf. Deut. 26:1), [and is sufficient] for writing against it a *Prosbul*. [This is a document that prevents the Sabbatical year from canceling the obligation to repay a loan. It may be written only if the borrower owns real estate.] [Finally, even a minuscule area of land may be used] thereby to acquire ownership of movable property, along with [an exchange of] money, a deed, or [an act of] usucaption.”**

[B] [As regards] one who had consigned his property [to others] while he lay on his death bed, [but then recovered] —

[C] [if in his consignment] he had retained [for himself] any land at all, his gift is deemed valid.

[D] [If] he had retained no land at all, his gift is deemed invalid, [and the others must return what they had received].

[E] One who consigns his property to his sons —

[F] [if] he had consigned any land at all to his wife, she forfeits [the settlement guaranteed by] her marriage-contract.

[G] **R. Yosé says, “If she accepted [some land from the husband, as a gift] even though he had not consigned it to her [in writing], she forfeits [the settlement guaranteed by] her marriage-contract.”**

[I:1 A] R. Immi in the name of R. Simeon b. Laqish *asked*: “Note if a small plot of ground contained only one stalk of grain — as long as the farmer has not harvested that one stalk, the obligation to set aside *peah* from the plot is not in effect. Once the single stalk was harvested, there isn’t enough grain remaining in the field to be classified as *peah*. [There isn’t enough grain left in the field to leave behind *peah*. What should the farmer do?]”

- [B] R. Hanania in the name of R. Pinhas: “Resolve the dilemma by positing that there was a single stalk and on the stalk were five branches. [Harvest one of the branches, so the stalk is liable, and designate peah from a remaining branch.]”
- [I:2 A] *R. Mana asked, “Why not repeat, R. Aqiba said, ‘A standing crop of any size whatever is subject to peah?’”*
- [B] *Because the Tannaite formulation makes reference to firstfruits, the Mishnah reads, “land of any size,” and so the Mishnah-passage speaks of “land.”*
- [C] *A Tannaite formulation [of the list of items that take effect only if one owns at least a miniscule area of land should include] and the appearance-offering.*
- [D] R. Yosé in the name of R. Yohanan: “One who has no land at all is exempt from the appearance-offering.”
- [E] *R. Mana asked, “Why not repeat, anyone who does not own land is exempt from the Confession [Dt. 26:15] [that all tithes have been removed from the household]. For it is written, ‘[I have cleared out the consecrated portion from the houseÖlook down from your holy abode and bless your people Israel] and the soil you have given us.’ [“Soil” then excludes those that own none.]”*
- [F] R. Yosé b. R. Bun in the name of R. Yohanan said, “That is the tradition: Anyone who does not own land is exempt from responsibility to declare that all the tithes have been properly removed. For it is written, ‘[I have cleared out the consecrated portion from the houseÖlook down from your holy abode and bless your people Israel] and the soil you have given us’ (Dt. 26:15).”
- [G] R. Yosé in the name of R. Joshua b. Levi: “One who has no land at all is exempt from the appearance-offering, for it says, ‘No one will covet your land when you go up to appear before the Lord your God three times a year’ (Ex. 34:24).”
- [I:3 A] There is the case of one who left his grain heap unattended and when he returned [from Jerusalem] he found lions surrounding his grain.
- [B] There is the case of one who left his chicken coop unattended, and when he returned [from Jerusalem] he found cats torn apart in front of the coop.

[C] *There is the case of one who left his house unlocked, and when he returned [from Jerusalem] he found a snake wound around his door lock.*

[D] *R. Pinhas told the following story: “Two brothers lived in Ashkelon. They had gentile neighbors, who said, ‘When these Jews travel to Jerusalem we shall take all that they own.’ When the Jews left, the Holy One, blessed be he, summoned angels who went in and out of the house in their guise. When they returned from the pilgrimage, the Jews sent gifts to their neighbors. The gentiles said to them, ‘Have you been somewhere?’ They replied, ‘In Jerusalem.’ ‘And whom did you leave to housesit?’ ‘No one.’ The gentiles said, ‘Blessed is the God of the Jews: as they did not abandon him, so he did not abandon them.’”*

[I:4 A] What is the scriptural basis for the rule: **Property for which there is no security is acquired along with property for which there is security through money, writ, and usucaption [M. Qid. 1:5].**

[B] R. Yosé in the name of Hezekiah, R. Jonah, R. Haninah the Ox-merchant in the name of Hezekiah: “Said Scripture, ‘And their father gave them gifts...with walled cities in Judah’ (2 Chr. 21:3).” [Thus they acquired the gifts, which were movables, in conjunction with the walled cities, that is, real estate.]

[C] *To this point* we have dealt with a case in which real estate and movables were located together. What if the real estate was here and the movables were there?

[D] *Said R. Bun bar Hiyya, “Let us find the answer in the following: Said R. Eleazar, “There was a case of a certain man of Meron who was in Jerusalem, who had a large volume of movables that he wanted to give away. They told him that he had no remedy except to transfer title along with a piece of real estate. What did he do? He went and he bought a land no bigger than a sela coin near Jerusalem, and he said, ‘The north of this property belongs to Mr. So-and-so, and along with it go a hundred sheep and a hundred barrels of wine.’ [And the same for the other directions.] When he died, the court confirmed his instructions” [T. B.B. 10:12].*

[E] *Said R. Hananiah before R. Mana, “Now was he not a dying man? [Eliezer cites the case, after all, for his argument that a dying man transfers ownership not verbally but only through the proper and established procedures. But the case then does not answer the question with which it has been cited to deal, because the rules pertinent to gifts in contemplation of death cannot be invoked in other contexts entirely, such as the one before us.]*

[F] “For under all circumstances a man transfers ownership only through a document, while here, he does so even verbally;

[G] “[and, further,] in all other circumstances a person transfers ownership only when the real estate and the movables are located in a single place, while here, the real estate is in one location, while the movables are in another. [Consequently, as we said, this story does not prove the case.]”

[H] He said to him, “And is it not a case involving R. Eliezer? Is there any difference between the two cases, for the laws governing the dying person, in the view of R. Eliezer, are the same as the laws governing a healthy person, in the view of the rabbis. [Consequently, the same law applies to the one and to the other, and, it follows, we may indeed derive the law governing the transfer of movables along with real estate in some other location.]”

[I] He said to him, “[Yes, that is so]. The law governing a dying person in the view of R. Eliezer is the same as the law governing a healthy person in the view of rabbis, [and consequently the results of this inquiry are precisely as stated above].”

[J] *There we have learned: R. Aqiba says, “Real estate of any size whatsoever is liable to the laws of peah and first fruits; a prozbol can be written on its security, and along with it movables can be acquired by money, writ, or usucaption “ [M. Pe. 3:6].* [Aqiba’s statement indicates that movables need not be located on the property, since a piece of land of very small size is involved in his statement, and this then would be further evidence in behalf of the proposition under discussion.]

[K] [Denying this conclusion,] said R. Mateniaah, “But apply [Aqiba’s statement] to the case of a space of ground sufficient for a single stalk of corn, under which a pearl is buried, [and it would not then follow that Aqiba in general maintains that the movables need not be located on the real property which is transferred; he may as well address the case described here, and no further conclusions are to be drawn].”

[II:1 A] **[As regards] one who had consigned his property [to others] while he lay on his death bed:**

[B] What is the definition of “death bed”?

[C] Anyone upon whom the ailment did not descend suddenly [but progressively deteriorated].

- [D] Proper conduct is for relatives visit right away, but more distant acquaintances visit after three days.
- [E] If the ailment descended suddenly, both relatives and more distant acquaintances visit right away.

[F] *A case: R. Huna, R. Pinhas, and R. Hezekiah went to visit R. Yosé three days after [he fell ill]. He said to them, "Did you want to carry out the Tannaite teaching by waiting to visit me? [But you are my disciples, therefore family.]"*

[III:1 A] ... [if in his consignment] he had retained [for himself] any land at all, his gift is deemed valid:

[B] [The gifts are valid] if he recovers.

[C] **[If] he had retained no land at all, his gift is deemed invalid, [and the others must return what they had received]**

[D] That is on condition that he recover.

[E] R. Abba, R. Huna in the name of Rab: "They have treated the verbal declaration of a dying man as equivalent in force to the deed of a healthy man who wrote a deed of gift and handed over the property, [in that, in the former case, a formal act of acquisition is not required for ownership to be deemed to have been transferred]."

[F] [Now that rule applies] if the man died from the very disease from which he was suffering [when he made his statement]. [But if he got better, then the statement is not one of a dying man, and the rule cannot be invoked.]

[G] [And that rule applies] to a gift that was explicitly spelled out, e.g., the sick man said, "Give this particular field to Mr. So-and-so." But if he said, "Give half of that field to Mr. So-and-so and half to Mr. Such-and-such," would this qualify as an articulate indication of the gift? Or is it not valid unless he says, "the southern half of the field and the northern half...?"

[III:2 A] R. Abina in the name of R. Jeremiah: "[If] he left himself movables, he has done nothing whatsoever.

[B] "But if he left himself ready cash and purchased real estate with it, it is as if he left himself a piece of real estate."

[C] See here: [if in his deathbed division of his property] he retained any land at all, he has a source of income on which] to live. If he retained

jewels and pearls, would he really have no source of income on which] to live?

[D] Said R. Yosé, “The dying man knows full well that a dying man can assign ownership even verbally. For what purpose would he establish a transfer of legal ownership in writing? It is to give the consignment the status of a gift made by healthy man, [so even if he recovers, the gift is valid].”

[III:3 A] What if he retained ownership of his slaves?

[B] *R. Yudan bar Pazzi in the name of Bar Delaiah taught as a Tannaite rule but they don't know what he taught.*

[III:2 A] If he wrote over his property in a deed of gift to one party and handed it to him, and then wrote a deed of gift to another and handed it to him, Rab said, “He cannot retract.”

[B] R. Abba bar Huna and R. Yohanan: “He is allowed to retract.”

[C] *What would be a concrete case? If a slave's first master was dying, and the second person was a priest, and the third party was an Israelite, in the opinion of Rab, the slave may eat heave-offering. [The slave is a dependant of a priest, the dying man cannot retract.] In the opinion of R. Abba bar Huna and R. Yohanan, the slave may not eat heave-offering. [The donor may retract, the consignment is conditional on his dying.]*

[D] All parties concur that if the original owner was an ordinary Israelite, the slave may not eat heave-offering of the priest to whom he was given. For if the original owner recovers and the slave returns to the Israelite ownership, he will have eaten food that is not his to eat.]

[E] *R. Yosé b. R. Abun in the name of R. Huna: “The following Tannaite ruling supports the view of R. Abba bar Huna and R. Yohanan: **A healthy person who wrote a will (a dying man who wrote his property as a gift -- even though he gave possession after the gift, he has done nothing at all [T. B.B. 8:9].** A healthy person who writes a will may revise his will if he no longer is health. A person on his deathbed who makes a consignment may recant if he recovers.*

[F] **What is a will? “Let this be confirmed: If I die, let my estate be given to So-and-so.” And what is a deed of gift? “As of this date let my property be given to So-and-so.” [T. B.B. 9:10].**

[G] If the dying man said, “From this date” [what is the law]?

[H] *The sister of R. Guryan [who was dying] assigned all her possessions to her brother [“from this day]. Her older brother came and convinced her to assign the goods to him. When the case came before R. Imi he said, “Thus did R. Yohanan state: ‘One may recant.’”*

[I] Said R. Zeira, “Didn’t R. Yohanan agree that if one wrote, ‘from this did,’ the person can’t recant?”

[J] *R. Abbahu came along in the name of R. Yohanan: “One is not allowed to recant.”*

[K] *R. La came along in the name of R. Yohanan: “One is not allowed to recant.”*

[L] *R. Immi recalled and changed his decision.*

[IV:1 A] [if] he had consigned any land at all to his wife, she forfeits [the settlement guaranteed by] her marriage-contract. R. Yosé says, “If she accepted [some land from the husband, as a gift] even though he had not consigned it to her [in writing], she forfeits [the settlement guaranteed by] her marriage-contract.”]

[B] Rab said, “This rule applies in a case in which he transferred ownership through her [to the children].”

[C] And Samuel said, “It applies to a case in which he makes the division in her presence [so that she has every right to cavil and refrains from doing so].”

[D] R. Yosé bar Haninah said, “This is one of the lenient rulings applicable to the marriage settlement which they have taught here.”

[E] *And Bar Qappara taught, “This is one of the lenient rulings which they have taught with regard to the damage settlement.”*

[F] *Said R. Ba, “The reasoning of R. Yosé b. Haninah is this: It is not the end of the matter that if her marriage-settlement was a maneh or two hundred zuz [that the stated rule applies]. But even if her marriage settlement was worth a thousand denars, it still is one of the lenient rulings involving the marriage settlement which they have taught here.”*

3:8

[A] **One who consigns [all of] his property to his slave —**

[B] **[the slave] becomes a free person, [because the slave, as part of the estate, now owns himself].**

- [C] **[If in his consignment the property owner had retained any land at all — the slave does not become a free person, [for we assume that the property retained includes the slave].**
- [D] **R. Simeon says, “Under any circumstances [i.e., whether or not the property owner retains some land for himself], the slave is free,**
- [E] **“unless the [property owner] says, ‘Lo, all of my possessions are given to so-and-so, my slave, except for one ten-thousandth part of them.’”**
- [I:1 A] **R. Yosé in the name of R. Eleazar: “If he held back only some movables, he has done nothing. [He has not said, ‘I retain the slave’s body.’”**
- [B] **When they said this before R. Yosé, he replied, ““He who gives a right answer smacks his lips””[T. Pe. 1:19].**

YERUSHALMI PEAH

CHAPTER FOUR

4:1

- [A] *Peah* is designated from [produce that as yet is] unharvested.
- [B] [As regards grape vines that grow] on a trellis, or [the produce of] a palm tree —
- [C] the householder cuts down [the produce] and distributes [it] among the poor.
- [D] R. Simeon says, “Also: [The preceding rule applies] to [nuts that grow on] smooth nut-trees.”
- [E] Even if ninety-nine [poor people] say that [the householder should harvest and] distribute [the produce], and [only] one [poor person] says that [the poor should harvest and] take [the produce by themselves],
- [F] they listen to the latter, [who said that the poor should take the produce],
- [G] for he has spoken according to the law.
- [H] [With regard to grape vines that grow] on a trellis, or [the produce of] a palm tree, this [rule] does not apply.
- [I] [For in the case of a trellis or a palm tree], even if ninety-nine [poor people] say that [the poor should] harvest and [take the produce themselves], and [only] one [poor person] says that [the householder should] distribute [the produce among the poor],
- [J] they listen to the latter, [who said that the householder should distribute the produce],
- [K] for he has spoken according to the law.
- [I:1 A] It is written, “When you reap the harvest of your land, you shall not reap all the way to the edges of your field” (Lev. 19:9) — On this basis *Peah* is designated from [produce that as yet is] unharvested.

- [B] Might one supposed that that is the rule even **[as regards grape vines that grow] on a trellis, or [the produce of] a palm tree?**
- [C] Scripture states, “When you reap the harvest of your land, you shall not reap all the way to the edges of your field” (Lev. 19:9).
- [D] Now what marks harvesting is that a minor can reach up as easily as an adult — excluding the grapes on a trellis or the fruit of a palm tree, for in these cases a minor cannot reach up as easily as an adult.
- [E] *There are those that prefer to prove that that is the rule even [as regards grape vines that grow] on a trellis, or [the produce of] a palm tree* from this verse: “You shall leave them for the poor” (Lev. 19:10). [That indicates the householder] must leave the produce for them to take [unharvested]. That applies to grain and by analogy one leaves fenugreek in its ears and dates on their branches.
- [F] **Perhaps in the case of produce suspended from a trellis or the produce of a palm tree (M. Peah 4:1H) the same rule, that the poor should divide the offerings for themselves, hold true?**
- [G] **[To indicate that this is not the case, Scripture states, “you shall abandon] them [i.e. the offerings].” [The indirect object is taken to mean that the householder must abandon only those items that will benefit the poor. He has no right, by contrast, to leave for them produce that they will have to collect in dangerous situations.] [Sifra CXCI.1.5]**
- [H] On what basis do you claim that **[the householder] should divide produce on a trellis or a date palm, but that [the poor] should divide [for themselves] all other types of produce [set aside as poor-offerings]?**
- [I] **After Scripture made a general statement, [“When you harvest...” (Lev. 19:9)], it made a limiting statement, [“...the harvest of your Land” (Lev. 19:9)] [Sifra CXCI.1.5].**
- [J] I can include those types of produce that pose no threat of danger to the poor and exclude those types of produce that pose a threat of danger to the poor [e.g., fruit high on a trellis or a palm tree].
- [K] Peah then is designated from grain that is unharvested and from produce that is harvested. If you say that peah is designated while the produce is unharvested, then the householder must designate as peah a specific portion of the produce up above [on the trellis or palm tree]. [Must the farmer designate some of the produce as peah before cutting

the produce down for the poor or may he cut down the produce and set it aside for the poor?]

- [L] If you say it must be set aside unharvested, then the farmer designates as peah a portion of the produce up above. But if you say it is set aside after being harvested, then the farmer may designate as peah produce down below, on the ground.
- [M] If you say he must designate as peah a specific portion of the produce up above on the trellis or palm, the poor have to gather the offering. If you say that the farmer may designate as peah a specific portion of the produce when the fruit has been brought down to the ground, then it is the duty of the householder to gather the produce for the poor.
- [N] But even if you hold that the farmer designates as peah a specific portion of the produce up above, the sages require the farmer to harvest it, so that considering the danger of falling, the duty to gather the produce will belong to him.
- [O] *It is taught as a Tannaite statement in the name of R. Meir, "Gathering the fruit to be designated as peah from any kind of tree presents danger."*
- [P] R. Meir does not interpret, "When you reap the harvest of your land, you shall not reap all the way to the edges of your field" (Lev. 19:9) [to imply that all the produce must be unharvested]. And rabbis do interpret, "When you reap the harvest of your land, you shall not reap all the way to the edges of your field" (Lev. 19:9) [to imply that all the produce must be unharvested].
- [Q] Everybody interprets "When you reap the harvest of your land, you shall not reap all the way to the edges of your field" (Lev. 19:9) [to imply that all the produce must be unharvested]. But R. Meir claims, "Gathering the fruit to be designated as peah from any kind of tree presents danger." And the rabbis say, "Gathering the fruit to be designated as peah from any kind of tree presents no danger except for a trellis or a palm tree."
- [R] R. Hananiah in the name of R. Simeon b. Laqish: "There was a case in which five brothers died while collecting the fruit of five smooth nut trees."
- [I:2 A] In regard to a householder who designated a particular part of the fruit on his trellis or palm tree as peah and then completed the harvest I recite the verse, "When you reap the harvest of your land, you shall not reap all the way to the edges of your field" (Lev. 19:9).

[B] So too if the householder had not yet designated peah yet completed harvesting the tree or trellised vines, in his regard I recite the verse, “When you reap the harvest of your land, you shall not reap all the way to the edges of your field” (Lev. 19:9).

[II:1 A] **Even if ninety-nine [poor people] say that [the householder should harvest and] distribute [the produce], and [only] one [poor person] says that [the poor should harvest and] take [the produce by themselves], they listen to the latter, [who said that the poor should take the produce], for he has spoken according to the law:**

[B] what if all the poor agree among themselves that the householder should harvest and distribute the grain designated as peah? Even then they do not listen to them, but the householder must permit the produce to be divided right in his hand, lest he see a poor relative and set the offering before him.

[C] R. Samuel bar Abudama *asked*, “If the householder finished harvesting the whole field without designating peah, you concur that the obligation to set aside peah applies to grain bound into sheaves. [Why not worry that he will interfere in distributing the poor offering?]”

[D] In that case too the householder must permit the produce to be divided right in his hand, lest he see a poor relative and set the offering before him.

4:2

[A] **[If a poor person] harvested a portion of the [produce designated as] *peah*, and threw it over the remainder [of the produce designated as *peah*, in order to claim possession of that grain],**

[B] **he is entitled to no part [of the *peah* that he wrongly tried to claim, although he may keep the grain that he originally picked].**

[C] **[If] he fell upon [the produce designated as *peah*], or spread his cloak over it, [in order to claim possession of it],**

[D] **they remove it from him.**

[E] **This same [rule] applies to [the collection of both] gleanings and forgotten sheaves.**

[I:1 A] *A Tannaite teaching in the name of R., Meir: They penalize him, by removing from him both that [which he legally gathered] and that [which he attempted to claim] [T. Pe. 2:1].*

- [B] To this point we deal with an intentional act [of acquiring the grain. But the same rule pertains even when the act was unintentional. even if the poor man made grain heaps from the peah he tried to claim.
- [I:2 A] R. Simeon b. Laqish in the name of Abba Kohen Bardela: “A person acquires ownership of a lost object [when it is] within four cubits [of that person].”
- [B] *What is the Scriptural basis for that view?*
- [C] “In my poverty I have provided for the house of the Lord, a hundred thousand talents of gold, a million talents of silver, and bronze and iron beyond weighing, for there is so much of it; timber and stone too I have provided. To these you must add” (1 Chron. 22:14). [Now how can he refer to himself as poor if he assembled such wealth?]
- [D] *Said R. Jonah, said R. Hoshaiah, “How shall we interpret this matter? If the materials were within four cubits, he was rich. And if they were not within four cubits, does someone consecrate something which is not his own? [When he said he was poor, then, it was because the materials were not within reach. Consequently, when they come within reach, they fall into the person’s domain.]”*
- [E] *We may interpret the matter to speak of a case in which he consecrates things one by one.*
- [F] Said R. Abun, “What is the meaning of, ‘... in my poverty’? That there is no true riches before Him who spoke and brought the world into being.”
- [G] Another matter, “In my poverty” — For he fasted and consecrated his meal to heaven.
- [I:3 A] [With reference to the proposition that a person acquires ownership of a lost object when it is within four cubits of himself,] *R. Jacob bar Idi objected before R. Simeon b. Laqish, “Have we not learned: **If one saw a lost object and fell on it, and someone else came along and grabbed it, this one who grabbed it has acquired possession of it [M. B.M. 1:4A-B]? [Why should the former party not have acquired ownership?]**”*
- [B] Interpret the case to be one in which the first party did not state, “Let the four cubits [within which I stand] effect possession for me.”
- [C] *And have we not learned: **If a poor man fell upon produce designated as peah or spread his cloak over it [in order to claim ownership of this produce], they remove it from him [M. Pe. 4:3D].***

- [D] This is yet another case in which he did not state, “Let the four cubits [within which I stand] effect possession for me.”
- [E] *And did not R. Hiyya teach: **Two who were fighting about a sheaf of grain, and another party came and snatched it — this one who snatched it has acquired ownership of it [T. Pe. 2:2]?***
- [F] This is yet another case in which [the two who were fighting] did not state, “Let the four cubits [within which we stand] effect possession for us.”
- [I:4 A] R. Yosé in the name of R. Yohanan, “This rule with regard to acquisition of a writ of divorce [that the four cubits within which the woman stands are deemed her domain for the purposes of effecting ownership of the writ] does not apply to the transfer of a gift.”
- [B] *There is a challenge to the position of R. Yohanan, and a challenge to the position of R. Simeon b. Laqish [who differs from Yohanan].*
- [C] *The challenge to the position of R. Yohanan is this:* Now if in the case of a lost object, of which one does not acquire ownership by reason of the opinion of a third party [that is, a donor], one acquires possession within four cubits [as his own domain], a gift, of which one does acquire ownership by reason of the opinion of a third party [the donor] — is it not a matter of an argument *a fortiori* that one should acquire ownership within four cubits]?
- [D] *The challenge to the position of R. Simeon b. Laqish is this:* Now in the case of a gift, of which one does not acquire ownership within four cubits, one does acquire ownership by reason of the opinion of a third party, a lost object, of which one does acquire ownership within the domain of four cubits, is it not an argument *a fortiori* [that he should acquire ownership through the opinion of a third party who will transfer ownership of the object to him]?
- [E] *R. Zeira objected before R. Yosé, “And lo we have learned: **And so is the rule with regard to betrothals [M. Git. 8:3A]** [which are comparable to the transfer of gifts].”*
- [F] He said to him, “The same rule applies to delivering writs of divorce and tokens of betrothal, [and the latter are not subject to the rule governing gifts].”
- [G] *And lo, we have learned: **And so is the rule with regard to a debt [M. Git. 8:3B].***

- [H] He said to him, “That is because, if he had said to him, ‘Throw it into the sea and the debt will be forgiven to you,’ it is forgiven to him.”
- [I] If that is so, then even if it were nearer to the borrower, the borrower should have made acquisition. [That is, if the creditor had told the debtor to throw the money, and it landed nearer to the debtor but was lost, the debtor should have the advantage and the debt should be forgiven. *Yet we have learned, If it is closer to the borrower, the borrower [remains] liable [M. 8:3E].*
- [J] But if he had said to him, “Throw it so that it enters into his domain, but it has not yet entered his domain,” [then the law of the Mishnah would apply].
- [K] *Said R. Abbahu, “As to all of these questions which R. Zeira raised to R. Yosé, R. Simeon b. Laqish addressed to R. Yohanan, and he accepted from him the interpretations along the lines of the interpretations [supplied by Yosé to Zeira].”*

4:3

- [A] [As regards] *peah* —
- [B] they may not harvest it with sickles, nor may they uproot it with spades,
- [C] so that one [poor] person will not strike another.
- [D] [There are] three [periods when the poor may] search [for the produce designated as *peah*] during each day:
- [E] (1) in the morning, (2) at noon, (3) and in the afternoon.
- [F] Rabban Gamaliel says, “They stated [this rule] only so that [householders] would not decrease [the number of times in each day when the poor were permitted to collect *peah*].”
- [G] R. Aqiba says, “They stated [this rule] only so that [householders] would not increase [the number of times in each day when the poor were permitted to collect *peah*].”
- [H] [The inhabitants] of Bet Namer [permitted the poor] to collect gleanings from each row [of the field, as the field was harvested], and designated *peah* from each and every furrow.
- [I:1 A] What is the meaning of three [periods when the poor may] search [for the produce designated as *peah*]?
- [B] Said R., Abun, ““How thoroughly rifled is Esau, how ransacked his hoards”” (Obad. 1:6).

[II:1 A] **(1) in the morning:** for the nursing mothers.

[B] **(2) at noon:** for the infants.

[C] **(3) and in the afternoon:** for the old people.

[III:1 A] **Rabban Gamaliel says, “They stated [this rule] only so that [householders] would not decrease [the number of times in each day when the poor were permitted to collect *peah*].”**

[B] But if the householder wanted to add to the number of the searches, he may do so.

[IV:1 A] **R. Aqiba says, “They stated [this rule] only so that [householders] would not increase [the number of times in each day when the poor were permitted to collect *peah*].”**

[B] But if he wanted to decrease the number of searches, he may not do so.

[V:1 A] **[The inhabitants] of Bet Namer [permitted the poor] to collect gleanings from each row [of the field, as the field was harvested], and designated *peah* from each and every furrow.**

[B] *It was stated as a Tannaite rule:* Abba Saul says, “They are remembered for shame because they set aside as *peah* only one one-hundredth of their field’s yield rather than the required one-sixtieth. They are remembered for praise because they **permitted the poor] to collect gleanings from each row [of the field, as the field was harvested], and designated *peah* from each and every furrow.**

[V:2 A] **R. Simeon said, “For [the following] four reasons, a person must designate [produce as] *peah* only [while harvesting] the rear [of his field]:**

[B] **“On account of:**

[C] **robbery from the poor,**

[D] **the idleness of the poor,**

[E] **appearance’s sake,**

[F] **and deceivers.**

[G] **“Robbery from the poor — how so?**

[H] **“This assures that the time will never come when there is no [poor] person there [in the field to collect *peah*], such that [the farmer] may say to a poor relative ‘Come and collect [all of] this *peah* for yourself.’ [If the farmer was allowed to designate all of the *peah***

for his own family, the other poor people in the town would not have fair access to the produce, thus robbing them of what rightfully is theirs (cf. M. 8:6).]

- [I] “The idleness of the poor — how so?”
- [J] “This assures that poor people will not be sitting around and watching [the farmer] all day, saying, ‘Now he is designating *peah*, now he is designating *peah*!’” Rather, since [the farmer] designated [produce as] *peah* [while harvesting] the rear [of his field, the poor person] may go about his business, and may return to collect [the *peah*] at the end [of the harvest].
- [K] “Appearance’s sake — how so?”
- [L] “This assures that passers-by will not say, ‘Behold how so-and-so harvested his field and did not designate [any produce as] *peah*!’ For so it is written in Torah, “You shall not harvest the corner of your field” (Lev. 19:9). [That is, since the produce actually designated as *peah* will have been collected before the farmer finishes harvesting his field, when he does finish it will appear that he never designated any produce.]
- [M] “Deceivers — how so?”
- [N] “This assures that [the deceivers] cannot say, ‘We have already designated [produce as *peah* while harvesting the other parts of our fields.]’
- [O] “Another explanation [of the case of deceivers]:
- [P] “This assures that [the deceiver] does not retain the highest quality [produce for himself], and designate [*peah*] from the lowest quality. [Instead he must designate produce while harvesting the rear of his field, regardless of its quality, high or low.] And because the Torah has said, ‘You shall not reap all the way to the edges of your field’ (Lev. 19:9)” [T. Pe. 1:6].

4:4

- [A] [As regards] a gentile who had harvested his field and afterward converted —
- [B] [the produce he had harvested] is exempt from [the restrictions of] (1) gleanings, (2) the forgotten sheaf, and (3) *peah*, [for at the time of harvest, when the produce would have become subject to designation, the gentile had not yet converted].

- [C] **R. Judah obligates [the convert] to [obey the law of the] forgotten sheaf,**
- [D] **since [the law of the] forgotten sheaf applies only after the [conclusion of the] binding [process, which takes place after the gentile has converted].**
- [I:1 A] R. Judah has spoken well, but what is the scriptural basis for the ruling of the rabbis [that a convert is not subject to the law of the forgotten sheaf, even though that laws applies only after his conversion]?
- [B] R. Immi in the name of R. Hezeqiah, R. Judah in the name of Samuel: “It is written, ‘When you reap the harvest in your field and you overlook a sheaf in the field, do not turn back to get it’ (Dt. 24:19) — ‘you overlook a sheaf in the field’ includes a case in which one forgets a standing crop. The law that forbids collecting forgotten sheaves applies only in a case in which the law that forbids collecting forgotten standing crop applies. But when the law that forbids collecting a forgotten standing crop does not apply, the law forbidding collection of forgotten sheaves does not apply.”
- [I:2 A] **[As for] an Israelite and a gentile who share [ownership] of a standing [crop] -- the portion that belongs to the Israelite is subject to designation as *peah*, and the portion that belongs to the gentile is exempt from designating as *peah* [T. Pe. 2:9],**
- [B] R. Hezeqiah in the name of R. Jeremiah: “This is subject to dispute.” [That is in line with the following: **R. Simeon says, “[As regards] an Israelite and a gentile who share [ownership] of a standing [crop] — [the entire crop] is exempt from designation as *peah*, [because the gentile has a partial claim of ownership on each and every part of the crop]. Under what circumstances does this apply? [It applies] if the gentile protests [the designation of part of the field’s produce as *peah*]. But if the gentile does not protest, [the produce of the entire field] is subject to the designation of *peah*” [T. Pe. 2:9].**

4:5

- [A] **[If] one dedicated [to the Temple] a standing [crop], and then redeemed [that same] standing [crop] —**
- [B] **[the produce he redeems] is subject [to the restrictions of the forgotten sheaf, after it is bound].**
- [C] **[If he dedicated to the Temple a crop that had been bound into] sheaves, and then redeemed [that same crop while it still was bound into] sheaves —**

- [D] [the produce he redeems] is subject [to the restrictions of the forgotten sheaf].
- [E] [But if he dedicated to the Temple] a standing [crop], and then redeemed [that same crop after it was bound into] sheaves —
- [F] [the produce he redeems] is exempt [from the restrictions of the forgotten sheaf],
- [G] for at the moment [when, under ordinary circumstances, the grain would become] subject [to the restrictions of the forgotten sheaf, the crop] was exempt, [because the Temple owned it].
- [H] Similarly, [as regards] one who dedicated [to the Temple] his produce before it became subject to [the separation of] tithes, and then redeemed it, [again, before the produce was subject to the separation of tithes] —
- [I] [the produce he redeems] is subject [to the separation of tithes].
- [J] [If he dedicated to the Temple his crop] after it became subject to [the separation of] tithes, and then redeemed it —
- [K] [the produce he redeems] is subject [to the separation of tithes].
- [L] [But if] he dedicated [to the Temple his crop] before it had been processed [i.e., before it reached the point when it normally would become subject to the separation of tithes], and then the [Temple]-treasurer processed it, and still later the householder redeemed it —
- [M] [the produce he redeems] is exempt [from the separation of tithes],
- [N] for at the moment [when the produce, under ordinary circumstances, would become] subject to [the separation of] tithes, it was exempt, [because the Temple owned it].
- [I:1 A] *Why do we repeat the rule twice [once here and once at Y. Peah 4:5]?*
- [B] R. Huna, R. Hiyya, R. Joshua b. Levi in the name of R. Pedaiah: “One is to cover liability established by the act of smoothing the harvested crop [thus completing the labor on it], and the other addresses liability established by the advent of the tithing season for a not-yet-harvested crop that has reached a third of full growth.”
- [C] R. Yosé said, “R. Abba and associates — associates say, ‘One is to cover liability established by the act of smoothing the harvested crop [thus completing the labor on it], and the other addresses liability established by the advent of the tithing season for a not-yet-harvested crop that has reached a third of full growth.’ R. Abba explains, ‘For dough-offering the one serves to cover liability established by the act of smoothing the harvested crop [thus completing the labor on it], and

for the corner of the field the other addresses liability established by the advent of the tithing season for a not-yet-harvested crop that has reached a third of full growth.”

[II:1 A] [If] one dedicated [to the Temple] a standing [crop], and then redeemed [that same] standing [crop] — [the produce he redeems] is subject [to the restrictions of the forgotten sheaf, after it is bound]. [If he dedicated to the Temple a crop that had been bound into] sheaves, and then redeemed [that same crop while it still was bound into] sheaves — [the produce he redeems] is subject [to the restrictions of the forgotten sheaf]. [But if he dedicated to the Temple] a standing [crop], and then redeemed [that same crop after it was bound into] sheaves [the produce he redeems] is exempt [from the restrictions of the forgotten sheaf], for at the moment [when, under ordinary circumstances, the grain would become] subject [to the restrictions of the forgotten sheaf, the crop] was exempt, [because the Temple owned it] [M. Peah 4:7]. *The Mishnah-passage before us represents the position of R. Aqiba. For R. Aqiba said, “You adopt as your criterion for determining the status of the crop the condition of the crop when it reaches the final third of its full growth.”*

[B] *For there is the following dispute:* A field that reached a third of its growth while owned by a gentile, at which point an Israelite bought it — **R. Aqiba says, “The additional growth is exempt from tithing [the Israelite having bought the crop only after it had reached a third of full growth.] [We ignore the condition of the field after that point.]**

[C] And sages say, “The additional growth is liable [for tithing for the part of the crop that grew up after the transfer of ownership] [T. Ma. 3:14].

[D] *How so? Interpret the present rule* to address a crop fully processed [at that point], in accord with the position of R. Aqiba in the dispute before us, or to address a crop that is to be harvested forthwith [and the maturity of the crop does not register], and that represents the opinion of all parties.

4:6

[A] [As regards a rich] person who picked [some of the produce designated as] *peah*, and said, “Lo, this is for Mr. So-and-so, who is poor” —

[B] R. Eliezer says, “[He] has acquired it for [the poor person].”

- [C] But sages say, “Let [him] give [the produce] to the first available poor person.”
- [D] Gleanings, forgotten sheaves, and *peah*, [designated from a field] belonging to a gentile, are subject to [the separation of] tithes,
- [E] unless [the gentile] has declared them ownerless property.
- [I:1 A] R. Joshua b. Levi said, “[The dispute] concerns a rich householder [who gathers peah for a poor man. He has no power over the produce.] But if the householder is a poor man, since he can gather the poorman’s tithe, all parties concur that he has acquired [the poor-offering for his friend.]”
- [I:2 A] Said R. Zeira, “R. Eleazar, R. Yohanan and R. Joshua b Levi — all three have said the same thing.
- [B] “R. Eleazar: R. Zeira in the name of R, Eleazar, ‘Someone may acquire a found object in behalf of his fellow.’
- [C] “R. Yohanan: ‘*As we learn in the Mishnah there, Things found by one’s minor son or daughter, things found by his Canaanite slave or bondwoman, things found by his wife — lo, they belong to him. Things found by his adult son or daughter, things found by his Hebrew slave or bondwoman, things found by his wife whom he has divorced, even though he has not yet paid other marriage-settlement — lo, they belong to them [M. B.M. 1:5].*’ Said R. Yohanan, ‘[The rule of M 1:5E] applies when they are not dependent on him. But if they were dependent on their father, things which they find belong to him.’
- [D] “and R. Joshua b Levi: R. Joshua b. Levi said, “[The dispute] concerns a rich householder [who gathers peah for a poor man. He has no power over the produce.] But if the householder is a poor man, since he can gather the poorman’s tithe, all parties concur that he has acquired [the poor-offering for his friend.]”
- [I:3 A] *A Tannaite teaching:* ‘He who hires a worker to do any sort of work — what the worker finds belongs to the householder.’”
- [B] In this regard R. Simeon b. Laqish asked, “Shall someone who has the right to retract from his agreement [as a worker may do] — have what he finds belong to his master? [Surely not.” From this question, in any event, it follows that a person does not acquire in behalf of his fellow ownership of an object which he finds. This question, according to R. La, is the source.]

- [C] R. Jacob bar Aha asked, “R. Yosé objected: ‘What necessitates this statement of R. Simeon b. Laqish? Have we not heard in so many words that R. Jacob bar Idi said, “R. Yohanan and R. Simeon b. Laqish disputed. R. Yohanan said, ‘Someone may acquire what he finds in behalf of his fellow.’ R. Simeon b. Laqish said, ‘One may not may acquire what he finds in behalf of his fellow.’”””
- [I:4 A] [Brooks, verbatim:] R. Redipah: “*R. Jonah and R. Yose disputed. One said, ‘Anyone who is eligible to gather [the poor-offerings may] acquire [them on behalf of another poor person],’ and the other said, ‘Anyone who is in a position to set aside [poor-offerings may] acquire [them on behalf of a poor person].’*
- [B] *The one who said* [that a person who was] eligible to gather [the offerings] certainly would agree [that a person who was in a position] to set aside [the offerings could acquire them on behalf of a poor person]. [*But*] *the one who said* [that a person who was] in a position to set aside [poor-offerings] would not agree [that a person who was] eligible to gather [the poor-offerings could acquire them on behalf of another poor].
- [C] [*A passage of*] *the Mishnah contradicts the one who holds [the opinion that] one who is eligible to gather the poor-offerings may acquire them [for another poor person]. For we teach in the Mishnah, “[A person may say], ‘Give this writ of divorce to my wife!’ because [the agent to whom he passes the writ] may even accept his own daughter’s writ of divorce. [Hence he acquires the writ on the wife’s behalf.] [Similarly, a person may say], ‘Give this writ of emancipation to my slave!’ for [the person to whom the passes the writ] may even accept his own writ of emancipation [in this manner]. [Hence he acquires the writ on behalf of the slave.]”* (M. Git. 1:5).
- [D] *But we also have taught in the Mishnah, “[If a person says to his slave], ‘Receive this writ of divorce on behalf of my wife’ or ‘Take this writ of divorce to my wife,’ and then later wishes to retract the divorce, [he may do so]. [But should a woman say, ‘Go and receive my writ of divorce on my behalf, even if the householder wished to retract the writ before the slave hands it over to the woman], he may not do so* (M. Git. 6:1).
- [E] Now is this slave in any way eligible to deliver the writ of divorce? [No! yet in the cited passage of the Mishnah he acquires the writ on behalf of the wife. It seems clear, then, that one need not himself be eligible to gather an object in order to acquire it on behalf of another].

- [F] *[The cited objection is irrelevant,] for one must interpret [M. Git. 1:5, cited at C], disjunctively. [That is, when speaking of delivery of a divorce document, we assume that the householder is speaking to a free man, but when speaking of delivery of an emancipation document, we assume that the householder is speaking to a slave. In both cases, because the agent himself would be eligible to receive the writ of divorce or emancipation, the agent too may acquire the writ for another. At any rate, the operative criterion is that one must be eligible to gather the poor-offerings himself in order to acquire them for another, which proves the point aimed at from C on.]*
- [G] *Does the following passage of the Mishnah dispute the one who holds that [a person] who is eligible to receive [poor-offerings] may acquire [them for another poor person]?*
- [H] *For we learn in the Mishnah, **Once Rabban Gamaliel and the elders were travelling on a ship (when the time for removal of agricultural dues arrived). (Said Rabban Gamaliel), “The tenth I intend to measure out (and dedicate as first tithe) should be given to Joshua (who is a Levite), and the place (in which it is located) is rented to him.] The other tenth that I intend to measure out [and designate as poorman’s tithe] is given to Aqiba b. Joseph, who will acquire it on behalf of the poor, and the place [in which it is located] is rented to him” (M. M.S. 5:9). Now was R. Aqiba eligible to receive [poorman’s tithe]? [Certainly, as a rich person, he should not have been eligible; hence, this passage of the Mishnah seems to contradict the opinion that only a poor person can acquire poor-offerings for others. Rather, anyone who is in a position to set aside the offerings may acquire them for another.]***
- [I] *One ought to interpret this case as referring to the time before [Aqiba] became rich. [Since at that time he was a poor man, he was eligible himself to collect poorman’s tithe, and so could acquire it for others.]*
- [J] *But even if you would claim that [the incident took place] after [R. Aqiba] became rich, [still it does not disprove the point at hand, namely, that those who are in a position to set aside poor-offerings may acquire them for others]. For one could then interpret [the incident to refer to the time] when [R. Aqiba] was a manager [of the Israelite community’s charity]. For such a manager is accorded the same status as a poor person.*
- [K] *The opinion of R. Joshua b. Levi [proves] that one who himself is eligible to gather [poor-offerings] may acquire [them for others]. For R. Joshua b. Levi said, “[Eliezer, and sages] dispute [with regard to] a*

rich householder [who attempts to gather some of the peah for a poor friend]. But [they agree that] if the householder himself is a poor person, since he himself is eligible to gather [the poor-offerings, he] may acquire [the poor-offering on behalf of his friend].”

- [I:5 A] R. Hezeqiah, R. Jeremiah in the name of R. Yohanan: “*This is in accord with him who says, ‘Gentiles do not have rights of ownership to real property in the Land of Israel so as to exempt produce grown on their land from tithing.’ But in accord with him who says, ‘Gentiles do have rights of ownership to real property in the Land of Israel so as to exempt produce grown on their land from tithing,’* [there is a problem]. Even if the gentile declared the produce growing on his land to be ownerless property, the produce should be subject to tithing.”
- [B] R. Yosé in the name of R. Yohanan: “*It is in accord with him who says, ‘Gentiles do not have rights of ownership to real property in the Land of Israel so as to exempt produce grown on their land from tithing.’ But according to him who says, ‘Gentiles do have rights of ownership to real property in the Land of Israel so as to exempt produce grown on their land from tithing,’* the sages have made a lenient ruling [adding to the stock of produce set aside for the poor].”
- [C] R. Eleazar asked, “Doesn’t the gentile have the right to possess property?”
- [D] R. Eleazar did not ask in connection with what we said just now [at B], but in regard to what is stated [at A]: R. Hezeqiah, R. Jeremiah in the name of R. Yohanan: “*This is in accord with him who says, ‘Gentiles do not have rights of ownership to real property in the Land of Israel so as to exempt produce grown on their land from tithing.’ But in accord with him who says, ‘Gentiles do have rights of ownership to real property in the Land of Israel so as to exempt produce grown on their land from tithing,’* [there is a problem]. Even if the gentile declared the produce growing on his land to be ownerless property, the produce should be subject to tithing.” In that connection R. Eleazar asked, “Doesn’t the gentile have the right to possess property?”
- [E] R. Hanina in the name of R. Pinhas: “*Also concerning the prior statement R. Eleazar asked his question:* R. Yosé in the name of R. Yohanan: “*It is in accord with him who says, ‘Gentiles do not have rights of ownership to real property in the Land of Israel so as to exempt produce grown on their land from tithing.’ But according to him who says, ‘Gentiles do have rights of ownership to real property in the Land of Israel so as to exempt produce grown on their land from tithing,’* the sages have made a lenient ruling [adding to the stock of

produce set aside for the poor].” In that connection *R. Eleazar asked*, “Doesn’t the gentile have the right to possess property?”

4:7

- [A] What [produce is in the status of] gleanings [Lev. 19:9]?
 - [B] That which falls [to the ground] during the harvest.
 - [C] [If a householder] was harvesting [his field, and] harvested an armful, [or] plucked a handful,
 - [D] [and] a thorn pricked him so that [the produce] fell from his hand to the ground —
 - [E] lo, [this produce] belongs to the householder.
 - [F] [Produce that falls from] within the [householder’s] hand, or [from] within his sickle, [i.e., that which he already has taken into his possession],
 - [G] belongs to the poor.
 - [H] [Produce that falls from] the back of the [householder’s] hand, or [from] the back of his sickle, [i.e., the produce fell before the householder took possession of it],
 - [I] belongs to the householder.
 - [J] [As regards produce that falls from] the tip of the [householder’s] hand, or [from] the tip of his sickle —
 - [K] *R. Ishmael* says, “[Such produce] belongs to the poor.”
 - [L] *R. Aqiba* says, “[It] belongs to the householder.”
 - [M] [As regards] ant-holes in the midst of a standing [crop] —
 - [N] lo, [grains of produce that the ants carry into them] belong to the householder, [because they are not deemed to be gleanings].
 - [O] After the harvesters [have gone through the field], the [grains of a produce at the [tops [of the ant-holes] belong to the poor, while the [grains of produce at the] bottoms [of the ant-holes] belong to the householder.
 - [P] *R. Meir* says, “All [grains of produce found in ant-holes after the harvesters have gone through the field] belong to the poor,
 - [Q] “for [all produce concerning which there is] a doubt about its status as gleanings [in fact is deemed to be in the status of] gleanings.”
- [I:1 A] *A Tannaite statement*: “You shall not gather the gleanings of your harvest” (Lev. 19:10) — Scripture does not state that the law of gleanings applies to all that you pluck with your hands. So too for

separated grapes, Scripture says, “You shall not gather the fallen fruit of your vineyard” (Lev. 19:10), but it does not state that the law of separated grapes applies to all fruit that you separate from the vine with your hands. [Scripture may be read to exclude from the law produce picked by hand for a random snack.]

[B] R. Kahana and R. Tahalifa — *one said*: **[Produce that falls from] within the [householder’s] hand, or [from] within his sickle, [i.e., that which he already has taken into his possession], belongs to the poor. The other cited the language: Produce that falls from within the householder’s hand or even from the back of his sickle belongs to the poor.** [Merely by the act of harvesting with a sickle the householder takes possession of any grain he touches.]

[II:1 A] **[After the harvesters have gone through the field, the [grains of a produce at the [tops [of the ant-holes] belong to the poor, while the [grains of produce at the] bottoms [of the ant-holes] belong to the householder. R. Meir says, “All [grains of produce found in ant-holes after the harvesters have gone through the field] belong to the poor, for [all produce concerning which there is] a doubt about its status as gleanings [in fact is deemed to be in the status of] gleanings:”]**

[B] R. Judah in the name of Samuel: “**the [grains of a produce at the [tops [of the ant-holes] belong to the poor — in the case of white grains [that are newly harvested], while the [grains of produce at the] bottoms [of the ant-holes] belong to the householder — in the case of green grain [which has begun to decay].”**

[C] [Continuing Judah’s exposition:] “**R. Meir says, ‘All [grains of produce found in ant-holes after the harvesters have gone through the field] belong to the poor, for [all produce concerning which there is] a doubt about its status as gleanings [in fact is deemed to be in the status of] gleanings’ — because it is impossible to collect produce at the threshing floor without collecting green produce [that is rotting from earlier times.]”**

[II:2 A] Said R. Yohanan, “Meir agrees with R. Judah b. Hagra, *for a Tannaite teaching states*: ‘A gentile who converted and possessed a field of standing grain — if the field was harvested before he converted, it is exempt from gleanings, peah and the forgotten sheaf. If it was harvested after he converted, it is liable to gleanings, peah and the forgotten sheaf. If it was a matter of doubt whether the field was cut down before or after conversion, the produce is exempt.’ But R. Judah b. Hagra declares he crop liable [lest he deprive the poor of what is

coming to them]. [So he agrees with Meir that produce that might be subject to gleanings should be assigned that status.]”

- [B] R. Simeon b. Laqish says, “It represents the view of all parties: An Israelite who uproots his crop is subject to gleanings. If there is doubt, it is held to be liable to gleanings and is reserved for the poor.] A gentile who uproots his crop is exempt from gleanings. If there is doubt, the crop remains exempt from gleanings.]”
- [C] Said R. Yohanan, “This is how R. Judah b. Hagra answers R. Meir: ‘Do you not agree with me that produce subject to doubt as to gleanings is assigned the status as gleanings for the poor?’”
- [D] Said R. Simeon b. Laqish, “This is how R. Meir answers: ‘Do you not agree with me that produce [belonging to an Israelite] subject to doubt as to gleanings is assigned the status as gleanings for the poor?’”
- [E] From what verse of Scripture do we derive the principle that produce subject to doubt should be deemed gleanings and reserved for the poor?
- [F] R. Samuel bar Nahman in the name of R. Yohanan: “‘Give justice to the weak and fatherless; [maintain the right of the afflicted and the destitute]’ (Ps. 82:3).”
- [G] R. Simeon b. Laqish in the name of Bar Qappara: “‘Nor shall you be partial to a poor man in his suit’ (Exod. 23:3). One must not unduly favor a poor person in legal judgments, but you favor him in poor offerings.’”
- [H] Said R. Yohanan, “Rabbi entitled the poor when he taught us, ‘You shall not gather the gleanings of your harvest. Ö You shall leave them for the poor’ (Lev. 19:9-10) — you set aside some of our produce for them.”
- [I] Said R. La, “‘It shall go to the stranger, the fatherless, and the widow’ (Dt. 29:19) — whether the grain belongs to you or to the poor person, you must give it to the poor.”

YERUSHALMI PEAH

CHAPTER FIVE

5:1

- [A] [As regards] a heap [of grain piled in the field, such that gleanings] have not been collected underneath it, [that is, before the grain was piled, some gleanings remained uncollected in the field, so that now there is a doubt whether the produce at the bottom of the heap is gleanings left from before the grain was piled, or common produce from the grain-heap] —
- [B] whatever [grain] touches the ground,
- [C] lo, this belongs to the poor.
- [D] [As regards] wind that [breaks apart and] scatters [over an area from which gleanings have not yet been collected] sheaves [from which gleanings have already been removed, once again creating a doubt concerning the status of all of the produce in the field] —
- [E] they estimate the amount [of gleanings the field] is likely to produce, and give [this amount of food] to the poor.
- [F] Rabban Simeon b. Gamaliel says, “One gives to the poor [the amount of grain] needed to sow [the entire field].”
- [I:1 A] *Here you say*, they estimate the amount [of gleanings the field] is likely to produce, and give [this amount of food] to the poor. *And there you say*, [As regards] a heap [of grain piled in the field, such that gleanings] have not been collected underneath it, [that is, before the grain was piled, some gleanings remained uncollected in the field, so that now there is a doubt whether the produce at the bottom of the heap is gleanings left from before the grain was piled, or common produce from the grain-heap] — whatever [grain] touches the ground, lo, this belongs to the poor.
- [B] R. Abbahu in the name of R. Yohanan: “...[whatever [grain] touches the ground, lo, this belongs to the poor] represents a fine that they imposed, for the householder piled his grain on top of the gleanings

that belonged to the poor. [In the other case there is no action of the householder to penalize, it is the result of natural causes.]”

[C] To this point [we have dealt with a fine imposed on the householder who] acted deliberately. But the same penalty applies even if he inadvertently [piled his grain on top of the gleanings, or even if he made small piles out of his grain, or even if he piled his own wheat on top of barley, or even if others piled his grain on top of the gleanings without his knowledge, or even if he called the poor to come to collect the gleanings and only after they did not come did he pile his grain on top of the gleanings.

[I:2 A] R. Immi said in the name of R. Simeon b. Laqish, “This passage represents the view of the House of Shammai, [who maintain that what is ownerless only vis-a-vis the poor indeed is regarded as ownerless]. But in the view of the House of Hillel the poor may consume the produce but must tithe it before they do. [Hence the passage does not prove the desired point.]”

[B] And R. Yosé said to him, “We have heard that [even in the Hillelites view] it is exempt from the requirement to set aside tithes in the view of all parties, on grounds of imposing a penalty [on the owner, who should not have piled up grain in an area not yet searched out by the poor]. [Consequently, the crop really is not ownerless anyhow, so here too there is a special reason for the law, which cannot serve to prove the desired proposition.]”

[C] For it is written, “Then a proclamation was issued that anyone who did not come in three days would by the decision of the officials and elders have his property confiscated and himself excluded from the congregation of the returning exiles” (Ez. 10:7-8). [The court can declare property ownerless.]

[D] And from what verse do we learn that property declared ownerless by a court is exempt from the separation of tithes?

[E] R. Jonathan b. R. Isaac bar Aha: “Derive that rule from the following: **They do not intercalate the year either in the case of the Seventh Year or in the case of the year after the Seventh Year. And if they did so, lo, this is intercalated [T. San. 2:9].** And is not the produce that grows during the additional month exempt from tithes? [So the court’s action exempts produce from tithing.]”

[F] *To this point* we have dealt with the Sabbatical year. How do we know that the same rule applies to the year following the Sabbatical year?

- [G] Said R. Abun, “It is so that no part of the year will be subjected to the prohibition against eating new produce.”
- [H] R. Zeira in the name of R. Abbahu: “That which you have said addresses the period before Rabbi permitted Israelites to import vegetables from outside the Land of Israel during the Sabbatical year. But from when Rabbi permitted them to import vegetables from outside the Land of Israel, the Sabbatical year and all other years [were subject to a single set of rules.]”
- [I] *It was taught as a Tannaite rule: They do not intercalate the year either in the case of the Seventh Year [T. San. 2:9]. But during the rest of the Sabbatical cycle, if they did so, lo, this is intercalated.*
- [J] Said R. Mana, “That which you say applied in the earlier times, when the years were observed in their proper order. But now when the years are not observed in their proper order, a single rule governs the Sabbatical year and the rest of the Sabbatical cycle.”
- [K] *It has been taught as a Tannaite statement: Members of the house of Rabban Gamaliel intercalated the year in the year after the Seventh Year. Forthwith said R. Abin, “Nothing comes of that allegation, no inference is to be drawn from it.”*
- [L] Scripture states, “Observe this month of Aviv ... and offer a Passover sacrifice to the Lord your God” (Dt. 16:1). Observe that month in the spring when the crops are new. [The courts must intercalate the year and that explains why produce growth in the month added to the Sabbatical year is exempt from tithing.]
- [M] *And this other passage proves the point that produce declared ownerless by a court is exempt from the separation of tithes: [As regards] a heap [of grain piled in the field, such that gleanings] have not been collected underneath it, [that is, before the grain was piled, some gleanings remained uncollected in the field, so that now there is a doubt whether the produce at the bottom of the heap is gleanings left from before the grain was piled, or common produce from the grain-heap] — R. Mana in the name of R. Simeon b. Laqish: “That is in accord with the House of Shammai.”*
- [N] Said to him R. Yosé, “We infer that the produce he was fined is exempt from the separation of tithes according to all parties. The fine [they impose on the householder is for improperly piling his grain on what belongs to the poor.] How can you rule that according to the House of Hillel the poor must tithe the produce before eating it?”

- [II:1 A] **[Rabban Simeon b. Gamaliel says, “One gives to the poor [the amount of grain] needed to sow [the entire field].”]**
- [B] R. Zeira, R. Abbahu in the name of R. Yohanan: “The proper amount is four qabs of seed for each kor [of land].”
- [C] R. Zeira asked R. Abbahu, “Is the proper amount is four qabs of seed for each kor of land, or is it four qabs of seed for each area that produces a kor of grain?”
- [D] He said to him, “four qabs of seed for each area that produces a kor of grain?”
- [E] *There we learned in the Mishnah: He who leases a field from his fellow, and it did not produce [a crop], if there was in it [nonetheless sufficient growth] to produce a heap [of grain], [the lessee] is liable to tend it. Said R. Judah, “What sort of measure is ‘a heap’ But: if [the field yields only] so much as is enough for dropping” [M. B.M. 9:5].*
- [F] Said R. Abbahu, “This means the amount you scatter on the ground for seed. One needs to give to the poor only four qabs for each area that produces a kor of grain.”

5:2

- [A] **[As regards] a single stalk [of unharvested grain that stands] in [an area of land that already has been] harvested,**
- [B] **the top of which [single stalk] is as tall as the standing [crop next to it, so that the stalk perhaps appears to be part of the standing crop],**
- [C] **if [that stalk] is harvested at the same time as the standing [crop],**
- [D] **lo, it belongs to the householder, [that is, it is not deemed a gleaning].**
- [E] **But if [the stalk is] not [harvested at all, but remains standing after the harvest of the entire field is completed],**
- [F] **lo, it belongs to the poor, [that is, it is deemed a gleaning].**
- [G] **[As regards] a single stalk [of grain that is in the status of] gleanings [such that it belongs to the poor and is exempt from the separation of tithes], that was mixed with a heap [of grain that is not in the status of gleanings, and so is subject to the separation of tithes] —**

- [H] [with the goal of returning to the poor person that one lost stalk, the householder must follow this procedure: He takes two other stalks of grain from the pile, and sets aside one for the poor. From the second, he] designates the tithes [required for the first] stalk, and then gives [that first stalk, now exempt from the separation of tithes], to a poor person. [This assures that the poor receive in exchange for the original stalk in the status of gleanings the proper amount of grain, one full stalk from which tithes need not be separated].
- [I] Said R. Eliezer, “But how can this poor person [receive] anything in exchange for [something that] had not yet come into his possession, [namely, the original stalk in the status of gleanings]?”
- [J] “Rather, one transfers to the poor person [partial ownership of] the entire heap [of grain, so that now the poor person owns the stalk that was mixed in]. [Since he has acquired ownership of the gleaning, he now may trade it for a stalk of common produce.
- [K] “[To this end, the householder must follow the procedure outlined at G.] He designates the tithes [required for] one stalk [of grain], and then gives [another stalk to a poor person].”
- [I:1 A] What is the definition of [The presence of] a standing [crop like that mentioned at A above, namely, one that contains at least two *seahs*,] prevents a sheaf or other standing [produce nearby from becoming subject to the restrictions of the forgotten sheaf]? [Since a large crop of unharvested grain does not fall into the category of forgotten produce, we may assume that the farmer will return to reap it. At that time he will gather any other produce left behind.]
- [B] Said R. Yohanan, “*It is what is noted here that we have learned in the Mishnah: [As regards] a single stalk [of unharvested grain that stands] in [an area of land that already has been] harvested, the top of which [single stalk] is as tall as the standing [crop next to it, so that the stalk perhaps appears to be part of the standing crop], if [that stalk] is harvested at the same time as the standing [crop], lo, it belongs to the householder, [that is, it is not deemed a gleaning].*”
- [C] Said R. Yosé, “And that is the case when the already harvested area of the field surrounds the single stalk; the top of the single stalk is as tall as the standing crop nearby; and the single stalk is located in a position so that it can be harvested together with the standing crop. If the single stalk was positioned so that it could be reaped together with the standing crop but the standing crop could not be harvested together with that stalk, the single stalk would be prevented from being

assigned to the poor. If there were two stalks near a standing crop and the inner one was positioned so that it could be harvested together with the standing crop on the outside, but the outermost stalk could not be reaped together with the standing crop on the inside, the innermost stalk would be prevented from falling to the possession of the poor, and it would prevent the outermost stalk from falling to the position of the poor.”

- [I:2 A] Said R. Hoshaiyah, “I was treading olives with R. Hiyya the Elder, and he said to me, ‘Any olive that you can reach by extending your hand is not forgotten produce [even if you left it in the tree on your first go-around].”
- [B] Said R. Yohanan, “Because one has passed by it and left it behind, the olive has entered the classification of forgotten produce.”
- [C] *The Mishnah conflicts with the opinion of R. Hoshaiyah: [As regards] a single stalk [of unharvested grain that stands] in [an area of land that already has been] harvested, the top of which [single stalk] is as tall as the standing [crop next to it, so that the stalk perhaps appears to be part of the standing crop], if [that stalk] is harvested at the same time as the standing [crop], lo, it belongs to the householder, [that is, it is not deemed a gleaning].* Now can’t the householder reach out and pick a single stalk of unharvested grain that stands in an area of land already harvested? [But the Mishnah still says that the stalk belongs to the householder. So the power to grab the produce is irrelevant to its status, and that contradicts Hoshaiyah.]
- [D] R. La in the name of R. Hoshaiyah: “The rule refers to produce in the second furrow [too far for the farmer to reach out and pick, yet it is as tall as the standing grain nearby and can be harvested with it; still it does not enter the category of forgotten produce.]”
- [I:3 A] If the standing crop nearby prevents an item from being subject to the law of the forgotten sheaf — if that stalk is left behind, what is the law as to subjecting the stalk to the law of forgotten produce?
- [B] *Let us derive the answer from the following:* A householder who bound the first, second, and third sheaves and who forgot the fourth — [what is the status of the fourth sheaf]?
- [C] *There are Tannaite authorities who say, if he took the fifth sheaf, lo, the fourth sheaf is classified as forgotten produce. And there are Tannaite authorities who say, if he hesitates while picking up the fifth sheaf, then the fourth sheaf is classified as forgotten produce. [That is a*

sign that he remembers the fourth sheaf, which signals that he had originally forgotten it.]

- [D] Said R. Bun bar Hiyya, “*He who said*, If he had already picked up the fifth sheaf” refers to a circumstance in which a sixth sheaf has already been bound and awaits transportation to the threshing floor. He who rules, “if he hesitates while picking up the fifth sheaf, then the fourth sheaf is classified as forgotten produce” refers to a case in which no sixth sheaf has been bound. [Here the householder waits to form new grouping of three sheaves, showing that he now remembers and intends to gather the fourth sheaf.]”
- [E] If all this takes place before he picks up the fifth sheaf to transport it to the threshing floor, then maybe we should rule that the fourth sheaf is not subject to the restrictions of forgotten produce, since the householder can begin a new row with it.
- [F] This proves that an item that should be prevented from being subject to the law of the forgotten sheaf by the presence of a standing crop nearby and that is left behind is subject to the law.
- [I:4 A] If the standing grain nearby would prevent an item from being subject to the law of forgotten produce but the item is left behind in the field, what is the rule as to its being classified as forgotten produce?
- [B] *Let us derive the answer from the following: A seah of uprooted produce and a seah of produce that is not uprooted, and similarly, [picked and unpicked fruit of a single] tree, [these pairs] do not join together [to form the minimum] two seahs [of produce that are exempt from the law of the forgotten sheaf]. Rather [if one seah of each type of produce listed in each pair is forgotten in the field, adding to two seahs total], the [two lots of produce] belong to the poor [M. Pe. 6:9]. May we argue that the uprooted grain now bound into sheaves may prevent the unharvested standing crop from being classified as forgotten produce? [We may not.] This proves that an item that should be prevented from being classified as a forgotten sheaf by the presence of standing crop nearby and that is left behind is subject to the law of forgotten produce.*
- [C] *Said R. Jonah, “Interpret the passage in this way: [We speak of someone who] reaps one row in his field and binds that row, and in the interval forgets about the standing grain nearby. [Only if he actually leaves the sheaves in the field does the law apply.]”*

[II:1 A] **[As regards] a single stalk [of grain that is in the status of] gleanings [such that it belongs to the poor and is exempt from the**

separation of tithes], that was mixed with a heap [of grain that is not in the status of gleanings, and so is subject to the separation of tithes] — [with the goal of returning to the poor person that one lost stalk, the householder must follow this procedure: He takes two other stalks of grain from the pile, and sets aside one for the poor. From the second, he] designates the tithes [required for the first] stalk, and then gives [that first stalk, now exempt from the separation of tithes], to a poor person. [This assures that the poor receive in exchange for the original stalk in the status of gleanings the proper amount of grain, one full stalk from which tithes need not be separated]. Said R. Eliezer, “But how can this poor person [receive] anything in exchange for [something that] had not yet come into his possession, [namely, the original stalk in the status of gleanings]? Rather, one transfers to the poor person [partial ownership of] the entire heap [of grain, so that now the poor person owns the stalk that was mixed in]. [Since he has acquired ownership of the gleaning, he now may trade it for a stalk of common produce.” He designates the tithes [required for] one stalk [of grain], and then gives [another stalk to a poor person].

[B] How does he do this?

[C] He brings two stalks and says, “If this one stalk actually is the gleaning [lost in the grain pile] well and good. But if not let the tithes owing from this stalk be separated here and now in this other stalk.” He gives the first stalk to a poor man.

[D] Shouldn't he take account of the possibility that the second stalk [in which he declared the tithes to the first to be contained] itself is the gleaning lost in the grain pile?

[E] Said R. Jonah, “He brings forward two stalks and says, ‘If this one stalk actually is the gleaning list in my grain pile, well and good. But if not, then let the tithes due from this stalk be separated here and now in this other stalk.’ He gives one of the stalks to a poor man.”

[F] R. Abbahu in the name of R., Simeon b. Laqish: “This is consistent with the opinion of R. Yosé, *for we have learned there in the Mishnah: R. Yosé says, ‘Any [animal] the exchange of which is in the hand of a priest is free of the obligation to priestly gifts.’ R. Meir declares liable [M. Bekh. 2:8].*”

[G] Said R. Ba, “In the opinion of R. Yosé one has to transfer ownership to the priest.” [Along these same lines, merely exchanging grain with a poor man doesn't do the job. The poor man must own a portion of the grain heap.]

[H] *Said R. Yosé, “This statement of R. Ba conflicts with one of R. Simeon b. Laqish, for we have learned there in the Mishnah: **Rather, one transfers to the poor person [partial ownership of] the entire heap [of grain, so that now the poor person owns the stalk that was mixed in]. [Since he has acquired ownership of the gleaning, he now may trade it for a stalk of common produce.]** [To this end, the householder must follow the procedure.] He designates the tithes [required for] one stalk [of grain], and then gives [another stalk to a poor person].*

[I] *Said R. Ba, “In the opinion of R. Yosé one has to transfer ownership to the priest.” [Along these same lines, merely exchanging grain with a poor man doesn’t do the job. The poor man must own a portion of the grain heap.]*

[J] *But maybe this isn’t Yosé’s opinion?*

[K] *Said R. Mana, “Every bit of the Mishnah-passage says that this is the position of R. Yosé. The initial Tannaite authority reasoned that one should not assign partial ownership to the poor man of the entire grain heap, but should transfer ownership of that one stalk in the status of gleanings, which the poor man already owns. The last Tannaite authorities reasoned that one should transfer to the poor man partial ownership of the entire heap, with no exception. The initial Tannaite authority reasoned that one should transfer the whole grain heap from right to left, but the poor man never acquires anything. But the last Tannaite authorities reasoned that one should not transfer to the poor man the entire grain heap from right to left, yet still the poor man acquires ownership of the grain heap.”*

[II:2 A] *R. Zeira, R. Abbahu in the name of R. Yohanan: “R. Eliezer contradicts himself. For elsewhere [at M. Pe. 4:6, **As regards a rich person who picked some of the produce designated as peah, and said, “Lo, this is for Mr. So-and-so, who is poor” — R. Eliezer says, “He has acquired it for the poor person.” But sages say, “Let him give the produce to the first available poor person”]** he said that a wealthy farmer who picks up some of the grain set aside for the poor has acquired it, and here he says that the poor man has acquired nothing.”*

[B] *He answered him within the logic of his own position. For you are the ones who worry about the exchange of a stalk of ordinary grain for the stalk in the status of gleanings.*

[C] ***Said R. Eliezer, “But how can this poor person [receive] anything in exchange for [something that] had not yet come into his***

possession, [namely, the original stalk in the status of gleanings]? Rather, one transfers to the poor person [partial ownership of] the entire heap [of grain, so that now the poor person owns the stalk that was mixed in]. [Since he has acquired ownership of the gleaning, he now may trade it for a stalk of common produce.” [To this end, the householder must follow the procedure outlined.] He designates the tithes [required for] one stalk [of grain], and then gives [another stalk to a poor person].

5:3

- [A] “They may not turn a water wheel [in order to irrigate a field, until after the poor have collected their produce],” the words of R. Meir [This is because irrigation will make the field so muddy that the poor will have difficulty collecting their produce.]
- [B] But sages permit [irrigation before the poor have collected their produce], because it [still] is possible, [though difficult, for the poor to gather what is theirs].
- [I:1 A] *It was taught on Tannaite authority: One who irrigates his field before the poor have entered it [to collect the produce designated for them] (cf. M. 5:3) — if the damage [that the failure to distribute the water will cause] to [the householder’s produce] is greater than [the damage to the produce that] belongs to the poor, [the irrigation] is permitted. But if the damage [that the water will cause to the produce that] belongs to the poor is greater than [the damage to the householder’s] own [produce, the irrigation] is forbidden. R. Judah says, “Either way [the householder] must collect the produce that belongs to the poor, and set it on the fence, and the poor person comes and takes that which belongs to him” [T. Pe. 2:20].*
- [B] *R. Judah’s logic is self-contradictory., There he has said, [As regards] “One who thins [some of the stalks of his grape] vines [in order to improve the growth of the entire vineyard]— just as he [is allowed] to thin his own [produce, i.e., the well-formed clusters], so may he thin [the defective clusters] that belong to the poor,” the opinion of R. Judah [M. Pe. 7:5], and here he has said the opposite. [The implication of M. Pe. 7:5 is that the householder may damage the produce for the poor in the course of his normal agricultural labor, yet here he says the opposite.]*
- [C] In the case of the defective clusters, the poor have caused their own loss by failing to come to the field. [Nothing prevented them fro

collecting their produce.] But here the poor have come and have found that the householder has muddied the entire field.

[D] *The rabbis logic is self-contradictory. There they have said, if the damage [that the water will cause to the produce that] belongs to the poor is greater than [the damage to the householder's] own [produce, the irrigation] is forbidden. But there [at M. Pe. 7:5] they have said, R. Meir says, "He is permitted to thin his own [produce], but he is not permitted [to thin the defective clusters] that belong to the poor."*

[E] In the case of thinning the vineyard, it is possible [for the householder to wait until the poor have collected their share of the crop, [so pruning the vines is forbidden. But here it is impossible for the householder to avoid watering the field, which is permitted.

[I:2 A] “They may not turn a water wheel [in order to irrigate a field, until after the poor have collected their produce],” the words of R. Meir [This is because irrigation will make the field so muddy that the poor will have difficulty collecting their produce.] But sages permit [irrigation before the poor have collected their produce], because it [still] is possible, [though difficult, for the poor to gather what is theirs].

[B] Now lo, R. Meir says, “They may not turn a water wheel [in order to irrigate a field, until after the poor have collected their produce]” — without regard for the fact that the householder is losing out. But the rabbis say, “They may irrigate” without regard for the fact that the poor are losing out.

5:4

[A] “[As regards] a householder who was travelling from one place to another,

[B] “and [because he had no money with him] he needed to collect gleanings, forgotten sheaves, *peah*, and poorman’s tithe,

[C] “let him collect [what he needs].

[D] “But when he returns to his home, he must repay [the amount of produce he took as a poor person],” the words of R. Eliezer.

[E] But sages say, “[He need repay nothing, because] he was a poor person when [he collected produce designated for the poor].”

[I:1 A] Whom does the poor man repay?

[B] Said R. Jonah, “The poor of that town.”

- [C] But even without that statement, isn't this what we would have to say?
- [D] Said R. Hiyya bar Abba, "It was necessary to make that statement for legal purposes [to allow the local poor to sue for compensation.]"

5:5

- [A] **One who trades [untithed produce for food in the status of poor-offerings owned by] poor people —**
- [B] **that which [the rich man acquires from the poor remains in the status of poor-offerings and] exempt [from the separation of tithes].**
- [C] **And that which the poor [acquire from the rich man remains private property and] subject [to the separation of tithes].**
- [D] **[As regards] two [poor men] who [independently] contracted to sharecrop [separate halves of a single] field, [and so become partial owners of those parts of the field respectively] —**
- [E] **one of them may give to the other the poorman's tithe [from his part of the field], and this other person may give to the former the poorman's tithe [from his part of the field].**
- [F] **One who contracts to harvest a field**
- [G] **is forbidden [to take for himself] gleanings, forgotten sheaves, *peah*, or poorman's tithe, [designated from that field].**
- [H] **Said R. Judah, "Under what circumstances does [the rule] apply?**
- [I] **"[It applies] if [the laborer] contracted with [the householder to harvest the field and be paid] one-half, one-third, or one-fourth [of the entire yield]. [In these cases, the harvester becomes a partial owner of the entire crop, and so may not gather its produce as poor-offerings.]**
- [J] **"But if [the householder] said to him, 'A third of [the produce] that you harvest [and bring to the threshing floor] shall belong to you [as your payment],'**
- [K] **"[the laborer] is permitted [to take for himself] gleanings, forgotten sheaves, and *peah*, [designated from that field]. [Since these offerings never are brought to the threshing floor, the worker has no claim of ownership upon them.]**
- [L] **"But he is forbidden [to take for himself] poorman's tithe [designated from that field, since this is designated at the threshing floor]. [This produce, of course, is partly owned by the worker.]"**
- [I:1 A] *It has been stated on Tannaite authority: Two brothers, two partners [or] a father and son may redeem [produce in the status of] second*

tithe for each other [so as to avoid payment of the added fifth], and they give each other poorman's tithe. Said R. Judah, "May a curse come upon him who gives poorman's tithe to his father." They said to him, "What if both of them [i.e., father and son] were poor?" [T. M.S. 4:7]

- [I:2 A] What is the difference between the two cases [cited by Judah — “[It applies] if [the laborer] contracted with [the householder to harvest the field and be paid] one-half, one-third, or one-fourth [of the entire yield] vs. But if [the householder] said to him, ‘A third of [the produce] that you harvest [and bring to the threshing floor] shall belong to you [as your payment],’ [the laborer] is permitted to take for himself gleanings, forgotten sheaves, and *peah*, designated from that field]?
- [B] It is only in the formulation, “after you harvest, a third shall be yours.” [The worker doesn't own the produce while he reaps it and may collect the poor offerings. But in the opening case the worker becomes a partial owner of the crop as soon as he contracts for the field.]
- [C] Said R. Hiyya bar Abun, “*That is to say*, A householder who harvested and bound half the produce in his field and sold the entire field and its remaining yield, so the purchaser must set aside *peah* for the whole — the seller if he is poor is permitted to take possession of the *peah* set aside by the buyer in behalf of the sheaves that the seller himself bound [even though he owned the grain before the sale].”
- [D] Said R. Yosé b. R. Abun, “*In that case* the field became subject to *peah* while in the seller's possession [and should not be permitted to gather the poor offerings set aside from what he harvested]. *But in the present case* none of the produce has been harvested and the field never became subject to *peah* while in the worker's possession.”
- [I:3 A] [Why may the worker collect *peah*, gleanings and forgotten sheaves but not poorman's tithe? He gains ownership of the produce only when he finishes harvesting, so he should have the right to gather any of the offerings.] Said R. Abbahu bar Nagri, “Poor man's tithe is different from gleanings, forgotten sheaves and *peah*, since these are left in the field [and not brought to the threshing floor, so the worker never has owned them. Poorman's tithe is separated from produce the worker has brought to the threshing floor and that produce is partly owned by he worker.]”

5:6

- [A] **One who sells his field —**
- [B] **[after the property has been transferred], the seller, [if he is a poor person], is permitted [to collect from that field produce designated for the poor].**
- [C] **But the buyer, [who now owns the field], is forbidden [to collect the poor-offerings].**
- [D] **A person may not hire a worker [who agrees to work only] on condition that his son collect [gleanings] behind him.**
- [E] **(1) One who does not allow the poor [freely] to collect [gleanings], (2) or who allows one [poor person] but not another, (3) or who assists [only] one of them,**
- [F] **lo, that person robs the poor.**
- [G] **With regard to that person it is stated, “Do not remove the landmark of the poor.” [This is a play on words for Prov. 22:28, which states, “Do not remove the ancient landmark.”]**

[I:1 A] *The Mishnah speaks of a case in which the householder sells both the land and the produce growing on it. But what if he sold only the produce but not the land? With regard to this one [who sold the crop but not the land] I recite the verse, “When you reap the harvest of your land you shall not reap all the way to the edges of your field” (Lev. 19:9). With regard to that one [who bought the grain] I recite the verse, “When you reap your harvest” (Lev. 19:9). [Neither one may take the poor man’s share.]*

[II:1 A] **A person may not hire a worker [who agrees to work only] on condition that his son collect [gleanings] behind him:**

- [B] If the son does so, then he has robbed the other poor [depriving them of access to the food].
- [C] If the householder does so, then the householder robs the poor. But if the worker did it, then the worker robs both the householder and the poor.

[III:1 A] **With regard to that person it is stated, “Do not remove the landmark of the poor.”**

- [B] R. Jeremiah and R. Joseph — one said, “This refers to those who returned to the Land of Israel from Egypt.” The other said, “This refers to those whose fortune had descended, in line with the reference to a blind person as ‘full of light.’”

[III:2 A] Said R. Isaac, “No, this is the fast I desire...to share your bread with the hungry and to take the wretched poor into your house” (Is. 58:6-7).

[B] Said R. Abin, “If one does so, I consider him like one who offers firstfruits at the Temple. In regard to housing the poor Scripture uses the word ‘bring’ and in regard to firstfruits, Scripture says ‘the choice firstfruits of your soil you shall bring to the house of the Lord your God’ (Ex. 23:19).”

5:7

[A] **[As regards] a sheaf that (1) workers forgot, but the householder did not forget, (2) that the householder forgot, but the workers did not forget,**

[B] **or (3) in front of which poor people stood, or (4) if they covered it with straw, [thereby hiding the sheaf from sight so that the householder and his workers would leave it behind] —**

[C] **lo, the [sheaf] is not [subject to the restrictions of the] forgotten sheaf (cf. Deut. 24:19).**

[I:1 A] **[As regards] a sheaf that (1) workers forgot, but the householder did not forget ... lo, the [sheaf] is not [subject to the restrictions of the] forgotten sheaf**

[B] For it is written, “When you reap ... and overlook a sheaf in the field, do not turn back to get it” (Dt. 24:19).

[II:1 A] **(2) that the householder forgot, but the workers did not forget ... lo, the [sheaf] is not [subject to the restrictions of the] forgotten sheaf**

[B] For it is written, “When you reap ... and overlook a sheaf in the field, do not turn back to get it” (Dt. 24:19).

[II:2 A] **R. Simeon b. Judah says in the name of R. Simeon, “Even if [the only ones who do not forget a sheaf are] others passing by in the road [who] see the sheaf that the worker forgot — it is not deemed a forgotten sheaf, unless everybody has forgotten it” [T. Pe. 3:1].**

[B] **A householder who was standing in town said, “I know that the workers [will] forget a sheaf in such-and-such a place” — [if] the workers do forget [the sheaf], [the sheaf] is not [subject to the restrictions of the] forgotten sheaf (cf. M. 5:7A) [T. Pe. 3:1]**

[C] If the householder was standing in the field and said, “I know that the workers will forget a sheaf in such-and-such a place” — even if the

workers forget the sheaf, it is not subject to the restrictions of the forgotten sheaf. For Scripture says, “When you reap the harvest in your field . . . and overlook a sheaf in the field, do not turn back to get it” (Dt. 24:19). And Scripture does not say, “When you are in town and forget a sheaf.”

[II:3 A] R. Zeira in the name of Samuel: “The same distinction between field and town applies to found objects.” [If the householder says, “Let my field establish my ownership of the object,” that takes effect only if the householder is present in his field when he makes the declaration. If he is not in the field when he makes the statement, it is null.]

[B] *How do we interpret the case?* If the householder can touch the object to acquire ownership by drawing it to him, then what difference does it make if he is in the city or in the field? [The case therefore must involve a situation in which the householder cannot touch the object and claims it through its location in his field. Zeira rules that he must be present in the field.]

[C] R. Abba bar Kahana, R. Yosé in the name of R. Yohanan: “It is a case in which the householder can touch the object while standing in his own field.”

[II:4 A] If the whole field was covered with straw [what is the rule if the householder and the workers leave the sheaf behind]?

[B] *We may infer the rule that a sheaf hidden from sight is subject to the law from the following: **one who is blind [and harvests and binds sheaves] — [the produce that he harvests and binds yet leaves behind] is [subject to the restrictions of] the forgotten sheaf [M. Pe. 6:11].*** And isn't the blind man similar to a case in which the field is entirely covered with straw. [So the law applies.]

[C] R. Jonah says, “It is a case in which the householder remembers [that he must pick up the straw]. [So the sheaf underneath the straw is not subject to the law, since the farmer is likely to find it.]”

[D] *It turns out that R. Jonah accords with R. Zeira.* Just as R. Zeira says that [if the householder set one sheaf on top of another and] remembers only the upper sheaf, neither sheaf is subject to the law, so R. Jonah takes the position that a sheaf covered with straw is exempt from the law if the householder remembers that he must pick up the straw.

5:8

- [A] One who binds [produce] into (1) stack-covers, (2) stack-bases, (3) temporary stacks, or (4) [small] sheaves, [all of which will be used in the field itself] —
- [B] [any of this bound produce that he leaves in the field] is not [subject to the restrictions of the] forgotten sheaf, [because the farmer never intended to remove it from the field].
- [C] [If at some later time this bound produce is brought] from [the field] to the threshing floor,
- [D] [any sheaves that he leaves behind] are [subject to the restrictions of the] forgotten sheaf, [for by bringing the produce to the threshing floor, the farmer indicates that he no longer wants it in the field]. [Hence we may assume that sheaves left behind were forgotten.]
- [E] He who binds [sheaves that will be placed in a] grain-heap [near the threshing floor, for storage until they will be broken apart and threshed] —
- [F] [any bound sheaves that he leaves behind in the field] are subject to the restrictions of the] forgotten sheaf, [for the farmer did not intend to keep them in the field, but rather to store them near the threshing floor]. [Hence we may assume that sheaves left behind were forgotten.]
- [G] [If at some later time the sheaves are brought] from [the grain-heap] to the threshing floor,
- [H] [any sheaves that he leaves behind in the grain-heap] are not [subject to the restrictions of the] forgotten sheaf, [for this produce remains in storage, and was not forgotten].
- [I] This is the general principle:
- [J] All who bind sheaves [for storage] at a place where processing will be completed [e.g., at a grain-heap near a threshing floor] —
- [K] [any bound sheaves that he leaves behind in the field] are [subject to the restrictions of the] forgotten sheaf, [because it is clear that the farmer wishes to remove the sheaves from the field and process them].
- [L] [If at some later time the sheaves are brought] from [the storage place, where processing is to be completed] to the threshing floor,
- [M] [any sheaves that he leaves behind] are not [subject to the restrictions of the] forgotten sheaf, [for they remain in storage].

- [N] [But if the sheaves are bound for use in the field, that is] at a place where processing will not be completed,
- [O] [any sheaves that the farmer leaves in the field] are not [subject to the restrictions of the] forgotten sheaf, [for he clearly wants to keep them in the field].
- [P] [If at some later time the produce is brought] from [the field] to the threshing floor,
- [Q] [any sheaves that he leaves behind in the field] are [subject to the restrictions of the] forgotten sheaf, [for now the farmer wants all of the produce at the threshing floor]. [What he leaves behind, therefore, must have been forgotten.]
- [I:1 A] **stack-covers, (2) stack-bases, (3) temporary stacks, or (4) [small] sheaves:**
- [B] **stack-covers:** R. Jonah said, “Those go on top of the sheaves: ‘A champion of the Philistine forces stepped out, his name was Goliath of Gath and he was six cubits and a span tall. He had a bronze helmet on his head’ (1 Sam. 17:4-5).”
- [C] **stack-bases:** R. Abina said, “These go underneath the sheaves: ‘I laid it all away sealed up in my storehouses’ (Dt. 32:34).”
- [D] **temporary stacks:** sheaves set out in a circular pattern [for later collection].
- [E] **small sheaves:** Said R. Yohanan, “‘When you reap the harvest in your field and overlook a sheaf in the field’ (Dt. 24:19) — just as ‘reap’ refers to the complete harvest of a field, so ‘sheaf’ means only those sheaves in final form.”

YERUSHALMI PEAH

CHAPTER SIX

6:1

- [A] The House of Shammai say, “[Property that is declared] ownerless [exclusively] for [the benefit of] the poor [fully enters the status of] ownerless property.”
- [B] But the House of Hillel say, “[Such produce] has [the status of] ownerless property only if it is declared ownerless also for [the benefit of] the rich,
- [C] “as is the case with [produce that grows during a year of] release.” [During the Sabbatical year, all produce growing in fields is deemed ownerless, and may be taken by rich and poor alike.]
- [D] [If] every sheaf in a field [contains] a single *qab* [of grain], but one [sheaf contains] four *qabs*, and [the householder] left behind [this big sheaf] —
- [E] the House of Shammai say, “It is not [subject to the restrictions of the] forgotten sheaf.”
- [F] But the House of Hillel say, “[It is subject to the restrictions of the] forgotten sheaf.”
- [I:1 A] R. Hiyya in the name of R. Yohanan: “The Scriptural basis for the position of the House of Shammai is, ‘You shall leave them for the poor and the stranger’ (Lev. 19:10). Why is ‘the poor’ joined to ‘you shall leave them’? That indicates there is another mode of ‘leaving’ [namely, declaring the property ownerless]. Just as those poor-offerings referred to in Scripture may be left only for the poor and not for the rich, so with reference to ownerless property, it may be set aside only for the poor and not for the rich.”
- [B] Said R. Simeon b. Laqish, “The Scriptural basis for the position of the House of Hillel is, ‘Six years you shall sow your land and gather in its yield, but in the seventh year you shall let it rest and lie fallow. Let the needy among our people eat of it’ (Ex. 23:10-11). Why is the command to let the land rest joined with the command to let it lie

fallow? That indicates there is another mode of leaving the land fallow, namely declaring it ownerless. Just as the produce of the seventh year is available for anyone who wants it, rich and poor alike, so in this other context, produce declared ownerless is available for rich and poor alike.”

- [C] *How do the House of Hillel interpret the reasoning of the House of Shammai?*
- [D] “You shall leave them for the poor and the stranger” — “for the poor and the stranger” is exclusionary, limiting poor offerings for the poor and not the rich. But the rule that deals with ownerless property refers to rich and poor alike.
- [E] *How do the House of Shammai interpret the reasoning of the House of Hillel?*
- [F] “you shall let it rest and lie fallow” — this juxtaposition is exclusionary. Letting the land lie fallow imposes a limit. This applies only to the distribution of produce of the Sabbatical year, which must be available for rich and poor alike. But ownerless property refers to the poor and not the rich.
- [G] *Said R. Abun, “The language of the Mishnah passage supports the position of R. Simeon b. Laqish. [There is an explicit allusion to the Sabbatical year:] **But the House of Hillel say, “[Such produce] has [the status of] ownerless property only if it is declared ownerless also for [the benefit of] the rich, as is the case with [produce that grows during a year of] release.”***
- [I:2 A] If the householder declared the property ownerless [but reserved for consumption by] beasts but not men, gentiles but not Israelites, rich but not poor? All concur that his act of declaring the produce ownerless is null.
- [B] **If the householder declared the property ownerless [but reserved for consumption by] men but not beasts, Israelites but not gentiles [T. Pe. 3:1]** or the poor of that locale but not the poor from somewhere else — *there is a dispute between R. Yohanan and R. Simeon b. Laqish.*
- [C] *In the view of R. Yohanan, his act of declaring the produce ownerless is valid. In the view of R. Simeon b. Laqish, his act of declaring the produce ownerless is null.*

- [D] Said R. La, “They conduct their dispute in so many words. R. Yohanan said that his act of declaring the produce ownerless is valid. R. Simeon b. Laqish that his act of declaring the produce ownerless is null.”
- [I:3 A] Said R. Abin bar Hiyya, “If one declared his property ownerless for the poor and rich men acquired it, *there is a dispute between R. Meir and R. Yosé. In the opinion of R. Meir*, once someone declares property ownerless, the thing has left his domain [entirely, and he cannot retract]. *In the opinion of R. Yosé*, that which has been declared ownerless leaves the hand of the owner only through [another party’s] act of acquisition, [prior to which the original owner has the power to retract]. That which is declared ownerless is not ownerless [but in the status of which is a gift. Until the other party has effected possession, the donor can retract.]”
- [I:4 A] *Up to this point we have dealt with a case in which* the original owner declared the field ownerless for a considerable period of time. Is the law even if the original owner declared the field ownerless for a brief period of time?
- [B] *Let us derive the answer from the following:* He who declares his field ownerless may retract for the limited span of three days.
- [C] Said R. Zeira, “Lo, it has stated [that one may retract for] only three days. Then after three days, he may not retract.”
- [D] *R. Simeon, a judge, taught before R. Zeira*, “Even after a span of three days, he may retract.”
- [E] He said to him, “Since you maintain that even after three days one may retract, then the same rule will apply to a period of three days or many days [that is, one may always retract, in which case, there can never be a valid act of abandoning ownership of a field].”
- [F] *The cited Tannaitic passage supports the position of R. Zeira:* “Under what circumstances? When one has declared the property ownerless without further specification. **But if he said, ‘My field is ownerless for a period of one day, one week, one month, one year, or one septennate,’ then before someone has acquired ownership of the field — whether it is the original owner or another party — he has the right to retract. Once someone has acquired ownership of the field — whether it is the original owner or another party — he has not the right to retract.**” [T. Ma. 3:11]
- [G] That is to say that the same rule applies if the span of time is considerable or limited.

- [H] That is to say that [in any event, sages] did not take account of the possibility of deceit [in declaring the field ownerless so as to avoid payment of tithes].
- [I] *That is to say that* one may declare his field ownerless and then go and acquire ownership of it once more.
- [J] *On this basis, further, we may answer the question raised by R. Zeira.* For R. Zeira said, “The same rule applies to a brief period and an extended span of time [for declaring the field ownerless].”

- [II:1 A] **[If every sheaf in a field contains a single *qab* [of grain], but one [sheaf contains] four *qabs*, and [the householder] left behind [this big sheaf] — the House of Shammai say, “It is not [subject to the restrictions of the] forgotten sheaf.” But the House of Hillel say, “[It is subject to the restrictions of the] forgotten sheaf:”]**
- [B] *With what sort of a case do we deal?* If it is because that sheaf is distinctive [by its trait of size], then it would have sufficed to speak of a sheaf of two *qabs*. Or is it because the household made a row of one *qab* sheaves and put th is larger sheaf in that row to collect it later? If would have sufficed to speak of a sheaf of three *qabs*.
- [C] *A certain disciple said before R. Simeon b. Laqish a statement of R. Yohanan:* “Whatever the volume of the sheaf, the House of Shammai maintain that the householder can break the sheaf apart and put the smaller sheaves of a single *qab* in a row.”

- [II:2 A] *R. Jonah asked,* “As to the amount of grain in the sheaf: **[If every sheaf in a field contains a single *qab* [of grain], but one [sheaf contains] four *qabs*, and [the householder] left behind [this big sheaf] — perhaps this should be, ‘If every sheaf in the field contains two *qabs* of grain but one sheaf contains eight *qabs*....’”**

6:2

- [A] **[As regards] a sheaf near (1) the stone fence [at the edge of the field], (2) a grain-heap and [the householder] left [this sheaf] behind —**
- [B] **the House of Shammai say, “It is not [subject to the restrictions of the] forgotten sheaf.”**
- [C] **But the House of Hillel say, “[It is subject to the restrictions of the] forgotten sheaf.”**
- [I:1 A] *A question on the opinion* of the House of Hillel [in regard to a sheaf near (1) the stone fence [at the edge of the field], (2) a grain-heap,

— something that is distinctive [and not moved from place to place]. [The householder will remember a sheaf left there, and] yet [the House of Hillel say, “**[It is subject to the restrictions of the] forgotten sheaf.**”

[B] *A question on the opinion* of the House of Shammai [in regard to **(3) oxen, or (4) farm tools** — something that is distinctive [and are easily moved from place to place]. [The householder will not necessarily remember a sheaf left there, and] yet [the House of Shammai say, “**[It is not subject to the restrictions of the] forgotten sheaf.**”

[I:2 A] **[The fruit of] any olive tree that is distinguished [from the other trees] in its field, is not [subject to the restrictions of] the forgotten sheaf. [It applies to a tree distinguished by] (1) its reputation [based on past years’ production of oil], (2) its production [of oil during this year], or (3) its location — [the tree] is situated near the wine-press or near the gate [of the fence surrounding the orchard] [M. Pe. 7:1].**

[B] This represents the view of the House of Shammai [with its attention to the distinctive location of the tree as a factor that marks its produce as exempt from forgotten produce] and the House of Shammai declares that items left near a specific location are exempt from the law.

[C] Said R. Yosé, “It represents the view of all parties. For in the case we have an item attached to the ground, the olive tree, standing next to another item attached to the ground, the winepress or gate. These are sufficiently fixed so the householder won’t forget olives left n his tree. But in the present passage we speak of an item detached from the ground, the sheaf, left near an item attached to the ground, the stone fence. [Only the House of Shammai will rule that here the householder will remember to gather the sheaf later on.”

[I:3 A] **Said R. Ilai, “I asked R. Joshua, ‘Over which sheaves did the House of Shammai disagree [with the House of Hillel that such sheaves are subject to the restrictions of the forgotten sheaf]?’**

[B] **“[Joshua] said to me, ‘By the Torah! This [dispute refers to those] *sheaves that are near the picking ladder, grain-heap, or farm tools, and which the householder left behind (M. 6:2H-J).*’ [The Shammaites hold that sheaves near fixed locations] are exempt from the law, while the Hillelites hold that they are subject.]**

[C] **“But when I came and asked R. Eliezer [which sheaves the Houses disputed], he said to me, ‘[The Houses] agree that these [sheaves**

near fixed locations] are [subject to the restrictions of] the forgotten sheaf. With regard to what did they disagree? [They disagree] with regard to *a sheaf which [the householder] picked up in order to take it to the city [for sale], and [which he] placed near the fence and then left behind* (M. 6:3C).

[D] “For the House of Shammai say [that such a sheaf] is not [subject to the restrictions of] the forgotten sheaf, because the householder had taken possession of it [= the position taken by both Houses at M. 6:3D]. But the House of Hillel say [that such a sheaf] is [subject to the restrictions of] the forgotten sheaf.’ [The Hillelites are assigned a position consistent with their opinion throughout M. 6:1-2. Human intention later to retrieve the produce is not determinative. Since the sheaf is left behind in the field, the law applies.]

[E] “And when I came and recited these matters before R. Eleazar b. Azariah, he said to me, ‘By the Torah! These matters were spoken at Sinai.’” [T. Pe. 3:2]

[I:4 A] *There we learned in the Mishnah: The woman to whom property came before she was betrothed — the House of Shammai and the House of Hillel concur that if she sells or gives away [the property], the transaction is valid. [If] they [goods or property] came to her after she was betrothed, the House of Shammai say, “She may sell them.” And the House of Hillel say, “She may not sell them.” These and those concur that if she sold or gave away [goods or property], the transaction is valid [M. Ket. 8:1].*

[B] *R. Phineas raised the question before R. Yosé, “And why then should you not teach this dispute as one of the ones in which the House of Shammai take the lenient position, and the House of Hillel, the strict position?”*

[C] *He said to him, “Our intention is only to list the ones in which the ruling is stringent for both parties to the transaction, or lenient for both parties to the transaction. But here we have a stringency from one perspective, and a leniency from the other.”*

[D] *But lo, we have learned: The House of Shammai say, “That which is declared ownerless [only] to the poor — lo, it is ownerless” [M. Pe. 6: 1A]. [The House of Hillel insist that what is declared ownerless must be equally available to rich and poor. Here the advantage — the produce is exempt from the requirement of tithing — accrues solely to the poor, yet the item is listed among the lenient rulings of the House of Shammai.] Lo, we have a lenient ruling for the poor, but a strict*

ruling for the householder! Yet it is listed [among the lenient rulings of the House of Shammai].

- [E] He said to him, “While, to be sure, it is a lenient ruling for the poor, it is by no means a strict ruling for the householder. For it is with full intent and awareness that he has declared the produce to be ownerless. [So the householder surely does not regard the ruling as a disadvantage, since, to begin with, he declared the produce to be ownerless.]”
- [F] *And lo, we have learned: A sheaf which lay near a wall or a stock or oxen or implements but was forgotten — the House of Shammai say, “It is not regarded as a Forgotten Sheaf.” And the House of Hillel say, “It is regarded as a Forgotten Sheaf”* [M. Pe. 6: 2]. Lo, this is a lenient ruling from the perspective of the householder [who retains ownership of the sheaf], but a strict ruling for the poor [who do not get the sheaf]. [Yet it is listed among lenient rulings of the House of Shammai, so far as the householder is concerned.]
- [G] He said to him, “While, to be sure, it is a lenient ruling for the householder, it is by no means a strict ruling for the poor. For the poor have not yet acquired ownership of the stalk.”
- [H] *Accordingly, one may then say in the present case that it also is a lenient ruling for the woman [who retains the right to do business with her property], while it is not a strict ruling for the husband, who has not yet acquired ownership of the property!*
- [I] He said to him, “Since he has betrothed the woman, the property comes both to her and to his advantage.”
- [I:5 A] **Said R. Judah, “They stated before Rabban Gamaliel, ‘[Since when she is] betrothed, [she] is his wife, and [when she is] married, [she] is [equally, but no more] his wife, just as this one [the woman at the stage of the consummated marriage sells off her property and the transaction is null, so that one [the woman at the stage of betrothal], sells off her property and the transaction is null.’ [T. Ket. 8:1A].**
- [B] **“He said to them, ‘We are at a loss concerning the newly received property or goods! Now will you turn our attention to the old ones?’”** [M. 8: I G-H].
- [C] What is the definition of “the new”? It is property which has come after she was married.

[D] And what is “the old”? It is property which has come prior to her marriage, with regard to the situation prevailing after she has gotten married.

6:3

[A] [As regards sheaves that the householder has left at] ends of rows [on one side of his field] —

[B] [the presence of] a sheaf on the opposite side [of the field] proves [that the sheaves referred to at A are not forgotten]. [While harvesting the field, zigzagging up and down the rows, the householder has arranged the sheaves at the end of each row for latter collection. We therefore know that he has not forgotten them.]

[C] [As for] a sheaf that [the householder] had picked up, in order to take it to the city [for sale], and that he then left behind [in the field] —

[D] the [Hillelites] concede [to the Shammaites] that [the sheaf] is not [subject to the restrictions of the] forgotten sheaf. [By his deed, the farmer already has indicated that he intends to take the sheaf with him later when he goes to the city.]

[E] And these are [the rules that apply to] ends of rows [in a field]:

[F] [As regards] two men who began [to collect sheaves] from the middle of a row, one facing north and the other facing south,

[G] and they left behind [sheaves both in the areas that were] in front of them [i.e., between their starting locations and the edges of the field] and [in the areas that were] behind both of them [i.e., the area between the points where they started harvesting] —

[H] [a sheaf that they left behind] in front of [either one of] them [i.e., between either of their starting locations and the edge of the field] is [subject to the restrictions of the] forgotten sheaf, [for one of the harvesters passed by the sheaf, but did not take it].

[I] But [a sheaf that they left in the field] behind them [i.e., in the area between their starting locations] is not [subject to the restrictions of the] forgotten sheaf, [for neither worker passed by the sheaf]. [Neither worker, then, left it behind.]

[J] An individual who began [to collect sheaves] from one end of a row, and left ungathered [a sheaf either] in front of himself [i.e., in an area through which he has not yet passed] or behind himself [i.e., in an area he already had worked] —

- [K] [a sheaf that he left] in front of himself is not [subject to the restrictions of the] forgotten sheaf, [for he has not yet left it behind].
- [L] But [a sheaf that he left in the field] behind him is [subject to the restrictions of the] forgotten sheaf,
- [M] because it is governed by [the Scriptural law], “[When you reap your harvest in your field, and have forgotten a sheaf in the field,] you shall not go back [to get it]” (Deut. 24:19).
- [N] This is the general principle:
- [O] Whatever [sheaf] is governed by [the law], “You shall not go back” [i.e., any sheaf that the workers already have left behind while passing through the field], is [subject to the restrictions of the] forgotten sheaf.
- [P] But that which is not governed by [the law], “You shall not go back,” is not [subject to the restrictions of the] forgotten sheaf, [for the workers never passed it and never left it behind].
- [I:1 A] What is the scriptural source for the rule that [As regards sheaves that the householder has left at] ends of rows [on one side of his field] — [the presence of] a sheaf on the opposite side [of the field] proves [that the sheaves referred to are not forgotten]?
- [B] Said R. Jonah, “‘When you reap the harvest in your field and overlook a sheaf in the field, do not turn back to get it’ (Dt. 24:19). The law applies to produce that you harvest and forget. [But ends of rows left for later collection are not subject to the law.]”
- [C] *To here we have dealt* with beginnings of rows containing standing grain while placed at the ends of the rows were sheaves.
- [D] Said R. Jonah, “‘Do not turn back to get it’ (Dt. 24:19) — prohibiting your returning to gather a sheaf only from a place that you have already passed through.”
- [E] *To here we have dealt* with the beginning of the rows containing standing grain, while the ends of the rows contained sheaves. But if the beginnings of the rows contained sheaves and the ends containing standing grain, what is the law?
- [F] Said R. Jonah, “One may derive the rule from the case in which the beginning of the row contains a sheaves from the rule for a case in which the end of the row contains standing grain. So too one may derive the rule for the case in which the ends of the rows contain

standing grain from the rule in the case in which the ends of the rows contain sheaves.

- [I:2 A] **[As regards sheaves that the householder has left at] ends of rows [on one side of his field] — [the presence of] a sheaf on the opposite side [of the field] proves [that the sheaves referred to are not forgotten]:**
- [B] **[As regards sheaves that the householder has left at] ends of rows [on one side of his field] — [the fact that he picks up] a sheaf on the opposite side [of the field] proves [that the sheaves left on the first side of the field are not forgotten] (M. 6:3A-B).**
- [C] **How [can this procedure prove that sheaves left at ends of rows are not forgotten]? [This is a problem because M. 6:3 assumes that the householder may return to the field in order to collect sheaves that he earlier arranged for collection. Deut. 24:19, however, expressly forbids him to return.]**
- [D] **[The problem is solved by the case of] one who owned [a field of] ten rows, (So E, *ed. princ.*, and Lieberman, TZ, p. 51. V reads: ten fields) **such that [the entire field contains enough produce to comprise] ten sheaves [i.e., each row's produce will be bound into a single sheaf],****
- [E] **and he bound one of the sheaves [comprised of produce growing in a row oriented] form north to south, and he [left it, apparently] forgotten [at the end of the row] — the law of the forgotten sheaf does not apply.**
- [F] **This is because [the case] concerns [a householder who moves] from east to west. [That is to say, after the harvest, when gathering sheaves laid out for collection, the householder travels along the edge of the field, perpendicular to the rows. Since he travels from east to west, he does not return and retrace his earlier path. Since he does not violate Deuteronomy's injunction, he is allowed to gather the sheaves.]**
- [G] If the householder had bound the sheaves from produce growing in an east-west row, and he left it at the end of the row, what is the rule as to its being subject to the law of the forgotten sheaf?
- [H] *Let us derive the answer from the following:* A householder who bound the first, second, and third sheaves and who forgot the fourth — [what is the status of the fourth sheaf]?
- [I] *There are Tannaite authorities who say, if he took the fifth sheaf, lo, the fourth sheaf is classified as forgotten produce. And there are*

Tannaite authorities who say, if he hesitates while picking up the fifth sheaf, then the fourth sheaf is classified as forgotten produce. [That is a sign that he remembers the fourth sheaf, which signals that he had originally forgotten it.]

[J] Said R. Bun bar Hiyya, “*He who said*, If he had already picked up the fifth sheaf, refers to a circumstance in which a sixth sheaf has already been bound and awaits transportation to the threshing floor. He who rules, if he hesitates while picking up the fifth sheaf, then the fourth sheaf is classified as forgotten produce, refers to a case in which no sixth sheaf has been bound. [Here the householder waits to form new grouping of three sheaves, showing that he now remembers and intends to gather the fourth sheaf.]”

[K] If all this takes place before he picks up the fifth sheaf to transport it to the threshing floor, then maybe we should rule that the fourth sheaf is not subject to the restrictions of forgotten produce, since the householder can begin a new row with it.

[L] Just as you say that the fourth sheaf may be held subject to the restrictions of forgotten sheaves, in the present case the sheaf left at the end of the row should be subject to the law of forgotten sheaves.

[I:3 A] If the householder bound one large sheaf and put it next to two smaller sheaves in the middle of a row of standing grain. If he bound the produce that remained standing on the outer side of the large sheaf and put the sheaf on the inner side by the two smaller sheaves, then the three small sheaves would be held to form a row of sheaves and would be exempt from the law. But if he bound the produce on the inner side of the two small sheaves and put the resulting sheaf on the outer side by the one large sheaf, what is the law as to the three smaller sheaves’ being judged a row of sheaves?

[I:4 A] [With three sheaves piled on top of one another with the top sheaf larger than the other two,] if he bound some of the produce taken from the upper side of the large sheaf and placed the resulting sheaf on the lower side by the two smaller sheaves, then those three small sheaves would form a row of sheaves and would be exempt from the law. But if he bound some of the produce taken from the lower side of the larger sheaf and put the resulting sheaf on the upper side on top of the one large sheaf, what is the law as to the three smaller sheaves[being judged a row of sheaves exempt from the law?

[I:5 A] R. Judah b. Rabbi said, “If there was there an irrigation ditch that extended through the entire field. If when harvesting a given row the householder would have to raise his hoe and put it back on the other

side, then when later on he binds the produce from each side of the ditch, the two sheaves do not form a row of sheaves exempt from the law. But if he would not have to remove his hoe but could hoe both sides of the ditch in a single motion, then the produce he later binds from both sides of the ditch is regarded as a single row.

[B] If the householder reaped and found half of a row of produce on one day and came back the next day and finished reading and binding the same row, the sheaves on both days form a single row.

[I:6 A] If he sat down to eat or sat down to sleep or his friend called him and then [because of the interruption] he forgot some grain, what is the law?

[I:7 A] ***[As regards] a sheaf that [the householder] picked up [in order] to take it to the city [for sale] (M. 6:3C), and that he set on top of another [sheaf], and then left behind both [the top and the bottom sheaves] — the bottom [sheaf] is [subject to the restrictions of] the forgotten sheaf, and the top [sheaf] is not [subject to the restrictions of the] forgotten sheaf. R. Simeon says, “Neither [sheaf is subject to the restrictions of the] forgotten sheaf. The bottom [sheaf is exempt] — because it is covered [and so removed from sight]. The top [sheaf is exempt] — because he had picked it up”[T. 3:3]***

[B] R. Zeira says, “[The lower sheaf is exempt] if he remembers the upper sheaf.”

[C] R. Zeira concurs with R. Jonah, for R. Jonah said, “A sheaf covered with straw is exempt from the law only so long as the householder remembers to gather the straw.” Along these same lines, R. Zeira said, “[The lower sheaf is exempt] if he remembers the upper sheaf.”

[I:8 A] *When Rab went down to Babylonia he said, “Lo, for here I am the equivalent of Ben Azzai.” An elder came to him and asked, “Two corpses are found one on top of the other....?”*

[B] *Rab took the view* that they were subject to the law of the neglected corpse.

[C] He said to him, “They are not subject to the law of the neglected corpse.”

[D] He said to him, “How come?”

[E] He said to him, “The lower corpse, because it is buried under the other, the upper corpse because it lies in a conspicuous place.”

[F] *When he came up here, he came to Rabbi. He said to him, He gave you a good answer. ‘When a copse is found’ is what it says, not ‘when two corpses are found.’”*

[I:9 A] [As regards] a field the [produce of which has not yet been bound into] sheaves, [and so the produce still is] scattered [over the field] — [if the householder] bound and then left behind one of the sheaves, the law of the forgotten sheaf does not apply. [This is the case] until he binds all [other produce] in the vicinity [T. Pe. 3:4]

6:4

[A] Two sheaves [of grain that are left side-by-side in a field] are [subject to the restrictions of the] forgotten sheaf.

[B] But three [sheaves left side-by-side in a field] are not [subject to the restrictions of the] forgotten sheaf.

[C] Two piles of olives or carob [that are left side-by-side in a field] are [subject to the restrictions of the] forgotten sheaf.

[D] But three [such piles left side-by-side in a field] are not [subject to the restrictions of the] forgotten sheaf.

[E] Two stalks of flax [that are left side-by-side in a field] are [subject to the restrictions of the] forgotten sheaf.

[F] But three [stalks left side-by-side in a field] are not [subject to the restrictions of the] forgotten sheaf.

[G] Two [individual] grapes [that separate from a vine, and lie on the ground side-by-side] are [subject to the law of] the separated [grape] (Lev. 19:9-10).

[H] But three [grapes lying side-by-side] are not [subject to the restrictions of] the separated [grape].

[I] Two stalks [of grain that fall to the ground during the harvest and lie side-by-side] are [subject to the restrictions of] gleanings.

[J] But three [stalks lying side-by-side] are not [subject to the restrictions of] gleanings.

[K] These [rulings] accord with the opinion of the House of Hillel.

[L] But concerning all of them, the House of Shammai say, “Three [measures of produce left in the field] belong to the poor, but four [measures of produce] belong to the householder.”

[I:1 A] R. Abun bar Hiyya in the name of R. Yohanan: “That is the case if he laid out the sheaves at right angles.”

- [I:2 A] [Two piles of olives or carob that are left side-by-side in a field are subject to the restrictions of the forgotten sheaf]:**
- [B] The rule applies only to piles of olives not to olives left in the field not in piles. So what is the difference between piles of olives and olives?
- [C] Piles of olives are in the status of a product on which work has been completed, but olives are not in the status of a product on which work has been completed.
- [I:3 A]** Said R. Hoshaiyah, “I was treading olives with R. Hiyya the Elder, and he said to me, ‘Any olive that you can reach by extending your hand is not forgotten produce [even if you left it in the tree on your first go-around].”
- [B] Said R. Yohanan, “Because one has passed by it and left it behind, the olive has entered the classification of forgotten produce.”
- [II:1 A] [Two individual grapes that separate from a vine, and lie on the ground side-by-side are subject to the law of the separated grape (Lev. 19:9-10). But three grapes lying side-by-side are not subject to the restrictions of the separated grape.]**
- [B] R. Eleazar in the name of R. Hiyya the Elder: “Half a grapecluster that falls to the ground is classified as separated grapes.” R. Hiyya has taught, “If half a cluster or even an entire cluster of grapes falls to the ground, it is subject to the law of separated grapes.”
- [C] *But has it not been taught on Tannaite authority: Two individual grapes that separate from a vine, and lie on the ground side-by-side are subject to the law of the separated grape (Lev. 19:9-10). But three grapes lying side-by-side are not subject to the restrictions of the separated grape?*
- [D] [If a grapecluster of three or more grapes falls to the ground the law of the separated grape does not apply.]
- [E] R. Immi in the name of R. Hiyya: “[R. Hiyya refers to a case in which the householder] harvested grapes and set them under the vine.”
- [III:1 A] Two stalks of flax [that are left side-by-side in a field] are [subject to the restrictions of the] forgotten sheaf. But three [stalks left side-by-side in a field] are not [subject to the restrictions of the] forgotten sheaf:**
- [B] This rule applies if the flax was shaped like a fan.
- [C] Menahem in the name of R. Jonathan: “If the lax was cut evenly.

- [IV:1 A] **But concerning all of them, the House of Shammai say, “Three [measures of produce left in the field] belong to the poor, but four [measures of produce] belong to the householder.”**
- [B] Said R. Abin, “The reason of the House of Shammai [for wanting three measures for the poor] is that Scripture says, ‘It shall go to the stranger, fatherless, and widow’ (Dt. 24:19). The reason of the House of Hillel] is that Scripture says, ‘You shall leave them for the poor and the stranger’ (Lev. 19:10).”
- [C] Said R. Mana, “Both Houses interpreted the same verse of Scripture: ‘it shall go to the stranger, the fatherless, and the widow’ (Dt. 24:19). The House of Shammai hold that since three types of poor people are mentioned, three measures of produce left in the field belong to the poor. The House of Hillel hold that since Scripture contains only a single ‘and,’ it implies that only two classes of poor are eligible, and when three measures of produce are left, the produce belongs to the householder.”

6:5

- [A] **A sheaf that contains two *seahs* [of grain], and [that the householder] left behind,**
- [B] **is not [subject to the restrictions of the law of] the forgotten sheaf.**
- [C] **[As regards] two sheaves that [together] contain two *seahs* [of grain, e.g., each sheaf contains one *seah*] —**
- [D] **Rabban Gamaliel says, “[They belong] to the householder.”**
- [E] **But sages say, “[They belong] to the poor.”**
- [F] **Said Rabban Gamaliel, “Now as the number of sheaves [that are left together in a field] becomes larger, does the strength of the householder’s [claim on the sheaves] increase, or [does it] decrease?”**
- [G] **[Sages] said to him, “The strength [of his claim] increases.”**
- [H] **He said to them, “Now if with regard to one sheaf that contains two *seahs* [of grain], and that [the householder] left behind, [we rule that it] is not subject [to the restrictions of the] forgotten sheaf, [when we deal with] two sheaves that [together] contain two *seahs*, is it not logical that they also are not [subject to the restrictions of the] forgotten sheaf?”**

- [I] They said to him, “No! For if you say that one sheaf [containing two *seahs*] has the status of a grain-heap, [and so is exempt from the restrictions of the forgotten sheaf], would you [not] say that two [smaller] sheaves are equivalent to bundles, [which do enter the status of forgotten sheaves when left behind]?”
- [J] [A patch of] standing [grain that remains unharvested in a field that the householder already has begun to reap, and] that comprises two *seahs* [of produce],
- [K] and that [the householder] left behind,
- [L] is not [subject to the restrictions of] the forgotten sheaf. [Since the farmer leaves behind such a large amount of food, it is clear that he could not have forgotten it, and intends later to return and harvest the grain.]
- [M] [If the standing grain, at this point in its growth] contains less than two *seahs*, but [when fully grown] is likely to produce two *seahs* [of grain],
- [N] even it [the grain] is inferior barley, [which produces a low yield],
- [O] they view it as if it were a high-yielding [type of] barley. [Since virtually all budding crops, whether high- or low-yielding barley, have the potential to produce two *seahs* of grain, such crops cannot enter the status of forgotten produce]
- [I:1 A] Said R. Eleazar, “It is written, ‘When you reap the harvest in your field and overlook a sheaf in the field, do not turn back to get it; it shall go to the stranger, the fatherless, and the widow \bar{n} in order that the Lord your God may bless you in all your undertakings’ (Dt. 24:19) — excluding a sheaf that you have not passed by but can reach back with your hand and gather. [That sheaf is exempt from the rule of forgotten produce.]”
- [I:2 A] *There are Tannaite authorities who repeat the rule as follows:* If you forget a sheaf,, the law applies, but the law does not apply if you leave behind a small grain heap.
- [I:3 A] *What would be a concrete case?*
- [B] If the farmer forgot one sheaf [containing two *seahs*, thus a small grain heap] near another — [the large, two *seah* sheaf is exempt by size.]
- [C] [But does its presence in the field prevent another, smaller sheaf from entering the classification of a forgotten sheaf?] If the large sheaf is treated as a sheaf, all concur that both sheaves fall into the classification of the forgotten sheaf.

- [D] If the larger sheaf is treated as a grain heap, then we have a dispute between the House of Shammai and the House of Hillel.
- [E] If the farmer forgot two sheaves alongside a small sheaf in the field [what is the law?]
- [F] If you treat the two sheaves not as a grain heap but as sheaves, then there is a dispute between the House of Shammai and the House of Hillel. But if the two sheaves are treated as a grain heap, then the three sheaves are not like a single row.

[II:1 A] [A patch of] standing [grain that remains unharvested in a field that the householder already has begun to reap, and] that comprises two *seahs* [of produce], and that [the householder] left behind, is not [subject to the restrictions of] the forgotten sheaf. [Since the farmer leaves behind such a large amount of food, it is clear that he could not have forgotten it, and intends later to return and harvest the grain.] [If the standing grain, at this point in its growth] contains less than two *seahs*, but [when fully grown] is likely to produce two *seahs* [of grain], even it [the grain] is inferior barley, [which produces a low yield], they view it as if it were a high-yielding [type of] barley. [Since virtually all budding crops, whether high- or low-yielding barley, have the potential to produce two *seahs* of grain, such crops cannot enter the status of forgotten produce]:

- [B] Said R. Jonah, “‘When you reap the harvest of your field and overlook a sheaf in the field’ (Dt. 24:19) — a sheaf that contains two *seahs* and that is left behind is not subject to forgotten produce. A standing crop that contains two *seahs* and that is left behind is not subject to forgotten produce.”

[III:1 A] [[If the standing grain, at this point in its growth] contains less than two *seahs*, but [when fully grown] is likely to produce two *seahs* [of grain], even it [the grain] is inferior barley, [which produces a low yield], they view it as if it were a high-yielding [type of] barley]: Said R. Yosé, “That is on condition that the stalks of barley are scrawny, and they consider them as if they were vigorous; if they were emptied of their grain by wind, they consider them as if they were full.”

6:7

- [A] [The presence of] a standing [crop like that mentioned above, namely, one that contains at least two *seahs*,] prevents a sheaf or other standing [produce nearby from becoming subject to the restrictions of the forgotten sheaf]. [Since a large crop of unharvested grain does not fall into the category of forgotten produce, we may assume that the farmer will return to reap it. At that time he will gather any other produce left behind.]
- [B] [The presence of] a sheaf [that remains in the field] prevents neither a sheaf nor standing [produce nearby from becoming subject to the restrictions of the forgotten sheaf]. [The householder might have forgotten the sheaf itself; accordingly, we do not assume that he will return and gather produce he has left near it.]
- [C] What sort of standing [produce] prevents a sheaf [from becoming subject to the restrictions of the forgotten sheaf]?
- [D] Any [standing grain] that [does not fall into the category of forgotten produce],
- [E] Even a single stalk of grain.
- [F] A *seah* of uprooted produce and a *seah* of produce that is not uprooted,
- [G] and similarly, [picked and unpicked fruit of a single] tree,
- [H] or garlic and onions,
- [I] [these pairs] do not join together [to form the minimum] two *seahs* [of produce that are exempt from the law of the forgotten sheaf].
- [J] Rather [if one *seah* of each type of produce listed in each pair is forgotten in the field, adding to two *seahs* total], the [two lots of produce] belong to the poor.
- [K] R. Yosé says, “If [produce] that belongs to the poor [i.e., a forgotten sheaf] lies [on the ground] in between [two sheaves that normally would join together to form two *seahs* not subject to the law],
- [L] “[the two sheaves] do not join together.
- [M] “But if [produce belonging to the poor] does not [lie on the ground in between two sheaves that normally would join together],
- [N] “lo, these [two sheaves] do join together [to form the requisite two *seahs* of produce].”
- [I:1 A] Said Rabbi, “It is written, ‘When you reap the harvest in your field and overlook a sheaf in the field’ (Dt. 24:19) — [the rule of forgotten sheaf

applies] only to a sheaf surrounded by an area of harvested crop. But a sheaf surrounded by a standing crop would not be subject to the law.]"

[B] Why would the law apply only to a sheaf surrounded by an area of harvested crop, but not to a sheaf surrounded by a standing crop?

[C] Directly beneath a sheaf surrounded by other sheaves [thus an area of harvested crop] lies the field itself [so the sheaf falls into the classification of that which has been forgotten 'in the field']. But beneath a sheaf surrounded by a standing crop is straw. [The sheaf does not rest on the field itself.]

[I:2 A] *A Tannaite statement:* “**A standing [crop] of a particular [type] protects [a sheaf] of a different [type from becoming subject to the law of the forgotten sheaf]. [For example], (1) [a standing crop] of wheat [protects a sheaf] of barley [from becoming subject to the law of the forgotten sheaf], and (2) [a standing crop] belonging to a gentile [protects a sheaf] belonging to an Israelite [from becoming subject to the law of the forgotten sheaf],” the opinion of R. Meir.**

[B] But sages say, “[A standing crop] protects [a sheaf] only of its own type [from becoming subject to the law of the forgotten sheaf], and [a standing crop of a particular] species [protects a sheaf] only of its own species [from becoming subject to the law of the forgotten sheaf]” [T. Pe. 3:5].

[C] *A Tannaite statement:* **R. Simeon b. Gamaliel says, “Just as a standing [crop] protects a sheaf [from becoming subject to the law of the forgotten sheaf] (M. 6:8A),**

[D] “so too a sheaf protects a standing [crop from becoming subject to the law of the forgotten sheaf].

[E] “And it is a matter of logic:

[F] “If [it is the case that] a standing [crop], on which the householder has a weak claim [i.e., because it has not yet been harvested, the crop contains produce that will be designated as peah, gleanings, and forgotten sheaves],

[G] “lo, such a [standing crop] prevents a sheaf [from becoming subject to the law of the forgotten sheaf],

[H] “a sheaf, on which the householder has a strong claim [i.e., because it has already been harvested, and so no longer is subject

to the designation of peah or gleanings, but only of forgotten sheaves],

- [I] “is it not logical that this [sheaf] protects a standing [crop from becoming subject to the law of the forgotten sheaf]?”
- [J] They said to him, “Rabbi, [if it is the case that] a standing [crop] protects a sheaf [from becoming subject to the law of the forgotten sheaf], because the householder has a strong claim [on the sheaf],
- [K] “can [a sheaf] protect a standing [crop from becoming subject to the law of the forgotten sheaf], [even though] the poor have a stronger claim [on the standing crop]?” [No. Hence Gamaliel’s statement is rejected.] [T. Pe. 3:6].
- [L] From the statements of both of them, we may infer that a sheaf may be saved from the law by another sheaf, but the standing crop is not saved by another standing crop.

[II:1 A] **A seah of uprooted produce and a seah of produce that is not uprooted, and similarly, [picked and unpicked fruit of a single] tree, or garlic and onions, [these pairs] do not join together [to form the minimum] two seahs [of produce that are exempt from the law of the forgotten sheaf]. Rather [if one seah of each type of produce listed in each pair is forgotten in the field, adding to two seahs total], the [two lots of produce] belong to the poor. R. Yosé says, “If [produce] that belongs to the poor [i.e., a forgotten sheaf] lies [on the ground] in between [two sheaves that normally would join together to form two seahs not subject to the law], [the two sheaves] do not join together. But if [produce belonging to the poor] does not [lie on the ground in between two sheaves that normally would join together], lo, these [two sheaves] do join together [to form the requisite two seahs of produce].”**

[B] [A seah of uprooted produce and a seah of produce that is not uprooted]: is it really true that if the householder forgot this produce, it is classified as forgotten produce? [Shouldn’t the presence of the seah of standing grain prevent the other seah of uprooted grain from being subject to the law of the forgotten sheaf?]

[C] Interpret the Mishnah to speak of a case in which the householder had earlier forgotten the standing grain.

[II:2 A] If the two one seah parcels of grain left in the field are uprooted [the farmer has forgotten two separate one seah sheaves in a field, the

produce joins together to form the requisite two sheaves and is exempt from the rule of the forgotten sheaf] but belongs to the farmer.

- [B] The Mishnah accords with the position of Rabban Gamaliel, [who rules that the sheaves form the requisite two sheaves and are exempt from the law.]
- [C] Maybe the uprooted grain prevents the unharvested crop nearby from being regarded as forgotten produce? [Not at all.] This proves that the item that should be prevented from being classified as the forgotten sheaf by the presence of a standing crop nearby, if such an item is left behind in the field, it is subject to the law of the forgotten sheaf.
- [D] Said R. Jonah, “Interpret the case to involve someone who reaps one row in his field and then behinds that row, and in the interval, before leaving the sheaves behind, he forgets about the standing crop nearby. [Only if he actually leaves the sheaves out in the field does the law apply to them.”

[III:1 A] R. Yosé says, “If [produce] that belongs to the poor [i.e., a forgotten sheaf] lies [on the ground] in between [two sheaves that normally would join together to form two *seahs* not subject to the law], [the two sheaves] do not join together. But if [produce belonging to the poor] does not [lie on the ground in between two sheaves that normally would join together], lo, these [two sheaves] do join together [to form the requisite two *seahs* of produce].”

- [B] What is the law? Must some produce classified as gifts to the poor be actually present between the two sheaves, or does the rule apply even if it appears that some produce in the status of gifts to the poor will in the future interpose between the two sheaves?
- [C] Let us derive the answer from the following:
- [D] **R. Yosé says, “[Hananiah, R. Joshua’s nephew, says, ‘All cases in which the property of the poor is between [two measures of produce which otherwise combine to form an amount of grain not under the law of the forgotten sheaf], for example, [a field of] grain or a vineyard, [both of these contain gleanings or separated grapes on the ground between the sheaves], [the two measures of produce] do not combine [to form an amount exempt from the law of the forgotten sheaf]. But in all cases in which the property of the poor is not between [two measures of produce], for example, the fruit of a tree, [which is not separated by produce that belongs to the poor, for no poor-offerings remain on the tree; instead, they**

fall to the ground], lo, these [two measures] do combine [to form an amount not under the law of the forgotten sheaf]” [T. Pe. 3:5]

- [E] A vineyard is not a location where produce classed as gifts to the poor is actually present between produce not otherwise subject to the law. It follows that the rule does apply even if it appears that some produce in the status of gifts to the poor will in the future interpose between the two sheaves.

6:7

[A] **Produce intended (1) for use as fodder, or (2) for binding sheaves [i.e., produce that never will be bound into sheaves],**

[B] **and similarly (3) small bundles of garlic, or (4) small bundles [containing both] garlic and onions [i.e., produce that only later will be bound into full sheaves] —**

[C] **these are not [subject to the restrictions of] the forgotten sheaf.**

[D] **And [concerning] all tubers [that farmers store] in the ground,**

[E] **such as (1) arum, (2) garlic, and (3) onions —**

[F] **R. Judah says, “These are not [subject to the restrictions of] the forgotten sheaf.”**

[G] **But sages say, “They are [subject to the restrictions of] the forgotten sheaf.”**

[I:1 A] **Produce intended (1) for use as fodder, or (2) for binding sheaves [i.e., produce that never will be bound into sheaves]:** said R. Jonah, “It is not the end of the matter that the farmer has actually utilized the produce for fodder or binding sheaves. Even if he uprooted the produce planning to use it in that way [the rule applies].” [Even if the produce has not yet been used for the other purpose, the law of the forgotten sheaf is null.]”

[I:2 A] *There we have learned in the Mishnah: He who sets fire to a stack of grain, and there were utensils in it, which burned up — R. Judah says, “[The one who lit the fire] pays compensation for what is [concealed] in [the stack].” And sages say, “He pays only for a stack of wheat or barley [such as was visible]” [M. B.M. 6:7].*

[B] *The opinions attributed to R. Judah are contradictory. [Reference is made to: **What is stored up in the ground such as arum, garlic, and onions, R Judah says. “They are not regarded as a Forgotten Sheaf” The sages say, “They are regarded as a Forgotten Sheaf”** Judah then deems the law of the Forgotten Sheaf not to apply to what is stored away. The sages say the law does apply.] So, there he says,*

“[The law] excludes what is stored away [which is not subject to the law],” while here he has said, “The law encompasses that which is hidden” [at M. B.M. 6:7B].

- [C] [In answer to this question, we point out that Judah has special grounds for the position maintained here. For] does not R. Judah interpret the language pertinent here, “Sheaves” (Ex. 22:6)? Now for what purpose is that language used? “Sheaves” means that one is liable to pay compensation for whatever is located therein [cf. Y. 6:5].
- [D] *The opinions attributed to sages are contradictory.* There they say that the law includes what is stored away [which is subject to the law], while here they have said that the law excludes that which is hidden.
- [E] [Scripture speaks of either the standing grain or the field: Just as the field is in sight, so whatever is in sight is subject to liability in the case of fire. But here, in regard to the Forgotten Sheaf, we explain the words chosen by Scripture as follows: “Your field” (Dt. 24:19), meaning, what is in sight, thus excluding what is stored away; “Your harvest” (Dt. 24:19), once more referring to what is in sight, excluding what is stored away. Now we have one exclusionary clause following another, the significance of which can only be to serve to encompass, hence, to include within the framework of that law that which is stored away. Thus the question has been answered. What we deal with is a Scriptural decree, distinct from all logical considerations.]

6:8

- [A] **(1) One who harvests [a field] at night, or (2) who binds [produce into sheaves at night], or (3) who is blind [and harvests and binds sheaves] —**
- [B] **[the produce that he harvests and binds yet leaves behind] is [subject to the restrictions of] the forgotten sheaf.**
- [C] **But if [a farmer] intended to collect [only] the largest sheaves,**
- [D] **[the smaller sheaves that he purposely leaves in the field for later collection] are not [subject to the restrictions of the] forgotten sheaf.**
- [E] **If [a farmer] said, “Lo, I harvest on condition that whatever I forget I later will collect” —**
- [F] **[despite his statement, those sheaves that he leaves behind] are [subject to the restrictions of the] forgotten sheaf.**
- [I:1 A] *This is the sense of the Mishnah-paragraph:* **(1) One who harvests [a field] at night, or (2) who binds [produce into sheaves at night], or**

(3) who is blind [and harvests and binds sheaves] whether during the day or at night — [the produce that he harvests and binds yet leaves behind] is [subject to the restrictions of] the forgotten sheaf.

[II:1 A] Said R. Jonah, “It is not the end of the matter that if [a farmer] intended to collect [only] the largest sheaves, [the smaller sheaves that he purposely leaves in the field for later collection] are not [subject to the restrictions of the] forgotten sheaf. But even thin sheaves are exempt of left behind. For the farmer will look for the largest sheaves but will also find the scrawny ones, which are not forgotten, So they do not fall into the category of forgotten sheaves.”

[III:1 A] If [a farmer] said, “Lo, I harvest on condition that whatever I forget I later will collect” — [despite his statement, those sheaves that he leaves behind] are [subject to the restrictions of the] forgotten sheaf. For he has made a stipulation that contradicts what is written in the Torah. And anyone who has made a stipulation that contradicts what is written in the Torah — his stipulation is null.

YERUSHALMI PEAH

CHAPTER SEVEN

7:1

- [A] [The fruit of] any olive tree that is distinguished [from the other trees] in its field,
- [B] such as an olive tree [that is famous because its fruit] exudes [much oil] when it is ripe,
- [C] and that [the householder] left [unharvested],
- [D] is not [subject to the restrictions of] the forgotten sheaf.
- [E] In what case does this apply?
- [F] [It applies to a tree distinguished by] (1) its reputation [based on past years' production of oil], (2) its production [of oil during this year], or (3) its location.
- [G] (1) [With regard to] its reputation [based on past years' production of oil] —
- [H] [the tree] was [known to have been] a heavy producer or a dry one.
- [I] (2) [With regard to] its production [of oil during this year] —
- [J] [the tree] produces more [oil than usual for that particular tree].
- [K] (3) [With regard to] its location —
- [L] [the tree] is situated near the wine-press or near the gate [of the fence surrounding the orchard].
- [M] But [as regards] all remaining olive trees, [which are not distinguished by such traits] —
- [N] [the fruit of] two [such trees left unharvested] is [subject to the restrictions of the] forgotten sheaf.
- [O] But [the fruit of] three [trees left unharvested] is not [subject to the restrictions of the] forgotten sheaf.
- [P] R. Yosé says, “The [restrictions of the] forgotten sheaf do not apply to olive trees [at all].”

[I:1 A] Said R. La, “It is written, ‘When you reap the harvest in your field and overlook a sheaf in the field, do not turn back to get it’ (Dt. 24:19) — that is, the sheaf is forgotten once for all. But it excludes from the law a sheaf that you forget for a moment but will remember in the future.” [Distinguishing traits guarantee recall.]

[I:2 A] *R. Jeremiah asked*, “If a particular tree stands out in his mind as a well-known person stands out in one’s mind, the law of the forgotten sheaf does not apply. If a tree is situated in the shade of a palm tree, the palm tree would make the olive tree special in the farmer’s mind, so, the law of the forgotten sheaf does not apply. If two trees side by side both produce a crop that exudes a lot of oil, each makes the other stand out, so the law of the forgotten sheaf does not apply. But what if the entire field of olive trees produces a lot of oil? Would we maintain that the law of the forgotten sheaf does not apply?”

[B] *Let us derive the answer from the following: R. Yosé says*, “**The [restrictions of the] forgotten sheaf do not apply to olive trees [at all].**” And said R. Simeon bar Yaqim, “R. Yosé made this statement only in olden times, when olives were uncommon, because Hadrian the Wicked devastated the Land of Israel. But now, when olive trees are once again abundant, the law of the forgotten sheaf does apply to olives.”

[II:1 A] **(1) [With regard to] its reputation [based on past years’ production of oil] — [the tree] was [known to have been] a heavy producer or a dry one:**

[B] What is the meaning of a **heavy producer**?

[C] It exudes a lot of oil.

[D] *But have we not learned in the Mishnah, such as an olive tree [that is famous because its fruit] exudes [much oil] when it is ripe?*

[E] Rather, it means that the tree as a whole produces a lot of oil.

[F] But haven’t we included a tree distinguished **(2) [With regard to] its production [of oil during this year] — [the tree] produces more [oil than usual for that particular tree]?**

[G] Rather, a **heavy producer** is a tree that produces a lot of oil; a **tree that exudes** is a tree that exudes a lot of oil. **By its production** means a tree that produces more olives than usual.

[H] What is a **tree known to have been dry** (beshani)?

[I] *Some say this is a tree transplanted from Beshan. Others say it is a tree embarrassed by lack of production compared to the nearby trees.*

[II:2 A] Does **distinguished in regard to production** mean that the tree must produce four times as much as the other nearby trees, *in line with this statement of the Mishnah: [If] every sheaf in a field [contains] a single qab [of grain], but one [sheaf contains] four qabs, and [the householder] left behind [this big sheaf] — the House of Shammai say, “It is not [subject to the restrictions of the] forgotten sheaf.” But the House of Hillel say, “[It is subject to the restrictions of the] forgotten sheaf” [M. Pe. 6:1]?*

[B] No. If it produces anything more than the nearby trees, it is distinguished like a well-known person.

[C] Does **its reputation** mean that the tree must produce more than its neighbors year by year?

[D] No. If it produces anything more than the nearby trees in most years, it is distinguished like a well-known person.

[III:1 A] **[With regard to] its location — [the tree] is situated near the wine-press or near the gate [of the fence surrounding the orchard]:** *the statement of the Mishnah accords with the position of the House of Shammai, for the House of Shammai say, “The House of Shammai say, “[Property that is declared] ownerless [exclusively] for [the benefit of] the poor [fully enters the status of] ownerless property.” [As regards] a sheaf near (1) the stone fence [at the edge of the field], (2) a grain-heap and [the householder] left [this sheaf] behind — the House of Shammai say, “It is not [subject to the restrictions of the] forgotten sheaf.” But the House of Hillel say, “[It is subject to the restrictions of the] forgotten sheaf” {M. Pe. 6:1, 2}.*

[B] Said R. Yosé, *“The statement of the Mishnah accords with the position of all authorities. In the case of the sheaf next to a fence or fixed item, we have a movable object next to a fixed one. But in the case of an olive tree planted near a fence or fixed object, we have one fixed item next to another fixed item.”*

[IV:1 A] **R. Yosé says, “The [restrictions of the] forgotten sheaf do not apply to olive trees [at all].”**

[B] Said R. Simeon b. Yaqim, *“R. Yosé made this statement only in olden times, when olives were uncommon, because Hadrian the Wicked*

devastated the Land of Israel. But now, when olive trees are once again abundant, the law of the forgotten sheaf does apply to olives.”

- [IV:2 A] **R. Yosé says, “The [restrictions of the] forgotten sheaf do not apply to olive trees [at all].** But it is R. Aqiba who interpreted Scripture to indicate that the restrictions of th forgotten sheaf do apply to olive trees: ‘When you gather the grapes of your vineyard, do not pick after you’ (Dt. 24:21). ‘When you beat down the fruit of your olive trees do not return after you’ (Dt. 24:29(‘After you’ implies that the rules that apply to grapes apply to olives.”
- [B] [They said to him,] “On the basis of this reading, the law of forgotten sheaves do not apply to olive trees, just as R. Yosé has said, For he does not make the claim that the use of the phrase ‘after you’ in both verses has any impact on the laws of olive trees.”
- [C] They answered, “See here. In connection with the law of forgotten sheaves, Scripture does not state the phrase ‘after you.’ But it does state, ‘you will not return to gather the forgotten sheaves,’ just as if Scripture has said, ‘You shall not gather the forgotten sheaves after you.’” [So the law of forgotten sheaves should apply to olive trees.]
- [IV:3 A] *R. Jonah asked,* “An olive tree whose fruit exudes a lot of oil [when it is ripe, since such a tree is distinguished in the farmer’s mind, then in R. Yosé’s view] even if the householder began to [harvest the tree yet left some of the fruit unharvested, the law would not apply. He will surely return to gather the unharvested fruit, which he will later remember]. It is just as though he had never begun to harvest the tree.”

7:2

- [A] **[The fruit of] an olive tree [that is completely surrounded by other olive trees, for] it stands in the middle of three rows [of trees, that mark off] two rectangular [plots of grain],**
- [B] **and that [the householder] left [unharvested],**
- [C] **is not [subject to the restrictions of the] forgotten sheaf. [This is because of the tree’s distinctive location.**
- [D] **An olive tree upon [the branches of] which remain two *seahs* [of unpicked olives],**
- [E] **and that [the householder] left [unharvested],**
- [F] **is not [subject to the restrictions of the] forgotten sheaf.**
- [G] **Under what circumstances does this apply?**

- [H] [It applies] so long as [the farmer] has not yet begun [to harvest the tree].
- [I] But if he had begun [to harvest] it,
- [J] even if it is an olive tree [the fruit of which] exudes [much oil] when it is ripe (cf. M. 7:1B)],
- [K] and that [the householder] left [unharvested],
- [L] it is [subject to the restrictions of the] forgotten sheaf.
- [M] So long as [the restrictions of the forgotten sheaf] apply to [the olives that have fallen and lie] under the tree,
- [N] [the restrictions of the forgotten sheaf also] apply to [the olives that remain unpicked on the crown of the tree],
- [O] R. Meir says, “[This applies only] after the [worker] has gone by with a harvesting rod.”
- [I:1 A] Said R. Eleazar, “*This is the sense of the Mishnah*: [the fruit of any olive tree that stands in a small grove] containing two rectangular plots of olive trees, that the householder left unharvested, [is not subject to the forgotten sheaf.]”
- [I:2 A] *How are we to interpret this exemption?* If it is because the tree has a distinctive quality [that marks it off from its neighbors], shall we assume that no other olive trees have this same distinctive quality? If it is because the tree is located in a row [that the farmer has not reaped, so it will be harvested in due course], would we assume that the tree is a separate row? [Any tree can be regarded as distinctive.]
- [B] Rather the tree has a distinctive location in two aspects, it is in a given row, and the rows of trees [that surround the tree mark it off from others.]
- [I:3 A] Said R. Yohanan, “*The Mishnah refers to a Nodyan olive [a superior species].*”
- [B] Said R. Yosé, “It is not the end of the matter that the exemption applies to Nodyan olives. But all other varieties of olives are subject to the same exemption. That is because farmers examine all their trees to see whether they have produced fat juicy olives like Nodyan olives. The law of the forgotten sheaf thus does not apply even to other types of olive trees.”
- [I:4 A] [The fruit of an olive tree that is completely surrounded by other olive trees, for] it stands in the middle of three rows of trees, that mark off two rectangular plots of grain, and that the householder

left unharvested, is not subject to the restrictions of the forgotten sheaf]:

- [B] *There are Tannaite authorities who formulate the rule as the fruit of an olive tree located in the middle of ... , and there are Tannaite authorities who formulate the rule as the fruit of an olive tree that stands in the middle of*
- [C] *The Tannaite authorities who formulate the rule as the fruit of an olive tree located in the middle of ... , support the view of R. Yohanan [only a tree of a different variety is exempt], and the Tannaite authorities who formulate the rule as the fruit of an olive tree that stands in the middle of support the view of R. Eleazar mere location of the tree excludes it from the law].*
- [D] *It has been taught on Tannaite authority: **Under what circumstances does this apply? [It applies] if [the farmer] does not recognize [the tree as having distinctive features]. But if [the farmer] does recognize [the tree as having distinguishing characteristics], [the farmer may] run back and harvest it [i.e., he may return, for we assume that he never actually forgot the tree, due to its special features]. [This is the case] even if [the householder has passed by the tree and gone a full] one hundred cubits [T. Pe. 3:10].***

[II:1 A] **An olive tree upon [the branches of] which remain two *seahs* [of unpicked olives], and that [the householder] left [unharvested], is not [subject to the restrictions of the] forgotten sheaf. Under what circumstances does this apply? [It applies] so long as [the farmer] has not yet begun [to harvest the tree]. But if he had begun [to harvest] it, even if it is an olive tree [the fruit of which] exudes [much oil] when it is ripe (cf. M. 7:1B)), and that [the householder] left [unharvested], it is [subject to the restrictions of the] forgotten sheaf.**

- [B] As to the clause, **Under what circumstances does this apply?** *it was stated not with reference to trees containing more than two seahs of olives. Rather it applies to the initial clause: [The fruit of] any olive tree that is distinguished [from the other trees] in its field, such as an olive tree [that is famous because its fruit] exudes [much oil] when it is ripe, and that [the householder] left [unharvested], is not [subject to the restrictions of] the forgotten sheaf [M. 7:1]. That rule was taught in connection with this situation.* If the tree contains two seahs of olives and the farmer left the tree unharvested, the law of forgotten produce does not apply.

[III:1 A] So long as [the restrictions of the forgotten sheaf] apply to [the olives that have fallen and lie] under the tree, [the restrictions of the forgotten sheaf also] apply to [the olives that remain unpicked on the crown of the tree:

[B] *There are two interpretations of this statement.*

[C] [One:] **So long as [the restrictions of the forgotten sheaf] apply to [the olives that have fallen and lie] under the tree, [the restrictions of the forgotten sheaf also] apply to [the olives that remain unpicked on the crown of the tree.** But before that time, even though the law of forgotten produce does not apply to those olives that have fallen and lie under the tree, still the restrictions of the law apply to olives unpicked on the crown of the tree.

[D] Two: **So long as [the restrictions of the forgotten sheaf] apply to [the olives that have fallen and lie] under the tree, [the restrictions of the forgotten sheaf also] apply to [the olives that remain unpicked on the crown of the tree.** But once the worker has gone by with a harvesting pole, even though the restrictions of forgotten produce no longer apply to the olives on the crown of the tree, still the law applies to those olives he has knocked down to the ground under the tree.

[III:2 A] *It has been taught on Tannaite authority for the House of Shammai:*

[B] “When the worker has put down his harvesting pole and has finished knocking olives off the branches, this is a circumstance in which **[the restrictions of the forgotten sheaf also] apply to [the olives that remain unpicked on the crown of the tree.]**”

[C] R. Abbahu in the name of R. Simeon b. Laqish, the son of Kadah said R. Abbahu: “That means the law applies from the moment he puts down his harvesting pole: ‘Look around and learn in which of all his hiding places he has been hiding’ (1 Sam. 23:23). [The harvesting rod is used to find hidden olives, since the letters for harvesting rod and hiding place are the same.]”

7:3

[A] **What [produce is subject to the law of the] separated grape, [with the result that it belongs to the poor]?**

[B] **[Individual grapes] that fall [to the ground] during the harvest.**

[C] **[If a householder] was harvesting, [and] cut an entire cluster,**

[D] **[and] it became entangled in the leaves [of the vine],**

- [E] [so that the cluster] fell from his hand to the ground, and separated [into individual grapes],
- [F] lo, [the individual grapes, together with the remaining cluster], belong to the householder, [since the fruit fell due to some external constraint]. [Only produce that falls to the ground at random, for no apparent reason, enters the category of the separated grape (see M. 4:10).]
- [G] One who places a basket under the vine while he harvests, [in order to catch the grapes that separate and fall, so that they will not enter the status of separated grapes],
- [H] lo, that man steals from the poor.
- [I] Concerning him it is stated, “Remove not the landmark of the poor.” [This is a play on words on Prov. 22:28, which reads, “Remove not the ancient landmark.”]
- [J] What [produce is subject to the law of] the defective cluster, [such that it belongs to the poor]?
- [K] Any [cluster of grapes] that has neither a shoulder [i.e., a wide upper-part] nor a pendant [i.e., a cone-shaped lower-part].
- [L] If [a cluster of grapes] has either a shoulder or a pendant, [or both],
- [M] it belongs to the householder, [for it is deemed well-formed].
- [N] If it is uncertain [whether a cluster has at least one of these two definitive features, a shoulder or a pendant],
- [O] [it is deemed a defective cluster and belongs] to the poor.
- [P] [As regards] a cluster [that appears to be] defective, [for it grows] on the [portion of the vine that] lies [on the ground] [such a cluster cannot hang down, and so appears to have neither a shoulder nor a pendant, even though in fact it may possess these features] —
- [Q] if [the cluster] is harvested along with the [normal] clusters,
- [R] lo, it belongs to the householder [i.e., it is deemed a well-formed cluster].
- [S] But if [the cluster] is not [harvested with the normal clusters],
- [T] lo, it belongs to the poor [i.e., it is deemed a defective cluster].
- [U] [As regards] a single grape [i.e., one that does not grow within a cluster] —
- [V] R. Judah says, “[It is deemed] a [normal] cluster, [and belongs to the householder].”

- [W] **But sages say, “[It is deemed] a defective cluster, [and belongs to the poor].”**
- [I:1 A] **One who places a basket under the vine while he harvests, [in order to catch the grapes that separate and fall, so that they will not enter the status of separated grapes], lo, that man steals from the poor:**
- [B] That is to say a separated grape becomes sanctified to the poor when it falls from the vine.
- [C] *But this does not solve the problem posed by Hilpai*, for Hilpai asked, “As regards gleanings — what is its status regarding sanctification from the moment it falls [toward the ground, but before it actually hits the ground]?” [The upshot of Hilpai’s question is that it remains unclear whether the produce becomes sanctified as gleanings when it falls or when it touches the ground. In the cited ruling, it seems clear that gleanings, and by analogy, separated grapes, are deemed consecrated only when they touch the ground.]
- [D] Said R. Samuel bar Abudama, “The present case, [concerning separated grapes] is different [from the case of gleanings cited above]. [For the present rules takes up a situation in which the farmer] himself causes [the produce] not to reach the ground. [Since he is the intervening factor, through his placing a basket under the produce, we deem the produce sanctified from the moment it falls. But under ordinary circumstances, the produce takes on the consecrated status only when it touches the ground].”
- [II:1 A] **What [produce is subject to the law of the] defective cluster, [such that it belongs to the poor]?**
- [B] **Any [cluster of grapes] which has neither a shoulder [i.e., a wide upper part] nor a pendant [i.e., a cone shaped lower part] (M. 7:4A-B).**
- [C] **[If a cluster] has a shoulder but no pendant, or a pendant but no shoulder,**
- [D] **lo, it belongs to the householder.**
- [E] **But if [the cluster has] neither [of these identifying characteristics],**
- [F] **lo, it belongs to the poor (M. 7:4C-D with variations).**
- [G] **What is [the definition of a] shoulder?**

- [H] **[A shoulder consists of] sprigs attached to the main stalk [of a cluster] one over the other, [such that they form a wide top].**
- [I] **[What is the definition of a] pendant?**
- [J] **A pendant consists of] grapes attached [directly] to the main stalk [of the cluster], such that they hang down.**
- [II:2 A] R. Ba in the name of R. Judah, “These rules assume that each grape would touch the palm of the farmer’s hand.”
- [B] But this isn’t in line with what R. Hiyya said: “There was the case when they weighed defective clusters and found one that weighed seven liters according to Sepphorean weights.” [That would vastly exceed the volume of a man’s hand.]
- [C] Said R. Hinena, “If the householder placed the cluster on a large table and if each grape touched the table, [that would indicate it was a defective cluster.]”
- [II:3 A] **A Levite to whom grapes were given [as tithes], from which heave offering of the tithe had not yet been separated, and within [this gift] were some defective clusters, the Levite may declare the defective clusters to be heave offering of the tithe for produce in another location. He need not scruple that the defective clusters might actually belong to the poor [T. Pe. 3:14].**
- [B] But don’t the defective clusters belong to the poor?
- [C] R. Abin in the name of the rabbis over there: “I say, those bunches of grapes that can be nipped off with well-formed clusters.
- [II:4 A] Said R. Simon, “The scriptural basis for the ruling of R. Judah [that a single grape that does not grow within a cluster is normal and belongs to the householder:] ‘Only defective clusters shall be left of him as when one beats an olive tree: two berries or three on the uppermost branch’ (Is. 17:6).” [A single grape is a cluster unto itself. Two or three form a defective cluster.]
- [II:5 A] *R. Abbahu, R. Yosé b. R. Hanina, and R. Simeon b. Laqish came to a vineyard in Doron. They brought before them a single peach as large as a pot of Kefar Hino ñ and how big is that? Five seahs. A third of the peach they ate, a third they declared ownerless, and a third they placed before their animals. Several days later, they returned to the same vineyard and the farmer brought out to them peaches so small that two or three fit into the palm of his hand. They said to him, “We want fruit from that same tree. The farmer said the small fruit was*

from that very tree. They recited the verse, “A fruitful land into a salt waste, for the wickedness of them that dwell therein” (Ps. 107:34).

- [II:6 A]** *Said R. Haninah, “When I came up here [to the land of Israel], I took the garment of my son and the garment of my son-in-law and wrapped it around the trunk of a carob of the land of Israel, but they did not suffice to reach around it. And I cut down the branch of a carob, and my hands filled up with its sap.”*
- [B] *Said R. Jonathan, “Better were the leavings of the orchards which we ate in our youth, than the peaches which we eat in our old age. For in the passage of time the world changes.”*
- [C] *Said R. Hiyya bar Ba, “In olden times a seah of Arbelite grain would yield a seah of fine flour, a seah of flour would yield a seah of inferior wheat, a seah of fine flour would yield a seah of bran. And nowadays, the yield is not even one for one.”*
- [D] *R. Huna in the name of R. Abin: “Cinnamon — its leaves are good fodder for goats, and the Israelites used to grow it for that purpose.”*
- [E] *R. Huna in the name of R. Abin: “The two fixed offerings each day — they used to bring them on camelback, and their feet would reach all the way to the ground.”*
- [F] *R. Huna in the name of R. Idi: “There was the case of someone who tied his goat to graze by a fig tree. When he returned, he found the goat gave milk and honey mixed together.”*
- [G] *Rabbi said to R. Pereri, “Why not show me that famous grape cluster that grows in your vineyard.” He said to him, “O.K.” He went out to show it to him, but while they were far from the vineyard, Rabbi saw a kind of large ox in the vineyard. He said, “Won’t the ox trample the vineyard?” He said to him, “That ox that you see is the treasured grapecluster.” Rabbi recited this verse: “While the king was on his couch, my nard gave forth its fragrance. My beloved is to me a bag of myrrh, lodged between my breasts. My beloved to me is a spray of henna blooms from the vineyards of En Gadi” (Song 1:12-14). Rabbi said, “The Temple has been destroyed, why do you retain your glory.” They tried to find the large grape cluster but couldn’t find it.*
- [II:7 A]** *They brought before him [Rabbi] two radishes between the New Year and the Great Fast [the Day of Atonement]. And it was the end of the Sabbatical year. [It was unclear whether the plants took root before the New Year, so Israelites could not use them.] They were so large*

that they had to be carried by a camel. He said to them, "Aren't they forbidden, as aftergrowths [that took root in the Sabbatical year]?"

- [B] *They said to him, "It took root after New Year [and grew to vast size because of the fertility of the Land]."*
- [C] At that moment Rabbi permitted the purchase of vegetables immediately after the beginning of the eighth year.
- [D] *They asked him, "But what about the verse: 'The seeds have shriveled under their clods, the granaries are desolate, the barns are in ruins, for the new grain has failed' (Joel 1:17)?"*
- [E] He said to them, "Instead of collecting honey that we used to collect, lo, we collect rotted vegetables."
- [F] There was the case of someone who had a single row of fig trees. He came to the orchard and found a fence of honey surrounding the trees.
- [G] *Somebody sowed his farm with turnips. He cut the tops and sold them [and retained the plants for himself].*
- [H] A fox once made his nest in the greens of a single turnip.
- [I] There was the case in Shikhin of a single stalk of mustard that had three branches. One of the branches was stripped off and served on its own to cover the potters' booth. They found within the single stalk three qabs of mustard seed.
- [J] Said R. Simeon b. Halafta, "In my land I had a stalk of mustard. I let it grow until it was like a bunch at the top of a fig tree."
- [K] There was the case of someone who sowed a single seah of beans. These yielded three hundred seahs. They said to him, "The Holy One blessed be he has begun to bless you."
- [L] *He said to them, "Not so, an evil dew has descended on them. If it weren't for that, they would have produced twice as much."*
- [M] Said R. Simeon b. Halafta, "There was the case in Sikkhinin when R. Judah said to his son, "Go and bring me figs from the jar." He said to him, "Father, it is honey [for the figs have turned into honey]." He said to him, "Put your hand in it and you'll bring up figs."
- [N] *There was the case in Sepphoris that R. Yosef said to his son, "Bring me some dried figs from the attic." He went up and found the attic shining with honey.*

- [O] *R. Hanania sold bees' honey and had some honey from dried figs [that he unintentionally sold]. After some days the buyers came by there, and he said to them, "To cause you no error in tithing, let me tell you that the honey I sold you was dried fig honey,." They said to him, "We want more of that honey, since it's good for business." R. Hanania separated some of the profit had made from selling the honey and built the study house of Sepphoris.*
- [P] *R. Eleazar b. R. Simeon went to a certain place, and they brought him a cooked carob dish. He said to them, "You must have added much honey to the carob." They said to him, "No, we added nothing. That's only the carob itself."*

7:4

- [A] **[As regards] "One who thins [some of the stalks of his grape] vines [in order to improve the growth of the entire vineyard] —**
- [B] **"just as he [is allowed] to thin his own [produce, i.e., the well-formed clusters], so may he thin [the defective clusters] that belong to the poor,"** the opinion of R. Judah.
- [C] **R. Meir says, "He is permitted to thin his own [produce], but he is not permitted [to thin the defective clusters] that belong to the poor."**
- [I:1 A] Both parties concur that if a farmer sells his fellow ten clusters of grapes [which stay on the vine until ripe, at which point the purchaser harvests them], the seller is prohibited to touch or prune the clusters. Both parties also concur that one or another of the partners may prune one another's vines just as he would prune his own.
- [B] *R. Judah treats the poor man [who will ultimately harvest the defective clusters] as a joint owner of the field. R. Meir treats the poor man as a buyer.*
- [C] Said to him R., Immi, "Note: *if you treat the poor man as a joint partner, then if a wild animal eats some of the defective clusters, the farmer must pay the poor man the value of the produce that was consumed.*"
- [I:2 A] Said R. Yohanan, "There is a contradiction in the reasoning of R. Judah. There he says, **[One who irrigates his field before the poor have entered it [to collect the produce designated for them] (cf. M. 5:3) — if the damage [that the failure to distribute the water will cause] to [the householder's produce] is greater than [the damage to the produce that] belongs to the poor, [the irrigation] is**

permitted. But if the damage [that the water will cause to the produce that] belongs to the poor is greater than [the damage to the householder's] own [produce, the irrigation] is forbidden. R. Judah says,] “Either way [the householder] must collect the produce that belongs to the poor, and set it on the fence, and the poor person comes and takes that which belongs to him” [T. Pe. 2:20]. *And here he has said this!* [As regards] “One who thins [some of the stalks of his grape] vines [in order to improve the growth of the entire vineyard]— just as he [is allowed] to thin his own [produce, i.e., the well-formed clusters], so may he thin [the defective clusters] that belong to the poor,” the opinion of R. Judah [M. Pe. 7:5], *and here he has said the opposite.* [The implication of M. Pe. 7:5 is that the householder may damage the produce for the poor in the course of his normal agricultural labor, yet at M. 5:3 he says the opposite.]

- [C] Here the action of pruning the vines will produce a greater yield in the year to come.
- [D] But we may still argue that the farmer's irrigating the field will increase the yield for the year to come. [Why not allow irrigation?]
- [E] The farmer is likely to plant the field he irrigates with vegetables. These are not subject to peah or other poor offerings, so the farmer's policy will cause loss to the poor.

7:5

- [A] [As regards] a vine in its fourth year [of growth, the fruit of which must be eaten only in Jerusalem, just as is the case with produce in the status of second tithe (cf. Lev. 19:24)] —
- [B] the House of Shammai say, ‘[If the owner converts this produce to his own coin, which he will bring to Jerusalem, the cash] is not [subject to the law of] the added-fifth (see M. M.S. 4:3),
- [C] and, [moreover, if the produce remains in one's home after Passover of the fourth and seventh years of the Sabbatical cycle], it is not [subject to] removal (see M. M.S. 5:6).’ [The laws of the added-fifth and of removal do apply to produce in the status of second tithe. The Shammaites thus claim that although both types of produce, the fruit of a four-year-old vine and food in the status of second tithe, must be consumed only in Jerusalem, the two types of food are not analogous to each other in these respects.]

[D] The House of Hillel say, “[The produce of a vine in its fourth year of growth] is subject to the laws [of the added fifth and removal, for the fruit is deemed fully analogous to food in the status of second tithe].”

[E] The House of Shammai say, “[Unlike produce in the status of second tithe, the fruit of a four-year-old vine is subject to both the law of] the separated grape and [the law of] the defective cluster. [Second tithe is deemed holy, and so poor-offerings need not be designated from it. As at B-C, the Shammaites claim that the grapes of a four-year-old vine are not governed by the rules that apply to second tithe.]

[F] “[Since poor-offerings must be separated from the produce of a four-year-old vine, it is] the poor [who] redeem [the produce they receive as separated grapes and as defective clusters] for themselves, [and they bring the cash to Jerusalem, and use it to buy other food].” [All food in the status of second tithe, by contrast, is redeemed by the householder, for the poor have no claim on it.]

[G] But the House of Hillel say, “[In contrast to E-F], all [of the produce of a vine in its fourth year of growth is to be taken by the householder] to the winepress.” [Just as with second tithe, the householder is the one who must prepare the wine, and then take it to Jerusalem.]

[I:1 A] [Reproduced from Brooks:] *It has been repeated on Tannaitic authority, Rabbi says, “[To what case does the Shammaite exemption of fourth-year produce from the laws of the added fifth and removal apply? The House of Shammai made their ruling [that the produce of a vine in its fourth year of growth is exempt from the laws of the added-fifth and removal] only with regard to [produce growing in] the Sabbatical year. [Since during the Sabbatical year the farmer has no claim of ownership on the crop, he likewise has no responsibility for utilizing the produce properly.] But the during the other years of the Sabbatical cycle, [the Shammaites] rule that [the produce of a vine in its fourth year of growth] is subject to the laws of the added fifth and of removal. [As in the Hillelite view, the farmer here is deemed the owner of the crop, and so responsible for the proper dispensation of the fruit’]*” [T. M.S. 5:17].

[B] *In the opinion of this Tannaitic authority, [namely Rabbi], one derives [the Sabbatical laws applicable to] a vine in its fourth year of growth only from [the Sabbatical laws governing produce in the status of]*

second-tithe. Since [by definition the laws of the added fifth and of removal] do not apply to second-tithe produce [grown during] the Sabbatical year, so too [these laws] do not apply to [the fruit of] a four year old vine in the Sabbatical year. [That is to say, in Rabbi's opinion, following the Hillelites, the two types of produce are precisely analogous. Whatever laws govern the dispensation of second-tithe therefore govern the use of the fruit of a four year old vine.]

- [C] [The Talmud now points out a problem raised by treating these two types of produce as entirely analogous.] On the basis of the foregoing analogy, [one would have to claim that the produce of a four year old vine during the Sabbatical year] has no sanctified status whatsoever. [Since during the Sabbatical year, no one owns the produce of the Land of Israel, no one possesses a portion of the grain or is required to set aside second-tithe. If the two types of produce are fully analogous, therefore, just as second-tithe never is consecrated during the Sabbatical year, so too the produce of a four year old vine never should become consecrated!] [But this reasoning cannot hold], for we may derive the consecrated status [of the produce of a four year old vine] from the following verse: “[When you enter the land and plant any tree for food, you shall regard its fruit as forbidden. Three years it shall be forbidden for you, not to be eaten. In the fourth year, all its fruit shall be set aside] for jubilation before the Lord” (Lev. 19:23-24). [This verse] suggests that such produce has the consecrated status of all items [that Scripture] describes as “set aside” (Qodesh). [The point is that unlike second-tithe, Scripture specifically calls produce of a four year old vine “set aside,” and so its consecrated status does not depend on its being owned by an Israelite. All the laws governing the use of such produce therefore should apply even during the Sabbatical year itself.]
- [D] [The Talmud explores another possible analogy between second-tithe and the produce of a four year old vine.] [Once again assuming that the two types of produce are analogous, and that during the Sabbatical year the produce of a four year old vine is completely free of holy status], then it should be deemed permitted for [consumption by] a person in mourning [who has not yet buried his relative]. [Under ordinary circumstances, such individuals are not allowed to come in contact with sanctified food, lest they render it unclean. If the produce of a four year old vine truly is unconsecrated, then this should not be a consideration.]
- [E] [As above, the analogy breaks down.] [For Scripture itself] terms [the produce of a four year old vine] “set aside,” thereby indicating that

[such fruit] is in fact forbidden to a person in mourning [who has not yet buried his dead].

- [F] [The analogy now is tested a third time.] [Given the analogy imputed to these two types of produce], then [the produce of a four year old vine in the Sabbatical year] should be subject to removal! [Second-tithe, like first fruits and other items specifically set aside as holy, are subject to removal even during the Sabbatical, as stated at M. M.S. 5:6F: **(During the seventh year of the Sabbatical cycle)...produce in the status of second-tithe and first fruits are destroyed under all circumstances (i.e., even outside of Jerusalem, since the farmer has no time to take them to the city).**]
- [G] [In this respect, the produce of a four year old vine is not analogous to second-tithe, but rather to first fruits.] For [at M. M.S. 5:6G] **R. Simeon exempts [first fruits, and by analogy produce of a four year old vine], from [the requirements of] removal, [claiming instead that the owner may simply give the fruit to a priest for his consumption during the Sabbatical year].**
- [H] [Finally, if the two types of produce indeed are analogous, and if the produce of a four year old vine therefore need not actually be removed], then one should allow [the produce] to be redeemed with [grain] that remains unharvested. [Yet at T. M.S. 5:19, this is explicitly forbidden: **“The House of Shammai say, “They do not redeem (i.e., deconsecrate by selling produce from a vineyard’s fourth year of growth when it remains in the form of) grapes, but only (after it has been processed into) wine.” But the House of Hillel say, “(They redeem such produce either as) wine or as grapes.” However, both (Houses) agree that they do not redeem (i.e., deconsecrate produce from a vineyard’s fourth year of growth while it is still) unharvested.”** This last attempted analogy never is answered. The upshot seems to be that the opinion attributed to Rabbi at A is untenable. The Shammaites cannot maintain that second-tithe and the produce of a four year old vine are analogous in all respects except during the Sabbatical year.]
- [I] [Continuing the foregoing train of thought, the Talmud now cites the remainder of the Toseftan passage that included Rabbi’s opinion. As we shall see, the opposing interpretation of Simeon then leads to proof that in the Shammaite view second-tithe and the produce of a four year old vine in fact are subject to precisely opposite rules.] *It has been taught on Tannaitic authority: “Rabban Simeon b. Gamaliel says, ‘As regards both the Sabbatical year and the other years of the Sabbatical cycle--the House of Shammai say, “The law of the*

added fifth does not apply and the law of removal does not apply”” (T. M.S. 5:17H-I).

- [J] *According to the opinion of this Tannaitic authority*, [namely Rabban Simeon], one does not derive [the laws applicable to] produce of a four year old vine from [the laws applicable to] second regarding the analogous character of the two types of produce. tithe at all. [Rather, the two are deemed subject to entirely opposite sets of laws.]
- [K] [On this basis, the Talmud now repeats the entire discussion Here, however, the point is that the analogy breaks down not only during the Sabbatical year, but in fact during all years of the Sabbatical cycle.] On the basis of the foregoing analogy, [one would have to claim that the produce of a four year old vine] has no sanctified status at any time. [Just as second-tithe itself is not actually consecrated, so too the produce of a four year old vine never should become consecrated.] [But this reasoning cannot hold], for we may derive the consecrated status [of the produce of a four year old vine] from the following verse: “[When you enter the land and plant any tree for food, you shall regard its fruit as forbidden. Three years it shall be forbidden for you, not to be eaten. In the fourth year, all its fruit shall be set aside] for jubilation before the Lord” (Lev. 19:23-24). [This verse suggests that such produce] has the consecrated status of all items that [Scripture] describes as worthy of “jubilation.” [The point is that unlike second-tithe, Scripture specifically calls produce of a four year old vine “set aside for jubilation,” i.e., holy. All the laws governing the use of such produce therefore should apply to it].
- [L] [Another version of the analogy between second-tithe and the produce of a four year old vine follows.] [Once again assuming that the two types of produce are entirely analogous, so that the produce of a four year old vine is completely free of holy status], then it should be deemed permitted [for consumption by] a person in mourning [who has not yet buried his relative]. [Under ordinary circumstances, such individuals are not allowed to come in contact with sanctified food, lest they render it unclean. If the produce of a four year old vine truly is unconsecrated, then this should not be a consideration.]
- [M] [As above, the analogy breaks down.] For [Scripture itself] terms [the produce of a four year old vine “holy,” thereby] indicating that such fruit is forbidden to a person in mourning [who has not yet buried his dead].
- [N] [The analogy now is tested a third time.] [Given the analogy imputed to these two types of produce], then [the produce of a four year old

vine] should be subject to removal [at the beginning of the fourth and seventh years]! [Second-tithe, like first fruits and other holy items, are subject to removal at these times as stated at M. M.S. 5:6F: (During the seventh year of the Sabbatical cycle)...produce in the status of second-tithe and first fruits are removed, (i.e., destroyed) under all circumstances (i.e., even outside of Jerusalem, since the farmer has no time to take them to the city).]

[O] [The analogy that governs the law of removal is not that of second-tithe, but rather that of first fruits.] For [at M. M.S. 5:6G], R. Simeon exempts [first fruits, and by analogy produce of a four year old vine], from the requirements of removal, [claiming instead that the owner may simply give the fruit to a priest for his consumption].

[P] [Finally, if the two types of produce indeed are analogous, and if the produce of a four year old vine therefore need not actually be removed], then one should allow [the produce] to be redeemed with grain that remains unharvested. [Yet at T. M.S. 5:19, this is explicitly forbidden: **“The House of Shammai say, “They do not redeem (i.e., deconsecrate by selling produce from a vineyard’s fourth year of growth when it remains in the form of) grapes, but only (after it has been processed into) wine.” But the House of Hillel say, “(They redeem such produce either as) wine or as grapes.” However, both (Houses) agree that they do not redeem (i.e., deconsecrate produce from a vineyard’s fourth year of growth while it is still) unharvested.”** At the end of two cycles of attempted analogies, the conclusion must be drawn that produce in the status of second-tithe and the produce of a four year old vine are analogous in all respects, except during the Sabbatical year, when they are subject to precisely opposite rules.]

[I:2 A] *R. Zeira asked before R. Abbahu, “How on the basis of Scripture do we know that the produce of a fourth year planting requires deconsecration?”*

[B] He said to him, “It is written, ‘In the fourth year all its fruit shall be set aside for jubilation before the Lord’ (Lev. 19:23-24) read as deconsecrated before the Lord, *for the sages did not distinguish between the letter hey and the letter het.*”

[I:3 A] *R. Aibu bar Nagri taught as a Tannaite rule in the presence of R. La, [a teaching] deriving from R. Ishmael, “ ‘If anyone wishes to redeem any of his tithes he may redeem it but he must add one-fifth to them’ (Lev. 27:31). That excludes fourth-year planting, for such produce is not subject too the penalty of the added fifth.”*

- [B] *He retracted and taught as a Tannaite rule in the presence of R. La:* “Redemption is mentioned twice, one for second-tithe and one for the fourth-year planting.”
- [I:4 A] *There we learned in the Mishnah: R. Judah says, “A gentile’s vineyard is not subject to [the restrictions] of the fourth year (Lev. 19:24).” But sages say, “It is” [M. Ter. 3:9].*
- [B] Said R. Eleazar, “*This is the meaning of the Tannaite rule:* The restrictions of the vineyard in the fourth year of its planting do not apply to a gentile at all.”
- [C] *R. Bibi said before R. Zeira in the name of R. Eleazar, “The position of R. Judah accords with the position of the House of Shammai in line with the position of Rabbi. The House of Shammai have said, ‘They learn the rules concerning the produce of a planting in the fourth year of its growth only from the laws governing second-tithe. Just as the laws on second-tithe do not apply during the Sabbatical year, so the laws of the planting in the fourth year of its growth do not apply in the Sabbatical year. So R. Judah says, ‘They learn the rules concerning the produce of a planting in the fourth year of its growth only from the laws governing second-tithe.’ Just as you say, ‘Second-tithe does not apply to Syria, so along these same lines, the restrictions governing a planting in the fourth year of its growth do not apply to Syria.’”*
- [D] [Zeira] said to him, “Look here! [The House of Shammai] said only **[As regards] a vineyard in its fourth year of growth — the House of Shammai say, [The law of] the added fifth does not apply and [the law of] removal does not apply.**’ Lo, the other rules do apply.”
- [E] **R. Judah says, “A gentile’s vineyard in Syria is not subject to [the restrictions] of the fourth year (Lev. 19:24).” But sages say, “It is” [M. Ter. 3:9].**
- [F] *Samuel bar Abba raised the question:* “But the House of Shammai have said, ‘They learn the rules concerning the produce of a planting in the fourth year of its growth only from the laws governing second-tithe. Just as the laws on second-tithe do not apply during the Sabbatical year, so the laws of the planting in the fourth year of its growth do not apply in the Sabbatical year.’ And along these same lines: Just as the rules governing second-tithe do not apply in the third and the sixth years of the Sabbatical cycle, so the laws governing produce of the fourth year of a planting do not apply in the third and the sixth years of the Sabbatical cycle,”

- [G] Said R. Yosé, “As to the third and the sixth years of the Sabbatical cycle, even though the laws of second-tithe do not apply in them, the laws of tithing do apply. But as to the Sabbatical year, the laws of tithing do not pertain in any way.”
- [H] Hipah asked, “Lo, R. Judah has said, ‘They learn the rules concerning the produce of a planting in the fourth year of its growth only from the laws governing second-tithe. Just as you say, the laws of second-tithe do not apply in Syria, along these same lines the laws governing the fourth year of a planting in Syria. And along these same lines does the following work as well: they derive the rules governing heave offerings of thanks only from the rules that pertain to heave offering of the tithe. Just as the heave offering of the tithe did not apply while Israel wandered in the desert, but only during the fourteen years of conquering and settling the Land, so heave offering of thanks did not apply in the desert.’”
- [I] Said R. Yosé, “They derived from the analogy only the proper measure of produce to be set aside as a heave offering of thanks, [just as heave offering of the tithe is a tenth of the first tithe, so the heave offering of thanks is one part in ten.]”
- [J] *A Tannaite statement: R. Yosé b. R. Judah said, “R. Eleazar b. R. Simeon says, ‘The Israelites became liable to the rules governing a fourth year planting only after fourteen years’ [T. Men. 6:20] — seven in which they conquered the Land, and seven in which they divided it.”*
- [K] *Said R. Hisda, “R. Yosé b. R. Judah follows the position of his father, R. Judah. Just as you say, ‘They learn the rules concerning the produce of a planting in the fourth year of its growth only from the laws governing second-tithe. Just as you say, the laws of second-tithe do not apply in Syria, along these same lines the laws governing the fourth year of a planting do not apply in Syria. Along these same lines R. Yosé b. R. Judah says, ‘They learn the rules concerning the produce of a planting in the fourth year of its growth only from the laws governing second-tithe,’ along these same lines ‘The Israelites became liable to the rules governing a fourth year planting only after fourteen years’ [T. Men. 6:20].”*
- [L] Said R. Yosé, “*Does he really follow the position of his father?* The laws governing Syria derive b analogy from the laws that govern the Land of Israel before the fourteen years, but you may not derive the laws governing the Land of Israel before the fourteen years by analogy to the laws that govern in Syria.”

- [M] It is written, “And only in the fifth year may you use its fruit, that its yield to you may be increased” (Lev. 19:25) —
- [N] R. Yosé the Galilean says, “[Why say in the fifth year you may use its fruit, if we are forbidden for the first four years, isn’t that obvious?] It is to add the produce of the fifth year to that of the fourth year. Just as the produce of the fifth year belongs to the householder, to the produce of the fourth year belongs to the householder.”
- [O] R. Zeira, R. Yosé in the name of R. Yohanan: “The opinion of R. Yosé the Galilean is in accord with the view of R. Judah. Just as R. Judah says, ‘He treats the produce of the fourth year as his own property,’ so R. Yosé the Galilean says, ‘He treats the produce of the fourth year as his own property.’”
- [P] *R. Jeremiah raised the question before R. Zeira: “In line with the opinion of him who says, ‘He treats the produce of the fourth year as his own property,’ what is the law as to his being liable for tithes?”*
- [Q] *He said to him, “It is in line with what R. Joshua b. Levi said, for said R. Abin in the name of R. Joshua b. Levi, ‘This law is not the end of the matter, but in any matter in which the law flutters about in the court and you do not know the character of the law, go and see how the people act and act accordingly.’ Now we see that the community does not separate tithes from the fourth year produce.”*
- [R] Said R. Mana, “If we conceive that the produce of a fourth year planting belongs to the household as the House of Shammai maintain, then is there a community the practice of which follows the position of the House of Shammai?”
- [S] Said R. Abin, “Have we not learned the laws governing a fourth year planting only from the laws governing second-tithe. Just as you say, second-tithe is not liable to the separation of tithes, so along these same lines a fourth year planting is not liable to tithes.”
- [T] R. Abba, R. Hiyya in the name of R. Yohanan: **“A loaf of bread made from flour of second-tithe in Jerusalem, according to R. Meir is exempt from the separation of dough-offering, and according to R. Judah the loaf is liable to the separation of dough offering [T. Hallah 1:5].”**
- [U] Said R. Judah, “They made that ruling only for loaves of bread baked in Jerusalem itself. Lo, in the provinces, that is not the rule.”
- [V] R. Ba bar Kohen asked before R. Yosé, “In accord with the ruling of him who holds that the produce of a fourth year planting is liable to the

restrictions of separated grapes, is a loaf flavored with those grapes subject to the separation of dough offering?”

[W] *He said to him, “Is it not the view of R. Judah? And we considered ruling, R. Judah accords with the House of Shammai.”*

7:6

[A] [As regards] a vineyard [the produce of which] entirely is defective clusters —

[B] R. Eliezer says, “[The fruit] belongs to the householder [i.e., the clusters do not fall into the category of defective clusters because the norm in that vineyard is clusters that are not well formed].”

[C] R. Aqiba says, “[The fruit] belongs to the poor, [i.e., the clusters are deemed defective, because they lack the definitive characteristics of well-formed clusters].”

[D] Said R. Eliezer, “[Scripture states], ‘When you harvest the grapes of your vineyard, you shall not return to gather the defective clusters’ (Deut. 24:21).

[E] “If there is no harvest [of normal clusters, because the entire yield is defective], how can there be defective clusters [left after the harvest]?”

[F] Said to him R. Aqiba, “[Scripture also states], ‘And you shall not gather defective clusters’ (Lev. 19:10).

[G] “[This verse indicates that the law applies] even if [the] entire [produce of the vineyard] is defective clusters, [such that there is no harvest of normal clusters].

[H] [Aqiba continues:] “[If that is the intent of Lev. 19:10], why does [Scripture] state, ‘When you harvest the grapes of your vineyard, you shall not return to gather the defective clusters’ (Deut. 24:21)?

[I] “[This verse, Deut. 24:21, teaches that] the poor may not claim the defective clusters before the harvest, [for the law of defective clusters takes effect only when the farmer claims the normal bunches of grapes for himself, by harvesting them]. [Before this time, none of the grapes can enter the status of defective clusters.]”

[I:1 A] [“If there is no harvest [of normal clusters, because the entire yield is defective], how can there be defective clusters [left after the harvest]?”]

[B] *Along these lines* if there is no harvest of regular clusters, there can be no separated grapes until after the farmer has begun to reap the grapes at harvest time.

- [C] [If the farmer picked some of the grapes] for a random snack, the law of separated grapes would not yet apply.
- [D] And what volume of grapes add up to a harvest?
- [E] Members of the Household of Shila said, “Three clusters that produce a quarter-log of wine.”

[I:2 A] *R. Aqiba sustains his position on the basis of two verses of Scripture. But how does R. Eliezer explain “And you shall not gather defective clusters” (Lev. 19:10)?*

- [B] One might say, “Since the poor have no clean on the defective clusters before the harvest, let the householder take possession of them.” On that account Scripture had to say, ‘And you shall not gather defective clusters’ (Lev. 19:10).”

7:7

- [A] **[As regards] one who dedicates his vineyard’s [yield to the Temple], before the defective clusters within it appear —**
- [B] **the defective clusters [that form after the dedication] do not belong to the poor, [because they are owned by the Temple] when they first form, i.e., when the law takes effect (cf. M. 1:6).**
- [C] **[If he dedicated his vineyard’s yield to the Temple] after the defective clusters appear —**
- [D] **the defective clusters belong to the poor, [since the law applies from the moment they form]. [From this time on, the householder has no control over the defective clusters, and therefore his dedication of them is null.]**
- [E] **R. Yosé says, “If so, [i.e., if one dedicated his vineyard’s yield to the Temple after the defective clusters appeared, the poor] must give to the Temple the value of that part of the defective clusters that [appears and] grows [after the vineyard is dedicated] [But they may keep the portion of the produce that had grown before the vineyard’s yield was dedicated].”**
- [F] **What [sort of grape cluster growing on a] trellis is subject [to the restrictions of] forgotten produce?**
- [G] **That which [the worker passes by, and cannot collect merely] by reaching [behind him] with his hand. [That is to say, if the worker must retrace his steps in order to take the grapes, the fruit is deemed forgotten produce.]**

- [H] **And with regard to [produce growing on] vines that run along the ground [what fruit is subject to the restrictions of forgotten produce]?**
- [I] **[All produce becomes subject] when [the harvester] passes by it.**
- [I:1 A] *There we learned as a Tannaite statement: The inhabitants of Jericho permitted farmers to use the new branches that grow on trees dedicated to the Temple. [How would they [consider] permitted fruit of trees that had been dedicated [to the Temple]?*
- [B] **Said to them sages, “Do you not admit to us that the [subsequent] growths of dedicated items after they are dedicated are prohibited?”**
- [C] **They said to them, “Our ancestors, when they dedicated [the trees], only dedicated the trunks because of strong-fisted men [“men of fist”] who would come and forcefully take them.” [Because such violent men who demonstrated little respect for private property would have sought to avoid sacrilege, the original dedication had been with this understanding] [T. 3:22].**
- [D] *What did rabbis believe in saying [to the men of Jericho that they [the ancestors] had dedicated the trunks and fruit?*
- [E] *Even if you say that they had dedicated the trunks and did not dedicate the fruit, it is problematic for rabbis [as the following question articulates, and, moreover, the fruit might even be assumed to be prohibited].*
- [F] **One who dedicated a field containing trees, what is the law: may one leave over [for oneself] some of the [subsequent] growths?**
- [G] *We may derive the answer from this: **One who dedicates his vineyard before the bunches (which would have gone to the poor) were distinguished on it, the bunches do not belong to the poor, Once the bunches are distinguished on it, the bunches belong to the poor. R Yosé says, “The poor should give the costs of growing from the time that the vineyard was dedicated to the Temple” What is considered Forgotten Sheaves among [the vines on] an espalier? Whatever he is not able to stretch out his arm to and take grapes inaccessible to a person returning along the trellised vines). And regarding ground trained vines? As soon as (the grape-gatherer) passes it by (any grapes irrespective of their accessibility) [M. Peah 7:7]. [Just as the poor, according to M. Peah 7:8A, obtain the growths even though the bunches continue to grow on***

the consecrated vines, the owner should be permitted the subsequent growths.]

- [H] [The case is different, **for a person does not dedicate something which is not his** [T. Peah 3:13] [because the act of dedication cannot affect something that is no longer his but rather the property of the poor].
- [I] Now, [if so] even if the clusters had not become distinguished, the clusters should belong to the poor? [If the clusters cannot be considered the owner's property — for it is as if in their early stage when the vineyard was dedicated they were subject to a lien by the poor — why does M. Peah 7:7A rule otherwise?]
- [J] It is different, for it is a vineyard [planted] for dedication. [The whole vineyard, the vines along with the undistinguished clusters, are deemed to have been dedicated.]
- [K] *In accord with what we learn: **One who plants a vineyard as holy [dedicated] is exempt from individual grapes fallen off during cutting, orlah, fourth- year produce, and clusters, but is liable for the laws of Seventh Year produce [which cannot be stored up or traded and the ownership of which at a certain point is to be renounced so all may equally take it]** [T. Peah 3:15].* [In the former cases the poor lack any prior claims.]
- [L] [Offering a scriptural basis for the exception of the law of the Seventh Year:] R. Zeira [said] in the name of R. Yohanan, “‘The land shall observe a Sabbath of the Lord’ (Lev. 25:2). Even something that is ‘of the Lord,’ [i.e., dedicated,] the holiness of the seventh year [the “Sabbath”] applies to it.”
- [M] *R. Hiyya bar Adda asked before R. Mana, “To eat it [the Seventh-Year portions of the dedicated vineyard] without redemption is not possible, for it is impossible for dedicated objects to leave [the status of consecrated produce] without redemption. To redeem it and to eat it [you are not able, for would it not] be like one who acquires an ax with Seventh-Year monies?”* [If dedicated Seventh-Year produce, which normally is to be eaten and not sold, is redeemed by supposedly transferring the “dedication” to the money given for the Temple's upkeep, both the produce and the money remain consecrated (under Seventh-Year status) because one may only eat, drink, or anoint oneself with Seventh-Year produce but one may not use it in transactions. The act of redemption is thus no better than buying an ax with money from Seventh-Year produce.]

- [N] He said to him, “The treasurer would exchange them [the monies] with someone else.” [Adding an exchange enables one to redeem the dedicated produce so that it may be eaten in the status of normal Seventh-Year produce. If the Temple treasurer exchanges the redemption money with other money, the produce and the original money fall under the Seventh-Year status and the money in the treasurer’s hands is unencumbered by the laws of the Seventh Year though it is “dedicated” and thus fit for the Temple’s upkeep.]
- [O] *Said R. Matenaiah, “What do I need [with such an answer? We have a less complicated one:] We may explain it in accord with that of R. Yohanan [regarding M. Ned. 4:8 that speaks of one person forbidden by a vow to have any benefit from a second individual, ‘If they were on a road and he (the former) has nothing to eat, If there is no one else with them, (the latter) puts (the food) on a stone or on a fence and says, “Lo, they (the foods) are ownerless for all that wish, “ and the former takes and eats. And R Yosé forbids (M Ned 4:8).*
- [P] “[Yohanan explains:] ‘The opinion of R. Yosé depends upon the fact that his [the former person’s] vow preceded his [the other person’s] renunciation —
- [Q] ‘but here [the rule is different] because the renunciation [the taking effect of the law of the Seventh Year which makes all property in a sense ownerless] preceded his dedication [and hence the latter does not remove the bunch from belonging to the poor].”
- [R] [Continuing with the commentary on M. Peah 7:8A-B, cited in above:] Said R. Yohanan, “There was a case and [they] taught in accord with R. Yosé [that the poor must pay to the Temple the cost of growing from the time that the vineyard was dedicated].”
- [S] *Does this [text, M. Peah 7:8C’s definition of the Forgotten Sheaf among the espalier, namely “whatever he cannot take by stretching out his arm”] not dispute R. Yohanan, for R. Yohanan said [regarding olives], “As soon as [the gatherer] passed and forgot it, lo, it is considered a Forgotten Sheaf?”*
- [T] It is different with an espalier [which M. Kil. 6:1 defines as including at least five vines], for it is its custom to be checked. [Large trellises, in contrast to olives (which evidently were not planted in such large arrangements), were customarily, after an initial pass, checked through a second time.]
- [U] *Even R. Hoshaiyah — does it [M. Peah 7:8D] not dispute, for R. Hoshaiyah said, “I was stamping olives with R. Hiyya the Elder and he*

said to me, ‘Every olive which you can extend your hand to and take is not a Forgotten Sheaf?’”

[V] It [M. 7:8D] is different, for all ground-trained vines are distinct furrows [like a discrete line of vines to which one does not return once one has passed it by].

YERUSHALMI PEAH

CHAPTER EIGHT

8:1

- [A] After what time [of year] are all people, [rich and poor alike], permitted [to gather] gleanings [that the poor have not yet taken]?
- [B] [All are permitted] after the aged-poor go [through the field in order to collect this produce, for by this time, we may assume that all poor people have had a chance to gather their share of the gleanings].
- [C] With regard to separated [grapes] and defective clusters, [when is any person, rich or poor, permitted to take the food]?
- [D] [All are permitted] after the poor go through the vineyard [to collect the produce designated for them], and have come [a second time, to gather the grapes they earlier passed over].
- [E] And with regard to olive trees, [when is any person permitted to collect the fruit left behind as forgotten produce]?
- [F] [All are permitted] after the time of the second rainfall.
- [G] Said R. Judah, “But are there not some [farmers] who pick their olives only after the time of the second rainfall? [These householders would not yet have begun to harvest for themselves, and so could not have left any produce behind for the poor. Clearly, the olives should not be available for others to take.]
- [H] “Rather, [the proper ruling for olive trees is that all are permitted after] a poor person goes out [to the orchard to collect the produce designated for the poor], and cannot return with four *issars* [worth of olives].”
- [I:1 A] [All are permitted] after the aged-poor go [through the field in order to collect this produce, for by this time, we may assume that all poor people have had a chance to gather their share of the gleanings]: Said R. Yohanan, “Why are they called *namoshot*? Because they come to the field at the end of the harvest [and the root is *nimshakh*, to take a long time].”

- [B] Abba Saul would call them *meshoshot*.
- [C] *There are Tannaite authorities that call them namoshot, and some call them meshoshot. He who calls them nemoshot says they come to the field at the end of the harvest period. One who calls them meshoshot says they feel their way to the field, being aged and blind.*
- [D] R. Huna in the name of Menahem: “R. Yohanan b. Nuri would go out with the aged poor, yet he could gather enough gleanings to support himself for the whole year.”

[I:2 A] *It is stated on Tannaite authority: And [the portion] of the poor-offerings that [remains] in the fields, to which the poor pay no attention — lo, this [produce] belongs to the householder [T. Pe. 2:18].*

- [B] R. Abun bar Hiyya *asked*, “Can a farmer declare produce as peah and then collect it for himself?”
- [C] R. Simeon bar Yohai taught as a Tannaite statement: “ ‘You shall leave them for the poor and the stranger’ (Lev. 19:10) — and not for ravens and bats.”

[II:1 A] *With regard to separated [grapes] and defective clusters, [when is any person, rich or poor, permitted to take the food]? [All are permitted] after the poor go through the vineyard [to collect the produce designated for them], and have come [a second time, to gather the grapes they earlier passed over].*

- [B] Why is it not the time that the aged poor go through the field?
- [C] Since the grapes are valuable, the poor including the aged come to the field punctually.
- [D] ***And with regard to olive trees, [when is any person permitted to collect the fruit left behind as forgotten produce]? [All are permitted] after the time of the second rainfall.***
- [E] The decisive time is not the departure of the aged-poor because the olive harvest takes place in the cold season, and only the young go out.

[III:1 A] *Said R. Judah, “But are there not some [farmers] who pick their olives only after the time of the second rainfall? [These householders would not yet have begun to harvest for themselves, and so could not have left any produce behind for the poor. Clearly, the olives should not be available for others to take.] Rather, [the proper ruling for olive trees is that all are permitted after] a poor person goes out [to the orchard to collect the produce*

designated for the poor], and cannot return with four *issars* [worth of olives].”

- [B] And before that time that [Judah specifies] isn't an ordinary person who took four issar's worth of the fruit be guilty of stealing from the poor? [Why does Judah say a rich person is allowed to take the produce only after that time?]
- [C] He could answer the sages within their theory of the matter. [They had said that the olive trees are not available at the time that the aged poor go out, since they do not go out to gather olives because of the cold weather.] He would say, “Haven't you explained it. For you say that since it is cold only the young go out to the field to gather olives. Since in this case no more than four issars of produce remain in the orchard, the poor one knows he cannot bring back enough produce to sustain himself and he would not go out. [Everyone should be permitted to gather olives and not worry about theft.]”

8:2

- [A] **[Poor people who sell produce in their possession] are believed [if they claim that they received this food as] gleanings, forgotten sheaves, or *peah*,**
- [B] **[only if they are selling this produce] during the proper time [of the year for the designation of these offerings]. [Thus during harvest season, when the poor collect these offerings, a poor person is deemed trustworthy when he claims that food he sells is in the status of poor-offerings. Accordingly, this produce is exempt from the separation of tithes.]**
- [C] **And [poor people who sell produce also are believed if they claim that the food was received as] poorman's tithe,**
- [D] **[so long as it is] the proper year [for the designation of this offering]. [Poorman's tithe is designated during the third and sixth years of the Sabbatical cycle. During these years alone a poor person is deemed trustworthy if he claims that the food he sells has the status of poorman's tithe. As at A, such produce would be exempt from further separation of tithes.]**
- [E] **But a Levite [who sells produce, and claims that the food has the status of first tithe] is believed during all [years of the Sabbatical cycle]. [Since first tithe is designated every year, the Levite's claim *prima facie* always is credible.]**

- [F] **But [the poor man's claim that produce they sell is in the status of poor-offerings or was received as poorman's tithe] is believed only with regard to [the sort of] foodstuff that people usually [leave for them]. [Thus we trust a poor person's claim only with regard to unprocessed food, for by definition this is what farmers usually leave behind or designate for the poor.]**
- [I:1 A] To what distance from a particular field [do we believe the poor man's claim of the status of the produce]?
- [B] Said R. Hanina, "They are believed anywhere that is a day's trip back and forth."
- [I:2 A] There was this case: Rabbi believed five brothers concerning five kors of wheat.
- [B] But is it possible [to collect so much wheat as poor man's produce]?
- [C] Each one went to a separate threshing floor and gathered a kor of wheat.
- [I:3 A] **But a Levite [who sells produce, and claims that the food has the status of first tithe] is believed during all [years of the Sabbatical cycle]:**
- [B] *R. Eleazar the Southerner asked before R. Yosé, "Our passage of the Mishnah agrees with R. Eliezer. For R. Eliezer says, 'If one sees someone separating second tithe, he is believed if he claims to have separated first tithe' (T. M.S. 3:16)."*
- [C] Said R. Yosé, "It is the opinion of all parties [not just Eliezer]. The case differs on second tithe] for nobody would try to cheat in such a matter [for the penalty is death. So sages and Eliezer concur that Levites would not try to defraud others by selling first tithe from which heave offering of the tithe has not yet been separated].
- [D] R. Eleazar in the name of R. Hoshai: "Just as Israelites are not suspect of violating the laws concerning first tithe, so Levites are not suspect of violating the laws of heave-offering of the tithe."
- [E] Said R. Hoshai, "*The Mishnah makes that point: But a Levite [who sells produce, and claims that the food has the status of first tithe] is believed during all [years of the Sabbatical cycle]."*
- [F] *R. Mana asked: "As to the statement, But a Levite [who sells produce, and claims that the food has the status of first tithe] is believed during all [years of the Sabbatical cycle], is this so even if*

he makes this claim during the Sabbatical year [when there are no agricultural offerings]?”

[G] Said R. Bun bar Hiyya, “The Levite is believed to say, ‘This produce is entirely first tithe’ to exempt it from second tithe. But the Levite is not believed if he said, ‘This tithe was given to me’ or if he said that he himself set it aside as tithe.”

[H] *That is in line with our Mishnah:* **But [the poor man’s claim that produce they sell is in the status of poor-offerings or was received as poorman’s tithe] is believed only with regard to [the sort of] foodstuff that people usually [leave for them].**

[I] *And that is the sense of the Mishnah:* **But [the poor man’s claim that produce they sell is in the status of poor-offerings or was received as poorman’s tithe] is believed only with regard to [the sort of] foodstuff that people usually [leave for them].**

8:3

[A] [The poor] are believed [if they claim that] wheat [that they sell was received as poor-offerings, and so is exempt from the separation of tithes],

[B] but they are not believed with regard to flour or a loaf [of bread]. [We assume that, when designating poor-offerings or poorman’s tithe, householders ordinarily do not leave processed food for the poor. Further, we may assume that the poor person himself could not afford to process any grain he found in the field. Hence the flour or bread could not have derived from poor-offerings or poorman’s tithe.]

[C] They are believed with regard to panicles of rice,

[D] but they are not believed [with regard to husked rice], whether raw or cooked.

[E] They are believed with regard to beans,

[F] but they are not believed with regard to bean-grits, whether raw or cooked.

[G] They are believed with regard to oil, [if they] say that [the oil] is in the status of poorman’s tithe, [because this is what farmers usually designate for the poor].

[H] But they are not believed with regard to [oil, if they] say that [the oil] derives from olives [that were forgotten on the] crown [of a tree].

[I] They are believed with regard to raw vegetables.

- [J] But they are not believed with regard to cooked [vegetables],
- [K] unless [the poor person] has a small amount [of the cooked vegetables].
- [L] For it is the custom of householders to take [a small amount] out of the stew-pot, [and to give it to the poor as part of the poorman's tithe].
- [I:1 A] What is the law as to believing the claim, "Wheat was given to me [as poor man's tithe] and I ground it into flour," or, "Wheat was given to me and I made it into a loaf"?
- [B] *It is obvious to us* that he is believed.
- [I:2 A] Everybody knows that most people collect the gleanings and give the poor flour or bread, so should one believe the claim of the poor man that he has received processed food as poor man's tithe?
- [B] Even so, we do not believe that claim.
- [C] *It was taught as a Tannaite statement: R. Judah says, "[In] a place where [householders] press [the grapes on] defective clusters, [and give the resulting wine to the poor], a poor person is believed if he claims (1) 'This wine is in the status of defective clusters, [and so no tithes need be separated from it].'* [A poor person also is believed if he claims], (2) 'My brothers, relatives and I gathered these gleanings' [T. Pe. 4:1]."
- [D] *And along these same lines, where householders glean olives left on the tree for the poor and give them the oil, a poor man is believed if he claims, "This oil is in the status of olives left behind for the poor."*
- [II:1 A] They are believed with regard to raw vegetables. But they are not believed with regard to cooked [vegetables], unless [the poor person] has a small amount [of the cooked vegetables].
- [B] *The people of Bet Assi cooked some vegetables but forgot to separate poor man's tithe. Gamaliel Zuga came and separated the poorman's tithe out of his stew pot.*

8:4

- [A] [When dispensing poorman's tithe] they may give to [each of] the poor people at the threshing floor no less than:
- [B] (1) one-half *qab* of wheat,
- [C] (2) one *qab* of barley, [but] R. Meir says, "One half *qab* [of barley],"

- [D] (3) one and one half *qabs* of spelt,
- [E] (4) one *qab* of dried figs, or one *maneh* of fresh figs, [but] R. Aqiba says, “One half [of a *maneh* of fresh figs],”
- [F] (5) one half *log* of wine, [but] R. Aqiba says, “A quarter [of a *log* of wine],”
- [G] (6) a quarter *log* of oil, [but] R. Aqiba says, “An eighth [of a *log* of oil].”
- [H] And [as regards] all other types of produce —
- [I] said Abba Shaul, “[They must give to each poor person] enough [produce] so that he may sell it [and use the revenue] to buy food for two meals.”
- [I:1 A] *A Tannaite statement:* [They must give to the poor] a fourth *qab* of rice, an *ukla* of spice, a *litra* of vegetables, three *qabs* of carob, a half *log* of wine, a quarter *log* of oil, ten nuts, five peaches two pomegranates, and a single citron.
- [B] What is the scriptural basis for these measurements? “Then the Levite who has no hereditary portion as you have and the stranger, fatherless, and widow in your settlements shall come and eat their fill” (Dt. 14:29) — give each poor man enough to satisfy him.
- [C] *Hezekiah asked his father, “Whence these measures?”*
- [D] *He said to him, “What is this pebble doing lying next to that Cypress tree?”*
- [I:2 A] *R. Hananiah was in session before R. Eli, and he set forth reasons for the measurements, and he contradicted him, and again he set forth reasons for the measurements, and he contradicted him. He said to him, “You should not contradict them but support them.”*
- [I:3 A] Said R. Man, “*A Tannaite rule:* no less than four *litras* of produce.”
- [I:4 A] R. Eleazar said, “And so is the rule for the [amount of produce required in a] meal of commingling.”
- [B] *Said R. Hinena, “That which you have said is the case for wine but not for oil.”*
- [C] *It has been taught: Wine must be enough for drinking along with two meals. Oil must be enough to eat with food for two meals. Vinegar must be enough for dipping food for two meals [T. Er. 6:3A-C].*

- [D] R. Jeremiah in the name of R. Samuel bar R. Isaac: “It must be sufficient to dip a bundle of vegetables sufficient as food for two meals.”
- [E] *R. Isaac Atoshayya said before R. Zeira in the name of the house of R. Yannai:* “One may make a meal of commingling with raw beans, enough for two full meals.”
- [F] To whom is such a matter a problem anyhow? It is to R. Meir. It is so that you should not say, “Since they make the mouth stink, one may not use them for a meal of commingling.”
- [G] They may make a meal of commingling with salted fish; they may make a meal of commingling with salted meat.
- [H] As to fresh [uncooked] meat, they may make a meal of commingling with it, *for we have learned:* **Babylonians eat it raw, because they think it is fine [M. Men. 10:7].**
- [I] *R. Yudan asked, “As to kalbuda-grass, since there are Samaritans who eat it raw, do they use it for a meal of commingling?”*
- [J] Samuel bar Shilat in the name of Rab: “They prepare a meal of commingling with them.”
- [K] *They asked before him, “What are they?”*
- [L] *He said to them, “Cress, purslane, and clover [as specified above, now with Aramaic equivalents].”*

8:5

- [A] **This measure [for each type of produce], applies [when distributing poorman’s tithe to poor] priests, Levites, and Israelites.**
- [B] **[If a householder wished to] save [for his own poor relatives the produce he designated as poorman’s tithe],**
- [C] **he may take only half [of the poorman’s tithe for his own relatives], but must give [the remaining half to other poor people].**
- [D] **If he had [only] a small amount of any type [of produce, i.e., less than the measure for poorman’s tithe specified],**
- [E] **he places [the produce] before [the poor], and they divide it among themselves.**
- [I:1 A] *R. Jonah interpreted the rule of the Mishnah to refer to a case in which the householder held more than the amount of poorman’s tithe for each*

poor person: **[If a householder wished to] save [for his own poor relatives the produce he designated as poorman's tithe], he may take only half [of the poorman's tithe for his own relatives], but must give [the remaining half to other poor people].**

[B] “But if he had only the required amount of tithe, **he places [the produce] before [the poor], and they divide it among themselves.**”

[C] *R. Hezekiah interpreted the rule of the Mishnah to refer to a case in which the householder held just enough produce as poorman's tithe. In that case he may take only half [of the poorman's tithe for his own relatives], but must give [the remaining half to other poor people].* Since by saving half and giving half, he ends up providing for the other poor a small amount of produce, less than the measure for poorman's tithe specified in the law, **he places [the produce] before [the poor], and they divide it among themselves.**”

[I:2 A] *It was stated as a Tannaite rule:* [If a poor person] went from door to door, [begging for food from each family], they are not obligated to him in any way, [because he should receive money from the communal fund, not by bothering individuals] [T. Pe. 4:8].

[B] Said R. Jonah, “That is the rule only so long as the householder does not shortchange such a beggar from the arguron, the beggar's penny, that most would give him.”

8:6

[A] **They give to a poor person travelling from place to place no less than a load [of bread] worth a *dupondius*, [made from wheat that costs at least] one *sela* for four *seahs*.**

[B] **[If such a poor person] stayed overnight,**

[C] **they must give him enough [food] for a night's lodging.**

[D] **[If the poor person] spends the Sabbath they must give him food for three meals (see M. Shab. 16:2-3).**

[E] **Whoever has sufficient food for two meals, [i.e., one day's food-supply], may not take food from a soup-kitchen.**

[F] **[Whoever has sufficient] food for fourteen meals, [i.e., one week's supply of food], may not take [money] from the communal fund.**

[G] **[Money for] the communal fund is collected by two [people], and distributed by three [people].**

[I:1 A] *Here you say,* [When dispensing poorman's tithe] they may give to [each of] the poor people at the threshing floor no less than..., and

there you state, **They give to a poor person travelling from place to place no less than a load [of bread] worth a *dupondius*, [made from wheat that costs at least] one *sela* for four *seahs*.**

[B] R. Huna said, “The difference is because one brings out for the traveler an extra third of the required measure for the trip.”

[C] R. Yosé b. R. Abun brought to some bakers the precise amount of flour that R. Huna indicated [two thirds of a log] — a loaf of precisely that size.

[D] *R. Ba bar Ba bar Mamel asked before R. La, “What is the law for the case of a poor man who receives poor man’s tithe owing to local poor, then is seen leaving the city, and then returns again to collect more poorman’s tithe? [Does he get a loaf of bread?]”*

[E] He said to him, “The giver gives and the recipient takes care of himself.”

[II:1 A] The soup-kitchen [provides enough food] for a full day, but the communal fund gives [sufficient food to last] from one week to the next. The soup-kitchen [provides food] for anybody, but the communal fund [gives support only] to the poor of that locale [T. Pe. 4:9].

[B] R. Huna said, “Food for the soup kitchen is collected by three persons. [Since it is distributed immediately after it is collected, the same number collects and distributes it.]”

[C] R. Helbo in the name of R. Ba bar Zebedee: “They do not appoint fewer than three persons to distribute support and livelihood to the poor.”

[D] Take note: **Monetary matters are decided only by a court of three judges [M. San. 1:1]**. Shouldn’t poor support, which involves peoples’ lives, require at least three?

[E] Then it should involve twenty-three persons [like the death penalty]!

[F] *By the time one could assemble them for a decision, the poor man would starve.*

[II:2 A] R. Yosé in the name of R. Yohanan: “They do not appoint two brothers as overseers of a single communal fund.”

[B] *R. Yosé once removed one of two brothers from office. He got up and announced, “No wrongdoing has been found in the man’s administration of the fund. We could not appoint two brothers as overseers of a single communal fund.”*

- [II:3 A] *R. Yosé went to Kuprah. He wanted to appoint authorities for them, but they would not accept them from him. He went up and said before them, “Ben Bebai is in charge of the wick [M. Sheq. 5:1]. Now if this one, who was appointed to take care of the wicks, had the honor of being numbered among the great men of the generation, you, who are appointed to take care of the lives of people — don’t you deserve the same.”*
- [II:4 A] *When R. Haggai would appoint overseers, he would give them a Torah-scroll, and say, ‘All authority that is given out is given out on the basis of the Torah: “Through me kings reign and rulers decree just laws. Through me princes rule” (Prov. 8:15-16).’”*
- [III:5 A] R. Hiyya bar Abba would call them “chief magistrate.”
- [III:6 A] *R. Eleazar was an overseer. One time he came home and asked what happened. They told him, “A group came by, ate, drank, and praised you.”*
- [B] *He said to them, “That’s no reward.”*
- [C] *Another time he came home and asked what happened. They told him, “A group came by, ate, drank, and cursed you.”*
- [D] *He said to them, “That’s a reward.”*
- [III:7 A] They wanted to appoint R. Aqiba overseer. He said to them, “I will have to check at home.” They went after him and heard his wife saying to him, “People will curse and insult you.”
- [III:8 A] *R. Ba bar Zebedee said, “There is a dispute between Rab and R. Yohanan. One said, ‘We investigate carefully the one who claims clothing, but in any matter of life support, we immediately give support.’ The other said, ‘Even as to clothing, we do not investigate carefully the one who claims clothing. That is because of the covenant made with our father Abraham.’”*
- [B] *A Tannaite statement conflicts with the view that even as to clothing, we do not investigate carefully the one who claims clothing. But you may deal with the apparent contradiction by maintaining that we clothe someone according to the honor owing to him.*
- [C] *And so it is taught on Tannaite authority: **They give to a poor person travelling from place to place no less than a loaf [of bread] worth a dupondium, [made from wheat which costs at least] one sela for four seahs. [If such a poor person] stayed overnight, they must give him enough [food] for a night’s lodging (M. 8:7A-C), [namely,***

they give him] oil and beans. [If such a poor person] spends the Sabbath, they give him food for three meals (M. 8:7D-E), [namely, they give him] oil, beans, fish, and a vegetable. Under what circumstances does this apply? [It applies] so long as [the town's people] do not recognize the poor person. But if they recognize him, they even provide clothing for him. [If a poor person] went from door to door, [begging for food from each family], they are not obligated to him in any way, [because he should receive money from the communal fund, not by bothering individuals] [T. Pe. 4:8].

- [D] The soup-kitchen [provides food] for anybody, but the communal fund [gives support only] to the poor of that locale. If [a poor person] dwelt there for thirty days, lo, he is considered to be in the status of resident of the locale for [purposes of receiving assistance] from the communal fund. But [to receive] clothing, [he must have dwelt there] for six months. And to be liable to the town-tax, [he must have been a resident] for twelve months [T. Pe. 4:9].
- [E] Interpret the rule to refer to how long one must stay in town [before being required to contribute food or clothing to the poor fund.]
- [F] *What about this Tannaite rule:* If [a poor person] dwelt there for thirty days, lo, he is considered to be in the status of resident of the locale for [purposes of receiving assistance] from the communal fund. But [to receive] clothing, [he must have dwelt there] for six months. And to be liable to the town-tax, [he must have been a resident] for twelve months
- [G] What are the taxes and charities at the end of the twelve months? That is not to the communal fund but to the fund to pay the scribes and teachers.

8:7

- [A] Whoever possesses two hundred *zuz* [i.e., enough money to support himself for a full year, from one harvest season to the next] may not collect gleanings, forgotten sheaves, *peah*, or poorman's tithe [that have been designated from this year's crops].
- [B] If he possesses two hundred [zuz] less one *dinar* [i.e., one hundred and ninety-nine *zuz*],

- [C] even if one thousand [householders each might] give him [one *dinar*], all at the same time, [so that the poor person potentially possesses far more than two hundred *zuz*] —
- [D] lo, this person may collect [produce designated for the poor]. [When he gathers this food, he has not yet received any money from the householders, and so in fact is poor.]
- [E] [If he possesses two hundred *zuz* that he cannot freely use, because the money serves as] collateral for a creditor or for his wife's marriage-contract —
- [F] lo, this person may collect [produce designated for the poor].
- [G] They may compel him to sell neither his house nor the tools [of his trade in order that he might acquire through this sale two hundred *zuz* in cash]. [That is to say, only people with less than two hundred *zuz* in liquid assets may gather poor-offerings. Since this person's money is used to provide shelter or equipment, he is permitted to gather the poor-offerings.]
- [I:1 A] A disciple of Rabbi had two hundred *zuz* less a denar [in which case he was permitted to accept poor man's tithe, having too little money to be deemed well-off.
- [B] *Rabbi was accustomed to give over to him his poor man's tithe every third year [when it was due] as the tithe owing to those who were in need.*
- [C] *One time the other disciples treated the student in a mean way by making up [the denar, so that he had the two hundred *zuz* and was no longer eligible to receive the poor man's tithe].*
- [D] [*Rabbi*] came and wanted to hand over to him the poor man's tithe as he had been accustomed to do.
- [E] He said to him, "*Rabbi, I have the requisite sum of money, [and so I am not eligible].*"
- [F] He said, "In the case of this one, the blows of the abstainers have smitten him."
- [G] *He instructed his disciples, and he took him up to a tavern and made him one *qarat* poorer.*
- [H] *And then Rabbi handed over to him the poor man's tithe as he had been accustomed to do.*
- [I:2 A] A family from Bet Nabaltah was [visiting] in Jerusalem. They were related to the family of Arnon, the Jebusite (i.e., their family

was among the original inhabitants of Jerusalem]. The sages sent them six hundred gold sheqels, for they did not want them to [be forced to] leave Jerusalem [due to a lack of money] [T. Pe. 4:11].

[B] *For they interpreted Scripture as follows:* “Every third year you shall bring out the full tithe of your yield of that year but leave it within your settlements. Then the Levite, who has no hereditary portion as you have, and the stranger, the fatherless, and the widow in your settlements shall come and eat your fill” (Dt. 14:28-29).

[C] *And has it not been taught as a Tannaite statement:* **There was the case of Hillel the elder. He once gave to a certain poor person, a member of a good family, a horse for the man to ride for exercise, and a slave to be the man’s servant. There was the case. The people of Galilee each day would send to a certain old man a pound of meat [according to the weights used in] Sepphoris. [T. Pe. 4:10].**

[D] Is such a thing possible?

[E] *Indeed so, because he never ate alone in his entire life.*

[F] *It has been taught as a Tannaite statement:* **[If a poor person] was used to using golden utensils, he must sell them, and use silver ones. [If he was used to] silver utensils, he must sell them, and use brass utensils. [If he was used to] brass utensils, he must sell them and use glass ones [T. Pe. 4:11].**

[G] Said R. Mana, “[This speaks even of his purchasing] silver or glass personal utensils.”

[H] *And has it not has been taught as a Tannaite statement:* **[If] he used to wear fine wool [before he became poor], they supply him with [clothes of] fine wool. [If he used to receive] a coin [as a salary before he became poor], they give him a coin. [If he used to eat] dough [before he became poor], they give him dough. [If he used to eat] bread [before he became poor], they give him bread. [If they used] to spoon feed him [before he became poor] they spoon feed him [T. Pe. 4:10].**

[I] Here [where the poor man must get used to a lower standard of living] we speak of not his personal possessions but what he needs for work. There [where he receives what he has been accustomed to,] it refers to what is personal.

[I:3 A] *A member of the Patriarch’s household lost his property. They brought him his food in a rough clay dish. When he ate from common*

dishes he would puke. The doctor said to him, “Isn’t the food of the rich cooked in a clay pot?” So he ate from the pot itself.

- [I:4 A] *Up to this point we have dealt with the case of a debtor whose debt has come due. But if the creditor is not insistent, [should we force him to sell his luxuries and live more modestly]?*
- [B] *Let us derive the answer from the following: [If he possesses two hundred zuz that he cannot freely use, because the money serves as] collateral for a creditor or for his wife’s marriage-contract — lo, this person may collect [produce designated for the poor]. They may compel him to sell neither his house nor the tools [of his trade in order that he might acquire through this sale two hundred zuz in cash]. [That is to say, only people with less than two hundred zuz in liquid assets may gather poor-offerings. Since this person’s money is used to provide shelter or equipment, he is permitted to gather the poor-offerings.]*
- [C] *Now isn’t his wife comparable to a debt that is not yet due? Yet: They may compel him to sell neither his house nor the tools [of his trade in order that he might acquire through this sale two hundred zuz in cash].*
- [I:5 A] Said R. Hanina, “People should have two cloaks, one for ordinary days, one for the Sabbath.”
- [B] *What is the scriptural basis for this view? “Wash yourself therefore and anoint yourself and put your garment on you” (Ruth 3:3).*
- [C] Was she naked before she put on her fine clothes? But this makes reference to her Sabbath clothes.
- [D] When R. Simlai expounded the matter in Sepphoris, the Associates wept and complained, saying to him, “My lord, as we dress on weekdays, so shall we dress on the Sabbath.”
- [E] He said to them, “Even so, you must change your clothes for the Sabbath: ‘Wash yourself therefore and anoint yourself and put your garment on you’ (Ruth 3:3).”
- [F] “And go down to the threshing floor” (Ruth 3:3) — “And go down” is written as “and I shall go down.” Thus Ruth said to her, “My merit shall go down with you.”
- [G] *Was she naked before she put on her fine clothes? But this makes reference to her Sabbath clothes.*

8:8

- [A] Whoever possesses [as little as] fifty *zuz*, yet conducts business with them —
- [B] lo, that person may not collect [produce designated for the poor, because [of the high velocity] he derives a steady income from his money].
- [C] And anyone who does not need to collect [poor-offerings], but [nonetheless] collects [them],
- [D] [as punishment for this action] will die of old age only after he [in fact] comes to depend on other people.
- [E] And any person who is neither lame, dumb, nor handicapped, but [acts] as if he had [such a condition],
- [F] [as punishment for his action] will die of old age only after he actually [suffers from this condition].
- [G] But anyone who needs to collect [poor-offerings], but does not collect [them],
- [H] [as a reward for his action] will die of old age only after [he has become able] to support others from that which belongs to him.
- [I] And with regard to this person Scripture states, “Blessed is the man who trusts in the Lord, whose trust is the Lord” (Jer. 17:7).
- [J] And so too, a judge who judges for justice’s sake [is blessed].
- [K] As it is stated [in Scripture], “Justice and only justice shall you follow” (Deut. 16:20).
- [L] But any judge who accepts a bribe, and on its account changes his judgment,
- [M] will die of old age only after his eyes have grown weak.
- [N] As it is stated [in Scripture], “And you shall take no bribe, for a bribe blinds the clear sighted” (Ex. 23:8).
- [I:1 A] [Whoever possesses [as little as] fifty *zuz*, yet conducts business with them...]: *That is to say, fifty zuz that are invested are better than two hundred that are not.*
- [II:1 A] And any person who is neither lame, dumb, nor handicapped, but [acts] as if he had [such a condition]: One who acts as though (1) he was blind, (2) his stomach was distended, or (3) his joints were swollen, [in order to gain sympathy of charity], will not depart from this world before this actually is the case

- [II:2 A]** *Samuel ran away from his father. He went and took up a position between two huts of poor people. He heard them saying, “With which dishes do we eat today, on the golden service or on the silver service?” He went home and reported th is to his father, who said to him, “We have to be grateful to the deceivers among them.”*
- [II:3 A]** *There is the following incident: R. Yohanan and R. Simeon b. Laqish went up to the hot springs of Tiberias. A needy person met them and said to them, “Acquire merit through [helping] me.”*
- [B]** *They replied to him, “When we come back, we shall acquire merit through [helping] you.” But when they came back, they found him dead.*
- [C]** *They said, “Since we did not take care of you when you were alive, we shall take care of you now that you are dead.”*
- [D]** *When they were washing [the body prior to burial], they found a purse containing five hundred denars suspended from his neck. They said, “Blessed be he who favored sages and their teachers.*
- [E]** *“For did not R. Abbahu say in the name of R. Eliezer, ‘We have to be grateful to deceivers among the [poor], for were it not for the deceivers [who pretended to be in need when they were not, Israelites would suffer condemnation]. Otherwise when one of them would beseech help from someone, and the latter refused him, forthwith [the beseeched] would be punished by death. [For it is written, “And he will cry out against you to the Lord, and it will be counted as sin against you,” (Deut. 15:9, and it is written, “The soul that is guilty of sin will die””’(Ez. 18:20)].*
- [II:4 A]** *Abba bar Ba gave his son Samuel some coins to split up among the poor. He went and found a poor man eating meat and drinking wine. He came home and reported th is to his father, who said to him, “Give that poor man even more, for his desire is the sole measure [of how much to give him].*
- [II:5 A]** R. Jacob bar Idi and R. Isaac bar Nahman were supervisors [of the communal funds]. They would give R. Hama, father of R. Hoshaiyah, a denar. He then would divide it among others [who needed it] [Y. Sheq. 5:6].
- [B]** R. Zechariah, father-in-law of R. Levi: “People used to speak ill of him and say he did not really need the money he took it. But when he died, they investigated the matter and found that he had divided the money among the others who were poor.”

- [II:6 A]** R. Hinena bar Papa would give out charity at night. Once he met the head of the ghosts. He said to him, “Did the Rabbi not teach us: ‘You shall not move your countryman’s landmarks’ (Dt. 19:14)? [The night belongs to us.]”
- [B] He said to him, “Doesn’t Scripture also say, ‘A gift in secret subdues anger’ (Prov. 31:14)?” The ghost got mad and fled.
- [II:7 A]** Said R. Jonah, “Said R. Jonah, “‘Blessed is he who gives to the poor’ is not what is written here, but rather, ‘Blessed is he who considers the poor.’ What that must mean is that he reflects about how he may assist him.” This is what R. Jonah would do. When he would see the child of great and good parents who had lost his money and yet was ashamed of taking [charity], he would go to him and say to him, “I heard that you have received an inheritance overseas. Now here is this item, and when you recover your wealth, you can give it back to me.” When he would hand over the object, he would say to the poor person, “I’m giving it to you as a gift.”
- [II:8 A]** Said R. Hiyya bar Adda, “There are old people in our own day w, when someone gives them money between the New Year and the Great Fast of Atonement take the money. But after that interval they do not take the money: ‘This is our privilege.’”
- [II:9 A]** Nehemiah of Siknin met a Jerusalemite, who said to him, “Why don’t you support me by giving me a chicken?”
- [B] He said to him, “Here’s some money for you. Go buy a cheap piece of meat.”
- [C] The man ate the meat and died. People said, “Come and mourn Nehemiah’s murder victim.”
- [II:10 A]** Nahum, who went around saying, “This took is for the best” was taking a gift to the family of Hamui. Some one afflicted with boils met him and said, “Why don’t you acquire merit through supporting me with what you have with you?”
- [B] Nahum said to him, “On my way back.” *But when he came back, the man had died.*
- [C] *Nahum said before those that criticized him, “May my eyes that saw and did not give go blind. May my hands that did not extend a small gift be cut off. May my feet that did not run to give alms be broken.” And so it happened.*

[D] When he went to R. Aqiba, he said to him, “Woe is me, I wish I never saw you like this.”

[E] He said to him, ““Woe is me, that I don’t see you like this you like this.”

[F] “And why do you curse me?”

[G] “And why do you rebel against suffering.”

[II:11 A] *R. Hoshaiiah the Elder had a blind teacher for his son and would eat a single meal with the teacher every day.*

[B] *One day he had guests and didn’t have the chance to eat with him. That evening he went to him and said, “Master, don’t be upset with me for not coming to eat with you, I had guests, and since I didn’t want to waste my lord’s time, I didn’t eat with you today.”*

[C] *He said to him, “You are appeasing one who can be seen but does not see. May the one who cannot be seen but who sees everything accept your apology as readily as I do.”*

[D] *He asked him, “How do you know that God accepts the apology that a blind man accepts?”*

[E] *He said to him, “It is from the story about R. Eliezer b. Jacob.”*

[II:12 A] *R. Eliezer b. Jacob had a blind man in his home and gave up his own bed for him to use. The servants said, “If he were not a great man, R. Eliezer b. Jacob would not give up his bed for him, so they showed him great respect. The blind man asked the servants, “What’s this all about.*

[B] *They said to him, “R. Eliezer b. Jacob gave up his bed for you.” He said this brief prayer: You have performed an act of loving kindness for me, who can be seen but cannot see; may you enjoy the Heavenly response of an act of loving kindness from him who sees but is not seen.”*

[II:13 A] *There is this incident: R. Hama bar Haninah and R. Hoshaiia the Elder were strolling in the synagogues in Lud. Said R. Hama bar Haninah to R. Hoshaiia, “How much money did my forefathers invest here [in building these synagogues]!” He said to him, “How many lives did your forefathers invest here! Were there not people who were laboring in Torah [who needed the money more]?”*

[B] *R. Aha in the name of R. Haninah: “That is in line with the Mishnah: **But anyone who needs to collect [poor-offerings], but does not***

collect [them] — lo, this one sheds blood. It is forbidden to have pity on him. For he took no pity on himself and would have shown none to others.”

[C] And any person who is neither lame, dumb, nor handicapped, but [acts] as if he had [such a condition], [as punishment for his action] will die of old age only after he actually [suffers from this condition]. But anyone who needs to collect [poor-offerings], but does not collect [them], [as a reward for his action] will die of old age only after [he has become able] to support others from that which belongs to him. And with regard to this person Scripture states, “Blessed is the man who trusts in the Lord, whose trust is the Lord” (Jer. 17:7).

TRACTATE

DEMAI

When the halakhah or law of Judaism wishes to speak of Israel's relationship with God and frames matters, as it does, in terms of the intersection of God and Israel in the Land, two questions demand answers. First, given the centrality of the agricultural offerings, underscoring Israel's possession of Land subject to God's ownership, we must ask: does Israel relate to God principally or solely through the Land? The halakhah of tractate *Pe'ah* answers that question in a way familiar from the response of the halakhah of tractate *Shebi'it*, on the one side, and of tractate *Ma'aserot*, on the other: the Land is critical, and, when treated as possessed by all Israel, central. But possession of the Land carries with it one set of obligations to God, dispossession, another set of obligations, and both together form the normative statement of the relationship. Here we meet the second urgent question: how do we define that Israel that engages in life with God through the Land? Does that Israel encompass only those that conform to the halakhah, or is Israel capable of sustaining the presence of diverse Israelites? Given the theological weight assigned to the social category, Israel, we may phrase matters very simply: are all Jews—such as the Romans would call them—Israelites? In the context of the halakhah and its focus upon theological issues of God's commandments and Israel's response, God's yearning and Israel's love, we turn outward, toward the social realities that the legal system in theory chooses to address.

With the chosen category-formation and its structure—God, Israel, Land—the halakhah therefore is going to define the definition of its Israel in the same terms, in connection with the same relationships, as pertain to its definition of all other dimensions of the relationship. So we come to the end of the Halakhic account of relating to God through the Land, with special reference to the condition of Israel by reason of its union with the Land. All Israel is assumed by the halakhah to designate heave-offering for the priest and to refrain from eating and selling produce that is liable to tithing but untithed. As to first tithe, that is to be designated but handed over only on demand. The issue is what belongs to the priest out of that same tithe for the Levite. That heave-offering of the tithe, a hundredths of the whole, is to be separated from produce the status of which is unclear and is to be given to the priest. Produce that has not certainly yielded the

heave-offering of the tithe to the priest is called *dema'i*, that is, doubtfully-tithed produce.

Dema'i, produce concerning the tithing of which doubt exists, requires special treatment. Here we deal with the laws that dictate how a responsible person makes certain that what he purchases in the marketplace and eats or gives to another to eat will be properly tithed. All Israelites, the halakhah takes for granted, separate heave-offering. But the other pertinent agricultural offerings, first tithe—a tenth of the crop remaining when heave-offering has been removed, given to the Levite, heave-offering of the tithe, that is to say, a tenth removed from the Levite's tithe and given to the priest, and Second Tithe or Poorman's Tithe (depending on the year of the Sabbatical cycle, first, second, fourth, and fifth, or third and sixth, respectively)—are designated only by those faithful to the rule. The specific problem that provokes the formation of the halakhah before us concerns the heave-offering of the tithe given to the Levite, which heave-offering further goes to the priest. If not removed, the heave-offering of the tithe given to the Levite imparts the status of holiness to the produce in which it is mixed, even as would the heave-offering of the entire crop that everyone is assumed to designate and remove. (Reference is made throughout to Richard S. Sarason, *A History of the Mishnaic Law of Agriculture, Section Three: A Study of Tractate Demai, Part One, Commentary*, (Ed. Jacob Neusner; Studies in Judaism in Late Antiquity; Vol. 27; Leiden: Brill, 1979); and *ibid.*, *The Talmud of the Land of Israel: A Preliminary Translation and Explanation*, (Trans. Richard S. Sarason; Vol. 3; Chicago: University of Chicago Press.)

Sarason states the matter in this language:

“The specific problem...is that, as long as first tithe has not been separated, the produce remains inedible, because it still contains *terumah* [heave offering] of the tithe, the priest's consecrated portion, which has yet to be separated from the first tithe. A specific, secondary tithing procedure is provided in our tractate...: When it is not known if tithes have been separated from an item of produce, only *terumah* of the tithe (and dough-offering, in the case of bread) need actually be separated, since they may not be eaten by non-priests. First tithe need only be designated, that is, localized, in the produce (this is a prior requirement for removing *terumah* of the tithe, since this offering must be separated from first tithe). It is up to the Levite who wishes to claim his portion to prove that the produce certainly was not tithed. Second tithe also need only be located in the produce, since it immediately may be redeemed with coins. In the third and sixth years of the Sabbatical cycle, the tithe for the poor also need only be designated, and it is up to the poor person who wishes to claim his portion to prove that the produce certainly was not tithed. The preeminent concern expressed in this tithing procedure...is not to violate the taboo against eating something that belongs to the priest. (Sarason, *The Talmud of the Land of Israel*, 3–4.)

As we shall see, the precipitating issue leads to a systematic discussion of large questions of social policy, with special reference to how the more observant negotiate life in the community of the less observant, all of them parties to the

condition of Israel. The specific issue is simply stated: “Taken as a whole, only those tithes which a non-priest is forbidden to eat (heave-offering of the tithe and dough-offering) must be separated from *dema’i* produce and given to the rightful recipient [so as] not to violate the taboo against eating a priestly offering.” (Sarason, *A History of the Mishnaic Law of Agriculture*, 10)

YERUSHALMI DEMAI

CHAPTER ONE

1:1

- [A] Leniently treated items with respect to [the category of] *demai* [i.e., those kinds of produce that need not be tithed when it is unclear whether or not they already have been tithed]:
- [B] (1) unripe figs, (2) wild jujube, (3) hawthorn berries (4) pine cones, (5) sycamore figs, (6) unripe dates (7) fennel, and (8) caper-fruit;
- [C] and in Judea: (1) sumac berries, (2) vinegar and (3) coriander.
- [D] R. Judah says, “(1) All unripe figs are exempt [from tithing as *Demai*] except for those from trees that bear fruit twice a year;
- [E] “(2) All wild jujube are exempt [from tithing as *Demai*] except for the wild jujube of Shiqmonah
- [F] “(3) All sycamore figs are exempt [from tithing as *Demai*] except for those that burst open [on the tree]
- [I:1 A] Said R. Yohanan, “Because most of these items grow ownerless [and wild], sages numbered them here [as exempt from tithing].”
- [B] R. Simeon b. Laqish says, “The law refers specifically to doubtfully tithed produce, but certainly untithed produce of these species is liable to tithing.”
- [C] R. Yohanan said, “There is no difference between doubtfully tithed produce and certainly untithed produce of these species. [Both are exempt from tithing since most of these items grow ownerless and wild].
- [D] *And there is this problem for R. Yohanan:* The law refers specifically to doubtfully tithed produce, but [doesn’t this imply that] certainly untithed produce of these species is liable to tithing?

- [E] Said R. La, “Since in every passage reference is made to doubtfully tithed produce, [*that formulation is used here too.*] *But here reference is made to certainly untithed produce.*”
- [F] *A Tannaite statement supports the view of R. Yohanan: **From Kezib and beyond — [produce purchased in the market] is exempt from [tithing as] Demai-produce [M. Demai 1:3]. Now is there a distinction drawn on tithing in Kezib between doubtfully tithed produce and certainly untithed produce? So too here no distinction is drawn between doubtfully tithed produce and certainly untithed produce.***
- [G] *A Tannaite statement conflicts with the position of R. Simeon b. Laqish: **The light things with respect to the category of Demai-produce [i.e., produce that may or may not already have been tithed]: (1) unripe figs, and (2) wild jujube, and (3) hawthorn berries [M. Dem. 1:1 A-B(3)] — [these] are presumed in every place to be exempt [from tithing as Demai], but if they are guarded [viz., cultivated], they are liable [to tithing as Demai].***
- [H] *So in principle these kinds of produce grow wild [and are exempt from tithing].*
- [I] *Interpret the rule to indicate that [in the marketplace] we follow the status of the majority of produce that here is cultivated and liable to tithing.*
- [J] *Come, see: If the greater part of the produce of these kinds in the marketplace is cultivated, all parties concur that the produce is liable to tithing whether it is doubtfully tithed produce or certainly untithed produce. If the greater part of the produce of these kinds in the marketplace is not cultivated, all parties concur that the produce is exempt from tithing whether it is doubtfully tithed produce or certainly untithed produce. If it is half and half, *you still cannot maintain the dispute, for we have learned in the Mishnah: **He who finds produce by the wayside — if most people store up their produce in their house, it is clear [of the obligation to tithe], and [if it is the practice of most people] to sell their produce in the market, it is liable [for tithes]. Half and half — it is deemed demai [M. Makh. 2:10].****
- [K] Said R. Zeira, “The ruling does not deal with kinds of produce treated leniently as Demai-produce but rather to Demai-produce in general [and that is to be tithed].”
- [L] *Repeat the Tannaite statement: One entered a town in which the majority of the residents were gentiles. One is in doubt whether the*

majority cultivate these kinds of produce. All parties concur that these kinds purchased in the marketplace are exempt from tithing, whether they are doubtfully tithed or certainly untithed [produce raised by gentiles being exempt]. One entered a town in which the majority of the residents were Israelites. One is in doubt whether the majority cultivate these kinds of produce. All parties concur that these kinds purchased in the marketplace are liable to tithing, whether they are doubtfully tithed or certainly untithed. If one is in about whether a majority is gentile or a majority is Israelite, and one is in doubt whether the majority cultivates these kinds of produce, the dispute between R. Yohanan and R. Simeon b. Laqish arises.

[II:1 A] unripe figs:

[B] What are unripe figs?

[C] R. Simeon b. R. Abba said, “They are the ones that grow under the leaves.”

[D] *It has been taught on Tannaite authority: The early-ripening figs and the late-ripening [viz., leftover] fig [that grow] in the garden are liable [to tithing]; [and that grow] in the valley are exempt [from tithing] Which are the early-ripening figs? [Those that ripen] before they place a guard [over them] [T. Dem. 1:3].*

[E] And does the matter depend on the presence of a guard?

[F] Said R. Yosé, “When they re not sufficiently ripe to deserve the presence of a guard.”

[G] [Which are the] late-ripening figs? [Those which ripen] from the time that they fold up the nets [viz., figs that ripen after the harvest]. R. Ilai says in the name of R. Eliezer, “The first fruits are always liable, since they are guarded” [T. Dem. 1:3].

[H] R. Yosé bar Halafta said, “Unripe figs in Sepphoris are liable to tithing, since they are assumed to be guarded” [T. Dem. 1:2].

[I] *It has been taught in a Tannaite statement: [If] late-ripening figs [remained on the trees], but [the householder] was tending his field for [its] grapes, [or if] late-ripening grapes [remained on the vine], and [the house-holder] was tending his field for [its] greens — if workers were passing among them [i.e., the late-ripening fruit], [and] if the householder was scrutinizing their [activities while they were in his field] — lo, these [late-ripening figs or grapes] are liable [to tithing]. But if not [i.e., if the householder*

does not scrutinize the workers' activities], lo, these [late-ripening figs or grapes] are exempt [from tithing] [T. Ma. 3:12]

- [II:2 A] Ulla bar Ishmael in the name of R. Yohanan: “Rabbi and R. Yosé bar Judah went into a field to eat late-ripening figs, and the guard shouted at them. R. Yosé bar Judah withdrew his hands. Rabbi said to him, “Eat, for the owners have already despaired [of harvesting them further; they are ownerless and permitted].”
- [B] *R. Yohanan objected:* “...the guard shouted at them *and you say this?*”
- [C] *Said R. Jonah, “That’s a solid objection.”*
- [D] *But lo, a Mishnah-passage contradicts it: **Savory, or sweet majoram or thyme that are [growing] in a courtyard — if they were being cultivated they are subject [to the law of tithes] [M. Ma. 3:4].*** Lo, if they were growing in a garden, even if they were guarded, they are exempt from tithing.
- [E] There he can say to the guard, “Lo, these are found everywhere,” but here the guard can say, “There is only enough for a single basketful of figs and I am guarding them for m employer.”

[III:1 A] **unripe dates:**

- [B] *It was taught as a Tannaite statement: **R. Yosé the son of R. Judah says, “Unripe [i.e., premature] dates that are sold [together] with [ripe] dates are liable” [T. Dem. 1:1].***
- [C] How so? Two baskets [one of unripe dates, the other of ripe dates] stacked side by side or one on top of the other? There is no difference whether they are stacked side by side or one on top of the other. *Rather, we interpret it to refer to a mixture of ripe and unripe dates in the same batch.*
- [D] Is it a collection of prematurely fallen dates before they begin to swell or after they begin to swell?
- [E] R. Mana said, “*We deal with* prematurely fallen dates after they begin to swell.”
- [F] *But if we deal with* prematurely fallen dates after they begin to swell, they should be liable to tithing on their own account.
- [G] *You can’t say this, for* R. Yohanan said, “Since most of these kinds grow only wild, sages counted them here as exempt from tithing.”
- [H] R. Hanina said, “*We deal with* prematurely fallen dates before they begin to swell.”

- [I] *But if we deal with* prematurely fallen dates after they begin to swell, they should be exempt from tithing even in a mixture of ripe and unripe dates in the same batch.
- [J] *You cannot say so, for* **said R. Ishmael b. R. Yosé in the name of his father: “A grapecluster on which only a single grape has ripened early — the whole cluster is deemed connected for the purpose of determining liability to tithing” [T. Ma. 1:1].**
- [K] R. Yosé b. R. Abun said, “R. Zeira and R. Hila — *one said the former*, that prematurely fallen dates as exempt from tithing even when they begin to swell, *and the other held the latter view* that prematurely fallen dates in a mixture are liable to tithing even before they have gun to swell.”
- [L] **And sages say, “It is not in accord with this one or with that one. But those prematurely fallen figs that have begun to swell are liable to tithing in a mixture with ripe figs and those prematurely fallen figs that has not yet begun to swell are exempt from tithing eve in a mixture with ripe figs” [T. Ma. 1:1].**

[IV:1 A] fennel:

- [B] Fennel — dill.
- [C] [Fennel is exempt from tithing because it is not produce that is cultivated:] is this so in both Judea and Galilee?
- [D] *People have a saying in Galilee: “Fennel — whoever cultivates it cultivates something bitter — who compares you to spices?”* This indicates that it is exempt from tithing in Galilee but in Judea is subject to tithing.

[V:1 A] and in Judea: ... (3) coriander

- [B] This has an Aramaic name.
- [C] Is coriander exempt from tithing in both Judea and Galilee?
- [D] *People have a saying in the south: “Coriander, coriander — who compares you to valuable spices?”* This indicates that it subject to tithing in Galilee but in Judea is exempt.

[VI:1 A] and in Judea: (1) sumac berries, (2) vinegar:

- [B] *It has been taught in a Tannaite statement: Said R. Judah, “In the beginning vinegar made in Judea was exempt from tithing, since they prepared wine in a state of cultic purity for libation offerings, so it*

would not turn sour, and **they made their vinegar from grape-skin wine. But now that the wine sources, it is liable to tithing**” [T. Dem. 1:2].

[C] *The opinions attributed to R. Judah conflict. For we have learned in the Mishnah there: **One who steeps grape-pulp in water [to form a beverage] and added a fixed measure of water, and [then] found the same measure [of liquid in the tub after pressing the water from the pulp] — [the liquid] is exempt [from the removal of tithes]. R. Judah declares [the liquid] liable [M. Ma. 5:3].***

[D] *But here R. Judah has said this [that the grape-skin wine is always exempt from tithing].*

[E] Said R. Illa, “At first grapes were abundant, so grape pulp was not valued [and vinegar made from grape-skin wine was exempt from tithing.] But now grapes are not abundant, and grape pulp is valued and vinegar made from grape-skin wine is subject to tithing.”

[VII:1 A] **R. Judah says, “All wild jujube are exempt [from tithing as Demai] except for the wild jujube of Shiqmonah:”**

[B] R. Huna said R. Jeremiah asked, “Does this not contradict what R. Simeon b. Laqish said [that we follow the status of the majority of produce in a local market to determine their liability to tithing]. Since all the wild jujube grown in the area around Shiqmonah might be more plentiful in the marketplace there than the wild jujube grown in Shiqmonah itself, so that grown in Shiqmonah would be exempt from tithing?”

[C] Said R. Yosé, “Interpret the view [of Simeon b. Laqish] to deal with a place in which the majority of farmers in the surrounding area cultivate wild jujube, [so that the majority of produce in the market in Shiqmonah would be liable to tithing].”

[D] R. Yosé b. Rabbi asked, “And is not the whole world before him [so isn’t there a majority of uncultivated jujube everywhere else [so that all the wild jujube in the world might be more plentiful in the marketplace in Shiqmonah than the wild jujube grown in Shiqmonah, so that it would be exempt from tithing].”

1:2

[A] [Second tithe of] *Demai*-produce:

[B] (1) has no added fifth, and (2) has no removal [that is, it is not subject to these scriptural obligations],

- [C] (3) and it may be eaten by a mourner before the burial of his dead relative
- [D] (4) and it enters Jerusalem and leaves [that is, it may be brought into Jerusalem and taken out again without penalty],
- [E] (5) and one may abandon a small quantity of it on the roads,
- [F] (6) and one may give it to an *‘am ha’ares*, and consume its equivalent [in Jerusalem];
- [G] (7) and one may redeem it [i.e., exchange its redemption money] silver for silver, copper for copper, silver for copper, and copper for produce,
- [H] “provided that he again redeems the produce [for money],” the words of R. Meir.
- [I] And sages say, “One must bring up the produce and it must be eaten in Jerusalem.”
- [I:1 A] [Second tithe of *Demai*-produce: (1) has ... has no removal:]
- [B] Didn’t Yohanan the High Priest do away with the declaration over the removal of the tithe?
- [C] He did away with it so that people didn’t have to make the declaration but as to the obligation of removal, they must still remove the tithes.
- [D] And that applies only in the case of certainly untithed produce, but as to doubtfully tithed produce, one does not have to remove the tithes.
- [II:1 A] [Second tithe of] *Demai*-produce may be eaten by a mourner before the burial of his dead relative:
- [B] *It is taught as a Tannaite rule: It may be eaten by a mourner before the burial of his dead relative* — but it may not be eaten in a state of uncleanness.
- [C] What is the difference between the status of mourner and the status of cultic uncleanness?
- [D] Said R. Nahman, “Uncleanness is commonplace, the status of mourning is not commonplace. Sages made a decree concerning something that is commonplace but did not make a decree concerning something that is not commonplace.”
- [E] Said R. Yosé, “Sages did not even make the status of second tithe removed from doubtfully tithed produce equivalent to that of doubtfully tithed produce. For in the case of doubtfully tithed produce, produce about which here is doubt that second tithe has been removed,

is it not forbidden to mourners for eating? But here in the case of doubtful second tithe, it is permitted for mourners to eat.”

[III:1 A] [Second tithe of] Demai-produce has no added fifth:

- [B] *There we learned in the Mishnah: There are five instances in which an added fifth applies: (1) He who eats (1) heave-offering, (2) heave-offering of tithe, (3) heave-offering of tithe taken from doubtfully tithed produce, (4) dough offering, and (5) first fruits, adds a fifth [to the value of the principal, when he makes restitution] [M. B.M. 4:8].*
- [C] *And here you maintain this!*
- [D] Said R. Zeira, “*There we deal with heave-offering of the tithe separated from Demai produce, but here we deal with second tithe separated from Demai produce.*”
- [E] Said R. Immi, “*This passage of the Mishnah does not exclude heave-offering of the tithe from Demai produce. How then will you resolve the contradiction?*”
- [F] *The ruling there [at M. B.M. 4:8] we have the view of R. Meir, and here it is that of the rabbis.*
- [G] R. Zeira said in the name of rabbis, “*In strict law heave-offering of the tithe separated on account of doubt should not have been subjected to the added fifth. Why did the sages [at M. B.M. 4:8] say that it is subject to it? It was a precautionary measure. For if you tell somebody that he need not set aside the added fifth in this case, he might not treat as sanctified the heave-offering of the tithe separated on account of doubt. So too [to protect its sanctity] second tithe separated on account of doubt should have been subjected to the requirement of the added fifth. Why did sages say it is not subject? It was a precautionary measure. For if you tell somebody that he must set aside the added fifth in this case, he might not separate it at all [since the second tithe from doubtfully tithed produce need not be given to a priest or Levite and he us the one who will eventually eat it.]*

[IV:1 A] and one may abandon a small quantity of it on the roads:

- [B] *R. Abun bar Hiyya asked before R. La, “Why doubtfully tithed produce? This applies even to certainly untithed produce. Why a small quantity of produce? It is so even in the case of a majority of the produce. For has it not been taught on Tannaite authority: They do not bring heave-offering from the threshing-floor to the city [to be distributed to priests], nor from the wilderness to a settlement.*

However, in a case in which a wild or domesticated animal would eat [the heave-offering were it left at the threshing-floor for a priest to pick up], they ordained that the householder should bring it [to the city or settlement], and receive from the priest payment [for his work] [T. Ter. 10:17]?

- [C] He said to him, “But is it not a religious duty to return lost property to the rightful owner?”
- [D] Said R. Yosé, “It is a religious duty to return lost property to the rightful owner in the case of a small quantity but is not a religious duty to return lost property to the rightful owner in the case of a large quantity — and this applies to certainly untithed produce. But in the case of doubtfully tithed produce, it is not a religious duty to return lost property in any amount, *as we have learned in the Mishnah: and one may abandon a small quantity of it on the roads.*”
- [E] *Up to now*, we have dealt with the case of one who has no coins on him for redeeming the produce in the status of doubtful second tithe, But what if he had coins in his possession?
- [F] R. Nehumi b. R. Hiyya bar Abba said, “My father once had coins in his saddle bag but did not redeem the produce.”
- [G] The opinion of R. Hiyya bar Abba accords with that of R. Zeira and the opinion of R. La accords with that of R. Immi.

- [IV:2 A] Members of the household of R. Yannai say, “A quantity less than the volume held to be food [an egg’s bulk] may be abandoned in the case of a piece of produce that is broken off, but as to an entire item the quantity that may be abandoned is only as much as a dried fig.”
- [B] R. Yohanan in the name of R. Simeon b. Yehosedeq: “As to an entire item the quantity that may be abandoned is only as much as a dried fig. But in the case of a broken off piece, any amount is permitted to be abandoned.”
 - [C] *Is there a dispute?*
 - [D] R. Mana said, “The dispute as follows: the members of the household of R. Yannai say, ‘A quantity less than the volume held to be food [an egg’s bulk] may be abandoned in the case of a piece of produce that is broken off, but as to an entire item the quantity that may be abandoned is only as much as a dried fig. R. Yohanan in the name of R. Simeon b. Yehosedeq: In the case of both a broken off piece and an entire item, the quantity that may be abandoned is only as much as a dried fig.’”

[IV:3 A] *R. Hoshayya asked, “Is it permitted deliberately to abandon produce in any small amount?”*

[V:1 A] **and one may give it to an ‘*am ha’ares*, and consume its equivalent [in Jerusalem]:**

[B] That concerns doubtfully tithed produce. But as to certainly untithed produce, that is not the rule, for we do not transmit certainly untithed produce to an ‘*am ha’ares*.

1:3

[A] **One who purchases (1) [produce from an ‘*am ha’ares*] for seed or for cattle [that is, grain that will be used as fodder], (2) flour for [dressing] hides, (3) oil for a lamp, (4) oil for greasing [i.e., cleaning] utensils —**

[B] **[the produce] is exempt from [tithing as] *Demai*-produce.**

[C] **From Kezib and beyond —**

[D] **[produce purchased in the market] is exempt from [tithing as] *Demai*-produce.**

[E] **(1) The dough-offering of an ‘*am ha’ares*, and (2) fully tithed, unconsecrated produce that has become contaminated with *terumah*, and (3) [produce] that has been purchased with coins of second tithe and (4) the residues of the meal-offerings**

[F] **are exempt from [tithing as] *Demai*-produce.**

[G] **Spiced oil —**

[H] **the House of Shammai declare liable [to tithing as *Demai*-produce],**

[I] **and the House of Hillel declare exempt.**

[I:1 A] Since the farmer purchased the produce for seed, it doesn’t matter whether it is a kind of produce the seed of which perishes or a kind the seed of which does not perish in the ground.

[B] Said R. Yohanan, “*And so it was taught as a Tannaite statement: If he bought produce for seed and later on decided to eat it, the produce is disposed of in line with his intention [and must be tithed]. If he bought produce for food and later on decided to sow it, everything doesn’t depend on him [and the produce still must be tithed].*”

[C] ***It is taught as a Tannaite statement: They do not sow untithed produce, and they do not bury untithed produce, and they do not cooperate with a gentile in [sowing or burying] untithed produce. An Israelite who forgot and sowed untithed produce — before it***

has sprouted, he is liable [to uproot it], after it has sprouted, he is exempt, since it has already disintegrated [T. Dem. 1:18] —

[D] if it is a kind of seed that cannot easily be plucked up. But if it is a kind that can easily be plucked up, they fine him so that he will pluck it up
—

[E] if it has not yet sprouted. But if it has already sprouted, it is a kind of seed that cannot easily be plucked up.

[I:2 A] *When R. Yohanan ate, he would tithe even meat and eggs. His students said to him, “Rabbi, have you not taught us: ‘You shall set aside every year a tenth part of all the yield of your sowing that is brought from the field’ (Dt. 14:22) — [only produce of the ground is subject to tithing.]”*

[B] It was because he took account of the liquids [oil or wine] in which the meat was cooked that were absorbed.

[I:3 A] *R. Jeremiah sent R. Zeira a basket of untithed figs. And R. Jeremiah reasoned in his own mind, “Now would R. Zeira eat something that had not been tithed [on his own initiative]?”*

[B] *And R. Zeira reasoned in his own mind, “Now would R. Jeremiah send me something that was not tithed?”*

[C] *Between the two of them R. Zeira ate food that was liable to tithing but that was not tithed.*

[D] *The next day he met him. He said to him, “That basket of figs that you sent me yesterday — was it tithed?”*

[E] He said to him, “I said to myself, *Now would R. Zeira eat something that had not been tithed [on his own initiative]?”*”

[F] He said to him, “I too said the same thing: *‘Now would R. Jeremiah send me something that was not tithed?’*”

[G] *R. Abba bar Zamina in the name of R. Zeira said, “If our predecessors were angels, we are mere men, if our predecessors were men, we are asses.”*

[H] *Said R. Mana, “At that moment they said, “We are not even comparable to the she-ass of R. Pinhas b. Yair.”*

[I:4 A] *The she-ass of R. Pinhas b. Yair was stolen by thieves by night. It remained in hiding with them for three days, and it ate nothing. Three days later they determined to restore it to its master. They said, “Let’s send it to its master, so that it won’t die with us and our cave start to stink.”*

- [B] *They sent it out and it went and stood outside its master's gate and started to bray. He said to them, "Open the gate for that poor creature that hasn't eaten a thing in three days." They opened the gate to it and it came in. He said to them, "Give her something to eat."*
- [C] *They put some barley before the beast but it refused to eat. They said to him, "Master, it refuses to eat."*
- [D] *He said to them, "Has the barley been properly prepared [through removal of heave-offering]?"*
- [E] *They said to him, "Yes."*
- [F] *He said to them, "Have you raised up the tithes on account of doubt?"*
- [G] *They said to him, "But has not the master taught us: **One who purchases (1) [produce from an 'am ha'ares] for seed or for cattle [that is, grain that will be used as fodder], (2) flour for [dressing] hides, (3) oil for a lamp, (4) oil for greasing [i.e., cleaning] utensils — [the produce] is exempt from [tithing as] Demai-produce?"***
- [H] *He said to them, "What can we do with this poor creature, who is so stringent on herself." They removed the tithes due from barley on account of doubt and she ate."*
- [I:5 A] *Two poor men deposited two seahs of barley for safekeeping with R. Pinhas b. Yair. He sowed and reaped them and gathered them in their behalf. When they came back to get their barley. He said to them, "Bring camels and asses for carrying the crop and take back your barley."*
- [I:6 A] *R. Pinhas b. Yair came to a certain place. They came and said to him, "Mice are eating all our grain." He forced [the mice] and they came together and began to squeak.*
- [B] *He said to them, "Do you know what they're saying?"*
- [C] *They said to him, "No."*
- [D] *He said to them, "They are saying that the grain has not been tithed."*
- [E] *They said to him, "Pledge yourself to us [that if we tithe the grain, the mice won't eat it all]."*
- [F] *He pledged to them, and they were no longer injured by the mice.*
- [I:7 A] *A pearl belonging to the Saracen king fell and a mouse swallowed it. He came to R. Pinhas b. Yair. He said to him, "What am I, a spell-binder?"*

- [B] *He said to him, "I came to you because of your good name."*
- [C] *He forced [the mice] and they came together. He saw one of them walking like a hunchback. He said, "That one has it." He forced it and it spit up the pearl.*
- [I:8 A] *R. Pinhas b. Yair came to a certain place. They came and said to him, "Our spring does not provide enough water [for the crops]."*
- [B] *He said to them, "Maybe you're not tithing the crops?"*
- [C] *They said to him, "Pledge yourself to us [that if we tithe the grain, the spring will flow]."*
- [D] *He pledged to them, and the spring flowed.*
- [I:9 A] *R. Pinhas b. Yair was going to the house of assembly. The river Ginnai was swollen. He said to it, "Ginnai, Ginnai, why do you keep me from attending the house of meeting." It split before him and he crossed.*
- [B] *His disciples said to him, "May we cross?"*
- [C] *He said to them, "Whoever knows of himself that he has not ever treated lightly any Israelite may cross and will not be harmed."*
- [I:10 A] *Rabbi [Judah the Patriarch] wanted to nullify the Sabbatical year. R. Pinhas b. Yair went to him. He said to him, "How are the crops doing?"*
- [B] *He said to him, "The endives are fine."*
- [C] *He said to him, "How are the crops doing?"*
- [D] *He said to him, "The endives are fine."*
- [E] *And Rabbi understood that he did not agree with him.*
- [I:11 A] *[Rabbi] said to him, "Will the master eat a little bit with us today?"*
- [B] *He said to him, "Yes."*
- [C] *As he was entering, he saw Rabbi's mules standing outside. He said, "*
- [D] *He said to him, "All these do the Jews support! May I never see his [your] face again!?"*
- [E] *They went and told Rabbi. Rabbi sent to appease him. They caught up with him near his town. He said, "Townfolk, draw near me," and his townfolk came down and surrounded him [so that Rabbi's troops could not get to him.]*

- [F] *They said to them, “Rabbi wants to appease him.” The townsfolk left him and went their way.*
- [G] *He said, “Attendants of my friend [God], draw near me,” and fire descended from heaven and surrounded him [so that Rabbi’s troops could not get to him.]*
- [H] *They went and told Rabbi. He said, “Since we did not have the merit to have my fill of him in this world, may I have the merit of having my fill of him in the world to come.”*
- [I:12 A] R. Haggai in the name of R. Samuel bar Nahman: “There was the case of a certain pious man who would dig cisterns, ditches, and waves for wayfarers. Once his daughter was crossing a river en route to be married and the river washed her away. *And everybody came in to console him, but he refused to be consoled. R. Pinhas b. Yair came in to console him, but he refused to be consoled. He said to them, “Is this your pious man?”*”
- [B] They said to him, “Rabbi, This is what he would do, and this is what happened to him.”
- [C] He said, “Is it possible that someone should honor his creator with water and that God should smite him with water?”
- [D] Forthwith the news spread in town that the daughter of that man had come back.
- [E] *Some say she was caught on a branch in the river, and others say an angel came down in the shape of R. Pinhas b. Yair and saved her.*
- [I:13 A] R. Hanina b. Dosa was sitting and eating on the Sabbath eve. The table collapsed before him, They said to him, “What’s this?”
- [B] She [his wife] said to him, “I borrowed some spiced from my neighbor and I did not tithe them.” He remembered the condition that he had made before the beginning of he Sabbath that would permit him to separate on the Sabbath times that were already designated,] and the table stood up on its own.
- [I:14 A] R. Tarfon was sitting and eating and a piece of bread fell from him. He said to his wife, “What’s this?”
- [B] She said to him, “I borrowed an [unclean] knife and I prepared with it food that was in the condition of cleanness.”
- [I:15 A] **One who purchases (1) wine to put into [a brine made from fish entrails], and (2) wine [with which] to make ‘ylntyṭ [a mixture of**

wine, oil, pure water, honey and balsam], and (3) bitter vetches to make from them *thynyn* [meal or grist mixed with honey and spices] is liable [to tithe them] as Demai-produce, obviously as certainly untithed produce [T. Dem. 1:24]. But they themselves are exempt from tithing as Demai-produce.

[B] *With what case do we deal?*

[C] If we say that it is in accord with Rabbi [who holds that heave-offering wine is not nullified in muries,] then muries and the mixtures listed here should be subject to tithing as doubtfully tithed produce, [since edible, tithe-able wine retains its integrity]. If we say that it is in accord with R. Eleazar b. R. Simeon, even certainly untithed produce of these mixtures should be exempt from tithing.

[D] But we assign it to Rabbi and it is one of the lenient rulings that the sages made in regard to Demai-produce.

[I:16 A] **One who purchases (1) wine to put into the eye salve], (2) flour to make from it a poultice or plaster and a plaster or compress] — the wine or flour is exempt from [tithing the wine and the flour as] Demai-produce, and liable [to tithe them] as certainly untithed produce. And they themselves [i.e., the eye salve and the plasters] are exempt from [tithing as] certainly untithed produce [T. Dem. 1:25].**

[B] *Here you say* the mixtures **are exempt from [tithing as] certainly untithed produce**, *while there you say*, the mixtures are exempt from tithing as Demai-produce.

[C] There the edible produce is lost only when the mixture has entered his body [then the flour or wine loses its integrity] but here the edible produce is lost as soon as he puts it into the mixture.

[D] *But has it not been taught on Tannaite authority:* It is forbidden to derive benefit from a kollyrion dedicated to idolatry because of the libation wine that is in it?

[E] *That case is different* because Scripture says, “Let nothing that has been doomed stick to your hand” (Dt. 13:18).

[F] What is the difference between the kollyrion dedicated to idolatry and the wine- lees of a gentile [from which an Israelite is allowed to derive benefit once they have dried up]?

[G] Are not wine- lees of a gentile forbidden for an Israelite to derive benefit as long as they are wet?

- [H] But wine lees that have dried up are not prohibited in connection with deriving benefit from a gentile.
- [II:1 A] **From Kezib and beyond — [produce purchased in the market] is exempt from [tithing as] *Demai*-produce.**
- [B] What is the status of produce bought in the Kezib market place?
- [C] It is taught as a Tannaite statement: **Produce purchased in the marketplace in Kezib itself is exempt from tithing as *Demai*-produce [T. Kil. 1:4].**
- [II:2 A] **He who purchases [produce] from the caravan [i.e., a company of ass-drivers] in Tyre and from the storehouses in Sidon is exempt [from the obligation of separating tithes]. [He who purchases produce] from the storehouses in Tyre and from the caravan in Sidon is liable [to the obligation of separating tithes]. [R. Yosé the son of R. Judah says, “He who purchases from the store-houses in Tyre is exempt [from the obligation of separating tithes], and obviously [one who purchases] from the caravan [is exempt].”] [One who purchases produce] from a single ass-driver in Tyre is liable [to the obligation of tithing]. R. Judah says, “[Produce purchased from] a caravan that goes down to Kezib is liable [to be tithed], since it [i.e., the produce] is presumed to come from Galilee.” And sages say, “Behold, it remains in its presumption: exempt until you know from whence it came” [T. Dem. 1:10].**
- [B] What about tithing produce bought from a caravan that entered Tyre through Kezib?
- [C] *Come, see:* if it had remained in Kezib, the produce would have been exempt from tithing, now that it has entered Tyre, should it be liable?
- [III:1 A] **(1) The dough-offering of an *‘am ha’ares*, and (2) fully tithed, unconsecrated produce that has become contaminated with *terumah*, and (3) [produce] that has been purchased with coins of second tithe and (4) the residues of the meal-offerings are exempt from [tithing as] *Demai*-produce.**
- [B] Said R. Yohanan, “When the sages decreed about doubtfully-tithed produce [that on account of doubt tithes must be separated from it], they did not decree about these items.”
- [C] Said R. Hoshaiyah, “The reverence for Holy Things are upon the *‘am ha’ares*, and he does not give to the priest anything that is not fully tithed.”

[IV:1 A] The dough-offering of an ‘am ha’ares:

[B] *In the opinion of R. Hoshaiiah the Mishnah speaks of dough offering given to a priest by an ‘am ha’ares, but not to a haber who bought dough from an ‘am ha’ares and separated dough offering from it.*

[C] *In the opinion of R. Yohanan the Mishnah speaks of both cases.*

[V:1 A] and (2) fully tithed, unconsecrated produce that has become contaminated with terumah:

[B] *In the opinion of R. Hoshaiiah the Mishnah speaks of produce that belongs to by an ‘am ha’ares [that became mixed up with heave-offering] but not to a haber who bought produce from an ‘am ha’ares, that later on became mixed up with heave-offering .*

[C] *In the opinion of R. Yohanan the Mishnah speaks of both cases.*

[D] *What is the difference between them?*

[E] *A seah of heave-offering that is neutralized in a mixture with one hundred seahs of an ‘am ha’ares’s unconsecrated produce. In the view of R. Yohanan, the mixture is subject to thing as Demai-produce when it is bought by a haber, but according to the view of R. Hoshaiiah it is exempt.*

[V:2 A] It was taught as a Tannaite rule: And [with regard to] all of them: [if] one designated second tithe from them, what he did has been done [and the designated portion has become second tithe] [T. Dem. 1:10].

[B] *In the opinion of R. Yohanan there is no problem.*

[C] *In the opinion of R. Hoshaiiah these items have been tithed by the ‘am ha’ares, and yet you say this [the designation of second tithe and heave-offering of the tithe in them is valid only post facto].*

[D] *That is on account of a single ‘am ha’ares who does not separate tithes because reverence for Holy Things is not upon the ‘am ha’ares, [and he does give to the priest anything that is not fully tithed.]*

[E] *So repeat the rule as follows: And [with regard to] all of them: [if] one designated second tithe from them, what he did has been done [and the designated portion has become second tithe] [T. Dem. 1:10], on account of the possibility of one ‘am ha’ares, who does not separate tithes.*

[VI:1 A] [produce] that has been purchased with coins of second tithe:

[B] *R. Abun bar Hiyya asked before R. Zeira, “Does this pertain solely to produce purchased with coins of second tithe separated from Demai-produce?”*

[C] He said to him, “The same rule applies even to coins of second tithe deriving from certainly untithed produce.”

[VII:1 A] and the residues of the meal-offerings:

[B] *It is taught as a Tannaite rule: **And all of them, if one designated heave-offering of the tithe or second tithe from them, what he did has been done [and the designation is valid] [T. Dem. 1:28].***

[C] R. Eleazar said, “Except in the case of the residues of the meal-offerings.”

[D] R. Jeremiah said, “The rest of the items are subject to dispute on whether the inadvertent designation of second tithe and heave-offering of the tithe in them is valid post facto.”

[VII:1 A] *R. Yosé asked, “What dispute [applies only to the other items on the list but not to residues of meal offerings? How do we interpret the matter? If it is in accord with the position of R. Meir, the status of second tithe is held by him to be the same as that of the residues of meal offerings. Inadvertent use for other purposes has affected nothing] because the consecrated item belongs wholly to God.] According to R. Judah, what he has done is done and valid after the fact.”*

[VII:2 A] *Said R. Mana, “I went to Caesarea and I heard R. Hezekiah in session, teaching: **‘He who betroths a woman with his share of Most Holy Things or Lesser Holy Things — she is not betrothed [M. Qid. 2:8].***

[B] “R. Eleazar says, “That statement represents the opinion of all parties.”

[C] “R. Yohanan says, “The matter is subject to dispute.””

[D] “*And I said to him, ‘From whom did you hear this statement?’*

[E] “He said to me, ‘From R. Jeremiah.’

[F] “*And I said to him, ‘That is well, for he heard what R. Eleazar stated, namely, R. Eleazar said, “It is the view of all parties, while he said it was subject to dispute.”’*

[G] “*R. Yosé, who did not hear that statement, raised the question, for he has said, ‘What dispute? If we deal with R. Meir, [he holds that second tithe belongs to the Most High, just as does the remnant of the meal*

offerings], second tithe and residue of the meal offering are in the same category, and consequently one has done nothing at all; *if we deal with R. Judah*, [who maintains that one may effect betrothal with his share of Holy Things], what he has done is valid.”

[VIII:1 A] Spiced oil — the House of Shammai declare liable [to tithing as *Demai*-produce], and the House of Hillel declare exempt:

[B] *It is taught as a Tannaite rule: Said R. Judah, “The House of Hillel exempted only [oil] of spikenard oil.” Others say in the name of R. Nathan, “The House of Hillel declared liable oil of rose and iris” [T. Dem. 1:26-7]*

1:4

[A] *Demai*-produce [that the purchaser has not yet tithed]:

[B] (1) they may make an ^eerub with it,

[C] and (2) they may make a fusion meal for an alley way with it,

[D] and (3) they recite a benediction over it

[E] and (4) one invites others to recite the communal benediction after meals after eating it,

[F] and (5) they may separate [tithes from] it naked (6) at twilight [on the eve of the Sabbath].

[G] Lo [if he separated second tithe before first [tithe], it does not matter

[H] Oil with which the weaver lubricates his fingers is liable [to tithing] as *Demai*-produce,

[I] but [oil] that the wool-comber puts on the wool is exempt from [tithing as] *Demai*-produce.

[I:1 A] and (5) they may separate [tithes from] it naked:

[B] for the rite does not require the recitation of a blessing [over a transaction subject to doubt].

[II:1 A] (6) at twilight [on the eve of the Sabbath]:

[B] *That is in line with what we have learned in the Mishnah: [If] it is a matter of doubt whether or not it is getting dark, (1) they do not tithe that which is certainly untithed, (2) and they do not immerse utensils, (3) and they do not kindle lamps. (1) But they do tithe that which is doubtfully tithed produce [M. Shab. 2:7].*

- [II:2 A] R. Halapta b. Saul *taught as a Tannaite rule*: in the public bath house one may redeem coins of second tithe exchanged for demai-produce for the rite does not require the recitation of a blessing [over a transaction subject to doubt].
- [B] Lo, redeeming coins of second tithe exchanged for certainly untithed produce for the rite does require the recitation of a blessing.
- [C] R. Mana asked R. Yudan, “How does he recite the blessing?”
- [D] He said to him, “If it is produce, he should say, ‘Blessed are you, Lord our God, king of the universe, who has sanctified us by hour commandments and commanded us concerning the redemption of second tithe.’ If it is coins, he says, ‘Blessed are you...concerning the deconsecration of second tithe.’”
- [III:1 A] **Lo [if he separated second tithe before first [tithe], it does not matter:**
- [B] That is after the fact, but in line with the formulation, **if he separated**, to begin with it is not to be done.
- [C] R. Abba b. R. Hiyya bar Vava, R. Hiyya in the name of R. Yohanan: “In the matter of Demai-produce it is permitted to separate second tithe before first tithe.”
- [D] R. Jacob bar Aha and R. Jacob bar Idi in the name of R. Joshua b. Levi: “To begin with it is not to be done, but after the fact what he did has been done [and is valid].”
- [E] [According to those who hold that to begin with separating second tithe before first tithe is not to be done], what is the rule for designating second tithe before first tithe?
- [F] R. Yosé b. Saul’s *tenant-farmer brought him produce [that he suspected as untithed]*. He said to him, “Go designate second tithe from it.” Then he said to him, , “Go designate first tithe from it.” And he wondered whether the tenant farmer may have designated second tithe before first tithe [that didn’t make any difference to him.] That suggest that it is permissible to designate second tithe before first tithe.
- [III:2 A] Ulla bar Ishmael in the name of R. Yohanan: “One frees his untithed produce from the obligation to separate tithes through a single seah of untithed produce.
- [B] “What does he do? He brings a single seah of untithed produce that is obligated to tithing for every ten seahs that he wants to release and

makes it second tithe and redeems it with coins and then makes it heave-offering of tithe for other produce.”

[III:3 A] *Ulla went down to Babylonia and said this in the name of R. Yohanan and they ganged up against him. R. Sheshet replied to him, “And lo, a Tannaite tradition contradicts this: [If] there were before him two baskets of untitled produce, and he said, “The tithes of this one are in that one,” the first one is tithed [so that he may eat from it, and separate tithes for it from the second basket]. [If he said, “The tithes] of this one are in that one, and [the tithes] of that one are in this one, the first one is tithed [but not the second] [M. Dem. 7:6]. And it has been taught concerning this statement: He takes [from the second for the first] two figs, and two tenths [of the whole, as first and second tithe], and a tenth of a tenth [as first tithe for the portion that has been separated as second tithe] [T. Dem. 8:15]. But he should take two figs and make them second tithe and redeem them with coins and then make them heave-offering of tithe for other produce.”*

[B] Said R. Mana, “But isn’t the second tithe removed for the first basket from the second basket still liable to the removal of first tithe for the second basket?”

[C] Said R. Hananiah, “There [the procedure is different for] the basket of produce from which tithes are removed for produce in the other basket is liable for the removal of first and second tithe. But here [Ulla, Yohanan] second tithe separated for other produce from which first tithe has already been removed is involved, so that you may make it first tithe.”

[IV:1 A] **Oil with which the weaver lubricates his fingers is liable [to tithing] as *Demai*-produce, but [oil] that the wool-comber puts on the wool is exempt from [tithing as] *Demai*-produce.**

[B] What’s the difference?

[C] **[Oil with which the weaver lubricates his fingers]** is absorbed into his body.

[D] **[oil] that the wool-comber puts on the wool** is absorbed into the wool [and is no longer liable to tithing, since no one eats it].

YERUSHALMI DEMAI

CHAPTER TWO

2:1

- [A] These items are tithed as *Demai*-produce in every place [both in and outside the Land of Israel] —
- [B] (1) pressed figs, and (2) dates, and (3) carobs and (4) rice, and (5) cumin.
- [C] Rice that is [grown] outside of the Land — all who make use of it are exempt [from tithing].
- [I:1 A] *There we learned in the Mishnah: Baalbekian garlic, onions of Rakhpa, Cilician split-beans, and Egyptian lentils are exempt from [the law of] tithes, and are purchased from anyone in the Seventh Year [M. Ma. 5:3].*
- [B] [Items] such as these sages had to designate them clearly, for no similar types [are found] in the Land of Israel. But [in regard to] hazelnuts, and peaches, and cedar nuts [imported from outside the Land of Israel], [sages] did not have to designate them clearly for similar types [are not found] in the Land of Israel [T. Ma. 3:16]
- [C] *Said R. Abin, “This statement of the Mishnah [These items are tithed as Demai-produce in every place [both in and outside the Land of Israel] — (1) pressed figs, and (2) dates, and (3) carobs and (4) rice, and (5) cumin] gives the observe ruling, namely: liability to tithing even outside the land of these kinds of produce — since similar kinds are not found outside the land, sages had to specify these items.”*
- [D] But what about fig-cakes in Bosra?
- [E] They are stunted.
- [F] But what about dates in Alexandria?
- [G] *They are small.*

[H] But what about carobs in Biari?

[I] They are full of holes.

[J] But what about rice in the plain of Antiochia?

[K] It is reddish.

[L] But what about cumin in Cyprus?

[M] It is crooked.

[I:2 A] Said R. Eleazar, “They have repeated this rule only for one who buys these kinds of produce from an Israelite, but one who buys them from an idolater — they are deemed certainly untithed produce.”

[B] R. Yohanan said, “There is no difference between buying them from an Israelite or buying them from an idolater [for in both cases the produce is Demai.”

[C] *R. Eleazar takes the position that the greater part of the land of Israel is in the hands of gentiles [who don’t tithe, so what is bought from them is certainly untithed], R. Yohanan takes the position that the greater part of the land of Israel is in the hands of Israelites.*

[D] And even if R. Eleazar concurs with R. Yohanan that the greater part of the land of Israel is in the hands of Israelites, R. Eleazar takes account of the presence of a minority [that is certainly untithed].

[E] *That is in line with the case of the grain warehouse that receives its produce one day from a source of fully untithed produce. That day dictates the standing of all days [and produce bought there must always be regarded as certainly untithed.*

[F] *R. Yosé asked, “Then what about the case of a gentile who comes to convert. We should not accept him, since I might say, ‘Maybe he comes from Ammon or Moab’? And that proselyte is turned into the exemplar of all proselytes.”*

[G] *But this is how we must approach the matter: R. Eleazar takes the position that the greater part of the land of Israel is in the hands of gentiles [who don’t tithe, so what is bought from them is certainly untithed], R. Yohanan takes the position that the greater part of the land of Israel is in the hands of Israelites.*

[H] *Also the following attests to the matter: R. Zeira sent and asked R. Alexandra of Sadoqa, “As for Nicolaus dates from here, what do you surmise concerning them — do they derive mostly from gentiles or mostly from Israelites?”*

- [I] *He replied, “We cannot surmise.”*
- [J] *A Tannaite statement supports the position of this authority, and a Tannaite statement supports the position of that authority.*
- [K] *A Tannaite statement supports the position of R. Eleazar: **The presumption concerning a traveling merchant in every case [is that his produce is] Demai, whether he is a gentile, or an Israelite, or a Samaritan. Under what circumstances? When they [the farmers] bring him [produce] from Israelites. When they bring him [produce] from gentiles or from Samaritans, he is presumed [to sell] certainly untithed produce [T. Dem. 4:20].***
- [L] *A Tannaite statement supports the position of R. Yohanan. It was taught as a Tannaite rule: R. Nehemiah said, “All the same are a gentile, a Samaritan, or an ‘am ha’ares — if the traveling merchant gets his produce one time from a gentile and another time from an Israelite, it is held to be Demai.”*
- [M] *R. Hiyya bar Adda asked before R. Mana, “From whom did this one get his produce? Let us say, ‘If he got it this time from an Israelite, it is Demai. If he got it from a gentile, it is held to be certainly untithed.’”*
- [N] *Rather interpret R. Nehemiah’s statement as applying to a case in which the traveling merchant was a gentile, and both an Israelite and a gentile put their produce before him. In this case it is held to be Demai.*
- [O] *Replied R. Hoshaiiah, “Lo, here is a Tannaite tradition that supports the position of R. Yohanan, for there is Tannaite tradition that states: **Said R. Yosé, “The pomegranates of Badaan and the leeks of Geba were mentioned only so that they should be tithed in any place as being [previously] certainly untithed” [M. Kel. 17:5].***
- [P] *How are we to interpret this rule? If it is to one who purchases from an Israelite, lo, it is certainly untithed. So it must pertain to one who purchases from a gentile, and we take the particularization of only these kinds of produce to mean that all other types of produce when purchased from a gentile are Demai.*
- [Q] *Said R. Samuel b. R. Isaac, “We deal with certainly untithed produce, and with one who bought it from an Israelite. It pertains to a gentile market-supervisor who forced the Israelite traveling merchant to sell cheaply, and the sages permitted him to sell fully untithed produce [without first tithing it, to increase his return, with the understanding that the buyer would look out for himself [and tithes.]”*

- [I:3 A] **Who is [deemed to be] a traveling merchant? Anyone who brings [produce to a locale] and repeats [this] a second and a third time [T. Dem. 4:21].**
- [B] *R. Jonah proposed, “If he brought three loads together at once, this one is not a traveling merchant. If he brought them one after another, he is deemed a traveling merchant.”*
- [C] *R. Jonah asked, “If he regarded as a traveling merchant retroactively [after bringing three separate loads, so the first two loads are regarded as Demai] or only from now on?”*
- [D] *What difference does it make?*
- [E] When the buyer comes and tithes them — *if you say* it is from now on, the buyer may not separate tithes from one load [bought before he was classified as a traveling merchant] for another [load bought later on]. *If you say* he is regarded as a traveling merchant retroactively, then the buyer may separate tithes from one load bought earlier for another load bought later on.”
- [F] *R. Mana asked, “He, his son, and his employee [each brought a load of produce] — what is the law as to their joining together to be regarded as three loads joined together as one?”*
- [G] *R. Jonah asked, “A ship that comes from Rome — how many different kinds of produce are on it and yet you regard it as a single load!”*
- [H] **Fruits — regarding their [presumed] status [i.e., whether they are assumed to have been grown domestically or abroad, whether they are assumed to be this year’s or last year’s produce], sages did not follow (1) the taste, or (2) the fragrance, or (3) the appearance, or (4) the price, but only [the status of] the majority [T. Dem. 4:11 = Ma. 3:16].**
- [I] R. Jacob bar Aha in the name of R. Yohanan: “ If it was to determine whether the wine was new or old, they ruled according to taste.”
- [II:1 A] **pressed figs:**
- [B] *Said R. Mana, “I went to Caesarea and saw them treated fig cakes as permitted [exempt from tithing]. I asked R. Isaac bar Eleazar and he said, ‘That is how Zugga treated them, as permitted.’”*
- [C] *R. Isaac bar Eleazar in the name of Zugga of Caesarea: “In every place from which the Sea can be seen, they are permitted.”*

- [D] *There are those who want to say it applies as far as Migdal Malha, and there are those who hold it applies as far as Maarat Telimon.*”
- [E] *Said R. Abba Mari, “The teachings of the Rabbis indicate [that fig cakes are exempt from tithing in Caesarea]: kinds of produce that are forbidden [until tithed] in Caesarea: wheat, bread, wine, oil, dates, rice, and cumin. And they did not include fig cakes [implying that they are permitted].”*
- [F] *[No, they are left out] because they are already included in the Mishnah [that is presupposed].”*
- [G] *But lo, we have learned in the Mishnah: **rice and cumin**. And yet we have specified them. So you must conclude that fig cakes are permitted.*
- [H] These items [E] are permitted during the seventh year and during the other years of the Sabbatical cycle they are treated as Demai.
- [I] These items [E] are permitted during the seventh year! Let them be treated during the seventh year as seventh-year produce forbidden for purchase lest they derive from fields where the prohibitions of the seventh year are not observed.
- [J] Israelites desist from working their fields in the seventh year and gentiles are exempt from the restrictions of the seventh year and Israelites and gentiles form the majority over Samaritans.
- [K] ... during the other years of the Sabbatical cycle they are treated as Demai: Why not treat them as certainly untithed produce?
- [L] Israelites desist from working their fields in the seventh year and gentiles are exempt from the restrictions of the seventh year and Israelites and gentiles form the majority over Samaritans.

[II:2 A] How far south does the area of Caesarea extend?

- [B] From the way station of Amuda, the way station of Tibta as far as Kefar Seba and Soran and Dora [are part of the catchment of Caesarea].

[II:3 A] R. Abbahu in the name of R. Yosé b. Hanina: “Bulbous onions that are sold in Caesarea are forbidden [without tithing] because the majority of them come from the Royal Hill Country.”

- [B] R. Hiyya bar Adda said, “This applies to white onions.”

- [C] The rabbis of Caesarea say, “It applies to red onions.”

- [II:4 A]** R. Zeira, R. Hiyya in the name of R. Yohanan: “Rabbi [Judah the Patriarch] permitted produce bought in Bet Shean [to be eaten without first separating tithes]. This was at the word of Joshua b. Zeruz, son of R. Meir’s father-in — law, who said, ‘I saw R. Meir buying vegetables from the garden patch in the seventh year,’ and Rabbi permitted the whole of the area.”
- [B] Said R. Zeira, “That indicates that it is forbidden to someone to do anything in public [from which people might draw the wrong inference as to what is permitted]. I might have said, ‘That garden-patch was set aside by [Meir] and Rabbi permitted all of the territory of Bet Shean.”
- [II:5 A]** Rabbi permitted produce sold in Bet Shean [to be eaten without separating tithes].
- [B] Rabbi permitted Caesarea.
- [C] Rabbi permitted Bet Gubrin.
- [D] Rabbi permitted Kefar Semah.
- [E] Rabbi permitted buying vegetables immediately in the year following the seventh year [without taking account of the possibility that they may have taken root before the end of the seventh year], and everybody ridiculed him.
- [F] He said to them, “Come and let us conduct a reasonable dispute about this matter. It is written, ‘Hezekiah broke into pieces the bronze snake that Moses had made, for until that time the Israelites had been offering sacrifices to it. It was called Nehushtan’ (2 Kgs. 18:4). And did no righteous man arise from Moses to Hezekiah to remove it? But the Holy One, blessed be he, reserved for Hezekiah that crown with which to adorn himself. So too with regard to us, the Holy One, blessed be he, reserved for us this particular crown, with which to adorn ourselves.”
- [II:6 A]** *Rabbi Joshua b. Levi would instruct his servant, “Buy vegetables for me only from the garden of Sisera [that was always owned by gentiles and was never subject to tithing].”*
- [B] *[Elijah] of blessed memory met him. He said to him, “Go, say to your master, ‘This is not the garden of Sisera. It belonged to a Jew and they killed him, and grabbed it from him. Now if you want to impose a strict rule on yourself, act like your fellows [and tithe the produce of this field too].”*

- [II:7 A]** R. Yosé of Kefar Dan in the name of R. ben Maadyah: “Types of produce that are forbidden in Bet Shean: fennel flower, sesame, black mustard, garlic, bulbous onions, black chickpeas, locally grown onions sold by measure, cowpeas that are tied with shavings, mint tied up by itself, carrots at all seasons, leek heads from Asseret [the end of Sukkot] to Hanukkah.”
- [B] Said R. Zeira, “From Asseret to Hanukkah forbidden leeks form the majority in the market in Bet Shean over permitted leeks. From Hanukkah to Asseret permitted leeks form the majority over forbidden leeks. As to aftergrowths of crops from the sixth year that grow wild in the seventh year, from the New Year to Asseret, aftergrowths are forbidden. From Asseret until Hanukkah, aftergrowths are permitted. From Hanukkah to the New Year, the question demands attention.”
- [C] Chate melons, calabash gourds, watermelons, melons, wine, oil, Ephes-dates — some say, lupines and cress at all seasons — lo, these are held in the Seventh Year to be subject to the rules of the Seventh Year.
- [D] And in the other years of the Sabbatical cycle, what is their status?
- [E] R. Jonah said, “They are doubtfully tithed.”
- [F] R. Yosé said, “They are certainly untithed.”
- [G] *But there is no dispute between them.* R. Jonah’s ruling that the produce is doubtfully tithed refers to one who purchases the produce from a vegetable market, and R. Yosé’s ruling that it is certainly untithed refers to one who buys directly from the garden.
- [II:8 A]** How far [does Bet Shean extend]?
- [B] From Parshata and Resifta and Nafsha dePanutiyyah to Kefar Karnayyim and Kefar Karnayyim is like Bet Shean.
- [II:9 A]** R. Jonah in the name of R. Simeon b. Zechariah: “Kinds of produce forbidden in Paneas: walnuts, rice, sesame seeds and cowpeas.”
- [B] Gamaliel Zugga said, “Early-ripening Damascene plums.”
- [C] Said R. Jonah, “That which you have said applies from Tarnegola above Caesarion northward, but from Tarnegola above Caesarion southward it is like the land of Israel [and fully liable to tithing].”
- [II:10 A]** *R. Jonah asked*, “[If in the area nearby but outside the land of Israel one’s field was sown with vegetables and he came and found rice in it, the vegetables are permitted and the rice is forbidden. If the rice is on

top and vegetables are on the bottom, the vegetables are permitted and the rice is forbidden.”

[B] But most of the fields in the areas near but outside the land of Israel do not produce those crops listed just now and are subject to tithing and Seventh Year laws since they come from the land of Israel .

[C] And even if you say that most of the fields do produce those crops, still the majority of those crops in the market come from the forbidden source and the produce must be tithed and subjected to the Seventh Year restrictions.

[II:11 A] *A Tannaite statement: Rice (that is grown) in the plain of Antiochia is permitted in its place.”* R. Eleazar b. R. Yosé says, “Rice [that is grown] in the plain of Antiochia is permitted as far as Beroa” [T. Dem. 2:1].

[B] *R. Jonah asked,* “This same distance as far as Beroa extends in all directions from Antiochia.”

[II:12 A] **These are the forbidden cities in the vicinity of Tyre [that is, the fields of these cities may not be cultivated during the seventh year]: Shetseth, Betseth, Pi-Mitsuba, Upper Hanita, Lower Hanita, Resh Maya, Beit Karya, Emek, and Mazi [T. Sheb. 4:9].**

[B] Said R. Mana, “That which you said applied in the past, but now there are [additional towns in which Israelites have gained a standing [as the majority].”

[C] **[These are] the cities in the vicinity of Susita, [the produce of which] is subject to tithing: Aynosh, Ein Ter’a, Ram Barin, Iyon, Yaadut, Kefar Harub, Nob, Haspiah, Kefar Tsemah. Rabbi exempted [the produce of] Kfar Tsemah [from tithes] [T. Sheb. 4:10].**

[D] *Immi reasoned,* “But weren’t the inhabitants of Kefar Semah among those who had to pay taxes [to the Israelites?” R. Immi *held the theory that* having to pay taxes to the Israelites was tantamount to being conquered by them.

[E] **[These are] the cities in the vicinity of Neva [the fields of which were once] permitted [to be cultivated during the seventh year,] but were [later] forbidden [when these cities became populated with Israelites]: Tyre, Tsiyar, Gashmay, Zizron, Yagri Tab, Danab Hurbatah, and the fortified city of Beit Hereb [T. Sheb. 4:8].**

- [II:13 A]** *A load of raisins entered Tiberias. Gamaliel Zugga asked R. Abba bar Kahana [about its status]. He said to him, “The whole of the land of Israel does not produce a single load of raisins [so this must come from abroad and be exempt from tithing.]”*
- [B] But is it so, that the whole of the land of Israel does not produce a single load of raisins? Rather this is what he said to him, “There is no single locale in the land of Israel that can produce a single load of raisins [so this must come from abroad and be exempt from tithing.]”
- [II:14 A]** *Somebody brought a basket of leek heads to R. Isaac bar Tablai. He asked R. Yohanan about the status of the produce. He said to him, “Go, ask Hananiah b. Samuel, who memorizes Tannaite rules.”*
- [B] *He went out and asked him. He said to him, “I haven’t seen a Tannaite statement but I have heard a tradition, R. Yosé in the name of R. Yohanan: ‘Rabbi and R. Eleazar b. R. Simeon disputed about it. One held that we decide by appeal to the place of origin of the produce, the other, to the place in which the sale took place.’”*
- [C] R. Abbahu said, “Rabbi said *that* we decide by appeal to the place of origin of the produce, but he instructed him to follow the opinion of R. Eleazar b. R. Simeon, who said *that* we decide by appeal to the place in which the sale took place.”
- [D] *That which you say applies to produce that arrives in baskets, but in the case of produce that comes in loads, all parties concur that we follow the status of the place of origin.*
- [II:15 A]** If both the place of origin and the location of the sale were in places that are permitted [outside of the land, not subject to tithing], and the seller had to pass through a place that was forgiven [that was inside the land to get from the place of origin to the place of sale] the forbidden place is treated as if he had not passed through it. [The produce was not acquired en route.]
- [B] *R. Abba bar Kahana asked in the presence of R. Yosé, “Did not R. Hiyya say in the name of R. Yohanan, ‘Rabbi and his colleague — the law is in accord with Rabbi’? And said R. Jonah, ‘And even Rabbi with R. Eleazar b., R. Simeon’?”*
- [C] *He said to him, “What did you expect from R. Yohanan? R. Yohanan is consistent with opinions expressed elsewhere, for R. Yohanan said, ‘The sages ruled leniently in the matter of the Seventh year, since the rules and how they apply derive from them anyhow.’”*

[D] *There are those who want to explain as follows:* R. Yohanan's opinion was joined with that of R. Eleazar b. R. Simeon and the two formed a majority over Rabbi [and the law follows the majority].

2:2

[A] **One who undertakes to be trustworthy [one who is assumed to tithe all of his produce]**

[B] **tithes (1) what he eats, and (2) what he sells and (3) what he purchases,**

[C] **and (4) does not accept the hospitality of *'am ha'ares*.**

[D] **R. Judah says, "Also one who accepts the hospitality of an *'am ha'ares* is trustworthy."**

[E] **They said to him, "[If] he is not trustworthy concerning himself [viz., concerning food that he himself eats], how should he be trustworthy concerning that of others [that is, concerning food that he feeds or sells to others]?"**

[I:1 A] **what he purchases:** [to what is reference made]? Is it, to what he purchases to eat? *But we learn in the Mishnah, what he eats!*

[B] But the sense is, **what he purchases** in order to sell.

[C] *But we learn in the Mishnah: what he sells.*

[D] Rather, reference is made to what he purchases in order to sell and what he sells from his own crops.

[II:1 A] **R. Judah says, "Also one who accepts the hospitality of an *'am ha'ares* is trustworthy:"**

[B] *It was taught as a Tannaite statement:*

[C] Said R. Judah, "**Householders have never refrained from eating with one another, nonetheless the produce in their own homes [viz., the homes of those who have undertaken to be trustworthy] is properly tithed**" [T. Dem. 2:2].

[II:2 A] Said R. Jonah, "Associates are not suspect of eating or feeding others untithed produce to eat."

[B] Said R. Yosé, "Associates are suspect of eating untithed produce outside of home but are not suspect of feeding untithed produce to others to eat."

[C] *The Mishnah differs from R. Yosé: "An *'am ha'ares* who took upon himself the obligation of membership in an association and is*

suspect with regard to one item is suspected with regard to all of them,” the words of R. Meir. And sages say, “He is only suspected with regard to that particular item” [T. Dem. 2:3]

[D] *Statements of the rabbis support R. Yosé. For said R. Hanina, second R. Yosé in the name of R. Yohanan:* “R. Judah made his statement only post factor, but to begin with also R. Judah concurs [that if he is not trustworthy concerning himself [viz., concerning food that he himself eats], how should he be trustworthy concerning that of others [that is, concerning food that he feeds or sells to others]?”

[E] If you say that associates are not suspect either of eating or of feeding others [untithed produce], then what is the difference between the rule prevailing at the outset and the rule prevailing post facto?

[F] *It has been taught as a Tannaite rule: An ‘am ha’ares who took upon himself all the obligations of membership in an association except for one item — they do not accept him [T. Dem. 2:5]. An ‘am ha’ares who took upon himself all the obligations membership in an association and is suspected with regard to one item is suspected with regard to all of them. R. Judah says, “He is suspect only in regard to that particular matter” [T. Dem. 2:3].*

[II:3 A] *A Tannaite rule: One who is reliable to keep the purity laws is reliable for tithing.”*

[B] *R. Yannai b. R. Ishmael repeated the rule and stated its reason:* “What is said here applies to someone who is received as a guest in his home, but in public he is not regarded as trustworthy until he publicly in the presence of three witnesses accepts the discipline for himself to tithe his produce.”

[C] R. Zeira, R. Yosé in the name of R. Yohanan: “Even an associate who sent produce to another associate must separate tithes.”

[D] *R. Zeira asked in the presence of R. Yosé,* “For example, even when I second to R. Samuel b. R. Isaac and R. Samuel b. R. Isaac sends to me, must one first separate tithes?”

[E] *He said to him,* “What do you want from R. Samuel b. Isaac, for whatever he eats he eats from the market.”

[II:4 A] **If he [viz., the husband] was trustworthy [in the matter of tithing] and his wife was not trustworthy, they purchase [produce] from him but do not accept his hospitality. Nonetheless they have said, “It is as if he dwells in the same cage with a serpent.” [If] his wife**

is trustworthy and he is not trustworthy, they accept his hospitality but do not purchase [produce] from him [T. Dem. 3:9].

- [B] But they have said, “Cursed be one whose wife is trustworthy while he himself is not trustworthy.”
- [C] **An Associate should not serve at the banquet of an ‘am ha’ares or at the feast of an ‘am ha’ares unless everything has been tithed under his supervision, even if it is only a single small cup of wine. Therefore [if] an Associate was serving at the banquet of an ‘am ha’ares or at the feast of an ‘am ha’ares — behold, this is reason for presuming that everything has been tithed [T. Dem. 3:6].**
- [D] **An Associate who was seated at the banquet of an ‘am ha’ares or at the feast of an ‘am ha’ares [as a guest] — even if they see him take and eat immediately [viz., without first separating tithes], take and drink immediately — this is not reason for presuming that everything has been tithed, [for] perhaps he tithed in his heart. If his son was seated next to him, he separates tithes for him [i.e., for that which his son eats, from the *haber’s* own portion]. [If] someone else [was seated next to him], he does not separate tithes for him [T. Dem. 3:7].**

2:3

- [A] **One who undertakes to be an Associate [member of a group that scrupulously observes the laws of tithing and Levitical cleanness]**
- [B] **(1) does not sell to an ‘am ha’ares wet or dry [produce, i.e., either produce that has been rendered susceptible to uncleanness or produce that has not been rendered susceptible],**
- [C] **and (2) does not purchase from him wet [produce, i.e., produce that has been rendered susceptible to uncleanness],**
- [D] **and (3) does not accept the hospitality of an ‘am ha’ares,**
- [E] **and (4) does not receive him [the ‘am ha’ares] as his guest while he [the ‘am ha’ares] is wearing his [the ‘am ha’ares’s] own clothes.**
- [F] **R. Judah says, “Also (1) he should not raise small cattle,**
- [G] **“and (2) he should not be profuse in [making] vows or in levity,**
- [H] **“and (3) he should not defile himself for the dead,**
- [I] **“and (4) he should minister in the house of study.”**
- [J] **They said to him, “These [rules] do not enter the category [under discussion, viz., they do not deal with matters of cleanness].”**

- [I:1 A] **and does not purchase from him wet [produce, i.e., produce that has been rendered susceptible to uncleanness]:**
- [B] Lo, what is dry it is permitted to buy from him, for the *‘ammé ha’ares* are reliable in respect to what is subject to susceptibility to uncleanness for having been wet down.
- [C] *And so it has been taught on Tannaite authority:* An *‘am ha’ares* is believed to testify that certain produce has not been made susceptible to uncleanness, but he is not held to be reliable to declare that produce has been made susceptible to uncleanness but has not been made unclean.
- [II:1 A] **R. Judah says, “Also (1) he should not raise small cattle, and (2) he should not be profuse in [making] vows or in levity, and (3) he should not defile himself for the dead, and (4) he should minister in the house of study:”**
- [B] *Now since he concedes the first case [and (3) does not accept the hospitality of an ‘am ha’ares] doesn’t this conflict with R. Jonah,* for R. Jonah said, “Associates are not suspected of eating or feeding others untithed food”?
- [C] [The operative consideration is different. Judah concurs with it:] The associate should not go to the house of the *‘am ha’ares*, and render his body unclean and then come and make clean produce unclean.
- [D] *And this does not differ even from R. Yosé,* for R. Yosé said, “Associates are suspect of eating untithed produce but not of feeding it to someone else. There we deal with tithing but here with Purities, and one who is trustworthy for purities is trustworthy for tithing.”
- [II:2 A] *It was taught as a Tannaite rule:* **He who comes to take upon himself [the obligations of Associate] — even [if he is] a disciple of the sages — must take upon himself [viz., must make a formal, public declaration]. But a sage who sits in session [viz., on the court] does not have to take upon himself [formally and publicly], for he has already taken upon himself from the moment that he entered the session [in the court] [T. Dem. 2:13].**
- [B] Said R. La, “And that [rule concerning the sage] is on condition that he took upon himself [the obligations of Associate] from the beginning [of his appointment to the court].”
- [C] *R. Yosé asked,* “If it is from the beginning [of his appointment to the court], why do I need to specify that it is an associate? Even an *‘am ha’ares* is subject to the same requirement.”

[D] *R. La's position accords with the view of R. Simeon b. Laqish, for R. Simeon b. Laqish went up to visit the members of the Household of R. Yannai, and the women saw him and fled [so as not to convey uncleanness by reason of menstruation]. He said to them, "Listen to me. I am like an 'am ha'ares with regard to matters involving cleanness."*

[II:3 A] *It was taught as a Tannaite rule: **He who takes [upon himself the obligations of Associateship] before an Association — his sons and servants need not take [upon themselves] before a Association, but they take [the pledge upon themselves] before him [T. Dem. 2:14]***

[B] *There is a Tannaite authority who teaches: **He and his sons and servants take [upon himself the obligations of Associateship] before an Association.***

[C] *And there is no conflict between the two rules: the first statement speaks of a case in which the children depend on their father and the latter formulation refers to a case in which they are not dependent upon their father.*

[D] *R. Halafta b. Saul taught as a Tannaite rule: "The adults make their declaration to the Association, the minor children make their declaration to him."*

[II:4 A] *It was taught as a Tannaite rule: **And they accept [him first] with regard to wings ["uncleanness of the hands"] and afterwards they accept [him] with regard to foodstuffs that require preparation in conditions of cleanness [T. Dem. 2:11]***

[B] *Said R. Isaac b. R. Eleazar, "[First comes the rule concerning] wings, the indirect contact with a utensil by someone unclean with a flux, minor sorts of uncleanness, uncleanness of food, moving utensils made unclean by the pressure of one who is unclean with a flux."*

[C] *R. Mana said, "Hands, indirect contact, shifting, cleanness of foods, tithing."*

[II:5 A] ***At first they would say, "An Associate who became a tax-collector — they expel him from his Association. They changed their minds to say "As long as he is a tax-collector, he is not reliable. [If] he withdrew from the office of tax-collector, behold, this one is [again] reliable" [T. Dem. 3:4].***

[B] *Hiyya b. R. Abun in the name of R., Yohanan: "An Associate who went abroad is not expelled from his status as an Associate [even though the land of the gentiles is unclean]. When he comes back, he*

does not have to be restored to the association in a rite of acceptance of the rules.]

2:4

- [A] **Bakers —**
- [B] **Sages required them to separate [from their produce] only [an amount] sufficient for heave-offering of the tithe and dough--offering.**
- [C] **Shopkeepers [i.e., retailers] are not permitted to sell *Demai*-produce.**
- [D] **All who sell in bulk [and give over-measure] are permitted to sell *Demai*-produce.**
- [E] **And who are those who sell in bulk?**
- [F] **For instance, wholesale provision merchants and grain dealers.**
- [I:1 A] *There we learned in the Mishnah: He who purchases [a loaf of bread] from the [*am ha'ares*] baker, how does he tithe [it]? He takes an amount sufficient for *terumah* of the tithe and dough-offering [M. Dem. 5:1].*
- [B] *So here you say the purchaser separates the offerings, and there you say the baker separates the offerings.*
- [C] *R. Jonah said, “R. Eleazar and R. Yohanan differed. One said, ‘Here [at M. 2:4] we deal with a case in which he prepares the bread in conditions of cleanness [so that the tithe and dough offering would be suitable for a priest to eat and so should be separated right away, by the baker], and there [at M. 5:1] we deal with a case in which he prepares the bread in conditions of uncleanness [so that the offerings would have to be burned and so do not have to be designated right at the beginning].’ The other said, ‘Here we deal with a case in which he prepares the bread in small quantities [which are too small to be subject to uncleanness], and there [at M. 5:1] we deal with a case in which he prepares the bread in large quantities, [which are subject to uncleanness].’ And we do not know which authority said this, and which said that.*
- [D] *“On the basis of what R. Yohanan said with reference to purity [at Y. Dem. 5:1], it follows that R. Eleazar is the one who said, ‘Here we deal with a case in which he prepares the bread in small quantities [which are too small to be subject to uncleanness], and there [at M. 5:1] we deal with a case in which he prepares the bread in large quantities, [which are subject to uncleanness].’”*

- [E] *And there is this problem with the ruling of R. Yohanan: If the ruling before us deals with a baker who prepares his dough in conditions of cleanness, why shouldn't he separate all the offerings [such as second tithe, which will be clean and be available for consumption in Jerusalem]?*
- [F] In strict logic he need not separate anything at all, but since we don't hand over certainly untithed produce to an *'am ha'ares* [the law provides for the matter].
- [G] *And there is this problem with the ruling of R. Eleazar: And there is this problem with the ruling of R. Yohanan: If the ruling before us deals with a baker who prepares his dough in conditions of cleanness, why shouldn't he separate all the offerings [such as second tithe, which will be clean and be available for consumption in Jerusalem]?"*

[II:1 A] Shopkeepers [i.e., retailers] are not permitted to sell Demai-produce:

- [B] *The Associates in the name of R. Eleazar: "That is in accord with R. Meir, for R. Meir said, 'They permitted only wholesalers to sell Demai-produce' [T. Dem. 3:13]."*
- [C] *Objected R. Yosé, "The Mishnah conflicts with this statement: **And who are those who sell in bulk? For instance, wholesale provision merchants and grain dealers [M. Dem. 2:4]. So there are others who sell Demai-produce, not just wholesalers."***
- [D] *Said R. Yosé, "It is not in this connection did R. Eleazar make his statement but rather the following, which was taught as a Tannaite statement: **Bakers — Sages required them to separate [from their produce] only [an amount] sufficient for heave-offering of the tithe and dough--offering [M. Dem. 2:4]. And they are exempt from [separating] second tithe. Under what circumstances? With regard to one who sells in his [own] store [or] at the entrance to his store, but one who sells at the bread shop or at the store next to his own is liable to [separate] second tithe [T. Dem. 3:10]. With regard to this ruling Associates in the name of R. Eleazar stated that it follows the opinion of R. Meir."***
- [E] *For R. Meir said, "They permitted only wholesalers to sell Demai-produce [T. Dem. 3:13]."*
- [F] *Which teaching of R. Meir? ."*
- [G] *It is that which we learn in the Mishnah later on: **R. Meir says, "That which is usually measured out [for sale] in bulk and one***

measured it out [in a particular instance] in a small quantity — the small quantity is subjected to the [rules governing] large quantities]. That which is usually measured out in small quantities and one measured out [in a particular instance] in a large quantity — the large quantity is subjected to the [rules governing] small quantities” [M. Dem. 2:5].

[H] *And so did R. Hiyya teach as a Tannaite ruling: That which is usually measured out in large quantities and one measured it out in either a large or a small quantity — the small quantity is subjected to the rules governing large quantities. That which is usually measured out in small quantities and one measured it out in either a small or a large quantity — the large quantity is subjected to the rules governing small quantities* [T. Dem. 3:10].

[I] Here the bread store sells in small measure and the baker’s store sells in bulk, so the large quantity is subject to the rules governing small quantities [and the seller must tithe the bread].

[II:2 A] Associates in the name of R. Yohanan: “Shopkeepers may not sell Demai-produce because of customers who are minors [who do not know how to tithe properly], *so that minors should not eat untithed produce. [So the shopkeepers have to tithe whatever they sell.]*”

[II:3 A] R. Illa in the name of R. Yohanan: “When produce is sold in small measure, since the seller profits [in that the buyer must pay for the exact amount of produce received,] the seller must separate the tithes. When the produce is sold in bulk, since the buyer profits [in that he receives a bit more than he doesn’t have to pay for,] the seller must separate the tithes.”

[B] *A Tannaite statement supports this opinion and a Tannaite statement supports that opinion* [Associates in the name of R. Yohanan].

[C] *A Tannaite statement supports the Associates, for it has been taught on Tannaite authority: R. Nehemiah says, “That which is sold in a small quantity [in any particular instance, whether or not it is usually sold in small quantities], behold this is [treated] according to [the rules governing] small quantities; in a large quantity, behold this is [treated] according to [the rules governing] large quantities”* [T. Dem. 3:11]

[D] *A Tannaite statement supports R. Illa, for it has been taught on Tannaite authority: R. Ishmael the son of R. Yohanan b. Beroqah says, “That which is sold in a small quantity, behold, this is liable.*

Even if he sold him only a *seah* and a quarter [-*qab*], he must tithe the quarter [-*qab*]" [T. Dem. 3:12].

- [E] Said R. Zeira, "At issue between them is calculating the profit. If the seller measured out a seah of produce according to the measure of quarter-qabs, since the seller benefits, the seller must separate the tithes. If he measured out quarter-qabs of produce according to the measure of a seah, since the purchaser profits [relative to the seller, receiving an over-measure], the buyer must separate the tithes."

2:5

- [A] **R. Meir says, "That which is usually measured out [for sale] in bulk and one measured it out [in a particular instance] in a small quantity —**
- [B] **"the small quantity is subjected to the [rules governing] large quantities].**
- [C] **"That which is usually measured out in small quantities and one measured out [in a particular instance] in a large quantity —**
- [D] **"the large quantity is subjected to the [rules governing] small quantities."**
- [E] **What is considered a large quantity?**
- [F] **With regard to dry [produce] — three *qabs*,**
- [G] **and with regard to wet produce — [an amount the value of] a *dinar*.**
- [H] **R. Yosé says, "Baskets of figs, and baskets of grapes, and hampers of vegetables —**
- [I] **"as long as he sells them by the lot [only estimating their bulk] he is exempt [from tithing them as *Demai* -produce]."**
- [I:1 A] **...the small quantity is subjected to the [rules governing] large quantities:**
- [B] *According to this Tannaite authority* the sages gave an exact measurement for what constitutes a large quantity of dry produce but did not give a precise measurement for what constitutes a large quantity of liquid produce. They assigned a monetary value for what constitutes a large quantity of liquid produce but did not assign a monetary value for what constitutes a large quantity of dry produce.
- [C] *R. Hiyya taught as a Tannaite statement:* **And with regard to wet produce — a *hin* is considered to be a large quantity, less than a *hin* is considered to be a small quantity. With regard to dry**

produce, an amount the value of] a *lymyn* is considered to be a large quantity, less than a *lymyn* is considered to be a small quantity [T. Dem. 3:12].

- [D] *In the opinion of this Tannaite authority* they assigned a precise measurement for what is a large quantity of liquid produce but did not assign an exact measurement for what is a large quantity of dry produce. They gave a monetary value for what is a large quantity of dry produce but did not give a monetary value for what is a large quantity of liquid produce.
- [E] R. Yohanan in the name of R. Simeon b. Yehosedeq, "It is a condition imposed by the court that heave-offering of the tithe must be separated by the seller and second tithe must be separated by the buyer."
- [F] *Under what circumstances is this a valid statement?* If it involves a small volume, since the seller benefits, the seller must separate the tithes, and if it is a large volume, since the buyer benefits, the buyer must separate tithes.
- [G] Said R. Abun bar Hiyya, "Interpret the passage to speak of a seller who says to the buyer that the produce is from the seller's own harvest [and has not yet been tithed. It is not Demai-produce but certainly untithed]."
- [H] Said R. Yosé, "You may even say that the condition applies to a case in which the produce is not from his own harvest. One says with the agreement of the other, 'Let's both separate tithes.' Nonetheless [even if the other agreed], they say to him, 'It is a condition imposed by the court that heave-offering of the tithe must be separated by the seller and second tithe must be separated by the buyer.'"
- [I] R. Eleazar in the name of R. Hoshaiyah, "It is a condition imposed by the court that [in preparing the slaughtered animal to be eaten] the fat is removed by the butcher [before selling the meat] and the sciatic never is removed by the buyer at his expense."
- [J] R. Abbahu established the rule in Caesarea that both of them are removed by the buyer at his expense *so that the butchers remove the fat properly.*"

YERUSHALMI DEMAI

CHAPTER THREE

3:1

- [A] They feed the poor Demai-produce, and [they feed] transient guests Demai-produce.
- [B] Rabban Gamaliel would feed his laborers Demai-produce.
- [C] Charity-collectors —
- [D] The House of Shammai say, “They give that which is tithed to him who does not tithe,
- [E] “and that which is not tithed to him who tithes.
- [F] “Everyone turns out to be eating [produce that has been] set right [fully tithed produce].”
- [G] And sages say, “They collect indiscriminately and they distribute indiscriminately,
- [H] “and he who wants to set right [the produce he has received], let him set [it] right.”
- [I:1 A] [They feed the poor Demai-produce, and transient guests Demai-produce]: Said R. Jonah, “*The Mishnah speaks* of poor who are Associates and as to transient guests it is in line with the opinion of R. Joshua, *for it has been taught as a Tannaite statement*:
- [B] “There is the following precedent: **R. Joshua went to visit Rabban Yohanan b. Zakkai at Beror Hayil, and the townspeople brought produce out to them. They [i.e., those in Joshua’s party] said to him, ‘Must we tithe [the figs]?’**
- [C] “He said to them, ‘If we are going to spend the night [here], [we are] required to tithe, and if not, [we] are exempt from tithing’” [T. Ma. 2:1].

[D] R. Yosé said, “*The Mishnah speaks* of poor who are ‘ammé ha’ares. If you say it speaks only of poor who are Associates, you turn out to lock the door against poor people who are ‘ammé ha’ares.”

[E] *How does R. Yosé interpret the reference to transient guests?*

[F] *It is in line with that which is taught as a Tannaite statement:* “You may also buy them from among the children of aliens resident among you” (Lev. 25:45) — including transient guests. R. Eleazar says, “This refers to gentile guests.”

[I:2 A] *A Tannaite statement: One must notify those to whom he gives Demai-produce that he has not tithed it [T. Dem. 3:15].*

[B] *From the perspective of R. Jonah, who said, “The Mishnah speaks of poor who are Associates,” there is no difficulty.* [The Associates would need to know the status of the produce.] *But from the perspective of R. Yosé, who said, “The Mishnah speaks of poor who are ‘ammé ha’ares,” what good does it do to tell him [who doesn’t tithe anyhow]?”*

[C] It is for the exceptional one who might separate tithes.

[II:1 A] **Rabban Gamaliel would feed his laborers Demai-produce.**

[B] *Said R. Mana, “That is to say those who pay their workers in kind are forbidden to give them money received from the sale of produce of the Seventh year, for that is equivalent to paying a debt with money received from the sale of Seventh year produce, which is forbidden in line with what is taught on Tannaite authority: Produce of the seventh year and produce in the status of second tithe are the same [with respect to the following rules]: (1) they may not discharge a loan or debt with [either of] them, (2) they may not repay favors with [either of] them, (3) they may not redeem captives with [the funds received from the sale of either of] them, (4) they may not use [either of] them as groomsman’s gifts, (5) and they may not appropriate [either of] them for charity; but (1) they may give them as a voluntary charitable gift, (2) and they must notify [the recipient that that which is given is produce in the status of second tithe or of the seventh year] [T. Sheb. 7:9].”*

[II:2 A] *There we learned in the Mishnah: A laborer who does not trust the householder [that is, his employer, who takes responsibility for the laborer’s sustenance while he is at work,] takes a single dried fig and says, “This [fig] and the nine which follow it are made [first] tithe for the ninety [figs] which I [shall] eat. This one is made*

heave-offering of the tithe for them [for the following nine figs, which are the remainder of the first tithe], and second tithe is in the last ones and is redeemed with coins” [M. Dem. 7:3].

[B] *There you hold that the worker separates tithes, but here you hold that the householder separates tithes.*

[C] Said R. Jonah, “*There the householder feeds the worker a specified amount [so the worker can calculate what is owing on the food,] but here the householder feeds the worker out of a large bowl, so the individual worker cannot calculate the tithe that is owing.*”

[II:3 A] R. Zeriqan, R. Simeon bar Abba in the name of R. Yohanan: “A physician who was an Associate feeding an ill ‘am ha’ares puts the food in his hand but does not put it into his mouth.”

[B] That is so of Demai-produce, but as to certainly untithed produce it is forbidden even to put it into his hand.

[C] That is so when the food belongs to the patient, but if it belongs to the physician, it is forbidden even to put it into his hand.

[D] That is so when the patient is an Israelite, but if he is a Noahide, it is permitted for the doctor to put the produce into his hand even if it is certainly untithed.

[E] That is so when the food belongs to the patient, but if it belongs to the doctor, it is forbidden even to put it into his hand.

[F] And if it were a limb from a living animal, even if it belonged to the patient, it is forbidden for the doctor even to put it into the patient’s hand, so that the patient may not get into trouble [since Noahides are forbidden to inflict cruelty to animals.]

[III:1 A] **Charity-collectors — The House of Shammai say, “They give that which is tithed to him who does not tithe, and that which is not tithed to him who tithes. Everyone turns out to be eating [produce that has been] set right [fully tithed produce].” And sages say, “They collect indiscriminately and they distribute indiscriminately, and he who wants to set right [the produce he has received], let him set [it] right.”**

[B] *There is this problem with the position of the House of Shammai: Because he is worthy, should he lose out [having to tithe produce he receives, while those who do not keep the law don’t have to]?*

[C] He gives him an additional mount to set aside as tithe.

[D] *What is the operative consideration of the House of Shammai? Even if you were to force him to separate tithes in the presence of the charity supervisor, you could do it only while he is present, but you could not force him to tithe later on.*

[E] *What is the operative consideration of the rabbis? If you are too meticulous with the donor of the untithed produce he will cut down his gifts.*

[III:2 A] **Collectors for the communal charity fund do not collect and call out [publicly] on a festival in the manner in which they collect and call out on a weekday, but without ostentation they collect in the folds of their garments and they distribute in each neighborhood at a time [T. Dem. 3:16].**

[B] **Charity collectors in the seventh year skip the doorways of those who eat seventh-year produce,” the words of R. Meir. And sages say, “They need not be punctilious about those who eat seventh-year produce. Even if they [i.e., those who eat seventh-year produce] give them [the collectors] a loaf of bread, they accept it from them, since no gifts [from those who eat seventh-year produce] are deemed suspect except for coins and eggs” [T. Dem. 3:17].**

[C] R. Hananiah in the name of R. Phineas: “That which you say applies to a locale where they saw grain in the Seventh year] but do not eat what is sown. If they are not suspect of eating seventh year produce, all the more so are they not suspect of giving it to others to eat.”

[D] **The priests who collect in conditions of cleanness need not be punctilious about kneading and separating dough offering in behalf of ‘ammé ha’ares in the courtyards of those who eat seventh-year produce [T. Dem. 3:17].**

[E] *There are Tannaite authorities who repeat as follows: **need to be punctilious about kneading and separating ...***

[F] Said R. Phineas, “*The one who repeats*, they must be punctilious holds that on account of the dough offering. “*The one who repeats*, **need not be punctilious** holds that by strictness the priest may drive him from the less stringent prohibition, eating Seventh year produce, and make him violate the more stringent prohibition, eating dough offering since eating fully untithed produce is a violation punishable by death, but eating Seventh year produce is not more than a simple prohibition and not punishable by death.”

- [G] What does he do?
- [H] Said R. Huna, “He brings another priest, one suspect of eating Seventh-year produce, and immerses him and feeds him the dough-offering.”
- [I] Doesn’t he turn out to hand over clean food to an ‘am ha’ares?
- [J] Said R. Mana, “He brings another priest, one suspect of eating Seventh-year produce, and immerses him and watches over him until evening [when the purification process is complete] and feeds him the dough-offering.”
- [K] Doesn’t he turn out to strengthen the hands of transgressors?
- [L] R. Simeon bar Barsena in the name of R. Aha: “He keeps the dough offering until the day before Passover and turns it.”

3:2

- [A] **He who wants to trim away leaves of vegetables to lighten his load**
- [B] **should not throw [them] away until he has tithed [them].**
- [C] **He who purchases vegetables from the market and decides to return [them]**
- [D] **should not return [them] until he has tithed [them],**
- [E] **for he [thereby] diminishes only [their] number [but not their resale value].**
- [F] **[If] he was at the point of buying and saw another load better than that one,**
- [G] **he is permitted to return [it without first having tithed it],**
- [H] **since he has not [yet] drawn it [into his possession].**
- [I:1 A] [He who wants to trim away leaves of vegetables to lighten his load should not throw [them] away until he has tithed [them].]: Said R. Eleazar, “This is the opinion of R. Meir, **for R. Meir said, ‘They permitted only the wholesaler to sell Demai-produce’ [without tithing it] [T. Dem. 3:13].**”
- [B] Said R. Yohanan, “It represents the view of all parties. It is a special case, since the one who later on takes possession of the leaves left by the road will take possession in a small measure [and sages want anything taken in small measure to be tithed]. The person who leaves the leaves did not leave them in large measure.”

- [C] *But doesn't this differ from R. Meir's view, for R. Meir said, "As soon as the farmer declares something ownerless and it leaves his domain, the declaration takes effect"?*
- [D] *This case is different, for he who abandons the leaves doesn't abandon them in bulk.*
- [E] *And this does not differ from R. Yosé, for R. Yosé said, "What is declared ownerless leaves the domain of its owner only through the act of acquisition by someone else."*
- [F] This case is different, , since the one who later on takes possession of the leaves left by the road will take possession in a small measure [and sages want anything taken in small measure to be tithed].

[II:1 A] He who purchases vegetables from the market and decides to return [them] should not return [them] until he has tithed [them]:

- [B] Hezekiah said, "...for he [thereby] diminishes only [their] number [but not their resale value]."
- [C] What does he do? [To tithe the produce before returning it] he takes away the top leaf and sets it right. [He does this with the outermost, least valuable leaves.]
- [D] But isn't this forbidden as robbery, *in line with the following:*
- [E] *R. Simeon bar Kahana was assisting R. Eleazar [to walk]. They passed by a vineyard. He said to him, "Bring me a wood chip from the fence so I can pick my teeth." He changed his mind and said to him, "Don't bring me anything, for if you bring it to me, people will regard it as permission to do the same and the man's fence will be destroyed."*
- [F] *R. Haggai was assisting R. Zeira. Someone passed by carrying a load of wood. He said to him, "Bring me a wood chip from the load of wood so I can pick my teeth." He changed his mind and said to him, "Don't bring me anything, for if you bring it to me, people will regard it as permission to do the same and the man's load will be destroyed."*
- [G] It is not that R. Zeira is so virtuous, *but we do the things concerning which our impulse will obey us.*

[II:2 A] R. Abbahu in the name of R. Yohanan: "Once he has drawn the produce [into his possession, by taking hold of it] he has acquired it. The only thing lacking is to count it [to reckon the precise value]."

- [B] What does he do [to tithe the produce before returning it]?

- [C] He gives the vendor the monetary value of one of the items and sets these right [by designating the item as tithe for the rest; these he returns.]
- [D] But doesn't he create a stumbling block for those who follow [by returning fully tithed produce]?
- [E] The seller makes a separate pile of them [and the tithed produce will not be confused with the rest of the produce, which is doubtfully tithed].
- [F] But let him situate the tithes in his own doubtfully-tithed produce? *For has it not been taught as a Tannaite statement: One may establish the tithes for his fellow's produce in his own produce, even if he creates a stumbling block for those that follow after him?*
- [G] Said R. Hanina, "They ordained that rule in the case of one who purchases produce but not in the case of one who returns it."

[III:1 A] [If] he was at the point of buying and saw another load better than that one, he is permitted to return [it without first having tithed it], since he has not [yet] drawn it [into his possession]:

- [B] *This is the sense of the Mishnah: if he was standing and sifting through [the produce to make his selection, in which case taking the produce up isn't drawing it into his possession, so he may return it without designating tithes].*
- [C] Does this apply only to other produce of the same kind?
- [D] No, even to other kinds.

3:3

- [A] **He who finds produce in the road and took it to eat it, and [then] decided to put [it] aside**
- [B] **should not put [it] aside until he has tithed [it].**
- [C] **But if he originally took it so that it should not perish,**
- [D] **he is exempt [from tithing it].**
- [E] **Anything that a person is not permitted to sell as Demai-produce he should not send to his friend as Demai-produce.**
- [F] **R. Yosé permits in the case of certainly untithed produce,**
- [G] **as long as he informs him.**

[I:1 A] *It has been taught as a Tannaite rule: They do not pass by food [but pick it up] [T. Pes. 2:15].*

[B] R. Jacob b. Zebedee in the name of R. Abbahu: “What was said applies to the past, but now it is permitted to leave food found in the road because of the possibility of witchcraft.”

[I:2 A] *There we learned in the Mishnah: He who brings out his straw and stubble into the public domain to turn them into manure, and someone else was injured on them — is liable [to pay compensation for] his injury [M. B.Q. 3:3]. And it has been taught as a Tannaite statement: He who heaps up cattle dung to acquire possession of it in the public domain and someone else came along and was injured by it — lo, this person is liable. And [to others the dung] is prohibited under the laws of robbery [T. B.Q. 2:8].*

[B] Said Kahana, “That is the case only if the person who heaped the dung did so in order to acquire ownership of it, but if he did not heap it up in order to acquire ownership, the ruling does not apply [and robbery is not involved].”

[C] And as to damages, it makes no difference whether or not the person who heaped the dung did so in order to acquire ownership of it — **if someone else came along and was injured by it — lo, this person is liable.** *So how can you hold* that where the person found produce in the road and doesn’t intend to eat it, he does not have to separate tithes from it?

[D] Said R. Abin, “There Scripture says, ‘When a man opens a pit or digs a pit and does not cover it and an ox or an ass falls into it, the one responsible for the pit must make restitution’ (Ex. 21:33-34). So the person responsible for the damage must pay compensation without regard to ownership. But here Scripture says, ‘You shall set aside every year a tenth part of all the yield of your sowing that is brought from the field’ (Dt. 14:22) — from your own produce you separate tithes, but not from produce that belongs to someone else.”

[II:1 A] Anything that a person is not permitted to sell as Demai-produce he should not send to his friend as Demai-produce.

[B] *It has been taught as a Tannaite statement: Anything that a person is not permitted to sell as Demai-produce he should not send to his friend as Demai-produce.* How so? A small volume of produce, which one is not permitted to sell as Demai-produce, he should not send to his fellow as Demai-produce. A large volume of produce, which one is permitted to sell as Demai-produce, he may send to his fellow as Demai-produce. **R. Yosé permits in the case of certainly untithed produce, as long as he informs him —** whether in small or

large measure, and forbids in the case of Demai-produce in small measure.

- [C] R. Abbahu in the name of R. Yohanan: “[He forbids in the case of Demai-produce in small measure] because of precaution against violating the Torah.”
- [D] “They permitted one to send to his fellow Demai-produce in large measure” — *this [view of R. Yosé here] accords with the ruling of the Mishnah: R. Yosé says, “Baskets of figs, and baskets of grapes, and hampers of vegetables — as long as he sells them by the lot [only estimating their bulk] he is exempt [from tithing them as Demai -produce]” [M. Dem. 2:5].*
- [E] Said Rabban Simeon b. Gamaliel, “**R. Yosé the student of Rabbi sent me a large citron from Sepphoris and he said, ‘This came to me from Caesarea,’ and I learned from [this remark] three things: (1) First, that it was certainly untithed, (2) and it was unclean, (3) and that he had in his possession only this one, for had he had in his possession another one, he would have separated tithes from it for this one**” [T. Dem. 3:14].
- [F] **...that it was certainly untithed:** Because produce from Caesarea is held to be certainly untithed;
- [G] **...and it was unclean:** Because there they sprinkle produce with water before selling it and they render it susceptible to uncleanness;
- [H] **...and that he had in his possession only this one, for had he had in his possession another one, he would have separated tithes from it for this one”**
- [I] But let him separate its tithes from [the etrog itself]?
- [J] *He takes account of the position of Bar Qappara.* For Bar Qappara said, “It is not the way of people to send to their fellows damaged goods.”
- [K] *But is it not a statement of the Mishnah: R. Yosé permits in the case of certainly untithed produce, as long as he informs him.*
- [L] *It comes to inform you that even though he differs from the rabbis, he did not make a practical decision according to his own view of matters [and in practice would tithe what he sent to someone else, validating Simeon b. Gamaliel’s inference].*
- [M] *R. Zeira asked before R. Yosé, “But is the etrog not one of the kinds of produce that are permitted in Caesarea [deriving from outside the Land of Israel]?”*

[N] He said to him, “But isn’t it Rabbi who declared Caesarea permitted [and its produce exempt from tithing]? And Rabba Simeon b. Gamaliel lived before Rabbi.”

3:4

[A] **He who brings [his tithed] wheat to a Samaritan miller or to an ‘am ha’ares miller —**

[B] **[the wheat remains] in its presumed status with regard to tithes and with regard to seventh-year produce but not with regard to uncleanness;**

[C] **to a gentile miller —**

[D] **[the wheat is deemed to be] Demai .**

[E] **He who leaves [his tithed] produce in the keeping of a Samaritan or an ‘am ha’ares —**

[F] **[the produce remains] in its presumed status with regard to tithes and with regard to seventh-year produce;**

[G] **in the keeping of a gentile —**

[H] **[the produce is deemed to be] like his [the gentile’s] produce.**

[I] **R. Simeon says, “[It is deemed to be] Demai.”**

[I:1 A] R. Hiyya in the name of R. Yohanan: “If his basket of wheat [belonging to a person who tithes properly] was exchanged with someone else’s at the miller’s [and the bulk of the miller’s customers tithe their produce properly], if an ‘am ha’ares was assumed to be having his grain milled that day, the person who tithes properly must take into consideration the possibility that the returned wheat is Demai, but if not, he need not worry about that possibility.”

[B] But let him take this into consideration nonetheless! For what’s the difference between this case and the case of the grain warehouse? *Has it not been taught on a Tannaite basis*: the grain warehouse that receives its produce one day from a source of fully untithed produce. That day dictates the standing of all days [and produce bought there must always be regarded as certainly untithed.]

[C] [The two cases differ.] As to the grain warehouse, it would be possible for it not to receive supplies, *but here [in the case of the miller] the ‘am ha’ares is not assumed to bring his produce there for milling on that other day.*

- [II:1 A] He who leaves [his tithed] produce in the keeping of a Samaritan or an ‘am ha’ares — [the produce remains] in its presumed status with regard to tithes and with regard to seventh-year produce:**
- [B] R. Teipah Semuqah in the name of R. Abbahu: “Samaritans are reliable to safeguard the tithed produce of others; they will not mix it up with their own produce].”
- [C] *But isn’t this stated by the Mishnah: He who leaves [his tithed] produce in the keeping of a Samaritan — [the produce remains] in its presumed status with regard to tithes and with regard to seventh-year produce?*
- [D] The Mishnah refers to the time before they were suspect and *the statement comes to indicate that* even after they became suspect, [they still are trustworthy to guard the produce of others].
- [II:2 A] What is the rule as to [believing an ‘am ha’ares’s] statement, “I took the tithed produce and I put instead other fully tithed produce”?**
- [B] If you believe him when he says, “I took it” then believe him when he says he replaced it. If you do not believe his statement that he replaced it, don’t believe his statement that he took it.
- [C] As to a Samaritan, you should believe him that he took it but don’t believe him that he replaced it.
- [D] *R. Jonah asked, “With what case do we deal here? If [the Samaritan] says, ‘The replaced produce is mine and I tithed it,’ then even an ‘am ha’ares should not be believed in this case. If it is a case in which a Samaritan says, ‘So-and-so [who tithes properly] tithed it for me,’ even a Samaritan should be believed.”*
- [E] Said R. Abba, “*Interpret it in accord with one who says, ‘Samaritans are like gentiles,’ for there is a dispute.*”
- [F] “**A Samaritan is [treated] like a gentile,**” the words of Rabbi. **Rabban Simeon b. Gamaliel says, “A Samaritan is [treated] like an Israelite in every respect” [T. Ter. 4:12].**
- [III:1 A] He who leaves [his tithed] produce in the keeping of a gentile — [the produce is deemed to be] like his [the gentile’s] produce.**
- [B] *Here you say, He who brings [his tithed] wheat to a to a gentile miller — [the wheat is deemed to be] Demai. But here you say, He who leaves [his tithed] produce in the keeping of a gentile — [the produce is deemed to be untithed] like his [the gentile’s] produce.*

- [C] *Here* he exchanges basket for basked, *while there* he exchanges produce for produce.
- [III:2 A] *R. Jeremiah asked before R. Zeira, “[the produce is deemed to be] like his [the gentile’s] produce* — literally like his produce, so that it can exempt fully untithed produce in another place [so that one can remove from it heave-offering and tithes for other untithed produce]?”
- [B] He said, “For every aspect.”
- [IV:1 A] **R. Simeon says, “[It is deemed to be] Demai.”**
- [B] R. Aha, R. Hiyya bar Abun in the name of R. Yosé b. Hanina: “R. Simeon said this only with reference to a case in which the man gets back the same amount of produce [that he left. But otherwise the produce is treated as certainly untithed.”
- [C] If he left two baskets with the gentile, on returning he treats one as Demai and the other as certainly-untithed produce. That is the case only if both basketfuls still exist. But if the first one has been eaten, the second is disposed of as Demai.
- [D] If a hundred people took back from the gentile a hundred seahs of produce that they had left with him at the same time, each one tithes as Demai the seah that he took back. But if they give them to one man when they back them back from the gentile, they assume that the are treated as certainly untithed.
- [E] If he took back from the gentile a hundred seahs of produce that he had deposited with them all at the same time, the first seah is Demai and the rest as certainly untithed. If he gave them back to a hundred people, as soon as they received them all from the gentile so that each receives a single seah, it is assumed that they are to be treated as certainly untithed.
- [F] *But has it not be taught on Tannaite authority: R. Simeon in the name of R. Tarfon: “The Israelite produce has rendered the produce of this gentile Demai” [T. Dem. 4:25].*
- [G] R. Simeon said this only for a case in which the man gets back the same amount of produce that he left. [Otherwise the produce is certainly untithed.]
- [IV:2 A] **Said R. Joshua b. Qebusa, “All my days have I read this verse, ‘The clean person shall sprinkle on the unclean person’ (Num. 19:19), — one clean person sprinkles the purification-water on one unclean person — and I only discovered its meaning with regard to**

the storehouse of Yavneh. And sages say, ‘Even if all the produce in the storehouse belongs to gentiles and a single Israelite puts his produce into it, all the produce is deemed to be Demai.’ And from the storehouse of Yavneh I learned that one clean person sprinkles even on a hundred unclean persons” [T. Dem. 1:14].

- [B] *But we have learned in the Mishnah: He who leaves [his tithed] produce in the keeping of a gentile — [the produce is deemed to be] like his [the gentile’s] produce.*
- [C] Said R. Eleazar, “Sages [in the Mishnah] follow the reasoning of R., Meir [as follows: “**A storehouse into which Israelites and gentiles cast [their produce]-if the majority [of those who cast] are gentiles — all of the produce is held to be] certainly untithed; and if the majority are Israelites — all of the produce is held to be] Demai half and half — all of the produce is held to be] certainly untithed,**” the words of R. Meir [T. Dem. 1:12].
- [D] Said R. Yohanan, “The sages follow their own reasoning.”
- [E] *They asked him, “What is the reason for the sages’ leniency?”*
- [F] *He said to them, “When you are older I will tell you.”*
- [G] *What should he have said to them?*
- [H] They follow the reasoning of him who said, “The Israelites returning to Zion voluntarily took upon themselves the obligation to tithe.”
- [I] *Samuel bar Abba asked, “There is no problem as to his not answering them with regard to a leniency in the matter of purity law to guard against violation of purity laws. There is no problem as to his not answering them with regard to a leniency in the matter of laws of Holy Things, to guard against the violation of the laws of Holy Things. But how can one claim that there is no problem as to his not answering them with regard to a leniency in the matter of tithing in order to guard against violations of tithing laws [if these are kept voluntarily and not as a matter of the law of the Torah]?”*
- [J] “And if he had answered them what ought he to have told them on tithing laws? That the sages accept the reasoning of him who said, ‘The Israelites returning to Zion voluntarily took upon themselves the obligation to tithe.’”
- [V:1 A] **R. Simeon says, “[It is deemed to be] Demai.”**

- [B] R. Jeremiah, R. Hiyya in the name of R. Yohanan: “R. Simeon concedes that the person who gets his produce back from the gentile separates tithes only on the authority of Rabbinic law.”
- [C] So R. Simeon says that he separates tithes only on the authority of Rabbinic law, and rabbis say that he separates tithes only on the authority of Rabbinic law, *so wherein do they differ?*
- [D] R. Simeon says, “He separates the priestly gifts and sells them to the priestly tribe,” and rabbis say, “He separates the priestly gifts and does not sell them to the priestly tribe.”
- [E] But the heave-offering separated from the produce returned by the gentile is not even held comparable to heave-offering separated from produce grown outside the land. For as to heave-offering separated from produce grown outside the land, does the owner of the produce who separated the heave-offering not receive monetary compensation from the priest?
- [F] Perhaps at issue is the status of gentile’s produce in general, *for it has been taught as a Tannaite statement*: R. Judah and R. Simeon say, “Gentiles do not have the power to acquire real estate in the Land of Israel so as to exempt the crops from tithing.” Concerning this R. Jeremiah and R. Hiyya in the name of R. Yohanan: “R. Simeon concedes that the Israelite who in the land of Israel buys produce from a gentile separates his tithes on the authority of Rabbinic law.”

3:5

- [A] **He who gives [his tithed produce] to the mistress of an inn [so that she may prepare it for him to eat]**
- [B] **tithes that which he gives to her and that which he receives [back] from her,**
- [C] **since she is suspected of exchanging [her own doubtfully tithed produce for his tithed produce].**
- [D] **Said R. Yosé, “We are not responsible for deceivers.**
- [E] **“He tithes only that which he receives from her.”**
- [I:1 A] Both R. Yosé and Rabban Simeon b. Gamaliel said the same thing. Just as R. Yosé said, **“We are not responsible for deceivers,”** so Rabban Simeon b. Gamaliel said [at M. M.S. 5:1], **“We are not responsible for deceivers.”**

- [C] *It stands to reason that R. Yosé will concur with Rabban Simeon b. Gamaliel, but Rabban Simeon b. Gamaliel will not concur with R. Yosé.*
- [D] *It stands to reason that R. Yosé will concur with Rabban Simeon b. Gamaliel: “We are not responsible for deceivers.”*
- [E] *...but Rabban Simeon b. Gamaliel will not concur with R. Yosé: for it is not the way of the associate of the sages to give out untithed produce from his domain.*

3:6

- [A] **He who gives [his tithed produce] to his mother-in-law**
- [B] **tithes that which he gives to her and that which he receives from her,**
- [C] **since she is suspected of exchanging that which is spoiled [for unspoiled produce].**
- [D] **Said R. Judah, “She desires the well-being of her daughter and feels shame before her son-in-law [that is, she is ashamed to feed her son-in-law spoiled food].**
- [E] **R. Judah concedes in the case of one who gives seventh-year produce to his mother-in-law, that she is not suspected of feeding her daughter seventh-year produce.**
- [I:1 A] *Said R. Yohanan, “Also the opening clause of the Mishnah conforms to the position of R. Judah, for R. Judah said that the one who gives produce for preparation to his mother-in-law is comparable to the one who gives produce for preparation to the mistress of an inn. But the rabbis say that one who gives produce for preparation to his mother-in-law is like the one who gives produce for preparation to his neighbor, in line with what has been taught on Tannaite authority:*
- [B] **A man gives to his [female] neighbor a dish [of food] to cook for him, and dough to bake for him, and he does not scruple about the yeast and the spices in it with regard to tithes and with regard to seventh-year produce. Under what circumstances? When he [himself] has put in the yeast and the spices. [If] he has not put in the yeast and the spices, behold, this one scruples about the yeast and the spices with regard to tithes and with regard to seventh-year produce [T. Dem. 4:31].**
- [I:2 A] **What is the status of the mother-in-law, is it the mother-in-law from the time of betrothal on or only from the time of the consummation of the marriage?**

[B] *Let us infer the answer from the following: **R. Judah concedes in the case of one who gives seventh-year produce to his mother-in-law, that she is not suspected of feeding her daughter seventh-year produce.** Is there any difference between the time of betrothal on or only from the time of the consummation of the marriage? Here too is there any difference between the time of betrothal on or only from the time of the consummation of the marriage?*

YERUSHALMI DEMAI

CHAPTER FOUR

4:1

- [A] He who purchases produce from one who is not [deemed] trustworthy in the matter of tithing, and forgot to tithe it,
- [B] inquires of him [the vendor] on the Sabbath,
- [C] and may eat at his [the vendor's] word.
- [D] [But] at nightfall at the close of the Sabbath,
- [E] he should not eat until he has tithed [the produce].
- [F] [If] he did not find him [the vendor, on the Sabbath],
- [G] [and if] someone else who is not [deemed] trustworthy in the matter of tithing said to him, "It is tithed,"
- [H] he eats at his word.
- [I] [But] at nightfall at the close of the Sabbath,
- [J] he should not eat until he has tithed [the produce].
- [K] [Regarding] heave-offering of the tithe from Demai-produce that returned to its place [i.e., that fell back into the now tithed Demai-produce from which it was originally separated, thus rendering the entire mixture prohibited to a non-priest] —
- [L] R. Simeon of Shezuri says, "Even on a weekday he inquires of him [the vendor]
- [M] "and eats at his word."
- [I:1 A] The Associates in the name of R. Yohanan: "On account of the honor owing to the Sabbath they permitted him to eat the produce he purchased without requiring him to separate tithes."
- [B] If the operative consideration is the honor owing to the Sabbath, why does the Mishnah say, **inquires of him [the vendor] on the Sabbath?**

[C] [So he may eat without tithing the produce] through a pretext.

[D] R. Bibi in the name of R. Hanina: “The reverence for the Sabbath affects him, and he will tell the truth.”

[E] But if the reverence for the Sabbath affects him, *how come we learn in the Mishnah*, **[But] at nightfall at the close of the Sabbath, he should not eat until he has tithed [the produce]?**

[F] It is on account of a single vendor who is not affected by reverence for the Sabbath.

[I:2 A] *A Tannaite statement:* If the buyer asks the seller about the status of produce on a weekday, he should not eat it on the Sabbath [depending on the vendor’s statement].

[B] *In the view of him who says that the reason is*, “The reverence for the Sabbath affects him, and he will tell the truth,” there is no problem. *But in the view of him who said*, “On account of the honor owing to the Sabbath they permitted him to eat the produce he purchased without requiring him to separate tithes,” even if he asks on a weekday, why can’t he eat on the Sabbath [depending on what the vendor said]?

[C] The ruling deals only with the case of an error [when the household has inadvertently forgotten to tithe the produce before the Sabbath], but if it is a case of intentional violation of the law, it is forbidden to rely on the statement of the vendor, *as we have learned in the Mishnah*: **He who purchases produce from one who is not [deemed] trustworthy in the matter of tithing, and forgot to tithe it, inquires of him [the vendor] on the Sabbath, and may eat at his [the vendor’s] word. [But] at nightfall at the close of the Sabbath, he should not eat until he has tithed [the produce].**

[D] [The Mishnah’s rule pertains] when the purchaser didn’t stipulate [on the eve of the Sabbath when it was too late to designate tithes that he would do it after the Sabbath], but if he had made such a stipulation, he may eat the produce on the Sabbath relying on his own stipulation [and not on the statement of the vendor.]

[II:1 A] **[If] he did not find him [the vendor, on the Sabbath], [and if] someone else who is not [deemed] trustworthy in the matter of tithing said to him, “It is tithed,” he eats at his word. [But] at nightfall at the close of the Sabbath, he should not eat until he has tithed [the produce].**

[B] Relying on inquiry, may he eat the produce on the Sabbath?

- [C] *What is the case at hand?*
- [D] Two people bought produce from the fender at the same time, and one of them asked [on the Sabbath] about its status — the second one may not eat his produce until he tithes it or until he himself asks the vendor about its status. For I say, “Maybe the fender had tithed the produce of the man who asked him but had not tithed the produce of the other.”
- [E] If one person bought from him two baskets of fruit at the same time. He interrogated him on the Sabbath about one of them. He may not eat the produce of the second basket until he tithes it or until he interrogates him specifically about its status. For I reason, “Maybe the fender tithed this one but not that one.”
- [F] At nightfall at the end of the Sabbath he separates tithes from one basket for the other.
- [G] *In the view of him who said, “On account of the honor owing to the Sabbath they permitted him to eat the produce he purchased without requiring him to separate tithes],” there is no problem. In the view of him who says that the reason is, “The reverence for the Sabbath affects him, and he will tell the truth,” why may the buyer separate tithes from one basket for the other after the Sabbath?*
- [H] *Up to now we have assumed that the buyer had no other already-tithed produce of the same kind as he had bought from the vendor [and that explains the lenient ruling].*
- [I] But even if he did have already-tithed produce of the same kind as he had bought from the vendor, the lenient ruling is still in force, for he craves the produce [and it enhances his pleasure on the Sabbath.]
- [II:2 A]** [As to relying on the vendor who on the Sabbath says the produce was tithed] on a festival that falls next to the Sabbath, whether on the day prior to the Sabbath or on the day following it, or also on the two days of the festival observed in the Exile — in the opinion of him who says [that these juxtaposed holy days] form a single sanctified spell of time, he may eat the produce without tithing it also on the second day. But in the opinion of him who holds that these juxtaposed holy days] form two distinct sanctified spells of time, he may not eat the produce on the second day until he tithes it.
- [B] But even in the opinion of one who holds that these two juxtaposed holy days are two distinct spells of sanctified time, he may eat the produce on the second day without having to tithe it, because there is no chance to tithe the produce between the two days.

- [C] *For so we have learned in a Tannaite statement: **He inquires on the festival and he eats on the Sabbath. [He inquires on the Sabbath and may eat the produce on the festival [T. Dem. 5:1].***
- [D] R. Jonah in the name of R. Zeira: “*Interpret that statement* to pertain to produce that the householder decided before the Sabbath to eat also on the festival and forgot to tithe it, *but not* to pertain to produce that before the Sabbath the man had not decided to eat also on the festival.
- [E] *Said R. Mana, “The statements of the rabbis support the position of my father, R. Jonah. For we have learned in the Mishnah there: **He who imposes a vow on his fellow that he eat with him and he [the guest] does not trust him in the matter of tithing — he [the guest] may eat with him on the first Sabbath, even though he does not trust him in the matter of tithing, but only if he [the host] will say to him, “This [food] is tithed” [M. Dem. 4:2].***
- [F] And R. Yannai b. R. Ishmael in the name of R. Yohanan said, “On the Sabbath of the celebration of the first marriage they permitted [the groom to eat in the home of his in-laws who were not reliable as to tithing without having to separate tithes before the Sabbath] on account of enmity. Isn’t the case of the Sabbath of the celebration of a first marriage comparable to the case of produce that one determined before the Sabbath to eat on the festival, and they only said that it is permitted to eat without separating tithes on account of enmity?”
- [G] If the guest asked the host about the status of the produce on the first Sabbath, on the second Sabbath he should not eat with him until he first tithes the produce himself or asks the host about the second week’s food.
- [H] But didn’t he inquire about the first week? [Why ask a second time?]
- [I] *Said R. Jonah, “There as to the first week, it is a case of one who asked on his own behalf. But here as to the second week, we deal with some one else who asked on his behalf.”*
- [J] *R. Jonah asked, “What if he were to ask in a roundabout way?”*
- [K] *R. Jonah is consistent with views expressed elsewhere, for R. Jonah once bought wheat from the manager of an estate. He came and said to him, “Not that I suspect you of not tithing, but since when I bought wheat from you, I saw a big gang of people around you, I thought that maybe in the commotion you might have forgotten to tithe it.”*
- [L] *He said, “It was tithed.”*

- [M] [Jonah] lifted his leveling rod on the wheat pile to measure it. He said to him, “Do you suspect me?”
- [III:1 A] [Regarding] heave-offering of the tithe from Demai-produce that returned to its place [i.e., that fell back into the now tithed Demai-produce from which it was originally separated, thus rendering the entire mixture prohibited to a non-priest] — R. Simeon of Shezuri says, “Even on a weekday he inquires of him [the vendor] and eats at his word:”
- [B] *A Tannaite statement:* “**Heave-offering of the tithe [separated] from Demai produce that fell back into the batch [from which it was separated] imparts the status of heave-offering [to that batch].**
- [C] “But if it fell into a different batch, it does not impose the status of heave-offering [upon the produce],” the words of R. Eliezer.
- [D] **But sages say, “Whether it fell back into its same batch or into a different batch, it imposes the status of heave-offering [upon the produce into which it falls].”**
- [E] **R. Simeon says, “Whether it fell back into its same batch or into a different batch, it does not impose the status of heave-offering [upon the produce into which it falls]” [T. Ter. 5:12].**
- [F] *R. Abun bar Hiyya asked before R. Zeira, “There is no problem for him who says, ‘Heave-offering of tithe that falls back into tithed produce imposes the state of heave-offering to the mixture under all circumstances [whether it falls back into its own batch or into a different batch].’ And there is no problem for him who says, ‘Heave-offering of tithe that falls back into tithed produce does not impose the state of heave-offering to the mixture under all circumstances [whether it falls back into its own batch or into a different batch].’ But according to him who says, ‘If it falls back into its own batch it imparts the status of heave-offering to the entire mixture and if it falls back into a different batch it does not impart the status of heave-offering to the entire batch,’ what is the difference between its falling back into its own batch and its falling back into a different batch?”*
- [G] *R. Haggai came in. They said, “[He will say,] ‘In strict logic I shall say, “By Moses, I will give the reason.””*
- [H] He said, “*By Moses, I will give the reason. As to him who said, ‘Heave-offering of tithe that falls back into tithed produce imposes the state of heave-offering to the mixture under all circumstances [whether it falls back into its own batch or into a different batch],’ that is*

because the heave-offering that falls back renders the other parts of the mixture permitted to a non-priest. *As to him who said, 'Heave-offering of tithe that falls back into tithed produce does not impose the state of heave-offering to the mixture under all circumstances [whether it falls back into its own batch or into a different batch],'* that is because the heave-offering that falls back does not render the other parts of the mixture permitted to a non-priest.”

- [I] *R. La taught in accord with this statement of R. Haggai.*
- [J] *Said R. Zeira, "A case came before R. Hanina and he instructed in accord with R. Simeon Shezuri."*
- [K] R. Aha in the name of R. Jonathan: “The decided law is not in accord with R. Simeon Shezuri.”
- [L] **Moreover, said R. Simeon Shezuri, “He who separates heave-offering of the tithe, and the produce [from which they were separated] is [subsequently] burned — he goes and inquires of him [the vendor] and comes [back] and eats at [his word] that which he had separated, [for just as the fear of the Sabbath is upon the ‘am ha’ares so the fear of dimu’a [i.e., contamination of unconsecrated produce by heave-offering] is upon [him]” [T. Dem. 5:2].**
- [M] Not in regard to this ruling did *R. Zeir say, “A case came before R. Hanina and he instructed in accord with R. Simeon Shezuri.”*
- [III:2 A] Said R. Abin, “The kind of question that one asks in the case of heave-offering of the tithe from Demai that is burned up is not comparable to the one in the prior case [of forgetting to tithe before the Sabbath. There he asks, ‘*Not that I suspect you of not tithing, but since when I bought wheat from you, I saw a big gang of people around you, I thought that maybe in the commotion you might have forgotten to tithe it.*’ But here he asks, ‘*Because I suspected you of not tithing I set it right, and it was burned up, so I’m asking you, is it tithed?*’”
- [B] R. Samuel b. R. Yosé b. R. Abun said, *Bar Qappara taught as a Tannaite statement: “So the fear of dimu’a [i.e., contamination of unconsecrated produce by heave-offering] is upon [him] and he tells the truth.”*

4:2

- [A] **He who imposes a vow on his fellow that he eat with him**
- [B] **and he [the guest] does not trust him in the matter of tithing—**
- [C] **he [the guest] may eat with him on the first Sabbath,**

- [D] even though he does not trust him in the matter of tithing,
[E] but only if he [the host] will say to him, “This [food] is tithed.”
[F] But on the second Sabbath,
[G] even if he [the host] vowed to withhold any benefit from him [the guest, unless he ate with him],
[H] he [the guest] should not eat until he has tithed [the produce].
- [I:1 A] R. Yannai b. R. Ishmael in the name of R. Yohanan said, “On the Sabbath of the celebration of the first marriage they permitted [the groom to eat in the home of his in-laws who were not reliable as to tithing without having to separate tithes before the Sabbath] on account of enmity.”
- [B] Said R. Abin, “Here they permitted untithed produce to keep the peace.”
- [C] R. Hanina said *R. Jeremiah asked*, “If it was to keep the peace, why does it say, **but only if he [the host] will say to him, ‘This [food] is tithed’?**”
- [II:1 A] **But on the second Sabbath, even if he [the host] vowed to withhold any benefit from him [the guest, unless he ate with him], he [the guest] should not eat until he has tithed [the produce]:**
- [B] If the guest asked the house about the status of food on the first Sabbath and then didn’t come to eat with him, may the second Sabbath be treated as if it were the first?
- [C] Said R. Hisda, “Here we have learned that an Association is forbidden to eat a meal with an ‘am ha’ares that is not a special occasion.”

4:3

- [A] **R. Eliezer says, “A man need not designate tithe for the poor from Demai-produce,”**
- [B] and sages say, “He designates [tithe for the poor] but he need not separate [it].”
- [C] **He who designated heave-offering of the tithe from Demai-produce, or tithe for the poor from certainly untithed produce**
- [D] **should not take them [i.e., actually separate and distribute them] on the Sabbath.**
- [E] **But if a priest or a poor person were accustomed to eat with him,**
- [F] **they may come and eat [the tithes],**

- [G] **but only if he informs them [that they are eating tithe].**
- [I:1 A] R. Ba bar Huna in the name of Rab: “He who eats his produce when it was untithed as to poor man’s tithe is subject to the death penalty.”
- [B] What is the theory of R. Eliezer?
- [C] Since the farmer knows that eating produce when poor man’s tithe has not been separated imposes the death penalty, he will separate poorman’s tithe [before selling the produce. The buyer doesn’t have to designate it].”
- [D] What is the theory of rabbis?
- [E] One way or the other the buyer must designate tithe, but need not separate it [it is not consecrated and the claimant in any event has to prove that the poor man’s tithe has not been separated].
- [I:2 A] *It has been taught as a Tannaite rule: “**[If one] saw him separating second tithe — that person is trusted [to have separated] first [tithe],” the words of R. Eliezer.***
- [B] And sages say, “If he trusted as regards first [tithe], he is trusted as regards second [tithe], [but if he] is trusted as regards second [tithe], he is not trusted [as regards] first [tithe]” [T. M.S. 3:16]
- [C] What is the theory of R. Eliezer? Is it because the man is not suspect of doing this first [separating second tithe before first tithe? Or is it because since we saw him separate second tithe, this is evidence that he has already separated first tithe?
- [D] *And have we not learned in the Mishnah: **R. Eliezer says, “A man need not designate tithe for the poor from Demai-produce,”*** which is to say, lo, second tithe must be designated and separated from second tithe from Demai-produce? If in the case of second tithe, which the owner himself uses and eats in Jerusalem, the buyer must separate it and ca not rely on the seller to do so how much the more in the case of first tithe, which the owner does not enjoy but gives to a Levite, must the purchaser separate and not depend on the seller to do so!”
- [I:3 A] **An Israelite who is suspect [as regards his observance of the tithing laws] who brought out second tithe from within his house and said, “It has been redeemed” — he is believed. [But if he said,] “Redeem it for me,” [or] “Redeem it for yourselves, he is not believed [T. Ter. 4:14].**

[B] *The Tannaite statement accords with R. Eliezer, for R. Eliezer says, “He who is trustworthy to separate second tithe is also trustworthy to separate first tithe” [T. M.S. 3:16].*

[C] Said R. Yosé, *“The Tannaite statement accords with both parties. They treat second tithe as comparable to the additions to first-fruits [that the farmer adds voluntarily beyond the required volume of first fruits]. Just as the additions to first-fruits are eaten in cleanness and are exempt from the separation of tithes of Demai, so this second tithe is eaten in accord with the rule of second tithe and is exempt from first tithe.”*

[D] Came R. Hananiah and said in the name of R. Issi, *“It is in accord only with the view of R. Eliezer.”*

[II:1 A] **He who designated heave-offering of the tithe from Demai-produce, or tithe for the poor from certainly untithed produce should not take them [i.e., actually separate and distribute them] on the Sabbath. But if a priest or a poor person were accustomed to eat with him, they may come and eat [the tithes], but only if he informs them [that they are eating tithe].**

[B] *And this is the sense of the Mishnah: He who designated heave-offering of the tithe from Demai-produce] ... should not take them [i.e., actually separate and distribute them] on the Sabbath.*

[C] *We have learned in the Mishnah: The House of Shammai say, “They may not bring to the priest dough offering and [priestly] gifts [Dt. 18:3: the shoulder, two cheeks and maw] on a festival day, whether they were raised up on the preceding day or on that same day.” But the House of Hillel permit [M. Bes. 1:6].*

[D] *This supplies a model for the interpretation of that, and that supplies a model for the interpretation of that. This [He who designated heave-offering of the tithe from Demai-produce] ... should not take them [i.e., actually separate and distribute them] on the Sabbath] supplies a model for the interpretation of that [The House of Shammai say, “They may not bring to the priest dough offering and [priestly] gifts [Dt. 18:3: the shoulder, two cheeks and maw] on a festival day, whether they were raised up on the preceding day or on that same day.” But the House of Hillel permit [M. Bes. 1:6] — it is forbidden to distribute priestly gifts and tithes on that day. ... and that [But if a priest or a poor person were accustomed to eat with him, they may come and eat] supplies a model for the interpretation of that — the gifts due to the priest or poor man are distributed on the festival only when the recipients usually eat with*

him, but when they are not, it would not occur to someone that he is eating his own bread — the gifts due to the priest or poor man — at his neighbor's house.

[III:1 A] but only if he informs them [that they are eating tithes]:

[B] *It has been taught as a Tannaite statement: R. Meir did say, “A person should not importune another to eat with him, knowing that he is not going to eat. He should not give him a great many presents, knowing that he will not accept them” [T. B.B. 6:14].*

[C] What is the sense of “with offers”?

[D] He knows that the other has provisions elsewhere for food and drink and nonetheless he implores him persistently.

[E] *And in Jerusalem one would move the left shoulder clasp of his garment to the right [to indicate that he is already taken.]*

[F] *It has been taught as a Tannaite statement: They do not bring to the household of a mourner food or drink in colored glass utensil [hiding the contents, because he establishes a false claim for gratitude.*

[III:2 A] *It has been taught as a Tannaite statement: A city in which Israelites and gentiles live — the collectors of funds for the support of the poor collect equally from Israelites and from gentiles, for the sake of peace. They provide support for the poor of the gentiles along with the poor of Israel, for the sake of peace. They make a lament for, and bury, gentile dead, for the sake of peace. They express condolences to gentile mourners, for the sake of peace [T. Git. 3:13].*

[III:3 A] The Girdeans asked R. Immi, “What about doing business with gentiles on gentile feast days?”

[B] *He considered permitting them for the sake of peace.*

[C] *Said to them R. Abba, “But did not R. Hiyya teach as a Tannaite rule: **On the feast day of a gentile is forbidden to do business with them [T. A.Z. 1:2]?***

[D] Said R. Immi, “Were it not for R. Abba we would have permitted them to do business with their idolatry, and blessed be the Omnipresent, who has kept us far from them.”

4:4

- [A] He who says to one who is not [deemed] trustworthy in the matter of tithing, “Purchase for me from someone who is trustworthy, or from someone who separates tithes,”
- [B] he [the agent] is not believed.
- [C] [If the sender says, “Purchase for me] from so-and-so,”
- [D] behold, this one [the agent] is believed.
- [E] [If] he [the agent] went to purchase from him, and [subsequently returned and] said to him [the sender], “I did not find him, but I purchased for you from someone else who is trustworthy,”
- [F] he is not believed.
- [I:1 A] *It was taught as a Tannaite rule: Said R. Yosé, “Even if the sender says to the agent, ‘Buy produce for me from so-and-so,’ he is not believed to say that he has done so, unless the sender says, ‘Buy and I will pay later on’” [T. Dem. 5:3].*
- [B] *What is the operative consideration of R. Yosé?*
- [C] I say he found someone nearer at hand and bought the produce from him. *That is in line with what we have learned in the Mishnah: “Receive my writ of divorce for me in such-and-such a place” she continues to have the right to eat food in the status of heave-offering until [the messenger with a writ of divorce] reaches that place. R. Eliezer prohibits [her from eating food in the status of heave-offering] forthwith [M. Git. 6:4].*
- [D] *What is the operative consideration of R. Eliezer?*
- [E] I say that he found him [the bearer of the writ of divorce] on the other side of the door.
- [F] The position of R. Eliezer is consistent with the position of R. Yosé, and the position of R. Yosé is consistent with the position of R. Eliezer. [They concur that we consider whether the agent has altered his mission for convenience’ sake.]
- [G] [Not so.] R. Yosé takes a more strict position than R. Eliezer, for wouldn’t R. Eliezer agree that if she said to the agent, “Only accept my writ of divorce on my behalf in such-and-such a location,” she may continue to eat food in the status of heave-offering until the writ of divorce reaches that place? But here in the Mishnah, even if the sender says to the agent, “Buy produce for me from so-and-so, the agent is not

believed to say that he has done so unless the sender says to him, “Buy the produce and I will pay for it later on.”

[H] *What is the operative consideration of R. Yosé?*

[I] I posit that the agent found a seller nearer at hand and bought from him instead.

4:5

[A] **He who enters a city, and does not know anyone there,**

[B] **[and] he said, “Who here is trustworthy? Who here separates tithes?”**,

[C] **[and] one said to him, “I do” —**

[D] **he is not believed.**

[E] **(If he said,) “So-and-so is trustworthy,”**

[F] **behold, this one is believed and one said to him, ‘I am not trustworthy, so-and-so (is trustworthy).’”]**

[G] **[If] he went to purchase from him, and said to him, “Who here sells old [produce, from the previous year, which may be eaten before the offering of the sheaf from the new year’s crop]?”**

[H] **[and] he [the one announced to be trustworthy] said to him, “The one who sent you to me,”**

[I] **even though they are like those who render service to each other [by mutual recommendations;**

[J] **behold, they are believed.**

[K] **[Regarding] ass-drivers who entered a city,**

[L] **[and] one [of them] said, “My [produce] is new [i.e., this year’s produce, which is prohibited before the offering of the sheaf], and that of my companion is old [i.e., last year’s produce, which may be eaten before the offering of the sheaf];**

[M] **“my [produce] is not tithed, and that of my companion is tithed” —**

[N] **they are not believed.**

[O] **R. Judah says, “They are believed.”**

[I:1 A] So is a single witness believed?

[B] Said R. Yohanan, “It is a lenient ruling that they made for a strange in order to support life?”

- [I:2 A] *It has been taught as a Tannaite rule: He who enters a city, and heave-offering was in his hand, and he does not know anyone there [M. Dem. 4:6A], and similarly, he who stands on the threshing-floor and heave-offering was in his hand, and he does not know anyone there, “behold, this one seeks counsel from [both] Associates and ‘ammé ha’ares,” the words of R. Simeon b. Gamaliel. Rabbi [Judah the Patriarch] says, “One seeks counsel regarding heave-offering only from Associates” [T. Dem. 5:4].*
- [B] *The opinion of R. Judah the Patriarch accords with the reasoning of R. Meir, and Rabban Simeon b. Gamaliel is consistent with rules he expressed elsewhere, for we have learned in the Mishnah: Any blemishes that are likely to happen at the hands of man — Israelite shepherds are believed [to testify that the blemishes came about unintentionally]. But priestly shepherds are not believed. Rabban Simeon b. Gamaliel says, “He [a priest] is believed concerning another’s [firstling] but not concerning his own.” R. Meir says, “He who is suspect in a given matter neither judges nor bears witness in that matter” [M. Bekh 5:4].*
- [C] *Said R. Jonah, “Where they differ concerns distributing heave-offering, but as to buying produce, even Rabban Simeon b. Gamaliel concedes that only Associates are consulted.”*
- [D] What is the difference between distributing heave-offering and buying produce?
- [E] When it comes to distributing heave-offering words circulates about it, and who gets it is known, but that is not so when it comes to buying produce.
- [II:1 A] [Regarding] ass-drivers who entered a city, [and] one [of them] said, “My [produce] is new [i.e., this year’s produce, which is prohibited before the offering of the sheaf], and that of my companion is old [i.e., last year’s produce, which may be eaten before the offering of the sheaf]; “my [produce] is not tithed, and that of my companion is tithed” — they are not believed. R. Judah says, “They are believed:”
- [B] One who stood in a company of people, and said, “Who here is trustworthy? Who here tithes?” and one said to him, “I do,” he is not believed [M. Dem. 4:6A-C] [If he says,] “That one tithes,” behold, this one is believed. If he said that that one tithes — in his presence [i.e., the presence of the one who supposedly tithes], he is not believed; not in his presence, he is believed; in [the presence of] a court, he is believed [T. Dem. 5:5].

- [C] Said R. Jonah, “That applies in the case of a local resident with groups of Associates or a stranger with groups of ‘ammé ha’ares.”
- [D] *And there is this problem with the ruling of R. Jonah:* he rules that the groups are made up of Associates, and yet you say if they tell him that the man alleged that he was trustworthy, in his presence he is not trustworthy?”
- [E] *What is the operative consideration of R. Judah?* It is a lenient ruling on account of the livelihood of the townsfolk [who encourage traveling salesmen to bring food to the town].
- [F] *What is the operative consideration of Rabbis?* It is a strict ruling because the rabbis take for granted that traveling salesmen who bring food to the town] are abundant and the townsfolk can get provisions from another town.

YERUSHALMI DEMAI

CHAPTER FIVE

5:1

- [A] He who purchases [a loaf of bread] from the [‘am ha’ares] baker,
[B] how does he tithe [it]?
[C] He takes an amount sufficient for heave-offering of the tithe and dough-offering,
[D] and says, “One from a hundred [i.e., one-hundredth part] of that which is here [i.e., that which has been set apart],
[E] “behold, at this side [of the loaf] is [made first] tithe,
[F] “and the remainder of the [first] tithe [i.e., nine-tenths, or nine-hundredths of the whole loaf] is adjacent to it.
[G] “This [hundredth part] that I have made [first] tithe is [now] made heave-offering of the tithe for it [i.e., for the designated remainder of the first tithe],
[H] “and the rest [of what has been set apart] is dough-offering.
[I] “And second tithe is to the north of it, or to the south of it [i.e., of the designated remainder of the first tithe], and it is redeemed with coins.”
- [I:1 A] Is tithe of Demai separated for dough-offering too? Then is dough-offering liable to tithes of Demai? *Have we not learned in the Mishnah: (1) The dough-offering of an ‘am ha’ares, and (2) fully tithed, unconsecrated produce that has become contaminated with terumah, and (3) [produce] that has been purchased with coins of second tithe and (4) the residues of the meal-offerings are exempt from [tithing as] Demai-produce [M. Dem. 1:3]?*
- [B] R. Aha, R. Abun bar Hiyya in the name of R. Yosé b. Hanina: “It represents the view of the House of Shammai. *And so it is taught in a Tannaite statement: Dough-offering: R. Simeon b. Judah says in the name of R. Simeon, “The House of Shammai declare liable [to*

tithing as *Demai* produce], and the House of Hillel declare exempt” [T. Dem. 1:28].

- [C] But did the House of Shammai take that view even in regard to edible items bought for use as seed? Rather, **One who purchases (1) [produce from an ‘am ha’ares] for seed or for cattle [that is, grain that will be used as fodder], (2) flour for [dressing] hides, (3) oil for a lamp, (4) oil for greasing [i.e., cleaning] utensils — [the produce] is exempt from [tithing as] *Demai*-produce [M. Dem. 1:3].** Isn’t this exempt from tithing as *Demai* even by the House of Shammai?
- [D] Rather, it is the case of kneading the dough with fruit juice [which leaves the dough insusceptible to uncleanness and therefore available to the priest to eat].
- [E] But didn’t R. Yosé b. R. Hanina say that this is the view of R. Eleazar b. Judah of Bartota [a minority position]? Lo, in the view of the rabbis, that is not the law.
- [F] Rather, the rule [of M. Dem. 5:1] concurs with R. Yohanan, for R. Yohanan held that we deal with an ‘am ha’ares who prepares his dough in cleanness [and the dough is exempt from tithing as *Demai*, since the one who prepared the dough in cleanness will surely separate tithes]. But here it is an ‘am ha’ares baker who prepares the dough in a state of uncleanness [and cannot be relied upon to tithe.]
- [G] Or it accords with R. Eleazar, for R. Eleazar maintained that both cases [M. Dem. 1:3, 5:1] deal with one who prepares dough in cleanness. But [M. 1:3] deals with one who prepares dough in purity but at M. 1:3 it is a case in which someone who observes cleanness with unconsecrated food pays an occasional visit.
- [H] *Has it not been taught as a Tannaite rule:* One who is trustworthy in purities is trustworthy in tithing.
- [I] *And R. Yannai b. R. Ishmael repeated the teaching and said, “That which you say applies* if someone [who observes the purity laws] visits from time to time [which indicates that the produce in the household is fully tithed], but for the public world he is not held to be reliable [for tithing] until in the presence of three witnesses he accepts the obligation to tithe. And here [at M. Dem. 5:1] we deal with a public case.”
- [J] R. Abin, R. Shammai in the name of R. Aha: *“We may infer [the meaning of M. Dem. 5:1] from the context established by what follows*

at M. Dem. 5:2.” He who wishes to separate [from fully untithed produce] heave-offering and heave-offering of the tithe together [i.e., in a single act of separation] takes one [part] from thirty-three and a third [i.e., three--hundredths of the whole], and says, “One from one hundred of that which is here [i.e., one-hundredth part from among the three-hundredths parts set apart], behold, [this] at this side [of the produce] is unconsecrated produce [untithed produce from which heave-offering alone has been removed, as distinct from the portion that is being designated as consecrated heave-offering], and the rest [of the three-hundredths parts, i.e., two hundredths, or one fiftieth (cf. M. Ter. 4:3)] is heave-offering for the whole [of the produce], and [the] one-hundredth [part of] unconsecrated produce that is here, behold, at this side is [made first] tithe, and the remainder of the [first] tithe is adjacent to it That which I made [first] tithe [i.e., the hundredth part] is [now] made heave-offering of the tithe for it [i.e., for the designated remainder of the first tithe], and the rest is dough-offering. And second tithe is to the north of it, or to the south of it [i.e., of the designated remainder of the first tithe], and is redeemed with coins.”

[K] Just as you say there that the calculation excludes what is going to be sanctified as heave-offering, so here you must figure that the calculation excludes what is going to be sanctified as dough offering.

[I:2 A] *We have learned in the Mishnah:* Dough-offering is designated between the declaration of first tithe and of second tithe.

[B] R. Jonah in the name of R. Zeira: “That implies that dough offering is not subject to the rule, ‘You shall not put off skimming the first yield of your vats’ (Ex. 22:28).”

[C] R. Yosé in the name of R. Zeira: “The Mishnah is not stated with reference to the proper order [of separating the agricultural offerings].”

[D] But aren’t we dealing with the offerings separated from Demai-produce? Didn’t R. Abba b. R. Hiyya in the name of R. Yohanan [say], “*The Mishnah deals with Demai-produce. Lo, it does not rule concerning certainly untithed produce. And here we interpret the Mishnah to deal with the offerings separated from Demai-produce.*”

[E] R. Hiyya repeated, “Also with certainly untithed produce [M. Dem. 5:1 deals], and on that approach R. Jonah in the name of R. Zeira made his statement: ‘That implies that dough offering is not subject to the rule, “You shall not put off skimming the first yield of your vats”’ (Ex. 22:28).” And R. Yosé in the name of R. Zeira said, “The Mishnah does

not legislate for the proper order of separating the several offerings, but dough-offering should be separated before first tithe.”

[F] On that basis it follows that dough offering is not separated before tithes and the order of the designation of the offerings at M. Dem. 5:1] is proper. We infer that dough-offering is liable to the separation of tithes, but tithes are not liable to the separation of dough offering. For any offering that precedes its fellow [being separated before another offering — the second offering is liable to the separation of the first tithe [but not the other way around].

[G] *But it has been taught as a Tannaite statement: One who makes dough from untithed produce, whether he separated dough-offering before heave-offering, or separated heave-offering before dough-offering, that which he has done is done [and valid]. The dough-offering may not be eaten until he removes from it heave-offering, and the heave-offering may not be eaten until he removes from it dough-offering [T. Ter. 4:10].*

[H] So why does first tithe take precedence [at M. Dem. 5:1]?

[I] Because it is due at the threshing floor [as soon as the grain is stacked, before the wheat has been made into dough and the dough offering is due].

[J] But second tithe is due at the threshing floor [as soon as the grain is stacked, before the wheat has been made into dough and the dough offering is due].

[K] Said R. Mattenayya, “In strict logic dough offering should take precedence over all other offerings, so why does first tithe take precedence [at M. Dem. 5:1]? Because it is due at the threshing floor [as soon as the grain is stacked, before the wheat has been made into dough and the dough offering is due]. And Scripture refers to it as ‘the first portion’ (Num. 18:12). As for second tithe, even though it is due at the threshing floor [as soon as the grain is stacked, before the wheat has been made into dough and the dough offering is due], Scripture does not refer to it as ‘the first portion’ (Num. 18:12).”

5:2

[A] **He who wishes to separate [from fully untithed produce] heave-offering and heave-offering of the tithe together [i.e., in a single act of separation]**

[B] **takes one [part] from thirty-three and a third [i.e., three-hundredths of the whole],**

- [C] and says, “One from one hundred of that which is here [i.e., one-hundredth part from among the three-hundredths parts set apart],
- [D] “behold, [this] at this side [of the produce] is unconsecrated produce [untithed produce from which heave-offering alone has been removed, as distinct from the portion that is being designated as consecrated heave-offering],
- [E] “and the rest [of the three-hundredths parts, i.e., two hundredths, or one fiftieth (cf. M. Ter. 4:3)] is heave-offering for the whole [of the produce],
- [F] “and [the] one-hundredth [part of] unconsecrated produce that is here,
- [G] “behold, at this side is [made first] tithe,
- [H] “and the remainder of the [first] tithe is adjacent to it.
- [I] “That which I made [first] tithe [i.e., the hundredth part] is [now] made heave-offering of the tithe for it [i.e., for the designated remainder of the first tithe],
- [J] and the rest is dough-offering.
- [K] “And second tithe is to the north of it, or to the south of it [i.e., of the designated remainder of the first tithe], and is redeemed with coins.”
- [I:1 A] *It has been taught as a Tannaite statement: He who wishes to separate heave-offering and heave-offering of the tithe and dough-offering together*
- [B] takes an amount sufficient for heave-offering and heave-offering of the tithe and dough-offering.
- [C] And how much is that?
- [D] One from twenty [i.e., one-twentieth, or five-hundredths, of the whole loaf; two-hundredths (one-fiftieth) for heave-offering, one-hundredth for heave-offering of the tithe, and two-hundredths (or, more precisely, one forty-eighth of the loaf for dough-offering].
- [E] The one who says “One from one hundred of that which is hereby made unconsecrated untithed produce and an additional one from forty-eight parts is adjacent to it [i.e., of the one-twentieth],
- [F] “behold, this at this side is [made first] tithe,
- [G] “and the rest of the [first] tithe is adjacent to it,

[H] “and an additional one from forty-eight [i.e., a forty-eighth part of the loaf] of that which is here [i.e., set apart],

[I] “behold, this at this side is unconsecrated produce,

[J] “and the rest is heave-offering for the whole [of the loaf].

[K] “[The] one-hundredth [part of] unconsecrated produce which is here, and that which I have made unconsecrated untithed produce

[L] “behold, this at this side is [made first] tithe,

[M] “and the remainder of the [first] tithe is adjacent to it.

[N] “That which I made [first] tithe [i.e., the hundredth part] is [now] made heave-offering of the tithe for it [i.e., for the remainder of the first tithe], and that which I made unconsecrated untithed produce on this side is made dough-offering.

[O] “Second tithe is to the north of it, or to the south of it [i.e., of the designated remainder of the first tithe], and is redeemed with coins [T. Dem. 5:6].”

[I:2 A] R. Samuel bar Nahman in the name of R. Jonathan: “He [who designates the four offerings, heave-offering, first tithe, second tithe, and dough offering and redeems the second tithe] has to recite five blessings [one for each].”

[B] *R. Hiyya taught a Tannaite rule:* “He encompasses all of them in a single blessing [separating them all together].”

[C] *To this point we have dealt* with a priest or Levite. As to an Israelite if he says “**That which I made [first] tithe [i.e., the hundredth part] is [now] made heave-offering of the tithe for it [i.e., for the remainder of the first tithe],** he turns out to separate produce that does not belong to him. [He separates heave-offering of the tithe for first tithe. But that belongs to the Levite, and the Levite is the one who separates heave-offering of the tithe from first tithe.]

[D] If he designates first tithe and then separates heave-offering, he turns out to have reversed the proper order [Ex. 22:28: “you shall not postpone” — meaning the heave-offering is named first].

[E] If one physically sets apart heave-offering before first tithe, that means he has either left an insufficient amount for tithes or left an excessive amount, in line with this: **He who separates an insufficient amount of tithes — his tithes are in order and his produce is spoiled. He**

who separates too much, his tithes are spoiled and his produce is in order [T. Dem. 8:13].

[F] **Said R. Yosé, “He relies on the condition imposed by the court to solve the problem of separating too much or too little” [T. Dem. 8:12].**

[G] What is the condition imposed by the court?

[H] It corrects for the area about which one can err [covering errors deriving from the estimate of the amount of heave-offering to be separated.

[I] What is the condition imposed by the court?

[J] Said R. Yohanan, “So that he may establish the location of first tithe to the north of the separated portion of produce that is classified as heave-offering and heave-offering of the tithe and second tithe at the south of it and heave-offering of the tithe at the northern part [thus correcting for errors in defining the location or amount of the tithes].

[K] What is the condition imposed by the court?

[L] So that when he redeems the second tithe with coins, the amount of second tithe that is in excess portion of first tithe is held to have been redeemed too.

[I:3 A] *Up to now we have dealt with dry produce. But what about liquids [how are priestly gifts separated in a single act?]*

[B] *If he had a hundred figs, fifty big ones and fifty little ones, if he takes heave-offering of the tithe for the entire quantity, he takes as first tithe nine figs [not ten, to compensate for the large size of the figs]. If he takes heave-offering of the tithe for the whole batch from the little figs, he takes eleven [to compensate for the small size of the figs]. If he takes ten of the big figs as first tithe, one of them is unconsecrated, fully tithed produce.*

[C] And should one not take account of the possibility that that one tithed fig is the one he makes heave-offering of the tithe? But it is written, “And you shall set aside from it a gift to the Lord, a tithe from the tithe” (Num. 18:26).

[D] Said R. Abun bar Kahana, “He stipulates, saying, ‘This tithe to which this produce is liable — lo, it is situated at the top of each stalk.’ He continues [to measure off the tithe in the proper amount]. When he comes to take heave-offering of the tithe, any one fig among them can be heave-offering of the tithe, with a small amount of tithed produce left in it.]”

- [I:4 A] *Up to now* we have dealt with large quantities. What about the rule if the quantity was small?
- [B] *If he had ten figs, five big and five little, if he takes [heave-offering of the tithe for the whole batch] from the big ones, he must take as first tithe one fig less a bit, if he were to take heave-offering of the tithe from the small ones, he takes as first tithe one fig plus a bit. If he takes as first tithe one fig from the large ones, there remains in it a bit of tithed produce.*
- [C] And should one not take account of the possibility that that is the small amount of untithed produce that he makes heave-offering of the tithe? But it is written, “And you shall set aside from it a gift to the Lord, a tithe from the tithe” (Num. 18:26) — but not tithed produce from the tithe.
- [D] Said R. Abba Qartegenah, “‘He stipulates, saying, ‘This tithe to which this produce is liable — lo, it is situated at the top of each stalk.’ He continues [to measure off the tithe in the proper amount]. And he tells the priest [to whom he gives the fig], ‘I conclude my measurement of the tithe at this point.’ [The priest can separate heave-offering of the tithe from the correct part of the fig.]”
- [I:5 A] **The one who says “One from one hundred of that which is hereby made unconsecrated untithed produce:”**
- [B] But why not have him say, “This at this side is made tithe”?
- [C] He will turn out to reverse the proper order [Ex. 22:28: “you shall not postpone” — meaning the heave-offering is named first].
- [D] But why not have him say, “This at this side is made heave-offering [separating heave-offering first]”?
- [E] He would turn out either to have reduced or increased the proper volume of heave-offering.
- [F] Since he says to begin with, “This at this side is unconsecrated untithed produce, if he diminishes or adds to the amount of heave-offering, it makes no difference.

5:3

- [A] **“He who purchases [bread] from the [‘am ha’ares] baker**
- [B] **“separates tithes from the warm [i.e., freshly-baked bread] for the cold, and from the cold for the warm,**
- [C] **“even from many [diverse] molds,”**

- [D] **the word of R. Meir.**
- [E] **R. Judah forbids,**
- [F] **for I say [i.e., suppose], “Yesterday’s wheat was from one man, and today’s wheat was from another [i.e., yesterday’s grain may have been tithed, while today’s has not been].**
- [G] **R. Simeon forbids with regard to heave-offering of the tithe, and permits with regard to dough-offering.**
- [I:1 A] How old [may the bread be that may be tithed from or for fresh bread]?
- [B] The disciples of R. Hiyya in the name of R. Joshua b. Levi: “Thirty days.”
- [C] *What would be a practical case?*
- [D] If someone bought bread from the baker at the start of thirty days, in the middle of thirty days, and at the end of thirty days, the first loaf and the second are held to be the same kind for tithing, and the second loaf and the third likewise, but the first loaf and the third loaf are held to be two different kinds, [for the thirtieth day is not included in the spell].
- [II:1 A] **R. Simeon forbids with regard to heave-offering of the tithe, and permits with regard to dough-offering:**
- [B] So R. Judah forbids also with regard to dough-offering [for the Mishnah assigns a different position to each authority].
- [C] But isn’t it the fact that the produce becomes liable for dough-offering only at the baker’s [that is, only when the baker has kneaded the dough into a loaf]?
- [D] Rather, the prohibition applies when the baker borrows unclean leaven with which to make the dough [and the dough offering may have been removed from the leaven of one batch but not of another].
- [E] Even so, does the produce not become liable for dough-offering only at the baker’s [when the baker kneads the dough, and its prior status doesn’t register]?
- [F] Rather, [R. Judah forbids] when the baker borrows an unclean unbaked loaf so as to fill up his stove [when he begins baking].
- [G] But if [R. Judah forbids] when the baker borrows an unclean unbaked loaf so as to fill up his stove [when he begins baking], then whoever buys the bread must separate tithes from each loaf separately [even in the same batch, but Judah prohibits separating tithes from one batch for another].

- [H] Rather, Judah's position is in accord with the view of R. Yohanan, for R. Yohanan said, "Here it is one who prepares dough in the state of cleanness, and here it is one who prepares his dough in uncleanness" [so that we cannot rely on the baker to separate tithes and dough-offering, and Judah forbids the buyer to separate dough-offering from one batch of bread for the other, since we do not know that all the batches are the same].
- [I] Rather, Judah's position is in accord with the view of R. Eleazar. For R. Eleazar said, "Here and there we deal with one who prepares dough in the state of cleanness."
- [J] Said R. Yudan father of R. Mattaniah, "We deal with a baker who prepares the dough in uncleanness, and the produce becomes liable for dough-offering only at the baker's, and even R. Judah concurs here [with Simeon's position that one may separate dough-offering from one batch for another]."
- [K] *And so it has been taught as a Tannaite statement:* R. Judah and R. Simeon forbid separating tithes from one batch of bread for another in the case of heave-offering of tithe but permit with respect to dough-offering.
- [L] But if R. Judah forbids separating tithes from one batch of bread for another in the case of heave-offering of tithe but permits with respect to dough-offering and R. Simeon also forbids separating tithes from one batch of bread for another in the case of heave-offering of tithe but permits with respect to dough-offering, *how do they differ?*
- [M] In the opinion of R. Judah the customer for the bread does not separate tithes and heave-offering of tithe from bread baked today for bread baked yesterday or from bread baked yesterday for bread baked today, but one may separate tithes and heave-offering of the tithe from bread baked in one oven for bread baked in another oven on the same day, but on the view of R. Simeon he may not even separate tithes and heave-offering of the tithe from bread baked in one oven for bread baked in a different oven on the same day.

5:4

- [A] **"He who purchases from a [bread] merchant —**
- [B] **"separates tithes from each mold individually,"**
- [C] **the words of R. Meir.**
- [D] **R. Judah says, "[He separates tithes] from one [mold] for all."**

[E] R. Judah concedes in the case of one who purchases from a monopolist that he separates tithes from each mold individually.

[I:1 A] R. Meir takes the view that a baker uses a single mold and a shopkeeper uses several bakers, R. Judah holds that a baker uses several molds and a shopkeeper uses a single baker.

[II:1 A] What is a monopolist?

[B] *Members of the household of R. Yannai say, “If there were nine shopkeepers and ten bakers, each of eight shopkeepers gets his bread from one of eight bakers, and one [the ninth shopkeeper] gets his bread from two [the ninth and the tenth]. [The one that gets his bread from more than one baker is a monopolist because he gets bread from more than one baker. If we don’t know which shopkeeper this is, then all nine must be held to be monopolists, and bread from each mold must be tithed separately.]”*

[C] R. Jonah asked, “If before him [in a particular shop] was bread from two different molds, that proves that they derive from two different bakers [and the bread must be tithed separately]. But if all the bakers used the same mold, the buyer must separate tithes from each loaf separately.”

[D] R. Jonah asked, “As you say, if there were nine shopkeepers and ten bakers, each of eight shopkeepers gets his bread from one of eight bakers, and one [the ninth shopkeeper] gets his bread from two [the ninth and the tenth], along these same lines, do we reason that each of nine shopkeepers gets bread from one of nine bakers, and the tenth gets his bread from all of them, and the buyer must separate tithes from each loaf individually?”

5:4

[A] He who purchases from a poor person,

[B] and, similarly, a poor person to whom they gave slices of bread or pieces of fig-cake,

[C] separates tithes from each [gift] individually.

[D] But with regard to dates or dried figs, he mixes them [into a mass] and takes [tithes from the whole mass].

[E] Said R. Judah, “When?

[F] “When [each] gift is abundant.

[G] “But when [each] gift is little,

[H] “he separates tithes from each [gift] individually.”

- [I:1 A] R. Yosé in the name of R. Pediah, R. Jonah in the name of R. Hezekiah: “Mixing applies only to wine and oil.”
- [B] R. Yohanan said, “Solids to the volume of an olive’s bulk mix together.”
- [C] *The Mishnah differs from R. Yohanan: **But with regard to dates or dried figs, he mixes them [into a mass] and takes [tithes from the whole mass].***
- [D] Interpret it to refer to dates or dried figs to the volume of an olive’s bulk.
- [II:1 A] R. Yosé in the name of R. Zeira: “In Demai-produce sages permitted dates or dried figs to be mixed into a mass and tithes to be taken from the mass, in line with R. Judah’s ruling, *for we have learned on Tannaite authority: **Said R. Judah, ‘When? When [each] gift is abundant. But when [each] gift is little, he separates tithes from each [gift] individually.’***”
- [B] Members of the Household of R. Yannai say, “At the time of the threshing floor all give one hundred dates [which are then abundant].”
- [II:2 A] If everybody was giving a hundred [figs to the poor] and one person gave fifty, [the poor man divides the whole lot of figs into groups of fifty and] separates tithes from each group of fifty. If everybody was giving fifty and one person gave forty, he separates tithes from each group of forty. If everyone was giving forty and one gave thirty, he separates tithes from each group of thirty. If everyone was giving thirty and one gave twenty, he separates tithes from each group of twenty. If every one was giving twenty and one person gave ten, he separates tithes from each group of ten. If everybody was giving ten and one gave one, he separates tithes from each one by itself.

5:5

- [A] **He who purchases from a wholesale dealer [in wheat],**
- [B] **and returned and purchased from him a second time,**
- [C] **should not separate tithes from the one [portion] for the other,**
- [D] **even [if he purchased again] from the same hamper,**
- [E] **even [if he purchased again] from the same type.**
- [F] **The wholesaler is believed to say that they [derive] from the same [supply].**

- [I:1 A] [The wholesaler is believed to say that they derive from the same **supply**]: *R. Jeremiah asked: “Even if the vendor praised his own produce to the purchaser, who said, ‘That wheat that I bought from you yesterday was good,’ and the vendor answers, ‘What I am selling today comes from the same source as what I sold yesterday,’ the vender is believed.”*
- [B] *It was taught on Tannaite authority: He who purchases from a retailer and returned and purchased a second time, [if] he recognizes the cask as the same one [from which he purchased the first time may separate tithes from the one [portion] for the other [T. Dem. 5:11].*
- [C] *Lo, if he does not recognize the cask then it is not to that case that the rule pertains.*
- [D] *What you stated applies to wine jars, but with respect to utensils used for drawing wine, it is customary to empty them out from one into the other.*

5:6

- [A] **He who purchases from a householder,**
- [B] **and returned and purchased from him a second time,**
- [C] **separates tithes from the one [portion] for the other,**
- [D] **even [if he purchased] from two [different] baskets,**
- [E] **even [if the produce derives] from two [different] towns.**
- [F] **The householder who was selling vegetables in the marketplace,**
- [G] **when they bring to him [vegetables] from his own gardens—**
- [H] **he [the purchaser] separates tithes from one [item] for all,**
- [I] **and [when they bring] from the gardens of others —**
- [J] **he [the purchaser] separates tithes from each [item] individually.**
- [I:1 A] *R. Jonah asked, “In the view of R. Meir he must separate tithes from each stalk individually, not from each bundle of greens, for we have learned in the Mishnah: **All bundles [of vegetables] in the marketplaces are susceptible to uncleanness. R. Judah declares insusceptible to uncleanness in the case of those that are fresh. Said R. Meir, “And on what account have they been declared unclean? But because of the liquid of the mouth” [M. Makh. 6:2]***
- [B] *“Just as you say there, bundles of vegetables become undone and the dealer binds them together in his mouth, so here too you reason that*

bundles of vegetables come undone and in rebinding them the dealer takes some of the stalks that had been inside the old bundle and puts in the new bundle some stalks that had been outside.”

[II:1 A] and [when they bring] from the gardens of others — he [the purchaser] separates tithes from each [item] individually:

[B] Said R. Jonah, “It is not the end of the matter that it is produce from his gardens, but even produce brought from other gardens, if it is tithed according to the seller’s intention, then the purchaser may separate tithes from one item for the other. But if not, he may not separate tithes from one item for the other.”

5:7

[A] **He who purchases fully untithed produce from two places [i.e., vendors]**

[B] **tithes from the one [portion] for the other,**

[C] **even though they [i.e., the Sages] have said, “One is permitted to sell fully untithed produce only in a case of need.”**

[I:1 A] Said R. Jonah, “This is the sense of the Mishnah: One is permitted to sell fully untithed produce only in a case of need only to an Associate.”

[B] Then an ‘am ha’ares whose fully tithed produce was mixed with fully untithed produce has no remedy!

[C] What should he do? He goes to an Associate and he buys him untithed produce and tithes it for him.

5:8

[A] **They separate tithes from [produce] of Israelites for [produce] of gentiles,**

[B] **from [produce] of gentiles for [produce] of Israelites,**

[C] **from [produce] of Israelites for [produce] of Samaritans, [and from (produce) of Samaritans for (produce) of Israelites,]**

[D] **[and] from [produce] of Samaritans for [produce] of [other] Samaritans.**

[E] **R. Eleazar prohibits [separating tithes] from [produce] of Samaritans for [produce] of [other] Samaritans.**

[F] **A perforated pot—**

[G] **behold, this is like the ground.**

- [H] [If one] separated heave-offering from [produce grown in] the ground for [produce grown in] a perforated pot, or from [produce grown in] a perforated pot for [produce grown in] the ground,
- [I] his [act of separating] heave-offering is [deemed a valid separation of] heave-offering.
- [J] [If he separated heave-offering] from [produce grown in a pot] that is not perforated for [produce grown in one] that is perforated,
- [K] it is [deemed to be] heave-offering, but he should again separate heave-offering [from the produce grown in the perforated pot].
- [L] [If he separated heave-offering] from [produce grown in a pot] that is perforated for [produce grown in one] that is not perforated.
- [M] it is [deemed to be] heave-offering, but it should not be eaten [by a priest] until he shall have separated for it [i.e., for the newly designated heave-offering] heave-offering and tithes [from other produce].
- [N] [If] one separated heave-offering from Demai-produce for [other] Demai-produce,
- [O] [or] from Demai-produce for certainly untithed produce,
- [P] it is [deemed to be] heave-offering, but he again should separate heave-offering [from the other Demai produce, or from the certainly untithed produce].
- [Q] [If he separated heave-offering] from certainly untithed produce for Demai-produce,
- [R] it is [deemed to be] heave-offering, but it may not be eaten [by a priest] until he shall have separated for it [i.e., for the newly-designated heave-offering] heave-offering and tithes.
- [I:1 A] [They separate tithes from [produce] of Israelites for [produce] of gentiles, from [produce] of gentiles for [produce] of Israelites:] The Mishnah represents the view of R. Meir, who said, “Gentiles do not have rights of ownership to real property in the Land of Israel so as to exempt produce grown on their land from tithing.” But R. Judah and R. Simeon say, “Gentiles do have rights of ownership to real property in the Land of Israel so as to exempt produce grown on their land from tithing.”
- [B] R. Immi in the name of R. Simeon b. Laqish: “The scriptural basis for the position of R. Meir: Scripture states, ‘You may keep them as a possession for your children after you for them to inherit as property

for all time' (Lev. 25:46) — Scripture draws an analogy between inherited landed property and slaves. Just as in the case of slaves you may purchase from gentiles in the Land by they may not purchase from you [gentiles may purchase as slaves gentiles residing in the land but not vice verse] so inherited real estate you may purchase from them but they may not purchase from you.”

[C] *Said R. Eleazar b. R. Yosé in the presence of R. Yosé, “And here is further support for the position of R. Meir: ‘But the land must not be sold beyond reclaim for the land is mine’ (Lev. 25:23) — irredeemably.”* [Gentiles may not acquire real estate permanently.]

[D] Said to him R. Yosé, “The essence of the verse supports the position of R. Simeon: ‘The land must not be sold’ implies that if it were to be sold, it would be beyond reclaim [and a valid, permanent sale].”

[E] R. Huna the Elder of Sepphoris said, “R. Hanina made the law in Sepphoris in accord with the view of R. Simeon.”

[F] R. Zeira said, said, “R. Hanina made the law in Sepphoris in accord with the view of R. Simeon.”

[I:2 A] *R. Zeira in the presence of R. Abbahu said in the name of R. Eleazar, “Even though R. Meir held that Gentiles do not have rights of ownership to real property in the Land of Israel so as to exempt produce grown on their land from tithing, he concedes that in this case they do have the right to acquire movable property.”*

[B] [That consists of what right?] Said R. Abba, “It is the right to eat the produce grown on the land or the acquisition of the usufruct of the land.”

[C] *But have we not learned in the Mishnah: **He who sells his field to a gentile and an Israelite purchased it from him — the purchaser brings the firstfruits, on account of the good order of the world*** [M. Git. 4:9]

[D] But from the perspective of R. Meir [that Gentiles do not have rights of ownership to real property in the Land of Israel so as to exempt produce grown on their land from tithing], shouldn't the purchaser bring firstfruits as a matter of the requirement of the Torah rather than for the sake of the good order of the world?

[I:3 A] R. Jonah, R. Simon in the name of R. Joshua b. Levi: “He who buys harvested produce from a gentile separates heave-offering and heave-offering of the tithe — at the behest of the law on Rabbinic authority. He gives them to the priestly tribe and takes monetary compensation

for them from the priestly tribe. He who buys unharvested produce from a gentile separates heave-offering and heave-offering of the tithe — at the behest of the law on Rabbinic authority. He gives them to the priestly tribe and does not take monetary compensation for them from the priestly tribe.”

- [B] What is the scriptural basis for that rule?
- [C] “Speak to the Levites and say to them, When you receive from the Israelites their tithes that I have assigned to you as your share, you shall set aside from them one-tenth of the tithe as a gift to the Lord” (Num. 18:26) — [from the Israelites you are to take them, but you are not to take them from fully untithed produce that you purchase from gentiles.] And you are not to take them from priests or Levites with whom the Israelite farmer is familiar [and to whom the Israelite owner of produce is familiar and ordinarily gives the priestly gifts, even if the priest and not the Levite receives from him first tithe as well as heave-offering.]
- [D] That is in line with what R. Eleazar said, “‘Speak to the Levites and say to them, When you receive from the Israelites their tithes’ — from the Israelites you are to collect them, but you are not to collect them from gentiles.”
- [E] Said R. Aha, “In the time of R. Hoshaiyah they wanted to vote on the status of the Royal Hill Country around Judea to determine the tithing obligations of the area, so as to exempt it from tithing [because it was inhabited by gentiles]. They said, ‘Let R. Hoshaiyah come.’ He did not suffice to come before the opportunity passed.”
- [F] R. Judah bar Pazzi in the name of R. Hoshayya: “The decided law is in accord with R. Simeon [who says, ‘Gentiles do have rights of ownership to real property in the Land of Israel so as to exempt produce grown on their land from tithing.’”
- [G] *And without that statement*, don’t we say, “R. Meir and R. Simeon — the Halakhah follows the view of R. Simeon”?
- [H] But since we learned in the Tannaite statement, **Said R. Simeon of Shezuri, “Untithed produce became mixed with my [tithed] produce. and I came and asked R. Tarfon, and he said to me, ‘Go purchase produce from the market [from a gentile], and separate [tithes from it, i.e., from the newly-purchased produce] for the other”** [T. Dem. 5:22], *and we have learned in another Tannaite statement*, “R. Judah and R. Simeon say, ‘Gentiles do have rights of ownership to real property in the Land of Israel so as to exempt

produce grown on their land from tithing,' so that you will not suppose that we have two Tannaite authorities balanced against to other Tannaite authorities, on that account it is necessary to state, the decided law is in accord with R. Simeon."

[I] *And furthermore it is on account of what R. Zeira said, "Abba Anatoli bought fruit from a gentile. He came to R. Judah b. Levi, who sent his son Menahem to separate the tithes from the produce, and [Abba Anatoli] gave back the tithes to [Judah b. Levi]. When [Menahem] came back, he chanced to meet R. Joshua b. Levi, who said to him, 'Who would do that except for your father?'"*

[J] *Inconsistency marks the opinions of R. Joshua b. Levi. There he said, "He who buys harvested produce from a gentile separates heave-offering and heave-offering of the tithe — at the behest of the law on Rabbinic authority. He gives them to the priestly tribe and takes monetary compensation for them from the priestly tribe," and here he says this [praising Judah b. Levi who received the tithes and did not compensate the owner]."*

[K] *Said R. Abba bar Zamina in the presence of R. Zeira, "R. Simon did not say it that way. Rather: When [Menahem] came back, he chanced to meet R. Joshua b. Levi, who said to him, 'These do not belong to your father' — and R. Zeira got mad [for he was contradicted]."*

[I:4 A] R. Aha, R. Tanhum bar Hiyya in the name of R. Joshua b. Levi: "There are three cases in which one may separate heave-offering and heave-offering of the tithe without the owner's or a Levite's giving permission: if someone's fully tithed produce is mixed with fully untithed produce, if someone buys produce from land inhabited by Samaritans."

[B] Said R. Zeira, "That is to say in these cases one does not get paid by the priestly tribe, for it you hold that he is paid by the priestly tribe, then he has gotten permission to separate the priestly gifts."

[II:1 A] **R. Eleazar prohibits [separating tithes] from [produce] of Samaritans for [produce] of [other] Samaritans:**

[B] *Said R. Yohanan, "The reason for the position is as follows: **just as they declared Israelite produce to be Demai following the status of the majority, [and therefore] they do not separate tithes from one item for the other, so they tithe Samaritan produce as Demai and they do not separate tithes from one item for the other [T. Dem. 5:22].***

[III:1 A] A perforated pot— behold, this is like the ground. [If one] separated heave-offering from [produce grown in] the ground for [produce grown in] a perforated pot, or from [produce grown in] a perforated pot for [produce grown in] the ground, his [act of separating] heave-offering is [deemed a valid separation of] heave-offering. [If he separated heave-offering] from [produce grown in a pot] that is not perforated for [produce grown in one] that is perforated, it is [deemed to be] heave-offering, but he should again separate heave-offering [from the produce grown in the perforated pot]. [If he separated heave-offering] from [produce grown in a pot] that is perforated for [produce grown in one] that is not perforated:

[B] R. Abun bar Hiyya in the name of R. Zeira: “A perforated pot they treated as subject to doubt.”

[C] *But have we not learned in the Mishnah: A perforated pot [containing another kind] sanctifies [the vines when located] in the vineyard. And that [pot containing another kind] which is unperforated does not sanctify [the vines when located in the vineyard] [M. Kil. 7:6].*

[D] But shouldn't the plant in the unperforated pot sanctify the vines in the vineyard on account of doubt?

[IV:1 A] [If] one separated heave-offering from Demai-produce for [other] Demai-produce, [or] from Demai-produce for certainly untithed produce, it is [deemed to be] heave-offering, but he again should separate heave-offering [from the other Demai produce, or from the certainly untithed produce]. [If he separated heave-offering] from certainly untithed produce for Demai-produce, it is [deemed to be] heave-offering, but it may not be eaten [by a priest] until he shall have separated for it [i.e., for the newly-designated heave-offering] heave-offering and tithes:

[B] Just as you have said, [If he separated heave-offering] from certainly untithed produce for Demai-produce, it is [deemed to be] heave-offering, but it may not be eaten [by a priest] until he shall have separated for it [i.e., for the newly-designated heave-offering] heave-offering and tithes, so should you rule in the case of separating heave-offering of the tithe from Demai-produce for other Demai-produce.

[C] R. Abun bar Hiyya in the name of R. Samuel bar R. Isaac: “[Not at all.] This statement tells us that doubtful heave-offering of the tithe

from Demai-produce is like doubtful contaminated produce [fully tithed produce into which heave-offering or heave-offering of tithes may have fallen]. It is exempt from tithing rules that apply to certainly untithed produce.”

YERUSHALMI DEMAI

CHAPTER SIX

6:1

- [A] He who sharecrops a field for an Israelite, for a gentile, or for a Samaritan, [receiving for his work a fixed percentage of the total yield,] divides [the produce] in their [the owner's] presence.
- [B] He who leases a field from an Israelite, [paying the owner a fixed amount of produce, regardless of the total yield,] separates [only] heave-offering [from the whole] and [then] gives to him [the owner, his rental from the tithed produce].
- [C] Said R. Judah, "When?
- [D] "In the case in which he [the tenant farmer] gave him [the owner] [produce] of the same field [from which he had contracted to give him] and of the same kind [that he had contracted to give him].
- [F] "But if he gave him [produce] of a different field or of a different kind, he separates tithes and [then] gives to him [his rental from the tithed produce]."
- [F] He who leases a field from a gentile separates [heave-offering and] tithes and [then] gives to him [his rental from the tithed produce].
- [G] R Judah says, "Also he who sharecrops his fathers' field for a gentile separates tithes and [then] gives to him [his portion from the tithed produce]."
- [I:1 A] Said R. Yohanan, "This represents the opinion of Rabban Simeon b. Gamaliel, but sages hold that if he sharecrops a field for an Israelite, he divides the produce in his presence, but if he sharecrops a field for a gentile, he separates heave-offering from the owner's portion before giving it to him."
- [B] *And so it was taught on Tannaite authority:* He who sharecrops a field for a gentile separates [heave-offering and] tithes and [then] gives to him [his percentage of the yield from the tithed produce].

Said R. Simeon b. Gamaliel, “What if the gentile does not want his produce to be tithed? Isn’t he permitted to refrain from separating the offerings? Rather he divides [the produce] and gives it [the owner’s portion] to him in his presence” [T. Dem. 6:1].

- [I:2 A] R. Zeira, R. Aha, R., Yosé, R. Yohanan in the name of R. Yannai: “‘So shall you on your part set aside a gift for the Lord from all the tithes’ (Num. 18:28) — ‘you on your part’ encompasses your agent. Just as you are children of the covenant, so your agents must be children of the covenant. You may appoint agents, but gentiles may not appoint agents.”
- [B] *R. Yosé considered stating*, “[What the verse means is,] gentiles may not appoint as their agents other gentiles, but they may appoint Israelites as their agents.”
- [C] Said to him R. Zeira, “It derives from Scripture’s own language: ‘You may appoint agents’ Ç doesn’t this refer to Israelites? ‘Gentiles may not appoint agents’ even Israelites.”
- [D] *Objected R. Hoshayya*, “Lo, a Tannaite rule supports the view of Rabban Simeon b. Gamaliel: **‘What if the gentile does not want his produce to be tithed? Isn’t he permitted to refrain from separating the offerings? [T. Dem. 6:1]. The sharecropper does not separate heave-offering.’**” That is to say, if the gentile wants heave-offering to be separated, the Israelite sharecropper separates heave-offering [and an Israelite may serve as his agent].”
- [E] Said R. Abba, “[The sharecropper may separate heave-offering from the gentile’s portion only if the gentile confirms it on his behalf [and therefore the sharecropper has not acted as the gentile’s agent].”
- [I:3 A] He who leases a field from its owner pays the owner in kind. He who rents a field from its own pays back the owner in coin. One who sharecrops a field for its own receives for his work a fixed percentage of the total yield, half, a third, or a quarter of the total yield.
- [II:1 A] **[He who leases a field from an Israelite, [paying the owner a fixed amount of produce, regardless of the total yield,] separates [only] heave-offering [from the whole] and [then] gives to him [the owner, his rental from the tithed produce:]**
- [B] This refers only to one who leases a field from an Israelite. As for leasing a field from a gentile or a Samaritan, *let us derive the rule from the following: He who gives out a field for sharecropping to a gentile, or to a Samaritan, or to one who is not trustworthy in the*

matter of tithing— even though an Israelite is not permitted to do this — even though it (the produce) has not yet reached the stage at which it is liable for tithing] he must separate tithes on their behalf when it reaches the stage of liability to tithing]. He who gives out his field for sharecropping to ‘*ammé ha’ares* — before it [the produce] reaches the stage at which it is liable for tithing, he [the owner] need not separate tithes on their behalf; from the time it reaches the stage of liability to tithing, he must separate tithes on their behalf [T. Dem. 7:11-12].

[C] *To this point reference is made to a place in which Israelites are numerous. As for a place in which Israelites are not numerous, let us derive the ruling from the following:* R. Simon had fields in the Royal Hill Country [which was populated by gentiles]. He asked R. Yohanan [whether he could lease his fields to gentiles.] He said to him, “Let them lie fallow rather than leasing them to a gentile.” He asked R. Joshua b. Levi, who permitted him to lease the fields to gentiles.”

[D] R. Joshua b. Levi took the view that a place in which Israelites are not numerous is *comparable to Syria*, and we derive the rule for Syria from the following:

[E] *R. Haggai went to Homs. Members of the household of Bar Ashtor came and asked him, “Since Israelites are not numerous here and we rent out the land to gentiles, must we separate tithes on their behalf from the produce that they produce for us?”*

[F] He sent a question to R. Zeira and R. Zeira sent a question to R. Immi, who replied, “He does not have to separate tithes on their behalf.”

[G] *From that statement you infer that it is permitted to rent fields to gentiles in places like Syria, in accord with the opinion of R. Yosé: “One may rent out fields to gentiles in Syria” [M. A.Za. 1:9].”*

[H] *And furthermore, you may derive the law from what R. Haninah b. R. Abbahu said, “Father had a case. He sent and asked R. Hiyya bar Abba and R. Yosé and R. Immi and they instructed him to rent out fields to gentiles in places like Syria where there are not many Israelites, in accord with the ruling of R. Yosé. We infer from this as to tithing, we need not separate tithes in their behalf.”*

[II:2 A] [If he received from his fellow] (1) his field to harvest in return for [payment in] wheat, [or] (2) his vineyard to cut in return for [payment in] wine, [or] (3) his olive grove to harvest in return for [payment in] olive oil, [he] separates [heave-offering and] tithes and gives to him [his portion in tithed produce] [T. Dem. 6:6].

[B] Now take note: if the sharecropper takes the field before it is sown, he separates only heave-offering from the owner's portion before delivering it to him. But if he takes the field once it has been sown, he must separate both heave-offering and tithes from the owner's portion before deliver it to him.

[C] Said R. Hinena, "The sages provided for a sharecropper so as not to let the land of Israel become a wasteland but here it is already sown."

[II:3 A] **An Israelite [sharecropper] who received from his fellow (1) his field to harvest when [the crop] was in the status of sheaves (2) his vineyard to cut in return for [a rental payment in] grapes, [or] (3) his olive grove to harvest in return for [a rental payment in] olives gives [the owner's portion] to him as it is [i.e., without first separating tithes from it] [T. Dem. 6:6].**

[III:1 A] **Said R. Judah, "When? In the case in which he [the tenant farmer] gave him [the owner] [produce] of the same field [from which he had contracted to give him] and of the same kind [that he had contracted to give him]. But if he gave him [produce] of a different field or of a different kind, he separates tithes and [then] gives to him [his rental from the tithed produce]."**

[B] Lo, if the tenant farmer gave the landowner produce of the same kind but not from the same field, of the same field but not of the same kind. He must separate heave-offering and tithes and give him the tithed produce.

[C] *But hasn't R. Hiyya taught as a Tannaite statement: If he gave him [produce] of the same field, whether of a different kind or the same kind, he separates [only] heave-offering and gives to him [his portion, from which only heave-offering has been separated], but if he gave him [produce] of a different field, whether of the same kind or a different kind, he separates tithes and gives to him [his portion from the tithed produce] [T. Dem. 6:5]?*

[D] The Mishnah [at M. 6:1, Judah] agrees with the opinion of Rabban Simeon b. Gamaliel [at M. B.M. 9:8: A] **He who leases a field from his fellow to sow barley in it may not sow it with wheat. [If he leased it to sow] wheat, he may sow it with barley. Rabban Simeon b. Gamaliel prohibits [doing so]. [If he leased it to sow] grain he may not sow it with pulse [to sow] pulse, he may sow it with grain. Rabban Simeon b. Gamaliel prohibits [doing so].** *What R. Hiyya taught is in agreement with sages there, and they dispute.*

- [E] There are those who say that the Mishnah [in Judah's place] refers to a place in which barley does not ordinarily produce twice the yield of wheat, while what R. Hiyya taught refers to a place in which barley routinely produces twice the yield of wheat.
- [IV:1 A] **He who leases a field from a gentile separates [heave-offering and] tithes and [then] gives to him [his rental from the tithed produce]. R Judah says, "Also he who sharecrops his fathers' field for a gentile separates tithes and [then] gives to him [his portion from the tithed produce]."**
- [B] *Here you say* that the tenant farmer must separate only heave-offering from the owner's rental fee and give it to him, *while here* the tenant farmer must separate both heave-offering and tithes from the owner's rental and give it to him. [What's the difference?]
- [C] The Associates in the name of R. Yohanan: "The sages imposed a fine on one who leases a field from a gentile and did not impose a fine on one who leases a field from an Israelite."
- [D] R. Illa in the name of R. Yohanan: "The full weight of the law applies to one who leases a field from a gentile but does not apply to one who leases a field from an Israelite."
- [E] *A Tannaite formulation supports the position of this one and a Tannaite formulation supports the position of that one.*
- [F] *A Tannaite formulation supports the position of R. Illa: **He who sharecrops a field from an Israelite separates [only] heave-offering and gives to him [his portion, from which heave-offering, but not tithe, has been separated]. R. Meir says, "He separates [heave-offering and] tithes and gives to him [his portion from the tithed produce]" [T. Dem. 6:5].*** This implies that the rabbis hold the view that the sages fined one who leased a field from a gentile but did not fine one who leased a field from an Israelite.
- [G] But is there a fine for leasing from an Israelite [in line with the position of Meir, who disputes with the rabbis?]
- [H] Rather we must interpret the dispute as follows: The rabbis say, "Does the full weight of the law not apply to one who leases a field from an Israelite?"
- [I] *...and a Tannaite formulation supports the position of the Associates: **He who leases [the produce of] a field with a gentile separates tithes [from the whole] and [then] gives to him [his portion from the tithed produce]. R. Simeon says, "He separates [only] heave-***

offering and gives to him [his portion, from which heave-offering, but not tithe, has been separated]. Therefore if the gentile [thereafter] converted, or sold [the field] to an Israelite, he [the converted gentile or the Israelite purchaser] separates tithes and gives to him]" [T. Dem. 6:2].

[J] This implies that the rabbis hold the view that the full weight of the law applies to one who leases a field from a gentile but not one who leases a field from an Israelite. But is it so that R. Simeon holds that the full weight of the law does not apply to one who leases a field from a gentile? *Who would think such a thing.* Rather, we must interpret the dispute in this way: the rabbis hold the view that the sages fined one who leases a field from a gentile and did not fine one who leases a field from an Israelite, and R. Simeon maintains that the sages did not fine one who leases a field from a gentile.

[K] **Therefore if the gentile converted or sold the field to another Israelite, the convert or the Israelite purchaser separates only heave-offering [T. Dem. 6:2].**

[L] *That accords with the position of him who says that the full stringency of the law pertains [to the case of one who leases a field from a gentile, since now that the owner is an Israelite, the stringency no longer applies], but how does this cohere with the position of one who maintains that the sages fined one who leases a field from a gentile, [since the owner was a gentile at the time of the lease, when the fine was levied]?*

[V:1 A] **R Judah says, "Also he who sharecrops his fathers' field for a gentile separates tithes and [then] gives to him [his portion from the tithed produce]."**

[B] This refers to one who sharecrops his father's field for landgrabbers [Romans who confiscated the field from the Israelite's ancestors]. Since you tell the sharecropper this that he has to separate both heave-offering and tithes from the owner's rental, he will exert himself to redeem it."

6:2

[A] **A priest or a Levite who sharecropped a field for an Israelite —**

[B] **just as they [the sharecropper and the landowner] divide [between them] the unconsecrated produce, so they divide [between them] the heave-offering [or first tithe].**

- [C] **R. Eliezer says, “The [heave-offering or] tithes belong to them [to the priest or Levite],**
- [D] **“for on this account did they come [to sharecrop the field].”**
- [I:1 A] The rabbis replied to R. Eliezer, “How have the priest and Levite acquired the priestly or Levitical dues from the owner’s portion?”
- [B] He said to them, “Don’t you agree with me that if the Israelite landowner and sharecropper-priests or Levites stipulated among them at the outset, the heave-offering or tithes belong to the sharecroppers? Even if they stipulated among them at the outset, how have they acquired the priestly or Levitical dues, [there having been no formal act of acquisition]? Rather, the agreement is as if the owner said to the sharecropper, ‘Detach some produce from the ground by which action you may effect acquisition of its heave-offering or tithes.’ *So I too regard it as a case in which the unspecified agreement* is as if the owner had said to the sharecropper, ‘Detach some produce from the ground by which action you may effect acquisition of one tenth of the produce that it will yield [a volume corresponding to its tithes].”
- [I:2 A] *It has been taught on Tannaite authority:* **A priest who sharecropped a field for another priest, or a Levite who sharecropped a field for another Levite, or an Israelite who sharecropped a field for another Israelite — the landowner and the share cropper divided the heave-offering or tithes among them [T. Dem. 7:1].**
- [B] **For which authority was this required? It was for R. Eliezer’s position, for even though R. Eliezer said, “The [heave-offering or] tithes belong to them [to the priest or Levite], for on this account did they come [to sharecrop the field],” he concedes in this case that they divide the heave-offering or tithes among them.”**
- [I:3 A] **An Israelite who sharecropped a field for a priest and said to him, “[I will sharecrop for you] (1) on condition that the [heave-offering and] tithes belong to me,” [or] (2) “on condition that the [heave-offering and] tithes belong to you,” [or] (3) “on condition that the [heave-offering and] tithes belong to me and to you” — this [arrangement] is permitted [T. Dem. 7:3]**
- [B] **A priest who sharecropped a field for an Israelite and said to him, “[I will sharecrop for you] (1) on condition that the tithes [i.e., heave-offering] belong to me”— this is permitted. [If he said, “I will sharecrop] (2) on condition that the tithes belong to you”— or (3) “[on condition that the tithes, i.e., heave-offering] belong to me and to you”—if he [the priest] agreed to sharecrop according to the customary procedure [i.e., if he does not cede to the owner**

unconsecrated produce in return for the additional heave-offering], this is permitted; if not, this is forbidden [T. Dem. 7:4].

[C] But even without the stipulation [or (3) “[on condition that the tithes, i.e., heave-offering] belong to me and to you” — if he [the priest] agreed to sharecrop according to the customary procedure [i.e., if he does not cede to the owner unconsecrated produce in return for the additional heave-offering], this is permitted; if not, this is forbidden [T. Dem. 7:4] do not the tithes belong to them both?

[D] *But this is the sense:* [If he said, “I will sharecrop on condition that] my portion of the heave-offering belongs to me and your portion belongs to me and to you,” if the priest agreed to sharecrop according to the customary procedure, it is permitted, and if not it is forbidden.”

[I:4 A] **An Israelite who sharecropped a field for an Israelite”] and said to him, “[I will sharecrop for you] (1) on condition that I take the tithes [i.e., the heave-offering] and give them to such-and-such [a priest]” — this [arrangement] is forbidden; “on condition that we both take them [the tithes] and give them to such-and-such] a priest”— this is permitted [T. Dem. 7:5].**

[B] *But isn't this second case identical with the first case there?*

[C] Said R. Aha, “The difference between them is that [in the second case, where the arrangement is permitted, the language ‘if you wish’ is used.”

[D] Said R. Yosé, “The difference between them is that what you rule as permitted is a case in which the sharecropper contracted to sharecrop according to the accepted provisions [and did not cede to the owner unconsecrated produce from his own portion in exchange for the right to dispose of the owner's portion of the tithes], while what is forbidden is a situation in which he did not agree to sharecrop according to the accepted norm [but ceded to the owner some of the unconsecrated produce from his own portion in exchange for the right to dispose of the owner's portion of the tithes, thus paying for it out of his wages].”

[E] Thus R. Yosé concurs with R. Yohanan and R. Aha with R. Yosé b. R. Hanina. For R. Yosé b. R. Hanina said, “One may give his tithes in exchange for a benefit [giving up his right to give tithes to a priest or Levite of his choice in exchange for a financial advantage.” And R. Yohanan said, , “One may not give his tithes in exchange for a benefit [giving up his right to give tithes to a priest or Levite of his choice in exchange for a financial advantage.”

- [F] What is the Scriptural basis of the position of R. Yosé b. R. Hanina?
- [G] “And each man’s sacred donations shall belong to himself” (Num. 5:10).
- [H] *How does R. Yohanan interpret this verse?*
- [I] The farmer may give the tithes to any priest or Levite he wants.
- [J] *The Mishnah differs from R. Yosé b. R. Hanina: [If she said], “Qonam be the benefit priests and Levites derive from me,” they collect their dues by force [M. Ned. 11:3].*
- [K] Interpret the rule to deal with a case in which she said, “I do not want to give any gift at all to any priest or Levite.”
- [L] You may know that that is so, for we learn in the immediately following clause of the Mishnah: [If she said,] “Qonam be the benefit these [particular] priests and Levites derive from me,” others collect [the priestly dues from her] [M. Ned. 11:3].
- [M] *A Tannaite statement differs from R. Yohanan: An Israelite may say to another Israelite, “Take this sela and give this firstling to my daughter’s son, a priest” [T. Dem. 5:18].*
- [N] Interpret the passage to refer to an Israelite who wants to give his priestly dues to two priests, and the son of the daughter of the other Israelite is one of them, and he says, “Take this sela and give all your priestly dues to my daughter’s son, a priest.”
- [N] *They asked before R. Zeira, “Then if it was a priest who said this to an Israelite, how would R. Yosé b. R. Hanina rule?” [Isn’t it forbidden for a priest to buy priestly dues?]*
- [O] *He didn’t answer.*
- [P] R. Hezekiah in the name of R. Aha said, “*This is how he replied to them: ‘From the perspective of R. Yosé b. R. Hanina why should the case of a priest who said this to an Israelite be forbidden? Shouldn’t it be only for appearance’ sake? So too did R. Yohanan decide that an Israelite who said this to another Israelite is forbidden only on account of appearance’ sake.’*”
- [Q] Said R. Yosé b. R. Abun, “Holy Things are profaned here and you say it is forbidden only on account of appearance’ sake!”
- [R] *Also from the following Tannaite rule we learn that Holly Things are profaned here: Priests and Levites who were assisting on the threshing-floors — they do not give them heave-offering and tithes*

as wages. And if they gave [heave-offering and tithes], behold these are [i.e., have become] unconsecrated produce, as it is said, “And you shall not profane the holy things of the people of Israel” (Num. 18:32). They [the heave-offering and tithes] are already unconsecrated [profaned; viz., they retrospectively are deemed never to have been consecrated produce]. And [Scripture] says, “You have corrupted the covenant of Levi, says the Lord of Hosts” (Mal. 2:8) and they profane them. Additionally they [the sages] have said, “Their heave-offering is not heave-offering and their tithes are not tithes.” And what they dedicate to the altar is not dedicated. Moreover, sages wished to fine them [the owners of the produce] [such] that their produce should require separating heave-offering [again]. And concerning them Scripture says, “(1) Its heads give judgment for a bribe, (2) its priests teach for hire, (3) its prophets divine for money” (Mic. 3:11)]; therefore God brought upon them three punishments corresponding to [these] three transgressions, as it is said, “Therefore because of you (1) shall Zion be plowed as a field; [(2) Jerusalem shall become a heap of ruins and (3) the mountain of the house a wooded height” (Mic. 3:12)].

- [S] *The Mishnah contradicts the position of R. Yohanan: He who consecrated a woman with food in the status of heave offering, tithe, or gifts [to be given to the priest], purification water, purification ash — lo, this woman is betrothed and even if he is an Israelite.*[M. Qid. 2:10].
- [T] *Interpret the statement to speak of heave-offering that was bequeathed to him from his mother’s father, a priest.*
- [I:5 A] A priest who sold a field to an Israelite and said to him, “I am selling you this field on condition that the tithes belong to me” — the tithes belong to him.
- [B] What is the law as to his selling them to another priest?
- [C] *Let us derive the answer from what R. Abbahu said in the name of R. Simeon b. Laqish: [He who sells the fetus in his beast to his fellow has done nothing at all. If he sold the fetus of his maidservant to his fellow, he has done nothing at all. If he sold the tithes of his field to his fellow, he has done nothing whatsoever. If he sold the air space of his ruined house to his fellow, he has done nothing whatsoever. But he sells him his beast and leaves the fetus for himself. He sells him the maidservant and leaves the fetus for himself. He sells him his field and*

leaves the tithes for himself. He sells him his ruined house and leaves the air space for himself.

- [D] And how does one sell to his fellow the airspace contained in his ruined building?
- [E] *Interpret it to refer to one who says, “Detach some stones from this ruin, and by that act acquire its airspace.”*
- [F] So too here [the owner of the field who is selling the tithes before the produce has grown] — the ground is there before him and the owner may say to the potential buyer, “Detach produce from this ground, and by that act effect acquisition of one tenth of the produce that it will yield.”
- [I:6 A] **A priest who sold a field to an Israelite and said to him, “I sell you this field] on condition that the tithes [i.e., heave-offering] belong to me in perpetuity” — [if] he [subsequently] died, his sons receive no tithes. [If he said, “I sell you this field] (2) on condition that the tithes [i.e., heave-offering] belong to me and to my sons,” [if] he [subsequently] died, the tithes belong to his sons [T. Dem. 7:14].**
- [B] *R. Yudan bar Shalom asked in the presence of R. Yosé, “Does this apply only to those who inherit on the basis of the law of the Torah?”*
- [C] Even to those who inherit not on the basis of the law of the Torah.
- [D] **[If he said, “I sell you this field] (3) on condition that the tithes belong to me as long as my field is in your possession” — [if] he [the purchaser] [subsequently] sold it to another — even if he [the first purchaser] thereafter repurchased it from him [the second purchaser] — R. Hiyya repeated the Tannaite formulation as: he [the priest] receives no tithes [T. Dem. 7:14]. R. Hoshayya repeated the Tannaite formulation as: he [the priest] receives the tithes.**
- [E] *This dispute runs parallel to that dispute that we have learned in the Mishnah: [If she produces] two writs of divorce and two marriage contracts — she collects [the value of] two marriage contracts. [If she produces] two marriage contracts but only one writ of divorce, or one marriage contract and two writs of divorce, or a marriage contract and a writ of divorce and a death [certificate], she collects only one marriage contract. For he who divorces his wife and then remarries her on the strength of the first marriage contract does he remarry her [M. Ket. 9:10].*
- [F] *R. Hanan taught before R. Hela, “There are two Amoras in disagreement on the interpretation of this passage. One of them said,*

‘It is a rule pertinent only as to the marriage contract, but not as to any further conditions written into it.’ And the other said, ‘It is pertinent both to the marriage contract and to the conditions written into it.’”

- [G] *As to the one who said, “It is a rule pertinent only as to the marriage contract, but not as to any further conditions written into it,” in our case the priest receives no tithes [if the field is sold and bought back by the first buyer].*
- [H] *As to the other who said, “It is pertinent both to the marriage contract and to the conditions written into it,” the priest receives tithes if the field was sold and then repurchased by the original buyer.*
- [I] **Has it not been taught as a Tannaite rule: [If] he [the Israelite] sharecropped a field for the daughter of a priest, the heave-offering belongs to the daughter of the priest. [If] she married an Israelite, they [the sharecropper and the owners] divide [the heave-offering] between them. [If] she was widowed or divorced, the situation reverts to its initial status [i.e., the heave-offering belongs to the daughter of the priest] [T. Dem. 7:9].**
- [J] Here the priestly owner sold the field [and retains the heave-offering only on the terms of the initial situations] but there the Israelite sharecropped [the field and the daughter of the priest, who owns it, never lost her right to all of the heave-offering].
- [K] *But did not R. Hiyya teach the Tannaite rule: She sold it?*
- [L] *Said R. Samuel bar Abedoma, “There the field has left the domain of both the priest who sold it and the first buyer, so the initial stipulation has been broken], but here the field has left the domain of the priestly seller but not of the purchaser [so the initial stipulations are still in force.]”*
- [I:7 A] **A priest who sold a field to an Israelite and said to him, “[I sell you this field] on condition that the tithe [i.e. heave-offering] belongs to me for four or five years” — the priest can stop the Israelite from planting the field as a vineyard or sowing it with woad or making it field of reeds. If he said, “I sell you the field on condition that the tithe belongs to me in perpetuity, he may not stop him from planting the field as a vineyard or sowing it with woad or making it field of reeds [T. Dem. 7:15].**

[B] *A case came to R. Aha bar Ulla and he required the purchaser to give the priestly seller one tenth of the reeds [as a fine for violating the stipulation].*

[I:8 A] **An Israelite who sold a field to a priest and said to him, “[I will sell you the field] on condition that the tithes [heave-offering] belong to me for four or five years” — this [arrangement] is permitted. ...”[on condition that the tithes belong to me] in perpetuity” — this is forbidden, for a priest cannot make [an Israelite] a priest [i.e., cannot per-manently cede to him the rights of the priesthood to receive and dispose of heave-offering] [T. Dem. 7:15].** A priest who sold a field to an Israelite and said to him, “I sell you the field on condition that the tithes belong to you for four or five years” — this is forbidden.

[B] Here you say that it is permitted, while there you say that it is forbidden!

[C] *Here* the priest gives the Israelite the right of acquisition to something that is in the priest’s domain, *while there* the priest bestows upon the Israelite the right of acquisition to something that is not now in the priest’s domain.

6:3

[A] **An Israelite who sharecropped [a field] for a priest or a Levite — the tithes belong to the owners.**

[C] **R. Ishmael says, “The provincial who sharecropped a field for a Jerusalemite —**

[D] **“second tithe belongs to the Jerusalemite.”**

[E] **And sages say, “The provincial himself is able to go up and to eat it in Jerusalem.”**

[I:1 A] *In the view of R. Ishmael, an unclean priest who was a partner with a clean priest in the ownership of a field — don’t they divide the heave-offering between them [even though the unclean priest is not fit to eat heave-offering]? [Why doesn’t he rule here that the provincial gets half the second tithe?]*

[B] There he may sell the heave-offering and tithes to another priest, who is clean. But here the provincial must go up and eat the second tithe in Jerusalem.

6:4

- [A] **He who sharecrops olive trees for oil —**
- [B] **just as they [the sharecropper and the landowner] divide [between them] the unconsecrated produce, so they divide [between them] the heave-offering [and tithes].**
- [C] **R. Judah says, “An Israelite who sharecropped for a priest or a Levite olive trees for oil,**
- [D] **“or for half of the profit [from its sale] —**
- [E] **“the tithes belong to the owners.”**
- [I:1 A] R. Judah treats olive trees as equivalent to land, and sages do not treat olive trees as equivalent to land.
- [B] *Then R. Judah does not concur with R. Eliezer, for* **A priest or a Levite who sharecropped a field for an Israelite — R. Eliezer says, “The [heave-offering or] tithes belong to them [to the priest or Levite], for on this account did they come [to sharecrop the field]” [M. Dem. 6:2].** And here a priest or a Levite who sharecropped an olive grove for an Israelite — the tithes belong to them, for on this account they came to sharecrop the olive grove.
- [C] **The cow of a priest which was put out to be raised in the keeping of an Israelite [with the condition of sharing the profits], and it gave birth to a firstling — “The firstling belongs to the priest,” the words of R. Judah. And sages say, “The firstling belongs to both of them.” Said to them R. Judah, “You concede in the case of the produce of a field that the heave-offering belongs to him [the priestly owner].” They said to him, “If [in that case] the field itself belongs to him, [in this case] the cow itself belongs to both of them. If the cow itself belonged to him [the priest], the firstling would belong to the priest” [T. Dem. 7:10].**
- [D] *And so it was repeated as a Tannaite rule:* One who puts out a beast to be raised by another party — the legal responsibility is shared by both of them. One who gives over a field for share cropping — the legal responsibility remains with the one who gives over the field for sharecropping.
- [I:2 A] **A priest who gave coins to an Israelite for the purchase of produce not yet harvested in return for half of the profit and said to him, “If its market value increases or decreases, behold it is all mine and I will bear the risks but the tithes are yours” — this is permitted. An Israelite who gave coins to a priest with which to**

purchase produce not yet harvested in return for half of the profit and said to him, if its market value increases or decreases, behold it is all mine, but I will bear the risks, and the tithes are yours (if the Israelite gave him his proper compensation, this is permitted [T. Dem. 7:7-8].

- [B] **An Israelite who sold [i.e., farmed out] his olives [in return] for sixty *logs* of fully untithed [olive oil], and a priest said to him, “Give them to me [in return] for sixty *logs* of fully tithed [olive oil]” — this is permitted. “[in return] for sixty *logs* of fully tithed [olive oil], and the tithes are mine,” the tithes are his, and he does not scruple about seventh-year produce, nor about interest, nor about the profanation of Holy Things [T. Dem. 5:18]. “...in return for sixty logs of fully untithed olive oil and you and I will divide the tithes” — this is forbidden.**
- [C] The stipulation that the priest gives him all of the produce fully tithed is permitted, while the stipulation that he gives him only part of it fully tithed is forbidden?
- [D] Said R. Yosé, “Here [where the stipulation is forbidden] the priest profits. [He gets the use of the olives and gives the owner half of the tithes in payment for the delay.] There, if he himself profits by delaying repayment, this is forbidden as interest and the desecration of Holy Things.”
- [E] *And so it is taught as a Tannaite rule:* If he himself profits by delaying payment, this is forbidden on account of interest and the desecration of Holy Things.

6:5

- [A] **The House of Shammai say, “A man should sell his olives only to a Associate.”**
- [B] **The House of Hillel say, “Also to one who separates tithes.”**
- [C] **And the more punctilious among the House of Hillel would act according to the words of the House of Shammai.**
- [I:1 A] Said R. Yohanan, “The reason of the House of Hillel is that people ordinarily eat their olives from the vat [when they are still dry and insusceptible to uncleanness].”
- [B] *Is that really the common practice?* But this is a mere pretext.”
- [I:2 A] *The House of Hillel is consistent in its rulings, for we have learned in the Mishnah:* **The House of Shammai say, “During the Sabbatical**

year a person may not sell to another a heifer suited for plowing.” But the House of Hillel permit [one to sell such a heifer,] because he [i.e., the buyer] may slaughter [and eat] it [M. Sheb. 5:3]

[B] *Is it really the custom of people to slaughter their ploughing oxen for food?? But this is a mere pretext.”*

[I:3 A] **The Houses concur that one may sell to another who is not an Associate sheaves of wheat for his loaf of bread, even though the seller knows that the buyer will not prepare it in cleanness [T. Ma. 3:13] to sustain life.**

[B] **The House of Shammai and the House of Hillel concur that a man should sell a stack of grain, or a basket of grapes, or a vat of olives only to an Associate who prepares [his food] in cleanness. An Associate sells him [i.e., an ‘*am ha’ares*] wheat, even though he [the Associate] knows that [the ‘*am ha’ares*] does not knead his dough in cleanness [T. Ma. 3:13]**

[C] Now isn’t it the Torah’s law that a basket of grapes [is susceptible to uncleanness, since the owner wants the moisture? And isn’t it the Torah’s law that a vat of olives [is susceptible to uncleanness, since the owner wants the moisture?

[D] *Doesn’t this teaching conflict with R. Yohanan, for R. Yohanan said, “[Just as] it is a Rabbinic stringency [that one who sends] a minor [is responsible for an act of sacrilege that he may commit if he inadvertently sends the minor as an agent to buy goods with many that belongs to the Temple], so they said that the susceptibility of a vat of olives to uncleanness is a Rabbinic stringency [and not a matter of the Torah’s law]”?*

[E] R. Hezekiah said R. Jonah in the name of R. Jeremiah: “Where they differ is on connection [whether the olives in the vat are] connected [for uncleanness by being pressed]. For in all cases if items are joined together so that they cannot be separated without leaving a residue, they are deemed to be connected for uncleanness, but if they are pressed together so that they can be separated without leaving a residue is not a connection for uncleanness. But here in the case of the vat of olives, even pressing the olives in a mass forms a connection. According to R. Yohanan, the olives’ susceptibility to uncleanness is a matter of the law of the Torah.”

[F] R. Jonah met R. Jeremiah and said to him, “Did you really say that Yohanan did not regard susceptibility of olives in a vat as a matter of the rabbis’ stringency but as a matter of Torah law?”

- [G] He said to him, “If you want to hear directly from me, I do hold that susceptibility of olives in a vat as a matter of the rabbis’ stringency.”
- [H] *Has it not been taught on Tannaite authority: **The House of Shammai and the House of Hillel concur that a man should sell a stack of grain, or a basket of grapes, or a vat of olives only to an Associate who prepares [his food] in cleanness?*** And is it not a matter of the law of the Torah that a basket of grapes is susceptible to uncleanness, and isn’t it a matter of Torah law that a vat of olives is susceptible to uncleanness? How now?
- [I] Interpret it in line with what R. Meir said, for R. Meir said, “What exudes from the olives in the vat is deemed to be a liquid, and exuding secretion renders olives susceptible to uncleanness as a matter of the law of the Torah].”
- [I:4 A] Said R. Zeira, “The reason for the position of the House of Shammai is that Associates customarily sell olives only to those who separate tithes properly.”
- [I:5 A] **And the more punctilious among the House of Hillel would act according to the words of the House of Shammai.**
- [B] What is the meaning of “punctilious”? Proper.
- [C] Said R. Hisda, “Thus we have learned that the proper person is called punctilious.”

6:5

- [A] **Two [men] who gathered [the grapes of] their vineyards into a single winepress—**
- [B] **one [who] separates tithes and the other [who] does not separate tithes —**
- [C] **the one who separates tithes tithes his own [share of the wine] and his portion [of the grapes] wherever it may be.**
- [I:1 A] Said R. Eliezer, “This represents the view of R. Meir, for **R. Meir said, “The sages have permitted only wholesalers to sell Demai-produce” [T. Dem. 3:13].**
- [B] [*Eliezer*] *interpreted the statement to mean:* he who separates tithes must tithe his own portion [the part that he takes as his own] as certainly untithed and tithes as demai his portion of the grapes wherever located.

- [C] *R. Jonah asked*, “He sells him certainly untithed produce and tithes it as Demai-produce?”
- [D] *You have only what R. Yohanan said*, “It represents the view of all parties. [At issue is mixing together the wine produced by the grapes of both vintners.] He who tithes must tithe from his own portion as certainly untithed, and he tithes as demai for his portion of the grapes wherever located he separates for half of his own portion that is in the possession of his fellow.”

6:6

- [A] **Two [men, one who separates tithes and one who does not separate tithes] who [jointly] sharecropped a field, or inherited [a field], or became joint owners —**
- [B] **he [the one who separates tithes] may say to him [the one who does not separate tithes], “You take the wheat in such-and-such a place and I [will take] the wheat in such-an-such a place;**
- [C] **“you [take] the wine in such-and-such a place and I [will take] the wine in such-and-such a place.”**
- [D] **But he may not say to him, “You take the wheat and I [will take] the barley;**
- [E] **“you take the wine and I will take the oil.”**
- [F] **An Associate and an ‘am ha’ares who inherited [the property of] their father, [who was] an ‘am ha’ares —**
- [G] **he [the Associate brother] may say to him [the ‘am ha’ares brother], “You take the wheat in such-and-such a place and I [will take] the wheat in such-and-such a place;**
- [H] **“you [take] the wine in such-and-such a place and I [will take] the wine in such-and-such a place.”**
- [I] **But he may not say to him, “You take the wheat and I will take the barley;**
- [J] **“you take the wet produce [susceptible to uncleanness] and I will take the dry [insusceptible] produce.”**
- [I:1 A] *It was taught as a Tannaite statement*: “An Israelite and a gentile who purchased together a field in Syria — “lo, it [i.e., the produce they grow] is like untithed and tithed [produce] that are mixed together,” the words of Rabbi. Rabban Simeon b. Gamaliel says, “The Israelite’s portion [of the produce] is liable [to tithes and heave-offering]; the gentile’s portion is not liable” [T. Ter. 2:10].

- [B] *R. Yosé in the name of R. Hanina: “Where they differ it is in the case of a field of standing grain [that was not harvested]. But if they divided a field that had been stacked in piles, then Rabban Simeon b. Gamaliel concedes to Rabbi that every stalk is jointly owned.”*
- [C] Said R. Jonah, R. Yosé in the name of R. Yohanan: *“Where they differ it is in the case of a field of standing grain [that was not harvested]. But if they had divided it when it was bound into sheaves, then Rabban Simeon b. Gamaliel concedes to Rabbi that every stalk is jointly owned.”*
- [D] In the theory of R. Jonah, what is the difference between stacked produce and produce bound in sheaves? It is when one reaps any amount and lays it before the owner.
- [E] Said R. Hoshaiah, “That which you say applies when the Israelite and the gentile bought the field intending not to divide it between them but to hold it in joint ownership, and they later on decided to divide the produce. But if they bought the field intending to divide it between them, Rabbi will concede to Rabban Simeon b. Gamaliel that this portion of the produce that each party later on takes is the portion that was reserved for him to begin with.”
- [F] *Said R. Yosé, “The statements of the rabbis differ [from Hoshaiah] for R. Abbahu said in the name of R. Yohanan, “The dispute of Rabbi and Rabban Simeon b. Gamaliel applies to joint owners. And do not brothers who are joint owners intend to divide the property between them?”*

6:7

- [A] **A proselyte and a gentile who inherited [the property of] their father, [who was] a gentile —**
- [B] **he [the proselyte brother] may say to him [the gentile brother], “You take the idols and I [will take] the coins;**
- [C] **“you [take] the libation wine and I [will take] the produce.”**
- [D] **And if [he said this] after it [the property] came into his possession.**
- [E] **this [arrangement] is forbidden.**
- [F] **He who sells produce in Syria and said, “It is from the Land of Israel [and thus liable to tithing]” —**
- [G] **he [the purchaser] must tithe [the produce].**
- [H] **[If the vendor subsequently said,] “It is tithed,”**

- [I] he is believed,
- [J] for the mouth that forbade is the mouth that permitted.
- [K] [If the vendor said,] “It is from my [field, and thus liable to tithing]” —
- [L] he [the purchaser] must tithe [the produce].
- [M] [If the vendor subsequently said,] “It is tithed,”
- [N] he is believed,
- [O] for the mouth that forbade is the mouth that permitted.
- [P] But if it was known that he [the vendor] owns a field in Syria,
- [Q] he [the purchaser] must tithe [the produce].
- [I:1 A] **An Israelite and a gentile who together bought the household property of a gentile, in which were included libation wine, idols, and coins — the Israelite may not say to the gentile, “You take the libation wine and the idols and I shall take the coins” [T. Dem. 6:13].**
- [B] Said R. Yohanan, “It is not the end of the matter that the ruling applies to libation wine, idols, and coins, but it pertains even if there were two statues, one made as a kind of delphica [not for idolatry] — the Israelite may not say to the gentile, you take the one that is not made as a kind of delphica and I will take the one that is made as a kind of delphica.”
- [C] Said R. Zeira, “Well said. If it were an Associate and an ‘am ha’ares who inherited their ‘am ha’ares-father’s estate, and included were produce that had been made susceptible to uncleanness and produce that had not been rendered susceptible to uncleanness, may the Associate say to the ‘am ha’ares, “You take the produce that is susceptible to uncleanness and I will take the produce that is not susceptible to uncleanness?” [Certainly not.]
- [D] *Lo, the Mishnah differs:* **A proselyte and a gentile who inherited [the property of] their father, [who was] a gentile — he [the proselyte brother] may say to him [the gentile brother], “You take the idols and I [will take] the coins; “you [take] the libation wine and I [will take] the produce.”**
- [E] *State the concluding clause:* And if [he said this] after it [the property] came into his possession. this [arrangement] is forbidden. **And here once the proselyte has purchased the house in partnership with the gentile, he is like one into whose domain the property in the house has come.**

[F] **Aquila the proselyte divided his father's estate with his brothers. He dealt more strictly with himself and took the benefit to the Dead Sea and threw it in [T. Dem. 6:13].**

[G] *Three Amoraic masters — one said, “He threw into the Dead Sea the value of the idols [including those his brothers inherited].” And one said, “He threw into the Dead Sea the proceeds of his own share of the idols. And one said, “He threw into the Dead Sea the idols themselves, so as to uproot idolatry from his father's house.”*

[II:1 A] **He who sells produce in Syria and said, “It is from the Land of Israel [and thus liable to tithing]” — he [the purchaser] must tithe [the produce]. [If the vendor subsequently said,] “It is tithed,” he is believed, for the mouth that forbade is the mouth that permitted. [If the vendor said,] “It is from my [field, and thus liable to tithing]” — he [the purchaser] must tithe [the produce]. [If the vendor subsequently said,] “It is tithed,” he is believed, for the mouth that forbade is the mouth that permitted. But if it was known that he [the vendor] owns a field in Syria, he [the purchaser] must tithe [the produce].**

[B] *There we learned in the Mishnah: [Poor people who sell produce in their possession] are believed [if they claim that they received this food as] gleanings, forgotten sheaves, or *peah* [only if they are selling this produce] during the proper time [of the year for the designation of these offerings] [Thus during harvest season, when the poor collect these offerings, a poor person is deemed trustworthy when he claims that food he sells is in the status of poor-offerings. Accordingly, this produce is exempt from the separation of tithe] [M. Pe. 8:2]. And here you say this But if it was known that he [the vendor] owns a field in Syria, he [the purchaser] must tithe [the produce]!*

[C] *There if he were to keep silent, the produce would be exempt from tithing, but here if he kept silent, the produce would still be liable to tithing.*

[D] *And so it has been taught on Tannaite authority: for in every [case in which] his silence renders exempt, [his explicit word] for stringency is believed— therefore [in the subsequent case of] his explicit word for leniency — it is exempt [T. Dem. 1:8].*

[II:2 A] **A gentile who cried out and said, “Come and buy! It is *Demai*-produce! It is *Orlah*-produce [produce of the first three years of the growth of a new sapling; its consumption is forbidden, cf. Lev. 19:23]! It is *reba'y* (produce [produce of the fourth year of the**

tree's growth, which must be consumed in Jerusalem like second tithe; cf. Lev. 19:24!]" is not believed, since he is as one who praises his [own] wares. But [if] he said, "From so-and-so, I obtained them," "from so-and-so, a Samaritan, I obtained them," "from my own [produce] have I brought them," "he is believed to declare stringently," the words of Rabbi. R. Simeon b. Gamaliel says, "He is not believed, for the words of a gentile do not change the status of anything [T Dem. 5:2].

[B] *R. Yudan asked, "If he cried out in all innocence, [how do we rule]?"*

[C] *R. Yudan asked, "From what you say I infer that the Samaritan is classified as a gentile." For there is a dispute on the subject:*

[D] **"Samaritans are classified as gentiles," the words of Rabbi Rabban Simeon b. Gamaliel says, "Samaritans are classified as Israelites for all purposes" [T. Ter. 4:12].**

[III:1 A] But if it was known that he [the vendor] owns a field in Syria, he [the purchaser] must tithe [the produce]:

[B] Said R. Abun bar Hiyya, "But that applies only if the majority of his produce comes from his own field."

[III:2 A] An Israelite who had a tenant farmer in Syria and the tenant sent the owner produce and said to him, "It is tithed" — behold it is held to be tithed, for I say he bought it in the marketplace.

[B] But that is the case only if that species of produce was abundant in the Syrian marketplace.

[C] But it is not the end of the matter that it is only if he does not have that species of produce growing in his field, but even if he has that kind of produce growing in his field, it is permitted.

6:8

[A] An 'am ha'ares who said to a Associate [who is going to the market], "Buy for me a bunch of vegetables," or "Buy for me a white bread" —

[B] [if] he [the Associate] buys without specifying [which item is for himself and which is for the 'am ha'ares],

[C] he is exempt [from tithing the item that he gives to the 'am ha'ares].

[D] But if he [the Associate] said, "This one is mine and that one is my fellow's," and they became mixed together,

- [E] **he must tithe [all of the items],**
- [F] **even if they [the ‘am ha’ares’s items of produce] are a hundred.**
- [I:1 A] *The Mishnah represents the position of R. Yosé, for it has been taught as a Tannaite statement:*
- [B] **He who buys produce without specifying which item is for himself and which is for an ‘am ha’ares] — R. Yosé says, “He is exempt from tithing.” Rabbi says, “He has to tithe” [T. Dem. 8:1].**
- [C] *How do we explain the matter?* If it is a case in which the ‘am ha’ares said to the Associate, “Go buy produce for me” then the Associate is the agent of the ‘am ha’ares, and the produce belongs forthwith to the ‘am ha’ares. If he said to him, “Go and buy produce for yourself,” then the produce belongs forthwith to the associate.
- [D] *But this is how we are to explain the matter:* it is a case in which the man did not spell out the rule. R. Judah holds that the seller intended to transfer title to the produce only to the person who actually takes it, and R. Yosé takes the view that the seller intended to transfer title of the produce only to the owner of the coins.
- [E] **Therefore if the seller gave him an extra item of produce, R. Judah says, “It belongs to the person who actually takes the produce [the Associate]. R. Yosé says, “It belongs to both of them” (T. Dem. 8:3).**
- [I:2 A] *The rulings attributed to R. Yosé conflict. There he said, “The seller intended to assign title to the produce only to the owner of the coins and here he holds this [the additional item belongs to both of them.]”*
- [B] Here through the coins of this one and the legs of that one both of them divide the additional item.
- [II:1 A] **But if he [the Associate] said, “This one is mine and that one is my fellow’s,” and they became mixed together, he must tithe [all of the items], even if they [the ‘am ha’ares’s items of produce] are a hundred.**
- [B] *It has been taught as a Tannaite rule: R. Simeon b. Gamaliel says, “If he exchanged the [‘am ha’ares’s] coin for one of his own, with which he brought the produce], he must tithe [the item which he gives to the [‘am ha’ares]]” [T. Dem. 8:1].*
- [C] Said R. Yosé, “That leads to the inference that one who gives coins to his fellow, and his fellow exchanged them for his own coins and then lost them — the fellow is responsible to make up the loss.”

- [II:2 A] Samuel said, “The Associate also must tithe with his own hands the portion that he gives the ‘am ha’ares when he divides up the produce between them [even if the two portions were mixed together.]”
- [B] Said R. Eleazar, “That applies when the Associate took his own portion last.”
- [C] Said R. Jonah, “*This statement [Samuel’s] is necessary, and that statement [Eleazar’s] is necessary.* If the Associate divided the produce between them with his own hands and took his share first, he has only to separate tithes for his own portion. If he did not divide up the produce between them with his own hands and took his portion last, he has only to separate tithes for his own portion.”
- [II:3 A] *It has been taught as a Tannaite rule: A man says to his laborers, “Go and eat [food purchased] with this *dinar*, go and drink [wine purchased] with this *dinar* and he does not scruple about tithes, or about seventh-year produce, or about libation-wine [of gentiles]. But if he said, “Go and eat the loaf, and I will pay for it, go and drink the quarter[-log of wine], and I will pay for it,” behold, this one scruples about seventh-year produce, and about tithes, and about libation-wine [T. Dem. 5:14, T. A.Z. 7(8):10].*
- [B] Said R. Zeira, “The storekeeper becomes the agent of the householder-employer to transfer title to the produce to the worker.”
- [C] Said R. Hila, “The worker transfers title to the produce to the householder from the storekeeper and goes and transfers title o the produce to himself.”
- [D] *What is at issue between them?*
- [E] If the storekeeper was a deaf-mute, then in the view of R. Zeira the employer does not have to scruple about the produce, because a deaf-mute may not act as an agent. In R. Hila’s view the employer must still scruple about the produce [because in his view it is the laborer not the storekeeper who serves as the employer’s agent and the agency remains valid.]
- [II:4 A] *It has been taught as a Tannaite rule: A man should not say to his fellow, “Take these two hundred zuz and do government service for me.” Rather he says to him, “Release me from [my obligation to do] government service.” An Israelite should not say to a gentile, or to a Samaritan, or to one who is not trustworthy in the matter of tithing, “Take these two hundred zuz and pay for me my*

taxes [in kind] to the [Roman] treasury.” Rather he says to him,
“Release me from [my obligation to] the treasury” [T. Dem. 6:4].

YERUSHALMI DEMAI

CHAPTER SEVEN

7:1

- [A] He who invites his friend to eat with him [on the Sabbath],
[B] and the [the friend] does not trust him [the host] in the matter of tithing —
[C] he [the friend] says [stipulates] on the eve of the Sabbath [that is, before the Sabbath begins],
[D] “That which I shall separate tomorrow [one hundredth part of the whole],
[E] “behold, it is [made first] tithe,
[F] “and the remainder of the [first] tithe is adjacent to it.
[G] “That which I have made [first] tithe is [now] made heave-offering of the tithe for it [that is, for the remainder of the first tithe, nine hundredths of the whole, adjacent to the specified hundredth part],
[H] “and second tithe is to the north of it, or to the south of it [of the designated remainder of the first tithe], and is redeemed with coins.”
- [I:1 A] Said R. Yohanan, “The Mishnah-passage refers to Demai-produce. Lo, as to produce that is certainly-untithed, that is not subject to the stated procedure.”
- [B] *Not so, rather the Mishnah’s law applies even to certainly untithed produce as we have learned in the Mishnah: [If] he had fully untithed figs at home, and he was in the house of study, or in the field, he says, “Two figs [out of one hundred] that I shall separate, behold, these are [made] heave-offering, and [the following] ten are [made first] tithe, and [the following] nine are [made] second tithe” [M. Dem. 7:4].*

- [C] *Now if you say we deal with certainly-untithed produce, — you cannot take that position, for we learn in what follows: [If] they [the figs] were Demai, he says, “That which I shall separate [one fig out of one hundred], behold, it is [made first] tithe, and the remainder of the [first] tithe is adjacent to it. That which I made [first] tithe is [now] made heave-offering of the tithe for it [for the designated remainder], and second tithe is to the north of it, or to the south of it [of the remainder], and is redeemed with coins.”*
- [D] What did R. Yohanan intend in stating, “The Mishnah-passage refers to Demai-produce. Lo, as to produce that is certainly-untithed, that is not subject to the stated procedure”?
- [E] His statement indicated only that this particular ruling applies to Demai-produce but not to certainly untithed produce.
- [F] What [in Yohanan’s mind] is the difference between Demai-produce and certainly untithed produce?
- [G] As to Demai-produce, one may stipulate concerning produce that is not now in hand the coming separation of tithes, but as to certainly untithed produce one may stipulate the future separation of tithes only in regard to what is now in his possession.
- [I:2 A] *R. Yannai made a stipulation on the future separation on the Sabbath concerning heave-offering and tithes from certainly untithed produce. He asked R. Hiyya the Elder, “Is it permitted to remove the tithes and heave-offering on the Sabbath?”*
- [B] He said to him, “ ‘You shall set aside every year a tenth part of the yield of your sowing that is brought from the field so that you may learn to revere the Lord your God every day’ (Dt. 14:22-23). ‘Every day’ and even on the Sabbath [so the stated procedure is allowed].”
- [C] “What is the meaning of what I saw in a dream, that a tax-collector’s staff was strapped to me?”
- [D] He said to him, “You are going to exercise authority over Israel.”
- [I:3 A] *R. Hoshayya made a stipulation on the future separation on the Sabbath concerning heave-offering and tithes from certainly untithed produce. A certain woman cooked a vegetable but neglected to remove the priestly gifts from it prior to the Sabbath. On the Sabbath she came to R. Hoshayya, who sent Zebedee bar Levi to remove the priestly gifts from it for her on the Sabbath.*

- [B] *R. Abba bar Mamel asked, “But should Zebedee bar Levi not have transferred title for the vegetable to R. Hoshayya [before removing the priestly gifts]?”*
- [C] *R. Zeira asked, “With what situation do we deal? If it speaks of a circumstance in which [Hoshayya] made a stipulation about his own food and food of others, [Zebedee] did not have to transfer ownership of the vegetable to [Hoshayya], since the stipulation to begin with dealt with a case like this. If it refers to a circumstance in which [Hoshayya] stipulated concerning his own food and not someone else’s, why does Zebedee transfer ownership of the vegetable [to Hoshayya, for the stipulation to begin with covered only food possessed by Hoshayya at the time?]”*
- [D] *R. Jacob bar Zebedee in the name of R. Abbahu: “That answers Abba bar Mamel, and Zebedee bar Levi did not transfer ownership of the vegetable to R. Hoshayya.”*
- [E] Said R. Yannai, “He has to remember his stipulation [to begin with, when he separates the priestly gifts on the Sabbath.]”
- [F] Simeon bar Vava in the name of R. Yohanan: “He has to mouth the words [his prior stipulation, not merely think about it].”
- [G] *R. Jeremiah asked before R. Zeira, “If so, doesn’t he end up acting like one who separates priestly gifts on the Sabbath?”*
- [H] *He said to him, “That’s what he stipulated before the Sabbath.”*
- [I] *R. Jeremiah asked before R. Zeira, “Isn’t separating heave-offering of tithe on the Sabbath in the household of an ‘am ha’ares not forbidden because of the destruction of food?”*
- [J] He said to him, “He crumbles the priestly gift into pieces so small to be regarded as food [so as to eliminate concern for the destruction of food] and eats the rest.”
- [K] *R. Jeremiah asked before R. Zeira, “Isn’t this procedure forbidden on the count of robbery?”*
- [L] He said to him, “The host wants him to get pleasure from the meal [and overlooks the waste].”
- [M] *The statements of the Rabbis differ, for said R. Samuel bar R. Isaac, “Rabbi and R. Yosé b. R. Judah were guests of a householder [who was not reliable to separate tithes]. A nasty rumor circulated, saying, ‘Pay attention that they suspect you [regarding tithing].’ He sat and eyed them. They pretended to throw small bits of food to one another,*

thus separating priestly gifts from the food by breaking off crumbs as heave-offering of tithe.” Here is a case in which the host does not want the guest to get pleasure from the meal [and overlooks the waste].

- [N] The host wants the guests to get pleasure from the meal *but doesn't want them to suspect him as to tithing.*
- [I:4 A] *It has been taught as a Tannaite statement:* R. Judah forbids [a verbal stipulation before the Sabbath to designate tithes of Demai on the Sabbath from the host's food.
- [B] *What is the reasoning of R. Judah?*
- [C] Can someone stipulate concerning something that is not his? **But R. Judah concedes that he [the guest] goes back and purchases [produce] from the place where the other one [the host] purchases, [and separates tithes of Demai from the produce which he has purchased, for the produce which his host will feed him on the Sabbath] [T. Dem. 8:5].**
- [D] Can someone separate tithes concerning something that is not his?
- [E] R. Abbahu in the name of R. Yohanan: “They treat him as one who inadvertently sells fully untithed produce to his fellow, *in line with what is taught as a Tannaite statement:* **One who sells produce to his fellow, and it turns out that the produce is untithed, runs after him to make it fit [by removing tithes from it]. If he does not find him — if it is known that [the untithed produce] [still] exists [i.e., it has not yet been eaten], [the seller] must separate tithes for it [from his own produce]; if it is known that [what he sold] does not exist [any longer], he does not need to separate tithes for it; if there is doubt as to whether or not [what he sold] still exists, he separates tithes for it and he [also] designates tithes [for what he separated, in case the separated produce is not in the status of tithe at all but remains in the status of untithed produce] [T. M.S. 3:7].**

7:2

- [A] They mixed for him a cup [of wine] —
- [B] he says,
- [C] “That which I shall leave at the bottom of the cup,
- [D] “behold, it is [made first] tithe,
- [E] “and the remainder of the [first] tithe is adjacent to it.
- [F] “That which I have made [first] tithe is [now] made heave-offering of the tithe for it [for the remainder of the first tithe],

- [G] **“and second tithe is at its mouth [at the mouth of the cup], and is redeemed with coins.”**
- [I:1 A] *This is the sense of the Mishnah:* and as to the matter of mixing the cup of wine....
- [I:2 A] How are we to explain this ruling? If it refers to a case in which he says, “This takes effect forthwith [before he drinks the wine], then the drink is a mixture of heave-offering of the tithe and unconsecrated produce, [and non-priests cannot drink it.]. If it refers to a case in which he says, “When I shall have drunk this...,” then retroactively he will have drunk fully untithed produce. So we take the rule to speak of a case in which he says, “This takes effect retrospectively when I will drink this.” [What is left in the cup is heave-offering of the tithe to begin with, and what he drank is fully tithed produce to begin with.
- [I:3 A] But doesn’t the man turn out to handle unclean heave-offering of the tithe on the Sabbath?
- [B] Said R. Eleazar, “He leaves a small amount of unconsecrated produce as well, *in line with what we have learned elsewhere in the Mishnah:* **One may handle unclean heave-offering along with clean heave-offering or along with unconsecrated food [M. Shab. 21:1].**
- [C] *But the cases are not analogous, for here* the unclean heave-offering is handled for the sake of the clean, *but here* the unconsecrated produce is handled for the sake of the unclean heave-offering of the tithe.
- [D] Said R. Yosé b. R. Abun, “The remainder of the wine left in the cup becomes sanctified only at the time that the rest of the wine is poured out of the cup, this is drunk by the guest and the guest has no reason to handle the cup any more.”
- [I:4 A] *There we have learned in the Mishnah:* **He who purchases wine among the Samaritans [in a situation in which he cannot presently separate tithes, but wishes to drink the wine,] says, “Two logs [out of one hundred] that I shall separate, behold, these are [made] heave-offering, and [the following] ten [logs are made first] tithe, and [the following] nine [logs are made] second tithe” [M. Dem. 7:4].**
- [B] *And it has been taught in a Tannaite statement:* **He who purchases wine among the Samaritan on the eve of the Sabbath and forgot to tithe it, says, ‘Two logs out of one hundred which I shall separate, behold, these are made heave-offering. The ten [logs] which follow upon them are made first tithe, [and] the nine logs which follow upon them are made second tithe.’ And he regards the wine as**

unconsecrated produce, and drinks it at once,” the words of R. Meir. R. Judah and R. Yosé and R. Simeon forbid. They said to R. Meir, “Do you not concede that if his wineskin bursts [after he has drunk the wine, but before he has separated tithes from the remainder], he has drunk fully untithed produce?” He said to them, “Only when it [actually] bursts, [but we do not scruple from the outset, since this is not a common occurrence]” [T. Dem. 8:5].

- [C] *Now this Tannaite ruling does not concur with the statement of R. Yosé and R. Simeon.*
- [D] Said R. Jacob bar Idi, “All parties concur on the cup [that one need not worry that it may break before the priestly dues have been separated,] because this takes place on the spot.”

7:3

- [A] A laborer who does not trust the householder [that is, his employer, who takes responsibility for the laborer’s sustenance while he is at work,] takes a single dried fig and says,
- [B] “This [fig] and the nine that follow it are made [first] tithe for the ninety [figs] that I [shall] eat.
- [C] “This one is made heave-offering of the tithe for them [for the following nine figs, which are the remainder of the first tithe],
- [D] “and second tithe is in the last ones and is redeemed with coins.”
- [E] And he reserves [for the priest, i.e., refrains from eating] one dried fig.
- [F] R. Simeon b. Gamaliel says, “He should not reserve [a fig],
- [G] for he [thereby] lessens the work [that he is capable of performing] for the householder [by not eating a full meal.]”
- [H] R. Yosé says, “He should not reserve [a fig],
- [I] “for it is a condition imposed by the court [that the employer pays heave-offering of the tithe].”
- [I:1 A] “One whose [already tithed] produce was in a store-room and gave a *se’ah* [of produce] to a Levite [as first tithe] and a *se’ah* [of produce] to a poor person [as poor man’s tithe] takes another eight *se’ahs* [of produce] and eats them [without further tithing]” — the words of R. Meir. [The tithes that were separated apply to a specific portion of the batch, and the farmer may eat this portion.] But sages say, “He does not take produce [to eat] except in accordance with a calculation [of the percentage of tithes that remain to be separated from the batch as a whole].” [The already

separated segment applies to the batch as a whole. To eat any part, the farmer has to separate from that portion the quantity of tithes to which it is still subject.]

[B] R. Eleazar in the name of R. Hoshaiyah: “[Sages] treated him like a worker who does not trust his employer, the householder, to tithe produce properly.” [He is allowed to separate tithes required for that portion of the householder’s produce that he eats. Sages have the farmer separate tithes for that portion that he eats.]

[I:2 A] *Here is a self-evident statement:*

[B] [In the case of a farmer who has designated heave-offering but not yet handed it over to a priest,] if the unconsecrated produce [for which heave-offering was separated] burned up, what was separated as heave-offering is retroactively reverted to a secular [unconsecrated] status. If the heave-offering that had been separated burned up [before being handed over to a priest, one need not separate have offering again,] when the produce is eaten, the heave-offering is retroactively held to be sanctified.

[II:1 A] **And he reserves [for the priest, i.e., refrains from eating] one dried fig:**

[B] What does “reserves” mean?

[C] From his portion of food he removes heave-offering of the tithe.

[II:2 A] *It has been taught as a Tannaite statement: A worker has no right to do his own work by night and to hire himself out by day, to plough with his cow by night and to hire it out in the morning. Nor may he deprive himself of food and starve himself in order to give his food to his children on account of the robbery of his labor, which belongs to the householder [who hires him] [T. B.M. 8:2].*

[II:3 A] *R. Yohanan came to a certain place. He found the teacher asleep. He said to them, “What is this?”*

[B] *They said to him, “He is fasting.”*

[C] He said to them, “It is forbidden to you. If as to work done for a mortal employer, it is said that one is forbidden to do anything to himself that would diminish what he can do for his employer, how much the more so is it forbidden in connection with work due to the Holy One, blessed be he!”

[III:1 A] **“for it is a condition imposed by the court [that the employer pays heave-offering of the tithe].”**

- [B] R. Hiyya bar Ashi in the name of Rab: “It is a condition imposed by the court that the employer pays heave-offering of the tithe, and that the second tithe be paid by the worker.”

7:4

- [A] **He who purchases wine among the Samaritans [in a situation in which he cannot presently separate tithes, but wishes to drink the wine,] says,**
- [B] **“Two logs [out of one hundred] that I shall separate,**
- [C] **“behold, these are [made] heave-offering,**
- [D] **“and [the following] ten [logs are made first] tithe,**
- [E] **“and [the following] nine [logs are made] second tithe.”**
- [F] **He regards [the wine] as unconsecrated produce, and drinks it.**
- [I:1 A] ***It has been taught as a Tannaite statement: R. Yosé and R. Simeon prohibited such a procedure, lest the skin break [losing the one he has designed as tithes] and so it turn out that retroactively he drank untithed wine [T. Dem. 8:7].***
- [B] *And the reasoning of this one is not comparable to the reasoning of that one. R. Yosé’s view is that, because he did not mark [the priestly gifts, what he drinks is a mixture of heave-offering and untithed produce. R. Simeon’s reasoning is, he may forget that he has designated priestly dues and drink the remainder [and the heave-offering will not have been separated at all; what he drinks is fully untithed produce.]*
- [C] *The reasoning of R. Yosé is in line with what is taught as a Tannaite statement: One who says, “[The produce in the status of] second tithe is deconsecrated with a sela’ which will come up in my hand from this pocket,” or, “with the *dinar* which will come up in my hand from this pocket,” R. Yosé says, “He has not [thereby] deconsecrated [the produce].” And sages say, “He has [thereby] deconsecrated [the produce]” [T. M.S. 4:12].*
- [D] *What is the reasoning of R. Yosé? If he said, “Second tithe in this item is deconsecrated with the old sela’” or with the old *dinar*” he has deconsecrated it.*
- [E] **R. Yosé concedes to sages that in [the case of] one who says, “[The produce in the status of] second tithe is deconsecrated with the new *sela*’ which will come up in my hand from this pocket,” or, “with the new *dinar* which will come up in my hand from this**

pocket,” this one has [thereby] deconsecrated [the produce] [T. M.S. 4:12].

[F] Sages concede to R. Yosé that in [the case of] one who says, “[The produce in the status] of second tithe is deconsecrated with the *sela*’ which my son had,” or “with the *dinar* which my son had,” he has not [thereby] deconsecrated the produce. For I say, “What if it were not in his [i.e., the son’s] possession at that time?” [T. M.S. 4:12].

[G] *There we learned in the Mishnah: Sages concede to R. Yosé that in [the case of] one who says, “[The produce in the status] of second tithe is deconsecrated with the sela’ which my son had,” or “with the dinar which my son had,” he has not [thereby] deconsecrated the produce. For I say, “What if it were not in his [i.e., the son’s] possession at that time?” [T. M.S. 4:12].*

[H] *That passage of the Mishnah is not in line with R. Yosé or R. Simeon.*

[I] Said R. Zeira, “*In that case [T. Dem. 8:7] it is retrospectively in disarray. But in the present case [M. Git. 3:8] it is in disarray from now on.*”

[I:2 A] *There we learned in the Mishnah: A perutah which has been consecrated, which fell into a purse [containing other money], or if one said, “A perutah in this purse is consecrated” — “as soon as one has paid out the first [coin in the purse], he has committed an act of sacrilege,” the words of R. Aqiba. And sages say, “[He has not committed an act of sacrilege] until he has paid out all the money in the purse.” And R. Aqiba concedes in the case of one who says, “A perutah in this purse is consecrated,” that he goes along and pays out the money [without having committed an act of sacrilege] until he will have paid out all the money which is in the purse [M. Me. 6:6].*

[B] *A Tannaite statement: “Regarding the first perutah, once he has paid it out for secular purposes, he has committed an act of sacrilege that is subject to doubt, but as to the second perutah, he certainly has committed an act of sacrilege,” the words of R. Aqiba. And sages say, “Regarding all of the perutot in the purse except for the last one, once he has paid them out for secular purposes, he has committed an act of sacrilege that is subject to doubt, but as to the last perutah, he has certainly committed an act of sacrilege.”*

[C] Said R. Yudan, father of R. Matanaiah, “That which you say pertains when there were ten perutot in the purse, but if there were only two,

then as too the first paid out for secular purposes he has committed an act of sacrilege that is subject to doubt, and as to the second, when it is paid out, he has committed an act of sacrilege that is certain.”

- [I:3 A] R. Simeon b. Laqish asked in the presence of R. Yohanan, “What is the difference between one who says, ‘A perutah that is in this purse [is consecrated]’ and ‘a perutah from this purpose [is consecrated]’?”
- [B] R. Simeon b. Laqish says, “Even if he pays out the whole contents of the purpose, he will not have committed an act of sacrilege. For just as you say that retroactively he has drunk fully untithed produce, so you should say here that retroactively he has paid out all unconsecrated coins.”
- [C] But there the power of the verbal stipulation depends on the later act of setting apart the tithes, [so the actual, physical setting apart of the priestly dues from the residue is what matters], while here the power of the verbal stipulation does not depend on the later act of setting apart the tithes.
- [D] Said R. Jonah, “In both instances the power of the verbal stipulation depends on the later act of setting apart the tithes, but here it is as if he said, ‘Let this purse not empty out without one perutah’s becoming sanctified.’”
- [E] *The position of R. Simeon b. Laqish contains contradictions. There he says, “One commits an act of sacrilege in the amount of a perutah’s worth in proportion to three logs of libation water,” and here he says, “No act of sacrilege is committed when the last perutah has been paid out if it has not been set aside as consecrated.”*
- [F] *Because he was in doubt about it, he went back and explained it again.*

7:5

- [A] **[If] he had fully untithed figs at home, and he was in the house of study, or in the field, he says,**
- [B] **“Two figs [out of one hundred] that I shall separate,**
- [C] **“behold, these are [made] heave-offering,**
- [D] **“and [the following] ten are [made first] tithe,**
- [E] **“and [the following] nine are [made] second tithe.”**
- [F] **[If the figs] were Demai, he says,**
- [G] **“That which I shall separate [one fig out of one hundred],**
- [H] **“behold, it is [made first] tithe,**

- [I] **“and the remainder of the [first] tithe is adjacent to it.**
- [J] **“That which I made [first] tithe is [now] made heave-offering of the tithe for it [for the designated remainder],**
- [K] **“and second tithe is to the north of it, or to the south of it [of the remainder], and is redeemed with coins.”**
- [I:1 A] Said R. Isaac bar Eliezer, “On the eve of the Sabbath a man stands and says, ‘Lo, this is heave-offering tomorrow,’ but a man does not stand on the Sabbath and say, ‘Lo, this is heave-offering tomorrow [for the day after the Sabbath.]”
- [B] Said R. Yosé b. R. Abun, “On the eve of the Sabbath a man does not stand and say, ‘Lo, this is heave-offering tomorrow.’”
- [C] *The Mishnah differs with R. Yosé b. R. Abun: A flagon which is in the status of that which had been immersed on the selfsame day and which had been filled from a jar containing [first] tithe which was yet untithed — if he said, “Lo, this will be heave-offering of tithe once it gets dark,” lo, this is heave-offering of tithe. If he said, “Lo, this is an erub,” he has said nothing. [If] the jar broke, what is in the flagon continues in its status of being untithed. [If] the flagon broke, the jar remains in its status of being untithed [M. T.Y. 4:4].*
- [D] *Interpret the law to speak of the law that prevails after the fact.*
- [E] *But is there not the Tannaite rule: R. Hiyya said, ““He says...,””so how can you hold that the usage refers to a stipulation that has already been made].*
- [F] R. Yosé b. R. Abun retracted.
- [II:1 A] **[If he had fully untithed figs at home, and he was in the house of study, or in the field, he says, “Two figs [out of one hundred] that I shall separate, behold, these are [made] heave-offering, and [the following] ten are [made first] tithe, and [the following] nine are [made] second tithe:”]**
- [B] *What is to be done?*
- [C] **“[This takes effect] retroactively when I shall separate the heave-offering and the heave-offering of the tithe.]”**
- [D] Note: what if the heave-offering was clean?
- [E] [Then the statement is understood to mean,] **“[This takes effect] retroactively when I shall eat it.”**
- [F] Note: what if the heave-offering was unclean?

[G] [Then the statement is understood to mean,] “[This takes effect] retroactively when I shall put it away.”

[II:2 A] *A Tannaite statement:* It may be handled on the Sabbath whether it is clean heave-offering or unclean heave-offering .

[B] Said R. Zeira, “That is to say, untithed produce that is subject to a stipulation may be handled on the Sabbath whether it is clean heave-offering or unclean heave-offering .”

[C] How is this done?

[D] He looks at a small part of it [the part that will be left as heave-offering and heave-offering of tithe and eats the rest.

7:6

[A] [If] there were before him two baskets of untithed produce, and he said,

[B] “The tithes of this one are in that one,”

[C] the first one is tithed [so that he may eat from it, and separate tithes for it from the second basket].

[D] [If he said, “The tithes] of this one are in that one, and [the tithes] of that one are in this one,”

[E] the first one is tithed [but not the second].

[F] [If he said,] “Their tithes are [designated such that] the tithes of each basket are in the other,”

[G] he [validly] has designated [tithes for both of them].

[I:1 A] *And a Tannaite statement has been set forth in this regard: He takes [from the second for the first] two figs, and two tenths [of the whole, as first and second tithe], and a tenth of a tenth [as first tithe for the portion which has been separated as second tithe] [T. Dem. 8:15].*

[B] Samuel said, “*You cannot say so. If one consumed all but one tenth of the issar, he has left too much and the issar is not deconsecrated, so he needs to consume an additional one-hundredth of an issar. This would leave .09th of an issar and he would have eaten more than necessary to deconsecrate the coin, so he would have to leave an additional one one-thousandth. But this would leave .98 issars, more than one eleventh, and the coin would not be deconsecrated, so he would have to eat an additional one ten thousandth. But this would leave .0909 issars, and he would have eaten more than necessary to deconsecrate the coin.*”

- [II:1 A] [If he said, “The tithes] of this one are in that one, and [the tithes] of that one are in this one:”**
- [B] said R. Yosé bar Haninah, “As to the first basket [the tithes of which are located in the second basket] he has violated a positive commandment, and as to the second basket [the tithes of which cannot be located in the first basket] he has violated a positive commandment and a negative commandment.
- [C] “As to the first basket [the tithes of which are located in the second basket] he has violated a positive commandment: for he has designated both tithes at the same time [but first tithe is supposed to be separated before second tithe].
- [D] “and as to the second basket [the tithes of which cannot be located in the first basket] he has violated a positive commandment and a negative commandment: for he has designated both tithes at the same time, and he has designated second tithe for the first basket efor³e designating first tithe for the second basket, violating the negative commandment not to postpone the separation of heave-offering of the tithe, removed from first tithe.”
- [II:2 A] [If he said, “The tithes] of this one are in that one, and [the tithes] of that one are in this one:”** Said R. Eleazar, “This accords with the position of R. Meir, for R. Meir said, ‘You affirm only the first statement [the first statement has taken effect before the second statement has been uttered,] *as we have learned in the Mishnah*: “**[He who with peace offerings and burnt offerings before him says], ‘Lo, this [unconsecrated beast] is the substitute of a burnt offering and the substitute of peace offerings,’ lo, this is the substitute of a burnt offering,**” the words of R. Meir. Said R. Yosé, “If to begin with he intended thus, since it is not possible to designate [them] by two names at once, his words are confirmed. But if after he said, ‘It is the substitute of a burnt offering,’ he changed his mind and said, ‘It is the substitute of peace offerings,’ lo, this is the substitute of a burnt offering” [M. Tem. 5:4].
- [B] Said R. Yosé, “*We may consider: concerning what do R. Meir and the rabbis differ? With regard to a second statement made after the first statement is completed, but not with regard to a second statement made while still expressing the initial statement. But on the strength of what R. Eleazar said, ‘This ruling [at Demai] matches the position of R. Meir [at Temurah], we determine that even when the second statement is made during the utterance of the first statement, he may not change his mind [and the second statement is null]. The Mishnah*

ruling — **[If he said,] “Their tithes are [designated such that] the tithes of each basket are in the other,” he [validly] has designated [tithes for both of them] —** pertains when he designated by two names simultaneously, but if he designated one after the other, only the first statement takes effect.”

- [C] Said R. Abuna, **“Sages concede to R. Meir in the case of one who says, ‘This beast is instead of these two animal-offerings,’ ‘... instead of two animal-offerings which I owe,’ that his latter statement is null [T. Tem. 4:4].”**
- [D] Didn’t R. Samuel b. R. Isaac say in the name of R. Huna, “If one said, ‘This animal is made a substitute for a burnt offering,’ he may change his mind if it is within the initial utterance’?”
- [E] Here we have a case in which the man intends to lessen what he has just said, changing his mind entirely about the animal’s consecration, while here the case involves one who intends to add to what he has just said, designating the animal to substitute for two different classes of consecrated offerings.”
- [F] If he said, “This produce is heave-offering,” even in the midst of his statement he may not change his mind.
- [G] One may consult a sage about absolving an act of consecration, but he may not consult a sage about absolving a designation of heave-offering.

[III:1 A] [If he said,] “Their tithes are [designated such that] the tithes of each basket are in the other,” he [validly] has designated [tithes for both of them]:

- [B] What does he do?
- [C] **He takes twenty figs [as first tithe] from whichever [basket] he wishes.** And in each ten that he takes there is one fig that is heave-offering of the tithe. And this pertains if the two baskets are equal in quantity. **[If] there are in this one as many as one hundred [figs], and in that one two hundred, if he takes from the smaller [quantity], he takes eleven [figs], and if he takes from the larger [quantity], he takes all of it and [still] has not sufficed. [If] there are in this one a quantity of one hundred, and in that one a quantity of one thousand, if he takes from the smaller [quantity], he takes sixteen and if he takes from the larger [quantity], he takes all sixty [parts as first tithe], so on, proportionally he has not sufficed [T. Dem. 8:16].**

[D] **If he had in his possession a basket of produce which was not tithed, [but from which heave-offering had been taken,] he takes [for it from another batch of produce] two-ninths [of the amount in the basket, as first and second tithe], and a ninth of a ninth [as first tithe for the produce which has been separated as second tithe], which adds up to ten parts as first tithe and nine parts as second tithe [T. Dem. 8:17]**

[E] And why not say nineteen parts?

[F] Said R. Zeira, “...the words of the sages and their riddles’ (Prov. 1:6).”

[III:2 A] He who wants to bring a hundred fully tithed figs into his household takes [from other, untithed produce] for each fig two-ninths for first and second tithe and a ninth of a ninth as first tithe for the part that has been designated as second tithe, this twenty-three figs, four ninths of a fig, and a ninth of a ninth of a fig.

7:7

[A] **(1) One hundred [parts] of untithed produce [produce from which heave-offering already has been separated, and] one hundred [parts] of tithed produce [that became mixed together, and one wishes to separate heave-offering of the tithe from the mixture for its untithed part] —**

[B] **he takes [from the mixture] one hundred and one [parts].**

[C] **(2) One hundred [parts] of untithed produce [produce from which heave-offering already has been separated, and] one hundred [parts] of [first] tithe [that became mixed together, and one wishes to separate heave-offering of the tithe from the mixture for both the untithed produce and the first tithe] —**

[D] **he takes [(from the mixture) one hundred and one [parts].**

[E] **(3) One hundred [parts] of fully tithed produce [and] one hundred [parts] of [first] tithe [that became mixed together, and one wishes to separate heave-offering of the tithe from the mixture for the portion that is first tithe] —**

[F] **he takes [from the mixture] one hundred and ten [parts].**

[G] **(4) One hundred [parts] of untithed produce [produce from which heave-offering already has been taken] and ninety [parts] of [first] tithe,**

- [H] or ninety [parts] of untithed produce and eighty [parts] of first tithe [that became mixed together, and one wants to separate heave-offering of the tithe from the mixture for both the untithed produce and the first tithe] —
- [I] he has lost nothing [that is, he separates only ten parts from the mixture and does not forfeit to the priest an additional part of the first tithe, as he must at C-D].
- [J] This is the general rule:
- [K] As long as the untithed produce is greater in quantity,
- [L] he has lost nothing.
- [I:1 A] [(1) One hundred [parts] of untithed produce [produce from which heave-offering already has been separated, and] one hundred [parts] of tithed produce [that became mixed together, and one wishes to separate heave-offering of the tithe from the mixture for its untithed part]: R. Simeon b. Laqish said, “He is required to stipulate, saying, ‘If untithed produce has come up in my hand, it is declared to be first tithe, and if first tithe has come up in my hand, it is declared to be heave-offering of the tithe.’”
- [B] Said R. Jonah, “He must recapitulate his stipulation, [stating it both positively and negatively,] saying, ‘And if not, I have done nothing.’”
- [C] R. Yohanan said, “He does not have to stipulate [as Simeon b. Laqish says].”
- [D] *This one is consistent with rulings stated elsewhere, and that one is consistent with rulings stated elsewhere. For they have set forth the following dispute:*
- [E] [If someone designated heave-offering for] two piles of produce in one of them but did not specify which pile of produce contained the heave-offering, R. Yohanan said, “Both of the piles are consecrated as mixtures of heave-offering and unconsecrated tithed produce, [for his statement takes effect and both are sanctified by reason of doubt on where the heave-offering is located].” And R. Simeon b. Laqish said, “Both of the piles are not consecrated as mixtures of heave-offering and unconsecrated tithed produce, [since he has not specified exactly where the heave-offering is situated].”
- [I:2 A] Said R. Mana, “[The sages] differ from R. Eleazar b. Arakh, *for it has been taught as a Tannaite rule: First tithe from which heave-offering of the tithe has not been separated which became mixed with unconsecrated [i.e., tithed] produce — lo, this [the first tithe] renders forbidden [the produce with which it is mixed] in*

any amount. If the Levite has elsewhere a supply [of other tithe from which heave-offering of the tithe has not been separated], he takes [this produce as heave-offering of the tithe for that in the mixture] according to the proportion [of first tithe in the mixture]. But if not [i.e., if he has no first tithe from which heave-offering of the tithe has not been separated] — [R. Eliezer] and R. Eleazar b. Arakh say, “He designates the heave-offering of the tithe which is in it [i.e., in the first tithe mixed with the unconsecrated produce], and it is neutralized in a hundred and one parts [of produce]” [T. Ter. 5:15].

[B] Said R. Abba bar Mamel, “Interpret the rule to deal only with items that are not subject to neutralization [because they are never absorbed in a mixture].”

[C] *R. Hillel b. Pazzi asked*, “Can’t he crack the nuts [that require neutralization in a mixture]?”

[D] Said R. Jonah, “And is one permitted to crack the nuts? *Have we not learned in the Mishnah: If the nuts were cracked, they are neutralized in two hundred and one parts of unconsecrated produce [M. Orl. 3:6].* [This is only after the fact.] Lo, to begin with, that is not the case.”

[II:1 A] One hundred [parts] of untithed produce [produce from which heave-offering already has been taken] and ninety [parts] of [first] tithe... This is the general rule: As long as the untithed produce is greater in quantity, he has lost nothing:

[B] *Said R. Jonah, “This is the sense of the Mishnah: As long as the untithed produce is greater in quantity than the first tithe, none of the tithe is lost.”*

[II:2 A] R. Levanti in the name of R. Jonah: “All untithed produce *with which we deal refers to* produce from which first tithe and second tithe have not been removed [but reference is not made to produce from which ordinary heave-offering has not been removed].”

[II:3 A] *R. Abbahu said, “There is a dispute between Rabbi and R. Dosetai b. R. Yannai. One said, ‘He makes [the remainder of the partly tithed produce in the mixture] second tithe for other produce.’ The other said, ‘He does not make [the remainder of the partly tithed produce in the mixture] second tithe for other produce. But he separates second tithe from other produce on its behalf.’”*

[II:4 A] One hundred [parts] of first tithe and ninety parts of untithed produce [which became mixed together, and one wishes to remove heave-offering of the tithe from the mixture] — he takes ninety-two less one tenth [viz., ninety-one and nine tenths parts]. One hundred [parts] of [first] tithe and eighty of untithed produce [which became mixed together, and one wishes to remove heave-offering of the tithe from the mixture] — he takes eighty-three less two-tenths”. And so on, proportionally [T. Dem. 8:17-18].

7:8

- [A] He who had ten rows, each containing ten jugs of wine [from which heave-offering already has been separated], and he said,
- [B] (1) “One outside row is [designated as first] tithe [for the hundred jugs],”
- [C] and it is not known which one it is,
- [D] he takes two jugs from diagonally opposite corners, [one of which certainly is heave-offering of the tithe for the hundred jugs].
- [E] (2) [If he said,] “A half of one outside row is [designated as first] tithe [for fifty jugs],”
- [F] and it is not known which one it is,
- [G] he takes four jugs from the four corners, [one of which certainly is heave-offering of the tithe for the fifty jugs].
- [H] (3) [If he said,] “One row is [designated as first] tithe [for the hundred jugs],”
- [I] and it is not known which one it is,
- [J] he takes one row diagonally, [in which one of the jugs certainly is heave-offering of the tithe for the hundred jugs].
- [K] (4) [If he said,] “A half of one row is [designated as first] tithe [for fifty jugs],”
- [L] and it is not known which one it is,
- [M] he takes two rows diagonally, [in which one jug certainly is heave-offering of the tithe for the fifty jugs].
- [N] (5) [If he said,] “A single jug is [designated as first] tithe [for ten jugs],”
- [O] and it is not known which one it is,
- [P] he takes [a tenth part] from each jug, [one of these parts certainly being heave-offering of the tithe for the ten jugs].

[I:1 A] [He who had ten rows, each containing ten jugs of wine [from which heave-offering already has been separated], and he said, (1) “One outside row is [designated as first] tithe [for the hundred jugs],” and it is not known which one it is, he takes two jugs from diagonally opposite corners, one of which certainly is heave-offering of the tithe for the hundred jugs]: But let him take two jugs [diagonally].

[B] R. Kohen in the name of the rabbis of Caesarea: “The ruling applies to a case in which he had separated tithes for half of them from other produce.”

[I:2 A] *It is taught as a Tannaite rule:* He who had two jugs, one of unclean [first] tithe from which heave-offering of the tithe had not been removed, and one of clean [first] tithe from which heave-offering of the tithe had not been removed, [and he wishes to separate heave-offering of the tithe from the clean produce, but does not know which jug is which,] brings two flagons and pours [into the first flagon] from this jug an amount equivalent to heave-offering of the tithe for both of them [i.e., for both jugs], and [pours into the other flagon] from the other [jug] an amount equivalent to heave-offering of the tithe for both of them, and goes to the first [flagon] and says, “If this one [has been filled] from the unclean jug], my words are of no effect, but if this one [has been filled] from the clean jug], behold, it is made heave-offering of the tithe for both of them [i.e., both jugs].” And he goes to the second [flagon] and says, “If this one [has been filled] from the unclean jug], my words are of no effect, but if this one [has been filled] from the clean jug], behold, it is made heave-offering of the tithe for both of them [i.e., both jugs].” And [it turns out that] he designates the first [flagon as heave-offering of the tithe for both jugs], and designates the second [flagon as heave-offering of the tithe for both jugs]. It turns out that both jugs are fully tithed [As for the status of] the flagons — one contains [what originally was] unclean [first] tithe from which heave-offering of the tithe had not been taken [and now is unclean first tithe], and the other contains [what originally was] clean [first] tithe from which heave-offering of the tithe had not been taken [and now is clean heave-offering of the tithe for both jugs]. “He drinks from this one and immerses himself, and then drinks from the other and immerses himself,” the words of Rabbi. R. Eleazar b. R. Simeon says, “He immerses himself only at the end” [T. Dem. 8:22-23].

[B] What is the reason for Rabbi’s position?

- [C] I say, “Perhaps he drank the unclean liquid first.”
- [D] What is the reason for R. Eleazar b. R. Simeon’s position?
- [E] I say, “Perhaps he drank the unclean liquid at the end.”
- [F] All parties concur in the case of a priest who drinks unclean liquid that he is forbidden to eat even heave-offering subject to doubt unless he first immerses. A priest who drinks liquid that is subject to doubt and that is unclean, all concur he is permitted to eat even heave-offering not subject to doubt without having to immerse. *This is how we interpret the dispute set forth by the Tannaite authorities:* Since by drinking from both this one and that one the location of the uncleanness has been established, he is to be immersed before eating more consecrated food. What is the reason for Rabbi’s position? It is so that he may not turn out to drink a quarter-log of unclean liquid, which makes him unfit to eat heave-offering]. And how does R. Eleazar b. R. Simeon [deal with Rabbi’s view]? He rules in a case in which the priest drinks less than a quarter-log of liquid from both flagons.]
- [G] But doesn’t R. Eleazar b. R. Simeon address the issue that he inadvertently might drink more than a quarter-log of liquid?
- [H] Said R. Yosé b. R. Abun, “You have only the option of interpreting the dispute in the context of the explanation that Rabbi takes into account that the priest may have drunk unclean liquid first, and R. Eleazar b. R. Simeon takes account the possibility that he has drunk unclean liquid last.”

TRACTATE

KILAYIM

For the Torah, Israel's relationship to God is not only tangible but locative, for it takes place in a particular location. What happens in that location bears greater consequence than what happens anywhere else. So that relationship is situated in some one place, and it is therefore not utopian. It is not utopian because, in the fullness of the encounter that takes place in the chosen locus, the relationship between Israel and God simply cannot take place just anywhere in general. The relationship, then, is permeated by the location in which it takes place, by what happens in that one place that matters only there and nowhere else. An "enlandised" relationship thus identifies the encounter between Israel and God with not only the right time and the right person but also the right place.

"Enlandisement" of the relationship means that the relationship of Israel with God therefore encompasses the engagement of People and Land and God dwelling with the People in the Land, and the consequences, for religious action, of that engagement. When it comes to the details, the Written Torah defines the conditions in which Israel is to work that particular Land, deriving its sustenance from the Land and its exceptional gifts. These are the rules of interior relationship that govern when in God's presence and by his act, holy Israel and the Land are (re)joined together. These rules on the correct utilization of the Holy Land by the holy people do not apply when holy Israel is located outside of the Holy Land, and they also do not apply when Gentiles are situated. The three tractates that expound those rules set forth each its own religious principle, as we shall see in the concluding unit of this chapter.

The halakhah of *Kilayim* elaborates upon Lev. 19:19, "You shall not let your cattle mate with a different kind; you shall not sow your field with two kinds of seed; you shall not put on cloth from a mixture of two kinds of material;" and Deut. 22:9–11, "You shall not sow your vineyard with a second kind of seed, otherwise the crop from the seed you have sown and the produce of the vineyard may not be used; you shall not plow with an ox and an ass together; you shall not wear cloth that combines wool and linen."

(Throughout I follow the doctoral dissertation, prepared in my seminar, of Irving J. Mandelbaum, *A History of the Mishnaic Law of Agriculture: Kilayim* (Scholars Press for Brown Judaic Studies; Chico, Calif.: Scholars Press, 1982); and *Ibid.*, *The Talmud of the*

Land of Israel: A Preliminary Translation and Explanation, Kilayim (Gen. Ed. Jacob Neusner; Vol. 4; Chicago: University of Chicago Press, 1990))

YERUSHALMI KILAYIM

CHAPTER ONE

1:1

- [A] (1) Wheat and tares
[B] are not [considered] diverse-kinds with one another.
- [C] (2) Barley and two-rowed barley (3) rice-wheat and spelt (4) the broad bean and the French vetch (5) the red grasspea and the grasspea (6) and the hyacinth bean and the Nile cowpea
[D] are not [considered] diverse-kinds with one another.
- [I:1 A] It is written, “You shall not sow your field with diverse kinds” (Lev. 19:19).
- [B] I might have said that that encompasses even two species of wheat or two species of barley.
- [C] “You shall not let your cattle breed with a different kind” (Lev. 19:19).
- [D] I might have said that one may not mate even a black ox upon a white ox or a white ox upon a black ox.
- [D] “Nor shall there come upon you a garment of cloth made up of two kinds of stuff” (Lev. 19:19).
- [E] I might have said that one may not commingle even two kinds of wool or two kinds of flax.
- [F] Explain the statement on garments: “You shall not wear mingled stuff, wool and linen together” (Dt. 22:11) — just as mixed kinds of garments that I have prohibited for you are made up of two distinct kinds, so you may not combine one part from one kind and another part from a different kind, so diverse kinds that I have prohibited to you in every case [consist of two distinct kinds, so that you may not combine] one part from one kind and another part from a different kind.

[I:2 A] **Wheat and tares are not [considered] diverse-kinds with one another:**

[B] Lo, with barley they are considered diverse kinds.

[I:3 A] **Wheat and tares are not [considered] diverse-kinds with one another:**

[B] Something that is not regarded as food [namely, tares] *might we wrongly have taught that it is considered* as diverse kinds with wheat?

[C] Said R. Abba bar Zebedee, “For there are places where they raise them for pigeons.”

[I:4 A] *Did R. Abba bar Zebedee rule according to R. Eliezer, for we have learned in the Mishnah: He who allows thorns to grow in the vineyard — R. Eliezer says, “He has sanctified [the surrounding vines of the vineyard].” And sages say, “He does not sanctify [the surrounding vines of the vineyard].”*

[B] Said R. Abbahu, “The reasoning of R. Eliezer is, there are places where they raise them, namely as feed for camels in Arabia.”

[C] *Is the rabbis’ reason that they do not cultivate thorn-bushes for camels in Arabia?* Then let us investigate the matter.

[D] Rabbis say, “In a place in which they cultivate them they are prohibited, but in a place where they do not cultivate them they are permitted [and most people don’t cultivate thorn bushes].”

[E] *What is the reason behind the position of R. Eliezer?*

[F] Because they cultivate them in one place, let us prohibit their kind in a vineyard in every place.

[G] And R. Abba bar Zebedee didn’t rule according to R. Eliezer. *There* [in the case of thorn bushes] it is not customary for people to transport thorn bushes from one place to another. *But here* it is customary for people to transport tares from one place to another.

[I:5 A] [Since tares are subject to the law of diverse kinds, let them be considered diverse kinds with wheat.

[B] Said R. Jonah, “Tares are a species of wheat but the produce corrupts itself, *in line with that which is taught as a Tannaite statement: “Lo, it says, ‘Lest the land fall into harlotry’ (Lev. 19:29) — The produce turns into weeds [T. Qid. 1:4].”*

- [I:6 A] R. Jacob bar Zebedee asked before R. Jeremiah, “Our Mishnah-passage accords with the view of R. Ishmael b. R. Yosé, for it has been taught on Tannaite authority: **R. Ishmael b. R. Yosé says in the name of his father, “They separate wine as heave-offering for vinegar, but they do not separate vinegar as heave-offering for wine [cf. M. Ter. 3:1E-I], except according to a calculation [of the relative values of the two types of produce].”** If he transgressed and separated heave-offering, that which he has separated is valid heave-offering. **Rabbi says, “Wine and vinegar are two distinct kinds [T. Ter. 4:6].** [Rabbi does not consider vinegar to belong to the category of wine, and would not classify tares with better grain.] They do not separate heave-offering nor tithe from one for the other.”
- [B] [Jeremiah] gazed at him.
- [C] [Jacob bar Zebedee] said to him, “Why are you gazing at me?”
- [D] He said to him, “This matter of tithes is a more restricted case. There [in the case of wine or vinegar] it is a matter of tithes, but here in the case of wheat and tares it is a matter of diverse kinds.”
- [E] Said R. Jonah, “He was right to gaze at him. When prior rabbis sought to explain this matter, they would explain it as follows: ‘There [in the case of wine or vinegar] it is a matter of tithes, but here in the case of wheat and tares it is a matter of diverse kinds.’”
- [I:7 A] R. Yosé in the name of R. Yohanan: “All [of the items of the Mishnah] are listed in pairs. [Items in different pairs may not be commingled.]”
- [B] *Was that statement made concerning the entire chapter or only concerning a single law?*
- [C] From that which Rab said, “The five herbs through which a person fulfills his obligation of eating bitter herbs on Passover are all permitted to be sown in a garden-bed,” and because it is said, “*This ruling of Rab does not accord with the view of R. Yohanan,*” it follows that that statement was made concerning the entire chapter.
- [D] R. Ba in the name of Rab: “All of the items [of M. 1:2] are listed in pairs.”
- [E] *Rab’s theory is reversed. There [five herbs through which a person fulfills his obligation of eating bitter herbs on Passover are all permitted to be sown in a garden-bed] he rules that they all belong to a single kind, while here [at M. 1:2] he ruled thus [only individual sets belong to the same kind].*

[F] It is not that Rab said, “They all are considered to belong to a single kind.” He said only that they are all considered kinds of herbs and permitted to be sown in a garden-bed.

[II:1 A] **(4) the broad bean and the French vetch (5) the red grasspea and the grasspea (6) and the hyacinth bean and the Nile cowpea:** R. Yosé in the name of R. Hiyya bar Vava: “They found written in the notebook of R. Hillel b. R. Valis,” R. Jonah in the name of R. Hiyya bar Va: “They found written in the notebook of R. Hillel b. R. Valis, in Aramaic: **(4) the broad bean and the French vetch (5) the red grasspea and the grasspea (6) and the hyacinth bean and the Nile cowpea.**

[III:1 A] *Thus the Mishnah states:* **and the hyacinth bean and the Nile cowpea.**

[B] Said R. Jonah, “Why is it called shuit? Because it lies heavy on the heart and loosens the bowels.”

1:2

[A] **(7) A chate melon and a musk melon**

[B] **are not [considered] diverse-kinds with one another.**

[C] **R. Judah says “[They are considered] diverse-kinds.”**

[D] **(8) Lettuce and hill-lettuce (9) chicories and wild chicories, (10) leeks and wild leeks (11) coriander and wild coriander (12) mustard and Egyptian mustard, (13) and an Egyptian gourd and a remusah (14)**

[E] **are not [considered] diverse-kinds with one another.**

[I:1 A] [*A chate melon and a musk melon are not considered diverse-kinds with one another*] Said R. Yudan bar Manasseh, “*The words of the sages [may be explained as follows:] ‘One takes a slice from the stem of a chate melon and plants it and it becomes a watermelon.’ ‘One takes a slice from the stem of a chate melon and plants it and it becomes a musk melon.’ R. Judah says, ‘By its very nature it is a hybrid. One takes a slice from the stem of a watermelon and a slice from the stem of an apple and places them in a single hole and they join together and become hybrid [a musk melon.] For this reason they call a musk melon in Greek mwlpwn.’*”

[I:2 A] [*A chate melon and a musk melon are not considered diverse-kinds with one another*]:

[B] A chate melon and a water melon — what would R. Judah rule concerning them?

[C] *Let us derive the answer from the following:*

[D] **“(1) Chate melons and gourds, (2) and watermelons and muskmelons, are not [considered] diverse-kinds [when they grow] with one another, and they give heave-offering and tithes from one for the other. R. Judah says, “They are [considered] diverse-kinds [when they grow] with one another” [T. Kil. 1:1].**

[E] Let us say [the passage is to be read in this way: Chate melons and musk melons are not diverse-kinds with one another, a watermelon and a musk melon are not diverse-kinds with one another. **R. Judah says, “They are [considered] diverse-kinds [when they grow] with one another.”**

[F] A ruling concerning a chate melon and a watermelon is a question.

[II:1 A] Lettuce and hill-lettuce:

[B] R. Hananiah said, “The term for hill-lettuce refers to wild lettuce.

[III:1 A] chicories and wild chicories ... leeks and wild leeks:

[B] Simeon b. R. Abi said, “In Greek chicories are called antobin.”

[C] R., Yosé b. R. Abun said, “In Greek chicories are called troksimon, in Aramaic, wild chicories are called ultin, in Aramaic leeks are called keretin, and in Greek wild leeks are called Kaplotin.

[IV:1 A] and an Egyptian gourd and a *remusah*:

[B] *The Mishnah accords with the view of Rabbi and does not accord with R. Nehemiah, for it was taught on Tannaite authority in the name of R. Nehemiah: R. Nehemiah says, “[The] Aramean and Egyptian gourds are [considered] diverse-kinds with the Greek gourd, and are [considered] diverse-kinds with remusah” [T. Kil. 1:5].*

[IV:2 A] and an Egyptian gourd and a *remusah*:

[B] Said R. Hinena, “A *remusah* is like a bitter gourd that they sweeten by cooking it in ashes [*remes*].”

[V:1 A] and a cowpea (lit.: Egyptian bean) and an asparagus bean:

[B] Said R. Jonah, “An asparagus bean is called a carob because it is like a kind of Persian bean, the pods of which resemble a carob.”

1:3

- [A] (15) A turnip and a rape (16) and a kale and a garden cabbage (17) spinach beets and garden sorrels,
[B] are not [considered] diverse-kinds with one another.
[C] Added R. Aqiba, “(18) A garlic and a chive, (19) an onion, and a shallot (20) and a lupine and a yellow lupine are not [considered] diverse-kinds with one another.”
- [I:1 A] A turnip and a rape and a kale and a garden cabbage:
[B] A garden cabbage is a small kale.
- [II:1] A spinach beets and garden sorrels:
[B] Garden sorrels are hamuyan.
- [III:1 A] Added R. Aqiba, “(18) A garlic and a chive, (19) an onion, and a shallot (20) and a lupine and a yellow lupine are not [considered] diverse-kinds with one another:”
- [B] A chive is a tumnitah.
[C] an onion, and a shallot:
[D] A shallot is a palulgulah.
[E] and a lupine and a yellow lupine:
[F] A yellow lupine is a parmua.
[G] And members of each pair are not [considered] diverse-kinds with one another.

1:4

- [A] And in [regard to] the tree:
[B] (1) Pears and crustaminum pears (2) and quinces and hawthorns,
[C] are not [considered] diverse-kinds with one another.
[D] (1) An apple and a Syrian pear (2) peaches and almonds, (3) jujubes and wild jujubes,
[E] even though they are similar to one another,
[F] they are [considered] diverse-kinds with one another.
- [I:1 A] ... hawthorns:

- [B] Said R. Jonah, “These are aspargelin. And why are they called parishin? For this is the only kind of tree that is reserved for the pot [eaten only cooked].”
- [I:2 A] Rab said, “All the items are listed in pairs [so that a bud from any of the trees may be grafted only among members of the same pair].”
- [B] Salman b. Levi brother of Zebedee b. Levi in the name of R. Joshua b. Levi: “All [of the items] belong to a single kind [so that a bud from any of the trees may be grafted onto any other tree belonging to the same list.]”
- [C] *A Tannaite statement takes issue with Rab, for it has been taught as a Tannaite statement: Also the bekayim [are not considered diverse kinds with the items [(1) Pears and crustaminum pears (2) and quinces and hawthorns].*
- [D] Responded R. Yosé b. R. Abun, “But it has been taught as a Tannaite statement: Also the harugyanin [are not considered diverse kinds with the items [(1) Pears and crustaminum pears (2) and quinces and hawthorns].”
- [I:3 A] **In the irrigated field of Sepphoris they used to graft crustaminum pear [buds] onto pear [trees].**
- [B] A certain student [once] found them [performing this grafting].
- [C] **He said to them, “You are forbidden [to do this].”**
- [D] **They went and cut them [i.e., the buds] off.**
- [E] **And] they came and asked at Yavneh.**
- [F] **They [i.e., the sages] said, “Whoever met you was none other than [one] of the students of the house of study of Shammai.” [T. Kil. 1:4].**
- [G] They said only that it is permitted to graft a crustaminum pear bud onto a pear tree. So to graft a pear bud onto a Syrian pear is not permitted.
- [I:4 A] **In the district of Ariaah they used to graft apple [buds] onto Syrian pear [trees].**
- [B] A certain student [once] found them [performing this grafting].
- [C] **He said to them, “You are forbidden [to do this].”**
- [D] **They went and cut them [i.e., the buds] off.**
- [E] **And they came and asked at Yavneh.**

- [F] **They [i.e., the sages] said, “Correctly did that student say” [T. Kil. 1:3].**
- [G] He said only that it is prohibited to graft an apple bud onto a Syrian pear. Thus to graft a Syrian pear onto a pear tree is not prohibited.
- [H] What happened happened.
- [I:5 A] *It was taught as a Tannaite rule:*
- [B] A gentile who grafted (the bud of) a nut (tree) onto a peach (tree) —
- [C] **even though he is not [himself] permitted to do so [i.e., to perform such a graft], he [i.e., the Israelite] takes a shoot from it and [Y. adds: goes and] plants it in another place.** What fruit emerges from them? A walnut-peach.
- [D] **[If a gentile] grafted a spinach-beet onto an amaranth**
- [E] **even though the Israelite is not [himself] permitted to do so [i.e., to perform such a graft],**
- [F] **[the Israelite] takes a seed from it and sows it in another place [T. Kil. 2:15].** What fruit emerges from them? An orach.
- [G] A zargon and a turnip — what fruit emerges from them? A carrot.
- [H] Fennel and celery — what fruit emerges from them? A Rock parsley.
- [I] Almonds and Palestinian pistachios — what nut emerges from them? A pistachio.
- [J] Olives and wild jujubes — what fruit emerges from them? Jujubes.

1:5

- [A] **(1) A radish and a rape (2) mustard and wild mustard (3) a Greek gourd with an Egyptian [gourd] and the *remusah*,**
- [B] **even though they are similar to one another,**
- [C] **they are [considered] diverse-kinds with one another.**
- [I:1 A] Said R. Jonathan, “There are species the status of which they established according to the appearance of the fruit, and there are species the status of which they established according to the appearance of their leaves. A turnip and a radish — they established according to the appearance of the fruit [and they are not diverse-kinds with one another. **A turnip and a rape** they established according to the appearance of their leaves.”

[B] *They objected:* “**A radish and a rape** — their fruit is similar and their leaves are similar, yet **they are [considered] diverse-kinds with one another.**”

[C] Said R. Jonah, “In this case they followed after the taste of the fruit.”

1:6

[A] **(1) A wolf and a dog, (2) A wild dog and the jackal, (3) goat and gazelles (4) Nubian ibexes and fat-tailed sheep, (5) a horse and a mule (6) a mule and an ass, (7) an ass and an Arabian onager**

[B] **even though they are similar to one another,**

[C] **they are [considered] diverse-kinds with one another.**

[I:1 A] Lo, a dog and a wild dog [are not listed as a pair of items that are diverse-kinds with one another] and they are not diverse kinds with one another.

[B] *And the Mishnah is not in accord with R. Meir, for R. Meir says,* “They are diverse-kinds.”

[C] Even though R. Meir says, “A dog is a domesticated animal, he agrees that a wild dog is a wild animal.”

[D] Lo, a dog and a wild dog in R. Meir’s view are diverse kinds with one another.

[I:2 A] *Fowl have not been noted in a Tannaite formulation.*

[B] *Said R. Yohanan, “I derive it from the following ruling of the House of Levi: A cock [and a] peacock, a cock [and a] pheasant even though they are similar to one another, they are [considered] diverse-kinds with one another [T. Kil. 1:7].*

[C] R. Simeon b. Laqish said, “It is an explicit statement of the Mishnah that Rabbi taught us: **All the same are an ox and all other beasts so far as (1) falling into a pit, (2) keeping apart from Mount Sinai (Ex. 19:12), (3) paying a double indemnity [in the case of theft, Ex. 22:7], (4) the returning of that which is lost (Deut. 22:3, Ex. 23:4) (5), unloading (Ex. 23:5), (6) muzzling (Deut. 25:4), (7) hybridization (Lev. 19:19, Deut. 22:10), and the (8) Sabbath (Ex. 20:10, Deut. 5:14). And so, too, are wild beasts and fowl subject to the same laws [M. B.Q. 5:7].**

[D] *Said R. Jonah, “This statement of R. Yohanan is still necessary. For we learn the Tannaite tradition here [at B.Q. 5:7] that the laws of diverse kinds apply to a wild animal and we explained there [at M.*

Kil. 1:6] those wild animals that resemble each other but which are considered diverse-kinds. We learn here that the laws of diverse-kinds apply to domesticated animals, and we explained there those domesticated animals that resemble each other are nonetheless diverse kinds with one another. Similarly the Tannaite authority taught here that the laws of diverse kinds apply to fowl and now the same authority comes and specifies those birds that resemble each other but nonetheless are considered diverse-kinds.”

- [E] Said R. Yosé, “And well did Jonah say, [for M. B. Q. 5:7 serves only to let you know that fowl are prohibited with respect to diverse kinds.”
- [I:3 A] R. Jeremiah said, “Kahana asked R. Simeon b. Laqish, ‘He who mates different kinds among sea creatures — what is the law?’
- [B] “He said to him, ‘On them it is also written, “according to their species”’ (Gen. 1:21).”
- [C] Said R. Aha, “[Simeon b. Laqish] did not say this, but rather others would say in the name of R. Simeon b. Laqish, ‘To everything concerning which is written, “according to their species,” the law of diverse-kinds applies.’
- [D] “*Kahana objected*, ‘Concerning sea creatures’ it is written “according to their kinds” (Gen. 1:21). Now let the laws of diverse kinds apply to them even though they do not copulate.”
- [E] *Said R. Yosé, “Here Kahana has cast his net over R. Simeon b. Laqish and caught him.”*
- [F] *Said R. Jonah, “I can solve the problem raised by Kahana on the basis of the prohibition against leading. He takes a thread and ties it through the ears of a white fish and a yellow fish and they rub together and fertilize the eggs.”*

1:7

- [A] **They do not graft**
- [B] **[either] a tree onto a tree [of a different kind],**
- [C] **[or] a vegetable onto a vegetable [of a different kind],**
- [D] **and neither [do they graft] a tree onto a vegetable,**
- [E] **nor a vegetable onto a tree.**
- [F] **R. Judah permits [the grafting of] a vegetable onto a tree.**
- [I:1 A] *The theory of R. Yudah contains a contradiction. There he said, “One takes a slice from the stem of a watermelon and a slice from the stem*

of an apple and places them in a single hole and they join together and become hybrid [a musk melon.]” And here he has said this [R. Judah permits [the grafting of] a vegetable onto a tree]!

[B] *There* because he places one slice beside the other, they join together and form a hybrid, *but here* it is a case of grafting the bud of an existing herb onto an already existing tree [and the two plants do not unite to form a new hybrid plant.]

[I:2 A] *It was taught as a Tannaite rule:*

[B] How on the basis of Scripture do we know that they do not graft a tree that does not bear edible fruit on a tree that bears edible fruit, or a tree that bears edible fruit on another tree that bears edible fruit, one kind commingled with another kind, how do we know it?

[C] Scripture says, “You shall keep my statutes. You shall not let your cattle breed with a different kind; you shall not sow your field with two kinds of seed; nor shall there come upon you a garment of cloth made of two kinds of stuff” (Lev. 19:19).

[D] R. Jonah, R. Eleazar in the name of Kahana said, “This is the view of R. Eleazar, on account of the exegesis of ‘my statutes’ as ‘the statutes that I enacted for Adam.’”

[E] R. Yosé in the name of R. Hila: “This represents the position of all parties, on account of the exegesis of ‘my statutes’ as ‘the statutes that I enacted for Adam.’”

[F] Then it should be forbidden to graft even a black fig tree onto a white fig tree [for that would also deviate from the way in which the trees were created]!

[G] Said R. Abin, “But did you not derive this rule from diverse-kinds of garments? Just as diverse-kinds of garments that I have forbidden to you consist of two distinct kinds, so that one cannot combine one part from one kind and another part from another kind, so too diverse-kinds that I have prohibited to you in every case consists of two distinct kinds, so that one cannot combine one part from one kind and another part from another kind.”

[I:3 A] *It was taught as a Tannaite rule in the name of R. Eleazar, “A gentile is permitted to sow different kinds of seeds or to wear different kinds of garments, but not to mate his animal with an animal of a different kind nor to graft a bud from his tree onto a tree of a different kind.”*

- [B] Why? For it is written concerning them, “according to their kinds” (Gen. 1:11-12, 24-25).
- [C] But concerning vegetation it is written, “according to their kinds” (Gen. 1:12). [Yet gentiles are not forbidden to sow different kinds of seeds together.]
- [D] The phrase “according to their kinds” is not written in the command to the earth concerning vegetation [Gen. 1:11], but only in the actual production of grasses and herbs (Gen. 1:12).
- [I:4 A]** But if [the earth did more than it was commanded to do] why was the earth cursed [Gen. 3:17]?
- [B] R. Yudan bar Shalom said, “Because the earth violated the decrees of the Holy One, blessed be he. [God said,] ‘let the earth put forth vegetation, plants yielding seed according to their own kinds and trees bearing fruit in which is their seed, each according to its kind’ (Gen. 1:12),
- [C] R. Phineas said, “[The earth did not transgress God’s command but rejoiced] in her commandment and added trees that do not bear edible fruit to the trees bearing edible fruit.”
- [D] According to the view of R. Yudan bar Shalom it was right that the earth should be cursed, for disobeying God’s command].
- [E] According to the view of R. Phineas, why was the earth cursed?
- [F] It is in line with what people say, “*Cursed be the breast that suckled such a one as this.*”
- [G] *That is in accord with R. Nathan:* “Three [Adam, Eve, the snake] came to judgment and four came out cursed: ‘Cursed be the ground because of you’ (Gen. 3:17).”
- [I:5 A]** *To this point it is written only,* “You shall not let your cattle breed with a different kind” (Lev. 19:19). How do we know that the same applies to fowl?
- [B] *There is a Tannaite authority who teaches,* “You shall keep my statutes (Lev. 19:19).
- [C] *And there is a Tannaite authority who teaches,* “You shall not let your cattle breed with a different kind” (Lev. 19:19).
- [D] If one grafted a tree of one kind onto a tree of another kind and mated a fowl of one kind with a fowl of another kind, *according to the Tannaite authority who teaches,* “You shall keep my statutes (Lev.

19:19), he is liable on one count. *But according to the Tannaite authority who teaches*, “You shall not let your cattle breed with a different kind” (Lev. 19:19), he is liable on two counts.

[E] If one mated a domesticated animal of one kind with a domesticated animal of another kind, and at the same time mated a fowl of one kind with a fowl of another kind, *according to the Tannaite authority who teaches*, “You shall keep my statutes (Lev. 19:19), he is liable on two counts. *But according to the Tannaite authority who teaches*, “You shall not let your cattle breed with a different kind” (Lev. 19:19), he is liable on one count.

[I:6 A] *It was taught as a Tannaite rule: they do not graft the branch of a palm tree onto olive [trees], because [these are grafts] of a tree onto a tree [of a different kind] [T. Kil. 1:10].*

[B] *R. Yudan asked, “But doesn’t this conflict with R. Levi: ‘ “Your wife will be like a fruitful vine in the recesses of your house, your children will be like olive shoots around your table” (Ps. 128:3): just as there is no grafting among olives, so may there be no worthlessness among your children.’ It follows [from the prohibition of an olive graft] that there could be worthlessness among them.”*

[C] *That case is different* for one is prohibited from grafting olive branches onto the cleft of a palm tree not because it may yield fruit but because the palm tree will sweeten the olives.

[D] *That is in line with the following: R. Simeon b. Rabbi would water his peach tree with boiled wine to sweeten its fruit.*

1:8

[A] **They do not plant vegetables in the stump of a sycamore tree,**

[B] **they do not graft rue onto a trifoliate orange tree,**

[C] **because these are [grafts of] a vegetable onto a tree.**

[D] **They do not plant a shoot of a fig [tree] in squill**

[E] **so that [the latter] might cool [the former];**

[F] **they do not insert a vine shoot into a watermelon,**

[G] **so that [the latter] might pour [lit.: throw] its water into [the former],**

[H] **because these are [lit.: it is] [grafts of] a tree onto a vegetable.**

[I] **They do not place [lit.: give] a seed of a gourd in mallow,**

[J] **so that it might protect it,**

[K] **because it is [a graft of] a vegetable onto a vegetable [of a different kind].**

[I:1 A] *R. Zechariah the son-in-law of R. Levi asked, “Even without this rule, is not inserting a vine shoot prohibited on account of the rule against sowing seeds under a vine?”*

[B] *Said R. Yosé, “Interpret the rule to deal with one who deepens the root of the watermelon plant below three handbreadths, in line with what is taught on Tannaite authority: **Roots of madder which extended [from outside of the vineyard’s area of tillage] into the four amot of the vineyard [even] more than three handbreadths below [the surface] — it is permitted [i.e., the madder does not sanctify the vine] [T. Kil. 4:10].”***

1:9

[A] **He who buries turnips or radishes [under the vine ñ**

[B] **if some of its leaves were exposed,**

[C] **he does not fear [that he has transgressed], (1) either because of diverse-kinds, (2) or because of [the laws of] the Seventh Year (3) or because of [the laws of] tithes**

[D] **and they are removed on the Sabbath.**

[E] **He who sows wheat and barley together [lit.: as one],**

[F] **lo, this is [considered a sowing of] diverse-kinds.**

[G] **R. Judah says, “It is not [considered a sowing of] diverse-kinds,**

[H] **“(1) until there are [either] two [grains of] wheat and [one of] barley, (2) or [one of] wheat and two [of] barley, (3) or [one each of] wheat, barley, and rice-wheat.”**

[I:1 A] **turnips or radishes:** Hezekiah said, “They taught the rule only concerning turnips or radishes [under a vine], lo, other things are not permitted to be buried under a vine.”

[B] R. Yohanan said, “There is no difference between turnips or radishes or anything else that one may bury under a vine, all are permitted.]”

[C] *With what case do we deal [if some of its leaves were exposed]? If it is on account of the prohibition against sowing seeds under a tree, then why specify a vine? Even under any other tree would it be permitted to bury branches or turnips or radishes with the leaves exposed. If one must expose the leaves of turnips or radishes because he wants to show that he doesn’t aim at their taking root under the vine, then why*

specify turnips or radishes? Anything else would be buried under the vine with the leaves exposed.

- [D] *From what R. Hiyya taught as a Tannaite statement, “In the case of a bunch of turnips or radishes, the reason can be only because he wants to show that he doesn’t want them to take root [only turnips or radishes are specified to make it clear that he doesn’t want the herbs to grow.]”*
- [1:2 A] *It was taught as a Tannaite statement: **An unripe fig which one stored in straw, and so too a cake which one stored under coals--***
- [B] ***if part of it is in the open, one may take it on the Sabbath.***
- [C] ***But if not, one may not take it on the Sabbath.***
- [D] ***R. Eleazar b. Terai [Taddai] says, “One may spear them with a spit or with a knife and take them on the Sabbath” [T. Shab. 16 (17):18].***
- [E] ***The view of R. Eleazar b. Taddai accords with the view of R. Simeon, as it was taught on Tannaite authority: A person may not drag a bed, chair, stool, and armchair to himself on the Sabbath and, it goes without saying, on the festival because it creates a furrow. And R. Simeon permits [T. Yom Tob 2:18].***
- [F] *R. Abba in the name of R. Huna, R. Haggai in the name of R. Zeira, R. Yosé in the name of R. Hila: “Sages concur with R. Simeon in the case of a chair the legs of which are sunk in clay that it is permitted to remove it on the Sabbath [since one would not displace the soft clay while moving the chair. And just as you say that it is permitted to remove it so it is permitted to return it to its original place.]”*
- [G] *Said R. Yosé, “We too teach that they are removed on the Sabbath.” **[He who buries turnips or radishes [under the vine if some of its leaves were exposed, he does not fear [that he has transgressed], (1) either because of diverse-kinds, (2) or because of [the laws of] the Seventh Year (3) or because of [the laws of] tithes and they are removed on the Sabbath.***
- [H] *Said R. Yosé b. R. Abun, “The cited passage of the Mishnah may belong to R. Simeon.”*
- [I] *But we are taught by a Tannaite statement in the Mishnah: **if some of its leaves were exposed, he does not fear [that he has transgressed], (1) either because of diverse-kinds, (2) or because of [the laws of] the Seventh Year (3) or because of [the laws of] tithes. Can you say***

that because of the laws of the Seventh year is a ruling of R. Simeon? Can it be that R. Simeon permits the use of the aftergrowths of the Seventh year and here he says this?

- [J] *Even though R. Simeon permits use of the aftergrowths of the Seventh year, he still is concerned on account of the sanctity of the Seventh year. Thus here R. Simeon states, he is concerned neither on account of the Seventh year nor on account of the sanctity of the Seventh year.*
- [I:3 A] A farmer sowed two kinds of seeds in a group of unfenced fields, two kinds of seeds in an area that lay waste, or if he sowed two kinds of seeds in the same field and later on separated them with a fence —
- [B] R. Yohanan said, “He is exempt.” [One is liable only if the seeds land in a pattern that produces the appearance of diverse-kinds.]
- [C] R. Simeon b. Laqish said, “He is liable.” [He is liable if he sows the two kinds of seeds, no matter where they land.]
- [D] R. Simeon b. Laqish concurs that if one sowed on the sea shore, on a rock, on rocky ground, or on crags, that he is exempt from liability.
- [E] R. Simeon b. Laqish concurs that if one sowed on condition that he will later on set up a fence to separate the crops, he is exempt from liability.
- [F] Said R. Abba the Carthaginian, “R. Simeon b. Laqish concurs with regard to the Sabbath [that one is not liable for moving an object from private to public domain until it comes to rest.”
- [G] *The Mishnah differs from R. Yohanan: **He who sows wheat and barley together [lit.: as one], lo, this is [considered a sowing of] diverse-kinds.***
- [H] *Interpret the Mishnah to speak of different kinds of seeds placed in an area of six-by-six handbreadths. For said R. Yohanan, “He is not liable unless there is an area of six-by-six handbreadths laid waste in a field of grain or surrounded by a fence.”*
- [I] But in such a case would R. Judah say, “**It is not [considered a sowing of] diverse-kinds**”?
- [J] *Said R. Zeira, “R. Judah is consistent with views expressed elsewhere, for R. Judah said, ‘One kind planted in a field of another kind of herbs — a handbreadth is the minimum width of the row.’”*

- [K] *Said R. Yosé, “Whoever wants to object to this statement of R. Zeira on the grounds that Judah refers only to herbs, not to grain, may derive his view of R. Judah [at M. 1:9G] from that of the rabbis.*
- [L] *“Just as rabbis say, ‘As to forbidding the planting, an area covered by a quarter-qab of grain has to be sown in two kinds for there to be a transgression, but to receive a flogging, an area of six-by-six handbreadths has to be sown,’ so R. Judah said, “As to forbidding the planting, an area covered by a quarter-qab of grain has to be sown in two kinds for there to be a transgression, but to receive a flogging a handbreadth has to be sown.””*
- [M] *But it has been taught as a Tannaite statement, R. Judah permits.”*
- [N] *And this is a problem.*
- [O] What is the reason of R. Simeon b. Laqish [that one is liable for sowing together two kinds of seeds, regardless of where the seeds land]?
- [P] Once he releases the seed from his hand to sow them, he is liable.
- [Q] *But we have a Tannaite statement: **R. Judah says, “It is not [considered a sowing of] diverse-kinds.”***
- [R] [Judah means,] **“It is not [considered a sowing of] diverse-kinds”** until the seed comes to rest.
- [S] *But it has been taught as a Tannaite statement: R. Judah permits. Isn’t that so even once they have come to rest R. Judah permits?*
- [T] Said R. Hila, “R. Simeon b. Laqish is consistent with his own views elsewhere.
- [U] For said R. Simeon b. Laqish in the name of Hezekiah, “The top of a column of one kind that emerged from an area that lay waste into a field sown with another kind — it is permitted to sow it with a kind different from that of the sown field, even though in this case the top of the column does not appear to belong to the neighboring field.”
- [V] Now that Judah permits sowing two kinds of seeds together because one appears to belong to the point of an angle, he should permit sowing even **two [grains of] wheat and [one of] barley**. [One may regard the grain of barley as the top of a column extending from an area laid waste.] And so [Judah permits such a sowing.]
- [W] *But we are taught the Tannaite statement: **R. Judah says, “It is not [considered a sowing of] diverse-kinds, (1) until there are [either]***

two [grains of] wheat and [one of] barley, (2) or [one of] wheat and two [of] barley, (3) or [one each of] wheat, barley, and rice-wheat.”

- [X] *Interpret the rule to speak of this case:* A grain of wheat lies on one side, another on the other side, and a fence is on the third side, and another fence is on the fourth side, and a grain of barley is boxed up in the middle.
- [Y] Said R. Mattaniah, “This applies only in a case in which you say that there is no area laid waste. But if there is an area laid waste, it is permitted to sow together three grains of diverse kinds.”

YERUSHALMI KILAYIM

CHAPTER TWO

2:1

- [A] [Concerning] every *se'ah* [of one kind of seeds] that contains a quarter-*qab* of another kind — he shall lessen [the quantity of seeds of the other kind, so that those seeds form less than a quarter-*qab*].
- [B] R. Yosé says, “He shall sift [out the other kind completely].”
- [C] [And it makes no difference] whether [the quarter-*qab* consists] of one kind or two.
- [D] R. Simeon says, “They only said [that he must lessen the quantity of seeds in the quarter-*qab* when the latter consists solely] of one kind.”
- [E] And the sages say, “Everything that is [considered] diverse-kinds with [the seeds of] the *se'ah* combines to [form] the quarter [-*qab*].”
- [F] Under what circumstances?
- [G] (1) When grain [is mixed] with grain, (2) and pulse with pulse, (3) grain with pulse, (4) and pulse with grain.
- [H] But truly they said, “Garden-seeds that are not eaten combine to form an amount sufficient to prohibit the sowing of the *se'ah* when they total] one twenty-fourth of [the volume] which is sown in a *bet se'ah*.”
- [I] R. Simeon says, “Just as they said [this ruling in order] to make [the law] more stringent [in one case], so did they say [the same ruling in order] to make [the law] more lenient [in another]:
- [J] “Flax [that has been mixed] with [a *se'ah* of] grain combines [to form an amount sufficient to prohibit the sowing of the *se'ah* when it totals] one twenty-fourth of [the volume] which is sown in a *bet se'ah*.”

- [I:1 A] *We have learned in the Mishnah: [Concerning] every se'ah [of one kind of seeds] that contains a quarter-qab of another kind.*
- [B] *But [instead of contains] there is a Tannaite formulation: into which fell [a quarter-qab of another kind].*
- [C] *Said R. Mana, "He who said that contains [holds that] the quarter-qab is one twenty-fourth of a seah. He who said into which fell [holds that] the quarter-qab is one twenty-fifth of a seah."*
- [D] *Said R. Yosé b. R. Abun, "Whether he who said that contains or he who said into which fell [both hold that] the quarter-qab is one twenty-fourth of a seah."*
- [E] *So what is the difference between the two versions, that contains or into which fell?*
- [F] *He who said that contains [holds that] the Mishnah refers to loose grain, and he who said into which fell [holds that] the Mishnah refers to grain still attached to the ground.*
- [G] *How shall we interpret the case [of loose grain]? If it is one who intends to sow the two kinds, then even one grain of what among grains of barley is forbidden. If he planned to mix together two kinds to sell them, then it is prohibited to mix any amount at all of the secondary kind with the primary kind.*
- [H] *R. Jacob bar Aha, Abba bar Hiyya in the name of Rab: "He who sifts pebbles from his fellow's grain is liable to replace them with good wheat."*
- [I] *Said R. Yosé, "That is to say, it is forbidden to mix [two kinds]. If you say it is permitted to mix two kinds, why do I need to replace them with good wheat?"*
- [I:2 A] *If he sold him good grains of wheat and they were found to be selected, with no pebbles among them, what is the law as to the seller's deducting for the buyer the value of the quarter-qab of pebbles that such grain usually contains?*
- [B] *The statements of the Rabbis imply that he does not deduct from the price that quarter-qab. For said R. Jacob bar Aha, Abba bar Hiyya in the name of Rab, "He who sifts pebbles from his fellow's grain is liable to replace them with good wheat."*
- [C] *If the buyer picked out a quarter-qab and a half what is the law? May the buyer deduct for him the value of that quarter-qab?*

[D] R. Hinena and R. Mana —

[E] R. Hinena said, “He deducts for him [the value of that quarter-qab.]”

[F] R. Mana said, “He does not deduct for him [the value of that quarter-qab.]”

[G] *For the seller may say to the buyer, “If you had left them for me and returned the quarter-qab of pebbles with the grain, I would have heaped them up in the grain market and whatever another buyer would have seen he would have bought.”*

[H] Rather, the case concerns grains that were mixed in the process of being stored.

[I] *But we have learned in the Mishnah: **But they said, “Garden-seeds that are not eaten combine to form an amount sufficient to prohibit the sowing of the se’ah when they total] one twenty-fourth of [the volume] which is sown in a bet se’ah.”***

[J] *And it was taught as a Tannaite statement on this rule: For example garden seeds that are sown at the rate of a qab and a half-qab per bet seah.*

[K] And is a twenty-fourth of a half-qab worth anything?

[L] Up to here they were concerned about appearances, from here on they were not concerned about appearances.

[I:3 A] **[Concerning] every se’ah [of one kind of seeds] that contains a quarter-qab of another kind — he shall lessen [the quantity of seeds of the other kind, so that those seeds form less than a quarter-qab]:**

[B] On which side does he lessen the quantity of seeds of the other kind?

[C] He may diminish the seeds of the quarter-qab or add to the seeds of the seah.

[D] Did not R. Yohanan say, R. Abbahu in the name of R. Yohanan: “All forbidden items to which one added permitted items, if it is in order to annul prohibited items, if he does so inadvertently, the mixture is permitted. If he does so deliberately, the mixture is forbidden.”

[E] [It is not comparable]. There [in Yohanan’s case] you are adding permitted items to prohibited ones to annul a scriptural prohibition, but here you are adding permitted items to prohibited ones to annul a prohibition that is only for appearances’ sake.

- [II:1 A] R. Yosé says, “He shall sift [out the other kind completely. [And it makes no difference] whether [the quarter-*qab* consists] of one kind or two].”**
- [B] What is the reason of R. Yosé? Once he began to sift out the other kind in the quarter-*qab*, he must complete sifting it out of the entire quarter-*qab*, [for otherwise he seems to approve of the sowing of diverse-kinds].
- [C] R. Yosé concurs that if there were there from the outset less than as quarter-*qab* of seeds of another kind, it does not require sifting.
- [D] *What is a concrete case?*
- [E] If there was a quarter-*qab* consisting of two kinds, does he sift out only one kind and that suffices, for there would then be less than a quarter-*qab* of seeds, or does he have to sift out all of it?
- [III:1 A] R. Simeon says, “They only said [that he must lessen the quantity of seeds in the quarter-*qab* when the latter consists solely] of one kind.”**
- [B] But if the quarter-*qab* consists of two kinds, he doesn’t have to lessen the quantity of seeds, for each is less than a quarter-*qab*.
- [C] How much [may the other seeds measure and remain in the seah?
- [D] Up to the greater part of the seah.
- [E] If he added to the greater kind of seeds so these make up more than half of the seah, the greater kind of grain renders the seah permitted, forming a majority as it does.
- [F] Just as R. Simeon said, “Two kinds do not combine to produce a prohibited ruling,” so here, “Two kinds do not combine to produce a permitted ruling.”
- [G] *What would be a practical case?*
- [H] If there were there in the seah twenty-two and a half quarter-*qabs* of wheat and half a quarter-*qab* of barley, and there fell into it less than a quarter-*qab* of lentils, even so, the two kinds, the wheat and the barley, do not combine to produce a permissible ruling.
- [IV:1 A] Under what circumstances? (1) When grain [is mixed] with grain, (2) and pulse with pulse, (3) grain with pulse, (4) and pulse with grain:**

- [B] *It was taught on Tannaite authority: Under what circumstances? With [kinds of] seeds that [are sown at the rate of] three or four qabs per bet seah [T. Kil. 1:16]*
- [C] Lo, [seeds that are sown at the rate of] two qabs per bet seah prohibit sowing the seah when they total one twenty-fourth of the volume that is sown in a bet seah.
- [V:1 A] **But they said, “Garden-seeds that are not eaten combine to form an amount sufficient to prohibit the sowing of the *se’ah* when they total] one twenty-fourth of [the volume] which is sown in a *bet se’ah*.”**
- [B] Said R. Eleazar, “Every passage in which they repeated, ‘truly,’ signifies a law revealed by God to Moses at Sinai.”
- [V:2 A] *And it was taught on Tannaite authority: As in the case of garden-seeds that are sown at the rate of a qab or a half-qab per bet seah.*
- [B] Garden seeds sown at the rate of two qabs per bet seah may not be sown with a seah of another kind in a quarter-qab.
- [C] Here you say that seeds sown at the rate of two qabs per bet seah prohibit the seah with a quarter-qab but elsewhere you say that seeds sown at the rate of two qabs per bet seah prohibit the seah with one twenty-fourth of the volume that is sown in a bet seah.
- [V:3 A] R. Zeira, R. Abona in the name of R. Huna —
- [B] One said, “Seeds prohibit a seah of another kind with a quarter-qab when they are sown at a rate of up to nine qabs per bet seah.”
- [C] The other said, “Up to eight qabs.”
- [D] [Concerning seeds that are sown at the respective rates of] nine and ten qabs per bet seah, do they combine to form a prohibited mixture?
- [E] Come, see: seeds that are sown at the respective rates of] nine and three qabs per bet seah combine to form a prohibited mixture with a quarter-qab. Seeds sown at the respective rates of nine and ten qabs per bet seah all the more combine to form a prohibited mixture with a quarter-qab.
- [F] *R. Abin and R. Hanina both say, “No, seeds sown at a rate of a seah per bet seah separate them. A quarter-qab of seeds sown at the rate of a seah per bet seah is forbidden in a seah of seeds sown at the rate of three qabs per bet seah, and a quarter-qab of seeds sown at a rate of three qabs per bet seah is forbidden in a seah of seeds sown at the rate of*

f a seah per bet seah. A quarter qab of seeds sown at a rate of a seah per bet seah is prohibited in a seah of seeds sown at a rate of nine qabs per bet seah. And a quarter-qab of seeds sown at a rate of nine qabs per bet seah is forbidden in a seah of seeds sown at a rate of a seah per bet seah.

[VI:1 A] Three quarter-qabs of flax prohibit in a seah of grain.

[B] How so?

[C] *In a place in which one usually sowed a quarter-qab of wheat one sowed three quarter qabs of flax.*

2:2

[A] [If] his field was sown [with] wheat, and he decided to sow it [with] barley,

[B] he waits until [the wheat] sprouts radicals

[C] and overturns [the soil], and afterwards sows [the barley].

[D] If [the wheat] has [already] sprouted [above ground],

[E] he should not say, “I shall sow [the barley] and afterwards overturn [the soil];”

[F] rather, he overturns [the soil], and afterwards sows [the barley].

[G] How much [of the field] should he plow [up]?

[H] [He should make furrows] like the furrow [plowed after] a rainfall.

[I] Abba Saul says, “[He should plow enough] so that he does not leave [unplowed the area that is sown by] a quarter[-qab of grain] in a *bet se’ah*.”

[I:1 A] How long [does it take] until [the wheat] sprouts radicals? [The wheat does not sprout radicals] until it has stayed in the place for three days; [that is, when the wheat is sown] in a moist place, but not [when it is sown] in a dry place [T. Kil. 1:16]

[B] *It needs more time in a dry place to sprout roots.*

[C] *And so it has been taught on Tannaite authority: For part of the day [is considered] like a whole [day] [i.e., one may assume that the wheat has already sprouted radicals by the third day itself] [T. Kil. 1:16]*

[II:1 A] If [the wheat] has [already] sprouted [above ground], and he brought an animal down into it [the field], and [the animal]

plucked out [the wheat], lo, this is permitted [i.e., one is then allowed to sow without over-turning the soil] [T. Kil. 1:17].

- [III:1 A] **How much [of the field] should he plow [up]? [He should make furrows] like the furrow [plowed after] a rainfall.**
- [B] *What is the reason of the rabbis?*
- [C] Once he has signaled that he has made up his mind to plow the wheat under, even if he didn't make the furrows adjacent to one another, it is permitted [for he has shown he doesn't want the wheat to grow].
- [D] *It was taught as a Tannaite statement: **They do not require him to plow a fine plowing [i.e., to make narrow furrows], but rather he plows a coarse plowing [i.e., he makes wide furrows] like [the plowing of] the furrows [after] a rainfall.***
- [E] R. Simeon b. Gamaliel says, “[The appearance of the furrows that were plowed after a rainfall] was called ‘the horse’s tail[-end],’ [for] the end [of the mound] of dirt of this [furrow] touches the [mound of] dirt of that [i.e., the next furrow]” [T. Kil. 1:17].
- [IV:1 A] **Abba Saul says, “[He should plow enough] so that he does not leave [unplowed the area that is sown by] a quarter[-qab of grain] in a *bet se’ah*.”**
- [B] *What is the reason of Abba Saul?*
- [C] Once he has begun to plow the wheat under in an area covered by a quarter-qab, it is enough [for he has signaled that he has made up his mind to plow the wheat under].
- [D] Does Abba Saul concur with R. Yosé who holds that intention demonstrated through action determines whether or not one is obligated to remove one kind from among another kind]?
- [E] He is in agreement with rabbis. For rabbis say, “Once he has shown that he has made up his mind to plow the wheat under, even if he did not make the furrows adjacent to one another, it is permitted. And Abba Saul says, “Once he has shown that he has made up his mind to plow the wheat under in an area covered by quarter-qab of seed, it is sufficient.”
- [F] But R. Yosé says, “He has to complete plowing under the entire area covered by a quarter-qab.”

2:3

- [A] [If his field] was sown [with vegetables or grain] and he decided to plant it [with vines],
- [B] he does not say, “I shall plant and afterwards overturn [the soil];”
- [C] rather, he overturns [the soil] and afterwards plants.
- [D] [If his field] was planted [with vines] and he decided to sow it [with vegetables or grain],
- [E] he does not say, “I shall sow and afterwards uproot [the vines];
- [F] rather, he uproots [the vines] and afterwards sows.
- [G] If he wanted [however, to sow first], he cuts [the vines] until they are less than a handbreadth [high], and sows, and afterwards uproots [the vines].
- [H] [If] his field was sown with carum or arum,
- [I] He should not sow on top of them, for they produce [fruit] for three years”]).
- [J] (1) Grain among which [Geniza fragment: with which] after-growths of woad came up, (2) and so the threshing-floors [lit.: the place of the threshing-floors] in which many kinds came up, (3) and so fenugreek which brought up [different] kinds of grasses
- [L] they do not require him to weed.
- [M] [But] if he weeded or cut down, they say to him, “Uproot everything, except for one kind.”
- [I:1 A] If he wanted [however, to sow first], he cuts [the vines] until they are less than a handbreadth [high], and sows, and afterwards uproots [the vines].
- [B] *It was taught as a Tannaite statement:* they place cut sheaves of grain next to vines.
- [C] Said R. Yosé, “*That is to say,* it is forbidden to plant a withered vine next to withered standing grain.”
- [D] Is it permitted to sow next to withered vines?
- [E] *Let us derive the answer from the following:*
- [F] **A vine that withered is forbidden but does not sanctify the seeds sown nearby [M. Kil. 7:2].**

[G] *And said R. Eleazar, “It is the position of R. Meir, for R. Meir said, ‘Also a cotton tree is prohibited but it does not sanctify the seeds sown nearby’ [M. Kil. 7:2].*

[H] *That implies that it is permitted to sow next to withered vines.*

[II:1 A] But if the vines sprouted [after being cut down], the vines and grain are permitted retroactively but forbidden for the future [T. Kil. 1:18].

[B] *It is in line with the following: R. Simeon b. Judah cut down vines [to sow grain among them]. He said to his tenant, “Go, sow there.” After he sowed, the vines sprouted. He said to him, “Go and cut down [the early growth of grain, for the vines and grain are permitted to here but not allowed to continue growing together].” After he cut down the early growth of grain, the vines thrived. He said to him, “Go and make supports for the vines, which are now permitted.]”*

[II:2 A] R. Zeira asked, “To now it is in accord with R. Simeon b. Judah, who sincerely intended to uproot the grain if the vines began to grow again. But as to other people, who are not sincere [about uprooting the grain if the vines began to grow again], what is the law?”

[B] He reverted and said, “Even R. Simeon b. Judah prohibits the vines that will grow on top of the grain for the future only on account of appearance’s sake.”

[II:3 A] It was a condition set by Joshua [for the use of the Land of Israel when the Israelites conquered it] that they would gather wild grasses everywhere [without being accused of robbery] except from a field of fenugreek.

[B] R. Jacob bar Aha in the name of R. Isaac bar Nahman: “*That is a Tannaite ruling for a case in which he sowed the fenugreek for the sake of its spikes [not its seeds].*”

[C] *And lo, we have learned in the Mishnah: and so fenugreek that brought up [different] kinds of grasses they do not require him to weed.*

[D] R. Jacob bar Aha in his own name: “It concerns a case in which he sowed the fenugreek for the sake of its seeds.”

[E] Said R. Yosé, “Did Joshua specify that his condition did not apply to a field of fenugreek only for transgressors? If the owner transgressed, the grasses are forbidden under the law of robbery. If the owner did not transgress, the grasses are permitted under the law of robbery. Rather,

it makes no difference if he sowed the fenugreek for its seeds or for its spikes.”

- [F] *But we have learned in the Mishnah: and so fenugreek that brought up [different] kinds of grasses they do not require him to weed.*
- [G] but if he is mindful of the grass, [for others are forbidden to steal them, then] let them require him to weed.
- [H] R. Aha in the name of R. Meisha: “The owner does want them [but not growing in the field, rather] as if they were uprooted and placed before him.”
- [I] But [if one is prohibited to steal the grasses,] then if one found diverse-kinds growing in a vineyard, let diverse-kinds be prohibited under the law of robbery for here too the owner wants them as if they were uprooted and placed before him.
- [J] R. Yosé did not say this [the owner wants them as if they were uprooted and placed before him]. Rather he meant that at the end [when the fenugreek is grown] the owner wants them as if they were uprooted and placed before him.
- [K] Now [that it is prohibited to steal the grass because the owner wants them at the end of the growth of the fenugreek, if one found diverse-kinds growing in a vineyard, let the diverse-kinds be prohibited with regard to robbery for here too at the end the owner wants them as if they were uprooted and set before him.
- [L] Here he has something with which to bring in the grasses, the fenugreek, but there [diverse-kinds growing in a vineyard], he does not have something with which to bring in the other kind.
- [M] R. Nahman said, R. Mana asked, “Take note! If there was this other field of fenugreek near the vineyard, in that instance he would have something with which to bring in the other kind.”
- [N] *The statements of the rabbis differ. For R. Zerikan said in the name of the house of Yannai: “All aftergrowths that come up in the Seventh year are forbidden from being eaten except those that come up in an uncultivated field, a newly plowed field, or a field of a vineyard.”*
- [O] And some say, except for aftergrowths of other kinds that come up in a field of fenugreek that has been sown for the sake of its seed.
- [P] *Said R. Yosé, “The statement of R. Yohanan supports my position. There was the case of someone who bought a garden of herbs from a gentile. He came and asked R. Yohanan whether he may allow the*

herbs, which were growing as diverse kinds, to continue to grow. He said to him, ‘Go and gather the herbs that are diverse-kinds with the primary herbs of the garden and sell them according to the market price.’

[Q] “Objected R. Abbahu before R. Yohanan, ‘**and so the threshing-floors [lit.: the place of the threshing-floors] in which many kinds came up, and so fenugreek which brought up [different] kinds of grasses they do not require him to weed.**’ [The owner does not have to remove what he did not plant, so he should not be required to remove the diverse-kinds that were planted by the gentile.]

[R] “He said to him, ‘There its place shows concerning the diverse-kinds that he doesn’t want them to continue to grow.’”

[S] But let him answer: Here [in the case of the garden owned by a gentile, the diverse kinds are forbidden under the law of robbery, but there in the case of diverse kinds growing on a threshing floor or in a field of fenugreek, they are permitted with regard to the law of robbery. How can you object by comparing what is forbidden under the law of robbery to what is permitted under the law of robbery?

[T] *It is in accord with what R. Immi said, “They were rich in answers.”*

[U] *Or let it accord with what R. Nissa said, “It is as where one has two reasons and he gives only one of them.”*

2:4

[A] **He who wishes to lay out his field [in] narrow beds of every kind [i.e., with each bed containing a different kind] —**

[B] **The House of Shammai say, “[He makes the beds as wide as the width of] three furrows of ‘opening’ [i.e., furrows plowed for the purpose of “opening” the field in order to collect rainwater].”**

[C] **And the House of Hillel say, “[He makes the beds as wide as] the width of the Sharon yoke.”**

[D] **And the words of these [i.e., one House] are near the words of those [i.e., the other House] [i.e., there is little difference between the two measurements].**

[I:1 A] **He who wishes to lay out his field [in] narrow beds of every kind [i.e., with each bed containing a different kind:** R. Zeira, R. Eleazar in the name of R. Hiyya the Elder: “He makes each plot two cubits by two cubits and gradually narrow it until there is nothing left.”

- [B] Said R. Jonah, “That which you say applies to a field made up entirely of plots of different kinds, [for it is obvious that each kind grows in a distinct area]. But in a field made up of a single plot, it is not the case, [for then the different kinds do not appear to be distinct from one another].”
- [C] *And that is in accord with what R. Yannai said, “I can sow my field with fifty different kinds, twenty-five kinds on one side and twenty-five on the other.”*
- [D] Can one sow different kinds [in this way “He makes each plot two cubits by two cubits and gradually narrow it until there is nothing left”] if there are only two rows?
- [E] If it is permitted to sow different kinds in separate plots, is it permitted to sow such a plot even between his field and his neighbor’s?
- [F] Is it also permitted to sow one kind in a plot even in an area that lay waste [adjacent to a field of another kind]?
- [G] *Or may we include what R. Simeon b. Laqish said in the name of Hezekiah, “The top of a column of one kind that emerges from an area that lay waste into a field with another kind] — it is permitted.”*
- [I:2 A] Rabbi says, “He begins with the side of a bet roba and gradually narrows it until it reaches the width of three furrows of opening.”
- [B] *But doesn’t Rabbi accept the rule: **Grain [of one kind which is to be sown in a field containing mostly] grain [of another kind] [must itself cover an area of] a bet roba?***
- [C] *There the rule concerns a different kind sown in a square, while here the rule concerns a triangular plot.*
- [D] *And do not the rabbis [opposed to Rabbi in the cited rule] not accept the rule concerning a triangular plot, that the plot becomes ever more narrow?*
- [E] Said R. Yudan, “Both rabbis and Rabbi agree that the plot begins at one width and narrows to another. They differ only in that the width of the end of the narrow bed according to Rabbi is the same as that of the beginning of the narrow bed according to rabbis.”
- [II:1 A] **He who wants to lay out his field [in] rows of grain and rows of many [different] kinds [of plants] — makes three open furrows [extending] from the beginning of the field to its end [T. Kil. 2:1].**
- [B] R. Eleazar asked, “If his field was small, what is the law?”

[C] *Let us derive the answer from the following: R. Eleazar b. R. Simeon and Abba Yosé b. Hanan of Vani say, “In a large field it is sufficient for them [to measure] fifty amot in length, while in a small field it must extend over the greater part of the field.”*

[D] These authorities gave a minimum measure for the length of the plot in a large field, but did not give a minimum measure for the length of a plot in a small field, but sages did not give a minimum measure for the length of a plot in a large field would not give a minimum measure for the length of a plot in a small field. [So the plots should extend the length of the field or at least the greater part of it.]

2:5

[A] [If] the point of the angle of the field of wheat entered into [a field] of barley,

[B] it is permitted [to grow the wheat in the field of barley];

[C] for [the point of the angle of the wheat-field] looks like the end of his field [“for it appears at the end of his field”] [of wheat].

[D] [If] his [field] was [sown with] wheat, and his neighbor’s [field] was [sown with] another kind,

[E] it is permitted to flank [his neighbor’s field] [with some] of the same kind [as that of his neighbor’s field].

[F] [If] his [field] was [sown with] wheat, and his neighbor’s [field] was [also sown with] wheat,

[G] it is permitted to flank it [i.e., his field] [with] a furrow of flax, but not [with] a furrow of another kind.

[H] R. Simeon says, “It is all the same whether [a furrow of] flax-seeds or [a furrow of] any kind [flanks the field].”

[I] R. Yosé says, “Even in the middle of his field it is permitted to test [the suitability of the soil for growing flax] with a furrow of flax.”

[I:1 A] Resh Laqish in the name of Hezekiah: “The top of a column of one kind that emerges from an area that lay waste [into a field of another kind] — it is permitted [even though the wedge-shaped area enters the field from a barren area and does not appear to belong to the end of its own field].”

[B] Said R. Yohanan, “They taught this rule **only if there was a top of a column**. It follows that the top of a column of one kind that emerges from an area that lay waste into a field of another kind is prohibited [for it does not appear to mark the end of a field of its own kind.]”

- [C] Hezekiah said, “He who has a bet rova and a space measuring any amount at all — in that space measuring any amount at all he sows whatever kind he wants [without regard to what is sown in the bet rova.]”
- [D] Said R. Yohanan, “He sows only one kind in the space measuring any amount at all.”
- [E] Said R. Zeira, “But R. Yohanan agrees that if there was a bet rova and a half, he sows half of the bet rova on one side with one kind and half of the bet rova on the other side with another kind, and the remaining empty half of the bet rova is regarded as belonging to this side and that side.”
- [F] *The Tannaite rule differs from R. Yohanan: [If] one had two rows one sown [with] wheat and one sown [with] barley, it is permitted to make a furrow between them, [and] to sow [in it] either wheat or barley [T. 2:3]*
- [G] for the grins of wheat look like the end of the field of wheat, and the grains of barley look like the end of the field of barley.
- [H] *How does R. Yohanan deal with this?*
- [I] *He interprets it in accord with the view of R. Eliezer b. Jacob [and opposed by himself and the majority of sages]:*
- [J] **R. Eliezer b. Jacob says, “Also if [one grain of J wheat after another enters a field of barley, or [one grain of J barley after another enters a field of wheat [i.e., the grains of wheat or barley are sown consecutively in the field of the barley or wheat, respectively], it is permitted [to grow the wheat in the field of barley, or to grow the barley in the field of wheat]; for the wheat looks like the end of the field of wheat, and the barley looks like the end of the field of barley.[T. Kil. 2:2]**
- [K] **[If one (grain of)] wheat is absorbed in the field of barley [i.e., the grains of wheat do not fall consecutively in the field of barley or [if] one [grain of] barley is absorbed in the field of wheat, it is prohibited [to grow the wheat in the field of barley, or to grow the barley in the field of wheat] [T. 2:3]**
- [II:1 A] **[If] his [field] was [sown with] wheat, and his neighbor’s [field] was [also sown with] wheat, it is permitted to flank it [i.e., his field] [with] a furrow of flax, but not [with] a furrow of another kind.**

[B] *With what case are we dealing?*

[C] If it is one who intends to test [the soil for growing flax] then even in the middle of his field it is permitted, [certainly on the edge.] If it is with one who does not intend to test [the suitability of the field for growing flax,] then why specify to sow flax seeds? For any of the other kinds of produce it should be permitted as well.

[D] *So we must be dealing with one who intends to test the soil for flax, and the dispute is as follows:*

[E] R. Yosé is not concerned about appearances [and so permitted the test furrow to be sown in the middle of the field,] but rabbis were concerned [and permitted the test furrow only at the edge of the field [where it wouldn't give the impression of violating the prescription against diverse-kinds.]

[III:1 A] **R. Simeon says, “It is all the same whether [a furrow of] flax-seeds or [a furrow of] any kind [flanks the field].”**

[B] R. Samuel in the name of R. Zeira: “*R. Simeon is consistent with views expressed elsewhere. Just as R. Simeon said, ‘A man does not sanctify something which is not his own’ [M. Kil. 7:4],* so does he say here, ‘A man does not surround with another kind and so prohibit something that is not his own.’”

[C] Rab said, “A man does not surround with another kind and so prohibit something that is not his own.”

[D] *Said R. Jonah, “The statement of Rab accords with that of R. Simeon. Just as R. Simeon said, ‘A man does not sanctify something which is not his own’ [M. Kil. 7:4],* so does he say here, ‘A man does not surround with another kind and so prohibit something that is not his own.’ *But Rab is not in accord with the position of rabbis.”*

2:6

[A] **They do not flank a field of grain [with] mustard or safflower,**

[B] **but they flank a field of vegetables [with] mustard or safflower.**

[C] **And he flanks (1) uncultivated land, (2) or newly-broken land (3) or a loose stone wall (4) or a road, (5) or a fence ten handbreadths high, (6) or a ditch which is ten [handbreadths] deep and four [handbreadths] wide, (7) or a tree which shades the ground, (8) or a rock ten [handbreadths] high and four [handbreadths] wide.**

[I:1 A] **They do not flank a field of grain [with] mustard or safflower:**

- [B] What is haria? Safflower.
- [I:2 A] *This is what the Mishnah states: **They do not edge a field of grain [with] mustard or safflower.*** Lo, as to flanking [placing these kinds close to, but not immediately adjacent to the field, they do flank the field with them.
- [I:3 A] *The Mishnah represents the view of R. Judah. For it has been taught as a Tannaite statement: **“They edge [with] mustard [or] safflower only [a field of] geophytes,”** the words of R. Meir.*
- [B] **R. Judah says, “They edge [a field of] any [kind with] mustard [or] safflower, except for [a field of] grain.”**
- [C] **R. Simeon says, “They edge [a field of] any [kind with] mustard [or] safflower.”**
- [D] **Rabbi Simeon b. Gamaliel says, “They surround small beds of vegetables [with] mustard [or] safflower” [T. Kil. 2:5].**
- [I:4 A] *It has been taught as a Tannaite statement **Rabbi says, “A man is permitted to make a row of mustard [or] safflower in his field” [cf. M. Kil. 2:8A-B], provided that he make the length of the row a length of ten and a half cubits” [T. Kil. 2:4].***
- [B] Said R. Eleazar, “They taught that rule only for a small field [where a row is readily discernable. But in the case of a large field, it is not permitted.”
- [C] What is a small field and what is a large field?
- [D] If there is a bet roba between one side and another, [if the field measures one side of a bet roba in width] that is a large field. If not, it is a small field.
- [E] *Doesn't this rule differ from that of R. Yohanan, for R. Yohanan said, “The top of a column of one kind that emerges from a waste area into a field of another kind — it is forbidden.”*
- [F] [The two cases are different]. There the case refers to a field of plants grown for their seeds [grain or pulse] but here it refers to a field of herbs. Even though R. Yohanan was differ in the case of plants grown for their seeds, he would agree here in the case of herbs.
- [I:5 A] A dry area [not irrigated] — it is permitted to sow in it any kind that he wants, [for it is deemed set off from the larger field.

- [B] Said R. Yohanan, “That [it is permitted to sow in it any kind that he wants] is on condition that he sow at least three handbreadths within six handbreadths [and then it is an area unto itself].
- [C] And the three handbreadths that are adjacent to the fence are regarded as a dry area.
- [D] If there were three handbreadths of another kind sown within the six handbreadths of the dry area and one handbreadth of this kind was sown outside of the six handbreadths, just as these handbreadths that are within the six handbreadths are saved [permitted, for they cover at least half of the dry area], so also this handbreadth that lies outside of the six handbreadths is saved [joined to the three permitted handbreadths within the six].
- [E] If there was there a rectangular area consisting of a dry area along one breadth, two rows among the lengths, a fence opposite the dry area, and a row in the middle extending from the fence to the dry area, all of these areas surround the row in the middle and prohibit sowing another kind there.
- [I:6 A]** The top of a wide dirt-covered wall that separates a higher field from a lower one is like the upper field and may be sown only with the kind sown in the upper field.
- [B] There were two fields, one higher than the other, the upper one is adjacent to a ditch or the lower one is adjacent to a wall.
- [C] Members of the House of R. Yannai say, “A wall — it is permitted to sow on it any kind of trailing plant.”
- [I:7 A]** A wall may yield a more lenient ruling or a more strict one than it would if a fence were not present.
- [B] How so?
- [C] An area of less than a bet roba cleared in a field of grain — it is forbidden to sow another kind in it.
- [D] But if he surrounded this area with a wall, it is permitted to sow another kind in it, [for the area appears autonomous.]
- [I:8 A]** A bet roba in a group of unfenced fields — it is permitted to sow in it two different kinds [one row of each on either side of the bet roba.
- [B] But if he surrounded the bet roba with a wall, it is forbidden to sow another kind in it, [for now the bet roba is considered a single area and cannot contain different kinds.

- [F] How do we know that a wall that is sown saves the seeds of different kinds on either side of it? How do we know that a dry area that is sown saves the herbs of different kinds on either side of it?
- [G] *R. Samuel in the name of R. Zeira inferred the answer from the following: **He flanks [with diverse-kinds] tree-roots which have dried up, [and] which are ten handbreadths high. [T. Kil. 2:5].***
- [H] It says that one is permitted to flank with different kinds only those roots that has dried up. Lo, with moist tree-roots, flanking with different kinds is forbidden. [One may still sow on top of them. A wall or dry area that is sown cannot serve as a divider.]
- [I] *R. Yosé inferred the answer from the following: **And he flanks (1) uncultivated land, (2) or newly-broken land (3) or a loose stone wall (4) or a road, (5) or a fence ten handbreadths high [M. Kil. 2:6].*** *That implies that a sown fence saves the seeds of different kinds on either side of it.*
- [J] Even if you say, **a fence ten handbreadths high** [with the implication that any fence of that height serves as a divider], a sown fence does not save the seeds of different kinds on either side of it. *That is because the case is different here for in this case it is a sown fence, and a sown fence does not save the seeds of different kinds on either side of it.*
- [I:9 A] R. Yudan asked, “A dry area and a triangular plot — how do they combine to form the minimum dimensions of an autonomous area?
- [B] *What is a practical case?*
- [C] If there was a space measuring ten-and-a-half cubits long by six handbreadths wide, one does not need a dry area [to complete the minimum area of an autonomous plot]. [The area is sufficient to permit sowing a row of one kind of herbs among herbs or grain.]
- [D] Rather, if he made a dry area on one side of a plot, it is permitted to flank the plot on both sides with diverse kinds. [The dry area combines with the plot to form an autonomous area even though the dry area is not sown and is considered an area unto itself.]
- [II:1 A] **or a rock ten [handbreadths] high and four [handbreadths] wide:**
- [B] *It was taught as a Tannaite rule: R. Jonathan b. Yosé says, “If there was there a rock ten handbreadths long and four handbreadths wide, it is permitted to flank it with different kinds on two of its sides. And if it measured ten by ten handbreadths, it is permitted to flank it with*

different kinds on all four of its sides.” [Different kinds must be separated by at least ten handbreadths.]

2:7

- [A] **He who wishes to lay out his field [in] patches of every kind [i.e., with each patch containing a different kind] —**
- [B] **(1) he lays out twenty-four patches to a *bet se'ah*, (2) a patch to a *bet roba*,**
- [C] **and sows in each patch any kind that he wishes.**
- [D] **“If there were one or two patches [in a field of grain], he sows them with mustard;**
- [E] **“[but if there were] three [patches], he shall not sow [with] mustard,**
- [F] **“for [then the field as a whole] looks like a field of mustard,”**
- [G] **the words of R. Meir.**
- [H] **And the sages say, “Nine patches are permitted, [but] ten are prohibited [i.e., it is permitted to lay out no more than nine patches of mustard in a field of grain].”**
- [I] **R. Eliezer b. Jacob says, “Even [if] his entire field is [the size of] a *bet kor*, he shall lay out only one patch in it.”**
- [I:1 A] R. Hezekiah, R. Yosé in the name of R. Yohanan: “The statement of the sages responds to the beginning of what is attributed to R. Meir [M. 2:7A-C] and not to M. 2:7D-G].
- [B] “R. Meir says, ‘Even if the patches are surrounded on all sides by non-adjacent patches of different kinds or are flanked on one side by an adjacent patch of a different kind, it is permitted to sow each of the patches with a different kind.’ And rabbis say, ‘It is permitted to sow patches of different kinds, so long as the patches are neither surrounded nor flanked [by different kinds, and there are only nine such patches].”’
- [C] *What is a concrete case [why are there only nine patches]?*
- [D] Three patches in the first row, two in the second, one in the third, two in the fourth row, and one in the fifth row.

2:8

- [A] **Everything that is within [an area the size of] a *bet roba* counts within the measure of the *bet roba*.**

- [B] (1) The ground required for a vine (2) or the grave, (3) or the rock counts within the measure of the *bet roba* [even though these areas may not be sown].
- [C] (1) Grain [of one kind that is to be sown in a field containing mostly] grain [of another kind] [must itself cover an area of] a *bet roba*.
- [D] (2) Vegetables [of one kind that are to be sown in a field containing mostly] vegetables [of another kind] [must themselves cover an area of] six handbreadths square].
- [E] (3) Grain [that is to be sown in a field containing mostly] vegetables, or (4) vegetables [that are to be sown in a field containing mostly] grain [must themselves cover an area of] a *bet roba*.
- [F] R. Eliezer says: “Vegetables [that are to be sown in a field containing mostly] grain [must themselves cover an area of] six handbreadths [square].”
- [G] (1) [If] grain leans over grain [of another kind], (2) or vegetables [lean] over vegetables [of another kind], (3) [if] grain [leans] over vegetables, (4) [or if] vegetables [lean] over grain —
- [H] everything is permitted,
- [I] except for the Greek gourd [i.e., any plant may be allowed to lean over any other plant, while the Greek gourd may not be allowed to lean over any plant].
- [J] R. Meir says, “Even the chate melon and the cowpea [may not be allowed to lean over any plant];
- [K] “but I prefer their words to my own.”
- [I:1 A] R. Abun bar Hiyya in the name of R. Zeira: “They taught only concerning the ground surrounded by a vine. But the area under a vine itself does not count within the measure of a *bet roba*. How come? Because it is prohibited for benefit.”
- [B] But lo, the grave also is forbidden for benefit, yet it counts within the *bet roba*!
- [C] [The cases are not parallel.] A grave’s prohibition is not readily apparent [it is underground and doesn’t look distinct from the rest of the field, so it counts within the *bet roba*.
- [D] But the area of tillage of a vine — isn’t it also prohibited with respect to benefit?

[E] The rule accords with the position of R. Ishmael, for R. Ishmael said, “There is no requirement of an area of tillage for a single vine.”

[II:1 A] **Grain [of one kind that is to be sown in a field containing mostly] grain [of another kind] [must itself cover an area of] a *bet roba*:**

[B] on condition that the secondary kind of grain not be surrounded on all four sides by the primary kind of grain.

[C] *R. Zeira raised a question before R. Yosé, “If we said this, they would be able to sow only a single kind in the Valley of Simonia.”*

[III:1 A] **R. Eliezer says: “Vegetables [that are to be sown in a field containing mostly] grain [must themselves cover an area of] six handbreadths [square].”**

[B] *R. Eliezer would answer the Rabbis as follows: “Just as you have a lenient ruling with regard to a row of herbs sown among grain, that the row must measure only six handbreadths wide, as well as a stringent ruling with regard to a square of herbs sown among grain, that the square must measure a *bet roba*, so I present a lenient ruling with regard to a square of herbs sown among grain, that the square must measure only six handbreadths square.”*

[C] *Where do we find that rabbis have a lenient ruling with regard to a row and a stringent ruling with regard to a square?*

[D] *It is that which has been taught on a Tannaite basis: He who wants to sow a row of herbs in a field of grain makes the length of the row ten and a half cubits in length by a width of six handbreadths [T. Kil. 2:13].*

[E] Said R. Yohanan, “He sows in it only a single kind alone.”

[F] Said R. Zeira, “R. Yohanan concedes that if there were seven handbreadths in the width of this area, he sows one handbreadth of one kind on one side and one handbreadth of one kind on the other side and those five empty handbreadths in the middle are assigned to both this side and that side.”

[G] [*This is similar*] to what R. Zeira explained concerning the view of R. Yohanan there [both times permitting an empty space to serve two different kinds of grain].

[H] If he planted half of a row and stopped and wanted to start sowing another kind in a different row, R. Hisda said, “It is forbidden. Rather he says to him, ‘Uproot the row or complete the row.’”

[I] *R. Yudan said, “R. Hiyya bar Abba and R. Samuel bar Isaac differed. One said, ‘Even if only three handbreadths out of six are sown, it is sufficient to constitute a row.’ The other said, ‘Even if one plant is on one side at the top of the row and another plant is on the other side at the bottom of the row and another plant is in the middle of the row, that suffices to form a row.’ And we do not know which authority made the first ruling and which made the second.*

[J] *“On the basis of what R. Yosé said R. Hiyya in the name of R. Yohanan: ‘It is permitted to sow a row of one kind among another — and that is on condition that there is no empty space between one plant and the next,’ it follows that R. Samuel bar Isaac is the one who said, ‘Even if one plant is on one side at the top of the row and another plant is on the other side at the bottom of the row and another plant is in the middle of the row, that suffices to form a row.’”*

[K] But if the combined measure of the planted sides of the row was greater than the combined measure of the empty space, it is permitted to allow empty spaces between one plant and the other.

[IV:1 A] ...except for the Greek gourd [i.e., any plant may be allowed to lean over any other plant, while the Greek gourd may not be allowed to lean over any plant]:

[B] *It was taught as a Tannaite rule: Five things were said concerning the Greek gourd [cf. M. Kil. 1:5]: (1) It is prohibited to train it over plants, (2) its stalk [is considered its handle up to a] handbreadth, (3) it prohibits in any amount [in a mixture of prohibited and permitted items; cf. M. Orl. 3:7], (4) and it conveys uncleanness and interposes before uncleanness, (5) and he who forswears [eating] gourds, is prohibited from [eating] only the Greek gourd [T. Kil. 1:6].*

[B] *R. Jonah asked, “And why do we not count as two it conveys uncleanness and interposes before uncleanness?”*

[C] *Bar Qappara repeated the Tannaite formulation as seven: (1) It is prohibited to train it over plants, (2) its stalk [is considered its handle up to a] handbreadth, (3) and it conveys uncleanness (4) and interposes before uncleanness, (5) they give it the full area required for its tillage, (6) and it is considered diverse kinds with the Aramaean gourd and (7) it is considered diverse kinds with the remusah.*

[D] *And he did not repeat the items on the Greek gourd’s prohibiting in any amount or the rule on vows.*

[IV:2 A] *Said R. Yosé, “Rabban Gamaliel b. Rabbi went out to the marketplace. They came and asked him, ‘The rule of training that they mentioned — does it refer only to a case in which the leaves of the Greek gourd actually touch the other plants or is it prohibited to allow the Greek gourd even just to lean over the other plants?’*

[B] *“He went and asked his father. He said to him, ‘It refers only to a case in which the leaves of the Greek gourd actually touch the other plants.’”*

[IV:3 A] *Said R. Jonah, ‘R. Hillel b. R. Valis went out to the marketplace. They came and asked him, ‘The rule of training that they mentioned — does it refer only to a case in which the leaves of the Greek gourd actually touch the other plants or is it prohibited to allow the Greek gourd even just to lean over the other plants?’*

[B] *“He went and asked his father. He said to him, ‘It refers only to a case in which the leaves of the Greek gourd actually touch the other plants.’”*

[V:1 A] **R. Meir [alt.: Rabbi] says, “Even the chate melon and the cowpea [may not be allowed to lean over any plant]; but I prefer their words to my own:”**

[B] What does **but I prefer their words to my own** mean?

[C] Said R. Hinena, “If on an Egyptian gourd that overshadows nearby plants, you say it is permitted to allow it to lean over other plants, all the more so a hate melon and a cowpea, which do not overshadow nearby plants, should be allowed to learn over them.”

[D] Said R. Abba Mari, “R. Mana would not say this, [but rather as follows:] Rabbi says ‘Wherever we are taught concerning a chate melon and a cowpea, the same rule applies to an Egyptian gourd. And what does **but I prefer their words to my own** mean? [If I do not group a chate melon and a cowpea together with the Greek gourd in this case,] it is because they do not overshadow nearby plants as does the Greek gourd.”

YERUSHALMI KILAYIM

CHAPTER THREE

3:1

- [A] A garden-bed that is six handbreadths by six handbreadths —
- [B] (1) they sow in it five [kinds of] seeds, (2) four [along] the four sides of the garden-bed and one in the middle.
- [C] If [the garden-bed] had a border [measuring] a handbreadth [high,
- [D] (1) they sow in it thirteen [kinds], (2) three on each border and one in the middle.
- [E] He shall not plant the head of a turnip in the border,
- [F] because it fills [i.e., spreads throughout] [the border].
- [G] R. Judah says, “Six [kinds may be sown] in the middle [of a garden-bed].”
- [I:1 A] [“How do we know of a garden bed, six handbreadths square, that five different kinds of seed may be sown in it, four on the sides and one in the middle [M. Kil. 3:1]? Since it says, ‘For as the earth brings forth her bud and as the garden causes seeds sown in it to spring forth’ (Isa. 61:11) — ‘Its seed’ is not said, but ‘Its seeds’” [M. Shab. 9:2]. **The smallest number of “its seeds” is two varieties. [Why should there be more than that?]**
- [B] Said R. Samuel bar Sisereta, “[That is a soluble problem.] From two you may then derive four [varieties of seeds]. In the case of two varieties of seeds, you plant at the outset rows six handbreadths long and then proceed to plant progressively shorter rows, and likewise, in the case of four varieties of seeds, you plant rows of six handbreadths and progressively shorten the rows.
- [C] “Is it then not possible that there will be an empty space available for the planting of the [fifth species of seeds] in the middle?”

- [D] Said R. Jonah, “The work area for one species will impinge on the work area of another, [which is acceptable,] but one variety of seeds will not impinge upon another and so create a case of mixed seeds [which must not be done].”
- [E] [Reverting to A,] R. Joshua b. Levi said, “‘Seed,’ ‘its seed,’ ‘its seeds’ [thus, one, two, two, five in all].”
- [F] And from the viewpoint of R. Judah, who maintains that there may be six? ‘Seed,’ ‘its seed,’ ‘its seeds,’ ‘its seeds’ [one, one, two, two].”
- [G] [Referring to M. 9:2C,] R. Haggai said, [12a] “‘Its seeds’ refers to five varieties.”
- [H] [Replying to Haggai,] “*Wherever I find such a case, [in which the word for seed is spelled out completely, inclusive of its waw], I shall then blot out [the waw].*”
- [I] *The question was addressed to R. Huna, scribe of the school, and he said, “‘Its seeds’ is written out full [with the waw].”*
- [J] R. Yohanan in the name of R. Yannai, “All of them are to be within the six [handbreadths].”
- [K] Kahana in the name of R. Simeon b. Laqish: “All of them outside of the six.”
- [L] If all of them are to be outside of the six, *then we should repeat the tradition as referring to nine, [not six].*
- [M] *Said R. Tanhum of Bosrah, “And that is the meaning of the passage of the Mishnah which speaks of a furrow among other furrows.”*
- [I:2 A] *R. Isaac and R. Immi were in session and raised this question: “We have learned in the Mishnah, **If [the garden-bed] had a border [measuring] a handbreadth [high, (1) they sow in it thirteen [kinds], (2) three on each border and one in the middle.** [Why only one kind in the middle, repeat rather ‘five kinds may be sown in the middle’!]”*
- [B] *Interpret the passage to deal with a case in which the borders extend into the garden-bed and diminish the six handbreadths [for now there is space for only one kind in the middle].*
- [C] If the borders extend into the garden-bed and diminish the six handbreadths, *we have learned in the Mishnah, **R. Judah says, “Six [kinds may be sown] in the middle [of a garden-bed].”***

- [D] *And they interpreted [Judah's statement] as follows: but it is not known whether the associates interpreted it or with R. Immi did: "Judah's rule concerns the opening clauses, **A garden-bed that is six handbreadths by six handbreadths — (1) they sow in it five [kinds of] seeds, four [along] the four sides of the garden-bed and one in the middle.***
- [E] *But if Judah's rule concerns the opening clauses, with regard to the subsequent clauses, **If [the garden-bed] had a border [measuring] a handbreadth [high, (1) they sow in it thirteen [kinds], three on each border and one in the middle,** R. Hiyya taught a Tannaite statement: R. Judah says, "Eighteen kinds may be sown in a garden bed."*
- [I:3 A] **[A garden-bed that is six handbreadths by six handbreadths — (1) they sow in it five [kinds of] seeds, four [along] the four sides of the garden-bed and one in the middle]:** is it permitted to clear a bet roba and to sow in it five kinds of grain [as if the cleared space was a garden bed]?
- [B] If in an area six handbreadths square, on account of which one is flogged on the authority of the Torah, you say that it is permitted [to plant five kinds in a smaller area], here, in the case of a bet roba, on account of which one is not flogged on the authority of Scripture, all the more so one should say that it is permitted!
- [I:4 A] Is it permitted to clear an area and allow each of two kinds instead of five, six handbreadths at the beginning, and to narrow gradually the area covered by each kind until the two kinds meet at a point in the middle?
- [B] If when an area of tillage of one kind comes into contact with an area of tillage of another kind, in the case of five kinds, you say that it is permitted, here in the case of two kinds where an area of tillage of one kind does not come into contact with an area of tillage of another kind, all the more so should you say that it is permitted!
- [C] *That question is superfluous but the following is required:*
- [D] Is one permitted to clear an area and allow each of two kinds of grain a bet roba in the beginning and gradually to narrow an area covered by each kind until the two kinds meet at a point in the middle, as if one were sowing herbs in a garden bed?
- [E] If in an area measuring six handbreadths square, on account of which one is flogged by the authority of the Torah [if the two kinds were

sown in a smaller area] you say that it is permitted, here with a bet roba on account of which one does not receive stripes on the authority of the Torah, all the more so should it be permitted.

- [I:5 A] R. Nisa asked, “Isn’t it reasonable that it is permitted to sow two kinds at the top of a border [that measures two handbreadths in width?”
- [B] R. Nisa further asked, “If one made a plait of plants, a partition, around the kind sown in the middle and sowed the kind in the middle in small hollows, how much must the area covered by this kind be?”
- [C] From what R. Isaac and R. Immi said, “Interpret **If [the garden-bed] had a border [measuring] a handbreadth [high, (1) they sow in it thirteen [kinds], three on each border and one in the middle,** to concern a case in which the borders extend into the garden bed and diminish the six handbreadths,” it follows that even less than the six square handbreadths need to be covered by the kind in the middle.
- [D] To what point may one diminish the area covered by the kind in the middle?
- [E] *Let us derive the answer from the following: A man is permitted to make in his field small furrows, [each measuring] a handbreadth [by a] handbreadth, and to place in them three, three kinds, one to one side, one to the other side and one in the middle [T. Kil. 2:9]* Thus one may diminish the area covered by the kind in the middle up to a handbreadth.
- [F] R. Abba bar Kahana, Simeon bar Narshayya in the name of R., Simeon b. Laqish: “They taught the ruling [at T. Kil. 2:9] only concerning a case in which the plants leaned into a waste area.”
- [I:6 A] Said R. Zeira, “Every handbreadth of the border they considered a domain unto itself, and let there be twenty-five kinds sown in the garden bed, six on each border and one in the middle.”
- [B] *And so did R. Abun bar Hiyya ask in the name of R. Samuel bar R. Isaac, “And have we not learned in the Mishnah: **The furrow and the [dry] water-channel that are a handbreadth deep — (1) they sow in them three [kinds of] seeds, (2) one on one [side], one on the other [side], and one in the middle?** But should it not be taught: They sow in them five kinds of seeds, two on one side, two on the other side, and one in the middle?”*
- [C] *You cannot do so, for the kind on one side and the kind on the other side would then surround the middle one.*

- [I:7 A] *R. Abun bar Hiyya in the name of R. Samuel bar R. Isaac asked, “Does a border save [separate] herbs sown in a garden bed from a surrounding bed of chate melons?”*
- [B] If in the case of seeds of one kind sown among seeds of another kind, which are saved by an area measuring ten and a half cubits square [a bet roba] a border does not save one kind from another, in the case of a bed of chate melons, which is saved from another kind of trailing plant by an area measuring twelve cubits, all the more so should it not be saved by a border!
- [I:8 A] Is a bed of chate melons planted among other trailing plants saved by the top of the border?
- [B] If seeds of one kind sown among seeds of another kind, which are saved by an area measuring ten and a half cubits square are not saved by the top of a border, a bed of chate melons, which is saved from another kind of trailing plants by an area measuring eight cubits, all the more so should not be saved by the top of a border.
- [C] Said R. Yudan father of R. Matelayya, “But is this a valid ‘all the more so’ argument?”
- [D] ‘Rather, this is what it should say: ‘No. if seeds of one kind sown among seeds of another kind, which are saved by an area measuring ten and a half cubits square, are not saved by the top of a border, a bed of chate melons, which is saved from herbs by an area measuring twelve cubits, all the more so should now be saved by the top of the border.’”

3:2

- [A] **They do not sow any kind of seeds in a single garden- bed,**
- [B] **all kinds of herbs do they sow in a single garden-bed.**
- [C] **Mustard and smooth chick-peas [are considered] kind[s] of seeds,**
- [D] **[while] large chick-peas [are considered] a kind of vegetable.**
- [E] **A border that was [originally] a handbreadth high and became diminished [in height],**
- [F] **is fit,**
- [G] **for it was fit from [i.e., at] its inception.**
- [H] **The furrow and the [dry] water-channel that are a handbreadth deep —**

- [I] (1) they sow in them three [kinds of] seeds, (2) one on one [side], one on the other [side], and one in the middle.
- [I:1 A] They do not sow any kind of seeds in a single garden-bed; all kinds of herbs do they sow in a single garden-bed. Mustard and smooth chick-peas [are considered] kind[s] of seeds
- [B] *Mustard and smooth beans* [M. Kil. 3:2C] — even though he sowed them for [the sake of their] greens they do not sow them in a garden-bed. [Concerning] *large beans* [M. Kil. 3:2D] and cowpea — when they sowed them for [the sake of their] seeds, they sow them in a garden-bed; [when they sowed them for the sake of their] greens, they do not sow them in a single garden-bed. And [concerning] the rest of the field-vegetables and garden vegetables — even though he sowed them [for the sake of their] seeds they do not sow them in a single garden-bed [T. Kil. 2:8]
- [II:1 A] A border that was [originally] a handbreadth high and became diminished [in height], is fit:
- [B] Said R. Imi, “*That which you say* [it is fit] applies only to seeds that are within the border before it became diminished in height. But to sow in it afresh is forbidden.
- [C] “If one transgressed and sowed seeds in a diminished border that had also been sown when the border was at the proper height, since these [seeds that were sown on the border to begin with are permitted, so are those seeds that were sown in the diminished border.”
- [II:2 A] *R. Jeremiah asked*, “It is clear that if the second set of herbs were uprooted, that is, those sown after the border was diminished, the first set would be permitted. If the first set of herbs were uprooted, what is the law concerning the second set?”
- [B] *Let us derive the answer from the following: A bed from which two long pieces were removed, and for which one made new ones but [for which] one did not change the sockets, if the new ones were broken, [the bed] is unclean. And [if] the old ones [were broken], [the bed is] clean. For everything follows the old* [M. Kel. 19:6].
- [C] *Thus that is to say*, if the second set of herbs were uprooted, that is, those sown after the border was diminished, the first set would be permitted. If the first set of herbs were uprooted, the second set would be forbidden.
- [II:3 A] R. Jonah said, “R. Zeira and R. Imi both in the name of R. Yohanan:

- [B] “*One said, ‘They flank a wall with different kinds but they do not flank a border with different kinds.’*”
- [C] “*And the other said, ‘A border that was diminished in height is fit [serves as a border to those seeds that were initially sown in it,] but a wall that was diminished in height is unfit [no longer functions as a divider at all.]’*”
- [D] “*And we do not know which one said the first and which one said the second.*”
- [E] “*From what R. Yosé, R. Zeira said in the name of R. Yohanan, ‘They flank a fence with different kinds but they do not flank a border with different kinds,’*”
- [F] “*it follows that it is R. Imi who said, ‘A border that was diminished in height is fit [serves as a border to those seeds that were initially sown in it,] but a wall that was diminished in height is unfit [no longer functions as a divider at all.]’*”
- [G] *Said R. Yosé, “We too have learned in the Mishnah both of these rules: A border that was [originally] a handbreadth high and became diminished [in height], is fit. It follows that a wall that was diminished in height is unfit. They flank a wall with different kinds, as we have learned in the Mishnah: And he flanks (1) uncultivated land, (2) or newly-broken land (3) or a loose stone wall (4) or a road, (5) or a fence ten handbreadths high, (6) or a ditch which is ten [handbreadths] deep and four [handbreadths] wide, (7) or a tree which shades the ground, (8) or a rock ten [handbreadths] high and four [handbreadths] wide. [M. Kil. 2:6]. They do not flank a border with different kinds, as we have learned in the Mishnah: The furrow and the [dry] water-channel that are a handbreadth deep — (1) they sow in them three [kinds of] seeds, (2) one on one [side], one on the other [side], and one in the middle. Now I you say that they do flank a border with different kinds, let him sow below them [the furrow or water channel] several rows.”*
- [H] *Associates before R. Samuel bar Abin said, “Resolve the matter by interpreting the Mishnah to concern a case in which one sowed on top of the border.”*
- [I] He said to them, “If so, let him uproot the stalk that is sown on top of the border and sow below them. Isn’t it better to uproot a single stalk and sow below them several rows?”

3:3

- [A] [If] the top of the column of a field of vegetables entered a field of another [kind of] vegetables,
- [B] it is permitted [to grow one kind of vegetables in the field of the other kind];
- [C] for it [i.e., the point of the angle of the vegetable-field] looks like the end of his field.
- [D] [If] his field was sown with [one kind of] vegetables, and he wishes to plant in it a row of another [kind of] vegetables —
- [E] R. Ishmael says, “[He may not do so] unless the furrow is open [i.e., extends] from one end of the field to the other.”
- [F] R. Aqiba says, “[The row must measure] six handbreadths [in] length and fully as wide.”
- [G] R. Judah says, “The width [of the row] must be as wide as the width of the sole of a foot.”
- [I:1 A] [If] the top of the column of a field of vegetables entered a field of another [kind of] vegetables, it is permitted [to grow one kind of vegetables in the field of the other kind];
- [B] *Bar Qappara taught as a Tannaite rule concerning a furrow or water channel*, “They sow in it only one kind.”
- [II:1 A] [If] his field was sown with [one kind of] vegetables, and he wishes to plant in it a row of another [kind of] vegetables — R. Ishmael says, “[He may not do so] unless the furrow is open [i.e., extends] from one end of the field to the other.” R. Aqiba says, “[The row must measure] six handbreadths [in] length and fully as wide.” R. Judah says, “The width [of the row] must be as wide as the width of the sole of a foot.” What did R. Ishmael say concerning the width of a row of one kind of herbs sown in a field of herbs of another kind?
- [B] If R. Aqiba surrounds the row with the kind sown in the field in three directions and requires the row to measure only six handbreadths in length, maintaining that the row should be fully as wide as its length, R. Ishmael, who surrounds the row with the kind sown in the field in only two directions, requiring the row to extend the length of the field, all the more so should hold that the row must be fully as wide as it is long.
- [C] What did R. Ishmael say concerning a row of herbs sown in a field of grain?

[D] *If R. Aqiba, who rules leniently here in the case of sowing a row of herbs in a field of another kind of herbs, where he requires the row to measure six handbreadths in length, rules stringently there, in the case of sowing a row of herbs among grain, where he requires the row to measure ten and a half cubits in length, R. Ishmael, who rules stringently here, in the case of sowing herbs in a field of another kind of herbs, where he requires that the row extend from one end of the field to the other, all the more so should he rule stringently there [sowing a row of herbs among grain, where he should also require the row to extend from one end of the field to another.*

[E] *No, the question is as follows: what did R. Ishmael say about the width of a row of herbs sown in a field of grain?*

[F] *Just as you say here [in the case of sowing a row of herbs among herbs of another kind,] that there is no difference between R. Aqiba and R. Ishmael with regard to width, so you say there [in the case of sowing a row of herbs among grain that there is no difference between R. Aqiba and R. Ishmael with regard to width.*

[III:1 A] [If] his field was sown with [one kind of] vegetables, and he wishes to plant in it a row of another [kind of] vegetables:

[B] Samuel said, “They repeated the law only concerning sowing one row of herbs in a field of a different kind of herbs. Lo, as to two rows, it is forbidden.”

[C] R. Yohanan and R. Simeon b. Laqish *both say*, “*There is no difference. All the same are one row and two rows of herbs of one kind in a field of a different kind of herbs.*”

[III:2 A] R. Simeon b. Laqish said, “It is permitted to clear four rows in a group of unwallied fields and to plant a kind in them that is different from that of the surrounding fields.”

[B] Said R. Yohanan, “And that is only on condition that the two outer rows are garden-beds.”

[C] Said R. Zeira, “And that is only on condition that three handbreadths of six are won.”

[IV:1 A] R. Judah says, “The width [of the row] must be as wide as the width of the sole of a foot:”

[B] Said R. Huna, “The Scriptural basis for R. Judah’s ruling is as follows: ‘You irrigated it by foot like an herb-garden’ (Dt. 11:10) — and what is the measure of the sole of a foot? A handbreadth.”

[IV:2 A] **R. Judah says, “The width [of the row] must be as wide as the width of the sole of a foot: *We repeat in the Mishnah here the statement of R. Judah and we repeat in the Mishnah there the statement of R. Judah* [R. Judah says, “Six [kinds may be sown] in the middle [of a garden-bed]”].**

[B] *Had the Tannaite framer of the passage taught the position of R. Judah here and not repeated it there, we might have said, If R. Judah, who rules stringently here and leniently there, rabbis, who rule leniently here should also all the more so rule leniently there. So it was necessary to teach the dispute there [to register that sages do not rule leniently and instead permit only five kinds to be sown in a garden bed.]*

[C] *Had the Tannaite framer of the passage taught the position of R. Judah there and not repeated it here, we might have said, If rabbis, who rule stringently there rule leniently here, R. Judah, who rules leniently there, all the more so should rule leniently here. So it was necessary to teach the dispute here and it was necessary to repeat the rule there.*

3:4

[A] **He who plants two rows of chate melons, two rows of gourds, [and] two rows of cowpeas — it is permitted.**

[B] **[He who plants] a row of chate melons, a row of gourds, [and] a row of cowpeas — it is prohibited.**

[C] **[He who plants] a row of chate melons, a row of gourds, a row of cowpeas and a row of chate melons —**

[D] **R. Eliezer permits,**

[E] **and sages prohibit.**

[F] **A man plants a chate melon and a gourd in a single hollow,**

[G] **provided that one leans to one side, and the other leans to the other side;**

[H] **and the foliage of one leans to this side, and the foliage of the other leans to the other side;**

[I] **for whatever the sages prohibited, they [so] decreed only on account of appearances.**

[I:1 A] **He who plants two rows of chate melons, two rows of gourds, [and] two rows of cowpeas — it is permitted.**

- [B] *Hezekiah said, "This is subject to dispute. He who says there that twelve cubits must separate one bed of trailing plants from another here too would rule that twelve cubits must separate two beds of trailing plants. He who says there that eight cubits must separate one bed of trailing plants from the other here too holds that eight cubits must separate two beds of trailing plants."*
- [C] Said R. Yohanan, "It represents the position of all parties. A bed of trailing plants among other beds of trailing plants has the power to save a bed lying between two others with eight cubits alone."
- [D] How much [must the length of a bed of trailing plants be in order for it to be considered an autonomous domain so that it] surrounds and prohibits the bed between it and a third bed?
- [E] *Said R. Zeira, "Let us learn the rule from the counterpart rule in the case of a vineyard. Just as you say with regard to a vineyard, there is no difference between its length and its separation-distance [the distance that must separate rows of vines for grain or herbs to be sown between them,] so here too in the case of a bed of trailing plants, there is no difference between its length and its separation-distance [the distance that must separate rows of vines for grain or herbs to be sown between them,] so here too there is no difference between its length and its separation-distance."*
- [F] *In the view of Hezekiah, there is no problem, for he holds that the authority who says there that eight cubits must separate one bed of trailing plants from another here too would hold that eight cubits must separate the two beds of trailing plants.*
- [G] *But in the view of R. Yohanan, how much must the length of a bed of trailing plants be for it to be considered an autonomous domain, so that it surrounds and prohibits a bed between it and a third bed?*
- [H] If you say with a length of eight cubits, then all the more so a bed of trailing plants planted among onions should surround and prohibit the onions with a length of eight cubits: if a bed of trailing plants planted among other beds of trailing plants, which you hold saves a bed lying between two others with a separation distance of only eight cubits, surrounds and prohibits a bed between it and a third bed with a length of eight cubits, a bed of trailing plants planted among onions, the power of which you weakened to save the onions with a separation-distance of twelve cubits all the more so should surround and prohibit the onions with a length of eight cubits.

[I] And if you say that a bed of trailing plants set among onions surrounds and prohibits the onions only with a length of twelve cubits, just as its separation distance is twelve cubits, all the more so a bed of trailing plants among other beds of trailing plants, in which case the separation distance is only eight cubits, surrounds and prohibits a bed between it and a third bed with a length of twelve cubits.

[J] *To this point we have dealt with a case in which one arranges the plants consecutively. If one makes a less orderly arrangement of individual stalks, [what is the law]?*

[K] *Just as you say of a vineyard that there is no difference between a case in which one arranges the plants consecutively and a case in which one makes a less orderly arrangement of individual stalks, so here in the case of a bed of trailing plants, it makes no difference where one arranges the plants consecutively or a less orderly arrangement of individual stalks.*

[II:1 A] **[He who plants] a row of chate melons, a row of gourds, [and] a row of cowpeas — it is prohibited. [He who plants] a row of chate melons, a row of gourds, a row of cowpeas and a row of chate melons — R. Eliezer permits, and sages prohibit:**

[B] R. Yannai said, “There is a dispute. The rule, **[He who plants] a row of chate melons, a row of gourds, [and] a row of cowpeas — it is prohibited** represents the view of sages but not Eliezer, [for Eliezer holds that] just as two kinds combine to save, and so they combine to prohibit.”

[C] Rab said, “It represents the view of all parties. Just as two kinds combine to save, and so they combine to prohibit.”

[D] *The Mishnah confirms the view of R. Yannai, for we have learned in the Mishnah: **R. Eliezer permits. The Mishnah contradicts the view of Rab: [He who plants] a row of chate melons, a row of gourds, a row of cowpeas and a row of chate melons — before one plants the fourth row, have the other three rows not already been prohibited?***

[E] *Interpret the statement to involve a case in which one planted all four rows simultaneously.*

[III:1 A] **A man plants a chate melon and a gourd in a single hollow, provided that one leans to one side, and the other leans to the other side:**

[B] *It was taught as a Tannaite rule:* And a man is permitted to make in his field a small hollow which is a handbreadth deep, and to place in it

four kinds [of seeds], and he turns them to its four sides [i.e., he turns each plant so that it faces a different direction] [T. Kil. 2:9]

- [C] R. Abba bar Kahana, Simeon Narshayya in the name of R. Simeon b. Laqish: “They taught this rule with regard to plants that lean into a waste-area.”
- [D] R. Mana asked, “If they taught this rule with regard to plants that lean into a waste-area, we should repeat it as follows: eight seeds may be sown in the hollow, two on the first side, two on the second side, two on the third side and two on the fourth side.”

3:5

- [A] **[If] his field was sown [with] onions, and he wishes to plant in it rows of gourds —**
- [B] **R. Ishmael says, “He uproots two rows [of onions] and plants one row [of gourds],**
- [C] **“and leaves the standing crop of onions over a space of two rows,**
- [D] **“and [again] uproots two rows [of onions] and plants one row [of gourds].”**
- [E] **R. Aqiba says, “He uproots two rows [of onions] and plants two rows [of gourds],**
- [F] **“and leaves the standing crop of onions over a space of two rows,**
- [G] **“and [again] uproots two rows [of onions] and plants two rows [of gourds].”**
- [H] **And sages say, “If there are not twelve *amot* between one row [of gourds] and the next, he shall not allow the seed [sown] between [the rows] to grow.”**
- [I:1 A] Kahana Said, “According to the opinion of R. Ishmael there are sometimes sixteen, sometimes twelve, and sometimes eight cubits between the rows of gourds: when he allows all of the area of tillage on the inside, between the gourds and the onions, there are sixteen cubits between the rows of gourds. When he allows part of the area of tillage on the inside of the gourds and part on the outside, there are twelve cubits between the rows of gourds. When one allows all the area of tillage on the outside, there are eight cubits between the rows of gourds.”
- [B] Samuel said, “According to R. Ishmael there are always twelve cubits between the rows of gourds.”

- [C] *And so it is taught on Tannaite authority: A summary of the opinions of both [authorities]: R. Ishmael says, “Twelve *amot* [must separate the rows of gourds from one another].” R. Aqiba says, “Eight *amot* [must separate the rows of gourds from one another]” [T. Kil. 2:12].*
- [D] R. Ishmael says, “Twelve cubits are required to separate the rows of gourds from one another,” and rabbis also said, , “Twelve cubits are required to separate the rows of gourds from one another.”
- [E] What is at issue between them? Whether flanking the onions with the gourds without any distance between them is permitted. According to R. Ishmael it is forbidden to flank the onions with the gourds. And rabbis say, It is permitted to flank the onions with the gourds, for it is required only that two rows of gourds be separated by twelve cubits.

3:6

- [A] **Gourds [that are to be planted in a field containing mostly] vegetables are considered] as vegetables [of one kind that are to be sown among another kind of vegetables] [i.e., the gourds require a space measuring six handbreadths square].**
- [B] **And [concerning gourds that are to be planted in a field containing mostly] grain — they allow it [i.e., them] a *bet roba*.**
- [C] **[If] his field was sown with grain, and he wished to plant in it a row of gourds,**
- [D] **they allow it [i.e., the row of gourds], as the area required for its tillage six handbreadths;**
- [E] **and if [the gourd(s)] grew larger [i.e., the gourds extended beyond the area allotted for its tillage], he shall uproot from before it.**
- [F] **R. Yosé says, “They allow it [i.e., the row of gourds] as the area required for its tillage, four *amot*.”**
- [G] **They said to him, “Will this [i.e., the rule in the case of the gourd] be more stringent than [the rule in the case of] the vine?”**
- [H] **He said to them, “We have found that this [i.e., the rule in the case of the gourd] is more stringent than [the rule in the case of] the vine,**
- [I] **“for to a single vine they allow as its area for tillage, six handbreadths, but to a single gourd they allow a *bet roba*.”**
- [J] **R. Meir says in the name of R. Ishmael, “Wherever [there are three gourds *per bet se’ah*, he shall not bring seed [of another kind] into the *bet se’ah*.**

- [K] **R. Yosé b. HaHotef in the name of R. Ishmael, “Wherever [there are] three gourds *per bet kor*, he shall not bring seed [of another kind] into the *bet kor*.”**
- [I:1 A] Said R. Yohanan, “According to the words of R. Ishmael they allow an area of tillage even to a single row.”
- [I:2 A] Is it required to allow an area of tillage to the first gourd in a row?
- [B] *Just as you say* with regard to a vineyard that they allow an area of tillage to the first vine in a row, so here they allow an area of tillage to the first gourd in a row.
- [C] What is the rule as to sowing another kind among the hollows containing the gourds?
- [D] *Just as you say* with regard to a vineyard that it is forbidden to sow among vines, so here it is forbidden to sow among the hollows.
- [I:3 A] *R. Jonah asked*, “If he planted five gourds and placed them next to a fence, does it apply to them the laws of an espalier? Does this rule apply to all gourds or not?”
- [B] Whenever you treat a chate melon and a cowpea like a Greek gourd, you also treat an Egyptian gourd like a Greek gourd. But here, when you have not treated a chate melon and a cow pea like a Greek gourd, you do not treat an Egyptian gourd like a Greek gourd.
- [II:1 A] *But let the sages answer [with reference to They said to him, “Will this [i.e., the rule in the case of the gourd] be more stringent than [the rule in the case of] the vine?” He said to them, “We have found that this [i.e., the rule in the case of the gourd] is more stringent than [the rule in the case of] the vine, for to a single vine they allow as its area for tillage, six handbreadths, but to a single gourd they allow a *bet roba*]: All the same are a row of chatemelons, and a row of gourds, and a row of watermelons, and a row of muskmelons, and a row of cowpeas —*
- [B] [he who] allows a single stalk [of any of these kinds] to grow [for the sake of its] seed [beside a row of the same kind],
- [C] **he must make [between the row and the stalk] a partition ten handbreadths high and [with] its width [measuring] four handbreadths [T. Kil. 2:14],**
- [D] And the law is more lenient in the case of a row than in the case of a single stalk.

- [E] *Since the sages do not answer in this way, it is to be inferred that Yosé reasons there is no difference between a row and a square with regard to the area of tillage.*
- [F] For said R. Jonah and R., Yosé the Galilean in the name of R. Yosé b. R. Hanina, “**He who allows a single stalk [of any of these kinds] to grow [for the sake of its] seed [beside a row of the same kind], he must clear for it a bet roba or make [between the row and the stalk] a partition ten handbreadths high and [with] its width [measuring] four hand-breadths [T. Kil. 2:14]** — even in the case of one kind sown for the sake of its seeds among its own kind sown for the sake of its greens.
- [G] *R. Abun bar Hiyya asked before R. Zeira, “Yet we have learned in the Mishnah: Coriander that[the farmer] sowed [in order to harvest its] seed [for future sowing] — its leaves are exempt [from the removal of tithes if they are eaten]. [If he] sowed it [in order to harvest its] leaves [for use as an herb] both] the seeds and the leaves are subject to the law of tithes [M. Ma. 4:5].*
- [H] He said to him, “Coriander is different, for both the plant and the seed are edible [hence no distinction between them.]”
- [I] Said *R. Abun bar Hiyya*, “Come and see the difference between the initial and the final ruling of R. Ishmael. For his original ruling concerned a bet seah but the final ruling concerned a bet kor.

YERUSHALMI KILAYIM

CHAPTER FOUR

4:1

- [A] [The] bald spot of the vineyard —
- [B] House of Shammai say, “[To form an autonomous area it needs to measure] twenty-four *amot* [square].”
- [C] House of Hillel say, “[It needs to measure only] sixteen *amah* [square].”
- [D] [The] outer space of the vineyard —
- [E] House of Shammai say, “[It needs to measure] sixteen *amah*.”
- [F] House of Hillel say, “[It needs to measure only] twelve *amah*.”
- [G] And what is [the] bald spot of the vineyard?
- [H] [The part of] a vineyard that is bare in its middle.
- [I] If there are not there [i.e., in the bald spot] sixteen *amah* [square of space], [then] he shall not put seed into it.
- [J] [If] there were there [i.e., in the bald spot] sixteen *amah* [square of space], [then] they allow it [i.e., the vineyard] its area of tillage and he sows the rest.
- [K] What is [the] outer space of the vineyard?
- [L] [The area] between the vineyard and the fence.
- [M] If there are not there [i.e., in the outer space] twelve *amah* [of space], [then] he shall not put seed into it.
- [N] [If] there were there [i.e., in the outer space] twelve *amah* [of space], [then] they allow it [i.e., the vineyard] its area of tillage and he sows the rest.
- [O] R. Judah says, “This [i.e., the space between the vineyard and the fence] is only [the area of] the fence of the vineyard.
- [P] “And what is the outer space of the vineyard?”

- [Q] “[The area] between two vineyards.”
- [R] What is [considered] a fence?
- [S] [A fence] that is ten handbreadths high.
- [T] And [what is considered] a ditch?
- [U] [A ditch] that is ten [handbreadths] deep and four wide.
- [I:1 A] Said R. Yohanan, “[The] bald spot of the vineyard is the same as a vineyard that lay waste [M. Kil. 5:1].”
- [B] “The bald spot of the vineyard — they clear this area in the middle of the vineyard. ‘The vineyard that lay waste’ — they clear this area on all sides of the vineyard.”
- [C] Said R. Yosé, “But the area is considered a bare patch only when it originated from planting a large vineyard. But if the cleared area originated from planing a small vineyard, it is not considered a bare patch of a vineyard.”
- [D] *And so we learn in the Mishnah: What is the bald spot of the vineyard? A vineyard the middle of which is bare [M. Kil. 4:1G-H], and there remained in it [in the vineyard] five vines [i.e., sets of five vines], whether [they are found] on [each of] four sides, or [each of] three sides, or [each of] two sides, one [set of vines] opposite the other [T. Kil. 3:1].*
- [E] *How so? There are five rows of seven vines each. He removes one set of vines shaped like the Greek letter chi, so four vineyards remain with four intervals between them [thus one vineyard on each of four sides]. One removes another set of vines, there remain three vineyards with two intervals between them, one vineyard on each of three sides. One removes another set of vines, one of the remaining three, and there remain two vineyards, with one interval between them, that is one vineyard on each of two sides.*
- [II:1 A] **House of Shammai say, “[To form an autonomous area it needs to measure] twenty-four *amot* [square].”**
- [B] Kahana said, “They make the bare patch the same size as the planting of the vineyard at the outset.”
- [C] “The House of Shammai say, ‘The planting of a vineyard at the beginning measures twenty-four cubits and the waste state of a vineyard must measure twenty-four cubits.’”

- [D] Said R. Yohanan, “The House of Shammai apply a more strict rule to the waste-state of a vineyard than to the planting of a vineyard at the beginning.
- [E] “[The House of Shammai say,] ‘The planting of a vineyard at its beginning must measure sixteen cubits and the waste state of a vineyard must measure twenty-four cubits.’”
- [II:2 A] In regard to all matters [of M. 4:1] the House of Shammai adds a third of its final amount, or half again as much as the area required by the House of Hillel.
- [B] [If so, the Houses should rule as follows:] the outer ring of a vineyard — *in the opinion of the House of Shammai* it needs to measure eighteen cubits. *In the opinion of the House of Hillel* it needs to measure twelve cubits. *But we have learned in the Mishnah: House of Shammai say, “[It needs to measure] sixteen amah.” House of Hillel say, “[It needs to measure only] twelve amah”!*
- [C] *There is he who wants to say:* subtract from these dimensions four cubits for the area of tillage of the vineyard and there remain twelve cubits as the outer ring *according to the position of the House of Shammai* and eight cubits as the outer ring *according to the view of the House of Hillel*.
- [II:3 A] [If so, the Houses should rule as follows:] The area of tillage of a vineyard — *according to the House of Shammai* it should measure six cubits, *according to the House of Hillel* it should measure four cubits. *But we have learned in the Mishnah:*
- [B] **Therefore, he who sows [within the] four amot that are [allotted as the area of tillage] in the vineyard —**
- [C] **House of Shammai say, “He has sanctified [i.e., prohibited the use of] one row [of vines].”**
- [D] House of Hillel say, “He has sanctified [i.e., prohibited the use of] two rows [of vines]” [M. Kil. 4:5].
- [E] *We can say that the cited passage is formulated from the point of view of the House of Hillel.*
- [II:4 A] *And lo, we have learned in the Mishnah: What is an espalier?*
- [B] **He who plants a row of five vines beside a fence that is ten handbreadths high, or beside a ditch that is ten handbreadths deep and four wide —**

- [C] they allow it its area of tillage of four *amot*.
- [D] House of Shammai say, “They measure four *amot* from the base of the vines to the field.”
- [E] House of Hillel say, “From the fence to the field.”
- [F] *The case of the espalier is different, for said R. Simeon b. Laqish, “They taught the rule with a curved espalier in mind and two cubits are swallowed up by the curve.”*

[III:1 A] What is [the] outer space of the vineyard? [The area] between the vineyard and the fence.

- [B] A wall is not the end of the matter [of what creates the outer ring of a vineyard] but even if the farmer put individual boards to form the boundary of the vineyard, if there are not between one board and the next three handbreadths, they are considered as the counterpart of a wall.
- [C] Even dry standing grain, even mounds of straw [create the outer ring of a vineyard].
- [D] *This is in line with what R. Hanina said, “A prohibited item cannot become a valid partition to save one kind from another.”*
- [E] *For they reasoned from this statement that a prohibited item can become a valid partition to save one kind from another.”*

[III:2 A] According to the view of R, Judah. let him make the outer ring of a vineyard like the bare patch within a vineyard and let the outer ring prohibit with less than sixteen cubits, like the bare patch of a vineyard.

- [B] Said R. Jonah, “*That which you say* [that the outer ring requires twelve cubits, applies only when the stems of the vines of the two vineyards are not aligned with one another, for then the outer ring does not appear to lie within a single vineyard. But if the stem of the vines are aligned with one another, the outer spaces prohibits with less than sixteen cubits, for then the outer ring resembles a bare patch in a vineyard.”

[IV:1 A] Does a vineyard not have an outer ring unless it is bounded by a wall on all four sides? *That derives from what we learn in the Mishnah: R. Judah says, “This [i.e., the space between the vineyard and the fence] is only [the area of] the fence of the vineyard.*

- [B] “**And what is the outer space of the vineyard?**
- [C] “[The area] between two vineyards.”

- [D] *That is to say*, even a vineyard is considered to have an outer ring if it is bounded by a wall even on one side alone.
- [E] [Does a vineyard not have an outer ring] unless it is bounded by a wall for the entire length of that side?
- [F] *Let us derive the answer from the following*: Said R. Zeira, R. Yosé in the name of R. Mattenah, “A large vineyard does not have a tail [a fine extending beyond those of the opposite row] and a small vineyard does not have an outer ring.
- [G] “A large vineyard does not have a tail [a fine extending beyond those of the opposite row]: you do not need one for the vines to form a vineyard.
- [H] “and a small vineyard does not have an outer ring: to prohibit outside of it a greater area than within it.”
- [I] For within a small vineyard it would be forbidden to sow grain or herbs unless there are eight cubits between the rows, while outside of the vineyard in the outer ring it would be forbidden to sow grain or herbs unless there were twelve cubits there.
- [J] What is the definition of a small vineyard? Three vines planted opposite three vines.
- [K] So three vines planted opposite three vines that are in turn planted opposite three vines, thus three rows of three vines each — this vineyard has an outer ring.
- [L] Said R. Zeira, “*This is to say*, if one put individual boards opposite three vines along, the vineyard has an outer ring.”
- [IV:2 A]** R. Yudan asked, “If he placed a wall inside of a wall less than twelve cubits away from a vineyard, is it permitted to sow grain or herbs between the two walls?”
- [B] And he said, “If there are three handbreadths between the fences, it is permitted to bring seed there, and if not, it is forbidden to bring seed there.”
- [IV:3 A]** R. Jacob bar Idi in the name of R. Simeon b. Laqish: “If there was a space of twelve cubits there, even I the same distance does not separate the fines and the wall throughout the length of the vineyard, the prohibition of an outer ring is lifted.”
- [B] Said R. Hezekiah, “The prohibition of an outer ring is lifted provided only that the area measures twelve cubits square.”

[C] Said R. Mana, “Even if the area measures twelve cubits square and becomes more and more narrow, the prohibition of an outer ring is lifted.”

4:4

[A] A partition of reeds —

[B] if there are not between [one] reed and the next three handbreadths,

[C] [i. e.,] sufficient [space] so that a kid may enter,

[D] lo, this is [considered] as a [valid] partition.

[E] And a fence that was breached —

[F] [if the breach measures] up to ten *amot* [wide],

[G] lo, this is [considered] as an opening [and the fence is still considered a valid divider];

[H] [if the breach measures] more than this [i.e., ten *amot*],

[I] opposite the breach it is prohibited [to sow a kind different from that on the other side of the fence].

[J] [If] many breaches were breached in it [i.e., the fence] —

[K] if the [combined measure of the parts of the fence that remain] standing exceeds the [combined measure of those parts that were] breached,

[L] it is permitted [to sow diverse-kinds on opposite sides of the fence];

[M] and if the [combined measure of those parts that were] breached exceeds the [combined measure of the parts that remain] standing,

[N] opposite the breach it is prohibited [to sow a kind different from that sown on the other side of the fence].

[I:1 A] [And all [sections of a partition] which [measure] three to four [handbreadths wide] — it is necessary that there not be between it [i.e., one section of the partition] and the next [a space] fully as wide [as one section of the partition], so that [the measure] of the breaches may not equal [that of] the structure itself. If (the measure) of the breaches] exceeded [that of] the structure, even opposite the structure it is prohibited [to sow diverse-kinds]. All [sections of a partition] which [measure] from four [handbreadths] upwards [other versions: from four (handbreadths) to four *amot*, and from four *amot* to ten (*amot*)] — it is necessary that there not be between it [i.e., one section of the partition] and the next [a space] fully as wide [as one section of the partition], so that [the measure of] the breach[es] may not equal [that of] that which

stands. If [the measure of] that which stands is [equal to that of] the breach[es], opposite that which stands it is permitted [to sow diverse-kinds], but opposite the breach[es] it is prohibited [to sow diverse-kinds]. If [the measure of] that which stands exceeded [that of] the breach[es], even opposite the breach[es] it is permitted [to sow diverse-kinds], provided that the breach[es] do not exceed ten *amot* [in width] [T. Kil. 4:6]. If he put the boards opposite the spaces between the vines and the standing parts measured four handbreadths and the standing parts were greater than the open spaces, opposite the standing parts it is permitted to sow seed, but opposite the open spaces it is forbidden.

[B] If he placed boards opposite the vines and the standing parts did not measure four cubits, and the measure of the open spaces was greater than that of the standing parts,

[C] it is self-evident that opposite the standing parts of the fence it is permitted to sow seed, but opposite the open spaces it is forbidden.

[I:2 A] R. Simeon b. Laqish in the name of R. Judah b. Hananiah, “If one inserted four reeds into the four corners of a vineyard and tied a thread above [the reeds from one to another], it affords protection as a braid [that is, it forms a partition with regard to mixed seeds, and it is therefore permitted to sow seed near the vineyard, as if the vineyard were separated from the seed by a wall]. [This construction suffices for such a purpose.]”

[B] [Such a construction would not serve as a gateway to link an alleyway, however, and hence,] said R. Jonah, “As is the rule governing partitions for the purposes of the Sabbath, so is the rule defining a suitable partition in the case of mixed seeds in a vineyard.”

[C] Said R. Yohanan, “There was the case in which R. Joshua b. Qorha went to R. Yohanan b. Nuri in Nagnigad. He showed him a field, which was called ‘the house by its neighbor.’ Now in the fence there were breaches of a breadth of more than ten cubits. [Yohanan b. Nuri] would then take pieces of wood and fill up the gaps, or take reeds and fill up the gaps, so that he closed the space of the breaches to under ten cubits.

[D] “He said, ‘This form is a proper partition for the purposes of the Sabbath.’” [This illustrates Yohanan’s position that a single definition applies to fences for the purposes of both mixed seeds and the Sabbath.]

- [E] Said R. Zeira, “R. Simeon b. Laqish concurs with regard to the Sabbath that a braid does not afford protection in a gap of larger than ten cubits.”
- [F] *Said R. Haggai, “The Mishnah has made the same point:*
- [G] **“They surround the camp with three ropes, one above the other [M. Er. 1:9A).**
- [H] “Now if you say that a braid affords protection for a space of more than ten handbreadths, along these same lines a single rope should do the same. [Creating the shape of a doorway serves only for ten handbreadths’ breach.]”
- [I] *R. Jonah said R. Hoshaiah asked about the rule pertaining to the braid: “Is it placed above or at the side?*
- [J] “If you say that it may be set on top [and that serves to create the case it surely creates a symbolic gateway].
- [K] “But if you say it may be set on the side, lo, as to setting it on top, that should not be done.”
- [L] If you say it is set on top, R. Haggai spoke well.
- [M] If you say it is set on the side, then R. Haggai has said nothing whatsoever [at E-F].
- [N] [Why do you say so?] What is your choice? If it is placed on top, lo, it serves on top [to fill up a breach of ten handbreadths]. And if it is set on the side, lo, on the side [it fills the same gap]. [Why reject Haggai’s statement, E-F?]
- [O] [Interpreting Haggai’s position,] rabbis of Caesarea in the name of R. Jeremiah: “Apply the law to a case in which the reeds were in the form of poles [broad at the top and narrow at the bottom]. [The Mishnah at M. 1:9 speaks of poles that are broad on top and narrow on the bottom. At the sides, then, the poles are narrow and will not hold a rope more than ten handbreadths in length. But if it is stretched across the top, the poles will serve for even a greater distance.]”
- [P] R. Zeira, R. Abedimi of Haifa in the name of R. Simeon b. Laqish: “As to height, even up to a hundred cubits [the three will be suspended properly and the partition will serve quite adequately].”
- [Q] *Said R. Yudan, “That which you have said applies to the matter of making a partition to prevent the appearance of mixed seeds in a*

vineyard, but so far as creating a partition to allow carry on the Sabbath, a braid of this kind should not be higher than the beam.”

- [R] Said R. Yosé said Rabbi: “The same rule governing a partition applies both for a partition with regard to mixed seeds in a vineyard and a partition for allowing carrying in a courtyard on the Sabbath.”
- [S] *In the view of* R. Yosé what is the difference between setting up beam [as a symbolic gateway] and a partition made by a braid.
- [T] A symbolic gateway constituted by a beam affords protection. [that is, constitutes suitable unification of the courtyard within for purposes of carrying on the Sabbath] even if it is on only a single side [of the courtyard]. A braid, by contrast, affords protection only if it surrounds the courtyard on all four sides.
- [U] *Now what has been said accords with the statement of R. Zeira in the name of R. Hamnuna*, “A braid [partition] affords protection only if it forms an enclosure on all four sides.”
- [V] Said R. Ba bar Mamel, “Balconies that overhang vineyards — it is forbidden to carry underneath them [on the Sabbath], for they are regarded as an extension of the roof [of the house].”
- [M] But is not the extension of the roof of a house covered by a braid?
- [X] *Said R. Phineas*, “A case came before R. Jeremiah involving four columns on which were four pestles, and he permitted carrying beneath them on the Sabbath on grounds that they formed symbolic gateways.”
- [Y] *R. Bun and [a different] R. Bun asked before R. Zeira*, “As to a braid, what is the law on its serving in the case of a *sukkah*? [That is, is the shape of a gateway formed in this way serviceable as a wall for a *sukkah*?]”
- [Z] He said to them, “The overhanging *sukkah-roofing* does not serve [to form a wall] in a *sukkah*.”
- [AA] What difference would there be between that and this?
- [BB] This [the shape of a doorway] has been made to serve as a wall [of a *sukkah*], but that [the overhanging ends of the *sukkah* roofing] has not been made for that purpose
- [CC] *Said R. Abbahu*, “All of this discussion is for the purpose of give and take. But as to legal decision, it is forbidden to give a decision [that such a construction may serve as a wall for a *sukkah*].”

[DD] Now if in the case of a *sukkah*, which is subject to a lenient rule, you maintain that view, that such a partition is forbidden [to serve as a wall], as to the Sabbath, which is subject to a stricter rule, is it not an argument a fortiori [that a braided wall will not serve as a suitable partition, or symbolic doorway, to permit carrying in a courtyard

[EE] *R. Bun bar Hiyya asked before R. Zeira, "Who taught that a braid will serve? Is it not R. Yohanan b. Nuri?"*

[FF] *He said to him, "The view of this Tannaite authority is rejected."*

[II:1 A] **...if there are not between [one] reed and the next three handbreadths, [i. e.,] sufficient [space] so that a kid may enter, lo, this is [considered] as a [valid] partition. [With reference to M. Kil. 4:4: If the three handbreadths, which would suffice for a kid to enter, it is deemed a valid partition. If a fence was breached for a space of ten cubits, such may be deemed an entrance (= M. 1:8E). If it is wider than this, it is forbidden to sow opposite the breach. If many breaches were made in the fence, yet what is yet standing is greater than the area that is broken down, it is permitted to sow opposite the breach; if the broken-down part is broader than the standing part, it is forbidden:]** You turn out to rule as follows:

[B] As to mixed seeds in a vineyard in which a fence must be erected to keep distinct the patches of a field sown in different seeds], if there is a breach less than three handbreadths, it is as if it were closed up

[C] If the breach were from three to four handbreadths, if the standing part of the fence is greater than the broken-down part of the fence, it is permitted to sow seeds by the breach, as if it were a fully valid fence], and if the breaches were greater than the standing part of the fence, it is forbidden.

[D] If the breaches were from four to ten handbreadths, if the standing part of the fence was greater than the broken-down part, it is permitted to sow opposite the breaches]. If the broken-down part is greater than the standing part, then opposite the standing part of the fence it is permitted to sow seeds of a different sort from what is on the other side of the fence], and in the area opposite the breach, it is forbidden.

[E] If it is greater than ten handbreadths, even though the standing part of the fence is greater than the broken-down part of the fence, while it is permitted to sow opposite the standing part of the fence, it is forbidden to sow opposite the broken-down part of the fence.

- [F] Now as to the matter of the Sabbath in constructing a partition to permit carrying in a courtyard]: Any case where there is a breach less than three handbreadths, it is as if it were fully closed up.
- [G] If there is a breach from three to four handbreadths, or from four to ten, if the part of the fence that was standing is greater than the part that was breached, it is permitted to carry in the courtyard].
- [H] If the part that was broken down was greater than the part that was standing, it is forbidden to carry].
- [I] If the breach was greater than ten handbreadths, even though the standing part of the fence was greater than the broken-down part, it is forbidden to carry in the courtyard].
- [J] *R. Hananiah, R. Judah b. Pazzi in the name of R. Yohanan, “There is no need here to refer to a gap of from three to four handbreadths.*
- [K] “Why not? One may have here a breach of three handbreadths and not have a place in which four handbreadths of fence are actually standing].”
- [L] *R. Mana objected to J]: “But have we not learned, **They may surround a camp with reeds M. Er. 1:10**? Now Hananiah has maintained that so small a gap as four handbreadths need not be specified at all. Yet] does a reed take up any space at all? Surely not. Yet it can be used to create a partition.]”*
- [M] *He said to him, “Do not answer me with reference to a breach of less than three handbreadths, for a breach less than three handbreadths is regarded as if it were closed up.”*
- [N] R. Yosé b. R. Bun in the name of Rab: “In any event since the standing part of the fence is greater than the broken-down part, it is permitted to carry in that area].”

4:3

- [A] **He who plants a row of five vines —**
- [B] **House of Shammai say, “[It is considered] a vineyard.”**
- [C] **House of Hillel, say, “[It is] not [considered] a vineyard,**
- [D] **“unless there are two rows.”**
- [E] **Therefore,**
- [F] **he who sows [within the] four *amot* that are [allotted as the area of tillage] in the vineyard —**

- [G] **House of Shammai say, “He has sanctified [i.e., prohibited the use of] one row [of vines].”**
- [H] **House of Hillel say, “He has sanctified [i.e., prohibited the use of] two rows [of vines].”**
- [I:1 A] And that is the case if he sowed grain opposite the middle vine of a row of five vines.
- [B] If he sowed grain opposite the middle vine of a row of five vines,
- [C] *In the opinion* of the House of Shammai, he prohibits the entire row.
- [D] *In the opinion* of the House of Hillel, he prohibits the three vines in the first row, opposite three others in the second row.
- [E] If he sowed seed opposite the interval of the middle vine,
- [F] *In the opinion* of the House of Shammai, he prohibits two vines on one side of the seed and two on the other.
- [G] The fifth vine — which one is it?
- [H] Let us say, the seeds were close to one of the vines, so these are forbidden. But if not these are permitted.
- [I] *In the opinion* of the House of Hillel, he four vines in the first row opposite two in the second row are forbidden.
- [J] If he sowed seed opposite the vine in the corner of the vineyard,
- [K] *in the opinion* of the House of Shammai which row of the two to which the corner vine belongs is prohibited?
- [L] Both of them.
- [M] *In the opinion* of the House of Hillel, two vines opposite two others and one extending out like a tail are forbidden on one side, and another set of two vines opposite two others, and one extended out like a tail are forbidden from the other side.
- [N] If he sowed grain or herbs opposite the interval of the vine in the corner of the vineyard,
- [O] *in the opinion* of the House of Shammai he forbids the entire row.
- [P] *In the opinion* of the House of Hillel he forbids two vines opposite two others and one extending out like a tail on one side.
- [Q] The sixth vine — which one is it?
- [R] The third vine in the first row, or the first vine in the third row.

4:4

- [A] **He who plants two [vines] opposite two [others] and one extending out [like a] tail —**
- [B] **lo, this is considered a vineyard.**
- [C] **[If there are] two [vines planted] opposite two [others] and one is between [two of the opposing vines],**
- [D] **or [if there are] two [vines planted] opposite two [others] and one is in the middle [i.e., equidistant from all four vines] —**
- [E] **this [i.e., the vines in these patterns] is not [considered] a vineyard,**
- [F] **unless there are two [vines planted] opposite two [others] and one extending out [like a] tail.**
- [I:1 A] **[He who plants two [vines] opposite two [others] and one extending out [like a] tail — lo, this is considered a vineyard:]** R. Hiyya bar Abba in the name of R. Hiyya bar Joseph: “ ‘The land of Canaan according to its borders’ (Num, 34:2) — the borders that the Canaanites created.”
- [B] *R. Immi asked*, “And do they learn the definition of a vineyard from the Canaanites?”
- [I:2 A] Samuel said, “It concerns a case in which one measures the area of tillage along a diagonal line.”
- [B] R. Yosé bar Zamina in the name of R. Yohanan: “You regard it as if one vine is planted here [opposite the one extending out like a tail.]”
- [I:3 A] *R. Jonah asked*, “If he planted two vines opposite two others with one extending out like a tail, and another set of two vines opposite two others with one extending out like a tail, do you suppose that another vine is planted here and another there [and the two vineyards would combine to form a single vineyard]?”
- [B] “Furthermore, if he planted three vines opposite three others with another vine aligned opposite the middle vines of two rows, do you suppose that there is another vine planted here on each side of the single vine to make it into large vineyard of three rows?”
- [C] Do you not say that a large vineyard does not have a tail?
- [D] [A large vineyard does not have a tail] — that applies only when the vineyard is already large.
- [E] Is it permitted to put a tail on a small vineyard and transform it into a large one?

4:5

- [A] He who plants one row [of vines] in his own [field],
[B] and one row [of vines also grows] in his neighbor's [field] —
[C] and [even though] a private road or a public road are in the middle [i.e., between the two rows of vines] —
[D] or a fence lower than ten handbreadths [separates the two rows of vines] —
[E] lo, these [two rows] combine [to form a vineyard].
[F] [If the fence] is higher than ten handbreadths,
[G] they do not combine [to form a vineyard].
[H] R. Judah says, “If he trained [the vines] over [the fence],
[I] “lo, [the two rows of vines] combine [to form a vineyard].”
- [I:1 A] *R. Aha asked? Does this not contradict R. Simeon, For R. Simeon said, “One does not sanctify something that does not belong to him” [M. Kil. 7:3]?*
- [B] *There it is so that one does not sanctify something that does not belong to him,” but here the vines that belong to him and the vines that belong to his fellow join together to forbid the middle row of seed.*
- [C] R. Mana did not state matters in this way, but rather: “Did not R. Samuel say in the name of R. Zeira, ‘*R. Simeon is consistent with his views stated elsewhere.* Just as R. Simeon said, “**One does not sanctify something that does not belong to him**” [M. Kil. 7:3], so he says, “A person does not surround with another kind something that is not his own.””
- [D] *There it is so that one does not sanctify something that does not belong to him,” but here the vines that belong to him and the vines that belong to his fellow join together to forbid the middle row of seed.*

4:6

- [A] He who plants two rows [of vines] —
[B] if there are not between them eight *amot*, he shall not put seed into it.
[C] [If] there were three rows [of vines] —
[D] if there are not between one row and the next sixteen *amot*, he shall not put seed into it.

- [E] R. Eliezer b. Jacob says in the name of Hananiah b. Hakhinai, “Even if the middle [row] was laid waste, and there are not between one row and the next sixteen *amot*, he shall not put seed into it,
- [F] “though if from the outset he had planted [two rows], lo, this [i.e., sowing seed between the rows] is permitted with eight *amot* [between the rows].”
- [G] He who plants his vineyard by [intervals of] sixteen *amah* sixteen *amah* [i.e., in rows sixteen *amot* apart] — it is permitted to put seed into it [i.e., the area between the rows].
- [H] Said R. Judah, “In Salmon one planted his vineyard by [intervals of] sixteen [*amah*], sixteen *amah*,
- [I] “and he would turn the foliage of two rows to one side and sow the cleared land.
- [J] “And in the next year he would turn the foliage to another place [i.e., to the area that he had sown in the previous year] and sow the uncultivated land. And the case came before sages and they permitted [his actions].”
- [K] R. Meir and R. Simeon say, “Even he who plants his vineyard by [intervals of] eight *amot*, eight *amot* — it is permitted [to put seed into the area between the rows].”
- [I:1 A] [He who plants two rows [of vines] — if there are not between them eight *amot*, he shall not put seed into it]:
- [B] Said R. Zeira, “The eight cubits [that must separate one row from another] do not include the place occupied by the stems of the vines.”
- [C] *And just as you say*, “The eight cubits [that must separate one row from another] do not include the place occupied by the stems of the vines,” *along these same lines*, the four cubits allotted to the area of tillage do not include the place occupied by the stems of the vines.
- [II:1 A] [If there were three rows [of vines] — if there are not between one row and the next sixteen *amot*, he shall not put seed into it:] Said R. Eleazar, “They imposed a more stringent ruling on sowing seed within a vineyard than on sowing seed outside it.”
- [B] *Said R. Zeira*, “*When I was there [in Babylonia] we read the Mishnah as follows*: within a vineyard eight cubits must separate the rows of vines, but outside of a vineyard the space must measure sixteen cubits.”

[C] Said R. Eleazar, “If he sowed seed between rows of vines separated by from four to eight cubits, the seed is forbidden and sanctifies the vines. If the vines were separated by from eight to sixteen cubits, the seed is forbidden but does not sanctify the vines.”

[III:1 A] **[R. Eliezer b. Jacob says in the name of Hananiah b. Hakhinai, “Even if the middle [row] was laid waste, and there are not between one row and the next sixteen *amot*, he shall not put seed into it, though if from the outset he had planted [two rows], lo, this [i.e., sowing seed between the rows] is permitted with eight *amot* [between the rows]:” R. Yosé in the name of R. Yohanan: “The opinion of R. Eliezer b. Jacob is in accord with the House of Shammai. Just as the House of Shammai said, ‘A single row constitutes a vineyard,’ so R. Eliezer b. Jacob said, , ‘A single row constitutes a vineyard.’”**

[B] [Not so!] One way or the other — a large vineyard [consisting of three rows] is forbidden to be sown with only eight cubits separating the rows, but a small vineyard, made up of two rows, is forbidden to be sown with only eight cubits separating the rows.

[C] R. Yudan did not say it in that way but rather: “If there are eight cubits between the rows it is forbidden to sow there. But if there are eight cubits and a bit more between the rows, it is permitted to sow in the space that is not included in the eight cubits.”

[D] *There is he who wants to say:* [This is what R. Eliezer b. Jacob meant:] “Though if from the outset he had planted a planting of rows sixteen cubits apart, sowing seed between them would have been permitted in the eight cubits [between the two areas of tillage].”

[III:2 A] R. Judah b. Pazzi in the name of R. Yohanan: “*The opinion of R. Eliezer b. Jacob accords with that of the House of Shammai.* Just as the House of Shammai rule more strictly in respect to the waste state of a vineyard than the planting of a vineyard to begin with, so R. Eliezer b. Jacob rules more strictly in respect to the waste state of a vineyard than the planting of a vineyard to begin with.”

[IV:1 A] **R. Meir and R. Simeon say, “Even he who plants his vineyard by [intervals of] eight *amot*, eight *amot* — it is permitted [to put seed into the area between the rows]:”**

[B] R. Jonah in the name of Rab: “Seed already sown between rows separated by only eight cubits is permitted, but sowing the seed there to begin with is forbidden.”

- [C] R. Yosé in the name of Rab: “The decided law is, Seed already sown between rows separated by only eight cubits is permitted, and sowing the seed there to begin with is permitted.”
- [D] R. Hiyya bar Ashi in the name of Rab: “The decided law is in accord with R. Meir and R. Simeon.”
- [E] What [is his intent]? “Seed already sown between rows separated by only eight cubits is permitted, and sowing the seed there to begin with is permitted.” Or: “Seed already sown between rows separated by only eight cubits is permitted, but sowing the seed there to begin with is forbidden”?
- [F] *Inferring from what R. Abba said*, “R. Hiyya bar Ashi laid out my vineyard for me as a planting of rows eight cubits apart,” *it follows that* seed already sown between rows separated by only eight cubits is permitted, and sowing the seed there to begin with is permitted.
- [IV:2 A] R. Huna sowed his vineyard with leeks.
- [B] But is this not forbidden as mixed-seeds?
- [C] *The vines were arranged irregularly [and did not form a vineyard.]*
- [D] But doesn't a single vine get an area of tillage [so the vines had to be assigned six handbreadths of tillage]?
- [E] It is in accord with R. Ishmael, for R. Ishmael said, “A single vine doesn't get an area of tillage.”
- [F] [What about] the ruling of the sages?
- [G] R. Jacob bar Idi in the name of R. Joshua b. Levi: “The law is in accord outside of the land with the ruling of him who imposes a lenient ruling in the land.”
- [H] Said R. Jacob bar Aha, “*It is taught there[in Babylonia] as a Tannaite ruling*: “The law abroad is in accord with the ruling of the one who rules leniently in the land.”

YERUSHALMI KILAYIM

CHAPTER FIVE

5:1

- [A] A vineyard that lay waste —
- [B] if there are in it [enough vines to enable one] to gather ten vines *per bet se'ah*,
- [C] and they are planted according to the rule [pertaining to] them,
- [D] lo, this is called a “lean” vineyard.
- [E] A vineyard that is planted in an irregular manner —
- [F] if there are in it [vines that are so arranged that one is able] to align two [vines] opposite three [others],
- [G] lo, this is [considered] a vineyard.
- [H] And if not [i.e., if two vines may not be aligned opposite three others],
- [I] it is not [considered] a vineyard.
- [J] R. Meir says, “Since it [i.e., the irregularly-planted vineyard] looks [in form] like the pattern of vineyards [in general],
- [K] “lo, this is [considered] a vineyard.”
- [I:1 A] Said R. Yohanan, “[The] bald spot of the vineyard is the same as a vineyard that lay waste [M. Kil. 5:1].”
- [B] “The bald spot of the vineyard — they clear this area in the middle of the vineyard. ‘The vineyard that lay waste’ — they clear this area on all sides of the vineyard.”
- [I:2 A] *R. Zeira displayed to the associates [the pattern of a vineyard that still forms a vineyard after being laid waste, as follows: there are to begin with nine rows of vines, each made up of seven vines. Remove alternating rows lengthwise and take away alternating rows breadthwise. Twenty vines remain. Remove two vines from one side and two vines from the other side, one vine from one side and one vine from the other side. Ten vines remain. This is that which we have*

learned in the Mishnah: A vineyard that lay waste — if there are in it [enough vines to enable one] to gather ten vines per bet se'ah.

- [I:3 A] [The ten vines form a vineyard in the following way:] there are two vines opposite two others with one extending out like a tail on one side, two vines opposite two others with one extending out like a tail on the second side, two vines opposite two others with one extending out like a tail on the third side, two vines opposite two others with one extending out like a tail on the fourth side. You regard them so that another vine is planted here on one side, opposite the one extending out like a tail, you regard them so that another vine is planted here on the second side, opposite the one extending out like a tail, you regard them so that another vine is planted here on the third side, opposite the one extending out like a tail, and you regard them so that another vine is planted here on the fourth side, opposite the one extending out like a tail.
- [B] To plant another vine here you cannot do [on the first side], for it would extend out like a tail, and a tail does not have its own tail. To plant another vine here you cannot do [on the second side], for it would extend out like a tail, and a tail does not have its own tail. To plant another vine here you cannot do [on the third side], for it would extend out like a tail, and a tail does not have its own tail. To plant another vine here you cannot do [on the fourth side], for it would extend out like a tail, and a tail does not have its own tail.
- [C] *That is to say* a large vineyard does not have a tail [you cannot add a tail to a small vineyard to make it a large vineyard].
- [D] *That resolves the question concerning what* R. Yosé bar Zamina in the name of R. Yohanan: ““You regard it as if one vine is planted here [opposite the one extending out like a tail.”
- [E] *There is at the outset an area of sixty-four by forty-eight cubits. Take away two vines from this side and put them there on the other side. There is now an area of forty-eight by forty-eight cubits. Take away one interval one interval from each side of the vine and you leave a bare patch sixteen cubits square, the area of tillage having been eight cubits.*
- [I:4 A] ...if there are in it [enough vines to enable one] to gather ten vines per bet se'ah: how do you measure the bet seah?

- [B] *If you count only the vineyard and its area of tillage within the bet seah, the vineyard turns out to lack 452 square cubits to make up a bet seah. And if you count in the bet seah even that which lies outside the*

vineyard's area of tillage, the vineyard has 384 square cubits in excess of the original 2,304 square cubits.

- [C] *And if we take up vines further spread out, they would be planted like individual vines.*
- [D] *And if you say that we are concerned with vines planted close together, have we not learned in the Mishnah that there may be only **ten vines per bet seah?***
- [E] *The Tannaite authority does not show that [vines can still form a vineyard after the vineyard has been laid waste].*
- [I:5 A] **[If] the stem[s] [of the vines are] aligned and the foliage [of the vines] is not aligned —**
- [B] **lo, this is [considered] a vineyard.**
- [C] **[If] the foliage [of the vines] is aligned, and the stem[s of the vines are] not aligned —**
- [D] **lo this is not [considered] a vineyard.**
- [E] **[If the stems were thin and were not aligned,**
- [F] **[and then] became thick and became aligned —**
- [G] **lo, this is [considered] a vineyard.**
- [H] **How does he know if [the stems] were aligned or not?**
- [I] **He stretches a thread to the base of the vines —**
- [J] **if they [i.e., the vines] all touch the thread [on the same side] —**
- [K] **lo, this is [considered] a vineyard;**
- [L] **if one [vine] stands inside and the other stands outside [of the thread] —**
- [M] **lo, this is not [considered] a vineyard [T. Kil. 3:4].**
- [N] *There is a Tannaite authority who teaches that one stretches the thread on the inside of the vines, and there is a Tannaite authority who repeats that one stretches the thread on the outside of the vines.*
- [O] Said R. Jonah, “*He who said that one stretches the thread on the inside holds that the thread must reach within a handbreadth of the vines for regarding them as part of the vineyard. He who said that one stretches the thread on the outside holds that the thread must touch all of the vines for them to be considered as part of the vineyard.*”

- [I:6 A] An outer row that is not aligned opposite the stems — they allow it its area of tillage and he sows the rest.
- [B] Said R. Yosé, “If they sowed within the six handbreadths, all is forbidden. But if they sowed outside of the six handbreadths, the vines of the outer row are permitted, but the vineyard is forbidden.”
- [II:1 A] **lo, this is called a “lean” vineyard:**
- [B] What is the definition of a lean vineyard?
- [C] Said R. Jonah, “It is lean of vines but rich in areas of tillage.”

5:2

- [A] **A vineyard that is planted by [intervals of] less than four *amot* —**
- [B] **R. Simeon says, “[It] is not [considered] a vineyard.”**
- [C] **And sages say, “Lo, this is (considered) a vineyard.”**
- [D] **And they [i.e., sages] regard the middle [rows] as if they were not [there].**
- [I:1 A] Said to them R. Simeon, “Those concerning which you say, ‘**And they [i.e., sages] regard the middle [rows] as if they were not [there],**’ — those are the fundamental part of the vineyard.”
- [B] Said R. Hananiah, “*What you say* is when there are six vines opposite six others [six rows containing six vines]. But if there are five vines opposite five others, *all concur that they regard the middle [rows] as if they were not [there].*”
- [C] Said R. Mana, “*What you say* is when there are five vines opposite five. But when there are six vines opposite six others, if you **regard the middle [rows] as if they were not [there]**, [do you ignore these or those?”
- [I:2 A] *What is the meaning of that which we learn in the Mishnah: **And they [i.e., sages] regard the middle [rows] as if they were not [there]?***
- [B] Said R. Hunah, “That it is permitted to train the vines on top of the seeds.”
- [C] *Said R. Mana, “That statement that you have made concurs with what R. Yosé said, ‘If they sowed within the six handbreadths, all is prohibited. But if they sowed outside the six handbreadths, the vines of the outer row are permitted but the vineyard is forbidden.’”*
- [I:3 A] Simeon bar Ba in the name of R. Yohanan: “Just as Simeon and sages differ here, so they differ in regard to defining a graveyard. [If the

graves are very close together, Simeon does not regard it as a graveyard [as at M. Naz. 9:3D-E]. Sages ignore the ones in the middle, as though they were not present, and regard it as a permanent graveyard.]”

- [B] *Said R. Jonah, “But the cases are not similar. [There is no disagreement about a graveyard.] There, [when M. Naz. 9:3D says that if there is a space of them four to eight cubits from one grave to the next, we have a graveyard,] there is every reason to think we have a graveyard. But here, [by analogy to a vineyard in which the rows are jammed together, if we had graves jammed together as the vines are jammed together], we should not think we have a graveyard at all. [We assume that the graves are jammed together only temporarily, and later on they will be moved apart and proper space provided. So there is no reason for Simeon and sages to differ as to a case parallel, for graves, to the vines of M. Kil.]”*
- [C] *[Differing from Jonah,] R. Yosé said, “Indeed the cases are not similar [but for a separate set of reasons]. When we speak of the vineyard, we have the case in which the vines were distant from one another, and the farmer bunched them together. Then there is a dispute. If after they were bunched together, the farmer went and spaced the vines out together, all parties concur that we have a valid vineyard. The dispute then concerns a case in which the farmer went and spaced them out once they were bunched together. [Simeon holds that, since the man bunched them together to begin with, we do not take account of his going and spacing them out again. He wanted a vineyard, and that is what he started out with. Rabbis maintain that if the man went and spaced them out, the ones he removed from the middle were never planted for vines but for the wood. In the present case concerning what do they argue? Concerning a case in which the former came and found the corpses bunched together. [We do not know the intent of the people who planted the corpses in their present locations, that is, whether or not they intended to make a valid graveyard.]*
- [D] *R. Simeon maintains that a rock pile fell on the graves and bunched them together, [but it was originally a valid graveyard.] Rabbis say they were originally properly spaced out, and the grave-diggers bunched them together. [Simeon says that even though the graves were bunched together, they remain in the status of a valid graveyard as they were at the outset.*
- [E] *Rabbis hold that the grave-digger himself did it, and there will be no further meddling with the graves’ location on his part. Consequently we do not have a valid graveyard at all]”*

5:3

- [A] A ditch that passes through a vineyard [and measures] ten [handbreadths] deep and four wide —
- [B] R. Eliezer b. Jacob says, “If [the ditch] was open [i.e., extending] from the beginning of the vineyard to its end,
- [C] “lo, this appears as [if it extends] between two vineyards,
- [D] “and they sow [another kind] in it.
- [E] “And if not [i.e., if the ditch is not open],
- [F] “lo, this is [considered] like the winepress.”
- [G] And the winepress that is in the vineyard [and measures] ten [handbreadths] deep and four wide —
- [H] R. Eliezer says, “They sow [another kind] in it.”
- [I] And sages prohibit [sowing another kind in it].
- [J] The watchman’s booth that is in the vineyard [and measures] ten [handbreadths] high and four wide —
- [K] they sow [another kind] in it [i.e., on top of it]
- [L] And if it is overhung by interlaced foliage
- [M] it is prohibited [to sow another kind in it].
- [N] A vine that is planted in the winepress or in the hollow —
- [O] they allow it its area of tillage and he sows the rest.
- [P] R. Yosé says, “If there are not there four *amot* [of space], he shall not put seed into it.”
- [Q] And the house that is in the vineyard —
- [R] they sow [another kind] in it.
- [I:1 A] If the ditch does not extend to encompass sufficient area for both the vineyard and its area of tillage, [does Eliezer b. Jacob forbid sowing in the ditch that runs through a vineyard]?
- [B] [*We derive the answer*] on the basis of the following Tannaite statement, sages concur with R. Eliezer b. Jacob with respect to a ditch that extends to include an area enough for the vineyard and its tillage. [Sowing it is permitted.] R. Eliezer b. Jacob reasons that it is permitted to sow in the ditch even if it does not encompass enough ground for both the vineyard and its area of tillage.
- [C] *Then concerning what case do R. Eliezer b. Jacob and sages differ?*

- [D] A case in which there were two rows of vines on one side of the ditch and two rows of vines on the other side. But if there was only one row of vines on one side and one on the other side, since the ditch reaches opposite three vines, the vineyard is annulled.
- [I:2 A] *It was taught as a Tannaite statement:* If the ditch measures less than this, it is forbidden to sow in it.
- [B] *For otherwise what might we have ruled,* if the ditch ten handbreadths deep is forbidden,, all the more so would they hold that a ditch measuring nine handbreadths deep is forbidden?
- [C] So what does “less than this” mean?
- [D] It is “less than this” in width.
- [E] *For otherwise what might we have ruled?* Let him consider the ditch as if it was closed up, and let it be permitted to sow within it.
- [F] So let him consider the ditch as if it was closed up, and let it be permitted to sow within it!
- [G] *Was it not taught as a Tannaite rule: : **Roots of madder which extended [from outside of the vineyard’s area of tillage] into the four amot of the vineyard [even] more than three handbreadths below [the surface] — it is permitted [i.e., the madder does not sanctify the vine] [T. Kil. 4:10].***
- [H] That case is different, because the airspace of the vineyard encompasses the ditch and renders it forbidden to sow within it.
- [I:3 A] Said to them R. Eliezer, “Do you not concur with me that depth is tantamount to height?”
- [B] [They replied,] “[Yes, but] the airspace of the vineyard encompasses the winepress.”
- [C] *It is reasonable to suppose that R. Eliezer concurs with R. Eliezer b. Jacob but R. Eliezer b. Jacob will not concur with R. Eliezer.*
- [D] *R. Eliezer concurs with R. Eliezer b. Jacob that depth is tantamount to height.*
- [E] *R. Eliezer b. Jacob will not concur with R. Eliezer that the airspace of the vineyard encompasses the winepress.*
- [I:4 A] R. Hiyya in the name of R. Yohanan: “There must be there in the mound a hole measuring four handbreadths square.”

- [B] Said R. Samuel bar R. Isaac, “What you say pertains to a round mound. But for a square mound it is not necessary that there be a hole four handbreadths square.”
- [C] R. Halapta b. Saul said, “It is necessary that there be three handbreadths of dirt above the floor of the hole.”
- [D] Said R. Yosé, “*That which you say* concerns a round mound. But a square mound does not have to have three handbreadths of dirt above the floor of the hole.”

[II:1 A] And the house that is in the vineyard — they sow [another kind] in it:

- [B] *The Mishnah’s rule involves* a shed from three to four handbreadths square.
- [C] But if the hut measures less than three handbreadths square, it is as if it were closed up.
- [D] If it measures from three to four handbreadths square, one completes the four handbreadths and sows immediately.
- [E] R. Abin in the name of Samuel: “ ‘And in the houses diverse-kinds were hidden’ (Is. 42:22) — a house in which they hide diverse-kinds.”

5:4

- [A] **He who plants vegetables in the vineyard or allows them to grow,**
- [B] **lo, this one sanctifies [i.e., prohibits the use of] forty-five vines.**
- [C] **When [is this the case]?**
- [D] **When [the vines] were planted by [intervals of] four, four [*amot*, i.e., the vines were separated from one another by four *amot* in four directions], or by [intervals of] five, five [*amot*, i.e., the vines were separated from one another by five *amot* in four directions].**
- [E] **[If the vines] were planted by [intervals of] six, six *amot*, i.e., the vines were separated by six *amot* in four directions], or by [intervals of] seven, seven [*amot*, i.e., the vines were separated from one another by seven *amot* in four directions],**
- [F] **lo, this one sanctifies [i.e., prohibits the use of the vines planted within] sixteen *amah* in each direction,**
- [G] **[measured] in circles and not in squares [The vines are forfeit that lie within a circle of sixteen cubit radius, not within the square that contains the circle].**

- [I:1 A] ...lo, this one sanctifies [i.e., prohibits the use of] forty-five vines:
R. Yosé b. R. Hanina said, “That is the case only where he has sown opposite the middle vine.”
- [B] R. Abin in the name of Samuel: “That is the case only where the middle vine is surrounded by a circle of herbs.”
- [C] *What is a practical case?*
- [D] If there is to begin with a set of seven-by-seven rows of vines, subtract from them four fines for each of the four corners of the vineyard, so forty-five vines are left. *This is that which we learn in the Mishnah: ... lo, this one sanctifies [i.e., prohibits the use of] forty-five vines.*
- [II:1 A] When [is this the case]? When [the vines] were planted by [intervals of] four, four [*amot*, i.e., the vines were separated from one another by four *amot* in four directions], or by [intervals of] five, five [*amot*, i.e., the vines were separated from one another by five *amot* in four directions].
- [B] *That supports the position of R. Zeira, for R. Zeira said, “The eight [cubits that differentiate one row of a vineyard from another] do not encompass the place taken by the stems of the vines.”*
- [III:1 A] [If the vines] were planted by [intervals of] six, six *amot*, i.e., the vines were separated by six *amot* in four directions], or by [intervals of] seven, seven [*amot*, i.e., the vines were separated from one another by seven *amot* in four directions]:
- [B] *That supports the position of R. Eleazar, for R. Eleazar said, “If he sowed seed between rows of vine separated by from four to eight cubits, the seed is forbidden and it sanctifies the vines. If he sowed seed between rows of vine separated by from eight to sixteen cubits, the seed is forbidden and it does not sanctify the vines.”*

5:5

- [A] He who sees vegetables [growing] in the vineyard and said, “When I shall reach it [i.e., the vegetables] I shall pluck it” —
- [B] it is permitted [i.e., the vegetables and surrounding vines are not sanctified].
- [C] [If he said,] “When I shall return I shall pluck it” —
- [D] if [in the meantime] it [i.e., the vegetables] increased [in size] by [one] two-hundred[th]

- [E] **it is prohibited [i.e., the vegetables and the surrounding vines are sanctified].**
- [I:1 A] R. Yosé bar Hanina said, “They repeated that rule in connection with a hired hand. As to the householder who is busy with his work, they treated him like a worker.”
- [I:2 A] **The owner [of a vineyard] who allowed wild vegetables to grow in the vineyard — it [i.e., the use of the vegetables or vines] is prohibited for him and prohibited for everyone [else]. Another [person] from any place who allowed wild vegetables to grow in [someone else’s] vineyard — it [i.e., the use of the vegetables or vines] is prohibited for him and permitted for everyone [else] [T. Kil. 3:12].**
- [B] *There is this problem:* if the herbs are forbidden to the worker, let them be forbidden to everybody else. And if the herbs are permitted to everybody, let them be permitted to the worker.
- [C] Rather, the rule accords with the position of **R. Simeon, who said, “Somebody does not sanctify something that he does not own” [M. Kil. 7:3].**
- [D] And even though **R. Simeon said, “Somebody does not sanctify something that he does not own” [M. Kil. 7:3]**, he concurs here that the herbs are forbidden to the worker.
- [E] The rule applies in a case in which someone else [not the worker] [picked the herbs, but if the worker himself picked the herbs, they are forbidden both to him and to everybody else.
- [II:1 A] **if [in the meantime] it [i.e., the vegetables] increased [in size] by [one] two-hundred[th] it is prohibited [i.e., the vegetables and the surrounding vines are sanctified]:**
- [B] *Members of the household of R. Yannai: They measure the growth of the herb by an amaranth.*
- [C] How does he examine the matter?
- [D] R. Bibi in the name of R. Hanina: “He picks one stalk and leaves one and that which the former loses in size is regarded as the same amount as that which the latter gains.”

5:6

- [A] **[If] he was passing through the vineyard, and seeds fell from him [i.e., from those that he was carrying] —**

- [B] or [if seeds] went out [into the vineyard] with the dung [used in manuring the vineyard] or with the water [that irrigated the vineyard] —
- [C] he who sows [in a field of grain] and the wind blew [the seeds] behind him [into the nearby vineyard] —
- [D] it is permitted.
- [E] [If] the wind blew [the seeds] before him it is prohibited] —
- [F] R. Aqiba says, “If [he allowed the seeds to grow until they yielded] blades.”
- [G] “If [he allowed the seeds to grow until they reached] an early stage of ripening he shall break [the ears] off.
- [H] “And if [he allowed the seeds to grow until they] yielded grain — it shall be burnt.”
- [I:1 A] *Said R. Eleazar, “The Mishnah [he who sows [in a field of grain] and the wind blew [the seeds] behind him [into the nearby vineyard] — it is permitted] deals with the case of him who stands in a sown field and the wind blew the seeds into the vineyard.”*
- [B] *R. Zeira asked, “What has been stated? Is the sense, ‘only one who stands in a sown field’ or does it mean, ‘even one who stands in a sown field’? If you say, ‘only one who stands in a sown field’ that implies that one who stands in a vineyard — it is not permitted. If you say, ‘even one who stands in a sown field’ that implies that the one case is comparable to the other, so it is permitted whether one stands in a white field or in a vineyard.”*
- [C] *Let us derive the answer from the following:* R. Simeon b. Judah says in the name of R. Simeon, “**he who sows [in a field of grain] and the wind blew [the seeds] behind him [into the nearby vineyard] — it is permitted, for it is an unavoidable accident [T. Kil. 3:12].”**
- [D] *With what sort of a case do we deal here? If it is one who stands in a vineyard, he commits a transgression and you say it is permitted? But it is the case of him who stands in a sown field and the wind blew the seeds into the vineyard.*
- [II:1 A] R. Zeira, R. Simeon b. Laqish in the name of R. Hoshayya: “**If [he allowed the seeds to grow until they yielded] blades — all of it is permitted.**
- [B] “**If [he allowed the seeds to grow until they reached] an early stage of ripening he shall break [the ears] off — the stalk if permitted but the grain is forbidden.**

[C] **“And if [he allowed the seeds to grow until they] yielded grain — it shall be burnt — all is forbidden.**

[D] R. Yohanan said, “All is forbidden [at all stages of growth]. *And what does that which we learned in the Mishnah mean: If [he allowed the seeds to grow until they yielded] blades, he shall overturn them. If [he allowed the seeds to grow until they reached] an early stage of ripening he shall break [the ears] off. And if [he allowed the seeds to grow until they] yielded grain — it shall be burnt? It is in line with what we learned in the Mishnah: ... orlah fruit, and (3) mixed seeds in a vineyard — That which is usually burned is to be burned. That which is usually buried is to be buried.*

[II:2 A] R. Jacob bar Idi in the name of R. Simeon b. Laqish: “Sometimes the stalks are permitted and the grain is forbidden, and sometimes the stalks are forbidden and the grain is permitted.

[B] *What would be a concrete case?*

[C] If he sowed seeds near a vine in a permitted way and trained the vine over the plants, the stalks are permitted but the grain is forbidden. If he sowed seeds in a forbidden way [under a vine] and he moved the overhang away, the stalks are forbidden but the grain is permitted.

[D] *R. Zeira asked, “There is no problem that the stalks are permitted and the grain forbidden. But the stalks are forbidden and the grain permitted — the grain grows out of a forbidden part of the plant and you say that the grain is permitted?”*

[E] *R. Zeira is consistent with his position, for said R. Zeira in the name of R. Jonathan, “An onion that grew as diverse-kinds of the vineyard that they uprooted and planted in a permitted place — even if it increases in size by a small amount in its new position — is forbidden. For permitted growths do not neutralize the forbidden part of the plant.”*

5:7

[A] **He who allows thorns to grow in the vineyard —**

[B] **R. Eliezer says, “He has sanctified [the surrounding vines of the vineyard].”**

[C] **And sages say, “He does not sanctify [the surrounding vines of the vineyard],**

[D] **“except [when he allows to grow] something the like of which they allow to grow.”**

[E] **(1) Iris and (2) ivy, and (3) a white lily,**

- [F] **and all kinds of [plants grown for the sake of their] seeds are kinds of seeds and],**
- [G] **are not [considered] diverse-kinds in the vineyard.**
- [H] **(4) Hemp —**
- [I] **R. Tarfon says, “It is not [considered] diverse-kinds [in the vineyard].”**
- [J] **And sages say, “[It is considered] diverse-kinds [in the vineyard].”**
- [K] **(5) And the globe artichoke is [considered] diverse-kinds [in the vineyard].**
- [I:1 A] **He who allows thorns to grow in the vineyard — R. Eliezer says, “He has sanctified [the surrounding vines of the vineyard]:”** Said R. Abbahu, “The reason for the ruling of R. Eliezer is that they allow them to grow for camel feed in Arabia.”
- [II:1 A] **(1) Iris and (2) ivy, and (3) a white lily:**
- [B] [The Aramaic equivalents of these items are specified.]
- [II:2 A] **Reeds, alhagi, hawthorns, and buck-thorns are kinds of trees, and are not [considered] diverse-kinds in the vineyard [T. Kil. 3:14].**
- [B] The cat-tail flag, and juncus, and the papyrus plant, and everything which grows in meadow grass are kinds of grasses, [and] lo, they are not [considered] diverse-kinds in the vineyard [T. Kil. 3:15].
- [C] *And did not R. Hoshayya teach as a Tannaite statement: “These are all kinds of grasses: a globe artichoke, mallow, demua and a buckthorn.”*
- [D] There the plants are listed to guide the laws of blessings, but here they are listed or the laws of diverse-kinds.
- [E] Said R. Yosé, “That is to say that a citron, even though you say over it ‘who creates the fruit of the tree,’ you say over its buds, ‘who creates different kinds of grasses.’”
- [II:3 A] **Caper —**
- [B] The House of Shammai say, “It is [considered] diverse-kinds in the vineyard.”
- [C] The House of Hillel say, “It is not [considered] diverse-kinds **or in a vineyard.**”
- [D] **And they concur that caper is liable to the laws of orlah [T. Kil. 3:17]**

- [II:4 A] *R. Hinena bar Pappa taught as a Tannaite rule:* “A plant that emerges from its stem is regarded as a kind of tree, and a plant that emerges from its roots is regarded as a kind of herb.”
- [B] *They objected:* “Lo, a kale emerges from its stem and it is regarded as a kind of herb!”
- [C] There [in the case of the kale] we are certain [that kale is regarded as an herb], but here [“A plant that emerges from its stem is regarded as a kind of tree, and a plant that emerges from its roots is regarded as a kind of herb], it is matter of doubt [and we are subject to the specified criteria to decide whether it is a tree or an herb].

YERUSHALMI KILAYIM

CHAPTER SIX

6:1

- [A] What is an espalier?
- [B] He who plants a row of five vines beside a fence that is ten handbreadths high, or beside a ditch that is ten handbreadths deep and four wide —
- [C] they allow it its area of tillage of four *amot*.
- [D] House of Shammai say, “They measure four *amot* from the base of the vines to the field.”
- [E] House of Hillel say, “From the fence to the field.”
- [F] Said R. Yohanan b. Nuri, “All err who say so.
- [G] “Rather, [the four *amot* are measured as follows:] If there are four *amot* from the base of the vines to the fence, they allow it its area of tillage and he sows the rest.”
- [H] And how much is the area of tillage of a [single] vine?
- [I] Six handbreadths in all directions.
- [J] R. Aqiba says, “Three [handbreadths].”
- [I:1 A] *There is this question for the theory of the House of Shammai: Even without the requirement that the vines be trained on a wall, wouldn't the row of vines be prohibited as a vineyard?*
- [B] R. Simeon b. Laqish said, “They taught the rule concerning a curved espalier [which is not a row].”
- [C] R. Yohanan said, “They taught the rule concerning a straight espalier.”
- [D] If they taught the rule concerning a straight espalier, then even without the requirement that the vines be trained on a wall, wouldn't the row of vines be prohibited as a vineyard?
- [E] The rule was repeated in the setting of the position of the House of Hillel.

- [I:2 A] *R. Jonah asked, “Is it permitted to sow in the space between the vines and the fence?”*
- [B] We address the case of vines that are aligned, and yet you maintain that it is permitted to sow in the space between the vines and the fence?
- [C] Is it permitted to sow between the vines of an espalier?
- [D] Just as you say about a bed of trailing plants, it is forbidden to sow among the hollows [holding the gourds,] so here too it is forbidden to sow between the vines of an espalier.
- [I:3 A] *Said R. Hananiah, “It is reasonable to maintain that R. Simeon b. Laqish concurs with R. Yohanan that the rule was repeated in the setting of the position of the House of Hillel. And R. Yohanan concurs with R. Simeon b. Laqish that they taught the rule with respect to a curved espalier from the perspective of R. Yohanan b. Nuri. For **R. Yohanan b. Nuri said, ‘All err who say so.’***
- [B] “For if you hold that that they taught the rule with respect to a straight espalier, *how would they err?*”
- [II:1 A] **“They measure four *amot* from the base of the vines to the field ... From the fence to the field:”**
- [B] What is at issue between him who said, **“They measure four *amot* from the base of the vines to the field”** and him who said, **“From the base of the fence to the field?”**
- [C] Said R. Jonah, “Interpret the passage to deal with a case in which some of the stems were situated within four cubits [between the wall and the vines] and some were situated outside of the four cubits. *He who said, ‘They measure four *amot* from the base of the vines to the field’ has no problem. He who said, ‘From the base of the fence to the field,’* to the point where the thread [four cubits long] ends, it is forbidden, but the rest is permitted.”
- [II:2 A] [Once more: What is at issue between him who said, **“They measure four *amot* from the base of the vines to the field”** and him who said, **“From the base of the fence to the field”**]:
- [B] If there were there two cubits [between the fence and the vine], *in the view of him who said, “They measure four *amot* from the base of the vines to the field”* only two cubits beyond the vines are forbidden. *In the view of him who said, “From the base of the fence to the field,”* two additional cubits beyond the vines are forbidden.

- [II:3 A] Said R. Yohanan, “R. Yosé, R. Ishmael, and R. Yohanan b. Nuri all three said the same thing.”
- [B] *R. Ishmael, as we learn in the Mishnah: **Three matters did R. Ishmael state before sages in the vineyard in Yabneh: And concerning a small vegetable patch [surrounded by a wall] which is [made up] of trellised vines — if there is in the area a space sufficient for a grape gatherer with his basket on one side, and sufficient for a grape gatherer with his basket on the other side, it may be sown. And if not, it may not be sown [M. Ed. 2:4].***
- [C] And said R. Jonah, “A cubit for the grape-gatherer and a cubit for the basket are required on one side, and a cubit for the grape-gatherer and a cubit for the basket are required on the other side.”
- [D] *They wanted to say: in the view of him who said, “**They measure four amot from the base of the vines to the field**” there is no problem. In the view of him who said, “**From the base of the fence to the field,**” do not the stems diminish the four cubits?*
- [E] *Resolve the problem by interpreting the rule to concern vines clinging to the wall.*
- [F] Four vines do not register, since the laws of an espalier apply only to five vines.
- [G] Said R. Hananiah, “*Resolve the problem by interpreting the rule to concern two vines located in one corner. If they were to be spread out, they would appear as if there were four intervals.*”
- [H] R. Yosé, *as we learn in the Mishnah: R. Yosé says, “**If there are not there four amot, he shall not put seed there**” [M. Kil. 6:7].*
- [I] *Now in the view of him who said, “**They measure four amot from the base of the vines to the field**” there is no problem. In the view of him who said, “**From the base of the fence to the field,**” does not the stem diminish the four cubits?*
- [J] *Resolve the problem by interpreting the rule to concern vines clinging to the wall.*
- [K] *And thus we have the view of R. Yohanan b. Nuri here.*
- [L] *It is reasonable to suppose that R. Yosé and R. Ishmael would concur with R. Yohanan b. Nuri, but that R. Yohanan b. Nuri would not concur with that R. Yosé and R. Ishmael.*

[M] *And that R. Yosé would concur with R. Ishmael, but that R. Ishmael would not concur with R. Yosé.*

[III:1 A] R. Judah in the name of Rab: “The law is in accord with the position of R. Aqiba.”

[B] R. Jacob bar Idi in the name of R. Joshua b. Levi, “The law outside of the land is in accord with the ruling of him who rules leniently in the land.”

[C] *Said R. Jacob bar Aha and it is taught as a Tannaite rule there:* “The law outside of the land is in accord with the ruling of him who rules leniently in the land.”

6:2

[A] **An espalier that projects from a terrace —**

[B] **R. Eliezer b. Jacob says, “If he [can] stand on the ground and harvest all of it [i.e., harvest all of the grapes of the espalier’s vines], lo, this [espalier] prohibits four *amot* in the field [below].**

[C] **“And if not [i.e., if he cannot harvest all of the grapes of the espalier’s vines while standing on the ground], [the espalier] prohibits only that [part of the field which lies] opposite [i.e., under] it.”**

[D] **R. Eliezer says, “Even he who plants one [row of vines on the ground and one on the terrace —**

[E] **“if [the row on the terrace] is ten handbreadths higher than the ground, it does not combine with [with the row on the ground] [to form a vineyard].**

[F] **“And if not [i.e., if the row on the terrace is not ten handbreadths higher than the ground], lo, this [row on the terrace] combines with it [i.e., the row on the ground] [to form a vineyard].”**

[I:1 A] R. Samuel bar Nahman, R. Jonathan in the name of R. Eliezer [b. Jacob]: “One who cuts down his vineyard to a height of less than a handbreadth — the field is liable to the laws of orlah [and the fruit cannot be eaten in the first three years of its growth [Lev. 19:23-25] for appearance’ sake [the stumps cannot be seen and the vines appear as new growths].”

[C] The words of sages: “That is true only if he cuts them down even with the earth.”

[D] R. Samuel bar Nahman in the name of R. Jonathan in the name of R. Eliezer b. Jacob: “He who makes a pile of produce in the status of

gleanings, forgotten sheaves and peah — it is liable for great heave-offering on account of appearance's sake.”

- [E] R. Samuel bar Nahman in the name of R. Jonathan, R. Eliezer b. Jacob in the name of the House of Shammai: “A corpse conveys uncleanness for four cubits in public domain because of the honor owing to the corpse.”
- [F] *R. Mana said, “This last statement is said in the name of the House of Shammai.”*
- [G] *R. Yosé b. R. Abun said, “All of them were said in the name of the House of Shammai.”*
- [H] *Said R. Jonah, “Also that which we learned in the Mishnah [R. Eliezer b. Jacob says, “If he [can] stand on the ground and harvest all of it [i.e., harvest all of the grapes of the espalier’s vines], lo, this [espalier] prohibits four amot in the field] is on account of appearance’ sake. For if not, what is the difference between a person standing on the ground and one standing on a terrace?”*

[II:1 A] if [the row on the terrace] is ten handbreadths higher than the ground, it does not combine with [with the row on the ground] [to form a vineyard]:

- [B] Which is ten handbreadths higher than the ground, the row or the terrace? If you say that the row is higher, the slope of the terrace belongs below, and if you say that the terrace is higher, the slope of the terrace belongs above?
- [C] *Has it not been taught as a Tannaite statement: Two rows on a terrace — if one is ten handbreadths higher than the other, they do not combine to form a vineyard. So you must conclude that the row is higher, not the terrace.*
- [D] Said R. Mana, “All those ten handbreadths of a terrace do they consider to form a domain unto itself.”
- [E] *There we have learned in the Mishnah: He who throws [something from a distance of] four cubits toward a wall — [if he throws it] above ten handbreadths, it is as if he throws it into the air [which is public domain]. [If it is] less than ten handbreadths, it is as if he throws an object onto the ground [which is private domain] [M. Shab. 11:3]*
- [F] R. Hisda said, “It is one who measures diagonally.”
- [G] But won't the object finally fall down?

- [H] R. Hiyya in the name of R. Yohanan: “*Resolve the issue by ruling that it was a fat cake of figs and stuck on the wall.*”
- [I] *R. Haggai asked before R. Yosé, “Does the cited passage of Mishnah-tractate Shabbat not imply that the slope of a terrace belongs below?”*
- [J] He said to him, “There [at M. Kil. 6:2: **if [the row on the terrace] is ten handbreadths higher than the ground, it does not combine with [with the row on the ground] [to form a vineyard]**], the seeds benefit from the terrace, *but here*, [at M. Shab. 11:3] it is routine for people to rub against the object, so it falls.”
- [K] If the rule had said, “Where there was a hole in the wall and the cake of figs benefited from the hole just as the seeds derive benefit from the terrace,” it would have been fine.
- [L] **[If] he had two fields, one above another — [if] the lower one is planted [with] a vineyard, and the upper one is not planted [with] a vineyard, he sows the upper [field] until he reaches the base of the lower [field]; [if] the upper one is planted [with] a vineyard, and the lower one is not planted [with] a vineyard, he sows the lower [field] and the [slope of the] terrace until he reaches the base of the vines [in the upper field] [T. Kil. 3:9]**
- [M] *R. Abun bar Hiyya asked before R. Zeira, “Does the cited passage not imply that the slope of a terrace belongs below?”*
- [N] He said to him, “[It is forbidden to sow within the airspace of the ten handbreadths closest to the vineyard solely] because the seeds grow and lean into the airspace of the vineyard.”
- [O] **...[if] the upper one is planted [with] a vineyard, and the lower one is not planted [with] a vineyard, he sows the lower [field] and the [slope of the] terrace until he reaches the base of the vines [in the upper field] [T. Kil. 3:9]**
- [P] *Said R. Yosé, “The passage should not read **the base of the vines** but rather ‘below three cubits,’ in line with what is taught as a Tannaite rule: **Roots of madder which extended [from outside of the vineyard’s area of tillage] into the four amot of the vineyard more than three handbreadths below [the surface] — it is permitted [i.e., the madder does not sanctify the vine] [T. Kil. 4:10].***

6:3

- [A] **He who trains a vine over some of the lathes [of a latticework] shall not put seed under the remaining [lathes].**

- [B] If he did put [seed there], he has not sanctified [the seeds underneath].
- [C] And if the new growth [of the vine] spread [over the rest of the lathes], it is prohibited [i.e., the seeds underneath are sanctified].
- [D] And so [is the rule for] he who trains [a vine] over part of a barren tree.
- [E] He who trains a vine over part of a fruit tree — it is permitted to put seed under the remainder [of the tree].
- [F] And if the new growth [of the vine] spread [over the rest of the tree], he shall turn it [i.e., the new growth] back.
- [G] R. Joshua went to R. Ishmael at Kefar Aziz, and he showed him a vine which was trained over part of a fig tree.
- [H] He [i.e., R. Joshua] said to him, “May I put seed under the remainder [of the tree]?”
- [I] He [i.e., R. Ishmael] said to him, “It is permitted.”
- [J] And he brought him up from there to Bet Hamaganyah and he showed him a vine that was trained over part of a branch and in a trunk of a sycamore tree, in which there were many branches.
- [K] He [i.e., R. Ishmael] said to him, “Under this branch it is prohibited [to put seed], and under the rest [of the branches] it is permitted.”
- [L] What is [considered] a barren tree?
- [M] Every [tree] which does not produce fruit.
- [N] R. Meir says, “Every tree is [considered] a barren tree, except for the olive tree and the fig tree.”
- [O] R. Yosé says, “Every [tree] the like of which they do not plant as whole groves, lo, this is [considered] a barren tree.”
- [I:1 A] [He who trains a vine over some of the lathes [of a latticework] shall not put seed under the remaining lathes]: Hezekiah said, “*The Mishnah speaks of a trellis with the uncovered part measuring from three to four handbreadths. If the uncovered part measures less than three handbreadths, it is as if it were closed up. If it measures from three to four handbreadths, he completes the four handbreadths. If it measures four handbreadths, it is fine for him.*”
- [B] *To what point* [is one prohibited from sowing under the uncovered part of the trellis]?
- [C] R. Jacob bar Idi in the name of R. Simeon b. Laqish: “To four cubits.”

- [D] R. Aha, R. Hinena in the name of R. Simeon b. Laqish: “To six cubits.”
- [I:2 A] *Said R. Mana, “I went to Caesarea and heard R. Hoshaiiah bar Shammai in the name of R. Isaac b. Eleazar: ‘If there were two trellises, one covered by a vine and the other not, it is permitted [to sow under the uncovered trellis.]”*
- [B] *Said R., Hinena, “And there is a Tannaite rule that differs with that rule: If the vine might spread from one trellis to another, it is forbidden.”*
- [C] *And so it was taught on Tannaite authority: **R. Simeon b. Eleazar says, “If [the vine] was climbing from one branch to another, [the branches are all considered] as [belonging to] a single tree T. Kil. 4:7]***
- [II:1 A] What is the difference between a tree that does not bear edible fruit and one that does?
- [B] Someone annuls with regard to his vine the status of a tree that does not bear edible fruit, but he does not annul with regard to his vine the status of a tree that produces edible fruit.
- [C] *There we learned in the Mishnah: **All tied-up goatskins are clean, except for those of the Arabs. R. Meir says, “[If they are] tied up for a time, they are clean. [If] they are tied up permanently, they are unclean.” R. Yosé says, “All goatskins which have been tied up are clean” [M. Kel. 26:4].***
- [D] *There is a Tannaite authority who reverses [the ruling of Meir] even though R. Jacob bar ha in the name of R. Yosé records the rule as in the Mishnah.*
- [E] Said R. Yudan, “The mnemonic is of Kelim is Kilayim. For if not, what is the difference between a water-skin temporarily tied up and one that is tied up permanently?”
- [F] Members of the Household of R. Yannai say, “a water-skin that is tied up permanently requires cutting to undo the knot, but one that is temporarily tied up does not require cutting to undo the knot.”

6:4

- [A] **Gaps of an espalier [must measure] eight *amot* and a little more [in order to be sown with another kind].**

- [B] And all of the dimensions of which sages spoke in [reference to] the vineyard — there is no [mention of] “and a little more” in them, except for [the dimensions of] the gaps of an espalier.
- [C] What are [considered] the gaps of an espalier?
- [D] An espalier which lies waste at its center and there remained in it five vines on one side [of the center] and five vines on the other —
- [E] if there are there [i.e., between the two groups of vines] eight *amot*, he shall not put seed there.
- [F] [If there are there (i.e., between the two groups of vines)] eight *amot* and a little more, they allow it [i.e., each group of vines] enough [space] for its area of tillage, and he sows the rest.
- [G] An espalier that projects along] a wall from the corner [formed by two walls] and stops [in the middle of the wall] — they allow it its area of tillage and he sows the rest.
- [H] R. Yosé says, “If there are not there four *amot*, he shall not put seed there.”
- [J] The reeds that project beyond the espalier —
- [K] and he refrains from cutting them short
- [L] opposite [i.e., under] them, it is permitted [to sow another kind] .
- [M] [If] he prepared them so that the new growth [of the vines] would spread over them, it is prohibited [to sow another kind under them].
- [N] The blossom [of the vine] that projects beyond the espalier —
- [O] they regard it as if a plummet were suspended from it —
- [P] opposite [i.e., under] it, it is prohibited [to sow another kind].
- [Q] And so [is the rule] for [a blossom which projects beyond] a trained vine.
- [R] He who extends a vine-shoot from tree to tree —
- [S] under it, it is prohibited [to sow another kind].
- [T] [If] he attached to it rope or reed-grass,
- [U] [the space] under that which is attached, it is permitted [to sow another kind].
- [V] [If] he prepared it so that the new growth [of the vines] would spread over it, it is prohibited [to sow another kind under it].
- [I:1 A] [And all of the dimensions of which sages spoke in [reference to] the vineyard — there is no [mention of] “and a little more” in them, except for [the dimensions of] the gaps of an espalier]: *does*

this not conflict with R. Zeira, for R. Zeira said, “The eight cubits that must separate one row of a vineyard from another do not encompass the place taken by the stems of the vines.”

[B] *Interpret the language to mean, eight cubits and a bit more.*

[C] *And why was that language not taught explicitly in the Tannaite formulation?*

[D] *And do you not reason the matter in line with what R. Yohanan said, “All the measurements that the sages formulated in the language “and a bit more” refer to a handbreadth.” And this passage includes only a very little bit and therefore “any amount at all” was not articulated in so many words.*

[I:2 A] *R. Jonah asked, “Why do we not say, **all of the dimensions of which sages spoke — there is no [mention of] “and a little more” in them, except for [the dimensions of] the gaps of an espalier?”** [Why not omit reference to, **in reference to the vineyard?**]*

[B] *But have we not learned in the Mishnah: **They [the Nazirite’s offering] turn out to be ten Jerusalem qabs [five for unleavened loaves, five for unleavened wafers] which are six tenths [of an ephah]; and something left over [six and two-thirds tenths] [M. Menahot 7:2]?***

[C] *There we address measures of weight and volume, but here we deal with cubits [a linear measure].*

[D] *But have we not learned in the Mishnah: **R. Eliezer says, “Heave-offering is neutralized [i.e., takes on the status of unconsecrated produce] [when one part of heave-offering is mixed] in [a total of] a hundred and one [parts of produce].” R. Joshua says, “[It is neutralized when there is one part of heave-offering] in a hundred [parts of produce] plus [a bit] more. And this more has no [fixed] measure.” R. Yosé b. Meshullam says, “[This more is] an additional qab per hundred se’ahs, [which equals] one-sixth of [the quantity of] heave-offering in the mixture” [M. Ter. 4:7].***

[E] *There we address measures of weight and volume, but here we deal with cubits [a linear measure].*

[F] *And have we not learned in the Mishnah: **And further did R. Judah b. Baba say, “As to a garden or an outer area [no more than] seventy cubits and two-thirds by seventy cubits and two-thirds, surrounded by a wall ten handbreadths high — they carry about***

in it, so long as there is a watchman's hut or a house, or it is near town [where the owner lives]" [M. Er. 2:5].

[G] Samuel said, "They taught that rule with regard to two-thirds of a cubit [a bit more refers to two thirds of a cubit and not to a handbreadth.]"

[II:1 A] What are [considered] the gaps of an espalier? An espalier which lies waste at its center and there remained in it five vines on one side [of the center] and five vines on the other — if there are there [i.e., between the two groups of vines] eight *amot*, he shall not put seed there. [If there are there (i.e., between the two groups of vines)] eight *amot* and a little more, they allow it [i.e., each group of vines] enough [space] for its area of tillage, and he sows the rest:

[B] And it makes no difference whether the farmer built the wall and afterwards planted eleven vines, or planted eleven vines and then built the wall, and then the middle vine was cut off — there is an espalier here [before the middle vine is cut off] and there are fragments of an espalier here [after the middle vine is cut off].

[C] *R. Abudimi brother of R. Yosé asked, "If he went and rebuilt the wall, do you say the espalier has been restored to its place and, along these same lines, if he rebuilt it after the middle vine was destroyed, the fragments of an espalier return to their former status?"*

[II:2 A] R. Yosé in the name of R. Yohanan: "There was a case. R. Yohanan b. Nuri burned something in Nagninar. What did he burn? He burned the remnants of an espalier."

[B] R. Hiyya in the name of R. Yohanan: : "There was a case. R. Yohanan b. Nuri burned something in Nagninar. What did he burn? He burned the seeds between the espalier and the wall."

[C] Said R. Yosé, "I raised the question before R. Jacob bar Aha, "There is no problem in claiming that he burned the remnants of an espalier. For the ruling of the sages takes issue with him. But if you say that he burned the seeds between the espalier and the wall, does the ruling of the sages takes issue with him?"

[D] *And R. Yosé had not heard what R. Jacob bar Aha said, "There is a dispute between R. Yohanan and R. Simeon b. Laqish: as to sowing near the espalier itself, what is the law?"*

[E] "R. Yohanan said, 'It is forbidden and sanctifies the vines.'

[F] "R. Simeon b. Laqish said, , 'It is forbidden and does not sanctify the vines.'"

[III:1 A] An espalier that projects along] a wall from the corner [formed by two walls] and stops [in the middle of the wall] — they allow it its area of tillage and he sows the rest:

[B] And that is the rule on condition that there are four handbreadths of space in the corner.

[IV:1 A] We have learned in the Mishnah here the statement of R. Yosé [R. Yosé says, “If there are not there four *amot*, he shall not put seed there”], and we have learned in the Mishnah there s comparable rule of R. Yosé: R. Yosé says, “If there are not there four *amot* [of space], he shall not put seed into it” [M. Kil. 5:3].

[B] *Had you learned the Tannaite rule of R. Yosé here and not learned it there [at M. Kil. 5:3], we might have said that here, because the laws of an espalier pertain, you would say that it is forbidden, but there, because the laws of an espalier do not apply, you might say it is permitted. So it is necessary to teach R. Yosé’s rule there and here as well.*

[C] *Had you learned the Tannaite rule there and not learned it here, we might have said that there, because it is surrounded on all four sides, you would say it is forbidden, but here because the area is ot surrounded on all four sides, you would say that it is permitted. So it was necessary to teach the rule here and there.*

[V:1 A] There they said, “You regard it as if a metal spit is stuck, in [the blossom].”

[B] Simeon bar Abba in the name of R. Yohanan: “[It is forbidden to sow opposite a vine blossom] up to the point at which it holds fast [and is not shaken by the wind].”

[C] R. Hama bar Uqba in the name of R. Yosé b. Hanina: “Sowing under the grape clusters is forbidden and sanctifies the vines, but not sowing under the leaves.”

[D] Said R. Yosé, “Even sowing under the grape clusters is forbidden and sanctifies the vines.”

YERUSHALMI KILAYIM

CHAPTER SEVEN

7:1

- [A] He who sinks a vine-shoot into the ground —
- [B] if the soil on top of it does not [measure] three handbreadths [high],
- [C] he shall not put seed on top of it [i.e., the underground vine],
- [D] even if he sank it in a gourd or pipe.
- [E] [If] he sank it in stony ground —
- [F] even though the soil on top of it [measures] only three fingerbreadths [high] —
- [G] it is permitted to put seed on top of it [i.e., the underground vine].
- [H] The “knee” of the vine-shoot [i.e., the part of the vine that is bent under the ground] — they measure for it [its area of tillage] only from the second root [i.e., from the spot at which the vine grows new roots].
- [I:1 A] He who sinks a vine-shoot into the ground — if the soil on top of it does not [measure] three handbreadths [high], he shall not put seed on top of it [i.e., the underground vine]:
- [B] lo, setting the seed beside it is permitted.
- [C] *With what case do we deal?* If sowing on top of the vine is forbidden by reason of the prohibition against sowing seeds under a tree, [thus the prohibition against mixed grafting], what need do I have to specify a vine? Even on top of all other trees it is forbidden to set seed.
- [D] If sowing on top of the vine is forbidden by reason of the prohibition against sowing seeds in the area of tillage of a vine, then *let the Tannaite rule state*, If the soil on top of it does not measure six handbreadths.

[E] Rather, the stated rule accords with R. Aqiba, for: **And how much is the area of tillage of a [single] vine? Six handbreadths in all directions. R. Aqiba says, “Three [handbreadths].”**

[F] If it is in accord with R. Aqiba, then even in respect to sowing alongside the vine, *it should teach*, “If there are not three handbreadths of soil he shall not place seed there.”

[G] R. Jeremiah in the name of R. Hiyya bar Abba: “[The sowing of M. 7:1A-C] is forbidden] on account of the prohibition against sowing seeds on top of a vine.”

[II:1 A] **[if the soil on top of it does not [measure] three handbreadths high]:**

[B] *There we learned in the Mishnah: They set (1) seeds, (2) a plough, and (3) urine three handbreadths from a wall [M. B.B. 2:1].*

[C] *R. Jeremiah said R. Hama bar Uqba asked: “There you said, the roots spread sideways, but here you say the roots do not spread sideways — how come?”*

[D] Said R. Yosé, “Here and there the roots do not spread sideways. [But it is forbidden to sow within three handbreadths of a wall because the roots] loosen the soil and harm the foundation of the wall. You may know that this is so, *for it is taught, urine three handbreadths from a wall*, and does urine spread sideways?”

[E] *Responded R. Yosé b. R. Abun, “But it is taught, a plough. Can you say that a plow does not move sideways?”*

[III:1 A] **even if he sank it in a gourd or pipe:**

[B] *That which you say pertains to a clay pipe. But as to a lead pipe, it is necessary to teach that one may not sow until there are three handbreadths of soil on top of it.”*

[IV:1 A] **[If] he sank it in stony ground:**

[B] *That which you say pertains to hard stone. But as to soft stone, the stone crumbles.*

[V:1 A] **The “knee” of the vine-shoot [i.e., the part of the vine that is bent under the ground] — they measure for it [its area of tillage] only from the second root [i.e., from the spot at which the vine grows new roots]:**

[B] And that is the rule when the first vine is not visible. But if the first vine is visible, one allows six handbreadths here [at the first set of roots] and six handbreadths there [at the second set of roots].

[C] You may know that that is so, *for we are taught in what follows: (1) He who sinks three vine-shoots (2) and their roots [i.e., the roots of the layers (new vines)] are visible — R. Eleazar b. Sadoq says, “If there are between them [i.e., between the layers and the parent vines] from four to eight *amot*, lo, these [i.e., the layers and the parent vines] combine [to form a vineyard]. And if not, they do not combine [to form a vineyard]”* [M. Kil. 7:2]. *And it was taught as a Tannaite clarification of the matter: Under what conditions do the vines not combine? In the matter of the vineyard. But as to the area of tillage, one allows six handbreadths here [at the first set of roots] and six handbreadths there [at the second set].*

7:2

[A] (1) He who sinks three vine-shoots (2) and their roots [i.e., the roots of the layers (new vines)] are visible —

[B] R. Eleazar b. Sadoq says, “If there are between them [i.e., between the layers and the parent vines] from four to eight *amot*, lo, these [i.e., the layers and the parent vines] combine [to form a vineyard].

[C] “And if not, they do not combine [to form a vineyard].”

[D] A vine that withered is prohibited [i.e., it is prohibited to sow near it], but does not sanctify [the seeds sown near it].

[E] R. Meir says, “Also [the] cotton tree is prohibited, [i.e., it is prohibited to sow near it], but it does not sanctify [the seeds sown near it].”

[F] R. Eleazar b. R. Sadoq says in his name, “Also on top of the vine-shoot it is prohibited [to sow], but it [i.e., the vine-shoot] does not sanctify [the seeds sown above it].”

[G] These prohibit but do not sanctify [the seeds sown in them]:

[H] (1) The remainder of the waste-state of the vineyard, (2) the remainder of the outer space of the vineyard, (3) the remainder of the gaps of an espalier, (4) the remainder of the [latticework of] lathes .

[I] But (1) [the area] under the vine, and (2) the area of tillage of the vine, and (3) the four *amot* of the vineyard, lo, these sanctify [the seeds sown in them].

[I:1 A] Said R. Eleazar, “The law is that of R. Meir.”

- [II:1 A] **A vine that withered is prohibited [i.e., it is prohibited to sow near it], but does not sanctify [the seeds sown near it].** *It makes sense [to forbid sowing near a withered vine] in winter, but why in summer?*
- [B] *There are places where vines lose their leaves even in the summer.*
- [III:1 A] **R. Eleazar b. R. Sadoq says in his name, “Also on top of the vine-shoot it is prohibited [to sow], but it [i.e., the vine-shoot] does not sanctify [the seeds sown above it]:”**
- [B] *R. Samuel in the name of R. Zeira: “The Mishnah speaks of a case in which one sowed on top of a sunken vine shoot.”*
- [C] *R. Abun bar Hiyya in the name of R. Samuel bar R. Isaac: “The Mishnah speaks of a case in which one sowed in the air space of ten handbreadths above the vine.”*
- [D] Said R. Yosé, “We considered the proposition that a vineyard has an airspace but a single vine does not have an airspace. From that which *R. Abun bar Hiyya in the name of R. Samuel bar R. Isaac: ‘The Mishnah speaks of a case in which one sowed in the air space of ten handbreadths above the vine,’* it follows that a single vine does have an airspace.”
- [IV:1 A] **(1) The remainder of the waste-state of the vineyard** begins four cubits from the vines.
- [B] **(2) the remainder of the outer space of the vineyard,** begins four cubits from the vines.
- [C] **(3) the remainder of the gaps of an espalier** begins six cubits from the vines.
- [D] **(4) the remainder of the [lattice-work of] laths** measures six handbreadths.
- [E] What is the law as to sowing in the space between the fence and the fines of an espalier?
- [F] R. Yohanan said, “It is forbidden and sanctifies the fines.”
- [G] R. Simeon b. Laqish said, “It is forbidden but does not sanctify the fines.”
- [IV:2 A] What is your preference? [If the Mishnah rules on] a large vineyard, what need to I have to refer to **the remainder of the waste-state?** Even the remainder of its planting prohibits but does not sanctify.

[B] [If the Mishnah rules on] a small vineyard, this does not have outer space.

[C] *But this is how we should interpret the Mishnah: It portrays a large vineyard that one planted in the pattern of a small vineyard.*

[D] *Said R. Zeira, “That is to say, a large vineyard that one planted in intervals of eight cubits does not have an outer ring. For if you say that it does have an outer ring, with respect to a planting by intervals of sixteen cubits, if the space within the vineyard forbids but does not sanctify, the space outside of it all the more should not forbid and sanctify.”*

[V:1 A] Said R. Yosé, “They are flogged only for sowing in a vineyard itself.”

7:3

[A] **He who trellises his vine over the grain of his neighbor, lo, this one has sanctified [the grain underneath the vines] and is liable to replace it.**

[B] **R. Yosé and R. Simeon say, “A man does not sanctify something that is not his own.”**

[C] **Said R. Yosé, “One sowed his own vineyard in the Seventh Year, and the case came before R. Aqiba, and he said, ‘A man does not sanctify something that is not his own.’”**

[I:1 A] It is written, “You shall not sow your vineyard with diverse-kinds” (Dt. 22:9).

[B] I know only that this applies to your vineyard. How do I know that it applies to the vineyard of someone else?

[C] Scripture says, “The yield of the vineyard (Dt. 22:9) — and not diverse-kinds anywhere.”

[I:2 A] Said R. Eleazar, “This represents the view of R. Meir, for R. Meir said, ‘A gentile does not have the right of ownership in the Land of Israel so as to exempt produce from liability to tithes.’”

[B] Said R. Yohanan, “The passage is in accord with all parties. Interpret the passage to refer to a gentile who sowed his vineyard with diverse-kinds and then an Israelite purchased the field from him.”

[C] R. Jonah and R. Yosé both say, “This represents the view of R. Meir.”

[I:3 A] As to [a beast] that has been worshiped [by a man] —

- [B] *there are Tannaim who repeat*, “Whether it belongs to the man [who worshiped it] or whether it belongs to his fellow, [that beast] is prohibited.”
- [C] *And there are Tannaim who repeat*, “[If it belongs] to the man [who worshiped it], it is prohibited, but if it belongs to his fellow, it is permitted.”
- [D] *The one who rules that*, whether or not the beast belongs to the man [who committed idolatry] or to his fellow, it is prohibited, is R. Judah. And the one who rules that if it belongs to the man [who worshiped it], it is prohibited, but if it belongs to his fellow, it is permitted, is R. Yosé and R. Simeon. [The reference, as noted, is to M. Kil. 7:4, and the basis for this conclusion is self-evident.]
- [E] R. Yosé in the name of R. Ila, “In point of fact, it is the position of all parties [including Yosé and Simeon]. *This is in accord with that which the law states*, ‘As to a living creature, even though [if it is worshiped by a third party] it is not forbidden to an ordinary person, it is forbidden to the Most High.’” [Thus even Yosé and Simeon concur that the beast that has been worshiped is forbidden, whether it belongs to the one who has committed the act of idolatry with the beast or whether it belongs to another party. But then the owner, if it is not the idolater, has the use of the creature for other purposes — so Yosé and Simeon.]
- [F] *And similarly*, as to something [you worship] that does not belong to you, even though it is not forbidden to an ordinary person, it is forbidden to the Most High.
- [I:3 A] R. Simeon b. Laqish said, “*A fine [in case of indirect damage when one is nor liable to pay restitution] represents the view of R. Meir.*”
- [B] *And he ruled in a practical case in accord with R. Meir’s view in the following: He who trellises his vine over the grain of his neighbor, lo, this one has sanctified [the grain underneath the vines] and is liable to replace it.*
- [C] *But what concrete deed did he do to incur liability?*
- [D] Rather, when the vine increased in size, that increment met with his approval.
- [I:4 A] *Somebody showed his sela to R. Eleazar. He said to him, “It is good,” but it turned out to be invalid. The case came before R. Simeon b. Laqish, who imposed a fine on R. Eleazar, based on the following:*

- [B] He who shows a dinar to a moneychanger [who validates it] and it turns out to be bad — the money changer is liable to pay, for he collects a fee.
- [C] But did R. Eleazar collect a fee [so being subject to a fine]?
- [D] R. Jacob bar Aha in the name of R. Abuna: “He upon whom people depend is equivalent to one who collects a fee.
- [E] R. Yosé b. R. Abun did not sets matters out in this way but rather:
- [F] *R. Eleazar said, “The fine is in line with the theory of the rabbis.”*
- [G] R. Simeon b. Laqish said, “*The fine is in line with the theory of R. Meir.*”
- [H] *When the case came before him, R. Simeon b. Laqish asked R. Eleazar, “According to which authority has the fine been imposed?”*
- [I] *He said to him, “The rabbis.”*
- [J] *He said to him, “[We follow the majority, so:] Go, pay.”*
- [I:5 A]** [He who trellises his vine over the grain of his neighbor, lo, this one has sanctified [the grain underneath the vines] and is liable to replace it. R. Yosé and R. Simeon say, “A man does not sanctify something that is not his own”:] Said R. Yohanan, “All concur that as to the grapes, they are forbidden [for their owner put them there].”
- [B] Said to him R. Eleazar, “That which forbids is not forbidden [the grain], but that which does not forbid [that is, the vines] is forbidden?”
- [C] *What is subject to dispute?*
- [D] One who trellises his vine over the grain of his neighbor.
- [E] But one who trellises his neighbor’s vine over his own grain — all concur that that which forbids [that is, the grain] becomes forbidden.
- [II:1 A]** He who trellises his neighbor’s vine over his neighbor’s train —
- [B] *let us derive the ruling from the following: Said R. Yosé, “One sowed his own vineyard in the Seventh Year, and the case came before R. Aqiba, and he said, ‘A man does not sanctify something that is not his own.’”*
- [C] Lo, the vine is not his, and the grain is not his, *and that answers the authority* [who said, **He who trellises his vine over the grain of his neighbor, lo, this one has sanctified [the grain underneath the vines] and is liable to replace it].**

7:4

- [A] The usurper who sowed a vineyard —
[B] and it left his possession [and it was recovered from him] —
[C] he [i.e., the rightful owner] cuts down [the other kind],
[D] even on [the intermediate days of a festival].
[E] How much more does he pay the workers [for cutting down the other kind on the intermediate days of a festival]?
[F] Up to a third [more than their usual wages].
[G] [If they demand] more than this,
[H] he continues to cut [it] down in his [usual] manner,
[I] even [if he does not finish cutting it down until] after the festival.
[J] At what point is [the vineyard] called [that of the] usurper?
[K] At the point that [the vineyard] settles [firmly into the usurper's possession and the rightful owner may no longer recover it from him].

[I:1 A] R. Abba bar Jacob in the name of R. Yohanan: “*This is the sense of the Mishnah when it says, he [i.e., the rightful owner] cuts down [the other kind], even on [the intermediate days of a festival]:* It is permitted to cut down the other kind even on the intermediate days of a festival.”

[II:1 A] **How much more does he pay the workers [for cutting down the other kind on the intermediate days of a festival]? Up to a third [more than their usual wages].**

[B] R. Huna and R. Sheshet: one said, “Up to a third of the wages.”

[C] The other said, “Up to a third of the value of the vineyard.”

[III:1 A] **At what point is [the vineyard] called [that of the] usurper? At the point that [the vineyard] settles [firmly into the usurper's possession and the rightful owner may no longer recover it from him]:**

[B] Said R. Aha, “[If when he sowed the vineyard the names of the rightful] owners had disappeared but the rightful owners had not yet despaired of recovering the vineyard, the prohibition is based on the Torah. But if when he sowed the vineyard the rightful owners had despaired but the names of the rightful owners had not yet disappeared, the prohibition is based on the authority of the sages, for the vineyard is still considered to belong to the rightful owners.]

- [C] But can real estate be stolen?
- [D] Even though real estate cannot be stolen, despair of recovering it does make an impact on the status of real property.

7:5

- [A] **Wind that hurled vines on top of grain —**
- [B] **he should cut them [i.e., the vines] down at once.**
- [C] **If an unavoidable accident befell him [and he could not immediately cut down the vines], it is permitted [i.e., the grain is not sanctified].**
- [D] **Grain that sways under the vine,**
- [E] **and so [is the rule] in [the case of] vegetables [which sway under the vine] —**
- [F] **he returns [the grain or the vegetables to their original positions] and does not sanctify [i.e., forfeit the vines].**
- [G] **At what point does grain become sanctified?**
- [H] **At the point that it strikes root.**
- [I] **And [at what point do] grapes [become sanctified]?**
- [J] **At the point that they become like [i.e., the size of] a hyacinth bean.**
- [K] **Grain that has become fully dried or grapes that have fully ripened do not become sanctified.**

[I:1 A] **Grain that sways under the vine, and so [is the rule] in [the case of] vegetables [which sway under the vine] — he returns [the grain or the vegetables to their original positions] and does not sanctify [i.e., forfeit the vines]:** And according to Ben Azzai he cuts down herbs that lean over the vine.

[B] *It is found to be taught as a Tannaite statement:* **R. Aqiba said, “He shall return the other kind to its original position.” Ben Azzai said, “He shall cut it down” [T. Kil. 4:10].**

[II:1 A] **At what point does grain become sanctified?**

[B] When it reaches one third of its growth.

[C] *There is he who teaches:* When it takes root.

[D] *He who says, “When it takes root” concurs with R. Yohanan, and the one who says, “When it reaches a third of its growth” concurs with R. Hoshaiah.*

[III:1 A] And [at what point do] grapes [become sanctified]? At the point that they become like [i.e., the size of] a hyacinth bean.

[B] Said R. Hananiah b. R. Hillel, “As it is written, ‘lest the whole yield be sanctified, the crop that you have sown and the produce of the vineyard’ (Dt. 22:9).”

[IV:1 A] Grain that has become fully dried or grapes that have fully ripened do not become sanctified.

[B] *That is the Mishnah’s statement.*

7:6

[A] A perforated pot [containing another kind] sanctifies [the vines when located] in the vineyard.

[B] And that [pot containing another kind] which is unperforated does not sanctify [the vines when located in the vineyard].

[C] R. Simeon says, “Both [perforated and unperforated pots containing another kind] prohibit [i.e., it is prohibited to place them in a vineyard] but do not sanctify [the vines when located in the vineyard].”

[D] He who carries a perforated pot [containing another kind] through the vineyard —

[E] if [while he carried the pot through the vineyard] it [i.e., the seeds of the other kind] increased in size by [one] two-hundredth —

[F] it is prohibited [i.e., it sanctifies the vines].

[I:1 A] *It was taught as a Tannaite statement: R. Simeon says, “The perforated pot differs from that which is not perforated only in [respect to] rendering seeds susceptible” [T. Kil. 4:13].*

[B] That is in accord with R. Simeon [**R. Simeon says, “Both [perforated and unperforated pots containing another kind] prohibit [i.e., it is prohibited to place them in a vineyard] but do not sanctify [the vines when located in the vineyard]”**], *but according to sages, there are other points of difference.*

[C] A perforated pot [containing another kind] sanctifies [the vines when located] in the vineyard. And that [pot containing another

kind] which is unperforated does not sanctify [the vines when located in the vineyard] [M. Kil. 7:6].

[D] He who picks [something] from a pot which has a hole [in the bottom] is liable. [If he picks something from a pot] which has no hole [in the bottom], he is exempt. And R. Simeon exempts him on this account and on that account [M. Shab. 10:6].

[E] A pot with a hole does not render seeds susceptible to uncleanness. One without a hole renders seeds susceptible to uncleanness [M. Uqs. 2:10].

[F] R. Yosé states the following without attribution, *R. Hanina presents it in the name of R. Samuel b. R. Isaac*: “The Torah encompassed a broad scope in respect to the cleanness of seeds. What is the occasion? ‘And if any part of their carcass falls on any seed for sowing that is to be sown, it shall be clean’ (Lev. 11:37).”

[I:2 A] *It was taught as a Tannaite rule*: **[Produce grown in an unperforated pot] is liable to tithes only on the basis of received law, but its heave-offering does not impose the status of heave offering on unconsecrated produce with which it is mixed and non-priests who unintentionally eat it are not liable on its account for the added fifth [T. Dem. 5:25].**

[B] On an unperforated pot: *R. Yosé asked*, “What is the law as to saying over bread made from grain grown in the pot, ‘Who brings forth bread from the earth?’”

[C] On an unperforated pot: *R. Yonah asked*, “What is the law as to regarding as detached a gourd planted in a perforated pot and using the gourd for sukkah-roofing?”

[D] On an unperforated pot: *R. Judah bar Pazzi asked*, “If a farmer planted five vines in five unperforated pots and arranged them by placing two vines opposite two others with one extending out like a tail, does this qualify as a vineyard? But if he turned the vines so that they no longer exhibit the stated pattern, is it still forbidden to sow among them?”

[E] Is a vineyard movable?

[II:1 A] **He who carries a perforated pot [containing another kind] through the vineyard — if [while he carried the pot through the vineyard] it [i.e., the seeds of the other kind] increased in size by [one] two-hundredth — it is prohibited [i.e., it sanctifies the vines]:**

- [B] Samuel said, “**He who carries a perforated pot [containing another kind] through the vineyard** — that is, he who carries a perforated pot containing another kind under each vine. [It actually overshadowed the vines.]”
- [C] Said R. Yohanan, “The Mishnah speaks of a case in which one carried the perforated pot within the airspace of ten handbreadths above the ground. [It entered the airspace of the vineyard.]”
- [II:2 A] If one carried five unperforated pots [containing another kind] under a single vine — *that brings us to the dispute of R. Eleazar and R. Yohanan.*
- [B] [R. Eleazar says,] “That which forbids is not forbidden [the grain], but that which does not forbid [that is, the vines] is forbidden?”
- [C] But if he carried a single pot under vine vines, all concur that that which forbids [the plant in the pot] is forbidden.

YERUSHALMI KILAYIM

CHAPTER EIGHT

8:1

- [A] Diverse-kinds of the vineyard [i.e., another kind growing in a vineyard] are prohibited from being sown and being allowed to grow,
- [B] and are prohibited in respect to benefit [i.e., one may not profit from them in any way].
- [C] Diverse-kinds of seeds [i.e., two kinds of seeds growing together] are prohibited from being sown and being allowed to grow,
- [D] but (*w*) are permitted in respect to eating [i.e., one may eat the produce of the seeds],
- [E] and all the more so in respect to benefit [i.e., one may profit from them].
- [F] Diverse-kinds of garments [i.e., garments composed of a mixture of wool and linen] are permitted in every respect [e.g., one may manufacture them],
- [G] and are prohibited only from being worn.
- [H] Diverse-kinds of animals [i.e., the offspring of the mating of two kinds of animals] are permitted to be reared and maintained,
- [I] and are prohibited only from being bred [i.e., one may not breed one kind of animal with another].
- [J] Diverse-kinds of animals [i.e., the offspring of the mating of two kinds of animals] are prohibited [i.e., may not be mated] with one another.
- [I:1 A] Diverse-kinds of the vineyard [i.e., another kind growing in a vineyard] are prohibited from being sown and being allowed to grow:

- [B] It is written, “You shall not sow your vineyard with diverse kinds” (Dt. 22:9).
- [C] I know only that that concerns one who sows diverse-kinds. How do I know that it applies to one who allows diverse-kinds to grow?
- [D] Scripture says, “The yield of the vineyard” (Dt. 22:9) — and not diverse-kinds under any circumstances.

[I:2 A] Diverse-kinds of the vineyard [i.e., another kind growing in a vineyard] are prohibited from being sown and being allowed to grow:

- [B] Does this concur with the view of R. Aqiba, for **R. Aqiba says, “He who allows diverse-kinds to grow transgresses a negative commandment” [T. Kil. 1:15].**
- [C] Said R. Yosé, “It represents the view of all authorities. All concur with respect to a prohibition that is prohibited when one did not achieve the prohibited deeds through a concrete action. But if he did achieve the prohibited deed through an action, he is flogged.”
- [D] *That accords with what has been taught on Tannaite authority: he who covers over seeds of diverse-kinds is flogged.*

[II:1 A] How do we know that they are prohibited in respect to benefit [i.e., one may not profit from them in any way]?

- [B] Here it is said, “lest the whole yield be sanctified” (Dt. 22:9), and there it is said, “The graven images of their gods you shall urn with fire; you shall not covet the silver or gold that is on them or take it for yourselves, lest you be ensnared by it” (Dt. 7:25). Just as “lest” used there refers to that which is prohibited with regard to benefit, so the word “lest” used here refers to that which is prohibited with regard to benefit.
- [C] *And there are those that wish to say:* Here it is said, “lest the whole yield be sanctified” (Dt. 22:9) and later on it is said, “Neither shall there be a sanctified one of the sons of Israel” (Dt. 23:18). Just as “sanctified” used there refers to that which is prohibited with regard to benefit, so the word “sanctified” used here refers to that which is prohibited with regard to benefit.
- [D] But is a male cult prostitute prohibited with regard to deriving benefit?
- [E] Said R. Huna, “Having sexual relations with him is forbidden with regard to benefit.”

[F] *And there are those that wish to say:* Said R. Hanina, “lest the whole yield be sanctified’ (Dt. 22:9) — lest it be burned by fire.”

[II:2 A] It is written, “You shall not sow your vineyard with diverse kinds” (Dt. 22:9).

[B] “This teaches that one is liable only if he sows two kinds of produce in the vineyard,” the words of R. Josiah.

[C] R. Jonathan said, “Even a single kind.”

[D] *According to R. Jonathan,* it is written, “You shall not sow your field with diverse kinds” (Lev. 19:19). For what purpose is it written, “You shall not sow your field with diverse kinds” (Lev. 19:19)?

[E] *Associates say,* “To impose a strict rule on the farmer: , “Even a single kind.”

[F] *According to R. Josiah,* “You shall not sow your vineyard with diverse kinds” (Dt. 22:9). For what purpose is it written, “You shall not sow your vineyard with diverse kinds” (Dt. 22:9)?

[G] *Associates say,* “For the purpose of an admonition. For if they admonished him that he was about to transgress on account of ‘your field’ (Lev. 19:19) he is flogged for sowing two kinds of herbs or grains. And if they admonished him that he was about to violate the law on account of ‘your vineyard’ (Dt. 22:9), he is flogged for sowing in a vineyard.”

[II:3 A] Said R. Abun bar Hiyya, “[“You shall not sow your vineyard with diverse kinds” (Dt. 22:9)] is necessary to give the vineyard a different measurement of the area that one must sow with two kinds of seeds to incur liability. There, in the case of sowing together different kinds of seeds, one is liable only if he sows two kinds of seeds in an area of six handbreadths square, but here in the kinds of sowing different kinds of seeds in a vineyard, one is liable only if he sows two kinds of seeds in an area measuring four cubits square.”

[II:4 A] *With what sort of a concrete case do we deal?*

[B] If it is a case in which the farmer built a wall [surrounding the two kinds] inside the vineyard, the vineyard is nullified [in regard to the diverse-kinds]. If it is a case in which the farmer made a wall surrounding the two kinds outside of the vineyard and surrounding it, the area in which the seeds are sown is outer space [which has its own measurements].

- [C] *Rather, we are dealing with the case involving a field in which there was a field of crops [a vineyard], and he cleared within it a space of four cubits square and sowed the seeds there.*
- [D] *And this is in accord with what R. Hanina said, “That which is forbidden cannot turn into a valid partition in order to save one kind from another.”*
- [E] They drew the conclusion that a forbidden item does become a valid partition to prohibit sowing one kind among another kind.
- [II:5 A] *According to the view of R. Jonathan, it is written, “You shall not sow your field with diverse-kinds” (Lev. 19:19). For what reason does Scripture say, “You shall not sow your vineyard with diverse kinds” (Dt. 22:9)?*
- [B] *It is comparable to what R. Hila said, “Concerning what is said in Scripture you do not say, ‘why is it said?’” [When the entire verse is shown to be necessary, we do not have to spell out why each part of the verse is stated.]*
- [C] *Or is it comparable to what R. Zeira said, “You shall not sow your vineyard with diverse-kinds” (Dt. 22:9) — ‘the basis of your vineyard you shall not sow with diverse kinds.’”*
- [D] *R. Yudan the Cappodocian asked in the presence of R. Yosé, “There you said, ‘tree-seeds are not called seeds, [and may be sown with seeds of herbs or grain] but here you say that tree-seeds are called seeds [and may contract uncleanness].”*
- [E] He said to him, “There in the case of diverse-kinds Scripture said, ‘the seed that you have sown’ (Dt. 22:9) and so excluded what people are not accustomed to call seeds. *But here* Scripture included them, ‘And if any part of their carcass falls upon any seed for sowing that is to be sown, [it is clean. But if water be put on the seed and any part of their carcass falls on it, it is unclean to you’ (Lev. 11:37).”
- [II:6 A] Said R. Yannai, “He who covers seeds of diverse kinds with dirt is flogged.”
- [B] Said to him R. Yohanan, “*But has it not stated as a Tannaite rule: There is one who ploughs a single furrow and is liable on eight counts of violating a negative commandment: [specifically, it is] he who (1) ploughs with an ox and an ass [Dt. 22:10], which are [2, 3] both Holy Things, in the case of (4) [ploughing] Mixed Seeds in a vineyard [Dt. 22:9], (5) in the Seventh Year [Lev. 25:4], (6) on a festival [Lev. 23:7] and who was both a (7) priest [Lev. 21:1] and*

(8) a Nazirite [Num. 6:6] [ploughing] in a graveyard [M. Mak. 3:9]? How can one be liable for diverse kinds through plowing? Doesn't the law concern one who covers over seeds of diverse kinds?"

[C] *And R., Yannai praised him as follows: "Those who lavish gold from a purse" (Is. 46:6). "My son, let them not escape from your sight" (Prov. 4:21). "Give to a wise man and he will be still wiser" (Prov. 9:9). "The wise man will hear and increase in learning" (Prov. 1:5).*

[D] *Said to him R. Simeon b. Laqish, "After all this flattery I can explain the cited passage to cohere with the view of R. Aqiba. For R. Aqiba said, 'He who allows diverse-kinds to grow violates a negative commandment' [T. Ki. 1:15]."*

[E] But did R. Aqiba say only, "**violates a negative commandment**"? Maybe he said, "receives a flogging"? *But here we are concerned with the item, "receives a flogging."*

[F] *And moreover, from what we have learned as a Tannaite rule, "in the seventh year," can you say that [M. Mak. 3:9] refers in the view of R. Aqiba to the Seventh Year?*

[II:7 A] R. Eleazar says, "People receive a flogging on the count of plowing in the Sabbatical Year."

[B] R. Yohanan said, "People do not receive a flogging on the count of plowing in the Sabbatical Year."

[C] *What is the scriptural basis for the position of R. Eleazar?*

[D] "In the seventh year there shall be a Sabbath of solemn rest for the land, a Sabbath to the Lord" (Lev. 25:4) — a general rule.

[E] "You shall not sow your field or prune your vineyard" (Lev. 25:4) — a specific explication.

[F] [The former represents a general statement, the latter a specific explication of the general statement.]

[G] Sowing and pruning were part of the general rule, and why are they explicitly stated? It is to build an analogy on them and to rule as follows: Just as sowing and pruning are distinctive in that they represent work on the land and on trees, so I prohibit only acts of labor which represent work on the land or on trees. [Now this would encompass plowing.]

[H] *How does R. Yohanan treat the verses [for in D he does not impose a flogging]?*

- [I] You have two distinctive acts of labor, and they are two matters which have been treated as distinctive as apart from the general rule which covers them. Is it for the purpose of making a distinction [and indicating that if one does either of them in a single act of inadvertence, he is liable on the count of each]? [No, the purpose then is not to encompass plowing as a forbidden act of labor in the Sabbatical Year.] [Following Y. San, a negative is deleted.]
- [J] *In the opinion of R. Eleazar* are they treated as not making up distinctive acts of labor [so one would not be liable on the count of each, as explained]?
- [K] But surely he should treat them as distinctive actions[, for on the count of each of which one should be liable].
- [L] They are not treated as distinctive acts, but they do serve to provide a lesson [as specified above, covering other actions which are going to be prohibited, e.g., plowing].
- [M] [Now we turn to R. Yohanan, and ask,] In the view of R. Yohanan do they not serve to provide further lessons [about other acts of labor which, like them and sharing their traits, will be forbidden]?
- [N] The rule is different here [on which case we cannot derive further lessons], for we have a case in which the general rule is expressed in affirmative language, while the specification illustrative of the rule is expressed in negative language,
- [O] and a commandment stated in affirmative language does not serve to impart lessons concerning a commandment stated in negative language, nor does a commandment stated in negative language teach lessons concerning a commandment stated in affirmative language.
- [P] Said R. Eleazar, “A commandment stated in affirmative language does teach lessons concerning commandments stated in negative language,
- [Q] “but a commandment stated in negative language does not teach lessons concerning a commandment stated in affirmative language.”
- [R] *Now in accord with the position of R. Yohanan, we have no problem. It is permitted in the Sabbatical Year to dig wells, caves, and caverns [for this is not a prohibited act of agricultural labor in the Sabbatical Year].*
- [S] *But in the opinion of R. Eleazar, what is the law as to digging wells, caves, and caverns [given that plowing is prohibited]? Just as the [cited verses] do not teach lessons for one another for matters subject to a prohibition, so they do not provide lessons concerning matters which*

are permitted [so far as Yohanan is concerned]. [But so far as Eleazar is concerned, it will be permitted to dig.]

- [T] Said R. Ba Qartegenah: “The scriptural basis for the position of R. Yohanan [that plowing is permitted in the Sabbatical Year] is as follows:
- [U] “‘Six years you shall sow your field’ (Lev. 25:3) — not in the Seventh Year, a general rule.
- [V] “‘Six years you shall prune your vineyard and gather in its fruits’ (Lev. 25:3) — not in the Seventh Year.
- [W] “Any negative commandment which is derived from an affirmative statement is deemed itself to be an affirmative statement, and [one who violates it] has violated an affirmative statement. [But it is permitted to plow.]”
- [X] R. Yosé says, “Even the consideration of an affirmative commandment is not present in such a case, [and the prohibition of plowing does not derive from the Torah.]”
- [Y] R. Jeremiah said, “One thereby violates an affirmative statement.”
- [Z] *And is it not fully spelled out:* “There shall be a Sabbath of solemn rest for the land, a Sabbath to the Lord” (Lev. 25:4)?
- [AA] This serves the purpose of [imposing the penalty of flogging on those who violate] the negative rules of the Sabbath Year [that are already explicit in the Bible — and not to include additional activities].
- [BB] Is it possible that [people] should be flogged on account of the additional period [added on to the Sabbatical Year, in which time the negative rules also apply]? [That is, during a number of months prior to the advent of the Sabbath Year, certain acts of agricultural labor may not be carried out because the benefit therefrom will be felt in the Sabbatical Year itself.]
- [CC] R. Yohanan explains the teaching as follows:
- [DD] Is it possible that people should be flogged on the count of plowing in the Seventh Year? [Surely not.].
- [EE] *R. Eleazar explains the teaching as follows:* Is it possible that people should be flogged for violating the prohibitions stated in the first two chapters [of Tractate Shebi’it]? [Surely not.]
- [FF] *There is a Tannaite authority who teaches,* “And six years you should sow your field, and six years you should prune your vineyard,” *and*

there is a Tannaite authority who repeats the tradition, “You should not sow ... you should not prune...”

- [GG] *The one who said, “Six years ...” supports the position of R. Yohanan, and the one who said, “... your field you should not sow” supports the position of R. Eleazar.*
- [HH] *The following pericope differs from the position of R. Eleazar:*
- [II] [“Take heed lest you offer your burnt offerings at every place that you see; but at the place which the Lord will choose in one of your tribes, there you shall offer your burnt offerings, and there you shall do all that I am commanding you” (Deut. 12:13-14).] “Take heed” — stated as a negative commandment.
- [JJ] “Lest” — stated as a negative commandment.
- [KK] And it is written, “There you shall offer your burnt offerings....”
- [LL] “There you shall offer up” — this refers to the offering up.
- [MM] “And there you shall do” — this refers to the act of slaughtering [the beast] and sprinkling [the blood].
- [NN] Just as the act of offering up is stated in affirmative language, and lo, it also is subject to a negative commandment, so the act of slaughtering [the beast] and sprinkling [the blood], which are stated in affirmative language, should be subject to a negative commandment as well. [So we have a negative commandment deriving from one phrased in affirmative language. The net result is contrary to Eleazar’s exegetical position at R- S.]
- [OO] Since it is written, “There you shall offer up ... and there you shall do ...,” lo, if it were not written, “There you shall offer up and there you shall do ...”
- [PP] you would not have a case in which a religious commandment stated in affirmative language teaches concerning one stated in negative language.
- [QQ] and one stated in negative language does not teach any rules governing one expressed in affirmative language [as is Yohanan’s view]. [The affirmative and negative rules do not have a bearing on one another, exactly as Yohanan maintains.]
- [RR] Now how does R. Eleazar deal with this same matter?
- [SS] So that you should not interpret the matter as you do in regard to the Sabbath law:

- [TT] If one has dug a hole, plowed a furrow, and dug a ditch, he should be liable on only a single count [treating all as part of a single category of labor].
- [UU] *And similarly* if one has slaughtered [a beast], sprinkled [its blood] and offered it up, he should be liable on only a single count.
- [VV] *Accordingly it was necessary to state matters as they are stated*, so that one will be liable on each count by itself [as Scripture specifies].
- [II:8 A] R. Zeira, R. Hiyya bar Ashi in the name of Kahana: “He who plants a tree during the Sabbatical year is liable on account of sowing.”
- [B] R. Zeira said, “He who prunes is like him who plants, [for he causes the tree to grow.]”
- [C] If he planted a tree and pruned it on the Sabbath —
- [D] *According to the rule of Kahana*, he is liable on two counts [sowing and pruning].
- [E] *According to the rule of R. Zeira*, he is liable on one count [pruning].
- [F] But did R. Zeira say only, “He who prunes is like him who plants”? Perhaps “he who plants is like him who prunes”?
- [G] All actions were encompassed under the general rule of sowing, and pruning was made explicit to impose a more stringent ruling [that he is liable on two counts [sowing and pruning].
- [H] And because pruning was specified to impose a more stringent ruling do you exempt planting on account of sowing?
- [I] *So there is no difference whether in the view of Kahana or in the view of R. Zeira*, he is liable on two counts.

8:2

- [A] (1) A domesticated animal with a domesticated animal, (2) and a wild animal with a wild animal, (3) a domesticated animal with a wild animal, (4) and a wild animal with a domesticated animal,
- [B] (1) an unclean [animal] with an unclean [animal], (2) and a clean [animal] with a clean [animal], (3) an unclean [animal] with a clean [animal], (4) and a clean [animal] with an unclean [animal],
- [C] are [each] prohibited [from being joined together] to plow, draw [e.g., a wagon], or be led.

- [D] **He who leads [a pair of animals of different kinds] incurs the forty lashes.**
- [E] **And he who sits in a wagon [drawn by a pair of animals of different kinds] incurs the forty [lashes].**
- [F] **R. Meir exempts [one sitting in the wagon from the forty lashes].**
- [G] **And a third [animal] which is tied to the harness of a wagon drawn by a pair of animals of another kind] is prohibited.**
- [I:1 A] **A domesticated animal with a domesticated animal, are permitted to be reared and maintained, and are prohibited only from being bred [i.e., one may not breed one kind of animal with another]:**
- [B] Might one suppose that one should not stand male animals next to female animals so that they may mate, nor females next to males?
- [C] Scripture says, “You shall not cause your animal to copulate with a different kind” (Lev. 19:19) — you are forbidden only to cause the animals to copulate. But one may stand male animals next to female animals or females next to males.
- [D] [you are forbidden only to cause the animals to copulate]: But did the farmer do a concrete deed [that he should be forbidden from causing the animals to copulate?]
- [E] No, it is a case in which the male animal put seed in the female, and did so with the owner’s consent.
- [I:2 A] **Isi b. Aqabya says, “It is prohibited to ride on the back of a mule,**
- [B] **“[as we learn] from an argument a fortiori: If, in a case in which it is permitted to wear two garments [i.e., one of wool and one of linen] as one [i.e., together], lo, he is prohibited in respect to [wearing a garment composed of] their mixture [i.e., a mixture of the two materials], in a case in which it is prohibited to lead two animals [of different kinds] as one [i.e., together], is it not logical that it should be prohibited in respect to [using an animal composed of] their mixture [i.e., a mixture of the two kinds of animals]?”**
- [C] **They said to him, “Lo, it [i.e., Scripture] says, Then all the king’s sons arose and each mounted his mule and fled’ (2 Sam. 13:29).”**
- [D] **They do not derive a law from the practices of royalty. But it is written, “[Take with you the servants of your lord,] and cause Solomon my son to ride on my own mule, and bring him down to Gihon’ (1 Kings 1:33)”**

- [E] **He said to them, “They do not respond from Tekoa [i.e., they do not rule on the basis of the practices of townspeople (e.g., David, who was not a legal authority)].”**
- [F] **They said to him, “Lo, it [i.e., Scripture] says, ‘And David did what was right in the eyes of the Lord, and did not turn aside from anything that he commanded him all the days of his life, except in the matter of Uriah the Hittite’ (1 Kings 15:5).”**
- [F] The mule was a creature from the Six Days of Creation and not a hybrid [T. Kil. 5:6].
- [I:3 A] **[He who leads [a pair of animals of different kinds] incurs the forty lashes]:** R. Hama bar Uqba in the name of R. Yosé b. R. Haninah said, “He who leads diverse kinds of animals with oral commandments is flogged.”
- [B] *And so it was taught on Tannaite authority:* If he led it, pulled it or called it and it followed and an accident took place], he is liable to pay for it like a borrower.
- [C] *But has not Samuel taught as a Tannaite rule:* “If it was standing outside the Sabbath limit and he called it and it came, lo, this one is exempt from penalty.
- [D] *There* the animal comes of its own accord [the owner is not nearby], *but here*, the animal goes against its will [the owner is nearby].
- [E] *And has it not been taught as a Tannaite rule:* If the owner struck [not on the eye but] opposite the eye of a Canaanite slave and blinded him, or opposite his ear and deafened him, he shall not go free.
- [F] *Said R. Eleazar b. R. Yosé before R. Yosé, “That case is different, because he can flee [before the sound reaches him.] You may know that this is so, for it has been taught as a Tannaite rule:* If one grabbed another and made him deaf by means of sound, he is liable.”
- [II:1 A] **And he who sits in a wagon [drawn by a pair of animals of different kinds] incurs the forty [lashes]. R. Meir exempts [one sitting in the wagon from the forty lashes].**
- [B] Rabbis say, “He is dead weight [and by shifting in the wagon he causes the animal to pull it].”
- [C] R. Meir said, “He is not dead weight.”
- [III:1 A] **And a third [animal] which is tied to the harness of a wagon drawn by a pair of animals of another kind is prohibited.**

[B] At first there were only two horses pulling chariots: “And he made him ride in his double chariot” (Gen. 41:43). Pharaoh went and made three horses pull chariots: “With three on all of them” (Ex. 14:6). The wicked empire [Rome] went and made the four.

8:3

[A] **They do not tie a horse either to the sides of a wagon or to the rear of a wagon [drawn by a pair of animals of another kind],**

[B] **nor [do they tie] a Libyan ass to camels.**

[C] **R. Judah says, “All offspring of a [female] horse, even though their sires are ass[es], are permitted with one another.**

[D] **“And so offspring of a [female] ass, even though their sires are horse[s], are permitted with one another.**

[E] **“But the offspring of a [female] horse with [i.e., and] the offspring of a [female] ass are prohibited with one another.”**

[I:1 A] **They do not tie a horse either to the sides of a wagon or to the rear of a wagon [drawn by a pair of animals of another kind]:**

[B] *It was taught as a Tannaite tradition: R. Meir declares him exempt. But if the horse aided in the movement of the wagon, whether going up or going down, all concur that tying the horse to the wagon is forbidden [T. Kil. 5:4].*

[I:2 A] Said R. Yohanan, “[**They do not tie a horse either to the sides of a wagon**] because this animal adopts the laziness of that one, and that animal adopts the laziness of this one.”

[B] Rab said, “[**They do not tie a horse either to the sides of a wagon**] because the animals carry the interconnecting rope [between the horse and the wagon.]”

[I:3 A] *R. Jeremiah asked, “If he tied the horse to the wagon by its hair, what is the law?”*

[B] *With what sort of case do we deal?*

[C] If it is a case in which one tied the horse directly to the wagon by its hair, do we say, “It is forbidden to make one animal ride on the back of another”?

[D] If we are concerned with a case in which someone tied the rope to the horse by its hair, let us say it is forbidden because they carry the interconnecting rope that lies between the horse and the wagon.

[I:4 A] *R. Jonah said, “Rab and R. Yohanan differed. R. Yohanan said, ‘[They do not tie a horse either to the sides of a wagon] because this animal adopts the laziness of that one, and that animal adopts the laziness of this one.’ Rab said, ‘[They do not tie a horse either to the sides of a wagon] because the animals carry the interconnecting rope [between the horse and the wagon.]”*

[D] *What is the practical difference between them?*

[E] *One who tied the rope to the horse by its hair. But if he tied the horse to the wagon by its hair. In the opinion of Rab and in the opinion of R. Yohanan, he is exempt from liability.*

[II:1 A] **nor [do they tie] a Libyan ass to camels:**

[B] *There is a Tannaite authority who reads the word for Libyan ass as libaqas, There is a Tannaite authority who reads the word for Libyan ass as nibdaqus.*

[C] *The Tannaite authority who reads the word for Libyan ass as libaqas derives the name from Libya: “And the Libyans and Ethiopians shall follow in his train” (Dan. 11:43).*

[D] *The Tannaite authority who reads the word for Libyan ass as nibdaqus derives the name from ambatis.*

[E] *What is an ambatis?*

[F] *It is an ass that climbs on the female ass for purposes of mating.*

[G] *R. Jonah, R. Hoshayya asked, “Proselytes who derive from Libya — what is the law as to waiting for three generations before accepting them into Israel as one does for Egyptians [at Dt. 23:8-9]?”*

[H] *Said R. Jonah of Bosrah, “From what we see in the Egyptian bean, when it is moist we call it a Libyan bean and when it is dry we call it an Egyptian bean, we learn that a Libyan proselyte must wait for three generations before accepting them into Israel.”*

[I] *This means that Libya and Egypt are considered to be one and the same.*

[J] *R. Isaac bar Nahman in the name of R. Hoshayya: “The law is in accord with the ruling of the student [Jonah of Bosrah, disciple of R. Hoshayya].”*

[III:1 A] **R. Judah says, “All offspring of a [female] horse, even though their sires are ass[es], are permitted with one another. And so offspring of a [female] ass, even though their sires are horse[s], are**

permitted with one another. But the offspring of a [female] horse with [i.e., and] the offspring of a [female] ass are prohibited with one another.”

[B] **In accord with the ruling of the sages, every kind of mule is considered to belong to the same kind [T. Kil. 5:5].**

[C] What are the indicators [that differentiate one mule from another kind of mule]?

[D] Said R. Jonah, “Any with small ears — the dam is a horse and the sire is an ass. And every mule with big ears — the dam is an ass and the sire is a horse.”

[E] *R. Mana instructed the members of the household of R. Yudan the Patriarch, “If you want to buy mules, buy them with small ears, for the dam is a horse and the sire is an ass.”*

[F] [In man,] the white substance comes from the man, from which derive the brain, bones and tendons. And the red substance comes from the woman, from which derive skin, flesh and blood. And the breath and soul and spirit come from the Holy One, blessed be he. And all three of them are partners [in the new creation.]

[G] R. Ba, R. Judah in the name of Rab: “Sages agree with R. Judah on mating a mule that looks like a horse born of a male horse and female ass, with a male that looks like an ass born of a male ass and a female horse, that it is forbidden.

[III:2 A] R. Haggai, R. Zeira in the name of R. Isi: “The offspring of goats and fat-tailed sheep are forbidden to mat with one another.”

[B] *And don't we say along these same lines: Mating a hybrid that looks like a goat born of a male goat and a female fat-tailed sheep with a hybrid that looks like a fat-tailed sheep born of a male fat-tailed sheep and a female goat is forbidden.*

8:4

[A] **Mules of unknown parentage are prohibited [from being mated with one another].**

[B] **But a mule foaled by a horse is permitted [to be mated with a like animal].**

[C] (1) And “wild men” are [considered a kind of] wild animal.

[D] **R. Yosé says, “[When dead] they convey uncleanness in a tent like a man.”**

- [E] (2) A hedgehog and (3) a weasel are [each considered a kind of] wild animal.
- [F] The weasel —
- [G] R. Yosé says, “House of Shammai say, ‘[When dead] it conveys uncleanness in an olive’s bulk by being carried, and in a lentil’s bulk by contact [to the person touching it].’”
- [H] (1) A wild ox is [considered] a kind of domesticated animal.
- [I] And R. Yosé says, “[It is considered] a kind of wild animal.”
- [J] (2) A dog is [considered] a kind of wild animal.
- [K] R. Meir says, “[It is considered] a kind of domesticated animal.”
- [L] (3) A swine is [considered] a kind of domesticated animal.
- [M] (4) An Arabian onager is [considered] a kind of wild animal.
- [N] (5) An elephant and a monkey are [considered] kind[s] of wild animal[s].
- [O] And a man is permitted [to be joined] with all of them [i.e., with either a wild or domesticated animal] to pull [e.g., a wagon], plow, or be led.
- [I:1 A] Mules of unknown parentage are prohibited [from being mated with one another] But a mule foaled by a horse is permitted [to be mated with a like animal]:
- [B] R. Immi in the name of R. Eleazar: “A mule foaled by a horse *is a horse that does not take a bridle.*”
- [C] “As you say, ‘The sons of the mares’ (Est. 8:10).”
- [II:1 A] And “wild men” are [considered a kind of] wild animal:
- [B] *Issai Arqi: “He is a mountain-man and lives from his umbilical cord [which is attached to the ground]. If the cord is cut, he does not live.”*
- [III:1 A] R. Yosé says, “[When dead] they convey uncleanness in a tent like a man.”
- [B] R. Hama bar Uqba in the name of R. Yosé b. Hanina: “The scriptural basis for the ruling of R. Yosé: ‘And whoever touches on the face of the field, one who is slain with a sword or a dead body or a bone of a man or a grave shall be unclean for seven days’ (Num. 19:16) — ‘And whoever touches on the face of the field’ — one who grows upon the face of the field.”
- [III:2 A] Yerodot and ostriches are considered like birds in every respect [T. Kil. 5:8].

- [B] And the snake is classified as a wild beast.
- [IV:1 A] **(2) A hedgehog and (3) a weasel are [each considered a kind of] wild animal. The weasel — R. Yosé says, “House of Shammai say, ‘[When dead] it conveys uncleanness in an olive’s bulk by being carried, and in a lentil’s bulk by contact [to the person touching it].’”**
- [B] R. Hiyya in the name of R. Yohanan: “There are six matters subject to doubt:
- [C] “Whether a caper is included as a tree is a matter of doubt according to the House of Shammai [T. Kil. 3:17].
- [D] “Whether a utensil of alum-crystal is included among clay utensils is a matter of doubt according to the House of Shammai.
- [E] “Whether a weasel is included among creeping things is a matter of doubt according to the House of Shammai.
- [F] “Whether an Egyptian bean is included among crops sown for the sake of their seeds [T. Kil. 2:8].
- [G] “Whether an androgyne is included among men [T. Bik. 2:3].
- [H] “Whether a koy is included among wild animals [M. Bik. 2:8].”
- [I] [The three cases at the end] represent the opinion of all parties.
- [J] R. Hama bar Uqba said, “ ‘**And the cubit of the dividing space [M. Mid. 4:7]**’ [between the Holy and the Holy of Holies is a matter of doubt too].”
- [K] What is the **And the cubit of the dividing space**?
- [L] R. Jonah of Bosra said, “It caused confusion. Was it inside or outside the Holy of Holies?”
- [M] Said R. Yosé, “On the basis of that which is written, ‘And forty cubits was the front part of the house, that is the great hall’ (1 Kgs. 6:17) — it is implied that the cubit of the divided space as considered within the Holy of Holies.”
- [N] Said to him R. Mana, “But it is written, ‘And he made the Holy of Holies twenty cubits long and twenty wide’ (2 Chr. 3:8) — implying that the cubit of the dividing space was considered outside of the Holy of Holies.”

[V:1 A] **A wild ox is [considered] a kind of domesticated animal. And R. Yosé says, “[It is considered] a kind of wild animal.”**

[B] *Rabbis say, “It was originally from here [a settled area] and it fled there [to the wilderness] but still is regarded as a domesticated animal.”*

[C] *R. Yosé said, “It originated there [and so it is considered a kind of wild animal.”*

[D] So “an ox and a wild ox are not considered diverse-kinds with one another” is not in accord with the position of R. Yosé, for R. Yosé said, “They are diverse-kinds.”

[E] *And those that translate “and a t’o and a zamer” (Dt. 14:5) as “a wild ox and raamanin” concur with R. Yosé.*

[V:2 A] R. Abba in the name of Samuel: “A goose and a wild goose are considered diverse-kinds with one another.”

[B] *A goose and a water-goose: R. Judah b. Pazzi of Bardela taught a Tannaite rule on that matter, but we don’t know what he taught.*

[C] It is an argument a fortiori: If when both types of geese live on land, you say that it is forbidden to make them, when one lives on land and the other on the sea, all the more so is it forbidden to mate one with the other.

[VI:1 A] **And a man is permitted [to be joined] with all of them [i.e., with either a wild or domesticated animal] to pull [e.g., a wagon], plow, or be led.**

[B] It is written, “You shall not plow with an ox and an ass together” (Dt. 22:10).

[C] With an ox and an ass together you may not plow, but you may plow with an ox and a man together or with an ass and a man together.

YERUSHALMI KILAYIM

CHAPTER NINE

9:1

- [A] Nothing is prohibited on account of [the laws of] diverse-kinds except [a garment composed of a mixture of] wool and linen.
- [B] Nor is anything susceptible to uncleanness through plagues [Lev. 13-14] except [a garment composed of either] wool or linen.
- [C] Nor do priests wear anything to serve in the Temple except [garments composed of either] wool or linen.
- [D] Camel's hair and sheep's wool that one hackled [i.e., combed] together —
- [E] if the greater part is from the camels, it is permitted [to mix the fibers with flax].
- [F] But if the greater part is from the sheep, it is prohibited [to mix the fibers with flax].
- [G] [If the quantity of camel's hair and sheep's wool is divided] half and half — it is prohibited [to mix the fibers with flax].
- [H] And so [is the rule for] flax and hemp that one hackled together [i.e., if at least half of the hackled fibers are of flax, it is prohibited to mix them with wool].
- [I] Silk and bast-silk are not subject to [the laws of] diverse-kinds,
- [J] but are prohibited for appearance's sake.
- [K] Mattresses and cushions [composed of a mixture of wool and linen] are not subject to [the laws of] diverse-kinds,
- [L] provided that one's flesh is not touching them [while one sits or lies on them].
- [M] There is no [rule permitting] temporary use in respect to diverse-kinds [of garments].
- [N] And one shall not wear [a garment of] diverse-kinds even on top of ten [garments],

- [O] **even to avoid [paying] customs-dues.**
- [I:1 A] **Nothing is prohibited on account of [the laws of] diverse-kinds except [a garment composed of a mixture of] wool and linen:**
- [B] It is written, “You shall not wear mingled stuff, wool and linen together” (Dt. 22:11).
- [C] [If Scripture had said only this,] I might have supposed that one is forbidden only to wear garments of wool and linen.
- [D] Scripture states, “There shall not come upon you a garment of cloth made of two kinds of stuff” (Lev. 19:19).
- [E] [If Scripture had said only “There shall not come upon you,” I might have said that he should not even toss material of wool and linen in a bundle over his shoulder.
- [F] Scripture says, “You shall not wear mingled stuff, wool and linen together” (Dt. 22:11).
- [G] Just as clothing is something that gives comfort to the body, so I know that the prohibition applies only to that which gives comfort to the body.
- [H] If the prohibition of diverse-kinds applies only to garments, why is it said, “There shall not come upon you a garment of cloth made of two kinds of stuff” (Lev. 19:19)?
- [I] R. Neha bar Saba, R. Jonah in the name of R. Zeira: “For if there were a large garment, one end of it containing mingled stuff and that sets on the ground, and the other end of which does not contain mingled stuff, he shall not cover himself with the other end [that does not contain mingled stuff.”
- [I:2 A] [“You shall not wear mingled stuff, wool and linen together” (Dt. 22:11):] [If Scripture had said only linen,] Even sea-flax or hemp is forbidden from being mixed with wool.
- [B] Scripture says, “wool and linen,” — just as wool as stated in the verse does not bear a qualifying adjective, so everything in the verse does not bear a qualifying adjective.
- [C] And how do I know that wool does not have a qualifying adjective?
- [D] Said R. Joshua b. Levi, “It is written, ‘And Mesha king of Moab was a Noqed’ (2 Kgs. 3:4).
- [E] What is a Noqed? It is a shepherd.

- [F] “And he delivered to the king of Israel a hundred thousand lambs and a hundred thousand rams” (2 Kgs. 3:4) Ç for wool.
- [G] You have that which is called “wool” only plain wool.
- [II:1 A] **Nor is anything susceptible to uncleanness through plagues [Lev. 13-14] except [a garment composed of either] wool or linen: It is written, “And the garment when there will be in it a plague, a leprosy, in a garment of wool or in a garment of linen” (Lev. 13:47) — Might one suppose that they should be susceptible to uncleanness whether dyed or not dyed?**
- [B] **Scripture says, “On a garment of wool or on a garment of flax” (Lev. 13:47).**
- [C] **Just as flax is susceptible only in its original state [not dyed], so is wool susceptible in its original state.**
- [D] **I shall therefore exclude that which is dyed by man, but I shall not exclude that which is dyed by Heaven.**
- [E] **Scripture specifies, “On the warp or on the woof of linen or wool” (Lev. 13:47) — Just as flax is white as when it was created, so wool must be white as when it was created [to be susceptible] [Sifra CXLIV:I 2].**
- [F] *We have learned two general rules and they are not like one another.*
- [G] *We have learned the Tannaite rule: **Nothing is prohibited on account of [the laws of] diverse-kinds except [a garment composed of a mixture of] wool and linen** — whether dyed or white.*
- [H] *We have learned the Tannaite rule: **Nor is anything susceptible to uncleanness through plagues [Lev. 13-14] except [a garment composed of either] wool or linen** only white garments.*
- [I] *R. Jonah of Bosrah asked before R. Mana, “There you say, whether dyed or white, and here you say, ‘only white garments’!”*
- [J] He said to him, “The latter case is different, for Scripture twice repeated the rule on wool, wool together with linen [at Lev. 13:47] but with regard to diverse kinds Scripture mentions it only once [at Dt. 22:11]. Just as linen is susceptible only in its natural condition, so wool is susceptible only in its natural condition.”
- [III:1 A] **Nor do priests wear anything to serve in the Temple except [garments composed of either] wool or linen:**

- [B] Said R. Zeira, “It is written, ‘He shall put on the holy linen coat’ (Lev. 16:4).
- [C] “The word for linen, *bd*, is because flax comes up singly [*bd*] — in a single stalk.”
- [D] But lo, wool comes up singly [in single tufts] [so the coat may have been made of wool].
- [E] Scripture explained in tradition, “And there shall not come upon them wool while they minister at the gates of the inner court and within” (Ez. 44:17).
- [F] Lo, outside of the inner court it is permitted for wool to come upon them.
- [G] How do I know that priests are permitted to wear garments of mingled stuff?
- [I] As it is said, “They also made the coats woven of linen for Aaron and his sons, and the headdress of linen, and turbans of linen, and linen breaches and girdle of linen and of blue and purple and scarlet stuff” (Ex. 39:17-19). You derive the meaning of the word given as linen with regard to the girdle (Ex. 39:29) from the use of the same word with regard to turbans (Ex. 39:28), the meaning of the same word with regard to turbans from the use of another particular word with regard to turbans, and the meaning of that word with regard to turbans from the use of the same word at Ez. 44:18 with regard to something made of linen.
- [J] Just as scarlet stuff comes from something that has in it the breath of life, so everything mentioned in the latter half of Ex. 39:29 comes from something that has in it the breath of life.
- [IV:1 A] Camel’s hair and sheep’s wool that one hackled [i.e., combed] together — if the greater part is from the camels, it is permitted [to mix the fibers with flax]. But if the greater part is from the sheep, it is prohibited [to mix the fibers with flax]. [If the quantity of camel’s hair and sheep’s wool is divided] half and half — it is prohibited [to mix the fibers with flax].**
- [B] [Scripture says, “wool and linen,”] — just as wool as stated in the verse does not bear a qualifying adjective, so linen does not bear a qualifying adjective.
- [V:1 A] if the greater part is from the camels, it is permitted [to mix the fibers with flax]:**

[B] R. Jonah, Ulla bar Ishmael in the name of R. Eleazar: “Wool and linen that one hackled together are forbidden.”

[C] What does he do [to get around the prohibition]? He brings a litra and a bit more of camel’s hair and nullifies the sheep’s wool, so it is now permitted to be mixed with flax.]

[D] Abba b. R. Huna in the name of R. Jeremiah: “Wool and linen that one hackled together — one has nullified them [and the mixture is permitted].”

[E] Rab said, “The mixture is forbidden.”

[F] *Does Jeremiah differ from Rab?*

[G] What Rab said applies to a case where he made a garment by itself [without adding a neutral fabric] *and what R. Jeremiah said involves one who wanted to mix wool with another type of wool, so that the wool would be annulled and the mixture permitted.*

[V:2 A] R. Hillel b. Valis had a garment worth three hundred thousand denars *and he gave it to Rabbi, who found mixed stuff in it and burned it.*”

[B] R. Mana had a garment worth three hundred thousand denars *and he gave it to R. Hiyya bar Ada. He said to him, “Sell it to a corpse and stay there until he is shrouded with it [for that is all for which it can now be used].”*

[C] Said R. Haggai, “*R. Samuel b. Isaac would bring a garment from the laundry and would seat ten tailors over it to examine it [to make sure the laundry process did not attach forbidden threads.]*”

[D] Said R. Haggai, “*R. Samuel bar R. Isaac would order in his house that a loom for wool not be set up before a loom for linen because of the fringes [that might be mixed up.]*”

[VI:1 A] **Silk and bast-silk are not subject to [the laws of] diverse-kinds:**

[B] The word for silk is given in Aramaic, and the word for bast-silk is cissaros blossom.

[C] Said Rabban Simeon b. Gamaliel, “I made the rounds of all the sailors and showed them the cissaros blossom and they said it is called kalkah.”

[VII:1 A] **but are prohibited for appearance’s sake:**

[B] Said Rab, “Whatever is prohibited for appearance’s sake is prohibited even in the most hidden venue.”

- [C] *The following Tannaite teaching contradicts the view of Rab:*
- [D] **Linen that one dyed with blacking — he shall not sell it to a gentile, and he shall not make it into a recognizable border of linen. [If he made it into a border] for mattresses and cushions, lo, this is permitted [cf. M. Kil. 9:2C-D] [T. Kil. 5:24].**
- [E] *The following Tannaite teaching contradicts the view of Rab:*
- [F] **He whose coins were scattered in the direction of an idol should not bend over before it to pick them up, because it looks as if he is bowing down to an idol. But he turns his back on the idol and collects the coins [with his behind toward the idol]. And in a place in which he is not seen, it is all right [to do it the other way] [T. A.Z. 6:4].**
- [G] *The following Tannaite teaching contradicts the view of Rab:*
- [H] **A spring that flows out of an idol--one should not bend down before it and drink, because he appears to bow down before an idol. But he turns his back and drinks. And in a place in which he is not seen, it is all right. Figures that spout out water in towns--one should not place his mouth on the mouth of the figurine and drink, because it appears that he is kissing the idol. But he collects the water in his hand and drinks it [T. A.Z. 6:5-6].**
- [I] *The following Tannaite teaching contradicts the view of Rab:*
- [J] **They do not perform an act of slaughter [in such a way that the blood falls) either into seas, or into rivers, or into utensils. But one slaughters [so that the blood falls] into a dish filled with water, or, [when on board] a boat, on to the backs of utensils. They do not slaughter [in such a way that the blood falls] into a hole. But one makes a hole in his house, so that the blood will flow down into And in the market one may not do so, so that one will not imitate the minim [in their ways] [M. Hul. 2:9].**
- [K] *The following Tannaite teaching contradicts the view of Rab:*
- [L] **They put a cooked dish in a cistern so that it may be preserved, and [a vessel containing] fresh water into foul water to keep it cool, and cold water into the sun to warm it up. He whose clothing fell into water on the way goes along in them and does not scruple. [When] he reaches the outer courtyard, he spreads them out in the sun. But [this he does not do] in front of people [M. Shab. 22:4].**
- [M] *The following Tannaite teaching contradicts the view of Rab:*

[N] **R. Eliezer b. Jacob says, “A drain that is covered over for four cubits in the public domain — they pour water [from the courtyard] into it on the Sabbath.” And sages say, “Even if a roof or a courtyard is a hundred cubits [in area], one should not pour water [directly] into the mouth of the drain. But he pours it onto the roof, and the water goes down into the drain” [M. Er. 8:10].**

[O] *A Tannaite teaching on this rule:* [As to a drain covered over for four cubits in the public domain,] if it was flowing along, it is permitted to [pour water into it on the Sabbath].

[P] If it was the rainy season, it is permitted to do so.

[Q] In the case of spouts that pour out into public domain, it is forbidden to pour water into them [on the Sabbath].

[R] *And has not Bar Qappara taught,* “If it was a discrete place, it

[S] *That differs from the view of Rab and cannot be validated. For Rab has said,* “Anything that is forbidden for appearance’s sake may not be done even in an innermost room [where no one can possibly see].”

[VIII:1 A] Mattresses and cushions [composed of a mixture of wool and linen] are not subject to [the laws of] diverse-kinds:

[B] What you say applies when they are empty. But if they are stuffed, it is forbidden [for the user sinks down and is covered by them].

[C] It applies only when the mattress or cushion are set on top of a bench. But if they are put on top of a bed it is forbidden.

[IX:1 A] There is no [rule permitting] temporary use in respect to diverse-kinds [of garments].

[B] Lo, if one was walking in the market and turned out to be clothed in diverse-kinds —

[C] two Amoraite teachers —

[D] one said, “It is forbidden. [He must take off the cloak right away.]”

[E] The other said, “It is permitted [to wear the garment for a brief interval].”

[F] *The one who said,* “It is forbidden” holds that it is a law deriving from the Torah.

[G] *The one who said, “It is permitted” accords with what R. Zeira said, “Great is the respect that is to be shown to the public, for it overrides the observance of a negative commandment for a brief spell.”*

[IX:2 A] *A Tannaite statement: [So as not to interrupt studying the Torah] they are not meticulous about telling people of the presence of a corpse or that they are wearing a garment of mixed stuff in the school house.*

[B] *R. Yosé was in session studying Tannaite traditions and there was a corpse there. Whoever left did not say anything to him and whoever sat near him did not say anything to him.*

[C] *R. Immi was in session studying Tannaite traditions. Someone said to his fellow, “You are garbed in mingled stuff. Said R. Immi to him, “Take off your garment and give it to him [since you interrupted his learning.]”*

[IX:3 A] *It was taught as a Tannaite rule: **There is no [rule permitting] temporary use in respect to diverse-kinds [of garments]** in the Temple.*

[B] *It was taught as a Tannaite rule: **A high priest who goes out of the courtyard to speak with his fellow and went too far requires immersion** [T. Kippurim 1:16]. But if it was for a brief spell, he requires only sanctification of hands and feet.*

[C] *Here [**There is no [rule permitting] temporary use in respect to diverse-kinds [of garments]** in the Temple] we deal with golden garments, and there [But if it was for a brief spell, he requires only sanctification of hands and feet], it involves white garments [that contain no mingled stuff].*

[IX:4 A] *“There shall not come upon you a garment of cloth made of two kinds of stuff” (Lev. 19:19) — but it is permitted to spread it underneath you.*

[B] *But sages said, “One should not do so, lest a single thread come upon his flesh.”*

9:2

[A] **(1) Hand-towels (2) scroll-wrappers, and (3) bath-towels are not subject to [the laws of] diverse-kinds.**

[B] **R. Eliezer prohibits [i.e., they are subject to the laws of diverse-kinds].**

[C] **And barbers’ towels fibers are hackled together].**

[D] **A fringe of wool [fastened] onto [a garment of] flax is prohibited,**

- [E] because they [i.e., the threads of the fringe] interlace the web [of the garment] are prohibited on account of [the laws of] diverse-kinds.
- [I:1 A] *There we learned in the Mishnah: There are three [kinds of] napkins: That of the hands is susceptible to Midras uncleanness. That of books is susceptible to corpse uncleanness. And that of a wrapper and of the harps of the sons of Levi is clean of all [M. Kel. 24:14].*
- [B] R. La in the name of R. Yohanan: “**That of the hands is susceptible to Midras uncleanness** because one puts it on a cushion and sleeps on it.”
- [C] Rab said, “Because he puts it under his elbows and leans on it.”
- [II:1 A] **Hand-towels (2) scroll-wrappers, and (3) bath-towels are not subject to [the laws of] diverse-kinds. R. Eliezer prohibits [i.e., they are subject to the laws of diverse-kinds].**
- [B] Rab said, “It is forbidden,” and the law is in accord with him who forbids [and rules, with Eliezer, **they are subject to the laws of diverse-kinds**].
- [C] And why did he not say, “The law is in accord with R. Eliezer”?
- [D] *There is a Tannaite authority who teaches the attributions in reverse.*
- [II:2 A] *R. Yohanan would put a napkin on his garments [without consideration of the matter of mingled stuff].*
- [B] But isn’t that forbidden because of diverse kinds?
- [C] *It was so that his garments not get dirty [and the napkin was not a garment].*
- [D] Said R. Zeriqan, “*They gave R. Abuna an egg in a napkin that contained mingled stuff and he did not accept it* because [in the case of clothes dealers] **provided that they do not intend, in a hot sun, [for the garments to protect them] from the hot sun or in the rain, [for the garments to protect them] from the rain.**”
- [III:1 A] **Hand-towels (2) scroll-wrappers, and (3) bath-towels are not subject to [the laws of] diverse-kinds. R. Eliezer prohibits [i.e., they are subject to the laws of diverse-kinds].**
- [B] R. Samuel bar Nahman in the name of R. Jonathan: “It is because he makes it into a kind of case and puts it on his lap and places his Torah-scroll on it.”

- [C] R. Abba, R. Hiyya bar Joseph in the name of Rab: Because he warms his hands on it.”
- [D] Said R. Bun bar Hiyya to R. Abba, “Without that is it not forbidden because of diverse kinds?”
- [E] He said to him, “Isn’t it Rab’s ruling and Rab said, ‘A scroll wrapper is forbidden if it contains mingled stuff, and the law is in accord with him who forbids [and rules, with Eliezer, **they are subject to the laws of diverse-kinds**].’”
- [F] Said R. Jonah to R. Abba, “And why didn’t he say to him a statement that would have dismissed you? If he had said to you, ‘Even without that consideration is a scroll wrapper not forbidden with regard to deriving benefit?’ *What would you have found to say in reply?*”

[IV:1 A] bath-towels:

- [B] Because sometimes in the bath house he sees his master and covers himself with it.

[IV:2 A] R. Abbahu in the name of R. Yohanan: “Women’s bath-towels are forbidden under [the laws of] diverse-kinds.”

- [B] Those of men are the same as those of women [and if they contained mingled stuff they are forbidden.
- [C] What are women’s bath-towels?
- [D] The rabbis of Caesarea say, “They are antitiyah.”

[V:1 A] And barbers’ towels fibers are hackled together:

- [B] *That which you say applies to one who intends to use the barbers’ towels as clothing, but as to one who does not intend to use the barbers’ towels as clothing, it is not to such a one that the ruling pertains.*

9:3

- [A] **(1) Shrouds and (2) a pack-saddle of an ass are not subject to [the laws of] diverse-kinds.**
- [B] **One shall not place a pack-saddle [of diverse-kinds] on his shoulder, to carry out dung upon it.**
- [C] **Clothes-dealers sell [garments of diverse-kinds] in their usual manner [i.e., while carrying them on their backs],**

- [D] provided that they do not intend, in a hot sun, [for the garments to protect them] from the hot sun, or (*w*), in the rain, [for the garments to protect them] from the rain.
- [E] And the more scrupulous ones tie [the garments of diverse-kinds] on a stick and throw the on garments behind them (i.e., over their shoulders)].
- [F] Tailors sew [garments of diverse-kinds] in their usual manner [i.e., with the garments resting on their laps],
- [G] provided that they do not intend, in a hot sun, [for the garments to protect them] from the hot sun or in the rain, [for the garments to protect them] from the rain.
- [H] And the more scrupulous ones sew [while sitting] on the ground [i.e., with the garments resting on the ground as well].
- [I:1 A] Shrouds are not subject to [the laws of] diverse-kinds:
- [B] For it is written, “Among the dead I am free” (Ps. 88:68).
- [C] Since a person dies, he is free of all the commandments.”
- [I:2 A] When Rabbi lay dying, he gave instructions in three matters: “Let my widow not be moved from my house. Do not make a lamentation for me in the villages. He who took care of me while I was alive should take care of me after I have died.”
- [B] “My widow should not be moved from my house.”
- [C] *Is this not a Mishnaic teaching: A widow who said, “I don’t want to move from my husband’s house” [M. Ket. 12:3A]. [Why did Rabbi have to say so?]*
- [D] *Said R. Dosa, “It was so that they should not say to her, ‘It is the palace of the patriarch and indentured to the patriarchate [Gamaliel, my son, who then may live here].”*
- [E] Said R. Eleazar b. Yosé, “It is in line with that which is taught: [In Tosefta’s version:] **A woman whose husband has died dwells in the rooms [of her house] just as she did when her husband was alive. She makes use of the man slaves and woman slaves, of silver utensils and golden utensils, just as she made use of them when her husband was alive, and she will be supported, just as she did when her husband was alive. [For thus does he write for her, ‘You will dwell in my house and enjoy support from my property so long as you spend your widowhood in my house’] [T. Ket. 11:5].”**

- [F] “Do not make a lamentation for me in the villages”: This is to prevent contention.
- [G] “He who took care of me while I was alive should take care of me after I have died” Said R. Haninah of Sepphoris, “For example, Joseph of Ephrat, Yosé Hophni.”
- [H] R. Hezekiah added, ““Do not provide elaborate shrouds for me, and let my bier be open to the ground.””
- [I] *There is a saying implying that Rabbi was buried in only a single wrapping.*
- [J] For Rabbi said, “It is not in the garb in which a man goes [to the grave] that he comes [from the grave, at the resurrection of the dead].”
- [K] But rabbis say, “Just as a man goes to the grave does he come from it.”
- [L] *It has been taught in the name of R. Nathan, “In the garment with which a man goes to the grave he comes up from it.”*
- [M] *What is the scriptural basis for this statement?*
- [N] “It is changed like clay under the seal, and it is dyed like a garment” (Job 38:14).
- [O] Antoninus asked Rabbi, “What is the meaning of the following verse of Scripture: ‘It is changed like clay under the seal’” (Job 38:14)?
- [P] He said to him, “He who will bring the generation [back to life] is the one who will clothe [it, at the resurrection of the dead].”
- [I:3 A]** *R. Yohanan gave instructions, “Shroud me in scarlet, that is neither white nor black. If I end up among the righteous, I shall not be ashamed, and if I end up among the wicked, I shall not be ashamed.”*
- [B] *R. Josiah gave instructions, “Shroud me in hemmed white shrouds.”*
- [C] *They said to him, “Are you better than your master [Yohanan]?”*
- [D] *He said to them, “And should I be ashamed of the things I have done?”*
- [E] *R. Jeremiah gave instructions, “Shroud me in white shrouds. Dress me in my slippers, and put my sandals on my feet, and place my staff in my hand, and bury me by the side of a road. If the Messiah comes, I shall be ready.”*
- [I:4 A]** *The Sepphoreans said, “Whoever tells us that Rabbi has died shall we kill.”*

[B] *Bar Qappara approached them, with his head covered, and his clothing torn. “The angels and the mortals have laid hold of the tablets, and the angels got the upper hand and have seized the tablets.”*

[C] *They said to him, “Rabbi has died.”*

[D] *He said to them, “You have said so.” Then they tore their clothes, and the noise of their tearing of their clothes reached Papa, three miles away.*

[E] R. Nathan in the name of R. Mana: “There were miracles done that day. It was the eve of the Sabbath, and all the villagers assembled to make a lamentation for him. *They put down the bier eighteen times en route to burial to mourn him, and they accompanied him down to Bet Shearim. The daylight was protracted until each one of them had reached his home [in time for the Sabbath] and had time to fill up a jug of water and light the Sabbath lamp. When the sun set, the cock crowed, and the people began to be troubled, saying, ‘Perhaps we have violated the Sabbath.’*

[F] “*But an echo came to them, ‘Whoever did not refrain from participation in the lamentations for Rabbi may be given the good news that he is going to enjoy a portion in the world to come,*

[G] “*except for the launderer [who used to come to Rabbi day by day, but did not bother to participate in his funeral].’ When he heard this, he went up to the roof and threw himself down and died. Then an echo went forth and said, ‘Even the laundryman [will enjoy the life of the world to come].’”*

[I:5 A] *Rabbi lived in Sepphoris seventeen years and he cited the following verse in his own regard: “And Jacob lived in the land of Egypt seventeen years; [so the days of Jacob, the years of his life, were a hundred and forty-seven years]” (Gen. 47:28).*

[B] Thus: And Judah lived in Sepphoris for seventeen years, *and of that time he spent thirteen years suffering from a toothache.*

[C] Said R. Yosé b. R. Bun, “During that entire period of thirteen years, a woman in labor never died in the land of Israel, nor was there ever a miscarriage in the land of Israel.”

[D] *And why did he suffer from pain in the teeth?*

[E] *One time he was passing by and saw a calf being taken to the slaughter. It lowed in terror, but Rabbi said to her, “Go, for this is the purpose for which you were created.”*

- [F] *And in the end [when the pain was made to cease] how was he healed? They saw how they were killing a nest of mice, and he said to them, “Let them be. It is written, ‘[The Lord is good to all,] and his compassion is over all that he has made’” (Ps. 145:9).*
- [I:6 A] *Rabbi was very humble and he said, “Whatever anyone tells me to do shall I do, except for what the elders of Batera did in behalf of my forefather, for they gave up their position and appointed him in their place [the reference being to Bathyrans’ giving way before Hillel and making him patriarch].*
- [B] *“If the exilarch, R. Huna, should come here, I should seat him above me, because he comes from the tribe of Judah, while I come from the tribe of Benjamin, because he derives from the male line, and I from the female line.”*
- [C] *One time R. Hiyya the Elder came to him. He said to him, “Lo, R. Huna is here.” Rabbi’s face blanched. He said to him, “It is his bier.”*
- [D] *He said to him, “Go see who wants you outside.” He went out and found no one there, and he knew that Rabbi was angry with him. R. Hiyya then did not go to see Rabbi for thirty days.*
- [E] *Said R. Yosé b. R. Bun, “During those thirty days Rab learned from R. Hiyya all of the principles of the Torah.”*
- [F] *At the end of the thirteen years and thirty days, Elijah came to him [= to Rabbi] in the guise of R. Hiyya the Elder. He said to him, “How does my lord do?”*
- [G] *He said to him, “I have a tooth that is painful to me.”*
- [H] *He said to him, “Show me.”*
- [I] *And he showed it to him. [Elijah] put his finger on the tooth and healed it.*
- [J] *The next day R. Hiyya the Elder came to him. He said to him, “How does my lord do? As to your teeth, how are they doing?”*
- [K] *He said to him, “From that moment at which you put your finger on it, it has been healed.”*
- [L] *At that moment [Hiyya] said, “Woe for you, women in childbirth in the Land of Israel! Woe for you, pregnant women in the Land of Israel!”*
- [M] *[Hiyya] said, “It was not I [who healed you, but Elijah did it].”*

- [N] *From that moment onward Rabbi began to pay respect to Hiyya.*
- [O] *When he would come into the meeting house, he would say, "Let R. Hiyya the Elder go in before me."*
- [P] *Said to him R. Ishmael b. R. Yosé, "Even before me?"*
- [Q] *He said to him, "Heaven forfend! But R. Hiyya the Elder is within, but R. Ishmael b. R. Yosé is innermost."*
- [R] *Rabbi was praising R. Hiyya the Elder in the presence of R. Ishmael b. R. Yosé. One time he saw him in the bathhouse and [Hiyya] did not rise to pay his respects [to Ishmael].*
- [S] *Ishmael said to [Rabbi], "Is this the one whom you were praising to me?"*
- [T] *He said to him, "What did he do to you?"*
- [U] *He said to him, "I saw him in the bathhouse, and he did not rise to pay his respects to me."*
- [V] *He said to [Hiyya], "Why did you behave in such a way?"*
- [W] *He said to him, "May a terrible thing happen to me, if I even noticed him. I knew nothing about it. At that time I was reviewing the aggadic traditions of the whole book of Psalms."*
- [X] *From that time [Rabbi] assigned to him two disciples to accompany him so that he would not get into trouble because of his concentration on his own thoughts.*
- [1:7 A] *R. Yosa fasted eighty fasts in order to see R. Hiyya the Elder [in a dream]. He finally saw him, and his hands trembled and his eyes grew dim.*
- [B] *Now if you say that R. Yosa was an unimportant man, [and so was unworthy of such a vision, that is not the case]. For a weaver came before R. Yohanan. He said to him, "I saw in my dream that the heaven fell, and one of your disciples was holding it up."*
- [C] *He said to him, "Will you know him [when you see him]?"*
- [D] *He said to him, "When I see him, I shall know him." Then all of his disciples passed before him, and he recognized R. Yosa.*
- [E] *R. Simeon b. Laqish fasted three hundred fasts in order to have a vision of R. Hiyya the Elder, but he did not see him.*

- [F] *Finally he began to be distressed about the matter. He said, “Did he labor in learning of Torah more than I?”*
- [G] They said to him, “He brought Torah to the people of Israel to a greater extent than you have, *and not only so, but he even went into exile [to teach on a wider front].*”
- [H] *He said to them, “And did I not go into exile too?”*
- [I] *They said to him, “You went into exile only to learn, but he went into exile to teach others.”*
- [J] *When R. Huna, the exilarch, died, they brought his bones up here. They said, “If we are going to bury him properly, let us place him near R. Hiyya, because he comes from there.”*
- [K] *They said, “Who is worthy of placing him there?”*
- [L] *Said to them R. Haggai, “I shall go up and place him there.”*
- [M] *They said to him, “You are looking for an excuse, for you are an old man, so you want to go up there and die and be buried there next to Hiyya.”*
- [N] *He said to them, “Tie a rope to my feet, [35b] and if I delay there too long you can drag me out.”*
- [O] *He went in and found three biers.*
- [P] [He heard,] “Judah, my son, is after you, and no one else. Hezekiah, my son, is after you, and no one else. After you, Joseph, son of Israel, and no one else.”
- [Q] *He raised his eyes and looked. One said to him, “Lower your face.”*
- [R] *Said R. Hiyya the Elder, “Judah, my son, make room for R. Huna.”*
- [S] *He made a place for him, but [Huna] did not accept being buried [next to Hiyya the Elder, out of modesty]*
- [T] [They] said, “Just as [out of modesty] he did not accept being buried next to him, so may his seed never die out.”
- [U] R. Haggai left that place at the age of eighty years, and they doubled the number of his years, [so that he lived another eighty years].
- [I:8 A]** It is written, ““You shall carry me out of Egypt and bury me in their burial ground” (Gen. 47:30): as to Jacob, wherever he was located [in death] — what loss would he sustain? [Granted that sinners benefit from burial in the Land of Israel, which atones for sin, since Jacob was

entirely righteous, what difference did it make to him to be buried there rather than in Egypt (PM)]?

- [B] R. Eleazar said, “There is something hidden here.”
- [C] Hanina said, “There is something hidden here.”
- [D] What is the meaning of “There is something hidden here”?
- [E] R. Simeon b. Laqish said, “‘I shall walk before the Lord in the lands of the living’ (Ps. 116:9) — and is it not the fact that the lands of the living are only Tyre and Caesarea and their surroundings [so reference cannot be made to this world, since in this world life is most abundant in the cities that are named, and places like them]. There is everything, there is abundance.”
- [F] [Rather,] R. Simeon b. Laqish in the name of Bar Qappara [said], “It is the land where the dead will be the first to return to life in the time of the Messiah.. What is the scriptural foundation for that view? ‘Thus says God, the Lord, who created the heaven and stretched them out, who spread forth the earth and what comes from it, who gives breath to the people upon it, and spirit to those who walk in it’ (Is. 42:5).”
- [G] If that is the case [that in the land of Israel the dead rise first,] then our masters who are located in Babylonia lose out!
- [H] Said R. Simai, “The Holy One, blessed be he, opens the ground before them, and they roll to the land like leather bottles, and once they get their, their soul comes back to them.”
- [I] What is the Scriptural basis for that view?
- [J] “And I will place you on the land of Israel and I will put my spirit within you and you shall live” (Ez. 37:14).
- [K] R. Berekiah asked R. Helbo, R. Helbo asked R. Immi, R. Immi asked R. Eleazar, and R. Eleazar, R. Hanina; and there are those who say, R. Haninah asked R. Joshua, “And is that the case even of Jeroboam and his allies?”
- [L] He said to him, “‘The whole land burned by sulfur and salt, unsown, and growing nothing, where no grass can sprout, an overthrow like that of Sodom and Gomorrah, Admah and Zeboiim, which the Lord overthrew in his anger and his wrath’ (Dt. 29:22).”
- [M] Said R. Berekiah, “Even though everyone asked someone else, in the end we have not learned a thing on this question! What’s the point of this verse? Since the land of Israel was burned, the attribute of justice

was applied to them, in line with the verse, ‘And he shall make a strong covenant with many for one week’ (Dan. 9:27).” [They have suffered and atoned, and they too will rise from the dead.]

- [N] *It has been taught as a Tannaite statement in the name of R. Yudah, ““For seven years sulfur and salt prevailed in the land of Israel. That is in line with what is written, ‘And he shall make a firm covenant with many for one week’ (Dan. 9:27).”*
- [O] As to the Samaritans that were in the land during this time — what did they do?
- [P] It was burned in strips, [and they lived in the strips that were not burning].
- [Q] It is written, “And you, Pashhur, and all who dwell in your house shall go into captivity, to Babylon you shall go and there you shall die and there you shall be buried” (Jer. 20:6).
- [R] R. Abba said R. Helbo, and R. Hama bar Hanina — one said, “If one died there and was buried there, he has two [sins against him,] and the other said, “If one died there and was buried here, he has only one.” The other said, “Burial atones for their death there.”
- [S] *R. Jonah in the name of R. Hama bar Hanina, “A man’s feet are what bring him anywhere where he wants [to die], as it is said, ‘And the Lord said, Who will entice Ahab that he may go up and fall at Ramoth-Gilead?’ [And one said one thing and another said another]” (1 Kings 22:20). But he died in his own house, not there.”*
- [T] *Elihoref and Ahaiah, two scribes of Solomon, saw the angel of death staring at them and grinding his teeth. Solomon said a word, and they were raised up into the air, and he went and took them from there. [The angel of death] came and laughed at Solomon. He received him. He said to him, “A while ago you were grinding your teeth, and now you are smiling!”*
- [U] *He said to him, “The All-merciful told me to take Elihoref and Ahaiah from the air, and I said, ‘Who is going to put them there, from which place I have been sent to take them?’ And he moved you to do it for me. [It was your own deed, therefore] which made it possible for me to carry out my mission, so I went and I took care of them.”*
- [V] *As to the two sons of R. Reuben bar Istrobili, the disciples of R. Hama, the angel of death laid eyes on them and was grinding his teeth.*

- [W] *He said, "Let us send them into exile into the south. Perhaps the suffering of exile will atone for their sins and they will not be taken."*
- [X] *The angel of death went and took them from them.*
- [I:9 A] *Ulla, who went down into exile, was dying there. He began to cry. They said to him, "Why are you crying? Will we not bring your body to be buried there?"*
- [B] *He said to him, "And what good does it do me, if I lose my pearl [my soul] in an unclean land? It is not the same when one sucks in the bosom of one's mother as when he sucks in the bosom of an alien woman."*
- [I:10 A] *R. Meir lay dying in Asia. He said, "Tell the sons of the land of Israel that your Messiah is coming home, for burial]."*
- [B] *And even so, he said to them, "Place my bier at the seashore, for it is written, 'He has founded it upon the seas, and established it upon the rivers'" (Ps. 24:2).*
- [C] *Seven seas surround the land of Israel, the Great Sea, the Sea of Tiberias, the Sea of Kub, the Salt Sea, the Sea of Helath, the Sea of Shilhath, the Sea of Apamaea.*
- [D] *And as to the Sea of Hamas, Diocletian stopped up rivers and made it.*
- [E] *It is written, "[And from Bamoth to the valley lying in the region of Moab by the top of Pisgah,] which looks down upon the desert" (Num. 21:20).*
- [F] *Said R. Hiyya bar Ba, "Whoever goes up to the Mountain of Yeshimon overlooking the desert, and who saw a kind of small sieve in the Sea of Tiberias — that is the well of Miriam."*
- [G] *Said R. Yohanan bar Marah, "The rabbis surveyed it, and lo, it is directly opposite the center door of the ancient synagogue of the town of Sarognin in the land of Israel."*
- [I:11 A] *Rabbah bar Qaria and R. Eleazar were strolling in the road and saw biers that were being brought from abroad to the land.*
- [B] *Said Rabbah bar Qaria to R. Eleazar, "What have these profited? I recite concerning them, '[And I brought you into a plentiful land to enjoy its fruits and its good things. But when you came in you defiled my land,] and made my heritage an abomination' (Jer. 2:7). That you did while you were alive, and will you come and impart corpse uncleanness to my land now that you are dead?"*

[C] He said to him, “Once they reach the land, they take a clump of dirt and place it on their bier, in accord with that which is written, ‘[Praise his people, O you nations;] for he avenges the blood of his servants, [and takes vengeance on his adversaries, and makes expiation for the land of his people]’” (Deut. 32:43).

9:4

[A] **(1) A barsin [birrus] and (2) a bardaicus, and (3) a dalmatic, and (4) shoes of coarse wool —**

[B] **he shall not put them on until he shall examine [them for diverse-kinds].**

[C] **R. Yosé says, “Those [of the above items] that come from the seacoast or from distant lands do not require examination [for diverse-kinds],**

[D] **“for the presumption concerning them is [that they are composed] of hemp [and not flax].”**

[E] **A cloth shoe is not subject to the laws of diverse-kinds.**

[I:1 A] A barsin is a birrus.

[B] *A bardsin and a dalmatikon are a sleeveless tunic and hooded cloak, respectively.*

[C] Pinon-shoes are cloth shoes.

[II:1 A] **R. Yosé says, “Those [of the above items] that come from the seacoast or from distant lands do not require examination [for diverse-kinds], for the presumption concerning them is [that they are composed] of hemp [and not flax].”**

[B] Is that to say, “garments from either the seacoast or the overseas provinces” or “garments from the seacoast of the overseas provinces”?

[C] *From what is taught as a Tannaite statement, “Like Tyre and its neighbors and Caesarea and its neighbors,” that indicates the meaning is “garments from either the seacoast or the overseas provinces.”*

[II:2 A] **R. Yosé says, “Those [of the above items] that come from the seacoast or from distant lands do not require examination [for diverse-kinds], for the presumption concerning them is [that they are composed] of hemp [and not flax].”**

[B] That which you say pertained to begin with, when linen was not commonly found, but now that linen is ubiquitous, garments from those places do require examination for mingled stuff.

[III:1 A] A cloth shoe is not subject to the laws of diverse-kinds.

[B] *There are places where they line the inside of the shoe with wool [and in those places the cloth shoe is forbidden].*

[C] *That is in line with what R. Zeira ordered R. Abba bar Zamina to say to Bar Rishon [his tailor], that he should not supply his shoes [lined with wool] with linen straps but with leather thongs.*

[D] *R. Zeira concurs with one who tied woolen bands on a garment of linen that it is permitted, for when he ties himself with the band it can slip down [the garment and so is not attached to it].*

[III:2 A] They asked before R. Illa, “Is it permitted to provide a wool lined shoe with linen straps?”

[B] *He said to them, “Is it for the example of R. Zeira that you ask, for R. Zeira said, ‘It is forbidden.’”*

[C] *R. Illa agrees with respect to one who wears woolen slippers on top of linen ones that it is forbidden, for if one does not take off the top ones, he cannot take off the bottom ones.*

[III:3 A] The father of R. Safra asked R. Zeira, “Is it permitted to put coins in a woolen cloak and to tie them up with a linen cord? Is it permitted to put coins in a linen sheet and to tie them up with a woolen cord?”

[B] *He said to him, “Does my lord know R. Huna, for R. Huna said, ‘It is forbidden.’”*

[C] *R. Abina said, “‘It is forbidden.’”*

[D] *Samuel said, “It is permitted.”*

[E] *R. Jacob bar Aha in the name of R. Yosé said, “It is permitted.”*

9:5

[A] Nothing is prohibited on account of [the laws of] diverse-kinds except [wool and flax that are] spun or wove [together],

[B] as it is written, “You shall not wear sha’atnez” (Dt. 22:11) — something that is hackled, spun or woven.

[C] R. Simeon b. Eleazar says, “It [i.e., a fabric of diverse-kinds] is turned away, and turns his Father in Heaven against him.”

[D] Felted stuffs [composed of wool and linen] are prohibited,

[E] because they are hackled.

- [F] R. Yosé says, “Cords [composed] of purple [wool] are prohibited [to be worn on a garment of flax],
- [G] “because one bastes [the cord to the garment] before tying [the ends of the cord together].”
- [H] One shall not tie a strip of wool to one of linen in order to gird his loins,
- [I] even though a leather strap is between them.
- [J] Marks of weavers and marks of washermen [that are composed of wool or linen and sewn respectively onto garments of linen or wool] are prohibited on account of [the laws of] diverse-kinds.
- [I:1 A] “You shall not wear sha’atnez” (Dt. 22:11) — something that is **hackled, spun or woven**:
- [B] [Why speak of **hackled, spun or woven**?] *Let the Mishnah teach*, the part of the word that pertains to hackled and woven and not the part of the word that refers to spun.
- [C] *Had we learned the Tannaite statement concerning “hackled” and not learned the Tannaite statement concerning “spun,”* we might have concluded that a garment composed of wool and linen that are spun together is permitted.
- [D] *The Mishnah did not say that, but rather it said, **Nothing is prohibited on account of [the laws of] diverse-kinds except [wool and flax that are] spun or wove [together].***
- [E] *Let the Mishnah teach*, the part of the word that pertains to hackled and spun, and not the part of the word that refers to woven.
- [F] *Had we learned the Tannaite statement concerning “hackled” and spun and not learned the Tannaite statement concerning “woven,”* we might have concluded that a garment composed of wool and linen that are spun together is permitted.
- [G] *The Mishnah did not say that, but rather it said **A fringe of wool [fastened] onto [a garment of] flax is prohibited, because they [i.e., the threads of the fringe] interlace the web [of the garment] are prohibited on account of [the laws of] diverse-kinds.***
- [H] *Let the Mishnah teach the part of the word that pertains to spun and woven and not the part of the word that refers to hackled.*
- [I] Had we learned the part of the word that refers to spun and not the part of the word that refers to hackled, we might have said that a garment composed of wool and linen hackled together if permitted.

[J] *The Mishnah did not say that, but rather it said **Felted stuffs [composed of wool and linen] are prohibited, because they are hackled.***

[II:1 A] **R. Yosé says, “Cords [composed] of purple [wool] are prohibited [to be worn on a garment of flax], because one bastes [the cord to the garment] before tying [the ends of the cord together].”**

[B] *There is a Tannaite master who repeated, “Öare permitted.”*

[C] *The one who repeated the Tannaite wording as prohibited refers to cords like the straps that one ties to a sandal, which are attached to it.*

[D] *The one who repeated the Tannaite wording as permitted refers to cords like the bands with which one ties oneself, and these can still slip down the garment and so are not attached to it.*

9:6

[A] **He who fastens [wool and linen together] with a single fastening [of thread] [i.e., with an incomplete stitch] —**

[B] **it [i.e., the fastening] is not considered a connector [for uncleanness],**

[C] **and it [i.e., the fabrics joined by the fastening] is not subject to [the laws of] diverse-kinds,**

[D] **and he who undoes it [i.e., the fastening] on the Sabbath is exempt from liability for tearing a stitch in order to sew another].**

[E] **[If] he brought both ends [of the thread] to one side [i.e., if he completed the stitch] —**

[F] **it [i.e., the stitch] is considered a connector [for uncleanness],**

[G] **and it [i.e., the fabrics joined by the stitch] is subject to [the laws of] diverse-kinds,**

[H] **and he who undoes it [i.e., the stitch] on the Sabbath is liable.**

[I] **R. Judah says, “[The above rules do not apply] unless he makes three [fastenings, i.e., one complete and one incomplete stitch].”**

[J] **A sack and a basket [that are patched, one with wool and the other with linen, and then bound together,] combine the patches to produce diverse-kinds.**

[I:1 A] *R. Hanina said, “[A fastening occurs only if the thread] goes down through the side of the garment and comes back up again.”*

[B] *Said R. Yannai, “They said to R. Hanina, ‘Go and recite Scripture somewhere else.’”*

- [C] *That is shown by the following, that we have learned in the Mishnah: [If] he brought both ends [of the thread] to one side [i.e., if he completed the stitch] — it [i.e., the stitch] is considered a connector [for uncleanness],*
- [D] *Now do we say that a fastening occurs only if the thread goes down through one side of the garment, comes p on the same side, goes down again and comes up again?*
- [E] *And it also has been taught as a Tannaite rule: R. Judah says, “[The above rules do not apply] unless he makes three [fastenings, i.e., one complete and one incomplete stitch].”*
- [F] *Now do we say that a fastening occurs only if the thread goes down through one side of the garment, comes p on the same side, goes down again and comes up three times?*
- [G] *Rather, either way [it is considered a single fastening].*
- [I:2 A] **The thread which one threaded into the needle, even though it is fastened from two sides, lo, this is not a connector. [If] one inserted it [the needle] into the garment, the thread is a connector to the garment, and the needle is not a connector to the thread [T. Kelim B.M. 9:5]**
- [I:3 A] **The generative categories of acts of labor [prohibited on the Sabbath] are forty less one: (1) he who sews. (23) sews two stitches, (24) tears in order to sew two stitches [M. Shab. 7:2].**
- [B] Both R. Jonah and R. Yosé say,, “One is liable for sowing on the Sabbath only when the thread is tied at both ends.”
- [C] *The statement of the following rabbis differ from the statement of R. Jonah and R. Yosé: for said R. Abba, R. Jeremiah in the name of Rab, “He who pulls the ends of a broken seam on the Sabbath in order to attach the threads together is liable on the count of sewing.”*
- [D] But [if one is liable for sewing only if he knots the threads at both ends, let Rab say,] “one is liable on the counts of sewing and tying.”
- [II:1 A] **R. Judah says, “[The above rules do not apply] unless he makes three [fastenings, i.e., one complete and one incomplete stitch].”**
- [B] Said R. Simon, “*The reason of R. Judah is that at the third insertion of the thread his work is made permanent.*”
- [C] *Then does R. Judah concur with R. Eliezer, as we have learned in the Mishnah: R. Eliezer says, “He who weaves three threads at the*

beginning [of the web], or [who added] one onto that which is already woven, is liable” [M. Shab. 13:1]?

[D] Said R. Ulla, “The reason for the position of R. Eliezer there *is that* at the third insertion of the thread his work is made permanent. *But here*, [Judah’s reason is that] with less than three insertions the web becomes undone.”

[III:1 A] **A sack and a basket [that are patched, one with wool and the other with linen, and then bound together,] combine the patches to produce diverse-kinds:** R. Simon in the name of R. Joshua b. Levi: “They taught only, **A sack and a basket [that are patched, one with wool and the other with linen, and then bound together,] combine the patches to produce diverse-kinds.** Lo, a basket of reeds does not combine wool and linen together, for it falls apart easily.”

[B] *It is found taught as a Tannaite rule:* A basket of reeds, a sack, and a large basket combine with respect to mingled stuff.

[III:2 A] **Tents are not subject to the laws of diverse kinds [T. Kil. 5:26].**

[III:3 A] *R. Jeremiah asked,* “He and his son — what is the law as to their joining together with regard to mingled stuff?”

[B] *What would be a practical case?*

[C] *He wears woolen garments and his son wears linen garments. He takes woolen bands and winds them around both of them.*

[D] *Said R. Yosé, “But is this interlaced?”*

[E] *R. Haggai asked,* “He on his own — does he combine with regard to mingled stuff?”

[F] *What would be a practical case?*

[G] *He wears a woolen shoe on one foot and a linen shoe on the other foot [and through his person combines them to produce mingled stuff].*

[H] *Said R. Yosé, “But is this interlaced?”*

[I] *That is not the question but rather the following illustrates the question:*

[J] *If there were wounds on his head and he put a compress of wool lint on one wound and a compress of linen lint on the other wound [so his head combines the two compresses to produce mingled stuff].*

[K] *Said R. Yosé, “But is this interlaced?”*

[L] You have subject to prohibition only that
 which is interlaced.

TRACTATE

SHEBI'IT

Tractate *Shebi'it* elaborates the Torah's commandment, at Lev 25:1–8:

When you enter the land that I am giving you, the land shall observe a Sabbath of the Lord. Six years you may sow your field and six years you may prune your vineyard and gather in the yield. But in the seventh year the land shall have a Sabbath of complete rest, a Sabbath of the Lord; you shall not sow your field or prune your vineyard. You shall not reap the aftergrowth of your harvest or gather the grapes of your untrimmed vines; it shall be a year of complete rest for the land. But you may eat whatever the land during its Sabbath will produce—you, your male and female slaves, the hired-hand and bound laborers who live with you, and your cattle and the beasts in your land may eat all its yield. (Lev 25:2–7)

A second, correlative commandment, at Deut 15:1–3, is treated as well:

Every seventh year you shall practice remission of debts. This shall be the nature of the remission: every creditor shall remit the due that he claims from his neighbor; he shall not dun his neighbor or kinsman, for the remission proclaimed is of the Lord. You may dun the foreigner, but you must remit whatever is due you from your kinsmen. (Deut 15:1–3)

{Throughout I follow the doctoral dissertation, including the Mishnah- and Tosefta-translation, prepared in my seminar, of Louis E. Newman, *The Sanctity of the Seventh Year: A Study of Mishnah Tractate Shebi'it* (Scholars Press for Brown Judaic Studies; Chico, Calif.: Scholars Press, 1983); and Alan J. Avery-Peck, *The Talmud of the Land of Israel: A Preliminary Translation and Explanation* (Gen. Ed. Jacob Neusner; Vol. 5.; Chicago: University of Chicago Press, 1991).}

The Written Torah leaves no doubt that the Sabbatical year finds its place in the context of creation and God's conduct thereof: perfecting the world-order of creation, sanctifying the order of creation, then, celebrating the Sabbath in response thereto. Avery-Peck provides a fine statement of the paramount religious principle of the halakhah of *Shebi'it*.

In modeling their lives on the perfected character of the universe that once existed, Israelites make explicit their understanding that this order will exist again, that God's plan for the Israelite people still is in effect... Israelites themselves, through their actions, participate in the creation of that perfected world. They do this through their intentions and perceptions in defining proper observance of the Sabbatical year, (Avery-Peck, 6)

The Sabbatical Year recovers that perfect time of Eden when the world was at rest, all things in place. Before the rebellion, man did not have to labor on the land; he picked and ate his meals freely. And, in the nature of things, everything belonged to everybody; private ownership in response to individual labor did not exist, because man did not have to work anyhow. Reverting to that perfect time, the Torah maintains that the land will provide adequate food for everyone, including the flocks and herds, even if people do not work the land. But that is on condition that all claim of ownership lapses; the food is left in the fields, to be picked by anyone who wishes, but it may not be hoarded by the landowner in particular. Avery-Peck states this matter as follows:

Scripture thus understands the Sabbatical year to represent a return to a perfected order of reality, in which all share equally in the bounty of a holy land that yields its food without human labor. The Sabbatical year provides a model through which, once every seven years, Israelites living in the here-and-now may enjoy the perfected order in which God always intended the world to exist and toward which, in the Israelite world view, history indeed is moving...The release of debts accomplishes for Israelites' economic relationships just what the agricultural Sabbatical accomplishes for the relationship between the people and the land. Eradicating debt allows the Israelite economy to return to the state of equilibrium that existed at the time of creation, when all shared equally in the bounty of the Land. (Avery-Peck, 3)

The Priestly Code expresses that same concept when it arranges for the return, at the Jubilee Year, of inherited property to the original family-ownership: "You shall count off seven weeks of years, so that the period of seven weeks of years gives you a total of forty-nine years... You shall proclaim release throughout the land for all its inhabitants. It shall be a jubilee for you; each of you shall return to his holding and each of you shall return to his family" (Lev 25:8–10). The Jubilee year is observed as is the Sabbatical year, meaning that for two successive years the land is not to be worked. The halakhah we shall examine in due course will establish that when land is sold, it is for the span of time remaining to the next jubilee year. That then marks the reordering of land-holding to its original pattern, when Israel inherited the land to begin with and commenced to enjoy its produce.

YERUSHALMI SHEBIIT

CHAPTER ONE

1:1

- [A] **Until what time do they plow an orchard [of fruit-bearing trees] during the sixth year [of the Sabbatical cycle]?**
- [B] **The House of Shammai say, “[One may continue to plow] so long as [the plowing continues] to benefit the produce [of the sixth year. That is, after the crop of the sixth year has ripened and been harvested, the farmer no longer may plow in his orchard].”**
- [C] **But the House of Hillel say, “[One may continue to plow] until Pentecost [of the sixth year].”**
- [D] **And the opinion of the one is close to the opinion of the other.**
- [I:1 A] **Until what time do they plow an orchard [of fruit-bearing trees] during the sixth year [of the Sabbatical cycle]?**
- [B] It is written, “Six days you shall do your work, but on the seventh day you shall rest” (Ex. 23:12). And it is written, “Six days shall you work, but on the seventh day you shall rest; in plowing time and in harvest time you shall rest (Ex. 34:21).
- [C] *With what Sabbath do we deal [at Ex. 34:21]? If it is with the Sabbath that celebrates creation, that is superfluous, for is it not written, “Six days shall you labor and do all your work, but the seventh day is a Sabbath to the Lord your God” Ex. 20:9-10)? And if it is with the Sabbath of years, it is also superfluous, for is it not stated, “Six years you shall sow your field and six years you shall prune your vineyard and gather its fruits, but in the seventh year there shall be a Sabbath of solemn rest for the land” (Lev. 25:34). But [Ex. 34:21] does not refer to the Sabbath of creation nor the Sabbath of years. So let it teach about the prohibition of plowing in the first two periods before the start of the Sabbatical Year [One may continue to plow] until Pentecost [of the sixth year].*

- [I:2 A] “[Six days shall you work, but on the seventh day you shall rest;] in plowing time and in harvest time you shall rest (Ex. 34:21) — plowing performed on the eve of the Sabbatical year that benefits the crop in the Sabbatical year itself [improving the growth of the crop] is forbidden.
- [B] And what ploughing is that?
- [C] It is harvesting produce that began to grow during the Sabbatical year but that became ripe after the Sabbatical year ended. [It is subject to the Sabbatical restrictions even after the end of the Sabbatical year.]
- [D] If so [ploughing is forbidden at the end of the sixth year] why does the law say, They may plough an orchard right up to the New Year of the Sabbatical year?
- [E] R. Qerosepai in the name of R. Yohanan: “Rabban Gamaliel and his court lifted the prohibition against ploughing in the first two periods before the start of the Sabbatical year. [The Mishnah records the law as it stood before Gamaliel’s ruling.]
- [F] *R. Yohanan asked, “Did we not learn in the Mishnah: **For a court has not got the power to nullify the opinion of another court unless it is greater than it in wisdom and in numbers.** [M. Ed. 1:5] [How could Gamaliel have abrogated the prior decision?]”*
- [G] R. Qerosepai in the name of R. Yohanan: “[The point of the ruling [They may plough an orchard right up to the New Year of the Sabbatical year] is that if farmers ask a court’s permission to plough until the very end of the sixth year they may do so.”
- [H] Why not uproot the rule from the Mishnah.
- [I] R. Qerosepai in the name of R. Yohanan: “[[They retained both versions] so that if they wished to retract the later formulation, they may do so.”
- [J] *Objected R. Jonah, “Lo, Scripture’s passage on the ordination of the priesthood [Lev. 8] and on the generation of the flood Ç lo, these are not destined to return in the future. Should they be removed from Scripture? [Certainly not!] But they are preserved in order to inform you, and here too, [M. Sheb. 1:1] is also preserved in order to inform you.”*
- [K] *Said R. Mana, “It is in line with what we learned in the Mishnah there: **If so, why do they record the opinion of an individual against that of a majority to no purpose? So that if a person***

should say, ‘Thus have I received the tradition,’ one may say to him, ‘You have heard the tradition in accord with the opinion of Mr. So-and-so [against that of the majority]’ [M. Ed. 1:6]. So too if someone should say, ‘I heard that it is forbidden to plow until New Year,’ one may reply to him, ‘You heard the tradition [recorded at M. Sheb. 1:1 and 2:1 concerning the prohibition against plowing in the first two periods prior to the start of the Sabbatical year.]’

- [I:3 A] R. Aha in the name of R. Jonathan: “When they prohibited plowing close to New Year of the Sabbatical year they relied on Scripture, and when they permitted plowing right up to the New Year of the Sabbatical year, they also relied on Scripture.
- [B] “When they prohibited plowing close to New Year of the Sabbatical year they relied on Scripture: ‘[Six days shall you work, but on the seventh day you shall rest;] in plowing time and in harvest time you shall rest’ (Ex. 34:21) — and which ploughing is this? This forbids any ploughing on the eve of the Sabbatical year the benefit of which accrues in the Sabbatical year itself, and harvesting; and forbids harvesting produce growing in the fields the plowing of which is forbidden.
- [C] “...and when they permitted plowing right up to the New Year of the Sabbatical year, they also relied on Scripture, and which harvesting is this? This is harvesting produce that began to grow during the Sabbatical year [when it was forbidden to plough] and continued to ripen after the Sabbatical year ended. [This is subject to the restrictions of the Sabbatical year even after the year is ended.]”
- [D] “...and when they permitted plowing right up to the New Year of the Sabbatical year, they also relied on Scripture — “Six days shall you labor and do all your work, but the seventh day is a Sabbath to the Lord your God” (Ex. 20:9-10). Just as on the eve of the Sabbath of creation you are permitted to work until sunset, so on the eve of the Sabbath of years you are permitted to work until sunset [before the New Year of the Sabbatical year itself.]”

[II:1 A] **But the House of Hillel say, “[One may continue to plow] until Pentecost [of the sixth year].”**

[B] Why until Pentecost?

[C] Up until then the plowing benefits the produce of the sixth year. From that time onward, plowing causes the trees to lose the fruit [which is still ripening]. [Plowing after Pentecost does not help the produce of the sixth year.]

- [D] *And lo, we have learned in the Mishnah: The same [law, C-F, applies] both to non-fruit-bearing trees [that do not yield edible produce] and to fruit-bearing trees [M. 1:3].* [The rule has no bearing on whether or not the tree bears fruit.]
- [E] [Why until Pentecost?] Up to that time plowing causes the boughs to grow thicker. Afterward plowing weakens the trees.
- [F] Then why not permit the farmer to plow after Pentecost. [If plowing after Pentecost has no benefit, the Hillelites should permit it.]
- [G] Since the farmer knows that ploughing after Pentecost weakens the trees, it is clear that if he plows then, he intends to prepare the land for planting in the following year, and that is forbidden.
- [III:1 A] **The House of Shammai say, “[One may continue to plow] so long as [the plowing continues] to benefit the produce [of the sixth year. That is, after the crop of the sixth year has ripened and been harvested, the farmer no longer may plow in his orchard].” But the House of Hillel say, “[One may continue to plow] until Pentecost [of the sixth year].” And the opinion of the one is close to the opinion of the other.**
- [B] Why is this dispute not listed among the lenient rulings of the House of Shammai and the strict rulings of the House of Hillel?
- [C] The House of Hillel is not consistently strict.] In some years rain is not abundant and moisture is spare so that in accord with the opinion of the House of Shammai one should end you ceasing to plough before Pentecost.
- [D] **But [even in that case] the House of Hillel say, “[One may continue to plow] until Pentecost [of the sixth year].”**

1:2

- [A] **What is [considered] an orchard [and so may not be plowed after Pentecost of the sixth year in accordance with the rule of M. 1:1]?**
- [B] **Any [field in which there are at least] three trees [growing] within a *seah*-space, [that is within an area large enough to plant a *seah* of seed].**
- [C] **If [the trees referred to at B] are capable of producing a loaf of pressed figs weighing sixty *maneh* according to the Italian [measurement, such that the roots of these trees extend throughout the entire area,]**

- [D] they plow the entire *seah*-space for [the tree's] benefit. [That is, the entire area constitutes an orchard. In accordance with the rule of M. 1:1, a farmer may plow this land only until Pentecost of the sixth year.]
- [E] [But if the trees referred to at B yield] less than this [amount of produce, such that their roots do not fill the *seah*-space,]
- [F] they plow [until Pentecost of the sixth year] for [the trees'] benefit only as far out [from each tree] as [the place where] the gatherer [stands] with his basket behind him. [That is, only the area in the immediate vicinity of these trees, where their roots are located, is subject to the prohibition against plowing in an orchard after Pentecost. The remainder of the *seah*-space, where the trees' roots do not reach, is subject to the rules governing the plowing of grain fields during the sixth year; see M. 2:1.]
- [I:1 A] R. Judah in the name of Samuel, R. Abbahu in the name of R. Yohanan: “[If] he bought three trees in his fellow’s field [M. B.B. 5:4] if they are spaced no farther apart than would be ten trees planted in a *seah* space and no closer than what is required for an ox and its yoke to pass through, he has [also] bought the ground [on which they are growing] [M. B.B. 5:4], and the ground that surrounds them as far out as the space taken by he gatherer with his basket.
- [B] Rab said, “The rule applies even if the trees are arranged in a triangle.”
- [C] Samuel said, “It applies only if they are arranged in a row.”
- [D] Said R. Yosé, “There [at M. B.B. 5:4] the qualification concerning the spacing applies. But here it does not apply.”
- [E] Said R. Jonah, “Even here at M. Sheb. 1:2 the rule on how close the trees may be to each other and yet be regarded as an orchard applies.” [Reference is made to M. 1:5: **And how much [space] must there be between [the three trees, so that the roots will extend throughout the *seah*-space, rendering the entire area subject to the rules of M. 1:2-4]? Rabban Simeon b. Gamaliel says, “Enough [space] so that an ox with its yoke may pass [between the trees].” If the trees are closer together, they are assumed not to serve to produce fruit. After Passover of the sixth year, farmers may not plow the whole area where they are planted.]**
- [F] Said to him R. Mana, “And if the consideration governs on how close the trees are to each other, for we are instructed on Tannaite authority at M. Sheb. 1:5, in the case of three trees owned by three individuals, one may plow until Pentecost only if the trees are separated by **enough**

space so that an ox with its yoke may pass between the trees, come and see: in a case in which there is enough space for an ox and its yoke to pass, the roots grow to the side. The roots are spread out, plowing the whole area benefits the trees directly. But in a case in which there is not enough space for an ox and its yoke to pass, do the roots not grow to the side? [That is so, and even if the trees are planted close together, one may plow as much as is needed for them between Passover and Pentecost.]

[II:1 A] If [the trees referred to at B] are capable of producing a loaf of pressed figs weighing sixty *maneh* according to the Italian [measurement, such that the roots of these trees extend throughout the entire area,] they plow the entire *seah*-space for [the tree's] benefit [until Pentecost of the sixth year].

[B] R. Eliezer asked, “Does this apply even if they are planted in a row in the center of the *seah*-space, with sixteen cubits between the trees and twenty five cubits from them to the edges of the *seah* space?”

[C] R. Samuel bar Isaac asked, “If they were planted in a row alongside a fence on one edge of the field, may they plow the whole *seah* space for them?”

[D] Said R. Yosé, “If one wished, he could allocate to the three trees in the center of a field or along the fence as much as four *seah* spaces, one on each side of the three trees.”

[II:2 A] R. Jeremiah asked, “If a vine was suspended on trellises in two separate levels of a terrace, you may plow the ground under it and surrounding it as far out as where the gatherer stands with his basket behind him. [This is permitted until Pentecost of the sixth year since it benefits the vine. But as to the prohibition against ploughing during the first two periods before the start of the Sabbatical year, if a tree is growing on a higher level, may they plow the level below and if a tree is growing on a lower level, may they plow the level above?”

[B] Granted, if a tree is growing on a higher level, they may plow the level below until Pentecost of the sixth year. [The roots grow downward, plowing the lower level benefits the tree.] But if a tree is growing on a lower level, may they plow the level above it?

[C] *Let us derive the answer from the following: They set up a tree twenty-five cubits away from a cistern [M. B.B. 2:11]. [If the tree is planted nearer, its roots will damage the cistern.] And it has been taught as a Tannaite rule on this passage: That is whether above or below.*

- [D] Should we say that is when the tree is above and the cistern is below, or does it mean only when the tree and cistern are on the same level, either above or below?
- [E] *It is taught as a Tannaite rule:* if the tree is above and the cistern is below, or if the tree is below and the cistern is above, the rule applies: **They set up a tree twenty-five cubits away from a cistern [M. B.B. 2:11].**
- [F] Granted if the tree is above and the cistern is below, the rule should apply the tree's roots grow downward, and the tree should not be planted within twenty five cubits of the cistern, lest it be damaged. But if the tree is below and the cistern is above, will the roots grow upward and damage the cistern? [Surely not.]
- [G] Said R. Hanina, "Planting a tree within twenty five cubits of a cistern located on a higher level of a terrace is not prohibited because of the probability that the roots will push up into the cistern. Rather it is forbidden because the roots cause the earth to crumble and damage the ground in which the cistern is built."
- [H] A case concerning a tree planted within twenty five cubits of a cistern located on a higher level of a terrace came before R. Yosé b. R. Abun. He said, "The rule that prohibits this is the opinion of an individual, *and we do not base legal decisions on it. For it is taught on Tannaite authority: R. Simeon says, 'Just as they said that the rule applies if the tree is above the cistern, so they said that it applies if the tree is below the cistern'*" [T. B.B. 1:12].

1:3

- [A] The same [law, C-F, applies] both to non-fruit-bearing trees [that do not yield edible produce] and to fruit-bearing trees [other than fig trees] —
- [B] [in either case,] they view them as if they were fig trees. [That is, they compare the size of these trees to that of fig trees in order to apply the rule of C-F].
- [C] If [three of these trees growing in a *seah*-space are the same size as three fig trees, which would be] capable of producing a loaf of pressed figs weighing sixty *maneh* according to the Italian [measurement,]
- [D] they plow the entire *seah*-space for [the trees'] benefit [until Pentecost of the sixth year].

- [E] [If three of these trees are the size of fig trees that would produce] less than this [amount of produce,]
- [F] they plow them [until Pentecost of the sixth year] only according to [the trees’] need, [that is, only in the immediate vicinity of the trees, where their roots are located].
- [G] [If] one [of three trees planted in a *seah*-space, yields a loaf of pressed figs [weighing sixty *maneh* according to the Italian measurement,] but [the other] two do not [yield anything,]
- [H] or [if] two [of the trees] yield [the required amount] and [the other] one does not [yield anything] —
- [I] they plow for [each of] them only according to their need. [That is, the prohibition against plowing after Pentecost of the sixth year applies only in the vicinity of the trees themselves, not to the *seah*-space as a whole.]
- [J] [This law applies in cases of] from three to nine trees.
- [K] [If] there were ten [trees,]
- [L] [or] upwards of ten,
- [M] whether or not they [together] yield [the required amount] —
- [N] they plow the entire *seah*-space for [the trees’] benefit. [It is assumed that ten or more trees will extend their roots throughout the *seah*-space. This area in its entirety constitutes an orchard and so may be plowed only until Pentecost of the sixth year.]
- [O] As it says in Scripture, [“For six days you shall work, but on the seventh day you shall cease work;] even at plowing time and harvesting time you shall cease work” (Ex. 34:21).
- [P] There is no need [for Scripture] to mention plowing and harvesting during the Sabbatical year [itself, for these expressly are prohibited by Lev. 25:4-5]. Rather, [Ex. 34:21 refers to] plowing during the sixth year [the benefits of which] extend into the Sabbatical year and to harvesting during the Sabbatical year [the crop of which continues to be subject to certain restrictions] into the year following the Sabbatical.
- [Q] R. Ishmael says, “[This is not the correct interpretation of Ex. 34:21. Rather, the verse teaches us that] just as plowing, [which] is a voluntary act, [is prohibited on the Sabbath,] so [only an act of] harvesting [that likewise] is voluntary [is prohibited on the Sabbath].
- [R] “This excludes harvesting the first sheaf [and is therefore permitted even on the Sabbath].”

[I:1 A] The same [law, C-F, applies] both to non-fruit-bearing trees [that do not yield edible produce] and to fruit-bearing trees [other than fig trees] [in either case,] they view them as if they were fig trees:

[B] Why did they speak specifically of fig trees?

[C] It is because their fruit is plump and they produce plenty [and so provide a measure of productivity].

[D] The citron has plump fruit but does not produce plenty.

[E] The olive produces plenty of fruit but it is not plump.

[F] But these — their fruit is plump and they produce plenty.

[G] *Said R. Hiyya bar Adda, “All other trees produce abundant fruit in one year but less the next, but the fig tree produces plenty of fruit every year.”*

[II:1 A] If [three of these trees growing in a *seah*-space are the same size as three fig trees, which would be] capable of producing a loaf of pressed figs weighing sixty *maneh* according to the Italian [measurement,] they plow the entire *seah*-space for [the trees’] benefit [until Pentecost of the sixth year].

[B] R. Bibi in the name of R. Hanina: “And that is on condition that the trees do not produce proportionately less than what is required of three trees.” [Three trees in the indicated space must together produce a *maneh* of fruit. If there are more than three and up to nine, the volume is determined proportionately. Six trees must produce two *maneh*, nine, three.]

[C] Zeira b. R. Hanina said, “And that is on condition that the trees do not produce proportionately less than what is required of nine trees.” [The trees in the *seah* space must produce one *maneh*, spread equally among the trees. If in a *seah* space there were four trees spaced far apart to allow an ox in its yoke to pass, but in that same space were two additional trees, spaced close together so an ox and its yoke cannot pass, since an ox in its yoke could not pass between the two, you regard the total of six trees as though they were only five.”

[II:2 A] *If there were five trees planted in a seah space, there is a dispute between R. Simeon and rabbis. For we have learned there in the Mishnah: A vineyard that is planted by [intervals of] less than four amot — R. Simeon says, “[It] is not [considered] a vineyard.” And sages say, “[It is considered] a vineyard and they view the middle rows as if they did not exist” [M. Kil. 5:2].*

[B] Then the whole seah-space may be ploughed until Pentecost for their benefit.

[III:1 A] **As it says in Scripture, [“For six days you shall work, but on the seventh day you shall cease work;] even at plowing time and harvesting time you shall cease work” (Ex. 34:21):**

[B] *This concerns the beginning of the tractate as follows:* They plough for themselves only what is needed as it is said, “at plowing time and harvesting time you shall cease work”

[IV:1 A] **There is no need [for Scripture] to mention plowing and harvesting during the Sabbatical year [itself, for these expressly are prohibited by Lev. 25:4-5]. Rather, [Ex. 34:21 refers to] plowing during the sixth year [the benefits of which] extend into the Sabbatical year and to harvesting during the Sabbatical year [the crop of which continues to be subject to certain restrictions] into the year following the Sabbatical. R. Ishmael says, “[This is not the correct interpretation of Ex. 34:21. Rather, the verse teaches us that] just as plowing, [which] is a voluntary act, [is prohibited on the Sabbath,] so [only an act of] harvesting [which likewise] is voluntary [is prohibited on the Sabbath]. This excludes harvesting the first sheaf [and is therefore permitted even on the Sabbath].”**

[B] R. Ishmael is consistent with views held elsewhere, for R. Ishmael says, “The first sheaf is not brought from produce grown in Syria.”

[C] Harvesting and ploughing on the Sabbath and in the Sabbatical year with the exception of harvesting the first sheaf, which is obligatory.

1:4

[A] **Three trees [growing in a seah-space] belonging to three persons,**

[B] **lo, these [trees] join together [to form a single orchard],**

[C] **and [therefore any of three owners mentioned at A] plows the entire seah-space for [the trees’] benefit [until Pentecost of the sixth year].**

[D] **And how much [space] must there be between [the three trees, so that the roots will extend throughout the seah-space]?**

[E] **Rabban Simeon b. Gamaliel says, “Enough [space] so that an ox with its yoke may pass [between the trees].”**

[I:1 A] *R. Hiyya taught as a Tannaite rule:* The trees belong to one person and the land to another person — they join together and plough the entire *seah*-space for their benefit.”

[B] *Said R. Yosé, “Also we have learned in the Mishnah: Three trees [growing in a *seah*-space] belonging to three persons, lo, these [trees] join together [to form a single orchard], and [therefore any of three owners] plows the entire *seah*-space for [the trees’] benefit until the New Year.”*

1:5

[A] [As regards] ten saplings that are spread out [evenly] within a *seah*-space —

[B] they plow the entire *seah*-space for [the saplings’] sake until the New Year [of the Sabbatical year. Since the saplings together spread their roots throughout the *seah*-space, the area a whole is deemed an orchard].

[C] [But as regards ten saplings that] were formed in a line or in a semi-circle —

[D] they plow for them [until New Year of the Sabbatical year] only according to [the saplings’] need, [that is, only in the vicinity of each tree. The roots of these saplings do not fill the entire *seah*-space, so that the tract as a whole is not deemed an orchard].

[I:1 A] R. Zeira in the name of R. La, R. Yosé in the name of R. Yohanan: “The procession with the willow branch is a law revealed [orally] by God to Moses at Sinai.”

[B] *That is not in accord with Abba Saul, for Abba Saul said, “The procession with the willow branch is a matter of the [written] Torah. ‘And you shall take on the first day the fruit of goodly trees, branches of a palm tree and boughs of a leafy tree and willows of the brook’ (Lev. 23:40). ‘Willows of the brook’ — two of them. One willow is for the lulab, the other for the procession to the Temple.”*

[C] R. Ba, R. Hiyya in the name of R. Yohanan: “The law concerning the procession with the willow branch and the law of the water libation are laws revealed by God to Moses at Sinai.”

[D] *That is not in accord with R. Aqiba, for R. Aqiba said, “The water libation is a matter of the [written] Torah. Regarding the second day, we have ‘their drink offerings’ [at Num. 29:31], and for the other days except the seventh, Scripture says, ‘its drink offerings.’ For the sixth day [Num. 29:33] states, ‘its drink offerings,’ For the seventh day it*

says, ‘according to their ordinance’ (Num. 29:33). The extra letters are Mem, Yod, Mem, which spell water.”

- [I:2 A] *R. Hiyya bar Abba asked in the presence of R. Yohanan, “And now that only in the case of ten saplings in a field may the field be plowed up to the New Year of the Sabbatical; year, why do they plow up to the New Year in field of mature trees?”*
- [B] He said to him, “When the law that prohibited plowing orchards at the end of the sixth year was given at Sinai, it was given with this provision: if the farmers request the court’s permission to plow until the end of the sixth year, they may do so.” [Otherwise the farmers may plow only saplings.]
- [I:3 A] R. Abba bar Zebedee in the name of R., Hunia of Beth Hauran: “The procession with the willow branch, the water libation, and the law of ten saplings are foundations of the early prophets.”
- [B] *Does he disagree [that these three rules were laws given to Moses at Sinai]?*
- [C] R. Yosé b. R. Abun in the name of Levi: “That was the law that they had in hand but they forgot it, and the second generation of prophets arose and conformed to the knowledge of the earliest prophets. This is to teach you that every matter in behalf of which the court is ready to give its life in the end will be confirmed in their hands, as it is said, ‘to Moses at Sinai.’”
- [D] *And this is in line with what R. Mana said, “‘For it is no trifle for you but it is your life’ (Dt. 32:27) — if it is a trifle for you, how come? Because you did not labor in it. ‘But it is your life’. On what condition is it your life? When you labor in it.”*
- [I:4 A] *R. Yohanan said to R. Hiyya bar Vava, “Babylonians! Two matters of law came up in your possession, prostration done during a public fast and the willow branches on the seventh day of Tabernacles.”*
- [B] But the rabbis of Caesarea say, “this too: the calculation of the calendar so that the New Year will not fall on Sunday, Wednesday, or Friday.”
- [I:5 A] *It is taught on Tannaite authority: A sapling [must be one of] ten [saplings within a seah-space in order to be plowed until New Year]. A mature tree [must be one of] three [trees within a seah-space in order to be plowed until Pentecost] [T. Sheb. 1:2]*

[B] *Come and see: And a sapling that resembles a mature tree, [that is, if it is large and yields much fruit], lo, it is [subject to the same law] as a mature tree. And a field of reeds is considered as [a field of] saplings [T. Sheb. 1:2]. And yet you have said, A sapling [must be one of] ten [saplings within a seah-space in order to be plowed until New Year].*

[C] Said R. Huna, “What is the meaning of **A sapling [must be one of] ten [saplings within a seah-space in order to be plowed until New Year]**? It means a seah space may not be plowed in behalf of a sapling that is one of only three trees planted in that area. It must be made explicit so that you won’t reason: three saplings that produce a maneh of fruit are comparable to ten that do not produce a maneh of fruit but for which an entire seah space may be plowed until the New Year. And it is also so that you will not reason: three mature trees that do not produce a maneh of fruit are comparable to ten saplings that do not produce a maneh of fruit but for which an entire seah of space may be plowed until the New Year. For this reason one must state, **A sapling [must be one of] ten [saplings within a seah-space in order to be plowed until New Year].**”

[I:6 A] **And a field of reeds is considered as [a field of] grain [T. Sheb. 1:2].**

[B] R. Abbahu in the name of R. Yosé bar Hanina: “They taught this rule for the case of a field of reeds that has already produce bristles. [Plowing no longer benefits the reeds and is forbidden.]”

[II:1 A] **[But as regards ten saplings that] were formed in a line or in a semi-circle — they plow for them [until New Year of the Sabbatical year] only according to [the saplings’] need, [that is, only in the vicinity of each tree. The roots of these saplings do not fill the entire seah-space, so that the tract as a whole is not deemed an orchard].**

[B] *Doesn’t this conflict with what Samuel said, for Samuel said, “That applies if they were planted in a row”?*

[C] There since the saplings are not in a row but are spread throughout the seah space, you treat them as though they filled the area and the whole space may be plowed. But here the trees are set in a single small area. They do not fill the seah space and that space may not be plowed.

1:6

- [A] Saplings and gourds join together [to make up ten plants] within a *seah*-space [which permit one to plow the entire area until Pentecost of the sixth year].
- [B] Rabban Simeon b. Gamaliel says, “[It] all ten [of the plants] in a *seah*-space are gourds [that is, if the *seah*-space contains no saplings at all,]
- [C] “they plow the entire *seah*-space until the New Year [of the Sabbatical year],”
- [D] Until what [stage of growth are trees] called “saplings?”
- [E] R. Eleazar b. Azariah says, “Until they become permitted for common use [that is, until they are five years old; see Lev. 19:23-25, which forbids the consumption of fruit in the first four years of a tree’s growth].”
- [F] R. Joshua says, “Until [they are] seven years old.”
- [G] R. Aqiba says, “A sapling [must be understood] according to its [common] meaning.”
- [H] “[As regards] a tree that has been cut down, [the stump of which] produces shoots —
- [I] (1) “[If the stump is] one handbreadth [tall] or less, [the shoot is treated as a sapling; (2) “[If the stump is] one handbreadth [tall] or more, [the shoot is treated] as a tree,” the words of R. Simeon.
- [I:1 A] Saplings and gourds join together [to make up ten plants] within a *seah*-space:
- [B] And that is the case if the saplings are more numerous than the gourds.
- [I:2 A] *R. Hananiah b. R. Hillel raised the question: “Doesn’t it seem reasonable that we refer to a Greek gourd.”*
- [B] *Objected R. Mana, “And lo it is stated as a Tannaite rule: Three chate-melons, three gourds, and four saplings [planted in a seah-space], lo, these join together [to make the requisite ten items that comprise a field of saplings]. and they plow the entire seah-space for their sake [T. Sheb. 1:3]*
- [C] [*Hananiah*] refers only to the final clause, Rabban Simeon b. Gamaliel says, “[It] all ten [of the plants] in a *seah*-space are gourds [that is, if the *seah*-space contains no saplings at all,] they plow the entire *seah*-space until the New Year [of the Sabbatical

year].” R. Hananiah b. R. Hillel raised the question: “Doesn’t it seem reasonable that we refer to a Greek gourd.”

- [II:1 A] **Until what [stage of growth are trees] called “saplings?” [R. Eleazar b. Azariah says, “Until they become permitted for common use [that is, until they are five years old; see Lev. 19:23-25, which forbids the consumption of fruit in the first four years of a tree’s growth].” R. Joshua says, “Until [they are] seven years old.” R. Aqiba says, “A sapling [must be understood] according to its [common] meaning.” [As regards] a tree that has been cut down, [the stump of which] produces shoots — (1) “[If the stump is] one handbreadth [tall] or less, [the shoot is treated as a sapling; (2) [If the stump is] one handbreadth [tall] or more, [the shoot is treated] as a tree,” the words of R. Simeon.]**
- [B] **[R. Eleazar b. Azariah says, “Until they become permitted for common use:”** What is the meaning of, “they become permitted for common use”?
- [C] Does it mean, the trees are considered saplings until the fourth year of growth, when the fruit is redeemed and permitted for secular use? Or does it mean that the trees are considered saplings until their fifth year of growth, when the fruit is ready for unconsecrated use on its own?
- [D] R. Abba bar Jacob in the name of R. Yohanan: “...that the trees are considered saplings until their fifth year of growth, when the fruit is ready for unconsecrated use on its own.”
- [E] And R. Joshua accord with Rabbi, as it is taught on Tannaite authority: **Said Rabbi, “Why did they say, ‘A five year old tree, a six year old tree, a seven year old tree?’ Rather I [would] phrase [the rule as follows]: grapevines [are considered saplings until they are] five years old, and fig trees [are considered saplings until they are] six years old, and olive trees [are considered saplings until they are] seven years old” [T. Sheb. 1:3].**
- [F] *But we see that certain fig saplings grow quickly [so why say that they are full grown only at six years of age?*
- [G] Said R. Yudan b. R. Tarfon, “They grow quickly only in diameter.]
- [III:1 A] **“[If the stump is] one handbreadth [tall] or less, [the shoot is treated as a sapling. [If the stump is] one handbreadth [tall] or more, [the shoot is treated] as a tree,” the words of R. Simeon.]**
- [B] R. Simeon and R. Eleazar b. Jacob both said the same thing. For said R. Samuel bar Nahman, R. Jonathan in the name of R. Eleazar b.

Jacob: “One who cuts down his vineyard to a height of less than a handbreadth — the field is liable to the laws of orlah [and the fruit cannot be eaten in the first three years of its growth [Lev. 19:23-25] for appearance’ sake [the stumps cannot be seen and the vines appear as new growths].”

[C] The words of sages: “That is true only if he cuts them down even with the earth.”

YERUSHALMI SHEBIIT

CHAPTER TWO

2:1

- [A] Until what time do they plow in a field of grain (lit., a white field) during the year preceding the Sabbatical year?
- [B] Until the moisture [in the ground] is gone,
- [C] [that is], as long as people plow in order to plant chate-melons and gourds.
- [D] Said R. Simeon, “You have put the Torah of each individual into his own hands.
- [E] “Rather, [one may plow] in a field of grain until Passover [of the sixth year, when Israelites offer the first sheaf of new grain at the Temple; cf. Lev. 23:10]
- [F] “and [one may plow] in an orchard until Pentecost [of the sixth year, when they present the first-fruits; cf. Ex. 23:19].
- [I:1 A] Until what time do they plow in a field of grain (lit., a white field) during the year preceding the Sabbatical year? Until the moisture [in the ground] is gone —
- [B] *Who is the Tannaite authority who taught that the criterion is moisture in the ground?*
- [C] It is R. Meir.
- [D] R. Meir concurs with the House of Shammai: **The House of Shammai say, “[One may continue to plow] so long as [the plowing continues] to benefit the produce [of the sixth year. That is, after the crop of the sixth year has ripened and been harvested, the farmer no longer may plow in his orchard].”** [It is not a fixed date in the calendar but the agricultural conditions.]
- [E] And R. Simeon concurs with the House of Hillel: **But the House of Hillel say, “[One may continue to plow] until Pentecost [of the**

sixth year].” [It is a fixed date in the calendar not the agricultural conditions.]

- [F] *So do we really* maintain that R. Meir accords with the House of Shammai and R. Simeon concurs with the House of Hillel?
- [G] Rather, R. Meir accords with the prior Mishnah rule and R. Simeon accords with the later Mishnah rule.
- [H] *So do we really maintain* R. Meir accords with the prior Mishnah rule and R. Simeon accords with the later Mishnah rule?
- [I] Rather, R. Meir taught the law of M. Sheb. 1:1 as subject to dispute between the Houses of Hillel and Shammai, and R. Simeon taught the issue as a matter on which all parties concur.
- [J] *Accordingly, who taught the Tannaite rule,* Until what time do they plow in a field of grain (lit., a white field) during the year preceding the Sabbatical year?
- [K] It is R. Meir. But according to R. Simeon, all parties concur that the plowing is permitted until Pentecost.

[II:1 A] [that is], as long as people plow in order to plant chate-melons and gourds:

- [B] It is not the end of the matter that the farmer has chatemelons or gourds that he wants to plant in his own field, but even if others are going to plant chatemelons and gourds, he is permitted to plant in his own field.

[III:1 A] Said R. Simeon, “You have put the Torah of each individual into his own hands:”

- [B] This one says, “The moisture in my ground is gone.”
- [C] That one says, “The moisture in my ground is not gone.”

[IV:1 A] “Rather, [one may plow] in a field of grain until Passover [of the sixth year, when Israelites offer the first sheaf of new grain at the Temple; cf. Lev. 23:10] and [one may plow] in an orchard until Pentecost [of the sixth year, when they present the first-fruits; cf. Ex. 23:19]:

- [B] What is the difference between a field of grain and an orchard?
- [C] A field of grain — since he is going to sow it fresh, the ground must be moist. [By Passover the top layers of earth are dry. Plowing at that time prepares the ground for next year’s crop, and this is forbidden. As

to an orchard, since it is already planted, the greater part of the moisture does not have to remain in the ground for the plowing to take effect, hence as late in the year as Pentecost, plowing is effective.

2:2

- [A] **They (1) manure and (2) hoe**
- [B] **in fields of chate-melons and in fields of gourds**
- [C] **until New Year [of the Sabbatical year].**
- [D] **And likewise: [they manure and hoe] in an irrigated field [until New Year of the Sabbatical year].**
- [E] **They (3) cut off dry twigs, (4) strip off leaves, (5) cover [the roots] with dust, and (6) fumigate**
- [F] **until New Year [of the Sabbatical year].**
- [G] **R. Simeon says, “Also: one may remove [dead] leaves from a grape-cluster during the Sabbatical year itself.”**
- [H] **They (7) remove stones [from a field] until New Year [of the Sabbatical year].**
- [J] **They (8) cut back [shoots that grow from the roots of trees,] (9) clip [branches] and (10) prune [trees]**
- [K] **until New Year [of the Sabbatical year].**
- [L] **R. Joshua says, “[In contrast to the rule at J-K,] just as [the actions of] clipping and pruning [trees, in order to care for the fruit of] the fifth year [generally continue into the sixth year,] so too [the clipping and pruning of trees, in order to care for the fruit of] the sixth year [may be continued into the seventh year. That is, during the seventh year farmers may continue to cultivate fruit that they began pruning during the preceding year].”**
- [M] **R. Simeon says, “As long as I am permitted to care for the tree, I am permitted to prune it, [that is to say, throughout the Sabbatical year].”**
- [I:1 A] **They (1) manure and (2) hoe in fields of chate-melons and in fields of gourds until New Year [of the Sabbatical year]:**
- [B] **What is the law as to plowing them [until the New Year]?**
- [C] ***It is taught as a Tannaite rule: So long as you are permitted to plow, you are permitted to manure and hoe. If you are not permitted to plow, you are not permitted to manure and hoe [T. Sheb. 1:4].***

[D] Said R. Yosé, “*The Mishnah said the same thing: They (1) manure and (2) hoe in fields of chate-melons and in fields of gourds until New Year [of the Sabbatical year]. And likewise: [they manure and hoe] in an irrigated field [until New Year of the Sabbatical year]. And concerning this rule it was taught as a Tannaite statement: They plow an irrigated field until New Year of the Sabbatical year.*”

[I:2 A] [They plow an irrigated field and irrigate them [i.e., the plants growing in an irrigated field], thirty days before the New Year of the Sabbatical year]. Rabbi says, “Until three days before the New Year so that one may plant and it will take root and one may sow and it will take root [before the Sabbatical year begins [T. Sheb. 1:12].

[B] But does a tree take root in three days?

[C] Rather: Rabbi says, “One may plow and plant only as late as three months prior to the New Year of the Sabbatical year so that one may sow rice and it will take root before the Sabbatical year or may plant rice that has already rooted and it will take root before the Sabbatical year begins.

[II:1 A] **They (3) cut off dry twigs:** remove the withered twigs.

[B] **(4) strip off leaves:** remove the dried leaves.

[C] **(5) cover [the roots] with dust:** dust the fruit.

[D] **and (6) fumigate:** smoke the plants..

[II:2 A] *It is taught on Tannaite authority:* They straighten out vines until the New Year and they turn vines until the New Year.

[B] **they turn:** Associates say, “**They put a pronged prop under it for support, to keep the vine off the ground.**”

[C] **R. Yosé says, “They hang a stone on it to keep the vine on the ground.”**

[II:3 A] [During the Sabbatical year] they thin out and detach [vines that grow above] the reeds [since this activity benefits the grapes of the sixth year which remain on the vine].

[B] **This means,** they thin vines and detach reeds.

[C] Where it is customary to thin out and detach vines before Tabernacles [throughout the years of the Sabbatical cycle,] they thin out and detach

[vines only] before Tabernacles [of the Sabbatical year]. [Where it is customary to thin out and detach vines] after Tabernacles [throughout the years of the Sabbatical cycle,] they [also] thin out and detach [vines] after Tabernacles [of the Sabbatical year] [T. Sheb. 1:7].

[D] R. Simeon says, "It is permitted to teach only those vines that grow above the cleft."

[E] R. Jeremiah in the name of R. Hoshaia, R. Jacob bar Aha, R. Yosé b. Hanina in the name of R. Hama father of R. Hoshaia: "One takes the whole branch with it."

[III:1 A] R. Simeon says, "Also: one may remove [dead] leaves from a grape-cluster during the Sabbatical year itself:"

[B] *There are conflicting theories attributed to R. Simeon. There we have learned as a Tannaite rule: "They flood rice [paddies] during the sabbatical year," the words of R. Simeon. But they do not trim [the rice plants]. But here he says this* [one may trim the grape cluster's dead leaves. Why trim grape clusters but not rice plants?]

[C] This case is different for it is as thought the farmer was saving the vines from a fire. [It is absolutely necessary for the life of the grape cluster.]

[IV:1 A] They (7) remove stones [from a field] until New Year [of the Sabbatical year]. They (8) cut back [shoots that grow from the roots of trees,] (9) clip [branches] and (10) prune [trees] until New Year [of the Sabbatical year]. R. Joshua says, "Just as [the actions of] clipping and pruning [trees, in order to care for the fruit of] the fifth year [generally continue into the sixth year,] so too [the clipping and pruning of trees, in order to care for the fruit of] the sixth year [may be continued into the seventh year. That is, during the seventh year farmers may continue to cultivate fruit that they began pruning during the preceding year]." R. Simeon says, "As long as I am permitted to care for the tree, I am permitted to prune it, [that is to say, throughout the Sabbatical year]."

[B] **They (7) remove stones [from a field] until New Year [of the Sabbatical year].**

[C] *There we learn in the Mishnah: One who clears stones from his field, removes the topmost ones and leaves those which are touching the ground, and here you say this* [one only may remove stones from the field up to the New Year of the Sabbatical year!]

[D] Said R. Jonah, “Here, [where it is permitted to remove stones] it concerns detached stones, but here [where it is forbidden] it is stones attached to the ground.”

[V:1 A] **R. Simeon says, “As long as I am permitted to care for the tree, I am permitted to prune it, [that is to say, throughout the Sabbatical year].”**

[B] *Said R. Yosé, “We were considering the proposition that R. Simeon accords with R. Joshua concerning cutting back shoots [R. Joshua says, “Just as [the actions of] clipping and pruning [trees, in order to care for the fruit of] the fifth year [generally continue into the sixth year,] so too [the clipping and pruning of trees, in order to care for the fruit of] the sixth year [may be continued into the seventh year]”. [Joshua permits pruning and clipping in the seventh year itself. Yosé proposes that this view applies to cutting back shoots also, and Simeon agrees with Joshua.]*

[C] *Two Tannaite rulings: They (7) remove stones [from a field] until New Year [of the Sabbatical year]. They (8) cut back [shoots that grow from the roots of trees,] (9) clip [branches] and (10) prune [trees] until New Year [of the Sabbatical year]. That is in accord with rabbis. R. Joshua says, “Just as [the actions of] clipping and pruning [trees, in order to care for the fruit of] the fifth year [generally continue into the sixth year,] so too [the clipping and pruning of trees, in order to care for the fruit of] the sixth year [may be continued into the seventh year.]”*

[D] *There are three Tannaite rulings: : They (7) remove stones [from a field] until New Year [of the Sabbatical year]. They (8) cut back [shoots that grow from the roots of trees,] (9) clip [branches] and (10) prune [trees] until New Year [of the Sabbatical year]. That is in accord with rabbis. R. Joshua says, “Just as [the actions of] clipping and pruning [trees, in order to care for the fruit of] the fifth year [generally continue into the sixth year,] so too [the clipping and pruning of trees, in order to care for the fruit of] the sixth year [may be continued into the seventh year]” — that is even later than the anonymous law provides. R. Simeon says, “As long as I am permitted to care for the tree, I am permitted to prune it, [that is to say, throughout the Sabbatical year]” — up to Pentecost.*

2:3

[A] **They (11) smear the saplings [with oil,] (12) wrap them, (13) cover them with ash, (14) make shelters for them, and (15) water them**

- [B] until New Year [of the Sabbatical year].
- [C] R. Eleazar bar R. Sadoq says, “Also: [with respect to watering trees,] one may water the leaves during the Sabbatical year itself, but [one may] not [water] the roots [directly].”
- [D] They (16) pour oil on unripe figs and (17) pierce them [which improves the quality of the fruit]
- [E] until New Year [of the Sabbatical year].
- [F] Unripe figs [which began growing] during the year preceding the Sabbatical and which continued growing [and ultimately became ripe] during the Sabbatical year itself,
- [G] [as well as unripe figs which began growing] during the Sabbatical year and which continued growing [and ultimately became ripe] during the year following the Sabbatical —
- [H] they neither pour oil [on them] nor pierce them [during the Sabbatical year, for one may not process the fruit which grows during the Sabbatical year.]
- [I] R. Judah says, “Where it is customary to pour oil [on unripe figs,] they do not pour oil [during the Sabbatical year,]
- [J] “because it is [considered to be the normal way in which such crops are] processed.
- [K] “[But] where it is not customary to pour oil [on unripe figs,] they may pour oil, [because there it is not deemed to be a normal agricultural activity].
- [L] R. Simeon permits [pouring oil on] the tree [itself, as well as on the fruit,]
- [M] because one is permitted to tend a tree [during the Sabbatical year].
- [I:1 A] They (11) smear the saplings [with oil]:
- [B] *The Mishnah represents the position of R. Judah the Patriarch. But rabbis:* “During the Sabbatical year they smear saplings with oil to keep off insects, but they do not do this during the intermediate days of a Festival.
- [C] “In either case they do not remove insect larvae wedged into the trunk, **but one may remove the mature insects that already see [T. Sheb. 1:11].**”
- [D] *R. Yosé said R. Abuna asked,* “What is the difference between one who in the Sabbatical year smears saplings with oil and one who makes a shelter around the sapling. [Both are to keep insects off.] One who

smears saplings with oil is like one who put a guard near the tree [which is permitted.] One who makes a shelter shades the tree and it grows faster [and that is forbidden].”

[E] *There we learned in the Mishnah: One who truncates an olive tree [during the Sabbatical year in order to obtain wood for building] should not cover [the stump] with dirt. [This would be the usual way of sealing the surface of the stump when one cuts back a tree in order to cultivate new branches]. Rather, he covers it with stones or with stubble. [Since this is not the usual manner of sealing the tree’s stump, it indicates that the farmer is not engaged in cultivating the growth of new branches] [M. Sheb. 4:5].*

[F] *R. Yosé said R. Abuna asked, “What is the difference between using stubble and using dirt? Using stubble is comparable to putting a guard near the tree. But covering it with dirt creates muddy ground and speeds up growth.”*

[II:1 A] **R. Eleazar bar R. Sadoq says, “Also: [with respect to watering trees,] one may water the leaves during the Sabbatical year itself, but [one may] not [water] the roots [directly].”**

[B] **R. Yosé ben Kippar taught as a Tannaite statement in the name of R. Eleazar b. Shammua: “The House of Shammai say, ‘One waters all the foliage, and the water falls on the root.’ The House of Hillel say, ‘One waters either the foliage or the root itself.”**

[C] *Members of the house of R. Yannai watered saplings using a basket [instead of a bucket]. Said R. Jacob bar Zebedee, “R. Isaac bar Tabelai watered saplings using a basket.” R. Hiyya bar Abba said, “R. Yudan bar Giraya watered saplings using a basket and hoe.”*

[D] *But did he purposely till the soil?*

[E] *In the days of R. Hiyya bar Abba, they would water palm saplings with a new broom or with palm branches.*

[III:1 A] **They (16) pour oil on unripe figs and (17) pierce them [which improves the quality of the fruit] until New Year [of the Sabbatical year].**

[B] *We learn in the Mishnah: They (16) pour oil on unripe figs and (17) pierce them [which improves the quality of the fruit] until New Year [of the Sabbatical year].*

[C] *The Tannaite authority of the household of Rabbi [left out ‘until New Year’ and continued the rule as follows: And these are the unripe figs*

upon which one may pour oil: **Unripe figs [which began growing] during the year preceding the Sabbatical.**

- [D] *R. Eleazar accords with the statement of the Mishnah [prohibiting pouring oil on figs during the Sabbatical year.*
- [E] *R. Yohanan accords with the Tannaite authority of the household of Rabbi.*
- [F] According to R. Eleazar, R. Judah planned only to rule leniently. According to R. Yohanan, R. Judah planned only to rule stringently.

2:4

- [A] **They do not (1) plant [a tree,] (2) sink [a vine into the ground so that it emerges nearby as an independent plant,] or (3) graft [one branch to another] during the year preceding the Sabbatical within thirty days of the New Year. [Since these plants would take root after the beginning of the Sabbatical year, this would constitute forbidden cultivation of the Land].**
- [B] **And if, [in violation of the rule at A,] one (1) planted [a tree,] (2) sank [a vine into the ground,] or (3) grafted [one branch to another, within thirty days of the beginning of the Sabbatical year,]**
- [C] **one must uproot [that which was planted, sunk or grafted, so as to rectify the transgression which he has committed].**
- [D] **R. Judah says, “All grafting that does not take root within three days will not take root. [Thus the time period specified at A should be three days, not thirty].”**
- [E] **R. Yosé and R. Simeon say, “Within two weeks.”**
- [I:1 A] **They do not (1) plant [a tree,] (2) sink [a vine into the ground so that it emerges nearby as an independent plant,] or (3) graft [one branch to another] during the year preceding the Sabbatical within thirty days of the New Year:**
- [B] R. Eleazar in the name of R. Yosé bar Zimra: “The rule speaks of a case in which it is not known how much time it takes for what is planted, sunk, or grafted to take root. But if it is certain that it will take root before the Sabbatical year, it is permitted.
- [II:1 A] **They do not (1) plant [a tree,] (2) sink [a vine into the ground so that it emerges nearby as an independent plant,] or (3) graft [one branch to another] during the year preceding the Sabbatical within thirty days of the New Year. [Since these plants would take**

root after the beginning of the Sabbatical year, this would constitute forbidden cultivation of the Land]. And if, [in violation of the rule at A,] one (1) planted [a tree,] (2) sank [a vine into the ground,] or (3) grafted [one branch to another, within thirty days of the beginning of the Sabbatical year,] one must uproot [that which was planted, sunk or grafted, so as to rectify the transgression which he has committed].

[B] If one did not uproot the plantings, what is the status of the produce?

[C] *R. Abba, R. La were in session in Tyre. A case came before them. R. La gave instruction: "Let the produce be poured out."*

[D] Said R. Abba, "I was not numbered with them in the upper room."

[E] They said, "Let us go outside and learn [whether there is an available ruling.]"

[F] *They went out and heard, "R. Jonah, R. Isaac bar Tablai in the name of R. Eleazar: "They do not add to the law on the basis of a rule that to begin with is only a Rabbinic ordinance."*

[II:2 A] If one planted [a sapling in one of the ways listed above] and then died, what is the rule on whether his son can maintain the planting?

[B] *R. Jacob bar Abbayi of Bar Dela taught on Tannaite authority: If one planted [a sapling in one of the ways listed above] and then died, his son is permitted to maintain the planting.*

[C] *And that accords with the one who said, "During the Sabbatical year actions that are permitted post factor are forbidden because of the suspicion that the Israelites purposely circumvent the Sabbatical year." [That applies to the father, not to the son.] But as to the one who said, "It is because of the age of trees, such that people will know that the tree in question was planted in violation of the Sabbatical year, the son counts as well. [The son must uproot the planting.]*

[II:3 A] *It was taught on Tannaite authority:*

[B] **One who (1) plants [a tree], (2) sinks [a vine into the ground], or (3) grafts [one branch to another] thirty days before the New Year [of the Sabbatical year so that the new plants take root before the beginning of that year; cf. M. 1:7A] —**

[C] **[the plant] is considered to be one year old [at the New Year],**

[D] **and one is permitted to allow it to grow during the Sabbatical year.**

- [E] **Less than this [i.e., if the tree is planted or the vine sunk into the ground, or the branch grafted, within thirty days of the New Year],**
- [F] **it is not considered to be a one year old [at the New Year],**
- [G] and one is forbidden to allow it to grow during the Sabbatical year, [rather one must uproot it] [T. Sheb. 2:3].
- [H] What is the Scriptural basis for this rule?
- [I] Said R. Yosé in the name of R. Yohanan: “‘And in the fourth year all their fruit shall be holy’ (Lev. 19:24).”
- [J] *What do you derive from that verse?*
- [K] Said R. Zeira, “Lev. 19:23 states: ‘Three years it shall be forbidden to you, it shall not be eaten, and in the fourth year...’”
- [L] Said R. Abba bar Mammel in the presence of R. Zeira, “The rule is appropriate if he planted the sapling at least thirty days before the New Year [and the month counts as a year]. But if it was not planted at least thirty days before the New Year, come and see: ‘a full year of growth is not accredited to him as of New Year, and yet you say this!’”
- [M] [Zeira] said to him, “Now if this is the case [that we consider the calendrical growth of the tree] then even if it was planted thirty days prior to the New Year, it should remain forbidden until thirty days before the Near Year of the fourth year.]”
- [N] What is the reason [that the days are not counted exactly]?
- [O] Said R. Mana, “Since it stands in the middle of the year of trees, they complete the year.”

2:5

- [A] **(1) Rice, (2) durra, (3) millet and (4) sesame,**
- [B] **that took root before New Year [of any year in the Sabbatical cycle, but continued to grow into the following year,]**
- [C] **are tithed according to the [rules that apply to produce of the] previous year, [that is, the year during which they took root.]**

- [D]** And, [in particular, if any of the plants mentioned] took root before New Year [of the Sabbatical year,] they are permitted during the Sabbatical year. [That is, they are not subject to the restrictions that apply to seventh-year produce. The year during which these grains take root determines their status with respect to the laws both tithing and of the Sabbatical year.]
- [E]** And if not [that is, if they did not take root before the New Year, but rather, during the Sabbatical year itself,]
- [F]** they are forbidden during the Sabbatical year [that is, subject to the restrictions that apply to seventh-year produce.]
- [G]** And [if any of these types of produce took root during one of the other years of the Sabbatical cycle,] they are tithed according to the [rules that apply to produce] of the] year following.
- [H]** R. Simeon Shezuri says, “Egyptian beans that one originally sowed for the sake of their seed, [that is, not in order to eat the vegetable,]
- [I]** “are analogous to them.
- [J]** R. Simeon says, “Large beans [like Egyptian beans, also] are analogous to them.”
- [L]** R. Eleazar says, “Large beans [are tithed according to the rule governing produce of the previous year, only] if they begin to form pods before New Year.”
- [I:1 A]** (1) Rice, (2) durra, (3) millet and (4) sesame, that took root before New Year [of any year in the Sabbatical cycle, but continued to grow into the following year,] are tithed according to the [rules that apply to produce of the] previous year, [that is, the year during which they took root:
- [B]** For fruit they follow the rules for the year in which it reached a third of its growth.
- [C]** For rice they follow the rules for the year in which it took root.
- [D]** For vegetables they follow the rules for the year in which it is picked.
- [E]** Whence in Scripture do we know that for fruit they follow the rules for the year in which it reached a third of its growth [rather than when it was fully ripe]?
- [F]** “You shall keep the feast of tabernacles seven days when you make your ingathering from your threshing floor and from your wine press” (Dt. 16:13) — “from your threshing floor” meaning, some of the produce intended for your threshing floor and not all of the grain

that will go to the threshing floor. And “from your wine press” even if not all the grapes that will go to the wine press.

[G] Then maybe they follow the rules for the year in which it reached less than a third of its growth?

[H] Said R. Zeira, “‘You shall tithe all the yield of your seed’ (Dt. 14:22) — this refers to something that is sown and yields produce, excluding from tithing produce that has reached less than a third of its growth, which, if sown, does not yield produce.”

[I:2 A] **(1) Rice, (2) durra, (3) millet and (4) sesame, that took root before New Year [of any year in the Sabbatical cycle, but continued to grow into the following year,] are tithed according to the [rules that apply to produce of the] previous year,** [that is, the year during which they took root: then why not rule that the first third of the growth should be tithed according to the rule for the year in which it reaches a third of its growth, and the second third should be subject to the rule for the coming year [when the growth occurs]?

[B] Said R. Yohanan, “Let us draw an analogy to the Festival of Tabernacles. Just as the Festival of Tabernacles occurs in the following year [the first festival after the New Year], yet you treat it as part of the past year [as a third of the three pilgrim-festivals, Passover, Pentecost, and Tabernacles, two of which occur before the New Year], so these fruits reach two-thirds of their growth in the coming year, yet you treat them as part of the previous year.”

[I:3 A] **(1) Rice, (2) durra, (3) millet and (4) sesame, that took root before New Year [of any year in the Sabbatical cycle, but continued to grow into the following year,] are tithed according to the [rules that apply to produce of the] previous year:**

[B] Shall we say that in the case of **(1) Rice, (2) durra, (3) millet and (4) sesame** the rule is the same? [And these items are tithed according to the rules governing the year in which they reach a third of their growth?]

[C] R. Huna bar Hiyya said, “[The criterion of a third of growth does not apply to these items for] it is impossible to determine when they have reached a third of growth.”

[D] *They replied to R. Huna bar Hiyya, “But is it not taught on Tannaite authority: As to Egyptian beans sowed for their sake, some of which ripened — one gathers the whole harvest together and ends up separating seed as tithes in behalf of the vegetable, and the vegetable*

as tithes in behalf of the seed. [One can tithe unevenly ripening produce all at the same time, treating seeds and produce as a single entity. This can be done even if the produce reached a third of its growth in different years of the Sabbatical cycle.]”

- [E] Said R. Yosé, “Huna bar Hiyya supported the proposition that [it is impossible to determine when they have reached a third of growth].”
- [F] R. Jonah, Huna bar Hiyya in the name of Samuel: “It is written, ‘You shall tithe all the yield of your seed that comes forth from the field year by year’ (Dt. 14:22) — one sets aside a single tithe in a single year and does not separate two tithes in a single year.” [One tithes according to the year in which the plant took root, so that all of the produce is subject to a uniform requirement for tithing.]
- [G] They answered, “Lo, Egyptian beans, lo, doesn’t the farmer separate two tithes in a single year? *For it is taught on Tannaite authority*: One gathers the whole harvest together and winds up separating seed as tithes in behalf of the vegetable and the vegetable as tithes in behalf of the seed.”
- [H] Said R. Zeira, “It is written, ‘Six years you shall sow your field and six years you shall prune your vineyard and gather its fruits’ (Lev. 25:3). There must be six times of planting and six times of gathering, not six times of planting and seven times of gathering.” [The items must be tithed according to the rule for the year in which they took root, and then there will be one harvest for each planting season.]
- [I] Said R. Jonah, “We cannot affirm the claim that there should be six harvests, so how can we explain that there will be seven? If we invoke the criterion of when the produce reaches a third of its growth, what is planted in the sixth year will be subject to the rules of the seventh year. There is no harvest at all, so the six plantings yield only five harvests. The claim that Scripture requires six harvests fails.] *But this is the rule*: There must be six times of planting and six times of gathering, not six times of planting and five times of gathering.” [That is accomplished by imposing the restrictions according to the time that they took root.]
- [J] *They objected*, “Lo, Egyptian beans, lo, don’t they have six times of planting and five times of gathering? [When the crop planted in the sixth year reaches a third of its growth after the Near Year of the Sabbatical year, it may not be harvested and it is not subject to tithes.]
- [K] “*For it has been taught on Tannaite authority*: Egyptian beans sown for their seed, but some of which ripened — one gathers the whole

harvest together and ends up separating seed as tithe for the vegetable and vegetable as tithe for the seed.”

- [I:4 A] How on the basis of Scripture do we know that in the case of vegetables they follow the point at which the crop is picked to determine when they are subject to tithes?
- [B] Scripture states, “You shall keep the feast of tabernacles seven days when you make your ingathering from your threshing floor and from your wine press” (Dt. 16:13) — just as in the case of produce of your threshing floor and wine press, which lives on the rains of the preceding year, you tithe according to the rule for the preceding year, so in the case of vegetables, since they live from the rain of the following year and not the year in which they are planted, you tithe according to the rule for the following year, in which they are picked.
- [C] *They answered:* “Lo, there is the Egyptian bean: if he sowed it for the sake of seed, it is tithed according to the rule for the preceding year, if for vegetable, it is tithed according to the rule in the following year.
- [D] “Now does the farmer who sows Egyptian beans have a charm, so that if he sows for seed the plants will thrive on the rain of the preceding year, but if he sows for vegetable they thrive on the rain for the coming year?”
- [II:1 A] **R. Simeon Shezuri says, “Egyptian beans that one originally sowed for the sake of their seed, [that is, not in order to eat the vegetable,] are analogous to them.” R. Simeon says, “Large beans [like Egyptian beans, also] are analogous to them.” R. Eleazar says, “Large beans [are tithed according to the rule governing produce of the previous year, only] if they begin to form pods before New Year.”**
- [B] What is the meaning of forming pods [**R. Eleazar says, “Large beans [are tithed according to the rule governing produce of the previous year, only] if they begin to form pods before New Year”**]?
- [C] It is when they form seed-bags.
- [II:2 A] R. Abba bar Zebedee in the name of R. Simeon b. Laqish: “The decided law is in accord with R. Simeon Shezuri.”
- [B] Said R. Yosé, “R. Eleazar instructed R. Shabbetai of Seroqah in accord with this ruling of R. Simeon Shezuri.”
- [II:3 A] *It is taught on Tannaite authority:*
- [B] Six rules did the sages state in regard to Egyptian beans.

[C] If one planted it for seed, it is tithed according to the rules for the preceding year [when it took root]. If one planted it for vegetable, it is tithed according to the rule for the following year, when it is harvested. If one planted it for seed and vegetable or if one planted it for seed and decided to harvest it for vegetable, he tithes both the seed and the vegetable according to the rule for the preceding year and separates the seed as tithes for the vegetable and the vegetable as tithes for the seed. That is so if it reached a third of its growth prior to the New Year. But if it reached a third of its growth after the New Year, its seed is tithed according to the rules for the preceding year, when it was planted, and its vegetable is tithed according to the principle that it is subject to tithing according to the rules in effect when it is picked. That is so if he picked it prior to the New Year. But if he picked it after the New Year, both the seed and the vegetable are tithed according to the rules for the coming year [when it is picked]. If one planted it for seed but decided to harvest it for the vegetable, they follow his plan. If one planted it for vegetable but decided to harvest it for seed, his plan is null unless he refrains from picking green pods on at least three occasions. That is in a case in which it reached a third of its ultimate growth prior to the New Year. But if it reached a third of its growth after the New Year, then even if he refrained from picking green pods on three occasions, it is tithed according to the rules for the following year. If he planted it for seed and it entirely produced ripe pods prior to the New Year, its seed is tithed according to the rules for the preceding year, in which it was planted, and the vegetable is tithed according to the rule that it is subject to tithing according to the rules in effect when it is picked. If some of it produced ripe pods and some of it did not produce ripe pods prior to the New Year, this is the rule: one gathers the whole harvest together and ends up separating seed as tithes in behalf of the vegetable, and the vegetable as tithes in behalf of the seed.

[II:4 A] *R. Abedimi of Haifa taught on Tannaite authority*: “ Even if it did not entirely produce ripe pods prior to New Year, its seed is tithed according to the rules for the previous year, when it was planted, and its vegetable is tithed according to the rule that it is subject to tithing according to the rules in effect when it is picked.”

[B] Said R. Yosé, “That is so if at the time it reached a third of its growth, the farmer intended it for its seed. But if at that time he intended it for the vegetable, can one hold that the seed is tithed according to the rules for the previous year and its vegetable is tithed subject to the rules in effect when it is picked? [Not at all, even the seed must be tithed according to the rule for the following year. But you say that one gathers the whole harvest together and ends up separating seed as

tithes in behalf of the vegetable, and the vegetable as tithes in behalf of the seed.”

- [II:5 A] If one planted Egyptian beans for seed prior to the New Year of the Sabbatical year and before the seed was harvested the Sabbatical year began, both the seed and the vegetable are permitted. If one planted it for the vegetable prior to the New Year of the Sabbatical year and the Sabbatical year began, both the seed and the vegetable are forbidden. If he planted it for the seed and the vegetable prior to the New Year of the Sabbatical year and the Sabbatical year began, obviously its seed is permitted. But as for the vegetable, what is the rule?
- [B] *R. Hiyya taught as a Tannaite rule:* It is forbidden.
- [C] *R. Halapta b. Saul taught as a Tannaite rule:* It is permitted.
- [D] *He who taught that it is permitted holds this position as the law of the Torah. The one who says it is forbidden [agrees that it should be permitted, but] rules stringently for appearances' sake.*
- [E] *R. Simon bar Zebedee asked before R. Yosé, “Even if he wishes to feed the plant to his cattle, should doing so be forbidden for appearances' sake?”*
- [F] [It is forbidden], he said to him, “He may not give it to his son or to his agent and he may not pick it by row [the normal mode of harvesting].”
- [G] Said R. Yosé b. R. Bun, “If when he picks the seeds, which is permitted, the sprout is uprooted, it is permitted to feed it to his cattle. Even in the opinion of him who says it is forbidden, if he was picking the seed pods and found a vegetable in one, he is permitted to give this to his cattle.”
- [H] *That is in line with the following: somebody came carrying ten bunches of Libyan beans as tithe to R. Jeremiah. He said to him, “Don't do this again. You may not pick more than you need for the stew pot [for immediate use]. [The beans are subject to the rules of the Sabbatical year.]”*
- [II:6 A] [If one planted Egyptian beans in th Sabbatical year and it continued growing in the eighth year, the year after the Sabbatical] if one planted it prior to the New Year of the eighth year and the eighty year began, both its seed and the vegetable are forbidden [as produce of the Sabbatical year, having taken root in the Sabbatical year.]

- [B] If he planted it for the vegetable before the New Year of the eighth year and the eighth year began, both the seed and the vegetable are permitted.
- [C] If one planted it for its seed and vegetable before the New Year of the eighth year and the eighth year began, its seed is forbidden and the vegetable is permitted.

2:6

- [A] **(1) Shallots and (2) Egyptian beans which one deprived of water thirty days before New Year**
- [B] **are tithed according to the [rules that apply to produce of the] previous year. [By depriving these plants of water, the farmer indicates that he does not wish to cultivate the vegetable, only its seed. Since this produce has been cultivated for its seed, alone, it has the status of rice.]**
- [C] **And if, [in particular, shallots or Egyptian beans were deprived of water for the last thirty days of the sixth year,] they are permitted during the Sabbatical year.**
- [D] **And if not, [that is, if one did water them during the last thirty days of the sixth year,]**
- [E] **they are forbidden during the Sabbatical year.**
- [F] **And [if the farmer planted them in one of the other years of the Sabbatical cycle,] they are tithed according to the [rules that apply to produce of the] following year.**
- [G] **“And [concerning] a naturally-watered field [that is, one which requires only periodic irrigation] —**
- [H] **“[the rule applies provided that the farmer] has deprived [the shallots or beans] of water for two periods [of watering,]” the words of R. Meir.**
- [I] **But sages say, “[That rule applies only if the farmer has deprived the plants of water for] three [periods].”**
- [I:1 A] What are shallots?
- [B] *They are onions found in villages, which do not produce seeds.*
- [II:1 A] Said R. Mana, “Since he withheld water from them for thirty days before the New Year, they are treated like plants in a naturally watered field. [That is, the crop is intended for seed, which is tithed according to the rules of the year in which it takes root.]”

- [B] *R. Jonah asked, “Is it treated as grown for seed retroactively or only from the point after the farmer deprived the field of water and onward?”*
- [C] *Where does it matter?*
- [D] If he picked produce within thirty days of the New Year of the Sabbatical year and in that time withheld water and picked some of the produce after thirty days —
- [E] if you say that it retroactively is treated as seed, he may separate tithes from this produced, picked first, in behalf of that which he picked afterward. [All the produce is deemed to belong to the previous year of the Sabbatical cycle. If you say it is treated as seed from this point onward, he may not separate tithes from the produce picked first in behalf of produce picked afterward.]

2:7

- [A] **Gourds that one left [in a field during the sixth year] so that [they would dry out, at which time the farmer would break them open and collect their seeds] —**
- [B] **if they became hard [and dry] before the New Year of the Sabbatical year,**
- [C] **and [the gourds themselves] became unfit for human food,**
- [D] **one is permitted to leave them [in the field and to gather the seeds] during the Sabbatical year. [Since these gourds were no longer edible when the Sabbatical year began, they are exempt from the restrictions of the law. The farmer therefore may tend these gourds for their seeds alone and allow the vegetable to dry out.]**
- [E] **And if not [that is, if the gourds do not harden before the New Year of the Sabbatical year, but rather remain edible,]**
- [F] **one is forbidden to leave them [in the field and to gather the seeds] during the Sabbatical year, they are regarded as produce of that year. The farmer must use these gourds for food, in accordance with M. 8:1, and may not leave them to dry out in the field.]**
- [G] **Their buds [that is, those which sprout from these gourds during the Sabbatical year] are forbidden during the Sabbatical year.**
- [H] **“And [during the Sabbatical year] they sprinkle water on a field of grain (lit., white dust),” the words of R. Simeon.**
- [I] **R. Eliezer b. Jacob forbids [such sprinkling].**

- [J] **“They flood rice [paddies] during the sabbatical year,” the words of R. Simeon.**
- [K] **But they do not trim [the rice plants].**
- [I:1 A] **if they became hard [and dry] before the New Year of the Sabbatical year:** what need do I have to specify that they became hard? Even if they did not become hard, [it should be treated as produce of the sixth year, in which it took root.]
- [B] Once the gourds have become hard, they are comparable to other garden seeds that are not eaten.
- [II:1 A] **and [the gourds themselves] became unfit for human food:**
- [B] How does the farmer investigate that the gourd has become inedible?
- [C] R. Yosé b. Hanina says, “He punctures the gourd. If when he removes the needle the hole closes up [and that shows the vegetable is still moist] then it is forbidden, but if not, it is permitted.”
- [II:2 A] R. Jonah of Bosra said, “Karmulin is exempt from tithes.”
- [B] *That which you have said* is so long as it has not produced gourds. But if it has produced gourds, it is subject to the law like other vegetables.”
- [II:3 A] R. Yosé taught concerning colocasia leaves that during the Sabbatical year it is forbidden to drink water from them, since gazelles eat them.”
- [III:1 A] **“And [during the Sabbatical year] they sprinkle water on a field of grain (lit., white dust),” the words of R. Simeon. R. Eliezer b. Jacob forbids [such sprinkling].**
- [B] *The opinion of R. Simeon accords with that of the rabbis, and the opinion of R. Eliezer b. Jacob is in accord with his own view. That is as we have taught on Tannaite authority there: R. Eliezer b. Jacob says, “They lead water from one tree to another, on condition that one not water the entire field. [This is comparable to his position that during the Sabbatical year the farmer may not water an entire field of gain.] Seeds which have not been watered before the festival one should not water on the intermediate days of the festival.” And sages permit in this case and in that [M. M.Q. 1:3]. [Comparably, Simeon permits sprinkling water on a field of grain.]*
- [III:2 A] R. Mana stated the following without specifying an authority, while R. Abin in the name of Samuel [said], “[As to **M. Sheb. 2:10: ‘They may water the while soil (= ground between trees) (= ground not planted with trees),’ the words of R. Simeon. R. Eliezer b. Jacob prohibits,**] the dispute [at M. 1:3A-B] pertains to an average situation

[in which the trees are not planted very closely together or very far apart].

- [B] “*For how [otherwise] may be interpret* the dispute about leading water from one tree to another, either in the Seventh Year or in the intermediate days of the festival?
- [C] “If we deal with a field in which the trees are far apart, then in the view of all parties it will be prohibited. If we deal with a field in which the trees are close together, all parties will concur that it will be permitted.
- [D] “*Accordingly, we must deal with an average situation, in which trees are planted at the rate of ten per seah’s space of ground. R. Eliezer b. Jacob treats such a case as if the trees were far apart, and rabbis treat such a case as if the trees were planted close together.*”
- [E] Lo, rabbis rule that when they are far apart, it is forbidden to water the entire field. What then is the rule as to channeling the water from tree to tree?
- [F] *Let us derive the position of rabbis from the view of R. Eliezer b. Jacob.*
- [G] Just as R. Eliezer b. Jacob has said, “When the trees are far apart, it is forbidden to water the field but permitted to lead water from one tree to another” [M. 1:3A], *so rabbis maintain that* when the trees are far apart, it is forbidden to water the field but permitted to lead water from one tree to another.
- [H] *But have we not reasoned that* in the case in which the trees are far apart, all parties concur that it is forbidden? And since we deal with white soil [on which there are no trees], is this not a case in which the trees are far apart?
- [I] But a better answer is to make a distinction between the rule prevailing in the case of the Sabbatical Year [in which case the work will be permitted], and that prevailing in the case of the intermediate days of the festival [in which case it will be forbidden].
- [J] What is the difference between the Sabbatical Year and the intermediate days of a festival?
- [K] In the case of the Sabbatical Year, since it is permitted to work, sages have permitted labor, whether it is burdensome or it is not burdensome. But as to the intermediate days of a festival, since it is not permitted to work, sages have permitted only labor in connection with

what will perish, and that is on condition that it is not burdensome labor.

- [L] *There is he who proposed to derive the difference on the basis of the following consideration:*
- [M] In the Sabbatical Year, since it goes on for a long time, they have permitted the matter. In the intermediate days of a festival, since it is for only a brief time, they have forbidden [heavy labor].
- [N] As to those last seven days of the Sabbatical Year, is it not reasonable to treat them as equivalent to the seven days of a festival and to forbid [onerous labor on them]?
- [O] *There is the following teaching [in support of the distinction proposed above]:* “They water white soil in the Seventh Year but not in the intermediate days of the festival,” the words of R. Simeon. And R. Eliezer b. Jacob prohibits.

YERUSHALMI SHEBIT

CHAPTER THREE

3:1

- [A] From what time [during the Sabbatical year] do [Israelite farmers] bring manure out [to their fields to store it there] in dung heaps [for use as fertilizer, during the following year, not during the seventh year itself, which would be forbidden]?
- [B] “From the time [during other years of the Sabbatical cycle] when workers cease [spreading manure in their fields],” the words of R. Meir. [From this point on, the manure that the farmer places in heaps in the field will not have the effect of fertilizing the crops of the seventh year, which would be forbidden].
- [C] R. Judah says, “From the time when the [ground] moisture dries up.” [Since at this point the ground no longer will absorb the nutrients from the manure, the farmer will not be engaged in fertilizing.]
- [D] R. Yosé says “From the time when [the ground hardens] forming clumps.”
- [E] [In accordance with the rule of M. 3:1], how much manure [may they bring out to a field during the Sabbatical year]?
- [F] Up to three dung heaps per *seah*-space [of land],
- [G] each [dung heap containing no less than] ten baskets [of dung],
- [H] each [basket containing a volume of no less than] a *letek* [that is, fifteen *seahs*, of dung].
- [I] They may add to the [number of] baskets [above ten per dung heap],
- [J] but they may not add to the [number of] dung heaps [above three per *seah*-space].

- [K] **R. Simeon says, “Also: [They may add to the number] of dung heaps.”**
- [I:1 A] **From what time [during the Sabbatical year] do [Israelite farmers] bring manure out [to their fields to store it there] in dung heaps ... “From the time [during other years of the Sabbatical cycle] when workers cease [spreading manure in their fields]:**
- [B] What is the law on making a dung heap at the entrance to one’s court yard before the time when during other years of the Sabbatical cycle workers cease spreading manure in their fields]?
- [C] Silni asked R. Hiyya bar Ba and he prohibited doing so.
- [D] R. Hanina said, “He permitted it.”
- [E] *People said, “This one is taking tithe [from Silni, in payment for his legal decision.]” Thereupon Hanina declared that he should leave for abroad, outside of the Land of Israel, where he could not receive tithe.*
- [I:2 A] **“[From the time [during other years of the Sabbatical cycle] when workers cease [spreading manure in their fields]”]:** But even once the workers have ceased work in spreading manure, it should be forbidden to make the dung heaps in the Sabbatical year, for appearances’ sake!
- [B] It is so that people won’t say, “He is bringing the dung out to his irrigated field [where fertilizing is effective even in the summer]!”
- [C] The people of his town will know whether he has an irrigated field or not.”
- [D] Said R. Yosé, “That is to say, in matters concerning appearances’ sake, they did not scruple concerning passersby.”
- [I:3 A] As to the prohibition of doing agricultural work during the two periods preceding the Sabbatical year, what is the law on whether or not it is permitted to follow this same arrangement [allowing people to bring manure to dung heaps from Passover until the point at which in other years of the cycle field work ceases?
- [B] *Let us derive the answer from the following: **In the year preceding the seventh year, they sell manure to, and bring it out [to the field of,] an Israelite who is suspected [of transgressing the laws] of the seventh year [but they do not do these things after the beginning of the seventh year], and [with regard to selling manure to, or bringing it out to the field of,] a gentile or a Samaritan -- even during the seventh year, it is permitted** [T. Sheb. 1:4]. But this is the*

case on condition that they not unload the wicker baskets used to carry the dung.

[C] The only prohibition stated against bringing out dung before the Sabbatical year is that they not unload the wicked baskets

[D] But as to bringing out the manure, that is to say it is permitted. And if you say it is forbidden, it should be forbidden to take it out.

[II:1 A] **R. Judah says, “From the time when the [ground] moisture dries up.” [Since at this point the ground no longer will absorb the nutrients from the manure, the farmer will not be engaged in fertilizing.]**

[B] That is when the ground becomes cracked.

[C] *Said R. Mana, “This refers to cracks in the dry earth of a valley.”*

[III:1 A] **R. Yosé says “From the time when [the ground hardens] forming clumps.”**

[B] This is after the soil has formed hard clumps.

[C] *Said R. Hananiah, “When the clumps have formed at the top of the soil, it dries out completely.”*

[IV:1 A] On the opinions [of Meir, Judah and Yosé] a Tannaite statement set forth: “Their opinions are close to identical in fact.”

[V:1 A] **[In accordance with the rule of M. 3:1], how much manure [may they bring out to a field during the Sabbatical year]? Up to three dung heaps per *seah*-space [of land] each [dung heap containing no less than] ten baskets [of dung], each [basket containing a volume of no less than] a *letek* [that is, fifteen *seahs*, of dung]. They may add to the [number of] baskets [above ten per dung heap], but they may not add to the [number of] dung heaps [above three per *seah*-space].**

[B] *Said R. Jeremiah, “One who has too few baskets of manure to make three heaps of ten baskets each may create two heaps instead of three [but each heap must have ten baskets].”*

[C] *R. Yosé asked, “If one has too few baskets of manure to make three heaps of ten baskets each, isn’t making two heaps instead of three forbidden.”*

[D] *But thus do we interpret the rule: in the case of one who creates a dung heap containing more than the required quantity of ten baskets of manure, we have that which is taught on Tannaite authority: **They do***

not add to [the number of] baskets or to [the number of] dung-heaps [above the numbers specified in M. Sheb. 3:2],” the words of R. Meir. And sages say, “They may add to the number of baskets, but they may not add to the number of dung-heaps” [T. Sheb. 2:14].

- [E] “They may increase the number of baskets” — doesn’t this mean, increasing it over the minimum quantity of ten baskets? *And along these same lines, they may not add to the number of dung-heaps — even if it contains the requisite quantity of ten baskets of manure.*

3:2

- [A] [During the Sabbatical year] a man constructs within his field three dung heaps per *seah*-space.
- [B] “[If a farmer has too much manure to fit into three piles of the size specified, then he may construct] more than that [number, that is, more than three heaps per *seah*-space]. More than [three, he must form them in the manner of] quarried stone, [one basket on top of another]”, the words of R. Simeon.
- [C] But sages forbid [the construction of more than three dung heaps per *seah*-space] unless the farmer either deepens [the ground where the manure is deposited by] three [handbreadths] or raises [the ground by] three [handbreadths]. By piling the manure in this unusual manner, the farmer indicates that he is storing it, not using it to fertilize his field].
- [D] A person [who does not have enough dung to form three piles of the size specified] places [all] the manure in his possession in one large pile.
- [E] R. Meir forbids [the farmer from doing this] unless he either deepens [the ground by] three [handbreadths] or raises [the ground by] three [handbreadths].
- [F] If one had a small amount [of manure, he forms a single pile and] continues to add to it.
- [G] R. Eleazar b. Azariah forbids the [farmer from doing this] unless he deepens [the ground by] three [handbreadths] or raises [the ground by] three [handbreadths],
- [H] or unless he places [the manure] on rocky ground.
- [I:1 A] *Why does the Mishnah teach R. Simeon’s statement that one may create more than three dung heaps two times [here and at M. Sheb. 3:3]?*

[B] Said R. Jeremiah, “Here he permits creating more than three heaps in a case in which one forms each of the dung heaps of less than ten baskets of manure. But here he permits creating more than three heaps when he forms dung heaps of the requisite ten basket measure.

[C] *And so it is taught on Tannaite authority concerning R. Simeon’s statement:* [One may create more than three dung heaps] on condition that the individual not create a dung heap of less than three baskets of manure.

[II:1 A] A person [who does not have enough dung to form three piles of the size specified] places [all] the manure in his possession in one large pile. R. Meir forbids [the farmer from doing this] unless he either deepens [the ground by] three [handbreadths] or raises [the ground by] three [handbreadths].

[B] The farmer must raise or lower the ground only if he makes a single dung heap of more than the requisite quantity of manure. But if he has only the requisite quantity of three baskets, putting it in three places is permitted.

[C] Putting it in a single place is permitted all the more so.

[III:1 A] If one had a small amount [of manure, he forms a single pile and] continues to add to it. R. Eleazar b. Azariah forbids the [farmer from doing this] unless he deepens [the ground by] three [handbreadths] or raises [the ground by] three [handbreadths], or unless he places [the manure] on rocky ground.

[B] *There are two interpretations of this dispute.*

[C] When the farmer had in his house just a little manure on the eve of the Sabbatical year and wants to bring it out to his field during the Sabbatical year itself — lo, this one continues to add to it [as manure accumulates] from the time that the workers cease.

[D] **R. Eleazar b. Azariah forbids the [farmer from doing this] unless he deepens [the ground by] three [handbreadths] or raises [the ground by] three [handbreadths], or unless he places [the manure] on rocky ground.**

[E] What is the reason for the ruling of R. Eleazar b. Azariah? Perhaps the farmer will not find more manure to add to the small pile and will end up just fertilizing that particular place [rather than creating a storage heap].

[F] *You may interpret the dispute in a second way.*

- [G] When the farmer had in his house just a little manure on the eve of the Sabbatical year and wants to bring it out to his field during the Sabbatical year itself — lo, this one continues to add to it [as manure accumulates] from the time that the workers cease.
- [H] **R. Eleazar b. Azariah forbids the [farmer from doing this] unless he deepens [the ground by] three [handbreadths] or raises [the ground by] three [handbreadths], or unless he places [the manure] on rocky ground.**
- [I] What is the reason for the ruling of R. Eleazar b. Azariah? Perhaps the farmer will not find more manure to add to the small pile and will end up just fertilizing that particular place [rather than creating a storage heap].
- [J] Wasn't that particular place already fertilized on the eve of the Sabbatical year? [So the reason cannot be that the farmer might actually fertilize the field during the Sabbatical year.]
- [K] R. Abba, R. Jeremiah b. R. Abun bar Hiyya in the name of R. Abba bar Mamel: "It is because of appearances' sake until he brings out ten basketfuls at the same time." [People won't know that the pile was started there before the advent of the Sabbatical year. When they see the farmer bring out small quantities of manure, they will think he is fertilizing the field. That is why Eleazar b. Azariah wants the farmer to set aside a particular area of land as a dung heap. This does not apply to the farmer who brings out large quantities of manure, clearly for a dung heap.]
- [L] *And don't the rabbis take account of appearances' sake?*
- [M] Said R. Idi of Hutraia, "His basket and shovel prove that he is making a dung heap [and not fertilizing the field]."
- [III:2 A] *R. Yosé b. R. Abun said, "These traditions here concerning the reasoning of R. Eleazar b. Azariah correspond to the two different explanations given for that which we have learned on Tannaite authority: **R. Eleazar b. Azariah says, "They do not make a new water channel on the intermediate days of a festival or in the Seventh Year."** And sages say, "They make a new water channel in the Seventh Year, and they repair damaged ones on the intermediate days of a festival" [M. M.Q. 1:2].*
- [B] Said R. Zeira, "It is because he prepares the sides of the water channel for sowing."

- [C] R. Jeremiah, R. Bun bar Hiyya in the name of R. Ba bar Mamel: “It is for appearance’ sake.”
- [D] *They proposed to rule as follows:* He who has said there [at M. M.Q. 1:2] that the reason is because of appearance’ sake will maintain here [at Y. Sheb. 3:2] that the reason is for appearance’ sake. *He who has said there that the reason is because he prepares the sides of the channel for sowing — what do you have to say in the present case [of the prohibition pertaining to the Seventh Year]?*
- [E] *You can only reply for the present case,* “He may not find sufficient manure to add to the heap [to bring it to a level at which it is meant for the storage of manure], and the man will turn out to be manuring that place on which he is storing his manure.”
- [F] *What is the practical difference between these two reasons?*
- [G] If one dug out a ditch, making a water channel with built-up sides [formed of twigs and stones].
- [H] *This is what they proposed to say:* “He who holds there that the operative reason is on account of appearance’ sake will prohibit doing so here because of appearance’ sake. *He who has said there that the prohibition is because he prepares the sides of the channel for sowing — lo, in this case he does not prepare the sides of the channel for sowing.*”
- [I] All concur that if he had available stones, pebbles, mortar, or gypsum, it is permitted [to build the water channel in the Seventh Year]. [No one will suppose the digging is in order to engage in agriculture.]

3:3

- [A] **One who uses his field as a fold [for his flock during the Sabbatical year, so that, as a result, the animals drop dung throughout the field], makes an enclosure [that measures] two seah-spaces in area. [By limiting the surface area covered with dung, the farmer indicates that his intention is not to fertilize the land, in violation of the law].**
- [B] **[After the enclosed area is filled with manure he creates a second fold adjacent to the first. How so?] He removes three sides [of the original enclosure] and leaves the middle side [that is, the fourth side, in place. With the other three sides of the original fold he creates a second enclosure of the same size.]**
- [C] **The result is that he encloses within a fold [an area totaling] four seah-spaces.**

- [D] **Rabban Simeon b. Gamaliel says, “[He may continue to create enclosures in this manner and so enlarge the area until it measures a total of] eight seah-spaces.”**
- [E] **[If] his entire field was four seah-spaces in area,**
- [F] **he sets aside a small section [of the field, which he does not enclose within the fold,]**
- [G] **so as [to avoid] the appearance [of committing the transgression of fertilizing his field during the Sabbatical year].**
- [H] **And he removes [manure] from within the enclosure and places it in his field in the accepted manner of those who handle manure [during the Sabbatical year].**
- [I:1 A] ***There we have learned in the Mishnah: A field that was cleared of thorns [during the Sabbatical year] may be sown during the year following the Sabbatical. [Since removing thorns is not a forbidden act of cultivation, the farmer who sows this field during the eighth year does not derive benefit from the performance of a transgression]. [But a field] that was improved, [that is, plowed during the Sabbatical year,] or that was used as a fold [during the Sabbatical year for animals such that it was fertilized by the dung that the animals left on the ground, may not be sown during the year following the Sabbatical. [Since plowing and fertilizing a field are forbidden during the Sabbatical year, the farmer may not derive benefit from this field during the eighth year] [M. Sheb. 4:3].***
- [B] ***Said R. Jonah, “This is the sense of the Mishnah-passage: “He who wants to put a flock in his field during the Sabbatical year makes a pen the size of two seah-spaces.”***
- [I:2 A] **They construct enclosures using all [types of materials]: with stones, matting, straw, reeds, and stalks. [They may make an enclosure] even with three ropes, one on top of another, so long as there is not a space of [more than] three handbreadths between [one] rope and another, [that is, sufficient space] for a young goat to enter [T. Sheb. 2:19].**
- [B] **In that space between the enclosures he may milk and shear and herd the flock through it.**
- [I:3 A] ***It has been taught on Tannaite authority:***
- [B] **R. Simeon b. Eleazar says, “[One desiring to use his field as a fold] sinks a stake in the middle [of the field] and surrounds it with four**

enclosures on its four sides covering eight seah-spaces” [T. Sheb. 2:15].

[I:4 A] **On Sabbaths, festivals, or the intermediate days of festivals they [viz., gentile workers] do not drive a flock into a fold [on behalf of Israelites], even [if they do so] as a favor. If they [the gentiles] came [to assist Israelites] of their own accord, they [the gentiles] do not assist them] [T. Sheb. 2:20].**

[B] But if the gentiles work on contract, on Sabbaths and festivals he is permitted to assign one as a guard or to drive the flock around the fold.

[C] And if they entered the fold by themselves, they help them along.

[D] *It is taught on Tannaite authority: Rabban Simeon b. Gamaliel says, “They drive a flock into a fold on the Sabbath as a favor, on a festival [in exchange] for his meals, and on the intermediate days of a festival [the gentile worker may do so] even if he receives his [regular] salary” [T. Sheb. 2:20]*

[I:5 A] *It was taught on Tannaite authority: One who during the other years of the Sabbatical cycle hires a flock to fertilize his field — it is forbidden to drive it around to speed up the process.*

[B] What is the meaning of “to drive it around”?

[C] To lead it from place to place.

[D] *That rule is stated* for when he hired it for a short time.

[E] But if he hired the flock for an extended period of time, it is permitted to move the flock about.

[F] On the last day of the period for which the flock was hired, it is forbidden to drive the flock about.

[I:6 A] *R. Huna in the name of R. Nahman bar Jacob: “He who went off to empty his bowels but cannot move his bowels — let him walk around from place to place, and he will be able to move his bowels.”*

[B] R. Huna in the name of Mar Uqban: “*Hafrita* is a root that is good for the bowels.”

[I:7 A] R. Hiyya bar Abba asked, “Before the time that during other years of the Sabbatical cycle workers cease their labors, what is the rule on whether or not it is permitted to remove dung from the enclosure and to put it in the field in the manner of those who fertilize?”

3:4

- [A] [During the Sabbatical year] a man may not begin to open a stone quarry in his field, [for in doing so he may appear to be clearing the land for cultivation,]
- [B] unless the field contains [enough stones to construct] three piles [of hewn blocks,]
- [C] each [pile] three [cubits long] by three [cubits wide] by three [cubits] high,
- [D] [so that] their measure is [equivalent to] twenty-seven stones. [That is, each pile would contain no less than twenty-seven blocks, each measuring one cubic cubit].
- [E] [As regards] a wall consisting of ten stones, [each of which is so large that it can] be carried [only] by two men —
- [F] lo, these [stones] may be removed [from the field] during the Sabbatical year. [The size of the stones indicates that the people are collecting them for use in construction, not clearing them away to prepare the land for cultivation].
- [G] [The preceding rule applies only if] the height of the wall is ten handbreadths [or more].
- [H] Less than this, [that is, if the wall is less than ten handbreadths high,]
- [I] he may chisel [stones from the wall]
- [J] but he may level [the wall] only until it is one handbreadth from ground level, [but not raze it to the ground. This again indicates that he is not clearing the land under the wall for cultivation].
- [K] To what does this [rule] apply?
- [L] [To a case of removing stones] from within one's own [field].
- [M] But from that of his neighbor, he may remove any amount he wishes. [Since a person would not be suspected of cultivating his neighbor's field, in this case he will not appear to be engaged in a transgression.]
- [N] To what case does this apply?
- [O] To a case in which he did not begin [to remove the stones] during the year preceding the Sabbatical, [but rather during the Sabbatical year itself].
- [P] But if he did begin [to remove stones] in the year preceding the Sabbatical, he may remove any amount he wishes [during the Sabbatical year].

- [I:1 A] [During the Sabbatical year] a man may not begin to open a stone quarry in his field, [for in doing so he may appear to be clearing the land for cultivation,] unless the field contains [enough stones to construct] three piles [of hewn blocks,] each [pile] three [cubits long] by three [cubits wide] by three [cubits] high: *what would be a practical case of reaching a measure of twenty-seven stones?*
- [B] *Three layers of nine stones or nine stones across by three stones in height — thus twenty-seven stones.*
- [I:2 A] *It is taught on Tannaite authority:*
- [B] As for a quarry next to his neighbor's quarry — if during the Sabbatical year his neighbor was permitted to open his quarry [that contained the requisite number of stones], he is also permitted to remove stones from the area [even if the area no longer contains the twenty-seven stones]. But if as a consequence of the neighbor's action it was completely emptied of stones, it is forbidden for him to dig there.
- [I:3 A] *There we learned in the Mishnah: **The wall projection brings uncleanness whatever its depth. The pointed molding and the rounded molding — a square handbreadth. And under what circumstances have they said, “A wall projection brings uncleanness whatever its depth”?** Concerning a projection which is [no] higher than the door by three courses, which are twelve handbreadths. More than this — it brings uncleanness [only if it is] square handbreadth wide [deep].*
- [B] Said R. Hiyya bar Abba, “That is to say, one who contracts with his fellow to build a layer of stones must build him one of four handbreadths.”
- [C] *Said R. Yosé, “The Mishnah said so explicitly: **And under what circumstances have they said, “A wall projection brings uncleanness whatever its depth”?** Concerning a projection which is [no] higher than the door by three courses, which are twelve handbreadths.*
- [D] “And why have we learned on Tannaite authority that the projection consists of three layers? To teach the rule that whenever a layer of stone or brick is mentioned, it is four handbreadths high.”
- [E] R. Hiyya bar Abba asked, “*Are these measurements of four handbreadths per layer of bricks the same as those for the height of*

the layers in a stone wall that may be removed from the field during the Sabbatical year?"

- [F] *R. Hezekiah bar Jacob bar Aha in the name of R. Yosé b. R. Hanina: "These measurements are the same as those measurements."*
- [G] **Here you state, [As regards] a wall consisting of ten stones, [each of which is so large that it can] be carried [only] by two men — lo, these [stones] may be removed [form the field] during the Sabbatical year. [The size of the stones indicates that the people are collecting them for use in construction, not clearing them away to prepare the land for cultivation]. [The preceding rule applies only if] the height of the wall is ten handbreadths [or more]. Less than this, [that is, if the wall is less than ten handbreadths high,] he may chisel [stones from the wall] but he may level [the wall] only until it is one handbreadth from ground level, [but not raze it to the ground. This again indicates that he is not clearing the land under the wall for cultivation], and there you state this [that the layers of the wall are four handbreadths high] !**
- [H] *With what case do we deal [in M. Shebiit]? If it is a case in which there are two layers of four handbreadths each, that is only eight handbreadths and not the ten that are required. And if there are three layers of stones, that is twelve handbreadths. So the layers cannot be four handbreadths each, such they do not yield a wall ten handbreadths high.*
- [I] Said R. Yosé, "Deduct half a handbreadth for chiseling on one side and half q handbreadth for chiseling on the other side [of the middle layer] and so with each adjacent surface and it turns out that three layers reach a height of ten handbreadths. [The interlocking stones yield a fence ten handbreadths high.]
- [I:4 A] If it is less than this, it is not a fence [that may be taken down in the Sabbatical year] or a stone quarry [from which rock may be taken in that year].
- [II:1 A] **To what does this [rule] apply? [To a case of removing stones] from within one's own [field]. But from that of his neighbor, he may remove any amount he wishes. [Since a person would not be suspected of cultivating his neighbor's field, in this case he will not appear to be engaged in a transgression.] To what case does this apply? To a case in which he did not begin [to remove the stones] during the year preceding the Sabbatical, [but rather during the Sabbatical year itself]. But if he did begin [to remove stones] in the**

year preceding the Sabbatical, he may remove any amount he wishes [during the Sabbatical year].

[B] *It is taught on Tannaite authority: Said R. Judah,* “Under what circumstances [does this rule apply]? When one intends to make [the quarry] into a field [that is, suitable for planting], but when one does not intend to make [the quarry] into a field, even a blatant transgression [of the seventh-year prohibitions] is permitted.”

[C] **Said Rabban Simeon b. Gamaliel, “Under what circumstances [does this rule apply]? When one does not intend to make [the quarry] into a field, but when one intends to make [the quarry] into a field even the most minor transgression [of the seventh year prohibitions] is forbidden” [T. Sheb. 3:1-2]**

[D] **Said R. Bibi, “R. Yosé decided a case in accord with the lenient Tannaite authority [Judah].”**

3:5

[A] **Stones that a plow moved,**

[B] **or that were covered [in the ground] and were uncovered [after plowing]—**

[C] **if there are among them two [stones so large that they are] capable of being carried [only] by two men,**

[D] **lo, these [stones] may be removed.**

[E] **One who clears stones from his field,**

[F] **removes the topmost ones and leaves those that are touching the ground.**

[G] **And so [in the case] of a heap of pebbles or a pile of stones—**

[H] **one removes the topmost ones and leaves those that are touching the ground.**

[I] **If there is beneath them [that is the pebbles or stones] a [large] rock or straw,**

[J] **lo, these [stones also] may be removed.**

[I:1 A] **It is not the end of the matter that the plow moved the stones, but even stones that a plow can move in the future [may be removed].**

[B] *Said R. Yosé, “A Tannaite statement says this in so many words: if each stone is so large that it can be carried only by two men, lo, these stones may be removed.”*

[II:1 A] If there is beneath them [that is the pebbles or stones] a [large] rock or straw, lo, these [stones also] may be removed:

[B] R. Jacob bar Abun in the name of R. Simeon b. Laqish: “That is to say that in all the years of the Sabbatical cycle] it is forbidden to take pebbles from his neighbor’s field, for when the neighbor weeds, he places the herbs [that he pulls up, intending to eat them] on the pebbles, so that they do not get dirty.”

[C] *That which you say applies* to a valley. But in the mountains and on rocky crags it is permitted. One who removes pebbles from his neighbor’s field in mountainous or rocky areas is regarded as having done a favor.

3:6

[A] **During the year preceding the Sabbatical, after the rains have ceased, they do not build terraces on the sides of ravines,**

[B] **for this prepares [the ravines for cultivation] during the Sabbatical year, [when working the land is forbidden].**

[C] **However, during the Sabbatical year, after the rains have ceased, one may build [terraces,]**

[D] **for this prepares [the ravines for cultivation] during the year following the Sabbatical [when working the land is permitted].**

[E] **And [during the Sabbatical year when a farmer builds a retaining wall for a terrace,] he may not support [it] with dirt, [for in doing so he would appear to be engaged in an act of cultivation].**

[F] **But [rather one who wishes to build a retaining wall during the Sabbatical year] constructs a rough embankment [using only stones. Since the farmer does not move any dirt, he will not appear to be leveling the land, in violation of the laws of the seventh year].**

[G] **[As regards] any stone [that is near enough to a person building a wall] that he can [merely] stretch out his hand and pick up [the stone] —**

[H] **lo, this [stone] may be picked up [from the field and placed in the wall. Since this person removes the stone from the field and adds it to the wall forthwith, it is apparent that he is not engaged in clearing the land for cultivation].**

[I:1 A] R. Qerispa in the name of R. Yohanan, Hanina b. Gamaliel: “*The Mishnah speaks of the restriction of the Sabbatical year that applied during the two additional periods prior to the start of the Sabbatical year.*”

- [B] *It is taught on Tannaite authority: R. Judah and R. Nehemiah forbid [building terraces prior to the Sabbatical year].*
- [C] Did they not flourish in the time of the restriction against doing field work during the two additional periods? So this passage applied only in the time of the restriction against doing field work during the two additional periods.
- [D] *R. Shimi asked, "If the law applied only during the time of the restriction against doing field work during the two additional periods, concerning this have we not been taught on Tannaite authority: **However, during the Sabbatical year, after the rains have ceased, one may build [terraces,] for this prepares [the ravines for cultivation] during the year following the Sabbatical [when working the land is permitted]?** Then the law applies eve during the time after it was deemed permitted to do field work during the two additional periods."*
- [E] If the law applied even when it was permitted to do field work during the two additional periods, you end up ruling that plowing for the benefit of the following year is permitted, while building is forbidden.
- [F] Said R. Mana, "Well did R. Shimi speak. First, plowing is permitted since this prepares the field for cultivation during the year following the Sabbatical year but has no effect on the crop of the Sabbatical year itself. Building terraces is forbidden since this prepares the field for cultivation during the Sabbatical year itself."
- [G] *The Mishnah did not say so [that plowing is permitted while building is forbidden]. Rather: **However, during the Sabbatical year, after the rains have ceased, one may build [terraces,] for this prepares [the ravines for cultivation] during the year following the Sabbatical [when working the land is permitted].***
- [H] **And [during the Sabbatical year when a farmer builds a retaining wall for a terrace,] he may not support [it] with dirt, [for in doing so he would appear to be engaged in an act of cultivation].**
- [II:1 A] **But [rather one who wishes to build a retaining wall during the Sabbatical year] constructs a rough embankment [using only stones. Since the farmer does not move any dirt, he will not appear to be leveling the land, in violation of the laws of the seventh year].**
- [B] What is a rough embankment?
- [C] It embanks the earth of the terrace: "And when the people build an embankment" (Ez. 13:10).

3:7

- [A] Stones [so large that they can be carried only on one's] shoulder may come from anywhere [for use in constructing a wall. That is, a farmer may remove such stones even from his own field and need not scruple about appearing to cultivate the land. From the size of these stones it is clear that they will be used in construction].
- [B] And a contractor brings [stones of any size] from anywhere. [Since he obviously has been hired to build a wall, he is not suspected of preparing this land for cultivation.]
- [C] And what [size stones] are [considered] “stones [that must be carried on one's] shoulder?”
- [D] “Any stone that cannot be picked up with one hand,” the words of R. Meir.
- [E] R. Yosé says, “Stones [that must be carried on one's] shoulder are what their name implies,
- [F] “[that is,] all [stones] that are picked up two [or] three [at a time and carried] on the shoulder.”
- [G] One who builds a fence [during the Sabbatical year] between his [property] and the public domain is permitted to dig down to rock level [in order to supply a firm foundation for the fence. Since this land ordinarily is not cultivated, a person who clears this area need not scruple about appearing to work the land].
- [H] What should he do with the dirt?
- [I] “He piles it up in the public domain and repairs it [that is, he uses the dirt to fill holes in the road,]” the words of R. Joshua.
- [J] R. Aqiba says, “Just as one does not do damage in the public domain, so too one does not repair it.”
- [K] What should he do with the dirt?
- [L] He piles it up in his own field in the manner of those who store manure [during the Sabbatical year; cf. M. 3:2].
- [M] And likewise, [the rule applies to] one who digs a well, a trench, or a cave [during the Sabbatical year].
- [I:1 A] Stones [so large that they can be carried only on one's] shoulder may come from anywhere [for use in constructing a wall.
- [B] Even from his own field.
- [C] And a contractor brings [stones of any size] from anywhere —
- [D] even stones that are smaller than ‘stones carried on the shoulder.

- [II:1 A] **One who builds a fence [during the Sabbatical year] between his [property] and the public domain is permitted to dig down to rock level [in order to supply a firm foundation for the fence. Since this land ordinarily is not cultivated, a person who clears this area need not scruple about appearing to work the land].** R. Hiyya in the name of R. Yohanan: “They taught this rule only in regard to property between his own land and public domain. Lo, between his property and his neighbor’s property, it is forbidden in the Sabbatical year [to work in the middle of the fields.]” But during the intermediate days of a festival, even to build a fence between his property and public domain is forbidden.”
- [II:2 A] In the case of a hole in a fence that is caused by the loss of several stones that is still sealed by dirt, it is forbidden in the Sabbatical year to replace the stones. But in the case of a hole in a fence created by the loss of several stones that is no longer sealed by dirt, it is permitted to seal it up with stones during the Sabbatical year.
- [B] *And so it has been taught on Tannaite authority:* In the case of a hole in a fence that is caused by the loss of several stones that is still sealed by dirt, it is forbidden in the Sabbatical year to replace the stones. But in the case of a hole in a fence created by the loss of several stones that is no longer sealed by dirt, it is permitted to seal it up with stones during the Sabbatical year.
- [C] That is so if it does not create a public nuisance. But if it creates a public nuisance, even though it still is sealed by dirt, it is permitted to seal it with stones during the Sabbatical year.
- [II:3 A] [R. Aqiba says, “**Just as one does not do damage in the public domain, so too one does not repair it**”]: it is written, “To one who sets the path right I will show the salvation of God” (Ps. 50:23).
- [B] [The case to which Aqiba makes reference] is different. For it is a repair that will eventually lead to damage.
- [II:4 A] For said R. Simeon b. Laqish, “Saul had the merit of acquiring the throne only because his grandfather used to light a lamp for the public. Therefore ‘he was called, ‘ner’ [lamp] father of Kish who was father of Saul’ [1 Chr. 8:22].”
- [B] One verse of Scripture says, “Ner was father of Kish” (Chr. 8:33). And another verse has “Kish the son of Abiel” (1 Sam. 9:1). Wasn’t Abiel his real name?

[C] Thus since Saul's grandfather used to light a lamp for the public, he was called "Ner" [though that was not his given name].

[III:1 A] He piles it up in his own field in the manner of those who store manure:

[B] R. Abun asked, "Prior to the time when those who work cease their work, what is the law [on gathering dirt in his field in the same way as those who store manure?]"

YERUSHALMI SHEBIT

CHAPTER FOUR

4:1

- [A] At first they held:
- [B] [During the Sabbatical year] a man gathers wood, stones and grass from his own [field] just as he [generally] would gather [them] from [the field] of his neighbor,
- [C] [that is, he gathers only] the large ones. [Since he leaves the small pieces of wood, he indicates that he is not engaged in clearing the field for cultivation, but rather is collecting material for construction].
- [D] When transgressors [that is, people who gathered both large and small stones from their own fields during the Sabbatical year in order to prepare the land for cultivation] increased in number, they ordained that:
- [E] one should gather [stones] from the field of another and the other should gather [stones] from the first man's [field,]
- [F] [so long as they do] not [do so] as a [mutual] favor. [That is, people may not agree to gather stones from one another's fields during the Sabbatical year in order to prepare the land for planting.]
- [G] And, needless to say, one may [not] stipulate [to provide] others with meals [as incentive for the laborers to clear the field of stones entirely].
- [I:1 A] At first they held:
- [B] *Said R. Jonah, "This is how they need to recite the Tannaite rule: At first they would say, '[During the Sabbatical year] a man gathers wood, stones and grass from his own [field] taking either large or small pieces, just as he [generally] would gather [them] from [the field] of his neighbor whether large or small pieces. When they were suspect of gathering enough to clear the entire field and would claim, We gathered only the large pieces, they ordained that one should gather [stones] from the field of another and the other should*

gather [stones] from the first man's [field,] [so long as they do] not [do so] as a [mutual] favor. They were suspect of clearing the entire field as a mutual favor, and they would say, We did not do it as a favor, **they ordained that they may gather only what is close by and plentiful [T. Sheb. 3:8].**

[C] Said R. Zeira, "The first ordinance still stands [**that is, he gathers only] the large ones**]."

[I:2 A] If his cattle was there, his cattle gives evidence concerning him [that he is collecting small sticks as fodder, not to clear the field.

[B] If his cooking pot was there, his cooking pot gives evidence concerning him [that he is collecting small sticks as kindling, not to clear the field.

[I:3 A] ...**[that is, he gathers only] the large ones:** if he has gathered the large wood and clumps of grass, what is the rule as to whether or not he may go back and gathered the largest objects among the small ones that are left?

[B] If you say that he may do so, during the Sabbatical year he may gather everything that is in his field.

[I:4 A] If his field was filled with large objects, [what is the rule on whether he may take them all?]

[B] *There are two Tannaite traditions on that subject. One holds that it is permitted to clear the field and the other holds that it is forbidden.*

[C] **One who clears stones from his field, removes the topmost ones and leaves those that are touching the ground [M. Sheb. 3:6].** *That implies that it is permitted.*

[D] **Who is one that thins out? [One who uproots only] one or two [shoots at a time] [M. Sheb. 4:4].** That implies that it is forbidden.

[II:1 A] Also do these same restrictions apply on the intermediate days of a festival?

[B] *A Tannaite teaching is found: [During the Sabbatical year] a man gathers wood, stones and grass from his own [field] just as he [generally] would gather [them] from [the field] of his neighbor, taking either large or small pieces, during the Sabbatical year but not on the intermediate days of the festival.*

[II:2 A] Do the restrictions apply to gathering stones too?

[B] *A Tannaite teaching is found:* Also regarding stones.

[C] **And in his own heart he will know whether [he gathers the stones] for a permitted purpose [i.e., to use them for building] or out of perverseness [i.e., to clear the land for cultivation] [T. Sheb. 3:8]**

[II:3 A] R. Yosé in the name of Menahem: “*R. Aqiba* acted in accord with his theory. He saw someone pruning his vineyard. He said to him, ‘Isn’t that forbidden?’ He said to him, ‘I want what I am trimming for a permitted purpose.’ He said, ‘**And in his own heart he will know whether [he gathers the stones] for a permitted purpose [i.e., to use them for building] or out of perverseness [i.e., to clear the land for cultivation]**’ [T. Sheb. 3:8].”

4:2

[A] **A field that was cleared of thorns [during the Sabbatical year]**

[B] **may be sown during the year following the Sabbatical. [Since removing thorns is not a forbidden act of cultivation, the farmer who sows this field during the eighth year does not derive benefit from the performance of a transgression].**

[C] **[But a field] that was improved, [that is, plowed during the Sabbatical year,]**

[D] **or that was used as a fold [during the Sabbatical year for animals such that it was fertilized by the dung that the animals left on the ground, see M. 3:4,]**

[E] **may not be sown during the year following the Sabbatical. [Since plowing and fertilizing a field are forbidden during the Sabbatical year, the farmer may not derive benefit from this field during the eighth year].**

[F] **[As regards] a field that was improved [during the Sabbatical year] —**

[G] **the House of Shammai say, “They [that is, other Israelites] do not eat of its produce [that grows] during the Sabbatical year. [People may not derive benefit from produce that was cultivated illegally during the Sabbatical year].”**

[H] **But the House of Hillel say, “They do eat [produce of this field that grows during the Sabbatical year. Israelites who did not commit the transgression of cultivating the field should not be deprived of their right to eat produce of the Sabbatical year].”**

- [I] **The House of Shammai say, “They do not eat produce of the Sabbatical year [which was given by the owner of a field] as a favor.”**
- [J] **But the House of Hillel say, “They eat [produce of the Sabbatical year] whether or not [it was given by the owner of the [field] as a favor.”**
- [K] **R. Judah says, “The rulings [attributed to the Houses] are reversed, [for] this is among the lenient rulings of the House of Shammai and the stringent rulings of the House of Hillel.”**
- [I:1 A] **A field that was cleared of thorns [during the Sabbatical year]:**
- [B] *There [in Babylonia] they say, “A field that was cleared of thorns [during the Sabbatical year] may be sown during the year following the Sabbatical* refers to pulling up the thorns [by hand].” *But the rabbis here [the Land of Israel] say, “The thorns were removed by plowing.” [Even if the thorns were removed by plowing, the field may be planted in the year after the Sabbatical year.]*
- [C] *In the view of rabbis from here* what is a field that was improved during the Sabbatical year that may not be planted in the year following?
- [D] It is a situation in which everybody plows their fields once during the Sabbatical year [to remove the thorns] but he plows twice. [The Babylonians rule out plowing for that purpose and insist on removing the thorns by hand.]
- [E] *But here is that really the rule [that people may plow the fields once in the Sabbatical year]?*
- [F] Said R. Yosé b. R. Abun, “There the government does not impose heavy taxes [and there is no reason to plow the field even once during the Sabbatical year to bring in a good crop for paying taxes]. But here the government does impose heavy taxes [and it is necessary to plow the field in the Sabbatical year to insure a good crop in the eighth year].”
- [I:2 A] *At first when the government imposed heavy taxes, R. Yannai instructed that they plow the first plowing [during the Sabbatical year]. A certain wicked man was passing through the land during the Sabbatical year. He saw them making sheaves of aftergrowths. He said to them, “To be sure Yannai permitted you to plow once during the Sabbatical year, but did he permit you to make sheaves?”*

- [I:3 A] *Said R. Jacob bar Zebedee in the presence of R. Abbahu, “Did not R. Zeira and R. Yohanan in the name of R. Yannai, R. Jeremiah, R. Yohanan in the name of R. Simeon b. Yosedeq say, “They took a vote in the upper room of the house of Nitzah in Lud: in the case of all the commandments of the Torah if a pagan says to an Israelite to violate one of all the commandments that are stated in the Torah except for idolatry, fornication, and bloodshed, one should violate the commandment and not be put to death. That which you say applies if the Israelite is all alone. But in public he should not obey him even for the most trivial of commandments.”*
- [B] For example there is the case of Lulianus and Pappus his brother, to whom gentiles gave water in a [red] colored glass [that made the water look like wine], and they would not accept it from them.
- [C] [The law that permits plowing in the Sabbatical year to produce a crop to pay taxes doesn’t qualify as a case of violating the law in public by reason of gentile pressure, which must not be done, because, said R. Abbahu], “[*The government*] does not intend to force you to apostatize, but only to collect taxes.”
- [D] What is the definition of “in public”?
- [E] Rabbis of Caesarea say, “Ten, as it is written, ‘But I will be hallowed among the people of Israel’ (Lev. 22:32).”
- [I:4 A] *R. Abuna the younger — they saw him run after an ass on the Sabbath.*
- [B] *R. Jonah and R. Yosé rules that the Israelites might bake bread for the army of Ursicinus on the Sabbath. Said R. Mana, raising a question in the presence of R. Jonah, “Father, Did not R. Zeira and R. Yohanan in the name of R. Yannai, R. Jeremiah, R. Yohanan in the name of R. Simeon b. Yosedeq say, ‘They took a vote in the upper room of the house of Nitzah in Lud: in the case of all the commandments of the Torah if a pagan says to an Israelite to violate one of all the commandments that are stated in the Torah except for idolatry, fornication, and bloodshed, one should violate the commandment and not be put to death. That which you say applies if the Israelite is all alone. But in public he should not obey him even for the most trivial of commandments.’ For example there is the case of Lulianus and Pappus his brother, to whom gentiles gave water in a [red] colored glass [that made the water look like wine], and they would not accept it from them.”*
- [C] He said, “[*The government*] does not intend to force you to apostatize, but only wants the troops to eat warm bread.”

- [D] What is the definition of “in public”?
- [E] Rabbis of Caesarea say, “Ten, as it is written, ‘But I will be hallowed among the people of Israel’ (Lev. 22:32).”
- [I:5 A] *R. Abuna asked before R. Imi, “Idolaters — what is the law as to their being subject to the commandment to sanctify God’s name [to observe the commandments assigned to the children of Noah]?”*
- [B] He said to him, “‘But I will be hallowed among the people of Israel’ (Lev. 22:32). The people of Israel are subject to the commandment to sanctify God’s name, and idolaters are not subject to the commandment to sanctify God’s name.”
- [C] R. Nissa in the name of R. Eleazar learned this rule that exempts gentiles from martyrdom from here: ‘In this matter may the Lord pardon your servant’ (2 Kings 5:18). That means the people of Israel are subject to the commandment to sanctify God’s name, and idolaters are not subject to the commandment to sanctify God’s name.”
- [I:6 A] *R. Abba bar Zamina worked as a tailor for a certain Roman in Rome. Improperly slaughtered meat was brought to him, and the gentile said to him, “Eat.”*
- [B] *He said to him, “I will not eat it.”*
- [C] *He said to him, “Eat it or I will kill you.”*
- [D] *He said to him, “If you want to kill me go ahead but I will not eat meat that was improperly slaughtered.”*
- [E] *He said to him, “Now, you should know that if you had eaten it I would have killed you. If a Jew, be a Jew, and if a Roman, be a Roman.”*
- [F] *Said R. Mana, “If R. Abba bar Zamina had known the teachings of the rabbis [that in private one may violate the Torah rather than be killed, he would have eaten the meat.”*
- [II:1 A] **...[But a field] that was improved, [that is, plowed during the Sabbatical year,] or that was used as a fold [during the Sabbatical year for animals such that it was fertilized by the dung that the animals left on the ground] may not be sown during the year following the Sabbatical:**
- [B] If the farmer improved the field and then died, what is the rule as to whether or not in the next year after the Sabbatical his son may be permitted to sow it?

- [C] R. Jacob bar Aha, R. Imi in the name of R. Yosé b. R. Hanina: “If the farmer improved the field and then died in the next year after the Sabbatical his son may be permitted to sow it.”
- [D] If he improved the field and then sold it, the buyer may not sow the field in the next year after the Sabbatical.
- [E] If he violated the law and planted the field, it is permitted to use the produce that grows in the eighth year, for they imposed a restriction that a person could [actually] live up to.
- [II:2 A] If at the present time one improved the field [by plowing twice during the Sabbatical year], what is the law on planting the field in the eighth year?
- [B] *R. Jeremiah considered ruling, “It is permitted.”*
- [C] *Said R. Yosé, “But didn’t R. Jeremiah hear that one who improves his field during the Sabbatical year is flogged? Didn’t he hear that one who improves his field during the Sabbatical year may not give testimony in court?”*
- [D] *[Yosé] retracted and said, “Yes, he heard these things, but he was as one who heard something but found questions about it.”*
- [E] *Said R. Hezeqiah, “The question was asked before R. Jeremiah concerning flogging one who improves his field during the Sabbatical year and concerning one who improves his field during the Sabbatical year that he may not give testimony in court. He said, ‘Now which court has arisen and overturned [Yannai’s ordinance permitting the farmer to plow once during the Sabbatical year]?’”*
- [F] *The support for the view of R. Jeremiah [that once a court has ruled, the rule remains in effect until a more powerful court rescinds the ruling] derives from the following:*
- [G] And so [in the case of] the daughter of an Israelite who entered [to visit] the daughter of a priest and wished to leave. [The priest’s daughter] dips a wick in oil [in the status of heave-offering] which is fit for burning for her [T. Ter. 10:9].
- [H] R. Huna in the name of the house of R. Yannai: “This rule as made when packs of wolves were roaming the streets. [A court ruled that even consecrated oil could be used in the lamp of an Israelite to keep the wolves away.] Once the rule was made as a temporary measure, no court arose with the power to rescind it. Just as you state here that a lenient ruling remained in effect because no court had power to rescind

it, so here [with reference to allowing a first plowing in the Sabbatical year, it was a temporary measure that remained in effect.”

- [I] *Along these same lines:* during the Sabbatical year at what point is the farmer considered to have taken possession of the produce growing in his fields? *R. Jeremiah considered ruling that this is when he picks the produce and puts it in his basket. R. Yosé considered ruling that even when he has put the produce in his basket, he has not taken possession of the produce, for he might reason that the produce he is picking already belongs to him, but it does not belong to him. [So he has to formally declare his intention to take possession of the produce. [Jeremiah thus takes the lenient position.]*

[III:1 A] The House of Shammai say, “They do not eat produce of the Sabbatical year [which was given by the owner of a field] as a favor.” But the House of Hillel say, “They eat [produce of the Sabbatical year] whether or not [it was given by the owner of the [field] as a favor:”

- [B] *Along these same lines:* R. Tarfon went down to his field [which during the Sabbatical year had been given over to public use] to eat dried figs, not as a favor [he didn’t ask permission], which was the position of the House of Shammai.
- [C] *Guards saw him and began to hit him. When he realized that he was in danger, he said, “On your lives, once you have killed me, inform the house of Tarfon: Prepare burial shrouds for him.” When the guards heard this and realized who he was, they bowed to the ground and said, “Rabbi, forgive us.” He said to them, “Come near me. With each blow you gave me, I forgave you the preceding one.”*
- [D] In these two matters R. Tarfon behaved in accord with the House of Shammai, in the matter just now described and in reciting the Shema [at M. Ber. 1:3].
- [E] R. Abbahu in the name of R. Hanina b. Gamaliel: “For the rest of his life R. Tarfon was afflicted on account of this matter and would say, ‘Woe is me that I was honored by taking advantage of the crown of the Torah.’”

4:3

- [A] During the Sabbatical year they [contract to] lease from gentiles newly-plowed fields. [The Israelite farmer may benefit from the gentile's cultivation of the land during the seventh year by leasing his field for sowing during the eighth year. Since gentiles are permitted to work the land during the seventh year, the Israelite does not thereby participate in the performance of a transgression].
- [B] But [they do] not [lease] from an Israelite [a field which he has plowed during the Sabbatical year, for one may not benefit from an Israelite's transgression].
- [C] And they assist gentiles [in their agricultural labors] during the Sabbatical year,
- [D] but [they do] not [assist] an Israelite [who engages in such activities during the Sabbatical year].
- [E] And they greet [gentiles] in the interests of peace.
- [I:1 A] During the Sabbatical year they [contract to] lease from gentiles newly-plowed fields:
- [B] R. Hiyya and R. Imi — one said, “[As to the statement, **And they assist gentiles [in their agricultural labors] during the Sabbatical year**], [one may encourage them verbally by saying,] ‘Plow well, and I’ll take it from you after the Sabbatical year.’”
- [C] And the other said, “‘May you have strength [in your work,]’ but no more than that may he say].”
- [D] *As to him who said*, “One may say, ‘Plow well, and I’ll take it from you after the Sabbatical year,’” what is the sense of the statement, **And they greet [gentiles] in the interests of peace?**
- [E] It means, the Israelite may say to the gentile, “‘May you have strength.’”
- [F] *But in the view of him who says*, “‘May you have strength [in your work,]’ but no more than that may he say],” what is the sense of the statement, **And they greet [gentiles] in the interests of peace?**
- [G] It means, an Israelite may even greet other Israelites at work in the Sabbatical year and say to them, “Peace be to you.”
- [I:2 A] *A case: R. Hinena bar Pappa and R. Samuel bar Nahman passed by an Israelite who was plowing during the Sabbatical year. Said to him R. Samuel bar Nahman*, “‘May you have strength.’”

[B] *Said to him R. Hinena bar Pappa, “Didn’t you teach us, “‘And whose that pass by do not say the blessing of the Lord be upon you’ (Ps. 129:8) — On the basis of this verse we learn that it is forbidden to say to people plowing in the Sabbatical year, “‘May you have strength.’”*

[C] *Said to him R. Samuel bar Nahman, “To recite Scripture you know full well, but to interpret Scripture you don’t know well at all. ‘And whose that pass by’ — this refers to the nations of the world,’ for they pass from the world, And the nations do not say to the Israelites, ‘the blessing of the Lord be upon you.’ What do the Israelites say? ‘We bless you in the name of the Lord’ (Ps. 129:8). For are not all the blessings that come into the world bestowed on our account enough for you as well? And yet you nations do not say to us, ‘Come and partake of these blessings. And not only so, but you impose on us town taxes, penalties, head taxes and taxes in kind.”*

[I:3 A] R. Imi instructed that an Israelite may knead bread with him.

4:4

[A] **[As regards] one who thins out [the small shoots growing between] olive trees [during the Sabbatical year] —**

[B] **the House of Shammai say, “He may raze [these olive shoots, but he may not uproot them, for this would have the effect of preparing an area of land for cultivation].”**

[C] **But the House of Hillel say, “He may uproot [them completely. The farmer’s intention is to prevent the proliferation of shoots from choking out the mature tree, which is permitted. The secondary effect of his labor therefore is of no consequence].”**

[D] **But they [that is, the Hillelites] concede with respect to one who clears away [a sizeable number of shoots, thus leveling a substantial area of the field, that he may not uproot these shoots, but only raze them. The farmer thereby demonstrates that he is not engaged in forbidden cultivation].**

[E] **Who is one that thins out?**

[F] **[One who uproots only] one or two [shoots at a time].**

[G] **[Who is] one that clears away [shoots from a substantial area of his field]?**

[H] **[One who removes] three [or more trees growing] side by side.**

[I] **To what case does this [rule] apply?**

[J] **[It applies to one who removes trees] from his own field.**

[K] **But [if he does so] from the field of his neighbor,**

- [L] even one who clears away [shoots from a large area of the field] may uproot [the trees. Since no one would suspect the farmer of cultivating his neighbor's land, he need not scruple about appearing to violate the law].
- [M] One who truncates an olive tree [during the Sabbatical year in order to obtain wood for building] should not cover [the stump] with dirt. [This would be the usual way of sealing the surface of the stump when one cuts back a tree in order to cultivate new branches].
- [N] Rather, he covers it with stones or with stubble. [Since this is not the usual manner of sealing the tree's stump, it indicates that the farmer is not engaged in cultivating the growth of new branches].
- [O] [Likewise,] one who cuts down the branches of a sycamore [during the Sabbatical year in order to obtain wood for building] should not cover [the stump] with dirt.
- [P] Rather, he covers it with stones or with stubble.
- [Q] [Contrary to the foregoing rules,] during the Sabbatical year they do not cut down a virgin sycamore [that is, a young tree which never before has been cut]
- [R] because it [that is, the cultivation of new branches which necessarily results from truncating the tree] is [forbidden] labor.
- [S] R. Judah says, "[Cutting] in the normal manner is forbidden.
- [T] "But he either [cuts the sycamore] high [above the ground, that is,] ten handbreadths [or more from ground level,] or he razes it down to the ground."
- [I:1 A] [As regards] one who thins out [the small shoots growing between] olive trees [during the Sabbatical year]:
- [B] What is the meaning of "one who thins out"?
- [C] It is one who removes one shoot and leaves two or removes two shoots and leaves one.
- [D] *It is taught by the Tannaite authority of the house of Rabbi:* "One who thins out takes one shoot and leaves two.
- [E] *And lo, we have learned in the Mishnah:* [Who is] one that clears away [shoots from a substantial area of his field]? [One who removes] three [or more trees growing] side by side.
- [F] On this basis doesn't thinning out apply to one who removes two shoots and leaves one?

[G] *Said R. Jonah, “The cited passage of the Mishnah speaks of one who during the Sabbatical year thins out his trees for the first time [removing two and leaving one]. The Tannaite authority of the house of Rabbi speaks of one who has already thinned out the shoots prior to the Sabbatical year. [He leaves two trees for each one he removes. Taking two consecutively would be clearing the field.]”*

[I:2 A] **They do not kindle reeds in a reed thicket,**

[B] **because that is the usual labor [performed in reed thickets, in order to encourage future growth].** (See Lieberman (*TK*, p. 523), who argues that burning reeds also may be regarded as working the land, since it has the effect of clearing an area for planting)

[C] **R. Simeon b. Gamaliel permits.**

[D] And so, did R. Simeon b. Gamaliel say, “A man is permitted to plant a not-fruit-bearing tree to make a fence during the Sabbatical year” [T. Sheb. 3:19]

[I:3 A] **During the Sabbatical year) they do not train a cow [to plow] only in a sandy area [which is unsuitable for cultivation].**

[B] **R. Simeon b. Gamaliel says, “Also: in the field of one’s neighbor it is permitted [to train a cow to plow,]**

[C] **“so long as [the farmer] does not press the colter, [a small blade which makes cuts in the soil to facilitate the work of the plowshare. That is, the farmer may not leave marks in the field as he would if he were actually tilling the soil].”**

[D] *A Tannaite tradition: Abba Saul says “He cuts down [reeds growing] in the thicket and razes [the undergrowth] to ground level,*

[E] *“so long as he does not cut through [the undergrowth] with a spade [which appears to be a forbidden act of cultivation].” [T. Sheb. 3:20]*

[E] **They do not examine seeds [which are placed] in dung and in a pot.**

[F] **but they do examine those [which are placed] in earth and in a pot.**

[G] **And they allow [the seeds placed in a pot] to remain from the Sabbatical year to the year following the Sabbatical.**

[H] **And they allow the aloes to grow [in pots] on the roof,**

[I] **but they do not irrigate them [T. Sheb. 1:12].**

[I:4 A] **During the Sabbatical year they do not hang wild figs on a fig tree [T. Sheb. 1:9].**

[B] What does the farmer do in the other years of the cycle?

[C] *He brings a branch of a wild fig tree and hangs it on the cultivated tree that has not produced figs and says to it, "This wild tree produced figs but you haven't made any."*

[D] *But have we not learned as a Tannaite rule: **They (1) mark a tree with a red mark, and they (2) weigh it down with stones [T. Sheb. 1:10]***

[E] *There [the actions are permitted so that] the tree will not lose fruit [that already exists]. But here it is intended that the tree produce fruit to begin with.*

[I:5 A] During the Sabbatical year they do not pollinate fig trees, since this is work done to improve production.

[B] [Why is this obvious rule made explicit?] So that people won't say, "Since the loss that results from not pollinating the tree is great, doing it is permitted — for this reason it is necessary to state that it is forbidden.

[II:1 A] **One who truncates an olive tree [during the Sabbatical year in order to obtain wood for building] should not cover [the stump] with dirt. [This would be the usual way of sealing the surface of the stump when one cuts back a tree in order to cultivate new branches]. Rather, he covers it with stones or with stubble. [Since this is not the usual manner of sealing the tree's stump, it indicates that the farmer is not engaged in cultivating the growth of new branches]. [Likewise,] one who cuts down the branches of a sycamore [during the Sabbatical year in order to obtain wood for building] should not cover [the stump] with dirt. Rather, he covers it with stones or with stubble. [Contrary to the foregoing rules,] during the Sabbatical year they do not cut down a virgin sycamore [that is, a young tree which never before has been cut] because it [that is, the cultivation of new branches which necessarily results from truncating the tree] is [forbidden] labor. R. Judah says, "[Cutting] in the normal manner is forbidden. But he either [cuts the sycamore] high [above the ground, that is,] ten handbreadths [or more from ground level,] or he razes it down to the ground."**

[B] **during the Sabbatical year they do not cut down a virgin sycamore:** *the Mishnah refers to cutting a tree at a height of from three to nine handbreadths.*

4:5

[A] **One who (1) snips off the ends of vines or (2) cuts reeds [during the Sabbatical year, in order to obtain materials for weaving or for use as wood] —**

[B] **R. Yosé the Galilean says, “He should cut at a distance of one handbreadth [from the usual place where vines or reeds are trimmed for the purpose of cultivating them. In this way the farmer indicates that he is not engaged in forbidden labor].”**

[C] **R. Aqiba says, “He cuts in his usual manner,**

[D] **“with (1) an ax, (2) a sickle, (3) a saw, or with whatever kind he wants [to use].”**

[E] **[As regards] a tree that was split in two —**

[F] **they may bind it during the Sabbatical year,**

[G] **not so that [the tree] will grow together [again]**

[H] **but so that [the tree] will not [split] further**

[I:1 A] ***It was taught as a Tannaite statement: [As regards] one who cuts reeds [during the Sabbatical year] —***

[B] **lo, he raises [the point of his cut to] one handbreadth [above the ground] and cuts.**

[C] **R. Judah says, “In a place where they are accustomed to cut, he plucks, [and in a place where they are accustomed] to pluck, he cuts.**

[D] **“Lo [when one cuts reeds] he raises [the point of his cut to] one handbreadth [above the ground] and cuts” [T. Sheb. 3:19]**

[II:1 A] ***One who cuts down the trunk of a sycamore [during the Sabbatical year, for the purpose of obtaining wood] —***

[B] **lo, he should neither smooth off [the surface of the stump] nor cut in a stepped manner.**

[C] **Rather, [when he makes his first cut,] he is careful that the cut is even. [That is to say, after cutting off the trunk, one may not return and level off the stump, for this is the ordinary procedure for cultivating a tree].**

[D] **R. Judah says, “In a place where they are accustomed to cut in a stepped manner, one may smooth off [the surface of the stump, and in a place where they are accustomed] to smooth off, one may cut in a stepped manner.”**

[E] **“Lo, one raises [the point at which he cuts to] one handbreadth [above the ground] and cuts” [T. Sheb. 3:14].**

[F] And he cuts it off level with the ground, so long as he does not cut it with an ax.

[III:1 A] **R. Yosé the Galilean says, “He should cut at a distance of one handbreadth [from the usual place where vines or reeds are trimmed for the purpose of cultivating them. In this way the farmer indicates that he is not engaged in forbidden labor].” R. Aqiba says, “He cuts in his usual manner, with (1) an ax, (2) a sickle, (3) a saw, or with whatever kind he wants [to use].”**

[B] R. Yosé the Galilean is in accord with the House of Shammai [that one who thins out shoots in the Sabbatical year must do so in a different way from how it is done in other years of the cycle] and R. Aqiba is in accord with the House of Hillel [that one does it in the usual manner].

[C] *But does our Mishnah really indicate that R. Yosé the Galilean is in accord with the House of Shammai and R. Aqiba is in accord with the House of Hillel?*

[D] Rather, R. Yosé the Galilean takes account of the fact that snipping off the ends of vines is a form of field labor that improves the growth of the vines.

4:6

[A] **After what time during the Sabbatical year do they [gather and] eat the fruit of trees? [Gathering fruit too early in the ripening process is prohibited. By doing so, the farmer would prevent fruit that grows during the Sabbatical year from being used as food].**

[B] **[As regards] (1) unripe figs:**

[C] **From the time they begin to glisten [i.e., when they begin to mature and become shiny,]**

[D] **[the farmer] may eat them [as a random snack together] with his bread in the field.**

[E] **[And when] they have ripened,**

[F] **he may gather them into his house [and eat them.]**

- [G] **And similarly, [when the figs have ripened] during the other years of the Sabbatical cycle, they become liable to [the separation of] tithes.**
- [H] **[As regards] (2) unripe grapes:**
- [I] **From the time they produce liquid**
- [J] **[the farmer] may eat them with his bread in the field.**
- [K] **[And when] they have ripened**
- [L] **he may gather them into his house [and eat them].**
- [M] **And similarly, [when the grapes have ripened] during the other years of the Sabbatical cycle, they become liable to [the separation of] tithes.**
- [I:1 A] **And when] they have ripened:**
- [B] What is the definition of ripening?
- [C] R. Hiyya bar Abba said, “It means, to have a repulsive taste, as you say in Scripture, ‘And their souls recoiled from me’ (Zech., 11:8).”
- [I:2 A] It is written in Scripture, “The Sabbath of the land shall provide food for you for your cattle and for the beasts that are in your land, all its yield shall be for food” (Lev. 25:6-7).
- [B] R. Hiyya bar Abba said, “There are two classes of food, one eaten from the house, one from the field. And it is written in Scripture, ‘You shall eat what it yields out of the field’ (Lev. 25:12).”
- [II:1 A] **unripe figs: From the time they begin to glisten [i.e., when they begin to mature and become shiny,] [the farmer] may eat them [as a random snack together] with his bread in the field.**
- [B] *R. Yosé b. R. Hanina asked*, “As to unripe figs, what is the law as to making them into an emollient [if they are not yet edible]? Since **[the farmer] may eat them [as a random snack together] with his bread in the field** it should be forbidden. Or since he has not yet brought them into the house, they are permitted as an emollient, since they are not yet food in that aspect.”
- [C] *There we learned in the Mishnah: Unripe figs and grapes — R. Aqiba declares susceptible to uncleanness as food. R. Yohanan b. Nuri says*, “[That is the case] **when they reach the time of liability to tithes**” [M. Uqs. 3:6]. [Before they are liable to tithes they are not susceptible to uncleanness as food and may be made into an emollient in the Sabbatical year.]

[D] *It was taught on Tannaite authority here [at M. Uqs. 3:6 that once the produce has formed on the branch it is regarded as food] immediately.*

[E] *But it is not taught on Tannaite authority here that once the produce has formed on the branch it is immediately regarded as food thus,*
From the time they begin to glisten.

[F] R. Hanania in the name of R. Simeon b. Laqish: “*The Mishnah at M. Uqs. 3:6 speaks in particular of unripe figs [edible when they glisten. But Aqiba agrees with Yohanan b. Nuri] in the case of all other unripe fruit they fall into the category of susceptibility to the uncleanness that applies to food only when they are liable to tithing.*”

[G] *Said R. Yosé, “The Mishnah has said so: unripe figs: From the time they begin to glisten [i.e., when they begin to mature and become shiny,] [the farmer] may eat them [as a random snack together] with his bread in the field. [Figs may be eaten when they begin to glisten but before they are ripe, thus distinguishing them from other fruit.]*

[H] R. Pedat in the name of R. Yohanan: “All concur in the case of the Sabbatical year.”

[I] On what does everyone concur? [Is it on when unripe fruit may be eaten in the Sabbatical year or is it on when in the Sabbatical year the fruit is susceptible to uncleanness as food?]

[J] Sages say, “It is on when in the Sabbatical year the fruit is insusceptible to uncleanness as food.”

[II:2 A] The palm sprout — lo, it is like wood in every respect, except that it is purchased with money of [second] tithe. Unripened dates are food, but are free of tithes [M. Uqs. 3:7].

[B] Expounded R. Judah b. Pazzi in the house of study, “As to the palm sprout, the sanctity of the Sabbatical year does not govern it [though it is edible, it is not subject to the restrictions of the Sabbatical year].”

[C] *R. Yosé instructed those who asked concerning this, saying to them, “Who told you this, namely, As to the palm sprout, the sanctity of the Sabbatical year does not govern it?”*

[D] And they replied, “He told us [Judah b. Pazzi].”

[E] *R. Yosé said to them, “The Mishnah differs with R. Judah b. Pazzi, and it supports our view that as to the palm sprout, the sanctity of the Sabbatical year does govern it. For it is taught on Tannaite authority: [As regards] unripe figs of the Sabbatical year, — they do not boil*

them during the Sabbatical year. [As regards] late ripening figs [which are hard and remain inedible unless they are processed] — it is permitted to boil them during the Sabbatical year because that is the normal manner [of preparing them]. [As regards] hearts of palms and the inflorescence of palms — lo, they are like wood for all purposes, and it is permitted [to boil them during the Sabbatical year] [T. Sheb. 3:21]. Now if we say that palm spouts are not subject to the restrictions of the Sabbatical year, why should the rule say that it is permitted to boil them? For as to wood, is it forbidden to boil it in the Sabbatical year? [Not at all. [If Judah b. Pazzi is right to say that palm sprouts are not subject to the restrictions of the Sabbatical year, there is no reason for the Tosefta to state that it is permitted to boil them.] Rather, because the sanctity of the Sabbatical year does pertain, it is permitted to boil them.

[III:1 A] [As regards] (2) unripe grapes: From the time they produce liquid [the farmer] may eat them with his bread in the field. [And when] they have ripened he may gather them into his house [and eat them]. And similarly, [when the grapes have ripened] during the other years of the Sabbatical cycle, they become liable to [the separation of] tithes:

[B] Concerning unripe grapes, what do you have to say? [Why does the law permit eating grapes so early in their development, since it involves a loss of food and should be forbidden in the Sabbatical year?]

[C] Said R. Abun, “It is the way of women with cravings to eat them [in their unripe condition in other years of the Sabbatical cycle].”

4:7

[A] [As regards] (3) olives:

[B] From the time a *seah* [of olives] will yield a quarter [-log of oil,]

[C] [the farmer] may crush them and eat [them] in the field.

[D] [When a *seah* of olives] yields a half [-log of oil,]

[E] he may press [them] and anoint [himself] in the field.

[F] [When a *seah* of olives] yields a third [of its total eventual output, that is, a full *log* of oil,]

[G] he may press [the olives] in the field and gather them into his house.

- [H] And similarly, [when the olives have reached a third of their eventual yield] during the other years of the Sabbatical cycle, they become liable to [the separation of] tithes.
- [I] And [as regards] the fruit of all other trees —
- [J] the season [during other years when they become liable] to [the separation of] tithes is the season during the Sabbatical year [when they may be eaten].
- [I:1 A] [As regards] (3) olives: From the time a *seah* [of olives] will yield a quarter [-log of oil]:
- [B] [When a *seah* of olives] yields a third [of its total eventual output] — how much is a third?
- [C] A log.
- [D] *The Mishnah speaks of olives that when fully ripe yield three logs of oil per seah of olives.*
- [I:2 A] It is written, “For it is a jubilee, it shall be holy to you” (Lev. 25:12) — what is the meaning of “holy”?
- [B] Even the produce of that year is holy [and may not be wasted by being eaten raw].
- [I:3 A] *R. Yosé b. Hanina kissed the vaulted structure in the walls of Acre and said, “Up to this point is the Land of Israel.”*
- [B] *R. Zeira crossed the Jordan swimming in his clothes.*
- [C] *R. Hiyya bar Ba rolled around on the ground of the meadows of Tiberias.*
- [D] *R. Hiyya the Elder weighed the stones of the Land of Israel.*
- [E] *R. Hananiah weighed the clods of the earth of the Land of Israel, so fulfilling the statement of Scripture, “For your servant s hold her stones dear and have pity on her dust” (Ps. 102:14).*

4:8

- [A] After what time during the Sabbatical year may they not cut down a [fruit-bearing] tree [for by doing so one would prevent fruit that already is growing on the branch from ripening? This would waste edible produce of the Sabbatical year in violation of M. 8:1, 2].
- [B] The House of Shammai say, “[Regarding] all the trees — after they have produced [recognizable] fruit.”

- [C] **The House of Hillel say, “(1) [Regarding] carob trees — after their [branches] begin to droop (2) [regarding] vines — after they produce berries; (3) [regarding] olive trees — after they blossom; and (4) [regarding] all other trees — after they produce [recognizable] fruit.”**
- [D] **And [concerning] every [fruit-bearing] tree —**
- [E] **after it has reached the point [when, in other years of the Sabbatical cycle, its fruit would be subject to the separation] of tithes, it [again] is permitted to cut it down. [At this point, the fruit is ready for harvest and so will not be lost when the tree is cut down].**
- [F] **[During other years of the Sabbatical cycle] how much [fruit] need there be on an olive tree so that one may not cut it down [in accordance with the prohibition against razing fruit-bearing trees? cf. Dt. 20:19-20].**
- [G] **A quarter [-qab of fruit].**
- [H] **R. Simeon b. Gamaliel says, “[The rule that applies to] each [tree] depends upon [the quality of the yield of] that olive tree.”**
- [I:1 A] **After what time during the Sabbatical year may they not cut down a [fruit-bearing] tree:**
- [B] **R. Hanina bar Pappa taught as a Tannaite rule: “Carobs — the time when the fruit begins a to droop is the point at which the fruit takes shape.”**
- [II:1 A] **[regarding] vines — after they produce berries:**
- [B] **Said R. Jonah, “It is when the berries produce drops of water when squeezed, as it is said, ‘For he forms the drops of water, he distills his mist in rain’ (Job. 36:27).”**
- [III:1 A] **[regarding] olive trees — after they blossom:**
- [B] **Said R. Jonah, “After an olive tree produces a quarter-qab [it may not be cut down].”**
- [C] **Is that a quarter-qab of blossoms or a quarter-qab of olives?**
- [D] **Said R. Jonah, “To which blossoms? A quarter-qab of olives.”**
- [III:2 A] **Said R. Jonah, “It is written: ‘You shall have olive trees throughout all your territory, but you shall not anoint yourself with the oil, for your olives shall drop off’ (Dt. 28:40). [The numerical value of ‘shall drop off’ is 340, thus one to 340 blossoms.]”**

- [III:3 A]** Said R. Jonah, “It is written, ‘The trees bears its fruit’ (Joel 2:22) — this indicates that trees do not bear their full yield in this world.”
- [B] “‘The fig tree and vine give their full yield’ (Joel 2:22) — this indicates that trees do not bear their full yield in this world.”
- [III:4 A]** Said R. Jonah in the name of R. Hama bar Hanina, “One who dies during the seven-year battle of Gog does not have a portion in the world to come. *The mnemonic indicator is: ‘One who takes part in the wedding preparations will also have a share in the wedding feast. [But one who does not share in the wedding preparations does not have a share in the wedding feast.]’*”
- [B] Heard R. Yosé and said, “Is that so? There is always repentance to earn a place in the world to come.”
- [III:5 A]** R. Jonah in the name of R. Hiyya bar Ashi: “The associates are destined to labor at their studies in synagogues and study houses, as it is said, ‘They go from strength to strength, the God of Gods will be seen in Zion’ (Ps. 84:7).”
- [III:6 A]** *The rabbis of Caesarea say,* “The children of the idolaters and the soldiers of Nebuchadnezzar will not live [in the resurrection of the dead] but will not be judged. And concerning them Scripture says, ‘And sleep a perpetual sleep and not wake’ (Jer. 51:39).
- [B] “Israelite children who die will live after the resurrection of the dead.”
- [C] From what age?
- [D] R. Hiyya the Elder and R. Simeon b. Rabbi: one said, “As soon as they are born [they are assured of resurrection].”
- [E] The other said, “Once they speak born [they are assured of resurrection].”
- [F] The one who said, “As soon as they are born [they are assured of resurrection]” cites this verse: “And proclaim his deliverance to a people yet unborn that he has wrought it” (Ps. 22:31).
- [G] The other who said, “Once they speak born [they are assured of resurrection]” cites this verse: “Posterity shall serve him, men shall tell of the Lord to the coming generation” (Ps. 22:30).
- [H] *It was taught as a Tannaite statement by R. Meir,* “An Israelite child is guaranteed resurrection if he dies anytime after he knows how to answer ‘amen’ in the synagogue.”
- [I] What verse of Scripture makes that point?

- [J] “Open the gates that the righteous nation which keeps faith may enter in” (Ps. 26:2).
- [K] There they say, “An Israelite child is guaranteed resurrection if he dies anytime after he is circumcized.”
- [L] ““Afflicted and close to death from my youth up I suffer your terrors and I arise”” (Ps. 88:15).
- [M] The rabbis from here say, “An Israelite child is guaranteed resurrection if he dies anytime after he is born.
- [N] ““And of Zion it shall be said, This one and that one were born in her, for the Most High himself will establish her’ (Ps. 87:5).”
- [O] R. Eleazar says, “Even miscarried fetuses are guaranteed resurrection. What verse of Scripture makes that point? ‘To restore the preserved of Israel’ (Is. 49:6). Those of Israel who were created but not born are to be restored in the resurrection.”

YERUSHALMI SHEBIT

CHAPTER FIVE

5:1

- [A] White figs [which appear in the seventh year — the restrictions of the] Sabbatical year [apply] to them [in the] second [year of the new Sabbatical cycle, rather than in the seventh year itself,]
- [B] because [white figs] take three years to ripen fully.
- [C] R. Judah says, “Persian figs [which appear in the seventh year — the restrictions of the] Sabbatical year [apply] to them [in the] year following the Sabbatical [that is, in the first year of the new Sabbatical cycle, rather than in the seventh year itself,]
- [D] “because they [i.e., Persian figs] take two years to ripen fully.”
- [E] [Sages] said to him, “They ruled [concerning] white figs alone.”
- [I:1 A] White figs:
- [B] What are white figs?
- [C] The fruit of small pines.
- [D] Do they produce fruit every year or only once in three years?
- [E] They produce fruit every year but it ripens only after three years.
- [F] How do you know which fruit is of the Sabbatical year and which is from other years]?
- [G] R. Jonah says, “He knows for he ties a string on [the fruit that forms in the Sabbatical year].”
- [H] *Samuel taught a Tannaite statement: “He sticks a wood chip in it.”*
- [II:1 A] *It is taught on Tannaite authority: R. Simeon b. Gamaliel says, “[Concerning] any tree the fruit of which begins to form prior to the fifteenth of Shebat [which is the New Year for fruit-bearing trees, cf. M. R.H. 1:1]-- lo, [its fruit is deemed to be produce] of the preceding year [i.e., of the calendar year which already ended].*

- [B] Concerning a tree the fruit of which begins to form] after the fifteenth of Shebat (
- [C] **lo, [its fruit is deemed to be produce], of the current year [i.e., of the calendar year which has not yet ended].**
- [D] *It is taught on Tannaite authority: R. Nehemiah says, “Under what circumstances With respect to a tree which bears new fruit twice a year. But [as regards] a tree which bears new fruit only once a year-- such as olives, dates, and carobs-- even if [the tree’s] fruit begins to form prior to the fifteenth of Shebat, [i.e., between the first of Tishré and the fifteenth of Shebat], it is as if such fruit began to form only after the fifteenth of Shebat” [T. Sheb. 4:20]*
- [E] Said R. Yohanan, “They are accustomed to follow the view of R. Nehemiah in the case of carobs.”
- [F] *Responded R. Simeon before R., Yohanan, “Lo, we have learned in the Mishnah: **White figs [which appear in the seventh year — the restrictions of the] Sabbatical year [apply] to them [in the] second [year of the new Sabbatical cycle, rather than in the seventh year itself,] because [white figs] take three years to ripen fully.** In accord with your opinion [that agricultural restrictions apply to the produce of a tree in the year in which it ripens, not the year in which it first forms] the amount of white figs that grows in the seventh year should be subject to the restrictions of the Sabbatical year in that same year, not later on.”*
- [G] *And R. Yohanan accepted this objection from him.*
- [H] *Said R. Abun bar Kahana, “I am surprised that R. Simeon would reply in the presence of R. Yohanan and that R. Yohanan accepted this objection from him. R. Yohanan should respond, ‘I have spoken of carobs and you have spoken of white figs, I have spoken of customary practice and you have spoken of decided law, I have spoken of R. Nehemiah and you have spoken of the rabbis. Rather, does the same rule apply to carobs and to white figs? Is the common practice the same as the decided law? Is the view of R. Nehemiah the same as that of the rabbis?’”*

[II:2 A] *There they say, “A tree that forms fruit prior to the New Year of creation rather than on the fifteenth of Shebat — its fruit is tithed according to the rules that apply in the preceding year [when the fruit is formed, not in the year in which it ripens]. If it forms after the New Year of creation, its fruit is tithed according to the rules that apply in the present year [in which the fruit ripens].”*

- [B] *Objected R. Yudan bar Paria in the presence of R. Jonah*, “But carobs — lo, they are formed prior to the New Year of creation but they are tithed according to the rules that apply in the current year in which the fruit ripens.”
- [C] *But hadn't he heard what R. Hinena bar Pappa said*, “Carobs — they are deemed formed only when they droop from the branch [which is after the first of Tishré].”
- [II:3 A] Said R. Yosé, “Produce that reaches a third of its growth prior to the New Year of creation is tithed according to the rules that apply in the preceding year [in which it reached a third of its growth, not in the following year, when it ripens]. If it reaches a third of its growth after the New Year of creation, it is tithed according to the rules that apply in the current year [when it ripens].”
- [B] *Objected R. Zeira before R. Yosé*, “Some years the crops appear late and dates begin to swell only after the New Year of creation. Nonetheless, they are tithed according to the rules for the preceding year.”
- [C] *Said R. Zeira*, “*R. Yosé did not state this rule as his own opinion. Rather it is based on the dispute between R. Yohanan and R. Simeon b. Laqish.*”
- [II:4 A] R. Jacob bar Aha in the name of Samuel bar Abba: “If the fruit reached a third of its growth prior to the fifteenth of Shebat, it is tithed according to the rules that apply in the preceding year. If it reached a third of its growth after the fifteenth of Shebat, it is tithed according to the rules that apply in the current year when the fruit ripens.”
- [II:5 A] Said R. Zeira, “This is fine: lo, in the case of a citron you have uprooted the rule that the point at which it forms on the branch determines its year for tithing. [Citrons follow the rules that apply when they are picked.] But in the case of citrons you did not abrogate the date to be followed in determining the year for tithing. Accordingly, here you have abrogated the date to be followed in determining the crop's year for tithing, should you not also abrogate the rule that the point at which the crop forms determines the year to which it belongs?”
- [II:6 A] *R. Abun bar Hiyya raised the question before R. Zeira*, “Then should we not tithe the first third of growth according to the rule of the preceding year in which that growth was completed and the second [and third] third according to the rule for the coming year in which the growth occurs?”

- [B] He said to him, “The first third is difficult. Once the fruit reaches that stage, it forthwith completes its growth. [We attribute the growth to the year in which the first third developed.]”
- [C] *Said R. Abba, “R. Zeira taught this like an expert farmer.”*
- [D] Samuel said, “In the first sixty days the plant produces six leaves. In the next six days it produces sixty leaves.”
- [E] *A Tannaite statement: Rabban Simeon b. Gamaliel says, “**R. Simeon b. Gamaliel says, “[The period] from the appearance of the leaves [of the fig tree] until [the appearance of] the underdeveloped figs is fifty days. [The period] from [the appearance of] the underdeveloped figs until [the ripening of] inferior figs [which grow from buds of the preceding year and generally drop off the tree]. And from [the ripening of] inferior figs until [the ripening of well-developed] figs is fifty days.”***
- [F] Rabbi says, “Each [of these intervals] is forty days.”
- [G] **And all [figs which become ripe] prior to this time [i.e., the fifteenth of Shebat]—lo, they are [deemed to be produce] of the preceding year, [and all figs which become ripe] after this time—lo, they are [deemed to be produce] of the current year [T. Sheb. 4:20].**
- [II:6 A] If one picked a fig but does not know when it formed on the branch,
- [B] said R. Jonah, “he counts back a hundred days. If those days encompass the fifteenth of Shebat, he knows when the fruit was formed.”
- [III:1 A] **R. Judah says, “Persian figs [which appear in the seventh year — the restrictions of the] Sabbatical year [apply] to them [in the] year following the Sabbatical [that is, in the first year of the new Sabbatical cycle, rather than in the seventh year itself,] because they [i.e., Persian figs] take two years to ripen fully.”**
- [B] **They said to him, “Lo, Persian figs grow in your locale in Tiberias and do the trees not produce figs in a single year [so why subject the figs to the Sabbatical rules in the year following the Sabbatical?] [T. Sheb. 4:1].**
- [C] He said to them, “And lo, they also grow in your locale in Sepphoris and there the trees produce figs in two years.”

5:2

- [A] One who stores arum [for preservation, by covering it with earth] during the Sabbatical year [must do so in a manner which prevents the tubers from sprouting leaves] —
- [B] R. Meir says, “He [must] not [store] less than two *seahs*,
- [C] “[he must not make a pile less] than three handbreadths high,
- [D] “and [he must put no less than] a handbreadth of dirt above it.”
- [E] But sages say, “He [must] not [store] less than four *qabs*,
- [F] “[he must not make a pile less] than a handbreadth high,
- [G] “and [he must put no less than] a handbreadth of dirt above it,
- [H] “and he [must] store it in a thoroughfare.”
- [I] An arum [tuber which was stored underground during the Sabbatical year (cf. M. 5:2) and remained stored in the ground] after the Sabbatical year had passed —
- [J] R. Eliezer says, “If the poor gathered its leaves, [which sprouted during the Sabbatical year,] it is well (lit., “they have gathered”) [but the poor have no claim upon the tuber that grows underground].
- [K] “But if [the poor did] not [gather its leaves during the Sabbatical year, the owner of the arum] must settle accounts with the poor, [when the tuber is uprooted, by giving them a portion of the tuber itself].”
- [L] R. Joshua says, “If the poor gathered its leaves [which sprouted during the Sabbatical year,] it is well.
- [M] “But if [the poor did] not [gather its leaves during the Sabbatical year,] the poor have no account with him. [That is, the owner of the arum owes them nothing after the Sabbatical year is over].”
- [N] Arum [which finished growing] during the sixth year [but] which remained [in the ground in storage] during the seventh year,
- [O] and also summer onions, and madder from good soil —
- [P] The House of Shammai say, “They uproot them [during the seventh year] with wooden rakes [so as to avoid the appearance of cultivating the Land].”
- [Q] But the House of Hillel say, “They uproot them with metal spades.”

- [R] And [the Shammaites] concur [with the Hillelite position] concerning madder from stony soil, that they uproot it with metal spades.
- [S] When is one permitted to buy arum in the year following the Sabbatical on the assumption that this produce is not subject to the restrictions of the law?]
- [T] R. Judah says, “Immediately.”
- [U] And sages say, “When the new [produce] becomes plentiful [in the marketplace, that is, in the spring of the year following the Sabbatical].
- [I:1 A] **One who stores arum [for preservation, by covering it with earth] during the Sabbatical year [must do so in a manner which prevents the tubers from sprouting leaves] —**
- [B] *To this point we have spoken of arum. What is the rule for onions?*
- [C] Said R. Jonah, “Arum and onions are subject to the same rule.”
- [D] Said R. Yosé, “It stands to reason that in the case of onions storing even less than this [two seahs] is permitted, for they are smooth and do not start to grow.”
- [II:1 A] **An arum [tuber which was stored underground during the Sabbatical year (cf. M. 5:2) and remained stored in the ground] after the Sabbatical year had passed:**
- [B] R. Abbahu in the name of R. Yohanan: “The opinion of R. Judah is the same as that of R. Eliezer, and the opinion of R. Yosé is the same as that of R. Joshua.
- [C] *“For we have learned in the Mishnah: One who possesses produce of the Sabbatical year when the time for the removal [of that produce] arrives, sets aside [sufficient] food for three meals for each [member of his household and then removes any remaining produce]. ‘And the poor may eat [this produce] after it has been removed, but not the rich,’ the words of R. Judah. R. Yosé says, ‘Poor and rich alike eat [of this produce] after it has been removed’” [M. Sheb. 9:8].*
- [II:2 A] [With reference to M. Sheb. 9:1: **R. Judah says, “Aftergrowths of mustard [i.e., all mustard that grows uncultivated during the Sabbatical year,] are permitted [that is, this produce may be bought from a person suspected of violating the laws of the Sabbatical year,] because transgressors are not suspect concerning them. [Since mustard grows uncultivated in abundance, people are**

not suspected of secretly cultivating it and then claiming that it grew by itself].” R. Simeon says, “All Aftergrowths are permitted [i.e., may be bought from one suspected of violating the law,] except aftergrowths of cabbage, because produce of this type [that is, cabbage] does not [grow uncultivated] among wild vegetables.” But sages say, “All aftergrowths are forbidden [that is, may not be bought from one suspected of violating the law]” —

[B] R. Imi asked before R. Yohanan, “Does this passage [at M. 5:3, where Joshua and Eliezer concur that the poor may eat leaves of arum during the Sabbatical year derive from the period before they enacted the rule prohibiting consumption of aftergrowth of the Sabbatical year [at M. 9:1]?”

[C] He said to him, “Were you in the Upper Room when they enacted the rule?”

[D] R. Imi inferred from that statement that [Yohanan] held that the rule prohibiting consumption of aftergrowths of the Sabbatical year derives from the Torah, [not from a Rabbinic provision].

[E] *Said R. Jeremiah, “The Mishnah speaks of wild arum [which are not subject to the restriction of aftergrowths].”*

[F] *R. Hoshai produced a Tannaite teaching of Bar Qappara, the Southerner, and he taught as a Tannaite rule that M. Sheb. 5:3 refers to both “leaves of arum and onions.”*

[G] *But are you going to say that it is a reference to leaves of wild onions [which are not eaten]?*

[II:3 A] *The statement of R. Jeremiah [that we speak of wild arum] implies that in the case of that which is subject to removal such as leaves of wild arum that is found with a kind of produce not subject to removal such as the wild arum root itself, the other kind becomes subject to removal. [After the leaves have dried out and become inedible, in their place the root must be distributed to the poor. That is so even though the root ordinarily does not have to be removed and made available to the poor.]*

[B] *Under what circumstances does R. Jeremiah take this view?*

[C] He explains that this applies when the field’s owner stamped on the leaves. [He prevented the poor from eating the leaves. Even though the root is ordinarily not subject to removal for the poor, the poor get a proportion of it, as payment for the leaves that the householder prevented them from getting.]

[III:1 A] An arum [tuber which was stored underground during the Sabbatical year (cf. M. 5:2) and remained stored in the ground] after the Sabbatical year had passed — R. Eliezer says, “If the poor gathered its leaves, [which sprouted during the Sabbatical year,] it is well (lit., “they have gathered”) [but the poor have no claim upon the tuber that grows underground]. But if [the poor did] not [gather its leaves during the Sabbatical year, the owner of the arum] must settle accounts with the poor, [when the tuber is uprooted, by giving them a portion of the tuber itself].” R. Joshua says, “If the poor gathered its leaves [which sprouted during the Sabbatical year,] it is well. But if [the poor did] not [gather its leaves during the Sabbatical year,] the poor have no account with him. [That is, the owner of the arum owes them nothing after the Sabbatical year is over].” R. Yosé interpreted [Eliezer’s position on the Mishnah to refer to the case of arum the primary growth of which occurred prior to the New Year of the Sabbatical year. They planted it a year prior to the New Year of the Sabbatical year. It produced egg-shaped tubers prior to the start of the Sabbatical year, and he softened the plant’s leaves during the Sabbatical year and pulled up the ripened tuber just after the end of the Sabbatical year. *Now if you say that softening the plant’s leaves is equivalent to picking marking the point at which the plant is subject to tithing and other restrictions, then in the opinion of R. Eliezer all the tuber belong to the poor. Now if you say that softening the plant’s leaves is not equivalent to picking marking the point at which the plant is subject to tithing and other restrictions, then in the opinion of R. Eliezer none of the tuber belong to the poor. And if you say that softening the plant’s leaves is subject to doubt as to whether or not it is equivalent to picking, then [in Eliezer’s opinion,] the owner of the arum] must settle accounts with the poor, [when the tuber is uprooted, by giving them a portion of the tuber itself].*

[B] *R. Hezekiah interpreted the position of R. Joshua in the Mishnah to refer to a case of arum that began to grow on the eve of New Year of the Sabbatical year. They planted it on the eve of New Year of the Sabbatical year. It produced egg-shaped tubers prior to the start of the Sabbatical year, and he softened the plant’s leaves during the Sabbatical year and pulled up the ripened tuber just after the end of the Sabbatical year. Now if you say that softening the plant’s leaves is equivalent to picking marking the point at which the plant is subject to tithing and other restrictions, then in the opinion of R. Joshua all the tuber belong to the householder. Now if you say that softening the plant’s leaves is not equivalent to picking marking the point at which the plant is subject to tithing and other restrictions, then in the opinion of R. Joshua all of the tuber belong to the householder. [Thus Joshua*

states] But if [the poor did] not [gather its leaves during the Sabbatical year,] the poor have no account with him.

[III:2 A] ... the owner of the arum] must settle accounts with the poor:

[B] Arum [which grew during the Sabbatical year and remained in the ground] after the Sabbatical year had passed [=M. 5:3A]—R. Eliezer says, “If [the owner] delayed three years [before uprooting the arum] he gives the poor a fourth [of his arum]. If [the owner] delayed two years, he gives the poor a third [of his arum.] [If the owner delayed] one year, he gives the poor half [of his arum.] [T. Sheb. 4:3]

[III:3 A] *R. Yosé interpreted the position of R. Eliezer in the Mishnah to refer to the case of arum that grew primarily before the New Year of the Sabbatical year. R. Hezekiah explained the position of R. Joshua as referring to arum that began to grow on the eve of New Year of the Sabbatical year.*

[B] *R. Abun bar Hiyya asked before R. Zeira, “Does the same rule apply for other years of the Sabbatical cycle?”*

[C] *For thus it is taught on Tannaite authority: If [summer onions] had [began growing in the] second [year of the Sabbatical cycle] and the third year arrives. they do not bend them and they do not deprive them of water [during the second year], in order that [the produce will be deemed part of the crop of the third year and so] will be [subject to] second tithe. [If summer onions] had [began growing during the] third [year of the Sabbatical cycle] and the fourth year arrives, they do bend them and they do deprive them of water [during the third year], in order that [the produce will be deemed part of the crop of the third year and so] will be [subject to] poorman’s tithe. And one is permitted to bend over [the tops of the onions, as at E], by foot, for this is the way everyone is accustomed [to do it] [T. Sheb. 2:10].*

[D] Softening the leaves is comparable to uprooting the arum.

[IV:1 A] Arum [which finished growing] during the sixth year [but] which remained [in the ground in storage] during the seventh year, and also summer onions, and madder from good soil — The House of Shammai say, “They uproot them [during the seventh year] with wooden rakes [so as to avoid the appearance of cultivating the Land].” But the House of Hillel say, “They uproot them with metal spades.” And [the Shammaites] concur [with the Hillelite position]

concerning madder from stony soil, that they uproot it with metal spades.

[B] R. Yosé in the name of R. La, “Resolve the matter by assuming that he uprooted them before they sprouted. [This is not aftergrowth, but only taking what grew during the sixth year.]

[IV:2 A] ...and also summer onions, and madder from good soil:

[B] These are summer onions.

[IV:3 A] And [the Shammaites] concur [with the Hillelite position] concerning madder from stony soil, that they uproot it with metal spades:

[B] this is madder that grows in stone.

[IV:4 A] “They uproot them with metal spades:”

[B] It was taught on Tannaite authority: Whenever in other years of the Sabbatical cycle they plow the field of tubers, during the Sabbatical year they plow the tubers. And whenever in other years of the Sabbatical cycle they hoe, in the Sabbatical year they may hoe.

[V:1 A] When is one permitted to buy arum in the year following the Sabbatical on the assumption that this produce is not subject to the restrictions of the law?] R. Judah says, “Immediately.” And sages say, “When the new [produce] becomes plentiful [in the marketplace, that is, in the spring of the year following the Sabbatical].

[B] What is the reason for the position of sages, who prohibit the purchase until the new produce becomes plentiful?

[C] They made a decree concerning arum but did not make a decree against the use of the leaves.

[D] What is the reason for the position of R. Judah.

[E] In his view it should be permitted to buy arum even during the Sabbatical year itself, since the tubers derive from previous years in the Sabbatical cycle.

[F] [Even Judah concurs that during the Sabbatical year it should be forbidden] since we deal with what has been buried. Buying it during the Sabbatical year is forbidden so that someone cannot go and bring arum of the Sabbatical year itself, which is forbidden, and say, I brought it from what is buried and available for purchase during the Sabbatical year.”

[V:2 A] **R. Judah says, “An incident: We were in Ein Kusi and we ate arum at the conclusion of Tabernacles in the year following the Sabbatical [And this was] on the authority of R. Tarfon.”**

[B] R. Yosé said to him, “Is that the evidence [for your ruling]? I was with you, and it happened after Passover!”

5:3

[A] **These are tools which the artisan is not permitted to sell during the Sabbatical year:**

[B] **(1) a plow and all its accessories, (2) a yoke, (3) a pitchfork, (4) and a mattock.**

[C] **But he [i.e., the artisan] may sell:**

[D] **(1) a hand sickle, (2) a reaping sickle, (3) and a wagon and all its accessories.**

[E] **This is the general rule”**

[F] **[As regards] and [tool] the use of which [during the Sabbatical year] is limited exclusively to the performance of an act which is a transgression — it is forbidden [to sell such a tool during the Sabbatical year.]**

[G] **[but, as for any tool which may be used both for work which is] forbidden and [for work which is] permitted [according to the laws of the Sabbatical year] — it is permissible [to sell such a tool during the Sabbatical year.]**

[H] **[During the Sabbatical year] a potter sells [to one person no more than] five oil containers and fifteen wine containers,**

[I] **because it is usual [for a person] to gather from ownerless produce [enough olives and grapes to produce this much wine and oil during the Sabbatical year].**

[J] **But if [during the Sabbatical year a person] gathered more than this amount [of olives and grapes,] it is permitted [to sell that person more than this number of containers].**

[K] **And [the potter] sells [an unlimited number of containers] to a gentile in the Land [of Israel] and to an Israelite outside of the Land [of Israel].**

[L] **The House of Shammai say, “During the Sabbatical year a person may not sell to another a heifer suited for plowing.”**

[M] **But the House of Hillel permit [one to sell such a heifer,] because he [i.e., the buyer] may slaughter [and eat] it.**

- [N] [During the Sabbatical year] a person may sell to another fruit [the seeds of which are used for sowing,] even during the planting season.
- [O] And a person may lend to another a *seah*-measure [used for measuring harvested produce,] even if one knows that he has a threshing floor.
- [P] And a person may make change for another, even if one knows that he employs laborers.
- [Q] And regarding all of these [transactions — if the partner to the transaction] explicitly [stated his intention to violate the law,] they are forbidden.
- [I:1 A] **These are tools which the artisan is not permitted to sell during the Sabbatical year:**
- [B] Said R. Jonah, “*This is the sense of the Mishnah: These are tools which the artisan is not permitted to sell during the Sabbatical year* to one who is suspect of violating the law of the Sabbatical year.
- [C] If the person is not identified as to whether or not he observes the Sabbatical year, what is the law?
- [D] *The answer derives from the following Tannaite rule: but, as for any tool which may be used both for work which is] forbidden and [for work which is] permitted [according to the laws of the Sabbatical year] — it is permissible [to sell such a tool during the Sabbatical year.]*
- [E] This implies that it is permitted to sell to an individual not identified as to whether or not he observes the Sabbatical year.
- [II:1 A] **[During the Sabbatical year] a potter sells [to one person no more than] five oil containers and fifteen wine containers:**
- [B] Shouldn't we suspect that someone who wishes to buy five oil containers and fifteen wine containers has lied and plans to use all twenty for oil or wine]?
- [C] Said R. Jonah, “It is readily discernible which are for wine and which for oil.”
- [D] Said R. Ulla, “*The leather of these skins is distinguishable from the leather of those.*”
- [II:2 A] **And [the potter] sells [an unlimited number of containers] to a gentile in the Land [of Israel]:**

[B] Even more than the specified limits.

[III:1 A] and to an Israelite outside of the Land [of Israel]:

[B] Even those that were originally purchased in the land of Israel and exported.

[IV:1 A] The House of Shammai say, “During the Sabbatical year a person may not sell to another a heifer suited for plowing.” But the House of Hillel permit [one to sell such a heifer,] because he [i.e., the buyer] may slaughter [and eat] it.

[B] One who sells an ox to his fellow and it turns out to be a gorier —

[C] Rab said, “It is a purchase made in error [and is rescinded].”

[D] Samuel said, “The seller can say to him, ‘I sold it to you to be slaughtered for meat [and the sale is valid for that purpose].’”

[E] *Concerning what case do we speak? If he sold it to a sharecropper, all parties concur that he sold it for plowing. If he told it to a butcher, all parties will agree that he sold it to be butchered.*

[F] Rather, this is the practical case about which we speak: He sold it to a broker.

[G] Rab said, “It is a purchase made in error [and is rescinded].”

[H] Samuel said, “The seller can say to him, ‘I sold it to you to be slaughtered for meat [and the sale is valid for that purpose].’”

[I] *The theory of Rab conflicts with opinions expressed elsewhere, and the theory of Samuel conflicts with opinions expressed elsewhere. For they differ:*

[J] If he sold a field to him during the Jubilee year itself [when property returns to the original owner],

[K] Rab said, “He has bought the field but it leaves his domain and is returned to the seller during the same Jubilee year.”

[L] And Samuel said, “He has not bought the field.”

[M] *The theory of Rab conflicts with opinions expressed elsewhere: there [in the matter of the field] he has said, “He has bought the field,” and here he has said, “He has not bought the ox” [It is a purchase made in error and is rescinded].*”

[N] There it is a matter of the Jubilee year, and that is well known, but here it is a purchase made in error.

- [O] *And the theory of Samuel conflicts with opinions expressed elsewhere: there [in the matter of the field] he has said, “He has not bought the field,” and here he has said, “He has bought the ox.”*
- [P] For what purpose did he sell him the field? Was it not for sowing it? *But here in the case of the ox, the seller can say to him, “I sold it to you for slaughter for meat.]*
- [Q] Rab accords with the position of the House of Shammai [**The House of Shammai say, “During the Sabbatical year a person may not sell to another a heifer suited for plowing.”**] [we do not assume he bought for slaughter] and Samuel accords with the position of the House of Hillel [**But the House of Hillel permit [one to sell such a heifer,] because he [i.e., the buyer] may slaughter [and eat] it.**] [We assume it was for slaughter.]
- [R] Rab accords with the position of the House of Shammai but you can reason that he concurs with the House of Hillel [that an ox for plowing may be sold for slaughter.
- [S] *Rab can hold that the sale of a goring ox is invalid, for isn't it the norm for the purchaser to wait thirty days before slaughtering the animal, so that during those thirty days if the ox gores, it is a purchase made in error. [Is the buyer liable for damage caused by the ox. Rab says he is not liable, since he didn't know that it was a gorer, the purchase was made in error and is rescinded.]*
- [T] Samuel accords with the House of Hillel: but you can even reason that he concurs with the House of Shammai [that one may not sell an ox suited for plowing.] *For even during the Sabbatical year people do not slaughter a heifer that is trained to plow. [We cannot assume the buyer intends to slaughter the animal, so selling the ox during the Sabbatical year is forbidden. The case of the goring ox is different. It will ordinarily be slaughtered. The seller can claim to have sold the beast for meat, and the sale is valid.]*
- [V:1 A] **And a person may lend to another a *seah*-measure [used for measuring harvested produce,] even if one knows that he has a threshing floor:**
- [B] R. Ada, R. Tanhum bar Hiyya in the name of R. Yohanan: “If he lent him a *seah*-measure and he came and found the farmer measuring produce in it [forbidden in the Sabbatical year] and he is not obligated to take it back, all the more so if he leased it to him.”

5:4

- [A] A woman may lend to a neighbor who is suspected [of not observing the laws] of the Sabbatical year:
- [B] (1) a sifter, (2) a sieve, (3) a millstone, (4) or an oven.
- [C] But she may not sift or grind [flour] with her [since we assume that this grain was planted in violation of the law].
- [D] The wife of a *haber* [that is, one who eats ordinary food in accordance with the rules of cultic purity] may lend to the wife of an ordinary Israelite [who does not scruple about the laws of purity]:
- [E] (1) a sifter, (2) or a sieve,
- [F] and she may sift or grind or shake [dry flour] with her, [for in these cases the ordinary Israelite woman does not render the flour unclean and so commit a transgression].
- [G] But from the time that [the ordinary Israelite woman] pours water [over the flour and thereby renders the flour susceptible to the uncleanness, cf. Lev. 11:34, the wife of a *haber*] may not touch [the flour] next to her,
- [H] because one does not assist those who commit a transgression.
- [I] And all were only made in the interests of peace.
- [J] And during the Sabbatical year one may assist gentiles [to do work which is forbidden to Israelites,] but one may not assist Israelites [to do such work during the Sabbatical year].
- [K] And they greet them [i.e., gentiles,] in the interests of peace.
- [I:1 A] (1) a sifter, (2) a sieve, (3) a millstone, (4) or an oven: R. Zeira asked before R. Mana, “The Mishnah speaks of a case in which it is not known whether the suspect woman plans to use the utensils for a forbidden or a permitted purpose. But if it is explicit that she plans to use the utensils for a forbidden purpose, the other may not lend them to her.”
- [B] He said to him, “Isn’t a case in which he purpose is not made explicit [that the borrower plans to use them for a forbidden purpose] tantamount to a case in which it is made explicit?”
- [C] [He said to him, “No, for] I claim, (1) a sifter is to count coins, (2) a sieve is to sift sand, (3) a millstone is to grind medicine, (4) or an oven is to store wet flax.”

- [I:2 A] *R. Phineas asked, “When do they punish the one who violates the Sabbatical rules? Is it when others plant produce during the Sabbatical year and eat it, or only if they plant produce during the Sabbatical year even if they don’t eat it?”*
- [B] *What difference does it make?*
- [C] *If they saw him buying food from a Saracen [and is suspect of eating food grown in violation of the Sabbatical rules, but not of performing the forbidden work himself].*
- [D] *If you say, it is when others plant produce during the Sabbatical year and eat it, they are culpable, then if they saw him buying food from a Saracen, it is forbidden. But if you say, if they plant produce during the Sabbatical year even if they don’t eat it, if they saw him purchasing food from a Saracen, this is permitted.*
- [II:1 A] **And all were only made in the interests of peace:**
- [B] *R. Yosé bar Hanina asked: “On the entire pericope was this stated, or is it only about this particular law?”*
- [C] *Rabbis of Caesarea in the name of R. Judah bar Titus: “The fact that these other rules here are not repeated at tractate Gittin [5:9] shows that the statement, **And all were only made in the interests of peace**, applies only to this particular law.”*
- [II:2 A] **There we learned in the Mishnah: A baker who prepares bread in a state of uncleanness — they do not knead or cut out dough with him. [M. A.Z. 4:9].**
- [B] *And a Tannaite statement was set forth in that connection: A baker who prepares bread in a state of uncleanness — they do not sift, grind, or shake dry flour with him.*
- [C] *But here it says this [and she may sift or grind or shake dry flour with her]!*
- [D] *Said R. La, “Here [and she may sift or grind or shake dry flour with her] the rule concerns the preparation of secular food, and there [they do not sift, grind, or shake dry flour with him] the rule concerns the preparation of food in the status of heave-offering.*
- [E] *But can you say that a baker [baking in volume] is preparing dough in the status of heave-offering?*
- [F] *Associates say, “Here where it is forbidden to sift or grind flour with a baker who does not keep the purity rules, the law refers to a baker who*

wets down the grain before preparing it, and makes it susceptible to uncleanness. But here where the wife of the associate may sift or grind flour with a woman who does not keep the purity laws, it refers to a case where she does not wet down the grain prior to preparation [so the grain is insusceptible.]”

[G] *The Mishnah supports the view of associates, for it is taught: **But from the time that [the ordinary Israelite woman] pours water [over the flour and thereby renders the flour susceptible to the uncleanness, cf. Lev. 11:34, the wife of a haber] may not touch [the flour] next to her, because one does not assist those who commit a transgression.***

[III:1 A] **And all were only made in the interests of peace:**

[B] R. Hiyya and R. Ami — one said, “During the Sabbatical year one may say to a gentile, ‘*Plow your field well and I’ll lease it from you after the Sabbatical year.*’”

[C] The other said, “He may say only, ‘May you have strength to complete the work.’”

[D] *In the view of him who said, “During the Sabbatical year one may say to a gentile, ‘Plow your field well and I’ll lease it from you after the Sabbatical year.’” what is the meaning of the statement, **And they greet them [i.e., gentiles,] in the interests of peace?***

[E] It means, “May you have strength to complete the work.”

[F] In the view of him who says, “He may say only, ‘May you have strength to complete the work.’” *what is the meaning of the statement, **And they greet them [i.e., gentiles,] in the interests of peace?***

[G] It means an Israelite may even greet other Israelites in the Sabbatical year who are working in the fields and may say to them, “Peace be upon you, Israelites.”

[III:2 A] *An incident:*

[B] ***R. Hinena bar Pappa, R. Samuel bar Nahmani passed someone who was plowing during the Sabbatical year. Said to him R. Samuel bar Nahmani, “May you have strength to complete the work.”***

[C] *Said to him R. Hinena bar Pappa, “But did my lord not teach us, ‘And those who pass by do not say, “The blessing of the Lord be upon you” (Ps. 129:8)— on this basis we learn that it is forbidden to say to those who plough in the Sabbatical year, ‘May you have strength to complete the work?’”*

- [D] He said to him, “To recite Scripture you are sufficiently informed, but to interpret Scripture you are insufficiently informed!
- [E] “‘And those who pass by do not say,’ — this refers to the nations of the world, for they pass from the world.
- [F] “‘And those who pass by do not say,’ — to the people of Israel, ‘The blessing of the Lord be upon you.’
- [G] What should the people of Israel say to them? ‘We bless you in the name of the Lord’ (Ps. 129:8).
- [H] “Is it not enough for you that all the blessings that come into the world are on account of our merit? And yet you nations do not say to us, ‘Come and partake of these blessings.’ Not only this, but you impose on us town taxies, penalties, head taxes, and taxes in kind.”

YERUSHALMI SHEBIT

CHAPTER SIX

6:1

- [A] Three provinces [are delineated] with regard to [the laws of] the Sabbatical year:
- [B] (1) [Regarding] all [of the land] which was occupied [by Joshua and again] by those who returned from Babylonia [after the exile]
- [C] [that is, the area] from the Land of Israel [in the south] to Kezib [in the north] —
- [D] [produce cultivated during the Sabbatical year in violation of the law,] may not be eaten and [the land of this region] may not be worked [during the Sabbatical year].
- [E] (2) [Regarding] all [of the land] which was occupied by those who came out of Egypt, [but was not re-conquered after the Babylonian exile,]
- [F] [that is, the area] from Kezib to the river [i.e., the brook of Egypt, in the south,] and [from Kezib] to Amana [in the north] —
- [G] [produce cultivated during the Sabbatical year in violation of the law,] may be eaten, but [the land of these regions] may not be cultivated [during the Sabbatical year].
- [H] (3) [Regarding the land] from the river and from Amana and beyond [that is, from the river southward and from Amana northward] —
- [I] [produce cultivated during the Sabbatical year] may be eaten, and [the land of these regions] may be cultivated [during the Sabbatical year].
- [I:1 A] It is written, “These are the statutes and ordinances that you shall be careful to do in the land” (Dt. 12:1).
- [B] In the land you are obligated to keep these laws, but you are not obligated to keep them outside of the land.

- [C] Still we say:
- [D] Commandments that depend upon presence in the land apply only in the land. Is it possible that even commandments that do not depend upon presence in the land apply only in the land?
- [E] Scripture states, “Take heed lest your heart be deceived and you turn aside and serve other gods and worship them and the anger of the Lord be kindled against you and he shut up the heavens so that there is no rain and the land will yield fruit and you perish quickly off the good land that the Lord give you. You shall therefore lay up these words of mine in your heart and in your soul” (Dt. 11:16-18).
- [F] To what does this make reference? To phylacteries and study of the Torah, which do not depend upon one's presence in the land, apply both in the land and outside, so every commandment that does not depend upon presence in the land applies both within the land and outside.

- [II:1 A]** Then after the Israelites were exiled, they should remain exempt from commandments that depend on one's presence in the land!
- [B] It is written, “And all the assembly of those who had returned from the captivity made booths and dwelt in the booths, for from the days of Jeshua son of Nun to that day the people of Israel had not done it” (Neh. 8:17).
- [C] Why does the passage refer to Jeshua [not Joshua]?
- [D] R. Hillel b. Samuel bar Nahman: “By removing a letter from the name Scripture reduced the honor paid to a deceased righteous person out of respect for a living righteous person.
- [E] They drew an analogy between the entry of the Israelites into the land in the days of Ezra and their entry into the land in the days of Joshua. Just as when they entered the land in the days of Joshua they had been exempt from the commandments that apply only in the land and became obligated to them, so when they entered in the days of Ezra they had been exempt and now became obligated.
- [F] To what did they become obligated?
- [G] R. Yosé bar Hanina said, “Through the authority of the Torah they became obligated to the commandments that apply only in the land of Israel: And the Lord your God will bring you into the land that your fathers possessed that you may possess it. (Dt. 30:5). Scripture compared possessing the land under Ezra and possessing the land

under Joshua. Just as your fathers possessed the land on the authority of the Torah, so you possessed the land on the authority of the Torah.”

- [II:2 A]** “And he will make you more prosperous and numerous than your fathers” (Dt. 39:5).
- [B] Just as your fathers had been exempt from the commandments that apply only in the land and became obligated to them, so when you were in exile you were had been exempt from the commandments that apply only in the land and [when you returned] you became obligated to them.
- [C] Your fathers did not bear the yoke of a different monarchy, but you have become obligated even though you have upon you the yoke of a different monarchy [Babylonia]. Your fathers became obligated to follow the commandments that apply only in the land only after fourteen years, during seven of which they completed the conquest and seven of which they divided the land, but as for you, as each Israelite acquired a portion, he became obligated.
- [II:3 A]** Said R. Eleazar, “[It was not on the authority of the Torah] but of their own initiative those who returned from the exile accepted the commandments regarding tithes. What is the relevant verse of Scripture? Because of all these things we make a firm covenant and write it and our princes, our Levites, and our priests set their seal to it (Neh. 9:38). [The returnees obligated themselves to the commandments that apply to the land.]”
- [B] How does R. Eleazar deal with [Neh. 10:36 listing commandments that apply outside the land: “Also to bring to the house of our God the firstlings of our herds and of our flocks”?
- [C] So far as they accepted some restrictions to which they were not obligated, the Omnipresent gave them credit for restrictions to which they were already obligated as though they had also accepted them of their own accord.
- [II:4 A]** How does R. Yosé bar Hanina interpret the verse, “Because of all these things we make a firm covenant and write it and our princes, our Levites, and our priests set their seal to it”? (Neh. 9:38)?
- [B] Because they accepted in a generous spirit the obligations imposed by the Torah, Scripture credited it to them as if they had accepted them on their own volition.
- [II:5 A]** How does R. Eleazar interpret, “And he will make you more prosperous and numerous than your fathers” (Dt. 30:5)?

- [B] He interprets the verse to speak of the future.
- [C] For said R. Helbo, Simeon bar Ba in the name of R. Yohanan: “Your fathers possessed a land that had belonged to seven nations, but you will possess the land of ten nations, *and the three additional ones are these*: The land of the Kennites, the Kenizzites the Kadmonites (Gen. 15:19).”
- [D] R. Judah said, “Arabia, the land of the Shalmaites, and the Nabataeans.”
- [E] R. Simeon said, “Essa, Apamaea, and Damascus.”
- [F] R. Eliezer b. Jacob says, “Essa, Carthage and Thrace.”
- [G] Rabbi says, “Edom, Moab and the land of the first sons of Ammon.”

[II:6 A] “And he will make you more prosperous and numerous than your fathers” (Dt. 30:5) — your fathers, even though they were redeemed from Egypt, they were enslaved against, but you, once you have been redeemed, you will not again be enslaved.”

- [B] The scriptural basis? “Ask now and see, can a man bear a child” (Jer. 30:6). Just as a man cannot bear a child, so you, once you have been redeemed, you will not again be enslaved.

[III:1 A] **[that is, the area] from the Land of Israel [in the south] to Kezib [in the north]:**

- [B] **He who goes from Akko to Kezib, on his right, to the east — the road is insusceptible on account of the law governing the land of the peoples and is liable for tithes and the law of the seventh year until it is clarified that it is free of those obligations. On the left, westward, the road is unclean on account of the land of the peoples, and it is free of tithes and of the law governing the seventh year until it will be made certain that it is liable — up to Kezib. R. Ishmael b. R. Yosé says in the name of his father, “Up to**

[III:2 A] What is the status of Akko itself?

- [B] *R. Aha bar Jacob in the name of R. Imi: “On the basis of two stories involving Rabbi we can derive the law.”*
- [C] Akko has traits of the land of Israel and has traits of land outside the Land of Israel.
- [D] *Rabbi was in Akko. He saw people eating bread from very fine flour. He said to them, “Did you soak the grain prior to grinding it?” [Akko is part of the Land of Israel, and people should prepare bread in a state*

of cultic cleanness, so clean dough offering can be separated from the bread. Soaking the grain before grinding it produces fine flour but makes the flour susceptible to uncleanness. Rabbi regards Akko as part of the Land of Israel and hence the dough offering is required.]

[E] *They said to him, “A disciple came here and taught us concerning liquid from eggs that it does not render what it wets down as susceptible to uncleanness. So we boil eggs and soak the grain in its liquid.” They thought he meant the water in which the eggs were boiled, but he had referred only to the liquid of the uncooked egg itself.*

[F] Said R. Jacob bar Idi, “From that time they made a decree that a disciple may not teach matters of law.”

[III:3 A] R. Hiyya in the name of R. Huna: “A disciple that made a decision in law, even if it is fully in accord with the law, his decision is not valid.”

[B] *A Tannaite teaching:* A disciple who gave a decision of law before his master is liable to the death penalty.

[C] *A Tannaite teaching* in the name of R. Eliezer: “Nadab and Abihu [Lev. 10] died only because they gave a decision before Moses their rabbi.”

[D] There is the case of a disciple who gave a decision before R. Eliezer his rabbi. He said to Imma Shalom his wife, “He will not live out the week,” and he did not live out the week before he died.

[E] Said his disciples to him, “Rabbi, are you a prophet?”

[F] He said to them, “I am not a prophet nor the disciple of a prophet, but this I have received as a tradition, that a disciple who gave a decision of law before his master is liable to the death penalty.”

[III:4 A] *A Tannaite teaching:* It is forbidden for a disciple to give a decision of law before his master until he is twelve miles distant from him just as in the Israelite camp.

[B] What is the relevant verse of Scripture?

[C] “They encompassed by the Jordan from Beth-yeshimot to Abel shittim” (Num. 33:49).

[D] And what is the distance between those two places? Twelve miles.

[E] *That is in line with the following:*

[F] *R. Tanhum bar Hiyya was in Haphar and people would bring him questions of law and he would render decisions. They said to him, “But has not the Rabbi yourself taught us that it is forbidden for a disciple to give a decision of law before his master until he is twelve miles distant from him just as in the Israelite camp. And lo, R. Mana our rabbi is in session in Sepphoris.”*

[G] *He said to them, “Let a bad thing come upon me if I did not know that he was there.”*

[H] *From that moment he did not teach matters of law.*

[III:5 A] *Rabbi was in Akko. He saw a man leave a dome-shaped structure that was there and up north. He said to him, “Are you not the son of so-and-so, the priest? Was your father not a priest [and what are you doing in this area, which is outside of the land of Israel?]*

[B] He said to him, “Father’s eyes were haughty, and he married a woman who was unsuitable to him and he profaned me [removed me from the priesthood as I am the son of a divorcee].”

[III:6 A] **[Regarding] all [of the land] which was occupied [by Joshua and again] by those who returned from Babylonia [after the exile]:**

[B] **The region of the Land of Israel [includes the following areas]:**

[C] **The Crossing of Ashkelon, the Tower of Sher, the Cliff of Dor, the fortification wall of Caesarea and the fortification wall of Acre, the source of the waters of Gaton, Gaton itself, and Kabritha, and Kaznita, Fort of the Galilee, Hollows of Aitha, Fort of Khur and Great Khuray, Tafnith, S naphtha, the cave region of Yattir, Mamtsi of Abhata, and the source of the waters of Marhesheth, and the river of Yiphtsael and Ulshatha, Avlas, and the Tower of Harub, the Hollow of Iyon, Mesha, Tukrath, the towns of Bar-Sanigora, Tarnegola above Caesarea, Kenath, Hagra Trachona in the area of Bozrah, Yegar Sahadutha, Nimrin, Melah d Zarvai, Yubka, Heshbon, and the brook of Zered, Raphia, Ammon, Moab, and Rekam Geah, and the gardens of Ashkelon, and the great road that leads to the desert.**

[D] What is the law for Ashkelon itself? R. Jacob bar Aha in the name of R. Zeira: *“It is answered by the Tannaite teaching: **and the gardens of Ashkelon.** So Ashkelon itself is outside of the land of Israel.”*

[III:7 A] R. Simon in the name of Hilpai: “Rabbi, R. Ishmael b. R. Yosé, R. Eliezer Haqqappar voted concerning the airspace of Ashkelon and declared it clean [part of the land of Israel].”

- [B] This was on the basis of the testimony of R. Phineas b. Yair, who said, “We would go down to the market of Ashkelon and buy wheat and go back to our towns and immerse and eat the grain along with our food in the status of heave-offering. [If Ashkelon was not in the land, it would have imparted uncleanness of corpses and they would have been unclean for a week.]”
- [C] The next day they voted concerning Ashkelon to declare produce from there exempt from tithes. [That is, it is outside of the land of Israel.]
- [D] R. Ishmael b. R. Yosé withdrew his hand, for he had been leaning on Ben Haqqappar. He said to him, “My son, why did you not say to me, How come did you removed your hand from me? I would have told you, Yesterday I declared to be unclean that which I had declared clean. But today I must say, Perhaps we must consider the fact that in the original conquest, the portion of land containing Ashkelon was captured and made part of the land of Israel as a fulfillment of what was intended by the Torah. How can I exempt produce grown in this area from tithes that are imposed as a matter of the Torah.”
- [E] How long after the decree that Ashkelon is part of the land of the gentiles does the area begin to be unclean?
- [F] Said R. Simon, “It begins to be unclean forty days after the decree.”
- [G] Said R. Jeremiah, “But didn’t we erroneously rule that Ashkelon was in the land of Israel? So as soon as a vote is taken to correct the error, it is forthwith unclean as part of the land of the peoples.”
- [H] Said R. Mana, “Didn’t R. Jacob bar Aha say in the name of R. Zeira, *It is answered by the Tannaite teaching: and the gardens of Ashkelon. So Ashkelon itself is outside of the land of Israel? [Why did the rabbis have to vote to exempt produce grown there from tithes?] Is it now the law for Sur [another border settlement] — is it not forbidden for a priest to go there [the area outside the Land is afflicted with corpse uncleanness] but isn’t one who purchases property there obligated to separate tithes from his crops, as though the area were within the land of Israel? So people will not say, Here in the case of Ashkelon as in the case of Sur, this is the law — therefore they voted explicitly concerning this matter to exempt produce grown in Ashkelon from tithes.*”

[III:8 A] R. Simon and R. Abbahu were in session. They said, “Thus it is written: Judah also took Gaza with its territory (Judges 1:18). Is this not the same Gaza that is now there? And he took Ashkelon and its territory Is this not the same Ashkelon that is now there?” [Aren’t

these part of the original conquest, and why not tithe produce grown there?]"

[B] But the Brook of Egypt [1 Kgs. 8:65] — Is this not the same Brook of Egypt that is now there?

[C] Said R. Joshua b. Levi, "It is written, Then Jephthah fled from his brothers and dwelled in the land of Tob (Judges 11:3). Why is it called Tob [meaning, good]? Because after the Babylonian exile produce grown there would be exempt from tithes."

[D] *R. Imi asked, "Aren't they tax payers who live there?" R. Imi reasoned that those areas are conquered land and as part of the land of Israel produce is subject to the agricultural offerings.]*

[E] That is in line with what R. Samuel bar Nahman said, "Joshua sent three proclamations to the Canaanites in the land of Israel prior to the Israelites entry into the land: Whoever wishes to emigrate may emigrate, whoever wishes to make peace may make peace, and whoever wishes to wage war may wage war. The Gergashites emigrated, for they believed the Holy One, blessed be he and they went to Africa: Until I come and take you away to a land like your own land (2 Kgs. 18:32) — this refers to Africa. The Gibeonites made peace (Josh. 9:3): When Adonizedek king of Jerusalem heard how Joshua had taken Ai and how the inhabitants of Gibeon had made peace with Israel (Josh. 10:1). Thirty one kings waged war and fell in battle (Josh. 12)."

[III:9 A] Why did they not decree concerning the airspace of Gerarike [unclean as part of the land of the gentiles]?

[B] R. Simon in the name of R. Joshua b. Levi: "It is a terrible reason [and there is no reason to decree concerning it]."

[C] To where [did they not decree that the area outside of the land of Israel is unclean like the land of the gentiles]?

[D] R. Hanin in the name of R. Samuel bar R. Isaac: "To the brook of Egypt."

[E] But Gaza [part of that territory] is a desirable region [so why is it not unclean as part of the land of the gentiles?]

[F] Pishpashah said before R. Yosé, "I asked R. Aha and he permitted Gaza as clean."

[III:10 A] R. Zeira [a priest] went to the springs of Pehal and found himself outside, to the east of a field of Babylonian palms. He sent to R. Hiyya

bar Va, who asked the two sons of Ebiatar Derma. They said to him, “Priests customarily go that far.”

[III:11 A] Priests asked R. Yohanan, “What is the law for the border of Naveh?”

[B] *R. Yohanan in the name of R. Huna of Bet Horon said to them, “Priests are accustomed to go as far as Daray. And regarding the borderline of Bosrah, priests are accustomed to go as far as the orchard.”*

[III:12 A] Said R. Abbahu, “There are Samaritan cities that have been treated with leniency since the days of Joshua b. Nun and these cities are permitted. [Produce of these are not subject to the agricultural laws.]”

[B] *R. Yosé asked, “Then priests need not scruple about cultic cleanness in eating dough offering from these cities [which is supposedly not dough offering]. But have we not seen that the rabbis do scruple [and eat in a state of cleanness dough-offering separated from produce grown in Samaritan cities]?”*

[C] *Said R. Judah ben Pazzi, “It is not for the reason you propose. Rather they are treated leniently because the Hasmonean kingdom did not completely conquer them. [They are subject to doubt and the priests eat dough offering in a state of cleanness even though these areas may not be part of the land of Israel.]”*

[III:13 A] *R. Yosé [a priest] heard that his mother had come to Bosrah. He asked R. Yohanan, “What is the law as to my going forth from the Land of Israel to meet my mother [in an unclean area]?”*

[B] He said to him, “If it is on account of the danger lurking on the roads, go forth. If it is on account of the honor owing to your mother, I don’t know.”

[C] *Said R. Samuel bar R. Isaac, “The question stands as to whether R. Yohanan planned to permit R. Yosé to leave the land to greet his mother.”*

[D] *He pressed him for a ruling and [Yohanan] said to him, “You obviously have determined to go. May you come in peace.”*

[E] R. Eliezer heard and said, “There is no grant of permission weightier than this one.”

[III:14 A] R. Simeon b. Laqish asked R. Hanina, “He who purchases land in Ammon and Moab, what is the law? [These lands were not recovered by the Israelites who returned from Babylonia, so is the produce liable to agricultural restrictions?]”

- [B] He said to him, “I haven’t heard the rule from R. Hiyya the Elder covering these places, but only the Crossing of Ashkelon and outward.”
- [C] *And this poses a problem, for [Simeon b. Laqish] asked him about these places and he answered him concerning another place altogether.*
- [D] *But because R. Hanina never in his life said anything that he did not hear from a master, for this reason even though for [Simeon b. Laqish] asked him about one place, in order not to send him away empty-handed he answered about a different place.”*

[III:15 A] *R. Simeon b. Laqish went to Bosrah [believing that it was part of the land of Israel.] They came to him and said, “Find us a man to interpret Scripture, serve as a judge and a scribe and to do all that we need done.”*

[B] *He found for them a Babylonian. He said to him, “I have found you a good place.”*

[C] *He came before R. Yohanan, who said to him, “Do you really want to go from Babylonia to Babylonia [to a different city that is outside of the land of Israel.]”*

[D] *Said R. Jacob bar Abba, “On the basis of what R. Yohanan said to him, from Babylonia to Babylonia, that bears the inference that he who purchases land there is not obligated to keep the agricultural rules.”*

[E] [Is it true that crops in all places to which priests are forbidden to go are not obligated under the agricultural rules?] Lo, there is the matter of Tyre, isn’t it forbidden for a priest to go there but is one who acquires property there not liable to keep the agricultural rules?

[F] *The following Tannaite statement has been found: [And the settlements] bordering on Ammon and Moab [and] Egypt are [divided into] two regions: In one region [produce cultivated during the Sabbatical year in violation of the law,] may be eaten, and [the land] may be cultivated, but in the other [region, produce cultivated during the Sabbatical year] may not be eaten, and [the land] may not be cultivated [T. Sheb. 4:6].*

[III:16 A] *R. Yohanan considered, “Bezer in the wilderness [Dt. 4:43]*

[B] *R. Simeon b. Laqish considered, “Bezer is different from Bosrah.”*

- [III:17 A] R. Isaac bar Nahman: “R. Simeon b. Laqish asked R. Hanina, “He who purchases land in Ammon and Moab, what is the law? [These lands were not recovered by the Israelites who returned from Babylonia, so is the produce liable to agricultural restrictions?]”
- [B] “He said to him, ‘I asked about this before R. Yosé, “Since Ammon and Moab were not [conquered] by Moses, [why should one who purchases a field there be subject to the agricultural rules?]””
- [C] Said R. Mana, “I asked about this before R. Haggai, ‘Since Ammon and Moab were not [conquered] by Moses, [why should one who purchases a field there be subject to the agricultural rules?]’
- [D] “Are not Ammon and Moab part of the land of Israel according to R. Eleazar b. Azariah [at M. Y. 4:3].”
- [E] Said R. Yosé b. R. Abun, “It is written, ‘For Heshbon was the city of Sihon the king of the Amorites’ (Num. 21:26). *That leaves a question in the mind of R. Simeon b. Laqish: Were the territories of Ammon and Moab purified by being conquered by Sihon and Og so that they were permitted for Israelite conquest, or were they not purified?* [Sihon and Og’s conquest of Ammon and Moab may have terminated the restrictions of Dt. 2:9 and 2:19 that precluded Israelites’ capturing the lands of Ammon and Moab.] If you say that the conquest purified the areas, then produce grown in them b Israelites is subject to the agricultural restrictions. If you say the conquest did not purify those areas, then produce grown in them by Israelites is not subject to agricultural rules.”
- [F] Said R. Tanhuma, “ ‘Rise up, take your journey and go over the valley of the Arnon; behold I have given into your hand Sihon the Amorite, king of Heshbon, and his land, begin to take possession’ [Dt. 2:24]. [God said to Israel,] ‘I have made Sihon’s land unconsecrated and available to you.’”
- [III:18 A] *R. Huna wanted to exempt from the agricultural rules produce grown in Yabluna. He came to R. Mana and said to him, “Here, sign this document [exempting Yabluna],” but he did not agree to sign.*
- [B] *The next day R. Hiyya bar Madia came to [Mana] and said to him, “You did well not to sign, for R. Jonah, your father, used to say, ‘Antoninus gave Rabbi two thousand fine fields as a tenancy.’”*
- [C] Therefore during the Sabbatical year in Yabluna aftergrowths may be eaten but the fields may not be worked. And produce grown in

Yabluna is exempt from tithes since it is classified as fields of gentiles farmed by Israelite tenant farmers in Syria.

[III:19 A] *R. Huna said, “This is the rule of the Mishnah: [Regarding] all [of the land] which was occupied by those who came out of Egypt, [but was not re-conquered after the Babylonian exile,] [that is, the area] from Kezib to the river [i.e., the brook of Egypt, in the south,] and [from Kezib] to Amana [in the north] — [produce cultivated during the Sabbatical year in violation of the law,] may be eaten, but [the land of these regions] may not be cultivated [during the Sabbatical year].*

[III:20 A] *It was taught as a Tannaite statement: What is [considered] the Land [of Israel] and what is considered outside the Land [of Israel]? All that slopes down from the Mountains of Amanus and inward is considered the Land of Israel; from the Mountains of Amanus and beyond is considered outside the Land [of Israel]. [As regards] islands of the [Mediterranean] Sea — we reckon them [i.e., their status] as if there were a string extending from the Mountains of Amanus to the Brook of Egypt; [islands located] from the string inwards [are considered part of] the Land of Israel [while islands located] from the string outward [are considered] outside the Land [of Israel]. R. Judah says, “All [islands] opposite the Land of Israel are considered to be] like the Land of Israel, as it is written [in Scripture], ‘For the western boundary, you shall have the Great Sea and its coast (Num. 34:6).’ [As for] the islands at the sides [i.e., not directly opposite the Land of Israel] — we reckon them [i.e., their status] as if there were a string extending from Kiflaria to the Mediterranean Sea [and another string extending] from the Brook of Egypt to the Mediterranean — [islands located] from the string inward [i.e., between the two strings, are considered part of the Land of Israel, [while islands located] from the string and beyond [are considered] outside the Land [of Israel]” [T. Ter. 2:12].*

[III:21 A] *Said R. Yusta bar Shunam, “When the dispersed reach the Mountains of Amana, they will recite a poem. What is the scriptural warrant? ‘Sing from the peak of Amana’ [Song of Songs 4:8].”*

6:2

[A] **In Syria, [farmers] may do work [during the Sabbatical year] involving harvested [produce], but [they] may not [do work] involving unharvested [produce].**

- [B] [That is,] 1) they may thresh, winnow, trample and bind [wheat into sheaves], 2) but they may not reap, harvest grapes, or cut olives.
- [C] R. Aqiba stated a general rule:
- [D] “Any [agricultural activity] of a type which is permitted [during the Sabbatical year] in the Land of Israel —
- [E] “they may do [such work] in Syria.”
- [I:1 A] In Syria, [farmers] may do work [during the Sabbatical year] involving harvested [produce], but [they] may not [do work] involving unharvested [produce]:
- [B] Said R. Abbahu, “This is so that Israelites will not go and settle down there.”
- [C] If so, why is an Israelite in Syria permitted to work during the Sabbatical year on harvested produce?
- [D] *The Israelites allowed to work only part of the season, so he sees that the profit is slight and he will not go to Syria during the Sabbatical year.*
- [I:2 A] R. Yosé b. R. Abun asked before R. Mana, “What is the law as to whether during the Sabbatical year an Israelite is permitted to grind grain with a gentile in the land of Israel [grown by the gentile himself]?”
- [B] *He said to him, “The Mishnah has said that it is forbidden, for we have learned in the Mishnah: In Syria, [farmers] may do work [during the Sabbatical year] involving harvested [produce], but [they] may not [do work] involving unharvested [produce]. Thus in the land of Israel even working with a gentile on harvested produce is prohibited.”*
- [I:3 A] As to the land subject to the rule, [produce cultivated during the Sabbatical year in violation of the law,] may be eaten, but [the land of these regions] may not be cultivated [during the Sabbatical year] [M. 6:1], what is the law as to whether an Israelite in the Sabbatical year may rent his ox to a gentile to plow or do other field labor?
- [B] *R. Levi of Sennabris asked R. Isaac and R. Imi and they prohibited. R. Hoshai'a gave gentiles money [so they wouldn't take his ox], but so that the gentile would not engage in an act of bestiality with his ox.*

- [I:4 A] *How do we interpret the rule In Syria, [farmers] may do work [during the Sabbatical year] involving harvested [produce], but [they] may not [do work] involving unharvested [produce]? If it refers to produce of the sixth year that continued growing during the Sabbatical year, even within the land of Israel isn't it permitted to work with such produce during the Sabbatical year? And if it is referring to produce of the Sabbatical year that continued growing after the end of the Sabbatical year, isn't plowing permitted but harvesting is forbidden? So what is at issue is produce of the Sabbatical year within the Sabbatical year itself. [Working on it when unharvested is forbidden, but working on it in harvested form is permitted.*
- [I:5 A] *R. Hanina went to Tyre [in Syria] and prohibited them from irrigating the fields during the Sabbatical year.*
- [B] *R. Yosé heard and said, "Well done, for was this produce being irrigated not unharvested?"*
- [C] *Have we not learned in the Mishnah: **They water an irrigated field on the intermediate days of a festival and in the Seventh Year [M. M.Q. 1:1].** [All the more so that they may do this abroad.]*
- [D] *Said R. Yudan, "It was permitted to irrigate the field to set down the seeds in it. [But it is not allowed to water a field in which produce is growing in the Sabbatical year.]"*
- [E] *R. Mana asked, "Should it not also be permitted to plow for the sake of the seeds?"*

6:3

- [A] **Onions [that were left in the ground from the sixth year into the Sabbatical year] upon which rain has fallen and which [subsequently] sprouted [leaves] —**
- [B] **if the leaves are dark [green in the Sabbatical year, the onions] are forbidden. [These onions are subject to the restrictions of the law, since they began growing during the Sabbatical year].**
- [C] **[But] if [the leaves] became light green, lo, these [onions] are permitted. [They are exempt from the restrictions of the law, for the color of their leaves indicate that they finished growing during the sixth year].**
- [D] **R. [Hanina ben Antigonos says, "If [onion bulbs] can be uprooted [during the Sabbatical year] by their leaves, [the onions] are forbidden.**

- [E] **“But, in contrast to this [case,] during the year following the Sabbatical [onions that can be uprooted by their leaves] are permitted, [for we assume that they grew during the eighth year alone, not during the Sabbatical year].”**
- [I:1 A] *This is the sense of the Mishnah:* the dark green ones are prohibited but yellow-green ones are permitted.
- [I:2 A] R. Yosé in the name of R. Yohanan: “An onion that one uprooted and replanted [after separating tithes] — once it has darkened, it is again tithed according to the whole of it [and not only the new growth].
- [B] “And there is no difference if it was uprooted during the Sabbatical year and replanted after the Sabbatical year or whether they uprooted it on the eve of the Sabbatical year and replanted it during the Sabbatical year itself.”
- [I:3 A] R. Zira said, “[If one uprooted onions in the seventh year and replanted them in the eighth,] once the new growth of the eighth year has outweighed what grew during the Sabbatical year it is permitted.”
- [B] R. La and R. Imi both say, “It is forbidden [the growth in the Sabbatical year persists in defining the state of the produce].”
- [C] *The Tannaite teaching differs from R. La and R. Imi: For it was taught on Tannaite authority: R. Simeon in the name of R. Joshua says,* **“Any produce that can become permitted [for consumption as food],**
- [D] **“such as untithed produce, second tithe, produce dedicated [to the Temple] or new produce [i.e., from which the ‘omer is not yet separated] —**
- [E] **“sages did not establish [for such produce] a measure [in which it is neutralized].** Rather, these impart their own status to permitted produce of their own kind, if mixed in any volume at all, and they impart their own status to produce that is not of their own kind if they impart flavor to it.
- [F] “And any type of produce which cannot become permitted,
- [G] **“such as *orlah* and mixed seeds in a vineyard —**
- [H] **“sages established [for such produce] a measure [in which it is neutralized] of its own kind.”** And if it is mixed with produce that is not of its own kind, it imparts its own status only if it imparts its flavor to it.

- [I] They said to him, “But is it not the case that [produce of] the seventh year cannot become permitted [cf. M. Sheb. 7.7]? Yet sages did not establish [for such produce] a measure [in which it would be neutralized if mixed with permitted produce].”
- [J] [Simeon] said to them, “[Produce grown in] the seventh year does not render forbidden [produce with which it is mixed] in any quantity, except as regards the obligation to remove [from one’s possession all produce grown in the seventh year].
- [K] “But as regards eating, [produce of the seventh year] does not render other produce forbidden unless it imparts flavor [to that other produce; if it does not, it is deemed neutralized].” [So produce subject to the restrictions of the Sabbatical year is neutralized when mixed with other produce. It imposes those restrictions only if it imparts a flavor.]
- [L] *How do R. La and R. Imi understand [Simeon’s position]?* It pertains to mixtures [that can be made only after the produce of the Sabbatical year is picked]. But as to that which is still growing, a stringent rule applies to that which is still growing [which is, it cannot be neutralized].
- [M] For said R. Zeira in the name of R. Jonathan, “An onion which was subject to the restrictions of mixed seeds in a vineyard, which one picked and then replanted, even if it grows to several times its original size, remains forbidden under the restrictions of mixed seeds in a vineyard. For what grows from forbidden produce does not neutralize that same forbidden produce.”
- [N] *The Mishnah differs from R. Zeira’s position, for we have learned in the Mishnah:* **That which grows from [seed in the status of] heave-offering has the status of heave-offering. And what grows from [the seed of produce] that grew from [seed in the status of] heave-offering is unconsecrated. But [as regards] (1) produce which is liable to tithes, (2) first tithe, (3) after-growths of the seventh year [of the sabbatical cycle], (4) heave-offering [separated from produce grown] outside of the Land of Israel, (5) mixtures of heave-offering and unconsecrated produce and (6) first fruits—that which grows from them is common food [i.e., does not have the same status as the seed from which it grew]. That which grows from [seed] which is dedicated [to the Temple] or second tithe is unconsecrated. And he redeems them [i.e., the seed] when they are sown [M. Ter. 9:4].**

- [O] *And in this regard it is taught on Tannaite authority: In what context? Produce which is subject to the separation of tithes — that which grows from it is permitted [for consumption as a chance meal, in [the case of] a kind [of produce] the seed of which disintegrates. But in [the case of] a kind the seed of which does not disintegrate — [even] what grows from [the seed of a crop] which grew from it is forbidden [for consumption as a chance meal, for like the seed, it is deemed subject to tithes] [M. Ter. 9:6]. [The additional growth does not nullify the restrictions to which the produce had been subject.]*
- [P] *How does R. Zeira deal with the Mishnah?*
- [Q] He assigns it to the sanctification of the Sabbatical year — [in all circumstances what grows from produce is subject to the requirement of] removal, but as for eating, once the new growth of the eighth year is more in volume than that which grew during the Sabbatical year, it is permitted.
- [I:4 A] *R. Abbahu went up to Arbel and was received by Abba bar Benjamin. They came and asked him about some onions, and he ruled in accord with R. Zeira, that once the new growth of the eighth year was more in volume than that which grew during the Sabbatical year it is permitted.*
- [B] He saw that in practical the people relied upon his ruling. He said to them, “I spoke only concerning onions that were pounded in the Sabbatical year.”
- [C] *Said R. Yuda b. Pazzi, “I know this story from start to finish. Abbahu [originally followed the view of R. Zeira.] When he heard that R. La and R. Imi disagreed with R. Zeira, he withdrew from R. Zeira’s view.”*

6:4

- [A] **When in the year following the Sabbatical is one permitted to buy a [given type of] vegetable [on the assumption that this produce is from the new crop and so is exempt from the law]?**
- [B] **Once [the new crop of] that same type [of vegetable] has become ripe.**
- [C] **Once the [portion of the crop which] ripens early [in the year, in one location] has become ripe, the [portion of the crop which] ripens later [in the year, in another location] [likewise] is permitted [that is, may be purchased.]**
- [D] **Rabbi permitted the purchase of vegetables immediately in the year following the Sabbatical.**

- [E] They may not export oil [in the status of heave-offering which has become unclean and is fit only for] burning or produce of the Sabbatical year from the Land of Israel to [countries] outside the Land.
- [F] Said R. Simeon, “I have heard [it stated] explicitly that they may export [these things] to Syria, but they may not export [them] to [countries] outside the Land.”
- [G] They may not import produce designated as heave-offering from another country to the Land of Israel.
- [H] Said R. Simeon, “I have heard [it stated] explicitly that they may import [such produce] from Syria, but they may not import [it] from [countries] outside the Land.”
- [I:1 A] At first it was forbidden to purchase vegetables immediately after the Sabbatical year in the border areas of the land of Israel [for it might have grown in the land during the Sabbatical year]. They ordained that it should be permitted to purchase vegetables immediately after the Sabbatical year in the border areas of the land of Israel.
- [B] **Even so, it was forbidden to import vegetables from abroad into the Land [of Israel]. Our Rabbis permitted them to import vegetables from abroad into the Land [of Israel]. Just as they import vegetables from abroad, so they may import legumes and grain from abroad into the Land [of Israel] [T. Sheb. 4:6].**
- [C] Even so, it was forbidden to buy vegetables immediately at the end of the Sabbatical year.
- [D] **Rabbi permitted the purchase of vegetables immediately in the year following the Sabbatical,**
- [E] except for porret [which had a long growing season and assuredly grew during the Sabbatical year].
- [I:2 A] *What did the people of Sepphoris do with porret?*
- [B] *They covered it with sackcloth and ashes and brought it before Rabbi. They said to him, “How has this sinned more than an other vegetables I[all of which but porret may be purchased immediately in the year following the Sabbatical year]?”*
- [C] *He permitted it to them.*
- [I:3 A] *Ulla bar Ishmael in the name of R. Hanina: “Rabbi and R. Yosé bar Judah went down to Acre and were received by R. Mana. They said to him, ‘Rabbi, cook us a vegetable stew.’*

[B] *“He made a meat stew instead.*

[C] *“The next day again they said to him, ‘Rabbi, cook us a vegetable stew.’*

[D] *“He made a chicken stew instead.”*

[E] *“Said Rabbi, ‘It is obvious that this one has studied at the door of Samuel [who favored meat dishes].’*

[F] *“Said to him R. Yosé bar Judah, ‘This one has not even studied at the door of Samuel. And why has he done things in this way? He is a disciple of R. Judah. For R. Judah said, ‘It is forbidden to purchase vegetables immediately after the Sabbatical year in the border areas of the land of Israel.’*

[G] *“When Mana came to him, he related this incident, and Judah said, ‘You should have done what they wanted.’”*

[I:4 A] *There we learned in the Mishnah: **He who takes a vow not to have vegetables is permitted to have wild vegetables, since they have a special name [M. Ned. 6:9].***

[B] *In this regard it was taught as a Tannaite rule: **He who in the other years of the Sabbatical cycle [not the Seventh Year] takes a vow against eating vegetables is forbidden to eat garden vegetables but permitted to eat wild vegetables. If it is in the Seventh Year, he is forbidden to eat wild vegetables but permitted to eat garden vegetables [T. Nedarim 3:6A-B].***

[C] *R. Qerispa in the name of R. Haninah b. Gamaliel stated the reason for this rule. “It applied before Rabbi permitted importing vegetables from abroad into the Land [in the Seventh Year]. But once Rabbi permitted importing vegetables from abroad into the Land, the same rule applied in the Seventh Year as applied in the other years of the Sabbatical cycle.”*

[D] *Said R. Yosé b. Haninah, “Endives are reckoned [as food] to [receive or impart] the uncleanness pertaining to food in the Seventh Year.” [Even though under ordinary circumstances endives growing wild are not regarded as food at all, in the Seventh Year they are used as food and hence enter the system of uncleanness as it pertains to food.]*

[E] *That which you have stated applies before Rabbi permitted importing vegetables from abroad into the Land [in the Seventh Year], but once Rabbi permitted importing vegetables from abroad into the Land, the*

same rule applied in the Seventh Year as applied in the other years of the Sabbatical cycle.

- [II:1 A] **They may not export oil [in the status of heave-offering which has become unclean and is fit only for] burning or produce of the Sabbatical year from the Land of Israel to [countries] outside the Land. Said R. Simeon, “I have heard [it stated] explicitly that they may export [these things] to Syria, but they may not export [them] to [countries] outside the Land:”**
- [B] *There were those who wanted to claim that there was no dispute [between the anonymous authorities and R. Simeon.] A Tannaite statement turned up, which said: R. Judah said, “[During the Sabbatical year it is forbidden to export produce further than Kezib.” R. Simeon says, “Further than Amana.”*
- [II:2 A] *It was taught on Tannaite authority: “Produce of the seventh year which was exported to another country [cf. M. Sheb. 6:5A] ([the owners of the produce] remove it in the place [to which it has been exported,]” the words of R. Simeon.*
- [B] R. Simeon b. Eleazar says, “[The owners of the produce] bring it to the Land [of Israel] and remove it in the Land [of Israel], as it is written, ‘In your land [i.e., the Land of Israel] all its yield shall be for food’ (Lev. 25:7).”
- [C] *Said R. Jacob bar Aha, “R. Imi made a decision leniently in accord with the position of the initial Tannaite authority.”*
- [D] Said R. Hila, “That is on condition that the produce may be removed in the locale to which it was exported so long as one does not move it from place to place.”
- [III:1 A] **They may not import produce designated as heave-offering from another country to the Land of Israel. Said R. Simeon, “I have heard [it stated] explicitly that they may import [such produce] from Syria, but they may not import [it] from [countries] outside the Land.”**
- [B] *We have learned in the Mishnah: Ariston brought his firstfruits from Apamea [to Jerusalem to give to a priest] and [the priesthood] accepted [the firstfruits] from him, because they said, “One who acquires [land] in Syria is like one who acquires [land] in the outskirts of Jerusalem” [M. Hal. 4:11].*
- [C] Why can't he bring heave-offering just as well?

[D] Said R. Hoshaiah, “Delivery of the firstfruits is the responsibility of the farmers who own the first fruit. Deliver of heave-offering to the priests is not the responsibility of the owners. If you say that heave-offering may be separated in Syria, the priests would have to go there to get it [and contract uncleanness in so doing].”

YERUSHALMI SHEBIT

CHAPTER SEVEN

7:1

- [A] They stated an important general rule concerning [the laws of] the Sabbatical year:
- [B] All [produce] that is: 1) fit for human consumption, animal consumption, or is a species [of plant used for] dyeing, 2) and that does not continue to grow in the ground [for longer than one season, i.e., plants that are not perennials]
- [C] is subject to [the restrictions of] the Sabbatical year,
- [D] and the money [received when the produce is sold] is subject to [the restrictions of] the Sabbatical year.
- [E] [This produce also] is subject to removal [i.e., the produce must be removed from one's private possession when similar produce disappears from the fields,]
- [F] and the money [received when the produce is sold] is subject to removal.
- [G] Now what is [considered fit for human consumption]?
- [H] The leaf of wild arum, the leaf of miltwaste, chicory, leeks, purslane and ornithogalum.
- [I] And [what is considered] fit for animal consumption?
- [J] Thorns and thistles.
- [K] And [what is considered] a species [of plant used for] dyeing?
- [L] Aftergrowths of woad and seed of safflower.
- [M] They are subject to [the restrictions of] the Sabbatical year,
- [N] and the money [received when the produce is sold] is subject to [the restrictions of] the Sabbatical year.
- [O] They are subject to removal,

- [P] and the money [received when the produce is sold] is subject to removal.
- [Q] And they stated yet another general rule [concerning the laws of the Sabbatical year]:
- [R] All [produce] that is 1) fit for human consumption, animal consumption, or is a species [of plant used for] dyeing, 2) but that [unlike the produce referred to at M. 7:1] continues to grow in the ground [from one season to the next, i.e., plants that are perennials]
- [S] is subject to [the restrictions of] the Sabbatical year,
- [T] and the money [received when the produce is sold] is subject to [the restrictions of] the Sabbatical year.
- [U] [But such produce] is exempt from removal,
- [V] and the money [received from the sale of the produce] is exempt from removal.
- [W] What are [plants that are perennials]?
- [X] The root of wild arum, the root of miltwaste, hart's-tongue, bulb of ornithogalum, and hazelwort.
- [Y] And among dyeing matter [these are perennials]:
- [Z] *Rubia tinctorum* and round-leaved cyclamen.
- [AA] They are subject to [the restrictions of] the Sabbatical year,
- [BB] and the money [received from the sale of this produce] is subject to [the restrictions of] the Sabbatical year.
- [CC] [But] they are exempt from removal,
- [DD] and the money [received from the sale of the produce] is exempt from removal.
- [EE] R. Meir says, "The money [resulting from the sale of produce] must be removed before the New Year [of the eighth year]."
- [FF] They said to him, "[The plants themselves] are not subject to removal. [Thus] by an argument *a minori ad majus* [it is clear that] the money [received from the sale of the produce likewise is not subject to removal]."
- [GG] The husk and blossom of pomegranates, walnut shells, and pits of fruit [that are types of dyeing matter]
- [HH] are subject to [the restrictions of] the Sabbatical year,
- [II] and the money [received from the sale of this produce] is subject to [the laws of] the Sabbatical year [cf. M. 7:1C-D].

- [JJ] The dyer may dye [with produce of the Sabbatical year] only for himself,
- [KK] but [the dyer] may not dye for a fee.
- [LL] For they may not do business with: 1) produce of the Sabbatical year, 2) firstlings (Num. 18:15-18), 3) heave-offering (Num. 8:8-13) 4) carrion (Dt. 14:21), 5) *terefah* meat (Ex. 22:30), (6) abominations (Lev. 11:1-47), or 7) creeping things.
- [MM] And during the Sabbatical year one may not gather vegetables [growing in] the field and sell them in the market.
- [NN] But [if] one gathers [vegetables], his son may sell [them] for him.
- [OO] If one buys [produce of the Sabbatical year] for his own use, and left [some of the produce unused]
- [PP] he is permitted to sell [the produce that remained].
- [QQ] If one bought a firstling [that is blemished and so, unfit for consumption by priests, cf. M. Bek. 5:2] for his son's wedding feast or for a festival and did not need it
- [RR] he is permitted to sell [the firstling].
- [SS] Hunters of wild animals, fowl or fish who accidentally caught unclean animals [cf. Lev. 11:1ff.]
- [TT] are permitted to sell [such unclean animals].
- [UU] R. Judah says, "Even one who [is not a hunter and who] accidentally encountered [an unclean animal] may buy and sell [it],
- [VV] "so long as he does not make his livelihood in this way."
- [WW] But sages prohibit [acquiring an unclean animal for the purpose of selling it].
- [I:1 A] Dyes for human use — what is the law as to whether they are subject to the sanctification of the Sabbatical year?
- [B] *Let us infer the answer from the following:* "The Sabbath of the land shall provide food for you" (Lev. 25:6) — anything for which you have need [is subject to the sanctification of the Sabbatical year. *And on this matter there is the Tannaite statement:* such as eating, drinking, anointing, and dyeing.
- [I:2 A] ["For you" excludes from the Sabbatical rules] vegetation used to make an emollient used only by those who are ill [hence a limited segment of users].

- [B] ["For you" excludes from the Sabbatical rules] plants used to make oenanthe, used only by those with weak taste buds.
- [C] *R. Jonah asked*, "Why have you excluded from the Sabbatical rules vegetation used to make an emollient? *And has it not been taught on Tannaite authority: (1) Din [an unidentified plant], (2) ba[sar [an unidentified plant], and (3) seed of woad [that are neither edible nor used as a dyeing matter and so, are not subject to the restrictions of the law according to the rule of M. 7:1B] [may not be sown during the Sabbatical year], but are sown [instead] in the year following the Sabbatical, because it is their purpose [to yield produce that is a kind of dyeing matter] [T. Sheb. 5:7]."*
- [D] How do the excluded items differ from plants used as an emollient so that the former are subject to the restrictions of the Sabbatical year?
- [E] ["For you" excludes from the Sabbatical rules] for to be subject to the Sabbatical restrictions plants must be used equally by all of you.
- [I:3 A] [Dyes for human use — what is the law as to whether they are subject to the sanctification of the Sabbatical year?] *R. Yosé in the name of R. La derived the matter from the following:*
- [B] "All its yield shall be for food" (Lev. 15:7) — "all" means, even what is used to kindle a lamp or for dyeing matter is subject to the sanctification of the Sabbatical year.
- [C] Don't you end up wasting what could go for animal feed?
- [D] Work it out by applying the rule to plants that do not serve as animal fodder but that serve for dyes used by people.
- [E] Said R. Mana, "Said R. Mana, "Work it out by referring to animal fodder used for peoples' needs."
- [F] *But there is no evidence that leads to such an inference.*
- [II:1 A] **Now what is [considered fit for human consumption]? The leaf of wild arum, the leaf of miltwaste, chicory, leeks, purslane and ornithogalum. And [what is considered] fit for animal consumption? Thorns and thistles. And [what is considered] a species [of plant used for] dyeing? Aftergrowths of woad and seed of safflower. They are subject to [the restrictions of] the Sabbatical year, and the money [received when the produce is sold] is subject to [the restrictions of] the Sabbatical year. They are subject to removal, and the money [received when the produce is sold] is subject to removal.**

- [B] Dyes for animal use — what is the law as to whether they are subject to the sanctification of the Sabbatical year?
- [C] *Let us infer the answer from the following:*
- [D] The root of a rose bush, the root of a thorn bush, and the root of sumac — are not subject to the sanctification of the Sabbatical year.
- [E] As to plants used for types of soaps — what is the law as to whether they are subject to the sanctification of the Sabbatical year?
- [F] *Let us infer the answer from the following:*
- [G] **Crozophora tinctoria, (2) bulb of ornithogalum (3) yar^canah [an alkaline plant used as soap], (4) lixivium [a sort of soap], and (5) ahal [another plant used as soap] are subject to [the restrictions of] the Sabbatical year and the money [resulting from the sale of this produce] is subject to [the restriction of] the Sabbatical year. And they are subject to removal, and the money [received from the sale of this produce] is subject to removal (=M. 7:1C-F) [T. Sheb. 5:5]**
- [H] As to plants used for spices — what is the law as to whether they are subject to the sanctification of the Sabbatical year?
- [I] *Let us infer the answer from the following:*
- [J] White blossom and sweet bay are not subject to the sanctification of the Sabbatical year.
- [K] *Associates say, “This belongs to R. Simeon: R. Simeon says, “Balsam is exempt from the laws of the Sabbatical year, because it is not [deemed to be] produce [but rather a resinous sap secreted by the plant]” [M. 7:6D],*
- [L] R. Samuel in the name of R. Abbahu: “It represents the view of all parties, when the flowers and leaves drop off.”
- [II:2 A] Types of oil made from wild plants used for kindling lamps — what is the rule?
- [B] For instance, oil made from bitter cucumber.
- [II:3 A] *Concerning the rose three things were taught as a Tannaite statement:*
- [B] Its petals are subject to the sanctification of the Sabbatical year and money received for them is subject to the sanctification of the Sabbatical year. It is subject to removal, and money received for it is subject to removal.

[C] Its fruit is subject to the sanctification of the Sabbatical year and money received for it is subject to the sanctification of the Sabbatical year. It is not subject to removal, and money received for it is not subject to removal.

[D] Its root is not subject to the sanctification of the Sabbatical year and money received for them is subject to the sanctification of the Sabbatical year. It is not subject to removal, and money received for it is not subject to removal.

[II:4 A] *R. Jeremiah asked in the presence of R. Abbahu: “What is the law as to preserving a rose in oil so as to extract the scent?”*

[B] He said to him, “Does it serve any other purpose?”

[C] *R. Hiyya taught a Tannaite statement: “The primary use of a rose is food for people.”*

[D] Instructed R. Mana, “Creating orostin is permitted, odorodoston is permitted, qitriton is permitted, mirsinton is permitted, darminon is permitted, idromiron is forbidden, diomiron is forbidden.”

[III:1 A] **And [what is considered] fit for animal consumption? Thorns and thistles:**

[B] *The people of Sepphoris asked R. Imi, “Using scolymus thistles [subject to the sanctification of the Sabbatical year] to moisten grain [which leaves the thistles no longer useful for fodder]?”*

[C] *He said to them, “Come and state in the name of R. Hanina, ‘Even the leaves of globe artichoke may be used to moisten grain.’”*

[D] R. Josiah stated this rule and you may rely on it.”

[E] Said R. Josiah, “You have food exclusively assigned to animals except for grass alone, and during the Sabbatical year even as to grass, if they gathered it to moisten grain, it is permitted to use it to moisten grain.”

[F] *And it is taught as a Tannaite rule: **Grass and all other vegetables that were gathered to use in moistening grain — it is permitted to moisten grain with them. If they were intended as food for people, it is forbidden to moisten grain with them [T. Sheb. 5:16].***

[G] *Bar Qappara taught on Tannaite authority: “Even if they were planned for food for people] it is permitted to moisten grain with them but forbidden to soak them [which brings about sprouting.]”*

[H] Why? Because they are subject to the sanctification of the Sabbatical year.

- [I] But isn't food for animals [subject to the sanctification of the Sabbatical year]? [It is.] *Yet you say, **And any [type of produce] that is not used exclusively as food for human beings [i.e., that is also used as emollients for people] — they may make of [such produce] an emollient for human beings [M. Shebiit 8:1].***
- [J] Said R. Yosé, "From that passage we learn only that in the Sabbatical year they may make produce that is not used exclusively as food for people into an emollient for people. And we learn that it is permitted to press such things to make them medicines for human beings.
- [IV:1 A] [**The leaf of wild arum, the leaf of miltwaste, chicory, leeks, purslane and ornithogalum:**] *There we learned in the Mishnah: **The sprouts of the service tree and of candytuft and leaves of arum do not receive uncleanness as food until they are sweetened [M. Uqs. 3:4].***
- [B] Why do these foods not receive uncleanness as food until they are sweetened? Because they are bitter.
- [C] But are lupines not bitter [yet they receive uncleanness as food even if they are not sweetened]!
- [D] Lupines are different, since to begin with they are intended as food for man.
- [E] We need [the cited passage of Uqsin] only to teach us that sanctification under the laws of the Sabbatical year applies to the wild plants [**The leaf of wild arum, the leaf of miltwaste, chicory, leeks, purslane and ornithogalum**] only once they are sweetened.
- [F] [But wild endives are subject to the Sabbatical year restrictions without any processing,] Did R. Yosé b. R. Hanina say, "During the Sabbatical year wild endives impart uncleanness as food even if they are not subject to someone's intention to eat them"? [All wild produce is subject to the Sabbatical year even if it is not explicitly set apart as food.]
- [G] But the reason for the rule for endive is stated: This rule that you have stated on endives applied before Rabbi ordained that it is permitted during the Sabbatical year to import vegetables from outside of the land to the land of Israel. But once Rabbi ordained that it is permitted during the Sabbatical year to import vegetables from outside of the land to the land of Israel, the same rule applies during the Sabbatical year and the other years of the Sabbatical cycle. Therefore wild endives and other wild produce is not regarded as a food subject to the

restrictions of the Sabbatical year until a particular person expresses his intention to eat them.

[H] But is there a type of produce that to begin with is not sanctified under the laws of the Sabbatical year and that later on is sanctified under the laws of the Sabbatical year? [No, what is not subject to the restrictions to begin with cannot be made subject later on.]

[I] They replied, “But savory, marjoram and thyme that one has picked to use for kindling — the sanctity of the Sabbatical year does not apply to them.” **[And any [type of produce] that is not used exclusively as food for human beings or for cattle [i.e., that might either be eaten or be used as fuel for burning] — [if the one who gathered it] intended [to use] it [both] as food for human beings and as food for cattle, they impose upon it the stringencies [that apply to food] for human beings, and the stringencies [that apply to food] for cattle. [If the one who gathered such produce] intended [to use] it [only] for wood, lo, it [this produce is deemed to be] like wood [and may be burned], for example, savory marjoram and thyme [M. Shebiit 8:1]. If the farmer changed his mind and decided to use them as food, the sanctity of the Sabbatical year does apply to them.”**

[J] Said R. Hananiah, “That is because if one picked savory marjoram and thyme to begin with to use as food, the sanctity of produce of the Sabbatical year applies to them immediately. Plants such as wild arum that are by nature not food, cannot initially be exempt from and later become subject to the restrictions of the Sabbatical year. If they are subject to the Sabbatical restrictions at all, they must be deemed subject from the outset.]

[IV:2 A] Savory marjoram and thyme are given in their Aramaic equivalents.

[V:1 A] **And they stated yet another general rule [concerning the laws of the Sabbatical year]: All [produce] is fit for human consumption, animal consumption, or is a species [of plant used for] dyeing, but which [unlike the produce referred to at M. 7:1] continues to grow in the ground [from one season to the next, i.e., plants that are perennials] is subject to [the restrictions of] the Sabbatical year, and the money [received when the produce is sold] is subject to [the restrictions of] the Sabbatical year. [But such produce] is exempt from removal and the money [received from the sale of the produce] is exempt from removal. What are [plants that are perennials]? The root of wild arum, the root of miltwaste, hart’s-tongue, bulb of ornithogalum, and hazelwort. And among dyeing matter [these are perennials]: *Rubia tinctorum* and round-leaved**

cyclamen. They are subject to [the restrictions of] the Sabbatical year, and the money [received from the sale of this produce] is subject to [the restrictions of] the Sabbatical year. [But] they are exempt from removal, and the money [received from the sale of the produce] is exempt from removal. R. Meir says, “The money [resulting from the sale of produce listed at X and Z] must be removed before the New Year [of the eighth year].” They said to him, “[The plants themselves] are not subject to removal. [Thus] by an argument *a minori ad majus* [it is clear that] the money [received from the sale of the produce likewise is not subject to removal].” The husk and blossom of pomegranates, walnut shells, and pits of fruit [that are types of dyeing matter] are subject to [the restrictions of] the Sabbatical year, and the money [received from the sale of this produce] is subject to [the laws of] the Sabbatical year [cf. M. 7:1C-D].

[B] What are orchid bulbs? They are bulbs of orchid.

[V:2 A] R. Meir says, “The money [resulting from the sale of produce] must be removed before the New Year [of the eighth year].” They said to him, “[The plants themselves] are not subject to removal. [Thus] by an argument *a minori ad majus* [it is clear that] the money [received from the sale of the produce likewise is not subject to removal].”

[B] Said to them R. Meir, “I adopt a more stringent position with regard to the money [resulting from the sale of such produce] than to the produce itself. Oil [pressed from olives grown during] the Sabbatical year — they light [a lamp] with it. [However, if a householder] sold [this oil] and purchased [with the resulting money] different [oil] — they do not light [a lamp] with it [i.e., the new oil]” [T. Sheb. 5:4].

[V:3 A] R. Imi in the name of R. Yohanan: “If in the Sabbatical year two people traded oil fit for burning in lamps, both of them are forbidden to kindle the oil they received. [That is in line with the rule, [However, if a householder] sold [this oil] and purchased [with the resulting money] different [oil] — they do not light [a lamp] with it [i.e., the new oil].”

[B] What does one do [to make such a trade without prohibiting the oil]?

[C] R. Hezekiah in the name of R. Jeremiah: “They both exchange the oil for unconsecrated produce [that takes on the status of produce of the Sabbatical year instead of the oil.]”

- [D] If they traded wine of the Sabbatical year for oil of the Sabbatical year [what is the result?]
- [E] **Just as wine of the Sabbatical year — they do not anoint with it** [M. Sheb. 8:2], so oil traded for the wine, they do not kindle a lamp with it.
- [F] If during the Sabbatical year one traded leaves subject to removal for sprouts of trees [that are not subject to removal, — just as it is said, the leaves are subject to removal, so the sprouts traded for the leaves become subject to removal.
- [G] If during the Sabbatical year one traded food for people [which one may not make into an emollient] for food for animals, — just as it is said as to food for people, they do not make it into an emollient, so food for animals traded for food for people — they do not make into an emollient.
- [H] *Thus we are taught on Tannaite authority:*
- [I] **They sell food for human beings and animal feed [in order] to buy [with the money received from the sale] food for human beings.**
- [J] **But, they may not sell animal feed [in order] to buy other animal feed.**
- [K] **And it goes without saying that food for human beings [may not be sold in order] to buy animal feed [T. Shebiit 5:19].**
- [L] *And as for scraps of vegetables [that are not eaten, but are edible, they may not be used as food for animals, but one takes them up to the roof and they dry out on their own.*
- [V:4 A] R. Yohanan in the name of R. Simeon b. Yosedeq: “For wine there is no removal until Passover [of the eighth year.] For oil wine there is no removal until Pentecost [of the eighth year.] For dried figs wine there is no removal until Purim of the eighth year.”
- [B] R. Bibi in the name of R. Hanina: “And for dates wine there is no removal until Hanukkah of the eighth year.”
- [VI:1 A] **The husk and blossom of pomegranates, walnut shells, and pits of fruit [which are types of dyeing matter] are subject to [the restrictions of] the Sabbatical year [but are they subject to removal?]:**
- [B] R. Ila in the name of R. Simeon bar Vava: “R. Yannai passed by. This one said, ‘Let’s ask him.’ They came and asked him. [Yannai] said to

them, “Anything that after ripening falls from the tree is subject to removal, and anything that after ripening does not fall from the tree is not subject to removal.” But what about types some of the produce of which falls from the tree and some of which does not? He didn’t teach the answer to this question.”

[VII:1 A] The dyer may dye [with produce of the Sabbatical year] only for himself, but [the dyer] may not dye for a fee. For they may not do business with: 1) produce of the Sabbatical year, 2) firstlings (Num. 18:15-18), 3) heave-offering (Num. 8:8-13) 4) carrion (Dt. 14:21), 5) *terefah* meat (Ex. 22:30), (6) abominations (Lev. 11:1-47), or 7) creeping things. And during the Sabbatical year one may not gather vegetables [growing in] the field and sell them in the market. But [if] one gathers [vegetables], his son may sell [them] for him. If one buys [produce of the Sabbatical year] for his own use, and left [some of the produce unused] he is permitted to sell [the produce that remained].

[B] **The dyer may dye [with produce of the Sabbatical year] only for himself, but [the dyer] may not dye for a fee:** what is the rule on whether one may dye in return for a favor [not a fee]?

[C] *The answer is on the basis of that which is taught as a Tannaite rule:* As for dyer’s Crozophora and dyer’s spurge a trader [who normally deals in these] in the Sabbatical year may buy them only for his own use.

[D] That is to say, that it is forbidden to dye in return for a favor.

[VIII:1 A] ...they may not do business with carrion (Dt. 14:21):

[B] It is written, “They are unclean to you” (Lev. 11:28).

[C] Why does Scripture further state, “They are unclean and shall be unclean to you” (Lev. 11:35)?

[D] The same prohibition applies to eating and enjoying any other benefit.

[E] Anything the prohibition of the use of which derives from the Torah — it is forbidden to do business with it. Anything the prohibition of the use of which derives from the words of sages — it is permitted to do business with it.

[F] There is the case of the ass [people regularly deal in the animal, even though they are unclean]!

[G] It was raised to do labor [not for food, and the prohibition against deriving benefit from it does not apply].

[H] There is the case of the camel [people regularly deal in the animal, even though they are unclean]!

[I] It was raised to do labor [not for food, and the prohibition against deriving benefit from it does not apply].

[VIII:2 A] R. Hoshaiah did business buying and selling brine [prepared by gentiles.] [The prohibition derives from the rabbis.]

[B] R. Huna did business buying and selling asafoetida. [The prohibition derives from the rabbis.]

[IX:1 A] **And during the Sabbatical year one may not gather vegetables [growing in] the field and sell them in the market. But [if] one gathers [vegetables], his son may sell [them] for him.**

[B] **[As regards] five people who were picking vegetables [of the seventh year] —**

[C] one [of the five] may not sell [that which they pick] on behalf of all of them [at once].

[D] **Rather he [first] sells that which he picked and [then sells] that which the others picked.**

[E] **[As regards] five brothers who were picking vegetables —**

[F] **one may sell [what they pick] on behalf of all of them [T. Shebiit 6:21-22]**

[G] Said R. Yosé b. R. Abun, “**Öprovided that they do not designate him as a permanent distributor.**”

[H] It is so that he may not sell in the same place all day.

[I] There are those who want to say, “It is so that he may not sell all day [even if not in the same place all day].”

[IX:2 A] *It is taught on Tannaite authority: **An innkeeper who was cooking produce of the seventh year [to serve in the tavern] may not calculate in the price [that he charges for the dish the value] of the produce.***

[B] But he may calculate [in the price] the value of the wine and the oil [of other years of the Sabbatical cycle, that he used] and the value of his time [T. Shebiit 6:22].

[C] R. La would instruct those who used oil of the Sabbatical year to wet down heat from before the Sabbatical year: “Do not reckon the price based upon the value of the oil, but on the value of the wheat alone.”

[X:1 A] **If one bought a firstling [that is blemished and so, unfit for consumption by priests, cf. M. Bek. 5:2] for his son’s wedding feast or for a festival and did not need it he is permitted to sell [the firstling]. Hunters of wild animals, fowl or fish who accidentally caught unclean animals [cf. Lev. 11:1ff.] are permitted to sell [such unclean animals]. R. Judah says, “Even one who [is not a hunter and who] accidentally encountered [an unclean animal] may buy and sell [it], so long as he does not make his livelihood in this way.” But sages prohibit [acquiring an unclean animal for the purpose of selling it].**

[B] [R. Judah says, “Even one who [is not a hunter and who] accidentally encountered [an unclean animal] may buy and sell [it], so long as he does not make his livelihood in this way”] — *There we learned in the Mishnah: [And these are those who are invalid [to serve as witnesses or judges]: (1) he who plays dice; (2) he who loans money on interest; (3) those who race pigeons; (4) and those who do business in the produce of the Seventh Year. Said R. Simeon, “In the beginning they called them, ‘Those who gather Seventh Year produce.’ When oppressors became many [who collected taxes in the Seventh Year], they reverted to calling them, ‘Those who do business in the produce of the Seventh Year.’]* Said R. Judah, “Under what circumstances? When [the afore-named have only that as their profession. But if they have a profession other than that, they are valid [to serve as witnesses or judges]” [M. San. 3:3].

[C] *What would be a practical case?*

[D] **Those who do business in the produce of the Seventh Year [M. San. 3:3B4] — This is one who sits idle during the other six years of the septennate. Once the Seventh Year comes, he stretches out his hands and legs and does business in produce of transgression [T. San. 5:2].**

[E] If during the Sabbatical year he has a different profession, he is fit to serve as a witness. But if not, he is unfit. But if he sat and performed his profession during all of the years of the Sabbatical cycle and once the Sabbatical year comes, he extends himself and does business with produce of transgression, even though during the Sabbatical year he had no other profession, he is permitted to serve as witness of judge.

[F] R. Abba bar Zebedee, [in the name of] R. Abbahu in the name of R. Eleazar: “The law accords with R. Judah in the Mishnah.”

[G] *They praised R. Abba bar Zebedee* for stating a tradition in the name of [Abbahu], who was younger than he.

[X:2 A] **[R. Judah says, “Even one who [is not a hunter and who] accidentally encountered [an unclean animal] may buy and sell [it]:** *It is taught on Tannaite authority that R. Judah takes a strict position [on doing business with unclean animals.*

[B] *What would be a practical case?*

[C] **This is one who sits idle during the other six years of the septennate. Once the Seventh Year comes, he stretches out his hands and legs and does business in produce of transgression [T. San. 5:2].**

[D] If during the Sabbatical year he has a different profession, he is fit to serve as a witness. But if not, he is unfit. But if he sat and performed his profession during all of the years of the Sabbatical cycle and once the Sabbatical year comes, he extends himself and does business with produce of transgression, even though during the Sabbatical year he had no other profession, he is permitted to serve as witness of judge.

[E] Isn't it in this case that R. Abba bar Zebedee, [in the name of] R. Abbahu in the name of R. Eleazar: “The law accords with R. Judah in the Mishnah.”

[F] *They praised R. Abba bar Zebedee* for stating a tradition in the name of [Abbahu], who was younger than he.

[X:3 A] [A field that was cleared of thorns [during the Sabbatical year]: *There [in Babylonia] they say, “A field that was cleared of thorns [during the Sabbatical year] may be sown during the year following the Sabbatical refers to pulling up the thorns [by hand].” But the rabbis here [the Land of Israel] say, “The thorns were removed by plowing.” [Even if the thorns were removed by plowing, the field may be planted in the year after the Sabbatical year.] In the view of rabbis from here what is a field that was improved during the Sabbatical year that may not be planted in the year following? It is a situation in which everybody plows their fields once during the Sabbatical year [to remove the thorns] but he plows twice. [The Babylonians rule out plowing for that purpose and insist on removing the thorns by hand.] But here is that really the rule [that people may plow the fields once in the Sabbatical year]?*

[B] Said R. Yosé b. R. Abun, “There the government does not impose heavy taxes [and there is no reason to plow the field even once during the Sabbatical year to bring in a good crop for paying taxes]. But here the government does impose heavy taxes [and it is necessary to plow the field in the Sabbatical year to insure a good crop in the eighth year].”

7:2

- [A] **Young sprouts of the service tree and of the carob tree**
[B] **are subject to [the restrictions of] the Sabbatical year,**
[C] **and the money [received from the sale of this produce] is subject to [the restrictions of] the Sabbatical year.**
[D] **They are subject to removal**
[E] **and the money [received from the sale of this produce] is subject to removal [cf. M. 7:1C-F].**
[F] **Young sprouts of the terebinth, the pistachio tree, and the white-thorn**
[G] **are subject to [the restrictions of] the Sabbatical year,**
[H] **and the money [received from the sale of such produce] is subject to [the restrictions of] the Sabbatical year.**
[I] **[But they] are exempt from removal,**
[J] **and the money [received from the sale of this produce] is exempt from removal [cf. M. 7:2S-V].**
[K] **But the leaves [of the trees listed at A and F] are subject to removal,**
[L] **because they fall off of the stem.**
[M] **Rose, henna·balsam, and lotus**
[N] **are subject to [the laws of] the Sabbatical year,**
[O] **and the money [received from the sale of this produce] is subject to the [laws of] the Sabbatical year.**
[P] **R. Simeon says, “Balsam is exempt from the laws of the Sabbatical year,**
[Q] **“because it is not [deemed to be] produce [but rather a resinous sap secreted by the plant].”**
[R] **[As regards] a fresh rose [of the Sabbatical year, which is subject to the law of removal and] which one preserved in old oil [of the sixth year which is exempt from removal —**

- [S] [when the times for removal arrives], one takes the rose [out of the oil, and the oil remains exempt from removal. Since a fresh rose does not impart its flavor to the oil, the oil does not take on the status of the rose].
- [T] But [as regards] an old [rose, of the Sabbatical year which is subject to the law of removal and which one has preserved] in new [oil, of the year following the Sabbatical] —
- [U] [the oil] is subject to removal. [Since a dried rose does impart its flavor to the lily, the latter does take on the status of the rose].
- [V] [As regards] fresh carobs [of the Sabbatical year which are subject to the law of removal and] which one preserved in old wine [of the sixth year],
- [W] or old [carobs of the Sabbatical year that one preserved] in new [wine of the year following the Sabbatical] —
- [X] [in both cases, the wine] is subject to removal, [since both fresh and dried carobs impart their flavor to wine].
- [Y] This is the general rule:
- [Z] [As regards] any [produce that is subject to removal and] that imparts its flavor [to other, exempt produce with which it is mixed] —
- [AA] one must remove [the mixture, in accordance with the law of removal].
- [BB] [This is the case only if the two lots of produce in the mixture are] of two separate species.
- [CC] [But if the two lots of produce are] of the same species —
- [DD] Even a miniscule amount [of produce subject to the law of removal renders the other produce with which it is mixed subject to removal. This is the case whether or not the forbidden produce would flavor the permitted produce].
- [EE] Even a miniscule amount of [produce subject to the restrictions of] the Sabbatical year renders subject [to these restrictions permitted produce] of the same species [with which it is mixed].
- [FF] But [if the two lots of produce are] not of the same species,
- [GG] [only produce of the Sabbatical year that] imparts its flavor [renders the other produce forbidden].
- [I:1 A] *At the beginning of the pericope it is stated that after the time of removal one may not eat leaves of certain plants such as wild arum despite the fact that the root of these same plants it not subject to removal at all. But here you say that after the time of removal one may*

eat the sprouts of certain plants because the root of these plants is not subject to removal. [Why are the sprouts subject to a different rule from the leaves?]

[B] Said R. Phineas, “There they will not ultimately harden [and become part of the plant, so they are subject to removal]. But here [the sprouts] will ultimately harden. Once they have hardened, they enter the status of the stem.”

[1:2 A] *It was taught as a Tannaite statement: **And all [of the sprouts mentioned at A] that began growing during the sixth year and continued growing during the seventh year**[are treated as produce of the] sixth year, **or that began growing during the seventh year and continued growing during the year following the seventh year, are deemed as trees [and so are subject to the laws of the year during which they began growing], except for garden cress, which is deemed a vegetable [and so is subject to the laws of the year during which it is picked] [T. Sheb. 5:11].*** [Vegetables are subject to the agricultural restrictions that apply in the year in which they are picked.]

[B] **R. Abbahu in the name of R. Yohanan: “It should not state here, And all [of the sprouts mentioned at A] that began growing during the sixth year and continued growing during the seventh year[are treated as produce of the] sixth year, but rather, these things are treated as produce of the Sabbatical year.**

[C] *But it is taught on Tannaite authority: **Savory, sweet marjoram, and thyme [are subject to the law] when they develop berries when they blossom”]; .and all the sprouts — when they develop berries [If] it was the second [year of the sabbatical cycle] and the third [year] began lo, they [i.e., the crops] belong to the third [year] [i.e., one removes poor man’s tithe instead of second tithe]. [If] it was the eve of the seventh [year of the sabbatical cycle] and the seventh [year] began, they are still treated as produce of the sixth year, and poor man’s tithe must be separated.*** [T. Ma. 1:4-5].

[D] *Why here [in the case of produce that begins to grow in the sixth year and is picked in the seventh] you count backward [and treat the produce as subject to the laws of the sixth year] while here you count forward [and treat the produce as belonging to the third year]?*

[E] Said R. Yosé, “As to the third and sixth years, even though second tithe is not separated during those years, other tithes are separated. But as to the Sabbatical year no tithes are separated in that year at all.”

[F] Did not R. Abbahu in the name of R. Yohanan [state], “It should not say here, **And all the sprouts that began growing during the sixth year and continued growing during the Sabbatical year** are treated as produce of the sixth year. Rather it should say that like vegetables they are treated as produce of the Sabbatical year.”

[G] *There* [savory, sweet marjoram and thyme, if they grow from the sixth year into the seventh, they are treated as produce of the sixth year] since they are the property of the landowner [and the poor will get their share]. *But here* [sprouts are treated as produce of the Sabbatical year] since [they are left in the fields as ownerless and] are the property of the poor. It is better to treat the sprouts as produce of the Sabbatical year, so as to rely on one thing that is certain [that is, they are subject to the restrictions of the Sabbatical year], while as to savory, sweet marjoram, and thyme, it is not advisable to treat them as produce of the seventh year, which would raise] two matters of doubt [are they subject to the law according to the year in which they sprout or the one in which they are picked, are they subject to the restrictions of the Sabbatical year at all].

[I:3 A] Leaves subject to removal that one pickled with leaves exempt from removal —

[B] *There are Tannaite authorities who repeat:* both are made subject to removal.

[C] *And there are Tannaite authorities who repeat:* Neither is subject to removal.

[D] *And there are Tannaite authorities who repeat:* the leaves are subject to removal, and the sprouts are exempt from removal.

[E] *The Tannaite authorities who repeat:* Neither is subject to removal is R. Joshua, [who rules that a mixture remains permitted for consumption so long as any of the components are permitted.

[F] *The Tannaite authorities who repeat:* both are made subject to removal is R. Eliezer, [who rules that a mixture is subject to removal as soon as any one of its components is subject.]

[G] *There Tannaite authorities who repeat:* the leaves are subject to removal, and the sprouts are exempt from removal is Rabban Gamaliel [who holds that we treat the mixture’s components as though they were independent of each other.]

[II:1 A] **Rose, henna ‘balsam, and lotus are [dyestuffs and] subject to [the laws of] the Sabbatical year, and the money [received from the sale**

of this produce] is subject to the [laws of] the Sabbatical year. R. Simeon says, “Balsam is exempt from the laws of the Sabbatical year, because it is not [deemed to be] produce [but rather a resinous sap secreted by the plant].”

[B] R. Pedat, R. Yosé in the name of R. Yohanan: “*R. Simeon concurs with R. Joshua. For there we have learned in the Mishnah: R. Eliezer says: “He who curdles milk with the sap of [a tree liable to] ‘Orlah — it is forbidden.” Said R. Joshua: “I have heard explicitly that he who curdles milk with the sap of the leaves [of an ‘Orlah-tree] [or] with the sap of the roots [of an ‘Orlah-tree-] — it is permitted, but he who curdles milk] with the sap of unripe figs [of an ‘Orlah-tree] it is forbidden because they are fruit” [M. Or. 1:7].*

[C] Said R. Zeira to R. Pedat, “*Just as it is said there that the law follows the ruling of R. Joshua, so here you must say that the law follows the ruling of R. Simeon.*”

[D] Said R. Jonah, “Are the cases of balsam and sap from trees really similar? On the contrary, balsam loses its value when its sap is removed [sap is the only useful product of the balsam tree, and [Joshua may hold that the sap like fruit is subject to the restrictions of the Sabbatical year. But fruit trees do not lose their value when the sap is removed, [and Joshua holds that the sap of these trees is not fruit and is not subject to the restrictions of produce in the first three years of its planting],

[E] “[Further,] as to animal fodder, the sanctification of the Sabbath year applies to it, but sanctification as produce in the first three years of its planting does not apply to it.”

[F] Said R. Abin, “You have different grounds. R. Joshua stated what he heard [but does not himself agree with the position he repeated.]”

[II:2 A] [Said R. Joshua: “I have heard explicitly that he who curdles milk with the sap of the leaves of an ‘Orlah-tree or with the sap of the roots of an ‘Orlah-tree — it is permitted, but he who curdles milk with the sap of unripe figs of an ‘Orlah-tree]: *what are [Joshua’s reservations]? If you say that the sap is part of the fruit, then the sap of unripe figs is also part of the fruit.*

[B] If you say the sap is part of the fruit, then it should be classified in the same manner in regard to heave offering, and if you say that unripe figs are fruit then they should be treated in the same way with respect to heave offering. [Both should be permitted.] Why? Because the enjoyment of what is subject to heave offering is permitted, while the

enjoyment of what is forbidden under the law of 'orlah is everywhere forbidden, [even to priests, who do have the right to use heave offering].

[III:1 A] [As regards] a fresh rose [of the Sabbatical year, which is subject to the law of removal and] which one preserved in old oil [of the sixth year which is exempt from removal — [when the times for removal arrives], one takes the rose [out of the oil, and the oil remains exempt from removal. Since a fresh rose does not impart its flavor to the oil, the oil does not take on the status of the rose]. But [as regards] an old [rose, of the Sabbatical year which is subject to the law of removal and which one has preserved] in new [oil, of the year following the Sabbatical] — [the oil] is subject to removal. [Since a dried rose does impart its flavor to the lily, the latter does take on the status of the rose]. [As regards] fresh carobs [of the Sabbatical year which are subject to the law of removal and] which one preserved in old wine [of the sixth year], or old [carobs of the Sabbatical year which one preserved] in new [wine of the year following the Sabbatical] — [in both cases, the wine] is subject to removal, [since both fresh and dried carobs impart their flavor to wine]. This is the general rule: [As regards] any [produce which is subject to removal and] which imparts its flavor [to other, exempt produce with which it is mixed] — one must remove [the mixture, in accordance with the law of removal]. [This is the case only if the two lots of produce in the mixture are] of two separate species. [But if the two lots of produce are] of the same species — Even a miniscule amount [of produce subject to the law of removal renders the other produce with which it is mixed subject to removal. This is the case whether or not the forbidden produce would flavor the permitted produce]. Even a miniscule amount of [produce subject to the restrictions of] the Sabbatical year renders subject [to these restrictions permitted produce] of the same species [with which it is mixed]. But [if the two lots of produce are] not of the same species, [only produce of the Sabbatical year which] imparts its flavor [renders the other produce forbidden].

[B] Here you say, [As regards] a fresh rose [of the Sabbatical year, which is subject to the law of removal and] which one preserved in old oil [of the sixth year which is exempt from removal — [when the times for removal arrives], one takes the rose [out of the oil, and the oil remains exempt from removal]. [But here if old or new carobs of the Sabbatical year are preserved in wine, you say] [As regards] fresh carobs [of the Sabbatical year which are subject to the law of removal and] which one preserved in old wine [of the

sixth year], or old [carobs of the Sabbatical year which one preserved] in new [wine of the year following the Sabbatical] — [in both cases, the wine] is subject to removal, [since both fresh and dried carobs impart their flavor to wine].

[C] *R. Abbahu in the name of R. Yohanan: “There are two Tannaite authorities.”*

[III:2 A] *Said R. Zeira, “I can explain this rule for a rose for you with two explanations: As regards] a fresh rose [of the Sabbatical year, which is subject to the law of removal and] which one preserved in old oil [of the sixth year which is exempt from removal — this refers to a rose of the Sabbatical year that one preserved in oil of the sixth year. But [as regards] an old [rose, of the Sabbatical year which is subject to the law of removal and which one has preserved] in new [oil, of the year following the Sabbatical] — this refers to a rose of the Sabbatical year that one preserved in oil of the eighth year.”*

YERUSHALMI SHEBIT

CHAPTER EIGHT

8:1

- [A] An important general rule they stated concerning [produce of] the Sabbatical year:
- [B] All [produce that during other years of the Sabbatical cycle] is used exclusively as food for human beings —
- [C] [during the Sabbatical year] they may not make of [such produce] an emollient for human beings,
- [D] and, it goes without saying, [they may not do so] for cattle.
- [E] And any [type of produce] that is not used exclusively as food for human beings [i.e., that is also used as emollients for people] —
- [F] they may make of [such produce] an emollient for human beings,
- [G] but [they may] not [do so] for cattle.
- [H] And any [type of produce] that is not used exclusively as food for human beings or for cattle [i.e., that might either be eaten or be used as fuel for burning] —
- [I] [if the one who gathered it] intended [to use] it [both] as food for human beings and as food for cattle,
- [J] they impose upon it the stringencies [that apply to food] for human beings, and the stringencies [that apply to food] for cattle.
- [K] [If the one who gathered such produce] intended [to use] it [only] for wood,
- [L] lo, it [this produce is deemed to be] like wood [and may be burned],
- [M] for example, savory, marjoram and thyme.
- [I:1 A] An important general rule they stated concerning [produce of] the Sabbatical year:

- [B] *R. Abun bar Hiyya asked before R. Zeira*, “Food for people and food for animals are mentioned in Scripture [at Lev. 25:6, ‘The Sabbath of the land shall provide food for you’]. [The produce of the land is to feed people and livestock.] *How come you say*, ‘During the Sabbatical year food for people may not be made into an emollient but food for animals may be made into an emollient?’”
- [C] He said to him, “‘The Sabbath of the land shall provide food for you’ (Lev. 25:6). That serves as an exclusionary clause. The exclusionary clause applied to human beings indicates that it may not be made into an emollient.”
- [D] But there is an exclusionary clause: “And for all the beasts that are in hour land all its yield shall be for food” (Lev. 25:7). Shouldn’t that serve as an exclusion applying to food for animals, indicating that food for animals may not be made into an emollient?
- [E] Said R. Abun bar Hiyya, “Any scriptural interpretation that you formulate that negates a prior interpretation — the second interpretation is not valid.”
- [F] R. Yosé did not say this, but rather [he read the matter as follows:] “‘The Sabbath of the land shall provide food for you’ (Lev. 25:6) — that is an exclusionary clause. ‘For yourself and for our male and female slaves’ (Lev. 25:6) — that is an exclusionary clause, and where there is an exclusionary clause following a prior exclusionary clause [it forms an inclusionary clause] — thus encompassing food for animals, and indicating that they do make them into an emollient.”
- [G] But perhaps the two exclusionary phrases are meant to encompass food for humans [indicating that they made it into an emollient]?
- [H] Said R. Abun bar Hiyya, “Any scriptural interpretation that you formulate that negates a prior interpretation — the second interpretation is not valid.”
- [I] Said R. Mattenah, “When you imposed limitations on uses of food, you imposed limitations on uses of food for people. When you expanded the permitted uses of food, you expanded the use of food for animals.”
- [I:2 A]** As to the use of food for animals: what is the law [on using it to make dyes for humans]?
- [B] If food for human beings, which they do not make into an emollient for human beings, the make into dyes for human beings, then food for

animals, from which they may make an emollient for human beings, surely should be made into dyes for human beings!

- [C] Types of emollients — what is the law on permitting it to make of them dyes for human beings?
- [D] If food for human beings, which they do not make into an emollient for human beings, they make into dyes for human beings, then food for animals, from which they may make an emollient for human beings, surely should be made into dyes for human beings!
- [E] *Rephrasing the question:*
- [F] Food for humans — what is the law as to making from it dyes for animals?
- [G] Just as in the case of food for humans, they do not make of it an emollient for human beings but they make of it dyes for human beings, along these same lines food for animals, even though they do not make of it an emollient for animals, they do make of it dyes for animals.
- [H] Said R. Yosé, “Why [is it permitted during the Sabbatical year to] make food for humans into dyes for humans? Because [like the food from which it is made] dyes for human beings are sanctified under the restrictions of the Sabbatical year But how can we make food for humans into dyes for animals, since [unlike the foods from which they would be made] dyes for animals are not sanctified under the restrictions of the Sabbatical year.”

[II:1 A] And any [type of produce] that is not used exclusively as food for human beings or for cattle [i.e., that might either be eaten or be used as fuel for burning] — [if the one who gathered it] intended [to use] it [both] as food for human beings and as food for cattle, they impose upon it the stringencies [that apply to food] for human beings, and the stringencies [that apply to food] for cattle.

- [B] It is sensible that such produce is subject to the stringencies applicable to food for humans. [When picked as food for humans, even produce not exclusively used as food may not be made into an emollient.] But what can be meant by **the stringencies [that apply to food] for cattle?**
- [C] It is forbidden to boil it. [Animals eat raw food, and in the Sabbatical year what is intended for them must be raw.]

[III:1 A] [If the one who gathered such produce] intended [to use] it [only] for wood, lo, it [this produce is deemed to be] like wood [and may be burned]:

- [B] *It was taught as a Tannaite rule:* The seller sells produce as food and the buyer buys it for wood — the buyer’s [intention is null, since the status of the produce] doesn’t depend on him. [The restrictions of the Sabbatical year are in effect and the produce may not be used as wood.]
- [C] The seller sells the produce as food, and the buyer buys it as food but then reconsidered and decided to use it as wood, the buyer’s [intention is null, since the status of the produce] doesn’t depend on him.
- [D] The seller sells the produce as wood, and the buyer buys it as food but then changed his mind and decided to use it as wood, what is the law?
- [E] *How shall we interpret the case?* If the buyer gave the seller the money and then took possession of the produce, at the point of sale the produce was subject to the intention of the seller, who picked the produce for wood. [The buyer paid the seller for wood and may use what he purchased as wood.] But if the buyer took possession of the produce and only afterward paid for it, when the purchaser paid for the produce, it was subject to his intention to use it as food. [The buyer’s intention determines the status of the purchase. Even if he changes his mind and wants to use the produce as wood, he can’t.]
- [F] Rather, it is a case in which the buyer gave the seller the money and only then took possession of the produce. *But the law here is subject to the dispute of R. Yohanan and R. Simeon b. Laqish.*
- [G] In the view of R. Yohanan, [the buyer’s intention to use the produce for food is decisive,] for R. Yohanan said, “According to the Torah, when money is transferred has no effect.” So the buyer paid for food and that is decisive.
- [H] In the view of R. Simeon b. Laqish, [the seller’s intention is decisive, since he holds] according to the Torah when the money is transferred has an effect. The buyer paid him for wood, and that is decisive.
- [I] [The seller here holds that the produce was sold as wood. Otherwise the money he receives is subject to the restrictions of the Sabbatical year, and this is against his wishes. The buyer insists he purchased the produce as food, so he may eat it. How do we settle the matter?] If the seller sells the produce but the buyer buys it as food, and each stands firm, the case may be resolved as follows: **If the seller laid claim**

against the purchaser, let the claim of the purchaser be done. If the purchaser laid claim against the seller, let the claim of the seller be done. [T. Qid. 2:9] *And that is how matters should be settled here.*

8:2

- [A] [Produce of the] Sabbatical year is permitted for [purposes of] eating, drinking and anointing [i.e., as a salve].
- [B] [That is, one is permitted] to eat that which customarily is eaten, to drink that which customarily is drunk) and to anoint [with] that which customarily is [used] for anointing.
- [C] One may not anoint with wine or vinegar,
- [D] but one may anoint with oil.
- [E] And the same [law applies] with respect to heave-offering and second tithe.
- [F] [The ruling regarding produce of] the Sabbatical year is more lenient than [the ruling regarding] them [i.e., heave-offering and second tithe,]
- [G] for [produce of the Sabbatical year] is [also] permitted for [purposes of] kindling a lamp. [Clean heave-offering and second tithe however, may not be used for this purpose].
- [I:1 A] *To eat that which customarily is eaten.* How so? They do not obligate him [i.e., the priest] to eat the peel of a vegetable [in the status of heave-offering], bread [in the status of heave-offering] which has become moldy, nor a dish [in the status of heave-offering] the appearance of which has changed. [T. Ter. 9:10]
- [B] And so he who wanted to eat raw spinach beets or to chew on uncooked wheat, they do not pay attention to him [for it is a waste of produce of the Sabbatical year.]
- [II:1 A] *To drink that which customarily is drunk.* How so? They do not obligate him [i.e., the priest] to drink a sauce of oil and garum or of vinegar and garum or to drink wine along with its lees [T. Ter. 9:10]
- [B] [A priest] who has a toothache may not rinse them [i.e., his teeth] in vinegar [in the status of heave-offering, as a cure (b. Shab. 111a)] and [then] spit it out. But he may rinse and swallow. He may dunk [his bread, in any of the liquids mentioned] and need not scruple [that he has improperly used a liquid in the status of heave-offering] [T. Ter. 9:11]

[C] [A priest] who has a sore throat may not lubricate it [by gargling] with oil [in the status of heave-offering]. But he may add much [oil] to a sauce of oil and garum and swallow [T. Ter. 9:12]

[III:1 A] One may not anoint with wine or vinegar, but one may anoint with oil:

[B] [A priest] who had a head ache or any [priest] on whose head there appeared scabs may anoint with oil [in the status of heave-offering], but may not anoint with wine or vinegar [in that status]. For [as regards] oil, its normal use is for anointing. But [as regards] wine and vinegar, their normal use is not for anointing [T. Ter. 9:14].

[III:2 A] They may not spice oil of the seventh year [since this will be used for anointing instead of for eating]. But [during the seventh year] they may purchase in any place spiced oil for anointing [on the assumption that it is not produce of the seventh year] [T. Sheb. 6:13].

[B] R. Immi considered ruling, “[During the Sabbatical year one may purchase spiced oil] even from one who is suspect [of violating the Sabbatical rules].”

[C] Said to him R. Yosé, “They stated the rule only for a case in which the buyer does not know whether or not the seller is suspect. But if it is certain that he is suspect, it is forbidden to purchase spiced oil from him.”

[IV:1 A] What is the law about spicing wine of the Sabbatical year?

[B] *Let us derive the answer from the following:*

[C] [The ruling regarding produce of] the Sabbatical year is more lenient than [the ruling regarding] them [i.e., heave-offering and second tithe,] for [produce of the Sabbatical year] is [also] permitted for [purposes of] kindling a lamp. [Clean heave-offering and second tithe however, may not be used for this purpose].

[D] That is to say, spicing wine of the Sabbatical year is permitted, [since a less stringent rule pertains].

[E] *But has it not been taught on Tannaite authority:* It is forbidden to do so?

[F] *Said R. Eleazar, “That it is permitted is the view of R. Judah, for R. Judah permits spicing the wine, since that improves the wine.”*

[IV:2 A] **[The ruling regarding produce of] the Sabbatical year is more lenient than [the ruling regarding] them [i.e., heave-offering and second tithe,] for [produce of the Sabbatical year] is [also] permitted for [purposes of] kindling a lamp:**

[B] Isn't heave-offering [also] permitted for [purposes of] kindling a lamp?

[C] Oil in the status of heave offering that is unclean is permitted for kindling a lamp. But oil of the Sabbatical year, even if it is clean, is permitted for kindling a lamp.

[IV:3 A] R. Hezekiah went into a bath house. He gave a jar of oil of the Sabbatical year to Zusima the attendant. He said to him, "Bring this up to the steam room for me."

[B] He said to him, "Isn't it forbidden to anoint with oil of the Sabbatical year?"

[C] Hezekiah came and asked R. Jeremiah.

[D] He said to him, "Go and tell him 'you have taught me something new.'"

[E] *And so it has been taught as a Tannaite rule: They do not anoint with oil of the Sabbatical year in the bath house [T. Ter. 10:10]*

[F] But one anoints himself outside and enters. And they may not use in synagogues or study houses oil in the status of heave offering that is fit for burning, because it is a disrespectful way to treat Holy Things.

8:3

[A] **They do not sell produce of the Sabbatical year by volume, weight, or quantity [i.e., number of pieces].**

[B] **And [they may] not [even sell] figs by quantity and [they may] not [even sell] vegetables by weight.**

[C] **The House of Shammai say, ["With respect to the rule] Also: [One may] not [sell produce of the Sabbatical year] in bunches."**

[D] **But the House of Hillel say, "That which one is accustomed to bind [into bunches] in the home [that is, produce not generally sold in bunches in the market] —**

["during the Sabbatical year] they bind [and sell] it [i.e., such produce] in the market, for example, leeks and ornithogalum."

[I:1 A] **They do not sell produce of the Sabbatical year by volume, weight, or quantity: why?**

[B] So that it will be sold cheaply.

[C] Couldn't the seller not measure the produce out by the litra and still sell it cheaply?

[D] If you say so, he will end up not treating the produce of the Sabbatical year as sanctified.

[I:2 A] [As regards] produce of the seventh year which comes from abroad into the Land [of Israel] — they may not sell it by volume or by weight or by number. Rather, it is [handled] like the produce of the Land [of Israel] [T. Sheb. 4:18].

[B] But if it can be recognized as coming from abroad, it is permitted.

[C] *Said R. Yosé b. R. Abun, "For instance rodqia, which they go and sell between Susita and Tiberias."*

[I:3 A] R. Hezekiah in the name of R. Abba bar Mamel: "Someone who measures produce in a particular vessel and its capacity is known to him as a result of two or three uses — it is forbidden to measure out produce in it during the Sabbatical year."

[B] Said R. Hoshaiyah, "It is forbidden for the seller to say to his assistant, 'Use your finger to measure a basket or to count produce.'"

[II:1 A] But the House of Hillel say, "That which one is accustomed to bind [into bunches] in the home [that is, produce not generally sold in bunches in the market] — ["during the Sabbatical year] they bind [and sell] it [i.e., such produce] in the market, for example, leeks and ornithogalum:"

[B] A priest who is a butcher, who got a firstling [not to be sold by weight] — what is the law, may he slaughter it at home and sell it in the market?

[C] *R. Jeremiah considered ruling that it is permitted on the basis of the following: That which one is accustomed to bind [into bunches] in the home [that is, produce not generally sold in bunches in the market] — ["during the Sabbatical year] they bind [and sell] it [i.e., such produce] in the market.*

[D] Said R. Mana, "The very essence of the law is that it is forbidden to sell a firstling by weight, so that the priest will not be as one who does business with the carcass of a firstling."

8:4

- [A] One who says to his worker, “Here is an *issar* for you [as a gift]” and “Gather vegetables of the Sabbatical year for me today” —
- [B] his wage is permitted, [that is, this money is exempt from the restrictions of the Sabbatical year. Since he gave this *issar* to the worker as a gift and did not explicitly exchange it for the produce, the money does not take on the status of the produce].
- [C] [If, however, he said,] “In return for this [*issar*,] gather vegetables for me today” —
- [D] his wage is forbidden [that is, this money is subject to the restrictions of the Sabbatical year. Since he specified that this money was payment for the produce, the coin is regarded as money received from the sale of produce of the Sabbatical year].
- [E] [As regards] one who took a loaf of bread [worth] a *dupondion* from the baker [and said,] “When I gather vegetables [of the Sabbatical year] from the field I will bring you some” —
- [F] [this exchange of produce] is permitted. [Since the customer did not specify that this produce constitutes payment of the *dupondion* that he owes the baker, he has not used produce of the Sabbatical year to discharge a debt].
- [G] [But if] he simply bought [the loaf of bread on credit, thereby incurring a debt to the baker,]
- [H] he may not [later] pay [the baker] with money [received from the sale of produce] of the Sabbatical year.
- [I] For they do not discharge a debt with money [received from the sale of produce] of the Sabbatical year.
- [I:1 A] What is the difference between “Gather vegetables of the Sabbatical year for me today” and “In return for this [*issar*,] gather vegetables for me today”?
- [B] R. Abin in the name of R. Yosé b. Hanina, “It is one of the arbitrary laws [that the rabbis legislated].”
- [I:2 A] *There we learned in the Mishnah:* A man may not say to his friend, “Take this produce [in the status of second-tithe] up to Jerusalem [in order] to divide [it between us].” But he says [to the friend], “Take this [produce] up [to Jerusalem] so that we may eat of it and drink of it [together] in Jerusalem [M. M.S. 3:1].”
- [B] What is the difference between “Take this produce [in the status of second-tithe] up to Jerusalem [in order] to divide [it between us]”

and **“Take this [produce] up [to Jerusalem] so that we may eat of it and drink of it [together] in Jerusalem”?**

[C] R. Zeira in the name of R. Jonathan: “It is one of the arbitrary laws [that the rabbis legislated].”

[I:3 A] *There we learned in the Mishnah: A man [on the Sabbath] borrows for jugs of wine or oil from his fellow, provided that he does not say to him, “Lend [them] to me” [M. Shab. 23:1].*

[B] What is the difference between **“Lend [them] to me”** and “let me borrow them”?

[C] R. Zeira in the name of R. Jonathan: “It is one of the arbitrary laws [that the rabbis legislated].”

[I:4 A] As to bread baked by gentiles:

[B] R. Jacob bar Aha in the name of R. Jonathan: : “It is one of the arbitrary laws [that the rabbis legislated].”

[C] Said R. Yosé, “I raised the question before R. Jacob bar Aha, ‘What is the meaning of “It is one of the arbitrary laws [that the rabbis legislated]”?’ Should I say that the point is, in a place where bread of Israelites is available, it is logical that bread of gentiles should be forbidden, but it is one of the arbitrary laws [that the rabbis legislated]. Or in a place in which bread of Israelites is not available, it is logical that bread of gentiles should be permitted, but it is one of the arbitrary laws [that the rabbis legislated]”?

[D] Said R. Mana, “Is there a case in which an arbitrary law that the rabbis legislated produced a prohibition? [The arbitrary laws permit, but do not prohibit, a given practice.] Isn’t bread in the category of food prepared by gentiles? Do we state, ‘in a place in which food prepared by Israelites is not available, it is logical that food prepared by gentiles should be permitted, but the rabbis legislated an arbitrary law to forbid it? Rather, this is the case to which reference is made: In a place in which bread of gentiles is not available, it is logical that the bread of gentiles should be forbidden. But the rabbis arbitrarily ruled to permit it, because of the needs of living creatures.”

[E] Rabbis of Caesarea in the name of R. Jacob bar Aha are in accord with him who permits [bread of gentiles for Israelite consumption where Israelite bread is unavailable] so long as the bread is bought from a merchant. But people don’t do it that way.

- [I:5 A] **One who says to his worker, “Here is an *issar* for you [as a gift]” and “Gather vegetables of the Sabbatical year for me today” — his wage is permitted:** R. Simeon b. Laqish says, “This is a case in which the employer shows the worker the stalks he wants him to pick. For it is as if he paid him only for walking [but not for the produce].”
- [B] R. Yohanan said, “Even if he didn’t show the worker [what he wanted], it is as if he showed it to him.”
- [C] *The following paragraph of the Tannaite tradition conflicts with the position of R. Simeon b. Laqish for it has been taught on Tannaite authority:* He who employs a worker to bring wine or apples to a sick person, if the worker brought them, the employer is liable to pay him, but if the worker did not bring them, the employer is not liable to pay him. [The worker has to find the apples as part of the job.] But if he said to him, “Bring wine from such-and-such a place to the sick man,” or “bring apples from such-and-such a place to the sick man,” whether or not the worker delivers the wine, the employer is obligated to pay him. The value of walking that the worker did is what he pays him [even if when he got there, he didn’t find the wine.]
- [D] In what concrete case does R. Simeon b. Laqish apply this rule?
- [E] He interprets the law as applying to a case in which the employer showed him where the wine or apples are located.]
- [F] *The following paragraph of the Tannaite tradition conflicts with the position of R. Yohanan, for it has been taught on Tannaite authority:* **And likewise, one may not say to a poor person, “Take this *sela* and [in return] bring me the gleanings [which you collect] today,” or “Bring me the forgotten sheaves [which you collect] today,” or “Bring me the produce left in the corner of the field, [which you collect] today.” Rather, he says to him, “[I exchange this *sela* for the gleanings which you will collect today,” [or], “for the forgotten sheaves which you will collect today,” [or], “for the produce of the corner of the field which you will collect today” [T. Shebiit 6:24].**
- [G] And so you find in the case of the Levite.
- [H] Now lo, he didn’t show him the particular stalks of gleaning or the corner of the field that he wanted to buy. [He can’t specify the particular produce for that would be comparable to hiring the worker as an agent to pick these things.] But you [Yohanan] have said that even if the employer didn’t point out the particular stalks that he wants, it is as though he pointed it out to him.

- [I] How does R. Yohanan deal with this case?
- [J] It is a lenient ruling that applies to produce of the Sabbatical year since the restrictions against sale are of Rabbinic origin.

[II:1 A] [As regards] one who took a loaf of bread [worth] a *dupondion* from the baker [and said,] “When I gather vegetables [of the Sabbatical year] from the field I will bring you some” — [this exchange of produce] is permitted. [Since the customer did not specify that this produce constitutes payment of the *dupondion* that he owes the baker, he has not used produce of the Sabbatical year to discharge a debt].

[B] *It was taught as a Tannaite rule: R. Judah and R. Nehemiah forbid [T. Shebiit 6:21].*

[C] *How do we interpret the rule in terms of a specific case?*

[D] *It is a case in which he said to the baker, “Give me the loaf of bread and it is clear to me that I’ll give you vegetables of the Sabbatical year that I’m going to pick.”*

[III:1 A] R. Judah and R. Nehemiah forbid [T. Shebiit 6:21].

[B] For produce of the Sabbatical year is not readily available.

[C] And sages permit, because produce of the Sabbatical year is readily available.

8:5

[A] **They do not give [produce of the Sabbatical year or money received from its sale as payment of wages] to a well-digger, a bathhouse attendant, a barber or a sailor.**

[B] **But one does give [such produce or money] to a well-digger [in exchange for water] to drink.**

[C] **And to any of those [persons referred to at A,] one gives [produce of the Sabbatical year or money received from [its sale] as a gift.**

[I:1 A] R. Yosé taught a Tannaite rule: “Also one may not give to a water supplier produce of the Sabbatical year or money received from selling it.”

[B] *The theories attributed to R. Yosé conflict. There he said, “**Produce of the Sabbatical year — they may purchase with it water or salt**” [T. Shebiit 6:25], and here he has said this!*

- [C] Said R. Yosé [b. Zebedee], “Concerning what do Yosé and sages differ? Concerning water used for purposes other than drinking [and sages forbid using produce of the Sabbatical year to buy such water.] But as to drinking water, even R. Yosé agrees that it may be paid for with such produce.
- [D] Who is the Tannaite authority who holds, **But one does give [such produce or money] to a well-digger [in exchange for water] to drink?**
- [E] It is R. Yosé.
- [F] Said R. Yosé [b. Zebedee], “All parties concur. Here sages prohibit purchase of water with produce of the Sabbatical year because it is water intended for the use of animals.”
- [II:1 A] *It was taught on Tannaite authority: A spring belonging to the townfolk — [when there are waiting to draw water] they and others [outsiders], they come before others. [When there are others and their cattle, the others take some first, before their cattle. R. Yosé says, “Their cattle come before others.” [When there are] their cattle and the cattle of others, their cattle come before the cattle of others. [When there are] others and their own laundry [to be done], [the lives of] the others come before the doing of their laundry. R. Yosé says, “The doing of their laundry comes before the lives [use] of the others” [T. B.M. 11:33-34].*
- [B] *Said R. Yohanan, “Which Tannaite authority taught that doing laundry is a matter of life? It is R. Yosé, for it has been taught on Tannaite authority: **Produce of the Sabbatical year — they may not use it for an infusion or for laundering. R. Yosé permits using it for doing laundry [T. Shebiit 6:25].”***
- [I:2 A] *The opinions attributed to R. Yosé conflict. There he says, **And these are the vows which he annuls: matters of inflicting self-punishment [afflicting the soul (Num. 30:13)] “If I shall wash,” or “If I shall not wash,”** Said R. Yose, “**These are not vows which inflict self-punishment**” [M. Ned. 1:1]. [He does not regard the vow as a danger to life]. *And here he has said this [doing laundry is a matter of life and death, so that a local person’s doing laundry takes priority over the outsider’s use of the well].**
- [B] Said R. Mana, “A person can postpone washing himself but cannot postpone washing his clothes.”

- [I:3 A] *Judah of Hosi stayed hidden in a cave for three days. He wanted to focus on the logic for the principle, how do we know that the life of the people of this city takes precedence over the life of the people of a different city? He came before R. Yosé bar Halapta. He said to him, “Where have you been?”*
- [B] *He said to him, “I stayed hidden in a cave for three days. I wanted to focus on the logic for the principle, how do we know that the life of the people of this city takes precedence over the life of the people of a different city?”*
- [C] *[R. Yosé bar Halapta] called R. Vardimos his son. He said to him, “Reply to the query concerning the logic for the principle, how do we know that the life of the people of this city takes precedence over the life of the people of a different city?”*
- [D] He said to him, “ ‘These cities were’ — let each city survive. And only afterward: ‘and their pasture lands surrounding them.’” (Josh. 21:42).
- [E] *[Yosé bar Halapta] said to Judah of Hosi, “What caused you to [be unable to explain matters on your own]? That you did not study with your colleagues.”*

8:6

- [A] **Figs of the Sabbatical year —**
- [B] **they do not dry them in the [ordinary] drying place,**
- [C] **but one does dry them in a deserted place [where one ordinarily does not process figs].**
- [D] **They do not trample grapes [of the Sabbatical year] in a vat,**
- [E] **but one does trample [them] in a trough.**
- [F] **And they do not prepare olives [of the Sabbatical year] in an olive-press or with an olive-crusher,**
- [G] **but one does crush them and place [them] in a small press.**
- [H] **R. Simeon says, “He even grinds them in an olive press and places [them] in a small press [in order to complete the processing of the olives].”**
- [I:1 A] It is written, “During the Sabbatical year what grows of itself in your harvest you shall not reap” (Lev. 25:5). [This doesn’t mean not to harvest at all, but it means, harvesting in the manner of those who harvest [during the other years of the Sabbatical cycle] is not permitted.

[B] Said R. La, “Since [Lev. 25:5] does not deal with harvesting prohibited aftergrowths, apply it to harvesting permitted aftergrowths.”

[C] Said R. Mana, “The exegesis is needed to deal with produce that grew on its own. It is so that one does not reason, “Since this produce grew on its own, it is permitted to harvest and process it just as in other years of the Sabbatical cycle, so we need to state explicitly that it is forbidden to treat aftergrowths of the Sabbatical year in the way in which one treats produce of other years of the cycle.”

I:2 A] “During the Sabbatical year what grows of itself in your harvest you shall not reap and the grapes of your undressed vine you shall not gather” (Lev. 25:5) — “undressed” refers to fine that have grown away from an individual’s vineyard and are in the status of abandoned property. During the Sabbatical year grapes that grow on vines that are owned you may not gather, [These are prohibited aftergrowths.] You may gather grapes from vines that are abandoned. So “and the grapes of your undressed vine you shall not gather” (Lev. 25:5) means, you may not gather them in the manner of those who harvest [during the other years of the Sabbatical cycle].

[II:1 A] On this basis they said: **Figs of the Sabbatical year — they do not dry them in the [ordinary] drying place, but one does dry them in a deserted place [where one ordinarily does not process figs]. They do not trample grapes [of the Sabbatical year] in a vat, but one does trample [them] in a trough. And they do not prepare olives [of the Sabbatical year] in an olive-press or with an olive-crusher, but one does crush them and place [them] in a small press.**

[B] And our rabbis permitted preparing olives with an olive crusher.

[C] *R. Yohanan instructed the members of the house of R. Yannai to grind olives with a millstone in accord with the view of R. Simeon and then to prepare them in an olive crusher in accord with the view of our rabbis.*

[D] *R. Yohanan instructed the members of the house of R. Yannai not to accept oil as payment for use of their olive press, but to take the payment in cash.*

[E] He instructed them in accord with the views of R. Judah and R. Nehemiah.

[II:2 A] *It was taught as a Tannaite rule: [As regards] ass-drivers, camel-drivers, and sailors, who performed their trade with produce of the seventh year [that is, who transported such*

produce] — their wages are [subject to the restrictions of] produce of the seventh year [T. Shebiit 6:26].

- [B] Said R. Zeira, “This deals with payment for work done on produce of the Sabbatical year that is permitted to be eaten.”
- [C] *In line with this interpretation, what is the meaning of **their wages are [subject to the restrictions of] produce of the seventh year?***
- [D] It means they should take their payment from the produce with which they are working, produce of the Sabbatical year.
- [E] But shouldn't this be forbidden in line with what R. Yohanan *instructed the members of the house of R. Yannai* — not to accept oil as payment for use of their olive press, but to take the payment in cash?
- [F] But he instructed them in line with the views of R. Judah and R. Nehemiah.
- [G] *R. Hila said, “The Tannaite statement [T. Shebiit 6:26] refers to one who carries on his shoulder produce that is forbidden for use during the Sabbatical year. It is in line with this: what is the meaning of **their wages are [subject to the restrictions of] produce of the seventh year?***
- [H] It is in line with what R. Abbah said in the name of R. Yohanan, “As to one hired to work with wine used for a libation, they penalized him by declaring his salary forbidden” (M. A.Z. 5:1). Here too, they penalized him [for working with forbidden produce by paying him with produce of the seventh year, which is cheaper than ordinary food.

8:7

- [A] **They do not cook a vegetable of the Sabbatical year in oil in the status of heave-offering,**
- [B] **lest [the oil] cause [the vegetable] to become invalid. [That is, the vegetable of the Sabbatical year, when cooked in this oil, takes on the status of heave-offering. It thus might be wasted in the event that it became unclean and had to be burned].**
- [C] **R. Simeon permits [the cooking of vegetables of the Sabbatical year in oil in the status of heave-offering].**

- [D] [In the case of one who sold produce of the Sabbatical year, used the money received to purchase some other produce, and then exchanged this produce, in turn, for still other produce,] the very last [produce obtained in this manner is subjected to [the laws of] the Sabbatical year,
- [E] and the produce itself [i.e., the original produce of the Sabbatical year remains] forbidden [that is, subject to the restrictions of the Sabbatical year].
- [I:1 A] *There we learned as a Tannaite statement:* And in the case of all of them [which are eaten], the priests are permitted to vary the manner of eating them: to eat them (1) roasted, (2) seethed, or (3) cooked.
- [B] “And to put in them unconsecrated spices or spices of heave offering,” the words of R. Simeon,
- [C] R. Meir says, “He should not put into them spices of heave offering, so that he not bring heave offering to the state of invalidity.”
- [D] *The position of the single named authority here [R. Simeon permits the cooking of vegetables of the Sabbatical year in oil in the status of heave-offering] corresponds to the anonymous view stated there [the priests are permitted to vary the manner of eating them: to eat them (1) roasted, (2) seethed, or (3) cooked].*
- [E] Does the *position of the single named authority here [R. Simeon permits the cooking of vegetables of the Sabbatical year in oil in the status of heave-offering] really correspond to the anonymous view stated there [the priests are permitted to vary the manner of eating them: to eat them (1) roasted, (2) seethed, or (3) cooked]?*
- [F] *But the anonymously stated view here corresponds to the view of R. Meir there [namely, foods subject to rules that prevent their being wasted may not be prepared with heave offering.]*
- [G] R. Meir and R. Simeon — the decided law follows R. Simeon. [But the anonymous and authoritative view is that of Meir.]
- [H] *Said R. Yosé, “I asked the members of the household of R. Yannai [a priest], and they said, ‘It is or custom to cook produce of the Sabbatical year in heave offering a little at a time and eating it.’”*
- [I] *What is the upshot?*
- [J] The decided law follows the view of R. Meir there, the same position as the anonymous rabbis here.

- [II:1 A] **[In the case of one who sold produce of the Sabbatical year, used the money received to purchase some other produce, and then exchanged this produce, in turn, for still other produce,] the very last [produce obtained in this manner is subjected to [the laws of] the Sabbatical year, and the produce itself [i.e., the original produce of the Sabbatical year remains] forbidden [that is, subject to the restrictions of the Sabbatical year].**
- [B] How so?
- [C] If with produce of the Sabbatical year he purchased meat, both the produce and the meat are subject to removal according to the restrictions of the Sabbatical year. If he used the meat to buy fish, the meat is released from the restrictions of the Sabbatical year and the fish becomes subject. If he used the fish to buy oil, the fish is released but the oil is subject to the Sabbatical restrictions. So we see that **the very last [produce obtained in this manner is subjected to [the laws of] the Sabbatical year, and the produce itself [i.e., the original produce of the Sabbatical year remains] forbidden [that is, subject to the restrictions of the Sabbatical year].**
- [II:2 A] *They asked R. Yohanan, “As to coins of produce subject to the restrictions of the Sabbatical year, what is the rule on whether or not they may be released from the restrictions of the Sabbatical year through a secularizing exchange with other produce or coins?”*
- [B] He said to them, “So why not?”
- [C] Said R. Eleazar, “As to coins of produce subject to the restrictions of the Sabbatical year, they may not be released from the restrictions of the Sabbatical year through a secularizing exchange with other produce or coins. They are released by being sold.”
- [D] *A Tannaite teaching supports the position of this one, and a Tannaite teaching supports the position of that one.*
- [E] *A Tannaite teaching supports the position of R. Yohanan: One who has coins received from the sale of produce of the Sabbatical year who wishes to deconsecrate them by exchanging them for dough that is not already subject to the Sabbatical instructions may deconsecrate them [by exchanging the dough for the money.]*
- [F] *...and a Tannaite teaching supports the position of R. Eleazar: [One] who had a sela [received from the sale of produce] of the seventh year and wished to purchase with it a cloak goes to a storekeeper where he is a regular customer and says to him, “Give me produce*

for this [*sela*],” and [the storekeeper] gives him produce. By means of this exchange, the unsanctified produce becomes subject to the restrictions of the seventh year and the money becomes exempt from these restrictions. And then this one [i.e., the customer] says to him [i.e., the store-keeper], “Lo, this produce is given to you as a gift,” and he [i.e., the storekeeper] says to him, “Lo, this *sela* is given to you as a gift” [the person thereby reacquires the *sela* and purchases a cloak with it] [T. Shebiit 6:25].

- [II:3 A] *R. Yohanan would first drink wine [subject to the restrictions of the Sabbatical year] and then pay for it. [When he paid, the wine was no longer in existence and was not subject to the restrictions of the Sabbatical year.]*
- [B] *So far we have dealt with R. Yohanan, who is reliable [and the inn keeper could keep a tab for him. What about everybody else, who are not reliable?*
- [C] *R. Jacob bar Aha in the name of R. Abina: “One shows the money with one hand and takes the one with the other.*
- [D] *R. Hezeqiah would say to the inn keeper, “Put the wine in front of me.” Since he said , “Put the wine in front of me,” it was as if he did not pay him with coins.*

8:8

- [A] **They do not buy (1) slaves, (2) parcels of real estate, or (3) an unclean animal with money [received from the sale of produce] of the Sabbatical year.**
- [B] **But if one [used money received in this way and] purchased [one of the items listed] he must [purchase and] eat [produce] of equal value [to replace the money of the Sabbatical year that he misused].**
- [C] **They do not bring bird-offerings [required] of men who have suffered a flux, women who have suffered a flux, or women after childbirth [if these are bought] with money [received from the sale of produce] of the Sabbatical year.**
- [D] **But if one brought [an offering purchased with such money,] he must [purchase and] eat [produce] of equal value [to replace the money of the Sabbatical year that he misused].**
- [E] **They do not rub leather garments with oil of the Sabbatical year.**

- [F] But if one rubbed [a garment with such oil,] he must [purchase and] eat [produce] of equal value [to replace the oil that he misused].
- [G] A hide that one rubbed with oil of the Sabbatical year —
- [H] R. Eliezer says, “[The hide] must be burned.”
- [I] But sages say, “[The one who smeared it with oil] must [purchase and] eat [produce] of equal value [to replace that which he misused].
- [J] They said before R. Aqiba, “R. Eliezer used to say, ‘A hide that one rubbed with oil of Sabbatical year must be burned.’”
- [K] He said to them, “Shut up! I will not tell you what R. Eliezer meant by this.”
- [L] And they also said before [R. Aqiba], “R. Eliezer used to say, ‘One who eats bread [baked by] Samaritans is like one who eats pork.’”
- [M] He said to them, “Shut up! I will not tell you what R. Eliezer meant by this.”
- [N] A bath that was heated by straw or stubble of the Sabbatical year, [in violation of the law] —
- [O] one is permitted to bathe in it.
- [P] But if one is highly regarded,
- [Q] lo, this [person] will not bathe [in such a bath].
- [I:1 A] [They do not buy (1) slaves, (2) parcels of real estate, or (3) an unclean animal with money [received from the sale of produce] of the Sabbatical year]: Said R. Yosé, “That is to say, ‘It is forbidden to take a wife using coins subject to Sabbatical year restrictions for token of betrothal. For what is the difference between one who acquires a wife and one who acquires a slave girl.’”
- [II:1 A] [As regards] oil of the seventh year — they may not glaze an oven or stove with it [for this is not its primary use].
- [B] And they may not soften shoes or sandals with it.
- [C] A man may not anoint his foot with oil [of the seventh year] while [the foot] is in a shoe or sandal. But he may anoint his foot and [then] put on a shoe,
- [D] or anoint his foot and [then] put on a sandal
- [E] A man may anoint himself with oil of the seventh year and [then] roll around on a new leather-spread and need not scruple [since, one produce of the seventh year has been used, it is no longer subject to the

restrictions of the law]. Rabban Simeon b. Gamaliel permits [T. Shebiit 6:10-12].

- [III:1 A] **A hide that one rubbed with oil of the Sabbatical year — R. Eliezer says, “[The hide] must be burned.” They said before R. Aqiba, “R. Eliezer used to say, ‘A hide that one rubbed with oil of Sabbatical year must be burned.’” He said to them, “Shut up! I will not tell you what R. Eliezer meant by this.”**
- [B] What did R. Eliezer say?
- [C] Said R. Yosé, “May the bones of that man burn who misused oil of the Sabbatical year.”
- [D] R. Hezeqiah in the name of R. Aha said, “[R. Eliezer said,] ‘It is permitted to soften leather with oil of the Sabbatical year.’”
- [IV:1 A] **And they also said before [R. Aqiba], “R. Eliezer used to say, ‘One who eats bread [baked by] Samaritans is like one who eats pork.’” He said to them, “Shut up! I will not tell you what R. Eliezer meant by this.”**
- [B] Said R. Yosé, “That is to say, it is forbidden to marry the daughter of an am ha’ares.”
- [C] R. Hezeqiah in the name of R. Aha said, “[R. Eliezer said,] ‘It is permitted for Israelites to purchase leavened foods of Samaritans immediately after the conclusion of Passover.’”
- [V:1 A] **A bath that was heated by straw or stubble of the Sabbatical year, [in violation of the law] — one is permitted to bathe in it. But if one is highly regarded, lo, this [person] will not bathe [in such a bath].**
- [B] That which you say applies to public baths [used by Jews and gentiles and the Sabbatical produce used to heat the bath is assigned to the gentiles], but in the case of private baths [used only by Israelites] , it is forbidden.
- [VI:1 A] **But if one is highly regarded, lo, this [person] will not bathe [in such a bath].**
- [B] Even if he simply appeared important, lo, this person will not bathe in such a bath [because when important people enter the bath house, additional fuel was added to the fire to heat the water. One cannot claim that the Sabbatical produce used to heat the bath is assigned to the gentiles.]

- [C] *As in the following case: R. Joshua b. Levi went from Lod [where he was well known] to Bet Gubrin to bathe.*
- [D] *R. Simeon b. Laqish was in Bosrah. He saw gentiles pouring wine and oil in honor of a statue of Aphrodite. He said to the Israelites bathing there, "Isn't it forbidden?"*
- [E] *He came and asked R. Yohanan. R. Yohanan said to him in the name of R. Simeon b. Yosedeq, "Nothing done by the public renders it forbidden."*

YERUSHALMI SHEBIT

CHAPTER NINE

9:1

- [A] 1) Rue, 2) goosefoot, (asparagus and fenugreek), 3) purslane, 4) hill coriander, 5) water-parsley and 6) meadow-eruca are exempt from [the separation of] tithes and may be bought during the Sabbatical year from anyone [even one suspected of violating the laws of the Sabbatical year,]
- [B] because produce of their type is not cultivated, [but grows wild].
- [C] R. Judah says, “Aftergrowths of mustard [i.e., all mustard that grows uncultivated during the Sabbatical year,] are permitted [that is, this produce may be bought from a person suspected of violating the laws of the Sabbatical year,]
- [D] “because transgressors are not suspect concerning them. [Since mustard grows uncultivated in abundance, people are not suspected of secretly cultivating it and then claiming that it grew by itself].”
- [E] R. Simeon says, “All aftergrowths are permitted [i.e., may be bought from one suspected of violating the law,] except aftergrowths of cabbage,
- [F] “because produce of this type [that is, cabbage] does not [grow uncultivated] among wild vegetables.”
- [G] But sages say, “All aftergrowths are forbidden [that is, may not be bought from one suspected of violating the law].”
- [I:1 A] Rue, goosefoot:
- [B] *The meaning of the word syrugin and the identification of the plant purslane and the question of who is worthy of greater honor, the person of wisdom or the person of age — the associates raised these questions.*

- [C] *They said, “Let us go and inquire of the members of the house of Rabbi.”*
- [D] *They went and a handmaid of the house of Rabbi came out and said to them, “Enter according to age.” They said to one another, ‘After you.’ They began to enter very slowly.*
- [E] *She said to them, “Why are you entering syruhin?”*
- [F] *One of the rabbis was carrying some parpehina in his cloak and it fell out.*
- [G] *She said to him, “Rabbi, Rabbi, your purslane has fallen over.”*
- [I:2 A]** What is parsley?
- [B] Said R. Yosé bar Hanina, ““Rock parsley.”
- [I:3 A]** *Why do we not include in the Tannaite formulation [among the types of wild produce that are not subject to tithing or to the restrictions of the Sabbatical year] savory, hyssop and thyme?*
- [B] One might say, There is a difference. If the items listed here are cultivated in a courtyard, they are still exempt from tithes. The same is not said regarding savory, hyssop and thyme.
- [C] Not so, in the case of all these varieties, if they are cultivated in a courtyard they are subject to tithes.
- [D] All these varieties are not subject to the same law, because of those listed here are cultivated in a garden, they are subject to tithes, while of these types listed here have been cultivated in a garden, they are exempt from tithes.
- [E] Not so, [savory hyssop and thyme are not included for in the case of all these types of produce, if they are cultivated in a garden, they are exempt.
- [F] *Why do we repeat on Tannaite authority only these particular varieties?*
- [G] It is so that someone won’t say, “Since the majority of these kinds are similar to different types of produce that are cultivated and continue to grow during the Sabbatical year as forbidden aftergrowths, these kinds are also forbidden. So that one would not reach that wrong conclusion, it had to be stated explicitly that these kinds are permitted.
- [I:4 A]** What is the rule on whether or not these kinds [listed at M. 9:1] are forbidden as aftergrowths [even though they are not cultivated, if

during the Sabbatical year they grow in a courtyard or garden, they are forbidden as aftergrowths]?

[B] *Let us derive the answer from the following:*

[C] **R. Judah says, “Aftergrowths of mustard [i.e., all mustard that grows uncultivated during the Sabbatical year,] are permitted [that is, this produce may be bought from a person suspected of violating the laws of the Sabbatical year,] because transgressors are not suspect concerning them. [Since mustard grows uncultivated in abundance, people are not suspected of secretly cultivating it and then claiming that it grew by itself].”** They did not say that aftergrowths of mustard are permitted except for the reason that **transgressors are not suspect concerning them.**

[D] *Thus far we know only that the seed is permitted. What about the vegetable? Is it possible to say that the seed [the primary food of the mustard plant] is permitted, without saying all the more so the vegetable [a secondary produce]? [Thus is not possible, if the seed is permitted the vegetable must be also.]*

[I:5 A] *R. Simeon b. Laqish was in Hiqoq. He saw the people rolling up mustard. Some of the mustard pods fell to the ground but the man didn't pick them up. He said, “If during the Sabbatical year someone brings me mustard, I will rule in accord with the position of R. Judah that it is permitted.”*

[I:6 A] Said R. Abba bar Zebedee, “R. Hunia of Horon in Bet Horon decided in accord with R. Judah [that aftergrowths of mustard are permitted.”

[B] R. Yohanan entered the school house [in Sepphoris] and expounded the law in accord with the rabbis here [who differ from Judah and say all aftergrowths are forbidden] and in accord with the rabbis there.”

[C] R. Abba bar Zamina in the name of R. Isaac: “In response to these two matters R. Yohanan went down from Sepphoris to Tiberias. He said, ‘why have you brought me this old judge, for if I permit, he forbids, and if I forbid, he permits.’”

[I:7 A] *Said R. Vava, “A case came before R. Yosé, who wanted to rule according to the position of R. Yohanan. When he heard that Rab and R. Hanina differ, he retracted.”*

[B] *They dispute on the following:* The remnants of a wick, fire, or oil that went out on the Sabbath — what is the rule as to whether or not it is permitted to rekindle them on a festival day immediately following the Sabbath?

- [C] Both Rab and R. Hanina say, “It is forbidden.” [The Sabbath and festival form an unbroken period of sanctification.]
- [D] R. Yohanan said, “It is permitted.” [The Sabbath and festival are distinct spells of sanctification.]
- [E] *Said R. Yudan before R. Mana, “How do these positions relate to the rule for an egg laid on festival day?”* [Yohanan holds that an egg laid on the festival may be cooked and eaten on the Sabbath that follows immediately on the conclusion of the festival. Rab and Hanina do not yield a position.]
- [F] *He said to him, “We see that sages regard the egg laid on the Sabbath and the remnants of a wick, fire, or oil that went out on the Sabbath as equivalent and based on the same principle.”*
- [I:8 A] In the name of four elders they have ruled, “If a person’s *erub* is eaten up on the first day [of a festival], lo, he is in the status of his fellow townsfolk on the second [in which case the two days are treated as separate and distinct from one another, and not a single, protracted holy day. Hence he would require a separate *erub* for each day. Since he has one only for the first, on the second day his *erub* is no different from that of the townspeople in general.]”
- [B] R. Huna in the name of Rab: “The law accords with the view of the four elders.”
- [C] *R. Hisda raised the question: “The views assigned to Rab are at variance. There he has treated the festival and Sabbath as two distinct spans of holiness, while here he has treated them as a single, protracted span of holiness.”*
- [D] *For they differ as follows:*
- [E] The leftovers of a wick, fire, and oil, which went out on the Sabbath — what is the law as to kindling them on the festival day?
- [F] Both Rab and R. Haninah say that it is forbidden to do so [since they form a single protracted period of holiness].
- [G] And R. Yohanan said, “It is permitted to do so.”
- [H] *And R. Mana said before R. Yudan, “On what basis do they create an analogy between a wick and the case of an egg?”*
- [I] *He said to him, “It is on the basis of the fact that we see the rabbis comparing the one to the other [that we do so].*
- [J] “That then indicates that the same rule applies to both matters.”

[II:1 A] R. Simeon says, “All aftergrowths are permitted [i.e., may be bought from one suspected of violating the law,] except aftergrowths of cabbage, because produce of this type [that is, cabbage] does not [grow uncultivated] among wild vegetables.” But sages say, “All aftergrowths are forbidden [that is, may not be bought from one suspected of violating the law].”

[B] And , because produce of this type [that is, cabbage] does not [grow uncultivated] among wild vegetables, should it be forbidden as an aftergrowth? [Other types of cultivated produce that do not have wild equivalents are not forbidden as aftergrowths.]

[C] R. Hama bar Uqba in the name of R. Yosé bar Hanina: “[Cabbage is forbidden as an aftergrowth] because they ordinarily grow cabbage as seed sock.”

[D] So because they ordinarily grow cabbage as seed sock should cabbage be forbidden as an aftergrowth?

[E] Said R. Samuel bar R. Isaac, “As to any other kind of vegetable you can determine whether it is new [in the current Sabbatical year] or old [from the prior year], but [in the case of cabbage you cannot make this distinction, so cabbage must be forbidden as an aftergrowth] so someone can’t go and bring new forbidden cabbages that grew during the Sabbatical year and say, ‘I brought some of the old permitted cabbages of the sixth year that were left in the field as seed stock.”

[II:2 A] They do not obligate the farmer to uproot arum.

[B] Rather, they leave arum as it is.

[C] If an arum tuber sprouted in the year following the seventh year, it is permitted [T. Shebiit 2:11].

[D] They do not obligate him [i.e., the farmer] to uproot artichokes,

[E] but he trims the leaves.

[F] If [an artichoke] sprouted in the year following the seventh year, it is permitted [T. Shebiit 2:12].

[G] But doesn’t he turn out to destroy food fit for animals [which is forbidden in the Sabbatical year]?

[H] The leaves become unfit for animals on their own [and the farmer’s actions do not directly bring about that condition].

- [II:3 A] R. Simeon bar Yohai was going along during the Sabbatical year and saw someone picking aftergrowths of the seventh year. *He said to him, "Isn't this forbidden? Aren't these aftergrowths?"*
- [B] He said to him, "Aren't you the one who permitted it?" [He had said, **All aftergrowths are permitted [i.e., may be bought from one suspected of violating the law,] except aftergrowths of cabbage.**]
- [C] He said to him, "But don't my colleagues take issue with me?" [**All aftergrowths are forbidden.**].
- [D] He recited in his connection the verse, "He who digs a pit will fall into it, and a snake will bite him who breaks through a wall" (Qoh. 10:8). *And that is exactly what happened to him.*
- [II:4 A] *For thirteen years R. Simeon bar Yohai lived hidden in a cave. The cave was next to a carob tree. He stayed there until his body became afflicted with a skin ailment that looked like rust spots. At the end of thirteen years he said, "Shouldn't I go out to see what has happened in the world?"*
- [B] *He went out and sat at the mouth of the cave. He saw a hunter trapping birds. When Simeon would hear an echo say from heaven, Dimissus [pardoned], the bird escaped, [but if the echo said, death, the bird was trapped.] He said "Without heaven, even a bird does not perish, all the more so a human being."*
- [C] *When he saw that the difficulties [that had made him hide out] were diminished, he said, "Let us go down and visit the baths in Tiberias."*
- [D] He said, "We have to enact ordinances just as our forefathers did."
- [E] "And [Jacob] camped before the city" (Gen. 33:18) — they set up stores and sold goods cheaply in the market.
- [F] [Simeon] said, "Let us purify Tiberias from corpse uncleanness." *He took radishes, cut them up, and spread them around the city. Whatever corpses were buried there would rise up, and Simeon would remove them from the surface of the ground and take them outside the city.*
- [G] *A Samaritan saw him and said, "Shouldn't I go and outwit this old Jew?" He took a corpse and hid it in a place that was already purified. He went over to R. Simeon bar Yohai and said to him, "Did you purify such-and-such a place? Come and I shall remove a corpse from there."*
- [H] By means of the holy spirit R. Simeon bar Yohai saw that the Samaritan had put a corpse there. He said, "I decree that the one who is

standing there should lie down dead, and the one who is lying down should stand.” *And that is exactly what happened to him.*

- [I] When he passed by Magdala he heard the voice of a scribe saying, “Lo, here comes the son of Yohai, who has purified Tiberias.”
- [J] He said to him, “Let an awful thing happen to me if I didn’t hear through the holy spirit that Tiberias will some day be purified [and made available for Israelite residence.] Even so, you were not counted among us in doing the work of purifying the city.” The man became a pile of bones.

9:2

- [A] **Three regions [are delineated with respect to the laws] of removal:**
- [B] **Judea, Transjordan, and Galilee.**
- [C] **And each of these three [regions is divided into] three areas.**
- [D] **[Galilee is divided into]: upper Galilee, lower Galilee, and the valley.**
- [E] **From Kfar Hananiah and northward, [i.e.], all places in which sycamores do not grow, [are regarded as] upper Galilee.**
- [F] **And from Kfar Hananiah and southward, [i.e.], all places in which sycamores do grow, [are regarded as] lower Galilee.**
- [G] **And the vicinity of Tiberias [is regarded as] the valley.**
- [H] **And within Judea [the three areas are]: the mountains [surrounding Jerusalem], the lowlands [near the coast of the Mediterranean Sea], and the valley [of the Jordan River extending southward to the Dead Sea].**
- [I] **And the lowlands of Lod are [subject to the same rule] as the southern lowlands.**
- [J] **And its mountains [i.e., those near the lowlands of Lod] are [subject to the same rule] as the kings’ hill-country.**
- [K] **From Beit-Horon to the sea [is deemed to be] a single district.**
- [L] **And why have they stated [that the three regions are each divided into] three areas?**
- [M] **Because they may eat [produce of the Sabbatical year which they have stored in their homes] in each [area] until the last [produce] of that area is gone [at which time the law of removal takes effect. This applies without regard to whether or not such produce has already disappeared from the fields of the other areas within that region].**

- [N] **R. Simeon says, “They stated [that there are] three areas only within Judea,**
- [O] **“and the remainder of the regions [i.e., Galilee and Transjordan] are [subject to the same rule] as the king’s hill-country. [That is, produce throughout Galilee and Transjordan becomes subject to the law of removal when all produce of that species has disappeared from the Judaeen mountains].”**
- [P] **And all the regions [within the Land of Israel] are [considered] a single [area] with respect to [the removal of] olives and dates.**
- [I:1 A] “The Sabbath of the land shall provide food for you, for your cattle also and for the beasts that are in your land, all its yield shall be for food” (Lev. 25:6-7) — so long as the beast finds food in the fields, your cattle may be fed produce of the seventh year that you have collected at home. As soon as the beasts’ food in the field is finished, the food you have collected for your cattle must be removed from your home.
- [I:2 A] R. Hama bar Uqba in the name of R. Yosé bar R. Hanina calculated and said, “The beasts of the mountains do not grow in the valley, and the beasts of the valley do not grow in the mountains.”
- [I:3 A] *Diocletian tormented the inhabitants of Paneas. They said to him, “We going to leave.”*
- [B] *Said to him his Sophist, “They won’t go. And if they go, they will come back. If you want to test it, take some gazelles and send them to a distant land. In the end they will return to their original home.”*
- [C] *He did it. He took some gazelles, gilded their horns with silver, and sent them to Africa. In the end of thirteen years, they returned home.*
- [I:4 A] **Rabban Simeon b. Gamaliel says, “A mark of mountains is [the growth of] pine trees, a mark of valleys is [the growth of] palm trees; a mark of river-beds is [the growth of] reeds; and a mark of lowlands is [the growth of] sycamores.” Even though there is no explicit reference to this matter, there is a [scriptural] allusion: ‘And he [i.e., Solomon] made cedar as plentiful as the sycamore of the lowlands’ (I Kings 10:27)” [T. Shebiit 7:11].**
- [B] *There are those who want to say [Simeon’s view] was stated with reference to the laws of sale and purchase. There are those who want to say [Simeon’s view] was stated with reference to the heifer whose neck was to be broken in a valley with running water [Dt. 21:4].*

- [II:1 A] **Three regions [are delineated with respect to the laws] of removal: Judea, Transjordan, and Galilee.**
- [B] **Which area in the Galilee is [designated as] its valley? [An area] such as Gennosar and places near it [T. Shebiit 7:11].**
- [C] **What area [of Judea] is designated as its mountains? This is the king's hill-country. Its lowlands? These are the lowlands of Lod. Its valley? [This is the area] between Ein Gedi and Jericho [T. Sheb. 7:10].**
- [D] **R. Simeon b. Eleazar says, "What area is [designated as] the mountains of Transjordan [An area] such as the mountains of Mikhvar and Gedor and places near it."**
- [E] **Which area is designated as] its [i.e., Transjordan's] lowlands? "Heshbon and all of its towns which are in the tableland, Dibon and Ba'moth-ba'al and Beth-ba'al-me'on" (Josh. 13:17). Its valley? [An area] such as Beth Nimra and places near it [T. Shebiit 7:11].**
- [F] "And in the valley Beth Haran, Beth Nimrah, Succoth, and Zaphon, the rest of the kingdom of Sihon, the Amorite king of Heshbon: Ç Beth Haran refers to Beth Ramata, Beth Nimrah to Beth Nimrin, Succoth to Dir-Ela, Zaphon to Ammthu.
- [II:2 A] Are lowlands within a mountain area treated like a mountain area, is a mountain area located within lowlands treated like lowlands?
- [B] *On the basis of that which is taught as a Tannaite rule: **Rather the mountains are the mountains, the valley is the valley and the lowlands are the lowlands. [That is, each is deemed a distinct area for purposes of removal [T. Shebiit 7:10], it follows that lowlands in the mountains are treated as mountains and a mountain in the lowlands is treated as lowlands.***
- [C] *Said R. Yosé, "The Mishnah makes this point: **And the lowlands of Lod are [subject to the same rule] as the southern lowlands. And its mountains [i.e., those near the lowlands of Lod] are [subject to the same rule] as the kings' hill-country. From Beit-Horon to the sea [is deemed to be] a single district.** All of the area from Bet Horon to the sea is treated as a single lowland area, even though it contains mountains, lowlands and valleys.]"*
- [D] Said R. Yohanan, "That area contains mountains, lowlands and valleys. From Beth Horon to Emmaus — mountains. From Emmaus to Lod — lowlands. From Lod to the sea — valley."

[E] *Then it should teach four regions [from Beth Horon to the sea is a distinct region with its own mountains lowland and valley].*

[F] The area from Bet Horon to the sea is not a distinct region, because its mountains lowlands and valley are intertwined with similar regions in Judah.

[II:3 A] *It is taught as a Tannaite statement: In Syria there are not three distinct regions [T. Shebiit 7:10].*

[III:1 A] **And why have they stated [that the three regions are each divided into] three areas? Because they may eat [produce of the Sabbatical year which they have stored in their homes] in each [area] until the last [produce] of that area is gone [at which time the law of removal takes effect. This applies without regard to whether or not such produce has already disappeared from the fields of the other areas within that region]. R. Simeon says, “They stated [that there are] three areas only within Judea, and the remainder of the regions [i.e., Galilee and Transjordan] are [subject to the same rule] as the king’s hill-country. [That is, produce throughout Galilee and Transjordan becomes subject to the law of removal when all produce of that species has disappeared from the Judean mountains].” And all the regions [within the Land of Israel] are [considered] a single [area] with respect to [the removal of] olives and dates.**

[B] *Come and see* [a problem with Simeon’s position [R. Simeon says, “They stated [that there are] three areas only within Judea, and the remainder of the regions [i.e., Galilee and Transjordan] are [subject to the same rule] as the king’s hill-country”], As for the valley in Judah, one may not continue to eat the produce of its field until all of the produce is gone from the mountains in Judah. But as for the valley in Galilee, in Simons view one may continue to eat its produce without removing it until all of the produce is gone from the mountains in Judah.

[IV:1 A] **And all the regions [within the Land of Israel] are [considered] a single [area] with respect to [the removal of] olives and dates:**

[B] *It is taught on Tannaite authority:* The same applies to carobs.

[C] *It is taught on Tannaite authority:* **They may eat dates [anywhere in the Land of Israel which they have brought into their homes] until the last [date] is gone from [the fields of] Jericho [alt.: Soar]. They may continue to eat olives which they have brought into their**

homes until olives disappear from the fields] of Meron and Gush Halab [T. Shebiit 7:15].

9:3

- [A] They may [continue to retain in their homes and] eat [produce of the Sabbatical year which they have stored in their homes] by virtue of the fact that ownerless produce [of the same species is growing in the fields].
- [B] but [they may] not [retain such produce] by virtue of the fact that [produce of the same species is growing only] in privately-owned places, [such as courtyards, where it is not available for all to gather. That is, produce must be removed from one's home when similar produce no longer is growing in the fields, even if such produce still is growing in courtyards].
- [C] R. Yosé permits [people to retain produce of the Sabbatical year, which they have stored in their homes] by virtue of the fact that [produce of the same species is growing only] in privately-owned places. [That is, one removes produce from one's home when all produce of the same species has disappeared, both from the field and from private courtyards].
- [D] They may [continue to retain in their homes and] eat [choice grain or the early crop of figs which they have stored in their homes] by virtue of the fact that late-ripening grain or the second crop of figs [which ripens during the Sabbatical year still is growing in the fields].
- [E] but [they may] not [retain fruit which they have stored in their homes] by virtue of the fact that winter fruit, [which generally ripens and becomes edible after the Sabbatical year has ended, is growing in the fields].
- [F] R. Judah permits [people to eat fruit of the Sabbatical year which they have stored in their homes by virtue of the fact that winter fruit is growing in the field],
- [G] provided that [this winter fruit] began to ripen before the end of the summer [of the Sabbatical year].
- [I:1 A] [They may [continue to retain in their homes and] eat [produce of the Sabbatical year which they have stored in their homes] by virtue of the fact that ownerless produce [of the same species is growing in the fields]: *The anonymous statement of the Mishnah belongs to R. Simeon.*

- [B] It is written,, “For it is a jubilee; it shall be holy to you; you shall eat what it yields out of the field” (Lev. 25:12). For as long as you can eat produce out of the field, you may eat produce that you have gathered in your house. When the produce of a given species is gone from the field, you must remove it from the house as well.
- [C] *What is the basis for R. Simeon’s view [but they may not [retain such produce] by virtue of the fact that [produce of the same species is growing only] in privately-owned places]?*
- [D] [By hiding the produce] you have caused yourself to be unable to eat what you have gathered in your house.
- [II:1 A] **They may [continue to retain in their homes and] eat [choice grain or the early crop of figs which they have stored in their homes] by virtue of the fact that late-ripening grain or the second crop of figs [which ripens during the Sabbatical year still is growing in the fields]. but [they may] not [retain fruit which they have stored in their homes] by virtue of the fact that winter fruit, [which generally ripens and becomes edible after the Sabbatical year has ended, is growing in the fields]:** *The anonymous statement of the Mishnah belongs to R. Yosé.*
- [B] *For it is taught on Tannaite authority: They do not eat grain of the Sabbatical year that they have brought into their homes by virtue of the fact that poor grain is still available in the fields of Acre. R. Yose said, “They may eat grain of the Sabbatical year that they have brought into their homes by virtue of the fact that poor grain is still available in the fields of Acre” [T. Shebiit 7:15].*
- [II:2 A] Said R. Yosé [the Amora], “At first we thought that R. Yosé and sages disagree on winter fruit but not on the second crop of figs. Then we found it taught on Tannaite authority: R. Judah permits people to eat figs of the Sabbatical year that they have brought into their homes by virtue of the fact that the second crop of figs is still available in the fields, provided that this food began to ripen before the end of the summer of the Sabbatical year.”

9:4

- [A] **One who pickles three types of vegetables [of the Sabbatical year together] in a single jar —**

- [B] **R. Eliezer says, “They may [continue to] eat [these vegetables] by virtue of the fact that the [vegetable which ordinarily is the] first [of the three to disappear from the field is still growing. That is, once the first of these vegetables disappear from the field, all the vegetables in the jar are subject to removal].”**
- [C] **R. Joshua says, “[They may eat any of these vegetables] even by virtue of the fact that the [vegetable which ordinarily is the] last [to disappear from the field still is growing. That is, only when the last of these vegetables has disappeared from the field are the contents of the jar as a whole subject to removal].”**
- [D] **Rabban Gamaliel says, “[As] each type [of vegetable] disappears from the field, one must remove that type [of vegetable] from the jar.”**
- [E] **And the law is according to [Rabban Gamaliel’s] words.**
- [F] **R. Simeon says, “All vegetables [are regarded as] a single [species of produce] with respect to [the laws of] removal.”**
- [G] **They may eat purslane [of the Sabbatical year anywhere in the Land of Israel] until wild purslane disappears from the valley of Beit Netofah.**
- [I:1 A] *What is the reasoning of R. Eliezer?*
- [B] The first species that disappears from the field has imparted flavor to the last, [which is liable for removal at the same time as the vegetable that flavored it.]
- [C] *What is the reasoning of R. Joshua?*
- [D] The last species that disappears from the field has imparted flavor to the first.
- [E] *And there is this problem with the reasoning of R. Joshua: Doesn’t the first kind to disappear not impart flavor to the last kind to disappear?*
- [II:1 A] **Rabban Gamaliel says, “[As] each type [of vegetable] disappears from the field, one must remove that type [of vegetable] from the jar.” *It was taught on Tannaite authority: And the law is according to [Rabban Gamaliel’s] words.***
- [II:2 A] Hezekiah said, “Once one has begun to remove the produce in the stockpile, the whole stockpile is treated as if it was removed [and is ownerless property.]”

- [B] *A case came before R. Yosa and he ruled in accord with Hezekiah: “Not that a concur with him, but rather, from what I have seen, the rabbis decide cases in accord with his view.”*
- [II:3 A] *R. Isaac bar Redipah had a case. He came and asked R. Jeremiah. He said to him, “What’s going on? You have lions on whom to rely, yet you come and ask a fox.”*
- [B] *He came and asked R. Josiah. He said to him, “Find three friends [who will not take possession of the produce,] and in their presence renounce ownership of the produce.” [He can then reclaim the food.]*
- [C] *The Cappadocians in Sepphoris asked R. Imi, “Since this people of ours has no friends, and people do not greet each other, how can one carry out the removal so as not to lose possession of the produce[]?”*
- [D] *He said to them, “When you say that no one is around, go out to the market and renounce ownership over the produce. Then you can go back and take the produce again for yourself.”*
- [II:4 A] R. Haggai would divide oil or wine that had to be removed into small bottles.
- [B] R. Eliezer would divide oil or wine that had to be removed into small bottles.
- [II:5 A] R. Hezekiah went to R. Jeremiah. He said to him, “Give me possession of the stockpile of produce that I have stored up.”
- [B] He said to him, “Keep these coins that I am going to give you for me.”
- [C] *[After Hezekiah took the coins, Jeremiah] said to him, “Lo, by giving you this money the place in which your stockpile of produce is located is rented to me. By renting the store house have I not removed the produce from your possession? Go and take it back [and I hereby renounce ownership of it.]”*

9:5

- [A] **One who picks fresh herbs [of the Sabbatical year does not have to remove this produce] until the moisture [in the ground] (lit., sweetness dries up [in the late summer at which time no more fresh herbs are available. At this time people must remove fresh herbs from their homes].**

- [B] One who gathers dried plants [of the Sabbatical year does not have to remove this produce] until the second rainfall [in the autumn of the year following the Sabbatical, at which time the dried herbs in the field rot and are no longer available. At this time, people must remove dried herbs from their homes].
- [C] [One who picks fresh] leaves of reeds or leaves of vines [of the Sabbatical year does not have to remove this produce] until [the leaves in the field] fall off their stems.
- [D] And one who gathers dried [leaves of reeds or vines during the Sabbatical year does not have to remove this produce] until the second rainfall [of the year following the Sabbatical].
- [E] R. Aqiba says, “With respect to all [produce referred to above, that is, both fresh and dried herbs and leaves, one does not have to remove them] until the second rainfall.”
- [F] And likewise [the time of the second rainfall is determinative with respect to the following cases]:
- [G] One who leases a house to his fellow, “Until the rains” —
- [H] [the lessee retains possession of the house] until the second rainfall.
- [I] One who has vowed [not to] benefit from his fellow, “Until the rains” —
- [J] [the vow remains in force] until the second rainfall.
- [K] Until when may the poor enter the orchards [to collect the *peah*, gleanings, and forgotten sheaves left for them]?
- [L] Until the second rainfall.
- [M] After what time may they derive benefit from or burn straw and stubble of the Sabbatical year?
- [N] After the second rainfall [in the autumn of the year following the Sabbatical].
- [I:1 A] [One who picks fresh] leaves of reeds or leaves of vines [of the Sabbatical year does not have to remove this produce] until [the leaves in the field] fall off their stems: R. Abin in the name of R. Yohanan: “The law does not include leaves of reeds but rather only leaves of vines.”
- [B] Leaves of reeds are not subject to removal at all.
- [C] *So too it has been taught on Tannaite authority:* Leaves of reeds, sumac leaves and carob leaves are exempt from removal because produce of their species never disappears from the field.

- [II:1 A] **One who has vowed [not to] benefit from his fellow, “Until the rains” — [the vow remains in force] until the second rainfall.**
- [B] *R. Zeira asked, “If he said, ‘until the rain,’ is the vow valid only until the first rainfall?”*
- [C] *There we learned in the Mishnah: He who says, “Lo, I pledge myself to give some wood” [wood is plural] should give no less than two pieces [M. Sheq. 6:6A].*
- [D] *R. Yosé b. R. Abun said R. Abba bar Mamel asked, “If he said, ‘Lo, I pledge myself to give a wood’ may he give only one log?”*
- [E] *Said R. Eliezer, “The Mishnah said it: This single piece of wood is an offering unto itself, and that single piece of wood is an offering unto itself, as we find on Tannaite authority: At dusk, by eleven: it itself by nine, and two, with two pieces of wood in their hands [M. Yoma 2:5].*
- [II:2 A] *It is taught on Tannaite authority: R. Yosé says, “Whatever oath depends upon the second rain — once the second rain falls, and whatever does not depend upon the former rain — once the time of the second rain falls.”*
- [B] *It is taught on Tannaite authority: Rabban Simeon b. Gamaliel says, “Rains which fall on seven successive days without ceasing constitute the second rainfall” [T. Ta. 1:4].*
- [C] *It is taught on Tannaite authority by R. Hiyya in the name of Rabban Simeon b. Gamaliel: Why is it called *rebi’ah*? Because it fructifies the ground [T. Ta. 1:4].*
- [III:1 A] [After what time may they derive benefit from or burn straw and stubble of the Sabbatical year? After the second rainfall [in the autumn of the year following the Sabbatical]:] Said R. Hanina, “Once the second rain has fallen and straw that is in the fields has rotted and cannot be used as animal feed, what is collected in peoples’ houses is permitted.”
- [B] *It is taught on Tannaite authority by R. Hoshai: Even after three years straw of the Sabbatical year that is in homes is forbidden, until it rots.*
- [III:2 A] Straw of the Sabbatical year — they do not mix it in with plaster [to strengthen the plaster]. If one had already mixed it with plaster it is null.
- [B] That is the case if he kneaded it with the plaster.

- [C] Straw of the Sabbatical year — they do not place it in a mattress. If one had already placed it in a mattress, it is null.
- [D] That is the case if he already slept on it.
- [III:3 A] Straw of the Sabbatical year — what is the law as to whether it is subject to the restrictions of aftergrowths?
- [B] *R. Levi asked R. Abba bar Zebedee and he permitted it.*
- [C] *Said R. Zeira, “And I, who do not depend upon my own judgment, asked the members of the house of Carsana and they say, ‘We are accustomed to gather straw from the eve of the Sabbatical year. And when it runs out, we bring more straw from what is growing around the walls of our houses.’”*
- [D] Said R. Jeremiah, “*A Tannaite teaching say that it is permitted, for it has been taught on Tannaite authority: (1) Dyers and (2) fatteners [of animals] may buy coarse bran from any place and need not refrain [from doing so, even though the bran is produce of seventh year]. [T. Shebiit 5:8].*”
- [E] R. Jeremiah considered that this is permitted even in the case of a seller who is suspect of selling bran that is an aftergrowth.
- [F] Said to him R. Yosé, “They stated that rule only for a case in which the man doesn’t know whether or not the select is suspect of selling aftergrowths. If he is known not to be suspect, his bran is permitted, for it is surely not an aftergrowth. If it is certain that he is suspect of selling aftergrowths, it is forbidden to buy from him, since what he sells is an aftergrowth.”
- [G] *Said R. Shammai, “The Mishnah explicitly states that the aftergrowths are forbidden, for it is taught on Tannaite authority there: In [the case of fenugreek which is produce of] (1) the Seventh Year [of the Sabbatical cycle], or (2) of a vineyard in which were sown diverse kinds, or (3) [if it] is dedicated [to the Temple] — if the seed and stalk [together] are sufficient to impart flavor [to the wine, that wine is subject to the law of produce of the Seventh Year, diverse kinds, or that which is dedicated to the Temple] [M. Ter. 10:5].*
- [H] Doesn’t he turn out to waste what could have been eaten by animals? Interpret the case to involve animal feed used as food for humans.
- [I] *Said R. Mana, “Interpret the case to refer to produce of he Sabbatical year, thus you cannot derive from the passage anything about the law for aftergrowths of straw.”*

9:6

- [A] One who possesses produce of the Sabbatical year when the time for the removal [of that produce] arrives,
- [B] sets aside [sufficient] food for three meals for each [member of his household and then removes any remaining produce].
- [C] “And the poor may eat [this produce] after it has been removed, but not the rich,” the words of R. Judah.
- [D] R. Yosé says, “Poor and rich alike eat [of this produce] after it has been removed.”
- [E] One who possesses produce of the Sabbatical year which he received through an inheritance or which was given to him as a gift later [after the time for the removal of that produce has passed] —
- [F] R. Eliezer says, “[Such produce] is given to those who eat it, [that is, to those who received the inheritance or gift. They need not make these vegetables available for all to take as otherwise required by the law of removal].”
- [G] But sages say, “The sinner may not benefit from his transgression. [That is, the recipients of this gift or inheritance may not benefit from the produce, for it never was handled in accordance with the law of removal].
- [H] “Rather, [such produce] must be sold to those who eat it [that is, to the people who received this food as a gift or inheritance] and the money [received from this sale] must be divided among everyone. [This procedure assures that all benefit from the produce, not only those who originally received it as a gift or inheritance].”
- [I] One who eats dough [made from produce] of the Sabbatical year before its dough offering has been removed is subject to the death [penalty, in the form of extirpation; see Lev. 22:9, M. Hal. 1:9)].
- [I:1 A] *What is the scriptural basis for the position of R. Judah?*
- [B] “But the seventh year you shall let the land rest and lie fallow [that the poor of your people may eat and what they leave...]” (Ex. 23:11).
- [C] *What is the scriptural basis for the position of R. Yosé?*
- [D] “But the seventh year you shall let the land rest and lie fallow, that the poor of your people may eat; and what they leave...” (Ex. 23:11).
- [E] *It was taught as a Tannaite rule:* R. Simeon says, “The rich eat produce out of the storage pile after the time of removal” (Ex. 23:11) .

[F] *What is the scriptural basis for the position of R. Simeon?*

[G] “But the seventh year you shall let the land rest and lie fallow, that the poor of your people may eat; and what they leave...” (Ex. 23:11).

[II:1 A] **One who possesses produce of the Sabbatical year which he received through an inheritance or which was given to him as a gift later [after the time for the removal of that produce has passed] — R. Eliezer says, “[Such produce] is given to those who eat it, [that is, to those who received the inheritance or gift. They need not make these vegetables available for all to take as otherwise required by the law of removal].” But sages say, “The sinner may not benefit from his transgression. [That is, the recipients of this gift or inheritance may not benefit from the produce, for it never was handled in accordance with the law of removal]. Rather, [such produce] must be sold to those who eat it [that is, to the people who received this food as a gift or inheritance] and the money [received from this sale] must be divided among everyone. [This procedure assures that all benefit from the produce, not only those who originally received it as a gift or inheritance].” One who eats dough [made from produce] of the Sabbatical year before its dough offering has been removed is subject to the death [penalty, in the form of extirpation].**

[B] *R. Simeon b. Laqish said, “The Mishnah speaks of produce of transgression.”*

[C] *But thus it has been taught on Tannaite authority: One who finds produce of transgression is forbidden to touch it.”*

[D] *Finding produce is different from receiving produce of transgression against one’s will.*

[E] *R. Yohanan said, “The Mishnah speaks of produce that is permitted.”*

[F] *But note what we have learned in the Mishnah: — R. Eliezer says, “[Such produce] is given to those who eat it, [that is, to those who received the inheritance or gift. They need not make these vegetables available for all to take as otherwise required by the law of removal].” [The passage must refer to forbidden produce.]*

[G] *R. Eliezer was a Shammaite [and accepted the Shammaite rule that prohibits giving produce of the Sabbatical year as a gift. For we have learned in the Mishnah: The House of Shammai say, “They do not eat produce of the Sabbatical year [which was given by the owner*

of a field] as a favor” [M. Shebiit 4:2]. That is stated in accord with the position of the House of Shammai.

[H] If this is [as Yohanan said,] would sages respond to Eliezer,], **“The sinner may not benefit from his transgression”?**

[I] Sages reply to [Eliezer] according to his theory of the matter, [saying,] “In your theory, as you say ‘[The individual has transgressed so that this produce] just he given to those that eat it,’ [we answer,] if he is a sinner, a sinner must not benefit [by having his tainted produce distributed as charity].”

[III:2 A] Said R. Bib, “R. Yosé instructed concerning artichokes that were sold in violation of the law of aftergrowths that the money received for them must be thrown into the Dead Sea.”

[III:3 A] R. Mana asked R. Hezekiah, “What is the rule [on whether it is permitted during the Sabbatical year] to export date berries to Ashkelon?”

[B] He said to him, “It is forbidden.” {The berries are a food, and it is forbidden to export food.]

[III:4 A] [*During the Sabbatical year*] R. Hezekiah was standing in the market in Caesarea. He saw someone carrying forbidden produce from elsewhere and turned his back so as not to see it. The person went and unloaded the forbidden produce.

[B] *Why did Hezekiah do this?*

[C] So that he could carry out the rule, “The location of produce dictates its status.”

[D] R. Jacob bar Aha heard and said, “His mother should rejoice to have given birth to a son such as this.”

[III:5 A] R. Joshua b. Levi would instruct the disciples, “Bring me produce only from the garden of Sisera [which never belonged to Israelites and which is not subject to the requirements of the Sabbatical year].”

[B] [*Elijah the prophet*] of blessed memory came to him and said to him, “Go, tell your master, the garden does not belong to Sisera, it belonged to a Jew and Sisera killed him and took it from him. If you want to accepted a stringent rule, act like your colleagues [who do not buy produce from gentiles at all].”

[IV:1 A] One who eats dough [made from produce] of the Sabbatical year before its dough offering has been removed is subject to the death [penalty, in the form of extirpation].

[B] Someone was suspect of violating the law against eating aftergrowths of the Sabbatical year. He said to his wife, “Separate dough-offering from bread that you make from these aftergrowths].”

[C] She said to him, “You are suspect of violating the restrictions of the Sabbatical year, yet you tell me, ‘Separate dough-offering from bread that you make from these aftergrowths].’”

[D] He said to her, “The commandment to separate dough offering derives from the Torah. But the restriction against eating aftergrowths of the Sabbatical year derives from Rabban Gamaliel and his court.”

YERUSHALMI SHEBIT

CHAPTER TEN

10:1

- [A] The Sabbatical year cancels a loan [whether recorded] in a document or not.
- [B] A debt [owed to a] shopkeeper [that is, commercial credit] is not cancelled [by the Sabbatical year].
- [C] But if [the shopkeeper] converted it [that is, the debt] into a loan,
- [D] lo, this [loan] is cancelled [by the Sabbatical year].
- [E] R. Judah says, “[Each time a customer makes a purchase on credit from a shopkeeper] the preceding [debt which he owed that shopkeeper] is cancelled [by the Sabbatical year. That is, when a new debt is incurred by the buyer, his former debt automatically becomes a loan. The Sabbatical year cancels this loan].”
- [F] The [unpaid] wage of a hired laborer is not cancelled [by the Sabbatical year].
- [G] But, if [the laborer] converted it [the amount of his wage] into a loan,
- [H] lo, this [loan] is cancelled [by the Sabbatical year].
- [I] R. Yosé says, “[As regards] any work which ends during the Sabbatical year —
- [J] “[the unpaid wage for such work] is cancelled [by the Sabbatical year].
- [K] “But [as regards work] which does not end during the Sabbatical year [but rather after the Sabbatical year has ended,] —
- [L] “[the unpaid wage for such work] is not cancelled [by the Sabbatical year. Since the obligation to pay this money was incurred only after the Sabbatical year ended, this obligation is not cancelled.]”

- [M] **One who slaughters a heifer and divides it [among purchasers] of the New year [of the year following the Sabbatical] —**
- [N] **if the month was intercalated [i.e., if the last month of the Sabbatical year had an extra day so that the debt which the purchaser owed to the butcher in fact was incurred during the Sabbatical year],**
- [O] **[this debt] is cancelled [by the Sabbatical year].**
- [P] **But if [the month was] not [intercalated],**
- [Q] **[this debt] is not cancelled, [because the debt was incurred after the Sabbatical year had ended].**
- [R] **[The monetary penalties owed by] a rapist, seducer (cf. Ex. 22:15-16), one who defames [an Israelite virgin] (cf. Deut. 22:13-19) or any [payment enjoined by an] act of a court,**
- [S] **are not cancelled [by the Sabbatical year].**
- [T] **One who loans [money in exchange] for security and one who hands over his bonds to a court [for collection] —**
- [U] **[these loans] are not cancelled [by the Sabbatical year].**
- [I:1 A] **The Sabbatical year cancels a loan [whether recorded] in a document or not: *There is no problem with the rule that the Sabbatical year cancels a debt not recorded in a bond. But why should the Sabbatical year cancel a loan for which here is a bond? For it should be secured and in line with the following it should not be canceled: One who loans [money in exchange] for security and one who hands over his bonds to a court [for collection] — [these loans] are not cancelled [by the Sabbatical year].***
- [B] *Said R. Yohanan, “Interpret the Mishnah to speak of a bond that is not secured by real property, in accord with R. Meir: [If] one found bonds of indebtedness, “if they record a lien on [the debtor’s] property, he should not return them. For a court will exact payment on the strength of them. [If] they do not record a lien on property, he should return them, for a court will not exact payment on the strength of them,” the words of R. Meir [M. B.M. 1:6]*
- [C] *A case came before R., Yohanan concerning a loan for which there was a bond secured by real property and he ruled, “The Sabbatical year cancels this loan.”*
- [D] He said, “Because we learn a rule of law, should we follow that which we have deduced? [M. Shebiit 1:1A cancels the loan whether or not there is a bond, thus **The Sabbatical year cancels a loan [whether recorded] in a document or not.**]”

- [E] Said R. Jeremiah, “The Sabbatical year cancels a loan secured by a bond in a case in which the individual does not own any real estate. But if he owns real estate, the Sabbatical year does not nullify the loan.”
- [F] Said R. Yosé, Even if he owns real estate the Sabbatical year cancels the loan.”
- [G] *R. Yosé follows the view of Rab, for* said R. Abba in the name of Rab, “If one designated specific real estate that secures the bond, the Sabbatical year does not cancel the loan.”
- [H] They said only, “If one designated specific real estate that secures the bond, the Sabbatical year does not cancel the loan.” Lo, if he didn’t designate specific property to secure the bond, the Sabbatical year does not cancel the loan.
- [I:2 A]** He who pledged a field to his wife to be used in the event of divorce for payment of her marriage contract but then went and sold the property, if upon divorce she wants to collect her settlement from him out of other property that he owns, she may do so.
- [B] *Said R. Hila, “R. Eleazar decided the matter according to the following Tannaite masters: associates wanted [to establish that] she may collect her settlement only out of property that was pledged for that purpose [and should have recourse to the man who bought the property from her husband].”*
- [C] Said R. Yosé, “Unencumbered property is available to her [from her ex-husband] and yet you say she may collect her settlement only out of property that was pledged for that purpose.”
- [D] The case [A] is one in which the husband did not say to her, “You may collect your settlement only from this property, which I am pledging to you.” But if he said to her, “You may collect your settlement only from this property, which I am pledging to you,” she may collect only from the pledged property.
- [I:3 A]** He who pledged a field to his fellow [as security for a loan] and then went and sold it —
- [B] R. Aha said, “It is sold for the time being [and may be forfeited by the purchaser only if the borrower reneged on the loan].
- [C] R. Yosé said, “It is not sold for the time being.”
- [D] *Strengthening the position of R. Yosé is the following:* It is in the nature of oxen to run away. But it is not in the nature of a field to run

away. [The field will not disappear. The lender is in no rush to take the property and to relinquish his claim for payment for the buyer's use of it. The sale of the mortgaged field was not even temporarily valid. The individual who held the security interest will seize the field and also demand damages.]

[E] But consider if the field was sold to a powerful person. [The lender can't seize the field. The lender should be willing to seize the field and relinquish claims for damages.]

[F] Said R. Yudan father of R. Mattaniah, "It is the nature of powerful people to fall."

[I:4 A] *It was taught as a Tannaite rule:* He who pledged his field to his wife as security to be used in a divorce for payment of her marriage settlement, or who pledged his field to his credit as security against his debt and went and sold it, lo, it is sold for the time being. The purchaser must worry about his own claim to the field. [The sale is valid only while the seller is paying his debt or has not divorced his wife.]

[B] The Tannaite rule refers to a case in which the husband said to her, "You may collect your settlement from this property that I am pledging to you." [The husband did not pledge the field as the only security for the marriage contract or the loan. Even Yosé concurs that the sale is valid until circumstances disrupt it.]

[C] *Aha and Yosé differ* if the husband had said to her, "You may only collect our settlement from this property that I am pledging to you." [Then Yosé holds the sale is not even temporarily valid.]

[I:5 A] Rab said, "If a woman impaired the value of her marriage contract by accepting part payment but did not claim the payment so as to convert the balance into a loan, the balance is treated as a loan and canceled by the Sabbatical year. If she demanded payment and so converted the marriage contract into a loan, even though she did not accept partial payment, [the same is the case]."

[B] *R. Hiyya taught the Tannaite rule,* "Unless she both impaired the value of her marriage contract by accepting part payment and claimed the payment so as to convert the balance into a loan, it is not cancelled by the Sabbatical year."

[II:1 A] [With reference to the following: **R. Judah says, "[Each time a customer makes a purchase on credit from a shopkeeper] the preceding [debt which he owed that shopkeeper] is cancelled [by**

the Sabbatical year. That is, when a new debt is incurred by the buyer, his former debt automatically becomes a loan. The Sabbatical year cancels this loan].” Since he has crated a second debt, has the first debt automatically been converted into a loan [even though there was no demand for payment]?

[B] **[With reference to the following: One who slaughters a heifer and divides it [among purchasers] of the New year [of the year following the Sabbatical] — if the month was intercalated [i.e., if the last month of the Sabbatical year had an extra day so that the debt which the purchaser owed to the butcher in fact was incurred during the Sabbatical year], [this debt] is cancelled [by the Sabbatical year]. But if [the month was] not [intercalated], [this debt] is not cancelled, [because the debt was incurred after the Sabbatical year had ended].** Said R. Eleazar, “That is the view of R. Judah.”

[C] But is the butcher able to make a claim [for the original debt on New Year’s day? [No, it’s a festival. So Judah regards the prior debt to be converted into a loan even if the creditor does not claim for payment. He differs from Hiyya.]

[D] R. Abba in the name of R. Zeira: “Since the butcher is able to trust the purchaser to whom he gives meat on the festival day, it is as if he is able to make a claim against him. And since it is as though he is able to make a claim against him, it is as though the purchaser also is able to pay him. That is why the debt to the butcher is canceled, the debt has been converted into a loan. And here [Judah’s opinion registers,] since it is as though he is able to pay him and did not do so, the first debt is converted to a loan and is canceled by the sabbatical year.”

[III:1 A] **R. Yosé says, “[As regards] any work which ends during the Sabbatical year — [the unpaid wage for such work] is cancelled [by the Sabbatical year]. But [as regards work] which does not end during the Sabbatical year [but rather after the Sabbatical year has ended,] — [the unpaid wage for such work] is not cancelled [by the Sabbatical year. Since the obligation to pay this money was incurred only after the Sabbatical year ended, this obligation is not cancelled.]**

[B] R. Yohanan said, “It is reference to work such as ploughing [because it is forbidden in the Sabbatical year.”

[C] R. Simeon b. Laqish: “It refers to any work that has come to an end during the Sabbatical year.”

[IV:1 A] R. Judah says, “[Each time a customer makes a purchase on credit from a shopkeeper] the preceding [debt which he owed that shopkeeper] is cancelled [by the Sabbatical year. That is, when a new debt is incurred by the buyer, his former debt automatically becomes a loan. The Sabbatical year cancels this loan].” R. Yosé says, “[As regards] any work which ends during the Sabbatical year — [the unpaid wage for such work] is cancelled [by the Sabbatical year]. But [as regards work] which does not end during the Sabbatical year [but rather after the Sabbatical year has ended,] — [the unpaid wage for such work] is not cancelled [by the Sabbatical year. Since the obligation to pay this money was incurred only after the Sabbatical year ended, this obligation is not cancelled.]”

[B] Does R. Yosé agree with R. Judah, for R. Yosé said, “[As regards] any work which ends during the Sabbatical year — [the unpaid wage for such work] is cancelled [by the Sabbatical year].” [He holds the wages owing are treated as a loan and canceled by the Sabbatical year. He agrees with Judah.]

[C] Does R. Judah agree with R. Yosé?

[D] [No, for] even though R. Judah said that it is not the practice of the money changer to give out an issar unless he first collects the dinar that he is changing, he agrees in the case of wages that the wages are not owed until the end. [There is no previous debt to be canceled out.]

[V:1 A] One who slaughters a heifer and divides it [among purchasers] of the New year [of the year following the Sabbatical] — if the month was intercalated [i.e., if the last month of the Sabbatical year had an extra day so that the debt which the purchaser owed to the butcher in fact was incurred during the Sabbatical year], [this debt] is cancelled [by the Sabbatical year]. But if [the month was] not [intercalated], [this debt] is not cancelled, [because the debt was incurred after the Sabbatical year had ended].

[B] Rabbi says, “Nisan has never been intercalated in my lifetime.”

[C] *But we have learned in the Mishnah: If the new month of Nisan [heave offering] came in due time, they buy it back [with money] from the new heave offering [of the sheqels], but if not, [they buy it back with money] from the old [M. Sheq. 4:5].* [Nisan is sometimes intercalated.]

[D] Not at all, it did not come in due time.

- [V:2 A] Rab said, “Tishré has never been intercalated in his lifetime.”
- [B] *But we have learned in the Mishnah: One who slaughters a heifer and divides it [among purchasers] of the New year [of the year following the Sabbatical] — if the month was intercalated.*
- [C] **if the month was intercalated** — but it never was.
- [D] **Now when they sanctified the year in Usha, on the first day R Yohanán b. Beroqah passed [before the ark] and said it in accord with the view of R. Yohanán b. Nuri. Said Rabban Simeon b. Gamaliel, “That was not the custom which we followed in Yabneh.” So on the second day R. Hanina, son of R. Yosé the Galilean, passed [before the ark] and said the prayer in accordance with the opinion of R. ‘Aqiba. Then said Rabban Simeon b. Gamaliel, “Now that was the custom which we followed in Yabneh” [T. R.H. 2:11].**
- [E] So it is taught that they sanctified the New Year on the first day and on the second, so Tishré was intercalated.
- [F] R. Zeira in the name of R. Hisda: “That year was confused.”
- [G] What is the meaning of “on the first” and “on the second”?
- [H] R. Abba in the name of Rab: “The first year and the second year.”
- [I] *But it is taught on Tannaite authority, first day, second day, ,” not first year second year.*
- [V:3 A] If they sanctified the new month before the due time or a day after the month was intercalated, is it possible that the sanctified is valid? Scripture says, “Say to the people of Israel, The appointed feasts of the Lord that the Israelites shall proclaim as holy convocations, these are my appointed feasts” (Lev. 23:2). Thus: “you” — “You Israelites validly sanctify the holy convocations only if they are in fact m appointed feasts.
- [B] Prior to their due time, these are not my appointed feasts. Before the due time means on the twenty ninth day. A day after the month was intercalated means, on the thirty-second day.
- [V:4 A] How do we know that they intercalate the year by adding a second m month of Adar for the sake of the Exiles who set out from Babylonia to celebrate Passover in Jerusalem but who have not yet arrived?
- [B] Scripture says, “Say to the people of Israel, ‘The appointed feasts of the Lord, which the Israelites shall proclaim as holy convocations,

these are y appointed feasts” (Lev. 23:2) — carry out the appointed feasts in a way that allows all of the people of Israel to participate.

[C] Said R. Samuel bar Nahman, “But this is only if they have already reached the Euphrates River.”

[V:5 A] R. Jacob bar Aha, R. Immi in the name of R. Yuda: “If they sanctified the new month and afterward it turns out that the witnesses who testified that they had seen the new moon were a conspiracy of liars — lo, the sanctification is valid anyhow.”

[B] *R. Yosé was staying with R. Yuda bar Pazzi. He said to him, “Did you hear this from your father?”*

[C] *He said to him, “Yes.”*

[V:6 A] R. Abba in the name of R. Yohanan said, “A court does not investigate too closely the testimony of witnesses who report having seen the new moon.”

[V:7 A] **One who slaughters a heifer and divides it [among purchasers] of the New year [of the year following the Sabbatical] — if the month was intercalated [i.e., if the last month of the Sabbatical year had an extra day so that the debt which the purchaser owed to the butcher in fact was incurred during the Sabbatical year], [this debt] is cancelled [by the Sabbatical year]. But if [the month was] not [intercalated], [this debt] is not cancelled, [because the debt was incurred after the Sabbatical year had ended].** Said R. Eleazar, “This is the ruling of R. Judah. [During the Sabbatical year as new debts are incurred, preceding debts to a shopkeeper are canceled.]”

[B] On the New Year could the butcher claim payment of the debt? [No, it’s a holiday. So Judah would not hold that the debt is converted into a loan and is canceled by the Sabbatical year.]

[V:8 A] R. Abba bar Mamel, Amram, R. Mattenah in the name of Rab: “He who makes a loan to his fellow on condition that he will not demand payment — the Sabbatical year in any event nullifies the loan.”

[B] *And so it is taught as a Tannaite statement: **One who slaughters a heifer and divides it [among purchasers] of the New year [of the year following the Sabbatical] — if the month was intercalated [i.e., if the last month of the Sabbatical year had an extra day so that the debt which the purchaser owed to the butcher in fact was incurred during the Sabbatical year], [this debt] is cancelled [by the Sabbatical year].*** [The debt is canceled even though there was no demand for payment.]

- [V:9 A] Said R. Eleazar, “This is the ruling of R. Judah. [During the Sabbatical year as new debts are incurred, preceding debts to a shopkeeper are canceled.]”
- [B] On the New Year could the butcher claim payment of the debt? [No, it’s a holiday. So Judah would not hold that the debt is converted into a loan and is canceled by the Sabbatical year.]
- [C] That is in line with what R. Abba said in the name of R. Zeira, “Since the butcher is able to trust [the purchaser to whom he gives meat on the festival day,] it is as though he is able to make a claim against him. And since it is as though he is able to make a claim against him, it is as though the purchaser also is able to pay him.”
- [D] And here [in the opinion of Judah] since it is as though he is able to pay him and he did not pay him, the first debt is converted to a loan and is canceled by the Sabbatical year.
- [V:10 A] R. Yosé b. R. Abun in the name of Rab: “He who lends money to his fellow on condition that the Sabbatical year will not annul the loan — the Sabbatical year annuls the loan.”
- [B] *But we have learned in the Mishnah: How are witnesses treated [punished] as perjurers? [If they had said,] “We testify concerning Mr. So-and-so, that he owes his fellow a thousand zuz, on condition that he will pay him in thirty days,” and the accused says, “... in the next ten years,” they make an estimate of how much a man is willing to pay for the use of a thousand zuz, whether he pays them in thirty days or in ten years [M. Mak. 1:1]. [Now can ten years pass without a Sabbatical year? [Not every loan is canceled, so Rab is wrong.]*
- [C] *Said R. Huna, “R. Nahman bar Jacob and R. Sheshet differed [on M. Mak. 1:1].*
- [D] *One said, “The loan is valid through the Sabbatical year because it was a secured loan.”*
- [E] *The other said, “The loan is valid through the Sabbatical year because the borrower wrote out a Prosbol.”*
- [V:11 A] *It was taught: “Thirty days — one does not come.”*
- [B] What is the meaning of this statement: “Thirty days — one does not come”?

- [C] Samuel said, “[The meaning is:] ‘He who lends funds to his fellow without specification on the length of the term has not got the right to lay claim on him within the first thirty days of the loan.’”
- [D] *R. Judah entered and stated*, “The Scriptural basis for this position is as follows: ‘The seventh year, the year of release, *is near*’ (Deut. 15:9).
- [E] “Now is not the seventh year the same as the year of release?”
- [F] “So why does Scripture specify, as it does, ‘The seventh year, the year of release, *is near*’?”
- [G] “It is so that you should not say, ‘Throughout the thirty days of the loan [made on unspecified terms], one has not got the power to collect it. After the thirty days have passed, it will be subject to the release of debts so that one cannot collect the debt.’ On this account it was necessary to specify, ‘The seventh year’ and ‘the year of release’ ‘*is near*,’ [that is, to indicate that when there is an unspecified term it is for thirty days].”
- [H] [Now if that is the purpose imputed to the cited verse, how shall we deal with the following problem:] For did not R. Ba bar Mamal, R. Amram, R. Mattenah in the name of Rab say: “He who lends money to his fellow on condition that he will not lay claim on him, [nonetheless] the Sabbatical year remits that debt? [Now if this took place within thirty days of the advent of the Sabbatical year, it is as if the loan was made on condition that the lender has made the condition of not laying claim on the borrower. For through the thirty-day period he cannot lay claim, and afterward the Sabbatical year comes.]”
- [I] *The following teaching is available [to account for Rab’s position:] R. Ishmael taught*, “‘The seventh year, the year of release, *is near* — Now is not the seventh year the same as the year of release? So why does Scripture specify, as it does, ‘The seventh year, the year of release, *is near*’?”
- [J] “It is so that [a farmer] will not say, ‘All six years [prior to the Sabbatical year,] one’s vineyard is available, his field is available, [to support him]. Now at the end of six years, funds owing to him are remitted, so that he may not collect them! [If so, how is he supposed to survive?]
- [K] “On that account it is necessary to say, ‘The seventh year, the year of release, *is near* [in reply to this complaint]. [And there is no other lesson to be derived from the cited verse, which simply addresses the stated complaint and yields no further laws.]”

[VI:1 A] **[The monetary penalties owed by] a rapist, seducer (cf. Ex. 22:15-16), one who defames [an Israelite virgin] (cf. Deut. 22:13-19) or any [payment enjoined by an] act of a court, are not cancelled [by the Sabbatical year].**

[B] R. Judah said Rab [said], “This is the position of R. Meir, for R. Meir said, ‘The matter is treated as a loan.’”

[VII:1 A] **or any [payment enjoined by an] act of a court, are not cancelled [by the Sabbatical year]:**

[B] This refers to judgments of the court paid to a plaintiff.

[VII:2 A] This is clear: A loan that has been proven by a court [despite the debtor’s denial] is not canceled by the Sabbatical year.

[B] But an obligation that has been verified by a court that was converted into a loan is canceled by the Sabbatical year.

[C] *R. Jeremiah raised the question:* What is the rule [for such loans in the other six years of the Sabbatical cycle]?”

[D] *That is a question in the following:* An obligation that has been proven by the court and converted into a loan — may it be collected only from property of average fertility or from choice property as well?

[VII:3 A] **One who loans [money in exchange] for security and one who hands over his bonds to a court [for collection] — [these loans] are not cancelled [by the Sabbatical year]:**

[B] Samuel said, “Even on the security of a needle.”

[VII:4 A] “But whatever of yours is with your brother your hand shall release” (Dt. 15:3) — that excludes that for which your brother has something in your hand.

10:2

[A] **[A loan against which] a *Prosbol* [has been written, thereby authorizing a court to collect the loan on the lender’s behalf,] is not cancelled [by the Sabbatical year].**

[B] **This is one of the things which Hillel the Elder has instituted.**

[C] **When he saw that [shortly before the Sabbatical year began] people refrained from lending one another money [because they knew that their loans would be cancelled and they would lose their money,]**

- [D] [with the result that] they transgressed that which is written in the Torah, “Beware lest you harbor the base thoughtÖ [and so you are mean to your kinsman and give him nothing” (Dt. 15:9),]
- [E] Hillel instituted the *Prosbol*. [By allowing courts to collect outstanding loans on behalf of the creditor, this document enabled lenders prior to the Sabbatical year to grant loans that would not be cancelled.]
- [F] This is the text of the *Prosbol*:
- [G] “I transfer to you, Messrs. X and Y, judges in such-and-such a place, every debt which I have [i.e., which is owed to me] so that I may collect [the money owed me] anytime I wish.”
- [H] And the judges or the witnesses sign below.
- [I:1 A] “But whatever of yours is with your brother your hand shall release” (Dt. 15:3) — on this basis they deemed the *prosbol* to derive from the Torah.
- [B] Is the *prosbol* found in the Torah?
- [C] When Hillel legislated the *Prosbol*, he related it to that which he found in the Torah.
- [I:2 A] *Said R. Huna, “I asked before R. Jacob bar Aha, ‘In the view of him who holds that [in the period after the return from Babylonia under Ezra, the requirement to separate tithes] is on the authority of the Torah, has Hillel ordained that which usurps the authority of the Torah?’ [The laws of the Sabbatical year are in the same category as the tithing laws.]*
- [B] *Said R. Yosé, “But when the Israelites were exiled from the land of Israel to Babylonia, were they not exempted only from the commandments that apply exclusively to the land? But canceling debts in the Sabbatical year is imposed by the authority of the Torah both in the land and outside of the land.”*
- [C] *R. Yosé reversed himself and said, ““And this is the manner of the release: every creditor shall release’ (Dt. 15:2). The repetition of the word ‘release’ indicates that during the period that the Sabbatical restrictions apply on the authority of the Torah, the release of debts applies both within the land and outside on the authority of the Torah. When the Sabbatical restrictions apply only on the authority of the rabbis’ statements, the release of debts applies both inside and outside the land of Israel on the authority of the rabbis.”*

- [D] *There they say*, Even one who holds that the obligation to separate tithes is on the authority of the Torah agrees that the cancellation of debts now is on Rabbinic authority alone [and Hillel had the right to abrogate the cancellation of debts].
- [I:3 A] “And this is the manner of the release: every creditor shall release” (Dt. 15:2). Rabbi says, “[The repetition of the word], ‘release’ indicates that there are two releases, the Sabbatical year’s release of debts and the Jubilee year’s release [of sold inherited property].
- [B] “When the Jubilee year is observed, the Sabbatical year’s release of debts was observed on the authority of the Torah. When the Jubilee is nullified, the Sabbatical year’s release of debts was observed only on the authority of the Rabbis.”
- [C] When was the Jubilee year nullified?
- [D] “And you shall proclaim liberty throughout the land to all the inhabitants thereof” (Lev. 25:10) — when all of the land of Israel’s inhabitants are in it, you proclaim liberty, and not after they have gone into exile from it.
- [E] When the Israelites were in the land but were confused among one another, with the tribe of Judah located in Benjamin and the tribe of Benjamin in Judah, is it possible to suppose that the Jubilee year would be separated?
- [F] Scripture says, “And you shall proclaim liberty throughout the land to all the inhabitants thereof” (Lev. 25:10) — [the Jubilee applies when all its inhabitants were properly settled in their own territories.]
- [G] Scripture says, “And you shall proclaim liberty throughout the land to all the inhabitants thereof” (Lev. 25:10) — you turn out to say, once the tribe of Reuben, the tribe of Gad, and the half-tribe of Manasseh went into exile, the Jubilee year was annulled.
- [II:1 A] **This is the text of the *Prosbol*: “I transfer to you, Messrs. X and Y, judges in such-and-such a place, every debt which I have [i.e., which is owed to me] so that I may collect [the money owed me] anytime I wish.” And the judges or the witnesses sign below.**
- [B] R. Hezekiah in the name of R. Jeremiah: “Even if the loan documents are located in Rome [the court will issue a *Prosbol*.”
- [II:2 A] R. Abba in the name of rabbis from there: “Three who formed a court but before the papers could be signed one of them died, the remaining

two sign the document. And they state, ‘Even though we signed as a court of two, we passed judgment as a course of three.’”

- [B] *Said R. Haggai, “The Mishnah makes that point: **And the judges or the witnesses** [in place of the dead judge] **sign below.***
- [C] Do we learn the general rule for all cases from the particular regulation of the Prosbol?
- [D] *It is taught on Tannaite authority: we learn the general rule for all cases from the particular regulation of the Prosbol?*

[III:3 A] If the borrower owns real estate, but the lender does not, they write a *Prosbol* against [such a loan]. [But] if the lender owns real estate, but the borrower does not, they do not write a *Prosbol* against [such a loan]. [If] he [i.e., the borrower] does not own real estate but his bondsmen or his debtors own real estate, they write a *Prosbol* against [such a loan] [T. Shebiit 8:9].

- [B] *What is a practical case?*
- [C] Reuben owes money to Simeon and Levi owes money to Reuben. Reuben has no real estate but Levi has real estate. They write a Prosbol for Simeon [so he can collect from Reuben] on the basis of the property of Levi.

10:3

- [A] **An ante-dated *Prosbol* is valid. [By placing an earlier date on the *Prosbol* the creditor limits his own right to collect loans outstanding between the date recorded on the document and the date on which it actually was written].**
- [B] **But a post-dated *Prosbol* is invalid. [By placing a later date on the *Prosbol*, the creditor would gain the right, to which he is not entitled, to collect loans which he had not yet made at the time the document was written].**
- [C] **Ante-dated bonds are invalid. [By ante-dating the document, the creditor gains rights, to which he is not entitled, against the property of his debtor].**
- [D] **But post-dated bonds are valid. [By post-dating the document, the creditor voluntarily restricts his own legal rights against his debtor’s property].**
- [E] **[If] one person borrows money from five persons, he writes a [separate] *Prosbol* for each [of the creditors].**

- [F] [But if] five persons borrow money from one [creditor], he writes a single *Prosbol* for all [of the debtors].
- [G] They write a *Prosbol* only on [condition that the borrower owns] real estate. [The borrower's land is regarded as a temporary repayment of the loan for the period of the Sabbatical year. This renders the loan exempt from cancellation (see M. 10:2H-I) and enables the lender, by means of the *Prosbol*, to collect the money owed him.]
- [H] If [the borrower] has no [land,]
- [I] he [the lender] transfers [to the borrower] some [miniscule] amount [of property] from his field [which enables the lender to write a *Prosbol*].
- [J] If [the borrower] had a field in the locale [which he was holding] as security [for another loan, which was owed him,]
- [K] they write a *Prosbol* relying upon [such property].
- [L] R. Huspit says, "They write [a *Prosbol*] (1) concerning a man [who has borrowed money] relying upon his wife's property and (2) concerning orphans [who have borrowed money] relying upon the property of [their] guardians."
- [M] [As regards] a bee hive [which sits on the ground but is not attached to it] —
- [N] R. Eliezer says, "Lo, it [has the same status] as real estate, and [therefore], (1) "they write a *Prosbol* against it [cf. M. 10:4,] (2) "it is not susceptible to uncleanness [so long as it remains] in its place, (3) "and one who removes [honey] from it on the Sabbath is liable [for violating the prohibition against reaping; cf. M. Shab. 7:2]."
- [O] But sages say, "It does not [have the same status] as real estate, and [therefore], (1) "they do not write a *Prosbol* against it, (2) "it is susceptible to uncleanness [even if it remains] in its place, (3) "and one who removes [honey] from it on the Sabbath is exempt [from violating the prohibition against reaping]."
- [P] One who repays a debt during the Sabbatical year [even though he has no legal obligation to do so] —
- [Q] [the lender] must [refuse to accept payment and] say to him, "I cancel [the debt]."
- [R] [If the borrower then] said to him, "Even so [I will repay it],"
- [S] he may accept it from him.

- [T] As it is written, “And this is the word of remission” (Deut. 15:2). [This verse provides a basis for the rule at A-D, that the lender must verbally notify the borrower that the latter is not obligated to repay the loan].
- [U] Likewise [the same rule applies in the following case]:
- [V] A murderer who went into exile in a city of refuge (cf. Num. 35:9-24),
- [W] and whom the inhabitants of the city wished to honor,
- [X] must [refuse to accept the honor and] say to them, “I am a murderer.”
- [Y] [If then] they said to him, “Even so [we wish to honor you],”
- [Z] he may accept [the honor] from them.
- [AA] As it is written, “And this is the word of the murderer,” (Deut. 19:4). [This verse provides a basis for the rule at that the person must verbally notify the residents of the city that he is a murderer and so not entitled to receive the honor].
- [I:1 A] An ante-dated *Prosbol* is valid: that is because it limits his rights.
- [B] But a post-dated *Prosbol* is invalid: that is because it extends his rights.
- [C] Ante-dated bonds are invalid: that is because they extend his rights.
- [D] But post-dated bonds are valid: that is because they limit his rights.
- [I:2 A] Who places limits on the rights of the creditor by testifying that the document is improperly dated?
- [B] Simeon bar Vava in the name of R. Yohanan: “Those who signed the document.”
- [C] Did not R. Simeon b. Laqish say, “They treat the signatures of witnesses to a document as persons whose testimony had been examined in a court of law [and found valid. So the witnesses cannot come later on and testify that the document is invalid.]”
- [D] There [Simeon b. Laqish refers to witnesses who] claim, “We did not sign this document at all.” But here we accept their testimony since they say, “We signed concerning this aspect of the document, the parties involved, but we did not sign concerning that aspect, e.g., the date.”
- [I:3 A] Ante-dated bonds are invalid:

- [B] R. Yohanan said, “They are utterly invalid [and create no security interest in the debtor’s property, even for the period of time after the date on which it was actually signed.]”
- [C] R. Simeon b. Laqish said, “One counts only from the time it was actually written [and creates a security interest in the debtor’s property, for the period of time after the date on which it was actually signed.]”
- [D] *And has it not been taught as a Tannaite rule:* A Prosbol whether ante-dated or post-dated is valid, and one counts it as invalid only up to the time that it actually was written. [This doesn’t mention bonds.]
- [E] If you say the same applies to bonds, what is the difference between a Prosbol and a bond?

[I:4 A] **A writ that is dated on the Sabbath or on the tenth of Tishré [the Day of Atonement]—**

- [B] **R. Judah declares valid.**
- [C] **And R. Yosé declares invalid.**
- [D] **Said to him R. Judah, “Such a case came before you in Sepphoris, and you declared the deed to be valid!”**
- [E] **Said to him R. Yosé, “I never declared such a writ to be valid. But if I did declare it valid, so I declared it valid” [T. Mak. 1:3].**
- [F] *They wanted to state,* He who says it is valid [Judah] assumes it is post-dated [and M. states, **post-dated bonds are valid**].
- [G] He who says it is invalid [Yosé] assumes it is antedated [and M. states, **Ante-dated bonds are invalid**].
- [H] Rather, he who says it is invalid holds that it is forged.

[II:1 A] **They write a *Prosbol* only on [condition that the borrower owns] real estate:**

- [B] Rab said, “That is when the creditor and debtor both own real state.”
- [C] R. Yohanan said, “If the lender owns real estate even though the debtor does not own real estate, or if the debtor owns real estate, even though the lender does not own real estate.”

[II:2 A] **If the borrower owns real estate, but the lender does not, they write a *Prosbol* against [such a loan]. [But] if the lender owns real estate, but the borrower does not, they do not write a *Prosbol* against [such a loan]. [If] he [i.e., the borrower] does not own real**

estate, but his bondsmen or his debtors own real estate, they write a *Prosbol* against [such a loan] [T. Shebiit 8:9].

[II:3 A] R. Abba in the name of Rab: “He who has enough real estate to grow a single stalk within his field — they write a *Prosbol* for him.”

[B] *But it is taught on Tannaite authority:* Partners [in ownership of property], tenant farmers, and guardians of the property of orphans do not write a *Prosbol*.”

[C] *They say, there* each tiny bit of property belongs jointly to the partnership [and not to the individuals]. *But here* [Rab speaks of a case in which] the tiny amount of real estate actually is his alone.

[II:4 A] What is the law as to writing a *Prosbol* for the guardians against the orphans’ real estate?

[B] *Let us derive the rule from the following:* **They write [a *Prosbol*] concerning a man [who has borrowed money] relying upon his wife’s property.**

[C] What is the law as to writing a *Prosbol* for a wife against her husband’s real estate?

[D] *Let us derive the rule from the following:* **concerning orphans [who have borrowed money] relying upon the property of [their] guardians**

[III:1 A] [As regards] a bee hive [which sits on the ground but is not attached to it] — R. Eliezer says, “Lo, it [has the same status] as real estate, and [therefore], (1) they write a *Prosbol* against it [cf. M. 10:4,] (2) it is not susceptible to uncleanness [so long as it remains] in its place, (3) and one who removes [honey] from it on the Sabbath is liable [for violating the prohibition against reaping; cf. M. Shab. 7:2].” But sages say, “It does not [have the same status] as real estate, and [therefore], (1) they do not write a *Prosbol* against it, (2) it is susceptible to uncleanness [even if it remains] in its place, (3) and one who removes [honey] from it on the Sabbath is exempt [from violating the prohibition against reaping].”

[B] R. Abbahu in the name of R. Simeon b. Laqish: “*The Scriptural basis for the ruling of R. Eliezer is,* ‘And when the people entered the forest, behold the honey was dripping’ (1 Sam. 14:26).”

[C] *What do you infer from this verse?*

[D] Said R. Mana, “The forest yields honey.”

[E] And if [Simeon b. Laqish] had cited “And Jonathan put forth the tip of the staff that was in his hand and dipped it in the honeycomb” (1 Sam. 14:27), it would have been better.

[F] R. Yosé b. R. Abun in the name of R. Simeon b. Laqish said, “Interpret it this way: ‘And Jonathan put forth the tip of the staff that was in his hand and dipped it in the honeycomb.’”

[III:2 A] [As regards] a bee hive [which sits on the ground but is not attached to it]: *With what sort of case do we deal? If it is attached to the ground, then all parties concur that it is like the ground. If it is set on set on two pegs, all parties concur that it is not in the status of immovable property. Rather, this is the case with which we deal: the beehive is resting on the ground but is not physically attached to it. [The sages treat it as a case in which it is standing on pegs.]*

[III:3 A] *This accords with what R Zeira said in the name of R. Jeremiah: “They write a Prosbul against the location of an oven or a stove.”*

[B] R. Huna bar Adda said, “Even against the location of a lamp.”

[III:4 A] and one who removes [honey] from it on the Sabbath is exempt [from violating the prohibition against reaping:

[B] Does the same dispute of R. Eliezer and sages [about harvesting the honey by removing it from the beehive] apply to removing bread from an oven?

[C] No, for honey is the product of the beehive, while bread is not the product of the oven.

[IV:1 A] One who repays a debt during the Sabbatical year [even though he has no legal obligation to do so] — [the lender] must [refuse to accept payment and] say to him, “I cancel [the debt].” [If the borrower then] said to him, “Even so [I will repay it],” he may accept it from him.

[B] R. Huna said, “He must speak in a quiet voice, with his right hand out to accept [the payment].”

[V:1 A] Likewise [the same rule applies in the following case]: A murderer who went into exile in a city of refuge (cf. Num. 35:9-24), and whom the inhabitants of the city wished to honor, must [refuse to accept the honor and] say to them, “I am a murderer.” [If then] they said to him, “Even so [we wish to honor you],” he may accept [the honor] from them. As it is written, “And this is the word of the murderer,” (Deut. 19:4). [This verse provides a basis for the

rule at that the person must verbally notify the residents of the city that he is a murderer and so not entitled to receive the honor]:

[B] *Said R. Yosé, “That is to say, someone who learned to repeat one tractate and went to a place where the people wished to honor him for having memorized two tractates must say to them, ‘I know only one tractate.’”*

10:4

[A] **[As regards] one who repays a debt during the Sabbatical year [even though he has no legal obligation to do so] —**

[B] **the sages are pleased with him.**

[C] **One who borrows [money] from a convert whose children converted with him need not repay [the money owed the father] to his children [if the father dies before the loan comes due. Upon conversion, the father and his children are regarded as born again, with the result that their prior familial ties are not recognized by the law. The children thus do not share in his estate and so are not legally entitled to receive the money owed to their father.]**

[D] **But if [the debtor] repaid [the children, for a debt owed to their father, even though he was not legally obligated to do so,]**

[E] **the sages are pleased with him.**

[F] **All chattels are acquired through drawing [them into one’s possession. That is, only when the buyer draws the item that he purchases toward him is the transaction formally concluded.]**

[G] **But [as regards] anyone who stands by his word [and does not withdraw from a sales agreement before the buyer has drawn the item toward him, even though either party to the transaction has the legal right to do so] —**

[H] **the sages are pleased with him.**

[I:1 A] **One who borrows [money] from a convert whose children converted with him need not repay [the money owed the father] to his children [if the father dies before the loan comes due. But if [the debtor] repaid [the children, for a debt owed to their father, even though he was not legally obligated to do so,] the sages are pleased with him: R. Eleazar says, “That is the case in particular if he repaid the convert’s sons.”**

[B] **What is the meaning of, “That is the case in particular if he repaid the convert’s sons”?**

- [C] If he has sons, the debtor should repay the sons. If he has no sons, he should repay the daughters.
- [D] It is so that you will not say, “Since the inheritance of the convert is not subject to the law of the Torah [which assigns inheritance to the sons,] the debt should be repaid to all his children equally.”
- [I:2 A] Along these same lines:
- [B] He who dies at the end of his family line and he has no heir except for his mother — those who owe him money do not have to repay the debt [the mother does not inherit from the sons]. But if he repaid the debt, the sages are pleased with him.
- [I:3 A] The thief who repented and wanted to repay the stolen items —
- [B] the one who receives them in return, the sages are not pleased with him.
- [I:4 A] **All chattels are acquired through drawing [them into one’s possession. But [as regards] anyone who stands by his word [and does not withdraw from a sales agreement before the buyer has drawn the item toward him, even though either party to the transaction has the legal right to do so] — the sages are pleased with him.**
- [B] R. Hiyya in the name of R. Yohanan said, “He who withdraws from a deal — sometimes the sages are not pleased with him, and sometimes you judge more harshly and say that he is only to be turned over to the one who exacted punishment [from the Generation of the Flood and the Generation of the Dispersion will exact punishment from one who does not keep his word.”
- [I:5 A] R. Zeira, R. Abbahu in the name of R. Yohanan: “He who gives a ring as a pledge [but neither takes nor pays for the goods] and later retracts may retract.”
- [B] R. Zeira asked in the presence of R. Abbahu, “[Does the same rule apply if he gave the seller] gold?”
- [C] He said to him, “It applies only in the case of a ring. [But the seller may keep the gold if the buyer retracts from the deal.]”
- [D] What’s the difference between gold and a ring?
- [E] Gold customarily changes hands. A ring is unique [and the buyer expects to get it back].

- [I:6 A] R. Jacob bar Zebedee, R. Abbahu in the name of R. Yohanan: “He who promised to give a present to his fellow and wanted to retract may retract.”
- [B] R. Yosé engaged with R. Jacob bar Zebedee. They said to [Yohanan], “Isn’t this a case to which we invoke, ‘a just ephah and a just hin’ (Lev. 19:36)?” [He has to keep his promise.]
- [C] [Yohanan] said, “When he made the promise, it was ‘a just hin.’”
- [D] *Rab differs, for* Rab said, “When I tell the members of my household that I intend to give someone a gift, I don’t go back on my word.”
- [E] *A Tannaite passage contradicts Rab: Under what circumstances did they rule, Movables are acquired through drawing? In the public domain or in a courtyard which does not belong to either one of them. But if it is the domain of the purchaser, once he has taken upon himself [to pay the agreed upon sum], he has acquired the thing. [And if it is] in the domain of the seller, once he has raised up the object or after he has taken it out from the domain of the owner [it has been acquired]. In the domain of this one in whose hands the bailment is located, an act of acquisition is carried out when he [the owner] will have taken it upon himself [to allow the buyer a portion of the premises to effect an acquisition] or when he [the purchaser] will have rented their place for himself [T. Qid. 1:8].*
- [F] *How does Rab deal with this passage?*
- [G] Here it is a case in which the other party was together with him [and the promise cannot be retracted] but there it is a case in which the other party was not together with him [and he may retract his promise].
- [I:7 A] *Rab differs, for* Rab said, “When I tell the members of my household that I intend to give someone a gift, I don’t go back on my word.”
- [B] You may know that that is so: *For someone left a pledge for a deal involving the purchase of salt. The salt went up in price, [and the seller wished to get out of the deal and renegotiate the price].* He said to him, “Either the seller gives the purchaser all the salt paid for by the pledge or a court will turn him over to Him who exacted punishment.”
- [C] *The positions of Rab conflict. There he said,* “When I tell the members of my household that I intend to give someone a gift, I don’t go back on my word.” *And here he has said this* [“Either the seller gives the purchaser all the salt paid for by the pledge” — thus ignoring the

original deal and limiting the transaction to the salt covered by the pledge].

[D] There Rab ruled according to the requirement of the law. But on his own Rab conducted himself in accord with the standard of true piety.

TRACTATE

TERUMOT

The agricultural dues to which tractate *Ma'aserot* in general makes reference are assigned to God's dependents, specifically the sacerdotal castes, priests, and Levites, and to the poor; and they are further used to support the holy city, Jerusalem, by securing an enhanced supply of food and an increased flow of funds to the city. In addition, obligatory and votive offerings for the Temple, both in specie (Temple coin) and the produce of nature (animals, wine, and grain), support the temple buildings and the cycle of regular offerings that are maintained in the city. The upshot is, Israel in the Holy Land, God's partners in the possession of the country and its abundance, give back to Heaven through designated castes, locations, and activities, God's share in the whole. All this the holy people do both in obedience to God's commandments and also on their own initiative.

Among the various agricultural tithes and offerings, the single most important is the priestly ration, conventionally called "heave-offering." This is the offering that, as a matter of chance and not deliberate selection, is raised, or heaved-up, out of the crop. The heave-offering, also to be rendered as "priestly rations," consists of food set aside and so sanctified as God's portion of the Israelite's crop and assigned by God as food for the priesthood and their families. The rules of cultic cleanness pertain: the food must be eaten in a state of cultic cleanness by the holy family and only by the priest and his household.

(Cultic cleanness forms a dimension of the sanctification of the Israelite household because not just the priests eat priestly rations in a condition of cultic cleanness; some ordinary Israelite people eat ordinary food in a condition of cultic cleanness.)

The portion is not deliberately selected by designation but by a random sample of the crop, deemed by reason of its accidental, unintended character to represent God's choice, as random events in Scripture and in the halakhah are deemed to embody God's intention. But when it comes to the act of designating that portion of the crop that is to serve as the required heave-offering, intentionality plays a critical role, as we shall see when we examine the halakhah. Avery-Peck summarizes, "The tractate prescribes how Israelites are to designate a portion of their produce to be heave-offering and outlines their responsibility to protect it from common use until they convey it to the priest."

(This translation rests on the research of Alan J. Avery-Peck, published in the following books: Alan J. Peck, *The Priestly Gift in Mishnah. A Study of Tractate Terumot* (Scholars Press for Brown Judaic Studies; Chico, Calif: Scholars, 1981), and Alan J. Avery-Peck, *The Talmud of the Land of Israel: A preliminary Translation and Explanation, Terumot* (Gen. Ed. Jacob Neusner; Vol. 6; Chicago: University of Chicago Press, 1988), 1.)

The pertinent verses of Scripture are found in Num 18:

Then the LORD said to Aaron, “And behold, I have given to you whatever is kept of the offerings made to me, all the consecrated things of the people of Israel; I have given them to you as a portion, and to your sons as a perpetual due. This shall be yours of the most holy things, reserved from the fire; every offering of theirs, every cereal offering of theirs and every sin offering of theirs and every guilt offering of theirs, which they render to me, shall be most holy to you and to your sons. In a most holy place you shall eat of it; every male may eat of it; it is holy to you. This also is yours, the offering of their gift, all the wave offerings of the people of Israel; I have given them to you and to your sons and daughters with you, as a perpetual due; every one who is clean in your house may eat of it. All the best of the oil, and all the best of the wine and of the grain, the first fruits of what they give to the LORD, I give to you. The first ripe fruits of all that is in their land, which they bring to the LORD, shall be yours; every one who is clean in your house may eat of it. (Num 18:8–13, RSV)

Accordingly, the heave-offering is holy and belongs to the priests, and is to be eaten in a state of cultic cleanness by the priest and his household.

How then are the individual Israelites to separate and take care of the offering so that the priest will receive and use it? That is the question before us. But the matters that the halakhah takes up for its own are: first, how a quantity of produce becomes sanctified; second, what happens when such produce is mixed with common food; and third, more broadly, what to do when produce designated as heave offering is used as if it were secular food and so is eaten by a non-priest? Stating the issues in more general terms: First, how does Israel transform the profane into the sacred? And second, what are the consequences of sanctification? To signal the answers in advance; first Israel transforms the profane into the sacred by an act of will, and second, what is sanctified must fulfill the purpose for which the thing that is subject to sanctification was first created. In this manner, we deal with the two dimensions of teleology; first, man’s purpose for a component of the natural world of the Land and, second, God’s purpose for that same thing.

YERUSHALMI TERUMOT

CHAPTER ONE

1:1

- [A] Five [classes of people] may not separate heave-offering,
[B] and if they separated heave-offering, that which they have separated is not [valid] heave-offering:
[C] (1) a *heresh*, (2) an imbecile, (3) a minor,
[D] and (4) one who separates heave-offering from [produce] which is not his own.
[E] (5) A gentile who separated heave-offering from [the produce of] an Israelite,
[F] even with permission —
[G] that which he has separated is not [valid] heave-offering.
[H] A *heresh*
[I] who speaks but does not hear
[J] may not separate heave-offering,
[K] but if he separated heave-offering, that which he has separated is [valid] heave-offering.
[L] The *heresh* of which the sages spoke under all circumstances is one who neither hears nor speaks.
[M] A minor who has not produced two [pubic] hairs —
[N] R. Judah says, “That which he separates is [valid] heave-offering.”
[O] R. Yosé says, “If [he separated heave-offering] before he reached the age of [maturity to take] vows, that which he has separated is not [valid] heave-offering.
[P] “But [if he separated heave-offering] after he reached the age of vows, that which he has separated is [valid] heave-offering.”

[I:1 A] Five [classes of people] may not separate heave-offering:

- [B] *:R. Samuel bar Nahman derived all of them from the following passage* “‘Speak to the people of Israel that they may take for me an offering [terumah/heave-offering]’ (Ex. 25:1-2) — excluding gentiles.
- [C] “‘From every man [whose heart makes him willing you shall receive the offering for me]’ — excluding minors.
- [D] “‘whose heart makes him willing’ — excluding a *heresh* and an imbecile
- [E] “‘and this is the offering that you shall receive from them’ — excluding one who separates heave-offering from that which is not his.”

[I:2 A] Why not allow the actual deed of (1) a *heresh*, (2) an imbecile, (3) a minor attest to the intention behind an action of one of them, *for we have learned in the Mishnah there: He who brings up his produce to the roof because of the maggots, and dew fell on it - it is not under the law, If water be put. If he intended such, lo, this is under the law, If water be put. [If] a deaf-mute, an imbecile, or a minor brought it up, even though he gave thought that dew should fall on it - it is not under the law, If water be put, because they have the power of deed but not the power of intention [M. Makh. 6:1]*

- [B] What deed of theirs would attest to their intention [to make use of the water and consequently infuse the water with the power to impart susceptibility to uncleanness to formerly dry produce]?
- [C] R. Huna said, “If he actually took hold of the produce and placed it in the dew.”
- [D] *And we have learned in the Mishnah there: [If] a deaf-mute, an imbecile, or a minor brought down [the beast to drink], even though he gave thought that her feet should be rinsed off, it is not subject to the law, If water be put, for they have the power of deed and do not have the power of intention [M. Mak. 3:8H-I].*
- [E] What deed of theirs would attest to their intention [to make use of the water and consequently infuse the water with the power to impart susceptibility to uncleanness to formerly dry produce]?
- [F] R. Huna said, “If he scrubbed the cattle’s hooves in the water.”
- [G] And he said, “So too here [in separating heave-offering] their deed should attest to their intention.

- [H] [Rejecting this proposal] R. Samuel, R. Abbahu in the name of R. Yohanan, R. Zeira in the name of rabbis: “‘And your heave-offering shall be reckoned to you’ (Num. 18:27) — in matters concerning which intention is explicitly noted in Scripture, the deed is not sufficient to attest to intention, and in matters in which intention is not mentioned, the deed suffices to define the operative intention. Now here, since Scripture makes an explicit reference to intention, the actual deed does not prove the character of his intention.”
- [I] *Said R. Yosé, ‘I raised the question before Samuel: “Lo, there is the matter of writs of divorce. Lo, there is no explicit reference to intention written in that connection, yet the husband’s deed does not attest to his intention [in handing over a writ of divorce], for we have learned in the Mishnah: **All are valid for the writing of a writ of divorce, even a deaf-mute, an idiot, or a minor [M. Git. 2:5].** Said R. Huna, ‘And that is the rule only of an adult of sound senses was standing over him to supervise; [the deed of the deaf-mute, imbecile, or minor does not suffice].’”*
- [J] *R., Yohanan raised the question: “[If the validity of the writ of divorce depends on the supervisor, would the actions of the deaf-mute in writing the writ fulfill the requirement that the scribe] write the writ for her [for the particular woman being divorced]? [The validity of the writ depends on the supervisor, the scribe did not write it for the specific woman. That would not work, so the qualification introduced by Huna, that an adult supervise, is invalid.]”*
- [K] *R. Yosé went and said [why Huna is right]: “There this one writes the writ of divorce and the other one divorces the woman. [The validity of the writing of the writ for the specific woman rests on the actions of the deaf-mute or minor. Intention is not specifically mentioned, but without supervision a deaf-mute or minor may not write the writ.]”*
- [L] *R. Jacob bar Aha said, “Lo, if a deaf-mute or minor wrote the writ of divorce and with it he divorced his wife, it is a valid writ of divorce, while here even if the deaf-mute or minor gave thought and separated the heave-offering [that which they separate is not valid heave-offering].”*
- [M] *R. Jacob bar Aha, R. Hiyya in the name of R. Yohanan took issue with the teaching [that that is the rule only of an adult of sound senses was standing over him to supervise]. How so? The point of R. Yohanan [that if supervised a deaf-mute or minor may separate heave-offering conforms to the teaching of R. Ishmael b. R. Yohanan b. Beroqa on the mixing of the ash of the red cow with water. And R. Yohanan’s*

statement on writs of divorce accords with the position of our rabbis concerning the mixing of the ash of the red cow with water. *For it has been taught on Tannaite authority: All are suitable for mixing, except for a deaf-mute, idiot, and child [T. Par. 5:7].* of R. Ishmael b. R. Yohanan b. Beroqa says, “If they mix water and ash on their own, it is no valid, if they do it under supervision, it is valid.” [So too Yohanan holds that if a deaf-mute or minor separates heave-offering under supervision, his action is valid.]

- [I:3 A] It was taught on Tannaite authority: A deaf-mute who separates heave-offering — that which he separates is not valid heave-offering.
- [B] **Rabban Simeon b. Gamaliel says, “Who is the deaf-mute [whose heave-offering is not valid; M. Ter. 1:1]? Anyone who was a deaf-mute from birth. But if he was of sound mind and became a deaf-mute, he may write [indicating his intention to separate heave-offering], and they validate [the document] for him [but the sanctity of the heave-offering depends solely on the deaf-mute]” [Y. Ter. 1:1].**
- [C] R. Jacob bar Aha, R. Hiyya in the name of R. Yohanan took issue with the teaching. They said, “*This teaching of our Mishnah contradicts that ruling: [If] A man of sound senses who married a woman of sound senses was made a deaf-mute or became an idiot, he may never put her away [M. Yeb. 14:1].* But why not have him write the writ of divorce and let others validate the writ?”
- [D] The stated law deals with a case in which he does not know how to write.
- [E] *Objected R. Abba bar Mamel: “Lo, the Tannaite teaching takes issue with this proposal that written instructions serve: And not only so, but even if he wrote it in his own hand to the scribe, saying, ‘Write,’ and to the witnesses, ‘Sign,’ even though they wrote it and signed it and gave it to him and he gave it to her, it is invalid. It is valid only if they hear his [the husband’s] voice saying to the scribe, ‘Write,’ and to the witnesses, ‘Sign’ [T. Git. 2:8].”*
- [F] *Said R. Yosé, “Pay attention to the end of the rule and there is no contradiction: It is valid only if they hear his [the husband’s] voice saying to the scribe, ‘Write,’ and to the witnesses, ‘Sign’ [T. Git. 2:8].* Is the essential condition that they hear his voice? No, in some instances it is sufficient expression of his intention to divorce his wife even if he nods his head. Just as you say that there are exceptions to the rule that the scribe and witnesses hear his voice, so the prohibition

against written instructions does not apply in special cases, for a deaf-mute who can write a writ of divorce may divorce his wife.”

- [G] Said R. Mana, “The prohibition against writing applies to a deaf-mute. Raising one’s voice to be heard by the scribe and witnesses is equivalent to nodding one’s head, but writing is not equivalent to raising one’s voice.”
- [H] *R. Ezra asked R. Mana, “If it is as you say, Raising one’s voice to be heard by the scribe and witnesses is equivalent to nodding one’s head, then just as one must nod his head three times so they would need to hear his voice three times.”* [But that is not the rule, so there is no parallel to be drawn between raising one’s voice and nodding. There is no parallel between writing and raising one’s voice.]
- [I] He said to him, “As to hearing the voice, one time suffices, but as to nodding the head, three times are required. Writing is not comparable to speaking. The deaf-mute may not give written instructions to divorce his wife.]”
- [J] Said R. Yudan, “[Separating heave-offering and writing a writ of divorce are not comparable, for] there in the case of heave-offering, the deaf-mute simply signals that ‘such and so I already have done,’ but here, in the writ of divorce, he must signal to the scribe and witnesses, such and such you must do.”
- [K] R. Benjamin bar Levi asked, “But if he has the power of intention about the past, so he may indicate in writing, ‘Such and so I already have done,’ he must have the power of intention concerning the future, and may indicate in writing, ‘such and so you are to do.’ If he doesn’t have the power of intention concerning the past, he doesn’t have the power of intention concerning the future.”
- [L] Said R. Abudimi, “In regard to the matter, **[If] A man of sound senses who married a woman of sound senses was made a deaf-mute or became an idiot, he may never put her away [M. Yeb. 14:1]**, we deal with a deaf-mute, and a deaf-mute does not have the power to appoint an agent.”
- [M] Said R. Yosé b. R. Bun, “[The requirement of three nods of the head] applies to a healthy person who became mute, and why is a writ of divorce that he wrote before he became mute not valid until he nods this head three times to indicate the intention to divorce his wife? I say, when he became a mute he had been working on his deeds, and when question head he might nod his head with regard to the wrong document. After three nods of the head the questioner may know that

he is nodding his head about the writ of divorce. A Tannaite rule conforms: To what case does the rule apply? To one in which he was pushed into a cistern and came out mute. But if he became mute through disease, it suffices to validate his writ of divorce even if he nods his head only once [there being no other document to confuse the issue].”

- [I:4 A] *Who is the Tannaite authority who supports the rule about the deaf-mute?*
- [B] *It is not in accord with R. Judah, for it has been taught on Tannaite authority: [R. Judah says, “A deaf-mute who separated heave-offering — that which he has separated is [valid] heave-offering” vs. M. Ter. 1:1A].*
- [C] **Said R. Judah, “M’S H B: The sons of R. Yohanan b. Gudgada all were deaf-mutes, and in Jerusalem all of the foods requiring preparation in purity were prepared under their supervision.”**
- [D] **They said to him, “Is that proof [that a deaf-mute may separate heave-offerings]? For foods requiring preparation in purity do not require [preparation with] intention and [therefore] may be prepared under the supervision of a deaf-mute, imbecile, or minor. [But] heave-offering and tithes require [separation with] intention [and therefore may not be separated by such individuals]” [T. Ter. 1:1].**
- [E] But are foods prepared in purity not invalidated by a lapse of proper intention?
- [F] R. Yosé in the name of R. La: “Intentionality is not written in their regard, alert guardianship is written in their connection.”
- [I:5 A] **The indications that one is an imbecile: He who goes out by night, who sleeps in a graveyard, who rips his clothing, and who loses what is handed over to him [T. Ter. 1:3].**
- [B] Said R. Huna, “All these traits must be evinced by a person [in combination]. If not, I say **He who goes out by night** is a lycanthropy, he **who sleeps in a graveyard** offers incense to spirits, he **who rips his clothing** sees visions, and he **who loses what is handed over to him** is delirious.”
- [C] R. Yohanan said, “Even if he exhibits only one of these traits.”
- [D] Said R. Abin, “R. Yohanan’s statement, ‘Even if he exhibits only one of these traits,’ *stands to reason*, on condition that one who loses what

they give him loses everything that they give him. Even the complete idiot does not lose everything that is given to him.”

- [E] A delirious person does not exhibit any [other] of the listed traits [yet is judged an imbecile].
- [F] What is the definition of a delirious person?
- [G] Said R. Yosé, “Confused in mind.”
- [H] *A case came before R. Yosé of someone from Tarsus to whom they would give red meat after dark wine and he would stop raving, and dark wine after red meat and he would stop raving. He said that he was a delirious person, concerning whom sages said, “If he is at times an imbecile and at times lucid, whenever he is an imbecile, lo, he is held to be an imbecile in every respect, but whenever he is sane, he is of sound senses in every respect” [T. Ter. 1:3].*
- [I] *A case came before Samuel. He said, “When he is of sound senses, let him give a writ of divorce.”*
- [J] And Samuel accords with R. Simeon b. Laqish, for R. Simeon b. Laqish said, “When he is quiet, [let him give his wife a divorce, and quiet is equivalent to sound senses].”
- [K] *Samuel’s ruling is stricter than that of R. Simeon b. Laqish, for Samuel said, “When he is of sound senses [not simply quiet], let him give a writ of divorce.”*
- [L] “Restore me to health and make me live” (Is. 38:16).
- [I:6 A] What Tannaite authority taught that a minor cannot separate heave-offering?
- [B] *It is not R. Judah, for it is taught as a Tannaite rule: R. Judah says, “[As regards] a minor whose father placed him in a cucumber field — he [i.e., the minor] separates heave-offering and his father speaks on his behalf [indicating approval]. That which he separates is [valid] heave-offering” [cf. M. Ter. 1:3N].*
- [C] **They said [to him], “It is not he [i.e., the minor] who separated heave-offering, but rather his father who confirmed [it] after him” [Y. Ter. 1:4].**
- [D] When the father came along and confirmed the status of the produce as heave-offering, is this retroactively to the time that was separated, or only from that point onward?

[E] *Said R. Shimi, “Let us infer the answer from the following: [How does one separate heave-offering from produce which is not his own? [If one] went down to his fellow’s field and gleaned [produce] and separated heave-offering [from it] without permission — if he [i.e., the owner of the field; the householder] is apprehensive of robbery, that which [the other] has separated is not [valid] heave-offering; but if he is not apprehensive of robbery, that which he has separated is [valid] heave-offering. How does one know whether or not he [the owner] is apprehensive of robbery?]* When the householder came and found him and said to him, “Go to the fine [produce and glean there]” — if there was [there] fine [produce], [the householder meant what he said and thus] he is not apprehensive of robbery; but if not [i.e., if there was there no fine produce] — lo, this one is apprehensive of robbery [and his comment was a sarcastic one]. If the householder should glean and add to them [i.e., to what the other has already gleaned], either way [i.e., whether or not there was fine produce], he is not apprehensive of robbery [T. Ter. 1:5]. *Now can you say [where the owner confirmed the actions of the intruder] it is rendered heave-offering retroactively? No, it is heave-offering only from that point onward. Here too [in the case of the minor], it is heave-offering only from that point onward.”*

[II:1 A] one who separates heave-offering from [produce] which is not his own:

[B] “So shall you [Levites] present an offering to the Lord” (Num. 18:28)
—

[C] “you” — excluding your partners in your behalf;

[D] “you” — excluding not your executors;

[E] “you” — excluding **a person who separates heave-offering from produce that is not his own**

[F] “you” — excluding your partners in your behalf — *and have we not learned in the Mishnah: Partners who separated heave-offering [from the same commonly owned produce] one after the other — R. Aqiba says, “That which was separated by both of them is [valid] heave-offering” [M. Ter. 3:3].*

[G] [There is no conflict.] [Aqiba] speaks of the great heave-offering [that Israelite farmers separate], but here we speak of the heave-offering of the tithes [that Levites separate].

[H] But didn't they derive the rules governing the great heave-offering from the rules governing heave-offering of tithe?

[I] Rather, here we deal with legal theory, but the statement of the Mishnah concerns practical action.

[J] "you" — excluding not your executors — *and have we not learned the Tannaite ruling: R. Simeon b. Manassiah says, "Orphans who were supported by a householder — whether their father [before his death], or a court [after the father's death] made them dependent [on him] — he [the householder] tithes [his own produce] and provides food for them" [T. Ter. 1:12].*

[K] Associates say, "Here we deal with permanent executors, but Num. 18:28 refers to temporary executors."

[L] *R. Yosé asked, "If this passage [T. Ter. 1:12] refers to permanent executors, in this we have learned the Tannaite rule: Executors may sell movable property to produce funds to feed orphans but may not sell real estate for that purpose. [Surely they are temporary.] But here we speak of an adult orphan [who tithes his own food], and there we speak of a minor orphan who cannot tithe his own food]. [The executor may not tithe for the adult.]*

[II:2 A] "you" — excluding **a person who separates heave-offering from produce that is not his own:**

[B] *How do you treat the case* where a person separates heave-offering from produce that is not his own? Is it because the produce does not belong to him or is it because it is produce that belongs to someone else?

[C] *Let us infer the answer from the following:* If one declared ownerless his pile of [harvested but unprocessed] grain, smoothed it over [so it is now liable to tithing] and then went and reclaimed ownership, [is his act of separating heave-offering valid?] *If you treat it as a case of one who separates heave-offering from that which is not his, then the produce that he has separated as heave-offering is not heave-offering, but if you treat it as a case of one who separates heave-offering from what belongs to his fellow, then the produce that he has separated as heave-offering is. heave-offering.*

[D] *Let us infer the answer from the following:* **[If] he stole heave-offering which was dedicated [to the Temple] and [unintentionally] ate it — he pays two [added] fifths and the principal, for [the requirement of] the payment of two-fold**

restitution is not applicable in [the case of] items dedicated [to the Temple] [M. Ter. 6:4]. *Now who was it* that separated the heave-offering [from produce sanctified to the Temple]? Wasn't it the Temple treasurer? So lo, he separates heave-offering from produce that he does not own [this produce belongs to the Temple] and you say that the heave-offering that he separates is valid.

[E] So a person may not separate heave-offering from produce that belongs to his fellow [for the Temple treasurer does not own the produce, the Temple does. The heave-offering separated by the Temple treasurer was valid, So heave-offering separated from produce that is not owned by the fellow is valid.]

[F] Or might we say, who separated the heave-offering dedicated to the Temple? It was a Levite who had dedicated to the Temple heave-offering given to him by an Israelite. [In that case the treasurer may not separate heave-offering from produce that belongs to the Temple.] [And proving that M. Ter. 6:4 applies to produce that was heave-offering dedicated to the Temple and not to have offering separated by the Temple treasurer from untithed produce belonging to the Temple,] *did not R. Hoshaiyah teach on Tannaite authority:* All the same are one who sanctifies his produce that is liable to tithing but not yet tithed and one who sanctifies his heave-offering. [We cannot assume that the Temple treasurer separated heave-offering, and we have not proven that one may separate heave-offering from produce that he does not own.]

[G] Said R. Idi, “The Temple treasurer is classified as one of the owners of the produce.” [A person may separate heave-offering from produce that is not his, so long as it doesn't belong to anybody else.]

[H] *And this is not in accord with R. Yosé, for R. Yosé said,* “The Temple treasurer is treated as a third party [not equivalent to owner of the produce. He may not separate heave-offering from the Temple produce.]” [He rejects the view that a person may separate heave-offering from produce that is not his, so long as it doesn't belong to anybody else.]

[II:3 A] R. Zeira, R. Aha, R. Yosé, R. Yohanan in the name of R. Yannai: “‘You, also you, shall make an offering to the Lord’ (Num. 18:28) — ‘also you’ encompasses your agent [who may separate heave-offering in your account.

[B] “Just as you are sons of the covenant, so your agent must be a son of the covenant.

- [C] “You may be appointed an agent but a gentile may not be appointed an agent.”
- [D] *R. Yosé considered ruling*: “A gentile may not be made the agent of another gentile who was his fellow. But he may be made the agent of an Israelite.”
- [E] Said to him R. Zeira, “From that very verse [we derive the rule for a gentile:] ‘You, also you, shall make an offering to the Lord’ (Num. 18:28) — Doesn’t this speak of an Israelite? *So along these same lines* a gentile is not made an agent, even of an Israelite.”
- [F] *Answered R. Hoshaiiah*, “*And lo, the Mishnah supports the position of R. Yohanan* [as represented by Yosé that a gentile may act as agent of an Israelite]: **He who sharecrops a field for a gentile [M. Dem. 6:1A] separates [heave-offering and] tithes and [then] gives to him [his percentage of the yield from the tithed produce].** Said R. Simeon b. Gamaliel, “**What if the gentile does not want his produce to be tithed? Rather he divides the produce and gives the owner’s portion to him in his presence**” [M. Dem. 6:1A] [T. Dem. 6:1]. Lo, if the gentile wanted his produce to be tithed, the Israelite tithes it.” [The Israelite may act as agent of the gentile, and the gentile may do the same for the Israelite.]
- [G] R. Abba said, “[The Israelite acts as agent for the gentile only] of the gentile confirms the Israelite’s action on his behalf.”
- [II:4 A] R. Yohanan in the name of R. Yannai: “An Israelite who said to a Levite, ‘I have a kor of first tithe for you,’ and [before the Israelite gave him the gain] the Levite went and designated it to serve as heave-offering of the tithe in behalf of a different batch of first tithe that he possessed. If the Israelite went and gave the first tithe to a different Levite, the first Levite has no more alternative than a complaint [for he has no legal claim over the first tithe that he had been given, and his assignment of the first tithe to be heave-offering of the tithe is null.]”
- [B] *That which you have said* [for he has no legal claim over the first tithe that he had been given] applies only if the Israelite gave the tithe to a different Levite before the first Levite declared it heave-offering of the tithe for a different batch. But if the first Levite designated it as heave-offering of the tithe for a different batch before the Israelite gave it to the other Levite, the designation of the Levite who was first assigned the tithe is valid and the Levite can recover the produce and give it to a priest as heave-offering of the tithe], *it is thus not in that circumstance that the rule applies.*

- [C] *That is parallel to the following rule of the Mishnah: [If he] retracted [the permission] — if he retracted [it] before [the other individual] separated heave-offering — that which [that individual] has separated is not [valid] heave-offering. But if he retracted [it] after [the other individual] separated heave-offering — that which [that individual] has separated is [valid] heave-offering [M. Ter. 3:4].*
- [D] *The entire rule [on the validity of the designation of heave-offering of tithe by the Levite] derives from this rule as follows: since he said to him, “I have a kor of first tithe for you,” he is made his agent, and he turns out to give heave-offering in the domain of an Israelite. [He can do whatever he wants with the produce.]*
- [E] *Interpret the matter in accord with R. Yosé, for R. Yosé said, “An Israelite householder who separated heave-offering of the tithe — what he has done is validly done” [T. Ter. 1:9].*
- [F] [The Israelite may separate heave-offering of the tithe and may appoint a Levite to serve as his agent in that regard.]
- [II:5 A] R. Yohanan in the name of R. Yannai: “An Israelite who said to a Levite, ‘You have a kor of tithe in my possession and here is its value in money [and I will keep the tithe for my own use]’ [that is, I have set aside tithe for you] — the Levite does have to take account of the heave-offering of the tithe that may be contained therein [but does not assume that that has been set aside and given to the priest].” [The Levite has to designate produce as heave-offering of the tithe taken out of the first tithe, the value of which he was given.]
- [B] *That is in line with this case: Aliposa gave R. Simeon bar Abba first tithe and said to him, “It has been properly prepared [heave-offering of tithe has been removed from it].” He came and asked R. Yohanan [whether this was to be relied upon]. He said to him, “Aliposa our brother is reliable [to separate heave-offering of the tithe.]”*
- [C] *R. Isi asked before R. Yohanan, “In accord with him do you rule that an Israelite is to be trusted to designate heave-offering of the tithe? Was it in accord with R. Yosé? For R. Yosé said, ‘[As regards] a householder who separated heave-offering of the tithe [by himself, even though this is the prerogative of the Levite] — that which he has done is done [and valid] [T. Ter. 1:9]’?”*
- [D] *He said to him, “Yes, Babylonian, I depended on his ruling.”*
- [III:1 A] [A **heresh** who speaks but does not hear may not separate heave-offering, but if he separated heave-offering, that which he has

separated is [valid] heave-offering. The *heresh* of which the sages spoke under all circumstances is one who neither hears nor speaks. One who recites the Shema but does not articulate it [out loud] fulfills his obligation. R. Yosé says, “He did not fulfill his obligation [Y. Ber. 2:4].” *We learned*: “If one recited the Prayer but did not articulate it — he fulfilled his obligation.” *For whom is it necessary to state this law?*

- [B] For R. Yosé. *Which [ruling of] R. Yosé [appears to contradict this]?*
- [C] *That which we learned [in M.], One who recites the Shema’ but does not articulate it — he fulfills his obligation. R. Yosé says, “He does not fulfill his obligation [M. Ber. 2:4].”*
- [D] [*We learned elsewhere: All are fit to recite the Megillah except for the deaf-mute, idiot, and minor [M. Meg. 2:4].*] Said R. Mattenah, “[The law that a deaf-mute may not recite] is according to R. Yosé [who says that one must articulate his recitation].”
- [E] *Said R. Yosé [the Amora], “[If not for Mattenah’s teaching] I would have assumed that the rabbis and R. Yosé were in dispute only regarding the Shema’. For it is written concerning that, ‘Hear [O Israel]’ [Deut. 6:4] [i.e. aloud]. But [I would assume that] they were not in dispute concerning other religious obligations. Since R. Mattenah said that [the rule in M. Meg. 2:4] accords with R. Yosé’s view, [I see that he holds the same opinion whether for the Shema’ or] for all other religious obligations. [Where one must recite, Yosé holds he must articulate the words in order to hear them.]”*
- [F] What is the Scriptural basis for R. Yosé’s ruling? “And give heed to his commandments” [Exodus 15:26] — [this means] let your ears hear what your mouth speaks.
- [G] *Said R. Hisda, “[M. Meg 2:4 does not accord with Yosé’s view.] The deaf-mute should not appear there [in M. Meg. 2:4’s list. It appears there mistakenly] as part of a familiar idiom [“deaf-mute, idiot and minor” which often appear together as a triplicate in M.]*
- [H] *Said R. Yosé [the Amora], “It makes sense that R. Hisda will admit that [M.] Terumot 1:2 follows R. Yosé: [The deaf person who can speak but not hear shall not set aside heave-offering. But if he set it aside, his heave-offering is valid. The argument is, first, according to R. Judah we need not initially prohibit the deaf person from setting aside the heave-offering. And, second, according to Yosé one can be more lenient regarding heave-offering since he must only recite a blessing when he separates it. Reciting a blessing is a Rabbinic*

obligation, not derived explicitly from the Torah. Accordingly, Yosé rules that the recitation of the blessing by a deaf person is effective. And so] said R. Haninah in the name of R. Hisda, “[M. Ter. 1:2] is in accord with [the view of] R. Yosé.”

[I] *Said R. Yosé b. R. Bun, “You are compelled to conclude [by virtue of another argument] that it [M. Ter. 1:2] is in accord with R. Yosé. For Mishnah first listed five, [Five shall not set aside heave-offering. And if they set it aside, their heave-offering is not valid: the deaf-mute, the idiot, the minor, and he who sets aside heave-offering from that which is not his own, and a gentile who sets aside heave-offering from that which belongs to an Israelite (M. Ter. 1:1)], and [the deaf person who can speak] was not included with them. And if you argue that it is because the heave-offering which he separates is not valid, [and that of the deaf person who speaks is valid], lo, M. lists five more, [Five shall not set aside heave-offering. And if they set it aside, their heave-offering is valid: the mute, the drunk, the nude person, the blind person, and one who suffered a seminal emission shall not set aside heave-offering. But if they set it aside, their heave-offering is valid (M. Ter. 1:6)], and [the deaf person who speaks] is not included with them [in the list] either. You must at last conclude that this [rule] is in accord with R. Yosé [and therefore taught separately at M. Ter. 1:2].”*

[III:2 A] [A *heresh* who speaks but does not hear may not separate heave-offering, but if he separated heave-offering, that which he has separated is [valid] heave-offering]: *There we have learned in the Mishnah: All are liable for an appearance offering [before the Lord] (Ex. 23:14, Dt. 16:16) except for (1) a deaf-mute, (2) an idiot, (3) a minor. Associates in the name of R. Eleazar: “‘Assemble the people, men women and children and the sojourner within your towns that they may hear and that they may learn to fear the Lord your God’ (Dt. 31:12) — to this point we may explain why someone who speaks but does not hear [is excused from the rite, because appearance at the Temple is in order to hear. This one cannot hear. But what explains] why someone who hears but does not speak is left out of the requirement to make the pilgrimage.”*

[B] R. Hila in the name of R. Eleazar: “‘...that they may learn’ bears the meaning, that they may teach [and the deaf-mute cannot speak and cannot teach].”

[IV:1 A] **The *heresh* of which the sages spoke under all circumstances is one who neither hears nor speaks:**

[B] *Said R. Jonah, “That proves rules that Rabbi stated as general principles in fact are not general principles [for they do not apply to all cases]. For we have learned in the Mishnah, **The heresh of which the sages spoke under all circumstances is one who neither hears nor speaks.** Now we reasoned that we may rule, if he hears but does not speak, he is a heresh, if he speaks but does not hear, he is a heresh. [That contradicts the generalization cited at the outset and proves that Rabbi’s general rules do not prevail.]”*

[C] *And we have learned in the Mishnah: **A deaf-mute boy with whom the rite of removing the shoe was carried out, a deaf-mute girl who performed the rite of removing the shoe, she who performs the rite of removing the shoe with a minor – her performance of removing the shoe is invalid [M. Yeb. 12:4].** And said R. Yohanan, “[This is not a deaf mute, because Scripture refers to the participant’s saying things, e.g.,] ‘And the dead husband’s brother says... and the wife says...(Dt. 25:7-8).’ And we have learned in the Mishnah: **The heresh of which the sages spoke under all circumstances is one who neither hears nor speaks.**”*

[D] *That supports the proposition of R. Jonah, for R. Jonah said, “That proves rules that Rabbi stated as general principles in fact are not general principles [for they do not apply to all cases].”*

[IV:2 A] **[A minor who has not produced two pubic hairs — R. Judah says, “That which he separates is [valid] heave-offering.” R. Yosé says, “If [he separated heave-offering] before he reached the age of vows, that which he has separated is not [valid] heave-offering. But [if he separated heave-offering] after he reached the age of vows, that which he has separated is [valid] heave-offering]:** *It was taught on Tannaite authority in the name of R. Meir: “Produce that he has sat aside as heave-offering is never deemed valid heave-offering until he produces two pubic hairs.”*

[B] R. Abba bar Kahana in the name of Rabbis: “‘Ad your offering shall be reckoned to you’ (Num. 18:27) — he concerning whom reckoning is written in Scripture may separate heave-offering, and he concerning whom reckoning is not written in Scripture may not separate heave-offering. [A minor is not subject to reckoning and may not separate heave-offering.]”

[C] *They replied, “Lo, there is the case of the gentile, concerning whom the power of intention is not written, yet e validly separates heave-offering.”*

- [D] R. Yudah in the name of R. Hila, “‘Bear no sin by reason of it’ (Num. 18:32) — he who is subject to bearing sin separates heave-offering, and he who is not subject to bearing sin does not separate heave-offering.”
- [E] *They replied*, “Lo, there is the case of the gentile, who is subject to bearing sin and yet he separates heave-offering.”
- [F] *And has not R. Hoshaiiah taught on Tannaite authority*: “Gentiles do not have the power of intention there with reference to deliberately wetting down dry seed to impart susceptibility to uncleanness or here with reference to heave-offering.”
- [IV:3 A] [R. Yosé says, “If [he separated heave-offering] before he reached the age of vows, that which he has separated is not [valid] heave-offering. But [if he separated heave-offering] after he reached the age of vows, that which he has separated is [valid] heave-offering:”] **R. Aha, R. Hinena in the name of R. Kahana: “In accord with him who says, ‘He does not separate heave-offering,’ he also may not sanctify produce to the Temple.”**
- [B] **And why did he note frame his statement, “In accord with him who says, ‘He does separate heave-offering,’ he also may sanctify produce to the Temple’?”**
- [C] *It is on account of R. Judah, for* R. Judah says, “A minor may separate heave-offering but may not sanctify produce to the Temple.”
- [D] And R. Yohanan said, “Even in accord with him who has said, ‘He does not separate heave-offering,’ he has the power to sanctify produce to the Temple.”
- [E] And what does he sanctify? A burnt offering or peace offerings [which are votive and may be presented by anybody]. [A minor] may not present a sin offering of fat, for he is not subject to the requirement of present sin offering of fat parts [which is restricted to sinners and he is not liable under the law to sin]. He may not bring a blood offering, for he is not subject to the requirement of present sin offering of blood.
- [F] What is the law as to the minor’s bringing the offering required for purification of one who has suffered a flux or a mark of saraat if he has produced the indications of flux or saraat? Since it is obligatory, he does not present such an offering, or perhaps since he is subject to uncleanness through such marks, he does present such an offering.
- [G] *It should be obvious to you that* he does present such an offering.

- [H] What is the law as to his being appointed as an agent in connection with these offerings?
- [I] Since he is subject to uncleanness through such marks, he is appointed as an agent in connection with these offerings, or perhaps since he is not appointed an agent in connection with any other matter, he is not appointed an agent in connection with these matters.
- [J] *Responded R. Yudan*, “Lo, in accord with the Torah produce that he owns that is liable to tithing but not yet tithed is subject to the separation of tithes. But by the law of the Torah a minor [may not separate tithes from his produce] and so exempt his produce from further tithes.” [The fact that he is liable to heave-offering does not mean he may carry out all the responsibilities related to that obligation.] Therefore he may not be appointed as an agent in connection with these offerings?
- [K] What is the law about his presenting firstfruits?
- [L] If it is in accord with R. Judah, who he has said, “They are treated as comparable to holy things in the provinces [that are eaten outside of the Temple and that a minor may not bring], so a minor may not bring firstfruits. If it is in accord with rabbis, who have said, “They are treated as comparable to holy things in the Temple [that a minor can present],” a minor may bring firstfruits.
- [M] What is the law about his bringing a festal offering [Hagigah]?
- [N] Since it is an obligatory offering, he may not bring it. Or since he may shift its classification to peace offering, which a minor may bring] he may bring it.
- [O] What is the law as to his bringing a Passover offering?
- [P] Since it is an obligatory offering, he may not bring it. Or since R. Simeon b. Laqish said in the name of R. Yudan the Patriarch, “One may bring a Passover offering on all the other days of the year and change its classification for peace offerings, he may bring it.
- [S] What is the law as to his setting aside tithe of cattle?
- [T] *If one treats it as R. Meir*, for R. Meir says, “‘From all your tithes’ (Num. 18:29) means, they have regarded all tithes as equivalent to one another,” then just as a minor may not set aside the tithe of grain, so he may not set aside tithe of cattle.
- [U] What is the law as to his effecting a valid substitution [of a beast for one sanctified to the altar, with the outcome that the status of the

sanctified beast takes over the status of the beast designated as a substitute [Lev. 27:10],

- [V] *If one treats it as R. Meir, for R. Meir says, “From all your tithes’ (Num. 18:29) means, they have regarded all tithes as equivalent to one another,”* then just as a minor may not set aside the tithe of grain, so he may not set aside tithe of cattle. Just as he may not set aside tithe of cattle, so he may not effect a valid act of substitution. Or one may reason along with R. Simeon, for R. Simeon says, “The rule that a minor may not designate a substitute for tithe of cattle teaches that he may not designate a substitute for any other holy thing.”
- [W] What is the law concerning the priests’ offering outside of the Temple animals he designates as Holy Things that he sanctifies to the altar?
- [X] Kahana said, “They are not liable for offering outside of the Temple animals he designates as Holy Things?”
- [Y] R. Yohanan and R. Simeon b. Laqish say, “They are liable for offering outside of the Temple animals he designates as Holy Things?”
- [Z] The statement of Kahana conflicts with the position of R. Yuda [**R. Judah says, “That which he separates is [valid] heave-offering”**], for R. Judah holds that in accord with the law of the Torah, a minor may [separate heave-offering and tithes and so] exempt his produce from having to yield further tithes.” [Yet Kahana said what he dedicates to the Temple is not really validly dedicated.]
- [AA] [Kahana accords] with him who has said, “On their own volition minors who separate heave-offering have accepted the responsibility to separate tithes.” [But the Torah does not regard heave-offering that they designate as true heave-offering. Their offerings are not true offerings, and priests are not culpable for offering them outside of the Temple.]

1:2

- [A] **They may not separate olives as heave-offering for [olive-]oil, nor grapes [as heave-offering] for wine.**
- [B] **And if they separated [either olives as heave-offering for both olives and oil, or grapes as heave-offering for both grapes and wine] —**
- [C] **The House of Shammai say, “Their [i.e., the grapes’ or olives’] own heave-offering is in it [i.e., in that which they have separated; but that which they separated for the wine or oil is not valid heave-offering].”**

- [D] **And the House of Hillel say, “That which they have separated is not [valid] heave-offering [in any respect].”**
- [I:1 A] *There we have learned in the Mishnah, They may not separate heave-offering from (1) produce the preparation [for consumption] of which is completed for produce the preparation [for consumption] of which is not completed; nor from (2) produce the preparation of which is not completed for produce the preparation of which is completed; nor from (3) produce the preparation of which is not completed for produce the preparation of which is not completed. But if he separated heave-offering [in any of these ways] that which he has separated is [valid] heave-offering [M. 1:10] and you say this? [The Houses concur that even after the fact separating heave-offering from olives for oil is null.]*
- [B] R. Ila in the name of R. Yohanan said, “Separating heave-offering from olives for olive oil] is forbidden as thievery from the tribe [of priests].”
- [C] How is this thievery from the tribe [of priests]?
- [D] Said R. Hanania, “Because of the extra work [that the priest must do to complete the processing, which the householder should do].”
- [E] [Why the exception for olives and grapes, where the Houses take account of extra work?] Notice, if it were panicles of rice [that the householder handed over, and not prepared rice]. It is no problem for someone to crush any amount [of rice to process it for eating. Priests do not mind getting unprepared rice. But olives and grapes are another matter.]
- [F] Notice, if it were ears of grain [instead of threshed grain that the farmer handed over. It is as tedious to process as olives and grapes.] Up to this point is the question raised by R. Hanina.
- [G] R. Mana did not explain matters in that way. Rather, the reason is that the farmer, who should separate an amount of produce [olives] commensurate with the quantity of oil he possesses instead separates an amount commensurate with the quantity of olives. [The olives contain proportionately smaller quantity of oil, the priest receives less produce than he should get. This is thievery from the tribe.]
- [H] Notice, the farmer can separate as heave-offering a quantity of olives commensurate the oil that he has. [Why assume he will separate too few olives?]

[I] *That's what he does one time, but he may not do it properly other times.* And furthermore his fellow [of the farmer who does it right and takes for the priest an additional quantity of olives] might see him [taking the extra share] and say, "This one wants to take an extra share for the priest because he plans to separate more than is necessary. But I don't plan to separate more heave-offering than is required, so I am proceed to separate olives for oil or grapes for wine without adding extra." [The on looker thus separates too little heave-offering].

[II:1 A] **[The House of Shammai say, "Their [i.e., the grapes' or olives'] own heave-offering is in it [i.e., in that which they have separated; but that which they separated for the wine or oil is not valid heave-offering]"** — Hezekiah said, "[As to not taking heave-offering from unprocessed produce for processed produce], they spoke only of olives for oil and grapes for wine. But in everything else they did not teach [that that was unacceptable, for the Houses concur that post facto the separation is valid]."

[B] Said R. Yohanan, "The Houses taught concerning only olives and grapes. But they agree that this same rule applies to all other kinds of produce, so post factor separate of heave-offering is null.]"

[II:2 A] **[The House of Shammai say, "Their [i.e., the grapes' or olives'] own heave-offering is in it [i.e., in that which they have separated; but that which they separated for the wine or oil is not valid heave-offering]"** — *Associates in the name of R. Yohanan:* "[The Shammaites' ruling that heave-offering designated from grapes for both grapes and wine is valid for the grapes maintains] that even if the designation for both grapes and wine was made at one and the time [it is valid]."

[B] R. Hanania, R. Imi in the name of R. Yohanan: "The ruling of the House of Shammai treat the man as if he said in two separate acts of designation, 'Lo, this produce is designated heave-offering for itself and for that produce that is below [in the vat].'" [Even though stated at once, the designation is in two distinct parts. The part for the grapes is valid, and the part for the wine is not.]

[C] R. Hanania contemplated ruling, "This is possible if the produce in hand is of the same kind [as the produce in the vat below]."

[D] Said to him R. Zeira, "Do not take upon yourself to reason in this manner. [Don't think that the designation is valid for grapes even though it is not valid for wine because it is treated as if it were two distinct parts, because] as soon as the man says, 'Lo, these grapes in my hand are set aside as heave-offering for all the grapes I own,' those

grapes] in hand are exempt from further designation as heave-offering, and the rest of the grapes would be unconsecrated food and exempt from designation as heave-offering. Now [in a separate designation] could this tithed unconsecrated food exempt from the separation of heave-offering the untithed wine that is below? [No, for what is exempt may not serve as heave-offering for what is liable. Treating the designation as in two parts does not serve, for if it were in two parts, the second part cannot be valid.]”

[E] Said R. Hanania b. R. Hillel: “It is as if the two designations were made simultaneously [and the heave-offering is designated at once for all the produce all together]. At the moment at which he said, ‘Lo [this is heave-offering for itself and for what is below in the vat] both] the produce in hand and the produce in the vat are exempt from the separation of heave-offering.”

[III:3 A] Said R. Hanina, “[Designating heave-offering for both grapes and wine applies only to heave-offering, or applies to separating heave-offering of the tithe as well — which?] This appears appropriate for great heave-offering, which requires tithing out of what is located in a single batch [with the olives and the oil below them forming a coherent unit]. But as to heave-offering of tithe, [that is not the case] for the offering must be separated in exact quantity by volume, weight or number. [That cannot be calculated if some of the produce is in liquid form, some in solid.]”

[IV:1 A] *There we have learned in the Mishnah: **They do not separate heave-offering from that [produce] which is unclean for that which is clean. And if he separated heave-offering [in that manner] — [if he did it] unintentionally, that which he has separated is [valid] heave-offering; [but if he did it] intentionally, he has not done anything [M. Ter. 2:2]:***

[B] *It is taught as a Tannaite rule in the name of R. Yosé: **And if he separated heave-offering [in that manner] — whether he did it] unintentionally or intentionally, what he has done is done and valid [T. Ter. 3:19].***

[C] What would R. Yosé say about separating grapes for wine or olives for olive oil? [Would he validate the action post facto?]

[D] If there [at M. Ter. 2:2] all of the heave-offering is taken from unclean produce and thus is lost to the priest [who must eat heave-offering in conditions of cultic cleanness], [Yosé] says that the householder’s deed is confirmed, here [at M. Ter. 1:2] [where all of the heave-offering is

not lost to the priest, should we not rule the same way [that the heave-offering is validly separated post facto.]

- [E] *A Tannaite rule is located that teaches: They may not separate olives as heave-offering for [olive-]oil, nor grapes [as heave-offering] for wine. And if they separated [either olives as heave-offering for both olives and oil, or grapes as heave-offering for both grapes and wine] — The House of Shammai say, “Their [i.e., the grapes’ or olives’] own heave-offering is in it [i.e., in that which they have separated; but that which they separated for the wine or oil is not valid heave-offering].” And the House of Hillel say, “That which they have separated is not [valid] heave-offering [in any respect].”* [Yose is behind the Houses’ dispute, and he stands with the Hillelites.]
- [F] *The theories of R. Yosé are reversed.* There [unclean produce separated as heave-offering for clean], he said, “What the farmer has done is validly done,” and here [olives separated as heave-offering for oil] he said, “What he has separated is not valid heave-offering.”
- [G] There [separating unclean produce as heave-offering for clean] uncleanness is uncommon, and people will not err by thinking that they may separate heave-offering or tithes from the one [unclean produce] for the other [clean]. So post facto it is validly separated.] But it is common for people to separate olives for oil or grapes for wine. Therefore if you validate it, people will think it is also permitted de jure to separate olives as heave-offering for grapes. [So post facto it is invalid.]

1:3

- [A] **They do not separate heave-offering**
- [B] **(1) from gleanings, or (2) from forgotten sheaves, or (3) from [produce growing in the] corner of a field, [which is left for the poor], or (4) from ownerless property;**
- [C] **and (5) not from first tithe from which heave-offering [of the tithe] has been removed;**
- [D] **and (6) not from second tithe or [produce] dedicated [to the Temple] which have been redeemed;**
- [E] **and (7) not from that which is liable [to the separation of heave-offering] for that which is exempt [from the separation of heave-offering];**
- [F] **and not from that which is exempt for that which is liable;**
- [G] **and (8) not from that which is picked for that which is not picked;**

- [H] **and not from that which is not picked for that which is picked;**
- [I] **and (9) not from that which is new [viz., produce of the present year] for that which is old [viz., produce left over from a previous year];**
- [J] **and not from that which is old for that which is new;**
- [K] **and (10) not from produce of the Land [of Israel] for produce from outside of the Land [of Israel];**
- [L] **and not from produce from outside of the Land [of Israel] for produce of the Land [of Israel].**
- [M] **And if they separated heave-offering [from any of the types of produce or in any of the fashions described] —**
- [N] **that which they have separated is not valid heave-offering.**
- [I:1 A] [They do not separate heave-offering (1) from gleanings, or (2) from forgotten sheaves, or (3) from [produce growing in the corner of a field, [which is left for the poor], or (4) from ownerless property]: R. Yohanan in the name of R. Yannai: “This is one of three readings of verses of Scripture that are clearly supported by the plain sense of Scripture: ‘At the end of every three years you shall bring forth all of the tithe of the produce of the same year and lay it up within your towns. And the Levite because he has no portion or inheritance with you, shall come and eat and be satisfied’ (Dt. 14:28-29). From produce in which you have a portion but in which he does not have a portion you are obligated to give him tithe, excluding from tithing ownerless produce, to which you and he have an equal right. Gleanings, forgotten shaves, and produce that grows in the corner of a field and is left for the poor are like ownerless property and are not subject to tithes.”
- [B] **But are not those matters that are exempt** [not from that which is liable [to the separation of heave-offering] for that which is exempt [from the separation of heave-offering]; and not from that which is exempt for that which is liable] **already specified** [(1) from gleanings, or (2) from forgotten sheaves, or (3) from [produce growing in the] corner of a field, [which is left for the poor], or (4) from ownerless property]?
- [C] *That is precisely what the Mishnah wished to register:* And they may not separate heave-offering from what has reached a third of its growth for what has not reached a third of its growth. [That case of tithing what is what is liable for what is exempt.]

[II:1 A] And if they separated heave-offering [from any of the types of produce or in any of the fashions described] — that which they have separated is not valid heave-offering.

[B] *In the opinion of Hezekiah this is subject to a dispute, in the opinion of R. Yohanan it represents the view of all parties.*

1:4

[A] Five [sorts of people] may not separate heave-offering,

[B] but if they separated heave-offering, that which they have separated is [valid] heave-offering:

[C] (1) a mute, (2) a drunkard, (3) a naked person, (4) a blind person, and (5) a person who has had a nocturnal emission

[D] may not separate heave-offering.

[E] But if [any of these individuals] separated heave-offering, that which they have separated is [valid] heave-offering.

[F] They do not separate heave-offering by (1) a measure [of volume], by (2) weight, or by (3) a count [of the number of pieces of fruit being separated as heave-offering].

[G] But he separates the heave-offering of (1) [produce] which has been measured, of (2) that which has been weighed, and of (3) that which has been counted.

[H] They do not separate heave-offering in a basket or in a vessel that [hold a known] measure.

[I] But he separates heave-offering in them [if they are] one half or one third part [filled].

[J] He may not separate heave-offering in [a basket that holds one] *se'ah* [if it is] one half part [filled],

[K] since the half thereof is a [known] measure.

[I:1 A] Some of those listed may not separate heave-offering because they cannot recite the blessing that accompanies the action, and some of those listed may not separate heave-offering because they cannot distinguish between produce of better quality from produce of worse quality to separate heave-offering from the best of the produce.

[B] One who is mute, naked, or has had a nocturnal emission may not separate heave-offering because he cannot recite the blessing, and a blind man or a drunkard because he cannot distinguish between produce of better quality from produce of worse quality to separate heave-offering from the best of the produce.

- [I:2 A] Abba bar R. Huna said, “An intoxicated person should not recite the Prayer, but if he recited the Prayer, his recitation is regarded as a valid supplication before God. A drunkard should not recite the Prayer, but if he recited the Prayer, his recitation is regarded as blasphemy.”
- [B] Who is intoxicated? Any who has drunk a quarter log. Who is a drunkard? Any who has drunk more than that.
- [C] *There they say*, it is any who cannot speak before the king.
- [I:3 A] R. Zeira asked before R. Issi, “As to a drunkard, may he recite the grace after meals?”
- [B] He said to him, “‘And you shall eat and be full and bless the Lord your God’ (Dt. 8:10) — even if he is unable to speak, [he says the blessing, for he has eaten and become full].”
- [C] *Where the question is required, it concerns whether or not drunkard may recite the Shema.*
- [I:4 A] Said Abba bar Abin, “One pious man asked Elijah of blessed memory, ‘May a drunkard may recite the Shema?’ He said to him, ‘That the Lord may not see anything indecent of you’ (Dt. 23:14). He should not see you speaking in indecency.”
- [B] *Hezekiah set forth a Tannaite rule: A naked person may neither recite the Shema nor say the blessing after meals.*
- [II:1 A] **They do not separate heave-offering by (1) a measure [of volume], by (2) weight, or by (3) a count [of the number of pieces of fruit being separated as heave-offering]. But he separates the heave-offering of (1) [produce] which has been measured, of (2) that which has been weighed, and of (3) that which has been counted.**
- [B] *There we have learned in the Mishnah: (1) One who counts [the produce] is praiseworthy, and (2) one who measures [the volume of the produce] is more praiseworthy than he; but (3) one who weighs [the produce] is the most praiseworthy of the three [M. Ter. 4:6]. And here you have said this!*
- [C] Said R. Joshua b. Levi, “Here we speak o great heave-offering [separated through estimate] and there [M. Ter. 4:6] we speak of heave-offering of tithe [that Levites designate].”
- [D] *And so it was taught on Tannaite authority: R. Eliezer b. Gimel says, “How on the basis of Scripture do we know that they may not separate heave-offering by volume, weight or count? Scripture says, ‘And you offering shall be reckoned to you (Num. 18:27)’ — though reckoning*

you separate heave-offering, but you do not separate heave-offering by volume, weight or count.”

- [E] And just as great heave-offering is reckoned, so the heave-offering of tithe is reckoned. [The same rule applies to both offerings, and the solution of Joshua b. Levi doesn't work.]
- [F] *But [to resolve that issue,] we have learned in the Mishnah: **But he separates the heave-offering of (1) [produce] which has been measured, of (2) that which has been weighed, and of (3) that which has been counted [M. Ter. 1:4G].*** [Now the point of M. 4:6 is that the householder may determine from how much produce heave-offering is being separated, to estimate how much heave-offering he designates. But he may not separate the heave-offering by a set measure.]
- [G] Said R. Eleazar, “*This is the sense of the Mishnah: **R. Judah says, (I) “A man measures [the volume of] his untithed produce and brings it into his house, provided that he does not separate heave-offering according to a [fixed] measurement. A man weighs his untithed produce and brings it into his house, provided that he does not separate heave-offering according to [a fixed] weight. A man counts his untithed produce and brings it into his house, provided that he does not separate heave-offering according to a [fixed] count” [T. Ter. 3:4].***” [All our Mishnah rule says is that one may not separate heave-offering in accord with a fixed measure.]

1:5

- [A] They may not separate oil as heave-offering for olives which have been crushed [but the processing of which has not yet been completed],
- [B] nor wine [as heave-offering] for grapes which have been trampled [but the processing of which has not yet been completed].
- [C] But if he separated heave-offering [in either of these fashions] —
- [D] that which he has separated is [valid] heave-offering.
- [E] But he must separate heave-offering again [from the wine or oil the grapes or olives eventually produce].
- [F] The first [produce separated as heave-offering] imposes the status of heave-offering [upon other produce with which it is mixed], by itself [i.e., even if it falls into other produce apart from the second produce separated as heave-offering].

- [G] And [non-priests who accidentally eat it] are liable to the [added] fifth on its account.
- [H] But this is not the case as regards the second [produce separated as heave-offering].
- [I] But they may separate oil as heave-offering for olives that have been preserved,
- [J] and wine [as heave-offering] for grapes that are being made into raisins.
- [K] Lo, if he separated oil as heave-offering for olives intended for eating [i.e., olives the preparation of which has been completed],
- [L] or olives [as heave-offering] for olives intended for eating,
- [M] or wine [as heave-offering] for grapes intended for eating,
- [N] or grapes [as heave-offering] for grapes intended for eating,
- [O] and [afterwards] decided [instead] to press them [i.e., any of the produce which he originally intended for consumption as foods],
- [P] he need not separate heave-offering [a second time].
- [Q] They may not separate heave-offering
- [R] from (1) produce the preparation [for consumption] of which is completed for produce the preparation of which is not completed;
- [S] nor from (2) produce the preparation of which is not completed for produce the preparation of which is completed;
- [T] nor from (3) produce the preparation of which is not completed for produce the preparation of which is not completed.
- [U] But if he separated heave-offering [in any of these ways] —
- [V] that which he has separated is [valid] heave-offering.
- [I:1 A] *There we learned in the Mishnah: They may not separate heave-offering from (1) produce the preparation [for consumption] of which is completed for produce the preparation of which is not completed; nor from (2) produce the preparation of which is not completed for produce the preparation of which is completed; nor from (3) produce the preparation of which is not completed for produce the preparation of which is not complete. But if he separated heave-offering [in any of these ways] — that which he has separated is [valid] heave-offering — and yet you say this [that the separation is valid but one must repeat the rite]!?*
- [B] R. Ila in the name of R. Yohanan: “[He has to go back and separate the heave-offering a second time] because of the requirement of purification water. [he has to be sprinkled a second time so as to

separate heave-offering in a state of cleanness. This assures that the laws of purification water will not be nullified through disuse.”

- [I:2 A] Which consideration — separation of heave-offering that causes loss to the priests or the possibility of the purification water’s falling into disuse — takes precedence and is more strict?
- [B] *Let us derive the answer from the following: One who separates olives as heave-offering for olives that are going to be crushed, or grapes [as heave-offering] for grapes that are going to be trampled — that which he has separated is [valid] heave-offering, but he must separate heave-offering again [when the processing of the grapes or olives is completed] [T. Ter. 3:14].* Lo, the consideration of loss to the priests figures [the first act of separation gives the priest produce he is going to have to process], but the consideration of the possibility of the purification water’s falling into disuse also figures [since the original separation of heave-offering from olives or grapes did not require the household to enter a state of cleanness, but the second separation of oil or wine would]. *Yet it is taught on Tannaite authority for this case: — that which he has separated is [valid] heave-offering, but he must separate heave-offering again [when the processing of the grapes or olives is completed].* *That is to say,* the consideration of the possibility of the purification water’s falling into disuse takes priority over the consideration of loss to the priests.
- [C] *What would R. Yosé say here?*
- [D] If R. Meir, who imposes a lenient ruling when the consideration is loss of value for the priestly tribe, imposes a strict ruling when it comes to, the consideration of the possibility of the purification water’s falling into disuse, R. Yosé, who imposes a strict rule in the consideration loss of value for the priestly tribe, should all the more so impose a strict ruling when it comes to the consideration of the possibility of the purification water’s falling into disuse.
- [E] *It was found taught on Tannaite authority in the name of R. Yosé: “They do not separate olives as heave-offering for oil, or grapes as heave-offering for wine, and if one did so, that which he has designated as heave-offering is valid heave-offering. And he does not have to separate heave-offering a second time,”* the words of R. Meir.
- [F] **R. Yosé says, “The House of Shammai say, ‘They may separate heave-offering [in the ways described at A-B].’ And the House of Hillel say, ‘They may not separate heave-offering [in either of those ways].’ [But] they agree that if he separated heave-offering [in either of these fashions], that he must not separate heave-**

offering a second time” [T. Ter. 3:14]. [Yosé is not concerned about purification water’s falling into disuse, both Houses represent his opinion.]

[G] *This is the position of the two authorities:* R. Meir rules leniently concerning the loss accruing to the priestly tribe and imposes a strict rule in the matter of the utilization of the purification water. R. Yosé rules strictly concerning the loss accruing to the priestly tribe and imposes a lenient rule in the matter of the utilization of the purification water.

[H] *There we have learned in the Mishnah:* **R. Yose says, “Six opinions of the House of Shammai’s more lenient, and the House of Hillel’s more stringent, rulings”:** Fowl may be served up on the table together with cheese, but it may not be eaten with it,” according to the House of Shammai. And the House of Hillel say, “It may neither be served up with it nor eaten with it.” “They separate heave-offering from olives instead of from oil or from grapes instead of from wine,” in accord with the words of the House of Shammai. And the House of Hillel say, “They do not give heave-offering [from the one in behalf of the other” [M. Ed. 5:2].

[I] *Said R. Mana, “The correct version of this rule omits reference to olives separated as heave-offering in behalf of oil but reads that the dispute concerned oil in behalf of olives. For this is the version attributed to R. Yosé, for R. Yosé said, ‘It is heave-offering and he goes and repeats the action.’ [Yosé wants to prevent the purification water from falling into disuse and therefore wants a second act of separating heave-offering.]*

[II:1 A] **[But if he separated heave-offering [in either of these fashions] — that which he has separated is [valid] heave-offering. But he must separate heave-offering again from the wine or oil the grapes or olives eventually produce].** That is the rule if the original heave-offering no longer exists. But if the original heave-offering is available, he orally designates it as heave-offering owing from the wine or oil and that suffices.

[III:1 A] *It is taught on Tannaite authority:* **The second produce separated as heave-offering may not be eaten by a priest until he separates from it heave-offering and tithes [T. Ter. 3:14]:**

[B] As to the first produce separated as heave-offering, what is the rule? [Must heave-offering and tithes be separated from it?]

[C] *On the basis of that which is taught on Tannaite authority: [If] he went and made the original olives [i.e., the ones that he had separated as heave-offering] into oil, or the original grapes [i.e., the ones that he had separated as heave-offering] into wine — that which he has separated is [valid] heave-offering, and he does not have to separate heave-offering a second time [T. Ter. 3:14], we learn that he does not have to designate tithes for this first produce separated as heave-offering.*

[IV:1 A] **But they may separate oil as heave-offering for olives that have been preserved, and wine [as heave-offering] for grapes that are being made into raisins. [The processing is complete for both the heave-offering and the produce for which it is separated.] Lo, if he separated oil as heave-offering for olives intended for eating [i.e., olives the preparation of which has been completed], or olives [as heave-offering] for olives intended for eating, or wine [as heave-offering] for grapes intended for eating, or grapes [as heave-offering] for grapes intended for eating, and [afterwards] decided [instead] to press them [i.e., any of the produce which he originally intended for consumption as foods], he need not separate heave-offering [a second time]. [His original separation was valid, so the later processing is null.]**

[B] *We have learned in the Mishnah-paragraph that follows: They may not separate heave-offering from (1) produce the preparation [for consumption] of which is completed for produce the preparation of which is not completed; nor from (2) produce the preparation of which is not completed for produce the preparation of which is completed; nor from (3) produce the preparation of which is not completed for produce the preparation of which is not completed. But if he separated heave-offering [in any of these ways] — that which he has separated is [valid] heave-offering. [On that basis we assume that heave-offering may be separated from oil that is fully processed for pickled olives that are fully processed. Why say explicitly that heave-offering may be separated from oil or wine for pickled olives or raisins? Because we might suppose that just as separation is valid post facto, so separation of heave-offering from one form of a genus of produce on behalf of a different form of that same genus is valid only] post facto but not de jure.*

[C] The rule is stated explicitly that even de jure heave-offering may be separated from oil or wine for pickled olives or raisins.

[IV:2 A] *If you say that pickled olives or raisins are different from produce that is fully processed, lo, we have learned in the Mishnah: **Dried split-***

pomegranates raisins and carobs — [are liable to the designation of heave-offerings and tithes] after he stacks them up [even though they are not completely dried] [M. Ma. 1:4]. [They are not completely processed but are subject to heave-offerings and tithes. So heave-offering may be separated for pickled olives or raisins that are not fully processed.]

[B] R. Yosé ben Yosé in the name of R. Isaac b. Eleazar: “[The prohibition against separating heave-offering from produce that is fully processed for produce not fully processed] pertains solely to produce processed on the threshing floor or the wine vat.” [It does not apply to pickled olives or raisins. Even if not finally processed, heave-offering separated for them from fully processed produce is valid.]

[IV:3 A] [In separating oil as heave-offering for olives] what measure prevails? Is it in accord with the quantity of oil the olives can produce or in accord with the quantity of food they contain?

[B] Said R. Yohanan, “There is a dispute: **Rabbi says, ‘It is in accord with the quantity of food they contain,’ and Rabban Simeon b. Gamaliel says, ‘It is in accord with the quantity of oil the olives can produce but not the pits.’ And all parties concur concerning hard olives [that do not yield oil when pressed] that they separate heave-offering for the edible produce in them but not for the pits [T. Ter. 3:15].**”

[C] Hanania asked, “And as to carrying on the Sabbath, is the same issue disputes [on how we determine whether or not someone who carries olives on the Sabbath carries enough to be culpable for carrying on the Sabbath?]”

[D] [*Indeed so, for the Tannaite teaching is found:* **Rabbi says, “[One is culpable for carrying olives on the Sabbath if he carries enough to yield a quarter-log of oil.]” Rabban Simeon b. Gamaliel says, “They determine culpability as if it were figs [thus the criterion is the quantity of food, not oil]” [M. Shab. 8:1].**

[E] *Said R. Hananiah, “And we too have learned as a Tannaite rule that which supports the view of Rabbi: One who separates olives as heave-offering for olives that are going to be crushed, or grapes [as heave-offering] for grapes that are going to be trampled — that which he has separated is [valid] heave-offering, but he must separate heave-offering again [when the processing of the grapes or olives is completed]” [T. Ter. 3:14].* [The second removal of heave-offering is because the first time around the farmer took a quantity of offering appropriate for the edible produce of the olives and

not the liquid they could yield. This is comparable to the position of Rabbi, who rules that the offering is separated in accord with the quantity of oil the dates produce.]

[F] *And so we have learned in the Mishnah:* Lo, if he separated oil as heave-offering for olives intended for eating [i.e., olives the preparation of which has been completed], or olives [as heave-offering] for olives intended for eating, or wine [as heave-offering] for grapes intended for eating, or grapes [as heave-offering] for grapes intended for eating, and [afterwards] decided [instead] to press them [i.e., any of the produce which he originally intended for consumption as foods], he need not separate heave-offering [a second time]. **That is because he changed his mind. Lo, if he did not change his mind, what he has separated is heave-offering and he must go and separate heave-offering a second time.**

[V:1 A] **They may not separate heave-offering from (1) produce the preparation [for consumption] of which is completed for produce the preparation of which is not completed; nor from (2) produce the preparation of which is not completed for produce the preparation of which is completed; nor from (3) produce the preparation of which is not completed for produce the preparation of which is not completed. But if he separated heave-offering [in any of these ways] — that which he has separated is [valid] heave-offering:**

[B] [Why is it the rule that only fully processed produce is separated as heave-offering?] R. Immi in the name of R. Simeon b. Laqish: “Your [Levites’] offering [heave-offering of tithe given to priests from first tithe] shall be reckoned to you as the grain of the threshing floor (Num. 18:27) — where the processing of the produce is completed. On the basis of his commanding the Levites to separate heave-offering of tithe from produce that is fully processed, you may reason that it is forbidden to give the Levites first tithe in the form of unthreshed stalks.” [They must give fully processed provide to the Levite, who then separates heave-offering of tithe for the priest. The heave-offering that Israelites give the priest must be fully processed produce too.]

[V:2 A] Hiyya bar Ada in the name of R. Simeon b. Laqish: “First tithe that the farmer went and separated from stalks of grain [from which heave-offering had not yet been separated, — [the Levite] is prohibited to eat the tithe as a random meal [not having separated the priest’s tenth.” [That is so even though it is not processed and ought not be liable to heave-offering, normally separated before first tithe.]”

- [B] **What is the scriptural basis for this rule?**
- [C] “You [Levites] shall not profane the holy things [heave-offering] of the people of Israel lest you die” (Num. 18:32). [The Levites may not eat produce that contains the heave-offering that Israelites are supposed to have separated. They must separate it as heave-offering of the tithe.]
- [D] What is the law of the Torah as to inflicting a flogging [on the Levite who eats first tithe from which heave-offering of the tithe was not separated]?
- [E] *R. Ashian in the name of R. Jonah: “The Tannaite rule indicates this: By the law of the Torah they do not inflict a flogging [on the Levite who eats first tithe from which heave-offering of the tithe was not separated]. For we have learned in the Mishnah there: **Heave-offering of the tithe is like firstfruits in two ways and [like] heave-offering in two ways. (1) It is taken from clean produce for unclean [produce], (2) and [it is taken from produce] which is not in the same location [as the produce requiring the removal of heave-offering] like firstfruits. (1) But [before it is separated] it renders forbidden [as food] that which is on the threshing floor, (2) and it has a prescribed quantity, like heave-offering [M. Bik. 2:5].***
- [F] *Thus you must say: doesn't the statement, **But [before it is separated] it renders forbidden [as food] that which is on the threshing floor** mean that it prohibits only after the pile of grain has been smoothed over [indicating that the processing is done]?*
- [G] [M. Bik. 2:5 indicates that the strict rules of heave-offering of the tithe like those of heave-offering apply only after the produce is fully processed, and it follows that] according to the law of the Torah the Levies are not flogged for eating first tithe from which heave-offering was not separated.

YERUSHALMI TERUMOT

CHAPTER TWO

2:1

- [A] They may not separate heave-offering from that [produce] which is clean for that which is unclean.
- [B] But if they separated heave-offering [in that manner], that which they have separated is [valid] heave-offering.
- [C] Truly,
- [D] [as regards] a circle of pressed figs, a portion of which became unclean —
- [E] he separates heave-offering from the clean [produce] which is in it for the unclean [produce] which is in it;
- [F] and so [in the case of] a bunch of greens;
- [G] and so [in the case of] a heap [of produce].
- [H] [If] there were two circles [of pressed figs], two bunches [of greens], two heaps [of produce], one of which was unclean and one of which was clean —
- [I] he may not separate heave-offering from one for the other.
- [J] R. Eliezer says, “They separate heave-offering from that which is clean for that which is unclean.”
- [K] They do not separate heave-offering from that [produce] which is unclean for that which is clean.
- [L] And if he separated heave-offering [in that manner] —
- [M] [if he did it] unintentionally, that which he has separated is [valid] heave-offering;
- [N] [but if he did it] intentionally, he has not done anything.

- [O] And so [in the case of] a Levite who had [unclean first] tithe from which heave-offering [of the tithe] had not been separated. [If he] was removing from it [heave-offering of the tithe for other clean first tithe which he possessed
- [P] [if he did this] unintentionally, that which he has done is done [and valid];
- [Q] [but if he did it] intentionally, he has not done anything.
- [R] R. Judah says, “If he knew about it [i.e., knew that the produce was unclean] from the beginning, even though [he forgot and his later actions were] unintentional, he has not done anything.”
- [S] One who immerses [unclean] utensils on the Sabbath —
- [T] [if he does so] unintentionally, he may use them;
- [U] [but if he does so] intentionally, he may not use them.
- [V] One who on the Sabbath tithes [his produce], or who cooks —
- [W] [if he does so] unintentionally, he may eat [the food he has prepared];
- [X] [but if he does so] intentionally, he may not eat [the food].
- [Y] One who plants [a tree] on the Sabbath —
- [Z] [if he does so] unintentionally, he may leave it [to grow];
- [AA] [but if he does so] intentionally, he must uproot [it].
- [BB] But in the seventh year [of the sabbatical cycle], whether [he has planted the tree] unintentionally or intentionally, he must uproot it.
- [I:1 A] They may not separate heave-offering from that [produce] that is clean for that which is unclean:
- [B] R. Yohanan in the name of R. Yannai: “‘And your offering shall be reckoned to you as the grain of the threshing floor and the fullness of the wine press’ (Num. 18:27) — just as in the case of the threshing floor or the wine press, is it possible for part to be unclean and part to be clean? [No. if part contracts uncleanness, all is made unclean.] Now even though elsewhere it is possible [that some produce in a single batch will be clean and some unclean, so that the householder might contemplate separating heave-offering from the one for the other], we derive the rule by analogy from the case in which it is impossible for the case of the threshing floor or the wine press in which it is possible.’”
- [C] Then [even post facto, if someone separated heave-offering from clean produce for unclean, what he has designated should not be valid heave-offering, by note in fact: **But if they separated heave-offering [in**

that manner], that which they have separated is [valid] heave-offering].

[D] [The reason what is done post facto is effective is the following:] “You shall present an offering from it to the Lord” (Num. 11:26) — [which means, so long as the offering is taken from it, from the same batch of produce, it is valid.]

[I:2 A] All passages teach [the law for the detail of which they speak’ and also teach concerning other [comparable matters.] Yet Scripture discusses the great heave-offering, it does not teach concerning the heave-offering of the tithe itself. [Thus Scripture’s rule for heave-offering of the tithe taught concerning the great heave-offering that it may not be taken from clean produce for unclean, yet heave-offering of the tithe itself may be taken from clean produce in behalf of unclean produce.

[B] How do we know from Scripture that that is so [that heave-offering of the tithe itself may be taken from clean produce in behalf of unclean produce]?

[C] R. Yosé in the name of Hezekiah, R. Jonah in the name of R. Yannai: “‘And from it [first tithe] you shall give the Lord’s offering [heave-offering of tithe] to Aaron the priest’ (Num. 18:28) — give to Aaron the priest what is fitting for his priestly status [clean, not unclean produce, which he may eat].”

[D] Kahana said, “‘[Heave-offering of the tithe must be designated ‘from all the best of them [the tithes that the Levites receive’ (Num. 18:29), so that the Levites may] give the consecrated parts from them.’ [The Levite] takes the heave-offering of the tithe from the sanctified [clean] portion of his tithe.”

[E] The heave-offering of the tithe taught concerning great heave-offering that it must be taken from produce that is in the same batch. Yet heave-offering of the tithe may be taken from one batch of first tithe in behalf the tithe in a different batch. What is the scriptural basis for the law that heave-offering of the tithe may be separated from tithe in one batch in behalf of tithe in a different batch?

[F] Scripture said, that the Levites are to separate heave-offering of the tithe “from all of your [Levites] tithes” (Num. 18:29) — even if one is in Judea and the other is in Galilee.

[G] Scripture’s treatment of heave-offering of the tithe taught concerning great heave-offering that it may be separated from produce that was fully processed [for instance grain in the threshing floor and wine in

the press]. And heave-offering of tithe also is separated only from produce that is finally processed.

- [I:3 A] **They remove heave-offering of the tithe (1) from that which is unclean for that which is unclean, (2) and from that which is clean for that which is clean, (3) and from that which is clean for that which is unclean). But [they do] not [remove it] from that which is unclean for that which is clean. [R. Nehemiah says, “They do not remove [heave-offering of the tithe] from that which is unclean for that which is unclean except in the case of produce about which there is a doubt whether it already was tithed”] [T. Ter. 3:19].**
- [B] R. Nehemiah says, “Just as heave offering of the tithe may not be taken from unclean first tithe in behalf of clean first tithe, so it may not be taken from unclean first tithe in behalf of other unclean first tithe [since the priest cannot eat it].”
- [C] And R. Nehemiah concurs in the case of first tithe taken from produce that is subject to doubt as to whether it has been tithed [that heave-offering of tithe for first tithe may be taken from unclean produce. The priest may have received his share, so we permit the Levite to give unclean produce, which he may not eat.]
- [D] To this point [we have access to Nehemiah’s opinion only for a case in which a Levite who has unclean first tithe also] has clean first tithe of the same species. [He holds that the Levite should separate heave-offering of tithe from clean first tithe in behalf of the unclean and not from unclean for unclean.] [But what would be his ruling if the Levite] did not have clean first tithe of the same kind for use as heave-offering of tithe for the unclean first tithe? [It is forbidden to separate heave-offering from one kind of produce for a different kind. So Nehemiah must hold either that the Levite should separate heave-offering of tithe from unclean first tithe or that he should wait until he acquires clean first tithe of the same kind. Which?]
- [E] *Let us infer the answer from the following:*
- [F] *R. Hanina of Ein Tuna went up with R. Zeira to the hot springs of Geder. [Hanina] bought for Zeira eating olives prepared in a state of cleanness, but not yet prepared by the removal of heave-offering and tithes]. Zeira wanted to [set aside some of the clean olives for use] in tithing unclean produce that he might purchase in the next few days. [He would avoid separating unclean produce as heave-offering even for unclean produce. That is in line with Nehemiah’s ruling.]*

[G] *He said to him, “We don’t have to take account of an idiosyncratic opinion.” [Nehemiah alone holds that heave-offering may not be taken from unclean produce for other unclean produce.]*

[H] *You must say that Nehemiah’s view pertains only if the Levite had clean first tithe of the same species as the unclean. [Then he should separate heave-offering of tithe from the clean first tithe. If he has no clean first tithe, he may separate heave-offering of tithe from unclean produce.]*

[II:1 A] Truly:

[B] Said R. Eliezer, “Every passage that we repeat in the language, truly, represents a law revealed to Moses at Sinai.”

[III:1 A] [as regards] a circle of pressed figs, a portion of which became unclean — he separates heave-offering from the clean [produce] which is in it for the unclean [produce] which is in it: because a portion became unclean, does that not mean the whole of it was made unclean?

[B] *The Mishnah speaks of a case in which the figs were stuck together with fruit juice [which does not establish a connection to transmit uncleanness].*

[III:2 A] [as regards a circle of pressed figs, a portion of which became unclean — he separates heave-offering from the clean [produce] which is in it for the unclean [produce] which is in it: but in the end won’t it be split up into two parts [one unclean, one clean]?

[B] Interpret the rule to speak of a case in which the householder designated clean figs in the circle to serve as heave-offering for unclean ones while all the figs were still joined together. [At the time of designation the figs formed a single batch.]

[IV:1 A] and so [in the case of] a bunch of greens [he separates heave-offering from the clean produce which is in it for the unclean produce which is in it]:

[B] *The Mishnah speaks of a case in which some of the greens in the bunch were made unclean while all the greens were tied together.*

[C] But if it was made unclean in single stalks and the householder then bound them together with clean stalks, in this case it is not permitted to separate clean produce in the bunch as heave-offering for unclean.

[D] But in the end won’t it be split up into two parts [one unclean, one clean]?

[E] Interpret the rule to speak of a case in which the householder designated heave-offering for unclean ones while all the stalks were still joined together. [At the time of designation the stalks formed a single batch.]

[F] A bunch of greens part of which became unclean which one unbound and rebound, what is the law [as to whether heave-offering may be separated from the clean greens in the bunch on behalf of the unclean ones? [On the one hand they were bound together when a portion became unclean, so heave offering may be separated. But the householder unbound the bunch, so heave-offering may not be separated from the clean produce for the unclean.]

[V:1 A] **and so [in the case of] a heap [of produce] and so [in the case of] a bunch of greens]:** *why not repeat the Tannaite ruling in connection with a circle of figs and not teach the rule in connection with a bunch of greens, teach the rule in connection with a bunch of greens and not teach the rule in the case of a heap of produce?*

[B] *Had we repeated the case of the circle of figs and not repeated the case of the bunch of greens, we might have said that a circle of figs which forms a single compact body one may separate heave-offering from the clean part of the circle for the unclean, but we would have supposed that in the case of a bunch of greens, in which all the produce is not formed into a single entity, one may not separate heave-offering from clean greens for unclean ones. To prevent that false impression, it was necessary to refer to the bunch of greens. And had we repeated the case of the bunch of greens and not included the heap of produce, we might have supposed that a bunch of vegetables, in which all the produce is in a single circumscribed batch one may separate heave-offering from clean for unclean produce, but in the case of a heap of produce, in which all of the produce is not in a single circumscribed batch, one may not separate heave-offering from clean produce for unclean. To prevent that false impression, it was necessary to refer to the heap of produce and to say that produce may be separated from the clean for the unclean. So it was necessary to refer to the heap of produce.*

[VI:1 A] **[If] there were two circles [of pressed figs], two bunches [of greens], two heaps [of produce], one of which was unclean and one of which was clean — he may not separate heave-offering from one for the other.**

[B] *What need was there for the teaching of R. Yohanan in the name of R. Yannai: “And our offering shall be reckoned to you as the grain of the*

threshing floor and the fullness of the wine press' (Num. 18:27) — [it is impossible for a portion of a heap of produce on the threshing floor to be unclean and a portion to be clean. But the heap of produce in the cited passage of the Mishnah takes for granted that the heap may be partly clean and partly unclean.]”

[C] *Said R. Hiyya bar Ada, “The Mishnah speaks of a mound of cucumbers or chatemelons. [Part can be unclean, part clean. Yohanan refers to a heap of grain, which is indivisible.]”*

[VI:2 A] [If] there were two circles [of pressed figs], two bunches [of greens], two heaps [of produce], one of which was unclean and one of which was clean — he may not separate heave-offering from one for the other.

[B] What is the rule on whether one may separate heave-offering from the figs in one circle for figs in the other circle? [Are they distinct batches?]

[C] *Let the answer derive from the following:*

[D] If there were before the householder two piles of produce, from one of which he had separated a portion of heave-offering and tithes and from the other of which he had separated a portion of the heave-offerings and tithes, what is the rule? May he later on separate heave-offering from this partially tithed batch on behalf of the other partially tithed batch? [If it's a single batch, he may separate heave-offering in this way. If it is two distinct batches, he may not.]

[E] The disciples of R. Hiyya the Elder asked R. Hiyya the Elder, and he answered them, “‘The fool folds his hands and eats his own flesh’ (Qoh. 4:5).” [Who but a fool separates only a portion of the heave-offering and tithes and makes it impossible to separate from a single batch the tithes required of all his produce?]

[F] R. Eleazar in the name of R. Hiyya the Elder: “If there were before the householder two piles of produce, from one of which he had separated a portion of heave-offering and tithes and from the other of which he had separated a portion of the heave-offerings and tithes, he may not later on separate heave-offering from this partially tithed batch on behalf of the other partially tithed batch.”

[VI:3 A] [If] he placed many [different] kinds in a vessel — [if there was] cabbage on top and cabbage on the bottom and a different kind [of produce] in the middle, he may not separate heave-offering from that which is on top for that which is on the bottom, unless he [first] brought them together [T. Ter. 3:8].

[B] *That which you say applies* if there is no space between the batches of cabbage but only the other kind of produce. But if there is space and no other interposed produce, one may separate heave-offering and tithes from this batch of cabbage on the bottom for the batch of cabbage on the top.

[VI:4 A] **All [of the wine in] a wine-press room constitutes a single batch [and therefore heave-offering may be separated from discrete quantities of wine within the room [T. Ter. 3:7].**

[B] All of the figs in the storage room form a single batch [for separating heave-offering.

[C] *It was taught as a Tannaite statement: said R. Judah,* “And that is the case when the greater part of the produce from the threshing floor is in the middle.”

[D] To this point the rule applies to grain on the threshing floor even if the produce in the middle is straw or stubble, [for these are not separate species].

[E] *R. Haggai asked R. Yosé,* “If there was unclean produce in the middle of the threshing floor [is the produce still regarded as a single batch for separating heave-offering]?”

[F] He said to him, “Does the unclean produce touch the produce round about?” [It does not touch it, because if it did the whole crop would be unclean, Since it is distinct from the produce around it, it divides the grain into separate batches, and heave-offering is not separated from one part for the whole.]”

[G] *Associates asked before R. Yosé,* “If there was a piece of cloth in the middle [does this divide the batches]?”

[H] He said to them, “This is comparable to the case of five sacks of produce on the threshing floor. [They are distinct from one another, and one does not separate heave-offering and tithes from the produce in one sack in behalf of the produce in another sack, The same applies to the piece of cloth.]”

[VII:1 A] **[R. Eliezer says, “They separate heave-offering from that which is clean for that which is unclean” (M. Ter. 2:1J): R. Ilai says in the name of R. Eliezer, “They separate heave-offering from that which is clean for that which is unclean even in [the case of] wet [produce]. How so? One who pickled his olives in a state of uncleanness and wished to separate heave-offering from them in cleanness, brings a funnel the [smaller] opening of which does not**

hold an egg's bulk, and rests it in the opening of the jug [of pickled olives]. He brings [clean] olives and places them in it [i.e., in the funnel] and separates heave-offering [from these clean olives for the unclean olives in the jug]. The result is that he separates heave-offering from that which is clean for that which is unclean, and separates from a single batch [as required by M.2:1D-E]" [T. Ter. 3:18].

[B] **[...brings a funnel the [smaller] opening of which does not hold an egg's bulk:]** why do I need a funnel with an opening less than an egg's bulk? Even if it were the size of an egg's bulk, [the pickled olive's would not convey uncleanness to the clean olives in the funnel,] because they are in small pieces, [none of which is an egg's bulk and so able to impart uncleanness].

[C] **They said to him, "Only in the case of wine and oil is the term *wet* applicable [and since the method you suggest will not work in the case of either of these things, you have not offered support for the rule]" [T. Ter. 3:18].**

[VII:2 A] **All the wine in a wine press room forms a single batch [for heave-offering may be separated from clean wine within the room in behalf of unclean wine [T. Ter. 3:7].**

[B] *How so?*

[C] **If one press was served by two tanks, two presses served by one tank, or two presses served by two tanks, heave-offering may be separated from the clean wine in one of the tanks for unclean wine in the other tank [T. Ter. 3:7].**

[D] *That poses no problem in the case of one press served by two tanks [so wine pressed in cleanness may be stored in one of the vats, wine pressed in uncleanness in the other; clean wine can be used as heave-offering for unclean]. But where there are two presses served by one tank, isn't it the fact that since part of the batch is made unclean, the whole of it is made unclean, [since it is a single batch]?*

[E] *R. La in the name of R. Eleazar: "Interpret the law to deal with a case in which he planned to store the wine from two presses in a single batch but changed his mind and decided to make two batches with the clean wine in one vat and the unclean in a different vat." [Even though the wine was ultimately stored in separate vats, because it was intended for a single vat, it is deemed a single batch. The upshot is, heave-offering may be separated from the clean wine for the unclean wine.]*

[F] *Said R. Yosé b. R. Abun, “That which you say [heave-offering may be separated from the clean wine for the unclean wine] applies if the wine became unclean after the farmer filled the vat and skimmed it so it was liable to the separation of heave-offering while it was still clean. But if the wine became unclean before it was placed in the vat and skimmed, it may not be [deemed a single batch with clean wine.]”*

[VII:3 A] R. Tabi in the name of R. Josiah b. R. Yannai: “The decided law is in accord with R. Eliezer.”

[B] R. Isaac bar Nahman in the name of R. Hoshai: “The decided law is in accord with R. Eliezer.”

[C] R. Huna, R. Hanania: “The decided law is not in accord with R. Eliezer.”

[D] R. Yosé b. R. Bun, R. Judah in the name of Samuel: “The decided law is not in accord with R. Eliezer.”

[E] A case came before R. Imi [involving the separation of clean produce as heave-offering in behalf of unclean produce]. He did not decide [in accord with Eliezer, that **they separate heave-offering from that which is clean for that which is unclean**]. *He said, “There are two authorities against two authorities [and Eliezer is not supported by a majority, so he ruled against.]”*

[F] *They said to him, “But R. Isaac bar Nahman ruled in favor.”*

[G] *Even so, he did not rule in accord with [Eliezer].*

[VIII:1 A] **[They do not separate heave-offering from that [produce] which is unclean for that which is clean. And if he separated heave-offering in that manner — [if he did it] unintentionally, that which he has separated is [valid] heave-offering; [but if he did it] intentionally, he has not done anything. And so [in the case of] a Levite who had [unclean first] tithe from which heave-offering [of the tithe] had not been separated. [If he] was removing from it [heave-offering of the tithe for other clean first tithe which he possessed [if he did this] unintentionally, that which he has done is done [and valid]; [but if he did it] intentionally, he has not done anything. R. Judah says, “If he knew about it [i.e., knew that the produce was unclean] from the beginning, even though [he forgot and his later actions were] unintentional, he has not done anything:]”**

[B] *There we learned in the Mishnah: He who gives heave-offering from the cistern, and said, “Lo, this is heave-offering on condition that*

it come up in safety” [He wishes to prevent the wine or oil designated as heave-offering from spilling and mixing with unconsecrated wine, making all the wine or oil in the vat into heave-offering] — **[his condition is understood to mean], safe from breakage and from spillage, but not from uncleanness. R. Simeon says, “Even from uncleanness [M. T.Y. 4:7].”**

- [C] *Said R. Yosé b. Hanina, “The Mishnah refers to the uncleanness imparted by one who has immersed on the selfsame day and awaits sunset for the completion of his rite of purification. [The householder makes his condition against the touch of such a person, to protect the wine or oil separated as heave-offering.]”*
- [D] *Said R. Ila, “That is because persons who have immersed on the selfsame day and await sunset for the completion of the rite of purification are many at the wine vats [waiting for sunset, so they may collect their heave-offering].”*
- [E] *Said R. Yosé, “[That cannot be the operative concern of Simeon, because] the touch of persons who have immersed on the selfsame day and await sunset for the completion of the rite of purification is null for untithed produce that he touches.” [The consideration has no bearing on the rule. Only when it is heave-offering does the touch of such a person register.]*
- [F] *It was taught as a Tannaite statement: said R. Yudan, “Under what circumstances [is the language “**Lo, this is heave-offering on condition that it come up in safety**” interpreted to mean] that the ladle not break or the wine or oil spill? It is in the separation of the great heave-offering, which must be designated from nearby produce [one batch for that same batch]. [If win or oil designated as heave-offering spills, the householder would have to take an additional amount or wine or oil from a different, untithed batch, and that is not permitted for great heave-offering, so the one who separates the offering specifies the condition that if he does not succeed in separating sufficient produce, the act of separation is null.] But in the case of heave-offering of the tithe, [if the ladle breaks or the oil spills] or any other accident, [the wine or oil is deemed to have come up in safety [and the act of separation is valid. The Levite may simply take additional heave-offering of tithe from a different batch].*
- [G] *Judah bar Rabbi says, “It never entered the mind of this one to violate the teachings of the Torah by separating heave-offering of the tithe before the great heave-offering. [So he must impose conditions to*

assure that the separation of heave-offering is valid, with enough of the produce separated].”

[H] *Answered R. Abba bar Mamel, “But have we not learned in the Mishnah: **They do not separate heave-offering from that [produce] which is unclean for that which is clean. And if he separated heave-offering [in that manner] — [if he did it] unintentionally, that which he has separated is [valid] heave-offering.*** Suppose that one separated heave-offering [from unclean produce for clean and did so unintentionally, so the separation should be valid,] but said that he did not wish to violate the teaching of the Torah [that one not separate heave-offering from unclean produce for clean]. [Since he did not wish to violate the law, the act of separation is null. But the Mishnah states that the separation is valid. So the intention of the farmer is irrelevant in assessing the validity of his action.]”

[I] [Continued] R. Abba bar Mamel, “If you say so [since he did not wish to violate the law, the act of separation is null], you turn out to separate him from a minor offense and bring him to a major offense. Eating produce that is liable to tithing but not yet tithed is a sin subject to the death penalty, but an unclean person who ate clean produce is subject to the violation of a positive commandment [which is not a capital offense].”

[VIII:2 A] *It is taught as a Tannaite rule in the name of R. Yosé: [They do not separate heave-offering from that [produce] which is unclean for that which is clean.] And if he separated heave-offering [in that manner] — whether he did it unintentionally or intentionally, what he has done is done and valid [T. Ter. 3:19].*

[B] *R. Phineas asked before R. Yosé: “To this point we have interpreted Judah’s statement [R. Judah says, “If he knew about it [i.e., knew that the produce was unclean] from the beginning, even though [he forgot and his later actions were] unintentional, he has not done anything”] to pertain only to a case in which someone assumed his produce was clean [and forgot that it was unclean] so when he separated heave-offering from it, he thought it was clean. In that case Judah disagrees with Yosé and with the anonymous rule [[if he did this] unintentionally, that which he has done is done [and valid]; [but if he did it] intentionally, he has not done anything]. What if the farmer knew that the produce was unclean, but forgot that it was permitted to separate heave-offering from unclean produce for clean produce?”*

[C] *He said to him, “It would have been fine had Rabbi [Judah the Patriarch, responsible for the anonymous rule] had agreed with R. Judah, But he didn’t, for the law is according to R. Yosé both there and here.”*

[IX:1 A] **One who immerses [unclean] utensils on the Sabbath — [if he does so] unintentionally, he may use them; [but if he does so] intentionally, he may not use them. One who on the Sabbath tithes [his produce], or who cooks — [if he does so] unintentionally, he may eat [the food he has prepared]; [but if he does so] intentionally, he may not eat [the food]. One who plants [a tree] on the Sabbath — [if he does so] unintentionally, he may leave it [to grow]; [but if he does so] intentionally, he must uproot [it]. But in the seventh year [of the sabbatical cycle], whether [he has planted the tree] unintentionally or intentionally, he must uproot it:**

[B] **[If the festival day] coincided with the day after the Sabbath [Sunday], the House of Shammai says, “They immerse everything before the Sabbath.” And the House of Hillel says, “Utensils [are to be immersed] before the Sabbath, but man [may immerse] on the Sabbath [itself]” [M. Besah 2:2]** [The Houses of Hillel and Shammai agree that people may not immerse vessels on the Sabbath in order to render them cultically clean. The Yerushalmi asks to what sort of vessels the Houses refer.] *At Mishnah Besah 2:3*, the Houses refer to large vessels, [which are not used to draw water].

[C] But in the case of small vessels, [which are used to draw water, the Houses agree that the person may draw water in them and, in that way,] circumvent [the law, since by drawing water], he immerses them [against their previous uncleanness].

[D] *[So] taught R. Hoshaiah*, “[On the Sabbath] a man may fill an unclean vessel [with water] from a well [so as to draw water] and [in that way] may circumvent [the law, since by drawing the water] he immerses the vessel [against its previous uncleanness].”

[E] *It is taught*: [On the Sabbath, if] his [unclean] bucket fell into a well, he may circumvent [the law by using that opportunity to] immerse them [against their previous uncleanness].

[F] [The question now is in what level of uncleanness are the vessels which the Houses agree may, through artifice, be immersed on the Sabbath.] *[There are] two Amoraic authorities.*

[G] *One states* [that the Houses refer even to vessels] which were rendered unclean by a Primary Source of Uncleanness.

[H] *But the other states* [that the Houses refer only to vessels] which were rendered unclean by a Secondary Source of Uncleanness.

[I] *The one who claims* [that they refer only to vessels rendered unclean] by a Secondary Source of Uncleanness replied to the one who states [that they refer even to vessels rendered unclean by] a Primary Source of Uncleanness, “[If indeed the reference is to a vessel rendered unclean by a Primary Source of Uncleanness, why should the Houses permit the person to circumvent the law and immerse it on the Sabbath? The fact is that the man anyway will not be able to use such a vessel on the Sabbath since,] even [if it were immersed] on a weekday, [such a vessel] would have to await the setting of the sun, [which marks the conclusion of its process of purification]. [Since the man cannot use the vessel on the Sabbath, he should not be allowed to immerse it on that day. A vessel rendered unclean by a Secondary Source of Uncleanness, by contrast, may be used immediately after it is immersed. The Houses allow the person to immerse it on the Sabbath, so that he may use it on that same day.]”

[J] Said to him [the one who claims that the Houses refer as well to a vessel which was rendered unclean by a Primary Source of Uncleanness], “The case is one in which [the individual] wishes to use [the vessel] for unconsecrated foods prepared in a state of cleanness [but not for heave-offering or other Holy Things]. [For such use the vessel rendered unclean by a Primary Source of Uncleanness and then immersed need not await the setting of the sun. It may be used immediately. The Houses have good reason to allow the person to immerse this vessel on the Sabbath, so as to use it on that same day.]”

[IX:2 A] R. Jeremiah, R. Zeira in the name of R. Hiyya bar Ashi: “[On Friday night or early Saturday morning] a smart woman will rinse a cup here and a plate there and a tray somewhere else. [She turns out to wet down the dirt floor of her house on the Sabbath [which is forbidden on the Sabbath].”

[IX:3 A] **[One who immerses [unclean] utensils on the Sabbath — [if he does so] unintentionally, he may use them; [but if he does so] intentionally, he may not use them. One who on the Sabbath tithes [his produce], or who cooks — [if he does so] unintentionally, he may eat [the food he has prepared]; [but if he does so] intentionally, he may not eat [the food]. One who plants [a tree] on the Sabbath — [if he does so] unintentionally, he may leave it [to grow]; [but if he does so] intentionally, he must uproot [it]. But in the seventh year [of the sabbatical cycle], whether [he has planted the tree] unintentionally or intentionally, he must uproot it:]” R.**

Samuel in the name of R. Abbahu: “If someone who knows that it is the Sabbath but forgets the prohibition against tithing on that day, if he is inadvertent, he may eat what he tithes. If he knows that it is the Sabbath and that it is forbidden to tithe on that day, he may not eat what he tithes.” [Forgetting that it is the Sabbath does not establish inadvertence.]

[B] *Said R. Yosé, “The Mishnah has said that: **One who on the Sabbath tithes [his produce], or who cooks — [if he does so] unintentionally, he may eat [the food he has prepared]; [but if he does so] intentionally, he may not eat [the food].*** [By treating tithing and the Sabbath together, the Mishnah refers to a case in which the householder knew that it was the Sabbath but forgot the prohibition against cooking or tithing on that day, or in which he knew it was the Sabbath and prohibited for tithing or cooking but went ahead and did so anyhow.” [It is not a case in which the person remembers the prohibition but forgets that it is the Sabbath.]

[IX:4 A] *It was taught as a Tannaite rule: **He who cooks [food] on the Sabbath —***

[B] **“if he does so] inadvertently, he may eat it.**

[C] **“[If he does so] deliberately, he may not eat it,”** the words of *R. Meir*.

[D] *R. Judah* says, **“[If he did so] inadvertently, he may eat it at the end of the Sabbath. [If he did so] deliberately, he may not eat it [at any time].”**

[E] *R. Yohanan Hassandelar* says, **“[If he did so] inadvertently, it may be eaten at the end of the Sabbath by others, but not by him.**

[F] **“[If he did so] deliberately, it should not be eaten either by him or by others”** [T. Shab. 2:15]

[G] *Samuel* accords with *R. Yohanan Hassandelar*. When *Rab* would instruct his association, he instructed in accord with *R. Meir*. When he would give instruction in public, he would teach in accord with *R. Yohanan Hassandelar*.

[H] *Said R. Simeon bar Barsana, “Rab instructed us teach in accord with R. Ishmael b. R. Yohanan b. Beroqah.”*

[I] *For it has been taught in a Tannaite statement:*

[J] **A general principle did R. Ishmael b. R. Yohanan b. Beroqah state, “In the case of something on account of the deliberate doing**

of which one is liable to extirpation, and on account of the inadvertent doing of which one is liable for a sin-offering, which one did on the Sabbath, whether one did so inadvertently or deliberately — it is prohibited both for him and for others to eat. But in the case of something on account of which people are not liable for the deliberate doing of which to extirpation, and on account of the inadvertent doing of which to a sin-offering, which one did on the Sabbath inadvertently — it may be eaten at the end of the Sabbath by others, but not by him. [If] he did so deliberately, it may not be eaten [at all]” [T. Shab. 2:16].

[K] *They asked before R. Yohanan, “As for you, what do you say?”*

[L] He said to them, “As for me, I know only the Mishnah’s statement: **One who on the Sabbath tithes [his produce], or who cooks — [if he does so] unintentionally, he may eat [the food he has prepared]; [but if he does so] intentionally, he may not eat [the food] [=Meir].”**

[M] *R. Hisda heard and said, “Have the laws on labor on the Sabbath been repealed? Didn’t R. Huna say in the name of Rab, and R. Hiyya taught the same as a Tannaite rule: “In the beginning, they would say: ‘He who cooks on the Sabbath, if this was inadvertent, may eat the food; if this was deliberate, he may not eat the food; and the same rule applies to forgetting [food cooking on the stove].’ When a great many people began deliberately to leave food on the stove, saying, ‘we forgot,’ they went and imposed an extrajudicial penalty on the one who forgets food on the stove [saying that, too, may not be eaten]. And yet you say this?”*

[N] Said R. Hila, “They were suspect of leaving the pot on the stove, they were not suspect of actually cooking the food. Therefore they imposed an extrajudicial penalty on the one who forgets food on the stove [saying that, too, may not be eaten]. [But they did not impose an extrajudicial penalty on the one who forgets food on the stove [saying that, too, may not be eaten].”

[O] They reverted to rule: “Any stew that is improved by being boiled down is forbidden [if left to boil on the Sabbath.] But if the stew is ruined by being boiled down, it is permitted.”

[P] What stew is improved by being boiled down? Cabbage, bean, and chopped meat.

[Q] Said R. Tanhum bar Ila, “Also turnip heads and heads of leeks — they are improved by being boiled down.”

[R] What is the rule for eggs?

[S] R. Yosé in the name of R. Ishmael, R. Jeremiah, R. Hanania in the name of R. Ishmael b. R. Yosé: “Father came home and found there eggs [boiling] and prohibited eating them. He found warm eggs and permitted them.”

[T] R. Samuel bar Nathan in the name of R. Hama bar Hanina: “Father and I went up to the springs of Geder and they served us eggs as small as crab apples and they tasted like apricots.”

[IX:5 A] *It is taught as a Tannaite rule: A woman should not fill a pot with peas or leeks and put them in the oven on the Sabbath eve at sunset, [for if she does, the food will cook on he Sabbath]. But if she did so and placed them in the oven, they may not be eaten on the Sabbath, but after the Sabbath they may be eaten after they have remained in the over long enough to cook [in the time after the Sabbath ends]. [Then we regard the food as cooked after the Sabbath and not on it] [T. Shab. 2:13].*

[B] R. Aha said, “It is a case in which she did it deliberately, and the law accords with R. Meir.”

[C] R. Yosé said, “It is a case of doing so inadvertently, and the ruling accords with R. Judah.”

[D] *Said R. Mana, “Well did R. Yosé state [it is a case of doing so inadvertently, and the ruling accords with R. Judah.]” [For we have the following:] He who plants [seed] on the Sabbath —*

[E] **[If he did so] inadvertently, he may preserve [the plants which come up from the seed].**

[F] **[If he did so] deliberately, he must uproot [the plants which come up from the seed].**

[G] **But in the case of [seed planted in] the Seventh Year, whether this is done inadvertently or deliberately, he must uproot [the plants that come up].”**

[H] R. Judah says, “Matters are precisely the opposite.

[I] **“In the case of the Seventh Year, [if he sowed the seed] inadvertently, he may allow the plants to grow. If he did so deliberately, he must uproot them.**

[J] **“In the case of the Sabbath, whether one has done the deed inadvertently or deliberately, one must uproot [the plants which**

come up later on] for the benefit of the forbidden work done on the Sabbath affects it” [T. Shab. 3:11].

[K] Now here, since you say that one should wait after the Sabbath for sufficient time to pass for the food to cook, it is equivalent to a case in which someone in no way benefits from work done on the Sabbath.

[X:1 A] One who plants [a tree] on the Sabbath — [if he does so] unintentionally, he may leave it [to grow]; [but if he does so] intentionally, he must uproot [it]. But in the seventh year [of the sabbatical cycle], whether [he has planted the tree] unintentionally or intentionally, he must uproot it.

[B] What is the reason for the position of the rabbis cited above?

[C] **Israelites are suspect of violating the law of the Seventh Year, but they are not suspect of violating the law of the Sabbath. Another matter: Because they count out the years in the case of plants which come up, e.g., for ‘*orlah* and for the fourth-year produce] in the case of the Seventh Year [so that if he does not uproot the plants, it will be clear even after the Seventh Year that he has planted them in the Seventh Year]. But they do not count out [years] for the Sabbath [T. Shab. 2:21].**

[D] *What would be a concrete case?*

[E] If a farmer inadvertently planted a sapling fewer than thirty days before the start of the Seventh year, [so the Seventh year is the sapling’s first year of growth] and the sapling continued to grow in the Seventh year [must the sapling be uprooted]?

[F] *if you say that* the sages’ reason is suspicion that the Israelites will lie to violate the restrictions of the Seventh year, then the tree may be left to grow since it was not planted in the Seventh year], there is no consideration of suspicion. If you say that the operative consideration is the matter of counting out the years, there is the consideration of counting out the years [since the first year of growth is counted as the seventh year, that is a concern].

[G] If the farmer planted the sapling fewer than thirty days before the end of the Seventh year [so that its first year of growth is the first year of the new cycle/the eighth year of the old] what is the rule on uprooting it?

[H] *If you say that* the sages’ reason is suspicion that the Israelites will lie to violate the restrictions of the Seventh year, then that is a consideration [for the tree was planted in the Seventh year].

[I] *As to him who said* the sages' reason is suspicion that the Israelites will lie to violate the restrictions of the Seventh year, would the rabbis penalize those who inadvertently violate the law on account of those who intentionally do so? [That is impossible, and suspicion is not the operative consideration.]

2:2

[A] **They may not separate heave-offering from [produce of one] kind for [produce] which is not of its same kind.**

[B] **And if he separated heave-offering [in this way] — that which he has separated is not [valid] heave-offering.**

[C] **All kinds of wheat are [considered] one [species];**

[D] **all kinds of figs, dried figs and circles of pressed figs are considered one species**

[E] **so one separates heave-offering from one species of wheat for a different species of wheat.**

[F] **Wherever there is a priest [to receive the heave-offering at once], [the householder] separates heave-offering from the choicest [produce].**

[G] **Wherever there is not a priest [to receive the heave-offering immediately], he separates heave-offering from that which keeps [and doesn't spoil].**

[H] **R. Judah says, "He always should separate heave-offering from the choicest [produce]."**

[I] **They separate a whole small onion as heave-offering [for other produce], but not half of a large onion.**

[J] **R. Judah says, "No, rather, they separate half of a large onion as heave-offering [for other produce]."**

[K] **And so would R. Judah say, "They separate onions from large towns as heave-offering for [onions] from villages, but not [onions] from villages [as heave-offering] for [onions] from large towns,**

[L] **"since they [i.e., the onions grown in large towns] are the food of city-people, [and therefore of higher quality]."**

[I:1 A] **R. Yohanan in the name of R. Yannai: "This is one of three readings of verses of Scripture that are clearly supported by the plain sense of Scripture: 'All the best of the oil and all he best of the wine and the grain' (Num. 18:11). [Scripture refers to each too indicate that these must be given as heave-offering on its own and not for a different species.]"**

[B] *How are we to interpret this matter* [which refers to the best of the oil and all the best of the wine and but not to the best of the grain]? If it is to teach that they separate wine as heave-offering for grain or grain for wine, *they replied*, “Lo, wine and oil, lo these derive from a species of tree, yet they may not separate heave-offering or tithes from one for the other.”

[C] For one said, “Just as wine and oil share the distinctive trait of deriving from kinds of trees, but they do not separate heave-offering and tithes from one for the other, I surely must encompass under the rule two kinds of grain or two kinds of produce ζ they may not separate heave-offering or tithes from one for the other.”

[II:1 A] All kinds of wheat are [considered] one [species]:

[B] This was necessary to make the following point: they may even separate heave-offering from light-colored wheat for dark-colored wheat or from dark-colored wheat from light-colored wheat.

[III:1 A] all kinds of figs, dried figs and circles of pressed figs are considered one species:

[B] *It was taught as a Tannaite statement*: They separate figs as heave-offering for dried figs according to number; and dried figs [as heave-offering] for figs according to volume. But [they do] not [separate] figs [as heave-offering for dried figs according to volume; nor dried figs [as heave-offering] for figs according to number. Rabban Simeon b. Gamaliel says, “Baskets of figs and baskets of dried figs are all [of] equal [status]. They separate heave-offering and remove tithes from one for the other [without regard to differences in size and number].” Said R. Ishmael b. R. Yosé, “Father would take ten dried figs from the drying place [as heave-offering and tithes] for ninety figs which were in the basket [ready for consumption]” T. Ter. 4:1-2].

[C] *R. Jeremiah considered ruling*: “[To separate fresh figs as heave-offering for dried ones, you treat the dried figs as if swollen to their original size and take as heave-offering for them baskets of fresh figs in accordance with this measure.”

[D] R. Jonah and R. Yosé, two Amoraim: “It is the way for what is swollen to become compressed, but not for what is compressed to swell up. [We cannot treat dried figs as if they were their original size.] *Instead let us take as heave-offering for fresh figs big baskets of dried figs [so the priest will receive a sufficient quantity of smaller produce].*”

- [E] *Said to them R. Aha: “Thus would R. Ila, your master, reflect on Jeremiah’s view on the basis of this:* An egg’s bulk of foodstuffs that one left in the sun and that shrank [to less than an egg’s bulk and so was not of requisite volume to contract uncleanness] and so (1) an olive’s bulk of corpse matter, (2) an olive’s bulk of carrion and (3) a lentil’s bulk of a creeping thing (4) an olive’s bulk of refuse, (5) an olive’s bulk of remnant, and (6) an olive’s bulk of prohibited fat lo, they are clean. And they are not liable on their account because of refuse, remnant, and uncleanness. [If] one left them in the rain and they expanded, they are unclean, and they are liable on their account [for transgression of the laws of refuse, remnant, and uncleanness [Better: forbidden fat] [M. Toh. 3:4]. **If one put them in the rain and the swelled up to greater than minimum volume, they are unclean.”** [Food is subject to the law in accord with its present volume, not the original volume.]
- [F] **The Southerners say, “[If one put them in the rain and the swelled up to greater than minimum volume, they are unclean] only if to begin with the food was an olive’s bulk.” If the food was left in the sun and shrank to less than an olive’s bulk and swelled up in the rain, it is susceptible to uncleanness. If it was never the minimum volume, it does not contract uncleanness.]”**
- [G] *R. Yohanan and R. Simeon b. Laqish say, “Even if to begin with the food was not an olive’s bulk.”*
- [H] *There we learned in the Mishnah:* All meal offerings are brought unleavened [Lev. 2:4-5, 6:7-9], except for the leaven[ed cakes] in the thank offerings [M. 7:1] and the two loaves of bread [of Shabuot], which are brought leavened [Lev. 7:13, 23:17]. R. Meir says, “The leaven is set aside for them from their own [contents], and it leavens them. R. Judah says, “Also: that is not of the best way. But one brings the leaven and puts it into the measure and [then] fills the measure [with meal].” They said to him, “Also: it would be either too little or too much” [M. Men. 5:4].
- [I] *Who is represented by* They said to him?
- [J] **It is R. Meir. Sometimes the leaven would be of good quality and rise. In this case the meal might be of too little volume, but swells up because of the high quality of the leaven. You must judge the leavened dough as if it was compressed to the original volume of the meal. It turns out that there is too little meal for the offering. And sometimes the leaven would be of low quality, so that it would contract. In this case the meal might be of sufficient quantity but**

because of the low quality leaven, it would call and appear to be of too little volume. You must judge the dough as if it had risen. So it turns out that there is more than enough meal in the offering. [We can never tell whether the dough contains sufficient quantity of meal for the offering. Meir therefore holds that one allows the meal to be leavened by dough created from the dough itself. Then we know exactly the quantity of the offering, and whether or not it rises is not relevant.]

- [K] As to R. Jeremiah, R. Yohanan and R. Simeon b. Laqish, the three of them said the same thing in the setting where the food was compressed [we judge what has swelled up as though it were the original volume].
- [L] *The people of Bar Patai cooked rice. They forgot to tithe it. [Should the rice be tithed in accord with its increased, cooked volume or its uncooked volume?] Associates reasoned: “Take as tithes fresh uncooked rise in a volume commensurate with the amount of fresh rise in the cooked rice.”*
- [M] Said to them R. Yosé, “I too say that. Why? Because when it is cooked, rice swells up. [Treat it as if it were its original volume.]”

2:3

- [A] They separate olives for oil as heave-offering for olives for pickling;
- [B] but not olives for pickling [as heave-offering] for olives for oil.
- [C] And [they separate] wine that has not been boiled [as heave-offering] for that which has been boiled;
- [D] but not that which has been boiled [as heave-offering] for that which has not been boiled.
- [E] This is the general principle:
- [F] [in the case of] any [produce] that is a distinct kind in relation to another [type of produce] — he may not separate heave-offering from one for the other, even from the more choice [as heave-offering] for the less choice.
- [G] But [in the case of] any [produce] that is not a distinct kind in relation to other [produce] — he separates heave-offering from the more choice for the less choice, but not from the less choice for the more choice.

- [H] But if he separated heave-offering from the less choice for the more choice — that which he has separated is [valid] heave-offering.
- [I] Except in the case of rye-grass [separated as heave-offering] for wheat, since it [i.e., rye-grass] is not a food and squash are a single kind.
- [J] R. Judah says, “[They are] two [different] kinds.”
- [I:1 A] [And they separate wine that has not been boiled as heave-offering for that which has been boiled; but not that which has been boiled [as heave-offering] for that which has not been boiled]:
- [B] Said R. Yohanan, “This represents the opinion of R. Judah, [the heave-offering should be taken from unboiled wine, which is of better quality].”
- [C] [But consider They may not boil wine in the status of heave-offering, since this diminishes its quantity.] R. Judah permits [one to cook wine], for this improves it [i.e., the flavor of the wine]. [M. Ter. 11:1G-I].
- [D] *And said R. Yohanan, “The theories attributed to R. Judah conflict. [Unboiled wine is preferred here, in the later passage boiled wine is better.]”*
- [E] *R. Eleazar says, “The theories attributed to R. Judah do not conflict. There, where boiling wine is permitted, it is wine in the status of heave-offering and the boiling is done by the priest. [That keeps the wine from spoiling and it is therefore better.] Here where unboiled wine is superior, it is in the hands of the householder since unboiled wine is of better quality.”*
- [I:2 A] [As to the statement, since this diminishes its quantity]: R. Eleazar and R. Yohanan — one said it diminishes its quality for wine drinkers, the other says it diminishes its quantity. *And we do not know who said this and who said that.*
- [B] On the basis of the statement, *said R. Yohanan, “The theories attributed to R. Judah conflict. [Unboiled wine is preferred here, in the later passage boiled wine is better.]” and R. Eleazar says, “The theories attributed to R. Judah do not conflict, There, where boiling wine is permitted, it is wine in the status of heave-offering and the boiling is done by the priest. [That keeps the wine from spoiling and it is therefore better.] Here where unboiled wine is superior, it is in the hands of the householder since unboiled wine is of better quality,” it must be R. Yohanan who said, it diminishes its quality*

for wine drinkers. [Yohanan holds that diminishes means diminishes its taste, and the disputing opinion must be that boiling the wine improves its flavor. Yohanan thus maintains that Judah's opinion at M. Ter. 11:1 contradicts what he says at M. Ter. 2:6. Eleazar sees the issue of M. Tr. 11:1 as quantity, and that has no bearing on M. Ter. 2:6.]

[C] **R. Judah b. R. Imi in the name of R. Simeon b. Laqish: “Boiling wine diminishes its desirability to wine drinkers.”**

[I:3 A] *A Tannaite rule conflicts with the view of R. Yohanan [that boiling wine ruins the flavor]:* They separate wine which has not been boiled [as heave-offering] for that which has been boiled; but not that which has been boiled [as heave-offering] for that which has not been boiled [= M. 2:6]. Rabban Simeon b. Gamaliel says, “[They] even [separate wine] which has been boiled [as heave-offering] for that which has not been boiled.” And so would Rabban Simeon b. Gamaliel say, “Also the laws of uncovered [liquids] [see M. 8:4] and of wine used for libations are not applicable in the case of wine which has been boiled” [T. Ter. 4:4]

[B] **Said R. Imi, “R. Yohanan did not repeat this statement.”**

[I:4 A] [Why is separating less choice produce as heave-offering for better produce valid?] Said R. Abun bar Kahana in the name of Rabbi, “‘And you shall bear no sin by reason of it, when you have offered the best of it’ (Num. 18:32) — since one who improperly separates heave-offering has sinned, you know that his actions are valid.”

[II:1 A] **Except in the case of rye-grass [separated as heave-offering] for wheat, since it [i.e., rye-grass] is not a food:**

[B] **Lo, whatever is edible is permitted to serve as heave-offering [no matter how poor in quality].**

[III:1 A] **But if he separated heave-offering from the less choice for the more choice — that which he has separated is [valid] heave-offering:**

[B] *That is the opinion of R. Ishmael b. R. Yosé in the name of his father:* R. Ishmael b. R. Yosé says in the name of his father, “They separate wine as heave-offering for vinegar, but they do not separate vinegar as heave-offering for wine [except according to a calculation [of the relative values of the two types of produce]” [T. Ter. 4:6].

[C] **If he transgressed and separated heave-offering in that way, what he has designated as heave-offering is validly designated.**

[D] Rabbi says, “Wine and vinegar are two distinct species. They do not designate heave-offering or tithe from the one for the other” [T. Ter. 4:7].

[E] *Said R. Joshua b. Levi, “It stands to reason that Rabbi concurs [that according to the Torah wine and vinegar are a single species, so that separating heave-offering from one for the other is valid.] What is the reason for Rabbi’s view [that they are separate species]? If you say otherwise, so that it is permitted to separate wine as heave-offering for vinegar, people might suppose that it also is permitted to separate vinegar as heave-offering for wine, and that is impossible.]”*

[IV:1 A] And cucumber and squash are a single kind. R. Judah says, “[They are] two [different] kinds.”

[B] *R. Judah is consistent with opinions expressed elsewhere, and the rabbis are consistent with opinions expressed elsewhere.*

[C] For we have learned in the Mishnah there: *cucumber and squash* are not [considered] diverse-kinds with one another. R. Judah says “[They are considered] diverse-kinds” [M. Kil. 1:2].

YERUSHALMI TERUMOT

CHAPTER THREE

3:1

- [A] One who separates a chate-melon as heave-offering [for other chate-melons] and it is found to be bitter,
- [B] [or who separates] a watermelon [as heave-offering for other watermelons] and it is found to be rotten —
- [C] [that which he has separated is valid] heave-offering.
- [D] But he must separate heave-offering again.
- [E] One who separates a keg of wine as heave-offering [for other wine] and it is found to be vinegar —
- [F] if it was known before he separated it as heave-offering [for the other wine] that it was vinegar, [that which he has separated is] not [valid] heave-offering.
- [G] But if it turned into vinegar after he separated it as heave-offering, lo, this is [valid] heave-offering.
- [H] And if there is a doubt [as to whether it was vinegar when it was separated as heave-offering], [that which he has separated is valid] heave-offering.
- [I] But he must separate heave-offering again.
- [J] The first [produce separated as heave-offering at A-D and E+H-I] does not impose the status of heave-offering [on other unconsecrated produce with which it is mixed] by itself [i.e., if it alone is mixed with other such produce].
- [K] And [non-priests who unintentionally eat it] are not required to pay back [its value and] the [added] fifth.
- [L] And so [is the case regarding] the second [produce separated as heave-offering].

- [M] [If] one of them [i.e., one of the quantities of produce separated as heave-offering at M. 3:1A-D or E+H-I] fell into unconsecrated produce, it does not impose the status of heave-offering [upon the mixture].
- [N] [If] the second [produce separated as heave-offering] fell elsewhere [i.e., into a different batch of unconsecrated produce], it does not impose the status of heave-offering [upon the mixture].
- [O] [But if] the two [quantities of produce separated as heave-offering] fell into the same place [i.e., into the same batch of unconsecrated produce], they impose the status of heave-offering [on that produce] in accordance with [the bulk of] the smaller of the two [quantities of produce separated as heave-offering].
- [I:1 A] **One who separates a chate-melon as heave-offering [for other chate-melons] and it is found to be bitter:**
- [B] *There is no problem with a watermelon [as heave-offering for other watermelons] found to be rotten [the farmer must separate heave-offering again, but the original act is valid, because we assume that the watermelon did not turn rotten until after it was designated eave offering]. But as to a chate-melon, found to be bitter, wasn't the chatemelon bitter to begin with?*
- [C] Said R. Yohanan, "They treat them as if they might be food. [Hence the heave-offering is valid, though the farmer may have to tithe the melon again.]
- [D] *R. Jonah asked, "In all aspects do they treat them as if they might be food: do they contract uncleanness as food, and do they burn them if they contract uncleanness, and if they are heave-offering, must a non-priest who unintentionally eats them pay their value and an added fifth, if in the status of second tithe does one receive a flogging for eating them outside the walls of Jerusalem, and if one makes an erub of them is it a doubtful erub so that the man is like one who drives an ass and a camel together?"*
- [I:2 A] There said R. Yohanan, "A loaf of bread that may or may not be unclean in private domain [where doubts are resolved strictly] and which one touched in public domain [where doubts are resolved leniently] — he is unclean. But here [in the case of the bitter chate-melon]. But here [we deal with something might not be edible and so not subject to uncleanness at all, he is classified as clean for there are two questions of doubt in play [whether the food is susceptible to uncleanness, and whether not was actually rendered unclean.]"

- [I:3 A] *It was taught as a Tannaite statement in the name of R. Yosé: **You find nothing bitter in a chatemelon except for its inner part [T. Ter. 4:5].*** [The rest is edible and may be designated heave-offering.]
- [B] What should one do [to make up for the inedible part, which does not become heave-offering]?
- [C] He adds other produce to its outer part to compensate for the bitter part and designates this additional food as heave-offering for the chate melon.
- [D] *R. Benjamin bar Levi asked: “Is it possible that concerning a matter that can be settled through a test [taste] sages would differ [with Yosé, by claiming that the whole melon is inedible]? Rather, [they disagree concerning the need to examine every chatemelon.] [Yosé rules that we assume chatemelons are edible, bitter only inside, and sages want the whole melon to be tasted to ascertain its status].”*
- [I:4 A] **If one separated a keg of wine as heave-offering and it is found to have been left uncovered [it might contain snake venom and is not fit for consumption [M. Ter. 8:4]; [one who separates] a watermelon [as heave-offering for other watermelons] and it is found to be punctured [with the teeth marks of a snake, and is therefore unfit for consumption (M. 8:6)] — that which he has separated is [valid] heave-offering. [But] he must separate heave-offering again [cf., M. 3:1A-D]. [T. Ter. 4:6]**
- [B] R. Yudan bar Pazzi, R. Simeon in the name of R. Joshua b. Levi: “They said that it is valid heave-offering only if the produce was found punctured after it was designated heave-offering. But if it was designated to begin with, it is not permitted to separate as heave-offering [produce with puncture marks].”
- [C] *R. Jacob the Southerner asked before R. Yosé, “It stands to reason that that is the rule only if he saw the snake biting the melon [so he knows that the holes are snake bites].”*
- [D] He said to him, “[Even if he sees the snake,] does he know that he has put venom in the melon?”
- [II:1 A] **[that which he has separated is valid heave-offering. But he must separate heave-offering again]:** *Associates asked in the presence of R. Yosé, “What is the difference between this rule [requiring a second go-around of designating heave-offering] and the case of separating unclean produce as heave-offering for clean produce? [He doesn’t have*

to repeat the separation of heave-offering if he did that] [M. Ter. 2:2]?”

[B] He said to them, “In the case of the unclean produce, the fact that the produce is unclean causes it to be inedible, [for one may not eat unclean heave-offering. But the food is edible so it may rightly enter the status of heave-offering.] But here with bitter or rotten produce, the food is like dirt and is not edible at all, and it may not be classified as heave-offering, so the farmer must repeat the process.]”

[II:2 A] **Rabbi says, “Wine and vinegar are two [distinct] kinds.” But sages say, “[They are] one kind” [T. Ter. 4:7].**

[B] R. Jacob bar Aha in the name of R. Yohanan: “The law is in accord with the ruling of Rabbi.”

[C] **R. Hiyya in the name of R. Yohanan:** “[One who separates a keg of wine as heave-offering [for other wine and it is found to be vinegar — if it was known before he separated it as heave-offering [for the other wine] that it was vinegar, [that which he has separated is] not [valid] heave-offering. But if it turned into vinegar after he separated it as heave-offering, lo, this is [valid] heave-offering.] **is the opinion of Rabbi.**” [But he didn’t say the law follows Rabbi’s rule.]

[D] *R. Abba bar Kohen asked before R. Yosé, “Didn’t R. Hiyya say in the name of R. Yohanan, When it comes to a dispute between Rabbi and his colleagues, the decided law is in accord with Rabbi’? And said R. Jonah, ‘And even Rabbi in the context of R. Eliezer b. R. Simeon [the decided law is in accord with Rabbi].’”*

[E] *He said to him, “Because the same rule on wine and vinegar was taught as a Tannaite statement by R. Ishmael b. R. Yosé in the name of his father, and said R. Yosé in the name of R. Yohanan, ‘When it comes to a dispute between R. Yosé and his colleagues, the decided law is in accord with R. Yosé’ — in order that you not suppose that even here the law concerning wine and vinegar follows the opinion of R. Yosé, Ishmael’s father,] Yohanan needed to state that the law follows the position of Rabbi.*

[II:3 A] R. Zeira, R. Jacob bar Idi in the name of R. Yohanan: “R. Meir and R. Simeon — the decided law accords with R. Simeon. R. Simeon and R. Judah — the decided law accords with R. Judah. It is not necessary to say, R. Meir and R. Judah — the decided law accords with R. Judah.”

[B] R. Abba, R. Jacob bar Idi in the name of R. Jonathan: “R. Meir and R. Simeon — the decided law accords with R. Simeon. R. Simeon and R.

Judah — the decided law accords with R. Judah. And it is not necessary to say, R. Meir R. Judah and R. Simeon — the decided law accords with R. Judah. And from that statement you may infer that R. Simeon and R. Judah — the decided law accords with R. Judah.”

- [III:1 A] **[If] one of them [i.e., one of the quantities of produce separated as heave-offering at M. 3:1A-D or E+H-I] fell into unconsecrated produce, it does not impose the status of heave-offering [upon the mixture]. [If] the second [produce separated as heave-offering] fell elsewhere [i.e., into a different batch of unconsecrated produce], it does not impose the status of heave-offering [upon the mixture]. [But if] the two [quantities of produce separated as heave-offering] fell into the same place [i.e., into the same batch of unconsecrated produce], they impose the status of heave-offering [on that produce] in accordance with [the bulk of] the smaller of the two [quantities of produce separated as heave-offering]:**
- [B] What does he do [with the two batches of heave-offering, having separated heave-offering twice]?
- [C] He gives the two of them to a priest, and the priest pays him the value of one of them.
- [D] For which of them does the priest pay the value, the larger or the smaller batch of heave-offering?
- [E] *From that which is taught:* **[But if] the two [quantities of produce separated as heave-offering] fell into the same place [i.e., into the same batch of unconsecrated produce], they impose the status of heave-offering [on that produce] in accordance with [the bulk of] the smaller of the two [quantities of produce separated as heave-offering].**
- [F] That is to say, the priest pays him the value of the larger quantity of heave-offering. [The smaller is true heave-offering, and the priest does not pay for it.]

3:2

- [A] **Partners who separated heave-offering [from the same commonly owned produce] one after the other —**
- [B] **R. Aqiba says, “That which was separated by both of them is [valid] heave-offering.”**
- [C] **But sages say, “[Only] that which was separated by the first is [valid] heave-offering.”**

- [D] R. Yosé says, “If the first [partner] separated the required measure [of heave-offering], that which was separated by the second [partner] is not [valid] heave-offering.
- [E] “But if the first [partner] did not separate the required measure [of heave-offering], that which was separated by the second [partner] is [also valid] heave-offering.”
- [F] In what [case] does the opinion [of Aqiba] apply?
- [G] [To the case] in which neither [of the partners] conferred [with the other].
- [H] But:
- [I] [In a case in which one] gave permission to a member of his household, to his slave, or to his maid-servant to separate heave-offering —
- [J] that which that individual separates is [valid] heave-offering.
- [K] [If he] retracted [the permission] —
- [L] if he retracted [it] before [the other individual] separated heave-offering — that which [that individual] has separated is not [valid] heave-offering.
- [M] But if he retracted [it] after [the other individual] separated heave-offering — that which [that individual] has separated is [valid] heave-offering.
- [N] Workers do not [automatically] have permission to separate heave-offering [from the produce with which they are working],
- [O] except for those who tread [the grapes or olives in the tank],
- [P] for they at once impart to the tank [susceptibility to uncleanness].
- [I:1 A] Partners who separated heave-offering [from the same commonly owned produce] one after the other — R. Aqiba says, “That which was separated by both of them is [valid] heave-offering.” But sages say, “[Only] that which was separated by the first is [valid] heave-offering.” *How shall we define the case? If the partners re the ones who are careful [about the matter], they would not intend for both to separate heave-offering from the same produce.] and here even R. Aqiba would agree with sages [that if they both separated heave-offering , only the act of the first is valid. The act of the second was a mistake and is invalid.] But if it is a case of partners who are not careful, [they do not object to having both parties separate heave-offering from the same batch.] Here sages would agree with R. Aqiba [that both acts are valid.]*

[B] *But this is how we are to interpret the rule:* It is a case of ordinary partners. R. Aqiba holds that ordinary partners are not careful in their mutual transactions [and the actions of both are valid], and sages holds that ordinary partners are not careful in their mutual transactions.

[C] *In the opinion of R. Aqiba* [who holds that **that which was separated by both of them is valid heave-offering**, each partner has separated heave-offering for half of the shared produce that he claims as his, only half of what he separates is true heave-offering,] the *seah* of heave-offering separated by the first partner is made up of half of unconsecrated untithed produce and half of heave-offering that is subject to the separation of tithes. The *seah* of heave-offering separated by the second partner is made up of half of unconsecrated untithed produce and half of heave-offering that is subject to the separation of tithes. The half in the status of heave-offering is not subject to tithes, since it is made up entirely of the priestly gifts required of the produce.]

[D] *The only open question is as follows:*

[E] What is the law as to whether the half *seah* of validly separated heave-offering separated by the second partner serves as heave-offering required of the half *seah* of produce separated by the first partner, which is subject to heave-offerings? [Does the heave-offering separated by the second partner yield the priestly gifts required of the untithed produce that the first partner separated from the batch, which was held to be untithed and unconsecrated?]

[F] *Let us infer the answer from the following:*

[G] *Ariston brought out produce to tithe it and unintentionally left some of it in the sack. He separated heave-offering [only from the produce he removed from the sack]. The case came before R. Yosé, who said, “We assume that he separated heave-offering for all of the produce, [including what was forgotten in the sack].”*

[II:1 A] [R. Yosé says, **“If the first [partner] separated the required measure [of heave-offering], that which was separated by the second [partner] is not [valid] heave-offering. But if the first [partner] did not separate the required measure [of heave-offering], that which was separated by the second [partner] is [also valid] heave-offering;”** What is meant by **required measure**? Is it the required measure of the Torah [one fiftieth of the batch] or is it the measure ordinarily separated by the associates [him and his partner]? *If we treat it as the required measure of the Torah* [one fiftieth of the batch], [then the reason for claiming that only the first partner’s act is

valid] is not the same as the rabbis' reason for ruling in the same way. [Yosé's reason is that after the first party separates heave-offering, no more of the batch has the potential of taking on the status of heave-offering. The rabbis' hold that each partner individually controls the whole batch. Once either of the partners separates heave-offering in any amount, he has exempted the whole batch from further separation of heave-offering.] *If we treat it as the required measure of the associates, the opinion of R. Yosé is the same as that of the rabbis.* [Each partner controls the whole batch. Once the partner separates heave-offering in any quantity, he exempts the whole batch from further separation of heave-offering. The second partner cannot separate heave-offering again.]

[III:1 A] [In what case does the opinion [of Aqiba] apply? To the case in which neither of the partners conferred [with the other]. But: In a case in which one gave permission to a member of his household, to his slave, or to his maid-servant to separate heave-offering — that which that individual separates is valid heave-offering. If he retracted the permission — if he retracted it before [the other individual separated heave-offering — that which that individual has separated is not valid heave-offering. But if he retracted it after the other individual separated heave-offering — that which that individual has separated is valid heave-offering. Workers do not automatically have permission to separate heave-offering from the produce with which they are working, except for those who tread the grapes or olives in the tank, for they at once impart to the tank susceptibility to uncleanness].

[B] **[If he retracted the permission]** — *does this [If he retracted the permission] not conflict with the opinion of Resh Laqish?* For Resh Laqish said, “Through a mere oral declaration a man does not nullify his [designation of another person to serve as] his agent.”

[C] Interpret the statement to apply to a case in which he said to him, “Designate heave-offering from the northern part of the crop,” and he designated it from the southern part. [He has violated the terms of agency and his power is null.]

[IV:1 A] **[except for those who tread the grapes or olives in the tank, for they at once impart to the tank susceptibility to uncleanness]:** said R. Yohanan, “Those who tread the grapes, once they have treaded them warp and woof, forthwith render the grapes susceptible to uncleanness.” [The workers therefore may separate heave-offering right away, to designate the priestly ration before it is made unclean.]

- [B] *And has it not been taught as a Tannaite rule: Workers who have separated the heave-offering of the tank [of wine or oil] — that which they have separated is not [valid] heave-offering. But if it was a small tank and also others use it — that which they have separated is [valid] heave-offering [T. Ter. 1:8].*
- [C] Lo, the workers' designation of heave-offering is valid **if also others use it** [and touch the vat and make it susceptible to uncleanness or unclean]. Lo, if others do not use the vat, that which the workers separate is not valid heave-offering, [This contradicts the rule of the Mishnah, that permits the workers under all circumstances to separate heave-offering from the vat.]
- [D] *What's the difference?*
- [E] [The rule of the Mishnah, which permits the workers under all circumstances to separate heave-offering from the vat] speaks of a vat of wine, [the rule of the Tosefta, which denies the workers automatic permission to separate heave-offering] speaks of a vat of olive oil.
- [F] Are not wine and oil subject to the same rule?
- [G] No, for as to wine, it is commonly made unclean [for people stand around in the vintaging and test the wine] but as for oil, it is not commonly made unclean.

[IV:2 A] *It was taught on Tannaite authority: From what time may they separate the heave-offering of the [wine in the] vat?*

- [B] From the time that they have trampled [the grapes] warp and woof [cf. T. Toh. 11:4].
- [C] **From what time may they render it [i.e., the vat] unclean?**
- [D] **The House of Shammai say, "After second tithe has been removed."**
- [E] **The House of Hillel say, "After first tithe has been removed."**
- [F] **Said R. Judah [y.: R. Yosé], "The law is according to the words of the House of Shammai, but the majority behave according to the words of the House of Hillel."**
- [G] **Said R. Simeon, "The opinion of the House of Shammai appears proper in the time that the Temple stood [second tithe was brought to Jerusalem for consumption there, and it was eaten in a state of cleanness so should be separated in a state of cleanness]."**

The opinion of the House of Hillel appears proper for the present age.”

[H] And sages say not in accord with the opinion or of that one, but, “They remove heave-offering and tithes [y.: heave-offering of the tithe] and forthwith render the vat unclean” [T. Ter. 3:12].

[IV:3 A] From what time may they separate the heave-offering [required] of olives?

[B] *There are Tannaite authorities who say, **From the time that they have been ground.***

[C] *And there are Tannaite authorities who say, **From the time that they pressed them Ter. 3:13].***

[D] *There is no problem for the Tannaite authorities who say, **From the time that they pressed them** [heave-offering should be separated early in the processing to prevent uncleanness], but as for him who said, **From the time that they have been ground**, did not R. Yohanan say, “Those who tread the grapes, once they have treaded them warp and woof, forthwith render the grapes susceptible to uncleanness.”*

[E] Rather, the statement of R. Yohanan speaks of wine and the one who says “ground” refers to oil.

[F] Are not wine and oil subject to the same rule?

[G] No, for as to wine, it is commonly made unclean [for people stand around in the vintaging and test the wine] but as for oil, it is not commonly made unclean.

[H] Said R. Hiyya bar Ada, “Here and there uncleanness is common [and both will be rendered unclean], but it is more likely that wine will be rendered unclean than that oil will be rendered unclean.”

[I] **R. Yosé b. R. Judah says, “He brings olives in a basket and places them in the press and presses them warp and woof [and then separates heave-offering from them].”**

[J] **They said to him, “[The law of] grapes is not like [that of] olives.**

[K] **“Grapes are soft and let their wine ooze out easily.**

[L] **“Olives are hard and do not let their oil ooze out easily” [T. Ter. 3:13].** [That is why the farmer waits to designate heave-offering until a later stage in processing.]

3:3

- [A] One who says, ‘The heave-offering of this heap is within it,’ or ‘Its tithes are within it,’ [or] ‘Its heave-offering of the tithe is within it’ —
- [B] R. Simeon says, “He has [validly] designated [these agricultural gifts].”
- [C] But sages say, “[He has not validly designated these things] unless he will say, ‘[They are] in its [i.e., the heap’s] northern portion,’ or ‘[They are] in its southern portion.’”
- [D] R. Eleazar [Hisma says, “One who says, ‘The heave-offering of this heap [is separated] from it, for it,’ has [validly] designated [the heave-offering].”
- [E] R. Eliezer b. Jacob says, “One who says, ‘A tenth of this [first] tithe is made heave-offering of the tithe for it [i.e., for all of the first tithe],’ has [validly] designated it.”
- [F] One who separates (1) heave-offering before firstfruits, (2) first tithe before heave-offering, (3) or second tithe before first [tithe],
- [G] even though he transgresses a negative commandment
- [H] that which he has done is done [and valid];
- [I] as it is written, “You shall not delay to offer from the fullness of your harvest and from the outflow of your presses” (Exod. 22:29).
- [J] And from where [do we know] that firstfruits should be separated before heave-offering,
- [K] for this [i.e., heave-offering] is called heave-offering [Num. 18:11] and first [Num. 18:12],
- [L] and this [i.e., firstfruits] is called heave-offering [Deut. 12:6] and first [Exod. 23:19].
- [M] Still firstfruits should be separated first since they are the firstfruits of all [produce].
- [N] And [they should separate] heave-offering before first [tithe],
- [O] since it [i.e., heave-offering] is [called] “first.”
- [P] And [they should separate] first tithe before second [tithe],
- [Q] since it has in it [an offering called] “first” [i.e., heave-offering of the tithe].
- [I:1 A] One who says, ‘The heave-offering of this heap is within it,’ or ‘Its tithes are within it,’ [or] ‘Its heave-offering of the tithe is within it’ — R. Simeon says, “He has [validly] designated [these

agricultural gifts].” R. Yosé b. R. Abun in the name of R. Yohanan: “The ruling of R. Simeon [merely stating that the heave-offering and tithes are within the produce, without specifying their location,] accords with the position of the House of Shammai. [They may not separate olives as heave-offering for [olive-]oil, nor grapes [as heave-offering] for wine. And if they separated [either olives as heave-offering for both olives and oil, or grapes as heave-offering for both grapes and wine] — The House of Shammai say, “Their [i.e., the grapes’ or olives’] own heave-offering is in it [i.e., in that which they have separated; but that which they separated for the wine or oil is not valid heave-offering].” And the House of Hillel say, “That which they have separated is not [valid] heave-offering [in any respect]”] The House of Shammai say, ‘Their [i.e., the grapes’ or olives’] own heave-offering is in it [i.e., in that which they have separated; but that which they separated for the wine or oil is not valid heave-offering]. [What the farmer has designated as holy [the heave-offering] is a mixture of heave-offering and unconsecrated produce. Along these same lines, R. Simeon says, ‘[One who says, “The heave-offering of this heap is within it,’ or “Its tithes are within it,” [or] “Its heave-offering of the tithe is within it” — What the farmer has designated as holy [the heave-offering] is a mixture of heave-offering and unconsecrated produce.’”]

[I:2 A] *Up to this point, [we have taken for granted that it is valid to designate heave-offering only if he states that the offering is] within it [the heap]. But what is the rule if he said it is in the heap?*

[B] *Let us infer the answer from the following:*

[C] **One who says, “The second tithe which is in this item is deconsecrated with this *issar*,” but did not specify its [i.e., the second tithe’s] location [within the produce] — R. Simeon says, “He has designated [the coin to be consecrated in place of the second tithe].” And sages say, “He has not consecrated the coin] until he specifies [that the second tithe is] in the northern or southern [portion of the item]” [T. M.S. 3:17]. That indicates “within it” and “in it” add up to the same thing.**

[I:3 A] R. Zeira in the name of R. Abedoma of Haifa in the name of R. Simeon b. Laqish: “ ‘And your offering shall be reckoned to you’ ‘and you shall separate a gift to the Lord’ (Num. 18:27-28) — Just as reckoning involves a particular location, so separating involves a particular location.”

- [I:4 A] If he said, “The heave-offering of this and that heap of produce is in this heap” —
- [B] said R. Yohanan, “The place where he designates the heave-offering of the one heap — there is located the heave-offering of the other heap [which he left undesignated].”
- [C] *R. Isaac b. R. Eleazar asked:* “If a seah of heave-offering fell into a heap of produce [containing more than a hundred seahs, so that the heave offering is simply removed from the heap, and one said, ‘The heave-offering of this heap is within it’ but didn’t specify where, wherever the first heave-offering had fallen, there is located the heave-offering required of the heap. [Is this true?]]”
- [I:5 A] **“One who says, ‘The heave-offering of this heap [of produce] is in its northern portion [cf. M. Ter. 3:5C] —**
- [B] **“the half of it [i.e., of the heap] facing north is [in the status of] a mixture of heave-offering and unconsecrated produce,” the words of Rabbi.** *Let the man take as heave-offering half of the heap.*
- [C] **But sages say, “He marks it [i.e., the heap] out in the form of [the Greek letter] Chi [and the northern quadrant has become heave-offering].”** That is, one fourth of the batch.
- [D] **Rabban Simeon b. Gamaliel says, “He takes the heave-offering from its [i.e., the heap’s] northernmost part” [T. Ter. 4:9].** That is, one eighth of the batch.
- [I:6 A] [He who designated the heave-offering required of] two heaps of produce in one of the heaps [but we don’t know which one] — what is the law?
- [B] R. Yohanan said, “[What is designated as] holy [heave-offering] is a mixture of heave-offering and unconsecrated produce. [All of the produce is a mixture.]”
- [C] R. Simeon b. Laqish said, ““[What is designated as] holy [heave-offering] is not a mixture of heave-offering and unconsecrated produce.”
- [I:7 A] Said R. Hoshaiiah b. R. Shammai, “If there were before the farmer two seahs of produce and one heap of produce and he said, “One of these two seahs of produce is heave-offering for the produce in the heap,” he has sanctified both of them to serve as heave-offering but does not know which one of them is heave-offering. If there were before him two heaps of produce and a single seah of produce and he said, “Lo,

this seah of produce is designated heave-offering on behalf of one of the heaps, one of the heaps has been dealt with properly, but he does not know which one.”

[II:1 A] One who separates (1) heave-offering before firstfruits, (2) first tithe before heave-offering, (3) or second tithe before first [tithe], even though he transgresses a negative commandment that which he has done is done [and valid]; as it is written, “You shall not delay to offer from the fullness of your harvest and from the outflow of your presses” (Exod. 22:29). And from where [do we know] that firstfruits should be separated before heave-offering, for this [i.e., heave-offering] is called heave-offering [Num. 18:11] and first [Num. 18:12], and this [i.e., firstfruits] is called heave-offering [Deut. 12:6] and first [Exod. 23:19]. Still firstfruits should be separated first since they are the firstfruits of all [produce]. And [they should separate] heave-offering before first [tithe], since it [i.e., heave-offering] is [called] “first.” And [they should separate] first tithe before second [tithe], since it has in it [an offering called] “first” [i.e., heave-offering of the tithe].

[B] R. Hama bar Uqba in the name of R. Yosé b. R. Hanina: “[...**even though he transgresses a negative commandment that which he has done is done**] From the fact [that one who separates offerings in the wrong order] is held to have violated a negative commandment, you know that **that which he has done is done.**”

[C] R. Hama bar Uqba in the name of R. Yosé b. R. Hanina said, “He is flogged.”

[D] Said R. Zeira, “They raised this as a question in the presence of R. Yohanan, and he shut up.”

[II:2 A] What is the transgression? Is he flogged or not?

[B] R. Jacob bar Aha in the name of R. Yohanan came [and ruled], “He is not flogged.”

[C] *How does R. Yohanan deal with the verse*, “You shall not delay to offer from the fullness of your harvest and from the outflow of your presses” (Ex. 22:29)?

[D] He interprets it to refer to the removal of all tithes that have been separated [and not to the order of tithing].

[II:3 A] At what point in the separation of offerings in the wrong order is the farmer held to have transgressed?

- [B] R. Hiyya bar Ba said, “From the outset [when he separated heave-offering without taking care of firstfruits.]”
- [C] R. Samuel bar R. Isaac said, “At the end of the process.”
- [D] *What’s the practical difference between these opinions?*
- [E] A case in which [the farmer separated heave-offering first, but before designating firstfruits the produce burnt up is *the practical difference between these opinions.*
- [F] *In the opinion of R. Hiyya bar Vava he has transgressed, in the opinion of R. Samuel bar R. Isaac, he has not transgressed.*

[II:4 A] R. Samuel bar Abba asked, “First tithe that they separated while the produce was in the stalks and unprocessed, [so it was not subject to heave-offering at all] has he transgressed or not?”

[II:5 A] *They asked before R. Abbahu, “The separation of heave-offering does not prevent the later separation of firstfruits [T. Ter. 4:10].”*

[B] He said to them, “That represents the view of Abba Penimon.”

[C] *R. Yosé asked, “What statement of Abba Penimon?”*

[D] *Said to him R. Mana, “I heard my father repeat as a Tannaite rule: If one had separated heave-offering and firstfruits at one and the same time, and had firstfruits on his right hand and heave-offering in his left hand, what is the law? There are Tannaite authorities who teach that he has transgressed, and there are Tannaite authorities who teach that he has not transgressed. The Tannaite authorities who teach that he has transgressed are the rabbis, and the Tannaite authorities who teach that he has not transgressed are represented by Abba Penimon.”*

3:4

[A] (1) **One who [in designating agricultural gifts] intends to say, “Heave-offering,” but says, “Tithe,” “Tithe,” but says “Heave-offering,”**

[B] (2) **[or who, in designating a sacrifice, intends to say,] “Burnt-offering,” but says, “Peace-offering,” “Peace-offering,” but says, “Burnt-offering;”**

[C] (3) **[or who, in making a vow, intends to say], “That I will not enter this house,” but says, “That house,” “That I will not derive benefit from this one,” but says, “From that one”**

[D] **has not said anything,**

- [E] **until his mouth and heart agree.**
- [I:1 A] *There we learned in the Mishnah: The House of Shammai say, “[An act of] consecration done in error is binding [consecrated].”*
- [B] R. Jeremiah said, “If he had been going to say, ‘Unconsecrated,’ but he said, ‘Burnt offering,’ he has consecrated [the beast as a burnt offering].”
- [C] *Said R. Yosé, “We deal with someone who in fact intended to effect an act of consecration but who has made an error by reason of some extrinsic factor, [so what Jeremiah has said is invalid] “*
- [D] *As to this Mishnah passage [M. Ter. 3:4]; in accord with the view of which authority is it phrased?*
- [E] *In the view of R. Jeremiah, it represents the opinion only of the House of Hillel in the dispute given above.*
- [F] *In the view of R. Yosé, it represents the opinion of all parties, [since the House of Shammai may concur].*
- [I:2 A] *It was taught as a Tannaite statement: “If anyone utters with his lips a rash oath...he shall be guilty” (Lev. 5:4). [The oath is valid.]*
- [B] But that is not the case if he merely contemplates in his heart [taking such an oath].
- [C] might I include [as a valid oath] one who determines in his heart but never pronounces the oath?
- [D] Scripture states, “...utters” — the valid must be articulated.
- [E] Samuel [concur and] says, “One who determines in his heart is liable only when he pronounces the oath with his lips.”
- [F] *But is it not taught as a Tannaite rule: “All who were of willing heart [brought brooches and earrings...every man dedicating an offering of gold to the Lord” (Ex. 35:22)?*
- [G] This is one who determines in his heart [without announcing it in so many words to make a gift]. [And they were required to give the gift.]
- [H] You say that this is one who determines in his heart [without announcing it in so many words to make a gift]. But perhaps it refers only to one who announces his pledge orally [with his lips’ utterance]?
- [I] When Scripture states, “ You shall be careful to perform what has passed your lips” (Dt. 23:23), lo, it means what has passed your lips is a valid oath.” [What is in the heart alone is null.]

[J] If so, what do you make of the verse: “All who were of willing heart [brought brooches and earrings...every man dedicating an offering of gold to the Lord” (Ex. 35:22), meaning, what one contemplates in his heart but does not articulate orally?

[K] What Samuel said: “One who determines in his heart is liable only when he pronounces the oath with his lips” speaks only of an offering.”

3:5

[A] **A gentile and a Samaritan —**

[B] **(1) that which they separate is [valid] heave-offering, (2) and that which they take as tithes is [valid] tithes, (3) and that which they dedicate [to the Temple] is [validly] dedicated.**

[C] **R. Judah says, “A gentile’s vineyard is not subject to [the restrictions] of the fourth year (Lev. 19:24).”**

[D] **But sages say, “It is.”**

[E] **Heave-offering separated by a gentile imposes the status of heave-offering [upon unconsecrated produce with which it is mixed] and [non-priests who unintentionally eat it] are liable on its account to [pay back its value and] the [added] fifth (Lev. 22:10-14).**

[F] **But R. Simeon exempts [heave-offering separated by a gentile from these stringencies].**

[I:1 A] **“[If the gentile] took heave-offering from within his house —**

[B] **“they treat it like untithed produce [mixed] with heave-offering — the words of Rabbi.**

[C] **Rabban Simeon b. Gamaliel says, “They treat it like what is certainly great heave-offering alone.”**

[D] **“[If the gentile] took first tithe from within his house —**

[E] **“they treat it like untithed produce [mixed] with first tithe” — the words of Rabbi.**

[F] **Rabban Simeon b. Gamaliel says, “They treat it like first tithe alone.”**

[G] **“[If] he took second tithe from within his house —**

[H] **“[if] he said, ‘It has been redeemed [by coins, and therefore no longer is consecrated as second tithe],’ he has not said anything.**

[I] **“[But if he said,] ‘Redeem it for yourselves,’**

[J] “they treat it like untithed produce [mixed with] second tithe” — the words of Rabbi.

[K] **Rabban Simeon b. Gamaliel says, “They treat it like second tithe alone” [T. Ter. 4:13].**

[L] Said R. Yosé b. R. Bun, “Rabbi takes account of the possibility that the gentile separated the offering from produce of one kind for produce of a different kind. Rabban Simeon b. Gamaliel takes account of the possibility that the gentile separated the offerings in the wrong order.”

[II:1 A] **Heave-offering separated by a gentile imposes the status of heave-offering [upon unconsecrated produce with which it is mixed] and [non-priests who unintentionally eat it] are liable on its account to [pay back its value and] the [added] fifth (Lev. 22:10-14). But R. Simeon exempts [heave-offering separated by a gentile from these stringencies].**

[B] *Said R. Zeira, “Stated in the presence of R. Abbahu in the name of R. Yohanan: ‘Where they differ it concerns heave-offering that a gentile separated from produce on his own threshing floor. [The anonymous authorities hold that the gentile owes the holy offerings from Land he has purchased in the Land of Israel.] But a gentile who purchased produce of an Israelite — here also R. Simeon concurs [The heave-offering separated by the gentile is subject to the rules governing heave-offering separated by Israelites. The produce from which the gentile separated the offering was subject to the separation of agricultural offerings.]*

[C] “Said to them R. Abbahu in the name of R. Yohanan, [‘Yohanan holds that the status of produce purchased by a gentile from an Israelite] is subject to dispute.’ And there is this problem for R. Simeon: [Simeon concurs that] according to the Torah the gentile’s act of separation is valid and exempts his produce from further separation of heave-offering, Yet [Simeon] says that the heave-offering he separates is not valid heave-offering, for it is not subject to the stringent rules that normally apply. Since what he separates exempts produce from further separation of heave-offering, it must be valid heave-offering.]”

[D] Isn’t the presentation of sacrifices by gentiles imposed by the Torah? And R. Simeon exempts them from the stringent rules that apply to sacrifices designated by Israelites. *For we have learned there: Holy things of gentiles are not liable on their account because of [transgression of the laws of] refuse, remnant, and uncleanness, and he who slaughters them outside the Temple courtyard is*

exempt [M. Zeb. 4:5], the words of R. Simeon. But R. Yosé declares them liable.

[II:2 A] *They proposed, “Concerning what do they differ? Concerning whether a non-priest who unintentionally eats heave-offering designated by a gentile must pay the added fifth. Lo, concerning whether such heave-offering mixed with unconsecrated food imposes the status of heave-offering on the unconsecrated food, they did not differ. [Simeon concurs that it does.]”*

[B] *But is there not a Tannaite rule that just as Simeon differs concerning this, the added fifth, so he disagrees concerning that [the heave-offering separated by a gentile imposes its status on unconsecrated produce with which it is mixed.]*

YERUSHALMI TERUMOT

CHAPTER FOUR

4:1

- [A] **One who separates part of the heave-offering and tithes [required of a batch of produce]**
- [B] **[subsequently] removes [more] heave-offering from that [same] batch for that [same] batch.**
- [C] **But [he may] not [separate heave-offering] from that batch [for what is owing for] a different batch.**
- [D] **R. Meir says, “Also: he removes heave-offering and tithes [from that batch from which he already has removed some heave-offering and tithes] for a different batch.”**
- [I:1 A] **One who separates part of the heave-offering and tithes [required of a batch of produce] [subsequently] removes [more] heave-offering from that [same] batch for that [same] batch:**
- [B] [When is the partial separation of heave-offering valid?] *Our Mishnah deals with a case in which* when he separated the part of the offerings, he intended to separate more produce to fill out the required volume. [If he did not intend to add to the quantity to meet the requirement, the initial separation is invalid.]
- [C] *R. Samuel in the name of R. Zeira: “The Mishnah deals with a case involving no further explanation of the donor’s intention.”*
- [D] *Said R. Mana before R. Yudan, “What is subject to dispute?”*
- [E] He said to him, “[Samuel holds that in the case of an individual] who has not articulately established [whether he will later on separate the required quantities of offering we assume that] at the time he takes the first portion he plans to separate the rest. [All parties concur that he will separate what is required. Do we assume that he is going to? Samuel says we do.]”

- [II:1 A] [But [he may] not [separate heave-offering] from that batch [for what is owing for] a different batch:]** What is the difference between the one who takes heave-offering from a batch of partially tithed produce on behalf of the same batch of produce and the case of one who takes heave-offering from one partially tithed batch of produce in behalf of fully tithed produce in a different batch?
- [B] When he takes heave offering from a batch of partially tithed produce for that same batch, only fully untithed unconsecrated produce comes up in his hand to be designated as heave-offering for that same batch. But when he takes heave-offering from this batch for a different batch [of fully untithed produce], both tithed and untithed produce from the partially tithed batch come up in his hand to be designated as heave-offering. [That is invalid. The already tithed produce that comes up in his hand is not heave-offering.]
- [C] There is this question: if one took produce from a partially tithed batch in order to separate heave-offering from the batch for that same batch, only untithed unconsecrated produce will go up in his hand. If he changes his mind and decides to separate heave-offering from the partially tithed batch in behalf of a different and untithed batch, how can we now go and state that both tithed and untithed produce are in his hand?
- [D] If he took produce from the partially tithed batch to separate heave-offering from that batch in behalf of a different [fully tithed] batch both tithed and untithed produce come up in his hand and the act is invalid.
- [E] If he changed his mind and decided to separate produce from the partially tithed batch as heave-offering on behalf of the same partially tithed batch, can we really say that only untithed produce came up in his hand? [Surely not. He already has a mixture of tithed and untithed produce in hand.]
- [F] It appears that when in the beginning the man separated only a portion of the required heave-offering, all the available unconsecrated untithed produce in the batch came up in his hand and became heave-offering; the rest was fully exempt from further separation of heave-offering. But the individual who separates a portion of the required heave-offering has to separate heave-offering again, from the same batch. This is impossible.]
- [G] Along these same lines, if an individual separates more than the required volume of heave-offering, both the tithed and untithed produce comes up in his hand, and the act is invalid.

- [II:2 A] Also if one errs [in separating heave-offering so that one who separates more than is required may not designate a portion of what was separated for a different batch —
- [B] If one thought that he was obligated to separate two seahs of heave-offering but had to separate only one seah — R. Imi in the name of R. Simeon b. Laqish: “That extra seah that he separated he should designate to serve as heave-offering for a different batch of produce.”
- [C] *But have we not learned in the Mishnah: **But [he may] not [separate heave-offering] from that batch [for what is owing for] a different batch?***
- [D] *Solve the problem by holding that it is a case if someone who separates a large volume of heave-offering . [Both seahs are true heave-offering , and the extra one serves for a different batch.]*
- [E] *There is no problem if it is a case if someone who separates a large volume of heave-offering .*
- [F] But [what if someone accidentally separates more than the required volume of tithes? [These are not valid and may not serve for a different batch.]
- [G] *R. Simeon b. Laqish has not taught as a Tannaite rule how someone accidentally separates more than the required volume of tithes and can go and designate the extra volume in behalf of a different batch.*
- [H] But the reasoning of R. Simeon b. Laqish is that once you say when he separated heave-offering all of the untithed unconsecrated food came up in his hand and became heave-offering , leaving the rest of the batch fully tithed, what difference does it make whether he later designates all of the produce in his hand as heave-offering for the same batch or designates a portion of it for a different batch?
- [II:3 A] [**subsequently removes [more] heave-offering from that [same] batch for that [same] batch. But [he may] not [separate heave-offering] from that batch [for what is owing for] a different batch**]: *to what case* [does the ruling pertain that heave-offering may not be separated from partially tithed produce for a different untithed batch?]
- [B] It is one in which the farmer has separated heave-offering and tithes for the greater part of the produce in the heap. But what is the rule if he has not separated heave-offering and tithes for the greater part of the produce in the heap?

- [C] That yields a dispute between Hezekiah and R. Yohanan.
- [D] For R. Simeon b. Laqish said in the name of Hezekiah, “Untithed produce is nullified in a batch that contains the larger part of tithed produce.”
- [E] R. Yohanan said, “Untithed produce is not nullified in a batch that contains the larger part of tithed produce. When the householder sets his mind to separating heave-offering and tithes, the position within the batch of each stalk of grain is established.”

- [II:4 A] *There are those that want to work thing out according to what R. Eliezer b. Jacob taught. For R. Eliezer b. Jacob taught as a Tannaite statement: Once someone has separated a portion of heave-offering and tithes required of a batch of produce, he may not separate additional offerings that are required, either from that batch on behalf of the same batch or from that batch in behalf of a different batch.”*
- [B] *To this point we have taken for granted that this applies only if one has separated heave-offering and tithes from the majority of produce in the heap. If he has not yet designated the heave-offering and tithes for the majority of produce in the heap, the heap is still subject to the separation of these things, and will Eliezer b. Jacob still hold his announced position?*
 - [C] *It is in accord with the following:*
 - [D] **If there were before the householder two piles of produce, from one of which he had separated a portion of heave-offering and tithes and from the other of which he had separated a portion of the heave-offering s and tithes, what is the rule? May he later on separate heave-offering from this partially tithed batch on behalf of the other partially tithed batch? [If it’s a single batch, he may separate heave-offering in this way. If it is two distinct batches, he may not.]**
 - [E] The disciples of R. Hiyya the Elder asked R. Hiyya the Elder, and he answered them, “‘The fool folds his hands and eats his own flesh’ (Qoh. 4:5).” [Who but a fool separates only a portion of the heave-offering and tithes and makes it impossible to separate from a single batch the tithes required of all his produce?]
 - [F] **R. Eleazar in the name of R. Hiyya the Elder: “If there were before the householder two piles of produce, from one of which he had separated a portion of heave-offering and tithes and from the other of which he had separated a portion of the heave-offering s**

and tithes, he may not later on separate heave-offering from this partially tithed batch on behalf of the other partially tithed batch.”

4:2

- [A] “One whose [already tithed] produce was in a store-room and gave a *se’ah* [of produce] to a Levite [as first tithe] and a *se’ah* [of produce] to a poor person [as poor man’s tithe]
- [B] “takes another eight *se’ahs* [of produce] and eats them [without further tithing]” — the words of R. Meir. [The tithes that were separated apply to a specific portion of the batch, and the farmer may eat this portion.]
- [C] But sages say, “He does not take produce [to eat] except in accordance with a calculation [of the percentage of tithes that remain to be separated from the batch as a whole].” [The already separated segment applies to the batch as a whole. To eat any part, the farmer has to separate from that portion the quantity of tithes to which it is still subject.]
- [I:1 A] R. Eleazar in the name of R. Hoshaiiah: “[Sages] treated him like a worker who does not trust his employer, the householder, to tithe produce properly.” [He is allowed to separate tithes required for that portion of the householder’s produce that he eats. Sages have the farmer separate tithes for that portion that he eats.]
- [I:2 A] *Here is a self-evident statement:*

- [B] [In the case of a farmer who has designated heave-offering but not yet handed it over to a priest,] if the unconsecrated produce [for which heave-offering was separated] burned up, what was separated as heave-offering is retroactively reverted to a secular [unconsecrated] status. If the heave-offering that had been separated burned up [before being handed over to a priest, one need not separate have offering again,] when the produce is eaten, the heave-offering is retroactively held to be sanctified.

4:3

- [A] [This is] the [required] measure of heave-offering:
- [B] [If a man is] generous, [he separates] one-fortieth [of his produce].
- [C] The House of Shammai say, “One-thirtieth.”
- [D] And [if he is] average, [he separates] one-fiftieth [of his produce].
- [E] And [if he is] miserly, [he separates] one-sixtieth [of his produce].

- [F] [If] he separated heave-offering and there came up in his hand one-sixtieth [of the produce] — [that which he has separated is valid] heave-offering,
- [G] and he need not separate heave-offering again.
- [H] If he [any way separated] more [heave-offering] the additional produce separated as heave-offering] is liable to the separation of tithes [i.e., it is not true heave-offering].
- [I] [If he separated heave-offering and] there came up in his hand one sixty-first [of the produce] — [that which he has separated is valid] heave-offering,
- [J] but he must separate heave-offering again,
- [K] [in order to derive] the quantity [of heave-offering he is used [to separating].
- [L] [And he may separate the additional heave-offering] by measure [of volume], by weight, or by a count [of the number of pieces of produce being separated as heave-offering].
- [M] R. Judah says, “Also: [he may separate the additional quantity of heave-offering] from [produce] which is not nearby [i.e., from a different batch].”
- [I:1 A] [[If he separated heave-offering and there came up in his hand one —sixtieth [of the produce] — [that which he has separated is valid] heave-offering]: From where [in Scripture do we learn] that if he separated heave-offering and there came up in his hand one-sixtieth [of the produce], that which he has separated is [in all events] [valid] heave-offering? As it is written, “This is the offering which you shall make: one-sixth of an ephah from each homer of wheat and one-sixth of an ephah from each homer of barley (Ez. 45:13)” [T. Ter. 5:13].
- [B] Is it possible that the meaning is, one separates one-thirtieth [two-sixths of an ephah for each homer] of wheat, and one-sixtieth [a sixth of an ephah for each homer of barley]?
- [C] Scripture says, “Every offering” — indicating that all heave-offerings are equivalent in volume [without regard to the species of produce that is subjected to the process].
- [I:2 A] Samuel said, “Add one sixth of an ephah to a sixth of a sixth of an ephah and one separates as heave-offering one-fortieth of his produce.” [1/6 + 1/12 = 1/4 ephah per homer, one-fortieth of the produce.]

- [II:1 A] And [if he is] average, [he separates] one-fiftieth [of his produce]:** Said R. Levi, **“From where [in Scripture do we learn] that heave-offering is separated [in a ratio of one [part heave-offering] to fifty [parts produce]?”**
- [B] “As it is written, ‘And from the people of Israel’s half you shall take one drawn out of every fifty of the persons, of the oxen, of the asses, and of the flocks, of all the cattle, and give them to the Levites who have charge of the tabernacle of the Lord’ (Num. 31:30).
- [C] **“The same percentage which I took in a different context, lo, such is the proper percentage here.**
- [D] **“Just as the percentage stated there [i.e., in Num. 31:30] is one-fiftieth, so the percentage here is one-fiftieth.**
- [III:1 A] And [if he is] miserly, [he separates] one-sixtieth [of his produce]:**
- [B] As it is written, **“This is the offering which you shall make: one-sixth of an ephah from each homer of wheat and one-sixth of an ephah from each homer of barley (Ez. 45:13)” [T. Ter. 5:13].**
- [IV:1 A] The House of Shammai say, “One-thirtieth:”**
- [B] As it is written, **“This is the offering which you shall make: one-sixth of an ephah from each homer of wheat and one-sixth of an ephah from each homer of barley (Ez. 45:13)”**
- [C] **and [if he is] average [he separates] one-fortieth [of his produce] [T. Ter. 5:3]:**
- [D] *That is in accord with Samuel’s statement.*
- [E] and [if he is] miserly [he separates] one-fiftieth [of his produce] [T. Ter. 5:3]:
- [F] *That is in line with what R. Levi said, “From where [in Scripture do we learn] that heave-offering is separated [in a ratio of one [part heave-offering] to fifty [parts produce]?” As it is written, ‘And from the people of Israel’s half you shall take one drawn out of every fifty of the persons, of the oxen, of the asses, and of the flocks, of all the cattle, and give them to the Levites who have charge of the tabernacle of the Lord’ (Num. 31:30). The same percentage which I took in a different context, lo, such is the proper percentage here. Just as the percentage stated there [i.e., in Num. 31:30] is one-fiftieth, so the percentage here is one-fiftieth.”*

- [G] For said R. Levi bar Hina, “Whoever separates his tithes in the proper manner does not suffer loss.”
- [V:1 A] *What is the meaning of the statement, “One tenth of a omer shall be an ephah, the homer shall be the standard measure” (Ez. 45:11)?*
- [B] *It is necessary only to support that which we have learned, [If] he separated heave-offering and there came up in his hand one-sixtieth [of the produce] — [that which he has separated is valid] heave-offering, and he need not separate heave-offering again.* [Ez. 45:13 wants heave-offering at one sixth of an ephah per homer of produce. Ez. 45:11 has an ephah as a tenth of a homer. Separation of one-sixtieth of the batch suffices.]
- [C] The House of Shammai say, “If he separated heave-offering and one-fiftieth of the produce came up in his hand, what he has separated is valid heave-offering , and he does not have to go and separate heave-offering a second time.”
- [D] *Said R. Hanina bar Isi, “Bar Qappara taught as a Tannaite rule only the following: “If he separated heave-offering and one-fiftieth to one-sixtieth of the produce came up in his hand, what he has separated is valid heave-offering , and he does not have to go and separate heave-offering a second time.”*
- [VI:1 A] **If he [anyway separated] more [heave-offering] the additional produce separated as heave-offering] is liable to the separation of tithes [i.e., it is not true heave-offering]:**
- [B] R. Isi in the name of R. Yohanán: “The rule [**the additional produce separated as heave-offering is liable to the separation of tithes**] applies to a case in which the farmer intended to exempt the batch from the separation of heave-offering . But if through the additional designation he did not intend to exempt the batch from heave-offering he may separate again as much as he has already separated [and it is true heave-offering and not subject to tithes.” [The additional separation is part of the original one. It is permitted to separate a larger volume of heave-offering , but it is not permitted to separate heave-offering twice.]
- [VII:1 A] **[If he separated heave-offering and] there came up in his hand one sixty-first [of the produce] — [that which he has separated is valid] heave-offering, but he must separate heave-offering again, [in order to derive] the quantity [of heave-offering he is used [to separating]:**

- [B] **the quantity [of heave-offering he is used [to separating]:** Kahana said, “He may only take enough produce to derive the quantity of heave-offering that he is used to separating [and no more than that].”
- [C] R. Yohanan said, “Even as much as he separated the first time, [much more than he usually separates.]”
- [D] *Haven’t we learned in the Mishnah: the quantity [of heave-offering he is used [to separating]?*
- [E] It means that he should not give less.
- [F] Said R. Eleazar, “...**the quantity [of heave-offering he is used [to separating]** — by measure of the volume of produce he separates as heave-offering. If the person intentionally separates more heave-offering than normal, the usual rules for separating heave-offering should apply, so how can he perform the act of separation by volume?”
- [VII:2 A] **but he must separate heave-offering again:** *R. Jonah said R. Simeon b. Laqish asked before R. Yohanan, “As to the additional volume of heave-offering [that the householder who separated less than the one sixtieth of the batch must go back and separate, what is its status [as to tithing]?”*
- [B] He said to him, “In accord with the schismatic opinion I have learned this matter.”
- [C] Does that mean it is subject to the separation of tithes or exempt?
- [D] *If you say it is liable to tithing, it is reasonable* [since it is not true heave-offering but is subject to tithes]. But if you say that the produce designated in the second act of separation is exempt from tithes, what could Yohanan have meant by saying that he follows the minority opinion [of Judah]? If R. Judah’s view that the second act of separation of heave-offering may be from a different batch of produce means that the heave-offering taken in this separation is like true heave-offering and is exempt from the separation of tithes, isn’t it self-evident that rabbis, who do not allow the second heave-offering to be separated from a different batch, also hold that it is true heave-offering and exempt from tithes? [Yohanan’s view, following Judah, is that the additional quantity of heave-offering is subject to the separation of tithes and is not true heave-offering.]
- [VII:3 A] **but he must separate heave-offering again:** R. Yosé came and said, R. Isi in the name of R. Simeon b. Laqish: “As to the additional volume of heave-offering [that the householder who separated less

than the one sixtieth of the batch must go back and separate, it is liable to tithes.”

[B] Said R. Yosé, “Did the Mishnah say this?”

[C] *Said R. Zeira to R. Asi, “Which passage of the Mishnah [indicates whether the additional heave-offering is subject to tithes?”*

[D] *He didn’t answer him.*

[E] *He said to him, “Perhaps it is the following: [If he separated heave-offering and] there came up in his hand one sixty-first [of the produce] — [that which he has separated is valid] heave-offering, but he must separate heave-offering again. Now concerning this rule was it not taught: If he [any way separated] more [heave-offering] the additional produce separated as heave-offering] is liable to the separation of tithes [i.e., it is not true heave-offering].*

[VII:4 A] How much, according to the Torah, heave-offering must one separate from his produce in order to fulfill the obligation?

[B] R. Yohanan said, “One one-hundredth of the batch, the same quantity as heave-offering of tithes.”

[C] *Said to him R. Yohanan, “From whom did you hear this?”*

[D] He said to him, “From the analysis of the associates I heard that which R. Yannai said, “One has fulfilled the obligation to give heave-offering even if he separated one thousandth of the batch,”

[E] Said R. Mana, “There is no fixed measure, for it is written, ‘The best of your grain, wine, and oil’ (Num. 18:22) — the best, however little.”

4:4

[A] **One who says to his agent, “Go and separate heave-offering [for me]” —**

[B] **[the agent] separates heave-offering in accordance with the disposition of the householder.**

[C] **[And] if he does not know the disposition of the householder,**

[D] **he separates the average amount,**

[E] **one-fiftieth.**

[F] **[If the agent at A-B or C—D unintentionally] separated one-tenth less or more [than the percentage he needed to separate] — that which he separates [still] is [valid] heave-offering.**

- [G] If he purposely added even one-hundredth — that which he has separated is not [valid] heave-offering.
- [H] One who separates much heave-offering —
- [I] R. Eliezer says, “[He may separate as much as] one tenth,
- [J] “[an amount] equal to [that separated as] heave-offering of the tithe.
- [K] “[If he wishes to separate] more than this, let him designate it [i.e., the surplus] heave-offering of the tithe for a different batch.”
- [L] R. Ishmael says, “[He may separate so much as to render] half [of the batch] unconsecrated produce and half [of the batch] heave-offering.”
- [M] R. Tarfon and R. Aqiba say, “[He may separate as much heave-offering as he wishes] provided that he leaves there [some] unconsecrated produce.”
- [I:1 A] One who says to his agent, “Go and separate heave-offering for me:” *To this point we know that the rule applies* where the householder explicitly said to him, “Go and separate heave-offering in accord with my disposition.” What if the agent knows the disposition of the householder, who did not explicitly say to him, “Go and separate heave-offering in accord with my disposition”?
- [B] *Let us infer the answer from the following:* [And] if he does not know the disposition of the householder, he separates the average amount, one-fiftieth. Lo, if he does not know — but if he does know the disposition of the household, even though he didn’t articulate his intention for him, it is as though he had articulated his intention for him.
- [II:1 A] [If the agent unintentionally separated one-tenth less or more than the percentage he needed to separate — that which he separates still is valid heave-offering:] said R. Abun bar Kahana, “He who separates a tenth less heave-offering than is owing [separating nine tenths of a seah in place of a full seah] — what he has separated is valid heave-offering . And he who separates a tenth more heave-offering than he should, [a seah and a tenth] — what he has separated is valid heave-offering . But [if he separated a tenth more or less of] unconsecrated produce, the act of separation is not valid. For the deficit [the amount of heave-offering the agent may refrain from separating] does not equal the additional [quantity of heave-offering that an agent who separates too much may validly include in his act.]
- [B] *What is a concrete case?*

[C] *A case of a household who usually separates one-fiftieth of his produce. When the agent separates heave-offering, if he separates one fortieth, he diminishes the quantity of produce that the householder keeps by six fourths of a qab, one and a half qab, that is a quarter of a seah. Thus: he separates heave-offering from fifty seahs of produce. The one fiftieth that normally is separated yields one seah of heave-offering. If the agent separates one fortieth instead, he takes as heave-offering a seah and a quarter, six fourths of a qab. That leaves a quarter seah less unconsecrated produce than the householder would ordinarily hold on to. But if he separates one sixtieth of the fifty seahs of produce, the householder profits by four fourths of a qab, one qab or a sixth of a seah. The agent separated only five sixths of a seah rather than the full seah that he would have separated had he taken a fiftieth of the batch.]*

[II:2 A] **[If the agent at A-B or C-D unintentionally] separated one—tenth less or more [than the percentage he needed to separate] — that which he separates [still] is [valid] heave-offering: Here you say, that which he separates is valid heave-offering. But there, you state, If he purposely added even one-hundredth — that which he has separated is not [valid] heave-offering**

[B] Said R. Hanina b. R. Hillel, “Here **[If the agent at A-B or C-D unintentionally] separated one-tenth less or more [than the percentage he needed to separate]** the agent intended to separate too little heave-offering [and the householder is pleased by the agent’s action]. There **[If he purposely added even one-hundredth — that which he has separated is not [valid] heave-offering]**, the agent intended to separate too much [and the household will not concur].

[II:3 A] **If he purposely added even one-hundredth — that which he has separated is not [valid] heave-offering — R. Haggai asked in the presence of R. Yosé, “We have learned in the Mishnah there: The agent who carried out his errand [and thereby inadvertently committed an act of sacrilege] — the householder [who appointed the agent is responsible and] has committed the act of sacrilege. [If the agent] did not carry out his errand [in committing an act of sacrilege], the agent [is responsible and inadvertently] has committed the act of sacrilege. How so? [If] he said to him, “Give out meat to the guests,” but he gave them liver, “Liver,” and he gave them meat — the agent has committed the act of sacrilege. [If] he said to them, “Give them one piece each,” and he [the agent] said, “Take two each,” but they took three each, all of them are guilty of committing an act of sacrilege. [If] he said to him,**

“Bring [such and such a thing] from the window,” or, “From the chest,” and he brought it to him, even though the householder said, “I meant only from here,” and he brought it from there, the householder has committed the act of sacrilege [M. Me. 6:1]. *And here you say this [If he purposely added even one-hundredth — that which he has separated is not [valid] heave-offering] !* [In the model of M. Me. 6: 1 the quantity of heave-offering that the household told the agent to separate should be valid only the additional quantity should be invalid because it was separated by the agent without the householder[s consent. Part of his actions fulfills the terms of the appointment, part not.]

[B] He said to him, “There [at M. Me. 6:1] from the transfer of the first piece of eat to the guests, the agent has carried out his mission to the householder. The agent followed instructions, so the householder is liable. What happens after that is not the responsibility of the householder.] *But here* the mission of the agent is not fulfilled until every single grain of wheat as been designated as heave-offering .” [The designation of all the wheat as heave-offering is simultaneous, it is not in distinct parts. The agent took too much heave-offering and has not done what the householder sent him to do. His act of separation is null.]

[C] *What is the difference between the two rules?*

[D] [The householder tells the agent to separate heave offering from a particular pile of produce.] There were before him two batches, and he separated heave-offering from one of them according to the wishes of the householder, and he separated heave-offering from one of them not according to the wishes of the householder. [The first act of separation is valid, the second is not valid.]

[III:1 A] [**One who separates much heave-offering** — what percentage of the batch has the potential of taking on the status of heave-offering when the householder designates it as such]: *R. Jeremiah in the name of R. Jacob ba Aha in the name of R. Simeon b. Laqish: “The opinion of R. Eliezer accords with the position of the House of Shammai. As the House of Shammai say, ‘[if a householder separates as heave-offering produce that can have that status and some that cannot, the separation is valid, but the householder has designated to be holy a mixture of heave-offering and unconsecrated tithe,]’ so R. Eliezer says, ‘if the householder separates more than a tenth of the batch, what he has separated is holy heave-offering, in a mixture of heave-offering and unconsecrated produce.’”*

[III:2 A] [R. Eliezer says, “[He may separate as much as] one tenth, [an amount] equal to [that separated as] heave-offering of the tithe. [If he wishes to separate] more than this, let him designate it [i.e., the surplus] heave-offering of the tithe for a different batch:”]

[Yohanan maintains that a small quantity of untithed produce does not disappear in a larger volume of tithed produce. Once the heave-offering is designated, each stalk in the batch is classified as either heave-offering or exempt from the separation of heave-offering. There is no confusion as to which is which.] *In the opinion of R. Yohanan, it is sensible to state as Eliezer does that one who wishes to separate more than one tenth of a batch must designate additional produce to be heave-offering of the tithe for a different batch. Once the householder designates one tenth of the batch as heave-offering, that leaves one out of every ten stalks of grain in the status of heave-offering and the rest is exempt from the separation of heave-offering and subject only to the separation of tithes. Therefore [the batch is no longer subject to the separation of heave-offering, so] you must say [along with Eliezer] that **If he wishes to separate] more than this, let him designate it [i.e., the surplus] heave-offering of the tithe for a different batch.”***

[B] *In the opinion of Hezekiah [who holds that once heave-offering is separated from a batch of produce, the batch remains subject to the separation of more heave-offering, Eliezer’s view] poses a problem. [Hezekiah maintains that the householder may designate additional produce as heave-offering of the tithe for that same batch.] Once one designates one tenth of the batch as heave-offering, does this leave one tenth of the batch to be heave-offering? [In Hezekiah’s view, even after one tenth of the batch has been separated as heave-offering] the rest of the produce in the batch still is subject to the separation of all agricultural gifts]. *Yet we learn in the Mishnah: “[If he wishes to separate] more than this, let him designate it [i.e., the surplus] heave-offering of the tithe for a different batch.”* [In the opinion of Hezekiah, this poses a problem. The batch is still subject to the separation of heave-offering. Let the householder designate the additional produce he wants to give the priest] heave-offering of the tithe for the same batch from which he already separated heave-offering.]*

[C] *Hezekiah maintains the view that R. Hiyya taught as a Tannaite statement, for R. Hiyya taught as a Tannaite statement: [If the householder wants to separate as heave-offering] more than one tenth of the batch, let him designate the additional amount as heave-offering of the tithe for a different batch.”*

- [IV:1 A] R. Ishmael says, “[He may separate so much as to render] half [of the batch] unconsecrated produce and half [of the batch] heave-offering.”**
- [B] What is the scriptural basis for the opinion of R. Ishmael [that only half of the batch of produce may be designated as heave-offering]?
- [C] “The best of your grain” (Num. 18:12) — the quantity that is the best of the grain can be only as much as the quantity of the remainder of the grain that is not the best.
- [V:1 A] R. Tarfon and R. Aqiba say, “[He may separate as much heave-offering as he wishes] provided that he leaves there [some] unconsecrated produce.”**
- [B] What is the scriptural basis for the opinion of R. Aqiba and R. Tarfon [that one must leave behind some unconsecrated produce after separating heave-offering]?
- [C] “From the first of your coarse meal you shall give an offering to the Lord” (Num. 15:21) — the offering must be from the first and not all of the first.

4:5

- [A] At three times [in the year] do they calculate [the quantity of untithed produce in] the [storage] basket [in order to allow the separation of the proper quantity of heave-offering]:**
- [B] **(1) at [the time of] the first ripe fruits, (2) [at the time of] the late summer fruits, and (3) in the middle of the summer.**
- [C] **(1) One who counts [the produce] is praiseworthy, and (2) one who measures [the volume of the produce] is more praiseworthy than he; but (3) one who weighs [the produce] is the most praiseworthy of the three.**
- [I:1 A] He is more praiseworthy than whom is he [who measures the volume of the produce]?**
- [B] Said R. Huna, “He is more praiseworthy than one who separates heave offering from produce the quantity of which has been estimated [but which has not been assessed by count, volume or weight.” [Measuring the quantity of the produce is more praiseworthy than simply estimating.]
- [C] Said R. Hanina b. R. Hillel, “*The Mishnah says this in so many words: but (3) one who weighs [the produce] is the most praiseworthy of*

the three [implying there is an additional method for separating heave-offering, which is to estimate how much food is in the batch].”

- [D] *Said R. Huna, “Interpret the statement of the Mishnah, **one who weighs [the produce] is** most praiseworthy of the three. *You cannot infer anything more from the statement.*” [There is no implication of another measure of heave-offering than counting, weighing, or calculating the volume.]*

4:6

- [A] **R. Eliezer says, “Heave-offering is neutralized [i.e., takes on the status of unconsecrated produce] [when one part of heave-offering is mixed] in [a total of] a hundred and one [parts of produce].”**
- [B] **R. Joshua says, “[It is neutralized when there is one part of heave-offering] in a hundred [parts of produce] plus [a bit] more.**
- [C] **“And this *more* has no [fixed] measure.”**
- [D] **R. Yosé b. Meshullam says, “[This *more* is] an additional *qab* per hundred *se’ahs*,**
- [E] **“[which equals] one-sixth of [the quantity of] heave-offering in the mixture.”**
- [I.1 A] How on the basis of Scripture do we know that heave-offering mixed with unconsecrated produce is not necessarily neutralized [but may impart the status of heave-offering to the whole batch?
- [B] *Said R. Jonah, “Scripture says, ‘Out of all the gifts to you [the Levites] you shall present every offering due to the Lord from all the best of them, giving the hallowed part from them’ (Num. 18:29), — any offering that is lifted up ‘from them’ — if the offering falls back into them [into the produce from which it has been separated, it imparts the status of sanctification. And how much heave-offering is required for the batch so that it imparts to that batch its own sanctified status? One seah of heave-offering for a hundred seahs of produce.”*
- [C] *R. Eliezer says, “One adds to the hundred seahs another seah of unconsecrated produce, so the heave-offering forms one part in a hundred and one, and is neutralized.”*
- [D] *R. Joshua says, “One adds to the hundred seahs any small amount of unconsecrated produce, so the heave-offering is neutralized.”*
- [E] **R. Yosé b. Meshullam says, ““[This *more* is] an additional *qab* per hundred *se’ahs*, [which equals] one-sixth of [the quantity of] heave-offering in the mixture.”**

[F] And the decided law is in accord with his statement.

4:7

- [A] R. Joshua says, “Black figs neutralize white ones, and white ones neutralize black ones.
- [B] “[And in the case of] cakes of pressed figs — (1) “large ones neutralize small ones, and small ones neutralize large ones; (2) “round ones neutralize square ones, and square ones neutralize round ones.”
- [C] R. Eliezer deems [heave-offering mixed with such different types of its same genus of produce to remain] forbidden [for consumption as common produce].
- [D] And R. Aqiba says, “When it is known which [type of produce in the status of heave-offering] fell [into the unconsecrated produce, the two different types] do not neutralize one another.
- [E] “But when it is not known which [type of produce in the status of heave-offering] fell [into the unconsecrated produce, the two different types of produce] neutralize one another.”
- [F] “How so?
- [G] “[If there were] fifty [unconsecrated] white figs and fifty [unconsecrated] black figs [together in a basket] —
- [H] “[if] a black fig [that was heave-offering] fell into the basket, the black figs are forbidden [for consumption as unconsecrated produce], and the white figs are permitted [for consumption as unconsecrated produce].
- [I] “[If] a white fig [which was heave-offering] fell [into the basket], the white figs are forbidden [for consumption as unconsecrated produce], and the black figs are permitted [for consumption as unconsecrated produce].
- [J] “But if he does not know what [color fig] fell [into the basket, white and black figs] neutralize one another [and all of the figs in the basket are permitted for consumption as unconsecrated produce].
- [K] And in this [i.e., the rules of A-C], R. Eliezer is stringent and R. Joshua is lenient.
- [L] But in this [case] R. Eliezer is lenient and R. Joshua is stringent:

- [M] In [a case in which] one stuffed a *litra* of dried figs [in the status of heave-offering] into the mouth of a jar [filled] with [a hundred *litras* of] unconsecrated [dried figs], but does not know which [jar] —
- [N] R. Eliezer says, “They regard them as if they were loose figs, and the bottom ones neutralize the top ones.”
- [O] R. Joshua says, “[The heave-offering] will not be neutralized unless a hundred jars are there.”
- [I:1 A] [R. Eliezer deems heave-offering mixed with such different types of its same genus of produce to remain forbidden for consumption as common produce:] R. Isi in the name of R. Yohanan: “The reason that R. Eliezer holds [white figs do not neutralize black ones in the status of heave-offering] is that if black figs that were heave-offering fall into a batch of unconsecrated white figs, one eats white figs [that we know are not heave-offering and leave behind black ones, that we know are heave-offering.]”
- [B] But then [how can Joshua maintain that] the white figs neutralize the black ones?
- [C] Said R. Eleazar, “That is how R. Eliezer answers R. Joshua’s ruling that the unconsecrated white figs neutralize black figs [that were heave-offering.]”
- [D] *This statement implies* [that Joshua maintains,] even in a case in which it is known what fell [black figs that are heave-offering into white figs that are secular] they still neutralize heave-offering working with one another.
- [E] Kahana said, “They do not neutralize one another.”
- [F] *In the theory of Kahana, what is the difference between the position of R. Joshua and that of R. Aqiba* [who says, “**When it is known which [type of produce in the status of heave-offering] fell [into the unconsecrated produce, the two different types] do not neutralize one another. But when it is not known which [type of produce in the status of heave-offering] fell [into the unconsecrated produce, the two different types of produce] neutralize one another**”]?
- [G] The case of one who knew which figs were heave-offering but forgot. *In the opinion of R. Joshua* [the black and white figs neutralize the heave-offering together, as though it was never known which are heave-offering, *in the opinion of R. Aqiba* [the black and white figs] do not neutralize the heave-offering together.

- [I:2 A] Simeon bar Ba in the name of R. Yohanan: “[Joshua’s ruling, **Black figs neutralize white ones, and white ones neutralize black ones**] applies in a case in which one black fig [that may or may not be heave-offering] fell into two white figs [that are not heave-offering] so that the black fig is an insignificant part of the mixture.”
- [B] *R. Zeira asked before R. Mana, “Doesn’t it stand to reason that it fell into three white figs [that aren’t heave-offering], so that if one of them was lost, there will still be two white figs?”*
- [C] *He said to him, “I too think so.”*
- [D] Bar Padaiah said, “One grinds up [all the figs’ and the greater part of unconsecrated produce nullifies the small volume of heave-offering and makes the mixture permitted for the non-priest to eat. [Now the black and white figs cannot be separated.]”
- [E] And even though Ba Padaiah said, “There is no question of combining through mixture anything other than wine and olive oil alone,” he concurs here that the consecrated black olives are swallowed up and neutralized.
- [F] *And the ruling of the rabbis differs.*
- [I:3 A] Kahana asked Samuel, “It stands to reason that as to **a mixture of unconsecrated grain and heave-offering** concerning which we have learned the rule here, the greater part of it is made up of food in the status of heave-offering, [isn’t that so]?”
- [B] He said to him, “I too think so, but when you go up to the Land of Israel, ask.”
- [C] *When he came up here, he heard R. Yosé in the name of R. Yohanan: “Even in the case of a seah of wheat that fall into ninety-nine seahs of unconsecrated food [the mixture, which takes on the status of heave-offering, is exempt from dough-offering].”*
- [D] Said R. Abbahu, “When R. Simeon b. Laqish answered R. Yohanan, [this is what he said to him]: Can one seah serve to exempt the entire mixture?”
- [E] [Yohanan] said to him, “Now if there is a large circle of figs in the status of heave-offering confused with other circles of figs, [does the mixture ot retain its unconsecrated status since] it is beyond doubt that when the householder removes one circle, the heave-offering comes up in his hand? You say that is a lenient ruling. Here too it is a lenient ruling, in that the entire batch is exempt from dough-offering.”

- [F] Rabbis objected [to Bar Padaiah], “The case of the circle of figs is different, for its status already has been nullified.”
- [G] *R. Jonah and R. Yosé, both of them speaking in the name of R. Zeira:* “Even in the case of wheat of one status mixed with wheat of another, one grinds the whole and it is permitted.”
- [I:4 A]** If there were before a farmer twenty secular figs and one fig consecrated as heave-offering fell into the mixture and one of the figs was lost [and the mixture is heave-offering], then one of the figs of the mixture was lost [and we do not know whether it was one in the status of heave-offering] and another fig was lost, and another fig in the status of heave-offering fell into the mixture and one of the figs was lost but it is not known whether it was in the status of heave-offering [so there may be no figs in the status of heave-offering in the mixture or there may be as many as two, so what is the status of the mixture?
- [B] R. Simeon b. Laqish says, “The matter of doubt concerning the figs is resolved so that the heave-offering that fall in is nullified in the larger volume of secular figs.” [We assume that each fig that was lost from the batch was in the status of heave-offering .]
- [C] R. Yohanan said, “Is there proof that in each case [the fig that was lost was the one in the status of heave-offering]?” [The secular figs were lost, the batch as a whole is a mixture of heave-offering and secular figs and is disposed of as heave-offering .]
- [D] R. Yohanan concurs that if one took heave-offering on their behalf from a different batch [to replace the figs that were heave-offering] or if he separated heave-offering from a different batch and took much heave-offering to make up for the heave-offering figs lost in the unconsecrated figs, the case is resolved so that the heave-offering was nullified in the larger quantity of unconsecrated figs.
- [I:5 A]** R. Simeon b. Laqish in the name of R. Hoshaiyah, “If there were before him a hundred and fifty jugs, and a hundred of them were open, the hundred are permitted and the fifty are prohibited.” But as to the rest, when they are open, they should be permitted.]
- [B] Said R. Zeira, “They have made this statement only to cover the situation when they are opened up. But as to opening them to begin with, that is forbidden!”
- [I:6 A]** R. Zeira in the name of Bar Padaiah: “Produce that is certainly in the status of heave-offering renders forbidden up to a hundred times [its quantity in unconsecrated produce with which I is mixed.] [If the

heave-offering forms a smaller percentage than a hundreds of the batch, it is neutralized.] If there is doubt [as to the status of the produce that fell in], it makes the mixture forbidden for a non-priest to eat only up to fifty times its quantity in unconsecrated produce with which it is mixed. [It is neutralized if it forms less than one fiftieth of the mixture.]”

[B] But if doubtful heave-offering renders the mixture into which it falls at fifty times its quantity of unconsecrated produce, why not the same result for sixty times its quantity in unconsecrated produce or up to seventh times? [It will impart its own status to up to one hundred times its quantity in unconsecrated produce.]

[C] [If doubtful produce falls into] up to fifty times its own volume of unconsecrated produce, one may not render the mixture unconsecrated by taking much heave offering from a different batch to make up for the heave-offering lost in this mixture. Produce that is subject to doubt as to whether or not it is heave-offering differs from produce that is certainly heave-offering in that if the mixture contains a higher percentage of unconsecrated produce than one in fifty, one may render it secular by taking much heave-offering from a different batch to compensate for the doubtful heave-offering lost in the mixture. But that may not be done with heave-offering not subject to doubt.

[I:7 A] *Said R. Huna, “This is the sense of the Mishnah: **And in the case of cakes of pressed figs large ones neutralize small ones**, by weight, [if the large cakes outweigh the small ones by more than a hundred times, We do not require that there be a hundred large secular cakes to neutralize one small cake in the status of heave-offering]; **and small secular ones neutralize large ones** in the status of heave-offering by number — if there is a hundred times the quantity of consecrated cakes by number; **round ones neutralize square ones, and square ones neutralize round ones.***

[II:1 A] **And in this R. Eliezer is stringent and R. Joshua is lenient.**

[B] *Said R. Yohanan, “These Tannaite authorities state the following:*

[C] **“When you reason, [you can] state a general rule**

[D] **“that R. Eliezer says, ‘If it is known [what type of heave-offering] fell [into unconsecrated produce, the heave-offering] is not neutralized, and if it is not known, it is neutralized;’**

[E] “R. Joshua says, ‘Whether or not it is known [what type of heave-offering] fell [into unconsecrated produce] it is not neutralized’”—the words of R. Meir.

[F] R. Judah says, “R. Eliezer says, ‘Whether or not it is known [what type of heave-offering] fell [into the unconsecrated produce], it is not neutralized.’

[G] “R. Joshua says, ‘Whether or not it is known [what type of heave-offering] fell [into the unconsecrated produce], it is neutralized.’

[H] “R. Aqiba says, ‘If it is known [what type of heave-offering] fell [into the unconsecrated produce], it is not neutralized. But if it is not known [what type of heave-offering] fell [into the unconsecrated produce], it is neutralized’” [T. Ter. 5:10].

[III:1 A] In [a case in which] one stuffed a *litra* of dried figs [in the status of heave-offering] into the mouth of a jar [filled] with [a hundred *litras* of] unconsecrated [dried figs], but does not know which [jar] — R. Eliezer says, “They regard them as if they were loose figs, and the bottom ones neutralize the top ones.” R. Joshua says, “[The heave-offering] will not be neutralized unless a hundred jars are there.” “(1) *A litra of dried figs [in the status of heave-offering] which one stuffed into the mouth of a jar [filled with dried figs], but does not know into which [jar] he stuffed them,* (2) [or which one stuffed] into a bee hive [filled with dried figs], but does not know into which bee hive he stuffed them, (3) [or which] one pressed on a circle of pressed figs, but does not know on which circle of pressed figs he pressed them—

[B] “R. Eliezer says, ‘They regard the [figs on] top [of the jar, bee hive, or pressed figs] as if they are loose [and therefore are mixed with the rest of the produce]. If there are there [in the jar, etc.] a hundred and one *litras* [of produce, the heave-offering] is neutralized. But if not, it is not neutralized.’

[C] “R. Joshua says, ‘If there are a hundred mouths [of jars, etc., the heave-offering] is neutralized. And if not, [produce in] the mouths [of the jars, etc.] is forbidden and [produce in] the bottoms [of the jars, etc.] is permitted [i.e., retains the status of unconsecrated food]’”—the words of R. Meir.

[D] R. Judah says, “R. Eliezer says, ‘If there are there a hundred mouths [of jars, etc., the heave-offering] is neutralized. And if not, [produce in] the mouths [of the jars, etc.] is forbidden and [produce in] the bottoms [of the jars, etc.] is permitted.’

- [E] **“R. Joshua says, ‘Even if there are there three hundred mouths [of jars, etc., the heave-offering] is not neutralized.’**
- [F] **“If he pressed it [i.e., a *litra* of dried figs in the status of heave-offering] upon a circle of pressed figs, but does not know where [on the circle] he pressed it, all agree that it is neutralized” [T. Ter. 5:11].**
- [G] That implies that the treat jars as a commodity that one sells by number.
- [H] *That supports the view of R. Yohanan who said, “These Tannaite sages [Meir, Judah] disagree on the issue between Joshua and Eliezer.”*
- [I] The fact that Meir agrees even for objects sold by number that the objects become consecrated when mixed with heave-offering supports the view of him who says that in Meir’s opinion everything that is sanctified can impose its holy status on other things.
- [J] *That we have two different theories of the dispute between Joshua and Eliezer supports the one who says, “These two Tannaite authorities disagree on the issue [dispute by Eliezer and Joshua.]*
- [K] [With reference to M. Orl. 3:4-5: **And R. Aqiba says, “Seven [things render others forbidden].” And these are they: 1) nuts from Perekh, 2) pomegranates from Baddan, 3) sealed jars [containing forbidden wine], 4) beet-shoots, 5) cabbage-stalks and 6) Greek gourds. R. Aqiba says], “Also 7) the loaves of a householder” [M. 3:4-5] — this means that even if the gourd is one part in a hundred in the mixture, it imposes a prohibition on the other produce with which it is mixed.**
- [IV:1 A] **“If he pressed it [i.e., a *litra* of dried figs in the status of heave-offering] upon a circle of pressed figs, but does not know where [on the circle] he pressed it, all agree that it is neutralized” [T. Ter. 5:11].**
- [B] Said R. Abin, “And ewach of the cakes of pressed figs on which the heave-offering may have been pressed must contain at least two litras and a bit more of unconsecrated produce, so that the heave-offering will be nullified by being mixed with a much greater quantity of unconsecrated produce.”

4:8

- [A] **A *se’ah* of heave-offering which fell into the mouth of a store-jar,**

- [B] and one skimmed it off —
- [C] R. Eliezer says, “If in the layer removed were a hundred *se’ahs*,
- [D] “[the heave-offering] is neutralized in a hundred and one [parts of produce].”
- [E] But R. Joshua says, “[The heave-offering] is not neutralized.”
- [F] A *se’ah* of heave-offering which fell into the mouth of a store-jar — he should skim it off.
- [G] But if so, why did they say heave-offering is neutralized in a hundred and one [parts of unconsecrated produce]? [That is the case only] if one does not know whether or not it [i.e., the produce that is heave-offering] is mixed up [with the unconsecrated produce] or where [in the unconsecrated produce] it fell.
- [H] (1) Two bins [the combined content of which is a hundred *se’ahs* of unconsecrated produce], or (2) two store-jars [the combined content of which is a hundred *se’ahs* of unconsecrated produce]
- [I] into one of which fell a *se’ah* of heave-offering,
- [J] and it is not known into which of them it fell —
- [K] [the bins or store-jars] neutralize [the heave — offering] in conjunction with one another [i.e., we deem the heave-offering to have fallen into a single batch of a hundred *se’ahs* of produce].
- [L] R. Simeon says, “Even if they [i.e., the two baskets or store-jars] are in two [different] cities — they neutralize [the heave-offering] in conjunction with one another.”
- [M] Said R. Yosé, “A case came before R. Aqiba concerning fifty bundles of vegetables, among which had fallen a similar bundle, half of which was heave-offering.
- [N] “And I said before him, ‘[The heave-offering] is neutralized.’ Not that heave-offering is neutralized in [a mixture of one part of heave-offering in a total of] fifty one [parts of produce, but,] rather, because there were there a hundred and two half [*se’ahs*, only one of which was heave-offering].”
- [I:1 A] *The rulings assigned to R. Eliezer conflict. There he says, ““They regard them as if they were loose figs, and the bottom ones neutralize the top ones,”* and here he says that [the produce on the bottom does not neutralize that which is on top, but the top batch is skimmed off, and only] **If in the layer removed were a hundred *se’ahs*, [the heave-offering] is neutralized in a hundred and one [parts of produce].”** *Lo, the top and bottom are not mixed up.*

- [B] R. Jeremiah, R. Hiyya in the name of R. Yohanan, Simeon bar Vava in the name of Kahana: “The rulings of R. Eliezer treat the one who skimmed the produce off the top of the batch as though he needed to remove from the batch one seah of produce, equal to the heave-offering that originally fell in, but instead he intentionally removed much produce.”
- [C] R. Ila, R. Assi in the name of R. Yohanan: “The rulings of R. Eliezer treat the new mixture formed when the farmer removes the upper layer of produce as one in which the seah of heave-offering contained in the mixture is neutralized if mixed in a hundred parts of unconsecrated produce
- [D] In the opinion of R. Assi, Eliezer holds that it is permitted in removing heave-offering from a batch in which it was neutralized to separate much heave-offering for the priest. [That does not cause a new mixture.] *In the opinion of Kahana*, Eliezer holds that it is forbidden for one who removes heave-offering from a batch in which it was neutralized to separate much heave-offering. [An individual who does so always creates a new mixture of heave-offering and unconsecrated produce.]
- [E] If one skimmed the heave-offering off the top of the batch and went and skimmed some more producing off the top of the batch in order to neutralize the heave-offering, *in the opinion of R. Assi it is permitted [under the rubric of separating much heave-offering] and in the opinion of Kahana it is not permitted.*
- [F] *In the opinion of R. Assi he may skim off more even if he leaves no produce in the bin.*
- [G] *In the opinion of Kahana he must leave some produce behind in the bin.*
- [II:1 A] Two bins [the combined content of which is a hundred *se'ahs* of unconsecrated produce], or (2) two store-jars [the combined content of which is a hundred *se'ahs* of unconsecrated produce] into one of which fell a *se'ah* of heave-offering, and it is not known into which of them it fell — [the bins or store-jars] neutralize [the heave— offering] in conjunction with one another [i.e., we deem the heave-offering to have fallen into a single batch of a hundred *se'ahs* of produce]. R. Simeon says, “Even if they [i.e., the two baskets or store-jars] are in two [different] cities — they neutralize [the heave-offering] in conjunction with one another.”**

- [B] **[If there were] (1) two bins [each containing less than a hundred seahs of unconsecrated produce] in two storerooms (2) two bins in two attics, (3) two bins in one attic, lo, these join together to form the quantity of unconsecrated produce needed to] neutralize [a seah of heave-offering which falls into one of them] [cf. M. Ter. 4:12A-B] [T. Ter. 6:12].**
- [C] Two storage vessels in two attics — why in this case does the produce not [combine to form the quantity required to neutral heave-offering that falls into one of then]? What is the difference between bin and a storage vessel so that bins in wse4parate attics join together but storage jars do not?]
- [D] Bins are usually moved about [and could be moved into a common area] while storage vessels are not commonly moved about, and if they are located in different places, we do not teat them as in the same place].

[II:2 A] R. Zeira, R. Hiyya in the name of R. Simeon: “If before the farmer were two bins, each containing fifty seahs of unconsecrated produce, and a seah of heave-offering fell into one of them and it is not known into which one it fell [the produce in the two bins joins together to neutralize the heave-offering]. [When the farmer takes a seah of produce from the mixture to give the heave-offering to the priest,] if he wants to remove it from this bin, he may do so, so too with the other, or he may take half of the seah from each of the two bins.

[B] “And so two immersion-pools, each of which holds twenty seahs of rain water, and three logs of drawn water fell into one of them but it is not known into which one it fell — the water in the two –pools combines to create the volume of water that nullifies the invalidating effect of the drawn water.]”

[II:3 A] R. Simon in the name of Bar Pedaiah: “**Two bins, in one of which are fifty seahs [of unconsecrated pro-duce] and in the other of which are fifty seahs [of unconsecrated produce] — [if] a seah of heave-offering fell into one of them, and it is known into which of them it fell, and afterwards a second [seah of heave-offering] fell [into one of them], but it is not known into which of them it fell, lo, he can attribute [the impairment] and say, ‘In the place into which the first [seah of heave-offering fell, there did the second fall [as well]’**” [cf. T. Miq. 2:3] [T. Ter. 6:13]. Why so? Because one attributes an impairment in status to that the status of which is already impaired.

[B] If more secular produce fell into the bin where it is known that the first seah of heave-offering fell] so that there is enough secular produce to nullify the seah of heave-offering , it this was accidental, it neutralizes the heave-offering and the batch is permitted to non-priests. And as for the second fifty seahs of unconsecrated produce, it is subject to doubt [whether or not the second seah of heave-offering fell in there or in another batch. The produce in the two bins combines to form the quantity needed to neutralize the second seah of heave-offering .]

[C] It turns out that two seahs of heave-offering are neutralized in a hundred and fifty seahs of secular produce.

[D] **Two bins, in one of which are fifty *seahs* [of unconsecrated produce] and in the other of which are fifty *seahs* [of unconsecrated produce] — [If] a *seah* of heave-offering fell into one of them [i.e., one of the original two bins], but it is not known into which of them it fell, and afterwards a second [*seah* of heave-offering] fell [into one of them], and it is known into which of them it fell, he may not attribute [the impairment] and say, “In the place into which the second [*seah* of heave-offering] fell, there the first fell [as well]” [cf. T. Miq. 2:3] [T. Ter. 6:13].**

[E] If more secular produce fell into the bin where it is known that the first seah of heave-offering fell] so that there is enough secular produce to nullify the seah of heave-offering , it this was accidental, it neutralizes the heave-offering and the batch is permitted to non-priests. And as for the second fifty seahs of unconsecrated produce, it is forbidden until more secular produce accidentally falls in.

[II:4 A] [If a seah of heave-offering fell into less than a hundred seas of unconsecrated produce,] and the farmer said, “The produce on the bottom of the bin is heave-offering and that which is on the top is secular,” “What is on the bottom is secular and what is on the top is heave-offering s” — does the matter depend on his intention?

[B] [No, it does not.]

[C] And so is the rule for the immersion pool [lacking enough volume of water to neutralize drawn water that falls in]: [if drawn water fell in and he said,] “[The increased volume of water] at the top of the pool is made up of fit water and the increased volume of water at the bottom is made up of drawn water,” or “[The increased volume of water] at the top of the pool is made up of drawn water and the increased volume of water at the bottom is made up of fit water,” — does the matter depend on his intention?

[D] [No, it does not.]

[II:5 A] You say: the produce in two bins [located in different attics] combines to form the quantity sufficient to neutralize heave-offering that falls into one of them], but the produce in two storage vessels located in different attics does not combine to form the quantity sufficient to neutralize heave-offering that falls into one of them].

[B] *What would be a concrete case?*

[C] Two storage vessels in two different attics and a seah of heave-offering fell into one of them and it is not known into which of them it fell — the produce in both of them is forbidden to non-priests. If more unconsecrated produce was put into one of them so that the vessel contains sufficient secular produce to neutralize the heave-offering — if this was unintentional, the heave-offering that might be in that storage vessel is neutralized and the produce in the container is permitted to none priests. And as to the second storage vessel, if more unconsecrated produce unintentionally, it is permitted to non-priests. But the replacement seah of heave-offering to be given to the priest as his share need not be taken from the second storage vessel for replacement heave-offering already will have been taken from the first storage vessel when the produce in it became permitted.

[III:1 A] Said R. Yosé, “A case came before R. Aqiba concerning fifty bundles of vegetables, among which had fallen a similar bundle, half of which was heave-offering. And I said before him, ‘[The heave-offering] is neutralized.’ Not that heave-offering is neutralized in [a mixture of one part of heave-offering in a total of] fifty one [parts of produce, but,] rather, because there were there a hundred and two half-*[se’ahs]*, only one of which was heave-offering].”

[B] *It was taught as a Tannaite statement: R. Yosé says, “If heave-offering is mixed up in a hundred and one parts of unconsecrated produce, it is neutralized. But if it is not mixed up, it is not neutralized” [T. Ter. 5:13]*

[C] *But lo, we have learned in the Mishnah: Said R. Yosé, “A case came before R. Aqiba concerning fifty bundles of vegetables, among which had fallen a similar bundle, half of which was heave-offering. And I said before him, ‘[The heave-offering] is neutralized.’ Not that heave-offering is neutralized in [a mixture of one part of heave-offering in a total of] fifty one [parts of produce, but,] rather, because there were there a hundred and two half-*

[se'ahs, only one of which was heave-offering].” Now here it was not mixed up and yet he states that it is neutralized. How can that be?

[D] *We have to reflect and state:* In the case of produce that one is meticulous about keeping separate, so long as it is separate it is not neutralized. But in the case of produce that one is not meticulous about keeping separate, even if it is not actually lost in the unconsecrated produce, it is neutralized.

[E] *What would be a practical case?*

[F] An unclean chate melon [in the status of heave-offering] that fall into a hundred clean [dry and insusceptible] secular chatemelons — since he is not meticulous about keeping them separate, the unclean chate melon is neutralized. If the chate melons were wet down and so made susceptible to uncleanness, he is now meticulous about keeping them separate, so the unclean chate melon is not neutralized

YERUSHALMI TERUMOT

CHAPTER FIVE

5:1

- [A] A *se'ah* of unclean heave-offering that fell into less than a hundred [*se'ahs*] of unconsecrated produce,
- [B] or [that fell] into first tithe, or second tithe or [produce] dedicated [to the Temple],
- [C] whether these things are clean or unclean —
- [D] let [all of the produce in the mixture] rot.
- [E] If that *se'ah* [of heave-offering that fell into the other produce] was clean — let [all of the produce in the mixture] be sold to priests, at the [low] value of heave-offering,
- [F] less the value of that same *se'ah* [of heave-offering that fell into the unconsecrated produce].
- [G] And if it fell into first tithe — let him designate [the mixture] heave-offering of the tithe.
- [H] And if it fell into second tithe or [produce] dedicated [to the Temple] — lo, these may be redeemed.
- [I] And if the unconsecrated produce [into which the heave-offering fell] was unclean — let [all of the produce in the mixture] be eaten in small bits, or roasted, or kneaded with fruit juice, or divided into [little] lumps [of dough],
- [J] such there will not be in a single place an egg's bulk [of produce].
- [K] A *se'ah* of unclean heave-offering that fell into a hundred [*se'ahs*] of clean [unconsecrated] produce [and so is neutralized] —
- [L] R. Eliezer says, “Let it be lifted out and burned.
- [M] “For I say, ‘The *se'ah* that fell [into the unconsecrated produce] is the [same] *se'ah* that is raised up.’”

- [N] But sages say, “[The heave-offering] is raised up [out of the mixture] and is eaten dry, roasted, kneaded with fruit juice, or divided into lumps [of dough],
- [O] “so that there is not in a single place as much as an egg’s bulk [of produce].”
- [P] A *se’ah* of clean heave-offering that fell into a hundred [*se’ahs*] of unclean unconsecrated produce —
- [Q] let it be raised up and eaten dry, roasted, kneaded with fruit juice, or divided into lumps [of dough],
- [R] such that there is not in a single place as much as an egg’s bulk [of produce].
- [I:1 A] A *se’ah* of unclean heave-offering that fell into less than a hundred [*se’ahs*] of unconsecrated produce:
- [B] *R. Hiyya taught a Tannaite statement:* “[Even if the produce into which heave-offering falls is unconsecrated but] subject to tithes, the heave-offering] is neutralized. And [even if the produce is] aftergrowths of the seventh year, which are not subject to tithing and which are ownerless, the heave-offering] is neutralized.
- [C] [How is the priest to eat his share, subject as it is to other restrictions.] Untithed produce neutralizes [heave-offering that is mixed with it], and [to render for consumption the seah that is raised up out of the mixture for the priest] one designates the required tithes. [The previously untithed produce is now treated like fully tithed produce.] aftergrowths of the seventh year neutralize heave-offering, and produce that is taken from the batch to replace the lost heave-offering is given freely to those that can eat it [priests].
- [D] *Said R. Yosé, “The Tannaite statement says this in so many words:* A seah of heave-offering that fell into less than a hundred seahs of unconsecrated produce is not neutralized because it fell into less than a hundred seahs of unconsecrated produce. Lo, if it fell into a hundred seahs of produce, surely it is neutralized, and the produce taken from the batch to replace the heave-offering that was lost is not deemed untithed.
- [I:2 A] ***There we learned in the Mishnah:*** And they kindle [a flame] with [unclean] bread and oil of heave-offering [M. Tem. 7:5].
- [B] Hezekiah said, “This is taught only concerning bread and oil, lo, in regard to other produce it does not apply.”

- [C] R. Yohanan said, “There is no difference between bread and oil and other produce.”
- [D] R. Yudan of Cappadocia asked, “Are wheat like bread and olives like wine so that [if they are in the status of heave-offering and unclean, they may be used for kindling?]”
- [E] R. Samuel bar Nahman in the name of R. Yohanan: “He who kindles clean bread or oil in the status of heave-offering — may his bones be burned.”
- [F] *R. Samuel bar Nahman asked before R. Judah*, “What is the law as to kindling [unclean produce that was heave-offering other than bread or oil]?”
- [G] He said to him, “I should kindle with it, for what has fallen to you for your tribe of priests was given to you [to use as you will].”
- [H] All concur in regard to unclean oil of heave-offering that it is permitted for use as kindling. For said R. Abba bar Hiyya in the name of R. Yohanan, “ ‘I have given them [holy things] to you as a consecrated portion’ (Num. 18:8) —
- [I] “as a consecrated portion — for anointing to high office;
- [J] “as a consecrated portion — for use in anointing
- [K] “as a consecrated portion — for kindling.” [It is permitted to use oil in the status of heave-offering for all these purposes.]
- [I:3 A] **[A *se’ah* of unclean heave-offering that fell into less than a hundred [*se’ahs*] of unconsecrated produce, or [that fell] into first tithe, or second tithe or [produce] dedicated [to the Temple], whether these things are clean or unclean — let all of the produce in the mixture rot]:** *there is no problem with the view that* if unclean heave-offerings imparts uncleanness to clean unconsecrated produce, all of the mixture is left to rot. [It may not be burned. If it were not for the presence of unclean heave-offering, the clean unconsecrated produce could be eaten. It is edible and it may not be burned.] But what about unclean heave offering that imparts uncleanness to unclean secular produce. Why should all of this be left to rot [since it is not edible and should be burned up?] *In the opinion of Hezekiah, it is sensible that* it should be left to rot [in line with M. 5:1D] [Unclean produce that is heave-offering should not be burned, including unclean mixtures of heave-offering and unconsecrated produce.] *But in the opinion of R. Yohanan,* [who holds that all unclean produce that is heave-offering may be used for kindling] let it be burned up.

[B] R. Yohanan takes the view of R. Yosé bar Hanina [who says that the heave-offering should be burned] lest [more unclean produce be added to the mixture and neutralize unclean heave-offering] and be lifted out of the mixture. [We fear that a priest may accidentally eat the heave-offering, and to stop that, we burn the mixture right away and do not leave it to rot.]

[C] [R. Yohanan makes this ruling in connection with] produce that is not ordinarily permitted to be mixed up with other produce and is neutralized, lest there be an accident [and a priest eat the unclean mixture.] And as to produce that is ordinarily permitted to be mixed up with other produce and neutralized, [he takes the same view, lest there be some mishap and a priest accidentally eat the heave-offering.]

[II:1 A] **[If that *se'ah* [of heave-offering that fell into the other produce] was clean — let [all of the produce in the mixture] be sold to priests, at the [low] value of heave-offering]:** [Instead of selling the mixture to the priest at the low price of heave-offering, why not sell at the market price, even if it is more or less than the usual value of the produce? Let the household take what the priest is willing to pay.] *Have we not reasoned as follows: the sanctuary [nonetheless] has a claim only in its own place and in its own time [M. Ar. 6:5G]?* [What does it mean to refer to the low, set value of heave-offering?]

[B] Said R. Hanina, “Interpret the rule [let [all of the produce in the mixture] be sold to priests, at the [low] value of heave-offering] to speak of a situation in which that locale was destroyed, and the priests available to pay for the heave-offering are gone, so the farmer found no one to whom to sell the produce even for the price of wood.”

[II:2 A] **[If that *se'ah* [of heave-offering that fell into the other produce] was clean] —** that is to say if a seah of clean heave-offering fell into less than a hundred seahs of clean heave-offering. But if clean seah of heave-offering fell into less than a hundred seahs of unclean, unconsecrated produce, *then the law follows what we learned in the Mishnah: And if the unconsecrated produce [into which the heave-offering fell] was unclean — let [all of the produce in the mixture] be eaten in small bits, or roasted, or kneaded with fruit juice, or divided into [little] lumps [of dough], such there will not be in a single place an egg's bulk [of produce].*

[III:1 A] **And if it fell into first tithe — let him designate [the mixture] heave-offering of the tithe:** [If heave-offerings imparts to first tithe the status of heave-offering, one designates the mixture — heave-

offering and first tithe — to be heave-offering of the tithe. That is given to the priest at no charge.]

[B] *In the opinion of R. Yosé there is no problem.* For said R. Yosé in the name of Hezekiah, and R. Jonah in the name of R. Yannai, “‘And from it [first tithe] you [Levites] shall give the Lord’s offering [heave-offering of tithe] to Aaron the priest’ (Num. 18:28). One gives Aaron the priest at no charge all that is appropriate to his priestly status [thus the mixture of heave-offering and first tithe that is heave-offering of the tithe].”

[C] *But in the opinion of Kahana, who said,* “‘Take and give to the priest as heave-offering of the tithe the holy portion of first tithe,” here too he should say, ‘Take and give to the priest at no charge only the hallowed portion of the tithe. [He need not give the priest without compensation a mixture only part of which is consecrated.]”

[D] Even though Kahana has said there, “‘Take and give to the priest at no charge only the hallowed portion of the tithe,” he concedes [that here the householder must give to the priest at no charge the mixture of heave-offering and first tithe,] for he holds that whenever there is something that the householder must give to the priest, it must be for free.

[IV:1 A] And if the unconsecrated produce [into which the heave-offering fell] was unclean — let [all of the produce in the mixture] be eaten in small bits, or roasted, or kneaded with fruit juice, or divided into [little] lumps [of dough]:

[B] *these small bits are in the volume of a half egg’s bulk.*

[V:1 A] A *se’ah* of unclean heave-offering that fell into a hundred [*se’ahs*] of clean [unconsecrated] produce [and so is neutralized] — R. Eliezer says, “Let it be lifted out and burned. For I say, ‘The *se’ah* that fell [into the unconsecrated produce] is the [same] *se’ah* that is raised up.” But sages say, “[The heave-offering] is raised up [out of the mixture] and is eaten dry, roasted, kneaded with fruit juice, or divided into lumps [of dough], so that there is not in a single place as much as an egg’s bulk [of produce].”

[B] *Said R. Simon, “R. Eliezer is consistent with positions held elsewhere. Just as he said there, all the invalid limbs came up in his hand [Limbs [of burnt offerings] which were mixed with the limbs of blemished beasts [which are not offered] - R. Eliezer says, ‘If the head of one of them was [inadvertently] offered, let all the heads be offered [in the assumption that the one which already has been offered is the one which was blemished]. [If] the leg of one of them [had been*

offered], let all the legs be offered [in the same assumption]' [M. Zeb. 8:5], so he says here, all the unclean parts have come up in his hand ['The se'ah that fell [into the unconsecrated produce] is the [same] se'ah that is raised up].'' [We assume the blemished limb is the one that was removed, so too all the unclean produce came up in his hand, and it is unclean heave-offering which is to be burned.]

- [C] *R. Zeira asked*, "Might we not say, R. Eliezer holds [that the heave-offering that is raised up is burned, not because it is the same that fell in, but because he wishes to build a fence around the law. [To keep the priest from eating unclean heave-offering, he has what comes up from the batch burned. Doesn't Eliezer concur that one must designate tithes in behalf of a seah of heave-offering that one raised up from a hundred seahs of unconsecrated untithed produce [in which heave-offering was neutralized]? If you say that the seah of produce that fell into the unconsecrated produce is the same seah as is raised out of the produce, then the seah certainly is in the status of heave-offering, and one does not have to designate tithes on its behalf.]"
- [D] *Said R. Mana*, "Well did R. Zeira speak."
- [E] *For we learn in the passage of the Mishnah that follows: A se'ah of clean heave-offering that fell into a hundred [se'ahs] of unclean unconsecrated produce — let it be raised up and eaten dry, roasted, kneaded with fruit juice, or divided into lumps [of dough], such that there is not in a single place as much as an egg's bulk [of produce]. Here R. Eliezer does not differ.* [He doesn't rule that what fell in is what is raised up and need not be treated as a mixture of clean and unclean produce. So he doesn't maintain that what falls in is what comes out. Zeira is right, Simon is wrong.]
- [F] *Associates before R. Yosé said*, "Well did R. Simon speak."
- [G] For is it so that they burn heave-offering merely as a precautionary measure? [They burn the heave-offering if it is unclean. Eliezer must hold that the seah of unclean heave-offering that fell in is the seah that is removed, and it is unclean.]
- [H] He said to them, "But are not the six classes of doubt concerning the matter of cleanness of heave-offering of which we have learned in the Mishnah are not cases in which heave-offering is to be burned simply as a precaution? And here too Eliezer holds that heave-offering is burned simply as a precaution [and not because the seah of unclean heave-offering that fell in is the seah that is removed]."

[V:2 A] **[But sages say, “[The heave-offering] is raised up [out of the mixture] and is eaten dry, roasted, kneaded with fruit juice, or divided into lumps [of dough], so that there is not in a single place as much as an egg’s bulk [of produce]:]”** Associates asked before R. Yosé. “[Why do sages rule that the heave-offering that replaces the lost offering be eaten in small quantities, not able to convey uncleanness?] What is at issue here? If it is unclean heave-offering [that fell in and was raised up], let it be burned and not eaten. If it is secular produce, then what difference does it make that it is rendered unclean [by the negligible amount of unclean heave-offering in the mixture]?”

[B] He said to them, “The precautions that the sages invoke are to be explained: is it not eaten by the priest as heave-offering? Is it so that only clean heave-offering may be eaten? And perhaps unclean heave-offering may be eaten? [Unclean heave-offering is sometimes not to be burned.] Do you not concede that if there is a doubt as to whether or not heave-offering is unclean, while the heave-offering is at hand [not mixed up with unclean produce] it may not be burned? [Only heave-offering that is certainly unclean is burned.] What difference does it make if the doubt as to uncleanness arises as a result of the heave-offering’s falling into a different batch or if the suspicion of uncleanness arises while the heave-offering remains at hand? *Rather, if you wish to object, apply it to what R. Hoshaia taught as a Tannaite rule. For R. Hoshaia taught as a Tannaite rule: ‘A seah of heave-offering that was clean that fell into a hundred seahs of unclean heave-offering — let the one seah be raised up and eaten in small pieces that are unsusceptible to uncleanness.’”*

[V:3 A] **in small bits, or roasted, or kneaded with fruit juice, or divided into [little] lumps [of dough]:**

[B] *these small bits are in the volume of a half egg’s bulk.*

[VI:1 A] **A *se’ah* of clean heave-offering that fell into a hundred [*se’ahs*] of unclean unconsecrated produce — let it be raised up and eaten dry, roasted, kneaded with fruit juice, or divided into lumps [of dough], such that there is not in a single place as much as an egg’s bulk [of produce]:**

[B] [When a seah of unclean heave-offering is neutralized in a hundred seahs of clean unconsecrated produce,] Hezekiah said, That is because of the dough offering [that is in the unconsecrated grain, which must not be made unclean during the preparation of the dough].”

[C] The statement of Hezekiah implies that the prohibition [against consuming heave-offering] by non-priests is nullified [when the heave-

offering is neutralized. But the prohibition of unclean produce is not nullified. [Even after unclean produce that is heave-offering is neutralized, a portion of the batch is unclean. The batch must be prepared in little bits so that this unclean produce will not render unclean the clean produce in the batch and with it the dough offering that all be separated.]

- [D] *The theories of Hezekiah contradict one another. There he said:*
- [E] In a case in which there is one part of unclean flour in a hundred and one parts of clean flour, how large may each lump of dough be so that one may still prepare the dough in a state of cleanness [without worrying that there is enough unclean flour in the lump to impart uncleanness to the clean flour in it]? Hezekiah said, “One sixth plus four qabs.”
- [F] *Yet here he says this* [“Even the unconsecrated produce that is left after a seah is removed for the priest may be prepared and eaten only in small lumps less than an egg’s bulk”]!
- [G] Said R. Yosé, “There it is a case of one who first kneads the clean and unclean dough and then separates dough offering. [The clean and unclean flour are evenly mixed together, and each lump contains 1/101 unclean dough. But here one separates dough offering and then kneads the dough. [When the dough offering is separated from the lump of dough, the clean and unclean produce has not been mixed together. Any lump of dough may contain all the unclean produce. The lumps must be kept to less than an egg’s bulk, that is, too small to impart uncleanness.]
- [H] Said R. Abbahu, “All our days we would err, like the staff of a blind person [that goes from side to side]. That was until we learned in the calculation of Gematria [the numerical value of letters]: *how many egg’s bulk are there in a qab? Twenty four eggs’ bulk [a qab = four log, a log = six eggs’ bulk. How many eggs’ bulk in a seah? Ninety-six eggs’ bulk. A seah is four qabs, not six as is ordinarily the case.] A sixth of this is sixteen eggs’ bulk. If one kneads twenty four eggs’ bulk of dough, each might contain an egg’s bulk of unclean dough. But if one kneads it in four separate lumps, each of six eggs’ bulk, one does not have any dough left over. What to do? Knead the dough in five lumps, for containing five eggs’ bulk, one containing four eggs’ bulk, and take the required dough offering from the lump containing four egg’s bulk.*”
- [I] Hezekiah holds that one should not allow an egg’s bulk of unclean dough to touch the kneading trough. R. Yohanan holds that an egg’s

bulk of unclean dough may touch the kneading trough, but it may not touch clean dough.

- [J] *Said R. Yosé to R. Jeremiah, “What Hezekiah says makes sense only if [he means that] de jure the dough should not touch the trough, but if it does, it does not impart uncleanness. What R. Yohanan says makes sense only if [he means that] this is de facto. [If it touches, it does not impart uncleanness to the trough, but one should try to prevent it from touching.]”*
- [K] *He said to him, “I also think so.”*
- [L] In what case does the rule for a kneading trough apply in R. Yohanan’s opinion?
- [M] R. Yosé b. R. Abun in the name of R. Jonah: “Resolve the question [of when the rule for the kneading trough applies, that the dough should not touch the kneading trough] — it is a case in which one kneads a lump of dough the size of seventeen eggs’ bulk. This is the case in which the total volume of dough is two hundred eggs’ bulk.”
- [N] R. Abba bar Mamel asked, “But doesn’t [Hezekiah’s notion that the heave-offering neutralized in the mixture leaves the whole batch subject to the doubt as to cleanness] contradict what R. Yosé bar Hanina said? For R. Yosé bar Hanina said, ‘Carrion is neutralized in a mixture [of small pieces] with properly slaughtered meat.’ It is neutralized so it does not impart uncleanness to one who touches it. But as for imparting uncleanness to one who moves it, in this aspect it is not neutralized [but still has the power of carrion to impart uncleanness to one who moves it. [The carrion is neutralized because properly slaughtered meat with which it is mixed cannot take on the status of carrion.” [Carrion does not render unclean the mixture in which it is neutralized. So too heave-offering should not render unclean the mixture in which it is neutralized.]
- [O] Said R. Yosé, “There [carrion] the properly slaughtered meat cannot take on the status of carrion. [Carrion does not render unclean the mixture in which it is neutralized.] But here it is possible for unconsecrated produce to enter the status of heave-offering. [It is also possible for the unconsecrated produce to be rendered unclean by the heave-offering that is neutralized in it.]”
- [P] Said R. Hezekiah, “R. Simon raised the question, and R. Abba bar Mamel answered it.”

[VI:1 A] *It was taught as a Tannaite rule: A seah of heave-offering which fell into less than a hundred seahs of unconsecrated produce* [M. Ter. 5:1A, 5:6E] —

- [B] lo, it [i.e., all of the produce] takes on the status of heave-offering.
- [C] **[One who eats it accidentally] is not [however] liable to repay its value and the added fifth [cf. M. Ter. 6:1].**
- [D] **But they do not use it to repay the value and added fifth for another batch [of heave-offering which accidentally was eaten by a non-priest], except in accordance with a calculation [of the amount of unconsecrated produce in the mixture] [T. Ter. 6:1].**
- [E] This rule applies to produce that is not totally lost in the mixture. [The heave-offering may be discerned in the batch, so we don't regard the rest of the produce as subject to all the stringencies that normally apply.] But in the case of produce that is totally lost in the mixture, they follow the status of the greater part of the lot. If the greater part of the produce is heave-offering, the entire batch is treated as heave-offering. But if the greater part of the batch is unconsecrated, it is treated as unconsecrated [and the nonpriest pays back to a priest only that proportion of the produce that he ate that was heave-offering].

5:2

- [A] **A se'ah of unclean heave-offering that fell into a hundred [se'ahs] of clean heave-offering —**
- [B] **the House of Shammai declare [the mixture] forbidden [for consumption by a priest].**
- [C] **But the House of Hillel permit.**
- [D] **Said the House of Hillel to the House of Shammai, “Since clean [heave-offering] is forbidden to non-priests, and unclean [heave-offering] is forbidden to priests, if clean [heave-offering] can be neutralized, so unclean [heave-offering] can be neutralized.”**
- [E] **Said to them the House of Shammai, “No, if unconsecrated produce, to which leniency applies and which is permitted to non-priests, neutralizes clean [heave-offering], should heave-offering, to which stringency applies and which is forbidden to non-priests, [have that same power and] neutralize unclean [heave-offering]?”**
- [F] **After they had agreed:**
- [G] **R. Eliezer says, “Let it be raised up and burned.”**
- [H] **But sages say, “It has been lost through its scantiness.”**

- [I] A *se'ah* of heave-offering that fell into a hundred [*se'ahs* of unconsecrated produce, and was thereby neutralized],
- [J] and one lifted it out [i.e., took a new *se'ah* of heave-offering for the priest], and [the replacement heave-offering] fell into a different batch [of unconsecrated produce] —
- [K] R. Eliezer says, “[That which falls into the second batch] imparts the status of heave-offering [to the produce with which it is mixed] as does true heave-offering.”
- [L] But sages say, “It does not impart the status of heave-offering except in accordance with a calculation [of the percentage of the produce that is true heave-offering].”
- [M] A *se'ah* of heave-offering that fell into less than a hundred [*se'ahs* of unconsecrated produce], and [that produce thereby] took on the status of heave-offering
- [N] and [produce] fell from the mixture into a different batch —
- [O] R. Eliezer says, “[That portion of the mixture that falls into the second batch] imparts the status of heave-offering [to the produce with which it is mixed] as does true heave-offering.”
- [P] But sages say, “A mixture of heave-offering and unconsecrated produce does not impart the status of heave-offering [to produce with which it is mixed] except in accordance with a calculation [of the quantity of true heave-offering contained in the mixture].
- [Q] “And that which has been leavened [with heave-offering] does not impart the status of heave-offering to that which it leavens except in accordance with a calculation [of the quantity of true heave-offering in the mixture].
- [R] “And [water from an immersion pool that was made unfit by being mixed with] drawn water does not impart a status of invalidity to [other] immersion pools except in accordance with a calculation [of the percentage of drawn water it contains].”
- [S] A *se'ah* of heave-offering that fell into a hundred [*se'ahs* of unconsecrated produce, and so was neutralized] —
- [T] if one lifted it out [of the mixture to give to a priest] and a different [*se'ah* of heave-offering] fell [into the same produce],
- [U] lifted out of that [*se'ah*], and a different [*se'ah* of heave-offering] fell [into the same produce] —
- [V] lo, this [i.e., the batch in which the mixtures occurred] is permitted [for consumption as unconsecrated produce],

- [W] until there [will have fallen into the batch] a greater quantity of heave-offering than there [originally was] unconsecrated produce.
- [X] A *se'ah* of heave-offering that fell into a hundred [*se'ahs* of unconsecrated produce, and so was neutralized], and that one had not lifted out [of the mixture] before a different [*se'ah* of heave-offering] fell [into that same produce] —
- [Y] lo, this [i.e., the batch of produce] is forbidden [for consumption by non-priests].
- [Z] But R. Simeon permits.
- [I:1 A] *R. Yudan bar Pazzi and R. Aibu bar Negri were in session. They said, “After they had agreed — who conceded to whom, the House of Shammai to the House of Hillel, or the House of Hillel to the House of Shammai?”*
- [B] They said, “Let us go out and learn.” They went out and heard R. Hezekiah, R. Aha in the name of R. Judah bar Hanina: ‘We find that the House of Shammai conceded to the House of Hillel only in this matter alone.’”
- [C] *R. Jonah in the name of R. Aibo inferred the matter from the following: He who pours from jar to jar, and a tebul-yom touched the stream [of liquid], [the unclean flow that falls into the clean utensil] if there is in it [the jar, any wine], it is neutralized in one hundred and one [M. T.Y. 2:7]. [So too A *se'ah* of unclean heave-offering that fell into a hundred [*se'ahs*] of clean heave-offering — the House of Shammai declare [the mixture] forbidden [for consumption by a priest]. But the House of Hillel permit. So here the House of Hillel say, the unclean heave-offering is neutralized in the clean heave-offering in the lower utensil.] Now if you say the House of Hillel conceded to the House of Shammai that it has not been nullified, who is there who will teach as the Tannaite rule here, “It is neutralized”? It is not the House of Shammai or the House of Hillel! [The upshot is, the House of Shammai conceded to the House of Hillel that unclean heave-offering is neutralized in clean heave-offering.]*
- [D] Said R. Hanina b. R. Hillel, “We might say that the House of Hillel repeated the rule in that way prior to the time that they conceded to the House of Shammai [and they changed their minds].”
- [E] *Said R. Yosé, “Our Mishnah says exactly that: After they had agreed: R. Eliezer says, ‘Let it be raised up and burned.’ Now was R. Eliezer not a Shammaite?”*

- [F] Said R. Hinena, “*Our Mishnah says exactly that*, the House of Shammai conceded to the House of Hillel. After they conceded, these to those — **After they had agreed** that unclean heave-offering is neutralized in clean heave-offering....”
- [G] *The House of Shammai overcome them [with the last word] and yet you say they conceded to them?!*
- [H] Said R. Abin, “There is here another reply [that the Hillelites gave to the Shammaites,] *It is in line with that R. Hoshai'a taught as a Tannaite statement*. Now if clean heave-offering, which if non-priests eat it are subject to the death penalty, is neutralized in unconsecrated produce, unclean heave-offering, for eating of which the priest haws violated a [mere] positive commandment [without a death penalty], surely should be neutralized in clean heave-offering.”
- [II:1 A] **A *se'ah* of heave-offering that fell into a hundred [*se'ahs* of unconsecrated produce, and was thereby neutralized], and one lifted it out [i.e., took a new *se'ah* of heave-offering for the priest], and [the replacement heave-offering] fell into a different batch [of unconsecrated produce] — R. Eliezer says, “[That which falls into the second batch] imparts the status of heave-offering [to the produce with which it is mixed] as does true heave-offering.” But sages say, “It does not impart the status of heave-offering except in accordance with a calculation [of the percentage of the produce that is true heave-offering].”**
- [B] Said R. Yohanan, “**A *se'ah* of heave-offering that fell into a hundred [*se'ahs* of unconsecrated produce, and was thereby neutralized], and one lifted it out [i.e., took a new *se'ah* of heave-offering for the priest]** — any small quantity of unconsecrated produce that is mixed with it nullifies its standing as heave-offering. [It is 1/100 heave-offering, and any more produce that falls in will neutralize the heave-offering at a ratio of 1/100 plus a negligible amount of produce.”]
- [C] *The Mishnah contradicts R. Yohanan: **But sages say, “It does not impart the status of heave-offering except in accordance with a calculation [of the percentage of the produce that is true heave-offering].”***
- [D] *R. Yosé in the name of R. Yohanan: “It was taught as a Tannaite rule in the name of R. Yohanan only that the seah of produce removed from the batch in which heave-offering was neutralized never imparts its own status to unconsecrated produce into which it falls. Now he said that this is so even if there was in the first mixture of heave-offering*

and unconsecrated produce more heave-offering than unconsecrated produce, so long as [in the second mixture of the replacement offering and other secular food there is more unconsecrated produce than the percentage of the mixture that is heave-offering. Thus the heave-offering in the second mixture is nullified in the larger quantity of unconsecrated produce.”

- [II:2 A] Said R. Eleazar, “[**But sages say, “It does not impart the status of heave-offering except in accordance with a calculation [of the percentage of the produce that is true heave-offering]”**] — that applies only if that seah fell into the same batch of unconsecrated produce so as to create a single mixture of heave-offering and unconsecrated produce. [But if half the replacement offering falls into one batch and the other half falls elsewhere, the heave-offering that the replacement offerings contains is neutralized.”
- [B] Is it the view of R. Eleazar that according to the sages, the unconsecrated produce on top [that constitutes the majority of the seah of replacement offering removed from the batch in which the heave-offering was neutralized] and the unconsecrated produce below [in the batch into which that replacement offerings falls] join together to make up the quantity of unconsecrated produce that is needed to] neutralize the small percentage of true heave-offering contained in the replacement offering?
- [C] No. R. Eleazar takes the view that the unconsecrated produce that is below [in the batch into which the replacement offering falls] remains distinct [and does not combine with the unconsecrated produce contained in the replacement offering to neutralize the heave-offering. Therefore the unconsecrated produce below must contain insufficient food to neutralize the heave-offering located in the replacement offering. The unconsecrated produce with which the heave-offering is already mixed in the replacement offering does not count toward neutralizing that priestly gift.]
- [III:1 A] **A *se’ah* of heave-offering that fell into less than a hundred [*se’ahs* of unconsecrated produce], and [that produce thereby] took on the status of heave-offering and [produce] fell from the mixture into a different batch — R. Eliezer says, “[That portion of the mixture that falls into the second batch] imparts the status of heave-offering [to the produce with which it is mixed] as does true heave-offering.” But sages say, “A mixture of heave-offering and unconsecrated produce does not impart the status of heave-offering [to produce with which it is mixed] except in accordance with a calculation [of the quantity of true heave-offering contained**

in the mixture]. And that which has been leavened [with heave-offering] does not impart the status of heave-offering to that which it leavens except in accordance with a calculation [of the quantity of true heave-offering in the mixture]. And [water from an immersion pool that was made unfit by being mixed with] drawn water does not impart a status of invalidity to [other] immersion pools except in accordance with a calculation [of the percentage of drawn water it contains].”

[B] Said R. Yosé b. Hanina, “And that is the case — **R. Eliezer says, “[That portion of the mixture that falls into the second batch] imparts the status of heave-offering [to the produce with which it is mixed] as does true heave-offering”** — applies only if the seah that fell was divided into five parts and these fell into five different locations of unconsecrated produce. [The seah that fell from the mixture contains one fifth of the seah of true heave-offering in the mixture. This one fifth of a seah of heave-offering is found in one of the five other batches. We don’t know which so we must treat all the batches as if they contain a fifth seah of true heave-offering.] But if all of them fell into a single location [of unconsecrated produce], also R. Eliezer will concede [that the seah imparts the status of heave-offering to the produce with which it is mixed only in accord with a calculation of the percentage of true have offering it contains.]”

[C] R. Yohanan said, “Even if all of them fell into a single location of unconsecrated produce, the dispute between R. Eliezer and sages persists.”

[III:2 A] [**R. Eliezer says, “[That portion of the mixture that falls into the second batch] imparts the status of heave-offering [to the produce with which it is mixed] as does true heave-offering:”**] Hilpi said, “In the opinion of R. Eliezer the unconsecrated produce into which the second seah falls is treated as though it were distinct from the unconsecrated produce that is mixed with the heave-offering in the second seah.” The mixture of heave-offering and secular produce that falls into the batch is a single entity and distinct from the produce into which it falls. Within that seah it is not clear which produce is heave-offering and which is secular. The whole seah must be treated as heave-offering. Eliezer rejects the view that the secular produce in the second seah combines with the secular produce into which that seah falls. He does not concur that all the unconsecrated produce joins together to neutralize the small amount of heave-offering. Eliezer holds that the seah that falls from the original mixture imparts the

status of heave-offering as though it were a full seah of true heave-offering.]

- [B] But lo, R. Eleazar said, “In the view of rabbis the unconsecrated produce at the bottom [into which the mixture of heave-offering and unconsecrated produce falls] is treated as distinct.”
- [C] What is at issue between R. Eliezer and sages?
- [D] Rabbis: It is a strict rule that applies in the case of the seah replacement offering that is lifted out of a batch of produce in which a seah of heave-offering was neutralized.
- [E] Or perhaps it is only a leniency [that applies to the seah of replacement offering.
- [F] That is in line with what R. Yohanan said, “**A *se’ah* of heave-offering that fell into a hundred [*se’ahs* of unconsecrated produce, and was thereby neutralized], and one lifted it out [i.e., took a new *se’ah* of heave-offering for the priest], and [the replacement heave-offering] fell into a different batch [of unconsecrated produce] — any small amount of unconsecrated produce that is mixed with it nullifies its status as heave-offering.”**

- [IV:1 A] **A *se’ah* of heave-offering that fell into a hundred [*se’ahs* of unconsecrated produce, and so was neutralized] — if one lifted it out [of the mixture to give to a priest] and a different [*se’ah* of heave-offering] fell [into the same produce], lifted out of that [*se’ah*], and a different [*se’ah* of heave-offering] fell [into the same produce] — lo, this [i.e., the batch in which the mixtures occurred] is permitted [for consumption as unconsecrated produce], until there [will have fallen into the batch] a greater quantity of heave-offering than there [originally was] unconsecrated produce.**
- [B] *It was taught as a Tannaite statement:* [If someone purposely] allows many seahs of heave-offering to fall one at a time into a single batch of unconsecrated produce, it is as if he intentionally added unconsecrated produce to a batch in which heave-offering was mixed,[so as to cause the neutralization of that heave-offering. The intentional actions of the householder to neutralize heave-offering are void.]
- [C] *But lo, we have learned in the Mishnah:* **[If] an immersion pool contained forty seahs, and one put in a seah and took out a seah, lo, this is fit [M. Miq. 7:2]** [for we hold that the same unfit that was added to the pool was removed].
- [D] To what extent may this process go on?

- [E] R. Isi in the name of R. Mana bat Tanhum, R. Abbahu in the name of R. Yohanan: “Until the greater part of the water in the pool is drawn water.”
- [F] [*The case of the immersion pool shows that one may deliberately add drawn water and remove it and maintain the pool,*] yet here you say this [*the intentional actions of the householder to neutralize heave-offering are void.*]
- [G] There [with the immersion pool] the pool had enough rain water to counteract the invalidating effect of more drawn water put into the pool, and then one removed the original drawn water and added more drawn water to it. But here each seah of heave-offering requires its own hundred seahs of unconsecrated produce to neutralize it.
- [V:1 A] **lo, this [i.e., the batch in which the mixtures occurred] is permitted [for consumption as unconsecrated produce], until there [will have fallen into the batch] a greater quantity of heave-offering than there [originally was] unconsecrated produce:** Said R. Yosé, “That is to say, Something that by the Torah is nullified in mixtures with unconsecrated produce calls up produce in its same status that has previously been neutralized so as to prohibit the batch in which the mixture occurs.”
- [VI:1 A] **A *se’ah* of heave-offering that fell into a hundred [*se’ahs* of unconsecrated produce, and so was neutralized], and that one had not lifted out [of the mixture] before a different [*se’ah* of heave-offering] fell [into that same produce] — lo, this [i.e., the batch of produce] is forbidden [for consumption by non-priests]. But R. Simeon permits.**
- [B] R. Simeon says, “[The replacement offering taken from the mixture for a priest when a seah of heave-offering is neutralized] is sanctified at the moment the householder knows that the mixture has occurred.” [The process of neutralization of the first seah is complete when the second seah falls in, so the second seah is neutralized too.]
- [C] And the rabbis say, “[The replacement offering taken from the mixture for a priest when a seah of heave-offering is neutralized] is sanctified at the moment the householder raises up the replacement offering.”
- [VI:2 A] *It is taught as a Tannaite rule:* A seah of unclean heave-offering that fell into a hundred seahs of unconsecrated produce and was neutralized — the householder says to the priest, “Do I not owe you the value of [unclean, therefore inedible heave-offering would have as wood to be

burned up]? So take the value of the seah of heave-offering if it were wood and leave me the produce.”

- [B] [Since if the seah is removed from the clean unconsecrated produce it may be eaten in small bits, the heave-offering is worth more than wood, and the priest wants full value. So] the priest answers the farmer, “If a seah of unclean heave-offering fell into less than a hundred seahs of unconsecrated produce, would the unclean heave-offering not impart its own status to the batch? [It would.] Does wood impart its own status to a batch? [No, it doesn’t. Therefore it is clearly unacceptable to treat unclean heave-offering as though it were wood.] And will you not ultimately give the seah to a different priest? Now will he pay you the value the seah would have were it wood?”
- [C] *What’s the upshot?*
- [D] The householder gives the priest the value of the original seah of unclean heave-offering as if it were wood. And the rest [the increased value of the householder’s produce caused by the presence of the extra seah of heave-offering they divide.
- [E] Somebody knocked his basket of barley [a cheap grain] into someone else’s basket of wheat [a valuable grain]. The case came before R. Judah bar Shalom, who ruled, “Let him pay the value of his lost barley, and let them divide the rest [the value of the extra return that the neighbor will receive when he sells the mixture.”

5:3

- [A] **A *se’ah* of [wheat in the status of] heave-offering that fell into a hundred [*se’ahs* of unconsecrated wheat, and thereby was neutralized], and one ground it [i.e., all of the wheat in the mixture], and it diminished [in quantity] —**
- [B] **just as the unconsecrated [wheat in the mixture] diminished [in quantity], so the heave-offering diminished [in quantity].**
- [C] **[The mixture therefore remains] permitted [for consumption by non-priests].**
- [D] **A *se’ah* of [wheat in the status of] heave-offering that fell into less than a hundred [*se’ahs* of unconsecrated wheat, and thereby imparted its own status to the whole batch], and one ground it [i.e., all of the wheat in the batch], and it increased [in quantity] —**
- [E] **just as the unconsecrated [wheat] increased [in quantity], so the [wheat in the status of] heave-offering increased [in quantity].**

- [F] [The mixture therefore remains] forbidden [for consumption by a non-priest].
- [G] If it is known that the unconsecrated wheat is of better quality than the [wheat in the status of] heave-offering —
- [H] [the mixture becomes] permitted [for consumption by a non-priest].
- [I] A *se'ah* of heave-offering that fell into less than a hundred [*se'ahs* of unconsecrated produce], and afterwards [more] unconsecrated [produce] fell there [i.e., into the same batch] —
- [J] if [this happened] unintentionally, [the mixture becomes] permitted;
- [K] but if [it happened] intentionally, [the mixture remains] forbidden.
- [I:1 A] And it is not the end of the matter that if the heave-offering decreased in quantity [along with the unconsecrated produce,] but even if the ground unconsecrated produce decreased in quantity and the heave-offering remained in the same quantity, so that by percentage the batch now contains more than one percent of heave-offering, the mixture is permitted [to the nonpriest to eat].
- [B] *It is taught as a Tannaite rule:* The waste left from milling grain that was heave-offering does not join with the flour in the status of heave-offering in order to form the volume of heave-offering that renders forbidden the eating by non-priests of unconsecrated grain with which the heave offering is mixed. [The refuse from the heave-offering is not consecrated food that imparts its own status to unconsecrated grain.] But the waste left from milling unconsecrated grain joins with the unconsecrated flour to form the quantity of produce that neutralizes heave-offering with which it is mixed.”
- [C] *R. Bibi asked,* “What is the law on whether or not the waste left from milling heave-offering [which is not consecrated as a priestly gift] joins with unconsecrated grain to form the volume of produce that neutralizes heave-offering?”
- [D] From what R. Huna said, “The rinds of forbidden fruit, [which are not forbidden,] join with permitted produce to form the volume of food needed to neutralize forbidden produce” it means that the refuse left from milling the heave-offering joins with unconsecrated grain to form the quantity of unconsecrated produce that neutralizes heave-offering.
- [I:2 A] A *seah* of heave-offering that fell into a hundred [*seahs* of unconsecrated produce, and one lifted it out] —

- [B] they do not remove the darnel that is in it [i.e., in the replacement offering].
- [C] [If the heave-offering fell into] less than this [quantity of unconsecrated produce, and so imparted its own status to all of the produce in the batch] — they may remove the darnel that is in it [i.e., which is in the batch of produce].
- [D] *A log of wine* [in the status of heave-offering] that had been clarified that fell into a hundred *logs* of [unconsecrated] wine which had not been clarified —
- [E] they do not remove the lees that are in it [i.e., in the *log* of wine taken to replace the lost heave-offering].
- [F] [If it fell into] less than this — they remove the lees that are in it [i.e., in the mixture of heave-offering and unconsecrated wine].
- [G] A *log of wine* [in the status of heave-offering] that had not been clarified, that fell into a hundred *logs* of [unconsecrated] wine that had been clarified — they do not remove the lees that are in it [i.e., in the *log* of wine taken to replace the lost heave-offering] [T. Ter. 6:10]
- [I:3 A] If it is known that the unconsecrated wheat is of better quality than the [wheat in the status of] heave-offering — [the mixture becomes] permitted [for consumption by a non-priest].
- [B] *It was taught as a Tannaite statement:* So too even de jure [intentionally] one may grind the mixture of heave-offering and unconsecrated food and the mixture is permitted for a nonpriest to eat.
- [C] *The Mishnah-rule represents the position of R. Yosé,* A sapling [liable to the laws] of ‘*Orlah* or [a sapling prohibited under the laws] of **Diverse Kinds of the vineyard, that were mixed together with [non-liable] saplings — behold, this one may not pick [fruit from any of the trees]. If he picked, it is neutralized in two hundred and one [i.e., two hundred parts of non-prohibited fruit will neutralize one part of prohibited fruit], provided that he did not intend to pick [and later neutralize]. R. Yosé says, “Even [if] he intends to pick [and later neutralize the prohibition], it is neutralized in two hundred and one” [Y. Or. 1:4/M. Or. 1:6].**
- [D] Said R. Zeira, “[Householders may intentionally mill mixtures of heave-offering and secular produce], for it is the way for priest s themselves to mill such mixtures in their homes.”

- [E] *Then where will the anonymous rule of M. Orl. 1:4 differ from the position of R. Yosé?*
- [F] A mixture of permitted produce and produce subject to the restriction of Mixed Seeds. *In the opinion of R. Yosé* one may intentionally mill such a mixture and render it permitted for eating, *In the opinion of rabbis* one may not intentionally mill such a mixture and render it permitted for eating,
- [I:4 A] R. Abbahu in the name of R. Yohanan: “Any mixture of permitted and forbidden produce to which one unintentionally added more permitted produce in consequence of which there is sufficient permitted produce to neutralize the forbidden food — the mixture becomes permitted for eating. But if the farmer intentionally added permitted produce, the mixture is forbidden.
- [B] *Isn't this an explicit teaching of the Mishnah: A **se'ah** of heave-offering that fell into less than a hundred [se'ahs of unconsecrated produce], and afterwards [more] unconsecrated [produce] fell there [i.e., into the same batch] — if [this happened] unintentionally, [the mixture becomes] permitted; but if [it happened] intentionally, [the mixture remains] forbidden?*
- [C] *The Mishnah deals with mixtures of heave-offering and secular food. Yohanan encompasses under the role all other sorts of forbidden things.*
- [I:5 A] R. Aha in the name of R. Yohanan: “Just as it is a religious duty to speak out in case in which what one says will be carried out, so it is a religious duty not to speak out in a case in which what one says will not be carried out.”
- [B] Said R. Eleazar, “Just as it is prohibited to declare what is unclean to be clean, so it is prohibited to declare what is clean to be unclean. “
- [C] R. Abba bar Jacob in the name of R. Yohanan, “If a case of law comes to hand, in which you do not know whether [to declare something unclean and so to order it to be] burned or whether to hold the item in suspense, under all circumstances you should choose the alternative of burning more than that of holding the matter in suspense. For there is no offering in the Torah more beloved than the offering of bullocks which are to be burned and goats which are to be burned, and, it is clear, they are disposed of by burning up.”
- [D] *R. Yosé raised the question,* “Do they learn the rule governing a matter the religious duty of which is not in so doing, from a matter the

religious duty of which indeed is in so doing? [That is, the religious duty concerning the bullocks and goats is to burn them up. But no religious duty attends upon burning up what is not definitely unclean.]”

YERUSHALMI TERUMOT

CHAPTER SIX

6:1

- [A] [A non-priest] who unintentionally eats heave-offering pays back the principal and an [added] fifth.
- [B] The same [rule applies to] (1) one who [unintentionally] eats [produce in the status of heave-offering], to (2) one who [unintentionally] drinks [liquids in the status of heave-offering], and to (3) one who [unintentionally] anoints [himself with oil in the status of heave-offering].
- [C] The same [rule applies to] (4) [one who unintentionally misappropriates] clean heave-offering, and to (5) [one who unintentionally misappropriates] unclean heave-offering.
- [D] He pays back [the principal and added] fifth, and [if he should eat the added fifth], a fifth of the [added] fifth.
- [E] He does not pay restitution with heave-offering; rather [he pays it with] unconsecrated produce), and this takes on the status of heave-offering.
- [F] And [since] the restitution is heave-offering, [even] if the priest wishes, he may not refuse [it].
- [G] The daughter of an Israelite who [unintentionally] ate heave-offering and afterwards was married to a priest —
- [H] if she ate heave-offering of which a priest had not yet effected acquisition, she pays the principal and [added] fifth to herself.
- [I] But if she ate heave-offering of which a priest [already] had effected acquisition, she pays the principal to [its] owner [i.e., to the priest whose heave-offering it was] and the [added] fifth to herself.
- [J] For they have said,

- [K] **“One who unintentionally eats heave-offering pays the principal to [its] owner and the [added] fifth to whomever he wishes.”**
- [I:1 A] **[A non-priest] who unintentionally eats heave-offering pays back the principal and an [added] fifth:**
- [B] It is written, “And if someone eats of holy thing unwittingly, he shall add the fifth of its value to it and give the holy thing to the priest” (Lev. 22:14).
- [C] The principal along with its fifth shall add up to five parts (the individual who eats a seah of heave-offering pays back a seah and a quarter).
- [I:2 A] [With reference to M. Ter. 7:1, **[A non-priest] who unintentionally eats heave-offering pays back the principal and an [added] fifth,**] did not R. Abbahu in the name of R. Yohanan [state], “If one intentionally ate forbidden fat [for which he is liable to a sin offering, but, not knowing, unintentionally did not bring the offering, they exempt him of culpability [for purposely eating the fat’ and instead he receives forty stripes, then brings an offering to make up for his omitting the first offering,]” So too here, [at M. 7:1], say, “If someone intentionally eats heave-offering and unintentionally does not pay the added fifth, then free him of culpability for purposely eating heave-offering and instead give him forty stripes, and let him then bring an added fifth as though he had unintentionally eaten the priestly gift.”
- [B] Said R. Zeira, “It is a decree of Scripture [that one brings the added fifth only for unintentionally eating heave-offering]: ‘And if someone eats of holy thing unwittingly, he shall add the fifth of its value to it and give the holy thing to the priest’ (Lev. 22:14). His unintentional act of eating is regarded as unintentional only if he intentionally ate the produce because he was not certain whether or not it was heave-offering . But if he had known for certain that it was heave-offering , he would not intentionally have eaten it.” [That covers the rule before us. But in the case of M. Ter. 7:1 the consumption of the heave-offering is intentional and the added fifth is not paid.]
- [C] Said R. Yosé, “That is to say, one who would have refrained from an act if he had known that it certainly was prohibited is culpable as though he had acted unintentionally.”
- [D] If someone [who had eaten an olive’s bulk of forbidden fat] claimed, “If I had known that this forbidden fat added up to a full olive’s bulk [the minimum for culpability] I would not have eaten it. But if I had

known that it was only a half olive's bulk, I would have eaten it" — [is he regarded as having eaten unintentionally or intentionally?]

[E] Said R. Abun bar Hiyya, "He is treated as if he unintentionally ate a half olive's bulk [the second half, which he would not have eaten had he known it was forbidden] but intentionally ate a half olive's bulk [the first half, which he said he would have eaten even if he had known." [He is culpable, for he ate the requisite volume, and part of the act was intentional.]

[F] Then doesn't R. Abun bar Hiyya share the view of R. Simeon b. Laqish? For said R. Simeon b. Laqish, "If one ate a half olive's bulk of forbidden fat in a single act of inadvertence, he is not culpable [for he ate less than the requisite volume]"? Here [since the act of eating was in two distinct parts, it is as though [he ate two half olive's bulks, less some small amount. [He shouldn't be culpable here too.]

[G] R. Simeon b. Laqish concurs that one is liable for eating a half olive's bulk in the case of objects from which individuals are forbidden to benefit [e.g., food used in idolatry]. He concedes that one is culpable for eating a half olive's bulk on the Day of Atonement. He further concedes that one is culpable for eating a half olive's bulk if at the time he eats it he intends later on to finish the require volume.

[I:3 A] R. Abbahu in the name of R. Yohanan: "One who swallows vinegar in the status of heave-offering is flogged."

[B] R. Abbahu in the name of R. Yohanan: "One who intentionally chews on a stalk of wheat in the status of heave-offering is flogged."

[C] *It is taught on Tannaite authority:* One who unintentionally chews on a stalk of wheat in the status of heave-offering repays the priest the principal but does not pay the added fifth.

[D] Rabbi says, "I say that he pays the principal and the added fifth."

[E] R. Jeremiah in the name of R. Immi: "Sages concede to Rabbi that in the case of one who after bathing swallows vinegar in the status of heave-offering pays both principal and added fifth. For swallowing vinegar revives the soul."

[I:4 A] *It was taught as a Tannaite rule:* If one unintentionally ate unclean heave-offering, he still has to make restitution with clean unconsecrated produce. But if he made restitution with unclean unconsecrated produce, he has carried out his obligation.

[B] R. Nathan says, **“One who [unintentionally] eats clean heave-offering pays restitution with clean unconsecrated produce [cf. M. Ter. 6:1E]. [If] he [anyway] paid restitution with unclean unconsecrated produce, what is the law? Symmachus says, ‘[If he did it] unintentionally, the restitution is valid [i.e., takes on the status of heave-offering]. [But if it was] intentional, his restitution is not valid, [and the offender must give clean produce to the priest]’” [T. Ter. 7:7].**

[C] *There we learned in the Mishnah: They do not separate heave-offering from that [produce] that is unclean for that that is clean [M. 2:1].*

[D] *It is taught as a Tannaite statement in the name of R. Yosé: “One who separates heave-offering from that which is unclean for that which is clean, whether [he does so] unintentionally or intentionally — that which he has separated is [valid] heave-offering [T. Ter. 3:18].”*

[E] *The schismatic opinion here [Yosé] is in accord with the anonymous view there, and the schismatic opinion there [Symmachus] accords with the anonymous position here.*

[II:1 A] **[The same [rule applies to] (4) [one who unintentionally misappropriates] clean heave-offering, and to (5) [one who unintentionally misappropriates] unclean heave-offering. He pays back [the principal and added] fifth, and [if he should eat the added fifth], a fifth of the [added] fifth. He does not pay restitution with heave-offering; rather [he pays it with] unconsecrated produce), and this takes on the status of heave-offering. What would be a practical case?**

[B] R. Zeira in the name of R. Hanina: “Restitution made for heave-offering unintentionally eaten by a non-priest, lo it is equivalent to heave-offering in all regards, except that lo, if it is planned as seed, what grows from it is disposed of as secular produce.

[C] “What grows from seed that is heave-offering, lo, it is disposed of as secular produce in all regards, except that it is forbidden for non-priests to eat.”

[D] *Said R. Yosé, “And we have learned both rules in the Mishnah. We know from the Mishnah, ‘Restitution made for heave-offering unintentionally eaten by a non-priest, lo it is equivalent to heave-offering in all regards,’ as follows: **He does not pay restitution with heave-offering; rather [he pays it with] unconsecrated produce,***

and this takes on the status of heave-offering. *And we know from the Mishnah,* What grows from seed that is heave-offering, lo, it is disposed of as secular produce in all regards, except that it is forbidden for non-priests to eat,' as follows: **That which grows from [seed in the status of] heave-offering has the status of heave-offering [M. Ter. 9:4A].**

[E] “Since the Mishnah states, **That which grows from [seed in the status of] heave-offering has the status of heave-offering,** that means what grows from restitution paid for heave-offering eaten by a non-priest is unconsecrated.

[F] “We know that what grows from seed in the status of heave-offering, lo, it is like unconsecrated produce in all regards, *for we have learned in the Mishnah:* **And [the field in which the heave-offering was sown] is subject to [the laws of] (1) gleanings, (2) forgotten sheaves and (3) [produce growing in] the corner of a field [M. Ter. 9:1].**

[G] “...it is disposed of as secular produce in all regards, except that it is forbidden for non-priests to eat, *for we have learned in the Mishnah:* **And poor Israelites and poor priests glean [in such a field]. And the poor Israelites sell their portion to the priests at the price of heave-offering; and the money [which they receive] is theirs [i.e., the poor Israelites’] [M. Ter. 9:2].”**

[II:2 A] *It was taught on Tannaite authority:* Produce paid as restitution for heave-offering [unintentionally eaten by a non-priest] — **they do not pay out from this [produce] the principal and [added] fifth owed for a different batch [of produce dedicated to the Temple which was eaten by a non-priest],**

[B] and non-priests do not owe the principal; and added fifth for eating this produce

[C] And it is not liable to [the separation of] dough offering.

[D] **Hands [that have not been cleaned of their usual second-degree uncleanness] and one who has immersed on the self-same day do not render [the produce] unfit [for consumption],**

[E] just as they do not render unconsecrated produce unfit [cf. T. Toh. 1:7]. [T. Ter. 8:2].

[F] And even R. Simeon and R. Yosé concur in this matter. [M. T.Y. 3:4: Dough that was mixed [with heave-offering dough], or that was leavened with heave-offering yeast, is not made unfit by a tebul-yom. R. Yosé and R. Simeon declare unfit].

[III:1 A] He does not pay restitution with heave-offering; rather [he pays it with] unconsecrated produce), and this takes on the status of heave-offering. And [since] the restitution is heave-offering, [even] if the priest wishes, he may not refuse [it].

[B] This is the rule before the non-priest has designated the restitution as heave-offering. [The priest may not tell the non-priest that he need not pray the restitution. But once the non-priest designates the restitution, the priest may refuse to take it.]

[III:2 A] [A non-priest who unintentionally eats heave-offering pays back the principal and an added fifth]. If he designated the added fifth but before giving it to a priest ate it, is he subject to repaying both the principal and added fifth? That is a dispute between Rabbi and R. Eleazar b. R. Simeon.

[B] *For it has been taught on Tannaite authority:* “‘If someone eats of a holy thing unwittingly, he shall add the fifth of its value to it and shall give the holy thing to the priest’ (Lev. 22:14).

[C] “Giving the restitution to the priest marks the sanctification of the restitution as heave-offering, so as to obligate one who eats the restitution after this point to pay the principle and added fifth. But simply designating the restitution does not mark its sanctification as heave-offering so as to obligate one who eats it at this point, before it has been given to a priest, to pay the principal and added fifth,” the words of Rabbi.

[D] R. Eleazar b. R. Simeon: “Even designating the restitution marks its sanctification as heave-offering so as to obligate one who unintentionally eats it after this point to pay the principal and added fifth paid by the non-priest who eats have offering.”

[III:3 A] If the priest refused to take the restitution paid by a non-priest who unintentionally ate heave-offering, telling the non-priest to keep the restitution for himself instead, and then the non priest ate the restitution, what is the rule concerning his making payment for this produce that he ate?

[B] *It is a subject of dispute between R. Yohanan and R. Simeon b. Laqish, for they differed:* [A grandson] who stole heave-offering from his mother’s father who was a priest, [and this priest then died, leaving his property to be inherited by this same grandson who had stolen the produce] — R. Yohanan said, “He pays the tribe [of priests, i.e., any priest, for the stolen produce must be removed from under his hand].”

- [C] R. Simeon b. Laqish said, “He pays himself [who now stands in place of the priestly grandfather, since in retrospect he stole from his own property.” [Since he is not a priest, he sets aside produce in the original amount plus a fifth, sells it to a priest, and pockets the proceeds of the sale. By analogy, the one who ate leavened heave-offering on Passover would pay, according to R. Yohanan, a priest, and, according to R. Simeon b. Laqish, himself.]
- [D] Said R. Jonah, “This is how R. Simeon b. Laqish answered R. Yohanan: ‘In your opinion, he pays the tribe [of priests, i.e., any priest, for the stolen produce must be removed from under his hand], lo, *we have learned in the Mishnah, [If] he stole heave-offering that was dedicated [to the Temple] and [unintentionally] ate it — he pays two [added] fifths and the principal [one added fifth for eating heave-offering and another for eating produce dedicated to the Temple].* But if a non-priest is subject to an added fifth for having misappropriated heave-offering,] then he should pay three added fifths, one for stealing heave-offering, one for eating it, and one for eating produce dedicated to the Temple.]”
- [E] R. Yosé in the name of R. Yohanan: “The Torah explicitly states that he is absolved of the theft [through the payment of a single added fifth, paid for unintentionally eating heave-offering. But in a different case he must pay an added fifth simply for stealing the produce.]”
- [F] *Said R. Zeira to R. Isi, “Two matters do you state in the name of R. Yohanan, and you do not say their source. The first is, The Torah explicitly states that he is absolved of the theft, but you do not indicate the source. It is, ‘And if a man eats of a holy thing unwittingly, he shall add the fifth of its value to it and give the holy thing to the priest’ (Lev. 22:14). Once he has given the one added fifth to the priest, he is absolved of the theft [as if he had never taken the holy thing.] [The second statement in the name of Yohanan without its scriptural source is this:] You say in the name of R. Yohanan, ‘In the same place that the red cow is slaughtered, there is it burned,’ but you do not indicate the source. R. Eleazar in the name of R. Hoshai: ‘Along with its offal the cow shall be burned’ (Num. 19:5). *What do you infer from this verse?* R. Jeremiah in the name of R. Imi: ‘In the place in which the red cow leaves life, there it is burned.’”*
- [G] R. Yohanan accords with Rabbi, [restitution if sanctified as heave-offering only when it is given to the priest, and the non-priest cannot keep it for himself even if it belongs to him]. R. Simeon b. Laqish accords with R. Eleazar b. R. Simeon [The restitution is sanctified as

soon as it is designated. It does not matter that restitution designated by the non-priest never is given to the priest].

[H] Said R. Bun bar Hiyya, “Isn’t it possible that R. Simeon b. Laqish concurs with Rabbi? For Rabbi holds that giving an object to the priest marks its sanctification only for something that the nonpriest is obligated to give the priest? But for something that the non-priest is not obligated to give to the priest, even Rabbi concedes that the designation of the thing in this case the restitution marks its sanctification. *For we have learned in the Mishnah: He who separates a redemption lamb for a firstborn of an ass and who died — R. Eliezer says, ‘(1) They [the heirs] are responsible for it [to give the redemption lamb to the priest], (2) as [the heirs are liable for] the five selas [paid in the redemption of the firstborn son.]* [The fact that the lamb was already set aside doesn’t matter, Until the lamb is given to the priest, the firstborn ass belongs to the household who must give the priest its value.] **And sages say, ‘(1) They are not liable for it [to give the redemption lamb to the priest], (2) as [the heirs are not liable in the case of] the redemption of second tithe [M. Bekh.1:6].’** [Once the redemption money is set aside, the householder doesn’t care that the produce is lost. Setting the lamb aside marks the end of the time that the householder is responsible for the first born ass.] R. Eliezer concedes in the case of the firstborn of asses that an Israelite inherited from the estate of his mother’s father, a priest, that once he has designated it, he has sanctified it.”

[III:4 A] If one unintentionally ate heave-offering belonging to a priest who is an associate, he must pay restitution to a priest who is an associate. If one unintentionally ate heave-offering belonging to a priest who is not meticulous about preserving the cleanness of foods, he must pay restitution to a priest who is not meticulous about preserving the cleanness of foods.

[B] But will he not turn out to hand over his produce requiring preservation in cleanness to one who is not meticulous about preserving the cleanness of foods?

[C] What is he to do?

[D] He gives the restitution for both sorts of heave-offering, the one belonging to an associate and the other to one who is not meticulous about preserving the cleanness of foods, to a priest who is an associate, and he takes the monetary equivalent of one of them and gives it to a priest who is not meticulous about preserving the cleanness of foods.

[E] *R. Abun bar Hiyya said before R. Simeon b. Laqish, “This accords with the position of him who said, ‘Designating the restitution marks its sanctification as heave-offering.’ But according to him who said, ‘the restitution is sanctified as heave-offering only when it is given to the priest,’ does the restitution not have to be accepted by the priest to whom it is due?”* [The replacement for the heave-offering that was eaten takes effect only when it is actually given to the one who is not meticulous about preserving the cleanness of foods.]

[F] [R. Simeon b. Laqish] said to him, “It is a case in which the replacement offering is accepted by a priest who is an associate in behalf of the one who is not meticulous about preserving the cleanness of foods.”

[IV:1 A] The daughter of an Israelite who [unintentionally] ate heave-offering and afterwards was married to a priest — if she ate heave-offering of which a priest had not yet effected acquisition, she pays the principal and [added] fifth to herself. But if she ate heave-offering of which a priest [already] had effected acquisition, she pays the principal to [its] owner [i.e., to the priest whose heave-offering it was] and the [added] fifth to herself. For they have said, “One who unintentionally eats heave-offering pays the principal to [its] owner and the [added] fifth to whomever he wishes.”

[B] If she did not suffice to pay restitution before she was divorced by her husband the priest,] what is the law? [May she still keep the added fifth and sell it to a priest? Or since she has no right to the heave-offering, must she give it to a priest at no charge, as any other non-Israelite must do?]

[C] *Come, see:*

[D] If when she was divorced she had heave-offering of tithe that her husband had given her, does the priestly gift not remain hers even after divorce? [It is hers to sell, but not to eat. The same here.]

[E] There in the case of heave-offering of the tithe, she may keep for herself the tithe she was given because the tithe is a concrete commodity that belongs to her. But here the heave-offering is not a concrete commodity that she ate and so acquired as her own possession. She never owned the heave-offering. When the priest divorces her, she loses the right to keep any restitution paid for that heave-offering.

[F] *To what is the case of heave-offering of the tithe comparable? To firstborn asses [inherited by an Israelite from his maternal grandfather a priest. The nonpriest may keep them for himself. But the case of heave-offering unintentionally eaten before the woman was married to a priest is not comparable.]*

6:2

- [A] **“One who [unintentionally] gives his workers or guests heave-offering to eat:**
- [B] **“he pays the principal, and they pay the [added] fifth” — the words of R. Meir.**
- [C] **But sages say, “They pay [both] the principal and the [added] fifth,**
- [D] **“and he pays them the cost of their meal.”**
- [E] **One who steals heave-offering but does not eat it pays as restitution twice the monetary equivalent of the heave-offering.**
- [F] **[If] he [unintentionally] ate it — he pays twice the principal and an [added] fifth [of one of the principals]:**
- [G] **[one] principal and the [added] fifth [he pays] out of unconsecrated produce,**
- [H] **and [the other] principal [he pays] in the monetary equivalent of the heave-offering.**
- [I] **[If] he stole heave-offering that was dedicated [to the Temple] and [unintentionally] ate it —**
- [J] **he pays two [added] fifths and the principal,**
- [K] **for [the requirement of] the payment of two-fold restitution is not applicable in [the case of] items dedicated [to the Temple].**
- [L] **“They do not pay restitution with (1) gleanings, (2) forgotten sheaves, (3) [produce grown in] the corners [of a field, that is left for the poor] or (4) ownerless property,**
- [M] **“and not with (5) first tithe from which heave-offering of the tithe has been removed,**
- [N] **“and not with (6) second tithe or [produce] dedicated [to the Temple] that have been redeemed,**
- [O] **“for a consecrated thing does not serve for the redemption of a consecrated thing” — the words of R. Meir.**
- [P] **But sages permit [in the case of] these.**

- [I:1 A] Since both R. Meir and sages say they pay restitution, *what is at issue between them?*
- [B] Said R. Yohanan, “The ownership of the food that the workers ate is at issue between them. R. Meir said, “The ownership of the meal belongs to the house holder, and the rabbis say that the ownership of the meal belongs to the workers.”
- [C] R. Simeon b. Laqish said, “[They concur that the meal belongs to the workers. At issue between them is who was responsible for preparing the food. R. Meir said, ‘The owner was responsible for preparing the food.’ [He should have been more careful not to give them food they cannot legitimately eat. Since he was not careful, he is responsible for the principal.] Rabbis say, ‘The workers are responsible for preparing the food.’ [They should have been more careful not to take heave-offering and pay back the principle.]”
- [D] R. Abbahu in the name of R. Simeon b. Laqish: “Lo, to what is the matter comparable [that the householder has to pay the workers for the meal they ate]? To the case of someone who sold something to his fellow, and it turned out that it did not belong to him [to sell]. He is obligated to return the purchase price to him. [So too he has to pay the workers the value of the meal that they ate, which was not his to give out.]”
- [E] *If this statement was made in accord with R. Simeon b. Laqish, there is no problem. But if it accords with R. Yohanan, he said that the issue of who owns the food stands behind the dispute. [Simeon holds all concur that the employees purchased the food with their labor. Sages and Meir concur that the house holder must give the workers the value of what they ate.]*
- [F] But if it accords with Yohanan who said that the issue of who owns the food stands behind the dispute, then rabbis hold that the workers own the food, there is no sale, and the householder is not liable to pay the workers the cost of the meal. But how can you say this that Meir and sages concur that the householder must pay the workers the cost of their meal? [In Yohanan’s view that isn’t so, and Yohanan’s reading of the dispute is unworkable.]
- [G] R. Abbahu in the name of R. Yosé b. Hanina: “Sages and Meir concur that the food belongs to the workers and the workers alone are responsible for preparing it. At issue is] the overall value of the meal. The householder contracted with the workers to feed them unconsecrated produce but instead fed them heave-offering [which is much cheaper, catering as it does to the small market of the priests].

[Therefore the householder has to pay the workers the value of the meal they were promised.]

[H] But haven't they eaten a meal, [whether or not it was consecrated or secular produce?] [What difference does it make?]

[I] [It matters] in accord with him who said, "As for untithed produce [or other forbidden food such as heave-offering that one has eaten] the soul of the person who eats them is shattered on their account." [Eating heave-offering is not comparable to eating other food the householder was meant to give the workers. He must pay them the value of the meal they were supposed to be given.]

[II:1 A] One who steals heave-offering but does not eat it pays as restitution twice the monetary equivalent of the heave-offering. [If] he [unintentionally] ate it — he pays twice the principal and an [added] fifth [of one of the principals]: [one] principal and the [added] fifth [he pays] out of unconsecrated produce, and [the other] principal [he pays] in the monetary equivalent of the heave-offering. [If] he stole heave-offering that was dedicated [to the Temple] and [unintentionally] ate it — he pays two [added] fifths and the principal, for [the requirement of] the payment of two-fold restitution is not applicable in [the case of] items dedicated [to the Temple].

[B] [To whom does one who steals and eats heave offering belonging to the Temple pay the principal?] *Said R. Yannai, "The Mishnah divides into two sides,* [sometimes the principal is given to the Temple and sometimes to a priest]. If the principal is an olive's bulk of produce but is not worth a perutah, it is paid to the Temple. If the principal is worth a perutah but does not comprise an olive's bulk of produce, he pays it to a member of the priestly tribe. If the principal is an olive's bulk of produce and is worth a perutah, Simeon bar Va in the name of R. Yohanan: "One pays it to the Temple." R. Yohanan said, one pays it to the tribe of priests."

[II:1 A] [If he stole heave-offering that was dedicated [to the Temple] and [unintentionally] ate it — he pays two [added] fifths and the principal — to whom are they paid, the Temple or the priest?]

[B] Said R. Zeira, "It is an arbitrary decree of Scripture: 'If a man eats of a holy thing unwittingly, he shall add the fifth of its value to it and give the holy thing to the priest' (Lev. 22:14) — to the same place to which the principal goes, the added fifth goes [or both of them in this case]."

[C] Kahana said, “He pays two added fifths, one to a member of the priestly tribe, the other to the Temple.”

[III:1 A] for [the requirement of] the payment of two-fold restitution is not applicable in [the case of] items dedicated [to the Temple]:

[B] **as it is said, “If a thief is found, he shall pay double to his neighbor” (Ex. 22:9)Ç he pays double for what he took from his neighbor but not for what is consecrated that he stole from the temple [T. Ter. 7:8].**

[IV:1 A] “They do not pay restitution with (1) gleanings, (2) forgotten sheaves, (3) [produce grown in] the corners [of a field, which is left for the poor] or (4) ownerless property, and not with (5) first tithe from which heave-offering of the tithe has been removed, and not with (6) second tithe or [produce] dedicated [to the Temple] that have been redeemed, for a consecrated thing does not serve for the redemption of a consecrated thing” — the words of R. Meir [who thinks that paying of produce as restitution designates that produce as heave-offering, so produce paid as restitution must stand within a category of food subject to the separation of heave-offering. The listed items are not liable to the separation of heave-offering.]. But sages permit [in the case of] these.

[B] *R. Simeon b. Laqish said to them, “Sages refer to the last two items [not with (5) first tithe from which heave-offering of the tithe has been removed, and not with (6) second tithe or [produce] dedicated [to the Temple] that have been redeemed]. Why? Because at one time they were subject to the designation of heave-offering and tithes. Since at one time the produce could have been used as restitution, the sages say that it still made be used.]”*

[C] But were gleanings and forgotten sheaves and produce of the corner of the field not once subject to the separation of heave-offering and tithes?

[D] But we deal with produce that was forgotten before it was harvested [and became subject to tithing], and to produce in the corner of the field that was designated for the poor before it was harvested [and was never subject to tithing.]

[IV:2 A] [One who places a basket under the vine while he harvests, (in order to catch the grapes that separate and fall, to that they will not enter the status of separated grapes) — that one steals from the poor] (M. Peah 7:3G-H): This [passage of the Mishnah] proves that a separated grape becomes sanctified [and reserved exclusively for the poor the moment

it] falls [from the vine]. [Even before such grapes hit the ground, then, they are deemed consecrated for the poor. Accordingly, one who catches them in a basket in fact robs the poor of their due.]

[B] *But this does not solve the problem posed by Hilpai*, for Hilpai asked, “As regards gleanings — what is its status regarding sanctification from the moment it falls [toward the ground, but before it actually hits the ground]?” [The upshot of Hilpai’s question is that it remains unclear whether the produce becomes sanctified as gleanings when it falls or when it touches the ground. In the cited ruling, it seems clear that gleanings, and by analogy, separated grapes, are deemed consecrated only when they touch the ground.]

[C] **Said R. Samuel bar Abudama, “The present case, [concerning separated grapes] is different [from the case of gleanings cited above]. [For the present rules takes up a situation in which the farmer] himself causes [the produce] not to reach the ground. [Since he is the intervening factor, through his placing a basket under the produce, we deem the produce sanctified from the moment it falls. But under ordinary circumstances, the produce takes on the consecrated status only when it touches the ground].”**

[IV:3 A] [Reverting to the statement, But we deal with produce that was forgotten before it was harvested and became subject to tithing, and to produce in the corner of the field that was designated for the poor before it was harvested and was never subject to tithing]: R. Yohanan said to him, “*And lo, we learn in the Mishnah* that gleanings became potentially subject to tithes when it was harvested. Produce growing in the corner of the field that is left for the poor is like gleanings [to which the Mishnah refers.]

[B] R. Yohanan said to him, “Concerning all the items of the Mishnah sages disagree.”

6:3

[A] **R. Eliezer says, “They pay restitution [for heave-offering unintentionally eaten by a non-priest] with [produce of] one kind on behalf of [produce] that is not of its same kind,**

[B] **“with the stipulation that he must pay restitution with choicer [produce] for less choice [produce].”**

[C] **But R. Aqiba says, “They pay restitution only with [produce of] one kind on behalf of [produce] that is of its same kind.**

[D] **“Therefore:**

- [E] “if he ate cucumbers [in the status of heave-offering grown on] the eve of the Sabbatical year, he waits for cucumbers [grown in] the year after the Sabbatical year and pays restitution with them.”
- [F] On the basis of the same verse in accordance with which R. Eliezer rules leniently, R. Aqiba rules stringently.
- [G] For it says, ‘*If a man eats of a holy thing unwittingly, he shall add the fifth of its value to it and give the holy thing to the priest*’ (Lev. 22:14).
- [H] “[He may give the priest] anything that is fit to be holy” — the words of R. Eliezer.
- [I] But R. Aqiba says, “*And give the holy thing to the priest*’. [He must give the priest] that holy thing that he ate.”
- [I:1 A] ...with the stipulation that he must pay restitution with choicer [produce] for less choice [produce]: how so?
- [B] If he ate vegetables and paid back in dried figs, **ate dried figs and paid back dates, let a blessing light upon him [T. Ter. 7:9].**
- [I:2 A] If he ate first fruits, what does he pay back? If he ate grapes, he pays back wine, if he ate olives, he pays back olive oil.
- [I:3 A] [But R. Aqiba says, “**They pay restitution only with [produce of] one kind on behalf of [produce] that is of its same kind:**] if he ate dough offering what is the rule on his paying back with grain that has not reached a third of its growth, for lo, grain that has not reached a third of its growth is subject to dough offering]?
- [B] If he ate firstfruits, what is the rule on his paying back with unpicked produce, [which may be regarded as belonging to the same sort as firstfruits,] since firstfruits are designated while the produce is still unharvested?
- [I:4 A] [“if he ate cucumbers [in the status of heave-offering grown on] the eve of the Sabbatical year, he waits for cucumbers [grown in] the year after the Sabbatical year and pays restitution with them”]: R. Abin in the name of the rabbis from over there [in Babylonia]: “That is to say that they do not pay restitution from produce grown abroad [for produce grown in the land.” [If that is not so, one should be able to pay restitution during the seventh year, when produce grown in the land is not available for use as restitution, produce from outside of the land could be used.]
- [B] *You may even say they may use produce grown abroad heave-offering as restitution for heave-offering unintentionally eaten by a*

non-priest. The Mishnah speaks of the situation that prevailed before Rabbi permitted bringing into the land produce from abroad.

[I:5 A] “if he ate cucumbers [in the status of heave-offering grown on] the eve of the Sabbatical year, he waits for cucumbers [grown in] the year after the Sabbatical year and pays restitution with them:” do not say he spoke only of cucumbers, something that it is forbidden to plant in the seventh year [but in the case of other produce, not forbidden to plant in the seventh year, it is not the rule [and such other produce may be used for restitution]. For if you say that that is so [that certain produce of the seventh year may be used as the principal and added fifth], wouldn't the non-priest end up paying a debt with produce of the seventh year? [That is forbidden, and cucumbers exemplify the rule governing all vegetables.]

YERUSHALMI TERUMOT

CHAPTER SEVEN

7:1

- [A] [A non-priest] who intentionally eats heave-offering pays back the principal but does not pay the [added] fifth.
- [B] That which is paid as restitution [retains the status of] unconsecrated produce.
- [C] If the priest wished to refuse [it], he may refuse [it].
- [I:1 A] [A non-priest] who intentionally eats heave-offering pays back the principal but does not pay the [added] fifth:
- [B] *And there we have learned in the Mishnah: These are the ones who are flogged [M. Mak. 3:1] [including a non-priest who ate heave-offering deliberately]. Yet here we learned in the Mishnah: These are the girls [invalid for marriage to an Israelite] who [nonetheless] receive a fine [from the man who seduces them [M. Ket. 3:1]. Here at M. Mak. 3:1 you say that they are flogged, but there a M. Ket. 3:1 you say that they pay a fine*
- [C] *Said R. Yohanan, “The Mishnah deals with the two extremes. If people warned him, he is flogged. If they did not warn him, he pays.”*
- [D] *R. Yohanan maintains the theory that in a case in which there is the possibility of flogging and monetary compensation, the felon is flogged and does not pay monetary compensation [and that is why he sees the rule in M. Mak. 3:1 as dealing with a case in which there has been suitable admonition.*
- [E] And [why not] let the man both receive a flogging and also pay a monetary penalty?
- [F] “[Then if the guilty man deserves to be beaten, the judge shall cause him to lie down and be beaten in his presence with a number of stripes] in proportion to his offense” (Deut. 25:2). The meaning of this

verse is that on account of one offense you may impose liability, but you may not impose liability on account of several offenses.

- [G] And why should he not pay the monetary penalty and not be flogged?
- [H] Scripture speaks of one who is subject to two offenses.
- [I] “[Then if the guilty man deserves to be beaten,] the judge shall cause him to lie down and be beaten in his presence with a number of stripes in proportion to his offense” (Deut. 25:2). It is in accord with the correct number.
- [J] [R. Simeon b. Laqish said, “Even if they did not admonish him, he does not pay a monetary penalty. [Those who are liable to a flogging on account of inadvertent sin are exempt, and that is the case even if there is no admonition.] For even if they had warned him, he would have been flogged [and not have to pay a penalty in money, so if they did not give him an admonition, he also should be free of having to pay a monetary penalty].”
- [K] *The Mishnah statement that follows differs from the view of R. Simeon b. Laqish: [A non-priest] who inadvertently eats produce in the status of heave-offering pays both the principal and an added fifth [M. Ter. 6:1 A].* Now if they had warned him, is he not to be flogged?
- [L] *Interpret the Mishnah [from Simeon’s perspective] in line with the view of R. Meir, for R. Meir has said, “One may both be flogged and also pay a monetary penalty.”*
- [M] *The Mishnah further differs from the view of R. Simeon b. Laqish, for we have learned: **These are the girls [invalid for marriage to an Israelite] who nonetheless receive a fine from the man who seduces them [M. Ket. 3:1A].*** If they had warned [the man], should he not be flogged?
- [N] *Interpret the Mishnah in line with the view of R. Meir, for R. Meir has said, “One may both be flogged and also pay a monetary penalty.”*
- [O] R. Abbahu in the name of R. Simeon b. Laqish: “From the case of him who spreads an evil report about a girl did R. Meir derive his view:
- [P] “[Then the elders of that city] shall take that man and whip him’ (Deut. 22:18). ‘They take that man’ — flogging him. ‘And whip him’ — adding a monetary penalty.”
- [Q] *Rabbis say, “It was to make its own fresh point that the case of the one who spreads a bad name about a girl was treated as special, and*

something which is introduced to make its own point does not provide the occasion for presenting lessons pertinent to other cases at all.

- [R] “For in all other cases a man does not incur liability by reason of what he merely says [as distinct from what he does], while here, a man incurs liability for what he merely says. Accordingly, since that is the case, you may not derive lessons from this case applicable to any other. Along these same lines, you may not derive the lesson from this case either as regards penalties or as regards flogging.”
- [S] Did R. Abbahu not state in the name of R. Yohanan, “If one deliberately ate prohibited fat but did not know that people are liable for an offering on that account, if they gave suitable admonition to him [so he did it deliberately], he is flogged and has to bring an offering”? Now here, along these same lines, he should be flogged and have to pay a monetary penalty as well.
- [T] R. Bun bar Hiyya in the name of R. Samuel bar R. Isaac, “It says, ‘In proportion to his offense’ (Deut. 25:2). Two matters are handed over to a court. You take hold of one of them, and that then excludes a matter which is in the hands of Heaven. [On this account the court will not both exact a financial penalty and also impose a flogging, as at M. Mak. 1:2.]”
- [U] All concur that a monetary penalty is not exacted when the death penalty is applied. *It is on the basis of the following verse of Scripture:* “He who kills a beast shall make it good; and he who kills a man shall be put to death” (Lev. 24:21).
- [V] Just as in the case of one who smites a beast, you do not distinguish between one who does the deed inadvertently and one who does it deliberately, imposing the monetary penalty in both cases, so in the case of one who smites a man, you should not make a distinction between one who does it inadvertently and one who does it deliberately, but in both cases you exempt him from a monetary penalty.
- [W] *Where there is a dispute is* when you have the possibility of a monetary penalty and also flogging.
- [X] R. Yohanan said, “There is no monetary penalty where there is a death penalty. But there is a monetary penalty where there is a flogging.”
- [Y] R. Simeon b. Laqish says, “Just as there is no monetary penalty when there is the death penalty, so there is no monetary penalty where there is a flogging.”

[Z] *R. Ammi the Babylonian in the name of the rabbis over there [said], “The scriptural basis for the position of R. Simeon b. Laqish is that the Scripture makes references to ‘evil person’ both with regard to those liable to the death penalty and also with regard to those liable to the flogging. Just as in the case of the evil person to whom reference is made in the setting of those suffering the death penalty at the hand of a court, there is no question of exacting a monetary penalty where there is the death penalty, so the reference to an evil person in the case of those liable to a flogging means that there is no issue of monetary penalty when there is a case of flogging.”*

[I:2 A] Nathan bar Hoshaiah said, “[As to the conflict between the present rule, that a girl receives a financial penalty paid by a rapist, who is not flogged, and that at M. Mak. 3:1, which specifies that the penalty is flogging,] the difference is that here we deal with a girl, [to whom the penalty is owing,] while there we deal with a grown woman [to whom no financial penalty is paid, and hence there is flogging instead]. A girl receives a financial penalty, and no flogging pertains to [sexual relations with] her. A woman will produce the penalty of flogging, but she does not receive a financial penalty. But does she not receive compensation for shame or personal injury? [Surely she does! So even in the case of flogging, there will be monetary compensation.]”

[B] *Rabbis of Caesarea say, “Interpret the rule [of M. Mak. 3:1] to speak of a case in which the man seduced the girl [so there is no question of shame or personal injury], or to one in which the girl forgave him [these forms of compensation and did not exact payment of them].”*

[C] Now [from A it follows that] Nathan bar Hoshaiah maintains that in a case in which there are both a flogging and monetary compensation, one pays the monetary penalty and is not flogged.

[D] But why should the man not be flogged and also pay?

[E] [Since Scripture says,] “In proportion to his offense,” the meaning is that one imposes liability for a single offense, and one does not impose liability for two offenses.

[F] Or let him pay and not suffer a flogging, as in the case of perjured witnesses. Just as you say in that other context of perjured witnesses that they pay and are not flogged, here, too, he pays and is not flogged.

[G] [Denying that the analogy is necessary,] said R. Jonah, “The reason for the position of Nathan bar Hoshaiah is this: ‘Proportionate to his offense’ means the one who, through being flogged, suffers a just

penalty for his offense. This then excludes the one to whom they say, ‘Go and pay a monetary penalty.’”

- [H] [Reverting to the earlier exercise and introducing Nathan bar Hoshaiiah’s position, we proceed:] *The following statement of the Mishnah differs from R. Simeon b. Laqish: **He who deliberately eats produce in the status of heave-offering pays the principal but does not pay the added fifth [M. Ter. 7:1].** Now from the viewpoint of Nathan bar Hoshaiiah, who said that he pays [as indicated above], there are no problems. As to the view of R. Yohanan, who said that if one has suffered admonition, he is flogged, and if he has not received admonition, he pays, one may interpret the case to be one in which one did the deed deliberately but without admonition. But in the view of R. Simeon b. Laqish, there is no difference whether or not one did the deed inadvertently or deliberately, whether one received admonition or did not receive admonition.*
- [I] From the view of Simeon b. Laqish one may interpret the law to accord with the opinion of R. Meir, who has said that one may both be flogged and also required to pay monetary compensation.
- [J] *Said R. Haninah before R. Mana, “Now even if R. Simeon b. Laqish should maintain that the entire passage of Mishnah [both at M. Ter. 6:7=7:1 and at M. Mak. 3:1] accords with R. Meir, if it possible to maintain that the relevant Scripture also conforms to the view of R. Meir? [Hardly!] Now lo, is it not written, ‘And if a man eats of a Holy Thing unwittingly, [he shall add a fifth of its value to it, and give the Holy Thing to a priest]’ (Lev. 22:14)? [This surely contradicts Simeon b. Laqish’s view that all those who suffer floggings, even for sins done inadvertently, are exempt from having to pay compensation. Accordingly, Simeon b. Laqish must explain the pertinent Scripture, not merely the several rules of the Mishnah.] But R. Simeon b. Laqish maintains that the added fifth is in the category of an offering. [It is not in the category of monetary penalty at all.]”*
- [K] [But this is hardly adequate.] For even if you maintain that the added fifth is in the category of an offering, is the principal in the category of an offering?
- [L] *Said R. Yudan bar Shalom, “The Mishnah itself has made the point that the principal is in the category of a monetary penalty, for we have learned there: **He does not pay restitution with heave-offering ; rather he pays it with unconsecrated produce, and this takes on the status of heave of offering [M. Ter. 6:1E].** Now if the guilty party were to pay something equivalent in value to what he had*

enjoyed, there would be no problem [for this would not be in the status of a monetary penalty, which, by definition, is of a greater value than what has been destroyed or misappropriated]. And further [evidence that what is paid is in the category of a monetary penalty, and not merely restitution,] derives from what is taught: “If one ate unclean produce in the status of heave-offering, he must pay back unconsecrated produce which is cultically clean. If he paid unconsecrated produce which was unclean, he has carried out his obligation.” Now is it not so that, in fact, all he really owes him is wood [since unclean unconsecrated food is suitable only for burning]? [Yet, even so, he has to pay unconsecrated food in a state of cultic cleanness. It must follow that the penalty is much more costly than the offense, with the necessary consequence that the penalty has the status of a monetary penalty, not merely compensation for the loss.] It follows that the principal is in the status of a monetary penalty. Just as you hold that the principal is in the status of a monetary penalty, along these same lines the added fifth must be deemed to be in the status of a monetary penalty.”

[M] *But R. Simeon b. Laqish is consistent with his position enunciated elsewhere:* “All were subject to the general statement, ‘You shall not bear false witness against your neighbor’ (Ex. 20:16). The perjured witness then was treated as a special case: ‘And you shall do to him as he had conspired to do’ (Deut. 19:19). Is that not so that he should pay monetary compensation? Now here, too, all were subject to the general statement, ‘An outsider shall not eat of a holy thing’ (Lev. 22:10). Then a special case was expressed as follows: ‘And when a man inadvertently eats what was holy ...’ (Lev. 22:14), indicating that he pays compensation. [So even though all others who are flogged for sins committed inadvertently are exempt from having to pay monetary penalties, in this case one is liable under such circumstances.]”

[N] *Now has it not been taught [that there is no difference of opinion in this particular matter, for] sages concur with R. Meir in the case of one who steals heave-offering belonging to his fellow and who ate it, that he is flogged and he also pays monetary compensation? [Even in a case of a deliberate sin, therefore, one may be flogged and also pay monetary compensation, and that is the view even of sages vis-a-vis Meir.]*

[O] [But that is a special case,] for one who eats prohibited fat belonging to himself is flogged. [The case is different, since the monetary compensation owing to the fellow is quite separate from the flogging owing to Heaven.]

- [I:3 A] [Along these same lines, of indicating cases in which there are both a flogging and payment of monetary compensation,] *has it not been taught*: He who muzzles a cow [belonging to his fellow, when ploughing with the cow] pays six *qabs* for [the day's] muzzling of a cow, or four for [the day's] muzzling of an ass? [Here, too, we have monetary compensation and also a flogging for violating the rule of the Torah against muzzling an ass when it is ploughing.]
- [B] [But that case, too, is different,] for he who muzzles his own ox is flogged.
- [I:4 A] Said R. Yosé, “[One may indeed find ample evidence that multiple penalties are imposed,] for so are those who are subject to the death penalty [also subject to monetary compensation and flogging]. If one stole heave-offering belonging to the sanctuary [e.g., heave-offering which one had consecrated to the upkeep of the house] and ate it, he is flogged and pays monetary compensation, for in any event he has caused a monetary loss to his fellow.”
- [B] *Said R. Mana before R. Yosé*, “If that is so [that in the case cited by you, one both is flogged and pays monetary compensation], then in the case of him who has sexual relations with his minor sister, he should both be flogged and pay monetary compensation, for [we find that] he who has sexual relations with his adult sister is flogged.”
- [C] [But, thinking better of this argument,] he went and said, “In the case of his sister, the penalty of paying monetary compensation and the death penalty apply simultaneously [in which case we apply the latter, not the former], while in the present case as soon as he muzzles the ox, he is liable for flogging. It is only thereafter that he incurs the liability for monetary compensation to the owner of the cow.”
- [D] *R. Zeira objected before R. Mana*, “Lo, he who sets fire to the standing grain of his fellow on the Sabbath — on account of the burning of the first stalk, he becomes liable to flogging. From that point onward, he incurs the monetary penalty. [But that in fact is not the law. He is exempt from monetary compensation because he is liable to the death penalty. But by the reasoning presented just now, the law should be as Zeira has stated it.] But that is not what the law has stated. Rather, on account of each stalk of standing grain there is the admonition for the death penalty, and here, for each span of the muzzling of the ox there is the admonition for the penalty of flogging.”
- [E] [*The question remains of why, in the case of muzzling the ox, there should be both monetary compensation and flogging. Dealing with this question,*] *R. Yosé b. R. Bun said*, “*There are two Amoraic*

teachers [who have given opinions in this matter]. One of them said, ‘We deal with a case in which he muzzles the cow when it is ploughing grain in the status of heave-offering or Holy Things [in which case there is no question of a flogging, so the owner pays monetary compensation].’ The other one said, ‘We deal with a case in which the man has the cow muzzled by an agent. The agent then is flogged, while the owner of the field is exempt from flogging [and so pays the monetary compensation to the owner of the cow].’”

[F] [Proving that the messenger bears the penalty for his own deed, we not cite the relevant verse of Scripture:] “[If any man of the House of Israel kills an ox or a lamb or a goat in the camp, or kills it outside the camp, and does not bring it to the door of the tent of meeting, to offer it as a gift to the Lord before the tabernacle of the Lord,] blood-guilt shall be imputed to that man; [he has shed blood; and that man shall be cut off from among his people]” (Lev. 17:4). “To that man,” and not to the one who sent him [indicating that there is no claim that one has merely done what some other party has told him to do and hence is exempt from responsibility for having committed a sin].

[G] [If, with respect to produce in the status of heave-offering ,] one inadvertently sinned with regard to the matter of heave-offering , but [on Passover] deliberately sinned in the matter of eating leaven [in that status], inadvertently sinned with regard to the matter of heave-offering , but [with reference to eating grapes in that status] deliberately sinned against the rule for the Nazir, inadvertently sinned with regard to the matter of heave-offering , but [with reference to the prohibition against eating,] deliberately sinned against the rules of the Day of Atonement, [he has to pay the principal and added fifth in respect to the heave-offering he has consumed.]

[H] *Now if you interpret this matter to deal with two distinct things [for instance, he sinned inadvertently in one of them and deliberately in the second], then there is no difficulty [in explaining these cases]. [The liability to flogging for the deliberate sin does not exempt the man from paying monetary compensation for the inadvertent one. Simeon b. Laqish likewise will find the man liable for monetary compensation in the case of heave-offering , which he treats as an exception to the general rule.] But if you deal with this case as involving a single matter, then there is a dispute about the ruling involving Yohanan and Simeon b. Laqish.*

[I:5 A] **There we have learned: There is no difference between the Sabbath and the Day of Atonement, except that deliberately violating this one is punishable at the hands of an earthly court, while**

deliberately violating that one is punishable through extirpation [M. Meg. 1:5B]. Lo, in regard to monetary compensation, both of them are equivalent.

- [B] *The cited passage of the Mishnah accords with the view of R. Nehunia b. Haqqaneh. For R. Nehunia b. Haqqaneh says, “The Day of Atonement is equivalent to the Sabbath as to payment” [T. Ket. 3:5E].*
- [C] R. Simeon b. Menassia says, “Those liable to extirpation are equivalent to those liable to the death penalty at the hands of an earthly court.”
- [D] *What is the difference between them [since in the view of both one who violates the Day of Atonement is exempt from monetary compensation]?*
- [E] R. Aha in the name of R. Abinah: “The matter of having sexual relations with a girl who is in her menstrual period will be at issue between them. [Whether or not the monetary penalty is imposed is subject to dispute.]”
- [F] R. Mana says, “Also having sexual relations with the sister of one’s mother is at issue between them.”
- [G] *In the view of R. Nehunia b. Haqqaneh just as in the case of the Sabbath, there is no possibility of remission once the prohibition has applied, so in the case of the Day of Atonement, there is no possibility of remission once the prohibitions [of the day] have come into effect. [That is why there is a common rule applying to them.] But in the case of these women, there is remission once the prohibition concerning them has applied [so the period comes to an end, or the aunt may become permitted]. Accordingly, he must pay [since monetary compensation would apply here, while it would not apply in the matter of the Sabbath or of the Day of Atonement]. In the view of R. Simeon b. Menassia just as in the case of the violation of the law of the Sabbath, extirpation applies, so in the case of the violation of the laws of the Day of Atonement, extirpation applies. So, too, in the case of these women, since the penalty of extirpation applies, one will not also have to pay monetary compensation [just as in the instance of the violation of the Sabbath or the Day of Atonement].*
- [H] *R. Judah bar Pazzi raised the following question: “As to the imposition of both flogging and extirpation, what do these Tannaitic authorities have to say? [Is the issue of flogging parallel to that of monetary compensation?]”*

- [I] *Said R. Yosé, “That question bothered rabbis.”*
- [J] *R. Jonah raised the question, “Why should that be the case? Did [the assembly] not hear what R. Simeon b. Yohai taught? For R. Simeon b. Yohai taught as follows: R. Tarfon says, ‘Extirpation is mentioned with regard to the Sabbath, and extirpation is mentioned with regard to the Day of Atonement. Just as extirpation, mentioned with regard to the Sabbath, means, there will not be a flogging in the case in which the penalty of extirpation is incurred, so extirpation mentioned with respect to the Day of Atonement means that where there is extirpation, the penalty of flogging will not apply.’”*
- [K] *Said R. Mana before R. Yosé, “Is not the matter subject to doubt only from the viewpoint of R. Simeon b. Laqish? But so far as R. Yohanan is concerned [there is no doubt], for if he maintains that there can be a flogging where the death penalty applies, it is an argument a fortiori that there can be a flogging where the penalty of extirpation applies. For they have engaged in the following dispute: He who slaughters a dam and its offspring for the sake of idolatry — R. Yohanan said, ‘If others gave warning to the man on the count of not slaughtering a dam and its offspring on the same day, he is given a flogging. If they gave warning on the count of idolatry, he is stoned to death [and not flogged].’ R. Simeon b. Laqish said, ‘Even if others should give him warning on the count of not slaughtering the dam and its offspring on the same day, he is not given a flogging, since, if they had warned him on the count of idolatry, he would be stoned to death’ [cf. Y. A.Z. 4:1/1H-J].”*
- [L] *[Yosé] said to [Mana], “Even in the view of R. Yohanan it remains a matter of doubt. For there you deal with two distinct matters, while here you deal with only a single one.”*
- [I:6 A]** *[We now revert to Simeon b. Laqish’s view that Meir maintains one is flogged and pays a monetary penalty in the same matter, but in the opinion of rabbis, there will be no case in which there is a monetary penalty, for those who are liable to a flogging for inadvertent acts are exempt from monetary payment and raise the question:] In the view of R. Simeon b. Laqish, what is the difference between the views of these Tannaim [that is, Nehunia b. Haqqaneh, and R. Simeon b. Menassia,] and these rabbis vis-a-vis Meir? [For in their view if there is a penalty of extirpation, there will be no monetary penalty in addition. Yohanan will hold that there can be the difference of opinion in regard to those subject to penalty of extirpation when there was no warning as to flogging. In such a case rabbis hold he is liable to a monetary penalty. The two Tannaim will regard him as exempt.]*

- [B] [There is the difference concerning those who are liable for violating] negative commandments in which no penalty of extirpation is involved. [This will now be spelled out.]
- [C] R. Yudan said, “He who has sexual relations with a *mamzer* girl [would be a point of] difference between them. [The Tannaim cited above will hold that he is liable to a monetary penalty. The rabbis vis-a-vis Meir will regard him as exempt, even if there has been no admonition.]”
- [D] R. Hananiah said, “He who sets fire to the standing grain of his fellow on a festival day is at issue between them. In the view of these Tannaim [whom we have cited above., since there is no question of extirpation in such a case, the felon must pay a monetary penalty. In the opinion of rabbis [vis-a-vis Meir], since there is the matter of a flogging, he does not have to pay monetary compensation.”
- [E] *Then shall we say that **These are the girls who receive a fine*** does not accord with the position of rabbis [vis-a-vis Meir]?
- [F] Said R. Matteniah, “One may interpret the passage to express the opinion of all parties. It speaks of a *mamzer* man who has sexual relations with a *mamzer* girl. [He is permitted to have sexual relations with her, so the sole issue is the monetary penalty, not flogging.]”
- [G] And as to the one who has sexual relations with the wife of his brother — is this not his deceased childless brother’s wife? [This then takes place after the brother’s death. Why is there consideration at all either of extirpation or of monetary penalty?]
- [H] Said R. Matteniah, “Interpret the law to speak of a case in which his brother had children, and he betrothed a woman and then died, and his brother went and raped her. [This woman is not subject to the surviving brother on the count of a levirate connection. Had the brother not died, the issue would have been the death penalty and not monetary compensation to the woman.]”

7:2

- [A] **“The daughter of a priest who married an Israelite and afterwards [unintentionally] ate heave-offering pays the principal but does not pay the [added] fifth.**
- [B] **“And [if she commits adultery] her death is by burning.**
- [C] **“[If] she married any person who is ineligible [for marriage to priestly stock, e. g., a bastard (M. Yeb. 6:2), and then unintentionally ate heave-offering],**

- [D] “she pays the principal and the [added] fifth.
- [E] “And [if she commits adultery] her death is by strangling” — the words of R. Meir.
- [F] But sages say, “Both of these [women] pay the principal but do not pay the [added] fifth,
- [G] “and [if they commit adultery] their death is by burning.”
- [H] (1) One who gives his minor children or his slaves, whether they are grown or minor, [heave-offering] to eat,
- [I] (2) one who eats heave-offering [separated from produce grown] outside of the Land [of Israel],
- [J] (3) and one who eats less than an olive’s bulk of heave-offering
- [K] pays the principal but does not pay the [added] fifth.
- [L] [That which is given as] restitution [retains the status of] unconsecrated produce.
- [M] Therefore] if the priest wished to refuse [it], he may refuse [it].
- [N] This is the general rule:
- [O] Anyone who pays the principal and the [added] fifth — [that which is given as] restitution [takes on the status of] heave-offering, and, [therefore, even] if the priest wished to refuse [it], he may not refuse [it].
- [P] [And] anyone who pays the principal but does not pay the [added] fifth — [that which is given as] restitution [retains the status of] unconsecrated produce, [and, therefore,] if the priest wished to refuse [it], he may refuse [it].
- [I:1 A] The sense of the Mishnah is, if she committed adultery, she is put to death by burning.
- [II:1 A] “The daughter of a priest who married an Israelite and afterwards [unintentionally] ate heave-offering pays the principal but does not pay the [added] fifth. And [if she commits adultery] her death is by burning. [If] she married any person who is ineligible [for marriage to priestly stock, e. g., a bastard (M. Yeb. 6:2), and then unintentionally ate heave-offering], she pays the principal and the [added] fifth. And [if she commits adultery] her death is by strangling” — the words of R. Meir.
- [B] *What is the scriptural foundation for the position of R. Meir?*
- [C] “And the daughter of any priest, if she profanes herself by playing the harlot, profanes her father, she shall be burned with fire” (Lev. 21:9) — this covers any daughter of a priest who is still fit to return to the

house of her father [even if she married an Israelite], excluding from execution by fire any daughter of a priest who is not fit to return to the house of her father [having married someone ineligible for marriage into the priestly caste].

- [D] If she married an Israelite fit for marriage into the priestly caste and committed adultery, is she fit to return to her father's house? [No.] *What's the point of the statement, "[If] she married any person who is ineligible [for marriage to priestly stock, e. g., a bastard]*
- [E] ...if she profanes herself by playing the harlot: one who profanes herself by playing the harlot is fit to return to her father's house, so that, like all priestly women who commit adultery, she is put to death by fire. But that is not so if she profaned herself through marriage to someone ineligible to marry into the priestly caste. [In the case she is ineligible to return to her father's house, and if she commits adultery, her execution is through strangulation.
- [III:1] **But sages say, "Both of these [women] pay the principal but do not pay the [added] fifth, and [if they commit adultery] their death is by burning."**
- [B] *What is the scriptural foundation for the position of rabbis [in all cases a woman of priestly caste who married a non-priest is treated as belonging to the priestly caste]?*
- [C] "And the daughter of any priest, if she profanes herself by playing the harlot, profanes her father, she shall be burned with fire" (Lev. 21:9) — the daughter of any priest under all conditions [she remains the daughter of a priest].
- [D] Even if she was the offspring of her father's illegitimate marriage [to a divorcee for example].
- [E] *R. Hinena bar Pappa taught a Tannaite statement before R. Zeira: "According to R. Ishmael, 'And the daughter of any priest, if she profanes herself by playing the harlot, profanes her father, she shall be burned with fire' (Lev. 21:9) — she profanes her father means, who profanes herself [through marriage to a person ineligible for marriage to priestly stock still is under Lev. 21:9] but one who is profaned through her father's [having married a divorcee or other woman ineligible for marriage into the priesthood is not subject to Lev. 21:9]."*
- [F] Said R. Haninah, "I repeat a Tannaite rule in the name of R. Ishmael: 'Even if she was the offspring of her father's illegitimate marriage, [she is the daughter of a priest and is subject to Lev. 21:9].'"

[IV:1 A] **“The daughter of a priest who married an Israelite and afterwards [unintentionally] ate heave-offering pays the principal but does not pay the [added] fifth:”**

[B] *Thus have we learned in the Mishnah:* **The wife [of a priest] who was eating heave-offering, [and] they came and told her, “Your husband has died,” or “[Your husband] has divorced you” [such that the woman no longer has the right to eat heave-offering]; (2) and so [in the case of] a slave [of a priest] who was eating heave-offering, and they came and told him, “Your master has died,” “He sold you to an Israelite,” “He gave you [to an Israelite] as a gift,” or, “He has made you a freeman” [in any of which case, the slave no longer may eat heave-offering]; (3) and so [in the case of] a priest who was eating heave-offering, and it became known that he is the son of a divorcee, or of a woman who has performed the rite of removing the shoe of her deceased childless husband’s brother [and therefore may not eat heave-offering] — R. Eliezer declares [all of these individuals] liable to payment of the principal and [added] fifth [of the heave-offering they unintentionally had eaten as non-priests]. But R. Joshua exempts [M. Ter. 8:1]. [Eliezer and Joshua disagree with Meir, who has the woman pay the principal but not the added fifth.]**

[C] They wanted to reason: concerning what do Eliezer and Joshua differ? Concerning whether the woman has to pay the added fifth, but as to the principal, also R. Joshua concedes that she must pay it. And concerning what do Eliezer and Joshua differ? Concerning the heave-offering that the woman had already eaten before she heard her husband had died or divorced her. Even R. Joshua concedes that she must pay the principal but not the added fifth. But as for heave-offering she ate after she heard her husband had died or divorced her. Even R. Joshua concedes that she must pay the principal but not the added fifth.

[V:1 A] **(1) One who gives his minor children or his slaves, whether they are grown or minor, [heave-offering] to eat, (2) one who eats heave-offering [separated from produce grown] outside of the Land [of Israel], (3) and one who eats less than an olive’s bulk of heave-offering pays the principal but does not pay the [added] fifth. [That which is given as] restitution [retains the status of] unconsecrated produce. Therefore] if the priest wished to refuse [it], he may refuse [it]. This is the general rule: Anyone who pays the principal and the [added] fifth — [that which is given as] restitution [takes on the status of] heave-offering, and, [therefore,**

even] if the priest wished to refuse [it], he may not refuse [it]. [And] anyone who pays the principal but does not pay the [added] fifth — [that which is given as] restitution [retains the status of] unconsecrated produce, [and, therefore,] if the priest wished to refuse [it], he may refuse [it]:

- [B] **One who gives ... his slaves, whether they are grown or minor, [heave-offering] to eat:** if the master who fed his slave heave-offering did not suffice to pay the principal [**pays the principal but does not pay the [added] fifth**] before the slave was freed, [the slave must pay the principal and added fifth] using for payment property that is his own, on which his master has no claim.
- [C] *What would be a practical case?*
- [D] Reuben who stole from Simeon to pay Levi. [By giving the money to Levi,] is Reuben released from responsibility for the theft? [The household has stolen from the priest to feed the slave. If the slave compensates the priest, is the householder free of responsibility?]
- [E] *This leads us to the dispute between R. Hiyya the Elder and R. Yannai, for they disputed as follows:*
- [F] If someone stole something from the pouch of this one and gave what he stole to that one — R. Eleazar in the name of R. Hiyya the Elder: “They take from the first person [the thief] but they do not reclaim the property from the second [who received the stolen property from the thief].” [The thief is responsible for paying compensation. The one who received the stolen property has no responsibility to the victim of the theft. By paying Levi, Reuben is not free of responsibility for the original theft. In the case of heave-offering the slave cannot pay compensation for heave-offering stolen by his former master.]
- [G] R. Yohanan in the name of R. Yannai: “They also reclaim the property from the second [who received the stolen property from the thief].”
- [H] And also R. Hiyya the Elder concedes that if Reuben the thief gave when he stole to Levi, by doing so he is released from his responsibility for the theft.

7:3

- [A] **Two bins, one [filled] with heave-offering, and the other [filled] with [less than a hundred se'ahs of] unconsecrated produce,**
- [B] **into one of which fell a se'ah of heave-offering,**
- [C] **but it is not known into which of them it fell —**

- [D] lo, I say, “Into the [bin filled with] heave-offering it fell” [and so there has been no mixing of heave-offering and unconsecrated produce].
- [E] [If] it is not known which [of the bins] is [filled] with heave-offering and which is [filled] with unconsecrated produce —
- [F] [if] he ate [the produce in] one of them, he is exempt [from payment of the principal and added fifth, i.e., we assume that he ate unconsecrated produce].
- [G] And [as for] the second [bin] — he [thereafter] treats it as heave-offering.
- [H] “But [dough made from] it is subject to [the separation of] dough offering [since it might be unconsecrated produce]” — the words of R. Meir.
- [I] R. Yosé exempts [it from the separation of dough offering].
- [J] [If] a different person ate [the produce in] the second [bin], he is exempt [from payment of the principal and added fifth, i.e., we assume that he ate unconsecrated produce].
- [K] [If] a different person ate [the produce in] both [of the bins], he pays restitution in accordance with [the quantity of produce in] the smaller of the two.
- [L] [If the produce in] one of them [i.e., of the bins] fell into unconsecrated produce, it does not impart the status of heave-offering to that produce].
- [M] And [as for] the second [bin] — he [thereafter] treats it like heave-offering.
- [N] “But [dough made from] it is subject to [the separation of] dough offering” — the words of R. Meir.
- [O] R. Yosé exempts [it from the separation of dough offering].
- [P] [If the produce in the] second [bin] fell into a different batch [of unconsecrated produce], it does not impart the status of heave-offering [that produce].
- [Q] [If the produce in] both [of the bins] fell into a single batch [of unconsecrated produce], they impart the status of heave-offering [to the produce] in accordance with [the quantity of produce in] the smaller of the two [bins].
- [R] [If] he sowed [as seed the produce in] one of them [i.e., of the bins, the crop which results] is exempt [from the laws of heave-offering, i.e., it is not treated as heave-offering].

- [S] And [as for] the second [bin] — he [thereafter] treats it as heave-offering.
- [T] “But [dough made from] it is subject [to the separation of] dough offering” — the words of R. Meir.
- [U] But R. Yosé exempts [it from the separation of dough offering].
- [V] [If] a different person sowed the second [bin], [the resultant crop] is exempt [from the laws of heave-offering].
- [W] [If] one person sowed both [bins] —
- [X] in the case of a kind [of produce] the seed of which disintegrates, [the crop] is permitted [for consumption as unconsecrated produce (M. 9:5-6)].
- [Y] But in the case of a kind [of produce] the seed of which does not disintegrate, [the crop] is forbidden [for consumption as unconsecrated produce, i.e., it is treated as heave-offering].
- [I:1 A] Two bins, one of unclean heave-offering and one of clean heave-offering —
- [B] [if] a *se’ah* of [unclean] heave-offering fell into one of them, but it is not known into which of them it fell,
- [C] lo, I say, “Into the clean [heave-offering] it fell.”
- [D] But the clean heave-offering cannot be eaten in cleanness until it will be ascertained that there is not in each lump of dough so much as an egg’s bulk.
- [E] Two bins, one of unclean heave-offering and one of [a hundred *se’ahs* of] clean unconsecrated produce —
- [F] [if] a *se’ah* of [unclean] heave-offering fell into one of them, but it is not known into which of them it fell,
- [G] lo, I say, “Into the unclean heave-offering it fell.”
- [H] But the clean unconsecrated produce may not be eaten in cleanness until they will ascertain that there is not in each lump of dough as much as an egg’s bulk.
- [I] [If] one bin [contained] clean heave-offering and one [contained] clean unconsecrated produce,
- [J] [if] a *se’ah* of [unclean] heave-offering fell into one of them, but it is not known into which of them it fell,

- [K] **both are forbidden [for whichever way we were to attribute the impairment, one of the bins would have to be deemed forbidden].**
- [L] **If there is in them [sufficient produce] to neutralize [the heave-offering] in conjunction with one another, they neutralize [the heave-offering] in conjunction with one another.**
- [M] **But they may not be eaten in cleanness until they will ascertain that there is not in each lump of dough so much as an egg's bulk [T. Ter. 6:15-17].**
- [N] R. Simeon b. Laqish in the name of Bar Qappara: “[**If there is in them [sufficient produce] to neutralize [the heave-offering] in conjunction with one another, they neutralize [the heave-offering] in conjunction with one another**] — that is the case only if the other bin [which does not have enough produce to neutralize the heave-offering, contains more produce than the quantity of heave-offering that might have fallen into it].”
- [O] R. Yohanan said, “Even though the second bin of produce does not contain more unconsecrated food than the quantity of heave-offering that might have fallen into it.”
- [P] *The opinions assigned to R. Simeon b. Laqish conflict.* There he says, “The uncertainty about whether or not the heave-offering is neutralized is worked out by claiming that the heave-offering was voided through being mixed in the larger volume of unconsecrated produce. [The larger quantity of unconsecrated produce is in the bin that has enough produce to neutralize the heave-offering. But here he says this [that the heave-offering is not neutralized unless the second bin contains a large quantity of unconsecrated produce].”
- [Q] *There he spoke in his own behalf, here he spoke in the name of Bar Qappara.*
- [R] *The opinions assigned to R. Yohanan conflict.* There he says, “Is there proof that the heave-offering is not mixed in the batch of produce?” [No, and we must regard the batch to be heave-offering.] *Here he says this* [even though there is no proof that the heave-offering was not mixed in the smaller batch of unconsecrated produce, the heave-offering is neutralized.]
- [S] This case is different, for here it is possible to attribute the impairment in status to the batch that contains sufficient produce to neutralize the heave-offering. There there is no second batch to which the

impairment may be attributed. That explains why his position is different.]

- [II:1 A] [If the produce in] one of them [i.e., of the bins] fell into unconsecrated produce, it does not impart the status of heave-offering to that produce].**
- [B] And [as for] the second [bin] — he [thereafter] treats it like heave-offering.**
- [C] “But [dough made from] it is subject to [the separation of] dough offering” — the words of R. Meir.**
- [D] R. Yosé exempts [it from the separation of dough offering].**
- [E] [If the produce in the] second [bin] fell into a different batch [of unconsecrated produce], it does not impart the status of heave-offering [to that produce].**
- [F] [If the produce in] both [of the bins] fell into a single batch [of unconsecrated produce], they impart the status of heave-offering [to the produce] in accordance with [the quantity of produce in] the smaller of the two [bins].**
- [II:2 A] Two bins, one of unclean heave-offering and one of [a hundred *se’ahs* of] clean unconsecrated produce—**
- [A] [if] a *se’ah* of [unclean] heave-offering fell into one of them, but it is not known into which of them it fell,**
- [B] lo, I say, “Into the unclean heave-offering it fell.”**
- [C] But the clean unconsecrated produce may not be eaten in cleanness until they will ascertain that there is not in each lump of dough as much as an egg’s bulk [T. 6:16].**
- [II:3 A] And [as for] the second [bin] — he [thereafter] treats it as heave-offering. “But [dough made from] it is subject to [the separation of] dough offering [since it might be unconsecrated produce]” — the words of R. Meir. R. Yosé exempts [it from the separation of dough offering].**
- [B] Said R. Yohanan, “Dough made from produce about which there is a doubt about whether or not it was mixed with heave-offering is exempt from the separation of dough offering. That concerning which there is a doubt about whether or not it was mixed with heave-offering but which is eaten as a mixture of heave-offering and unconsecrated produce is subject to the separation of dough offering.”**

[II:4 A] [If the produce in the] second [bin] fell into a different batch [of unconsecrated produce], it does not impart the status of heave-offering [that produce].

[B] Said R. Yohanan, “A mixture of unconsecrated grain and grain in the status of heave-offering is exempt from liability to dough-offering. If it is a matter of doubt whether or not it is a mixture of unconsecrated grain and grain in the status of heave-offering confused with that which is eaten under the laws governing the disposition of such a mixture or heave-offering and ordinary produce, both are liable to dough-offering.”

[II:5 A] [If the produce in the second [bin] fell into a different batch [of unconsecrated produce], it does not impart the status of heave-offering that produce]: *Said R. Yohanan, “It represents the view of R. Judah, for we have learned in the Mishnah there: Two paths, one unclean and one clean — [If] he walked in one of them and prepared clean things, and his fellow came and walked in the second and prepared clean things — R. Judah says, “If they are interrogated, this one by himself and this one by himself, they are clean. And if they are interrogated, the two of them at one time, they are unclean.” R. Yosé says, “One way or the other, they are unclean” [M. Toh. 5:5].”*

[B] *How shall we interpret the case?* If it deals with a case in which both of them were interrogated simultaneously, they are unclean, and if they were interrogated successively, they are clean. *But this is how we interpret the case:* one of the two comes to be interrogated concerning the cleanness of his own food and that of his fellow. R. Judah says, “One says to him, ‘Ask concerning your own produce and then depart.’” [So it is a case in which two came in succession. The doubt is resolved in favor of cleanness.] R. Yosé says, ‘It is comparable to the two individuals being interrogated simultaneously [and the food is unclean].’ Here it is comparable to the two persons being interrogated simultaneously. [Both batches maintain their unconsecrated status, and that is consistent with the opinion of Judah.]”

[III:1 A] [If] he sowed [as seed the produce in] one of them [i.e., of the bins, the crop which results] is exempt [from the laws of heave-offering, i.e., it is not treated as heave-offering]. And [as for] the second [bin] — he [thereafter] treats it as heave-offering. But [dough made from] it is subject [to the separation of] dough offering” — the words of R. Meir. But R. Yosé exempts [it from the separation of dough offering]. [If] a different person sowed the second [bin], [the resultant crop] is exempt [from the laws of heave-offering].

[If] one person sowed both [bins] — in the case of a kind [of produce] the seed of which disintegrates, [the crop] is permitted [for consumption as unconsecrated produce (M. 9:5-6)]. But in the case of a kind [of produce] the seed of which does not disintegrate, [the crop] is forbidden [for consumption as unconsecrated produce, i.e., it is treated as heave-offering].

[B] R. Zeira in the name of R. Hiyya bar Va: “The rule that if both of the bins of seed are planted together, the crop that results has the status of heave-offering applies only if he sowed the produce in the second bin before he harvested the crop that grew from the seed in the first bin. But if he sowed seed in the second bin after he harvested the crop that grew from the first, the two crops do not have the status of heave-offering, since that which was already harvested and produce that is not yet harvested do not join together to form evidence that all of the produce is heave-offering.”

[III:2 A] R. Hanina Torata in the name of R. Yannai: “An onion in the status of heave-offering that one planted, pulled up and replanted — once the new growth is greater than that which was originally planted, it is permitted for consumption by a non-priest.

[B] *Objected R. Zeira: Have we not learned in the Mishnah: in the case of a kind [of produce] the seed of which disintegrates, [the crop] is permitted [for consumption as unconsecrated produce But in the case of a kind [of produce] the seed of which does not disintegrate, [the crop] is forbidden [for consumption as unconsecrated produce, i.e., it is treated as heave-offering].* If it is a kind of seed that disintegrates, what grows from it is permitted at the point at which the new growth is greater than that which was originally planted. *And along these same lines:* in the case of a kind of seed that does not disintegrate, what grows from it is forbidden, even if the new growth is greater than that which was originally planted.”

[C] *R. Zeira is consistent with views expressed elsewhere, for R. Zeira in the name of R. Yohanan said, “As for an onion subject to the law of mixed seeds in a vineyard that they picked and replanted, even if it grows to many times its original size, it is forbidden under the law of mixed seeds. For that which grows from forbidden produce does not neutralize the same forbidden produce from which it grew.”*

YERUSHALMI TERUMOT

CHAPTER EIGHT

8:1

- [A] (1) The wife [of a priest] who was eating heave-offering,
[B] [and] they came and told her, “Your husband has died,” or “[Your husband] has divorced you” [such that the woman no longer has the right to eat heave-offering];
[C] (2) and so [in the case of] a slave [of a priest] who was eating heave-offering,
[D] and they came and told him, “Your master has died,” “He sold you to an Israelite,” “He gave you [to an Israelite] as a gift,” or, “He has made you a freeman” [in any of which case, the slave no longer may eat heave-offering];
[E] (3) and so [in the case of] a priest who was eating heave-offering,
[F] and it became known that he is the son of a divorcee, or of a woman who has performed the rite of removing the shoe of her deceased childless husband’s brother [and therefore may not eat heave-offering] —
[G] R. Eliezer declares [all of these individuals] liable to payment of the principal and [added] fifth [of the heave-offering they unintentionally have eaten as non-priests].
[H] But R. Joshua exempts.
[I] [If a priest] was standing and offering sacrifices at the altar, and it became known that he is the son of a divorcee or of a woman who has performed the rite of removing the shoe of her deceased childless husband’s brother —
[J] R. Eliezer says, “All of the sacrifices he had [ever] offered on the altar are invalid.”
[K] But R. Joshua declares them valid.

- [L] If it became known that he is blemished — his service [retroactively] is invalid.
- [M] And [in] all of these [cases], if they had heave-offering in their mouths [at the time they were notified that they were not fit to eat heave-offering] —
- [N] R. Eliezer says, “Let them swallow [it].”
- [O] But R. Joshua says, “Let them spit [it] out.”
- [P] [If] they told him [i.e., anyone with heave-offering in his mouth], “You have become unclean,” or “The heave-offering has become unclean” —
- [Q] R. Eliezer says, “Let him swallow [it].”
- [R] But R. Joshua says, “Let him spit [it] out.”
- [S] [If they told him,] “You were unclean [at the time you began to eat the heave-offering],” or, “The heave-offering was unclean,”
- [T] or [if] it became known that it [i.e., what he thought was heave-offering] is untithed produce, first tithe from which heave-offering [of the tithe] had not been taken or second tithe or produce dedicated [to the Temple] that had not been redeemed,
- [U] or if he tasted a bed-bug in his mouth —
- [V] lo, this one should spit it out.
- [I:1 A] The wife [of a priest] who was eating heave-offering:
- [B] There is no problem understanding why if they said to her, “Your husband has died,” she is exempt from paying restitution for the heave-offering. She had no way of knowing that he died and automatically deprived her of the right to eat heave-offering.] But as to “[**Your husband] has divorced you**” — [she got the writ of divorce, so how can she claim she didn’t know she couldn’t eat heave-offering any more. Why does Joshua think she is not culpable?]
- [C] Rabbis say, “It is in accord with a prior version of the Mishnah: ‘The daughter of an Israelite who was betrothed to a priest is permitted to eat heave-offering. And her father receives her writ of divorce [and she would not know or be culpable].’”
- [D] R. Eleazar says, “And you may even say that that the reference to the divorced woman accords with the later version of the Mishnah, [which holds that a woman who marries a priest may eat have offering only after the marriage has been consummated, when her father cannot receive the writ of divorce for her.]”

- [E] Explain the fact that her writ of divorce was carried out without her knowing it by proposing that she said to an agent, “Bring me my writ of divorce from such and such a place,” and it was a trip of ten days to bring it to her, and he found a swift horse and it brought the writ to her in five days. [She might have been divorced sooner than anticipated.]
- [F] *And does not R. Eleazar [the Amora] concur with R. Eliezer [the Tannaite authority], for we have learned in the Mishnah: [If she said,] “Bring me my writ of divorce,” she continues to have the right to eat food in the status of heave-offering until the writ of divorce reaches her hand ..., “Receive my writ of divorce in my behalf,” she is prohibited from eating food in the status of heave-offering from that point ..., “Receive my writ of divorce for me in such-and-such a place,” she continues to have the right to eat food in the status of heave-offering until [the messenger with a writ of divorce] reaches that place. R. Eleazar prohibits [her from eating food in the status of heave-offering] forthwith.*
- [G] But doesn’t R. Eleazar concede that if she said, “Receive my writ of divorce in such-and-such a place,” it is as though she told him it would not be a valid writ of divorce until ten days had gone by?
- [H] Said R. Hananiah, “Since she said to him, ‘Bring me my writ of divorce from such and such a place, it is as if she said to him, ‘It will be a valid writ of divorce only after ten days have passed.’ Consequently, she ate heave-offering thinking that she was permitted to eat the heave-offering.”
- [I:2 A] *R. Haggai asked the associates, “How do we know that one who eats [a sort of food he should not eat, e.g., an ordinary person who ate heave-offering] with the permission [of the court] is exempt [from punishment, as in our Mishnah’s law]? What is the difference [in Joshua’s view] between a case in which someone thought that the food was unconsecrated, but it turned out to have the status of heave-offering, in which case he is liable, and a case in which someone assumed that he was a priest, and he turned out to be an Israelite, in which instance he is exempt?”*
- [B] *They said to him, “[The difference derives from [the law concerning] the instructions of a court, [for if the court declared the man permitted to do so, then he is not liable, while if the error was his own, he is liable].” [Joshua will regard the case at M. Ter. 8:1 as analogous to one in which a person has received incorrect instruction from a court.]*
- [C] [What now follows assumes knowledge of M. Pes. 6:5, which states: **An animal designated as a Passover offering that one slaughtered**

under an improper designation on the Sabbath that coincides with the fourteenth of Nisan — one is liable on that account for a sin offering. And as to animals designated for any other animal offering that one slaughtered for the sake of Passover-sacrifice, if they are not appropriate to be offered as a Passover-sacrifice, one is liable. But if they are appropriate (e.g., male lambs, and so suitable to serve as a Passover-sacrifice — R. Eliezer declares liable for a sin offering, and R. Joshua declares him exempt.] *He said to them, “I have yet another question requiring [your attention]. What is the difference between a case in which one [slaughtered a beast because he] assumed that it was an ordinary day, while it turned out to be the Sabbath, in which case the person is liable [for violating the Sabbath], and a case in which [on the Sabbath that coincided with the fourteenth of Nisan, when the Passover offering was to be slaughtered] one [carried out an act of slaughter] assuming that it was an animal set aside as a Passover offering, but the sacrifice turned out to have the status of a peace-offering, in which case the person is exempt [from penalty, in the view of Joshua]?”*

- [D] They said to him, “The difference is that in the latter case he carried out the act of slaughter by permission. [That is, the man assumed it was permitted to slaughter the beast as a Passover-offering, and an inadvertent error in doing a commandment is not culpable.]”
- [E] *He said to them, “Yet another question do I need to raise: What is the difference between a case in which someone assumed that an act was permitted but it turned out to be forbidden, in which case one is exempt, and a case in which one assumed that something was forbidden fat [and he ate the fat], but it turned out to be permitted fat, in which instance the person is liable?”*
- [F] *[Now in this case] they did not answer him at all.*
- [G] *He said to them, “I shall tell you how we know [the basis for the difference]: ‘[If any one of the common people sins unwittingly in doing any one of the things which the Lord has commanded not to be done and is guilty] when the sin which he has committed is made known to him, he shall bring...’” [Lev. 4:27]. [So Scripture specifies the fact of the matter. In this case, the one who sins unwittingly has no reason to recognize the sin and bring an offering.]*
- [H] *R Yosé entered [the discussion]. They said to him, “Something is difficult for us.”*

[I] *He said to them, “And why don’t you respond to him on the basis of the following verse: ‘When the sin that he has committed is made known to him, then he shall offer...’ (Lev. 4:28)?”*

[J] *They said to him, “Haggai posed the question and Haggai answered it.”*

[II:1 A] **[If a priest] was standing and offering sacrifices at the altar, and it became known that he is the son of a divorcee or of a woman who has performed the rite of removing the shoe of her deceased childless husband’s brother — R. Eliezer says, “All of the sacrifices he had [ever] offered on the altar are invalid.” But R. Joshua declares them valid. If it became known that he is blemished — his service [retroactively] is invalid.**

[B] R. Yohanan in the name of R. Yannai: “This is one of three interpretations that are clearly supported by the Torah: ‘And you shall go to the priest who is in office at that time’ (Dt. 26:3) — and is there the possibility that there is a priest now who will not be a priest at a later date? [No, we assume that one who turns out not to be a fit priest never was a fit priest.]”

[C] Who might such a person be? It is one who was **standing and offering sacrifices at the altar, and it became known that he is the son of a divorcee or of a woman who has performed the rite of removing the shoe of her deceased childless husband’s brother.** [Someone can be a priest at one time and not at another time, which explains Joshua’s ruling.]

[D] Said Rab, “‘Bless Lord his substance and accept the work of his hands’ (Dt. 33:11) — anyone who is of the seed of Levi — his past service at the altar is valid.”

[E] *In the view of Rab*, Joshua holds that the past actions of a priest who turns out to be impaired are valid only in the offering of sacrifices. [But other priestly duties are not valid. Rab’s proof text speaks of the priest’s service at the altar.] *In the view of R. Yohanan*, Joshua’s view that the past service is valid applies to any action of the priest, as at Dt. 26:3).

[F] *In the view of Rab*, Joshua says the priest retains Holy Things of the Temple [given to him before he was discovered to be impaired; he must return other holy things that he was given.] *In the view of R. Yohanan*, Joshua he may retain even holy things of the provinces.

- [G] *In the view of Rab*, Joshua rules only for the time that the Temple is standing. *In the view of R. Yohanan*, Joshua rules even for the time that the Temple is not standing.
- [II:2 A] R. Jeremiah asked: “[Does the opinion of Joshua that the past service of the priest who turns out to be unfit is valid apply] even to these other cases?”
- [B] [Yes. Thus if he is doing another sort of rite, he completes it, e.g.,] he takes a handful of meal offering and burns it up; he collects the blood and tosses it; he burns the cow and sprinkles [the ashes of the cow mixed with water].
- [C] R. Jacob bar Zabedi in the name of R. Isaac: “They treated the case as a purification offering [a red cow] that had been stolen, but about which people in general did not know. [This is deemed an acceptable offering.]”
- [D] Thus has it been said, “He takes a handful and burns it up; he receives the blood and he sprinkles it on the altar; he burns [the red cow] and sprinkles [the ashes and water].”
- [E] R. Berekiah, R. Jacob bar Idi, R. Isaac asked, “If he was standing and making an offering at the altar, and it became known that he was the son of a divorcee or the son of a woman who had undergone the rite of removing the shoe [and thus was equivalent to a divorcee], *what does one do?* [That is, if such a person was performing a rite, and turned out during the rite to be found not valid, and then died, do we deem the death to be that of a valid high priest, such that a murderer in a city of refuge is permitted to return home? Since the rite is deemed valid, do we then conclude that, for other purposes, the priest’s status was valid for a time, including the purpose of allowing the murderer to leave the city of refuge?]
- [F] “[Do we rule that] if he dies, the murderer returns from the place of refuge to his home?”
- [G] “Or should [the murderer] be treated as one whose trial was completed and sentence laid down while there was no high priest at all, and let him not go forth from his place of refuge forever?”
- [H] *Let us derive the answer from the following:*
- [I] Said R. Simeon, “M ‘SH B: The water-reservoir of Disqus in Yavneh was measured and found lacking.
- [J] **“And R. Tarfon did declare clean, and R. Aqiba unclean.**

- [K] “Said R. Tarfon, ‘Since this immersion-pool is in the assumption of being clean, it remains perpetually in this presumption of cleanness until it will be known for sure that it is made unclean.’
- [L] “Said R. Aqiba, ‘Since this immersion-pool is in the assumption of being unclean, it perpetually remains in the presumption of uncleanness until it will be known for sure that it is clean.’
- [M] “Said R. Tarfon, ‘To what is the matter to be likened? To one who was standing and offering [a sacrifice] at the altar, and it became known that he is a son of a divorcee or the son of a *Halusah* —
- [N] “‘for his service is valid.’
- [O] “Said R. Aqiba, ‘To what is the matter to be likened?
- [P] “‘To one who was standing and offering [a sacrifice] at the altar, and it became known that he is disqualified by reason of a blemish —
- [Q] “‘for his service is invalid.’”
- [R] “Said R. Tarfon to him, ‘You draw an analogy to one who is blemished. I draw an analogy to the son of a divorcee or to the son of a *Halusah*.
- [S] “‘Let us now see to what the matter is appropriately likened.
- [T] “‘If it is analogous to a blemished priest, let us learn the law from the case of the blemished priest. If it is analogous to the son of a divorcee or to the son of a *Halusah*, let us learn the law from the case of the son of the divorcee or the son of a *Halusah*.’
- [U] “R. Aqiba says, ‘The unfitness affecting an immersion-pool affects the immersion-pool itself, and the unfit aspect of the blemished priest affects the blemished priest himself.
- [V] “‘But let not the case of the son of a divorcee or the son of a *Halusah* prove the matter, for his matter of unfitness depends upon others.
- [W] “‘A ritual pool’s unfitness [depends] on one only, and the unfitness of a blemished priest [depends] on an individual only, but let not the son of a divorcee or the son of a *Halusah* prove the matter, for the unfitness of this one depends upon ancestry.’
- [X] “They took a vote concerning the case and declared it unclean.

- [Y] “Said R. Tarfon to R. Aqiba, ‘He who departs from you is like one who perishes’” [T. Miq. 1:17ff.]
- [AA] Said R. Yosé, “That is to say, **[If a priest] was standing and offering sacrifices at the altar, and it became known that he is the son of a divorcee or of a woman who has performed the rite of removing the shoe of her deceased childless husband’s brother**, that his act of service is valid until it is invalidated by the court. That further indicates that a priest about whom there is doubt as to whether or not he is clean or blemished [and performs an act of service, his act of service is valid. *For you may compare it to the case of the son of a divorcee or of a woman who has performed the rite of removing the shoe of her deceased childless husband’s brother*. But if you compare it to the case of a blemished priest, his act of service is invalid.
- [BB] But in the case of the immersion pool is there not a doubt [whether or not it is unclean? [There is a doubt, yet Aqiba argues that the pool is deemed unclean. But analogy if there is a doubt about the fitness of the priest, his service should be invalid.
- [CC] Said R. Hanina, “That is to say, Matters of invalidated lineage require the intervention of the court.”
- [III:1 A] And [in] all of these [cases], if they had heave-offering in their mouths [at the time they were notified that they were not fit to eat heave-offering] — R. Eliezer says, “Let them swallow [it].” But R. Joshua says, “Let them spit [it] out.” [If] they told him [i.e., anyone with heave-offering in his mouth], “You have become unclean,” or “The heave-offering has become unclean” — R. Eliezer says, “Let him swallow [it].” But R. Joshua says, “Let him spit [it] out.” [If they told him,] “You were unclean [at the time you began to eat the heave-offering],” or, “The heave-offering was unclean,” or [if] it became known that it [i.e., what he thought was heave-offering] is untithed produce, first tithe from which heave-offering [of the tithe] had not been taken or second tithe or produce dedicated [to the Temple] that had not been redeemed, or if he tasted a bed-bug in his mouth — lo, this one should spit it out.
- [B] Said R. Yohanan, “Where there is a dispute, it involves a wife of a priest or a slave who belongs to a priest, but in all other cases [the priest who finds out he is son of a divorcee or a Halusah] even R. Eliezer concedes that the priest must spit out heave-offering that is in his mouth.”
- [C] *Said R. Samuel b. R. Isaac, “The Mishnah confirms that point: or [if] it became known that it [i.e., what he thought was heave-offering]*

is untithed produce, first tithe from which heave-offering [of the tithe] had not been taken or second tithe or produce dedicated [to the Temple] that had not been redeemed, or if he tasted a bed-bug in his mouth — lo, this one should spit it out. *And here R. Eliezer does not differ. What is the thinking of R. Eliezer?* The man was permitted to eat heave-offering when he began to eat it.” [But in the other cases, he should not have begun to eat, so has to spit out the heave-offering in his mouth.]”

- [D] *It was taught as a Tannaite statement:* R. Nathan says, “The operative consideration is not that the man was permitted to eat heave-offering when he began to eat it. Rather, R. Eliezer says, ‘What is chewed up is comparable to what is already swallowed. [It makes no difference whether he swallows or spits out. Once it is chewed up, he may just as well swallow it.] ‘The same principle applies also to the Sabbath [if someone carried chewed up food in his mouth from private to public domain, he is not liable for carrying on the Sabbath. The same principle applies also to Passover [if he only chews the requisite volume of unleavened bread but does not swallow it, he has carried out the requirement of eating unleavened bread.] The same principle applies also to the Day of Atonement [who chews but doesn’t swallow food is as if he ate.] The same principle applies also to the Nazirite [with grapes]. The same principle applies also to carrion and to improperly slaughtered meat and to meat of unclean animals and to creeping things.”

[III:2 A] R. Hiyya in the name of R. Yohanan: “He who slaughters an animal and finds in its stomach meat from an unclean animal — it is forbidden to eat that unclean meat. What is the scriptural basis for that rule? ‘Meat of a permitted animal found in a permitted animal you may eat.’ But Scripture does not say, ‘Meat of an unclean animal found in a permitted animal you may eat.’”

- [B] Said R. Jonah, R. Hoshaia asked: “What is the difference between our case and the case of **mites found in lentils, gnats found in pods, or worms found in dates and dried figs [that one may eat]** [T. Ter. 7:11]?”

[C] *There they are part of the produce itself, but here the unclean meat is not part of the permitted meat itself.*

- [D] *Brine from pickled fish [that contains fish blood] before the brine has been strained, the blood is permitted, but once it has been strained to that the blood is separate, it is forbidden for consumption.*

- [E] Blood on a loaf of bread — he may scrape it off and eat it. If it is already between his teeth, he may eat the blood and need not scruple [T. Ter. 8:11].
- [F] Unclean mites, bees, and all unclean insects — is it possible that they should be deemed unclean while still attached to a piece of fruit? Scripture says, “They are unclean” (Lev. 11:20-23). That is when they are animals unto themselves, but not when they are attached to produce.
- [G] Might one suppose that they are fit for consumption even if they left the piece of fruit and returned to it?
- [H] Scripture says, “They are unclean” (Lev. 11:20-23) — that is so even if they left the produce and came back.
- [I] R. Hiyya bar Ashi in the name of Rab: “Even if they were attached to the produce and moved to the edge and then came back, to the center, lo, these are forbidden for eating.”
- [J] Abba bar R. Huna in the name of R. Yohanan: “He who slaughters an animal and finds in it the flesh of a pig — the pig is permitted for eating.”
- [K] R. Jonah said, “It is forbidden for eating. How come? ‘The flesh of an animal that is found in an animal you may eat, but not the flesh of an unclean bird found in an animal, and you may not eat the flesh of an unclean animal that is found in a clean animal.’”

[IV:1 A] or if he tasted a bed-bug in his mouth:

- [B] And the bed bug is not the end of the matter, but he must spit out anything that disgusts someone.

8:2

- [A] **[If] he was eating a cluster of grapes [as a chance meal, free from liability to tithe] and entered from the garden into the courtyard [at which point the grapes are subject to the separation of tithes (M. Ma. 3:5-6) —**
- [B] **R. Eliezer says, “Let him finish [eating the cluster].”**
- [C] **R. Joshua says, “He may not finish it [before he separates tithes].”**
- [D] **[If he was eating a cluster of grapes as a chance meal and] dusk fell on the eve of the Sabbath [at which point the produce he is eating is subject to the separation of tithes (M. Ma. 4:2)] —**
- [E] **R. Eliezer says, “Let him finish [eating the cluster].”**

[F] **R. Joshua says, “He may not finish it.”**

[I:1 A] *There we learned in the Mishnah:*) **A grapevine that is planted in a courtyard — “[the householder] takes the entire cluster of grapes [from the vine, and incurs no obligation to tithe]. And [this is] also [the case] with a pomegranate [picked from a tree growing in a courtyard], as well as a melon [picked from a vine growing in a courtyard]” — the words of R. Tarfon.**

[B] R. Zeira, R. Hiyya in the name of R. Yohanan says, “R. Tarfon rules in accord with R. Eliezer [**[If] he was eating a cluster of grapes [as a chance meal, free from liability to tithe] and entered from the garden into the courtyard [at which point the grapes are subject to the separation of tithes (M. Ma. 3:5-6) — R. Eliezer says, “Let him finish eating the cluster.”]**] R. Tarfon holds they assess the status of the food as to tithing at the conclusion of the man’s eating it to be the same as its status at the beginning. [If he can eat some portion of the food without tithing, he may eat all of it without tithing.]”

[C] R. Ila, R. Isa in the name of R. Yohanan say, “R. Tarfon rules in accord with R. Eliezer. R. Tarfon says, “They treat as comparable to a single act of eating a single act of eating an piece of fruit that normally would require two or three acts of eating [for instance a grape cluster is segmented] [Eating any small part of the piece of fruit is comparable to eating the whole thing. We need not distinguish between what the man eats before he enters the courtyard and what he eats afterward, so Eliezer. There is no difference between someone who picks individual grapes from a vine in the courtyard and one who picks the whole cluster, so Tarfon.]”

[II:1 A] [**if] he was eating a cluster of grapes [as a chance meal, free from liability to tithe] and entered from the garden into the courtyard [at which point the grapes are subject to the separation of tithes (M. Ma. 3:5-6) — R. Eliezer says, “Let him finish [eating the cluster].” R. Joshua says, “He may not finish it [before he separates tithes].”**] What is the reason of R. Eliezer [who permits the man to finish eating without separating tithes]?

[B] It is because he started eating by permission without having to tithe, so he may finish without tithing.

[C] *It was taught as a Tannaite rule:* R. Nathan says, “It is not that R. Eliezer holds because he started eating by permission without having to tithe, so he may finish without tithing. It is **because R. Eliezer says, ‘The householder may wait until the end of the Sabbath or until he leaves the courtyard and then finishes eating’**” [T. Ter. 8:10],

8:3

- [A] Wine in the status of heave-offering that is left uncovered — let it be poured out [lest a snake drank from it and deposited in it venom].
- [B] And there is no need to state [that this is the law in the case] of unconsecrated [wine that is left uncovered].
- [C] Three [kinds of] liquids are forbidden [for consumption] on account of being left uncovered:
- [D] (1) water, (2) wine and (3) milk.
- [E] But all other liquids are permitted [for consumption, even if they are left uncovered].
- [F] Remaining [uncovered for] how long renders them [i.e., the liquids listed at D] forbidden?
- [G] Long enough for a snake to leave a nearby [hiding-] place and drink [from them].
- [H] [This is] the quantity of uncovered water [that is permitted for consumption]:
- [I] [any amount] such that the venom [of a snake] will be diluted in it [and not poison the water].
- [J] R. Yosé says, “[Water] in [uncovered] vessels [becomes forbidden] in any quantity [i.e., no matter how large the vessel, water left uncovered in it is prohibited];
- [K] “and [as for water in pools in] the ground — [if there is more than] forty se’ahs [it is permitted].”
- [L] (1) Figs, (2) grapes, (3) cucumbers, (4) gourds, (5) watermelons, and (6) chate-melons which have on them teeth marks [of snakes], even if they are in a jug
- [M] it is all the same whether they are large or small;
- [N] it is all the same whether they are picked or unpicked;
- [O] any [of them] that has moisture in it
- [P] is forbidden.
- [Q] And [a beast that has been] bitten by a snake is forbidden [for slaughter as food],
- [R] as a danger to life.
- [S] [A container of wine covered with] a wine-strainer is forbidden on account of [the laws of] uncovered [liquids].
- [T] R. Nehemiah permits.

- [I:1 A] R. Jacob bar Aha, R. Simeon bar Abba in the name of R. Hanina: “Wine that was left exposed must be spilled out, even if it is heave-offering. A stew that was prepared with water that had been left exposed must be spilled out, even if it is heave-offering. And it goes without saying that that is the rule for secular produce.”
- [B] *Said R. Yosé, “The Mishnah made that point in so many words: **Wine in the status of heave-offering that is left uncovered — let it be poured out [lest a snake drank from it and deposited in it venom]. And there is no need to state [that this is the law in the case] of unconsecrated [wine that is left uncovered].**”*
- [I:2 A] *Associates in the name of R. Yohanan: “Wine that was left exposed — it is forbidden to drink it, and if one kept the wine and on its own it soured into vinegar, it is still forbidden. Figs and grapes that were bitten by snakes and are forbidden for eating — it is forbidden to hold on to them, lest someone eat them. But if they dried up, they are permitted for eating.”*
- [B] *In the locale of R. Hiyya the Elder they would perforate figs with teeth marks so the associations would not eat them. But R. Hiyya the Elder would eat them, since in his view they were not forbidden.*
- [C] *There was a case, [someone ate those figs and was poisoned] and even so he did not regard them as forbidden.*
- [D] *But isn't it taught on Tannaite authority: **[If] one saw a bird peck at a fig, or a mouse gnaw at a watermelon — both of these are forbidden [on account of the law of food with snake bites on it (M. 8:6)]. For I say, “Lest they [already] had snake bites on them” [T. Ter. 7:17].***
- [E] *Did he actually guard the produce [to know that before the bird or mouse gnawed at the produce, it contained no teeth marks of snakes?]*
- [I:3 A] R. Isaac bar Nahman in the name of R. Joshua b. Levi: “[If wine was] sweet, bitter, or strong, the [prohibition of wine that has been left] uncovered does not [apply, because that prohibition is based on the possibility that a snake has drunk from the open keg and imparted its venom to the wine in the keg, and snakes will not drink from these three sorts of wine].”
- [B] R. Simon in the name of R. Joshua b. Levi [said], “Strong, bitter, and sweet wine is not subject [to prohibition on the count of wine that has been left] uncovered or [to prohibition on the count of wine that has

been used] for idolatrous purposes[, because gentiles will not use wine of such character for libations].”

- [C] R. Simon explains the character of these three types of wine: “Strong is spiced wine, bitter is absinthiatum, and what is sweet? It is boiled wine.”
- [D] R. Joshua b. Zeidel possessed boiled wine that had been set aside [for a time] in the domain of a gentile. He asked R. Yannai b. R. Ishmael [whether or not he might make use of this wine, since it was boiled and so, in line with Simon’s view of Joshua b. Levi’s opinion, not likely to have been utilized for a libation].
- [E] He said to him, “Thus did R. Simeon b. Laqish say: ‘Sweet wine is not subject [to prohibition on the count of wine that has been left] uncovered or [to prohibition on the count of wine which has been used] for idolatrous purposes.’” [The status of boiled wine would appear, then, to be different, since it is omitted from the cited list, and so boiled wine would be prohibited under the stated circumstances.]
- [F] *R. Yannai b. R. Ishmael fell sick. R. Zeira, R. Joshua, R. Bun bar Kahana, and R. Hananiah, associates of the rabbis, went up to visit him. They found R. Joshua bar Zeidel sitting there. They said, “Lo, here is the master of the tradition, and here also is the master about whom the story is told [that is, here are both Yannai and Joshua b. Zeidel]. Let us then phrase the question [once again].”*
- [G] He [Yannai] said to them, “Thus did R. Simeon b. Laqish say: ‘Sweet wine is not subject [to prohibition on the count of wine that has been left] uncovered or [to prohibition on the count of wine that has been used] for idolatrous purposes.’”
- [H] *He said to him, “Perhaps the saying of R. Simeon b. Laqish [serves merely to state] thus and so [that is, what is reasonable but not an applied law].”*
- [I] [Yannai] said to them, “It was for a concrete precedent, and they relied [for a practical ruling] on it.”
- [J] *After they left, R. Ila [met] R. Bun bar Kahana. He said to him, “If it were not that you prefer traditions [in the name of Amoraic authorities, you might have taken note of an earlier Tannaitic ruling, for] is it not a Mishnah tradition?”*
- [K] “[For] R. Hiyya taught, ‘As to boiled wine belonging to a gentile, why is it prohibited? It is because, to begin with, it was wine [and useful for a libation, even though its character now has changed].”’

- [L] *R. Yosé said, “The Mishnah itself has [explicitly] said the same: **[Prohibited are] wine and vinegar that to begin with was wine**” [M. A.Z. 2:3B].*
- [M] *R. Ammi had guests. He said to them, “If it were not that my boiled wine had been left uncovered, I should have been able to give you something to drink.”*
- [N] *Said to him R. Bibi, “Bring it along, and we shall drink it [since, if it was left uncovered, being boiled wine, it is not prohibited anyhow].”*
- [O] *He said, “Someone who wants to die — let him go and die in his own house [and not in my house].!”*
- [P] *Bar Yudenah had spiced wine [that had been left] uncovered. He asked rabbis, and they declared it prohibited. Now did not R. Isaac bar Nahman say in the name of R. Joshua b. Levi, “[If wine was] sweet, bitter, or strong, the [prohibition of wine that has been left] uncovered does not [apply? And spiced wine falls within the stated rule]”*
- [Q] *Rabbis of Caesarea in the name of R. Judah bar Titus [interpreted the rule governing spiced wine to apply to a heavily spiced wine, in which] one pounded one [spice] into three parts [so that the wine was thickened by the pulverized spices. The wine was not really spiced.]*
- [R] *They asked in session before R. Abbahu, “Boiled wine that was left uncovered — what is the law?”*
- [S] *He said to them, “[Concerning the same problem in connection with] Qanna wine [a very sweet sort] did I have to ask R. Yohanan, and do you now ask me about this kind?”*
- [T] *They asked R. Isaac, and he declared it prohibited to them. At that point R. Abbahu recalled that R. Yohanan [also] had ruled that it was prohibited.*
- [U] *The water tank of Bar Netizah was left uncovered. He asked R. Bar bar Mamal [whether or not he might still make use of the contents]. He said to him, “If [someone] was going in and coming in, it is permitted [on grounds that a person would frighten away a snake].”*
- [V] *R. Jacob bar Aha, R. Ammi in the name of R. Eleazar. “If [someone] was sleeping [in the room, the contents of the vat are] permitted.”*
- [W] *R. Haninah, R. Joshua b. Levi — one said, “[If] someone was sleeping [in the room, the contents of the vat are] permitted.” And one said, “[If someone was] sleeping [in the room, the contents of the vat are] prohibited.”*

- [X] *It is reasonable to suppose that it is R. Haninah who said, “[If someone] was sleeping [in the room,] the [contents of the vat are] permitted,” because in all instances, R. Eleazar relied upon the rulings of R. Haninah, and R. Eleazar said that if someone was sleeping in the room, the contents of the vat are permitted,*
- [Y] *R. Yosé b. Saul told the story of the following case: There was an incident involving a certain woman, who loved to perform the religious commandments [such as feeding the hungry], while her husband hated to perform them. Now a poor man came along, so she gave him food, and he ate. When she sensed that her husband was coming back, she took the poor man away and hid him in the attic. She set food before her husband, and he ate and then fell asleep. A snake came along and supped from the same dish. When her husband woke up from his sleep, he wanted to eat. The man in the attic began to chatter [so warning the husband not to eat the food].*
- [Z] Now does the law not state, “If someone was sleeping [in the same room as the food], [the food] is permitted”? [So why should the man have refrained from eating the food anyhow?]
- [AA] *[The serpent] was wrapped around [the bowl, so there was every reason to believe that the serpent had eaten some of the food]*
- [BB] And is not [the wife] prohibited [to the husband] by reason of having been alone [with the poor man]? “Because they are adulteresses, and blood is upon their hands” (Ez. 23:45) [— meaning if she is guilty of the one, she will be guilty of the other]. Because [the poor man] was not suspect in regard to shedding blood [as he would have been had he permitted the husband to eat the poisoned food], so he was not suspect in regard to fornication.
- [CC] M ‘SH B: Now there was a certain pious man, who [nonetheless] ridiculed [the rules governing leaving liquids] uncovered. [Because he drank polluted liquid,] he was smitten with a fever. People saw him sitting and expounding [the law] on the Day of Atonement with a flask of water in his hand [on account of his fever].
- [DD] M ‘SH B: A butcher in Sepphoris fed Israelites carrion and terefah-meat. One time at the eve of the Day of Atonement toward dusk he drank a great deal of wine and got drunk. He climbed up to the roof of his house and fell down and died. Dogs began licking at his blood.
- [EE] *They came and asked R. Haninah, “What is the law as to carrying in his corpse [out of the public domain] on account of [the dogs]?”*

- [FF] He said to them, “It is written, ‘You shall be men consecrated to me; therefore you shall not eat any flesh that is torn by beasts in the field] you shall cast it to the dogs’ (Ex. 22:31). This man stole from the dogs and fed Israelites carrion and terefah-meat. Leave him be. [The dogs] are eating what belongs to them anyhow.”
- [GG] *A man had an open keg. On the eve of the Great Fast [the Day of Atonement] he went, planning to empty out [the contents of the keg]. His friend said to him, “I shall come and drink what is in the keg.”*
- [HH] *He said to him, “It has been left uncovered.”*
- [II] *He said to him, “The Master of the Day will preserve [me, since it is a religious duty to eat and drink on the eve of the Day of Atonement].”*
- [JJ] *He did not give thought to drinking [all] the wine in the keg. He had tasted only a little bit when he grew weak [because of the poison in the wine].*
- [KK] R. Jeremiah in the name of R. Hiyya bar Ba: “All poisons cause sores. But the poison of a snake kills.”
- [LL] R. Hiyya said, “They do not accept questions concerning liquids that have been left uncovered.”
- [MM] *R. Jeremiah asked R. Zeira a question [concerning liquids that had been left uncovered].*
- [NN] *Now does the master of the tradition ask a question concerning that same tradition [which is attributed to him]?*
- [OO] *He was dozing off [and did not pay attention].*
- [PP] *R. Zeira was sitting and eating in the evening. The lamp went out. He put out his hand on the lamp and kindled a light and found an adder as thin as a hair wrapped around the lamp. He said to it, “Wicked one! I should never have been careful to watch out for you.”*
- [QQ] *Said R. Ammi, “We have to scruple concerning things about which people in general are scrupulous. Thus: It is forbidden to put small coins into your mouth, bread under your arm [because of the perspiration], a cooked dish under a bed, to stick a knife into an etrog, or a knife into a radish.”*
- [RR] *Said R. Yosé b. R. Bun, “Any form of sweat that exudes from a person is a poison, except for the sweat of the face.”*
- [SS] Said R. Yannai, “[If people want to endanger themselves for some small benefit, say to them,] ‘If he plucks [gains anything], he plucks a

piece of coal, if he loses, he loses a pearl [his life, thus risking his life for a trifle].”

[TT] *As to R. Jonathan, when someone would ask him a question [involving a liquid left uncovered], he would reply to him, “Am I a pledge for your life [if you want to risk it]?”*

[UU] *Said R. Simeon b. Laqish [to someone who asked about drinking that which had been left uncovered], “If you sold yourself to Lyddians [who eat human flesh, for which they pay a high price], you would then sell yourself for a good price. But here [are you ready to sell yourself] for a paltry sum!”*

[I:4 A] *It is taught as a Tannaite statement: **Water that has been left uncovered — (1) one may not sprinkle his house with it [in order to lay down the dust], (2) and may not pour it out into public domain, may not give it to a gentile to drink and may not give it to an animal owned by his fellow. But he may water his own cattle with it.***

[B] Water that has been left uncovered — one may not mix plaster with it and may not use it to wash clothes and may not use it to rinse pots and pans, and there is no need to say, one may not **wash his face, hands or legs with it. Others say, “They did not say [that is the case] except if he has a cut” [T. Ter. 7:14].**

[C] One’s face is considered like a cut [and one cannot use the water to wash his face with it]. One’s fingers and toes are like cuts.

[D] Water that has been left uncovered — one may not use it to prepare dough.

[E] R. Nehemiah says, “If one baked it, this is permitted, since the venom of the snake is destroyed by fire.

[F] [Water that has been left uncovered — one may not use it to prepare dough:] said R. Simon in the name of R. Joshua b. Levi, “That is the rule if after baking the bread does not fall. But if it falls, it is forbidden.

[G] All agree that even if water left uncovered is heated, it remains forbidden [T. Ter. 7:13].

[H] What is the difference between bread [in which the venom is destroyed] and water [even when heated is forbidden]?

[I] Here in the case of bread, the fire has power but in the case of water the fire does not have power.

- [J] Here [in the case of water] the utensil separates water from the fire. But here in the case of bread, no utensil separates the dough from the fire.
- [K] Samuel said, “What will this wicked creature do to me, since I drink only water that has been boiled.”
- [L] What he indicates is, if the water was cold and then was heated up, it is permitted.
- [M] Said Hanina, “That wicked creature is clear-minded and does not drink water that has been warmed up and cooled down.”
- [N] What he indicates is, if the hot water was cooled down, it is permitted.
- [O] R. Abbahu in the name of R. Yohanan: “One way or the other, it is forbidden.”
- [P] *A Tannaite teaching supports R. Yohanan: As for hot water in an uncovered pot, so long as it releases steam, it is not subject to the law of uncovered liquid [T. Ter. 7:13].*
- [Q] As for water left uncovered, even though one heated it up, since it has cooled down, it is forbidden.
- [I:5 A] **Water in which one soaked pickled [vegetables], foods that had been boiled or lupines —**
- [B] **if [the vegetables] were of sufficient [quantity] to impart taste [to the water, the water] is permitted [i.e., not subject to the law of uncovered liquids].**
- [C] **But if not, it is forbidden [i.e., is subject to the law].**
- [D] **Water in which one rinsed quince or Damascene plums for a sick person, is forbidden [i.e., is subject to the law].**
- [E] Water in which one rinsed grapes or quince is forbidden.
- [II:1 A] **[A container of wine covered with] a wine-strainer is forbidden on account of [the laws of] uncovered [liquids]. R. Nehemiah permits:**
- [B] R. Nehemiah says, “If the upper vat into which the wine to be strained is poured was covered, even the lower vat into which the wine was being strained is uncovered, lo this is permitted.”
- [C] **R. Judah says, “If the bottom [vat; i.e., the one into which the wine is being strained] was covered [by the strainer], even though the top [of the strainer, where the wine being strained is poured] was**

uncovered — “lo, this [i.e., the wine that has been strained] is permitted [see M. 8:7B], for the venom of a snake is like a sponge and stays in its own place [i.e., it does not pass through the strainer into the lower vat].” [T. Ter. 7:13]

[D] Said R. Eleazar, “That is the case if he did not mix up the wine in the strainer. But if he stirred it up, then the wine that has been strained into the lower vessel is forbidden.”

[II:2 A] A bottle in its case — what is in it is permitted. If it is covered but not corked, what is in it is forbidden. If it is corked but not covered, if the cork sticks out of the neck of the bottle, the contents are permitted [T. Ter. 7:16].

[B] [How far must the cork protrude?] Two Amoraim — one said, “Far enough that the bottle can be lifted by its cork.” The other said, “Tight enough that the whorl of a spindle cannot enter.”

[C] *Said R. Abba, “One who wishes to do things right should cork and cover the bottle.”*

[II:3 A] **An [open] bottle [filled with liquid] which they placed in a chest, a strong box, or a cupboard) which they forgot and then found again — lo, this is forbidden [on account of the law of uncovered liquids]. [If] he checked them [i.e., the storage places, to see that no snake was in them and then] placed [the bottle of liquid, in the storage place] — lo, this is permitted [T. Ter. 7:16].**

[B] *A case came before Rabbi of person who saw a snake opening and closing the top of a utensil. He said, “Because of this wicked creature, should we regard covers as not an effective seal?”*

[C] *Said R. Mana, “It is not logical to do more than regard the liquid uncovered in that particular case to be forbidden.”*

[III:4 A] Said R. Jeremiah, “Milk produced by a gentile[’s cow] — why is it forbidden? Because of the mixture [of milk from] an unclean beast [together with that produced by a clean beast, since the gentile need not scruple about such considerations].”

[B] *And so it has been taught in a Tannaitic tradition: **An Israelite may sit at the other side of his corral, and a gentile may milk the cows and bring the milk to him, and he need not scruple [T. A.Z. 4:11P] [so the issue of protecting the milk from contamination is not critical].***”

- [C] Raba in the name of R. Judah, R. Simon in the name of R. Joshua b. Levi: “Milk produced by a gentile[‘s cow] — why is it forbidden? Because it is suspect of being left uncovered.”
- [D] But let the milk curdle and turn into cheese. [The venom will float to the top.]
- [E] Said R. Samuel bar R. Isaac, “[Even if no venom appeared on top of the cheese, it is still forbidden] because the venom might remain in the holes of the cheese [and would not be visible on the surface.]”

[III:5 A] “There are three classifications of venom: the venom of a young snake sinks to the bottom, that of one not so young drops to the middle, and the venom of an old snake floats on the top like a web of mesh.”

- [B] *In the time of R. Jeremiah a reservoir of wine was left open in the study hall. The first ones drank from it and did not die. But the ones who drank from it later on died.*
- [C] I say: The wine contained the type of venom that sinks to the bottom.
- [D] *Workers were in the field. A jug of water was left uncovered.. The first ones drank from it and did not die. But the ones who drank from it later on died.*
- [E] I say: The water contained the type of venom that sinks to the bottom.
- [F] *A Tannaite formulation of the same matter: [As for] a jug of wine left uncovered **and a watermelon at which [the mouse] gnawed, and ten men [later] ate from it [without being poisoned] — the rest [of the watermelon], lo, this [still] is forbidden.** For I say, The food contains a venom that sinks to the bottom. **And so [in the case of] a jug [of wine] that was left uncovered, and [later] ten men drank from it [without being poisoned] — the rest [of the wine], lo, this is forbidden [T. Ter. 7:17].** For I say, The food contains a venom that sinks to the bottom.*

[III:6 A] **Five [liquids] are not subject to [the prohibition of consumption on account of danger of poisoning in an instance of being discovered in a vessel that is] uncovered: brine, vinegar, oil, honey and muries. And R. Simeon forbids in the case of honey [T. Ter. 7:12].”**

- [B] Sages concede to R. Simeon that if they saw the snake bite at the honey, it is forbidden.
- [C] *R. Hinena bar Pappa had a jar of honey in his hand. He did not suffice to ask whether it was forbidden for having been left uncovered when it shattered in his hand.*

[D] *Both Rab and Samuel say, “The earth has been given permission to split open before [the snake] and the utensil has not been given permission to split open before a snake.*

[E] R. Hiyya the Elder and R. Simeon b. Rabbi were sitting in a house paved with marble. They said, “Is it possible that a snake will appear in here?” A snake appeared. They said, “Blessed is he who chose sages, for sages said, ‘The earth has been given permission to split open before [the snake] and the utensil has not been given permission to split open before a snake.’”

[III:7 A] *R. Yannai was very much afraid of snakes. He put the legs of his bed in four pots of water [to keep the snake from slithering into his bed]. One time he reached out his hand and found a snake near him. He said, “Take this snake away from me, ‘Lord who preserves the simple’ (Ps. 116:6).*

[III:8 A] And what is the requisite size of a hole [indicating a snake has bitten in and imparted venom to the contents]?

[B] R. Jacob bar Aha in the name of R. Hanina held out his little finger and said, “Even if the hole is as small as a child’s finger.”

[C] R. Jacob bar Aha, R. Simeon bar Va in the name of R. Joshua b. Levi: “Even if it is so small that the tip of a finger of a one day old child will not fit into it, even if the opening is smaller than this, it is possible for the snake to get in. But in the case of smaller holes, the liquid is permitted, *for if snakes are not certain that they can leave the utensil, they do not enter it in order to drink.*”

[D] In the case of a utensil with many holes, even If the holes are very small, the liquid is forbidden, for a snake will enter through this hole and leave through that.

[E] In the case of a satchel, no matter how high off the ground it is hung, the liquids in it are forbidden. For the snake limbs down the rope from which the bag is hanging and gets to the contents.

[IV:9 A] **Remaining [uncovered for] how long renders them [i.e., the liquids listed at D] forbidden? Long enough for a snake to leave a nearby [hiding-] place and drink [from them]:**

[B] What is the definition of “nearby”?

[C] Said R. Samuel, “From the handle of the utensil to its mouth.”

[D] *But won’t the householder see the snake [if it’s that close]?*

- [E] Said R. Hanina, “There is a very small snake, called a serpent, and it looks like a hair.”
- [V:1 A] **[This is] the quantity of uncovered water [that is permitted for consumption]: [any amount] such that the venom [of a snake] will be diluted in it [and not poison the water]. R. Yosé says, “[Water] in [uncovered] vessels [becomes forbidden] in any quantity [i.e., no matter how large the vessel, water left uncovered in it is prohibited]; and [as for water in pools in] the ground — [if there is more than] forty se’ahs [it is permitted]:”**
- [B] *It was taught as a Tannaite statement: [In the case of water in a pool in the ground, forty se ‘ahs.*
- [C] **R. Nehemiah says, “[There must be enough water] for a keg made in Shihin to be filled from it.”**
- [D] **[As for] wine —**
- [E] whether it is in the ground or in a vessel, it is forbidden [on account of the law of uncovered liquids] [T. Ter. 7:14].
- [F] **Wine which still is fermenting — as long as it is fermenting, it is not liable to [the law of] uncovered liquids. And how long [after its manufacture is wine deemed still to be] fermenting? Three days [T. Ter. 7:15].**
- [G] **A case: A snake was found dead in a vat of wine. They came and asked R. Judah b. Baba [to rule on whether or not the wine was forbidden] and he declared the vat permitted for them [T. Ter. 7:15].**
- [H] **[As for] a spring — as long as it is running, it is not liable to [the law of] uncovered liquids. Said R. Ishmael b. R. Yohanan b. Beroqah, “*ma’aseh*: R. Yohanan b. Beroqah went to [the home of] father, R. Yohanan b. Nuri in Beth Shearim and found a pond that did not have in it three *logs* of water. Rain was pouring into the pond. And he bent over and drank from it. He said, ‘Such is no subject to the laws of uncovered liquids’” [T. Ter. 7:14].**
- [I] How much rain must be falling for the water in the pond to be deemed permitted?
- [J] R. Mana bar Tanhum in the name of R., Hanina: “Enough to fill up the grooves made by running water in mountain slopes.”
- [K] R. Eleazar b. R. Yosé in the name of Rab: “Enough to make splatter marks that look like goose-feet.”

- [L] Said R. Jacob bar Aha, “Once water in ponds has been made permitted by the rain, water that forms puddles inside the house also is permitted.”
- [V:2 A] *R. Hoshaiyah taught as a Tannaite rule:* “The rules of uncovered liquids apply both in the Land and abroad, both in the summer season and in the rainy season.”
- [VI:1 A] **(1) Figs, (2) grapes, (3) cucumbers, (4) gourds, (5) watermelons, and (6) chate-melons which have on them teeth marks [of snakes], even if they are in a jug it is all the same whether they are large or small; it is all the same whether they are picked or unpicked; any [of them] that has moisture in it is forbidden. And [a beast that has been] bitten by a snake is forbidden [for slaughter as food], as a danger to life. [A container of wine covered with] a wine-strainer is forbidden on account of [the laws of] uncovered [liquids]. R. Nehemiah permits.**
- [B] *Said R. Yuda b. Pazzi, “Who is the Tannaite authority who teaches that produce with teeth marks of snakes is forbidden? It is Rabban Gamaliel, for Rabban Gamaliel says, ‘Also: the snake renders purification water from which it drinks invalid, because it vomits’ [M. Par. 9:3].”*
- [C] Said R. Jonah, “What does the case of a divine commandment have to do with the case of the tooth marks of snakes, which are legislated because of a danger to life? *Is it not taught as a Tannaite rule: [If] one saw a bird peck at a fig, or a mouse gnaw at a watermelon both of these are forbidden [on account of the law of food with snake bites on it (M. 8:6)]. For I say, “Lest they [already] had snake bites on them.” [As for] a watermelon at which [the mouse] gnawed, and ten men [later] ate from it [without being poisoned] — the rest [of the watermelon], lo, this [still] is forbidden [T. Ter. 7:17].”*
- [D] And said R. Abba, “It is the opinion of Gamaliel alone, for he says, ‘A snake vomits.’”
- [E] Said R. Jonah, “What does the case of a divine commandment have to do with the case of the tooth marks of snakes, which are legislated because of a danger to life?”
- [F] But what of the rule for meat that is improperly slaughtered?
- [G] *It was taught [in this regard:] If one slaughtered [an animal] and wolves dragged its entrails away [before he could examine them, we rule that the animal] is fit for consumption. Should we not suspect*

perhaps that [the intestines] were [previously] punctured [and the animal was unfit for consumption]?

[H] R. Ba in the name of sages there [in Babylonia], “The presumption is that the entrails will be found fit.”

[I] *And here you say this!*

[J] A more stringent rule pertains where there is a danger to life.

[K] The rule for produce that has teeth marks of snakes represents the opinion of Rabban Gamaliel alone.

[VI:2 A] *A Tannaite statement:* R. Eliezer says, “Someone eats figs and grapes by night and does not concern himself, as it is said, ‘the Lord preserves the simple’ (Ps. 116:6).”

[VI:3 A] R. Jonah in the name of Rab: “A fish with teeth marks is forbidden.”

[B] R. Hezekiah, R. Tabi in the name of Rab: ““A live fish with teeth marks is forbidden. A pickled, salted fish with teeth marks is permitted, for pickling causes the venom to dissipate. A dead fish with teeth marks — he removes the place where the teeth marks are located and eats the rest of the fish.”

[C] R. Jacob bar Aha in the name of R. Hiyya bar Abba, “A watermelon with teeth marks on it, the core of which is liquid, is forbidden.”

[D] *Someone was carrying a cucumber with teeth marks on it. He fed it to ten people and they died. The spittle of a snake inside the moist cucumber had permeated the whole thing.*

[E] *Some one hated lamb. Once he was eating meat and someone passed by an told him it was lamb. He choked and died.*

[F] *Ass drivers were staying at an inn. They said, “Give us lentils to eat,” and the innkeeper gave it to them. They asked for a second helping and he gave it to them. They said, “The first were better than these.” He said to them, “We didn’t want to give you more of the first batch, for we found the spinal column of a snake in it.” They choked and died.*

[VI:4 A] It is written, “When a man’s ways please the Lord, he makes even his enemies to be at peace with him” (Prov. 16:7).

[B] R. Meir says, “This refers to a dog.”

[C] R. Joshua b. Levi says, “This refers to a snake.”

- [D] *Shepherds milked a sheep, and when they were not looking a snake came and drank the milk. Their dog saw and when the shepherds returned it started to bark. They didn't understand. They drank the milk and died.*
- [E] *Someone had ground garlic prepared in his house. A mountain snake came and ate it while a snake that lived in the house watched. When the members of the household returned to eat the garlic, the household snake began to crumble dust on the garlic, but the people did not understand. The snake threw itself into the garlic.*
- [F] Someone invited the rabbis to eat at his house. He seated his dog next to the rabbi. The rabbi said to him, "Have I disgrace you that you seat me next to a dog." He said, "Rabbi, I do not show you disrespect. I repay the dog's good character by seating him next to you. Marauder's came into the village. One of them came into my house and tried to take my wife captive. The dog bit the testicles of the marauder [and he ran off]."

8:4

- [A] **A jug of [wine in the status of] heave-offering concerning which there arose a suspicion of uncleanness —**
- [B] **R. Eliezer says, "If it was lying in an exposed place, he should place it in a concealed place.**
- [C] **"And if it was uncovered, he should cover it."**
- [D] **R. Joshua says, "If it was lying in a concealed place, he should place it in an exposed place.**
- [E] **"And if it was covered, he should uncover it."**
- [F] **Rabban Gamaliel says, "Let him not do anything new with it."**
- [G] **[As to] a jug [of wine in the status of heave-offering] that broke in the upper vat, and the lower [vat] is unclean —**
- [H] **R. Eliezer and R. Joshua agree that if he can save from it a fourth in a state of cleanness, he should save [it].**
- [I] **But if not:**
- [J] **R. Eliezer says, "Let it go down [into the lower vat] and be made unclean.**
- [K] **"But let him not make it unclean with his hand [i.e., through his own actions]."**
- [L] **And so [in the case of] a jug of oil [in the status of heave-offering] that was spilled —**

- [M] R. Eliezer and R. Joshua agree that if he can save from it a fourth in a state of cleanness, he should save [it].
- [N] But if not:
- [O] R. Eliezer says, “Let it run down and be soaked up [in the ground].
- [P] “But let him not soak it up with his hands.”
- [Q] But as regards both of these cases (lit.: But on this and this):
- [R] Said R. Joshua, “This is not heave-offering concerning which I am warned against rendering unclean.
- [S] “Rather, [it is heave-offering that a priest is warned] against eating.”
- [T] And “not to render it unclean.” How so? [I.e., in what case must the individual not render heave-offering unclean?]
- [U] [If] one was walking from place to place, and loaves [of bread] in the status of heave-offering were in his hand —
- [V] [if] a gentile said to him, “Give me one of them and I shall make it unclean, and if not, lo, I shall make all of them unclean” —
- [W] R. Eliezer says, “Let him make all of them unclean, but let [the Israelite] not give him [i.e., the gentile] one of them that he make it unclean.”
- [X] R. Joshua says, “Let him place one of them before him, on a rock.”
- [Y] And so [in the case of] women to whom gentiles said, “Give [us] one of you that we may make her unclean, but if not, lo, we will make all of you unclean” —
- [Z] let them make all of them unclean, but they should not hand over a single Israelite.
- [I:1 A] [A jug of [wine in the status of] heave-offering concerning which there arose a suspicion of uncleanness — R. Eliezer says, “If it was lying in an exposed place, he should place it in a concealed place. And if it was uncovered, he should cover it.” R. Joshua says, “If it was lying in a concealed place, he should place it in an exposed place. And if it was covered, he should uncover it.” Rabban Gamaliel says, “Let him not do anything new with it.”]:
- [B] Said R. Yosé b. R. Abun, “On the basis of the rulings of all three [Eliezer, Joshua, Gamaliel], it is forbidden to burn sanctified produce that is subject to doubt as to its cleanness.
- [II:1 A] *Associates in the name of R. Eleazar*: “The first jug [of heave-offering] that is subject to doubt as to uncleanness is in accord with R. Yosé

[one may not treat clean heave-offering as though it were unclean], and the second is in accord with R. Meir [who holds at M. Pes. 1:7 that if clean heave-offering is going to be burned, it may be rendered unclean by the one who burns it.]”

- [B] Associates say, “Concerning the first jug [Joshua concurs with] R. Yosé and R. Meir does not agree. [If the heave-offering may not be eaten anyhow, just as in the case of leavened produce that is heave-offering, on Passover the household himself may make it unclean and burn it.] The second jug is in accord with R. Meir, and R. Yosé does not concur.”
- [C] *Said to them R. Yosé, “See what you ‘re saying! The first jug [of heave-offering] that is subject to doubt as to uncleanness is in accord with R. Yosé, lo, in accord with R. Meir they burn [heave-offering concerning which there is a suspicion of uncleanness. Yet R. Simeon holds that in a case of suspicion of uncleanness, heave-offering may be burned. The position of R. Meir and R. Simeon is a majority position over R. Yosé, that in a case of suspicion of uncleanness, heave-offering may be burned. Yet I saw the rabbis when a case came before them about which there was doubt as to uncleanness, and they said, ‘Leave the heave-offering in suspense [don’t burn it like unclean heave-offering, don’t eat it like clean heave-offering.]”* [The case proves that the rabbis did not regard Meir’s and Simeon’s views to be that in a case of suspicion, heave-offering should be burned.]
- [D] *Here is where we find that R. Simeon said they burn unclean heave-offering, for we learned in the Mishnah: **Said R. Meir, “From their opinions we learn that they burn [leaven in the status of] heave-offering which is [cultically] clean with that which is [cultically] unclean on Passover.”** Said to him R. Yosé, “That is not the right conclusion [to draw by analogy from the opinions of Hananiah and Aqiba]. For R. Eliezer and R. Joshua concur that they burn this by itself and that by itself. Concerning what did they differ? Concerning that whose status [as to cultic cleanness] was subject to suspension and concerning that which is certainly cultically unclean.’ For R. Eliezer says, ‘This is to be burned by itself, and that is to be burned by itself.’ And R. Joshua says, ‘Both of them together [are to be burned]’ [M. Pes. 1:7.”*
- [E] Said R. Yohanan, “R. Simeon disagrees [and says that since the heave-offering in any case may not be eaten, it may be rendered unclean and burned].”

- [F] *Now if you wish to say that R. Meir does not attribute the status of suspension to heave-offering [but always holds it is burned,] then you find support in the following Tannaite teaching: **Heave-offering that is in suspended status of cleanness and that which is certainly unclean they burn on the eve of the Sabbath at sunset [before Passover],**” the words of R. Meir. But sages say, “**They do this at the proper time, burning each of them separately**” [T. Pes. 3:10]. [Meir holds that heave-offering about which there is a suspicion of uncleanness may be treated like unclean heave-offering.]*
- [G] Said R. Zeira in the presence of R. Mana, “Explain that it is a case of [heave-offering] of doubtful status concerning which it is possible to ask [a sage whether or not it is unclean — and since its status can be clarified, it is not to be burned].”
- [H] He said to him, “Thus said R. Yosé our master: ‘*Everything to which we refer here deals with a [heave-offering] of doubtful status concerning which it is not possible to ask a sage. But in a case of [heave-offering] of doubtful status concerning which it is possible to ask [a sage], lo, it is clean [once the matter is clarified]!*’” [Following Mana, the heave-offering would not even be called “of doubtful status.”]
- [I] *And it is taught likewise: **A heave-offering of doubtful status of which they said, “It is clean” [and as a result a person did not plan to ask a sage and did not especially watch it] — it is unclean. If [the person] said, Lo, I shall lay [it aside] in order to ask [a sage] about it — lo, it is clean [once its cleanness is clarified because the person kept his attention on it].** [T. Ter. 7:18, which further confirms that heave-offering of doubtful status, the status of which can be clarified, is treated as clean.] “*
- [J] *What is the upshot [in resolving the law that Meir generally does not permit burning heave-offering of doubtful status]?*
- [K] Said R. Yosé b. R. Bun, “Explain that the doubt in respect to uncleanness regarding it occurred at sunset, *and [hence] we cannot derive implications* [from the fact that the heave-offering of doubtful status is burned only at Sabbath eve and not earlier, since the question of its uncleanness only arose at this moment. Meir therefore comes to differ with the sages, who hold that the heave-offering of doubtful status is burned on the Sabbath, and in general he permits burning suspended heave-offering of doubtful status.]
- [L] [*Yosé said to the Associates,*] “*And you say that the [case of the] second jug accords with R. Meir, but R. Yosé does not concur with it.*

- [M] “*But lo, it is taught*: ‘In what cases [do the opinions in M. Ter. 8:9 hold — including R. Joshua’s implied disagreement with R. Eliezer that if a person is not able to save a fourth of a log of wine in cleanness, one may use unclean vessels to save the lower portion]? In the case of a tank [of the lower portion of the vat holding the unclean unconsecrated wine] that does not contain a sufficient amount to nullify [the descending heave-offering] [that is, where the lower is not one hundred times the upper]. But in the case of a tank that contains a sufficient amount to nullify [the descending heave-offering] — [it] is prohibited to make unclean even any amount [of the descending heave-offering].
- [N] “And if [this Mishnah] accords with R. Meir, then it is the same whether it is a tank that contains a sufficient amount to nullify or whether it is a tank that does not contain a sufficient amount to nullify — [then it] is prohibited to make unclean even any amount [of the descending heave-offering]? [Drawing on the language of the previous text, it is asked why the person may not make the descending heave-offering unclean, for in any event once it becomes nullified with the lower portion, its status will change and become unclean.]
- [O] “And further [we may object to the assertion that regarding M. Ter. 8:9 R. Yosé does not follow R. Meir in adopting Joshua’s permission to use unclean vessels to save the descending heave-offering] *from this which we learn*, ‘**Said to him R. Yosé, “It is not an [appropriate] analogy” [M. 1:8].** A person does not say, “It is [not an analogy]” unless by implication 108 he concurs with the former [text, in this case M. Ter. 8:9].” [Unless one agrees with the referent of an analogy, one would object not to the analogy but to the principle.]
- [P] *What is the upshot [regarding C’s observation that Yosé would concur with M. Ter. 8:9]?*
- [Q] Said R. Yosé b. R. Bun, “There [regarding M. Ter. 8:9, R. Yosé would concur with R. Joshua in permitting a person to save the lower tank of oil by stopping the descending heave-offering with unclean vessels] in order to have consideration for Israel’s property. *But here what can you [say]?*”
- [R] Even here, does he not cause Israel to lose property, for he needs [a double amount of] wood to burn this by itself “and this by itself? [Hence also regarding M. 1:8 he should have consideration for Israel’s property.]
- [S] For a great loss [sages] were concerned, [but] for a small loss they were not concerned.

- [T] [Regarding C's observation that Yosé would concur with M. Ter. 8:9, which would contradict Associates evaluation of the text:] *Said R. Hananiah before R. Mana*, "Explain [that the Associates evaluation] accords with the one who said [that Meir referred in their words to] the words of R. Aqiba and the words of R. Hananiah the Prefect of the Priests, and [accordingly] one cannot learn anything [regarding M. Ter. 8:9] from it [from Yosé's terminology, in M. 1:8B, that 'It is not an analogy']." [Since the two Mishnaic passages are not connected, the Associates can thus maintain that Meir, and not Yosé, agrees with Joshua, and that Yosé, even in that case, believes one should not directly, with one's own hands, make the heave-offering unclean.]
- [U] *R. Zeira [and] R. Ila, both of them in the name of R. Eleazar [say]*, "The [rule for the] first jug [M. Ter. 8:8] accords with R. Yosé, and the [rule for the] second [M. Ter. 8:9] accords with both R. Meir and R. Yosé."
- [V] *Said R. Ezra before R. Mana*, "Does this [M. Ter. 8:8] not dispute R. Yosé [in M. 1:8C]?" [Assuming that Yosé is speaking in M. 1. 8B and C: the assertion has R. Yosé accord with M. Ter. 8:8, in which Joshua only indirectly allows heave-offering to become unclean by not carefully watching it, contradicts Yosé's explicit claim that R. Joshua holds that unclean and heave-offerings of doubtful status are burned together, for although they may actually have been clean, in contact with the unclean heave-offering it will surely become unclean.]
- [W] *Said [R. Mana] to him*, "And it does not accord with R. Yosé, I will surely say that it [also] does not accord with R. Meir. Because we find that R. Yosé burns [heave-offering] of doubtful status in all cases; and, lo, we find has cited below] that even R. Meir burns [heave-offering] of doubtful status in all cases [— a direct action not countenanced by M. Ter. 8:8]. [According to whom would it then follow?]"
- [X] *Said R. Mana*, "I went to Caesarea, and I heard R. Zeriqan in the name of Zeira [say], 'R. Meir burns [heave-offering] of doubtful status in all cases.' And I said to him, [Does this apply] for example, to the one that is of doubtful status [due to uncleanness possibly caused] by something by reason of the authority of the Torah [that is, does the severity of the possible cause of the uncleanness require the burning]?' And he said to me, 'If I explain it that it became unclean by a Gentile dwelling [which in Palestine by Rabbinic injunction is assumed to be unclean until verified to be free of corpses of still-births], what can you do? [Lo] it is taught: **A Gentile dwelling [which imparts uncleanness to heave-offerings] — [they] consider doubtful [the**

heave-offering].’ R. Yosé b. R. Judah says, ‘[They] burn [thereon the heave-offering]’ [T. Ahil. 18:7].

- [Y] R. Huna in the name of R. Zeira [said], “R. Meir burns [heave-offering] of doubtful status on the other days of the year [in addition to Passover eve].”
- [Z] *And lo, it is taught as a Tannaite rule: **When the fourteenth falls on the Sabbath,] heave-offering that is of doubtful status [and] unclean — they burn it on Sabbath eve when it gets dark [at the end of the thirteenth of Nisan]” — the words of R. Meir. And sages say, “[They burn it] in its proper time” [T. 3:10,].** And let [the person] burn it in the morning [if, as you say, one may burn it at any time, and not be limited, because of the leaven, to immediately prior to Passover]?*
- [AA] You may explain that he was slothful and did not burn [it Friday morning]. [Meir’s point, then, is that he may burn it *even* at this late hour.]
- [BB] *Know that it is thus, for it is taught: **[Heave-offering that is of doubtful status and] unclean** — is this not because [the person] was slothful and did not burn [the unclean heave-offering]? [Since in mentioning unclean heave-offering, which all agree may be burned at any time, the text must be referring to a case of a slothful person, we cannot deduce anything from the fact that the heave-offering of doubtful status likewise was not burned earlier.]*
- [CC] [As an alternative way of understanding why the text specifies burning on Sabbath eve when it gets dark:] Said R. Abba Mari the brother of R. Yosé, “Explain that the uncleanness was contracted by it at that hour, and [hence] *we cannot learn anything from [it].*” [Considering this situation and Meir’s intent to preclude burning doubtfully or certainly unclean heave-offerings on the Sabbath, the proposed fact does not disprove the view of that Meir permits burning at other times as well.]
- [DD] Said R. Yohanan, “R. Simeon [in M. Bekh. 5:2] and R. Joshua [in M. Ter. 8:9], both of them said the same thing.” [They both apparently espouse the identical principle: R. Simeon believes that one is not in violation of the ban on blemishing a firstborn because without the bleeding the animal would die and become disqualified anyway. R. Joshua similarly holds that one may use unclean vessels to stop the flow of the descending heave-offering from contaminating the unclean, unsanctified wine in the vat’s tank, because otherwise the heave-offering mixed with the unsanctified wine could no longer be consumed.]

- [EE] *Said R. Ila, “R. Simeon [in the case] of the firstborn and R. Joshua [in the case] of the heave-offering — the former does not concur with the latter, and the latter does not concur with the former.”* [Different factors may apply to each case. For example, R. Simeon may be guided by the fact that in bleeding the animal one does not intend to blemish it even though that may be the result. But he would not so rule in R. Joshua’s case in which the individual intentionally takes the unclean vessels to stop the flow and thus causes the descending heave-offering to become unclean. On the other hand, R. Joshua may rule as he does because the descending heave-offering will definitely make contact with the wine in the tank below, rendering both unusable. But in the case of the firstling, one cannot be certain that without the bleeding the animal will die.]
- [FF] *Said R. Zeira, “It makes sense that R. Simeon concurs with R. Joshua [but R. Joshua does not concur with R. Simeon].” “[R. Simeon permits the individual to act in a case in which the undesired result, the animal’s death, is only probable and not necessary. He surely would allow the person to take action if the undesired result were certain, as in the case of the descending heave-offering. But R. Joshua, who speaks of the case in which the undesired result is definite, would not offer the same ruling when the result is only probable.]*
- [GG] *Said R. Bun bar Hiyya to R. Zeira, “According to your position that R. Simeon concurs with R. Joshua:] and, lo, we learned, [‘But how may be burn produce of uncertain status with produce which is certainly unclean?] **R. Eliezer concurs with R. Joshua that they burn this [clean heave-offering] by itself and this [unclean heave-offering] by itself [T. 1:5, in wording and explicitly attributed to R. Simeon].** And let [the person] burn both of them together?” [For at the time of destruction of leaven, even the clean heave-offering, being leaven, must definitely be burned. It should not matter that it will become unclean when burned with the unclean offering.]*
- [HH] [R. Zeira responds: “It is [still] clean by reason of the authority of the Torah [for at the sixth hour, when leaven is being burned, the Bible does not prohibit eating clean heave-offering]. You [addressing the rabbis through the questioner] are the one that imposed burning on it.’ [Since according to Scripture it may yet be eaten, a person should not directly make it unclean by burning it with the unclean heave-offering.]”
- [II] In any event, has it not become unfit through interruption of concentration [that occurs in the sixth hour, since in that hour the Rabbinic prohibition on eating the heave-offering takes effect, and it

causes people to cease guarding the heave-offering]? [And] did not R. Yohanan say, “Interruption [of concentration disqualifies] by reason of the authority of the Torah?” [Hence, at the time of burning, a person should be permitted to burn the previously clean heave-offering with the unclean heave-offering — just as:] Bleeding [a firstborn] according to R. Simeon [is permitted, for otherwise in dying it will become disqualified] by reason of the Torah. [And] the second jug [M. Ter. 8:9] according to R. Meir [may be made unclean, for otherwise, in descending into the vat of unclean unconsecrated wine, the clean heave-offering will become disqualified] by reason of the Torah.

- [JJ] It is not so [— that a person interrupts his concentration on the heave-offering at the time of burning leaven]. Rather he watches it lest it touch [and thereby become mixed up with] other [ritually] clean things [that he may still eat].
- [KK] *Objected R. Isaac the son of R. Hiyya the Elder*, “Consider if it [the heave-offering] were put on burning coals [to burn it at the time of destruction of leaven, is it permitted to put unclean heave-offering with the leaven, burning both together — for in such a situation the person has surely interrupted his concentration on the heave-offering and no longer watches it?]”
- [LL] He said to him, “‘When he puts it’ [indicates a case after the fact, but Simeon in the formulation ‘they burn....’, addresses what is preferable for a person to do before the fact].”
- [MM] *Said R. Mana to R. Shammai*, “*You say that* R. Simeon [who rules concerning a firstborn] concurs with R. Joshua [who rules concerning heave-offering]. *But R. Joshua does not accept [the position of] R. Joshua.*” [R. Joshua appears to contradict himself at M. Ter. 8:9, he permits indirectly making the clean heave-offering unclean, yet in M. Pes. 1:8 he concurs with Eliezer in requiring, at the time of destruction, the separate burning of clean and unclean heave-offering!]
- [NN] *He said to him [in response]*, “*They are [the teachings of two] Tannaite authorities [whose own disparate perspectives shaped their transmission of Joshua’s opinion]. There [in M. Terumat] R. Meir [speaks] in the name of R. Joshua. But here [in M. Pesahim] R. Simeon [speaks] in the name of R. Joshua.*”
- [OO] *There we learned*, “**A firstborn seized by [an excess] of blood. even if it would die, they do not bleed it**” — the words of R. Judah. **And sages say, “[One] may bleed [it] as long as [in the process of bleeding] one does not make a defect in it. If one made a defect in it, lo, one may not slaughter [an animal] in its place, [since the**

defect did not occur naturally].” R. Simeon says, “[One] may bleed [it] even though one [thereby] makes a defect in it” [M Bekh. 5:2].

[PP] *R. Abbahu [said] in the name of R. Eleazar, “R. Judah accords with Rabban Gamaliel [in M. Ter. 8:8, above, who says that one should not make any changes in doubtfully unclean heave-offering]; and rabbis are in accord with R. Eliezer [in M. Ter. 8:8, who likewise requires that a person act to protect and not to spoil the object — there doubtfully unclean heave-offering — preventing it from becoming certainly unclean]; and R. Simeon is in accord with R. Joshua” [in M. Pes. 1:8, who likewise permits doing something even though it will have an unintended adverse effect and even though the necessity to act is only probable and not definite: the former in effect permits blemishing the animal despite the doubt whether or not the animal will definitely die without the bleeding, and the latter, in permitting the burning of suspended and certainly unclean heave-offering together, causes the heave-offering to become certainly unclean despite the doubt whether or not the suspended doubtfully unclean heave-offering had initially contracted uncleanness].*

[QQ] *It is taught in the name of R. Simeon [as an alternative version of his view in M. Bekh. 5:2]: “[One] may bleed [it] even though he intends to make a defect in it.”*

[RR] *And [this version, countenancing the bleeding even where the person intends the undesired side effect,] is in accord with the latter R. Joshua [M. Ter. 8:9, where Joshua analogously permits a person to employ unclean vessels to stop the descending heave-offering although he intends thereby to make the heave-offering unclean — for in both cases the object would be destroyed anyway].*

[SS] *Said R. Bun bar Hiyya before R. Zeira, “Explain that [C] is a case of dedicated [animals] for which he is responsible [if they are lost], and it is in accord with R. Simeon [in M. Bekh. 5:2 and is not an alternative transmission of his position by a different intermediary Tannaite authority.” [When people who took it upon themselves to offer a sacrifice of well-being set aside an animal which subsequently develops an excess of blood, they may blemish and then redeem (and eat) the animal — for the ban on blemishing holy things does not apply to objects which have no sanctity.]*

[TT] *R. Abbahu [said] in the name of R. Simeon b. Laqish, “The reason of R. Judah [who in M. Bekh. proscribes any bleeding of the firstling] is, ‘[You may eat meat...] You may not partake of it [blood]; you must pour it out on the ground like water’ (Deut. 12:24). [And the preceding*

section treats the eating of firstlings.] [S preferably reads Deut. 15:23, which explicitly treats firstlings: ‘Only you must not partake of its blood you shall pour it out on the ground like water.’] I [God] permitted [shedding] its blood only by pouring [— for eating — and not by bleeding]

[UU] [Questioning the appropriateness of basing a ban on bleeding on a law proscribing the partaking of blood:] *Objected R. Abba Mari the brother of R. Yosé*, “And lo, it is written thus even regarding disqualified dedicated objects [where bleeding is surely permitted because the animal is already blemished:] ‘You may not partake of it; you must pour it out on the ground like water’ (Deut. 12:24) — which forms part of a pericope on sacrifices and is preceded by: ‘But whatever you desire you may slaughter and eat meat...’ (v. 15).]” [Since such a reference and ban on pouring of blood cannot therefore be construed to apply to bleeding, F’s reading of the verse must be faulty.]

[VV] Said R. Hiyya bar Adda, “‘It [the verse] was said in order to make [something] fit for uncleanness: just as water makes can object] fit, so blood should make [something] fit.’” [In thus suggesting that Deut. 12’s mention of the pouring of blood in slaughtering an animal refers to making something fit to receive uncleanness, the phrase cannot be used to illuminate the usage or directly address the topic of Deut. 15:23.]

[WW] [Turning to the reason for the other two opinions in M. Bekh. 5:2:] R. Abbahu [said] in the name of R. Yohanan, “Both of them [sages and R. Simeon] expounded the same verse,” [And when a person offers...a sacrifice of well-being to the Lord...] it must, to be acceptable, be without blemish: there must be no defect in it’ (Lev. 22:21).

[XX] R. Simeon says, “When it is acceptable, you are not permitted to make a defect in it. But when it is not acceptable [for example when it has a defect, a major example of which is a fatal condition], you are permitted to make a defect in it.”

[YY] And sages say, “Even if all of it were [full of] defects, you are not permitted to make a defect in it.”

[III:1 A] **R. Eliezer says, “Let it go down [into the lower vat] and be made unclean. But let him not make it unclean with his hand [i.e., through his own actions]:”** R. Hama bar Uqba in the name of R. Yosé bar Hanina: “A utensil the inside of which was in a state of cleanness but the outside of which was unclean — he may not [use the utensil and risk] rendering a small quantity unclean in order to save in

cleanness a large quantity of heave-offering [even though it will flow into the lower vat and contract uncleanness there].”

- [B] *But have we not learned in the Mishnah: **Let it go down [into the lower vat] and be made unclean. But let him not make it unclean with his hand [i.e., through his own actions].*** [What Eliezer objects to is using one’s own hands to impart uncleanness to the heave-offering.]
- [C] *Said R. Samuel bar Berekhiah, “Interpret the statement of R. Yosé bar Hanina to apply to two utensils, one with a clean inside and unclean outer parts, the other with an unclean inside and unclean outer parts. But since the Mishnah speaks of the prohibition against render unclean the heave-offering with one’s own hands, R. Yosé bar Hanina refers only] to one unclean utensil.”* [The man may err and choose the wrong utensil, so Eliezer doesn’t want him to choose one of the utensils to prevent the heave-offering from going down in the lower vat.]
- [D] *Said R. Mana, “Interpret the statement of R. Yosé bar Hanina to speak of a vast in which heave-offering that has spilled is going to flow into a clean vat. [The householder wishes to catch the heave-offering in a utensil with an unclean outside, but a clean inside. Since the heave-offering is in no danger of becoming unclean by flowing into the other vat, Eliezer holds that the householder may not risk imparting uncleanness to it through use of this utensil.] But the Mishnah speaks of a different case, for the vat into which the wine is going to drain is unclean, [Then R. Yosé bar Hanina agrees that Eliezer holds one may risk rendering unclean some small volume of heave-offering in order to rescue a large quantity. Eliezer prohibits the householder from rendering the heave-offering unclean with his hands.]”*
- [E] *Have we not learned in the Mishnah: **R. Eliezer says, “Let it run down and be soaked up [in the ground]. But let him not soak it up with his hands.”***
- [F] *Interpret the Mishnah to speak of a case in which the jug of oil had rolled over into a field unclean because of a ploughed up grave. [The oil spills out and is automatically made unclean. Eliezer allows the householder to capture it in a utensil, even if he risks rendering it unclean itself. But if it were not inevitable, Eliezer would not allow the use of an unclean utensil to scoop it up, as Yosé bar Hanina says.]*

[III:2 A] *In the opinion of associates [that Yosé never allows a householder to render heave-offering unclean, even if it is about to be mixed with unclean unconsecrated food, both the first jug referred to as in a possible condition of uncleanness and the second jug referred to that is*

going to be mixed with unclean unconsecrated produce, both of these jugs may contain either oil or wine in the status of heave-offering. [But in the opinion of the Amora R. Yosé that under some circumstances R. Yosé the Tannaite allows the householder to impart uncleanness to have offering, it matters whether it is] a jug of wine or a jug of oil. [Yosé the Tannaite allows the householder to render unclean only wine in the status of heave-offering that is about to be mixed with the householder's own unclean unconsecrated wine. For if he doesn't stop the heave-offering from being mixed with the unconsecrated produce, the mixture in the status of unclean heave-offering has no value, and the householder incurs great loss. Yosé like Joshua allows him to prevent this by stopping the wine in the status of heave-offering from running down into the lower vat, even if he thus renders the heave-offering unclean.]

- [IV:1 A] And so [in the case of] women to whom gentiles said, "Give [us] one of you that we may make her unclean, but if not, lo, we will make all of you unclean" — let them make all of them unclean, but they should not hand over a single Israelite.
- [B] *That makes no sense* if one of them had already been rendered unclean in this way.
- [C] *That makes no sense* if one of them was a Canaanite slave.
- [IV:2 A] *It is taught as a Tannaite statement: [As to] a group of men who were journeying on the road, who were met by gentiles, who said, "Give us one of your number that we may kill him, and if not, lo, we will kill all of you" —*
- [B] **let them kill all of them, but let them not give over to them a single Israelite [see M. 8:12].**
- [C] **But if they singled one out,**
- [D] **such as they singled out Sheba the son of Bichri [2 Sam. 20] —**
- [E] **let them give him to them, that they not all be killed [T. Ter. 7:20].**
- [F] Said R. Simeon b. Laqish, "And that is the case if he is already subject to the death penalty as was Sheba the son of Bichri."
- [G] R. Yohanan said, "That is the case even if he is not already subject to the death penalty as was Sheba the son of Bichri."
- [H] *Ulla bar Qushab — the government sought to arrest him. He fled and went to Lud, to R. Joshua b. Levi. The government came and besieged the town. They said to him, "If you don't hand him over to us, we will*

destroy the town.” R. Joshua b. Levi came to him and appeased him and he gave him up to them. Now Elijah of blessed memory was accustomed to reveal himself to [Joshua b. Levi], [but ceased to appear.] Joshua b. Levi fasted a number of fasts [and Elijah revealed himself to him.] He said to him, “Should I reveal myself to informers. He said to him, “Didn’t I carry out the teaching of a Mishnah-law?” He said to him, “Is this the Mishnah-law of truly pious people?”

- [I] R. Imi was caught in a riot. Said R. Jonathan, “Shroud the corpse in his shroud [there is nothing more to be done.]” Said R. Simeon b. Laqish, “Until I am killed, I can kill. I will go and through strength will deliver him to safety.” He went and appeased [those who were threatening Imi] and they gave him to him. He said to them, “Come with me to the elder [Yohanan] so he will bless you [for turning him over to me unharmed.]” They came to R. Yohanan. He said to them, “What you wanted to do to him will be done to you.” The group left but did not reach Palmyra before all of them were gone [into captivity].,
- [J] Zeir bar Hanina was caught in a riot. R. Imi and R. Samuel went to appease them on his account. Queen Zenobia said to them, “Why have you come to save him? He teaches that your creator performs miracles for you. [Why not let God save him?] While they were preoccupied, a certain Saracen carrying a sword come in and said, “With this sword Bar Netsar killed the brother of Zenobia.” In the ensuing disorder Zeir bar Hanina escaped.
- [IV:3 A] R. Yohanan was robbed by the men of Qanyah. He went to the meeting place. A d R. Simeon b. Laqish asked him but he did not reply, asked him but he did not reply. He said to him, “What’s going on?”
- [B] He said to him, “All the limbs depend on the heart, and the heart depends on the pocketbook.”
- [C] He said to him, “What happened?”
- [D] He told him what happened. He said, “I was robbed by the men of Qanyah.”
- [E] He said to him, “Show me the path on which they fled.”
- [F] He showed it to him, [and he left in pursuit].
- [G] He saw them from afar and began to make a ruckus against them.
- [H] They said, “Since it was R. Yohanan’s property that we stole, take back half.”

[1] *He said to them, "By your lives, I am taking it all back." So he took back all of Yohanan's property.]*

[IV:4 A] *Diocles the swineherd — the youngsters of R. Judah the Patriarch would ridicule him. He was made king and moved to Paneas. He sent letters to the rabbis: "Present yourselves before me immediately at the end of the next Sabbath." He told the messenger, "Don't hand over the letters until sunset on the eve of the Sabbath." The messenger came to them on the eve of the Sabbath as the sun was setting. After receiving the message R. Yudan the Patriarch and R. Samuel bar Nahman were relaxing in the public bath in Tiberias. Antigris appeared and came to them. R. Yudan the Patriarch wanted to chase him away. R. Samuel bar Nahman said to him, "Leave him alone. He comes as a messenger of salvation." Antigris said to them, "What is troubling the rabbis." They told him and he said to them, "Finish bathing in honor of the Sabbath. Your creator is going to perform miracles." At the end of the Sabbath Antigris took them and set them in Paneas. They told the emperor, "Lo, the rabbis are outside." He said, "They shall not see my face until they have bathed." Diocletian had the bath heated for seven days and seven nights. To make it possible for them to bathe, Antigris went in before them and overpowered the heat. They went in and stood before the king. He said to them, "Is it because your creator performs miracles for you that you despise the empire?" They said to him, "Diocles the swineherd we despised, Diocletian the emperor we do not despise." He said to them, Even so, you should not ridicule anybody, not a young Roman, not a young associate of the rabbis."*

YERUSHALMI TERUMOT

CHAPTER NINE

9:1

- [A] One who sows [as seed grain in the status of] heave-offering —
[B] if [he does this] unintentionally, he should plow up [the seed].
[C] But [if he does it] intentionally, he must leave [it] to grow.
[D] If [the grain] reached a third of its growth —
[E] whether [he sows it] unintentionally or intentionally, he must let [it] grow.
[F] But in [the case of] flax [in the status of heave-offering] —
[G] [even if he sows it] intentionally, he must plow [it] up.
[H] And [the field in which the heave-offering was sown] is subject to [the laws of] (1) gleanings, (2) forgotten sheaves and (3) [produce growing in] the corner of a field.
[I] And poor Israelites and poor priests glean [in such a field].
[J] And the poor Israelites sell their portion to the priests at the price of heave-offering;
[K] and the money [that they receive] is theirs [i.e., the poor Israelites’].
[L] R. Tarfon says, “Only poor priests should glean,
[M] “lest they [i.e., the poor Israelites] forget and put [the produce they glean] in their mouths.”
[N] Said to him R. Aqiba, “If so, only clean [priests] should glean.”
[O] And [the field] is subject to (4) tithes and (5) poorman’s tithe.
[P] And poor Israelites and poor priests take [the poorman’s tithe].
[Q] And the poor Israelites sell their [portion] to the priests at the price of heave-offering;

- [R] and the money [they receive] is theirs [i.e., the poor Israelites’].
- [S] He who threshes by hand [the produce grown in such a field] is praiseworthy.
- [T] But he who threshes [it] with cattle, How should he do this [so that the cattle does not eat the grain that has the status of heave-offering]?
- [U] He hangs a feed bag from the neck of the beast and places in it [unconsecrated produce of] the same kind [as is being threshed].
- [V] It turns out that he does not muzzle the animal but [also] does not feed it heave-offering.
- [I:1 A] One who sows [as seed grain in the status of] heave-offering — if [he does this] unintentionally, he should plow up [the seed]. But [if he does it] intentionally, he must leave [it] to grow:
- [B] *This makes sense only if the rules are reversed the one who unintentionally planted heave-offering allows it to grow, and the one who intentionally planted it must plough it up.*
- [C] They imposed on the one who intentionally planted heave-offering the penalty of letting the crop grow so that he has to plough up all the seed and the whole crop will be lost. The one who unintentionally planted the seed is allowed to leave the crop to grow.
- [I:2 A] *R. Samuel bar Abudimi asked, “What is the law as to believing the farmer when he says, ‘I intentionally owed seed in the status of heave-offering’?”*
- [B] They said to him, “If it already was known that the farmer had planted seed in the status of heave-offering, no claim of his is accepted. But if he had said nothing at all, we should not know that he planted seed in the status of heave-offering, he is believed when he tells us that he planted the seed and did so intentionally. For the mouth that imposed a prohibition is the mouth that has released the prohibition.”
- [I:3 A] *R. Benjamin bar Giddal asked, “If he planted vetches in the status of heave-offering or heave-offering separated from produce grown abroad, outside of the Land of Israel, what is the law as to whether or not that which grows from them likewise has the status of heave-offering?”*
- [B] They said to him, “It is a Rabbinic decree [that vetches in the status of heave-offering or heave-offering separated from produce grown abroad have the status of heave-offering,] and we do not attach a Rabbinic

decree to another such decree [that produce that grows from produce in the status of heave-offering is classified as heave-offering.]”

[II:1 A] If [the grain] reached a third of its growth — whether [he sows it] unintentionally or intentionally, he must let [it] grow: *that is to say*, sanctity applies to the crop while it has not yet been picked.

[B] *That is to say*, if he separates heave-offering from produce not yet a third of its growth, what he separates has not been sanctified.

[III:1 A] But in [the case of] flax [in the status of heave-offering] — [even if he sows it] intentionally, he must plow [it] up:

[B] That is a fine so that he may not benefit from the fiber [of the flax].

[IV:1 A] And poor Israelites and poor priests glean [in such a field]. And the poor Israelites sell their portion to the priests at the price of heave-offering; and the money [that they receive] is theirs [i.e., the poor Israelites]. R. Tarfon says, “Only poor priests should glean, lest they [i.e., the poor Israelites] forget and put [the produce they glean] in their mouths.” Said to him R. Aqiba, “If so, only clean [priests] should glean.”

[B] *R. Yosé asked*, “If the householder separated heave-offering from sheaves of his own [from a different field] and these became confused with the forgotten sheaves in the field in which seed in the status of heave-offering had been planted, what is the rule? Even so **poor Israelites and poor priests glean [in such a field].**”

[IV:2 A] *A Tannaite rule: The wife of an ‘am ha’ares grinds [grain] with the wife of a haber when she is unclean, but when she is clean, she should not grind [wheat with her] [T. Toh. 8:4].* For the wife of an ‘am ha’ares assumes that she is cleaner than the wife of the associate [and will touch the food].

[B] Now in line with the position of R. Tarfon [**“Only poor priests should glean, lest they [i.e., the poor Israelites] forget and put [the produce they glean] in their mouths”**] even if the wife of the an ‘am ha’ares is unclean, she should not grind grain with the wife of the associate, lest she forget and put some of the clean food into her mouth.

[IV:3 A] *Thus does the Mishnah state: Said to him R. Aqiba, “If so, only clean [priests] should glean.”*

[V:1 A] And [the field] is subject to (4) tithes and (5) poorman’s tithe. And poor Israelites and poor priests take [the poorman’s tithe]. And

the poor Israelites sell their [portion] to the priests at the price of heave-offering; and the money [they receive] is theirs [i.e., the poor Israelites']. He who threshes by hand [the produce grown in such a field] is praiseworthy. But he who threshes [it] with cattle, How should he do this [so that the cattle does not eat the grain that has the status of heave-offering]? He hangs a feed bag from the neck of the beast and places in it [unconsecrated produce of] the same kind [as is being threshed]. It turns out that he does not muzzle the animal but [also] does not feed it heave-offering.

[B] *This is the sense of the Mishnah: Produce that grows from seed in the status of heave-offering is liable for heave-offering, first and second tithe and poor man's tithe.*

[V:2 A] [As regards a *litra*' of onions in the status of first tithe that was planted [as seed] and, lo, there is in [the grown crop] about ten *litras* [of produce] — [the crop] is liable to [the separation of] heave-offering, first tithe and second tithe. And [as regards] the first tithe that is in it [i.e., the first tithe that he separates from the grown crop], he [also] designates it heave-offering of the tithe for the first tithe that he [originally] planted As regards] a *litra*' of second tithe that was planted and, lo, there is in [the grown crop] about ten [*liter*'s of produce] — [the crop] is liable to [the separation of] heave-offering, first tithe and second tithe And he goes and redeems the second tithe that he [originally] planted [T. Ter.8:5-6].

[VI:1 A] He who threshes by hand [the produce grown in such a field] is praiseworthy:

[B] Than whom is he more praiseworthy?

[C] Than one who threshes the grain with cattle.

[VII:1 A] But he who threshes [it] with cattle, How should he do this so that the cattle does not eat the grain that has the status of heave-offering? He hangs a feed bag from the neck of the beast and places in it [unconsecrated produce of] the same kind [as is being threshed]:

[B] R. Simeon says, "He places in it vetches for they are of better quality than all [other produce fed to cattle]" [T. Ter. 8:3].

[C] Said R. Yosé, "That is to say, if one did this with a beat threshing unconsecrated produce, he does not violate the rule, 'You shall not muzzle your ox when it treads out grain' (Dt. 25:4)."

[D] One who muzzles an ox that is treading on pulse or fenugreek does not transgress the rule, ‘You shall not muzzle your ox when it treads out grain’ (Dt. 25:4).”

[E] But it is forbidden to do that on account of appearance.

[F] *There are Tannaite authorities that repeat the law as follows:* This applies in the case of threshing grain permitted for non-priests to eat. *There are Tannaite authorities that repeat the law as follows:* This applies in the case of threshing grain forbidden for non-priests to eat.

[VII:2 A] **[As regards] an onion [in the status of heave-offering] which one placed [i.e., cooked] among [unconsecrated] lentils — if [the onion] is whole, it is permitted [to eat the lentils as unconsecrated food]. But if one cut up [the onion and then placed it among unconsecrated lentils] — [it is forbidden to eat the lentils as unconsecrated food] if [the onion] imparts [to them its] flavor [M. Ter. 10:1].** Said R. Abba bar Mamel, “*The Mishnah speaks of a case in which the whole onion was put in with the lentils after the lentils had cooked enough so that the liquid in them dried out. The mass of lentils presses against the onion so it cannot impart its flavor to them. But if one put the onion with the lentils before the lentils had cooked enough so that the liquid in them dried out, [the lentils cooked with the onion in the status of heave-offering will be treated as heave-offering, so] in this case the law does not apply. Just as you say that the mass of lentils presses against the onion so it cannot impart its flavor to them, along these same lines the lentils press against the onion so that it cannot absorb its flavor. And what would be a concrete case? An onion in the status of unconsecrated food that one put into lentils in the status of heave-offering, even so [the onion is permitted because] the lentils press against the onion so that it cannot absorb their flavor.*”

[B] *That is to say:* if the onion is dry, the rule that it does not impart its own status to heave-offering of lentils with which it is cooked applies. But if it is wet, the lentils will not stop it from parting its flavor to them, so that even if the onion in the status of heave-offering is whole, it renders lentils] forbidden for non-priests to eat.

[C] An onion in the status of have offering cooked with secular leeks, whether moist or dry, whole or cut up, renders the leeks forbidden to non-priests.

[D] [What is required for cutting up the onion?] If one removed the protuberance on the blossom-end of the onion, it is as if it were cut up. If there were two or three whole onions cooked in one batch of lentils, it is as if it were cut up.

[E] [As to the rule, **[As regards] an onion [in the status of heave-offering] which one placed [i.e., cooked] among [unconsecrated] lentils — if [the onion] is whole, it is permitted [to eat the lentils as unconsecrated food]**, that is the case if the outer skin of the onion does not contain sufficient pungency to impart flavor to the lentils. [Is the outer skin, normally not eaten, held to have the status of heave-offering. If not, then even if it imparts flavor to the lentils, they do not take on the status of heave-offering, But if the outer skin is deemed heave-offering, then the lentils it flavors will take on its status.] But if the outer skin of the onion does contain sufficient pungency to impart flavor to the lentils, *there are Tannaite authorities who teach that [Dt. 25:4] against muzzling an ox treading out grain applies*] only in the case of an ox treading out grain permitted for consumption by non-priests. If it is heave-offering, the householder may muzzle the ox.

[F] **[In line with M. 9:1, But he who threshes [it] with cattle, How should he do this [so that the cattle does not eat the grain that has the status of heave-offering]? He hangs a feed bag from the neck of the beast and places in it [unconsecrated produce of] the same kind [as is being threshed]. It turns out that he does not muzzle the animal but [also] does not feed it heave-offering:]** even in threshing grain that is forbidden to the non-priest the law against muzzling the ox applies. *Thus we have learned in the Mishnah: He hangs a feed bag from the neck of the beast and places in it [unconsecrated produce of] the same kind [as is being threshed]. It turns out that he does not muzzle the animal but [also] does not feed it heave-offering.*

[VII:3 A] “You shall not muzzle an ox when it is treading out the grain” (Dt. 25:4) applies when it is treading the grain, not when it is threshing it.

[B] R. Eliezer b. Jacob says, “Also when it is threshing it.

[VII:4 A] Said R. Abin, “R. Aqiba asked R. Simeon b. *Yohai to test his knowledge*, “He who muzzled the ox outside the threshing area and then brought into the threshing area, what is the law” [Does Dt. 25:4 not muzzling an ox when it treads out grain apply?]’ He said to him, “‘the sons of Aaron may not drink wine or strong drink when you go into the tent of meeting’ (Lev. 10:9) [thus you go] does not mean the priests may not drink wine or strong drink before hand, since you will be coming to the tent of meeting.” [So too Dt. 25:4 on not muzzling an ox when it is treading out grain means one may not muzzle an ox that is going to tread out grain.]”

- [C] Said R. Zeira, “‘You shall not muzzle an ox when it is treading out the grain’ (Dt. 25:4) — ‘you may not tread out grain with an ox that is muzzled.’”

9:2

- [A] That which grows from [seed in the status of] heave-offering has the status of heave-offering.
- [B] And what grows from [the seed of produce] that grew from [seed in the status of] heave-offering is unconsecrated.
- [C] But [as regards] (1) produce that is liable to tithes, (2) first tithe, (3) after-growths of the seventh year [of the sabbatical cycle], (4) heave-offering [separated from produce grown] outside of the Land of Israel, (5) mixtures of heave-offering and unconsecrated produce and (6) first fruits — that which grows from them is common food [i.e., does not have the same status as the seed from which it grew].
- [D] That which grows from [seed] that is dedicated [to the Temple] or second tithe is unconsecrated.
- [E] And he redeems them [i.e., the seed] when they are sown.
- [F] [If there are] a hundred garden-beds [planted] with [seed in the status of] heave-offering and one [planted] with unconsecrated [seed, but it is not known which contains the unconsecrated seed],
- [G] all are permitted [for consumption as unconsecrated food] in the case of a kind the seed of which disintegrates,
- [H] But in the case of a kind the seed of which does not disintegrate,
- [I] even if there are a hundred beds [sown] with unconsecrated seed and one [planted] with heave-offering,
- [J] all of them are forbidden.
- [K] Produce that is subject to the separation of tithes —
- [L] that which grows from it is permitted [for consumption as a chance meal in [the case of] a kind [of produce] the seed of which disintegrates.
- [M] But in [the case of] a kind the seed of which does not disintegrate —
- [N] [even] what grows from [the seed of a crop] that grew from it is forbidden [for consumption as a chance meal, for like the seed, it is deemed subject to tithes].
- [O] What is a kind [of produce] the seed of which does not disintegrate?

[P] [A kind] such as arum, garlic or onions.

[Q] R. Judah says, “Garlic is like barley [i.e., its seed disintegrates].”

[I:1 A] [And what grows from [the seed of produce] that grew from [seed in the status of] heave-offering is unconsecrated]: *And it has been set forth as a Tannaite rule in this connection:* Under what circumstances? **in the case of a kind the seed of which disintegrates,** But in the case of a kind the seed of which does not disintegrate, even that which grows from the seed of produce that grew from heave-offering is forbidden.

[II:1 A] **But [as regards] (1) produce that is liable to tithes,** the greater part of which is secular, **(2) first tithe,** the greater part of which is secular, **(3) after-growths of the seventh year [of the sabbatical cycle],** which are not commonly found, **(4) heave-offering [separated from produce grown] outside of the Land of Israel,** which is not commonly found, **(5) mixtures of heave-offering and unconsecrated produce** the greater part of which is secular, **and (6) first fruits,** which is not commonly found — **that which grows from them is common food [i.e., does not have the same status as the seed from which it grew].**

[III:1 A] **That which grows from [seed] that is dedicated [to the Temple] or second tithe is unconsecrated. And he redeems them [i.e., the seed] when they are sown.**

[B] R. Abbahu in the name of R. Yohanan: “[If the farmer failed to redeem the seed when he sowed it, later when the crop has been harvested] he redeems the entire storehouse of produce for the value of that original seah of consecrated seed that he planted.”

[III:2 A] **That which grows from [seed] that is dedicated [to the Temple] or second tithe is unconsecrated:**

[B] The difference between produce dedicated to the Temple and produce that is in the status of second tithe: produce grown from seed in the status of second tithe whether the seed disintegrates or seed that does not disintegrate is redeemed at the lowest going price, but if it is produce that derives from seed that disintegrates is redeemed at the lowest current price, and produce of seed that does not disintegrate is redeemed at the lowest going price of the time at which it was planted. [That is the rule for second tithe,] As to produce dedicated to the Temple, whether it comes from seed that disintegrates or not, its value is nothing other than the going price in the place and at the time at which it is to be redeemed. But produce the seed of which disintegrates

— he may redeem the whole storehouse full of produce at the value of that one seah of consecrated seed that he originally planed. Produce of seed that does not disintegrate — the whole crop in the storehouse is to be redeemed.

[IV:1 A] **[If there are] a hundred garden-beds [planted] with [seed in the status of] heave-offering and one [planted] with unconsecrated [seed, but it is not known which contains the unconsecrated seed], all are permitted [for consumption as unconsecrated food] in the case of a kind the seed of which disintegrates, But in the case of a kind the seed of which does not disintegrate, even if there are a hundred beds [sown] with unconsecrated seed and one [planted] with heave-offering, all of them are forbidden.**

[B] Said R. Yosé, “That is to say, if he had a hundred seahs of produce that had been taken to replace heave-offering neutralized in a mixture of one part of heave-offering to a hundred parts of unconsecrated produce, and he also had one seah of unconsecrated produce and these were mixed together [so he did not know which seah was the unconsecrated produce, all are] permitted as unconsecrated food.” [Each individual seah is unconsecrated food, just as with the garden beds.]

[I:2 A] There said R. Yohanan, “A *se’ah* of heave-offering that fell into a hundred [*se’ahs* of unconsecrated produce, and was thereby neutralized], and one lifted it out [i.e., took a new *se’ah* of heave-offering for the priest] — any small quantity of unconsecrated produce that is mixed with it nullifies its standing as heave-offering. [It is 1/100 heave-offering, and any more produce that falls in will neutralize the heave-offering at a ratio of 1/100 plus a negligible amount of produce.”]

[B] [That implies that] here if he picked produce in one of the garden beds and any small quantity of unconsecrated produce fell into that which he picked, the produce is permitted.

[C] [May the householder purposely neutralize the heave-offering?] Just as R. Yohanan said there, “He may mill the mixture so as to cause the heave-offering to be permitted to a non-priest,” *so here [Yohanan] says the householder may validly take actions to neutralize the heave-offering.*

[D] *But there* [once the mixture is milled, if the farmer takes a replacement offering] some small proportion of the original heave-offering and some larger proportion of consecrated produce will come up in his hand. *But here* in the case of the gardens, any one bed that the

householder picks may contain all of the unconsecrated untithed produce. [Yohanan does now allow the householder purposely to neutralize this produce.]

[E] That is so if he picked the produce in one of the garden beds alone. But if he picked the produce in two of them, both this and that came up in his hand. [The heave-offering is only a percentage of a mixture with unconsecrated produce, so Yohanan will allow the household to act so as to neutralize the heave-offering.]

[II:1 A] Produce that is subject to the separation of tithes — that which grows from it is permitted [for consumption as a chance meal in [the case of] a kind [of produce] the seed of which disintegrates. But in [the case of] a kind the seed of which does not disintegrate — [even] what grows from [the seed of a crop] that grew from it is forbidden [for consumption as a chance meal, for like the seed, it is deemed subject to tithes]. What is a kind [of produce] the seed of which does not disintegrate? [A kind] such as arum, garlic or onions. R. Judah says, “Garlic is like barley [i.e., its seed disintegrates].”

[B] **But in [the case of] a kind the seed of which does not disintegrate — [even] what grows from [the seed of a crop] that grew from it is forbidden [for consumption as a chance meal, for like the seed, it is deemed subject to tithes:** to what extent is this the case?

[C] R. Jacob bar Idi said in the name of R. Yohanan, “For three growing seasons it is forbidden, and at the fourth it is permitted,” and so is the law here. [That is, three crops grown from those seeds will be prohibited. The fourth and beyond will be permitted.]

[II:2 A] *R. Samuel bar Abudimi asked in the presence of R. Mana, “What if the seed was itself in the status of heave-offering? to what extent is this the case?”*

[B] He said to him, “They treat the fourth generation crop from seed in the status of heave-offering to be equivalent to the first generation crop from untithed seed. Just as a first generation crop of produce the seed of which disintegrates, if the seed has the status of heave-offering, the crop is forbidden, but if the seed was subject to tithes, the crop is permitted, so a fourth generation crop from a type of produce the seed of which does not disintegrate, if the seed is in the status of heave-offering the crop is forgiven, but if the seed was subject to tithes the crop is permitted.”

[II:2 A] What do you have as produce the seed of which disintegrates?

- [B] Said R. Yosé b. R. Abun, “For example lesbian figs.”
- [C] R. Abbahu in the name of R. Yosé b. Hanina: “Garlic — if it is the size of barley, it is a type of produce the seed of which disintegrates. If it is larger than that, it is a type of produce the seed of which does not disintegrate.”
- [D] R. Yosé b. R. Abun in the name of R. Yosé b. Hanina, “Garlic — the size of barley for all purposes.”

9:3

- [A] **One who weeds alongside a gentile [in a field of] leeks [grown from seed that has not been tithed] —**
- [B] **even though his [i.e., the gentile’s] produce has the status of untithed produce,**
- [C] **[the Israelite] makes a chance meal of it [without tithing].**
- [D] **Saplings [from seed] in the status of heave-offering that became unclean —**
- [E] **if he planted them, they no longer render unclean [that with which they come into contact].**
- [F] **And [the fruit of the saplings] is forbidden for consumption [by non-priests] until he [once] trims off that fruit [that has the status of heave-offering].**
- [G] **R. Judah says, “Until he trims off [the fruit] and does so a second time [i.e., also trims off the next crop that grows].”**
- [I:1 A] R. Hiyya bar Ashi in the name of R. Abbahu in the name of R. Yohanan, “This is the view of R. Simeon [that an Israelite makes a random meal without tithing of produce grown by a gentile. That is because Gentiles have the power of acquisition of real estate in the Land of Israel so as to exempt [produce grown on their holdings] from tithing regulations]”
- [B] If it represents the view of R. Simeon, what difference does it make to me that it is a random meal? Even if it is a formal meal, [it should be exempt from tithing.]
- [C] But since R. Jeremiah, R. Hiyya in the name of R. Yohanan [said], “R. Simeon concedes that an Israelite who purchases produce grown by a gentile must separate the tithes as a matter of law, so you must say that the Israelite makes a random meal of this produce.] *Therefore it is necessary to say, ‘This is the view of R. Simeon.’*”

- [I:2 A] One who weeds alongside a Samaritan [in his property] is permitted to make a random meal of produce about the tithing of the seed of which there is a doubt, but if it was known for sure that the produce grew from seed that was not tithed, the Israelite may not make a chance meal.
- [B] Why? Because what is doubtfully tithed is nullified when the produce is growing in the ground, and that which grows from forbidden produce does not neutralize it.
- [I:3 A] R. Abbahu in the name of R. Yohanan: “**Saplings [from seed] in the status of heave-offering that became unclean** — if when they were still unconsecrated they became unclean and then he [planted them and only afterwards designated them as heave-offering [they are heave-offering and clean and may be eaten by a priest]. But if they were heave-offering from the start [before they were rendered unclean], even though they were subsequently planed and rendered clean, the produce that grows from them may not be eaten by a priest, for] they were already removed from the category of clean heave-offering that may be eaten by a priest.]”
- [B] R. Abbahu in the name of R. Yohanan: “Water that becomes unclean, if when it was still ordinary water it became unclean he may immerse it in a pool that renders the water clean, and then may designate it as the water libation of a festival. But if to begin with, before it became unclean, it had the status of the water libation of a festival [even though one immersed it later on to render it clean] it may not be used as a water libation [for it was already removed from the category of water for that purpose].”
- [C] Abbahu in the name of R. Yohanan: “Figs or grapes that became unclean — one may squeeze the juice out of them and designate it as heave-offering, [It is a new entity and not unclean.] But if the figs or grapes were already designated as heave-offering when they became unclean, even if he squeezes them, a priest may not drink the juice] for it is already removed from the category of heave-offering that may be consumed by a priest.”
- [D] R. Zeira, R. Yosé in the name of R. Eleazar: “[If the figs or grapes was already designated as heave-offering and then became unclean,] the farmer may squeeze out the juice in quantities of less than an egg’s bulk [which is not in the system of contamination or purification] and the wine is clean even for libations.”
- [E] They say: *Rabban Simeon b. Laqish takes issue.*

[F] *With what does Rabban Simeon b. Laqish take issue? Is it with the lenient position [that he may press the unclean figs or grapes and designate the juice as heave-offering,] or is it with the strict rule [that figs or grapes in the status of heave-offering that are unclean, if one presses them, the priest still may not drink the juice]?*

[G] *If you say it is with the lenient position, there is no problem [liquids inside the figs or grapes were rendered unclean by the fruit. When the liquid is squeezed out it is unclean and not fit for the priest to drink]. But if you say it is with the strict position, [and he holds that when juice is squeezed out of the unclean produce in the status of heave-offering, it is clean and may be consumed by the priest] it is difficult to explain that outcome].*

[H] *For thus we have learned in the Mishnah: **Saplings [from seed] in the status of heave-offering that became unclean — if he planted them, they no longer render unclean [that with which they come into contact. And [the fruit of the saplings] is forbidden for consumption [by non-priests] until he [once] trims off that fruit [that has the status of heave-offering].*** [The process of planting the saplings or squeezing the juice does not render produce in the status of heave-offering permitted for the priest to eat. Simeon b. Laqish cannot disagree with the Mishnah. His disagreement is with the lenient rule.]

[II:1 A] **R. Judah says, “Until he trims off [the fruit] and does so a second time [i.e., also trims off the next crop that grows].”** [What is to be trimmed?]

[B] R. Abbahu in the name of R. Yohanan: *“This is the sense of the Mishnah: Until the householder trims off the sapling’s leaves and does it a second time after the leaves grow back.”*

YERUSHALMI TERUMOT

CHAPTER TEN

10:1

- [A] [As regards] an onion [in the status of heave-offering] that one placed [i.e., cooked] among [unconsecrated] lentils —
- [B] if [the onion] is whole, it is permitted [to eat the lentils as unconsecrated food].
- [C] But if one cut up [the onion and then placed it among unconsecrated lentils] —
- [D] [it is forbidden to eat the lentils as unconsecrated food] if [the onion] imparts [to them its] flavor.
- [E] And [as regards] all other cooked foods —
- [F] whether [the onion in the status of heave-offering] is whole or cut up,
- [G] [it renders forbidden the unconsecrated food with which it is cooked] if it imparts [its] flavor [to that food].
- [H] R. Judah permits [for the consumption of a non-priest] a pickled-fish [that was cooked with an onion in the status of heave-offering],
- [I] for the purpose [of the onion] is only to absorb the stench [of the fish, and not to flavor the brine].
- [J] [As regards] an apple [in the status of heave-offering] that one chopped up and placed in dough,
- [K] and [as a result the dough] was leavened —
- [L] lo, this [i.e., the dough] is forbidden [for consumption by a non-priest].
- [M] [As regards] barley [in the status of heave-offering] that fell into a well of water —

- [N] even though the water [in the well] was tainted [by the barley],
- [O] the water, is permitted [for consumption by a non-priest].
- [I:1 A] [As regards] an onion [in the status of heave-offering] that one placed [i.e., cooked] among [unconsecrated] lentils — if [the onion] is whole, it is permitted [to eat the lentils as unconsecrated food:
- [B] R. Hezekiah, R. Ahai in the name of R. Abba bar Mamel: “*The Mishnah speaks of a case* in which the whole onion was put in with the lentils after the lentils had cooked enough so that the liquid in them dried out. The mass of lentils presses against the onion so it cannot impart its flavor to them. But if one put the onion with the lentils before the lentils had cooked enough so that the liquid in them dried out, [the lentils cooked with the onion in the status of heave-offering will be treated as heave-offering, so] *in this case the law does not apply. Just as you say that* the mass of lentils presses against the onion so it cannot impart its flavor to them, *along these same lines* the lentils press against the onion so that it cannot absorb its flavor. [And what would be a concrete case? An onion in the status of unconsecrated food that one put into lentils in the status of heave-offering, even so [the onion is permitted because] the lentils press against the onion so that it cannot absorb their flavor.]”
- [I:2 A] *The Mishnah speaks of* an onion of secular standing that one placed into lentils of heave-offering, but as to an onion of heave-offering that one put into secular lentils — *not to such a case does the Mishnah refer.*
- [I:3 A] *The Mishnah speaks of* a dry onion but if it is wet [the lentils do not prevent it from imparting its flavor even if the onion that is heave offering is whole,] it renders the lentils forbidden for eating as secular food.
- [I:4 A] The Mishnah speaks of an onion, but in the case of leeks in the status of heave-offering, whether wet or dry, whole or chopped up, they render forbidden to non-priests to eat unconsecrated food with which they are cooked.
- [B] [What is required for cutting up the onion?] If one removed the protuberance on the blossom-end of the onion, it is as if it were cut up. If there were two or three whole onions cooked in one batch of lentils, it is as if it were cut up.
- [I:5 A] [As to the rule, [As regards] an onion [in the status of heave-offering] which one placed [i.e., cooked] among [unconsecrated] lentils — if [the onion] is whole, it is permitted [to eat the lentils as

unconsecrated food], that is the case if the outer skin of the onion does not contain sufficient pungency to impart flavor to the lentils. [Is the outer skin, normally not eaten, held to have the status of heave-offering. If not, then even if it imparts flavor to the lentils, they do not take on the status of heave-offering, But if the outer skin is deemed heave-offering, then the lentils it flavors will take on its status.] But if the outer skin of the onion does contain sufficient pungency to impart flavor to the lentils, it is forbidden to non-priests.

- [I:6 A] *There we learned in the Mishnah: Fish were cooked with leeks [in the status of] second-tithe and [the leeks] increased [the fish's value] — the increase is [divided] proportionately.*
- [B] *Said R. Hoshaiah, "This cannot represent the view of R. Judah, for we have learned in the Mishnah: R. Judah permits [for the consumption of a non-priest] a pickled fish [which was cooked with an onion in the status of heave-offering], for the purpose [of the onion] is only to absorb the stench [of the fish, and not to flavor the brine] [M. Ter. 10:1]. [The consecrated status of an ingredient passes to the main mixture only if the intention was to flavor that mixture (Brooks). The Mishnah holds that the mixture takes on some of the special status of the second-tithe leeks, without regard to the intention of the farmer.]"*
- [C] *Rabbis of Caesarea raised the question: "And lo, as to what R. Abbahu said in the name of R. Yohanan, 'In any mixture that is potentially forbidden [because one ingredient is sanctified,] they assess whether a like amount of onions or leeks [would impart flavor to the mixture. If so, the dish takes on the status of the minor ingredient, even if it has imparted no flavor. That is not in accord with the ruling of R. Judah. R. Judah concedes the case of onions dedicated to the Temple. R. Judah concedes the case of onions grown by an idolater [that they may not be added even to absorb the odor of pickled fish]."*
- [II:1 A] **[As regards] an apple [in the status of heave-offering] that one chopped up and placed in dough, and [as a result the dough] was leavened — lo, this [i.e., the dough] is forbidden [for consumption by a non-priest].**
- [B] *It is taught as a Tannaite rule: R. Yosé permits. [T. Ter. 10:8: R. Yosé says, "That which is leavened [by the apple] is not deemed [truly] leavened."]*
- [C] *R. Aha, R. Abbahu in the name of R. Yosé bar Hanina, "Where they differ it is in a case in which the dough was leavened by the juice of the apple in the status of heave-offering. But if the dough was leavened*

by the piece of apple, all agree that this is not true leavening of the dough, and the dough remains permitted as secular food].]

- [D] *There we have learned: An apple in the status of heave-offering which one chopped up and placed in dough, as a result of which the dough was leavened — lo, this dough is forbidden [for consumption by a non-priest] [M. Ter. 10:2A-C].*
- [E] *It has been taught: R. Yosé permits [eating it] [T. Ter. 8:9b].*
- [F] R. Aha, R. Abbahu in the name of R. Yosé bar Haninah: “Where they differ, it is in the case of the apple’s causing leavening through its juice. But as to its causing leavening through its substance, all parties concur that [the dough] is permitted [to non-priests, because this is not in the category of leavening].”
- [G] [*The pertinence of the foregoing is now established.*] R. Yosé is consistent with his positions held elsewhere, for just as he has said there, “The effect of leavening on the part of the apple is not wholly established,” so he maintains here [at M. Shab. 3:3C] that the work of cooking the food [under the condition described at M. 3:3] is not wholly established.
- [II:2 A] **“It is all the same whether [heave-offering] imparts flavor [so as] to improve [the taste of food], or spoil [it].**
- [B] **“In either case [the food to which the heave-offering imparted flavor] is forbidden [for consumption by a non-priest]” — the words of R. Meir.**
- [C] **R. Simeon says, “[If the heave-offering] improves [the taste of unconsecrated food, that food] is forbidden.**
- [D] **“[But if the heave-offering] spoils [its taste], it [remains] permitted [for consumption by a non-priest],**
- [E] **“as in the case of vinegar [in the status of heave-offering] which fell into [unconsecrated] beans.”**
- [F] Said R. Simeon b. Laqish, “Where do they differ? It is in a case in which first the heave-offering improved the taste of the unconsecrated produce but then spoiled the taste. [The improvement imparted the status of heave-offering first of all, so Meir takes that into account.] But if it first spoiled the taste and afterward improved it, also R. Meir will concur.”
- [G] R. Yohanan said, “There is no difference whether the heave-offering first spoiled the flavor of the unconsecrated produce and later

improved it or whether it first improved it and then spoiled it. The dispute between Meir and Simeon concerns a case in which at some point in the cooking, the heave-offering spoiled the flavor of the dish.”

[H] *There we learned in the Mishnah: [As regards] barley [in the status of heave-offering] that fell into a well of water — even though the water [in the well] was tainted [by the barley], the water) is permitted [for consumption by a non-priest]. Now what is the point of this passage of the Mishnah? [Do R. Meir and R. Simeon differ?]*

[I] R. Yohanan said, “It is subject to their dispute.” [Simeon agrees that the water is permitted, Meir says the tainted water is still heave-offering.]

[J] R. Simeon b. Laqish said, “It represents the view of both authorities.” [Meir wants the spoilage to take place after the water was first improved by it.]

[K] R. Yosé b. R. Abun said, “These traditions are as follows: ‘R. Yohanan says, “It is subject to dispute.” R. Simeon b. Laqish says, “It represents the view of all parties.”’”

10:2

[A] **One who scrapes hot bread [from the side of an oven] and places it on top of a jug of wine in the status of heave-offering —**

[B] **R. Meir deems [the bread] forbidden [for consumption by non-priests].**

[C] **But R. Judah deems [it] permitted.**

[D] **R. Yosé deems [it] permitted in [the case of] bread made from wheat,**

[E] **but deems [it] forbidden in [the case of] bread made from barley,**

[F] **for barley absorbs [the wine vapor].**

[G] **[As regards] an oven that one fired with cumin in the status of heave-offering and baked bread in it —**

[H] **the bread is permitted [for consumption by a non-priest] .**

[I] **For the flavor of cumin is not [imparted to the bread] but [only] the smell of cumin.**

[I:1 A] **[One who scrapes hot bread from the side of an oven] and places it on top of a jug of wine in the status of heave-offering — R. Meir deems the bread forbidden for consumption by non-priests]: *Said R. Zeira, “They asked before R. Yannai, ‘If they put the bread on top of***

a sealed jug of wine in the status of heave-offering, what is the rule [as to whether the bread takes on the status of heave-offering]?”

- [B] He said to them, “Its companion attests to its rule.”
- [C] What is the meaning of, “Its companion [ruling] attests to its rule”?
- [D] Said R. Yosé, “*It is in line with that which we have learned in the Mishnah: A jar which is full of pieces of fruit and placed into liquids, or one which is full of liquids and placed among pieces of fruit, and they absorbed (water) — whatever they absorbed is under the law, If water be put [M. Makh. 3:2]* [produce can absorb liquid through a sealed utensil; the hot bread on top of the sealed jug of wine in the status of heave-offering may enter consecrated status of the wine] — just as you say there, “And that is the rule if the liquid in which the utensil filled with fruit is situated is actually touching the utensil,” so here too, that is the rule if the liquid in which the utensil filled with fruit is situated is actually touching the sealed top of the jug.
- [E] Said R. Mana, “just as you say there, “And that is the rule if the liquid in which the utensil filled with fruit is situated is actually touching the utensil itself,” so here too, if the bread is to absorb wine, the loaf must be touching the utensil itself.”
- [F] *The statement suggests that the bread absorbs the wine even if the loaf of bread is cold.*
- [G] Said R. Ba, “There was a case involving cold bread [that was placed on top of a jug containing wine in the status of heave-offering, and Meir ruled that the bread absorbed the wine and became heave-offering.]”
- [H] *And lo, we learned in the Mishnah, One who scrapes hot bread!*
- [I] Said R. Hisda, “[Hot bread is stated] so that you will not say, ‘Since the vapor of the hot bread prevents the bread from absorbing the flavor of the wine, the bread remains permitted.’”
- [I:2 A] [A jar which is full of pieces of fruit and placed into liquids, or one which is full of liquids and placed among pieces of fruit, and they absorbed (water) — whatever they absorbed is under the law, If water be put [M. Makh. 3:2]: What [liquids impart susceptibility by being absorbed through an earthen ware vessel]?
- [B] R. Simeon b. Laqish says, “Water renders produce susceptible, but other liquids do not renders produce susceptible [through the jug, being too heavy].”

- [C] *That is not in accord with R. Judah* [**One who scrapes hot bread [from the side of an oven] and places it on top of a jug of wine in the status of heave-offering — R. Meir deems [the bread] forbidden [for consumption by non-priests]. But R. Judah deems [it] permitted**].
- [D] But R. Simeon b. Laqish says, “Water renders produce susceptible, and it diminishes the volume of water into which the jar is placed. Other liquids render produce susceptible [through the jug] but they do not diminish the volume of water into which the jar is placed.”
- [E] R. Judah says, “Liquids [other than water] are not absorbed into a utensil so as to impart to produce susceptibility to uncleanness.”
- [I:3 A] This is what R. Yohanan said, “When we were going to R. Hoshaiah the Elder in Caesarea to study Torah, we would put our hatter cakes on top of pressing pots which contained brine for pickling and when we ate the bread, we could taste in it the flavor of the brine.” Now this does not agree with the view of R. Judah [that the bread does not pick up the taste of the liquid in the vessel below it.]
- [B] They actually stuck the batter cakes into the upper rim of the pressing pots so that they could absorb the liquid that was there, That is why the bread tasted of brine.
- [C] Isn’t that forbidden as an act of stealing from the householder who owned the pressing pots?
- [D] They would get permission of the householder [to take the brine].
- [II:1 A] [**R. Yosé deems [it] permitted in [the case of] bread made from wheat, but deems [it] forbidden in [the case of] bread made from barley, for barley absorbs the wine vapor**]. If bread is made up of wheat and barley, if the wheat is on the bottom of the loaf and barley is on the top, just as the wheat does not absorb wine, so the barley does not absorb the wine, and the loaf remains permitted [since the barley is not directly over the jug of wine].
- [B] If barley is on the bottom and wheat is on the top, just as the barley absorbs the flavor of the wine, so the wheat absorbs the flavor of the wine, [and the loaf is forbidden].
- [III:1 A] [**As regards] an oven that one fired with cumin in the status of heave-offering and baked bread in it — the bread is permitted [for consumption by a non-priest] For the flavor of cumin is not [imparted to the bread] but [only] the smell of cumin.**

- [B] What is the rule on roasting together in the same oven two spits of meat, one with properly slaughtered meat and the other holding meat that is carrion?
- [C] R. Jeremiah said in the name of Rab, “It is forbidden.”
- [D] Samuel said in the name of Levi, “It is permitted.”
- [E] A Tannaite teaching differs from Rab: **They do not roast two Passover offerings in a single oven, because this creates confusion [as to which family owns which lamb] [T. Pis. 5:11].**
- [F] They made this ruling only because of confusion, but they did not forbid this because of mixing the flavors of the two pieces of meat.

[III:2 A] Water in which savory in the status of heave-offering was steeped —

- [B] Rab said, “It is forbidden [to non-priests and is regarded as heave-offering].”
- [C] Samuel said, “it is permitted.”
- [D] *Samuel gave Rab water in which savory in the status of heave-offering was steeped to drink.*

[III:3 A] [Regarding roasting together in the same oven two spits of meat, one with properly slaughtered meat and the other holding meat that is carrion,] as to the roasted meat, R. Hiyya bar R. Ashi in the name of Rab: “One must heat the oven up to a high temperature sing hardened palm twigs.”

10:3

- [A] [As regards] fenugreek that fell into a vat of [unconsecrated] wine —
- [B] **in [the case of fenugreek that is] heave-offering or second tithe,**
- [C] **if the seed [without the stalk] is sufficient to impart flavor [to the wine, that wine is subject to the law of heave-offering or second tithe].**
- [D] **But not [if the seed is not sufficient to impart flavor to the wine without] the stalk.**
- [E] **In [the case of fenugreek that is produce of] (1) the seventh year [of the sabbatical cycle], (2) of a vineyard in which were sown diverse kinds, or (3) [if it] is dedicated [to the Temple] —**

- [F] if the seed and stalk [together] are sufficient to impart flavor [to the wine, that wine is subject to the law of produce of the seventh year, diverse kinds, or that which is dedicated to the Temple].
- [G] One who had bundles of fenugreek grown in a vineyard in which were sown diverse kinds — let them be burned.
- [H] [If] he had bundles of fenugreek liable to the separation of tithes —
- [I] he crushes [some of the stalks] and determines the quantity of seed that [all of the stalks together] contain
- [J] and separates [the tithes required] for [this quantity of] seed.
- [K] But he does not need to separate tithes for the stalks.
- [L] And if he separated tithes [for the stalks],
- [M] he may not say, “I shall crush [all of the stalks] and shall take [the stalks for myself] and give the seed [to its proper recipients, priest and Levite].”
- [N] Rather, he must give [to priest and Levite] the stalks along with the seed.
- [I:1 A] In [the case of fenugreek that is produce of] (1) the seventh year [of the sabbatical cycle], (2) of a vineyard in which were sown diverse kinds, or (3) [if it] is dedicated [to the Temple] — if the seed and stalk [together] are sufficient to impart flavor [to the wine, that wine is subject to the law of produce of the seventh year, diverse kinds, or that which is dedicated to the Temple].
- [B] But does not the stalk of the fenugreek spoil the taste of the wine and then spoil it some more? [If the taste is ruined, should the wine not be regarded as secular?]
- [C] *The Mishnah accords with the view of him who said, “If it imparts a flavor to the detriment of the taste of the unconsecrated food, the unconsecrated food is forbidden [restricted by the status of the produce that flavored it” [as Meir says].*
- [D] *And even in accord with the view of him who said, “If it imparts a flavor to the detriment of the taste of the unconsecrated food, the unconsecrated food is permitted,” he agrees here that the wine is forbidden. How come? Anything into which fenugreek falls is improved. [The stalk spoils the flavor but the seed improves it, so the wine is improved by the consecrated fenugreek.]*
- [II:1 A] One who had bundles of fenugreek grown in a vineyard in which were sown diverse kinds — let them be burned. [If] he had

bundles of fenugreek liable to the separation of tithes — he crushes [some of the stalks] and determines the quantity of seed that [all of the stalks together] contain and separates [the tithes required] for [this quantity of] seed. But he does not need to separate tithes for the stalks. And if he separated tithes [for the stalks], he may not say, “I shall crush [all of the stalks] and shall take [the stalks for myself] and give the seed [to its proper recipients, priest and Levite].” Rather, he must give [to priest and Levite] the stalks along with the seed.

[B] **bundles of fenugreek — how much?**

[C] Twenty five stalks to a bundle.

[D] Said R. Yohanan, “Four of the stalks must be suitable to serve as a bedtime snack.”

[III:1 A] *What is implicit is*, unless the fenugreek is in bundles, it is exempt from the separation of tithes.

[B] Then what about ears of corn [as soon as they are in bundles, it is liable to tithing]?

[C] [Corn is different, for] they do not form corn into bundles for this purpose; [for fenugreek it is for storage, for corn the bundles are for transportation.]

[D] The parched ears of born] were not cultivated for this purpose, but they form fenugreek into bundles to eat it in that manner and it was cultivated to begin with for that purpose.

10:4

[A] **[As regards] unconsecrated olives that one pickled with olives in the status of heave-offering —**

[B] **[if it was] (1) crushed, unconsecrated [olives that were pickled] with crushed [olives] in the status of heave-offering,**

[C] **[or] (2) crushed, unconsecrated [olives that were pickled] with whole [olives] in the status of heave-offering,**

[D] **(3) [or if they were pickled] in brine in the status of heave-offering**
—

[E] **it is forbidden [i.e., the unconsecrated olives are rendered forbidden for consumption by a non-priest].**

[F] **But [if] whole unconsecrated [olives are pickled] with crushed [olives] in the status of heave-offering — it is permitted.**

- [I:1 A] Said R. Jonah, “That indicates that crushed olives absorb liquids in which they are placed and discharge the liquid again and then absorb it again. Whole olives absorb the liquid in which they are placed and discharge it but do not then absorb it again.”
- [II:1 A] That is to say, if heave-offering imparts flavor to secular food so as neither to improve nor to spoil the unconsecrated food, that food is in any case forbidden.
- [B] *The Mishnah accords with the position of R. Simeon, for R. Simeon says, “If heave-offering imparts flavor to spoil unconsecrated food, the food is in any event forbidden” [T. Ter. 7:9].* [Simeon affirms M. Ter. 10:7: food prepared with but not flavored by heave-offering takes on the status of heave-offering.]
- [C] But lo, R. Simeon said, “If heave-offering imparts flavor so as to spoil unconsecrated food, the food is permitted.”
- [D] *It is in accord with this statement in Simeon’s name: R. Simeon says, “[Unconsecrated] cabbage from an irrigated field [that is boiled] with cabbage [in the status of heave-offering] from a rain-watered field is forbidden [for consumption by non-priests], since it [i.e., the cabbage from the irrigated field] absorbs [the flavor of the other cabbage].”*

10:5

- [A] [As regards] unclean fish that one pickled with clean fish —
- [B] [in the case of fish pickled in] any keg that holds two *se’ahs* [= 9600 *zuz*, weight of brine,]
- [C] if [in that two *se’ahs*] it contains unclean fish of a weight of ten *zuz* in Judaeen measure,
- [D] which equals five *selas* in Galilean measure,
- [E] the brine is forbidden [i.e., unclean].
- [F] R. Judah says, “[It is forbidden if there is] a quarter [log, i.e., fifty *zuz*, of unclean fish] in two *se’ahs*.”
- [G] R. Yosé says, “[It is forbidden if the unclean fish is] one sixteenth [of the whole, i.e., 600 *zuz*].”
- [H] Unclean locusts that were pickled with clean locusts have not invalidated [i.e., imparted uncleanness to] the brine [in which they were pickled].

[I] **Testified R. Sadoq concerning the brine of unclean locusts, that it is clean [i.e., that it does not impart susceptibility to uncleanness].**

[I:1 A] *Taught as a Tannaite statement by R. Yuda bar Pazzi of Bar Delayya: “A clean unsalted fish that one pickled with an unclean salted fish — the clean fish is forbidden” [T. Ter. 9:2].*

[B] *But was it not taught as a Tannaite statement by R. Hiyya: “He may wipe off the clean fish and it is permitted” [T. Ter. 9:2]?*

[C] Said R. Mana, “*He who says* it is permitted speaks of a case in which the clean and unclean fish were pickled simultaneously. [The fish absorbs the clean brine together.] *He who says that* the fish is forbidden speaks of a case in which the clean and unclean fish were pickled successively. [The clean fish is pickled second, in the brine in which the unclean fish was pickled.] You may know that that is so, *for we have learned in the Mishnah: [As regards] unconsecrated olives that one pickled with olives in the status of heave-offering — [or if they were pickled] in brine in the status of heave-offering — it is forbidden [i.e., the unconsecrated olives are rendered forbidden for consumption by a non-priest].* Doesn’t this refer to a case in which the consecrated and unconsecrated olives were pickled successively?” [The brine left over from pickling the olives in the status of heave-offering imparts the status of heave offering to the unconsecrated olives that are pickled afterward.]

[I:2 A] **...any keg that holds two *se’ahs* [= 9600 *zuz*, weight of brine:**

[B] How many logs to a seah? Twenty four.

[C] How many litras to a log? Two.

[D] How many *zuz* in a litra? One hundred.

[E] Each *zin* [ten *zuz* of unclean fish] equals one nine-hundred-sixtieth of two seahs of brine.

[F] R. Yosé b. R. Abun taught, “A mouse that falls into a cooking pot renders the contents unclean in a mixture of one part mouse to one thousand parts other food.”

[II:1 A] **R. Judah says, “[It is forbidden if there is] a quarter [log, i.e., fifty *zuz*, of unclean fish] in two *se’ahs*.”**

[B] [What is clean or unclean, the fish or the brine?] R. Abbahu in the name of R. Yosé bar Hanina: “[Judah refers to] a quarter-log of unclean brine in two seahs of clean brine. [It takes fifty *zuz* of what is unclean to impart uncleanness to two seahs. But even ten *zuz* of

unclean food will impart uncleanness to two seahs, So this is a lenient ruling. Why so?] The brine of unclean fish is itself clean. [So only a large volume of that brine imparts uncleanness to that with which it is mixed.]”

- [C] [What percentage is ten zuz?] Said R. Abbahu, “Think of it as close to one part in two hundred [fifty zuz in 9600 zuz, 1/960 of the batch.]”
- [D] R. Ila in the name of R. Simeon bar Hiyya: ““[Judah refers to] a quarter-log of unclean brine in two seahs of clean fish and its brine.”
- [E] *A case came before R. Josiah, and he ruled in accord with this statement*].
- [F] *And a Tannaite statement concurs:*
- [G] **Said R. Yosé b. R. Judah, “To what case does this apply [i.e., the rule that brine in which is pickled unclean fish may itself be rendered unclean]?”**
- [H] **“To the case in which one removes [the fish from the brine] one piece at a time and places it before him and finds it to be of the specified measure. [If in this way he finds the specified measure of unclean fish, the brine is deemed unclean.**
- [I] **“But if he takes [pieces of fish from the brine] and tosses [them into a pile] one at a time, and places them behind him, the pieces of unclean fish are not deemed to join together to impart uncleanness.**
- [J] **“Even though he [ultimately] found there more than the specified amount—**
- [K] **“[the brine is] permitted” [T. Ter. 9:1].**
- [II:2 A] *By accident a large keg of food was suspect of being ruined as unclean.*
- [B] [R. Haggai asked R. Ba bar Zabeda [about such a case]. He said to him, “A matter of considerable [value] is not going to be prohibited [so as to cause substantial damages solely by reason of doubt].”
- [C] *R. Jacob bar Zabedi said R. Isaac raised the question: “Now [if by reason of the pretext that, in a case of doubt, one will permit the food so that a considerable loss will not be incurred, then what about the case, at Y. Git. 1:1, in which] documents [were found] in which obviously gentile names such as Lucas were inscribed [as the witnesses? Now what is the difference between this case before us, in*

which, on account of some pretext, you permit the food whose status is in doubt, and the case involving bonds of indebtedness, in which case the law is that testimony is required to validate the signatures of the witnesses bearing gentile names and so possibly not valid witnesses at all?) [If] you invoke a mere pretext [in the present case], then [surely you should invoke] a mere pretext [e.g., the Israelite court is not likely to permit gentiles to sign. the bonds, and hence, even though the names are gentile, the bonds belong to Israelites] in this other case.” [The question is not answered.]

[III:1 A] Testified R. Sadoq concerning the brine of unclean locusts, that it is clean [i.e., that it does not impart susceptibility to uncleanness].

[B] What is the meaning of “clean”? It is, “clean” so that it does not impart susceptibility to uncleanness.

[C] Lo, so far as it imparts uncleanness to what is susceptible, any small amount of unclean locust brine renders food unclean.

10:6

[A] **All [kinds of unconsecrated produce] that are pickled together [with heave-offering remain] permitted [for consumption by non-priests],**

[B] **except [for unconsecrated produce pickled] with leeks [in the status of heave-offering].**

[C] **(1) Unconsecrated leeks [that are pickled] with leeks in the status of heave-offering,**

[D] **[or] (2) unconsecrated vegetables [that are pickled] with leeks in the status of heave-offering**

[E] **are forbidden [for consumption by non-priests].**

[F] **But unconsecrated leeks [that are pickled] with vegetables in the status of heave-offering are permitted [for consumption by non-priests].**

[G] **R. Yosé says, “All [kinds of unconsecrated produce] that are boiled with beets [in the status of heave-offering] are forbidden [for consumption by non-priests],**

[H] **“since they [i.e., beets] impart flavor [to that with which they are cooked].”**

[I] **R. Simeon says, “[Unconsecrated] cabbage from an irrigated field [that is boiled] with cabbage [in the status of heave-offering] from a rain-watered field is forbidden [for consumption by non-priests],**

- [J] “since it [i.e., the cabbage from the irrigated field] absorbs [the flavor of the other cabbage].”
- [K] R. Aqiba [Judah] says, “All [kinds of permitted food] that are cooked together [with forbidden food] are permitted [for consumption],
- [L] “except [for that which is cooked] with [forbidden] meat.”
- [M] R. Yohanan b. Nuri says, “Liver renders [other food] forbidden, but itself is not rendered forbidden,
- [N] “for it imparts [flavor], but does not absorb [flavor].”
- [O] [As regards] an egg that was spiced with forbidden spices [e.g., spices in the status of heave-offering] —
- [P] even its yolk is forbidden [for consumption],
- [Q] since it [i.e., the yolk] absorbs [the flavor of the spices].
- [R] **Liquid in which heave-offering has been boiled or pickled is forbidden to non-priests.**
- [I:1 A] Said R. Yohanan, “Reference is made not to consecrated and secular produce that are pickled together but to what is seethed together. Pickling has the same effect as boiling. [Seething signals that the food was cooked less than this.]”
- [I:2 A] R. Hanina of Torata in the name of R. Hoshai: “[Unconsecrated] leeks that are pickled with consecrated leeks so the consecrated produce and the secular produce are of the same species — R. Aqiba permits and sages prohibit.”
- [B] R. Yosé in the name of R. Yohanan: “Sages concede to R. Aqiba in the case of permitted meat cooked with the same kind of forbidden meat that the permitted meat remains permitted.”
- [C] *Said R. Zeira to R. Yosé, “Had this statement not been made in so many words, we should never have known that that is the case, and perhaps the statement was made only along the following lines: R. Aqiba concedes to sages in the case of permitted meat cooked with the same kind of forbidden meat that the permitted meat is forbidden.”*
- [D] R. Abbahu came in the name of R. Yohanan [and cited the rule as follows]: R. Aqiba concedes to sages in the case of permitted meat cooked with the same kind of forbidden meat that the permitted meat is forbidden.”
- [E] R. Hanania derived the rule from the latter law: R. Aqiba says, “All [kinds of permitted food] that are cooked together [with forbidden food] are permitted [for consumption], except [for that which is

cooked] with [forbidden] meat.” **Lo, if permitted meat is cooked with forbidden meat, the permitted meat is made forbidden.**

[F] Perhaps [Yohanan] actually said, “Sages concede to R. Aqiba in the case of permitted meat cooked with the same kind of forbidden meat that the permitted meat is forbidden”?

[G] R. Hanania, R. Abbahu in the name of R. Yohanan: Sages concede to R. Aqiba in the case of permitted meat cooked with the same kind of forbidden meat that the permitted meat is forbidden.”

[II:1 A] **R. Simeon says, “[Unconsecrated] cabbage from an irrigated field [that is boiled] with cabbage [in the status of heave-offering] from a rain-watered field is forbidden [for consumption by non-priests], since it [i.e., the cabbage from the irrigated field] absorbs [the flavor of the other cabbage].”**

[B] *Said R. Yosé, “We were reasoning about ruling that the cabbage grown in a rain-watered field absorbed the flavor of cabbage grown in an irrigated field. [The cabbage grown in the rain-watered field got less water than the cabbage grown in the irrigated field and would be drier and absorb liquid.] On the basis of what R. Huna said, [we found out otherwise]: ‘Take its trunk and give its pulp [which is moist] as heave-offering.’ That is to say, the cabbage grown in the irrigated field absorbs the flavor of the moist pulpy cabbage grown in a rain-watered field.”*

[III:1 A] **R. Yohanan b. Nuri says, “Liver renders [other food] forbidden, but itself is not rendered forbidden, for it imparts [flavor], but does not absorb [flavor]:”**

[B] *R. Jeremiah asked, “Liver that one seethed in forbidden fat — what is the rule on whether it is forbidden?”*

[C] *R. Zeira never ate liver in his entire life. R. Abba made seethed liver and gave it to him to eat. There are those that say R. Abba pickled it and gave it to him to eat.*

[IV:1 A] **[As regards] an egg that was spiced with forbidden spices [e.g., spices in the status of heave-offering] — even its yolk is forbidden [for consumption]. since it [i.e., the yolk] absorbs [the flavor of the spices]. Liquid in which heave-offering has been boiled or pickled is forbidden to non-priests:**

[B] **As regards] an egg that was spiced with forbidden spices [e.g., spices in the status of heave-offering] — even its yolk is forbidden**

[for consumption], since it [i.e., the yolk] absorbs [the flavor of the spices].

[C] *Bar Qappara taught as a Tannaite rule:* The yoke is forbidden, all the more so the white of the egg.

[IV:2 A] R. Isaac the Elder in the name of R. Simeon b. Laqish: **“[As regards] eggs which one boiled and [later] found a baby bird in one of them — if it is of sufficient quantity to impart flavor [to all of the eggs, they are] forbidden; but if not, they are permitted [T. Ter. 9:5].”**

[B] R. Zeira, R. Simeon bar Abba in the name of R. Yohanan, Adda bar Gershon, R. Birai, R. Levi bar Palta, an elder in the name of Rabbi: “If there are sixty-one eggs [one of which had a baby bird in it] they are all forbidden, but sixty-two eggs one of which is forbidden — the others are permitted.”

[C] R. Samuel bar Nahman in the name of R. Jonathan: “Adda our colleague testified before us concerning a case in which there were sixty eggs, one of which was forbidden, and he said, ‘If someone brings me more than sixty eggs, only one of which is forbidden, I will validate all of them.’”

[D] *They said to Simeon bar Vava, “You say this [eggs are forbidden in a mixture of one in sixty-one] but they say this [it is permitted].”*

[E] *He said, “I cite what I heard and they cite what they heard.”*

[IV:3 A] Simeon bar Vava in the presence of R. Hanina: “A case came before Rabban Gamaliel b. Rabbi [concerning forty-five eggs one of which was found to be unfit]. He said to them, “Father did not rule in a case of forty-seven eggs [that one unfit egg did not invalidate the mixture] and yet you want me to rule in a case of forty five.] [All are unfit.]”

[B] R. Hiyya in the name of R. Hanina: “The case came before Rabbi and he said, ‘Were there a total of fifty eggs?’ [If there were, he would validate the lot of them, but if not, then all are forbidden].

[C] R. Hiyya in the name of R. Hanina: “The vegetables, the egg shells, and the water all join together [to form the volume needed to neutralize the one forbidden egg].”

[D] Said R. Zeira, “Even the volume of the forbidden egg is included within the required volume.”

[E] Said R. Huna, “The shell of the forbidden egg is included within the required volume.”

[F] R. Zeira: “That which you say [that the rules for cases in which clean eggs are not rendered forbidden apply only if one boils them together in their shells, so that all the eggs are boiled together. But if one boils permitted eggs out of their shells with forbidden egg in its shell, or a forbidden egg out of its shell with permitted eggs in their shells, or if one places together a forbidden egg that is being boiled with permitted eggs that are not being boiled, or permitted eggs that are being boiled with a forbidden egg that is not being boiled, we need a different criterion.”

[IV:4 A] **Abortive eggs are permitted for eating [T. Ter. 9:5].**

[B] Eggs that have formed a membrane are forbidden for eating.

[C] **Spoiled eggs: let one with a strong stomach eat them. If one found blood in them, he may throw out the blood and eat the rest [T. Ter. 9:5].**

[IV:5 A] *R. Zeira went up to visit R. Hiyya b. R. Isaac of Attush. He found him in session. He said, “They taught this rule [he may throw out the blood and may not eat the rest] only with regard to finding the blood on the yoke. But if he found it on the white of the eggs, he may remove the blood and the rest of the egg is permitted.”*

[B] *He thought that he had received this rule from his father. R. Abbahu in the name of R. Yohanan came [and said], “Whether the blood is found on the egg white or on the yolk, the egg is forbidden.”*

[C] *R. Halapta b. Saul taught as a Tannaite rule: If the blood was found on the yolk, the egg is forbidden. If it was found on the egg white, it is permitted.*

[D] Said R. Zeira, “He who says that if the blood is found on the yoke the egg is forbidden refers to a case in which the blood is found on the part of the yolk where germination sets in. He who says that the egg is forbidden even if the blood is found on the egg yoke but also if it is found on the white refers to a case in which the blood is found on the germinating point in the white of the egg from which the baby bird is formed.”

[IV:6 A] **[Liquid in which heave-offering has been boiled or pickled is forbidden to non-priests:] There we learned in the Mishnah: These invalidate and do not raise the pool to the requisite volume: (1) [Drawn] water, whether unclean or clean, (2) and water in which food has been pressed or (3) seethed, (4) and grape skin wine before it has fermented [M. Miq. 7:2].**

- [B] Here you treat water in which food has been boiled or pickled to be a food [and enters the status of heave-offering], but there at M. Miq. 7:2 you treat it as a liquid [that renders the immersion pool invalid. Foods do not have that power.]
- [C] Said R. Mana, “Here hard types of produce were pickled or boiled in the water, but there soft sorts of produce were pickled or oiled in the water. Here we make reference to the food as still in the liquid, there it is liquid alone.”
- [D] Said R. Yosé b. R. Abun, “You may even say that both passages refer to hard produce or both passages refer to soft produce. The rule for liquids to which produce has imparted a flavor applies if the produce was heave-offering. But the rule for liquid to which produce has imparted flavor does not apply to that which is spilled into an immersion pool.”

YERUSHALMI TERUMOT

CHAPTER ELEVEN

11:1

- [A] They may not put cakes of pressed figs or dried figs [in the status of heave-offering] in fish-brine [in order to flavor that brine],
- [B] since this ruins them [i.e., the figs, for use as food].
- [C] But they may put wine [in the status of heave-offering] in brine.
- [D] And they may not perfume oil [in the status of heave-offering, for it may not thereafter be eaten].
- [E] But they may make wine [in the status of heave-offering] into honeyed-wine.
- [F] They may not boil wine in the status of heave-offering,
- [G] since this diminishes its quantity.
- [H] R. Judah permits [one to cook wine],
- [I] for this improves it [i.e., the flavor of the wine].
- [I:1 A] They may not put cakes of pressed figs or dried figs [in the status of heave-offering] in fish-brine [in order to flavor that brine]:
- [B] *It is taught on Tannaite authority:*
- [C] One may put a cake of pressed figs or dried figs [in the status of heave-offering] in *muries* in the same way that he adds spices.
- [D] He may not [later remove them and] press them to squeeze out [their] Juices.
- [E] In [the case of] spices [in the status of heave-offering], this is permitted,
- [F] since this is their normal mode of preparation.

- [G] **One who ties up [in a bundle] spices [in a status of heave-offering] and puts them in a dish [that is cooking] —**
- [H] **if they lose their flavor [in the mixture], they are [thereafter] permit-*ted* [for consumption as unconsecrated food];**
- [I] **but if not, they [remain] forbidden [as heave-offering] [T. Ter. 9:7].**
- [J] What is the difference between the spices mentioned here and dill? *Has it not been taught as a Tannaite statement: dill, once it has imparted its flavor in the cooking pot, is no longer subject to heave-offering and does not receive uncleanness as food [M. Uqs. 3:4]?* [A spice must completely lose its flavor before it loses its status of heave-offering. But dill loses the status of heave-offering after its power to impart flavor is only slightly diminished.]
- [K] [Dill is not really a food and should not have been classified as heave-offering. It is a Rabbinic decree and is subject to a lenient law.] In dill, the rabbis have given back what belongs to you anyhow. In strict logic it should not have been subject to the uncleanness attaching to food. The Rabbis said that it is subject to the uncleanness attaching to food, and they said that once it has imparted its flavor to the pot, it is null.
- [II:1 A] **But they may put wine [in the status of heave-offering] in brine: R. Hiyya in the name of R. Yohanan: “This is the ruling of Rabbi.”**
- [B] *For it has been taught on Tannaite authority: [As to putting] wine [having the status of heave-offering, that must be consumed and not permitted to go to waste] into fish brine, Rabbi permits doing so. R. Eleazar b. R. Simeon prohibits doing so [cf. M. Ter. 11:1].*
- [C] Therefore if one has transgressed and put wine [having the status of heave-offering into fish brine],
- [D] Rabbi declares [the mixture] prohibited to non-priests, [because the wine imparts flavor to the fish brine].
- [E] R. Eleazar b. R. Simeon permits [the mixture] to non-priests[, because the wine is destroyed by the fish brine and so is null, not in existence].
- [F] *R. Mana bar Tanhum asked, “In accord with the opinion of the one who permits [a mixture of wine having the status of heave-offering and fish brine] to non-priests, then why is fish brine belonging to a gentile prohibited? [Surely in principle, as at E, the wine is deemed null.]”*
- [G] R. Jeremiah in the name of R. Hiyya bar Ba: “It is on account of [the prohibition of] food cooked by gentiles.”

- [H] Objected R. Yosé: “*And has it not been taught: [Brine made by] an expert — lo, this is permitted. That which is not made by an expert is prohibited [T. A.Z. 4:11U].*
- [I] “**If it is made by an expert, it is permitted** — is this not [only] when it has not been cooked? Similarly, then, brine not made by an expert is prohibited, even though it has [not] been cooked.
- [J] *Now what [is the reason that fish brine is prohibited]? [The reason is that wine is put in] to remove the smell, so on account of idolatry [a libation made with that wine, fish brine is forbidden] .*
- [K] [On account of that small benefit enjoyed by idolatry, *the rule*] *has stated that* the enjoyment imparted to idolatry causes the prohibition of the fish brine. And yet the enjoyment involved in the consumption of heave-offering [by a non-priest is so slight that] it is permitted. [So strict is the law against idolatry that a negligible volume of wine is taken into account.]
- [L] Said R. Yohanan bar Marayya, “In accord with the opinion of the one who rules [H] that if the fish brine is made by an expert, it is permitted — that is the case only if the Israelite purchaser knows the gentile.”
- [M] That is to say, an Israelite is permitted to derive benefit from wine in the status of heave-offering [the holy standing of which has been voided, by mixing it with fish brine]. But an Israelite is not permitted to derive benefit from wine used for a libation even after that wine has been ruined by being mixed with brine.”

[III:1 A] They may not boil wine in the status of heave-offering, since this diminishes its quantity: [in what way does this diminish it?]

- [B] R. Eleazar and R. Yohanan —
- [C] One said, “It diminishes it in volume.”
- [D] And the other said, “It diminishes the number of drinkers.”
- [E] *And we do not know who says this and who says that.*
- [F] **On the basis of the statement, said R. Yohanan, “The theories attributed to R. Judah conflict. [Unboiled wine is preferred here, in the later passage boiled wine is better,]” and R. Eleazar says, “The theories attributed to R. Judah do not conflict, There, where boiling wine is permitted, it is wine in the status of heave-offering and the boiling is done by the priest. [That keeps the wine from spoiling and it is therefore better.] Here where unboiled wine is superior, it is in the hands of the householder since unboiled wine is of better**

quality,” it must be R. Yohanan who said, it diminishes its quality for wine drinkers. [Yohanan holds that diminishes means diminishes its taste, and the disputing opinion must be that boiling the wine improves its flavor. Yohanan thus maintains that Judah’s opinion at M. Ter. 11:1 contradicts what he says at M. Ter. 2:6. Eleazar sees the issue of M. Tr. 11:1 as quantity, and that has no bearing on M. Ter. 2:6.]

- [C] R. Judah b. R. Bini and R. Imi in the name of R. Simeon b. Laqish: “Boiling wine diminishes its desirability to wine drinkers.”

11:2

- [A] [As regards any of the following that have the status of heave-offering:] (1) honey made from dates, (2) wine made from apples, (3) vinegar made from winter grapes or (4) any other fruit juice in the status of heave-offering —
- [B] R. Eliezer obligates [a non-priest who unintentionally drinks any of these] to [pay] the principal and [added] fifth.
- [C] But R. Joshua exempts.
- [D] And R. Eliezer declares [that these things render foods susceptible to] unclean[ness], under the law of liquids.
- [E] Said R. Joshua, “Sages did not number seven liquids [that render food susceptible to uncleanness] as do those who count spices [i.e., imprecisely].
- [F] “Rather, they said, ‘Seven [kinds of] liquids [render foods susceptible to] unclean[ness], but all other liquids are clean [i.e., do not render foods susceptible to uncleanness].”
- [I:1 A] *They proposed to rule: where they differ, it concerns the added fifth, but as to the principal, also R. Joshua agrees [that compensation is to be paid]. Where they differ, it concerns a case in which someone has already [processed produce of heave-offering into fruit juice. Eliezer holds that the juice is heave-offering, Joshua differs.] But as to whether one may do this to begin with, even R. Joshua concedes that one may not.*
- [B] *But so we have learned as a Tannaite rule: honey made from dates — R. Eliezer declares it subject to the removal of tithes, but R. Joshua declares it exempt [T. Ter. 9:8].*
- [C] [Joshua holds that] here we have a case in which the fruit juiced was made after the produce had become subject to tithes. [It is subject to tithes.] But here [where Joshua holds the fruit juice is not subject to

tithes] the fruit juice was made before the produce became subject to tithes. [The juice is not regarded as a food.]

- [II:1 A] **R. Eliezer agrees that if he tithed the dates here [i.e., in the Land of Israel] and turned them into honey in Apamea, that [the honey] is permitted [for consumption, without further tithing] [T. Ter. 9:8].**
- [B] *That is to say*, he separates heave-offering and tithes from he dates in behalf of the honey in accord with the quantity of the dates [and not of the potential honey].
- [C] [As regards] honey made from dates — R. Eliezer declares it liable to [the removal of] tithes [T. Ter. 9:8].
- [D] *It is taught as a Tannaite statement: R. Nathan says, “It is not that R. Eliezer regards the honey as subject to the separation of tithes. Rather, R. Eliezer says one may not eat the honey unless he had tithed the dates from which the honey was made” [T. Ter. 9:8].*
- [E] *The statement alleges: he separates heave-offering and tithes from the dates for the honey in accord with the quantity of dates and amount of honey the dates produce. Tithing the dates renders the honey permitted for consumption.]*
- [III:1 A] **And R. Eliezer declares [that these things render foods susceptible to] unclean[ness], under the law of liquids:**
- [B] *It is taught as a Tannaite statement: R. Nathan says, “It is not that R. Eliezer regards the fruit juices as capable of rendering food susceptible to uncleanness as liquid. Concerning what is there a dispute? Concerning a case in which liquid such as water fell into the fruit juice. R. Eliezer declares that the mixture is capable of rendering food susceptible to uncleanness as liquid. And sages say, ‘They rule on whether or not the mixture is classified as a liquid in accord with what is in the majority [fruit juice or water].’”*
- [C] In line with the view of R. Nathan, R. Meir, R. Eliezer b. Jacob and R. Eliezer all three said the same thing, namely, a mixture of fruit juice and water imparts susceptibility to uncleanness.
- [D] R. Meir, for he said, “Fruit juice is always nullified by water that falls into it.”
- [E] R. Eliezer b. Jacob, *for it is taught as a Tannaite rule: R. Eliezer b. Jacob says, “Insusceptible brine into which fell any amount at all of water is deemed susceptible to uncleanness” [M. Makh. 6:3].*

[F] *And the opinion of R. Eliezer has already been given here.*

[IV:1 A] *The Scriptural basis for the position of R. Eliezer [And R. Eliezer declares that these things render foods susceptible to] uncleanness, under the law of liquids] is, “Any food in an earthen vessel may be eaten, upon which water will fall, shall be susceptible to uncleanness, and all drink that may be drunk from every such utensil shall be unclean” (Lev. 11:23). [All encompasses fruit juice like other liquid.]*

[B] *What is the Scriptural basis for the position of rabbis? “that may be drunk” [and fruit juice is not normally drunk].*

[C] [What does Eliezer have to say about] “that may be drunk”?

[D] He accords with R. Ishmael, for R. Ishmael said, “Where there is a generalization and a particularization [all drink/that may be drunk], all follows the general statement.” And R. Eliezer goes further than R. Ishmael, for he said, “Even where there is a generalization followed by a particularization followed by a generalization, all matters of law follow the generalization.”

[E] *R. Prigori of Caesarea: “R. Eliezer accords with the view of R. Ishmael. But this is how R. Eliezer replied to the sages: ‘Just as at Lev. 11:34 you have the language, “Any food that may be eaten” excluding food that is rotten, so I have the statement, “All drink that may be drunk,” excluding liquids that are putrid [but not excluding fruit juice].’”*

[F] They said to him, “Food is not comparable to drink. If you say regarding food that the phrase ‘which may be eaten’ excludes what is rotten, since rotten food is not susceptible to uncleanness, will you say the same for liquid, for putrid liquids still can become unclean? [No. The exclusionary phrase ‘that are drunk’ does not exclude liquid that is putrid, for that can contract uncleanness and impart uncleanness to food. The specification ‘that are drunk’ excludes fruit juice.] Another matter: if you say of foods that ‘that may be eaten’ excludes what is rotten, since food grown specifically for consumption of people does not require the intention of a particular person to eat it so as to become susceptible to uncleanness, will you say the same for [that may be drunk’ alleging that it excludes what is putrid in the case of liquid. For even liquid prepared specifically for people to consume must be subject to the intention of a person who wants to drink them, and that makes them susceptible to uncleanness and able to impart susceptibility.”

[G] Now is it the case that since they require intention putrid liquids should be nature be held susceptible to uncleanness and able to impart susceptibility to uncleanness? Rather, since they require intention to be deemed food and susceptible, putrid liquids should be deemed insusceptible to uncleanness or to impart susceptibility.]

[H] Another matter: They said to him [to Prigori], “No, if you say for the case of food that the phrase ‘that may be eaten’ excludes what is rotten, since food fed to animals, which people eat, in no case is subject to intention to use them as food for animals, so that this animal feed never becomes susceptible to uncleanness, will you say the same for the phrase ‘that may be drunk’ alleging that it excludes liquids that are putrid for the sake of liquids, since liquid normally given to animals is drunk by a human being and is subject to that person’s intention?” [That is not a valid claim].

[IV:2 A] *The dispute over whether a rotten liquid is susceptible to uncleanness is taught in a Tannaite ruling:*

[B] **“All drink is susceptible to uncleanness” (Lev. 11:34). What does Scripture mean by, “Which may be drunk”?**

[C] **This excludes liquids that are putrid,” the words of R. Eliezer.**

[D] **They said to him, “Putrid liquids do not restrain fowl or cows from drinking. Therefore the liquid is under the law” [T. Toh. 9:12].**

[E] Associates in the name of R. Eleazar, “R. Eliezer concedes to sages in the case of putrid liquid that it is subject to uncleanness.” [He differs only in claiming that the liquid does not impart susceptibility to uncleanness.]

[F] *But have we not learned in the Mishnah: The sap that exudes from olives the preparation for consumption of which is complete — R. Eliezer declares clean. And sages declare unclean [M. Toh. 9:3].* [It is a liquid that imparts susceptibility to uncleanness.]

[G] R. Ila in the name of R. Eleazar: “R. Eliezer concedes to sages concerning the water of the Great Sea that even if it is rancid, the Torah has called it ‘water’ [that imparts susceptibility to uncleanness]. Thus: ‘The water that was gathered together he called seas’ (Gen. 1:10).”

[H] R. Jacob b. Zebedee in the name of R. Abbahu: “R. Eliezer concedes to sages in the case of water in which beets were soaked and water in

which vegetables were boiled that it does not impart susceptibility to uncleanness.”

[IV:2 A] [With regard to the statement of M. Makh. 6:4, **There are seven liquids [to which the law, If water be put, applies]: (1) dew, (2) water, (3) wine, (4) oil, (5) blood, (6) milk, and (7) bee honey**], R. Yohanan in the name of R. Simeon b. Yohai: “If someone should say to you that the list of liquids is not exact and that there are eight liquids that impart susceptibility to uncleanness [honey from dates as well as honey from bees], say to him, ‘lo, dew and water are a single classification but the sages counted them as two. [So the list is precise and should not be augmented.] If the sages had a further liquid to include in the list, wouldn’t they have listed it in so many words?”

11:3

- [A] [Regarding produce in the status of heave-offering or second tithe:] they may not make (1) dates into honey, nor (2) apples into wine, nor (3) winter grapes into vinegar, nor (4) [as regards] all other fruits may they alter their natural condition if they are in the status of heave-offering or second tithe,
- [B] except [in the case of] olives and grapes.
- [C] They do not receive the forty stripes for [drinking liquids made from produce that is] from the first three years of growth of a vineyard or orchard (Lev. 19:23),
- [D] except for [drinking] that which is produced from olives or grapes.
- [E] And they may not bring first fruits in the form of liquids,
- [F] except for that which is produced from olives or grapes.
- [G] And no [fruit juice] imparts [susceptibility to] uncleanness under the law of liquids,
- [H] except for that [liquid] that is produced from olives or grapes.
- [I] And they may offer no [liquid] at the altar,
- [J] except for that [liquid] that is produced from olives or grapes.
- [I:1 A] **R. Ila in the name of R. Eleazar: “This is what the Mishnah says: And they may not bring first fruits in the form of liquids, except for that which is produced from olives or grapes. And even after the householder has produced the juice and has it in hand, he may not do so.” [That is de facto as well as de jure.]**
- [B] *And has it not be taught on a Tannaite basis: If one pressed fruit in the status of first fruits to bring it to the Temple as liquid, on the basis of what verse of Scripture do we know that he may bring the liquid?*

Scripture states, “You shall take some of the first of all the fruit of the ground that you take from your land” (Dt. 26:2). The repetition of the word “take” shows that even if first fruits are pressed into juice, they may be brought to the Temple.

- [C] If from the beginning the householder harvested the produce for this purpose [to press the fruit into juice] [he may bring it to the Temple. But if from the outset he did not pick the fruit for this purpose but designated it as first fruits and only later on determined to press the fruit for juice, he may not bring it to the Temple.
- [I:2 A] **“[As regards] olives in the status of heave-offering —**
- [B] **“[if they are] clean, let them be made into oil.**
- [C] **“[If they are] unclean, let them not be made into oil.**
- [D] **“[As regards] grapes [in the status of heave-offering] —**
- [E] **“whether they are unclean or clean, let them not be made [into wine]” — the words of R. Meir.**
- [F] **R. Jacob says, “R. Eliezer concedes to R. Joshua in [the case of] clean olives, that they should be made [into oil].**
- [G] **“Concerning what did they disagree?**
- [H] **“Concerning [the case of] unclean olives.**
- [I] **“For R. Eliezer says, ‘Let them not be made [into oil],’**
- [J] **“and R. Joshua says, ‘Let them be made [into oil],’**
- [K] **“and clean grapes should be made [into wine], and unclean grapes should not be made [into wine].”**
- [L] **Said R. Judah, “R. Joshua concedes to R. Eliezer concerning [the case of] clean olives and clean grapes, that they should be made [into oil and wine].**
- [M] **“Concerning what did they disagree?**
- [N] **“Concerning unclean [olives and grapes].**
- [O] **“For R. Eliezer says, ‘They should not be made [into oil and wine],’**
- [P] **“and R. Joshua says, ‘They should be made [into oil and wine].’”**
- [Q] **Said Rabbi Yohanan, “R. Eliezer and R. Joshua did not disagree concerning clean olives, that they should be made [into oil], and**

concerning unclean grapes, that they should not be made [into wine].

[R] **“Concerning what did they disagree?**

[S] **“Concerning unclean olives and clean grapes.**

[T] **“For R. Eliezer says, ‘They should not be made [into oil and wine],’**

[U] **“and R. Joshua says, ‘They should be made [into oil and wine].’” [T. Terumot 9:9]**

[V] *All parties take issue with R. Meir in the case of clean grapes that they should be made into wine. And why does he maintain that they should not be made into wine? Grapes are more valuable as food than as drink.*

[W] *All parties take issue with R. Judah in the case of unclean grapes. [He holds that Joshua maintains unclean grapes should be made into wine, but the others concur that unclean grapes in the status of heave-offering should not be made into wine. Why does Judah think Joshua holds that one should make unclean grapes in the status of heave-offering into wine? The unclean wine may not be drunk by the priest so we should not expect processing to be required.*

[X] [Joshua wants the grapes processed] so that the priest may use the shells and pomace l[as kindling].

[Y] Unclean olives — Rabbi’s statement of Eliezer’s view and Meir’s position concur. [Unclean olives in the status of heave-offering should not be pressed into oil.]

[Z] Unclean olives — R. Jacob and R. Judah concur [that Eliezer states these should not be made into oil and Joshua says they should be.

[AA] *How do they act in a concrete case?*

[BB] R. Zeira in the name of R. Eleazar: “It is not clear whether or not we speak of a case in which liquids are mixed with foods.”

[CC] R. Zeira — all his rules on heave-offering and purities are traditions in the name of R. Eleazar.

11:4

[A] **The stems of [fresh] figs, dried figs, pods and carobs in the status of heave-offering are forbidden [for consumption] by non-priests.**

- [B] [As regards] the pits of produce in the status of heave-offering —
- [C] when he [i.e., the priest] keeps them, they are forbidden [for consumption by non-priests].
- [D] But if he throws them out, they are permitted.
- [E] And so [in the case of] the bones of Holy Things [i.e., animal offerings] —
- [F] when he keeps them, they are forbidden [to non-priests].
- [G] But if he throws them out, they are permitted.
- [H] Coarse bran [from grain in the status of heave-offering] is permitted [for consumption by non-priests].
- [I] Fine bran from fresh [wheat in the status of heave-offering] is forbidden [to non-priests].
- [J] But [fine bran] from old [wheat in the status of heave-offering] is permitted.
- [K] [The priest] may treat heave-offering just as he treats unconsecrated produce [i.e., he may throw out the parts he does not normally eat].
- [L] One who prepares fine flour [from wheat in the status of heave-offering], deriving a *qab* or two from each *se'ah* [of wheat], may not destroy the residue [that is edible].
- [M] Rather, he places it in a concealed place.
- [N] [As to] a storage bin from which one emptied wheat in the status of heave-offering —
- [O] they do not obligate him to sit and pick up one at a time each kernel of wheat [that remains on the floor of the bin].
- [P] Rather, he may sweep [the bin] in his normal fashion, and [then] may put unconsecrated [wheat in the bin].
- [Q] And so [in the case of] a jug of oil [in the status of heave-offering] that was spilled —
- [R] they do not obligate him to sit and scoop [it] up with his hand.
- [S] Rather, he treats it as he treats unconsecrated [oil that spills; he may wipe it up with a rag, even though the rag will absorb some of the consecrated oil].
- [T] One who pours [wine or oil in the status of heave-offering] from one jar to another and [allows] three [last] drops to drip [from the jar he is emptying] may [then] put unconsecrated [wine or oil] in that [jar, without further wiping it out].

- [U] If [after three drops had fallen] he placed [the jar] on its side and [more oil or wine] drained [from it] — lo, this [wine or oil] is in the status of heave-offering.
- [V] And what quantity of heave-offering of the tithe [separated] from produce about which there is a doubt whether or not it previously was tithed need one take to the priest?
- [W] One eighth of an eighth *log* [= 1/64 *log*; less than this quantity is deemed insignificant and need not be given to the priest].
- [I:1 A] [As regards] the pits of produce in the status of heave-offering — when he [i.e., the priest] keeps them, they are forbidden [for consumption by non-priests]. But if he throws them out, they are permitted]:
- [B] *Said R. Yohanan, “The Mishnah speaks of the pits of pears and Crustumenian pears.”*
- [C] *Said R. Eleazar, “You may even say it speaks of the pits of all other fruit. [If they are kept by the priest,] they contain juice that one can suck out.”*
- [D] [The claim is that inedibles are held to maintain their consecrated status because of the juices they contain.] *But we have learned in the Mishnah: And so [in the case of] the bones of Holy Things [i.e., animal offerings] — when he keeps them, they are forbidden [to non-priests]. But if he throws them out, they are permitted. Can you claim that these retain their sanctified status because they can be sucked on?*
- [E] No, the bones are retained because of the cartilaginous tops of the fore legs [which is edible, and the bones are deemed a food.]
- [F] R. Abbahu came in the name of R. Yohanan: “The Mishnah speaks of the cartilaginous tops of the fore legs [which is edible, and the bones are deemed a food.]
- [II:1 A] **Fine bran from fresh [wheat in the status of heave-offering] is forbidden [to non-priests]. But [fine bran] from old [wheat in the status of heave-offering] is permitted.**
- [B] **For how long is [fine bran from] fresh [wheat in the status of heave-offering] forbidden? For as long as it is normal for people to thresh at the threshing floors. R. Aha says, “For thirty days [from the harvest]” [T. Ter. 10:4].**
- [III:1 A] **One who prepares fine flour [from wheat in the status of heave-offering], deriving a *qab* or two from each *se’ah* [of wheat], may**

not destroy the residue [that is edible]. Rather, he places it in a concealed place

[B] R. Abbahu in the name of R. Yohanan: “That is the right measure.”

[C] *But has it not been taught as a Tannaite rule:* One who prepares fine flour from grain derives from th grain as much flour as he wants. [The residue is inedible refuse.] And one who cleans out the husk of a vegetable [to use the inner part alone] may clean out as much or as little as he wants. [The rest is refuse.]

[D] R. Abbahu in the name of R. Yohanan: “[One who prepares fine flour from wheat in the status of heave-offering, deriving a *qab* or two from each *se’ah* of wheat, may not destroy the residue that is edible] — that statement refers to a case in which the farmer wants to increase the quantity of heave-offering that he will give to the priest.”

[E] R. Jeremiah in the name of R. Ila: “The cited statement applies to years of famine [when anything that is edible is classified as food, even the residue of the milling process. But the contrary rule speaks of years of plenty [when only the best produce is classified as food.]”

[III:2 A] ***There we have learned in the Mishnah:*** The innards of melons and the outer leaves of vegetables in the status of heave-offering — R. Dosa permits them to non-priests. And sages prohibit them [regarding them as food] [M. Ed. 3:3]

[B] R. Abbahu in the name of R. Yohanan: “They repeated this rule only in the case of the outer leaves of leafy vegetables grown by gardeners, [who clean the produce thoroughly. If the priest removes more leaves from what was given to him as heave-offering, these might be edible. What the priest removes is waste and not consecrated, so Dosa.] [Sages hold that since the produce was well cleaned, what the priest removes is food and consecrated,] so also the sages concur [that the outer leaves of a leafy vegetable are unconsecrated].” [The farmers are not so careful as gardeners to clean refuse off produce. Any leaves the priest removes from heave-offering separated by a farmer are refuse and not heave-offering.]

[C] *R. Abun asked, “[The dispute at M. Ed. 3:3] makes no sense except in the case of the great heave-offering [where the distinction between gardeners and farmers applies. But in the case of heave-offering of the tithe, [Dosa agrees with sages that leaves the priest removes are forbidden to non-priests. [The Levite receives produce as normally prepared by the farmer or gardener. He cleans whatever he plans to designate as heave-offering of the tithe, which has no waste attached to*

it. Any leaves he detaches are food and consecrated.] They may not pick off more leaves as waste once some leaves are removed, and they may not cut off more of the stalk as refuse once some of the stalk has been removed.”

- [IV:1 A] [As to] a storage bin from which one emptied wheat in the status of heave-offering — they do not obligate him to sit and pick up one at a time each kernel of wheat [that remains on the floor of the bin]. Rather, he may sweep [the bin] in his normal fashion, and [then] may put unconsecrated [wheat in the bin]. And so [in the case of] a jug of oil [in the status of heave-offering] that was spilled — they do not obligate him to sit and scoop [it] up with his hand. Rather, he treats it as he treats unconsecrated [oil that spills; he may wipe it up with a rag, even though the rag will absorb some of the consecrated oil]. One who pours [wine or oil in the status of heave-offering] from one jar to another and [allows] three [last] drops to drip [from the jar he is emptying] may [then] put unconsecrated [wine or oil] in that [jar, without further wiping it out]. If [after three drops had fallen] he placed [the jar] on its side and [more oil or wine] drained [from it] — lo, this [wine or oil] is in the status of heave-offering. And what quantity of heave-offering of the tithes [separated] from produce about which there is a doubt whether or not it previously was tithed need one take to the priest? One eighth of an eighth *log* [= 1/64 *log*; less than this quantity is deemed insignificant and need not be given to the priest].
- [B] [If [after three drops had fallen] he placed [the jar] on its side and [more oil or wine] drained [from it] — lo, this [wine or oil] is in the status of heave-offering:] *There we learned in the Mishnah: [He who sells wine or oil —] after emptying the measure, [the seller] is liable to let three drops drip [further into the utensil of the buyer]. [If thereafter] he turned the measure over and drained it, lo [what is drained off] goes to the seller [M. B.B. 5:8].*
- [C] Said R. Yohanan, “*Here is no reading, ‘It belongs to the seller,’ but rather, ‘It belongs to the buyer.’*”
- [D] Here you state [that the additional wine or oil in the status of heave-offering that drips from a utensil from which three last drops have drained is heave-offering. The wine or oil that the seller collects after he has drained the utensil should belong to the buyer.]
- [E] Said R. Isaac in the name of R. Eleazar, “[The wine that finally drains from the measure belongs to the seller] because the buyer has despaired of gaining possession of any additional wine or oil that

might have been in the measure. By contrast the wine or oil in the status of heave-offering belongs to the priest and does not revert to Israelite ownership. Whatever is collected in the utensil is consecrated food and belongs to the priest.]”

- [V:1 A] **One who pours [wine or oil in the status of heave-offering] from one jar to another and [allows] three [last] drops to drip [from the jar he is emptying] may [then] put unconsecrated [wine or oil] in that [jar, without further wiping it out].**
- [B] Does this same rule apply to other holy [wine or oil]?
- [C] R. Abbahu in the name of R., Yohanana came [and said], “This same rule does apply to other holy [wine or oil].”
- [D] Said R. Hoshaiyah, “They taught that [this same rule does apply to other holy [wine or oil] only in the case of holy things that are made permissible for consumption by non-priests through some action of the householder. [Then the householder redeems any holy wine or oil that remains in the utensil and puts unconsecrated wine or oil in the utensil. But in the case of holy things that are not made permissible for consumption by non-priests through some action of the householder, any small quantity of consecrated wine or oil that remains after three last drops have drained] he returns to the priest.”
- [E] *R. Abun bar Hiyya asked: “As regards the log of oil brought by the person afflicted with the skin ailment [of Lev. 13-14] does he include in the offering any oil that remains in the utensil after three 1st drops have dripped out, or does he not include in the offering any oil that remains in the utensil after three 1st drops have dripped out? If you say he has to include it and he doesn’t include it, he violates the law by offering less oil than the required log. If you say he doesn’t need to include it but he includes it anyhow, he violates the law by offering more than the required log of oil.”*
- [F] R. Hinena did not answer [the question of R. Abun bar Hiyya]. Rather [he said that] R. Hoshaiyah said, “They taught that [this same rule does apply to other holy [wine or oil] only in the case of holy things that are made permissible for consumption by non-priests through some action of the householder. [Then the householder redeems any holy wine or oil that remains in the utensil and puts unconsecrated wine or oil in the utensil. But in the case of holy things that are not made permissible for consumption by non-priests through some action of the householder, any small quantity of consecrated wine or oil that remains after three last drops have drained] he returns to the priest.” Now this log of oil brought by the person afflicted with the skin ailment, — isn’t it a sort

of holy thing that is not made permissible for consumption by non-priests through some action of the householder? And you say that any small quantity of such holy things must be included in the offering. This means that the person afflicted with the skin ailment must go back and include as part of his offering any oil that remains in the measure after three last drops have dripped out. And if he does not include the additional oil, he transgresses through having offered less than the required log.”

- [V:2 A] **[If he cooked in a pot] heave-offering, he should not [thereafter cook in it unconsecrated produce [T. Ter. 8:16D].**
- [B] *R. Halapta b. Saul taught as a Tannaite rule: “A pot in which one cooked food in the status of heave-offering — he cleans it three times in hot water and that suffices.” [He may then prepare unconsecrated produce in it.]*
- [C] Said R. Abba, “But they do not derive the rule for a pot in which carrion was cooked from this rule for heave-offering.”
- [D] *Said R. Yosé, “There was this problem raised before R. Abba: ‘A non-priest who eats heave-offering is subject to the death penalty, and one who eats carrion has violated a negative commandment only [which hardly compares]. And yet you say this?!’*
- [E] He said to him, “It is in accord with him who said that [after the destruction of the Temple] the Israelites accepted responsibility to separate heave-offering and tithes of their own accord.” [Leniency applies to heave-offering, but not to carrion, which is Scripturally prohibited.]
- [V:3 A] *R. Justus raised the question before R. Mana, “We have learned in the Mishnah: **If [after three drops had fallen] he placed [the jar] on its side and [more oil or wine] drained [from it] — lo, this [wine or oil] is in the status of heave-offering — and you say this** A pot in which one cooked food in the status of heave-offering — he cleans it three times in hot water and that suffices.” [He may then prepare unconsecrated produce in it].”*
- [B] He said to him, In this case in which he washes the pot in hot water, because of the heat the pot is thoroughly cleaned and all the heave-offering food exudes from it.”
- [V:4 A] **[As regards] the lees of wine in the status of heave-offering —**

- [B] **the first and second times [the priest strains water through them, the resultant liquid] is forbidden [to non-priests]. But the third time, it is permitted.**
- [C] Under what circumstances?
- [D] When he strained water through them. But if he did not strain water through them even the third time it is forbidden.
- [E] **[If the lees are in the status of] second tithe —**
- [F] **the first time [that someone strains water through them, the resultant liquid is] forbidden [i.e., has the status of second tithe].**
- [G] **But the second time, [the resultant liquid] is permitted [i.e., unconsecrated].**
- [H] **R. Meir says, “The second time, [the liquid is forbidden] if [the wine lees] imparted to it flavor” [T. Ter. 10:12]**
- [I] R. Yohanan in the name of R. Simeon b. Yosedeq: “Lees from wine dedicated to the Temple — whether liquid created by training water through the lees is consecrated is determined by the number of times water is strained through them. [The first three times liquid is strained through lees dedicated to the Temple, the liquid is consecrated, the fourth time, not.]
- [J] **As regards] the chamber pot of a *zab* or a *zabah* — the [water of the] first and second [washings of the pot] conveys uncleanness.**
- [K] **But the [water of the] third [rinsing] is clean.**
- [L] Under what circumstances?
- [M] **When one put water in it [to rinse it].**
- [N] **But when one did not put water into it [but rinsed it with clean urine] —**
- [O] **even up to the tenth [rinsing] —**
- [P] **it conveys uncleanness [T. Ter. 10:13].**
- [VI:1 A] **And what quantity of heave-offering of the tithe [separated] from produce about which there is a doubt whether or not it previously was tithed need one take to the priest? One eighth of an eighth *log* [= 1/64 *log*; less than this quantity is deemed insignificant and need not be given to the priest].**

[B] R. Yudan son of the sister of R. Yosé bar Hanina in the name of R. Yosé bar Hanina: “If it is less than that quantity, he puts it in his lamp and burns it.”

[C] R. Yannai in the name of R. Yudan: “In the case of solid food the householder must give the priest as much as an egg’s bulk.”

[VI:2 A] This rule that small amounts of heave-offering of the tithe that is subject to doubt need not be given to a priest applies to unclean produce. But in the case of clean produce, any small amount of heave-offering of the tithe that the householder has collected he must give to the priest.

[B] That rule applies to heave-offering of the tithe separated from produce about which there is doubt whether or not it was tithed. But in the case of produce certainly subject to the separation of heave-offering of tithe, whether the offering is clean or unclean, large volume or small, one must give it to the priest.

11:5

[A] **[As regards] vetches in the status of heave-offering —**

[B] **[priests] may feed them to [their] cattle, animals or fowl.**

[C] **An Israelite who hired a cow from a priest may feed it vetches in the status of heave-offering.**

[D] **But a priest who hired a cow from an Israelite,**

[E] **even though he is responsible for feeding it,**

[F] **may not feed it vetches in the status of heave-offering.**

[G] **An Israelite who tended the cow of a priest in return for a share in the value of the animal may not feed it vetches in the status of heave-offering.**

[H] **But a priest who tended the cow of an Israelite in return for a share in its value may feed it vetches in the status of heave-offering.**

[I] **They kindle [unclean] oil [in the status of heave-offering] that is fit for burning in (1) synagogues, (2) houses of study, (3) dark alleyways and (4) for sick people,**

[J] **in the presence of a priest.**

[K] **[As regards] the daughter of an Israelite who married a priest but is accustomed to visit her father —**

[L] **her father may kindle [oil in the status of heave-offering] in her presence.**

- [M] **“They kindle [oil in the status of heave-offering] in a house in which there is a wedding feast, but not in a house of mourning” — the words of R. Judah.**
- [N] **R. Yosé says, “[They do so] in a house of mourning, but not at a wedding feast.”**
- [O] **R. Meir prohibits in either case.**
- [P] **R. Simeon permits in either case.**
- [I:1 A] **How on the basis of Scripture do we know that an Israelite who tended the cow of a priest in return for a share in the value of the animal may not feed it vetches in the status of heave-offering?**
- [B] **Scripture says, “If a priest buys a soul as his property for money, [the slave may eat holy things and those born in his house may eat of his food” (Lev. 22:11).**
- [C] **They eat such food, but a beast may not eat it.**
- [D] **Might one suppose that beasts may not eat vetches [in the status of priestly rations, which ordinarily do serve for food for cattle]?**
- [E] **Scripture refers to “those” [“and those that are born in his house may eat of his food” (encompassing beasts) [Sifra CCXIX:i.6].**
- [F] *There are those that teach the Tannaite rule as follows:*
- [G] **Might one suppose that cattle belonging to a priest may not be given vetches and fenugreek in the status of heave-offering?**
- [H] **R. Hezeqiah, R. Jeremiah, R. Hiyya in the name of R. Yohanan: “There is no reference here to fenugreek. [which is subject to the separation of heave-offering and is normally food for human beings and not for cattle.]**
- [II:1 A] **But a priest who tended the cow of an Israelite in return for a share in its value may feed it vetches in the status of heave-offering:**
- [B] *But has it not been taught as a Tannaite rule:* **How on the basis of Scripture do we know that a priest who bought a slave in partnership with an Israelite, so that the Israelite owns even as little as one one-thousandth share of the slave, may not feed the slave produce in the status of heave-offering?**
- [C] **Scripture says, “If a priest buys a soul as his property for money, [the slave may eat holy things and those born in his house may eat of his**

food” (Lev. 22:11). [A slave that is not solely the property of the priest may not eat holy food.]

[D] *Bar Qappara taught as a Tannaite rule:* “All that same is the law for this and for that [slave, cow]: neither is fed produce in the status of heave-offering.”

[III:1 A] **They kindle [unclean] oil [in the status of heave-offering] that is fit for burning in (1) synagogues, (2) houses of study, (3) dark alleyways and (4) for sick people, in the presence of a priest. [As regards] the daughter of an Israelite who married a priest but is accustomed to visit her father — her father may kindle [oil in the status of heave-offering] in her presence. “They kindle [oil in the status of heave-offering] in a house in which there is a wedding feast, but not in a house of mourning” — the words of R. Judah. R. Yosé says, “[They do so] in a house of mourning, but not at a wedding feast.” R. Meir prohibits in either case. R. Simeon permits in either case.**

[B] **They kindle [unclean] oil [in the status of heave-offering] that is fit for burning in (1) synagogues, (2) houses of study, (3) dark alleyways and (4) for sick people, in the presence of a priest:**

[C] Simeon bar Abba in the name of R. Yohanan: “*This is the sense of the Mishnah: They kindle [unclean] oil [in the status of heave-offering] that is fit for burning for sick people in the presence of a priest. But the first three references, burning oil of heave-offering in synagogues, houses of study, and alleyways, mean that one may burn the heave-offering oil in those places even if a priest is not present.*”

[D] *Taught R. Hiyya as a Tannaite rule:* Visiting the sick is not subject to a definite measure.”

[E] *Said R. Hiyya bar Ada, “The Mishnah made that point: for sick people, in the presence of a priest.”*

[III:2 A] [Under what circumstances do we rule, **They kindle [unclean] oil [in the status of heave-offering] that is fit for burning for sick people in the presence of a priest?**] *R. Jeremiah asked in the presence of R. Zeira, “To this point we have dealt with heave-offering inherited from the estate of the father of his mother a priest. And that applies too to heave-offering that the Israelite himself separated from his own crops and never gave to a priest. [Is that so?]”*

- [B] *He said to him, “Who will say to you that it applies too to heave-offering that the Israelite himself separated from his own crops and never gave to a priest?”*
- [C] R. Jonah and R. Yosé —
- [D] R. Jonah accords with R. Jeremiah,
- [E] and R. Yosé accords with R. Zeira.
- [F] [Must the priest be given possession even of unclean heave-offering oil?] One who says to you that the Israelite may kindle heave-offering oil inherited from his mother’s father, a priest, who asks in such a case why it is not necessary for the priest to take possession of the heave-offering that the Israelite inherited. [The value of the heave-offering belong to the Israelite. He must sell the produce itself to a priest. It is like a householder who separates heave-offering but doesn’t give it to a priest. So an Israelite who inherits unclean oil in the status of heave-offering may use it for kindling, but one who separated unclean oil from his own produce may not.]
- [G] *It was taught as a Tannaite rule:*
- [H] **[As regards] an Israelite who was sitting in the shop of a priest —**
- [I] **lo, this [priest] may fill for him a lamp with oil [in the status of heave-offering] which is fit for burning,**
- [J] **[and the Israelite] may go up to the attic, or down to the cellar, in order to do what is needful to the priest, but not what is needful to the Israelite.**
- [K] **If [the Israelite] was a partner in the [ownership of] the store with him [i.e., the priest], this is permitted [i.e., the Israelite may use the heave-offering for his own needs, since this ultimately benefits the priest].**
- [L] **And so [in the case of] a priest who was dining in the home of an Israelite —**
- [M] **lo, this [priest] may kindle for him a lamp [filled] with oil [in the status of heave-offering] which is fit for burning.**
- [N] **Even though the priest [later] got up and left, they do not obligate him to put out the lamp, until it goes out by itself.**
- [O] But has the Israelite acquired the unclean heave-offering oil [so that he may make use of it in his own benefit?

[P] He said to them, “It is a case in which the Israelite acquires title to the heave-offering through someone else [the priest who owns it and who filled the lamp for the Israelite.]”

[III:3 A] *It is taught as a Tannaite rule:* An Israelite woman who enters the home of a priest may kindle heave-offering oil to do what is necessary for the priest but not to do what is required for the Israelite.

[B] *It is taught as a Tannaite rule:* **And so [in the case of] the daughter of an Israelite who entered [to visit] the daughter of a priest and wished to leave. [The priest’s daughter] dips a wick in oil [in the status of heave-offering] which is fit for burning for her [T. Ter. 10:9].**

[C] R. Huna in the name of the household of R. Yannai: “This was legislated when packs of wolves were roaming the streets. [The court ordained that even consecrated oil could be used in Israelite lamps to scare off the wolves.] No court arose with sufficient authority to rescind the lenient rule.”

[D] Just as you say here, “No court arose with sufficient authority to rescind the lenient rule,” so you say there [at Y. Sheb. 3:2], “No court arose with sufficient authority to rescind the lenient rule.”

[III:4 A] **[As regards] a priest’s cattle that were standing [in a barn] next to an Israelite’s cattle, and so the garments of a priest that were being woven near the garments of an Israelite — lo, this one [i.e., the Israelite] may kindle on their account oil [in the status of heave-offering] which is fit for burning. [T. Ter. 10:9]**

[B] **And so [in the case of] a priest who was dining in the home of an Israelite — lo, this [priest] may kindle for him a lamp [filled] with oil [in the status of heave-offering] which is fit for burning. Even though the priest [later] got up and left, they do not obligate him to put out the lamp, until it goes out by itself [T. Ter. 10:9]**

[III:5 A] *R. Hanania bar Akhbari was working with R. Hiyya of Sepphoris, a priest. When he was going to depart, [Hiyya] filled a lamp with heave-offering oil that was fit for burning.*

[B] But did we not say, **an Israelite may use a lamp filled with sanctified oil to do what is necessary for the priest but not to do what is necessary for the Israelite [T. Ter. 10:9]?**

[C] *They said, if he had not done th is for him, he would not have come [to work with him].*

- [D] *They contemplated stating: when he got home, he would extinguish the flame.*
- [E] *R. Hinena said, “[Because Hanania left the lamp burning,] he was wakeful and arose early in the morning to return to Hiyya to continue working.”*
- [III:6 A] *One evening someone asked R. Imi, “If I dip one wick in unconsecrated [oil, may I kindle many other lamps with oil in the status of heave-offering and claim that I only benefit from the one secular light]?”*
- [B] *He said to him, “[It is as if the secular lamp] is nullified in the presence of the wicks lit with oil in the status of heave-offering.]”*
- [C] *[Accordingly,] R. Yuda b. Pazzi taught the members of the household of Nehemiah.*
- [III:7 A] *[After visiting a priest,] R. Imi dipped a wick [in oil in the status of heave-offering to light his way home].*
- [B] *R. Ila did not dip a wick [in oil in the status of heave-offering to light his way home].*
- [C] *Did R. Ila not concur with the position of R. Imi?*
- [D] *R. Ila reckoned that taking the consecrated oil would represent theft from the priest. That is because he had a servant who would make improper use of the consecrated oil.*
- [III:8 A] *Gamaliel Zuga asked R. Yosé, “What is the law as to adding secular oil to a lamp that a priest filled with oil in the status of heave-offering [thus prolonging the use of the consecrated oil]?”*
- [B] *He said to him, “R. Hoshai did not teach [the answer to the question. He said only that] they do not obligate the priest [who gave the man the original consecrated oil] to find the non-priest [and to put out the lamp.]”*
- [C] *Said R. Abbahu, “Jonathan b. Akhemaï taught me: **[As regards] the daughter of a priest who had in her hand a lamp filled with oil [in the status of heave-offering] which was fit for burning, on the eve of the Sabbath at the time of sunset — lo, this one may add any [small] amount of unconsecrated oil to the lamp and may kindle it [for the Sabbath] [T. Ter. 10:9].**” [By adding the secular oil she shows she does not violate the law by burning holy oil on the Sabbath. The non-priest does the same.]*

[D] Said R. Zeira to him, “What is the quality of that man?”

[E] He said to him, “He is a great man and an expert in our Mishnah.”

[F] *R. Hiyya of Kepar Tehumin described him before Rabbi and he appointed him a sage.*

[IV:1 A] “They kindle [oil in the status of heave-offering] in a house in which there is a wedding feast, but not in a house of mourning” — the words of R. Judah. R. Yosé says, “[They do so] in a house of mourning, but not at a wedding feast.” R. Meir prohibits in either case. R. Simeon permits in either case.

[B] *What is the reasoning behind the position of R. Judah?*

[C] In a house of a wedding feast, since the people are dressed in clean clothes, they will not get involved with moving the lamp [and so dirtying themselves with oil, so he allows using heave-offering oil at a wedding feast.] But in a house of mourning, since people wear dirty clothes, they may get involved with moving the lamp and wasting its oil. So he does not allow them to use the oil in a house of mourning].

[D] *What is the reasoning behind the position of R. Yosé?*

[E] In a house of mourning, since people are depressed, they will not get involved with the lamp [and oil in the status of heave-offering may be used in it]. But in house of a wedding feast, since people are high spirited, they are likely to get involved with the lamp.

[F] *What is the reasoning behind the position of R. Meir?*

[G] In a house of mourning, since people wear dirty clothes, they may get involved with moving the lamp and wasting its oil. So he does not allow them to use the oil in a house of mourning]. But in house of a wedding feast, since people are high spirited, they are likely to get involved with the lamp.

[H] *What is the reasoning behind the position of R. Simeon?*

[I] In a house of mourning, since people are depressed, they will not get involved with the lamp [and oil in the status of heave-offering may be used in it]. In a house of a wedding feast, since the people are dressed in clean clothes, they will not get involved with moving the lamp [and so dirtying themselves with oil, so he allows using heave-offering oil at a wedding feast.

[IV:2 A] *Members of the household of R. Yannai say, “The decided law is in accord with R. Simeon.”*

[B] R. Jacob bar Aha in the name of R. Josiah: “The decided law is in accord with R. Simeon.”

[C] *R. Yosé of Sidon asked before R. Jeremiah, “Even without such explicit rulings, what should we have said? Where you have conflicting opinions of R. Meir and R. Simeon, the law does not accord with the position of R. Simeon? [That is not the rule. Rather R. Meir and R. Simeon, the law accords with the position of R. Simeon]”*

[D] He said to him, “It is an issue raised by earlier authorities [and only afterward was debated between R. Meir and R. Simeon]. And R. Judah’s view encompasses aspects of the view of both [Meir and Simeon], and R. Yosé’s view encompasses aspects of the view of both [Meir and Simeon], Where you have a conflict between R. Judah and R. Yosé, the decided law accords with the ruling of R. Yosé.”

[IV:3 A] What is the law on whether an Israelite may kindle unclean heave-offering oil that is fit for burning for the Hanukkah lamp?

[B] Members of the household of R. Yannai say, “An Israelite may kindle unclean heave-offering oil that is fit for burning for the Hanukkah lamp.”

[C] *Said R. Nissa, “I didn’t know my father [who died before I was born]. My mother would say to me, ‘Your father would say, He who hasn’t got secular oil may kindle unclean heave-offering oil that is fit for burning for the Hanukkah lamp.’”*

TRACTATE

MA'ASEROT

The key to the entire system of interaction between God and Israel through the Land and its gifts emerges in the halakhah of *Ma'aserot*, which deals with the difference between possession and ownership. God owns the world, which he made. But God has accorded to man the right of possession of the earth and its produce. This he did twice, once to Man in Eden, the second time to Israel in the Land of Israel. And to learn the lesson that Adam did not master, which is that possession is not ownership but custody and stewardship, Israel has to acknowledge the claims of the creator to the glory of all creation, which is the Land. This Israel does by giving back God's share of the produce of the Land at the time, and in the manner, that God defines.

If there is a single obstacle to obedience to God's will, it is man's natural inclination to take possession. For it is the attitude expressed in the claim of entire right of ownership—"my power and the might of my hand have gotten me this wealth" (Deut 8:17 *RSV*)—that conveys the arrogance motivating rebellion such as took place to begin with in Eden. Someone who can do anything that he wants with a given object or person or property owns that object, person, or property. Someone whose will therefore is limited by the will of another does not. Hence, for its part, the antidote to rebellion and sin, which is the Torah, would impose upon ownership of the Land the supererogatory obligation to acknowledge a divided right of ownership and possession, that is to say, a partner's claim. And for Israel in the Land, the partner is God.

Ma'aserot, the tractate concerning "tithes," discusses the entire set of agricultural dues, viewed generically: what the Israelite owes God out of the produce of the Land (and not in particular the tenth of the crop paid to this party, or the tenth of that tenth paid to that party). The rules set forth here pertain to all the agricultural tithes and offerings and dictate the procedures—liability, timing, special problems—that pertain to them in general. The point of the halakhah, permeating all categories, is that when Israel asserts its rights of possession, God's interest is aroused and he lays claim to his share in the crop of Land the ownership of which is held in partnership between God and the Israelite farmer. Then the rest follows, a vast exercise in how the will of God and the will of the Israelite meet in

concord, Israel obeying God's laws about the disposition of the abundance of the Land.

{I consulted Martin Jaffee, *The Talmud of the Land of Israel: A Preliminary Translation and Explanation, Maaserot* (Gen. Ed. Jacob Neusner; Vol. 7; Chicago: University of Chicago Press, 1987).}

Among the tractates that define the relationship between Israel and God on the Land, *Ma'aserot* is at once the most detailed and the most abstract. This means that, through a mass of small rules, a message of broad consequence is set forth. The details add up to a definition of what kinds of produce are subject to sharing with the Land's other proprietor, God, and—of greatest interest to a religious understanding of matters—exactly when the obligation of sharing is incurred. So in the aggregate the halakhah answers these questions: What is to be subjected to tithing of various kinds, and when is the obligation to do so incurred? As to the former, Scripture is clear: “You shall tithe all the yield of your seed, which comes forth from the field year by year” (Deut 14:22 RSV). All produce of the Land thus is subject to sharing. As to when the removal of God's portion of the crop must take place, Scripture requires an annual donation. Martin Jaffee comments:

...tractate Maaserot is primarily interested in the concerns of the common Israelites who want to eat their food. The tractate's questions...reflect those concerns. That is: When, in the course of a crop's growth, may it be used to satisfy the obligation to tithe? When, further, in the course of the harvest of the crop, must the tithes actually be paid?(Jaffee, 1)

The halakhah of the Oral Torah fills in the gap left by that imprecise rule with a mass of details that add up to a general rule, one of remarkable theological depth.

YERUSHALMI MAASEROT

CHAPTER ONE

1:1

- [A] A general principle they stated concerning tithes:
- [B] anything that is (1) food, (2) cultivated, (3) and that grows from the earth is subject to [the law of] tithes
- [C] And yet another general principle they stated:
- [D] anything that at its first [stage of development] is food and that at its ultimate [stage of development] is food —
- [E] even if the [farmer] maintains [its growth] in order to increase the food [it will yield] —
- [F] is subject [to the law of tithes whether it is] small or large [i.e., at all points in its development].
- [G] But anything that at its first [stage of development] is not food, yet that at its ultimate [stage of development] is food [the fruit of trees]
- [H] is not subject [to the laws of tithes] until it becomes edible.
- [I:1 A] A general principle they stated concerning tithes:
- [B] It is written, “Truly you will tithe the bounty of your seed” (Dt. 14:22):
- [B] I might have supposed that everything is liable to tithes.
- [C] Scripture says, “Truly you will tithe the bounty of your seed” [referring to agricultural produce].
- [D] That produces an inclusive ruling.
- [E] But does it encompass **all other garden seeds that are not eaten [M. 5:8E]**?
- [F] Scripture says, “the bounty of your seed,” and it says, “that the field brings forth year by year” (Dt. 14:22). How so? Take the indicative criteria from each clause: **anything that is (1) food, (2) cultivated.**

- [G] Why not derive the ruling from the following: “You shall take all” ñ a generalization, “the bounty of your seed” — a particularization. When you have a generalization followed by a particularization, what is covered by the generalization only what is made explicit in the particularization.
- [I:2 A]** [Since “bounty” refers to grain,] I know only that grain needs to be tithed. How do I know that pulse is included as subject to tithing?
- [B] Scripture states, “And all the tithes of the Lord of the seed of the land and of the fruit of the tree is the Lord’s (Lev. 27:30).
- [C] That extends the law to cover seeds of garlic, garden cress and field rocket.
- [D] Or is it possible that I should encompass under the law of tithing upper seeds of arum, seeds of vetch, seeds of onions, seeds of turnips, or radishes or all other garden seeds that are not eaten?
- [E] Scripture says, “of the seed of the land” but not all the seed of the land [excluding inedible seeds].
- [I:3 A]** “of the fruit of the tree” encompasses all fruit grown on trees.
- [B] Might I include also carobs of Shitta, Salmona, and Gerurah [that people don’t usually eat]?
- [C] Scripture says, “of the fruit of the tree” but not all the fruit of the tree.
- [I:4 A]** How do I know that green vegetables are [subject to tithing]?
- [B] Issi b. Judah says, “Tithing green vegetables is based on the authority of the scribes.”
- [I:5 A]** R. Hisda said, “If one declared ownerless a field of standing grain and then went and acquired ownership of the field again and at the harvest passed through the sheaves to designate heave-offering from them — lo, this is valid heave-offering [even though for a spell the field was ownerless and exempt from the obligation to yield tithes].”
- [B] What is the difference between standing grain and a field of cut grain [also abandoned and reclaimed]?
- [C] As to standing grain, if before he declared it ownerless he passed through the field and separated from it heave-offering, it is not validly designated as heave-offering, but as to cut grain, if before he declared the field ownerless he passed through the field and separated from it heave-offering, lo, this is validly designated heave-offering.

- [D] R. Hinena in the name of R. Hisda: “Also what is dedicated to the Temple [and then redeemed prior to the harvest] is subject to the same rule [as at A].”
- [E] *A statement of the rabbis differs, for* said R. Yohanan in the name of R. Yannai, “ ‘And the Levite will come, because he has no part nor inheritance with you, and shall eat and be satisfied’ (Dt. 14:29) — [the Levite’s tithe]] you are obligated to give him from what is yours and not from what is his.
- [F] “This excludes gleanings, to which you and he have equal claims [the gleanings belong to the poor, not to the Levite or the householder].
- [G] “The same rule applies to forgotten sheaves, unharvested produce left in the corners of the field, and abandoned produce.”
- [H] Said R. Yohanan, “The association [of sages] would raise this question: ‘Lo, in regard to what is sanctified to the Temple, don’t you and he have an equal claim to it, just as you and he have equal rights to abandoned produce?’”
- [I:6 A] Said R. Ila, “[*As to heave-offering of produce dedicated to the Temple and then redeemed,*] *how do we interpret the matter?* If the farmer smoothed over the pile of grain [and so completed processing it] while it was in the status of abandoned property or sanctified to the Temple [there is no question as to its being unsuitable to serve as heave-offering after it is redeemed. The Torah said, ‘From the best of your grain’ (Dt. 18:4) and not from produce that has been declares ownerless.’ And furthermore, ‘From the best of your grain’ (Dt. 18:4) — but not from produce dedicated to the Temple. *But this is how we must interpret the matter:* the farmer declared the cut grain ownerless and then reclaimed it [before it was processed and made liable to tithing]. When it was declared ownerless, it is exempt from tithing when reclaimed [for when it become liable to tithing it was exempt as abandoned property,] but cut grain sanctified to the Temple is liable to tithing [when it is redeemed].”
- [B] Produce declared ownerless is exempt *on the basis of the following reading of Scripture that R. Yohanan stated in the name of R. Yannai:* “ ‘And the Levite will come, because he has no part nor inheritance with you, and shall eat and be satisfied’ (Dt. 14:29) — [the Levite’s tithe]] you are obligated to give him from what is yours and not from what is his. This excludes gleanings, to which you and he have equal claims [the gleanings belong to the poor, not to the Levite or the householder].”

- [C] Produce dedicated to the Temple is liable *on the basis of the following*: **[If one dedicated [to the Temple] a standing [crop], and then redeemed [that same] standing [crop] — [the produce he redeems] is subject [to the restrictions of the forgotten sheaf, after it is bound]. [M. Pe. 4:7].** What is the difference between ownerless property and property sanctified to the Temple? Ownerless property has left the domain of the owner, but property sanctified to the Temple has not left the domain of the Temple treasurer. [It has never been ownerless.]
- [D] Said R. Abin, “Even out of the domain of the original owners it has not exited, for [when the produce is redeemed, **the Temple treasurer first of all addresses the former owner, saying to him, ‘You set the redemption price first’ [M. Ar. 8:1].**”
- [I:7 A] R. Zeira. R. Yosé in the name of R. Eleazar: “He who seeds an ownerless field is liable to tithe his crop.”
- [B] *R. Jonah clarifies this language*: “It is when he claimed an ownerless field with produce already growing in it.”
- [I:8 A] *R. Hiyya bar Ada asked before R. Yohanan*: “Truffles and mushrooms — what is the law as to their being liable to tithing?”
- [B] Said to him R. Yohanan in the name of R. Sisi, “It is written, ‘Tithing you shall tithe all the bounty of your seed’ (Dt. 14:22) — this refers to something that is seeded and grows from the seed, excluding truffles and mushrooms, which are not sown and which do not sprout from seed.”
- [C] *R. Jonah clarifies this language*: “For the earth rejects them.”
- [II:1 A] **anything that at its first [stage of development] is food and that at its ultimate [stage of development] is food — even if the [farmer] maintains [its growth] in order to increase the food [it will yield] — is subject [to the law of tithes whether it is] small or large [i.e., at all points in its development].**
- [B] lo, if the [farmer] does not maintain [its growth] in order to increase the food [it will yield][but harvests the crop early on] — is it not subject [to the law of tithes whether it is] small or large [i.e., at all points in its development].
- [C] R. Immi in the name of R. Simeon b. Laqish: “This excludes the ruling stated by Rabban Gamaliel, *for we have learned in the Mishnah there*: **Rabban Gamaliel says, “Stalks of fenugreek, mustard plants, and fava plants are subject to [the law of] tithes.”** [These parts are not

eaten, but the plant is intended as food. But the law of tithes applies only when the plants or parts are actually eaten, excluding inedible portions.]

[D] Said R. Yosé, “But is it because of the food [edible seeds or beans] that sprout from the plant that Rabban Gamaliel declares the shoots to be subject to tithing? On such a basis he would declare liable even the leaves of those plants [that sustain the edible portions even though they are not eaten]. But Rabban Gamaliel says, ‘They are regarded as food [edible in their own right],’ and rabbis maintain that they are not edible.”

[E] *And furthermore there is the following Tannaite rule: Said R. Joshua ben Qebusa: “Never in my life did I presume to tell a man, ‘Go and pick shoots of fenugreek, mustard stalks and hyacinth and pickle [them], and you shall be exempt from [removing] tithes’”* [T. Ma. 3:7].

[III:1 A] *It is taught as a Tannaite rule: Anything which at its first [stage of development] is food but which at its ultimate [stage of development] is not food, such as one who prolongs [the growth] of green vegetables for [their] seed, is subject [to the law of tithes] at its first [stage of development] but is exempt [from the law upon reaching] its ultimate [stage of development] [T. Ma. 1:1].*

[B] *What do you have to clarify this rule?*

[C] *It [such as one who prolongs [the growth] of green vegetables for [their] seed] is in line with that which has been taught on Tannaite authority:*

[D] He who maintains a complete row of kale planning to sow its seed — his intention [to harvest a non-edible crop] is null [the kale leaves are subject to the law of tithes, since it is improbable that he will allow a whole row to go to seed]. But he who maintains random stalk of kale intending to harvest them for their seed, his intention is not null [since he will not mind losing a few plants for their seed].

[E] Said R. Jonah, “That applies if he picked the kale leaves [prior to the seed harvest]. But if he did not pick the leaves, do we say to him: ‘wood is subject to the law of tithes?’” [Kale is inedible at the time of the seed harvest. We cannot impose on it the restrictions of the law.]

[IV:1 A] **But anything that at its first [stage of development] is not food, yet that at its ultimate [stage of development] is food [the fruit of trees] is not subject [to the laws of tithes] until it becomes edible:**

[B] *What do you have to clarify this rule?*

[C] *It is in line with that which we have learned in the Mishnah-paragraph that follows: From what time is fruit subject to [the law of] tithes?*
(1) Figs — when they have begun to ripen.

1:2

[A] **From what time is fruit subject to [the law of] tithes?**

[B] **(1) Figs — when they have begun to ripen,**

[C] **(2) grapes and (3) wild grapes — their seeds have become visible inside them,**

[D] **(4) sumac and (5) mulberry — when they have become red,**

[E] **and (6) all red [berries] — when they have become red,**

[F] **(7) pomegranates — when they have become soft,**

[G] **(8) dates--when they have begun to swell,**

[H] **(9) peaches — when they have developed red veins,**

[I] **(10) walnuts — they have developed a chamber.**

[J] **R. Judah says “Walnuts and almonds — when they develop a husk.”**

[K] **(11) Carobs — when they have become speckled;**

[L] **(12) and all black [produce, e.g., myrtle berries] — when it has become speckled;**

[M] **(13) pears, and (14) crustumenian pears, and (15) medlar, and (16) crab-apples — when they have become smooth;**

[N] **(17) and all white produce— when it has become smooth;**

[O] **(18) fenugreek — when the seeds are able to sprout;**

[P] **(19) grain and (20) olives — when they reach a third of their mature growth.**

[I:1 A] **Figs — when they have begun to ripen:**

[B] *Hiyya bar Vava said, “[The word ripen has the same consonants as the word recoil] so the meaning is, when the figs have a repulsive taste, as it is said, ‘And their soul recoiled from me’ (Zech. 11:8).”*

[C] *R. Abba bar Jacob in the name of R. Yohanan: “When their tips turn red.”*

[D] *And do the tips of all figs turn red?*

[E] Tanhum bar Merion in the name of R. Yohanan: “[As to figs that do not redden] you take a single fig and set it aside. If it ripens in twenty-four hours the batch is subject to tithing, and if not it is exempt.”

[II:1 A] (2) grapes and (3) wild grapes — their seeds have become visible inside them:

[B] R. Zeira in the name of R. Yosé, “[The word uses the consonants for the word for rot, hence] they are ripe when they are described as ‘rotting.’”

[C] R. Aibu bar Negri, R. Tanhum bar Ilai in the name of R. Nahum bar Simai, “That is when the seeds are visible through the surface of the fruit.”

[II:2 A] *Said R. Yohanan, “I was riding on the shoulder of my grandfather and I heard the voice of R. Simeon b. Eleazar in session and repeating the Tannaite rule as follows: The gather the seed-laden pulp of yellow melons on the Sabbath but they do not gather up the seed-laden pulp of watermelons.”*

[B] What is the difference between the seed-laden pulp of yellow melons and the seed-laden pulp of watermelons?

[C] Said R. Simeon bar Barsina, “The seed-laden pulp of yellow melons is for eating, the seed-laden pulp of watermelons is for seed.”

[D] If you take that position, you may sweep the flood on the Sabbath if you intend to gather edible seeds and pulp.]

[III:1 A] and (6) all red [berries] — when they have become red:

[B] For instance the celtis.

[IV:1 A] (7) pomegranates — when they have become soft:

[B] *It was taught as a Tannaite rule: A pomegranate that was pierced even at a single segment — the whole of it is joined into a single entity to be liable to tithing [so even unripe segments are liable by reason of the segment that is ripe]. A grape cluster on which even a single grape has ripened — the whole of it is joined into a single entity to be liable to tithing [so even unripe segments are liable by reason of the segment that is ripe].*

[C] Said R. Hanina, “This means, the entire vine, the entire species of grape growing in the same vineyard is liable as soon as a single grape ripens.”

- [D] They retracted and explained the matter to mean, that entire row is liable as soon as a single grape ripens.”
- [E] R. Yosé b. R. Abun says, “That entire vineyard is liable as soon as a single grape ripens.”
- [F] If the vineyard was small and the farmer enlarged it, large and he diminished it, a single entity and he divided it, divided and he made it a single entity — [what is the law?]
- [G] Samuel said, “A gourd that was pierced by a snake while growing in its patch — [gourds of] that entire area are forbidden for consumption [because the snake may have inserted its poison into one of them and it may have spread through the vines].”
- [H] Is that the rule for the fronds of a date-palm [that conduct the poison to all dates attached to the frond?]
- [I] Said R. Yosé, “Jonathan b. Harasha of Gennosar asked Rabban Gamaliel and sages at Yavneh, ‘Unripe dates pierced by a snake during their early growth — what is the law?’ They said to him, ‘The dates of the entire palm are forbidden to be eaten.’”
- [J] Said R. Yosé, “Therefore it is necessary to deal with cases when all the dates are pierced, so that you will not say, since it is not the usual way of the snake to do this [climb a tree], therefore I say, a cloud of birds settled on them and pierced them.”
- [K] R. Jonah in the name of R. Simeon the Pious: “Unripe dates pierced in their early growth are forbidden for eating but most people disposed of them as permitted and no harm came to them.”

[IV:2 A] (7) pomegranates — when they have become soft:

- [B] R. Zeira in the name of R. Yosé: “When the food can be crushed under his hands.”
- [C] R. Judah bar Pazzi in the name of R. Joshua b. Levi: “When they will have entered half its normal size.”
- [D] *R. Jonah asked, “Maybe he heard this from the masters of lore: ‘Our brothers have weakened our hearts’ (Dt. 1:28) [and the letters that spell ‘weaken’ mean,] the Amorites divided our hearts in two.’*

[V:1 A] (8) dates--when they have begun to swell:

- [B] R. Hiyya bar Vava said, “When the crease in the fruit begins to fill.”

[C] *R. Jonah raised the question: “How shall we interpret this matter? If it is when the crease in the fruit begins to fill, the date is unripe at that stage. If it is the point at which the pit can push through the flesh, then the date is fully ripened [and that does not mark the starting point of ripening].”*

[D] The rabbis of Caesarea say, “It is when he squeezes them and finds them edible.”

[VI:1 A] (9) peaches — when they have developed red veins:

[B] *R. Zeira in the name of R. Issi: “When they have developed red veins.”*

[VII:1 A] walnuts and almonds: they have developed a chamber. R. Judah says “Walnuts and almonds — when they develop a husk.”

[B] **They spoke of the nether-husk that is on the nutmeat. Sages concede to R. Judah that hazelnuts, pistachio nuts, and cedar nuts are subject to tithing when they have developed a husk (T. Ma. 1:1).**

[VIII:1 A] Carobs — when they have become speckled:

[B] *R. Hinena bar Pappa repeated as a Tannaite ruling: “Carobs — the dropping of the branches signals the formation of their fruit.”*

[IX:1 A] and all black fruit — when it has become speckled:

[B] such as myrtle berries and thorn berries

[C] **when it has become speckled —** *R. Hinena bar Pappa repeated as a Tannaite ruling: “When they develop black spots.”*

[X:1 A] (13) pears, and (14) crustumenian pears, and (15) medlar, and (16) crab-apples — when they have become smooth:

[B] **medlar —** quince.

[C] And why are they called [in Mishnaic Hebrew] *perishin*? Because among all types of trees you have none that is consigned [*perish*] to the pot [to make it taste good] so much as this one alone.

[XI:1 A] (17) and all white produce — when it has become smooth:

[B] such as marpayatta, **when it has become smooth.**

[C] *R. Hinena bar Pappa said, “When it will produce smooth spots.”*

[D] *R. Simeon b. Yohai taught as a Tannaite statement, “When they ooze water.”*

[E] *A case came before R. Hanina and he wanted to decide in accord with R. Hinena bar Pappa. He retracted and said, “And is it because of being edible that they turn smooth? No, it is because of the worm inside of them.”*

[XII:1 A] (18) fenugreek — when the seeds are able to sprout:

[B] *This is the sense of the Mishnah’s ruling:* When the seeds have matured enough to sprout when sown.

[C] How does the farmer test the seeds?

[D] R. Samuel bar Nahman in the name of R. Jonathan: “He takes a handful of seeds and puts them in a bowl of water, If most of them sink, the produce is liable for tithing, and if not, it is exempt.”

[E] *R. Jonah asked, “Then those that sink should be liable to tithing, and what does not sink should be except. But the test applies to the larger part of each seed bearing pod.”*

[F] Said R. Yosé b. R. Abun, “But the test applies to the larger part of each seed bearing pod.”

[XII:2 A] [(19) grain and (20) olives — when they reach a third of their mature growth]: Said R. Zeira, “It is written, ‘Tithing you shall tithe all the bounty of your seed’ (Dt. 14:22) — this refers to that which if sown will sprout, excluding produce that has reached less than a third of its growth, for if sown it will not sprout.”

[B] R. Hinena in the name of Rabbi: “Olives and grapes that has not reached a third of growth, even though liquid exudes from them to impart susceptibility to uncleanness in line with Lev. 11:34, 37, it does not in fact impart susceptibility to uncleanness. [It is not oil or wine.]”

[C] R. Hiyya in the name of R. Hanina: “Olives — when do they become liable to tithing? When the first of the summer figs begins to ripen. If the first of the summer figs did not begin to ripen, it is the point at which the first of the fine figs begins to ripen. If the first of the fine figs did not begin to ripen, then it is the point at which the second year storage of figs begins to drip.”

[D] R. Eleazar b. R. Yosé in the name of R. Tanhum bar Hiyya: “It is the point at which fine white figs begin to ripen.”

[E] Said R. Yosé b. R. Abun, “But it is only the fine figs that grow in that same locale.”

1:3

- [A] **And among green vegetables — cucumbers and gourds and chatemelons and muskmelons and apples and citrons are subject [to the law of tithes whether they are] large or small.**
- [B] **R. Simeon exempts citrons that are immature.**
- [C] **That which is subject [to the law] among bitter almonds [i.e., the small ones] is exempt among sweet [almonds].**
- [D] **That which is subject [to the law] among sweet almonds [i.e., the large ones] is exempt among bitter [almonds].**
- [I:1 A] *There we learned in the Mishnah: One who purchases a field of greens in Syria — if [he purchased it] before [the produce] reached its period of tithing, [he] is required [to tithe the entire harvest], but [if he purchased the field] after [the produce] reached its period of tithing, he is exempt [from tithing the entire harvest]. And he gathers [late-ripening produce] as he pleases [M. Ma. 5:5] — and here you say [that only the specified green vegetables are subject to a particular tithing season]?*
- [B] *Hezekiah said, “The Mishnah makes reference to a field of chate melons or gourds.”*
- [C] *Said R. Zeira, “You may even say that it refers to greens itself, there is still a minor criterion of maturity, it must have produced three blossoms.”*
- [II:1 A] **[and apples and citrons are subject to the law of tithes whether they are large or small]: Nehorai bar Shinaya in the name of R. Simeon said, “Little apples are exempt, big ones are liable, honey apples are liable whether big or little” [T. Ma. 1:1].**
- [B] *What is the sense of this Tannaite statement? [The law of the Mishnah states, **apples are subject to the law of tithes whether they are large or small.**]*
- [C] *The statement concerning apples in general disputes [Simeon’s ruling], but the one how speaks of honey apples represents the view of all parties.*
- [III:1 A] **citrons are subject [to the law of tithes whether they are] large or small:**
- [B] *A citron that has begun to ripen [before it was full size] — R. Aqiba says, “It is not classified as fruit [and may not be waved with the lulab.”*

- [C] And sages say, “It is classified as fruit [and may be waved with the lulab.]”
- [D] R. Ila, R. Yosé in the name of R. Eleazar: “The opinion of R. Simeon [**R. Simeon exempts citrons that are immature**] follows the theory of R. Aqiba, his master. Just as R. Aqiba says, ‘It is not classified as fruit,’ so R. Simeon says, ‘It is not classified as fruit.’”
- [III:2 A] Said R. Yosé, “Any fruit that is suitable for the lulab is liable for tithes, and any fruit that is unsuitable for the lulab is not liable for tithes.”
- [B] They objected: “Lo, there are speckled citrons and those shaped unnaturally in a mold and those that are artificially rounded. These are unsuitable for use with the lulab but are subject to tithing as edible.”
- [C] *It stands to reason that R. Simeon will concur with R. Aqiba, but R. Aqiba will not concur with R. Simeon.*
- [D] *R. Simeon will concur with R. Aqiba: It is written, “And you shall take on the first day the fruit of goodly trees” (Lev. 23:40) — [but this is not yet fruit since it is not fully ripened.]*
- [E] *R. Aqiba will not concur with R. Simeon: “Lo, there are speckled citrons and those shaped unnaturally in a mold and those that are artificially rounded. These are unsuitable for use with the lulab but are subject to tithing as edible.”*
- [IV:1 A] **That which is subject [to the law] among bitter almonds is exempt among sweet [almonds] — the small ones. That which is subject [to the law] among sweet almonds is exempt among bitter [almonds] — the large ones.**
- [B] *R. Ishmael b. R. Yosé in the name of his father taught as a Tannaite ruling: “**Bitter almonds, lo they are exempt. But sweet ones are not subject to tithing until their outer shell separates from the meat [T. Ma. 1:2].**”*
- [C] *R. Hanina instructed in Sepphoris in accord with this teaching of R. Ishmael b. R. Yosé.*
- [D] *Which one?*
- [E] *The Sepphoreans say, “Only the ruling concerning bitter almonds.”*
- [F] R. Zeira said, “Concerning the sweet ones.”
- [G] Said R. Yohanan, “If the Sepphorean masters came here to Tiberias, the bitter almonds would be liable, but by the time they returned to

Sepphoris, the almonds, now bigger, already would have become exempt.”

- [H] *R. Phineas instructed* when he saw three almonds the outer shells of which were separate that the owner could separate heave-offering from the entire basket of almonds.
- [I] Said R. Mana, “But that is on condition that he does not separate heave-offering from almonds in one basket for those in its companion.”

1:4

- [A] **At what point after the harvest must tithes be removed from produce?**
- [B] (1) Cucumbers and gourds — after they remove the fuzz [from them].
- [C] But if he does not remove the fuzz, [tithes are removed] after he stacks them up.
- [D] (2) Chatemelons — after he scalds [them in order to remove the fuzz].
- [E] But if he does not scald [them] [tithes need not be removed] until he makes a store [of melons].
- [F] (3) Green vegetables that are [normally] tied in bunches — after he ties [them].
- [G] If he does not tie them, [tithes need not be removed] until he fills the vessel [into which he places the picked greens].
- [H] But if he does not fill the vessel [tithes need not be removed] until he collects all he needs.
- [I] (4) [The contents of] a basket [need not be tithed] until he covers [the basket].
- [J] But if he does not cover [it], [tithes need not be removed] until he fills the vessel.
- [K] But if he does not fill the vessel [tithes need not be removed] until he collects all he needs [in that basket].
- [L] Under what circumstances [do these criteria apply]? If he is bringing the produce to market.
- [M] But if he is bringing it home [it is not liable to the removal of tithes, and] he eats some of it as a random snack until he reaches home.

- [N] (5) Dried split-pomegranates raisins and carobs — after he stacks them up.
- [O] (6) Onions — after he strips off [the peels].
- [P] But if he does not strip off the peels, [the onions must be tithed] once he stacks them up.
- [Q] (7) Grain — after he evens [the pile on the threshing-floor].
- [R] But if he does not even [the pile on the threshing-floor] [the grain need not be tithed] until he stacks it up [in the bin].
- [S] (8) Pulse — after he sifts it.
- [T] But if he does not sift it, [it need not be tithed] until he evens [the pile].
- [U] Even though he has evened [the pile], he takes [edible kernels] from those which are not properly threshed from the sides [of the smoothed pile], and from whatever is [left] in the straw,
- [V] and eats [without tithing].
- [W] (9) Wine — after he skims [the scum from the fermenting juice in the receiving tank]
- [X] Even though he has skimmed, he collects [liquid] from the upper vat [where the grapes are trod] and from the duct [which connects the latter to the receiving tank],
- [Y] and drinks [without tithing].
- [Z] (10) Oil — after it has flowed into the trough [from the press].
- [AA] Even though it has flowed, he takes [oil] from the pressing bale from the press-beam and from between the boards [of the pressing vat],
- [BB] and puts [the oil] into a plate or dish.
- [CC] However, he shall not place [the oil] into a pan or pot
- [DD] when [their contents] are boiling [unless he tithes].
- [EE] R. Judah says, “Into anything may one put [oil], except what has vinegar or brine [in it.]”
- [I:1 A] Cucumbers and gourds — after they remove the fuzz [from them]: as soon as the householder removes the fine hairs
- [B] Chatemelons — after he scalds [them in order to remove the fuzz] — after he removes the trimmings .
- [C] [If] he was removing the fuzz from the very first [cucumber or gourd] or was scalding the first [watermelon] — he has not

rendered it liable to tithing until he has removed all the fuzz or scalded all the gourd that he needs, [T. Ma. 1:5].

[D] If he removed the fuzz or scalded the watermelon while the produce lay in the domain of the sanctuary, and he redeemed it [after the processing was done], [it is exempt from tithes].

[II:1 A] [Green vegetables that are [normally] tied in bunches — after he ties [them]. If he does not tie them, [tithes need not be removed] until he fills the vessel [into which he places the picked greens:]

[B] The farmer may tie for his own use in the field a large bundle [and it is not liable to tithing, for this is integral to the harvesting process], but if he tied a small bundle for the market, it is rendered liable to tithing and not yet tithed. [The produce is now ready for the market.]

[C] *R. Zeira raised the question: “The work in the field is not yet done and you say this!?”*

[D] *But this is how it is supposed to read: **If he tied a large bundle of greens while in the field and he was going to break it up and tie a small bundle for the market, [the larger bundle] is rendered liable to tithing and yet untithed [T. Ma. 1:6].***

[II:2 A] [But if he does not fill the vessel tithes need not be removed until he collects all he needs in that basket:] If there was a single basic and he planned to fill it to the half way point, once he has filled it half way, it is rendered liable to tithing and not yet tithed.

[B] If he planned to fill it to the top, it is not rendered liable to tithing and not yet tithed until he fills it to the top.

[C] If there were two baskets and he planned to fill up both of them, they are not rendered liable to tithing and not yet tithed until he fills both baskets.

[III:1 A] Under what circumstances [do these criteria apply]? If he is bringing the produce to market. But if he is bringing it home [it is not liable to the removal of tithes, and] he eats some of it as a random snack until he reaches home:

[B] What is the difference between **bringing the produce to market** and **bringing it home**?

[C] At the time that he is bringing it home, the matter depends upon his own intention [as to eating the produce]. But at the time he is bringing it to the market, it is not on his intention that the matter depends but upon the intention of the purchasers. For perhaps he will meet

purchasers en route to the market, and the produce is forthwith classified as liable to tithing but not yet tithed.

[IV:1 A] Dried split-pomegranates raisins and carobs — after he stacks them up:

[B] *It was taught as a Tannaite statement:* [It comes liable to tithing] once he has stacked them on top of his roof.

[C] *R. Jonah asked:* “Lo, if he stacked them up in the field, are they not liable to tithing?”

[D] *Said R. Hinena,* “*It is meant to clarify the rule and say to you,* Even if he set them up in a pile on his roof [they become liable, if they were not made liable up to that point].”

[V:1 A] Onions — after he strips off [the peels]. But if he does not strip off the peels, [the onions must be tithed] once he stacks them up:

[B] As soon as the farmer removes the seed pods.

[VI:1 A] Grain — after he evens [the pile on the threshing-floor]. But if he does not even [the pile on the threshing-floor] [the grain need not be tithed] until he stacks it up [in the bin]:

[B] *R. Hanania in the name of R. Yohanan:* “*As soon as he tidies up the surface of the pile.*”

[C] *But lo, R. Jacob bar Sisan repeated as a Tannaite rule:* “**When does one separate heave-offering from grain on the threshing floor? After the fork for sifting the grain is removed**” (T. Ter. 3:11).

[D] [There is no contradiction,] here we deal with one he intends to smooth the pile, while there [at T. Ter. 3:11], he does not intend to smooth the pile.

[VI:2 A] *It was repeated as a Tannaite rule:* However he sifts part of the grain and separates heave-offering from the sifted portion to cover the unsifted portion [T. Ter. 3:11].

[B] Said R. Ila, “although one is forbidden to separate heave-offering from processed produce for unprocessed, that is no contradiction] because householders commonly bring grain into their homes before they sift it.”

[C] *What is the scriptural foundation of this ruling?*

[D] “The oxen likewise and the young asses that till the ground shall eat mixed provender that has been winnowed with shovel and fan” (Is.

30:24). [The mixture of grain and chaff is acceptable as food for the animals and therefore is deemed processed.]

- [VI:3 A] If he sifted when the produce was in the domain of the sanctuary and afterward redeemed it, it is as if he performed an act of processing under the auspices of the Temple [and the produce would be exempt from tithing, having fallen liable to tithing when in the Temple's domain].
- [B] But he is liable to tithe.
- [C] *R. Hinena responded, "Has it not been taught on Tannaite authority: if he drew off the waste from wine in the vat or skimmed off the scum while it was in the domain of the Temple, he is exempt from tithing [even after it is redeemed]?"*
- [D] Said R. Yudan, "In the latter case it is not possible to avoid pressing the grapes or drawing off the scum [these processes are part of the wine production]. In the former case, it is possible to avoid smoothing the pile [and sifting, these processes are not part of grain production]."
- [E] For said R. Ila, "The oxen likewise and the young asses that till the ground shall eat mixed provender that has been winnowed with shovel and fan" (Is. 30:24). [The mixture of grain and chaff is acceptable as food for the animals and therefore is deemed processed.]
- [VI:4 A] It is taught as a Tannaite statement: **However he diverts kernels from beneath the sieve into his hand and eats them without tithing [T. Ma. 1:6].**
- [B] R. Hisda said, "For the kernels lack sufficient exposure to the wind [and are not fully processed]."
- [C] R. Ila in the name of R. Yosé: "For the kernels are not fully settled."
- [D] *Have we not learned in the Mishnah: Wine — after he skims [the scum from the fermenting juice in the receiving tank] Even though he has skimmed, he collects [liquid] from the upper vat [where the grapes are trod] and from the duct [which connects the latter to the receiving tank], and drinks [without tithing].*
- [E] *As to him who has said, "For the kernels are not fully settled." there is no problem, [for one may snack on the wine and pulse, for processing them is incomplete]. But as to him who has said, "For the kernels lack sufficient exposure to the wind [and are not fully processed]," the wine is lacking the skimming of its scum and is mixed with desirable wine."*

[F] *Answered R. Benjamin bar Giddal, “But we have learned in the Mishnah: (10) Oil — after it has flowed into the trough [from the press]. Even though it has flowed, he takes [oil] from the pressing bale from the press-beam and from between the boards [of the pressing vat], and puts [the oil] into a plate or dish. As to him who has said, “For the kernels are not fully settled.” there is no problem, [for one may snack on the wine and pulse, for processing them is incomplete]. But as to him who has said, “For the kernels lack sufficient exposure to the wind [and are not fully processed],” the wine is lacking the skimming of its scum and is mixed with desirable wine.”*

[VII:1 A] **[Oil—after it has flowed into the trough. Even though it has flowed, he takes [oil] from the pressing bale, from the press beam, and from between the boards [of the pressing vat], and places it into a plate or dish. But he may not gather it in a vessel [in sufficient quantity] to make [continual] use of it (T. Ma. 1:7)]** If he was eating partially processed oil out of a bowl and left some over and dusk fell on the Sabbath eve or if he gave it to someone else [to take home], it is not reclassified as produce liable for tithing but not yet tithed.

[B] *R. Jeremiah considered ruling, “This applies to oil set in a plate or dish, but if it was set in a storage jar, it is produce that is liable to tithing but not yet tithed.”*

[C] *Said R. Yosé, “Even if it was set in a storage jar, it is not classified as produce that is liable to tithing but not yet tithed.”*

[D] *Said to him R. Jeremiah, “But doesn’t the advent of the Sabbath impose the status of produce that is liable to tithing but not yet tithed.”*

[E] *He said to him, “But doesn’t the act of purchase of the produce impose the status of produce that is liable to tithing but not yet tithed.”*

[F] *He continued and said to him, “It is in line with that which R. Yosé in the name of R. Zeira, R. Jonah, R. Zeira in the name of R. Eleazar [said], ‘Even what is in the flagon is not rendered produce liable to tithing and not yet tithed, because he is planning to return it to a batch of produce on which processing is incomplete.’”*

[G] *Strength for the ruling of R. Jeremiah derives from the following:*

[H] **And further did R. Eliezer say, “A man takes up a position at the storage-hut on the eve of the Sabbath in the seventh year and [in order to designate food for Sabbath use] says, ‘From this [produce] I shall eat tomorrow.’” And sages say, “[His designation**

is valid only] if he makes a mark and says, ‘From this place up to that place [shall I take produce to eat tomorrow].’” [M. Bes. 4:7].

- [I] He made that statement solely concerning the Seventh Year, lo, in the rest of the years of the Sabbatical cycle that is not the case.
- [J] *How does R. Yosé treat this matter [of rulings that support the position of R. Jeremiah]?*
- [K] You cannot anticipate that he will return the leftovers to the place from which they originated on the Sabbath, since he is making a drying-place for the principal batch. Therefore the produce is rendered liable to tithing and not yet tithed during the Sabbatical cycle.
- [L] *A Tannaite ruling differs from R. Jeremiah:* There is no consideration of random nibbling of produce on the Sabbath [even of what is not fully processed]. *He read this as follows:* This pertains only to produce that has a drying place [to which the householder may not return on the Sabbath].
- [M] *In the opinion of R. Jeremiah there is no difference between* produce that has a drying place and produce that has no drying place.
- [N] *R. Mana raised the question:* “If the jug was full and located between the boards of the vat, is this residual oil treated as produce that is liable to tithing and not yet tithed [because of the size of the jug, as Jeremiah says [“This applies to oil set in a plate or dish, but if it was set in a storage jar, it is produce that is liable to tithing but not yet tithed.”] or since the jug was put in a portion of the press that held only unprocessed oil, is the oil treated as produce that is liable to tithing and not yet tithed [R. Yosé, “Even if it was set in a storage jar, it is not classified as produce that is liable to tithing but not yet tithed”]?”

[VIII:1 A] However, he shall not place [the oil] into a pan or pot when [their contents] are boiling [unless he tithes]: to what extent must the oil boil?

- [B] R. Judah bar Pazzi, R. Simon in the name of R. Yosé bar Hanina: “To the extent that if he puts his hand in the oil, it is burned.

[VIII:2 A] However, he shall not place [the oil] into a pan or pot when [their contents] are boiling [unless he tithes]: All concur that in the case of boiling food poured into a second utensil, the food added to the second utensil afterward is permitted [for its contents are not deemed to have boiled].

- [B] So what’s the difference between the first pot and the second?

- [C] Said R. Yosé b. R. Abun, “In the latter case, the hand prevails against the heat but in the former the hand does not prevail.”
- [D] Said R. Jonah, “In neither case does the hand prevail. But in the first utensil they set no distance between the fire and the pot, [the pot is directly over the flame], and in the second utensil they set a distance between the fire and the pot.”
- [E] Said R. Mana, “The dish of rice supports father’s ruling, a dish of beans likewise. For you pour it from place to place and even so it keeps boiling.”

[VIII:3 A] *We have learned in the Mishnah: The pan or pot which one has taken off the stove while it is boiling — one may not put spices into it. But he may put [spices] into [hot food which is] in a plate or a dish. R. Judah says, “Into anything may one put [spices], except what has vinegar or fish brine [in it]” [M. Shab. 3:5].*

- [B] What is the law if he puts spices in the bottom of the empty pot and pours boiling food over them from above?
- [C] R. Jonah said, “It is forbidden, because pouring makes us deem the receptacle as if it were the first pot.”
- [D] *Strength for the ruling of R. Jonah derives from the following: All the same are one in which one has cooked and one into which one has poured boiling [stew], [and] all the same are one [used] for Most Holy Things [e.g., a sin offering or a guilt offering] and one for Lesser Holy Things [e.g., peace offerings]: they require scouring and rinsing [M Zeb. 11:7]. How can you take this position if the cooking utensil and the receptacle share the same status?*
- [E] Said R. Yosé, “There you deal with a clay utensil, which absorbs the spices, and it requires scouring and rinsing. But in our problem the spices are not cooked [by the hot food poured over them].”
- [F] *Replied R. Yosé b. R. Abun, “But is it not taught on Tannaite authority: Also with a brass utensil the rule is the same. Can you say that a brass utensil absorbs the spices?”*
- [G] What is the law if he pours boiling food from pot to pot in a single stream [and while doing so adds spices to the stream itself?
- [H] Said R. Haninah b. R. Hillel, “There is a dispute between R. Jonah and R. Yosé.”
- [I] *R. Isaac bar Gupta asked before R. Mana, “If he did so on the Sabbath, is he liable on the count of starting an act of boiling? If he did*

so with milk and meat, is he punished on account of boiling milk and meat in one pot?”

[J] He said to him, “Rule in accord with R. Zeira: ‘What is an authentic dumpling [that is bread dough subject to dough offering]? A mixture of flour and hot water under which fire has passed.’ Along these same lines, a genuine dish is any under which fire has passed.”

[IX:1 A] **R. Judah says, “Into anything may one put [oil], except what has vinegar or brine [in it.]”**

[B] In the opinion of R. Judah salt is like brine and wine is like vinegar.

1:5

[A] (11) A [fig] cake — after he glazes its surface.

[B] They glaze with [the juice of] figs or grapes that are liable to the removal of tithes [and need not tithe the juice].

[C] **R. Judah forbids [the use of untithed juice as a glaze].**

[D] **One who glazes with [the juice of] grapes —**

[E] **[that which he glazes] has not been made susceptible to uncleanness.**

[F] **R. Judah says, “It has been made susceptible to uncleanness.”**

[G] (12) **Dried figs — after he presses [them into a storage jar], and molded figs — after he presses them with a roller.**

[H] **[If] he was pressing [them] into a jar or rolling [them] in a mold,**

[I] **[and] the jar broke or the mold cracked,**

[J] **he shall not make of them a random snack.**

[K] **R. Yosé permits [him to make a random snack].**

[I:1 A] *Hanania b. R. Yosé said, “Where R. Judah and rabbis differ, it concerns produce that is liable to tithing but not yet tithed as defined by the scribes [where sages are lenient], but as to produce that is liable to tithing but not yet tithed as defined by the Torah, even rabbis concur [the use of untithed juice as a glaze is forbidden].”*

[B] **[One who glazes with [the juice of] grapes — [that which he glazes] has not been made susceptible to uncleanness. R. Judah says, “It has been made susceptible to uncleanness”:]** *R. Mana made the statement without further attribution, R. Abin in the name of R. Yohanan: “R. Yudan is consistent with other rules of his, and rabbis are consistent with other rulings of theirs, for it has been taught on Tannaite authority: The olive which one crushed with unclean*

hands — it has not been rendered susceptible to uncleanness. [If he did so in order] to dry them with salt — (and) it has (not) been rendered susceptible to uncleanness. [If he did so] in order to know whether there is water in it, it has not been rendered susceptible to uncleanness. R. Judah says, “It has been rendered susceptible to uncleanness” [T. Toh. 10:11]. Rabbis say, he is examining the olive itself [not the liquid, and the liquid does not serve his purpose and so does not impart susceptibility to uncleanness, while Judah holds that he is examining the liquid [and that serves his purpose and so imparts susceptibility to uncleanness].

[C] Here rabbis say he is glazing with the grape, and R. Judah says he is glazing with the liquid.

[I:2 A] Rabbi said to Simeon his son, “Go up and bring down dried figs from the jar.”

[B] He said to him, “But [on the festival] are they not forbidden for handling since they are being dried [and not designated for use on the festival]?”

[C] He said to him, “Are you still dealing with this? You have as forbidden for handling on a festival only olives and figs alone.”

[D] Said R. Samuel bar Siseratai, “The are forbidden during that time because they stink.”

[E] *R. Zeira raised the question before R. Yosé, “Isn’t it reasonable to suppose that the case involved dates that fall in when they were unripe and that began to ripen in the sun.”*

[F] *He said to him, “I take the same view.”*

[G] R. Yosé b. R. Abun, R. Isaac bar Bisna in the name of R. Yohanan came [and said], “The case involved dates that fell in unripe and began to ripen in the sun, [and Rabbi] said to him, ‘You have as forbidden for handling on a festival only olives and figs alone.’”

[H] R. Jacob bar Zebedee in the name of R. Abbahu: “That which you have said pertains to the Sabbath, but as to tithes, al produce is forbidden to be handled [until it is tithed when it is fully processed].”

[I] *Said R. Yosé, “The Tannaite formulation has it as follows: **Dried figs — after he presses [them into a storage jar], and molded figs — after he presses them with a roller.**”*

[II:1 A] **[[If he was pressing them into a jar or rolling them in a mold, and the jar broke or the mold cracked, he shall not make of them a**

random snack. R. Yosé permits him to make a random snack]:

Said R. Yohanan, “The first party takes the view that [to retain its shape] the lower portion of the molded figs has no need of the upper portion and the upper portion has no need of the lower portion. The second party takes the view that the lower portion needs the upper, but the upper portion does not need the lower.”

[B] *Said R. Eleazar, “The anonymous rule belongs to R. Meir: don’t you hold that where there is an unattributed ruling in conflict with R. Yosé, the decided law accords with the position of the unattributed ruling? The unattributed ruling must be R. Meir, for where there is a dispute between R. Meir and R. Yosé, the decided law accords with R. Yosé.”*

YERUSHALMI MAASEROT

CHAPTER TWO

2:1

- [A] (1) [If] one was passing through the market
[B] and said, “Take figs for yourselves,”
[C] [those who accept them] eat [the figs while they are in the market] and are exempt [from tithing].
[D] They tithe [them in their houses as they would tithe figs which are] certainly untithed [they remove heave-offering, first tithe and either second or poorman’s tithe in the usual manner].
[E] (2) [If he said,] “Take [the figs] and bring [them] into your homes,”
[F] [those who accept them] shall not make a random snack [of the figs while they are in the market].
[G] Therefore, if they brought [the figs] into their homes
[H] they tithe [them] only [as they would tithe figs which are] doubtfully tithed [they remove only the heave-offering of the tithe, and consume the rest of the produce as if it was completely tithed].
[I] (3) [If] they were sitting in a doorway or stall,
[J] and [the passer-by] said, “Take figs for yourselves,”
[K] [those who accept them] eat [the figs in the doorway or stall] and are exempt [from tithing].
[L] But the owner of the doorway or the owner of the stall is required [to tithe].
[M] R. Judah exempts [the owner from tithing]
[N] unless he turns his face [away from the public] or unless he moves from where he is sitting [to a private part of the stall].
[I:1 A] [If] one was passing through the market:
[B] Samuel said, “It is the ruling of R. Meir, for R. Meir said, ‘A gift is not equivalent to a purchase.’”

[C] Said R. Yosé, “It represents the position of all parties. *I asked the members of the household of R. Yannai and they said, ‘We had the custom of offering produce to each other in the field and eating it and not tithing it.’*”

[D] *What’s what?*

[E] *It is in accord with him who said, “On their own volition they [the returning exiles] imposed the obligation to tithe.”*

[II:1 A] [They tithe [them in their houses as they would tithe figs which are] certainly untithed [they remove heave-offering, first tithe and either second or poorman’s tithe in the usual manner]: [they are certainly untithed] because *the Tannaite teaching speaks to a place in which* most farmers bring their produce home [not marketing it]. [The produce is permitted for random use and is certainly untithed, so it becomes liable for the full range of tithing when it enter the courtyard of the recipient and becomes liable.] But in a place in which most of the farmers bring their produce to the market, they tithe it only as doubtfully-tithed produce.

[B] If it is legislation for a place in which most farmers bring their produce home [not marketing it], *then we have learned in the Mishnah “[If he said,] “Take [the figs] and bring [them] into your homes,” [those who accept them] shall not make a random snack [of the figs while they are in the market].*

[C] Since he said, “Take [the figs] and bring [them] into your homes,” they should not make a random snack of them, it is as if he said to them, “Take and I shall tithe on your account.” [The donor has already rendered the produce liable to the removal of tithes.]

[D] But in a locale in which most farmers bring their produce to market [thereby rendering it liable to tithing,] he is believed to say to him, “I tithed them” and he is not believed to say to him, “I am bringing them into my house.”

[E] If he gave him a large volume of produce, even if he said to him, “Take and eat” it is as if he said to him, “Take and bring it home [but do not eat it here without tithing].”

[F] If he gave him something that is not usually eaten raw, even if he said to him, “Take and eat it,” it is as if he said to him, “Take it and bring it home.”

- [G] If he was an important personage and it was not his way to eat in the market, and he said to him, “Take and eat,” it is as if he said to him, “Take it and bring it home.”
- [H] If they were two donees, to this one he said, “Take and eat,” and to this one he said, “Take and bring it home,” this one to whom he said, “Take and eat,” is exempt from tithing, and this one to he said, “Take and bring it home,” is liable.
- [I] *Said R. Yosé, “Is this not a Tannaite teaching in the Mishnah: **[If] they were sitting in a doorway or stall, and [the passer-by] said, “Take figs for yourselves,” [those who accept them] eat [the figs in the doorway or stall] and are exempt [from tithing]. But the owner of the doorway or the owner of the stall is required [to tithe].**”*
- [J] Said R. Jonah, “It represents the view of all parties. Here we deal with doubtfully tithed produce, and there it is certainly untithed produce.”
- [III:1 A] **[If] one said to him, “Go and pick twenty figs for yourself from my [figs], and I shall eat my fill of yours” — the one who picks a specified quantity is required [to tithe]; the one who eats his fill is exempt [from tithing].**
- [B] *R. Abun bar Hiyya asked before R. Zeira, “Doesn’t someone eat the whole batch of figs one by one with the permission of the donor and remain exempt from tithing?”*
- [C] He said to him, “Yes.”
- [D] He said to him, “And here why [when he eats the twenty figs with the donor’s consent] is he required to tithe?”
- [E] He said to him, “It is a case where he has collected the figs together into a batch [and does not eat them one fig at a time].”
- [F] He said to him, “If it is a case where he has collected the figs together into a batch, then even the one who fills his belly should be liable to tithing.”
- [G] Is he not forbidden [to eat the untithed figs] because of bartering [and produce acquired through barter is as if it was purchased and is liable to tithing]?
- [H] Said R. Shimi, “He is not engaged in a barter, for this man has intended only to get up the strength to eat [and for appearance’ sake offers his fellow twenty figs].”

- [III:2 A] [If] one said to him, “Go and pick for yourself twenty figs of mine from the tree” — he l eats in his normal manner and is exempt from tithing.
- [B] [2] [If one said to him,] “Go and fill this basket for yourself” — [the one who fills his basket] should not eat without tithing.
- [C] “Under what circumstances [does he tithe them as Dema’i-produce]?”
- [D] “When [the owner of the figs is an] ‘am ha’ares [i.e., someone who cannot be trusted to keep the laws of uncleanness and tithing].
- [E] “But [if the owner is a] haber [i.e., someone committed to keeping the laws of uncleanness and tithing], he eats [freely] and need not tithe,” — the words of Rabbi.
- [F] Rabbi Simeon ben Gamaliel says, “Under what circumstances [does he tithe them as he would tithe Dema’i-produce]?”
- [G] “When [the owner of the figs is an] ‘*am ha’ares*.
- [H] “But [if the owner is a] *haber*, he should not eat [at all] unless he tithes [the produce as if it were certainly untithed],
- [I] “for *haberim* were not suspected of separating heave-offering [from one batch of produce for a second batch of produce which was] not in the same vicinity.”
- [J] Said Rabbi, “I prefer my opinion to the opinion of Rabban Simeon ben Gamaliel.
- [K] “It is preferable that *haberim* separate heave-offering [from one batch for a second batch which is] not in the same vicinity, and thereby] not supply ‘*ammé ha’ares* with produce which is liable, but as yet untithed]” [T. Ma. 2:5]
- [L] Said R. Zeira, “From the rulings of both parties it follows that even a *haber* who sent figs to another *haber* — the recipient has to tithe [that is the sender’s premise].”
- [M] *They wished to rule, as to him who holds, haberim were not suspected of separating heave-offering [from one batch of produce for a second batch of produce which was] not in the same vicinity — if the sender is a haber,, the recipient must remove the tithes. As to one who holds, It is preferable that haberim separate heave-offering [from one batch for a second batch which is] not in the same vicinity, and thereby] not supply ‘ammé ha’ares with*

produce which is liable, but as yet untithed], if the sender is a haber, the recipient must remove the tithes.

[N] *R. Jonah asked, “Here you treat the donor as a haber [who tithes when he gives], and there you treat him as an am haares [who did not tithe what he gives].”*

[O] *Said R. Yosé, “Here and there too he is an am haares. But because of the individual act of tithing, the title haber is assigned to him.”*

[III:3 A] R. Yosé in the name of R. Sheshet, R. Eleazar b. R. Yosé in the name of R. Abin: “He who says, ‘I shall tithe in your behalf’ — the other does not have to stand with him [to supervise the process].”

[B] *There we learned in the Mishnah: **He who sends his fictive fusion meal with a deaf-mute, an idiot, or a minor, or with someone who does not concede the validity of the fictive fusion meal — it is not a valid fictive fusion meal to unite courtyards into a single domain [= erub]. But if he said to someone else to receive it from him, lo, this is a valid fictive fusion meal to unite courtyards into a single domain [= erub] [M. Er. 3:2]. [If] one put it into a tree — [if] it is above ten handbreadths, his fictive fusion meal is not a valid fictive fusion meal. [If he put it] below ten handbreadths, his fictive fusion meal is a valid fictive fusion meal. [If] he put it in a cistern, even if it was a hundred cubits deep, his fictive fusion meal is a valid fictive fusion meal [M. 3:3].** Said R. Eleazar, “And he has to stand with him [to supervise the placement].” *And here you say this!*”*

[C] Said R. Hiyya bar Adda, “Here we deal with an adult, there we deal with a minor.”

[D] R. Hananiah in the name of R. Hiyya: “You may even say here and there we deal with an adult, or here and there we deal with a minor. It is a case in which he says to him, ‘I shall prepare the fictive fusion meal for you,’ [and he will surely do it, having volunteered] but here he says to him, ‘Tithe for me.’”

[E] *One drives from the other, and the other derives from the one. One derives from the other:* It is a case in which he says to him, “I shall prepare the fictive fusion meal in your behalf,” where he does not have to supervise him. ...*and the other derives from the one.* It is a case in which he says to him, “Tithe in my behalf,” where he does have to supervise him.

- [IV:1 A] “Go and pick for yourself twenty dates of mine” — the donee goes along eating the dates and is exempt from tithing. “Go and fill this basket with dates” — Rabbi says, “I say that he has to show him the basket [so that he knows the number of figs].”
- [B] And what is the usual number of figs that a basket can hold?
- [C] R. Samuel bar Nahman in the name of R. Jonathan, “The commonplace basket holds four qabs, a large basket holds a seah [six qabs], and a small basket holds three qabs.”
- [D] *R. Jonah asked, “Were these figures given for tithing, or for commercial law? If you say they were stated for tithing, then all the more so do they apply to commercial law. But if you say they were stated for commercial law, then for tithing they do not pertain.”*
- [E] *To R. Yosé it was self evident that they were stated for tithing, then all the more so do they apply to commercial law.*
- [IV:1 A] **[If they were sitting in a doorway or stall, and [the passer-by] said, “Take figs for yourselves,” [those who accept them] eat [the figs in the doorway or stall] and are exempt [from tithing]. But the owner of the doorway or the owner of the stall is required [to tithe]. R. Judah exempts [the owner from tithing] unless he turns his face [away from the public] or unless he moves from where he is sitting to a private part of the stall]. That is to say a man’s house imparts the status of liability to tithes but not yet tithed to produce that a man brings into the house, but it does not have that effect for outsiders.**
- [B] Said R. Eleazar, “R. Judah and R. Nehemiah both said the same thing, *for we have learned in the Mishnah: R. Nehemiah says, ‘Any [courtyard] in which a man eats unselfconsciously is subject [to the law of tithes].’*”
- [C] Said R. Yosé, “*We reflected on this matter. [proposing to say] Where the rabbis and R. Nehemiah differ is a courtyard through the whole of which someone is self-conscious about eating. Lo, if in part of it he is self-conscious and in part of which he is not self-conscious, there the law does not apply. But on the basis of what R. Eleazar said, ‘R. Judah and R. Nehemiah both said the same thing,’ it follows that a place in which he is self-conscious about eating is exempt from tithing, and a place in which he is not self-conscious about eating is liable for tithing.*”

[D] Said R. Yohanan, “The statement of R. Judah is that they regarded the case as comparable to that of a fig branch that extends from an outer garden into a courtyard.”

[E] *In the opinion of R. Yohanan, [the untithed figs in the householder’s hands are permitted for snacking] as long as he eats them one by one at a time. That is so even if he eats the entire batch with the permission of the donor, as long as he leaves some over [to show it was a snack].*

[F] *In the opinion of R. Eleazar, [the untithed figs are permitted as a snack] even if he does not eat them one by one at a time. That is so even if he does not eat the entire batch with the permission of the donor, even if he does not leave some over [to show it was a snack].*

2:2

[A] **One who transports produce from Galilee to Judea,**

[B] **or [who] goes up [from a location in Judea] to Jerusalem,**

[C] **eats of [his untithed produce] until he reaches his destination [at which point he must tithe before eating].**

[D] **And [this is] also [the case] on the return trip**

[E] **R. Meir says, “[He eats] until he reaches the place [where he intends to] spend the Sabbath.”**

[F] **Peddlers who circulate among [a number of] towns eat [their untithed produce] until they reach their night’s lodging [at which point they must tithe before eating].**

[H] **R. Judah says, “The first house [he enters] is [considered] his house [even should he lodge elsewhere].”**

[I:1 A] Produce that was not gathered for consumption on the Sabbath and the Sabbath sanctified [the sun set before the produce was tithed] —

[B] R. Yohanan says, “The advent of the Sabbath imparts on the produce not gathered for consumption on the Sabbath the status of produce that is subject to tithing but has not yet been tithed.”

[C] R. Simeon b. Laqish says, “The advent of the Sabbath does not impart on the produce not gathered for consumption on the Sabbath the status of produce that is subject to tithing but has not yet been tithed.”

[D] R. Simeon b. Laqish objected to R. Yohanan, “As to your opinion, which holds, ‘The advent of the Sabbath imparts on the produce not gathered for consumption on the Sabbath the status of produce that is subject to tithing but has not yet been tithed,’ *have we not learned in*

the Mishnah: One who transports produce from Galilee to Judea, or [who] goes up [from a location in Judea] to Jerusalem, eats of [his untithed produce] until he reaches his destination [at which point he must tithe before eating]. And [this is] also [the case] on the return trip, and a Tannaite rule was taught in this connection, [the produce remains exempt during the journey] even if he spent the night [in a house along the way] and even if he spent the Sabbath in a residence en route.”

[E] He said to him, “This is when he wanted to establish a Sabbath residence [at a particular location]. You may know that that is so, for *a Tannaite rule was taught in this connection, even if he established a Sabbath residence on the second day of the week, he has to tithe whatever he eats in the residence from that point onward [T. Ma. 2:1]*. Now does there exist such a thing as Sabbath residence on the second day of the week? But the point is, when he wants to establish a Sabbath residence at that particular place, he has to tithe from the moment at which he wants to establish a Sabbath residence. Here too, I ruled for the case when he wants to establish a Sabbath residence.”

[I:2 A] All agree that merely spending the night does not impart the status of produce that is subject to tithing but has not yet been tithed. So what is the difference between merely spending the night and establishing a Sabbath residence?

[B] As to spending the night one will alternate residences, but he does not alternate the place where he spends the Sabbath. Someone will spend the night just anywhere, but he does not spend the Sabbath just anywhere.

[I:3 A] *It was taught as a Tannaite statement: There was the case that involved R. Joshua, who was going to Rabban Yohanan b. Zakkai in Beror Hail, and the townsfolk were bringing them produce. Said R. Joshua to his companions, “If we spend the night here, we are liable to tithe [contrary to A], but if not, we are not liable to tithe.”*

[B] Said R. Zeira, “R. Joshua is clear-headed.”

[C] *Said to him R. Mana, “And is everybody else muddle-headed? But R. Joshua, because he was accompanied by a large crowd of companions, ruled that merely spending the night in a given spot imparted liability to tithing, but for other people, who are not accompanied by a sizable crowd of fellow-travelers, merely spending the night in a given spot does not impart liability to tithing.”*

[D] *And has it not been taught on Tannaite authority: Peddlers who circulate among [a number of] towns eat [their untithed produce] until they reach their night's lodging [at which point they must tithe before eating]? What is the definition of their night's lodging? It is his own home.*

[E] R. Simeon b. Laqish said in the name of R. Hoshaiyah, “*For example the peddlers of Kefar Hananiah who circulate among four or five villages and go at night to sleep in their own homes.*”

[II:1 A] [R. Judah says, “**The first house he enters is considered his house [even should he lodge elsewhere].**” R. Halapta b. Saul taught as a Tannaite rule, “A man wants someone to carry his merchandise to the first house that he encounters and to spend the night there.”

2:3

[A] **Produce from which one separated heave-offering before its processing was complete —**

[B] **R. Eliezer prohibits making a random snack of it [from that moment on].**

[C] **But Sages permit [a random snack until the processing is complete],**

[D] **except [in the case of] a basket of figs.**

[E] **A basket of [unprocessed] figs from which one separated heave-offering —**

[F] **R. Simeon permits [making a random snack of it].**

[G] **But Sages prohibit [making a random snack of it].**

[H] **“One who says to his fellow, ‘Take this issar and give me five figs for it,’**

[I] **“may not eat [the figs] unless he tithes” — the words of R. Meir.**

[J] **R. Judah says, “[If] he eats [the figs] one by one, he is exempt [from tithing]; but if he gathers [them] together, he is required [to tithe the figs before eating any of them].”**

[K] **Said R. Judah, “There was a rose garden in Jerusalem [where] figs were sold at three or four per issar, yet heave-offering and tithes were never removed from [the purchase].”**

[I:1 A] *How are we to interpret the dispute [of Eliezer and sages]? If it concerns a basket of figs, all parties concur that it is forbidden to make a random meal of the figs. If it is one of olives from which heave-offering is separated for oil [produced at a later pressing] or grapes*

from which heave-offering is separated in behalf of wine [to be produced later on], all parties concur that it is permitted [to snack after the heave-offering is taken, for only the final product is liable]. *But this is how we are to interpret the matter: it pertains to the following:*

- [B] One who separates heave-offering from dried figs [which] are going to be pressed, [or from] dates [which] are going to be mashed —
- [C] R. Eliezer says, “Separating the heave-offering imparts to the produce on which processing is incomplete the status of produce that has become liable to tithing but has not yet been tithed.”
- [D] But Sages say, “Separating the heave-offering does not impart to the produce on which processing is incomplete the status of produce that has become liable to tithing but has not yet been tithed.”

[I:2 A] As to first tithe [removed from produce on which processing is incomplete prior to the separation of heave-offering] what is the law? Does removal of the first tithe impose the status of produce that has become liable to tithing but has not yet been tithed? [The heave-offering and poor man’s tithe or second-tithe have to be removed.]

- [B] *How are we to interpret the matter?* If it is a stack of grain that has been smoothed over, all parties concur that it is forbidden [to eat without removing the further tithes, since smoothing the stack completes the processing]. If at issue is removing first tithe from cut grain prior to any processing, all parties concur that it is permitted [to snack from it, since the produce has not yet been processed].
- [C] *But this is how we are to interpret the matter:* One who separates heave-offering from dried figs [which] are going to be pressed, [or from] dates [which] are going to be mashed, and one separated from them the Great Heave-offering, but then changed his mind and decided to leave the produce as is [un-mashed, un-pressed]. Then he went and removed first tithe. [Does removing first tithe before separating heave-offering forbid using the produce until the remaining offerings are removed?]
- [D] If you say that retroactively the produce is rendered liable for tithing but not yet tithed then it is the original act of separating heave-offering that has imparted that status and not the act of removing first tithe. If you claim that hence forward the produce is liable for tithing but not yet tithed, then the removal of the first tithe has brought about that status and not the original separation of heave-offering.]

- [I:3 A] **One who purchases 1) dried figs [which] are going to be pressed, [or] 2) dates [which] are going to be pressed — R. Meir says, “He shall not make a random snack of them, and he removes tithes [from them as he would for] doubtfully tithed produce.” But Sages say, “He makes a random snack of them and he removes tithes [as he would for] certainly tithed produce” [T. Ma. 2:3].**
- [B] the words of R. Yosé.
- [C] R. Hila, R. Eleazar in the name of Hilpai, said R. Jonah, “They found it written in the notebook of Hilpai, ‘**He makes a random snack of them and he removes tithes [as he would for] doubtfully tithed produce.**’”
- [D] *Now there is this problem:* if he may make a random snack of them, then he should remove tithes from them as certainly untithed produce. But if he removes tithes from them as doubtfully tithed produce, then it should be forbidden to make a random snack of them!
- [E] R. Yosé in the name of R. Hila: “He may make a random snack of them on the grounds that it is something on which the processing is not complete but he removes the offerings as if it is doubtfully tithed produce. Since he knows that entry into the buyer’s home makes the produce forbidden for untithed use when the processing is done, he will separate heave-offering as early as possible prior to the sale.”
- [II:1 A] **A basket of [unprocessed] figs from which one separated heave-offering — R. Simeon permits [making a random snack of it]. But Sages prohibit [making a random snack of it]. Said R. Eleazar, “The Mishnah refers to a basket of any sort of produce whatever.”**
- [II:2 A] **R. Simeon permits [making a random snack of it], on the basis of an argument a *minori ad majus*: since he makes a random snack when there is an obligation to remove three tithes from it [viz. heave-offering, first tithe and either second-tithe or poorman’s tithe], it is logical that he shall make a random snack when there is an obligation to remove only two tithes [T. Ma. 2:2].**
- [B] What is the law as to first tithe? Does removing it forbid the use of the produce until the second-tithe is removed and the tithing process is completed?
- [C] Since he makes a random snack when there is an obligation to remove two tithes from it, it is logical that he shall make a random snack when there is an obligation to remove only one tithe.

- [III:1 A] **“One who says to his fellow, ‘Take this issar and give me five figs for it,’ may not eat [the figs] unless he tithes” — the words of R. Meir. R. Judah says, “[If] he eats [the figs] one by one, he is exempt [from tithing]; but if he gathers [them] together, he is required [to tithe the figs before eating any of them].”** Said R. Judah, **“There was a rose garden in Jerusalem [where] figs were sold at three or four per *issar*, yet heave-offering and tithes were never removed from [the purchase].”**
- [B] *R. Zeira in the name of R. Yohanan, R. Ila in name of R. Eleazar: “What is at issue [between R. Meir and R. Judah]? It is a case in which the seller picks and hands over figs as a batch to the buyer [Meir holds the figs liable to tithing as soon as the seller collects them, and Judah says they are liable only when the buyer accepts them]. But in a case in which the buyer himself picks the figs, all parties concur that he eats one at a time and is exempt from tithing, but if he joined them together, he is liable to tithing.”*
- [C] R. Hila in the name of R. Eleazar: *“Just as they differ here, so they differ in the case of the eating of untithed produce in a courtyard of a guarded house.”*
- [D] For R. Yohanan said, *“As the medium for rendering produce liable to tithing at the end of the processing, the power of the acquisition of the produce through purchase, the passage of produce into the courtyard, and the advent of the Sabbath — none of these media for signaling liability to tithing derives from the authority of the Torah.”*
- [E] R. Imma in the name of R. Simeon b. Laqish: *“The clearest basis concerns the passage of produce into a private courtyard.”*
- [III:2 A] **“One who says to his fellow, ‘Take this issar and give me five figs for it,’ may not eat [the figs] unless he tithes” — the words of R. Meir. R. Judah says, “[If] he eats [the figs] one by one, he is exempt [from tithing]; but if he gathers [them] together, he is required [to tithe the figs before eating any of them].”** Said R. Judah, **“There was a rose garden in Jerusalem [where] figs were sold at three or four per *issar*, yet heave-offering and tithes were never removed from [the purchase].”** *Associates* in the name of R. Yohanan: *“This is how R. Judah answered R. Meir, ‘Do you not concede to me in the case of one who gives produce to his son that he is exempt from having to tithe? [A gift is not a commercial transaction.] What difference does it make to me whether it is one who picks and gives produce to his son and one who picks and gives produce to a third party?’”*

- [R] Yudan asked, “Why do you say that the dispute concerns a case in which the seller picks figs and hands the over to the buyer? Maybe the buyer picks the figs and eats them,”
- [C] Said R. Mana, “Here is no case in which the buyer picks the figs and eats them. Rather, it is a case in which the seller picks the figs and hands them over to the buyer after an exchange of money. *That is from the following*: with regard to the rose garden in Jerusalem, can you say that in a rose garden we may contemplate a case involving a buyer who picks figs and eats them with the permission of the owner? No, the case can arise only with a seller who picks the figs and hands them over to the buyer. For the vendor says to him, if you go into the garden you will damage the roses.’ Here too the vendor picks the figs and hands the over to the purchaser.”
- [D] *The Tannaite teaching contradicts the conception of R. Mana: “An orchard I’m selling you even if there is not a single tree in it, it belongs [to the purchaser], for he sold it to him only by its name. “A vineyard I’m selling to you” — even if there is not a single vine in it, it belongs [to the purchaser], for he sold it to him only by its name [T. B.B. 6:18]. [Likewise the reference to the rose garden proves nothing.]*

2:4

- [A] **One who says to his fellow, “Take this *issar* [in payment] for ten figs that I shall choose,”**
- [B] **chooses and eats [each fig separately without tithing the batch as a whole].**
- [C] **[One who says, “Take this *issar* in payment] for a cluster of grapes that I shall choose,” plucks one grape at a time and eats [each grape without tithing the cluster as a whole].**
- [D] **[One who says, “Take this *issar* in payment] for a pomegranate that I shall choose,” splits it into segments and eats [each segment separately without tithing the pomegranate as a whole].**
- [E] **[One who says, “Take this *issar* in payment] for a melon that I shall choose,” cuts it into slices and eats [each slice separately without tithing the melon as a whole].**
- [F] **But if he said to him, [“Take this *issar* in payment] for these twenty figs,”**
- [G] **[or] “for these two grape clusters,”**
- [H] **[or] “for these two pomegranates,”**

- [I] [or]” for these two melons,”
- [J] he eats as he pleases and is exempt [from tithing the batch],
- [K] for he bought [them while they were still] attached to the ground [viz., before they were picked, when they were exempt from the removal of tithes].
- [L] [If] he was working on cooking-figs he shall not eat white figs [without tithing them]
- [M] [If he was working on] white figs, he shall not eat cooking-figs [without tithing them].
- [N] To be sure, he [may] restrain himself [from eating altogether] until he reaches the area [in which] the high-quality [figs] grow, and [then may] eat.
- [O] One who exchanges [figs] with his fellow —
- [P] [if] his [figs] are for eating and his fellow’s are for eating,
- [Q] [or if] his [figs] are to be dried and his fellow’s are to be dried,
- [R] he is required [to tithe what he acquires].
- [S] R. Judah says, “One who exchanges [his figs for figs] that are for eating is required [to tithe],
- [T] “but [if he exchanges his figs for figs] that are to be dried, he is exempt [from tithing until the figs are dried].”
- [U] One who hires a worker to harvest figs for him —
- [V] 1) [If the worker] said to him, “On condition that I eat figs [as part of my pay],”
- [W] he eats [figs during the harvest] and is exempt [from tithing them].
- [X] 2) [If the worker said to him,] “On condition that I and my dependents eat [figs as part of my pay],”
- [Y] or [if he said, “On condition] that my son shall eat [figs] as [part of] my pay,”
- [Z] he [i.e., the worker] eats [figs during the harvest] and is exempt [from tithing them],
- [AA] while his son eats [figs during the harvest] but is required [to tithe them].
- [BB] 3) [If the worker said,] “On condition that I eat [figs as part of my pay both] during and after the harvest” —
- [CC] during the harvest he eats and is exempt,
- [DD] while after the harvest he eats but is required [to tithe],

- [EE] for [in the latter case] he [is granted] no eating privileges by the Torah.
- [FF] This is the general principle:
- [GG] One who [is granted] eating privileges by the Torah is exempt [from tithing what he eats], while one who [is granted] no eating privileges by the Torah is required [to tithe what he eats].
- [I:1 A] [One who says, “Take this *issar* in payment] for a cluster of grapes which I shall choose,” plucks one grape at a time and eats [each grape without tithing the cluster as a whole]: R. Yosé in the name of R. Yohanan: “He plucks one grape at a time [while the cluster is on the vine] and goes on about his eating.”
- [B] *Said to him R. Hiyya bar Vava, “And that is what Rabbi would do.”*
- [II:1 A] [One who says, “Take this *issar* in payment] for a melon which I shall choose,” cuts it into slices and eats [each slice separately without tithing the melon as a whole]: *It was taught as a Tannaite rule in the name of R. Yosé, “A melon from which one cut any bit at all — he has acquired ownership of the melon [and this is a sale, rendering it liable to tithing at the end of processing].”*
- [B] [One who says, “Take this *issar* in payment] for a pomegranate which I shall choose,” splits it into segments and eats [each segment separately without tithing the pomegranate as a whole]. *R. Jonah asked, “Is this also the case with the pomegranate?”*
- [III:1 A] One who hires a worker to harvest figs for him — [If the worker] said to him, “On condition that I eat figs [as part of my pay],” he eats [figs during the harvest] and is exempt [from tithing them] [If the worker said to him,] “On condition that I and my dependents eat [figs as part of my pay],” or [if he said, “On condition] that my son shall eat [figs] as [part of] my pay,” he [i.e., the worker] eats [figs during the harvest] and is exempt [from tithing them], while his son eats [figs during the harvest] but (*w-*) is required [to tithe them]. [If the worker said,] “On condition that I eat [figs as part of my pay both] during and after the harvest” — during the harvest he eats and is exempt, while after the harvest he eats but is required [to tithe], for [in the latter case] he [is granted] no eating privileges by the Torah). This is the general principle: One who [is granted] eating privileges by the Torah is exempt [from tithing what he eats], while (*w-*) one who [is granted] no eating privileges by the Torah is required [to tithe what he eats].

- [I:1 A] What is the point of specifying “on condition...?” Even not specifying “on condition” yields the same result.
- [B] R. Abin in the name of R. Shimi: “Therefore it is necessary to say, even if he stipulated ‘on condition,’ [it is not a commercial transaction. The Torah has given the privilege to eat as he pleases.]”
- [I:2 A] *There we learned in the Mishnah:* **[If] one was working with his hands but not with his feet, with his feet but not with his hands, even [carrying] with his shoulder, lo, he [has the right to] eat [the produce on which he is working] [M. B.M. 7:3].**
- [B] *And so it was taught on Tannaite authority:* **If a worker was tying bundles with his hands, packing produce with his feet, even if he places a burden on his shoulders, R. Yosé b. R. Judah says, “[He may eat the produce on which he is working] only if he works with both his hands and his feet.” It is on the analogy of the ox who treads out grain and is not to be muzzled [Dt. 25:4] — just as the ox that treads grain may not be muzzled if he works with his fore-legs, his hind-legs, and his body, so whatever a person does with hands, legs and body [grants him the privilege of eating while working] [T. B.M. 8:7].**
- [C] **Treading out grain: just as treading out grain is distinctive in that it is done with a crop that has been harvested, so all work on harvested produce [acquires for the worker the privilege of eating while working]. That excludes one who weeds the garlic and onion crops, one who props vines, and one who hoes underneath olive trees [T. B.M. 8:7].**
- [D] **Treading out grain: just as treading out grain is distinctive in that it is done with a crop that grows from the land, so all work on crops that grow in the land [acquires for the worker the privilege of eating while working]. That excludes the one that milks, makes cheese, and makes curd [T. B.M. 8:7].**
- [E] **Treading out grain: just as treading out grain is distinctive in that it is done with produce that is not yet fully processed, so all produce that is not yet fully processed [acquires for the worker the privilege of eating while working]. That excludes one who sorts dates, separates dried figs, works on wine that has been skimmed or oil that has flowed into the trough [T. B.M. 8:7].**
- [F] **Treading out grain: just as treading out grain is distinctive in that it is done with produce that is not yet subject to tithing, so all produce that is not yet subject to tithing [acquires for the worker**

the privilege of eating while working]. That excludes one who kneads, cuts dough or bakes [T. B.M. 8:7].

- [I:3 A] It is written, “When you come into the standing grain of your neighbor, then you may pluck the ears with your hand” (Dt. 23:25) — might one suppose that Scripture speaks of anybody [who wanders into the field and begins to eat]?
- [B] Scripture says, “But you shall not wave a sickle in your neighbor’s standing grain (Dt. 23:25)” (this encompasses only the one who has permission to wave a sickle in the neighbor’s standing grain, and who is that? It is the worker [who is allowed to eat what he can take by hand].”
- [C] Issi b. Aqabiah says, “Scripture speaks of anybody [who enters the field, not only the workers]. Why does Scripture say, ‘But you shall not wave a sickle in your neighbor’s standing grain’ (Dt. 23:25)? On this basis we learn that one has the right to nibble on the crop only during the time that the sickle is being waved.”
- [I:4 A] *It is taught as a Tannaite rule:* R. Simeon b. Yohai says, “To such an extent has the Torah taken a precise view of robbery! It has to judge between a man and his fellow even down to the swipe of a sickle!
- [B] “Great is hard work! For the generation of the flood was wiped out only on account of its robbery, yet a worker does his work and eats the produce on which he is working and is free of the charge of robbery.”
- [I:5 A] It is written, “You shall not muzzle an ox when he treads out grain” (Dt. 25:4). And: “When you come into your neighbor’s vineyard, then you may eat grapes as you will, at your own pleasure” (Dt. 23:24). I know only that an ox is entitled to nibble on what is uprooted from the earth and man is entitled to nibble on what is still attached to the ground. What is the law about a man’s nibbling from what is detached from the ground?
- [B] Now if an ox, which does not eat what is attached to the ground, does eat what is uprooted, a man, who does eat what is attached to the ground, surely should be permitted to eat what is uprooted?
- [C] Scripture says, “You shall not muzzle an ox when he treads out grain” (Dt. 25:4).
- [D] An ox is covered by “You shall not muzzle an ox when he treads out grain” (Dt. 25:4), and man is not covered by “You shall not muzzle an ox when he treads out grain” (Dt. 25:4).

- [E] What is the law about an ox's eating what is attached to the ground?
- [F] If a man, who does not eat what is detached from the ground, eats what is attached to the ground, an ox, who eats what is detached from the ground, surely should be able to eat what is attached to the ground!
- [G] Or just as this situation is covered by "You shall not muzzle an ox when he treads out grain" (Dt. 25:4), so that situation is covered by "You shall not muzzle an ox when he treads out grain" (Dt. 25:4).
- [H] Scripture says, "You shall not muzzle an ox when he treads out grain" (Dt. 25:4) — when he treads out grain you are not to muzzle him, lo, you muzzle him when he works what is attached to the ground.
- [I:6 A] On this basis they said: **A man makes a deal [with the householder not to exercise his right to eat produce on which he is working] in behalf of himself, his adult son, or daughter, in behalf of his adult manservant or woman-servant, in behalf of his wife, because [they can exercise] sound judgment [and keep the terms of the agreement]. But he may not make a deal in behalf of his minor son or daughter, in behalf of his minor boy servant or girl servant, or in behalf of his beast, because [they can] not [exercise] sound judgment [and keep the terms of the agreement] [M. B.M. 7:6].**
- [I:7 A] **Shouldn't it say, He who on the basis of the Torah eats the crop on which he is working is liable to tithe?**
- [B] **Said R. Jonah, "The Torah exempted him."**
- [II:1 A] [If] he was working on cooking-figs he shall not eat white figs [without tithing them] [If he was working on] white figs, he shall not eat cooking-figs [without tithing them]. To be sure, he [may] restrain himself [from eating altogether] until he reaches the area [in which] the high-quality [figs] grow, and [then may] eat. One who exchanges [figs] with his fellow — [if] his [figs] are for eating and his fellow's are for eating, [or if] his [figs] are to be dried and his fellow's are to be dried, he is required [to tithe what he acquires]. R. Judah says, "One who exchanges [his figs for figs] that are for eating is required [to tithe], but [if he exchanges his figs for figs] that are to be dried, he is exempt [from tithing until the figs are dried]."
- [B] *There we have learned in the Mishnah:* [If the laborer] was working on figs, he [has] not [got the right to] eat grapes. [If he was working] on grapes, he [has] not [got the right to] eat figs [M. B.M.

7:4], and on this rule a Tannaite teaching stated, if he was working on this branch, he shall not eat what grows on another branch. *Yet here we learn in the Mishnah, [If he was working on cooking-figs he shall not eat white figs [without tithing them] [If he was working on] white figs, he shall not eat cooking-figs [without tithing them].*

- [C] *This is how it is necessary to read the rules:* he is limited to produce on which he is working, even if both species grow on a single branch.
- [II:2 A] It is written, “When you come into your neighbor’s vineyard, you may eat grapes as you like, at your own pleasure” (Dt. 23:24) —
- [B] is it possible that Scripture speaks of anybody at all [not only a worker]?
- [C] Scripture says, “But you shall not put any in your utensil” — but you put it into your neighbor’s vessel, and to whom is reference made? It refers to a worker [using the utensils of the employer].
- [D] “And you may eat grapes” — Don’t we know that there is nothing in a vineyard to eat but grapes? Why does Scripture say, “And you may eat grapes”?
- [E] On this basis we learn: **if he was working on dates, he should not eat grapes, and if he was working on grapes, he should not nibble on dates [M. B.M. 7:4].**
- [F] “As you will” — Whatever amount the appetite craves.
- [G] “As you will” — This refers to whatever produce is still exempt from tithing because it is not yet processed.
- [H] Just as you the farmer may eat random bits of the crop in the field and are exempt from tithing, so the work eats a random snack and is exempt from tithing.
- [I] “As you will” — in this regard **R. Eleazar Hisma says, “A worker should not eat more than the value of his wages” [M. B.M. 7:5].**
- [J] How do we know that his “will” is identified with his salary?
- [K] Abbahu in the name of R. Yosé b. Hanina: “Here it is stated, ‘his will’ (Dt. 23:24) and there it is stated, ‘his will’ as a reference to wages: ‘At his day you shall give him his wages, for he is poor and sets his will upon it’ (Dt. 24:15). Just as ‘will’ in the one context is equated with his wage, so ‘will’ in the other context is a reference to his wage.”
- [L] “At your own pleasure” — that one should not eat and vomit.

- [M] “At your own pleasure” — **He who [has the right to] eat [of the produce on which he is working] by [specification of the law of the] Torah should not pare figs, nor should he suck out grapes [T. B.M. 8:9] [and so waste the produce].**
- [N] **Workers have the right to eat their bread with brine, so that they will [have the thirst to] eat a great many grapes. And the householder has the right to make them drink wine, so that they will not eat a great many grapes [T. B.M. 8:3].**
- [O] **A householder has the right to starve and torment his cow, so that it will eat a great deal when it is threshing. And one who hired a cow has the right to feed it a bundle of sheaves, so that it will not eat a great deal when it is threshing [T. B.M. 8:4].**
- [P] *R. Abbahu said, “They may feed cattle groats.”*
- [Q] *R. Hanania: “They feed them fig mash.”*
- [R] *R. Mana: “They feed them parsnips.”*
- [II:3 A] ***R. Hiyya taught as a Tannaite rule: A worker may eat the first cluster of grapes [that he picks, before he sets aside any for the employer] [T. B.M. 8:8].”***
- [B] *It was taught as a Tannaite rule: A worker may eat the last cluster of grapes [that he picks].*
- [C] *R. Samuel in the name of R. Hila: “[With respect to the last cluster of grapes] if he put it in his basket, he is prohibited [to take it out and eat it, it belongs to the employer].”*
- [D] *Said R. Yosé, “Isn’t this now matters should be explained: ‘When he was picking the grapes and someone else was bringing the grapes to the market, then [with respect to the last cluster of grapes] if he put it in his basket, he is prohibited [to take it out and eat it, it belongs to the employer]. But if both picked the grapes and transported them to the market, then to begin with he eats on account of the custom of the province, and at the end he eats because workers are allowed to eat what they harvest.*
- [E] **Workers [have the right to] eat as they go from furrow to furrow [even though they do not then work], and when they are coming back from the press [so saving time for the employer]; and in the case of an ass [nibbling on straw in its load], when it is being unloaded [M. B.M. 7:4].**

- [II:4 A] *It was taught as a Tannaite rule:* A man may arrange with his workers to eat one fig and lay out nine to dry.
- [B] *There are Tannaite masters who repeat:* they dry nine and eat one. [They have to start work drying th figs before they can eat their share.]
- [C] *There is no problem that they eat one and lay out nine to dry. But what's the point of saying that they lay out nine to dry and eat one?*
- [D] Said R. Abin, "It is so that you not say, 'It is as if he ate it after completing his work, so he is liable [for taking what doesn't belong to him].'"

- [III:1 A] **One who exchanges [figs] with his fellow — [if] his [figs] are for eating and his fellow's are for eating, [or if] his [figs] are to be dried and his fellow's are to be dried, he is required [to tithe what he acquires]:** there is no problem in understanding why one who receives figs in barter has to tithe. But on what basis must one who got figs to be dried have to tithe them [since they are still being processed]?
- [B] *Said R. Eleazar, "This belongs to R. Meir, for R. Meir said, 'Acquisition by purchase imposes liability to tithing upon the acquired produce on which processing is incomplete.'"*
- [C] Said R. Eleazar, "R. Meir and R. Eliezer both said the same thing: 'Just as R. Eliezer says, 'removing heave-offering imparts the status of liability to partially processed produce so that it cannot be used without completing the tithing,' so R. Meir says, 'acquisition by purchase imposes liability to tithing upon the acquired produce on which processing is incomplete.'"

YERUSHALMI MAASEROT

CHAPTER THREE

3:1

- [A] 1) One who brings figs through his courtyard in order to spread them out for drying —
- [B] his sons and his dependents eat them and are exempt [from tithing].
- [C] 2) [As for] the workers who are [working] for him —
- [D] should they have no claim upon him for their board they eat and are exempt from tithing.
- [E] But if they have a claim upon him for their board, lo, these shall not eat without first removing tithes.
- [F] 3) One who brings his workers out to the field —
- [G] should they have no [claim] upon him [for their] board, they eat and are exempt [from tithing].
- [H] But if they have [a claim] upon him [for their] board, they eat one by one from the tree,
- [I] but not from the basket, or the bin, or from the pile in which the figs are being dried.
- [J] 4) One who hires a worker to work among olives [but not to harvest them] —
- [K] [if the worker stipulated,] “On condition that I eat olives [as part of my pay],” he eats one by one [from the tree], and is exempt [from tithing].
- [L] But if he gathered [them] together, he is required [to tithe].
- [M] 5) [One who hires a worker] to weed among onions —
- [N] [if the worker] stipulated, “On condition that I eat shoots [as part of my pay],” he plucks a leaf at a time and eats [without tithing].
- [O] But if he gathers [the leaves] together, he is required [to tithe].

- [I:1 A] **One who brings figs through his courtyard in order to spread them out for drying — his sons and his dependents eat them and are exempt [from tithing].** And he himself — what is the law as to his having to tithe before he eats the produce?
- [B] Rab said, “He is forbidden to eat the produce without tithing it.”
- [C] Ulla bar Ishmael in the name of R. Eleazar: “He is permitted to eat [without tithing until the drying is complete].”
- [D] Rab accords with the view of R. Meir and R. Eleazar accords with the view of rabbis.
- [E] If Rab accords with the view of R. Meir, then even his children and dependents should be forbidden to eat the produce without tithing it.
- [F] Rather, Rab accords with Rabbi, and rabbis accord with the rabbis. For said R. Simon in the name of R. Joshua b. Levi, “R. Yosé b. Saul in the name of Rabbi: ““They eat [untithed figs] from the drying pile only at that very place [then eating does not convey the intention of making a regular meal of the figs,”] the words of sages.”
- [G] R. Jacob bar Idi in the name of R. Joshua b. Levi: “They eat untithed figs at the drying pile, whether or not they remain at that very spot.”
- [H] *Objected R. Yosé b. Saul to Rabbi, “But have we not learned in the Mishnah: **And [as for] carobs — as long as he has not piled them on top of the roof, he brings [some] of them down for the cattle and is exempt [from tithing it], for he returns the surplus [M. 3:2].**”*
- [I] *He said to him, “Don’t answer me from the case of carobs, for carobs are animal fodder [and exempt from tithing].”*
- [J] In the view of Rab, what is the difference between the householder and his children [as to the requirement to tithe]?
- [K] As to him, because the drying process depends upon his judgment, he is forbidden from making a snack of the figs, for his removing the figs from the pile shows the processing is done]. His children, because the drying process does not depend upon their judgment, they are permitted to make a snack of the figs
- [II:1 A] **his sons and his dependents eat them and are exempt [from tithing]:**

- [B] *There is no problem understanding why his children [them and are exempt from tithing]. But as to his dependents [why are they subject to the same rule?*
- [C] [His wife is a dependent,] and doesn't she have a claim for support [while other dependents get board as a gift]?
- [D] The law accords with him who has said, "It is not on the authority of the Torah that a woman has a claim of support. *That is in accord with the following Tannaite rule: A court does not impose the requirement of providing board for the wife [but the food is a gift and does not require tithing].*
- [E] *That is in accord with the following Tannaite rule: A court does not impose the requirement of providing board for the wife out of the proceeds of produce of the Seventh Year [for debts cannot be paid with sanctified produce or coins]. But she eats produce of the Seventh Year at her husband's table [T. Sheb. 5:22].*
- [F] Then why not treat her as a worker whose work is not worth as much as a perutah?
- [G] [But the law at E about not providing board] treats her as a worker whose work is not worth as much as a perutah. [If her work were of no value, she should be supported by sanctified produce, since no debt is paid off.]
- [H] *Even in accord with him who says she has no claim on him for support, doesn't she have a claim on him for lodging, in line with the following Tannaite ruling: Men who shared in a **shittuf** [fictive fusion meal to join the dwellings of a common alleyway into a single domain on the Sabbath] without the knowledge and consent of their wives have made a valid **shittuf**. Wives who shared in a **shittuf** without the knowledge and consent of their husbands have not made a valid **shittuf** [T. Er. 6:5]. [The woman doesn't own the husband's food or his property but uses them at his consent. Her actions do not affect the liability of his produce. She is like all other dependents.]*
- [III:1 A] *It is taught as a Tannaite rule: And any of these onions, dried figs, or carobs that he brought from the field into town [without tithing have been rendered produce liable to tithing but not yet tithed [T. Ma. 2:19].*
- [B] *The Tannaite teaching belongs to Rabbi [who requires tithing as soon as the produce is removed from the drying pile.]*

[III:2 A] **One who brings figs from the field to eat them in a courtyard that is not guarded [and is exempt from [the laws of] tithes [e.g., it is not a private courtyard; cf. M. Ma. 3:5]-- [if] he was careless and brought them into his house, or if children brought them in, lo, this one removes them [from the house] to the courtyard and makes a random snack of them [T. Ma. 2:8].**

[B] They have stated the rule only in the case of one who acts unintentionally. Lo, if he acted deliberately, it is forbidden to eat the produce without tithing it.

[C] *Who taught this ruling? It is Rabbi. For it has been taught as a Tannaite rule: One who brings figs from the field to eat them on the roof -- [if] he was careless and brought them into another courtyard [prior to bringing them up to the roof], Rabbi declares him liable to tithe [he shall not eat unless he separates tithes]. R. Yosé b. R. Judah says he is exempt [He brings them up to the roof and eats]" [T. Ma. 2:10]. [His intention was to bring the produce into an exempt area, not to make it his own in the courtyard.]*

[IV:1 A] *Note that which is set forth as a Tannaite rule: One who brings figs through his courtyard in order to spread them out for drying — his sons and his dependents eat them and are exempt [from tithing].* Lo, if it was not to dry them [for they were already dried and fully processed], they would be liable to tithing.

[IV:2 A] R. Ulla bar Ishmael in the name of R. Eleazar: “Rabbi and R. Yosé b. R. Judah [to avoid imposing the requirement of tithing] would bring a basket of figs into the house by way of the roofs. [They thought that only bringing it through the doorway rendered it liable to tithing.] R. Judah b. R. Ilai saw them. He said to them, ‘See the difference between you and the prior sages. R. Aqiba would by three types of produce for a perutah so as to remove tithes from each species [thus carrying out more commandments through a single purchase] while you bring the basket into the house through the roof [and avoid carrying out the commandment at all].”

[B] What difference does it make to me that the produce was brought in through the roofs? Even if they brought them in via the courtyard in order to eat them on the roof [he would be exempt]! [The ultimate intention governs.]

[C] This is the position assigned to R. Yosé b. R. Judah.

[D] *It was because Rabbi was with him [that he did not want to take a position contrary to that of Rabbi.*

- [E] *A certain elder saw. He said to them, “Will you give me some?”*
- [F] *They said to him, “Yes.”*
- [G] *He said to them, “To your father who is in heaven you will not give, but you are ready to give to me.”*
- [H] R. Yohanan [who says that the advent of the Sabbath imposes liability to tithing on the produce even if the owner did not designate it before hand for use on the Sabbath] accords with the position of Rabbi [who says that the farmer’s decision to perform an act of appropriation imposes liability even if the purpose of the decision is to prevent liability]. R. Simeon b. Laqish [who holds that the produce is exempt on the Sabbath if it is not designated in advance for use on the Sabbath] accords with the position of R. Yosé b. R. Judah [who classifies the action by its ultimate purpose].
- [I] R. Yohanan accords with the position of Rabbi — *even if [Yohanan] concurs with R. Yosé b. R. Judah, he might bypass this view in his dispute with R. Simeon b. Laqish] and rule strictly for the Sabbath.* For lo, fruit that falls on its own on the Sabbath is forbidden for consumption on the Sabbath, [not having been designated in advance for use on that day].
- [J] R. Simeon b. Laqish [who holds that the produce is exempt on the Sabbath if it is not designated in advance for use on the Sabbath] accords with the position of R. Yosé b. R. Judah [who classifies the action by its ultimate purpose] — *even if he concurs with the view of Rabbi [on the liability of produce picked for consumption on a day other than the Sabbath but was not tithed at the time that the Sabbath began]. But he might bypass this view in the dispute between Rabbi and R. Yosé b. R. Judah and rule strictly in the matter of the private courtyard.*
- [K] For said R. Yohanan, “Acquisition of produce through purchase, entry of produce into a courtyard, and the advent of the Sabbath as means for imparting susceptibility to tithing are not on the authority of the Torah.”
- [IV:3 A] R. Immi in the name of R. Simeon b. Laqish: “The clearest scriptural support for any of them sustains the rule that the entry of produce into a courtyard imparts susceptibility to tithing.”
- [B] R. Yohanan in the name of R. Simeon bar Yohai: “If the farmer owned two courtyards, one in Migdala and the other in Tiberias, and he brought figs into the one in Migdala, planning to eat them in the one in

Tiberias, since he brought them through the one in Migdala in a setting of exemption from having to tithe, he is permitted to snack them without tithing until he reaches the one in Tiberias.”

- [C] The ruling of R. Simeon bar Yohai accords with the position of R. Yosé b. R. Judah [all depends on the ultimate purpose].
- [D] But his position goes further than that of R. Yosé b. R. Judah [all depends on the ultimate purpose]. What R. Yosé b. R. Judah said applies only when one stands in a place in which the tithing laws do not apply [a rooftop]. But the ruling of R. Simeon bar Yohai applies even when one stands in a location in which the tithing laws do pertain [the courtyard]. Because he has transported the produce in a setting in which the produce is permitted [for snacking without tithing], he is permitted to snack on it without tithing.
- [E] *R. Eliezer takes a more compendious view than the other two.* For R. Eliezer said, “Because he began eating them when it was permitted to make a snack of them without tithing, he is permitted to continue eating even after bringing them into the courtyard, even though he does not plan to store them on the roof.”

[V:1 A] **[As for] the workers who are [working] for him — should they have no claim upon him for their board they eat and are exempt from tithing. But if they have a claim upon him for their board, lo, these shall not eat without first removing tithes. One who brings his workers out to the field — should they have no [claim] upon him [for their] board, they eat and are exempt [from tithing]. But if they have [a claim] upon him [for their] board, they eat one by one from the tree, but not from the basket, or the bin, or from the pile in which the figs are being dried.**

- [B] *There is no problem with the ruling, But if they have [a claim] upon him [for their] board, they eat one by one from the tree but not from the basket, or the bin, or from the pile. That is in line with what you say there: “[If] he eats [the figs] one by one, he is exempt [from tithing]; but if he gathers [them] together, he is required [to tithe the figs before eating any of them]” [M. Ma. 2:3].*
- [C] *Why not say the same thing here?*
- [D] Said R. Isaac, “They regarded the drying pile as equivalent to produce that has been gathered together.”

[VI:1 A] **One who hires a worker to work among olives [but not to harvest them] — [if the worker stipulated,] “On condition that I eat olives**

[as part of my pay],” he eats one by one [from the tree], and is exempt [from tithing]. But if he gathered [them] together, he is required [to tithe]. [One who hires a worker] to weed among onions — [if the worker] stipulated, “On condition that I eat shoots [as part of my pay],” he plucks a leaf at a time and eats [without tithing]. But if he gathers [the leaves] together, he is required [to tithe].

[B] *The household of Rabbi taught as a Tannaite statement:* “[The worker hired to work among olive trees] eats in the normal manner and is exempt from tithing.”

[C] *R. Jonah asked, “How shall we interpret the law?* If one he hired him to work for him in the olive trees, *all parties concur that* he eats in the normal manner and is exempt from tithing. If when he suppose that the law involves a case in which the farmer hired the worker to maintain the olive trees, *all parties concur that* he eats one by one and is exempt from having to tithe. But if he joined them together, he is liable to tithe. *But this is how we are to interpret the ruling:* when he hired him, it was to weed with him among olive trees as follows:) **[One who hires a worker] to weed among onions — [if the worker] stipulated, “On condition that I eat shoots [as part of my pay],” he plucks a leaf at a time and eats [without tithing]. But if he gathers [the leaves] together, he is required [to tithe].**

[VII:1 A] [If he] found harvested figs in the road — even [if they were found] beside a field [full of] harvested figs — and [this] also [holds true for] a fig tree which over-arches the road, and he found figs beneath it — [the figs] are permitted under the law [which defines] stolen property, and they are exempt from [the law of] tithes. But [in similar cases] concerning olives or carobs, they are subject [to the law of tithes]. [If he] found dried figs — if most people had pressed [their figs by that time], he is required [to tithe those he found]; and if not [i.e., if most people had not pressed their figs], he is exempt [from tithing those he found]. [If he] found sections of a fig-cake, he is required [to tithe them], since they obviously come from a finished product. And [as for] carobs — as long as he has not piled them on top of the roof, he brings [some] of them down for the cattle is exempt [from tithing it], for he returns the surplus [M. 3:2, below].

[B] *R. Haggai asked the associates: “What is the point of the exemption* [[the figs] are permitted under the law [which defines] stolen property, and they are exempt from [the law of] tithes] *that we address here?”*

[C] They said to him, “It is because he who eats a random snack in the field is exempt from tithing.”

[D] *He said to them, “And do we derive the ruling of the Mishnah from the principle, he who eats a random snack in the field is exempt from tithing? Rather it is on the ground that it is deemed ownerless property [which is exempt from tithing]. If he brings the produce into his household, he is exempt from tithing [the ownerless property remains exempt].”*

[VIII:1 A] *It has been taught as a Tannaite rule: If he found a basket covered with leaves, it is forbidden to take it on the grounds that tat would be theft of private property, and it is subject to tithing [T. Ma. 2:17].*

[B] **, it is forbidden to take it on the grounds that tat would be theft of private property:** on grounds that it is something bearing marks of private ownership.

[C] **and it is subject to tithing:** for up to this point the intention of the owner governs the disposition of the basket of produce.

[D] How long is it regarded in this way?

[E] Until he can separate heave-offering from it in its finest condition [before it spoils].

[F] **If when he found the produce he was unable to separate heave-offering from it in its final condition, he assigns it cash value and [planning to pay the owner the entire amount minus the value of the offerings he removes] he eats the produce [T. Ma. 2:17].**

[VIII:2 A] *R. Jonah asked, “As to the reckoning of the cash value of the produce, what is the law as to its imparting the status to the produce of that which is liable to tithing but not yet tithed? Or might it be the fact that since the owner can still retrieve the produce, it is not rendered liable to tithing but not yet tithed?”*

[B] *R. Mana asked, “What if a piece of produce from the basket is put into the finder’s mouth [while the one who lost the basket is still deemed to be the rightful owner? Isn’t the produce regarded as digested — can he return the half-chewed fig to the basket? If you say that that is so, the finder turns out retroactively to have eaten produce liable to tithing but not yet tithed.”*

[C] That shows that reckoning the cash value of the produce is tantamount to acquisition by purchase.

- [IX:1 A] If one found a basket of produce in a place in which the majority are bringing their produce to the market, it is forbidden to make a random snack of the produce, but one tithes it in the rubric of doubtfully-tithed produce.
- [B] If one found a basket of produce in a place in which the majority are bringing the produce to their households, it is permitted to eat a random snack, and one tithes it in the rubric of certainly-untithed produce.
- [C] If it is half and half, [if he eats the produce in the field, he may not eat a random snack, and] one tithes it as doubtfully-tithed produce [for we rule strictly and assume the produce was lost en route to the market].
- [D] If he brings it home, [he may eat a random snack en route' and tithes it as certainly untithed produce.
- [E] *R. Jonah asked*, “As to doubtfully tithed produce, [from which, prior to eating, the finder removed heave-offering of tithe and second-tithe], if afterward the produce turns out to have been wholly untithed by the owner,] is it forbidden again for untithed use until he has separated tithes treating the produce as certainly untithed? If you say so, haven’t you given the precedence of Lesser Holy Things to the heave-offering in the sequence of removal?”
- [F] Yosé b. R. Abun, R. Yohanan in the name of R. Simeon b. Yosedeq: “[In order to avoid giving the precedence of Lesser Holy Things to the heave-offering in the sequence of removal,] he has to make a stipulation [when removing the first tithe with its heave-offering of tithe and the second-tithe], saying, ‘If this basket of fruit derives from those who are bringing produce to the market, what I have done is done properly [this is doubtfully-tithed produce], and if not, let my deed be null.’ This is done lest the produce come from what they bring home, and it would turn out that the separation of heave-offering of the tithe renders certainly untithed produce forbidden for untithed consumption until the separation of the great heave-offering.”
- [G] If it is half and half, [if he eats the produce in the field, he may not eat a random snack, and] one tithes it as doubtfully-tithed produce [for we rule strictly and assume the produce was lost en route to the market]. If he brings it home, [he may eat a random snack en route] and tithes it as certainly untithed produce. And he makes sure to state, “[I qualify my separation of heave-offering of the tithe] lest it derives from that which they bring home and in that case it would turn out that the erroneous separation of the heave-offering of the tithe renders certainly untithed

produce liable to tithing and forbidden for use until the great heave-offering has been separated.”

[H] Said R. Matteniah, “[He does not have to recite this stipulation] when he designates his offerings by name within the produce.”

[I] *To this point* we have dealt with types of produce that are not subject to a fixed point of liability [threshing floor] [and thus no objective grounds for liability]. But as to types of produce that are subject to a fixed point of liability, they separate heave-offering of the tithe and they do not have to separate the Great Heave-offering.

[J] *That is in line with what has been taught on Tannaite authority: if one found produce smoothed into a pile in the field, the neatly gathered produce is forbidden on account of the consideration of stolen property [since the produce bears the marks of its owner]. If he found the produce scattered about the field, it is not forbidden on account of the consideration of stolen property. One way or the other, the producer is liable to tithing and exempt from the Great Heave-offering, for it is not possible that a pile should be disrupted unless the heave-offering has been separated [T. Ma. 2:17].*

[IX:2 A] As to tithes, where are they separated, in the house or in the field?

[B] *Let us infer the answer from the following: An associate who died and left produce — even if he stored the produce that very day, lo, it is assumed to have been properly tithed [in the field] [T. Toh. 9:5]*

[C] Isn’t it possible that he lost control of his faculties for a single moment before he died [and didn’t tithed]?

[D] *Said R. Abun bar Hiyya, “Interpret the rule to speak of a case in which he died in full command of his faculties.”*

[E] *R. Hanina in the name of R. Phineas derived the answer from the following: “Rabban Gamaliel and the elders were traveling on a ship [when the time for removal occurred]. Said Rabban Gamaliel, “The tenth I intend to measure out [and designate as first tithe] is given to Joshua who is a Levite], and the place [in which it is located] is rented to him. The other tenth which I intend to remove [and designate as poorman’s tithe] is given to Aqiba ben Joseph, who will make it available to the poor and the place [in which it is located] is rented to him” [M. M.S. 5:4]. That [Gamaliel had the produce at home] implies that it was done in the house [not in the field.]*

[F] *R. Hiyya bar Abba derived the answer from the following: He who had his produce in storage — and he gave a seah to the Levite and a seah to a poor man [M. Ter. 4:2] — this shows that the tithes are removed in the house [since the untithed produce is already in storage].*

[G] *R. Abba Meri derived the answer from the following: “I have removed the holy thing from the house” (Dt. 26:13). This refers to dough-offering [M. M.S. 5:10] — this shows that the tithes are removed in the field, since only dough-offering is given from the house.*

3:2

[A] 1) [If he] found harvested figs in the road —

[B] even [if they were found] beside a field [full of] harvested figs —

[C] and [this] also [holds true for]

[D] a fig tree which over-arches the road, and he found figs beneath it —

[E] [the figs] are permitted under the law [which defines] stolen property,

[F] and they are exempt from [the law of] tithes.

[G] But [in similar cases] concerning olives or carobs, they are subject [to the law of tithes].

[H] 2) [If he] found dried figs —

[I] if most people had pressed [their figs by that time],

[J] he is required [to tithe those he found];

[K] and if not [i.e., if most people had not pressed their figs],

[L] he is exempt [from tithing those he found].

[M] 3) [If he] found sections of a fig-cake,

[N] he is required [to tithe them],

[O] since they obviously come from a finished product.

[P] And [as for] carobs —

[Q] as long as he has not piled them on top of the roof, he who brings [some] of them down for the cattle is exempt [from tithing it],

[R] for he returns the surplus.

[I:1 A] Said R. Jonah, “They made this statement [If he found harvested figs in the road the figs are permitted under the law that defines stolen property, and they are exempt from the law of tithes] only concerning figs found on the road. Lo, if the figs are located between

himself and his fellow [the exemption from having to tithe] does not apply [we cannot assume it is abandoned property].”

[B] Said R. Jonah, “And that rule [**But in similar cases concerning olives or carobs, they are subject [to the law of tithes]**] applies if he found olives under olive trees and carobs under carob trees [for the produce has fallen under the tree and belongs to the owner of the tree]. But if he found olives under carob trees or carobs under olive trees, *in that case the rule is null.*

[II:1 A] [**If he found dried figs — if most people had pressed their figs by that time, he is required [to tithe those he found]; and if not [i.e., if most people had not pressed their figs], he is exempt [from tithing those he found]:** But aren’t the figs pressed in the houses?

[B] Said R. Abun bar Hiyya, “Interpret the rule to speak of a case where most locals press their dried figs in the fields.”

[C] *R. Zeira asked*, “And isn’t it discernible whether or not the dried figs have been pressed?”

[D] Said R. Saul, “Sometimes a pressed fig-cake splits apart under a wagon wheel, and it has been pressed but does not look pressed. And sometimes the tread of a pedestrian may press un-pressed figs, so they have not been pressed but look pressed.”

[E] Said R. Eleazar, “[**If he found dried figs — if most people had pressed their figs by that time, he is required [to tithe those he found]; and if not [i.e., if most people had not pressed their figs], he is exempt [from tithing those he found]:** That applies when most people do not press dried figs in the fields. But in a locale where most people press dried figs in the fields, those figs that are pressed and that not yet pressed join together [and any figs found in the road are subject to tithing without regard to how many farmers have pressed their figs up to that time].”

[III:1 A] [**And [as for] carobs — as long as he has not piled them on top of the roof, he who brings some of them down for the cattle is exempt from tithing it, for he returns the surplus:** *There are Tannaite authorities who repeat:* It is not honorable for a disciple of a sage to be eating in the market place.

[B] *That is in line with the following: R. Eleazar bar R. Simeon was eating in the market place. R. Meir saw him. He said to him, “Are you eating in the market place?” He corrected his conduct.*

3:3

- [A] What type of courtyard is subject to [the law of] tithes [i.e., what kind of courtyard renders liable to tithes produce brought within it]?
- [B] R. Ishmael says, “A Tyrian courtyard,
[C] “for household wares are kept [safely] within it.”
- [D] R. Aqiba says, “Any [courtyard] that one [householder] opens, but another locks up is exempt [from the law of tithes].”
- [E] R. Nehemiah says, “Any [courtyard] in which a man eats without embarrassment is subject [to the law of tithes].”
- [F] R. Yosé says, “Any [courtyard] into which [one] enters and no one inquires, ‘What do you want?’ is exempt [from the law of tithes].”
- [G] R. Judah says, “[If there are] two courtyards, one within the other,
[H] “the inner [courtyard] is subject [to the law],
[I] “while the outer [courtyard] is exempt [from the law].”
- [J] Roofs are exempt [from the law of tithes], even though [the houses upon which they are constructed] are situated in a courtyard which is subject [to the law of tithes].
- [K] A gate-house a portico or a balcony —
[L] lo, these [share the status] of the courtyard [in which they are situated].
- [M] If [the courtyard] is subject [to the law], they are subject [to the law], but if [the courtyard] is exempt, they are exempt.
- [N] Storage huts, watch-turrets and field-sheds are exempt [from the law of tithes].
- [O] A hut [such as those used in the area of] Gennosar
[P] even though it contains millstones and poultry,
[Q] is exempt [from the law of tithes].
- [R] A potter’s hut —
[S] the inner part is subject [to the law]
[T] and the outer part is exempt.
- [U] R. Yosé says, “Any [structure] which does not [serve] as [both] a summer dwelling and a winter dwelling is exempt.”
- [V] A festival hut during [the week of] the Festival [of Tabernacles] —
[M] R. Judah declares it subject [to the law during that week],
[X] but Sages declare it exempt [for that week].

- [I:1 A] **What type of courtyard is subject to [the law of] tithes [i.e., what kind of courtyard renders liable to tithes produce brought within it]?**
- [B] *R. Ishmael set forth as a Tannaite teaching: “It is any at the entrance of which a guard is sitting and watching.”*
- [C] *R. Samuel bar Nahman in the name of R. Jonathan: “All of them derived their definition from the model of the house [that the courtyard imparts liability to tithing upon produce that is brought within its walls]. On the authority of the Torah a house imparts on produce brought within it the status of liability to tithing but not yet tithed. It states, ‘Then you shall say before the Lord your God, ‘I have removed holy things from my house’ (Dt. 226:13).”*
- [II:1 A] *They heard before R. Yohanan. He said to them, “The decided law accords with all of them to impose a strict ruling.”*
- [B] *Why don’t we repeat this teaching in his name [rather than in the language, They heard before R. Yohanan]?*
- [C] *So that one ruling of R. Yohanan will not conflict with another ruling of his.*
- [III:1 A] ***A Tannaite teaching: R. Simeon b. Eleazar says in the name of R. Aqiba, “Any [courtyard] that one [householder] opens, but another locks up is exempt [from the law of tithes].” That refers to two partners owning homes that share the same courtyard], but not to two tenants [who rent] [T. Ma. 2:20].***
- [B] What is the difference between a partner and a tenant, for just as a partner has the power to object [to the opening or closing of the courtyard], so the tenant has the same power?
- [C] Said R. Jonah, “*The Tannaite rule refers to a householder and a tenant. The householder has the power to object to the tenant, but the tenant does not have the power to object to the tenant.*”
- [D] *Concerning this matter they heard before R. Yohanan, “The decided law accords with R. Simeon b. Eleazar in the name of R. Aqiba.”*
- [E] *R. Jonah said, Zeira and R. Immi both in the name of R. Yohanan: “The decided law accords with R. Simeon b. Eleazar in the name of R. Aqiba.”*
- [F] *Said R. Immi, R. Yohanan instructed those in the household of Rab: “The decided law accords with R. Simeon b. Eleazar in the name of R. Aqiba.”*

[IV:1 A] [R. Aqiba says, “Any [courtyard] that one [householder] opens, but another locks up is exempt [from the law of tithes].” R. Judah says, “[If there are] two courtyards, one within the other, the inner courtyard is subject to the law, while the outer courtyard is exempt from the law.”] *R. Abun bar Hiyya asked before R. Zeira, “What did R. Judah come to add to the opinion of R. Aqiba his master?”*

[B] He said to him, “Nothing.”

[V:1 A] [Roofs are exempt [from the law of tithes], even though the houses upon which they are constructed are situated in a courtyard which is subject [to the law of tithes].] *Said R. Eleazar, “The Mishnah refers to a roof surrounded on all sides by the space of the courtyard.”*

[B] But as soon as the householder brings produce through the courtyard [to put it on the roof], isn’t the produce rendered liable to tithing but not yet tithed [so his intention to bring up to the roof is nullified]?

[C] *Interpret the law to speak to a case* either according to R. Yosé b. R. Judah [the intention is to store it on the roof and that prevails] or according to Rabbi [if the owner intended to make the drying pile on the roof, but later changed his mind and ate the produce on the roof without any more processing].

[V:2 A] Said R. Abin, “And that is the rule if the roof encompasses a space of at least four by four. Just as the house renders produce liable to tithing but untithed only if it has a space of four by four, so the roof renders produce liable to tithing but untithed only if it has a space of four by four.”

[B] *For it has been taught as a Tannaite ruling:*

[C] A house that does not contain an area of four by four is exempt from the requirement of a mezuzah and from the requirement to build a parapet and from inclusion within a fictive fusion fence. It does not render produce liable to tithing but untithed. And they do not deem it an extension of the town [in computing the Sabbath limit]. And one who vows not to derive benefit from a house may live within it. And if it is passed on as an inheritance, they do not include the four cubits in front of the entrance. And it is not forfeited in the Jubilee Year. It does not contract uncleanness because of sara’at. And its owner does not return from the army preparing for war. [For a room smaller than the indicated dimensions does not qualify as a house].

- [VI:1 A] **[A gate-house a portico or a balcony — lo, these [share the status] of the courtyard [in which they are situated]:** What is the law as to the gate-house's imparting to produce of the keeper of the gate-house the status of liability to tithing but as yet untithed?
- [B] *On the basis of that which was taught on Tannaite authority:* A school house and a house of study impart to produce of scribe and the Mishnah teacher, but not that of others [who do not live there] the status of liability to tithing but as yet untithed.
- [C] That indicates that the status of liability to tithing but as yet untithed is imparted to produce of the keeper of the gate-house.
- [VI:2 A] Rabbi says, "Four cubits even though there are not four sides [such a structure serves as a hut for Tabernacles]."
- [B] R. Simeon says, "Four sides, even though there are not four cubits [such a structure serves as a hut for Tabernacles]."
- [C] R. Judah says, "There must be four sides encompassing at least four cubits," and so R. Judah imposed the liability for a mezuzah."
- [D] *It stands to reason, then, that R. Judah will concur with the views of the rabbis, but these rabbis will not concur with the views of R. Judah.*
- [E] Even though there are their four cubits and four sides, it is exempt from the requirement of a mezuzah, and it does not impart the status of liability to tithes but not yet tithed to produce that is brought in there.

3:4

- [A] **1) A fig tree that is standing in a courtyard —**
- [B] **[the householder] eats [the figs] one by one [from the tree], and is exempt [from tithing].**
- [C] **But if he gathers [figs] together [before eating], he is required [to tithe them].**
- [D] **R. Simeon says, "[If he has] one in his right hand, and one in his left hand, and one in his mouth [he is exempt from tithing]."**
- [E] **[If] he climbed to the top [of the tree], he stuffs his pocket [with figs] and eats [without incurring the obligation to tithe].**
- [F] **2) A grapevine that is planted in a courtyard —**
- [G] **"[the householder] takes the entire cluster of grapes [from the vine, and incurs no obligation to tithe].**

- [H] “And [this is] also [the case] with a pomegranate [picked from a tree growing in a courtyard],
- [I] “as well as a melon [picked from a vine growing in a courtyard]” — the words of R. Tarfon.
- [J] R. Aqiba says, “[The householder] takes one grape at a time from the cluster [while it is on the vine, and incurs no obligation to tithe],
- [K] “or splits a segment from the pomegranate [while it is on the tree],
- [L] “or cuts a slice of the melon [while it is on the vine], [but if he takes an entire cluster, and so on, he incurs the obligation to tithe].”
- [M] 3) Coriander that is sown in a courtyard —
- [N] [the householder] plucks one leaf at a time and eats [without incurring the obligation to tithe].
- [O] But if he gathers [the plucked leaves] together, he is required [to tithe them].
- [P] Savory, or sweet majoram or thyme that are [growing] in a courtyard —
- [Q] if they were being cultivated they are subject [to the law of tithes].
- [R] A fig tree that is standing in a courtyard,
- [S] but [one of its boughs] extends into the garden [beyond the courtyard’s walls] —
- [T] [a person standing in the garden] eats as he pleases [from that bough], and is exempt [from tithing].
- [U] [If the tree] is standing in the garden,
- [V] but [one of its boughs] extends into a courtyard —
- [W] [a person standing in the courtyard] eats one by one [from that bough], and is exempt [from tithing].
- [X] But if he gathers [figs] together, he is required [to tithe them].
- [Y] [A tree] standing in the Land [of Israel] with [its bough] extending outside the Land [of Israel, e.g., in Syria],
- [Z] [or one standing] outside the Land [of Israel] with [its bough] extending into the Land [of Israel] —
- [AA] [the status of] all [fruit on the tree] is governed by [the laws which apply to] the place in which the roots are located.
- [BB] And concerning [the sale of trees belonging to] houses within walled cities —

- [CC] all [matters regarding the re-purchase of such trees by their original owner] are governed by [the laws which apply to] the place in which the roots are located [i.e., trees sold with the houses of walled cities may be re-purchased along with the houses within twelve months, as long as the trees are rooted inside the wall].
- [DD] And concerning [trees in or near] cities of refuge —
- [EE] all [matters regarding the legitimacy of the tree itself as a place of refuge] are governed by [the laws which apply to] the place into which the bough extends [i.e., one guilty of involuntary manslaughter finds refuge at the root of the tree even if only the bough extends into the city of refuge].
- [FF] And concerning [trees growing] in Jerusalem [the fruit of which is designated as second-tithe-produce] —
- [GG] all [matters concerning the sale of such produce] are governed by [the laws that apply to] the place into which the bough extends [i.e., if only the bough extends inside the city, the fruit of the entire tree must be eaten within Jerusalem, and may not be redeemed for coins outside of it: T. M.S. 2:12].
- [I:1 A] *It was taught as a Tannaite rule:* they give him sufficient time to chew the fig once, twice, three times [before he may pick another and not have to tithe it].
- [B] R. Jonah in the name of R. Zeira: “If he picked the second fig in an interval needed for chewing the first, both are rendered produce that is liable for tithing and not yet tithed [belonging as they do to a single harvested bunch].”
- [C] *R. Jeremiah asked:* “If one tossed upward the first fig ten cubits above the ground [so that it is not in the contained airspace of the courtyard] and it did not suffice to descend to the space within ten cubits of the ground before he picked the second fig, are both rendered produce that is liable for tithing and not yet tithed [belonging as they do to a single harvested bunch]?” [The first fig will fall into the contained airspace of the courtyard and combine with the second.]
- [I:2 A] **[But if he gathers [figs] together [before eating], he is required to tithe them. R. Simeon says, “[If he has] one in his right hand, and one in his left hand, and one in his mouth [he is exempt from tithing]:** R. Eleazar b. R. Simeon says, “If he had three in his right hand and three in his left hand and three in his mouth, [he is exempt from having to tithe].”

- [B] *Since he is a glutton, R. Eleazar b. R. Simeon reckoned that a measure of three figs was equal here to one fig for ordinary folk.]*
- [C] *R. Eleazar b. R. Simeon went to visit R. Simeon b. R. Yosé b. Laqoniya his father in law. He slaughtered an ox for him, baked a loaf of bread for him, and opened a jug of wine for him. R. Eleazar b. R. Simeon would mix the wine and guzzle it and again would mix the wine and guzzle it. He said to him, “Didn’t you learn from R. Simeon your father how little someone must swallow from his cup [in order not to appear a guzzler]?”*
- [D] He said to him, “As is, one gulp, in cold water, two in hot water, three. But the sages did not establish a measure for your wine, which is vintage, or with your cup, which is small, or with my belly, which is fat.”
- [I:3 A] *And R. Joshua b. Qorha would yell at him, “Are you not vinegar son of wine!”*
- [B] *He said to him, “Why are you yelling at me in this fashion?”*
- [C] He said to him, “...until you flee and go to Laodicea.”
- [D] He said to him, “But haven’t I chopped down merely thorns that were already mowed [sentenced to death]?”
- [E] He said to him, “You should have gone to the end of the world to leave it up to the master of the garden to cut down his thorns.”
- [II:1 A] If a fig rolled away from the householder [and if the householder picked a second fig], what is the rule as to his retrieving the first fig.
- [B] *Just as you say there, **He returns the figs from the house to their original place in the unguarded courtyard and eats them without tithing [T. Ma. 2:8]** so here to he returns produce to a place in which the law of tithing does apply, the guarded courtyard.*
- [C] *How is the case to be imagined [that the man can eat without tithing]?*
- [D] He was standing on top of the fig tree. [He could go down and get the fig to eat it with the others.
- [E] *How do you deal with the case? Is it like a man standing in town and remembering he left a sheaf behind in the field, or is it like a man standing in the field and remembering the sheaf?*
- [F] *It is in line with the following: **A householder who was standing in town said, “I know that the workers [will] forget a sheaf in***

such-and-such a place”-- [if] the workers do forget [the sheaf], [the sheaf] is not [subject to the restrictions of the] forgotten sheaf, [because the householder did not forget the sheaf [T. Pe. 3:1]. If he was standing in the field and said, “I know that the workers [will] forget a sheaf in such-and-such a place”-- [if] the workers do forget [the sheaf], [the sheaf] is [subject to the restrictions of the] forgotten sheaf, for it is written, “When you cut down our harvest in the field and have forgotten a sheaf, you will not go again to fetch it” (Dt. 24:19).

- [III:1 A] **A grapevine that is planted in a courtyard — “[the householder] takes the entire cluster of grapes [from the vine, and incurs no obligation to tithe]. And [this is] also [the case] with a pomegranate [picked from a tree growing in a courtyard], as well as a melon [picked from a vine growing in a courtyard]” — the words of R. Tarfon. R. Aqiba says, “[The householder] takes one grape at a time from the cluster [while it is on the vine, and incurs no obligation to tithe], or splits a segment from the pomegranate [while it is on the tree], or cuts a slice of the melon [while it is on the vine], [but if he takes an entire cluster, and so on, he incurs the obligation to tithe].” *There we have learned in the Mishnah: [If] he was eating a cluster of grapes [as a chance meal, free from liability to tithe] and entered from the garden into the courtyard [at which point the grapes are subject to the separation of tithes (M. Ma. 3:5-6) R. Eliezer says, “Let him finish [eating the cluster]. R. Joshua says, “He may not finish it [before he separates tithes].” [If he was eating a cluster of grapes as a chance meal and] dusk fell on the eve of the Sabbath [at which point the produce he is eating is subject to the separation of tithes (M. Ma. 4:2) R. Eliezer says, “Let him finish [eating the cluster]. R. Joshua says, “He may not finish it” [M. Ter. 8:3].***
- [B] R. Zeira, R. Hiyya in the name of R. Yohanan: “Either R. Tarfon accords with the view of R. Eliezer, or R. Tarfon regards plucking the food from the source as the beginning [of eating all individual portions.]” [The conclusion of the snack consummates a single act that began with the picking of the cluster as a whole.]
- [C] R. Ila, R. Issi in the name of R. Yohanan: “Either R. Tarfon accords with the view of R. Eliezer, or R. Tarfon regards as a single act of eating any act that is completed in two or three successive acts of consumption.”
- [D] *What is the theory of R. Eliezer?*

[E] It is because when he commenced eating, he was permitted to eat the produce [so let him finish it but not start a new act].

[F] **Said R. Nathan, “It is not because when he commenced eating, he was permitted to eat the produce. But R. Eliezer says, ‘Let him wait until the Sabbath is ended [before finishing untithed produce that he commenced to eat before the Sabbath] or let him delay eating untithed produce that he had when he entered the courtyard until he passes beyond the courtyard, then he can finish it [T. Ter. 7:10].’”**

[IV:1 A] *It was taught on Tannaite authority in the name of R. Nehemiah: “A courtyard that was hoed — lo, it is in the status of a garden [even if not yet sown]. Therefore they make random snacks in it and do not have to tithe the produce]” [T. Ma. 2:20].*

[B] Said R. Simelai, “The decided law accords with the position of R. Nehemiah.”

[IV:1 A] If one seeded the greater part of the courtyard, it is exempt [as a courtyard, for it is classified as a garden]. If one planted trees in the larger part of the courtyard, it is subject to the laws that apply to the courtyard.

[B] Said R. Hisda, “And that latter rule applies if he planted the trees to beautify the courtyard.”

[C] *That second rule derives from the first that is given, and the first derives from the second.*

[D] *That second rule derives from the first:* If one seeded the greater part of the courtyard, it is exempt [as a courtyard, for it is classified as a garden] and that is the case if it was hoed prior to sowing.

[E] *and the first derives from the second:* for if it was hoed, it is regarded as a field, on condition that he hoed the greater part of the courtyard before sowing.

[V:1 A] **[A fig tree that is standing in a courtyard, but one of its boughs extends into the garden beyond the courtyard’s walls — a person standing in the garden eats as he pleases from that bough, and is exempt from tithing. [If the tree] is standing in the garden, but [one of its boughs] extends into a courtyard — [a person standing in the courtyard] eats one by one [from that bough], and is exempt [from tithing]].**

- [B] *That which you say, — a person standing in the garden eats as he pleases from that bough, and is exempt from tithing* speaks of one who is standing in the garden [and tithes do not pertain].
- [C] *That which you say, [a person standing in the courtyard] eats one by one [from that bough], and is exempt [from tithing], but if he joined them together, he is liable* speaks of one who is standing in the courtyard garden [and tithes do pertain].
- [V:2 A] *R. Jeremiah asked before R. Zeira, “If it was removed by means of a pruning shear [what is the rule? If he stood at the trunk and cut fruit from the bough with a long tool, is the governing criteria the place from which it is picked or that in which it is eaten?]”*
- [B] *Once R. Zeira, R. Abba bar Kahana, and R. Levi were in session, and R. Zeira was criticizing the authorities of lore, referring to their books as manuals for divination. Said to him R. Abba bar Kahana, “Why are you critical of them? Ask a question and they will answer you.”*
- [C] *He said to him, “What I the meaning of that which is written, ‘Surely the wrath of man shall praise you, the remainder of wrath shall you restrain’ (Ps. 76:10)?”*
- [D] *He said to him, “‘Surely the wrath of man shall praise you’ — in this world. ‘...the remainder of wrath shall you restrain’ (Ps. 76:10)? — in the world to come.”*
- [E] *He said to him, “Perhaps it is as follows: “‘Surely the wrath of man shall praise you’ — in the world to come. ‘...the remainder of wrath shall you restrain’ (Ps. 76:10)? — in this world.”*
- [F] *Said R. Levi, “When your wrath is awakened on the wicked in this world, then the righteous will see what you do to them and they will give thanks to your name.”*
- [G] *Said R. Zeira, “It is turned this way and that and we learn nothing from it. Jeremiah, my son, go and sharpen your question on the pruning shears, for it is better than all of them.”*
- [V:3 A] *There we have learned in the Mishnah: **Whatever is inside the wall of the city, lo, it is deemed in the status of a dwelling house in a walled city (Lev. 25:29) except for the fields. R. Meir says, “Also the fields” [M. Ar. 9:5].***
- [B] *What is the scriptural source for the position of the rabbis? “And if it is not redeemed within the space of a full year, then the house that is in the city surrounded by a wall shall be assigned forever to him who*

bought it” (Lev. 25:30). I know only that the house is redeemed within a year. How do I know that included in the rule are pressing houses, cisterns, ditches, caves, bathhouses, dovecotes and turrets? Scripture says, “that is in the city.”

[C] Might one suppose that also the fields are encompassed under the rule?

[D] Scripture says, “the house.”

[E] Just as a house is distinctive in that it is a dwelling place, so are fields excluded, which do not serve as a dwelling place.

[F] *What is the scriptural source for the position of R. Meir?* “then the house that is in the city surrounded by a wall shall be assigned forever to him who bought it” (Lev. 25:30). I know only that the house is redeemed within a year. How do I know that included in the rule are pressing houses, cisterns, ditches, caves, bathhouses, dovecotes and turrets? Scripture says, “that is in the city.”

[G] “...the city surrounded by a wall:”

[H] “Excluding a house built into the wall,” the words of R. Judah.

[I] **R. Simeon says, “The outer wall defines the walled space of the city” [M. Ar. 9:5].**

[J] R. Judah expounds “which is surrounded by a wall.” R. Simeon expounds, “which has no walls.”

[VI:1 A] **[And concerning [trees in or near] cities of refuge — all [matters regarding the legitimacy of the tree itself as a place of refuge] are governed by [the laws which apply to] the place into which the bough extends [i.e., one guilty of involuntary manslaughter finds refuge at the root of the tree even if only the bough extends into the city of refuge]:** Said R. Hinena, “And that is the rule if the refugee climbed the tree from the bough beyond the city and went into the city along the bough toward the trunk. [As long as he remains beyond the wall, the bough does him no good.] But if he climbed the tree by way of the trunk [inside the city and proceeded beyond the city along the bough] the trunk has already afforded him refuge.]”

[B] *The Tannaite teaching accords with the position of the House of Shammai, for **Buildings containing olive-presses, the entrances of which are inside [Jerusalem] and the contained spaces of which are outside, or the entrances of which are outside and the contained spaces of which are inside — the House of Shammai say, “It is all [deemed to be] inside,” and the House of Hillel say, “That***

which is opposite [the center of] the wall and inward is [deemed to be] within [and that which is opposite the center of] the wall and outward is [deemed to be] outside” [M. M.S. 3:7].

[C] *A Tannaite statement: If he bent the bough back inside the wall, the entire tree is deemed inside the city, even fruit of the bough must be eaten in the city if it is declared second-tithe [T. M.S. 2:12].*

[D] *This accords with the earlier master’s theory of the view of the House of Shammai [M. M.S. 3:6].*

YERUSHALMI MAASEROT

CHAPTER FOUR

4:1

- [A] 1) One who pickles, boils, [or] salts [produce] in the field is required [to tithe].
- [B] 2) One who buries [produce] in the ground is exempt [from tithing].
- [C] 3) One who seasons [produce] in the field is exempt [from tithing].
- [D] 4) One who crushes olives so that the bitterness will exude is exempt [from tithing].
- [E] 5) One who squeezes [the oil of] olives onto his body is exempt [from tithing].
- [F] If he squeezed [the oil] and placed it in [the palm of] his hand, he is required [to tithe].
- [G] 6) One who skims [a ladle of wine for use] in a stew is exempt [from tithing].
- [H] [If he poured the ladle of wine] into a pot [and then skimmed the wine], he is required [to tithe],
- [I] since it is like a small vat.
- [I:1 A] One who pickles, boils, [or] salts [produce] in the field is required [to tithe].
- [B] Putting the produce over a fire classifies the produce as liable to tithing but not yet tithed.
- [C] Purchasing produce classifies the produce as liable to tithing but not yet tithed.
- [D] Dipping the produce in salt classifies the produce as liable to tithing but not yet tithed.
- [E] Separation of heave-offering classifies the produce as liable to tithing but not yet tithed.

- [F] The Sabbath classifies the produce as liable to tithing but not yet tithed.
- [G] Bringing the produce into the private courtyard classifies the produce as liable to tithing but not yet tithed.
- [H] For said R. Yohanan, “Purchasing produce, the Sabbath, and bringing the produce into the courtyard on the authority of the Torah do not classify the produce as liable to tithing but not yet tithed.
- [I] R. Ammi in the name of R. Simeon b. Laqish: “The clearest evidence of support in the Torah for the proposition that a given action classifies the produce as liable to tithing but not yet tithed is the matter of bringing the produce into the private courtyard.”
- [I:2 A] **One who pickles** — [one is liable to tithing] only once the produce is pickled sufficiently [to preserve it].
- [B] **One who boils** — [one is liable to tithing] only once the produce is boiled sufficiently [to preserve it].
- [C] *We may derive that ruling from the following: he who parches grain in fire — the grain is as liable to tithing but not yet tithed [T. Ma. 3:1].*
- [D] But aren't these lacking processing by fire [unless they are roasted in a tube]?
- [E] *That is different for* this marks the completion of processing the kernels.
- [F] *And the following makes that point clear:*
- [G] **He who breaks off kernels of grain to prepare them for eating as parched grain — they are classified as liable to tithing but not yet tithed [since he can eat them as is]. If he broke kernels off so as to prepare them as dough, they are not are classified as liable to tithing but not yet tithed [for he will eat them only after baking them, and he will have separated the required dough offering] [T. Ma. 3:5].**
- [I:3 A] If he pickled or boiled the produce without the knowledge and consent of the owner, *there is a dispute between R. Yohanan and R. Simeon b. Laqish, for they differ as follows:*
- [B] He who smooths the grain pile of his fellow without the knowledge and consent of the owner —

- [C] R. Yohanan said, “The grain has been classified as liable to tithing but not yet tithed.”
- [D] R. Simeon b. Laqish said, “The grain has not been classified as liable to tithing but not yet tithed.”
- [E] Said R. Yudan, “In the case of the grain pile it is not possible [for the owner to avoid smoothing the pile once it has been piled,] but here it is possible to avoid pickling or steaming [by eating the produce raw].”
- [I:4 A]** If the householder steamed produce that was in the domain of the Temple, then redeemed it and conveyed it into a private courtyard, what is the law [as to whether or not it is subject to tithing]?
- [B] *In the opinion of R. Simeon b. Laqish* it has been classified as liable to tithing but not yet tithed.
- [C] This [imposition of liability by bringing the produce into the courtyard] derives from the Torah, while [imposition of liability by boiling] does not derive from the Torah.
- [D] If the farmer brought the produce into a private courtyard, redeemed it, and boiled it, what is the law [as to whether or not it is subject to tithing]?
- [E] In the opinion of all parties it has been classified as liable to tithing but not yet tithed.
- [F] Is his action deemed an act by which sanctified produce is subjected to processing?
- [G] If he sanctified it, boiled it, brought it into a private courtyard, redeemed it, and boiled it, what is the law?
- [H] In the opinion of all parties it has been classified as liable to tithing but not yet tithed.
- [I] If [after steaming the sanctified produce] he redeemed it and dried it over a fire, what is the law?”
- [J] If you say the passage over the fire classifies it as liable to tithing but not yet tithed, then the passage over the fire while the produce was sanctified exempts it from liability after redemption. But if you say [in line with R. Simeon b. Laqish] that passage over fire does not fire classify it as liable to tithing but not yet tithed, then the fire [affecting it as Temple property] does not exempt it from further liability when it is redeemed.

- [K] *R. Jeremiah raised the question: “If he fried the produce in the field, what is the law?”*
- [L] One way or the other, doesn't fire classify produce as liable to tithing but not yet tithed [without regard to the availability of oil for the frying]?
- [M] *He was asking about those sorts of produce on which it was impossible to avoid pouring oil during frying.*
- [I:5 A] *R. Yosé b. Kahana asked, said R. Jonah, it was taught as a Tannaite statement by R. Halapta b. Saul : “If he prepared produce for a dinner in the field, the preparation classifies the produce as liable for tithing but not yet tithed. If he did not recline for the dinner, the preparation does not classify classifies the produce as liable for tithing but not yet tithed.”*
- [B] What sort of dinner classifies the produce as liable for tithing but not yet tithed?
- [C] It is any at which wine is served.
- [D] If he decided to recline but didn't recline [what is the law]?
- [I:6 A] **Garlic, garden cress and mustard that one mashed in the field are classified as produce that is liable for tithing but not yet tithed [T. Ma. 3:2].**
- [B] *Up to this point we have dealt with garlic that was liable for tithing but not yet tithed that was mashed with oil that was secular [fully tithed already] [the mashing renders the garlic liable to tithing and not yet tithed] [what is the law]?*
- [C] As to garlic that was fully secular that one mashed with oil that was liable to tithing and not yet tithed [what is the law]?
- [II:1 A] **[One who skims [a ladle of wine for use] in a stew is exempt [from tithing]. If he poured the ladle of wine] into a pot [and then skimmed the wine], he is required to tithe]:** R. Zeira, R. Hiyya bar Ashi in the name of Rab: “The juice of a grapecluster that one squeezed into a cup has been rendered liable to tithing and not yet tithed. [He clearly intends to drink the grape-juice, which is fully processed.] If it was squeezed into a dish, it has not been rendered liable to tithing and not yet tithed.”
- [II:2 A] **One who skims [a ladle of wine for use] in a stew is exempt [from tithing]:**

[B] Doesn't the fire [warming the stew] classify the wine as liable to tithing and not yet tithed [so how can it be exempt]?

[C] *Interpret the rule to deal* with a cold stew.

[II:3 A] If he poured the ladle of wine into a pot and then skimmed the wine, he is required to tithe:

[B] Said R. Eleazar, "It is poured into an empty pot."

[C] *The Tannaite rule does not say so, but* **One who skims [a ladle of wine for use] in a stew is exempt [from tithing], if he poured the ladle of wine into a pot and then skimmed the wine, he is required to tithe**

[D] since it is like a small vat.

4:2

[A] **Children who hid [untithed] figs away [intending to eat them on] the Sabbath,**

[B] **but forgot to tithe them [by Sabbath Eve],**

[C] **shall not eat [the figs] at the close of the Sabbath unless they tithe.**

[D] **A basket [of untithed produce designated for] the Sabbath —**

[E] **the House of Shammai declare it exempt [from the removal of tithes] [i.e., one who snacks on the produce prior to the Sabbath need not tithe].**

[F] **But the House of Hillel declare it liable [to the removal of tithes] [i.e., one who snacks on the produce prior to the Sabbath must tithe].**

[G] **R. Judah says, "Also: one who gathers a basket [of produce] to send to his fellow [for the Sabbath] shall not eat [any of the produce] unless he tithes."**

[H] **One who picks olives out of the softening-bin**

[I] **dips [them] one by one in salt, and eats [without tithing].**

[J] **If he salted [them] and placed [them] before him, he is required [to tithe].**

[K] **R. Eliezer says, "[If he picked them] from a bin [of olives that were preserved in] cleanness, he is required [to tithe],**

[L] **"but [if he picked them] from [a bin of olives that had been rendered] unclean, he is exempt [from tithing],**

[M] **"because he returns the surplus [to the bin of unclean olives]."**

- [N] **“One drinks wine at the press —**
- [O] **“whether [it is mixed] with hot water or cold water —**
- [P] **“he is exempt [from removing the tithes]” — the words of R. Meir.**
- [Q] **R. Eleazar bar Sadoq declares [him] liable [to removing the tithes].**
- [R] **But Sages say, “Concerning [the wine mixed with] hot water, he is liable [to removing the tithes], but concerning [the wine mixed with] cold water, he is exempt [from removing the tithes].”**
- [I:1 A] **[Children who hid untithed] figs away intending to eat them on the Sabbath, but forgot to tithe them by Sabbath Eve, shall not eat the figs at the close of the Sabbath unless they tithe:]** R. Hamnuna said, “A child who covered a basket for the market — the produce has been classified as liable to tithing and not yet tithed.”
- [B] In a situation in which the intention of an adult is confirmed to impose liability on untithed produce, the action of a child is confirmed to impose liability on untithed produce.
- [C] *R. Zeira asked, “Is the intention of an adult confirmed before he states them in so many words? [Certainly not.] Then along these same lines a child’s actions are not confirmed to impose liability until he states his intention in so many words.”*
- [D] *The Mishnah’s ruling differs from R. Hamnuna: **Children who hid untithed] figs away intending to eat them on the Sabbath, but forgot to tithe them by Sabbath Eve, shall not eat the figs at the close of the Sabbath unless they tithe.** [Hiding the figs does not convey intention and ought not to impose liability on them to tithing.]*
- [E] *R. Zeira in the name of R. Hamnuna: “Interpret the law to refer to a case in which they gathered them at the last rays of sun on the eve of the Sabbath, and their action confirms their intention.”*
- [F] *Doesn’t this conflict with R. Yohanan’s view, for said R. Yohanan, “The advent of the Sabbath imparts the status of liability to tithing and not yet tithed [even if the produce was picked for some use other than eating on the Sabbath; the Sabbath takes effect without regard for human intention in imposing liability for tithing untithed produce].”*
- [G] [Hamnuna holds that the figs that the children hid away are liable to tithing only] because the children picked them for the Sabbath. Lo, if they picked them not for the Sabbath, they would not be liable for tithing.

- [H] R. Jonah in the name of R. Hamnuna: “Even if they gathered them for the Sabbath, one may snack on the produce randomly on the eve of the Sabbath.” [The figs become liable to tithing only at the advent of the Sabbath at sunset.]
- [I] *Doesn't this conflict with the view of R. Simeon b. Laqish* [that human intentions alone make it possible for the Sabbath to impose liability upon untithed produce]?
- [J] [The answer:] *Aren't these children?* And if they gathered them for the Sabbath, it is as if they gathered them not for the Sabbath. [We cannot infer their intentions from their actions.]
- [K] R. Yosé in the name of R. Hila: “*Interpret the case to involve the fading light of the sun on the eve of the Sabbath. The children gathered figs then, and their action in hiding the figs at the start of the Sabbath shows their intention to use the figs on the Sabbath.*”
- [II:1 A] **[A basket [of untithed produce designated for] the Sabbath — the House of Shammai declare it exempt [from the removal of tithes] [i.e., one who snacks on the produce prior to the Sabbath need not tithe]. But the House of Hillel declare it liable [to the removal of tithes] [i.e., one who snacks on the produce prior to the Sabbath must tithe]:** *R. Eleazar in the name of R. Hoshaiah: “The Mishnah refers to a basket of figs.”*
- [B] *The members of the household of R. Yannai say, “Even a wicked basket.”*
- [C] R. Eleazar b. Antigonus in the name of R. Eleazar b. R. Yannai: “Interpret the case to involve a tree designated for use on the Sabbath.” [Figs of that tree are set aside for the Sabbath, so there is no uncertainty as to the owner’s intentions when he puts the figs in a basket of any kind.]
- [D] *A case: R. Hiyya, R. Immi, and R. Issi were in session. Someone carrying a basket of figs passed by. They asked him to sell some. He said to them, “A basket of figs for the Sabbath is not for sale.”*
- [E] R. Hiyya in the name of R. Yohanan: “R. Judah made his ruling only concerning a basket set aside for the Sabbath or in the case of one who gathers a basket to send to his fellow, R. Judah ruled as he did because the sender carefully protects the produce from all other uses as if it were a basket set aside for the Sabbath.”
- [III:1 A] **[One who picks olives out of the softening-bin dips them one by one in salt, and eats without tithing]:** *does this not conflict with the*

position of Rab, for Rab said, “[When the householder has acquired ownership of the figs by bringing them into his courtyard], he is forbidden to eat.”

[B] *Interpret the rule of the Mishnah to speak of one who set up the softening bin in the field.*

[III:2 A] *There is this problem: if salting imparts the status of liability to tithing but not yet tithed, then why does the consideration of gathering the olives together afterward register as a consideration? If gathering them together turns them into produce that is liable for tithing but not yet tithed, what difference does the salting make before hand?*

[B] *It is by one means or the other [that the transformation takes place]. [Salted olives are liable even if not collected together, and collected olives are liable even if not salted.]*

[IV:1 A] **R. Eliezer says, “[If he picked them] from a bin [of olives that were preserved in] cleanness, he is required [to tithe], but [if he picked them] from [a bin of olives that had been rendered] unclean, he is exempt [from tithing], because he returns the surplus to the bin of unclean olives:”** *How are we to interpret matters?* If it is a case in which the farmer has two vats, [one filled with clean olives the other with unclean ones] all concur that it is permitted [to snack from the clean olives, for the remainder can be returned to the unclean vat]. If it is a case in which the farmer has only one vat, all concur that it is forbidden [to snack from the olives, since he can’t return the olives to the vat of clean olives, he will impart uncleanness to them.] *But this is how we are to interpret the rule:* It is a case in which he has a vat of clean olives and his fellow has a vat of unclean olives. For R. Eliezer says, “Someone doesn’t return the surplus to the vat of his fellow [and so is required to tithe, for he has removed the olives from the vat that is being processed].”

[V:1 A] **“One drinks wine at the press — whether [it is mixed] with hot water or cold water — he is exempt [from removing the tithes]” — the words of R. Meir. R. Eleazar bar Sadoq declares [him] liable [to removing the tithes]. But Sages say, “Concerning [the wine mixed with] hot water, he is liable [to removing the tithes], but concerning [the wine mixed with] cold water, he is exempt [from removing the tithes]:”** said R. Yohanan, **“Concerning [the wine mixed with] hot water, he is liable [to removing the tithes] — because this is the established mode of preparing wine for meals. but concerning [the wine mixed with] cold water, he is exempt — because it is a random snack and he can return it to the vat.”**

[B] For said R. Yosé in the name of R. Zeira, R. Jonah and R. Zeira in the name of R. Eleazar: “Even what is in the jug is not rendered liable to tithing and as yet tithed, since he plans to return it to a batch that is not fully processed.”

4:3

[A] **One who husks barley removes the husks [from the kernels] one by one, and eats [without tithing].**

[B] **But if he husked [a few kernels] and placed [them] in his hand, he is required [to tithe].**

[C] **One who husks parched kernels of wheat sifts [the kernels] from hand to hand, and eats [without tithing].**

[D] **But if he sifted [the kernels] and placed [them] inside his shirt, he is required [to tithe].**

[I:1 A] *Said R. Zeira, “I can husk barley two kernels at a time [without tithing].”*

[B] *And so it has been taught on Tannaite authority: **One who husks barley [M. Ma. 4:5A] — [if he husked] two [kernels at a time], he is exempt [from tithing], [but if he husked] three [kernels at a time], he is required [to tithe]. But in [the case of] wheat [kernels] ([if he husked] three [kernels at a time], he is exempt [from tithing], [but if he husked] four [kernels at a time], he is required [to tithe] [T. Ma. 3:6].***

[C] *Huna bar Hinena and R. Tahalipa bar Immi were in session before R. Eleazar. Said R. Jonah, “If all parallel passages refer to bar Immi, can this be to bar Rab Immi? And if all other passages refer to bar Rab Immi, can this one be to bar Immi?”*

[D] *And they taught [R. Eleazar that in sifting the kernels, one may permit them to reach] no further than the joints of the fingers [but not to the palm]. Now they were older than R. Eleazar, so he faced the wall and instructed them that the sifter may use his entire palm.*

[II:1 A] **[One who husks parched kernels of wheat sifts the kernels from hand to hand, and eats without tithing]:** *And so it was taught on Tannaite authority: **And that is on condition that he does not sift either in a basket or a dish [thus forming a separate batch] [T. Y.T. 1:20].***

[B] *And with regard to the Sabbath, the permissible limit is a dried olive’s bulk.*

[II:2 A] *R. Hiyya bar Adda asked before R. Mana, “Here you say, **One who husks barley [M. Ma. 4:5A] — [if he husked] two [kernels at a time], he is exempt [from tithing], [but if he husked] three [kernels at a time], he is required [to tithe]. But in the Mishnah it says, One who husks barley removes the husks [from the kernels] one by one, and eats [without tithing].”***

[B] He said to him, “The case [T. Ma. 3:6] is different, for you take for granted he will return the surplus.”

[C] *And so it is taught on Tannaite authority:* Under what circumstances? When he is not near the threshing floor, but if he was near the threshing floor, even more than that is permitted, because he can put the excess back into the pile.

4:4

[A] **Coriander that[the farmer] sowed [in order to harvest its] seed [for future sowing] — its leaves are exempt [from the removal of tithes if they are eaten].**

[B] **[If he] sowed it [in order to harvest its] leaves [for use as an herb] both] the seeds and the leaves are subject to the law of tithes.**

[C] **R. Eleazar says, “Dill is subject to the law of tithes [in regard to its] seeds, leaves and pods.”**

[D] **But sages say, “Nothing is subject to the law of tithes [in regard to both its] seeds and leaves save cress and fieldrocket alone.”**

[E] **Rabban Gamaliel says, “Stalks of fenugreek, mustard plants, and fava plants are subject to [the law of] tithes.”**

[F] **R. Eliezer says, “The caper-bush is subject to the law of tithes [in regard to its] stalks, berries and blossoms.”**

[G] **R. Aqiba says, “No [part of the caper-bush] is subject to the law of tithes except the berries,**

[H] **“for they are the fruit [i.e., the part normally harvested for use as food].”**

[I:1 A] **[Coriander that[the farmer] sowed [in order to harvest its] seed [for future sowing] — its leaves are exempt [from the removal of tithes if they are eaten]:** Hezekiah said, “Once he has removed from it two or three shoots, the crop as a whole is deemed greens [and both the seed and the leaves are subject to the law of tithes. So is the rule for the seed: when he refrains from picking two or three shoots, the crop is deemed to be seed [and the greens are not subject to tithing any more].”

- [B] If he sowed it for the edible seed [and it sprouted before the New Year] the crop [inclusive of the seed] is tithed in the pattern of the past year. If he sowed it for the greens, it is tithed in the pattern of the coming year.
- [C] **If he sowed it for seed and for greens, or he sowed it for seed and afterward gave thought to it for use for seed, he tithes from the seed to cover the obligation of the greens, and from the greens for the seed [T. Sheb. 2:5].**
- [D] That is if it reached a third of its growth before the Near Year. But if it reached a third of its growth after the New Year, its seed and its greens are tithed in the pattern of the coming year.
- [II:1 A] **[R. Eleazar says, “Dill is subject to the law of tithes [in regard to its] seeds, leaves and pods.” But sages say, “Nothing is subject to the law of tithes [in regard to both its] seeds and leaves save cress and fieldrocket alone”]: Dill that he sowed for seed is tithed for its seed but is not tithed for its greens. If he sowed it for its greens, it is tithed for its seed and for its greens, but not for its pods. If he sowed it for its pods, its seeds, greens, and pods are tithed [T. Sheb. 2:7].**
- [B] *We have learned in the Mishnah: Nothing is subject to the law of tithes [in regard to both its] seeds and leaves save cress and fieldrocket alone.*
- [C] *This is the sense of the Mishnah’s statement: Nothing that when sown for seed is tithed for its seed and green except cress and fieldrocket alone.*
- [III:1 A] **Rabban Gamaliel says, “Stalks of fenugreek, mustard plants, and fava plants are subject to [the law of] tithes:”**
- [B] *Where there is a dispute [Coriander that [the farmer] sowed [in order to harvest its] seed [for future sowing] — its leaves are exempt [from the removal of tithes if they are eaten], it is when he sowed the seed for seed, but if he sowed it for greens, also the rabbis concur [that the shoots are tithed as greens], and so it has been taught on Tannaite authority: Mustard that he sowed for seed but that he decided to harvest for its greens alone — both the seed and the greens are subject to tithing. In Batanaia they treated its greens as permissible,” the words of R. Eliezer [T. Ma. 3:7]. [The original intention of producing seed defines the status of the crop.]*

[C] The text says, “the words of R. Eliezer.” Lo, in the opinion of all others, the greens are subject to the law [since the intention at the time of harvest defines the status of the crop].

[III:2 A] *It has been taught on Tannaite authority: Beans, barley, and fenugreek, [which people generally grow for their seed, but] which [a farmer] sowed [intending to harvest them] as vegetables — [the farmer’s] intention is null, [with the result that] their seeds are liable [to the separation of tithes], but their vegetables are exempt [from the separation of tithes] [T. Sheb. 2:8].*

[B] Said R. Jeremiah, “That also represents the position of R. Eliezer.”

[III:3 A] Samuel said, “Caper blossoms are forbidden for eating during the first three years of their planting because of the husks [from which they emerge, for the blossoms are regarded as part of the fruit].”

[B] *So it has been taught on Tannaite authority:* “And when you come into the land and plant all manner of trees for food, you shall count as uncircumcised its foreskin, the fruit” (Lev. 19:23) — anything that covers its fruit [including the blossoms of the caperberry].

[C] *Rab was supervising the members of the household of R. Aha. R. Hamnuna was supervising the members of the household of R. Aha: “Be sure to teach your wives when they prepare caper blossoms for pickling to remove the buds.”*

[D] *Said R. Abba, “R. Zeira explained: ‘All husks grow with the fruit, but the caper-berry grows with the fruit above and the husk beneath.’”*

[III:4 A] Caper-blossoms and shoots are regarded as a single species of produce. One removes tithes from the blossoms for the shoots or from the shoots for the blossoms, but not from either of these for the berries or from the berries for these.

[B] As to the berries, we assign them the strict rulings that apply to tree fruit and edible seeds since the bush is both a tree and an herb].

[C] *For what purpose?*

[D] [If the berries formed in one year but ripened and were cut in the next] if it was the second year of the Sabbatical cycle [when second-tithe was owing] and the third year began [when poor man’s tithe was due], he must remove the second-tithe from berries harvested in the third year and redeem them with coins and then give the secular produce to the poor [paying both tithes].

- [IV:1 A] **Caper-bush — The House of Shammai say, “It is [considered] diverse-kinds in the vineyard but it is not considered a mixture of diverse kinds when planted for seed among herbs grown for seed.” The House of Hillel say, “It is not [considered] diverse-kinds whether planted in a vineyard or among herbs grown for seed.” And both agree that [caper] is liable in [respect to the laws of] orlah [T. Kil. 3:17].**
- [B] *R. Hinena bar Pappa taught a Tannaite statement: “Whatever grows up from its stalk is classified as a tree, but what grows from its roots, is classified as an herb.”*
- [C] *They answered, “Lo, there is the case of kale, which grows up from a stalk [and is not regarded as a tree].”*
- [D] Here [plants growing up from the roots] it certainly [is classified as greens], while there [plants growing up from the stalk] it is subject to doubt [as to its classification].

YERUSHALMI MAASEROT

CHAPTER FIVE

5:1

- [A] 1) One who uproots shoots from his own [field] and transplants [them] within his own [field]
- [B] is exempt [from tithing the shoots before replanting them].
- [C] 2) [If] he purchased [produce] which [was still] attached to the ground,
- [D] [the produce] is exempt [from the law of tithes until the harvest].
- [E] 3) [If] he picked [produce] to send to his fellow [prior to the harvest],
- [F] [the produce] is exempt [from the removal of tithes until the recipient processes it for his own use].
- [G] R. Eleazar b. Azariah says, “If such as these are for sale in the market [at the time the produce is picked],
- [H] “lo, these are liable [to the removal of tithes before the donor sends them to his fellow].”
- [I] One who uproots turnips or radishes from his own [field], and replants [them] within his own [field]
- [J] in order [to harvest] the seeds [for planting],
- [K] is required [to tithe the produce before transplanting],
- [L] for this [uprooting] is their harvest.
- [M] Onions that have taken root in the attic are insusceptible to uncleanness.
- [N] [But if] debris [from fallen beams] collapsed about them, and they were exposed [to the sky],
- [O] lo, these are deemed planted in the field [and are therefore subject to the law of tithes].
- [I:1 A] One who uproots shoots from his own [field] and transplants [them] within his own [field]:

[B] *R. Abbahu in the name of R. Simeon b. Laqish: “This is the opinion of R. Aqiba, for we have learned in the Mishnah there: “**And [the farmer] may collect [grain] from the threshing floor, and sow [it, with the result that the grain he sows] is exempt from [the separation of] tithes, until [the grain-pile] is smoothed-over. [At this point the produce becomes subject to the separation of tithes],” the words of R. Aqiba [M. Pe. 1:6].***

[C] R. Hiyya in the name of R. Yohanan: “It represents the view of all parties.”

[D] Sages concur with R. Aqiba in regard to shoots [but they disagree with him on grain].

[E] The unsmoothed wheat is completely processed [for it does not have to be smoothed over to serve as food], but the shoots are not completely processed [not being edible].

[F] R. Aqiba concurs with sages [on the requirement to tithe] turnips and radishes [uprooted and used for seed,] for they are wasted [as food if that is what is done to them].

[G] But doesn't the wheat go to waste [if it is planted in the ground]?

[H] Wheat has another threshing floor [when the processing is completed, when the pile is smoothed over], but these have no other threshing floor.

[II:1 A] **[If] he picked [produce] to send to his fellow [prior to the harvest], [the produce] is exempt [from the removal of tithes until the recipient processes it for his own use].**

[B] Rab said, “He is forbidden to eat [the produce without tithing]. [The donor does not have to tithe the food he sends as a gift unless he wants to eat some of it before sending it.]”

[C] R. Shimi said before R. Yosé in the name of R. Aha: “What Rab said pertains to a case in which he brought it into a guarded courtyard [so indicating that he deems the produce suitable for his own and the donee's use.]”

[D] That is in accord with R. Meir [produce can become subject to tithing before the processing is complete].

[E] Said R. Mana, “*The Mishnah has registered that very point: **[If] he purchased [produce] which [was still] attached to the ground, [the produce] is exempt [from the law of tithes until the harvest].*** Lo, in

the case of uprooted produce, he is liable to tithing, [even though the produce has not yet been processed].”

[F] *Now who holds the position that purchasing partially processed produce imparts to the produce the status of liability to tithing but not yet tithed? Is it not R. Meir?*

[III:1 A] [If] he purchased [produce] that [was still] attached to the ground, [the produce] is exempt [from the law of tithes until the harvest]:

[B] *R. Hiyya in the name of R. Yohanan: “This is the position of R. Judah. And so it has been taught as a Tannaite statement: **R. Judah said in the name of R. Eleazar b. Azariah, “Also one who sends his fellow shoots, softened olives or uncrushed flax — [the recipient] may not eat the produce before tithing it [as he would tithe] produce that is certainly untithed, for most people are accustomed to send to their fellows produce that is liable to tithing but not yet tithed in these species [T.: are suspect concerning [the proper tithing] of these types of produce, since their processing is not complete] [T. 3:8].”***

[C] R. Simeon b. Laqish says, “Even an associate who sends produce to another associate — the donee has to tithe.” [The donor assumes the donee will take responsibility for all tithes.]

[D] *Associates asked, “It is fitting that an ignoramus should be suspect , but is an associate suspect too?”*

[E] Said R. Yosé, “And is not an ignoramus in respect to heave-offering not regarded as an associate [since the ignoramuses do separate heave-offering from their produce]?”

[F] *But this is how matters are sorted out: People are accustomed to send to their fellows produce that is subject to tithing but not yet tithed in these matters.*

[IV:1 A] [One who uproots turnips or radishes from his own [field], and replants [them] within his own [field] in order [to harvest] the seeds [for planting], is required [to tithe the produce before transplanting], for this [uprooting] is their harvest. Onions that have taken root in the attic are insusceptible to uncleanness [But if] debris [from fallen beams] collapsed about them, and they were exposed [to the sky], lo, these are deemed planted in the field [and are therefore subject to the law of tithes].

[B] *One who uproots shoots from his own [field] in order to plant them 1) outside the Land [of Israel] or 2) as a seed crop, or in order to 1) declare [the uprooted shoots] ownerless, or 2) to sell [the uprooted*

shoots] to a Gentile — lo, this one [i.e., the farmer] is required [to tithe the uprooted shoots], for [by his act] he removes them from the category of [produce subject to the law of] tithes [T. 3:8].

- [C] *Is there no difference between planting for seed, declaring property ownerless, and planting outside the Land of Israel?*
- [D] *There we have learned in the Mishnah: At any time [after the harvest, the farmer] may designate [produce] as *peah*, [with the result that the produce he designates] is exempt from [the separation of] tithes, until [the grain-pile] is smoothed-over. [At this point the entire heap of grain becomes subject to the separation of tithes. The farmer therefore must tithe the produce, and then designate *peah*.] And [the farmer] may give away [produce] as ownerless property, [with the result that the produce he gives away] is exempt from [the separation of] tithes, until [the grain-pile] is smoothed-over. [At this point the produce becomes subject to the separation of tithes and remains so even if he later declares it to be ownerless.] [M. Pe. 1:6]. *And here you say this!**
- [E] *There he declares the produce ownerless covering the entire crop, but here he declares ownerless only the later growth of the sprouts.*
- [F] *And lo, we have learned on Tannaite authority: **One who uproots shoots from his own [field] in order to plant them outside the Land [of Israel] — therefore there is a distinction** in planting them outside the Land of Israel between the plant itself and its subsequent growth [so that the sprouts replanted for seed or to be left ownerless must be tithed before the point at which subsequent growth begins].*
- [G] *Here is there no distinction between the plant itself and the subsequent growth?*
- [H] *In the opinion of R. Simeon b. Laqish, who says that untithed produce mixed with tithed produce is nullified by the greater quantity of produce, there is no problem. But in the opinion of R. Yohanan, who says that that untithed produce mixed with tithed produce is not nullified by the greater quantity of produce, let him wait until the crop has grown and then tithe according to the percentage of the entire harvest that is formed by the sprouts.*
- [I] *May we say the following: Where R. Yohanan and R. Simeon b. Laqish differ, it concerns produce in the status of liability for tithing but not yet tithed as a matter of the law of the Torah. But as to produce in the status of liability for tithing but not yet tithed as a matter of the rulings*

of the scribes, all parties concur that *that* untithed produce mixed with tithed produce is nullified by the greater quantity of produce.

[J] *Objected R. Abba bar Kohen before R. Yosé, “And lo, we have learned in the Mishnah: Analogously, [in the case of] olives [which have been] harvested [by the owner, which are liable to tithes,] that became mixed with gleaner’s olives, [which are exempt,] [or in the case of] grapes [which have been] harvested [by the owner, which are liable to tithes,] with gleaner’s grapes, [which are exempt] — if [the owner] has the means [to discharge his obligation for the untithed olives or grapes which he had harvested by separating tithes for them] from another [batch], he removes [from the other batch produce] in the correct proportion [to discharge that obligation]. But if [he does] not [have the means to do so], he removes heave-offering and heave-offering of the tithe [from the mixed batch to discharge his obligation] for the whole [M. Hal. 3:9]. Now is this not a case in which produce that is liable for tithing but not yet tithed has been forbidden by the rulings of the scribes for use unless it is tithed?”*

[K] Said R. Mana, “Interpret the case to pertain to oil of harvested olives that has been mixed with oil of gleaned olives.” [That is liable by the law of the Torah.]

[IV:2 A] Said R. Mana, “They repeated the rule [**One who uproots turnips or radishes from his own [field], and replants [them] within his own [field] in order [to harvest] the seeds [for planting], is required [to tithe the produce before transplanting], for this uprooting] is their harvest**] only as to planting the produce to yield seed. If he uprooted the produce to transplant it for food, he is exempt from tithing [until the harvest].”

[B] R. Hiyya in the name of R. Yohanan: “There is no difference between uprooting the crop in order to plant it for seed and doings in order to plant it for food. He **is required [to tithe the produce before transplanting], for this [uprooting] is their harvest.**”

[C] Said R. Hanina, “It is because he takes for himself the obligation to remove poor man’s tithe from produce that was going to be tithed for second-tithe, or he takes on himself the obligation to remove second-tithe from produce that was going to be tithed for poor man’s tithe.” [The case involves someone who in the second year of the Sabbatical cycle transplants roots for harvest in the third year, or does so in the fourth year for the fifth. The farmer tithes the roots at the time of uprooting, and he avoids having to determine the percentage of second-tithe or poorman’s tithe is to be taken from the harvest.]

- [V:1 A] **[Onions that have taken root in the attic are insusceptible to uncleanness]**: R. Yohanan in the name of R. Yannai: “A pile of onions that have taken root (he who plucks some of them up on the Sabbath is exempt from penalty [and does not tithe the onions] since he does not want to lose them through the spoilage that comes from their rooting.”
- [B] *Said to him R. Simeon b. Laqish, “What has the Sabbath to do with tithing?”*
- [C] *Have we not learned in the Mishnah: He who buries turnips or radishes under the vine — if some of its leaves were exposed, he does not fear, (1) either because of [the laws of] diverse kinds, (2) or because of [the laws of] the Seventh Year (3) or because of [the laws of] tithes; and they are removed on the Sabbath [M. Kil. 1:9]*
- [D] Said R. Zeira to R. Abbahu, “See what [Simeon b. Laqish] has said. He has only said, ‘*What has the Sabbath to do with tithing?*’ *Lo, an issue of the Sabbatical year does concern him.* For as to produce harvested in the sixth year but that roots in the Sabbatical year, if he wants them to root, they are forbidden for use in the Sabbatical year as spontaneous growths of produce in that year. But if he does not want them to root, they are permitted under the laws of spontaneous growths and exempt from tithing.”
- [E] *Said R. Miasha to R. Zeira, “That is remarkable [for who can conceive of someone’s wanting a whole bin of onions to rot. It would have been more to the point had he spoken of a single onion stored till sprouting.”*
- [V:2 A] **Onions that have taken root among each other in a bin [cf. M. 5:2M]—**
- [B] **lo, they are in their [prior] status regarding [the removal of] tithes and [laws restricting the use of produce grown in] the Seventh Year.**
- [C] **If they were unclean, they have not left their unclean status.**
- [D] **And it is permitted to pick them on the Sabbath.**
- [E] [If] they have taken root among each other in the dirt of an attic
- [F] **lo, they are in their [prior] status regarding [the removal of] tithes and [laws restricting the use of produce grown in] the Seventh Year.**
- [G] **But if they were unclean, they have left their unclean status.**

[H] **And it is forbidden to pick them on the Sabbath.**

[I] But if he picked them [anyway], he is exempt [from punishment as a violator of the Sabbath] [T. Ma. 3:9].

[J] **lo, they are in their [prior] status** and yet you say, **But if they were unclean, they have left their unclean status!**

[K] R. Yosé in the name of R. Ila, “[The issue of tithing is resolved by principles separate from those concerning uncleanness] for the Torah has used extenuating language in respect to the uncleanness of seeds [and has not used equivalently extenuating language in respect to tithes]. *What is the Scriptural foundation?* ‘And if any part of their carcass fall on any sowing seed that is to be sown, it shall be clean’ (Lev. 11:37).

[V:3 A] [If they have taken root among each other in the dirt of an attic lo, they are in their prior status regarding the removal of tithes and laws restricting the use of produce grown in] the Seventh Year. But if they were unclean, they have left their unclean status.] ***It is taught as a Tannaite statement:*** And it is forbidden to pick them on the Sabbath.

[B] If one transgressed and plucked them on the Sabbath, *there are Tannaite authorities who repeat*, “He is liable for tithing,” *and there are Tannaite authorities who repeat*, “He is permitted to eat.”

[C] *One as to the one who holds that the dispute is whether he is forbidden or he is permitted, it is more reasonable to hold that at issue is “he is required to tithe” or “he is exempt from tithing,” since the distinction involved in “permit” is needless, as he is not permitted to eat untithed produce on the Sabbath anyhow*].

[D] R. Simeon b. Laqish said, “He is liable to tithing.”

5:2

[A] **A man shall not sell [a field inclusive of] his produce that has reached the period of its tithing to one who is untrustworthy concerning [the removal] of tithes [i.e., an ‘am ha’are[s].**

[B] **And [he shall] not [sell a field of produce] in the Seventh Year to one who is suspected of [violating laws regarding the consumption or sale of] Seventh Year [produce].**

[C] **But if [some produce] ripens [prior to the rest of the crop], he takes the ripe [produce for his own use] and sells the rest [to whomever he wishes as long as it remains unripened].**

- [D] A man shall not sell his straw, olive-peat or grape-pulp to one who is untrustworthy concerning [the removal of] tithes,
- [E] [if the purchaser intends] to extract the [potable] liquid [remaining in the olive-peat or grape-pulp].
- [F] And if [prior to the sale the householder] extracts [edible produce from the above waste-products, the extract] is liable to [the removal of] tithes, but is exempt from [the separation of] heave-offering.
- [G] For one who separates heave-offering has in mind [the edible produce found among] that which is improperly threshed, and that [found] along the edges [of the pile], and that which is [found] in the straw.
- [H] One who purchases a field of greens in Syria —
- [I] if [he purchased it] before [the produce] reached its period of tithing, [he] is required [to tithe the entire harvest],
- [J] but [if he purchased the field] after [the produce] reached its period of tithing, he is exempt [from tithing the entire harvest].
- [K] And he gathers [late-ripening produce] as he pleases.
- [L] R. Judah says, “Also: let him hire workers to pick [the produce for him].”
- [M] Said R. Simeon b. Gamaliel, “Under what circumstances [must he tithe produce of a Syrian field which he purchased prior to the crop] period of tithing]? When he acquired the land [along with the produce].
- [N] “But when he did not acquire the land —
- [O] “if [he purchased the produce even] before it reached its period of tithing, he is exempt [from tithing the harvest].”
- [P] Rabbi says, “Also: [if he purchased the field after most of the produce reached its tithing season, he tithes] according to the percentage [which ripens after his purchase].”
- [I:1 A] A man shall not sell [a field inclusive of] his produce that has reached the period of its tithing to one who is untrustworthy concerning [the removal] of tithes [i.e., an *‘am ha’ares*]: *That is the sense of the Tannaite rule: A person should not sell his field [including the produce].*
- [B] R. Simeon permits [selling the produce], because he says to [the priest or Levite who come to collect their share of the crop], “Lo, I have sold what is mine, now you go and claim what is ours.”

- [C] If he transgressed and sold the field to one not trustworthy to tithe, he tithes [the field prior to the sale] and eats the produce, for **we are not responsible for deceivers** [M. Dem. 3:5].
- [II:1 A] **A man shall not sell his straw, olive-peat or grape-pulp to one who is untrustworthy concerning [the removal of] tithes, [if the purchaser intends] to extract the potable liquid remaining in the olive-peat or grape-pulp]: it was taught as a Tannaite rule: He should not raise up the heave-offering.**
- [B] If he transgressed and raised up heave-offering,
- [C] R. Berekhiah said, “He has the power to do that [and the produce is heave-offering.”
- [D] R. Mana said, “He has not got the power to do that [and the produce is not heave-offering.”
- [E] [R. Mana said,] “The heave-offering that he separated imparts to the edible parts of the waste products the status of that which has become liable to tithing but has not yet been tithed until they are tithed.”
- [III:1 A] **[For one who separates heave-offering has in mind [the edible produce found among] that which is improperly threshed, and that [found] along the edges [of the pile], and that which is [found] in the straw:] R. Hananiah the associate of the rabbis asked, “If he separated as heave-offering one sixtieth part of the original batch of produce, is this heave-offering now classified as one sixty-first of the total if we include in the entire mass of untithed produce that which is not properly threshed and that found along the sides of the smoothed pile and that which is left in the straw?”**
- [B] Said R. Yosé, “Is this not a Tannaite teaching: **For one who separates heave-offering has in mind [the edible produce found among] that which is improperly threshed, and that [found] along the edges [of the pile], and that which is [found] in the straw.** Is this not necessary only to include the surplus [produce along the edges of the pile within the total quantity of produce of which the heave-offering must comprise a minimum of one sixtieth]?”
- [IV:1 A] **[One who purchases a field of greens in Syria — if [he purchased it] before [the produce] reached its period of tithing, [he] is required [to tithe the entire harvest], but [if he purchased the field] after [the produce] reached its period of tithing, he is exempt [from tithing the entire harvest]: It was taught on Tannaite**

authority: A field that had reached a third of its growth while owned by a gentile, and an Israelite bought it from him —

- [B] R. Aqiba says, “The additional growth of the crop is exempt from tithing.” [The crop entered liability before Israelite ownership, and the further growth is continuous with the crop that was in place at that moment.]
- [C] And sages say, “The additional growth of the crop is liable to tithing.” [[It is regarded as a new growth from the moment the Israelite purchased the field.]
- [D] R. Abina, Ulla bar Ishmael in the name of R. Eleazar: “Also the sages declared the additional growth liable only as to removing tithes due to the past year. If the produce reached a third of its growth in a year in which second-tithe was owing, then second-tithe is paid [even if the crop is not harvested until the following year, when poor man’s tithe is paid. If the produce matured in a year in which poor man’s tithe is paid, then poor man’s tithe is owing [even if the produce is not harvested until the following year, designated for second-tithe].”

[IV:2 A] *It was taught as a Tannaite statement:*

- [B] R. Jonathan b. R. Yosé says, “How on the basis of Scripture do we know concerning a crop that reached a third of its growth before the New Year that the farmer may transport it home from the field in the Sabbatical year [and may eat it without attention to the Sabbatical year’s restrictions against eating produce in the home after it has disappeared from the field? Scripture says, ‘And six years you shall sow your land and shall gather in the fruits thereof (Ex. 23:10) — even in the Sabbatical year one may harvest produce that continues growing from the prior year.”
- [C] R. Abina, Ulla bar Ishmael in the name of R. Eleazar: “R. Jonathan b. R. Yosé follows the theory of R. Aqiba his master. Just as R. Aqiba said, ‘You follow the status of the crop in the first third of its growth,’ so R. Jonathan b. R. Yosé says, ‘You follow the status of the crop in the first third of its growth.’”
- [D] *Said R. Zeira to R. Abina, “You have made two statements, and don’t they conflict? Here you teach, Also the sages declared the additional growth liable only as to removing tithes due to the past year. If the produce reached a third of its growth in a year in which second-tithe was owing, then second-tithe is paid [even if the crop is not harvested until the following year, when poor man’s tithe is paid. If the produce matured in a year in which poor man’s tithe is paid, then poor man’s*

tithe is owing [even if the produce is not harvested until the following year, designated for second-tithe]. *Here you teach*, R. Jonathan b. R. Yosé follows the theory of R. Aqiba his master. Just as R. Aqiba says, ‘The prohibition against harvesting spontaneous growths in the Sabbatical year derives from the Torah [at Lev. 25:20], so R. Jonathan b. R. Yosé says, ‘The prohibition against harvesting spontaneous growths in the Sabbatical year derives from the Torah.’” [But R. Jonathan holds that the spontaneous growth of the crop that matured in the sixth year is not subject to the restrictions of the Sabbatical year.]

- [IV:3 A] A crop that reached less than a third of its growth prior to the Sabbatical year and the Sabbatical year commenced — [from the moment the crop reached a third of its growth further use of the crop] is forbidden under the laws governing the spontaneous growths of the Sabbatical year. But the sanctification of the Sabbatical year does not govern the consumption of the young plants, since they were useful as herbs in the sixth year, when the sanctification of the Sabbatical year did not affect them. If it was sown in the Sabbatical year and reached less than a third of its growth prior to the eighth year, and the eighth year began — [from the moment the crop reached a third of its growth in the eighth year, all further use is permitted as a spontaneous growth [of the eighth year, for produce of that year is not sanctified.] But the sanctification of the Sabbatical year does affect the young plants themselves, for they were already useful during the Sabbatical year.
- [B] *R. Yohanan and R. Simeon b. Laqish both teach* that sages concur with R. Aqiba regarding the sequence of the tithing years that if the produce reached a third of its growth in a year in which second-tithe was owing, then second-tithe is paid [even if the crop is not harvested until the following year, when poor man’s tithe is paid. If the produce matured in a year in which poor man’s tithe is paid, then poor man’s tithe is owing [even if the produce is not harvested until the following year, designated for second-tithe].
- [C] Said R. Yohanan, “R. Aqiba and sages differ on tithing of a field that reaches a third of its growth while it is abandoned and ownerless, dedicated to the Temple, or growing under gentile auspices in Syria [only sages impose a tithe in these circumstances].”
- [D] Said R. Simeon b. Laqish, “R. Aqiba concurs with sages in the matter of the formation of tree fruit and the rooting of pulse [that these mark the points at which they are to be tithed, and not the advent of a third of their final growth].”

- [IV:4 A] If one sowed in a ruin and the crop reached a third of its growth, and he then erected a shelter over the area, turning it from a field to a house, *in the opinion of R. Aqiba* the additional growth under the shelter is liable to tithing, because at the point that the produce matured, it was in a field and was subject to tithing. *And sages maintain that* the additional growth is exempt from the law of tithing, the growth having taken place in the house.
- [B] If he sowed in a house and after the produce reached a third of its growth he removed the shelter, *in the opinion of R. Aqiba* the additional growth is exempt from tithing, for the produce matured in the dwelling, *And sages maintain that* the additional growth is subject to the law of tithing, the growth having taken place in the field.
- [C] Also with regard to the separation of dough offering there is a dispute between R. Aqiba and sages.
- [D] *What do you want of R. Aqiba?*
- [E] For R. Aqiba said,
- [F] **[Dough made from] foreign produce which was imported to the Land [of Israel] is subject to dough-offering.**
- [G] **[Dough made from produce which] was exported from here [the Land of Israel] to there [foreign countries] —**
- [H] **R. Eliezer declares [such dough] subject [to dough-offering].**
- [I] **But R. Aqiba declares [it] exempt [from dough-offering].** [At the time of kneading, only if the loaf was within the Land of Israel it is liable to dough offering.]
- [J] If R. Aqiba concurs with R. Eliezer, you do well to raise a question.
- [K] *R. Abun bar Hiyya asked before R. Zeira, “If he sowed in an unperforated pot and it later became perforated, is the produce subject to tithing since it is now planted in the field?”*
- [L] He said to him, “Now at any rate it is perforated.”
- [V:1 A] **[Said R. Simeon b. Gamaliel, “Under what circumstances [must he tithe produce of a Syrian field which he purchased prior to the crop] period of tithing]? When he acquired the land [along with the produce]. But when he did not acquire the land — if [he purchased the produce even] before it reached its period of tithing, he is exempt [from tithing the harvest].” Said R. Abin, “Rabban Simeon b. Gamaliel follows the theory of Rabban Gamaliel his father,**

for we have learned elsewhere: Israelites who were sharecroppers [on the land] of gentiles in Syria —

[B] R. Eliezer declares their produce subject to tithes and [the laws of] the Sabbatical year.

[C] But Rabban Gamaliel exempts [such produce from these liabilities] [M. Hal. 4:7].

[VI:1 A] Rabbi says, “Also: [if he purchased the field after most of the produce reached its tithing season, he tithes] according to the percentage [which ripens after his purchase].”

[B] This refers to the following passage: One who purchases a field of greens in Syria — if [he purchased it] before [the produce] reached its period of tithing, [he] is required [to tithe the entire harvest], but [if he purchased the field] after [the produce] reached its period of tithing, he is exempt [from tithing the entire harvest]. And he gathers [late-ripening produce] as he pleases.

5:3

[A] One who steeps grape-pulp in water [to form a beverage]

[B] and added a fixed measure of water,

[C] and [then] found the same measure [of liquid in the tub after pressing the water from the pulp] —

[D] [the liquid] is exempt [from the removal of tithes].

[E] R. Judah declares [the liquid] liable.

[F] [If] he found more [liquid] than the measure [of water he originally poured over the pulp],

[G] he removes [tithes] on behalf of [the beverage] from another batch

[H] according to the percentage [of the liquid which exceeds the original quantity of water].

[I] Ant-holes that remained overnight beside a stack [of grain] from which tithes had yet to be removed —

[J] lo, these [i.e., kernels found in the ant-holes] are liable [to the removal of tithes],

[K] for clearly [the ants] have been dragging [grain] from a processed batch all night long.

[L] Baalbekian garlic, onions of Rakhpa, Cilician split-beans, and Egyptian lentils

[M] R. Meir says, “Also: *qirqa*”

- [N] R. Yosé says, “Also: *gotnym*”
- [O] are exempt from [the law of] tithes, and are purchased from anyone in the Seventh Year.
- [P] The seeds of the higher pods of arum, the seeds of leeks, the seeds of onions, the seeds of turnips or radishes,
- [Q] and all other garden seeds which are not eaten,
- [R] are exempt from [the law of] tithes, and are purchased from anyone in the Seventh Year.
- [S] For even though the plants from which they were gathered: lit., “their fathers”) [were designated as] heave-offering, lo, these [seeds] may be eaten [even by non-priests, for they are not considered food].
- [I:1 A] [One who steeps grape-pulp in water [to form a beverage] and added a fixed measure of water, and [then] found the same measure [of liquid in the tub after pressing the water from the pulp] — [the liquid] is exempt [from the removal of tithes]. R. Judah declares [the liquid] liable:] *Said R. Abbahu, sometime he said it in the name of R. Eleazar, and sometimes he said it in the name of R. Yosé b. R. Hanina, “And the dispute concerns a case in which the liquid has fermented [for only then do we know that it is wine, not water].”*
- [B] *There we have learned in the Mishnah: Wine [made from grape skins and stalks] until it has fermented [is regarded as water and] is not bought with money [in the status of second] tithe and three logs of it invalidate an immersion pool [containing less than forty seahs of valid water]. After it has fermented, it is bought with money [in the status of second] tithe and three logs of it do not invalidate an immersion pool [containing less than forty seahs of valid water] [M. M.S. 1:2].*
- [C] *Our Mishnah-paragraph represents the view of R. Judah, for we have learned in the Mishnah: [One who steeps grape-pulp in water [to form a beverage] and added a fixed measure of water, and [then] found the same measure [of liquid in the tub after pressing the water from the pulp] — [the liquid] is exempt [from the removal of tithes]. R. Judah declares [the liquid] liable.*
- [D] *Said R. Abbahu, sometime he said it in the name of R. Eleazar, and sometimes he said it in the name of R. Yosé b. R. Hanina, “And the dispute concerns a case in which the liquid has fermented [for only then do we know that it is wine, not water].”*

[E] Said R. Yosé, “It represents the view of all parties, for even salt water is purchased with money in the status of second-tithe.”

[II:1 A] **[If] he found more [liquid] than the measure [of water he originally poured over the pulp], he removes [tithes] on behalf of [the beverage] from another batch according to the percentage of the liquid which exceeds the original quantity of water].** What does he remove?

[B] Tithes but not heave-offering, **For one who separates heave-offering has in mind [the edible produce found among] that which is improperly threshed, and that [found] along the edges [of the pile], and that which is [found] in the straw [M. 5:2].**

[III:1 A] **Ant-holes that remained overnight beside a stack [of grain] from which tithes had yet to be removed — lo, these [i.e., kernels found in the ant-holes] are liable [to the removal of tithes], for clearly [the ants] have been dragging [grain] from a processed batch all night long:**

[B] He who smooths his fellow’s pile of grain without his knowledge and consent —

[C] R. Yohanan and R. Simeon b. Laqish —

[D] R. Yohanan said, “It has been rendered liable to tithing but not yet tithed.”

[E] R. Simeon b. Laqish said, “It has not been rendered liable to tithing but not yet tithed.”

[F] *R. Yohanan objected to R. Simeon b. Laqish, “And lo, we have learned in the Mishnah: [As regards] women who gave [dough] to the baker to make [it into] leaven for them — if [the dough] of each woman comprises less than the [prescribed minimum] volume [subject to dough-offering (M. Hal. 1:4, 2:6)], [the dough] is exempt from dough-offering.* Now hasn’t the entire quantity met the minimum measure? [So the baker did not have permission from the women to combine their dough into one batch.]”

[G] He said to him, “To be sure, one who makes dough in order to divide it into pieces of dough [smaller than the requisite minimum for liability] is exempt from liability to dough offering [his intention is to divide the larger batch into smaller ones].”

[H] [R. Simeon b. Laqish said,] “*But we have learned in the Mishnah: [As regards] a baker who made [dough to be used as] leaven [which he*

intends] to distribute [to customers] — [the leaven] is subject to dough-offering [M. Hal. 1:5].”

- [I] [R. Yohanan said,] “Don’t answer me with the case of the baker. As to the baker, the matter does not depend on his knowledge and consent. The matter depends on the knowledge and content of the purchasers. For perhaps he may find customers [who will buy the entire quantity of dough in one batch,] in which case the dough is forthwith rendered produce that is liable to tithing and not yet tithed [even though he had planned to divide the batch into small lumps].”
- [J] [R. Simeon b. Laqish said,] “*It was taught as a Tannaite statement: Ant-holes that remained overnight beside a stack [of grain] from which tithes had yet to be removed — lo, these [i.e., kernels found in the ant-holes] are liable [to the removal of tithes], for clearly [the ants] have been dragging [grain] from a processed batch all night long.* If they were found beside a stack that was exempt, then they are exempt.”
- [K] Said R. Jonah said R. Abbahu in the name of R. Yohanan: “The kernels of grain are exempt because the owners despair of recovering their property and so the grain is ownerless property.”
- [L] Samuel bar Abba said, “But that is the case when they have been dragging away the heads of the kernels [for the are not mixed with chaff and therefore have been processed and thus derive from the pile that is liable to the removal of tithes].”
- [M] *R. Simeon b. Laqish objected to R. Yohanan, “And yet we have learned in the Mishnah: [If] she dedicated it to the Temple before she rolled [it] out, and the [Temple] treasurer rolled it out, and she subsequently redeemed it, it is exempt [from dough-offering], for at the point at which its liability [to dough-offering normally would have taken effect, the dough] was exempt [since it already was property of the Temple] [Y. Hal.. 3:3].* Now lo, the Temple treasurer is equivalent to a second party [who completes the processing] yet we say what has been done is valid.”
- [N] *He said to him, “Interpret the passage to agree with him who says that the Temple treasurer is in the status of the owner of the produce, which is Temple property].”*
- [O] *And that does not accord with the position of R. Yosé, for R. Yosé said, “The Temple treasurer is in the status of a second party.”*

[P] *R. Hananiah the colleague of the rabbis raised the question: “And even if the whole quantity of dough meets the minimum measure, let the baker work with the dough that is partially kneaded, and he will not have to separate dough-offering.”*

[Q] For said R. Yosé in the name of R. Zeira, R. Jonah and R. Zeira in the name of R. Eleazar: “Even what is in the jug is not classified as liable to tithing and not yet tithed, since he is going to put it back into the batch that is incompletely processed.” [If the dough is not fully kneaded, it is exempt from the obligation to separate dough offering, without respect to what the women wanted the baker to do with it.]

[IV:1 A] **Baalbekian garlic, onions of Rakhpa, Cilician split-beans, and Egyptian lentils R. Meir says, “Also: *qirqa*” R. Yosé says, “Also: *qotnym*” are exempt from [the law of] tithes, and are purchased from anyone in the Seventh Year. The seeds of the higher pods of arum, the seeds of leeks, the seeds of onions, the seeds of turnips or radishes, and all other garden seeds which are not eaten, are exempt from [the law of] tithes, and are purchased from anyone in the Seventh Year. For even though the plants from which they were gathered: lit., “their fathers”) [were designated as] heave-offering, lo, these [seeds] may be eaten [even by non-priests, for they are not considered food].**

[B] What is [considered] *garlic of Baalbek*? Any [garlic] which has only a single corolla surrounding the central stem [rather than individual cloves].

[C] What is [considered] *onion of Rakhpa*?

[D] Any [onions] the stalks of which are not disintegrated within the [bulb].

[E] Rabban Simeon b. Gamaliel says, “Any [onions] which have only a single husk.”

[F] What are [considered] *Cilician split-beans*?

[G] These are large and square.

[H] Rabban Simeon b. Gamaliel says, “There has never been a square bean since the six days of Creation [i.e., such beans receive their shape during processing].

[I] *Responded R. Berekhiah, “Have we not learned in the Mishnah: The body [requisite space] of the bright spot is [not less than] a Cilician split bean squared [M. Neg. 6:1]?”*

[J] Said R. Bisna, “*The text itself says there is no such thing as a square bean, and why have we learned in the Mishnah that it is squared? Because the spot becomes square.*”

[K] *Does mint qualify as naturally square?*

[L] *It is full of twists.*

[M] *Does elephant berry qualify?*

[N] *It is round on the bottom.*

[O] Rabban Simeon b. Gamaliel spoke only of the natural condition [when the Cilician bean is not square]. *And so it has been taught on Tannaite authority:* [The Cilician split bean] is square when processed as food but not square in its natural state.

[IV:2 A] What are [considered] Egyptian lentils? Those that are pointed on top. Rabban Simeon b. Gamaliel says, “All [lentils] which have no seeds in them.” What are qeriqas? Whatever has few stalks and many pods [T. Ma. 3:15].

[B] *What are they like?*

[C] Said R. Yosé, “Like colocasia.”

[IV:3 A] R. Jeremiah asked, “What is the rule for saffron? [Since the crocus from which saffron is derived is a decorative plant,] should saffron be permitted for use in the Sabbatical year as a spontaneous growth?”

[B] *Answered R. Tanhum bar Jeremiah, “We have learned in the Mishnah: [that saffron is a food without regard to its source and is subject to the regulations of the Sabbatical year]: He who is suspected [of transgressing] the Seventh Year — they do not purchase from him flax, and even if it is combed [for sale as a textile, lest he have initially planted the flax for food and then combed it out]. But they purchase from him spun flax and woven [flax] [M. Bekh 4:8] And isn’t flax like wood chips? [So one must take care with saffron as well.]”*

[C] Said R. Hinena, “It is because of its seed that [combed flax has food value],”

[D] *R. Mana said, “If the consideration is because of its seed [that we rule as we do at M. Bekh. 4:8], then what about what we learn in the Mishnah: He who is suspected of selling heave-offering as unconsecrated food — ‘they do not purchase from him even water or salt,’ the words of R. Judah [M. Bekh. 4:9]. Can you claim that it*

is because of its seed? [Obviously not.] It is because it is a fine imposed to deprive him of otherwise valid transactions. Here too at M. Bekh. 4:8 it is a fine.”

- [E] [Contradicting at M. Bekh. 4:8] Menahem bar Mabesima, brother of Jonathan of Qepa, in the name of R. Immi: “Flax is purchased from everyone without distinction in the Seventh year.”
- [F] *That which you have said applies when it is not known whether he is suspect or not suspect of violating the law of the Seventh year. But if it is clear that he does violate the law of the Seventh year, it is forbidden to do business with him.*
- [G] Zuga, a relation of R. Ba bar Zabedee, in the name of R. Abbahu, “*Vicia* is purchased from everyone without distinction in the Seventh year.”
- [H] **Said R. Yosé, “The Mishnah has said so:** The seeds of the higher pods of arum, the seeds of leeks, the seeds of onions, the seeds of turnips or radishes, and all other garden seeds which are not eaten, are exempt from [the law of] tithes, and are purchased from anyone in the Seventh Year. *And a Tannaite statement was made in that regard: the seeds of woad, the seeds of madder and the seeds of vicia are included in this exemption [T. Ma. 3:16]. It follows that vicia [is not included for the exemption pertains to the vicia seeds alone.]”*
- [I] Perhaps [the statement that *vicia* is purchased from everyone without distinction in the Seventh year] is stated only when it is not known whether he is suspect of violating the laws of the Seventh year or not suspect of violating the laws of the Seventh year. Lo, if it is a matter of certainty that he is suspect, it is forbidden [to buy *vicia* from him in the Seventh year.

[IV:4 A] The seeds of the higher pods of arum:

- [B] the seeds of the tubular pod of arum.

[V:1 A] [For even though the plants from which they were gathered: lit., “their fathers”) [were designated as] heave-offering, lo, these [seeds] may be eaten [even by non-priests, for they are not considered food].]: *A woman had amaranth of heave-offering in her bundle, and the seeds fell into the garden and sprouted. The case came before R. Yohanan, who permitted [eating the sprouts even though she was not of the priestly caste.]*

- [B] *Said to him R. Hiyya bar Vava, “Does the Mishnah itself not register this point when it says, **For even though the plants from which they***

were gathered: lit., “their fathers”) [were designated as] heave-offering, lo, these [seeds] may be eaten [even by non-priests, for they are not considered food]?”

[C] *He said to him, “Babylonian! Because I revealed to you the shell, you have found a pearl. Yet you say, Does the Mishnah itself not register this point?”*

TRACTATE

MA'ASER SHENI

Israel itself—not only the priesthood, not only the altar fires in God’s behalf—may consume part of God’s share of the produce of the Land. Where the eating takes place, not what is eaten, defines the focus. God’s food must be eaten in God’s chosen locale, which is Jerusalem. Tractate *Ma’aser Sheni*, with its companion, *Bikkurim*, forms a bridge between the division of Agriculture and that of Holy Things, that is, between the sanctity of the Land and its produce, shared between Israel and God, and the sanctity of the Holy House and its offerings, shared among Israel, the priests, and God. With the halakhah of *Ma’aser Sheni* and *Bikkurim*, we undertake the journey from the provinces of the Land of Israel to the metropolis, Jerusalem, the place where Scripture explicitly declares that God resides. It is there in particular within the Land where Israel and God meet, and that is in several ways. First, in the holiest location in the Land, the highest point in Jerusalem, stands the Temple, where God’s Name abides, and there Israel provides God with meat, wine, oil, and bread. Second, God calls Israel to Jerusalem, there to eat a portion of the crop sanctified to him. So—within the framework of the theory of *Ma’aserot*—what belongs to God comes to the holy city, there to bring joy to the life of the holy people through the produce of the holy Land.

Part of God’s share of the crops of the country is assigned by God to Israel, not just to the designated castes, the priests, Levites, and poor. That is second tithe, and the produce of trees four years after they are planted, at any point in that same cycle. What links the latter to the former is the purpose of the designated produce, which is to give Israel occasion for rejoicing with God’s produce. Scripture explicitly declares these portions of the crop as occasions for God to give Israel occasion to rejoice with him, where he lives. Scripture is explicit in both cases, e.g., from Lev 19:23–25, “you shall eat there before the Lord your God and rejoice, you and your household” and the produce of a tree in the fourth year after planting must be “set aside for jubilation before the Lord.”

Ten percent of the net yield of the crop after other tithes have been removed, the Second Tithe, provided in the first and second, fourth and fifth years of the Sabbatical cycle, is to be designated as sanctified and then bodily transported to and eaten in Jerusalem.

{For Mishnah-Tosefta, I follow throughout the translation and commentary by Peter J. Haas, *A History of the Mishnaic Law of Agriculture: Tractate Maaser Sheni* (Scholars Press for Brown Judaic Studies; Chico, Calif.: Scholars, 1980), and for the Yerushalmi, I consulted at every point *The Talmud of the Land of Israel: A Preliminary Translation and Explanation, Maaser Sheni* (trans. Roger Brooks; Vol. 8; Chicago: University of Chicago Press, 1993).}

If the physical transport is not feasible, the sanctity inhering in the produce is to be converted into value in the form of coins for transport and expenditure there. The rules governing the handling of the produce pertain, where appropriate, to the disposition of the coins. The same rules apply to the fruit of an orchard in the fourth year after the orchard is planted. That matter is worked out in the laws of ‘*Orlah*. The instructions in Lev 19:23–25 is taken to mean that fourth year fruit, like Second Tithe, has to be eaten in Jerusalem. So the two classes of produce are subject to the laws set forth at Deut 14:

You shall tithe all the yield of your seed, which comes forth from the field year by year. And before the Lord your God, in the place that he will to make his name dwell there, you shall eat the tithe of your grain, of your wine, and of your oil, and the firstlings of your herd and flock; that you may learn to fear the Lord your God always. And if the way is too long for you, so that you are not able to bring the tithe, when the Lord your God blesses you, because the place is too far from you, which the Lord your God chooses to set his name there, then you shall turn it into money, and bind up the money in your hand, and go to the place which the Lord your God chooses, and spend the money for whatever you want, oxen, or sheep, wine or strong drink, whatever your appetite craves; and you shall eat there before the Lord your God and rejoice, you and your household. (Deut 14:22–26 rsv)

Here is an agricultural offering that the farmer designates for God but receives back from God for his own enjoyment.

But if the Written Torah calls Israel to Jerusalem for a meal with God as host, the Oral Torah set forth by the halakhah explores its own issues, inherent in the food for the meal in particular. This it does by treating in general terms the very specific conception of the Written Torah that the sanctified food may be secularized, its value transferred into cash; then the coins, bearing the value of sanctified food, are brought to Jerusalem and converted back into food. What, exactly, does it mean to transfer “sanctity” to coins from food, then to food from coins? How do sages conceive such a transaction between Israel and God to take place? The halakhah of the Oral Torah in practical terms takes up the important problems inhering in the conception of holiness: what exactly does “holiness” entail, that is, is it a matter of substance or of status? when the one and when the other? The present case, involving the transfer of holiness or the status of sanctification to and from produce, to and from coins, requires sages to translate into concrete rules whatever conception of “the sacred” they maintained. For the sages may think about abstract questions, but they set forth their results in practical and concrete cases, certain that their disciples will grasp the rule inhering in the case.

So the halakhah engages sages in deep thought about what something's being "sanctified" actually means: what difference does it make when produce or coins are sanctified, as against when they are not sanctified? Then again, the effect upon what is designated as holy that is exerted at the moment of entry into a place that is holy—the interplay of status and location—has to be explored. A second concern receives systematic attention as well; that is, the final disposition of God's share of the crop ("the law of removal"), so that, by a given point in the year, the householder will have handed over all that is owed to God's designated surrogates. The law of removal assures that the crops designated as holy will not be accumulated in a hoard but will be distributed to those for whom God has assigned them, the priests, the Levites, the poor, the holy city, and the like.

YERUSHALMI MAASER SHENI

CHAPTER ONE

1:1

- [A] [As to produce in the status of] second-tithe —
- [B] (1) They do not sell it, (2) and they do not take it as a pledge, and (3) they do not give it in exchange [for other produce to be eaten as second-tithe].
- [C] And they do not reckon weight with it.
- [D] And in Jerusalem, a man may not say to his friend: “Here is wine for you, now give me oil.”
- [E] And [this rule applies] likewise to all other [consecrated] produce.
- [F] But they give [it] to each other as a gift.
- [G] [As to] the tithe of cattle:
- [H] (1) [the farmers] do not sell it [when the animal is] unblemished [and] alive; (2) and not [when the animal is] blemished, [whether it is] alive or slaughtered.
- [I] (3) And they do not give it as a token of betrothal to women.
- [J] [As to] the firstling [i.e., the first calves of the year’s herd]:
- [L] (1) they [i.e., the priests] sell it [when the animal is] unblemished [and] alive; (2) and [when the animal is] blemished, [whether it is] alive or slaughtered.
- [M] (3) And they give it as a token of betrothal to women.
- [N] They do not deconsecrate [produce in the status of] second-tithe with (1) a poorly minted coin nor with (2) a coin that is not [currently] circulating nor with (3) money that is not in one’s possession

[1:1 A] As to produce in the status of] second-tithe — they do not sell it:

- [B] They do not sell it because [Scripture] writes about it as holy [“All the tithes are the Lord’s ...they are holy to the Lord” (Lev. 27:30) and cannot be sold].
- [C] **and they do not take it as a pledge:** because Scripture writes about it as a blessing [“because the Lord has blessed you with abundant crops” (Dt. 14:25)].
- [D] **As to produce in the status of] second-tithe — they do not sell it —** how so?
- [E] Someone should not say to his fellow, “Here for you is this maneh’s worth of produce in the status of second-tithe , and give me fifty zuz worth of unconsecrated food.”
- [F] *Who is the Tannaite authority who taught As to produce in the status of] second-tithe — they do not sell it?* It is R. Meir. But in accord with R. Judah it is a matter of logic that people should be able to sell it, on the basis of an argument a fortiori: if heave-offering, which is forbidden to non-priests, is permitted for sale, second-tithe produce, which is permitted for sale to non-priests, surely should be permitted for sale.
- [G] No, if you have stated the rule concerning heave-offering, which does not have to be eaten in the partition that marks off Jerusalem, will you say the same of second-tithe , which does have to be eaten in the partition that marks off Jerusalem?
- [H] Firstfruits will prove the case, for they have to be eaten in the partition that marks off Jerusalem, and yet they can be sold.
- [I] No, if you have stated the rule for firstfruits, the consecrated status of which does not inhere in money exchanged for them, will you say the same of produce in the status of second-tithe , the consecrated status of which does inhere in money exchanged for them.
- [J] Crops of the seventh year will prove the case, For the consecrated status of produce of the Sabbatical Year inheres in the coins for which it is sold, but it is permitted to sell it.
- [K] Said R. Yudan, “Selling produce of the Sabbatical Year serves to deconsecrate it. [Brooks: but it may not be sold in its consecrated status].”
- [I:2 A] Said R. Jeremiah, “*Who is the Tannaite authority who taught As to produce in the status of] second-tithe — they do not sell it?* It is R. Meir. But in accord with R. Judah it is a matter of logic that people

should be able to sell it, on the basis of an argument a fortiori: if produce of the Sabbatical Year, with which one may not pay a debt, may be sold, produce in the status of second-tithe, which may be used to pay a debt, surely should be available for sale.”

- [B] *We find that one may use money paid for produce in the status of second-tithe to pay a debt, in accord with what we have learned in the Mishnah: [If a purchaser] took possession from him [i.e., a farmer] [of produce in the status of second] tithe [which is worth] a Sela, and did not have time to redeem it [i.e., pay for it] before [the price] went up to two [sela^s], he pays him [i.e., the farmer] one Sela, and earns a profit [on the produce he receives] of one Sela, and [one sela's worth of produce he acquires is] his [in the status of] second-tithe . [If a purchaser] took possession from him [i.e., a farmer] of [produce in the status of second] tithe [which at the time of acquisition is worth] two sela^s, and did not have time to redeem it before [the price] went down to one Sela, he pays him one Sela in unconsecrated coin and one Sela in [one of] his own coins [in the status of] second-tithe . If he [i.e., the farmer] was an *'am ha'arels*, he [i.e., the purchaser] gives him [coins in the status of] doubtful [second-tithe] [M. M.S. 4:6]. [The buyer pays his bill with coins in the status of second-tithe, as Yudan allows (Brooks).]*
- [C] Said R. Yosé, “That case is different [and does not involve ordinary debts to be paid by produce in the status of second-tithe]. For from the get-go the purchaser owed the merchant money in the status of second-tithe.” [Brooks: All the produce for sale had that consecrated status. When the value of the produce fell, the buyer still owed the original amount in consecrated coin. He pays for the produce in unconsecrated coin, which becomes consecrated on account of the sale, and pays the rest of what he owes with other, already consecrated money. The seller receives what he bargained for, a full price in consecrated coin.] If you had cited a case in which one had an ordinary debt and repaid it with coins in the status of second-tithe, your argument would have been fine.”
- [D] Said R. Yudan, “Our Tannaite formulation holds that it is prohibited to sell produce in the status of second-tithe without at the same time transferring its status to the money used for buying it. *For we learned in the Mishnah there: He [who was a priest] who betroths a woman with his share [of the priestly gifts], whether they were Most Holy Things or Lesser Holy Things ñ she is not betrothed. If one did so with food in the status of second-tithe, “whether inadvertently or deliberately, he has not effected betrothal,”* the words of R. Meir.

R. Judah says, “If he did so inadvertently, he has not effected betrothal. If he did so deliberately, he has effected betrothal.” And in the case of that which has been dedicated: “If he did so deliberately, he has effected betrothal, and if he did so inadvertently, he has not effected betrothal,” the words of R. Meir. R. Judah says, “If he did so inadvertently, he has effected betrothal. If he did so deliberately, he has not effected betrothal” [M. Qid. 2:8]. If you hold that one may sell produce in the status of second-tithe, then you must rule that one may effect betrothals with it. But any item that one is forbidden to sell cannot be used for effecting betrothals. [If one cannot use it for a betrothal, one cannot sell it.]”

[E] *Have we not learned as a Tannaite rule: With money in the status of produce of the Sabbatical Year they do not buy slaves, real estate, unclean beasts. And if one did so, one must eat in the place of the money produce of that value in acceptable produce [M. Sheb. 8:8].* Said R. Yosé, “That is to say it is forbidden to betroth a woman with produce of the Seventh Year. For what is the difference between purchasing a wife and purchasing a handmaiden.”

[F] R. Yosé in the name of R. Zeira, R. Yudan in the name of R. Yela: “This represents the view of all parties by reason of this argument.” [Brooks: One may not sell produce in the status of second-tithe but only transfer its status to coins.]

[G] R. Yosé in the name of R. Aha: “This represents the view [Brooks: One may not sell produce in the status of second-tithe but only transfer its status to coins] of all parties. It is so that everyone will be obligated to bring the produce to Jerusalem’s partitions.”

[II:1 A] and they do not take it as a pledge:

[B] How do they **not take it as a pledge?**

[C] **He who enters his fellow’s house to select an item as a pledge for a loan should not take as a pledge the fellow’s store of produce in the status of second-tithe [T. M.S. 1:1].**

[D] *It is taught as a Tannaite rule: And they do not leave it as a pledge [T. M.S. 1:1],* that is, leave a coin in the status of second-tithe with a shopkeeper as a credit to be drawn against little by little.

[E] If one transgressed and took it as a pledge, or transgressed and left a coin in the status of second-tithe with a shopkeeper as a credit to be drawn against little by little — *the rule is as follows: “He who*

consumes food in the status of second-tithe whether inadvertently or deliberately should cry to Heaven,” the words of Rabban Simeon b. Gamaliel. Rabbi says, “If he did it inadvertently, he should cry to Heaven. If he did it deliberately, he must replace what he has eaten with food of equal value.” And if he misused the sanctified coins, “if he did it inadvertently, he should cry to Heaven. If he did it deliberately, he must replace the coins with money of equal value,” the words of Rabban Simeon b. Gamaliel. Rabbi says, “Whether inadvertently or deliberately, he must replace the coins with money of equal value.” [T. M.S. 3:9-10].

- [F] R. Zeriqa in the name of Hezeqiah: “The decided law accords with the position of Rabbi in regard to coins and with the position of Rabban Simeon b. Gamaliel in regard to produce.”
- [G] Said R. Yela, “There was a case involving coins and they decided it in accord with Rabbi.”
- [H] *Or conduct matters as follows: They do not (1) plant [a tree,] (2) sink [a vine into the ground so that it emerges nearby as an independent plant,] or (3) graft [one branch to another] during the year preceding the Sabbatical within thirty days of the New Year. [Since these plants would take root after the beginning of the Sabbatical year, this would constitute forbidden cultivation of the Land]. And if, [in violation of the rule] one (1) planted [a tree,] (2) sank [a vine into the ground,] or (3) grafted [one branch to another, within thirty days of the beginning of the Sabbatical year,] one must uproot [that which was planted, sunk or grafted, so as to rectify the transgression which he has committed]. R. Judah says, “All grafting that does not take root within three days will not take root. [Thus the time period should be three days, not thirty].” R. Yosé and R. Simeon say, “Within two weeks” [M. Sheb. 2:6].*
- [I] If one did not uproot the planting, what is to become of its produce?
- [J] *R. Abba, R. Ammi were in session in Tyre. A case came before them and R. Ila ruled, “Let the produce be discarded.”*
- [K] Said R. Abba, “I was never appointed with you to the court in the upper chamber [and cannot rule].”
- [L] *They went out and heard R. Jonah and R. Isaac bar Tabelai in the name of R. Eleazar: “They do not innovate with respect to a decree.” [They cannot force the farmer to discard the produce.]*

[M] Said R. Yosé, R. Isaac bar Tabelai in the name of R. Eleazar, “They do not add [restrictions] to the law.”

[N] *R. Jacob bar Aha in the name of R. Zeira: “[The proper decision derives from the following:] Since they said **The should not take as a pledge the fellow’s store of produce in the status of second-tithe and they do not leave it as a pledge [T. M.S. 1:1]**, it follows that if one transgressed and took it as a pledge or transgressed and left it as a pledge, they impose a fine on him.”*

[III:1 A] And they do not reckon weight with it:

- [B] Coins as weights for secular purposes, even using the consecrated coins to weight an unconsecrated sela for use to deconsecrate second-tithe .
- [C] If the farmer had a sela in the status of second-tithe and knows its exact weight, what is the law as to using it to weigh a second sela I the status of second-tithe so that the exact weight of the second coin will be known?
- [D] Brothers who divided up consecrated coins — what is the law as to their weighing them against one another?

[IV:1 A] *We have learned in the Mishnah: And in Jerusalem, a man may not say to his friend: “Here is wine for you, now give me oil.” or “Here is oil for you, now give me wine”*

- [B] But he says, “Here is wine, for you don’t have any wine,” “here is oil, for you don’t have any oil” **“Here is wine, for I don’t have any oil” [T. M.S. 1:2]** —
- [C] *They wanted to rule that it is forbidden to make such a statement. But they found a Tannaite ruling that it is permitted. It is not forbidden under the law against trading, because the first party, who supplied wine, cannot force the second party to give him oil in exchange. So it is not a case of trading.*
- [D] Then for what purpose would he say, **“Here is wine, for I don’t have any oil”?**
- [E] *To imply: if I had any oil, I would give you some [but since I don’t, I give you wine].”*

[V:1 A] But they give [it] to each other as a gift:

- [B] *The rule of the Mishnah accords with the position of R. Meir, for R. Meir said, “A gift is not equivalent to a sale.”*

- [C] Said R. Yosé, “It represents the position of all parties [that gifts of second-tithe produce are permitted]. *Here it is in line with that which is taught as a Tannaite statement:* Someone says to his fellow, “What did you eat today?” And he answers him, “Summer fruit [which is abundant],” so he conveys the information that he ate a firstborn male of cow sold by the priests at cheap prices. Just as summer fruit is sold at cheap prices being abundant in the market, so the meat of a firstling is sold at cheap prices being abundant. If he said, “Manna,” he would convey the information that he ate second-tithe produce, for just as manna is given as a gift from Heaven, so second-tithe may be given as a gift.”
- [D] *They moreover replied to the allegation [that the rule is Meir’s in particular] as follows:* “Lo, there is the case of tithe of cattle. All parties concur that it may not be sold but you rule it may be given as a gift. So this is given as a gift.”
- [E] *R. Mana did not rule in this way but rather in accord with R. Judah, for R. Judah treated second-tithe produce as the farmer’s own property, to be disposed of ad lib.*
- [F] *They replied [to this attribution to Judah alone]:* “Lo, there is the matter of tithe of cattle. All parties concur that it is not in the status of his property, but you rule that it is given as a gift. This too is given as a gift.”

- [VI:1 A] **[As to] the tithe of cattle: (1) [the farmers] do not sell it [when the animal is] unblemished [and] alive; (2) and not [when the animal is] blemished, [whether it is] alive or slaughtered:** lo, if one slaughters an unblemished animal in the status of tithe of cattle, it is permitted to sell the meat.
- [B] *A Tannaite formulation of the household of R. Yannai:* there is no difference whether it is alive or slaughtered, whether it is unblemished or blemished. [Tithe of cattle may never be sold.]
- [C] *Then what is the purpose of the following formulation:* **[As to] the tithe of cattle: (1) [the farmers] do not sell it [when the animal is] unblemished [and] alive** *which is recited immediately after the law,* **[As to] the firstling [i.e., the first calves of the year’s herd]: (1) they [i.e., the priests] sell it [when the animal is] unblemished [and] alive; (2) and [when the animal is] blemished, [whether it is] alive or slaughtered?** [The tithe of cattle can never be sold. The distinction between a live and a slaughtered animal plays o part in laws governing the tithe of cattle (Brooks).]

[D] R. Abba bar Jacob in the name of R. Yohanan: “[Further proving that tithe of cattle can never be sold:] here it is written, ‘All tithes of the herd or flock of all that passes under the shepherd’s staff, every tenth one shall be holy to the Lord. It cannot be redeemed’ (Lev. 27:32-33), and in the setting of items set aside for use by the priesthood, ‘Nothing that he has proscribed for the Lord may be sold or redeemed’ (Lev. 27:28). Just as ‘it may not be redeemed’ stated with reference to of items set aside for use by the priesthood means it may not be sold or redeemed, so it shall not be redeemed stated here means it may not be sold or redeemed.”

[E] *R. Jacob the Southerner asked before R. Yosé*, “It is never written concerning firstlings, ‘You shall not redeem a blemished animal.’ [Firstlings may be sold in some cases.] But as to tithe of cattle, the Torah has not distinguished between those that are alive or slaughtered, unblemished or blemished. [Sale is forbidden throughout.]”

[VII:1 A] And they do not give it as a token of betrothal to women:

[B] But [the meat alone is sanctified, so] they do give as tokens of betrothal its sinews, bones, horns, and hoofs.

[C] Said R. Eleazar, “[They may give as tokens of betrothal its sinews, bones, horns, and hoofs] because it is written concerning it: ‘[all tithes are] a blessing’ (Dt. 14:22-26).”

[D] Then let him give its meat as a token of betrothal? [No part of the tithe of cattle may serve as a token of betrothal.]

[E] [Proving that point,] said R. Yosé, “The laws governing tithes derive from the laws dedicated for use by the priesthood. Just as men may not hand over as a token of betrothal what is dedicated for use by the priesthood, so all sanctified items may not serve as a token of betrothal.”

[F] On that basis they do not give as tokens of betrothal its sinews, bones, horns, and hoofs.

[G] It is necessary to invoke what R. Eleazar said, “[They may give as tokens of betrothal its sinews, bones, horns, and hoofs] because it is written concerning it: ‘[all tithes are] a blessing’ (Dt. 14:22-26).”

[H] *R. Judah asked*, “If one said to a woman, ‘Draw [and make acquisition] over to me that beast designated as tithe of cattle and be betrothed to me after it has been slaughtered,’ since he has the power

to slaughter it any time he wants, she is betrothed from that point, or is it only after the actual slaughter?”

[VII:2 A] R. Zeira in the name of R. Ba bar Mamel: “He who steals a beast designated as tithe of cattle from his fellow — if it was alive, he returns it to him as is, but if the thief slaughtered and ate part of the animal, what he ate he ate.” [The thief doesn’t pay the value of what he ate, since that would be tantamount to selling the meat, and one cannot sell what has been sanctified.]

[B] R. Eleazar in the name of R. Mana: “Don’t you say to him that he is to pay for the loss? Or don’t we require him to make up the less if it was less than a perutah?” [In an ordinary theft, losses of less than a perutah are not paid back, or is any loss, however large, unrecoverable, lest the thief buy the sanctified meat (Brooks)].”

[C] Said R. Hinena, “That which you have said applies to a case in which the animal is worth less than a perutah at the time of the theft. But if it was worth more than a perutah at the time of the theft, he has to pay back its value to the owner.”

[VIII:1 A] [As to] the firstling [i.e., the first calves of the year’s herd]: (1) they [i.e., the priests] sell it [when the animal is] unblemished [and] alive; (2) and [when the animal is] blemished, [whether it is] alive or slaughtered. (3) And they give it as a token of betrothal to women:

[B] R. Judah bar Pazzi in the name of R. Joshua b. Levi: “[To serve as a token of betrothal] it must be alive, not slaughtered.”

[C] *There we have learned in the Mishnah: He [who was a priest] who betroths a woman with his share [of the priestly gifts], whether they were Most Holy Things or Lesser Holy Things ñ she is not betrothed. [If one did so] with food in the status of second-tithe, whether inadvertently or deliberately, he has not effected betrothal,”* the words of R. Meir. R. Judah says, “**If he did so inadvertently, he has not effected betrothal. If he did so deliberately, he has effected betrothal.**” And in the case of that which has been dedicated: **If he did so deliberately, he has effected betrothal, and if he did so inadvertently, he has not effected betrothal,**” the words of R. Meir. R. Judah says, “**If he did so inadvertently, he has effected betrothal. If he did so deliberately, he has not effected betrothal**” [M. Qid. 2:8]

[D] *Said R. Judah bar Pazzi, “R. Judah derived the rule governing all Holy Things from the case of the firstling. Just as with a firstling they betroth a woman, so with other Holy Things they betroth a woman. R.*

Meir derived the rule governing all Holy Things from the case of the tithe of cattle. Just as with tithe of cattle they do not betroth a woman so with other Holy Things they do not betroth a woman.”

[E] *The opinions attributed to R. Judah bar Pazzi are contradictory. There he says, ‘one may use a firstling as a betrothal gift whether it is alive or slaughtered, and he says one may do so if it is alive but not if it is slaughtered.*

[F] In the one instance he speaks for himself [one may use a firstling as a betrothal gift whether it is alive or slaughtered], in the other he speaks in the name of R. Joshua b. Levi.

[G] *You may say here and there he speaks for himself.* Where one may consecrate a woman with a firstling, it is a live one, and one may give a betrothal gift only from the parts that will become his after slaughter [the hide, sinews, hooves, and bones].

[H] *What is the scriptural basis for the position of R. Joshua b. Levi?*

[I] “...but the meat of the firstling shall be yours...” (Num. 18:18) is stated twice. [The meat is eaten only by priests. So too after slaughter the meat of a firstling is forbidden to non priests, including a prospective bride.]

[J] *What is the scriptural basis for the position of R. Judah bar Pazzi?*

[K] “...but the meat of the firstling shall be yours...” (Num. 18:18) — the priest may do with the meat what he likes, even after the beast is slaughtered.

[L] How does R. Joshua b. Levi deal with “...but the meat of the firstling shall be yours...” (Num. 18:18)?

[M] It serves as an inclusionary clause, two times cover a period of two days and an intervening night [for the eating of the meat.]

[IX:1 A] **They do not deconsecrate [produce in the status of] second-tithe with a poorly minted coin: this is not in accord with the position of R. Dosa, for it has been stated as a Tannaite ruling, “They redeem produce in the status of second-tithe for unminted metal [which is then brought to Jerusalem for the purchase of produce in place of that sold to purchase the metal],” the words of R. Dosa. And sages say, “They do not redeem [it in that currency]” (M. Ed. 3:2).**

[B] *What is the scriptural basis for the position of R. Dosa?*

- [C] “You may convert the produce to money; wrap up the money and take it with you” (Dt. 14:24-5) — any coin that may be wrapped separately from other, unconsecrated coins.
- [D] [Following Brooks’ emendation:] *What is the scriptural basis for the position of rabbis?*
- [E] “...wrap up the money...” — second-tithe produce may be deconsecrated with a coin that bears a mark and the mark validates the coin for circulation as legal tenure.
- [IX:2 A] R. Yosé in the name of R. Yohanán: “The opinion of R. Dosa is, people may deconsecrate second-tithe produce with something that is not a coin, e.g., a litra weight made of silver [which may be separately wrapped up from other precious metals].”
- [B] [Why specify a litra weight made of silver?] *If he had said litra-weight we should have said that wrapping up money implies one may use any precious metal including gold. And if he had said only “silver” we might have thought that that excludes use of scraps of metal from pans or kettles. [Only a litra-weight of silver serves in place of a poorly minted coin.]*
- [IX:3 A] **All concede that they may not deconsecrate second-tithe produce with tokens given to bath house attendants (T. M.S. 1:4).**
- [B] That which you have said applies to cases where the bathhouse tokens are valuable for paying the attendant [but are not the same as cash], but where the bathhouse tokens pay the entrance fee, they are equivalent to cash and may serve to deconsecrate second-tithe produce.
- [IX:4 A] A coin that is damaged but the government accepts it — R. Yosé in the name of R. Jonathan: “It is classified as a poorly minted coin [and may not serve to deconsecrate second-tithe produce].”
- [B] R. Hiyya in the name of R. Jonathan, “It is in the class of the coins issued by prior rulers. We say, ‘If it circulates at its face value, one may deconsecrate second-tithe produce with it. But if it no longer circulates, one may not do so.’”
- [IX:5 A] A coin issued by a revolt, such as Ben Koziba may not serve to deconsecrate second-tithe produce [since it is not circulating under the auspices of the current government].
- [B] If one had illegal currency [having deconsecrated second-tithe produce with coins of a rebellion and faced danger on their account — a case

came before R. Immi, who said, “He must dispose of the illegal coins in the Dead Sea.”

[IX:6 A] If someone had a large number of consecrated small change, R. Jacob bar Zebedee in the name of R. Abbahu: “He deconsecrates them as if they were good in the bath house for entry. If he wanted to deconsecrate them, he must use them at the same value at which he deconsecrated the second-tithe produce to begin with.”

[IX:7 A] *It was taught as a Tannaite rule:* **They do not deconsecrate second-tithe produce using coins from here [the Land] in Babylonia, nor using coins from Babylonia here [T. M.S. 1:6].**

[B] **produce using coins from here [the Land] in Babylonia:** if one is located in Babylonia and the money is in the Land of Israel.

[C] **nor using coins from Babylonia here:** if one is located in the Land of Israel and the money is in Babylonia.

[D] May we rule that if the road was open and he can make the journey **One who purchases [in Jerusalem] a wild animal [with money in the status of second-tithe] for [use as] a peace-offering, and a domesticated animal for [use as] ordinary meat,**

[E] **the hide is not deemed to be unconsecrated [i.e., it is in the status of second-tithe and must be resold], even though [the value of] the hide exceeds [the value of] the meat.,** he may deconsecrate second-tithe produce with those coins. But if the road is not open and he cannot make the journey, he may not deconsecrate second-tithe produce with those coins.

[F] Said R. Abin, “On that account all foreign coins circulate in Jerusalem.”

[IX:8 A] On account of the statement, “fair crested, joy of all the earth” (Ps. 48:2) may we suppose that if one possesses coins anywhere in “all the earth,” even in inaccessible place such as **the royal hill country or a Roman camp (T. M.S. 1:6)**, he may use them to deconsecrate second-tithe produce?

[B] [No, for] Scripture says, “Wrap up the money in your hand” (Dt. 14:25) — what is the meaning of “in your hand”? In your domain.

[C] *R. Jonah raised the question:* “**A person’s wallet fell into a cistern (T. M.S. 1:6)** — in it was a million dinars. If the man can spend half a million to retrieve the wallet, then the other half million dinars is as if

already in his possession [and may be used to deconsecrate second-tithe produce.”

1:2

- [A] (1) One who [with money in the status of second-tithe] purchases [in Jerusalem] a domesticated animal for [use as] a peace-offering, or a wild animal for [use as ordinary meat,
- [B] the hide is deemed to be unconsecrated,[
- [C] even though [the value of] the hide exceeds [the value of] the meat.
- [D] (2) Sealed jugs of wine [purchased in Jerusalem with consecrated money] —
- [E] in a place where they are normally sold sealed,
- [F] the jar is deemed to be unconsecrated.
- [G] Nuts and almonds [purchased in Jerusalem with consecrated money] — their shells are deemed to be unconsecrated.
- [H] Wine [made from grape skins and stalks] until it has fermented is not bought with money [in the status of second] tithe.
- [I] After it has fermented, it is bought with money [in the status of second] tithe.
- [J] (1) One who purchases a wild animal with second-tithe money for use as peace offerings — the hide is not unconsecrated.
- [L] (2) Open or sealed jugs of wine [which are purchased in Jerusalem with consecrated money] —
- [M] [in] a place where they are normally sold open,
- [N] the jar is not deemed to be unconsecrated.
- [O] Baskets of olives and baskets of grapes with their container [purchased with consecrated money] — the value of the container is not deemed to be unconsecrated.
- [I:1 A] *It was taught as a Tannaite statement:* [proving the proposition that **one who with money in the status of second-tithe] purchases in Jerusalem a domesticated animal for use as a peace-offering, or a wild animal for use as ordinary meat, the hide is deemed to be unconsecrated,[even though the value of the hide exceeds the value of the meat,**] the son of Bagbag says, “‘Spend the consecrated money on anything you want — cattle, sheep, wine or other intoxicant or anything you may desire’ (Dt. 14:26) — someone may purchase a cow for its hide, sheep for its fleece, or wine for its bottle.”

[B] Said R. Zeira, “That which you have said pertains when the seller was a common person, but if the seller was a skilled craftsman, then we treat the case as though he sold this by itself and that by itself.” [The skilled craftsman adds a charge for the hide, jug, or fleece, and what is secondary is consecrated as second-tithe.]

[C] *Said R. Zeira, “The Tannaite formulation makes that very point: Sealed jugs of wine [purchased in Jerusalem with consecrated money] — in a place where they are normally sold sealed, the jar is deemed to be unconsecrated.”*

[D] *Said R. Mana, “On the basis of the passage itself, the same point emerges: but if the seller was a skilled craftsman, then we treat the case as though he sold this by itself and that by itself. Along these same lines, if the purchaser was a skilled craftsman, then we treat the case as though he bought this by itself and that by itself.”*

[I:2 A] The reed matting rapped around dates that that in which dates are packed are deconsecrated [when the dates for consumption in Jerusalem are purchased with second-tithe money].

[B] As to baskets for holding dates, *there are Tannaite authorities who rule, They have become deconsecrated [with the sale of the dates, being incidental to the process] and there are Tannaite authorities who rule, They have not become deconsecrated.*

[C] Said R. Hisda, “*Tannaite authorities who rule, They have become deconsecrated, address a case in which the dates are pressed in the basket [and the container is integral to the sale], and Tannaite authorities who rule, They have not become deconsecrated, address a case in which the dates are pressed in the basket.*”

[II:1 A] **Grape skin wine: before it has fermented is not purchased with funds deriving from [second] tithe and invalidates the immersion pool. After it has fermented, it is purchased with funds deriving from tithe and does not invalidate the immersion pool [M. Hul. 1:7].**

[B] *Our Mishnah-passage accords with the view of R. Judah, for we have learned in the Mishnah: One who steeps grape pulp in water [to form a beverage], and added a fixed measure of water, and [then] found the same measure [of liquid in the tub after pressing the water from the pulp [the liquid] is exempt [from the removal of tithes]. R. Judah declares [the liquid] liable [since the water is flavored by the skins and stems] [M. Maaserot 5:6].*

[C] *Said R. Abbahu, sometimes making the statement in the name of R. Eleazar and sometimes making the statement in the name of R. Yosé b. R. Hanina, “That is a case in which the liquid has already fermented.” [Only if the liquid is fermented is it classified as food.]*

[D] *Said R. Yosé, “It represents the view of all parties [not just Judah], for one may use money in the status of second-tithe even to buy salt brine.”*

[III:1 A] [One who purchases [in Jerusalem] a wild animal [with money in the status of second-tithe] for [use as] a peace-offering, and a domesticated animal for [use as] ordinary meat, the hide is not deemed to be unconsecrated [i.e., it is in the status of second-tithe and must be resold]: *said R. Eleazar, “[The purchase is improper to begin with, so] he has not acquired for the animal the status of tithe. [The money remains in the status of second-tithe and must be spent on food in Jerusalem.]”*

[B] *Said R. Yosé, “In the beginning we would rule, ‘He who purchases a domesticated beast in Jerusalem for use as ordinary meat — even against his will the status of the beast is defined as a sacrifice for peace offerings. [The meat is presented as peace offerings. The hide is sold and the proceeds are used to purchase peace offerings. Later it was ruled that the entire animal must be resold and the proceeds used for second-tithe food.] But we never ruled in so extreme a manner as R. Eleazar, he has not acquired for the animal the status of tithe.”*

[C] *R. Yosé in the name of R. Yohanan: “A domesticated animal purchased in Jerusalem with money produced by the sale of second-tithe [that gives birth to a firstborn calf] — [the calf is subject to two conflicting obligations, as a firstling assigned to the priests, or the mother’s second-tithe status would apply to the calf]. In accord with R. Meir it is liable to the rules of second-tithe and exempt from the status of firstborn, and in accord with R. Judah it is liable to the obligations of a firstborn. Judah holds that the calf does not acquire its mother’s status and is liable to the laws of the firstling.*

[D] *R. Jeremiah raised the question before R. Zeira, “If the beast in the status of second-tithe gives birth to a firstling, what is the law as to offering the required portions on the altar in accord with the law of firstlings? And would not the status of second-tithe apply to the required portions burned on the altar and that would mean they are not eaten in Jerusalem as they are supposed to be?”*

[E] *He said to him, “The very act of buying the domesticated beast for use as ordinary food removes the status of second-tithe and imposes*

instead the status of peace offerings [the sole valid use of the domesticated beast in Jerusalem.” [But the calf is born into the status of second-tithe and is not subject to the laws of the firstling.]”

- [F] *Said R. Yosé, “We could rule as we did that the animal is classified as peace offerings] only because the Torah has permitted spending second-tithe funds only for purchasing peace offerings.”*
- [G] *What is the practical upshot [of the difference between Jeremiah and Zeira]?*
- [H] [A domesticated beast bought in Jerusalem with second-tithe funds] gives birth to a firstling, which one consecrated as peace offerings. *One who says that the Torah has permitted purchasing with money in the status of second-tithe only peace offerings alone will have the parts offered on the altar. One who has said the very act of buying the domesticated beast for use as ordinary food removes the status of second-tithe and imposes instead the status of peace offerings will not have the parts offered on the altar.*
- [I] *Said R. Yosé, “All these rulings we may set forth, but the Mishnah supports R. Zeira that the act of purchase of a domesticated animal has replaced its status of second-tithe and imposed the new status of a peace offerings sacrifice: **He who says, “Lo, I pledge myself [to bring] a thank offering” brings it and its bread from that which is unconsecrated [not purchased with second-tithe coins]. [He who says], “A thank offering from that which is unconsecrated, and its bread from tithe,” brings its bread from that which is unconsecrated. He who says], “A thank offering from tithe and its bread from that which is unconsecrated,” brings [the things just as he has specified] [He who says], “A thank offering — it and its bread from tithe,” brings [the things just as he has specified]. But [even in this case] he should not bring it from wheat which itself is second-tithe but only [with wheat purchased by] coins [used for the redemption of] second-tithe [M. Men. 7:5].** Now what is the difference between an offering of bread made from wheat in the status of second-tithe and using money in the status of second-tithe to buy the loaf? It is only the act or purchase that removes the status of second-tithe from the food [and replacing it with a different status as to consecrating, here that of the thank offering.]*
- [J] *Said R. Hinena before R. Mana, “If the householder did offer bread made from wheat of second-tithe, the heave-offering of the grain will be given to a priest; the rest after designation as a thank offering belongs to the owner and is eaten by him. [The entire volume of wheat*

will be eaten in accord with laws governing second-tithe,] so why not offer the wheat in this manner?”

[K] He said to him, “Suppose blood of a thank offering was spilled on the bread offering that is set forth with it, the bread being made of wheat in the status of second-tithe. Will this not invalidate the bread [because of the blood]? [But that would violate the conditions governing the use of second-tithe produce. If the bread was purchased with money in the status of second-tithe, the disqualification would make no difference; the purchase has deconsecrated second-tithe.]”

[III:2 A] **[One who purchases in Jerusalem a wild animal with money in the status of second-tithe for use as a peace-offering, and a domesticated animal for use as ordinary meat, the hide is not deemed to be unconsecrated i.e., it is in the status of second-tithe and must be resold]:** said R. Yohanan, “They forbade using second-tithe money to buy a blemished female animal [which is unsuitable for the altar and must be pastured] lest the new owner breed it and profit from its offspring [the offspring inherits the mother’s consecrated status and cannot be sold], and they forbade using second-tithe money to buy a blemished male to as to subject the males to the same rule as the blemished female.”

[B] *And they said in the name of R. Yohanan,* “Even an unblemished beast was subjected to the decree [second-tithe money may not be used to purchase female domesticated animals, even unblemished ones].”

[C] [That is shown in the following:] at first they ruled, they purchase a domesticated beast for use as ordinary meat. They would avoid offering the beast at the altar [Brooks: since people preferred to buy meat strictly for personal use as second-tithe instead of sharing the meat with the priests as peace offerings]. They retracted and ruled, “People should not purchase even wild beasts and even fowl [with second-tithe funds].”

[D] *That is in line with the following Tannaite ruling:* **Produce of the seventh year and produce in the status of second-tithe are the same [with respect to the following rule]: they deconsecrate it [through exchange] for an animal or fowl, or for a beast which is blemished. “This applies whether these are alive or slaughtered,” the words of Rabbi [Y.: Meir]. But sages say, “They referred only to a case in which they [already] are slaughtered [which prevents people from doing business with produce of the seventh year by using the animals acquired to raise flocks]” [T. Shebiit 7:8].**

- [E] R. Jeremiah in the name of R. Samuel b. R. Isaac: “The [sages] issued a decree against using consecrated coins in all purchases of live animals lest the buyers breed the animals and raise whole flocks [yielding improper profits from consecrated beasts].”
- [F] *R. Zeira contended with R. Jeremiah. He said to him, “Up to now R. Samuel b. R. Isaac is yet alive, and you clothe him in your [Brooks:] coarse garments. For lo, have they not said in the name of R. Yohanan, ‘Even for an unblemished beast did they make a decree.’”* [Even an unblemished domesticated beast is under the prohibition against purchase for us as second-tithe, lest meat suitable for the altar be taken over for private use.]
- [G] *Maybe the statement was made that breeding animals purchased with consecrated money yields improper profits was stated only with reference to produce of the seventh year.*
- [H] *It was explicitly taught as a Tannaite statement with reference to the produce of the seventh year.*

1:3

- [A] **One who buys [with money in the status of second-tithe] (1) water, or (2) salt, or (3) pieces of fruit attached to the ground,**
- [B] **or pieces of fruit that cannot reach Jerusalem,**
- [C] **has not acquired [the status of second] tithe [for these items].**
- [D] **One who buys [outside Jerusalem with money in the status of second-tithe] pieces of fruit: (1) unintentionally [i.e., not realizing the coins were consecrated] — let their payment be returned to its [former] place [i.e., to the purchaser who bought them by mistake]; (2) on purpose — let [the pieces of fruit] be brought up and eaten in the [holy] place [i.e., Jerusalem].**
- [E] **And if the Temple does not exist, let [the pieces of fruit] rot.**
- [F] **One who buys [outside Jerusalem] a domesticated animal [with money in the status of second-tithe]: (1) intentionally — let its payment return to its [former] place; (2) on purpose let [the animal] be brought up and eaten in the [holy] place**
- [G] **And if the Temple does not exist, let it be buried with its hide.**
- [H] **They do not purchase (1) male slaves, or (2) female slaves, or (3) real estate**
- [I] **(4) or an unclean animal,**
- [J] **with second-tithe funds.**

- [K] And if he purchased [one of the above], let him consume in its stead [its same value in other produce].
- [L] They do not purchase (5) the sacrificial birds of *zabim*, nor (6) the sacrificial birds of *zabot*, nor (7) the sacrificial birds of women who are unclean after childbirth,
- [M] (8) or sin-offerings, (9) or guilt-offerings
- [N] with second-tithe funds.
- [O] And if he purchased [one of the above], let him consume in its stead [its same value in other produce].
- [P] This is the general rule: Anything that is not suitable for eating, drinking or anointing which is [purchased] with money [in the status of] second-tithe, let him consume in its stead [its same value in other produce].

[I:1 A] *There we have learned in the Mishnah: They do not buy (1) slaves, (2) parcels of real estate, or (3) an unclean animal with money [received from the sale of produce] of the Sabbatical year. But if one [used money received in this way and] purchased [one of the items listed,] he must [purchase and] eat [produce] of equal value [to replace the money of the Sabbatical year which he misused] [M. Shebiit 8:8]. And here you say this! [That you have to transport the beast to Jerusalem: One who buys [outside Jerusalem] a domesticated animal [with money in the status of second-tithe]: (1) intentionally — let its payment return to its [former] place; (2) on purpose let [the animal] be brought up and eaten in the[holy] place.]*

- [B] *R. Jonah said, “There was a dispute on this matter between R. Hiyya bar R. Joseph and Samuel. One said, ‘Here we refer to a purchase of slaves, real estate or unclean animals. The buyer must consecrate as second-tithe the appropriate value in food. The other passage speaks of a case in which the farmer attempts to deconsecrate his money when he buys the domesticated animal. The animal still must be eaten in Jerusalem, like second-tithe in general. The other said we speak of a case in which the money is returned to the original holder of the second-tithe for valid deconsecration and speaks of a situation in which the seller is accessible and so can be required to tend the misuse of the consecrated money. The other passage refers to a situation in which the seller has gone and the second-tithe money paid to him cannot be retried. Then the animal itself must be consumed in Jerusalem as second-tithe.’”*

[C] *Now we do not know who said this and who said that. In light of what R. Yosé said in the name of Samuel, “Such purchases are in fact valid,” it seems clear that Samuel is the one who said that the one passage refers to purchase of slaves, real estate or an unclean animal, while the other passage refers to a case in which the holder of the second-tithe money proposes to deconsecrate his money when he buys the domesticated animal.”*

[I:2 A] *The Mishnah’s rule accords with the position of R. Aqiba and not with that of R. Ishmael.*

[B] R. Ishmael interpreted Scripture as follows: “ ‘Should the distance be too great for you — you may convert the tithes into money, take it with you to the place that the Lord your God has chosen, and spend the money on anything you want’ — a general rule — ‘on cattle, sheep wine or other intoxicant’ — a particularization of the general rule — ‘of anything you may desire’ — a general rule. Where you have a general rule followed by particular instances and then a general you, you cover under the general rule only cases in the same category as the specific instances. The verse teaches that just as the specific exemplifications are products of the earth so I can spend consecrated money only on products of the earth.”

[C] R. Aqiba interpreted Scripture as follows: “ ‘Just as the particular instance speaks of foodstuffs that grow from the produce of the land [e.g., cattle explicitly mentioned by the verse], so too I apply the law only to those foodstuffs that derive from the land or that which is a complement to the produce of the land.”

[D] *What is the upshot of this disagreement?*

[E] Fish, locusts, morels and mushrooms.

[F] In the view of R. Aqiba they may be purchased with the proceeds of second-tithe produce [because they are eaten as complements to produce of the land]. [Ishmael forbids them, they are not themselves produce of the land.]

[I:3 A] *Said R. Haggai, “The Tannaite ruling makes it clear that they do not deconsecrate money by exchanging produce for money at a distance from Jerusalem.”*

[B] *He stated this before R. Abina, who praised him. He stated it before R. Jeremiah, who criticized him: “Have we not learned in the Mishnah: [One who has] [unconsecrated] produce in Jerusalem and coins [in the status of second-tithe] in the provinces says, “Lo, those coins*

are deconsecrated with this produce.” [One who has] coins [in the status of second-tithe] in Jerusalem and [unconsecrated] produce in the provinces says, “Lo, these coins are deconsecrated with that produce,” provided that the produce is [subsequently] brought up to Jerusalem and eaten [there as second-tithe] [M. M.S. 3:4].”

- [C] [*Haggai answered,*] “*That case is different, since one of the items [the money] is in the holy place.*”
- [D] *When Haggai left, he found a Tannaite teaching:* [Deconsecration is valid] whether the coins and produce both are in Jerusalem or the coins and the produce are both in the provinces. *He said, “If R. Jeremiah had heard this rule, he would have done well in criticizing me.” He wanted to retract.*
- [E] *Said to him R. Zeira, “Don’t retract. For said R. Eleazar, ‘As to the debate between R. Meir and rabbis [in which Meir rules, ‘They do not deconsecrate second-tithe money outside Jerusalem through exchange for an animal or fowl or for a beast that is blemished, whether these are alive or slaughtered,’ and sages rule, ‘Only in a case in which they are slaughtered’] — that debate speaks of using money of doubtful status as second-tithe , but if the money in question is certainly substituting for second-tithe , one may not deconsecrate it outside of Jerusalem.”*
- [F] He said to him, “On the basis of what R. Eleazar said, ‘It is the position of R. Meir,’ it follows that money of doubtful status as second-tithe is the same as money that is certainly substituting for second-tithe .”

[II:1 A] *R. Zebida was in session and repeating Tannaite rules to his son: “He who in the present age wants to deconsecrate coins for produce in Jerusalem, ‘both the coins and the produce are consecrated,’ in accord with the ruling of the House of Shammai. The House of Hillel say, ‘The intention is null so the coins remain as they were and the fruit remains as it was [the coins are still consecrated, the produce is still secular]” [T. M. S. 3:14].*

- [B] *R. Qerispai came by. He said to him, “This Tannaite law has been repeated only for the case of deconsecrating produce with coins [to facilitate the trip to Jerusalem]. But as to deconsecrating the coins with produce in order to eat the food in Jerusalem, all parties concur that the produce does not take on consecrated character [the Temple being in ruins].”*
- [C] *But have we not learned in the Mishnah: One who buys [outside Jerusalem with money in the status of second-tithe] pieces of fruit:*

(1) unintentionally [i.e., not realizing the coins were consecrated] — let their payment be returned to its [former] place [i.e., to the purchaser who bought them by mistake]; (2) on purpose — let [the pieces of fruit] be brought up and eaten in the [holy] place [i.e., Jerusalem]. And if the Temple does not exist, let [the pieces of fruit] rot.

[D] Interpret the passage to speak of the time that the Temple stood but then was destroyed.

[E] *So did Ben Bibi teach as a Tannaite rule:* “ ‘Should the distance be too great for you ...you may convert the tithes into money’ (Dt. 14:24-25) — you may redeem produce for coins only at a distance from Jerusalem; you may not redeem produce for coins near Jerusalem. Wrap up the money and take it with you to the place where the Lord your God has chosen, and spend the money:’ (Dt. 14:25-26) (you may deconsecrate the coins for food to eat near the holy place; you may not deconsecrate the coins for food at a distance from the holy place.”

[III:1 A] **[They do not purchase (1) male slaves, or (2) female slaves, or (3) real estate, (4) or an unclean animal:]** R. Yosé in the name of Samuel: “These purchases while illicit are valid transactions.” [The purchases are not consecrated. The farmer has to get other food and use the money for that purpose.]

[B] R. Yosé b. Hanina [holds that the birds referred to] do effect atonement.’

[C] *And said R. Hila, “In light of what we have learned in the Mishnah, This is the general rule: Anything that is not suitable for eating, drinking or anointing which is [purchased] with money [in the status of] second-tithe, let him consume in its stead [its same value in other produce], that implies they are sanctified.”*

[D] Said R. Yosé, “Once the purchase has drawn the purchase to himself, the purchase is valid. From that point on the title is acquired by the purchaser, payment goes a step farther [and transfers the consecrated status of the coins to the item.]”

[E] Said R. Yudan, “One must go and sanctify the foodstuff, lest he believe it consecrated while it was not consecrated. [Hence he makes an oral declaration to the effect that the food is consecrated in exchange for the second-tithe coins.]

YERUSHALMI MAASER SHENI

CHAPTER TWO

2:1

- [A] Second-tithe is permitted for eating and drinking and anointing;
- [B] for eating that which is normally used for eating,
- [C] for anointing with that which is normally used for anointing.
- [D] One may not anoint with wine or vinegar.
- [E] But he anoints with oil.
- [F] They do not spice oil [in the status of second-tithe that has been purchased as a food],
- [G] nor do they buy spiced oil with money [in the status of] second-tithe [for use as a food].
- [H] But he spices wine [in the status of second-tithe].
- [I] [If unconsecrated] honey or spices fell into [consecrated wine] and increased [its value],
- [J] the increase is [divided] proportionately [between the wine and the honey or spices].
- [K] Fish were cooked with leeks [in the status of] second-tithe and [the leeks] increased [the fish's value] —
- [L] the increase is [divided] proportionately.
- [M] Dough [in the status of] second-tithe that he baked and the value of which consequently increased —
- [N] the increase is [accounted entirely] to the [dough designated as] second [tithe].
- [O] This is the general rule: Any [ingredient] whose benefit [to the mixture] is perceptible — the increase [in value] is [divided] proportionately.
- [P] And any [ingredient] whose benefit [to the mixture] is not perceptible — the increase [in value] is [accounted] to the second [tithe].

[I:1 A] **Second-tithe is permitted for eating and drinking and anointing:**

[B] It is permitted for eating, for Scripture refers to eating in its connection.

[C] And how do we know that it is permitted for drinking?

[D] Drinking is encompassed in the category of eating.

[E] *Jonah inferred the rule from the following:* “‘Therefore I say to the people of Israel: No soul among you shall eat blood’ (Lev. 18:12) — *how do we interpret that statement?* If we should suppose that reference is made to blood that has coagulated, *has it not been taught as a Tannaite rule:* Blood that has coagulated is neither food nor drink? *But thus do we interpret that statement:* blood as is. And the Torah has referred to it with the verb, eating.”

[F] *And lo, has it not been taught as a Tannaite rule: One who melts fat and sips it, one who scalds blood and eats the curdled skimming, lo, this one is liable [T. Ker. 2:20].* [Congealed blood is referred to as eaten, and Lev. 18:12 too may refer to congealed blood.]

[G] *How does R. Jonah deal with this matter?*

[H] **Congealed blood is not a food** to transmit food uncleanness, **nor drink**, to transmit drink-uncleanness [T. Toh. 2:5]. [The evidence that the verb to eat refers to eating blood is not probative.]

[I] *R. Jonah reversed himself and derived the fact from the following:* “Spend the second-tithe money on anything you want, cattle, sheep, wine or other intoxicant ... and you shall eat there in the presence of the Lord your God and rejoice with your household” (Dt. 14:26). [Eating explicitly refers to wine or other liquids.]

[I:2 A] *How do we interpret the use of “eating” wine?* If wine is added to flavor the stew, isn’t the flavor diminished [as the wine cooks]? [In that instance ‘eating’ the stew does not prove that the meaning of ‘eating’ in general covers wine.]

[B] *Rabbis of Caesarea say, “Interpret the matter to involve cooked dishes or rice and figs. Wine added to those dishes, like any ingredient added to the broth, becomes part of the food.”* [“Eating” these dishes does not encompass drinking wine or liquid.]

[C] *R. Yosé derives the proposition [that eating covers drinking liquids from the following: “By an oath, I shall not eat or drink,” and he ate and drank ñ he is liable on one count [M. Shabuot 3:1].* [Drinking is encompassed by eating.]”

- [D] *Associates said, “The Tannaite rule goes on to say: ‘By an oath, I shall not eat or drink,’ and then ate and drank, he is liable on two counts [M. Shabuot 3:1]. [Eating and drinking are separate actions. If drinking is covered by the oath not to eat, there would be only a single count of guilt.]*
- [E] [Yosé replies,] “He before whom were two loaves of bread and he said, ‘By an oath, I shall not eat this loaf of bread,’ and he went and said, ‘By an oath, I shall not eat that loaf of bread’ — is it possible to conceive that he is not liable on two counts?” [Two separate oaths are involved, and the same is so at D.]
- [F] *R. Hananiah in the name of R. Phineas derived the proposition from here: “‘By an oath! I shall not eat’ and he then went and ate food that is not edible or drink that is not potable is exempt from liability for violating the oath [M. Shabuot 3:4]. Lo, if he had drunk liquid that was potable, he would have been liable. But didn’t he take an oath not to eat!”*
- [G] *That suits our Tannaite teaching, for here the man took an oath not to eat. But in the case of the rabbis who dealt with the case of one who took an oath nor to eat and not to drink, it does not follow that drinking is a form of eating.*
- [H] *R. Hinena derived the fact that drinking is a form of eating from the following: [If] one ate and drank in a single act of inadvertence, he is liable only for a single sin offering [M. Yoma 8:3].*
- [I] *R. Abba Meri Hinena derived the fact that drinking is a form of eating from the following: “I have cleared out the consecrated portion from the house. . . I have not eaten of it while in mourning” (Dt. 26:14). It is unthinkable to suppose that the meaning is, “I have not eaten” but I have drunk.” [So eating covers drinking.]*
- [J] That poses no problem for him who has said, “By an oath that I shall not eat” but then drank. [Drinking is a form of eating.] But if someone said, “By an oath that I shall not drink,” but then ate — drinking is covered by the category of eating, but eating is not covered by the category of drinking.
- [K] *There are those who wish to derive the besought proposition from here: “You may not eat within your gates the tithe of your grain or of your grape juice or of your oil” (Dt. 12:17). “Grape juice” refers to drinking wine, “oil” refers to anointing, and still Scripture uses the word “eating.”*

- [I:3 A] *[Anointing with oil] is covered by the word “eating.” But this is not clear evidence that anointing is covered by eating. If you hold that it is clear evidence, then what of the rule that one who anoints himself with second-tithe oil outside the walls of Jerusalem is flogged? [Flogging applies only to those who consume holy food, and anointing with consecrated oil is not the same as eating it but is of a lower status.]*
- [B] Said R. Yosé b. Hanina, “They inflict a flogging for eating outside the walls of Jerusalem only clean second-tithe food that has entered Jerusalem and been taken out again. [The absence of flogging at A does not prove the point.]”
- [C] *Whence do we derive proof that Dt., 12:17 does not establish beyond doubt that anointing falls under the classification of eating? It is from this passage, which is repeated as a Tannaite rule: On the Sabbath anointing is permitted whether it is for enjoyment or not for enjoyment, on the Day of Atonement whether it is for enjoyment or not for enjoyment anointing is forbidden. On the ninth of Ab and on communal fast days, anointing for enjoyment is forbidden, and anointing not for enjoyment is permitted. [We distinguish eating from drinking on the ninth of Ab and on communal fast days.]*
- [D] [Carrying the matter forward] *has it not been taught on Tannaite authority: Anointing with and drinking consecrated liquids are equivalent in regard to prohibitions and restitution for wrongful use, but are not equivalent with reference to punishment. On the Day of Atonement anointing and drinking consecrated liquids are equivalent with regard to prohibitions for wrongful use but not in regard to the attendant punishment. [Dt. 12:17 does not prove anointing is equivalent to eating.]*
- [E] *Is it not stated on Tannaite authority: “No lay person shall eat the sacred donations... The priests must not allow people to profane the sacred donations that are set aside for the Lord or to incur guilt requiring a penalty payment by eating such sacred donations, for I the Lord make them sacred” (Lev. 22:10, 15-16). “Profaning” encompasses one who anoints or who drinks.*
- [F] *Said R. Yohanan, “There is no reference to anointing here.” [Anointing is not encompassed by eating.]*
- [G] *Said R. Abba Meri, “If there is no reference to anointing here, then there is no reference to drinking. [That is impossible, for] for if Lev. 22:10 did not forbid eating and drinking, how could two separate scriptural prohibitions combine to form a single infraction?”*

[H] How do we know on the basis of a clear demonstration from Scripture that one who anoints with second-tithe oil outside of Jerusalem has violated the positive commandment to eat second-tithe produce within the city limits?

[I] R. Eleazar in the name of R. Simai, ““When you have set aside in full the tenth part of your yield... you shall declare before the Lord your God, I have cleared out the consecrated portion from the house... I have not cleared out any of it while I was unclean, and I have not deposited any of it with the dead’ (Dt. 26:12-14). *How shall we interpret this statement in context?* If it means to prohibit acquiring a casket or shrouds for the deceased — which cannot be purchased with consecrated funds since they cannot be eaten by the living, the phrase is superfluous. For if it is forbidden to use second-tithe money to buy something prohibited for the living, then surely it is forbidden to make such a purchase for the dead. What is permitted for the living but forbidden for the dead? The verse must refer to anointing with oil in the status of second-tithe . [Anointing with second-tithe oil outside the walls of Jerusalem would represent a violation of the positive commandment to consume second-tithe.]”

[II:1 A] How is it so that second-tithe is permitted for eating and drinking and anointing; for eating that which is normally used for eating?

[B] We do not require the farmer to eat bread that was moldy, vegetable peelings, or a cooked dish that has lost its appetizing appearance.

[C] And so too if the farmer wanted to eat raw beets of second-tithe or a bowl of raw wheat of second-tithe , we do not pay attention to him, [These are inedible.]

[III:1 A] How is it so that it is for anointing with that which is normally used for anointing?

[B] We do not require the farmer to drink mixtures of oil and brine or of vinegar and bring or wine with heavy sediment.

[C] Someone suffering with a toothache should not swill consecrated vinegar through his teeth and then spit it out [for that would not amount to drinking second-tithe liquid]. But he may swill the vinegar through his teeth and then swallow it, soaking his teeth in vinegar however necessary and without hesitation.

[D] Someone suffering from a sore throat should not gargle with consecrated oil and spit it out, [that would not amount to drinking

second-tithe liquid]. But he may pour a large quantity of oil into a mixture of oil and brine and swallow it.

- [IV:1 A] Second-tithe is permitted for eating and drinking and anointing; for eating that which is normally used for eating, for anointing with that which is normally used for anointing. One may not anoint with wine or vinegar. But he anoints with oil:**
- [B] Someone suffering with a sore on his head or who has scalp eczema may anoint the sores with oil but not with wine or vinegar [since they are not ordinarily used in that manner].
- [C] Wine in the status of second-tithe that one spiced — he is forbidden to anoint with it. Oil in the status of second-tithe that one spiced — he is permitted to anoint with it
- [D] What’s the difference between wine and oil?
- [E] This [the oil] regularly serves that purpose, that [the wine] does not regularly serve that purpose.
- [IV:2 A] R. Yudan raised the question: “Oil in the status of second-tithe that turned rancid [what is to be done with it]?”**
- [B] Said R. Mana, “Since it turned rancid, the status of sanctification has been removed from it.”
- [C] *What sort of a question is this [which produces such an obvious answer]?*
- [D] The case of produce of the seventh year [makes the point important]. Even though it turned rancid, it remains in its status of sanctification.
- [IV:3 A] Simeon bar Ba in the name of R. Haninah: “He who [on the Sabbath] whispers [over a wound] puts oil on the head [of the injured party] and whispers, but this is on condition that he not put the oil on by hand or with a utensil.”**
- [B] R. Jacob bar Idi, R. Yohanan in the name of R. Yannai: “One may put it on whether by hand or by a utensil.”
- [C] *What is at issue between them? Oil.*
- [D] *He who says that* one may put it on whether by hand or with a utensil holds that the oil is repulsive [so it is better to avoid touching it].
- [E] *He who says that* one may put the oil on his head [neither by hand nor by a utensil] maintains that it is not repulsive.

- [F] Said R. Jonah, “At issue between them is oil in the status of second-tithe . *He who said* one may apply it whether by hand or by a utensil maintains the view that it is forbidden to use oil in the status of second-tithe for the present purpose. [Removing the oil with a utensil means some of it will go to waste.]
- [G] “*He who maintains that* one may apply oil on one’s head and whisper regards doing so with oil in the status of second-tithe as permitted.”
- [H] [Since the assumption of the foregoing is that this may be done on the Sabbath,] said R. Yosé, “And is it the case that whatever may be done on the Sabbath may be done with produce in the status of second-tithe , and whatever is forbidden on the Sabbath is also forbidden with produce in the status of second-tithe?”
- [I] “*And lo, it has been taught: A woman [on the Sabbath] may rinse herself or her child off with wine on account of sweat [T. Shab. 12:13E]*, but as to doing so with heave-offering, it is forbidden. Now the same rule applies to heave-offering and to produce in the status of second-tithe. [Accordingly, this may be done on the Sabbath, but it may not be done with produce in the status of second-tithe .]”
- [J] *What is the upshot of the matter?*
- [K] That is the case so long as the deed not be done on the Sabbath as it is done on an ordinary day.
- [V:1 A] **Fish were cooked with leeks [in the status of] second-tithe and [the leeks] increased [the fish’s value] — the increase is [divided] proportionately:**
- [B] *Said R. Hoshaiah, “This cannot represent the view of R. Judah, for we have learned in the Mishnah: R. Judah permits [for the consumption of a non-priest] a pickled fish [which was cooked with an onion in the status of heave-offering], for the purpose [of the onion] is only to absorb the stench [of the fish, and not to flavor the brine] [M. Ter. 10:1]. [The consecrated status of an ingredient passes to the main mixture only if the intention was to flavor that mixture (Brooks). The Mishnah holds that the mixture takes on some of the special status of the second-tithe leeks, without regard to the intention of the farmer.]”*
- [C] *Rabbis of Caesarea raised the question: “And lo, as to what R. Abbahu said in the name of R. Yohanan, ‘In any mixture that is potentially forbidden [because one ingredient is sanctified,] they assess whether a like amount of onions or leeks [would impart flavor to the*

mixture. If so, the dish takes on the status of the minor ingredient, even if it has imparted no flavor. *That is not in accord with the ruling of R. Judah. R. Judah concedes the case of onions dedicated to the Temple. R. Judah concedes the case of onions grown by an idolater [that they may not be added even to absorb the odor of pickled fish].*”

- [VI:1 A] **[This is the general rule: Any ingredient whose benefit to the mixture is perceptible — the increase in value] is divided proportionately. And any ingredient whose benefit to the mixture is not perceptible — the increase in value is accounted to the second-tithe].**
- [B] Said R. Yohanan, “Whenever an unconsecrated minor ingredient causes an overall increase in volume, **the increase in value] is divided proportionately.** Whenever an unconsecrated minor ingredient causes an overall increase in volume — **the increase in value is accounted to the second-tithe].**”
- [C] R. Simeon b. Laqish said, “Whenever an unconsecrated minor ingredient causes an overall improvement in flavor, **the increase [in value] is divided proportionately.** Whenever an unconsecrated minor ingredient does not cause an overall improvement in flavor — **the increase in value is accounted to the second-tithe].**”
- [D] *A Tannaite rule conflicts with the view of R. Yohanan: **Dough [in the status of] second-tithe that he baked and the value of which consequently increased — the increase is [accounted entirely] to the [dough designated as] second [tithe].** [Yohanan holds that the heat from the wood, which was not consecrated, enlarged the bread’s volume, and any increase in value should be divided proportionately between the loaf and the wood.]*
- [E] Interpret the rule to deal with a case in which the baking did not improve the flavor.
- [F] *A Tannaite rule conflicts with the view of R. Yohanan: **Fish were cooked with leeks [in the status of] second-tithe and [the leeks] increased [the fish’s value] — the increase is [divided] proportionately.** [Yohanan holds that adding the leeks to flavor the broth would not swell the fish itself and enlarge its volume. Increase in value is assigned to the unconsecrated fish alone.]*
- [G] R. Yosé in the name of R. Hoshaiiah: “Interpret the rule to speak of a case in which he cooked the two ingredients until they formed a mass.” [The volume of the fish has been enlarged by the leeks, so any increase in value is divided proportionately.]

- [H] *R. Jonah in the name of R. Hoshaiyah raised the question: “Take the case of cooking this by itself and that by itself and then stirred them together. Would the fish absorb anything other than the flavor of the leeks, or would the leeks absorb anything other than the flavor of the fish?” [The fish would not have swelled and increased in volume. Yohanan would not cure that the added value is divided proportionately.]*
- [I] *The following Tannaite rule differs from the position of R. Yohanan: **A woman who borrowed from her girl friend spice, water, or salt for her dough — lo, they are in the status of the two of them [M. Bes. 5:4].** [These borrowed items will not increase the volume of the dough but will only flavor it. Still, the entire mixture is governed by the status of the minor ingredients,, still owned by the second woman. This contradicts Yohanan’s position that the whole mixture remains the property of the first woman.]*
- [J] Said R. Ba, “The rabbis made rules about holiday limits only to register a rule for commercial law. [The women own their ingredients respectively to show that there is no transfer of title.] You may know that this is so, for there they say in the name of R. Hisda — we don’t know whether this derives from a tradition of based on Tannaite authority — ‘even if the woman baking bread borrowed wood for fuel, still the bread shares the status of the woman who is taking and of the woman who lent her fuel. We reason that the wood adds nothing to the baked product. [This has no bearing on Yohanan’s views.]”
- [K] *A Tannaite teaching differs from the view of R. Simeon b. Laqish: **“A cooked dish of [consecrated] produce which was seasoned with unconsecrated spices — the increase [in value] is assigned to the produce in the status of second-tithe [T. M.S. 1:16].***
- [L] Interpret the rule to speak of a case in which the spices did not improve the flavor of the broth.
- [M] *But is it not taught on Tannaite authority: **But [a cooked dish of] unconsecrated produce which was seasoned with spices [in the status of] second-tithe — its second-tithe [ingredients] may not be released [from their sanctified status] through redemption [T. M.S. 1:16].***
- [N] *There is no contradiction between the two halves of the Tosefta’s rule. In the opinion of R. Yohanan the second ruling deals with a case in which the volume of the dish increased, [and the minor consecrated ingredients contribute to the cooked food. In the view of R. Simeon b. Laqish, the second ruling addresses a case in which the spices*

improve the flavor, so the minor consecrated ingredients contribute to the overall dish.

2:2

- [A] R. Simeon says, “They do not anoint in Jerusalem with oil designated as second-tithe.”
- [B] But the sages permit [them to anoint with oil declared second-tithe].
- [C] They [sages] said to R. Simeon, “If [the ruling] is lenient in regards to heave-offering, which is subject to a more stringent rule [by allowing priests to anoint with it], should we not rule leniently for second-tithe, which is subject to a less stringent rule [and allow the farmer to anoint with it]?”
- [D] [R. Simeon] said to them, “No, if [the ruling] is lenient in regards to heave-offering, which is subject to a more stringent rule, in a situation where it was lenient in regards to vetches and-fenugreek should we be lenient in regards to second-tithe in a situation where [the law] was not lenient in regards to vetches and fenugreek?”
- [E] Fenugreek that is [in the status of] second-tithe must be eaten [when] sprouting [and is preserved in cleanness].
- [F] And [fenugreek that is declared] heave-offering —
- [G] the House of Shammai say, “Anything done with it is [done] in [a state] of cleanness, except for shampooing with it.”
- [H] And the House of Hillel say, “Anything done with it is [done] in [a state of] uncleanness, except for soaking it.”
- [I] Vetches that are [in the status of] second-tithe must be eaten [when] sprouting.
- [J] But they enter Jerusalem and come out [i.e., once they have been brought into Jerusalem they may be taken out again].
- [L] [If] they become unclean ñ
- [M] R. Tarfon says, “Let them be divided up among [pieces of] dough,”
- [N] and sages say, “Let them be deconsecrated.”
- [O] And [as for vetches that are declared] heave-offering —
- [P] the House of Shammai say, “They soak and crush [them] in [a state of] cleanness, and they feed [them to cattle] in [a state of] uncleanness,”

- [Q] and the House of Hillel say, “They soak [them] in [a state of] cleanness and crush [them] and feed [them to cattle] in [a state of] uncleanness.”
- [R] Shammai says, “Let them be eaten dry.”
- [S] R. Aqiba says, “Anything done with them is [done] in [a state of] uncleanness.”
- [I:1 A] [They said to R. Simeon, “If the ruling is lenient in regards to heave-offering, which is subject to a more stringent rule by allowing priests to anoint with it, should we not rule leniently for second-tithe, which is subject to a less stringent rule and allow the farmer to anoint with it?”]
- [A] What lenient ruling did they make in regard to heave-offering?
- [B] *It is in line with that which has been taught as a Tannaite rule: A priest may anoint himself with oil in the status of heave-offering and [afterwards] bring an Israelite member of his household and roll [the Israelite] around on his [i.e., the priest’s] back [so that the Israelite is anointed with the oil]. [T. Ter. 10:10] And he need not concern himself [that the oil that is rubbed off on the Israelite has been misused].*
- [C] Said R. Yohanan, “Here [Simeon] has responded with a ruling by scribes [R. Simeon said to them, “No, if the ruling is lenient in regards to heave-offering, which is subject to a more stringent rule, in a situation where it was lenient in regards to vetches and-fenugreek should we be lenient in regards to second-tithe in a situation where [the law] was not lenient in regards to vetches and fenugreek?” in working out a ruling of the Torah [which specifies the types of anointing that are permitted by Dt., 26:12-14].
- [II:1 A] [Fenugreek that is in the status of second-tithe must be eaten when sprouting and is preserved in cleanness]: *This is the sense of the Mishnah’s statement:*
- [B] It is permitted to be eaten only during the sprouting phase. [Later on it gets dry and cannot be eaten, it is sold and the proceeds are used to buy edible food.]
- [III:1 A] [And [fenugreek that is declared] heave-offering — the House of Shammai say, “Anything done with it is [done] in [a state] of cleanness, except for shampooing with it.” And the House of Hillel say, “Anything done with it is [done] in [a state of] uncleanness, except for soaking it.”] *What is at issue between the Houses?*

[B] Said R. Jonah, “Drawing [dried fenugreek out of water in which it has been soaking] *is at issue between them*. [The soaking has imparted susceptibility to uncleanness.] The House of Shammai say, ‘One draws the fenugreek out of water with cultically clean hands,’ and the House of Hillel say, ‘One draws the fenugreek out of water with cultically unclean hands.’” [The fenugreek that was soaked is soft enough to eat, so one must not impart uncleanness to it, so the House of Shammai. The House of Hillel say that the fenugreek was dried out and no longer edible, and even if softened thereafter, is not susceptible to uncleanness.]

[C] **And [fenugreek that is declared] heave-offering — the House of Shammai say, “Anything done with it is [done] in [a state] of cleanness, except for shampooing with it.” And the House of Hillel say, “Anything done with it is [done] in [a state of] uncleanness, except for soaking it.”** *It has been taught as a Tannaite law:* This is the ruling of R. Meir, but the ruling of R. Judah maintains, “The House of Shammai say, ‘Anything done with it is done in a state of cleanness except for using it as shampoo.’ [It is already useless as food.] And the House of Hillel say, ‘Anything that is done with it is done in a state of uncleanness, except for soaking it.’”

[D] *What is at issue between the Houses?*

[E] Said R. Matenaya, “Softening the fibers *is at issue between them*. The House of Shammai say, ‘Softening the fibers is done with hands that are cultically clean.’ And the House of Hillel say, ‘Softening the fibers is done with hands that are cultically unclean.’”

[IV:1 A] **Vetches that are [in the status of] second-tithe must be eaten [when] sprouting. But they enter Jerusalem and come out [i.e., once they have been brought into Jerusalem they may be taken out again].**

[B] They may be taken out of Jerusalem only in order to prepare them as dough and to return them, once they have been baked, for eating.

[C] *The rule of the Mishnah accords with the position of Rabban Simeon b. Gamaliel, for Rabban Simeon b. Gamaliel says, “Also: produce [in the status of second-tithe] enters Jerusalem and goes out [again]” [M. M.S. 3:5].* [It is treated like coins even though it may spoil before it is eaten within Jerusalem.]

[D] It represents the views of all parties. Here we deal with a lenient ruling that sages made for vetches, in particular for dough made from vetches, in particular for dough made of second-tithe produce. [The

lenient ruling that permits taking food out of Jerusalem applies only to vetch dough, which is not real food, and only to vetches in the status of second-tithe, usually inedible.]

- [V:1 A] **[If] they become unclean ñ R. Tarfon says, “Let them be divided up among [pieces of] dough,” and sages say, “Let them be deconsecrated.”** [Dividing the dough into pieces too small to qualify as second-tithe so none of the food that is second-tithe goes to waste.]
- [B] R. Gurion in the name of R. Yosé b. Hanina: “The ruling of R. Tarfon [holds that] they do not redeem Holy Things that have become unclean only in order to feed them to the dogs.”
- [C] Said R. Jonah, “[In light of sages’ ruling, **Let them be deconsecrated,**] apparently they do not redeem unclean consecrated food that is suitable for people to eat so as to feed that food to animals. But people may redeem unclean, consecrated food that is not suitable for human consumption. [The food would routinely serve as animal fodder.]”
- [D] *R. Isaac b. Elishav asked the question:* “If consecrated food was rendered unclean in the provinces, would not R. Tarfon still rule that] it may not be redeemed, for they do not redeem Holy Things that have become unclean only in order to feed them to the dogs?”
- [E] [Brooks:] *Said R. Jonah, “Is everything that is rendered unclean rendered unclean to the same extent?”* [No. Tarfon would be wrong to insist that his rule applies in all cases.]

2:3

- [A] **Unconsecrated coins and coins [designated as] second-tithe which [were mixed together] and [then] were scattered (**
- [B] **whatever he collects is collected as second-tithe until he has restored [the value of the lost second-tithe],**
- [C] **and the remainder [of what he collects] is unconsecrated.**
- [D] **If he mingled [consecrated and unconsecrated coins together] and scooped them up [by the handful] —**
- [E] **[he deems what he has in each handful to be consecrated or unconsecrated] by proportion.**
- [F] **This is the rule: Those [items] which are collected [one by one] [are accounted first] as second-tithe. Those [items] which are intermingled [and scooped up in bunches are deemed to be consecrated or unconsecrated] by proportion.**

- [G] A *Sela* that is second-tithe and [an] unconsecrated [*Sela*] which were confused [such that the consecrated coin could not be identified] —
- [H] he brings a *sela*'s worth of [copper] coins and says,
- [I] “The *Sela* that is second-tithe, wherever it may be, is deconsecrated with these coins.”
- [J] And [after consecrating the copper coins] he selects the finer [coin] between [the two *sela*'s]
- [K] and deconsecrates [the copper coins] with it.
- [L] For they ruled, “They deconsecrate silver with copper [only] out of necessity. But [if they do deconsecrate silver with copper] it may not remain so, but they must immediately deconsecrate [the copper coins] with silver [coins].”
- [M] The House of Shammai say, “One should not convert his [silver] *sela* [consecrated as second-tithe] into gold *dinars*.”
- [N] And the House of Hillel permits [converting silver coins for gold coins].
- [O] Said R. Aqiba, “I exchanged silver [coins] for gold *dinars* for Rabban Gamaliel and R. Joshua.”
- [I:1 A] [Unconsecrated coins and coins designated as second-tithe which were mixed together and then were scattered ñ whatever he collects is collected as second-tithe until he has restored the value of the lost second-tithe]: Said R. Zeira, “That ruling applies up to the value of the second-tithe in the mixture, lest the remaining coins be lost. The coins that are in hand will thus replace the second-tithe.”
- [B] Said R. Zeira, “And he must stipulate, saying, ‘If the coins below on the ground are second-tithe, then the ones in my hand replace them.’”
- [C] Said R. Jonah, “The rule that the first coins that are collected are assigned to second-tithe applies if the person collects the coins hither and yon. But if he collected the coins as if the mixture were divided by a straight line, it is as if he had made a heap of two types of coins and picked them up by the fistful. [Then they are divided proportionately.]”
- [D] R. Yosé in the name of R. Pedaiyah, R. Jonah in the name of R. Hezekiah: “Intermingling [so that one divides by proportion] applies only to oil and wine alone.”
- [E] R. Yohanan said, “One can scoop up a mixture of consecrated and unconsecrated produce and to divide by proportion applies only if the

items are smaller] than olives that intermingle [into a homogenous batch.]”

[F] *The Mishnah contradicts R. Yohanan: If he mingled [consecrated and unconsecrated coins together] and scooped them up [by the handful] — [he deems what he has in each handful to be consecrated or unconsecrated] by proportion.*

[G] *Interpret that statement to apply to coins that are smaller than olives.*

[II:1 A] **This is the rule: Those [items] which are collected [one by one] [are accounted first] as second-tithe. Those [items] which are intermingled [and scooped up in bunches are deemed to be consecrated or unconsecrated] by proportion:**

[B] R. Yosé b. R. Bun in the name of R. Huna: “The Tannaite rule indicates that only those coins that are intermingled and scooped up by the fistful are to be subject to division by proportion. [Coins picked up one by one, not matter how mixed, are otherwise. The first coins that are taken up are counted toward the value of the second-tithe that is lost in the mixture.]

[III:1 A] **A *Sela* that is second-tithe and [an] unconsecrated [*Sela*] which were confused [such that the consecrated coin could not be identified] — he brings a *sela*’s worth of [copper] coins and says, “The *Sela* that is second-tithe, wherever it may be, is deconsecrated with these coins.” And [after consecrating the copper coins] he selects the finer [coin] between [the two *sela*’] and deconsecrates [the copper coins] with it.**

[B] *It was taught as a Tannaite statement: Ben Azzai says, “[In order to effect deconsecration properly, the householder must use] two [selas of copper coins]” [T. M.S. 2:5].*

[C] R. Zeira said, “In a dream I saw Ulla bar Ishmael eat a fat piece of meat [since he knew what lay behind Ben Azzai’s strict ruling.] The next day I came and asked him, ‘Why is it that **in order to effect deconsecration properly, the householder must use] two [selas of copper coins]?’” He said to me, ‘Since you instruct him in that manner, he will exert himself to redeem the one [silver second-tithe sela.]’**

[D] Hezekiah said, “[When carrying out the double procedure, first deconsecrating one of the two silver selas with copper coins, then reconsecrating one of them in exchange for copper coins, the householder may act in his best interests.] When he deconsecrates one

of the silver coins, [he may chose the finer coin] but assign it a low valuation, and when he redeems the copper coins with one of the now-deconsecrated silver selas, he may choose the inferior coin but give it a high valuation.” [He minimizes the mount of produce he will have to eat as second-tithe in Jerusalem.]

- [E] *But have we not learned in the Mishnah: **And [after consecrating the copper coins] he selects the finer [coin] between [the two sela’] and deconsecrates [the copper coins] with it.*** Yet [according to Hezekiah] he may choose the inferior coin but give it a high valuation!
- [F] Said R. Jonah, “I saw [the Tannaite rule simply assumed that] this finer silver coin was the second-tithe coin [lost in the confusion. But in less certain circumstances the householder would be free to choose and reconsecrate the inferior coin.]”
- [G] One way or the other [the silver sela selected for redemption by copper coins] does not finally become deconsecrated [since one of the silver coins is immediately used to redeem the copper coins.]
- [H] Said R. Jonah, “[In redeeming one of the silver coins for copper] he must not intend to deconsecrate it permanently. You may know that this is *so for we have learned in the Mishnah: **They deconsecrate silver with copper [only] out of necessity. But [if they do deconsecrate silver with copper] it may not remain so, but they must immediately deconsecrate [the copper coins] with silver [coins].***”
- [I] R. Haggai said before R. Zeira, Menahem in the name of R. Yohanan: “The rule **Second-tithe of doubtfully tithed produce ... do they redeem silver for silver, copper for copper, or even with a baser metal, silver for copper or copper for produce [M. Dem. 1:2]** is so for second-tithe of certainly tithed produce when it is necessary [to effect a redemption, for instance in the case of confusion set forth here].”
- [J] *But have we not learned in the Mishnah: **They deconsecrate silver with copper [only] out of necessity?** Lo, that excludes redeeming silver coins with silver coins [contrary to M. Dem. 1:2]!*
- [K] R. Abba bar Kohen said before R. Jonah, R. Aha in the name of R. Yohanan: “As for the rule, **Second-tithe of doubtfully tithed produce ... do they redeem silver for silver, copper for copper, or even with a baser metal, silver for copper or copper for produce [M. Dem. 1:2]**, if the farmer transgressed and redeemed coins with a certain

status as second-tithe, even though this action is improper, the coins are deconsecrated.”

- [L] R. Yudan b. Pazzi, R. Simeon bar Abba in the name of R. Yohanan: “As for the rule, **Second-tithe of doubtfully tithed produce ... do they redeem silver for silver, copper for copper, or even with a baser metal, silver for copper or copper for produce [M. Dem. 1:2]**, if the farmer transgressed and redeemed coins with a certain status as second-tithe, even though this action is improper, the coins are deconsecrated.”
- [M] *It was taught as a Tannaite rule: They deconsecrate silver with copper [only] out of necessity, but not gold coins with silver coins. R. Eleazar b. R. Simeon says, “Just as they deconsecrate silver [coins] with copper [coins], so may they deconsecrate gold [coins] with silver [coins].” Rabbi said to him, “Why do they deconsecrate silver [coins] with copper [coins]? Because they deconsecrate silver [coins] with gold [coins]. They may not deconsecrate gold [coins] with silver [coins] because they do not deconsecrate gold coins with copper [coins].” R. Eleazar b. R. Simeon says, “Gold [coins consecrated] as second-tithe — they deconsecrate them with [copper] coins in Jerusalem” [T. M.S. 2:7.] From the opinions of both of them it follows that they deconsecrate silver coins with gold coins but may not deconsecrate silver coins with copper coins [except in an emergency].*
- [IV:1 A] **The House of Shammai say, “One should not convert his [silver] sela^s [consecrated as second-tithe] into gold *dinars*.” And the House of Hillel permits [converting silver coins for gold coins]:**
- [B] Said R. Yohanan, “The House of Shammai stated their rule only after the fact, but as to the rule prevailing de novo, also the House of Shammai concur. [One may not use gold coins to deconsecrate second-tithe money after the consecrated status had been transferred to other coins. But in the initial deconsecration of second-tithe produce, the House of Shammai say one may use gold coins.]”
- [C] *What is the scriptural basis for the position of the House of Shammai? “You may convert them into silver” (Dt. 14:25). Silver and not gold. [Gold is not specified as a valid metal for the exchange. Once silver has been acquired in the trade for the second-tithe produce, one must transport it immediately.]*
- [D] *And might I say, silver and not copper? Have we not learned in the Mishnah: One who exchanges for a [silver] sela coins [sanctified as] second-tithe — the House of Shammai say, “The whole sela[‘s*

worth of coins to be given in exchange] [must consist] of [copper] coins.” And the House of Hillel say, “[The *sela*’s worth of coins to be given in exchange may consist] of one *sheqel* [= half *sela*] of silver [coins] and one *sheqel* of [copper] coins” [M. M.S. 2:8]? *And we reasoned that one may rule: The sense of the Mishnah is, Someone outside of Jerusalem who exchanges small common coins in the status of second-tithe that are all together worth a sela for larger silver coins, deconsecrating the smaller coins, the House of Shammai say, “The whole sela[’s worth of coins to be given in exchange] [must consist] of [copper] coins.”* [One is permitted to deconsecrate second-tithe produce with any type of coin, including copper. But once that status has been transferred to silver coins, one is forbidden to transfer the consecrated status further.]

- [E] *How now?* [The House of Shammai apparently allow the transfer to consecrated status from copper to silver but not from silver to gold. They reason that] silver and copper are the same thing as common currency, referred to in common as silver, but gold is not coin but a commodity.
- [F] R. Simeon b. Laqish said, “The House of Shammai stated their rule both after the fact, and as the rule prevailing de novo, and they differ [and do not allow the use of gold coins at all.]”
- [G] *What is the scriptural basis for the position of the House of Shammai?* “You may convert them into silver” (Dt. 14:25) — one must bring to Jerusalem the silver to which the status of second-tithe was initially transferred but one may not transport other coins.
- [H] *But have we not learned in the Mishnah,:* **One who exchanges for a [silver] *sela* coins [sanctified as] second-tithe — the House of Shammai say, “The whole *sela* [’s worth of coins to be given in exchange] [must consist] of [copper] coins.” And the House of Hillel say, “[The *sela*’s worth of coins to be given in exchange may consist] of one *sheqel* [= half *sela*] of silver [coins] and one *sheqel* of [copper] coins”** [M. M.S. 2:8]? *And we reasoned that one may rule: The sense of the Mishnah is, Someone outside of Jerusalem who exchanges small common coins in the status of second-tithe that are all together worth a sela for larger silver coins, deconsecrating the smaller coins, the House of Shammai say, “The whole *sela*’s worth of coins to be given in exchange] [must consist] of [copper] coins.”*
- [I] *How now?* The House of Shammai [apparently allow deconsecration of second-tithe produce for copper coins even though scripture speaks of using silver coins]. They read “You may convert them into

silver” (Dt. 14:25) to mean, you may convert them until you have silver.

2:4

- [A] One who exchanges for a [silver] *sela* coins [sanctified as] second-tithe —
- [B] the House of Shammai say, “The whole *sela*’s worth of coins to be given in exchange] [must consist] of [copper] coins.”
- [C] And the House of Hillel say, “[The *sela*’s worth of coins to be given in exchange may consist] of one *sheqel* [= half *Sela*] of silver [coins] and one *sheqel* [= half *Sela*] of [copper] coins.”
- [D] R. Meir says, “They do not deconsecrate silver and produce with silver.”
- [E] But the sages permit [the deconsecration of silver and produce with silver].
- [F] One who exchanges a [silver] *Sela* [sanctified as] second-tithe [for other coins] in Jerusalem —
- [G] The House of Shammai say, “The whole *Sela* [he receives must consist] of [copper] coins.”
- [H] And the House of Hillel say, “[The *Sela* he receives may consist] of one *sheqel* of silver [coins] and one *sheqel* of [copper] coins.”
- [I] The disputants before the sages say, “[The *Sela* may consist] of three silver *dinars* and [one] *dinar* of [copper] coins.”
- [J] R. Aqiba says, “[The *Sela* may consist] of three silver *dinars* and a quarter; [of the fourth *dinar* must consist of] [copper] coins.”
- [K] R. Tarfon says, “[The fourth *dinar* may consist of] four *aspers* of silver [equal to four-fifths of the *denar*’s value and the remaining *asper* must be of copper].”
- [L] Shammai says, “Let him deposit it in a shop and consume its value [in produce].”
- [M] One who has some dependents [in a state of] uncleanness and some [dependents in a state of] cleanness lays down a [consecrated] *sela* and says, “Whatever the clean [dependents] drink, this *sela* is deconsecrated with it.” It turns out that the clean [dependents] and the unclean [dependents] [may] drink from [the liquid contained in] the same jar.
- [I:1 A] [R. Meir says, “They do not deconsecrate silver and produce with silver.” But the sages permit [the deconsecration of silver and produce with silver]. R. Simeon b. Laqish said, “What is at issue

between R. Meir and sages? They differ on deconsecrating produce valued at less than a silver sela. [Sages allow the householder to combine produce and some consecrated coins to bring the total value to one sela, which is deconsecrated for silver and brought to Jerusalem]. But as to deconsecrating produce valued at a silver sela, sages concur that the produce should be deconsecrated by itself. No further coins are involved.] With a half dinar of silver coins and a half dinar of produce, one may combine them and deconsecrated the round sum of one dinar for consumption in Jerusalem. But if one has a full dinar of silver coins and a dinar's worth of produce, one may not combine them. How much more so is it forbidden to do so with two dinars of silver and two dinars' worth of produce."

[II:1 A] [The disputants before the sages say, "[The Sela may consist] of three silver *dinars* and [one] *dinar* of [copper] coins." Who are the disputants before the sages? Ben Azzai and Ben Zoma.

[B] Who are the disciples? Hanina b. Hakhinai and R. Eleazar b. Matia.

[C] The holy community: R. Yosé b. Hammeshullam and R. Simeon b. Menasia.

[III:1 A] Shammai says, "Let him deposit it in a shop and consume its value [in produce]."

[B] *What is the reasoning behind Shammai's position?*

[C] He might forget and treat the funds as secular.

[IV:1 A] One who has some dependents [in a state of] uncleanness and some [dependents in a state of] cleanness lays down a [consecrated] *sela* and says, "Whatever the clean [dependents] drink, this *sela* is deconsecrated with it." It turns out that the clean [dependents] and the unclean [dependents] [may] drink from [the liquid contained in] the same jar: *How are we to interpret this matter?*

[B] If [before the entire family begins to drink from the jug] the household makes his statement [that only the part of the jug drunk by his clean children is consecrated], the wine in the jug would already form a mixture of consecrated and unconsecrated wine and therefore those in a state of uncleanness would be forbidden to drink. [If the householder makes his declaration effective from the moment they have drunk, retroactively they will have drunk unconsecrated wine [for it becomes second-tithe wine only after they drink.]

- [C] *But thus are we to interpret this matter:* the father makes the declaration that the wine is consecrated from the moment before they drink of it, the consecration takes effect on their drinking it.
- [D] This deals with a case in which the children have contracted corpse-uncleanness, for a clay utensil does not contract uncleanness from its outer surfaces, but the children are unclean with the flux-uncleanness, for the one unclean with flux-uncleanness imparts uncleanness through moving an object. *Not in that case does the rule apply.*
- [E] It is a case in which there is someone else to pour the wine into cups, but if someone else can pour the wine, even though with flux uncleanness may participate.

YERUSHALMI MAASER SHENI

CHAPTER THREE

3:1

- [A] A man may not say to his friend,
- [B] “Take this produce [in the status of second-tithe] up to Jerusalem [in order] to divide [it between us].”
- [C] But he says [to the friend],
- [D] “Take this [produce] up [to Jerusalem] so that we may eat of it and drink of it [together] in Jerusalem.”
- [E] Truly they give [produce] to one another as a gift.
- [I:1 A] A man may not say to his friend:
- [B] What is the difference between saying to him, **so that we may eat of it and drink of it [together] in Jerusalem**, and saying to him “Take this produce [in the status of second-tithe] up to Jerusalem [in order] to divide [it between us]”?
- [C] R. Zeira in the name of R. Jonathan: “This is one of the laws that are obscure.”
- [I:2 A] *There we learned in the Mishnah: One who says to his worker, “Here is an issar for you [as a gift]” and “Gather vegetables of the Sabbatical year for me today “ — his wage is permitted, [that is, this money is exempt from the restrictions of the Sabbatical year. Since he gave this issar to the worker as a gift and did not explicitly exchange it for the produce, the money does not take on the status of the produce]. [If, however, he said,] “In return for this [issar,] gather vegetables for me today” — his wage is forbidden [that is, this money is subject to the restrictions of the Sabbatical year. Since he specified that this money was payment for the produce, the coin is regarded as money received from the sale of produce of the Sabbatical year]. [As regards] one who took a loaf of bread [worth] a dupondion from the baker [and said,]*

“When I gather vegetables [of the Sabbatical year] from the field I will bring you some” — [this exchange of produce] is permitted. [Since the customer did not specify that this produce constitutes payment of the *dupondion* that he owes the baker, he has not used produce of the Sabbatical year to discharge a debt]. [But if] he simply bought [the loaf of bread on credit, thereby incurring a debt to the baker,] he may not [later] pay [the baker] with money [received from the sale of produce] of the Sabbatical year. For they do not discharge a debt with money [received from the sale of produce] of the Sabbatical year [M Shebiit 8:4].

- [B] What is the difference between **and “Gather vegetables of the Sabbatical year for me today”** and **“In return for this [*issar*,] gather vegetables for me today”**?
- [C] R. Abin in the name of R. Yosé b. Hanina: “This is one of the laws that are obscure.”
- [I:3 A] *There we learned in the Mishnah: A man [on the Sabbath] asks for jugs of wine or oil from his fellow, provided that he does not say to him, “Lend [them] to me” [M. Shab. 23:1].*
- [B] What is the difference between **“Lend [them] to me”** *and asking for them*?
- [C] R. Zeira in the name of R. Jonathan: “This is one of the laws that are obscure.”
- [D] As to bread baked by gentiles, R. Jacob bar Aha in the name of R. Jonathan: “This is one of the laws that are obscure.”
- [E] *R. Yosé raised the question before R. Jacob bar Aha, “What is the meaning of, ‘one of the laws that are obscure’?”*
- [F] “This is what I say: In a locale where Israelite-baked bread is readily available, it is logical that gentile bread should be forbidden. But the sages ruled on the basis of obscure grounds and permitted it. Or In a locale where Israelite-baked bread is not readily available, it is logical that gentile bread should be permitted, but the sages ruled on the basis of obscure grounds and forbade it.”
- [G] Said R. Mana, “But do we act on obscure grounds and impose a prohibition [on what is logically permitted]?”
- [H] “And isn’t bread covered by the prohibition of eating food cooked by gentiles? And thus do I say: ‘In a locale in which Israelite cooking is readily available, it is logical that gentile cooking should be forbidden,

but the sages ruled on the basis of obscure grounds and permitted it — all to sustain life.”

[I] *The rabbis of Caesarea in the name of R. Jacob bar Aha* ruled in accord with him who permits Israelites to buy bread baked by gentiles, on condition that it is bought at a bakery. But we do not accept this ruling.

[IV:4 A] *It was taught as a Tannaite rule:* A person in Jerusalem should not say to his fellow. “Bring this jug of wine from here to there were we shall divide it.” [This would appear to be a salary for moving the jug.]

[B] *Said R. Eleazar, “This represents the judgment of R. Judah and R. Nehemiah. How do we interpret the circumstance in which they forbid this exchange? If it is a case comparable to one in which he says, ‘Here is this for you, and you give me that in exchange,’ in the opinion of all parties such an explicit exchange is forbidden. If it is a case in which he says, ‘Give me and I shall give you,’ in the opinions of all parties such an exchange is permitted. But this is how we shall interpret the circumstance of the exchange:* he says, ‘Give me that produce, I certainly promise to give you produce in exchange after I harvest it.’ R. Judah and R. Nehemiah prohibit that arrangement for they say, ‘Vegetables of the field are not abundant [so it’s a promised payment, not a gift],’ and rabbis permit on the grounds that vegetables of the field are abundant.”

[V:1 A] [A man may not say to his friend, “Take this produce [in the status of second-tithe] up to Jerusalem [in order] to divide [it between us].” But he says [to the friend], “Take this [produce] up [to Jerusalem] so that we may eat of it and drink of it [together] in Jerusalem.”] Once the friend has brought the produce to Jerusalem, what is the law as to one saying to the other, “Take your share and I’ll take mine?” What is the law as to his saying to him, “Take this jug of wine and we shall eat from the jug of oil that I have there”? Does the same rule apply to dividing the tithe of cattle, after it has been transported to Jerusalem?

[B] Second-tithe, since selling is explicitly forbidden, is subject to the rule that such gifts are permitted. But as to the tithe of cattle, since the sale is explicitly forbidden, you couldn’t rule that such gifts are forbidden. Isn’t it obvious that this is permitted?

[C] What is the law for one who says to another, “Bring this unconsecrated domesticated beast or wild animal to Jerusalem and together we shall eat slaughtered meat in the status of tithe of cattle that I have there? [Brooks: if such an exchange could be viewed in payment of a labor

bill, it would be forbidden. If viewed as an exchange of gifts, it would be permitted.]

3:2

- [A] They do not purchase [produce in the status of] heave-offering with money [consecrated as] second-tithe,
- [B] because it [the status of heave-offering] limits [the possibility of] its being used as a food [since it can only be eaten by priests].
- [C] But R. Simeon permits [the purchase of produce in the status of heave-offering with money consecrated as second-tithe].
- [D] Said to them R. Simeon, “If [the ruling] is lenient in regards to peace-offerings, which may be deemed to [be impermissible for consumption under] the laws of refuse, remnant and uncleanness, should we not rule leniently in regards to heave-offering [which is not governed by these laws]?”
- [E] They said to him [i.e., R. Simeon], “If [the ruling] is lenient in regards to peace-offerings, which are permitted for non-priests [to eat], should we rule leniently for heave-offering which is forbidden for non-priests [to eat]?”
- [I:1 A] They do not purchase [produce in the status of] heave-offering with money [consecrated as] second-tithe: *It was taught as a Tannaite statement*, So that the food not be invalidated for eating.
- [B] What is the sense of, invalidated for eating?
- [C] Said R. Jonah, “[If the food has the dual status of second-tithe and heave-offering,] it may be invalidated by the touch of a person who has immersed on account of uncleanness and waits for sunset to complete the process of purification. As to eating it, you cannot do that, for it is unclean [through his touch] in accord with the law of the Torah. And as to redeeming it, you cannot do that, for it is clean by the law of the Torah. That is the sense of “invalidated for eating.”
- [II:1 A] What is the sense of, **because it [the status of heave-offering] limits [the possibility of] its being used as a food?**
- [B] Heave-offering is forbidden to non-priests, food in the status of second-tithe is permitted to non-priests. Heave-offering is forbidden to a person who has immersed on account of uncleanness and waits for sunset to complete the process of purification, food in the status of second-tithe is permitted to a person who has immersed on account of uncleanness and waits for sunset to complete the process of purification.

- [C] Just as the food's status limits the possibility of its being eaten as second-tithe, so that dual status limits the possibility of its being eaten as heave-offering: heave-offering is permitted to one who has suffered a bereavement and not yet buried his dead, second-tithe is forbidden to one who has suffered a bereavement and not yet buried his dead, heave-offering does not require consumption within the walls of Jerusalem, second-tithe does require consumption within the walls of Jerusalem.
- [D] *So we find that it is taught as a Tannaite rule:* Just as the food's status limits the possibility of its being eaten as second-tithe, so that dual status limits the possibility of its being eaten as heave-offering.
- [II:1 A] *It is taught as a Tannaite rule: They do not purchase [produce of the seventh year with money in the status of second-tithe [T. Shebiit 7:1].*
- [B] Said R. Yosé, "That is subject to dispute [**They do not purchase [produce in the status of] heave-offering with money [consecrated as] second-tithe, because it [the status of heave-offering] limits [the possibility of] its being used as a food [since it can only be eaten by priests]. But R. Simeon permits [the purchase of produce in the status of heave-offering with money consecrated as second-tithe].**"]"
- [C] Said R. Jonah, "That represents the position of all parties. [Simeon's dispute with sages deals only with the purchase of food in the status of heave-offering with second-tithe money.] Those that eat heave-offering are alert [to follow the rules of heave-offering]."
- [D] *Responded R. Honiah before R., Mana, "Have we not learned in the Mishnah: An animal set aside for a Passover-offering which was confused with firstlings — R. Simeon says, 'If it is for an association of priests, let them eat it [and need not consider its dual status]' [M. Pes. 9:8]. And a Tannaite formulation was set forth in that connection: [If the animals had already been slaughtered], let them eat the meat in accord with the rules that apply to the most strictly governed animal [the firstling]" [T. Pes. 9:20].*
- [E] He said to him, "Those that eat the Passover sacrifice at its required time are as scrupulous about preparing it and eating it properly as are priests about eating heave-offering. You may know that that is the case, *for we have learned in the Mishnah: They do not roast meat, onions, and eggs, unless there is time for them to be roasted while it is still day [M. Shab. 1:10]. And we also have learned in the Mishnah: They lower the Passover-offering into an oven at dusk [when the fourteenth of Nisan falls on a Friday] [M. Shab. 1:11].*

[The members of the association signed up to share this offering for their Passover] are meticulous. The members of the association are not going to rake the coals on the Sabbath, because if one forgets, another will remind him].

- [II:2 A] R. Joshua b. Levi said, “[When deconsecrating an animal designated as an offering,] they pay the added fifth only when the offering derives directly from the initial consecration at the harvest. [The farmer paid the penalty once. He would not have to pay it later on in transferring the consecrated status to other food or coins.]”
- [B] Said R. Eleazar, “*And so it is taught as a Tannaite rule: ‘If a firstling is of unclean animals, it may be ransomed as its assessment [with one fifth added] (Lev. 27:27). Just as an unclean animal in the status of a firstling is noteworthy for it derives directly from the initial consecration, so they pay the added fifth only when the offering derives directly from the initial consecration at the harvest.*”
- [C] R. Samuel bar Hiyya bar Judah in the name of R. Hanina: “Peace offerings that one purchased with second-tithe money and that were blemished and redeemed — one adds the added fifth [for the peace offering until it is redeemed derived from the initial consecration by the owner.]”
- [D] R. Samuel bar Hiyya bar Judah in the name of R. Hanina: “Peace offerings that one purchased with money set aside for purchasing a Passover sacrifice money and that were blemished and redeemed — one adds the added fifth [for the peace offering until it is redeemed derived from the initial consecration by the owner.]”
- [E] *Said R. Yudan, “One of these rulings is required and one is not required.*
- [F] Said R. Mana, “The ruling on peace offerings that one purchased with money set aside for purchasing a Passover sacrifice money was required, and the ruling on peace offerings that one purchased with second-tithe money and that were blemished and redeemed was not required. The ruling on peace offerings that one purchased with money set aside for purchasing a Passover sacrifice money was required lest someone suppose that since an animal designated as a Passover offering may be reassigned as peace offerings, the entire transaction involves a single act of sanctification, [the status is merely transferred from the Passover offering to the peace offerings]. [There is no need to pay the added fifth. [We require the ruling that requires the added fifth.]”

- [G] Said R. Huna, “The reason for treating as equivalent the Passover sacrifice and peace offerings is provided by R. Samuel, who said, ‘An animal designated as a Passover offering does not serve as a substitute for any other offering.’ Yet he teaches, ‘If one named a substitute for an animal set aside as the Passover offering before the holiday commenced, the first animal retains its status as a Passover offering and is put out to pasture until blemished and then redeemed and the proceeds are used to buy peace offerings. But if one assigns a substitute for it after the holiday commenced, the substitute is classified as peace offerings.’”
- [H] Said R. Mana, “My master did not equate the status of the Passover offering and that of peace offerings. [Even after the holiday begins, the farmer cannot consecrate an animal as a Passover, not through an act of substitution. If one tries to do so, the animal is sanctified in the most common status, as peace offerings.]”
- [I] R. Ba, B. Hiyya in the name of R. Yohanan, “Peace offerings that one purchased with second-tithe money and that were blemished and redeemed — one adds the added fifth [for the peace offering until it is redeemed derived from the initial consecration by the owner — they do not revert to the status they had before as second-tithe.”

[II:3 A] *R. Zeira, R. Hila both in the name of R. Yosé b. Haninah — one said, “When peace offerings are bought with second-tithe funds, the status of tithe is removed. But when heave-offering is purchased with second-tithe money, the status of second-tithe is not removed. The argument from the analogy between the two cases breaks down, for they compare something from which the status of second-tithe has been removed the peace offerings’ with something from which the status of second-tithe has not been removed [the heave-offering].” The other said, “This does not prove anything about the analogy between the two cases. Rather the argument rests on how something from which the status of second-tithe has been removed compares with something from which the status of second-tithe has not been removed.”*

3:3

- [A] **One who has coins [in the status of second-tithe] in Jerusalem,**
 [B] **and needs them [for secular purposes],**
 [C] **and his friend has [unconsecrated] produce [in Jerusalem],**
 [D] **says to his friend,**
 [E] **“Lo, these coins are deconsecrated with your produce.”**

- [F] In consequence, this one [i.e., the friend] must eat his produce in [a state of] cleanness [because it is now in the status of second-tithe],
- [G] but that one [i.e., the farmer] may use his coins for his needs [since they are no longer in the status of second-tithe].
- [H] But he may not say this to an *'am ha'are*[s, unless [the coins were] of doubtful status.
- [I] [One who has] [unconsecrated] produce in Jerusalem and coins [in the status of second-tithe] in the provinces says,
- [J] “Lo, those coins are deconsecrated with this produce.”
- [K] [One who has] coins [in the status of second-tithe] in Jerusalem and [unconsecrated] produce in the provinces says,
- [L] “Lo, these coins are deconsecrated with that produce,”
- [M] provided that the produce is [subsequently] brought up to Jerusalem and eaten [there as second-tithe].
- [N] Coins [in the status of second-tithe] enter Jerusalem and go out [i.e., after they have been brought into Jerusalem they may be taken out again],
- [O] but produce [which is in the status of second-tithe] enters Jerusalem and does not go out [i.e., it must remain in the city until it is consumed].
- [P] Rabban Simeon b. Gamaliel says, “Also: produce [in the status of second-tithe] enters Jerusalem and goes out [again].”
- [Q] [Untithed] produce, the processing [for use as food] of which is completed and which passed through Jerusalem —
- [R] [let produce separated from it as] second-tithe be returned and eaten in Jerusalem.
- [S] [And as for produce] whose processing is not completed [and which passes through Jerusalem],
- [T] such as grapes [being brought] to the winepress or baskets of figs [being taken] to a drying place —
- [U] the House of Shammai say, “[Let produce separated from it as] second-tithe be returned and eaten in Jerusalem.”
- [V] And the House of Hillel say, “Let it be redeemed and [then] eaten in any place.”

- [W] **R. Simeon b. Judah says in the name of R. Yosé, “The House of Shammai and the House of Hillel did not disagree concerning produce the processing of which was not completed, that [produce separated from it as] second-tithe may be redeemed and [then] eaten anywhere.**
- [X] **“About what did they disagree?**
- [Y] **“About produce the processing of which was complete.**
- [Z] **“For the House of Shammai say, ‘Let [produce separated from it as] second-tithe be eaten in Jerusalem.’**
- [AA] **“And the House of Hillel say, ‘Let it be redeemed and eaten in any place.’”**
- [BB] **And [produce separated as second-tithe from] doubtfully-tithed produce enters Jerusalem and comes out, and is [afterwards] redeemed.**
- [I:1 A] **But he may not say this to an *‘am ha’are*[s, unless [the coins were] of doubtful status:**
- [B] But if the coins were certainly in the status of second-tithe , one may not do so, because they do not assigned certainly sanctified items to someone who does not observe the laws of purity.
- [II:1 A] **Rabban Simeon b. Gamaliel says, “Also: produce [in the status of second-tithe] enters Jerusalem and goes out [again] [Brooks: even though it might spoil before being eaten within the city limits].” [But this is permitted] only if it is to make dough and return the dough to Jerusalem to be eaten there].**
- [III:1 A] **...which is completed and which passed through Jerusalem — [let produce separated from it as] second-tithe be returned and eaten in Jerusalem. R. Simeon b. Laqish said, “This is to say they have treated Jerusalem as a courtyard that is privately owned. Just as a private courtyard imposes liability for separating tithes upon produce brought within it, so Jerusalem imposes liability for separating tithes upon produce brought within it.”**
- [B] Said R. Jonah, “In strict logic even private houses found in Jerusalem should not impose liability for separating tithes, since all Israelites equally own Jerusalem. Rather, by this ruling they have treated Jerusalem as a courtyard that is privately owned. Just as a private courtyard takes possession of anything brought within it for the owner, signaling that the owner has taken ownership of the item, so Jerusalem takes possession of produce brought within it.”

[C] Said Rabbi, “That is to say, as to a batch of produce subject to the designation of both first and second-tithe s, if they permitted eating the produce without regard to second-tithe [the first tithe is not yet removed and therefore second-tithe has not come due, still, since this untithed produce has been brought within the walls of Jerusalem, that imposes liability for designating second-tithe , so whoever removes the produce from Jerusalem] is subject to flogging.”

[D] *Responded R. Mana, “But have we not learned in the Mishnah: [And as for produce] whose processing is not completed [and which passes through Jerusalem], such as grapes [being brought] to the winepress or baskets of figs [being taken] to a drying place — the House of Shammai say, “[Let produce separated from it as] second-tithe be returned and eaten in Jerusalem”?* [The Shammaites rule that whether or not the produce is fully processed doesn’t matter. The food is subject to second-tithe because it was brought within the walls.] *Do you then say that [by taking the produce out of Jerusalem and bringing it back, one will always be subject] to a flogging? But there is a strict ruling about Jerusalem’s walls and so too the Shammaites rule strictly about the walls of Jerusalem [which are analogous to a courtyard].”*

[III:2 A] *R. Zeira raised the question: “[If someone brings into Jerusalem untithed but fully processed produce,] and he separated second-tithe for this batch from produce located elsewhere, is the first batch of produce exempt from the separation of second-tithe? Or have the city walls taken possession of that very produce, so that the second-tithe in it may never be taken out of Jerusalem?”*

[B] *R. Jonah raised the question: “[If someone brings into Jerusalem untithed but fully processed produce,] if one declared the whole of the batch as second-tithe for produce in another location, is the whole of the batch taken over by the city walls or is only ten per cent of the batch taken over as second-tithe?”*

[C] [Now what about produce that has not been fully processed and is ot subject to the separation of tithes, such as **such as grapes [being brought] to the winepress or baskets of figs [being taken] to a drying place**, but if they are taken to Jerusalem to be eaten, it is as if they are fully processed.

[IV:1 A] **[And as for produce] whose processing is not completed [and which passes through Jerusalem], such as grapes [being brought] to the winepress or baskets of figs [being taken] to a drying place — the House of Shammai say, “[Let produce separated from it as]**

second-tithe be returned and eaten in Jerusalem.” And the House of Hillel say, “Let it be redeemed and [then] eaten in any place.” R. Simeon b. Judah says in the name of R. Yosé, “The House of Shammai and the House of Hillel did not disagree concerning produce the processing of which was not completed, that [produce separated from it as] second-tithe may be redeemed and [then] eaten anywhere. About what did they disagree? About produce the processing of which was complete. For the House of Shammai say, ‘Let [produce separated from it as] second-tithe be eaten in Jerusalem.’ And the House of Hillel say, ‘Let it be redeemed and eaten in any place.’”

- [B] Said the House of Hillel to the House of Shammai, “Do you know concede to us that produce that is not fully processed [that was brought into Jerusalem] is redeemed as to the second-tithe that inheres and may be eaten any location. So produce processing of which is complete is subject to the same rule.”
- [C] Said to them the House of Shammai, “No, if you have stated that rule concerning produce work on which has not been completed, that one is permitted to declare it ownerless property and to exempt it from tithes entirely, will you say the same of produce on which work is complete, that one is permitted to declare it ownerless property and to exempt it from tithes entirely?”
- [D] Said to them the House of Hillel, “So too produce that is fully processed can be declared ownerless to free them of the obligation of tithing altogether.” Is it really so that one may not avoid liability to tithing by declaring baskets of dates or grapes ownerless? [Certainly not.] This proves that while baskets of dates or grapes that will be eaten are fully processed, if they are declared ownerless, they are no longer subject to tithing.
- [E] Said to them the House of Shammai, “No. If you have stated the rule concerning produce that has not been fully processed, that the farmer can declare the produce ownerless and so exempt them from tithing, will you say the same of produce on which work is complete, that he cannot declare it ownerless and so exempt it from tithes.”
- [F] Said to them the House of Hillel, “So too produce that is fully processed can be declared ownerless to free them of the obligation of tithing altogether.” Is it really so that one may not avoid liability to tithing by declaring baskets of dates or grapes ownerless? [Certainly not.] This proves that while baskets of dates or grapes that will be

eaten are fully processed, if they are declared ownerless, they are no longer subject to tithing.

- [G] Said to them the House of Shammai, “No, if you have stated that rule concerning produce work on which has not been completed, that one is permitted, in behalf of which the farmer can designate second-tithe in another location altogether, will you say the same of produce on which processing is completed, in behalf of which he cannot designate second-tithe from produce in another location altogether.”
- [H] *That resolves the question set forth by R. Zeira:* According to the House of Shammai one may not separate second-tithe on behalf of untithed produce in Jerusalem from another batch of produce in some other locale. Once the first batch has entered the walls, the food is subject to the separation of second-tithe .”
- [I] R. Hanina, R., Jonathan, R., Joshua b. Levi went up to Jerusalem. They happened to have produce, and they wanted to redeem it in the provinces. [Since the city had no more walls, they reckoned they could remove the food from Jerusalem.] *Said to them one old man, “Your fathers didn’t do that. But they declared them ownerless property throwing it outside of the wall and they redeemed the produce there.”*
- [J] *The elder took the position that one must regard the walls of Jerusalem as though they remained standing [so that second-tithe produce could not be removed from the city.] And the rabbis took the position that one must regard the walls of Jerusalem as though they did not remain standing*
- [K] The old man follows the view of R. Eliezer, and the rabbis followed the view of R. Joshua.
- [L] R. Phineas [in the walls of Jerusalem] made second-tithe produce unclean and then redeemed it in Jerusalem, for he wanted to follow the opinion of both R. Eliezer and R. Joshua.”
- [M] R. Jacob bar Idi and R. Joshua b. Levi: “The law is in accord with the disciple.” [That is R. Simeon b. Judah: unprocessed produce is not subject to tithing, even if brought into Jerusalem, the second-tithe separated from it may be redeemed and eaten outside of the city.]
- [IV:2 A] Said R. Zeira, “That is on condition that the produce is in doubtfully tithed status as to whether or not it had been tithed. But if the produce brought to Jerusalem was certainly tithed, even if there was some doubt about its status, the city walls take possession of such produce [and it must be eaten in Jerusalem.]”

3:4

- [A] A tree standing inside [Jerusalem] and [a bough of which] extends outside [the city],
- [B] or standing outside and [a bough of which] extends inside [Jerusalem] —
- [C] that which is above [the center of] the wall and inwards is [deemed to be] within [Jerusalem] [and that which is over the center of] the wall and outward is [deemed to be] outside.
- [D] Buildings containing olive-presses, the entrances of which are inside [Jerusalem] and the contained spaces of which are outside,
- [E] or the entrances of which are outside and the contained spaces of which are inside —
- [F] the House of Shammai say, “It is all [deemed to be] inside,”
- [G] and the House of Hillel say, “That which is opposite [the center of] the wall and inward is [deemed to be] within [and that which is opposite the center of] the wall and outward is [deemed to be] outside.”
- [H] [Temple] chambers built in the holy [precinct] and open to the unsanctified [area] —
- [I] their inner space is [deemed to be] unsanctified and their roofs are [deemed to be] sanctified.
- [J] [Those] built in the unsanctified [area] and open to the sanctified [precinct] —
- [K] their inner space is [deemed to be] sanctified and their roofs are deemed to be unsanctified.
- [L] [Those] built [partly] in the holy [precinct] and [partly] in the unsanctified [area] and open to [both] the sanctified [precinct] and the unsanctified [area] —
- [M] [as for] their inner spaces and their roofs —
- [N] [that part which is] in the sanctified [precinct] and inward is [deemed to be] sanctified [and that part which is] in the unsanctified [area] and outward is [deemed to be] unsanctified.
- [I:1 A] [Buildings containing olive-presses, the entrances of which are inside Jerusalem and the contained spaces of which are outside...] Said R. Yosé, “This is the opinion of R. Aqiba, but sages differ concerning all types of chambers: all types of chambers are ruled in accord with their openings. [If the chamber opens onto sanctified area,

the restrictions of that area apply to the chamber itself, and so with an opening to an unsanctified area.]”

- [B] Said R. Eleazar, “The rules yield strict rulings.”
- [C] *R. Yosé asked*, “What are the strict rulings that flow from this principle?”
- [D] *Said R. Jonah*,, “*It is in line with that which we have learned there: Buildings containing olive-presses, the entrances of which are inside [Jerusalem] and the contained spaces of which are outside, that which is opposite [the center of] the wall and inward is [deemed to be] within [and that which is opposite the center of] the wall and outward is [deemed to be] outside.* In that area people may not slaughter Lesser Holy Things, as if the area was outside the city limits, and they do not redeem second-tithe in that area, as if it were inside the city limits. If their doorways open outside of Jerusalem while the contained spaces are within the wall and within the city, that which is directly along the center of the wall and toward the outside is regarded as outside of the city and not subject to the restrictions of the city. The area directly along the center of the wall and toward the outside — there they do not slaughter Lesser Holy Things as if the area lay outside the wall, and they do not redeem second-tithe there, as if it were inside.” [The restrictions of both areas pertain.]”
- [F] *We have learned in Tannaite tradition*: [Temple] chambers built in the holy [precinct] and open to the sanctified [area] — their inner space is [deemed to be] sanctified and their roofs are [deemed to be] divided. The part along the boundary of the sanctified space and inward is sanctified, and the part along the boundary of the unsanctified area and outward is unsanctified. If the opening to the unsanctified area, the inner space is unsanctified, but the roofs are divided. That part along the boundary of the sanctified area and inward is sanctified, and the part along the boundary of the unsanctified area and outward is unsanctified. If one is built in the sanctified area and opens to both the sanctified and the unsanctified area, the whole chamber is deemed to be unsanctified. If one is built in the unsanctified area but opens both to the sanctified and the unsanctified area, the whole chamber is unsanctified.
- [G] Said R. Jacob br Aha, “Since the contain spaces of such chambers are sanctified, people may eat in them Most Holy Things, they may slaughter Lesser Holy Things, and who enters them in a condition of uncleanness is liable as if he entered the Temple court itself.”

[H] R. Judah in the name of Rab: “They do not flog an unclean person who enters that area unless the chamber is larger than the Temple court itself, 180 cubits long and 130 cubits wide. *For has it not been repeated as a Tannaite rule:* As to a chamber built up to the size of the walled courtyard, they may eat in it Most Holy Things, they do not slaughter animals of Lesser Holy Things, and a person who entered it unclean is exempt.

3:5

[A] **[Produce in the status of] second-tithe which entered Jerusalem and was rendered unclean,**

[B] **whether it was rendered unclean by a Father of uncleanness or whether it was rendered unclean by an Offspring of uncleanness,**

[C] **whether [it was rendered unclean] inside [Jerusalem] or outside [Jerusalem] —**

[D] **the House of Shammai say, “Let it all be redeemed and eaten inside [Jerusalem],**

[E] **“except for that which was rendered unclean by a Father of uncleanness outside [Jerusalem], [which must be taken out].”**

[F] **And the House of Hillel say, “Let it all be redeemed and eaten outside [of Jerusalem],**

[G] **“except for that which was rendered unclean by an Offspring of uncleanness inside [of Jerusalem], [which may remain in the city].”**

[I:1 A] It is written, “If you are unable to transport them ... you may convert them into money” (Dt. 14:24-5).

[B] *How shall we interpret the matter?* If the farmer cannot transport the produce because of distance, it is already stated, “Should the distance be too great for you.” And if the reference is to a farmer unable to bring that produce and eat it in Jerusalem, then the verse continues, “You may convert them into money ... spend the money on anything you want.” So what is contemplated by the phrase, “If you are unable to transport them”? It means, “You are not permitted to redeem [consecrated produce within Jerusalem itself.] [If the produce is made unclean,] “You may convert them into money ... spend the money on anything you want” — only in this case may one redeem and deconsecrate second-tithe produce brought into the city.]

[II:1 A] **[Produce in the status of second-tithe which entered Jerusalem and was rendered unclean, whether it was rendered unclean by a**

Father of uncleanness or whether it was rendered unclean by an Offspring of uncleanness, the House of Shammai say, “Let it all be redeemed and eaten inside [Jerusalem], except for that which was rendered unclean by a Father of uncleanness outside Jerusalem, which must be taken out].” *It was taught as a Tannaite rule:* Bar Qappara said, “Uncleanness deriving from a Father of uncleanness is a rule of the Torah, and uncleanness deriving from an Offspring of uncleanness is a rule of the scribes.”

- [B] R. Yohanan said, “One way or the other it is a rule of the Torah.”
- [C] *And there is a contradiction between the rule of the House of Shammai and R. Yohanan. For the House of Shammai say, “Let it all be redeemed and eaten inside [Jerusalem], except for that which was rendered unclean by a Father of uncleanness outside Jerusalem, which must be taken out].”* What difference does it make if the uncleanness derived from a Father of uncleanness outside of Jerusalem or an Offspring of uncleanness outside of Jerusalem? Both derive from the rule of the Torah.
- [D] *And even with reference to the rule of the House of Hillel there is a contradiction, for the House of Hillel say, “And the House of Hillel say, “Let it all be redeemed and eaten outside [of Jerusalem], except for that which was rendered unclean by an Offspring of uncleanness inside [of Jerusalem], [which may remain in the city].”* What difference does it make if it is an offspring of uncleanness inside of Jerusalem or a Father of uncleanness inside of Jerusalem. Neither one nor the other derives from the rule of the Torah.
- [E] *The rabbis found a problem in the opinion of Bar Qappara, for there is a contradiction between the rule of the House of Shammai and Bar Qappara... For the House of Shammai say, “Let it all be redeemed and eaten inside [Jerusalem], except for that which was rendered unclean by a Father of uncleanness outside Jerusalem, which must be taken out].”* What difference does it make whether it is a Father of uncleanness or an Offspring of uncleanness, whether it is outside or inside? Neither the one nor the other derives from the authority of the Torah.
- [F] It is so that people should not say, “We saw produce in the status of second-tithe taken into Jerusalem and then removed from the city.” [The House of Shammai rule that unclean second-tithe produce affected by a Father of uncleanness is redeemed but eaten in the city.]
- [G] [The House of Shammai permit the produce to be redeemed, and other food, which is clean, is bought with the proceeds, for] once the

produce was made unclean in Jerusalem, the city walls would not have affected that produce, and the owner may not sanctify a separate portion of the same crop. If the second-tithe was made unclean outside of Jerusalem, the city's walls would not have seized that food, for it is unclean and no longer fit for use as second-tithe. The food may therefore be taken out and redeemed.

- [H] *Even for the position of the House of Hillel, is there not a problem? For the House of Hillel say, “Let it all be redeemed and eaten outside [of Jerusalem], except for that which was rendered unclean by an Offspring of uncleanness inside [of Jerusalem], [which may remain in the city].”* What difference does it make whether it is an Offspring of uncleanness, whether it is outside or inside? Do not both the one and the other derive from the authority of the scribes?
- [I] It is a case in which one brings second-tithe produce into Jerusalem on the stipulation that the limits not seize that very food.
- [J] Said R. Zeira, “This is to say, second-tithe produce that is clean and that one brought into Jerusalem on the stipulation that the limits not seize that very food — the limits do not seize that very food.”
- [K] *R. Jonah asked, “It is a rule of the Torah that second-tithe produce that is clean must be kept in Jerusalem and eaten there, yet you rule that a contrary condition is valid? Rather, this is how the matter should be read: if one made such a condition and then violated the law and redeemed the produce [after removing it from Jerusalem,] it is validly redeemed.*
- [L] *R. Jacob the Southerner asked before R. Yosé: “Second-tithe produce made unclean outside Jerusalem and then taken inside should not be taken out again, lest people say, “We have seen that second-tithe produce may be brought into Jerusalem and taken out again.”*
- [M] [He replied,] “The matter is made clear that taken out means, taken out physically but then returned to the city. It cannot be that taken out means to redeem the produce outside of Jerusalem.”
- [II:2 A] *R. Hiyya bar Adda asked before R. Mana, “If second-tithe produce in Jerusalem was made unclean by an Offspring of uncleanness and the farmer redeemed it and other produce outside Jerusalem was bought in its place, and then this other produce was made unclean by a Father of uncleanness, [do we follow the Shammaites, and this food is kept outside of Jerusalem altogether, or do we follow the Hillelites and redeem the produce and eat it in Jerusalem?]*”

[B] [He replied,] “If the original coins are still available, he deconsecrates the food with them. But if the original coins are no longer available, he cannot deconsecrate the unclean produce at all. [The produce must be retained as is and kept out of Jerusalem.] Whether or not he gets the original coins or new ones back, he is not flogged [for bringing them out of Jerusalem and spending them there.]”

[II:3 A] *R. Jonah asked before R. Mana*, “[Do the House of Shammai take the same view] also with regard to one outside Jerusalem who buys unclean food with coins in the status of second-tithe — should the food be kept out of the city?”

[B] Said R. Mana, “The city walls seize the food brought inside of Jerusalem, and a buyer seizes food involved in the sale. Just as we rule about unclean second-tithe brought within the city walls [the produce is redeemed but eaten in the city], so we rule that the purchaser of unclean food as second-tithe, and this food is kept out of Jerusalem.”

3:6

[A] **[Produce] purchased with coins [in the status] of second-tithe, which becomes unclean [and therefore may not be eaten as second-tithe] —**

[B] **let it be redeemed.**

[C] **R. Judah says, “Let it be buried.”**

[D] **They [the authorities of A-B] said to R. Judah, “If [it is the case that when produce which is designated as] second-tithe itself becomes unclean, lo, it must be redeemed, is it not logical that produce purchased with coins [in the status of] second-tithe which becomes unclean [also] should be redeemed?”**

[E] **He said to them, “No. If you say this in regard to [produce designated as] second-tithe itself, which, if in [a state of] cleanness, may be redeemed when it is outside [Jerusalem], can you say so as regards produce purchased with coins [in the status of] second-tithe which, when it is [in a state of] cleanness, may not be redeemed when out-side [Jerusalem]?”**

[F] **A deer purchased with money [in the status of] second-tithe that died,**

[G] **is to be buried with its hide.**

[H] **R. Simeon says, “It is to be redeemed.”**

[I] **[If] one purchased it alive and slaughtered it, and it [subsequently] became unclean,**

- [J] it is to be redeemed.
- [K] R. Yosé says, “It is to be buried.”
- [L] [If] one bought it [when it was already] slaughtered, and it [subsequently] became unclean —
- [M] behold, it is [treated] like produce [in the status of second-tithe which becomes unclean and is redeemed].
- [N] He who lends out jugs [to hold wine to be sold as] second-tithe,
- [O] even if he corked them [i.e., the jugs]
- [P] [he] does not acquire [the status of] second-tithe for the jugs.
- [Q] If he poured [wine] into the jugs without specifying [that the jugs were not being sold but only lent] —
- [R] before he corked them [he] does not acquire [the status of second] tithe [for the jugs].
- [S] After he corked them, [he] does acquire [the status of second] tithe [for the jugs].
- [T] Before he corked them, [consecrated liquids contained in them] are neutralized [in a mixture of] one hundred and one [parts of unconsecrated liquid].
- [U] After he corked them, the jugs render consecrated any number [of corked jars containing unconsecrated wine with which they become mixed].
- [V] Before he corked them, he may remove heave-offering from one jug for all [the jugs in the heap].
- [W] After he corked them, he removes heave-offering from each jug [individually].
- [X] The House of Shammai say, “[If a wine merchant does not want a corked jug to be purchased along with the wine it contains], he opens [the jug] and pours [the wine] into the vat.”
- [Y] And the House of Hillel say, “[The merchant] opens the jug, but he does not need to pour [the wine back into the vat].”
- [Z] To which [case] does this apply?
- [AA] In a place where [jugs] are normally sold sealed.
- [BB] But in a place where they are normally sold open, the jug does not [remain] unconsecrated [i.e., it is purchased along with the wine].
- [CC] But if he [i.e., the merchant] wanted to impose a stringency upon himself and sell [the wine] only by [exact] measure —
- [DD] the jug [remains] unconsecrated.

- [EE] **R. Simeon says, “Also: he who says to his friend, ‘I sell to you this cask [of wine] except for its container’ —**
- [FF] **“the jug [remains] unconsecrated.”**
- [I:1 A] **[Produce purchased with coins [in the status] of second-tithe, which becomes unclean [and therefore may not be eaten as second-tithe] — let it be redeemed. R. Judah says, “Let it be buried.”]**
What is the scriptural basis of R. Judah’s ruling?
- [B] Scripture says, “You may convert them into] silver” (Dt. 14:25) — silver once but not into silver a second time [after the produce bought by the silver becomes unclean.
- [C] *Since they responded to him with an argument a fortiori, he responds to then with an argument a fortiori.*
- [II:1 A] **A deer purchased with money [in the status of] second-tithe that died is to be buried with its hide. R. Simeon says, “It is to be redeemed.”**
- [B] R. Yosé in the name of R. Yohanan: “A deer purchased with second-tithe money] have they treated like things sanctified for the upkeep of the Temple building. [This is deconsecrated] only after it is stood up before an appraiser and appraised.”
- [C] *R. Jeremiah asked before R. Zeira: “As to an unclean animal, what is the law as to deconsecrating it only after it is stood up before an appraiser and appraised?”*
- [D] He said to him, “If R. Yosé in the name of R. Yohanan only said that a clean animal is deconsecrated] even if it is not stood up before an appraiser and appraised, then an unclean animal also would not have to be not stood up before an appraiser and appraised.”
- [E] *Said R. Hila, “And it has been taught as a Tannaite rule along those lines: ‘A firstling of animals that is the Lord’s cannot be consecrated by anybody, whether it is an ox or sheep it is the Lord’s. But if it is of unclean animals, it may be ransomed as its assessment with the added fifth’ (Lev. 27:26-27). Just as an unclean beast is distinctive because its condition at redemption is the same as it is when it is sanctified [it is unclean at birth], so I encompass a dead animal sanctified for the upkeep of the Temple building or purchased as second-tithe after it is slaughtered, since its condition at redemption is the same as its condition at sanctification. I exclude the animal that one sanctifies, which then dies. For its condition when it is redeemed is not the same as it is when it is sanctified.”*

- [F] Said R. Yosé, “*A Tannaite rule makes that point [that an animal that is sanctified after it is slaughtered may be redeemed]: **If he sanctified an ass, the laws of sacrilege apply to it and to its milk** [M. Me. 3:5F]. Isn’t its milk the same as the meat of a dead animal. [The laws of sacrilege apply to the meat too,] and whatever is subject to sacrilege may be redeemed [so an animal sanctified after it is slaughter may be redeemed].*”
- [G] *If you want to interpret the ruling as spelling out the laws for dead animals sanctified after slaughter, you may not do so, for we have learned the Tannaite ruling, A donkey dedicated to the Temple. [Once dedicated, the animal’s milk is subject to the same restrictions as the animal itself. But there is nothing about dedicating the milk alone or the case of slaughtered meat dedicated to the Temple.]*
- [H] Said R. Hanina before R. Mana, “Interpret [M. Me. 3:5] in accord with R. Simeon, for R. Simeon said, ‘Things that are sanctified for the upkeep of the Temple house do not require standing up and appraisal by a priest for redemption.’”
- [I] He said to him, “If the law is in accord with R. Simeon, why does the law say the laws of **sacrilege apply to it and to its milk?** *The law would apply even to other beasts.*” [Once dedicated, the milk then is subject to the same restrictions as the animal itself.]

[III:1 A] **[He who lends out jugs [to hold wine to be sold as] second-tithe, even if he corked them [i.e., the jugs] [he] does not acquire [the status of] second-tithe for the jugs. If he poured [wine] into the jugs without specifying [that the jugs were not being sold but only lent] — before he corked them [he] does not acquire [the status of second] tithe [for the jugs]. After he corked them, [he] does acquire [the status of second] tithe [for the jugs]. Before he corked them, [consecrated liquids contained in them] are neutralized [in a mixture of] one hundred and one [parts of unconsecrated liquid]. After he corked them, the jugs render consecrated any number [of corked jars containing unconsecrated wine with which they become mixed]. Before he corked them, he may remove heave-offering from one jug for all [the jugs in the heap]. After he corked them, he removes heave-offering from each jug individually].**

- [B] Said R. Zeira, “Scripture indicates that you should spend the second-tithe money in the holy place of Jerusalem ‘and spend the money on anything you want’ (Dt. 14:26), but transport the produce to Jerusalem if in the provinces, ‘take it with you to the place that the Lord your God has chosen’ (Dt. 14:25). Just as in the holy place of Jerusalem,

[where the jug is not needed for carrying the wine from place to place, since it is drunk on the spot,] the jug does not become sanctified, so in the provinces, where the jug will be used to carry the wine to Jerusalem, the jug takes on the status of second-tithe.”

[III:2 A] *R. Hiyya in the name of R. Yohanan: “This is the sense of the Tannaite statement: **If he poured [wine] into the jugs without specifying [that the jugs were not being sold but only lent] — before he corked them [he] does not acquire [the status of second] tithe [for the jugs]. After he corked them, [he] does acquire [the status of second] tithe [for the jugs]. Before he corked them, [consecrated liquids contained in them] are neutralized [in a mixture of] one hundred and one [parts of unconsecrated liquid]. After he corked them, the jugs render consecrated any number [of corked jars containing unconsecrated wine with which they become mixed]. Before he corked them, he may remove heave-offering from one jug for all [the jugs in the heap]. After he corked them, he removes heave-offering from each jug individually].***

[B] “Under what circumstances?”

[C] “In the case of wine. But in the case of olive oil whether it is before or after he corked them, he does not acquire the status of second-tithe for the jugs. Whether it is before or after he corked them, they are neutralized in a mixture of a hundred and one. Whether it is before or after he corked them. He removes heave-offering from one for the entire batch.”

[IV:1 A] **The House of Shammai say, “[If a wine merchant does not want a corked jug to be purchased along with the wine it contains], he opens [the jug] and pours [the wine] into the vat.”** *Said R. Hanania, “And there is this challenge to the position of the House of Shammai: what is the difference between this case and one in which five sacks of untithed grain are set on one threshing floor? If one had five sacks of untithed grain set on one threshing floor, is it possible that one would not set aside heave-offering and tithes from one sack for the others? [Why pour the wine into a single vat?]”*

[B] R. Joshua b. Levi said, “The reference is back to the preceding case of separating heave-offering from one jug in behalf of many others.”

[C] R. Abba said, “The dispute refers back to the second matter, [How the seller avoids transferring the status of sanctification to jugs when he sells large quantities of wine.]”

[V:1 A] [If a householder buys a jug of wine with second-tithe money and specifies, “I wish to have on quarter log of the liquid in this jug as unconsecrated wine,” the jug remains unconsecrated.

[B] *R. Hiyya in the name of R. Yohanan: “The Tannaite rule makes the same point [that one can avoid sanctifying the jug through an explicit declaration]:* **R. Simeon says, “Also: he who says to his friend, ‘I sell to you this cask [of wine] except for its container’ — the jug [remains] unconsecrated.”**

YERUSHALMI MAASER SHENI

CHAPTER FOUR

4:1

- [A] One who transports produce [in the status of] second-tithe from a place [where it is] expensive to a place [where it is] cheap,
- [B] or from a place [where it is] cheap to a place [where it is] expensive,
- [C] redeems it according to the market price of his [current] location.
- [D] One who transports produce [in the status of second-tithe] from the threshing floor to the city,
- [E] or jugs of wine from the vat to the city —
- [F] the increase in value [accrues to the] second [tithe]
- [G] and the expenses [involved in transporting the produce] come out of the farmer's pocket.
- [H] They redeem [produce in the status of] second-tithe according to its lowest selling price:
- [I] [the rate] at which the shopkeeper buys and not [the rate] at which he sells:
- [J] [the rate] at which the moneychanger sells [small change] and not [the rate] at which he buys [small change].
- [K] And they do not redeem [produce in the status of] second-tithe by estimating [its worth].
- [L] [Produce] the price of which is known is redeemed according to the [valuation of] one [buyer],
- [M] and [an item] the price of which is not known is redeemed according to [the valuation of] three [buyers].
- [N] For example: wine that has formed a film and turned sour or produce that has begun to rot or coins that are rusty.
- [I:1 A] One who transports produce [in the status of] second-tithe from a place [where it is] expensive to a place [where it is] cheap, or from

a place [where it is] cheap to a place [where it is] expensive, redeems it according to the market price of his [current] location:

[B] Said R. Jonah, “They have said only **One who transports** [de facto]. Lo, to begin with it is forbidden [to move second-tithe produce from one place to another. It should be redeemed locally or brought to Jerusalem.] And the passage refers to **produce [in the status of second-tithe]**, produce that is separated from an untithed batch and sanctified as second-tithe. But if the second-tithe has not yet been separated from the batch [no act of sanctification has taken place], even to begin with it is permitted to take the batch from one market to another.”

[I:2 A] **One who transports produce [in the status of] second-tithe from a place [where it is] expensive to a place [where it is] cheap, or from a place [where it is] cheap to a place [where it is] expensive, redeems it according to the market price of his [current] location:** that is in line with the following: *Rabbi had untithed produce in this place and also in Kutnayin. He would designate tithes for this place from produce there and then would redeem the sanctified produce in accord with the lower market price over there.*

[I:3 A] *It was taught as a Tannaite rule:* **from a place [where it is] expensive to a place [where it is] cheap, or from a place [where it is] cheap to a place [where it is] expensive redeems it according to the market price of his [current] location:** whether the price was high and went down or if the price was low and it went up.

[B] *There is no problem with the case in which it was expensive and went down [one can redeem the second-tithe at the low price]. But why use the low valuation if the price was low and went up?*

[C] *That case is different.* [It prevents the situation in which, since the farmer is compelled to redeem his own produce at a premium price, he may try to lower his expenses by] practicing deception to avoid having to pay the added fifth. [Sages therefore rule leniently and permit the farmer to redeem the produce at the lowest current price.]

[I:4 A] *It was taught as a Tannaite rule:* Abba bar Hilpai bar Qiriyya said, “When does the strict rule apply [that one must redeem second-tithe produce at the current market price, no matter how high]? It is in the case of produce that certainly is in the status of second-tithe. But in the case of produce that may or may not be second-tithe, the more lenient rule applies: whether the price was high and went down or if the price was low and it went up, he may sell it at the lowest price.”

- [B] Why so? Is it because the produce seems worth only a low price, [for its status is subject to doubt], or is it because [it is perishable] so he cannot transport the food back to the place where the price is high [without losing some of the value anyhow]?
- [C] *What is the outcome of these two explanations?*
- [D] If the produce lost some value in its own market and then the price went back up. If you say that the governing consideration is that [it is perishable] so he cannot transport the food back to the place where the price is high [without losing some of the value anyhow], lo, the produce has gone up in price [and he doesn't have to carry it elsewhere to get a high price]. If you say that it is because the produce seems worth only a low price, [for its status is subject to doubt], even if the produce went up in price, it still appears worth only the lower value.
- [E] *It is in line with the following: R. Hiyya bar Vava was in Rome. He saw people redeeming the second-tithe parts of Nicolaus dates from the Land of Israel at the lower market price [which would have applied in the Land] as a home-grown crop. He said, "Who told them to use the lower price in this way? Abba bar Hilpai bar Qiriyya told them."*
- [F] *It has been stated as a Tannaite rule: [By bringing a golden dinar from one place to another before breaking it for smaller coins, e.g., bringing it from the provinces to Jerusalem to serve to buy second-tithe], one may profit up to a sheqel or even p to a quarter of a dinar. What would one do? A golden dinar in one place [Sephoris] is worth two minas [two hundred zuz], but in Arbel it is worth two minas and fifty zuz. He wants to change twenty-five golden dinars, worth fifty minas = 5,000 zuz. Over here in Arbel he is paid at the rate of two minas and fifty zuz each. His profit is a thousand two hundred fifty zuz or twenty five per cent.]*
- [I:5 A] *It has been stated as a Tannaite rule: [When selling second-tithe produce for coins to bring to Jerusalem] they do not redeem the second-tithe produce for the price of second-tithe produce but for the price of unconsecrated food. [The higher price is demanded. The buyer will not under-price the produce knowing that the seller is under pressure to sell it.]*
- [B] *R. Saul raised this question: Now take note: if everybody was well aware that he was selling second-tithe produce. [Why then ask for a price based on the value of a similar volume of secular produce?]"*
- [C] Even so, one follows the state procedure.

- [I:6 A] *It has been stated as a Tannaite rule:* They redeem second-tithe produce by barter only by exchanging it for produce of the same species.
- [B] *Otherwise what might we have said?* They redeem by barter wheat for barley or barley for wheat. Therefore it was necessary to specify that even barter among different types of the same species is forbidden, for example white wheat for dark wheat or dark wheat for white wheat.
- [I:7 A] Said R. Hanania, “Rabbi would pick the season’s first cucumbers for a gift to the government, and he would designate second-tithe from them cucumber by cucumber. [When redeeming the portion he had declared to be second-tithe,] he estimated their value on the low side, as if they had already been cut into pieces.”
- [B] R. Yohanan raised the question: “Even though the plants remain whole, do you hold that they are appraised as if they were sliced up?”
- [C] Said R. Jonah, “Well, said! In the case of two farmers who were partners in a single cucumber, one of them owning one share and one of them owning nine shares — is it possible that one might say to the other, ‘You take your part and I’ll take mine’? [That would yield negligible slices. Rather they would act together to get a higher price, namely:] the whole cucumber would be sold by this one and by that one. So too in the case of Rabbi’s cucumbers that are partially unconsecrated and partially consecrated, the whole batch should be sold jointly by this one and by that one at the highest possible price.”
- [D] *That is in line with the following: R. Simeon b. Rabbi would instruct the Southerners to underestimate [the redemption price of their second-tithe vegetables. Bar Qappara took the vegetables and cut them up right in front of him, saying, “Are these worth anything?”*
- [E] *[That position that one not estimate produce as if it were cut up] applies to anything that, cut up, is worthless. But what about something that, cut up, is worth more?*
- [F] R. Joshua b. Levi said, “They redeem second-tithe produce only for its true value.”
- [G] And said R. Hezekiah, “This one who deconsecrates produce should not deconsecrate anything for half a perutah [even if that is its true value], so that there will not be a case that corresponds to the rule. **They do not deconsecrate [produce in the status of] second-tithe with a poorly minted coin.** But it should be done with a coin worth a perutah at a minimum.”

- [II:1 A] *Said R. Immi, “How man people have come before R. Yohanan and R. Simeon b. Levi [for a ruling on ho to value second-tithe,] and they always say, ‘Go out and fulfil this rule: **They redeem [produce in the status of] second-tithe according to its lowest selling price: [the rate] at which the shopkeeper buys and not [the rate] at which he sells: [the rate] at which the moneychanger sells [small change] and not [the rate] at which he buys [small change].**”*
- [B] *To this point the rule concerns a large volume of produce [which might be sold for wholesale prices], but what if it as a smaller volume? Here too: **[the rate] at which the shopkeeper buys and not [the rate] at which he sells: [the rate] at which the moneychanger sells [small change] and not [the rate] at which he buys [small change].**”*
- [C] *R. Nahman bar Jacob once shoed a reed mat to a carpenter and redeemed it at the price he named.*
- [D] *R. Yannai once showed a quarter qab of wheat to a miller and redeemed it at the price he named.*
- [E] *R. Simon showed produce to R. Hilqiah. He said to him, “[Why ask me, sell it] for whatever it is worth.”*
- [F] *Said R. Hilqiah in the name of R. Simon, “They do not redeem second-tithe at the price named by idiots.”*
- [G] *R. Phineas showed produce to a grist dealer for an appraisal. He said to him, “[Why ask me, sell it] for whatever it is worth.”*
- [H] *He said to him, “This is what R. Hilqiah said in the name of R. Simon, “They do not redeem second-tithe at the price named by idiots.””*
- [I] *Said R. Shimi, “[The wholesale price is] what would be charged for perishable produce in the summer, at the height of the heat of the day, after bathing time, when the vender gathers up what is left of his stock, when one can produce a few perutot and redeem all of it.”*
- [J] *Said R. Jeremiah, “[The wholesale price is] what would be charged for perishable produce on Friday afternoon as the Sabbath evening is coming on, from women who are braiding their hair and preparing for the Sabbath, when one can produce a few perutot and redeem all of it.”*
- [K] *Said R. Yudan bar Gadya, “[The wholesale price is] what was received by R. Jacob bar Abun, [who got some second-tithe produce just before the Sabbath, when there was no time to find a purchaser.] He set it*

aside even though it withered, and redeemed it immediately after the Sabbath.”

[L] R. Mana had some second-tithe produce. He sent it for storage in Acre. Said to him R. Hiyya bar Adda, “Oil such as this from Bet Maaqa does not keep. This is your last chance to redeem it, for it is worth only six minas.”

[III:1 A] Said R. Yohanan, “**They redeem second-tithe produce at the evaluation supplied by three purchasers, and even one of them may be a gentile, and even one of them may be the owner of the produce**” [T. M.S. 3:5].

[B] *R. Jonah raised the question:* “If two of them are gentiles, that is not acceptable, if two of them are owners of the produce, that is not acceptable. If one is a gentile and one is an owner, that is not acceptable. But the rule must be read in parts. [At least two of the three bidders must be Israelites with no interest in the food that is subject to appraisal.]”

4:2

[A] [If] the householder says, “[This produce is worth] a *Sela*,” and someone else says, “A *Sela*,” the householder[’s bid] has priority, since he adds an extra fifth [of the selling price to what he must pay].

[B] [If] the householder says, “A *Sela*,” and someone else says, “A *Sela* and an *issar*,” [the bid] of a *Sela* and an *issar* has priority, since it increases the principal [i.e., the original purchase price].

[C] One who redeems his own [produce in the status of] second-tithe adds a fifth [of its selling price],

[D] whether [the produce] was [originally his own] or whether it was given to him as a gift.

[I:1 A] [If] the householder says, “A *Sela*,” and someone else says, “A *Sela* and an *issar*,” [the bid] of a *Sela* and an *issar* has priority, since it increases the principal [i.e., the original purchase price]. But doesn’t the added fifth of this party add up to a sum greater than the bid of a *sela* and an *issar*? [The owner pays 96 *issars* and 19 *issars* as the added fifth, while the other bidder pays 96 *issars* and one *issar*.]

[B] Said R. Abin, “It is evaluated differently, for he can practice deception and render his own redemption of the produce exempt from the added fifth, leaving the outside bidder with the higher bid. Thus: **One who redeems his own [produce in the status of] second-tithe adds a fifth**

[of its selling price], whether [the produce] was [originally his own] or whether it was given to him as a gift.

- [II:1 A] R. Jacob bar Idi in the name of R. Simai: “Any batch of second-tithe produce that in its principal is not worth a perutah does not generate the penalty of an added fifth when it is redeemed.”
- [B] R. Yosé b. R. Simon in the name of R. Yohanan: “Any batch of second-tithe produce for the redemption of which the added fifth would add up to less than a perutah does not generate the penalty of an added fifth when it is redeemed.”
- [C] *Answered R. Bar Mamel, “And have we not learned in the Mishnah: There are five [kinds of rules involving] that which is worth a perutah: (1) An admission must be for at least what is worth a perutah. (2) A woman is betrothed for that which is worth a perutah. (3) He who derives use to the value of a perutah from that which belongs to the sanctuary has committed sacrilege. (4) He who finds that which is worth a perutah is liable to make proclamation. (5) He who steals from his fellow something to the value of a perutah and takes [a false] oath to the contrary [and then confesses his crime] must bring it after him, even to Media [M. B.M. 4:7]. But following the opinion of R. Simai, it should be formulated that there are six cases [“Any batch of second-tithe produce that in its principal is not worth a perutah does not generate the penalty of an added fifth when it is redeemed”], and following the opinion of R. Yohanan there would be seven such items [“Any batch of second-tithe produce for the redemption of which the added fifth would add up to less than a perutah does not generate the penalty of an added fifth when it is redeemed.”]*
- [D] *And further there is an eighth case based on what R. Yosé said in the name of R. Mana bar Tanhum, R. Abbahu in the name of R. Yohanan: “Real estate may not be acquired for sums of money less than a perutah.”*
- [E] And further there is a ninth case: second-tithe produce the value of which is unknown — any valuation suffices, if the seller says, “The second-tithe produce itself and its added fifth are deconsecrated with this sela.”
- [F] R. Yosé in the name of R. Qerispa, R. Jonah in the name of R. Zeira: “That is not a ninth case for the Tannaite teaching refers to using a sela that is partially consecrated as second-tithe, for it is unlikely that some part of its value is not unconsecrated.”

- [II:2 A] Said R. Yohanan: “A consecrated item which one had redeemed for more than its true value — sanctification has seized all of the money. But produce in the status of second-tithe which one has redeemed for more than its true value — sanctification has not seized all of the money [but only the portion corresponding to the value of the second-tithe.]
- [B] What is the difference between that which has been consecrated and produce in the status of second-tithe?
- [C] Said R. Imi, “For that which has been consecrated, there is a demand, while for produce in the status of second-tithe, there is no demand.” [A person will increase the amount paid when redeeming the consecrated item. But people usually try to reduce the amount of money they spend on deconsecrating second-tithe produce. So we assume any sum above the true value of the food was spent in error.]
- [D] *R. Zeira raised the question before R. Imi, “Shouldn’t we interrogate the man, who might then say, ‘The extra Temple donation was not my intention’?”*
- [E] He said to him, “When he is examined, [we accept what he says, but if he is not examined, we invoke the stated criterion].”
- [F] *R. Jonah raised the question: “This reason is valid from the viewpoint of one who said that it is not in the status of the man’s property. But in accord with the opinion of the one who says, ‘It is indeed in the status of the man’s property,’ what is the difference between that which has been consecrated and that produce in the status of a second-tithe?”*
- [G] Said R. Yosé, “Now has the answer not been given already: ‘For that which has been consecrated there is a demand, while for produce in the status of second-tithe there is no demand!’”
- [H] Said R. Yohanan, “A consecrated object which one has redeemed, and for which one did not add the required added fifth — lo, this is deemed redeemed. But as to produce in the status of second-tithe which one redeemed and for which one did not add the added fifth, lo, it is not deemed to have been redeemed.”
- [I] What is the difference between produce in the status of second-tithe and a consecrated object?
- [J] Said R. Hila, “An item sanctified for the Temple is guarded by claimants, the Temple Treasurers, but second-tithe produce is not guarded claimants. [If the donor does not pay the added fifth, he still is responsible to carry out the act of deconsecration.]”

[K] *R. Jonah raised the question: “Now that answer is from the viewpoint of the one who said that it is not in the status of the man’s own property. But in accord with the one who said that it is in the status of one’s own property, what is the difference between a consecrated object and second-tithe?”* [That is to say, if one says that second-tithe belongs to the Most High, then on that account the man did not add the fifth, so as not to increase the amount of funds which must be spent in Jerusalem. But if one says that the produce in the status of second-tithe, belongs to the farmer, why should he not add the money? Whatever he gave is for the sake of redeeming the produce. The answer is the same:]

[L] Said R. Yosé, “Now have you not already stated a reason, An item sanctified for the Temple is guarded by claimants, the Temple Treasurers, but second-tithe produce is not guarded claimants. [If the donor does not pay the added fifth, he still is responsible to carry out the act of deconsecration.”

[III:1 A] One who redeems his own [produce in the status of] second-tithe adds a fifth [of its selling price], whether [the produce] was [originally his own] or whether it was given to him as a gift:

[B] *The rule of the Mishnah derives from R. Meir, for R. Meir says, “A gift is not equivalent to a sale.”* [The recipient will be the first to sell and redeem the second-tithe produce, so he pays the added fifth even if the produce was not originally his own.]

[C] Said R. Jonah, “It represents the position of all parties. Interpret the rule to speak of produce that is untithed as to second-tithe.”

[D] *And have we not earned in the Tannaite tradition: One who redeems his own produce in the status of a four year old planting must add a fifth to its selling price, whether the produce grew as his own or was given to him as a gift. Can you say that mentioning the gift as against homegrown produce refers to a gift of produce in the status of a fourth year planting?* [Such a category, consecrated but not yet designated, does not pertain. Just as here you would have to say the reference is] not due to the nature of fourth-year produce itself, so with reference to second-tithe you must agree that the reference to gifts is due to their distinct legal standing, not to the consecrated status of a particular batch of second-tithe produce.

4:3

[A] They circumvent [the law of] second-tithe [so as to avoid paying the added fifth].

- [B] **How so?**
- [C] **One says to his adult son or daughter [or] to his Hebrew servant or handmaid,**
- [D] **“Take these coins and redeem [with them] this [produce in the status of] second-tithe [without paying the added fifth].” [He now does not own the second-tithe produce at the moment at which it is redeemed.]**
- [E] **However let him not say this to his minor son or daughter, to his Canaanite servant or handmaid,**
- [F] **for their deed is considered to be his deed.**
- [G] **[If] he was standing at the threshing floor and had no coins with him, he says to his fellow, “Lo, this produce is given to you as a gift,” and then immediately says, “Lo, it is deconsecrated with coins that are at home.” [He again does not own the second-tithe produce at the moment at which it is redeemed.]**
- [I:1 A] **[They circumvent the law of second-tithe so as to avoid paying the added fifth]:** *R. Abun said, “There was a dispute between R. Eleazar and R. Yosé bar Hanina. One said, ‘Why do they practice deception in its regard? Because Scripture refers to second-tithe produce as a blessing’ [Dt. 14:24]. The other said, ‘Why do they redeem it at the cheapest possible evaluation? Because Scripture refers to second-tithe produce as a blessing’ [Dt. 14:24].”*
- [II:1 A] **One says to his adult son or daughter [or] to his Hebrew servant or handmaid, “Take these coins and redeem [with them] this [produce in the status of] second-tithe [without paying the added fifth]:”** *How shall we envision this procedure?* If he said to his adult child or slave, “Go and redeem the second-tithe produce for me,” then the person is his agent. If he said to an outsider, “Go and redeem this for you,” it belongs to the other. *But this is how we interpret the matter:* He said to him, “Redeem some of your produce for me, redeem for you some of my produce.” [The owner is not redeeming the produce for himself, so no added fifth is owing.]
- [B] *And so it is taught as a Tannaite rule: ““Redeem for me from produce belonging to you,” “Redeem for yourself from produce belonging to me,” — he does not have to pay the added fifth.*
- [C] *Said R. Yohanan, “Any case of second-tithe produce in which the produce and the act of redemption do not belong to the same man does not entail paying the added fifth, [which is collected only if the produce and the act of redemption do belong to the same man].”*

[D] R. Yosé b. R. Abun in the name of R. Hanina: “The scriptural basis for R. Yohanan’s rule is as follows: ‘If anyone wishes to redeem any of his tithes, he must add his own one-fifth to them’ (Lev. 27:31) — so that both it [the second-tithe] and its redemption money should belong to one and the same man.”

[III:1 A] **One says to his adult ... daughter [or] to his ... handmaid:** *How shall we envision this case? If it involves an adult handmaid, she has acquired independent rights of ownership from the advent of puberty signs, and if she is a minor, can a minor acquire independent rights of ownership?*

[B] *Said R. Yudan bar Shalom before R. Yosé, “Interpret the case in accord with him who has said, ‘A minor may separate heave-offering.’” [The minor also may redeem second-tithe produce.]*

[C] He said to him, “Even *in accord with him who has said, ‘A minor may separate heave-offering,’* may a minor acquire independent rights of ownership [so as to redeem second-tithe produce]?”

[D] *In the opinion of the rabbis of over there, there is no problem, for with reference to M. Git. 5:9G:] there they say in the name of R. Nahman bar Jacob, “Anyone to whom they give a pebble, and he takes it, a nut, and he throws it out — he who takes property from him is like him who takes it out of the garbage heap.*

[E] **“If they gave him a nut and he takes it, a pebble and he throws it away, someone who takes from him commits theft, in the interests of peace [= M. Git. 5:9G].**

[F] “If one gives him a nut and a pebble, and he takes them and puts them away and produces them later on, taking from him is an act of theft, pure and simple.”

[G] Such a one effects acquisition for himself but not for someone else.

[H] R. Huna says, “Just as he effects acquisition for himself, so he effects acquisition for someone else.”

[I] “All concur that an act of donation on his part is null, for it is said, ‘When a man gives [to his neighbor money or goods to keep]’ (Ex. 22:7). That which a man hands over is a gift, and not that which a child hands over,” the words of sages.

[J] R. Judah b. Pazzi in the name of R. Yohanan: “Under no circumstances is it clearly a matter of theft [from a minor] until he produces two pubic hairs.”

- [K] *R. Abbahu in the name of R. Yohanan*, “That which you have stated [that we deal with stealing beyond any doubt, M. 5:9F] applies to the matter of retrieving the object from the one who has stolen it from the minor.
- [L] “But as to imposing on a thief in such circumstances the requirement to bring an offering or to take an oath, all parties concur that there is such a requirement only in the case of a minor who has produced two pubic hairs.”
- [M] [We now return to M. M.S. 4:4/Y. 4:3. The issue is whether a minor can effect an act of ownership. We have explained, in accord with R. Nahman bar Jacob, that there are several possibilities, now spelled out.] But as to the rabbis over here [who hold that the minor cannot effect ownership for himself, as we shall see, that is not the case].
- [N] *R. Yosé raised the question*, “If so, then even for himself he should not be able to make acquisition. For it is said, ‘[If a man delivers] to his neighbor’ (Ex. 22:7) that is, an act of donation is valid only when the giver is of the status of his neighbor.”
- [O] *R. Yosé b. R. Bun in the name of R. Samuel bar R. Isaac*, “Interpret the matter to involve children who have just learned to talk sensibly, for we have learned in the Mishnah: **As to little children, their purchase is valid and their sale is valid in the case of movables [M. Git. 5:8-E].**
- [P] “*And yet there we have learned [at M. M.S. 4:4]: However, let him not say this to his minor son or daughter, to his Canaanite servant or handmaid, for their deed is considered to be his deed.* [There clearly is a contradictory assumption here.]”
- [Q] *Rabbis of Caesarea say*, “Here we deal with a child who has understanding, and there we deal with a child who does not have understanding.”
- [R] *There we have learned in the Mishnah: He who borrowed a cow and the one who lent it sent it along with his son, Slave, or messenger. or with the son, slave, or messenger of the borrower, and it died, the borrower is exempt. If the borrower had said to him, “Send it with your son,” “your slave,” “your messenger,” the borrower is liable [M. B.M. 2:3]. Does this [latter clause] not indicate that the slave made acquisition of the object from his master in behalf of the other party? [Indeed it does.]*

- [S] *Said R. Eleazar. “Interpret the passage to speak only of a Hebrew slave, [in which case the question is not answered at all].”*
- [T] *Said R. Yohanan. “Lo, you may as well interpret the passage to apply to a case in which it was a Canaanite slave. But interpret the passage to speak of a case in which the lender said to him, ‘Open the gate for it, and it will follow along on its own.’ For we have learned that he who led a cow, or drew it, or called it and it came after him, is liable for what happens to the cow just as if he had borrowed it.”*
- [U] *R. Zeira derived from the following passage that the slave does not acquire ownership from his master in behalf of a third party: “**But one may not impart ownership of a meal of commingling by means of his minor son or daughter, or by means of his male or female Canaanite slaves, for their hand is tantamount to his hand.**” Does that not indicate that a slave cannot impart ownership from his master in behalf of a third party?”*
- [V] *Interpret the cited statement to accord [solely] with the position of R. Meir, for R. Meir treats the hand of a slave as tantamount to the hand of his master.*
- [W] *And has it not been taught: He may impart ownership of a meal of commingling by means of] his wife? [It cannot therefore be R. Meir,] for R. Meir treats the hand of a wife as equivalent to the hand of her husband.*
- [X] *R. Haninah in the name of R. Pinhas: “Interpret the matter in accord with the following Tannaite authority, who taught: **One’s wife does not redeem in his behalf produce in the status of second-tithe. ‘One’s wife redeems on his behalf produce in the status of second-tithe [without paying the added fifth],’ according to the words of R. Simeon b. Eleazar in the name of R. Meir [T. M.S. 4:7D-E]. Now this Tannaite authority of the views of R. Meir treats the hand of the slave as the hand of his master, but not the hand of the wife as the hand of her husband, [so Meir may stand behind the cited law].”***

[IV:1 A] To begin with people would effect the circumvention of the requirement of the added fifth through a transfer of coins, but when the third parties found out that they could grab the money and run, the rabbis ordained that they could effect the circumvention through transfer of unconsecrated produce to a third party, who would trade it for the second-tithe and then return the second-tithe produce as a gift, Despite this, third parties realized that they could grab the produce and eat it without trading it for the consecrated produce. The rabbis

ordained that they could transfer to a third party ownership of a tenth of the owner's land.

[B] *R. Inayya bar Sisi went to R. Jonah. He said to him, "I will buy your second-tithe produce for that sela that you have [which will save you the added fifth]."*

[C] *He said, "If you want to pick it up, do it." [Inayya went and took it from him.]*

[D] *Said R. Jonah, "Since I assessed his intention: if I reclaimed the money and the deconsecrated produce, he would not say anything, I went ahead and gave it to him."*

4:4

[A] **[If a purchaser] took possession from him [i.e., a farmer] [of produce in the status of second] tithe [which is worth] a *Sela*,**

[B] **and did not have time to redeem it [i.e., pay for it] before [the price] went up to two [*sela*^s],**

[C] **he pays him [i.e., the farmer] one *Sela*,**

[D] **and earns a profit [on the produce he receives] of one *Sela*,**

[E] **and [one sela's worth of produce he acquires is] his [in the status of] second-tithe.**

[F] **[If a purchaser] took possession from him [i.e., a farmer] of [produce in the status of second] tithe [which at the time of acquisition is worth] two *sela*^s,**

[G] **and did not have time to redeem it before [the price] went down to one *Sela*,**

[H] **he pays him one *Sela* in unconsecrated coin and one *Sela* in [one of] his own coins [in the status of] second-tithe.**

[I] **If he [i.e., the farmer] was an "*am ha'are*[s, he [i.e., the purchaser] gives him [coins in the status of] doubtful [second-tithe].**

[J] **One who redeems [i.e., buys produce in the status of] second-tithe but does not make a declaration [that he is redeeming the produce]**

—

[K] **R. Yosé says, "It is sufficient for him [simply to pay for the produce without making a declaration]."**

[L] **R. Judah says, "He must make it explicit."**

[M] **[If] he was speaking to his wife about matters relevant to her divorce contract or her bride-price and did not make it explicit —**

- [N] **R. Yosé, “It is sufficient for him [simply to give her the contract or bride-price without a declaration].”**
- [O] **R. Judah says, “He must make it explicit.”**
- [I:1 A] **[If a purchaser] took possession from him [i.e., a farmer] [of produce in the status of second] tithe [which is worth] a *Sela*, and did not have time to redeem it [i.e., pay for it] before [the price] went up to two [*sela*’s], he pays him [i.e., the farmer] one *Sela*, and earns a profit [on the produce he receives] of one *Sela*, and [one sela’s worth of produce he acquires is] his [in the status of] **second-tithe**: *our Mishnah, which holds that when the price of the produce goes up, some of the food remains consecrated even while it is transferred in ownership] is not in accord with the position of Rabban Simeon b. Gamaliel, for we have a Tannaite rule: Rabban Simeon b. Gamaliel says, “Under all circumstances effecting acquisition of second-tithe produce constitutes its redemption (T. Ar. 4:4). [If second-tithe produce changes in ownership, it is deconsecrated in the process.]***
- [I:2 A] **[If a purchaser] took possession from him [i.e., a farmer] [of produce in the status of second] tithe [which is worth] a *Sela*, and did not have time to redeem it [i.e., pay for it] before [the price] went up to two [*sela*’s], he pays him [i.e., the farmer] one *Sela*, and earns a profit [on the produce he receives] of one *Sela*, and [one sela’s worth of produce he acquires is] his [in the status of] **second-tithe**: [when one has an extra sela’s worth of second-tithe produce as profit,] R. Yosé in the name of R. Eleazar: “They do not pay the added fifth for the second sela’s worth of produce.”**
- [B] R. Eleazar stared at him. [Yosé] said to him, “How come you’re staring at me? Even my master must accept what R. Yohanan said, ‘In any transaction of second-tithe, one does not pay the added fifth unless both the second-tithe and the redemption money belong to the same person.’” [The second sela’s worth of second-tithe is mere profit.]
- [II:1 A] **One who redeems [i.e., buys produce in the status of] second-tithe but does not make a declaration [that he is redeeming the produce] — R. Yosé says, “It is sufficient for him [simply to pay for the produce without making a declaration].” R. Judah says, “He must make it explicit.” [If] he was speaking to his wife about matters relevant to her divorce contract or her bride-price and did not make it explicit — R. Yosé, “It is sufficient for him [simply to give her the contract or bride-price without a declaration].” R. Judah says, “He must make it explicit.” What does he have to make explicit?**

[B] “This document is your writ of divorce” “This money is your betrothal” “This money is the redemption price for that second-tithe produce.”

[II:2 A] *R. Zeira, Hiyya bar Abun, Abba bar Tahalipa in the name of R. Hoshaiah: “Where they differ, is where they passed on to other matters before the actual transfer. But if they were engaged in that very matter, it is a valid writ of divorce.”*

[B] R. Haggai asked before R. Yosé, “Rabbi concurs with R. Yosé, and R. Nathan concurs with R. Judah, *for we have learned in the Mishnah there: Therefore if the husband said to him, ‘I do not want you to receive it for her, but bring and give it to her,’ if he wanted to retract, he may retract [M. Git. 6:1]. The Mishnah-rule accords with the position of Rabbi, for we have as a Tannaite statement, If the wife said to her agent, ‘Bring me my writ of divorce,’ and the agent went and told the husband, ‘Your wife said to me, ‘Bring my writ of divorce from my husband, and the husband answered, ‘Take it to her’ ‘Give it to her’ ‘Acquire it for her’ — even if he wishes to retract before the agent has delivered the writ, he may not retract,’ the words of Rabbi [T. Git. 4:1]. [Rabbi does not require an articulation of matters, just like Yosé.] R. Nathan says, ‘If the husband answered, “Take it to her” “Give it to her” — if he wants to retract before the document is delivered, he may do so. If he said, “Receive it for her” “Acquire possession of it for her” — even if he wishes to retract, he cannot do so.”* Rabbi says, ‘In all these cases the husband may not retract unless he explicitly articulates, ‘You are not to accept this writ of divorce on her behalf, take it and give it to her instead.’”

[C] *Now there is a problem to be addressed to the view of Rabbi [who holds that if the husband said, “Here it is,” if he wished to retract he may not]. For the language, “Here,” means, “from the moment of my saying so” [the agency is valid for delivery only]. Hence, if he wanted to retract, he should be able to retract, [for he has made him into a messenger for delivering the writ only].*

[D] *There is a further problem to be addressed to the view of R. Nathan. For the language, “Here,” means, “from the moment of my saying so” [the agency is valid for delivery]. Hence, if he wanted to retract, may he retract?*

[E] R. Huna said, “The man is treated as the messenger of the husband and the messenger of the wife” that is, where the husband said, “Take the writ,” and the wife said, “Receive it,” the messenger serves both].

- [F] Assi said, “In any case in which the ruling is that the messenger serves both the husband and the wife, she is both divorced and not divorced.” [That is, if the writ should not reach the wife before the husband died, we do not know the conditions under which the messenger was appointed, and hence the woman’s status is in doubt. Accordingly, should the husband have died childless, the wife performs the rite of removing the shoe with the levir, but she does not enter into levirate marriage with him.]
- [G] *Said R. Haggai in the presence of R. Yosé, “And the argument of these authorities has its parallel in the dispute of the following, as we have learned there: **If one was talking with a woman about matters of divorce or betrothal and handed to her her writ of divorce or tokens of betrothal, but did not make explicit [his purpose in doing so] — R. Yosé says, “That suffices, [and she is divorced or betrothed, as the case may be].” R. Judah says, “He must make the matter explicit” [M. M.S. 4:7].***
- [H] *Now the position of Rabbi is parallel to that of R. Yosé, and the position of R. Nathan is parallel to that of R. Judah. [Rabbi says, “If the husband said, ‘Bring the writ,’ if he wanted to retract, he may not do so,” because we do not require the husband to make explicit what he intends, and he will not nullify his act of appointing the agent. This is in line with Yosé’s position. Nathan accords with Judah’s. The husband must make it explicit that he wishes the messenger to receive the writ of divorce and acquire possession of it for the wife.]*
- [I] *[Haggai] said to [Yosé], “And what do you have in mind? [Do you regard these as parallel positions?]”*
- [J] *[He said to him, “No, the cases are different.] For R. Zeira said that R. Hiyya bar Abin said, Ada bar Tahalipa in the name of R. Hoshaiah [stated], ‘Where they dispute is in a case in which they had gone on to other matters. But if the man was involved in that very matter, then it is a writ of divorce [even though there was no further explication of the matter]. But here even though they were engaged in discussion of that very same matter, there nonetheless is a dispute.’”*
- [II:3 A] *R. Ezra asked before R. Mana, “[Does the same rule apply to a gift? [Someone appointed an agent to accept the gift on his behalf but the donor told the agent to bring the item to the person but did not tell him to accept it. Can the donor retract] in the case of a gift? Can the recipient appoint an agent to accept something that does not belong to him?”*

- [B] He said to him, “There the Torah has endowed her with her writ of divorce, and she appoints an agent to receive something that belongs to her. But can you say with reference to a gift that someone appoints an agent to receive ownership of something that is not his? And further, there is a ruling to be considered, for said R. Yosé, R. Jacob bar Zebedee, R. Abbahu in the name of R. Yohanan: ‘If someone said that he was giving a gift to his fellow and sought to retract the donation, he has the power to retract.’”
- [C] R. Yosé rose before R. Jacob bar Zebedee: Would his *hin*-measure measure up with scripture: ‘You will have an honest *hin*’ (Lev. 19:36).”
- [D] They said, “That is in a case in which he explicitly claimed that it was an honest *hin*.”

4:5

- [A] **One who sets aside an *issar* [in the status of second-tithe and takes it to Jerusalem] and ate [as second-tithe produce purchased] against half of its value,**
- [B] **and [then] went to another area [in Jerusalem] and lo, [an *issar*] is worth a *pundium* [that is. twice its previous value so that the money remaining is worth a full *issar* of produce] —**
- [C] **[he] eats [against its value as second-tithe produce worth] another *issar*.**
- [D] **One who sets aside a *pundium* [in the status of second-tithe] and ate [as second-tithe produce purchased] with half of its value,**
- [E] **and [then] went to another area and, lo, [a *pundium*] is worth an *issar* [that is, half of its previous value so that the money remaining is worth only a quarter of a *pundium*[or half an *issar*]**
—
- [F] **[he] eats [against its value as second-tithe produce worth] another half [*issar*].**
- [G] **One who sets aside an *issar* [in the status of second-tithe] eats against its account [in Jerusalem an amount such that no more than] one-eleventh of an *issar*’s value [remains if it is of doubtful status] or so that no more than one-hundredth of the *issar*’s worth [remains if it is surely in the status of second-tithe].**

- [H] **The House of Shammai say, “[In] all [cases, whether the coin is doubtfully in the status of second-tithe or certainly in that status, the farmer eats against its account an amount such that no more than] one-tenth [of an *issar*’s value remains].”**
- [I] **And the House of Hillel say, “[If the *issar* is] certainly [in the status of second-tithe, no more than] one-eleventh [of its value may remain] and [if it is] doubtfully [in the status of second-tithe, no more than] one-tenth [of its value may remain].”**
- [I:1 A] *R. Hiyya taught as a Tannaite rule: Two issars equal one pundium.*
- [B] **Said R., Matteniah, “*The Mishnah says so: One who sets aside an issar [in the status of second-tithe and takes it to Jerusalem] and ate [as second-tithe produce purchased] against half of its value, and [then] went to another area [in Jerusalem] and lo, [an issar] is worth a pundium [that is. twice its previous value so that the money remaining is worth a full issar of produce] — [he] eats [against its value as second-tithe produce worth] another issar.***
- [II:1 A] **One who sets aside an *issar* [in the status of second-tithe] eats against its account [in Jerusalem an amount such that no more than] one-eleventh of an *issar*’s value [remains if it is of doubtful status] or so that no more than one-hundredth of the *issar*’s worth [remains if it is surely in the status of second-tithe] — *Samuel said, “If one consumed all but one tenth of the issar, he has left too much and the issar is not deconsecrated, so he needs to consume an additional one-hundredth of an issar. [This would leave.09th of an issar and he would have eaten more than necessary to deconsecrate the coin, so he would have to leave an additional one one-thousandth. But this would leave.98 issars, more than one eleventh, and the coin would not be deconsecrated, so he would have to eat an additional one ten thousandth. But this would leave.0909 issars, and he would have eaten more than necessary to deconsecrate the coin.]”***
- [III:1 A] **[And the House of Hillel say, “[If the *issar* is] certainly [in the status of second-tithe, no more than] one-eleventh [of its value may remain] and [if it is] doubtfully [in the status of second-tithe, no more than] one-tenth [of its value may remain]”:]**
- [B] *Bar Qappara taught as a Tannaite rule: “Whether it is certainly in the status of second-tithe, or whether it is doubtfully in the status of second-tithe, he must consume all but one-eleventh of its value before regarding it as unconsecrated.”*
- [C] *R. Yudan b. R. Shalom ruled in accord with this Tannaite teaching of Bar. Qappara.*

[IV:1 A] **The House of Hillel say, “One separates first tithe from doubtfully tithed produce and removes its [the first tithe’s] heave-offering and eats it [the remainder of the first tithe], and does not need to separate second-tithe [from the produce at all].” The House of Shammai say, “He [also] must separate second-tithe [before eating the produce]. For I say, ‘If second [tithe] is removed, [we assume] first [tithe] is removed, [but] if first [tithe] is removed, [we do] not [assume] second [tithe] is removed.’” And the law is according to the House of Shammai T. M.S. 3:15].**

[B] *The House of Shammai accords with the principle of R. Eliezer, for R. Eliezer said, “[If one] sees him separating second-tithe — that person is trusted [to have separated] first [tithe]” [T. M.S. 3:16]/*

[C] Said R. Yosé, “It represents the position of all parties. They have treated it as comparable to firstfruits offered together with a supplement over the required minimum. Just as **the supplement of firstfruits must be consumed in [cultic] cleanness, and it is exempt from the [laws that apply to] doubtfully-tithed-produce, so this is eaten in the status of second-tithe produce and is exempt from the first tithe.**”

[D] R. Hananiah came along in the name of R. Yosé: “This represents the view of R. Eliezer [and not sages. For sages say, “**If he is trusted as regards first [tithe], he is trusted as regards second [tithe], [but if he] is trusted as regards second [tithe], he is not trusted [as regards] first [tithe]**” [T. M.S. 3:16].

4:6

[A] **All coins that are found [in Jerusalem and the status of which are unknown],**

[B] **lo, these [are deemed to be] unconsecrated [i.e., not in the status of second-tithe],**

[C] **even if [one finds] gold *dinars* [mixed in] with silver and with [copper] coins [and suspects that this collection was set aside for a special purpose].**

[D] **[If] he found among them [i.e., in a batch of coins] a potsherd upon which was inscribed [the word] “tithe”**

[E] **lo, this [batch of coins] is [in the status of second] tithe.**

[F] **One who finds a vessel upon which is inscribed [the word] “offering” —**

- [G] R. Judah says, “If [the vessel is made] of clay, it [the vessel] is unconsecrated, but what is in it is [in the status of] an offering.
- [H] “If [the vessel is made] of metal, it is an offering, but what is in it is unconsecrated.”
- [I] They said to him, “It is not usual for people to put unconsecrated goods into [a container which is in the status of] an offering.”
- [J] One who finds a vessel upon which is inscribed [the letter] (1) “*qof*,” [the produce it contains is in the status of] an offering (*qrbn*), (2) “*mem*,” [the produce it contains is in the status of] tithe, (3) “*dalet*,” [the produce it contains is] doubtfully tithed (4) “[*te*[*t*,” [the produce it contains is] certainly untithed (5) “*taw*,” [the produce it contains is in the status of] heave-offering (*trwmh*), for in the time of danger they wrote [only the letter] “*taw*” instead of [writing out the full word] “*trwmh*” (heave-offering).
- [K] R. Yosé says, “All [of the letters stand for] the names of individuals [and therefore are not taken to denote the status of produce in the vessel].”
- [L] Said R. Yosé. “Even if one found a cask full of produce and on [the cask] was inscribed [the word] ‘heave-offering,’ lo, the (pieces of fruit in it) are unconsecrated.
- [M] “For I say that last year it was filled with produce [in the status of] heave-offering but [subsequently] it was emptied [and refilled with other produce].”
- [N] One who says to his son, “[Coins in the status of] second-tithe are in this corner,”
- [O] but he [i.e., the son] found [coins] in a different corner —
- [P] lo, these [i.e., the coins he finds] are deemed unconsecrated.
- [Q] [If] there was there [i.e., in the corner specified by the farmer] a *maneh* [in the status of second-tithe],
- [R] but he [later] found [there] two hundred [*zuz*] [i.e., two *manehs*] —
- [S] the extra [one *maneh*’s[worth of coins] is [deemed] unconsecrated.
- [T] [If there were there] two hundred [*zuz* in the status of second-tithe].
- [U] but he found [there only one] *maneh* [i.e., one hundred *zuz*] —
- [V] it is all [deemed to be in the status of second] tithe.
- [I:1 A] All coins that are found [in Jerusalem and the status of which are unknown], lo, these [are deemed to be] unconsecrated [i.e., not in the status of second-tithe]: it is so that you will not say, since people

generally do not act in such a way [leaving unconsecrated money lying around Jerusalem, let it be regarded as second tithe. *On that account it is necessary to say the coins are secular.*

- [II:1 A] **[One who finds a vessel upon which is inscribed [the letter] (1) “qof,” [the produce it contains is in the status of] an offering (qrbn), (2) “mem,” [the produce it contains is in the status of] tithe, (3) “dalet,” [the produce it contains is] doubtfully tithed (4) “[te]t,” [the produce it contains is] certainly untithed (5) “tav,” [the produce it contains is in the status of] heave-offering (trwmh), for in the time of danger they wrote [only the letter] “tav” instead of [writing out the full word] “trwmh” (heave-offering):] *It was taught as a Tannaite statement: Alef dalet het tet resh or tav — the contents are classified as heave-offering [terumah] [T. M.S. 5:1].***
- [B] alef — number one, heave offering, which is designated first of all.
- [C] dalet — demai, doubtfully tithed produce.
- [D] het — helbo, [Lev. 4:19] its fat.
- [E] tet — tubo, the best part.
- [F] resh — reshit, the first offering.
- [G] tav — terumah, heave offering.
- [H] **[If the jug was marked with a peh shin — pidyon sheni — the produce is second tithe.**
- [I] If it is marked with a yod, thus ten, it stands for a tenth of the crop, or mem, Ma’ aser, the produce is first tithe [T. M.S. 5:1].
- [J] **[If it is found outside of Jerusalem marked] “tithe for the city” [it is second tithe and] the contents should be redeemed and the coins brought to Jerusalem.**
- [K] **If it is marked “for Joseph” “for Simeon” [that signals the owner].**
- [L] If it is marked “to be brought up and eaten,” it is secular [T. M.S. 5:3].
- [M] To this point we have spoken of new jugs [the inscriptions refer to the contents of the jugs]. But if we deal with well-worn jugs, **“I say that last year it was filled with produce [in the status of] heave-offering but [subsequently] it was emptied [and refilled with other produce].”**

[II:2 A] *It accords with the following case: R. Jonah and R. Yosé were partners in bottles of wine. R. Jonah died and [his student and heir] R.*

Mana said to R. Yosé, “Every bottle on which it is written, ‘R. Jonah,’ belongs to me.”

[B] *He said to him, “The bottles can have been marked last year and would have been yours. But this year they are mine.”*

[II:3 A] If he found a bottle with a stopper and on the stopper it was written “tithe,” lo, this is tithe.

[B] [Following Yosé’s approach we assume] that the stopper was transferred [from a bottle with consecrated wine to this one, which is secular].

[II:4 A] *There we learned in the Mishnah: [If] one designated black [pigeons for use on the festival day] and [on the festival day itself] found white ones,*

[B] **white ones and found black ones,**

[C] **two and found three —**

[D] they are prohibited.

[E] **[If he designated] three and found two, they are permitted.**

[F] **[If he designated pigeons] in the nest and found them in front of the nest, they are prohibited.**

[G] **But if only those particular birds are there, lo, these are permitted [M. Bes. 1:4].**

[H] *R., Jacob bar Aha in the name of R. Yosé: “This belongs to Rabbi, for it has been taught on Tannaite authority: [One who says,] “Lo, there is a maneh [in the status of second tithe],” but he went and found two hundred [zuz], that is two maneh’s worth[] [M. 4:12D-E] — “Unconsecrated [coins and coins in the status of] second tithe are mixed together,” the words of Rabbi, but sages say, “All [of the coins] are unconsecrated.” [If he says there are] two hundred [zuz], but he found [only] one maneh [= 4:12G-H] — “[We assume] one maneh was left behind and one maneh was carried off,” the words of Rabbi. But sages say, “All [of the coins] are unconsecrated” [T. M.S. 5:7].*

[I] He retracted and said, “It [M. Bes. 1:4] represents the view of all parties. Chicks represent a special case because it is their way to fly off.”

[J] Did not R., Halapta b. Saul teach as a Tannaite rule: “The same law pertains to chicks and eggs [if fewer are found than were set aside]. Both represent the position of Rabbi.”

[K] [M. Bes. 1:4 represents the view of all parties:] In the former case the person who left the eggs in the nest came back and found the eggs outside of the nest. [He can reckon whether or not they are the ones he left.] But in the other case, the father put the coins away but his son found them [The son cannot determine whether these are the coins the father put away.]

[L] R. Abun bar Kohen said before R. Yosé in the name of R. Aha: “R. Abba bar Zabedee rules in a case of second tithe in accord with this rule of Rabbi.”

[II:5 A] **[If] one was wondering about the location of [coins in the status of] second tithe [which belonged to his] father [and] a man came to him in a dream and said, “They are thus and so,” or “They are in such and such a place,” — it once occurred that they found coins there [where a vision predicted] and they went to ask the sages [about the status of the coins]. The sages said, “Lo, they are unconsecrated, for the words of a vision make no difference” [T. M.S. 5:9].**

[B] *R. Jonah raised the question: “He was wondering and saw the vision and you say this!”*

[C] *Said R. Yosé, “It would make no sense to allow such evidence. It is not as if he saw the vision about a matter of no prior concern. But here the dream was about a topic that had been on his mind.”*

[D] *Said R. Abin, “He who acts in such a manner as R. Yosé comments does the right thing.”*

[II:6 A] *Somebody came to R. Yosé b. Halapta. He said to him, “I saw in my dream that I was told, ‘Go to Cappadocia and you will find your father’s property.’”*

[B] *He said to him, “Did your father ever in his life go to Cappadocia?”*

[C] *He said to him, “No.”*

[D] *He said to him, “Count off ten roof-rafters in your house and you will find your father’s property,” for Cappadocia means kappa dekoría [ten rafters] [in Greek].”*

[II:7 A] *Somebody came to R. Yosé b. Halapta. He said to him, “I saw in my dream that I was wearing a crown of olive branches.”*

- [B] *He said to him, "You will be raised up in a few days."*
- [C] *Somebody else came to R. Yosé b. Halapta. He said to him, "I saw in my dream that I was wearing a crown of olive branches."*
- [D] *He said to him, "You will be flogged."*
- [E] *He said to him, "To him you said, You will be raised up, and to me you said, You will be flogged!"*
- [F] *He said to him, "His olives were budding, yours were ready to be pressed for oil."*
- [II:8 A] *Somebody came to R. Ishmael b. R. Yosé. He said to him, "I saw in my dream that someone was watering an olive tree with oil."*
- [B] *He said to him, "May the spirit of that man burst. He has been intimate with his mother."*
- [II:9 A] *Somebody came to R. Ishmael b. R. Yosé. He said to him, "I saw in my dream that one of my eyes was watering the other."*
- [B] *He said to him, "May the spirit of that man burst. He has been intimate with his sister."*
- [II:10 A] *Somebody came to R. Ishmael b. R. Yosé. He said to him, "I saw in my dream that I had three eyes."*
- [B] *He said to him, "You are going to make ovens. Two of the eyes are yours, and the third is the oven's vent."*
- [II:11 A] *Somebody came to R. Ishmael b. R. Yosé. He said to him, "I saw in my dream that I had four ears."*
- [B] *He said to him, "You are going to make wine casks. Two of the ears are your own, and two are the handles of the cask."*
- [II:12 A] *Somebody came to R. Ishmael b. R. Yosé. He said to him, "I saw in my dream that living creatures ran away from me."*
- [B] *He said to him, "You will have great power. Even when you carry a twig everybody will run away from you."*
- [II:13 A] *Somebody came to R. Ishmael b. R. Yosé. He said to him, "I saw in my dream that I was wearing a book with twelve pages."*
- [B] *He said to him, "You have a blanket with twelve patches."*
- [II:14 A] *Somebody came to R. Ishmael b. R. Yosé. He said to him, "I saw in my dream that I swallowed a star."*

[B] *He said to him, "You will soon die, for you have killed Jews, as it is written, 'A star rises from Jacob' (Num. 24:17)."*

[II:15 A] *Somebody came to R. Ishmael b. R. Yosé. He said to him, "I saw in my dream that my vineyard grew only lettuce."*

[B] *He said to him, "Your wine will be so sweet that you will have to dip bitter lettuce in it."*

[II:16 A] *Somebody came to R. Ishmael b. R. Yosé. He said to him, "In a dream I was told, 'Let your finger sprinkle down.'"*

[B] *He said to him, "Pay me first and I will interpret the dream for you."*

[C] *He said to him, "In a dream I was told, 'It shall swell in your mouth.'"*

[D] *He said to him, "Pay me first and I will interpret the dream for you."*

[E] *He said to him, "In a dream I was told, 'Your finger will straighten'."*

[F] *He said to him, "Didn't I say to you, Pay me first and I will interpret the dream for you? When you were told to begin with, 'Let your finger sprinkle down,' water was dripping onto your wheat in storage. When you were told next, 'It shall swell in your mouth,' your wheat had already swelled up. When you finally were told, 'Your finger will straighten,' your wheat had sprouted."*

[II:17 A] *A Samaritan said, "I shall go and confuse that elder of the Jews. He came to him and said to him, "I saw in my dream four cedars, four sycamores, a bundle of reeds, a cow hide, and I saw sitting and thrashing."*

[B] *He said to him, "You will soon die. But even though this was no dream, you will not go without an interpretation. The four cedars stand for the four posts of your death bed. The four sycamore trees stand for its four legs. The bundle of reeds stand for its bolster. The hide supports the straw. The cow stands for the lattice. And you sitting and thrashing Ç you languish on it, neither dead nor alive." And so it happened, [the Samaritan died a slow death.]*

[II:18 A] *A woman came before R. Eliezer, She said to him, "I saw in my dream the upper lintel in my house was shattered."*

[B] *He said to her, "You will bear a son [who will protect you in place of the broken lintel.]"*

[C] *She went her way and in the course of time produced a son. After a few days she came looking for R. Eliezer, but his students said to her, "He's not here, what do you want?"*

[D] She told them, *“I saw in my dream the upper lintel in my house was shattered.”*

[E] *They said to her, “You will bear a son, but your husband will die.”*

[F] *When R. Eliezer came, they repeated the story to him. He said to them, “You have killed somebody. Why? Because a dream is fulfilled only in accord with its interpretation, as it is said, ‘And as he interpreted for us, so it came to pass’ (Gen. 41:15).”*

[II:19 A] Said R. Yohanan, *“All dreams are fulfilled only in accord with their interpretation, except for dreams caused by wine.”*

[B] *There is he who drinks wine and it is good for him, and he who drinks wine and it is bad for him. A disciple of a sage drinks wine and it is good for him, and ignoramus drinks wine and it is bad for him.*

[II:20 A] *Someone came to R. Aqiba. He said to him, “I saw in my dream that my leg [regel] was shortened.”*

[B] *He said to him, “In the coming festival [regel] you will not have meat to eat.”*

[C] *Someone else came to him. He said to him, ““I saw in my dream that my leg [regel] was big.”*

[D] *He said to him, “In the coming festival [regel] you will have a lot of meat to eat.”*

[II:21 A] *A disciple of R. Aqiba was in session and looked distraught. He said to him, “What’s going on?”*

[B] *He said to him, “I saw in my dream three things. ‘In the month of Adar you will die,’ ‘In the month of Nisan you will be blind,’ and ‘You will not harvest what you plant.’”*

[C] *He said to him, “These are three good things. ‘In the month of Adar you will die,’ means ‘in the splendor [hadara] of Torah, you will be exalted. ‘In the month of Nisan you will be blind,’ means, you will not see a need for miracles [nissim], and ‘You will not harvest what you plant’ means, the children you raise you will not bury.”*

YERUSHALMI MAASER SHENI

CHAPTER FIVE

5:1

- [A] (1) [As regards] a vineyard in its fourth year [of growth] —
- [B] they mark it off with clods of earth.
- [C] (2) And [a vineyard] in its first three years of growth [they mark it off] with clay.
- [D] (3) And [an area] of graves [they mark off] with lime,
- [E] which they dissolve in water and pour out [along the boundary].
- [F] Said Rabban Simeon b. Gamaliel, “To what [case] does this apply?
- [G] “During the Sabbatical year.
- [H] “And those who are conscientious set aside coins and say, ‘Let whatever is plucked [from this vineyard which is in its fourth year] be deconsecrated with these coins.’”
- [I:1 A] [As regards a vineyard in its fourth year of growth:
- [B] *Zona asked Rabbi, “What is the Tannaite formulation of this rule, ‘a vineyard’ in its fourth year or ‘a field’ in its fourth year of growth?”*
- [C] *He said to them, “Go ask R. Isaac the Elder, for he has examined the whole collection of Tannaite sayings.”*
- [D] *They went out and asked him.*
- [E] *He said to them, “The opening units concern ‘a vineyard’ in its fourth year and the later units read ‘a field’ in its fourth year of growth*
- [F] *R. Zeira received a tradition from an elder who was in the time of R. Isaac the Elder that he had not examined the whole collection of Tannaite sayings.*
- [II:1 A] [As regards] a vineyard in its fourth year [of growth] — they mark it off with clods of earth — for that is transient.

- [B] **And [a vineyard] in its first three years of growth [they mark it off] with clay** — white clay, for this lasts longer.
- [C] **And [an area] of graves [they mark off] with lime** — for this lasts still longer.
- [II:2 A] *R. Tahalipa b. Saul taught as a Tannaite ruling: “If they were singleton vines, he should tie jug handles to them.”*
- [B] *R. Zeira asked, “Why don’t we rule that one should designate each vine according to its particular status? That would be in line with that which is taught as a Tannaite rule: (1) [A tree bearing produce] dedicated [to the Temple] they mark with red dye. (2) A place of idolatrous worship they blacken with charcoal. (3) On a leprous house they throw wood ash. (4) A place of execution they mark off with blood. (5) The place in which a calf’s neck is broken [to make atonement for an unsolved murder] they mark out with a circle of stones [T. M.S. 5:13].”* Then he reconsidered, saying, “Perhaps someone might err and confuse a dedicated tree dyed red for a tree that fails to mature its fruit [also dyed red].”
- [C] *Is it not taught as a Tannaite ruling: **A tree that does not mature its fruit they mark with a red dye and they weigh it down with stones and they reorder the boughs so sunlight will reach them and the tree will produce properly [T. Shab. 7:15].***
- [D] *In the one case, the tree the fruit of which is consecrated to the Temple. the tree is dyed red so that commoners will not take its produce. But in the other case, the tree bearing immature fruit that no one would pick, we dye and weight the tree to that it will produce well formed fruit to begin with.*
- [E] *R. Jonah asked, “Why don’t we rule [to distinguish the two red marks] that one makes a red ring for a tree consecrated to the Temple as a memorial to the altar, as in the following, which we learned in the Mishnah there: **And a red line goes around it at the middle, to effect a separation between the drops of blood which are tossed on the top and the drops of blood which are tossed on the bottom [M. Mid. 3:1].”***
- [F] *R. Hiyya taught as a Tannaite rule: “They paint the word ‘dedicated’ in red on consecrated trees, [and trees that bear immature fruit would be dyed over a large portion of their trunk.]”*
- [II:3 A] *R. Yosé and Rabban Simeon b. Gamaliel say the same thing. Just as R. Yosé said, “We are not responsible for deceivers,” so Rabban Simeon*

b. Gamaliel said, “We are not responsible for deceivers.” [He who gives [his tithed produce] to the mistress of an inn [so that she may prepare it for him to eat] tithes that which he gives to her and that which he receives [back] from her, since she is suspected of exchanging [her own doubtfully tithed produce for his tithed produce]. Said R. Yosé, “We are not responsible for deceivers. He tithes only that which he receives from her” M. Dem. 3:5].

[B] And so Rabban Simeon b. Gamaliel said, “We are not responsible for deceivers.”

[C] *It stands to reason that R. Yosé will concur with Rabban Simeon b. Gamaliel, but Rabban Simeon b. Gamaliel will not concur with R. Yosé.*

[D] *It stands to reason that R. Yosé will concur with Rabban Simeon b. Gamaliel: “We are not responsible for deceivers.”*

[E] *...but Rabban Simeon b. Gamaliel will not concur with R. Yosé: for it is not the way of the associate of the sages to give out untithed produce from his domain.*

[II:4 A] How on the basis of Scripture do we know that they mark off grave areas?

[B] R. Berekhiah b. R. Jacob bar bat Jacob in the name of R. Hunia of Bet Horon, R. Yosé said it, R. Jacob bar Aha in the name of R. Hanania of Bet Horon, R. Ezekiel, R. Uziel b. R. Hunia from Bet Horon in the name of R. Hunia of Bet Horon: “‘Unclean, unclean he will call out’ (Lev. 13:45) — so that the uncleanness will call out with its own voice, ‘Keep far away.’”

[C] R. Hila in the name of R. Samuel bar Nahman: “‘As those who traverse the country make their rounds, any one of them who sees a human bone is to erect a marker beside it’ (Ez. 39:15) — this indicates that they mark any place where a skeleton is found.

[D] “‘a human bone’ — indicates that they have to mark a place only if a spine or skull is found.

[E] “‘erect’ — they must place a fixed headstone, for if you let people mark the grave with loose stone, it can be moved and indicate another spot is unclean as a grave.

[F] “‘a marker beside it’ — in a clean locale, near but not on the grave itself.

[G] “‘a marker’ — this is the basis for marking graves.”

- [II:5 A] *It has been stated as a Tannaite rule: If one found a loose stone marking a grave, even though that is not the right way to mark a grave, anyone who overshadows the stone acquires corpse uncleanness [T. Sheq. 1:4], for I say, a marked body was placed under it.*
- [B] **If one found two loose stones marking off a grave, one who overshadows either of them remains clean, but one who overshadows the area between them is unclean [T. Sheq. 1:5].**
- [C] If the area between the stones has been cultivated, we classify each stone as separate from the other. One who overshadows the area between them is clean.
- [D] *It has been stated as a Tannaite rule: They do not mark a burial site containing a small amount of flesh, for the flesh may decompose.*
- [E] *R. Justus bar Shunam asked before R. Mana, “But will it not turn out to impart uncleanness retroactively [if they find out that the flesh did not decompose]?”*
- [F] He said to him, “It is better that one stumble through it for a moment and not stumble through it permanently.”
- [III:1 A] Associates say, “Well have Rabban Simeon b. Gamaliel spoken [**Said Rabban Simeon b. Gamaliel, “To what [case] does this apply? During the Sabbatical year. And those who are conscientious set aside coins and say, ‘Let whatever is plucked [from this vineyard which is in its fourth year] be deconsecrated with these coins.’”**] [The Sabbatical year is the only time that people do not know the special status of the crop and might pick the fruit.]
- [B] “But there is this problem with the ruling of the rabbis. For doesn’t someone mark the vineyard so that the marker is visible by day, but the thieves come by night when they cannot see them.]
- [C] Said to them R. Mana, “By day [they look over the territory] and by night they steal, as in that which R. Hanina said, ‘ “In the dark they break into houses, by day they made a sign for themselves, they do not know the light” (Job 24:16). “by day they made a sign for themselves” as was done by the generation of the Flood. They would mark valuable items with balsam oil. At night they would come and steal them.’”
- [D] *When R. Hanina made this statement, in Sepphoris there were three hundred break-ins that night.*

- [IV:1 A] **“And those who are conscientious set aside coins and say, ‘Let whatever is plucked [from this vineyard which is in its fourth year] be deconsecrated with these coins:’”**
- [B] Let him just mark the vineyard at all times, not just in the Sabbatical year. And if it was marked, how could one who set aside money only in the Sabbatical year be called conscientious?
- [C] *Said R. Yohanan, “The opinion of Rabban Simeon b. Gamaliel accords with the one who says that produce mistakenly gathered by the poor should be declared ownerless only in the evening, as has been stated on Tannaite authority: R. Judah says, “[In the] morning the householder must declare, ‘Whatever the poor will gather during the binding process, lo, it is ownerless property.’” R. Dosa says, “[He must make this declaration] at evening time.” But sages say, “[Produce declared] ownerless under pressure [that the poor otherwise might steal it and consume it without separating the tithes due from it] has not [validly been declared] ownerless property, since [people are] not responsible for [the actions of] deceivers.” [T. Peah 2:5]. [Simeon b. Gamaliel like Dosa requires limited measures that affect only those who have a valid reason for taking the produce.]*
- [D] *But the opinion of Rabban Simeon b. Gamaliel accords with the one who says that produce mistakenly gathered by the poor should be declared ownerless only in the morning. For can someone deconsecrate produce while it is attached to the ground?*
- [E] *Said R. Jeremiah, “He accords even with him who says it is declared in the morning. But that which follows does not represent the view of Rabban Simeon b. Gamaliel: The House of Shammai say, “They do not redeem [i.e., deconsecrate by selling produce from a vineyard’s fourth year of growth when it is still in the form of] grapes but only [after it is processed into] wine.” And the House of Hillel say, “[They redeem such produce either as] wine or as (w-) grapes.” However, both [Houses] agree that they do not redeem [i.e., deconsecrate produce from a vineyard’s fourth year of growth while it is still] attached to the ground [T. M.S. 5:19]. And in addition he maintains, Acquisition of second-tithe produce marks its redemption [T. Ar. 4:4]. [If someone in error takes fourth-year grapes, the act of acquisition deconsecrates them.]”*
- [F] Said R. Yosé, “Would [Simeon b. Gamaliel] confirm the statement [‘Let whatever is plucked [from this vineyard which is in its fourth year] be deconsecrated with these coins’]? [How can we

deconsecrate what he no longer possesses?] What is a person saw a loaf of his bread rolling down the bank of a river, if he said, ‘That loaf of bread is hereby consecrated to the Temple,’ would this take effect?” [The loaf is leaving his possession. The owner of a fourth0year vineyard shouldn’t have a basis for making the statement Simeon b. Gamaliel calls for.]

- [G] Said R. Jeremiah, “Instead of questioning the compatibility of Simeon b. Gamaliel’s statement with the position that the declaration should be made in the morning, you should ask the same question to him who holds that the household makes his declaration at the evening. [In both cases the produce is about to leave the householder’s domain, and this is a problem in the evening when the produce has already been removed.]”
- [H] *He said to him, “He who holds that the statement is made in the evening is not subject to these questions [for the statement clearly signals that he retains the right of ownership.]”*

5:2

- [A] **[Produce of] a vineyard in its fourth year [of growth] was brought to Jerusalem [if it was grown] within one day’s [journey of the city] in any direction [i.e., such produce could not be sold and the coins brought in its stead].**
- [B] **And what is the extent [of a day’s journey from Jerusalem]?**
- [C] **Elat to the south, Aqrabah to the north, Lod to the west and the Jordan [River] to the east.**
- [D] **But when produce became [too] abundant, they ordained that [the produce] should be redeemed [i.e., sold] [even if it grew] a short distance from the city wall [of Jerusalem, and the farmer would bring coins into the city instead of produce].**
- [E] **But there was a stipulation that whenever they wanted to reverse their decision] the law would revert to its original form.**
- [F] **R. Yosé says, “When the Temple was destroyed, this stipulation was made.**
- [G] **“And there was a [further] stipulation, that whenever the Sanctuary would he rebuilt, the law would revert to its original form.”**
- [H] **[As regards] a vineyard in its fourth year of growth—**
- [I] **the House of Shammai say, “[The law of] the added fifth does not apply and [the law of] removal does not apply.”**

- [J] And the House of Hillel say, “[The laws of the added fifth and of removal] do apply.”
- [K] The House of Shammai say, “[The laws requiring leaving] single grapes [for the poor] apply, and [the law requiring leaving] defective grape clusters [for the poor] apply.
- [L] “And the poor [who gather such grapes] redeem them themselves [by transferring the consecrated status of the grapes to coin].”
- [M] And the House of Hillel say, “[The owner of the vineyard must himself bring] all [of the grapes grown in the fourth year] to the winepress [i.e., the laws of single and defective grapes do not apply].”
- [I:1 A] Said R. Hila, “At first people would prepare their fourth-year grapes as wine in a state of cleanness, for use as wine libations. But then no grapes were on the market in Jerusalem, for people brought the grapes in the form of wine. They ordained, **[Produce of] a vineyard in its fourth year [of growth] was brought to Jerusalem [if it was grown] within one day’s [journey of the city] in any direction. Also people would distribute the grapes among relatives, neighbors and friends. If there was a small amount left over, people decorated the market place [T. M.S. 5:14].**
- [II:1 A] [The definition of a day’s walk from Jerusalem conflicts with the story of] *Nikkai, a servant in Migdal Sava’aya. On the Sabbath eve after preparing his candles he would travel to Jerusalem, receive the Sabbath in the Temple, go home and light the candles [less than a day trip]. Others say he was a scribe. On the eve of the Sabbath he would travel to Jerusalem, set forth his lesson in the Temple, return home and receive the Sabbath there.*
- [B] *Tartiroyo of Mahalol would travel to Jerusalem and spend the Sabbath in the Temple. But no one got to the fig trees in Mahalol Sunday morning earlier than he, even though he had to come from Jerusalem.*
- [C] *Others say, the women of Sepphoris would travel to Jerusalem and spend the Sabbath in the Temple. But no one got to the fig trees in Mahalol Sunday morning earlier than they, even though they had to come from Jerusalem.*
- [D] *The women of Lod would knead dough, travel to Jerusalem for prayer, and return even before the dough had risen.*
- [E] *Someone was ploughing when his ox got free and he ran after it, it ran farther and he pursued it. He ended up in Babylonia. When he told of*

his trip they asked, “When did you leave?” “Earlier today.” “What route did you take?” “This one.” “Show it to us.” He tried to show the road but didn’t know which he took.

[F] *These stories then take issue with the definitions of distance in the Mishnah.*

[G] *You may even say there is no disagreement. There used to be tunnels [that facilitated rapid transit underground] but that have been hidden. That is in lie with the verse, “He has walled in my ways with hewn blocks, he has made my paths a maze” (Lam. 3:9).*

[III:1 A] **[But when produce became [too] abundant, they ordained that [the produce] should be redeemed [i.e., sold] [even if it grew] a short distance from the city wall [of Jerusalem, and the farmer would bring coins into the city instead of produce]:** Said R. Jonah in the name of R. Zeira, “Even fourth-year fruit from a vineyard planted next to the walls of Jerusalem may be redeemed.”

[IV:1 A] Said R. Aha, “That is to say the Temple will be rebuilt before the reestablishment of the Davidic monarchy, as it is written, ‘He set your father atop the highlands to feast off the yield of the earth...and grape blood you shall drink as wine’ (Dt. 32:14). Yet you say this [not until rebuilding of Jerusalem will people be required to bring the grapes themselves to the city, rather than the coins exchanged for them.]”

[V:1 A] [Reproduced from Brooks: *It has been repeated on Tannaitic authority, Rabbi says, “[To what case does the Shammaite exemption of fourth year produce from the laws of the added fifth and removal apply? The House of Shammai made their ruling [that the produce of a vine in its fourth year of growth is exempt from the laws of the added-fifth and removal] only with regard to [produce growing in] the Sabbatical year. [Since during the Sabbatical year the farmer has no claim of ownership on the crop, he likewise has no responsibility for utilizing the produce properly.] But the during the other years of the Sabbatical cycle, [the Shammaites] rule that [the produce of a vine in its fourth year of growth] is subject to the laws of the added fifth and of removal. [As in the Hillelite view, the farmer here is deemed the owner of the crop, and so responsible for the proper dispensation of the fruit’]” [T. M.S. 5:17].*

[B] *In the opinion of this Tannaitic authority, [namely Rabbi], one derives [the Sabbatical laws applicable to] a vine in its fourth year of growth only from [the Sabbatical laws governing produce in the status of] second-tithe. Since [by definition the laws of the added fifth and of*

removal] do not apply to second-tithe produce [grown during] the Sabbatical year, so too [these laws] do not apply to [the fruit of] a four year old vine in the Sabbatical year. [That is to say, in Rabbi's opinion, following the Hillelites, the two types of produce are precisely analogous. Whatever laws govern the dispensation of second-tithe therefore govern the use of the fruit of a four year old vine.]

- [C] [The Talmud now points out a problem raised by treating these two types of produce as entirely analogous.] On the basis of the foregoing analogy, [one would have to claim that the produce of a four year old vine during the Sabbatical year] has no sanctified status whatsoever. [Since during the Sabbatical year, no one owns the produce of the Land of Israel, no one possesses a portion of the grain or is required to set aside second-tithe. If the two types of produce are fully analogous, therefore, just as second-tithe never is consecrated during the Sabbatical year, so too the produce of a four year old vine never should become consecrated!] [But this reasoning cannot hold], for we may derive the consecrated status [of the produce of a four year old vine] from the following verse: “[When you enter the land and plant any tree for food, you shall regard its fruit as forbidden. Three years it shall be forbidden for you, not to be eaten. In the fourth year, all its fruit shall be set aside] for jubilation before the Lord” (Lev. 19:23-24). [This verse] suggests that such produce has the consecrated status of all items [that Scripture] describes as “set aside” (Qodesh). [The point is that unlike second-tithe, Scripture specifically calls produce of a four year old vine “set aside,” and so its consecrated status does not depend on its being owned by an Israelite. All the laws governing the use of such produce therefore should apply even during the Sabbatical year itself.]
- [D] [The Talmud explores another possible analogy between second-tithe and the produce of a four year old vine.] [Once again assuming that the two types of produce are analogous, and that during the Sabbatical year the produce of a four year old vine is completely free of holy status], then it should be deemed permitted for [consumption by] a person in mourning [who has not yet buried his relative]. [Under ordinary circumstances, such individuals are not allowed to come in contact with sanctified food, lest they render it unclean. If the produce of a four year old vine truly is unconsecrated, then this should not be a consideration.]
- [E] [As above, the analogy breaks down.] [For Scripture itself] terms [the produce of a four year old vine] “set aside,” thereby indicating that

[such fruit] is in fact forbidden to a person in mourning [who has not yet buried his dead].

- [F] [The analogy now is tested a third time.] [Given the analogy imputed to these two types of produce], then [the produce of a four year old vine in the Sabbatical year] should be subject to removal! [Second-tithe, like first fruits and other items specifically set aside as holy, are subject to removal even during the Sabbatical, as stated at M. M.S. 5:6F: **(During the seventh year of the Sabbatical cycle)... produce in the status of second-tithe and first fruits are destroyed under all circumstances (i.e., even outside of Jerusalem, since the farmer has no time to take them to the city).**]
- [G] [In this respect, the produce of a four year old vine is not analogous to second-tithe, but rather to first fruits.] For [at M. M.S. 5:6G] **R. Simeon exempts [first fruits, and by analogy produce of a four year old vine], from [the requirements of] removal, [claiming instead that the owner may simply give the fruit to a priest for his consumption during the Sabbatical year].**
- [H] [Finally, if the two types of produce indeed are analogous, and if the produce of a four year old vine therefore need not actually be removed], then one should allow [the produce] to be redeemed with [grain] that remains unharvested. [Yet at T. M.S. 5:19, this is explicitly forbidden: **“The House of Shammai say, “They do not redeem (i.e., deconsecrate by selling produce from a vineyard’s fourth year of growth when it remains in the form of) grapes, but only (after it has been processed into) wine.” But the House of Hillel say, “(They redeem such produce either as) wine or as grapes.” However, both (Houses) agree that they do not redeem (i.e., deconsecrate produce from a vineyard’s fourth year of growth while it is still) unharvested.”** This last attempted analogy never is answered. The upshot seems to be that the opinion attributed to Rabbi at A is untenable. The Shammaites cannot maintain that second-tithe and the produce of a four year old vine are analogous in all respects except during the Sabbatical year.]
- [I] [Continuing the foregoing train of thought, the Talmud now cites the remainder of the Toseftan passage that included Rabbi’s opinion. As we shall see, the opposing interpretation of Simeon then leads to proof that in the Shammaite view second-tithe and the produce of a four year old vine in fact are subject to precisely opposite rules.] *It has been taught on Tannaitic authority: “Rabban Simeon b. Gamaliel says, ‘As regards both the Sabbatical year and the other years of the Sabbatical cycle--the House of Shammai say, “The law of the*

added fifth does not apply and the law of removal does not apply”
(T. M.S. 5:17H-I).

- [J] *According to the opinion of this Tannaitic authority*, [namely Rabban Simeon], one does not derive [the laws applicable to] produce of a four year old vine from [the laws applicable to] second regarding the analogous character of the two types of produce. tithe at all. [Rather, the two are deemed subject to entirely opposite sets of laws.]
- [K] [On this basis, the Talmud now repeats the entire discussion Here, however, the point is that the analogy breaks down not only during the Sabbatical year, but in fact during all years of the Sabbatical cycle.] On the basis of the foregoing analogy, [one would have to claim that the produce of a four year old vine] has no sanctified status at any time. [Just as second-tithe itself is not actually consecrated, so too the produce of a four year old vine never should become consecrated.] [But this reasoning cannot hold], for we may derive the consecrated status [of the produce of a four year old vine] from the following verse: “[When you enter the land and plant any tree for food, you shall regard its fruit as forbidden. Three years it shall be forbidden for you, not to be eaten. In the fourth year, all its fruit shall be set aside] for jubilation before the Lord” (Lev. 19:23-24). [This verse suggests that such produce] has the consecrated status of all items that [Scripture] describes as worthy of “jubilation.” [The point is that unlike second-tithe, Scripture specifically calls produce of a four year old vine “set aside for jubilation,” i.e., holy. All the laws governing the use of such produce therefore should apply to it].
- [L] [Another version of the analogy between second-tithe and the produce of a four year old vine follows.] [Once again assuming that the two types of produce are entirely analogous, so that the produce of a four year old vine is completely free of holy status], then it should be deemed permitted [for consumption by] a person in mourning [who has not yet buried his relative]. [Under ordinary circumstances, such individuals are not allowed to come in contact with sanctified food, lest they render it unclean. If the produce of a four year old vine truly is unconsecrated, then this should not be a consideration.]
- [M] [As above, the analogy breaks down.] For [Scripture itself] terms [the produce of a four year old vine “holy,” thereby] indicating that such fruit is forbidden to a person in mourning [who has not yet buried his dead].
- [N] [The analogy now is tested a third time.] [Given the analogy imputed to these two types of produce], then [the produce of a four year old

vine] should be subject to removal [at the beginning of the fourth and seventh years]! [Second-tithe, like first fruits and other holy items, are subject to removal at these times as stated at M. M.S. 5:6F: (During the seventh year of the Sabbatical cycle)...produce in the status of second-tithe and first fruits are removed, (i.e., destroyed) under all circumstances (i.e., even outside of Jerusalem, since the farmer has no time to take them to the city).]

[O] [The analogy that governs the law of removal is not that of second-tithe, but rather that of first fruits.] For [at M. M.S. 5:6G], R. Simeon exempts [first fruits, and by analogy produce of a four year old vine], from the requirements of removal, [claiming instead that the owner may simply give the fruit to a priest for his consumption].

[P] [Finally, if the two types of produce indeed are analogous, and if the produce of a four year old vine therefore need not actually be removed], then one should allow [the produce] to be redeemed with grain that remains unharvested. [Yet at T. M.S. 5:19, this is explicitly forbidden: **“The House of Shammai say, “They do not redeem (i.e., deconsecrate by selling produce from a vineyard’s fourth year of growth when it remains in the form of) grapes, but only (after it has been processed into) wine.” But the House of Hillel say, “(They redeem such produce either as) wine or as grapes.” However, both (Houses) agree that they do not redeem (i.e., deconsecrate produce from a vineyard’s fourth year of growth while it is still) unharvested.”** At the end of two cycles of attempted analogies, the conclusion must be drawn that produce in the status of second-tithe and the produce of a four year old vine are analogous in all respects, except during the Sabbatical year, when they are subject to precisely opposite rules.]

[V:2 A] *R. Zeira asked before R. Abbahu, “How on the basis of Scripture do we know that the produce of a fourth year planting requires deconsecration?”*

[B] He said to him, “It is written, ‘In the fourth year all its fruit shall be set aside for jubilation before the Lord’ (Lev. 19:23-24) read as deconsecrated before the Lord, *for the sages did not distinguish between the letter hey and the letter het.*”

[V:3 A] *R. Aibu bar Nagri taught as a Tannaite rule in the presence of R. La, [a teaching] deriving from R. Ishmael, “‘If anyone wishes to redeem any of his tithes he may redeem it but he must add one-fifth to them’ (Lev. 27:31). That excludes fourth-year planting, for such produce is not subject too the penalty of the added fifth.”*

- [B] *He retracted and taught as a Tannaite rule in the presence of R. La:* “Redemption is mentioned twice, one for second-tithe and one for the fourth-year planting.”
- [V:4 A] *There we learned in the Mishnah: R. Judah says, “A gentile’s vineyard is not subject to [the restrictions] of the fourth year (Lev. 19:24).” But sages say, “It is” [M. Ter. 3:9].*
- [B] Said R. Eleazar, “*This is the meaning of the Tannaite rule:* The restrictions of the vineyard in the fourth year of its planting do not apply to a gentile at all.”
- [C] *R. Bibi said before R. Zeira in the name of R. Eleazar, “The position of R. Judah accords with the position of the House of Shammai in line with the position of Rabbi. The House of Shammai have said, ‘They learn the rules concerning the produce of a planting in the fourth year of its growth only from the laws governing second-tithe. Just as the laws on second-tithe do not apply during the Sabbatical year, so the laws of the planting in the fourth year of its growth do not apply in the Sabbatical year. So R. Judah says, ‘They learn the rules concerning the produce of a planting in the fourth year of its growth only from the laws governing second-tithe.’ Just as you say, ‘Second-tithe does not apply to Syria, so along these same lines, the restrictions governing a planting in the fourth year of its growth do not apply to Syria.’”*
- [D] [Zeira] said to him, “Look here! [The House of Shammai] said only **[As regards] a vineyard in its fourth year of growth — the House of Shammai say, [The law of] the added fifth does not apply and [the law of] removal does not apply.**’ Lo, the other rules do apply.”
- [E] **R. Judah says, “A gentile’s vineyard in Syria is not subject to [the restrictions] of the fourth year (Lev. 19:24).” But sages say, “It is” [M. Ter. 3:9].**
- [F] *Samuel bar Abba raised the question:* “But the House of Shammai have said, ‘They learn the rules concerning the produce of a planting in the fourth year of its growth only from the laws governing second-tithe. Just as the laws on second-tithe do not apply during the Sabbatical year, so the laws of the planting in the fourth year of its growth do not apply in the Sabbatical year.’ And along these same lines: Just as the rules governing second-tithe do not apply in the third and the sixth years of the Sabbatical cycle, so the laws governing produce of the fourth year of a planting do not apply in the third and the sixth years of the Sabbatical cycle,”

- [G] Said R. Yosé, “As to the third and the sixth years of the Sabbatical cycle, even though the laws of second-tithe do not apply in them, the laws of tithing do apply. But as to the Sabbatical year, the laws of tithing do not pertain in any way.”
- [H] Hipah asked, “Lo, R. Judah has said, ‘They learn the rules concerning the produce of a planting in the fourth year of its growth only from the laws governing second-tithe. Just as you say, the laws of second-tithe do not apply in Syria, along these same lines the laws governing the fourth year of a planting in Syria. And along these same lines does the following work as well: they derive the rules governing heave offerings of thanks only from the rules that pertain to heave offering of the tithe. Just as the heave offering of the tithe did not apply while Israel wandered in the desert, but only during the fourteen years of conquering and settling the Land, so heave offering of thanks did not apply in the desert.’”
- [I] Said R. Yosé, “They derived from the analogy only the proper measure of produce to be set aside as a heave offering of thanks, [just as heave offering of the tithe is a tenth of the first tithe, so the heave offering of thanks is one part in ten.]”
- [J] *A Tannaite statement: R. Yosé b. R. Judah said, “R. Eleazar b. R. Simeon says, ‘The Israelites became liable to the rules governing a fourth year planting only after fourteen years’ [T. Men. 6:20] — seven in which they conquered the Land, and seven in which they divided it.”*
- [K] *Said R. Hisda, “R. Yosé b. R. Judah follows the position of his father, R. Judah. Just as you say, ‘They learn the rules concerning the produce of a planting in the fourth year of its growth only from the laws governing second-tithe. Just as you say, the laws of second-tithe do not apply in Syria, along these same lines the laws governing the fourth year of a planting do not apply in Syria. Along these same lines R. Yosé b. R. Judah says, ‘They learn the rules concerning the produce of a planting in the fourth year of its growth only from the laws governing second-tithe,’ along these same lines ‘The Israelites became liable to the rules governing a fourth year planting only after fourteen years’ [T. Men. 6:20].”*
- [L] Said R. Yosé, “*Does he really follow the position of his father?* The laws governing Syria derive by analogy from the laws that govern the Land of Israel before the fourteen years, but you may not derive the laws governing the Land of Israel before the fourteen years by analogy to the laws that govern in Syria.”

- [M] It is written, “And only in the fifth year may you use its fruit, that its yield to you may be increased” (Lev. 19:25) —
- [N] R. Yosé the Galilean says, “[Why say in the fifth year you may use its fruit, if we are forbidden for the first four years, isn’t that obvious?] It is to add the produce of the fifth year to that of the fourth year. Just as the produce of the fifth year belongs to the householder, to the produce of the fourth year belongs to the householder.”
- [O] R. Zeira, R. Yosé in the name of R. Yohanan: “The opinion of R. Yosé the Galilean is in accord with the view of R. Judah. Just as R. Judah says, ‘He treats the produce of the fourth year as his own property,’ so R. Yosé the Galilean says, ‘He treats the produce of the fourth year as his own property.’”
- [P] *R. Jeremiah raised the question before R. Zeira: “In line with the opinion of him who says, ‘He treats the produce of the fourth year as his own property,’ what is the law as to his being liable for tithes?”*
- [Q] *He said to him, “It is in line with what R. Joshua b. Levi said, for said R. Abin in the name of R. Joshua b. Levi, ‘This law is not the end of the matter, but in any matter in which the law flutters about in the court and you do not know the character of the law, go and see how the people act and act accordingly.’ Now we see that the community does not separate tithes from the fourth year produce.”*
- [R] Said R. Mana, “If we conceive that the produce of a fourth year planting belongs to the household as the House of Shammai maintain, then is there a community the practice of which follows the position of the House of Shammai?”
- [S] Said R. Abin, “Have we not learned the laws governing a fourth year planting only from the laws governing second-tithe. Just as you say, second-tithe is not liable to the separation of tithes, so along these same lines a fourth year planting is not liable to tithes.”
- [T] R. Abba, R. Hiyya in the name of R. Yohanan: **“A loaf of bread made from flour of second-tithe in Jerusalem, according to R. Meir is exempt from the separation of dough-offering, and according to R. Judah the loaf is liable to the separation of dough offering [T. Hallah 1:5].”**
- [U] Said R. Judah, “They made that ruling only for loaves of bread baked in Jerusalem itself. Lo, in the provinces, that is not the rule.”
- [V] R. Ba bar Kohen asked before R. Yosé, “In accord with the ruling of him who holds that the produce of a fourth year planting is liable to the

restrictions of separated grapes, is a loaf flavored with those grapes subject to the separation of dough offering?”

[W] *He said to him, “Is it not the view of R. Judah? And we considered ruling, R. Judah accords with the House of Shammai.”*

5:3

- [A] **How do they redeem [i.e., sell] [produce from a] planting’s fourth year of growth?**
- [B] **(1) He sets the basket [of produce] in front of three [potential buyers] and says, “How many [baskets of such produce as yet unharvested and still in the field] is one willing to redeem for a *sela*, on condition that he [that is, the purchaser] pay the expenses [of harvesting the produce] out of his own pocket?”**
- [C] **Then [the one who purchases the produce] sets aside money [with which to purchase the produce] and says, “All produce of this [type, i.e., the type in the basket] which is picked [at my expense] is [to be deemed] deconsecrated with these coins at [a rate of] so many baskets to a *sela*.”**
- [D] **(2) But during the Sabbatical year [the farmer] redeems [i.e., deconsecrates produce of the fourth year] at its full value [that is, the purchaser may not deduct from the selling price what it will cost to harvest it].**
- [E] **(3) And if [during the other years of the Sabbatical cycle] there is an entire [crop which has been declared] ownerless, [and someone wants to sell it and bring the consecrated coins to Jerusalem, the one who deconsecrates it receives] compensation only for [what it costs him to] harvest [the crop, that is, he does not receive the full market value of the produce].**
- [F] **One who redeems his own produce from a planting’s fourth year [so as to deconsecrate it] adds a fifth [to its selling price],**
- [G] **whether [the produce] was his [originally] or was given to him as a gift [cf. M. 4:3C-D].**
- [H] **The day preceding the last festival-day of Passover in the fourth and seventh [years of the Sabbatical cycle] was [the time of] removal [i.e., the time at which the farmer must remove all consecrated produce from his domain].**
- [I] **How was [this] removal [carried out]?**

- [J] (1) They give [produce in the status of] heave-offering and [in the status of] heave-offering of the tithe to those entitled to it [i.e., the priests],
- [K] (2) and [they give produce in the status of] first tithe to those entitled to it [i.e., the Levites],
- [L] (3) and [they give produce in the status of] poorman's tithe to those entitled to it [i.e., the poor].
- [M] (4) But [produce in the status of] second-tithe and first fruits are removed [i.e., destroyed] under all circumstances [i.e., even outside of Jerusalem, since the farmer has no time to take them to the city].
- [N] R. Simeon says, "First fruits are given to the priests [even outside of Jerusalem], just as [in the case of produce in the status of] heave-offering."
- [O] A cooked dish [containing produce in a consecrated status]—
- [P] the House of Shammai say, "He must remove it [at the time of removal]."
- [Q] And the House of Hillel say, "Lo, it is as if it were already removed [since it has been transformed by the cooking]."
- [R] One who had produce [in the status of second-tithe] at this time [i.e., after the destruction of the Temple]
- [S] and the time for removal arrives—
- [T] the House of Shammai say, "He must deconsecrate [the produce by transferring its consecrated status] to coin."
- [U] And the House of Hillel say, "It is all the same whether [the farmer removes his consecrated food in the form of] coin or [in the form of] produce."
- [I:1 A] He sets the basket [of produce] in front of three [potential buyers] and says, "How many [baskets of such produce as yet unharvested and still in the field] is one willing to redeem for a *sela*, on condition that he [that is, the purchaser] pay the expenses [of harvesting the produce] out of his own pocket?"
- [B] How many [baskets of such produce as yet unharvested and still in the field] is one willing to redeem for a *sela*, — [rather, ask] them to purchase the fourth year produce at the price of a sela [not including the added fifth that the buyers would undertake].
- [II:1 A] And if [during the other years of the Sabbatical cycle] there is an entire [crop which has been declared] ownerless, [and someone wants to sell it and bring the consecrated coins to Jerusalem, the

one who deconsecrates it receives] compensation only for [what it costs him to] harvest [the crop — [he receives compensation only for what it costs him to harvest the crop in a piecemeal fashion.

[B] *R. Hoshaiah would gather three grain dealers to bid and redeem the fourth-year produce on the basis of their assessment.*

[II:1 A] It is written: “After a period of three years [you shall bring out the full tithe of your yield of that year, but leave it within your settlements. Then the Levite, who has no hereditary portion as you have, and the stranger, the fatherless, and the widow in your settlements shall come and eat their fill, so that the Lord your God may bless you in all the enterprises you undertake]” (Dt. 14:27-29) — might one suppose that one time during the Sabbatical cycle you are liable to bring out tithes and the poor man[‘s tithe [at the end of any three year period]? To show that one must do so twice in the cycle, in the third year and in the seventh year, once every three year period, not once in the Sabbatical cycle at the end of some three year period, Scripture says, “After a period of three years.”

[B] Similarly, I interpret the verse to mean that removing tithes and poor man’s tithe from my house should be during the New Year following the three year period at hand, at the beginning of the fourth and eighth years of the Sabbatical cycle, since by the New Year one has to destroy the undistributed first and second-tithe and to bring the poor man’s tithe out of the house. So Scripture states, “After a period of three years” — not at the beginning of the next year.

[C] Might one have supposed that you are liable to remove the tithes and the poor man’s tithe out of your house on the last day of the year right at the beginning of the next year. Scripture says, “When you have completely set aside the tenth part of your yield” (Dt. 26:12) — immediately on completing the tithing.

[D] [The answer:] “If one best do so at the completion of tithing produce, might I suppose that one may do so even as early in the year as Hanukkah? Here Scripture states, ‘After each...,’ and elsewhere, ‘After each seven year period during the year of remission at the feast of Booths you shall read this teaching aloud in the presence of all Israel’ (Dt. 31:10-11) — just as ‘after each’ in the public proclamation of Moses’ teaching speaks of a festival, so ‘after each’ here in connection with removing the tithes refers to a festival.”

[E] Might one say, just as “after each” refers to the Festival of Booths, so “after each” in the present setting refers to removing the tithes during the Festival of Booths? To forestall that conclusion, Scripture states,

“When you have completely set aside the tenth part of your yield (Dt. 26:12). When has one set aside the tithes from the whole of his yield? During Passover of the fourth year. At Passover of the fourth year one is liable to remove the tithes, but not in any other year.

- [F] At Passover of the fourth year one is liable to remove the tithes, but one is not obligated to remove the consecrated part of vegetables that grew between the New Year and Passover of the fourth year.
- [G] The associates say that one declares [“I have cleared out the consecrated portion of the crop from the house and have given it to the Levite, the stranger, the fatherless and the widow, just as you have commanded me” (Dt. 26:13) — not during the fourth year but during the fifth year.
- [H] Said R. Hila, “That the confession is essential not in the fourth year but in the fifth year.”
- [I] *What is the practical difference between these two rulings? If one violated the rule and declared during the fourth year that he had removed the tithes. To the associations that declaration is invalid, to R. Hila it is proper even if earlier than necessary.*

- [II:2 A]** [When separating tithes] during the year of removal one may bring forth produce in a state of uncleanness and declare it tithe in behalf of produce in a state of cleanness. [This provides some food rather than destroying it all in the process of removal.] In other years one may not bring out unclean produce in behalf of clean produce.
- [B] *Said R. Eleazar, “Here is the sense of the Tannaite rule: [When you separate tithes in that year [the year of removal] you produce from a place of uncleanness to a place of cleanness [affording the priests direct access to their share of the crop]. In other years you do not have to produce from a place of uncleanness to a place of cleanness [the Levites will gather the tithes and remove the portion of the priest and hand it over to him].*
- [C] *The ruling of R. Eleazar accords with the view of him who said, They do not bring out tithe directly to the priesthood. [One should assure the priests easy access to the consecrated food during the year of removal.]*
- [D] In the time of R. Joshua they wanted to vote that people are no longer allowed to give first tithe directly to the priests but would hand it over to the Levites, who would separate an appropriate amount for the priests. *The sages before the vote asked the gate keepers, “Who’s coming in?”*

[E] *“Rabbi Joshua b. Levi. He supports the Levitical rule.”*

[F] *But when he came in, he voted to support the priests, for he said, “In twenty-four passages in Scripture priests are called Levites” [so they can receive tithes directly]. Here is one case: ‘But the priests-Levites descended from Sadok’” (Ez. 44:15).*

[II:3 A] *R. Benjamin bar Gidol and R. Aha were in session and discussing [donating the tithes directly to the priests]. “But is it not written: ‘An Aaronite priest must be with the Levites when they collect the tithe’ (Neh. 10:39) — the priest’s presence is necessary so that the Levites can directly turn over to the priest the heave offering of the tithe [but not the other tithes, which are given only to the Levites for distribution. Yet it is also written, ‘And the Levites must bring up the tithe to the House of God’ (Neh. 10:39).”*

[II:4 A] *R. Huna and associates — one of them said, “[Num. 18:21 only had to say,] ‘to the Levites [I give all the tithes in Israel as their share.’ Why specify, ‘And to the Levites,’ if not to show that first tithe may be given directly to the priests.”*

[B] *The other said, “[Num. 18:21 only had to say,] ‘to the Levites [I give all the tithes in Israel as their share.’ one could give first tithe directly to the priests. For if in his will someone wrote, “My son, So-and-so, shall inherit thus-and-thus a portion, the remainder of my possessions are inherited by my sons,’ would not the son who was named inherit along with his brothers as well as the extra share? [Even if the Levites are explicitly named, their brothers the priests inherit as well.]”*

[II:5 A] *R. Jonah would hand over his tithes to R. Aha bar Ulla, not because he was a priest but because he labored in Torah –study.*

[B] *What verse validates his practice? “He ordered the people, the inhabitants of Jerusalem, to deliver the portions of the priests and the Levites so that they might devote themselves to the Torah of the Lord” (2 Chr. 31:4).*

[II:6 A] *R. Huna would not accept first tithe. R. Aha would not accept first tithe.*

[II:7 A] *R. Hiyya bar Ba give a ruling for himself to leave the Land of Israel so as not to accept tithe.*

[II:8 A] *Somebody asked R. Samuel bar Nahman, who asked R. Jonathan, “What is the law as to accepting first tithe?”*

[B] *He said to him, “Accept them, for what falls to your tribe falls to you.”*

- [II:9 A]** *R. Yannai instructed his relatives, “When you sharecrop, sharecrop only the land of common folk [so you will not be tempted to keep the tithes for yourselves as priests, rather than handing them over to Levites].”*
- [II:10 A]** And even though you say, “They do not hand tithe over directly to the priests,” you concede that they do not take away from the priest a portion of the priest’s crop and turned over to a Levite as first tithe.
- [B]** *What verse makes this point?* “When you receive from the Israelites their tithes that I have assigned to you are your share, you shall set aside from them one tenth of the tithe as a gift to the Lord” (Num. 18:26) — you should take tithes from common Israelites but not take tithes from goods that belong to the priests or Levites.
- [C]** *And that is in accord with what* R. Eleazar said, “‘When you receive from the Israelites their tithes that I have assigned to you are your share, you shall set aside from them one tenth of the tithe as a gift to the Lord’ (Num. 18:26) — you should take tithes from Israelites but not take tithes from gentiles.”
- [II:11 A]** R. Abbahu said, “There was a dispute between R. Joshua b. Hananiah and R. Eleazar b. Azariah. R. Joshua b. Hananiah said, ‘They do not give first tithe directly to the priests.’ R. Eleazar b. Azariah said, ‘They do give first tithe directly to the priests.’
- [B]** “R. Joshua b. Hananiah objected to R. Eleazar b. Azariah, ‘It is written, “You and your households may eat it anywhere” (Num. 18:31) — should a priest go ahead and eat it in a graveyard?! [The priest cannot eat it just anywhere.]’
- [C]** “He said to him, ‘What is the meaning of “anywhere”? In the Temple courtyard.’
- [D]** “[Joshua] said to him, ‘And lo it is written, “You and your households may eat it anywhere” (Num. 18:31) — can a woman enter the Temple courtyard?’”
- II:12 A]** *R. Abba would relate this story: R. Eleazar b. Azariah would accept first tithes separated from a particular garden, and that garden had two entrances, one opened onto an area that was unclean, the other onto a clean area. [Since he thought priests should not accept first tithes directly but only from the priests,] he went to the garden and said to him, “Open that gate [the unclean one] and close the other one. If he comes, say to him, ‘Go to this entrance.’ If he sends his disciple to pick up the tithe, say to him, “You and your household” (Num.*

18:31) is what is written.’ [Your disciples cannot be party to the transaction. R. Eleazar b. Azariah heard and said, ‘The [Brooks:] penetrating mind of Aqiba b. Joseph has come here.’ Forthwith R. Eleazar b. Azariah returned to the Levites all the tithes that he had ever collected.”

[B] Said R. Isaac bar Eleazar, “It is like a wall that needs repair. Take wood from another part of the wall and ix it on he spot. A coal that does not burn you early never will.”

[III:1 A] A cooked dish [containing produce in a consecrated status]— the House of Shammai say, “He must remove it [at the time of removal].” And the House of Hillel say, “Lo, it is as if it were already removed [since it has been transformed by the cooking].”

[B] All parties concur that bread and oil have to be removed. D that wine and spice dishes made out of consecrated produce are regarded as already removed [in the cooking process]. *Where they differ is in respect to a cooked dish [containing produce in a consecrated status]— the House of Shammai say, “He must remove it [at the time of removal].” And the House of Hillel say, “He does not have to remove it [at the time of removal].”*

[IV:1 A] One who had produce [in the status of second-tithe] at this time [i.e., after the destruction of the Temple] and the time for removal arrives— the House of Shammai say, “He must deconsecrate [the produce by transferring its consecrated status] to coin.” And the House of Hillel say, “It is all the same whether [the farmer removes his consecrated food in the form of] coin or [in the form of] produce.”

[B] *What is the scriptural basis for the ruling of the House of Shammai? “Wrap up the money and take it with you” (Dt. 14:25) — Money alone will be with you.*

[C] *What is the scriptural basis for the ruling of the House of Hillel? Even if he deconsecrates the produce, what good does it do?*

5:4

[A] Said R. Judah, “At first they would send [word; to the householders in the province [before Passover of the fourth and seventh years of the Sabbatical cycle saying,] ‘Hurry to properly remove [agricultural gifts] from your produce before the time of removal arrives,’

- [B] “until R. Aqiba came and taught that all produce which has not yet become liable to tithes is exempt from [the law of] removal.”
- [C] One whose produce is unavailable to him [when the time for removal arrives]
- [D] must make an oral declaration [designating the required agricultural gifts and transferring them to their proper recipients].
- [E] Rabban Gamaliel and the elders were traveling on a ship [when the time for removal occurred]. Said Rabban Gamaliel, “The tenth I intend to measure out [and designate as first tithe] is given to Joshua who is a Levite], and the place [in which it is located] is rented to him. The other tenth which I intend to remove [and designate as poorman’s tithe] is given to Aqiba ben Joseph, who will make it available to the poor and the place [in which it is located] is rented to him.”
- [F] Said R. Joshua, “The tenth I intend to measure out [of the first tithe I will receive from Rabban Gamaliel and which I intend to designate as heave-offering of the tithe for the priest], and the place [in which it is located] is rented to him.”
- [G] And they received rent-payment from one another.
- [I:1 A] ...until R. Aqiba came and taught that all produce which has not yet become liable to tithes is exempt from [the law of] removal: But isn’t the produce in the category of produce that is liable for tithing but has not yet been tithed? [It contains components that are subject to tithing and removal.]
- [B] R. Hila in the name of Samuel: “[If we hold that untithed produce is subject to the law of removal, then] untithed produce is classified as sanctified: ‘I have removed the consecrated portion from the house’ (Dt. 26:13).”
- [C] Said R. Judah, “This is a case:”
- [D] Rabban Gamaliel and sages were in session on the steps to the Temple. And Yohanán the priest, the scribe was before them. He said to him, “Write: [In Aramaic]: ‘To our brethren, residents of Upper Galilee and residents of Lower Galilee, May your peace increase! I inform you that the time for the removal has come, to separate the tithes from the olive vats.’ ‘To our brethren, residents of the Upper South and residents of the Lower South, may your peace increase! We inform you that the time for the removal has come, to separate the tithes from the sheaves of grain.’ ‘To our brethren, residents of the Exile of Babylonia, and residents of the

Exile of Media, and of all the other Exiles of Israel, may your peace increase! We inform you that the pigeons are still tender, the lambs are thin, and the spring-tide has not yet come. So it is proper in my view and in the view of my colleagues, and we have added thirty days to this year” [T. San. 2:6].

[II:1 A] **Rabban Gamaliel and the elders were traveling on a ship [when the time for removal occurred]. Said Rabban Gamaliel, “The tenth I intend to measure out [and designate as first tithe] is given to Joshua who is a Levite], and the place [in which it is located] is rented to him. The other tenth which I intend to remove [and designate as poorman’s tithe] is given to Aqiba ben Joseph, who will make it available to the poor and the place [in which it is located] is rented to him.”** *That selection of Joshua, a Levite, is to say that they do not give tithe to the priesthood [but to the Levites, who pass it on].*

[B] *That case is different and does not prove the point, because Joshua b. Hananiah was present [and laid claim as a Levite].*

[C] *Said R. Hananiah, “That detail [and the place [in which it is located] is rented to him] indicates that Rabban Gamaliel had to accord to him ownership of the place where the grain was stored [otherwise he would have had to move the produce physically to a place owned by Joshua].”*

[D] Said R. Joshua, “Assigning the recipient part ownership of the place where the tithes are situated would work only if the produce were still attached to the ground. If a basket of produce belonging to Rabban Gamaliel were situated in Joshua’s house and if Gamaliel said, ‘The tenth I plan to designate from within it as first tithe is hereby given to Joshua,’ would he have done anything effective unless he completed the transaction by removing the produce from the basket or by giving Joshua part ownership of the basket itself?”

[II:2 A] [Brooks, verbatim:] R. Redipah: “*R. Jonah and R. Yose disputed. One said, ‘Anyone who is eligible to gather [the poor-offerings may] acquire [them on behalf of another poor person],’ and the other said, ‘Anyone who is in a position to set aside [poor-offerings may] acquire [them on behalf of a poor person].’*

[B] *The one who said [that a person who was] eligible to gather [the offerings] certainly would agree [that a person who was in a position] to set aside [the offerings could acquire them on behalf of a poor person]. [But] the one who said [that a person who was] in a position to set aside [poor-offerings] would not agree [that a person who was]*

eligible to gather [the poor-offerings could acquire them on behalf of another poor].

- [C] *[A passage of] the Mishnah contradicts [Editio princeps: 18c] the one who holds [the opinion that] one who is eligible to gather the poor-offerings may acquire them [for another poor person]. For we teach in the Mishnah, “[A person may say], ‘Give this writ of divorce to my wife!’ because [the agent to whom he passes the writ] may even accept his own daughter’s writ of divorce. [Hence he acquires the writ on the wife’s behalf.] [Similarly, a person may say], ‘Give this writ of emancipation to my slave!’ for [the person to whom the passes the writ] may even accept his own writ of emancipation [in this manner]. [Hence he acquires the writ on behalf of the slave.]” (M. Git. 1:5).*
- [D] *But we also have taught in the Mishnah, “[If a person says to his slave], ‘Receive this writ of divorce on behalf of my wife’ or ‘Take this writ of divorce to my wife,’ and then later wishes to retract the divorce, [he may do so]. [But should a woman say, ‘Go and receive my writ of divorce on my behalf, even if the householder wished to retract the writ before the slave hands it over to the woman], he may not do so (M. Git. 6:1).*
- [E] *Now is this slave in any way eligible to deliver the writ of divorce? [No! yet in the cited passage of the Mishnah he acquires the writ on behalf of the wife. It seems clear, then, that one need not himself be eligible to gather an object in order to acquire it on behalf of another].*
- [F] *[The cited objection is irrelevant,] for one must interpret [M. Git. 1:5, cited at C], disjunctively. [That is, when speaking of delivery of a divorce document, we assume that the householder is speaking to a free man, but when speaking of delivery of an emancipation document, we assume that the householder is speaking to a slave. In both cases, because the agent himself would be eligible to receive the writ of divorce or emancipation, the agent too may acquire the writ for another. At any rate, the operative criterion is that one must be eligible to gather the poor-offerings himself in order to acquire them for another, which proves the point aimed at from C on.]*
- [G] *Does the following passage of the Mishnah dispute the one who holds that [a person] who is eligible to receive [poor-offerings] may acquire [them for another poor person]?*
- [H] *For we learn in the Mishnah, **Once Rabban Gamaliel and the elders were travelling on a ship (when the time for removal of agricultural dues arrived). (Said Rabban Gamaliel, “The tenth I***

intend to measure out (and dedicate as first tithe) should be given to Joshua (who is a Levite), and the place (in which it is located) is rented to him.] The other tenth that I intend to measure out [and designate as poorman's tithe] is given to Aqiba b. Joseph, who will acquire it on behalf of the poor, and the place [in which it is located] is rented to him” (M. M.S. 5:9). Now was R. Aqiba eligible to receive [poorman's tithe]? [Certainly, as a rich person, he should not have been eligible; hence, this passage of the Mishnah seems to contradict the opinion that only a poor person can acquire poor-offerings for others. Rather, anyone who is in a position to set aside the offerings may acquire them for another.]

- [I] *One ought to interpret this case as referring to the time before [Aqiba] became rich. [Since at that time he was a poor man, he was eligible himself to collect poorman's tithe, and so could acquire it for others.]*
- [J] But even if you would claim that [the incident took place] after [R. Aqiba] became rich, [still it does not disprove the point at hand, namely, that those who are in a position to set aside poor-offerings may acquire them for others]. For one could then interpret [the incident to refer to the time] when [R. Aqiba] was a manager [of the Israelite community's charity]. For such a manager is accorded the same status as a poor person.
- [K] *The opinion of R. Joshua b. Levi [proves] that one who himself is eligible to gather [poor-offerings] may acquire [them for others]. For R. Joshua b. Levi said, “[In M. Peah 4:9, Eliezer and sages] dispute [with regard to] a rich householder [who attempts to gather some of the peah for a poor friend]. But [they agree that] if the householder himself is a poor person, since he himself is eligible to gather [the poor-offerings, he] may acquire [the poor-offering on behalf of his friend]” (Y. Peah 4:6 I.A).*

5:5

- [A] **During the afternoon of the last festival-day [of Passover during the fourth and seventh years of the Sabbatical cycle, the farmers] would recite the confession [Deut. 26:13-15, stating that they have properly distributed or destroyed all consecrated produce from their domain, cf. M. 5:6].**
- [B] **What was the confession?**
- [C] **“I removed all holy [produce] from my house” [Deut. 26:13f]—**

- [D] this [refers to; second-tithe and [produce from] a planting's fourth year [of growth].
- [E] "I gave it to the Levite" —
- [F] this [refers to] the tithe for the Levites [i.e., first tithe].
- [G] "And I also gave it" —
- [H] this [refers to] heave-offering and heave-offering of the tithe.
- [I] "To the stranger, the orphan and the widow" —
- [J] this [refers to] poorman's tithe, gleanings, forgotten sheaves and what grows in the corner of the field [all of which are left for the poor];
- [K] even though [leaving] these is not a prerequisite for saying the confession.
- [L] "From the house" —
- [M] this [refers to] dough-offering.
- [N] "According to all the precepts you commanded me" —
- [O] lo, if he separated second-tithe before [he separated] first [tithe, that is, out of order] he may not recite the confession.
- [P] "I did not transgress your precepts" —
- [Q] [this means] I did not separate [agricultural gifts] from one kind [of food] on behalf of another kind, and not from harvested produce on behalf of unharvested produce, and not from unharvested produce on behalf of harvested produce and not from new produce [i.e., produce harvested after the current 'omer] on behalf of old produce [i.e., from before the current 'omer] and not from old produce on behalf of new produce (= M. Ter. 1:5).
- [R] "And I did not forget anything" —
- [S] I did not forget to praise you and to mention your name [in connection with my crop].
- [T] "I did not eat of it while in mourning" —
- [U] lo, if he ate [second-tithe or produce of a planting's fourth year while he was in a state of mourning before the burial, he may not recite the confession.
- [V] "Nor did I separate unclean produce from it [as an agricultural gift]" —
- [W] lo, if he separated it [the agricultural gift] when it was in a state of uncleanness. he may not recite the confession.
- [X] "And I did not give [any of its value] for the dead" —

- [Y] I did not [use its value] to buy a coffin and shrouds for the dead.
- [Z] “And I did not give it” —
- [AA] to other mourners [whose dead are unburied].
- [BB] “I obeyed the Lord my God” —
- [CC] I brought it to the chosen Sanctuary [i.e., Jerusalem].
- [DD] “I did according to all you commanded me” —
- [EE] “I was happy and made others happy [with the produce].”
- [FF] “Look down from your holy dwelling-place in heaven” —
- [GG] We did what you required of us, now, (‘p) you do what you promised us.
- [HH] “Look down from your holy dwelling-place in heaven and bless your people Israel” —
- [II] with sons and daughters.
- [JJ] “And the earth which you gave us” —
- [KK] with dew and rain and with offspring of cattle.
- [LL] “As you vowed to our fathers [to give them] a land flowing with milk and honey” —
- [MM] in order to give the fruit a [sweet] taste.
- [NN] On the basis of this [verse (LL)] they said, “Israelites and *mamzers* [i.e., those of impaired lineage] may recite the confession,
- [OO] but not aliens or freed slaves, for these do not hold] a portion of the land.”
- [PP] R. Meir says, “Also: priests and Levites do not [recite the confession] since they did not acquire a portion of the land.”
- [QQ] R. Yosé says, “[Priests and Levites do recite the confession for] they have the Levitical cities.”
- [RR] Yohanán the High priest did away with (1) [the recitation of] the confession concerning [the removal of tithes.
- [SS] Also: he dismissed (2) those who sing in the Temple the psalm of awakening [i.e., Psalm 94:24, “Awake, why do you sleep, O Lord ...”], and (3) those who stun [the sacrificial animals before they are slaughtered].
- [TT] (4) And until his time, hammers would pound [i.e., work was done] in Jerusalem [during the intermediate days of Passover and Sukkot].
- [UU] (5) And in his time, no one had to ask [which agricultural gifts had been separated] from produce purchased from an ‘*am ha’ares*.

- [I:1 A] **During the afternoon of the last festival-day [of Passover during the fourth and seventh years of the Sabbatical cycle, the farmers] would recite the confession:** But why not recite the confession on the first festival day of Passover?
- [C] It is to make sure that through the holiday he will have plenty of food that must be consumed in Jerusalem.
- [D] But why not let him make the Confession during the morning service of the last day?
- [E] To this time it is a religious duty to eat [full meals through to the end of the holiday].
- [I:2 A] *It was set forth as a Tannaite rule:* And firstfruits [Produce that is second-tithe and first fruits are to be removed under all circumstances]
—
- [B] *Who is the Tannaite authority who taught this rule of firstfruits? It is the rabbis.*
- [C] *Who is the Tannaite authority who has not taught this rule of firstfruits? It is R. Simeon.*
- [D] *For we have learned in the Mishnah: There are [rules that apply] to [second] tithe and to firstfruits which do not [apply] to heave-offering. For [second] tithe and first-fruits (1) require bringing to the place [i.e., Jerusalem] (2) and they require [the recitation of] the [appropriate] confession; (3) and they are prohibited [to be eaten] by a mourner whose dead relative has not yet been buried]. R. Simeon permits [such mourners to eat firstfruits]. (4) And they are subject to the Law of Removal. R. Simeon exempts [firstfruits alone from the Law of Removal] [M. Bik. 2:2].*
- [II:1 A] **“I gave it to the Levite”** — on this basis we learn that they do not hand over the first tithe to the priesthood [but to the Levites for distribution].
- [B] Said R. Jonah, “That is to say, if his untithed produce burned up before he separated first tithe, he cannot recite the confession.
- [III:1 A] **“I did not transgress your precepts And I did not forget anything”** — *there are Tannaite authorities who repeat, “the violation of any one of all the commandments would prevent the householder from making the confession. There are Tannaite authorities who repeat, “the violation of any of the commandments referred to in this*

passage would prevent the householder from making the confession.

[B] *R. Aha bar Papa asked before R. Zeira, “Even if he put on the phylactery of the head before the phylactery of the hand?”*

[C] *He said to him, “I also take that view.”*

[III:2 A] Said R. Yosé b. R. Abun, “One cuts off some portion of the produce and says, ‘This is dough-offering for the whole,’ or ‘This is heave offering for the whole,’ for it is said, ‘when you eat of the bread of the land, you shall raise up some as a heave offering to the Lord’ (Num. 15:19). There must be a particular category [to which the householder assigns the offering.]

[B] How do we know that if he gave the entire batch, he has done nothing at all unless he leaves a little [produce or dough unconsecrated]?

[C] Scripture says, “From the first fruits” (Num. 15:19) — and not all of the first fruits.

[III:3 A] How do we know that one who anoints with second-tithe oil outside of Jerusalem has violated a positive commandment [to eat second-tithe produce in Jerusalem]?

[B] R. Eleazar in the name of R. Simai, “‘When you have set aside in full the tenth part of your yield...you shall declare before the Lord your God, I have cleared out the consecrated portion from the house...I have not cleared out any of it while I was unclean, and I have not deposited any of it with the dead’ (Dt. 26:12-14). *How shall we interpret this statement in context?* If it means to prohibit acquiring a casket or shrouds for the deceased — which cannot be purchased with consecrated funds since they cannot be eaten by the living, the phrase is superfluous. For if it is forbidden to use second-tithe money to buy something prohibited for the living, then surely it is forbidden to make such a purchase for the dead. What is permitted for the living but forbidden for the dead? The verse must refer to anointing with oil in the status of second-tithe. [Anointing with second-tithe oil outside the walls of Jerusalem would represent a violation of the positive commandment to consume second-tithe.]”

[III:4 A] [**“Look down from your holy dwelling-place in heaven and bless your people Israel:”**] R. Huna bar Aha in the name of R. Alexander, “Come and see how great is the power of those who carry out a commandment. For every reference to ‘looking down’ in the Torah represents a curse, but this speaks of a blessing.”

- [B] Said R. Yosé b. Hanina, “Not only so, but it is written in that connection, ‘this day.’ *The Tannaite teaching is, ‘this day’ [directly].*”
- [C] R. Judah b. Pazzi commenced, “‘I will approach with praise for your mighty acts O Lord God’ (Ps. 71:16). It is written, ‘They are the two anointed dignitaries who attend the Lord of all the earth’ (Zech. 4:14).”
- [D] *R. Abbahu said, “R. Yohanan and R. Simeon b. Laqish differed. One said, ‘They are those invested with power by the Holy One, blessed be he.’ The other said, ‘They are those invested with merit of commandments and good deeds before by the Holy One, blessed be he.’”*
- [III:5 A] *Rab had some worm-infested flax seed and asked R. Hiyya the Elder, “What is the rule as to my slaughtering a bird and treating the flax seed with its blood [to keep the worms away until I plant the seed?”*
- [B] *He said to him, “It is all right only with the blood of carrion, [otherwise in line with Lev. 17:13 one must pour the blood onto the ground.”*
- [C] *And why not use the blood of a bird that was terefah and forbidden for human consumption by reason of a life-threatening defect?*
- [D] *It is on account of R. Meir, for R. Meir said, “The blood of a bird that was terefah and forbidden for human consumption by reason of a life-threatening defect has to be covered up in the dirt.”*
- [E] Did not R. Ammi in the name of R. Simeon b. Laqish [say], “When the Exiles returned, their flax was not worm-infested and their wine did not turn to vinegar, and they set their gaze on the merit accruing to R. Hiyya the Elder and his sons.”
- [F] And Rab?
- [G] “Listen to me, stubborn of heart, who are far from victory. I am bringing my victory close...I will grant triumph in Zion to Israel, in whom I glory” (Is. 46:12).
- [H] R. Abbahu said, “*R. Yohanan and R. Simeon b. Laqish differed. One said, ‘All those who pass through the world come to victory through their righteousness, but the Israelites are accorded victory by God’s outstretched arm.’ The other said, ‘All acts of goodness and consolation that come to the world are on account of the merit accruing to a few, who do not benefit from them. For example, there is Mar Zutra, who prayed for others and was immediately answered, but when he prayed for himself, he was not answered.’*”

- [IV:1 A] **R. Meir says, “Also: priests and Levites do not [recite the confession] since they did not acquire a portion of the land.” R. Yosé says, “[Priests and Levites do recite the confession for] they have the Levitical cities.”**
- [B] *As to the Levitical cities, it was taught on Tannaite authority: “The cities of refuge were given to the Levites during the division of the Land,” the words of R. Judah. R. Meir says, “They were given for a [transient] residence.”*
- [C] *The ruling of R. Judah is in accord with R. Yosé, and that of R. Meir is consistent with his other opinions. For we have learned in the Mishnah: “They pay Levites a rental,” the words of R. Judah. R. Meir says, “They did not pay them a rental” [M. Mak. 2:8].*
- [V:1 A] **Yohanan the High priest did away with (1) [the recitation of] the confession concerning [the removal of tithes:**
- [B] *R. Jeremiah, R. Hiyya in the name of R. Simeon b. Laqish: “The rule of the Mishnah came about because the people were suspect of giving first tithe to the priesthood.”*
- [C] *In one respect the action of Yohanan the High Priest supports the position of R. Yohanan and in one aspect it takes issue with him. It takes issue with him for we have learned in the Mishnah **And so too a priestly girl married to a Levite eats neither heave-offering nor tithe** [M. Yeb. 9:5H-I] [She is no longer fully in the caste of the priesthood and not yet in the caste of the Levites:]*
- [D] *It is not difficult to understand why she should not eat food in the status of heave-offering.*
- [E] *But as to tithe [given to Levites], what are your alternatives?*
- [F] *If she is in the priestly caste, she has a right to eat it, and if she is in the caste of the Levites, she has the right to eat it.*
- [G] *R. Ila in the name of R. Yohanan: “It accords with the view of the one who said, ‘They do not give tithes to the priestly caste.’ It follows that [Yohanan himself holds the view] that they do so.”*
- [H] *[Yohanan the High Priest’s ruling] supports the view of R. Yohanan, for he has said, “All the ordinances are for Israel’s praise. For said R. Yohanan, “**Yohanan the High Priest sent to all the towns of Israel and found that they were separating only the great heave-offering alone. As to first tithe and second-tithe, some of them would separate them and some would not. He said to them, “Just as the***

great heave-offering, if neglected, is a transgression punishable by death, so tithing the heave-offering, if neglected, is a transgression analogous [in regard to heave-offering] to certainly untithed produce [and punishable by death]. So let people designate heave-offering *and* heave-offering of the tithe and hand them over to the priest, and [let them designate] second-tithe and render it unconsecrated in exchange for coins. And as to the rest of the tithes, e.g., poorman's tithe, let him who wants to collect from his fellow produce evidence in behalf of his claim" [so now people do not have to ask, as at M. Sot. 9:10D]. [T. Sot. 13:10]

[I] And let the householder recite the confession.

[J] [Yohanan the High priest did away with (1) [the recitation of] the confession concerning [the removal of tithes.] Said R. Hila, "It is a source of anger before the Holy One, blessed be he, if someone said, 'I did it,' when he had not done it. On that basis, [Yohanan the High Priest] ordained, he who separated tithes recited the confession, and he who did not separate tithes did not recite the confession.

[K] *That is in line with the following:* Up to "Look down from your holy abode from heaven" people would recite the confession in a low voice. From that point they would say it in a loud voice.

[VI:1 A] **Also: he dismissed (2) those who sing in the Temple the psalm of awakening [i.e., Psalm 94:24, "Awake, why do you sleep, O Lord":**

[B] Those who say, "Arouse yourself, why do you sleep Lord, wake up, do not reject us forever" (Ps. 44:24).

[C] But is sleep an issue before the Omnipresent, and has it not been stated, "Lo, the guardian of Israel does not slumber nor sleep" (Ps. 121:4)?

[D] Why does Scripture state, "The Lord awoke as from sleep" (Ps. 78:65)?

[E] But it is as if He were asleep when Israel is in trouble and the nations of the world prosper: "Surely mocking me keep me company and with their provocations I close my eyes" (Job 17:2).

[VII:1 A] **he dismissed those who stun [the sacrificial animals before they are slaughtered]:**

[B] These are the ones who would hit the heifer between its horns [to stun the beast before slaughter]. Yohanan the high priest said to them, "How long are you going to feed the altar animals with pierced brain

membranes.” He went and made for them yoke-rings [to restrain the animals].

[C] R. Abba in the name of R. Judah: “The yoke rings that he made for them were wide at the bottom and narrow at the top.”

[VIII:1 A] And until his time, hammers would pound [i.e., work was done] in Jerusalem [during the intermediate days of Passover and Sukkot].

[B] This was at the beginning of his term [but he ended the practice early on].

[IX:1 A] And in his time, no one had to ask [which agricultural gifts had been separated] from produce purchased from an *‘am ha’ares*.

[B] He appointed pairs [of overseers of the tithing.]

[IX:2 A] *The statement of R. Joshua b. Levi:* “Some of his rulings were to his discredit and some to his credit.”

[B] For said R. Yosé in the name of R. Tanhum bar Hiyya, R. Hezekiah, R. Eleazar b. R. Yosé, R. Tanhum bar Hiyya in the name of R. Joshua b. Levi, “At first [until the time of Yohanan the High Priest] he who was tithing would separate the tithe into three matches, a third for the most honored priests or Levites, a third for the Temple treasury, and a third for the poor or needy students in Jerusalem.”

[C] *Said R. Yosé b. R. Abun, “One who had to go to Jerusalem for a trial would have to cover the costs, up to three summonses connected to his case. Thereafter the costs were paid out of the treasury.”*

[D] When Eleazar b. Pahorah and Judah b. Petora [priests, not Levites] would collect tithes by force, [Yohanan] had sufficient power to protest but didn’t protest. So he abolished th part of the confession about tithes — not to his credit.

[E] **he dismissed (2) those who sing in the Temple the psalm of awakening [i.e., Psalm 94:24, “Awake, why do you sleep, O Lord ...”], and (3) those who stun [the sacrificial animals before they are slaughtered] — to his credit.**

[F] those who stun [the sacrificial animals before they are slaughtered] — **to his credit.**

[G] **until his time, hammers would pound [i.e., work was done] in Jerusalem [during the intermediate days — to the beginning of his term.**

[H] *R. Hisda asked R. Hezekiah, “[With the phrase ‘until his time’ isn’t it more reasonable to say that this was through his term to be abolished only at the end?”*

[I] He said to him, “I too think so.”

[X:1 A] **And in his time, no one had to ask [which agricultural gifts had been separated] from produce purchased from an *‘am ha’ares*.**

[B] **Demai:** R. Yosé in the name of R. Abbahu, R. Hezekiah in the name of R. Judah b. Pazzi, “Demai means ‘perhaps,’ ‘perhaps he has separated tithes, perhaps he didn’t.’”

TRACTATE

HALLAH

When the householder takes possession of his share of the crops of the Land of Israel, he also designates God's portion. At issue in the dough-offering or *hallah* is God's share of the bread. Once we know when God's interest is provoked, we also know what man does that elicits God's participation.

Two topics of the law intersect. In the halakhah of *Hallah* we uncover the counterpart and opposite of the halakhah of *Makhshirin*. Tractate *Makhshirin* (*found in the Mishnah, but not in Yerushalmi*) deals with the law of Lev 11:34, 37, which specifies that when grain is dry, it is insusceptible to uncleanness, but when it has been wet down, it is susceptible. *Hallah* is due from the dough when the dough at a particular point in the process of making bread, and produce becomes susceptible to uncleanness at a particular point in the preparation of food. How do they relate? Both categories of the halakhah—dough offering or *hallah* and the point at which food stuffs are made susceptible to uncleanness or *makhshirin*,—take up the same problem, namely, the point at which in the natural processes by which life is sustained, life commences. That life begins through the process of fermentation when water is mixed with flour and yeast and it ends when the dough forms a crust and the yeast dies. At the outset, with the deliberate addition of the water to the yeast, considerations of uncleanness take over (*makhshirin*), and at the end, with the formation of the crust and the death of the enzyme, considerations of sanctification commence and the dough-offering is owing. The one—*makhshirin*—then insists on the centrality of human intentionality in the inauguration of the processes with which it is concerned, the other—*hallah*—accords no consequence to what man wants or does not want to happen.

What we have in the halakhah of *Hallah* and *Makhshirin* together is a systematic account of how Holy Israel in the Land of Israel triggers the working of life-processes, protecting the natural life within the living dough from the uncleanness deriving from death, protecting that same life-force for the sanctification that renews and sustains life, thus in dough-offering rendering to God his portion of the staff of life. How these concepts inhere in the halakhah will emerge only from the details, carefully examined. To begin with it suffices to note that *hallah*, dough-offering, forms one of the native categories of the halakhah devoted to

marks of God's and Israel's partnership in the Land, Israel's stipulative possession of its produce.

{See Abraham Havivi, "Mishnah Hallah Chapter One: Translation and Commentary," *Approaches to Ancient Judaism*. III: *Text as Context in Early Rabbinic Literature* (ed. William Scott Green (Chico, Calif. Scholars, 1981), 149–85; Jacob Neusner, *The Talmud of the Land of Israel: A Preliminary Translation and Explanation, Hallah*. (intro. Abraham Havivi; Vol. 9; Chicago: University of Chicago Press, 1991).}

That stipulative possession is in addition to the heave-offering, already removed from the grain. Like heave offering, the *hallah*-offering is given to the priest, and, as we shall see, its halakhah bears a message distinctive to itself and not conveyed through the laws of heave-offering. Scripture states:

The LORD said to Moses, "Say to the people of Israel, When you come into the Land to which I bring you, and when you eat of the food of the land, you shall present an offering to the LORD. Of the first of your coarse meal you shall present a cake as an offering; as an offering from the threshing floor, so shall you present it. Of the first of your coarse meal you shall give to the LORD an offering throughout your generations." (Num 15:17–21 RSV)

Sages understand the verses to require the separation of a portion from the bread; it is to be coarse meal, taken to mean unbaked bread-dough. It is comparable to the offering of the threshing floor, which sages call heave-offering. Since, as we know, heave-offering is given to the priest, so sages assume dough-offering is assigned to the priest as well. The tractate's authorities wish to provide a definition of bread, so that it is possible to judge with precision which types of dough are liable to the offering and which are not. Mishnah-tractate *Hallah* also explores two matters on which Scripture is silent: first, the precise point in the processing of the dough at which the dough becomes liable to the offering; and, second, the amount that one must separate. The halakhah emerges at the end of a long process of profound thought on the nature of life-processes in nourishing Israel in the Land of Israel.

YERUSHALMI HALLAH

CHAPTER ONE

1:1

- [A] [Loaves of bread made from] five types [of grain] are subject to dough-offering:
- [B] (1) wheat, (2) barley, (3) spelt, (4) oats, and (5) rye;
- [C] lo, [loaves of bread made from] these [species] are subject to dough-offering,
- [D] and combine with each other [for the purpose of reckoning whether or not a batch of dough comprises the minimum volume subject to dough-offering].
- [E] And [products of these species] are forbidden [for common use] until Passover, under the category of new produce [produce harvested before the waving of the first sheaf (Lev. 23:14)],
- [F] And [grasses of these species may not be] reaped until [the reaping of] the first sheaf (Lev. 23:10-11).
- [G] And if they took root prior to [the waving of] the first sheaf, [the waving of] the first sheaf releases them [for common use].
- [H] But if [they did] not [take root prior to the waving of the first sheaf], they are forbidden [for common use] until [the time] comes [for the waving of] the next first sheaf [one year later].
- [I:1 A] [Loaves of bread made from] five types [of grain] are subject to dough-offering:
- [B] It is written, “And when you eat of the bread of the land, you shall present an offering to the Lord” (Num. 15:19).
- [C] Might one suppose that all types of grain are liable to dough-offering?
- [D] Scripture says, “of the bread” — and not all kinds of bread.
- [E] If it is the fact that Scripture says, “of the bread” — and not all kinds of bread, I know only that bread made from wheat and barley alone is

liable. How do I know that bread made from spelt, oats, and rye are likewise liable to the separation of dough-offering?

[F] Scripture says, “you shall present an offering to the Lord. Of the first of your coarse meal you shall present a cake as an offering” — that produces the effect of including the five types of grain that produce dough liable to dough-offering.

[I:2 A] R. Yosé in the name of R. Simeon taught as a Tannaite statement, R. Ishmael b. R. Jonah, R. Zeira, R. Simeon b. Laqish in the name of R. Ishmael, said R. Mana, “I went to Caesarea and I heard R. Ahvah,” and R. Zeira, and Abba stated the same in the name of R. Ishmael says, ““Bread is stated in regard to Passover and bread is stated in regard to dough-offering. Just as bread stated with regard to Passover refers to something that may be baked leavened or unleavened, so bread stated with respect to dough-offering refers to something that may be baked leavened or unleavened.” And they investigated the matter and found that there are no species of grains that are able to produce either unleavened or leavened bread except for the five types.

[B] “And bread made from other grains cannot be baked leavened or unleavened but only rots.”

[I:3 A] It has been taught as a Tannaite statement:

[B] **Said R. Yohanan b. Nuri, “Cow-wheat also is liable to dough-offering” [T. Hal. 1:1].**

[C] R. Yohanan b., Nuri said, “It is able to produce either unleavened or leavened bread.”

[D] And rabbis say, “It is not able to produce either unleavened or leavened bread.”

[E] Why not conduct an experiment [to see whether cow wheat can produce unleavened or leavened bread?

[F] They differed on the very conduct of the experiment. R. Yohanan b. Nuri said, “They tested the matter and found out that cow wheat produces either unleavened or leavened bread.”

[G] And rabbis said, “They tested the matter and found out that cow wheat does not produce either unleavened or leavened bread.”

[I:4 A] *There we learned in the Mishnah: [As regards] an apple [in the status of heave-offering] that one chopped up and placed in dough, and [as a result the dough] was leavened — lo, this [i.e., the dough] is forbidden [for consumption by a non-priest] [M. Ter. 10:2].*

- [B] *It has been taught as a Tannaite rule:* [As regards an apple in the status of heave-offering] which one chopped up and placed in dough, and as a result the dough was leavened (M. 10:2A-B)] R. Yosé says, “[That which is leavened by the apple is not deemed truly leavened and therefore the law of M. Or. 2:4 does not apply; the dough] remains permitted [to non-priests]” [T. Ter. 8:9].
- [C] *R. Aha, R. Abbahu in the name of R. Yosé b. Hanina:* “Where there is a dispute, it is when it leavens by its juice. But when it leaves by the pulp of the apple itself, all authorities agree that the dough is permitted.”
- [D] *R. Yosé is consistent with views expressed elsewhere, for he has said there,* “[if on the Sabbath one broke an egg into a hot cloth, it is permitted to eat the egg if it is cooked, because] this is a mode of cooking that is not clearly cooking [such as is forbidden on the Sabbath].” And so he says here, the leavening process is not clearly leavening.
- [I:5 A] *And just as you say here, you have able to produce either unleavened or leavened bread only the five types, along these same lines, is it the case that you have only wheat and barley [and the three other species] that impose their status on other grains [with which they are mixed, if the wheat or barley imparts its flavor to the whole]?*
- [B] *R. Hila in the name of R. Simeon b. Laqish:* “We have learned only the following: He who makes dough from [a mixture of] wheat [flour] and rice [flour] — if it [i.e., the dough] has the taste of cereal [wheat], it is subject to dough-offering. And a person fulfills his obligation [to eat unleavened bread] on Passover by means of [eating] it. But if it does not have the taste of cereal, it is not subject to dough-offering. And a person does not fulfill his obligation [to eat unleavened bread] on Passover by means of [eating] it.
- [C] So the status of other grain is imposed in the case of wheat alone [which imposes its status on a mixture of which it is a part if it imparts its flavor].
- [I:6 A] What is the law as to other species being liable for parched kernels on the grounds of the prohibition affecting new grain [prior to the waving of the ‘omer]? [Does that prohibition apply only to the five species or to rice and other grain left off the list?]
- [B] Said R. Zeira, “It is written, ‘And you shall eat neither bread nor grain parched or fresh until this same day, until you have brought the offering of your God’ (Lev. 23:14). That kind of grain on account of

the bread of which one is liable on account of the prohibition affecting new grain prior to the 'omer is the kind with respect to which one is liable for parched kernels on account of the prohibition affecting the new grain, and that kind of grain on account of the bread of which one is not liable on account of the prohibition affecting new grain prior to the 'omer is the kind with respect to which one is not liable for parched kernels on account of the prohibition affecting the new grain.”

- [I:7 A] *R. Jeremiah raised the question before R. Zeira, “If one mixed four qabs of flour into dough by themselves and allowed them to leaven, or four qabs by themselves and mixed them together [one made dough in the volume liable to dough-offering, which is two qabs, and two qabs of flour that is not subject to dough-offering, and mixed the two together, so that they leavened as a mixture, or took two qabs, two qabs of the five species and two of some other kind of flour and then mixed them together, what is the law as to each of the four qabs’ being subject to dough-offering, since each of them contains sufficient volume of the five species to be liable to dough-offering?]*”
- [B] [He replied,] “Lo, at the moment at which the various pieces of dough become liable to dough-offering, the various mixtures were able to become leavened or unleavened bread. [So at the moment that the mixture was subject to the law at the moment at which liability to dough-offering accrued.]”
- [C] The opinion of R. Jonah matches that of R. Jeremiah and the opinion of R. Yosé matches that of R. Zeira.
- [D] The opinion of R. Jonah matches that of R. Jeremiah: just as R. Jeremiah holds that dough is subject to dough-offering only if it falls into the category of bread, so R. Jonah holds that dough is subject to dough-offering only if it falls into the category of bread
- [E] *...and the opinion of R. Yosé matches that of R. Zeira: just as R. Zeira holds that so long as the mixture contains a species classified as bread, the whole mixture is subject to dough-offering, so R. Yosé holds that so long as the mixture contains a species classified as bread, the whole mixture is subject to dough-offering.*
- [F] The position of R. Yosé accords with the view of R. Hila, even though he differs from him.
- [II:1 A] **[(1) wheat, (2) barley, (3) spelt, (4) oats, and (5) rye:]** *R. Samuel bar Nahman derived all five species of grain from a single verse of Scripture: “When he has leveled its surface, does he not scatter dill,*

sow cummin, and put in wheat in rows and barley in its proper place and spelt as the border?’ (Is. 28:25)

- [B] “‘put in wheat:’ this refers to wheat.
- [C] “‘in rows:’ this refers to oats. And why does it speak of ‘in its proper place’? Because it is planted in rows.
- [D] “‘and barley:’ this refers to barley.
- [E] “‘in its proper place:’ this refers to rye.
- [F] “‘and spelt:’ this refers too spelt.
- [G] “‘as the border:’ this refers to bread.”
- [H] But do we learn laws from traditions [of prophets]?
- [I] Said R. Simon, “On the foundation of what is written, ‘For he is instructed aright, his God teaches him’ (Is. 28:26), it is as if it were as valid as a teaching of the Torah.”
- [J] Said R. Simon, “Those women who say, ‘we are not going to bring our sons up to the synagogue, if he is suitable for learning, he will learn,’ do not do the right thing. Rather: ‘For he is instructed aright, his God teaches him’ (Is. 28:26).”

[III:1 A] R. Juda bar Pazzi in the name of R. Jonathan, [“The statement, And products of these species] are forbidden for common use until Passover, under the category of new produce, produce harvested before the waving of the first sheaf (Lev. 23:14). And grasses of these species may not be] reaped until the reaping of the first sheaf (Lev. 23:10-11)] *represents the view of R. Ishmael son of R. Yohanan b., Beroqah, for it has been taught on Tannaite authority: R. Ishmael son of R. Yohanan b. Beroqah says, ‘[As to the meal-offering of the ‘omer,] is it possible to imagine that one may bring that meal offering from spelt, oats or rye? [But is it not logical to suppose that one may not bring meal offering from spelt, oats, or rye, on the basis of the following argument:] if wheat, which is valid for the presentation of all other meal-offerings, is not valid for the meal offering of the ‘omer, spelt, oats, and rye, which are not valid for use in other meal-offerings, surely should not be valid for the meal-offering of the ‘omer!’*

- [B] “Barley will prove the contrary, for it is invalid for other meal-offerings but valid for the meal-offering of the ‘omer.”

- [C] “No, if you have said so in the case of barley, from which the meal-offering of the wife accused of infidelity is presented, will you say the same of spelt, oats, or rye, from which the meal-offering of the wife accused of infidelity is not presented?”
- [D] “Wheat is excluded on the basis of an explicit statement of Scripture, and spelt, oats, and rye are excluded on the basis of an argument a fortiori.”
- [E] *Said R. Yosé, “Does R. Judah b. Pazzi really conceive that the meal offering of the ‘omer might derive from spelt, oats, or rye [since an argument a fortiori is conceived to be required to exclude that possibility]? If someone said, ‘Black figs are incumbent on me [I vow not to eat black figs], is it possible that he would not be permitted to eat white ones? But he spoke of black ones and not of white ones [so what problem can necessitate raising the issue?] Along these same lines, spring barley is what is specified by Scripture, and spelt, oats, or rye are not specified [and never presented possibilities for us in the ‘omer].”*
- [F] But in accord with the rabbis vis a vis of R. Ishmael son of R. Yohanan b. Beroqah, there are three species of grain not five.
- [G] Rye is a species of the genus, spelt, and oats is a species of the genus barley.
- [H] *Rabbis of Caesarea ask in context, “Do we learn as the Tannaite tradition of the Mishnah, ‘Five species’? It speaks of ‘Five types.’ Two types constitute one species, and two types another species.”*
- [IV:1 A] ...and combine with each other [for the purpose of reckoning whether or not a batch of dough comprises the minimum volume subject to dough-offering]: ***there we have learned in the Mishnah***: Two women who made two [separate] one-*qab* portions [of dough], and [the portions] touched each other — even if [the portions derive] from a single species, they are exempt [from dough-offering, since they are owned by different people]. But when [the portions] belong to the same woman — [if they are of] a single species, [the dough is] subject [to dough-offering]. But [if they are of] different species, [the dough is] exempt [from dough-offering] (M. 4:1). **[In considering whether or not batches of dough combine with each other to comprise the minimum volume liable to dough-offering,] what [grains] constitute a single species? [Flour made from] wheat combines with nothing but [flour made from] spelt. [Flour made from] barley combines with all [types of flour], except for [that made from] wheat.** R. Yohanan b. Nuri says, “The other species combine

with each other” (M. 4:2).] With reference to the formulation, what [grains] constitute a single species? [Flour made from] wheat combines with nothing but [flour made from] spelt. [Flour made from] barley combines with all [types of flour], except for [that made from] wheat. [But the Mishnah at M. 1:1 says “and combine with each other” without distinction.]

[B] **R. Yosé made the statement without further particularization, R. Jonah in the name of R. Yohanan: “There [at M. 4:1-2] we speak of pieces of dough that are merely in contact, but here [at M. 1:1] we deal with pieces of dough that are thoroughly mixed together.”**

[C] *So R. Hiyya formed a Tannaite version of the rule: “And in all cases, if one has mixed them together, even unmilled grain, flour and dough join together [to constitute the requisite volume].”*

[D] If one worked up in the trough dough-starters [bits of dough used for leaven],

[E] said R. Yosé, “And that lump of dough made by pressing pieces together — is it not the same as if it was worked together?”

[F] you have said that it does not join together, and here too it does not join together.

[IV:2 A] [If one joined together some of all the five species and made them into one piece of dough,] what is the law on the authority of the Torah as to flogging an Israelite on account of eating the bread from which the dough-offering has not been removed?

[B] R. Jonah in the name of Samuel, R. Yosé, R. Abbahu in the name of R. Simeon b. Laqish: “On the authority of the Torah as to flogging an Israelite on account of eating the bread from which the dough-offering has not been removed, they do not administer a flogging.”

[C] Said R. Jacob bar Aha, “R. Simeon b. Laqish is consistent with views expressed elsewhere, for there is the following dispute:

[D] “Meat in the status of refuse and meat in the status of remnant that one chopped together —

[E] “R. Yohanan said, ‘They have not neutralized the presence of one another [and liability on each count is incurred].’

[F] “R. Simeon b. Laqish said, ‘They have neutralized the presence of one another [and liability on each count is incurred].’” [Here too if there is too little of any one of the kinds of grain to produce enough dough to be subject to dough-offering, joining them makes no difference.]

[G] Said R. Yosé, “The cases are not comparable. In the case of two pieces of meat, each is forbidden on its own account, so this was forbidden and that was forbidden before they were chopped up together. Here two formerly permitted quantities of flour, neither subject to dough-offering because of their small volume, are mixed together, and at that point neither was subject to a prohibition.] Here you have two items greater than a single item, and they neutralize; and they neutralize prior to the prohibition taking effect. If the text had read, ‘If one joined together some of all the five species and made them into one piece of dough,’ and R. Simeon b. Laqish had said, ‘On the authority of the Torah as to flogging an Israelite on account of eating the bread from which the dough-offering has not been removed, they do not administer a flogging’ — it would have been fine. [But here the cases are not parallel, so there is no conclusion to be drawn.]”

[IV:3 A] Hillel the Elder would fold together the three species [Passover meat, unleavened bread and bitter herbs] and eat them all together.

[B] Said R. Yohanan, “They differed from Hillel the Elder regarding the three items as nullifying one another.”

[C] And lo, R. Yohanan folds together unleavened bread and bitter herbs.”

[D] Here [where one may not do so] it is in the time of the Temple, and there [where one may do so], it is in the time in which there is no Temple.

[E] And even if you say both rules apply in the time of the Temple, two items [of the three] are more than one and neutralize the components of the mixture [but if you take only two items, one does not neutralize the other].

[IV:4 A] R. Yosé in the name of R. Eleazar: “Just as things that are subject to a prohibition do not neutralize one another, so things that are required for performing a religious obligation do not neutralize one another.”

[IV:4 A] *R. Joshua the Southerner asked*, “If one made a piece of dough out of the five species and then made five pieces of dough out of a single species and then mixed them all together, as to the wheat that is in the five pieces of dough, what is the law as to its neutralizing the wheat in the first piece of dough, and as to the barley that is in the five pieces of dough, what is the law as to its neutralizing the barley in the first piece of dough?”

[B] Said R. Hiyya bar Ada, “Didn’t R. Yosé say, ‘[The cases are not comparable. In the case of two pieces of meat, each is forbidden on its

own account, so this was forbidden and that was forbidden before they were chopped up together. Here two formerly permitted quantities of flour, neither subject to dough-offering because of their small volume, are mixed together, and at that point neither was subject to a prohibition.] Here you have two items greater than a single item, and they neutralize; [and they neutralize prior to the prohibition took effect.]”

[C] *The question still registers*, pertaining to a case in which he made five pieces of dough out of the five species and mixed them together, then went and made five pieces of dough out of the five species but did not mix them together. As to the wheat that is in the five pieces of dough, what is the law as to its neutralizing the wheat in the first piece of dough, and as to the barley that is in the five pieces of dough, what is the law as to its neutralizing the barley in the first piece of dough?

[V:1 A] And products of these species are forbidden for common use until Passover, under the category of new produce [produce harvested before the waving of the first sheaf [Lev. 23:14]:

[B] There are Tannaite authorities who formulate the rule to read And products of these species are forbidden for common use until Passover and there are Tannaite authorities who formulate the rule to read, And products of these species are forbidden for common use until the ‘omer [the sixteenth of Nisan. Tannaite authorities who formulate the rule to read until Passover accord with the position of R. Yohanan, and Tannaite authorities who formulate the rule to read until Passover accord with the view of Hezekiah.

[C] *For said R. Jonah in the name of Hezekiah*, “When the offerings were made, the marking of the offering marked the point at which new produce on the sixteenth of Nisan was permitted. When offerings are no longer made, the advent of the day [the sixteenth of Nisan itself] marked the point at which new produce on the sixteenth of Nisan was permitted.”

[D] R. Yosé in the name of Hezekiah: “When the offerings were made, the marking of the offering marked the point at which new produce on the sixteenth of Nisan was permitted.” Hezekiah concedes, “When offerings are no longer made, the advent of the day [the sixteenth of Nisan itself] marked the point at which new produce on the sixteenth of Nisan was permitted.”

[E] R. Yohanan said, “Whether when the offerings were made or whether offerings are no longer made, the advent of the day [the sixteenth of

Nisan itself] marked the point at which new produce on the sixteenth of Nisan was permitted.”

[F] Said R. Hila, “The scriptural support for the position of R. Yohanan is this: ‘And you shall eat neither bread nor grain parched or fresh until this same day, until you have brought the offering of your God; it is a statute for ever throughout your generations in all your dwellings (Lev. 23:14). [‘Until this same day’ shows that the advent of the day permits use of new produce].”

[G] Might one say that that is the case even in the time of the presentation of offerings? Scripture says, “until you have brought the offering of your God.”

[H] Might one say that the ‘omer must actually be presented?

[I] Scripture says, “until this same day.”

[J] How so? Choose [between the advent of the day as against the actual presentation of the ‘omer] the time for presenting the ‘omer, [as the governing consideration even if there is no actual offering]. [The time of the offering, whether the offering is made or not, is the time at which consuming the new produce is permitted.]

[K] R. Yohanan concedes that the prohibition of the consuming of new produce is in effect on the sixteenth of Nisan until the time of making the offering, whether or not it is presented, so that sunrise on the sixteenth of Nisan does not automatically permit the consumption of new produce.

[V:2 A] What [from the dawn of the sixteenth of Nisan until the time of offering of the ‘omer on the sixteenth of Nisan] is the status of the prohibition [against using new produce]?

[B] R. Jeremiah said, “The prohibition has the authority of the law of the Torah.”

[C] *R. Jonah and R. Yosé both say*, “The prohibition has the authority of the scribes.”

[D] *Said R. Yosé*, “A statement of Rabbis supports our position, for we have learned in the Mishnah: They do not bring [from new produce] meal offerings, first fruits, and the meal offering which accompanies [drink] offerings along with beasts before the ‘omer And if one brought [any of these before the ‘omer), it is invalid. [As to bringing these items] before the two loaves — one should not bring them [Lev. 23:16]. And if one brought them, it is valid [M. Men. 10:6]. *And said*

R. Joshua the Southerner, R. Jonah, R. Imi in the name of R. Yohanan, 'The statement applies only to the thirteenth, fourteenth, or fifteenth of Nisan. Lo, on the sixteenth of Nisan from drawn if one violated the law and presented these offerings from new produce, the offerings are valid.' If you say The prohibition has the authority of the law of the Torah, there should be no difference between the thirteenth, fourteenth, or fifteenth of Nisan and the sixteenth of Nisan. drawn if one violated the law and presented these offerings from new produce, the offerings are invalid.

- [E] “And further, there is that which R. Zeira said, ‘Rab accords with the view of R. Yohanan. If you say The prohibition has the authority of the law of the Torah, will Rab concur with R. Yohanan as against the view of Hezekiah, son of his uncle Hiyya? And we have learned in the Mishnah: When the Temple was destroyed, Rabban Yohanan ben Zakkai made the rule that in the provinces the lulab should be taken up for seven days, as a memorial to the Temple; and that the day [the sixteenth of Nisan] on which the ‘omer is waved should be wholly prohibited [in regard to the eating of new produce] [M. R. H. 4:3 and M. Suk. 3:12]. If you say the prohibition has the authority of the law of the Torah, there is no problem. If you say, The prohibition has the authority of the scribes, then is there such a thing as an ordinance of the scribes based on an ordinance of the scribes? [Can Yohanan ben Zakkai prohibit the utilization of new produce on the entire day when the prohibition of its use for only part of a day rested on the authority of scribes?]
- [F] Said R. Yosé b. R. Abun, “It was because of the people in distant places.” [When the Temple stood, people far from the temple did not eat new produce for the entirety of the sixteenth of Nisan. Yohanan confirmed the existing practice.]
- [G] R. Jeremiah in the name of R. Hiyya: “Whether in the time of making the offering of the ‘omer or not in that time, the advent of the day permits the use of new produce.”
- [H] Said R. Huna, “The Tannaite formulation of Hezekiah contradicts him: ‘Until this selfsame day’ (Lev. 23:14) teaches that it is the advent of the day that permits the new produce to be used. Is it possible to suppose that that is so even when there is an offering? Scripture says, ‘Until you have brought the offering of your God’ (Lev. 23:14).”
- [I] *And have we not learned in the Mishnah: When the Temple was destroyed, Rabban Yohanan ben Zakkai made the rule that in the provinces the lulab should be taken up for seven days, as a memorial to*

the Temple; and that the day [the sixteenth of Nisan] on which the 'omer is waved should be wholly prohibited [in regard to the eating of new produce] [M. R. H. 4:3 and M. Suk. 3:12].

[J] Said R. Jonah, "I presented the question before R. Jeremiah, and he said, 'Indeed, R. Hezekiah concurs with R. Judah, For R. Judah said, 'Is it not so that the prohibition of the time after sunrise on the sixteenth of Nisan is based on the authority of the Torah.'"

[V:3 A] There [in Babylonia] they take account of the possibility that the Great Fast [the Day of Atonement] may fall on one of two days [and observe them both]. [They do not know whether the month of Elul is given an extra day in accord with the appearance of the new moon of Tishré. They are not sure when Tishré begins, so they fast for two days.]

[B] Said to them R. Hisda, "Why do you push yourselves into this situation of grave doubt. There is the presumption that the court is not slothful."

[C] The son of the father of Samuel bar Isaac took account of the possibility that the Great Fast [the Day of Atonement] may fall on one of two days and fasted on two days. When he broke off the fast, he was too weak to eat bread, and he died.

[VI:1 A] And [grasses of these species may not be] reaped until [the reaping of] the first sheaf (Lev. 23:10-11). And if they took root prior to [the waving of] the first sheaf, [the waving of] the first sheaf releases them [for common use].

[B] [And if they took root prior to [the waving of] the first sheaf:] R. Jonah said, "Prior to the bringing of the 'omer."

[C] R. Yosé said, "Prior to the cutting of the barley grain for the 'omer."

[D] Said R. Jonah, "The act of bringing the 'omer permits bringing new grain for use in the meal offering in the Temple, the act of harvesting the barley for the 'omer permits harvesting the new grain for ordinary use." [Taking root is comparable to bringing the grain to the Temple. The Temple is comparable to the earth. If the roots have entered the ground prior to the sheaf's being brought to the Temple, they are covered by bringing the sheaf for the 'omer.]

[E] Said R. Yosé, "Cutting the grain for the 'omer serves to permit both bringing the grain to the Temple as the 'omer and also harvesting other new grain." [It is the sole criterion.]

[F] Accordingly R. Yosé concludes that if one cut the grain for the public offering of the 'omer, and it was made unclean, the individual reverts

to the situation of being prohibited from eating new grain on the sixteenth of Nisan until the 'omer is properly offered.

- [G] R. Jonah said, "That rule applies prior to the cutting of the barley for the 'omer. But if the 'omer barley is properly cut, ordinary folk may then harvest their new crops, and even if the 'omer is made unclean they continue to do so.]"
- [H] R. Yosé said, "That rule takes effect prior to bringing the 'omer."
- [I] *Said R. Jonah, "A statement of Kahana sustains my position [that the crop must take root prior to cutting the barley for the 'omer if the crop is to be covered by the present 'omer. For Kahana said, '[Prior to cutting the barley for the 'omer, the verse to be cited distinguishes between what is now in the condition of first fruits and what is not:] "[If you offer a meal offering of first fruits to the Lord you shall offer for the meal offering of your first fruits crushed new grain from fresh ears parched with fire" (Lev. 2:14). This crop already in hand has produced first fruits, and another crop not yet available is not deemed to produce first fruits. So notice: even if the crop is now merely grass, even if it has merely taken root, the 'omer comes and permits using it. But prior to the harvest is the situation to which the verse refers.]*
- [J] *"And there is further proof from the following Tannaite rule: He who weeds on the thirteenth of Nisan [two days prior to Passover on the fifteenth] and an ear of grain was accidentally pulled up in his hand, he replants it in damp soil but not in a dry place. [The rerooting will be quicker in the damp place. It is important that the stalk take root before the 'omer is waved on the sixteenth of Nisan. The operative consideration is for the stalk to be in place prior to bringing the 'omer.] Lo, there is then the thirteenth, fourteenth, fifteenth, and part of the day of the sixteenth is tantamount to the whole of it [so there are three days, sufficient for rerooting the stalk. Specifying the thirteenth indicates that the operative consideration is the bringing of the 'omer, not merely cutting it, for if the cut off point were the harvest day itself, the fifteenth at night, then it would not avail even if the stalk rerooted itself in three days. The rule presupposes the position of Jonah.]"*
- [K] *Said R. Yosé, "A statement of R. Abina supports my view, for said R. Abina, 'Interpret [the further proof of J] to speak of a location in which it is not customary to work on the fourteenth of Nisan. [The particulars of that passage then do not pertain to the considerations introduced just now.] But as to a location in which it is customary to work on the fourteenth of Nisan [the formulation would be different.] For the passage does not speak of what has already been harvested but*

to a case in which the produce is unharvested. *The purpose of the Tannaite rule then is to indicate* that in a place in which it is customary to work on what has been harvested, they may work even with produce still in the ground.”

- [VII:1 A] But if [they did] not [take root prior to the waving of the first sheaf], they are forbidden [for common use] until [the time] comes [for the waving of] the next first sheaf [one year later].
- [B] R. Eleazar asked, “What is the rule on bringing the ‘omer from crops that did not take root prior to the waving of the ‘omer?”
- [C] It is possible to state with certainty: as to what is new and covered by the present waving of the ‘omer and as to what is superannuated and covered by last year’s waving of the ‘omer, they do not separate heave-offering or tithe from a batch of the one in behalf of the other, and yet you can ask such a question?
- [D] [*Responding to B in another way*] they objected: lo, there is the case of other species of produce. Lo, they depend on the ‘omer to be used in the new agricultural year. And yet the ‘omer is not brought from them. [Thus what did not take root in time in the preceding year is going to be permitted by the ‘omer of the following year, but this old barley may not itself serve as the ‘omer.]
- [E] No, if you have made that statement in connection with other types of crops, which are not suitable to produce the meal offering of the ‘omer, will you say the same of barley, which is suitable to produce meal offering for the ‘omer?
- [F] [Proving again that grain that took root just after the ‘omer in the prior year may not serve in the ‘omer in the coming year] associates in the name of R. Eleazar: “ ‘The sheaf of the first fruits of your harvest’ (Lev. 23:10) — and not the end of your harvest from the preceding year.”
- [G] R. Zeira in the name of R. Eleazar, “ ‘First fruits’ — and these from last year do not qualify as first fruits.”
- [H] What is the difference between these proofs?
- [I] If one violated the rule and brought ‘omer barley from what just missed the ‘omer of the preceding year. In the view of associates, F, the sheaf is invalid. In the view of R. Zeira, it is valid.
- [J] Sages [in connection with B], R. Yosé b. R. Bun, R. Hiyya in the name of Rabin bar Hiyya: “And the rule that the barley may not be used

applies if they reached a third of their full growth prior to the New Year. But if they reached a third of their full growth only after the New Year, the ‘omer may derive from that crop. [The barley is superannuated if it reached a third of full growth prior to the first of Tishré, six lunar months prior to Nisan. But if it matured after that date, it may be used for the ‘omer.]”

1:2

- [A] **One who eats on Passover an olive’s bulk of unleavened bread [made from one of the five species of grain] has fulfilled his obligation [to eat unleavened bread].**
- [B] **[One who eats on Passover] an olive’s bulk of leavened bread [made from one of these species] is liable to extirpation.**
- [C] **[If any dough from] one of them [that was leavened] became mixed with [dough made from] any other species of grain [on Passover],**
- [D] **lo, this one [who makes use of such a mixture] is a transgressor of the laws of Passover.**
- [E] **“One who vows to abstain from eating bread or grain is forbidden to eat anything made from them,” the words of R. Meir.**
- [F] **And sages say, “One who vows to abstain from eating cereals is forbidden to eat products of only those species.”**
- [G] **And the five species are liable to the separation of dough-offering and tithes.**
- [I:1 A] Said R. Jacob bar Zebedee, “That is to say that those [who fail to designate dough-offering from bread made of the five species] are flogged on the authority of the Torah.” [Since here if one ate the requisite volume of dough made of any of the five species on Passover, he is liable to extirpation, it follows that the requirement to separate the dough-offering is equally based on the authority of the Torah, since in both instances, the definition of what is bread is at issue. If dough made from these constitutes bread for Passover, it also constitutes bread for the purpose of defining the status of dough-offering. If we make up the requisite volume from a little bit of dough made up of each of the five species separately, the same liability is incurred. Consequently, a mixture of the five that adds up to the requisite volume is equally “bread” for both Passover and dough-offering, It follows that flogging for violating the law requiring separation of dough-offering is based on the law of the Torah.]
- [B] R. Jeremiah in the name of R. Hiyya bar Vava: “Explain the case to involve the consumption of an olive’s bulk of bread made of one

species of flour and an olive's bulk of bread made from another species of flour." [There is no question of a mixture to yield the requisite volume.]

[C] Said R. Yosé, "Even if you say that he ate an olive's bulk from all the species, the case of leavened bread eaten on Passover is different, for all of them fall under the single count of being leavened."

[D] *Then the views attributed to R. Yosé are contradictory, There he says two different items overwhelm a third and nullify its presence, and here he has said [that the several species making up a single piece of leavened bread do not nullify one another].*

[E] *Said R. Yosé b. R. Abun, "This is the meaning of the Mishnah: if one ate an olive's bulk of dough made from this species and the same made from that."*

[II:1 A] "One who vows to abstain from eating bread or grain is forbidden to eat anything made from them," the words of R. Meir. And sages say, "One who vows to abstain from eating cereals is forbidden to eat products of only those species." "He who vows not to eat grain is forbidden to eat dried Egyptian beans," the words of R. Meir. And sages say, "He is prohibited only from eating the five varieties (M. Ned. 7:2A-B)."

[B] Lo, he who vows not to eat bread and grain — should he not be prohibited to eat all kinds of grain in the view of rabbis?

[C] *R. Hiyya in the name of R. Yohanan: "That is the sense of the Mishnah: "One who vows to abstain from eating cereals is forbidden to eat products of only those species." With what sort of case do we deal when we say, One who vows to abstain from eating bread or grain is forbidden to eat anything made from them? If one refers to "bread as defined by the Torah," then one who says, "...grain as defined by the Torah" should be prohibited to eat all things, for it is written, "Grain of the vineyard" (Dt. 22:9), meaning wine. If one refers to "bread" without further explanation, then the reference is to wheat and barley, for nothing is called bread without further explanation except for wheat and barley.*

[D] Said R. Yosé, "Interpret the passage to speak of a place in which people eat bread made from all kinds of suitable grain. The term 'bread' here without further explanation refers only to bread made from the five species."

1:3

- [A] [Grain in] the following categories is liable to dough-offering [when made into dough], but exempt from tithes:
- [B] Gleanings, forgotten sheaves, produce of the corner of a field, that which has been abandoned, first tithe from which heave-offerings [of the tithe] have been removed, second tithe and that which is dedicated to the Temple that have been redeemed, the leftover portion of [grain that was harvested for the offering] of the first sheaf, and grain that has not reached a third [of its anticipated growth].
- [C] R. Eliezer says, “Grain that has not reached a third [of its expected growth] is exempt from dough-offering when made into dough.”
- [D] The following are liable to tithes but [when made into dough] are exempt from dough-offering: Rice, sorghum, poppy, sesame, and pulse;
- [E] And bread-dough made from less than five fourths of a *qab* of grain.
- [F] Sponge-cakes, honey-cakes, dumplings, and pancakes
- [G] and bread dough made from a mixture of unconsecrated grain and heave-offering are exempt from dough-offering.
- [I:1 A] R. Hoshaiah asked Kahana, “How do we know that [Grain in] the following categories is liable to dough-offering [when made into dough], but exempt from tithes?”
- [B] He said to him, “Don’t tell me the proof based on the appearance of the word, ‘You will raise up’ with reference both to dough-offering and separation of tithes” (Num. 15:20). [Scripture speaks of ‘raising up’ when it speaks of tithes and dough-offering, so these are regarded as analogous. One might think that grain subject to dough-offering is subject to other tithes. Kahana regards this as a schismatic proof.]
- [C] He reverted and said to him, “[The distinction made at M. 1:3A] is based on the situation that prevailed in the fourteen years of the conquest of the Land. Just as during those fourteen years the crops were liable to dough-offering but exempt from tithes, so these are liable to dough-offering and exempt from tithes.”
- [II:1 A] **Gleanings:**
- [B] R. Yohanan in the name of R. Yannai: “This is one of three passages in the Torah that are clear as is: ‘And the Levite, because he has no

portion or inheritance with you, and the sojourner, the fatherless, and the widow, who are within your towns, shall come and eat and be filled, that the Lord your God may bless you in all the work of your hands that you do' (Dt. 14:29) — what you have and he does not have are you obliged to give him, thus, excluding ownerless property, to which his claim and your claim are equal, specifically, Gleanings, forgotten sheaves, produce of the corner of a field, that which has been abandoned.”

- [III:1 A] **first tithe from which heave-offerings [of the tithe] have been removed:** Since its heave-offering has been removed, is this not in the status of unconsecrated produce? [Why is it necessary to specify that it is liable to dough-offering, since all dough made from secular grain is liable to dough-offering?]
- [B] Interpret the Mishnah to speak of a case in which one went ahead and designated the heave-offering while the grain was still in the ears.
- [C] For said R. Abbahu in the name of R. Simeon b. Laqish, “First tithe that one went ahead and designated as heave-offering while the grain [inclusive of the tithe] was still in the ears is exempt from the requirement of having Great Heave-offering designated from it.” [The normal sequence is, Great Heave-offering is separated, then the tithe is designated. Here the order is reversed. The farmer designated first tithe while the grain was still in the ears. There is no need to separate Great Heave-offering at all. Yet since that still inheres, one might supposed that dough-offering will be separated from dough made from flour produced by such grain. That is not the case.]
- [D] [Why is it the case that if the farmer designated first tithe, there is no need to separate Great Heave-offering at all?] Said R. Yosé, “It is written, ‘Out of all the gifts to you, you shall present every offering due to the Lord, from all the best of them, giving the consecrated part of them’ (Num. 18:29) — not the best of it and then the best of its fellow.”
- [E] Said R. Yosé, “It is written, ‘Moreover you shall say to the Levites, When you take from the people of Israel the tithe that I have given you from them for your inheritance, then you shall present an offering from it to the Lord, a tithe of the tithe’ (Num. 18:26) — not heave-offering and tithe from the tithe.”
- [F] [With reference to, said R. Abbahu in the name of R. Simeon b. Laqish, “First tithe that one went ahead and designated as heave-offering while the grain [inclusive of the tithe] was still in the ears is exempt from the requirement of having Great Heave-offering

designated from it”] this applies to a case in which one smoothed the pile of grain [finishing the process of storing it up] and afterward separated the heave-offering of the tithe that is in the pile. But if one separated the heave-offering of the tithe and afterward smoothed out the pile, it is not in such a case [that the designation of first tithe prior to the designation of Great Heave-offering releases the obligation to separate the Great Heave-offering.]

[G] [It further applies] when one separated produce within the pile for that very pile, but if one separated produce for that pile from produce located elsewhere, it is not in such a case [that the designation of first tithe prior to the designation of Great Heave-offering releases the obligation to separate the Great Heave-offering.]

[IV:1 A] second tithe and that which is dedicated to the Temple that have been redeemed:

[B] R. Zeira, R. Yosé, R. Hama bar Uqba, R. Hillel b. Hallis presenting a statement in the name of R. Judah: “It is on the basis of the following, ‘Second tithe that one went ahead and designated while the grain was still in the ears is exempt from the requirement to have Great Heave-offering designated from it.’”

[C] *R. Jonah raised the question:* “That is in line with him who has said, ‘It is not in the status of his own property,’ but in accord with the one who says, ‘It is in the status of his own property,’ the produce is still liable to tithes.”

[D] *He said to him, “I too think so.* It is a case of produce in the status of second tithe. *All parties agree that it is in the status of his own property and so it is liable to tithes. Where there is a dispute,* he who says it is liable, holds that even for the heave-offering that is contained in the crop he is liable, and he who holds that it is exempt maintains that even the unconsecrated produce that inheres in it is exempt.”

[E] *He who holds it is liable treats it as a case of heave-offering and tithes designated for produce located in another place — how do you deal with this position? [Is dough-offering required in this case?] Is it comparable to grain mixed with grain in the status of heave-offering? [That grain made into flour transformed into dough is liable to dough-offering.] Or is it comparable to a mixture of dough and dough containing heave-offering [exempt from dough-offering]? [Bread-dough made from a mixture of unconsecrated grain and heave-offering is exempt from dough-offering. But if there is a mound of unmilled grain containing a mixture of heave-offering and unconsecrated food, it is liable to dough-offering.]*

- [F] *R. Yohanan said, “I asked that question.” R. Josiah said, “I asked that question:”* What is the difference between a mound of grain mixed with heave-offering and dough that is mixed with dough in the status of heave-offering? A mound of grain mixed with heave-offering is liable to dough-offering, dough that is mixed with dough in the status of heave-offering is exempt from heave-offering. [What’s the difference?]
- [G] R. Tanhuma in the name of R. Huna: “A mound of grain mixed with heave-offering — if prior to the making of the mixture, one violated the law and designated heave-offering from it, is it not in the status of heave-offering? [It certainly is.] But dough that is mixed with dough in the status of heave-offering if prior to the mixture one violated the law and separated dough-offering from it, it is not in the status of dough-offering. *For we have learned:* He who separates dough-offering from standing grain — it is not deemed valid dough-offering and if the priest retains it, it is stolen property in the possession of the priest.
- [V:1 A] ...the leftover portion of [grain that was harvested for the offering] of the first sheaf:
- [B] *The rule of the Mishnah does not accord with the position of R. Aqiba, for R. Aqiba declares the left over portion liable for both dough-offering and tithes.*
- [VI:1 A] ...and grain that has not reached a third [of its anticipated growth]:
- [B] What is the scriptural basis for the position of rabbis [who hold that the grain is liable to dough-offering though it is exempt from tithes?]
- [C] “Bread” is stated with reference to the observance of Passover, and “bread” is stated with reference to dough-offering. Just as bread in the context of Passover speaks of that which may be either unleavened or leavened, so bread in the setting of dough-offering is that which may be leavened or unleavened, [encompassing grain deriving from the five species at any point in the growth of the plant producing the grain].
- [D] What is the scriptural basis for the position of R. Eliezer?
- [E] “Of the first of your coarse meal you shall present a cake as an offering, as an offering from the threshing floor, so shall you present it” (Num. 15:20). Just as the heave-offering of the threshing floor derives from produce that has reached at least a third of full growth, so the dough-offering must derive from grain that has reached at least a third of full growth.”

- [F] But does R. Eliezer not accept the proof based on the occurrence of “bread” in connection with the Passover bread and the five species that produce dough liable to dough-offering?
- [G] [*He accepts the analogy but produces a different result.*] A Tannaite teaching in the name of R. Eliezer: Produce that has not reached a third of its full growth is not liable to dough-offering, and someone does not fulfill his obligation to eat unleavened bread on Passover with bread made from it.
- [VI:2 A] What is the law as to liability for eating bread made from flour produced from grain that reached only a third of its growth on the count of violating the law against eating new produce prior to waving of the sheaf of barley on the sixteenth of Nisan?
- [B] Said R. Yudan, “It is written, ‘And you shall eat neither bread nor grain parched or fresh until this same day, until you have brought the offering of your God; it is a statute for ever throughout your generations in all your dwellings’ (Lev. 23:14). If one is liable on account of dating the parched grain of a species of produce, he is also liable on the count of eating new produce. If one is not liable on account of the parched grain, he is also not liable on account of bread made from that produce.”
- [C] Said R. Zeira, “It is written, ‘You shall tithe all the yield of your seed that comes forth from the field year by year’ (Dt. 14:22). [Scripture refers to something that is sown and sprouts, excluding that which is less than a third of full growth, which if sown will not sprout.]”
- [VI:3 A] *It is self-evident to the rabbis that* produce that has not yet reached a third of its growth when mixed with produce liable to tithes is not drawn into liability for tithes. [What is liable does not carry in its wake what is exempt. What is liable to tithes does not impose liability to tithes on the produce under discussion, which is exempt.] R. Hiyya bar Joseph asked, “In the view of R. Eliezer what is the law in respect to liability to dough-offering pertaining to the liability of produce that has not yet reached a third of its growth when mixed with flour from produce that has fully matured, as in the case of dough made from rice [which when mixed with dough made from one of the five species is liable to dough-offering]?”
- [VI:4 A] *Samuel bar Abba asked,* “[Since one may not separate heave-offering from an old crop for the offering owing from a new crop,] what is the law concerning the distinction between new and old when it comes to dough-offering?” [May one separate dough from flour from the grain of a field subject to the ‘omer of the old year to cover what is owing

from dough made from flour deriving from a field subject to the ‘omer of the new year?]

- [B] [The answer comes from this case:] Two fields, one has produced a crop more than a third of full growth prior to the new year signaled by the ‘omer and one that has produced a crop of less than a third of full growth prior to the same point — they form one entity so far as liability to dough-offering is concerned and two entities so far as liability to tithes inclusive of heave-offering’ is concerned. If one produced a crop of less than a third of full growth and one had produced a crop of grass [prior to the cut-off point but a crop of grain thereafter, with this crop falling into the same crop year as the other], they form two fields as to liability to dough-offering, but one as to liability to tithes. If one field produced a crop a third of full growth and the other produced grass, in regard to liability both to tithes and two dough-offering, the fields are regarded as two distinct entities [since the former had reached the stage of liability prior to the period at which the latter did.]

[VI:5 A] What is the law as to that which falls in the middle [produce that has reached the point of liability to tithing but that has not yet been tithed]?

- [B] R. Jonah in the name of R. Simeon b. Laqish: “What falls in the middle is in the status of the former. [It is liable to dough-offering, but produce not subject to tithing is not.]”
- [C] R. Yosé in the name of R. Simeon b. Laqish: “What falls in the middle is in the status of the latter. [It is subject to dough-offering.]”
- [D] What is the meaning of “what falls in the middle”?
- [E] He who makes dough from flour from a crop that had fallen subject to tithing but had not yet been tithed. Dough-offering removed from that dough is owing heave-offering, and heave-offering removed from that dough is owing dough-offering.
- [F] How do we know that dough-offering removed from that dough is owing heave-offering?
- [G] R. Isaac in the name of R. Samuel bar Marta in the name of Rab: “ ‘Of the first of your coarse meal you shall heave up a dough-offering’ (Num. 15:20). [Under certain circumstances heave-offering is taken out of dough-offering.]”
- [H] How do we know that heave-offering removed from that dough is owing dough-offering

[I] *On the basis of linking the two matters they interpret the same verse: “of the first...you shall raise up dough-offering,” [derive the law that the dough-offering will yield heave-offering and the heave-offering produces dough-offering].*

[VII:1 A] Sponge-cakes honey-cakes, dumplings, and pancakes:

[B] Sponge-cakes are a long piece of dough pulled out in making pastry.

[C] Honey-cakes are honey and milk cakes.

[D] Paste-balls are dumplings sold in the market mixed with oil.

[E] Pancakes are a kind of dumpling.

[F] R. Yohanan said, “Sponge-cakes are liable to dough-offering. One says the blessing before eating it, ‘...who brings forth bread from the earth.’ By eating it in unleavened form one fulfill his obligation to eat unleavened bread on Passover.”

[G] R. Simeon b. Laqish said, “Sponge-cakes are not liable to dough-offering. One does not say the blessing before eating it, ‘...who brings forth bread from the earth.’ By eating it in unleavened form one does not fulfill his obligation to eat unleavened bread on Passover.”

[H] *R. Yosé said, “There are two points of disagreement, one just stated and yet another. R. Yohanan said, “Sponge-cakes are liable to dough-offering. One says the blessing before eating it, ‘...who brings forth bread from the earth.’ By eating it in unleavened form one fulfill his obligation to eat unleavened bread on Passover.” R. Simeon b. Laqish said, “Sponge-cakes are not liable to dough-offering. One does not say the blessing before eating it, ‘...who brings forth bread from the earth.’ By eating it in unleavened form one does not fulfill his obligation to eat unleavened bread on Passover.”*

[I] R. Yosé said, “There is another point of disagreement. R. Yohanan said, ‘For any sort of baked goods baked in a pan not in an oven, one is liable to dough-offering. One says the blessing before eating it, “... who brings forth bread from the earth.” By eating it in unleavened form one fulfill his obligation to eat unleavened bread on Passover.’ R. Simeon b. Laqish said, , ‘For any sort of baked goods baked in a pan not in an oven one is not liable to dough-offering. One does not say the blessing before eating it, ‘...who brings forth bread from the earth.’ By eating it in unleavened form one does not fulfill his obligation to eat unleavened bread on Passover.’”

- [J] Said to him R. Yohanan, “That is the case only when there is an additional ingredient of liquid.”
- [K] *The Mishnah disagrees with the ruling of R. Yohanan: Sponge-cakes, honey-cakes, dumplings, and pancakes and bread dough made from a mixture of unconsecrated grain and heave-offering are exempt from dough-offering. [Yohanan regards them as liable.]*
- [L] *Interpret the passage to speak of sponge cakes made in a pan over the fire and the Mishnah speaks of those baked in the sun. [That distinction is sustained in the following:]*
- [M] And they do not fulfill the obligation to eat unleavened bread on Passover with sponge-cakes baked in the sun. They carry out the obligation with sponge cakes made in a pan over fire. *Does this not contradict the opinion of R. Simeon b. Laqish?*
- [N] *Interpret that rule to speak of a case in which the fire is at the side of the pan of sponge-cakes. [One carries out the obligation to eat unleavened bread by eating unleavened sponge-cakes baked in a pan with the fire at the side; that is comparable to baking the sponge-cakes in an oven. There is a disagreement only when the pan is placed directly over the fire. Simeon b. Laqish says this is not like baking and it does not yield bread. Yohanan differs.]*

[VIII:1 A] and bread dough made from a mixture of unconsecrated grain and heave-offering are exempt from dough-offering:

- [B] The statements of rabbis conflict:
- [C] Kahana asked Samuel, “It stands to reason that as to **a mixture of unconsecrated grain and heave-offering** concerning which we have learned the rule here, the greater part of it is made up of food in the status of heave-offering, [isn’t that so]?”
- [D] He said to him, “I too think so, but when you go up to the Land of Israel, ask.”
- [E] *When he came up here, he heard R. Yosé in the name of R. Yohanan: “Even in the case of a seah of wheat that fall into ninety-nine seahs of unconsecrated food [the mixture, which takes on the status of heave-offering, is exempt from dough-offering].”*
- [F] Said R. Abbahu, “When R. Simeon b. Laqish answered R. Yohanan, [this is what he said to him]: Can one seah serve to exempt the entire mixture?”

- [G] [Yohanan] said to him, “Now if there is a large circle of figs in the status of heave-offering confused with other circles of figs, [does the mixture ot retain its unconsecrated status since] it is beyond doubt that when the householder removes one circle, the heave-offering comes up in his hand? You say that is a lenient rulings. Here too it is a lenient ruling, in that the entire batch is exempt from dough-offering.”
- [H] Rabbis objected [to Bar Padaiah at Y. Ter. 4:8], “The case of the circle of figs is different, for its status already has been nullified.”
- [I] *R. Jonah and R. Yosé, both of them speaking in the name of R. Zeira:* “Even in the case of wheat of one status mixed with wheat of another, one grinds the whole and it is permitted.”

[IX:1 A] And bread-dough made from less than five fourths of a *qab* of grain:

- [B] Said R. Abuna, “That statement applies when the total measure is less than five-fourths of a *qab*. But if they were exactly five-fourths of a *qab*, *it is not in that case that the doubt is exempt from dough-offering.*”
- [C] R. Yosé b. R. Abun in the name of R. Abona, “It is not in that connection that the statement was made. Rather, it had to do with the following, for R. Yohanan said, ‘A mixture of unconsecrated grain and grain in the status of heave-offering is exempt from liability to dough-offering. If it is a matter of doubt whether or not it is a mixture of unconsecrated grain and grain in the status of heave-offering confused with that which is eaten under the laws governing the disposition of such a mixture or heave-offering and ordinary produce, both are liable to dough-offering.’”
- [D] *R. Yosé b. R. Abun in the name of R. Abona:* “That statement applies when the total measure is less than five-fourths of a *qab*. But if they were exactly five-fourths of a *qab*, the mixture is exempt from liability to dough-offering.”

M. 1:4

- [A] **Dough which was [prepared like] sponge cake from the beginning to the end [of its processing] is exempt from dough-offering.**
- [B] **[Dough which was prepared like bread] dough at the beginning [of its processing] and [like] sponge cake at the end,**
- [C] **[or dough which was prepared like] sponge cake at the beginning [of its processing] and [like bread] dough at the end,**
- [D] **is subject to dough-offering.**

- [E] And bread crumbs likewise are subject.
- [F] [As regards] *meisah* dumplings —
- [G] the House of Shammai declare [them] exempt [from dough-offering].
- [H] But the House of Hillel declare [them] subject [to dough-offering].
- [I] [As regards] *halitah* dumplings —
- [J] the House of Shammai declare [them] subject [to dough-offering],
- [K] but the House of Hillel declare [them] exempt [from dough-offering].
- [L] [As regards] loaves [offered along with a] thank offering [Lev. 7:12] or wafers [offered along with the offering] of a Nazirite [Num. 6:1-24] —
- [M] [if] one made them for one's own use, he is exempt [from separating dough-offering for them].
- [N] [But if one made them in order] to sell [them] in the market, he is obliged [to separate dough-offering for them (M. Pes. 2:5)].
- [I:1 A] A certain woman asked R. Mana, "Since I want to make my dough into vermicelli, what is the law about my taking it and leaving it free of obligation to dough-offering [in line with **Dough which was [prepared like] sponge cake from the beginning to the end [of its processing] is exempt from dough-offering.**"]"
- [B] He said to her, "Why not?"
- [C] *He came and asked his father [Jonah], who said to him, "It is forbidden, for she might change her mind and make it into dough."*
- [II:1 A] And bread crumbs likewise are subject:
- [B] R. Joshua b. Levi said, "It is so you won't say, since it is going to be put back into the flour, let it be exempt from dough-offering."
- [C] Said R. Ba bar Zebedee, "Dough prepared y sellers for leaven is liable to dough-offering, so that you may not claim, since it is going to be put back into the flour, let it be exempt from dough-offering."
- [D] Rab said, "Dough for a preserve consisting of sour milk, bread crusts and salt is liable to dough-offering."
- [E] Said R. Bun, "Lest she change her mind and make it into dry bread for her son."
- [F] Said R. Mana, "We have to announce to those who make cakes of flour, honey, and oil beaten into a pulp, that they should make it in a

volume less than that liable to dough-offering, since they suppose it is exempt from dough-offering, but in fact it is liable.”

- [III:1 A] [As regards] *meisah* dumplings — the House of Shammai declare [them] exempt [from dough-offering]. But the House of Hillel declare [them] subject [to dough-offering]:
- [B] *It has been taught as a Tannaite rule:* R. Ishmael b. R. Yosé said in his father’s name, “What is the definition of *meisah* dumplings? These are made by adding hot water to flour. Halitah dumplings are made when the flour is put into boiling water” [T. Hal. 1:2, 1:1].
- [C] Now look: if it is fully formed, the House of Shammai declare it liable. If it is not fully formed,, the House of Shammai declare it exempt.
- [D] R. Yosé, R. Yosé in the name of Hezekiah in the name of R. Hiyya in the name of R. Hoshaiiah, “The two opinions represent two disciples of sages who teach each his own version.”
- [E] R. Immi in the name of R. Yohanan: “In connection with this matter I went to R. Hoshaiia the Elder to Caesarea and he said to me, “The two opinions represent two disciples of sages who teach each his own version.””
- [III:2 A] **And sages say, “Both types of dumpling are the same. That which is made in a stew pot or in a boiling pot is exempt from dough-offering and that which is made in an oven is liable” [T. Hal. 1:2].**
- [B] What is clearly a dumpling?
- [C] Said R. Zeira, “It is any that is baked in a pan on top of the oven [and not in the oven].”
- [D] Said R. Yosé, “Even though it is baked on top of the oven, since it is going to be made into dough, it is liable to dough-offering.”
- [III:3 A] Parched corn that one made into dough is liable to dough-offering.
- [B] R. Yosé in the name of R. Yohanan: “And that is the case when he has baked it.”
- [IV:1 A] [As regards] loaves [offered along with a] thank offering [Lev. 7:12] or wafers [offered along with the offering] of a Nazirite [Num. 6:1-24] — [if] one made them for one’s own use, he is exempt [from separating dough-offering for them:
- [B] For it is written, “Of the first of your coarse meal you shall present a cake as an offering” (Num. 15:20) — and not of what has been sanctified [and is no longer yours].

[V:1 A] [But if one made them in order] to sell [them] in the market, he is obliged [to separate dough-offering for them]:

[B] The matter does not depend on the man's plan. It depends on the plan of the purchaser. He may find someone else to buy the cakes, and the cakes will immediately enter the status of untithed produce that is liable to dough-offering.

1:5

[A] [As regards] a baker who made [dough to be used as] leaven [which he intends] to distribute [to customers] —

[B] [the leaven] is subject to dough-offering.

[C] [As regards] women who gave [dough] to the baker to make [it into] leaven for them —

[D] if [the dough] of each woman comprises less than the [prescribed minimum] volume [subject to dough-offering (M. Hal. 1:4, 2:6)],

[E] [the dough] is exempt from dough-offering.

[F] [As regards] dogs' dough —

[G] when shepherds [will] eat it,

[H] (1) it is subject to dough-offering; (2) [people] may make an *erub* with it; (3) [people] may make a partnership *erub* with it; (4) [people] say the blessing [for bread] over it [before eating it (M. Ber. 6:1)]; (5) [people] say a common grace over it [after eating it (M. Ber. 7:1)]; (6) it may be cooked on a festival [Ex. 12:16]; and (7) a person fulfills his obligation [to eat unleavened bread] on Passover by means of [eating] it.

[I] [But] if shepherds [will] not eat it,

[J] (1) it is not subject to dough-offering; (2) [people] may not make an *erub* with it; (3) [people] may not make a partnership *erub* with it; (4) [people] do not say the blessing [for bread] over it; (5) [people] do not say a common grace over it; (6) it may not be cooked on a festival; and (7) a person does not fulfill his obligation [to eat unleavened bread] on Passover by means of [eating] it.

[K] Whether or not [the shepherds will eat it], it is susceptible to uncleanness as food [M. Toh. 8:6].

[I:1 A] He who smooths over the grain pile of his fellow without the owner's knowing about it [if the owner did it, the grain would become liable for the separation of the holy offerings] —

[B] R. Yohanan and R. Simeon b. Laqish —

- [C] R. Yohanan said, “The grain enters the status of that which has been fully processed and is liable for tithing.”
- [D] R. Simeon b. Laqish said, said, “The grain does not enter the status of that which has been fully processed and is liable for tithing.”
- [E] *Objected R. Yohanan to R. Simeon b. Laqish, “Have we not learned in the Mishnah: [As regards] women who gave [dough] to the baker to make [it into] leaven for them — if [the dough] of each woman comprises less than the [prescribed minimum] volume [subject to dough-offering (M. Hal. 1:4, 2:6)], [the dough] is exempt from dough-offering. But if in the volume of all of them, there is the requisite volume to impose liability to dough-offering, the dough still will be exempt from dough-offering, because it is the baker and not the woman who owned the dough who has imposed liability].”*
- [F] *He said to him, “That case is different, for as a rule he who makes dough intending to divide it up into small bits, the dough is exempt from liability to dough-offering.”*
- [G] He said to him, “*Have we not learned in the Mishnah to the contrary: [As regards] a baker who made [dough to be used as] leaven [which he intends] to distribute [to customers] — [the leaven] is subject to dough-offering?”*
- [H] *He said to him, “Don’t bring me the case of the baker. In the case of the baker, the matter does not depend upon his intention. It depends on the intention of his customers. The customer may find purchasers and they will go and turn it into dough.”*
- [I] He said to him, “*Have we not learned in the Mishnah to the contrary: Anthills which remained overnight beside a stack [of grain] from which tithes had yet to be removed — lo, these [kernels found in the anthills] are liable [to the removal of tithes], for clearly [the ants] have been dragging [grain] from a processed batch all night long.[M. Maaserot 5:7]. Lo, had they been situated beside a heap of grain that was exempt from tithing at that point, the grain found in the holes also would be exempt. [The owner’s act is decisive.]”*
- [J] Said R. Jonah, said to him R. Yosé, R. Abbahu in the name of R. Yohanan: “It is because the owner despairs of recovering the grain [and so loses title to it].”
- [K] Samuel bar Abba said, “And that is the case in which the ants have dragged away the ears of grain.”

- [L] *R. Simeon b. Laqish objected to R. Yohanan, “Have we not learned in the Mishnah: [If] he dedicated [his produce] to the Temple before it was fully processed, and the [Temple] treasurer completed its processing, and [the original owner] subsequently redeemed it, it is exempt [from tithes], for at the point at which its liability [to tithes normally would have taken effect, the produce] was exempt [M. Hal. 3:4]. Lo, the Temple treasurer is in the status of a third party, and you have said what he has done is validly done.”*
- [M] He said to him, “Interpret the Mishnah in accord with the view of him who said, ‘the Temple treasurer is in the status of the owner.’”
- [N] That is not in accord with the opinion of R. Yosé, who has said, “The Temple treasurer is not in the status of the owner.”
- [O] R. Hananiah the associate of the rabbis asked the question, “[With reference to the following: Objected R. Yohanan to R. Simeon b. Laqish, Have we not learned in the Mishnah: **As regards women who gave dough to the baker to make [it into] leaven for them — if the dough of each woman comprises less than the prescribed minimum] volume subject to dough-offering, the dough is exempt from dough-offering.** But if in the volume of all of them, there is the requisite volume to impose liability to dough-offering, the dough still will be exempt from dough-offering, because it is the baker and not the woman who owned the dough who has imposed liability], And even if in the portion of one of the women were the volume of dough liable to dough-offering, why not treat it as something the processing of which is not yet done, which would exempt the dough from liability to dough-offering?”
- [P] For said R. Yosé in the name of R. Zeira, R. Jonah, R. Zeira in the name of R. Eleazar, “Also that which is in the flagon of wine taken from the press is not in the status of produced that is fully processed from which tithes have not yet been removed. For the owner is going to put the part that he does not drink back into the press, that is something the process of which has not yet been completed. All will be exempt from the obligation to tithe, and here the same argument applies.]”
- [ii:1 A] [As regards] dogs’ dough…:
- [B] What is the definition of dogs’ dough?
- [C] R. Simeon b. Laqish said, “It is any into which one has mixed coarse bran. *Our Mishnah has said, “As regards] dogs’ dough — when*

shepherds [will] eat it], indicating there are times when shepherds will not eat it.”

- [D] R. Yohanan said, “[The kind shepherds eat] is any which one has made into prongs. *And there is a Tannaite statement to the same effect*: If one has made it into prongs, it is liable. If one has made it into long strips, it is exempt.”
- [E] R. Abba in the name of Samuel, R. Ammi in the name of R. Hiyya the Elder, “Even if one has made it out of fine white flour, it may fall into the category of dog’s dough.”
- [F] *And has it not ben taught in the Mishnah: **when shepherds [will] not eat it*** — [and that cannot be the kind made of fine white flour!]
- [G] *Interpret the rule to speak of a case in which to begin with one prepared it in the assumption that shepherds will not eat it whatever its character.*

[III:1 A] ...it may be cooked on a festival:

- [B] *The Mishnah represents the position of R. Simeon b. Eleazar for it has been taught on Tannaite authority: **They do not bake food on the festival day for use after the festival day. But one may fill a pot with meat, even if he ate only some small amount of it. And one may fill up a kettle with water, even if he drank of it only a single glass of water. But he who bakes should bake only what he needs. R. Simeon b. Eleazar says, “A woman may fill up the oven with bread for baking, for the bread bakes better when the oven is full” [T. Yom Tob/Besah 2:5].***

[III:2 A] *It has been taught as a Tannaite rule: Stolen unleavened bread — it is forbidden to recite a blessing over it.*

- [B] Said R. Hoshaiiah, “That is on the count of ‘for the wicked boasts of the desires of his heart, and the man greedy for gain curses and renounces the Lord’ (Ps. 10:3).”
- [C] Said R. Jonah, “That which you have said applies to begin with [when the owner still hopes to get his unleavened bread back], but in the end [after he has despaired of recovering his property] doesn’t the thief owe the owner merely the price of the unleavened bread [and the thief may recite a blessing over the bread].”
- [D] R. Jonah said, “A transgression cannot become an act that carries out a commandment.”

- [E] R. Yosé said, “An act that carries out a commandment cannot be a transgression.”
- [F] Said R. Hila, “As to these religious duties, if you do them as religious duties, they indeed are religious duties, and if not, they cannot be regarded as religious duties at all.”

1:6

- [A] **[As regards both dough in the status of] dough-offering and [produce in the status of] heave-offering —**
- [B] **[non-priests who eat them] are liable to death [if they eat the offering intentionally], or [to pay the offering’s value and] an [added] fifth [if they eat the offering unintentionally (M. Ter 6:1)].**
- [C] **They are forbidden [for use by] non-priests, as they are priestly property.**
- [D] **They are neutralized [they lose their consecrated status, in a mixture] with [at least] one hundred and one [parts of unconsecrated food].**
- [E] **They require washing of the hands [on the part of any priest before he may handle them] and, [after ritual immersion, an unclean priest who has immersed must await] sunset [before he may handle them (Lev. 22:6-7)].**
- [F] **And they may not be separated from a clean [batch of dough or produce on behalf of] an unclean [batch].**
- [G] **But [they may be separated] from [one batch to fulfill the liability for another only if the two batches are] nearby [i.e., joined into a single batch], and [may be separated only] from that which is fully processed [M. Ter. 1:10].**
- [H] **One who says, “All [the produce of] my threshing floor is heave-offering,” or, “All my dough is dough-offering,”**
- [I] **has not made a valid declaration.**
- [J] **[Any such declaration is invalid] unless he leaves a little [produce or dough unconsecrated (M. Ter. 4:5)].**
- [I:1 A] R. Judah bar Pazzi, R. Hanin in the name of R. Samuel bar R. Isaac: “Since dough-offering derives from unconsecrated food, I might have supposed that one may roll dough [from which dough-offering has not been removed along with other dough, removing the dough-offering from the whole batch only at the end.] On that account it is necessary to state, **[As regards both dough in the status of] dough-offering and [produce in the status of] heave-offering — [non-priests who**

eat them] are liable to death [if they eat the offering intentionally], or [to pay the offering's value and] an [added] fifth [if they eat the offering unintentionally (M. Ter 6:1)]."

- [I:2 A] Ten religious duties does someone do before eating a piece of bread: not ploughing with an ox and an ass together, not sowing mixed seeds, not muzzling an ox in its ploughing, observing the rules of gleanings, the forgotten sheaf, the corner of the field; separating heave-offering, first tithe, second tithe, and dough-offering.
- [B] When a piece of bread would come into the hand of R. Isaac, he would spread out his ten fingers and say, "Lo, I have carried out ten religious duties."
- [II:1 A] **One who says, "All [the produce of] my threshing floor is heave-offering," or, "All my dough is dough-offering," has not made a valid declaration. [Any such declaration is invalid] unless he leaves a little [produce or dough unconsecrated (M. Ter. 4:5)].**
- [B] He has to say, "This is dough-offering for all the rest," "This is heave-offering for all the rest," "This is heave-offering for the Lord," "This is for God's name."
- [C] How do we know that if he gave the entire batch, he has done nothing at all **unless he leaves a little [produce or dough unconsecrated]**?
- [D] Scripture says, "From the first fruits" (Num. 15:19) — and not all of the first fruits.

YERUSHALMI HALLAH

CHAPTER TWO

2:1

- [A] [Dough made from] foreign produce which was imported to the Land [of Israel] is subject to dough-offering.
- [B] [Dough made from produce which] was exported from here [the Land of Israel] to there [foreign countries] —
- [C] R. Eliezer declares [such dough] subject [to dough-offering].
- [D] But R. Aqiba declares [it] exempt [from dough-offering].
- [E] [Produce grown in] foreign soil, which was brought on a ship to the Land [of Israel] is subject to tithes and [the laws of] the Sabbatical year.
- [F] Said R. Judah, “Under what circumstances [does this apply? Only] when the ship is grounded.”
- [G] Dough which was kneaded with fruit juice is subject to dough-offering,
- [H] but [nonetheless] may be eaten [by someone] with unclean hands.
- [I] A woman may sit naked and separate her dough-offering, since she is able to cover [her genitals].
- [J] But a man may not [separate dough-offering while naked, since he cannot cover his genitals].
- [I:1 A] [Dough made from] foreign produce which was imported to the Land [of Israel] is subject to dough-offering:
- [B] It is written, “...when you come into the land to which I bring you” (Num. 15:18) — there you are liable, but you are not liable abroad.

- [C] **It has been taught as a Tannaite tradition: “This is the opinion of R. Meir, But the opinion of R. Judah:** [Produce grown in] foreign soil, which was brought on a ship to the Land [of Israel] — R. Eliezer declares [such dough] exempt [from dough-offering].” But R. Aqiba declares [it] subject. **[All parties concur that produce exported from the Land is liable. Num. 15:18 is read only by Eliezer.]**
- [D] What is the Scriptural basis for the ruling of R. Eliezer?
- [E] Scripture states, “the bread of the land,” and not bread produced abroad.
- [F] What is the Scriptural basis for the ruling of R. Aqiba?
- [G] “into the land to which I bring you” (Num. 15:18) — there you are liable, whether for the produce of the Land or for the produce of foreign countries.
- [H] How does R. Eliezer deal with the proof produced by R. Aqiba “into the land to which I bring you” (Num. 15:18)?
- [I] Associates in the name of R. Eleazar, R. Ba in the name of R. Eleazar, R. Hila in the name of R. Simeon b. Laqish: “This is how R. Aqiba replied to R. Eliezer, ‘Do you not agree with me that when the Israelites entered the Land and found wheat and flour, they were liable to present dough-offering from dough from the grain that they found in the land? Now was this grain not grown by people exempt from dough-offering? It follows that along these same lines produced grown abroad brought into the land should also be liable.’”
- [J] And Eliezer accepted this argument from him.
- [K] *Said R. Yosé, “I should be astonished at how R. Aqiba replied to R. Eliezer if he accepted that argument from him. There [when they entered the Land], they had inherited the Land prospectively [and so even though gentiles raised the crops, the Land belonged to Israelites even before they got there. [So the argument is null.]”*
- [L] For said R. Huna in the name of R. Samuel bar Nahman, “It is not written, ‘To your seed I shall give’ but rather ‘to your seed I have given’ (Gen. 15:18) — I have already given it.”
- [M] How does R. Aqiba interpret the text presented by R. Eliezer [Scripture states, “the bread of the land,” and not bread produced abroad]?
- [N] “Bread of the land” refers to produce brought by ship that came to the Land. If when it is being baked on board the ship, the bread formed a

crust in the oven after the point at which the ship passed the line marking entry into the land from the sea, it is liable to dough-offering, and if not it is exempt.

- [O] In the judgment of R. Aqiba the same rule governs dough coming in by ship, dough prepared by a gentile, and produce imported to the land. Everything is governed by the moment at which the dough formed a crust in the oven [which marks the liability of the dough to dough-offering].
- [P] Sages concur with R. Aqiba in the matter of bringing produce into the land that the governing criterion is the point at which the dough forms a crust in the oven [in the Land].
- [Q] On the strength of how R. Aqiba replied to R. Eliezer, he accepted this argument from him.
- [I:2 A] *R. Jonah raised this question before R. Jeremiah: “When the Israelites entered the Land and found fresh grain in the fields, what is the law as to its being forbidden prior to the waving of the ‘omer on the ground of its being new produce [which before the sixteenth of Nisan may not be consumed]?”*
- [B] He said to him, “Why not? Further, while the question is formulated in terms of fresh grain, would the answer not cover even dried up grain?”
- [C] He said to him, “Even if it was dried up, even I it was already harvested [the law is the same].”
- [D] If that’s the case, then even if it was stored away in the upper chamber, the law is the same.
- [E] “Do I say that the Israelites did not eat unleavened bread on the night of Passover [for by that ruling there was no grain available since the ‘omer was offered only on th sixteenth of Nisan and the night of Passover was the fifteenth. That is impossible, for when they entered the Land, they celebrated Passover properly. So the grain they found in storage was not regarded as new grain.]”
- [F] *Said R. Jonah, “After I left I was troubled that I didn’t answer: ‘That case is different for a positive commandment overrides a negative commandment. [The positive commandment to eat unleavened bread overrides the negative commandment not to eat new produce prior to the waving of the ‘omer.]”*

- [G] *In the view of R. Jonah, who has said that a positive commandment overrides a negative commandment, even though the relevant verses of Scripture do not stand side by side, there is no problem.*”
- [H] *But in the view of R. Yosé, who has said that a positive commandment overrides a negative commandment, only if the relevant verses of Scripture stand side by side [what did the Israelites use for grain for unleavened bread that year]?*
- [I] They used what the gentile traders sold them [from produce grown abroad].
- [J] And that was in accord with the ruling of R. Ishmael, for R. Ishmael said, “Every reference of Scripture to the Israelites’ coming into the Land speaks of the period fourteen years later than the actual entry, seven years for conquering the land, seven years for dividing it up.” [The prohibition of new produce prior to the ‘omer did not apply to produce grown abroad or to the Israelites in the Land prior to settlement, fourteen years beyond entry.]
- [K] *Objected R. Abun bar Kahana, “And lo, it is written, ‘And on the morrow after the Passover, on that very day, they ate of the produce of the land, unleavened cakes and parched grain’ (Josh. 5:11). [This was the sixteenth of Nisan, so they didn’t eat unleavened bread until the ‘omer was waved].”*
- [L] *Objected R. Eleazar b. R. Yosé before R. Yosé, “And lo, it is written, ‘They set out from Rameses in the first month, on the fifteenth day of the first month; on the day after the Passover the people of Israel went out triumphantly in the sight of all the Egyptians’ (Num. 33:3). Didn’t they leave on the fifteenth of Nisan? [The Israelites ate unleavened bread before the sixteenth of Nisan, and there was no ‘omer offering in Egypt. The consideration of new produce is not operative.]”*
- [II:1 A]** [Dough made from produce which] was exported from here [the Land of Israel] to there [foreign countries] — R. Eliezer declares [such dough] subject [to dough-offering]. But R. Aqiba declares [it] exempt [from dough-offering].
- [B] R. Eliezer speaks from his position, and R. Aqiba speaks from his position.
- [C] Eliezer speaks from his position: What is the basis for the ruling of R. Eliezer? Produce of the Land, wherever it is found.
- [D] *Aqiba speaks from his position: : What is the basis for the ruling of R. Aqiba? “To the Land where I am bringing you” — there you are liable,*

and you are not liable outside of the Land.” [Exported produce is exempt.]

- [III:1 A] [Produce grown in] foreign soil, which was brought on a ship to the Land [of Israel] is subject to tithes and [the laws of] the Sabbatical year. Said R. Judah, “Under what circumstances [does this apply? Only] when the ship is grounded.” *The rabbis of Caesarea in the name of R. Haninah*: “**The dispute [is as follows:]**
- [B] “‘Every place on which the sole of your foot treads shall be hours’ (Dt. 11:24) — nothing is encompassed under the general rule [Every place] except what is particularized in the detail [on which the sole of your foot treads], and that is in accord with R. Judah [who wants the ship grounded].
- [C] *They replied to R. Judah*, [who reads the verse to intend to specify the borders of the Land]: “If it speaks of the borders of the Land, [then take note,] ‘From the wilderness and this Lebanon as far as the great river, the river Euphrates, all the land of the Hittites to the Great Sea toward the west shall be your territory’ (Josh. 1:4). [If the intent is not to specify the borders of the Land,] then assign it to the borders of the frontiers of foreign lands.”
- [D] Then what about the following: even the produce from the lands David went and conquered in Aram Naharaim and in Aram Sobah should be liable to dough-offering. [But they aren’t.]
- [E] *That case is exceptional*, for David gave up conquering the full borders of the Land of Israel and went and conquered territories that were outside of the Land of Israel.
- [F] That means when there the ground is liable for dough-offering, it will be liable here [in land conquered and added to the original boundaries of Joshua], and when there the ground is exempt from dough-offering, here the ground will be exempt as well.
- [G] [Not so.] Even in the view of him who has said that in the case [described at M. 2:1F] the Land is exempt, here he will maintain that produce grown on such land is liable to dough-offering, for when the Israelites entered that land, they became liable to dough-offering.
- [H] [Explaining G:] It is written, “He restored the border of Israel from the entrance of Hamath as far as the Sea of the Arabah, according to the word of the Lord, the God of Israel, which he spoke by his servant Jonah son of Amittai the prophet, who was from Gathhepher” (2 Kgs. 14:25).

[I] R. Hananiah and R. Mana — one said, “Everything that Joshua conquered this one conquered.” The other said, “More than what Joshua conquered, this one conquered.”

[J] R. Siddur taught as a Tannaite rule in behalf of the view of R. Mana [“More than what Joshua conquered, this one conquered”], “The Israelites spent some time in that land.”

[III:2 A] Dirt from abroad that came to Syria is treated as dirt from Syria. If it came out from there and came here [to the Land of Israel], it becomes liable [to the tithes].

[B] Said R. Judah, “Under what circumstances [does this apply? Only] when the ship is grounded.” [The premise is that if the ship is not grounded, dirt on it is in the status of the water on which the ship is floating, and water is not regarded as of substance.]

[C] *Said R. Haggai, “R. Judah is consistent with his principles, for R. Judah declares exempt in the case of water, which is not of substance [M. Bes. 5:4: He who borrows a utensil from his fellow on the eve of the festival — it is in the status of the one who borrows it. [If he borrows it] on the festival day, it is in the status of the one who lends it. And so too, a woman who borrowed from her friend spice, water or salt for her dough — lo, they are in the status of the two of them [and go only to a place where both of them may go]. R. Judah declares exempt in the case of water, for it is of no substance.]”*

[D] Said R. Abin, “No. It stands to reason that R. Judah is not consistent with his principles. For he should have said to the contrary, if the ship was not grounded, it is as if the ship was grounded. [The operative reason is that if the ship is not grounded, it has not yet entered the Land, and the issue of the substantiality of water is not raised.]”

[III:3 A] If the ship was not grounded, tithes separated on the ship are separated under the law of the scribes [not of the Torah].

[B] They separate heave-offering from what is on board the ship for what grows in a pot that has no hole in the bottom and from what grows in a pot that has a hole in the bottom for what grows on board the ship.

[C] *That is in line with the following:* A pot that has no hole in the bottom — tithes separated from it are separated under the law of the scribes, heave-offering separated from that crop does not impart the status of a mixture of heave-offering and ordinary food to an ordinary crop with which it is mixed, and they are not liable on its account to the penalty

of the added fifth [in compensating the priesthood for the inadvertent misuse of the produce that has been designated heave-offering].

[D] R. Hila in the name of R. Eleazar: “He who purchases a pot with a hole in the bottom in Syria, even though he has not acquired the dirt that is under it or the dirt that is on top of it, has acquired a plot of ground in Syria sufficient to impose liability to the laws of separating tithes and of the Sabbatical Year [as these laws apply in Syria] and even if the pot is set up on pegs.”

[E] Even R. Judah concedes this rule.

[F] What is the difference between this case and the case of the ship?

[G] The ship rises and falls on the waves, but this stays in place.

[IV:1 A] [Dough which was kneaded with fruit juice is subject to dough-offering, but nonetheless may be eaten by someone with dirty hands]: ***R. Yosé b. R. Hanina said, “This represents the position of R. Eleazar b. Judah of Bartota, for we have learned in the Mishnah there:*** [Dough which was mixed [with heave offering dough], or which was leavened with heave offering yeast, is not made unfit by a tebul-yom. R. Yose and R. Simeon declare unfit. Dough which was rendered susceptible to uncleanness by liquid and kneaded with fruit juice, and which a tebul-yom touched — R. Eleazar b. Judah of Birtuta says in the name of R. Joshua, “He has rendered the entire mixture unfit.” R. Aqiba says in his name, “He has rendered unfit only the place that he [actually] touched” (M. T.Y. 3:4). **[Kneading in fruit juice suffices to form the dough into a single mass, the whole is connected, and the touch of the tebul Yom affects the whole. The present rule is the same. The dough was kneaded in fruit juice and is subject to dough-offering but it is unaffected by the touch of someone with dirty hands.]**

[B] R. Simeon b. Laqish said, “Where there is a dispute it involves a case in which the dough was rendered susceptible to uncleanness and afterward kneaded in fruit juice, for in such a case fruit juice forms the whole into one piece for rendering the whole mass of dough susceptible to uncleanness. But if the dough was kneaded in fruit juice and then part of it was rendered susceptible to uncleanness, in such a case fruit juice does not join the whole together to impart susceptibility to uncleanness to parts not touched by the water. [Eleazar’s view is repeated here.]

[C] R. Hiyya in the name of R. Yohanan: “The Mishnah passage here reflects the view of all parties. Even though R. Aqiba said there, fruit

juice does not join the whole together to impart susceptibility to uncleanness to parts not touched by the water, here he concurs that fruit juice used for kneading does render the whole liable for the separation of dough-offering.”

- [D] R. Ba, R. Hiyya in the name of R. Joshua b. Levi: “You have nothing that joins dry flour to form it into a single mass except for the seven liquids alone. [Fruit juice has no bearing on the case before us.]”
- [E] R. Yosé asked, “In what context was this statement made? Was it about joining the flour together to impose liability to dough-offering or did it concern contracting uncleanness. If you say it applies to dough-offering, all the more so to uncleanness. But if you say it applies to uncleanness, it is not necessarily applicable to dough-offering.”
- [F] To R. Jonah it was self-evident that it applies to dough-offering, all the more so to uncleanness. R. Jonah is consistent with views held elsewhere, for R. Jonah taught as a Tannaite rule that it is the view of R. Simeon b. Yohai. R. Joshua b. Levi likewise taught as a Tannaite rule that it is the view of R. Simeon b. Yohai.
- [G] *For R. Simeon b. Yohai taught as a Tannaite rule*, “R. Tarfon says, ‘Here we speak of dough-offering, and there it is said, “One cake of bread with oil” (Lev. 8:26). Just as dough-offering here refers to dough made with oil, so dough-offering referred to here (Num. 15:19-20) refers to dough-offering made with oil.’ Oil is one of the seven liquids that impart susceptibility to uncleanness.” [The reference is to dough-offering, all the more so to uncleanness.]

[V:1 A] [A woman may sit naked and separate her dough-offering, since she is able to cover [her genitals]. But a man may not [separate dough-offering while naked, since he cannot cover his genitals]:] **R. Yosé in the name of R. Shabbetai, R. Hiyya in the name of R. Simeon b. Laqish: “To obtain water for making dough-offering and for the washing of hands one walks four *mils*.”**

- [B] *R. Abbahu in the name of R. Yosé b. Hanina*, “That which you say *pertains* to continuing on his journey forward, but as to retracing his steps, they do not impose the trouble on him to do that.”
- [C] With respect to those who keep watch in gardens and orchards, do you treat water in the area as though it were ahead of him or behind him?
- [D] Let us infer the answer from the following: [A woman may sit naked and separate her dough-offering. Now this one, is she not in her own

house, and they do not impose trouble on her. Here too they do not impose trouble on him.

- [V:2 A] ***It has been taught on Tannaite authority:*** Washing before the meal is optional, but afterward is obligatory. In respect to the first washing, he washes and interrupts, and in the case of the second, he washes and does not interrupt [T. Ber. 5:13].
- [B] What is the meaning of and interrupts?
- [C] R. Jacob bar Aha said, “He washes his hands and goes and washes his hands a second time.”
- [D] *R. Samuel b. Isaac asked, “He washes and repeats the washing and you claim it is a matter of option? Or if you want to say, for the washing of hands one walks four mils [to get water] and you claim it is a matter of option?*
- [E] R. Jacob bar Idi said, “On account of the first washing of hands a pig’s flesh was eaten, on account of the second, a woman left her house.” And there are those who say that on account of that matter three souls lost their lives. It is not an optional matter at all.” [Reference is made to the following account, at Bavli Yoma 83b: *And further, R. Meir and R. Judah and R. Yosé were going along the way. Now R. Meir was precise about learning names, while R. Judah and R. Yosé were not precise about learning names. When they came to a certain place, they asked for a place to stay, which they were given. They said to [the innkeeper], “What is your name?” He said to them, “Kidor.” He said, “That name [ki-dor = that is a generation] leads to the inference that he is wicked, for it is said, ‘For a generation that is unstable are they’ (Dt. 32:20).” R. Judah and R. Yosé deposited their purses with him, but R. Meir did not do so. Rather, he went and put it on the grave of the man’s father. The man saw a vision in his dream, which said, “Go, take the purse lying at the head of this man [me].” The next day he said to them, “This is what was shown to me in my dream.” They said to him, “A dream that comes on the Sabbath night has no substance.” R. Meir went and waited there all day long and then he took the purse with him. In the morning the others said to the man, “Give us our purses.” He said to them, “There was never any such transaction.” Said to them, “Why didn’t you pay close attention to his name?” They said to him, “Why didn’t the master say a thing to us?” He said to them, “I regarded the matter of the name as just suspect, but I didn’t regard it as an established fact.” They took the host into a shop and gave him some wine; they saw lentils on his moustache. They went to his wife and told her as a sign of earnest that he had eaten lentil soup,*

and they got their purses from her and took them back. He went and killed his wife. That is in line with that which has been taught on Tannaite authority: On account of neglect of the washing of hands before meals, someone ate pork, on account of the neglect of washing hands after meals, someone was killed.]

- [V:3 A] [A woman may sit naked and separate her dough-offering, since she is able to cover [her genitals]. But a man may not [separate dough-offering while naked, since he cannot cover his genitals]: **is that to say, the buttocks are not in the category of indecency?**
- [B] *That which you have said is for the saying of a blessing* [they may be exposed], but as to looking at them, even for a moment, that is indecent.
- [C] *That is in line with what has been taught as a Tannaite rule:* He who stares at a woman's buttocks is as if he stared at her vagina. He who stars are her vagina is as if he had sexual relations with her.
- [D] Samuel said, "Even hearing a woman's voice is prohibited as indecent."
- [E] What verse of Scripture says so? "Because of the sound of her harlotry, she polluted the land, committing adultery with stone and tree" (Jer. 3:9).
- [F] R. Huna said, "A man may stand on excrement and say a prayer, on condition that he not actually touch it with his flesh. But if he sat down and defecated, if he did not wipe himself, it is forbidden to say the Prayer."
- [G] *Said R. Mana, "Even though R. Yosé did not make this statement in so many words, he said something along the same lines:* A man may stand on excrement and say a prayer, on condition that he not actually touch it with his flesh. But if he sat down and defecated, if he did not wipe himself, it is as if he actually touched it with his flesh."

2:2

- [A] **One who is unable to prepare his dough in [a state of] cleanness —**
- [B] **let him prepare it in one-*qab* portions [which are exempt from dough-offering], but let him not prepare it in [a state of] uncleanness.**
- [C] **But R. Aqiba says, "Let him prepare it in [a state of] uncleanness, and let him not prepare it in one-*qab* portions.**

- [D] “For just as he may designate a clean [portion] as dough-offering, so he also may designate an unclean [portion] as dough-offering.
- [E] “He designates the one ‘dough-offering’ by name and designates the other ‘dough-offering’ by name,
- [F] “but one-*qab* portions have no part [in them large enough to be designated ‘dough-offering’] by name.”
- [G] One who makes his dough in one-*qab* portions, and they touched each other — [the portions] are exempt from dough-offering, unless they stick together.
- [H] R. Eliezer says, “Also: One who scrapes [loaves of one-*qab* portions from the sides of an oven] and puts [the loaves] in a basket — the basket combines them [into a single portion large enough so as to be subject] to dough-offering.”
- [I:1 A] [To obtain water for making dough-offering and for the washing of hands one walks four *mils*:] what is the law as to requiring someone to go less than four mils to prepare dough-offering in a state of cleanness of if water is no nearer than four mils, then what about letting him prepare *qab*-sized portions??
- [B] Let us infer the answer from the following, which R. Hiyya bar Vava said, “For example, Caesarea [would be a distance to go to find water for attaining cleanness].” And Caesarea is not four mils distant [from Hiyya]. That bears the implication that if one is four mils from water, he should make the dough in a state of cleanness [by going to the water], but if it is farther than that, let him prepare the dough in *qab*-sized portions.
- [C] R. Ammi instructed in Kepar Shimi to prepare in a state of uncleanness dough in a large volume.
- [D] But is it not the case that the distance from there to water is not four *mils*?
- [E] Because there was a river to cross between Kepar Shimi and a water-source, it was as if the distance to the water-source was more than four mils.
- [F] ***The Tannaite formulation accords with the view of R. Aqiba, for R. Aqiba said,*** ““Let him prepare it in [a state of] uncleanness, and let him not prepare it in one-*qab* portions.”
- [G] In the case of a large piece of dough, it was easier for him to go for water for some distance and not prepare the dough in single *qab* lumps.

[I:2 A] *The opinions attributed to R. Aqiba are contradictory. There he has said, “One who separates dough-offering from a one-*qab* portion, [which is not subject to dough-offering] — R. Aqiba says, “[The separated portion is] dough-offering” [M. Hal, 4:4E], and here he has said this!*

[B] There the ruling is post facto, here is it ab initio.

[II:1 A] [R. Eliezer says, “Also: One who scrapes [loaves of one-*qab* portions from the sides of an oven] and puts [the loaves] in a basket — the basket combines them [into a single portion large enough so as to be subject] to dough-offering”:] **R. Jonah, R. Hiyya in the name of R. Yohanan, R. Yosé, R. Immi in the name of R. Yohanan: “And that is the case if the pieces of dough stick together.”**

[B] *There are Tannaite authorities who frame the rule as, — the basket combines them [into a single portion large enough so as to be subject] to dough-offering, and the over does not combine them, and there are Tannaite authorities who frame the rule as, the over joins them together and the basket does not join them together.*

[C] *Said R. Yohanan, “I presented this ruling in line with Hilpi: ‘If they stuck together, both this and that serve to join the dough together to form the requisite volume. If they do not stick together, in both situations [oven, basket] they do not join together.*

[D] The Tannaite ruling deals with a case of the bread that they make in Babylonia [which is soft and sticks together in the basket.

2:3

[A] **One who separates his dough-offering [from] flour [which has not yet been made into dough] —**

[B] **[the separated portion] is not dough-offering.**

[C] **And [if it comes] into a priest’s possession [without the owner having given it to him, that is a case of] theft.**

[D] **The same dough [made from original batch of flour still] is subject to dough-offering,**

[E] **while the [portion of] flour [that had been separated as dough-offering] —**

[F] **if it comprises the [minimum] volume [subject to dough-offering],**

[G] **it [remains] subject to dough-offering.**

- [H] “[The portion of flour originally separated as dough-offering] is forbidden to non-priests [even though it is not considered dough-offering],” the words of R. Joshua.
- [I] They said to him, “[We have heard of] a case in which a non-priest elder snatched it [such a portion, for his own use].”
- [J] He said to them, “Nonetheless, he has done himself ill [by violating the law] and given others a remedy [by enabling them to violate the law with impunity, since they would be following the precedent of an elder].”
- [K] Five-fourths [*qab*] of flour is subject to dough-offering [once made into dough].
- [L] [If] it [i.e., the flour] and its leaven, fine bran, and coarse bran [together comprise] five-fourths [*qab*, the whole] is subject [to dough-offering once made into dough].
- [M] [If] the coarse bran was removed from [the batch of flour, so that the latter now comprised less than five-fourths *qab*], and [subsequently] was put back in —
- [N] lo, this [batch] is exempt [from dough-offering, because the returned coarse bran does not combine with the rest].
- [O] The amount of dough-offering [that one must separate] is one twenty-fourth [of the entire batch of dough].
- [P] One who makes dough for his own use, or one who makes [dough] for his son’s [wedding] banquet [a large amount for private use — he must separate] one twenty-fourth.
- [Q] A baker who makes [dough] for sale in the market, and likewise a woman [not a professional baker] who makes [dough] for sale in the market — [they must separate] one forty-eighth.
- [R] [If the woman’s] dough became unclean by accident or [as a result of the woman’s] acting under constraint [she must separate] one forty-eighth.
- [S] [But if her dough] became unclean by means of her deliberate action — [she must separate] one twenty-fourth,
- [T] so that a sinner does not benefit [from the fact that the dough became unclean].
- [U] R. Eliezer says, “[Dough-offering] may be separated from a clean [batch of dough on behalf of] an unclean [batch].”
- [V] How [does one do this]?

- [W] [If there is a batch of] clean dough and [a batch of] unclean dough, one separates from [the clean batch of] dough, the dough-offering of which has not [yet] been removed, [a portion] sufficiently great [to serve as] dough-offering [for both batches],
- [X] and one places [a piece of dough] smaller than the bulk of an egg [i.e., a piece too small to transmit uncleanness] in between [the two batches, touching each],
- [Y] so that one [in effect] separates [dough-offering on behalf of the unclean batch] from [a batch] which is nearby [i.e., connected].
- [Z] **But sages forbid [this procedure (M. Hal. 1:9F-G)].**
- [I:1 A] He said to them, “Nonetheless, he has done himself ill [by violating the law] and given others a remedy [by enabling them to violate the law with impunity, since they would be following the precedent of an elder]:”
- [B] he has done himself ill [by violating the law]Ö: he ate the dough from which dough-offering has not yet been removed and he will be punished.
- [C] ...and given others a remedy: for they eat the dough and blame it on him.
- [D] *There is a Tannaite version worded as follows:* he has given himself a remedy and done others ill.
- [E] he has given himself a remedy: *for he has eaten the dough.*
- [F] and done others ill: For they will suppose that the dough is exempt from dough offering, but it is liable.
- [II:1 A] [Five-fourths [*qab*] of flour is subject to dough-offering [once made into dough]. [If] it [i.e., the flour] and its leaven, fine bran, and coarse bran [together comprise] five-fourths [*qab*, the whole] is subject [to dough-offering once made into dough]. [If] the coarse bran was removed from [the batch of flour, so that the latter now comprised less than five-fourths *qab*], and [subsequently] was put back in — lo, this [batch] is exempt [from dough-offering, because the returned coarse bran does not combine with the rest:] **R. Immi in the name of R. Yannai:** “A Tiberian *qab* of dough is liable to dough offering.”
- [B] A confectioner asked R. Yohanan [how to avoid having to separate dough-offering in making dough for cake]. *He said to him, “Go and make the dough in units of four and a half quarter-qabs of flour and the dough will total one and an eighth qabs and be exempt].”*

- [C] *Why didn't he advise him to make the dough in batches of three and a half [third qabs] which would yielded larger but still exempt batches if one and an eighth qabs of dough]?*
- [D] *Said R. Zeira, "In their place qabs are divided in fourths not in thirds."*
- [E] *And why didn't he advise him to make dough out of five quarter-qabs, leaving only a little flour to keep the volume under the five-fourths qab quantity that is liable?*
- [F] So that the man would not be subject to doubt as to liability to dough-offering.

[III:1 A] [[If the coarse bran was removed from [the batch of flour, so that the latter now comprised less than five-fourths *qab*], and [subsequently] was put back in — lo, this [batch] is exempt [from dough-offering, because the returned coarse bran does not combine with the rest:] said R. Yohanan, "They have taught this rule in accord with the normal way of preparing dough. [Coarse bran is not normally removed from dough and then put back. If it is removed, it cannot again be treated as part of the dough.]"

- [B] Said R. Simeon b. Laqish, "This represents the view of Rabban Simeon b. Gamaliel, for **Rabban Simeon b. Gamaliel says, 'Dough made from a mixture of wheat-flour and rice-flour is subject to dough-offering only if the cereal [wheat-flour by itself] comprises the requisite volume subject to dough-offering of five-fourths of a qab'** [T. Hal 2:1].
- [C] A disciple of R. Hiyya the Elder, Bar Lulita in the name of R. Joshua b. Levi, "It represents the view of all parties [not just Simeon b. Gamaliel]."
- [D] Concurring, *said R. Mana, "Even though R. Yosé my teacher did not say it, he said something that produces the same conclusion, citing R. Yohanan, who said,* said R. Yohanan, "They have taught this rule in accord with the normal way of preparing dough. [Coarse bran is not normally removed from dough and then put back. If it is removed, it cannot again be treated as part of the dough.]" And here, since the coarse bran has been removed and put back, it does not conform to the normal way dough is prepared." [The volume of bran in the dough is ignored. Both Simeon b. Laqish and the anonymous authorities can agree with the rule, as Joshua b. Levi claims.]

[IV:1 A] [The amount of dough-offering [that one must separate] is for the householder one twenty-fourth [of the entire batch of dough]. A

baker who makes [dough] for sale in the market, and likewise a woman [not a professional baker] who makes [dough] for sale in the market — [they must separate] one forty-eighth:] *It has been taught as a Tannaite statement:* Said R. Judah, “On what account did they say, **for the householder one twenty-fourth of the entire batch of dough, for the baker one forty-eighth?** The baker is generous with his dough, and the householder is stingy with his dough.”

- [B] **And sages say, “That is not the consideration of this one, and that is not the reason of that one. But ‘so shall you present an offering to the Lord from all your tithes that you receive from the people of Israel and from it you shall give the Lord’s offering to Aaron the priest’ (Num. 18:26) — see it that you give to the priest in a volume commensurate with his priesthood. The householder’s dough is small in volume and would not contain an adequate gift to the priest if only one forty-eighth part of the dough were separated as dough-offering, but the baker’s dough is large in volume and contains an adequate gift for the priest if only one forty-eighth part is separated” [T. Hal. 1:7].**
- [C] *And have we not learned in the Mishnah: One who makes dough for his own use, or one who makes [dough] for his son’s [wedding] banquet [a large amount for private use — he must separate] one twenty-fourth?* [He is making a large volume of dough, yet gives one twenty-fourth.]
- [D] It is so as not to make too many distinctions in connection with the dough prepared by the householder.
- [E] *And have we not learned in the Mishnah: and likewise a woman [not a professional baker] who makes [dough] for sale in the market — [they must separate] one forty-eighth?*
- [F] When she makes dough for her own household, she is stingy about the dough-offering. When she makes it for the marketplace, she is generous about it.
- [V:1 A] **[[If the woman’s] dough became unclean by accident or [as a result of the woman’s] acting under constraint [she must separate] one forty-eighth. [But if her dough] became unclean by means of her deliberate action — [she must separate] one twenty-fourth, so that a sinner does not benefit from the fact that the dough became unclean:]** *Said Rabbi, “Our Mishnah deals with a case in which a woman customarily separates one in forty-eight parts of the dough as dough offering, [The rule of the Mishnah applies as a special penalty.] But if she customarily takes one twenty-fourth of the dough, that is*

what she must set aside here, *so that in this setting we may apply the principle, so that a sinner does not benefit from her sin.*”

[VI:1 A] [If there is a batch of clean dough and a batch of] unclean dough, one separates from the clean batch of dough, the dough-offering of which has not yet been removed, a portion sufficiently great to serve as dough-offering for both batches, and one places a piece of dough smaller than the bulk of an egg i.e., a piece too small to transmit uncleanness in between the two batches, touching each, so that one in effect separates dough-offering on behalf of the unclean batch from a batch which is nearby i.e., connected]: Doesn't the mere presence of the pieces of dough in the house join them together so that one may take dough offering from one batch to cover other batches]?

[B] In the case of that about which one is concerned not to mix with other things [unclean, clean dough] th house does not joint together that thing with other things, but in regard to that with which one is not concerned about mixture with other things, the house does serve to join the whole together into one batch. [The house does not join the pieces of dough together.]

[VII:1 A] one places [a piece of dough] smaller than the bulk of an egg [i.e., a piece too small to transmit uncleanness] in between [the two batches, touching each], so that one [in effect] separates [dough-offering on behalf of the unclean batch] from [a batch] which is nearby [i.e., connected]:

[B] The rule concerns dough unclean in the first remove [when this procedure applies]. But as to dough unclean in the second remove, what is unclean in the second remove of uncleanness does not impart uncleanness through contact with ordinary food from which tithes have not been removed.

[VIII:1 A] R. Eliezer says, “[Dough-offering] may be separated from a clean [batch of dough on behalf of] an unclean [batch].” *A Tannaite teaching:* R. Ilai in the name of R. Eliezer, “R. Ilai says in the name of R. Eliezer, “They separate heave-offering from that which is clean for that which is unclean even in [the case of] wet [susceptible produce]. How so? One who pickled his olives in a state of uncleanness and wished to separate heave-offering from them in cleanness brings a funnel the [smaller] opening of which does not hold an egg's-bulk, and rests it in the opening of the jug [of pickled olives]. He brings [clean] olives and places them in it [i.e., in the funnel] and separates heave-offering [from these clean

olives for the unclean olives in the jug]. The result is that he separates heave-offering from that which is clean for that which is unclean, and separates from a single batch [as required by M. Ter. 2:1D-E].” They said to him, “Only in the case of wine and oil is the term *wet* applicable [and since the method you suggest will not work in the case of either kind of produce, you have not offered support for the rule]” [T. Ter. 3:18].

- [B] Why do I need **a funnel the [smaller] opening of which does not hold an egg’s-bulk?** Even if it holds an egg’s bulk, it would serve. *Aren’t the olives in the funnel like crumbs too small to receive and transmit uncleanness?*
- [C] It is so as not to impart uncleanness to many olives through liquid on the olives].
- [D] **They said to him, “Only in the case of wine and oil is the term *wet* applicable [and since the method you suggest will not work in the case of either kind of produce, you have not offered support for the rule]” [T. Ter. 3:18]:**
- [E] R. Yosé says, “All [of the wine in] a winepress room constitutes a single batch [and therefore heave-offering may be separated from discrete quantities of wine within the room].” How so? [If there was] one press for two tanks, two presses from one tank, two presses for two tanks -- when [the wine in] all of them constitutes a single batch, they separate heave-offering and remove tithes from [the wine in] one [tank] for [the wine in] another [tank]. [If] one of them [i.e., one of the tanks] became unclean, he separates heave-offering from the clean [wine] which is in it [i.e., which is in the wine-press room] for the unclean [wine] which is in it. [If] all [of the wine] does not constitute a single batch, they do not separate heave-offering or remove tithes from [the wine in] one [tank] for [the wine in] another [tank]. [If] one of them [i.e., one of the tanks] became unclean, he may not separate heave-offering or remove tithes from the clean [wine] which is in it [i.e., in the winepress room] for the unclean [wine] which is in it. And so would R. Judah say, “All [of the oil in] an olive-press room constitutes a single batch.” How so? If there was] a single beam [used for pressing] two tanks, two beams for one tank, two beams for two tanks (when all [of the oil] constitutes a single batch, they separate heave-offering and remove tithes from [the oil in] one [tank] for [the oil in] another [tank]. [If] one of them [i.e., one of the tanks] became unclean, he separates heave-offering from the clean [oil] which is in it [i.e., in the olive-press room] for the unclean [oil] which is in it. [If] all [of the oil] does not constitute a single batch, they do not separate

heave-offering or remove tithes from [the oil in] one [tank] for [the oil in] another [tank]. [If] one of them [i.e., one of the tanks] became unclean, he may not separate heave-offering from the clean [oil] which is in it [i.e., in the olive-press room] for the unclean [oil] which is in it. [T. Ter. 3:7].

- [F] **In the case of a single beam [used for pressing] two tanks, there is no problem.** If part of it has been made unclean, the whole of it is not made unclean. But with **two beams for one tank**, isn't it the case that if part of them have been made unclean, the whole of it is made unclean?
- [G] *R. Hila in the name of R. Yosé: "Interpret the rule to apply to a case in which the farmer intended to make them all into a single batch and then changed his mind and decided to make them into two batches."*
- [H] Said R. Yosé b. R. Abun, "What you said applies to a case in which it became unclear after the farmer has already drawn and skimmed the contents of the vat. Then the contents were ready in a state of cleanness for the separation of heave-offering. But if the contents were made unclean before the farmer drew and skimmed the contents of the at, it is not in such a case that the procedure applies."
- [I] R. Tabi, R. Josiah in the name of R. Yannai: "The decided law accords with the position of R. Eliezer."
- [J] R. Huna in the name of R. Haninah: "The decided law does not accord with the position of R. Eliezer."
- [K] R. Yosé b. R. Abun, R. Judah in the name of Samuel: "The decided law does not accord with the position of R. Eliezer."
- [L] *A case came before R. Immi, who did not decide it according to R. Eliezer, saying, "There are two authorities balanced against two authorities."*
- [M] *He said to him, "Lo, R. Isaac bar Nahman gave a decision in accord with the position of R. Eliezer."*
- [N] *Even so, R. Immi would not lay down a decision in accord with R. Eliezer.*

YERUSHALMI HALLAH

CHAPTER THREE

3:1

- [A] [People] may snack on dough [without first separating dough-offering from it] until she [the woman preparing the dough] rolls [the dough] out [makes the dough into a ball], in the case of [dough made from] wheat, or [until] she forms [it] into a solid mass, in the case of [dough made from] barley.
- [B] [Once] she rolled [the dough] out, in the case of [dough made from] wheat, or formed [it] into a solid mass, in the case of [dough made from] barley, one who eats from it [without first separating dough-offering] is liable to death.
- [C] As soon as she puts water [into the flour], she must remove her [portion of] dough-offering,
- [D] so long as there is not five-fourths [*qab*] of flour [left unmixed with water. Since this flour is not yet subject to dough-offering (M. Hal. 2:5A-B), one may not separate dough-offering for it, and so the flour will still become subject to dough-offering once mixed with water].
- [I:1 A] [People] may snack on dough: said R. Haggai, “They taught this rule only in the case of a snack, but as to a formal meal, it is forbidden [to eat the dough until dough-offering has been designated], because it may represent an act of deception to exempt the dough from the obligation to separate dough-offering.”
- [B] *Said R. Yosé, “If the rule is inferred from what you just said, there is nothing to be derived from the passage [that supports the distinction just now proposed], for even if he takes two or three pieces of the dough, since he is going to return the dough to a batch that is not fully processed, it is permitted [to eat the dough without separating dough-offering].”*
- [C] For said R. Yosé in the name of R. Zeira in the name of R. Eliezer, “Even what is in the flagon is in the status of what is liable to the

separation of tithes but not yet tithed, because he is going to put it back dough into a batch that is not fully processed. [What is going to be done with the contents of the flagon affects the status of the contents even before it is done. Deception is not a consideration.]

- [D] “[With reference to M. 2:2, **One who is unable to prepare his dough in [a state of] cleanness — let him prepare it in one-qab portions [which are exempt from dough-offering], but let him not prepare it in [a state of] uncleanness**] [Yosé continues], that is to say, **One who is unable to prepare his dough in [a state of] cleanness** — it is because he is unable to do so. Lo, if he is able to do so, *it is not in such a case that the rule applies. That bears the implication* that it is forbidden to prepare dough in one-qab pieces.” [The issue is not deception. One cannot prepare the dough in one-qab pieces. If the issue were deception, it would be prohibited to prepare dough even if one cannot to it in a state of cleanness. The obligation to separate dough-offering applies as soon as water is mixed with flour. Hence then only a snack is permitted.]

[II:1 A] **[in the case of [dough made from] wheat, or [until] she forms [it] into a solid mass, in the case of [dough made from] barley]:** And as to dough made from other classifications of grain, you follow the point at which the dough becomes a cohesive, shapeless mass [as against the later point at which one has rolled and shaped the dough.]

- [B] If one made dough out of wheat and [following PM:] barley flour, how do we define the point at which the dough is liable, is it the point at which it is rolled out [as with wheat] or at the prior point at which it forms a shapeless mass [as with barley]?

[II:2 A] *R. Hoshaiah taught as a Tannaite rule:* “The priest’s dough-offering must be in shape and substance like a roll of dough. [Then liability to dough-offering is incurred.]”

- [B] R. Eleazar in the name of R. Hoshaiah, “From the moment that the dough is divided into lumps.”

[C] *Do they dispute the matter?*

- [D] In the one case the rule serves for legal theory, in the other for actual practice.”

[II:3 A] *It has been taught as a Tannaite rule:* **R. Judah b. Baterah says, “It is when it is cut into pieces” [T. Hal. 1:12].**

- [B] *What is the scriptural basis for the view of R. Judah b. Baterah?*

- [C] “as an offering from the threshing floor so shall you present it” (Num. 15:20) — just as the offering from the threshing floor is taken from what is fully processed, so this is taken from what is fully processed.
- [D] If so, why not impose liability only when the dough is baked into bread?
- [E] R. Matteniah: “The analogy to the offering of the threshing floor serves only to speak of processing the offering itself.”

[III:1 A] R. Yosé in the name of R. Simeon b. Laqish: “[The statement, **As soon as she puts water [into the flour], she must remove her [portion of] dough-offering**, represents the position of R. Aqiba, *for we have learned in the Mishnah: One who separates dough-offering from a one-qab portion, [which is not subject to dough-offering] — R. Aqiba says, “[The separated portion is] dough-offering.” But Sages say, “[The separated portion is] not dough-offering” [M. Hal. 4:4D-F].*] [In this case even though the entire volume of flour is not mixed with water, the batch is liable to the separation of dough-offering. That means even when merely a qab of flour is mixed with water and formed into dough, the dough is liable to dough-offering. Aqiba will concur, sages will not.]

[B] Well, hasn’t R. Aqiba made his ruling to apply to what is already done, but does he take that position when it comes to how things are done to begin with? *Here the rule applies to how things are done to begin with, not after the fact.*

[C] R. Jonah, R. Hiyya in the name of R. Simeon b. Laqish: “The statement only deals with the theory of R. Aqiba [but does not represent only his opinion.]”

[D] Said R. Yohanan, “The rule represents the position of all parties. Once the woman puts water on the flour, this represents ‘The first of your coarse meal’ (Num. 15:20).”

[III:2 A] *It has been taught as a Tannaite rule: Untithed produce which is mixed with unconsecrated [i.e., tithed] produce — lo, this [i.e., the untithed produce] renders forbidden [the produce with which it is mixed] in any amount [i.e., no matter how small a quantity of untithed produce is mixed with tithed produce, the tithed produce may not be eaten]. If he [i.e., the householder] has in a different place produce which needs to be tithed, he takes [this produce as tithes for the untithed produce mixed with unconsecrated produce] in accordance with a calculation [of the percentage of the mixture which is untithed]. But if not [i.e., if the householder has*

no produce that needs to be tithed] — R. Eliezer and R. Eleazar b. Arakh say, “He designates heave-offering of the tithe which is in it [i.e., in the untithed produce], and it [i.e., these offerings] are neutralized in a hundred and one parts [of produce]” [T. Ter. 5:15].

- [B] R. Jacob Gabolayya in the name of R. Haninah: “The decided law accords with the position of R. Eleazar b. Arakh.”
- [C] Said R. Yohanan, “On the foundation of what they taught the priest-women, the decided law does not accord with the position of R. Eleazar b. Arakh.”
- [D] What did they teach the priest-women?
- [E] [When they separate dough-offering in a state of cleanness, they say,] “Lo, this portion that I remove serves as dough-offering for this dough, for the leaven that is mixed into the dough, for the grain that remains in it, and as for a piece of dough that is located beneath it, when it comes up in a single lump, whatever is on my hands likewise is consecrated as dough-offering, excluding what is unclean in the whole lot.”
- [F] Now [if the law was in accord with R. Eleazar b. Arakh,] should the women say, “excluding what is unclean in the whole lot”? [He says that when the untithed dough is mixed with unconsecrated dough that has been tithed, the tithes of the untithed dough are neutralized in a mixture of a hundred and one. Here why] not claim that there is neutralization?]
- [G] R. Jonah said R. Samuel of Cappadocia and one of the rabbis — one said, “Where [Eleazar b. Arakh’s opinion pertains] we deal with a case in which there is sufficient volume to allow for neutralization, and there, where it doesn’t apply, we deal with a case in which there is not sufficient volume to allow for neutralization.” The other said, “Since it is necessary to bring about neutralization, it is treated as if the farmer has produce in some other place that requires tithing [and he attaches the process to that other batch of produce].”
- [H] [As to the statement, When they separate dough-offering in a state of cleanness, they say, “Lo, this portion that I remove serves as dough-offering for this dough, for the leaven that is mixed into the dough, for the grain that remains in it, and as for a piece of dough that is located beneath it, when it comes up in a single lump, whatever is on my hands likewise is consecrated as dough-offering, excluding what is unclean in the whole lot”] said R. Yosé, “The stated rule appears appropriate for

the eve of the Sabbath [when the woman is busy baking bread and may not have time to separate dough-offering from each liable portion, then she makes the declaration that all of the dough is covered], for since this woman brings dough that is liable to dough-offering and so too does that woman, when such a declaration is made, it is a case in which one separates dough-offering from dough that is liable for other dough that is equally liable. But on a weekday, while we know that scribes ruled dough-offering may be taken from what is clean for what is unclean and also for what is not located nearby, have they also decreed that dough-offering may be separated from dough that is exempt from dough-offering for dough that is liable? [No, no such decree was reasonable. But that is the procedure outlined in this statement.]

[I] *Said R. Jonah, “Isn’t it more reasonable to suppose that they made this rule with regard to an ordinary day [and not for Friday afternoon]? But on the eve of the Sabbath she must say, ‘The dough-offering she separates covers the unclean dough that may inhere in the mass.’ Why so? Because before the dough is formed into a single mass, the dough-offering is removed for the sake of the dough in hand. Once the dough is made into a single mass, the dough-offering that has been separated is now consecrated as dough-offering. If you maintain that she makes her statement ‘excluding whatever is unclean in the mass of dough,’ then it turns out that untithed dough that is unclean is mixed together with dough-offering, [That is impossible and must be corrected.] Since you have the woman say, ‘it and what is unclean in it,’ it turns out that unconsecrated fully tithed dough is located there in and it is unclean. Now it makes more sense to separate dough-offering from what is exempt from dough-offering for what is liable to it than to allow for unclean dough subject to the separation of dough-offering that has not been properly dealt with to be mixed together with dough-offering.”*

[J] *Said R. Samuel bar. Abedoma, “And isn’t it consecrated prospectively anyhow? Since it is consecrated prospectively, when the woman makes her statement, she separates dough-offering from what is liable for other dough that is liable.”*

[IV:1 A] so long as there is not five-fourths [qab] of flour left unmixed with water:

[B] *Why do I require this specification? [Even if there is such a volume, it will be covered by the dough as the matter is articulated by the women-priests.]*

[C] Said Rabbi, “The Mishnah speaks of the situation prevailing before they instructed the women-priests to make that statement.”

3:2

[A] **[If,] before she rolled [it] out, her dough became mixed with consecrated [dough, the mixture] is exempt [from dough-offering],**

[B] **for a mixture of unconsecrated and consecrated [dough] is exempt [from dough-offering (M. Hal. 1:4E-F)].**

[C] **However, [if the mixture occurred] after she rolled [the unconsecrated dough] out, [the mixture] is subject [to dough-offering, since liability to dough-offering took effect as soon as the unconsecrated dough was rolled out].**

[D] **[If] the possibility that [she had entered a state of] uncleanness arose before she had rolled [the dough] out, let it be prepared in [a state of] uncleanness [the possibility of uncleanness has already rendered the dough unfit to be eaten by a priest, and so there would be no point for the woman to wait until she is able to prepare the dough in a state of cleanness].**

[E] **But [if the same possibility arose] after she rolled [the dough] out, let it be prepared in [a state of] cleanness [let the woman wait until she is in a state of cleanness to prepare the dough].**

[I:1 A] *Said R. Jonah, “Two teachings did R. Hiyya the Elder teach in this connection, and they are inconsistent with one another.*

[B] “[1] Produce liable to the separation of heave-offering that has not yet had the tithes removed is counted as unconsecrated food [awaiting the designation of tithes and heave-offering.] [2] And whatever is subject to doubt as to its status renders invalid heave-offering and renders invalid food from being designated as heave-offering. [If something that may or may not be unclean touches unconsecrated food from which tithes and heave-offering have been removed, one may not designate the tithes and heave-offerings from that food.] *And here is the question:* Produce liable to the separation of heave-offering that has not yet had the tithes removed is counted as unconsecrated food [awaiting the designation of tithes and heave-offering], how can I concede that whatever is subject to doubt as to its status renders invalid heave-offering and renders invalid food from being designated as heave-offering? You have said that it is counted as unconsecrated food, so how can you treat it as equivalent to heave-offering?”

[C] *Said R. Yosé, “Lo, we have learned both rules in the Mishnah: “[1] Produce liable to the separation of heave-offering that has not yet had*

the tithes removed is counted as unconsecrated food [awaiting the designation of tithes and heave-offering] *we have learned from what is taught in the Mishnah*: **Produce of tithe which was rendered susceptible to uncleanness by liquid and which a tebul-yom touched, or dirty hands — they separate from it heave-offering of tithe in a state of cleanness because it is in the third remove, and the third remove is clean so far as unconsecrated food is concerned [M. Tebul Yom 4:1].** *That is to say*, “[1] Produce liable to the separation of heave-offering that has not yet had the tithes removed is counted as unconsecrated food [awaiting the designation of tithes and heave-offering]. And [2] whatever is subject to doubt as to its status renders invalid heave-offering and renders invalid food from being designated as heave-offering, *we have learned from what is taught in the Mishnah*: **[If] the possibility that [she had entered a state of] uncleanness arose before she had rolled [the dough] out, let it be prepared in [a state of] uncleanness [the possibility of uncleanness has already rendered the dough unfit to be eaten by a priest, and so there would be no point for the woman to wait until she is able to prepare the dough in a state of cleanness]. But [if the same possibility arose] after she rolled [the dough] out, let it be prepared in [a state of] cleanness [let the woman wait until she is in a state of cleanness to prepare the dough].**” [The produce is subject to the same source of uncleanness that will invalidate heave-offering, and this produce is unconsecrated food not yet subjected to tithing. Both points appear in the Mishnah.]

[II:1 A] [With reference to **[If] the possibility that [she had entered a state of] uncleanness arose before she had rolled [the dough] out, let it be prepared in [a state of] uncleanness [the possibility of uncleanness has already rendered the dough unfit to be eaten by a priest, and so there would be no point for the woman to wait until she is able to prepare the dough in a state of cleanness]. But [if the same possibility arose] after she rolled [the dough] out, let it be prepared in [a state of] cleanness [let the woman wait until she is in a state of cleanness to prepare the dough]**, *said R. Sheshet*, “*This represents the view of R. Aqiba*, for R. Aqiba said, **[One who is unable to prepare his dough in [a state of] cleanness — let him prepare it in one-*qab* portions [which are exempt from dough-offering], but let him not prepare it in [a state of] uncleanness.] But R. Aqiba says, “Let him prepare it in [a state of] uncleanness, and let him not prepare it in one-*qab* portions. For just as he may designate a clean [portion] as dough-offering, so he also may designate an unclean [portion] as dough-offering” [M. 2:2C].**”

- [B] Said R. Zeira, “It represents the view of all parties, [not just Aqiba,] for [what is intended is not, prepare the food in a state of uncleanness] but rather, prepare the dough in qab-sized portions on account of their doubtful status, [but avoid preparing the dough in a state of uncleanness].”
- [C] *Objected R. Hiyya b. R. Abun before R. Zeira:* “And has the same matter not been taught in regard to other species of food besides dough? Can you say that in a case of doubt affecting other kinds of produce, they should be made in qab-sized portions?” [Obviously not. Zeira’s reading doesn’t work.]”
- [D] R. Zebida said, “I asked that question too.”
- [II:2 A] R. Yosé in the name of R. Hila: “From the perspective of the law of the Torah, one should be able to render unclean his produce from which heave-offering has not yet been removed. For it is written, ‘And behold I have given you charge over the offerings made to me’ (Num. 18:8). Heave-offering must be protected from uncleanness, but unconsecrated food need not be protected from uncleanness. How then shall interpret, ‘And from it you shall give the Lord’s offering to Aaron the priest’ (Num. 18:28)? It means you must give to Aaron the priest produce [that is clean] and appropriate to his status as a priest. Here, since [because of the doubt affecting the status of the produce] you cannot give to Aaron the priest produce [that is clean] and appropriate to his status as a priest, you are permitted to impart uncleanness to the produce that has not yet yielded its heave-offering.”

3:3

- [A] **[If] she dedicated her dough to the Temple before she rolled [it] out, and [subsequently] redeemed it [(M. Hal. 1:3B7), and only then rolled it out], it is subject [to dough-offering, since the dough was no longer consecrated at the point at which liability to dough-offering took effect (M. Hal. 1:3A-B)].**
- [B] **[If she dedicated her dough to the Temple] after she rolled [it] out, and [subsequently] redeemed it, it is subject [to dough-offering, for the same reason].**
- [C] **[If] she dedicated it to the Temple before she rolled [it] out, and the [Temple] treasurer rolled it out, and she subsequently redeemed it, it is exempt [from dough-offering],**
- [D] **for at the point at which its liability [to dough-offering normally would have taken effect, the dough] was exempt [since it already was property of the Temple].**

- [E] Analogously, one who dedicates his produce to the Temple before the time [when liability to] tithes [takes effect], and [subsequently] redeemed it [at a point in time when liability to tithes still had not taken effect, the produce] is subject [to tithes].
- [F] And [if he dedicated his produce to the Temple] after the time [when liability to] tithes [takes effect], and [subsequently] redeemed it, [the produce] is subject [to tithes].
- [G] [If] he dedicated [his produce] to the Temple before it was fully processed, and the [Temple] treasurer completed its processing, and [the original owner] subsequently redeemed it, it is exempt [from tithes],
- [H] for at the point at which its liability [to tithes normally would have taken effect, the produce] was exempt [M. Peah. 4:8].
- [I:1 A] *Why do we repeat the rule twice [once here and once at Y. Peah 4:5]?*
- [B] R. Huna, R. Hiyya, R. Joshua b. Levi in the name of R. Pedaiiah: “One is to cover liability established by the act of smoothing the harvested crop [thus completing the labor on it], and the other addresses liability established by the advent of the tithing season for a not-yet-harvested crop that has reached a third of full growth.”
- [C] R. Yosé said, “R. Abba and associates — associates say, ‘One is to cover liability established by the act of smoothing the harvested crop [thus completing the labor on it], and the other addresses liability established by the advent of the tithing season for a not-yet-harvested crop that has reached a third of full growth.’ R. Abba explains, ‘For dough-offering the one serves to cover liability established by the act of smoothing the harvested crop [thus completing the labor on it], and for the corner of the field the other addresses liability established by the advent of the tithing season for a not-yet-harvested crop that has reached a third of full growth.’”
- [II:1 A] [If] one dedicated [to the Temple] a standing [crop], and then redeemed [that same] standing [crop] — [the produce he redeems] is subject [to the restrictions of the forgotten sheaf, after it is bound]. [If he dedicated to the Temple a crop that had been bound into] sheaves, and then redeemed [that same crop while it still was bound into] sheaves — [the produce he redeems] is subject [to the restrictions of the forgotten sheaf]. [But if he dedicated to the Temple] a standing [crop], and then redeemed [that same crop after it was bound into] sheaves [the produce he redeems] is exempt [from the restrictions of the forgotten sheaf], for at the moment [when, under ordinary circumstances, the grain would

become] subject [to the restrictions of the forgotten sheaf, the crop] was exempt, [because the Temple owned it] [M. Peah 4:7]. *The Mishnah-passage before us represents the position of R. Aqiba. For R. Aqiba said, “You adopt as your criterion for determining the status of the crop the condition of the crop when it reaches the final third of its full growth.”*

- [B] *For there is the following dispute:* A field that reached a third of its growth while owned by a gentile, at which point an Israelite bought it — **R. Aqiba says, “The additional growth is exempt from tithing [the Israelite having bought the crop only after it had reached a third of full growth.] [We ignore the condition of the field after that point.]**
- [C] **And sages say, “The additional growth is liable [for tithing for the part of the crop that grew up after the transfer of ownership] [T. Ma. 3:14].**
- [D] *How so? Interpret the present rule to address a crop fully processed [at that point], in accord with the position of R. Aqiba in the dispute before us, or to address a crop that is to be harvested forthwith [and the maturity of the crop does not register], and that represents the opinion of all parties.*

3:4

- [A] **A gentile who gave [flour] to an Israelite to make into dough for him —**
- [B] **[the dough] is exempt from dough-offering.**
- [C] **[If the gentile] gave it to him as a gift —**
- [D] **[if he gave the dough to him] before he rolled [it] out, it is subject [to dough-offering].**
- [E] **But [if he gave the dough to him] after he rolled [it] out, it is exempt [from dough-offering].**
- [F] **One who prepares dough [in partnership] with a gentile —**
- [G] **if [the share of the dough] belonging to the Israelite does not comprise the [minimum] volume [subject to] dough-offering,**
- [H] **it is exempt from dough-offering.**
- [I] **A convert who converted [to Judaism] and had dough in his possession [at the time he converted] —**
- [J] **[if the dough] was prepared before he converted, it is exempt [from dough-offering].**

- [K] But [if it was prepared] after he converted, it is subject [to dough-offering].
- [L] And if it is uncertain [whether the dough was prepared before or after he converted], it is subject [to dough-offering].
- [M] But [non-priests who unintentionally eat the separated dough-offering in this instance] are not liable [to pay back] for it one-fifth [the value of the dough-offering beyond its principal value].
- [N] R. Aqiba says, “[Liability in] all cases is determined [not by the status of the dough at the point at which one rolls it out but] by [its status at the point at which] the crust [forms on the bread] in the oven.”
- [I:1 A] [Dough prepared to pay a tax in kind is liable for dough-offering, because the owner is liable to make it up should it be lost, until he hands it over to the tax collector (T. Hal. 1:4): what is the difference between flour given to an Israelite by a gentile to make into dough, which is exempt from dough-offering, and dough prepared for payment of taxes? Is it possible that it is not liable for dough-offering?
- [B] There [in the case of dough paid for taxes in kind] the dough remains in the domain of the Israelite, perhaps the gentile tax-collector will change his mind [and take other dough], *but here* [A gentile who gave [flour] to an Israelite to make into dough for him] the matter depends on the intention of the gentile [who certainly will take back the dough the Israelite prepared for him.
- [I:2 A] *R. Judah taught as a Tannaite statement, “If the bakery in which leaven is prepared is the property of an Israelite, then even if gentile employees work in it, the leaven is subject to dough-offering. If the bakery is the property of gentiles, then even if Israelite employees work in it, the leaven is exempt from dough-offering” [T. Hal. 1:3].*
- [B] *Said R. Yosé, “We too have learned the Tannaite tradition: A gentile who gave [flour] to an Israelite to make into dough for him — [the dough] is exempt from dough-offering.”*
- [II:1 A] One who prepares dough [in partnership] with a gentile — if [the share of the dough] belonging to the Israelite does not comprise the [minimum] volume [subject to] dough-offering, it is exempt from dough-offering: *R. Abun bar Hiyya asked before R. Zeira: “And even if [the share of the dough] belonging to the Israelite does comprise the [minimum] volume [subject to] dough-offering, let him prepare the dough in the volume of a qab on one side and a qab on the*

other, with the qab belonging to the gentile in the middle [so the Israelite's share does not add up to a liable volume.]”

[B] Said to him R. Zeira, “And are the qabs of dough not mixed together through the strands of dough [so the dough is not divided rigidly].”

[III:1 A] [With reference to our Mishnah-passage, **A convert who converted [to Judaism] and had dough in his possession [at the time he converted] — [if the dough] was prepared before he converted, it is exempt [from dough-offering]. But [if it was prepared] after he converted, it is subject [to dough-offering]. And if it is uncertain [whether the dough was prepared before or after he converted], it is subject [to dough-offering],** *There we learned in the Mishnah: A convert who converted and had a cow — [if] it was slaughtered before he converted, it is free of priestly dues. [If it was slaughtered] after he converted, it is liable. [If it is a matter of] doubt, it is free of liability, for he who makes a claim against his fellow bears the burden of proof [M. Hul. 10:4A-C],* there you say that in a case of doubt, one is free of liability, while here you say that in a case of doubt, he is liable!

[B] *Said R. Aha, “I presented this issue before R. Ammi, and he said, ‘Who will tell me that he takes the value of the dough from the priestly tribe?’* [One is required to designate dough for the dough-offering, but one is not required to hand it over to a priest. There is no priest here to lay claim to the dough, if he wants it he has to pay for it. The counterpart ruling at M. Hullin has a priest claiming the priestly portions of the animal.]

[C] R. Jacob bar Zebedee, R. Hiyya in the name of R. Eleazar: “He collects the value of the dough from the priestly tribe.”

[D] Then in that other case let him collect the value of the cheeks and maw subject to doubt from the priestly tribe to whom he hands them over.

[E] Said R. Yosé, “Dough that is liable to tithing but has not yet been tithed imposes the death penalty on him who eats the priestly portion. [A strict ruler applies here.]”

[F] Then let him separate dough-offering and not collect a price for it from the priestly tribe?

[G] It is on the count of the principle, **he who makes a claim against his fellow bears the burden of proof.** [The priest would have to prove that what is subject to doubt in fact is owing to the priesthood. This he cannot do. We invoke the same principle in both vases, while

imposing a stricter ruling on the disposition of dough-offering subject to doubt.]

- [III:2 A] Said R. Abun bar Hiyya, “[With reference to our Mishnah-passage, **A convert who converted to Judaism and had dough in his possession at the time he converted — if the dough was prepared before he converted, it is exempt from dough-offering. But [if it was prepared] after he converted, it is subject [to dough-offering],** two gentiles who prepared two qabs of dough [a volume liable to dough-offering] and who divided [the dough and then converted to Judaism] and who after conversion each added dough to his original batch of dough — the dough owned by each is liable to dough-offering, for we cannot invoke the principle that there was a time that the dough was subject to dough-offering and then the dough was rendered exempt. [When the man added flour to his dough making it subject to dough-offering, the original dough became subject. We cannot invoke the principle: **if the dough was prepared before he converted, it is exempt.**]
- [B] “Two Israelites who prepared two qabs of dough [a volume liable to dough-offering] and who divided [the dough and then converted to Judaism] and who after conversion each added dough to his original batch of dough — the dough owned by each is exempt to dough-offering, for we can invoke the principle that there was a time that the dough was subject to dough-offering and then the dough was rendered exempt.
- [C] “An Israelite and a gentile who prepared two qabs of dough [a volume liable to dough-offering] and who divided [the dough and then converted to Judaism] and who after conversion each added dough to his original batch of dough — there is no problem in determining that the dough owned by the Israelite is liable to dough-offering. [We cannot invoke the principle that there was a time that the dough was subject to dough-offering and then the dough was rendered exempt.] What is the status of the dough owned by the gentile? Do you imagine that the portion of the gentile is subject to dough-offering only on account of the portion of the Israelite? Rather, the portion of the Israelite is liable and the portion of the gentile is exempt.”
- [IV:1 A] **R. Aqiba says, “[Liability in] all cases is determined [not by the status of the dough at the point at which one rolls it out but] by [its status at the point at which] the crust [forms on the bread] in the oven:”**

- [B] Associates in the name of R. Eleazar: “R. Aqiba concedes to the sages in the case of dough belonging to a common person that when it is rolled into balls it becomes liable to dough-offering. [His ruling applies to a gentile’s dough.]”
- [C] [What about dough belonging to the sanctuary?] R. Hila in the name of R. Eleazar: “R. Aqiba concedes to the sages in the case of dough belonging to the sanctuary that when it is rolled into balls it becomes exempt from dough-offering. [That is when the dough would be liable if it did not belong to the sanctuary.]”
- [D] Kahana said, “The view of R. Aqiba is, completing the processing of the crop does not exempt the crop from tithes if the crop at that moment belongs to the sanctuary.”
- [E] *Said R. Jonah, “That statement of Kahana differs from the view of R. Eleazar. He who says, ‘rolling out the dough [if at that time the dough belongs to the sanctuary] exempts the dough from dough-offering’ will also maintain that finishing the processing also exempts the dough from dough-offering. He who says, “rolling out the dough [if at that time the dough belongs to the sanctuary] does not exempt the dough from dough-offering” will also maintain that finishing the processing also does not exempts the dough from dough-offering. But in accord with the position of rabbis, rolling out the dough exempts the dough that is in the domain of the gentile, but finishing off the processing does not exempt the dough that is in the domain of the gentile. [Rolling out the dough and finishing off the processing are not comparable activities].*
- [F] *“There is then this problem with the position of the rabbis: rolling out the dough of a gentile before conversion exempts the dough from dough-offering, but finishing processing the crop does not conversion exempt the dough from dough-offering.”*
- [G] *That case is different, for it is written, “All the tithes of the land, whether of the seed of the land or of the fruit of the trees, is the Lord’s, it is holy to the Lord” (Lev. 27:30).*
- [H] But here [tithing the crops] it is written, “of the bread” [but not all of the bread] thus including some kinds of bread and excluding other types of bread. [Scripture creates the distinction.]
- [I] *Said R. Hanina b. R. Hillel, “On the basis of this reading of the view of rabbis, we may draw the lesson that there is no conflict between the view of Kahana and that of R. Eleazar. Just as rabbis say, ‘Rolling out the dough exempts the dough that is in the domain of the gentile, but*

finishing off the processing does not exempt the dough that is in the domain of the gentile,' so R. Aqiba holds, 'Rolling out the dough does not exempt the dough in the domain of the gentile, and finishing off the processing does not exempt the dough from tithes in the domain of the sanctuary.'”

3:5

- [A] One who makes dough from [a mixture of] wheat [flour] and rice [flour] —
- [B] if it [i.e., the dough] has the taste of cereal [wheat], it is subject to dough-offering.
- [C] And a person fulfills his obligation [to eat unleavened bread] on Passover by means of [eating] it [M. Hal. 1:1 A-B, 1:2A].
- [D] But if it does not have the taste of cereal, it is not subject to dough-offering.
- [E] And a person does not fulfill his obligation [to eat unleavened bread] on Passover by means of [eating] it.
- [F] One who removes [dough for use as] leaven from [a batch of] dough the dough-offering of which has not [yet] been separated, and adds [the leaven] to [a batch of] dough the dough-offering of which has been separated —
- [G] if he has the means [to discharge his obligation for the leaven by separating dough-offering for it] from another [batch of dough], he removes [from the other batch] the correct proportion [of dough to discharge that obligation].
- [H] But if [he does] not [have the means to do so], he removes one portion of dough-offering [from the batch which contains the leaven to discharge his obligation] for the whole [even though he already has separated dough-offering from the batch before mixing the leaven in, he must now separate a second offering from it].
- [I] Analogously, [in the case of] olives [which have been] harvested [by the owner, which are liable to tithes,] that became mixed with gleaner's olives, [which are exempt,]
- [J] [or in the case of] grapes [which have been] harvested [by the owner, which are liable to tithes,] with gleaner's grapes, [which are exempt] —

- [K] if [the owner] has the means [to discharge his obligation for the untithed olives or grapes which he had harvested by separating tithes for them] from another [batch], he removes [from the other batch produce] in the correct proportion [to discharge that obligation].
- [L] But if [he does] not [have the means to do so], he removes heave-offering and heave-offering of the tithe [from the mixed batch to discharge his obligation] for the whole.
- [M] But [from] what remains [after he has separated heave-offering and heave-offering of the tithe he removes produce in the correct proportion for first] tithe and second tithe [to discharge his obligation for only the harvested olives or grapes in the mixture. Since first and second tithe are not holy, as are the offerings listed, we are not concerned that the mixture may contain produce in the status of either].
- [N] One who removes [dough for use as] leaven from [a batch of] wheat dough [the dough-offering of which has not yet been separated] and adds it to [a batch of] rice dough —
- [O] if [the rice dough now] has the taste of cereal, it is subject to dough-offering.
- [P] But if not, it is exempt.
- [Q] If that is the case, why did they say, “Untithed food in any amount, [when mixed with tithed food,] renders [the entire mixture] forbidden [until tithes have been properly removed]”?
- [R] [That refers to mixtures of] the same species.
- [S] But [in cases of mixtures of] different species, [the untithed food renders the whole forbidden] only when it imparts [its] flavor [to the whole].
- [I:1 A] [One who makes dough from [a mixture of] wheat [flour] and rice [flour] — if it [i.e., the dough] has the taste of cereal [wheat], it is subject to dough-offering:] *The Mishnah rule does not accord with the position of Rabban Simeon b. Gamaliel for Rabban Simeon b. Gamaliel says, “Dough is subject to dough-offering only if the cereal of flour by itself is of the requisite volume to be subject to dough-offering [T. Hal. 2:1].*
- [B] R. Jacob bar Idi in the name of R. Simeon b. Laqish: “The decided law is in accord with the position of Rabban Simeon b. Gamaliel.”
- [I:2 A] *Said R. Hila, “Whether in the view of rabbis here in the Land of Israel or in the view of rabbis there in Babylonia, the rule is that liability*

pertains only if the larger part of the mixture is made up of grain of one of the five species and the flavor of the mixture is imparted by the grain of the five species.”

- [B] R. Huna said, “If the flavor of the mixture is imparted by the grain of the five species, even if the larger part of the mixture is not made up of grain of one of the five species, [it is liable].”
- [C] *The following Tannaite statement differs from R. Huna:* “If one mixed in with one of the five species of grain other sorts of grain [so that it is now of sufficient volume to be liable to dough-offering], it is liable to dough-offering only if the larger part of the mixture is made up of grain of one of the five species and the flavor of the mixture is imparted by the grain of the five species.”
- [D] Interpret the rule to speak of other sorts of grain, those ot subject to dough-offering.
- [E] *The following Tannaite statement differs from R. Hila:* **One who removes [dough for use as] leaven from [a batch of] wheat dough [the dough-offering of which has not yet been separated] and adds it to [a batch of] rice dough — if [the rice dough now] has the taste of cereal, it is subject to dough-offering. But if not, it is exempt.** [Imparting flavor is the only consideration, not the proportions.]
- [F] [*The issue of that statement is not pertinent to our problem. It is included because of what comes later on:*] **Untithed food in any amount, [when mixed with tithed food,] renders [the entire mixture] forbidden [until tithes have been properly removed]”? [That refers to mixtures of] the same species. But in cases of mixtures of different species, the untithed food renders the whole forbidden only when it imparts its flavor to the whole.**
- [G] *R. Yosé was leaning on R. Zeira. He heard R. Hila in session and repeating:* “R. Yohanan said, ‘The governing criterion is the taste of cereal even though the greater part of the mixture is not made up of cereal.’ R. Yosé in the name of R. Yohanan: ‘It is liable to dough-offering only if the greater part is comprised by cereal and the flavor is that of cereal.’” He said to R. Zeira, “He has things confused. The mnemonic is, R. Yosé agrees with R. Huna.”
- [I:3 A] *R. Abun bar Hiyya asked before R. Zeira,* “Meal set aside for a meal-offering that was mixed with unconsecrated produce — does one take a handful of the mixture and thereby release what is left behind for eating as ordinary food? In regard to the residue, do I invoke the verse, ‘And what is left of the meal-offering shall be for Aaron and his sons,

it is a most holy part of the offerings by fire to the Lord' (Lev. 2:3)? [Or is the handful that is taken up assumed to be of unconsecrated meal?]"

- [B] He said to him, "Now with produce that was liable for the removal of heave-offering but not yet properly processed with the removal of heave-offering which was mixed together with unconsecrated food that had been fully tithed, do I invoke in that regard, 'So shall you present an offering to the Lord from all your tithes that you receive from the people of Israel, and from it you shall give the Lord's offering to Aaron the priest' (Num. 18:28)? [How do you know that I take the handful out of the mixture? Maybe I have to provide tithes for this batch from produce in another location.]"
- [C] [Bun] said to [Zeira], "Now did I say to you that he does not take meal-offering that is owing from some other supply of meal, nor from what is contained in this mixture to provide meal offering in some other place? [Further, do you assume that as to a mixture of properly tithed produce with not-yet-tithed produce, there is no remedy in taking from the mixture what is owing, if one cannot provide tithe to cover the mixture from some other place?] *Isn't it self-evident to you that* if he may not take tithes from the mixture to cover what is located elsewhere, then even from the mixture itself he may not take tithes [covering the untithed portion of the mixture. Thus: if one cannot remove from the mixture tithes covering what is located elsewhere, surely even to provide tithes for what is in the mixture itself one may not remove what is required from the mixture.] *The Mishnah states that* he may remove from it tithes covering the untithed portion of the mixture, *for we have learned in the Mishnah: **But if [he does] not [have the means to do so], he removes one portion of dough-offering [from the batch which contains the leaven to discharge his obligation] for the whole [even though he already has separated dough-offering from the batch before mixing the leaven in, he must now separate a second offering from it].*** [Here is a case of produce subject to tithing that has not yet been tithed that is mixed together with unconsecrated produce that is fully tithed. We remove dough-offering from this batch of dough and exempt the leaven that has not been tithed.]"
- [D] *They say that this reply of R. Zeira does not answer the question of R. Abun bar Hiyya.*
- [E] What is the difference between removing tithes from the mixture for what is owing from the mixture itself and removing tithes from the mixture for what is located in another place [a different batch]?

[F] When he separates heave-offering from it for what is as yet untithed in the pile itself, since that untithed portion in the pile is not valid as heave-offering in any event, the unconsecrated already tithed produce in the pile is neutralized as well. [The leaven from which dough-offering has not yet been removed cannot be declared dough-offering, for nothing in the mixture is valid to serve as dough-offering. Dough has already been separated from the bulk of the mixture. The dough from which dough-offering has already been removed is treated as if it neutralized the other, the portion of the leaven that would serve as dough-offering for the whole of the leaven.] But when one separates from the mixture [a consecrated portion] for dough located in another place, in this case whatever is of the same character as the already treated portion is not deemed neutralized.

[G] Said R. Yosé, “*That is to say*, Food subject to tithing but not yet tithed that was mixed together with heave-offering, since the produce that is subject to tithing but not yet tithed may be treated as heave-offering, whatever is of the same character as the heave-offering is not neutralized.”

[H] *Now this statement of R. Abun bar Hiyya is not contradicted by the objection of R. Zeira [at A-G]. What’s the option?* If what is of a higher status [meal offering] is held to be neutralized in the mixture into which it has fallen, so what is of lower status [ordinary food that has been tithed mixed with ordinary food that has not yet been tithed] is likewise deemed neutralized. If what is of lower status is not deemed neutralized in such a mixture, then what is of higher status likewise is not neutralized, for you already have sanctified [what is in the higher status, that is, the meal offering].

[II:1 A] [One who removes [dough for use as] leaven from [a batch of] dough the dough-offering of which has not [yet] been separated, and adds [the leaven] to [a batch of] dough the dough-offering of which has been separated — if he has the means [to discharge his obligation for the leaven by separating dough-offering for it] from another [batch of dough], he removes [from the other batch] the correct proportion [of dough to discharge that obligation]. But if [he does] not [have the means to do so], he removes one portion of dough-offering [from the batch which contains the leaven to discharge his obligation] for the whole [even though he already has separated dough-offering from the batch before mixing the leaven in, he must now separate a second offering from it] [M. 3:5F-H]. Lo, this one must bring flour from another source and combine it with the leaven to make up five fourths of a qab,

rendering the whole subject to the removal of dough-offering in the proper proportion [T. Hal. 2:2]. But if he does not have flour available for that purpose, he brings four fourths of a qab of dough-offering that requires the separation of dough-offering and sticks it together with the batch at hand. [The whole is now subject to the removal of dough-offering in the proper proportion.]

- [B] R. Jonah in the name of R. Zeira: “That is to say four fourths of a qab that have become subject to dough-offering in one place [even though not of the requisite volume to be liable for dough-offering] may serve to impose liability for dough-offering on four fourths of a qab in some other place. [We may add dough that on its own is not of sufficient volume to become subject to dough-offering. Dough may impose liability on yet another batch, so that the whole, originally insufficient to be subject to dough-offering, becomes liable to it.]”
- [C] *That is to say*, [Sticking the dough together unites the entire mass for the purpose of imposing liability to dough-offering and that indicates that] sticking the dough together is based on the authority of the Torah.
- [D] *Said R. Immi*, “*There is a dispute on this matter between R. Yohanan and R. Simeon b. Laqish. R. Yohanan said*, ‘[Sticking the dough together unites the entire mass for the purpose of imposing liability to dough-offering and that indicates that] sticking the dough together is based on the authority of the Torah.’ *R. Simeon b. Laqish said*, ‘[Sticking the dough together unites the entire mass for the purpose of imposing liability to dough-offering and that indicates that] sticking the dough together is not based on the authority of the Torah.’”
- [E] *R. Hiyya bar Abba switches the attributions of the opinions in this tradition.*
- [F] *They asked before R. Yosé*, “*What have you heard from R. Yohanan on this matter?*”
- [G] *He said to them*, “*For my part I haven’t heard a thing. But we can clarify the opinions of the rabbis from what they say in regard to the following passage of the Mishnah that we have learned: He who collects pieces of dough-offering with the intention to separate [them], but they stuck together — The House of Shammai say, “It is deemed connected in the case of a Tebul-Yom.” And the House of Hillel say, “It is not deemed connected” [M. T. Y. 1:1]. Said R. Simeon b. Laqish*, ‘*On the basis of that which we have learned in the Tannaite formulation, It is not deemed connected, that is to say*, people are not liable in regard to this dough if an unclean person ate dough that was in the state of cultic cleanness. Said to him R.

Yohanan, ‘The case of the tebul yom [who has immersed and waits for sunset to complete the process of purification] is different, for in his regard it is written ‘clean’ and also ‘unclean.’ He is clean for unconsecrated food while it is still day, and for heave-offering after dark. *Then R. Yohanan, who has said that the view that it is not deemed connected in the case of a Tebul Yom derives from a law of the Torah, is also the R. Yohanan who in the first place maintains that sticking the dough together is deemed to connect the dough by the law of the Torah [and not merely the decree of scribes]. And since R. Simeon b. Laqish is the one who has said that it is not regarded as a law of the Torah, he is the one who holds that the view of sticking dough together connects is not based on the law of the Torah.*”

- [H] *And have we not learned in the Tannaite rule:* But if he does not have flour available for that purpose, he brings four fourths of a qab of dough-offering that requires the separation of dough-offering and sticks it together with the batch at hand?
- [I] Said R. Hoshaiyah, “Interpret the rule to speak of a case in which the dough derives from the very dough to which one is going to stick this dough. [The dough that one brings from another batch originates in the batch at hand.]”
- [J] *R. Zeira asked, “Or perhaps R. Yohanan and R. Simeon b. Laqish disagree in a case in which dough sticks together on its own [the priest dumps the dough into a basket and it sticks together without his intervention], but if the person deliberately sticks the dough together on his own, then all parties concur that this kind of sticking together is valid by the law of the Torah.”*
- [K] *Even if you say that the dispute deals with a case in which the person deliberately sticks the dough together on his own is subject to dispute, we may say that R. Simeon b. Laqish is consistent with views expressed elsewhere,* for R. Simeon b. Laqish said in the name of Hezekiah, “Untithed produce not clearly subject to heave-offering, from which heave-offering has not yet been removed, that falls into a batch of tithed produce, is neutralized by dilution in the greater volume of already tithed produce.” [Simeon b. Laqish regards sticking together as not validated by the law of the Torah. He regards the procedure as acceptable even when done deliberately because the requirement to separate dough-offering from the combined mass is a stringency imposed by the scribes.]
- [L] R. Yosé b. R. Nehorai said, “Untithed produce not clearly subject to heave-offering, from which heave-offering has not yet been removed,

that falls into a batch of tithed produce, is neutralized by dilution in the greater volume of already tithed produce.”

- [M] Said R. Yohanan, “Untithed produce not clearly subject to heave-offering, from which heave-offering has not yet been removed, that falls into a batch of tithed produce, is not neutralized by dilution in the greater volume of already tithed produce.”
- [N] *R. Ba bar Mamel and R. Hila presented a case before R. Yosé. They contemplated ruling, “Two are a majority over one” [and R. Simeon b. Laqish and R. Yosé b. R. Nehorai outnumber R. Yohanan.] But didn’t they hear what R. Simon in the name of R. Joshua b. Levi said, “Untithed produce not clearly subject to heave-offering, from which heave-offering has not yet been removed, that falls into a batch of tithed produce, is not neutralized by dilution in the greater volume of already tithed produce.”*
- [O] *But have we not learned in the Mishnah: **But if [he does] not [have the means to do so], he removes one portion of dough-offering [from the batch which contains the leaven to discharge his obligation] for the whole [even though he already has separated dough-offering from the batch before mixing the leaven in, he must now separate a second offering from it] [M. 3:5F-H]?***
- [P] *Said R. Yosé, “All parties concur that one has to separate the required portion of the crop. Where they differ is on whether or not there must be a second act of separation of heave-offering or dough-offering. He who holds Untithed produce not clearly subject to heave-offering, from which heave-offering has not yet been removed, that falls into a batch of tithed produce, is neutralized by dilution in the greater volume of already tithed produce will take the view that if one took heave-offering from this mixture and it fell into some other, one does not have to worry about a second separation of heave-offering or of dough-offering. He who holds Untithed produce not clearly subject to heave-offering, from which heave-offering has not yet been removed, that falls into a batch of tithed produce, is not neutralized by dilution in the greater volume of already tithed produce will take the view that one does have to worry about a second separation of heave-offering or of dough-offering.”*
- [Q] *Said R. Abba, “Where R. Yohanan and R. Simeon b. Laqish differ, it is in the instance of untithed produce subject to separation of tithes under the law of the Torah. But in the case of untithed produce subject to separation of tithes under the law of the scribes, all parties concur that holds untithed produce not clearly subject to heave-offering, from*

which heave-offering has not yet been removed, that falls into a batch of tithed produce, is neutralized by dilution in the greater volume of already tithed produce.”

- [R] *Objected R. Abba bar Kahana before R. Yosé, “But lo, we have learned in the Mishnah: Analogously, [in the case of] olives [which have been] harvested [by the owner, which are liable to tithes,] that became mixed with gleaner’s olives, [which are exempt,] [or in the case of] grapes [which have been] harvested [by the owner, which are liable to tithes,] with gleaner’s grapes, [which are exempt] — and isn’t this a case of untithed produce subject to separation of tithes under the law of the scribes?” [On the authority of the Torah liability is incurred only when the processing is complete.]*
- [S] *Said R. Mana, “I interpreted the rule to speak of oil from olives harvested by the owner that became mixed with oil from gleaner’s olives.”*
- [T] *Objected R. Yohanan to R. Simeon b. Laqish, “But have we not learned in the Mishnah: [Even though he intends to set a batch of dough aside for later use,] a person must [immediately] remove the requisite amount [of dough as] dough-offering [from the batch of] dough, the dough-offering of which has not [yet] been removed, in order to make [separate] it [the dough-offering] in [a state of] cleanness. [This is the case even though he intends to set the dough aside] until it rots [so that he can] continue separating it [from that batch of dough] dough-offering on behalf of dough about which there is a doubt whether or not dough-offering [already] has been separated from it [M. 4:6.] Now since he has sanctified the greater part of the dough for dough-offering, why should the remainder not be neutralized by a large volume of what is now dough-offering? [Why is it necessary to designate the whole of the dough as dough-offering? Once the greater part is classified as dough-offering, why not let the remaining dough be deemed neutralized? The process of neutralization thus does not apply here, which conflicts with Simeon b. Laqish’s view.]*
- [U] He said, “It is a case in which the baker marked off the amount of the dough in the mixture that is to serve as dough-offering. [The process of neutralization is irrelevant, since we know precisely which part of the dough mass is regarded as dough-offering.] You may know that that is so, [if one clearly designated the part of the mixture to be deemed dough-offering, that works, *for we have learned elsewhere: He who wishes to separate [from fully untithed produce] **terumah** and **terumah** of the tithe together [i.e., in a single act of separation]*

takes one [part] from thirty-three and a third [i.e., three--hundredths of the whole], and says, “One from one hundred of that which is here [i.e., one-hundredth part from among the three-hundredths parts set apart], behold, at this side [of the produce] is unconsecrated produce and the rest [of the three-hundredths parts, i.e., two hundredths, or one fiftieth (cf. M. Ter. 4:3)] is *terumah* for the whole [of the produce], and [the] one-hundredth [part of] unconsecrated produce which is here, behold, this] at this side is [made first] tithe, and the remainder of the [first] tithe is adjacent to it. That which I made [first] tithe [i.e., the hundredth part] is [now] made *terumah* of the tithe for it [i.e., for the designated remainder of the first tithe] and the rest is dough-offering. And second tithe is to the north of it, or to the south of it [i.e., of the designated remainder of the first tithe], and is redeemed with coins” [M. Dem. 5:2]. Why does he do this? Is it not so that what is designated will be neutralized in the larger mass?”

[V] [No, the issue is otherwise.] Said R. Isaac bar Eleazar, “At issue is the dispute of M. Ter. 3:5: **One who says, ‘The heave-offering of this heap is within it,’ or ‘Its tithes are within it,’ [or] ‘Its heave-offering of the tithe is within it’** — **R. Simeon says, ‘He has [validly] designated [these agricultural gifts].’ But sages say, ‘[He has not validly designated these things] unless he will say, ‘[They are] in its [i.e., the heap’s] northern portion,’ or ‘[They are] in its southern portion.’**” [Simeon wants the farmer to indicate in what produce the gift is located, marking off one batch from the others. One need not indicate the specific part of the batch that is made into heave-offering. Sages want a specific demarcation. The same consideration is in the passage cited above at U:] one should not say merely, ‘The heave-offering of this pile of grain and of that one is located in this one without specifying the specific part of the grain heap that is meant.’ [M. Dem. 5:2 holds one must say precisely which produce he wants to designate as heave-offering and has no bearing on the issue at hand.]

[W] R. Isaac bar Eleazar retracted and said, “I said nothing. It is not R. Yohanan who said, “The issue is whether or not it is valid to say, ‘The heave-offering of this pile of grain and of that one is located in this one’ without specifying the specific part of the grain heap that is meant. For R. Yohanan said, ‘The place from which the heave-offering covering the first mound of grain is raised up then marks out the place from which the heave-offering covering the second mound of grain is located.’” [Yohanan will regard the designation as valid.]

[X] **“One who picks a chate-melon [in order to keep it] for designation as heave-offering [for other produce] makes a mark [on the melon itself] and says, ‘Up to this point it [i.e., the chate-melon] has the status of heave-offering,’ [or,] ‘up to this point it has the status of heave-offering’”** ñ the words of Rabbi. **Rabban Simeon b. Gamaliel says, “He separates heave-offering and calculates the quantity he is used to separating [without actually making a mark on the chate-melon or designating a specific portion of the chate-melon to be heave-offering]” [T. Ter. 5:1].** *They proposed to say, he who says that one must make a mark indicating, up to this point the chate melon has the status of heave-offering or up to this point the chate melon has the status of heave-offering takes the position that untithed produce subject to the separation of heave-offering that has not yet had heave-offering removed is neutralized by the larger volume with which it is mixed. [That is why one must designate and mark out the produce, lest it be deemed neutralized.] And he who says that he separates heave-offering and calculates the quantity he is used to separating [without actually making a mark on the chate-melon or designating a specific portion of the chate-melon to be heave-offering] takes the position that untithed produce subject to the separation of heave-offering that has not yet had heave-offering removed is not neutralized by the larger volume with which it is mixed.*

[Y] Said R. Abba, “At issue between them is whether or not he must actually hand over the whole of the chate melon designated as heave-offering to the priestly tribe. [Rabbi holds that he must mark off the portions and hand them to the priest, and Simeon says one can take off the portion of the melon he wishes to hand over as heave-offering and retain the rest of it.”

[Z] **“[If] he needed to raise up ten or fifteen kegs of wine [as heave-offering for a vat of wine], he raises the first [keg he fills] and says, ‘Lo, this is heave-offering,’ and [raises] the second [and] says, ‘Lo, this is heave-offering’ [and so on with all of the kegs]”** — the words of Rabban Simeon b. Gamaliel. **Rabbi says, “He [fills and] raises all of them to the edge of the tank and [then] says, ‘Lo, this is heave-offering.’”** *They proposed to say, he who says that], he raises the first [keg he fills] and says, ‘Lo, this is heave-offering,’ and [raises] the second [and] says, ‘Lo, this is heave-offering’ [and so on with all of the kegs]*takes the position that untithed produce subject to the separation of heave-offering that has not yet had heave-offering removed is neutralized by the larger volume with which it is mixed. [That is why one must designate and mark out the produce, lest it be deemed neutralized.] And *he who says that he [fills and] raises*

all of them to the edge of the tank and [then] says, ‘Lo, this is heave-offering’” takes the position that untithed produce subject to the separation of heave-offering that has not yet had heave-offering removed is not neutralized by the larger volume with which it is mixed.

- [AA] R. Abbahu in the name of R. Yohanan: “What is at issue between them is separating heave-offering only from what is in physical proximity. He who maintains that one has to bring up all of the jugs at once to the rim of the vat holds that one must separate heave-offering only from what is in physical proximity. He who takes the position that one **raises the first [keg he fills] and says, ‘Lo, this is heave-offering,’ and [raises] the second [and] says, ‘Lo, this is heave-offering’ [and so on with all of the kegs]** takes the view that separating heave-offering only from what is in physical proximity is not necessary.”
- [BB] R. Samuel, R. Abbahu in the name of R. Yohanan reverses matters. He who maintains that one has to bring up all of the jugs at once to the rim of the vat holds that one must separate heave-offering only from what is in physical proximity. He who takes the position that one **raises the first [keg he fills] and says, ‘Lo, this is heave-offering,’ and [raises] the second [and] says, ‘Lo, this is heave-offering’ [and so on with all of the kegs]** that takes the view that separating heave-offering only from what is in physical proximity is not necessary.”

YERUSHALMI HALLAH

CHAPTER FOUR

4:1

- [A] Two women who made two [separate] one-*qab* portions [of dough], and [the portions] touched each other —
- [B] even if [the portions derive] from a single species, they are exempt [from dough-offering, since they are owned by different people].
- [C] But when [the portions] belong to the same woman —
- [D] [if they are of] a single species, [the dough is] subject [to dough-offering].
- [E] But [if they are of] different species, [the dough is] exempt [from dough-offering].
- [F] [In considering whether or not batches of dough combine with each other to comprise the minimum volume liable to dough-offering,] what [grains] constitute a single species?
- [G] [Flour made from] wheat combines with nothing but [flour made from] spelt.
- [H] [Flour made from] barley combines with all [types of flour], except for [that made from] wheat.
- [I] R. Yohanan b. Nuri says, “The other species combine with each other.”
- [I:1 A] Two women who made two [separate] one-*qab* portions [of dough], and [the portions] touched each other:
- [B] Said R. Yohanan, “The ordinary woman working alone does not pay attention [when pieces of dough join together that belong to her], while two women do pay attention [to keeping their dough separate from one another.] As to a woman by herself who does pay attention, they have treated as under the law governing two women. As to two women by who do not pay attention, they have treated as under the law governing a woman by herself.”

- [C] If a woman by herself does not pay attention, then why does she prepare the dough in two places?
- [D] Said R. Jonah, “It deals with a woman who does not have adequate space to knead all the dough [so works in two spots].”
- [E] *What R. Jonah says implies that* if she had a place sufficient for kneading the dough but she prepares the dough in two places, she is placed in the category of one who pays attention.
- [F] [If a woman made dough from both] clean dough and coarse meal, that indicates she pays attention to keep pieces of day separate.
- [G] Said R. Eleazar, “If the women are of two opinions about keeping the dough separate, they have treated as under the law governing two women.”
- [H] *Samuel bar Abba asked*, “Even if two women want [to mix the dough,] do we treat the dough as separate?”
- [II:1 A]** There are contacts that qualify as joining together in the matter of dough-offering but not in the case of the Tebul Yom [who has immersed and awaits sunset to complete the process of purification], contacts that qualify as joining together in the case of the Tebul Yom but not in the case of dough-offering.
- [B] ... as joining together in the matter of dough-offering: But when [the portions] belong to the same woman — [if they are of] a single species, [the dough is] subject [to dough-offering]. But [if they are of] different species, [the dough is] exempt [from dough-offering] [M. Hal. 4:1C-E].
- [C] ... but not in the case of the Tebul Yom: *for we have learned in the Mishnah there: He who collects pieces of dough-offering with the intention to separate [them], but they stuck together — The House of Shammai say, “It is deemed connected in the case of a Tebul-Yom.” And the House of Hillel say, “It is not deemed connected”* [M. Tebul Yom 1:1A-C].
- [D] ... contacts that qualify as joining together in the case of the Tebul Yom: **The meat of Holy Things on which a layer of jelly formed a crust, and a Tebul-Yom touched the jelly — the pieces of meat are permitted. [If] he touched a piece of meat, the piece of meat and whatever comes up with it form a connector to one another** [M. Tebul Yom 2:5A-C]. Lo, in the case of other meat, it is connected. But will it not in the end be cut apart? [Even so, it is connected to the uncleanness flowing from the touch of a Tebul Yom.]

[E] ... but not in the case of dough-offering: For said R. Yohanan, “She who preparing dough with the intent of dividing it up into pieces ζ the dough is exempt from dough-offering [because it is regarded as cut into pieces smaller than the critical volume.]”

[III:1 A] [Flour made from] wheat combines with nothing but [flour made from] spelt:

[B] What is the law as to the rest of the species of grain?

[C] R. Huna said, “If you say that rye is a kind of spelt, then it joins together with wheat. If you say that oats are a kind of barley, then it will not join together with wheat flour.”

[IV:1 A] R. Yohanan b. Nuri says, “The other species combine with each other:”

[B] *There is a Tannaite authority who repeats in connection with the statement, All other species combine with each other.*

[C] *In the judgment of that Tannaite authority, what is the difference between dough that is stuck together prior to separation and dough that is mixed together prior to separation?*

[D] Said R. Yudan father of R. Mattaniah, “When one divides up pieces of dough and adds to each piece, if they were stuck together, they later on become subject to dough-offering as a single piece of dough. If they were mixed together, then they later on are exempt from dough-offering.”

4:2

[A] **Two one-*qab* portions [joined by] a *qab* of [dough made from] rice or a *qab* of [dough in the status of] heave-offering [a category of dough that never incurs liability to dough-offering, located] between [them], do not combine [to constitute an amount liable to dough-offering, since they are connected by a portion of dough that is not subject to dough-offering].**

[B] **[Two one-*qab* portions having] between [them] a batch [of dough] the dough-offering of which [already] has been removed, do combine [to constitute an amount subject to dough-offering], since [the middle portion] has already incurred liability to dough-offering [since it is a type of dough which does incur liability to dough-offering, unlike the types serving as connectors].**

- [C] A one-*qab* portion of [dough made from] new produce [produce harvested after the offering of the first sheaf (M. Men. 10:1-10)] and a one-*qab* portion of [dough made from] old produce [produce harvested before the offering of the first sheaf] which stuck together —
- [D] R. Ishmael says, “Let him separate [dough-offering for the entire batch] from the middle.”
- [E] But sages forbid [this procedure (M. M.S. 5:11)].
- [F] One who separates dough-offering from a one-*qab* portion, [which is not subject to dough-offering] —
- [G] R. Aqiba says, “[The separated portion is] dough-offering.”
- [H] But Sages say, “[The separated portion is] not dough-offering.”
- [I] Two one-*qab* portions the dough-offering of which had been removed [from] each [portion] separately,
- [J] and then one made them into a single [batch of] dough —
- [K] R. Aqiba declares [the combined batch] exempt [from dough-offering, since dough-offering had already been separated from each batch before they were combined].
- [L] But sages declare [it] subject [to dough-offering].
- [M] Thus his [R. Aqiba’s] stringent ruling ends up [producing] his lenient ruling [in the present case].
- [I:1 A] [Two one-*qab* portions joined by a *qab* of [dough made from] rice or a *qab* of dough in the status of heave-offering [a category of dough that never incurs liability to dough-offering, located] between them, do not combine [to constitute an amount liable to dough-offering, since they are connected by a portion of dough that is not subject to dough-offering]: *Why not formulate the rule in terms of rice and omit reference to heave-offering?*
- [B] *If we had formulated the rule in terms of rice and omitted reference to heave-offering, we should have held that rice, because it is not of its species, does not join together, while flour in the status of heave-offering is of the same species as dough and does join them together. So it was necessary to make reference to both rice and heave-offering. Or if we had formulated the rule in terms of heave-offering and omitted reference to rice, we should have held that heave-offering, because it may not be added to the volume of dough to produce the requisite mass to become subject to dough-offering, it does not joint together the two pieces of dough at either side, while rice, which may be added to produce the requisite volume to be subject to heave-*

offering, may also join together the pieces of dough at either side to create a single mass subject to heave-offering. So it was necessary to include a reference to rice and to heave-offering.

[I:2 A] [As regards] a one-qab portion [of dough made from one of the species of grain listed at M. Hal. 1:1] at one end, and another one-qab portion [of such dough] at the other end, [joined by] a one-qab portion of dough made from rice [M. Hal. 4:3A] between [them], it does not join them together. [T. Hal. 2:4]. A one-qab portion [of dough] at one end, and another one-qab portion [of dough] at the other end, [joined by] a one-qab portion of [dough made from] a mixture of unconsecrated and consecrated [grain in a ratio of less than 100:1, such that the mixture is exempt from dough-offering; see M. Hal. 1:4] between them — [in both cases, the portions at the ends] do not combine [to constitute a volume great enough to be subject to dough-offering, for the same reason as at T. Hal. 2:3J]. A one-qab portion [of dough] at one end, and another one-qab portion [of dough] at the other end, [joined by] a one-qab portion of [dough made from] heave-offering does not join them together. A one-qab portion [of dough] at one end, and another one-qab portion [of dough] at the other end, [joined by] a one-qab portion of [dough] belonging to a gentile does not join them together. A one-qab portion [of dough] at one end, and another one-qab portion [of dough] at the other end, [joined by] a one-qab portion of [dough made from] the same species does join them together. A one-qab portion [of dough] at one end, and another one-qab portion [of dough] at the other end, [joined by] a one-qab portion of [dough made from] dough belonging to another woman does join them together. A one-qab portion [of dough] at one end, and another one-qab portion [of dough] at the other end, [joined by] a one-qab portion of [dough made from] new grain does join them together. A qab of flour whose dough-offering already has been removed from the middle does join them together.

[B] *R. Abun bar Hiyya raised the question: “A qab of dough-offering in the middle — what is the law as to its joining together pieces of dough on either side?”*

[C] *R. Halapta b. Saul taught as a Tannaite rule: “A qab of consecrated dough joins together qabs of dough at either side to form a volume subject to dough-offering. But a qab of dough-offering in the middle does not join together qabs of dough at either side to form a volume subject to dough-offering. What is the difference between consecrated*

dough and dough-offering? Consecrated dough is suitable to be redeemed and render subject to dough-offering, but dough-offering is not suitable to be redeemed and rendered subject to dough-offering.”

[I:3 A] [As regards] a half-qab portion of [dough made from] wheat [at one end,] and a half-qab portion of [dough made from] barley [at the other end, joined by] a half-qab portion of [dough made from] spelt [between them] — one removes [dough-offering for the entire batch] from the spelt, which combines with the portions at both ends to constitute a volume large enough to be subject to dough-offering. [However, as regards] a one-qab portion of [dough made from] wheat [at one end] and a one-qab portion of [dough made from] barley [at the other end, joined by] a one-qab portion of [dough made from] spelt [between them] — these [i.e., the portions at the ends] combine [to constitute a volume great enough to be subject to dough-offering; see M. Hal. 4:2]. [But] when one separates the offering, he should separate the offering from each [portion] individually, for we do not separate an offering from produce of one species on behalf of produce of another species [M. Ter. 2:4A].

[B] The law has referred to only a qab of wheat, barley, and spelt. Lo, if there is a qab of wheat and a qab of spelt in the middle, it is not in that case that we combine the grain to form the requisite volume.

[C] *R. Abun bar Hiyya said, R. Haninah associate of the rabbis asked: “What is the difference between the case in which we have spelt in the middle and the one in which we have barley in the middle?”*

[D] R. Kohen in the name of the rabbis of Caesarea: “Spelt combines with wheat not because it is of the same species, but because it is similar to it. Since the spelt is distant from the wheat, it is not deemed similar to it for physical proximity enters the definition of similarity.”

[I:4 A] *R. Jonah raised the question: “Is the rule the same for reckoning the liability to the tithe of cattle? As you say there, ‘If someone had five beasts subject to the tithe of cattle in Kefar Hananiah and five subject to cattle tithe in Kefar Banoteni and five beasts exempt from tithe of cattle [having been tithed already] located between them in Sepphoris, as you say there, in the case of a qab portion requiring separation of dough-offering at either side with a qab portion from which dough-offering has been removed in the middle, the latter joins the former two pieces together,’ so here do you say that the rule is the same [the five beasts in Sepphoris join the man’s herds in the two other places. Even though the herds on either side are too small to warrant tithing]?*

[B] “If you say that the case of dough-offering is different [from the animals], for the dough-offering is actually stuck together while the beasts are sixteen mils apart and cannot be regarded as stuck together, do we find dough-offering walking about? Do we not find beasts that have been subjected to tithing walking about?”

[II:1 A] [A one-qab portion of [dough made from] new produce [harvested after the offering of the first sheaf (M. Men. 10:1-10)] and a one-qab portion of dough made from] old produce [harvested before the offering of the first sheaf] which stuck together — R. Ishmael says, “Let him separate [dough-offering for the entire batch] from the middle:”] R. Ishmael [who says the new and old produce are treated as one for the present purpose] has made the better decision.

[B] Spelt and wheat are two distinct species. But because one is similar to the other, you rule that they join together to form the requisite volume for liability to dough-offering. New and old produce [which are the same species] all the more so should join together.

[C] Said R. Hila, “The reasoning of the rabbis is this: spelt and wheat are two species, and people will not err and state that they take heave-offering and tithe from the one for the other. The new and the old portion of the crops are a single species, and if you rule in this way, people will end up thinking that they take heave-offering and tithe from the one for the other.”

[III:1 A] [One who separates dough-offering from a one-qab portion, which is not subject to dough-offering — R. Aqiba says, “The separated portion is dough-offering.” But Sages say, “The separated portion is not dough-offering:”] R. Aqiba compares the matter to the case of separating heave-offering from produce that has not yet been fully processed [and so is not liable to heave-offering]. If one transgressed and separated heave-offering, lo, it is in the status of heave-offering.

[B] Rabbis compare the case to one involving a crop that has not yet reached a third of full growth. If one transgressed and separated dough-offering, lo, it is in the status of dough-offering.

[C] They retracted, saying, “The cases are not comparable either to produce on which processing is incomplete or to grain that has not reached a third of its full growth. But R. Aqiba compares the case to that of one who says, ‘Lo, this produce will serve as heave-offering for these pieces of fruit when they have been picked,’ and the pieces of fruit were picked. [Then the produce enters the status of heave-offering. The act is retrospectively validated. Here too adding flour later will validate the deed. Rabbis compare the case to that of one

who says, ‘Lo, this produce will serve as heave-offering when they are picked.’ [The man has consecrated something that has not yet come into existence, and that is null. In this case the dough has not reached a third of its growth and the act is null.]”

- [D] *They proposed to rule*, “That which R. Aqiba has said, specifically, **dough separated from a qab of flour is held to be valid dough-offering**, is a law of scribes, but as to the authority of the Torah, that is not the classification of the rule. *But on the basis of what we have earned in the Mishnah*, **Two one-qab portions the dough-offering of which had been removed [from] each [portion] separately, and then one made them into a single [batch of] dough — R. Aqiba declares [the combined batch] exempt [from dough-offering, since dough-offering had already been separated from each batch before they were combined]. But sages declare [it] subject [to dough-offering]**, it follows that even as a matter of the status of the dough-offering under the law of the Torah, that is the rule.
- [E] **Thus his [R. Aqiba’s] stringent ruling ends up [producing] his lenient ruling [in the present case]**,
- [F] *There are Tannaite authorities who repeat*, “His lenient ruling ends up producing his stringent ruling.”
- [G] *He who repeats the rule as* **Thus his [R. Aqiba’s] stringent ruling ends up [producing] his lenient ruling** maintains that the law follows R. Aqiba.
- [H] *He who repeats the rule as* “His lenient ruling ends up producing his stringent ruling” maintains that the law follows the rabbis.

4:3

- [A] [Even though he intends to set a batch of dough aside for later use,] a person must [immediately] remove the requisite amount [of dough as] dough-offering [from the batch of] dough, the dough-offering of which has not [yet] been removed, in order to make [separate] it [the dough-offering] in [a state of] cleanness.
- [B] [This is the case even though he intends to set the dough aside] until it rots [so that he can] continue separating it [from that batch of dough] dough-offering on behalf of dough about which there is a doubt whether or not dough-offering [already] has been separated from it.

- [C] **For dough-offering on behalf of dough about which there is a doubt whether or not dough-offering had [already] been separated from it may be removed from a clean [batch to fulfill the liability] for an unclean [batch], and [also may be removed] from [a batch that is] not nearby [connected].**
- [I:1 A] What is the meaning of **until it rots**? Does this mean one may continue separating dough-offering from the batch of dough until it is so rotted that man will not eat it or until it is so rotted that a dog will not eat it?
- [B] *Let us derive the answer from the following:* If a loaf had become rotted, it is still susceptible to uncleanness as food, and they burn it together with unclean bread on the occasion of Passover. It imparts uncleanness as food and you maintain that it is so rotted that a dog will not eat it? But it means one may continue separating dough-offering from the batch of dough until it is so rotted that man will not eat it.
- [C] That is to say [since the dough may serve as dough-offering for a considerable period] they separate dough-offering from bad produce for good produce.
- [D] *That accords with what R. Samuel b. R. Nahman said in the name of R. Jonathan,* “They separate heave-offering from parsnip leaves for parsnip, where they eat the greens.”
- [E] It further accords with the case of Gamaliel Zuga, who forgot to separate what is required from doubtfully tithed produce for his turnips. He came and asked R. Yohanan, who told him, “If you have trimmings of the parsnips still there, set the heave-offering aside from the trimmings.”
- [I:2 A] You see that heave-offering of tithe in a case of produce that is certainly subject to tithing is taken from what is unclean for what is clean. All the more so is heave-offering of tithe in the case of doubtfully-tithed produce taken from what is clean for what is unclean.
- [B] Said R. Yosé, “We deal with the case of produce in which there is doubt whether or not the Great Heave-Offering has been removed. It is a matter of doubt whether he has set aside heave-offering or not done so.”
- [C] Just as you hold that if one separates heave-offering from what is certainly untithed on behalf of produce that is doubtfully untithed, the food separated as heave-offering is not to be eaten until one has separated on its behalf the require heave-offering and tithes, does the

law not also maintain that when one separates from doubtfully tithed produce what is owing for other doubtfully tithed produce?

- [D] Said R. Simeon bar Barsenah, “In the one case the person wishes to eat produce, in the other he wishes to burn it as unclean.”

4:4

- [A] Israelites who were sharecroppers [on the land] of gentiles in Syria
—
- [B] R. Eliezer declares their produce subject to tithes and [the laws of] the Sabbatical year.
- [C] But Rabban Gamaliel exempts [such produce from these liabilities].
- [D] Rabban Gamaliel says, “[Israelites must separate] two [portions of] dough-offering in Syria.”
- [E] But R. Eliezer says, “[They separate only] one [portion of] dough-offering.”
- [F] At first they adopted [both] the lenient ruling of Rabban Gamaliel [at C] and the lenient ruling of R. Eliezer [at E].
- [G] [But] later they acted [wholly] in accordance with the opinion of Rabban Gamaliel in both aspects [they followed both Gamaliel’s lenient ruling at C and his stringent ruling at D].
- [H] Rabban Gamaliel says, “There are three regions with respect to [the law of] dough-offering [M. Sheb. 6:1]:
- [I] “(1) From the Land of Israel [proper] to Keziv [one must separate] one [portion of] dough-offering [for each batch of dough];
- [J] “(2) from Keziv to the River and Amanus [one must separate] two [portions of] dough-offering [for each batch of dough]: one [to be thrown] into the fire, and one [to be given] to a priest;
- [K] “the one [to be thrown] into the fire is subject to a minimum,
- [L] “while the one [to be given] to a priest is not subject to a minimum.
- [M] “(3) From the River and Amanus and beyond [one must separate] two [portions of] dough-offering [for each batch of dough] one [to be thrown] into the fire and one [to be given] to a priest;
- [N] “the one [to be thrown] into the fire is not subject to a minimum,
- [O] “while the one [to be given] to a priest is subject to a minimum.”
- [P] Yet [the latter portion] may be eaten by [a priest] who has immersed on the selfsame day [but still awaits the completion of his purification process at sunset” (M. Hal. 1:9A, E)].

- [Q] R. Yosé says, “He does not [even] require immersion [to be able to eat the dough-offering, i.e., he may eat it when he is wholly unclean].”
- [R] And [the dough-offering still] is forbidden for [consumption by] males who have a flux, females who have a flux, menstruants, and those who have borne children [and not yet reentered a state of cleanness].
- [S] And it may be eaten at [the same] table with a non-priest.
- [T] And it may be given to any priest [not only one who keeps the laws of purity].
- [U] And the following [also] may be given to any priest:
- [V] (1) Things which have been placed under the ban [Num. 18:14ff.]; (2) firstborn [animals (Lev. 27:26)]; (3) money given in exchange for redemption of a [first-born] son [Ex. 34:20]; (4) money given in exchange for redemption of a firstborn donkey [Ex. 1:13]; (5) the shoulder, cheeks, and maw [of an animal offering (Dt. 18:3-4)]; (6) the first shearing [of the sheep (Dt. 18:4)]; (7) the oil [in the status of heave-offering that has become unclean, and therefore cannot be eaten by a priest but instead must be] burned; (8) holy things [offerings] of the Temple; and (9) firstfruits [M. Bik. 3:12].
- [W] R. Judah declares [a priest who does not keep the purity laws] forbidden [to make use of] firstfruits.
- [X] [As regards] vetches [in the status of] heave-offering —
- [Y] R. Aqiba declares [them] permitted [to any priest].
- [Z] But sages declare [them] forbidden [to a priest who does not keep the laws of purity].
- [I:1 A] [Israelites who were sharecroppers [on the land] of gentiles in Syria — R. Eliezer declares their produce subject to tithes and [the laws of] the Sabbatical year]: R. Abbahu in the name of R. Yohanan: “R. Eliezer has imposed liability only on those who were sharecroppers on the land of gentiles in Syria by inheritance from their fathers [who were permanently resident on the land they were farming], for instance the serfs of Rabbi [Judah the Patriarch].” [They have permanent rights of residence so qualify as land owners.]
- [B] *R. Halapta b. Saul taught as a Tannaite statement, “R. Eliezer has imposed a fine [in subjecting the produce to tithes].”*
- [C] *What is the practical difference between [Abbahu and Halapta]?*

- [D] A transient share-cropper. *He who says that* it is a fine holds him to be liable, *and he who says* the liability derives from hereditary share cropping will exempt him from the tithes.
- [I:2 A] **He who buys bread from a baker in Syria must separate dough-offering on account of doubt as to whether or not the dough-offering already has been separated,” the words of Rabban Gamaliel. But sages say, “He need not separate dough-offering on account of doubt” [T. Hal. 2:6A-B].**
- [B] *Said R. Hananiah before R. Mana, “Well did Rabban Gamaliel rule, but what is the reason behind the position of rabbis?”*
- [C] He said to him, “Just as the Israelites are not suspect of failing to separate Heave-offering in the Land, so they are not suspect of failing to separate dough-offering in Syria.”
- [II:1 A] **[Rabban Gamaliel says, “Israelites must separate two portions of dough-offering in Syria”:] R. Abun bar Hiyya raised the question: “Just as you say Israelites must separate two portions of dough-offering in Syria do you also maintain two portions are to be designated as Heave-offering in Syria?”**
- [B] He said to him, “As to dough-offering, there is no further obligation to be carried out with the dough. In the case of Heave-offering there are further obligations to be carried out with the dough.” [Tithes and Heave-offering are to be designated. If second portion is designated as Heave-offering and further tithes are taken from the first portion, then the second portion will be untithed in respect to what is owing from it.] If you say so, the portion declared to be have offering will turn out to be untithed so far as further tithes are concerned.”
- [II:2 A] Rabban Gamaliel son of Rabbi wanted to apply the laws of doubtfully-tithed produce to Syria. But R. Hoshaiyah did not allow him to do so. He said, “If so, the priests will scruple as to the status of dough-offering that is given to them.” [They won’t know that the tithes and offerings have been removed from the grain of which the dough is made and they will have to set aside those offerings from the dough itself. But making the dough-offering subject to those offerings is excessive.]
- [B] *Opinions attributed to R. Hoshaiyah conflict. There he has said, “Reverence for Holy Things affects him and he will not give the priest something that is not properly disposed of,” and here he has said this!*

[C] Said R. Abun bar Hiyya, “I say that [Hoshaiah was thinking] that the Israelite may be accident give the priest the piece of dough-offering that was designated for burning in fire.” [The piece of dough was meant to be burned anyhow. The Israelite may have scrupled as to removing tithes and offerings from the grain from which this dough was made.]

[D] *Said to him R. Mana, “R. Hoshaiah formulated the Tannaite rule in this way: ‘If so the priests will scruple as to the status of the dough-offering that is given to them’ [and that statement does not differentiate between dough given to the priest and the dough thrown into the fire.]”* [Hoshaiah referred to the dough actually handed over, and his position is entirely consistent.]

[III:1 A] He who buys from the baker or from a woman who prepares dough for sale in the market has to separate dough-offering on account of doubt [whether or not dough-offering has already been separated], but he who buys bread from a householder or from those who lodge with him does not have has to separate dough-offering on account of doubt [whether or not dough-offering has already been separated] [T. Hal. 1:8].

[B] R. Jonah in the name of R. Hananiah associate of the rabbis: “In the case of one who lodges with him it is when he eats the dough provided by the householder [who himself eats the same bread] that there is no need to be concerned as to the possibility that dough-offering has not been set aside.]”

[C] Said R. Jonah, “And that is the case when they saw the householder knead the dough elsewhere [not at home]. [Then one eats only what the householder eats.]”

[D] The governing assumption is that householders in Syria do not have to set aside dough-offering by reason of doubt [concerning whether or not the dough-offering has been set aside]. If he knows for sure that the greater part of what he collects belongs to [the guest, not to the householder for his own use], then he has to set aside dough-offering by reason of doubt [concerning whether or not the dough-offering has been set aside].

[E] *R. Abun bar Hiyya raised the question: “Does this not contradict what R. Hoshaiah said?”* [We are concerned that the householder may cheat the lodger by not separating the dough-offering from dough supplied by the lodger. But Hoshaiah maintained that ordinary folk revere Holy Things and will set aside what is owing to the priesthood. So will

Hoshaiah agree with these suspicions of lodgers in Israelite houses in Syria?]

[F] Said R. Mana, “Here [where people revere the Holy Things] refers to attitudes in the Land, and there [where they cheat the priests of their dues] we speak of conditions prevailing abroad.”

[IV:1 A] [from Keziv to the River and Amanus:] *R. Huna said, “This is the proper wording of the Mishnah: from Keziv to the River, from Keziv to Amanus.”*

[IV:2 A] *It was taught as a Tannaite rule: What is regarded as the Land of Israel and what is outside of the Land of Israel? Whatever extends from the mountains of Amanus and inward is classified as the Land of Israel, whatever extends from the mountains of Amanus and outward is classified as outside the Land of Israel. As to the islands of the Sea, we reckon their status as if a string extended from the mountains of Amanus to the brook of Egypt. Islands located from the string inward are held to be part of the Land of Israel, and islands located from the string outward are considered outside the Land of Israel. R. Judah says, “Whatever islands are opposite the Land of Israel as classified as the Land of Israel, as it says, ‘Your eastern boundary will be the Great Sea’ (Num. 34:6). As for islands at the sides, you reckon them as if a string extended from Kiflaria to the Mediterranean Sea and another extended from the brook of Egypt to the Mediterranean Sea. Islands located from the string inward are classified as part of the Land of Israel and those located from the string outward are considered outside of the Land of Israel” (T. Hal. 2:11).*

[IV:3 A] Said R. Justus bar Shunam, “When the returning exiles reach the mountains of Amanus, they will sing a Psalm, for it is said, ‘Come with me from Lebanon, my bride, come with me from Lebanon, depart from the peak of Amana, from the peak of Senir and Hermon, from the dens of lions, from the mountains of leopards’ (Song of Songs 4:8).

[IV:4 A] *There are Tannaite authorities who teach, the Jordan is part of the Land of Israel, and there are Tannaite authorities who teach, the Jordan is outside of the Land of Israel. There are Tannaite authorities who teach, the Jordan is a domain unto itself.*

[B] *The Tannaite authorities who teach, the Jordan is part of the Land of Israel: “The Arabah also, with the Jordan as the boundary, from Kinnereth as far as the sea of the Arabah, the Salt sea, under the slopes o Pisgah on the east” (Dt. 3:17).*

[C] *The Tannaite authorities who teach*, the Jordan is outside of the Land of Israel: “The Jordan forms its boundary on the eastern side” (Josh. 18:20),

[D] *The Tannaite authorities who teach*, the Jordan is a domain unto itself: the cited verses speak of specific locations [some of which belong to the Land, some not].

[IV:5 A] The Jordan River, which by shifting course took from one party and gave to another — what it has taken it has taken and what is has given it has given [T. Ket. 8:4].

[B] *With what case do we deal?* If it is a case in which a shift in the Jordan’s course has taken ground in the Land of Israel and shifted it into Syria, [there is no issue]. The established principle is that the produce that initially grew in the Land of Israel remains subject to the separation of tithes and the restrictions of the seventh year.

[C] R. Jeremiah, R. Immi in the name of R. Yohanan, R. Simon in the name of R. Joshua b. Levi: “It defines the domain in establishing a claim of ownership through usufruct [should the owner be away from his property in a location outside of his province, where he cannot be notified of the actions of a squatter, he will have a stronger claim to reversion of title if he is outside of his province, and shifting of the spot from the Land to Syria will make a difference]; it also concerns the application of the law of removal [defining the province in which a given crop is located, since when the crop is no longer in the fields in that province, what people have stored up in their houses also has to be removed from the houses and left in public domain]; and for the tithing of cattle [the cattle must be in a given area and if the herd is divided by a shift in the river, then it is no longer a single herd for tithing].”

[D] R. Hila in the name of R. Simeon b. Laqish: “And that is the case only if the river drew along with it ground on which the produce was growing].”

[V:1 A] the one [to be thrown] into the fire is subject to a minimum, while the one [to be given] to a priest is not subject to a minimum:

[B] **the one [to be thrown] into the fire is subject to a minimum:** for this is on the authority of the Torah.

[C] **while the one [to be given] to a priest is not subject to a minimum:** for this is on the authority of the scribes.

[VI:1 A] From the River and Amanus and beyond [one must separate] two [portions of] dough-offering [for each batch of dough] one [to be

thrown] into the fire and one [to be given] to a priest; the one [to be thrown] into the fire is not subject to a minimum, while the one [to be given] to a priest is subject to a minimum:

[B] If so, then let the baker separate a single portion of dough-offering, to be thrown into the fire, and let him not separate any for the priest?

[C] It is so people won't say, "We saw clean Heave-offering thrown into the fire and burned."

[D] Then let the baker separate dough-offering for the priest and not separate dough-offering to be thrown into the fire?

[E] It is so people won't say, "We saw unclean Heave-offering consumed by the priests."

[F] Since the householder sets apart both pieces of dough as dough-offering, when he comes here he will ask and find out the reason. Since this and that are separated on the authority of the scribes, it is better that the larger piece be eaten and not burned.

[VII:1 A] And [the dough-offering still] is forbidden for [consumption by] males who have a flux, females who have a flux, menstruants, and those who have borne children [and not yet reentered a state of cleanness]: Even R. Yosé concurs. A more strict rule [requiring immersion to eat the dough-offering] applies in the case of uncleanness that flows from one's own body.

[VII:2 A] R. Abbahu gave a decision in Bosrah [outside of the Land] that [if dough-offering is mixed together with other dough, in order for neutralization to take place] it is necessary merely that the other dough form the greater part of the mixture."

[B] Said R. Jonah, "This teaches that dough-offering is neutralized in less than a mixture of a hundred to one and is not prohibited in a proportion of a hundred to one."

[C] Said R. Zeira, "The Mishnah has indicated that even if the proportion is one to one, [we do not classify the mixture as substitute to the prohibitions applying to dough-offering that is part of the mixture], *for we have learned in the Mishnah: And it may be eaten at [the same] table with a non-priest.*"

[VII:3 A] Said R. Yohanan, "Our rabbis who are in the Exile would separate Heave-offering and tithes until 'the archers' came and nullified that practice."

[B] *Who are "the archers"?*

- [C] They are the speakers [Hiyya's sons].
- [D] R. Zeira, R. Judah in the name of Samuel: "Dough-offering set aside and Heave-offering set aside abroad — one eats the portion that he wants and then sets aside the dough-offering or the Heave-offering from the batch from which he has eaten."
- [E] R. Ba in the name of Samuel: "They took account for that purpose only of Heave-offering of grain wine and oil."
- [F] R. Hila in the name of Samuel: "They took account for that purpose only of Heave-offering alone. But as to vegetables, even in regard to the Great Heave-offering they did not take account."
- [G] *That is in line with the following Tannaite rule:* Issi b. Aqabiah says, "Tithes are taken from vegetables only on the authority of scribes."
- [H] *It has been taught as a Tannaite rule:* **Dough-offering separated by a gentile in the Land of Israel or heave-offering separated by a gentile outside the land — they notify him that he is not liable to separate these offerings, and the dough-offering may be eaten by non-priests [T. Hal. 2:6].**

[VIII:1 A] And it may be given to any priest not only one who keeps the laws of purity]:

- [B] Whether to a priest who is an associate and keeps the laws of purity or to a priest who is not an associate and does not keep the laws of purity.
- [C] There are some priestly gifts that one gives only to the members of a particular priestly division that is on duty in the week of the gift, and there are some specified gifts that are given to any priest at all [that the donor wishes, even one not on duty that week].
- [D] Firstlings and firstfruits are given only to the members of a particular priestly division that is on duty in the week of the gift.
- [E] And all the rest of them they may give to any priest of his choice.

[VIII:2 A] R. Jeremiah raised the question before R. Zeira: "How do we know that things that have been declared forbidden under the ban of herem may be given only to the members of a particular priestly division that is on duty in the week of the gift?"

- [B] He said to him, "'But the field, when it is released in the jubilee, shall be holy to the Lord as a field that has been devoted; the priest shall be in possession of it' (Lev. 27:21)."

- [C] He said to him, “But how do we know that a field of possession itself goes to a member of the priestly division on duty in the week of the gift?”
- [D] He said to him, “‘The priest shall be in possession of it’ (Lev. 27:21).”
- [E] “Is it not written, ‘And this shall be the priests’ due from the people, from those offering a sacrifice, whether it be ox or sheep; they shall give to the priest the shoulder and the two cheeks and the stomach’ (Dt. 18:3)? By this reasoning, should the items also not go to the members of a particular priestly division that is on duty in the week of the gift?”
- [F] R. Aha, R. Abbahu in the name of R. Yohanan: “‘But no devoted thing that a man devotes to the Lord of anything that he has, whether of man or beast or his inherited field, shall be sold or redeemed; every devoted thing that is Most Holy to the Lord’ (Lev. 27:28). Just as Most Holy Things go to the members of a particular priestly division that is on duty in the week of the gift, so things declared herem go to the members of a particular priestly division that is on duty in the week of the gift.”
- [G] If so, the same should apply to movables [these too should go to the members of a particular priestly division that is on duty in the week of the gift].”
- [H] *But a Tannaite rule teaches:* what is the difference between real estate and movables? Real estate goes to the members of a particular priestly division that is on duty in the week of the gift, and movables go to any priest of his choice.
- [I] R. Yosé b. R. Bun, R. Hiyya in the name of R. Sheshet: “‘The Levitical priests, that is, all the tribe of Levi, shall have no portion or inheritance with Israel, they shall eat the offerings by fire to the Lord and his rightful dues’ (Dt. 18:1) — just as offerings by fire go to the members of a particular priestly division that is on duty in the week of the gift, so the inheritance of property goes to the members of a particular priestly division that is on duty in the week of the gift.”

[VIII:3 A] Twenty-four priestly gifts belong to Aaron and to his descendants according to a general statement [viz., Num. 18:8] and a specific enumeration [viz., Num. 18:9-18] and the covenant of salt [viz. Num., 18:19].

- [B] They are as follows: Ten [gifts to be eaten] in the Temple, four in Jerusalem, and ten in the provinces.**

- [C] [The] ten [priestly gifts to be eaten] in the Temple: (1) The sin-offering [cf. Lev. 6:19, M. Zeb. 5:3], and (2) the guilt offering [cf. Lev. 7:6, M. Zeb. 5:5], and (3) sacrifices of the communal peace-offering [cf. M. Zeb. 5:5], and (4) the sin-offering of fowl [cf. Lev. 5:7], and (5) the suspensive guilt-offering [cf. Lev. 5:18, M. Zeb. 5:5], and (6) the log of oil of the leper [cf. Lev. 14:10], and (7) the two [loaves of] bread [which accompany the offering of firstfruits ; cf. Lev. 23:17], and (8) the showbread [cf. Ex. 39:13], and (9) the leftover portion of meal-offering [cf. Lev. 6:9], and (10) [the leftover portion of grain harvested for] the offering of the first sheaf [cf. M. Men. 10:4] [T. Hal. 2:7],
- [D] [The] four [priestly gifts to be eaten] in Jerusalem: (1) The first-born [animals. cf. Lev. 27:26], and (2) the firstfruits [cf. M. Bik. 3.12 = M. Hal. 4:9B], and (3) that which is removed from the thank-offering [cf. Lev. 7:14] and from the ram of the Nazirite [cf. Num. 6:20] and (4) the skins of holy things [i.e., animal offerings] [T. Hal. 2:8].
- [E] [The] ten [priestly gifts to be eaten] in the provinces: (1) Heave-offering [cf. Num. 18:11], and (2) heave-offering of the tithe, and (3) dough-offering [cf. Num. 15:17], and (4) the first shearing [of the sheep; cf. Deut. 18:4], and (5) the shoulder, cheeks, and maw [of any killed animal; cf. Deut. 18:3], and (6) [money given in exchange for] redemption of a [first-born] son [cf. Ex. 34:20], and (7) [money given in exchange for] redemption of a first-born donkey [cf. Ex. 13:13] and (8) things which have been declared herem [i.e., confiscated by God; cf. Num. 18:14; M. Hal. 4:9B], and (9) the field which passes in inheritance [that is not redeemed by its original owner in the Jubilee year] [cf. Lev. 27:21], and (10) that which [is recovered after having been] stolen from a resident alien [who dies without heirs] [T. Hal. 2:10].
- [IX:1 A] R. Judah declares [a priest who does not keep the purity laws] forbidden [to make use of] firstfruits:
- [B] *R. Judah is consistent with views expressed elsewhere, for R. Judah says, “[The Israelites] may give them [the firstfruits] only to [a priest who is] an associate [who is scrupulous in preserving the cleanness of foodstuffs], and the Israelites give him the [firstfruits] as a [personal] favor” [M. Bik. 3:12].*
- [X:1 A] [As regards] vetches [in the status of] heave-offering — R. Aqiba declares [them] permitted [to any priest]. But sages declare [them] forbidden [to a priest who does not keep the laws of purity].

- [B] *Said R. Jonah, “R. Aqiba is consistent with views expressed elsewhere, for R. Aqiba says, ‘Whatever is done with them [vetches] may be done in a state of uncleanness’ [M. M.S. 2:4].”*
- [C] *Said R. Yosé, “You may even say his opinion shifts from one place to the other. Produce in the status of second tithe is different, for someone does not commonly impart uncleanness even to food he feeds his beast.”*
- [D] How come they made no decree about *bikion*-vetches [which are exempt from tithing, even though under duress people may eat them]?
- [E] Because in Alexandria they walk around in it.
- [F] Under what circumstances did they make a decree that vetches are classified as human food?
- [G] R. Yosé says, “In a famine.”
- [H] R. Hananiah in the name of Rabbi, “In the time of David.”
- [I] *They say the two opinions are identical.*

4:5

- [A] **Nittai the Teqoan brought dough-offering from Betar [to the Land of Israel to give it to a priest], and [the priesthood] would not accept [it] from him.**
- [B] **People from Alexandria brought their dough-offering from Alexandria [to the Land of Israel to give it to a priest], and [the priesthood] would not accept [it] from them.**
- [C] **People from Mount Sevoim brought their firstfruits [to Jerusalem to give to a priest] before Pentecost [too early (M. Bik. 1:3)], and [the priesthood] would not accept [the firstfruits] from them,**
- [D] **because of the verse in the Torah, [“You shall keep] the feast of harvest of the firstfruits of your labor, of what you sow in the field” (Ex. 23:16). The verse is taken to indicate that the firstfruits must be brought to Jerusalem just in time for Pentecost, [and not before].**
- [E] **The son of Antines brought firstborn [animals] up from Babylonia [to the Land of Israel to give to a priest], and [the priesthood] would not accept [them] from him.**
- [F] **Joseph the priest brought the first of the wine and oil, [to the land of Israel to give to a priest], and [the priesthood] would not accept [it] from him.**

- [G] He even brought his children and the members of his household up [to Jerusalem] to celebrate Minor Passover [the festival on the fourteenth of *Iyyar* for those who were in a state of uncleanness on the fourteenth of *Nisan*, the date of Passover (Num. 7:3-11)] in Jerusalem and they sent him away,
- [H] so that the matter would not be established as obligatory.
- [I] Ariston brought his firstfruits from Apamea [to Jerusalem to give to a priest] and [the priesthood] accepted [the firstfruits] from him,
- [J] because they said, “One who acquires [land] in Syria is like one who acquires [land] in the outskirts of Jerusalem.”
- [I:1 A] *R. Hiyya repeated as a Tannaite rule:* “[As to dough offering brought from abroad] they made a decree in that regard and returned the dough offering to its place of origin.”
- [B] Said R. Abba bar Zabeda, “It is not possible to eat it. You can’t do so, to prevent people from saying, ‘We saw unclean heave-offering being eaten.’ You can’t burn it up, to prevent people from saying, ‘We saw clean heave-offering being burned up.’ You can’t send it back where it came from, to prevent people from saying, ‘We saw produce in the status of heave-offering going out of the Land to foreign territory. What to do? You leave it until Passover and burn it then [when leaven accumulated in the prior year is burned anyhow].”
- [C] Said R. Simeon b. Gamaliel, “I saw Simeon b. Kahana drinking wine in the status of heave-offering in Akko, for he said, ‘This was brought from Cilicia, and they made a decree concerning it [to dispose of it].’ He drank it on the ship [and not in Akko itself].”
- [D] But won’t people err and conclude that they bring heave-offering from abroad to the Land?”
- [E] Say it was not taken off the ship.
- [F] And where did he drink it, within the line signifying advent into the Land or outside of it?
- [G] Said R. Jonah, “You may even say he drank it from the line and within [thus in the Land]. They did not take account of appearances in a ship.”
- [I:2 A] When did Simeon b. Kahana live?
- [B] In the time of R. Eliezer.

- [C] *R. Simeon b. Kahana was leaning on R. Eliezer. They passed a fence. He said to him, "Bring me a sprig for a toothpick." He retracted and said, "Don't bring me anything."*
- [D] *He said, "For if you bring me a sprig, everybody who comes along will do the same and ruin the fence."*
- [I:3 A] R. Haggai was leaning on R. Zeira. They passed someone carrying a load of chips. He said to him, "Bring me a chip for a toothpick." *He retracted and said, "Don't bring me anything."*
- [D] *He said, "For if you bring me a chip, everybody who comes along will do the same and the load of chips will be lost."*
- [E] It is not that R. Zeira is so worthy a person, *but these are the things that our impulse teaches us to do.*
- [II:1 A] **People from Alexandria brought their dough-offering from Alexandria [to the Land of Israel to give it to a priest], and [the priesthood] would not accept [it] from them:**
- [B] **[Joseph the priest brought the first of the wine and oil, to the land of Israel to give to a priest, and the priesthood would not accept it from him:]**
- [C] *Said R. Abba Mari, "Isn't this the same matter concerning which R. Hiyya the Elder made his statement?"*
- [D] *Here too he holds that they made a decree and returned the produce to its point of origin.*
- [III:1 A] **People from Mount Sevoim brought their firstfruits [to Jerusalem to give to a priest] before Pentecost [too early (M. Bik. 1:3)], and [the priesthood] would not accept [the firstfruits] from them:**
- [B] *There we have learned in the Mishnah in connection with the statement, [Joseph the priest brought the first of the wine and oil, to the land of Israel to give to a priest, and the priesthood would not accept it from him:] They do not bring firstfruits in liquid form [except what comes from olives and grapes] [M. Ter. 11:1].*
- [C] *R. Hila in the name of R. Eleazar: "This is the sense of the Mishnah: **They do not bring firstfruits in liquid form** — that is so even if the owner has acquired possession of the liquid."*
- [D] *And is there not a Tannaite formulation: As to the normal procedure with firstfruits in the form of liquid, it is presented?*

[E] How on the basis of Scripture do we know that one should bring it? Scripture says, “You shall bring” (Dt. 26:2). [One may bring liquids as firstfruits beyond olive oil and wine.]

[F] [Replying to D-E:] interpret the rule to speak of a case in which one gathered the produce from the first instance on the condition that the firstfruits will take the form of a liquid. But here he did not gather the produce from the first instance on the condition that the firstfruits will take the form of a liquid.

[IV:1 A] **[He even brought his children and the members of his household up [to Jerusalem] to celebrate Minor Passover [the festival on the fourteenth of Iyyar for those who were in a state of uncleanness on the fourteenth of Nisan, the date of Passover (Num. 7:3-11)] in Jerusalem and they sent him away, so that the matter would not be established as obligatory:]** *This accords with the view of him who has said, “The Passover offering of women is optional. [Why did they turn him back on the second Passover? On the second Passover women do not make the offering at all.]”*

[B] *It is taught as a Tannaite rule: “A woman prepares the Passover the first time it comes around [in Nisan] in her own behalf, and as to preparing it on the second time it comes around [in Iyyar], she is ancillary to others [and shares in their Passover offering],” the words of R. Meir,*

[C] R. Yosé says, “A woman prepares the Passover the second time it comes around [in Iyyar] in her own behalf, even doing so on the Sabbath, and it is not necessary to say that she does the same on the first time Passover comes around.”

[D] R. Simeon b. Eleazar says, “A woman prepares the Passover the first time it comes around as ancillary to others [and shares in their Passover offering] and does not prepare the Passover the second time it comes around at all.”

[E] *What is the scriptural basis for the position of R. Meir?* “Tell all the congregation of Israel that on the tenth day of this month they shall take every man a lamb according to their father’s houses, a lamb for a household” (Ex. 12:2). [House means wife.] If they wanted, they prepare a lamb for the wife [who has the right to do it for herself.]

[F] *What is the scriptural basis for the position of R. Yosé?* “a lamb according to their father’s houses, a lamb for a household” (Ex. 12:2) — all the more so for his house [wife].

- [G] *What is the scriptural basis for the position of R. Simeon b. Eleazar?*
 ““Man” ñ not a woman.
- [H] How do rabbis read “man”?
- [I] A man not a minor.
- [J] *Said R. Jonah, “Even in accord with him who has said, ‘it is an obligation for a woman to keep the Passover the first time around,’ this case is different, for the matter is based on an explicit limitation: so that the matter would not be established as obligatory.”*
- [K] [With respect to the statement, **People from Mount Sevoim brought their firstfruits [to Jerusalem to give to a priest] before Pentecost [too early (M. Bik. 1:3)], and the priesthood would not accept [the firstfruits] from them**] *did we not consider ruling*, prior to the presentation of the Two Loaves of Bread at Pentecost one should not bring the firstfruits but if one brought them it is valid, [so why reject the offering]?
- [L] *This case is different, for the matter is based on an explicit limitation: so that the matter would not be established as obligatory.*
- [M] Along these same lines [**The son of Antines brought firstborn animals up from Babylonia to the Land of Israel to give to a priest, and the priesthood would not accept them from him**] *have we not learned in the Mishnah: But if they brought them in unblemished condition. They may be offered [M. Tem. 3:5]?*
- [N] *This case is different, for the matter is based on an explicit limitation: so that the matter would not be established as obligatory.*
- [O] **Ariston brought his firstfruits from Apamea [to Jerusalem to give to a priest] and [the priesthood] accepted [the firstfruits] from him:**
- [P] *Have we not learned in the Mishnah: They do not bring heave-offering from abroad to the Land [M. Sheb. 6:6]?*
- [Q] If it is permitted to bring firstfruits from Syria, then should it not be permitted to bring heave-offering from there as well?
- [R] Said R. Hoshaiyah, “[Different rules apply to firstfruits and heave-offering.] Delivery of firstfruits to Jerusalem is the responsibility of the owners of the firstfruits , [who have to make up lost produce], but delivery of heave-offering to the priests it not the responsibility of the owner. If you say that heave-offering may be separated in Syria, the

priests will have to go after it there [but this is impossible, because they will have to contract uncleanness to get the heave-offering.]”

TRACTATE

‘ORLAH

Tractate ‘*Orlah* elaborates the Torah’s commandment, at Lev 19:23–25, “When you come to the land and plant any kind of tree for food, you shall treat it as forbidden. For three years it shall be forbidden, it shall not be eaten. In the fourth year all its fruit shall be set aside for jubilation before the Lord, and only in the fifth year may you use its fruit, that its yield to you may be increased: I am the Lord your God.” The produce of the fourth year after planting is treated as equivalent to Second Tithe, that is, it is brought to Jerusalem (“for jubilation before the Lord”) and eaten there. The tractate deals only with the prohibition of the fruit for the first three years.

{Throughout my account of the halakhah I follow the master’s thesis prepared in my seminar, including the translation of the Mishnah- and Tosefta-tractate ‘*Orlah* as published in Howard Essner, “The Mishnah Tractate ‘Orlah: Translation and Commentary,” in *Approaches to Ancient Judaism* (ed. William Scott Green; Scholars Press for Brown Judaic Studies; 16 vols., Chico, Calif.: Scholars, 1983) 3:105–48; and, for the Yerushalmi, my *The Talmud of the Land of Israel: A Preliminary Translation and Explanation*, ‘*Orlah, Bikkurim* (Vol. 10; Chicago: University of Chicago Press, 1991).}

The law takes effect only from the point at which Israel enters the land. That is to say, the point of Israel’s entry into the Land marks the beginning of the Land’s consequential fecundity. In simpler language, the fact that trees produce fruit matters only from Israel’s entry onward. To see what is at stake, we recall that the entry of Israel into the Land marks the restoration of Eden (and will again, within the restorationist theology), so there is no missing the point. The Land bears fruit of which God takes cognizance only when the counterpart-moment of creation has struck. The halakhah has no better way of saying, the entry of Israel into the Land compares with the moment at which the creation of Eden took place—and in no other way does the halakhah make that point. ‘*Orlah*-law marks the time of the creation of produce from the moment of Israel’s entry into the land. Israel’s entry into the Land marks a new beginning, comparable to the very creation of the world, just as the Land at the end matches Eden at the outset.

Second, Israelite intentionality is required to subject a tree to the ‘*orlah*-rule. If an Israelite does not plant the tree with the plan of producing fruit, then the tree is not subject to the rule. If the tree grows up on its own, not by the act and precipitating intentionality of the Israelite, the ‘*orlah*-rule does not apply. If an Israelite does

not plant the tree to produce fruit, the ‘*orlah*-rule does not apply. And given the character of creation, which marks the norm, the tree must be planted in the ordinary way; if grafted or sunk as a root, the law does not apply. In a moment, this heavy emphasis upon Israelite intentionality will produce a critical result. But first let us ask some more fundamental questions.

What is the counterpart to Israelite observance of the restraint of three years? And why should Israelite intentionality play so critical a role, since, the rabbinic midrash *Sifra* itself notes, the ‘*orlah*-rule applies to trees planted even by gentiles? The answer becomes obvious when, in line with the generative hermeneutics announced with the word “enlandisement,” we ask another question: Can we think of any other commandments concerning fruit-trees in the Land that—sages say time and again—is Eden? Of course we can: “Of every tree of the garden you are free to eat; but as for the tree of knowledge of good and evil, you must not eat of it” (Gen 2:16). The halakhah of ‘*orlah*, however, imposes upon Israel a more demanding commandment. Of *no* tree in the new Eden may Israel eat for three years. That demands considerable restraint.

Not only so, but it is Israel’s own intentionality—not God’s—that imposes upon every fruit-bearing tree—and not only the one of Eden—the prohibition of three years. So once Israel wants the fruit, it must show that it can restrain its desire and wait for three years. By Israel’s act of will, Israel has imposed upon itself the requirement of restraint. Taking the entry-point as our guide, we may say that, from the entry into the Land and for the next three years, trees that Israelites value for their fruit and plant with the produce in mind must be left untouched. And, for all time thereafter, when Israelites plant fruit-trees, they must recapitulate that same exercise of self-restraint, that is, act as though, for the case at hand, they have just come into the Land.

Then the planting of every tree imposes upon Israel the occasion to meet once more the temptation that the first Adam could not overcome. Israel now recapitulates the temptation of Adam then. Israel, the New Adam, however, possesses, and is possessed by, the Torah. By its own action and intention in planting fruit trees, Israel finds itself in a veritable orchard of trees like the tree of knowledge of good and evil. The difference between Adam and Israel—permitted to eat all fruit but one, Adam ate the forbidden fruit, while Israel refrains for a specified span of time from fruit from all trees—marks what has taken place, which is the regeneration of humanity. The “enlandisement” of the halakhah bears that very special message, and I can imagine no other way of making that statement through law than in the explicit concern sages register for the fruit-trees of the Land of Israel. It is little wonder, then, that ‘*orlah*-law finds its position, in the Priestly Code, in the rules of sanctification.

YERUSHALMI ORLAH

CHAPTER ONE

1:1

- [A] He who plants [a fruit tree intending to use it] as a fence or for lumber —
- [B] [the tree] is exempt from [the laws of] ‘*Orlah*.’
- [C] R. Yosé says, “Even [if] he said, ‘[The side of the tree facing] inward [i.e., facing toward the field] [is used] for food, and [the side of the tree facing] outward [i.e., facing away from the field is used] as a fence,’
- [D] “[the side of the tree facing] inward is liable [to the laws of ‘*Orlah*], and [the side of the tree facing] outward is exempt.”
- [I:1 A] He who plants [a fruit tree intending to use it] as a fence or for lumber —
- [B] It is written, “When you come into the Land and plant all kinds of trees for food, then you shall count their fruit as forbidden; three years it shall be forbidden to you, it must not be eaten” (Lev. 19:23).
- [C] What is for food is subject to the law of ‘*orlah*. What is planted for a fence or for lumber or for firewood is exempt.
- [D] What about the following proposition: as to the tree planted for fruit, even if the farmer reconsidered its use and decided to make it part of a fence, it should remain liable to the law of ‘*orlah*?
- [E] Scripture says, “trees for food.”
- [F] R. Yosé drives the rule from the beginning of the cited verse. Inferring from that which is said, “When you come into the land and plant all kinds of trees for food, then you shall count their fruit as forbidden. Three years it shall be forbidden to you, it must not be eaten,” do we not know that that Scripture speaks of fruit trees? Why does Scripture say, “and plant all kinds of trees for food”? Why does Scripture say, “and plant all kinds of trees for food”? What is for food is subject to

the law of 'orlah. What is planted for a fence or for lumber or for firewood is exempt.

- [G] R. Jonah derives the rule from the end of the cited verse. Inferring from that which is said, "But in the fifth year you may eat of their food that they may yield more richly for you, I am the Lord your God" (Lev. 19:25), do we not know that that Scripture speaks of fruit trees? Why does Scripture say, Why does Scripture say, "and plant all kinds of trees for food"? Why does Scripture say, "and plant all kinds of trees for food"? What is for food is subject to the law of 'orlah. What is planted for a fence or for lumber or for firewood is exempt.

[I:2 A] *It has been taught on Tannaite authority: Rabban Simeon b. Gamaliel says, "What is for food is subject to the law of 'orlah. What is planted for a fence or for lumber or for firewood is exempt. Under what circumstances? In a case in which he planted for a fence, lumber, or firewood what is appropriate for such purposes. If he planted a species of tree that is not appropriate for such purposes, the tree remains liable to the laws of 'orlah.*

- [B] *Rabban Simeon b. Gamaliel has made a reasonable statement. What is the reason for the position of the rabbis?*

- [C] Said R. Zeira, "[We infer from the actions of the farmer his intention:] if one plants the trees in a manner that is out of the ordinary, for instance, if he wants to use the trees for fuel, he plants them close together, if for beams, he spreads them out [so the branches will grow high], if for a fence, the location of the trees attests to the man's intent. [So the criterion of the appropriateness of the tree for the alleged purpose is not decisive, rather, the manner of planting the tree attests to the purpose.]

- [D] *It was taught as a Tannaite statement in the name of R. Meir, "All sorts of trees are subject to an intention that renders them exempt from the law of 'orlah except for an olive or a fig tree, [which are always planted for their fruit]."*

- [E] *R. Meir rules in a manner consistent with principles of his expressed elsewhere, for he said, "All trees may be classified as barren except for olive and fig trees."*

- [F] *It was taught as a Tannaite statement in the name of R. Simeon, "You have as trees subject to an intention that renders them exempt from the law of 'orlah only th pomegranate, the sycamore, and the caperbush."*

- [I:3 A] **[He who plants a fruit tree intending to use it as a fence or for lumber — the tree is exempt from the laws of ‘Orlah]:** What is the law as to the produce of such a tree being subject to tithing?
- [B] *This is subject to dispute between R. Ba bar Mamel and R. Hila, for they argue as follows:*
- [C] He who keeps produce from his trees for use as firewood [instead of food] —
- [D] R. Ba bar Mamel said, “He is liable to tithing that produce.”
- [E] R. Hila in the name of R. Yosé said, “He is exempt from tithing.”
- [F] R. Ba bar Mamel said, “He is liable to tithing that produce” — *on the basis of the following:* “And the Levite, because he has no portion or inheritance with you [and the sojourner the fatherless and the widow who are within hour towns shall come and eat and be filled, that the Lord your God may bless you in all the work of hour hands that you do” (Dt. 14:29). From what you possess and he does not possess you are obligated to give him, excluding ownerless p property, on which you and he have an equivalent claim: gleanings, the forgotten sheaf, the corner of the field, and ownerless property. [But included is produce from his trees for use as firewood [instead of food].
- [G] R. Hila in the name of R. Yosé said, “He is exempt from tithing produce” — *on the basis of the following:* **Coriander which [the farmer] sowed [in order to harvest its] seed [for future sowing] — its leaves are exempt [from the removal of tithes if they are eaten] [If he] sowed it [in order to harvest its] leaves [for use as an herb] — [both] the seeds and the leaves are subject to the law of tithes [M. Ma. 4:5].**
- [Here is a case in which intention not to use the plan for food exempts the produce from tithes.]
- [H] *Coriander is exceptional because the seed and the foliage are subject to different harvest seasons. [The seed is subject to tithing before the foliage would be usable.]*
- [I] And what proves the principle? He who preserves a complete row of cabbage for use as seed — his intention is null [the cabbage is liable to tithes]. But if he preserved only individual plants for that purpose, his intention is not null [and the seed of those plants will be exempt from tithing, a case parallel to M. 1:”¹ and a precedent for Hila].

- [J] Said R. Jonah, “And that is the case [the intention is null] if he gathered the foliage of the plant. But if he did not collect the foliage [but left the plants to harden and produce seed, do we take the view that firewood is liable to tithes?][No.] [That proves Hila’s point in so many words.]
- [I:4 A] What is the law so far as the fruit on those trees of [M. 1:1A-B] being subject to the prohibition of thievery?
- [B] And is lumber not subject to the prohibition of thievery?
- [C] *Where there is a question, it concerns mulberries, which are not substantial.*
- [I:5 A] A pomegranate that one planted for the sake of pomegranates, a sycamore tree that one planted for the sake of a sycamore tree, *there are Tannaite authorities who rule that the produce is liable to the law of ‘orlah, and there are Tannaite authorities who rule that it is exempt from the law of ‘orlah.*
- [B] *Said R. Hisda, “The authority who ruled that it is liable to the laws of ‘orlah takes that view in a situation in which the majority of the farmers preserve that sort of fruit, and he who said that it is exempt from the law of ‘orlah do not preserve that sort of fruit.”*
- [C] *R. Yosé raised the question: “If it is a situation in which the majority of the farmers preserve that sort of fruit, why raise the issue of special intention? Even if the farmer did not form a particular intention to use the fruit for its natural purpose, he should be liable to the laws of ‘orlah in connection with that fruit. Do we rule that an olive or a fig tree is subject to ‘orlah law only if the farmer intended to grow them for their fruit?” [No.] But the rule covers a case in which half of the farmers preserve the fruit and half of the farmers do not preserve it. [That is the case in which the issue arises.]”*
- [D] Said R. Matya of Debtarta, “In a place in which the majority does not preserve the fruit, even if he did not form the intention of using the fruit for firewood, it is exempt.”
- [II:1 A] R. Yohanan in the name of “R. Simeon b. Yehosedeq, “A vine that grows up in wild thickets is exempt from the laws of ‘orlah.”
- [B] Said R. Yosé, “Even if he planted it there.”
- [C] *And have we not learned [at M. 1:2N-O], that [fruit tree] which sprouts by itself [i.e., without being planted] [the tree] is liable to [the laws of] ‘Orlah?*

[D] That is the rule if one planted the vine in a settled place, but here we speak of planting a vine in a wild thicket.

[E] Said R. Eliezer, “That which you have said [that the vine in the thicket is exempt] applies to a case in which the vine does not yield enough fruit to make it worth the trouble of tending it and [transporting the fruit to the village]. But if the vine in the thicket produced enough fruit to make worth the effort, it is subject to the laws of ‘orlah.

[II:2 A] R. Huna asked, “An etrog that one planted for the sake of carrying out the commandment to take an etrog on the Festival — what is the law about its being subject to the laws of ‘orlah?”

[B] R. Huna retracted and said, “An etrog that one planted for the sake of carrying out the commandment to take an etrog on the Festival is subject to the laws of ‘orlah.”

[C] *Have we not learned on Tannaite authority:* “And you shall take for yourselves on the first day the fruit of goodly trees” (Lev. 23:40) — and not what is already subject to the commandment. [That eliminates from the law of ‘orlah a tree planted for providing etrogs for the *Festival*].

[D] There the language, “And you shall take for yourselves” means, purchase with money, and not something already subject to the commandment. *But here it is comparable to that which you say with respect to the use of the ram’s horn:* “It is a day for you to blow the trumpets” (Num. 29:1) — whatever the source of the ram’s horn. Here too, “And you shall take for yourselves on the first day the fruit of goodly trees” — whatever the source of the produce, the tree is subject to ‘orlah.

[E] What is the difference between this case and the case of the farmer who keeps the produce for firewood?

[F] Just as he wants the produce, so he wants the lumber, *but here* he wants the produce but doesn’t want the lumber.

[G] And furthermore, said R. Hanina, “Scripture speaks of fruit meaning he wants the fruit of the tree and he does not want it for lumber. One does not carry out his religious obligation on the Festival by using the wood of the etrog-tree.”

[H] Does the same rule apply by analogy to the case of an olive tree that one planted for oil for lighting the Hanukkah lamp?

- [I] [What kind of a question is this?] Said R. Yosé b. R. Bun, “The matter of the etrog derives from the authority of the Torah, while the matter of oil for the Hanukkah lamp derives merely from the legislation of the scribes *and yet you say this?*”
- [J] So is there an analogy between the present case and the olive tree that one planed to provide oil for lighting the Temple candelabrum. For here we have a religious obligation imposed by the Torah and there we have a religious obligation imposed by the Torah [the etrog].
- [III:1 A] **[R. Yosé says, “Even if he said, ‘The side of the tree facing inward i.e., facing toward the field is used for food, and the side of the tree facing outward i.e., facing away from the field is used as a fence,’ the side of the tree facing inward is liable to the laws of ‘Orlah, and [the side of the tree facing] outward is exempt:”] R. Simeon b. Yaqim raised the question before R. Yohanan: “If one planted a tree so that the lower side would form a fence and the upper side would produce fruit, or if the lower side would produce fruit and the upper side would serve as a fence, [what is the rule?]”**
- [B] He said to him, “That is all the same. Whether the lower side is to form, a fence and the upper side is to produce fruit or the upper side is to form a fence and the lower side to produce fruit [the plan of the farmer determines the status of the tree or the part of the tree that is subject to consideration].”
- [C] How does one tell?
- [D] Said R. Jonah, “One brings a vine shoot and uses it as a marker, [tying it around the tree, saying,] ‘To this point the tree is for a fence, and from this point on for produce.’”
- [E] *R. Zeira asked, “There is no problem in the case in which the lower part of the tree is for a fence and the upper part for produce. But if the lower side is for produce and the upper side for a fence, the produce grows from what is subject to a prohibition [a trunk that is subject to the law of ‘orlah] and you make this statement?”*
- [F] *R. Zeira is consistent with views expressed elsewhere, for said R. Zeira in the name of R. Jonathan, “An onion that is prohibited under the rubric of mixed seeds in a vineyard that one pulled up and replanted where it is not prohibited — even if the onion continued to grow, it is subject to the prohibition incurred as mixed seeds, for what has grown from something that is prohibited does not outgrow its prohibited status;”*

- [III:2 A] If one planted the tree for a fence and gave thought to using it for produce, it comes under consideration [the change of intent has changed the status of the tree, which is now subject to ‘orlah-prohibitions].
- [B] If he planted it for produce and gave thought to it for use as a fence, he does not have the power to revise the status of the tree, which remains subject to the ‘orlah-prohibitions.
- [C] If he planted it in the first year for a fence and from that point onward gave thought to using it for produce, since he has formed concerning the tree the intention that imposes liability on the tree to the laws of ‘orlah, let it be liable.
- [D] *But have we not learned in the Mishnah: R. Yosé says, “Even if he said, ‘The side of the tree facing] inward i.e., facing toward the field is used for food, and the side of the tree facing outward i.e., facing away from the field is used as a fence,’ the side of the tree facing inward is liable to the laws of ‘Orlah, and [the side of the tree facing] outward is exempt”?*
- [E] here, when he intended the tree for fruit, he meant it to be permanently used for fruit, and when it was for a fence, he wanted it to be a permanent fence. But here, since he has included in his intent for the tree the intentionality that made the tree subject to the law, it becomes subject to the law.
- [III:3 A] If the farmer planted the tree for three years for a fence, and from that point he gave thought to it for produce, and the tree grew further, as to the status of the additional growth,
- [B] R. Jeremiah said, “The additional growth is exempt from the laws of ‘orlah.”
- [C] R. Ba said, “The additional growth is liable to the laws of ‘orlah.”
- [D] *Said R. Yosé, “That which R. Jeremiah stated appears to present a problem but that is not the case, and the matter is consistent with that which has been taught on Tannaite authority:*
- [E] “A field that attained a third of its growth under gentile ownership and that then was purchased by an Israelite — R. Aqiba says, ‘The additional growth is exempt [from liability, because the field became subject to the law while it was in the possession of an exempt person].’ Sages say, ‘The additional growth is liable’ [contrary to Jeremiah’s ruling].

[F] “Now here the principal growth of the tree takes place at a point at which the tree is exempt, yet the additional growth is deemed liable. [But that is not the point of differentiation here; the original growth of the tree takes place when the tree is not subject to the law.]”

[III:4 A] Said R. Yohanan, “In the ruling of R. Ishmael, Whatever is not subject to the laws of ‘orlah [with the produce prohibited in the first three years of growth] is not subject to the laws of the disposition of the produce in the fourth year after planting.”

[B] *R. Yohanan raised the question:* “Does this rule apply solely when the first three years are subject to ‘orlah?”

[C] Said R. Jonah, “The main point of ‘orlah-rules is subject to inquiry, whether the principle of ‘orlah applies to a span of less than three years [and here part of the three years has elapsed].”

[D] Said R. Yosé, “The main point of the laws governing the disposition of the produce in the fourth year after planting is subject to inquiry, whatever is not subject to the laws of ‘orlah [with the produce prohibited in the first three years of growth] is not subject to the laws of the disposition of the produce in the fourth year after planting.”

[III:5 A] *A Tannaite statement:* “A tree part of which is planted in the Land and part of which is planted outside of the Land, since part of it is planted in the land, the whole of it is deemed located in the Land,” the words of Rabbi.

[B] Rabban Simeon b. Gamaliel says, “The part of the tree that is planted in the Land is liable to the rules governing a tree in the Land, and the part of the tree planted outside of the Land is exempt.”

[C] R. Abbahu in the name of R. Yohanan, “[In Rabbi’s view] it is treated as a case in which produce subject to tithing but not yet tithed has been mixed together with produce that has been tithed.”

[D] R. Zeira in the name of R. Yohanan: “A root that is exempt from the law of ‘orlah exempts the roots that are grafted onto it.”

[E] Is this in accord with Rabbi? For Rabbi says, “The roots draw nourishment from one another.”

[F] It represents the view of all parties. Here we deal with a root that is exempt and exempts roots that are grafted on to it. Here where you say, “The root that is exempt exempts other roots” pertains to an old root that one has pulled up from his own property and replanted in someone else’s property. [If roots of the neighbor’s tree draw nourishment from

this root, which is more than three years old, it is exempt.] But as to the matter of transplanting a tree from abroad to the Land, the exempt root does not exempt other roots grafted onto it.

[III:6 A] An exempt roots exempts other roots.

[B] *But have we not learned in the Mishnah: R. Yosé says, “Even if he said, ‘The side of the tree facing] inward i.e., facing toward the field is used for food, and the side of the tree facing outward i.e., facing away from the field is used as a fence,’ the side of the tree facing inward is liable to the laws of ‘Orlah, and [the side of the tree facing] outward is exempt”?*

[C] But why should the outer side not exempt the side facing inward?

[D] R. Zeira stated the rule without further attribution,, R. La said in the name of R. Eleazar, “It is appropriate to consider it subject to the law of ‘orlah [and the exemption is not absolute].”

[III:7 A] R. Yosé in the name of R. Yohanan: “Roots are insubstantial [in deciding the tree’s liability to the law of ‘orlah].”

[B] *Said R. Zeira to R. Yosé, “Did you hear R. Yohanan make this statement in so many words, or were you engaged by the study of the laws of ‘Orlah and a matter involving firstfruits came to mind and he said, ‘Roots are insubstantial’?”*

[C] Said R. Zeira, “[Explaining the statement itself:] That which you have said, namely, ‘Roots are insubstantial,’ pertains when the tree has been uprooted from outside the Land and re-rooted in the Land. But as to what has been uprooted from the Land and re-rooted outside of the Land, roots are regarded as substantial. [They do not have substance to exempt the tree from the law of ‘orlah once the tree is replanted in the land.]”

[III:8 A] If a new tree drew nourishment from an old tree, it is exempt from the law of ‘orlah, and if it drew nourishment from abroad, it is exempt. If it drew nourishment from a consecrated tree, it is liable to the law of ‘orlah. If it drew nourishment for the lower side from the upper side of the tree it is subject to the law of ‘orlah.

[B] If it drew nourishment from a consecrated tree, it is liable to the law of ‘orlah: for it is suitable to be redeemed and to be subjected to liability to the law of ‘orlah.

[C] If it drew nourishment for the lower side from the upper side of the tree it is subject to the law of ‘*orlah*: for it is suitable for the farmer to form an intention that would impose liability on the tree.

[III:9 A] [R. Yosé says, “Even if he said, ‘The side of the tree facing inward i.e., facing toward the field is used for food, and the side of the tree facing outward i.e., facing away from the field is used as a fence,’ the side of the tree facing inward is liable to the laws of ‘*Orlah*, and [the side of the tree facing] outward is exempt:”] R. Yosé accords with Rabban Simeon b. Gamaliel [Rabban Simeon b. Gamaliel says, “The part of the tree that is planted in the Land is liable to the rules governing a tree in the Land, and the part of the tree planted outside of the Land is exempt.”]

[B] One may even take the view that he accords with Rabbi [“A tree part of which is planted in the Land and part of which is planted outside of the Land, since part of it is planted in the land, the whole of it is deemed located in the Land,” the words of Rabbi.] ‘*Orlah* restrictions depend on the intentionality of the farmer, while the liability to tithing does not depend on the farmer’s intentionality. [The cases are not comparable.]

1:2

[A] At the time at which our fathers came to the Land [of Israel],
[B] [if] one found [a fruit tree already] planted,
[C] it [was] exempt [from the laws of ‘*Orlah*].
[D] [If] one planted [a fruit tree],
[E] even though they had not conquered [all the Land],
[F] it [was] liable.
[G] he who plants [a fruit tree] for public [use]—
[H] it is liable [to the laws of], ‘*Orlah*].
[I] R. Judah declares exempt.
[J] He who plants [a fruit tree] in the public domain,
[K] and the gentile who planted [a fruit tree],
[L] and the robber who planted [a fruit tree],
[M] and he who plants [a fruit tree] in a boat,
[N] and that [fruit tree] which sprouts by itself [i.e., without being planted]-
[O] [the tree] is liable to [the laws of] ‘*Orlah*.

- [I:1 A] “When you come into the land and plant” (Lev. 19:23) — excluding a tree planted by gentiles prior to the Israelites’ entry into the Land.
- [B] R. Huna in the name of R. Abba: “That is to say a root that once was exempt exempts the tree in its further growth.”
- [II:1 A] **[If] one planted [a fruit tree], even though they had not conquered [all the Land], it [was] liable:**
- [B] And in accord with R. Ishmael, who said, “All references in the Torah to Israel’s coming into the Land speak of the period fourteen years after the actual arrival, seven years in which the Israelites conquered the Land and seven years in which they divided it up,” [how is liability incurred in that period?]
- [C] R. Hila in the name of R. Eleazar: “R. Ishmael concurs in the case of dough offering and the laws of ‘orlah [that these laws applied even before fourteen years had not yet passed from the moment of arrival.]”
- [D] *And so a Tannaite formulation states:* “When you come” (Lev. 19:23) — since Scripture has made use of a different formulation from the standard one, so sages have imposed a different point of liability.
- [E] *R. Jonah raised the question:* “*The theories attributed to R. Ishmael conflict.* When Scripture uses the language of being or raising up, or breaking or tearing down, or redemption or saving, in each paired instance R. Ishmael says the meaning of the same. Yet here he differentiates a scriptural usage to validate a variation in the law, [since when you come is different from it will come to pass.]”
- [III:1 A] **he who plants [a fruit tree] for public [use]— it is liable [to the laws of], ‘Orlah]. R. Judah declares exempt.**
- [B] *The theory held by the rabbis vis a vis R. Judah is inconsistent. There they say, **Jerusalem and foreign territory are not susceptible to plagues as are the lands allotted to the tribes [M. Neg. 12:4] and here they say this!** [Why are fruit trees planted for public use liable to the uncleanness of ‘orlah when they are not liable under equivalent circumstances to the other form of uncleanness?]*
- [C] With reference to the uncleanness of plagues it is written, “When you come into the land of Canaan that I give you for a possession and I put a leprous disease in a house in the land of your possession, then he who owns the house shall come and tell the priest, ‘There seems to me to be some sort of disease in my house’ (Lev. 14:34-35)” — excluding Jerusalem, which belongs to all of the tribes. But here “You plant” — under all circumstances.

- [D] The theory held by R. Judah vis † vis the rabbis is inconsistent. There he has said, “I heard only that the law of plagues applies only to the Temple [but not to Jerusalem] and here he has said this? [Jerusalem is subject to the uncleanness of plagues, yet the ‘orlah-taboo does not apply to trees planted for public use!]”
- [E] The language he used there is, “I have heard the exemption applies only to the Temple,” thus reporting a tradition that he has heard, but here he gives his own opinion.
- [F] *Said R. Yosé b. R. Bun, “Explain the conflict to accord with the version of R. Simeon b. Eleazar, for it has been taught on Tannaite authority: **He who plants [a fruit tree] for public [use]— it is liable [to the laws of ‘Orlah. R. Judah declares exempt. R. Simeon b. Eleazar in his name [Judah], “He who plants [a fruit trees for public] [use] — it is liable to [the laws of] ‘orlah [= M. 1:2G-H]. If it grew up by itself for public use, it is exempt from the laws of ‘orlah. [T. Orlah 1:2].***
- [IV:1 A] He who plants a tree for public use — it is liable for ‘orlah. He who plants [a fruit tree] in the public domain, [the tree] is exempt from [the laws of] ‘Orlah.
- [B] He who plants a tree for public use — it is liable for ‘orlah — when he planted the tree in his own domain. He who planted a tree in the public domain, it is exempt.
- [V:1 A] **and the robber who planted [a fruit tree], [the tree] is liable to [the laws of] ‘Orlah** — that is someone who has stolen the property.
- [B] And is real estate subject to theft? [It always remains in its owner’s domain.]
- [C] R. Said R. Hila, “Even though real estate is not subject to theft, there is the possibility that the owner will despair of regaining the land [and then it is stolen property].”
- [V:2 A] R. Josiah would import plantings from foreign soil, with the clump of dirt along with them, and would plant them in the land. [He held that that exempted them from the laws of ‘orlah.]
- [B] R. Jonah: “It was for his own profit, saving the years of ‘orlah-taboo.”
- [C] R. Yosé: “It was for his own profit, saving the produce in the fourth year after planting from being subject to the requirement, but it was subject to ‘orlah-law.”
- [V:3 A] *It has been taught on Tannaite authority:*

- [B] **A gentile who grafted a fruit tree onto a barren tree — even though an Israelite is not permitted to effect such a graft — the tree is subject to the ‘orlah-law (T. Hal. 1:5).**
- [C] As to the ‘orlah-years, from what point does he count the number of years the graft has grown?
- [D] From the time of the graft.
- [E] R. Simeon b. Laqish said, “And that is limited to types of trees that are valued as fruit trees, such as carobs of Salmonah and carobs of Gidodah.
- [F] “But if it was a graft onto a willow-tree [which is barren], it is as if it was planted in the ground [and is not regarded as a graft].”
- [G] *But have we not learned in the Mishnah: They do not (1) plant [a tree,] (2) sink [a vine into the ground so that it emerges nearby as an independent plant,] or (3) graft [one branch to another] during the year preceding the Sabbatical within thirty days of the New Year.* (Bert., on the basis of b. R.H. 10b, claims that the thirty days referred to at A (as well as the time periods mentioned at D and E) do not include a separate period of thirty days prior to New Year when all agricultural activity must cease. The language of the rule before us, however, does not support this reading.) **[Since these plants would take root after the beginning of the Sabbatical year, this would constitute forbidden cultivation of the Land]. And if, [in violation of the rule at A,] one (1) planted [a tree,] (2) sank [a vine into the ground,] or (3) grafted [one branch to another, within thirty days of the beginning of the Sabbatical year,] one must uproot [that which was planted, sunk or grafted, so as to rectify the transgression which he has committed] [M. Sheb. 2:6].**
- [H] *From the perspective of R., Simeon b. Laqish, who refers the rule to grafting onto a willow, there is no difficulty.* [The reference to uprooting speaks of a willow, which is not deemed grafting anyhow.] *But from the perspective of R. Yohanan, who treats grafting as an issue even in the case of a willow, why must one uproot the branch grafted too close to the advent of the Sabbatical Year? [What sort of uprooting applies to the willow, if we regard it as a graft?]*
- [I] The matter of the Sabbatical Year is exceptional, for the graft and tree are joined and grow together in the Sabbatical Year so one must uproot the entire tree].
- [J] *And how will he treat the following: All the same are the ones who plant a tree, plant a shoot, and graft a branch onto a tree thirty days before the New Year: It [the planting] gets credit for a whole*

year, and it is permitted to allow them to continue to grow in the seventh year. [If it is] less than this, it does not get credit for a whole year, and it is not permitted to let them continue to grow in the seventh year. [In any year in which a tree is planted within thirty days of the new year], the produce of such a sapling are forbidden until the fifteenth of Shebat [of the year in which the tree's produce becomes permitted for common use] [If the tree is] “*orlah* [that is, within the first three years of its growth], [it is still continued to be considered as] “*orlah* [until the fifteenth of Shebat] [T. R.H. 1:8]? [How will Yohanan explain the reference to the prohibition of grafting, since the obligation to uproot takes effect forthwith, so he cannot maintain that the graft and tree will eventually grow together.]

[K] *R. Joshua Onia taught as a Tannaite rule, “There is no reference here to grafting.”*

[L] *Said R. Abba Meri, “Even according to the position of R. Simeon b. Laqish there is no reference here to grafting. He states his ruling in the case of what has already been done. But as to doing such an act to begin with, he does not permit it.”*

[V:4 A] R. Isaac bar Haqqolah in the name of Hezekiah, “He who plants a tree in a pot that has no hole on the bottom — it is nonetheless liable to the laws of ‘*orlah*.”

[B] R. Yosé said, “That is because the roots pierce the pot.”

[C] *R. Jonah produced the formulation, “A clay pot resists the penetration of the roots.”*

[D] *R. Jeremiah raised the question: “If one planted in an unperforated clay pot a gourd, since it is treated as perforated in the case of trees, is it treated as perforated so far as seedlings are concerned?”*

[E] R. Yohanan in the name of R. Yannai: “A tree planted inside the house is subject to ‘*orlah*-law but exempt from the obligation of tithing. For it is written, ‘You shall tithe all the yield of your seed that comes forth from the field year by year’ (Dt. 14:22).”

[F] As to the matter of the Sabbatical Year it is a question, for it is written, “Say to the people of Israel, when you come into the land that I give you, the land shall keep a Sabbath to the Lord” (Lev. 25:2). “You shall not sow your field or prune your vineyard” (Lev. 25:4). [But the tree is in the house and is not covered.]

1:3

- [A] A tree that was uprooted together with the clump of earth, [surrounding its roots],
- [B] [or a tree that] a river swept away together with the clump of earth [surrounding its roots]—
- [C] if it is able to live [from the clump alone], it is exempt [from the laws of ‘*Orlah*],
- [D] and if not [i.e., if it could not live], it is liable.
- [E] [If] its clump of earth was separated from it,
- [F] or [if] the plow shook it [and exposed its roots],
- [G] or [if a man] shook it and repaired it with soil—
- [H] if it is able to live [from the soil remaining around its roots], it is exempt,
- [I] and if not, it is liable.
- [J] A tree that was uprooted, [but] a root remained [in the ground],
- [K] it is exempt [from the laws of ‘*Orlah*].
- [L] How thick need the root be?
- [M] R. [Simeon b.] Gamaliel says in the name of R. Eleazar b. Judah of Bartota, “As [thick as] a stretching pin.”
- [N] A tree was uprooted, and a sunken shoot [remained] there, and it [the tree] draws sustenance from it [the shoot],
- [O] the old [tree] follows the status of the sunken shoot [and becomes liable to the laws of ‘*Orlah*].
- [P] If he sunk a shoot year after year,
- [Q] and it [i.e., the shoot] broke off [from the tree],
- [R] he counts it [i.e., the years of prohibition] from the time it broke off.
- [S] Grafting of vines and regrafting of the grafted part,
- [T] even if he sunk them as shoots in the ground,
- [U] are permitted [i.e., not subject to the prohibition].
- [V] R. Meir says, “If he grafted in a place where its [the vine’s] growth is healthy,
- [M] “it is permitted,
- [X] “and in a place where its growth is poor
- [Y] “it is prohibited [i.e., subject to the prohibition].”

- [Z] **And so a sunken shoot which is broken off and which is filled with fruit—**
- [AA] **if it [i.e., the fruit] increased by one two-hundredth part,**
- [BB] **all of the fruit is prohibited.**
- [I:1 A] *This is the statement of the Mishnah: A tree that was uprooted together with the clump of earth, [surrounding its roots], [or a tree that] a river swept away together with the clump of earth [surrounding its roots]— if it is able to live [from the clump alone], it is exempt [from the laws of ‘Orlah], and if not [i.e., if it could not live], it is liable.*
- [I:2 A] **A tree that was uprooted, [but] a root remained [in the ground], it is exempt [from the laws of ‘Orlah]. How thick need the root be? R. [Simeon b.] Gamaliel says in the name of R. Eleazar b. Judah of Bartota, “As [thick as] a stretching pin.” How thick need the root be? R. [Simeon b.] Gamaliel says in the name of R. Eleazar b. Judah of Bartota, “As [thick as] a stretching pin.”** Hezekiah asked, “If it is less than the stated measurement, is it regarded as if it were uprooted? If one bowed down to such a tree, has he forbidden its use by an Israelite? Do they write a writ of divorce on it?”
- [B] They say Hezekiah retracted.
- [C] Said R. Jonah, “It was on the basis of the following that Hezekiah retracted:
- [D] “For R. Yohanan said in the name of R. Yannai, ‘If the root is as thick as a stretching pin, it is certain that the tree is three years old [and so is not liable to the ‘orlah-law in any event].’”
- [E] Hezekiah asked, “If it is a third of the indicated thickness, does that represent a year of growth, and if it is two-thirds that thickness, does that represent two years of growth?”
- [F] *The associates asked,* “If it is a stretching pin and a third more, is it then perfectly clear that the tree is four years old?”
- [G] If you maintain that Hezekiah did not retract, then why did he ask in this way?
- [H] Said R. Jonah, “On the basis of the following it is sure that Hezekiah did retract, for R. Yohanan said in the name of R. Yannai ‘If there is in the root the thickness of a stretching pin, it is quite clear that the tree is three years old.’ For said R. Yosé, ‘Even if the tree is three years old, the root may nonetheless not be so thick as a stretching pin.’” [Hezekiah retracted his original question, which is not relevant.]

- [I] Said R. Yudan, “This sustains the view of R. Yosé: **What is the definition of a new planting? R. Joshua says, It is one five, six, or seven years old.**” Said Rabbi, “**On what account did they say It is five, six, or seven years old? But I say, when vines reach five years, figs six years and olives seven years, they no longer are new plantings**” (T. Sheb. 1:3). *Now we see that a fig tree produces fruit prior to the age of six years. Why then call it a new planting?*”
- [J] Said R. Yudan b. R. Tryfon, “It is with regard to the thickness of the roots.” [Even at the age of three years, this sort of tree will not have produced a root as thick as a stretching pin, just as Yose says.]
- [II:1 A] **A tree that was uprooted, [but] a root remained [in the ground], it is exempt [from the laws of ‘Orlah]:**
- [B] The word for a sunken root is comprised by the consonants that yield the word for a blessing.
- [C] R. Huna in the name of R. Yohanan: “The intent is to speak of a sunken root, literally.”
- [D] Said R. Mana, “There are people who hold the meaning is ‘blessing,’ in line with the statement, “Come in O blessed of the Lord” (Gen. 24:31).
- [II:2 A] R. Zeirah, R. Yosé, R. Eleazar in the name of R. Hanina, R. Ba, R. Hiyya, R. Eleazar, R. Haninah in the name of R. Haninah b. Gamaliel: “A young tree that draws sustenance from an old tree — the young tree is clean of the uncleanness of ‘orlah.”
- [B] Said R. Hiyya bar Ba, “**Our Mishnah says no less: Grafting of vines and regrafting of the grafted part, even if he sunk them as shoots in the ground, are permitted [i.e., not subject to the prohibition].**”
- [C] But should we not take account of the possibility that the young shoot took root before it was fully joined to the old tree [and so became subject to the ‘orlah-law before it was joined to the tree and exempted by it]?
- [D] R. Hananiah son of R. Hillel: “This represents the position of R. Judah, for R. Judah has said, ‘The young shoot is deemed fully joined to the old tree before it takes root.’”
- [E] R. Yosé in the name of R. Yohanan: “Roots have no substance.”
- [F] Said R. Zeira, “Did you hear R. Yohanan make that statement in so many words, or does this follow from his general theory.

- [G] “For said R. Yohanan, ‘And so it has been taught on Tannaite authority: **If one sanctified a tree and afterward planted it, it is exempt from the laws of ‘orlah. If he planted it and afterward sanctified and redeemed it, it is subject to the laws of ‘orlah [T. Or. 1:4].**’” [The roots are of substance, since what governs is when the tree took root.]
- [H] [Yosé answers Zeira: “Do you suppose that if the tree is exempt if it is sanctified, it is exempt also if it is grated onto an old tree? But the two cases are not comparable. A tree that has been consecrated is subject to be redeemed and thereby made subject to the law of ‘orlah. Since it is suitable to be taken into consideration and subjected to the law of ‘orlah, the law is what it is. But can you in the case of an old tree maintain that it may be taken into consideration and rendered subject to the ‘orlah-law?” [No, the old tree cannot be subjected to the ‘orlah law since it applies only to the first three years of growth.]
- [II:3 A] R. Abbahu in the name of R. Yohanan: “An etrog that formed its fruit during the period when the ‘orlah-law applied and that reached maturity during the permitted period thereafter and that drew nourishment from its fellow that was not subject to the prohibition, even if the etrog grew a fair amount from the fellow not subject to ‘orlah law, it is still forbidden. For what has grown when subject to a prohibition [even if there was further growth after the prohibition no longer applied] cannot remove the original prohibition.” [The etrog was subject to the prohibition, even though much growth was not tainted by th prohibition, the ‘orlah law remains in effect.]
- [B] Lo, a new tree that was nourished [by an old tree] is clean [from the uncleanness of ‘orlah.] For if you say it is not clean, even if the etrog grew a fair amount from the fellow not subject to ‘orlah law, it would be unclean.
- [C] R. Zeira in the name of rabbis: “An etrog that formed its fruit during the period when the ‘orlah-law applied and that reached maturity during the permitted period thereafter and that drew nourishment from its fellow that was not subject to the prohibition, even if the etrog grew a fair amount from the fellow not subject to ‘orlah law, it is still forbidden. And for eating so much as an olive’s bulk of the etrog, one is flogged.”
- [D] *Said R. Miasha to R. Zeira, “You have made two statements and they conflict. One:* For what has grown when subject to a prohibition [even if there was further growth after the prohibition no longer applied] cannot remove the original prohibition. *The other:* And for eating so

much as an olive's bulk of the etrog, one is flogged." But the farmer should be flogged only in accord with the proportion of the etrog that is prohibited." [Part is prohibited. But the part that was nourished by a tree not subject to the prohibition is not prohibited.]

[E] Said R. Jonah, "[D has made the assumption that in the same etrog is a mixture of prohibited and permitted parts. But that is false. The whole etrog is permitted.] Here the etrog is sustained on its own account [it grew up subject to the 'orlah-rule]. [When we say, what has grown when subject to a prohibition even if there was further growth after the prohibition no longer applied cannot remove the original prohibition] we do not also hold that what is not subject to prohibition remains permitted. That is not so] even though the etrog draws sustenance from the permitted source.

[F] "[Otherwise] an etrog that formed its fruit during the period when the 'orlah-law applied and that reached maturity during the permitted period thereafter and that one attached for sustenance to its fellow, and its fellow to its fellow, each thereby imposes the status of cleanness to all the others. [Even the first etrog will be classified as clean, and that is inconceivable.]"

[III:1 A] **[Grafting of vines and regrafting of the grafted part, even if he sunk them as shoots in the ground, are permitted [i.e., not subject to the prohibition]. R. Meir says, "If he grafted in a place where its [the vine's] growth is healthy, it is permitted, and in a place where its growth is poor it is prohibited [i.e., subject to the prohibition]:"** *R. Abbahu in the name of R. Yohanan and R. Hisda — both of them say, "The dispute concerns a case in which the conditions are not articulated [and we do not know whether the young vine is sustained by the older one or not]. For how are we to interpret the case? If it is a matter of perfect clarity that the young vine lives on the sustenance of the old one, all parties concur that it is permitted. If it is a matter of perfect clarity that the young vine lives on the sustenance supplied by itself, all parties concur that it is forbidden. So the dispute concerns a case in which the conditions are not articulated [and we do not know whether the young vine is sustained by the older one or not]."*

[B] How does someone know the source of the sustenance?

[C] R. Bibi in the name of R. Haninah: "If the leaves of the young plant are turned toward the young plant and away from the older, it is clear that the new plant is living from the sustenance supplied by the established one, and if the leaves are turned toward the old plant, it is clear that the young plant is sustaining itself."

[D] *Said R. Yudan bar Hanin, “Your mnemonic is, ‘he who eats the food of his fellow can’t look him in the eye.’”*

[III:2 A] *Said R. Yudan father of R. Mattenayya, “Interpret the dispute to speak of a case in which the leaves have fallen [so we do not know the source of sustenance].”*

[IV:1 A] **And so a sunken shoot which is broken off and which is filled with fruit— if it [i.e., the fruit] increased by one two-hundredth part, all of the fruit is prohibited** [classified as deriving from the new planting]:

[B] *Said R. Yudan, “It is not the end of the matter that the rule applies to a shoot, but even in the case of a tree [we treat it as a new planting].”*

[C] *For said R. Yosé in the name of R. Yohanan, “An onion that one pulled up and replanted elsewhere [because it was found to violate the rule about mixed seeds in a vineyard] — once it is rooted, one tithes the onion in terms of the whole of it [not merely the portion that has grown up not in violation of the laws of mixed seeds].” [If even small part of the onion is permitted, the whole of it is subject to tithe; if only part of the mature tree is classified as a new planting, the whole of the tree is classified as new planting and subject to the ‘orlah-rule.]*

[D] *R. Hiyya in the name of R. Yohanan: ““An onion that one pulled up and [and tithed] and replanted elsewhere [because it was found to violate the rule about mixed seeds in a vineyard] — once it is rooted, one tithes the onion in terms of the whole of it.” [That is so that you will not conclude that the same rule applies here. If there is any growth at all, a whole new process of tithing is required.]*

[IV:2 A] *Hilpi asked R. Yohanan and R. Simeon, “Spices in the status of ‘orlah in the first three years after planting — what is the law as to the spices’ imparting the status of ‘orlah to a mixture in proportion of more than one to two hundred [one part of prohibited spice mixed with two hundred and one parts of permitted food]?”*

[B] *They said to him, “Spices do not affect that with which they are mixed in a mixture larger than two hundred times their volume.”*

[C] *But lo, we have learned in the Mishnah: **Whatever leavens or flavors with spices or mingles [whether it is] with heave-offering or ‘Orlah-fruit or produce forbidden as diverse kinds of the vineyard — the mixture is forbidden [M. Orl. 2:4].** [That is so whatever the proportion of the prohibited to the permitted portion of the mixture.]*

- [D] Now if you say that the rule applies even in a proportion of one to one hundred or one to two hundred [as the case may be], then even if the prohibited portion of the mixture has not brought about leavening or has not spiced the mixture, the prohibition should apply. [The upshot is, there is no nullification even in a mixture in which the prohibited part is much larger than the permitted part.]
- [E] But we deal with grapes. [When we rule that spices have no seasoning effect in a mixture larger than two hundred times their quantity, it is a case in which the mixture involves grapes used for flavoring the mixture, and they do not flavor the mixture and are nullified.]
- [F] R. Yosé in the name of R. Yohanan: “These are grapes that have not dried, but in the case of dry grapes, they spice a mixture in a volume greater than one part in two hundred.”
- [G] R. Hiyya in the name of R. Yohanan: “This is so when they have not cooked the mixture, but if they cooked the mixture, they spice a mixture in a volume greater than one part in two hundred.”
- [IV:3 A] R. Yosé in the name of R. Joshua b. Levi in the name of R. Pedaiah: “Those things that impart a flavor are nullified in a mixture of one to sixty.”
- [B] *Said R. Samuel bar R. Isaac to R. Hiyya bar Abba, “Lo, R. Yosé differs from you and the Mishnah differs from both of you: **Whatever leavens or flavors with spices or mingles [whether it is] with heave-offering or ‘Orlah-fruit or produce forbidden as diverse kinds of the vineyard — the mixture is forbidden [M. Orl. 2:4].** If you say that the governing criterion is that the rule applies even in a proportion of one to one hundred or one to two hundred [as the case may be], then even if the forbidden proportion of the whole has not leavened or flavored or mingled, the rule should apply. So we deal with a larger quantity and [the rule is the same, there is no principle of nullification.]”*
- [C] Said R. Jeremiah, “Interpret the rule to speak of the case of a mixture of two classes of meat. [The prohibited meat flavors the mixture. The stated measures apply.]
- [D] Said R. Yosé, “The same rule governs the mixture of two classifications of meat and the mixture of any sort of prohibited matter with permitted matter. For said R. Abbahu in the name of R. Yohanan, ‘In the case of whatever is forbidden by the Torah, one assesses them as if they were onions or leeks [in reckoning whether or not they impart a flavor].”

- [E] *What is the outcome?*
- [F] This party rules that as to prohibited substances that impart a flavor, they are nullified in a mixture of one part of the prohibited substance to a hundred parts of permitted substance, and the other party says that as to prohibited substances that impart a flavor, they are nullified in a mixture of one part of the prohibited substance to sixty parts of the permitted substance.
- [G] The party that maintains that as to prohibited substances that impart a flavor, they are nullified in a mixture of one part of the prohibited substance to sixty parts of the permitted substance reckons the shoulder as one sixtieth part of the ram. The one who holds that they are nullified in a mixture of one part of the prohibited substance to a hundred parts of permitted substance reckons the shoulder as one hundredth of the ram. The one who holds that they are nullified in a mixture of one part of the prohibited substance to a hundred parts of permitted substance says that you remove the bones from the shoulder, and the one who holds that they are nullified in a mixture of one part of the prohibited substance to sixty parts of the permitted substance says that you do not remove the bones from the shoulder.
- [H] And just as you remove the bones from the flesh of the shoulder, so you remove the bones from the flesh of the ram. [The proportions will be the same, one in sixty.]
- [I] *You cannot say so, for it has been taught on Tannaite authority:* Refuse grain in the status of heave offering does not join together with other produce in the status of heave offering [that has been mixed together] to impose a prohibition upon unconsecrated food into which it has fallen [by bringing the produce in the status of heave offering to a proportion so high that I imparts its status to the whole mixture. But refuse grain in the status of unconsecrated food does join together with other produce in the status of unconsecrated food that has fallen into a common mixture to nullify the small quantity of produce in the status of heave offering that has fallen into the whole batch. [Here too the bones of the ram join together with the meat to nullify the flavor imparted to the whole by the shoulder, which the owner cannot utilize], but the bones in the shoulder do not join together with the meat in the shoulder to impart to the rest of the ram the prohibited status to which the shoulder is subject.]
- [J] R. Bibi asked, “Refuse grain in the status of heave-offering — what is the law as to its joining together with food in unconsecrated status to nullify heave offering with which it is mixed?”

[K] On the basis of R. Huna said, “Shells subject to a prohibition join together to create a volume sufficient to render the whole mixture permitted,” it follows that refuse grain in the status of heave-offering joins together with produce in unconsecrated status to nullify the small amount of produce in the status of heave-offering with which it is mixed.

[L] *R. Hiyya taught as a Tannaite statement:* “What I have forbidden to you elsewhere I have permitted to you here. For everywhere else a mixture of one forbidden part in a hundred is forbidden, but here a mixture of one part in a hundred and a bit more is permitted, here even one part in a hundred is permitted.”

[IV:4 A] And so a sunken shoot which is broken off and which is filled with fruit— if it [i.e., the fruit] increased by one two-hundredth part, all of the fruit is prohibited:

[B] *A member of the household of R. Yannai:* “*They assess by the growth of asparagus.*”

[C] How do we know?

[D] R. Bibi in the name of R. Hanina: “You pick a leaf and leave one on the plant. But the measure by which he former is less than the latter, we know how much the latter has added in its growth.”

1:4

[A] **A sapling [liable to the laws] of ‘Orlah or [a sapling prohibited under the laws] of Diverse Kinds of the vineyard, that were mixed together with [non-liable] saplings—**

[B] **behold, this one may not pick [fruit from any of the trees].**

[C] **If he picked,**

[D] **it is neutralized in two hundred and one [i.e., two hundred parts of non-prohibited fruit will neutralize one part of prohibited fruit],**

[E] **provided that he did not intend to pick [and later neutralize].**

[F] **R. Yosé says, “Even [if] he intends to pick [and later neutralize the prohibition],**

[G] **“it is neutralized in two hundred and one.”**

[I:1 A] A sapling [liable to the laws] of ‘Orlah or [a sapling prohibited under the laws] of Diverse Kinds of the vineyard, that were mixed together with [non-liable] saplings —

- [B] But is it not the fact that saplings are not prohibited on the count of forming mixed seeds in a vineyard?
- [C] *This is the sense of our Mishnah-rule: A row of seeds prohibited as mixed seeds in a vineyard [and saplings do not occur in the formulation at all].*
- [D] Said R. Yosé b. Rabbi, “*The reading of the Mishnah-rule: A row of seeds prohibited as mixed seeds in a vineyard.*”
- [E] Said R. Yosé b. R. Abun, “It is a case in which the farmer brought a perforated pot and set it under a vine.” [He does not remember which vine was involved. The sapling in the pot is prohibited and was mixed with other saplings; we do not know which of them is subject to the prohibition. This sustains the present wording of the Mishnah-rule.”]
- [I:2 A] R. Simeon b. Laqish in the name of Hezekiah: “[To neutralize the prohibited vines in permitted ones] one picks three grapeclusters [and subjects them to the prohibition] and permits the rest.”
- [B] *The theories of R. Simeon b. Laqish are confused. There he says in the name of R. Hoshaiah, “If there were before him a hundred and fifty jugs, and a hundred of them were open, the hundred are permitted and the fifty are prohibited.” [But A would hold that] as to the rest, when they are open, they should be permitted.]*
- [C] Said R. Zeira, “They have made this statement only to cover the situation when they are opened up. But as to opening them to begin with, that is forbidden. Yet here you have said this [to begin with one may choose three grapeclusters and use them to free the rest from the prohibition that potentially affected them]!”
- [D] There he spoke in the name of R. Hoshaiah and here in the name of Hezekiah.
- [E] *And there they said in the name of R. Simeon b. Laqish, “[To neutralize the prohibited vines in permitted ones] one picks three grapeclusters [and subjects them to the prohibition] and permits the rest.” This is in accord with the Hezekiah who is represented here.*
- [F] *And lo we have learned in the Mishnah: **behold, this one may not pick [fruit from any of the trees].***
- [G] It speaks of what has already been done.
- [H] *And lo we have learned in the Mishnah: **If he picked, it is neutralized in two hundred and one [i.e., two hundred parts of non-prohibited fruit will neutralize one part of prohibited fruit].***

- [I] Said R. Yosé b. R. Abun, “Here we deal with a case in which he picked three grapeclusters and there it is a case in which he picked all of them.”
- [I:3 A] *It has been taught on Tannaite authority:* Pomegranates of Badan that are subject to doubt as to their status are subject to neutralization, but those the status of which is not in doubt as not subject to neutralization.
- [B] The same rule applies to what is in the ground: what is in the ground and subject to doubt is subject to neutralization, but what is in the ground and is not subject to doubt is not subject to neutralization.
- [C] What would be a concrete case?
- [D] **A sapling [liable to the laws] of ‘Orlah or [a sapling prohibited under the laws] of Diverse Kinds of the vineyard, that were mixed together with [non-liable] saplings** — what is in the ground and subject to doubt is subject to neutralization, but what is in the ground and is not subject to doubt is not subject to neutralization.
- [E] *R. Yudan asked,* “Does the same law apply to carrion?”
- [F] *R. Yudan retracted and stated,* “Carrion is not subject to neutralization. What is in the ground is subject to neutralization.”
- [II:1 A] **R. Yosé says, “Even [if] he intends to pick [and later neutralize the prohibition], it is neutralized in two hundred and one.”**
- [B] *What is the operative consideration in the theory of R. Yosé?*
- [C] It is the way of people to thin out their growths of vines.
- [II:2 A] *There we have learned in the Mishnah:* **A se’ah of [wheat in the status of] heave-offering which fell into a hundred [se’ahs of unconsecrated wheat, and thereby was neutralized], and one ground it [i.e., all of the wheat in the mixture], and it diminished [in quantity]— just as the unconsecrated [wheat in the mixture] diminished [in quantity], so the heave-offering diminished [in quantity]. [The mixture therefore remains] permitted [for consumption by non-priests].**
- [B] *It was taught on Tannaite authority:* Even if one intends to pick and later neutralize the prohibited component, it still is neutralized in a proportion of two hundred and one to one.

- [C] Said R. Zeira, “This represents the view of all parties, for it is the practice of the priests to grind at home a mixture of ordinary wheat and wheat that includes heave-offering.
- [D] The practical difference is the case of grain subject to prohibition on the grounds of mixed seeds in a vineyard. In the view of R. Yosé one may deliberately grind it up with permitted grain and permit the whole batch. In the view of rabbis one may not deliberately do so.

1:5

- [A] **(1) The leaves and (2) the young sprouts and (3) the sap of vines, and (4) the budding berry [of vines] are permitted [for use] under [the laws of] ‘Orlah, and the Fourth-Year [prohibition], and the Nazirite-vow,**
- [B] **but they are forbidden [for use] under [the laws of] the *Asherah* [prohibition] [i.e., a tree used in idol wor-ship].**
- [C] **R. Yosé says: “The budding berry is forbidden, because it is a fruit.”**
- [D] **R. Eliezer says: “He who curdles milk with the sap of [a tree liable to] ‘Orlah—**
- [E] **“it is forbidden.”**
- [F] **Said R. Joshua: “I have heard explicitly that he who curdles milk with the sap of the leaves [of an ‘Orlah-tree] [or] with the sap of the roots [of an ‘Orlah-tree]—**
- [G] **“it is permitted,**
- [H] **“[but he who curdles milk] with the sap of unripe figs [of an ‘Orlah-tree]**
- [I] **“it is forbidden because they are fruit.”**
- [J] **(5) Defective grapes and (6) the grape-pips and (7) the grape-skins and (8) the wine’ [made] from them, (9) the rinds of a pomegranate and (10) its young bud (11) walnut shells and (12) fruit-pits are forbidden [for used under [the laws of] ‘Orlah, and the *Asherah* [prohibition] and the Nazirite-vow,**
- [K] **but they are permitted under [the laws of] the Fourth Year [prohibition].**

- [L] **And the fallen unripe fruit are forbidden in all cases [i.e., ‘Orlah, Fourth Year Prohibition, prohibition, Asherah and the Nazirite vow].**
- [M] **R. Yosé says: “They do not plant a slip of [an] ‘Orlah [tree], but they do plant a walnut of [an] ‘Orlah [tree], because it is fruit.**
- [N] **“And they do not graft with [a slip of] early date-berries of [an] ‘Orlah [tree].”**
- [I:1 A] **The leaves and (2) the young sprouts and (3) the sap of vines, and (4) the budding berry [of vines] are permitted [for use] under [the laws of] ‘Orlah, and the Fourth-Year [prohibition], and the Nazirite-vow:**
- [B] *The Mishnah-rule does not accord with the position of R. Eliezer, for it has been taught as a Tannaite rule in the name of R. Eliezer, ““All the days of his separation he shall eat nothing that is produced by the grapevine, not even the seeds or the skins’ (Num. 6:4) — also the leaves and the young sprouts are encompassed.”*
- [I:2 A] *It has been taught as a Tannaite rule: R. Yosé says, “The budding berry is forbidden [to a Nazirite] because it is fruit.”*
- [B] **There is this problem: if it is prohibited to a Nazirite, why do I refer to its being a fruit, and if it is a fruit, it should be forbidden on all counts [listed at 1:5A, the laws of ‘Orlah, and the Fourth-Year [prohibition], and the Nazirite-vow].**
- [C] **A statement of R. Isaac holds that it is forbidden on all counts:**
- [D] *R. Isaac asked, “Who is the Tannaite authority for the statement, ‘And they do not graft with [a slip of] early date-berries of [an] ‘Orlah [tree]?’”*
- [E] *A Tannaite statement: Fruit you redeem when it is in the status of fourth year fruit] but you do not have to redeem either half-ripe fruit or undeveloped berries in the fourth year.*
- [F] **R. Zebida taught regarding the undeveloped berries of a date tree that they are to be buried and not used.**
- [G] **R. Jonah asked, “If the farmer violated the law and redeemed the berries, is it possible that they are not redeemed? [Surely they are redeemed and you say] they are to be buried!”**
- [II:1 A] **R. Pedat, R. Yosé in the name of R. Yohanan: “R. Simeon and R. Joshua both said the same thing:**

- [B] *“There we have learned in the Mishnah: R. Simeon says, ‘The law of the Seventh Year does not apply to balsam, because it is not a fruit’ [M. Shebiit 7:6]. [Joshua introduces the same consideration when he says “[but he who curdles milk] with the sap of unripe figs [of an ‘Orlah-tree] it is forbidden because they are fruit.”]*
- [C] *Said R. Zeira to R. Pedat, “Just as you say there, the decided law follows the view of R. Simeon, so here does the law follow the position of R. Joshua?”*
- [D] *Said R. Jonah, “But are they comparable? A balsam is worthless except for its sap. As to things that cattle eat [leaves, unripe fruit] the sanctity of the seventh year applies to them. The sanctity of ‘orlah-fruit does not apply to them [leaves, unripe fruit].”*
- [E] *Said R. Abun, “You have another chance [to distinguish the two rulings.] R. Joshua said it as a tradition, R. Simeon spoke in his own name.”*
- [II:2 A] **[Said R. Joshua: “I have heard explicitly that he who curdles milk with the sap of the leaves of an ‘Orlah-tree or with the sap of the roots of an ‘Orlah-tree — it is permitted, but he who curdles milk with the sap of unripe figs of an ‘Orlah-tree]: what are [Joshua’s reservations]? If you say that the sap is part of the fruit, then the sap of unripe figs is also part of the fruit.**
- [B] *If you say the sap is part of the fruit, then it should be classified in the same manner in regard to heave offering, and if you say that unripe figs are fruit then they should be treated in the same way with respect to heave offering. [Both should be permitted.] Why? Because the enjoyment of what is subject to heave offering is permitted, while the enjoyment of what is forbidden under the law of ‘orlah is everywhere forbidden, [even to priests, who do have the right to use heave offering].*
- [III:1 A] **Defective grapes and the grape-pips:** *R. Zeira and one of the rabbis in the name of Rab, “They are grapes that were blighted before they reached a third of their growth.”*
- [B] *Said R. Yosé b. R. Abun, “Even if they were blighted after they had reached a third of their growth.”*
- [C] *Said R. Hiyya bar Ada, “The word for defective grapes yields the elements, ‘Grapes that were blighted at a third of full growth.”*
- [IV:1 A] **R. Yosé says: “They do not plant a slip of [an] ‘Orlah [tree], but they do plant a walnut of [an] ‘Orlah [tree], because it is fruit:”**

[B] Said R. Yohanan, “If one violated the law and went and planted it, it is permitted. If he violated the law and grafted it, it is prohibited.”

[V:1 A] [but they do plant a walnut of an ‘Orlah tree because it is fruit]:

[B] A nut from an ‘orlah-tree that one planted and an egg belonging to an idol that hatched and produced a chick — R. Haggai in the name of R. Josiah: “*Hezekiah and Kahana disputed this matter*. Kahana said it is permitted, and Hezekiah said it is forbidden.”

[C] *From the perspective of Hezekiah, how is it possible that an egg belonging to an idol should hatch and produce a chick? How shall we construct the case?* If it is a case in which one beat the face of the idol out of shape, nullifying I, then the chick cannot emerge, for the egg will have been destroyed with the idol. If one has brought the egg inside of the hangings as an offering to the idol, do we go and see whether one has bowed down to it. But because one has brought it within the hangings, Hezekiah has forbidden it.

[D] Said R. Yudan father of R. Mattenah, “Assign the dispute to concern a case in which one has rolled an egg toward the altar.]

[V:2 A] An egg that had been consecrated that hatched and produced a chick
—

[B] Said R. Yosé, “*Kahana and R. Yohanan disputed this matter*. Kahana said it is forbidden and R. Yohanan said it is permitted.”

[C] Said R. Zeira to R. Yosé, “Lo, R. Yohanan has said it is permitted. Also he holds one should redeem the egg [paying its value to the sanctuary] at the time at which one ‘sowed’ [dedicated] it.”

[D] R. Hanina, R. Jonah, R. Eleazar in the name of Kahana, “One redeemed it in accord with its value at the time that one sowed it [its value before it was hatched].”

[E] And R. Hanania in the name of R. Phineas corrects the record of the law: “Kahana says, ‘It is forbidden and one redeems it as is.’ And R. Yohanan says, ‘It is permitted and one redeems I at its value at the outset when it was sown.’”

YERUSHALMI 'ORLAH

CHAPTER TWO

2:1

- [A] 1) Heave-offering, and 2) heave-offering of tithes of *demai*, 3) dough-offering and 4) firstfruits are neutralized in one hundred and one [i.e., one hundred parts common produce neutralizes the effect of one part hallowed produce in a mixture],
- [B] and are combined together [to form the requisite volume to be subject to those rules],
- [C] and it is necessary to remove [a like quantity from the mixture].
- [D] 5) 'Orlah[-fruit] and [fruit prohibited by] 6) Diverse Kinds of the vineyard are neutralized in two hundred and one,
- [E] and are combined together,
- [F] and it is not necessary to remove [a like-quantity from the mixture].
- [G] R. Simeon says: "They ['Orlah-fruit and Diverse Kinds] are not combined together."
- [H] R. Eliezer says: "They are combined together [in the cases determined by the principle] 'that which gives flavor' but not [in other cases, so as to render] the mixture forbidden."
- [I:1 A] Heave-offering, and 2) heave-offering of tithes of *demai* \ddot{O} [and are combined together [to form the requisite volume to be subject to those rules]:
- [B] *From whose perspective was it necessary to include the rule that are combined together [to form the requisite volume to be subject to those rules?*
- [C] It was necessary to make that point to accommodate the position of R. Simeon. Even though R. Simeon said, "Two classes of sanctified produce do not join together," here he concedes that since all of them

fall into the category of heave-offering, all of them join together [for the specified purposes].

- [I:2 A] *Who repeated in the Tannaite formulation) heave-offering of tithes of demai?*
- [B] It is R. Meir, for R. Meir imposes a strict ruling in connection with the teachings of the Scribes as he does in connection with the rulings of the Torah.
- [C] *And where do we find a case in which R. Meir imposes a strict ruling in connection with the teachings of the Scribes as he does in connection with the rulings of the Torah.*
- [D] Said R. Hanina, “It is that which we have learned in the Mishnah: She who sees a bloodstain [on her garment] — lo, she is in disarray. “And she takes account of the possibility that she is unclean because of zibah-flux,” the words of R. Meir. And sages say, “Bloodstains are not subject [to the law of uncleanness] because of zibah-flux” [M. Nid. 6:13].
- [I:3 A] *R. Jonah raised the question, “And why have we not learned in the Mishnah the case of hallah-offering removed from doubtfully-tithed produce as we have learned the rule governing heave offering removed from heave offering of tithes removed in the case of doubtfully tithed produce? Should we not repeat the rule to cover hallah-offering removed from doubtfully-tithed produce?”*
- [B] *But have we not learned in the Mishnah, **Heave-offering of tithes of demai** [and dough-offering falls in any event under the rules applicable to heave-offering, so here too the law is the same]?*
- [I:4 A] R. Hanania in the name of Samuel: “It is necessary to remove dough-offering from dough made of doubtfully-tithed produce.”
- [B] Said to him R. Hiyya bar Loliba, “The farmer collects the value of the dough he separates from the tribe of the priests [to whom he hands over that dough-offering, since it is not established that the dough-offering to begin with had to be designated. The priest cannot take it without compensating the farmer or without proving that the dough-offering and not in fact been previously separated from the dough, and this he cannot do.]”
- [C] He said to him, “But that is what Samuel said: ‘The farmer collects the value of the dough he separates from the tribe of the priests [to whom he hands over that dough-offering.’”

- [D] R. Mana in the name of R. Yosé: “The farmer does not collect the value of the dough he separates from the tribe of the priests [to whom he hands over that dough-offering.] Tomorrow he will present him with dough-offering from dough that had certainly not yielded its dough offering and he will say to him, ‘It is from dough that may or may not have yielded its dough-offering,’ so as to collect money from the priest.”
- [E] R. Yohanan asked Gamaliel Zugga, “Is it your habit to separate dough-offering from dough from the dough offering may or may not have been separated?”
- [F] He said to him, “Did not Samuel, the brother of R. Berekhiah say, ‘At the time that they made the decree concerning the disposition of doubtfully-tithed produce, most of the people were separating it at home [deliberately imposing on their produce the obligation for tithing by bringing it home and designating what was owed. The people were keeping the law, so a lenient ruling was made for doubtfully tithed produce. The same rule governs dough offering in the status of heave-offering.]”
- [G] Said R. Yosé b. R. Abun, “It is a condition imposed by the court that the farmer must specify that dough offering at the northern side of the dough be designated as dough offering.”

- [II:1 A] are neutralized in one hundred and one [i.e., one hundred parts common produce neutralizes the effect of one part hallowed produce in a mixture], and are combined together [to form the requisite volume to be subject to those rules], and it is necessary to remove [a like quantity from the mixture]:**
- [B] *How do you dispose of this matter*, as a removal of a like quantity from the mixture at the outset of the designation of the heave offering or as a removal at the end of the process?
- [C] *If you treat it* as a removal of a like quantity from the mixture at the outset of the designation of the heave offering [as a fully valid procedure] a minor may not effect the neutralization by raising up what is owing to the priest, someone other than the owner may not do so, and doing so will not override the prohibitions of the Sabbath.
- [D] *If you treat it* as a removal at the end of the process,] a minor may effect the neutralization by raising up what is owing to the priest, someone other than the owner may do so, and doing so will override the prohibitions of the Sabbath.

[E] *There we have learned in the Mishnah: R. Judah says, “Also [on the Sabbath]: They take out the one part of heave-offering that has fallen into a hundred parts of unconsecrated food” [M. Shab. 21:1D]. And it has been taught as a Tannaite gloss on this statement: R. Simeon b. Eleazar says, “If he wanted [to eat the food on the Sabbath], he gazes on part of it [and mentally designates it as heave offering, without touching it] and eats the rest.”*

[F] Said R. Jonah, “*R. Judah treats it as a removal at the end of the process, and R. Simeon b. Eleazar treats it as a removal of a like quantity from the mixture at the outset of the designation of the heave offering [as a fully valid procedure].*”

[G] Said R. Yosé, “*Even R. and R. Simeon b. Eleazar treats it as a removal of a like quantity from the mixture at the end of the designation of the heave offering. For does not R. Simeon b. Eleazar agree that it is forbidden to do so with certainly untithed produce?*”

[H] *What is the outcome?*

[I] [The critical point is] that one should not conduct the transaction on the Sabbath in the manner in which he does it on an ordinary day.

[II:2] [A] *There we have learned in the Mishnah: R. Eliezer says, “Heave-offering is neutralized [i.e., takes on the status of unconsecrated produce] [when one part of heave-offering is mixed] in [a total of] a hundred and one [parts of produce].” R. Joshua says, “[It is neutralized when there is one part of heave-offering] in a hundred [parts of produce] plus [a bit] more. And this *more* has no [fixed] measure.” R. Yosé b. Meshullam says, “[This *more* is] an additional *qab* per hundred *se’ahs*, [which equals] one-sixth of [the quantity of] heave-offering in the mixture [M. Ter. 4:7].*

[B] There said Hezekiah, R. Abbahu in the name of R. Eleazar, “In any passage in which Rabbi presented a dispute and then went and repeated the matter without attribution, the law accords with the version presented without attribution.”

[C] *That is in line with what we have learned in the Mishnah: The heave-offering neutralizes the ‘Orlah[-fruit], and the ‘Orlah[-fruit] neutralizes the heave-offering [in a mixture]. How [i.e., under what circumstances]? If a *seah* of heave-offering fell into [a batch of common produce, yielding a total of] one hundred [*seahs*] [M. 2:2A-C]. And said R. Eleazar, “The proper reading here is not ‘into a hundred’ but rather ‘into ninety nine.’” [There must be a joining together to produce the requisite volume, as at M. 2:1B, and the law*

follows Joshua's opinion,] *in line with what we have learned in the Mishnah in the dispute of R. Joshua and R. Eliezer.*

- [II:3 A] How on the basis of Scripture do we know that the process or neutralization applies?
- [B] Said R. Jonah, "It is written, 'Out of all the gifts to you, you shall present every offering due to the Lord [from the best of them, giving the hallowed part of them' (Num. 18:29). This refers to something that you raise up from the mass, so that, if it should fall back into the mass, it would impose the status of consecration on the whole mixture. And what proportion is that? It is one part in one hundred."
- [C] R. Eliezer says, "One adds a seah [of unconsecrated produce to the mixture] and thereby neutralizes the heave-offering that has fallen in by adding to the mixture to create the required volume for neutralization]."
- [D] R. Joshua says, "One adds any small amount whatever and thereby neutralizes the heave-offering that has fallen in by adding to the mixture to create the required volume for neutralization]."
- [II:4 A] **R. Yosé b. Meshullam says, "[This *more* is] an additional *qab* per hundred *se'ahs*, [which equals] one-sixth of [the quantity of] heave-offering in the mixture [M. Ter. 4:7].**
- [B] *It has been taught as a Tannaite rule:* R. Simeon says, "On the basis of an argument a fortiori heave-offering may be neutralized in a mixture of one hundred parts of unconsecrated food, namely: if what is forbidden to non-priests when removed from what is forbidden [heave offering of tithe, a tent of the heave offering] serves to neutralize the latter, so that non-priests may use the remainder, taking what is forbidden [heave offering] out of what is otherwise permitted [unconsecrated produce] surely will serve to neutralize and permit the latter to be used by non-priests]."
- [II:5 A] As to heave-offering —
- [B] *There is a Tannaite authority of teaches that it is a case of taking what is forbidden from what is permitted, and there is a Tannaite authority who teaches that it is taking what is permitted from what is permitted.*
- [C] *He who teaches that it is a case of taking what is forbidden from what is permitted explains that heave offering is forbidden to non-priests. He who teaches that it is taking what is permitted from what is permitted explains that heave-offering is permitted to priests.*

[D] *There are those that explain the whole of the matter to speak of the priests. He who teaches that it is a case of taking what is forbidden from what is permitted explains that at issue is a mixture of unclean heave-offering and ordinary food [and the heave-offering is forbidden even o priests]. He who teaches that it is taking what is permitted from what is permitted explains that at issue is a mixture of heave-offering that is clean and ordinary produce [so that the heave-offering is permitted to priests and there is no reference to a part of the mixture that is wholly forbidden.]*

[II:6 A] *It has been taught on Tannaite authority: A piece [of meat] from a sin offering which was mixed with a hundred pieces of unconsecrated [meat], and so a piece of show-bread which was mixed with a hundred pieces of unconsecrated [bread], lo, these are neutralized [such that all of the meat or bread may be eaten as unconsecrated food], lo, these are not neutralized, [and all the meat or bread may not be eaten as unconsecrated food]. R. Judah says, “They are neutralized” [T. Ter. 8:21].*

[B] *What is the scriptural basis for the position of R. Judah?*

[C] *“And one sheep from every flock of two hundred, from the families of Israel. [This is the offering for cereal offerings, burnt offerings, and peace offerings, to make atonement for them, says the Lord God]” (Ez. 45:15).*

[D] *This must derive from something that is permitted to Israelites.*

[E] *But this is this problem: it is written “two hundred” but R. Judah invokes the ration of one to one hundred, and further, Scripture speaks of living animals, but R. Judah addresses the case of those that have been slaughtered.*

[F] *What is the difference between the living and the slaughtered?*

[G] *R. Hinena said, “The living are treated as something that is usually counted [and will not be treated as subject to neutralization and thus permitted to a common Israelite, not a priest].”*

[III:1 A] **(1) Heave-offering, and 2) heave-offering of tithes of *demai*, 3) dough-offering and 4) firstfruits are neutralized in one hundred and one i.e., one hundred parts common produce neutralizes the effect of one part hallowed produce in a mixture, and are combined together to form the requisite volume to be subject to those rules, and it is necessary to remove a like quantity from the mixture]: up to this point we have dealt with that which neutralizes**

the mixture so that it is permitted to a common person. What about the case of something that neutralizes the mixture so that it is permitted to the Most High?

[B] *Let us derive the answer from the following:*

[C] “When the sun is down, he shall be clean, and afterward he may eat of the Holy Things, because such are his food” (Lev. 22:7) — this proves that you have Holy Things of which he may not eat, and that encompasses the exclusion of mixtures of Holy Things at a proportion of less than one to one hundred. [If one kind of Holy Things is mixed with some other, different kind of Holy Things in less than the requisite proportion, the person may not eat of such a mixture.]

[D] I know the rule only for food in the status of heave offerings mixed with other food in the status of heave offering. [Mixtures that form the requisite volume are subject to neutralization.] How do I know the rule that governs food in the status of heave-offering that is mixed with food that is secular [not sanctified]? Or secular food mixed with food in the status of heave offering? Or food in the status of heave offering mixed with food in the status of Holy Things, or food in the status of Holy Things mixed with food in the status of heave-offering, or liquid in the status of heave-offering mixed with unconsecrated liquid, unconsecrated liquid mixed with liquid in the status of heave-offering, liquid in the status of heave-offering mixed with liquid in the status of Holy Things, liquid in the status of Holy Things mixed with liquid in the status of heave-offering, liquid in the status of Holy Things mixed with liquid in the status of Holy Things of another classification — how do we know that neutralized applies in all these cases?

[E] Scripture says, “and afterward he may eat of the Holy Things.” That serves as an inclusionary clause.

[III:2 A] [“Öliquid in the status of Holy Things mixed with liquid in the status of heave-offering” — what is such a case?]

[B] R. Abin in the name of R. Yohanan: “Treat it as a case involving a mixture of the log of oil brought by a person afflicted with the skin ailment that was mixed with the excess of oil brought with the wafers of meal offering brought by a Nazirite.” [The former is in the status of Holy Things, the latter is raised up, thus heave offering, out of the mixture.]

[C] *But is there not a Tannaite reference to liquid in the status of Holy Things mixed with liquid in the status of Holy Things of another classification?*

[D] There is reference to two [liquids in the status of Holy Things that were confused.

[E] Said R. Hananiah, “[With reference to the mixtures of Holy Things with Holy Things] That which you have said applies to a mixture of limbs of burnt offerings confused with limbs of burnt offerings, [neutralization is not an issue, each may be offered for one of the parties that requires such an offering], but as to limbs of sin offerings confused with limbs of burnt offerings, lo, we have a mixture of an offering brought on account of a particular sin that has certainly been committed and an offering brought in connection with the violation of a negative commandment. [Here the mode of atonement effected by the various offerings is diverse, and the mixture is not subject to disposition other than through nullification.]”

[III:3 A] A piece [of meat] from a sin offering which was mixed with a hundred pieces of unconsecrated [meat], and so a piece of show-bread which was mixed with a hundred pieces of unconsecrated [bread], lo, these are neutralized [such that all of the meat or bread may be eaten as unconsecrated food], lo, these are not neutralized, [and all the meat or bread may not be eaten as unconsecrated food]. R. Judah says, “They are neutralized” [T. Ter. 8:21]. *With whom does R. Judah concur, with R. Eliezer or R. Joshua [in the following: A se’ah of unclean heave-offering that fell into a hundred [se’ahs] of clean [unconsecrated] produce [and so is neutralized]— R. Eliezer says, “Let it be lifted out and burned. For I say, ‘The se’ah which fell [into the unconsecrated produce] is the [same] se’ah that is raised up.’” But sages say, “[The heave-offering] is raised up [out of the mixture] and is eaten dry, roasted, kneaded with fruit juice, or divided into lumps [of dough], so that there is not in a single place as much as an egg’s bulk [of produce]” [M. Ter. 5:2]. If it is R. Eliezer, he neutralizes the meat but it must be burned. If it accords with R. Joshua [sages] he neutralizes the meat and it may be eaten.*

[IV:1 A] ‘Orlah[-fruit] and [fruit prohibited by] Diverse Kinds of the vineyard are neutralized in two hundred and one, and are combined together: *Who is the Tannaite authority who repeats, and are combined together?*

[B] It is R. Meir, for said R. Abbahu in the name of R. Yohanan, “In the view of R. Meir, all classes of forbidden produce join together to impose a flogging on their account if they cumulatively add up to the bulk of an olive, on the count of ‘You shall not eat any abomination’ (Dt. 14:3).”

[IV:2 A] *Here you say: 1) Heave-offering, and 2) heave-offering of tithes of demai, 3) dough-offering and 4) firstfruits are neutralized in one hundred and one [i.e., one hundred parts common produce neutralizes the effect of one part hallowed produce in a mixture], and are combined together [to form the requisite volume to be subject to those rules], and it is necessary to remove [a like quantity from the mixture]. And there you say, 5) ‘Orlah[-fruit] and [fruit prohibited by] 6) Diverse Kinds of the vineyard are neutralized in two hundred and one, and are combined together, and it is not necessary to remove [a like-quantity from the mixture].*

[B] R. Jacob bar Zebedee, R. Abbahu in the name of R. Yohanan: “It is because of the danger of theft of what belongs to the priestly tribe. [What belongs to the priesthood must be delivered to them, that is the first item, but what is subject to taboo so that no one, not even a priest, may utilize it, is covered by the second item.]

[C] *So too it has been taught on Tannaite authority:* In the matter of any sort of heave offering about which the priests are not meticulous, for example heave offering taken from pods, carobs, and Edomite barley, it is not necessary to raise up that heave offering.

[V:1 A] **‘Orlah[-fruit] and [fruit prohibited by] Diverse Kinds of the vineyard are neutralized in two hundred and one:**

[B] *How on the basis of Scripture do we know that they are neutralized?*

[C] [With reference to Ex. 22:29, “You shall not delay to offer from the fullness of your harvest and from the outflow of your presses,” speaking of heave-offering, and Dt. 22:9, “You shall not sow your vineyard with two kinds of seed, lest the fullness of the yield be forfeited to the sanctuary:” the word “fullness” occurs two times, with regard to heave-offering and with regard to the prohibition of diverse kinds in the vineyard. Just as in the former case there is a process of neutralization, so in the latter case there is neutralization in the appropriate proportion.

[D] What about this proposition; if the proportion in the case of heave-offering is a hundred to one, so shouldn’t the proportion in the case of mixed seeds in the vineyard be a hundred to one?

[E] Since Scripture has imposed two separate prohibitions here, [one forbids eating produce grown as mixed seeds in the vineyard, the other forbids deriving any benefit at all from it,] the sages varied the

proportion of the mixture that brings about liability, so [half of the proportion that applies to have offering and its fellows applies].

[VI:1 A] *Up to this point we have dealt with **Diverse Kinds of the vineyard**. How do we know the rule for ‘Orlah[-fruit]*

[B] Just as in the one case the prohibition applies to deriving benefit from the produce, so in the other case the prohibition extends to deriving benefit from the produce. And just as in the one case there may be neutralization, so in the other case there may be neutralization.

[VII:1 A] To this point we have dealt with the exegetical theories of R. Aqiba. As to those of R. Ishmael, how shall we prove the point?

[B] R. Yohanan in the name of R. Ishmael: “It derives from an argument a fortiori. If heave offering, which is forbidden to outsiders, lo, it is neutralized, ‘*orlah*, which is permitted to outsiders to the priesthood, is it not all the more so going to be neutralized?”

[C] No, if you have stated that rule in the case of heave offering, from which one may derive benefit, will you state the same rule of ‘*orlah*, from which it is prohibited to derive benefit?

R. Hinena: The word ‘fruit’ occurs both with ‘*orlah* and with heave offering, establishing an analogy between them [and so assuring that the rule that applies to the one applies also to the other.”

[VIII:1 A] **‘Orlah[-fruit] and [fruit prohibited by] 6) Diverse Kinds of the vineyard are combined together:**

[B] whether to form the requisite volume to forbid that with which they are mixed or to form so large a volume as to permit that with which they are mixed.

[C] “The criterion is, if there is enough to impart a flavor to the whole,” the words of R. Meir.

[IX:1 A] **R. Simeon says: “They [‘Orlah-fruit and Diverse Kinds] are not combined together.” R. Eliezer says: “They are combined together [in the cases determined by the principle] ‘that which gives flavor’ but not [in other cases, so as to render] the mixture forbidden:”**

[B] *Concerning what case is this dispute set forth?*

[C] A case in which three qabs of produce forbidden as ‘*orlah-fruit* fell into a hundred seahs of permitted produce and afterward three qabs of produce prohibited as diverse kinds in a vineyard fell into the same

mixture. [Meir: while the first to fall in can have been neutralized in two hundred parts of permitted produce, the second to fall ion joins together with the first so as to prohibit the whole. Simeon rejects.] But if three qabs and a bit more of ‘orlah-fruit fell in, or three qabs and a bit more of produce prohibited as diverse kinds in a vineyard, the produce is wholly permitted. [The three qabs nullify the bit more.] That is because to begin with the bit more is nullified in the three qabs, and the three qabs are then nullified in the hundred seahs.

- [D] If three qabs of ‘orlah and three qabs of mixed seeds in the vineyard fell in simultaneously, what is the law?
- [E] Is it comparable to a case in which three qabs and a bit more of ‘orlah-fruit and three qabs of produce that was mixed seeds in a vineyard or is it comparable to a case in which three qabs of mixed seeds in the vineyard fell in and afterward three qabs of ‘orlah-fruit fell in?

[IX:2 A] [It is self-evident that one’s own knowledge that a forbidden component has fallen into a mixture works to complete that phase of the transaction, prior to another forbidden component’s falling into the same mixture. So if some heave-offering falls in and the farmer learns about it and only afterward a portion of heave-offering of tithes falls in, the later is treated as completely separate from the former. The two quantities do not join together to add up to the requisite volume to prohibit the entire pile of grain.] It is obvious that the farmer’s knowledge about the first mixture produces the effect of permitting the entire pile. But as to the knowledge on the part of the farmer’s fellow: what is its effect as to permitting the whole?

- [B] *What would be a concrete case?*
- [C] The farmer didn’t know, but [before forbidden produce of a separate but comparable kind fell in], his fellow knew about it. What is the law as to the fellow’s knowledge: does it have the same permissive effect as certain knowledge that it has happened?
- [D] What about the result of knowledge of the possibility that this has happened? Does it have the same permissive effect as certain knowledge that this has happened?
- [E] *What would be a concrete case?*
- [F] If there were before the farmer two baskets of grain, one containing two hundred seahs of secular produce, the other not containing two hundred seahs, and a seah of heave-offering fell into one of them and it is not known into which one it fell? And afterward another seah fell

into the second basket, and the farmer weighed the basket and found in it two hundred and two seahs? If you say that knowledge of the possibility is tantamount to certain knowledge, then the grain has been neutralized. If you say that knowledge of the possibility is not tantamount to knowledge of a certainty, then you do not have a case of neutralization.

- [G] If there was a basket concerning which it was a matter of doubt whether it contained two hundred or not, and a seah of heave offering fell into it and it is not known whether it fell or did not fall, and afterward a second seah of heave offering did fall in, If you say that knowledge of the possibility is tantamount to certain knowledge, then the grain has been neutralized. If you say that knowledge of the possibility is not tantamount to knowledge of a certainty, then you do not have a case of neutralization.

2:2

- [A] **Heave-offering neutralizes ‘Orlah[-fruit], and ‘Orlah[-fruit] neutralizes the heave-offering [in a mixture].**
- [B] **How so?**
- [C] **If a *seah* of heave-offering fell into [a batch of common produce, yielding a total of] one hundred [*seahs*],**
- [D] **and afterward three [i.e., one-half *seah*] of ‘Orlah[-fruit] or three *qabs* of [fruit prohibited by] Diverse Kinds of the vineyard tell [into the mixture]—**
- [E] **This is [a case in] which heave-offering neutralizes the ‘Orlah [-fruit], and the ‘Orlah [-fruit] neutralizes heave-offering.**
- [F] **‘Orlah-fruit neutralizes [fruit prohibited as] Diverse Kinds [of the vineyard], and [then fruit prohibited by] Diverse Kinds [of the vineyard] neutralize ‘Orlah[-fruit].**
- [G] **How?**
- [H] **If a *seah* of ‘Orlah[-fruit] fell into two hundred [*seahs* of non-prohibited fruit],**
- [I] **and afterward a little more than a *seah* of ‘Orlah--fruit or a little more than a *seah* of [fruit prohibited by] Diverse Kinds of the vineyard fell [into the mixture]—**

- [J] This is [a case in] which the ‘*Orlah*[-fruit] neutralizes [the fruit prohibited by] **Diverse Kinds [of the vineyard]**, and [the fruit prohibited by] **Diverse Kinds [of the vineyard]** neutralize the ‘*Orlah*[-fruit), and the ‘*Orlah*[-fruit] neutralizes [other] ‘*Orlah*[-fruit].
- [I:1 A] Said R. Quryas, “It is not that the heave-offering neutralizes ‘*orlah*-fruit, but heave-offering joins together with unconsecrated produce to neutralize ‘*orlah*-fruit.”
- [B] *There is no problem in understanding how Heave-offering neutralizes ‘Orlah[-fruit]*, for so that which is clean neutralizes that which is unclean. But how can we say **and ‘Orlah[-fruit] neutralizes the heave-offering?** For can what is unclean neutralize that which is clean?
- [C] Not with respect to outsiders [to the priesthood], but is it unclean with regards to priests? *And have we not learned in the Mishnah: the ‘Orlah[-fruit] neutralizes [the fruit prohibited by] Diverse Kinds [of the vineyard]*, and [the fruit prohibited by] **Diverse Kinds [of the vineyard] neutralize the ‘Orlah[-fruit)**, and the ‘*Orlah*[-fruit] neutralizes [other] ‘*Orlah*[-fruit].
- [D] *That case is different. Since it involves both outsiders and priests.*
- [II:1 A] **If a *seah* of heave-offering fell into [a batch of common produce, yielding a total of] one hundred [*seahs*]:**
- [B] Said R. Eleazar, “The correct reading here should be not ‘into a hundred’ but ‘into ninety-nine’ [adding up to a hundred in all.”
- [III:1 A] **If a *seah* of ‘Orlah[-fruit] fell into two hundred [*seahs* of non-prohibited fruit], and afterward a little more than a *seah* of ‘Orlah--fruit or a little more than a *seah* of [fruit prohibited by] **Diverse Kinds of the vineyard fell [into the mixture] — This is [a case in] which the ‘Orlah[-fruit] neutralizes [the fruit prohibited by] Diverse Kinds [of the vineyard]**, and [the fruit prohibited by] **Diverse Kinds [of the vineyard] neutralize the ‘Orlah[-fruit)**, and the ‘*Orlah*[-fruit] neutralizes [other] ‘*Orlah*[-fruit].**
- [B] Said R. Eleazar, “The correct reading here should not be ‘into two hundred’ but ‘into one hundred and ninety-nine.’”

2:3

- [A] Whatever leavens or flavors with spices or mingles [whether it is] with heave-offering or ‘*Orlah*-fruit or [produce forbidden as] diverse kinds of the vineyard—
- [B] [the mixture] is forbidden.
- [C] And House of Shammai say, “It [i.e., whatever leavens...] also conveys uncleanness [in a mixture].”
- [D] And House of Hillel say, “It only conveys uncleanness in an egg’s bulk [in quantity].”
- [E] Dositheus of Kefar Yatmah was one of the disciples of the House of Shammai, and he said, “I have heard [a tradition] from Shammai the Elder, who said,
- [F] “‘It only conveys uncleanness in an egg’s bulk [in quantity].””
- [G] And (with reference) to what did they say [that], “Whatever leavens or flavors or mingles... yields a strict ruling”?
- [H] [They said it with reference to the case of] like mixed with like.
- [I] [And with reference to what did they say that “WhateverÖ,] yields [both] a lenient and a strict ruling”?
- [J] [They said it with reference to the case of] like [mixed] with unlike.
- [K] How so? [How does the law yield a strict ruling in the case of like mixed with like?]
- [L] Leaven of wheat [that is heave-offering] that fell into wheat dough [that is common produce],
- [M] and there is enough of it [i.e., the leaven] to leaven [the dough],
- [N] whether there is [not so much heave-offering as] to be neutralized in one hundred and one, or whether there is not [little enough heave-offering, i.e., there is too much heave-offering] to be neutralized in one hundred and one—
- [O] it is forbidden [= strict ruling].
- [P] [If] there is not [little enough heave-offering] to be neutralized in one hundred and one,
- [Q] whether there is enough of it to leaven [the dough], or whether there is not enough of it to leaven [the dough] —
- [R] it is forbidden [= strict ruling].
- [S] “[They said that ‘Whatever leavens or flavors or minglesÖ] yields [both] a lenient and a strict ruling [in the case of] like [mixed] with unlike” [= H-T].

- [T] **How so? [i.e., how does the law yield both rulings in this case?]**
- [U] **For example, pounded beans [which are heave-offering] which are cooked with lentils [which are common produce],**
- [V] **and there are [enough] of them [i.e., the pounded beans] to give a flavor [to the lentils],**
- [W] **whether there is [little enough heave-offering] to be neutralized in one hundred and one, or whether there is not [little enough heave-offering, i.e., there is too much heave-offering] to be neutralized in one hundred and one—**
- [X] **it is forbidden [= strict ruling].**
- [Y] **[If] there is not [enough] of them to give a flavor [to the lentils],**
- [Z] **whether there is [little enough heave-offering] to be neutralized in one hundred and one, or whether there is not [little enough] to be neutralized in one hundred and one —**
- [AA] **it is permitted [= lenient ruling].**
- [I:1 A] R. Yosé in the name of R. Hilpai, R. Jonah in the name of R. Simeon b. Laqish: “The House of Shammai treat this case like that of the apple [at M. Ter. 10:2].”
- [I:2 A] ***There we have learned in the Mishnah:* R. Yose says, “Dye water spoils it at the measure of three logs [of drawn water], but it does not spoil it merely through changing the color” [M. Miq. 7:3]. [Merely changing the color of the water through adding an impermissible ingredient is null, if the ingredient is not of requisite volume.]**
- [B] Abba b. R. Nahman: “The opinion of R. Meir [that merely changing the color of the water suffices to invalidate the pool] is that the presence of drawn water is readily discerned.”
- [C] *R. Huna in the name of R. Abba: “The position of R. Meir accords with that of the House of Shammai. Just as the House of Shammai say, It [i.e., whatever leavens...] also conveys uncleanness [in a mixture],”* so R. Meir says that the presence of drawn water is readily discerned.”
- [D] Up to this point we have dealt with a substance that is both prohibited and unclean. But what will their view be with something that can leaven the mixture but is less than the requisite volume of uncleanness, which is unclean but not subject to some other disqualifying trait?
- [I:3 A] If one has taken the leaven that is prohibited and used it to impart leavening to some other batch of dough and then removed the original, prohibited leavening agent, both the new batch of dough is prohibited

and the original prohibited leavening agent remains prohibited. If later on the new batch of dough became much larger than the original bit of leaven and the latter was neutralized in the former, the original bit of prohibited matter becomes secondary, and the secondary effect of the original bit of prohibited matter becomes primary. [If one puts some of the secondary matter back into the original batch, the original batch that once neutralized once more is deemed prohibited.]

[B] **[As regards one part of] leaven in the status of heave-offering which fell into [more than a hundred parts of unconsecrated] dough and one lifted it [i.e., the leaven] out [of the mixture], but afterwards [the dough anyway] was leavened— [the dough] is permitted [for consumption as unconsecrated food] [T. Ter. 8:11].**

[C] *And along these same lines:* a fig in the status of heave-offering that fell into a hundred others and one of them was raised up and afterward the fig in the status of heave-offering was discerned — the remaining ones should be permitted.

[D] [The cases are not alike.] There the prohibited component of the batch could not be discerned, while here the prohibited fig was discerned.

[II:1 A] pounded beans [which are heave-offering] which are cooked with lentils [which are common produce], and there are [enough] of them [i.e., the pounded beans] to give a flavor [to the lentils], whether there is [little enough heave-offering] to be neutralized in one hundred and one, or whether there is not [little enough heave-offering, i.e., there is too much heave-offering] to be neutralized in one hundred and one — it is forbidden [M. 2:3U]:

[B] *R. Jonah raised the question, “Why have we not learned in the Mishnah, **pounded beans** which are cooked with rice?*

[C] “But our Mishnah accords with the position of him who says, “What imparts a flavor that spoils the mixture is permitted.”

[D] And even in accord with him who says, “What imparts a flavor that spoils the mixture is permitted,” he concurs here that it is forbidden.”

[II:2 A] Pounded beans in the status of heave-offering that fell into a mixture of lentils that are secular and have the power to impart a flavor to the lentils — if the cook added lentils that are secular in a volume sufficient to drown out the flavor of the pounded beans, the mixture is permitted.

[B] To what extent does the cook increase the proportion of lentils?

- [C] *This is subject to a dispute between Rabbi and R. Ishmael b. R. Yosé.*
- [D] *In the opinion of Rabbi, the added quantity must exceed the previous volume of the entire mixture.*
- [E] *In the opinion of R. Ishmael b. R. Yosé, the added quantity must be larger in volume than the prohibited part that fell in.*

[II:3 A] Pounded beans [in the status of heave-offering] that were cooked with secular lentils and are of insufficient volume to impart a flavor to the whole mixture, and to the mixture more pounded beans that were secular fell [so that the pounded beans now form a large enough proportion of the mixture to impart flavor to the whole — does the addition of the latter component of the same variety as the prohibited but formerly negligible component serve to enhance the prohibited component, thus imparting the status of prohibition to the entire mixture?

- [B] [No, it does not prohibit the mixture]. The rule here should not be more stringent than that involved with libation-wine [prohibited as the by product of idolatry]. Just as you say in the case of libation-wine that you regard the permitted portion of the wine as if it is not of the same species as the prohibited portion of the wine, so that, if the latter imparts flavor to the whole, the entire mixture is prohibited, but if it does not impart flavor to the whole, it is permitted [but only then, and that is without regard to the permitted portion of the same species as the prohibited batch], here too you regard the permitted part of the batch [the beans, which are not in the status of heave-offering] as though it is not of the same species as the prohibited portion of the batch [the pounded beans in the status of heave-offering], so that only if the latter imparts a flavor to the whole is the entire mixture forbidden. Otherwise it is prohibited.
- [C] That is to say, if the pounded beans in the status of heave-offering were added [in such volume that by themselves they did not impart their flavor to the mixture, the mixture] remains permitted.

2:4

- [A] Leaven of common produce that fell into dough,**
- [B] and there is enough of it to leaven [the dough],**
- [C] and afterward [but before the dough rises] leaven of heave-offering fell in, or leaven of diverse kinds,**
- [D] and there is enough of it to leaven the dough—**
- [E] it is forbidden.**

- [F] **Leaven of common produce that fell into dough,**
- [G] **and it leavened it [i.e., the dough],**
- [H] **and afterward leaven of heave-offering fell in, or leaven of diverse kinds,**
- [I] **and there is enough of it to leaven [the dough]—**
- [J] **it is forbidden.**
- [K] **R. Simeon permits.**
- [I:1 A] *It was taught as a Tannaite rule by Hananiah in the name of R. Yohanan: “The same dispute at F-K governs at A-E.”*
- [B] *Said R. Jonah, “We considered the theory: where there is a dispute, it concerns a case in which this component has exercised its power of leavening fully and that component has exercised its power fully, and a case in which the leave that is not consecrated fell in first. But if leaven in the status of heave-offering fell in first, the dough has already been leavened and has become subject to the power of the leaven that is prohibited, so it is forbidden for common use.”*
- [I:2 A] **“Whatever imparts flavor, whether it improves the mixture or spoils it — the mixture is forbidden,” the words of R. Meir. And sages say, “If it improves the flavor of the mixture, the mixture is forbidden, but if it spoils the mixture, it is permitted” [T. Ter. 8:9].**
- [B] R. Simeon b. Laqish said, “Where there is a dispute, it is a case in which the forbidden substance improved the flavor and afterward spoiled it, but if it spoiled the flavor and only afterward improved it, even here R. Meir concurs.”
- [C] *R. Yohanan said, “There is no difference. All the same are improving or spoiling the flavor and spoiling and then improving the flavor. In all cases there is a dispute.”*
- [D] *There we learned in the Mishnah: **Barley in the status of heave-offering that fell into a vat of water — even though the barley polluted the water, the water is permitted [M. Ter. 10:2]. Now what is the status as to this rule[in regard to Meir’s position]?***
- [E] R. Yohanan said, “It is subject to dispute [and Meir will prohibit the water].”
- [F] R. Simeon b. Laqish said, “It represents the position of all parties.”
- [G] R. Yosé b. R. Abun said, “There is a tradition along these same lines. R. Yohanan said, ‘It is subject to dispute [and Meir will prohibit the

water].’ R. Simeon b. Laqish said, ‘It represents the position of all parties.’”

[H] *Said R. Jonah, “There is a necessary question to be addressed to R. Simeon b. Laqish: is it not so that we considered ruling, where they dispute it is a case in which this component has exercised its power of leavening fully and that component has exercised its power fully, and a case in which the leaven that is not consecrated fell in first. But if leaven in the status of heave-offering fell in first, the dough has already been leavened and has become subject to the power of the leaven that is prohibited, so it is forbidden for common use]. But [we now know that] even if the leaven in the status of common food fell in first, it is a case in which it is as if the prohibited component improved the mixture at the outset and afterward damaged it.”*

[I] R. Jonah retracted and said, “This woman does not effect leavening to the full extent. She leaves off some small amount. That small amount is treated as if it has improved the character of the whole and then damaged it.”

[I:3 A] A problem: if the prohibited matter improved the character of the mixture and did not damage it at all, does that make any difference?

[I:4 A] *R. Jonah raised the question: “What is the difference between a case in which the mixture was improved by both this and that [the forbidden and permitted components] and a case in which it was damaged by both components? If it has been improved by both components, it is forbidden. If it was damaged by both components it is permitted.]*

[B] Said R. Mana, “If it was improved by both components, you deem the permitted component as if it were not present, if the prohibited component is sufficient to impart its character to the whole. If the mixture was damaged by both this and that, you deem the prohibited component as if it were not present, so that the forbidden component does not have the power to impose its character on the whole.”

2:5

[A] **Condiments—**

[B] **two or three [different] types of prohibitions] affecting one kind [of condiment], or one type [of prohibition] of three kinds [of condiments] are forbidden and combine [to render a mixture forbidden].**

- [C] **R. Simeon says, “Two or three different types [of prohibitions] of one kind [of condiment], or two kinds of one type do not combine.”**
- [I:1 A] There is no difficulty understanding why the rule of A should apply to two classes of prohibitions applicable to a condiment of a single species. But why should two different condiments be subject to a single sort of prohibition [and join together]?
- [B] R. Abbahu in the name of R. Eleazar: “They have taught the rule concerning two varieties of sweetener.” [They produce the same flavor.]
- [I:2 A] R. Abbahu in the name of R. Yohanan: “There are three rules that apply to substances that imparts a flavor. In any instance in which an ordinary person tastes a broth and says, ‘This dish does not lack anything,’ and then the condiment falls into the broth and imparts its flavor, so improving the broth — the broth is nonetheless permitted. And even if he said, ‘Such-and-such a spice is in this broth, so the condiment has flavored the broth but it spoils the broth — it is still permitted. And any case in which an experienced cook tastes the broth and says, ‘Such-and-such a spice is in this pot’ this is a case in which the condiment has imparted its flavor to the broth, and the broth is spoiled — it is forbidden.”
- [I:3 A] R. Abbahu in the name of R. Yohanan: “All things that are prohibited [by the Torah], one assesses them as if they were mixed with onions or leeks [to determine whether they impart a flavor to the mixture].”
- [B] To this point we have dealt with what is usually measured by mixing with onions or leeks. But as to that which is not usually measured by mixing with onions or leeks, how do we assess the mixture?
- [C] What about measuring the affect of cumin on the mixture?
- [D] Said R. Yudan, “Did R. Abbahu not say in the name of R. Yohanan, ‘They have taught the rule concerning two varieties of sweetener’? [They produce the same flavor.] So in the case of sweeteners, since they are usually measured by mixing them with onions or leeks, they are assessed through their impact on a broth containing onions or leeks. As to other condiments that are subject to a prohibition, since they are not commonly measured by mixing with onions or leeks, they are measured only with regard to their own species. As to cumin it is measured with its own species.”
- [E] R. Mana did not speak in these terms, but [he said,] “Did not R. Abbahu say R. Eleazar said, ‘They have taught the rule concerning two

varieties of sweetener.’ Varieties of sweetener, since they produce the same sweet taste, are measured by mixing them with onions or leeks. Other condiments that are forbidden, since they do not impart the same taste, are not measured by mixing them with onions or leeks. And cumin is a question.”

[I:4 A] R. Abbahu in the name of R. Yohanan: “All food that is prohibited and imparts a flavor — one incurs a flogging for eating the prohibited substance only if one actually tastes the flavor of that which is forbidden.”

[B] R. Hama b. R. Yosé responded before R. Yohanan, “Lo, there is the case of meat in milk, lo, the violator has not tasted the flavor of the forbidden substance and will you say he is not flogged!”

[C] Did he accept this reply?

[D] *It is like the case of someone who said to his antagonist, “And you’d better believe it.”*

[I:5 A] R. Abbahu in the name of R. Yohanan: “All substances that are prohibited if they impart a flavor to a larger broth with which they are mixed, they are not flogged on their account except that which imparts flavor in the case of what is prohibited to a Nazirite and imparts flavor to a broth [wine].”

[B] Said R. Zeira, “All substances that are prohibited if they impart a flavor to a larger broth with which they are mixed, they are flogged on their account only if one actually tastes the flavor of that which is prohibited. In the case of what is forbidden to a Nazirite, even if one does not actually taste the flavor of what is prohibited he is flogged.”

[C] Said R. Abba bar Mamel, “All things that impart a flavor — what is forbidden and what is permitted do not join together, but in the case of what is forbidden to a Nazirite, what is forbidden and what is permitted do join together.”

[D] *There are Tannaite traditions that support this party, and there are Tannaite traditions that support that party.*

[E] *There are Tannaite traditions that support R. Zeira: An olive’s bulk of wine that fall into the cooking pot if one ate an olive’s bulk from it, he is except from punishment, until he eats the entire pot-full [for only at that point will he have consumed the actual volume of the prohibited substance].*

- [F] But Abba bar Mamel would impose liability once he has eaten an olive's bulk [since this is what is forbidden to a Nazirite.]
- [G] *And there are Tannaite traditions that support Abba bar Mamel:* In line with that which is said, "He shall not drink any juice of grapes or eat grapes, fresh or dried" (Num. 6:3) what has Scripture omitted? But since it is said, "All the days of his separation he shall eat nothing that is produced by the grapevine, not even the seeds or the skins" (Num. 6:4) and it is further stated, "He shall separate himself from wine and strong drink" (Num. 6:3) — why then does Scripture find it necessary to say, "He shall not drink any juice of grapes or eat grapes, fresh or dried" (Num. 6:3)? What is intended is to say: if he soaked grapes in water and soaked his bread in the water, and there is in what is sopped up enough to join together to form the volume of an olive's bulk, he is liable.
- [H] On the basis of this rule you reason concerning all prohibited substances that are mentioned in the Torah.
- [I] If in the case of that which is produced by the vine, which is not prohibited forever and is not prohibited as to benefit and is subject to release from the prohibition after the prohibition has been in force, the law has considered the flavor of a prohibited foodstuff as forbidden as its actual substance, in the case of all other prohibited substances in the Torah, where the prohibition is perpetual, extends even to deriving benefit from the substance, and there is no release from the prohibition once the prohibition has come into effect, it surely is reasonable that we should consider their flavor as equivalent to their substance!
- [J] On the basis of that argument the sages derived the rule concerning all substances that impart a flavor, indicating that because they impart a flavor they are prohibited.
- [K] This represents a problem for the position of R. Zeira: In all cases the prohibition applies once the substance imparts a flavor, but here the substance is forbidden even if it does not impart a flavor.

2:6

- [A] **Leaven of common produce and [leaven] of heave-offering which fell into dough,**
- [B] **and there is not enough of either [to leaven the dough]**
- [C] **[but] they combined and leavened [it]—**
- [D] **R. Eliezer says, "I decide the status of the dough according to the last [to fall in]."**

- [E] **And sages say, “Whether the prohibited [one] fell in first or last, it never prohibits unless there is enough of it to leaven [the dough by itself].”**
- [F] **Yoezer of the Birah was one of the disciples of the House of Shammai and he said, “I asked Rabban Gamaliel the Elder [when he was] standing at the Eastern Gate and he said,**
- [G] **“it never prohibits unless there is enough of it to leaven [by itself].”**
- [I:1 A] *There we have learned in the Mishnah: Libation wine is forbidden and imparts a prohibition [to wine with which it is mixed] in any measure at all. [If it is] wine [poured] into wine, or [libation] water [poured] into water, in any quantity whatever [it is forbidden]. [If it is] wine [poured] into water or water [poured] into wine, [it is forbidden] if it imparts flavor. This is the governing principle: [If it is] one species [poured] into its own species, [it is forbidden] in any measure at all. [If it is] not [poured] into its own species, it is forbidden if it imparts flavor [M. A.Z. 5:8].*
- [B] Hezekiah said, “A cup that one mixed out of wine that is forbidden and wine that was permitted, if that which was forbidden fell in at the end, it is forbidden. If that which was permitted fell in at the end, it is permitted.”
- [C] Said R. Samuel b. R. Isaac, “This represents the view of R. Eliezer, for **R. Eliezer says, “I decide the status of the dough according to the last [to fall in].”**
- [D] Said R. Jeremiah, “It is a strict rule that applies in particular to libation wine [and Hezekiah does not necessarily concur with Eliezer on all counts].”
- [E] R. Yosé asked, “If it is a strict rule that applies in particular to libation wine, even if the permitted wine fell into the mixture at the end, it should be forbidden.”
- [F] R. Yosé in the name of R. Yohanan: “A cup that one mixed with forbidden wine and permitted wine — you regard the permitted wine as though it were not there. And as to that which is forbidden, if it imparts its flavor to the whole, the mixture is forbidden and if not it is permitted.”
- [G] Said R. Hoshaiiah, “And that ruling applies if the permitted wine fell in last.”

[H] R. Immi in the name of R. Yohanan: “There is no difference between the case in which the forbidden fell in first and the permitted at the end and the case in which the permitted wine fell in first and the forbidden wine at the end. Even if it is water mixed with wine, even if the mixture was entirely stirred with permitted wine — you regard the permitted wine as if it were absent, and as to the prohibited wine, if it imparts flavor to the mixture, the mixture is forbidden, and if not it is permitted.”

[I] Said R. Zeira, “As to that which you have said and all the Tannaite authorities too — what would be a practical case?”

[J] R. Yosé b. R. Abun, R. Abbahu in the name of R. Yohanan: “A flask of libation-wine that fell into a jug of wine and afterward the jug of wine fell into a cistern of water — you regard the permitted liquid as if it were not present, and as to the forbidden wine, if it imparts a flavor the whole is forbidden, and if not it is permitted.”

[II:1 A] **[Leaven of common produce and leaven of heave-offering which fell into dough, and there is not enough of either to leaven the dough [but] they combined and leavened [it] —R. Eliezer says, “I decide the status of the dough according to the last to fall in:”] to this point we deal** with a case in which the one sort of leaven fell in after another sort of leaven. But if the two fell in at the same time, what will R. Eliezer have to say about that?

[B] *Let us infer the answer from the following:* **Leaven belonging to Samaritans — at one point is it permitted after [the end of] Passover? That belonging to householders [is permitted] following three weeks of use in baking And that belonging to bakers in little villages is permitted three days thereafter and that belonging to bakers in large towns is permitted once [they have had an opportunity to prepare dough for] three [uses of their large] ovens. R. Simeon b. Eleazar says, “When they stated the rule concerning that belonging to householders, ‘following three weeks of use in baking’ — if he was a householder, or was marrying off his son, and made use of his oven three times in succession, then it is permitted forthwith. And when they stated the rule concerning that belonging to bakers, ‘in little villages, three days thereafter.’ if he found the need and made use of his oven three times in succession, even on the very first day after Passover, it is permitted.” R. Simeon says, “Also, when they stated the rule concerning that belonging to bakers in large towns, once they have made use of their ovens three times — nonetheless, it is prohibited**

for three days. For at dawn he would get the leaven for the whole rest of that day” [Tos. Pisha 2:1, 2]

- [C] That second piece of dough — has it not been leavened with leaven that was prohibited and with that which was permitted? [Sages concur with Eliezer that when the two kinds of leaven work together, it is subject to a prohibition.]
- [D] And said R. Jeremiah in the name of R. Simeon b. Laqish, “Who taught the rule governing the prohibition of Samaritan leaven? It is R. Eliezer.”
- [E] And said R. Yosé to R. Hanina of Antonia, “I remember that you and R. Jeremiah in the name of R. Simeon b. Laqish both were teaching, ‘Who taught the rule governing the prohibition of Samaritan leaven? It is R. Eliezer. But we do not say so.’”
- [F] But R. Hila in the name of R. Simeon b. Laqish went down and adopted the prohibition of leaven belonging to Samaritans in accord with R. Eliezer.”
- [G] And furthermore it is from the following, which R. Hanina son of R. Abbahu [said]: “Father had a case. He sent and asked R. Hiyya and R. Yosé and R. Immi, and they instructed him in accord with the position of R. Eliezer.”
- [H] *So do we make rulings in accord with the opinion of schismatic individuals?*
- [I] No, it is because the sages went down and adopted the prohibition of leaven belonging to Samaritans in accord with R. Eliezer.”
- [J] Said R. Mana before R. Yosé, “Just as you ruled there, the law is in accord with R. Eliezer, here too you should rule, the law is in accord with R. Eliezer.”
- [K] He said to him, “For all purposes [in the present matter] that is the case.”

2:7

- [A] **Vessels that one greased with unclean oil and then went and greased with clean oil,**
- [B] **or vessels one greased with clean oil and then went and greased with unclean oil—**
- [C] **R. Eliezer says, “I decide [the status of the vessels] according to the first [oil used].”**

- [D] **And sages say, “According to the last [oil used].”**
- [I:1 A] *What is the reason for the position of R. Eliezer?*
- [B] The oil used first forces out the oil used last [and classifies the utensil].
- [C] Said R. Yohanan, “R. Judah and R. Eliezer both have said the same thing.” *For we have learned in the Mishnah there: **A flask the mouth of which is narrow — one immerses it and brings it up in the usual way. R. Judah says, “The first sprinkling” [M. Parah 12:2].*** [The thick hyssop is used for sprinkling purification water. When we draw the thick hyssop through the narrow mouth, we may squeeze out some of the sap of the hyssop, which mixes with the water of the flask and spoils it. Or water on the hyssop mixes with fluid at the mouth of the jar, and the hyssop has not been validly used. Judah holds that after the first sprinkling, the hyssop will be too dry for further sprinklings; or one may not use the hyssop a second time, since the water was squeezed out of the hyssop the first time around.]
- [D] Just as R. Judah maintains that the first use of the hyssop draws out the fluid available for the second one, so R. Eliezer holds that here too the oil used first brings out the oil used last.
- [E] *Up to this point we have had a case in which one anointed leather on one side and squeezed out the residue on the other side. But if he anointed the leather on one side and squeezed it out on the same side, what does R. Eliezer rule in that case?*
- [F] *Let us infer the answer from the following, which R. Abbahu said in the name of R. Yohanan: “It is not the end of the matter that a narrow-mouthed flask yields the ruling of Judah. Even if it is an open bowl, the same considerations apply.” And said R. Yohanan, “R. Judah and R. Eliezer both said the same thing. *Do you have the possibility of saying that there one has rubbed oil on one side and it has come out on the other side? Is it not that we have a case in which he rubbed oil on one side and it exuded on the same side? Here too it is a case in which he rubbed the oil on one side and it exuded on the same side.*”*

2:8

- [A] **Leaven of heave-offering and leaven of diverse kinds of the vineyard which fell into dough,**
- [B] **[and] there is not enough of either to leaven [the dough],**
- [C] **and when they combined and leavened it—**
- [D] **it is forbidden to non-priests and permitted to priests.**

- [E] **R. Simeon permits it to [both] non-priests and priests.**
- [F] **Seasonings of heave-offering and [seasonings] of diverse kinds of the vineyard which fell into a pot,**
- [G] **and there is not enough of either to season [the food in the pot],**
- [H] **and they combined and seasoned it—**
- [I] **it is forbidden to non-priests and permitted to priests.**
- [J] **R. Simeon permits [it] to [both] non-priests and priests.**
- [I:1 A] **Leaven of heave-offering and leaven of seventh year produce that fell into dough, [and] there is not enough of either to leaven [the dough], and when they combined and leavened it— it is forbidden to non-priests and permitted to priests. R. Simeon permits it to [both] non-priests and priests. If in this was sufficient quantity to leaven the dough and in that sufficient volume to leaven the dough and they caused the dough to leaven, the mixture is forbidden to non-priests and priests. R. Eleazar b. R. Simeon permits it to priests [T. Ter. 8:13].**
- [B] *R. Abbahu said R. Yohanan asked, “What is the difference between heave-offering with regard to non-priests and seventh year produce with regard to priests? If heave-offering is forbidden to non-priests, should seventh-year produce be permitted to priests?”*
- [C] *R. Yohanan retracted and said, “Explain the rule to deal with a case in which leaven in the status of heave-offering fell in first. The leaven of seventh-year produce fell in only in such a way as to spoil the dough.”*
- [II:1 A] **R. Eleazar b. R. Simeon follows the theory of his father.**
- [B] **What is the theory of his father?**
- [C] **Just as R. Simeon said, “If forbidden substances impart a flavor that spoils the mixture, the mixture is permitted,” so R. Eleazar b. R. Simeon said, “If forbidden substances impart a flavor that spoils the mixture, the mixture is permitted.”**
- [D] **Said R. Abba Mari, “What is the theory of his father? Just as R. Simeon said, ‘All aftergrowths are permitted in the seventh year,’ so R. Eleazar b. R. Simeon said, ‘All aftergrowths are permitted in the seventh year.’”**
- [E] **Certainly R. Simeon spoke of the aftergrowths of vegetables, but did he speak of the aftergrowths of seeds?**
- [F] **But you may reply: the rule governing aftergrowths of vegetables is the rule governing aftergrowths of seeds.**

- [G] Rabbis of Caesarea say, “In one instance he follows the theory of his father, and in one the theory of the sages.
- [H] “In one instance he follows the theory of his father: If forbidden substances impart a flavor that spoils the mixture, the mixture is permitted
- [I] “in one the theory of the sages: produce that is forbidden under diverse rubrics of the law joins together to form the requisite volume.”

2:9

- [A] **Flesh of Most Holy Things and flesh of refuse or remnant that were cooked with ordinary flesh [in a quantity sufficient to neutralize either separately] — the mixture is forbidden to non-priests and permitted to priests.**
- [B] **R. Simeon permits [it] to [both] non-priests and priests.**
- [C] **Flesh of Most Holy Things that was cooked with flesh of Lesser Holy Things that were cooked with ordinary meat [in a quantity sufficient to neutralize either separately] — it is forbidden for those who are unclean and permitted to those who are clean.**
- [I:1 A] *It was taught on Tannaite authority:* Pieces of meat in the status of refuse, remnant, and Lesser Holy Things [that were cooked with other permitted pieces of meat in a quantity sufficient to neutralize them — the meat is forbidden to non-priests and permitted to priests.] [But non-priests may eat Lesser Holy Things after the blood of the sacrificial beast has been tossed on the altar.]
- [B] Said R. Jonah, “Has the law not stated only, Lesser Holy Things? As to meat in the status of refuse and remnant after the tossing of the blood are they not the same as before the tossing of the blood? So the intention must be to state only that that is the rule for refuse and remnant, matters that are not permitted for non-priests by the tossing of the blood. The same goes for Most Holy things. But as to Lesser Holy Things, since they are permitted to non-priests after the tossing of the blood, if a non-priest eats such meat even prior to the tossing of the blood, we do not invoke the penalty of flogging on the count of the non-priest’s [having eat them].”
- [C] Said R. Yosé, “The rule covers only Lesser Holy Things. But in regard to refuse and remnant, are they not the same after the tossing of the blood as before the tossing of the blood? For what purpose are refuse and remnant referred to? It is to exclude from the penalty Lesser Holy Things eaten after the tossing of the blood. Lo, if a non-priest should

eat them prior to the tossing of the blood, since they are forbidden, he is flogged on their account.”

- [D] Said R. Abin, “The language of the following Tannaite tradition supports the view of R. Yosé: ‘Thither shall you go and thither shall you bring your burnt-offerings and your sacrifices, your tithes and the offering that you present, your votive-offerings your free will offerings and the firstlings of your herd and of your flock’ (Dt. 12:5-6) — ‘your votive-offerings’ refers to thank-offerings and peace-offerings, indicating that if one ate the meat of those offerings prior to the tossing of the blood, he is flogged.”

[II:1 A] Flesh of Most Holy Things that was cooked with flesh of Lesser Holy Things that were cooked with ordinary meat [in a quantity sufficient to neutralize either separately] — it is forbidden for those who are unclean and permitted to those who are clean: R. Simeon b. Laqish said, “This is subject to the same dispute as at the outset [Flesh of Most Holy Things and flesh of refuse or remnant that were cooked with ordinary flesh in a quantity sufficient to neutralize either separately — the mixture is forbidden to non-priests and permitted to priests. R. Simeon permits [it] to [both] non-priests and priests].

- [B] R. Yohanan said, “It represents the position of all parties, [and Simeon does not repeat his schismatic ruling when it comes to Flesh of Most Holly Things cooked with that of Lesser Holly Things and with ordinary meat in a quantity sufficient to neutralize either separately].”
- [C] *There is this problem with the position of R. Simeon b. Laqish: have we not reasoned that all items that fall into the category of heave-offering do join together? Here too should not all the items that fall under prohibition when unclean and also are prohibited to non-priests join together?*
- [D] R. Simeon b. Laqish reasons in accord with that Tannaite tradition of Bar Qappara, “Pieces of meat in the status of Holy Things, refuse or remnant that were cooked with other pieces of meat — R. Simeon permits the mixture to non-priests, and sages prohibit it.”

YERUSHALMI ORLAH

CHAPTER THREE

3:1

- [A] A garment that one dyed with [dye made from] rinds of ‘*Orlah*-fruit is to be burnt.
- [B] It was mixed with others [i.e., regular garments]—
- [C] “All are to be burnt,” the words of R. Meir.
- [D] And sages say, “It is neutralized in [a ratio of] two hundred to one.”
- [I:1 A] A garment that one dyed with [dye made from] rinds of ‘*Orlah*-fruit is to be burnt:
- [B] It is written, “Then you shall count their fruit as uncircumcised” (Lev. 19:23)
- [C] *There is a Tannaite authority who repeats the tradition* to include under the prohibition what is near the actual fruit.
- [D] *There is a Tannaite authority who repeats the tradition* to include under the prohibition what covers the actual fruit.
- [E] *The Tannaite authority who repeats the tradition* to include under the prohibition what covers the actual fruit holds that the prohibition extends to shells and seeds.
- [F] *The Tannaite authority who repeats the tradition* to include under the prohibition what is near the actual fruit holds that the prohibition covers the shells but not the seeds.
- [G] If the prohibition of what is near the actual fruit covers the shells but not the seeds, how do we know that the seeds of ‘*orlah* fruit are prohibited?
- [H] *There is he who wants to infer the law from the following*: “Then you shall count their fruit as uncircumcised” (Lev. 19:23) — subject to the

law is that which covers the fruit and that the fruit covers [such as the seeds, covered by the fruit].

- [I:2 A] R. Abbahu in the name of R. Eleazar: “In any passage in which it is said, ‘It shall not be eaten,’ ‘you shall not eat,’ ‘they shall not eat,’ you must impose a prohibition against deriving benefit as much as a prohibition against actually eating the food, unless Scripture comes along and makes the contrary rule explicit for you, just as Scripture made it explicit for you with reference to a limb cut from a living beast and carrion [both cases in which one may not eat the meat but may sell it].
- [B] “How did Scripture make that rule explicit for you in the case of a limb from a living beast?
- [C] “‘You shall be men consecrated to me, therefore you shall not eat any flesh that is torn by beasts in the field; you shall cast it to the dogs’ (Ex. 22:31).
- [D] “How did Scripture make that rule explicit for you in the case of carrion?
- [E] “‘You shall not eat anything that dies of itself; you may give it to the alien who is within your towns that he may eat it or you may sell it to a foreigner, for you are a people holy to the Lord your God’ (Dt. 14:21).”
- [F] *Hezekiah repeated a Tannaite formulation and differed:* “And what sort of prohibition pertains? It is only as to eating the meat.] But it is for the dog. Is it not written, ‘Say to the people of Israel, you shall eat no fat, of ox or sheep or goat’ (Lev. 7:23) You thereby seize the prohibition against benefiting from the carrion as much as the prohibition against eating the specified food.”
- [G] That case is exceptional, for it is written, “The fat of an animal that dies of itself and the fat of one that is born by beasts may be put to any other use but on no account shall you eat it” (Lev. 7:24).
- [H] But is it not written, “Only you shall not eat the blood, you shall pour it out on the earth like water” (Dt. 12:16) — thus do you impose a [prohibition on both eating and deriving benefit from the blood?
- [I] That case is exceptional, for it is written, “You shall pour it out on the earth like water” (Dt. 12:16) — just as water is permitted for deriving benefit, so the blood is permitted for deriving benefit.
- [J] But is it not written, “Therefore the children of Israel do not eat the sciatic nerve” (Gen. 32:32)?

- [K] Said R. Abbahu, “I interpret the prohibition to apply to not eating the sciatic nerve,, but not against deriving benefit from the sciatic nerve of carrion.”
- [L] Is it not written, “And you shall eat neither bread nor grain parched or fresh until this same day, until you have brought the offering of your God; it is a statute forever throughout your generations in all your dwellings” (Lev. 23:14)?
- [M] Said R. Abba Mari brother of R. Yosé, “That case is exceptional, for Scripture has specified a particular time limit to the prohibition.”
- [N] And is it not written, “You shall not eat them for they are an abomination” (Lev. 11:42)?
- [O] Said R. Mana, ,”Scripture has set an exclusion on the prohibition against deriving benefit in that case.”
- [I:3 A] R. Abbahu in the name of R. Yohanan: “He who makes a poultice out of matter deriving from an ox that is to be stoned or from leaven held by Israelites through the Passover holiday is not subject to flogging, for the negative commandment that pertains in these cases is not fully apparent. But if he did so from what is subject to the prohibition of diverse kinds in the vineyard, he is flogged.”
- [B] For said R. Hanina, ““You shall not sow your vineyard with two kinds of seed, lest the whole yield be forfeited to the sanctuary, the crop you have sown and the yield of the vineyard’ (Dt. 22:9) — lest it be burned in fire.”
- [C] If one makes a poultice out of ‘orlah-fruit, there is a question. The affirmative commandment requires putting away ‘orlah-fruit [not deriving benefit from it]. But the negative commandment pertains solely to not eating it, and a negative commandment against deriving benefit from it is not written, so whether or not a flogging applies is unclear.
- [D] *There is a Tannaite teaching that differs from R. Yohanan:* Since it is said, “When an ox gores a man or a woman to death, the ox shall be stoned and its flesh shall not be eaten, but the owner of the ox shall be clear” (Ex. 21:28), do we not know that its flesh is forbidden from being eaten? What does Scripture say, “Its flesh shall not be eaten”? It is to inform you that just as it is prohibited from being eaten, so it is prohibited from deriving benefit.
- [E] *How does R. Yohanan deal with this passage?*

- [F] *He interprets it to speak of a case in which the owner went ahead and slaughtered the ox before the court process had run its course.*
- [G] *R. Zeira asked before R. Abbahu, “Here you say this and there you say that! [Here you say the negative commandment is not clear and there you have no doubt about it.]*
- [H] *He said to him, “One is in the name of R. Eleazar, the other is in the name of R. Yohanan.”*
- [I:4 A] The rabbis of Caesarea, R. Abbahu in the name of R. Yohanan: “In any setting in which Scripture states, ‘You may not eat,’ you do not impose a prohibition against deriving benefit along with the stated prohibition against eating the forbidden food.”
- [B] The generative analogy for all those cases is from the following: “But no sin-offering shall be eaten from which any blood is brought to the tent of meeting to make atonement in the holy place, it shall be burned with fire” (Lev. 6:30).
- [C] *A Tannaite teaching of Hezekiah supports the view of R. Yohanan:* “Since it is said, ‘Say to the people of Israel, you shall eat no fat of ox or sheep or goat’ (Lev. 7:23), why does Scripture further say, ‘the fat of an animal that dies of itself and the fat of one that is torn by beasts may be put to any other use, but on no account shall you eat it’ (Lev. 7:24)? It comes to inform you that that is the case even for use for the Most High. Since it is said, ‘Only you shall not eat its blood’ (Dt. 15:23), for what purpose is it further stated, ‘You shall pour it out on the ground like water’ (Dt. 15:23)? Just as water imposes susceptibility to uncleanness on dry and insusceptible produce, so does blood produce the same result. Since it is said, ‘You shall not eat anything that dies of itself, you may give it to the alien who is within your towns that he may eat it or you may sell it to a foreigner, for you are a people holy to the Lord your God’ (Dt. 14:21), why is it further said, ‘You may give it to the alien who is within your towns’? It serves to tell you that a resident alien may eat carrion. Since it is said, ‘You shall not eat any flesh that is torn by beasts in the field’ (Ex. 22:31), for what reason is it further said, ‘You shall cast it to the dogs’ (Ex. 22:31)? That sort of meat you may cast to the dogs, but you may not give the dogs unconsecrated beasts that have been slaughtered in the Temple courtyard.”
- [D] *There is a Tannaite tradition that supports this party and there is a Tannaite tradition that supports that party.*
- [E] *There is a Tannaite tradition that supports the position of R. Yohanan:*

- [F] “‘No leavened bread shall be eaten’ (Ex. 13:3) — this verse treats the one who feeds the food to the other as equivalent to the one who eats leaven himself.
- [G] “You say that that is the purpose of the verse, but maybe it means to prohibit deriving benefit from the leaven, not only not eating it but not selling it?
- [H] “When Scripture says, ‘You shall not eat leaven with it,’ we learn that one may not derive benefit from leaven, so when Scripture says, ‘No leavened bread shall be eaten’ (Ex. 13:3) — this verse treats the one who feeds the food to the other as equivalent to the one who eats leaven himself,” the word of R. Josiah.
- [I] R. Isaac says, “This is not necessary. If in the case of dead creeping things, which are subject to a less stringent law, the law treats the one who feeds the food to the other as equivalent to the one who eats leaven himself, leaven prohibited on Passover, a weighty matter indeed, surely the law should treat the one who feeds the food to the other as equivalent to the one who eats leaven himself. Then why does Scripture state, ‘No leavened bread shall be eaten’ (Ex. 13:3)? Scripture’s sole purpose must be to prohibit deriving benefit from the leaven, not only not eating it.”
- [J] *Since it is written,, “It shall not be eaten,” lo, from the statement, “You shall not eat it” there is no inference to be drawn, and that sustains the position of R. Yohanan.*
- [I:5 A] It is obvious that if one dyed the ground with ‘orlah-shells, the ground is not forbidden on that account. If one drew a picture on the ground, he has forbidden the ground on that account. If he dyed something that was animate — now if he bowed down to it, he has not forbidden it, then because he dyed it, is it going to be forbidden?
- [I:6 A] Shards that one dyed [with ‘orlah-shells] *represent a question:*
- [B] **a large garment that one dyed planning to chop it up into shreds — how do you deal with it? Is it comparable to a garment that has been shut up for further inspection or to one that has been certified unclean?** [M. Neg. 11:12: A garment which has been shut up which was mixed up among others [which are clean] — they are all clean. [If] one cut it [a garment which has been shut up] up and made it into [woolen] shreds, it is clean, and one is permitted to enjoy benefit from it. And that which was certified unclean which was mixed up with others- they all are unclean. [If] one cut it up and made it into shreds, it is unclean, and one is prohibited from enjoying benefit from

it.] *If you treat it as comparable to one that has been shut up, it is permitted. If you treat it as one that has been certified unclean, it is forbidden.*

- [I:7 A] If one dyed a garment and went and dyed it again and burned the garment through too much dying, we may say: if the first act of dying was necessary, it is forbidden, and if not, it is permitted.
- [B] If one dyed it with nut shells of ‘orlah and went and dyed it again, this time with nut shells of unconsecrated status, *he who says* that if the forbidden component of the mixture of food and forbidden spices imparts flavor to the detriment of the broth, it is permitted, *here too*, it is permitted. And *he who says* that even though the forbidden element imparts a flavor so as to spoil the broth, the broth is nonetheless forbidden — here too it is forbidden.
- [I:8 A] If one dyed it with nut shells of ‘orlah and went and dyed it again, this time with pomegranate rinds of unconsecrated origin, *the case is resolved as follows*:
- [B] **[And in the case of] cakes of pressed figs — large ones neutralize small ones, and small ones neutralize large ones; round ones neutralize square ones, and square ones neutralize round ones (M. Ter. 4:8).**
- [C] Said R. Huna, “*This is the Tannaite formulation*: The big ones neutralize the little ones by weight, and the little ones neutralize the big ones by number.” [There is neutralization there and here too.]
- [D] [The cases are hardly comparable.] *There you have a species neutralized by its own species, while here you have a species not neutralized by its own species.*
- [E] If one dyed it with walnut shells of ‘orlah and went and dyed it with secular walnut shells, you have neutralization of a species by its own species.
- [F] *It would run parallel to the following*: **R. Joshua says, “Black figs neutralize white ones, and white ones neutralize black ones. [And in the case of] cakes of pressed figs- large ones neutralize small ones, and small ones neutralize large ones; round ones neutralize square ones, and square ones neutralize round ones” (M. Ter. 4:8).**
- [G] *There it is possible to cut them up, but here it is not possible to cut them up.*

- [H] *And should you compare the cases*, we may deal with a case in which one dyed wool shearings [that are large] intending to make them into small tufts. [At the outset one dyed the whole with prohibited substances and then with what is permitted. In such a case it is possible to divide up what has been died and so to effect neutralization. Here too in Joshua's view it is possible to do the same thing.]
- [I] Said R. Yosé b. R. Abun, "One may compare it to a large garment that one dyed, planning to divide it up. We may make socks of them."
- [I:9 A] Said R. Yohanan, "In a mixture of prohibited dye-stuffs with other dye-stuffs, the prohibited dye-stuffs are neutralized in a mixture of two hundred to one. If it is a mixture of liquid dye with liquid dye, the nullification takes place if the larger part of the whole is permitted."
- [B] Said R. Abba bar Mamel, "[The prohibition of] deriving benefit from 'orlah-fruit is nullified if the 'orlah-fruit is mixed with a larger volume of what is permitted."
- [C] *The Mishnah-rule contradicts the position of R. Abba bar Mamel:*
Food which one has cooked with shells of 'Orlah-fruit must be burned. [If] it was mixed with other [food], it is neutralized in two hundred and one.
- [D] *Interpret the Mishnah to speak of* the confusion of a pot of food among other pots of food.
- [E] *Said R. Yosé, "R. Abba bar Mamel theorizes that* it is permitted to neutralize the forbidden component of a mixture even at the outset and not only after the fact. *How so?* If the mixture contains prohibited dye enough to dye the garment, you regard the permitted part of the mixture as if it did not exist, so the prohibited part has the effect of imposing a prohibition on the whole. If there is not sufficient dye in the whole to dye the garment, you regard the permitted part as if the prohibited part were not mixed with it, leading to the conclusion that there is insufficient prohibited dye to impose a prohibition on the whole."
- [I:10 A] *There we have learned in the Mishnah:* **These things belonging to gentiles are prohibited, and the prohibition affecting them extends to deriving any benefit from them at all: (1) wine, (2) vinegar of gentiles which to begin with was wine, (3) Hadrianic earthenware, and (4) hides pierced at the heart [M. A.Z. 2:3A-B].**
- [B] *R. Zeira in the name of R. Jeremiah: "It represents the view of R. Meir, for a Tannaite rule states:* **Pickled and stewed vegetables of gentiles,**

into which it is customary to put wine and vinegar, and Hadrianic earthenware [which absorb liquids] — the prohibition affecting them is a prohibition extending to deriving any benefit from them whatsoever [T. A.Z. 4:8]. *Now how shall we interpret the context of this rule?* If it is a case in which one has put the forbidden substance into the broth, all parties concur that it is forbidden. If he sold it except for the value of the libation-wine that is in the mixture, all parties concur that the proceeds are permitted. But we assign the rule to the context in which one put the prohibited pot on top of the broth.”

[C] What is the law as to setting the legs of a bed onto Hadrianic pottery?

[D] R. Eleazar said, “It is forbidden.”

[E] R. Yohanan said, “It is permitted.”

[F] *R. Jonah raised the question before R. Zeira, “As to the garment about which we have earned the law before us, what is the law about leaning a bed on it?”*

[G] *He refused to accept the question.*

[H] He said to him, “Even in accord with the view of the one who said there that it is permitted, here it is forbidden. There the prohibition concerning it is not discernible, but here the prohibition concerning it is discernible.”

[II:1 A] *Said R. Haggai, “When I got off the boat, I heard the report of R. Jacob bar Aha, who was in session and teaching as follows: **A garment that one dyed with [dye made from] rinds of ‘Orlah-fruit is to be burnt.** And we have learned in the Mishnah: [If] one took from an idol wood for a shuttle, it is forbidden for benefit. [If] he wove a garment with the shuttle, the garment is forbidden for benefit. [If] it was mixed up with other garments, and other garments with still others, all of them are forbidden for benefit [M. A.Z. 3:9]. Libation-wine that fell into a vat, the whole of the vat is forbidden as to benefit. And we learned: **Rabban Simeon b. Gamaliel says, “Let the whole of it be sold to a gentile, except for the value of the libation wine that is in the vat” [M. A.Z. 5:10].***

[B] *Said R. Aha bar Jacob, “R. Haggai raised the question, R. Haggai resolved it: Are the cases parallel? People do not commonly purchase wine from a gentile, but they ordinarily purchase clothing from gentiles [and there is reason to think that Simeon b. Gamaliel will concur in the prohibition].”*

3:2

- [A] **He who dyes a *sit*'s length [of thread] in [dye made from] shells of 'Orlah-fruit and wove it into a garment,**
- [B] **and it is not known which one it is—**
- [C] **R. Meir says, "The garment must be burned."**
- [D] **And sages say, "It is neutralized in two hundred and one."**
- [E] **He who weaves *sit*'s length of wool from a firstling into a garment**
—
- [F] **the garment must be burnt.**
- [G] **And [the who weaves] a Nazirite's hair or hair from the firstborn of an ass into a sack—**
- [H] **the sack must be burnt.**
- [I] **And in the case of hair from other Holy Things, they render [the rest] sanctified [i.e., prohibited] in any quantity whatsoever.**
- [I:1 A] *Who formulated the rule in terms of a sit? It is R. Meir, but rabbis there is no difference between a sit's length and less than a sit.*
- [I:2 A] R. Yosé b. R. Abun said in the name of R. Yohanan, R. Yosé in the name of R. Yohanan: "A piece of wool from a firstling that one hackled is nullified in the larger cloth with which it has been woven."
- [B] *An objection was raised: R. Hiyya of Sepphoris [brought] before R. Immi [the case of] the mixture of a litra of wool from a firstling-sheep with eight litras of permitted wool, and R. Immi did not decide the case [in accord with the view that the mixture of prohibited and permitted wool was permitted].*
- [C] *Said R. Yosé, "Is it not a statement of the Mishnah: **He who weaves sit's length of wool from a firstling into a garment— the garment must be burnt. And [the who weaves] a Nazirite's hair or hair from the firstborn of an ass into a sack— the sack must be burnt.**" [The prohibited part of the fabric is not nullified by the larger, permitted part. Yohanan's statement that nullification takes place is contradicted by the Mishnah.]*
- [D] *He said to him, "If you had posed the problem earlier, it would have been fine."*
- [I:3 A] *There we learned in the Mishnah: **And those are things that are to be burned: Leaven on Passover is to be burned. (1) And unclean heave offering, and (2) orlah fruit, and (3) mixed seeds in a vineyard [M. Tem. 7:5] And these are things that are to be buried:***

Sanctified animals which produced a miscarriage — they [the miscarriages] are to be buried. [If] it produced an afterbirth, it is to be buried. (1) An ox which is stoned to death (2) and a heifer, the neck of which is broken (3) and the bird offerings of a mesora (4) and the hair of a Nazirite [which is cut off] (5) and the firstborn of an ass (6) and meat mixed with milk [M. Tem. 7:4]. Here you say the hair of a Nazirite is to be burned, and there you say it is to be buried.

- [B] Said R. Yohanan, “Here we deal with hair woven into a sack [to be burned] and there we deal with hair as is [to be buried].”
- [C] What is the difference between hair woven into a sack and hair as is [to be buried].
- [D] Said R. Hananiah b. R. Hillel, “As to sack it is routine to dig it up [and use it, so it must be burned], but as to hair as is, it is not routine to dig it up [and use it, so it may be buried].”
- [E] R. Simeon b. Laqish said, “Here [where it is burned] we deal with the Sanctuary, and there [where it is buried] we deal with the provinces.”
- [F] R. Yosé b. R. Hanina said, “Here it is a clean Nazirite, there it is an unclean one.”
- [G] *But have we not learned in the Mishnah: or hair from the firstborn of an ass, and here can you say, Here [where it is burned] we deal with the Sanctuary, and there [where it is buried] we deal with the provinces, or here it is a clean Nazirite, there it is an unclean one? [The stated considerations do not apply.] But the sole operative consideration is, here we deal with hair woven into a sack [to be burned] and there we deal with hair as is [to be buried].*
- [H] *Said R. Yosé b. R. Abun, “Where you say, it is to be burned, it involves the hair, and where you say it is to be buried, it is the body of the beast itself.”*

[II:1 A] And in the case of hair from other Holy Things, they render [the rest] sanctified [i.e., prohibited] in any quantity whatsoever:

- [B] Said R. Yosé in the name of R. Yohanan, “That which you say applies to Holy Things that are subject to a step that renders them permitted [for at some point in the processing of the offering, the meat becomes available for use by the priests or the sacrificers, as the case may be]. But as to Holy Things that are not subject to a step that renders them permitted [but are always forbidden] they are subject to the fixed measurement of the minimum of a sit.”

[C] *Objected R. Yosé, “But lo, the Mishnah differs: He who weaves sit’s length of wool from a firstling into a garment— the garment must be burnt.* And the firstling does not fall into the category of Holy Things that are subject to a step that renders them permitted.”

[III:1 A] [Returning to the opening proposition, *Who formulated the rule in terms of a sit? It is R. Meir, but rabbis hold there is no difference between a sit’s length and less than a sit*] *there is one who repeats the Tannaite formulation in the name of R. Meir, and there is one who does not repeat the Tannaite formulation in the name of R. Meir.*

[B] *One who repeats the Tannaite formulation in the name of R. Meir takes the view that there are ten things that sanctify [that with which they are mixed in any quantity whatsoever. [For R. Meir used to say, “Whatever one normally counts [when selling it], renders [others mixed with it] sanctified [i.e., forbidden, so that they all must be burned]” (M. 3:4F)],*

[C] *And as to the one who does not repeat the Tannaite formulation in the name of R. Meir, whence does he derive the view that there are ten things that sanctify [that with which they are mixed in any quantity whatsoever]?*

[D] R. Meir accords with the position of R. Aqiba, for R. Aqiba said “[For R. Meir used to say, “Whatever one normally counts [when selling it], renders [others mixed with it] sanctified [i.e., forbidden, so that they all must be burned].” And sages say, “Only six [such] things render [others] sanctified [i.e., forbidden].” And R. Aqiba says, “Seven [things render others forbidden].” And these are they: 1) nuts from Perekh, 2) pomegranates from Baddan, 3) sealed jars [containing forbidden wine], 4) beet-shoots, 5) cabbage-stalks and 6) Greek gourds. R. Aqiba says], “Also 7) the loaves of a householder” [at M. 3:4-5].

3:3

[A] **Food that one has cooked with shells of ‘Orlah-fruit must be burned.**

[B] **[If] it was mixed with other [food], it is neutralized in two hundred and one.**

[C] **An oven that they heated with shells of ‘Orlah-fruit, and in which one baked bread—**

[D] **the bread is to be burned.**

- [E] [If] it was mixed with other [bread], it is neutralized in two hundred and one.
- [I:1 A] Abba bar Jeremiah, Kahana bar Jeremiah in the name of Samuel, R. Abba, R. Hiyya in the name of R. Yohanan: “Coals of orlah-shells that flickered out, lo these are permitted.”
- [B] *Is that principle [that once the wood has been burned and the flame extinguished, the wood is available for ordinary use without restricted] not stated in the Mishnah? [If] one has taken pieces of wood from [an asherah], they are prohibited for benefit. [If] he lit a fire in the oven with them, if it is a new oven, it is to be overturned. If it is an old oven, it must be allowed to cool down [M. A.Z. 3:9]. [Implicitly, it is assumed that when it cools down, the oven or the wood is available for ordinary use.]*
- [C] *R. Hanania said, “There is no reply here.”*
- [D] *R. Mana said, “There is a reply: it is a case in which the man brought fresh wood and dried it out with a fire kindled from the shells of orlah-fruit.”*
- [I:2 A] Stones afflicted with *nega*-uncleanness that one made into plaster — *there are Tannaite authorities who teach, “They emerge from their state of uncleanness [when they are pulverized],” there are Tannaite authorities who teach, “They do not emerge from their state of uncleanness [when they are pulverized].*
- [B] *The Tannaite authorities who teach, “They emerge from their state of uncleanness [when they are pulverized],” take the view that they are permitted, and the Tannaite authorities who teach, “They do not emerge from their state of uncleanness [when they are pulverized]” hold they are forbidden.*
- [C] *Even in accord with the position of those that say, “They emerge from their state of uncleanness [when they are pulverized],” lo, they are forbidden for benefit, since it is written, “Then he shall examine the disease on the seventh day. If the disease has spread in the garment, in warp or woof, or in the sin, whatever be use of the skin, the disease is a malignant leprosy, it is unclean” (Lev. 13:51). Assign a curse to the stone and let none derive benefit from it.*
- [I:3 A] R. Abbahu in the name of R. Yohanan, “Whatever is to be disposed of by burning — the ashes that survive are permitted, except for the ashes of an idol that has been burned.”

[B] *Objected R. Hiyya bar Joseph before R. Yohanan, “Lo, there is the case of the dirt deriving from an afflicted house. Lo, it is not forbidden for having served as a temple of idolatry, and yet you hold it is forbidden as a source of benefit!”*

[C] He said to him, “That’s different, because the word ‘tearing down’ is used in connection both with altars built for idols and for the afflicted house, imposing the rule on the latter that derives from the former.”

3:4

[A] **Whoever had bunches of fenugreek that are [prohibited under the laws of] diverse kinds of the vineyard —**

[B] **[the bunches] must be burned.**

[C] **[If] they were mixed with others [i.e., permitted bunches]—**

[D] **“All must be burned,” the words of R. Meir.**

[E] **And sages say, “They are neutralized in two hundred and one.”**

[F] **For R. Meir used to say, “Whatever one normally counts [when selling it], renders [others mixed with it] sanctified [i.e., forbidden, so that they all must be burned].”**

[G] **And sages say, “Only six [such] things render [others] sanctified [i.e., forbidden].”**

[H] **And R. Aqiba says, “Seven [things render others forbidden].”**

[I:1 A] How large is a bunch?

[B] It is twenty-five stalks.

[C] Said R. Jonah, “And four of them must be suitable for use for a bed.”

[II:1 A] **[For R. Meir used to say, “Whatever one normally counts when selling it renders others mixed with it sanctified i.e., forbidden, so that they all must be burned”]: R. Yohanan and R. Simeon b. Laqish†— one of them said, “According to the view of R. Meir there are ten things that sanctify that with which they are mixed,” and the other said, “According to the view of R. Meir all things sanctify that with which they are mixed.”**

[B] *R. Jacob bar Aha said, “There is a tradition of the Mishnah that differs from him who has said, ‘According to the view of R. Meir there are ten things that sanctify that with which they are mixed,’ for we have learned in the Mishnah there: Said R. Yosé [Yer. Judah], “The pomegranates of Badaan and the leeks of Geba were mentioned only so that they should be tithed in any place as being*

[previously] certainly untithed” [M. Kel. 17:5]. And as to all other pomegranates, it is not customary to number them one by one, except for the pomegranates of Badaan, since they are prized and are counted out by hand, but as to all other pomegranates, since they are not prized, they are not counted out by hand.”

3:5

- [A] **And these are they: 1) nuts from Perekh, 2) pomegranates from Baddan, 3) sealed jars [containing forbidden wine], 4) beet-shoots, 5) cabbage-stalks and 6) Greek gourds.**
- [B] **R. Aqiba says, “Also 7) the loaves of a householder.”**
- [C] **To that [among these items] to which the prohibition is applicable, the ‘Orlah-prohibition [applies]**
- [D] **To that to which the laws of diverse kinds of the vineyard is applicable, the laws of diverse kinds of the vineyard [applies].**
- [I:1 A] [Do we wish to exclude other produce from Perekh, that we refer to **nuts from Perekh?**] *R. Jonah raised the question, “Lo, does the rule not apply to almonds from Perekh?”*
- [II:1 A] [**sealed jars containing forbidden wine**]: The Mishnah speaks of sealed jars confused among other sealed jars, but as to a sealed jar among open ones, which then was opened, or an open jar among sealed ones, which then was sealed, such jars are subject to a different criterion. [Namely, a proportion of a hundred to one in the case of heave-offering, two hundred to one in the case of orlah-fruit and diverse kinds in the vineyard. The governing consideration is the status at the time at which the confusion took place.]
- [B] How is it possible for confusion to affect an open jar among closed ones? [Surely there is no problem in identifying the open jar, which is subject to the prohibition.]
- [C] Said R. Zeira, “Interpret the law to speak of the case of an open jar in a shop, which is equivalent to a sealed one in the household.” [The shopkeeper puts on a firm seal, the householder doesn’t.]
- [D] *But lo, the Tannaite formulation has, open jars that were then sealed up?*
- [E] Interpret it to speak of the householder’s going and taking it back.
- [III:1 A] [**Greek gourds**]: *R. Qerispa in the name of R. Yohanan: “In all the towns where we reside, the gourds that we eat as classified as Greek gourds.”*

[IV:1 A] [To that to which the laws of diverse kinds of the vineyard is applicable, the laws of diverse kinds of the vineyard applies:] R. Jonah raised the question: “And why do we not say, ‘to that to which the laws of heave offering apply’?”

[B] Said R. Yosé to him, “Heave offering pertains to all kinds of produce, but orlah-laws do not pertain to all sorts of produce but only to fruit trees.”

3:6

[A] [If] the 1) nuts were split, 2) the pomegranates cut open, 3) the jars opened, 4) the gourds cut into, or 5) the loaves broken into, they are neutralized in two hundred and one.

[I:1 A] “If jugs containing wine which is ‘*orlah* fell among jugs of permitted wine and afterwards were opened, whether they were opened intentionally or unintentionally — lo, they are not neutralized,” the words of R. Meir.

[B] But R. Judah says, “Whether [they were opened] intentionally or unintentionally, they are neutralized.”

[C] R. Yosé says, “[If they were opened] unintentionally, they are neutralized. [But if they were opened] intentionally, they are not neutralized.” [T. Ter. 5:10].

[D] *What is the operative consideration of R. Meir?*

[E] They have imposed the penalty in the case of inadvertence on account of the case of deliberate action.

[F] *What is the operative consideration of R. Judah?*

[G] He has imposed the penalty upon himself by his own hand.

[H] *What is the operative consideration of R. Yosé?*

[I] *It is in line with what R. Abbahu said in the name of R. Yohanan, “In the case of all prohibited substances in which neutralization is effected by a mixture of a larger proportion of permitted substance and a smaller proportion of prohibited substance, what is added inadvertently is permitted, and what is done deliberately is forbidden.”*

[I:2 A] R. Simeon b. Laqish in the name of R. Hoshai, “If before the farmer there were a hundred and fifty jars and a hundred of them were opened up, the hundred are permitted and the fifty are forbidden, and as to the rest, when they are opened, they will be permitted.”

[B] Said R. Zeira, “They have worded the rule, ‘when they are opened.’
Lo, as to opening them to begin with, this is forbidden.”

[I:3 A] *A member of the household of R. Yannai raised the question: “A gourd that was cut open while it was still attached to the stem, what is the law as to its becoming liable on that account to the separation of tithes?”*

[B] Levi asked, “What is the rule as to its becoming susceptible to the uncleanness that pertains to food?”

[C] When it is cut into, it was as though it was cut off from the vine [so it is subject to tithing and to food-uncleanness.]

[D] *There is a statement of Samuel that pertains, for Samuel said, “It is susceptible to the uncleanness that pertains to food.”*

[E] And said R. Yosé b. R. Abun in the name of Samuel, “Figs and grapes that one dried while still attached to the stem are susceptible to uncleanness as food. But he who cuts off a piece of them on the Sabbath is liable on the count of harvesting.”

[II:1 A] **the loaves broken into:**

[B] This represents the view of R. Aqiba, for **R. Aqiba said, “Also the loaves of the householder [M. 3:5B].”**

3:7

[A] **A doubt [concerning the status] of ‘Orlah-fruit—**

[B] **in the Land of Israel [the fruit in question] is forbidden,**

[C] **and in Syria [the fruit] is permitted,**

[D] **and outside of the Land [of Israel], one goes down to the orchard [and purchases] such fruit,**

[E] **provided that he does not see him [i.e., the seller] pick [the fruit].**

[F] **A vineyard that was planted with vegetables [i.e., diverse kinds], and outside of which vegetables [of a like kind] are sold —**

[G] **in the Land of Israel [the produce] is forbidden [as diverse kinds]**

[H] **and in Syria, it is permitted,**

[I] **and outside of the Land [of Israel], one goes down and picks the fruits,**

[J] **provided that he [i.e., the Jew] himself not pick the fruit.**

[K] **New produce is forbidden by Scripture in all places.**

- [L] **And the ‘Orlah-prohibition [outside of the Land of Israel is *halakhah*.**
- [M] **And the laws of diverse kinds [are applied outside of the Land of Israel] by the words of the Scribes.**
- [I:1 A] **What is a case of doubt concerning orlah-fruit? A doubt concerning the status of ‘orlah-fruit —**
- [B] **A vineyard or a field which was planted with vegetables, and outside of which vegetables of a like kind are sold —**
- [C] **[the produce which is in] doubt is forbidden in the Land of Israel;**
- [D] **in Syria the produce is permitted.**
- [E] **R. Judah says, “Even this [produce which is in] doubt is forbidden in Syria.**
- [F] **“What [doubtful produce] is permitted in Syria?**
- [G] **“A vineyard which is planted with vegetables, and next to which is a field of vegetables, and outside of which vegetables are sold —**
- [H] **“the [produce which is in] doubt is forbidden in the Land of Israel;**
- [I] **“in Syria and outside of the Land [of Israel], it is permitted” [T. Hal. 1:9].**
- [J] **Said R. Judah, “Even this produce is forbidden in Syria. What is the produce subject to doubt that is permitted in Syria? A field planted in vegetables with a field planted with another species of vegetables beside it, and vegetables are for sale outside of it, in the land of Israel it is forbidden and in Syria it is permitted, **and abroad one goes down and picks the produce, on condition that one not pick by hand.**”**
- [K] **Said R. Yudan, “This applies also to the first case, **provided that he does not see him [i.e., the seller] pick [the fruit].**”**
- [II:1 A] **New produce is forbidden by Scripture in all places:**
- [B] *The Mishnah-rule represents the position of R. Eliezer, for we have learned in the Mishnah there: **Every commandment which is dependent upon the Land applies only in the Land, and which does not depend upon the Land applies both in the Land and outside the Land, except for orlah [produce of a fruit tree in the first three years of its growth] and mixed seeds [Lev. 19:23, 19:19]. R. Eliezer says, “Also: Except for [the prohibition against eating]***

new [produce before the omer is waved on the sixteenth of Nisan] [Lev. 23:14].” [M. Qid. 1:9]

[B] *What is the scriptural basis of R. Eliezer’s ruling?*

[C] It is written, “Öin all your dwellings” — in every place, whether in the Land or abroad.

[D] *How do the rabbis deal with the proof, “Öin all your dwellings” produced by R. Eliezer?*

[E] They apply the verse to new produce deriving from the Land of Israel and taken outside the boundaries of the land. [It may not be eaten before the omer is waved.]

[II:2 A] *R. Jonah raised the question before R. Yosé, “Why don’t we learn as the Tannaite formulation, also dough offering along with them?”*

[B] Said to him R. Yosé, “Our Mishnah-passages deals only with laws that govern Israelites’ crops and gentiles’ crops grown in the Land. But dough offering applies only to Israelites’ food and not to gentiles’ food. So it is written in Scripture, ‘Of the first of your coarse meal you shall present a cake as an offering’ (Num. 15:20) — and not the first of gentiles’ meal.”

[III:1 A] **And the ‘Orlah-prohibition [outside of the Land of Israel] is halakhah.**

[B] Samuel said, “It is the law of the province [voluntarily obeyed by the Jewish farmers].”

[C] R. Yohanan said, “It is the law revealed by God to Moses at Sinai.”

[D] *R. Yosé raised the question, “It is the law revealed by God to Moses at Sinai. And you say this!” [A doubt [concerning the status] of ‘Orlah-fruit— in the Land of Israel [the fruit in question] is forbidden, and in Syria [the fruit] is permitted, and outside of the Land [of Israel], one goes down to the orchard [and purchases] such fruit, provided that he does not see him [i.e., the seller] pick [the fruit].*

[E] He said to him, “At the time that the law was given, that is how it was given.”

[F] *He said to him, “Had I come up to the Land of Israel only to hear this one teaching, it would have been enough.”*

[IV:1 A] And the laws of diverse kinds are applied outside of the Land of Israel by the words of the Scribes:

[B] Samuel said, “That concerns diverse kinds in a vineyard. But lo, as to mixed seeds in general, such produce is permitted [not subject to a prohibition].”

[C] R. Yohanan said, “That concerns diverse kinds in a vineyard. And lo, as to mixed seeds in general, such produce is forbidden.”

[D] *Said R. Huna, “When the Westerners [those from the Land of Israel] came down there, they repeated this basis for the position of R. Yohanan, which was accepted: ““You shall keep my statutes. You shall not let your cattle breed with a different kind; you shall not sow your field with two kinds of seed; nor shall there come upon you a garment of cloth made of two kinds of materials” (Lev. 19:19). Scripture has established a comparison between diverse kinds in a vineyard, diverse kinds of stuff in a garment, and cross-breeding of cattle. Just as diverse kinds of stuff in a garment and crossbreeding cattle, which do not depend upon location in the Land, apply in the Land and abroad, so too the prohibition of mixed seeds, even though that rule depends upon location in the Land, applies in the Land and abroad.”*

[IV:2 A] *Somebody sowed his field with barley and vegetables. Hanin of Gobit came by and pulled up the crop. The case came before Samuel, who fined him [there was no law violation].*

[B] *For it has been taught on Tannaite authority: **They do not grow [or, “work”] diverse-kinds with an Israelite [i.e., in the field of an Israelite], but they uproot diverse-kinds with him, because he diminishes the impropriety.***

[C] *It has been taught on Tannaite authority: **They do not grow [or, “work”] diverse-kinds with a gentile [i.e., in the field of a gentile].***

[D] *And in the towns surrounded [by the Land of Israel], such as Bet Anah, Emah, and its neighbors, they grow [or, “work”] diverse-kinds with a gentile.*

[E] **Just as diverse-kinds [are prohibited] in the Land [of Israel], so are diverse-kinds [prohibited] outside of the Land [of Israel] [T. Kilayim 2:16].**

[F] *Samuel, [who held that the law of diverse kinds does not apply outside of the Land of Israel] interpreted the Tannaite formulation as follows: **They do not grow [or, “work”] diverse-kinds with a gentile [i.e., in the field of a gentile] whether these are diverse kinds in a vineyard or diverse kinds of seed.***

- [G] And in the towns surrounded [by the Land of Israel], such as Bet Anah, Emah, and its neighbors, they grow [or, “work”] diverse-kinds with a gentile.
- [H] **Just as diverse-kinds [are prohibited] in the Land [of Israel], so are diverse-kinds [prohibited] outside of the Land [of Israel].** That refers to diverse kinds in a vineyard. Lo, as to diverse kinds generally, it is permitted [outside the Land of Israel].
- [I] *R. Yohanan, [who held that the law of diverse kinds does apply outside of the Land of Israel] interpreted the Tannaite formulation as follows: **They do not grow [or, “work”] diverse-kinds with a gentile [i.e., in the field of a gentile]** whether these are diverse kinds in a vineyard or diverse kinds of seed.*
- [J] And in the towns surrounded [by the Land of Israel], such as Bet Anah, Emah, and its neighbors, they grow [or, “work”] diverse-kinds with a gentile.
- [K] **Just as diverse-kinds [are prohibited] in the Land [of Israel], so are diverse-kinds [prohibited] outside of the Land [of Israel].** That refers to diverse kinds in a vineyard. Lo, as to diverse kinds generally, [the same rule applies.]

TRACTATE

BIKKURIM

What is at stake in the offering of firstfruits (*bikkurim*) is made explicit when sages systematically interpret the declaration that the householder makes to God when presenting firstfruits to the priest in the Temple.

{See Margaret Wenig Rubenstein, “A Commentary on Mishnah-Tosefta Bikkurim Chapters One and Two,” in *Approaches to Ancient Judaism: Text as Context in Early Rabbinic Literature* (William Scott Green, ed.; 16 vols.; Scholars Press for Brown Judaic Studies; Chico, Calif.: Scholars, 1981), 3:47–88, and David Weiner, “A Study of Mishnah Tractate Bikkurim Chapter Three,” in *Approaches to Ancient Judaism: Text as Context in Early Rabbinic Literature* (William Scott Green, ed.; 16 vols.; Scholars Press for Brown Judaic Studies; Chico, Calif.: Scholars, 1981), 3:89–104. The Tosefta-translations are by Margaret Wenig Rubenstein for ch. 1; by Richard S. Sarason for ch. 2:1–7; and by David Weiner for ch. 2:8–16, all taken from Jacob Neusner and Richard S. Sarason, eds., *The Tosefta: Translated from the Hebrew, I. The First Division (Zeraim)* (N.Y.: Ktav, 1985). For the Yerushalmi, I consulted *The Talmud of the Land of Israel: A Preliminary Translation and Explanation, Orlah and Bikkurim* (trans. Jacob Neusner; vol 10; Chicago: University of Chicago Press, 1991).}

That statement defines Israel’s relationship with God at the intersection of possession of the Land and a genealogical position within original Israel—the only rite of the halakhah that in any way differentiates the home-born from the convert. Genealogical-Israel’s presentation of the firstfruits and declaration that the holy offering stands for Israel’s response to God’s gift of the Land, Israel’s act of rejoicing in God’s gift: “and he brought us into this place and gave us this land, a land flowing with the milk and honey. And behold, now I bring the first of the fruit of the ground which thou, O LORD, hast given me” (Deut 26:9-10 RSV).

While the Written Torah speaks of two ceremonies involving firstfruits, the Oral Torah knows one. The halakhah requires firstfruits to be presented annually out of the produce native to the Land of Israel. They are presented on Pentecost, when the required declaration is made; carried in a basket that is waved by the priest before the altar. Animals are brought as peace- and whole-offerings. The halakhah rests upon Scripture at three passages. The first treats the act of separating firstfruits as acknowledgment of God’s keeping his promise to give his people the Land. The second encompasses the first harvest of wheat within the calendar of the cult.

When you come into the land which the LORD your God gives you for an inheritance, and have taken possession of it, and live in it, you shall take some of the first of all the fruit of the ground, which you harvest from your land the LORD your God gives you, and you shall put it in a basket, and you shall go to the place which the LORD your God will choose, to make his name to dwell there. And you shall go to the priest who is in office at that time, and say to him, 'I declare this day to the LORD your God that I have come into the land which the LORD swore to our fathers to give us.' Then the priest shall take the basket from your hand, and set it down before the altar of the LORD your God. And you shall make response before the LORD your God, 'A wandering Aramean was my father; and he went down into Egypt and sojourned there, few in number; and there he became a nation, great, mighty, and populous. And the Egyptians treated us harshly, and afflicted us, and laid upon us hard bondage. Then we cried to the LORD the God of our fathers, and the LORD heard our voice, and saw our affliction, our toil, and our oppression; and the LORD brought us out of Egypt with a mighty hand and an outstretched arm, with great terror, with signs and wonders; and he brought us into this place and gave us this land, a land flowing with the milk and honey. And behold, now I bring the first of the fruit of the ground that thou, O LORD, hast given me.' And you shall set it down before the LORD your God, and worship before the LORD your God; and you shall rejoice in all the good which the LORD your God has given to you and to your house, you and the Levite, and the sojourner who is among you. (Deut 26:1–11 RSV)

And the LORD said to Moses, "Say to the people of Israel, When you come into the land which I give you and reap its harvest, you shall bring the sheaf of the first fruits of your harvest to the priest; and he shall wave the sheaf before the LORD, that you may find acceptance; on the morrow after the Sabbath [the concluding Sabbath of the Feast of Unleavened Bread] the priest shall wave it. And on the day when you wave the sheaf, you shall offer a male lamb a year old without blemish as a burnt offering to the LORD. And the cereal offering with it shall be two tenths of an ephah of fine flour mixed with oil, to be offered by fire to the LORD, a pleasing odor; and the drink offering with it shall be of wine, a fourth of a hin. And you shall eat neither bread nor grain parched or fresh until this same day, until you have brought the offering of your God: it is a statute for ever throughout your generations in all your dwellings. And you shall count from the morrow after the sabbath, from the day that you brought the sheaf of the wave offering; seven full weeks shall they be, counting fifty days to the morrow after the seventh sabbath; then you shall present a cereal offering of new grain to the LORD. You shall bring from your dwellings two loaves of bread to be waved, made of two tenths of an ephah; they shall be of fine flour, they shall be baked with leaven, as first fruits to the LORD. And you shall present with the bread seven lambs a year old without blemish, and one young bull, and two rams; they shall be a burnt offering to the LORD, with their cereal offering and their drink offerings, an offering by fire, a pleasing odor to the LORD. And you shall offer one male goat for a sin offering, and two male lambs a year old as a sacrifice of peace offerings. And the priest shall wave them with the bread of the first fruits as a wave offering before the LORD, with the two lambs; they shall be holy to the LORD for the priest. And you shall make proclamation on the same day; you shall hold a holy convocation; you shall do no laborious work: it is a statute for ever in all your dwellings throughout your generations. (Lev 23:9–21 RSV)

On the day of the first fruits, when you offer a cereal offering of new grain to the LORD at your feast of weeks, you shall have a holy convocation; you shall do no laborious work. (Numbers 28:26 RSV)

Thus Deuteronomy wants firstfruits from all produce to be presented to the priests of the

central sanctuary, with two declarations; no particular time is indicated, no sacrifices required. The Priestly Code requires offerings but knows no declaration. But it does specify that the firstfruits are presented at Pentecost. The Priestly Code then involves a sheaf of barley from the first harvest, presented to the priest on the day after the Sabbath of the Feast of Unleavened Bread; the priest waves it with appropriate rites. That permits grain of the new harvest to be eaten. Seven weeks later is the day of firstfruits, when two loaves and various other offerings are waved by the priest as a wave-offering.

YERUSHALMI BIKKURIM

CHAPTER ONE

1:1

- [A] There are [those who] bring [the] firstfruits [of the produce of their land] and recite, [the confession, “I declare this day to the Lord your God that I have come into the land that the Lord swore to our fathers to give us.” Then the priest shall take the basket from your hand and set it down before the altar of the Lord your God. And you shall make response before the Lord your God: “A wandering Aramean was my father, and he went down into Egypt and sojourned there, few in number; and there he became a nation, great, mighty, and populous. And the Egyptians treated us harshly and afflicted us and laid upon us hard bondage. Then we cried to the Lord the God of our fathers, and the Lord heard our voice and saw our affliction, our toil, and our oppression; and the Lord brought us out of Egypt with a mighty hand and an outstretched arm, with great terror, with signs and wonders; and he brought us to this place and gave us this land, a land flowing with the milk and honey. And behold, now I bring the first of the fruit of the ground that thou, O Lord, have given me.” Deut. 26:3-10],
- [B] there are those who bring [firstfruits] but do not recite [the declaration],
- [C] and there are [those] who do not bring [firstfruits] at all.
- [D] These are [those who do not bring [firstfruits]:
- [E] 1) he who plants a tree on his own property and bends [a branch of the tree and sinks it into the ground so that it grows forth] on private [property] or on public [property, as an independent plant];

- [F] and so 2) he who bends [a branch of a tree that is growing] on private [property] or on public [property and sinks the branch into the ground so that it grows] on his own [property];
- [G] 3) he who plants [a tree] on his own [property] and bends [a branch of the tree and sinks it in the ground so that it still grows] on his own [property], but a private road or a public road [runs] in between [the tree and its offshoot],
- [H] lo, this one does not bring [the firstfruits from the offshoot].
- [I] R. Judah says, “Such a one does bring [them].”
- [J] For what reason does he not bring them?
- [K] Because it is written, “[You shall bring] the first of the firstfruits of your land” (Deut. 26:2).
- [L] [You may not bring firstfruits] unless all of their growth [takes place] on your land.
- [I:1 A] These are [those who do not bring firstfruits]: he who plants a tree on his own property and bends [a branch of the tree and sinks it into the ground so that it grows forth] on private [property] or on public [property, as an independent plant]:
- [B] Even from the firstfruits of the established tree [planted on his own property] he does not bring.
- [C] and so 2) he who bends [a branch of a tree that is growing] on private [property] or on public [property and sinks the branch into the ground so that it grows] on his own [property]:
- [D] Even from the firstfruits of the freshly-planted tree he does not bring.
- [E] *Does that imply that* just as the newly planted tree derives nourishment from the established one, so the established tree derives nourishment from the newly planted tree?
- [F] *Said R. Yohanan, “Both rulings are* on account of subjecting the farmer to the rule covering thievery.”
- [G] Said R. Yosé, “The Mishnah itself has said no less, **For what reason does he not bring them? Because it is written, ‘[You shall bring] the first of the firstfruits of your land’ (Deut. 26:2). [You may not bring firstfruits] unless all of their growth [takes place] on your land.**”
- [I:2 A] *It has been taught on Tannaite authority:* If it was with the permission of the landowner one sank a branch into the property of another, he brings firstfruits and makes the required declaration.

- [B] R. Yosé in the name of R. Immi: “And that is the case if the landowner gave him permission to maintain the tree perpetually in his property. But if the permission to maintain the tree in his property was only temporary, the rule [of A] does not apply.”
- [C] R. Jonah in the name of R. Immi: “Even if it was only temporary [he brings firstfruits and makes the required declaration].”
- [D] *Support for the position of R. Jonah derives from the following rule of the Mishnah: 2:12 [If] one was digging a cistern, ditch, or cave, he may cut off the roots as far as he digs down, and the wood is his [M. Baba Batra 2:12H-J].* Now are the roots not temporary? [The pieces of the roots are there only for a while, yet the digger has the right to keep the wood. That accords with the position of R. Jonah.]
- [E] How does R. Yosé deal with this ruling?
- [F] *The roots perpetually keep changing [and growing back]. Since they perpetually change, they are classified as permanent [that is, if one cuts away a root, it grows back, so it is treated as a permanent arrangement.*
- [G] Said R. Mana, “The ruling of R. Yohanan supports the position of Father [Jonah], for *said R. Yohanan, ‘Both rulings are on account of subjecting the farmer to the rule covering thievery.’* And here since the landowner has given him permission to sink a root even temporarily, the consideration of thievery does not pertain.”
- [I:3 A] *R. Zereqan raised the question before R. Zeirah, “Does our Mishnah-passage [and so 2) he who bends [a branch of a tree that is growing] on private [property] or on public [property and sinks the branch into the ground so that it grows] on his own property] not accord with the ruling of Rabbi, for Rabbi has said, “The roots derive sustenance from one another” [Y. Orlah 1:1]. [Therefore one does not present firstfruits even from the part of the tree that grows on one’s own property.]*
- [B] He said to him, “It represents the views of all parties. The Torah has said, ‘You shall present the first of the firstfruits of your land’ (Dt. 26:2) — **Because it is written, “[You shall bring] the first of the firstfruits of your land” (Deut. 26:2).** [You may not bring firstfruits] unless all of their growth [takes place] on your land.
- [I:4 A] [With reference to G. 3) **he who plants a tree on his own [property] and bends a branch of the tree and sinks it in the ground so that it still grows on his own property, but a private road or a public**

road runs in between [the tree and its offshoot], lo, this one does not bring the firstfruits from the offshoot. R. Judah says, “Such a one does bring them]” — what is the difference in the case of **him who plants a tree on his own [property] and bends a branch of the tree and sinks it in the ground so that it still grows on his own property, a public road runs in between?** [Why in the former case does Judah hold that the farmer does not bring firstfruits but in the latter case he does?]

[B] R. Aha in the name of R. Miasha: “It is a case in which he extended the growth through a gourd or a duct underneath the road.”

[C] If it is a case in which he extended the growth through a gourd or a duct underneath the road, let the farmer present his firstfruits and make the required declaration [since this is a standard situation of growth in one’s own property].

[D] Even in accord with the position of Rabbis [at G, in conflict with Judah] let the farmer present his firstfruits and make the required declaration.

[I:5 A] *A question for R. Judah:* He who sells a right of way to his fellow — has he sold only the right of passage or has he sold the property to the depths? If you maintain that he has sold only the right of passage, then he should present firstfruits and make the required declaration, but if you hold that he has sold the property to the depths, he should not make any sort of presentation of firstfruits [and certainly does not make the required declaration].

[B] On the grounds of the prevailing doubt as to the rule, he presents the firstfruits but does not make the required declaration.

[C] *As to the position of the rabbis, it was self-evident to them that he has sold the ground down to the depths, and concerning what matter do they dispute?* It is a case in which he has sold to his fellow a path. But if he has sold him a field and retained title for himself to a path, all parties concur that what he has retained for himself extends down to the depths [and not merely the right of way].

[I:6 A] *In the opinion of R. Judah,* what is the difference a case in which one has planted in his own property and extended a branch to grow in public domain and a case in which one has planted a tree in his own property and extended a branch to grow in his own property with the public domain intervening?

- [B] *Said R. Immi, “The opinion of R. Judah accords with the position of R. Eliezer, for we have learned there in the Mishnah: **They do not hollow out a space under the public domain — Cisterns, ditches, or caves. R. Eliezer permits, [if it is so strong that] a wagon can go over it carrying stones [M. B.B. 3:8].** Just as R. Eliezer has ruled there that the space beneath the public domain belongs to him, so R. Judah has said here that the space beneath the public domain is his.*
- [C] *R. Samuel bar Rab Isaac raised the question, “If the law is in accord with R. Eliezer, then should not the farmer present the firstfruits and make the required declaration?”*
- [D] *Said R. Yosé, “R. Samuel bar Rab Isaac hardly adopts the theory that R. Eliezer permits the farmer to do so with the consequence that the property remains his permanently! Rather, R. Eliezer permits doing so with the consequence that whoever seizes what is growing there acquires title to what he has grabbed [and there is no permanent title to the intervening space].”*

1:2

- [A] **(1) Sharecroppers, 2) tenant farmers, 3) a holder of confiscated property, and 4) a robber do not bring firstfruits, for the same reason,**
- [B] **because it is written, “the first of the firstfruits of your land” (Deut. 26:2).**
- [I:1 A] *Up to this point we have dealt with a case in which one has stolen real estate. If one has stolen a shoot and planted it, what is the rule?*
- [B] *Doesn't the thief owe him monetary compensation? [What's the problem?]*
- [C] *It's an issue for the rabbis. [The case is as follows: if one planted a tree and treated it as an idol and worshipped it, has he prohibited it for use or not? R. Yosé b. R. Judah takes the view that the man has prohibited the tree for secular use by an ordinary person, all the more so for use in performing a religious obligation. Rabbis hold that the tree is permitted for secular use by an ordinary person. But as to its use in performing a religious obligation, we face the following question:] is the intent to use the tree for a religious purpose sufficient to classify the tree used for that purpose as consecrated for the Most High, or does the tree not enter the classification of consecration for the Most High?*
- [D] *If you rule that it is as though it were consecrated to the Most High, [he has no right to the produce, for he is not the owner and cannot*

consecrate it, and consequently] he does not present firstfruits, *but if you rule that* it is not as though it were consecrated to the Most High, he presents the firstfruits.

[E] All parties concur in the case of an asherah that one nullified that [even though it has been nullified] he does not bring from it chips of wood for the altar fire.

[I:2 A] *R. Simeon b. Laqish raised the question:* “He who worships a palm tree — as to its branch, what is the law on using it for the religious duty [of taking a palm branch on Tabernacles]? Are things needed for the performance of a religious duty classified as objects that are consecrated to the Most High or is that not the case? *If you maintain that* they are classified as objects that are consecrated to the Most High, one may not bring a lulab from the branches of the consecrated tree, and if you maintain that they are not classified as objects that are consecrated to the Most High, one may bring a lulab from the branches of the consecrated tree.

[B] It is self-evident that one brings a lulab from the tree, for what is set aside for the performance of a religious duty is not classified as that which belongs to the Most High.

[C] *The question is,* what is the rule as to presenting firstfruits from what has been set aside for the performance of a religious duty?

[D] Is the rule in accord with the statement of R. Judah, who has said, “They are treated as analogous to Holy Things set aside in the provinces, and one brings firstfruits.” Or is it in accord with in accord with the Rabbis, who maintain that “they are treated as analogous to Holy Things belonging to the sanctuary and he does not bring first fruits.”

[I:3 A] *Up to this point we have dealt with* a stolen object of the recovery of which the owner has not despaired. But what is the rule covering even a stolen object of the recovery of which the owner has despaired?

[B] *They proposed to rule in accord with what is implicit in the following ruling: Lo, these are the rules that cover priestly rations and tithe but do not apply to firstfruits [M. Bikkurim 2:3]. Does this question not pertain,* then, to an object that is stolen, the owners of which have not yet despaired of recovery, but in the case of a stolen object the owners of which have despaired of recovering, even in the case of priestly rations, [the thief who has designated produce as priestly rations] has done nothing whatsoever?

[C] *That is in line with what we have learned on Tannaite authority: [As regards] a thief and an extortionist and a robber-- heave-offering which they separate is [valid] heave-offering, tithes [which they give] are [valid] tithes, and that which they dedicate [to the Temple] is [validly] dedicated [since we presume that the owners have despaired of ever recovering the stolen produce]. [But] if the [original] owners ran after them [in order to recover their property] -- heave-offering which they separate is not [valid] heave-offering, tithes which they give are not [valid] tithes, and that which they dedicate is not [validly] dedicated. [Tosefta Terumot 1:6].*

[D] R. Yosé in the name of R. Yohanan, “This one does not designate priestly rations and that one does not designate priestly rations.”

[E] R. Ammi in the name of R. Yohanan, “Even the owner who has separated priestly rations [from his field, which is now in the hands of a usurper] — what they have designated is not valid priestly rations.”

[I:4 A] *Said R. Yosé, “Up to this point we have been dealing with stolen property the owners of which have not despaired of recovery. And if you should say, have we not learned as a Tannaite statement, **Lo, these are the rules that cover priestly rations and tithe but do not apply to firstfruits [M. Bikkurim 2:3]**, it is possible for product to go forth for ordinary use without the designation of firstfruits, but is it possible for produce to go forth for ordinary use without the separation of priestly rations and tithes? But it is with the case of stolen things the owners of which have despaired of recovering *and that is the basis for the question we have posed.*”*

1:3

[A] **They may not bring firstfruits [from any produce] other than [the] seven kinds [for which the land of Israel was noted, i.e., wheat, barley, grapes, figs, pomegranates, olives used for oil, and dates for honey (Deut. 8:8):**

[B] **not from dates of the hill country,**

[C] **and not from fruits of the valley,**

[D] **and not from olives used for oil which are not of the choicest kind.**

[E] **They do not bring firstfruits before Pentecost.**

[F] **The men of Mount Sebo'im brought their firstfruits before Pentecost.**

[G] **And they did not accept [firstfruits] from them,**

[H] **because of the verse that is in Torah, “[You shall keep] the feast of the harvest [i.e., Pentecost] of the firstfruits of your labor which you sow in the field” [Ex. 23:16].**

[I:1 A] **They may not bring firstfruits etc.:**

[B] If Scripture had written, “You shall take the first of all the produce of the ground,” I should have ruled that all varieties of produce are liable for firstfruits. Scripture states, “Some of the first fruits,” that means, “Not all varieties of produce are liable for firstfruits.”

[C] If the meaning then is , “Some of the first fruits,” that means, “Not all varieties of produce are liable for firstfruits,” then you might bear liability to bring firstfruits of wheat and barley alone. When Scripture says, “...the produce of your land,” that represents an inclusionary phrase [to encompass the seven designated species].

[D] Then why not interpret “the produce of your land” as an inclusionary phrase to cover all the species of produce of the land?

[E] Here it is stated, “your land,” and elsewhere it says, “a land of wheat and barley grapes, figs, pomegranates, olives used for oil, and dates for honey” (Deut. 8:8)]. Just as when Scripture speaks of the land in the cited passage, it refers to the seven designated species, so when Scripture speaks of the land here, it refers to the seven designated species.

[I:2 A] Olive oil: this refers to olives suitable for storage.

[B] R. Ammi in the name of R. Yohanan: “It refers to a species of medium size. And why is it called ‘suitable for storage’? That it stores its oil within itself.” [It stores its oil within, while other species of olive lose their oil in packing or crushing].”

[C] Said R. Hanina, “When it rains on all other species of olives, they exude their oil, but when it rains on this species of olives, it stores up its oil inside.”

[I:3 A] “Honey” refers to date honey.

[B] Might one suppose it refers actually to honey [deriving from bees]?

[C] R. Tanhuma in the name of R. Isaac b. R. Eleazar, “It is written, ‘As soon as the command was circulated, the people of Israel gave in abundance the firstfruits of grain, wine, oil, honey [and of all the produce of the field, and they brought in abundantly the tithe of everything’ (2 Chr. 31:4). Now is honey liable to the separation of

tithes? [Obviously not.] But this refers to date-honey, which is liable to tithes.”

- [D] R. Berekhiah in the name of R. Samuel bar Nahman, “And why is it written [at Dt. 8:8] ‘land’ ‘land’ — two times? It is to inform you that the Temple endures only on account of these two matters [tithes, firstfruits].”
- [E] And why are the seven species all included in the indicated verse?
- [F] R. Judah b. Rabbi and R. Samuel bar Nahman — one said, “It is for the order of reciting a blessing [when the occasion calls for reciting a blessing for all the items, they are ordered as indicated],” and the other said, “It is to signal the requisite volume” [these serve as analogies for size or weight].”
- [G] For the one who said, , “It is for the order of reciting a blessing,” *there is no problem. But for the one who said, “It is to signal the requisite volume,” lo, we have learned in the Mishnah: A bright spot the size of a split bean [M. Neg. 6:5].*
- [H] This particular measurement is not made explicit as are those listed in the cited verse. As the measure of a lentil is used with respect to a dead creeping thing, here too this measurement is not made explicit.
- [I:4 A] *It is self-evident that if one designated as firstfruits species besides the seven that are listed, the designated produce is not sanctified. Where there is a dispute, it concerns **dates of the hill country and fruits of the valley.** R. Zeira, R. Yosa in the name of R. Eleazar: “They are not sanctified [if firstfruits are designated].” R. Ila in the name of R. Ammi disputed the matter.*
- [B] R. Yohanan and R. Simeon b. Laqish:
- [C] R. Yohanan said, “They are not sanctified.”
- [D] R. Simeon b. Laqish said, “They are sanctified.”
- [E] *Said R. Jonah, “The reasoning of R. Simeon b. Laqish [draws an analogy to priestly rations], that if one has transgressed and set aside priestly rations from an inferior crop for a superior crop, what he has designated as priestly rations is validly designated.”*
- [F] Said R. Yosé, “We have heard that produce that is inferior is liable to the separation of tithes, but have we heard that produce that is inferior is liable to the designation of firstfruits? [Surely not.]”

- [G] *We have a Tannaite ruling that supports the position of R. Yosé: They do not bring firstfruits from one grows in Sepphoris or from what grows in Bet Shean, and if one brought produce from those places it has not been sanctified.*
- [H] *Said R. Zeira, “And it has been taught there on Tannaite authority: Figs that have thorns or that have been pierced, grapes that have been fertilized with powder or smoked — they do not bring firstfruits from them. But they bring firstfruits from Benot Sheba figs and from Lablabo grapes. Now are these the choicest species?”*
- [I] But said R. Abba Mari, “It is so that you should not say, since they come at the end of the season, one should not bring firstfruits of them.”
- [J] *It has been taught on Tannaite authority: **Rabban Simeon b. Gamaliel says, “They bring as firstfruits of dates only those that grow in Jericho, and they made the declaration only over the kotebet date. R. Simeon b. Eleazar says, Pomegranates that grow in the valleys they bring and they recite the declaration over them.”***

1:4

- [A] **These [people] bring [firstfruits] but do not recite:**
- [B] **the proselyte brings but does not recite,**
- [C] **because he is not able to say, “[I have come into the land which] the Lord swore to our fathers to give us” [Deut. 26:3].**
- [D] **But if his mother was an Israelite, he brings and recites.**
- [E] **And when he [i.e., the proselyte of B] prays in private he says “God of the fathers of Israel.”**
- [F] **And when he prays in the synagogue, he says, “God of your fathers.”**
- [G] **But if his mother was an Israelite, he says, “God of our fathers.”**
- [I:1 A] **[But if his mother was an Israelite, he brings and recites:]** *R. Jonah and R. Yosa, both of them in the name of R. Samuel bar Rab Isaac: “The Mishnah speaks of the children of the Kenite, father-in-law of Moses.”*
- [B] And do the children of the Kenite, father-in-law of Moses bring firstfruits and make the required declaration?
- [C] [They certainly do,] for it is written, “[We are setting out for the place of which the Lord said, ‘I will give it to you.’] Come with us and we will do you good [for the Lord has promised good to Israel’.]”

- [D] R. Hezekiah in the name of R. Eleazar did not rule in that way. Rather [A] refers to the following rule: what is the reason they have said, **1) The executor, and 2) the agent, 3) the slave, and 4) the woman, and 5) a person of doubtful sex, and 6) an androgynous [person] bring [firstfruits] but do not recite, because they are not able to say, “[And behold, now I bring the first of the first fruit of the ground], which you O Lord have given me” [Deut. 26:20].**
- [E] For the proselyte, lo, he is explicitly mentioned in the scriptural passage on the firstfruits.
- [F] *Said R. Samuel bar R. Isaac, “Interpret the passage to speak of the proselyte who is in the status of the children of the Kenite, father-in-law of Moses.”*
- [G] And do the children of the Kenite, father-in-law of Moses bring firstfruits and make the required declaration?
- [H] *Said R. Yosé, “Benjamin bar Ashtor in the presence of R. Hiyya bar Abba interpreted the passage to speak of the offspring of a gentile who transgressed and had sexual relations with an Israelite woman.”*
- [I:2 A] **[And when he prays in the synagogue, he says, “God of your fathers:”]** *R. Jonah did not explain matters in this way. But Rabbi [Judah the Patriarch] heard the members of the household of Bar Ashtor, who are proselytes descended from proselytes, saying, “God of our fathers.”*
- [B] *And lo, we have learned in the Mishnah: **But if his mother was an Israelite, he says, “God of our fathers.”*** Lo proselytes descended from proselytes do not do so.
- [C] Said R. Yosé, “Benjamin bar Ashtor interpreted the matter before R. Hiyya bar Ba.”
- [D] R. Hezekiah in the name of R. Hiyya bar Ba, “Bar Ashtor interpreted the matter before us: ‘the offspring of a gentile who transgressed and had sexual relations with an Israelite woman.’”
- [E] *R. Zereqan said R. Zeira asked, “Does the proselyte not intend to refer to Abraham, Isaac, and Jacob? Now were Abraham, Isaac, and Jacob their fathers? Did not the Holy One, blessed be he, refer only to the males? Is it possible that he referred to the females?”*
- [I:3 A] *It has been taught on Tannaite authority in the name of R. Judah: “A proselyte himself brings firstfruits and makes the required declaration. What is the scriptural basis for that ruling? ‘No longer shall your name*

be Abram, but your name shall be Abraham, for I have made you the father of a multitude of nations' (Gen. 17:5). In the past you were the father of Aram, but from now on you will be the father of all the nations."

[B] R. Joshua b. Levi said, "The decided law accords with R. Judah."

[C] A case came before R. Abbahu and he gave a ruling in accord with the position of R. Judah.

1:5

[A] **R. Eliezer b Jacob says, "A woman who is the daughter of proselytes shall not marry a priest,**

[B] **"unless her mother was an Israelite."**

[C] **It is all the same whether proselytes or freed slaves,**

[D] **and the rule [holds] even to the tenth generation:**

[E] **[she may not marry a priest] unless her mother is an Israelite [M. Qid. 4:7].**

[F] **1) The executor, and 2) the agent, 3) the slave, and 4) the woman, and 5) a person of doubtful sex, and 6) an androgynous [person] bring [firstfruits] but do not recite,**

[G] **because they are not able to say, "[And behold, now I bring the first of the first fruit of the ground], which you O Lord have given me" [Deut. 26:20].**

[I:1 A] **R. Eliezer b Jacob says, "A woman who is the daughter of proselytes shall not marry a priest, unless her mother was an Israelite."**

[B] *There we have learned in the Mishnah: R. Judah says, "The daughter of a male proselyte is equivalent to the daughter of a male of impaired priestly stock" [M. Qid. 4:6D].*

[I:2 A] *And all the authorities cited in the following interpret a single verse of Scripture:*

[B] "They shall not marry a widow or a divorced woman, but only a virgin of the stock of the house of Israel or a widow who is a widow of a priest" (Ez. 44:22)

[C] R. Judah says, "The rule is that the mother must be an Israelite."

[D] R. Eleazar says, "Either her father or her mother."

- [E] R. Yosé says, “The rule is that she be born in the sanctification of Israel [and that includes both proselyte parents].”
- [F] R. Simeon says, “The rule is that the mother must enter the sanctity of Israel as a virgin.”
- [G] *It was taught on Tannaite authority in the name of R. Simeon, “A proselyte woman who converted at the age of less than three years and one day is valid for marriage into the priesthood, as it is said, ‘But all the young girls who have not known man by lying with him shall you keep alive for yourselves’ (Num. 31:18). Now Phineas was included within those to whom that statement was made [and he was a priest].”*
- [H] And how do the rabbis who take a contrary view deal with the cited verse?
- [I] “shall you keep alive for yourselves” — for male and female servants.”
- [J] R. Yosa in the name of R. Yohanan: “The decided law is in accord with the position of R. Yosé, but the priests adopted a stricter rule for themselves and therefore followed the ruling of R. Eliezer b. Jacob.”
- [I:3 A] *A priest married the daughter of proselytes. The case came before R. Abbahu, and he had him seated on the flogging chair. “Said to him R. Bibi, “Did not the master teach us, the law accords with the position of R. Yosé?”*
- [B] He said to him, “But have not the priests adopted a stricter rule for themselves and therefore followed the ruling of R. Eliezer b. Jacob.”
- [C] He said to him, “And on account of the violation of what is merely customary do they administer a flogging?”
- [D] *He said to him, “If so, it will appear as though you have won me over not to flog him, and I shall free him from the flogging chair.”*
- [E] After he got up, he said to him, “Rabbi, since the strap has been released, I also am permitted to marry such a woman.”
- [I:4 A] R. Jacob bar Idi bar Oshia: “There is the case of a family in the South, about which suspicion as to the status of its priestly genealogy was raised. Rabbi sent R. Romanis to look into the matter. He found that their grandmother has converted at the age of less than three years and one day, and he validated the family for marriage into the priesthood.”
- [B] Said R. Simeon, “It was in accord with the ruling of R. Simeon that he validated the family.”
- [C] Said R. Zeira, “It represents the view of all authorities.”

[D] For said R. Zeira in the name of R. Ada bar Ahvah, R. Judah produced the ruling in the name of R. Abbahu in the name of R. Yohanan, “The offspring of an adult woman married to a high priest is valid. For it is a negative commandment that emerges from a positive one:

[E] “‘And he shall take a wife in her virginity’ (Lev. 21:13). [Not a mature woman, who is no longer a virgin.] And any negative commandment that emerges from a positive one is in the status of a positive commandment. [And an impaired child derives only from those who have violated a negative commandment, not from those who have violated a positive one. So the daughter is suit able to marry a priest.]

[F] *Along these same lines:*

[G] “A high priest shall take a virgin of his own people” (Lev. 21:14) — and not one deriving from a proselyte.

[H] For it is a negative commandment that emerges from a positive one. And any negative commandment that emerges from a positive one is in the status of a positive commandment.

[I] *Objected R. Hoshaiiah*, “Lo, there is the case of the second generation of a family of Egyptian proselytes (Dt. 23:7). Lo, it is a case of a negative commandment that emerges from a positive one, and is in the status of a positive commandment. [But in this case, if a priest should marry an Egyptian proselyte of the second generation, the offspring still are in the status of impaired priests].

[J] R. Hoshaiiah retracted and said, “The cases are not parallel. The case of a positive commandment that applies to an Israelite and a positive commandment that applies to a priest are not comparable. The positive commandment pertaining to an Israelite applies to all persons, but a positive commandment that pertains to priests yields a prohibition for priests but a law permitting marriage to Levites and Israelites.”

[II:1 A] the agent:

[B] R. Yosé, R. Simeon b. Laqish in the name of R. Yohanan: “[The law of the Mishnah involving an agent] applies to a case in which the farmer picked the firstfruits with the plan of sending them to the Temple through a third party. But if he picked the firstfruits with the plan of bringing them himself. he should not send them to the Temple through a third party.”

[B] The foregoing discussion does not complete the matter [by providing the reason for the stated distinction,] but R. Jonah completes the matter [by providing the reason for the stated distinction]:

- [C] R. Zeira, R. Ammi, R. Simeon b. Laqish in the name of R. Hoshaiiah: “It is a case in which the farmer picked the firstfruits planning to ship them to Jerusalem through a third party, but if he picked the firstfruits intending to bring them up to Jerusalem himself, he should not then ship them to Jerusalem through a third party.
- [D] “For all firstfruits that are suitable to be permitted by the making of the required declaration are permitted only by the making of the required declaration. [It is better not to start the process of providing the firstfruits at all, rather than have the owner pick them and so subject them to the requirement of making the required declaration and then sending them with a third party, who cannot make the declaration.]”
- [II:2 A] *Said R. Mana, “Even though R. Yosé did not state this ruling, he made a statement that is comparable to it.” [It is given in what follows.]*
- [B] *Said R. Zeira to R. Yosé, “Do you remember that when this statement of R. Hoshaiiah was made, R. Yosé b. R. Hanina said, ‘The Mishnah differs. If he designated firstfruits and afterward sold his field, he brings th firstfruits but does not make the required declaration’ (M. Bik. 1:7). We interpreted the law to apply to a case in which the farmer determined to begin with to deliver the produce, [Yosé concurs with D].”*
- [C] *But have we not learned in the Mishnah: [If] the spring [that irrigated the field] became dry, [most MSS. add: and] the tree was cut down, he brings firstfruits [that were picked from that tree before it was cut down] but does not recite (M. Bik. 1:6)?*
- [D] Here is another case in which the tree dried up to begin with [when the firstfruits were designated].
- [II:3 A] But is the recitation of the declaration essential to the performance of the rite?
- [B] Said R. Samuel b. R. Isaac, “In the case of produce that is suitable for the recitation of the declaration, the making of the declaration is not essential to the performance of the rite. [But if the produce had been suitable for the declaration but no longer is suitable for doing so, then the declaration is essential to the rite.]
- [C] If one picked the produce as firstfruits intending to ship them by a third party, he should not send them through a third party, let he change his mind and determine to bring them on his own.

- [II:4 A] R. Abbahu in the name of R. Yohanan: “As to the heir [to firstfruits harvested by the owner of the field who then died] presents the firstfruits but does not make the required declaration.
- [B] *How do we interpret the ruling?* If he inherited the produce in the lifetime of his father [who then died], he is serving as the agent of his father, and if it is after the death of his father, the produce belongs to him [and he is able to make the declaration].
- [C] *But thus we interpret the ruling, to deal with a case in which his father was ill or dying.*
- [II:5 A] It is written, “And you shall rejoice in all the good that the Lord your God has given to you and to your house, you, the Levite, and the sojourner who is among you” (Dt. 26:11) —this teaches that a man brings firstfruits produced by the estate of his wife and makes the required declaration.
- [B] R. Simeon b. Laqish said, “That is after her death. Lo, in her lifetime he does not do so.”
- [C] R. Yohanan said, “There is no difference between the rule that prevails when she is alive and the one that applies after her death.”
- [D] *R. Simeon b. Laqish rules in a manner consistent with theories expressed elsewhere, for* R. Simeon b. Laqish said, “By the law of the Torah a man does not inherit his wife’s estate [but that inheritance is by the authority of the scribes alone].”
- [II:6 A] R. Yohanan in the name of R. Hoshaiiah, “The laying of the firstfruits before the priest is essential to the rite. The making of the declaration is not essential to the rite.”
- [B] *And lo, we have learned in the Mishnah: [Also subject to flogging are]: (1) he who eats firstfruits over which one has not made the required declaration [M. Mak. 3:3A].*
- [C] *R. Hoshaiiah, R. Judah in the name of Samuel: “That is the position of R. Aqiba.”*
- [D] R. Yosé asked, “Which ruling of R. Aqiba?”
- [E] *Said R. Mana, “I heard my father repeating on Tannaite authority the following ruling: The laying of the firstfruits before the priest is essential to the rite. The making of the declaration is not essential to the rite. R. Aqiba said, ‘Making the declaration is essential to the rite.’”*

[F] R. Jacob bar Aha in the name of R. Eleazar, “On what account did they rule, The laying of the firstfruits before the priest is essential to the rite? Because it applies to all those who present firstfruits [while some of them do not make the declaration].”

[G] R. Tanhuma, R. Huna in the name of R. Eleazar: “The reason that the laying of the firstfruits before the priest is essential to the rite is that Scripture refers two times to the laying of the firstfruits before the priest.”

[II:7 A] *R. Abba Mari made two statements, one in accord with the position of R. Judah and one in accord with the position of the rabbis.*

[B] *one in accord with the position of R. Judah:* “The statement was necessarily made by Scripture two times, because it applies to all those who present firstfruits [while some of them do not make the declaration].”

[C] *one in accord with the position of the rabbis: for they teach that the reference was made two times* not for a specific reason but because Scripture went over the matter a second time.

1:6

[A] **He who buys two trees [growing] on [the property] of his fellow**

[B] **brings [firstfruits from those trees] but does not recite [over them].**

[C] **R. Meir says, “He brings and recites.”**

[D] **[If] the spring [that irrigated the field] became dry, or the tree was cut down,**

[E] **he brings firstfruits [that were picked from that tree before it was cut down] but does not recite.**

[F] **R. Judah says, “He brings and recites.”**

[G] **From Pentecost until the Festival [of Sukkot],**

[H] **he brings and recites.**

[I] **From the Festival until Hanukkah,**

[J] **he brings but does not recite.**

[K] **R. Judah b. Betera says, “He brings and recites.”**

[I:1 A] *R. Yosé b. Hanina raised the following possibility:* “If one has purchased only one tree, he has not purchased along with the tree the ground on which it stands. If he purchased two trees, he has not purchased along with the two trees the ground on which they stand. If he bought a single tree, he does not present firstfruits from the tree at

all. If he bought two trees, he presents firstfruits but does not make the required declaration.”

- [B] *Said to him R. Eleazar, “Matters that demand the attention of the rabbis in the assembly house you raise as a possibility. For R. Judah treats the tree as equivalent to straw [which continues to survive even when cut down to the dry ground.]”*
- [C] *There we have learned in the Mishnah: **If one has recited the blessing over the produce of the trees, “Who creates the fruit of the ground,” he has fulfilled his obligation [to say a blessing over the fruit of the trees as well, since the trees grow from the ground]. But if he said the blessing over the produce of the ground, “Who creates the fruit of the tree,” he has not fulfilled his obligation [to say a blessing over the fruit of the ground, since the produce of the ground by definition does not grow on trees] (M. Berakhot 6:2).***
- [D] *R. Hezekiah in the name of R. Jacob bar Aha, “This represents the view of R. Judah, for R. Judah treats the tree as equivalent to straw [which continues to survive even when cut down to the dry ground.]”*
- [E] *Said R. Yosé, “It represents the view of all parties, for **the trees grow from the ground but the produce of the ground by definition does not grow on trees.**”*
- [I:2 A] *R. Abun bar Kahana raised the following possibility before R. Ila, “If one has sold a field including its standing grain, as to the purchaser, what is the law governing his presenting firstfruits from the field?”*
- [B] *He said to him, “Why not?”*
- [C] *“What is at issue is not a ripe crop but even one that has dried out.”*
- [D] *He said to him, “Even if it is dried out, even if it is already harvested.”*
- [E] *Then even if it is wheat? And do we rule that one who purchases grain from the marketplace brings firstfruits? [Certainly not.]*
- [F] *One thing is clear: If one sold the produce but retained title to the property, the seller of the crop is not eligible to present the firstfruits, since he does not own the crop.*
- [G] *If he went and repurchased the crop from the purchaser [what is the law as to his presenting the firstfruits of the field, now that he owns the crop and the land once more]?*
- [H] *Let us infer the law from the following: **If the john paid the prostitute in Holy Things [animals already sanctified to the altar]***

lo, these are permitted for use on the altar. As to wine, oil, flour, anything the like of which is offered on the altar, they are forbidden for use on the altar [M. Temurah 6:4]. Covered as firstfruits by the general rule just now given are only wreaths of grapes and crowns of sheaves. [These alone are classified as firstfruits.]

- [I] *Now how do we interpret that rule? If when he gave it to her, he handed it over as a harlot's fee, so do we rule that one who purchases grain from the marketplace brings firstfruits? [Certainly not.]*
- [J] *But this is how we interpret the rule:* The vines belonged to her, and she sold him their fruit, and he went and gave them to her as the fee of a harlot. They are not subject to the altar because they served as the fee of a harlot. Lo, otherwise, if they were not the fee of a harlot, he would bring firstfruits from the grapes. Accordingly, you rule: if he went and repurchased the grain from the purchaser, and owns the field anyhow, he presents firstfruits.

[II:1 A] [From Pentecost until the Festival of Sukkot, he brings and recites; From the Festival until Hanukkah, he brings but does not recite:]

The associates in the name of R. Joshua b. Levi: "If he designated the firstfruits of the crop prior to the Festival but the Festival intervened [without his bringing the crop to the priest], he brings the designated firstfruits but does not recite the required declaration. If he designated firstfruits of the crop prior to Hanukkah and Hanukkah passed without his presenting the firstfruits to the priest, and the produce rotted after Hanukkah, they are not deemed to have been sanctified."

- [B] *Doesn't R. Zeira take the position of the associates in what follows?*
- [C] *R. Zeira takes the view that all firstfruits that are suitable to be permitted by the making of the required declaration are permitted only by the making of the required declaration.*
- [D] *Don't the associations take the position of R. Zeira in this matter?*
- [E] *They take that position in a case in which one designated firstfruits prior to the Festival intending to present the firstfruits after the festival.*
- [F] *But have we not learned on Tannaite authority: They do not present firstfruits either from a new crop in behalf of last year's harvest or from last year's harvest for the new crop. Now how do we interpret that rule? If it concerns produce that reached a third of its growth before the New Year for produce that has reached a third of its growth after the New Year, since they have not reached a third of their growth before the New Year, it is perfectly clear that they did not take root*

prior to the waving of the Omer on the sixteenth of Nisan of the prior year, on which account this crop is forbidden for use until the omer of the year begun with the New Year is presented, and that will serve to permit the utilization of this crop.

- [G] *But we interpret the rule to deal with a case of produce that budded before the fifteenth of Shebat, and that is not to serve as firstfruits in behalf of produce that has budded after the fifteenth of Shebat. For that would fall into the category of designating firstfruits from the new crop in behalf of firstfruits of the prior year's crop.*
- [H] Lo, if it is designating firstfruits from the new year's crop for other segments of the new year's crop, one does present the firstfruits in that circumstance.
- [I] *We reason, therefore, that we deal with the case of the crop after Hanukkah [prior to the fifteenth of Shebat].*
- [J] Said R. Hinena, "They are presented at their correct time [on Pentecost]."

1:7

- [A] **[If] he separated his firstfruits and [afterwards] sold his field,**
- [B] **he brings [those firstfruits] but does not recite.**
- [C] **And the other one [i.e., the one who bought the field]—**
- [D] **from the same kind [of produce as was brought by the field's first owner], he does not bring firstfruits;**
- [E] **from another kind of produce [however] he brings [firstfruits] and recites.**
- [F] **R. Judah says, "Even from the same kind, he brings and recites."**
- [G] **[If] he separated his firstfruits**
- [H] **[and] they 1) were distributed as booty, 2) decayed, 3) were stolen, 4) were lost, or 5) if they became unclean,**
- [I] **he brings other [produce] in their stead and does not recite.**
- [J] **And the substitutes [i.e., fruits brought in the place of others; lit.: second ones] are not subject to the law of the added fifth].**
- [K] **[If] they became unclean in the [Temple] court, he scatters [them on the ground, does not bring others in their place] and does not recite.**

- [L] **How do we know that he is responsible for replacing them [i.e., lost, stolen, decayed or unclean firstfruits] until he brings [them] to the Temple mount?**
- [M] **For it is written, “The firstfruits of your land you shall bring to the house of the Lord your God” (Ex. 23:19),**
- [N] **which teaches that he is responsible for replacing them until he has brought [them] to the Temple mount.**
- [O] **Lo, if he brought [firstfruits] from one kind [of produce], and recited, and [then] he went and brought [firstfruits] from another kind, he does not recite [a second time].**
- [I:1 A] *What is the scriptural basis for the position of the rabbis [at A-E]?*
- [B] “And you shall go to the priest who is in office at that time and say to him, ‘I declare this day to the Lord your God that I have come into the land that the Lord swore to our fathers to give us’” (Dt. 26:3) — one time he makes this statement, and he does not make this statement a second time.
- [C] Doesn’t R. Judah take this view?
- [D] *R. Judah does take this view in the case of a single individual, but in the case of two persons, one makes the declaration and goes and makes the declaration a second time.*
- [I:2 A] **[And the substitutes [i.e., fruits brought in the place of others; lit.: second ones] are not subject to the law of the added fifth]:** Said R. Yohanán, “In the name of a single authority I repeat this rule [and not as the consensus of the sages]. *And so it has been taught on Tannaite authority:* R. Simeon b. Judah says in the name of R. Simeon, “**And the substitutes [i.e., fruits brought in the place of others; lit.: second ones] are not subject to the law of the added fifth.**”
- [B] R. Samuel bar R. Isaac in the name of Rab Huna: “As to the substitutes, one may even purchase them in the marketplace [as replacement for the firstfruits].”
- [C] *How do you classify the purchased produce, as an addition to the firstfruits or as a decoration for the basket of firstfruits?*
- [D] *If you treat them as an addition to the firstfruits, they are exempt from tithing as doubtfully-tithed produce. But if you treat them as a decoration for the basket of firstfruits, they are subject to tithing as doubtfully-tithed produce*

[II:1 A] [If] they became unclean in the [Temple] court, he scatters [them on the ground, does not bring others in their place] and does not recite.

[B] R. Hama bar Uqba in the name of R. Yosé bar Hanina: “If the firstfruits were made unclean, the baskets are given over to the priests, for it is written, ‘Then the priest shall take the basket from your hand and set it down before the altar of the Lord your God’ (Dt. 26:4).”

[III:1 A] Lo, if he brought [firstfruits] from one kind [of produce], and recited, and [then] he went and brought [firstfruits] from another kind, he does not recite [a second time]:

[B] *To what authority is it necessary to state that he does not make the declaration a second time?*

[C] It is necessary from the viewpoint of R. Judah. Even though R. Judah said, “One makes the declaration and goes and does it a second time, if one has brought firstfruits from one species and made the declaration,” if he then went and brought firstfruits of another species, he does not go and repeat the declaration.

[D] Said R. Jonathan, *R. Simeon b. Yohai repeated the same rule as a Tannaite tradition*: “‘And you will answer and say...’ (Dt. 26:5) ‘And you will rejoice’ (Dt. 26:11) — what follows is one makes the declaration in connection with the rejoicing [the first time around].”

1:8

[A] And these [people] bring [firstfruits] and recite.

[B] [They bring firstfruits]

[C] (1) from Pentecost until the Festival [of Sukkot], (2) from [the] seven kinds [of produce native to the Land of Israel], (3) from fruit of the hill country, (4) from dates of the valley, (5) from olives used for oil [that grow] in Trans-Jordan, [and they recite the declaration over them].

[D] R. Yosé the Galilean says, “They do not bring firstfruits from produce grown in Trans-Jordan, for that [land] is not ‘a land flowing with milk and honey’” (Deut. 26:15).

[I:1 A] R. Yosé in the name of R. Simeon b. Laqish, R. Jonah, R. Zeira in the name of R. Haninah: “Sixteen mil round about Sepphoris constitutes ‘a land flowing with milk and honey.’”

[B] Said R. Jonah, “One who measures the slopes of Beisan will show that that area is part of the same territory. One who measures the valley of Gennosar will show that that area is part of the same territory.”

[C] *They responded to the statement of R. Jonah, “But lo, it is written, ‘And I shall bring them from the affliction of Egypt’ (Ex. 3:17) ‘to a good and broad land, a land flowing with milk and honey, to the place of the Canaanites, the Hittites, the Amorites, the Perizzites, the Hivites, and the Jebusites’ (Ex. 3:8). [The limits stated by Jonah are too narrow to accommodate the territories specified in Scripture.]”*

[D] He said to them, “[The meaning is,] ‘...in which flows milk and honey’ [but not the entire territory].”

[II:1 A] R. Yosé the Galilean says, “They do not bring firstfruits from produce grown in Trans-Jordan, for that [land] is not ‘a land flowing with milk and honey’” [Deut. (26:15):

[B] *It has been taught on Tannaite authority: “And behold, now I bring the first of the fruit of the ground that thou, O Lord, have given me” — not which I grabbed for myself on my own. [That excludes Transjordan, which God did not assign to Israel.]*

[C] *What is at issue between them [Yosé the Galilean and the others]?*

[D] *Said R. Abin, “The [disposition of producing deriving from the fields in Transjordan assigned to] half-tribe of Manasseh is at issue between them. He who says “And behold, now I bring the first of the fruit of the ground that thou, O Lord, have given me” — not which I grabbed for myself on my own — the half tribe of Manasseh did not grab the land for itself on its own [but the land was assigned to them by Moses]. He who says that the operative consideration is ‘a land flowing with milk and honey’ (even so, Transjordan does not qualify as ‘a land flowing with milk and honey.’”*

1:9

[A] **He who buys three trees [that are growing] on [the property] of his fellow brings [firstfruits from those trees] and recites.**

[B] **R. Meir says, “Even [if he buys only] two trees [he brings and recites].”**

[C] **[If] he bought a tree and the ground [on which it grows], he brings and recites.**

- [D] **R. Judah says, “Even sharecroppers and tenant farmers, [who do not own the land on which their produce grows,] bring [firstfruits] and recite.”**
- [I:1 A] **R. Judah says, “Even sharecroppers and tenant farmers, [who do not own the land on which their produce grows,] bring [firstfruits] and recite.”** *It has been taught on Tannaite authority: Hereditary tenant-farmers do not bring firstfruits.*
- [B] R. Judah said, “They themselves bring firstfruits and recite.”
- [C] *R. Zeira, R. Hiyya in the name of R. Yohanan: “The Mishnah’s statement refers only to hereditary tenants.”*
- [D] *R. Hila, R. Yosé in the name of R. Yohanan: “The Mishnah speaks of both sharecroppers and tenant farmers.”*
- [E] *They proposed to resolve the conflict in the following manner: He who maintains that the cited passage refers to both share croppers and tenant farmers, lo, it does not refer to a particular kind of share-cropper and tenant farmer, namely, it does not speak of a sharecropper on a temporary lease or to a tenant farmer on a temporary lease. Lo, a sharecropper on a permanent lease or a tenant farmer on a permanent lease brings firstfruits.*
- [F] *Came R. Abba, R. Hiyya in the name of R. Yohanan: “Even a sharecropper on a permanent lease or a tenant farmer on a permanent lease does not bring firstfruits. Why so? Because the cited passage refers to landlords of sharecroppers and tenant farmers.”*

YERUSHALMI BIKKURIM

CHAPTER TWO

2:1

- [A] Heave-offering and firstfruits—
- [B] (1) they [i.e. non-priests] are liable on their account to the death penalty [if they eat them intentionally] or [for restoring the principal plus an] added fifth [if they eat them unintentionally].
- [C] (2) And [they] are forbidden [as food] to commoners.
- [D] (3) And they are the property of the priests].
- [E] (4) And they are neutralized [i.e., they become deconsecrated, when mixed with unconsecrated produce] in [a ratio of] one hundred [parts of unconsecrated produce] to one [part of heave-offering or firstfruits (cf. M. Ter. 4:7)].
- [F] (5) And [before they may be eaten] they require washing of the hands, and [in the case of one who has contracted uncleanness and immersed on that same day] the setting of the sun.
- [G] Lo, these [are rules which apply] to heave-offering and to firstfruits, but which do not apply to tithes.
- [I:1 A] **Heave-offering and firstfruits:** *It is written,* “Then the Lord said to Aaron, ‘And behold, I have given you whatever is kept of the heave-offerings made to me [all the consecrated things of the people of Israel I have given them to you as a portion and to your sons as a perpetual due” (Num. 18:8). There are two classifications of heave-offerings subject to the rule, [**they i.e. non-priests are liable on their account to the death penalty [if they eat them intentionally or for restoring the principal plus an added fifth if they eat them unintentionally]**]: heave-offering and firstfruits.
- [B] Heave-offering, as it is written, “They shall therefore keep my charge lest they bear sin for it and die thereby when they profane it. I am the Lord who sanctifies them” (Lev. 22:9)

- [C] Firstfruits, as it is written, “There you shall go and there you shall bring your burnt-offerings and your sacrifices, your tithes and the offering that you present, your votive offerings, your freewill offerings, and the firstlings of your herd and of your flock” (Dt. 12:6).
- [D] “your burnt-offerings” — this refers to your firstfruits, as it is written, “Then the priest shall take the basket from your hand” (Dt. 26:4).
- [E] But perhaps reference is made to Holy Things?
- [F] The penalty of extirpation is assigned by Scripture elsewhere to Holy Things.
- [G] Then let the penalty for the secularization of Holy Things be both death and extirpation?
- [H] So is there a case of one who is put to death and goes and is put to death a second time?
- [I] *That is in line with the following, which is taught on Tannaite authority:* If one died at under fifty years of age — this is classified as death by extirpation. If one died at fifty-two — this is classified as the death of Samuel of Ramah. If one died at sixty — this is classified as death as stated in the Torah. If one died at the age of seventy — this is classified as death as an act of affection. If one died at the age of eighty — this is classified as the vigorous old man: [“The days of our years are three score and ten, or even by reason of strength, four score” (Ps. 90:10)]. From that age onward, life is a life of pain.
- [J] *What leads you to say,* If one died at under fifty years of age — this is classified as death by extirpation?
- [K] It is written, “Do not cut off the tribe of the families of the Kohathites from among the Levites. But deal thus with them that they may live and not die when they come near to the Most Holy Things” (Num. 4:18-19).
- [L] Make for them arrangements so that they not feast their eyes on the house of the Holy of Holies.
- [M] It is written, “But they shall not go in to look upon the Holy Things even for a moment, lest they die” (Num. 4:20).
- [N] And it is written, “And from the age of fifty years they shall withdraw from the work of the service and serve no more” (Num. 8:25).
- [O] R. Abin b. R. Tanhum bar Tryphon derives the rule from the verse, “The years of our life are seventy, or even by reason of strength

eighty” (Ps. 90:10). Deduct from the seventy the first twenty years of life, during which the heavenly court does not exact punishment or impose extirpation [for the heavenly court does not penalize sins committed prior to the age of twenty], and it follows that one who dies at the age of fifty dies through extirpation.

- [I:2 A]** If one died at fifty-two — this is classified as the death of Samuel of Ramah:
- [B] R. Abba b. R. Pappi, R. Joshua of Sikhnin in the name of R. Levi: “‘In all toil there is profit, but mere talk tends only to want’ (Prov. 14:23) — Hannah because she prayed abundantly shortened the life of Samuel. For she said, ‘As soon as the child is weaned, I will bring him that he may appear in the presence of the Lord and abide there forever’ (1 Sam. 1:22). Now is not the ‘forever’ [term of service] of the Levite in fact a term of fifty years? For it is written, ‘And from the age of fifty years they shall withdraw from the work of the service and serve no more’ (Num. 8:25).”
- [C] But his life-span was fifty-two years!
- [D] Said R. Yosé b. R. Bun, “She weaned him at the age of two [and that is when his term of service began].”
- [I:3 A]** If one died at sixty — this is classified as death as stated in the Torah:
- [B] R. Hezekiah in the name of R. Jacob bar Aha, “It is written, ‘Not one of these men of this evil generation shall see the good land that I swore to give to your fathers’ (Dt. 1:35). Now figure that one went forth from Egypt and the age of twenty and spent forty years in the wilderness and then died. You turn out to rule, If one died at sixty — this is classified as death as stated in the Torah.”
- [C] And it is written, “You shall come to your grave in ripe old age as a shock of grain comes up to the threshing floor in its season” (Job 5:26).
- [I:4 A]** If one died at the age of seventy — this is classified as death as an act of affection, as it is written, [“The days of our years are three score and ten.”]
- [B] And at eighty it is death by reason of old age: “or even by reason of strength, four score” (Ps. 90:10)].
- [C] And so did Barzillai say to David, “I am today eighty years of age, can I discern what is pleasant and what is not?” (2 Sam. 19:35).

[D] If one reached the age of fifty having done a deed that is punishable by extirpation but survived, he should rejoice. If one reached the age of sixty having done a deed that is punishable by death but survived, he should rejoice.

[E] R. Hanina b. Antigonus taught on Tannaite authority: “An elder who ate forbidden fatÖ”

[F] Now who can inform us that that is subject to the penalty of extirpation?

[G] *It is in line with that which has been taught on Tannaite authority:* Or if one profaned the Sabbath, he is put to death through extirpation. If after doing a deed that is punishable by extirpation one died on the very same day, that is a death inflicted by divine wrath. If he died after two days, it is a death inflicted through confusion. If he died after three days, it is death inflicted through divine plague.

[H] *R. Halafta taught as a Tannaite statement,* “If one died in the first, second, or third decades of life, it is death through extirpation. If it was in the fourth or fifth decades, it is death through being driven away. If it was in the sixth decade, it is death through natural causes. If it was in the seventh decade, it is an act of love. From that time on, it is death through suffering.”

[I] *What leads you to maintain,* If he died after three decades, it is death inflicted through divine plague?

[J] *Hilpai the grandson of R. Abbahu said, “I heard my teacher expound:* ‘About ten days later the Lord smote Nabal and he died’ (1 Sam. 25:38). The Holy One blessed be he suspended the punishment for him for the seven days of mourning for Samuel, so as not to mixed up mourning for Nabal with mourning for the righteous man. He lasted three more days and then died through a plague.”

[K] R. Haggai in the name of R. Samuel bar Nahman: “‘For ten days’ is not written here but rather, ‘about ten days.’ The Holy One blessed be he suspended the punishment for him for ten days, comparable to the ten days of repentance between the New Year and the Day of Atonement, perhaps he may repent. But it never happened.”

[II:1 A] [non-priests are liable on their account to the death penalty if they eat them intentionally or for restoring the principal plus an added fifth [if they eat them unintentionally]: Kahana asked R. Zeira, “An outsider [non-priest] who ate have-offering...”

[B] He said to him, “He is subject to the death penalty.”

[C] After he prayed, [he recalled the matter and replied,] “lest the priests bear sin for it and die thereby when they profane it. I am the Lord’ (Lev. 22:9). This places a conclusion to the matter [and a non-priest who ate heave offering is not pt to death. The death penalty applies only to the priest who violates the sanctity of priestly rations.] A priest who ate priestly rations in a state of cultic uncleanness is subject to the death-penalty.”

[II:2 A] R. Hiyya in the name of R. Yohanan: “A non-priest who ate heave-offering is liable to the death penalty.”

[B] *The following Tannaite formulation supports his view:* Those non-priests who deliberately ate heave-offering — a person in a state of cultic cleanness who ate clean heave offering And one who is in a state of uncleanness who ate unclean heave offering, and a clean person who ate unclean heave-offering, and an unclean person who ate clean heave offering — all are subject to the death penalty. As to priests who eat heave-offering, a clean person who ate clean heave offering has done the deed exactly as he is commanded to do it. A clean priest who ate unclean heave offering has violated a positive commandment. An unclean priest who ate clean heave-offering and an unclean priest who ate unclean heave-offering has violated a negative commandment.”

[C] *What led you to rule,* A clean priest who ate unclean heave offering has violated a positive commandment?

[D] Said R. Ba bar Mamel, “‘When the sun sets he shall be clean, and afterward he may eat of the Holy Things for such is his food’ (Lev. 22:7). The reference is to Holy Things that are clean, not to Holy Things that are unclean. Any negative commandment that derives from the authority of a positive commandment is classified as a positive commandment.”

[II:3 A] Said R. Abina, “From what is implicit in that which is said, ‘Everything in the water that has fins and scales you may eat’ (Lev. 11:9), do I not know also, ‘Everything in the sea or the rivers that has no fins and scales you may not eat’ (Lev. 11:10)? The statement serves to assign to what is unclean both an affirmative commandment and a negative commandment.”

[B] Is it only because it is written this way that you reach that conclusion? Lo, if it were not written in this way, [the same conclusion would have emerged’ for it is an affirmative commandment. Any negative commandment that derives from the authority of a positive commandment is classified as a positive commandment.

- [II:5 A] R. Yosa inferred the same proposition from the following:
- [B] “Just as the gazelle or the hart is eaten, you may eat of it the unclean and the clean alike may eat of it” (Dt. 12:11) — here the unclean person and the clean person eat off of a single dish. In the case of heave-offering the unclean person and the clean person may not eat off of a single dish.
- [C] [But does the cited passage speak of heave-offering? It speaks] of Holy Things.
- [D] Said R. Yohanan bar Meri, “If it speaks about Holy Things, it is in any case specified, ‘Flesh that touches any unclean thing shall not be eaten, it shall be burned with fire. All who are clean may eat flesh’ (Lev. 7:19).”
- [II:5 A] [Reverting to I.D: The death penalty applies only to the priest who violates the sanctity of priestly rations. A priest who ate priestly rations in a state of cultic uncleanness is subject to the death-penalty,] *the following passage of the Mishnah differs from the position of the master [Zeira]: Heave-offering and firstfruits — they [i.e. non-priests] are liable on their account to the death penalty [if they eat them intentionally] — but not priests.*
- [B] *Interpret the statement to speak of priests.*
- [C] And lo, we have learned in the Mishnah the rule of the added fifth: **or [for restoring the principal plus an] added fifth [if they eat them unintentionally].** *Now are priests liable to pay the penalty of the added fifth? [Certainly not.]*
- [D] *Interpret the formulation of the Mishnah’s rules in two distinct parts. The first part speaks of priests, and the second part of Israelites.”*
- [II:6 A] [With regard to II:2, R. Hiyya in the name of R. Yohanan: “A non-priest who ate heave-offering is liable to the death penalty”] the Mishnah supports the view of R. Yohanan: **Heave-offering and firstfruits— [they] are forbidden [as food] to commoners.”**
- [B] Interpret the passage to speak to the case of a volume of produce smaller than the minimal amount for which a penalty is incurred.
- [III:1 A] **And they are the property of the priests]:**
- [B] R. Ba bar Hiyya in the name of R. Yohanan: ““And the Lord said to Aaron, ‘And behold, I have given you whatever is kept of the offerings made to me, all the consecrated things of the people of Israel; I have

given them to you as a portion and to your sons as a perpetual due' (Num. 18:8) — I have given them to you for anointing

- [B] “For anointing a high priest, for anointing for rubbing, for anointing for kindling.”
- [C] Might I say that it is suitable for such use whether unclean of clean heave offering or firstfruits?
- [D] R. Abbahu in the name of R. Yohanan, “ ‘I have not removed any of the second tithe while I was unclean’ (Dt. 26:14). You may remove [not second tithe but] heave-offering in a state of uncleanness.”
- [E] R. Zeira in the name of R. Eleazar, “How on the basis of Scripture do we know that in the case of unclean second tithe itself, they do not kindle a fire with it? Scripture says, ‘I did not remove any of it while it was unclean.’”
- [F] It is suitable to be redeemed, *and yet you say that it may be burned?*
- [G] *The proposition that a proof-text is required* applies to what was purchased by money exchanged for second tithe that had become unclean, and it is in line with what was said by R. Judah, that the produce must be buried.
- [H] Also in the matter of firstfruits that were made unclean, all parties concur [that the firstfruits follow the rule governing tithe, not heave offerings.]

[IV:1 A] Lo, these [are rules which apply] to heave-offering and to firstfruits, but which do not apply to tithes [M. 2:1G]:

- [B] ***There we have learned in the Mishnah: For purposes of cultic purification, it is sufficient if they wash the hands for eating unconsecrated food, tithe, and heave offering; and for eating food in the status of Holy Things it is sufficient only if they immerse; and as to the preparation of purification water through the burning of the red cow, if one’s hands are made unclean, his entire body is deemed to be unclean as well [M. Hag. 2:5].*** [Tithe is explicitly excluded from the list here but is explicitly mentioned at M. Hag. 2:5.]
- [C] There you have ruled that tithe requires the washing of hands, and here you maintain that tithe does not require the washing of hands.
- [D] Those that rule tithe requires washing of hands are the rabbis. Those who hold that tithe does not require washing of hands are R. Meir [and his colleagues]. For we have learned in the Mishnah that follows:

Whoever requires immersion in water according to the rules of the scribes (1) renders the holy things unclean and (2) spoils the heave offering. “And he is permitted in respect to unconsecrated food and tithe,” the words of R. Meir. And sages prohibit in the case of tithe.

- [E] *[But can the entire matter be attributed to sages,] for has not what R. Samuel said in R. Zeira not be heard: “What is the meaning of the statement, **And sages prohibit in the case of tithe? One’s body has been rendered invalid for eating food that was tithe [but one may touch it with his and, a separate category].**”*
- [F] *How now! Is it your position that when you say, “that tithe requires the washing of hands,” it is the case of someone who wishes to eat the tithe, and when you say, “Tithe does not require washing of hands,” it is the case of one who merely wishes to touch it? So will not the one who wants to eat the food and the one who wants to touch it be subject to one and the same rule?*
- [G] *Rather the operative consideration for requiring the washing of hands is to make it into a habit [so that one who eats heave-offering will wash his hands by habit].*
- [H] *But have we not learned in the Mishnah the matter **of heave-offering?** And in the matter of heave-offering, is the issue of washing hands merely out of habit a governing consideration?*
- [I] *But here at issue is unconsecrated food that is prepared in accord with the rules of cleanness governing Holy Things. [The secular food is eaten in accord with the rules governing Holy Things, and that is so even with totally unconsecrated food.] .*
- [J] *But is unconsecrated food that is prepared in accord with the rules of cleanness governing Holy Things not in the status of unconsecrated food?*
- [K] *Interpret the case in accord with the position of either R. Simeon b. Eleazar or R. Eleazar b. R. Sadoq.*
- [L] *either R. Simeon b. Eleazar: for it has been taught on Tannaite authority: R. Simeon b. Eleazar says in the name of R. Meir: “The hands are in the first remove for unconsecrated food and in the second remove for heave offering.”*
- [M] *M. or R. Eleazar b. R. Sadoq, for we have learned in the Mishnah: **And unconsecrated food which is prepared in accord with the rules pertaining to Holy Things — lo, this is like unconsecrated***

food. R. Eleazar b. R. Sadoq says, “Lo, it is like heave offering, conveying uncleanness at two removes and rendering unfit at one [further remove].”

2:2

- [A] There are [rules that apply] to [second] tithe and to firstfruits which do not [apply] to heave-offering.
- [B] For [second] tithe and first-fruits
- [C] (1) require bringing to the place [i.e., Jerusalem]:
- [D] (2) and they require [the recitation of] the [appropriate] confession;
- [E] (3) and they are prohibited [to be eaten] by a mourner whose dead relative has not yet been buried].
- [F] R. Simeon permits [such mourners to eat firstfruits].
- [G] (4) And they are subject to the Law of Removal.
- [H] R. Simeon exempts [firstfruits alone from the Law of Removal].
- [I] (5) And in Jerusalem [if they are mixed with unconsecrated produce] in any portion they are [still] forbidden [for consumption].
- [J] (6) and in Jerusalem [if they are used as seed] that which grows from them is prohibited for consumption
- [K] even to commoners [in the case of firstfruits] or cattle [in the case of second tithe].
- [L] R. Simeon permits [the consumption, by commoners or cattle, of that which is mixed in Jerusalem with second tithe or firstfruits and that which grows in Jerusalem from second tithe or firstfruits].
- [M] Lo, these [are rules which apply] to [second] tithe and to firstfruits [but] which [do] not [apply] to heave-offering.
- [I:1 A] They require bringing to the place of Jerusalem, as it is written, “There you shall go and there you shall bring your burnt-offerings and your sacrifices, your tithes and the offering of your hand, your votive offerings, your freewill offerings, and the firstlings of your herd and of your flock” (Dt. 12:6).
- [B] “the offering of your hand.” this refers to firstfruits, as it is written, “And the priest will take the basket from your hand” (Dt. 26:4).

[II:2 A] And they are subject to the Law of Removal: *To this point we know that the second tithe is subject to the law of removal. How do we know that the same law applies to firstfruits?*

[B] *It is in line with what R., Jacob bar Aha said in the name of R. Eleazar, “When Scripture speaks at Dt. 26:13 of ‘removing the sacred portion out of my house,’ that speaks of the sacred portion mentioned above in the same passage, which is firstfruits.”*

[III:1 A] and they require [the recitation of] the [appropriate] confession:

[B] For it is written, “Then you shall say before the Lord your God” (Dt. 26:13).

[C] To this point we know the rule for tithe. How do we know the rule for firstfruits?

[D] That is in line with what R. Jacob bar Aha said in the name of R. Eleazar, “When Scripture refers at Dt. 26:13 to removal of the sacred portion out of my house, that pertains to the sacred portion mentioned in the same passage, which is firstfruits.”

[IV:1 A] and they are prohibited [to be eaten] by a mourner whose dead relative has not yet been buried]:

[B] For it is written, “I have not eaten of the tithe while I was mourning” (D. 26:14).

[C] To this point we know the rule for tithe. How do we know the rule for firstfruits?

[D] That is in line with what R. Jacob bar Aha said in the name of R. Eleazar, “When Scripture refers at Dt. 26:13 to removal of the sacred portion out of my house, that pertains to the sacred portion mentioned in the same passage, which is firstfruits.”

[IV:2 A] *We have learned in the Mishnah that as to all these rulings, And R. Simeon differs, but as to the confession, R. Simeon does not differ.*

[B] The confession is matter of Scripture and R. Simeon does not differ, for it is written, “And you will answer and say” (Dt. 26:5).

[V:1 A] *This is the sense of the following passage of the Mishnah: And in Jerusalem [if they are mixed with unconsecrated produce] in any portion they are [still] forbidden [for consumption]. and in Jerusalem [if they are used as seed] that which grows from them is prohibited for consumption even to commoners [in the case of firstfruits] or cattle [in the case of second tithe]. R. Simeon permits*

[the consumption, by commoners or cattle, of that which is mixed in Jerusalem with second tithe or firstfruits and that which grows in Jerusalem from second tithe or firstfruits]:

- [B] *And also the rabbis concur with him, which we know on the basis of how he replies to them:*
- [C] “Do you not concur that second tithe is permitted to non-priests? Then it should be permitted for beasts to eat. For does the prohibition of the produce of second tithe planted as seed to be eaten within the walls of Jerusalem apply to non-priests? Does the same prohibition of the produce of second tithe planted as seed to be eaten within the walls of Jerusalem apply to beasts? Not at all. Just as there is no such prohibition for non-priests, who may eat it, so there is no such consideration with regard to cattle’s eating it.”
- [D] Rabbis say, “Jerusalem has been treated as equivalent to a sacrificial portion that is subject to being permitted at a given point in its offering, e.g., by the tossing of the blood in the case of a sacrificial animal. Just as you say that that which is subject to being permitted for utilization imposes a prohibition when mixed with another substance in any measure whatsoever, so in regard to Jerusalem,, what must be consumed there imposes a prohibition in any measure whatsoever.”
- [E] Where R. Simeon and Rabbis differ, it concerns that which grows from the seed of produce in the status of second tithe. But when it comes to a mixture of second tithe and ordinary produce, even R. Simeon concurs [that the mixture is prohibited. The Mishnah’s rule covers what grows from the seed of second tithe but not to a mixture of ordinary produce and produce in the status of second tithe.]
- [F] What differentiates a mixture [of produce in the status of second tithe and ordinary produce, which Simeon prohibits] from that which grows from the seed of second tithe with that which grows from the seed of secular produce [which Simeon permits]?
- [G] In a mixture of ordinary produce and food in the status of second tithe, the food in the status of second time still is in being. What has grown from seed derives from seed that has been nullified [because it has disappeared in the earth].
- [H] Just as R. Simeon concurs with rabbis in respect to a mixture of food in the status of second tithe, so he holds that with regard to a mixture of firstfruits that such a mixture is equivalent to a mixture of what has grown from the seed of first fruits.

- [V:2 A] **[R. Simeon permits the consumption, by commoners or cattle, of that which is mixed in Jerusalem with second tithe or firstfruits and that which grows in Jerusalem from second tithe or firstfruits]:** And so did R. Simeon say, “Firstfruits do not impose that with which they are mixed or that which grows from their seed mixed with what grows from unconsecrated seed from being eaten in Jerusalem.
- [B] What differentiates tithe and firstfruits?
- [C] Tithe is not subject to neutralization, firstfruits are subject to neutralization.
- [D] *We draw the inference from the fact that R. Simeon concurs with rabbis in respect to that which is not subject to neutralization that R. Simeon that R. Simeon concurs specifically in respect to that particular seah of wheat of second tithe that one takes up from a hundred seahs of unconsecrated produce in which there has been a mixture of second tithe and ordinary produce in Jerusalem, that that seah of wheat that one has raised up and with which one has neutralized the rest is subject to the requirement of being eaten within the wall of Jerusalem and is subject to the rule of personal enjoyment.* [It must be eaten and not discarded. The rest of the mixture is not subject to this law. When he says there is no consideration of neutralization, he means the seah of wheat that is removed from the mixture of second tithe and ordinary produce in Jerusalem.]
- [E] *But rabbis rule that the entire mixture is subject to the requirement of being eaten within the wall of Jerusalem and is subject to the rule of personal enjoyment.*
- [V:3 A] R. Yohanan went to a certain place and declared, “Lo, I am the counterpart of Ben Azzai in this town [and I’ll deal with all questions]!” A certain elder came and asked him, saying, “**That which grows from [seed in the status of] heave-offering has the status of heave-offering. And what grows from [the seed of produce] that grew from [seed in the status of] heave-offering is unconsecrated. But [as regards] (1) produce which is liable to tithes, (2) first tithe, (3) after-growths of the seventh year [of the sabbatical cycle], (4) heave-offering [separated from produce grown] outside of the Land of Israel, (5) mixtures of heave-offering and unconsecrated produce and (6) first fruits—that which grows from them is common food [i.e., does not have the same status as the seed from which it grew]. That which grows from [seed] which is dedicated [to the Temple] or second tithe is unconsecrated. And he redeems**

them [i.e., the seed] when they are sown [M. Ter. 9:4]. There you hold that what grows from firstfruits is permitted and here you maintain at M. Bik. 2:2 that it is forbidden.”

- [B] He said to him, “Where you rule, what grows from them is permitted, it is a case in which the seed perishes in the ground,, but where you say that what grows from them is prohibited, it is the case of something the seed of which does not perish inn the earth.”
- [C] *He said to him, “We have learned in the Mishnah: **What is a kind [of produce] the seed of which does not disintegrate? [A kind] such as arum, garlic or onions (M., Ter. 9:6).*** Now are arum, garlic, and onions liable for firstfruits?
- [D] He said to him, “There goes the Ben Azzai of this town.”
- [E] He came and asked R. Yannai. He said to him, “The statement applies to tithes, and it speaks of something the seed of which does not disintegrate in the ground [and firstfruits are not at issue at all].”
- [F] *The opinions attributed to R. Yohanan exhibit a certain confusion. There said R. Joshua b. Levi to Qarna, “[The statement of the Mishnah at M. Zab. 5:1] deals only with carrion.” [Yohanan said to Joshua b. Levi,] “Rabbi, Did you not teach us with reference to M. Kelim 1:2 that we should read the passage as having two subjects to which a single predicate refers?” [Here at E, it would appear that Yohanan accepted that mode of differentiation only in the subject under discussion, the rule pertinent to tithe, while here Yohanan insists on the distinction in a separate matter. So he is inconsistent.]*
- [G] Should it not say, “Also with respect to that which grows from them [this same mode of argument applies]?”
- [H] Furthermore, there is a further problem at M. Ter. 9:4 from the following: “You may not eat in your towns the tithe of your grain or of your wine or of your oil or the firstlings of your herd or of your block of any of your votive offerings that you vow or your freewill offerings or the offering that you present” (Dt. 12:17). About what sort of tithe does Scripture speak? It addresses second tithe in a state of cultic cleanness that was taken into Jerusalem and taken out again. [Should this not apply to that which grows from such produce? Yet M. Ter. 9:4 makes no reference to this sort of tithe as subject to the prohibition permanently.]
- [I] *Furthermore, there is a further problem at M. Ter. 9:4 from the following that R. Simeon taught, for it has been taught on Tannaite*

authority in the name of R. Simeon, “[There are] stringencies [applicable] to second tithe [which are not applicable to heave-offering]. For second tithe [money] acquires [i.e., sanctifies] the vessel [in which the produce one purchases is contained]; and [2] makes forbidden [for ordinary use] those coins [which are used to redeem it] and any mixture of which it is a part, and any mixture of which it is suspected of being a part, regardless of the proportions [of consecrated and unconsecrated produce in the mixture]; [and] [3] is prohibited to mourners [as food]; and [4] [to be redeemed] requires [the householder to set aside its value in coins plus] an [additional] fifth [of its value]; and [5] requires [the recitation of] a confession; and [6] is not permitted for consumption unless it has been redeemed; and [7] they do not kindle a lamp with it [i.e., second tithe oil] which is not the case with heave-offering [i.e., none of the above stringencies apply to heave-offering] [T. Bik. 1:6]. And should it not say, “Also to that which grows from second tithe the same rules apply”?

[J] *Said R. Hila, “When you say, that which grows from them is forbidden, it represents the view of rabbis, and when you say, that which grows from them is permitted, it represents the view of R. Simeon.”*

[K] *He said to him, “Lo, we have learned in the Mishnah: **That which grows from [seed] which is dedicated [to the Temple] or second tithe is unconsecrated. And he redeems them [i.e., the seed] when they are sown (M. Ter. 9:4).** For what consideration does he redeem them? Is it not because of the sanctity that inheres in them? Here too let the entry into Jerusalem imposes restrictions on the second tithe because of the sanctity that inheres in them. [If one has planted seed in the status of second tithe in Jerusalem, it should be redeemed.]*

[L] *R. Jeremiah, R. Immi in the name of R. Simeon b. Laqish: “In the case in which you say, what grows from them is forbidden, it is the prohibition imposed by the second tithe’s coming within the walls of Jerusalem, and when you say what grows from them is permitted, what is meant is, it is permitted to be eaten by non-priests in the case of first fruits. [What grows from firstfruits may be eaten by non-priests.]*

[VI:1 A] **Lo, these [are rules which apply] to [second] tithe and to firstfruits [but] which [do] not [apply] to heave-offering.**

[B] *There we have learned in the Mishnah: “And I also gave it” — this [refers to] heave-offering and heave-offering of the tithe. (M. M.S. 5:10)*

- [C] There you say that heave-offering requires the recitation of the declaration and here you say that heave-offering does not require the recitation of the declaration.
- [D] *Extending the question, said R. Hila, “There it is taught as a Tannaite rule, Heave-offering and firstfruits all the same is the rule governing one who hands them over and one who receives them, they require the recitation of the declaration.”*
- [E] Said R. Zeira, “The rabbis of that passage consider, and the rabbis of the present passage say, ‘He who has second tithe all by itself says the confession. He who has heave-offering all by itself does not say the confession. [Only when they are mixed together does one say the confession covering heave-offering and second tithe.]”
- [F] *Said R. Yosé, “The Mishnah hardly supports that view that one who has heave-offering all by itself one says the confession, for we have learned there in the Mishnah: “[Israelites and Mamzers [i.e., those of impaired lineage] may recite the confession, but not aliens or freed slaves, for these do not hold] a portion of the land.” R. Meir says, “Also: priests and Levites do not [recite the confession] since they did not acquire a portion of the land.”] R. Yosé says, “[Priests and Levites do recite the confession for] they have the Levitical cities” (M. M.S. 5:10). How shall we interpret the rule that priests and Levites recite the confession? If it speaks of a mixture of heave-offering and tithes, does the tithe belong to the priest? Certainly not. So we must interpret the passage too speak of heave-offering alone.” [Zeira has held that if one has heave-offering all by itself, he does not say the confession. But that is not so.]*
- [G] Said R. Hila, “*We infer*, ‘He who has second tithe by itself says the confession. He who has firstfruits by themselves says the confession. *We infer* that he who has heave-offering by itself says the confession.”

2:3

- [A] **There are [rules that apply] to heave-offering and to tithe that do not apply to firstfruits.**
- [B] **for heave-offering and tithe**
- [C] **(1) [that have not yet been separated] render prohibited [for consumption] [that which is on] the threshing floor [i.e., produce the processing of which has been completed];**
- [D] **(2) and they have a prescribed quantity;**

- [E] (3) and they [i.e. the laws governing them] are binding on all produce;
- [F] (4) [and laws are binding] whether or not the Temple stands;
- [G] (5) and [they are separated] (a) by sharecroppers, and (b) by tenant farmers, and (c) by holders of confiscated property, and (d) by robbers.
- [H] Lo, these are [rules which apply] to heave-offering and to tithe but which do not apply to firstfruits.
- [I] And there are [rules that apply to firstfruits which do not apply to heave-offering and tithe].
- [J] For firstfruits
- [K] (1) are acquired [i.e., are designated as firstfruits] unharvested;
- [L] (2) and a person may designate his entire field as firstfruits;
- [M] (3) and he is responsible for replacing them [i.e., firstfruits he has separated but could not offer];
- [N] (4) and they require (a) a [peace-]offering [from the farmer], (b) singing [by the Levite], and (c) waving [by the priests of the baskets containing firstfruits] and (d) staying overnight [in Jerusalem by the farmer] [Deut. 16:7].
- [O] Heave-offering of the tithe is like firstfruits in two ways and [like] heave-offering in two ways.
- [P] (1) It is taken from clean produce for unclean [produce],
- [Q] (2) and [it is taken from produce] which is not in the same location [as the produce requiring the removal of heave-offering]
- [R] like firstfruits.
- S (1) But [before it is separated] it renders forbidden [as food] that which is on the threshing floor,
- [T] (2) and it has a prescribed quantity,
- [U] like heave-offering [cf. Bik. 2:3].
- [I:1 A] *There is no problem in the assertion that Öfor heave-offering [that has not yet been separated] render prohibited [for consumption] [that which is on] the threshing floor [i.e., produce the processing of which has been completed]. But why is it necessary to state the same of and tithe? [For the separation of tithes takes place in sequence only after the heave-offering has been separated.]*
- [B] Interpret the passage to speak of a case in which the farmer has gone ahead and designated the tithe while the grain is still in the ear and not threshed.

[C] For said R. Abbahu in the name of R. Simeon b. Laqish, “First tithe that the farmer has gone ahead and separated while the grain is still in the ear — the crop is exempt from the requirement of having the Great Heave-offering separated from it.”

[II:1 A] For firstfruits are acquired [i.e., are designated as firstfruits] unharvested:

[B] For it is written, “The first ripe fruits of all that is in their land that they bring to the Lord shall be yours, every one who is clean in your house may eat of it” (Num. 18:13).

[III:1 A] and a person may designate his entire field as firstfruits:

[B] For it is written, “And the first of all the firstfruits of all kinds and every offering of all kinds from all your offerings shall belong to the priest; you shall also give to the priests the first of your coarse meal, that a blessing may rest on your house” (Ez. 44:30).

[IV:1 A] and he is responsible for replacing them [i.e., firstfruits he has separated but could not offer:

[B] As it is written, “The first of the firstfruits of your ground you shall bring into the house of the Lord your God. You shall not boil a kid in its mother’s milk” (Ex. 23:19).

[V:1 A] and they require (a) a [peace-]offering [from the farmer]:

[B] Here we find a reference to rejoicing and in the setting of the celebration of the Festival we find a reference to rejoicing. Just as “rejoicing” there means that the farmer must bring peace-offerings, so in the present case he must bring peace-offerings.

[VI:1 A] singing [by the Levite]:

[B] As it is written, “Here there is a reference to “singing” and there it says, “And lo, you are to them like one who sings love songs” (Ez. 33:32).

[VII:1 A] waving [by the priests of the baskets containing firstfruits]:

[B] As it is written, “Then the priest shall take the basket from your hand and set it down before the altar of the Lord your God” (Dt. 26:4). This includes firstfruits, which are to be waved.

[C] That is in line with the view of R. Eliezer b. Jacob

[VIII:1 A] and staying overnight [in Jerusalem by the farmer]:

[B] As it is written, “And you shall boil it and eat it at the place that the Lord your God will choose, and in the morning you shall turn and go to your tents.”

[C] Said R. Jonah, “That which you have stated refers to a case in which the farmer has not brought an offering along with him. But if he brought an offering along with him, then even without the proof-text he is required to stay overnight, on account of the offering.

[VIII:2 A] R. Jonah said, “R. Miasha and one of the rabbis —

[B] “One said, ‘That is to say, unclean produce is subject to the separation of heave-offering.’

[C] “And the other said, ‘First tithe that the farmer has gone ahead and separated while the grain is still in the ear — the crop is exempt from the requirement of having the Great Heave-offering separated from it.’”

2:4

[A] **A citron [etrog tree] is like a tree in three ways and like a vegetable in one way.**

[B] **It is like a tree [in the laws] (1) of *orlah*, (2) of the fourth [year], and (3) of the seventh [year].**

[C] **And [it is like] a vegetable in one way, “That at the season of its harvest [is the giving of] its tithes,” the words of Rabban Gamaliel.**

[D] **R. Eliezer says, “It is like a tree in every way.”**

[I:1 A] If the etrog is treated as comparable to any other tree, then why should it be subject to the rules governing vegetables at all, and if it is regarded as equivalent to vegetables, then why should it be subject to the rule governing trees at all? [When the fruit of a tree ripens, that is the point at which it is subject to the laws applicable at that season. When vegetables are picked, that is the point at which they are subject to the laws applicable at that season.]

[B] *There they say:* [Providing for a lenient ruling for the Sabbatical Year and for tithing,] if the fruit of the tree is available in the seventh year for the seventh year [it has ripened in the sixth year but remained on the tree] the fruit belongs too the owner, as is the rule for any other tree, and is exempt from tithes [in the seventh year] like a vegetable in the seventh year [vegetables harvested in the seventh year are exempt from tithing].

- [C] Said to them R. Hamnuna, “As to the following year, if the fruit ripens in the seventh year but remains on the tree into the eighth year, lo, it is going to be classified as ownerless as is a tree in the seventh year [when the fruit ripened], and liable to tithes as is a vegetable in the eighth year, when the fruit is picked. But is what is ownerless liable to tithes? [Surely not.]”
- [D] Said R. Yohanan, “[Here is a better solution:] In the other six years of the Sabbatical cycle you treat it as a vegetable, but in the Seventh Year you treat it as a fruit tree.
- [E] “What does one do? Fruit that ripened in the fifth year but remained on the tree into the sixth and is picked in the sixth year is classified as produce of the sixth year. Fruit that ripened in the sixth year and remained on the tree into the seventh and was picked in the seventh is classified as fruit of the sixth year. Fruit that ripened in the fifth year and remained on the tree through the sixth and the seventh year, which one picked in the seventh, is classified as fruit of the sixth year. If he picked the fruit in the sixth year it is classified as fruit of the fifth year. If it ripened on the tree in the sixth year and remained on the tree through the seventh year and into the eighth year when it was picked, it is governed by the rule that applies to the eighth year [the first year of the new Sabbatical cycle and is to be tithed].
- [F] Our rabbis retracted and voted, “An etrog is tithed in accord with the rule of tithing and of the Sabbatical year prevailing when it is picked [and thus solely as a vegetable].”
- [I:2 A]** R. Jeremiah, R. Immi in the name of R. Yohanan, R. Simon in the name of R. Joshua b. Levi: “All concur that the New Year of the etrog [which marks of last year’s crop from this year’s crop for tithing] is the fifteenth of Shebat.”
- [B] R. Yohanan asked R. Jonathan, “Does ‘Shebat’ refer to the lunar month of Shebat or to the season of the year [also called ‘Shebat’]? [In a leap year the turning of the season usually marked by the lunar month of Shebat falls in the intercalated month that follows.]”
- [C] He said to him, “It follows the seasons of the year even in an intercalated year.”
- [I:3 A]** There was the case of R. Aqiba, who picked an etrog and disposed of it in accord with the strict rulings of the House of Shammai and the strict rulings of the House of Hillel.
- [B] Why specify an etrog, even any other fruit would yield the same case?

- [C] *A Tannaite formulation:* in accord with the strict rulings of Rabban Gamaliel and the strict rulings of R. Eliezer.
- [D] But were not Rabban Gamaliel and R. Eliezer affiliated with the House of Hillel? [How could they have treated the New Year of the trees as the first of Shebat?]
- [E] Said R. Yosé b. R. Bun, “Explain the incident to involve an etrog that budded before the fifteenth of Shebat of the second year of the Sabbatical cycle and remained on the tree into the third year of the Sabbatical cycle, which began on the fifteenth of Shebat.”
- [F] “In the opinion of Rabban Gamaliel it was liable to poor man’s tithe, in the opinion of R. Eliezer it was liable to second tithe.”
- [G] What did R. Aqiba do? He designated second tithe in the etrog and redeemed the portion of the fruit designated as second tithe with money and handed over to the poor the part of the etrog that he had redeemed.

2:5

- [A] **Human blood [lit. the blood of those who walk on two legs] is like the blood of a domesticated animal [in that] it renders seeds susceptible to uncleanness.**
- [B] **And [human blood is like] the blood of a reptile [in that] they [i.e., people who eat it] are not liable [to extirpation] on its account.**
- [I:1 A] R. Abba, R. Huna in the name of Rab: “If they admonished him [not to eat the blood of a reptile] he is flogged.”
- [B] *And have we not learned in the Mishnah: **And [human blood is like] the blood of a reptile [in that] they [i.e., people who eat it] are not liable [to extirpation] on its account?***
- [C] Said “R. Abba, “**They [i.e., people who eat it] are not liable to extirpation on its account.** [But they are liable to flogging.]”
- [D] *Has it not been taught on Tannaite authority: **Blood of human beings, blood of eggs, blood of creeping things are prohibited, but they are not liable on their account [T. Ker. 2:19E]. Blood of human beings** — which is not subject to a minor form of uncleanness — **blood of creeping things** — which is not subject to a major form of uncleanness — [there is no penalty of flogging invoked in this case].*
- [E] *Said R. Hiyya bar Abba, “As to that which you have said, If they admonished him, it was an admonition on account of not eating blood.*

But if they admonished him on the count of not eating a creeping thing, he is flogged.”

2:6

- [A] A *koy*—
- [B] There are ways in which it is like a wild animal;
- [C] and there are ways in which it is like a domesticated animal;
- [D] and there are ways in which it is like (both) a domesticated and a wild animal;
- [E] and there are ways in which it is like neither a domesticated nor a wild animal.
- [F] In what way is [a *koy*] like a wild animal?
- [G] (1) Its blood must be covered up like the blood of a wild animal.
- [H] (2) And they do not slaughter it on a festival.
- [I] But if he slaughters it on a festival they do not cover its blood.
- [J] (3) And its fat conveys carrion uncleanness like [the fat of] a wild animal.
- [K] But its own uncleanness is in doubt.
- [L] (4) And they do not redeem with it the firstborn of an ass.
- [M] In what way is [the *koy*] like a domesticated animal?
- [N] (1) Its fat is forbidden [as food] as [is] the fat of a domesticated animal.
- [O] But they [i.e., those who eat it] are not subject to extirpation on its account.
- [P] (2) And it [i.e., the *koy*] is not bought with second tithe money to be eaten in Jerusalem.
- [Q] (3) And it is subject to [the priests' due] of the shoulder, and the two cheeks and the stomach.
- [R] R. Eliezer exempts it [from the priests' due].
- [S] For the one who makes a claim on his fellow—on him [i.e., the claimant] is the burden to produce the evidence [i.e., a priest who claims his due from the *koy* must prove that the *koy* is a domesticated animal].
- [T] In what way is [the *koy*] like neither a domesticated nor a wild animal?
- [U] (1) It is forbidden, because of the laws of diverse kinds, [to yoke it] either with a wild animal or with a domesticated animal.

- [V] (2) One who wills his wild animal or his domesticated animal to his son has not willed him the *koy*.
- [W] (3) If one said, “Lo, may I be a Nazirite if this [animal] is [neither] a wild animal [n]or a domesticated animal,” lo, he is a Nazirite.
- [X] But in all other ways [the *koy*] is like a wild animal and [like] a domesticated animal.
- [Y] (1) And it requires slaughtering [before it may be eaten] like both the wild animal and the domesticated animal [lit., one or the other].
- [Z] (2) And it conveys uncleanness on account of [the laws of] carrion and on account of [the laws of] a limb cut off from a living animal as [do] both the wild and the domesticated animal.
- [I:1 A] What is the definition of a *koy*?
- [B] Said R. Eleazar, “It is the offspring of a male goat that mounted a female gazelle or a male gazelle that mounted a she-goat.”
- [B] Rabbis say, “It is a distinct species but the sages were unable to classify it.”
- [II:1 A] [And they do not redeem with it the firstborn of an ass]: If it was redeemed with a *koy*, one has to go and redeem it again, now with a lamb.
- [B] There of one of them has died, we invoke the principle that he who lays claim on his fellow bears the burden of proof [that the priest has not already received his due when he was given the *koy*].
- [III:1 A] [O] But they [i.e., those who eat it] are not subject to extirpation on its account.
- [B] *Our Mishnah-rule does not agree with the view of R. Eleazar, for it has been taught on Tannaite authority:* R. Eleazar says, “As to the *koy*, there is no penalty of a suspensive guilt offering incurred for eating its forbidden fat.”
- [C] *Our Mishnah-rule does not agree with the view of Rab,* for Rab said, “In the case of any matter in which it is not possible to resolve with certainty the question of its classification, there is no liability on account of the doubt to bring a suspensive guilt offering.”
- [D] Rab interpreted the rule of the Mishnah to convey the position of R. Eleazar’s colleagues, who disagreed with him.

[IV:1 A] And it [i.e., the *koy*] is not bought with second tithe money to be eaten in Jerusalem.

[B] Even when they would purchase a beast for ordinary food, a *koy* is not bought in Jerusalem with money in the status of second tithe to be eaten there.

[V:1 A] And it is subject to [the priests' due] of the shoulder, and the two cheeks and the stomach. R. Eliezer exempts it [from the priests' due].

[B] R. Eleazar has said that now the status of the beast is subject to doubt and hence he exempts it, [not knowing what dues are owing].

[C] Rabbis classify it in any case as a distinct species and it is subject to the priestly dues.

[VI:1 A] One who wills his wild animal or his domesticated animal to his son has not willed him the *koy*.

[B] *Our Mishnah-passage does not accord with the view of Rabbi. For it has been taught on Tannaite authority:*

[C] If one has declared sanctified his wild beast or his domesticated beast, he has not declared sanctified his *koy*.

[D] Rabbi says, "He has declared sanctified his *koy*."

[VII:1 A] If one said, "Lo, may I be a Nazirite if this [animal] is [neither] a wild animal [n]or a domesticated animal," lo, he is a Nazirite.

[B] If he said, "Lo, I am a Nazirite if this is a wild animal," "A Nazirite of this is a domesticated animal," "A Nazirite if this is not a wild animal," "A Nazirite if this is not a domesticated animal," "A Nazirite if this is both a wild animal and a domesticated animal," "A Nazirite if this is neither a wild animal nor a domesticated animal," he is a Nazirite.

[VIII:1 A] R. Haggai asked before R. Yosé, "Why have we not learned in the Mishnah [among the traits in which the *koy* is comparable to a wild beast and a domesticated beast], 'The human being with whom the *koy* has sexual relations or who has sexual relations with a *koy* is liable'?"

[B] *He said to him, "You have learned as the Tannaite formulation: **But in all other ways [the *koy*] is like a wild animal and [like] a domesticated animal.**"*

YERUSHALMI BIKKURIM

CHAPTER THREE

3:1

- [A] How do [landowners] separate firstfruits [from the rest of their produce]?
- [B] [When] a man goes down to his field, and sees 1) a fig that has begun to ripen or 2) a grape cluster that has begun to ripen, or 3) a pomegranate that has begun to ripen,
- [C] he binds it with a reed
- [D] and says: “Lo, these are firstfruits.”
- [E] R. Simeon says: “Even if a man follows this procedure, he redesignates them as firstfruits
- [F] “after they have been plucked from the ground [harvested].”
- [I:1 A] How do [landowners] separate firstfruits [from the rest of their produce]? [When] a man goes down to his field, and sees 1) a fig that has begun to ripen or 2) a grape cluster that has begun to ripen, or 3) a pomegranate that has begun to ripen, he binds it with a reed and says: “Lo, these are firstfruits.” R. Simeon says: “Even if a man follows this procedure, he redesignates them as firstfruits after they have been plucked from the ground [harvested]:” *Within the theory of R. Simeon*, if he did not designate the produce as firstfruits after it had been plucked up from the ground, he has not sanctified it. [If the produce is mixed with ordinary produce,] it does not impose the status of the mixture of heave-offering and ordinary produce on the whole. People are not liable for misappropriating the produce to the penalty of paying an added fifth. They are not flogged on account of eating such produce outside the wall of Jerusalem.
- [B] *What verse of Scripture pertains to the position of the Rabbis?*

[C] “And behold, now I bring the first of the fruit of the ground which thou, O Lord, has given me. And you shall set it down before the Lord your God and worship before the Lord your God” (Dt. 26:10). When the produce is brought, it must be in the form of fully ripened fruit even if it was earlier classified as firstfruits and not re-designated. Lo, at the time at which it was separated, the act is valid even if the grapes were unripe or the figs were unripe.

[D] And R. Simeon?

[E] Just as at the time that the produce is presented, it must be fully ripened fruit, so at the time that it is designated, it must be fully ripened fruit.

[I:2 A] *R. Zeira raised the question, “In the case of young shoots of a fig tree that were designated as firstfruits, what is the law as to its serving to permit the budding figs now left on the tree [if one has designated young shoots as firstfruits while they were still on the tree and redesignated them after they were picked, leaving others on the tree]?”*

[II:1 A] *It has been taught on Tannaite authority:*

[B] Firstfruits — the proper proportion is one out of sixty, the corner of the field, one out of sixty, the first fleece, one out of sixty, unclean heave offering, one out of sixty,

[C] *R. Ishmael taught as a Tannaite rule: “Firstfruits — the proper proportion is one out of sixty, the first fleece, one out of sixty, unclean heave offering, one out of sixty, heave-offering from the sort of produce to which the priests pay little attention, one out of sixty.”*

[D] *What do you have for examples of the sort of produce to which the priests pay little attention? Heave-offering taken from kelisin, carobs, and barley inn Edom.*

3:2

[A] **How do they bring the firstfruits up [to the Temple]?**

[B] **The male inhabitants of all the towns of the priestly course gather in the [main] town of the priestly course,**

[C] **and they sleep [outside], in the open area of the town,**

[D] **and they would not enter the houses [in the town].**

[E] **And at dawn the authority would say:**

[F] **“Arise, and let us go up to Zion, to the house of the Lord our God” (Jer. 31:6).**

- [I:1 A] A priestly course such as Jehoiarib and his companions.
- [I:2 A] **[and they sleep [outside, in the open area of the town, and they would not enter the houses in the town]:** And why not sleep in the synagogue?
- [B] *R. Halafta b. Saul taught as a Tannaite teaching:* “[They did not sleep under a roof] on account of the overshadowing of corpse-uncleanness [in the depths, which could take place unbeknownst to the members of the priestly course, who wished to preserve cultic cleanness and not contract corpse-uncleanness].”
- [II:1 A] **[And at dawn the authority would say: “Arise, and let us go up to Zion, to the house of the Lord our God” (Jer. 31:6).]** On the road they would recite, “I rejoiced when they said to me, ‘Let us go to the house of the Lord’ (Ps. 122:1).
- [B] In Jerusalem they would recite, “Our feet have been standing within your gates, Jerusalem” (Ps. 122:2).
- [C] On the Temple mount they would recite, “Praise the Lord! Praise God in his sanctuary, praise him in his mighty firmament, praise him for his mighty deeds, praise him according to his exceeding greatness” (Ps. 150:1-2).
- [D] In the Temple court they would recite, “Let everything that breathes praise the Lord, praise you the Lord” (Ps. 150:6).

3:2

- [A] **Those [who come] from nearby bring figs and grapes,**
- [B] **but those [who come] from afar bring dried figs and raisins.**
- [C] **And an ox walks before them,**
- [D] **its horns overlaid with gold,**
- [E] **and a wreath of olive [leaves] on its head.**
- [F] **A flutist plays before them until they arrive near Jerusalem.**
- [G] **[When] they arrived near Jerusalem, they sent [a messenger] ahead of them [to announce their arrival], and they decorated their firstfruits.**
- [H] **The high officers, the chiefs and the treasurers [of the Temple] come out to meet them;**
- [I] **According to the rank of the entrants, they would [decide which of these officials would] go out.**

- [J] **And all the craftsmen in Jerusalem stand before them and greet them, [saying]:**
- [K] **“Brothers, men of such-and-such a place, you are welcome!”**
- [I:1 A] **[Those who come from nearby bring figs and grapes]:** To what distance do we encompass nearby places?
- [B] They must be near enough so that the farmer can separate firstfruits of the highest quality [without their spoiling on the trip to Jerusalem].
- [C] If someone wanted to bring fig cake, say: “If it was a qeilit-fig, he may bring it. If it was a fig from Bosrah, he may not bring it.
- [II:1 A] **[And an ox walks before them]:** *It is self-evident* that it is presented as peace-offerings.
- [B] R. Imi said, “It is offered as peace-offerings.”
- [C] Rab said, “They offer it at a time at which the altar lies unused.”
- [II:2 A] *R. Zeira raised this question:* “An individual who tarried and did not arrive with the others — may he bring a lamb with its horns plated with silver?”
- [III:1 A] **and a wreath of olive [leaves] on its head:** for olives are one of the seven species for which the Land is celebrated.
- [III:2 A] *It was taught as a Tannaite statement:* He who had as his firstfruits pressed figs would make a wreath for them with fresh figs. If he had raisins, he would make a wreath for them with grapes.
- [IV:1 A] **[The high officers, the chiefs and the treasurers of the Temple come out to meet them:]** And were there considerations of low rank and high rank in Jerusalem?
- [B] *But this is the sense of the statement:* in accordance with the size of the arriving party would they go out
- [IV:1 A] **And all the craftsmen in Jerusalem stand before them and greet them:** [*With regard to interrupting their work to greet the pilgrims*] *has it not been taught as a Tannaite rule:* “You will rise up and honor” (Lev. 19:32). Just as in rising up there should be no monetary loss, so as to honoring there should be no monetary loss — so how can we expect the craftsmen to interrupt their work?
- [B] This case is special, because it happens only occasionally.
- [IV:2 A] R. Yosé b. R. Abun in the name of R. Huna bar Hiyya: “Come and take note how great is the power of those that carry out a religious

obligation. For before an elder they do not stand up, but before those that carry out religious duties they stand up.”

[B] *Said R., Yosé b. R. Bun, “As to those who stand up before a corpse — it is not before the corpse that they rise up but before those that take care of the corpse.”*

[IV:3 A] To what extent is one obligated to rise before an elder?

[B] Simeon bar Abba in the name of R. Yohanan: “Twice a day.”

[C] R. Eleazar says, “One time a day.”

[D] *Has it not been taught as a Tannaite ruling: R. Simeon ben Eleazar says, “How on the basis of Scripture do we know that an elder must not impose inconvenience on the community [troubling them to stand up and interrupt their daily activities]? Scripture says, ‘You say rise up before the hoary head and honor the face of an old man and you shall fear your God — I am the Lord’ (Lev. 19:32). That is one time a day.”*

[E] *To the position of R. Yohanan this poses no problem. But from the perspective of R. Eleazar, perhaps he should not get up at all?*

[F] *R. Jacob bar Aha in the name of R. Eleazar: “That one should not see a circle of elders and pass before them so that they have to get up to greet him, but he should go around them.”*

[G] Just as they differ here, so they differ when it comes to greeting them.

[IV:4 A] R. Hezekiah, R. Haninah b. R. Abbahu in the name of R. Abedoma of Haifa, “In the case of an elder, once he has gone a distance of four cubits, he may take his seat. In the case of a high priest, one stands from the moment one sees him until he disappears from view.”

[B] *What is the scriptural basis for that view?*

[C] Whenever Moses went out to the tent, all the people rose up and every man stood at his tent door and looked after Moses until he had gone into the tent” (Ex. 33:8).

[D] Two Amoraic authorities: one said, “It was a gesture of praise.” The other said, “It was a gesture of ignominy.”

[E] *The one who one said, “It was a gesture of praise” — “See that righteous man, who imparts merit.”*

[F] *The other who said, “It was a gesture of ignominy” — “See those thick thighs, see those strong legs. He eats the Jews’ food, he drinks the Jews’ drink. Whatever he has belongs to the Jews.”*

- [IV:5 A] The ark faces the people, and the priests face the people, and the Israelites face the holy ark.
- [B] Said R. Eleazar, “The Torah does not rise up before her son.”
- [C] Samuel said, “They do not stand up before a *haber* [devoted to cultic cleanness in the home].”
- [D] *R. Hila, R. Jacob bar Idi were in session. Samuel bar Abba came by and they stood up in honor of him. He said to him, “You have made two mistakes. For one thing I am not an elder, and for another thing the Torah does not rise up before her son.”*
- [E] *Said R., Zeira, “R. Aha would interrupt his Torah-study and stand up, for he takes account of that which has been taught as a Tannaite statement: Those who write sacred scrolls and phylacteries and mezuzot interrupt their work for the recitation of the Shema but do not interrupt their work in order to say the Prayer.”*
- [F] R. Hananiah b. Aqabiah says, “Just as they interrupt their work for the recitation of the Shema, so they interrupt their work for the Prayer and for phylacteries and for the other religious duties involved in the Torah.”
- [G] *Hezekiah b. Rabbi: When he had labored in Torah-study as required, he would go and sit down before the school house so that he might see the elders and rise before them.*
- [H] *Judah bar Hiyya would as a matter of habit go up and greet R. Yannai. He would see him from one Sabbath eve too the next. He would seat himself in such a place that he would see him and so have to rise up before him. Said to him his disciples, “Did you not teach us, Rabbi, In the case of an elder, once he has gone a distance of four cubits, he may take his seat.”*
- [I] He said to them, “There is no sitting down before Sinai.”
- [J] *Once he was delayed. Yannai said, “It is not possible that Judah, my son, should change his established custom.”*
- [K] *He said, “It is not possible that some sort of suffering has overtaken the person of that righteous man. [He will not suffer, so it follows that] Judah B. Rabbi is no longer with us.”*
- [IV:6 A] *R. Meir: when he saw even an elder who was ignorant, he would rise before him. He said, “Not for nothing has he lived a long time.”*

[B] R. Haninah would strike anyone who did not rise before him. He said, “Do you want to insult the Torah.”

[C] Said R. Simon, “Said the Holy One, blessed be he, ‘You shall rise up before the hoary head and honor the face of an old man, and you shall fear your God, I am the Lord (Lev. 19:32). I am the one who stood up before an elder for the first time.’”

[IV:7 A] When the patriarch enters, everyone rises and does not sit down until he says to them, “Sit down.” And when the head of the court enters, they set up for him two rows, one on one side, one on the other side, through which he goes, and he sits down in his place. When a sage who comes in, one rises as another sits down, until he comes in and sits down in his place [T Sanhedrin 7:8-9].

[B] *R. Meir: when he came to teach he went up to the meeting house, and everybody would gaze at him and rise before him. When they heard this teaching, they wanted to treat him in this way. He became angry and left. He said to them, “I have heard that they advance the status as to sanctification but do not diminish it.”*

[IV:8 A] R. Zeira: they wanted to appoint him as an authority, but he did not want to accept the appointment. When he heard this teaching, “A sage, newly wed and patriarch — the greatness accorded to him on the occasion of his appointment effects atonement for him,” he accepted the appointment.

[IV:9 A] A sage: “You shall rise up before the hoary head and honor the face of an old man and you shall fear your God” (Lev. 19:32).

[B] *What is written in the next verse?*

[C] “When a proselyte sojourns with you in your land, you shall not do him wrong” (Lev. 19:33).

[D] Just as in the case of the proselyte, upon the occasion of his conversion they forgive him all his sins, so in the case of a sage who is appointed a public official, they forgive him all his sins.

[E] As to a bride groom: “Esau went to Ishmael and took to wife besides the wives he had, Mahalath the daughter of Ishmael Abraham’s son, sister of Nebaioth” (Gen. 28:9). Now was her name Mahalath? Was it not Basemath (Gen. 36:3)? But all his sins were forgiven.

[F] As to the patriarch: “Saul was ... and one years old when he began to reign, and he reigned ... and two years over Israel” (1 Sam. 13:1). Now

was he only one year old? But all his sins were forgiven, so that he was like a newborn child.

[IV:10 A] R. Mana cursed people who paid bribes for their appointments.

[B] R. Immi cited this verse in their regard: “You shall not make to be with me gods of silver or gods of gold shall you make for yourselves” (Ex. 20:20).

[C] Said R. Josiah, “And the philosopher’s cloak that he wears is the mere covering of an ass.”

[D] Said R. Asian, “As to one who was appointed through a bribe, they do not stand up before him and they do not call him ‘rabbi’ and the philosopher’s cloak that he wears is the mere covering of an ass.”

[E] *R. Zeira and one of the rabbis were in session. There passed by one of those who was appointed through a bribe. Said one of the rabbis to R. Zeira, “Let us devote ourselves to learning Tannaite traditions and not rise up before him.”*

[IV:11 A] Jacob of the Village of Naborayya interpreted the following verse: “‘Woe to him who says to a piece of wood, Awake! To a dumb stone, Arise! Can this give revelation?’ (Hab. 2:11). Will he give instruction?

[B] “‘Behold, it is overlaid with gold and silver:’ Wasn’t he appointed because of a bribe?

[C] “‘And there is no breath in it:’ He knows nothing.

[D] “Woe to those that say they want to be appointed.

[E] “But ‘the Lord is in his holy temple, let all the earth keep silence before him’ (Hab. 2:20).

[F] “This speaks of R. Isaac bar Eleazar in the synagogue at the gate of Caesarea. [He deserves to be appointed.]”

[IV:12 A] *R. Ammi asked R. Simeon, “Have you heard whether they make appointments of elders overseas?”*

[B] He said to him, “I have heard that they do not make appointments of elders overseas?”

[C] Said R. Levi, “And is this not an explicit verse of Scripture: ‘Son of man, when the house of Israel was in session in their own land, they defiled it by their ways and their doings, their conduct before me was like the uncleanness of a woman in her impurity’ (Ez. 36:17). Lo, all your sessions should be in your own land.”

- [D] Rabbis of Caesarea say, “They do make appointments of elders overseas on the stipulation that they return to the Land.”
- [E] *R. Isaac bar Nahman was in Gaza, and they appointed him an elder on the stipulation that he return to the Land.*
- [F] *R. Zamina was in Tyre, and they appointed him an elder on the stipulation that he return to the Land.*
- [G] *Also R. Jonah was in Pitqa, and he would not accept appointment. He said, “I shall not accept appointment before my teacher is appointed,” so they appointed his teacher.*
- [H] *Said R. Hama, “Judah b. Titus was in Rome, and they appointed him an elder on the stipulation that he return to the Land.”*
- [I] *Simeon bar Vava was very poor, and men less than himself were appointed but he was not appointed.*
- [J] *Simeon bar Vava was an expert in the pearl of all matters but he did not have a loaf of bread to eat. And R. Yohanan cited in his regard the verse, “Again I saw that under the sun the race is not to the swift, nor the battle to the strong, nor bread to the wise, nor riches to the intelligent, nor favor to the men of skill, but time and chance happen to them all” (Qoh. 9:11).*
- [K] He said, “Whoever does not know the deeds of Abraham should acquaint himself with the great deeds of the ancestors of this man.”
- [L] *Simeon bar Vava was very poor, and R. Abbahu sent him a letter in which he included a gift, saying, ‘On account of this gift rise, come to the land of Israel.’*
- [M] “Who will remove the dust from your eyes, R. Yohanan. Abbahu, son of the lowlands, has been appointed, while Simeon, native of Afrayya, has not been appointed.”

3:3

- [A] **The flutist plays before them, until they reach the Temple Mount.**
- [B] **[Once] they reached the Temple Mount...**
- [C] **[the pilgrim and] even Agrippa the King puts the basket [of first fruits] on his shoulder and enters, [and goes forth] until he reaches the Temple Court.**
- [D] **He reached the Temple Court, and the Levites sang the song:**

- [E] “I will extol thee, O Lord, for thou hast drawn me up, and hast not let my foes rejoice over me” (Psalms 30:1).
- [F] The pigeons that [were] on top of the baskets were [sacrificed as] burnt-offerings,
- [G] but [the pigeons] that are in their hands are given [as a gift] to the priests.
- [H] While the basket is still on his shoulder, he recites [both parts of the confession of firstfruits, beginning] from [the words] “I declare this day to the Lord “(Deut. 26:3),
- [I] [and continuing to recite] until he finishes the entire passage.
- [J] R. Judah says: “[While the basket is on his shoulder, he recites] up to [the second part of the confession, which begins with the words] “A wandering Aramean was my father” (Deut. 26:6).”
- [K] “[When] he reaches “A wandering Aramean was my father,”
- [L] he takes the basket down from his shoulder and holds it by its rim,
- [M] and a priest puts his hand beneath it [the basket] and waves it [before the altar],
- [N] and [then the Israelite] recites [the second part, beginning] from “A wandering Aramean was my father,” [and continuing] until he finishes the entire passage.”
- [O] and [then] he places it [the basket] beside the altar, and he bows down and departs.
- [P] At first [the law specified that]
- [Q] anyone who knows [how] to read recites the passage of the confession without assistance],
- [R] but [as for] anyone who does not know [how] to read, [the priests] lead him through the reading).
- [S] When those who could not read [refrained from bringing their firstfruits to the Temple, sages] ordained that
- [T] [the priests] would lead through the reading [both] those who know [how to read] and those who do not know [how to read].
- [U] The rich bring their firstfruits to the Temple] in baskets with plating [of silver] and gold,
- [V] but the poor bring them in [wicker] baskets [made] of peeled willow branches.
- [W] And [both] the basket and the firstfruits are given to the priests.

- [I:1 A] *R. Huna said, “This is the sense of the Mishnah-teaching [about the farmer’s placing the basket on his shoulder] ‘Then the priest shall take the basket from your hand’ (Dt. 26:4).*
- [II:1 A] **[The pigeons that were on top of the baskets were sacrificed as burnt-offerings, but the pigeons that are in their hands are given as a gift to the priests:]** *There is a Tannaite authority who reverses matters [the pigeons on top of the baskets are given to the priests and the ones in their hands are offered as burnt-offerings] so as to juxtapose the gift of the firstfruits to another gift, [namely the pigeons].*
- [II:2 A] *R. Yosé taught as a Tannaite statement, “They did not place the pigeons on top of the baskets, so as not to dirty the firstfruits, but they would suspend them, tying them outside the baskets.”*
- [III:1 A] **[While the basket is still on his shoulder, he recites both parts of the confession of firstfruits, beginning] from the words, “I declare this day to the Lord” (Deut. 26:3)]** *A certain elder repeated as a Tannaite statement before R. Zeira, “[After the farmer says, ‘A wandering Aramaean was my father’ and the priest takes the basket from him and puts his hand under it and waves the basket,] the farmer goes back and starts fresh at ‘I declare this day to the Lord.’”*
- [B] *Now does someone make the declaration and go back and repeat it?*
- [C] *Explain the passage to mean, “I already have declared.”*
- [III:2 A] *R. Huna raised the question: “Placing the basket of fruit in the hands of the priest, [which is the point at which the firstfruits are permitted for use, the point in the offering comparable to the tossing of the blood of an animal sacrifice] — what is the law as to the action’s permitting the utilization of the firstfruits in advance of making the declaration?”*
- [B] *Said R. Mattenayya, “What you say applies to a case when one went back and took them [from the place at which he had laid down the basket of firstfruits. But if the firstfruits remained in their original place [the farmer did not go and raise them up again] and they are in the status of firstfruits that have been set down [they are permitted for use, even though the farmer has not made the declaration].”*
- [III:3 A] *R. Jonah raised the question: “If one set down the firstfruits at night, [what is the rule]?”*
- [B] *It has been taught on Tannaite authority: He places the firstfruits at the southwestern corner of the altar, “Before the Lord.” Might one suppose*

this is at the western side of the altar? Scripture says, “And set it down before the altar of the Lord your God” (Dt. 26:4).

[C] If it is “before the altar,” might one supposed it is at the southern side of the altar?

[D] Scripture says, “Before the Lord.”

[E] How so? He presents the firstfruits at the southwestern corner of the altar and sets them down on the southern side of the altar.

[III:4 A] *It has been taught on Tannaite authority:* The response [of Dt. 26:5] is done only by an individual farmer.

[B] Not only so, but they relied on the formulation of Scripture to prove the point, [for Scripture uses the second person singular:] “And you shall respond.”

[III:5 A] *R. Jonah raised the question:* “What is the law as to presenting the firstfruits in silver baskets?”

[B] [With regard to translating Dt. 26:2, bringing the firstfruits in a basket, if the translator errs, does he have to go back and correct the error?] *R. Jonah and R. Jeremiah — one said, “He goes back and corrects his reading if in Aramaic he said utensil in place of the word basket.”*

[C] *The other has the translator go back on account of the Aramaic for ‘unleavened bread with various herbs’ (Ex. 12:8). [In the first case, the translator used the word utensil instead of the word basket, and in the latter case he has translated Ex. 12:8 as ‘unleavened bread with herbs’ instead of ‘unleavened bread with bitter herbs.] And we do not know which of the two authorities said this, and which one said that.*

[D] In line with the fact that *R. Jonah raised the question:* “What is the law as to presenting the firstfruits in silver baskets?” we may conclude that *R. Jonah* is the one who has the translator go back and correct himself if he used the word “utensil,” since to him the type of object in which the firstfruits were to be brought makes a difference. So] he had the translator say the Aramaic word for basket.

[E] For *R. Phineas* said, “The translator goes back and corrects himself if he said, ‘fatlings and young doves,’ and he should say, ‘doves and young doves.’”

3:4

- [A] **R. Simeon b. Nanos says: “[The landowners] may decorate the firstfruits [with any produce] other than the seven kinds [for which the Land of Israel was noted, wheat, barley, grapes, figs, pomegranates, olives used for oil, and dates used for honey (Deut. 8:8)].”**
- [B] **R. Aqiba says: “They may decorate the firstfruits only with the seven kinds [of produce for which the Land of Israel was noted].”**
- [C] **R. Simeon says: “Three [different] types[of produce make up the offering] of firstfruits: 1) the firstfruits [themselves, i.e., the first produce that ripens in the field], 2) the supplement of firstfruits [additional produce the landowner designates as firstfruits] and 3) the decorations [that bedeck] the firstfruits.**
- [D] **“[As for] the supplement of firstfruits — [it must be comprised of] the same kinds [of produce as the first-fruits themselves].**
- [E] **But [as for] the decorations [that bedeck] the first-fruits—[they must be] different kinds [of produce from the firstfruits themselves].**
- [F] **“The supplement of firstfruits must be consumed in [cultic] cleanness, and it is exempt from the [laws that apply to] doubtfully-tithed-produce,**
- [G] **“but the decorations [that bedeck] the firstfruits are subject to [the laws that apply to] doubtfully-tithed-produce.”**
- [I:1 A] *Said R. Yosé, “All parties concur that they decorate firstfruits with produce from overseas, for people will not err and suppose that they are bringing firstfruits from abroad. Where there is a dispute, it concerns decorating firstfruits with produce from Ammon and Moab. He who says [the landowners] may decorate the firstfruits [with any produce] other than the seven kinds holds that they may decorate firstfruits with produce from Amon and Moab. He who says they may decorate the firstfruits only with the seven kinds [of produce for which the Land of Israel was noted] holds that they may not decorate firstfruits with produce from Amon and Moab.”*
- [B] *Said R. Mana, “All parties concur that they may not decorate firstfruits with produce from Amon and Moab. for people will err and suppose that they are bringing firstfruits from Amon and Moab. Where there is a dispute, it concerns decorating firstfruits with produce from overseas. He who says [the landowners] may decorate the firstfruits [with any produce] other than the seven kinds holds that they may decorate firstfruits with produce from overseas. He who says they may*

decorate the firstfruits only with the seven kinds [of produce for which the Land of Israel was noted] holds that they may not decorate firstfruits with produce from overseas.”

- [II:1 A] **But [as for] the decorations [that bedeck] the first-fruits—[they must be] different kinds [of produce from the firstfruits themselves]:**
- [B] *It has been taught on Tannaite authority:*
- [C] **[It is] meritorious to bring them [viz., the seven kinds of first fruits] in seven [separate] containers,**
- [D] **but if he brings them in one container, he has [still] fulfilled his obligation.**
- [E] **[As for the Israelite who brings all seven kinds in one container] how does he arrange [his offering]?**
- [F] **He brings [his] barley and puts [it] at the bottom [of the basket], and [he marks off this layer by placing] something else on top of it.**
- [G] **On top of these, [he places a layer of] wheat, and [he marks off this layer by putting] something else on top of it.**
- [H] **On top of these, [he places a layer of] olives, and [he marks off this layer by putting] something else on top of it.**
- [I] **On top of these, [he places a layer of] dates, and [he marks off this layer by putting] something else on top of it.**
- [J] **On top of these, [he places a layer of] pomegranates, and [he marks off this layer by putting] something else on top of it.**
- [K] **On top of all these, [he places the] figs.**
- [L] **[And he] surrounds [all of] these [different types of produce] with grapeclusters, [which he hangs] on the outside [of his basket].**
- [M] **They would not go up [to Jerusalem] one at a time, but rather [in groups], one district after another [cf. M. Bik. 3:2].**
- [N] **They would not walk [toward Jerusalem] all day long, but only for two-thirds of the day.**
- [O] **The officers of the synagogue would go up together with them.**
- [P] *And they would sleep outside, in the open area of the town [M. Bik. 3:2C].*

- [Q] *They would not enter the houses in the town [M. Bik. 3:2D], because of [the possibility of contracting] corpse-uncleanness through overshadowing.*
- [R] *And they are required [to bring] a burnt-offering and a peace-offering [see M. Bik. 2:4, 3:3C-E, 3:5A].*
- [S] *[The inhabitants of Jerusalem] would not treat them on their way home [from Jerusalem] in the same manner as they treated them on their way toward [Jerusalem] [see M. Bik. 3:3G-K].*
- [T] *They [the inhabitants of Jerusalem] would not treat them [those who brought the wood-offering] in the same manner as they treat [those who brought] the firstfruits[T. Bikkurim 2:8].*
- [III:1 A] *It is exempt from the [laws that apply to] doubtfully-tithed-produce*

3:5

- [A] *Under what circumstances did [sages] say the supplement of firstfruits [has the same status] as the firstfruits [themselves]?*
- [B] *When it [the supplement, consists of produce that] comes from the Land [of Israel].*
- [C] *But if [the supplement consists of produce which] does not come from the Land [of Israel, it is] not [in the same status] as the firstfruits [themselves].*
- [D] *Why have [sages] said: “The firstfruits [have the same status] as property of the priest”?*
- [E] *Because he [the priest] may use them to purchase slaves, real estate, or an unclean animal [cf. M. M.S. 1:7],*
- [F] *and a creditor may extract them in [payment for] his [the priest’s] debt,*
- [G] *and the [ex-]wife [of a priest can take them in payment of the alimony specified] in her marriage con-tract,*
- [H] *just as [she may take] a Torah scroll.*
- [I] *R. Judah says: “[The Israelites] may give them [the firstfruits] only to [a priest who is] an associate [who is scrupulous in preserving the cleanness of foodstuffs], and the Israelites give him the [firstfruits] as a [personal] favor.”*

- [J] **But sages say, “They [must] give them [the firstfruits] to [all] the [members of the] priestly guard [i.e., to all the priests who are on duty in the Temple, including those who are not associates] and they [the priests] divide [the first-fruits] among them as they do with the holy things of the Temple.”**
- [I:1 A] R. Yannai in the name of R. Hiyya bar Vava: “They asked Rabban Simeon b. Gamaliel, ‘What is the law as to a man’s selling a scroll of the Torah to raise funds to get married?’
- [B] “He said to them, ‘Yes [he may do so].’
- [C] “‘ ... to study Torah?’
- [D] “He said to them, ‘Yes [he may do so].’
- [E] “‘ ... to save his life [by buying food]’ — they didn’t ask, and he didn’t answer.”
- [F] *From the perspective of R. Yosé there is no problem understanding why they didn’t ask and he didn’t answer. But from the perspective of R. Yosé, if they asked him, why did he not answer them?*
- [G] When R. Hananiah came, R. Phineas, R. Yohanan in the name of Rabban Simeon b. Gamaliel: “A man may sell a scroll of the Torah to raise funds to get married, to study Torah, or to save his life [by buying food].”
- [I:2 A] *It has been taught on Tannaite authority:* He who imposes a vow on his son to study Torah [saying, if the son doesn’t study Torah he may not derive benefit from the father], he may nonetheless fill a jug of water for him and kindle a light for him.
- [B] R. Jacob bar Idi in the name of R. Jonathan, “Also he may buy things for him in the marketplace.”
- [C] Where they differ, it is because in the one case we speak of a man, in the other case of a woman. And if it was a well-known man, they apply to him the rule governing a woman.
- [D] There was the case of a man who imposed a vow on his son to study Torah. The case came before R. Yosé bar Halafta, and he permitted him to fill a jug of water for him and to kindle a light for him.
- [I:3 A] *It has been taught on Tannaite authority:* He who sells a scroll of the Torah that belonged to his father will never see a sign of a blessing.

[B] And whoever keeps a scroll of the Torah in his house — concerning him Scripture says, “Wealth and riches are in his house and his righteousness lasts for ever” (Ps. 112:3).

TRACTATE

SHABBAT

The Israelite household at rest recapitulates the celebration of God at the moment of the conclusion and perfection of creation, Gen 2:1–4. At that hour the Israelite household, like creation at sunset marking the end of the sixth day of creation, is sanctified. The household is separated from the profane world and distinguished as God’s domain. With all things in place and in order, at the sunset that marks the advent of the seventh day, the rest that marks the perfection of creation descends. The sanctification takes place through that very act of perfect repose that recapitulates the rest celebrated at the climax of creation. Like God at the celebration of creation, now man achieves perfect, appropriate rest. This takes place when time, circumstance, and space, too, come together. The advent of the Sabbath marks the time; the household marks the space; and the conduct of home and family life marks the circumstance.

It is here, therefore, within the interiorities of the Israelite household, in the system of the halakhah, where time counts, where we take the measure of space, and where the particularities of private conduct behind the household walls make all the difference. As the advent of the Sabbath, of holy time, requires preparation in the Temple, so the same time imposes upon the household a set of rules of sanctification. The Written Torah has set the stage. The Sabbath marks the celebration of creation’s perfection (Gen 2:1–3). Food for the day is to be prepared in advance (Exod 16:22–26, 29–30). Fire is not to be kindled on that day, thus no cooking (Exod 34:2–3). Servile labor is not to be carried out on that day, not by the householder and his dependents, not even by his chattel (Exod 20:5–11; 23:13; 31:12–17; 34:21). The *where* matters as much as the *when* and the *how*: people are supposed to stay in their place: “Let each person remain in place, let no one leave his place on the seventh day” (Exod 16:29–30), understanding by place the private domain of the household (subject to further clarification in due course). Sages then make of the Sabbath the first and most important statement of their system, celebrating the stasis of creation, the perfection of the Creator’s work, all evoked every time the word “Sabbath” resonated with the sounds of the beginnings, the melodies of the restoration.

- I.** Dimensions: space, time and the Sabbath
 - A.** Space
 - B.** Time

- II.** Preparing for the Sabbath: light, food, and clothing
 - A.** The Sabbath lamp
 - B.** Food for the Sabbath
 - C.** Ornaments for animals, clothing for persons

- III.** Prohibited acts of labor on the Sabbath: not transporting objects from one domain to another
 - A.** The generative categories of prohibited acts of labor
 - B.** Domains and the prohibition of transporting objects from one domain to another
 - C.** The prohibition of carrying on the Sabbath across the lines of domains
 - D.** Throwing objects from one domain to another

- IV.** Prohibited acts of labor
 - A.** What constitutes a whole act of labor
 - B.** Healing on the Sabbath
 - C.** Knot-tying, clothing, and beds

- V.** Actions that are permitted on the Sabbath
 - A.** Saving objects from a fire on the Sabbath
 - B.** Handling objects on the Sabbath in private domain
 - C.** Circumcision on the Sabbath
 - D.** Preparing food for man and beast
 - E.** Seemly and unseemly behavior on the Sabbath

YERUSHALMI SHABBAT

CHAPTER ONE

1:1

[A] [Acts of] transporting objects from one domain to another [which violate] the Sabbath (I) are two, which [indeed] are four [for one who is] inside. (2) and two which are four [for one who is] outside.

[B] How so?

[C] [If on the Sabbath] the beggar stands outside and the house holder inside,

[D] [and] the beggar stuck his hand inside and put [a beggar's bowl] into the hand of the householder,

[E] or if he took [something] from inside it and brought it out,

[F] the beggar is liable, the householder is exempt.

[G] [If] the householder stuck his hand outside and put [something] into the hand of the beggar,

[H] or if he took [something] from it and brought it inside,

[I] the householder is liable, and the beggar is exempt.

[J] [If] the beggar stuck his hand inside, and the householder took [something] from it,

[K] or if [the householder] put something in it and he [the beggar] removed it,

[L] both of them are exempt.

[M] [If] the householder put his hand outside and the beggar took [something] from it,

[N] or if [the beggar] put something into it and [the householder] brought it back inside,

[O] both of them are exempt.

[I:1 A] [In reference to M. 1:1A, which refers to transporting an object from private to public domain, and has in mind a person standing outside

and extending an object inside, that is, from public to private domain, and vice versa, thus “two,” and which then adds two (thus two – four) for a person standing inside and extending an object out into public domain, so two contexts capable of subdivision into four – the question now is raised as follows:] Is the meaning [of **Transportation of objects from one domain to the other on Sabbath is] of two sorts, which yield four subdivisions, [meant] to impose liability, and [is the meaning of **Transportation of objects from one domain to the other on the Sabbath is] of two sorts, which yield four subdivisions, [meant] to declare exempt from punishment?****

- [B] [Or is the meaning,] [**Transportation of objects from one domain to the other on the Sabbath is of two divisions which yield] four subdivisions to impart liability, and ... *four* to exempt from punishment? That is, we have noted in M. that there are two categories which are four within private domain, and two which are four in public domain. The two are to impose liability on taking an object out of private domain and bringing the object into private domain, so that if a single individual does the entire act, he then bears liability on two counts. Or are there four possibilities under each category, liability and exemption therefrom?]**
- [C] *Let us infer the answer from the following [use of the same language]:*
- [D] **Oaths are of two sorts, which yield four subdivisions [M. Shebu. 1:1A].** [And, as Yosé says, all refer to the imposition of liability, hence B is preferable, rather than A. At Y. Shab 1:1 H now follows.]
- [E] [Following the order of the text of Y. Shebu. 1:1:] *Said R. Yosé, “The Mishnah itself has stated thus: **Oaths are of two sorts, which yield four subdivisions [M. 1:1A].***
- [F] “Is it not [solely] to impose liability?”
- [G] “*And similarly, therefore: **Transportation [of objects from one domain to the other] on the Sabbath is of two sorts, which yield four subdivisions is** [solely] to impose liability [under four counts, (E-G appear after I according to the order of Y. Shab.)].”*
- [H] *Said R. Ba, “There [with reference to oaths], all of [the stated categories] are [indeed] meant to impose liability. But here [with regard to transportation of objects from one domain to the other on the Sabbath], we come to repeat the tradition [that there are occasions for both] liability and exemption from liability.” [Hence the cases of Shabbat and Shebuot differ.]*

- [I] [If that is so, then within the same pericope we have two different linguistic usages for exactly the same words.] So is that to say, “Four to impart liability, and four to exempt from liability” [in the case of oaths, but two and two in the case of the Sabbath? Hence, the advocated interpretation of the passage imposes different meanings on exactly the same words.]
- [J] *And has it not been taught, “The doors of the sanctuary are two which are four”?* [and it had four doors, two inside and two outside (M. Mid. 4:1, *Holy Things V*, pp. 182ff).] *Now do you [have the occasion] to state* [that the attempted division between] imposing liability and exempting from liability [applies in the usage of such language]? [Obviously not in this case! Similarly, when one finds the sort of language, two ... four ..., it is not appropriate to attempt to impose diverse meanings on simple language. There is a single consistent meaning to be imposed on the cited language.]
- [K] [M. 1:1 illustrates the rule under discussion with a sequence of cases in which a beggar stands in public domain and a house holder in private domain, and there is an exchange of food via a begging bowl. In this sequence of examples, there are eight transactions, four points of liability, two in which the beggar is liable, and two in which the householder is liable; there are then eight transactions which do not produce liability, four involving the beggar, and four involving the householder. Now in this context of explaining M. 1:1, the Talmud raises the question as follows:] *Should we not then repeat the tradition in such wise that there are twelve [transactions in which a party is] exempt [from liability and not “four which are eight”]?*
- [L] [*The answer is that this is not a consideration, for the purpose is otherwise, namely:*] *we have come with the purpose of teaching only a transaction involving exemption from liability in the context of one involving liability.* [At issue are only cases of correspondence, one of liability and one of exemption along the same type of case, but with diametrically opposed conditions and consequences.]
- [M] [In the same context of the exposition of M. 1:1,] *said R. Hiyya bar Abba, “Why is it that [the language of the Mishnah is] ‘exempt from liability’ which we repeat here? [Should the appropriate language not be,] ‘It is permitted’? [The appropriate language should be, ‘Exempt and permitted.’ There is no consideration of a prohibition, hence of exemption from penalty, at all.]”*
- [N] [Once more in the same context of M. 1:1,] *said R. Yosé, “The poor man and the rich man are one and the same, but sages*

numbered them as two [to differentiate taking out from bringing in].

[O] “Bringing an object into private domain and taking it out of private domain is one transaction, but sages have numbered them as two transactions [Since the M. uses different terms for each act].”

[P] *Transporting an object on the Sabbath from one domain to another* – does not the act of bringing [an object from the public domain into private domain] fall within [the principle operative in] taking an object from one domain to another? Does not bringing an object into a domain fall within that same principle?

[Q] *Let us derive evidence [that taking an object out and bringing it in from one domain to another should be deemed one and the same], from what R. Yosé said in the name of R. Yohanan, “If one has brought half a dried fig into private domain and carried half a dried fig out from private domain to public domain, he is liable [since the two acts are totally equivalent to one another and are deemed to join together to form the whole of the requisite act of transporting, in volume, the whole of a dried fig, so a complete act of transporting an object of requisite volume thus has been carried out and the person who has done the act is liable. So N is false.]*

[R] And how do we know that transporting an object out from one domain to another domain is deemed to be an act of labor [which is prohibited on the Sabbath]?

[S] *R. Samuel b. Nahman in the name of R. Jonathan derived it from here: “So Moses gave command, and word was proclaimed throughout the camp. ‘Let neither man nor woman do anything more for the offering for the sanctuary. So the people were restrained from bringing’ (Ex. 36:6). The people thus refrained from taking objects out from their houses and from handing them over to the Temple treasurers [who were standing in the public domain] or from taking something out of their hands and bringing it into the Temple treasury.”*

[T] *R. Hezekiah in the name of R. Ila: “You may even derive the prohibition against bringing an object inside [on the Sabbath and not just the prohibition against taking objects out of their houses, which is obvious from the verse. How so?]. Just as the people refrained from taking objects out of*

their homes to give them to the Temple treasurers, so the treasurers refrained from receiving those objects and bringing them into the Temple treasury.”

[U] R. Hezekiah in the name of R. Aha derived the rule governing all of them [i.e., the prohibition against bringing out or in] from the following verse: “[Thus says the Lord, ‘Take heed for the sake of your lies and do not bear a burden on the Sabbath day or bring in by the gates of Jerusalem.] And do not carry a burden out of your houses on the Sabbath and don’t do any work, [but keep the Sabbath day holy (the emphasis on the word any implies that there is a prohibition against bringing in as well as bringing out)]’ (Jer. 17:21-22).”

[I:2 A] R. Yosé in the name of R. Yohanan: “If one brought in a half of a dried fig and took out a half of a dried fig, he is liable [for transporting] whole fig from private to public domain].”

[B] *What R. Yohanan has said does not accord with the view of R. Yosé.*

[C] *For it has been taught:* If one took out a half of a fig and went and took out another half of a fig [from private to public domain] in a single spell of inadvertence [that is, he did not remember between the two acts that it was indeed the Sabbath], he is liable [since the two actions join together, so the volume requisite to liability has been transported from private to public domain].

[D] If this was in two spells of inadvertence, he is exempt. [That is, if he forgot it was the Sabbath and carried, and then remembered it was the Sabbath, and subsequently forgot again and carried once more, he is exempt. This is because the two acts are considered separate. Since in each case, he was not carrying the requisite amount for being culpable (i.e., an olive’s bulk), he is exempt.]

[E] R. Yosé said, “If it was in a single spell of inadvertence, and it was a single domain [e.g., a public domain], he is liable. Even if it was in a single spell of inadvertence, but if it involves two domains [e.g., public domain, but such domain is divided by a sliver of intervening land], or if it involved two spells of inadvertence but only a single domain, the man is exempt.”

[F] *Now here is our question [in which we see why Yohanan’s statement is not in accord with Yosé’s view]:* If in the view of R. Yosé, two distinct acts of bringing out [a half of a fig] are deemed

not to join together [to form a volume requisite for liability], is it not an argument a fortiori that one act of bringing in and another act of taking out [less than the requisite volume will not join together, since here we have two domains for sure]?

[G] It follows that what R. Yohanan has said is not in accord with the view of R. Yosé.

[H] [As to Yosé's statement that two distinct domains do not join together, this must now be clarified.] Said R. Ila, "It is not the end of the matter if two doorways [of a single courtyard, private domain] are open into two different streets [that we have two distinct domains]. But even if the two open into a single street [if one takes half a fig out of the doorway into the street, and he takes half a fig out of another doorway into the same street, the two areas do not join together into a single domain]."

[I] [Rejecting this view, it is stated, No, that is not the case.] Also R. Yosé will concur [that if the two doors open into a single street, that street constitutes a single domain].

[J] For R. Yosé compares the matter of distinct domains to the matter of distinct spells of inadvertence in such a way as to impose liability [requiring two sin offerings in each case].

[K] Just as R. Yosé compares distinct domains to distinct spells of inadvertence so as to exempt [the person from] ["to impose"] liability, so he compares the matter of domains to spells of inadvertence to impose ["exempt"] liability. The result is that if one took an entire fig out of this doorway, and an entire fig out of that doorway, in a single spell of inadvertence, is it possible that he is not liable on two counts? [Of course he is liable on two counts, and the two domains divide the transgression requiring two offerings.] Among these same lines, in the present case, he is equivalently liable.

[L] [Rejecting this theory of Yosé's reasoning,] R. Yudan said, "R. Yosé compares the matter of distinct domains to the matter of eating a piece of forbidden food. [The criterion is eating the requisite volume of that food within the space of time it takes to eat half a loaf of bread. If one ate only half of the requisite volume in the specified amount of time, he is then not liable. Accordingly, if one ate a half olive's bulk of forbidden food within the time it takes to eat this half loaf of bread, and a half olive's bulk of forbidden food in the time it takes to eat that

half loaf of bread, is it possible that the man will not be exempt [from any liability]? [Of course he is exempt.]

[M] “If, on the other hand, he ate a number of olive’s bulks of forbidden food within the time it takes to eat a number of half loaves of bread, but this was in a single span of inadvertence, the man is liable only on a single count. [Now in Yosé’s view, the two domains likewise will not join together, so that the separate acts of taking out one-half of the volume requisite for liability add up to the imposition of liability.]”

[N] Rabbis of Caesarea say [to R. Yudan, L-M], “Instead of comparing the matter before us to the consumption of forbidden fat [i.e., a forbidden food], compare it to the matter of the Sabbath itself.

[O] “[Taking an instance involving Sabbath law, namely, that one may not sew two threads, therefore:] If one has woven a single thread into one garment, and a single thread into another garment [in which case, he has not woven the requisite two threads into a single garment], is it possible that he is not exempt? [Of course he is exempt!]

[P] “If, furthermore, he wove a number of threads into a number of garments in a single span of inadvertence, he is liable on only one count.” [This yields the same result as Yudan’s view of Yosé’s opinion, but it is a more apt simile.]

- [I:3 A] R. Yosé in the name of R. Yohanan: “He who takes an object from private to public domain is liable only when he puts the object down.”
- [B] R. Jacob bar Ada in the name of R. Yohanan: “He is liable only if he both takes the object up [in one domain] and puts it down [in the other domain].”
- [C] *R. Zeira raised the following possibility:* “Since he is liable if he takes up the object in private domain, then it is the case that if he takes it up in order to put it down again [he will be liable. If that is the case] Then if he took up the object to eat it, but changed his mind and decided to set it down, he would not be liable [because his original intention was not to lay it down].
- [D] [*Returning to A, above,*] *what R. Yohanan has said does not accord with the view of R. Yosé.*
- [E] *For it has been taught:* If one took out from private to public domain a half of a fig and put it down, and then he went back and

took out another half of a fig, if he put the second half within four cubits of the first, he is liable, and if not, he is exempt. [In the former case it is a single act of putting down the object in public domain.]

[F] R. Yosé says, “If he merely carried the second half fig over the first half [without even putting it down], he is liable, but if not, he is exempt. [Yosé treats merely walking with the half fig as equivalent to setting it down. Yohanan, A, has held that liability is incurred only by actually setting the fig down.]”

[G] It follows that R. Yosé treats walking with the fig as equivalent to setting it down.

[H] [If that is so, what are the circumstances in which Yosé will impose liability at all?] For just as R. Yosé treats walking with the object as equivalent to setting it down, so as to impose liability, so R. Yosé will treat walking with the object as equivalent to setting it down, so as to exempt from liability. It follows that once the man has carried out the half fig, it is as if he has set it down there [before bringing it into within four cubits of the other half fig, which he has already taken out. Consequently, the man must always be exempt in the stated case.

[I] That is not entirely so, since you may interpret the case to involve one in which the first half fig was set down within four cubits of the line dividing private from public domain, that is, the doorway.

[J] Would this accord with that which is taught: “And if not, he is exempt”? [Surely Yosé takes account of the possibility of liability and exemption, so the question is not viable.]

[K] Said Raba son of the son of R. Pappi, “Interpret the case to speak of a doorway that was five cubits wide, and the man took one fig out into the threshold on one side, and the other one at the other side. But lo, he then has not brought the second half fig out into the area four cubits from the first half fig.”

[L] *There we have learned in the Mishnah: There is he who carries out a single act of eating and is liable on its account for four sin offerings and one guilt offering: An unclean [lay] person who ate (1) forbidden fat, and it was (2) remnant, (3) of Holy Things, and (4) it was on the Day of Atonement. R. Meir says, “If it was the Sabbath and he took it out [from one domain to another] in his mouth, he is liable [for another sin offering]. They said to him, “That is*

not of the same classification [of transgression of which we have spoken heretofore since it is not caused by eating]" [M. Ker. 3:4A-D].

[M] For this one is liable on the count of carrying, while that one is liable on account of putting the fat down. [In the former instances the liability is incurred while the person walks along and chews on the fat, while the one introduced by Meir is liability on account of actually putting the fat down.]

[N] Who is it that answered him? They said to him, "It is R. Yosé."

[O] *In that case the opinions of R. Yosé are inconsistent. There [at M. Ker. 3: 4] he has not treated carrying the object as equivalent to putting it down, while here, as we have seen, he treats carrying the object as equivalent to putting it down.*

[P] Said R. Yudan, "Interpret the case to be one in which the man was lying on the threshold, partly inside the house, while his mouth was located outside, and he put out his hand [outside the house] and took the fat and ate it. So lo, he did not carry [the fat]. [There now is no question of carrying the fat along. The issue is not as expressed at M. It is rather the introduction of the consideration of the Sabbath where that consideration does not apply.]"

[I:4 A] Said R. Yannai, "If one swallowed a half of an olive's bulk [of prohibited fat] and vomited it up, and then he swallowed it again, he is liable.

[B] "If he put half a fig into his mouth and went and took it out into public domain, he is exempt [that is, if he took it from private to public domain, for he has not taken from one domain to the other a volume sufficient to impose liability. The two separate acts do not add up to a completely prohibited volume, as in the case of A, above.]"

[C] Then what is the difference between this case and the one before it [in which case the two halves do add up to one whole]?

[D] There [at A] his cheek has enjoyed the benefit of an olive's bulk of prohibited fat in all.

[E] But here the man has not been engaged in the transportation of a complete fig.

[F] Said R. Yosé, “There are occasions in which one may be engaged in the transportation of a complete fig and still be exempt.”

[G] *What would be a practical case?*

[H] “If one took out from private to public domain a half of a fig, and put it down, and he went back **and took** another half of a fig out, and he did not yet put down the second half fig before the first half was burned,

[I] “lo, this is a case in which the man was engaged in the transportation of a whole fig, and yet he is exempt.”

[J] *It is because at the earlier stage in the argument the comparison to the matter of consuming forbidden fat [was made and rejected] that he has made [the present statement]. [Yosé’s statement here serves the purpose of presenting an analogy based wholly on the considerations of Sabbath law, without reference to the matter of forbidden fat at all].*

[I:5 A] “[Since carrying an object is not equivalent to standing still and putting it down,]” said R. Yohanan, “he who takes an object from private domain to public domain through neutral domain [*karmelit*, which is neither the one nor the other, without putting the object down in the neutral domain], is liable [since the passage through the neutral domain is not marked by laying down the object, with the result that the effective domains are solely public and private. Had the man put the object down in the neutral domain, having taken it out of private domain, he would not have been liable; had he taken it from neutral domain to public domain, he would not have been liable. But transporting it across the neutral domain has no effect.]”

[B] *This matter is derived from the rule [governing him who takes an object out from private to public domain by carrying it on his back, as will now become clear from the following]:*

[C] **He who intends to take an object out by carrying it before him, and the burden slips around onto his back, is exempt [from liability for transporting the object from private to public domain, since the man’s intent was to take good care of the object, as he transported it, and he has not carried out his intention. Consequently, his deed is null.]**

[D] **But if he planned to take it out on his back, and it slipped around and he turned out to transport it before him [subjecting the object to careful transport], he is liable [M. 10:4].** [Now what this

indicates, in any event, is that there are circumstances in which transporting the object behind, rather than before, the bearer, produces liability.]

[E] Now is it possible that [the man who bears the burden on his back] will not [carry this burden] between himself and the sides of the road at the wall [and that area is neutral domain]? [No, it is not possible, since the man bears the burden on his back, and so he cannot control its location. Consequently, some of the time the burden is apt to be carried in neutral domain. Yet under these circumstances the man is yet liable for carrying the burden, as specified. It follows that if he carries the burden from private to public domain, through neutral domain, but does not put it down, he is liable.]

[F] Said R. Yosé, “Interpret the case as follows: The man was facing backward, toward the wall, and the pack was facing outward [toward public domain], and already, to begin with, the pack on his back was carried forth from private to public domain. [So there was no point at which the pack was carried in neutral domain.]”

[G] *[But one is liable only for doing things in the normal way, so] R. Hiyya bar Abba asked before R. Mana, “But this is not the normal way of carrying an object from private to public domain [so why should the man ever be liable anyhow]?”*

[H] *He said to him, “[No, that is not entirely the case, for] that is how expert carriers do things.”*

[I] *But whence is the source [for the rule that he who carries a burden from private to public domain through neutral domain is liable]?*

[J] *It derives from what R. Aha, R. Miasha in the name of R. Yohanan said, “**He who took foodstuffs from private domain and put them down on the threshold of the house [which is neutral domain, whether he then went and took it out, or someone else took it out, is exempt from liability to a sin offering, for he has not completely performed his prohibited act of labor at one time (M. 10:2A-D)].** [But if he had taken it out himself, he would have been liable. This indicates that the neutral domain does not interrupt his action, as Yohanan has claimed.]*

[K] “Lo, is the threshold not in the category of neutral domain?”

[L] *And R. Yosé was embarrassed that he had not stated this obvious proof himself.*

- [I:6 A] R. Huna in the name of Rab: “All concur in the case of one who throws [an object from private to public domain, across a piece of neutral domain], that he is liable.
- [B] “All parties take the view that the airspace over a piece of neutral domain is not equivalent to the actual neutral domain itself. [Hence passing through the airspace does not affect the tossed object.]
- [C] “*Where they differ*, it concerns taking an object [from private to public domain through neutral domain].
- [D] “Ben Azzai declares the person exempt on the count of transporting the object, since, if the object passes through neutral domain, it is as if it has come to rest there].
- [E] “And sages declare him liable.”
- [F] *Ben Azzai treats* carrying the object [through the neutral domain] as equivalent to putting it down there. [So he is exempt, since he has not transported the object directly from private to public domain.]
- [G] *And sages do not treat* carrying the object [through neutral domain] as equivalent to putting it down there.
- [H] *R. Hisda asked R. Huna, “In the theory of Ben Azzai*, then, a person will never be liable for transporting an object four cubits in the public domain. Once he has taken up the object out of private domain, it is as if he has put it down cubit by cubit in public domain [and so] he will be exempt, [since liability is incurred only by carrying the object at least four cubits in public domain].”
- [I] R. Judah in the name of Rab: “All concur in the case of one who takes an object out [from private domain to public domain through neutral domain] that he is exempt [from liability].
- [J] “All parties take the view that transporting the object is equivalent to putting it down [in neutral domain].
- [K] “*Where they differ*, it concerns tossing the object.
- [L] “Ben Azzai declares the person exempt, and sages impose liability.
- [M] “*Ben Azzai treats* the airspace over neutral domain as equivalent to the actual neutral domain itself. [Hence passing through the airspace affects the tossed object, and it is as if the object has come to rest. The

person has not completed the transport of the object from private to public domain in one fell swoop.]

[N] “*Sages do not treat* the airspace over neutral domain as equivalent to the actual neutral domain itself, [on which account they declare the man who has tossed the object to be liable].”

[O] *There is a Tannaitic passage supporting the position of this party, and one supporting the position of that party.*

[P] *The Tannaitic tradition supporting the view of R. Huna [Judah] is as follows:*

[Q] If a person was standing in public domain and he threw an object to a shed or pen through neutral domain, he is liable. And if he took the object out of neutral domain, he is exempt. [This accords with Huna’s view of Ben Azzai’s opinion, A-E.]

[R] *The following Tannaitic passage supports the view of R. Judah [better: Huna]::*

[S] **He who took foodstuffs from private domain and put them down on the threshold of the house [which is neutral domain], whether he then went and took it out or someone else took it out, is exempt from liability to a sin offering, for he has not completely performed his prohibited act of labor at one time [M. 10:2A-D].**

[T] Lo, if he had done it at one fell swoop, he would have been liable.

[U] Ben Azzai declares the man exempt if he had done it at one fell swoop.

[V] *And lo, we have learned: R. Meir says, “If it was the Sabbath, [and he carried it out from one domain to another in his mouth, he is liable for another sin offering]. They said to him, “That is not of the same sort of transgression” [M. Ker. 3:4A-D],*

[W] For this one is liable on the count of carrying, while that one is liable on account of putting [the fat] down.

[X] *In the view of R. Huna, this position does not accord with the opinion of Ben Azzai. But in the view of R. Judah, this position accords neither with Ben Azzai nor with rabbis. [Judah says all concur that he who takes out an object is exempt.]*

[Y] Said R. Hinena, “Who said this?”

[Z] They said to him, It is sages who accord with the theory of Ben Azzai.”

- [I:7 A] *R. Yohanan raised the following question: “If one was standing in public domain, and he tossed an object, but, before it fell to the ground, he went ahead and caught it – what is the law?”*
- [B] *Is this situation not covered by the following pericope of the Mishnah?*
- [C] **He who throws an object [and realizes it after it leaves his hand], if another person caught it, if a dog caught it, or if it burned up in a fire intervening in its flight path, he is exempt [M. 11:6A-E].**
- [D] [In this connection,] R. Samuel in the name of R. Zeira [added], “[That rule applies] if one jumped up and seized the object in mid-flight.”
- [E] Lo, if the object had come to rest [in the other’s hands, in the normal way], the one who threw it would be liable. For what difference is there between the object’s coming to rest on the ground and its coming to rest in his hand? [The one who tossed the object also caught it, and he did the entire act of forbidden labor on his own. So the answer to Yohanan’s question is that the one who tossed the object and then caught it is liable.]
- [F] There why is he liable? [For in fact the case of the cited pericope of the Mishnah and the one addressed by Yohanan’s question are not wholly comparable.] There one party tossed the object and another party caught it. [Accordingly, it is as if the object has come to rest, and why should the one who threw the object not be liable?]
- [G] But here the one who tossed the object is the one who caught it. [Perhaps, therefore, we do not have a case of the object’s actually coming to rest at all.]
- [H] *Then it should surely be obvious to [Yohanan] that the man is exempt!*
- [I] [It is not so obvious that he should be exempt. For] if the man had thrown the ball with his right hand and stuck out his left hand and caught it, is it possible that he should *not* be liable?
- [J] [We know that he should be liable] from this case of [his throwing up the object in public domain and catching it in] his own mouth [in which case he assuredly is liable; III.P above]. Is his mouth [in this case] not equivalent to the other party [who caught and brought the object to rest]?
- [K] So too in this case, his left hand is equivalent to the other party.

- [L] *Said R. Yudan, “It is self-evident to R. Yohanan that if he tossed the object with his right hand and caught it with his left hand, he is liable.*
- [M] *“Where he has a question, it is the case in which he tossed it with his right hand and caught it with his right hand.”*
- [N] *Rabbis of Caesarea, R. Shimi in the name of R. Aha: “Even if he tossed the object with his right hand and caught it with his left, it is a question to [Yohanan] whether the man is liable.*
- [O] *“If you invoke the argument about catching it in his mouth, namely, that since his mouth serves to eat food, it is equivalent to another party, then in this case, can it be argued that his hand is equivalent to another party?”*
- [P] *[Arguing along these same lines,] R. Mana asked, “If so, then if a man carried a fig out from private to public domain using both of his hands, he should be exempt, on the grounds of two separate parties’ performing a single act of labor.”*
- [Q] *Said to him R. Hiyya bar Ada, “But in this case it is one and the same man who does the act of labor. For has it not been taught: If an individual did the action, he is liable. If two or three people did it, they are exempt.”*
- [I:8 A] *Said R. Yohanan, “If one was standing in public domain and collected some rain from the contained airspace of private domain, and took the rain back into public domain, he is liable.”*
- [B] *[Explaining this ruling,] R. Bun bar Hiyya in the name of R. Zeira [said], “It deals with the case of his collecting [rain that had already fallen on the ground in the private domain]. Lo, if he had caught it in his hand [before the rain landed there, and then transferred it], he would have been exempt.”*
- [C] *[Objecting to this view, we ask:] What is the difference between another party’s putting the rain into his hand, in which case he is liable, and Heaven’s putting it into his hand [in which case he is exempt]?*
- [D] *The stated distinction accords with the view of Rabbi, for Rabbi treats the contained airspace of the courtyard as equivalent to the actual courtyard itself. [Hence if the rain had fallen into the contained airspace of the courtyard, the man would have been liable. But since he caught the rain in his hand before it had reached the contained airspace of the courtyard, he is exempt.]*

- [I:9 A] If one was standing inside private domain with his hand full of fruit, and he stuck his hand out the window into public domain, and at that instant, the Sabbath day became sanctified, he is forbidden from bringing his hand [bearing the fruit,] back inside the window.
- [B] *R. Aha in the name of R. Ba: “This accords with the view of him who said, ‘It is forbidden to utilize the airspace [of public domain] within ten cubits of the ground’ [since that area is deemed equivalent to the public domain itself].”*
- [C] *There are Tannaim who teach: “It is permitted [to bring his hand back inside].”*
- [D] *They wished to explain as follows: He who said that it is permitted speaks of a case in which there is a demarcated territory of four cubits [in the area in which the man has stuck his hand outside, in which case it is as if he had put his hand from private domain, inside the house, to private domain, the four cubits in which his hand is located; he may then move his hand from one private domain to the other].*
- [E] He who said that it is forbidden speaks of a case in which there is not an area of four cubits [in the area in which the man has stuck his hand outside].
- [F] Said R. Yosé b. R. Bun, “Whether it is a case of the former [where there is an area for four cubits] or the latter [where four cubits are lacking], [L adds:] it is forbidden according to the view of him who said, ‘It is forbidden to utilize the airspace of public domain within ten cubits of the ground’ [for even where there is an area of four cubits it is forbidden to move an object to the public domain.]”
- [G] *What is the upshot of the matter? [Wherein lies the dispute? How may we explain the position that permits the hand to be returned?]*
- [H] *He who said that it is forbidden speaks of a case in which the hand is lower than ten handbreadths from the ground, and he who said that it is permitted holds that the hand is above ten handbreadths from the ground.”*

[II:1 A] **[If on the Sabbath the beggar stands outside and the householder inside, and the beggar stuck his hand inside and put a beggar’s bowl into the hand of the householder, or if he took something from inside and brought it out,] the beggar is liable, the**

householder is exempt [M. 1:1C-F]. [Not cited: If the householder stuck his hand outside and put something into the hand of the beggar, or if he took something from it and brought it inside, the householder is liable, and the beggar is exempt [M. 1:1G-I]. [On this statement, we have the following comment:]

[B] R. Judah in the name of Samuel: “And that rule applies when the hand of the beggar is within ten cubits of the ground. [That is, the householder is liable for putting something into the beggar’s hand, when the beggar’s hand is within ten cubits of the ground, for then the beggar’s hand is within public domain.]”

[C] R. Zeira said, “And it is the case, also, only if the beggar’s hand also is at least four cubits from the wall [for the same reason]. But if his hand is less than four cubits from the wall [marginal addition in L], his hand is in neutral domain [so the householder incurs no liability].”

[D] [Further qualifying this same rule as to the householder’s liability,] R. Eleazar in the name of R. Simeon Karsenah: “It applies, further, when the beggar was facing the street [with his back to the wall]. [In that case with the hand not within four cubits of the wall, we have the hand in public domain.] But if the beggar was facing the wall, the space between him and the wall is regarded as neutral domain, [so the householder incurs no guilt].”

[II:2 A] R. Hisda in the name of Ashi: “In the case of a reed, poked into the ground of public domain, ten handbreadths in height to make use of the space from inside the reed to public domain, or from public domain to the space inside the reed, [since the reed is not four cubits in breadth, and so does not constitute a domain unto itself. Hence it is totally part of public domain. Thus one may move an object (“make use”) from the reed to the street.]”

[B] Rab said, “A chair in front of a building that stands in the public domain [which is used to hand things from within the house to the street, or from the street to within the house,] ten handbreadths high and four cubits broad –

[C] “he who makes use of it for transporting objects from within the house to the public domain or vice versa is liable, [since it constitutes a private domain unto itself].

[D] *R. Hoshaiyah taught*, “**A candlestick standing in the public domain, ten handbreadths high, with the holders at the top four cubits in breadth – he who utilizes what is in [the holders] and takes the**

contents to the public domain, or from the public domain to the candlestick, is liable” [Cf. T. 10:7].

[E] Said R. Mana, “The law covers not only a candlestick, but even a reed ten handbreadths high, with a table placed on its top [four cubits broad] – he who takes (literally uses) objects located there into the public domain, or from the public domain there, is liable [for the same reason].”

[II:3 A] How do we know that the airspace ten handbreadths above the ground constitutes a different domain [from the ground]?

[B] R. Abbahu in the name of R. Simeon b. Laqish: “‘There I will meet with you, and from above the mercy seat, from between the two cherubim that are upon the ark of the testimony, [I will speak with you of all that I will give you in commandment for the people of Israel’ (Ex. 25:22)]1.

[C] “And it is written, ‘[And the Lord said to Moses, Thus you shall say to the people of Israel]: You have seen for yourselves that I have talked with you from heaven’ (Ex. 20:22).

[D] “Just as ‘speaking’ stated elsewhere refers to a distinct domain, [that is, heaven is distinct from earth,] so speaking stated here (in Ex. 25:22) refers to a distinct domain [that is, the ark referred to at B was ten handbreadths].”

[E] But was the ark not nine [and not ten] handbreadths high?

[F] The members of the household of R. Yannai said, “The mercy seat [in addition] was a handbreadth [in height].”

[G] R. Zeira asked, “How do we know that the mercy seat was a handbreadth in height?”

[H] *R. Hananiah bar Samuel taught*, “To all utensils that were in the Temple the Torah assigned a length, breadth, and height, except for the mercy seat, to which the Torah assigned a length and breadth, but not a height.

[I] “You may derive [the height, then,] from the smallest utensil in the Temple: ‘And you shall make around it a frame a handbreadth wide, and a molding of gold around the frame’ (Ex. 25:25). Just as here we have the height of a handbreadth, so there [with regard to the mercy seat] the height is a handbreadth.”

[J] Or perhaps the meaning is, “You shall make a molding of gold around the frame” (Ex. 25:25), meaning, “Just as here [in the case of the molding], the height is any measure at all, so there [in the case of the mercy seat] it may be any measure at all!”

[K] *What is the upshot of the matter?*

[L] R. Eliezer bar Jacob says, ““And the priest shall dip his finger in the blood and sprinkle it seven times before the Lord in front of the veil [or more literally, “at the face of the veil.”]’ (Lev. 4:17). And ‘front [i.e., a face]’ can only be a handbreadth.”

[M] *R. Yosé raised the question*, “Now in the case of a tall cupboard which stands in the house, of whatever height [even above ten handbreadths], is it possible that one is not permitted to make use of what is in it, taking it out of the cupboard and using it in the house, or to put something from the rest of the house back into the cupboard?”

[N] “But [Lev. 4:17] deals with the time that the priest is [tossing the blood seven times] in the various directions. [That verse has no bearing upon our question, because it deals with the quite separate matters of tossing the blood in various directions.]”

[O] [Reverting to the dimensions specified above, A, E, and, further, referring to M. Kel. 17:10:**R. Meir says, “All measurements of the Temple were according to the cubit of middle size....” R. Judah says, “The standard of the cubit used for the building was six handbreadths, and for the utensils five handbreadths.”**] *Now the attempted proof poses no problems to the view of him who says that all measurements were in accord with the standard of six handbreadths to a cubit. [This applied throughout.]*

[P] *But in accord with him who said that the measure had five handbreadths to a cubit,*

would the ark then not have been seven and a half handbreadths [rather than nine]? The scriptural dimension is a cubit and a half, hence, seven and a half handbreadths, not nine.]

[Q] R. Jacob bar Aha said, “[We deal with the dispute of] a member of the house of R. Yannai with R. Simeon b. Yehosedeq. One party derives the measurement [of ten handbreadths from the ground as a domain] from the height of the ark [as above, E-F], and the other party derives the measurements from the height of a wagon.”

[R] [And it is not known which party derives the measurement from the ark and which derives it from the height of a wagon.] It stands to reason that it is the member of the house of R. Yannai who derives the measurement from that of the ark, for the members of the household of R. Yannai said, “The mercy seat was a handbreadth in height.”

[S] Then R. Simeon b. Yehosedeq derives the stated measurement from the wagon.

[T] *R. Zeira asked*, “How do we know that the wagons [used in the Temple] were ten handbreadths high?”

[U] Said R. Yosé, “And even if you say they were ten handbreadths high, did not R. Nehemiah teach, ‘The upholstered wagons were vaulted like tilted carts’? [Hence it was possible to get at the contents only through the door.]

[V] “Now in the case of a hole in the public domain, ten hand breadths deep and four broad, is it possible to suppose that it is not forbidden to make use of what is in it in the public domain, or what is in the public domain in it? [Of course it is prohibited to do so, since this constitutes

a domain unto itself. How would the case of the wagon supply a useful analogy?]

[W] “But when [on the Sabbath] they extended the boards from one wagon to the next, they were straight-walled [and not arch covered]. [Accordingly, the wagons at that point were demonstrably ten handbreadths high, and, in that ordinary condition, without attention to the vault or arch, they supply a usable analogy.]”

[III:1 A] [If the householder put his hand outside and the beggar took something from it, or if the beggar put something into it and the householder brought it back inside,] both of them are exempt [M. 1:1M-O].

- [B] R. Jacob bar Aha in the name of Hezekiah, rabbis in the name of R. Yohanan: “[They are exempt] because [of the rule that two who do a single act of labor [are not liable]. [Liability is incurred for a sin offering only on the basis of an individual’s action.]”
- [C] Rab asked Rabbi, “If another party lifted up a burden and put it on someone’s shoulder, and the latter forgot and took it out [from private to public domain, what is the law]?”
- [D] *In the second cycle [of teaching the Mishnah],* he said to him, “He is liable, for the case is not parallel to that one [of M. 1:1M-O].”
- [E] Rabbi’s theory is that since the man moved his feet [to walk from private to public domain], it is as if he has moved the burden as well.
- [F] *Within the theory of Rabbi,* if someone was standing in public domain and tossed an object, and then went ahead and caught it in private domain, what is the law?
- [G] [How can anyone ask such a question?] *Is it not the view of Rabbi that one treats* the contained airspace within partitions as equivalent to the actual ground of the partitioned-off space? [Hence the man is surely liable at F.]
- [H] *No, the question is to be phrased differently:*

[I] If one was standing in private domain and tossed an object and went ahead and caught it in the public domain, what is the law? [Is this deemed coming to rest for the object?]

[J] *There is an available teaching as follows:* Rabbi declares the man exempt, unless the object actually comes to rest. [This mode of coming to rest is null.]

[K] Said R. Abin, “Rabbi, Ben Azzai, and R. Aqiba – all three have stated essentially the same principle:

[L] “Rabbi treats the contained airspace within partitions as equivalent to the actual contained area itself.

[M] “Ben Azzai treats the airspace of neutral domain as equivalent to the actual domain itself.

[N] “R. Aqiba treats the a space of public domain as equivalent to actual public domain.”

[III:2 A] There are four domains so far as the Sabbath is concerned: private domain, public domain, neutral domain, and closed alleyways [a place of non-liability].

[B] **What is private domain?**

[C] **A ditch ten [handbreadths] deep and four wide,**

[D] **and so too: a mound ten handbreadths high and four wide –**

[E] **this constitutes absolutely private domain.**

[F] **What is [PT: “absolutely”] public domain?**

[G] **A high road or a [large] public square, [PT: “and a desert”]**

[H] **and open alleyways [which open out at both ends] –**

[I] **[Tosefta:] this constitutes absolutely public domain.**

[J] **They do not transport an object from private domain into public domain,**

[K] **and they do not transport an object from public domain into private domain.**

[L] **And if one transported an object out, or brought an object in, advertently, he is liable for a sin offering.**

[M] **[If he did so] deliberately, he is subject to the punishment of extirpation,**

- [N] or he is stoned.
- [O] The same rules apply to the one who takes out and the one who brings in,
- [P] the one who stretches [something] out, and the one who throws [something] in –
- [Q] [Tosefta: in all such cases,] he is liable.
- [R] But the sea, a valley, a colonnade, and a threshold (*karmelit*) ground are neither private domain nor public domain.
- [S] [On the Sabbath] they do not carry out of, or put [things] into, such places.
- [T] But if one carried out or put [something] into [such a place], he is exempt [from punishment] [T. Shab. 1:1-4C].
- [U] *Said R. Joseph, “We also have learned all of them the Mishnah], as follows:*
- [V] “As to the status of the sea, *we have learned there: He who throws an object to a distance of four cubits [or more] into the sea is exempt [M. 11:4A].*
- [W] “It [One is exempt] not only in the case [of the one who throws the object] four cubits into the sea. But even if one throws an object any distance into the sea, he is exempt. For the entire sea is regarded as neutral domain.
- [X] “A valley, *as we have learned, In the summer a valley is private domain so far as the Sabbath is concerned, and public domain so far as uncleanness is concerned. In the rainy season it is public domain for both purposes [M. Toh. 6:7].*
- [Y] “If you maintain that in the latter instance it is regarded as private domain for both purposes, then it will never require the provision of a wall made up of cattle yokes. *For we have learned: If they surrounded [the valley] by a fence made from cattle yokes, they may move objects within the area [M. Er. 1:8].*)
- [Z] “*As to a colonnade, we have learned, ‘And so in the case of a viaduct, one may move objects underneath it from one place to another on the Sabbath, ‘ the words of R. Judah. And sages prohibit doing so [M. Er. 9:4].*

[AA] “As to a threshold, we have learned, **He who takes out food and put it down on the threshold, whether he then went and took it out, or someone else took it out, is exempt from liability to a sin offering, for he has not completely performed his prohibited act of labor at one time** [M. 10:2A-D]. Lo, if he had completely performed the act of labor at one time, he would have been liable.

[BB] “Ben Azzai says, ‘Even if he had performed the prohibited act of labor at one time, he would have been exempt, [because of the status of the threshold].’”

[III:3 A] As to the meaning of the word for neutral domain, *karmelit*, R. Hiyya taught, “It follows the meaning of barley [*karmel*] which is tender (RK) and fully ripened (ML’). It is not green or dried up but middling. Here too, it is not public domain nor private domain but neutral domain (*karmelit*).”

[III:4 A] What is the definition of neutral domain [in the present context]?

[B] R. Yosé in the name of R. Yohanan: “It would be, for example, typified by the store of Bar Yustini” [which apparently was fully within the colonnade and not separated off by partitions].

[III:5 A] **[In the case of] a courtyard belonging to public domain, with blind alleyways [which do not open out],**

[B] **[if] they prepared an erub, they are permitted [to carry across the boundaries from one domain to the other].**

[C] **[If] they did not prepare an erub, they are prohibited [from doing so] [T. Shab. 1:5].**

[D] R. Zeira in the name of R. Judah, R. Zeira bar Hinena in the name of R. Hinena: “The market stalls among the colonnades are regarded as neutral domain.”

[E] R. Samuel bar Hiyya bar Judah in the name of R. Haninah: “The decorations of the pillars are regarded as neutral domain. That is why they have to be three cubits high. [If lower than that, they are equivalent to the ground.]”

[F] Hiyya son of Rab: “Whatever impedes access to the public domain is regarded as neutral domain.”

[G] Rabbis of Caesarea: “Even thorns or glass.”

[H] It is a question whether that is the case even if these are not three handbreadths high.

[III:6 A] And said R. Yosé, “The threshold of which they spoke [in the earlier passages] is one which is four handbreadths broad and is not ten high.”

[B] If you say it is ten high and four broad, it constitutes a domain unto itself.

[C] If you say it is ten high but not four broad, (3a) *then you deal with that of which R. Hisda spoke in the name of Assi*: “A reed stuck into the ground in public domain, ten handbreadths high – it is permitted [to take objects out of that reed and utilize them in public domain, or vice versa, since it is not a domain unto itself but part of public domain]. But that is on condition that one not exchange positions [by standing in an exempt area and take something from private domain and hand it on to public domain, by reason of his standing in a neutral area].” [So what case can be at hand at A?]

[D] Rather, the threshold with which we deal is one which is not four handbreadths broad or ten high [so as not to go over the ground of A].

[E] As to a threshold before a door –

[F] Others say, “So long as the door of the house is open, the whole of the threshold is regarded as inside the house. If the door is closed, the whole of the threshold is regarded as outside of the house.”

[G] *How shall we interpret this case?*

[H] If the threshold is roofed over, then even if the door is closed, the whole of the threshold is equivalent to the inside of the house.

[I] If the threshold is not roofed over, then even if the door is open, the whole of it is regarded as equivalent to the out-of- doors.

[J] *But this is how we must interpret the case of which the rule has spoken*: it is a threshold which is partially roofed over and partially unroofed.

[K] *What is the meaning of the statement that*, when it is closed, the whole of the threshold is regarded as equivalent to the outside?

[L] It is permitted to make use of objects taken from the area of the threshold outside, and vice versa.

[M] In the case of a door with an aperture in it, it is forbidden to take objects from the threshold and pass them into the aperture, or from the aperture and pass them to the threshold.

[N] R. Nathan says, “When it is closed, the whole of the threshold is equivalent to the outside.

[O] “When the door is open, half of the threshold is equivalent to the inside of the house, and half of it to the outside.”

[P] *For did we not reason as follows:* In the case of a threshold of four handbreadths, once one has closed the door, the whole of the threshold is equivalent to the outside? Also when the door is open, half of the threshold should be regarded as inside and half as outside.

1:2

[A] A man should not sit down before the barber close to the [time of the] afternoon [prayer],

[B] unless he already has prayed.

[C] Nor [at that time] should a man go into a bathhouse or into a tannery,

[D] nor to eat, nor to enter into judgment.

[E] But if they began, they do not break off [what they were doing].

[F] They interrupt [what they were doing] to say the Shema.

[G] But they do not interrupt [what they were doing] to say the Prayer.

[I:1 A] *We have learned [for the formulation of M. 1:2A], Close to the afternoon prayer.*

[B] *R. Hiyya [by contrast] taught [the passage in this language]: “Close to nightfall.”*

[C] *The Mishnah as we have it must be supplemented by R. Hiyya’s version, and R. Hiyya’s version likewise must be supplemented by the Mishnah as we have it.*

[D] *If R. Hiyya’s version [alone] had been available, but not that of the Mishnah, we should have supposed that the rule not to [get a haircut] applies only to nightfall, and not to [the time of] the afternoon prayer. It was necessary therefore to have the formulation of the Mishnah as we have it.*

[E] *For if [only] the version of the Mishnah were in hand, as we have it, and we had not learned the version of R. Hiyya we should have supposed that the rule pertains solely to the time of the afternoon*

prayer, and if both versions referred solely to the matter of nightfall, we should have supposed that the rule pertains solely to nightfall.

[F] *[Accordingly, it was felicitous to have the two versions of the matter:] from that which it was taught in [the Mishnah], “the afternoon prayer,” and that which R. Hiyya the Elder taught “nightfall,” even “nightfall,” this that we learned afterwards, is considered to denote “the afternoon prayer.”*

[G] *R. Hananiah, son of the brother of R. Hoshaiah, said, “The Mishnah speaks of common folk [not fully familiar with and observant of all the laws, so they should not sit down for a haircut near the time for the afternoon prayer]. What R. Hiyya has taught speaks of associates [who will carry out their obligations and not forget them, and they may sit down for a haircut in the afternoon but not nightfall].*

[H] *Rabbis of Caesarea say, “The formulation of the Mishnah accords with the view of R. Judah, while the formulation of R. Hiyya accords with the view of rabbis. [This is clarified below.]”*

[II:1 A] ...before the barber close to the afternoon prayer unless he already will have prayed, nor at that time should a man go into a bathhouse [M. 1:ZA-C]:

[B] What is the point at which we regard a haircut as having begun?

[C] It is when the barber begins to shave [the customer].

[D] *And has it not been taught:* If one sat down to get a haircut, and they came and told him that his father had died, lo, this one should finish the entire haircut?

[E] This same rule applies both to him who gives, and him who gets, the haircut [even though one may not cut one’s hair during the period of mourning].

[F] *This applies* once the customer has been covered with the barber’s covering.

[II:2 A] What is the point at which the bath begins [and subsequently cannot be interrupted]?

[B] R. Zeriqan in the name of R. Hanina said, “It is the point at which one removes his undergarments.”

[C] Rab said, “It is the point at which one removes his shoe.”

[D] *That is in line with the following:*

[E] *R. Joshua b. Levi would hear the lesson of his grandson every Friday afternoon. One time he forgot and went into the bath of Tiberias. Now he was leaning on the shoulder of R. Hiyya b. Ba. He remembered that he had not heard the child's lesson while he was in the bath and he went out of the bath. What happened?*

[F] R. Darosi said, "He had [already] anointed himself [with the oil]."

[G] R. Eleazar b. Yosé said, "He had already removed his garments."''

[H] *Said to him R. Hiyya bar Ba, "Did not Rabbi teach us, 'If they had begun, they do not interrupt' [M. 1:2F]?"*

[I] He said to him, "Hiyya, my son, is it a small thing in your eyes that whoever hears a passage of Torah from his grandson is as if he hears it from Mount Sinai?"

[J] *"What is the scriptural basis for this statement?"*

[K] 'Make them known to your children and your children's children – how on the day that you stood before the Lord your God at Horeb' (Deut. 4:9-10).

[L] "That is to say, 'It is like the day on which you stood before the Lord your God at Horeb.'"

[II:3 A] R. Hezekiah, R. Jeremiah, R. Hiyya in the name of R. Yohanan: "If you can trace the authority behind a tradition to Moses, do so, and if not, put the first [name you hear] first or and the last last."

[B] Giddul said, "Whoever says a tradition in the name of the one who said it should imagine that the authority for the tradition is standing before him."

[C] *What is the scriptural basis for that statement?*

[D] "Surely a man goes about as a shadow! [YTHLK rendered as if from HLKH; YK] [Surely for nought are they in turmoil; man heaps up, and knows not who will gather]" (Ps. 39:7).

[E] "Many a man proclaims his own loyalty, but a faithful man who can find?" (Prov. 20:6).

[F] "Many a man proclaims his own loyalty" – This refers to most people

[G] “but a faithful man who can find?” this refers to R. Zeira, *for R. Zeira said, “We pay no attention to the traditions of R. Sheshet [which he says in the names of those who originally said them], because he is blind [and may err in identifying the voices].”*

[G] *And R. Zeira said to R. Yosé, “Does my lord know Bar Pedaiyah, that you cite traditions in his name?”*

[H] He said to him, “R. Yohanan said them in his name.”

[I] *Said R. Zeira to R. Ba bar Zabeda, “Does my lord know Rab, that you cite traditions in his name?”*

[J] He said to him, “R. Ada bar Ahva said them in his name.”

[III:1 A] Nor into a tannery [M. 1:2C]:

[B] *Now look here.* One is supposed to keep distant from someone who smells bad, *and yet you teach this* [M. 1:2E, they need not break off]!

[C] How then can you say this [for due to the smell he will have to change clothes, etc., and thus not be able immediately to recite the *Shema*, should he not act as with the Tefillah and not interrupt]?

[D] The rule refers to the point at which he has put on his work clothes [but not actually begun the work]. [Here he can recite the *Shema* immediately and thus he need not interrupt the process.]

[IV:1 A] Nor to eat [M. 1:2D]:

[B] What is the beginning of the eating of a meal [at which point, the meal cannot be interrupted for the Prayer?]?

[C] R. Aha, R. Ba in the name of Rabbi: “Once one has washed his hands.”

[D] *R. Aha said, “That statement [as to the beginning] refers in particular to the sanctification of wine [which involves mixing wine with water, because the hands have to be washed and made cultically clean for that purpose. It does not refer to the washing of the hands later before blessing the bread.]”*

[E] *R. Ba said, “That statement refers to the blessing [over the bread]. [Once the hands have been washed, one says a blessing over the bread, and that is the beginning of the meal.]”*

[F] *Rab washed his hands. He indicated to Hiyya, his son, to mix the wine.*

[G] He wanted to give it to him. [Rab] said to him, “We already have begun the meal.”

[H] *There was the story of R. Miasha and R. Samuel bar R. Isaac, [who] were sitting and eating in one of the upper synagogues. The time for saying the afternoon prayer came. R. Samuel bar R. Isaac got up to pray.*

[I] *Said to him R. Miasha, “And did you not teach us, Rabbi, But if they began, they do not break off [M. 1:2E]?”*

[J] *“And further, Hezekiah taught, ‘Whoever is exempt from the requirement of doing a given deed and [nonetheless] does it is called tacky.’”*

[K] *He said to him, “And has it not been taught, ‘A newly married man is exempt [from reciting the Shema]. [Yet,] As to a groom, if he wanted to recite the Shema, he may do so’?” [Thus a person is permitted to perform a deed which he need not do.]*

[L] [supply:] *“And did not R. Simeon b. Gamaliel teach, ‘Not everyone who is minded to assume the name [reputation for piety] may assume it’ (M. Ber. 2:8)” [and the law always follows R. Simeon b. Gamaliel – hence your action is wrong].*

[M] *[The other] said to him, “I can interpret the cited passage [about the groom] to accord with the view of Rabban Gamaliel [with whom R. Simeon ben Gamaliel would agree], for he has said, ‘I shall not accept your view and remove the yoke of the Kingdom of Heaven from myself even for a single moment’ [M. Ber. 2:5]. [That is, for a sage it is not hubris to take upon himself the action; thus I also am permitted to pray].*

[V:1 A] Nor to enter judgment [to judge a case] [M. 1:2D]:

[B] R. Jeremiah and R. Joseph:

[C] One said, “Once they have gone into session in court [they do not interrupt].”

[D] The other said, “Once the judges have heard the claims of the contending parties [they do not interrupt].”

[E] If they began, they do not interrupt.

[VI:1 A] They interrupt to say the Shema, but they do not interrupt it for saying the Prayer [M. 1:2F- G].

- [B] Said R. Aha, “The recitation of the *Shema* derives from the authority of the Torah, while the recitation of the Prayer does not derive from the authority of the Torah [This is why one may interrupt to say the *Shema* but not to say the Prayer.]”
- [C] Said R. Ba, “As to the recitation of the *Shema*, the time for saying it is fixed, while the time for saying the Prayer is not fixed.”
- [D] Said R. Yosé, “Recitation of the *Shema* need not be accompanied by appropriate concentration, while saying the Prayer must be accompanied by appropriate concentration.”
- [E] *Said R. Mana, “I asked the following question before R. Yosé: ‘And even if you say that reciting the Shema does not require appropriate intention, the opening three verses of Scripture [that begin the Shema] still do require appropriate intention.’”*
- [F] *[He replied,] “Since they are only a few, one can pay appropriate attention.”*
- [G] R. Yohanan said in the name of R. Simeon b. Yohai, “As to people such as ourselves, who are occupied in the study of Torah, even for the recitation of the *Shema* we do not interrupt our studies.”
- [H] R. Yohanan made that statement in his own name, “As to people such as ourselves, who are not occupied in the study of Torah, even for saying the Prayer, we do interrupt our studies.”
- [I] *This one is consistent with his views expressed elsewhere, and so is that one.*
- [J] *R. Yohanan is consistent with other statements of his, for R. Yohanan said, “Would that people prayed all day long’ Why? Because prayer never goes to waste.”*
- [K] *R. Simeon b. Yohai (3b) is consistent with his views expressed elsewhere, for R. Simeon b. Yohai said, “If I were standing at Mount Sinai at the time that the Torah was given to Israel, I would have beseeched the Merciful God to create for that man [me] two mouths [so that I might perpetually engage in the repetition of Torah traditions], one with which to labor in Torah, the other to serve all my needs in general.”*
- [L] *He retracted and remarked, “Now if when we have only one mouth, the world cannot stand on account of the slander that it*

speaks, if there were two mouths [in each person], how much the more so [would life be hard, because of the misuse of the mouth].!”

- [M] *Said R. Yosé before R. Jeremiah, “The statement of R. Yohanan [in his own name] accords with the view of R. Hananiah b. Aqiba.*
- [N] **“For it has been taught: Those who write scrolls, tefillin, and mezuzot interrupt their work for recitation of the Shema, but they do not interrupt their work to recite the Prayer” [T. Berakhot 2:5A].**
- [O] **R. Hanania b. Aqiba says, “Just as they interrupt their work for reciting the Shema, so they interrupt it for Prayer, for putting on tefillin, and for doing all of the other religious duties of the Torah.” [Cf. T. Berakhot 2:5C and Shabbat 1:7]**
- [P] *But does not R. Simeon b. Yohai concur that they interrupt their work to make a tabernacle and to prepare a lulab [for the Festival]?*
- [Q] *And does not R. Simeon b. Yohai concur in the view, “... One learns in order to carry out the commandments, not in order not to carry them out, [and if one studies them but does not do them] it would have been better for him if he had not been created [Therefore, one should interrupt one’s learning to recite prayers.]”?*
- [R] *Said R. Yohanan, “He who studies not with the intention of carrying out what he learns – it would have been better for him if his backbone had been turned on his face, and if he had not come forth into the world.”*
- [S] *The reason for the view of R. Simeon b. Yohai is this, “This is to be repeated [namely, the Shema], and that is to be repeated [namely, the words of Torah], and they do not interrupt one thing which is to be repeated on account of something else which is to be repeated.”*
- [T] *And have we not learned, “He who reads from that point on does not lose, since he is in the status of a man who reads in the Torah”?* [That would indicate that reciting the Shema at the proper time is better than reciting the other words of the Torah.]

[U] Lo, this [reciting the *Shema*] at its proper time is more beloved than [reciting] the words of Torah.

[V] Said R. Yudan, “Since R. Simeon b. Yohai was very sharp in learning the words of Torah, therefore he took the view that [saying the *Shema*] is not more beloved to him than [reciting] words of Torah.”

[W] *Said R. Ba Mari, “Have we not learned: ‘[One who recites the Shema] is like a man who is reading in the Torah’? Lo, when it is read at the right time, it is equivalent to the Mishnah. [This would then indicate that reciting Mishnah traditions is more precious than reciting Torah tradition.]”*

[X] *R. Simeon b. Yohai is consistent with opinions of his expressed elsewhere, for R. Simeon b. Yohai said, “He who is occupied with Scripture is involved in a virtuous deed which is not really virtuous at all.”*

[Y] *But rabbis treat the Scripture as of equivalent worth to the Mishnah.*

1:3

[A] **A tailor should not go out carrying his needle near nightfall,**

[B] **lest he forget and cross [a boundary];**

[C] **nor a scribe with his pen.**

[D] **And [on the Sabbath] one should not search his clothes [for fleas], or read by the light of a lamp.**

[E] **Nonetheless they state:**

[F] **[On the Sabbath] a teacher sees [by the light of a lamp] where the children are reading, but he does not read.**

[G] **Similarly:**

[H] **A man Zab should not eat a meal with a woman Zab,**

[I] **because it leads to transgression.**

[I:1 A] **[In T.’s version:] A tailor should not go out carrying his needle near nightfall, lest he forget and cross a boundary [M. 1:3A-B],**

[B] **nor a carpenter with the beam on his shoulder,**

[C] **nor a dyer with the color sample behind his ear,**

[D] **nor a money changer with the denar behind his ear,**

- [E] nor a wool carder with a cord around his neck.
- [F] “But if they went forth, all of them are exempt [from liability to punishment],” the words of R. Meir.
- [G] R. Judah says, “[If] a craftsman [goes forth] in the usual way of his craft, he is liable.
- [H] “But all the other men [who carry out the tools of a craftsman but do not practice that craft] go out thus [without liability; T. reads “are exempt”]” [T. Shab. 1:8].
- [I] *The opinions assigned to R. Meir are at variance with one another.*
- [J] *For we have learned there: [A woman should not go out with a needle which has a hole, a ring which has a seal, a cochlea brooch, a spice box, or a perfume flask.] “And if she went out carrying one of these, she is liable to a sin offering,” the words of R. Meir. [And sages declare her exempt in the case of a spice box and a perfume flask] [M. 6:3].*
- [K] Yet here he says this [namely, that if a tailor goes out with a needle he is exempt.]!
- [L] R. Mana [made the statement] without specifying a further authority. R. Abin in the name of R. Yohanan: “There (J above) it is the usual way for a woman to go into the public domain [carrying these objects], while here (A-F) unimportant folk go out bearing these objects [so it makes little difference if they do, and hence they are exempt].”
- [M] *The opinions attributed to rabbis likewise are at variance with one another, for we have learned there: **And sages declare her exempt in the case of a spice box and a perfume flask [M 6:3].***
- [N] Therefore, in the case of transporting into public domain a needle which has a hole, [sages consider her] liable!
- [O] But [in the case before us] we deal with a craftsman who goes forth in the usual way of his craft [but in the case where a person carries tools of a craftsman but does not practise that craft, there is no liability. Hence, according to this view, a woman is exempt for transporting a needle.]
- [P] Said R. Yosé bar Abin, “Interpret the rule to speak of a case of a woman who is a hairdresser [for whom a needle with a hole is one of the tools *of the trade*].” [But she is exempt for a needle that does not have a hole, even though it may be used in her trade, because it

is also jewelry for her and women are accustomed to adorn themselves with it.]

[II:1 A] And on the Sabbath one should not search his clothes for fleas [M. 1:3D]:

[B] This is forbidden [in the public domain] even on other days of the week because it is not gentile.]

[C] He who picks vermin out of his garments, lo, this one should squeeze them and toss them out,

[D] on condition that he not squeeze them.

[E] Abba Saul says, “He takes them off and tosses them out,

[F] “on condition that he not kill them” [T. Shab. 16:22F-I].

[G] Hezekiah said, “He who kills a louse on the Sabbath is as one who kills a camel.”

[H] *Samuel would cut off the hand and foot of the louse and put it in front of a child [who might kill it without penalty].*

[I] *R. Yosé b. R. Bun would put it into a flask [of water].*

[J] Said R. Simeon b. Halapta, “And have we not derived the law stated by Hezekiah from the [analogous] case of [killing] the snail? [That is, killing a snail is culpable.]”

[K] But does the snail have sinews and bones? [No, it does not. Yet one who kills it is liable – all the more so one who kills a louse, as Hezekiah maintains.]

[L] *And has it not been taught [completing the statement of I]:* “Anything which does not have sinews and bones does not live for more than six months.”

[M] (For) R. Yosé bar R. Bun stated in the name of R. Zebid, “Once in every seven years the Holy One, blessed be he, changes things about in his world. [*The thorn is turned into a bat. The arpad thorn is changed into a demon. A head mite is turned into a scorpion, a clothes mite is turned into a spider, a horse worm is turned into a frog, the cow worm turns into a bee, a male hyena turns into a female one, a mountain rat is turned into a wild pig, the skeleton of a fish turns into a centipede. And that of a man turns into a snake.* Under what circumstances? When he does not bow

down [in prayer] for the entire length of his body, to the backbone.”

[II:2 A] *R. Hiyya taught, “[With reference to M. 1:3D, not reading by the light of a lamp,] but he may make use of a light [to see what is] inside a cup or inside a dish, and he need not scruple about the matter” [T. Shab. 1:11G-H].*

[B] *There is he who wants to explain that this is [permitted] because it is only for a moment.*

[C] *There is he who wishes to explain that this is [permitted] because of cleanliness and because of avoiding the danger [of eating what is bad for health, which may be in the dish or cup].*

[D] *What is the practical difference between [these two explanations for R. Hiyya’s rule]?*

[E] [Whether or not it is permitted to use the light of a lamp] to dry out the lettuce [in a plate]. In the view of him who said that one may use the light for a brief moment, it is prohibited to do so [since it takes some time].

[F] And in the view of him who said that it is because of cleanliness and avoiding danger to life, it is permitted to do so.

[G] *R. Jeremiah went up to visit R. Assi. He mixed a cup of wine for him. He permitted him to look into the cup [by the light of the lamp].*

[H] *His wife said to him, “Look what he is doing!”*

[I] *He said to her, “He follows the theory of his master, for it has been taught by R. Hiyya, [alternatively, “for his master taught, R. Hiyya taught,”] ‘He may make use of a light to see what is inside a cup or a dish, and he need not scruple about the matter.’”*

[III:1 A] **Or read by the light of a lamp [M. 1:3D]:**

[B] Samuel said, “This rule has been taught only in the case of a person reading by himself. But in the case of two, since they can stop one another [from touching the lamp, which is prohibited], it is permitted [for them to read by the light of a lamp].”

[C] *The following Tannaitic teaching of Samuel [following L] differs from his view: [The prohibition against using a lamp] applies equally to the*

lamp which one can tilt and the lamp which one cannot tilt. [Hence it makes no difference whether there is one person or two.]

[D] Ulla bar Ishmael in the name of R. Eleazar: “Even if it is any height at all, [i.e., low and capable of being tilted or high and beyond one’s reach, one may not use a lamp – this is the referent of C].” [But when there are two individuals, it is permitted.]

[E] *In the view of R. Eleazar*, “Even if the lamp is of any height, even if it is located in another room, even if it is located before a mirror, [it is forbidden to use such a light].” [This may be used as a question.]

[III:2 A] *It has been taught*: [The reason is] lest one forget and tilt the lamp [causing the oil to wet the wick and increase the flame, which is forbidden on the Sabbath].

[B] [In T.’s version:] Said R. Ishmael, “One time I read by the light of a lamp and I wanted to tilt it. [L: “I shall read and not tilt,’ and he was just about to tilt [the lamp and remembered] and said,”]

[C] “I said, ‘How great are the words of sages, who rule (They *do* not read on Sabbath nights by the light of a lamp’ [M. 1:3D] (L. reads: lest one forget and tilt it).”

[D] R. Nathan says, “He [Ishmael] most certainly did tilt it.

[E] “And written on his notebook is the following: ‘Ishmael b. Elisha tilted a lamp on the Sabbath.

[F] “When the sanctuary will be rebuilt, he will bring a sin offering” [T. Shab. 1:13A-E].

[G] *There we have learned*: **Do not trust yourself until the day of your death** [M. Abot 3:4] [That is, there is always a chance you will forget and do what is prohibited.]

[H] There was the story of a certain pious man, who was sitting and repeating the tradition as follows: “Do not trust yourself until the days of your old age.”

[I] He thought: “For example, me!”

[J] *A shade came to him in the form of a woman and tested him, [and he was not able to withstand the temptation,] and then he began to regret it and [the spirit] said to him, “Do not be troubled. I am a*

spirit. Now go and conform [in your repetition of the tradition] to [the version of] your fellows.”

[IV:1 A] Nonetheless they state, etc. [M. 1:3E]:

[B] Said R. Eleazar, “In any case in which we have learned, ‘nonetheless,’ we deal with a law revealed to Moses at Sinai.”

[C] What does the teacher review? He follows the chapter headings, the key verses.

[IV:2 A] *It has been taught: Rabban Simeon b. Gamaliel says, “Children prepare their chapters on Sabbath nights with the light of a lamp” [T. Shab. 1:12].*

[B] *What is the upshot of the matter? [Why does one permit this here, not there?]*

[C] *The reason is that these – the students – want the light to go out [to prevent them from studying]; and those – the teachers – do not want the light to go out [Thus, children will certainly not tilt the lamp to increase the light].*

[V:1 A] Similarly, etc. [M. 1:6-I]:

[B] *It has been taught [in T.’s version]: Said R. Simeon b. Eleazar, “Come and see how far the keeping of cleanness has spread. For the ancients did not decree, making a rule that a clean man should not eat a meal with a menstruating woman. For the ancients did not eat with menstruating women [and therefore there was no need to make such a rule]. But the ancients did rule, ‘A Zab should not eat a meal with a woman, because it leads to transgression” [T. Shab. 1:14].*

[C] “For it has been said, ‘For you had little before I came, and it has increased abundantly; and the Lord has blessed you wherever I turned. But now when shall I provide for my own household also?’” (Gen. 30:30).

[D] “These mentioned by name were princes in their families, and their fathers’ houses increased greatly” (1 Chron. 4:38).

[E] For they did not make a decree saying that a clean person should not eat with an unclean person. Rather they said, **A man Zab should not eat a meal with a woman Zab [M. 1:3H].**

[F] Lo, a man *Zab* may eat with a woman afflicted with *sara’at*!

[G] “[And he who is to be cleansed shall wash his clothes, and shave off all his hair, and bathe himself in water, and he shall be clean; and after that he shall come into the camp,] but shall dwell outside his tent seven days” (Lev. 14:8). The text says outside of his tent, not outside of her tent.

[H] A man afflicted with *sara’at* may not eat with a woman *Zab*.

[I] But a man afflicted with *sara’at* may not eat with a woman similarly afflicted.

[V:2 A] *It has been taught: For the House of Shammai say, “A Zab who is an abstainer [a Pharisee] should not eat with a Zab who is of the common folk.”*

[B] **And the House of Hillel permit [T. Shab. 1:15].**

[C] *What is the reason for the view of the House of Hillel?* This one is unclean as a *Zab* and so is that one [so why should they not eat together, since the one cannot make the other more unclean than he already is]?

[D] *What is the reason for the view of the House of Shammai?* For the abstainer will get used to eating with the other at the time at which he is unclean, and accordingly, he will also get used to eating with the other at the time that he is clean, [and this cannot be permitted].

[E] *R. Hiyya the Elder instructed Rab, “If you can eat all of your unconsecrated food in a state of cultic cleanness for the entire year, by all means do so. If not, then try to do it for at least seven days in the year [between the New Year and the Day of Atonement].”*

[V:3 A] **On this basis, R. Phineas b. Yair says, “Heedfulness leads to cleanliness, cleanliness leads to cultic purity, cultic purity leads to holiness, holiness leads to modesty, modesty leads to the fear of sin, the fear of sin leads to the Holy Spirit, the Holy Spirit leads to the piety, the piety leads to the resurrection of the dead, and the resurrection of the dead “leads to Elijah, blessed be his memory”[M. Sot. 9:15].**

[B] Heedfulness leads to cleanliness: “And when he has made an end of atoning [for the holy place and the tent of meeting and the altar, he shall present the live goat” (Lev. 16:20)].

[C] Cleanliness leads to cultic purity: “And the priest shall make atonement for it, and it will be clean” (Lev. 12:7).

- [D] Cultic purity leads to holiness: “[And he shall sprinkle some of the blood upon it with his finger seven times,] and purify it and hallow it [from the uncleannesses of the people of Israel]” (Lev. 16:19).
- [E] Holiness leads to modesty: “For thus says the high and lofty One who inhabits eternity, whose name is Holy: ‘I dwell in the high and holy place, and also with him who is of a contrite and humble spirit, to revive the heart of the contrite’” (Is. 57:15).
- [F] Modesty leads to fear of sin: “The reward for modesty and fear of the Lord is riches and honor and life” (Prov. 22:4).
- [G] Said R. Isaac bar Eleazar, “What wisdom made as a crown for her head [which is wisdom], modesty makes as the imprint of her shoe.
- [H] “For it is written, ‘The beginning of wisdom is the fear of the Lord’ (Ps. 111:10).
- [I] “And it is written, ‘The reward for modesty and fear of the Lord is riches and honor and life’ (Prov. 22:4).”
- [J] The fear of sin leads to the Holy Spirit as it is written: “Then you will understand the fear of the Lord and find the knowledge of God” (Prov. 2:5).
- [K] The Holy Spirit leads to piety as it is written: “Of old thou didst speak in a vision to thy faithful ones” (Ps. 89:19).
- [L] Piety leads to the resurrection of the dead as it is written: “[Thus says the Lord God to these bones: Behold], I will cause breath to enter you, and you shall live” (Ezek. 37:5).
- [M] The resurrection of the dead leads to Elijah, of blessed memory as it is written: “Behold, I will send you Elijah the prophet before the great and terrible day of the Lord comes, and he will turn the hearts of fathers to their children, and the hearts of children to their fathers, [lest I come and smite the land with a curse]” (Mal. 4:5).
- [N] It has been taught in the name of R. Meir, “Whoever lives permanently in the Land of Israel, eats his unconsecrated produce in a state of cultic cleanness, speaks in the Holy Language [of Hebrew], and recites the *Shema* morning and night may be certain that he belongs among those who will live in the world to come.”

1:4

[A] These are some of the laws which they stated in the upper room of Hananiah b. Hezekiah b. Gurion when they went up to visit him.

[B] They took a vote, and the House of Shammai outnumbered the House of Hillel.

[C] And eighteen rules did they decree on that very day.

[I:1 A] And that day was as harsh for Israel as the day on which the golden calf was made [T. Shab. 1:16].

[B] R. Eliezer says, “On that day they overfilled *seah* measure [to overflowing].”

[C] R. Joshua says, “On that day they leveled the *seah* measure [compressing everything in it up to the top].” [“For so long as the measure is full and one puts more into it, in the end it will give up part of what (already) is in it.”] [T. Shab. 1:17].

[D] [Eliezer and Joshua offer different explanations why they made too many decrees on that day, as stated in A:] Said to him R. Eliezer, “If the measure was not filled, and they filled it, it would have been well.

[E] “It may be compared to a jug full of nuts. As much sesame seed as you add, it will hold.”

[F] Said to him R. Joshua, “If it had been filled up and they emptied it a bit, it would have been well.

[G] “It may be compared to a jug filled with oil. As much water as you add has the effect of scattering the oil.”

[H] *R. Joshua of Onayya taught*, “The disciples of the House of Shammai took positions down below and killed disciples of the House of Hillel [before they went upstairs].”

[I] *It has been taught*: Six of them went upstairs, and the rest of them took positions with swords and spears.

[I:2 A] *It has been taught*: Eighteen rules did they decree, in eighteen matters they formed the majority, and concerning eighteen matters they disputed. These are the matters on which they issued decrees: Bread prepared by gentiles, their cheese, their oil, and their daughters; their semen and urine; the laws governing one who has suffered a nocturnal emission; the laws covering the uncleanness of gentile territory.

[B] *There we have learned*: **These render heave offering unfit: He who eats food unclean in the first remove; and he who eats food unclean in the second remove; he who drinks unclean liquid; he whose head and the greater part of whose body enter drawn water; one who was clean, on whose head and the greater part of whose body three logs of drawn water fall; a holy book; hands; a**

tebul-yom; and food and utensils which have been made unclean by unclean liquids [M. Zab. 5:12].

[C] Rabbis of Caesarea said, “[The former list, B, is alleged to be the decrees in which the House of Shammai outnumbered the House of Hillel. That is not our view. In fact] as to the decrees in [which the House of Shammai] outnumbered [the House of Hillel], they are only seven, and these are other [such decrees]: **He upon whom darkness fell, on the eve of the Sabbath, while he was on the road, hands over his purse to a gentile [M. Shab. 24:1].**

[D] *“And along these same lines: A man Zab should not eat a meal with a woman Zab because it leads to transgression [M. 1:3].*

[E] **“All movable objects convey uncleanness through overshadowing if they are as thick as an ox goad [M. Oh. 16:1].**

[F] **“How do they gather grapes in a grave area [M. Oh. 18:1].**

[G] **“He who leaves his utensils under a waterspout [M. Miq. 4:1].**

[H] **“Concerning six matters of doubt do they burn food in the status of heave offering [M. Toh. 4:1].”**

[I] Said R. Yosé b. R. Bun, “Also [the rule] concerning what grows from seed in the status of heave offering [M. Ter. 9:18] [was made at that time].”

[J] [Concluding the statement of the rabbis of Caesarea:] “These are the matters concerning which they made decrees, these first ten [which have been listed]. As to the rest of the items, they derive from that which R. Simeon b. Yohai has taught [they can take an additional eight from]: ‘On that day they made a decree against their bread, cheese, wine, vinegar, brine, muries; what they brew, pickle, salt; pounded wheat, groats, and grits; [the decree further was made against] their language and their testimony; gifts given by them [for Temple offerings]; [marriage with] their sons and their daughters; and [accepting] their firstlings.’”

[I:3 A] **Their bread [cf. M. A.Z. 2:8B(2):** R. Jacob bar Aha in the name of R. Jonathan [citations: “Yohanan”]: “The law [permitting gentile bread for Israelite benefit, but not consumption] was an irregular measure [passed in an emergency, but contrary to the real law.]”

[B] *Said R. Yosé, “I raised this question before R. Jacob bar Aha, What is the meaning of ‘an irregular measure’?”*

[C] [He replied,] “For thus do we maintain: ‘In a place in which bread prepared by Israelites is readily available, it is logical that bread produced by gentiles should be forbidden. But they acted irregularly and permitted it.’

[D] “Or [perhaps the matter should be phrased in this way]: ‘In a place in which bread prepared by Israelites is not readily available, it is logical that bread produced by gentiles should be permitted. But they acted irregularly and prohibited it.’”

[E] [Now the issue is, Which of these two versions in explanation of A is sound?] Said R. Mana, “And does irregular legislation apply to a matter of prohibition? [Clearly, the issue of an irregular decision should not apply in a matter of prohibition, since that language is irrelevant. One may simply say that the authorities made a stringent decision but not that they did not pay attention and prohibited. Such usage is applicable to making a leniency. Moreover,] and is not bread tantamount to that which a gentile has cooked? [Surely, therefore, it is the version of C, not the version of D, which is sound.]”

[F] Thus do we therefore state the matter: “In a place in which food prepared by Israelites is not readily available, it is logical that food produced by gentiles should be permitted. But they acted irregularly and prohibited it”? [Clearly, this is not the way to state the matter, since, expressed as a matter of prepared food in general, the matter leads to the absurd statement just now made.]

[G] “But thus is the proper version: In a place in which Israelite bread is not readily available, it was logical [nonetheless] that bread prepared by gentiles should be forbidden. But they acted irregularly and permitted it, because it is a matter of the preservation of life.”

[H] Rabbis of Caesarea in the name of R. Jacob bar Aha: “[Even] in accord with the position of him who permits [using bread prepared by gentiles], this is on condition that [it is purchased] from a baker [and not from a householder].”

[I] But they do not practice the law in such wise [but permit even home-baked bread].

[I:4 A] **[Stewed and pickled vegetables into which it is customary to put wine and vinegar ... these are prohibited (M. A.Z. 2:8D(4)):]**

[B] *They said before R. Hiyya the Elder, “R. Simeon b. Yohai taught so likewise], ‘You shall purchase food from them for money, that you*

may eat; and you shall also buy water of them for money, that you may drink ‘ (Deut. 2:6). [Now the statement by Moses explicitly permits Israelites to purchase and drink water from gentiles, and by analogy, we reason as follows:] Just as water is something which does not change from its natural state, so anything which is not changed from its natural state [may be purchased from gentiles and consumed by Israelites – which would exclude something pickled].”

[C] *They objected*, “**Lo, their [gentiles’] liverwort, [pressed] apricots, pickled [vegetables], parched corn, and [boiled] water [cf. T. A.Z. 4:11H] are permitted [and these are all prepared and not in their natural state].”**

[D] *All of them pose no difficulties*, for they can be soaked and made to return to their original state.

[E] [But that clearly is not the case of] parched corn, [so] why [is that permitted, in B, if whatever is cooked by gentiles in fact is prohibited by the law of the Torah cited at A]?

[F] R. Yosé b. R. Bun in the name of Rab: “[The reason that food cooked by gentiles is prohibited is a decree made by rabbis, and not by the Torah]. Any food which is eaten as is, raw, is not subject to the prohibition against eating food cooked by gentiles. [y. A.Z., supplies: “With bread, is subject to the prohibition against eating food cooked by gentiles,” and deletes, as a transference from below in the sugya, in its original context in y. A.Z.:]

[G] And it can serve as an *erub tabshilin* [a legal fiction that enables a person to cook on a Festival day for the Sabbath that begins on that day].

[H] How then does R. Hiyya the Elder interpret [the verse], “You shall purchase food from them for money, that you may eat; and you shall also buy water of them for money, that you may drink” (Deut. 2:6)?

[I] With food you shall purchase [Esau, that is, Rome, finding favor by providing food to him]. Once you have fed him, break him. If he is hard on you, purchase [his goodwill] with food. And if [that does] not [work], give him ample funds.

[J] *They say that thus did R. Jonathan do: When he saw a gentile of high standing come to town, he would send him [gifts]. If then a case of an orphan or a widow would come up, [in advocating their case] he would then find favor [with the ruler].*

[I:5 A] **Their cheese:** Said [3d] R. Jeremiah, “Milk produced by a gentile’s cow] – why is it forbidden? Because of the mixture [of milk from] an unclean beast [together with that produced by a clean beast, since the gentile need not scruple about such considerations].”

[B] *But so it has been taught in a Tannaitic tradition [in contradiction to A]: An Israelite may sit at the other side of his corral, and a gentile may milk the cows and bring the milk to him, and he need not scruple [that is, the Israelite to drink it] [T. A.Z. 4:11P].*

[C] R. Ba in the name of R. Judah, R. Simon in the name of R. Joshua b. Levi: “As to milk produced by a gentile[’s cow] – why is it prohibited? Because of its having been left exposed, [for gentiles are not punctilious about covering up liquids and preventing their contamination].”

[D] And [why not] let [the Israelite] curdle [the milk, and if there is snake venom, it will be skimmed off]?

[E] Said R. Samuel bar R. Isaac, “[Still, this will have to be prohibited] because of the poison located in the cracks [of the cheese].”

[F] *And so it is taught in a Tannaitic tradition: “There are three kinds of venom; one which floats, one which sinks, and one which [remains on the top of liquids] like a netlike film,” [and the kind which sinks is that to which reference is made at E].*

[G] *In the time of R. Jeremiah the water tank of the great synagogue was left uncovered. They drank once and did not die, then went and did it again and died.*

[H] Now I say that it was because of venom which had sunk to the bottom.

[I] *Workers were farming in a field. A pitcher of water was left uncovered. They drank from it, but did not die. Then they went and drank again from the water, and they died.*

[J] Now I say that it was because of venom which had sunk to the bottom [and which they did not drink the first time around].

[K] **Brine, vinegar, fish brine, oil, and honey are permitted on account of the law of uncovered liquids, [so they are not subject to that law]. But R. Simeon prohibits [T. Ter. 7:12].**

[L] Sages concur with R. Simeon in a case in which one saw it [the snake] bite into the liquid [that it is forbidden].

[M] *And so it has been taught:* As for a watermelon at which a mouse gnawed, and ten men later ate from it without being poisoned – the rest of the watermelon, lo, this still is forbidden. And so in the case of a jug of wine which was left uncovered, and later ten men drank from it without being poisoned – the rest of the wine – lo, this is forbidden [T. Ter. 7:17D-G]. [L. abridges: As for a watermelon ... from it, and so in ... drank from it, it is prohibited from eating and drinking after them.]

[I:6 A] **[Their oil M. A.Z. 2:8B(3):] Who forbade their oil?**

[B] Judah said, “Daniel forbade it: ‘And Daniel resolved [that he would not defile himself with the king’s rich food or with the wine which he drank]’ (Dan. 1:8).”

[C] R. Aha, R. Tanhum bar Hiyya in the name of R. Yohanan, and some say it is in the name of R. Joshua b. Levi, “Because [Daniel] saw that [Israelites] were [risking their lives to] go up to the Royal Mountain [to collect the olives, so he made a decree concerning it, since] they were put to death on account [of avoiding the use of gentile oil].”

[D] Who permitted it? **Rabbi and his court [permitted their oil] [M. A.Z. 2:8C].**

[E] In three settings R. Judah the Patriarch is referred to as “Our rabbi,” in the context of [rules covering] writs of divorce, oil, and producing an abortion in the shape of a sandal, [in all of which Rabbi and his court took a lenient position].

[F] In consequence they referred to his court as the permissive court.

[G] Any court which gave a lenient ruling in three matters is called a permissive court.

[H] Said R. Yudan b. R. Ishmael, “Rabbi’s court differed from him in the matter of the writ of divorce.” [In this case a man said, “Lo, this is your writ of divorce if I do not come back within twelve months,” and died in that period. The man did not specify that the writ was valid from that moment, so it was as if a writ of divorce after death, so M. Git. 7:8. T. Git. 5:9C states, “Our rabbis instructed her to remarry,” and this, we know, refers to Rabbi.]

[I] *R. Yohanan raised the question: “And have we not learned in the Mishnah [M. Ed. 1:5C]: For a court has not got the power to nullify the opinion of another court unless it is greater than it in wisdom and in numbers?”*

[J] “Now how is it possible that Rabbi and his court should [nullify the ruling and so] permit what Daniel and his colleagues had prohibited?”

[K] *R. Yohanan is consistent with his opinion expressed elsewhere [in denying that it was Rabbi and his court who permitted the oil, and in admitting that it was permitted on other grounds entirely].*

[L] For R. Yohanan said, “I have received it as a tradition from R. Eleazar b. R. Sadoq that any decree which a court should issue, and which the majority of the community should not accept upon itself, is no decree. [What in fact happened was that] they looked into the matter and found out in the case of the [Daniel’s] decree against oil [prepared by gentiles] that the majority of the community had not accepted [the decree, and so they nullified the rule on those grounds, and not on the grounds of Rabbi’s decision].”

[M] Isaac bar Samuel bar Marta went down to Nisibis. He found Simlai, the Southerner, sitting and expounding: **“Rabbi and his court permitted oil [prepared by gentiles].”**

[N] Samuel accepted [the teaching] and ate [oil prepared by gen tiles]. [He did the same before] Rab, [who did not accept the rule for himself and] eat [such oil]. He said to him, “*Samuel ate. If you*

do not do the same, I shall decree concerning you that you are a 'rebellious elder.'"

[O] [Rab] *replied to him, "When I was still there [in the Land], I learned that Simlai, the Southerner, rejected [the prohibition against oil, so I do not trust this report of his]."*

[P] [Samuel] said to him, "Did [Simlai] say this in his own name? Did he not say it in the name of Rabbi and his court?" *Samuel nagged him about the matter until he too ate oil prepared by gentiles.*

[I:7 A] Their daughters: Said R. Eleazar, "In seven places [in Scripture] it is written, 'You should not intermarry with them.'" Hence how can you claim that it was prohibited as one of the eighteen matters?

[B] Said R. Abin, "This is to prohibit intermarriage with the seven peoples [of the Land]." The verse applies only to the seven and not to other nations.]

[I:8 A] *R. Joshua Onayya taught, "[The reference to a prohibition as to their daughters in fact refers to] prohibiting eggs cooked by them."*

[B] *R. Ishmael taught, "'The ostrich' (Lev. 11:16) – this refers to an ostrich egg."*

[I:9 A] Their semen [is unclean, by decree of the Houses]: But did not R. Aha say, R. Hinena in the name of R. Yohanan, "The semen of a gentile is insusceptible to uncleanness [that is, not a source of uncleanness]."

[B] [No, it indeed is unclean,] for it is not possible for semen to emerge without some urine as well.

[I:10 A] As to one who has suffered a nocturnal emission: R. Ba bar Aha in the name of Rabbi: "[While such a person is unclean,] he may repeat laws, though he may not repeat sayings pertaining to lore."

[B] *It has been taught in the name of R. Yosé, "He may repeat laws which he knows well, but that is on condition that he may not lay out his learning in the Mishnah [in a systematic way]."*

[C] *And there is he who wishes to propose, "And that is on condition that he not make mention of the Divine Name [in his learning]."*

[I:11 A] And concerning the laws about territory of the gentiles:

[B] Did not R. Zeira bar Abina in the name of R. Jeremiah say, “Yosé b. Yoezer of Seridah and Yosé b. Yohanan of Jerusalem decreed that the territory of the gentiles should be unclean, and likewise that that is the case for glass utensils”?

[C] R. Yosé said, “R. Judah b. Tabbi [made that decree].”

[D] R. Judah said, “R. Judah b. Tabbai and Simeon b. Shetah made a decree concerning metal utensils. Hillel and Shammai made a decree concerning the cleanness of hands.”

[E] R. Yosé b. R. Bun in the name of R. Levi, “That was the law as they had received it, but they had forgotten it, and then the pairs went and [reasoned the law, and so] came to the same conclusion as their predecessors.”

[F] This serves to teach you that in the case of any matter for which a court is prepared to give up its life, in the end that matter will endure in their hand.

[G] *This is in line with that which was said to Moses at Sinai, and accords with that which R. Mana said, “For it [understood as Torah] is no trifle for you, [but it is your life, and thereby you shall live long in the land which you are going over the Jordan to possess.’ (Deut. 32:47)].*

[H] “And if it is a trifle for you, why should that be the case? Because you do not devotedly labor in it.

[I] “‘For it is your life’ – under what circumstances is it your life? When you devotedly labor in it.”

[I:12 A] Samuel said, “[As to the statement that a court may not annul the ruling of another court unless it is superior to it,] that statement applies, in particular, to the eighteen matters [under discussion here].

[B] “But as to matters other than these eighteen, even a lesser court may nullify the ruling of another court.”

[C] They objected, “Lo, there is the matter of the additional rules of the Seventh Year, [specifically the month added to the year, in which the prohibitions of the Seventh Year apply at the end of the sixth year].

[D] “And in this connection even R. Yohanan said [= transmitted] it [and] raised questions against it.”

- [E] [The reference of D is to the following:] R. Qerispeda in the name of R. Yohanan: “Rabban Gamaliel and his court released the prohibitions laid out in the first two chapters [of tractate Shebiit].
- [F] [*R. Qerispeda continues:*] “*R. Yohanan raised the question, ‘And have we not learned: **A court has not got the power to nullify the opinion of another court unless it is greater than it in wisdom and in numbers [M. Ed. 1:5C]?’**”*
- [G] R. Abun introduced [this view], R. Judah in the name of Samuel: “That statement applies, in particular, to all laws except for the eighteen matters. Lo, as to matters included under the eighteen, even a superior court may not nullify the decisions [made here], for [the court] was prepared to stand [their ground] at the cost of their lives [in regard to these matters].”
- [H] *Said R. Mana, “Is not the opposite more reasonable? Since the decisions were made under duress, these surely may be nullified [by any other court].”*
- [I] *They objected, “Lo, there is the case of oil. Lo, it is one of the eighteen matters. Yet R. Yohanan [himself] raised questions about that matter.” [This we saw above.]*
- [J] [That poses no problem, for] R. Kahana son of R. Hiyya bar Abba, R. Aha produced the statement in the name of R. Yohanan: “They nullified the decree against oil [and it is] nullified [indeed, a point on which even Yohanan concurs].”
- [K] [**As to M. Tem. 4:1A-E: The offspring of a sin offering, the substitute of a sin offering, and a sin offering, the owner of which died, are left to die. One which was superannuated or one which was lost and turned up blemished, if this is after the owner has effected atonement, is left to die,** thus listing five animals designated as sin offerings which are left to die under the stated conditions,] Nahman son of R. Samuel bar Nahmani in the name of R. Samuel bar Nahmani: “As to the five animals designated as sin offerings which are left to die, if the court wanted to nullify this ruling, it may do so.”
- [L] Said R. Hiyya bar Adda, “That which you have said applies to a case in which the animal is not set aside to be left to die, but rather [it is put out to pasture and when blemished, sold, and the proceeds] are to go for the purchase of a freewill offering. But as to offering such a beast itself on the altar, an animal designated as a

sin offering which has been left to die is never offered on the altar [under any circumstances].”

1:5

[A] **The House of Shammai say, “They do not [on Friday afternoon] soak ink, dyestuffs, or vetches, unless there is sufficient time for them to be [fully] soaked while it is still day.”**

[B] **And the House of Hillel permit.**

[I:1 A] **What is the scriptural basis for the view of the House of Shammai?**

[B] **The House of Shammai say, ““Six days shall you labor and do all your work’ (Ex. 20:9) – [meaning] complete all while it is still day [before the Sabbath].”**

[C] **And what is the scriptural basis for the view of the House of Hillel?**

[D] **[And the House of Hillel say,] ““Six days shall you labor and on the seventh [you shall rest’ (Ex. 23:12) – [work is what you should do all six days and not on the seventh” (T. Shab. 1: 21F-G)].**

[E] **How do the House of Hillel interpret the scriptural verse cited by the House of Shammai?**

[F] **“Six days shall you labor and do all your work” speaks in particular of work done by manual laborers [which must cease]. [But work not done by man himself may go on unimpeded, that is, once the soaking has begun before the Sabbath, it may continue on the Sabbath itself.]**

[G] **How do the House of Shammai interpret the verse cited by the House of Hillel, “Six days shall you labor, and on the seventh [you shall rest]”?**

[H] ***It is in line with that which is taught: They open the irrigation channel for a vegetable patch on the eve of the Sabbath at dusk,***

[I] **and it continues to absorb water through the Sabbath day.**

[J] **They put an eye salve on the eye, and a poultice on a sore, on the eve of Sabbath at dusk,**

[K] and they continue to undergo healing throughout the entire Sabbath day.

[L] They put sulphur under dishes on the eve of the Sabbath at dusk, and they [4a] continue to be sulphured [silver] on the Sabbath.

[M] They put a perfume brazier on coals on the eve of the Sabbath at dusk.

[N] [But] they do not put wheat into the water-driven wheels unless there is sufficient time for it to be ground [into flour] [T. Shab. 1:23]. [All of these are sorts of actions the House of Shammai will permit on the basis of Ex. 23:12, for the actions have already had effect before the Sabbath starts.

[O] [As to the reason behind N,] said R. Haggai, “It is because they make noise.”

[P] Said to him R. Yosé, “That [reason] is good enough for [you], my lord, [because you concur in the view of] R. Judah [at M. 2:4, below]. [You have no choice, as we shall see.] But as to the view of rabbis [in that other dispute], the reason [is a different one]. [They prohibit a procedure involving the dripping of liquid] because each drop [of liquid] has not begun to drip [from the eve of the Sabbath, but only one drop alone]. [Hence the others have begun their process on the Sabbath itself, and that is not permitted. Along these same lines] here, each grain of wheat has not commenced [the process of being ground on the eve of the Sabbath, hence the reason for the prohibition at M is that it is not a process beginning, in fact, on the eve of the Sabbath at all, and continuing without interruption thereafter. It is a process which begins for each grain of wheat separately, hence on the Sabbath.]”

[Q] [Giving yet another reason,] said R. Yosé b. R. Bun, “It is because he may forget and drive in the peg [on the Sabbath].”

[I:2 A] The House of Shammai stated one argument to the House of Hillel, and they could not answer them. The House of Hillel stated one argument to the House of Shammai, and they could not answer them.

- [B] **Said to them the House of Hillel, to the House of Shammai, “Do you not concede that:**
- [C] **“They lay down olive-press beams and suspend winepress rollers [M. Shab. 1:9B] [on the eve of the Sabbath] at dusk.**
- [D] **[“So it is sufficient for dyes and vetches to be subject to the same rule”] [T. Shab. 1:23A-C].**
- [E] And they could not answer them.
- [F] Said R. Zeira, “If it were not that I do not want to poke my head among the lions, I should supply a further argument. There [in the case of P], each drop of liquid already is uprooted from its place [on the Sabbath, while here, can you make such a statement]?”
- [G] **The House of Shammai said to the House of Hillel, “Do you not concede that:**
- [H] **“They do not roast meat, onions, and eggs on the eve of the Sabbath at dusk, unless there is time for them to be roasted while it is still day [M. 1:10A].**
- [I] **[“So it is sufficient for dyes and vetches [M. 1:5A] to be subject to the same rule”] [T. Shab. 1:20].**
- [J] And they could not answer them.
- [K] *Said R. Zeira, “If it were not that I do not want to poke my head among the lions, I should offer a reason [in support of the House of Hillel]. There [in the case of roasting meat and eggs,] it is usual to turn the food over [which must not be done, so the work may not be started]. But here what can you say?”*
- [L] Said R. Yudan, “If the food was roasted like the food of Ben Derosai [one-third done], [can you make that same statement, differentiating the two cases]?”
- [M] [Zeira replied,] “They have prohibited roasting anything which is usually turned over, unless the meat can be entirely roasted while it is still day.”
- [N] *Said R. Mana, “Is it not reasonable that that is so? For [the House of Hillel] may reply to them, ‘How can you produce a reply to us on the basis of something that is usually roasted all that is necessary while it is still day, in regard to something that is not usually kept [in the heating pot] while it is still day?’ [The two cases still are not wholly comparable. If food is*

only partly cooked, like that of Ben Derosai, it still is different from food that is scarcely cooked at all.]”

1:6

[A] The House of Shammai says, “They do not put bundles of [wet] flax into the oven unless there is time for them to steam off while it is still day.

[B] “And [they do not put] wool into the cauldron unless there is sufficient time for it to absorb the color while it is still day.”

[C] And the House of Hillel permit.

[I:1 A] [In allowing time to steam the flax while it is still day,] *what do the House of Shammai profit? [After all, the bleaching will not be completed in any event during the Sabbath.]*

[B] *Said R. Abbahu, “[The ruling would apply,] for instance, to villagers, who are not meticulous [about the bleaching]. [If the process is merely well underway, they will not intervene, so there is no reason to prohibit the steaming.]”*

[I:2 A] [As to M. 1:6B-C,] R. Judah in the name of Samuel: “And [the House of Hillel permit] in a case in which the cauldron is movable. But if the cauldron was fixed, it is forbidden [to put wool into it over the Sabbath], for the dyer will be concerned that his dye not be totally consumed [in the boiling process] and so he will add water [which is forbidden on the count of boiling].”

[B] R. Samuel in the name of R. Abbahu: “The House of Hillel derive the law governing acts of labor that are permitted [prior to the Sabbath] from the governing acts of labor that are forbidden [on the Sabbath itself]. If one had done so on the Sabbath, it is possible that it is not forbidden? [Obviously it is forbidden.]

[C] “Along these same lines then, [ruling in the opposite way], if he did so on Friday while it is still light, it is permitted. [What one may not do on the Sabbath, one may do on the ordinary day.]”

1:7

[A] The House of Shammai say, “They do not spread out nets for wild beasts, fowl, or fish, unless there is sufficient time for them to be caught while it is still day.”

[B] And the House of Hillel permit.

- [I:1 A] [= Y. Besah 3:2, treating M. Besah 3:2A, which states that “**Nets for wild beasts, fowl, or fish made before the holiday, one should not take from them on the holiday, unless he knows that [the catch] was caught by the eve of the holiday.** [The question now must be asked how one knows when the beast got caught:] Who lets [the owner] know [whether or not the beast was caught while it was still day]?
- [B] If the trap was in disarray [while it was yet daylight], it is obvious that the beast was caught while it was still day.
- [C] If it was not in disarray, then it is obvious that nothing was trapped in it while it was still day.
- [D] [No.] Even if the trap was in disarray, one takes account of the possibility that a beast was not trapped while it was yet daylight.
- [E] Said R. Yosé b. R. Bun, “[We deal with a case in which] one spreads a net in the forest [where wild animals are apt to be found]. [Since there is yet time that a wild beast can be trapped in the net, we assume that that will take place, since game is so plentiful.]
- [F] “You should know that that is the case. *For lo, we have learned, Fish* [are included under the law]. [And when it speaks of fish,] does it not speak of a place in which fish are abundant? [Surely it must.] Along these same lines, here too we speak of a place in which wild beasts and fowl are abundant.”
- [I:2 A] [With reference to M. Bes. 3:2A-C:] R. Hiyya in the name of Rab declared that that rule is indeed the law.
- [I:3 A] [As to M. Bes. 3:2D, Gamaliel’s view that fish caught by a gentile are permitted, but he would not accept them: R. Zeira in the name of Rab]: “They considered ruling that [when he said that they are permitted, he meant] that they are permitted on the next day [but may not be used on the festival, just as M. Bes. 3:2A-C maintain].”
- [B] *R. Hezekiah and R. Uzziel b. R. Honiah of Beth Hauran*: “They are permitted – literally [on the festival day itself].”
- [C] They contemplated ruling that in a case of doubt the matter is permitted. [Gamaliel then differs from M. Bes. 3:2A-C.]
- [D] *R. Hananiah and R. Jonathan both maintain*, “In the case of a doubt such as this, it is forbidden. [This is the position of III.A]”
- [E] R. Yohanan said, “In a case of doubt such as this, it is permitted. [This is the position of III.B-C.]”

- [F] R. Hiyya the Elder and R. Simeon b. Rabbi – *one said*, “What comes from a gentile requires preparation [that is, designation for use on the festival day, in advance of the festival day just as is the case with an Israelite].”
- [G] *The other said*, “What comes from a gentile does not require preparation [in advance of the festival day, that is, designation for use on the festival day].”
- [H] *Now we do not know which authority held this opinion, and which one held that opinion.*
- [I] *On the basis of the following [the answer will be clear]. Rab tarried in coming before R. Hiyya the Elder. He said to him, “Where were you?”*
- [J] *And he said to him, “A caravan came by, and I ate the figs [that they delivered].”*
- [K] *It must follow that [Hiyya, who accepted this reply,] is the one who held, “What comes from a gentile does not require preparation in advance of the festival day [designation for use on the festival day].”*
- [L] *A disciple of R. Simai went to Antioris [= Antipatris], and [on a festival] they served him Damascene plums, and he ate them.*
- [M] *A disciple of R. Joshua b. Levi went there, and they brought him Damascene plums, and he did not eat them, and he went and reported the matter before his master.*
- [N] *He replied, “Now look! He follows the custom in accord with the theory of R. Simai. For R. Simai said, ‘What comes from a gentile does not require preparation in advance of the festival day.’ [Hence it was all right for Simai’s disciple to eat the plums on the festival day.]”*
- [O] R. Abbahu in the name of R. Joshua b. Levi: “Lumps of dripping grapes in the vineyard – lo, these are forbidden [since they may have been picked on the festival day itself].”
- [P] R. Huna in the name of Rab: “Late dates on the palm tree – lo, these are permitted, [since they generally fall off the tree on their own].”

1:8

- [A] **The House of Shammai say, “They do not [on the Sabbath] sell [anything] to a gentile or bear a burden with him,**
- [B] **“and they do not lift up a burden onto his back,**

[C] “unless there is sufficient time for him to reach a nearby place [while it is still day].”

[D] **And the House of Hillel permit.**

[I:1 A] What is the definition of “a nearby place”?

[B] *It would accord with that which Mar Samuel said, “For instance, from Hutra to Nehardea.”*

[C] *Here too that criterion applies.*

[I:2 A] [With reference to the meaning of *M. 1:8C*,] *there is he who wishes to say, “Until he reaches his house.”*

[B] *And there is he who wishes to say, “Until he reaches his village.”*

[C] **R. Aqiba says, “Sufficient time for him to go out the door before the day is sanctified [through sunset]” [T. Shab. 1:22D].**

[D] Said R. Yohanan, “This represents the view of R. Yosé [as he formulated Aqiba’s position]. R. Aqiba’s purpose is to amplify the opinion of the House of Hillel [indicating the extent to which they permit the gentile’s labor on Friday].”

[I:3 A] They do not hand over to a gentile [food] on the stipulation that he will take it out. If he took it and went out on his own, one is not subject to [responsibility for his deed].

[B] They do not hand over to a dog [food] so that he will take it and go out. If he took it and went out on his own, one is not subject [to responsibility for what he has done].

[I:4 A] *It has been taught [in Tosefta’s version]: **Israelite workmen who were working with a gentile [T.: at the time of their festival] – in the case of [doing so] in an Israelite’s household, it is prohibited [to work on the occasion of the festival]. In the case of [doing so] in a gentile’s household, it is permitted.***

[B] **R. Simeon b. Eleazar says, “If he was hired by the day, whether working in the household of an Israelite or working in the household of a gentile, it is prohibited. If he was hired as a contractor, working in the household of an Israelite is permitted. Working in the household of a gentile is prohibited.”**

[C] **“Under what circumstances? In the case of working on what is plucked. But as to working on what is not yet plucked, it is prohibited.**

[D] **“And in another town, one way or the other, it is permitted” [T. A.Z. 1:3B-I].**

[E] What is the meaning of “one way or the other” [just now stated at D]?

[F] [It is permitted in another town for the Israelite, following the perspective y A.Z., or gentile, following the perspective of the issue of the Sabbath, to work for the gentile, or the Israelite, on the occasion of the festival] whether the crops are plucked or not yet plucked, whether as a day laborer or as a contractor [as at B]. [= Possibly a question]

[G] Said R. Ila, “Whether the crop is plucked or not yet plucked, [it is permitted] only on condition that [the Israelite, or the gentile, works] as a contractor [but not as a day laborer, in which circumstance he is paid for work done on the pagan festival, or the Sabbath, and his salary is thus part of the remuneration deriving from idolatry, or for working on the Sabbath].” [So he differs from Simeon b. Eleazar.]

[H] R. Simeon bar Borsenah in the name of R. Aha: “In regard to rules for the Sabbath, for mourning, and for the governance of idolatry, the law is in accord with the rulings of R. Simeon b. Eleazar.”

[I:5 A] **They do not send letters with a gentile either on Friday or on Thursday.**

[B] **The House of Shammai prohibit doing so even on Wednesday.**

[C] **And the House of Hillel permit.**

[D] **They said concerning R. Yosé the Priest that writing of his was never found in the hand of a gentile [A-D = a variant of T. Shab. 13:11]**

[E] **They do not set sail on the Great Sea either on Friday or on Thursday.**

[F] **The House of Shammai prohibit doing so even on Wednesday.**

[G] **And the House of Hillel permit.**

[H] **But if it was [not] because of a dire necessity, then, for instance, in the case of [the sea voyage] from Tyre to Sidon, it is permitted to make such a trip, even on Friday.**

- [I] They do not set sail with a ship, neither on the eve of the Sabbath nor on Thursday.
- [J] The House of Shammai prohibit doing so even on Wednesday.
- [K] And the House of Hillel permit.
- [L] If it was to a near place, for example, from Tyre to Sidon, it is permitted.] [E-H = variant of T. Shab. 13:13]
- [M] They do not besiege a gentile town less than three days before the Sabbath.
- [N] *That which you have said applies to making an optional war.*
- [O] But as to making an obligatory war, even on the Sabbath [it is permitted to do so].
- [P] for so we find that Jericho was conquered only on the Sabbath.
- [Q] For it is written, “You shall march around the city, all the men of war going around the city once. Thus shall you do for six days” (Josh. 6:3). [Since on each day they rested in their camp, it does not count as starting a siege.]
- [R] And it is written, “And on the seventh day you shall march around the city seven (4b) times” (Josh. 6:4). [Here the actual siege started.]
- [S] And it is written, “Until it falls” (Deut. 20:20), even on the Sabbath. [Cf. T. Erub. 3:4]

1:9

- [A] The House of Shammai say, “They do not give hides to a [gentile] tanner,
- [B] “or clothing to a gentile laundryman,
- [C] “unless there is sufficient time for them to be done while it is still day.”
- [D] And in the case of all of them,
- [E] the House of Hillel permit,
- [F] while the sun is still shining.
- [G] Said Rabban Simeon b. Gamaliel, “The household of father had the habit of giving white clothes to a gentile laundryman three days before the Sabbath.”

[H] And these and those concur that they lay down olive-press beams and winepress rollers.

- [I:1 A]** *[In the view of the House of Shammai,] what constitutes sufficient time [M. 1:9C]?*
- [B] It accords with that which R. Yohanan said in the name of R. Honia [regarding M. Hul. 9:2], “Sufficient time to walk four *mils*.”
- [C] And here [too, that span of time is required].
- [I:2 A]** If one handed over his garments to a gentile laundryman, and came and found him working on it on the Sabbath, it is forbidden [to derive benefit from his labor].
- [B] *Said R. Yudan, “And why not have the Israelite tell the gentile not to work on that day on his clothing?”*
- [C] *Said R. Yudan, father of R. Mattanaiah, “That which you say [at A] applies to a case in which the gentile works as a favor for the Israelite. [Then he is working for the Israelite, who bears responsibility for what he does.]*
- [D] “But if it is for a fee, then the gentile is doing work for himself [not for the Israelite, and it is labor for which the Israelite bears no responsibility whatsoever].”
- [II:1 A] Said R. Simeon b. Gamaliel, “The household of father ..., “ etc. [M. 1:9G]:**
- [B] **They referred only to white ones. Lo, as to colored ones, that is not the case.**
- [C] **Accordingly, we infer that white ones are harder to do than colored ones [T. Shab. 1:22F-G].**
- [III:1 A] And these and those concur, etc. [M. I:9H]:**
- [B] Both R. Samuel and R. Yosé b. Haninah say, “Each drop already has been uprooted from its place, [so the process has commenced prior to the Sabbath].” [Therefore the House of Shammai follow the House of Hillel in M. 1:9H.]
- [C] *R. Aha said R. Yosé bar Haninah asked, “What is the law on touching the flowing liquid [on the Sabbath]?”*
- [D] Rabbis of Caesarea say, “There was a dispute on this matter between R. Yohanan and R. Yosé bar Hanina.
- [E] “R. Yohanan said, ‘It is forbidden.’

[F] “R. Yosé bar Haninah said, ‘It is permitted.’”

[G] There is a Tannaitic statement contrary to the view of R. Yosé bar Hanina: “And they do concur that one should not touch the flowing liquid.”

1:10

[A] **They do not roast meat, onions, and eggs, unless there is time for them to be roasted while it is still day.**

[B] **They do not put bread into an oven at dusk,**

[C] **nor cakes on the coals,**

[D] **unless there is time for them to form a crust [even] on the top surface while it is still day.**

[E] **R. Eliezer says, “Sufficient time for its bottom surface [only] to form a crust.”**

[I:1 A] R. Bun bar Kahana in the name of rabbis: “A dish that had sufficiently cooked may remain on [even] an oven, the flame of which had not been covered with ashes.”

[B] *R. Zeira asked*, “As to meat, onions, and eggs, if they are simmered, they deteriorate. In the case of this dish, if it simmers, it is an improvement – and yet you say this?”

[C] *This statement speaks only of hot water [for which simmering does no good].*

[D] *R. Samuel came [and introduced a statement in the name of:] R. Zeira [who] asked*, “As to hot liquids which were sufficiently heated, it is forbidden to keep them on an oven the fire of which has not been covered with ashes.”

[E] R. Bibi in the name of R. Yohanan: “A dish of ox meat which had cooked [about a third of what was necessary] ‘as is the food of Ben Derosai’ – it is permitted to put it back on the oven which has had its flame tamped down with ashes.”

[F] *Now this accords with that which R. Jacob bar Ada said in the name of R. Yohanan*: “He who sets a pot over coals – they admonish him that, when the pot cooks [about a third of what is necessary] ‘as is the food of Ben Derosai’, it is forbidden [to leave it there].”

[G] R. Aha, R. Tanhum bar Hiyya in the name of R. Simeon b. Rabbi: “Hot water that has been sufficiently heated – it is

permitted to put it back on a stove the fire of which has not been covered with ashes.”

[H] *R. Zeira asked*, “To keep it there is forbidden, but to put it back there is permitted?”

[I] *This statement referred only to one’s Passover offering.*

[J] *R. Aha in the name of R. Simeon b. Rabbi: “A Passover offering which had been sufficiently roasted – it is permitted to put it back on an oven the fire of which has not been covered with ashes.”*

[II:1 A] They do not put bread into an oven, etc. [M. 1:10B]:

[B] *R. Jacob bar Aha in the name of R. Assi: “Women are more prompt with regard to bread than to a cooked dish. [That explains the lenient ruling of M. 1:10D.]”*

[C] *What is the difference between bread and a cooked dish?*

[D] *In the case of a cooked dish, it is usually eaten while boiling.*

[E] *Bread is not usually eaten boiling.*

[F] *There they say*, “Hot bread brings heat with it. As to one bitten by a hornet, he should put something cool on the bite. If bitten by a scorpion, put on something hot.

[G] *“He who confuses these two rules is in danger.”*

[III:1 A] R. Eliezer [M. 1:10E] concurs in the case of showbread [that the rule of M. 1:10D applies], for it is called bread only when its upper face has formed a crust in the oven.

1:11

[A] They lower the Passover offering into an oven at dusk [when the fourteenth of Nisan falls on a Friday].

[B] And they light the fire in the fireplace of the House of the Hearth [M. Tam. 1:12].

[C] But in the provinces, [they do so only if] there is sufficient time for the flame to catch over the larger part of [the wood].

[D] R. Judah says, “In the case of charcoal [one may light the fire if there is time for the fire to catch] any quantity [of charcoal] whatsoever.”

- [I:1 A] *There we have learned: After nightfall they went out and roasted their Passover offerings [but not on the Sabbath itself] [M. Pes. 5:10], and you say this [that outside the Temple they may roast the Passover offering at dusk on the Sabbath eve and carry it to the oven at dusk]!*
- [B] [Since the concern is that the meat not be singed by the coals on the Sabbath and the coals not be stirred up, we need not worry, for,] said R. Yosé, “Associations [formed for the purpose of roasting a Passover lamb] are meticulous [and will not stir up the coals].”
- [I:2 A] [As to a Passover offering which one took off the fire while it was still day and found it was not sufficiently cooked,] if the Passover offering is whole, one may put it back into the oven [for further cooking, on its own, on the Sabbath].
- [B] **But if it was cut into pieces, one may not put it back onto the flame. [A-B = T. Pes. 7:2]**
- [C] [Providing a reason for this strict ruling,] R. Samuel in the *name* of R. Zeira: “It is because of being invalid. [That is, since one has chopped it up while it is not fully roasted, it has been invalidated, so it may not be put back into the oven.]”
- [D] Said R. Yosé, “That is so. As to eating it, you are not able to do so, for it is written, ‘Do not eat any of it raw or boiled with water, but roasted, its head with its legs and its inner parts’ (Ex. 12:9).
- [E] “As to roasting it, you are not able to do so, since one may not be in the position of [= or appear to be] roasting meat on the Sabbath.
- [F] “Now if you say that it is permitted to put it back chopped up and not whole, then the owner may very well not complete roasting it as much as is necessary prior to the sundown on Friday.
- [G] “If you say that it is forbidden to put it back chopped up and not whole, then the owner will take care to complete roasting it as much as is required while it is still day on Friday.”
- [H] *R. Eliezer b. R. Yosé asked, “If one roasted it whole, and then cut it up, what is the law about putting it back into the oven and basting it?”*
[This question is not answered.]
- [II:1 A] R. Zeira, R. Judah in the name of Rab: “Four sorts of fires [may be kindled on the eve of the Sabbath if there is time for the fire to catch] any amount [of the fuel] whatsoever:

- [B] “A fire made from olive scraps, mulch, oil, and pits – if such a fire has caught any amount at all [of the fuel], it is permitted.”
- [C] R. Ba in the name of R. Hiyya bar Ashi: “In the case of a wicker basket filled with pits [the same rule applies, that is, if the flame catches], (any amount whatsoever”).
- [D] (R. Ba in the name of R. Hiyya bar Ashi: “In the case of a wicker basket filled with nuts) if they are packed close together, they may be kindled only if the fire will catch over the greater part of them while it is still day, but if they are scattered in the basket, it is permitted if the fire catches the greater part of each piece.”

[E] *Now does [R. Hiyya bar Ashi] dispute [Rab in A]?*

[F] [No, they deal with different cases,] the one deals with solid ones [which have dried up and are ready to burn], and in the other case we deal with mushy ones [which still contain some amount of liquid, and may or may not burn properly]. [But the former will certainly kindle and burn heartily.]

[G] R. Yosé in the name of R. Jeremiah, R. Hananiah produced the matter in the name of Rab: “In the case of a fire with coals on the bottom and wood on the top, once the flame has come into the space between the two layers, it is permitted [to kindle it just prior to sunset on Friday].”

[H] R. Helbo in the name of R. Huna: “In the case of a beam, [the fire must be able to encompass] the larger part of its circumference [prior to sunset].”

[I] Does “the greater part of its circumference” mean in a single place or over the entire circumference of the whole beam?

[J] *The following tradition is available.* It must be so affected by the flame [prior to the Sabbath] that it is no longer usable for any sort of work.

[K] [As to M. 1:1D,] *the point of the statement of the Mishnah [in his name] is that* also in the case of charcoal [one may light a fire if there is time for the fire to catch] any quantity [of charcoal] whatsoever. [That continues M. 1:1C, in the provinces.]

YERUSHALMI SHABBAT

CHAPTER TWO

2:1

[A] With what do they kindle [the Sabbath light] and with what do they not kindle [it]?

[B] They do not kindle with cedar fiber, uncarded flax, raw silk, wick of bast, wick of the desert, or seaweed;

[C] [or] with pitch, wax, castor oil, oil [given to a priest as heave offering which had become unclean and must therefore be] burned, [grease from] the fat tail, or tallow.

[D] Nahum the Mede says, “They kindle [the Sabbath lamp] with melted tallow.”

[E] And sages say, “All the same is that which is melted and that which is not melted: they do not kindle with it.”

[I:1 A] Not with cedar fiber [M. 2:1B]:

[B] *R. Hiyya bar Ba said, “It is the wooly substance of cedar twigs.”*

[C] *R. Aha in the name of R. Hiyya: “Cedar wood.”*

[D] *They say, “They [B and C] are one and the same thing.”* [B supplying the Aramaic word and C a Greek loanword.]

[II:1 A] Nor with uncarded flax [M. 2:1B]:

[B] *R. Hinena in the name of R. Phineas: “It is linen that has not been hatched.”*

[C] This is in line with that verse which you may cite in Scripture:
“And the strong shall become tow [and his work a spark, and both of them shall burn together]” (Is. 1: 31).

[III:1 A] And not with raw silk [M. 2:1B]:

[B] *The cissaros blossom.*

[C] Said R. Simeon b. Gamaliel, “I inquired among all the seafarers, and they told me that it is called *kolka*.”

[IV:1 A] Nor with wick of bast [M. 2:1B]:

[B] [This is] *ornita*.

[V:1 A] Nor with wick of the desert [M. 2:1B]:

[B] This is meant literally [a grass that grows in the desert].

[VI:1 A] Nor with seaweed [M. 2:1B]:

[B] It is similar to flax.

[VII:1 A] [Or] with pitch or wax [M. 2:1C]:

[B] Up to this point we have dealt with wicks. From this point onward we deal with fuel for the lamp.

[C] [The reason for the various rulings is now supplied.] R. Abbahu in the name of R. Yohanan: “It is because the flame is drawn backward, and the householder may forget and remove the wick. [And he will be in the dark].”

[D] “Furthermore, the flame may not kindle over the greater part of the oil.”

[E] *R. Zeira asked*, “If that is the principal consideration, then the rule should be that the wick must be kindled over the greater part of the oil in the lamp [while it is still daylight].”

[F] R. Samuel, R. Abbahu in the name of R. Yohanan: “The wick must be kindled over the greater part of the oil in the lamp [while it is still day, for the lamp to be used on the Sabbath].”

[G] *Associates objected*, “Lo, there is the case of wax [used for a lamp, such as we considered above]. Lo, it is a case in which the flame has not kindled the greater part of the fuel!”

[H] [*Along these same lines*] *R. Ba bar Mamel objected*, “Lo, there is the case of a lantern. Lo, here is a case in which the flame has not kindled the greater part of the fuel.”

[I] [No, these are not considerations, since if we deal with what is good tinder or fuel, there is no concern that the flame kindle the larger part of the fuel while it is still day. For,] said R. Shimi, “Did not R. Zeira say, R. Judah in the name of Rab: ‘There are four sorts of fires in which, if the flame is burning in any

amount whatever, the fire is valid for use on the Sabbath: a fire made of pulp, mulch, olive oil, and pits – [in any of these instances, if the flame has caught] any part [of the fuel at all, it is valid on the Sabbath.”

[J] There is further evidence [that the issue is not that the householder may remove the wick from the lamp] from the following:

[K] R. Tahalifa asked R. Hisda, “And did not Rabbi [you] teach us: ‘In the case of a Sabbath which coincided with the festival of Hanukkah, when it is forbidden to examine a coin by the light of a lamp, [one may not use the wicks and fuels proscribed for lighting the Sabbath lights].”

[L] Lo, in this case one does not forget and remove the wick. Since the problem of forgetfulness cannot be in play here, there must be another reason.

[M] *Hence the reason [for the prohibitions listed at the Mishnah] can only be on the count of the flame’s not kindling the greater part of the fuel.*

[VIII:1 A] And not with castor (qiq) oil [M. 2:1C]:

[B] R. Yosé in the name of R. Hiyya: “It is oil of ivy seeds.”

[C] R. Jonah, R. Zeira in the name of R. Judah: “It is a fowl, and its name is *qiq* bird.”

[D] *R. Ishmael taught*, “‘The water hen, [the pelican, the vulture]’ (Lev. 11:18) – this refers to the *qiq* bird.”

[IX:1 A] Nor with oil [given to a priest as heave offering, which had become unclean and must therefore be] burned [M. 2:1C]:

[B] Said R. Hisda, “That is to say that it is prohibited to light a fire out of Holy Things, which will continue burning on the Sabbath.” [Holy things should not be burned on the Sabbath or Festival.]

[C] *And have we not learned: And they light the fire in the fireplace of the House of the Hearth. But in the provinces, they do so only if there is sufficient time for the flame to catch over the larger part of the wood [M. 1:11B-C].*

[D] Said R. Yosé, “In connection with the Sabbath, it is written, ‘[But the seventh day is a Sabbath to the Lord your God;] in it you shall not do any work, [you, or your son, or your daughter, your manservant, or

your maidservant, or your cattle, or the sojourner who is within your gates]' (Ex. 20:10). This work goes on by itself.

[E] “Nonetheless, in this matter the Torah has ruled: They do not burn Holy Things on a festival day. And it is not necessary to state, On the Sabbath.”

[F] *On what grounds do you hold that view?*

[G] “And you shall let none of it remain until the morning; anything that remains until the morning you shall burn” (Ex. 12:10).

[H] [That is to say,] after two mornings, one, the morning of the fifteenth [of Nisan], the other, the morning of the sixteenth.

[I] And it is written, “But what remains of the flesh of the sacrifice on the third day shall be burned with fire” (Lev. 7:17).

[J] What is the law on kindling a fire with fuel consisting of leaven [on the eve of Passover which coincides with a Sabbath]? *He who derives the rule from that governing [the] remnant [of a sacrifice] will prohibit doing so, and he who does not derive the rule from that governing remnant will deem it permitted.*

[K] [Presenting a different view of the same issues,] R. Aha in the name of R. Hisda: “That is to say that it is permitted to kindle a fire of Holy Things, and it may continue to burn through the Sabbath.”

[L] *And lo, we have learned: **They do not kindle a light for the festival day with heave-offering oil [which had become unclean and must be] burned [M. 2:2A].***

[M] This is because of the prohibition of doing so on a festival day that coincided with a Friday.

[N] If so, then they should not kindle a lamp with heave-offering oil that is to be burned by night, because they do not burn Holy Things by night.

[O] Said R. Yohanan, “In this matter they have followed the reasoning of R. Ishmael. Just as R. Ishmael said, ‘As to an infant the time for circumcision for whom had passed, he is circumcised whether by day or by night, [whereas if he is circumcised on the proper day, it must be done in the morning],’ so if the time has passed, it is burned whether by day or by night.”

[P] And is there such a thing as heave-offering oil, the time of which has passed?

[Q] R. Judah bar Pazzi: “Since it has been made unclean, it falls into the category of something whose time has passed.”

[IX:2 A] *R. Yosé taught before R. Yohanan*, “How do we know from Scripture that all of those who are to be circumcised should be circumcised only by day?

[B] “Scripture states, ‘And on the [eighth] day [the flesh of his foreskin shall be circumcised’ (Lev. 12:3).”

[C] Said to him R. Yohanan, “And is there [a basis to accept] this [beraita]?”?

[IX:3 A] All those who are liable to immerse do so under ordinary circumstances by day, except for the menstruating woman and the woman after childbirth, who immerse only by night.

[B] A menstruating woman whose time had passed may immerse whether by day or by night [on the eighth or successive days, after the onset of her period].

[C] R. Hiyya bar Abba explained the matter to the Tyrians: “A menstruating woman whose time had passed may immerse whether by day or by night.”

[D] *There they say*: Even if her time had passed, [she immerses only by night,] on account of her mother-in-law and daughter-in-law. [That is, the menstruant must wait until nightfall, so that the seven unclean days will have been completed. The night is the beginning of the eighth day, hence the first clean day. Now if the menstruant does it by day, her mother-in-law or daughter-in-law will follow her lead. They may not realize that it is her eighth day, not the seventh, and the relatives may immerse in the daytime on their seventh day.]

[E] A woman member of the household of Our Rabbi did they see immersing in the usual way by day.

[F] It was said that her usual time had passed [so this was the eighth day].

[G] A menstruating woman who had an accident and who was thereby immersed [e.g., she fell off a bridge into the water]:

[H] [R.] Shimi in the name of Rab: “She is clean so far as having sexual relations is concerned, but unclean so far as working with food to be prepared in conditions of cleanness is concerned [since the immersion was not with the intent of attaining cultic cleanness].”

[I] R. Eleazar in the name of R. Haninah: “She is unclean both so far as sexual relations and so far as preparing food requiring conditions of cleanness are concerned.”

[J] What is the scriptural basis for this position?

[K] “Then it shall be washed a second time and be clean” (Lev. 13:58). Just as the first washing must be with full knowledge and intent, so the second must be likewise.

[L] And how do we know that the first washing must be with full knowledge and consent?

[M] “Then the priest shall command that they wash the thing in which is the disease, and he shall shut it up seven days more” (Lev. 13:54).

[N] This must be with full knowledge and consent.

[O] [*With regard to M. Meg. 2:4C-E,*] *now lo, we see that the rabbis push up the time of intercalating the year, [doing so prior to sunrise].*

[P] R. Nahman in the name of R. Mana, “It is a religious duty to push matters up, so as to be conscientious about carrying out religious duties.”

[IX:4 A] An Israelite girl who came to kindle a lamp from a priest girl[‘s light] – she dips the wick in oil in the status of heave offering which is fit for burning and so lights the lamp for her [T. Ter. 10:9L-M].

[B] [What follows serves only Y. Sheb. 4:2:] R. Huna in the name of R. Yannai, “It was a time of an onslaught of wolves, and the court did not go and annul [the law]. *Just as you say there,* “The court did not go and annul the law,” so here the court did not go and annul the law.

[C] **As regards a priest’s cattle which were standing in a barn next to an Israelite’s cattle,**

- [D] and so the garments [4d] of a priest which were being woven near the garments of an Israelite –
- [E] lo, the Israelite may kindle on their account oil [in the status of heave offering which is fit for] burning.
- [F] As regards an Israelite who was sitting (Y. reads: who was partner in a store) in the shop of a priest –
- [G] lo, this one may fill for him a lamp with oil [in the status of heave offering which is fit for] burning,
- [H] and the Israelite may go up to the attic or down to the cellar, in order to do what is needful to the priest but not what is needful to the Israelite.
- [I] If the Israelite was a partner in the ownership of the store with the priest [Y. reads: a priest came to an Israelite store to balance his account), this is permitted [the Israelite may use the heave offering oil for his own needs, since this ultimately benefits the priest].
- [J] And so in the case of a priest who was dining in the home of an Israelite – lo, this priest may kindle for him a lamp filled with oil in the status of heave offering which is fit for burning. [Missing in Y.]
- [K] Even though the priest later got up and left, they do not obligate the Israelite to put out the lamp, until it goes out by itself [T. Ter. 10:9A-J]. [The issue in the foregoing is as follows. Heave offering may only be used by a priest. But an Israelite may use heave offering only as long as he is doing work which benefits the priest who owns it.]
- [L] *R. Hananiah bar Akbari was going to do some work with R. Hiyya of Sepphoris [who was a priest].*
- [M] *When he was ready to go, [Hiyya] would fill a lamp for [Hananiah] with oil [in the status of heave offering which was waiting to be] burned.*
- [N] *But have we not got the following principle: to do what is needful to the priest but not what is needful to the Israelite?*
- [O] *They reply, “But if the priest did not do so, the other would not come [therefore it is to benefit the priest].”*
- [P] *They contemplated ruling that when he got home, he should put it out.*

[Q] Said R. Hanina, “It was through [the lamp] that he stayed awake and got up in the morning [so the entire thing was to the advantage of the priest, who thus enabled his worker to do his work].”

[R] *Adda the servant asked R. Ammi, “If I dip wicks in vinegar – with the vinegar preventing the wicks from burning when they are charred – may I use it?”*

[S] He said to him, “[Yes.] It [the consecrated vinegar] is annulled in relationship to the wicks.”

[T] *That is the ruling which R. Judah b. Pazzi gave to members of the household of Nehemiah.*

[U] *R. Ammi took a wick [given to him by a priest, which had been dipped in heave-offering oil that was to be burned up].*

[V] *R. Liyya did not accept such a wick.*

[W] *Does R. Liyya not concur with the view of R. Ammi?*

[X] He scrupled on the count of possible misappropriation [as will be explained]. And would he trust this servant to treat Holy Things in a sloppy way [so he was concerned that his servant would misuse the wick.]

[Y] Gamaliel Zugga asked R. Assi, “What is the law as to adding [to heave-offering oil that is to be burned] unconsecrated oil and kindling the whole [for Israelite use]?”

[Z] *He said to him, “Did not R. Hoshaiah teach: **They do not obligate him to put it out [the lamp], [T.: until it goes out by itself] [T. Ter. 10:9J]? [Accordingly, it is not permitted to do so.]***

[AA] *Said R. Abbahu, “R. Jonathan b. Akhemei taught me the following: **As regards the daughter of a priest who had in her hand a lamp filled with oil [in the status of heave offering which was fit for] burning, on the eve of the Sabbath at the time of sunset – lo, this one may add any small amount of unconsecrated oil to the lamp and may kindle it for the Sabbath [T. Ter. 10:9N].***

[BB] *Said to him R. Zeira, “And what is the character [of Jonathan b. Akhemaï, that we should adopt his view]?”*

[CC] He said to him, “He is a great man, and expert in our Mishnah, and R. Hiyya of Kepar Tahmin expressed that fact before Rabbi, who appointed him a sage.”

[X:1 A] And not with tallow [M. 2:1C]:

- [B] R. Barona said, “In the case of tallow, one may drip into it any amount of oil and kindle such a lamp for the Sabbath.”
- [C] *R. Yosé raised this question: “How shall we interpret this matter? If we deal with tallow that has been thoroughly crushed, then even if one did not put oil into it, [it should be permitted].*
- [D] “*And Samuel taught, ‘Anything which they pulverize and which does not congeal, that is in the category of what is thoroughly crushed.’*”
- [E] “*And if we deal with tallow which has not been thoroughly crushed, then even if one put oil into it, [it should not be permitted].”*

[X:2 A] R. Hananiah came, R. Barona in the name of Rab: “Tallow which one has chopped up, and the innards of fish – they kindle a lamp with them.”

- [B] *R. Hiyya bar Ashi came late to Rab [on the eve of the Sabbath].*
- [C] *He said to him, “Where were you?”*
- [D] *He said to him, “I was looking for olive oil [for the Sabbath lamp].”*
- [E] *He said to him, “And did you not have the innards of fish [for that purpose]?”*

[X:3 A] There is a Tannaite authority who teaches: They may kindle the lamp with naphtha.

- [B] *There is a Tannaite authority who teaches: They may not kindle the lamp with naphtha.*
- [C] *Said R. Hisda, “The one who said, ‘They kindle a lamp with it,’ speaks of the black kind. The one who said, ‘They do not kindle a lamp with it,’ speaks of the white kind, which is highly flammable and therefore dangerous.”*

2:2

[A] They do not kindle [a light] for the festival day with [heave-offering] oil [which had become unclean and must be] burned.

[B] R. Ishmael says, “They do not kindle [the Sabbath lamp] with tar, [C] “because of the honor owing to the Sabbath.”

[D] And sages permit all kinds of oils:

[E] sesame oil, nut oil, radish oil, fish oil, tar, and naphtha.

[F] R. Tarfon says, “They kindle only with olive oil.”

[I:1 A] [With reference to M. 2:2A,] lo, [the exclusion only of the listed item means that] all of the other items listed above are permitted for use in the lamp for the festival day.

[II:2 A] R. Ishmael says, “They do not kindle the Sabbath lamp with tar, because of the honor owing to the Sabbath [Tar produces a putrid smell.]” [M. 2:2B-C].

[B] What is the difference between tar [which is prohibited] and the innards of fish [which are permitted]?

[C] As to the innards of fish, so long as they are aflame, they do not produce a bad odor. Once they have gone out, they do.

[D] As to tar, whether it has gone or is aflame, it smells bad.

[E] [Why make such a ruling, then, in regard only to this item, rather than indicating that anything with a bad smell is not to be used?] It is so that you will not rule, “Since it has a bad smell, one should have to keep four cubits from it [e.g., in saying the *Shema* or in other religious deeds].

[F] On that account it was necessary to say, “They do not make use of it for a Sabbath lamp [but there are no other restrictions attendant upon it].”

[III:1 A] And Sages permit all kinds of oils. [M. 2:2D]

[B] R. Tarfon says, “They kindle only with olive oil” [M. 2:2F]:

[C] R. Yohanan b. Nuri got up on his feet and said, “What will the people in Babylonia do, who have only sesame oil? What will the people in Medea do, who have only nut oil? What will the people in Alexandria do, who have only radish oil? What will the people of Cappadocia do, who have neither one nor the other?”

[D] “You have [as prohibited oils] only what they have actually stated” [T. Shab. 2:3E-F].

[III:2 A] *It has been taught:* R. Simeon b. Eleazar says, “They do not kindle [the lamp for the Sabbath] with balsam [T. Shab. 2:3A],

[B] because it is in the category of sap [QH].

2:3

[A] With nothing which exudes from a tree do they light [the Sabbath light], except for flax.

[B] And nothing which exudes from a tree contracts uncleanness [as a Tent] through overshadowing [a corpse] except for flax.

[C] A wick made of cloth which one twisted but did not singe – [D] R. Eliezer says, “It is susceptible to uncleanness, and they do not kindle [the Sabbath lamp] with it.”

[E] R. Aqiba says, “It is insusceptible to uncleanness, and they do kindle [the Sabbath lamp] with it.”

[I:1 A] [As to M. 2:3A,] said R. Simeon bar R. Isaac, “It is written, ‘[And you shall command the people of Israel that they bring to you pure beaten olive oil for the light,] that a lamp may be setup to burn continually’ (Ex. 27:20). [Sages] drew the inference that you have only flax that produces a suitable flame.”

[I:2 A] *It has been taught:* R. Simeon b. Eleazar says, “Whatever exudes from a tree is not subject to the rule concerning [a piece of cloth] three fingerbreadths by three fingerbreadths;

[B] “and they make use of it for *sekhakh* [covering for a *Sukkah*];

[C] “except for flax” [T. Shab. 2:4D-F].

[D] Said R. Yosé, “They have treated it as equivalent to thick [and] thin clothes.

[E] “*For we have learned:* Thick [and] thin clothes are not subject to the rule of three-by-three fingerbreadths. [If a cloth is very thick or thin and is not three square handbreadths in size, it is worthless, since it cannot be properly sewn, so it is insusceptible to impurity] [M. Kel. 28:8C].”

[I:3 A] Said R. Eleazar, “They derived the law that flax falls under the category of ‘Tent’ [as at M. 2:3B] from the statements concerning the tabernacle.

- [B] “for it is written, ‘Moreover you shall make the tabernacle with ten curtains of fine twined linen [and blue and purple and scarlet stuff; with cherubim skillfully worked shall you make them]’ (Ex. 26:1).
- [C] “And it is written, ‘They shall have linen turbans upon their heads, [and linen breeches upon their loins; they shall not gird themselves with anything that causes sweat]’ (Ezek. 44:18).
- [D] “You derive the meaning of the word for ‘linen’ from its equivalent usage [at Ezek. 44:18] and the fact that, at that point, linen refers to flax, from the indication in reference to turbans.”
- [II:1 A] R. Eleazar asked, “What is the law as to treating under the category of ‘Tent’ a covering made of the hide of an unclean beast?”
- [B] Is it not written, “[They shall bear the curtains of the tabernacle and the tent of meeting, its covering, and] the covering of sealskin [that is above it]” (Num. 4:25)? [It is assumed that sealskin is an unclean hide.]
- [C] R. Judah, R. Nehemiah, and rabbis: R. Judah says, “They were referred to by the name of their color, violet.”
- [D] R. Nehemiah said, “They were ermine skins.”
- [E] Rabbis say, “It was a species of clean wild beast which flourishes in the wilderness.”
- [F] *This accords with what* R. Eleazar b. R. Yosé said, R. Abbahu in the name of R. Simeon b. Laqish in the name of R. Meir: “There was a species of clean wild beast that the Holy One, blessed be he, created for Moses in the wilderness. Once he had carried out the work of the tabernacle, making use of it, the beast was hidden away, [so no one knows what it is any more].”
- [G] R. Abun said, “It was called a unicorn.”
- [H] *R. Hoshaiah taught*, “It was because it had only one horn.”
- [I] “This will please the Lord more than an ox, or a bull with horns [a single form is used, literally, “horn”] and hoofs” (Ps. 69:31).
- [J] “With horns” [literally, “horn”] is what the All-merciful wrote [meaning, also without, hence, a unicorn].
- [II:2 A] *There we have learned*: “[A piece of cloth] less than three-by-three handbreadths which one used to stop up a hole in the bathhouse, to empty out a cooking pot, or to wipe off the millstones,

- [B] “whether kept in readiness [set aside for a particular purpose] or not kept in readiness, is still susceptible to uncleanness, “ the words of R. Eliezer.
- [C] R. Joshua says, “Whether kept in readiness or not kept in readiness, it is insusceptible to uncleanness [since it is used like a rag which has been thrown out].”
- [D] R. Aqiba says, “That which is kept in readiness is susceptible, and that which is not kept in readiness is insusceptible” [M. Kel. 28:2].
- [E] What is the difference between being kept in readiness and not being kept in readiness?
- [F] It is the difference between being kept ready for use in the house and being thrown out into the dung heap.
- [G] *And have we not learned:* [Throwing out a cloth always renders it insusceptible and recovering it renders it susceptible, except for cloth of purple or of good crimson, which is valuable even if thrown out.] R. Eliezer says, “Also a new patch is in their status” [M. Kel. 27:12K].
- [H] *Now a person does not say, “Also,” unless he concurs with what has gone before.* [It follows that in the cited passage, G, Eliezer concurs that throwing a cloth away serves to render it insusceptible to uncleanness, contrary to his view at A-B.]
- [I] [The meaning at B is this:] Whether the woman has kept it in readiness by hanging it on a peg, or whether she has not kept it in readiness by hanging it on a peg [it is susceptible]. [But if she tossed it into the garbage, it ceases to be susceptible.]
- [J] *Accordingly, what he says in the one place imparts meaning on what he says in the other, and vice versa.*
- [K] *What he says in one place [M. 2:3C-D] imparts meaning on what he says in the other:* In the view of R. Eliezer, [it is susceptible to uncleanness] if the woman twisted the rag [signifying its continued usefulness].
- [L] *What he says in the other place imparts meaning on what he says here:* The rule that it is insusceptible applies when the woman *did* not designate the continued usefulness of the rag by hanging it up. But if she did designate it as useful by hanging it up, it remains susceptible to uncleanness [under the conditions of G]. [That clarifies M. 2:3C-D.]

[M] *Then what is the reasoning behind the view of R. Eliezer [at M. 2:3C-D]?*

[N] [If one twisted the cloth but did not singe it,] the rag turns out to be in the status of a utensil which on the Sabbath has been rendered insusceptible to uncleanness. [Why? Because it is the actual burning of the rag that renders it insusceptible. Prior to the moment the wick is kindled, it is susceptible. A utensil cannot be transformed on the Sabbath from susceptibility to insusceptibility.]

[O] But merely because the woman has twisted the rag, has she not rendered it insusceptible to uncleanness?

[P] For expert waiters want her to twist it [so that they may, if they wish, use the cloth for a wick].

[Q] But in any event, is it not the case that while it is still daylight [the wick is twisted and the lamp is lit]? [Why should the argument of N be pertinent at all? It is not an event that takes place on the Sabbath, in any case.]

[R] R. Eleazar (5a) in the name of R. Hoshaiah: “[It is a decree that this not be done on a Friday,] on account of a festival day which coincided with a Friday. [Since on the latter day one may not do so, on the former day one also may not do so.]”

[S] But does not the process of removing the rag from the status of susceptibility to uncleanness take place on its own? [Why should the householder be prohibited from inaugurating it prior to the Sabbath or festival day?]

[T] Said R. Yosé b. R. Bun, “Interpret the matter to speak of [a cloth] which is precisely three-by-three fingerbreadths. [In such a case, the process is done by the householder, in kindling the flame to the wick, for it is at that exact moment that the rag becomes too small to be susceptible to uncleanness. Accordingly, we cannot say that this is a process of removing the cloth from the status of susceptibility that takes place wholly on its own, contrary to S.]

[U] [There is a better solution to the problem than T.’s.] R. Aha, R. Simon in the name of R. Simeon Nazira “[If] one has made [the cloth] into a band [for holding a utensil together], it is insusceptible to uncleanness, and when the woman dipped the wick into the oil, has she not made it

into such a band? [Hence she has established by her own deed its status as to insusceptibility, which allows the argument of N to remain firm.]”

[V] [As to the law governing M. Kel. 28:2,] R. Zeira, R. Yannai, R. Jeremiah in the name of R. Joshua b. Levi: “It would be appropriate that the law should accord with the view of R. Aqiba, for he has made a ruling encompassing the principles of both of the other authorities.

[W] “But the law follows only the view of R. Joshua, and it is one of the lenient rulings pertinent to [a piece of cloth] three-by-three fingerbreadths.”

[II:3 A] [As to Aqiba’s view at M. 2:3E,] it is not the end of the matter that the cloth is insusceptible to uncleanness.

[B] But even if it is unclean [they may kindle the Sabbath lamp with it].

[C] *This is important to take account of the principle expressed by Rab, for Rab said, “On the festival day they kindle the lamp with utensils, but not with sherds of utensils.”* [Y. Bes. 4:2]

2:4

[A] A person should not pierce an eggshell with oil and put it on the opening of a lamp so that [the oil] will drip [out and sustain the lamp],

[B] even if it is made out of earthenware.

[C] And R. Judah permits [doing so].

[D] But if the potter joined it to begin with [to the lamp], it is permitted,

[E] [Y. lacks:] because it is one utensil.

[F] A person may not fill a dish with oil and put it beside a lamp and place the head of the wick into it,

[G] so that it will draw [oil from the dish of oil].

[H] And R. Judah permits [doing so].

[I:1 A] [Why may one not do what is prohibited at M. 2:4A?]

[B] Because the [fire has not] begun [prior to the Sabbath] on each and every drop.

[C] Or perhaps the reason is different, namely, so that the householder will not forget and tip the lamp [to improve the flow of fuel].

[D] *What is the practical difference between these two reasons?*

[E] Containers made out of palm branches [which are closed on all sides].

[F] If you maintain that the reason is that the flame has not caught on each drop of oil prior to the Sabbath, lo, in this case also the same rule applies.

[G] If you say that the reason is concern that the man not forget and tip the lamp, lo, in this case, he will not forget and tip the lamp.

[II:1 A] But if the potter joined it to begin with to the lamp, it is permitted [M. 2:4D]:

[B] It is different in this case, for the whole constitutes one utensil.

[C] If [the Mishnah] had said, [If one] joined it with plaster or with gypsum [on the eve of the Sabbath, it is permitted] [as is found in T. Shab. 2:6], then it would be fine [for us to conclude that the reason is not that the fire should have begun on every drop [I.A.]. [But since it specified that it had originally been formed as a single object, we cannot deduce anything.]

[III:1 A] [As to M. 2.4F-H] R. Judah is consistent with rulings stated elsewhere.

[B] For R. Judah said, “Flowing liquid is regarded as a single entity [joined together].” [Y. Erub. 10:5]

[C] *It has been taught:* If there is a single wick drawing from two cups, dishes, or plates of oil, it is forbidden [for use on the Sabbath].

[D] R. Judah permits such an arrangement.

[E] *R. Hanania in the name of R. Phineas:* “*R. Judah is consistent with views expressed elsewhere,* for R. Judah said, ‘Flowing liquid is regarded as a single entity.’”

2:5

[A] He who puts out a lamp because he is afraid of gentiles, thugs, a bad spirit,

[B] or if it is so that a sick person might sleep,

[C] is exempt [from liability to punishment].

[D] [If he did so] to spare the lamp, the oil, the wick,

[E] he is liable.

[F] And R. Yosé exempts [him from liability to punishment] in all instances except for [one who does so to spare] the wick,

[G] because he [thereby] makes [it into] charcoal.

[I:1 A] Said R. Samuel bar R. Isaac, “[When we say,] *because of ... gentiles*, it is specifically to gentiles who pose a danger, and likewise, *thugs*.”

[B] R. Yosé asked, “If it is [permitted] on account of thugs who pose a danger, then it should be taught in the language, ‘It is permitted’ [rather than as phrased at C].”

[C] Rabbis of Caesarea in the name of R. Yosé b. Haninah [present the passage in just this language, namely,] “It is permitted.”

[II:1 A] [With reference to the language, to spare the lamp, oil, wick, M. 2:5D:] What is the difference between saving from what is in the lamp [= the oil] and saving from what is in the olive [itself]?

[B] Rabbis of Caesarea in the name of R. Shila, “They have reasoned as follows: Saving oil from the body of the wick itself is different from saving it from outside of the body of the wick. [In the former case, one actually does a deed, by dealing with the wick; in the latter, he does not.]”

[III:1 A] [With regard to M. 2:5F-G,] said R. Yohanan, “R. Yosé said R. Simeon both maintain the same principle.

[B] “Just as R. Yosé has said, ‘[One is liable] only if he will have need of the wick itself,’

[C] “so R. Simeon has said, ‘[One is liable] only if he has need of the thing itself.’ [If one performs an act of labor for a purpose extraneous to the thing done, he is not liable.]”

[D] *What is the sort of need for the wick itself [that is in mind]?*

[E] Rabbis of Caesarea, R. Eleazar in the name of R. Hanina: “Expert servants char the wicks.”

[F] *This is in line with that which is stated*, “[And the satraps, the governors, and the king’s counselors gathered together and saw that the fire had not had any power over the bodies of those men;] the hair of their heads was not singed, [their mantles were not harmed, and no smell of fire had come upon them]” (Dan. 3:27).

[G] What is the meaning of singeing them?

[H] Trimming them by singeing them.

- [III:2 A] *There we have learned: All who cause damage [on the Sabbath] are exempt [M. 13:2],*
- [B] except for him who sets fire to a stack of grain and him who makes a wound.
- [C] [In this connection, Yohanan stated that one is liable in these cases too, if he requires or wants the ashes of the grain or the blood of the wound. In this connection,] Bar Qappara said, “Even if he does not require the blood or the ashes [he is liable].”
- [D] *The following passage of the Mishnah differs from the view of R. Yohanan:*
- [E] **If one’s ox set fire to a stack of grain on the Sabbath, he is liable. But if he set fire to a stack of grain on the Sabbath, he is not liable [for burning the stack, since he is liable to the death penalty and cannot be liable to two punishments simultaneously] [M. B.Q. 3:10].**
- [F] Now if one’s ox set fire to a stack of grain on the Sabbath, he is liable, and is this not [= L] a case in which it was done without need [that is, the man clearly does not require the ox’s action in this case],
- [G] and here, further, if he himself set fire to the grain on the Sabbath, he is exempt, and that is even the case when he did so without necessity.
- [H] *It has been taught:* Whoever becomes liable to the death penalty for a deed done inadvertently [merely] brings a sin offering [and does not suffer the death penalty].
- [I] Said R. Hananiah, son of R. Hillel: [It is fine.] “Since it was a deed done without necessity, he is liable to the death penalty. [That is, if he did it deliberately, even without necessity, he would be liable to the death penalty, hence exempt from paying monetary compensation.]”
- [J] *There is the following:* “[He who kills a beast shall make it good, life for life]. He who kills a beast shall make it good; and he who kills a man shall be put to death” (Lev. 24:18, 21).
- [K] Just as in the case of one who kills a beast, there is no point of differentiation between inadvertent and deliberate action, so far as liability to paying damages is concerned,
- [L] so in the case of killing a human being, there should be no point of differentiation between inadvertent and deliberate action, so far as liability to paying damages is concerned.

- [M] *Now there is the following problem for the position of Bar Qappara [who maintains that there is no point of differentiation on the count of whether or not the deed is required for intrinsic or extrinsic purposes].*
- [N] As to kindling a fire, to which the Torah makes explicit reference, in respect to all other acts of prohibited labor listed in the Torah, all of them produce liability only if done on the basis of need, while in this case, will one be liable even if it is done not for its intrinsic purpose? [Has the law varied and dealt inconsistently with this one item?]
- [O] Said R. Yosé, “This is a valid question if one maintains the theory of R. Yohanan, who has maintained that the matter of kindling a fire serves as an analogy for all other prohibited acts of labor listed in the Torah. [Hence, the inconsistency pointed out at N would be a consideration.]
- [P] “[But] R. Eleazar maintains that the specific reference in Scripture to kindling a fire serves to provide a rule only as to itself [and not to set out an analogy governing all other prohibited acts of labor]. [Hence the inconsistency imputed to Bar Qappara in fact is that of the Torah itself.]”
- [Q] *But does R. Eleazar not maintain that the specification of individual acts of labor in the Torah serves to impose liability upon one for each distinct act of labor he performs on the Sabbath? [That is why the various acts of labor are specified individually, so that one cannot maintain that a single count of liability covers all sorts of prohibited acts of labor. Now if he does take that view, then how does he prove it from Scripture, if not from the specification of the act of kindling a fire?]*
- [R] *In the name of R. Eleazar, the following teaching is available: “The reference of Scripture, when speaking of sin offerings, to ‘them,’ serves the purpose of imposing liability individually for each act for which one is subject to bringing a sin offering.” [So Q is answered; there is an alternative proof.]*
- [S] We may then set aside consideration of kindling the fire. As to making a wound, the generative analogy which establishes the category of liability for making a wound [which is, an act of slaughter] itself is subject to liability only when done for need. [If one effects an act

of slaughter without needing the meat of the beast, he is not liable.] Will then the secondary application of that generative rule [namely, making a wound] produce liability if it is done not for need [but for an intrinsic purpose]? [Surely not! Accordingly, we have another challenge to the position of Bar Qappara at C.]

[T] [The argument does not hold, for] *R. Yosé b. R. Bun said, “There was in fact a dispute between R. Eleazar and R. Yohanan. One of them said, ‘The act of slaughter is the principal and generative category, and the act of making a wound is a secondary amplification of it [in which case the argument of R is valid].’*

[U] *“But the other said, ‘matters are reversed’ [in which case the argument of R is invalid].”*

[III:3 A] If one made a fire and blew it out with a single breath, one is liable on both counts.

[B] Said R. Abedimi, brother of R. Yosé, “That is to say, if one blew on utensils and thereby broke them, he pays full damages.” [Blowing is thus considered an act not merely of his energy but rather of his actual body.]

[III:4 A] **He who stirs up coals on the Sabbath is liable for a sin offering.**

[B] **R. Simeon b. Eleazar says in the name of R. Eleazar b. R. Sadoq, “He is liable for two sin offerings,**

[C] **“for he puts out the ones on top and makes the ones on the bottom glow.”**

[D] **He who stirs up coals in order to warm himself by them is exempt [from liability to punishment] [T. Shab. 2:8].**

[E] R. Jacob bar Aha said, “This latter rule [D] is subject to the dispute [expressed at A-C]. [D] *accords with the view of him who said that one is liable for only a single sin offering [A].*

[F] *“But in accord with the view of him who said, ‘He is liable for two sin offerings,’ [at D,] he is liable [for one sin offering, since he has stirred up the coal and made it glow, as at C].”*

[G] *R. Abbahu said in the name of R. Yohanan: “In the present instance [of D] there is no liability on two counts [but only on one], though it is imputed to the man as if he were liable on two counts.”*

[H] [Differing from the comparison to the opinion of A-C,] said R. Yudan, “There the man does not want the fire to glow and he does not want to put out the coals, [but he merely wants to warm himself,] while here he wants the fire to glow and he does not want to put it out. [At A he stirs the coals under the fire so as to heat up the bottom coals and tamp down the top ones (QH).]”

[III:5 A] [If a person] kindled a fire and cooked [on it] –

[B] *There is a Tannaite authority who teaches*, “He is liable on two counts.”

[C] *There is a Tannaite authority who teaches*, “He is liable on only one count.”

[D] *He who maintains that* he is liable on two counts holds that he is liable on the count of kindling the fire and also on the count of cooking thereon.

[E] *He who holds that* he is liable on one count only –

[F] *On which count is the liability incurred?*

[G] R. Judah says, “It is on the count of kindling a fire.”

[H] R. Yosé says, “It is on the count of cooking.”

[I] *Now there is this problem for the view of R. Yosé*: The kindling of a fire is explicitly prohibited by the Torah [while cooking is prohibited only as one of the acts connected with the conduct of the cult on the Sabbath, that is, acts permitted in the cult and prohibited outside of it]. Shall we then say that one is not liable on the count of kindling a fire, but he is liable on the count of cooking?

[III:6 A] A non-priest who served in the Temple on the Sabbath, or a blemished priest who served at the altar while in a state of uncleanness –

[B] R. Hiyya the Elder said, “Such a one is liable on two counts.”

[C] Bar Qappara said, “He is liable on one count [not being a priest, or being a blemished priest, respectively].”

[D] *Bar Qappara objected to R. Hiyya the Elder*, “The sacrificial service is permitted for the priest to do on the Sabbath. Should a non-priest be liable on that count? [Hardly. If a priest is permitted, why should a non-priest be punished for doing the sacrificial service on the Sabbath?]”

- [E] *He challenged it and he [the same master] answered him, [as follows]:*
- [F] “And lo, there is the case of the handful of meal offering. Before the handful is removed [and put on the altar], it is forbidden to both priests and non-priests. Once it is taken out, [the residue] is forbidden to non-priests but permitted to priests. [Here too, performing the cultic rites on the Sabbath is permitted to priests and forbidden to non-priests.]”
- [G] [Bar Qappara] said to him, “That case is different. For it is written, ‘An outsider [the Talmud understands the Hebrew word *zr* to mean non-priest] shall not eat of a holy thing. [A sojourner of the priest’s or a hired servant shall not eat of a holy thing]’ (Lev. 22:10).”
- [H] “And lo, there is the case of pinching a bird’s neck [to kill it for a sacrifice]. Before the act has taken place, [the bird] is forbidden both to this one and to that one. Once its neck has been pinched, it is forbidden to non-priests but then is permitted to priests.”
- [I] He said to him, “That case is different, for it is written, ‘A non-priest, i.e. [understanding the word *zr* in its Mishnaic meaning] shall not eat of a holy thing. [A sojourner of the priest’s or a hired servant shall not eat of a holy thing]’ (Lev. 22:10).”
- [J] He said to him, “Lo, there is the case of produce liable for the separation of tithes, from which tithes have not yet been designated. Prior to the point of designation, it is forbidden both to this party and to that; [neither priests nor non-priests may use it]. Once the tithes have been designated by the farmer, they are forbidden to non-priests but permitted to priests.”
- [K] He said to him, “That case is different, for it is written, ‘A non-priest (*zr*) shall not eat of a holy thing. [A sojourner of the priest’s or a hired servant shall not eat of a holy thing]’ (Lev. 22:10).”
- [L] They said, “Let us go out and see what is to be learned elsewhere.”
- [M] *They went out and heard the following statement:* “R. Yosé says, ‘One is liable on both counts.’ R. Simeon says, ‘He is liable on only one count.’”
- [N] He who said that one is liable on one count only holds that it is on the count of being a non-priest alone.
- [O] And he who said that he is liable on two counts maintains that he is liable on the count of being a non-priest.
- [P] And as to the other count? Is it because of slaughtering the animal? (V. Sb) Lo, slaughter performed by a non-priest is nonetheless a valid act.

- [Q] Rather, it is on the count of transporting the blood, tossing it, and receiving it.
- R] But that cannot be so, since the sole liability [here incurred] is on account of violating a detail of the laws of Sabbath rest [on account of which a sin offering is not at issue].
- [S] Lo, the sole operative consideration, therefore, can only be on the count of the burning up of the limbs and parts that were consumed on the altar all night.
- [T] *In the view of R. Judah, who said, “It is on the count of kindling a fire,”* there is no problem.
- [U] *In the view of R. Yosé, who said, “It is on the count of cooking,”* what sort of cooking is at hand here?
- [V] Since the man had in mind that the parts be consumed on the altar, it is as if he has cooked them.

2:6

[A] On account of three transgressions do women die in childbirth:

[B] because they are not meticulous in the laws of menstrual separation, in [those covering] the dough offering, and in [those covering] the kindling of a lamp [for the Sabbath].

- [I:1 A] *There is a Tannaite authority who [at M. 2:6A] repeats the formulation as, “die young.”*
- [B] *There is a Tannaite authority who repeats it as, “die in childbirth.”*
- [C] *He who repeats the tradition in the language, “die young,” adduces in evidence that which was taught in the name of R. Judah, “On account of [violating] vows, children die young.”*
- [D] And what is an appropriate scriptural proof text? “In vain have I smitten your children, [they took no correction; your own sword devoured your prophets like a ravaging lion]” (Jer. 2:30).
- [E] *And he who repeats the tradition in the language, “die in childbirth,” adduces in evidence this view: Satan takes up his prosecution only in a time of danger.*
- [F] R. Phineas, R. Jeremiah in the name of R. Hiyya bar Ba: “It is written, ‘And he shall stand before Eleazar the priest, who shall inquire for him by the judgment of the Urim before the Lord; [at his word they shall go out, and at his word they shall come in]’ (Num. 27:21).

- [G] “‘In accord with the plan of the Urim’ is not written here, but rather, ‘... by the judgment of the Urim.’”
- [H] “This teaches that when the Israelites go forth to battle, the court above goes into session in their regard, deciding whether they will win or lose.”
- [I] Said R. Hiyya bar Ba, “‘When you go forth against your enemies and are in camp, then you shall keep yourself from every evil thing’ (Deut. 23:9). Is the meaning, then, that if one does not go forth, he does not have to keep himself in this way? [Obviously not!] Rather, it is on the basis of this statement of Scripture that we learn that Satan takes up his prosecution only in a time of danger.”
- [J] Said R. Ahai, “‘If harm should befall him on the journey ...’ (Gen. 42:38). Lo, will harm not befall in the home? [Surely it can happen.] Rather, it is on the strength of this statement that we learn that Satan takes up his prosecution only in a time of danger.”
- [K] R. Bisna in the name of R. Hiyya: “It is written, ‘[They said to him, Thus says Hezekiah,] This day is a day of distress, of rebuke, and of disgrace; [children have come to the birth, and there is no strength to bring them forth]’ (Is. 37:3). Lo, is that not the case on any other day? Rather, it is on the strength of this statement that we learn that Satan takes up his prosecution only in a time of danger.”
- [L] R. Aibu bar Nigri: “It is written, ‘When he is tried, let him come forth guilty’ (Ps. 109:7). ‘Let him come forth justified’ is not written here, but rather, ‘Let him come forth guilty.’ It is on the strength of this statement that we learn that Satan takes up his prosecution only in a time of danger.”
- [M] Said R. Ba bar Kina, “In the case of a board stretched from one roof to the next, even if it is ever so broad, it is forbidden to walk across it. Why? For on this basis we learn that Satan takes up his prosecution only in a time of danger.”
- [N] Rab said, “He who dwells in a shaky house turns the angel of death into his creditor [coming to visit on him all his sins].”
- [O] It is written, “Let death come upon them” (Ps. 55:15). This is in line with that verse which you may read,

“When you make your neighbor a loan of any sort” (Deut. 24:10).

[P] Said R. Levi, “In three situations Satan is waiting to prosecute: he who makes a trip all by himself, he who sleeps by himself in a closed-up house, and he who sets sail on the Great Sea.”

[Q] Said R. Isaac bar Merion, “If it were not written, ‘Thus says the Lord, who makes a way into the sea, a path in the mighty waters’ (Is. 43:16), if a man set sail on the sea, he would die. [But since God makes a way in the sea, it is possible to set sail and survive.]”

[R] Rabbis say, “... who makes a way in the sea’ applies, in particular, from Pentecost to Tabernacles.

[S] “... a path in the mighty waters’ relates, in particular, from Tabernacles to Hanukkah.”

[T] *R. Yosé [or “Yehoshua”], son of R. Tanhum of Kepar Agin was in Asya. He was going to set sail between Tabernacles and Hanukkah. A matron saw him and said to him, ‘Is this when they make trips?’ His father appeared to him [and said], ‘And he also did not have a burial.’ Nonetheless he did not listen either to this one or to that one, but he went overseas.”*

[U] *R. Kohen, brother of R. Hiyya bar Ba, was a sailor. He was going to set sail between Tabernacles and Hanukkah. He said to his brother, “Pray for me.” He said to him, “All right, but if you see the community praying for rain at that same time [a practice they follow on the last day of Tabernacles], do not rely on my prayer. But when you bind up the branches of your lulab [at the end of Festival of Tabernacles, to hide the lulab], bind your feet together as well [so you do not make the trip].”*

[II:1 A] Because they are not meticulous in the laws of menstrual separation, in those covering the dough offering, and in those covering the kindling of a lamp for the Sabbath [M. 2:6B]:

- [B] [Menstrual separation:] The first man (= ‘DM) was the lifeblood (DM) of the world.
- [C] And it is written, “Whoever sheds the blood of man by man shall his blood be shed” (Gen. 9:6). [Therefore:]
- [D] But Eve caused him to die. Therefore the religious requirement covering menstrual separation was assigned to woman..

[III:1 A] And as to dough offering: The first man was the clean dough offering for the world, for it is written, [reading Gen. 2:6 here and not in B:] “But a flow would well up from the ground and water the whole face of the earth.” And it is written, “Then the Lord God formed man of dust from the *ground*, [and breathed into his nostrils the breath of life; and man became a living being]” (Gen. 2:7).

- [B] *This accords with that which R. Yosé bar Qaseretah said, “When a woman kneads her dough with water, she then raises up the dough offering from it.”* [Adam was taken up from the mixture of dust and mist.]
- [C] Now Eve caused him to die.
- [D] Therefore the religious requirement covering the separation of dough offering was assigned to woman.

[IV:1 A] the kindling of a lamp for the Sabbath:

- [B] The first man was the light of the world, since it is written, “The spirit of man is the lamp of the Lord, [searching all his innermost parts” (Prov. 20:27)].
- [C] But Eve caused him to die. Therefore the religious requirement concerning kindling a lamp for the Sabbath was assigned to woman.
- [D] *It has been taught: R. Yosé says, “There are three threats to life to which women are subject [T. Shab. 2:10B].*
- [E] “And these are they: the religious duties involving menstrual uncleanness, separation of dough offering, and kindling the Sabbath lamp.”

2:7

[A] Three things must a man state in his house on the eve of Sabbath at dusk:

[B] “Have you tithed?”

[C] “Have you prepared the erub?”

[D] “[Then] kindle the lamp [for the Sabbath].”

[E] [If] it is a matter of doubt whether or not it is getting dark,

[F] they do not tithed that which is certainly untithed,

[G] and they do not immerse utensils,

[H] and they do not kindle lamps.

[I] But they do tithed that which is doubtfully tithed produce,

[J] and they do prepare the erub,

[K] and they do cover up what is to be kept hot.

[I:1 A] [A continuation of the baraita cited immediately above, at M. 2:6:] *It has been taught: Rabban Simeon b. Gamaliel says, “The laws of Holy Things, purification water, and rendering food susceptible to uncleanness truly are the essentials of the Torah. And all three of them are given over to ordinary folk.”* [There were three things to be done: They kindle the Sabbath lamp, prepare the *erub*, and (then) bury things which are to be kept hot (over the Sabbath)] [T. Shab. 2:10].

[B] [The reliability of common folk is now instantiated.] The laws covering Holy Things, *as we have learned: If a commoner said, “I have set aside from it a quarter log of wine for Holy Things, “ he is believed* [M. Hag. 3:4].

[C] Purification water, *for we have learned: All [including commoners] are believed to testify concerning the purification rite* [M. Par. 5:1].

[D] Rendering food susceptible to uncleanness, *as we have learned: And in the case of all of them, a commoner is believed to testify, “They are unsusceptible to uncleanness”*[M. Makh. 6:3].

[I:2 A] [Following the more logical order of the stringency of the requirement for these several actions,] would it not have been more appropriate to follow the following order? “Kindle the lamp for the Sabbath,” then “Have you tithed? Have you prepared the *erub*?” [It is a more serious offense to kindle the lamp on the Sabbath than to prepare the *erub* on the Sabbath. To insure that he does not kindle on the Sabbath, therefore, he should kindle first.]

[B] Said R. Hiyya bar Abba, “If you treat a minor matter stringently, the householder also will apply the law meticulously to himself with respect to a minor matter.”

[C] *Said R. Haggai, “R. Samuel bar R. Isaac would give instructions in his house in this way: “If you have prepared the erub, then kindle the lamp.”*

[D] And why did he not ask, “Have you separated tithes [from the food to be eaten on the Sabbath]?”

[E] *The reason is that whatever he would eat, he would buy in the market [where people were careful about separating tithes].*

[II:1 A] [If it is a matter of doubt whether or not it is getting dark, they do not tithes that which is certainly untithed:] The following story concerns R. Eliezer, who was dying on the eve of the Sabbath at dusk. Hyrcanus, his son, came in to remove his phylacteries.

[B] He said to him, “My son, you have neglected the religious duty covering lighting the Sabbath lamp, which is a matter of Sabbath rest, and for the neglect of which one is liable to extirpation, and you have come to remove my phylacteries, which are only an optional matter [of the commandment to “rest” on the Sabbath] and subject merely to a religious duty.”

[C] The son went out crying, saying, “Woe is me, that father’s mind is deranged.”

[D] He said to him, “It is your mind that is deranged. My mind is not deranged.”

[E] When his disciples saw that he had answered him with an intelligent statement, they came in to him and asked him questions, and he answered them, saying of what is unclean, “Unclean,” and of what is clean, “Clean,” and at the end, he said, “Clean,” and his soul expired.

[F] They said, “It is obvious that our master is clean.”

[G] (Said R. Mana, “And even before that time it was obvious!”)

[H] R. Joshua came in and removed his phylacteries and embraced and kissed him, weeping and saying, “My master, my master, the vow against you has been released. ‘My master! The chariot of Israel and its horsemen’ (2 Kings 2:12).”

[III:1 A] They do not immerse utensils [M. 2:7G]:

[B] *The Mishnah speaks of large utensils. But as to small ones, one may practice cunning and immerse them.*

[C] *{How is this done?} R. Hoshaiyah taught, “A man may draw water with an unclean utensil, dipping it into the cistern for that purpose, and, in*

that way, he practices deception in its regard and immerses it [cleaning it from cultic uncleanness in the cistern, at the same time he draws water.”

[D] *It has been taught:* If one’s dipper fell into the cistern, or his utensils fell (V. Sc) into a cistern, [and he wishes to use the occasion to clean them,] he practices deception in their regard and immerses them [for that purpose].

[E] *There were two Amoraim. One said,* “The law [M. 2:7G] speaks of utensils that were made unclean by a father of uncleanness.”

[F] *And the other said,* “The law speaks of utensils that were made unclean by an offspring of uncleanness.”

[G] *The one who held the view that it speaks of an offspring of uncleanness objected to the one who held the view that it speaks of a father of uncleanness,* “But even if this is done on an ordinary day, lo, surely [if it is made unclean by a father of uncleanness], the process of purification requires the setting of the sun [to complete the purification of the object made unclean by a father of uncleanness]. [Accordingly, the passage can only speak of what has been made unclean by an offspring of uncleanness, which is clean upon immersion, without awaiting sunset.]”

[H] He said to him, “We deal with one who wishes to use the utensils for unconsecrated food to be eaten in accord with the rules of cleanness [and for that purpose mere immersion, without sunset, suffices, even for utensils affected by a father of uncleanness].”

[I] R. Jeremiah and R. Zeira in the name of R. Hiyya bar Ashi: “A smart woman will rinse off a cup here, a dish there, and a plate over there, and so turn out to sprinkle water on the dust of her house on the Sabbath.”

[IV:1 A] But they do tithe that which is doubtfully tithed produce [M. 2:7/I]:

[B] [In explaining the meaning of the word for doubtfully tithed produce, “*demai*,” said] R. Yosé in the name of R. Abbahu, R. Hezekiah in the name of R. Judah b. Pazzi, “Who has properly separated the tithes from this produce, who has not done so?”

[V:1 A] They do prepare the erub and they do cover up what is to be kept hot [M. 2:7J-K]:

[B] Said R. Hiyya bar Ashi, “That which you say concerns preparing the erub union for courtyards [which is done as a matter of doubt, since the courtyards may or may not be private property anyhow].

C] “But as to the erub meal covering the union of Sabbath boundaries, that is a matter of the law of the Torah [and is not subject to doubt, therefore certainly may not be done].”

YERUSHALMI SHABBAT

CHAPTER THREE

3:1

[A] A double stove which [people] have heated with stubble or straw –

[B] they put cooked food on it.

[C] [But if they heated it] with peat or with wood, one may not put [anything] on it until he has swept it out,

[D] or until he has covered it with ashes.

[E] The House of Shammai say, “Hot water but not cooked food [may one put on it on the eve of the Sabbath].”

[F] And the House of Hillel say, “Hot water and cooked food.”

[G] The House of Shammai say, “[On the Sabbath] they take off [hot water placed thereon] but they do not put it back.”

[H] And the House of Hillel say, “Also: they put it back.”

[I:1 A] *The meaning of the Mishnah [at M. 3:1B, putting cooked food on] is that they may keep cooked food on the stove.*

[B] *The formulation of the Mishnah’s rule accords with the principle of R. Judah.*

[C] *For it has been taught as a Tannaite rule: Two double stoves which are paired,[D] one of them swept out and with its ashes covered, and one of them not swept out and with its ashes covered –*

[E] *they keep something on the one which has been swept out and had its ashes covered [and they do not keep anything on the one which has not been swept out and had its ashes covered].*

[F] *And what is it that they keep on it?*

[G] *“The House of Shammai say, ‘They do not keep anything at all on it.’*

- [H] “And the House of Hillel say, ‘They keep on it hot water but not cooked food.’
- [I] “[If] one removed the cooking pot, all concur that he should not put it back,” the words of R. Meir.
- [J] R. Judah says, “The House of Shammai say, ‘Hot water, but not cooked food.’”
- [K] “And the House of Hillel say, ‘Hot water and cooked food.’”
- [L] “[If] he removed [it from the stove], the House of Shammai say, ‘He should not put it back. ‘
- [M] “And the House of Hillel say, ‘He may put it back’” [T. Shab. 2:13].
- [I:2 A] [As to the view of the House of Hillel that they may put food back,] R. Helbo, R. Anan in the name of Rab: “They have taught the tradition using the language of, ‘upon it.’ Lo, as to putting food into it, one may not do so.”
- [B] To what extent [is food put in the stove]?
- [C] Ulla said, “Up to a third [of the extent of the stove]. [One puts the food back to a third of the area of the stove, but no further in.]”
- [D] Said R. Mana, “One may put it back up to the place at which he makes a crevice [or ditch in the floor of the oven].”
- [E] Said R. Yosé b. R. Bun, “[One may put the food into a third of the area of the oven] because this is the area in which the hand may reach [without being burned]; hence the heat is moderate and there will be no cooking].”
- [F] *This accords with that which R. Zeira said in the name of R. Judah*, “It is permitted to temper cold water on the Sabbath by contact with a temperature of heat which the hand can endure, and it is forbidden to temper cold water by contact with a temperature which the hand cannot endure.”
- [G] “And even in a situation where the hand cannot endure, to what extent [is food put in contact with the heat source]?”
- [H] R. Judah ben Pazzi, R. Simon in the name of R. Yosé bar Hanina, “Up to the point that one puts one’s hand in it and it [the hand] becomes burnt.”

[I] *R. Hoshea bar Gezorah was serving as waiter for R. Zeira, and he brought before him boiling dishes. [Zeira] asked him, “How was it prepared?”*

[J] *He said to him, “The spit on which the pot was resting had been cleared of ashes, and I put the pot there.”*

[K] *He said to him, “Don’t do that again. But clear away the area where the spit is resting, and then pile up three bricks, and put the pot on the bricks [so that it will not absorb heat from the still-hot floor of the oven, as happened here].”*

[L] *R. Abbahu gave instructions in Bosrah to fill up a large utensil with ashes and put on three bricks, and put [the pots] onto them.*

[II:1 A] Daniel, son of R. Qattina, in the name of R. Assi: “The spines of palm branches are in the category of peat and wood [M. 3:1C].”

[B] *That which you have said applies to a case in which they had been fresh but dried up afterward. But if to begin with they were dried up, they are in the status of stubble or straw.*

[C] Cattle pies – *there is a Tannaite authority who teaches, “They are in the status of peat and wood.”*

[D] *There is a Tannaite authority who teaches, “They are in the status of stubble and straw.”*

[E] *He who maintains that they are in the status of peat and wood speaks of thin ones.*

[F] *He who maintains that they are in the status of stubble and straw speaks of thick ones.*

[II:2 A] He who sweeps out the ashes – must he do so until he sweeps out all that is necessary? [Or does it suffice to sweep out one place within the stove?]

[B] *Since it is taught, “He who sweeps out the ashes has to sweep [carefully, getting into the crevices] with his hand,” that would imply that one must sweep out all that is necessary, [and not only one small area of the stove].*

[C] He who covers over the fire with ashes – must he do so all that is necessary, [or may he cover over only one part of the fire?]

[D] *Since it is taught, “One may put flax stalks on it,” that implies that if one has not covered over all of the coals, it suffices. [The rest of the coals will go out on their own.]*

[E] *And in what context was this statement [of D] laid down?*

[F] *“It had to do with a festival day that coincided with a Friday. In that context,” said R. Asyan, “One may put flax stalks on it.”*

[G] *If one covered the fire with ashes, and it flamed up again, what is the law? [Does he have to repeat the procedure?]*

[H] *R. Hiyya the Elder came home [and they asked about such an incident], and he decided that it is permitted [not to repeat the procedure].*

[I] *They asked before R. Zeira, R. Hoshaiyah, R. Hananiah, associates of the rabbis, [“Is this procedure permitted] from the out set? [Or does one leave the cooked item there only] after the fact [as in H]?”*

[J] *R. Ammi came by and heard [the associate’s view], and he wanted to urge them to retract this ruling.*

[K] *Said to them R. Hananiah, associate of the rabbis, “What was, was. [It addressed a situation that had already taken place. But in fact the law also applies before the fact.]”*

[L] *Said R. Samuel bar Soseretai, “That is why the question as to the ruling to begin with [not merely post facto] is required.”*

[M] *Said R. Mana, “I raised this question before R. Ba, son of R. Papi: ‘If you say that the ruling applies only after the fact, then even if one did not cook food on the fire to begin with, [he may now cook food on the fire that has rekindled itself]. [That is to say, the person has put out the fire and bears no responsibility for what has happened thereafter. If he finds that food has inadvertently cooked on the fire after he has put it out, he bears no responsibility for that fact. Hence, in accord with the view of R. Meir, which follows, he may eat that food.]*

[II:3 A] For it has been taught: “One who tithes his produce or who cooks [food] on the Sabbath,

B] “[if he does so] inadvertently, he may eat [what he has cooked].

- [C] “[if he does so] deliberately, he may not eat it,” the words of R. Meir.
- [D] R. Judah says, “[If] he did so inadvertently, he may eat it at the end of the Sabbath. If he did so deliberately, he may not eat it [at any time].”
- [E] R. Yohanan Hassandlar says, “[If he did so] inadvertently, it may be eaten at the end of the Sabbath by others, but not by him.
- [F] “[If he did so] deliberately, it should not be eaten either by him or by others” [T. Shab. 2:15].
- [G] Samuel accords with the view of R. Yohanan Hassandlar.
- [H] *When Rab gave instructions within the circle of associates, he would rule in accord with R. Meir. When he did so in public, he would rule in accord with R. Yohanan Hassandlar.*
- [I] R. Simeon bar Karsenah said, “It was in accord with the view of R. Ishmael b. R. Yosé that he addressed them.”
- [J] *For R. Ishmael b. R. Yosé taught in the name of his father, “In the case of something on account of the deliberate doing of which one is liable to extirpation and on account of the in advertent doing of which one is liable for a sin offering, which one did on the Sabbath, whether one did so inadvertently or deliberately – it is prohibited both for him and for others [i.e., if it involves food, he may not eat it].*
- [K] “But in the case of something on account of which people are not liable for the deliberate doing of which to extirpation and on account of the inadvertent doing of which to a sin offering, which one did on the Sabbath inadvertently – it may be eaten at the end of the Sabbath by other others, but not by him. [If] he did so deliberately, it may not be eaten” [T. Shab. 2:16].
- [L] They asked before R. Yohanan, “And as to you, how do you rule in this matter?”
- [M] He said to them, “As for me, I know only the following ruling of the Mishnah: **One who tithes his produce or who cooks food on the Sabbath – if he does so unintentionally, he may eat the food he has prepared but if he does so intentionally, he may not eat the food** [M. Ter. 2:3V-X].”
- [N] R. Hisda heard this statement and remarked, “The laws covering the Sabbath have been released!”

[O] *R. Hunah in the name of Rab, and so did R. Hiyya repeat:*
“At first they laid down the following ruling:

[P] **“He who forgot cooked food on the stove, and the day was sanctified [while it was there] –**

[Q] **[if this happened] inadvertently, one may eat that food.**

[R] **[If this was done] deliberately, one may not eat that food [T. Shab. 2:14A-C].**

[S] “Then people were suspect of putting food on the fire deliberately and claiming, ‘We forgot.’

[T] “Accordingly, they declared the food prohibited even in the case of one who forgot.”

[U] And yet here you say this [L]!

[V] [Explaining the position of Yohanan in the light of N-S,] said R. Ila, “The people were suspect of deliberately putting the food on the fire [to keep it warm], but they were not suspect of deliberately cooking it. So they imposed a penalty in the case of one who leaves food on the stove, but they did not impose a penalty in the case of one who inadvertently cooked it.”

[W] They reverted to rule [in T.’s phrasing]:

[X] **“In the case of anything which has been boiled down and for which such treatment is good –**

[Y] [T.: “for example, cabbage, beans, and boiled meat” – examples which CC-DD below assume are not specified in the baraita]

[Z] **“it is prohibited.**

[AA] **“But in the case of anything which has been boiled down and for which such treatment is not good –**

[BB] **“it is permitted [T. Shab. 2:14].**

[CC] What is a cooked item “which is boiled down and for which such treatment is good”?

[DD] For example cabbage, beans, and chopped meat.

[EE] Said R. Tanhum bar Ilai, “Also the tips of turnips and the tips of leeks did they treat as a dish which is boiled down and for which such treatment is good.”

[FF] As to eggs, what is their status?

[GG] R. Yosé in the name of R. Ishmael b. R. Yosé: “Father came home and found hot water [on the stove] and permitted it. He found eggs, and he prohibited [eating] them.”

[HH] R. Samuel bar Nathan in the name of R. Hama bar Haninah: “Father and I went up to the Hot Springs of Gadar, and they brought before us eggs as small as crab apples, and they tasted as luscious as apricots.”

[II:4 A] *It has been taught: A woman should not fill a pot with peas and pulse and put it into the oven on the eve of the Sabbath at dusk. If she put them in, at the end of the Sabbath they are forbidden for as long as they take to prepare fresh [T. Shab. 3:1].*

[B] R. Aha said, “In a case of doing so intentionally, the law accords with R. Meir.”

[C] R. Yosé said, “In a case of doing so inadvertently, the law accords with R. Judah.”

[D] Said R. Mana, “Well did R. Yosé rule.”

[II:5 A] “He who plants seed on the Sabbath, if he did so inadvertently, may preserve [the plants which come up from the seed]. But if he did so deliberately, he must uproot [the plants which come up from the seed]. But in the case of [seed planted in] the Seventh Year, whether this is done inadvertently or deliberately, he must uproot [the plants which come up].”?

[B] R. Judah says, “Matters are precisely the opposite.

[C] “In the case of one who plants on the Sabbath, whether one has done the deed inadvertently or deliberately, one must uproot [the plants which come up later on]. In the case of the Seventh Year, [if he sowed the seed] inadvertently, he may allow the plants to grow. [If he did so] deliberately, he must uproot them” [T. Shab. 2:21].

[D] Why [may the woman use the peas cooked on the Sabbath at all?] Because the consideration is Sabbath enjoyment [which one must have]. Now in this case, once you instruct [the person] to wait until

after the Sabbath so as to prepare them, it is as if one has not derived any pleasure from [cooking on] the Sabbath [cf. PM].

[E] *And what is the reasoning behind the rabbis' view?*

[F] Because they count out the years [in the case of plants which come up, e.g., for *orlah* and for fourth-year produce] in the case of the Seventh Year [so that if he does not uproot the plants, it will be clear even after the Seventh Year that he has planted them in the Seventh Year].

[G] But they do not count out [years] for the Sabbath.

[H] Another matter: Israelites are suspect of violating the law of the Seventh Year, but they are not suspect of violating the law of the Sabbath.

[I] *What would be a practical case?*

[J] If the farmer made a planting within thirty days before the onset of the Sabbatical Year, and the Sabbatical Year took effect, if you say that the principal consideration is suspicion [of violating the rules of the year], that consideration does not apply.

[K] If you say that the consideration has to do with counting the years, does that consideration not apply?

[L] If the farmer planted the tree within thirty days of the end of the Sabbatical Year and the beginning of the eighth year, if you say that the principal consideration is suspicion [of violating the rules of the year], that consideration most certainly does apply.

[M] If you say that the consideration has to do with counting the years, does that consideration apply?

[N] *The cited passage accords well with the one who has said that the operative consideration is with counting the years [and therefore in an inadvertent case, one need not uproot the plants].*

[O] But from the viewpoint of him who said that the operative consideration is suspicion [of violation of the Sabbatical Year] they impose a penalty upon inadvertent violation of the law on account of deliberate violation of the law.

[III:1 A] [As to M. 3:1G-H, from the Hillelite viewpoint:] If one removed the pot while it was still day, he puts it back while it was still day.

- [B] If he removed it after it had gotten dark, he puts it back after it had gotten dark.
- [C] If he removed the pot while it was still day, and then the day became sanctified [by darkness, what is the law]? [This question is not answered.]
- [D] *R. Simon [produced the following teaching in the name of R. Hoshaiiah: “If one left the pot on the ground, it is forbidden to carry it about.”*
- [E] R. Eleazar in the name of R. Hoshaiiah: “I was serving R. Hiyya the Elder, and I brought him hot water from the lower story to the upper story and brought it back and put it onto the stove again.”
- [F] Said R. Jeremiah b. R. Simeon, “Even [if one took a kettle] from a stove which produced little heat [and put it back on] a stove which produced much, that is permitted.
- [G] *Said R. Ammi, “Many times I sat in session before R. Hoshaiiah, and I never heard this teaching from him.”*
- [H] Said R. Zeriqan to R. Zeira, “If he did not hear from him that it is permitted, then it must be forbidden.”
- [I] If the kettle was suspended on a peg, and one put it on a bench, we may rule, if [his hand] were sooty, it is permitted [since he kept his hand on the kettle], but if not, it is forbidden.
- [J] Said R. Yohanan b. R. Mareh, “That rule applies if he did not remove his hand from it. But if he removed his hand from it, it is forbidden.”

3:2

- [A] **An oven which [people] have heated with stubble or with straw – one should not put anything either into it or on top of it.**
- [B] **A single stove which [people] have heated with stubble or with straw, lo, this is equivalent to a double stove.**
- [C] **[If they heated it] with peat or with wood, lo, it is equivalent to an oven.**
- [I:1 A] *Bar Qappara taught, “It is forbidden even to put anything near it [M. 3:2A].”*
- [B] *R. Shimi put a pot near the heated air of an oven.*

[C] *Said to him R. Mana, “And has not Bar Qappara taught, ‘It is forbidden even to put anything near it’?”*

[D] *R. Mana gave a lenient rule to women, permitting them to spread out their garments before the heated air of an oven.*

[E] *R. Yudan b. R. Ishmael gave a decision that, in time of need, one may clear out the ashes of an oven and put three bricks inside, and then place [a kettle] on them.*

[F] *But this was on the stipulation that they not let the neighbors know.*

[I:2 A] Said R. Yosé, “As to laws of the Sabbath, with respect to a single stove, you are guided by the rules governing heating the stove up. [Sometimes it is in the category of a double stove, and sometimes it is in the category of an oven.]

[B] “But as to matters of uncleanness, the single stove follows the rules governing the purpose for which it is made [that is, if it is made to serve as double stove, then it follows the rules of uncleanness of a double stove, and if as an oven, it follows the rules of an oven].”

3:3

[A] They do not put an egg beside a kettle [on the Sabbath] so that it will be cooked.

[B] And one should not crack it into [hot] wrappings.

[C] And R. Yosé permits.

[D] And one should nor bury it in sand or in road dirt so that it will be roasted.

[E] M’SH S: The people of Tiberias brought a pipe of cold water through a spring of hot water.

[F] Sages said to them, “If [this was done] on the Sabbath, [the water] is in the status of hot water which has been heated on the Sabbath [itself].

[G] “It is prohibited for use in washing and in drinking.

[H] “[If this was done] on the festival day, [the water] is in the status of hot water which has been heated on the festival day.

[I] “It is prohibited for use in washing, but permitted for use in drinking.”

[J] A milliarum which is clear of ashes – they drink from it on the Sabbath.

- [K] **An antikhi [boiler], even though it is clear of ashes – they do not drink from it.**
- [I:1 A] *There we have learned: An apple in the status of heave offering which one chopped up and placed in dough, as a result of which the dough was leavened – lo, this dough is forbidden [for consumption by a non-priest] [M. Ter. 10:2A-C].*
- [B] *It has been taught: R. Yosé permits [eating it] [T. Ter. 8:9b].*
- [C] R. Aha, R. Abbahu in the name of R. Yosé bar Haninah: “Where they differ, it is in the case of the apple’s causing leavening through its juice.
- [D] “But as to its causing leavening through its substance, all parties concur that [the dough] is permitted [to non-priests, because this is not in the category of leavening].”
- [E] [*The pertinence of the foregoing is now established.*] R. Yosé is consistent with his positions held elsewhere, for just as he has said there, “The effect of leavening on the part of the apple is not wholly established,” so he maintains here [at M. 3:3C] that the work of cooking the food [under the condition described at M. 3:3] is not wholly established.
- [I:2 A] *It has been taught: Said R. Yohanan bar Mareh, “That rule applies in a case in which he did not remove his hand from the kettle.*
- [B] “But if he removed his hand from the kettle, it is forbidden.”
- [I:3 A] **An unripe fig which one stored in straw, and so too a cake which one stored under coals –**
- [B] **if part of it is in the open, one may take it on the Sabbath.**
- [C] **But if not, one may not take it.**
- [D] **Eleazar b. Taddai says, “One may spear them with a spit or with a knife and take them on the Sabbath” [T. Shab. 16:10].**
- [E] *The view (6A) of R. Eleazar bar Taddai [that one may do a deed if his purpose is extrinsic to the character of the deed] is in accord with the view of R. Simeon.*
- [F] *For it has been taught: A person should not drag a bed, chair, bench, or sitting chair [on the ground on the Sabbath], because he thereby makes a ditch.*
- [G] **R. Simeon permits doing so [cf. T. Bes. 2:18].**

[H] R. Ba in the name of R. Huna, R. Haggai in the name of R. Zeira, R. Yosé in the name of R. Ila: “Sages concur with R. Simeon in the case of a chair, the feet of which are sunk in mud, that it is permitted to move it about. [It will make no mark.]”

[I] *Just as you maintain that it is permitted to move it about, along these same lines, it is permitted to put it back.*

[J] *Said R. Yosé, “We also have learned: **They may be handled on the Sabbath [M. Kil. 1:9].**”*

[K] Said R. Yosé b. R. Bun, “This represents the view of R. Simeon.”

[M] *Said R. Yosé, “The Mishnah itself has made the same point [as H]: **No utensils may be dragged, except for a wagon, since it merely presses the earth [without breaking the surface] [M. Bes. 2:1]***

[N] *And lo [as against K], we have learned [the passage at M. Kil. 1:9 with reference to] the Seventh Year, [that is to say: **He who buries turnips or radishes under a vine – if some of its leaves were exposed, does not fear (that he has transgressed) either because of (the laws of) diverse kinds, or because of (the laws of) the Seventh Year, or because of (the laws of) tithes. And they are moved on the Sabbath.***

[O] *You can maintain the view that the laws of the Sabbatical Year accord with the view of R. Simeon.*

[P] R. Simeon permits [using] aftergrowths in the Seventh Year, and yet you say this? [That is, the Mishnah implies that if the leaves did not break the ground, he would have to fear that he transgressed. But we know that R. Simeon permits using the aftergrowths in the Seventh Year. How then can you maintain this is his position?]

[Q] Interpret it [this passage] to speak about the Seventh Year and the view of R. Simeon.

[R] Even though R. Simeon permits the aftergrowths of the Seventh Year, he does maintain the basic view of the applicability of the laws of the Seventh Year and the sanctity of the Seventh Year. [Simeon maintains that the leaves are permitted, in the cited passage of the Mishnah, but in other aspects he certainly does rule in favor of the Seventh Year.]

[S] *And we have learned on Tannaite authority with respect to the view of R. Simeon: [If part of the leaves are visible (as at M.*

Kil. 1:9),] the plants are insusceptible so far as becoming unclean, and one need not scruple on account of the Seventh Year or the sanctity of the Seventh Year.

- [II:1 A] [With reference to M. 3:3B,] *there they say*, “What has been heated in the sun is permitted [for use on the Sabbath, since there is no possibility of erring in this regard], while what is a secondary effect [comparable to] having been heated in the sun [such as M. 3:3B’s instance] is forbidden [since one may then err and reason that just as what has been heated in the sun is permitted, so what has been heated in a flame likewise is permitted]. [To avoid this sort of egregious error in analogies, the entire procedure is prohibited.]”
- [B] *Rabbis here, by contrast, say*, “Both utilizing the sun and utilizing what is comparable to the sun is permitted, [and we make no decree against the latter by reason of possible error].”
- [C] *The Mishnah before us stands at variance with the view of rabbis over here: **And one should not bury it in sand or in road dirt so that it will be roasted [M. 3:3D].***
- [D] That case is different, for in doing so, one makes a ditch [which is forbidden to do.] [The operative consideration is different.]
- [E] If the law had spoken of utilizing flour [which had been heated by the sun, for this purpose], it would have been a valid criticism.
- [F] *The following Tannaitic teaching stands at variance with the position of the rabbis over there, for it has been taught:*
- [G] **Rabban Simeon b. Gamaliel says, “They roll [and thereby roast] an egg on a roof of burning mortar,**
- [H] **“But they do not roll eggs on boiling dirt.” [The burning mortar on the roof has been heated by the sun and is a secondary effect of the sun’s action. In accord with A, it should be forbidden to do so] [T. Shab. 2:22].**
- [I] *How do rabbis over there interpret this rule?*
- [J] They interpret it by siding with those who differ from Rabban Simeon b. Gamaliel, [and saying that they accord with his opposition].
- [K] *According to the rabbis here, [at] the story involving the people of Tiberias [M. 3:3E-I], the Mishnah ends. [Reading M’SH, “a case,” M. 3:3E begins the treatment of the*

secondary effect of the sun, leaving M. 3:3A-D treatment of the prohibition of making a mark.]

[L] *In accord with the rabbis there, the Mishnah does not end [and we read] “as in the case of [K M’SH] the people of Tiberias” [for M. 3:3A-D and E treat the identical principle.]*

[III:1 A] M’SH S: The people of Tiberias brought a pipe, etc. [M. 3:3E]:

[B] At first they would stop up the stoppers to the bath on the eve of the Sabbath [leaving hot water in the bath], and people would come in and wash on the Sabbath. They were suspect of filling the [fire below] with wood on the eve of the Sabbath, so that the fire would continue burning on the Sabbath. Accordingly, they prohibited washing in the water on the Sabbath, [since it was heated for that purpose on that day,] but they permitted merely perspiring there [on the Sabbath]. The [sages] then suspected the people of going in and washing and then saying, “We were only perspiring.” [Therefore] the [Sages] prohibited both washing and perspiring.

[C] There were there two baths, [or “wells” one with sweet water, the other with salty water used for medicinal purposes which was permitted on the Sabbath]. They were suspect of opening up the boards [separating the two baths, and, after entering the salty water, actually] bathing in the sweet water, saying, “We bathed in the salty water.” They forbade use of the entire installation.

[D] But when the people observed the secondary prohibitions [“fences”] imposed by the sages, the sages gradually permitted them the entire apparatus once again, [having made their point], progressing to the point at which they permitted them to use cave water and even the hot springs of Tiberias.

[E] But in any event they did not permit them to bring towels [to the baths].

[F] Who then permitted bringing towels to the baths? It was R. Hanina b. Aqiba.

[G] *For it has been taught:* Three things did R. Hanina b. Aqiba permit [the people of Tiberias]: he permitted using a little boat in the sea [for the transportation of purification ashes and water]; he permitted drawing water from a balcony on the Sabbath; and he permitted bringing towels [on the Sabbath].

[H] *There we have learned: He who bathes in cave water or in the water of Tiberias and dried himself, even with ten towels, may not then carry them in his hand. [But ten men dry their faces, hands, and feet with a single towel and bring it along in their hand] [M. 22:5].*

[I] *[As to the statement that Hanina permitted bringing towels,] said Samuel, “What will be done to this one who has reasoned matters out without actually studying or serving as a disciple to a sage? For did the cited passage of the Mishnah apply prior to their permitting the bringing of towels to the bathhouse? [And, as we shall now see, it was Rabbi who permitted doing so. How then can it be claimed that Hanina is the one who permitted bringing towels?]”*

[J] R. Jeremiah and R. Zeira, R. Judah in the name of Samuel: “It was Rabbi [Judah the Patriarch] who permitted bringing towels.”

[K] *It has been taught: “They may not rinse off [the entire body] either with hot water or with cold water,” [T. adds: The words of R. Meir. And R. Simeon permits doing so. R. Judah says, “They may do so in cold water but not in hot water” [T. Shab. 3:4A- C].*

[L] *Said R. Judah bar Pazzi, “And this Tannaitic teaching applied before sages permitted using the hot springs of Tiberias.”*

[M] *For it has been taught: He who washes in the water of Tiberias – others should not sprinkle him.*

[N] *But he sprinkles himself.*

[O] *Rabban Simeon b. Menassia says, “Also: He should not sprinkle on himself,*

[P] *“for he thereby increases the mist and hardens the ground.*

[Q] *[T.: “But he washes himself in the normal way and goes up out of the water”] [T. Shab. 16:20].*

[R] *R. Aha bar Isaac went to bathe with [R.] Ba bar Mamel in the bath of the Three Graces. He saw a man sprinkling on himself. He said to him, “Doing it this*

way is forbidden on the Sabbath, because one thereby increases the mist and hardens the ground.”

[S] As to R. Abbahu, others sprinkle each other, and the water fell on him as well, and he said [in pleasure], “Vah [= ah! without stopping them].”

[T] *R. Levanti went to bathe with R. Jonah. He saw a man sprinkling on himself. He said, “We do not need to take account of the opinions of isolated individuals [as at O-Q above].”*

[U] *R. Isaac the Elder went to bathe with Rabbi. He said to him, “What is the law as to putting a cruse [of oil] into the water of a round [hot] pot [to warm up the oil before using it]?”*

[V] *He said to him, “Take water from the first, round vessel, and put it into another vessel, and warm the oil flask in that. [The first vessel has been heated directly by a fire. Water in that vessel may not be used. But if that water is poured into a second vessel, then it may be used, and this is what was to be done.]”*

[W] R. Jacob bar Idi in the name of R. Joshua b. Levi: “It is permissible to ask questions about the laws of the bathhouse in the bathhouse itself, laws of the privy in the privy itself.”

[X] *[A relevant precedent is] as follows: R. Simeon b. Eleazar went up to bathe with R. Meir [on the Sabbath in the Hot Springs of Tiberias]. He said to him, “What is the law as to our rinsing off?”*

[Y] He said to him, “It is forbidden.”

[Z] “What is the law as to our wiping ourselves off?”

[AA] He said to him, “It is forbidden.” [This proves that one may reply to questions pertaining to the laws of the bathhouse when in the bathhouse even though one is naked and one is not allowed to discuss the Torah while naked.]

[BB] But [to the contrary] did not Samuel ask Rab, “What is the law as to answering, ‘Amen,’ in a filthy place [e.g., such as a privy]?”

[CC] He said to him, “It is forbidden. And, furthermore, it is forbidden for me to say to you, ‘Forbidden’!” [This proves, to the contrary, that one may not engage in such a discussion in that location.]

[DD] *There are Tannaite authorities who teach [YF: “It is found taught”] [in a Tannaitic tradition]: One may not raise questions about the laws of the bathhouse in the bathhouse, and about the laws of the privy in the privy. [So the law necessitates answering, W.]*

[IV:1 A] If this was done on a festival day, the water is in the status of hot water which has been heated on the festival day, etc. [M. 3:3H]:

[B] As to hot water heated on the festival, and so too, hot water heated on the eve of the Sabbath for use on the Sabbath –

[C] Rab and Samuel – One of them said, “One may with such water wash one’s face, hands, and feet.”

[D] The other said, “One may with such water wash his entire body, limb by limb.”

[E] *Now we do not know which authority made this statement, and which made that statement.*

[F] On the basis of that which Samuel has said, “One washes with that water his face, hands, and feet,” it follows that Rab is the one who has said, “One may wash with that water his entire body, limb by limb.”

[IV:2 A] A certain philosopher asked Bar Qappara, [and so too] Ablat asked Levi Sarisa, “Why should it be permitted to drink the water but forbidden to wash in it [in line with M. 3:3/I]?”

[B] He said to him, “If you saw a eunuch making out with your wife, wouldn’t you be upset?”

[C] He said, “Yes.”

- [D] He said, “Why? Can he do anything to her? [Obviously not!]”
- [E] He said, “[Nonetheless I would be upset] that she should be come wanton [and thus be led to do the same thing with someone who has sexual prowess].”
- [F] He said to him, “Here too [in the case of the water], the point is that the people should not become wanton [and do what they may not do].”
- [G] When the philosopher had gone out, his disciples said to him, “Rabbi, this one you pushed away with a mere reed. What are you going to say to us?”
- [H] He said to him, “[On the first day you shall hold a holy assembly, and on the seventh day a holy assembly; no work shall be done on those days,] but what every one must eat, that only may be prepared by you’ (Ex. 12:16) [Thus the water can be prepared for drinking but not washing.]

[V:1 A] A milliarum which is clear of ashes – they drink from it on the Sabbath [M. 3:3J]:

- [B] Lo, if it is not clear of ashes, one may not do so.
- [C] Said R. Asian, “It is because the coals may touch the body [of the object, and will then heat the water directly].”
- [D] Said R. Haninah, son of R. Hillel, “It is because the air will come into the utensil, and the coals inside will glow [and so be heated up by the man’s action, and a man may not do so on the Sabbath].”
- [E] Said R. Yosé b. R. Bun, “It is because the object is made in parts [which are joined together]. The owner will be concerned that the adhesive not be consumed, so he will add water [to cool off the object, and this he may not do].”

[VI:1 A] An antikhi, even though it is clear of ashes – they do not drink from it [M. 3:3K]:

- [B] R. Hananiah, R. Yosé, R. Aha Abba in the name of R. Yohanan: “It is because it [the water] will be heated up by its sides [which are hot].”
- [C] Rabbis of Caesarea, R. Huna in the name of Rab: “If it was swept out and open, it is permitted.”

3:4

- [A] (6a) A kettle [containing hot water] which one removed [from the stove] –**

[B] **one should not put cold water into it so that it [the cold water] may get warm.**

[C] **But one may put [enough cold water] into it or into a cup so that [the hot water] will cool off.**

[I:1 A] R. Ba the son of R. Hiyya bar Ba, R. Hiyya in the name of R. Yohanan: “They have taught only that one may pour the cold water into a cup [of hot water, to cool off the hot water]. Lo, as to [pouring cold water] into [the pot itself], that may not [be done].”

[B] *R. Mana posed a question before R. Ba: R. Yohanan’s teaching does not explain the latter [part of the Mishnah, C, where it says explicitly that one may put cold water into a kettle to cool it off]. Nor does he explain the former [part of the Mishnah, B, which says] **so that the cold water may get warm**, which implies that to cool the hot water in this manner is not [prohibited, that is, it is permitted]. [In both parts of the Mishnah, it is clear that one may indeed add cold water to a kettle.]*

[C] R. Ba bar Kahana, R. Hiyya bar Ashi in the name of Rab: “If it is to glaze them [by putting cold water in them], it is prohibited to do so [that is, to pour cold water into the pot]. If it is to temper the cold, it is permitted to do so [at M. 3:4A-B].”

[I:2 A] *It has been taught: They put hot water into cold water, but not cold water into hot water, in accord with the view of the House of Shammai.*

[B] And the House of Hillel say, “They put hot water into cold water, or cold water into hot water.”

[C] Under what circumstances? In the case of a cup, but as to a bath, they put hot water into cold water, but as to putting cold water into hot water, that is forbidden.

[D] And R. Simeon permits doing so.

[E] *The view of Rab accords with the opinion of R. Simeon b. Menassia, R. Yohanan [at M. 3:3/IV.A] accords with R. Yohanan b. Nuri.*

[F] *It has been taught: **R. Yohanan b. Nuri prohibits.***

[G] **“One may draw a jug of water and put it over against the fire, not so that it will be heated, but so as to temper its chill” [T. Shab. 3:5].**

[I:3 A] “A man may go down and immerse in cold water and come up and heat himself by the fire,” the words of R. Meir.

- [B] And sages prohibit doing so.
- [C] *The reasoning of R. Meir is clear [i.e., to forbid him to heat the water on his body]. But what is the logic behind the view of the rabbis?*
- [D] *They accord with that which R. Zeira said in the name of R. Judah: “It is permitted to temper the cold of water in a place [in the oven] in which one may put his hand [without burning it], but it is forbidden to temper the cold of the water in a place in which one may not put his hand [without burning it]. [In the latter place, one will be using the heat to warm up what is cold, not merely to temper it.]”*
- [E] Even as to doing so in a place in the oven in which the hand may not go, to what extent [may one not use such a space]?
- [F] R. Judah bar Pazzi, R. Simon in the name of R. Yosé b. Haninah: “So far as a place in which one may put his hand and it will be burned.”

[I:4 A] All concur with regard to pouring the hot water from the first vessel, in which it has been heated, into a second vessel, that it is permitted [to use the hot water for any purpose, once it has been poured into the second vessel].

- [B] What is the difference between the first and the second vessel?
- [C] Said R. Yosé, “As to the latter, the hand can touch the vessel. As to the former, the hand cannot touch the vessel. [Since it has been poured into a second vessel, it has dissipated some of its heat] .”
- [D] Said R. Jonah, “In neither instance can the hand touch [the vessel, since even the second one will be too hot]. But they have imposed a requirement that one keep distant from the first vessel [so as to avoid the possibility of one’s cooking in the boiling water]. But they have not imposed an equivalent requirement to keep distant from the second vessel.”
- [E] *Said R. Mana, “A dish of rice supports the view of father [Jonah], [that the distinction is not that proposed by Yosé]. For if you pour it from one dish to another, while it is being poured it continues to boil [even in the second dish].”*

3:5

- [A] The pan or pot which one has taken off the stove while it is boiling –**
- [B] one may not put spices into it.**
- [C] But he may put [spices] into [hot food which is] in a plate or a dish.**

[D] **R. Judah says, “Into anything may one put [spices], except what has vinegar or fish brine [in it].”**

[I:1 A] What is the law as to putting spices in on the bottom, and pouring boiling food on top of spices [from the original pot, in which the food had been cooked, rather than from a second pot]?

[B] R. Jonah said, “It is forbidden, for what is poured out is [as hot as] what is in the original pot [in which it had been cooked].”

[C] *Support for the position of R. Jonah derives from the following: **It is all the same whether one had cooked in a pot or had poured boiling water into the pot; [it is in the same status, just as Jonah has said] [M. Zeb. 11:7].***

[D] Said R. Yosé, “There [at M. Zeb. 11:7] we speak of a clay utensil, which absorbs liquid. [In the present case the operative consideration is] that the spices not be cooked [with what is poured upon them on the Sabbath].”

[E] *R. Yosé b. R. Bun objected, “And lo, it has been taught: ‘The same rule [in regard to which M. Zeb. 11:7 speaks] applies to a copper kettle.’ Can you say that a copper kettle absorbs [what is cooked in it? Obviously not!] [Yosé’s distinction is null.]”*

[I:2 A] What is the law as to pouring out the contents of the original pot, in which food has been brought to the boiling point, through the spout of the pot? [Is this regarded as a second utensil or as part of the first?]

[B] Said R. Hananiah, son of R. Hillel, “It is subject to the same dispute of R. Jonah and R. Yosé. [If in pouring out leaves what is poured is in the status of what is in the original pot, then the spout will be in that same status.]”

[C] *R. Isaac bar Gopeta asked before R. Mana, “If one did so on the Sabbath, is he liable on the count of cooking on that day? If he did so with milk and meat, is he liable on the count of cooking the two together?”*

[D] He said to him, “The answer accords with what R. Zeira said: ‘What falls into the definition of that which is a real dumpling [which certainly must have dough offering separated from it]? It is any which has been cooked in a fire beneath it.’ Here too, ‘What is in the status of that which certainly has been cooked? It is that which has been cooked in a fire beneath it.’ [That will then eliminate what has merely been poured from the original cooking pot.]”

[II:1 A] R. Judah says, “Into anything may one put spices, except what has vinegar or fish brine in it” [M. 3:5D]:

[B] In the view of R. Judah, anything salted falls into the category of fish brine, and wine falls into the category of vinegar.

3:6

[A] [On the Sabbath] they do not put a utensil under a lamp to catch the oil.

[B] But if one put it there while it is still day, it is permitted.

[C] But they do not use any of that oil [on the Sabbath],

D] since it is not something which was prepared [before the Sabbath for use on the Sabbath].

[I:1 A] *R. Haggai asked*, “If the flame, kindled prior to sunset, went out while it was still daylight on Friday, but the householder found out about it only after it had gotten dark, [is the oil in the lamp in the status of that which has not been designated for use on the Sabbath and hence inaccessible on that day]?”

[B] *Associates asked*, “If the flame went out on the Sabbath, but the householder found out about it only on the following Sabbath, [the same question is to be raised].” [These questions are not answered.]

[I:2 A] Said R. Yohanan, “You have nothing that is in fact available [to the householder] and not regarded as ready and designated for use on the Sabbath except for one thing alone. [That is, if something may be used for its normal purpose as is, without further preparation, then it is regarded as prepared for use. It is assumed the householder intended to use it on the Sabbath and hence it is available for use on the Sabbath, except in one case, this one. So in all other instances, if the item may be used and is ready for use, even though the householder has somehow lost the object from mind, it remains available for use, at his will, on the Sabbath. The exception is the dish at M. 3:6. It is ready for its normal use. Yet unless it has been placed in its position in advance, it may not be used. The oil has no bearing on its usefulness; it may serve any number of purposes. Nonetheless, it is not available for Sabbath use, as M. 3:6A says.]” [We shall now offer other such instances.]

[B] *R. Eleazar objected*, “Lo, there is the case of the oil in the lamp itself! Lo, it is available for use, and yet it is not regarded as prepared in advance for use on the Sabbath.”

- [C] [No,] to begin with it was designated to be used up in the lamp [and so it is not regarded as available for some other use, once it has been set aside for being burned up].
- [D] *R. Simeon b. Laqish objected*, “Lo, there is the case of grain used for seed. It is available and in hand, and yet not regarded as ready for use.”
- [E] [Here too,] the seed was so designated to begin with: to be planted in the ground and to disintegrate in the soil, [and so it is not regarded as available for use, once it has been set aside to disintegrate].
- [F] *They objected*, “Lo, there is the case of eggs being hatched. Lo, they are available for use, and yet they are not regarded as prepared in advance for use.”
- [G] [Here too,] they were set aside to begin with to hatch [and so are not in the category of what has been prepared for use in some other way].
- [H] *R. Jeremiah objected*, “Lo, there is the case of fruits used in decorating a tabernacle. [They may not be eaten on the eighth day of solemn assembly, the day after the tabernacle no longer is used, because they have served a distinctive purpose as decoration for the tabernacle and have not been designated in advance for eating on that day they have already served the purpose for which they originally were designated, which is as decoration.] Lo, they are ready [without further preparation, to be eaten]. And yet they are not regarded as prepared [for that purpose, and so may not be eaten on the festival].”
- [I] That case is different, for R. Abba Mari, brother of R. Yosé, said, “Seven days of the festival of tabernacles, they are regarded as null in respect to the tabernacle itself. From that point onward [only] are they regarded as designated for use. [So we cannot say they fall into the same category as the lamp. The fruit on the tabernacle was not ready for use at all times, thus prior to the eighth day of solemn assembly, but only now has become ready for use. The dish under the lamp has been in hand and available for use at all times. The householder has lost track of it that Sabbath, on which account, it is not regarded as prepared for Sabbath use, even though, without further preparation, it otherwise is ready for use on that day.]”
- [J] *R. Hinenah objected*, “Lo, there is the case of tufts of wool [which have come out of a pillow, for example]. [They may not be handled on the Sabbath, since, like the dish, they fall into the category of that which has not been designated for use on the Sabbath.] So lo, they are available for use, and yet they are not regarded as ready for that

purpose [and may not be handled, just as is the rule governing the dish under the lamp].”

- [K] Here [Yohanan] has spoken of utensils, while there [in these cited cases] you have referred to food [inclusive of the tufts, which come from sheep, an edible category].
- [L] *R. Nisa objected*, “Lo, there is the case of pieces of fruit which have dried up because the householder has ignored them. Lo, they are available for use, yet they are not regarded as having been prepared for the Sabbath.”
- [M] Here [Yohanan has spoken] of utensils, while what has been stated there concerns food.

3:7

[A] **They carry a new lamp, but not an old one.**

[B] **R. Simeon says, “Any sort of lamp do they carry, except for a lamp which is burning on the Sabbath.”**

[I:1 A] *R. Hiyya bar Aha objected*, “*And lo, we have learned: A basket may be turned over for chickens, so they may run up and down it [M. 18:2]:”* [And it has been taught regarding it: If they went onto it [the basket] by themselves, one may not move them [cf. T. Shab. 15:1).]

[B] *They say*, “*This rule [at M. 3:7A] represents the opinion of R. Judah.*”

[C] *It has been taught*: “**They carry a new lamp, but not an old one**” [M. 3:6E], the words of R. Judah.

[D] **R. Meir says, “All sorts of lamps do they carry, except for a lamp which one has lit on that very Sabbath.”**

[E] **R. Simeon says, “All sorts of lamps do they carry, except for a lamp which is [actually] burning on the Sabbath [M. 3:6F-G].**

[F] “**[If] the flame went out, it is permitted to carry it. [T. adds: But a cup, a dish, and a lantern which they extinguished one should not move from their place [T. Shab. 3:13].**

[G] R. Jeremiah and R. Ba, both in the name of R. Yohanan – one said, “In the view of R. Meir, whatever sort of object is generally designated for a purpose prohibited [on the Sabbath even if the householder himself has not made the designation] may not be [carried about on the Sabbath, even for some permitted purpose].”

- [H] The other said, “[In the view of R. Meir,] whatever sort of object has been specifically designated for a purpose prohibited [for the Sabbath by the householder himself] may not be [carried about].”
- [I] *Now we do not know which authority made the one statement, and which made the other.*
- [J] *On the basis of that which R. Hananiah said, R. Jeremiah asked [following commentaries: with regard to the statement that they may spread mats on bricks on the Sabbath], “Is the brick not designated for a purpose prohibited on the Sabbath [even if the householder himself did not make the designation.” It follows that he is the one who has said, “Whatever is designated for a prohibited purpose on the Sabbath is forbidden.”*
- [K] *He who holds the position that that which is designated for a prohibited purpose [even without the specific intervention of the householder] all the more so [will maintain that what the householder himself has] designated [for a prohibited purpose indeed is prohibited for use on the Sabbath].*
- [L] *But he who maintains [that that which the householder himself has] designated [for a prohibited purpose is disallowed for use on the Sabbath need] not [take the position that that which is] designated in general [for a prohibited purpose, but which the householder himself has not designated for a prohibited purpose, is not subject to a prohibition].*
- [M] *The following passage of the Mishnah stands at variance with the view of him who said, “Whatever is designated [in general] for a prohibited purpose is forbidden [for use on the Sabbath]”:*
- [N] *For we have learned there: **Its device [trundle], when it may be slipped off, is not connected to it, and is not measured with it, and is not afforded protection with it in the tent of a corpse, and they do not drag the trundle on the Sabbath when there are coins on [the chest to which the trundle is related]. [If it may not be slipped off, it is connected to it (the trundle to the chest), and it is measured with it, and it affords protection with it in the tent of a corpse, and they do drag the trundle on the Sabbath even though there are coins in the chest] [M. Kel. 18:2A -C].***
- [O] [In regard to not dragging it on the Sabbath when there are coins in the chest,] it has been taught: If there [while it was still day] were coins on [the chest], and they fell off [after sundown

on the Sabbath], [the trundle] may be dragged. [The trundle thus had been designated for a prohibited purpose, but not by the householder. However, once the coins fall off, he may drag it.]

[P] *Said R. Sheshet, “This represents the view of R. Simeon. For **R. Simeon says, ‘If the fire in the lamp went out, it is permitted to carry it [F].’**”*

[Q] *They said, “Why do we not interpret the passage to be in accord with the opinion of all parties, in a case in which one has forgotten [the coins on the chest]. [Since the householder in no way intended the coins to be on the chest and the chest to be prohibited for use on the Sabbath, we may permit it to be dragged on the Sabbath, should the coins accidentally fall off, so removing from the chest the prohibition the householder imposed on it only by inadvertence.]”*

[R] *You cannot maintain that view [at M. Kel. 18:2], for we have learned there: **If it may not be slipped off, it is connected to it, and it is measured with it, and it affords protection with it in the tent of a corpse, and they do drag the trundle on the Sabbath even though there are coins in the chest [M. Kel. 18:2A- C].***

[S] *Do you now have the alternative of maintaining that this statement represents the view of all parties, in a case in which the householder has forgotten the coins? [Obviously not! Meir cannot concur, since this is an object which on its own traits is prohibited for use on the Sabbath. The issue cannot involve forgetfulness, and the rule can accord only with the principle of Simeon.]*

[T] *The following passage of the Mishnah stands at variance with the view of him who said that that which is designated for a prohibited purpose [even without the specific intervention of the householder] is prohibited [for use on the Sabbath].*

[U] *For we have learned: **A stone which is located on the mouth of a jar – one may turn the jar onto its side, so that the stone falls off [and then use the food in the jar] [M. 21:2].** [The householder may not touch the stone. But he may tip it off. Then he may use what is in the jar. What has been subjected to a prohibition not by the householder’s own action – the jar, under the stone – is permitted and not prohibited, as T has said.]*

[V] R. Ba in the name of R. Hiyya bar Ashi: “Rab interpreted the passage to speak of a case of forgetfulness. [The householder bears no responsibility for the stone’s being located on the jar.]”

[W] *Now as to the latter part of the same passage of the Mishnah: **If the jar was among other jars, the owner may lift up the jar [away from the other jars, so the stone will not break them] and then turn the jar on its side so the stone will fall off [M. 21:2]*** – here too Rab interprets the matter to speak of a case in which there is an aspect of forgetfulness [on the part of the householder].

[X] *There is a further passage of the Mishnah which stands at variance with the position of him who has said, “Whatever sort of object has been designated for a purpose prohibited on the Sabbath [by the householder himself] is prohibited [and may not be carried about.]”*

[Y] *For we have learned: **A basket may be turned over for chickens, so that they may run up and down it [M. 18:2].***

[Z] *In this regard, it has been taught: If the chickens ran up the basket on their own [without the householder’s intervention], it is forbidden to carry it about. [Here the householder has done nothing to prohibit his rights to the basket, yet it is prohibited.]*

[AA] *[That in fact is not the operative consideration. Rather,] said R. Bun bar Hiyya before R. Zeira, “Interpret the passage to speak of a case in which the basket is repulsive, [and that is why, on the Sabbath, the householder may not handle it or move it about]. [The operative consideration is not, then, as alleged at Z].*

[BB] *He said to him, “And has not R. Hoshaiah taught: ‘Even if it was a basket large enough for a seah’s volume, or a tarqab’s volume [it may not be moved about]’? Now do you have the possibility of saying that baskets of such size may be repulsive [and so prohibited]?”*

[CC] R. Jeremiah in the name of Rab: “The law follows the view of R. Meir.”

[DD] Samuel said, “The law follows the view of R. Judah.”

[EE] R. Joshua b. Levi said, “The law follows the view of R. Simeon.”

[FF] *They asked before R. Yohanan*, “Now as for you, what do you say?”

[GG] He said to them, “As for me, I have only what the Tannaitic statement says: **Any sort of lamp do they carry, except for a lamp which is burning that very Sabbath** [D, Meir].”

- [I:2 A] *R. Simeon b. Laqish gave a decision in Tripolis: “A small candlestick may be carried about. [It has no fixed place and may be moved around.]”*
- [B] R. Helbo and R. Abbahu [differed]. Before R. Helbo they did not bring a lamp, and before R. Abbahu they did bring such a lamp [since he concurs with the view of Simeon, M. 3:7B-C].
- [C] *R. Yosé came up to visit R. Tanhum bar Hiyya. He wanted to bring [a lamp] before him. He said to him, “In our presence [the following case was reported:] R. Yosé the Galilean went up to Yosé b. Haninah. He wanted to bring [a lamp before him]. He said to him, Who permitted you to do so?”*
- [D] [Tanhuma continues,] “The following tradition, moreover, is available: ‘Rab and R. Yohanan are those who prohibited doing so, on the one hand, and R. Joshua b. Levi and R. Simeon b. Laqish are those who permit, on the other hand. [Accordingly, it is two against two, and there is no clear outcome.]”’.
- [E] R. Eleazar bar Haninah: “There was a case in which they carried a shaft with a receptacle for a lamp beneath a lamp on the Sabbath. [It was placed under the lamp so as to keep the table from getting dirty.]”
- [F] *Now how shall we interpret this precedent? If the law accords with R. Meir, then even such a receptacle should be forbidden.*
- [G] *If the law accords with R. Simeon, then even carrying the lamp itself should be permitted.*
- [H] *But we have to interpret the story to accord with the view of R. Judah, for it is R. Judah who maintains, “A lamp is apt to become repulsive [and hence may not be carried, as at M. 3:7A], while a receptacle is not apt to become repulsive [and may be carried].”*

- [I:3 A] *It has been taught: A lamp which is on a plank – if one tilts [Y.: removes] the plank, and the lamp falls off, [one puts the plank back in its place] [T. Shab. 3:14B-C].*
- [B] Said R. Yohanan, “One who does such a thing is nearly liable to bring a sin offering. If he tips it forward, [he is nearly liable] on the count of moving the flame about, and if he tips it backward, [he is nearly liable] on the count of putting out the flame.”
- [C] *Samuel bar Abba before R. Yosé:* “This is so if he put the flame out.”
- [D] He said to him, “Let your mind be at ease.”
- [E] How shall we explain this matter [at A, B]?
- [F] If the law is framed in accord with the view of R. Meir, then even moving the plank should be forbidden, [and it may not be put back in place].
- [G] If the law accords with R. Simeon, then even the lamp should be permitted, [so that the householder may transport it].
- [H] Rather, here we deal with the view of R. Judah, for R. Judah said, “The lamp may through use become repulsive, but the plank will not be repulsive.”
- [I] *It has been taught:* If one has made the stipulation in advance [that if the light goes out, he plans to move the plank about], then it should be permitted [at that point to move the plank].
- [J] How shall we interpret this ruling?
- [K] If it is framed in accord with the view of R. Meir, then even if one made the stated stipulation, it is forbidden [to move the plank].
- [L] If the law accords with R. Simeon, then even if there was no such stipulation, it should be permitted to move the plank.
- [M] Rather we must interpret the statement to conform to the theory of R. Judah, for R. Judah said, “The lamp itself may become repulsive.
- [N] *Why then do you insist on interpreting the matter in accord with R. Judah?*
- [O] *For it has been taught:* In the case of a lamp that is placed behind a door – one may open and close the door on the

Sabbath, on condition that one not intend either to put the lamp's flame out or to make it glow more brightly.

[P] *Rab and Samuel interpret this passage to speak of one who has forgotten [the lamp and left it burning there], but they curse one who does it that way [intentionally], citing the following verse of Scripture: "May the Lord cut off from the tents of Jacob, for the man who does this, any to witness or answer, or to bring an offering to the Lord of Hosts" (Mal. 2:12). [Accordingly, in the present matter there is no issue of a prior stipulation.]*

[Q] *[The only appropriate explanation] is in accord with one who maintains that whatever is generally designated for a use prohibited on the Sabbath [even without the householder's knowledge and consent] is prohibited [on the Sabbath in all cases].*

[R] [Reverting to the explanation of the case of the door, above,] it cannot accord with R. Meir, and, so far as R. Simeon is concerned, if one has made such a stipulation [about moving the door once the light goes out], it is permitted to do so.

[II:1 A] **[R. Simeon says, "Au sorts of lamps do they carry, except for a lamp which is actually burning on the Sabbath (M. 3:6F-G). If one put it out, it is permitted to carry it.] But a cup, a dish, and a lantern which they extinguished one should not move from their place" [T. Shab. 3:13].**

[B] R. Tabi in the name of R. Hisda, "That accords even with the view of R. Simeon.

[C] "For while he has said there that it is permitted, he concurs here that it is forbidden.

[D] "For if you tell a person that he is permitted [to deal with the items at A once they are extinguished], then he may very well put out [the fire in] them and make use of them."

[E] *Said R. Mana, "At first we considered maintaining the view that where they differ, it has to do with a case in which the flame went out. [Simeon says it is permitted to move the lamp about, and the other party holds it is forbidden to do so.]*

[F] "[Where Simeon says it is permitted to carry it about, however, it is in a case in which] the mice dragged away the wick, when

the wick is compressed into the candlestick. [Otherwise, Simeon would hold it is prohibited to move the lamp about, since the wick left in the lamp is useless and not available for any purpose on the Sabbath. If it has been removed, however, the lamp is then available.]

[G] “But even if you say we do not deal with a case in which the mice drag the wick away, or even of you say that it is not compressed into the wick, [he may still hold the same position, namely, that it is permitted to move it], in a case in which there is still oil in the lamp after it has gone out. [Simeon will permit moving the lamp about, with the notion that the oil is useful for some other purpose for Sabbath use.]

[H] “[We shall now illustrate G’s principle.] *There we have learned: **One may lift up his child, even though the child has a stone in his hand, or a basket, even though it contains a stone [M. 21:1A-B].*** [This proves that one may move about something which is not available for Sabbath use along with something which is available for Sabbath use or is otherwise not prohibited.]

[I] “*In this regard a member of the House of Rabbi taught:* [There are both] a stone and food in [the basket]. [That is to say, the basket with the stone also contains food, which is available for Sabbath use.]”

[J] [In light of what follows, Mana continues,] “In fact, we should not have maintained this view at all.

[K] “For lo, R. Romanos [said,] Someone removed a basket from the house of Rabbi, full of coals, and this was on the Sabbath. *Now can you maintain that* the coals were tightly packed together? But we deal with a case in which the basket also .”

[L] Said R. Abbahu, “[The story about the household of Rabbi does not prove that point, for it is] to be interpreted as a case in which there was some incense in the basket of coals.”

[II:2 A] R. Ba bar Hiyya in the name of R. Yohanan: “As to a counter it is forbidden to move it about.”

[B] R. Ammi gave a decision that it is permitted to do so.

[C] *R. Jeremiah saw them carrying it about in a large piece of cloth, and he did not object to what they were doing.*

- [D] Members of the House of R. Yannai say, “Up to three handbreadths it is in the status of a chair [which may be carried about because it can serve a Sabbath use]. From that point onward [if it is larger] it is in the status of a ladder. [This then may not be carried about if it is taller.]”
- [E] *Said R. Yosé b. R. Bun, “He who permits carrying it about accords with the view of R. Simeon. For it has been taught:*
- [F] **“A person should not drag a bed, chair, bench or sitting chair on the ground on the Sabbath, because he thereby makes a ditch.**
- [G] **“R. Simeon permits doing so [cf. T. Bes. 2:18].”**
- [H] R. Ba in the name of R. Huna, R. Haggai in the name of R. Zeira, R. Yosé in the name of R. Ila: “Sages concur with R. Simeon in the case of a chair, the legs of which are sunk in mud, that it is permitted to carry it about. [That is, although it will make a ditch, the chair can serve a Sabbath use and so one may move it.]”
- [I] Just as you say it is permitted to carry it about, so along these same lines, it is permitted to put it back into its original place.
- [J] *Said R. Yosé, “We too also have learned: **It may be moved about on the Sabbath [M. Kil. 1:9].**”* [All of this is dragged in the wake of F-G.]
- [K] *Said R. Yosé b. R. Bun, “This represents the view of R. Simeon [and thus not sages].”*
- [L] *Said R. Yosé b. R. Bun, “The Mishnah itself has made the same point: **No utensils may be dragged, except for a wagon, since the latter merely presses the earth without breaking the surface [M. Bes. 2:10].**”*
- [M] [Reverting to D,] *R. Huna in the name of Rab: “The matter [D] has been stated with reference to the Sabbath.”*
- [N] *Hezekiah in the name of the house of R. Hannai: “The matter [D, height of a ladder] has been stated with reference to whether or not the object establishes the presumptive right to remain in its given location [as at Y. B.B. 3:8].”*
- [O] *R. Yosé in the name of the household of R. Yannai: “It was stated with reference to the matter of uncleanness. [Whether it falls in the category of a chair and so receives uncleanness in that category is at issue.]”*

- [II:3 A] R. Aha bar Hinena, R. Yosé in the name of R. Yohanan: “As to a small candelabrum, it is permitted to move it about.”
- [B] And is it not a utensil? And is not everything in the house regarded as ready for use on the Sabbath? [Why should this ruling be required at all?]
- [C] Said R. Yosé b. R. Bun, “Interpret the case to be one in which the man took the object with him for business [and did not pay attention to its being available for use in the house for the Sabbath]. [Accordingly, it is not among the objects ready for use on that day, and the rule has therefore to be specified as at A.]
- [D] “Or perhaps the object came to hand only at dark on the eve of the Sabbath, and you should not draw any conclusions from that fact.”

3:8

[A] They put a utensil under a lamp to catch the sparks.

[B] But [on the Sabbath] one may not put water into it,

[C] because he thereby puts out [the sparks].

[I:1 A] *Here you say:* On the Sabbath they do not put a utensil under a lamp to capture the sparks, nor should one put water into it, because he thereby puts out the sparks [cf. M. 3:8], *while here you say,* They do put a utensil under the lamp [M. 3:8A].

[B] [The two clauses of the Mishnah in fact do not contradict one another,] for here [at M. 3:8A] it is the rule because the householder needs the oil, and there [where one may not do so] it is the rule because he does not need the sparks.

[II:1 A] But on the Sabbath one may not put water into it, because he thereby puts out the sparks [M. 3:8B-C]:

[B] R. Samuel in the name of R. Zeira: “This represents the view of R. Yosé.”

[C] *R. Yosé said,* “*We considered ruling, ‘Where R. Yosé and rabbis differ [at M. 16:6: They may make a partition wall of any sort of utensil, whether filled with water or empty, so the fire will not spread. R. Yosé forbids in the case of new earthenware utensils filled with water, since these will not stand against the fire but will burst and put out the fire,] it is only in a case in which one may make a partition of utensils. But as to making a partition of water itself, there is no dispute at all.’*”

[D] “But on the basis of what R. Samuel has said in the name of R. Zeira, ‘This represents the view of R. Yosé,’ it follows that even if one has made a wall of water against the fire, there still is a dispute.”

YERUSHALMI SHABBAT

CHAPTER FOUR

4:1

[A] (6d) With what do they cover [up food to keep it hot], and with what do they not cover up [food to keep it hot]?

[B] They do not cover with peat, compost, salt, lime, or sand,

[C] whether wet or dry.

[D] or with straw, grape skins, flocking [rags], or grass,

[E] when wet.

[F] But they do cover up [food to keep it hot] with them when they are dry.

[G] They cover up [food to keep it hot] with cloth, produce, the wings of a dove, hackled flax,

[H] and carpenter's sawdust.

[I] R. Judah prohibits in the case of soft [hackled flax] and permits in the case of coarse [hackled flax].

[I:1 A] [Explaining why one may not cover up food with these substances, even while it is still day, prior to the Sabbath:] The reason is that these things both boil and cause boiling, so while it is still day the cook will remove them [from covering the food]. The food may lose some of their heat in his hand, and then he will put them back [when it is the Sabbath], and they will continue to add heat (to the food). Accordingly, sages have forbidden covering up food in them.

[B] [At issue now is M. 4:2, which is as follows: **They cover up (food to keep it hot) with fresh hides, and they carry (handle) them; with wool shearings, but they do not carry them. What does one do? He (simply) takes off the cover, and (the wool shearings) fall off (on their own). R. Eleazar b. Azariah says, "A basket (holding a pot and shearings) does he turn onto its side, and he removes (the food), lest he should take it and not be able to put it back."** And

sages say, “**He takes (out the food) and puts it back**’]. Now this ruling before us accords in particular with the view of R. Eleazar b. Azariah, who says, “A basket does he turn onto its side, and he removes the food.”

[C] *It also is in accord with rabbis from over there [in Babylonia], who say, “If it was a [copper] kettle, it is permitted [since in that case there is no adding of heat; but if there is the possibility of adding heat, one may not use such a substance].”*

[I:2 A] [Taking up the issue of the stress on covering up food while it is still day, we wish now to ask whether one may simply not cover up food at all once the Sabbath has begun.] *There we have learned: **If it is a matter of doubt whether or not it is getting dark [i.e., that the Sabbath has begun], they do cover up what is to be kept hot [M. 2:7].*** The reason, then, is that it has not gotten dark. But if it had gotten dark, one would not have been allowed to cover the food over at all – [and that would mean, with any sort of substance. Why is this the case?]

[B] There they say, “That is because of the possibility of cutting short time available for learning in the study house. [If it is permitted to cover food after dark, people will rush home to do so, and they will not stay for the lecture on Sabbath law, held in the synagogue after evening prayers on the Sabbath. If they cover food at home prior to sundown, they will stay for the lecture.]”

[C] Said R. Ba, “It is because of the possibility that if you rule in that way, that it is permitted to do so, then the householder will not do all that is necessary while it is still daylight, [but he will leave the covering over to be done after dark]. If you tell the householder that it is forbidden, then he will do everything that is necessary while it is still daylight.”

[D] *What is the practical difference between these two reasons [for the ruling of A]?*

[E] It is the case of putting into snow or other cold substances things one wants to keep cold.

[F] *In the view of R. Ba,* it is permitted to do so [just before dark].

[G] *In the view of rabbis from over there,* it remains prohibited [since the same consideration, namely, study time, is still in force].

[I:3 A] [They forbade keeping food warm through covering it up on account of the possibility of leaving the food on the stove. [If one is permitted to

cover it up, he will assume it is equally permissible to leave food on the stove to keep it hot.]

- [B] And contrariwise: they have forbidden leaving food on the stove on account of the possibility of covering it up.
- [C] They forbade using a stove for keeping food warm, in the case of a stove which produces only a small amount of hot air, on account of the possibility of one's then using a stove which produces a great deal of hot air.
- [D] They forbade keeping warm on the Sabbath itself food that had been thoroughly cooked, because [one might then keep warm] food that had not been thoroughly cooked [with the result that it will be further cooked on the Sabbath].
- [E] They forbade keeping water hot because [one might then] keep food hot that had been cooked thoroughly. [L reads: "They forbade keeping food hot that had been cooked thoroughly because (one might then) keep water hot."] Then they retracted and permitted keeping water hot.

[I:4 A] [*It has been taught*: they do not cover food in hot ashes [lest they contain glowing coals and cause additional cooking].

[B] Said R. Zeira, "That is to say that it is permitted to cover food with cool ashes."

[C] *There is the following story: The daughter of R. Yannai was serving before her father, and she brought before him a boiling dish on the Sabbath.*

[D] *He said to her, "How was it made?"*

[E] *She said to him, "The pot was kept warm like a hoe in peat."*

[F] *He said to her, "Do not do it that way, but put the pot into a basket, and put the basket into peat."*

[G] *Said R. Zeira, "In this regard R. Hanina differs. R. Aha expounded in the name of R. Haninah: If one places peat beneath and straw on either side, it is forbidden."*

[H] *And R. Yannai concurs in this ruling, [but he imposed a stricter ruling on himself].*

[I:5 A] If [things which add heat were] mixed up [with things which do not add heat,] what is the law as to using it for a covering?

[B] *Let us derive the rule from the following: **They cover up food to keep it hot with cloth, produce, and the wings of a dove** [M. 4:1G]. [The failure to indicate that among the items that may be used is a mixture such as A proposes proves that such a mixture may not be used.]*

[C] R. Yosé [read “Judah”] b. Pazzi in the name of R. Yosé bar Haninah: “That rule [that one may make use of cloth] applies in a case in which the decay in them [from moths] is not far advanced. But if the decay is far advanced, it is forbidden to cover food in them [since they will produce heat].”

[II:1 A] And not in sand [M. 4:1B]:

[B] *There we have learned: **They put the corpse in sand so that it will keep** [M. 23:5].*

[C] *Sand may have two effects, either increasing heat or increasing cooling.*

[III:1 A] As to straw [M. 4:1D]:

[B] *Straw is like a bailee: it returns just what you give to it.*

[C] With any sort of substance one might have to keep away from the wall of a house, they may not cover food. [It would add heat, so damage the wall.]

[D] *Said R. Yosé, [explaining C,] “That is to say, with the things concerning which we have learned there [at M. B.B. 2:1ff.], they do cover food.”*

[E] [Expanding on D:] That which you have said implies that such substances as may be used for covering food also need not be kept four cubits away from the shared wall [of a neighbor, since they will do no damage].

[F] *R. Haggai objected, “And has it not been taught: **He who rents a house to his fellow – the latter may not turn it into a storage house for grain** [T. B.M. 8:30L]?”*

[G] *On what account? Is it not because it will ferment [and produce heat]?*

[H] *Said R. Hananiah, “No, the operative consideration is that it will attract mice.”*

[I] *Said R. Phineas b. R. Haninah, “If the operative consideration were that it will attract mice, then we let the law state [that it is*

forbidden to turn it] into a storage house for any purpose whatsoever. *Accordingly, R. Haggai raised a very good question indeed.*”

[J] *R. Shimi objected*, “Lo, there is the case of stones. One has to keep them four cubits from the wall [of his neighbor], and, if so, it should be forbidden to cover food with them, [but M. 4:1 knows no such prohibition].”

[K] Said R. Yosé, “It is not that stones increase the heat, but they make an indentation and thus ruin the floor support of the wall.”

[L] *And lo, it has been taught*: “They do not cover food with stones.”

[M] Interpret the statement to refer to stones made of silver, [but with respect to regular stones, they may cover].

[N] *There is then a Tannaite authority who teaches*, “They do cover food with stones.” *And there is a Tannaite authority who teaches*, “They do not cover food with stones.”

[O] *Said R. Hisda*, “*He who has said*, ‘They do cover food with stones,’ speaks of stones containing gold or copper.

[P] “*He who has said*, ‘They do not cover food with stones,’ speaks of stones containing silver.”

[IV:1 A] **They do not cover up with them when they are wet, M. 4:1E:]** It is not the end of the matter that they may not do so when they are wet.

[B] But even if they were dry and were artificially moistened, [one may not use them,]

[C] on the analogy of flocking rags. For are not flocking rags in the category of things which had been dried and then were moistened?

[D] *R. Yohanan bar Shila*: “*That is to say that* if one gathers things that sages have listed for use when they are dry, he has to leave out a bit and not fill the entire utensil with them, for when he comes to remove the food, he may spill some of it and wet down the covering.”

[IV:2 A] [With reference to M. 4:1D-F’s mention of wet and dry grass:] *there we have learned*: [As to sherds which were used with unclean liquids and which fell into the airspace of the oven, when the oven is heated, it is unclean, for liquid eventually exudes.] And so is the

rule with new olive peat. But with respect to old olive peat, the oven is clean [M. Kel. 9:5].

[B] What is the definition of new and of old?

[C] R. Yosé b. R. Bun in the name of R. Yohanan: “**New peat has been dug in the preceding twelve months, and old peat has been dug more than twelve months ago [T. Kel. B.Q. 6:18J].**” [Hence grass is likewise wet within twelve months and dry after twelve months.]

[V:1 A] **[They cover up food with cloth, produce, and wings of a dove [M. 4:1G]:**

[B] *R. Judah bar Pazzi in the name of R. Jeremiah bar Haninah: “That rule [that one may make use of cloth] applies in a case in which the decay in them [from moths] is not far advanced. But if the decay is far advanced, it is forbidden to cover food in them [since they will produce heat].”*

[VI:1 A] **...hackled flax and carpenter’s sawdust [M. 4:IG-H]:**

[B] *We have learned the formulation of the Mishnah using the word nesoret, while teachers of the house of rabbi read, neoret.*

[C] *And this indicates that both words bear the same meaning.*

4:2

[A] **They cover up [food to keep it hot] with fresh hides, and they carry [handle] them;**

[B] **with wool shearings, but they do not carry them.**

[C] **How does one [remove the wool shearings, since he may not touch them]?**

[D] **He [simply] takes off the cover, and [the wool shearings] fall off [on their own].**

[E] **R. Eleazar b. Azariah says, “A basket [holding a pot and shearings] does he turn on its side, and he removes [the food],**

[F] **“lest he should take it and not be able to put it back.”**

[G] **And sages say, “He takes [out the food] and puts it back.”**

[I:1 A] *R. Judah b. Pazzi in the name of R. Jonathan: “That which you say [about carrying hides] applies when they are with the householder.*

B] *“But if they are in storage [at a craftsman’s, for example], it is not in such an instance that the rule applies. [In the latter in-stance the hides are*

available to be worked and are not ready for purposes suitable for the Sabbath.]”

[II:1 A] [With wool shearings, but they do not carry them [M. 4:2B]:

[B] *R. Judah and R. Yohanan: “That which you say [about not carrying wool shearings] applies when they are in storage. But if they are with the householder, it is not in such an instance that the rule applies.”*

[II:2 A] R. Jeremiah in the name of Rab: “They spread out mats on trays of bricks [which are left out to dry, in the event of rain] on the Sabbath. [Since one might choose to sit on them, they are regarded as ready and available for a permitted purpose.]”

[B] Said R. Simeon b. Rab [Yannai], “I did not hear this teaching from father.

[C] “But my sister reported to me in his name: ‘An egg born on the festival – they set up a utensil against it to keep it from rolling, but they do not turn a dish over on it [for such a purpose].’”

[D] Samuel said, “They may turn a dish over on it.”

[E] Said R. Mana, “But that is on the condition that the utensil should not touch the egg itself.”

[F] *R. Hoshaiiah taught: [7a] “As to a beehive, they spread a sheet on it in the dry season on account of the sun, and in the rainy season on account of the rain.”*

[G] Does he concur with Rab [drawing the analogy to the tray of bricks] or with Samuel [requiring then that the sheet not actually touch the beehive]?

[H] [It may accord with Samuel]. Here [in the case of the beehive one puts the covering] on top of [the hive], there [in the case of the egg, the dish goes] under [the egg, and there the dish must be kept from touching the egg].

[II:3 A] R. Bisna in the name of R. Yosé bar Hanina: “It is forbidden to carry the teeth of a comb [or web] used for weaving veils [since these are designed for work and not an activity permitted on the Sabbath].”

[B] *There were nets spread on the ground, and they were drying up in the sun. They came and asked Rab, “What is the law about carrying them out of the sun?”*

- [C] *He said to them, “Consider using them to place them under your heads,” and on the strength of that possible use on the Sabbath, he permitted them to carry the nets.*
- [D] R. Zeira in the name of R. Jeremiah: “As to the sawed-off tops of logs, to which one gave thought [for use as chairs] prior to the Sabbath, it is permitted to carry them about.”
- [E] *R. Jonah and R. Yosé went up to the session of Bar Ulla. There was a bench there, as well as tops of logs [set up]. They came and asked him, “What is the law on moving them about?”*
- [F] He said to them, “If you gave thought to them in advance [of the Sabbath], it is permitted to move them about, and if not, you are not permitted to carry them about.”
- [G] *R. Halapta bar Saul taught, “As to wool shearings concerning which in advance of the Sabbath one gave thought, it is permitted to move them about on the Sabbath.”*
- [H] *R. Yosé b. Saul taught, “A pile of beams to which one gave thought on the preceding day – it is permitted to move them about.”*
- [I] *R. Yosé, R. Haninah in the name of R. Ishmael b. R. Jacob bar Aha, R. Jacob bar Idi, R. Hanina in the name of R. Ishmael b. R. Yosé: “Father was a tanner, and he would say to us, “Tie the tassels [of the wool shearings that were ready for sale], and you will be permitted to carry them about tomorrow [on the Sabbath].”*
- [J] Hezekiah said, “Even if he squeezes them [that suffices, and one need not tie them].”
- [K] Rab said, “Straw which one chopped up for lying does not require binding [to indicate its purpose; the mere intent suffices to permit lying on that straw on the Sabbath].
- [L] “But if he chopped it to form tents, then it does require binding [to be available for use for sitting on the straw on the Sabbath, since, unbound, it cannot be used for that purpose].”

[M] R. Abba bar Hanah said, “Whether it is for lying on the straw or using it for a tent, it does have to be bound up [for use on the Sabbath].”

[N] Said R. Hezekiah, “But the binding up to which Rab referred in the case of using the straw for tents is not the same as the binding up to which R. Abba bar Hannah referred for using the straw for some sort of utensils [e.g., for sitting].

[O] “When Rab refers to binding up the straw for tents, he requires that the man bind all of the thorns and brambles on the straw [since otherwise it will not serve its purpose].

[P] “When R. Abba bar Hanah refers to binding the straw for use as utensils, he [only] requires binding so that the straw may fit the description of some specific utensil.

[Q] “If you rule that the straw has to be bound so that the brambles and thorns also are bound up, there is no actual deed greater than that [to signify one’s purpose].”

[R] R. Jacob bar Idi in the name of R. Jonathan: “A person should never refrain from going to the schoolhouse. For lo, how many times has this law been presented as a question in Yavneh: ‘A little ship used for riding on the Jordan: on what account is it susceptible to uncleanness?’

[S] “And no one replied to this question, until R. Haninah b. Antigonus came and taught in his town: ‘As to the small boat used for riding on the Jordan, why is it susceptible to uncleanness? Because they fill it with produce and transport it [with the produce] from water to land, and from land to water. [Accordingly, it is not strictly speaking a ship at all, which is normally unsusceptible to uncleanness, but rather serves as an amphibious container.]”

[T] “And a further matter did he teach: ‘Straw which one chopped, whether for lying on it or for using it for a tent, must be tied up.’”

[U] *They replied [as to B]*, “Lo, there is the sort of boat in Ashkelon [which is not susceptible to

uncleanness, and yet which falls under the description of B].”

[V] Said R. Isaac bar Eleazar, “That case is different, for part of it is in the water, and part on land.”

[W] [As to the requirement, above, that the straw be so tied that it may be called a utensil,] the view of R. Ba bar Hana [M] accords with the view of R. Hanina.

[X] For R. Hanina said, “We were going with Rabbi to the hot springs of Gerar, and he would say to us, ‘Choose for yourselves shares of stones [on which you plan to sit], and you may then carry them about tomorrow.’”

[Y] [Explaining this instruction,] R. Zeira said, “[Rendering the stones suitable means that] one must scrape the stones.”

[Z] Associates say, “One must polish them.”

[AA] *Sepphorean authorities* say, “One may merely give thought to them.”

[BB] R. Yohanan said, “One must so treat them that they fit the description of a utensil.”

[CC] *It turns out that R. Hanah bar Abba, R. Yohanan, and R. Jonathan hold one opinion in common; Rab, R. Zeira, and R. Ishmael b. R. Yosé hold one opinion in common; the Sepphorean authorities, R. Yosé b. Saul, and R. Halapta b. Saul hold one opinion in common. As to the view of associates, there is no one else who shares it.*

4:3

[A] [If] he did not cover up [the food] while it is still day, he should not cover it up after dark.

[B] [But if] he covered it up and it became uncovered, it is permitted to cover it up again.

[C] One fills a jug [on the Sabbath with cold food or liquid] and puts it under a pillow or a blanket [to keep it cool].

[I:1 A] [If one removed the cover from the food while it was still day, *he* may put it back while it is still day.

[B] If he removed it once it had gotten dark, he may put it back thereafter as well.

[C] If he took it off while it was still daylight, and then the day became sanctified [through sunset, what is the law? This question is not answered.]

[I:2 A] R. Ba in the name of R. Judah: “If in removing the kettle from the wool flocking, the hole in which the kettle had been placed was spoiled, it is forbidden to put the kettle back [by rearranging the flocking].

[B] “But it is permitted to move the kettle from one stove to another.”

[C] That is based on the following statement, for R. Eleazar said in the name of R. Joshua: “When I was serving R. Hiyya the Elder, I would bring him hot water from the lower level [of the stove], putting the kettle back on the upper level of the stove.”

[D] And they may put the kettle back on the stove.

[E] R. Jeremiah said, “This accords with the view of R. Simeon.”

[F] That is the case, even if it is from a stove which produces only a small amount of hot air to a stove which produces a large amount of hot air.

[G] But as to moving a kettle from the stove to a covering [for retaining the heat], that is forbidden. Likewise, it is forbidden to move the kettle from being covered to retain the heat to the stove.

[H] The issue is whether it is permitted to move the kettle from one covering to another covering.

[I] [With reference to M. 4:3B:] If the pot became uncovered while it was day, one may cover it up while it is still day.

[J] If it became uncovered after dark, one may cover it up again after dark.

[K] If it became uncovered while it was still day, and then the day became sanctified [through sunset, what is the law? This question is not answered].

[I:3 A] *It has been taught: They do not cover up hot food or water once it has gotten dark, but they may add cloths or utensils to put over them [cf. T. 3:20A-B].*

[B] And how much of a covering must be on the pot to begin with, so that it is permitted to add further coverings?

[C] R. Zeriqan in the name of R. Hanina: “Even if there is only a napkin, [that suffices, and further covering may be added].”

[D] Said R. Zeira, “But that is on the condition that it is something which does some good.”

[E] Said R. Hanina, “Everything [used for a cover] does some good.”

[F] *Said R. Mattenaiah, “And that is so. If someone took a rag and put it on his head when it is cold, does the cold not go away somewhat?”*

[I:4 A] **And just as they do not cover up hot water to begin with on the Sabbath [M. 4:3A], so they do not cover up snow and ice [vs. M. 4:3C] [T. Shab. 3:23E-F].**

[B] Rabbi permits doing so [as at M. 4:3C].

[C] *Samuel bar Abba objected to the first assumption above [that it is forbidden to cover up what is cold].”And lo, it has been taught: **One fills a jug on the Sabbath with cold food or liquid and puts it under a pillow or a blanket to keep it cool [M. 4 3C].*** Does this not conform to the view of Rabbi?”

[D] [No, it may well accord with all parties.] Here [where the Mishnah permits covering up what is cold], it is for a little while, while there [where there is a dispute], it concerns keeping the arrangement for some time.

YERUSHALMI SHABBAT

CHAPTER FIVE

5:1

[A] [7b] With what does a beast [Ex. 20:10] go out [on the Sabbath], and with what does it not go out?

[B] A camel goes out with its curb, a female camel with its nose ring, a Libyan ass with its bridle, and a horse with its chain.

[C] And all beasts which wear a chain go out with a chain and are led by a chain, and they sprinkle on the [chains if they become unclean] and immerse them in place [without removing them].

[I:1 A] *It has been taught:* R. Ishmael b. R. Yosé in the name of his father [says], “There are four domesticated beasts that are led by a curb, and these are they:

[B] “A horse, mule, asses, and camel” [T. Shab. 4:1A].

[C] Said R. Hezekiah, “And the mnemonic [is in the following verse]: ‘And a plague like this plague shall fall on the horses, the mules, the camels, the asses, and whatever beasts may be in those camps’ (Zech. 14:15).”

[D] Rab said, “The law is in accord with the view of R. Ishmael b. R. Yosé.”

[II:1 A] **A Libyan ass:**

[B] *There is a Tannaite authority who gives the word as* LDGQS.

[C] *He who gives the word as* LWBDQS [as it is in the Mishnah] cites in support of his view the following verse, “And the Libyans and the Ethiopians shall follow in his train” (Dan. 11:43).

[D] *He who gives the word as* LGDQS [or: NYBRQWS] [in more current usage means] AMBATOS. What is the meaning of the word AMBATOS? It is an ass that goes up [on it, i.e., for riding].

[E] *R. Jonah said R. Hoshaiah asked, “As to proselytes who come from Libya [which may be confused with Egypt], what is the law on waiting for them for three generations [before admitting them into normal endogamous relationships with other Israelites, as is the case with Egyptian proselytes]?”*

[F] *Said R. Jonah of Bozrah, “Libya indeed is regarded as part of Egypt,] on the basis of that which we see in the case of an Egyptian bean: when it is green they call it Libyan; when it is dry, they call it an Egyptian bean. Accordingly, a proselyte from Libya [falls into the category of an Egyptian and so] must wait for three generations. That is to say, a Libyan is regarded as an Egyptian.”*

[G] R. Isaac bar Nahman in the name of R. Oshaia: “The law [at Y. Kil. 8:3] is in accord with the opinion of the disciple.”

[H] But in the view of sages, all sorts of mules fall into a single category.

[III:1 A] [Noting the repetition of the rule for the horse with its chain at M. 5:1C, all beasts which wear a chain,] R. Samuel in the name of R. Zeira: “Just as you make that point with respect to the prohibition, so the same point applies with regard to all other beasts in respect to the absence of such a prohibition. [The horse provides the analogy for all beasts in this instance; all of them may wear a chain.]”

[III:2 A] **And a horse with its chain [M. 5:1B]:**

[B] [With reference to M. 5:1C, **And they sprinkle on them, etc.:**] *And has it not been taught: A ring of man is susceptible to uncleanness as an ornament. A ring of a beast and one serving a utensil, and all other rings when not attached to something susceptible to uncleanness, are insusceptible to uncleanness [since they do not serve the needs of man] [M. Kel. 12:1A-B]. [Why then should it be necessary to sprinkle on the chains at all or to immerse them?]*

[B] Interpret the law to speak of [chains] made to lead them [and thus for human use () and therefore susceptible to uncleanness].

[IV:1 A] [**And are led by a chain (M. 5:1C):**] And will the chain not make some sort of a ditch [in the dirt, when it is dragged along]?

[B] The law accords with the view of R. Simeon,

[C] *for it has been taught: A person should not drag a bed, chair, bench, or sitting chair on the ground on the Sabbath, because he*

thereby makes a ditch. But R. Simeon permits doing so [T. Bes. 2:18].

[D] *Said R. Hinena, “It accords with the following, which is taught: A door which is dragged on the ground, a reed mat which is dragged, and screens which are dragged – they open and close them on the Sabbath, and it goes without saying, on the festival [T. Erub. 8:12].*

[E] *And so too it has been taught: Reed mats [T.: which are spread out over the doors of shops in the public way,] if they were tied and suspended onto the place, they open and close them [T. Erub. 8:11A-B] on the Sabbath, and it goes without saying, on the festival. [These several passages represent the view of all parties, not only Simeon.]*

[V:1 A] **They sprinkle on the chains if they become unclean and immerse them in place without removing them [M. 5:1C]:**

[B] *There we have learned: And she should not immerse when dressed in them, unless she loosens them [M. 6:1C], and here you say this?*

[C] *Said R. Mana, “Here [where they need not be removed,] they lie loosely, while there [where they must be removed], they are tightly put on.”*

5:2

[A] **An ass goes out with its saddlecloth when it is tied on to him [before the Sabbath].**

[B] **Rams go out strapped up [at the male organ].**

[C] **And female [sheep] go forth strapped over [and thus raising] their tails, under [and thus lowering] their tails, or wearing protective cloths.**

[D] **And goats go forth [with] bound [udders].**

[E] **R. Yosé prohibits in the case of all of them,**

[F] **except for the case of ewes wearing protective cloths.**

[G] **R. Judah says, “Goats go forth with bound udders to keep them dry, but not to collect the milk.”**

[I:1 A] [With reference to M. 5:2A,] **Samuel said, “That is the case if it is tied to him in advance of the Sabbath. [But if one merely spreads the blanket, that may be done on the Sabbath itself.]”**

- [B] Hanin of Gyptah said before Samuel, “R. Hiyya bar Ashi did not practice the law in that way.”
- [C] He said to him, “That was the practice with regard to the fodder bag. [That is, it is not necessary to tie on the fodder bag in advance of the Sabbath. All the more so will it be permitted to spread the blanket, without tying it on, on the Sabbath.]”
- [D] *For it has been taught:* “Rams go out with the fodder bag.”
- [E] *R. Aha bar Papa objected before R. Zeira, “Lo, it has been taught: A rope tied onto a cow one may tie onto the crib, and one tied onto the crib one may attach onto the cow [T. Shab. 12:15G].*
- [F] *“Now there is no problem in the former part of the rule, that if it is tied onto the cow, one may tie the other end onto the crib.*
- [G] “But if the rope is tied onto the crib, and one ties it onto the cow, will it not turn out that one is making use of the sides of the beast on the Sabbath?”
- [H] Said Rabbah, “Interpret the case to involve loosely tied knots.”
- [I] Said R. Yosé, “Is there a difference with respect to the prohibition against using the sides of the beast between a knot which is tightly tied and one which is not tightly tied? [Surely not!]”
- [J] Said R. Shimi, “Interpret the passage to accord with the view of R. Simeon b. Eleazar, for R. Simeon b. Eleazar says, ‘It is permitted to make use of the sides of a beast on the Sabbath. The same rule applies to the sides of a beast and the sides of a tree.’”
- [K] Said R. Mana, “One may interpret the passage [A] to speak of tying a rope onto a rope [but not onto the crib directly].”

[II:1 A] Rams go out strapped at the male organ [M. 5:2B]:

- [B] One puts a tanned hide against the heart [of the beast], and it protects the female.

[III:1 A] Female sheep go forth strapped over their tails [M. 5:2C]:

- [B] *There is a Tannaite authority who repeats the word as SHWZWT, and there is a Tannaite authority who repeats the word as SWZWT. [While both mean uplifted tails, they are given distinct renderings in C-D:]*

[C] *He who repeats the word as SWZWT holds that it means, “prepared,” as we read, “And lo, a woman meets him, dressed as a harlot (SYT ZWNH), wily of heart” (Prov. 7:10).*

[D] *He who holds that it means SHWZWT (or: strapped up) alludes to the use of the same word in this statement: “They do not strap a knife.”*

[III:2 A] As to **protective cloths**, it is something soft and thick.

[III:3 A] As to **tying something under [thus lowering] their tails** [KBWLWT], it is so that a male will not mount them.

[B] R. Abun in the name of R. Hiyya: “[Therefore he said, ‘What kind of cities are these which you have given me, my brother?'] So they are called the land of Cabul to this day’ (1 Kings 9:13). It is a land which does not yield produce.”

[IV:1 A] **R. Judah says, “Goats go forth with bound udders to keep them dry, but not to collect the milk” [M. 5:2G]:**

[B] *It has been taught:* R. Judah b. Betera says, “Whether it is to keep them dry or to collect the milk, it is forbidden.”

[C] R. Judah b. Betera ruled quite properly. But what is the reason for the view of rabbis?

[D] *R. Yosé b. R. Ba in the name of R. Judah, R. Yohanan produced the same tradition in the name of Rab:* “The law accords with the view of him who says, ‘Whether it is to keep them dry or to collect the milk, it is forbidden,’

[E] “since who in the world will know the difference [in the man’s intent]?”

5:3

[A] **And with what does [a beast] not go out?**

[B] **A camel does not go out with a pad, nor with forelegs bound together [or: hind legs bound together] or with a hoof tied back to the shoulder.**

[C] **And so is the rule for all other beasts.**

[D] **One should not tie camels to one another and lead them.**

[E] **But one puts the ropes [of all of them] into his hand and leads them,**

[F] **so long as he does not twist [the ropes together].**

[I:1 A] *[The pad] is like a rock [of a plumb line] to level the crookedness [of a wall].*

[B] **Bound** refers to binding the foreleg.

[C] **With the hoof tied** refers to tying both the hooves.

[II:1 A] **One should not tie camels to one another and lead them [M. 5:3D]:**

[B] Said R. Ba, “It is so that people will not suspect the man, saying, ‘So-and-so went out to do his ordinary labor on the Sabbath day.’”

[C] [As to not twisting the ropes together,] Assi says, “It is because of the consideration of mixed seeds.”

[D] R. Judah in the name of Samuel said, “If it is tied to the neck of the beast, it is prohibited. If it is hung down from the neck of the beast, it is permitted.”

[E] R. Huna and R. Judah both in the name of Samuel: “One said, ‘If it is [hanging] from his hand, it is forbidden, and if it is [hanging] from the neck of the beast, it is permitted.’ The other reverses matters.”

[F] He who said, “If it is [hanging] from his hand, it is forbidden,” it is because that would constitute carrying a burden on the Sabbath.

[G] “If it is [hanging] from the neck of the beast, it is permitted,” because it does not constitute a burden for the beast on the Sabbath.

[H] He who said, “If it is [hanging] from his hand, it is permitted,” holds that view because it is not possible to do things otherwise.

[I] “If it is [hanging] from the neck of the beast, it is forbidden,” because man is commanded concerning the Sabbath rest of the beast, as he is concerning his own Sabbath rest, as it is said, “Six days you shall do your work, but on the seventh day you shall rest; that your ox and your ass may have rest, and the son of your bondmaid, and the alien, may be refreshed” (Ex. 23:12).

[J] *It has been taught: If the rope hangs more than a handbreadth from the man’s hand, it is forbidden [T. Shab. 4:4E]:*

[K] Said R. Zeira, “If it is [hanging] from his hand, it is forbidden. If it is [hanging] from the neck of the beast, it also is forbidden.

[L] “If it is [hanging] a handbreadth from his hand to the neck of the beast, it is furthermore forbidden.”

[M] Then under what circumstances will it be permitted?

[N] *Said R. Yohanan bar Mareh, “He who does things properly will conduct himself as one does with a Saracen horse [which answers to a call, without a bit].” or, following , [near whose neck one merely places one’s hand].”*

5:4

[A] An ass does not go out with its saddlecloth when it is not tied to him,

[B] or with a bell, even though it is plugged,

[C] or with the ladder yoke around its neck,

[D] or with a strap on its leg.

[E] And fowl do not go forth with ribbons or straps on their legs.

[F] And rams do not go forth with a wagon under their fat tail.

[G] And ewes do not go forth protected [with the wood chip in their nose].

[H] And a calf does not go out with its rush yoke,

[I] or a cow with a hedgehog skin [tied around the udder], or with a strap between its horns.

[J] The cow of R. Eleazar b. Azariah would go out with a strap between its horns,

[K] not with the approval of the sages.

[I:1 A] *It has been taught: But it walks about in the courtyard [wearing it (M. 5:4A)] [T. Shab. 4:5K].*

[B] R. Samuel in the name of R. Zeira, “The rule [covering the saddlecloth] applies also to the saddle.”

[C] *It has been taught: Rabban Simeon b. Gamaliel says,] “An ass goes forth with its saddle when it is tied on to it to keep it warm,*

[D] “and this is on condition that one not tie the band on to it and pass the strap under its tail” [T. Shab. 4:2].

[I:2 A] *R. Jeremiah asked before R. Zeira, “Whence do we learn these various rules? For we have learned: The laws of the Sabbath are like mountains suspended from a thread [so far as scriptural bases for them are concerned] [M. Hag. 1:8]. And you say this? [The distinctions made in the Mishnah appear to rest on no clear authority.]”*

[Why ask regarding a particular Sabbath law, for as a whole they have few supports.]

[B] *And why did he not reply to him:* “What is the difference between the ladder yoke [7c] and the splint [for the beast may not carry the former but may wear the latter on the Sabbath]? The former is substantial, the latter is insubstantial.”

[C] *Said R. Hiyya,* “*And why should he not give him an answer on the difference between wearing splints[, which is permitted,] and wearing an amulet prepared by an expert [which is prohibited]? For it has been taught, It is forbidden for a beast to go forth wearing an amulet prepared by an expert [T. Shab. 4:5G].*”

[D] *Said R. Amedimi,* “*And why should he not reply to him, ‘What is the difference between splints and a bandage on a wound?’*”

[E] *There is a Tannaite authority who teaches: “They do not go forth with splints,” and there is a Tannaite authority who teaches: “They do go forth with splints” [cf. T. Shab. 4:5/I].*

[F] *Said R. Hiyya bar Ada,* “*It represents a difference of opinion among Tannaite authorities:*

[G] “*He who has said, ‘They go forth wearing splints,’ maintains also that they go forth wearing a bandage on a wound.*

[H] “*And he who has said, ‘They do not go forth wearing splints,’ also holds that they do not go forth wearing a bandage on a wound.*”

[II:1 A] **Rams do not go forth with a wagon under their fat tail [M. 5:4F]:**

[B] It is because it makes a ditch in the ground.

[III:1 A] **And ewes do not go forth protected with the wood chip in their nose [M. 5:4G]:**

[B] R. Judah said, “It is a ball of wool.”

[C] R. Yosé in the name of R. Hama bar Hanina: “It is a root of an herb, and it is called Yahanonah.”

[D] *R. Zeira asked before R. Yosé,* “*Is that not to say that it is forbidden for a beast to go forth wearing an amulet made by an expert?*”

[E] *He said to him,* “*That is certainly the case, O Babylonian, and [why] should you express surprise about it?*”

[IV:1 A] A calf does not go out with its rush yoke:

[B] R. Huna said, “It is a small plow.”

[C] R. Hisda said, “It is a wooden board.”

[D] Abba bar R. Huna said, “It is a furcated spear [set under the head of the calf [to prevent it from lowering its head to give suck to its young].”

[E] *There is a Tannaite authority who repeats the word, GYMON.*

[F] *And there is a Tannaite authority who pronounces it, GYMWL.*

[G] *He who says it is in the word GYMON cites the following verse: “[Is such the fast that I choose, a day for a man to humble himself? Is it to bow down his head like a rush, [and to spread sackcloth and ashes under him? Will you call this a fast, and a day acceptable to the Lord?]” (Is. 58:5).*

[H] *And he who uses the spelling GYMWL cites this verse: “And when she had weaned him, she took him up with her, [along with a three-year-old bull, an ephah of flour, and a skin of wine and she brought him to the house of the Lord at Shiloh; and the child was young]” (I Sam. 1:24).*

[I] *He who spells the word GYMWN supports the view of R. Huna.*

[J] *He who sees it as GYMWL supports the view of Abba bar R. Huna and R. Hisda.*

[V:1 A] Nor a cow with a hedgehog skin tied around the udder [M. 5:4/I]:

[B] The herdsman puts such a skin around her teats so that it will not give suck to its calf.

[VI:1 A] The cow of R. Eleazar b. Azariah would go out with a strap between its horns, not with the approval of the sages [M. 5:4J-K]:

[B] R. Ba, Rab and Samuel – both of them say, “In the view of sages, even [if the strap between the horns, M. Bes. 2:8B] is to lead the cow, it is forbidden [for the cow to go forth on the Sabbath with such a strap].”

[C] R. Ba in the name of Samuel: “If the cow’s horns were pierced [so that the strap was integral to them], it is permitted.”

[D] *R. Yosé raised this question before R. Ba: “And has not the master learned that which we recite: **But with a ring in its nose [M. 5:1]**?”*

[This serves to keep watch over the beast. Any further provision is mere ornament and forbidden.]”

[E] R. Zeira in the name of Samuel: “An ox which behaves in a dangerous way goes forth with its halter.”

[F] And so were our rabbis in the Exile accustomed to do.

[G] R. Leyya, R. Judah in the name of Simeon bar Hiyya: “A dog goes forth with its muzzle. But if that is to beat the dog with, it is forbidden. If it is so that the dog will not eat the bit, it is permitted.”

[VI:2 A] [As to the view of Eleazar b. Azariah that a cow may go out with a strap between the horns, M. 5:4J-K,] Genibah said, “It is merely a law that Eleazar came to teach [but it is not that he actually did so].”

[B] “*And this is in line with that which we have learned: **Not with the consent of the sages [M. 5:4K].*** [That is, they did not agree with him.]”

[C] [Differing from this view of the theoretical character of Eleazar’s position,] R. Judah bar Pazzi of Bardelayya taught: “They said to him, ‘Either arise from among us [and distance yourself], or remove the strap between the cow’s horns.’”

[D] Said R. Yosé b. R. Bun, “But he opposed them.”

[E] [Claiming Eleazar did not oppose them, but it happened only one time, and on that account, Eleazar repented and fasted,] said R. Hananiah, “One time the cow went with its strap, and Eleazar’s teeth turned black on account of the fasting that he did in penitence.”

[F] Said R. Iddi of Hutreh, “It was his wife [who went out wearing what she should not have]. [But the story was preserved about his cow instead, to save him the embarrassment.] How then do we know that one’s wife is called his cow? ‘If you had not plowed with my heifer, you would not have found out my riddle’ (Judg. 14:18).”

[G] There they say that it was his neighbor.

[H] And is someone punished on account of what his neighbor does?

[I] Said R. Qiris of Dydma, “It is to teach you that whoever has the possibility of opposing [an evil deed] of his neighbor, but does not do so – the neighbor’s downfall is blamed upon him.”

YERUSHALMI SHABBAT

CHAPTER SIX

6:1

[A] **With what does a woman go out, and with what does she not go out?**

[B] **A woman should not go out with woolen ribbons, flaxen ribbons, or with bands around her head –**

[C] **(and she should not immerse [when dressed] in them unless she loosens them –)**

[D] **or with a forehead band, head bangles, when they are not sewn on, or with a hair net,**

[E] **into the public domain,**

[F] **nor [should she go out] with a [tiara in the form of] a golden city, a necklace, nose rings, a ring lacking a seal, or a needle lacking a hole.**

[G] **But if she went out [wearing any one of these], she is not liable for a sin offering.**

[I:1 A] [7d] R. Nahman bar Jacob said, “[As to M. 6:1C,] since the woman loosens [these objects], for they interpose [when she immerses on account of completing] her menstrual period, she may forget and walk [carrying them] for four cubits. [Hence to begin with she may not wear them.]”

[B] *Said R. Mana, “In the beginning we supposed that the prohibition was because she loosened the sewn bindings on these ornaments [and, on the Sabbath, that may not be done]. But we in fact said nothing worthwhile.*

[C] *“[The reason that that consideration is inapplicable derives from] that which R. Hoshaiiah taught, ‘A basket used for dates may one weave and take apart [on the Sabbath, without violating the law], on condition.’”*

[I:2 A] *There we have learned: These interpose [between the body and water in an immersion pool] on human beings: threads of wool, threads of flax, and ribbons on the heads of girls. R. Judah says, “Those made of wool or hair do not interpose, because water enters into them” [M. Miq. 9:1].*

[B] *Samuel said, “We should not list the threads of hair in the opinion of R. Judah [since all parties concur on that matter], but only threads of wool. But as to threads of hair, in the view of all parties, they do not interpose.”*

[C] *R. Ba in the name of R. Judah, R. Zeira in the name of Rabbis: “If there was a single thread, it interposes. If there were two, they are subject to doubt. If there were three, they do not interpose.”*

[D] *R. Zeira asked, “If one tied one hair onto another?”*

[E] *If it was one to another, they are reckoned as one; if it was to two, they are reckoned as two; if it was to three, they are reckoned as three.*

[F] *R. Judah said, “A woman who goes down to immerse at the end of her menstrual period [and does not want her hair to flow freely in the water] ties it up like the tail of a horse [For it does not interpose and so invalidate her immersion].” This is a practical law and rely on it.*

[1:3 A] *Kahana asked Rab, “What is the law on going out [on the Sabbath] wearing cord chains [as a belt]?”*

[B] *He said to him, “So do they rule: It is forbidden to a person to go forth wearing belts? [Of course not. It is permitted to do so. Here too, it is permitted.]”*

[C] *R. Huna decided for the women of the exilarch’s establishment that it is permitted to put a gold kerchief on their wigs.*

[D] *R. Yohanan decided for the members of the household of Bun that it is permitted to put drops of pearl beads over their tunics.*

[E] *Said R. Ila, “Whatever is attached to a garment is in the status of that garment.”*

[I:4 A] *And we learn thus: A man may not go out with a bell around his neck, but he goes forth with a bell on his garment. [T. continues: And neither this one nor that one receives uncleanness] [T. Shab. 5:7A-C].*

- [B] *There is a Tannaite authority who teaches:* “Both this one and that one receive uncleanness.”
- [C] *And there is a Tannaite authority who teaches:* “Neither this one nor that one receives uncleanness.”
- [D] *The one who maintains the view that* both this one and that one receive uncleanness speaks of those into which one has put clappers.
- [E] *The one who holds that* neither this nor that receives uncleanness speaks of those into which one has not put clappers.
- [F] But even if one has made clappers for the bells, they should be unsusceptible to receive uncleanness!
- [G] Did not R. Abbahu, Simeon bar Abba in the name of R. Yohanan [state the following]? “In the case of bells put on a cradle [to lull the child to sleep], *there is a dispute of two Amoras:*
- [H] “One said, ‘One may bring the cradle in and out, so long as he does not sound the bell.’
- [I] “The other said, ‘If the bell [ever] sounds, it is forbidden, but if not, it is permitted.’” [The point is that all parties treat the presence of the clapper unto itself as null, and regard the differentiating criterion as whether or not the bell rings, not whether or not it has a clapper. Accordingly, the presence of the clapper, as F says, is null.]
- [J] There [where the matter of sounding the bell is critical], if the bells are not put there to sound on the Sabbath, they are put there to sound on an ordinary day. But here if the bells are not put there to sound either on an ordinary day or on the Sabbath, then why has one put the clapper in the bell at all? [So the presence of the clapper defines the purpose of the bell, and if the owner has put the clapper in the bell, he does want it to sound. Hence if it has a clapper, it is a useful utensil and is susceptible to uncleanness, and if it does not, it is not distinctive and useful and has no purpose, so is unsusceptible.]

[II:1 A] Or with a forehead band [M. 6:1D]:

- [B] R. Bun bar Hiyya: “It is a kind of charm which one places on the forehead.”
- [C] **Head bangles [when they are not sewn on] [M. 6:1D]:**

- [D] Fixed dyed [garlands].
- [E] **Or with a hair net [M. 6:1D]:**
- [F] A kind of net.
- [G] *It has been taught: R. Simeon b. Eleazar permits [wearing one].*
- [H] *R. Aha in the name of Kahana said, "The view of R. Simeon b. Eleazar accords with the position of Rabbi. Just as Rabbi has said, "Something which is not visible is permitted" [as in M. 5:5], so R. Simeon b. Eleazar said, "Something which is not visible [but which is worn underneath the hair] is permitted" [cf. T. Shab. 4:7D].*
- [II:2 A] On what account are ornaments prohibited [for wear on the Sabbath]?
- [B] Said R. Ba, "Because women are show-offs, and she may untie the ornaments to show them to her neighbors and forget and walk about carrying them."
- [II:3 A] *R. Halapta b. Saul taught [regarding M. Bes. 1:10], "It is forbidden to send them [on a festival day]."*
- [B] Said R. Mana, "They have stated only that it is forbidden to send them [on a festival day]. Lo, as to wearing them, that is permitted."
- [C] *It has been taught: They handle a horn to give drink to an infant.*
- [D] **They handle a rattle, a notebook, and a [metal] mirror, to cover utensils with them [T. Shab. 13:16].**
- [E] *Said R. Bun, "Has the Mishnah not made the point that it is forbidden to wear them?"*
- [F] *"For we have learned: Whatever one may forthwith utilize may be sent as a present on a festival day [M. Bes. 1:10].*
- [G] "If you maintain that it is permitted to wear them, it should be permitted to send them as well.
- [H] *"And what is the reason for the following rule: They handle a horn to give a drink to an infant, a rattle, a notebook, and a metal mirror to cover utensils with them [T. Shab. 13:16]?"*
- [I] "This refers to utensils which serve a distinctive purpose [as a cover]. [Accordingly, that is their purpose to begin with. Even though they may be used for some prohibited purpose, since their basic use is a permitted one, they may be handled on the Sabbath.]"

[J] Up to this point we have referred to golden ornaments [which may not be sent on a festival day].

[K] And even as to ornaments made of silver? They say in the name of R. Jeremiah, "It is forbidden [to send them on a festival day]."

[L] They [also] say in the name of R. Jeremiah, "It is permitted."

[M] *Said R. Hezekiah, "I know the reason for the former ruling and the latter one. There were a lot of little girls in the time of R. Jeremiah. [They came and asked him, and] he asked R. Zeira. He said to him, 'Do not forbid, and do not permit [wearing them].'"*

[II:4 A] They do not look into a mirror on the Sabbath. But if it was affixed to the wall [T. Shab. 13:16] –

[B] Rabbi permits doing so.

[C] And sages prohibit.

[D] *R. Aha in the name of R. Ba: "The reason for the prohibition is that there are times at which a woman may see a gray hair in the mirror, and she may pluck it out and thereby incur liability to a sin offering."*

[E] As to a man, even on an ordinary day, it is forbidden to look into a mirror, since it is not dignified.

[F] Three matters did they permit to the household of Rabbi [which ordinarily are prohibited to Israelites]:

[G] They may look at themselves in a mirror.

[H] They may get a haircut in the gentile manner.

[I] And they may teach Greek to their children, because they have dealings with the government.

[J] R. Abbahu in the name of R. Yohanan, "It is permitted for a man to teach Greek to his daughter, because such learning is an ornament for her."

[K] *Simeon bar Ba heard and said, "It is because R. Abbahu wants to teach his daughter such that he has assigned the teaching to R. Yohanan."*

[L] *R. Abbahu heard this and said, “May a curse come upon me, if I did not hear it from R. Yohanan!”*

[II:5 A] *It has been taught: They do not go out wearing a chaplet.*

[B] **Three things were said concerning a chaplet:**

[C] **It is not subject to the prohibitions of diverse materials [wool and flax in the same garment, and it is not subject to uncleanness imparted to cloth by negaim, and they to not go out wearing it on the Sabbath.**

[D] **R. Simeon b. Eleazar says, “Also: It is not subject to the prohibition of a crown for a bride [imposed after the destruction of the Temple as a sign of mourning]” [T. Shab. 4:7].**

[III:1 A] **And not with a tiara in the form of a golden city [M. 6: IF]:**

[B] *R. Judah said, “For instance, a ‘Jerusalem of gold.’”*

[C] *Rabbis of Caesarea say, “A crown [on which Jerusalem is incised].”*

[D] *The tale is told that R. Aqiba made for his wife a golden tiara, and the wife of Rabban Gamaliel saw it and was jealous of her. She came and told her husband.*

[E] *He said to her, “If you had done what she did, I would have been glad to make one for you. She sold her braids of hair and gave him the proceeds, so that he might labor in the Torah.”*

[III:2 A] ***There we have learned: Two in the name of R. Eliezer:”A woman may go out into public domain on the Sabbath wearing a ‘golden city’ and pigeon flyers are disqualified as witnesses.” [M. Ed. 2:7]***

[B] *It has been taught: R. Meir declares liable [T. Shab. 4:6B].*

[C] *The shared language between R. Meir and rabbis poses no problems: R. Meir declares liable, and sages exempt [from a sin offering] [as at M. 6:1G].*

[D] *The shared language between R. Eliezer and rabbis poses no problems: R. Eliezer permits, and sages prohibit.*

[E] *But there is a problem harmonizing the word choices used by R. Meir and R. Eliezer. R. Meir declares liable for a sin offering, while Eliezer permits doing so to begin with [a considerable spread of opinions].*

- [III:3 A] R. Inyano bar Sisai said in the name of R. Eliezer, “In any setting in which they have said, ‘She should not go forth, and if she went forth, she is liable to bring a sin offering,’ a woman may not go forth wearing such an item even in her courtyard. And in any place in which they have said, [8a] ‘She may not go forth, but if she did go forth [wearing such a thing], she is not liable to a sin offering,’ she is permitted to wear such an item in her courtyard.”
- [B] *R. Ba bar Kohen in the name of R. Sheshet: “The Mishnah has made that same point: **A hair net and false locks in the courtyard [M. 6:5B-C].** [It is permitted to wear these ornaments in a courtyard, but not in public domain; if she wore them in public domain, however, she is not liable to a sin offering.]”*
- [C] R. Liyya in the name of R. Simeon bar Hiyya: “Even in a case in which they have said, ‘She may not go forth, and if she has gone forth, she is not liable for a sin offering,’ she is forbidden to go forth wearing such an item in her courtyard.”
- [D] Now as to a man, shall we say that since he is not a show-off [as to what he is wearing, so the consideration introduced earlier does not apply], is he permitted [to wear such ornaments]?
- [E] *Let us derive [the answer] from the following: Rabban Gamaliel the son of Rabbi went down to take a stroll in his courtyard on the Sabbath, and a gold key was in his hand. His colleagues were angry with him, because they regarded it as an ornament.*
- [F] *This proves that that which is made for ornamental purposes may not be carried about.*
- [G] *This further proves that that which is made for both purposes is not to be carried about.*
- [H] *This further proves that [the law applies] both to a man and to a woman.*
- [I] *This still further proves that even in a case in which they have said, “She should not go forth, and if she went forth, she is not liable to a sin offering,” nonetheless, she is forbidden to go forth wearing such an object even in her courtyard.*

6:2

- [A] **A man should not go out with a nail-studded sandal, a single sandal if he has no wound on his foot, tefillin, an amulet when it is not by an expert, a breastplate, a helmet, or with greaves.**

[B] But if he went out [wearing any one of these], he is not liable to a sin offering.

- [I:1 A] For what reason did they make a decree against wearing a nail-studded sandal?
- [B] Some say, “Because pregnant women might see the top of it [i.e., its impression] and [thinking it came from a soldier’s sandal, become frightened] miscarry.”
- [C] Some say, “Because pregnant women might hear the noise of clomping and miscarry.”
- [D] Some say, “Because, frightened by the sound of the noise, people would press together in flight and kill one another.”
- [E] *What is the practical difference [among these explanations]?*
- [F] The case of a *dosta*-sandal [in which the nails are on the bottom, not on the top].
- [G] He who holds that the principal concern is that pregnant women may see the tops of the nails and miscarry will regard it as permissible to wear that kind of sandal, [since that consideration is not present].
- [H] He who maintains that the principal consideration is that pregnant women might hear the noise of clomping and miscarry, or because, frightened by the sound of the noise, people might press together in flight and kill one another, that sort of sandal remains prohibited, like the others.
- [I] Now has that decree to begin with not been made at the time of persecution [after Hadrian’s war]? Since the persecution has passed, that type of sandal should now be permitted.
- [J] A court has not arisen [in a vote] on the matter and annulled it.
- [K] *And if that [B-D] is the case, even on a weekday, [it should be prohibited to wear such a sandal].*
- [L] It is not commonplace for someone to have two pairs of sandals, one for an ordinary day and one for the Sabbath.
- [M] *It has been taught:* If one tied a cloth underneath such a sandal, it is permitted [to wear it on the Sabbath].
- [N] *The soles of R. Yudan b. R. Ishmael’s feet were sore, so they made a covering for nail-studded sandals for him*

to use, [since these would protect his feet better than other sandals].

- [I:2 A] And how many nails may there be in a sandal [for a person to be permitted to go about in it on the Sabbath without violating the law]?
- [B] R. Yohanan said, “Five, for the five books of the Torah.”
- [C] R. Hanina said, “Seven [to correspond to the seven days in a week], as in ‘[Your bars shall be iron and bronze;] and as your days, so shall your strength be’ (Deut. 33:25).” Rabbis practiced the law in accord with this statement of R. Hanina.
- [D] R. Aha expounded in the name of R. Haninah, “Nine.”
- [E] Rabbi would put eleven on this one and thirteen on the other, that is, the number of priestly cohorts.
- [F] “The sayings of the wise are like goads, and like nails firmly fixed ...” (Qoh. 12:11). Just as there are twenty-four priestly watches, so there may be twenty-four nails.
- [G] R. Yosé b. Haninah said, “The shoemaker’s pegging is not counted as one of the nails.”
- [H] *R. Zeira raised the question before Ba bar Zabeda:* “What is the law as to putting all of them on one shoe?”
- [I] He said to him, “It is permitted.”
- [J] He said to him, “What is the law as to putting them on one shoe?”
- [K] He said to him, “It is permitted.”
- [L] *It was taught:* They do not scrape off sandals and [old] shoes, but they do anoint and wash them off [to make them fit for wear on the Sabbath].
- [M] *R. Qerispai in the name of R. Yohanan, R. Hiyya the Elder’s former disciples would say,* “They do scrape them off.” The later [disciples] would say, “They do not scrape them off.”
- [N] “*And I asked Rabbi [= Rab, what he had heard from R. Hiyya], who said,* “They do not scrape them off.””
- [O] *Said R. Zeira,* “*Now lo, here goes one of the [former] disciples of R. Hiyya the Elder [i.e., Rab – yet he said*

they do not scrape them off! For the rabbis of Caesarea in the name of R. Yosé bar Hanina said: "The law accords with him who says, They scrape them off, but only with the dull edge of the knife."

[P] *Said R. Hiyya bar Ashi, "We would be accustomed to sit before Rabbi [= Rab] and anoint and rinse off [our shoes], but we did not scrape them."*

[Q] They do not rub oil on shoes or sandals [on the Sabbath].

[R] *It was taught: A person should not anoint his foot with oil while it is in a shoe, or his foot when it is in a sandal. But he may anoint his foot with oil and then put it into a shoe, or his foot with oil and put it into a sandal. A man may anoint his body with oil and roll about on new leather [on the Sabbath] and need not scruple on that account. But he should not put [oil] on a marble table in order to roll about it on it [T. Shab. 16:14]. Rabban Simeon b. Gamaliel permits doing so.*

[S] *It was taught: A person should not put on new shoes or sandals unless he walked about in them while it was still day [prior to the Sabbath].*

[T] And how much should he have walked about in them?

[U] *The members of the household of Bar Qappara say, "From the schoolhouse of Bar Qappara to the schoolhouse of R. Hoshaiah."*

[V] *The men of Sepphoris say, "From the synagogue of the Babylonians to the courtyard of R. Hama bar Haninah."*

[W] *The men of Tiberias say, "From the great synagogue to the shop of R. Hoshaiah."*

[I:3 A] **A sandal whose two straps were broken, or whose strappings were torn, or from which even one sole separated, is [deemed broken, and so] insusceptible to uncleanness. If one of its ears tore off, or one of its strappings, or if the larger part of one sole was separated from it, it is susceptible to uncleanness [as a useful object].**

- [B] **R. Judah says, “If it is the inner one, it is susceptible to uncleanness, if it is the outer one it is not susceptible to uncleanness” [T. Kel. B.B. 4:5].**
- [C] R. Jacob bar Aha, R. Tabelai, Hanin bar Ba in the name of Rab: “[Y. Yeb. adds:] If the outer strap is broken, it is forbidden to go out in it on the Sabbath.
- [D] “The law accords with the view of R. Judah in the matter of the Sabbath.”
- [E] *R. Samuel bar R. Isaac had a case. [The outer thong had broken.] He sent R. Jacob bar Aha to ask R. Hiyya bar Ba. He said to him, “Just as they differ as to uncleanness, so they differ as to the Sabbath.” And he gave him a decision in accord with the position of rabbis.*
- [F] *R. Samuel bar R. Isaac asked, “After he heard the statement, ‘The law accords with the view of R. Judah,’ he gave him a decision in accord with the position of rabbis?”*
- [G] *R. Aha had a case, and he sent and asked R. Zeira, who asked R. Immi. He said to him, “If the law follows the view of him who said that it is susceptible to uncleanness, it is forbidden to go out wearing it in the public domain on the Sabbath. If the law is in accord with the view of him who said that it is not susceptible to uncleanness, then it is permitted to go out in it on the Sabbath.” But he did not derive any useful information from him.*
- [H] *It was taught:* But one may walk about in a loose sandal until he reaches the door of his courtyard.
- [I] *R. Aha and R. Zeira were walking in the street. The sandal of R. Aha broke loose. [Zeira noticed, while Aha did not.] When they reached his gateway, R. Zeira said to him, “Here is the door of your courtyard.”*
- [J] *When his sandal broke while he was walking about, R. Aha would fold a palm branch around it. R. Abbahu would tie it up with a binding of soft gum [conjectural]. R. Abbahu had the theory that a binding of soft gum is ready for that purpose prior to the Sabbath.*
- [K] *R. Jonah pitched it into a confectioner’s shop, indicating that even a small quantity of it is valuable.*
- [L] *R. Eleazar would remove it.*

[M] *R. Jeremiah raised the question before R. Zeira, “What is the law as to changing the left sandal for the right one, [if the strap should break]?”*

[N] He said to him, “It is permitted.” “Nonetheless,” he said to him, “Go and see how a sage does it, and rely on his example.”

[O] *He went out and found R. Ba bar Mamel, and he asked him, and he permitted it.*

[P] *Said R. Yosé, “The Mishnah has treated it as a kind of clothing, for we have learned: **With the sandal for the left foot on the right foot it is valid [M. Yeb. 12:2A].**”*

[Q] **[A sandal too small, which nonetheless covers the larger part of his foot] [M. Yeb. 12:2B]:** That which you have said applies to the breadth of the foot, but as to the length, it must cover the larger part of the foot.

[II:1 A] Nor a single sandal [M. 6:2A]:

[B] Said R. Abba, “It is because of the possibility of bringing the man under suspicion. It is so that people will not say, ‘We saw that Mr. So-and-so’s sandal snapped, and he carried it under his arm [on the Sabbath].’”

[III:1 A] If he has no wound on his foot [M. 6:2A]:

[B] Lo, if he has a wound on his foot, he may put on his sandal.

[C] On which foot does he put his sandal?

[D] Samuel said, “On the one on which there is no wound he puts the sandal. If you maintain that he puts it on the foot on which there is a wound, *what keeps him from putting his other sandal on the other foot?* [And this will lead to the same concern as is expressed at B.]”

[E] R. Yohanan said, “He puts the sandal on the foot on which he has the wound.”

[F] *Simeon bar Ba was serving before R. Yohanan, and he would hand him his sandals in line with that which is taught in the tractate on proper conduct: “When one puts on his sandal, he first puts on the one for the right foot and then the one for the*

left, and when he unbuckles them, he unbuckles the one on the left foot and afterward the one on the right.”

[G] Said to him R. Yohanan, “Babylonian! Don’t do it that way, because the ancients did not do it that way. Rather: ‘When one puts on the sandal, he puts on the one for the left foot and then the one for the right. it is so that it should not appear as if the one on the right [8b] has been damaged.’”

[H] [*Simeon said to him,*] “*Does that then not imply that he puts the sandal on the foot on which the wound is located?*”

[I] *He said to him, “Yes, O Babylonian! Why should you be surprised about it?”*

[IV:1 A] They leave home on Friday, near dark, wearing phylacteries, but they do not leave home wearing a nail-studded sandal on Friday at dark.

[B] What is the difference between the one and the other?

[C] In the case of the former, it is customary to remove it [so the man will not forget to remove the phylacteries when he should], but in the case of the latter, it is not customary to remove it [so the man may well forget to remove his sandals].

[V:1 A] **What is the definition of an amulet made by an expert? It is any which has served to bring healing, and which did so a second and a third time [T. Shab. 4:9A-B].**

[B] R. Abbahu in the name of R. Yohanan: “A physician may be relied upon to state, ‘With this amulet I performed a healing, and I did so a second and a third time with it as well.’”

[C] R. Samuel in the name of R. Zeira: “If the amulet served to bring healing for one man, it is regarded as reliable for one man. If it did so for two, it is reliable for two. If it did so for three, it is reliable for everybody.”

[D] **They go forth wearing an amulet made by an expert, whether it contains writing or is made of roots [T. Shab. 4:9C].**

[E] **But that is on condition that one not put it into a ring or a bracelet [T. Shab. 4:9F].**

[F] *They asked before R. Jonathan, “What is the law about putting it into a tube?”*

[G] He said to them, **“But that is on condition that one not put it into a ring or a bracelet.”**

[H] *They asked before R. Jonathan, “What is the law as to going out with a necklace?”*

[I] He said to them, “It is subject to the count of an ornament.”

[J] [They said to him,] “If it is forbidden on the count of being an ornament, it should have been forbidden for Daniel: ‘[The king cried aloud to bring in the enchanters, the Chaldeans, and the astrologers. The king said to the wise men of Babylon, Whoever reads this writing, and shows me its interpretation, shall be clothed with purple, and] have a chain of gold about his neck, [and shall be the third ruler in the kingdom]’ (Dan. 5:7).

[K] “If it is forbidden on the count of not carrying a burden on the Sabbath, then we may say: ‘Whatever is attached to a garment – lo, it is in the status of the garment itself’ [and may be worn on the Sabbath].”

[V:2 A] R. Yosé b. R. Bun in the name of R. Yosé: “In the case of a wound that has healed, [on the Sabbath] they may put on it some sort of poultice, because it serves only to protect it [and not to promote healing].”

[B] R. Abun in the name of rabbis from over there [in Babylonia]: “They may put such a thing on a wound on the Sabbath, because it serves only to protect the wound.”

[C] Said R. Tanhuma, “The exception is grape leaves, which serve to promote healing.”

[D] *Said R. Huna, “As to the peah root, it is very good for healing, when it has five or seven knots, nine knots even better, so long as one does not put water on it on the Sabbath [in which case the clear intent is to promote healing].”*

[E] They do not recite a verse of Scripture over a wound on the Sabbath.

[F] *And that formula which they recite against the demon Yebrohah is prohibited.*

[G] If someone said, “Come and recite this verse over my son, because he is suffering,” “Put on a scroll on him,” “Put phylacteries on him so that he will be able to sleep” – it is forbidden.

[H] *And lo, it has been taught:* They would recite the psalm for the afflicted in Jerusalem.

[I] Said R. Yudan, “Here it is when one already has been afflicted, [in which case it is forbidden to do so,] while there [where it is permitted to recite that psalm], it is prior to one’s having been afflicted.

[J] And what is that psalm for the afflicted?

[K] “O Lord, how many are my foes! Many are rising against me; many are saying of me, there is no help for him in God” (Ps. 3:1-2) and the whole Psalm.

[L] “He who dwells in the shelter of the Most High until [= who abides in the shadow of the Almighty, will say to the Lord, ‘My refuge and my fortress; my God, in whom I trust.’ For he will deliver you from the snare of the fowler and from the deadly pestilence; he will cover you with his pinions, and under his wings you will find refuge; his faithfulness is a shield and buckler. You will not fear the terror of the night, nor the arrow that flies by day, nor the pestilence that stalks in darkness, nor the destruction that wastes at noonday. A thousand may fall at your side, ten thousand at your right hand; but it will not come near you. You will only look with your eyes and see the recompense of the wicked.] Because you have made the Lord your refuge, the Most High your habitation” (Ps. 91:1-9).

6:3

[A] **A woman should not go out with a needle which has a hole, with a ring which has a seal, with a cochlea brooch, with a spice box, or with a perfume flask.**

[B] **“And if she went out, she is liable to a sin offering, “ the words of R. Meir.**

[C] **And sages declare [her] exempt in the case of a spice box and a perfume flask.**

[I:1 A] *It has been taught:* [in T.’s version:] **A tailor should not go out carrying his needle on the eve of the Sabbath near nightfall, lest he forget and cross a boundary [M. 1:3A-B],**

[B] **nor a carpenter with the beam on his shoulder.**

[C] **nor a dyer with the color sample behind his ear,**

[D] **nor a money changer with the denar behind his ear,**

[E] **nor a wool corder with a cord around his neck.**

- [F] “But if they went forth, all of them are exempt [from liability to punishment],” the words of R. Meir.
- [G] Sages say, “[If] a craftsman [goes forth carrying his tools] in the usual way of his craft, he is liable.
- [H] “But all the other men [who carry out the tools of a craftsman but do not practice that craft] are exempt [from liability to punishment]” [T. Shab. 1:8].

[I] *The opinions assigned to R. Meir are at variance with one another.*

[J] *For we have learned there: [A woman should not go out with a needle which has a hole, a ring which has a seal, a cochlea brooch, a spice box, or a perfume flask.]”* And if she went out carrying one of these, she is liable to a sin offering, “the words of R. Meir. [And sages declare her exempt in the case of a spice box and a perfume flask] [M. 6:3].

[K] *Yet here he says this!*

[L] *R. Mana [made the statement] without specifying a further authority, R. Abin in the name of R. Yohanan: “There it is the usual way for a woman to go into the public domain [carrying these objects], while here unimportant folk go out bearing these objects [so it does not matter].”*

[M] *The opinions attributed to rabbis likewise are at variance with one another. For we have learned there: **And sages declare her exempt in the case of a spice box and a perfume flask [M. 6:3C].***

[N] Lo, [in the case of transporting into a public domain] a needle which has a hole, one is liable!

[O] But [in the case before us] we deal only with a craftsman who goes forth in the usual way of his craft who is liable [but not with a woman or other ordinary person].

[P] Said R. Abin, “Interpret the rule to speak of a case of a woman who is a hairdresser [for whom a needle with a hole is one of the tools of the trade].”

[I:2 A] [With reference to **M. 6:3A: A ring which has a seal produces liability.** Hence such a ring is not an ornament for a woman. But in general women’s rings are regarded as ornaments, whether with a seal or not.]

- [B] R. Aha in the name of R. Abba bar R. Nahman: “It represents the view of R. Nehemiah. *For we have learned there: A ring which is of metal, and its seal of coral, is unclean. A ring which is of coral, and its seal of metal, is clean* [M. Kel. 13:6].
- [C] “*R. Nehemiah taught it in the opposite way:*
- [D] **“A ring of metal and its seal of coral – R. Nehemiah declares unsusceptible to uncleanness. For R. Nehemiah held, ‘With a ring one follows after [the status of] the seal, with a yoke, after its curved end, with the rack, after its nails, with a ladder, after its steps, with a crib, after its chains’ [T. Kel. B.M. 3:13].”**
- [E] Said R. Ila, “Interpret the rule to accord with the view of all authorities [not only Nehemiah]. It speaks of a case in which [the woman] took the ring out [to public domain] intending to use it for the purpose of incising a seal.”
- [F] R. Samuel in the name of R. Zeira: “If it was suitable for both purposes, if then the woman took it out to incise with it, she is liable; if she took it out as an ornament, she is exempt.
- [G] “And that is the case even though there is a seal, for in this instance the seal is secondary to the ring’s ornamental purpose.”

6:4

- [A] **A man should not go out with a sword, bow, shield, club, or spear.**
- [B] **And if he went out, he is liable to a sin offering.**
- [C] **R. Eliezer says, “They are ornaments for him.”**
- [D] **And sages say, “They are nothing but ugly,**
- [E] **“since it is said, ‘And they shall beat their swords into plowshares and their spears into pruning hooks; nation shall not lift up sword against nation, neither shall they learn war any more’ (Is. 2:4).”**
- [F] **A garter is unsusceptible to uncleanness, and they go out in it on the Sabbath.**
- [G] **Ankle chains are susceptible to uncleanness, and they do not go out in them on the Sabbath.**
- [I:1 A] It is written, “And the people of Israel went up out of the land of Egypt equipped for battle” (Ex. 13:18).
- [B] This teaches that they were armed with five different types of weapons.
- [C] What is a club [M. 6:4A]?

- [D] *On the basis of that which R. Jacob bar Sisi, R. Yosé taught: “When do they separate heave offering for Fain [at the threshing floor]? As soon as the sign pole is removed [indicating that the grain is ready for use [T. Ter. 3:11]” –*
- [E] *this would indicate that it is a kind of spear.*
- [I:2 A] *What is the scriptural basis for the position of R. Eliezer?*
- [B] “Gird your sword upon your thigh, O mighty one, in your glory and majesty” (Ps. 45:3).
- [C] *What is the scriptural basis for the view of rabbis?*
- [D] “They shall beat their swords into plowshares” (Is. 2:4) – into plowshares [spelled differently].
- [E] “And their spears into pruning hooks” (Is. 2:4) – cutting knives.
- [I:3 A] R. Hiyya in the name of R. Yohanan: “A *berit* is on one leg, while *kebalim* [ankle chains] are joined by a chain.”
- [B] R. Judah says, “A *berit* is a knee band.”
- [C] For R. Judah said, ““And we have brought the Lord’s offering, what each man found, articles of gold, armlets and bracelets, signet rings, earrings, and beads, to make atonement for ourselves before the Lord’ (Num. 31:50).”
- [D] A knee band is an anklet.
- [E] A bracelet is a kind of chain.
- [F] *This is in line with that which you read: “[When the camels had done drinking, the man took a gold ring weighing a half sheqel, and two] bracelets for her arms [weighing ten gold sheqels]” (Gen. 24:22).*
- [G] A ring is a clasp.
- [H] A round shield is a *qodeshayya* [in Aramaic].
- [I] This is in line with that which you read: “And I put a ring on your nose[, and earrings in your ears, and a beautiful crown upon your head]” (Ezek. 16:12).
- [J] A *komez*: Some say it serves as a covering for the vagina, and some say it serves as a covering for the breasts.

- [I:4 A] It is written, “In that day the Lord will take away the finery of the anklets, the headbands, and the crescents” (Is. 3:18).
- [B] Finery of the anklets, slippers, as you say, “[The Lord said: Because the daughters of Zion are haughty and walk with out stretched necks, glancing wantonly with their eyes, mincing along as they go,] tinkling with their feet” (Is. 3:16).
- [C] Veils are braided bands worn in the hair, as you find: **A band with which the hair net is fastened [T. Kel. B.B. 5:15].**
- [D] Crescents are necklace chains.
- [E] This is in line with the following verse: “ ... besides the collars that were about the necks of their camels” (Judg. 8:26).
- [F] Pendants, bracelets, and scarfs [Is. 3:19], as you say, “Your turbans shall be on your heads and your shoes on your feet; you shall not mourn or weep, but you shall pine away in your iniquities and groan to one another” (Ezek. 24:23).
- [G] Armlets, sashes, and as to the next word, Aqila renders it as, “An ornament of the bosom, something which is placed on the belly.”
- [H] Amulets are that which is put on the place where the whispering, for purposes of charming, is done, namely, the ear.
- [I] Signet rings are finger rings.
- [J] Nose rings are things one puts on or in the nose.
- [K] “Festal robes” (Is. 3:22) are aprons.
- [L] Mantles are cloaks with a hood.
- [M] Cloaks are large coverings.
- [N] “Handbags” (Is. 3:22) are belts embroidered with figures,
- [O] pure silk garments which are embroidered with figures.
- [P] This is in line with that which you read, “And he received the gold at their hand and fashioned it with a graving tool” (Ex. 32:4)
- [Q] Linen garments are wrappings.
- [R] Turbans are head coverings,
- [S] as you read, “And I said, ‘Let them put a clean turban on his head.’ So they put a clean turban on his head and clothed him

with garments; and the angel of the Lord was standing by” (Zech. 3:5).

[T] And it is written, “You shall be a crown of beauty in the hand of the Lord, and a royal diadem in the hand of your God” (Is. 62:3).

[U] “Veils” (Is. 3:23) are such as are worn by an accused wife, as it is written, “The watchmen found me, as they went about in the city; they beat me, they wounded me, they took away my mantle, those watchmen of the walls” (Song 5:7).

6:5

[A] **A woman goes out in hair ribbons, whether made of her own hair or of the hair of another woman or of a beast;**

[B] **and with forehead band, head bangles sewn [on the headdress], a hair net, and false locks,**

[C] **in the courtyard;**

[D] **with wool in her ear, wool in her sandals, wool she has used for a napkin for her menstrual flow;**

[E] **pepper, a lump of salt, and anything she puts into her mouth,**

[F] **on condition that she not first put it there on the Sabbath.**

[G] **And if it fell out, she may not put it back.**

[H] **A false tooth and a gold tooth –**

[I] **Rabbi permits.**

[J] **And sages prohibit.**

[I:1 A] Anan bar Immi said before R. Judah [in the name of] Menassia bar Jeremiah, “But that [M. 6:5A] is on condition that a girl should not go out wearing ribbons appropriate for an old woman, nor an old woman with ribbons appropriate for a girl. [The concern is that the ribbons not be too loose.]”

[B] *And have we not learned: **Little girls go out with threads [M. 6:6B]?*** And in this connection R. Ba in the name of R. Judah: “Even tied around her neck.” [Surely the threads will not be tightly tied, yet it is permitted to wear them. Accordingly, the consideration of whether the ribbons are sufficiently tight is not important.]

[C] R. Samuel in the name of R. Zeira, “In that case, even if the girl cannot bring thread resembling her hair, [YF], she may go forth. But in this

case a young girl should not wear what is suitable for an old woman, nor an old woman what is suitable for a young girl.”

[I:2 A] [As to the word for locks,] said R. Abbahu, “Whatever rests on the hair is called a lock.”

[I:3 A] [As to M. 6:5: wool in the ear:] R. Yannai: “*The wool in the ear of Zeira fell out. [It was soaked in oil.] [8c] He wanted to put it back on the Sabbath.* His associates rebuked him.”

[B] R. Yannai maintained the view that it is the oil on the wool that does the healing [and he is not putting oil on the wool on the Sabbath]. [It already is there. He should be able to put it back into his ear.]

[C] Sages maintain that it is the wool which does the healing, [and this may not be permitted on the Sabbath].

[D] And did not R. Judah state in the name of R. Zeira, “He who is suffering on account of his ear may not put oil in his ear.” Simeon bar Ba (said) in the name of R. Haninah, “Whoever whispers (charms), may] put oil on his head and whisper [the appropriate charm], on the proviso that he not put the oil on with his hand or with a utensil”?

[E] R. Yannai maintained the view that the law accords with the opinion of R. Yosé [who holds that one may handle the wool on the Sabbath].

[F] *His associates hold the position that the law accords with R. Judah.*

[G] And did not R. Ba bar Kahana state, R. Hiyya bar Abba in the name of Rab: “The law is in accord with the view of R. Yosé”? [So why did the associates rebuke him?]

[H] R. Yannai holds the view that a man is not treated as equivalent to the earth [in the context of the discussion alluded to at E-G], and his associates maintain the position that man is treated as equivalent to the earth.

[I] And did not R. Zeira say, “R. Hiyya bar Abba took himself a handful of wool for his earache”? He held [like all parties] that man is treated as equivalent to the earth.

[J] And that is so. But R. Yannai maintained that doing so is uncommon, so one may walk four cubits carrying such a thing. And associates maintain that doing so is common, and one may walk four cubits.

- [II:1 A]** *[As to M. 6:5H-J,] said R. Mana, “I heard a reason for this matter from R. Samuel in the name of R. Zeira, but I don’t know what I heard.”*
- [B]** *What is the upshot of the matter? [Why are both sorts of teeth subject to prohibition?]*
- [C]** *Said R. Yosé, “It stands to reason that, in the case of a golden tooth, which cost the woman a great deal of money, she should not go forth, since if it should fall out, she will put it back. But as to a false tooth, what difference does it make?”*
- [D]** *There is yet a pertinent reason in this instance. The woman is embarrassed to tell the carpenter, “Make me another tooth,” so, if it should fall out, she will put it back.*
- [II:2 A]** *R. Yosé and R. Ammi – One of them had a toothache, and the other gave him instructions [on what is permitted to do on the Sabbath], and the other had an earache, and the one gave him instructions [on the matter]. But we do not know who said this and who said that.*
- [B]** *On the basis of what R. Yosé asked the physician of R. Jacob bar Aha, “What is to be done with the toothache of R. Jacob bar Aha, our associate,” [and] on the basis of the fact that R. Yosé never said a needless word his entire life, it follows that he is the one who decided [it is permitted] to treat teeth on the Sabbath .*
- [III:1 A]** *[As to M. 6:5E, as qualified by F,] R. Yannai interpreted [the statement of F] to speak in particular of pepper and a lump of salt.*
- [B]** *His associates interpret the qualification to apply to all items.*

6:6

- [A]** **People may go out with a sela coin on a bunion.**
- [B]** **Little girls go out with threads and even chips in their ears.**
- [C]** **Arabian women [go out] veiled.**
- [D]** **Medean women [go out] with cloaks looped up over their shoulders.**
- [E]** **And [so is the rule] for any person, but sages spoke concerning prevailing conditions.**
- [I:1 A]** **They go out with a sela coin on a bunion [M. 6:6A]:** [A bunion is a sore on the sole of the foot.
- [B]** **R. Aha in the name of R. Ba bar Mamel: “Even a piece of silver foil [may be used for that purpose].”**

[C] *We have learned: Little girls go out with threads [and even chips in their ears] [M. 6:6B]:*

[D] R. Ba in the name of R. Judah: “Even tied around her neck.”

[E] *Abba bar Ba instructed Samuel, his son, “Do not accept this version of the Mishnah. Rather: [teach only:]” But not with chips in their ears [at M. 6:6B].*”

[F] *This is the Mishnah: Arabian women [who are Israelites] go out veiled. Medean women go out with cloaks looped up over their shoulders [M. 6:6C-D].* [The verb to go out in M. 6:6A applies as well to 6:6C-D.]

6:7

[A] **She weights her cloak with a stone, a nut, or a coin,**

[B] **on condition that she not attach the weight first on the Sabbath.**

[I:1 A] *It has been taught:* Rabban Simeon b. Gamaliel says, “They have referred [at M. 6:7A] to weighting a cloak only with a coin or a stone [if she does not do so to begin with on the Sabbath].

[B] “Lo, as to a nut – it is permitted [to weight (or hook) the cloak with it even on the Sabbath], because that is something which may be handled on the Sabbath.”

[C] Said R. Adda bar Ahwah, “The view of Rabbi Simeon b. Gamaliel accords with the opinion of R. Meir. Just as R. Meir has said, ‘If it is something that may be carried about, it is permitted [cf. M. 17: 4], so Rabban Simeon b. Gamaliel says, ‘If it is something that may be carried about, it is permitted.’”

6:8

[A] **“A cripple [lacking a leg] goes forth with his wooden stump, “ the words of R. Meir [Y. Yosé].**

[B] **And R. Yosé [Y. Meir] prohibits it.**

[C] **And if it has a receptacle for pads, it is susceptible to uncleanness.**

[D] **His knee pads are susceptible to uncleanness imparted by pressure [to something upon which a Zab may lie or sit], they go forth with them on the Sabbath, and they go into a courtyard with them.**

[E] **His chair and its pads are susceptible to uncleanness imparted by pressure, they do not go out with them on the Sabbath, and they do not go in with them into a courtyard.**

[F] **An artificial arm is insusceptible to uncleanness, and they do not go out in it.**

[I:1 A] [As to the principle of M. 6:8A,] Samuel said, “They go forth in it on the count of its serving as a shoe, and they enter a courtyard wearing it.”

[B] *R. Yannai raised the following question* [on the reason one must specify both that it serves as a shoe and also that one may go into the courtyard with it]: “‘They go forth in it since it is a shoe,’ so it falls into the category of a shoe. [Why add,] ‘They enter the courtyard wearing it’? Then is it not a shoe?”

[C] *Said R. Ba* [YF: Mana], “*Instead of addressing this question only to the interpretation of Samuel, why not address it to the Mishnah itself: His knee pads are susceptible to uncleanness imparted by pressure to something upon which a Zab may lie or sit; they go forth with them on the Sabbath; and they go into a courtyard with them* [M. 6:8D]. [The same question applies here: why is it necessary to specify these several items?]”

[D] *Said R. Mana*, “*It must follow that once one interprets this latter statement* [M. 6:8E], *there will be no disagreement with the view of Samuel.* [And the answer is that they certainly do fall into the category of shoes. But the details have to be specified on account of the following rule, which is distinct from the foregoing and based on separate considerations:] **His chair and its pads are susceptible to uncleanness imparted by pressure, but they do not go out with them on the Sabbath, and they do not go with them into a courtyard** [M. 6:8E]. [The necessity to specify the matters Samuel has outlined is on account of the contrary rule here.]”

[II:1 A] What is the meaning of, **An artificial arm is insusceptible to uncleanness, [and they do not go out in it]** [M. 6:8F]?

[B] Said R. Abbahu, “It is arm supports.”

6:9

[A] **Boys go out in garlands, and princes with bells.**

[B] [And so is the rule] for any person, but sages spoke concerning prevailing conditions.

[C] “They go out with a locust’s egg, a fox’s tooth, a nail from the gallows of an impaled convict, for purposes of healing,” the words of R. Yosé.

- [D] **And R. Meir says, “Even on a weekday it is prohibited [to go forth with such objects],**
- [E] **“because of the ‘ways of the Amorite’ [which Israelites are not to adopt].”**
- [I:1 A] **Boys go out in garlands [M. 6:9A]:** Garlands of leaves.
- [B] **And princes with bells [M. 6:9A]:** R. Zeira said, “Bells on his shoulder.
- [C] “What is the meaning of, **For any person?** Whether poor boys or rich boys.”
- [D] R. Ila said, “It refers to bells on his clothes.
- [E] “What is the meaning of, **For any person?** Whether adult or minor.”
- [F] *The following Tannaitic teaching stands at variance with the view of R. Zeira: [A man should not go out with a bell around his neck.] But he goes forth with a bell on his garment [T. Shab. 5:7A-B].*
- [G] Rather, it must follow, here we speak of adults, there of minors.
- [II:1 A] **They go out with a locust’s egg: *It is good for the ear.***
- [B] **And with a fox’s tooth: *It is good for the teeth.***
- [C] **And with a nail from the gallows of an impaled convict: *It is good to heal a spider’s bite.***
- [D] *There is a Tannaite authority who presents the Mishnah before us in the opposite language [viz., that Meir, in C, permits, and Yosé, in D, prohibits]. R. Hananiah in the name of R. Yohanan accords with the version of our Mishnah.*
- [III:1 A] R. Samuel, R. Abbahu in the name of R. Yohanan: “Whatever serves to bring healing is not prohibited on the count of ‘the ways of the Amorite’ [M. 6:10D-E].”
- [B] **He who says, “Dargan, Qardan,” lo, this is one of “the ways of the Amorites.”**
- [C] **R. Judah says, “They may say Dagan on account of the idol of that name,**
- [D] **“since it says, ‘[Now the lords of the Philistines, gathered to offer a great sacrifice] to Dagan their god, and to rejoice’ (Judg. 16:23).”**

- [E] **He who says, “*Dani, Dano,*” lo, this is one of “the ways of the Amorites.”**
- [F] **R. Judah says, “This is because of the idol, *Dan,***
- [G] **“since it says, ‘As thy god lives, O Dan,’ and ‘As the way of Beersheba lives’ (Amos 8:14)” [T. Shab. 7:2-3].**
- [H] [He who says,] “No, no” – it is forbidden on the count of being “the ways of the Amorites.”
- [I] R. Judah says, “It is forbidden on the count of idolatry: ‘They say to God, Depart from us! We do not desire the knowledge of thy ways’ (Job 21:14).”
- [J] *R. Hiyya taught*, “If a bone got stuck in his mouth, he puts a bone of the same sort on his head, and this is not forbidden as one of the ‘ways of the Amorites.’”
- [K] *R. Eliezer b. Jacob taught*, “‘You shall not eat any flesh with the blood in it. You shall not practice augury or witchcraft’ (Lev. 19:26). Even though one may not practice augury, still, one pays attention to omens.
- [L] “But that is the case only after the same omen has prefigured an event three successive times.
- [M] “For example, ‘For when I came from Paddan, Rachel to my sorrow died in the land of Canaan on the way, when there was still some distance to go to Ephrath; and I buried her there on the way to Ephrath (that is, Bethlehem)’ (Gen. 48:7).
- [N] “‘And Jacob their father said to them, ‘You have bereaved me of my children: Joseph is no more, and Simeon is no more, and now you would take Benjamin; all this has come upon me’ (Gen. 42:36).”
- [O] Said R. Eleazar, “They follow what is reported by the sound of an echo.
- [P] “*What is the scriptural basis for this view?* ‘And your ears shall hear a word behind you, saying, ‘This is the way, walk in it,’ when you turn to the right or when you turn to the left’ (Is. 30:21).”
- [Q] *R. Eleazar went to a privy and sat down. A Roman quartermaster came along and made him get up and sat down in his place. [Eleazar] said to himself, “No one in the world*

did he push aside except for me. It is not possible for me to leave here until I find out what it's all about."

- [R] *There was a snake in the privy, and it came out and gave [the Roman] a bite on his anus [or, following , "while he was there it gave him a bite"]. [Eleazar] recited in his own regard, "Because you are precious in my eyes, and honored, and I love you, I give men in return for you, peoples in exchange for your life" (Is. 43:4).*
- [S] *A disciple of Bar Qappara was going out to cut logs. A field worker saw a snake running after him and said to him, "A snake is running after you." The snake left off the disciple and went after the other, and the disciple recited in his own regard, "I give men in return for you" (Is. 43:4).*
- [T] *Germania, a slave of R. Judah the Patriarch, went out and wanted to lend money to R. Ila. A mad dog came along and wanted to snap at R. Ila. Germania shouted at the dog, and it left off R. Ila and ran after him, and [the rabbi] recited in his own regard, "I give men in return for you" (Is. 43:4).*
- [U] *Bar Qappara went into a certain town. When he came in, he stubbed his toe. He got up and heard the voice of children reciting this verse: "If he comes in single, he shall go out single; if he comes in married, then his wife shall go out with him" (Ex. 21:3). He said, "It seems to me I'll accomplish nothing here except for this contusion," and that is just what happened.*
- [V] *R. Yohanan and R. Simeon b. Laqish wanted to go see Samuel [in Babylonia]. They said, "We shall follow the counsel ["hearing"] of an echo." They passed by a class, and heard the voice of the students: "Now Samuel died[; and all Israel assembled and mourned for him, and they buried him in his house at Ramah. Then David rose and went down to the wilderness of Paran]" (1 Sam. 25:1). They took that as an omen, and that is just what had happened.*
- [W] *R. Jonah and R. Yosé went up to visit R. Aha, who was failing. They said, "We shall follow the counsel of an echo." They heard a woman saying to her friend, "Has the light gone out?" The other said to her, "The light has not gone out, and the light of Israel will not go out." [They took this as a sign that he would recover, and he did.]*

[X] *R. Yohanan was passing through the marketplace, and he saw a man selling sweets. He said to him, "Do you make a living from these?" He said to him, "Yes." He left him and went away. A while later he came by again. The man said to him, "Rabbi, pray for me, for from the time you went by, I have not sold a thing." [8d] He said to him, "Move somewhere else, for sometimes changing your name brings luck, and sometimes changing your location does."*

[Y] *Two disciples of R. Hanina were going out to cut wood. They saw an astrologer. He said, "These two will go out but not come back." When they went out, an old man met them and said to them, "Acquire merit by helping me, for I have gone three days without tasting any food." They had with them a single circle of figs, which they divided and half of which they gave to him. He ate it and prayed for them. He said to them, "May you live out this day, just as you have helped me to live out this day." They went forth whole and came back whole. There were people in that place who had heard the report [of what the astrologer had said]. They said to him, "Now did you not say to us that these two would go out and not come back?" He said, "There is a liar in this spot, for his [my] astrological science has fooled me." Even so, they went and looked into the bundles they were bearing, and they found a snake cut in half, one part in the knapsack of one of them, one part in that of the other. They said to the disciples, "Now what sort of [or: "good"] thing did you do today?" They repeated the story. He said, "Now what can I do, when the God of the Jews is appeased by a half-circle of figs!"*

[Z] *R. Huna reports the following story: "A certain astrologer converted to Judaism. One time he wanted to go out [on a trip]. He said, 'Is this the right time to go out?' Then he retracted and said, 'Now did I not cleave unto this holy people in order to leave off these sorts of things? Let us call on the name of our Creator.' When he came near a dangerous place [in the longer version: "to a tax collection"] [where there were wild beasts], he gave bread to the beast and it ate the bread [instead of the astrologer]. What made him fall into*

danger? That he had fallen into doubt. And what saved him? That he had relied on his Creator.”

[AA] *He said to him, “Whoever foretells the future – in the end [what he predicts] will come upon him.”*

[BB] What is the scriptural basis for this statement? “For there is no enchantment against Jacob, no divination against Israel; now it shall be said of Jacob and Israel, ‘What has God wrought!’” (Num. 23:23).

[CC] For to him [who practices enchantment] will the enchantment [come].

[DD] Said R. Aha bar Zeira, “Whoever does not practice enchantment – he finds his rightful place even closer [to the throne of God] than the ministering angels.

[EE] “And what is the scriptural basis for this view? ‘For there is no enchantment against Jacob, no divination against Israel; now it shall be said of Jacob and Israel, What has God wrought!’ (Num. 23:23).”

[FF] Said R. Hanina son of R. Abbahu, “It was at the halfway point in the days of the world that that evil man [Balaam] arose. What is the scriptural basis for this view? ‘For there is no enchantment against Jacob, no divination against Israel; now it shall be said of Jacob and Israel, What has God wrought!’ (Num. 23:23).”

[GG] Said R. Jeremiah b. Eleazar, “In the future an echo is going to spread through the tents of the righteous and say, ‘Whoever has worked for God — let him come and collect his just reward.’”

[HH] R. Berekhiah in the name of R. Abba bar Kahana: “In the future the Holy One, blessed be he, is going to set the place of the righteous closer [to his throne] than the place of the ministering angels. The ministering angels will ask them and say to them, ‘What has God wrought?’ (Num. 23:23). What did the Holy One, blessed be he, teach you?”

[II] Said R. Levi bar Hayuta, “And did he not do so in this world? It is in line with that which is said, ‘He answered, But I see four men loose, walking in the midst of the fire, and they are not hurt; and the appearance of the fourth is like a son of the gods’ (Dan. 3:25).”

[JJ] And what is the meaning of the Scripture, “And they are not hurt”?

[KK] This teaches that they had been eunuchs but were healed.

[LL] “And the appearance of the first” is not written here. Rather “And the appearance of the fourth ...” (Dan. 3:25) – they [the three went before the angel, who was the fourth, and] were putting out the fire before him.

[MM] “... is like a son of the gods” (Dan. 3:25)

[NN] Said R. Abin, “At that moment an angel came and struck that evil man on his mouth, saying to him, ‘Correct what you have said! Does he have a son?’

[OO] “He retracted and said, ‘Nebuchadnezzar said, Blessed be the God of Shadrach, Meshach, and Abednego, who has sent his angel and delivered his servants, who trusted in him, and set at nought the king’s command, and yielded up their bodies rather than serve and worship any god except their own God’ (Dan. 3:28). It is not written, ‘Who has sent his son,’ but rather, ‘Who has sent his angel.’”

YERUSHALMI SHABBAT

CHAPTER SEVEN

7:1

[A] A general principle did they state concerning the Sabbath:

[B] Whoever forgets the basic principle of the Sabbath and performed many acts of labor on many different Sabbath days is liable only for a single sin offering.

[C] He who knows the principle of the Sabbath and performed many acts of labor on many different Sabbaths is liable for the violation of each and every Sabbath.

[D] He who knows that it is the Sabbath and performed many acts of labor on many different Sabbaths is liable for the violation of each and every generative category of labor.

[E] He who performs many acts of labor of a single type is liable only for a single sin offering.

[I:1 A] What is the meaning of this reference to a general principle [at M. 7:1A]?

[B] Said R. Yosé b. R. Bun, “It is to indicate that the generalization before us is more important than the generalization at tractate Shebiit [‘A **general principle have they laid down concerning produce of the Seventh Year: Whatever is food for man or cattle, etc. (M. Sheb. 7:1A)].’**”

[C] “For the restrictions of the Sabbath apply to everything, while those of the Seventh Year apply only to work in the fields alone.”

[D] *There we have learned: A general principle have they laid down concerning produce of the Seventh Year [M. Sheb. 7:1A].*

[E] What is the meaning of this reference to a general principle?

[F] Said R. Yosé b. R. Bun, “It is to indicate that the generalization before us is more important than the generalization concerning tithing. For the rules of the Seventh Year apply both to food for

man and food for beasts, while the rules of [9a] tithing apply only to food for man alone.”

[G] [*We now are given the generalization to which reference has just been made:*] *Bar Qappara taught*, “They have stated a general principle with regard to tithes.”

[H] What is the purpose of this general principle?

[I] Said R. Yosé b. R. Bun, “It is to indicate that the principle before us [concerning tithing] is more important than the one concerning the corner of the field. For tithing applies both to produce which one brings in to storage and to produce which one does not bring in to storage, while designating the corner of the field applies only to something which one brings in to storage [excluding vegetables, including only grain].”

[J] *And there is he who wishes to say*, “What is the meaning of ‘general’? It is to indicate that there is a less important rule than this one as well.”

[II:1 A] *We have learned [at M. 7:1B], **Whoever forgets the basic principle of the Sabbath.*** But there is a Tannaite authority of the household of Rabbi who repeats the tradition as follows: “Whoever does not know the principle of the Sabbath [to begin with].”

[B] *R. Eleazar concurs with the version of our Mishnah. R. Yohanan repeats the passage in accord with the view of the authority of the house of Rabbi.*

[C] Lo, it follows, R. Eleazar said, “Whoever forgets the basic principle of the Sabbath ...,” [thereby implying] that if he does not know it to begin with, he is entirely exempt.

[D] [*We deal with this issue*] *on the basis of what Rab taught in regard to our passage of the Mishnah and how he interpreted it:* “What is the definition of one who does not know the very principle of the Sabbath? It would be, for example, a child who was taken captive by gentiles [and was raised in total isolation from Israel].”

[E] *That would indicate that the one is the same as the other.* [*Accordingly, in either case, a sin offering would be required, as M. 7:1B states, contrary to the supposition of C.*]

[F] Lo, it follows, R. Yohanan has said, “Whoever does not know the principle of the Sabbath “[thereby implying] that if he knew [so] but forgot it, he is liable.

[G] [*We deal with this consideration*] on the basis of what R. Samuel said, R. Abbahu in the name of R. Yosé b. Hanina, “The entire rule [of tractate Keritot, cited below] is stated from the viewpoint of R. Eliezer. But as to the view of rabbis, one is liable only for a single count [and for a single sin offering]. That would indicate that the one is the same as the other. [Accordingly, in either case, a single sin offering would be required, even on account of the violation of multiple Sabbaths.]”

[H] They asked before the son of R. Yosé, “Now what have you heard from your father, R. Yosé, in this regard?”

[I] He said, “He is in accord with the view of R. Yohanan.”

[J] Said to them R. Hezekiah, “He did not say so [in so many words]. But R. Simon bar Zabeda was studying with the son of R. Yosé, and heard from him [that he was in accord with] the view of R. Eleazar.”

[III:1 A] How do we know [that there may be diverse liabilities, as the Mishnah indicates]?

[B] [Cited is Lev. 4:2, “If any one sins unwittingly in any of the things which the Lord has commanded not to be done,] and does any one of them” – “And does one ...,” “And does ... then,” “And does ... of them ...,”

[C] “And does one ...,” serves to impose liability for each and every deed.

[D] “... them” – to impose liability on all the deeds on a single count.

[E] “... of them” – to impose liability for doing a deed analogous to a principal type of prohibited deed.

[F] Or perhaps the verse of Scripture refers [not to the Sabbath but] to an act of idolatry.

[G] R. Zakharyah taught before R. Yohanan: “If before an idol one has sacrificed, burned incense, poured out a libation, in a single spell of inadvertence, he is liable on each count.”

- [H] *Said to him R. Yohanan, “O Babylonian, you crossed three rivers and have been swamped. One is liable on only a single count in such a case.*
- [I] “[The cited verse cannot refer to idolatry. How so?] *Before one has smashed it with his hands, on any of these counts of worshipping the idol, there is only a single count of liability, thus, ‘... one,’ but there is no multiple count of liability, thus, ‘... of them.’*
- [J] “*After one has smashed it with his hands, [thus giving evidence that he knows idolatry is forbidden,] there is a consideration of multiple counts of liability, thus, ‘... of them,’ but there no longer is the possibility of liability only on a single count, thus, ‘... one.’*”
- [K] And let matters be so with regard to idolatry, so far as serving an idol is concerned, just as with regard to service of the Most High, with respect to prostrating oneself and serving [the Most High], so that one is liable for each improperly performed act of service to the Most High, to impose liability for each improper act with regard to prostrating oneself, and to impose liability for completing only part of an action. [These would be ways in which the cited verse of Scripture may be read in the context of idolatry. Hence the question raised at G remains to be answered.]
- [L] R. Bun bar Hiyya in the name of R. Samuel bar R. Isaac: “It is written, ‘If it is the anointed priest who sins, thus bringing guilt on the people, then let him offer for the sin which he has committed a young bull without blemish to the Lord for a sin offering’ (Lev. 4:3). [This indicates that it is a religious requirement that the anointed priest bring a bullock on their account]. It then eliminates the matter of idolatry, on account of which one does not bring a bullock but rather a goat. [Hence, the cited verse cannot speak of idolatry, contrary to Zakhayyah’s view.]”
- [M] *They objected, “Lo, there is the matter of the prohibition of diverse sorts of far and of diverse sorts of sexual liaisons. Lo, should he violate these rules, the anointed priest brings a bullock on account of doing so. [The cited verse of Scripture may just as well speak of these items as of the Sabbath.]”*
- [N] [No, that is unlikely,] *for the passage of the Mishnah treats only matters which yield subdivisions of prohibited categories. But as to prohibited fats, there are no subdivisions of further analogous prohibitions deriving from that principal category. Furthermore, as to prohibited sexual liaisons, the law has*

treated one who merely begins the sexual act as equivalent to the one who completes it [so there are no secondary and analogous prohibitions]. [Accordingly, Yohanan's position remains firm.]

- [III:2 A] Associates say, “Six days shall work be done; but on the seventh day is a Sabbath of solemn rest, a holy convocation; you shall do not work;] it is a Sabbath to the Lord in all your dwellings’ (Lev. 23:3). This serves to impose liability for each and every Sabbath [day that a person violates].”
- [B] Said R. Ila, “It is written ‘[Six days shall work be done, but on the seventh day you shall have a holy Sabbath of solemn rest to the Lord;] whoever does any work on it shall be put to death’ [Ex. 35:2]. Thus, ‘on it ...,’ and not on its fellow [Sabbath, as well].”
- [C] [This proves that what is done on two distinct Sabbath days is not deemed to join together to impose liability.] You maintain that Sabbaths do not join together. They furthermore are treated as separate from one another [so that if one violates one Sabbath unknowingly, then does the same on another, there are two separate counts on which he is liable.]”
- [D] Said R. Yosé b. R. Bun, “Just as they do not join together, so they are not treated as utterly separate from one another.”
- [III:3 A] An adult who was taken captive among gentiles [and loses track of the calendar] –
- [B] Rab and Samuel: One said, “He counts six days and then observes the Sabbath.”
- [C] The other said, “He observes the Sabbath and then counts six days.”
- [D] R. Isaac bar Eleazar in the name of R. Nahman bar Jacob: “He counts six days and observes the Sabbath, five and observes the Sabbath, four and observes the Sabbath, three and observes the Sabbath, two and observes the Sabbath, one and observes the Sabbath. [If he was taken on a Sunday, he counts six days, on a Monday, five, and so on down. He would remember that he was observing the Sabbath, hence we do not make provision for that possibility.]”
- [E] *Said R. Mana, “If he was taken captive on the third day of the week, he will turn out to do work on the Sabbath [by any count]. Why should the consideration of the third day be greater than that of the possibility that he was taken captive on the second, since as he proceeds through the weeks, he will end up working on the Sabbath in*

any event. And if not, should he not have to take account of the possibility of every day being the Sabbath?"

[F] *That would be in line with the following:*

[G] *If one has espoused a [Jewish] woman in the world [and does not know which one it was], R. Jacob bar Aha [said], "R. Yohanan and R. Simeon b. Laqish differ on this case."*

[H] *R. Yohanan said, "He takes account of the possibility that he has betrothed every woman in the world."*

[I] *R. Simeon b. Laqish said, "He does not take account of that possibility." [What then is the difference between this case and the one involving the Sabbath?]*

[J] *There he has a remedy. He can marry a convert to Judaism or a freed slave [so he need not worry that he may have betrothed that woman since she was not Jewish previously]. But here he has no choice.*

[K] *There they say, "Let him worry lest every day is the Sabbath, but let him work to keep himself alive."*

[III:4 A] *We have learned there: Said R. Aqiba, "I asked R. Eliezer, 'He who performs many acts of prohibited labor on many Sabbaths [not read in Palestinian circles: "but of a single sort of prohibited labor"] in a single spell of inadvertence – what is the law?*

[B] *"Is he liable for a single offering for all of them, or is he liable for an offering for each and every one?"*

[C] *"He said to me, 'He is liable for an offering for each and every such action, on the basis of an argument a fortiori:*

[D] *"Now if in the case of a menstruating woman, who does not yield many sorts of subdivisions of transgression or many sorts of sin offerings, one is liable for each and every act of sexual relations,*

[E] *"the Sabbath, which yields many sorts of subdivisions of transgression [different types of labor] and many sorts of sin offerings on their account – is it not logical that he should be liable for each and every act of labor?"*

[F] *"I said to him, 'No. If you have so stated in the case of having sexual relations with a menstruating woman, who is subject to two distinct warnings –*

- [G] **“for the man is subject to warning against having sexual relations with a menstruating woman, and a menstruating woman is subject to warning against having sexual relations with the man –**
- [H] **“will you say the same for the Sabbath, to which applies only a single warning?”**
- [I] **“He said to me, ‘He who has sexual relations with minors [who are menstruating] will prove the matter. For to them applies only a single warning [that applicable to him, since they are exempt]. Yet he is liable for each and every act of sexual relations.’**
- [J] **“I said to him, ‘No. If you have so stated in connection with him who has sexual relations with [menstruating] minors, in which instance, even though there is no warning applicable to them now, there will be such a warning applicable to them in due course,**
- [K] **“will you so rule in the case of the Sabbath, which is subject to a warning neither now nor in due course?”**
- [L] **“He said to me, ‘He who has sexual relations with a beast will prove the matter.’**
- [M] **“I said to him, ‘The beast is subject to the same rule as the Sabbath” [M. Ker. 3:10].**
- [N] Both R. Zeira in the name of R. Hisda, R. Ila in the name of R. Simeon b. Laqish say, “He asked him about the case in which one deliberately violated the Sabbath, but inadvertently performed forbidden acts of labor. [The issue is the matter of several Sabbaths, not several acts of labor. The specification of the single sort of prohibited labor is of no consequence.]
- [O] “It is in such a case that we have learned [the inquiry about doing] many *acts of labor*, not with regard to doing so on many Sabbaths, that one becomes liable.”
- [P] R. Ba in the name of R. Hisda said, “He asked him concerning inadvertent violation of the Sabbath and deliberate performance of many acts of labor.
- [Q] “It is in such a case that we have learned, *Many Sabbaths* – not with regard to doing many acts of labor, that one becomes liable.”
- [R] Lo, both R. Zeira in the name of R. Hisda, R. Ila in the name of R. Simeon b. Laqish, say “The inquiry concerned deliberate violation of the Sabbath and inadvertent performance of many acts of labor.”

- [S] *Did he concur with his answer or did he not concur with his answer?*
- [T] *On the basis of what R. Samuel, R. Abbahu in the name of R. Yosé b. R. Hanina [said], “The law before us follows only the view of R. Eliezer,” so far as the view of rabbis is concerned, one is liable only for a single sin offering, [and that indicates that (Aqiba) did not concur with his view].*
- [U] [Lo,] R. Ba in the name of R. Hisda said, “He asked him about inadvertent violation of the Sabbath and deliberate performance of many acts of forbidden labor. *Did he concur with his view or not?*”
- [V] *Said R. Zeira before R. Yosé, “The following Tannaitic passage indicates that he did not concur with him. For it has been taught: [If someone claimed,] ‘I know that it is the Sabbath, and I know that it is an act of work. But I do not know whether it is an act of labor on account of which one is liable to extirpation, or whether it falls into the category of generative [different] types of work that one has performed – he is liable on each and every act of labor. If it was a series of acts of labor of the same essential sort, by contrast, he is liable for each spell of inadvertence, since there have been many spells of inadvertence. But if it was a single spell of inadvertence, he is liable only on one count. Since [in this cited passage] he did not reply to the statement, it would indicate that he did not concur with him.”*
- [W] Both R. Zeira [9b] in the name of R. Hisda, R. Ila in the name of R. Simeon b. Laqish say, “He asked him about a case in which there had been deliberate violation of the Sabbath through inadvertent performance of many acts of forbidden labor. Lo, as to inadvertent violation of the Sabbath through deliberate performance of many acts of forbidden labor, also R. Eliezer will concur with R. Aqiba that he is liable on only one count.”
- [X] *If that were the case, then R. Aqiba should have been able to reply to him, “Lo, there is the case of deliberate [read: inadvertent] violation of the Sabbath and inadvertent [read: deliberate] performance of many acts of forbidden labor. Lo, in this case there are many secondary acts of labor [deriving from the basic generative category] and many sin offerings, and yet you concur with me that one is liable on only one count.”*

[Y] Since he did not present this argument to him, that is to say that the same rule applies in both cases [in Eliezer's view, that is, one is liable on each count – for each labor and not for each Sabbath. Hence even according to R. Simeon ben Laqish the Mishnah does not follow Eliezer].

[Z] Lo, R. Ba in the name of R. Hisda said, “He asked him about the case of an inadvertent violation of the Sabbath and a deliberate performance of many acts of forbidden labor. Lo, if there were a deliberate violation of the Sabbath and inadvertent performance of many acts of forbidden labor, also R. Aqiba will concur with R. Eliezer that he is liable on each and every count.”

[AA] *But if so, R. Eliezer should be able to reply to him, “Lo, there is the case of one who inadvertently [read: deliberately] violates the Sabbath and deliberately [read: inadvertently] performs many acts of forbidden labor. Lo, there are not, in this case, a great many sorts of subdivisions of transgression and sin offerings, and you concur with me that he is liable on each count.” Since he did not give such a reply to him, it follows that he maintains the same position on both counts.*

[BB] Lo, R. Ba in the name of R. Hisda said, “He asked him concerning a case in which there was inadvertent violation of the Sabbath and deliberate performance of many acts of forbidden labor, and yet do you not deal here with a case of inadvertent violation of the Sabbath [which should yield only a single count of liability]?”

[CC] R. Hezekiah in the name of R. Ba:”He asked him two questions; first, about an inadvertent violation of the Sabbath and a deliberate performance of many acts of forbidden labor, in which case he should be liable on each and every count; and, second, deliberate violation of the Sabbath and inadvertent performance of many acts of forbidden labor.”

[DD] What is the law as to treating the secondary kinds of labor as equivalent to the principal form?

[EE] *Said R. Jacob bar Disai, and so did the household of Rabbi teach: “He who performs many forbidden acts of labor on many different Sabbath days, in which instance the acts of labor were of a single*

kind [a clause in Babylonian but not Palestinian readings of the Mishnah], in a single spell of inadvertence, is he liable for each such action or on a single count for all of them?"

[FF] [Lo, we ask about] many acts of labor. That is to say, if one deliberately violated the Sabbath but inadvertently performed forbidden acts of labor [on many Sabbath days].

[GG] Lo, both R. Zeira in the name of R. Hisda, R. Ila in the name of R. Simeon b. Laqish say, "He asked him about a case in which he had deliberately violated the Sabbath and inadvertently performed forbidden acts of labor."

[HH] And is a man going to be liable to a sin offering for a deliberate act of desecrating the Sabbath? [A sin offering is only called for in the case of inadvertent violation of the law.]

[II] You assign the liability on the basis of inadvertent acts of labor over and above the deliberate violation of the Sabbath. *And along these same lines*, in the case of inadvertent violation of the Sabbath and deliberate performance of acts of forbidden labor, you assign the inadvertent violation of the Sabbath priority over the deliberate practice of forbidden acts of labor, to impose liability for each such action.

[JJ] *And does not R. Eliezer accept the interpretation of Lev. 4:2, " ... of one ...,"* to impose liability for each prohibited action?

[KK] *There is an available teaching in the name of R. Eliezer, "An adult who was taken prisoner among gentiles is liable for each act of violation of the Sabbath."* [Accordingly, he does accept the stated proof. Our Mishnah thus follows R. Eliezer, in accord with R. Yosé bar Hanina.]

- [III:5 A]** What is the difference between a case in which there have been deliberate violations of the Sabbath and inadvertent practice of many acts of forbidden labor, and a case in which there have been inadvertent violations of the Sabbath and deliberate performance of acts of forbidden labor?
- [B] Said R. Yosé, “And why is one who deliberately violates the Sabbath but inadvertently performs forbidden acts of labor liable on each count? It is because if you say to him, ‘It is a forbidden act of labor,’ he will cease to do it, and do some other [permitted] acts of labor instead.
- [C] “And why is one who inadvertently violates the Sabbath but deliberately performs many acts of labor liable only on one count? For if you should say to him, ‘It is the Sabbath,’ he forthwith will stop his actions, [and hence it is deemed a single act].”
- [III:6 A]** If one inadvertently violated the Sabbath and also inadvertently performed acts of forbidden labor –
- [B] R. Hamnuna says, “He is liable on only one count alone.”
- [C] Said to him R. Zeira, “Is not that view not a matter of an argument a fortiori? If one who deliberately violated the Sabbath and inadvertently performed acts of forbidden labor is not liable for each such action, he adds, because of inadvertent [violations] of Sabbath, should he loose inadvertent acts of labor?”
- [III:7 A]** *R. Jeremiah asked before R. Zeira*, “If one harvested a half fig on one Sabbath, doing so deliberately in knowledge that it was the Sabbath, but inadvertently in respect to the prohibition of acts of labor, and if he cut a half fig on another Sabbath, inadvertently doing so as to the Sabbath but deliberately doing so as to the prohibited acts of labor, as to the inadvertent acts of labor involved in this deed – what is the law on their joining together?”
- [B] “Is it plausible to say that Sabbaths may be treated as distinct from one another, or that Sabbaths may be treated as joined together to one another? Lo, dishes [of food] may be treated as separate from one another, and dishes of food may be treated as joined together.”
- [C] He said to him, “I do not know the reason for the rule of the dish.”
- [D] *But is it not a teaching of the Mishnah:* If one has written a single letter on an ordinary day and another letter on the Sabbath, R. Eliezer declares him liable to a sin offering, and R. Joshua exempts him ... [one letter this Sabbath and one on the next Sabbath. R. Eliezer ...

liable, and R. Joshua exempts him].” [The cited portion indicates that Eliezer joins the two acts ().]

- [E] *Said R. Azariah before R. Mana*, “Interpret the case to involve deliberate action. [Then there is no liability to a sin offering.]” [The word “sin offering” is an explanatory gloss in the text.]
- [F] He said to him, “Is it not an argument a fortiori? If in the case of a deliberate action, in which instance one does not make distinctions, there also is no issue of joining together, in the case of inadvertent action, where one may divide actions from one another, is it not an argument a fortiori that there should be no joining together?”
- [G] *Said R. Hananiah*, “The law has held as you have said only in the case of one’s harvesting a half fig deliberately on the Sabbath, and inadvertently performing prohibited acts of labor, and a half fig at twilight, in inadvertence as to the Sabbath but deliberate knowledge as to forbidden acts of labor.”
- [H] As to the inadvertent aspects of the one and the other: what is the law on their joining together?
- [I] *Said R. Mana*, “*Even though R. Yosé did not say this matter explicitly, he said something along these lines.*”
- [J] “R. Yosé raised the question: ‘If one ate half an olive’s bulk of forbidden fat in the knowledge that it was holy, but unaware of uncleanness [affecting himself], and then he ate half an olive’s bulk of fat in full knowledge of the uncleanness affecting himself but unaware of the fact that the fat was holy [and so forbidden to him] – with regard to these several spells of uncleanness, what is the law as to their being deemed to join together [to form the requisite spell covering the volume of forbidden fat sufficient to impose liability to an offering, that is, an olive’s bulk eaten wholly under the knowledge that one should not do it, either by reason of uncleanness, or by reason of the sanctity of the sanctuary]?’ [The question is not answered.]”
- [K] The question [above, D] as it pertains to the Sabbath poses no problems, since the weekdays have intervened between one Sabbath and the next. But as to the menstruating woman, what sort of argument can you make? [A challenge to the above comparison of a menstruating woman and the Sabbath.]
- [L] R. Simeon b. Laqish said, “Interpret the law to speak of a minor who was menstruating, who had an interval of clean days in the midst of her period.”

[M] R. Eliezer b. R. Simeon says, “This is what he asked him: ‘If he had sexual relations with a single menstruating woman five times in a single spell of inadvertence, is he liable for each act or for all of them together?’ He said to him, ‘He is liable for each such act.’”

[N] *Now this poses a problem.* If he had harvested [a fig] and then harvested another one in a single spell of inadvertence, would he have been liable for all of them? Surely he would have been liable on only one count.

[O] *R. Aha in the name of R. Hanina, “This is what R. Mana asked him.”* Did not R. Samuel say R. Abbahu in the name of R. Yosé b. Hanina, ‘The entire law here accords with the position of R. Eliezer, but so far as rabbis are concerned, he is liable on only a single count?’”

[P] Said R. Yosé, “Interpret the passage in accord with that which R. Aha said in the name of R. Hanina, ‘Remove from here [the words of R. Eleazar b. Simeon – for another reason]. [Therefore one cannot assert in challenge that Mishnah Shabbat also contradicts the tradition of R. Eleazar b. Simeon.]

[Q] *Rabbis of Caesarea in the name of R. Nisa, “The entire law here accords with the view of R. Eliezer. And whatever is to be inferred from it accords with the opinion of R. Eliezer.”*”

7:2

[A] The generative categories of acts of labor [prohibited on the Sabbath] are forty less one:

[B] (1) he who sews, (2) plows, (3) reaps, (4) binds sheaves, (5) threshes, (6) winnows, (7) selects [fit from unfit produce or crops], (8) grinds, (9) sifts, (10) kneads, (11) bakes;

[C] (12) he who shears wool, (13) washes it, (14) beats it, (15) dyes it,

[D] (16) spins, (17) weaves,

[E] (18) makes two loops, (19) weaves two threads, (20) separates two threads;

[F] (21) ties, (22) unties,

[G] (23) sews two stitches, (24) tears in order to sew two stitches;

[H] (25) he who traps a deer, (26) slaughters it, (27) flays it, (28) salts it, (29) cures its hide, (30) scrapes it, and (31) cuts it up;

[I] (32) he who writes two letters, (33) erases two letters in order to write two letters;

[J] (34) he who builds, (35) tears down;

[K] (36) he who puts out a fire, (37) kindles a fire;

[L] (38) he who hits with a hammer; (39) he who transports an object from one domain to another –

[M] lo, these are the forty generative acts of labor less one.

[I:1 A] **The generative categories of acts of labor prohibited on the Sabbath are forty less one [M. 7:2A]:**

[B] How from the Torah do we know that there are these generative categories?

[C] R. Samuel bar Nahman in the name of R. Jonathan: “They stand for the forty-less-one times the word, ‘work,’ is written in the Torah.”

[D] *They asked before R. Aha*, “Are all of the occasions on which the words, ‘acts of labor,’ are written in the Torah equivalent to two [further acts of labor]? [That would mean there are more than forty-less-one.]”

[E] *Said R. [A]sian*, “*R. Aha’s review of the entire Torah was such that he did not find the word, ‘acts of labor,’ written there. [Therefore he did not answer the question at D.]*”

[F] Was that what they were asking? It was not that, but rather [whether the use of the word, “his work,” is numbered, as in the following instances]: “But one day, when he went into the house to do his work and none of the men of the house was there in the house” (Gen. 39:11). “And on the seventh day God finished his work which he had done, and he rested on the seventh day from all his work which he had done” (Gen. 2:2). [Does the use of “his work” in these instances count as one of them?]

[G] *R. Simeon b. Yohai taught*, “‘For six days you shall eat unleavened bread; and on the seventh day there shall be a solemn assembly to the Lord your God; you shall do no work on it’ (Deut. 16:8). Lo, this reference to the word, ‘work,’ comes to complete the count of forty-less-one acts of labor that are written in the Torah.”

[H] R. Yosé b. R. Bun in the name of R. Samuel bar Nahmani: “The number stands for the forty-less-one times that the words ‘labor’ and ‘work’ are written in connection with the building of the tabernacle.”

[I] Said R. Yosé b. Hanina, “‘This is the thing,’ is not written, but rather, ‘[Moses assembled all the congregation of the people of Israel, and said to them,] These are the things which the Lord has commanded you to do’ (Ex. 35:1). The expansion from ‘thing’ through ‘things of’ to ‘things’ is meant to signify that there are both generative categories and also secondary analogies.” [Quntras: “... there are generative categories of labor.”]

[J] R. Hanina of Sepphoris in the name of R. Abbahu: [Among the letters for the word, ‘these’] *alef* stands for one, *lamed* for thirty, *he* for five. Thing stands for one, things for two. On this basis we learn of the forty-less-one aspects of a work that are written in the Torah.”

[K] *Rabbis of Caesarea say, “From the basic proof text before you there is nothing lacking in any event. [That is to say,] alef stands for one, lamed for thirty, and het for eight.”*

[L] *The rabbis then do not differentiate between a he and a het.*

[M] *R. Yohanan and R. Simeon b. Laqish [9c] spent three and a half years working on this chapter [of the Mishnah], and they ultimately produced forty-less-one secondary derivatives for each generative category. Where they could show a direct derivation of the derivative from the generative category, they did so, and where they could not find a direct basis, they treated it as equivalent to smiting a hammer on an anvil [that is, as equivalent to completing a prohibited act of labor]. [That is, where they could, they indicated why one form of labor was related to another form of labor. Where they could not demonstrate that a given action constituted an act of labor, they treated it as equivalent to completing an act of labor, just as smiting a hammer on an anvil completes the act of labor.]*

[N] *The sons of R. Hiyya the Elder spent six months studying this chapter. They produced only six exemplifications for each item.*

[O] *The sons of R. Hiyya followed the theory of their father, for it has been taught by R. Hiyya: **He who pulls up, reaps, cuts grapes, harvests olives, cuts dates, and hoes – these are deemed a single category of forbidden labor [T. Shab. 9:17C-D].***

[The sons of Hiyya likewise did not deem each act of labor a separate category of labor.]

[P] *Said R. Serud, “Judah bar Rabbi spent six months studying Makhshirin. At the end a disciple of R. Simai came and asked him a question based on that tractate’s laws, and he could not answer him.*

[Q] “He said, ‘It is quite clear that this one has not passed through the gate of the Torah.’”

[II:1 A] Forty-less-one generative categories of acts of labor:

[B] *For what purpose [is the figure specified]?*

[C] It is to indicate that if one has carried out all of these acts of labor in a single spell of inadvertence, he is liable on only one count.

[D] *R. Zakkai taught before R. Yohanan, “[If before an idol] one has sacrificed, burned incense, poured out a libation, in a single spell of inadvertence, he is liable on each count.”*

[E] *Said to him R. Yohanan, “O Babylonian, you have crossed three rivers and have been swamped. One is liable only on a single count in such a case. [Lev. 4:2: ‘If any one sins unwittingly in any of the things which the Lord has commanded not to be done and does any one of them’ cannot refer to idolatry. How so?] Before one has smashed [the idol] with his hands[, on any of these counts of worshiping the idol,] there is only a single count of liability, [thus,] ‘... one,’ but there is no multiple count of liability, [thus,] ‘... of them.’ After one has smashed it with his hands, [thus giving evidence that he knows idolatry is forbidden,] there is a consideration of multiple counts of liability; [thus,] ‘... of them,’ but there is no longer the possibility of liability only on a single count, [thus,] ‘... one.’”*

[F] *R. Ba bar Mamel asked before R. Zeira, “And let him be liable on each count!*

[G] “Just as you say with regard to the Sabbath, ‘[But the seventh day is a Sabbath to the Lord your God]; in it you shall not do any work, [you, or your son, or your daughter, your manservant, or your maidservant, or your cattle, or the sojourner who is within your gates]’ (Ex. 20:10) – this constitutes a general rule.’ You shall kindle no fire in all your habitations on the Sabbath day’ (Ex. 35:3) – this constitutes a specific aspect of the general rule.

[H] “What follows is this: Was the matter of kindling a fire not part of the general rule? Yet it has been treated as specific, apart from the general rule. That serves to teach you the following: Just as kindling a flame is distinctive, in that it is an individual action on account of which, by itself, people are liable, so every individual action should impose equivalent liability by itself.

[I] “Likewise here: ‘You shall not bow down to them or serve them; [for I the Lord your God am a jealous God, visiting the iniquity of the fathers upon the children to the third and the fourth generation of those who hate me]’ (Ex. 20:5)].

[J] “‘You shall not serve them’ is a generalization, and ‘You shall not bow down to them’ is a specific application of the generalization. Was not bowing down part of the general rule? Then why has it been singled out from the general rule? It is to indicate that, just as bowing down is distinctive in that it is an individual action, on account of which by itself people are liable, so on account of each individual action by itself people are liable. [That then indicates that one is liable for each act of worship to an idol, as F has suggested.]”

[K] He said to him, “With regard to the exegesis of the Scripture’s statements on the Sabbath, we have a general rule in one place, and a specific statement in that same regard in another setting. With regard to idolatry, by contrast, we have both the general rule and the specific statement side by side.”

[L] He said to him, “And is it not written, ‘For you shall worship no other god, [for the Lord, whose name is Jealous, is a jealous God]’ (Ex. 34:14)? ‘Whoever sacrifices to any god, save to the Lord only, shall be utterly destroyed’ (Ex. 22:20). Here are [two statements concerning idolatry, parallel to the Sabbath laws,] in which you have a generalization in one place, and a specific reference to the matter in another place.”

[M] He said to him, “Since you derive the rule from a statement right alongside, even if you have a case in which the generalization is in one [Y. Nazir 6:1: “another”] place and the specific reference in some other, [the same consideration is in play]. [That is, the cases really are not parallel at all, since at one point they are not parallel.]”

[N] Associates say, “It makes no difference whether there is a generalization in one place and a specific reference in another, or a generalization and specific explication are both located in

exactly the same verse. In regard to the Sabbath, however, you have a generalization and then a specific exemplification, while in regard to idolatry, you have a specific exemplification and only afterward a generalization.”

[O] R. Yosé said, “It makes no difference whether you have the general rule and only afterward the specific explication thereof, or whether you have the specification and only afterward the general rule, or whether you have a generalization followed by a specification followed by a generalization. What you have in respect to the Sabbath is a generalization and a specification, and the generalization and the specification both pertain to acts of labor that take place in the same regard. When we come to idolatry, however, we have a generalization which refers to an act of labor with reference to the service of an idol, on the one hand, and specific references to acts of service done for the Most High, on the other hand.”

[P] Said R. Mana, “The specification of kindling a flame was not necessary, while the specification of bowing down was necessary to speak of itself, since [bowing down] is not a deed [carried on in the cult]. [Hence if it had not been specified, we should not have known it was prohibited to bow down to an idol.]”

[Q] *This accords with the following teaching that Hezekiah taught as a Tannaite statement:* “Whoever sacrifices to any god, save to the Lord only, shall be utterly destroyed” (Ex. 22:20). The matter of sacrificing was mentioned in particular to speak of all sorts of acts of service. The act of bowing down was specified in particular to teach that it itself is prohibited, for it is not a concrete deed.

[R] Or perhaps matters are the opposite: Something which is a concrete deed serves to teach [a rule for other matters], while something which is not a concrete deed does not do so.

[S] For R. Jeremiah said, “Not kindling a flame was made specific on account of necessity, to indicate that courts should not go into session on the Sabbath.”

[T] *And what is the scriptural basis for that law?*

[U] Here it is said, “You shall kindle no fire in all your dwellings on the Sabbath day” [Ex. 35:3). And

elsewhere, “And these things shall be for a statute and ordinance to you throughout your generations in all your dwellings” (Num. 35:29). Just as “dwellings” mentioned later refers in particular to courts, so “dwellings” stated here has in mind courts.

[V] Said R. Samuel bar Abedima, “Even if you say that it has been made explicit by necessity, it is as if it has been made explicit not for need [that is, not to specify the rule it mentions, for that rule can already be derived from the larger generalization], and something made explicit not on account of need in fact does impart its lesson to other matters.”

[W] That is to say that if something was mentioned in particular on its own account [“for need”], it does not serve to impose a distinction [so that one is liable on each count], while if it is made explicit not in its own regard, it does provide grounds for differentiation [so one is liable on each count].

- [II:2 A] If two things were specified as distinct from the general rule, what is the law as to their being divided [so that one is punishable on each count]?
- [B] *Let us derive the answer from the following:*
- [C] **[The same rules apply to the altar and the ramp for this purpose.]**
- [D] **From where [do we know that]: He who offers up a piece of the meat of a sin offering, a piece of the meat of the guilt offering, a piece of the meat of Most Holy Things, a piece of the meat of Lesser Holy Things,**
- [E] **a bit of the remnant of the *omer*, of the Two Loaves and the Show Bread and of the residue of meal offerings,**
- [F] **or of leaven or of honey –**
- [G] **[all of these] transgress a negative commandment.**
- [H] **Scripture says, “For you shall burn no leaven nor any honey as an offering by fire to the Lord” (Lev. 2:11) [T. Mak. 5:3].**

- [I] Lo, anything, part of which is offered on the altar fires, lo, it is subject to the prohibition against offering up [such a thing].
- [J] R. Eleazar asked R. Yohanan, “Do the two loaves of bread stand outside of the basic rule, so serving to teach that the Holy Things are not to be offered at all once part of them has reached the ramp [Deleting secondary addition in L: “said to him” () in line with the following? Scripture says, ‘[As an offering of firstfruits you may bring them to the Lord, but they shall not be offered] on the altar [for a pleasing odor]’ (Lev. 2:12). I know only that the firstfruits are not to be placed on the altar. How do I know that the rule encompasses the ramp as well? Scripture says, [L text: “(and to) the altar”; L marginal correction:] ‘But they shall not be offered on the altar.’ [Do we learn from this that all Holy Things once brought to the ramp are equivalent to having been placed on the altar?]
- [K] “Is it possible to suppose that this is both for purposes of the sacred service and not for purposes of the sacred service? Scripture says, ‘For a pleasing odor.’ I have stated the rule only with reference to the sacred service.”
- [L] [Yohanan] said to him, “[May I then maintain that since Scripture refers explicitly to] ‘them,’ [that particular item has Scripture] excluded? But as to other items just now listed, one is not liable on their account, should he bring them up to the ramp. [That is to say, it is as to the two loaves of bread that one is liable so far as the ramp is concerned, just as he is liable for putting such loaves on the altar itself. But as to other holy things, the inclusionary clause that covers the ramp is not effective.]”
- [N] It follows that it is because “them” is stated that one makes such a distinction. Lo, were it not written, “them,” one would then maintain that the rule governing the one does apply to the other. It then follows that if two items are made explicit in a Scripture which deals with a generalization, they are treated as distinct from one another.
- [O] Said R. Hananiah, son of R. Hillel, “As to imposing a distinction [between the two items which have been specified], there is no such distinction. [One is liable to a single count for the two items subject to a general rule. Though treated explicitly, they nonetheless are subject to a single rule.] But as to imparting their own law upon other items, they most certainly do so.”
- [P] R. Yosé b. R. Bun did not maintain that view. Rather [reading R. Yohanan differently, this is his version of the matter]:

- [Q] R. Eleazar asked R. Yohanan, “Is the case of the two loaves treated explicitly so as to impart the ruling governing that case to all Holy Things, [for all of them are not to be put down] on the ramp?”
- [R] He said to him, “On account of these [sorts of offerings] people are liable should they be placed on the ramp. But as regards other Holy Things, people are not liable if they place them on the ramp.”
- [S] [Yosé b. R. Bun’s picture of the discussion] would then imply that if a single item has been treated explicitly, as apart from the generalization that covers it, and it has been so treated in order to include its category under the generalization, it is not subject to a separate count [of culpability]. If it was not so as to include its category under the generalization, it is subject to a separate [count of culpability].
- [T] But as to two items which have been treated explicitly, apart from the general rule, they are not subject to different counts [of culpability from one another].
- [U] But in the view of R. Ishmael, they may well be subject to different counts of culpability from one another.
- [V] For R. Bun bar Hiyya: “In the view of R. Ishmael, two matters which have been treated explicitly, separate from the general rule covering them, may be subject to separate counts of culpability.
- [W] *For R. Ishmael taught as follows:*
- [X] “‘You shall not practice augury or witchcraft’ (Lev. 19:26).
- [Y] “Now are not augury and witchcraft subject to the same general prohibition [of magic]? They have been treated as distinct [and requiring specification] so as to make distinctions therein, [thus indicating that one is culpable on each count].”
- [Z] [In a case where] the general rule is stated with punishment of extirpation, and a specific instance likewise, [then,] in the view of R. Yohanan, we deal with a generalization followed by a specification [so that whatever is stated in the specification limits what is implied by the generalization, a conception which will now be spelled out].
- [AA] For R. Abbahu stated in the name of R. Yohanan: “‘For who ever shall do any of these abominations, the persons that do them shall be cut off from among their people’ (Lev. 18:29)

[with reference to the prohibited sexual unions, e.g., son and mother or stepmother].

[BB] “Now was the man’s sister not within the general principle [by which consanguineous marriages are prohibited]? [Why, then, the union of brother and sister specified, at Lev. 18:9?] It was treated as a specific item in order to effect a differentiation among the various categories of prohibited unions contained within the generalization [and so to indicate that one is punishable on each count]. [This then indicates that if one has violated the entire range of rules against consanguineous marriages in a single spell of inadvertence, he is liable on each count.]”

[CC] *R. Eliezer objected*, “And is it not written, ‘You shall not uncover the nakedness of your mother’s sister ... you shall not uncover the nakedness of your father’s sister ...’ (Lev. 18:12, 13)? [Why should these items be treated specifically, since they are covered by the same general principle? What rule – by the same mode of exegesis – does Yohanan impute here?]”

[DD] He said to him, “They were specified explicitly for a specific purpose. It is to make the rule that one is liable for reaching even the first stage of sexual connection [and not fully consummating the sexual act].”

[EE] [He replied, “But that same rule, DD, is available elsewhere.] For is it not written, ‘If a man lies with a woman having her menstrual period and uncovers her nakedness, he has made naked her fountain, [and she has uncovered the fountain of her blood; both of them shall be cut off from among their people’ (Lev. 20:18)? Now this would seem superfluous in the light of DD.]”

[FF] He said to him, “They were specified explicitly for a specific purpose. It is to make the rule that one is liable for reaching even the first stage of sexual connection.

[GG] “[It was to make a very specific point, specifically, so that] you should not maintain that position that, since one is liable in the case of a menstruating woman only on the count of the uncleanness involved, even in the primary sexual connection, in such a case one should not treat the one who begins the sexual relationship as equivalent in guilt to the one who fully consummates it. On this account it was necessary to make the

entire matter specific.” [So Yohanan’s exegetical principle stands.] [See .]

[HH] And is it not written: “If a man lies with his uncle’s wife, he has uncovered his uncle’s nakedness” (Lev. 20:20)? [Does this not repeat Lev. 18:14:”You shall not uncover the nakedness of your father’s brother ...”?]

[II] He said to him, “They were specified explicitly for a specific purpose. It is to indicate the punishment of dying childless.”

[JJ] As it is written, ‘If a man takes his brother’s wife, it is impurity; he has uncovered his brother’s nakedness, they shall die childless’, they shall live without children (9d).

[KK] He said to him, “This is in line with that which R. Judah said, “In any place in which it is said, they shall be childless, [as at, ‘If a man lies with his uncle’s wife ... they shall die childless’ (Lev. 20:20)], it means that they shall bury their children.”

[LL] Said R. Yosé, “Reference to his aunt was necessary. It is stated explicitly, rather than as part of a general rule, in order to exclude the wife of his brother on his mother’s side [whom one may marry].”

[MM] What is the scriptural basis for that statement?

[NN] Here “his aunt” is stated [Lev. 20:20] and there, “Either his uncle or the son of his uncle will redeem him” (Lev. 25:49).

[OO] Just as “his uncle” to which reference is made later on refers specifically to the brother of his father on his father’s side [and not in the female line], so “his aunt” to which reference is made in this context refers to his father’s brother’s wife, on his father’s side [and not on his mother’s side]. [Consanguinity in the female line is limited, as at LL.] [Following the uncorrupted reading in Y. San. 7:5.]

[PP] Also the prohibition of the wife of his brother is to be derived by analogy to the prohibition of his aunt.

[QQ] Now just as the case of the aunt to which reference is made later means specifically the wife of the father’s brother on the father’s side, so the matter of the wife of

his brother to which reference is made here refers to the wife of his brother on his father's side.

[RR] Up to now [the interpretation of the several verses has accorded with the exegetical theory] of R. Aqiba [who derives (1) the law concerning the aunt by analogy, and (2) the law covering the wife of his brother by analogy from the law covering his aunt]. [Cf. .]

[SS] But what is to be said from the viewpoint of R. Ishmael?

[TT] *For R. Ishmael taught:* "Here reference is made to the wife of his brother, and below, reference is made as follows: 'If a man takes his brother's wife, it is [menstrual] impurity' (Lev. 20:21).

[UU] "Just as, in the case of such an impurity, there is a point at which one is permitted [to have sexual relations] after the woman has been prohibited from having sexual relations, so also with regard to the wife of one's brother there may be a period in which one may have sexual relations [after the time at which one may not, e.g., if the husband dies without children].

[VV] "Excluded from the rule, then, is the wife of his brother on his mother's side, in which there is no point at which one is permitted [to have sexual relations] after the woman has been prohibited to him [by reason of her marriage to his brother, for even if the husband dies childless, in this case, there is no levirate marriage]."

[WW] [Reverting to BB, at which Yohanan says that the sister is specified for the stated reason, we now ask:] And lo, R. Yohanan must confront this same question himself, and how does he bring evidence for the stated proposition [that there are distinct counts on which one is liable]? [For after all, there has been solid objection to his original proof for that proposition in context.]

[XX] R. Abbahu, R. Eleazar in the name of R. Hoshaiiah: "In a case in which we have two negative commandments and a single penalty of extirpation [stated in context], the specification of the negative

commandments serves the purpose of treating the penalty of extirpation as divided and so applicable to each of the several negative commandments [and thus, as above, there will be liability on a number of distinct counts].”

[YY] *What is the scriptural basis for this position?*

[ZZ] “It shall not be poured upon the bodies of ordinary men, and you shall make no other like it in composition” (Ex. 30:32).

[AAA] And it is written, “Whoever compounds any like it or whoever puts any of it on an outsider shall be cut off from his people” (Ex. 30:33).

[BBB] Thus we have two negative commandments [ZZ, AAA] but only a single statement regarding extirpation [AAA]. The function of the two explicit negative statements is to effect a differentiation within the penalty of extirpation and so to apply the penalty of extirpation to one who violates either one of the two negative rules.

[CCC] [Now since that fact is to be derived from the above proof,] why does Yohanan have [to derive the same proposition from the verses with which he has dealt earlier]?

[DDD] *How does R. Yohanan deal with this matter?* Scripture [Lev. 18:29] speaks of men, and the reference to “his sister” serves the purpose of applying that same general principle to all cases involving women.

[EEE] *Does not R. Eleazar hold that same view?*

[FFF] *Indeed he does.* [When Scripture says,] “You shall not draw near ...,” it addresses both men and women.

[GGG] How does R. Yohanan deal with the same matter? He interprets it, but his interpretation is not [sufficiently] clear, and [therefore] another interpretation is needed.

[HHH] *Samuel b. Abba raised the question before R. Zeira*, “[With reference to the following verses the question is raised. Lev. 7:20: ‘But the person who eats of the flesh of the sacrifice of the Lord’s peace offerings while an uncleanness is on him – that person shall be cut off from his people.’ Now the prohibition of eating peace offerings in a state of uncleanness is part of the general principle of preserving the cleanness of all offerings. It is treated explicitly here. But at Lev. 22:3 it is part of the following general rule: ‘If any one of all your descendants throughout your generations approaches the holy things, which the people of Israel dedicate to the Lord, while he has an uncleanness, that person shall be cut off from my presence.’ Thus we have two verses which prohibit eating Holy Things while in a state of uncleanness. So the reference to peace offerings has a specific purpose. It would then – by the stated reasoning – be the purpose of indicating that if inadvertently one ate a variety of Holy Things in a single spell of inadvertence, he will be liable on the count of each distinct sort of Holy Things. This is the proposition now to be stated:] Now peace offerings have been specified explicitly, and is the purpose to impose a distinction on all varieties of Holy Things eaten in a state of uncleanness, [and so impose liability on each count, as stated above].?”

[III] He said to him, “It was made explicit for a distinctive purpose. [Holy Things in the form of peace offerings] are mentioned explicitly in order to exclude [from the stated rule] Holy Things given for the upkeep of the Lord’s house,

[JJJ] “and to make the point that people are not liable in the case of Holy Things given for

the upkeep of the house on the count of violating the rules of refuse, remnant, and uncleanness, [so that if one should keep those Holy Things too long or eat them in a state of uncleanness, he is not liable.]”

[KKK] “[*Continuing Zeira’s statement:*] *Now is that rule not stated explicitly in the Mishnah, as follows: **Things consecrated for the altar join together with one another [for making up the requisite quantity to be subject to] the law of sacrilege, and to impose liability on their account for transgression of the laws of refuse, remnant, and uncleanness [M. Me. 4:1A-B],***

[LLL] “which is not the case of things consecrated for the upkeep of the house. [M. Tem. 7:1.]

[MMM] “Since they do join together, they are not subject to the distinctions made above, [but one is liable on a single count for the whole lot of them].” [reads this as a rhetorical question: “... together are they subject to the distinctions?” NNN then offers a response.]

[NNN] Said R. Haninah, “[What sort of proof derives from the cited Mishnah? It itself poses problems.] For it was necessary to derive the stated proof. For otherwise why should they not be deemed distinct from one another and not to be joined together?”

- [II:3 A] Where we have a general rule stated affirmatively, and a specific instance of the rule expressed negatively [how do we interpret the matter, and for what purpose]?
- [B] *In the opinion of R. Eleazar*, you have a case of a general rule followed by a specific explication of the general rule [which limits the general rule, as illustrated in the following dispute]:
- [C] R. Eleazar says, “People receive a flogging on the count of plowing in the Sabbatical Year.”

- [D] R. Yohanan said, “People do not receive a flogging on the count of plowing in the Sabbatical Year.”
- [E] *What is the scriptural basis for the position of R. Eleazar?*
- [F] “In the seventh year there shall be a Sabbath of solemn rest for the land, a Sabbath to the Lord” (Lev. 25:4) – a general rule.
- [G] “You shall not sow your field or prune your vineyard” (Lev. 25:4) – a specific explication.
- [H] [The former represents a general statement, the latter a specific explication of the general statement.]
- [I] Sowing and pruning were part of the general rule, and why are they explicitly stated? It is to build an analogy on them and to rule as follows: Just as sowing and pruning are distinctive in that they represent work on the land and on trees, so I prohibit only acts of labor which represent work on the land or on trees. [Now this would encompass plowing.]
- [J] *How does R. Yohanan treat the verses [for in D he does not impose a flogging]?*
- [K] You have two distinctive acts of labor, and they are two matters which have been treated as distinctive as apart from the general rule which covers them. Is it for the purpose of making a distinction [and indicating that if one does either of them in a single act of inadvertence, he is liable on the count of each]? [No, the purpose then is not to encompass plowing as a forbidden act of labor in the Sabbatical Year.] [Following Y. San, a negative is deleted.]
- [L] *In the opinion of R. Eleazar* are they treated as not making up distinctive acts of labor [so one would not be liable on the count of each, as explained]?
- [M] But surely he should treat them as distinctive actions[, for on the count of each of which one should be liable].
- [N] They are not treated as distinctive acts, but they do serve to provide a lesson [as specified above, covering other actions which are going to be prohibited, e.g., plowing].
- [O] [Now we turn to R. Yohanan, and ask,] In the view of R. Yohanan do they not serve to provide further lessons [about other acts of labor which, like them and sharing their traits, will be forbidden]?

- [P] The rule is different here [on which case we cannot derive further lessons], for we have a case in which the general rule is expressed in affirmative language, while the specification illustrative of the rule is expressed in negative language,
- [Q] and a commandment stated in affirmative language does not serve to impart lessons concerning a commandment stated in negative language, nor does a commandment stated in negative language teach lessons concerning a commandment stated in affirmative language.
- [R] Said R. Eleazar, “A commandment stated in affirmative language does teach lessons concerning commandments stated in negative language,
- [S] “but a commandment stated in negative language does not teach lessons concerning a commandment stated in affirmative language.”
- [T] *Now in accord with the position of R. Yohanan, we have no problem.* It is permitted in the Sabbatical Year to dig wells, caves, and caverns [for this is not a prohibited act of agricultural labor in the Sabbatical Year].
- [U] *But in the opinion of R. Eleazar, what is the law as to digging wells, caves, and caverns [given that plowing is prohibited]?*
- [V] Just as the [cited verses] do not teach lessons for one another for matters subject to a prohibition, so they do not provide lessons concerning matters which are permitted [so far as Yohanan is concerned]. [But so far as Eleazar is concerned, it will be permitted to dig.]
- [W] Said R. Ba Qartegenah: “The scriptural basis for the position of R. Yohanan [that plowing is permitted in the Sabbatical Year] is as follows:
- [X] “‘Six years you shall sow your field’ (Lev. 25:3) – not in the Seventh Year, a general rule.
- [Y] “‘Six years you shall prune your vineyard and gather in its fruits’ (Lev. 25:3) – not in the Seventh Year.
- [Z] “Any negative commandment which is derived from an affirmative statement is deemed itself to be an affirmative statement, and [one who violates it] has violated an affirmative statement. [But it is permitted to plow.]”

[AA] R. Yosé says, “Even the consideration of an affirmative commandment is not present in such a case, [and the prohibition of plowing does not derive from the Torah.]”

[BB] R. Jeremiah said, “One thereby violates an affirmative statement.”

[CC] *And is it not fully spelled out:* “There shall be a Sabbath of solemn rest for the land, a Sabbath to the Lord” (Lev. 25:4)?

[DD] This serves the purpose of [imposing the penalty of flogging on those who violate] the negative rules of the Sabbath Year [that are already explicit in the Bible – and not to include additional activities] .

[EE] Is it possible that [people] should be flogged on account of the additional period [added on to the Sabbatical Year, in which time the negative rules also apply]? [That is, during a number of months prior to the advent of the Sabbath Year, certain acts of agricultural labor may not be carried out because the benefit therefrom will be felt in the Sabbatical Year itself.]

[FF] R. Yohanan explains the teaching as follows:

[GG] Is it possible that people should be flogged on the count of plowing in the Seventh Year? [Surely not.] [HH] (Lo,) R. Eleazar explains the teaching as follows: Is it possible that people should be flogged for violating the prohibitions stated in the first two chapters [of Tractate Shebi'it]? [Surely not.]

[II] *There is a Tannaite authority who teaches,* “And six years you should sow your field, and six years you should prune your vineyard,” *and there is a Tannaite authority who repeats the tradition,* “You should not sow ... you should not prune....”

[JJ] *The one who said,* “Six years ...” *supports the position of R. Yohanan, and the one who said,* “... your field you should not sow” *supports the position of R. Eleazar.*

[KK] *The following pericope differs from the position of R. Eleazar:*

[LL] [“Take heed lest you offer your burnt offerings at every place that you see; but at the place which the Lord will choose in one of your tribes, there you shall offer your burnt offerings, and there you shall do all that I am commanding you” (Deut. 12:13-14).] “Take heed” – stated as a negative commandment.

[MM] “Lest” – stated as a negative commandment.

[NN] And it is written, “There you shall offer your burnt offerings....”

[OO] “There you shall offer up” – this refers to the offering up.

[PP] “And there you shall do” – this refers to the act of slaughtering [the beast] and sprinkling [the blood].

[QQ] Just as the act of offering up is stated in affirmative language, and lo, it also is subject to a negative commandment, so the act of slaughtering [the beast] and sprinkling [the blood], which are stated in affirmative language, should be subject to a negative commandment as well. [So we have a negative commandment deriving from one phrased in affirmative language. The net result is contrary to Eleazar’s exegetical position at R- S.]

[RR] Since it is written, “There you shall offer up ... and there you shall do ...,” lo, if it were not written, “There you shall offer up and there you shall do ...”

[SS] you would not have a case in which a religious commandment stated in affirmative language teaches concerning one stated in negative language.

[TT] and one stated in negative language does not teach any rules governing one expressed in affirmative language [as is Yohanan’s view at P-Q]. [The affirmative and negative rules do not have a bearing on one another, exactly as Yohanan maintains.]

[UU] Now how does R. Yohanan [*sic!* Better: Eleazar] deal with this same matter?

[W] So that you should not interpret the matter as you do in regard to the Sabbath law:

[WW] If one has dug a hole, plowed a furrow, and dug a ditch, he should be liable on only a single count [treating all as part of a single category of labor].

[XX] *And similarly* if one has slaughtered [a beast], sprinkled [its blood] and offered it up, he should be liable on only a single count.

[YY] *Accordingly it was necessary to state matters as they are stated*, so that one will be liable on each count by itself [as Scripture specifies].

[II:4 A] *In any instance in which we learn that there are generative categories, there also are secondary and derivative ones.*

[B] *There we have learned: **There are four generative causes of damages: ox, pit, crop-destroying beast, and conflagration = M. B.Q. 1:1A).***

[C] An ox refers to damage done by the horn. [If so, I then goring and pushing also constitute generative categories]

[D] R. Hiyya taught, “Biting, lying down, and pushing are secondary categories of horn” [cf. M. B.Q. 1:4B].

[E] *There we have learned: **The generative categories of uncleanness are: the creeping things, semen ... [M. Kel. 1:1A).***

[F] What are the derivatives of the creeping thing?

[G] R. Judah in the name of R. Nahum: “[Objects made unclean from] the indirect contact [with an unclean person].

[H] What kind of indirect contact?

[I] Touching.

[J] A generative category of uncleanness has the power to impart uncleanness to everything. A derivative of such a generative category of uncleanness imparts uncleanness only to food, drink, but not to clay utensils.

[K] Food, drink, and clay utensils cannot become unclean as generative sources of uncleanness, so as to impart uncleanness [deriving from the sources of uncleanness in Lev. 15].

[L] *Now here we have learned: **Generative categories of labor are forty less one [M. 7:2A).***

[III:1 A] And is plowing a generative category?

[B] *R. Hiyya taught*, “Digging a hole, digging a ditch, and piercing a hole are secondary derivatives of plowing.”

[C] [If one is liable for these actions as much as for plowing itself, in what way are they derivative at all? Indeed, they are not. Rather,] all the generative categories of forbidden labor have been derived from the sanctuary. [Work done for the sanctuary on the Sabbath may not be done outside of the sanctuary.]

[D] What sort of plowing was done in the sanctuary?

[E] They plowed so as to plant herbs [for dyestuffs for the hangings].

[F] For how much plowing is one liable?

[G] *R. Mattaniah said*, “Sufficient for planting one leek.”

[H] *R. Aha bar Rab*: “Sufficient for planting a seed of wheat.”

[I] *There we have learned*: **[One is liable for taking from private to public domain] two cucumber seeds, two gourd seeds, two seeds of Egyptian beans [M. 9:7].**

[J] *It has been taught*: As to Medean wheat, two [seeds].

[K] *R. Samuel in the name of R. Zeira*: “Since wheat seed is especially valuable, they treated it as equivalent to all other garden seed that is not itself eaten.”

[L] [This is the governing principle:] On account of any sort of action which is for the benefit of the ground, one is liable on the count of plowing:

[M] digging, cutting a trench, cutting a wedge-like ditch, manuring, making a corral for animals [who will provide manure], adding fertilizer, sweeping [10a], sprinkling, crumbling clods, thinning out choked patches, burning out closely packed reeds or a palm field in which the palm roots must be cleared,

[N] and, in accord with the view of *R. Zeira* in connection with clearing out a water channel, doing so [is forbidden because] it prepares the sides of the canal for sowing,

[O] removing stones, building steps, filling the holes under olive trees, making circles of dirt around the roots of vines –

[P] doing any sort of thing which is for the benefit of the land produces liability on the count of plowing.

- [III:2 A] R. Hiyya in the name of R. Yohanan: “He who cooks [meat in the status of] carrion on a festival day is not subjected to a flogging, for [cooking carrion] is permitted under the general principle that [it is permitted to] cook on the festival, [and that covers the carrion too, even though one may not actually eat the carrion meat].”
- [B] R. Simeon b. Laqish says, “He is flogged, for [cooking carrion is] not permitted under the general principle that [it is permitted to] cook on the festival, and that covers cooking only what in fact one is permitted to eat [excluding, then, carrion].”
- [C] *R. Ba bar Mamel objected to the view of R. Yohanan*, “If that is the case, then he who plows on the festival day should not be flogged, for it is permitted [to do so] on the general principle that it is permitted to plow on the festival [to get dirt for covering blood]. [For that purpose, one may dig up some dirt with a shovel. Now if we take Yohanan’s principle to its logical conclusion, then along these same lines, if the deed is permitted for one thing, it may be done for all purposes. That fact means, just as one may cook what he may not eat, so he may plow *not* in connection with the specific purpose for which plowing is permitted.]”
- [D] [Rejecting this *reductio ad absurdum*,] R. Yosé in the name of R. Ila: “Plowing in the normal way has not been permitted [on the festival day anyhow.]”
- [E] *R. Shimi said before R. Yosé, R. Aha in the name of R. Ila*: “[The Mishnah that permits the man to dig with a shovel, if it was ready for that purpose (= M. Bes. 1:3B)] follows the view of R. Simeon. For R. Simeon said, ‘[It is prohibited to plow on a festival day] only if one had need for that act of labor itself.’ [That is, one may not plow if he needed to plow the field. But if he did the act of labor for some extraneous purpose – in this case, not in order to dig a hole, but in order to get dirt – then that is permitted. This is an act of labor which is not needed for itself, but for some unrelated matter. It then is permitted.]”
- [F] *R. Yosé dealt with R. Aha. He said to him*, “*You have said this matter*. But did not R. Yohanan say, ‘In the view of R. Meir, there

are twenty-four matters in which the House of Shammai take up the lenient position and the House of Hillel the strict position, and this is one of them'? [The reference is to M. Bes. 1:3A-B. Clearly, the Shammaites take up the lenient position here.]

[G] "But should we not say that there are twenty-three? [That is, if you account for the permissive position of the House of Shammai as you have, then the House of Hillel cannot differ in that regard, since R. Simeon is a Hillelite as a disciple of Aqiba. It must follow that all parties concur, and there should be only twenty-three cases in which the Shammaites take a more lenient position, and not twenty-four.]"

[H] [Yosé now asks Aha another question:] "But [even if you say that] R. Meir and R. Simeon hold the same view, [namely, one is exempt from liability for performing an act of labor on a festival that is not necessary for itself but only serves some extraneous purpose]. But did we not maintain earlier that R. Simeon and R. Yosé maintain the same view?"

[I] "[At a discussion on making a wick into a coal on the Sabbath, Yosé and Simeon maintain that that is not punishable, since one is using the wick for a purpose extraneous to its normal one. In that case, where we said that R. Simeon and R. Yosé concur,] should we not say R. Meir, R. Yosé, and R. Simeon all maintain the same view?"

[J] "*But are matters which are troublesome to rabbis self-evident [and obvious] to you [and] matters that are self-evident to rabbis [are troublesome to rabbis]? [Other rabbis are not so certain that the law accords with Simeon's view, while you are certain that it does. And vice versa. This will now be spelled out.]*

[K] "If one cut herbs for the sake of collecting herbs, is he liable on the count of harvesting [on the Sabbath], but not liable on the count of improving the ground [on the Sabbath]?"

[L] "It is not a problem to settle the matter if he did not cut down the grass in order to improve his field. What is the law as to his being liable on the count of harvesting [the grass for herbs] and also on the count of harvesting so as to improve his field? [If he is liable on one count only, it is because the other count is not for a deed done for its own sake, but rather for an extraneous purpose. Simeon's position is that if one did not intend to do an act of labor for its usual purpose, he is exempt from liability.]

[M] “Are you prepared to say that the law is R. Simeon’s, while in the view of rabbis, in any event the man actually has plowed the field, likewise here, the man actually has harvested! [This is all Yose’s question. People are not sure whether the law follows Simeon’s principle or not, and how can you be so sure in the present case that it does follow Simeon’s view?]”

[N] *Said R. Mana, “The views of rabbis support the position of R. Yose [who was Mana’s teacher].*

[O] “For R. Hiyya said in the name of R. Yohanan, ‘In the case of a salted fish that one pressed out, if he did so for its own sake [in order to eat it], he is exempt [from liability], but if he did so in order to get the brine out, he is liable. [Now Simeon’s view is that if one did it not for its own sake – in this case, to get at the brine is not for its own sake – he should be exempt.]’

[P] “So even if you say that this accords with the view of R. Simeon, [you may make sense of it]. But in accord with the position of rabbis, lo, in any event, the man has pressed out the fish; in any event he has extracted the brine, [so he should be liable]. [Here then is another case in which we are not entirely sure whether the law follows the view of Simeon or of rabbis, just as above.]”

[III:3 A] On account of any action that serves to improve the produce, one is liable on the count of sowing:

[B] sowing, bending, grafting, trimming, nipping shoots, cutting, tying up wounds on a tree, stripping, covering with powder, fumigating, removing wormy parts, cutting, anointing, watering, perforating, preparing a covering, and doing any sort of deed which improves the produce –

[C] [any of these actions brings with it] liability on the count of sowing.

[D] Zeira, R. Hiyya bar Ashi in the name of Kahana: “He who plants something on the Sabbath is liable on the count of sowing.”

[E] R. Zeira said, “He who trims vines is in the category of him who plants.”

[F] If one planted and trimmed a vineyard on the Sabbath, in the view of Kahana, he is liable on two counts.

[G] *In the view of R. Zeira* he is liable on only one count.

[H] But did R. Zeira not say, “He who trims a vine is in the category of him who plants”?

[I] Perhaps trimming is regarded as equivalent to planting? [See .]
Both acts were subject to the same, single generalization, namely, sowing. But trimming vines was singled out in order to impose on that action a more stringent rule.”

[J] Because trimming a vine was singled out to impose a more stringent rule on that action, do you now declare it to be exempt on the count of sowing?

[K] In point of fact, there is no difference between planting on the Sabbath and trimming a vine on that day. *In the view of both R. Kahana and R. Zeira*, one is liable on two counts.

[IV:1 A] He who reaps: R. Hiyya taught [in T.’s version]: He who pulls up, reaps, cuts grapes, harvests olives, cuts dates, and hoes – these are all deemed a single type of forbidden labor [T. Shab. 9:17E].

[B] He who “cuts pieces of coral [on the Sabbath] is liable on the count of reaping and on the count of planting.

[C] He who cuts coriander, leeks, parsley, berries, endive, and other vegetables is liable on the counts both of harvesting and of sowing.

[D] R. Yosé b. R. Bun in the name of R. Simeon b. Laqish: “He who places a perforated pot on top of a perforated pot [on the Sabbath] is liable on the counts both of harvesting [by removing the pot from its original place] and of sowing [by setting it down in another growing spot].”

[E] R. Yosé b. R. Bun in the name of R. Simeon b. Laqish: “He who cuts down a sycamore beam is liable on three counts.”

[F] *Said R. Yosé b. R. Bun*, “*There is no point of difference among these several statements in the name of R. Simeon b. Laqish*. He who cuts down is liable on the count of reaping and on the count of sowing. He who blots out is liable on the count of a hammer striking an anvil [= completing the act of labor].”

[G] And rabbis of Caesarea say, “He who seeks out [or hunts] [even in his domain, hence not through a regular act of hunting] a beehive or anything which you may separate from the source that sustains it is liable on the count of harvesting.”

[V:1 A] He who binds sheaves: R. Samuel bar Sisartai asked, “What are the derivatives of sheaf binding?”

- [B] *R. Yosé: “I heard some sort of logic in this matter from R. Simeon in the name of R. Aha, but I don’t know what I heard. How am I to differentiate the case of pounding rice, barley, or beans, in which instance one is liable on the count of threshing, and the case of laying out for drying dates, raisins, or brittle cakes [made of flour of parched grain], in which instance one is liable on the count of binding sheaves, [for, e.g., in drying these items the small pieces tend to stick together]?”*
- [C] Whatever touches in regard to food, one is liable on the count of binding sheaves. [Whatever touches] in regard to a shell, he is liable on the count of threshing.
- [V:2 A] *As to a woman, when she mixes wheat, she is liable on the count of winnowing. When she husks the heads of garlic, the liability is on the count of threshing. For breaking them open at the sides, liability is on the count of selecting. For cutting it in slices, it is on the count of milling. For sifting, it is on the count of winnowing. When she completes the act of labor, it is on the count of “smiting the hammer on the anvil.”*
- [B] *As to him who works in flax stalks, he is liable on the count of threshing. He who beats flax using a rolling pin is liable on the count of grinding [crushing the seeds]. If he works on flax stalks with a rake, he is liable on the count of winnowing. If he works them with a shovel, he is liable on the count of selecting. [When he divides them, he is liable on the count of winnowing. When he separates them, it is on the count of cutting. When he completes his work, he is liable on the count of “striking a hammer on the anvil.”*
- [C] *As to him who grinds garlic [on the Sabbath]: When he strips the heads, he is liable on the count of threshing. When he sifts the garlic in a sieve, he is liable on the count of selecting. When he grinds it in the pestle, he is liable on the count of milling. When he puts liquid on it, he is liable on the count of threshing. When he completes the labor, he is liable on the count of “the hammer striking the anvil.”*
- [D] *When the sausage maker selects from the scraped meat or from the garlic, he is liable on the count of selecting. When he chops up the mixture in the meat chopper, he is liable on the count of threshing. When he pounds it in the pestle, he is liable on the count of grinding. When he puts water on it, he is liable on the count of kneading. When he puts stuffing into the sausage, he is liable on the count of building. When he cuts off slices with a knife, he is liable on the count of cutting.*

When he completes the labor, he is liable on the count of “the hammer striking the anvil.”

- [V:3 A] R. Hiyya in the name of R. Yohanan: [Salted] fish which one pressed out – if it was so as to eat the flesh of the fish itself, he is exempt. If it was to get at the brine, he is liable.
- [B] Rab said, “Pickled vegetables which one pressed out – if it was so as to eat the vegetables themselves, he is exempt. If it was to get at the juice, he is liable.
- [C] “As to steamed [vegetables], whether it is to get at their substance or at their juice, it is forbidden.”
- [D] Samuel said, “All the same are pickles and steamed [vegetables], whether it is to get at their food substance or at their juice, it is forbidden.”
- [E] *Said R. Hezekiah, “This statement of Rab stands at variance with the one of R. Yohanan.”*
- [F] Said to him R. Mana, “Why?”
- [G] [He replied,] “Because this one uses the language of ‘prohibited’ and ‘permitted,’ while that one has said ‘liable’ and ‘exempt.’”
- [H] Said R. Ba bar Mamel, “An onion which one chopped – if it was to use it for flavoring, it is forbidden. If it was to remove the juice, it is permitted.”
- [I] R. Zeira in the name of R. Huna: “As to a radish, one may dip it in salt, so long as he not keep it there an appreciable length of time.”
- [J] R. Zeira in the name of R. Huna: “As to clothing from the craftsman’s shop, one puts them on, and if they happen to rip, they rip.”
- [K] R. Zeira in the name of R. Huna: **“If one’s garments got caught in brambles, lo, in a discrete place he should remove the brambles, so long as he does not tear [the clothing].” [Cf. T. Erub. 8:10]**
- [L] Said R. Zeira in the name of R. Huna, “If mud fell on one’s clothing, he should smooth it off with one of his hands, on condition that he not rub it in.”

[M] R. Zeira in the name of R. Huna: “As to [crushing] mint grains individually, *it is permitted, but not three. As to two, it is subject to doubt.*”

[N] *As to bathing oneself – R. Huna and R. Judah, One said, “[Wiping off with a cloth] one time is permitted, doing so back and forth is forbidden.”*

[O] *The other said, “One way or the other, it is forbidden.”*

[P] *R. Abba bar Zamina went in to take a bath with R. Zeira, and he did not permit him to do so one way [10b] or the other.*

[Q] *If water fell on one’s clothing – R. Huna and R. Jeremiah: One said, “Shaking it off is permitted, but wringing it off is forbidden.”*

[R] *The other reverses the ruling.*

[S] R. Ba bar Hiyya bar Ashi: “One who spits may put it into his garment and need not scruple.”

[T] *R. Ba in the name of Hiyya bar Ashi: “There was a dispute between R. Hiyya the Elder and R. Simeon b. Rabbi. One said, ‘One may spit and crush it into the dirt,’ and the other said, ‘One may not spit and crush it into the dirt.’”*

[U] *Where they dispute, it is in a place in which there is no mosaic floor, but if there is a mosaic floor, one may indeed spit and crush it into the floor.*

[V] *If one spit and the wind picked it up, he is liable on the count of sowing.*

[W] *And anything which is brought about by the wind – he is liable on the count of sowing. [Thus the rule applies not just to separating dross from grain.]*

[VI:1 A] **Selecting fit from unfit produce:**

[B] Said R. Yudan, “There is he who may choose pebbles all day long and will not be liable. There is he who takes no more than a fig’s bulk and forthwith is subject to liability.”

[C] *What would be a practical illustration of this paradox?*

[D] If one was sitting on a mound of pebbles and selecting pebbles all day long, he will not become liable.

[E] If he took as much as a fig's bulk of pebbles into his hand, however, and selected [a pebble], he is liable on that account. [In the former case he cannot complete the work. In the latter, it is all done.]

[VI:2 A] *R. Jonah asked, "If one did so [selected food] on the Sabbath, in the view of the House of Shammai [at M. Bes. 1:10], what is the law as to his being liable? [On a festival one selects the food (kernel) out of the refuse (husk), but not the refuse out of the food. If on the Sabbath one selected the refuse out of the food, will he be liable in the view of the House of Shammai?]"*

[B] Said to him R. Yosé, "And why not? If he had done so on the Sabbath in the view of the House of Hillel, would he not be liable? And here likewise he is liable. [If one did on the Sabbath what the House of Shammai say is not to be done on the festival, he is liable.]"

[C] *Said R. Mana, "Well did R. Jonah, my father, say. The question he raised follows only from the position of the House of Shammai. Why? Because, from their position, a form of selection [that is invariably prohibited on the Sabbath] has been permitted on the festival day, but that form of selection [of one thing from some other] has not been permitted on the Sabbath. [Hence the question raised at the outset remains valid.]"*

[VI:3 A] If one selected one kind of food from some other kinds of food –

[B] Hezekiah said, "He is liable."

[C] R. Yohanan said, "He is exempt."

[D] *The following Tannaitic teaching differs from the view of Hezekiah, for it has been said: One makes his selection of food and eats it right away, or makes his selection of food and leaves it on the table. [This then indicates that selecting food from among a selection foods is not the sort of selection that is prohibited on the Sabbath. Leaving it on the table is the key, then, since it clearly is not selection merely in order right away to eat what is selected.]*

[E] R. Bun bar Hiyya in the name of R. Samuel bar R. Isaac: "Interpret the rule to apply to a case in which there were guests who were eating, one by one. [This is not selection for some later purpose; the guests will eat the food as they come along.]"

[F] *And has it not been taught:* And this is on condition that one not cull out [select] all of a particular sort [of food]? And if one has done so on the Sabbath, he is liable.

[G] [How do the disputants deal with this statement?] *In the view of Hezekiah*, [the reason is] that he who selects [food] [choosing even one sort of food from another sort of food] on the Sabbath is liable [if he does not eat the selection right away].

[H] *In the view of R. Yohanan*, [the reason is that] he who selects food in the normal way in another location is liable. [If one selects food and puts it somewhere else, not eating any of it, he is liable on the count of selection.]

[I] *In the view of Hezekiah*, even if one selects one circle of dried figs from other circles of dried figs, or one pomegranate from other pomegranates, [he is liable].

[J] *If so, then would one be liable for selecting one sort of person from among other people?* [Surely not!]

[K] *What is the upshot of the matter?*

[L] *All parties concur with the statement of R. Immi [that if they eat everything, they are permitted.]*

[M] The view of R. Immi [is as follows]: “If guests come, one places before them lupines [mixed with] a secondary [lit., “unfit”] food. He says to them, ‘Pay attention that in eating you leave the artichokes [the less desirable food] for the end.’ [So the guests must take a handful and select the edibles as they go along, eating what they find right away; but when selecting they have in mind to eat the less desirable items at the end.]”

[VI:4 A] *It is taught:* They do not select [winnow], grind, or sift. He who selects [winnows], grinds, or sifts on the Sabbath is stoned, and on a festival day incurs forty lashes.

[B] *And lo, we have learned: He makes his selection in his usual way, putting it down using his lap, a basket, [or a dish; but not using a board, sifter, or sieve (and so preparing a large quantity for the next day)] [M. Bes. 1:10C-D].*

[C] [As to the contradiction between A and B,] said R. Hanina of Antonia, “The former represents the view of Rabban Gamaliel, who has said,

He swills and separates the husks [M. Bes. 1:10E], [using the water to separate the kernel from the husk, but does not make a selection in the way outlined above. Hence if one made his selection in the usual way, he would be liable, just as III.A has stated.]”

[D] *And lo, it is taught: The members of the house hold of Rabban Gamaliel would crush pepper in their pepper mill [on the festival day] [T. Y.T. 2:16A; cf. M. Bes. 2:8D].*

[E] [There is no contradiction.] It is permitted to grind, but prohibited to make a selection [winnow].

[F] [Answering this same question,] R. Yosé in the name of R. Ila: “It is not permitted to grind in the usual way, [but one may do so in some other way].”

[G] How do we know that one may not select, grind, or sift [in preparing food on the festival day]?

[H] R. Yosé in the name of R. Simeon b. Laqish: “No work shall be done on those days, but what everyone must eat, that only may be prepared by you.” Until: “And you shall observe the feast of unleavened bread ...” (Ex. 12:16-17). [I.e., the labor prohibited extends just up to soaking, the time of watching the unleavened bread.]

[I] *It has been taught: R. Yosé raised the question, “Did they derive from this [verse a prohibition]? [Did not they derive from here a permission] regarding a cooked food?”*

[J] [On account of this consideration, that the verse serves to prove a different proposition altogether,] R. Yosé did not state the matter in this way.

[K] Rather, R. Yosé in the name of R. Simeon B. Laqish [said], “‘... but what everyone must eat, that only may be prepared by you.’ From: ‘And you shall observe the feast of unleavened bread ...’ (Ex. 12:16-17).” The verse permits the activities required for making unleavened bread, from soaking onward.

[L] *Differing from the foregoing position, Hezekiah taught: “The language, ‘... but he alone ...’ serves as exclusionary, meaning that one should not harvest grain, grind it, or sift it on the festival [thus in line with M. Bes. 1:10D, the things the House of Hillel say one must not do].”*

- [VI:5 A] R. Zeira, R. Hiyya bar Ashi in the name of Samuel: “He who strains [wine to remove the lees] is liable on the count of selection [winnowing].”
- [B] *Said R. Zeira, “It is surely more reasonable that it is on the count of sifting.”*
- [C] *R. Jonah and R. Yosé both say, “At first we were inclined to say that R. Zeira has spoken well. Just as in sifting, the grain falls to the bottom and the chaff raises to the top, so with straining wine, the wine goes to the bottom and the lees float to the top. And why [was a festival] left over [= excluded] from [the rule applicable to the Sabbath regarding the prohibition of] the category of selection (winnowing) and left over from the category of straining?*
- [D] “It [a festival] has been removed from the general prohibition regarding selection: **He makes his selection in his usual way, putting it down using his lap, a basket, [or a dish] [M. Bes. 1:10C].** And it has been removed from the general prohibition regarding straining, since on the festival day they may also pour wine into a strainer that has been spread out, as stated in ~. Shab. 20:1].
- [E] “But it [the festival] has not been removed [for purposes of cooking] from the general prohibition regarding sifting. For R. Hanina b. Yakah in the name of R. Judah said, ‘One may not sift flour a second time on a festival,’ but they sift it on the outer side of the sieve. [Sifting may be done only in an unusual way.] Now if you maintain that [straining] is comparable to sifting, then it should be prohibited [to strain wine on the festival day, as we see that it is forbidden to sift in the normal way].”
- [F] *Said R. Yosé b. R. Bun, “[The question as to sifting flour on the outer sides of the sieve,] this is not in accord with the view of R. Judah. For it has been taught in the name of R. Judah, ‘But [read: “Even”] as to making use of utensils used for preparing food, they have permitted doing so [that is, even without making some change from the practice on ordinary days]. [Judah then would not require using the outer sides of the sieve at all.]”*
- [G] *The question, however, was: What is the law as to sifting the flour a second time on the outer parts of the sieve, in accord with the view of rabbis [who differ from Judah, F]? [To this question Hanina b. Yakah responded, in E]. [.]*

[VII:1 A] **Grinding:** One who crushes salt or pulverizes pepper is liable on the count of grinding.

- [B] One who [on the Sabbath] sifts powder of gypsum is liable on the count of winnowing.
- [C] One who kneads gypsum, powder for collyrium, or spices [on the Sabbath] is liable on the count of kneading.
- [D] He who kneads, tears a lump of dough into pieces to form cakes, lays out dough – all of them are subject to the single count of kneading. [They are regarded as a single action.]
- [E] *R. Ba bar Mamel asked, “There the law states: [All meal offerings which must be unleavened are kneaded in lukewarm water, and one watches them, that they not become leavened....] And they are liable on account of leaving in connection with kneading it, rolling it, and baking it [as three distinct counts] [M. Men. 5:2A-B, E]. And here you say this [that they are regarded as a single count]?”*
- [F] The reason is that, in that case, there are grounds [in Scripture] for treating [the several phases in preparing the dough] as distinct from one another, on account of which one may incur liability on each count, while here, one is liable on only a single count [for the several phases of the labor].

[VIII:1 A] [With reference to the inclusion of baking, M. 7:2, and the failure to mention cooking, we note that in the tabernacle, the source for the generative categories, there was no baking, but only cooking the spices,] *so you see that baking is a derivative of cooking, and you phrase matters in this way [referring to baking]?*

- [B] *But since [at M. 7:2B] we learn the actions involved in making bread, that item has been so phrased as to be taught along with the others.*
- [C] He who heats wax dust [on the Sabbath], he who casts crystal, he who dissolves pitch lining, he who dissolves an infusion of grapes [– such a one is liable on the count of kneading].
- [D] R. Abbahu in the name of R. Yosé bar Haninah: “He who chops up a limb into small pieces is liable on the count of cooking. He who roasts, fries, steams, smokes – all of them are liable on the count of cooking.”
- [E] What is the status of cooking [food] in the hot springs of Tiberias?
- [F] Hezekiah said, “It is forbidden.”
- [G] R. Yohanan said, “It is permitted.”

[H] *Said R. Mana, "I went to Caesarea, and I heard R. Zeriqan in the name of Hezekiah [state], 'So far as Hezekiah is concerned, he has a question as to the status of an animal designated as a Passover offering which was cooked in the hot springs of Tiberias.*

[I] *"There were two Amoraic teachers who ruled on this matter, one maintaining that it is forbidden, the other that it is permitted.'*

[J] *"The one who maintains that it is forbidden invokes the following verse of Scripture: 'Do not eat any of it raw or boiled with water' (Ex. 12:9). The one who maintains that it is permitted invokes this verse: 'But roasted, its head with its legs and its inner parts' (Ex. 12:9)."*

[VIII:2 A] As to all of these measures [which the rabbis have supplied, this is how they apply:]

[B] As to food: the bulk of a fig.

[C] As to food for a beast, enough to fill the mouth of a lamb.

[D] As to cooking: sufficient time over the heat to cook an egg lightly. [As to seasoning: sufficient to season an egg slightly"] .

[E] As to weaving: sufficient to weave the breadth of a *sit*, doubled over.

[F] As to spinning: sufficient to spin the length of a *sit*, doubled.

[IX:1 A] **He who shears wool:** If one sheared without further specification of purpose, what is the law [as to the minimum measure on account of which one is liable]?

[B] *Let us derive the answer from the following:* he who brought out from private to public domain some ink, if it was in a pen, it is culpable if it suffices to write two letters; if it was merely to correct what was written, it is culpable if it suffices to correct the formation of a single letter. [Here too culpability is measured in terms of suitability to form a single spun thread.]

[IX:2 A] *There we have learned:* **R. Yosé ben Meshullam says, "He who slaughters a firstling makes a place with the hatchet on either side and pulls out the hair so as to clear a place for the slaughtering cut, and this is on condition that he does not remove the wool from its place."** And so he who pulls up the hair to examine the place of a blemish [M. Bekh. 3:3]. [One thereby avoids violating the rule of not shearing a firstling, Deut. 15:19.]

[B] R. Ila in the name of R. Simeon b. Laqish: “He who pulls up a hair from a beast in the status of Holy Things is exempt [since this is not in the category of shearing].”

[C] *Said R. Jacob bar Aha, “R. Simeon b. Laqish is consistent with views held elsewhere. For there is the following dispute:*

[D] “‘He who pulls a hair out of an animal designated as Holy Things’ –

[E] “R. Yohanan said, ‘He is liable.’

[F] “R. Simeon b. Laqish said, ‘He is exempt.’”

[G] *R. Jeremiah raised this question, “Are not the opinions of R. Simeon b. Laqish inconsistent? For there is the following dispute:*

[H] **“‘He who pulls out a feather of the wing of a fowl, trims it, or plucks the down is liable on three counts [to three separate sin offerings]’” [T. Shab. 9:20].**

[I] *Said R. Yosé by R. Bun, “And there is no dispute [here]. He who pulls out a feather [10c] is liable on the count of shearing. He who trims it is liable on the count of removing it. He who finally plucks the down is liable on the count of ‘the hammer striking the anvil’ [actually completing the prohibited act of labor].”*

[J] The cases are not parallel. In the case of fowl, to which shearing does not really apply anyhow, plucking the feather is tantamount to shearing. But here, [at D and F,] one is liable only if he will actually shear the animal [not merely pull out the hair].

[K] You should know that this is the case, *for it has been taught:* If one plucked a hair from a dead beast, he is liable, for in this case, plucking the hair is tantamount to shearing.

[X:1 A] **He who washes [lit., “whitens”] it [M. 7:2C(13)]:** *He who pitches wood for vessels or ropes for a windlass.*

[B] *So too a woman who makes up her face with bluing or other cosmetics [is liable on this count].*

[C] *A tailor who puts a thread in his mouth [is liable on this count].*

[D] R. Kohen in the name of rabbis of Caesarea: “One who prepares *amiant* [a variety of asbestos cleansed by being thrown into the fire] is liable on the count of washing it.”

[XI:1 A] **He who beats it [M. 7:2C(14)]:**

[B] *He who hatchels baste, down, or papyrus is liable on the count of beating.*

[XII:1 A] He who dyes it [M. 7:2C(15)]:

[B] What sort of dyeing was there in the tabernacle?

[C] They would make a red spot [congestion of blood] on the hide of the beast [so as to designate it for its purpose, on the Sabbath].

[D] *Said R. Yosé, "That then implies that he who makes a wound, in which the blood congeals, is liable."*

[E] He who makes a red mark on the lip is liable.

[F] He who draws blood is liable on the count of removing the soul located in that place.

[G] He who makes a mark – on the first count, he is liable for writing, and on the second, for dyeing.

[H] If he left off a piece [of a letter] and someone else came along and completed it, the latter is liable on the count of "a hammer smiting an anvil."

[XII:2 A] He who launders and he who wrings out – it is a single type of forbidden labor.

[B] *It is taught: R. Ishmael b. R. Yohanan b. Beroqah says, "In the case of dyers in Jerusalem did they deem wringing out as an act of labor unto itself" [T. Shab. 9:18].*

[C] *In the view of R. Ishmael, son of R. Yohanan b. Beroqah, there are forty generative categories of labor [instead of thirty-nine].*

[D] *Then why should that not be included in the formulation of the Mishnah?*

[E] *Their intent in formulating the Mishnah is to include only those items about which all parties are in agreement.*

[XIII:1 A] He who makes ropes and he who makes cord are liable on the count of weaving.

[B] *He who on the Sabbath makes knotted webs, sieves, and mats is liable on the count of weaving.*

[C] *If a woman begins to arrange the threads for weaving a knitted mat, she is liable on the count of weaving. When she puts on the hem, the liability is on the count of making loops. When she completes them, it*

is on the count of building. When she joins the pieces, she is liable on the count of weaving. When she trims the protruding threads, she is liable on the count of chopping. When she completes her work, she is liable on the count of “a hammer smiting an anvil.”

[D] *He who makes a straw basket – when he weaves the straw, he is liable on the count of weaving; when he sews the pieces, it is on the count of sewing. When he makes the container part, on the count of building; when he cuts off the rough edges, on the count of chopping; when he completes the work, on the count of “a hammer smiting the anvil.”*

[E] *He who does girthing work for a bed on the Sabbath, if he does it lengthwise, he is liable on the count of weaving. If he does it breadth-wise, it is on the count of weaving. If he makes the network, it is on the count of making a loop. When he trims it, it is on the count of chopping. When he completes the work, it is on the count of “smiting with a hammer on the anvil.”*

[F] There will be two knots for the border of a web, or two borders of a web for one knot.

[XIV:1 A] He who makes two loops, weaves two threads, separates two threads, ties, unties [M. 7:2E-F]:

[B] What sort of tying was done in the tabernacle?

[C] They tied the hangings.

[D] But was this not merely temporary?

[E] Said R. Yosé, “Since they encamped and broke camp on the instructions of the word [of God], was it as if [they tied the knots on the hangings] temporarily? No, because they had no reason to know they would again be told to move].”

[F] Said R. Yosé, “Since the Holy One, blessed be he, had promised them that he would bring them into the land, was it as if [all the camping was] permanent?”

[G] Said R. Phineas, “[They did not derive the generative category before us from the tying of the knots of the hangings, but rather] from the tying of the knots of the veils. If a thread tore, one would tie it up. If it again separated, it was not possible to repair it again and again, but one would go and untie and retie the original knot.”

[H] [R.] *Hezekiah said, “An expert tailor can meld two heads of threads as one [so the procedure described at G is hardly to be assumed to have taken place in the construction of the tabernacle anyhow].”*

[I] *Then whence does one derive [the rule about tying in the tabernacle]?*

[J] Said R. Yosé b. R. Hanina, “They derived the law from those who wove the veils.”

[K] *Whence do we know [the fact that one had to untie and retie a knot]? It is written, “... the length of one veil ...” (Ex. 26:2) – that the whole of it should appear to be one [and unified]. If then it was torn, the weaver would tie it together again. Once he reached the woven part, he would leave it off and bring the thread back up.*

[L] R. Tanhuma said in the name of R. Huna, “Even the woof in it gave no mark of a knot or a double thread.”

[XIV:2 A] *R. Hoshaiiah taught, “Wicker baskets for dates and plaited baskets for dates does one untie and retie [on the Sabbath], on condition that he not tie a knot.”*

[B] But is this not untying a knot? [No, for] it is treated as tantamount to breaking a jar to eat the figs therein.

[C] The flaps of a saddlebag [containing food] one ties and unties. It is treated as tantamount to opening and closing a door [held by a leather thong] on the Sabbath.

[XIV:3 A] [With relevance to **M. Kil. 9:10: He who fastens (wool and linen together) with a single fastening (of thread) (i.e., with an incomplete stitch) – it (i.e., the fastening) is not considered a connector (for uncleanness), and it (i.e., the fabrics joined by the fastening) is not subject to (the laws of) diverse kinds, and he who undoes it (i.e., the fastening) on the Sabbath is exempt (from liability for teasing a stitch in order to sew another). (If) he brought both ends (of the thread) to one side (i.e., if he completed the stitch) – it (i.e., the stitch) is considered a connector (for uncleanness), and it (i.e., the fabrics joined by the stitch) is subject to (the laws of) diverse kinds, and he who undoes it (i.e., the stitch) on the Sabbath is liable. R. Judah says, “(The above rules do**

apply) only if he makes three (fastenings) (i. e., one complete and one incomplete stitch)." A thread which is inserted only once through two fabrics (taken, in this context, to be wool and linen) does not serve to connect them together. The thread thus is not considered a connector for uncleanness, the fabrics of wool and linen do not combine to form a garment of diverse kinds, and one is permitted to undo the fastening on the Sabbath. In this instance one is not liable for tearing a stitch in order to sew it again, since the stitch has not been completed. If, on the other hand, one brings the thread through the fabrics again, and thus completes a full stitch, the thread is regarded as connecting the two fabrics together. Judah maintains that the fabrics are not considered to be connected unless the thread is inserted through them an additional time, or three times in all.] R. Hanina said [in regard to the foregoing], "That rule applies if the thread and the needle pass entirely through the entire breadth of the two fabrics."

- [B] Said R. Yannai, "They said to R. Hanina, 'Go and proclaim [your interpretation of the Mishnah somewhere else].' *For lo, we have learned*: 'If one put both ends on a single side [of the two fabrics], even with a single stitch, it is regarded as connected.' But should not the same rule be applied here, that the stitch be carried through to the bottom of both fabrics?"
- [C] "And, further, have we not learned: R. Judah says, '**The above rules apply only if he makes three fastenings**' [M. Kil. 9:10J]? Here too, should not the same rule be invoked, that the stitch be carried through to the bottom of both fabrics?"
- [D] "But in fact the rule is as stated above."
- [E] A thread which one threaded through a needle, even if tied on both sides, is not regarded as connected to the needle.
- [F] If one sewed the thread into a garment, the thread is deemed joined to the garment, but it is not regarded as connected to the needle.
- [G] *R. Jonah and R. Yosé both maintain the view that* [the rule of M. Kil. 9:10 on the single fastening] is the case when the thread is knotted on both sides [that is, one knot on one fabric at the outside, the other at the other fabric outside].
- [H] *The position of rabbis differs, for* R. Ba, R. Jeremiah in the name of Rab said, "He who pulls the thread of a seam tight on the Sabbath is liable on the count of sewing." [But if the fastening had to be tied, the statement would have added that liability is incurred only if the man tied, as well as tightened, the seam. Accordingly, if

they concurred with G, they would have added,] “On the count of sewing and tying.”

[XIV:4 A] The language of “tearing” is used with reference to garments, and of “ripping apart” for leather or hides.

[B] “Tearing” takes place at the middle of garments, and “ripping” in leather hides is at the side.

[C] *There are those who reverse matters:* Tearing applies to hide, ripping to garments. Tearing applies to hides, in the case of those that are soft, ripping to garments, in the case of felt garments [which are difficult to tear].

[XV:1 A] [As to M. 7:2H:] **He who captures a mollusk and crushes it –**

[B] *there is a Tannaite authority who teaches: He is liable on two counts [Judah, so T. Shab. 8:2C].*

[C] *And there is a Tannaite authority who teaches: He is liable on only one count.*

[D] *He who holds that one is liable on two counts sees one count as hunting, the other as taking life.*

[E] *As to the one who holds he is liable on only one count, which one is it?*

[F] *It is on the count of taking a life.*

[G] *Then does he not take into account the matter of hunting?*

[H] *He does not take into account the matter of hunting.*

[I] *That view accords with* [the principle that a rule is not derived from the pattern of the tabernacle with reference to what was done only temporarily at that time, and the matter of hunting was a temporary, not a permanent, arrangement, since] R. Eleazar b. R. Yosé, R. Abbahu, R. Simeon b. Laqish in the name of R. Meir: “The Holy One, blessed be he, created for Moses in the wilderness a kind of wild animal that was clean. [This was hunted on the Sabbath, for purposes of building the tabernacle.] When the work of the tabernacle was complete, the beast was hidden away.” [Accordingly, there is no long-term prohibition against hunting, since it was not a long-term procedure in the tabernacle.]

[J] R. Abun said, “It was called Qeresh.”

[K] *R. Hoshaiiah taught*, “It was a unicorn: ‘This will please the Lord more than an ox, or a bull with a horn and hoofs’ (Ps. 69:31). Note that ‘a horn’ is written [hence a unicorn].” [And it accords with that which R. Samuel said in the name of R. Abbahu, It is permitted to construct tents from the skins of unclean domesticated beasts.

[XVI:1 A] He who slaughters it [M. 7:2H]: *R. Simeon b. Laqish said*, “There should be no reference to ‘slaughtering’ here. For ‘slaughtering’ is a derivative of inflicting an injury.

[B] “*And why has it [delete “not”] been taught in that way here? It is because we are here learning the laws covering the procedures of preparing a meal that the language of slaughtering is used alongside in this same context.*”

[XVII:1 A] He who cures its hide [M. 7:2H(29)]: What sort of curing of hides was done in the tabernacle?

[B] They would make a mark on the hides [to indicate their purpose].

[C] What does it mean to make a mark? They traced outlines on them.

[D] *This accords with that which R. Samuel said in the name of R. Abbahu*, “It is permitted to make a tent out of the hide of an unclean domesticated beast.”

[XVIII:1 A] He who scrapes it [M. 7:2H(30)]:

[B] What sort of scraping was in the tabernacle?

[C] Zeira bar Hinena in the name of R. Hanina: “They would rub the hide on a pillar.”

[XVIII:2 A] He who rubs a hide on a pillar is liable.

[B] On what count is he liable?

[C] R. Yosé in the name of R. Judah b. Levi, R. Aha in the name of R. Judah b. Levi: “On the count of scraping.”

[D] *That which you have said applies to a newly [slaughtered beast’s hide], but in the case of an old [hide], there is a dispute between R. Eliezer and sages, for they have the following debate:*

[E] [In T.’s version:] “**He who sweeps the floor, he who sprinkles it, he who curdles milk or cheese [T.: washes it, and he who anoints it],**

[F] “and he who takes out a loaf of honey, on the Sabbath, is liable for a sin offering.

[G] I’If he does so on a festival day, he is given forty stripes,”) the words of R. Eliezer.

[H] And sages say, “[Whether he does so on the Sabbath or on the festival, he is exempt.

[I] “His liability is only] because of the principle of Sabbath rest” [cf. M. Shab. 10:6A-E] [T. Shab. 9:13 with variations].

[J] Said R. Yosé b. R. Bun, “[There need be] no dispute in a case in which one sweeps the floor or sprinkles it, in which case one is liable on the count of threshing.

[K] “He who curdles milk or cheese is liable on the count of kneading.

[L] “He who milks a cow or removes loaves of honey is liable on the count of harvesting.

[M] “He who presses olives while on the tree is liable on the count of harvesting.

[N] “To whom is it an issue? It is to R. Eliezer.”

[O] R. Hiyya in the name of R. Yohanan: “He who planes the tops of posts is liable on the count of chopping off. He who smooths a poultice is liable on the count of rubbing.”

[XIX:1 A] [He who writes two letters, erases two letters in order to write two letters (M. 7:2:)] If one blotted out a single large letter, [10d] in the space of which there is sufficient area to write two ordinary letters, he is liable [having erased a space for writing those two letters].

[B] If he wrote one very large letter, even though there is in the space occupied by it sufficient area for writing two ordinary letters, he is exempt.

[C] R. Menahem b. R. Yosé says, “The following rule is stricter in the case of erasing than in the case of writing a letter, for he who erases in order to correct the writing is liable, while he who writes in order to spoil the writing is exempt.”

[D] There is he who writes a single mark and turns out to be liable on that basis on the count of writing and on the count of erasing, and there is he who erases a single mark and turns out on that account to be liable on the count of writing and on the count of erasing.

[E] *What would be a practical case?*

[F] If there was a dalet and one turned it into a *resh* [by removing the corner mark of the letter], a *resh* and he turned it into a *dalet*, he is liable both on the count of writing and on the count of erasing.

[XX:1 A] What sort of building was involved in the tabernacle [with reference to M. 7:2J(34)]?

[B] They would put the boards on top of the bases.

[C] But was this not merely temporary?

[D] Said R. Yosé, “Since they would encamp and journey on the instructions [of God], was it as if it was temporary?”

[E] Said R. Yosé b. R. Bun, “Since the Holy One, blessed be he, had promised them that he would bring them into the Land, was it as if it was permanent?”

[F] *That then would imply that* what is only temporary falls into the category of building.

[G] *That would imply that* building involves even placing at the side.

[H] *That would imply that* building is even when one puts some thing on top of something else.

[I] *That would imply that* building on top of utensils is regarded as an act of building.

[J] The bases are equivalent to the ground.

[K] [*As to building,*] *it has been taught,* If one party brings the stone, and the other party brings the mortar, it is the one who brings the mortar who is liable.

[L] R. Yosé says, “Both of them are liable.”

[M] R. Yosé maintains the view that placing a stone without mortar constitutes an act of building.

[N] All parties concur that if one put on the mortar first and then laid the stone, he who lays the stone is liable.

[O] The builder who set the keystone is liable.

[P] To whom is such a matter an issue? To rabbis [behind K].

[Q] *One who makes walls and one who makes the line of stones are liable on the count of building.*

[XXI:1 A] **He who destroys [M. 7:2J(35)]:** That pertains in particular to one who does so on account of need [and not wantonly].

[B] R. Hama bar Uqba in the name of R. Simeon b. Laqish: “He who increases the size of a utensil made of wicker is liable on the count of building.”

[C] R. Ila in the name of R. Simeon b. Laqish: “He who blows up a glass utensil is liable on the count of building.”

[D] Rabbis of Caesarea in the name of R. Simeon b. Laqish: “There are things which are near and yet quite far. And there are things which are far and yet quite near. He who increases the size of a wicker basket, he who blows up a glass utensil, and he who makes a utensil in the mold – all of them [which are actions quite different from one another] are all liable on the count of building.”

[XXII:1 A] **[Winnowing, selecting, sifting (M. 7:2B)]** – all are liable on the count of transporting the refuse.

[B] Each is subject to liability on its own.

[XXII:2 A] *And why is the matter of stretching out [an object from one domain and the other] not taught along with the list [at M. 7:2L(39), transporting an object from one domain to another]?*

[B] R. Simon in the name of R. Joshua b. Levi: “It is because of the dispute of R. Aqiba and sages [at M. 11:1].”

[C] R. Hezekiah, R. Judah b. Levi, R. Joshua b. Levi in the name of Rabbi: “In addition to those [generative categories already listed] is stretching out [an object from private to public domain, which is culpable].”

[D] *And why has it not been included in the formulation of the Mishnah?*

[E] All the other forms of labor are completely done by an individual, while this one may be done only by two people.

[F] All other forms of labor have derivatives, while this one has no derivatives.

7:3

[A] **And a further general rule did they state:**

- [B] **Whatever is suitable for storage, which people generally store in such quantity as one has taken out on the Sabbath –**
- [C] **he is liable to a sin offering on its account on the Sabbath.**
- [D] **And whatever is not suitable for storage, which people generally do not store in such quantity as one has taken out on the Sabbath –**
- [E] **only he is liable on its account who stores it away [and who then takes it out].**

[I:1 A] [Explaining the reference to something's being **not suitable for storage,**] R. Huna in the name of R. Eleazar: "*This speaks of something which has been used for idolatry.*"

[B] R. Yohanan said, "*It speaks of things from which one may not derive benefit.*"

[C] R. Hisda said, "*It refers merely to minute quantities of materials [which people would not usually regard as worth storing at all].*"

[D] *There is a Tannaite authority who repeats:* "One is liable to a sin offering."

[E] *There is another Tannaite authority who teaches,* "One is liable for transporting any quantity at all."

[F] *The Tannaite authority who formulates the matter* "He is liable to a sin offering" supports the view of R. Hisda [that at issue are matters of minimum quantity].

[G] *The Tannaite authority who teaches* "... in any quantity at all" concurs with the position of R. Eleazar and R. Yohanan.

[H] Rabbis of Caesarea in the name of R. Yosé b. R. Hanina: "It [M. 7:3D] would, for example, be such as the batting that a woman has set aside for her menstrual period."

7:4

- [A] **He who takes out a quantity of straw sufficient for a cow's mouthful; pea stalks sufficient for a camel's mouthful; ears of grain sufficient for a lamb's mouthful; grass sufficient for a kid's mouthful;**
- [B] **garlic or onion leaves, ([if] fresh, a dried fig's bulk), [and if] dry, sufficient for a kid's mouthful –**
- [C] **[Supply: he is liable,]**
- [D] **and they do not join together with one another [to form a quantity sufficient for culpability],**

[E] because they are not subject to equivalent measures.

[F] He who takes out foodstuffs [for a human being] in the volume of a dried fig is liable.

[G] And they do join together with one another [to form a quantity sufficient for culpability],

[H] because they are subject to equivalent measures,

[I] except for their husks, kernels, stalks, coarse bran, and fine bran .

[J] R. Judah says, “Except for the husks of lentils, which are cooked with them.”

[I:1 A] R. Jonah, R. Yosé of Galilee in the name of R. Yosé b. Haninah: “What is subject to a stricter rule [being liable at a smaller quantity] completes the requisite volume for [liability for a sort of food subject to] a less severe ruling, but what is [subject to] a less severe ruling does not complete [the requisite volume of what is composed of produce subject] to a more severe ruling.

[B] “Herbs complete the volume required of straw [so that the straw complemented by the herbs will reach the volume of liability], but straw does not complete the volume required of herbs.”

[C] *There we have learned: Cloth and sacking, sacking and leather, leather and matting, join together with one another [even though they are subject to different minimum measures, cloth, three by three, sacking, four by four, leather, five by five, matting, six by six. They join together to be susceptible to uncleanness in accord with the measure for the most lenient of the mixture as at M. Kel. 27:3]. R. Simeon says, “That is because all of them are suitable to be made unclean as something used for sitting with moshab uncleanness”[M. Me. 4:6].*

[D] *R. Jeremiah raised the question, “That poses no problems as to their joining together [in accord with the lenient, rather than the strict, pertinent criterion, contrary to Yosé b. Hanina] in the matter of forming a seat, for they are subject to the same minimum measure as to a seat, which is a square handbreadth. But here how [should they join together at all, even following the stringent criterion among the several varieties]?”*

[E] *Said R. Zeira before R. Mana, “The reason is that they are subject to the same minimum measure in respect to kindling a flame for heating food. [If one gathers these foods or fabrics in dry form for use as wood in kindling a flame, one is liable if he gathers enough of any of them to cook an egg.]”*

- [F] He said to him, “We are seeking a principle covering transporting these things from private to public domain, and you speak to us about warming food with them!”
- [G] Said R. Eleazar bar Yosé before R. Yosé, “The reason is that they are subject to the same minimum measure in respect to kindling flame for heating food.”
- [H] He said to him, “Then we should repeat the formulation: ‘If one has taken out a small twig,’ [since that would suffice to cover the context you proposed].”
- [I] Said R. Hananiah, “Meat may serve as a complement to bread [to complete the requisite volume], but bread cannot serve as a complement to meat. Herbs may serve as a complement to straw, but straw may not serve as a complement to herbs. [There would be no way of listing such a thing as a small twig. In any event the species subject to the more stringent measure serves to complement the one subject to the less stringent one.]”
- [I:2 A]** *R. Hoshaiiah taught*, “If one took out straw for a cow in the volume sufficient to fill the mouth of a cow, [if one took out straw for] a lamb in the volume sufficient for a mouthful for a lamb, he is liable.”
- [B] *R. Ila said R. Yohanan asked*, “If so, then if one took out food for a sick person, if it is enough to fill the mouth of a sick person, he should be liable, [and yet we do not vary the quantities in terms of such a multiplicity of cases].”
- [C] R. Hoshaiiah concurs that if one took out straw for a cow, sufficient to fill the mouth of a lamb, he is exempt.
- [D] *That is stated so that you should not draw the false conclusion that just as he maintains the rule to impose a strict ruling, so he does to provide a lenient ruling.*
- [II:1 A]** [With reference to M. 7:4B] *R. Bun bar Hiyya asked*, “But what if the dish the man took out was not of a fig’s bulk? [Why so much spice? Since at the outset it was less than the requisite volume, is liability incurred?]”
- [B] And “Is a fig’s bulk of spices [onions] needed to spice a dish of no more than a fig’s bulk? [Surely not!]”
- [III:1 A]** [As to M. 7:4H] Zeira bar Hananiah in the name of R. Hanina: “That which you have said applies to red lentils, but as to black ones,

which are easily separated [and are not cooked with the lentils, the rule is the same as above].”

YERUSHALMI SHABBAT

CHAPTER EIGHT

8:1

[A] **He who takes out wine enough to mix a cup; milk enough for a gulp; honey enough to put on a sore; oil enough to anoint a small limb; water enough to rub off an eye salve; and of all other liquids, a quarter log; and of all slops [refuse], a quarter log.**

[B] **R. Simeon says, “All of them are [subject to the measure of] a quarter log.**

[C] **“And they have stated all these measures only with reference to those who store them away.”**

[I:1 A] R. Zeira asked R. Josiah, “What is the minimum measure [of the volume] of the cups [of wine to incur a liability]?”

[B] He said to him, “Let us derive what is not explicated from what is made explicit.

[C] *“For R. Hiyya taught, “The four cups of which they have spoken are to contain a quarter [log] according to the Italian measure [which is larger than the regular measure].”*

[D] *There we have learned: **They may clear away four or five baskets [of straw or produce to make room for guests who have come to study Torah] [M. 18:1A].***

[E] R. Zeira asked R. Josiah, “What is the measure of such a basket?”

[F] He said to him, “Let us derive what is not explicated from what is made explicit.

[G] *“For we have learned there: **In three baskets, each holding three seahs, do they take up the heave of offering of sheqels out of the sheqel chamber [M. Sheq. 3:1A].”***

- [I:2 A] [As to the authority behind M. 8:1A, **wine enough to mix a cup,**] R. Yosé b. R. Bun in the name of R. Yohanan: “This represents the view of R. Judah.”
- [B] *For it has been taught: Water enough for a swallow.*
- [C] **R. Judah says, “Enough to rub off an eye salve” [M. 8:1A].**
- [D] **He who takes out wine enough for a gulp [swallow].**
- [E] **R. Judah says, “Enough for mixing a cup [of wine] one-fourth of a one-fourth log, [which suffices to join with three parts water to make up a full one-fourth log.][M. 8.1A]” [T. Shab. 8:10F-G, A-B.]**
- [F] If it is already mixed, what is the relevant minimum volume?
[Does the standard remain one-fourth of a one-fourth log of raw wine, or does less suffice?]
- [G] *Let us derive the answer from the following: Water – enough for a swallow. R. Judah says, “Enough to rub off an eye salve” [missing in Y.]. Wine – He who takes out wine enough for a gulp [swallow]. R. Judah says, “Enough for mixing a cup of wine” [T. Shab. 8:10F-G, A-B] [Since Judah’s disputant speaks of swallowing the wine, the drink must already be mixed.]*
- [H] *That is to say, in the case of what is mixed, even in the measure of a number of cups [that is, if it already is mixed, the criterion is how much is needed to mix a cup]. [Thus if there is a quarter log of wine, to be mixed in a measure of three to one with water, then that defines the criterion for the volume of water, transporting which imposes liability.]*
- [I:3 A] What is the requisite measure of the cups of wine [to be drunk at the Passover seder]?
- [B] R. Abin said, “A *tetarton*, that is, a quarter [of a quarter *log*].
- [C] What is the law on drinking all four cups in a single span?”
- [D] On the basis of what R. Yohanan has said, “In the case of the Hallel-Psalms [recited in the Passover meal], if one has heard them in the synagogue, he has carried out his obligation,” that is to say that even if one drank all four cups in a single span [and not spaced out over the meal], he has carried out his obligation.
- [E] What is the law on drinking them bit by bit?

[F] Have they maintained that one should get drunk, not drink? [To the contrary.] If one drinks the wine in widely separated gulps, will he not get drunk? [Accordingly, one may not do so.]

[G] What is the law on carrying out one's obligation to drink four cups of wine with wine that has been produced in the Seventh Year? [Since the fields and vineyards are not tended in the seventh year, its vintage will not be of good quality.]

[H] *R. Hoshaiiah taught*, "They carry out the obligation to drink four cups of wine with wine that has been produced in the Seventh Year."

[I] What is the law on carrying out one's obligation with spiced wine?

[J] *On the basis of what Bar Qappara has taught*, "Spiced wine is in the category of wine," that is to say that they do carry out the obligation with spiced wine.

[K] What is the law on carrying out one's obligation with [overly diluted] mixed wine?

[L] *On the basis of what R. Hiyya has taught*, "As to the four cups of which they have spoken, they carry out their obligation whether the wine is straight or mixed, so long as the liquid has the taste and appearance of wine," [it follows that one may do so].

[M] Said R. Jeremiah, "It is the religious duty to carry out the obligation with red wine."

[N] What is the scriptural basis for that view?

[O] "Do not look at wine when it is red, when it sparkles [in the cup]" (Prov. 23:31).

[P] What is the law on carrying out one's obligation with boiled wine [which is weaker than regular wine]?

[Q] R. Jonah said, "They carry out the obligation with boiled wine." [R. Mana said: "They do not carry out their obligation with boiled wine."]

[R] *R. Jonah is consistent with his views expressed elsewhere, for R. Jonah [preferably read: “R. Mana”] drank four cups on the night of Passover and had a hangover [or: bandaged his head] until Pentecost. [Although he normally did not drink wine, on Passover eve R. Mana did so.]*

[S] *R. Judah bar Ilai drank four cups on Passover and had a hangover until Tabernacles.*

[T] *A matron saw him with his face glistening. She said to him, “Old man, old man! One of these three things explains your condition. You are a wine drinker or you lend money on interest, or you raise pigs!”*

[U] *He said to her, “May that woman [you] explode! None of these three things relates to me at all. But my learning is at hand, as it is written, ‘[Who is like the wise man? And who knows the interpretation of a thing?] A man’s wisdom makes his face shine, [and the hardness of his countenance is changed]’ (Qoh. 8:1).”*

[V] *R. Abbahu went down to Tiberias. Disciples of R. Yohanan saw that his face was glowing. They reported before R. Yohanan that R. Abbahu had found some sort of treasure. He said to him, “How do you know?” They said to him, “His face is glistening.” He said to them, “Perhaps he has learned some new teaching of the Light [Torah].”*

[W] *He went up to him and said to him, “What new teaching in the Light have you heard recently?”*

[X] *He said to him, “An ancient passage of a Supplement to the Mishnah,” and he*

recited in this regard, “A man’s wisdom makes his face shine” (Qoh. 8:1).

[Y] *Said R. Hanina, “The log to which the Torah refers is an eighth of the old measure used in Sepphoris for muries.”*

[Z] *Said R. Jonah, “I know it, for the house of R. Yannai would measure honey in it.”*

[AA] *It has been taught: A half of the old eighth-measure of Tiberias [is what is meant].*

[BB] *Said R. Yohanan, “This [eighth ‘old measure] was our [measure].” Why did he not call it “old”? Because it existed in his time. [Alternatively, Why did he (Hanina) call it “old” (if it was used in Yohanan’s day). Because it was no longer used in his day.]*

[CC] *There is he who maintains that it was small and it increased in size, and then diminished, but not to so small a size as it had been in the beginning. [Hence Hanina called it “old” to distinguish it from its present version.]*

[DD] *What is the measure of a cup [in cubic measurements that will hold a one-fourth of a log]?*

[EE] *R. Yosé in the name of R. Judah bar Pazzi, R. Yosé b. R. Bun in the name of Samuel: “Two fingerbreadths by two fingerbreadths by a fingerbreadth and a half and a third of a fingerbreadth.”*

[I:4 A] *It has been taught: “In the case of dry wine, an olive’s bulk [is the minimum measure,]” the words of R. Nathan [T. Shab. 8:10C].*

[B] *Rabbis of Caesarea in the name of R. Yosé b. R. Bun in the name of R. Yohanan: “The view of R. Nathan accords with the position of R. Simeon. Just as R. Simeon says, ‘[The requisite measure is] a quarter log,’ so R. Nathan holds, ‘[The requisite measure is] with a quarter*

log, so that, when it is dehydrated, it will be of the volume of an olive's bulk."

- [I:5 A] R. Simon in the name of R. Joshua b. Levi, "There was the case of a mule, belonging to the household of Rabbi, which died. They declared its blood insusceptible to uncleanness on the count of carrion. [The blood of carrion does not impart uncleanness as does carrion.]"
- [B] R. Eleazar asked R. Simon, "To what extent?" *But the latter did not respond.*
- [C] He asked R. Joshua b. Levi, who said to him, "Up to a quarter *log*, the blood is clean. A larger volume than that is unclean."
- [D] *R. Eleazar was distressed that R. Simon had not answered him with an appropriate tradition.*
- [E] *R Bibi was in session and repeating the tradition of this story. Said to him R. Isaac bar Kahana, "Up to a quarter log is in susceptible to uncleanness, and a greater volume than that is unclean?" He kicked him. R. Zeriqan said to him, "Because he asked you a question, do you then kick him?"*
- [F] *He said to him, "It was because I did not have my wits about me."*
- [G] This accords with that which R. Hanina said, "'Your life shall hang in doubt before you; [night and day you shall be in dread, and have no assurance of your life]" (Deut. 28:66).
- [H] "This refers to someone who purchases wheat for a whole year in advance.
- [I] "'And night and day you shall be in dread' – this refers to one who buys bread from the wholesaler.
- [J] "'And have no assurance of your life' – this refers to one who buys bread from the corner baker."

[K] *What is the upshot of the matter?*

[L] R. Joshua b. Betera testified that blood of carrion is clean [M. Ed. 8:1A].

[M] What is the meaning of "clean"? It is clean so far as imparting susceptibility to uncleanness is concerned. But as to imparting uncleanness [as a source of uncleanness itself], it most certainly does so.

[N] *There we have learned: The blood of a creeping thing is like its flesh. It imparts uncleanness, but it does not impart susceptibility to uncleanness, and we have nothing that is like it, in that blood is deemed equivalent to flesh* [M. Makh. 6:5L-M].

[O] **[We have nothing like it]** – as to the requisite volume for imparting uncleanness, but its blood [11B] imparts uncleanness just as does its flesh.

[P] *Said R. Joseph, “He who holds that it is unclean accords with the view of R. Judah [at M. Ed. 5:5], and [he who holds that it is] clean takes the view of R. Joshua b. Beterah [at M. Ed. 8:1].”*

[Q] *R. Abedumah, the emigre: “And well has R. Judah ruled, for he was the teacher of the household of the patriarch.”*

[I:6 A] *It has been taught: [Rabban Simeon b. Gamaliel says,] “Blood enough for eye shadow for one eye, [for thus do they shadow a cataract of the eye]”* [T. Shab. 8:10/II].

[B] R. Yosé b. R. Bun in the name of R. Yohanan: “This teaching refers to the blood of a bat.”

[I:7 A] **Milk [M. 8:1A]:** That which you have said speaks of milk of a clean domesticated beast; but as to milk from unclean domesticated beast, it must be enough to provide eye salve for one eye.

[I:8 A] **Honey [M. 8:1A]:** *That which you have said speaks of the old kind.*

[B] *But as to our kind, it must be sufficient for cooking with a small egg.*

[I:9 A] **Oil enough to anoint a small limb [M. 8:1A]:** That refers in particular to the small limb of a one-day-old baby.

[I:10 A] **Water enough to rub off an eye salve [M. 8:1A]:** *Said R. Eleazar, “That which you have said applies to water that comes from dew.*

[B] *“But as to our sort of water, it must be sufficient to rinse the surface of a mortar “*

[I:11 A] **And of all other liquids, a quarter log; and of all slops, a quarter log [M. 8:1A]:**

[B] *R. Ba in the name of R. Hisda: “The Mishnah speaks of slops poured from one house to another.”*

[II:1 A] R. Simeon says, “All of them [are subject to the measure of] a quarter log “ [M. 8:1B]:

[B] Sages reply to R Simeon, “Surely it is not possible to speak of honey in the measure of a quarter *log*, or vinegar in the measure of a quarter *log*!”

[C] *He replied to them, “Just as you maintain that all sorts of foodstuffs join together to form the volume of a dried fig [requisite to impose liability for transportation], so we maintain that all liquids join together to form the volume of a quarter log [necessary to impose liability for transportation] “*

[III:1 A] And they have stated all these measures only with reference to those who store them away [M. 8:1C]:

[B] Said R. Mana, “So far as people who store them away are concerned, any volume at all will be culpable [since they will have shown by their action that even so slight a volume is worthwhile to them].”

[C] *And so it has been taught against the view of R. Simeon, “These measures have been stated only with reference to people who find these quantities of fluids [and pick them up, and so show they are of value].”*

[D] Lo, as to those who store them away, any volume at all [will constitute a volume to impose susceptibility].

[E] *And so it has been taught against the view of rabbis: All of these measures have been stated only with reference to those who store these things away.*

[F] Lo, with regard to those who found liquids in these volumes, the standard measure of a quarter *log* applies [and less than that volume will not produce culpability, if one carries on the Sabbath from one domain to another a volume of such slight capacity].

8:2

[A] He who takes out rope enough to make a handle for a basket; reed cord enough to make a hanger for a sifter or a sieve –

[B] R. Judah says, “Enough to use it to take the measure of a shoe for a child” –

[C] paper enough to write on it a receipt for a tax collector.

[D] And he who takes out a receipt for a tax collector is liable;

[E] used paper enough to wrap around a small perfume bottle.

[I:1 A] *That which you have said [at M. 8:2A] refers to soft rope. But as to hard rope, it must be sufficient to kindle a fire capable of cooking a small egg.*

[I:2 A] Reed cord enough to make a hanger for a sifter or a sieve [M. 8:2A]:

[C] *That which you have said refers to rope used for the inner side of the sifter or a sieve.*

[D] *But as to rope used for the outer side, it must be sufficient to tie two loops to a sifter or a sieve.*

[E] *It is taught: Palm sprouts – enough to make a handle for a twig basket [T. Shab. 8:9C].*

[F] *That which you have said refers to soft ones. But as to hard ones, it must be sufficient to make a border.*

[G] *If one took out a utensil made of twigs, he is liable.*

[H] *Strings made of the fibrous bast of the palm – two.*

[I] *A root for planting – two.*

[J] *[A root] for a beast – a lamb's mouthful.*

[K] *If it is for use as wood, in the measure of wood [cf. 9:5A].*

[L] *He who takes out two hairs of a horse's tail or of a cow's tail,*

[M] *lo, this one is liable.*

[N] *Because he makes them into hunting traps [T. Shab. 9:1].*

[O] *As for the stiff bristles of a pig [cf. T. Shab. 9:2A]:*

[P] *There is a Tannaite authority who teaches: two.*

[Q] *There is a Tannaite authority who teaches: one.*

[R] *He who teaches that the measure is two speaks of soft ones.*

[S] *He who teaches that the measure is one speaks of hard ones.*

[T] *Seeds – for planting, two;*

[U] *– for a beast, a pig's mouthful.*

[V] *How much is a pig's mouthful?*

[W] One.

[X] Others say, “For counting, five” [T. Shab. 8:31J-N].

[Y] Bundles of hyssop, savory, and thyme, which one put into storage: If it was for eating – a dried fig in volume;

[Z] – for a beast, a lamb’s mouthful;

[AA] – for wood, in the measure of wood [M. 9:5A];

[BB] – for sprinkling, in the measure of [enough for] sprinkling [purification water on someone made unclean with corpse uncleanness] [T. Shab. 8:31F-I].

[II:1 A] **R Judah says, “Enough to use it to take the measure of a shoe for a child [M. 8:2B]:**

[B] But that refers to a child who knows how to lace up a sandal.

[III:1 A] **He who takes out paper enough to write on it a receipt for a tax collector [M. 8:2C]:**

[B] *It has been taught: He who takes out a receipt of a tax collector before he has shown it to the tax collector is liable.*

[C] After he has shown it to the tax collector, he is exempt.

[D] **R. Judah says, “Also: After he has shown it to the tax collector, he is liable, because he keeps it to show it to the tax farmer” [M. 8:2D] [T. Shab. 8:11].**

[E] **He who takes out a bond, before he has shown it to the creditor, is liable.**

[F] After he has shown it to the creditor, he is exempt.

[G] **R. Judah says, “Also: After he has shown it to the creditor, he is liable, because he may be able to show it to another creditor as well” [T. Shab. 8:12B-C].**

[IV:1 A] **Used paper [M. 8:2E]:**

[B] *It is taught: If there is open space sufficient to contain two letters, he is liable [T. Shab. 8:12A].*

8:3

[A] **Leather – enough to make an amulet.**

[B] **[Inferior parchment – enough to write a mezuzah on it. = later addition to the Mishnah.]**

[C] **Superior parchment – enough to write a small pericope for the tefillin on it, which is “Hear O Israel.”**

[D] **Ink – enough to write two letters.**

[E] **Eye shadow – enough to shadow one eye.**

[F] **[Lime – enough to put on the head of a lime twig. = BT editions.]**

[G] **Pitch or sulphur – enough for making a small hole.**

[H] **Wax – enough to put over a small hole.**

[I:1 A] *There is a Tannaite authority who repeats the version [at M. 8:3A]:
Enough to put on an amulet.*

[B] *He who formulates the matter as, “Enough to make an amulet,” speaks of soft leather.*

[C] *And he who formulates the matter as, “Enough to put on an amulet,” speaks of hard leather.*

[II:1 A] **Superior parchment – enough to write a small pericope for the tefillin on it, which is, “Hear O Israel” [M. 8:3C]:**

[B] *That which you have said applies to the better surface of the hide, but as to the inferior surface of the hide, it is sufficient to write two pericope that go into the mezuzah [M. 8:3B].*

[II:2 A] **As to ink, if one took out ink with a quill, it is sufficient to write two letters.**

[B] **If it is taken out with a utensil, it must be of somewhat larger volume [to impose liability for transportation].**

[C] ***There we have learned: How much must there be in the purification water for one who has been sprinkled to be regarded as clean [M. Par. 12:5]?***

[D] *Said R. Jeremiah, “Is it not reasonable that if it was located in a utensil, there has to be somewhat more [water than in the Mishnah’s definition]?”*

[III:1 A] **Eye shadow – enough to shadow one eye [M. 8:3E]:**

[B] **Said R. Bun bar Hiyya, “For a woman puts eye shadow on one of her eyes and goes out to the market.”**

- [C] Said R Abun, “Even the most hardened of hookers would not do such a thing! Rather, a woman may feel pain in one of her eyes and put eye shadow on the other one and go out into the marketplace.”
- [D] Said R. Mana, “Does the Mishnah speak of a case of a woman who feels distress? But rather, a woman puts eye shadow on one of her eyes and covers up her other eye and goes out into the market.”
- [E] “You have ravished my heart, my sister, my bride, you have ravished my heart with a glance of your eyes” (Song 4:9).
- [F] Rabbis of Caesarea in the name of R. Bun bar Hiyya: “A woman blind in one eye puts eye shadow on the other and goes out into the market.”

[IV:1 A] Pitch or sulphur – enough for making [or stopping up] a small hole [M. 8:3G]:

- [B] R. Yosé bar Hanina said, “They have taught this rule with reference to these things in liquid state.”

[V:1 A] Wax – enough to put over a small hole [M. 8:3H]:

- [B] R. Hiyya taught, “Enough to put over a crack.”

8:4

[A] Glue – enough to put on the head of a lime twig.

[B] Clay – enough to make the [bellow’s] hole of the crucible of a goldsmith.

[C] R. Judah says, “Enough to make a prop.”

[D] Bran – enough to put on the mouth of the crucible of a gold smith;

[E] quicklime – enough to smear the little finger of a girl.

[F] R. Judah says, “Enough to make a hair crown.”

[G] R. Nehemiah says, “Enough to make side curls.”

[I:1 A] What is clay? It is white powder clay.

[I:2 A] Samuel said, “As to dirt: enough to cover up the blood of a small bird.”

[B] *Samuel taught:* “As to dust and ashes: enough to cover up the blood of a small bird.”

[I:3 A] *It has been taught:* As to pottery, any amount, and as to reed rope, any amount, is it permitted to carry in the house.

[B] R. Zeira in the name of Samuel: “So long as it is designated in advance [for use that day].”

[C] *So it has been taught:* As to the stopper of a jug and its sherds, it is permitted to carry them about in the house. If one tossed them into the garbage, however, it is forbidden to touch them [since now it is clear that these are not designated for use on the Sabbath].”

[II:1 A] [As to M. 8:4F-G:] **Said Rabbi, “The opinion of R. Judah appears to me preferable when it is of the volume of an egg, and the opinion of R. Nehemiah when it is mashed” [T. Shab. 8:20F].**

8:5

[A] **“Earth for clay enough to make a seal for a large sack,” the words of R. Aqiba.**

[B] **And sages say, “A seal for a letter.”**

[C] **“Manure or fine sand enough to manure a cabbage stalk,” the words of R. Aqiba.**

[D] **And sages say, “Enough to manure a leek.”**

[E] **Coarse sand enough to cover a plasterer’s trowel;**

[F] **reed enough to make a pen.**

[G] **And if it was thick or broken, enough to [make a fire to] cook the smallest sort of egg, mixed [with oil] and put in a pan.**

[I:1 A] R. Hiyya in the name of R. Yohanan: “[With reference to M. 8:5F’s pen,] that is to say, a pen which reaches up to the joints of the fingers.”

[B] *R. Zeira asked, “Is it suitable up to here [the first knuckles]? Perhaps it should be to here [the second knuckles].”*

[C] *There we have learned: A stylus whose stylus point was taken away is susceptible to uncleanness of the eraser. If the eraser is taken away, it is susceptible because of the stylus [M. Kel. 13:2D].*

[D] *R. Zeira asked, “Is it suitable up to here [the first knuckles]? Perhaps it should be up to here [the second knuckles].”*

[I:2 A] Said R. Yosé, “Every reference to an egg which we have learned with reference to Mishnah tractate Kelim [at chapter 17] refers to an actual egg. But in tractate Shabbat, the volume of a fig is equivalent to that of an egg.”

8:6

[A] **Bone enough to make a spoon.**

[B] R. Judah says, “Enough to make a tooth [of a key] with it.”

[C] Glass enough to scrape the end of a shuttle.

[D] Pebble or stone enough to throw at a bird.

[E] R. Eliezer b. R. Jacob says, “Enough to throw at a beast.”

[I:1 A] What is the meaning of “a tooth” [at M. 8:6B]?

[B] It means a key ward.

[C] *There we have learned: If [in a key] there were teeth and gaps, it is susceptible to uncleanness. If the teeth were removed, it is unclean because of the gaps. If the gaps were blocked up, it is unclean because of the teeth. [If the teeth were removed and the gaps filled up or merged into one another, it is clean] [M. Kel. 14:8D]*

[D] *The opinions of R. Judah are inconsistent. There he treats a tooth as a key bit, and here he treats the tooth as a key ward.*

[II:1 A] **Glass enough to scrape the end of a shuttle [M. 8:6C]:**

[B] *There we have learned: [Fragments of glass – to cover the mouth of a flask ...] Fragments of a glass vessel into which one may pour oil are regarded as useful [M. 17:5], and here you say this [that the criterion is as stated, a quite different one]? [While in 17:5 sages speak of a glass fragment even if the glass has never formed part of a utensil, while in 8:6C the anonymous sages apparently require that the fragment have such a function.]*

[C] R. Aha, R. Miasha, R. Kohen in the name of rabbis [11c] of Caesarea: “Here [we speak] of thick, there [we speak] of thin, [pieces of glass].”

[D] *There is he who proposes to explain: Here [at M. 17:5] we speak of handling the glass, there [at the present passage] we speak of taking it from private to public domain.*

[III:1 A] **Pebble or stone enough to throw at a bird [M. 8:6D]:**

[B] Simeon bar Ba in the name of R. Yohanan: “Sufficient in weight to throw at the back of a bird and the bird will feel it.”

[C] *And along these same lines [for M. 8:6E]: Sufficient to throw at the back of a beast, and the beast will feel it.*

[III:2 A] *It has been taught: [R. Yosé says,] “A rounded and smooth pebble the size of an olive, the size of a nut, or the size of an egg – one takes it and dries his feet off with it.”*

[B] **R. Ishmael b. R. Yosé says in the name of his father, “One [Y.: “Up to ...”] the size of his hand [may be handled for this purpose]” [T. Shab. 13:17].**

[C] R. Judah said, “Beitos b. Zonen was in session and repeating the matter [of the cited passage of Tosefta] before Rabbi. He said ‘Thus do we rule: One must be seated, and [a stone] the size of his hand [may be used]’?”

[D] He said to him, “Any sort [of stone] is permitted, except for one shaped like a small valise.”

[E] R. Ila in the name of R. Yannai: “Subject to the rule that one may carry a stone about is one the size of the foot of a small pestle used for crushing a spice.”

[F] Said R. Yosé, “They have stated only, ‘... for spice.’ Lo, as to one large enough for crushing various spices, it is not permitted [to carry a stone the size of one of the feet of such an object].”

[G] R. Ila in the name of R. Simeon b. Laqish: “A pebble on which grass one grew is permitted to take and use for drying off his feet. And he who plucks [grass from] such a stone on the Sabbath is liable to a sin offering.”

[III:3 A] *R. Hiyya taught, “A sherd of any character at all – it is forbidden to wipe oneself therewith [on grounds of danger].”*

[B] Said R. Yosé b. R. Bun, “It is not the end of the matter that that prohibition applies to a sherd, but even the handles of jugs [may not be used for that purpose].”

[C] [And the same applies] to anything that goes into the kiln and is taken out.

[D] R. Yosé b. Yosé said, “A pebble used by his fellow for wiping himself and water of a volume of less than forty *seahs* is it for bidden to use for wiping oneself.”

[E] R. Hananiah in the name of R. Mana: “Water which a dog has licked it is forbidden to use for wiping oneself.”

[F] *And so has it been taught: They do not wipe themselves either with a dog’s mouth or before a dog or with water a dog has licked or with water of less than the volume of forty seahs. And that water which one has perspired and that which one has rinsed in the bath is bad for the health.*

[G] R. Yosé b. R. Bun in the name of R. Huna: “Five rules have been stated with regard to the point of a reed: ‘They may not slaughter a beast with it, perform a rite of circumcision with it, use such a thing for picking the teeth, cut meat with it at the table, or dry oneself with it, because an evil spirit rests on it.’”

8:7

[A] **“Potsherd enough to put between one board and another, “ the words of R. Judah.**

[B] **R. Meir says, “Enough to scoop up fire.”**

[C] **R. Yosé says, “Enough to hold a quarter log [of liquid].”**

[D] **Said R. Meir, “Even though there is no proof for the proposition, there is at least a hint for it: ‘And there shall not be found among the pieces of it a sherd to take fire from the hearth ‘(Is. 30:14).”**

[E] **Said to him R. Yosé, “From that same verse there is proof [for my proposition]: ‘Or to scoop up water withal out of the cistern.”**

[I:1 A] A potsherd of any size – R. Yohanan said, “They consecrate [the water for the red heifer process of purification] with it.”

[B] R. Simeon b. Laqish says, “They do not do so.”

[C] R. Eleazar asked, “*In the view of R. Simeon b. Laqish*, why do they not consecrate with it?”

[D] It is because it is not susceptible to receive uncleanness [as a broken, hence useless, object, and on that account, it may not be used for making the mixture of ash and water].”

[E] Lo, then, there are utensils made of dung, stone, and dirt – lo, they are not susceptible to uncleanness, and yet they may mix purification ash and water in them.

[F] Rather, it is because it cannot contain a quarter *log* of liquid [and so is too small for the purpose].

[G] But does R. Simeon b. Laqish not concur that if a clay utensil is whole, if it is of any size whatsoever, they do make the mixture in it?

[H] *It must follow that his reason can only be* because it is not a distinctive object [and since it does not have a differentiated purpose, it cannot be used for the stated procedure].

[I] *Now there is this problem to present to R. Yohanan:* [Since it cannot contain a quarter log of liquid,] its contents at that

volume do not have the power to invalidate the body [read: “immersion pool”] [cf. M. Me. 4:3 and 5], and yet will a utensil of such a volume suffice for consecrating with it [to mix the purification ash and water]?

[J] Rather, the rule accords with that which R. Yosé has said, “Even in the case of a sherd, any volume at all suffices.”

[K] *But did R. Yosé speak only of a whole one? Do we not deal with a broken one?*

[L] There is a teaching of R. Hiyya in support of the view of R. Yohanan [= T. Kelim B.Q. 7:17], and a teaching of R. Simeon b. Yohai in support of the view of R. Simeon b. Laqish.

YERUSHALMI SHABBAT

CHAPTER NINE

9:1

- [A] Said R. Aqiba, “How do we know of an idol that it imparts uncleanness when it is carried as a menstruating woman [imparts uncleanness when she is carried to the one who carries her]?”
- [B] “Since it is said, ‘You shall cast them away like a menstrual thing, you shall say to it, Get thee hence’ (Is. 30:22).
- [C] “Just as the menstruating woman imparts uncleanness when she is carried, so an idol imparts uncleanness when it is carried.”
- [I:1 A] “Abomination” is written in connection with the menstruating woman, “abomination” is written in connection with dead creeping things, and “abomination” is written in connection with an idol.
- [B] In connection with the menstruating woman: “for whoever shall do any [11d] of these abominations – [the persons] that do them shall be cut off ...” (Lev. 18:29). [Lev. 18:19 explicitly includes under the stated curse one who has sexual relations with a menstruating woman.]
- [C] In connection with idolatry: “And you shall not bring an abominable thing into your house [and become accursed like it; you shall utterly detest and abhor it; for it is an accursed thing]” (Deut. 7:26).
- [D] In connection with dead creeping things: “You shall not eat any abominable thing” (Deut. 14:3).
- [E] But I do not know to which matter an analogy is to be drawn.
- [F] R. Aqiba said, “It is to be compared to the abomination stated with reference to the menstruating woman:
- [G] “Just as a menstruating woman imparts uncleanness to the one who carried her, so an idol imparts uncleanness to the one who carries it [M. 9:1C].”

- [H] Or perhaps, just as a menstruating woman imparts uncleanness [by the pressure of her weight when she is seated] on top of a stone under which there is a cavity, [to objects located beneath said stone], so an idol imparts uncleanness when located on top of a stone under which there is a cavity] containing objects even if they are not in contact with objects underneath the stone]?
- [I] R. Zeriqan in the name of R. Judah, *and there is he who holds he said it in the name of R. Hisda*, “R. Aqiba concurs with sages that an idol does not impart uncleanness to [what is beneath] a stone under which is a cavity.”
- [J] *And rabbis state* [that an idol is analogous] to the “abomination” stated with regard to dead creeping things.
- [K] Just as a dead creeping thing imparts uncleanness to the one who merely shifts its position [without bearing its weight], so the idol imparts uncleanness to the one who merely shifts its position.
- [L] Or [perhaps should we argue]: Just as a dead creeping thing imparts uncleanness when it is merely of the size of a lentil, so an idol should impart uncleanness when [a sherd of] it is so small as a lentil?
- [M] [That possibility is rejected in the following proof.] R. Zeira, R. Isaac bar Nahman, R. Eleazar, R. Abbahu in the name of R. Yohanán: “‘Then they attached themselves to the Baal of Peor, and ate sacrifices offered to the dead’ (Ps. 106:28). Just as a corpse imparts uncleanness through [a piece of corpse matter] the size of an olive’s bulk, so an idol will impart uncleanness when [its sherd] is the size of an olive’s bulk.”
- [N] Or perhaps [the verse of M should be interpreted to mean]: Just as a corpse imparts uncleanness once one has brought in [under the roof of a house so small a part of the corpse as] the tips of its fingers, [might one say], “Also an idol should impart uncleanness when one has brought [under the roof of a house so small a part of the idol as] the tips of its fingers”?
- [O] The word tear down (NTYSH) is used both with reference to an idol and with reference to a house afflicted with plague. [“You shall tear down their altars” (Deut. 12:3), “And he shall break down the house, its stones and timber and all the plaster of the house” (Lev. 14:45).]
- [P] [So one may learn the following rule] from the matter of the house afflicted with plague:

[Q] Just as in the case of a house afflicted with plague, once one has poked in his head and the greater part of his body, [he has become unclean,] so in the case of an idol, once one has poked in its head and the greater part of its body, [it imparts uncleanness to objects under the roof of the house].

- [I:2 A] Said R. Haninah, “That is to say that the uncleanness imputed to an idol is not clear[ly derived from the Torah]. For if that were not so, would one compare it to a lesser [source of uncleanness], and not compare it to a more severe [source of uncleanness]?”
- [B] Said R. Mana, “It is clear [that the source of uncleanness to which the idol is comparable is the Torah, even though the analogy is drawn to both a minor and a major source of uncleanness].
- [C] “Now why does one compare it to a corpse and to a dead creeping thing? To derive evidence therefrom for the minor [forms] which apply to [both these sources of uncleanness]. [That is, the purpose is to impose on the idol the small volume sufficient to impart uncleanness which applies in the case of a corpse, an olive’s bulk, and to compare the idol to the dead creeping thing in that the idol will not impart uncleanness to the one who carries it.]”
- [D] *This [comparison to the corpse] is in line with the following:* [The minimum volume to impart uncleanness, an olive’s bulk, applies] to an idol which is broken, but in the case of an unbroken idol, whatever size it is, [it imparts uncleanness].
- [E] *This is in line with that which R. Huna, R. Hama bar Gurion in the name of Rab, said:* “[There was an idol] in the shape of the head of a penis, and there was one in the shape of a bean.”
- [F] Now what is the scriptural basis [for this statement about the kind of idol just now described in the shape of a penis]? “And they made as their god the master of the mark of circumcision [Baal berith]” (Judg. 8:33). [This indicates that there can be an idol in the stated shape.]
- [I:3 A] *What is the scriptural basis of R. Aqiba[’s position, comparing the idol to a menstruating woman as to uncleanness]?* “You shall [utterly detest and] abhor it” (Deut. 7:26) – like menstrual uncleanness.
- [B] *What is the scriptural basis of the rabbis?* “You shall utterly detest [and abhor it]” (Deut. 7:26) – like a dead creeping thing.
- [C] *How do the rabbis interpret the language adduced in evidence by R. Aqiba?* [“Abhor it” means] treat it like excrement or carrion.

[D] *And how does R. Aqiba interpret the language adduced in evidence by rabbis?* “Detest it” means deface it.

[E] *And how do the rabbis provide scriptural proof:* that one must deface an idol?

[F] R. Samuel, R. Abbahu in the name of R. Eleazar: “[They cite this verse: ‘Then you will defile your silver-covered graven images and your gold-plated molten images. You will scatter them as unclean things;] you will say to them, Begone! (S)’ (Is. 30:22). [That is,] call it [= the idol] ‘excrement’ (SW’H). Treat it like excrement. Make it abominable.”

[G] The one which they call, “Face of God,” [Israelites must call], “Face of Dog.” “Spring of the well” [do they call] “Spring of the thorn” (KWS, QWS). “Fortune” (GDYY) do they call “Heap” (GLYY) [T. A.Z. 6:4B-D].

H] R. Tanhuma in the name of R. Huna, “[It is written,] ‘[Joshua sent men from Jericho to] Ai, which is near Beth-aven, east of (MQDM) Bethel’ (Joshua 7:2). Formerly (MQDM) they called it Beth El (house of God), but now they call it Beth-aven (house of falsehood).”

[I] *It was taught in the name of Eleazar,* “[If a person] did not want to call it by [an honorable name such as] *Omdah* [read: “*Omlah*”], then [let people] call it *Amidah* [read: “*Amirah*”] (‘piss pot’).”

[J] (For) R. Abba bar Kahana said, “There [in Babylonia] they call ‘wages’ – *Amlah* and they call a piss pot *Amidah*.”

[K] Now how does R. Aqiba interpret [the verse in Isaiah], “You will say to them ...”?

[L] R. Yosé b. Abun, R. Huna in the name of R. Joseph: “From here [we know] that one does not say to a person, ‘Get out,’ before he pokes in his head and the greater part of his body [where he is not wanted].” [The verse is thus interpreted in a quite different context.]

[I:4 A] *There is a version of the Mishnah tradition which states,* “An idol is like a menstruating woman [as to uncleanness], and the appurtenances of an idol [also] are like a menstruating woman.”

- [B] *And there is a [contradictory] version of the Mishnah tradition which states, “An idol is like a menstruating woman [as to uncleanness] but its appurtenances are like a dead creeping thing [as to uncleanness].”*
- [C] *For the one who maintains, “An idol is like a menstruating woman and the appurtenances of an idol are like a menstruating woman,” [the verse adduced in evidence by Aqiba] poses no problems [in comparing the idol to a menstruating woman (Is. 30:22)].*
- [D] *But the one who says, “An idol is like a menstruating woman, but the appurtenances of an idol are like a dead creeping thing” – the very essence of the cited verse refers as a menstrual thing only to the appurtenances of the idol [e.g., the gold plating! [So the verse adduced in evidence contradicts this view of the status of the appurtenances, that is,] “Then you will defile your silver-covered graven images and your gold-plated molten images. [You will scatter them as unclean things; you will say to them, ‘Begone’” (Is. 30:22)].*
- [E] Interpret the verse to refer to that which is hammered into the body [of the idol itself].
- [F] For R. Jacob of Kefar Hanan said, “Interpret the statement to apply to a case in which one prostrates himself to the ephod [of an idol], as it is said, ‘And Gideon made an ephod [of the golden pieces given to him by the people ...; and all Israel played the harlot after it there’ (Judg. 8:27)].”
- [G] *The Mishnah [in regard to Aqiba’s position] follows the opinion of the one who rules, “An idol is like a menstruating woman [as to uncleanness] and its appurtenances are like a menstruating woman, and thus have we repeated the Mishnah pericope: **The stones, wood, and mortar deriving from [the wall belonging to a Temple] impart uncleanness in the status of a dead creeping thing [M. A.Z. 3:6F].** [And this differs from M. A.Z. 3:6G-H, so Aqiba will not concur.]*
- [H] Interpret the statement to apply to one’s prostrating himself to the house itself [prior to its being set on its lot], and only afterward did he build it [onto its lot].
- [I] *And lo, we have learned [at M. A.Z. 3:7]: **There are three kinds of houses....***
- [J] Interpret the statement to apply to one’s prostrating himself to the house, and only afterward did he make some new feature to the house [which essentially changed its character].

[K] For R. Zeira, R. Huna in the name of Rab [stated]: “He who prostrates himself in worship to a house has prohibited [Israelite use or benefit from that house].”

[L] R. Zeira, R. Abbahu in the name of R. Yohanan: “He who sanctifies a house – the laws of sacrilege do apply to it.”

[M] *R. Zeira interpreted: “Rabbis differ. He who said, ‘The laws of sacrilege apply to it’ [maintains that] the one who has worshiped it has rendered it forbidden for Israelite use or benefit [Cf. PM]. He who says the opposite holds it is not subject to the laws of sacrilege.”*

[N] *R. Haggai objected before R. Yosé, “And lo, the Mishnah takes a position at variance with that of Rab:*

[O] **“A trough which is hewn in the bedrock – they do not draw [water for the purification ashes] with it, [they do not mix (water with purification ashes) in it, they do not sprinkle (the mixture) from it, it does not require a tightly sealed stopper, and it does not render an immersion pool unfit (since it is not an autonomous utensil). If it was a movable utensil, and one then joined it with plaster to the ground, they do draw with it, they do mix with it, they do sprinkle from it, it does require a tightly sealed stopper, and it renders unfit in the case of an immersion pool [since it is an autonomous utensil in all regards] (M. Par. 5:7A-D).**

[P] “[Now] the reason [that the utensil is regarded as a utensil in the second half of the rule and so invalidates an immersion pool if drawn water is poured from it into an immersion pool lacking the requisite volume of fit water] is that one has hewn it out and afterward attached it to the bedrock. [But] if one attached it to the bedrock and afterward hewed out a container, no [it does not invalidate the immersion pool].” And that house, is it not like [an object] that one has attached and afterward hewed out?

[Q] *How does Rab deal with this?*

[R] Interpret the matter [in line with the view of R. Yohanan]: “Hewing stones is the completion of the act of manufacturing them [and at that point they were appurtenances of idolatry, even before being made part of the house].”

- [II:1 A] *Now does this statement [of M. A.Z. 3:6F] not stand at variance with that which R. Yohanan (Y. A.Z.: R. Simeon b. Laqish) said, “An idol which was broken is permitted” [– a question which all the more so applies to Simeon b. Laqish]?*
- [B] *And we have had the theory:* If in the future one does not plan to put the sherds back together, all parties concur that it is permitted? *But lo, we have learned, **There are three sorts of stones [= three different ways to make the stone into an idol] [M. A.Z. 3:7].***
- [C] Interpret the matter to apply to a case in which one has prostrated himself in worship to each stone, and afterward put them all together. [Thus each stone was forbidden as an idol before the idol itself was made. When the idol broke, the sherds remained prohibited.]
- [D] *And even with the position of R. Simeon b. Laqish this position does not differ, for R. Simeon b. Laqish said, “An idol which was shattered is permitted”?*
- [E] *And we had the theory:* “If one is going in the future to put the sherds back together to their former, whole condition, then all parties should concur that [the sherds of the shattered idol are] prohibited.” [But here we do not know what will be done with the sherds.]
- [F] *And R. Yudan, father of R. Mattanaiah, said, “The Mishnah-rule deals with a case in which they were located in their original place, [holding that] it is not as if they are going to be restored to their original condition,” and these are in their original location. [This question is not answered.]*
- [II:2 A] R. Ba in the name of Rab: “One who prostrates himself to a house has forbidden it. But if he did so to a tree, he has not prohibited it.”
- [B] *And lo, we have learned: **There are three sorts of asherahs [M. A.Z. 3:7].***
- [C] Interpret the statement to address the case of bowing down to a root, which one planted afterward.
- [D] Levi said, “One who prostrates himself to a house has forbidden it. But if he did so to a cave, he has not prohibited it.”
- [E] What is the difference between a house and a cave?
- [F] Said R. Haninah b. R. Hillel, “A house had a time in which it was separate from the ground, but a cave at no time has ever been separate from the ground.”

9:2

- [A] “How do we know of a boat that it is insusceptible to uncleanness?
[B] “Since it says, ‘The way of a ship in the midst of the sea’ (Prov. 30:19)
—
[C] “How do we know of a garden bed, six handbreadths square, that [five different kinds of seed] may be sown in it, four on the sides and one in the middle [M. Kil. 3:1]?
[D] “Since it says, ‘For as the earth brings forth her bud and as the garden causes seeds sown in it to spring forth’ (Is. 61:11).
[E] “‘Its seed’ is not said, but ‘Its seeds.’”

- [I:1 A] [Rather than citing the verse of Scripture,] may one not derive the same fact [M. 9:2A] from the analogy to the sea itself?
- [B] That is to say: Just as the sea is insusceptible to uncleanness, so the ship is insusceptible to uncleanness.
- [C] And may one not derive the same fact from the analogy to sacking?
- [D] While sacking serves on both sea and land, a boat serves only on the sea and not on the land.
- [E] Rabbis of Caesarea say, “This [proof in the Mishnah] refers to a boat made of clay. Just as sacking does not provide rules governing whatever is stated in the passage in which it appears [at Lev. 11:32], so excluded is a clay utensil, which is not included in the passage, so that the rules for sacking will govern it. [Consequently, a different proof text is required to prove the proposition, and that is at M. 9:2B.]”
- [II:1 A] **Its seeds [M. 9:2E]:** The smallest number of “its seeds” is two varieties. [Why should there be more than that?]
- [B] Said R. Samuel bar Sisereta, “[That is a soluble problem.] From two you may then derive four [varieties of seeds]. In the case of two varieties of seeds, you plant at the outset rows six handbreadths long and then proceed to plant progressively shorter rows, and likewise, in the case of four varieties of seeds, you plant rows of six handbreadths and progressively shorten the rows.
- [C] “Is it then not possible that there will be an empty space available for the planting of the [fifth species of seeds] in the middle?”
- [D] Said R. Jonah, “The work area for one species will impinge on the work area of another, [which is acceptable,] but one variety of

seeds will not impinge upon another and so create a case of mixed seeds [which must not be done].”

[E] [Reverting to A,] R. Joshua b. Levi said, “‘Seed,’ ‘its seed,’ ‘its seeds’ [thus, one, two, two, five in all].”

[F] And from the viewpoint of R. Judah, who maintains that there may be six? ‘Seed,’ ‘its seed,’ ‘its seeds,’ ‘its seeds’ [one, one, two, two].”

[G] [Referring to M. 9:2C,] R. Haggai said, [12a] “‘Its seeds’ refers to five varieties.”

[H] [Replying to Haggai,] “Wherever I find such a case, [in which the word for seed is spelled out completely, inclusive of its *waw*], I shall then blot out [the *waw*].”

[I] *The question was addressed to R. Huna, scribe of the school, and he said, “‘Its seeds’ is written out full [with the *waw*].”*

[J] R. Yohanan in the name of R. Yannai, “All of them are to be within the six [handbreadths].”

[K] Kahana in the name of R. Simeon b. Laqish: “All of them outside of the six.”

[L] If all of them are to be outside of the six, *then we should repeat the tradition as referring to nine, [not six].*

[M] *Said R. Tanhum of Bosrah, “And that is the meaning of the passage of the Mishnah which speaks of a furrow among other furrows.”*

9:3

[A] **“How do we know of her who emits semen on the third day [after having had sexual relations] that she is unclean?”**

[B] **“Since it says, ‘And be ready against the third day, come not near a woman’ (Ex. 19:15).**

[C] **“How do we know that they bathe a child on the third day after circumcision, even if this coincides with the Sabbath?”**

[D] **“Since it says, ‘And it came to pass on the third day when they were sore’ (Gen. 34:25).**

[E] **“How do we know that they tie a red thread on the head of the scapegoat [which is sent forth]?”**

[F] **“Since it says, ‘Though your sins be as scarlet, they shall be white as snow’ (Is. 1:18).”**

[I:1 A] Said R. Yohanan, “It was from the procedure at Sinai that they derived the rule [at M. 9:3A; alternatively, the rule in M. Miq. 8:3]. Moses came down on Tuesday [: “on the third (of the month)], saying to them, ‘Be ready against the third day, do not come near a woman’ (Ex. 19:15). Now whoever ceased to have sexual relations on the third day then may count Tuesday night, Wednesday, Wednesday night, Thursday, and as to Thursday night and Friday, if a woman emitted semen on Thursday night [= five spans], she is unclean, but if it was on Friday, she is clean [after five spans]. [In this case there are five spans of cleanness.]

[B] “As to whoever ceased to have sexual relations on Wednesday, we may then count Wednesday, Wednesday night, Thursday, and as to Thursday night and Friday, if a woman emitted semen at night on Thursday night, she would be unclean, while if it was on Friday by day, she is clean. [In this case there are fewer than five spans of cleanness, but it was acceptable.]”

[C] Said R. Yohanan, “This is the arrangement at Sinai. But for future generations, [there will be either] four or six [spans of cleanness].”

[D] R. Aqiba says, “There must always be five such spans, even in the generations to come.” [This is now amplified.]

[E] *There we have learned:* **“She who discharges semen on the third day after having intercourse is clean, the words of R. Eleazar b. Azariah. R. Ishmael says, “Sometimes there are four spans [after which the semen loses its efficacy], sometimes five, sometimes six.” [Ishmael wants two spans, a complete night and the day following it, to elapse to render the discharge clean. If intercourse took place at the end of the first day, and the discharge at the beginning of the fourth, two complete days or four spans intervening, it is clean. But if intercourse took place in the morning of the first day, the discharge will not be clean until the beginning of the fourth day, a lapse of five spans. So too if intercourse took place in the evening preceding the first day, the discharge will be clean at the beginning of the fourth day, that is, six such spans.] R. Aqiba says, “They are always five spans” [M. Miq. 8:3J- L].**

- [F] **If part of the first span had passed, they reckon that part of the sixth span completes it [T. Miq. 6:6D].**
- [G] Lo, R. Ishmael treats a day as a span and a night as a span. R. Aqiba treats a day as a span and a night as a span. *Then what is at issue between them?*
- [H] It is whether spans serve to complete [the necessary period]. R. Ishmael treats part of a span as the whole of it, and R. Aqiba does not treat part of a span as the whole of it.
- [I] *It has been taught contrary to the view of R. Aqiba: **Therefore if part of the first season has passed, they reckon that part of the sixth season completes it [T. Mid. 6:6D].***
- [J] *It has been taught:* R. Eleazar b. Azariah says, “A day and a night constitute a span, and part of a span is equivalent to the whole of it.”
- [K] *And thus has it been taught contrary to the view of R. Eleazar b. Azariah,* “There are occasions in which there is a day and any small amount of time in addition, and yet [a woman] is clean. There may be two days lacking a [small] amount of time, and the woman will be unclean.” [Hence part of a span is not equivalent to the whole of it.]
- [L] “A day and any small amount of time in addition, and she will be clean”: *What would be a practical illustration of such a case?*
- [M] If the woman had sexual relations on the eve of the Sabbath prior to sunset, and she emitted semen at the end of the Sabbath after sunset, lo, we have a full day and just a bit more time, and yet she is clean.
- [N] “Two days less any amount of time, and she will be unclean”: *What would be a practical illustration of such a case?*
- [O] If a woman had sexual relations on the eve of the Sabbath after sunset, and she emitted semen on Sunday prior to sunset, lo, we have two days lacking only a small amount of time, and yet she is unclean.
- [P] Said R. Yohanan, “In accord with the views of all parties, it was in the status of people who had immersed [and awaited

sunset for the purification process to be complete that] the Israelites received the Torah.”

[Q] *That which you have said applies perfectly well to women, but the men already had completed the rites of purification, did they not?*

[R] *What is the scriptural basis for that view?* “[And the Lord said to Moses, ‘Go to the people and] consecrate them today and tomorrow, and let them wash their garments” (Ex. 19:10).

[S] Said R. Yohanan, “This represents the view of R. Eleazar b. Azariah, R. Ishmael, and R. Aqiba. But in the view of sages, the semen remains valid for three days. From that point onward it putrefies.”

[T] *This accords with that which R. Zeira said, in the name of R. Yohanan:* “‘This is the law for the *Zab* and for him who has an emission of semen, becoming unclean thereby’ (Lev. 15:32). Just as the law for the *Zab* applies for three days, so the law for the one who emits semen applies for three days.”

[II:1 A] We have learned: They bathe a child [on the third day after circumcision, even if this coincides with the Sabbath] [M. 9:3C]:

[B] *A Tannaite authority of the house of Rabbi [formulates the law],* “They wash the mark of circumcision.”

[C] R. Abbahu in the name of R. Yohanan: “The law follows the view of him who says, ‘They wash the child.’”

[D] Said R. Yosé, “Of necessity you must rule, ‘They wash the child’ [not merely the mark of circumcision].”

[E] *Samuel taught,* “Under no circumstances do they withhold oil or hot water from a wound on the Sabbath.”

[F] *Said R. Yosé,* “Every hour did R. Zeira, my teacher, say to me, *Repeat your tradition, including these words:* ‘And not only so, but they also splash hot water on a wound on the Sabbath.’ [Now] if you maintain that the proper reading is, ‘They wash the mark of circumcision only,’ then what is the difference between a wound affecting an adult and one affecting a minor? [Surely, therefore, the reading must be, ‘They wash the entire body of the infant on the Sabbath.’]”

[G] R. Abbahu in the name of R. Eleazar: “The law accords with the view of R. Eleazar b. Azariah [at M. 19:3E].”

[H] *R. Abun in the name of R. Abbahu: “The scriptural basis for the view of R. Eleazar b. Azariah is here: ‘On the third day, when they were sore, [two of the sons of Jacob, Simeon and Levi, Dinah’s brothers, took their swords and came upon the city unawares, and killed all the males’ (Gen. 34:25)]. ‘When it was sore’ is not written here, but rather, ‘When they were sore.’ Thus scripture speaks of a time at which all of the limbs were sore for them.”*

[I] *R. Jacob bar Aha said R. Eleazar and R. Yohanan instructed the midwives, ““Any sort of potions which you administer on an ordinary day you may administer on the Sabbath.””*

[J] It was necessary to give this instruction [not for the day of the circumcision, but rather] for the third day when it coincided with the Sabbath [M. 9:3C].

[K] Samuel said, “It is because of danger to life.”

[L] R. Yosé asked, “If it is because of danger to life, may they then heat water for him?”

[M] R. Yosé b. R. Bun in the name of rabbis over there [in Babylonia]: “They may heat water for him on the Sabbath.”

[N] *And so too has it been taught: One may heat a sheet and put it on a wound on the Sabbath.*

[O] A person should not take a trough full of hot water and put it on his belly on the Sabbath.

[P] *R. Joshua b. Levi said, “The sole valid reading here is: It is permitted [to do so].”*

[III:1 A] At first they would tie a crimson thread onto their windows. In the case of some of them it turned white, and in the case of some of them it remained red.

[B] The result was that these became ashamed before those. So they went and tied it at the door of the Temple. There were years in which it turned white, and there were years in which it remained red.

- [C] **They went and tied it to a rock [M. Yoma 6:5C].**
- [D] It is written, “Come now, let us reason together, says the Lord: [though your sins are like scarlet, they shall be as white as snow; though they are red like crimson, they shall become like wool” (Is. 1:18)].
- [E] *It has been taught:* R. Eliezer says, ““Though your sins are like scarlet’ – like the years it takes to go from heaven and earth.
- [F] “‘They shall be as white as snow’ – more than this, they shall be as white as wool.”
- [G] R. Joshua says, “‘Though your sins are like two [a play on the word for scarlet, which, vocalized differently, reads, ‘two’] – like the first two patriarchs.
- [H] “‘They shall be as white as snow. Though they are red like crimson, they shall become like wool’ (Is. 1:18).”
- [I] Said R. Yudan bar Pazzi, “‘Though your sins are like scarlet, they shall be as white as snow’ – the first time one sins. ‘Though they are red like crimson, they shall become like wool’ (Is. 1:18) – the second time one sins.”
- [J] And rabbis say, “When the sins of a man are as many as the years he has lived, they shall be whiter than this, [they shall be] like wool.”
- [K] Said R. Yudan of Antadarayya, “When sins are as light as snow, they will turn white. When they are heavy, they shall be like wool.”

9:4

- [A] **“How do we know that on the Day of Atonement anointing is tantamount to drinking?”**
- [B] **“Even though there is no direct proof of the proposition, there is a hint at it,**
- [C] **“since it says, ‘And it came into his inward parts like water and like oil into his bones’ (Ps. 109:18).”**
- [I:1 A] *There is the following pertinent statement:* On the Sabbath, anointing with oil whether for enjoyment and otherwise is permitted.
- [B] On the Day of Atonement, anointing whether for enjoyment and otherwise is forbidden.

- [C] On the ninth of Ab and on any other fast day of the community, anointing for enjoyment is forbidden, but that which is not merely for enjoyment is permitted.
- [D] *It has been taught:* Anointing is equivalent to drinking so far as a given prohibition is concerned, and so far as making up for what has been consumed is concerned, but not so far as the penalty [since a different penalty will pertain to drinking from that applicable for anointing].
- [E] And as to the Day of Atonement, they are equivalent so far as being subject to the same prohibition, but not so far as being subject to the same penalty [for violating the law].
- [F] *And lo, it has been taught:* “[The priests] shall not profane the [holy things of the people of Israel, which they offer to the Lord]” (Lev. 22:15). This verse serves to encompass both anointing and drinking [in an improper way].
- [G] *R. Yohanan said, “One should not include the matter of anointing in the foregoing statement.”*
- [H] *Said R. Abba Mari, “If you maintain that the matter of anointing does not pertain here, then one should not include the matter of drinking. [For drinking is covered by the prohibition against eating.]”*
- [I] If not, you have a matter which is subject to two separate negative prohibitions, which nonetheless is joined together [in a single prohibited act]. [That is to say, in general, eating and drinking are treated as an act of the same character, so that doing the one and the other serves to join together what is eaten or drunk to constitute the volume requisite for liability. But if you treat eating and drinking as subject to two distinct, negative prohibitions, then that will not be the case – which is absurd.
- [J] How do we know that [anointing with oil in the status of second tithe outside of the wall of Jerusalem] is subject to an affirmative commandment? [That is, one may not anoint with such oil outside of Jerusalem, and that is the case even though the law speaks of eating, not anointing.]
- [K] *R. Eleazar in the name of R. Simi: “[I have not eaten of the tithe while I was mourning, or removed any of it while I was unclean,] or offered any of it to the dead; [I have obeyed the voice of the Lord my God, I have done according to all that thou hast commanded me]’ (Deut. 26:14). *How shall we**

explain that matter? If it means that it is prohibited to provide for a corpse a bier and shrouds put of the proceeds of oil in the status of second tithe, indeed it is forbidden to do so for a living person, all the more so for a corpse!

[L] “[12b] What sort of matter is permitted for a living person but forbidden for a corpse? You must say, ‘This refers to anointing.’”

9:5

[A] **He who brings out wood – enough to cook a small egg;**

[B] **spices – enough to spice a small egg;**

[C] **and they join together with one another [to make up the requisite quantity to impose liability].**

[D] **Nutshells, pomegranate shells, woad, and dyer’s madder – enough to dye a garment as small as a hair net;**

[E] **urine, soda, soap, cimolian earth, or lion’s leaf – enough to launder a garment as small as a hair net.**

[F] **R. Judah says, “Enough [earth] to spread over a bloodstain” [M. Nid. 9:6].**

[I:1 A] [As to M. 9:5B, spices in general:] *There is a problem.* Do cinnamon and salt join together [to form the requisite volume for culpability]?

[B] R. Ila in the name of R. Eleazar: “They have taught this law concerning sweeteners [only, not salt].”

[I:2 A] *There we have learned: **The prohibited measure is for bleachers, hacklers, dyers, and spinners [M. 13:4], and yet you say this [that the requisite measure is so much larger, namely, to dye a small garment]!***

[B] There we speak of dyeing, while here we speak of taking out matter for dyeing.

[II:1 A] [As to M. 9:5E:] **Soda** is carbonate of soda; **soap** is sulphur; **Cimolian earth** is alkaline ashes.

[B] **Lion’s leaf** – R. Yosé b. R. Bun said, “Stones of wind.”

9:6

[A] **Pepper in any quantity at all; tar in any quantity at all; various sorts of spices and metal tools [for pounding spices] in any quantity at all;**

[B] stones of the altar, dirt of the altar, worn-out holy scrolls, and their worn-out covers – in any quantity at all.

[C] For they store them away in order to hide them [for permanent storage].

[D] R. Judah says, “Also: He who takes out any of the appurtenances of an idol in any quantity at all [is liable],

[E] “since it says, ‘And there shall cleave nought of the devoted thing to your hand’ (Deut. 13:17).”

[I:1 A] It has been taught: Also of anything that smells bad – any quantity at all.”

[B] Said R. Ila, “Also: R. Simeon will concur in this matter.”

[C] R. Simeon concurs in those matters which are subject to prohibition against an Israelite’s deriving benefit from them [that the requisite volume is any quantity at all].”

9:7

[A] He who takes out a peddler’s basket, even though there are many different sorts of things in it, is liable only for a single sin offering.

[B] Garden seeds – less than a dried fig’s bulk.

[C] R. Judah b. Betera says, “Five.”

[D] Two cucumber seeds, two gourd seeds, two Egyptian bean seeds,

[E] a clean, live locust – in any quantity whatsoever;

[F] a dead one – the size of a dried fig;

[G] ‘a vineyard bird’ [a kind of locust] whether alive or dead – in any quantity at all,

[H] for they store it away for [later use as] a remedy.

[I] R. Judah says, “Also one who takes out a living unclean locust in any quantity at all,

[J] “for they store it away for a child to play with it.”

[I:1 A] *M. 9:7A’s specification that there is only liability for a single sin offering hardly requires specification. So] there is this problem: If the man had taken out over and over again various things, in a single spell of inadvertence, would he not be liable only for a single sin offering?*

[B] Why [that is, on account of whose position on the matter] was it necessary then to specify [as does the Mishnah, that there is only a single sin offering for various kinds of things in a basket]?

- [C] It was to deal with the position of R. Eliezer, so that one should not maintain, “In the case of many different varieties, they are treated as tantamount to many distinct spells of inadvertence, in consequence of which one is liable on many counts.”
- [D] On that basis it was necessary to specify, “He is liable only for a single sin offering.”
- [II:1 A] Garden seeds – less than a dried fig’s bulk. R. Judah b. Betera says, “Five” [M. 9:7B-C]:**
- [B] *What is the reasoning of R. Judah b. Betera?* That is the way seeds usually are sown in a furrow.
- [III:1 A] Two cucumber seeds, two gourd seeds, two Egyptian bean seeds [M. 9:7D]:**
- [B] *It has been taught:* Medean grain seeds – two.
- [C] R. Samuel in the name of R. Zeira: “Seeds for wheat, since they are especially prized, are treated in the category of other garden seeds which are not going to be eaten.”
- [IV:1 A] A live locust – in any quantity whatsoever; a dead one – the size of dried fig [M. 9:7E-F]:**
- [B] *That which you have said applies to a clean locust.*
- [C] But as to an unclean one, the appropriate minimum is enough to fill the mouth of a dog.
- [V:1 A] “A vineyard bird,” whether alive or dead – in any quantity at all, for they store it away for later use as a remedy [M. 9:7G-H]:**
- [B] Said R. Aha, “A woman having a pustulate face sucks on such a locust and is healed.”
- [C] *There they say, He who wishes to separate from sexual [desires] should eat half and leave half.* It is forbidden to eat only the left half of that sort of locust, but it is permitted to eat the right half. [In the latter case, he eats the right half, and when he wishes to return to sexual activity, he then eats the left half and is healed.]
- [D] If part of the locust was lost, or lacking in any amount at all, there can never be a remedy for such a person.
- [E] What should he do [so as to avoid losing the part of the locust needed to heal him later on]?

[F] *Said R. Yosé b. R. Bun, “He should put the other part in a flask of honey [which will preserve the needed part until later on].”*

[VI:1 A] **R. Judah says, “Also one who takes out a living unclean locust – in any quantity at all, for they store it away for a child to play with it” [M. 9:7/I-J]:**

[B] Lo, may we then conclude, in the case of a clean one whether it is alive or dead, the requisite measure is a fig’s bulk?

[C] *R. Judah is consistent with principles expressed elsewhere, for R. Judah says, “As to clean foodstuffs, people may not make a game of them.”*

[D] Lo, it is written, “Will you play with him as with a bird” (Job 41:5)

[E] [This verse speaks of an unclean, not a clean bird,] and that which is not released from the governing principle of being prohibited is what is at issue here. [The bird of Job is prohibited for eating.]

[F] And lo, it is written, “Like a bird” [without further specification]?

[G] Said R. Mattanaiah, “So long as the bird has not yet been subjected to proper slaughter, it is as if it is unclean [and may be played with].”

YERUSHALMI SHABBAT

CHAPTER TEN

10:1

[A] He who put [something] away for seed, for a sample, or for a remedy, and [then] took it out on the Sabbath is liable for any amount whatsoever.

[B] But any [other] person is liable on its account only for the specified measure pertinent to it [that sort of thing].

[C] [If the person] went and put it back, he is liable [should he take it out again] only for the specified measure pertinent to it.

[I:1 A] *R. Jeremiah said R. Yosé b. R. Haninah asked, “May we say that this law of the Mishnah [at M. 10:1A-B] represents the view of R. Judah, who has said, ‘A man will be liable [for Sabbath violations] on account of the tools of his trade, [even when others would not be liable under similar circumstances]’? [Referring here to putting something away for a sample – however negligible the quantity – would illustrate that principle of Judah’s. The contrary view is that we do not distinguish the criteria for a craftsman from those for others.]”*

[B] Came R. Judah bar Pazzi [to state] in the name of R. Yosé b. R. Hanina: “It does represent the view of R. Judah.”

[C] Said R. Yosé b. R. Haninah, “The part of the passage which accords [only with the position of R. Judah] is [the reference to] the [thing put away for a] sample, in which case the purchaser has already agreed [to purchase that item]. [That part specifically can be interpreted only by invoking Judah’s principle of distinguishing a craftsman from all others.] But as to something put away for seed, or for a remedy, even the smallest volume will incur liability. [These other matters may represent the views of all parties, not only Judah.]”

[I:2 A] If one party put the substance away and another one took it out, the latter is exempt [since he did not put away this paltry volume for storage].

[B] R. Simeon b. Eleazar declares him liable.

[C] *How shall we interpret this dispute?*

[D] If we deal with a case in which one took it out at the instance of the second party only, then all parties concur that he is exempt [since he bears no responsibility for treating this paltry volume of the substance as worthy of storage].

[E] If we deal with a case in which one took it out at the instance of the first party [who originally put it away], then all parties concur that he is liable [since the first party did originally store the paltry volume].

[F] *Accordingly, we have to interpret the passage to speak of a case lacking further specification.*

[G] And Rabbis take the view that we assume that it is at the instance of the second party that he took out [the substance].

[H] R. Simeon b. Eleazar takes the position that we assume that it is at the instance of the first party that he took out [the substance].

10:2

[A] He who takes out food and put it down on the threshold,

[B] whether he then went and took it out, or someone else took it out,

[C] is exempt [from liability to a sin offering],

[D] for he has not [completely] performed his [prohibited] act of labor at one time.

[E] A basket which is full of produce, which one put on the outer [half of the] threshold,

[F] even though the larger quantity of the produce is outside –

[G] he is exempt

[H] unless he takes out the entire basket.

[I:1 A] [12c] Hezekiah said, “The Mishnah [at M. 10:2E-H] speaks of a basket of cucumbers or gourds, in which case part of the [edible] food is inside and part out. But in the case of a basket full of produce, once one has taken a dried fig’s bulk of food outside, he has incurred liability.”

[B] *They said that a statement of R. Yohanan differs from this view.*

- [C] For R. Hiyya said in the name of R. Yohanan, “A frame with shelves, part of which is standing inside and part outside – if one took something from one part and put it into the other part, he is exempt. If he took it up, [he is liable] only when he takes up the whole thing at once.”
- [D] Said R. Mana before R. Yosé, “Interpret the case to involve a frame which is open [in one direction, hence regarded as wholly either inside or outside]. [In such a case it is as if one takes the utensil with its contents from one domain to the other.]”
- [E] *He said to him, “And lo, we have learned, “A basket.” [And a basket lacks such large empty cavities.] Can you here claim to speak of a basket which is open in one direction?*
- [F] *“What is the upshot of the matter? [Why is one liable for removing the whole basket and we do not regard it as in a domain unto itself?]*
- [G] “There exists nothing that is carried in public domain and treated as in neutral domain except for man alone.”
- [I:2 A] Hezekiah said, “If one removed a bundle from private domain to public domain, if before he put it down in public domain, the top of the bundle was above ten [handbreadths], since the whole of it has not come to rest in public domain, the man is exempt.”
- [B] Said R. Samuel bar R. Isaac, “If one took a beam from private domain to public domain, if before he put it down in public domain, the beam went into a different private domain, since the whole of it has not come to rest in public domain, he is exempt.”
- [C] Said R. Yohanan, “A stone located in public domain, ten [handbreadths] high and four broad – he who takes something [located] in it into public domain, or from public domain to the stone, is liable.”
- [D] Samuel said, “A basket full of produce located in public domain [at a spot] ten [handbreadths] high and four broad – he who takes produce from it to the public domain, or from the public domain to the basket, is exempt.”
- [E] *Do they then differ?*
- [F] [No, they do not differ.] Here we deal with a basket that one turned on its side, [so it is no longer ten handbreadths high,] and there he has not turned it on its side [so he is exempt, as Samuel has said].

[G] *R. Bun bar Hiyya asked*, “If one uprooted a rock in public domain ten [handbreadths] high and four broad, *how do you deal with such a case?* [Is it] tantamount to taking something from the stone into public domain or from public domain to the stone? Or [is it tantamount] to transporting from the public domain to some other public domain?” [This question is not answered.]

[H] *Rabbis of Caesarea say R. Yohanan asked*, “If one put something five [handbreadths] tall on top of [another object] five [handbreadths] tall, *how do you treat the two?* [Is it a case of] taking something from private domain to neutral domain, [or] from neutral domain to private domain, [or] from private domain to another private domain?” [This question is not answered.]

10:3

[A] He who takes [something] out, whether in his right hand or in his left, in his lap [better: “chest cavity” or “pocket”] or on his shoulder, is liable,

[B] for so is the manner of carrying [an object] by the children of Kohath [Num. 7:9].

[C] [If he rakes something out on the back of his hand, on his foot, in his mouth, or in his elbow, in his ear, or in his hair,

[D] or in his wallet with its mouth downward, between his wallet and his cloak, in the hem of his cloak, in his shoe, in his sandal,

[E] he is exempt [from liability to a sin offering].

[F] For he has not carried [the objects] out the way people [generally] carry out [objects].

[I:1 A] *R. Yosé raised the question*, “If so, if one took as much as a fig out on his shoulder, he is liable. [That is, since the Mishnah says, ‘He who takes,’ without further limitation, it would include such an act.”

[B] But is this the sort of way in which the children of Kohath carried an object?

[C] And it is written, “And Eleazar the son of Aaron the priest shall have charge of the oil for the light, the fragrant incense, the continual cereal offering, and the anointing oil, [with the oversight of all the tabernacle and all that is in it, of the sanctuary and its vessels]” (Num. 4:16).

- [D] “The oil for the light” in his right hand; “the fragrant incense,” in his left hand; “the continual cereal offering” for that day suspended from his arm; and as to “the anointing oil,” where was it located?
- [E] R. Abun in the name of R. Eleazar, “He had a kind of small flask in his wallet.”
- [F] If you say that he personally was small, R. Joshua b. Levi said, “It is written, ‘And Eleazar the son of Aaron the priest was to be chief over the leaders of the Levites, [and to have oversight of those who had charge of the sanctuary]’ (Num. 3:32). He was the greatest among those who went up on the platform.”
- [G] R. Judah b. Rabbi said, “He was counselor (*markal*).”
- [H] *R. Hiyya taught*, “And why was he called *markal*? Because he was master over all (*mar kol*). But one should not [show oneself to be] great in the palace of the king [the Holy One].”
- [I] Said R. Levi, “It is written, ‘And the priest shall put on his linen garment and put his linen breeches upon his body, and he shall take up the ashes,’ (Lev. 6:10). But one should not show oneself great in the palace of the king.”

10:4

- [A] **He who intends to carry out something in front of him, and it slipped behind him, is exempt.**
- [B] **[If he intended to carry it out] behind him and it slipped in front of him, he is liable.**
- [C] **Truly did they say, A woman who wore drawers [and took something out in them], whether in front of her or behind her, is liable,**
- [D] **for they are likely to be moved around.**
- [E] **R. Judah says, “Also: Letter carriers.”**
- [I:1 A] *There we have learned:* **[The Sabbath and the Day of Atonement – one performed an act of labor at twilight but is not certain in which category he performed the act of labor – R. Eliezer declares him liable to a sin offering, and R. Joshua declares him exempt (M. Ker. 4:2K-N).] R. Simeon Shezuri and R. Simeon say, “They did not dispute about something that falls into a single category, that he is liable. Concerning what did they dispute? Concerning something that falls into two distinct categories. For R. Eliezer declares him liable for a sin offering and R. Joshua exempts”[M. Ker. 4:3A-E].**

[B] R. Ila in the name of R. Eleazar, “[*The passage before us, M. 10:4A accords with him who has said, ‘They disputed about something that falls into a single category.’ But in accord with him who said, ‘They disputed about something that falls into two categories,’ here [M. 10:4] we deal with something which falls into two categories, and he is exempt. [But in his view all parties should concur that he is liable.]*”

[C] If he intended to carry it out behind him and it slipped in front of him, he is liable [M. 10:4B]:

[D] *This accords with the view of him who said, “They dispute about something which falls into two categories. But in accord with him who said that ‘they disputed something which falls into a single category,’ here it is a single category, and he is liable.”*

[E] *R. Ila in the name of R. Eleazar, “It is subject to a dispute among Tannaite authorities. He who said there, ‘He is liable,’ also here holds that he is liable. He who said there, ‘He is exempt,’ maintains here too that he is exempt.”*

[II:1 A] Truly [did they speak] [M. 10:4C]: Said R. Eliezer, “Every place in which the language, ‘Truly,’ is used, represents a law revealed to Moses at Sinai.”

10:5

- [A] **One who carries out a loaf of bread into the public domain is liable.**
- [B] **M two people carried it out, they are exempt.**
- [C] **[If] one person could not carry it out, but two people carried it out, they are liable.**
- [D] **And R. Simeon declares [them exempt].**
- [E] **One who carries out food in a volume less than the specified measure in a utensil is exempt even on account of [taking out] the utensil,**
- [F] **for the utensil is secondary to it [the food].**
- [G] **[One who carries out] a living person in a bed is exempt even on account of [taking out] the bed,**
- [H] **for the bed is secondary to him.**
- [I] **[If he carried out] a corpse in a bed, he is liable.**

- [J] **And so [one who carries out] an olive's bulk of corpse matter and an olive's bulk of carrion and a lentil's bulk of a dead creeping thing is liable.**
- [K] **And R. Simeon declares [him] exempt.**
- [I:1 A] "By doing," (Lev. 4:2) – an individual who performed [a forbidden act] is liable, while two or three who performed it [together] are exempt [= M. 10:5B].
- [B] *R. Yoshea, from the south, said before R. Yosé in the name of R. Aha, "As to the canes of a weaver [carried out by two people,] Rabbi declares them exempt. R. Eleazar b. R. Simeon declares them liable."*
- [C] Rabbi said to [Eleazar], "That is what I heard from your father [that he is exempt]."
- [D] He said to him, "I served father while standing up, [in my youth] [so learning things which you did not learn when] you served him seated in your sessions."
- [E] *Now was Rabbi the disciple of R. Simeon b. Yohai [father of Eleazar b. R. Simeon]? Was he not the disciple of R. Jacob bar Qodshi? But this is what he said to him, "I served father standing up, [so learning things which you did not learn when] you served your master seated in your sessions."*
- [F] When R. Eleazar b. R. Simeon entered the council house, the face of Rabbi would darken. His father said to him, "And that is well and good. This one is a lion, son of a lion, while you are merely a lion, son of a fox."
- [G] After R. Eleazar died, Rabbi sent and sought his widow [in marriage]. She said to him, "Will a vessel used for what is holy now be used for what is ordinary?"
- [II:1 A] [With reference to M. 10:5E,] *said R. Samuel bar R. Isaac, "That which you have said addresses a case in which they needed the utensils, for instance, in the case of berries. But if they did not need the utensils, one is liable also for taking out the utensil."*
- [III:1 A] **[One who carries out] a living person in a bed is exempt even on account of taking out the bed [M. 10:5G]:**
- [B] *for a living person [theoretically] bears his own weight.*
- [C] **If he carried out a corpse in a bed, he is liable [M. 10:5/I]:**

[D] This represents the view of all parties [including Simeon], *for has it not been taught*, “[If one carries out something that has] a bad smell, in any volume at all, [he is liable for transporting such an object]. [Simeon will concur in this ruling, since the action is purposeful.]

[E] So R. Ila said, “Even R. Simeon will concur in this ruling.”

[F] And does R. Simeon concur with regard to the transportation of things which are forbidden to be used for benefit [for Israelites]?” [Surely he declares them exempt.]

[G] [No, Simeon will not concur on C, but] said R. Yudan, “Interpret [the passage] to speak of a gentile corpse [: that does produce a bad smell], or, [with reference to the olive’s bulk of corpse matter,] a case in which [the object] does not produce a bad smell but someone took out [the stuff] for his dog.” [That is why Simeon differs.]

[H] *It has been taught*: [If one transported] a half olive’s bulk of corpse matter, a half olive’s bulk of carrion, and less than a lentil’s bulk of a dead creeping thing, he is liable.

[I] And R. Simeon declares him exempt [cf. M. 10:5J-K].

[J] *What is the reason for the position of R. Simeon?*

[K] The source of uncleanness is too small in volume to impose liability for uncleanness. [: that is, to decrease the volume of impurity].

[L] *What is the reason for the view of rabbis?*

[M] It accords with the statement of R. Yudan, “Interpret [the passage] to speak of a gentile corpse, or one which does not produce a bad smell, but someone took out the corpse matter for his dog.”

10:6

[A] He who pares his fingernails with one another, or with his teeth,

[B] so too [if he pulled out the hair of] his head, mustache, or beard –

[C] and likewise she who dresses her hair, puts on eye shadow, or rouges her face –

[D] R. Eliezer declares [them] liable [for doing so on the Sabbath].

[E] And sages prohibit [doing so] because of [the principle of J Sabbath rest.

[F] **He who picks [something] from a pot which has a hole [in the bottom] is liable.**

[G] **[If he picks something from a pot] which has no hole [in the bottom], he is exempt.**

[H] **But R. Simeon exempts him both in this case and in that case.**

[I:1 A] *R. Abbahu in the name of R. Yosé b. R. Hanina: “Where do they differ?” It is when the person has pared his own nails, but if someone else did so, they are [merely] repulsive, [and even Eliezer will concur that there is no sin offering in this case].”*

[B] And as to the view of sages, R. Aha, R. Nahum in the name of Rab: “Under no circumstances is one liable unless he removes [the nails] into a basket.”

[C] R. Abbahu in the name of R. Yosé b. Haninah: “She who does up hair is liable on account of building.”

[D] *And that view accords with what R. Yohanan said in the name of R. Benaiah, “In our locale they call one who braids hair ‘a builder.’”*

[E] Said R. Zeira, “Is it not more logical that it is on account of weaving?”

[F] *The views assigned to R. Zeira are inconsistent. For elsewhere R. Zeira said, R. Hiyya in the name of R. Yohanan, “He who braids three hairs on a man is liable on account of weaving.”*

[G] Said R. Zeira, “Is not weaving also spinning? [So there should be liability on two counts].” *And here he has said this! [There is liability only for weaving, not on two counts.]*

[H] [12d] Here [where there is double liability] we speak of a case in which the hair is abundant [so there is spinning as well as weaving], and there [where it is only one count] we speak of a case in which the hair is sparse .

[I] *That which you have said applies to man, but as to a domesticated beast, this is clean. [The law] accords with the following, which has been taught: **He who makes a band to beautify, to tie around an animal’s chest, or for the neck of a beast – it is clean [T. Kel. B.B. 4:13A].***

[J] *That which you have said [about the domestic animal] applies to those that are laid out flat. But as to those that are*

doubled up, whether man or beast, such a thing is susceptible to uncleanness.

[I:2 A] She who puts on eye shadow is liable on account of writing.

[B] She who rouges her face is liable on account of dyeing.

[II:1 A] [As to M. 10:6F-H,] *Isaac bar Orion* said, “Where do they dispute? Only in a case in which one did not pull up the plant at the point of perforation. But if one pulled up the plant at the point of perforation [on the bottom], even R. Simeon concurs [that he is liable].”

[B] *R. Jeremiah* asked, “If the whole of the pot was in the Land, but the hole in the bottom was outside of the Land, [what is the definitive criterion]?”

[C] *One is able to say that, “What is a problem to R. Jeremiah is simple for Isaac b. Orion [who regards the location of the hole as the operative criterion].”*

[D] [The following belongs at Y. Kil. 7:8:] Are these the [only] points at issue [with regard to the perforated pot]? Lo, you have others: A pot with a hole in it [located in a vineyard] serves to sanctify [prohibit] the vineyard [in which it is located], and one without a hole does not sanctify the vineyard [M. Kil. 7:8]. A pot with a hole does not impart susceptibility to seeds, and one without does so [M. Uqs. 2:10]. He who picks something from a pot with a hole [in the bottom] is liable, and he who does so from a pot with no hole [in the bottom] is exempt [M. 10:6F-G].

[E] R. Yosé said the following without citing an authority; R. Hananiah produced it in the name of R. Samuel b. R. Isaac: [Explaining the concurrence of Simeon in the rule of M. Uqs. 2:10,] “The Torah has provided abundant rules to preserve the insusceptibility of seed. What is the scriptural basis for this view? ‘And if any part of their carcass falls upon any seed for sowing that is to be sown, it is clean’ (Lev. 11:37). [This is taken to indicate that if a pot has a hole, it is regarded as affixed to the ground.]”

YERUSHALMI SHABBAT

CHAPTER ELEVEN

11:1

[A] One who throws [an object] from private domain to public do main, [or] from public domain to private domain, is liable.

[B] [One who throws an object] from private domain to private do main, and public domain intervenes –

[C] R. Aqiba declares [him] liable [to a sin offering].

[D] And sages exempt [him].

[I:1 A] Throwing [an object] is a derivative of transporting an object [from private to public domain].

[II:1 A] Despite the dispute at M. 1:1B-D,] there is no difference between the view of [Rabbi Aqiba] and the view of rabbis, that the object must come to rest from public domain into the private domain [for liability to be incurred].

[B] *In the view of Rabbi [Aqiba],* even if it did not come to rest [is not one liable]?

[C] *In the view of rabbis,* [one is liable only] if it came to rest.

[D] Said R. Ba bar Huna in the name of Rab: “Rabbi imposed liability only in a case in which there was a private domain that was roofed over. [But as to an open space, he also concurs that the object must come to rest for the one who tossed it to be liable.]”

[E] *A statement of R. Yohanan indicates that* even if the area is not roofed over [liability is incurred].

[F] For R. Immi in the name of R. Yohanan: “[As to M. Git. 8:3/I, he is above and she below, once it leaves the domain of the roof, the writ is regarded as having fallen into the wife’s domain,] that law [applies] when the writ has fallen into the airspace of the partition [of the courtyard in which the wife is standing].”

[G] *R. Immi raised the question before R. Yohanan: “The Mishnah follows the view of Rabbi. For Rabbi treats the contained air space of a partition as materially present [so that the airspace effects possession, just as does concrete domain].”*

[H] He said to him, “Here, with regard to [the transfer of] writs of divorce, it represents the opinion of all parties.”

[I] *But they objected: “Rabbi says, ‘We deal with [a domain which is] roofed over,’ and here you say that it is not roofed over. [The analogy fails; it is not Rabbi’s view in particular.]”*

[J] What is the difference between the law governing writs of divorce and the law governing the Sabbath?

[K] Said R. Ila, “With regard to the Sabbath, it is written, ‘You shall not do any labor’ (Ex. 20:10), and this happens by itself. *With regard to the present matter, however, ‘And he shall place it in her hand’ (Deut. 24:5 that is, in her domain.”*

[II:2 A] [As to the dispute at M. 11:1B-D,] Samuel said, “They have reported the tradition [as a dispute] only when the object remains below ten handbreadths [from the ground]. Lo, if it passes above ten handbreadths, it is forbidden [to throw such an object, even in the view of sages]. [If the object is thrown lower than ten handbreadths, it is as if it has come to rest on the ground. The dispute does not extend to tossing an object above ten handbreadths. Sages prohibit this as much as does Aqiba.]”

[B] *A statement of R. Eleazar indicates that even as to the space above ten handbreadths, it is a dispute.*

[C] For R. Ila said in the name of R. Eleazar, “It is from [the analogy of] the wagons [used in constructing the tabernacle] that R. Aqiba has derived [his view of the law]. [People would reach out and stretch an object from wagon to wagon.] Were not the wagons higher than ten handbreadths? [Accordingly, it is permitted, in the rabbis’ view at M. 11:1D, to transport an object above ten handbreadths.]”

[D] *[As to M. 11:2, below,] there is a Tannaite authority who repeats the formulation of the Mishnah in the language, “How so?” and there is a Tannaite authority who does not do so.*

[E] *In the view of R. Eleazar, one should read, “How so?” [since the case at M. 11:2B-C has someone stretching an object from one balcony to another above the public domain, and the*

person is exempt]. [Hence Eleazar's picture is illustrated by this law.]

[F] *In the view of Samuel*, one should not read, "How so?"

[II:3 A] R. Isaac b. R. Eleazar asked, "If one tossed an object from private domain to public domain, and realized before the object was in public domain [that he should not have done so], do we maintain, *in the theory of R. Aqiba*, that the object is treated as if it has come to rest in public domain, in which case the one who tossed it is liable on two counts [the transportation into public domain, the coming to rest, and further transportation in public domain, on the theory that the moment the object comes into public domain it is deemed to have come to rest in public domain, then to have traveled onward]?"

[B] Said R. Huna, "[That is not the case.] R. Aqiba has declared the man liable only [13a] on account of the object's entering the second private domain [at M. 11:1B]."

[II:4 A] R. Abbahu says in the name of R. Eleazar in the name of R. Yohanan: "If one was standing in public domain and tossed an object higher than ten handbreadths, they examine [the case], so that if the object falls back and comes to rest within four cubits of the man, he is exempt, and if not, he is liable."

[B] And [with respect to the view of Rabbi] *has not Samuel taught*, "[If one tossed an object] from public domain to public domain, with private domain intervening, they examine [the case], so that, if the object falls back and comes to rest within four cubits, he is exempt, and if not, he is liable? [But the position should be that even if the object came to rest within four cubits in the public domain from the place from which the man tossed it, he should be liable. The reason is that since in the end the object will come to rest in public domain, the strips of public domain are deemed to join together to impose liability. Now the problem is this:] There you say that the various strips of public domain do not join together, while here you hold that the strips of public domain do join together."

[C] Said R. Huna, "There, if the object should fall, the ground beneath it is private domain, while here, if it should fall, the ground beneath it is public domain. [If one threw it up in public domain, it will land in public domain no matter what, so there is no reason to consider the possibility that one will be exempt.]"

[II:5 A] *It has been taught in the name of R. Judah*, "If one tossed an object four cubits in public domain, he is liable."

- [B] R. Judah treats [transporting an object] four cubits in public domain as an act of labor in itself.
- [C] *In the view of R. Judah* there should be forty[, not thirty- nine,] acts of labor [listed at M. 7:2]. Then let the passage be framed in that way.
- [D] *The framers of the Mishnah proposed to list only those matters on which all parties agree.*
- [E] R. Zeira, R. Josiah in the name of R. Yohanan: “It is from those who sewed the hangings that R. Judah derived [his view of the law].
- [F] “For those who sewed the hangings would toss needles to one another.”
- [G] But was this [area of the tent which they were sewing] not in neutral domain?
- [H] Said R. Hinena, “They would toss the needles from the side [toward the outside].”

11:2

- [A] **How so?**
- [B] **Two balconies opposite one another [extending] into the public domain –**
- [C] **he who stretches out or throws [an object] from this one to that one is exempt.**
- [D] **If both of them were [different private domains on the same side of the street and] at the same story,**
- [E] **he who stretches [an object over] is liable, and he who throws from one to the other is exempt.**
- [F] **for thus was the mode of labor of the Levites:**
- [G] **two wagons, one behind the other, in the public domain –**
- [H] **they stretch beams from this one to that one, but they do not throw [them from one to the other].**
- [I] **The bank of a cistern, or a rock, ten handbreadths high and four broad –**
- [J] **he who takes [something] from that area or who puts something onto that area is liable.**
- [K] **[If they were] less than the stated measurements, he is exempt.**

- [I:1 A] Rab said, “[At M. 11:2A-C,] one should read not ‘exempt’ but ‘permitted.’”
- [B] *In the view of Rab*, as to space above ten handbreadths, it is permitted [to transport objects therein].
- [C] *In the opinion of Samuel*, as to the space above ten hand breadths, it is forbidden [to transport objects therein].
- [D] R. Ila in the name of R. Simeon b. Laqish: “[As to being permitted to stretch out an object from one area of private domain to another,] that is the case when public domain surrounds the area on all sides.”
- [E] R. Jacob bar Aha in the name of R. Yohanan: “Even if it is at one side only, as in the case of the wagons[, which form the generative analogy].”
- [F] *What are these wagons? And were not the wagons higher than ten handbreadths?*
- [G] [And as to stretching out objects, as at M. 11:2E,] R. Aha in the name of R. Miasha [says one is liable] only [if it is done] by two [one reaching the object out, the other receiving it].
- [H] In every [other] context you maintain that if two people do [a single prohibited act], they are exempt, while here you hold that if two people do [a single prohibited act], they are liable.
- [I] The case here is different, for thus was the mode of labor of the Levites in the tent of meeting.
- [J] How was the labor of the Levites [performed] in the tent of meeting? **There would be two wagons, one behind the other, in public domain, and they would stretch the beams from one to the next, but they did not toss them [M. 11:2G-H].**
- [K] *Bar Qappara taught*, “That was so as not to treat the beams disgracefully.”
- [I:2 A] Said R. Yohanan, “[Just as is the case with the bank of the cistern and the cistern, so] a standing part and a hole [beside it] join together to form the requisite volume of four cubits [M. 11:2/I] .
- [B] “And that is the case when the standing part is larger in breadth than the hole.”
- [C] *R. Zeira asked*, “Does that mean that the standing part [cistern banks] on either side must be greater in area?”

[D] *Said R. Yosé, “It is self-evident to R. Zeira that a standing part [cistern bank] on only one side does not join together [with the hole if it is smaller than the hole]. It is self-evident to him that a standing part on only one side is not going to be larger [than the area of the hole].*

[E] “Where there is a question is whether even the second bank, [if larger, suffices]. [We have a case in which originally there was only one bank, smaller in breadth than the hole. A second bank then was added on the other side. Does this second bank, on its own, suffice?]”

[II:1 A] The bank of a cistern and the rock ten handbreadths high and four broad – [he who takes something from that area or who puts something into it is liable] [M. 11:2/I].

[B] *With what sort of case do we deal?* If the [bank or rock] are ten handbreadths high and four broad, they constitute a domain by themselves. If they are ten [handbreadths high] but are not four broad, *it is to this case that R. Hisda in the name of Issi addressed this statement:* “As to a reed stuck [into the ground] in the public domain ten handbreadths high [but not four broad], it is permitted to put things in from one domain [public] or from the other [private], so long as one not then exchange [objects from one domain to the other via the reed].”

[C] *But here we deal with a case in which* the specified areas were neither four handbreadths broad nor ten high. [And is this called “less than the stated measurements” (M. 11:2K)?]

[D] But did not Hiyya, son of Rab, state, “Whatever impedes walking in the public domain is regarded as neutral domain”? [Hence why should one be liable, as specified?]

[E] Said R. Yudan, “That which Hiyya, son of Rab, has said, applies to the middle [of public domain], but as to what is at the side, the public domain nullifies [the status of what impedes walking about].”

[II:1 A] [As to M. 11:2K, If they were less than the stated measurements, he is exempt:] said R. Yohanan, “One should read here not ‘exempt,’ but ‘permitted.’” [The clause refers to the breadth and not the height.]

[B] *There we have learned:* **He who cuts open an abscess on the Sabbath, if it is to make an opening for it, he is liable. But if it is to draw out the pus from it, he is exempt [M. Ed. 2:5A - C].**

[C] *Said R. Yohanan, “One should read here not, ‘exempt,’ but ‘permitted.’”*

[D] *There we have learned: Concerning him who traps a snake on the Sabbath, if he dealt with it so that it would not bite him, he is exempt. But if it was for purposes of healing, he is liable [M. Ed. 2:5E-G].*

[E] *Said R. Yohanan, “One should read here not, ‘exempt,’ but ‘permitted.’”*

[F] *There we have learned: And concerning Ironian stew pots, that they are insusceptible to uncleanness when located in the tent of a corpse, but that they are susceptible to uncleanness when carried by a Zab [M. Ed. 2:5H-J].*

[G] *Said R. Zeira, “[As to D] that is quite so. If it was out of need [or not of need, and thus declares liable or exempt – but not permitted], that is the case concerning which we have learned, ‘If it was for purposes of healing, he is liable. “(Regarding B) you can formulate (the law) exempt (but prohibited) or liable? Lo, you must say that it speaks of clean or unclean (= permitted or liable).] It must follow that we should not read ‘exempt,’ here, but rather, ‘permitted/’”*

11:3

[A] **He who throws [something from a distance of] four cubits to ward a wall –**

[B] **[if he throws it] above ten handbreadths, it is as if he threw it into the air [which is public domain].**

[C] **[If it is] below ten handbreadths, it is as if he threw it onto the ground [which is private domain].**

[D] **He who throws [an object to a distance of] four cubits on the ground is liable.**

[E] **M he threw [an object] within the space of four cubits and it rolled beyond four cubits, he is exempt.**

[F] **[If he threw an object] beyond four cubits and it rolled back within four cubits, he is liable.**

[I:1 A] *The Mishnah speaks of [a wall, M. 11:3A] which has no niche. But if there is a niche [in the wall], then there is a dispute between R. Meir and sages. [That is, where the wall is thick enough, we regard the small hole as enlarged to four square, so one becomes liable. That is Meir’s view. If not, one is not liable. Sages take the view that we do not, in imagination, hollow out the wall to complete the space necessary for liability. If there is a distinct domain, it comes into play, and invokes*

liability. But if not, we do not treat it as though there were such a domain.]

[B] *R. Meir holds the view that* whether or not [the niche in the wall] is four cubits by four cubits, you regard the wall as if the hole is enlarged.

[C] *Rabbis hold that view that* if [the niche] is four by four, one regards the wall as razed, and if not, one does not regard the wall as razed, but as closed up. [In the former case it is as if the object came to rest in private domain, and the thrower is liable, but if at the outer surface there is not a space of four by four cubits, it is regarded as if the wall is completely closed up, and the thrower is exempt.]

[I:2 A] R. Hisda said [with reference to M. 11:3A's wall], "We deal with a wall that slopes downward toward the earth."

[B] But will the object not in the end come back down to the earth [so why should we assume, B, that it is as if the man has thrown the object into the air, when we know it will ultimately fall back]?

[C] R. Hiyya in the name of R. Yohanan: "Interpret [the case] to involve a fat fig, which stuck to the wall [and hence will not fall back to the ground]."

[D] *R. Haggai asked before R. Yosé*, "[Referring to **M. Kil. 6:2: If one planted one of two rows on the ground and the other on the terrace, which is ten handbreadths higher than the ground, it is not included together with the other row to add up to form a vineyard; if it is not so high, it is included together with it,**] *is that not to say that* the sloping side of the terrace is regarded [for the purposes of measurement here] as part of the ground beneath?"

[E] He said to him, "In that case the seeds derive benefit from the terraces, while here, [if one tosses a fig and it lands on the sloping wall,] people generally walk along the wall, and the fig will fall off."

[F] Had he said, "We deal with a case in which there was a niche in the wall, and it derives benefit from the niche in the wall, just as the seeds derive benefit from the furrow," that would have been well.

[G] R. Yosé, R. Abbahu in the name of R. Yohanan: "We deal with a case in which the wall was sloping downward. *This is in line with the following, which we have learned: [If one threw an object] beyond four cubits and it rolled back within four cubits, he is liable [M. 11:3F].*"

[H] R. Hezekiah, R. Abbahu in the name of R. Yohanan: “And [that applies to] a case in which the object has come to rest [outside of the four cubits, and then rolled back within the four cubits].”

11:4

[A] He who throws [an object to a distance of] four cubits into the sea is exempt.

[B] If it was shallow water and a public path passed through it, he who throws into it [an object for a distance of] four cubits is liable.

[C] And what is the measure of shallow water?

[D] Less than ten handbreadths in depth.

[E] [If it was] shallow water, and a public path passed through it, he who throws into it to a distance of four cubits is liable.

[I:1 A] It is not the end of the matter that one throws the object only four cubits into the sea. But even if he should throw it over the entire sea, he would be exempt, for the entire sea is regarded as neutral domain.

[II:1 A] And [referring to M. 11:4B, E, **If it was shallow water and a public path passed through it, he who throws into it an object for a distance of four cubits is liable... If it was shallow water, and a public path passed through it, he who throws into it to a distance of four cubits is liable:**] *why have you repeated the same statement twice?*

[B] R. Haninah in the name of R. Phineas: “It deals with two different shallow areas, one in which the public go, the other in which the public go only in case of dire necessity.

[C] “[It is so] that you should not say, in this latter instance, since the public use this path only in a case of dire necessity, it does not fall into the category of public domain, but rather private domain.

[D] “*Accordingly, it is necessary to say that it is public domain too.*”

11:5

[A] He who throws [an object] from the sea to dry land or from dry land to the sea,

[B] or from the sea to a boat, or from a boat to the sea,

[C] or from one boat to another,

[D] is exempt.

[E] [If] boats are tied together, they move [objects from one to the other].

[F] If they are not tied together, even though they lie close together, they do not move [objects] from one to the other.

[I:1 A] [When we speak of boats tied together, M. 11:5E,] Abba bar R. Huna said, “It is a case in which they are tied together [even merely] by [ropes made of] reed.”

[B] R. Yosé b. R. Bun said, “And [the law about carrying objects from boat to boat] applies to a case in which they prepared a meal of commingling [to form a single domain among the boats].”

[C] *Both R. Hiyya and R. Imma, both in the name of R. Eleazar: One said,* “[The law applies] when there is a space no greater than four cubits between [the boats].”

[D] *The other said,* “That is so even when there is a space of four cubits between [the boats].”

[E] *And we do not know which one held this opinion and which one held that.*

[F] *On the basis of what R. Yosé, R. Jacob bar Zabedi, R. Hiyya in the name of R. Eleazar, said,* “[That is so] even if they are not ten handbreadths high,” *it follows that he is the one who has said,* “That is the case when there is a space no greater than four cubits between [the boats].”

[G] *They proposed to rule,* “*He who said,* ‘That is the case when the space between [the boats] is no greater than four cubits,’ [holds that that is so] even if they are not ten handbreadths high.

[H] “*And he who said,* ‘They must be ten handbreadths high,’ [holds that that is so] even when the space between the boats is greater than four cubits.”

[I] Said R. Hananiah son of R. Hillel, “And that is the case when the whole of the airspace of the neutral domain lies within ten handbreadths [of the ground].”

[I:2 A] **A boat in the sea, ten handbreadths high –**

[B] **they do not carry from [the boat] to the sea or from the sea into it.**

[C] **R. [13b] Judah says, “[If it is] ten handbreadths deep but not ten handbreadths high, they do carry from it to the sea, but not from the sea to it” [T. Shab. 10:14].**

[D] *R. Abbahu said R. Yohanan asked, “And why is it permitted to carry from within [the boat] to the sea? Is it because it is not ten handbreadths high [and hence part of the neutral domain of the sea]? If so, then even from the sea to the boat [it should be permitted to carry things].*

[E] “And why is it prohibited to carry from the sea to the boat? Is it because it is ten handbreadths deep [thus constituting an autonomous domain]? If so, then even from the boat to the sea [it should be prohibited on the same basis] !”

[F] Said R. Abun, “And why is it permitted to carry from within the boat to the sea? It is because of danger [incurred if one is not free to pour out slops].”

[I:3 A] A rock in the sea ten handbreadths high –

[B] they do not carry anything from it to the sea or from the sea to it.

[C] [If it is] less than the specified dimensions, lo, this is permitted.

[D] [In T.’s version, which in one form or another is required here:] [The rules of A-B apply] so long as it is equivalent in area to [no more than] a space sufficient for the sowing of two *seahs* of seed [T. Shab. 10:12].

[E] What is the difference between a rock and a ship [such that in a ship one may carry more than two *seahs* of seed but on a rock only up to that amount]? A ship rises and falls [in the waves], while the rock remains in place [thus C].

[F] But [with reference to C], is it not in the status of neutral domain? Is it not permitted to carry in neutral domain only in an area of four cubits? [Why has that qualification not been introduced at C? Or, why is it permitted to carry on the rock up to the space for sowing two *seahs* of seed?]

[G] Said R. Ila, “It is concerning the opening clause, [A-B,] ‘A rock in the sea ten handbreadths high – they do not carry anything from it to the sea or from the sea to it.’ If it is larger than the specified dimensions, it is treated as a partition surrounded by seeds [no longer serviceable as a partition], in which case it is permitted to carry within it only four cubits.

[H] “If it is less than these dimensions, they carry from it to the sea, and from the sea to it, and they carry [things about] in it.”

[I] [*As to the statement that they may carry from the rock to the sea,*] R. Bun bar Hiyya asked, “If so, then if there are two neutral domains adjacent to one another, may they carry from one to the other? [Surely not!]”

[J] Said R. Hananiah, son of R. Hillel, “Since the sea surrounds [the rock] on all sides, it is as if the whole forms a single neutral domain.”

[I:4 A] R. Hamnuna said, “A plank which protrudes from a ship, and is less than four cubits in breadth – it is permitted to sit on it and to utilize it for one’s bodily needs on the Sabbath. [This amounts to pouring slops into the sea.]”

[B] Said R. Mana, “If he had referred to ‘a broken-down box,’ [rather than to a plank], it would have been preferable [since the language, ‘box,’ is more modest, given the purpose served by the plank].”

[C] *Said R. Abun, “He who wants to provide a remedy for a ship, so that he may pour out slops from it on the Sabbath, puts a board out for three cubits, in the case of a board which is four cubits broad, and you regard the partitions [beneath] as if they ascend [and complete the partition around the board]!”*

[D] [Explaining C,] R. Jacob bar Aha in the name of R. Hamnuna: “For the entire space, three cubits within the partition is regarded as an extension of the partition.”

[E] *R. Isaac b. R. Eleazar instructed R. Hoshaiiah b. R. Shimi, who would go out on the sea, to make for himself a broken-down basket [for use on the Sabbath, which he could then empty out into the sea].”*

11:6

[A] He who throws [an object] and realizes [remembers what he has done] after it leaves his hand,

[B] [if] another person caught it,

[C] [if] a dog caught it,

[D] or [if] it burned up in a fire [intervening in its flight path] –

[E] he is exempt.

[F] M he threw it intending to inflict a wound,

[G] whether on a man or on a beast,

[H] and realizes [what he has done] before it inflicted the wound,

[I] he is exempt.

[J] This is the general principle: All those who may be liable to sin offerings in fact are not liable unless both at the beginning and the end, their [sin] is done inadvertently.

[K] [But] if the beginning of their [sin] is inadvertent and the end is deliberate, [or] the beginning deliberate and the end inadvertent, they are exempt –

[L] unless both at the beginning and at the end their [sin] is inadvertent.

- [I:1 A] *The meaning of the Mishnah [at M. 11:6A] is that the man then acted deliberately [in completing the action, so that part was inadvertent and part deliberate]. [Now this encompasses the possibility that while at the outset and the end the deed was deliberate, in the middle, it was inadvertent.]*
- [B] *And this poses a problem, for if someone shot an arrow to kill a living being, and people admonished him, and he repented – does that fact mean a thing? [Surely not! What difference does it make, once the object has left the man's hand, that he later repented?]*
- [C] *In the end one must rule that he has acted deliberately. [The meaning of the Mishnah is that at the end the man has done the act deliberately, while in connection with liability to a sin offering, one is liable only if both at the beginning and at the end he did the act inadvertently (M. 11:6J-L).]*
- [I:2 A] *R. Yosé b. Haninah said, "If the man acted inadvertently, this means, in ignorance of the fact that he violates a negative commandment, and if he acted deliberately, this means, in full awareness of the fact that he violates a negative commandment."*
- [B] *R. Joshua b. Levi said, "If the man did the deed inadvertently, this means, in ignorance of the fact that the penalty is extirpation, and if he did it deliberately, it is in full awareness of the fact that the penalty is extirpation."*
- [C] *R. Simeon b. Yohai presented a teaching which supports the position of R. Joshua b. Levi: "[But the person who does any thing with a high hand, whether he is native or a sojourner,] reviles the Lord, and that person shall be cut off [from among his people]' (Num. 15:30). Note that even if he did the deed deliberately, knowing he is subject to extirpation [when witnesses] admonish him, [it is with respect to the penalty for the impending deed,] and he is flogged and brings a sin offering."*

[D] R. Abbahu in the name of R. Yohanan, “If one is deliberate [in his action] in respect to [the fact that it is prohibited to eat] forbidden fat, but he is inadvertent [in that he does not know that the penalty] is to bring a sin offering, [witnesses] admonish him, and he is flogged, and he brings an offering” .

[I:3 A] *It has been taught:* People should not engage themselves in [the possibility of violating the law either concerning] forbidden fat or forbidden sexual connections [so as to avoid the sorts of problems of deliberate as against inadvertent action with which we deal here].

[B] He who engages himself [in that way] in a matter involving the Sabbath is exempt, while if he does so in a matter involving forbidden fat or forbidden marital connections, he is liable. [The meaning of “engaging oneself” is that, if on the Sabbath one formed the intent to do permitted labor, but instead did forbidden labor, he has inadvertently done what he should not do. This is what is subject to the usage at hand.]

[C] *What would be a practical instance?*

[D] He said: “Lo, I shall harvest a half fig [which would not violate the law],” and then he harvested a whole fig – he is exempt.

[E] “Lo, I shall eat a half olive’s bulk [of forbidden fat],” and he ate a whole olive’s bulk – he is liable [despite his correct intention].

[F] “Lo, I shall merely warm myself up beside her,” and he began an act of sexual relations with her [a woman whom he may not marry] – he is liable.

YERUSHALMI SHABBAT

CHAPTER TWELVE

12:1

[A] [13c] He who builds [on the Sabbath] – how much must he build so as to become liable [on that count]?

[B] He who builds – in any measure at all.

[C] He who hews stone, strikes with a hammer or adz, bores – in any measure at all is liable.

[D] This is the governing principle: Whoever on the Sabbath performs a forbidden act of labor and [the result of] his act of labor endures is liable.

[E] Rabban Simeon b. Gamaliel says, “Also: He who hits with a hammer on an anvil when he is performing an act of labor is liable.

[F] “For he is tantamount to one who improves [prepares for another] act of labor.”

[I:1 A] What sort of building was involved in the tabernacle?

[B] They would put the boards on top of the bases.

[C] But was this not merely temporary?

[D] Said R. Yosé, “Since they would encamp and journey on [God’s] instructions, was it as if it were temporary?”

[E] Said R. Yosé b. R. Bun, “Since the Holy One, blessed be he, had promised them that he would bring them into the Land, was it as if it were permanent?”

[F] That would imply [that building includes] even [placing something] at the side.

[G] That would imply [that building includes] even putting something on top of something else.

[H] *That would imply that* building on top of utensils [constitutes an act of] building.

[I] The bases are equivalent to the ground.

[J] [As to building,] *it has been taught*, If one party brings the stone, and the other party brings the mortar, the one who brings the mortar is liable.

[K] R. Yosé says, “Both of them are liable.”

[L] R. Yosé maintains that [placing] a stone without mortar [constitutes an act of] building.

[M] All parties concur that if one put on the mortar first and then laid the stone, he [who lays the stone] is liable.

[N] The builder who set the keystone is liable.

[O] To whom is such a matter an issue? To rabbis [J].

[P] *One who makes walls and one who makes the doorposts are liable on the count of building.*

[II:1 A] *He who hews out stones or pillars or millstones, who cuts mosaics or who hews clods [of earth or metal] (BWLYN) – are liable on the count of hewing [M. 12:1C].*

[B] R. Jeremiah in the name of Rab: “He who assembles a folding couch on the Sabbath is liable on the count of building.”

[C] Said R. Zeira, “He is merely in the status of one who takes a brick and places it on top of other bricks on the Sabbath [without mortar]. [This is not building.]”

[D] *R. Hamnuna instructed the exilarch [that it was permitted to] disassemble a folding table on the Sabbath. R. Huna bar Hiyya was with him. R. Judah heard and said, “He who gave such instructions has never learned [the law] nor served [as a disciple to a master].”*

[E] *Said R. Shimi, “He who gave those instructions gave instructions in accord with the view of Rabban Simeon b. Gamaliel [G].”*

[F] **“For it has been taught: The boards of a ship or a crib, the legs of a bed, the feet of a table, and the handle of a knife at its head – lo, one should not put any of these back into place [on the Sabbath], but if he did so, lo, he is exempt. But if he hammered them in, lo, he is liable.**

[G] **“Rabban Simeon b. Gamaliel says, ‘If they were loose, he may take them out and put them back [and this does not constitute building]’ [T. Shab. 13:15].”**

[H] *It has been taught:* If they are fully attached, there is a [complete] connection so far as concerns [contracting] uncleanness or [undergoing the rite of] sprinkling [for purification]. If they are affixed [but not permanently attached], there is a connection for [contracting] uncleanness, but no connection for sprinkling [for purification]. If they can be removed and replaced, there is no connection either for uncleanness or for sprinkling.

[I] *And here you say this [that it does not constitute building, if one removes and replaces the part? Surely it constitutes building, in light of F.]*

[J] There it is usual to affix [these parts]. If one has not affixed them, there is no connection [established between the part and the base object]. But here when one fully attaches the part, that completes the manufacturing of [the object].

[II:2 A] *It has been taught:* **R. Simai says, “He who assembles a curved horn is liable. And a flat one – he is exempt.**

[B] **R. Eleazar b. R. Simeon says, “[He who puts back] the branches of a candelabrum is liable, and [the joint] of a plasterer’s pole is exempt” [T. Shab. 12:14N, M].**

[C] On what count is he liable for [assembling] the branches of a candelabrum?

[D] Both R. Abbahu in the name of R. Yohanan and R. Huna say, “It is on the count of building.”

[E] On what count is he exempt if [he assembles] the joint of a plasterer’s pole?

[F] It is because it goes from above to below [so this is not building, which goes from below to above].

[G] *They objected,* “Lo, he who digs in sandy ground, lo, this is from above to below, and yet you rule that he is liable!”

[H] Said R. Samuel bar Yudan, “In this case [in which he is exempt], it is because it is only temporary, while in that case [in which he is liable], it is permanent.”

- [I] Samuel says, “He who puts up the shutters of a shop is liable on the count of building.”
- [J] *Now there is a problem [referring now to Y. Bes. 1:5], Is it possible that in regard to a matter which, done on the Sabbath, incurs liability to a sin offering – the House of Hillel will permit the replacing [of the doors] on a festival day? [Surely not!]*
- [K] R. Hananiah in the name of R. Yohanan:”They permitted [doing so] at the end because of [the consequences of not doing so] at the outset, for if you maintain that he may not replace the doors, then he will not even open [the cupboard, to remove food on the festival day].”
- [L] Then let him not open [the cupboard – what difference will it make]?
- [M] Then he will diminish the enjoyment of the festival [by not eating].
- [N] Said R. Aha, “He may replace the doors, on condition that he not do so as completely as is necessary.”
- [O] Said R. Yosé bar Bun, “[That is so] when there is no door, but if there is a door, let him use what is near the door [and not what requires removing the door completely].”

[II:3 A] *The Mishnah [at M. Pes. 6:1] [does not] accord with the view of R. Simeon, for it has been taught: **He who digs, scrapes, or cuts thorns – in any measure at all [on the Sabbath], lo, this one is liable.***

- [B] **R. Simeon says, “[He is not liable] unless he digs the whole of it, unless he scrapes the whole of it, unless he cuts thorns off the whole of it.**
- [C] **[In T.’s version] “He who paints a picture [is not liable] unless he paints the whole of it.**
- [D] **“He who tans a hide [is not liable] unless he tans the whole of it” [T. Shab. 11:3]. [At M. Pes. 6:1, by contrast, it is stated that scraping the entrails of the Passover offering does not override the restrictions of the Sabbath. Since Simeon says that one may do part of the work without incurring liability, he will not concur.]**

[E] *But R. Jacob bar Aha said, “It accords only with the view of R. Simeon, for R. Simeon has said, ‘[The law] does not treat [doing] part of an act of labor as tantamount to [doing] the whole of it,’ while rabbis treat [doing] part of an act of labor as tantamount to [doing] the whole of it.”*

[III:1 A] Now there is this problem with the view of Rabban Simeon b. Gamaliel [at M. 12:1E-F]: If one had taken [a sickle] in order to harvest grain, but did not in fact harvest any grain, does this amount to anything? [Obviously not.]

[B] *Said R. Ada, “The view of R. Simeon b. Gamaliel accords with the view of R. Judah, for it has been taught:*

[C] **“R. Judah says, ‘He who closes up the web and he who beats the woof [T.: in any measure at all], lo, this one is liable’ [T. Shab. 8:2B],** because it is as if he smooths things out with his own hand.

[D] **“Here he is liable because it is as if he smooths things out with his own hand [and thus improves the project, as at M. 12:1F].”**

12:2

[A] **He who plows [on the Sabbath] – in any measure whatsoever,**

[B] **he who weeds, he who cuts off dead leaves, and he who prunes – in any measure whatsoever,**

[C] **is liable.**

[D] **He who gathers branches of wood –**

[E] **if [it is] to improve [the field] – in any measure at all;**

[F] **if [it is] for a fire –**

[G] **in a measure [of wood] sufficient to cook a small egg,**

[H] **[is liable].**

[I] **He who gathers herbs**

[J] **if [it is] to improve [the field] –**

[K] **in any measure at all;**

[L] **if it is for cattle [to eat] – in the measure of a lamb’s mouthful,**

[M] **[is liable].**

[I:1 A] What sort of plowing was done in the sanctuary?

[B] They plowed so as to plant herbs [for dyestuffs for the hangings].

[C] And how much plowing renders one liable?

[D] R. Mattanaiah said, “Sufficient for planting one leek.”

[E] R. Ba in the name of Rab: “Sufficient for planting a seed of wheat.”

[F] *There we have learned:* **[One is liable for taking from private to public domain] two cucumber seeds, two gourd seeds, [two seeds of Egyptian beans] [M. 9:7].**

[G] *It has been taught:* As to Medean wheat, two seeds.

[H] R. Samuel in the name of R. Zeira: “Since wheat seed is especially valuable, they treated it as equivalent to all other garden seed that is not itself eaten.”

[II:1 A] [With reference to M. 12:2/I-M, which goes over ground treated elsewhere], why do I need, **if it is to improve the field – in any measure at all; if it is for cattle to eat – in the measure of a lamb’s mouthful [M. 12:2J-L]?**

12:3

[A] **He who writes two letters,**

[B] **whether with his right hand or with his left,**

[C] **whether the same letter [twice] or two different letters,**

[D] **or with two pigments,**

[E] **in any alphabet,**

[F] **is liable.**

[G] **Said R. Yosé, “They imposed liability [on one who writes] two letters only because of making a mark.**

[H] **“For so did they write [make a mark] on the boards of the tabernacle, to determine which was paired with which.”**

[I] **Said R. Judah, “We find that a short name comes from a long name, Shem from Shimeon or from Shemuel, Noah from Nahor, Dan from Daniel [some texts add – but not assumed by Y.:] Gad from Gadiel.”**

[I:1 A] *Who stands behind the view that merely making a mark [less than a whole word] incurs liability? It is R. Yosé [M. 12:3H].*

[II:1 A] What is the meaning of, **“In any language [alphabet]” [M. 12:3]?**

[B] Even if he wrote *alef* as *alpha* [= Greek].

- [III:1 A] And [as to Yosé’s opinion] should one not take account of the possibility of putting what belongs below above, and what belongs above below [since the marks on the boards had to conform to a plan]?
- [B] The boards were cut like pens [thinner and slanting on top, so one would know how the marks were to be arranged].
- [C] But should one not take account of the possibility of putting what belongs on the inside outside, and what belongs on the outside inside?
- [D] There were rings which indicated the outer side.
- [E] And should one not take account of the possibility that one may exchange [one board for another]?
- [F] Said R. Aha, “The marks were written [on the boards] diagonally, so they could not exchange them [in error].”
- [G] Said R. Immi, “‘And you shall erect the tabernacle according to its judgment’ (Ex. 26:30). Now is there such a thing as ‘ judgment’ for pieces of wood? But whichever beam has gotten the merit of being placed at the north, let it be placed at the north; and whichever had the merit of being placed at the south, let it be placed at the south.”
- [H] *Members of the households of R. Hoshaiah and of Bar Pazzi would go up and greet the patriarch every day. And the members of the house of Bar Hoshaiah went in first and came out first [before those of the house of Bar Pazzi].*
- [I] *The house of Bar Pazzi went and married into the house of the patriarch. Then they came and sought [the right] to go in first [to greet the patriarch, before the ones who had traditionally done so first]. So they appealed to R. Immi.*
- [J] Rabbi said to them, “‘And you shall erect the tabernacle according to its judgment’ (Ex. 26:30: According to the plan for it which has been shown you on the mountain). Now is there such a thing as ‘judgment’ for pieces of wood? But this beam has gotten the merit of being placed at the north, so let it be placed at the north; the other had the merit of being placed at the south, let it be placed at the south.”
- [K] *Two families in Sepphoris, Bulvati and Pagani, would go up and greet the patriarch every day. And the Bulvati family would go in first and come out [alternatively: “sit”] first. The Pagani family went and acquired merit in learning. Then they came and sought the right to go in first. So they appealed to R.*

Simeon b. Laqish. R. Simeon b. Laqish asked R. Yohanan. R. Yohanan went and gave a talk in the schoolhouse of R. Benaiah: “But if the mamzer was a disciple of a sage and a high priest was an ignoramus, the mamzer who is a disciple of a sage takes precedence over a high priest who is an ignoramus” [M. Hor. 3:5D].

[L] *Now they considered interpreting the Mishnah passage to refer to the matter of redemption [in the case people were taken captive], or to providing clothing or food [as are specified]. But to status in the session it should not apply, [so in a session of the school, the mamzer is not given priority, even if he is learned].*

[M] Said R. Abun, “[It does apply] also to status in the session of the court.”

[N] *And what is the scriptural basis for this opinion?*

[O] [It is in the following verse:] “[Happy is the man who finds wisdom, and the man who gets understanding, for the gain from it is better than gain from silver, and its profit better than gold.] She is more precious than jewels (Prov. 3:13-15).”

[P] And [wisdom is more precious] even than this [priest] [13d] who enters the Holy of Holies [cf. T. Hor. 2:10P-R].

[III:2 A] *It has been taught: “And Gad from Gadiel.”*

[B] *They replied to R. Judah, “And are not these [e.g., the M in Shem, as against the M in Shmuel, the N in Dan as against the N in Daniel], written full length while the others are written bent [the final letter being elongated, the letter when it occurs in the middle of the word being bent]?”*

[III:3 A] *It has been taught in the name of R. Judah, “If one wrote the same letter twice, but it forms a word, he is liable, for instance ShSh, TT, GG, RR, HH.”*

[B] And rabbis say, “If one wrote two letters under any circumstances [even if they do not form an intelligible word, he is liable] .”

[C] *It turns out that there are lenient rulings and strict rulings.*

[D] *In the view of R. Judah*, you have given a lenient ruling and a strict ruling, and in the viewpoint of rabbis, you have given a lenient ruling [only].

[E] *In the view of R. Judah* if one wrote the same letter twice, and they form a word, in the view of R. Judah, one is liable. In the view of rabbis, he is exempt.

[F] The lenient ruling as against the viewpoint of rabbis is this: if one wrote two letters under any circumstances, even though they do not form a name, in the view of rabbis, he is liable. In the view of R. Judah, he is exempt.

[III:4 A] *The opinions attributed to R. Judah are inconsistent. For it has been taught: “Is it possible [to suppose] that one is liable only for writing the entire name, for weaving the entire garment, for sifting the entire contents of the sieve? Scripture therefore says, ‘Part of one....’ [‘Say to the people of Israel, If any one sins unwittingly in any of the things which the Lord has commanded not to be done, and does [part of] any one of them’ (Lev. 4:2).]”*

[B] If [one is guilty for doing even] part of one of these actions, is it possible that he is liable for having written only a single letter, woven only a single thread, preparing only a single sifting with a sieve or a sifter?

[C] Scripture says, “And does any....”

[D] How so?

[E] One is liable only if he does an act of labor, the like of which endures. [.] “And here he has said thus,” [in E, that writing two letters renders one liable].

[F] [Relating to M. 12:3:] **“He who closes up the web and he who beats the woof [in any measure at all], lo, this one is liable [T. Shab. 8:2B], because it is as if he smooths it out with his own hand.”**

12:4

[A] **He who [on the Sabbath] writes two letters during a single spell of inadvertence is liable.**

[B] **[If] he wrote with ink, caustic, red dye, gum, or copperas,**

[C] **or with anything which leaves a mark,**

[D] on two walls [forming a corner], or on two leaves of a tablet, which are read with one another,

[E] he is liable.

[F] He who writes on his flesh is liable.

[G] He who scratches a mark on his flesh –

[H] R. Eliezer declares him liable to a sin offering.

[I] And R. Joshua declares him exempt.

[I:1 A] If one wrote with ink on vegetable leaves, with liquids or fruit juice on a proper tablet, [in either case,] he is exempt –

[B] unless he writes with something which lasts on something which lasts [T. Shab. 11:8J].

[C] R. Jacob bar Aha, R. Yosé in the name of R. Eleazar: “[Even] if one wrote one letter in Tiberias, and another letter in Sepphoris, he is liable.”

[D] *And lo, have we not learned:* “If they are not read together, he is exempt”?

[E] Said R. Ba bar Mamel, “[If they were written] in the proper order, [he is liable, as we have stated].”

[I:2 A] In the case of witnesses who do not know how to sign their names –

[B] R. Simeon b. Laqish said, “One makes a mark before them in ink, and they sign in red paint, or in red paint, and they sign in ink.”

[C] Said to him R. Yohanan, “Because we are engaged in a discussion of the laws of the Sabbath, shall we make a law regarding the release of a man’s wife [through such a questionable mode of signing a writ of divorce]? Rather, one brings a blank piece of paper and cuts the letters before them [in their proper shape], and they then sign their names [by following the lines of the cuts] .”

[D] But is this not [merely] the handwriting of the first party [who make the cuts]?

[E] But rather one broadens the tear before them [and they follow its main line, but not the whole of it, filling in the incision with ink].

[F] *R. Mana raised the question,* “*And why do we not rule that he makes an outline before them in water [in which case, when the illiterate witness adds ink, he is not simply signing over the inked-in signature]?”*

[G] [The answer is that] if one comes and attempts to blot out [the mark], the erasure still is visible, [so this is still writing on top of writing].

[H] [With reference to M. Git. 2:3F:] He who cuts an inscription in leather in the form of writing – it is a valid writ of divorce [so Y. Git; Y. Shab.: “he is liable” for violating the Sabbath].

[I] He who [merely] marks a mark on leather in the form of writing – the writ is invalid [Y. Shab.: “he is exempt”].

[I:3 A] **Said R. Eliezer to them, “Now did not Ben Satra [Y.: Ben Stada] learn [Y.: bring magic] only in such wise?”**

[B] **They said to them, “Because of one fool shall we impose liability [Y.: “destroy”] on all intelligent folk?” [T. Shab. 11:5].**

[I:4 A] “... and he writes her [a bill of divorce and puts it in her hand and sends her out of his house ...]” (Deut. 24:1) and not [when he] incises [the letters with a knife].

[B] “... and he writes ...” – and not when he forms letters by dropping [in a manner by forming the letters dot by dot].

[C] “... and he writes ...” – not when he pours.

[D] “... and he writes ...” – not when he incises.

[E] *There are Tannaim who teach that he may even incise it.*

[F] *Said R. Hisda, “One who said he may not incise it [refers] to digging out the place of the letters, as in the case of a denar.*

[G] “He who said one may incise the letters points to a writing tablet [in which the letters are incised].”

[H] “... and he writes ...” and not when he drops: R. Yudan bar Shalom and R. Mattenaiah – one said, “That is when he does not join the dots together [into continuous lines],” and the other said, “Even if he joined the dots [together into continuous lines, it is invalid].”

[I] “... and he writes ...” – not when he pours [out the letters].

[J] *Said R. Hiyya bar Ba, “The Easterners are very clever. When one of them wants to send a confidential letter to his fellow, he writes it in a solution of gallnut, and the recipient*

of the letter pours over it untanned ink which settles on the writing.”

[K] If one has done so [= J] on the Sabbath, what is the law [as to one’s thereby violating the prohibition against writing on the Sabbath]?

[L] [*There we have learned:* “If one has written on top of writing, he is exempt.”] [This would not be a violation.]

[M] Both R. Yohanan and R. Simeon b. Laqish say, “And that applies when he has written in ink on top of ink, or in red paint on top of red paint. But if he wrote in ink on top of red paint or red paint on top of ink, he is liable.”

[N] R. Isaac bar Mesharsheayah in the name of the rabbis over there: “He is liable on two counts, on the count of blotting out and on the count of writing.”

12:5

[A] [If] one wrote with fluids [blood, water, milk, honey, etc., as at M. Makh. 6:4], fruit juice, dirt from the street, writer’s sand,

[B] or with anything which does not leave a lasting mark,

[C] he is exempt.

[D] [If] he wrote] with the back of his hand, with his foot, mouth, or elbow,

[E] [if] he wrote one letter alongside a letter already written,

[F] [if] he wrote a letter on top of a letter [already written],

[G] [if] he intended to write a het and wrote two zayins,

[H] [if he wrote] one on the ground and one on the beam,

[I] [if] he wrote [two letters] on the two walls of the house, on the two sides of a tablet, so that they cannot be read with one another,

[J] he is exempt.

[K] [If] he wrote one letter as an abbreviation,

[L] R. Joshua b. Betera declares him liable.

[M] And sages declare him exempt.

[I:1 A] If one was supposed to write the divine name [when writing a Scroll of the Torah] and instead intended to write, “Judah [YHWDH],” but

forgot and did not write the D [thus producing the divine name, but not by intention],

[B] lo, the divine name stands blotted out [since it has not been sanctified by the scribe's intention], and he then confirms it in the status of sanctification [by writing it with appropriate intention].

[C] R. Judah says, "He passes the pen over it and confirms it."

[D] They said to him, "Then he does not do it in the best possible way."

[E] *The theories assigned to R. Judah are at variance. There he says, "It is not regarded as [proper] writing," and here he [they] says, "It is regarded as [proper] writing" [although it is not the best form of writing, it is still writing].*

[F] It is in accord with his own theory that they replied to him: "In accord with your theory, for you maintain that it is proper writing – it is not really of the best sort of writing."

[G] *R. Jacob bar Zabedi in the name of R. Abbahu did not maintain this view, but held that the positions assigned to R. Judah [rabbis] are at variance. There he [they] says, "It is not the best way to do things," so lo, the writing is indeed valid. But here he has said, "If one writes on top of writing, it is not valid writing at all."*

[H] "What is the meaning of writing on top of writing? One above the other."

[II:1 A] What is the theory of R. Joshua b. Betera [at M. 12:5K- L]?

[B] On the basis of a single letter, you may reconstruct the intention expressed by a number of letters.

12:6

[A] **He who writes two letters in two distinct spells of inadvertence,**

[B] **one in the morning and one at twilight,**

[C] **Rabban Gamaliel declares him liable.**

[D] **And sages declare him exempt.**

[I:1 A] *Now there is this problem with the position of Rabban Gamaliel.*

[B] If one harvested about a fig's bulk of produce in the morning and then about a fig's bulk of produce at twilight in a single spell of inadvertence, is it possible to suppose that he is not liable? [Surely he is liable]

- [C] Just as two spells of inadvertence are not deemed distinct from one another in that case, so too they should not be deemed joined together [as against M. 12:6A-C].
- [D] R. Mana said the following without specifying an authority, R. Abun in the name of R. Yohanan: “*The reason for the position of Rabban Gamaliel is this*: in that case, there is no possibility of an act of knowing about only half of an act of labor.”
- [E] *And along these same lines*, is there no such thing as a deliberate violation of the law in the case of merely a half olive’s bulk? If one ate half an olive’s bulk of forbidden fat deliberately, and half an olive’s bulk inadvertently, what is the law as to their joining together?

YERUSHALMI SHABBAT

CHAPTER THIRTEEN

13:1

[A] **R. Eliezer says, “He who weaves three threads at the beginning [of the web],**

[B] **“or [who added] one onto that which is already woven,**

[C] **“is liable.”**

[D] **And sages say, “Whether at the beginning or at the end, its measure [for culpability] is two threads.”**

[I:1 A] [14a] *Said R. Ulla, “The reason for the view of R. Eliezer is that it is by means of adding the third thread that the act of labor is made permanent.”*

[B] *Does R. Eliezer concur with R. Judah? For we have learned there: [He who fastens wool and linen together with a single fastening of thread – the fastening is not considered a connector for uncleanness, and the fabrics are not subject to the laws of diverse kinds, and he who undoes the fastening on the Sabbath is exempt from liability. If he brought both ends of the thread to one side, so completing the stitch, the stitch is considered a connector....] R. Judah says, “That is the case only if he makes three fastenings [and not only two.]” And a sack and a basket that are bound together and patched with wool and linen, respectively, are joined together so as to fall under the law of diverse kinds [M. Kil. 9:10].*

[C] [Speaking from the perspective of Y. Kil. 9:6 and referring to the present passage as “there,] *said R. Simon, “The reason for the view of R. Eliezer there [M. 13:1A] is that it is by means of adding the third thread that the act of labor is made permanent. But here [as to Kilayim] if there are less than three stitches, the hem may readily be separated.” [He may well concur, therefore, with rabbis, not with Judah, at Y. Kil. 9:6.]*

[D] *You may turn out to say that, in the view of R. Eliezer, there are times at which the requisite measure is three [threads], specifically, when it is at the beginning [of the web]; sometimes there are two, when it involves adding to a thread woven the preceding day [and thus completed to the measure of three threads], sometimes one, when it involves adding to two woven the preceding day.*

[E] *Rabbis of Caesarea [questioning this very supposition] ask, “What is the law in the case of one thread woven onto an already woven piece, one added to two, one added to three?”*

[F] *Rabbis here say, “If one thread is added to two already woven ones, [one incurs liability].”*

[G] *If there was a large cloak [being woven], at the outset, [one is liable] only if he weaves two threads, and at the end [in completing the garment, if it is entirely woven but for one last thread, then] even if [one wove] any further thread at all, [he is liable, in line with M. 13:1B].*

[I:2 A] [In T.’s version:] **He who weaves two threads on the hem and on the border [Y. adds: even of any amount], lo, this one is liable.**

[B] **He who weaves three threads at the beginning [M. 13:1A] [of the process of weaving] – lo, this one is liable.**

[C] **To what is this likened? To [weaving] a small belt two threads over the breadth of three meshes [in size] [T. Shab. 12:1C-F].**

[D] And to the body of the woven material – the requisite measure [for incurring liability] accords with the rule applying to weaving at the outset of the fabric.

[E] And as to single threads, even if it is at the end of the fabric, it is in the status of that which is already woven.

[F] And as to the veil, even if it is at the end, it is as if it is already woven.

[I:3 A] **All concur in the case of him who writes the divine name on the Sabbath that he is liable only if he will complete [writing the whole name].**

[B] **If one wrote one letter and thereby completed the writing of the whole name,**

[C] **or one letter and thereby completed the writing of the book, he is liable [cf. M. Shab. 12:5E] [T. Shab. 11:7F-G].**

- [D] If one wrote a single letter on an ordinary day, and a letter on the Sabbath [so completing the word],
- [E] R. Eliezer declares him liable to a sin offering.
- [F] And R. Joshua declares him exempt.
- [G] Why [does Joshua exempt him from culpability]? It is either because the consideration of the lasting effect of the act of labor [and in this case, there is none], or because it is not a case in which this second letter may be joined together with the first.
- [H] *Now see here!* If someone wove one thread on an ordinary day, and the other thread on the Sabbath, is it possible that he would not be exempt from all liability? [Surely he is exempt!] Is it possible, nonetheless, that the thread cannot be regarded as joined together [to the one already woven]? [Surely not! Hence the operative consideration can only be the former of the two principles.]
- [I] Therefore the reason is that the consideration of the lasting effect of the act of labor [is paramount, and here there is none].
- [J] *This is in line with that which R. Jacob bar Aha, R. Yosé in the name of R. Eleazar, said, "If one wrote one letter in Tiberias and the other letter in Sepphoris, he is liable."* [The only consideration is lasting labor, not the issue of joining together, which, after all, is not possible in this case.]
- [K] *Otherwise [if you do not maintain that that is the operative consideration,] then [Jacob's view] accords [only] with R. Eliezer.*
- [L] If one wrote one letter on this Sabbath, and another letter on the next Sabbath [cf. T. Shab. 11:17C],**
- [M] R. Eliezer declares him liable to a sin offering.
- [N] And R. Joshua declares him exempt.
- [O] Now look here! [This point is perfectly obvious, for] if one wrote one letter on an ordinary day and the other letter on the Sabbath, R. Eliezer declares the man liable to a sin offering. If the issue then is doing so on one Sabbath and then on the next, is it not an argument a fortiori [that Eliezer will hold him liable]?
- [P] No, it is necessary to state the matter on account of the position of sages, who declare him exempt [in both

cases, and there is no argument a fortiori to prove their view in the second of the two].

13:2

[A] **He who makes two meshes for the heddles or the slay [of a loom],**

[B] **[or two meshes] in a sifter, sieve, or basket,**

[C] **is liable.**

[D] **He who sews two stitches [is liable].**

[E] **And he who tears in order to sew two stitches [is liable].**

[I:1 A] The Aramaic words for heddles and slay are given in place of the Hebrew of M. 13:2A.

[I:2 A] R. Ba, R. Jeremiah in the name of Rab: "He who tightens the sides of a thread on the Sabbath is liable on the count of sewing."

[B] We may say it is on the count of both sewing and tying.

13:3

[A] **He who tears [his clothing] because of his anger or on account of his bereavement,**

[B] **[and] all those who effect destruction,**

[C] **are exempt.**

[D] **But he who destroys in order to improve – the measure [for] his [action] is the same as for him who improves.**

[I:1 A] *They asked before R. Ba, "[As to tearing a garment in fulfillment of the requirement for mourning, if one does so on the Sabbath and if one thereby fulfills the requirement, then we must regard the act as effective. In that case, we must wonder why he is not liable,] in accord with that which you have said there: 'He who slaughters his sin offering on the Sabbath has effected atonement, but he must bring another one' [cf. T. Pes. 5:7E], [the new one on account of the sin just now committed,]*

[B] "and so too here, the rule should be that the man has not carried out his obligation to make a tear in his garment.

[C] "But the rule should accord only with the theory of R. Simeon, for R. Simeon has said, 'One is liable only if he has demonstrated need for [the object or] the deed done unto itself.' [In the present case, then, we do not know whether or not the man has carried out his obligation in regard to mourning.]"

- [D] [Ba] said to them, “[The cases are not really parallel, so we need not go so far as to insist it is only Simeon’s theory which is operative here. The difference between the cases is that] there the man has himself been the cause of the action [in slaughtering the beast on the Sabbath], while here another force [namely, the bereavement] is what has caused him to carry out the [normally forbidden] deed. [In the present case, therefore, he is exempt from all penalty, but he also has carried out his obligation to make a tear as a sign of mourning.]” [This need not be Simeon’s theory only.] [“there he is the cause” to improve himself, “while here” another force “causes him,” i.e., the religious obligation.]
- [E] Said R. Yosé, “And even there, you may say [in the case of the man who slaughtered the sin offering], that an outside force has caused him to do the deed, since had someone not told him to bring a sin offering, how would the animals have attained expiation in his behalf? [His inadvertent deed was called to his attention by a third party, parallel to his making the tear as a sign of mourning having been caused by an external event. So the cases are parallel,] and you must conclude that the entire matter accords only with the theory of R. Simeon.” [even though he seeks atonement to improve himself, he is still fulfilling a commandment.]
- [F] *Associates asked before R. Yosé*, “Did not R. Yohanan state in the name of R. Simeon b. Yosedeq, ‘As to stolen unleavened bread, may one not carry out his obligation through that unleavened bread for Passover?’ [Why in this case does the man carry out his obligation to tear his garment in mourning, when it is an act done in violation of the law of the Sabbath?]
- [G] He said to them, “In that case, the unleavened bread itself is subject to transgression, but in this case, it is the man [not the garment which is torn] that is subject to transgression.
- [H] “For do we maintain, If one has carried unleavened bread from private domain to public domain [on the Sabbath during Passover], he does not thereby carry out his obligation on Passover? [Surely not!]”
- [I:2 A] *It has been taught*: As to stolen unleavened bread, it is forbidden to say a blessing over it.
- [B] Said R. Hoshaiyah, “This is on account of the following verse: ‘For the wicked boasts of the desires of his heart, and the man greedy for gain curses and renounces the Lord’ (Ps. 10:3).”
- [C] *Said R. Jonah*, “That which you have said applies at the outset [when the man first finds the unleavened bread], but, as to the end of the

matter, is it not the case that the man merely owes the owner of the unleavened bread repayment for it [but the one who has stolen it becomes the owner and may say a blessing over it]?”

[D] R. Jonah said, “An act of transgression can never become an act in fulfillment of religious duty.”

[E] R. Yosé said, “An act in fulfillment of religious duty can never become an act of transgression.”

[F] R. Ila said, “‘But if you will not hearken to me, and will not do all] these commandments’ (Lev. 26:14). The meaning is that if you have done them in accord with the religious requirement, they indeed are commandments, and if not, they are not commandments.”

13:4

[A] **The measure for one who bleaches, hackles, dyes, or spins is a double sit.**

[B] **And he who weaves two threads – his measure is a sit.**

[I:1 A] *There we have learned: He who carries out pieces of wood is liable if he takes out enough to cook a small egg [or shells of walnuts or skins of pomegranates or woad or madder enough to dye a garment small as a hair net] [M. 9:5], and here you say this [M. 13:4A]?*

[B] There we speak of taking out the dye for doing the work of dyeing, while here we speak of actually dyeing [the garment, and a lesser quantity is sufficient].

13:5

[A] **R. Judah says, “He who hunts a bird into a tower trap,**

[B] **“or a deer into a house,**

[C] **“is liable.”**

[D] **And sages say, “[He who drives] a bird into a tower trap, “or a deer into a house [alternative, “garden”], into a courtyard, or into a corral.”**

[E] **Rabban Simeon b. Gamaliel says, “Not all corrals are the same.**

[F] **“This is the governing principle: [If] it yet lacks further work of hunting, he [who pens it in on the Sabbath] is exempt. [If] it does not lack further work of hunting, he is liable.”**

[I:1 A] *Said R. Hinena, “The Mishnah [before us, at M. Bes. 3:1] does not accord with the view of R. Judah. For we have learned: **He who hunts a bird into a tower trap or a deer into a house is liable [M. 13:5A].***

[B] “Lo, if one should hunt in a garden or a vivarium, one is exempt. [Yet M. Bes. 3:1 says that one may catch a wild beast or fowl from a vivarium. Accordingly, Judah cannot concur.]”

[I:2 A] *The opinions assigned to R. Judah are inconsistent. For we have learned there: **They do not catch fish in a vivarium on a festival day. And they do not cast food for them. [But they do catch a wild beast or fowl from a vivarium.]** Lo, as to a garden or a vivarium, one is exempt. [T. Y.T. 3:1] indicates that this is Judah’s view (PM). Yet at M. Shab. 13:5, Judah declares such a person liable.]*

[B] *The opinions assigned to rabbis are inconsistent. For we have learned: **He who drives a bird into a tower trap or a deer into a house [“garden”], into a courtyard or into a corral, is liable [M. 13:5D].***

[C] *There we have learned, [by contrast,] **But they do catch a wild beast or fowl from a vivarium, and they do cast food for them [M. Bes. 3:1C-D].** Lo, with regard to a garden or a courtyard, that is not permitted.*

[D] Here [where it is forbidden, we deal with] an enclosed court yard, and there [where one is not liable] we deal with a courtyard that is not enclosed.

[E] *And lo, we have learned that we deal with a garden as well. Have you got the possibility of saying that a garden is enclosed?*

[F] But here [where one is liable] we deal with a large area [where further hunting must take place], and there [where one is not liable] we deal with a small area [where the creature is readily accessible without a further act of hunting].

[I:3 A] *R. Ulla said, “They asked before R. Aha, “Shall we learn [in M. Bes. 3:1F the formulation used in M. Shab. 13:5F:] **Whatever lacks some phase of the process of hunting, one is liable, but whatever does not lack some phase of the process of hunting, one is exempt?***

[B] “He said to them, ‘[The use of the language, *prohibited*, rather than the language, *liable*, may be explained as follows:] And are we not dealing with a case in which the beast is locked up in the courtyard or vivarium? [So there is no question of an act of hunting in the normal sense, which would be subject to liability, but rather a matter of what

is permitted or prohibited.] Thus: **Whatever lacks some phase of the process of hunting is prohibited ..., but whatever does not lack some phase of the process of hunting is permitted.**”

[C] Said R. Samuel, brother of R. Berekhiah, “Whatever must be caught by snares falls into the category of that which lacks some phase of the process of hunting, and whatever does not have to be caught by snares does not fall into the category of that which lacks some phase of the process of hunting.”

[I:4 A] They slaughter animals kept in enclosures, but not those kept in hunting nets or bins [which may have been caught on the festival day itself] [T. Y.T. 3:1G].

[B] *R. Yosé bar Bun in the name of R. Immi, “This refers to a very large trap of the trappers [which does not hold the beast firmly]. [In such a case there is further work to be done in trapping the beast.]”*

[C] Samuel said, “One may trap fish in a barrel. [That would not constitute doing more work in connection with catching the fish.]”

[D] *Rab said, “It is permitted to do so at a fish dam in the river.”*

[E] *Said R. Yudan, “That is so in the case of a dam which closes off the river entirely with a fine net.”*

13:6

[A] A deer which entered a house, and someone locked it in –

[B] he [who locked it in] is liable.

[C] [If] two people locked it in, they are exempt.

[D] [If] one person could not lock the door, and two people did so, they are liable.

[E] And R. Simeon declares them exempt.

[I:1 A] “... in doing it ...” (Lev. 4:2) – an individual who does [a prohibited action] is liable, and two or three people who [together] do [a single prohibited action] are exempt [thus explaining M. 13:6B].

[I:2 A] R. Huna said, “If [14b] one person was strong and one weak, if the sick person locked the door as much as was required, and the healthy person did not lock the door as much as was required, the sick person is liable, and the healthy person is exempt.”

[B] R. Yosé b. R. Bun in the name of R. Huna: “If the deer was running in the normal way, and one had the intention of locking the door for

himself, and he [actually] locked the door for himself and the deer, it is permitted.”

- [C] R. Yosé b. R. Bun in the name of R. Huna: “If one saw a child struggling in the river and he had the intention of pulling him out, and to pull out a net full of fish with him, it is permitted.”
- [D] R. Yosé b. R. Bun in the name of R. Huna: “If one was digging up a mound of stones and had the intention of bringing up [a person crushed underneath it] and to bring up a sack of gold coins with the person, he still is permitted [to enjoy the use of the coins].”

13:7

- [A] **If one of them sat down at the doorway and did not completely fill it [so that the deer could yet escape], but a second person sat down and finished filling it,**
- [B] **the second person is liable.**
- [C] **[If] the first person sat down at the doorway and filled it up, and a second one came along and sat down at his side,**
- [D] **even though the first one got up and went along, the first remains liable, and the second exempt.**
- [E] **Lo, to what is this equivalent?**
- [F] **To one who locks his house to shut it up [and protect it], and a deer turns out to be shut up [and trapped] inside.**

- [I:1 A] *R. Shimi asked, “What is the law as to putting food before them [deer which are captured on the Sabbath]?”*
- [B] *The answer accords with that which we have learned there: **They may not place water before bees or before pigeons in a dovecote [M. Shab. 24:3],** for they do not provide a remedy before something which was not ready in advance for use on the Sabbath.*
- [C] *And here too the same law applies. [It is forbidden to do so.]*
- [I:2 A] *R. Shimi asked, “What is the law on turning a utensil over on [a creature that is already trapped]?”*
- [B] *The answer accords with that which R. Simeon b. R. Yannai said, “I did not hear this teaching from father. My sister reported to me in his name: ‘An egg born on the festival – they lean a utensil against it to keep it from rolling, but they do not turn a dish over on it [for such a purpose].”*
- [C] *Samuel said, “They may even turn a dish over on it.”*

- [I:3 A] *R. Shimi asked*, “What is the law as to tying it with a rope [since it is already trapped]?”
- [B] The answer accords with that which R. Simeon b. Eleazar said, “It is permitted to make use of the sides of a beast on the Sabbath.”
- [C] Lo, the same rule applies to the sides of a beast and the sides of a tree:] In any case in which it is permitted to make use of the sides of a beast, it is permitted to tie up [the object with a rope].
- [D] In any case in which it is not permitted to make use of the sides of a beast, it also is forbidden to tie [up an object with the rope].

YERUSHALMI SHABBAT

CHAPTER FOURTEEN

14:1

[A] The eight creeping things mentioned in the Torah [the weasel, mouse, great lizard, gecko, land crocodile, lizard, sand lizard, and chameleon] –

[B] he who hunts them or wounds them is liable.

[C] And as to all other abominations and creeping things, he who wounds them is exempt.

[D] He who hunts them for use is liable.

[E] [He who hunts them] not for use is exempt.

[F] A wild beast and a bird which are in his domain –

[G] he who hunts them is exempt.

[H] He who wounds them is liable.

[I:1 A] *R. Zeriqan in the name of [delete: R. Yohanan] Immi: “There was a dispute between R. Yohanan and R. Simeon b. Laqish.*

[B] *“One said, ‘[M. 14:1A-B, maintaining that these creeping things have hides] represents the opinion of all parties.’*

[C] *“The other said, ‘It is subject to dispute.’*

[D] *“Now we do not know which one has said this, and which one has said that.”*

[E] *Said R. Zeira, “Let us sort out the respective positions of the rabbis on the basis of their statements, which we have learned there: In the case of the following, their skin is deemed tantamount to their flesh [in what regards uncleanness]: the skin of man, the domestic pig; R. Yosé says, ‘The skin of a wild pig also;’ [the skin of the hump of a young camel, the skin of the head of a young calf, the skin of the hooves, the skin of the genitals, the skin of a fetus, the skin beneath the fat tail, and the skin of the gecko, the chameleon, the lizard, and the land crocodile. R. Judah says, ‘The lizard is equivalent to*

the weasel.’ But when their hides have been treated or trampled upon to render them fit for use, they become insusceptible to uncleanness, except for the skin of a man. R. Yohanan b. Nuri says, ‘The skin of the eight creeping things is equivalent to skin (and is not one with their flesh)’ [M. Hul. 9:2].”

- [F] R. Yohanan said, “They have taught this rule only in respect to the prohibition and to the matter of uncleanness. But as to flogging, the skin is regarded as hide [not meat], and they do not administer a flogging on its account in respect to the prohibition against eating carrion.”
- [G] R. Simeon b. Laqish said, “Rabbi has formulated a seamless pericope of the Mishnah [so the distinction just now proposed is unworkable]. Whether it is as to a prohibition or as to flogging or as to uncleanness, [the same rule applies.” [Thus Yohanan interprets the Mishnah before us as representing the opinion of all parties, inclusive of Yohanan ben Nuri, since the dispute involving Yohanan b. Nuri treats only the prohibition and the matter of uncleanness. Simeon b. Laqish, by contrast, holds that the rule covers the equivalency of the hide and the flesh for all purposes, including the Sabbath, in which case the present rule accords only with the position of Yohanan b. Nuri.]
- [H] *There is a Tannaitic teaching in support of the position of this party, and a Tannaitic teaching in support of the position of that one.*
- [I] *The following Tannaitic teaching supports the view of R. Yohanan:*
Eight creeping things have hides [so far as the Sabbath is concerned]. Said R. Yohanan b. Nuri, “Therefore I maintain, ‘Eight creeping things have hides’ [cf. T. Hul. 8:17].” [That is why Yohanan b. Nuri differs in respect to the matter of uncleanness, in which case the hide is not equivalent to the flesh, but the law has no bearing on the Sabbath. This then supports Yohanan’s view that the Mishnah passage before us accords with the view of all parties.]
- [J] *The following Tannaitic passage supports the view of R. Simeon b. Laqish:* He who makes an injury in creeping things – in the case of those that have hides, he is liable [having pierced the hide], and in the case of those that do not have hides, he is exempt. R. Yohanan b. Nuri says, “Therefore I maintain, All creeping things have hides.” [The point of difference extends to the Sabbath, and Simeon b. Laqish then is right in assigning only to Yohanan b. Nuri the passage before us.]

[K] [Concurring with Yohanan's view,] R. Yosé b. R. Bun in the name of Rab: "It is a hide, and people are not flogged on its account in respect to the prohibition against eating carrion [since it is not in the category of meat]. [The same applies to the matter of the Sabbath.]" And it is in accord with that which R. Yohanan said [above].

[I:2 A] **He who hunts [Y.: spiders] flies [Y.: locusts] and mosquitoes [so T.'s version] is liable.**

[B] **R. Judah declares him exempt [T. Shab. 12:4F-G].**

[C] **And so did R. Judah say, "People are liable only on account of something which is ordinarily hunted."**

[D] **He who hunts locusts in the time of dew is exempt.**

[E] **[If he does so] in the time of heat, he is liable.**

[F] **Eleazar b. Mahabai [Y.: Ahbai] says, "Also in the time of the heat, if they come on in dense columns, he is exempt" [T. Shab. 12:5A-C].**

[G] **He who hunts a lame deer, [Y.: "a blind one,"] a sick one, or a young one, is exempt. He who hunts an old one is liable [T. Shab. 12:4A-B].**

[H] [If it is sleeping,] he is liable, for the beast closes one [eye] and opens another.

[I] Said R. Yannai, "It is permitted to kill a hornet on the Sabbath."

[J] *And so it has been taught:* These five may be killed on the Sabbath: the Egyptian fly, hornet of Nineveh, scorpion of Adiabene, snake in the Land of Israel, and a mad dog anywhere.

[K] There was a case in which a snake fell in [to the schoolhouse], and a Nabataean went and killed it. Said Rabbi, "The snake was killed by its counterpart."

[L] But is this not one of the things that may be killed on the Sabbath [so why did Rabbi criticize the man]?

[M] [Rabbi] interprets that statement to apply to a case in which these creatures have come to do harm.

[N] *It has been taught:* R. Jacob says, "He who sees a snake or a scorpion within four cubits of himself was meant to die

by their action, but the mercies [14c] of the Omnipresent are abundant.”

[O] Said Rabban Simeon [b. Gamaliel], “Under what circumstances? When he did not kill them. But if he killed them, then they came to him only so that he would be in a position to kill them.”

[P] And sages say, “One way or the other, they did not appear to him [added to L: only] because of his merit.”

[Q] It is written, “Hear this, all peoples! Give ear, all inhabitants of the world” (Ps. 49:1).

[R] R. Aha said, “R. Abbahu and rabbis – one said, ‘Why is everyone in the world compared to the weasel? Because whatever there is on dry land, there is in the sea. But there are many species in the sea which do not exist on dry land, and there is no counterpart to the weasel in the ocean.’

[S] “And the other said, ‘Why is everyone in the world compared to the weasel? Because just as the weasel drags things and leaves them without knowing to whom it leaves them, so all those who are in the world drag [collect] things and leave them, but they do not know for whom they leave them.

[T] “[Surely man goes about as a shadow! Surely for nought are they in turmoil; man] heaps up, and knows not who will gather” (Ps. 39:6).

[II:1 A] A wild beast and a bird which are in his domain – he who hunts them is exempt. He who wounds them is liable [M. 14:1F-H].

[B] The rule has been stated only with reference to the domain of man. Lo, if they were not within the domain of man, one is liable.

[C] Said R. Yosé, “That is to say: An ox which rebelled – he who traps it on the Sabbath is liable.”

[D] Rabbis of Caesarea in the name of R. Abedan: “As to the hide of fowl, it is permitted to write a *mezuzah* on it [in line with M. 14:1F, H].”

14:2

[A] They do not make pickling brine on the Sabbath.

- [B] **But one makes salt water and dips his bread in it or puts it into cooked food.**
- [C] **Said R. Yosé, “Now is that not pickling brine, whether it is large quantity or small quantity?”**
- [D] **“What is the sort of salt water which is permitted? One first puts oil into water or into salt [and then mixes the salt with the water].”**
- [I:1 A] What is the difference between pickling brine and salt water? Pickling brine has to be prepared by an expert. Salt water does not have to be prepared by an expert.
- [B] [Concurring in the foregoing,] R. Huna said, “Anything into which one puts salt and the salt dissolves – this is salt water [in which the salt is of small proportion], but any in which the salt does not dissolve right away – this is pickling brine.”
- [C] Said R. Abbahu, “Any into which one puts an egg and the egg sinks down – this is salt water. And any into which the egg does not sink down – this is pickling brine.”
- [I:2 A] **They prepare honeyed wine on the Sabbath [M. 20:2].**
- [B] R. Yosé in the name of R. Yohanan: “It is a mixture of wine, honey, and spices.”
- [C] R. Yosé in the name of R. Yohanan: “It is permitted to mix these ingredients but forbidden to grind them up.”
- [D] R. Yosé in the name of R. Yohanan: “That which is on the count of mixing is permitted; that which is on the count of grinding up is forbidden.”
- [E] Now here [M. 14:2A] are we not dealing with something which is on the count of mixing [so why should it be forbidden]?
- [F] R. Judah b. Titus, R. Judah b. Pazzi, Simeon bar Ba in the name of R. Yohanan: “The case here is different for it constitutes the completion of the preparation of the mixture.”
- [G] R. Abbahu in the name of R. Yohanan: “It is permitted to break up [salt or spice] but forbidden to bring together [small bits into a large mass].”
- [H] R. Abbahu in the name of R. Yohanan: “As to garlic which one crushed, if it still lacks crushing, it is forbidden [to use it], but if it is to mix the oil of the garlic [which already has been crushed] into the batch, it is permitted.”

[I] *There we have learned: Garlic, unripe grapes, or ears of green corn, which one was pressing while it was yet still day on Friday – R. Ishmael says, “He may finish pressing them after nightfall.” And R. Aqiba says, “He may not finish pressing them”*[M. Ed. 2:6].

[J] R. Jacob bar Aha, R. Simeon bar Abba in the name of R. Hanina: “The dispute pertains only to unconsecrated food.”

[K] **As to heave-offering food, the priests acted in accord with the position of R. Ishmael** [cf. T. Ed. 1:9].

14:3

[A] **They do not eat Greek hyssop on the Sabbath,**

[B] **because it is not a food for healthy people.**

[C] **But one eats pennyroyal or drinks knotgrass water.**

[D] **All sorts of foods a person eats [which serve for] healing,**

[E] **and all such drinks he may drink,**

[F] **except for palm-tree water [purgative water] or a cup of root water,**

[G] **because they are [solely] for jaundice.**

[H] **But one may drink palm-tree water [to quench] his thirst.**

[I] **And one anoints with root oil,**

[J] **[if it is] not for healing.**

[I:1 A] *Somebody asked R. Simeon bar Karsena, “What is the law about drinking on the Sabbath water mixed with wine flavored with resin of cedar?”*

[B] He said to him, “If it is for sheer enjoyment, it is permitted. If it is for healing, it is forbidden.”

[I:2 A] [With reference to M. 14:3A, Greek hyssop:] **But does it not affect the area within the lips [in which case it is permitted to drink it, even for healing]?**

[B] Interpret the [lenient ruling that one may drink it if it heals internally] to apply in particular to healing something which causes danger [to life].

[II:1 A] **But one eats pennyroyal [M. 14:3C]:**

[B] It is maidenhair.

[III:1 A] **And drinks knotgrass water [M. 14:3C]:**

[B] That is what its name implies.

[IV:1 A] [As to the reference to palm-tree water, M. 14:3F:] R. Ba asked R. Jeremiah, “Do we repeat the passage as ‘purgative water’ (DQR) or palm-tree water (DQL)?”

[B] He said to him, “Purgative water, because it serves as a purgative for the esophagus.”

[C] Said R. Jonah, “Is it not more reasonable to read, ‘palm-tree water,’ which exudes from between two palm trees?”

[IV:2 A] Simeon bar Ba in the name of R. Haninah: “He who whispers [over a wound] puts oil on the head [of the injured party] and whispers, but this is on condition that he not put the oil on by hand or with a utensil.”

[B] R. Jacob bar Idi, R. Yohanan in the name of R. Yannai: “One may put it on whether by hand or by a utensil.”

[C] *What is at issue between them? Oil.*

[D] *He who says that one may put it on whether by hand or with a utensil holds that the oil is repulsive [so it is better to avoid touching it].*

[E] *He who says that one may put the oil on his head [neither by hand nor by a utensil] maintains that it is not repulsive.*

[F] Said R. Jonah, “At issue between them is oil in the status of second tithe. *He who said one may apply it whether by hand or by a utensil maintains the view that it is forbidden to use oil in the status of second tithe for the present purpose. [Removing the oil with a utensil means some of it will go to waste.]*

[G] “*He who maintains that one may apply oil on one’s head and whisper regards doing so with oil in the status of second tithe as permitted.*”

[H] [Since the assumption of the foregoing is that this may be done on the Sabbath,] said R. Yosé, “And is it the case that whatever may be done on the Sabbath may be done with produce in the status of second tithe, and whatever is forbidden on the Sabbath is also forbidden with produce in the status of second tithe?”

[I] “*And lo, it has been taught: A woman [on the Sabbath] may rinse herself or her child off with wine on account of sweat [T. Shab. 12:13E], but as to doing so with heave offering, it is forbidden. Now the same rule applies to heave offering and to produce in the status of second tithe. [Accordingly, this may be done on the*

Sabbath, but it may not be done with produce in the status of second tithe.]”

[J] *What is the upshot of the matter?*

[K] That is the case so long as the deed not be done on the Sabbath as it is done on an ordinary day.

[IV:3 A] They whisper [an incantation] for the eye and the intestines, for snakes and scorpions, and they pass [medicine] over the eye on the Sabbath.

[B] There was the case of R. Aqiba, who had eye trouble [alternatively, “was struck by the (evil) eye”] on the Sabbath, and they passed a utensil over it [alternatively, “him”] on the Sabbath.

[C] Both Rab and R. Hiyya say, “Ninety-nine die of [the evil] eye, and one at the hands of Heaven.”

[D] R. Haninah and Samuel both maintain, “Ninety-nine die of cold and one at the hands of Heaven.”

[E] *Rab rules in accord with his own theory, and so does R. Haninah.*

[F] *Since Rab lived over there [in Babylonia], where the evil eye is everywhere, he maintained,* “Ninety-nine die on account of [the evil] eye, and one at the hands of Heaven.”

[G] *Since R. Haninah lived in Sepphoris, which is cold, he maintained,* “Ninety-nine die of cold, and one at the hands of Heaven.”

[H] R. Samuel bar Nahman in the name of R. Jonathan: “Ninety-nine die of heat prostration, and one at the hands of Heaven.”

[I] *Rabbis say,* “Ninety-nine die on account of transgression, and one at the hands of Heaven.”

[J] R. Honia, Jacob of Ephrata in the name of Rab: “‘And the Lord will take away from you all sickness’ (Deut. 7:15) – this refers to burning.”

[K] *R. Hunah, and it is taught in the name of R. Eliezer b. Jacob:* “‘And the Lord will take away from you all sickness’ (Deut. 7:15) – this refers to ambition.”

[L] For R. Eleazar said, “‘He will put an iron yoke on your neck’ (Deut. 28:48) – this refers to greed.”

[M] Said R. Abun, “‘And the Lord will take away from you all sickness’ (Deut. 7:15) – this refers to the evil

impulse. For in the beginning it is sweet, but at the end it is bitter.”

[N] R. Tanhuma in the name of R. Eleazar, and R. Menahemah in the name of Rab: “‘And the Lord will take away from you all sickness’ (Deut. 7:15) – this refers to bile.”

[O] For R. Eleazar said, “Ninety-nine die of bile, and one at the hands of Heaven.”

- [IV:4 A] They may bathe in the Great Sea and in the waters of Tiberias, even though one has the intention of finding healing, but not in steeping water or in the waters of Sodom.
- [B] Under what circumstances [are the latter prohibited]? When one is seeking to find healing. Lo, if it is to rise up from the status of uncleanness to the status of cleanness, it is permitted to do so.
- [C] Said R. Samuel, brother of R. Berekhia, “But that is on condition that he not tarry in the water.”
- [IV:5 A] *It has been taught: They may anoint a sick person on the Sabbath with aromatic water [or wine, oenanthe].*
- [B] **Under what circumstances? When one has made the mixture on Friday. But if one did not make the mixture on Friday, it is forbidden to do so.**
- [C] **They do not mix wine and oil for a sick person on the Sabbath.**
- [D] **Said R. Simeon [Y. Shab: Samuel] b. Eleazar, “R. Meir permitted to mix wine and oil and to anoint a sick person on the Sabbath. And once he fell ill, and we wanted to prepare so for him but he did not let us do so.**
- [E] **“We said to him, ‘Our master, will you nullify your own opinion during your lifetime?’**
- [F] **“He said to us, ‘Even though that happens to be my opinion, my heart has never been so puffed up in my whole life as to let me violate the opinion of my colleagues’” [T. Shab. 12:12B-L].**

14:4

- [A] **He who is pained by his teeth may not suck vinegar through them.**
- [B] **But he dunks [his bread] in the normal way,**
- [C] **and if he is healed, he is healed.**

[D] **He who is pained by his loins may not anoint them with wine or vinegar.**

[E] **But he anoints with oil –**

[F] **not with rose oil.**

[G] **Princes [on the Sabbath] anoint themselves with rose oil on their wounds, since it is their way to do so on ordinary days.**

[H] **R. Simeon says, “All Israelites are princes.”**

[I:1 A] It is written, “Like vinegar to the teeth, and smoke to the eyes [, so is the sluggard to those who send him]” (Prov. 10:26),

[B] and yet you say this? [How can you imply that vinegar is good for the teeth?]

[C] Said R. Simeon bar Ba, “The Mishnah speaks of vinegar deriving from fruit, [while Scripture speaks of wine vinegar].”

[D] Said R. Eleazar bar Yosé, “And you may even maintain that Mishnah [speaks of wine vinegar]. [Scripture and Mishnah evaluate the vinegar differently because] what is good for what is sick is bad for what is healthy.”

[I:2 A] *It has been taught:* **[He who is pained by his teeth] may not suck wine and vinegar through them and spit it out.**

[B] **But he sucks and swallows [it] [T. Shab. 12:9A-B].**

[C] *The Mishnah [14d] indicates that one is prohibited to suck the vinegar and to swallow it [vs. B above], for we have learned:* **He who is pained by his teeth may not suck vinegar through them [M. 14:4A].**

[D] *How then [may we interpret this apparent contradiction between the Tosefta and the Mishnah]?*

[E] It accords either with the view of Rabbi or with the view of all parties. [As we shall see in a moment, J, Rabbi maintains that if one swallows vinegar, it is not for healing the teeth but for general improvement of health, and this is permitted. Alternatively, all parties concur. We shall now review the sources in which these diverse opinions appear.]

[F] It deals with the case of one who sucks on vinegar after it has been rendered liable to the separation of heave offering [and prior to the actual removal of what is owing].

[G] R. Abbahu in the name of R. Yohanan: “He who chews grains of wheat in the status of heave offering is flogged.”

[H] R. Abbahu in the name of R. Yohanan: “He who sucks vinegar in the status of heave offering is flogged. He who sucks vinegar in the status of heave offering pays back the value of the principle, but need not pay the added fifth. He who chews on pieces of wheat in the status of heave offering pays the value of the principle but does not pay back the added fifth.”

[I] Rabbi says, “I maintain that he pays both the principle and the added fifth.”

[J] R. Jeremiah in the name of R. Immi: “Sages concur with Rabbi in the case of one who swallows vinegar in the status of heave offering after it has been rendered liable to the separation of tithes and heave offering, that he has to pay the principle and the added fifth, for vinegar restores the soul.” [This is the pertinent point for E, above.]

- [I:3 A] Associates in the name of R. Ba bar Zabeda: “Any [wound] which is located from the lips and inward do they heal on the Sabbath [since such a wound involves danger to life].”
- [B] *R. Zeira objected, “Lo, we have learned in the Mishnah: **He who is suffering from his teeth [nonetheless, on the Sabbath] may not suck vinegar through them [M. 14:4A].*** Now are not the teeth interior to the lips? [So why is it not permitted to apply healing on the Sabbath?]”
- [C] R. Zeira did not rule as has been stated, but R. Zeira in the name of R. Abba bar Zabeda: “Whatever [wound] is located from the throat and inward do they heal on the Sabbath, [since such a wound involves danger to life].”
- [D] R. Zeira, R. Ba bar Zutra, R. Haninah in the name of Rabbi: “They raise up the bone of the head on the Sabbath.”
- [E] R. Hiyya bar Marayya, R. Jonah, R. Zeira, R. Ba bar Zutra, R. Haninah in the name of Rabbi: “They remove swollen glands of the throat on the Sabbath.”
- [F] There they say in the name of R. Yohanan: “An eye which be came inflamed do they treat on the Sabbath.”
- [G] R. Abbahu in the name of R. Yohanan, “[Injuries] to hands and feet are a danger [to life].”

- [H] *R. Abbahu in the name of R. Yohanan: “Reddening [of a wound] is a danger [to life, and must be treated on the Sabbath].”*
- [I] Said R. Abun, “They remove the stinger of a scorpion on the Sabbath.”
- [J] *Rab said, “Wine may be placed outside of the eyes [on the Sabbath], but may not be placed inside of the eyes.”*
- [K] Samuel said this: “It is prohibited to put tasteless spit into the eye on the Sabbath.”
- [L] From this case you learn the rule as to treating scabs [of the eye].
- [M] *Rabbis of Caesarea say this: “[A wound] in the shape of a frog is a danger [to life].”*
- [N] *R. Hezekiah Akayya said in the name of rabbis of Caesarea, “A wound from a spider’s bite is a danger [to life and should be treated on the Sabbath].”*
- [O] *R. Samuel bar R. Isaac: “A burn is a danger [to life and should be treated on the Sabbath].”*
- [P] Said R. Jeremiah, “On the Passover they apply to it leavened [food, for healing, even though ordinarily one may not utilize leavened food on Passover].”
- [Q] *This choking object [= food swallowed and caught in the throat] one takes it out on the Sabbath.*
- [R] *Said R. Yosé, “The Mishnah itself has made the same point: [On the Sabbath one may handle] a sewing needle to take out a thorn [M. Shab. 17:2G]. Now if you do not concur, then you must explain the difference between removing a thorn and removing the swallowed [food causing choking].”*
- [S] *As to an eye which grew dim, they asked R. Jeremiah. He said to them, “Lo, R. Ba is before you.”*
- [T] *They asked R. Ba and he permitted them [to apply healing in such a case].*
- [U] *[Jeremiah] said to them, “Also I permit [applying healing in such a case].”*

[V] R. Abbahu in the name of R. Yohanan: “Scurvy is a danger to life [and may be healed on the Sabbath].”

[W] *R. Yohanan had [scurvy], and he was receiving treatment from the daughter of Domitian in Tiberias. On Friday he went to her. He said to her, “Do I need to be treated tomorrow [on the Sabbath]?”*

[X] *She said to him, “No. But if you should need something, put on seeds of date palms (and some say, seeds of Nicolaos dates,) split in half and roasted, and pounded together with barley husks and a child’s dried excrement, and apply that mixture. But do not reveal to anyone [this potion which I have prescribed for you].”*

[Y] *The next day he went up and expounded [this very prescription] in the study house. She heard about it and choked on a bone (and some say, she converted to Judaism).*

[Z] *From this story you learn three lessons:*

[AA] *(1) You learn that scurvy is a danger [to life and may be treated on the Sabbath].*

[BB] *(2) You learn that any wound which is located from the lips and within do they heal on the Sabbath.*

[CC] *(3) You learn that which R. Jacob bar Aha said in the name of R. Yohanan: “If [a gentile] was an experienced physician, it is permitted [to accept healing from him or her].”*

[DD] *R. Joshua b. Levi had colic. R. Haninah and R. Jonathan instructed him to grind cress on the Sabbath and put old wine in it and drink it, so that he not be in danger [as to his life].*

[EE] *[Joshua b. Levi] had a grandson, who swallowed [something dangerous]. Someone came along and whispered over him in the name of [L contains a blank space which later was filled in: “Jesus Panteri”] and he*

*recovered. [L, added between the lines:
“When he (the magician) went out,”]
[Joshua] said to him, “What did you say
over him?”*

[FF] *He said to him such and such a word.*

[GG] *He said to him, “It would have been better
for him if he had died and thus [had not
been done for him].”*

[HH] It was “as an error that went out from
before the ruler” (Qoh. 10:5). [His
“suggestion” was realized and the child
died.]

[II] R. Jacob in the name of R. Yohanan: “With
all sorts of things do they effect healing,
except for an idol, fornication, or
committing murder [which explains EE].”

[JJ] *R. Pinhas raised the question, “Certainly
the law applies when he said to him, ‘Bring
me leaves [L Shab.: “logs”] from an idol,’
and he brought them to him. But if he said to
him, ‘Bring me leaves,’ without further
specification, and he brought them from an
idol [what is the rule]?”*

[KK] *Let us infer the answer to the question
from this:*

[LL] *R. Jonah [A.Z.: Aha] had chills and fever.
[They brought him] a medicinal drink
prepared of the phallus of Dionysian
revelers [so Jastrow, I 400 B]. But he drank
it. They brought it to R. Aha and he did not
drink it. Said R. Mana, “Now if R. Jonah my
father had known what it was, he would
never have drunk it.”*

[MM] *Said R. Huna, “The Tannaitic teaching
says likewise: ‘They do not accept healing
from something which derives from an act
of fornication .’”*

[NN] *And so it has been taught:* The Sabbath has been removed from the category [of that which may not be violated, even at the cost of death, since, as we have seen, many sorts of healings may be administered on the Sabbath in order to save life]. But a betrothed girl has not been removed from the category [of that which may not be violated at the cost of death]. [So one must die but not violate a betrothed girl, just as MM has stated.]

[OO] **The Sabbath has been removed from the category** – is it not as regards accepting healing [on that day], and similarly, **a betrothed girl has not been removed from the category** – is it not as regards bringing about healing [in order to save a life]? [That surely is the case. One may not save a life by violating a betrothed girl, as PP-BBB will now explain.]

[PP] And it is not the end of the matter that [if the ailing person said to one], “Bring me a married woman [so that I may have sexual relations with her and so be healed,” that one may not do so], but even if [the ailing person said it was only] to hear the voice [of a married woman, one may not permit him to hear the woman’s voice].

[QQ] *This teaching accords with the following:*

[RR] *In the days of R. Eleazar, a man so loved a woman that he was in danger of dying [from unconsummated desire]. They came and asked R. Eleazar, “What is the law governing her ‘passing before him’ so that he may live?”*

[SS] *He answered them, “Let him die but [let matters not be done] in such a way.”*

[TT] *“What is the law as to his merely hearing her voice, so that he may live?”*

[UU] *“Let him die, but [let matters not be done] in such a way.”*

[VV] *Now what was the character [of this woman who was to be kept away from the man who was pining for her]?*

[WW] R. Jacob bar Idi and R. Isaac bar Nahman – one maintained that she was a married woman, and the other maintained that she was unmarried.

[XX] *Now so far as the opinion of the one who maintained that she was a married woman, there are no problems. But as to the one who maintained that she was unmarried, [why should she not have married the man]?*

[YY] *Now, lo, Bar Kiha Nigra so loved a woman in the days of R. Eleazar, that he was in danger of dying [from unconsummated desire]. And he [R. Eleazar] permitted him to her [i.e., to marry her].*

[ZZ] *In the former case [RR-UU, we deal] with a married woman; in the latter [YY] with an unmarried woman.*

[AAA] *Now even if you maintain that both cases deal with an unmarried woman, interpret the case to apply to one who formed a desire for the woman while she was still married [in which case even after the divorce he may not marry her].*

[BBB] *There are some who would explain [the rabbi's prohibiting the man to marry the unmarried woman] because she was a woman of high station, and she would not [have accepted the judgment to] marry [the love-stricken suitor], so whatever [the suitor] might do would be done in violation [of the law]. On that account he prohibited [the marriage].*

- [I:4 A] *Said R. Haninah, “The Tannaitic teaching said thus, ‘that one may not attain healing through bloodshed.’*
- [B] *“For we have learned in the following Mishnah passage:*
- [C] **“[The woman who is in hard labor – they chop up the child in her womb and remove it limb by limb, because her life takes precedence over its life.] (If) the greater part [of the child] had gone forth, they do not touch it, for they do not set aside one life on account of another life [M. Oh. 7:6].**
- [D] **[“They take account of the possibility that he might die, and they do not set aside one life on account of another life.”]**
- [E] It is not the end of the matter that [if] someone said to a person, “Kill so-and-so,” [he should not do so, even to save the life of the other,] but even if he said, “Do violence to so-and-so,” [one should not do so].
- [F] *It has been taught: A gentile doing so regarding an Israelite, it is prohibited. [But] an Israelite [doing so] regarding a gentile, it is permitted [T. A.Z. 8:5B].*
- [G] *R. Hisda raised the question: “What is the law as to saving an adult at the sacrifice of the life of a child?”*
- [H] *Responded R. Jeremiah, “And has it not been taught in the Mishnah: ‘[If] its greater part has gone forth, they do not touch it, for they do not set aside one life on account of another life’?”*
- [I] [Still, that evidence may not be probative, for] R. Yosé bar R. Bun in the name of R. Levi: “That case is different, for it is not known who will be responsible for the death of whom.”
- [J] There was a case in which a snake bit Eleazar b. Dama. Jacob of Kefar Sama came forward to heal him in the name of Jesus Pantera (Jesus of Nazareth). But R. Ishmael would not allow him to do so.
- [K] He said to him, “I shall bring proof that it is permitted for him to heal me.”
- [L] But he did not suffice to bring proof before Ben Dama dropped dead.
- [M] Said to him R. Ishmael, “Happy are you, O Ben Dama, for you left this world in peace and did not break through the fence of sages, [and so in dying you have carried out] that which has

been written [in Scripture]: ‘A serpent will bite him who breaks through a wall’ (Qoh. 10:8).”

[N] And did not a snake already bite him?

[O] But a snake will not bite him in the age to come.

[P] *And what [15a] did he have to say [in reply to the prohibition against being healed by Jacob]?*

[Q] “You shall therefore keep my statutes and my ordinances, by doing which a man shall live” (Lev. 18:5).

[II:1 A] R. Ba bar Zabeda in the name of Rab: “The law accords with R. Simeon [at M. 14:4H].

[B] “For if not, who has ever given rose oil to a poor person, who did not anoint with it?”

[C] *Said R. Zeira to R. Yosé, “Does the rabbi know Bar Pedaiah, that you cite a tradition in his name?”*

[D] He said to him, “R. Yohanan said it in his name.”

[E] *R. Zeira said to R. Ba bar Zabedah, “Does master [= you] know Rab, that you cite a tradition in his name?”*

[F] He said to him, “R. Ada bar Ahwah said it in his name.”

YERUSHALMI SHABBAT

CHAPTER FIFTEEN

15:1

- [A] On account of [tying] what sorts of knots [on the Sabbath] are [people] liable?
- [B] (1) A camel driver's knot, and (2) a sailor's knot.
- [C] And just as one is liable for tying them, so he is liable for untying them.
- [D] R. Meir says, "Any knot which he can untie with one hand – they are not liable on its account [for tying it]."
- [I:1 A] What sort of tying was done in the tabernacle?
- [B] They tied the hangings.
- [C] But was this not merely temporary?
- [D] Said R. Yosé, "Since they encamped and broke camp on the instructions of the word [of God], was it as if they tied the knots on the hangings temporarily [for they had no reason to know they would be told to move again]?"
- [E] Said R. Yosé b. R. Bun, "Since the Holy One [literally, "Omnipresent"] had promised them that he would bring them into the Land, was it as if [all the other camps were] permanent?"
- [F] Said R. Phineas, "[They did not derive the generative category of tying before us from the tying of the knots of the hangings, but rather] from the tying of the knots of the veils. If a thread tore, one would tie it up. If it again separated, it was not possible to repair it again and again, but one would go and untie and retie the original knot."
- [G] R. Hezekiah said, "An expert tailor can meld two heads of threads as one [so the procedure described at F is hardly to be assumed to have taken place in the construction of the tabernacle anyhow]."

[H] *Then whence does one derive [the rule about tying in the tabernacle]?*

[I] Say the following: Said R. Yosé b. R. Hanina, “They derived the law from those who wove the veils.”

[J] *Whence do we know [the fact that one had to untie and retie a knot? It is written,] “... the length of one veil ...” (Ex. 26:2) – that the whole of it should appear to be one [and unified]. If then it was torn, [the weaver] would tie it together again. Once he reached the woven part, he would leave it off and bring the thread back up.*

[K] R. Tanhuma said in the name of R. Huna, “Even the woof in it gave no mark of a knot or a double thread.”

[L] *R. Hoshaiyah taught, “As to a wicker basket for dates or a woven basket for dates, one may rip it open and tie it up again, on condition that he not tie a permanent knot [T. Shab. 12:15C-D].”*

15:2

[A] **You have knots on account of which they are not liable, like a camel driver’s knot and a sailor’s knot.**

[B] **A woman ties the slit of her shift, the strings of her hair net and of her belt, the thongs of a shoe or sandal, [leather] bottles of wine or oil, and a cover over meat.**

[C] **R. Eliezer b. Jacob says, “They tie a knot before a domestic beast so that it will not go forth.”**

[D] **They tie a bucket with a belt but not with a rope.**

[E] **R. Judah permits [tying with a rope].**

[F] **A governing principle did R. Judah stale, “On account of any sort of knot which does not last they are not liable.”**

[I:1 A] [Since a woman ordinarily may tie or untie the slit of her shift, the sort of knot under discussion at M. 15:2B requires specification.”It is,] said R. Hezekiah, “applicable to opening the hem which adheres to the shift.”

[B] Said R. Yosé, “The law speaks of opening [and closing] the shift [itself], if it is made of two separate patches [of cloth].”

- [I:2 A] **If the thongs came out of his shoe or sandal, one may take them and put them back, so long as he does not tie them up [T. Shab. 12:14/0-R].**
- [B] **If the nose of the sandal was removed [cf. T. Shab. 12:14V],**
- [C] *there is a Tannaite authority who teaches, “It is permitted to put it back.”*
- [D] *And there is a Tannaite authority who teaches, “It is forbidden to put it back.”*
- [E] *They proposed to say that he who maintains it is permitted to put it back speaks of a case in which there is a single perforation, while he who holds that it is forbidden to do so speaks of a case in which there were two perforations.*
- [F] [Rejecting this view,] said R. Yosé b. R. Bun, “One way or the other, all parties accord *with the view of him who has said, ‘It is a case in which there are two perforations.’* Then what is the [differentiating criterion]? He who says it is permitted to restore the thongs speaks of a case in which they are loose, [so it is easy to put them back], and he who says it is forbidden to do so speaks of a case in which they are tight [so it is hard to put them back].”
- [II:1 A] [As to M. 15:2C,] do [his colleagues] differ from R. Eliezer b. Jacob [that they may tie a knot before a domestic beast so that it will not go forth]?
- [B] *The answer will be found on the basis of the following teaching [in T.’s version]: Sages concur with R. Meir [M. Bes. 4:3E-G] in the case of knots which are on the ground, that one may loosen, untie, and unravel them, but they may not cut [Y.: “may cut”] them.*
- [C] **And on the Sabbath they may loosen [T. adds: and untie], but may not unravel [Y.: or untie] or cut them.**
- [D] **And in the case of utensils on the Sabbath, it is permitted,**
- [E] **and, it goes without saying, on the festival. [If a cistern is covered with a cover which is tied down, one may untie the knot. This in sages’ view is not tantamount to an act of destruction] [T. Y.T. 3:12].**
- [F] *This indicates that they do not differ from R. Eliezer b. Jacob, [since it is permitted to untie the knot, so it is not a lasting one, as Eliezer b. Jacob maintains].*

[III:1 A] [As to M. 15:2D, **They tie a bucket with a belt but not with a rope,**] R. Ba says, “*The Mishnah speaks of a rope drawn through a loop [not knotted].*”

[B] If a looped rope is meant, [of which the Mishnah says,] **They tie up the broken rope with a belt but not with a rope, and R. Judah permits [tying with a rope] –** *would this imply that the rabbis do not allow it [and why not]?*

[C] *Since we have formulated the first part of the tradition in accord with the view of R. Judah [at M. 15:1], also the one before us is to be formulated in accord with R. Judah, [but all parties, in fact, concur here].*

[IV:1 A] **A governing principle did R. Judah state, “On account of any sort of knot which does not last they are not liable” [M. 15:2F]:**

[B] *R. Samuel in the name of R. Zeira, “This is the meaning of the Mishnah: **On account of any sort of knot which does not last –** for it is temporary – **they are not liable.**”*

15:3

[A] **They fold up clothing even four or five times.**

[B] **And they spread beds on the night of the Sabbath for use on the Sabbath,**

[C] **but not on the Sabbath for use after the Sabbath.**

[D] **R. Ishmael says, “They fold clothes and lay out beds on the Day of Atonement for the Sabbath.**

[E] **“And fat pieces of the Sabbath offering are offered on the Day of Atonement.**

[F] [Some texts add:] **“But the fat pieces offering of the Day of Atonement are not offered on the Sabbath.”**

[G] **R. Aqiba says, “Those of the Sabbath are not offered on the Day of Atonement, and those of the Day of Atonement are not offered on the Sabbath.”**

[I:1 A] The members of the house of R. Yannai say, “Folding up clothing by two people is forbidden. [It may be done only by an individual without assistance.]”

[B] R. Haggai in the name of R. Samuel bar Nahman: “People working in pairs may not fold up garments on the Sabbath.”

[C] *And one who folds up garments on a bench is in the status of doing so on the part of two people.*

- [I:2 A] R. Haggai in the name of R. Samuel bar Nahman: “Sabbaths and festivals have been given only for eating and drinking. Since the mouth is weary [if it cannot be used], they also permitted people to be engaged on them [= Sabbaths and festivals] in the study of Torah as well.”
- [B] R. Berekhiah in the name of R. Hiyya bar Ba: “Sabbaths and festivals have been given over only for people to be engaged on them in studying Torah.”
- [C] *There is a Tannaitic teaching which supports the views of both parties: What does a person do? He either sits and eats or he sits and engages in study of Torah.*
- [D] One verse of Scripture says, “[Six days shall work be done; but on the seventh day is a Sabbath of solemn rest, a holy convocation; you shall do no work;] it is a Sabbath to the Lord [in all your dwellings]” (Lev. 23:3).
- [E] And another verse of Scripture says, “[For six days you shall eat unleavened bread; and on the seventh day] there shall be a solemn assembly to the Lord your God; [you shall do no work on it]” (Deut. 16:8).
- [F] How so? Set aside part of the day for the study of Torah and part of the day for eating and drinking.
- [G] Said R. Abbahu, “‘... It is a Sabbath to the Lord ...’ (Lev. 23:3) – observe the Sabbath as does the Lord. Just as the Holy One, blessed be he, observed a Sabbath in regard to speech [not giving revelation that day], so you should observe a Sabbath in regard to speech [and do not say on the Sabbath what pertains to ordinary days].”
- [H] There is the story of a certain pious man, who went to take a stroll in his vineyard on the Sabbath. He saw a hole in a wall and thought of fencing it up at the end of the Sabbath. He then said, “Since on the Sabbath I gave thought to fencing it up after the Sabbath, lo, I shall never fence it up.” What did the Holy One, blessed be he, [15b] do for him? He arranged a tabernacle consisting of a caper bush to grow up there, and it grew and filled in the fence. The man derived sustenance from the caper bush and gained benefit from it his entire life.

[I] Said R. Hanina, “It was only with difficulty that [sages] permitted greetings to be given on the Sabbath.”

[J] *Said R. Hiyya bar Ba, “When R. Simeon b. Yohai would see his mother talking up a storm, he would say to her, ‘Mother, it is the Sabbath.’”*

[K] *It has been taught:* It is forbidden on the Sabbath [in prayer] to beseech the things one needs.

[L] R. Zeira asked R. Hiyya bar Ba, “What is the law as to saying, ‘Our beloved, support us’ [as part of the special section added to grace after meals on the Sabbath]?”

[M] He said to him, “The fixed form of the blessings are thus [and hence it may nevertheless be said].”

[I:3 A] *It has been taught [in Tosefta’s version]:* **They rinse cups, dishes, and plates [T.’s version: utensils on the Sabbath for use on that same Sabbath but not on one Sabbath for use on some other Sabbath.**

[B] **How so?**

[C] [If] **one ate in them] on the night of the Sabbath, he may rinse them to eat in them in the morning. [If he ate in them] in the morning, he may rinse them so to eat in them for the main meal. If he ate in them for the main meal, he may rinse them to eat in them at the afternoon meal. If he ate in them at the afternoon meal, he may not rinse them from that time forth.**

[D] **The cups does he rinse all the day, for there is no time as to drinking [T. Shab. 12:17F-I].**

[E] R. Jeremiah, R. Zeira in the name of R. Hiyya bar Ashi: “A smart woman will rinse off a cup here, a dish there, a plate there, and so turn out to sprinkle her floors on the Sabbath [without violating the law].”

[I:4 A] R. Zeira in the name of R. Hisda, “As to a Day of Atonement which coincided with the Sabbath, they do not sound the shofar. After the Sabbath they do not say the Habdalah prayer.”

[B] Now this accords with R. Aqiba. But in the view of R. Ishmael, one does say the Habdalah prayer, for [in his view], **fat pieces of the Sabbath offering are offered on the Day of Atonement [M. 15:3E].**

[C] *Said R. Zeira before R. Mana, “Even in accord with the view of R. Ishmael, he should not say the Habdalah prayer. For does one not say*

the Habdalah prayer only so as to permit one to do something which on the Sabbath is forbidden to him? But if one offered up the fat pieces of the Sabbath on the Sabbath day, is it possible that it is not permitted? [Hence there is no reason to say the Habdalah prayer anyhow.]”

- [D] Said R. Samuel, brother of R. Berekhiah, “But let him say the Habdalah prayer, for in that way he permits rinsing pickled and steamed produce [in preparation to eating them after the Day of Atonement] .”
- [E] Said R. Yosé, “But is he not permitted to rinse off pickled and seethed produce only from the time of the afternoon offering and onward?”
- [F] Then let him say the Habdalah prayer from the afternoon offering onward?
- [G] How can you propose that, since there is no cup of wine or candle [to be lit for the Habdalah prayer]? Accordingly, with what is he going to say the Habdalah prayer anyhow?
- [H] Said R. Abun, “With prayer [alone].”

YERUSHALMI SHABBAT

CHAPTER SIXTEEN

16:1

[A] All Holy Scriptures –

[B] they save them from fire,

[C] whether they read in them or do not read in them.

[D] And even though they are written in any language, [if they become useless] they require storage [and are not to be burned].

[E] And on what account do they not read in [some of] them?

[F] Because of the neglect of the study house.

[I:1 A] What is the meaning of the phrase, **Whether they read in them or do not read in them** [M. 16:1C]?

[B] Whether they contain mistakes or do not contain mistakes.

[C] *And lo, it has been taught:* As to a scroll which contains two or three errors on every column, one corrects that scroll and reads in it. If there are four, he does not read in it.

[D] *On the basis of that which we have learned:* **And on what account do they not read in some of them? Because of the neglect of the study house** [M. 16:1E-F],

[E] *that is to say,* the law applies both to books of the Pentateuch and also to prophetic writings.

[F] [That indicates there is a distinction between those two categories of Scripture] and holy writings.

[G] [*It has been taught:*] They do not save them [= writings] from a fire.

[H] *He who maintains that* the scrolls [containing the writings] impart uncleanness to the hands also holds that they may save them on

account of a fire, *and he who holds that* [those books] do not impart uncleanness to the hands holds the view that they may not save them on account of a fire.

[I] *They objected*, “Lo: **[Scripture that is in] Hebrew but written in an Aramaic version, or in Hebrew script, does not render the hands unclean [M. Yad. 4:5]**, and yet they do save it from a fire.”

[J] *On the basis of that which we have learned*, **And even though they are written in any language, [if they become useless,] they require storage and are not to be burned [M. 16:1D]**, *that is to say*, that they are to be saved on account of a fire.

[I:2 A] *The Mishnah’s rule [M. 16:1A-B] accords with R. Simeon, for R. Simeon has said [15c]*, “No matter prohibited on grounds of [mere] Sabbath rest stands against the requirements of preserving the sanctity of the sacred scriptures. [That is why one may save the scrolls from fire.]”

[B] *Now is there really a point of difference? There [at M. Er. 10:3, Simeon takes the position he does] on account of preventing disgraceful [treatment of sacred scriptures], while in the present case, all parties [not Simeon alone] will concur that they do save them [sacred scriptures] from fire.*

[II:1 A] [As to M. 16:1 D, **even though they are written in any language,**] from whose viewpoint is it necessary to make that specification?

[B] It is important from the viewpoint of Rabban Simeon b. Gamaliel.

[C] Even though Rabban Simeon b. Gamaliel has said, “As to sacred scrolls, they have permitted them to be written only in Greek,” still, here he concurs that they may save them from fire.

[II:2 A] **There is the case of Rabban Gamaliel, who was supervising the builders on the Temple Mount.**

[B] **They brought to him a scroll of Job, written in Aramaic translation, and he told the builders to hide it under the stones [they were laying] [T. Shab. 13:2C].**

[II:3 A] **Even though they have said, “They do not read in Holy Scriptures except from the afternoon offering and onward, still, they do review [orally] what they have read in them and they do expound what is in them. [And if] one has a need to check something, he takes the Holy Scripture and checks it” [T. Shab. 13:1A-C].**

- [II:4 A] There was the incident in which Rabbi, R. Hiyya the Elder, and R. Ishmael b. R. Yosé were in session and reviewing the scroll of Lamentations on the eve of the ninth of Ab which coincided with the Sabbath, doing so from the time of the afternoon offering and onward. They omitted one alphabetical chapter, saying, “Tomorrow we will go and complete it.”
- [B] Now when [Rabbi] was leaving for his house, he fell and injured his finger, and he recited in his own regard the following verse: “Many are the sufferings of the wicked” (Ps. 32:10).
- [C] Said to him R. Hiyya, “These things happened to you on our account, for so it is written, ‘The breath of our nostrils, the anointed of the Lord, was caught for their corrupt deeds’ (Lam. 4:20).”
- [D] Said to him R. Ishmael b. R. Yosé, “Even if we had not been studying this very passage, it would have been appropriate for us to say so. How much the more so is it appropriate since we have been studying this passage!”
- [E] [Rabbi] went home and put on his finger a dry sponge, and he wrapped reed grass around it, on the outside of the sponge.
- [F] Said R. Ishmael b. R. Yosé, “From this matter we have learned three rules: (1) A sponge does not bring healing, but only protects the sore; (2) reed grass is regarded as made ready in advance for its purpose; (3) it is permitted to read in the sacred writings only from the afternoon offering onward.”
- [III:1 A] [With reference to M. 16:1E-F,] If that is the case, then in a locale in which there is a study house, they should not read [in them], but in a place in which there is not a study house, it should be permitted to read [in them]?
- [B] *You may not take the position, for there is only that which R. Nehemiah has taught.*
- [C] **For R. Nehemiah has taught, “On what account did they rule, ‘They do not read in Holy Scriptures except after the afternoon offering’? Because of ordinary documents.**
- [D] **“For if you tell him that it is permitted, he may even say, ‘What does it matter if I am engaged in [reading] my documents. Because you say to him that it is prohibited, he will then say, ‘Holy Scriptures are prohibited, ordinary documents all the more so!’” [T. Shab. 13:1D-E].**

- [III:2 A] *That [M. 16:1E-F, since Mishnah is studied in the study house] is to say that study of the Mishnah takes precedence over study of Scripture.*
- [B] *That supports what R. Simeon b. Yohai has taught.*
- [C] *For R. Simeon b. Yohai has taught, “He who is engaged in the study of Scripture – it is a [good] trait [measure] which is not a [good] trait [which holds nothing]. He who engages in the study of the Mishnah [= apodictic traditions] – it is a [good] trait from which one takes his [just] reward. He who engages in the study of [Talmud argumentation and analysis of traditions] – you have no measure greater than that one [since it includes both determined rulings and their deliberation]. One should always pursue [for practical purposes] the study of Mishnah more than the study of the Talmud [for set and ordered teachings provide a more reliable guide].”*
- [D] *Said R. Yosé b. R. Bun, “That which you have said [that the study of the Mishnah is preferable] refers to the time before Rabbi had embodied and abridged most of the Mishnah traditions in his edition, but since Rabbi had done so, at all times run after the Talmud rather than the Mishnah [for the former now contains reliable traditions].”*
- [III:3 A] **[As to scrolls containing] blessings [e.g., amulets] in which are written [T.: even though they include the letters of the Divine Name and] many citations of the Torah, they do not save them [T.:but they are allowed to burn where they are].**
- [B] **On this basis they have stated, “Those who write blessings are [T.: like those who] burn the Torah.”**
- [C] **There is this case:A certain person would write blessings, and [T.: they told R. Ishmael about him.] R. Ishmael went to examine him. [When he [Ishmael] was climbing the ladder,] he [the writer] sensed his coming. He took the sheaf of blessings and threw [T.:put] it into a dish of water. And in accord with the following statement did R. Ishmael address him, “The punishment for the latter deed is harder than that for the former” [T. Shab. 13:4B-D].**
- [III:4 A] *Said R. Joshua b. Levi, “As to an aggadic passage, one who writes it down has no share in the world to come; he who preaches it will be burned; and he who hears it will receive no reward.”*
- [B] *Said R. Joshua b. Levi, “In my entire life I never looked into a book of aggadah, except one time I looked, and I found: One hundred and seventy-five sections of the Torah, in which there occurs an expression*

of speaking, saying, or commanding, correspond to the number of years of the life of Abraham, our father.

[C] “For it is written, ‘[You have ascended on high, you have led captivity captive;] you have received gifts for the sake of the man’ (Ps. 68:18).

[D] “And it is written, ‘The greatest man among the giants’ (Josh. 14:15)

[E] “‘The hundred and forty-seven psalms included in the book of Psalms correspond to the number of years of the life of Jacob, our father. This teaches that all the praises which Israel offer to the Holy One, blessed be he, correspond to the number of years of the life of Jacob, our father. What is the scriptural basis for this view? ‘Yet you are holy, O you that are enthroned upon the praises of Israel’ (Ps. 22:3).

[F] “‘The hundred and twenty-three times that Israel respond with *hallelujah* correspond to the number of years of the life of Aaron. What is the scriptural basis? ‘Hallelujah, praise God in his holiness’ (Ps. 150:1), meaning, ‘with his holy man,’ that is, Aaron, the holy man of God.’

[G] “*Nonetheless, I was afraid at night.*”

[H] *R. Hiyya bar Ba saw a book containing aggadic writings. He said, “If what is written in that book is correct, let the hand of the one who wrote it be cut off.” Said to him the father of the one who had written it [that his son had written it].*

[I] *He said to him, “Indeed that is what I have said: ‘Let the hand of the one who wrote it be cut off.’” It was like a “mistake that proceeds from before the ruler” (Qoh. 10:5).*

[III:5 A] **As to the books of Evangelists and the books of the *minim*, [they do not save them from a fire. But they are allowed to burn where they are] [T. Shab. 13:5A].**

[B] *There is a Tannaite authority who teaches: One tears out the mentions of the Divine Name and burns them [= the scrolls].*

[C] *There is a Tannaite authority who teaches: **They and the references to the Divine Name which are in them [are to be burned]** [T. Shab. 13:1B].*

[D] **[In T.’s version:] Said R. Tarfon, “May I bury my sons, if such things come into my hands [Y.: “my house”] and I do not burn them, even the references to the Divine Name which are in them.**

- [E] “And if someone was running after me, I should go into a temple of idolatry, but I should not go into their houses [of worship].
- [F] “For idolaters do not recognize the Divinity in denying Him, but these recognize the Divinity and deny Him.
- [G] “And about them Scripture states, ‘Behind the door and the doorpost you have set up your symbol [for deserting me, you have uncovered your bed’] (Is. 57:8).” [Y. instead reads: “And regarding them David said, ‘Do not I hate those who hate you,’ etc. (Ps. 139:21).”]
- [H] Said R. Ishmael, [Y. has: “This is the exposition that they expounded:] “Now if to bring peace between a man and his wife, the Omnipresent declared that a scroll written in a state of sanctification should be blotted out by water,
- [I] “the books of the *minim*, which bring enmity [Y. adds: “strife, and dissension] between Israel and their Father who is in heaven, all the more so should be blotted out,
- [J] “they with the references to the Divine Name in them,
- [K] [T.:] “and concerning them has Scripture stated, ‘Do I not hate them that hate thee, O Lord? And do I not loathe them that rise up against thee? I hate them with perfect hatred, I count them my enemies’ (Ps. 139:21-22).”
- [L] [T.:] Just as they do not save them on account of fire, so they do not save them from a ruin, a flood, or anything which will destroy them [T. Shab. 13:5D-K].

16:2

- [A] They save the case of a scroll with the scroll and the case of tefillin with the tefillin,
- [B] even though there is money in them.
- [C] And whither do they [take them to] save them?
- [D] To a closed alley [which is not open as a thoroughfare and so is not public domain].
- [E] Ben Betera says, “Also: to one which is open [as a thoroughfare].”
- [I:1 A] *The Mishnah [M. 16:2A-B] speaks of a case in which the [scroll case or tefillin case] is not joined to [the scroll or tefillin]. But if it is joined to it, then it is deemed tantamount to the object itself.*

- [B] *There is no problem in understanding why that should be the case for the case of a scroll with the scroll. But as to the case of tefillin with the tefillin – [why is that the rule]? [That is, the scroll loses in worth without its case. But why should it be permitted to save the case of the tefillin, since the tefillin are readily removed from it anyhow?]*
- [C] *R. Haggai in the name of R. Zeira derives the rule from the following: “The angel of the Lord encamps around those who fear him and delivers them” (Ps. 34:7).*
- [D] *“And so it says, ‘Then these men were bound in their mantles, their tunics, their hats, and their other garments’ (Dan. 3:21). [What is wrapped around what is holy itself is holy.]”*

[II:1 A] Even though there is money in them [M. 16:2B]:

- [B] *This accords with what R. Jacob bar Aha said, Hinena Qartegenah in the name of R. Hoshaiyah: “A saddlebag which contains money – one puts a loaf of bread on it and carries it about.”*

[III:1 A] And whither do they take them to save them? To a closed alley [M. 16:2C-D]:

- [B] *Lo, as to bringing the objects to an alley open on both sides, one may not do so.*
- [C] *[The supposition now is that one may not carry the objects via an open alleyway to a closed one. Along familiar lines, then, we imagine that the reason is that the open alley, in the status of neutral domain, is deemed the resting place for the objects carried through it, so, it follows, we further assume that carrying the object through the neutral domain is tantamount to setting them down in that domain. Accordingly we now ask:] In all other contexts you maintain that carrying an object is not equivalent to setting it down, while here you treat carrying the object as tantamount to setting it down.*
- [D] *Rather, [the rule before us assumes that the person] tosses [the objects into the open-ended alleyway, and there the objects come to rest].*
- [E] *There you maintain that one who tosses an object [from private domain to neutral domain] is exempt [from penalty], while here you hold that he who tosses an object [from private to neutral domain] is liable.*

- [F] *R. Hezekiah in the name of R. Aha: “Here we deal with a case in which the joint holders of the alleyway did not prepare a meal of commingling [which would have the effect of joining all the shares*

in the alleyway into a single private domain, subject to the dominion of them all]. [Absence of such a meal leaves the alleyway in the status of public domain.]

[G] *Ben Beterah* [M. 16:2E] accords with the view of R. Judah, for we have learned there: **“As to viaducts which are not closed off,”**

16:3

[A] They save food enough for three meals –

[B] what is suitable for human beings for human beings, what is suitable for cattle for cattle.

[C] How so?

[D] [If] a fire broke out on the night of the Sabbath, they save food for three meals.

[E] [If it broke out] in the morning, they save food for two meals.

[F] [If it broke out] in the afternoon, [they save food for] one meal.

[G] R. Yosé says, **“Under all circumstances they save food for three meals.”**

[I:1 A] R. Bun bar Hiyya in the name of R. Ba bar Mamel: “The passage before us accords with the view of R. Nehemiah, for he has said, **‘[Utensils] may be moved about only in a case of need’** [M. 17:4].”

[B] [*Rejecting this view,*] said R. Yosé, “*The reasoning of the rabbis there is that whatever is located in the house is regarded as readied in advance for use on the Sabbath [on which account one may handle anything, whether needed or otherwise]. [15d] But here if you say so [that he may take more than he needs for the Sabbath], he will end up saving food today for use tomorrow.*”

[I:2 A] *The passage before us [permitting saving food on the night of the Sabbath for three meals, even though the first of the three may already have been eaten, M. 16:3D,] accords with the position of R. Hundeqes, who has said, “Under all circumstances they save food for three meals.”*

[B] [That is not necessarily the case, for] you may interpret the Mishnah to speak of a case in which the fire broke out on the night of the Sabbath before the people had eaten anything.

[I:3 A] *What is there to say about [a fire that broke out on the night of] the Day of Atonement?*

- [B] *In the view of rabbis [M. 16:3C-F], perhaps one should not save any food at all.*
- [C] *[No, that is not the case.] All parties concur that one may save food for a [added to L: “single”] meal, because of the danger [of starvation, if one does not do so].*
- [I:4 A] *It has been taught: They save enough food for a sick person or for a child in accord with an average measure [and do not take less, even though the sick person or minor eats less], but for a person of large appetite, they save enough food for him to eat.*
- [B] *They prepare a meal of commingling for a sick person or for a minor in accord with the actual food such a person would eat, but for a person of large appetite they set up a symbolic meal in accord with the appetite of the average person.*
- [C] *It has been taught: They do not practice deception in this matter.*
- [D] *R. Yosé bar R. Judah said, “They do practice deception”.*
- [E] *There is a Tannaite authority who teaches: They save the food, and afterward they issue an invitation to a meal.*
- [F] *There is a Tannaite authority who teaches: **One invites [guests to join in the meal] and afterward saves [food from a fire on the Sabbath] [T. Shab. 13:7A].***
- [G] *He who maintains that, “One saves [the food] and [only] afterward needs to invite guests” accords with the position of him who has said, “They may practice deception [saving more food than is actually necessary, on any pretext whatsoever].”*
- [H] *And he who has said, “One invites [the guests] and [only] afterward saves the food” accords with him who has said, “They do not practice deception.”*
- [I:5 A] *It has been taught: **They put out a fire in order to save [Holy Scriptures but not to save heave offering] [T. Shab. 13:6K].***
- [B] *The statement just now cited accords with the view of R. Simeon, for he has said, “Nothing prohibited in general on grounds of Sabbath rest stands against the obligation to save Holy Scriptures.”*
- [I:6 A] *It has been taught: They also impart uncleanness in order to save [heave offering].*
- [B] *And has it not been taught: “She shall not touch any Holy Thing” (Lev. 12:4) – serving to encompass even heave offering.*

[C] [Mistakenly transferred from Y. Shab. 14:3: the same rule pertains both to heave offering and to food in the status of second tithe.]
What is the upshot of the matter? It is on condition that one does not do on the Sabbath as one does on an ordinary day.]

[I:7 A] *It has been taught:* Just as they save [food] from a fire, so they save it from gentiles, from a flood, from a ruin, and from anything which causes the loss [of the food].

16:4

[A] **They save a basket full of loaves of bread,**

[B] **even if it contains enough food for a hundred meals,**

[C] **a wheel of pressed figs, and a jug of wine.**

[D] **And one says to others, “Come and save [what you can] for yourselves [as well].”**

[E] **Now if they were intelligent, they come to an agreement with him after the Sabbath.**

[F] **Whither do they [take them to] save them?**

[G] **To a courtyard which is included within an erub.**

[H] **Ben Betera says, “Also: To one which is not included within an erub.”**

[I:1 A] *The Mishnah’s rule [at M. 16:4A-C] accords with the principle of R. Yosé, for he has said, “Under all circumstances they save food for three meals” [M. 16:3G].*

[B] Since the whole [of the bread, figs, or wine] forms a single entity, it is as if the whole constitutes food for one meal.

[II:1 A] **And one says to others, “Come and save what you can for yourselves as well” [M. 16:4D]:**

[B] For so it is usual to invite guests for the Sabbath.

[III:1 A] **Now if they were intelligent, they come to an agreement with him after the Sabbath [M. 16:4E]:**

[B] *There we have learned: [In the case of a loan of wine or oil on the Sabbath], one leaves his cloak with him [as a pledge] and makes a reckoning with him after the Sabbath [M. 23:1].*

[C] *There you say that one leaves a pledge with him [the owner of the food], and here what do you say?*

[D] Said R. Abba Mari, “On that account we have learned that [the one who takes the food] is called ‘intelligent.’”

16:5

[A] **And to that place one takes out all his utensils.**

[B] **And he puts on all the clothing which he can put on, and he cloaks himself in all the cloaks he can put on.**

[C] **R. Yosé says, “Eighteen items of clothing.”**

[D] **And he goes back, puts on clothing, and takes it out,**

[E] **And he says to others, “Come and save [the clothing] with me.”**

[I:1 A] **R. Yosé says, “Eighteen items of clothing” [M. 16:5C].**

[B] And these are they: Cloak, under-tunic, hollow belt, linen tunic, shirt, felt cap, cotton shirt, pair of trousers, pair of shoes, pair of socks, shoes, hat on his head, girdle around his loins, and scarf around his neck.

[II:1 A] **And he says to others, “Come and save [clothing] with me” [M. 16:5E].**

[B] For so it is usual to lend clothing on the Sabbath.

16:6

[A] **R. Simeon b. Nannos says, “They spread out a lamb’s hide over a chest, box, or cupboard, which have caught fire,**

[B] **for it will [only] singe.”**

[C] **And they make a partition with any sort of utensils, whether filled [with water] or empty, so that the fire will not pass.**

[D] **R. Yosé prohibits doing so with new clay utensils filled with water,**

[E] **for they cannot take the fire, so will split open, and [the water within them] will put out the fire.**

[I:1 A] *The meaning of the Mishnah’s rule [at M. 16:6A, which have caught fire,] is that one may do so once they have caught fire.*

[B] R. Ba bar Mamel in the name of Rab: “A scroll which has caught fire on one side – one puts water on the other side, and if the fire goes out, it goes out.

[C] “If the scroll caught fire on both sides, one unrolls it and reads in it, and if the fire goes out, it goes out.

[D] “A cloak which caught fire on one side – one puts water on the other side, and if the fire goes out, it goes out.

[E] “If it caught fire on both sides, one takes it and puts it on, and [if in the process] the fire goes out, it goes out.”

[I:2 A] [What follows serves M. 3:8B-C, above 3:8/11.A-D, and has no place here:] R. Samuel in the name of R. Zeira: “[M. 3:8B-C] represents the view of R. Yosé.”

[B] *For R. Yosé said, “We considered ruling, ‘Where R. Yosé and rabbis differ [at M. 16:6C-E], it is only in a case in which one may make a partition of utensils. But as to making a partition of water itself, there is no dispute at all.’*

[C] *“But on the basis of what R. Samuel has said in the name of R. Zeira, ‘This represents the view of R. Yosé,’ it follows that even if one has made a wall of water against the fire, there still is a dispute.”*

16:7

[A] **A gentile who came to put out a fire –**

[B] **they do not say to him, “Put it out, “ or “Do not put it out, “**

[C] **for you are not responsible for his Sabbath rest.**

[D] **But a minor [Israelite child] who came to put out a fire –**

[E] **they do not hearken to him [and let him do so],**

[F] **because his Sabbath rest is your responsibility.**

[I:1 A] In the time of R. Immi, a fire broke out in the village. *R. Immi issued a proclamation in the marketplace of the Aramaeans, saying, “Whoever does [something] will not lose out!”*

[B] Said R. Eleazar b. R. Yosé before R. Yosé, “[It was all right to do this, for] it was a matter of danger.”

[C] If it was a matter of danger, then even R. Immi should have put the fire out.

[D] *Is it not taught: In any matter of danger, they do not say, let the matter be done by gentiles or minors, but even by adults, and even by Israelites [T. Shab. 15:15]?*

[E] **There was a case in which a fire broke out in the courtyard of Yosé b. Simai in Shihin, and the soldiers of the camp of Sepphoris came down to put it out. But he did not let them do so.**

[F] He said to him, “Let the tax collector come and collect what is owing to him.”

[G] Forthwith clouds gathered, and rain came and put the fire out. After the Sabbath he sent a sela to every soldier, and to their commander he sent fifty denars [T. Shab. 13:9].

[H] Said sages, “It was not necessary to do so.”

[I] *There was a Nabataean who was R. Jonah’s neighbor. A fire broke out in the neighborhood of R. Jonah. The Nabataean came and wanted to put it out, but R. Jonah did not let him do so.*

[J] *[The Nabataean] said to him, “Will my property be [saved] by your merit [or “luck”]?”*

[K] *[Jonah] said to him, “Yes.” And the whole area was saved.*

[L] *R. Jonah of Kefar Ammi spread out his cloak over the grain, and the flames fled from it.*

[II:1 A] But a minor who came to put out a fire – they do not hearken to him [M. 16:7D-E]:

[B] *But has it not been taught: “If they saw [a minor] going out and collecting herbs, you are not responsible for him”?*

[C] *There the one who saw him has no need of the herbs, but here, he has need of having the fire put out.*

16:8

[A] **They cover a lamp with a dish so that it will not scorch a rafter;**

[B] **and the excrement of a child;**

[C] **and a scorpion, so that it will not bite.**

[D] **Said R. Judah, “A case came before Rabban Yohanan b. Zakkai in Arab, and he said, ‘I suspect [he is liable for] a sin offering.’”**

[I:1 A] *[M. 16:8] accords with that which R. Simeon b. R. Yannai said, “I did not hear the following from father. My sister heard it and told me in his name: ‘An egg born on a festival – they put a dish near it so that it will not roll away. But they do not turn a dish over on it.’”*

[B] *Samuel said, “They may even turn a dish over on it” [as at M. 16:8A].*

[II:1 A] And the excrement of a child [M. 16:8B]:

[B] But is this not food for chickens [so why can one not simply remove it for that purpose, rather than leaving it in place]?

[C] Said R. Uqban, “Interpret the law to speak of the soft kind, [and one covers it] so that it will not make a smell. [If one puts soft shit in front of the chickens, they will track it through the house.]”

[III:1 A] And a scorpion, so that it will not bite. Said R. Judah, “A case came before Rabban Yohanan b. Zakkai in Arab, and he said, ‘I suspect he is liable for a sin offering’” [M. 16:8D]:

[B] *R. Ulla said, “He spent eighteen years there in Arab, and only these two cases came before him. He said, ‘O Galilee, Galilee, you have hated the Torah. You will end up working for tax farmers.’”*

16:9

[A] **A gentile who lit a candle –**

[B] **an Israelite may make use of its light.**

[C] **But [if he did so] for an Israelite, it is prohibited [to do so on the Sabbath].**

[D] **[If a gentile] drew water to give water to his beast, an Israelite gives water to his beast after him.**

[E] **But [if he did so] for an Israelite, it is prohibited [to use it on the Sabbath].**

[F] **[If] a gentile made a gangway by which to come down from a ship, an Israelite goes down after him.**

[G] **But [if he did so] for an Israelite, it is prohibited [to use it on the Sabbath].**

[H] **M’S H B: Rabban Gamaliel and elders were traveling by boat, and a gentile made a gangway by which to come down off the ship, and Rabban Gamaliel and sages went down by it.**

[I:1 A] What is the law if a gentile did so for himself and also for an Israelite?

[B] *Let us derive the answer from the following:*

[C] *Samuel was received as a guest by a Persian. The lamp went out. The Persian went and wanted to light it. Samuel turned his face away. But when he saw [the Persian] working on his business papers, [Samuel] knew that it was not for him [Samuel alone] that he had lit the lamp, and Samuel turned his face back.*

[D] *Said R. Jacob bar Aha, “That is to say that if it was done both for the gentile’s need and also for the Israelite’s need, it is forbidden.”*

[E] Said R. Jonah, “That case is different, for they do not trouble a person to leave his house. [If the gentile had lit the lamp for both his own and also the Israelite’s purposes in the Israelite’s house, the Israelite would not be required to leave his house.]”

[F] Said R. Eliezer, “If the consideration is that they do not trouble a person to leave his house, then why did Samuel find it necessary to turn his face away?”

[II:1 A] [With reference to M. 16:9H:] They said to him, “Is it all right for us to disembark?”

[B] He said to them, “Since he did not make it in our behalf, we are permitted to disembark” [T. Shab. 13:14C, G].

YERUSHALMI SHABBAT

CHAPTER SEVENTEEN

17:1

[A] All utensils may be handled on the Sabbath,
[B] and their [detached] doors along with them,
[C] even though they were detached on the Sabbath.
[D] For they are not equivalent to doors of a house,
[E] for the [latter] are not prepared [in advance of the Sabbath to be used].

[I:1 A] *[The reference to] the doors of the house makes its new point, and [the reference to] the doors of utensils makes its new point.*

[B] *[The reference to] the doors of the house makes this new point: Even though they were detached on the eve of the Sabbath, it nonetheless is forbidden to move them about on the Sabbath.*

[C] *[The reference to] the doors of utensils makes this new point: **Even though they were detached on the Sabbath [M. 17:1C]** it is permitted to move them about on the Sabbath.*

[II:1 A] **For the latter are not prepared in advance of the Sabbath to be used [M. 17:1E]:**

[B] For they are utilized only when on the ground.

[C] R. Abbahu in the name of R. Eleazar: “In the beginning, all utensils might be moved about on the Sabbath. When people became suspect of profaning festivals and Sabbaths, [the important distinction at M. 17:1 was introduced].”

[D] *“This is in line with that which is stated in the following verse: ‘In those days I saw in Judah men treading winepresses on the Sabbath, and bringing in heaps of grain and loading them on asses; [and also*

wine, grapes, figs, and all kinds of burdens, which they brought into Jerusalem on the Sabbath day]’ (Neh. 13:15).

[E] “Accordingly, they prohibited them [from handling any sort of utensils]. But once they had begun to observe the limitations of the law, they continued ruling leniently for them, until they had permitted them everything.”

[II:2 A] **“[All utensils may be handled on the Sabbath], except for a large saw or plowshare” [M. 1 7:M-B].**

[B] **Rabban Simeon b. Gamaliel says, “Also: the anchor of a boat.”**

[C] [T.:] **R. Yosé says, “Also a large spade” [T. Shab. 14:1C-E].**

[D] **A mortar, if there is garlic in it, they may handle, and if not, they may not handle it.**

[E] **Rabban Simeon b. Gamaliel says, “A small mortar which is put onto a table, lo, it is equivalent to a dish, and they may move it about” [T. Shab. 13:17G-H].**

[F] R. Yosé, R. Ila in the name of R. Eleazar, R. Jacob bar Aha in the name of R. Eleazar: “This rule was taught prior to the time when they permitted carrying utensils.”

[G] *There we have learned: As to a door bolt, R. Joshua says, “One may draw it off this door and suspend it on another on the Sabbath.” R. Tarfon says, “Lo, it is like all utensils and may be carried [in the normal way] in a courtyard” [M. Kel. 11:4J- K].*

[H] *The members of the household of R. Yannai say, “This teaching applies even to a courtyard for which people did not prepare a meal of commingling.*

[I] If it applies to a courtyard in which people did not prepare a meal of commingling, *can this be the reference of the passage, when it states, “Lo, it is like all utensils and may be carried [in the normal way] in a courtyard”?* [How can that be possible, since if there was no meal of commingling, one may not move about any utensils in that courtyard! It follows that, from Tarfon’s viewpoint, any utensils may be carried about in the courtyard.]

[J] *R. Yosé in the name of R. Jeremiah, R. Hananiah produced the teaching in the name of R. Eleazar: “This rule was taught prior to the time when they permitted carrying utensils [on the Sabbath].”*

[K] *Is this in line with that which we have learned: “Lo, it is like all utensils and may be carried [in the normal way] in a courtyard”?*

[L] [In fact, the meaning is,] **“It is in the status of those three utensils which may be carried about in a courtyard, and these are they: a small knife, a fig-cake knife, and a soup ladle [T. Shab. 14:3A-B].”**

[M] As to the trumpet [which announces the Sabbath], one sounds the third note on the rooftop and then leaves it in its place.

[N] Now is this not a utensil [and why can one not bring it down from the roof]?

[O] Said R. Yudan, “This rule was taught prior to the time when they permitted carrying utensils [on the Sabbath].”

[P] R. Zeira in the name of R. Eleazar: “The rule governing reeds and staves was taught prior to the time when they permitted carrying utensils [on the Sabbath].”

[II:3 A] They do not move boards of a ship on the Sabbath. But if the boards were suitable to serve as a cover for a utensil or for food, lo, they are in the status of covers of utensils, and may be carried about on the Sabbath.

[B] R. Ila said, “Even though you may say, ‘They are in the status of covers of utensils,’ that rule applies if they have the [distinctive] name [= appearance] of a utensil.”

[C] A utensil [reading KLY instead of KL] that is carried by two people they may carry by means of three people.

[D] But they may not carry such an object by means of four or five people.

[E] Said R. Zeira, “Since you say that it is permitted [to have an object carried] by two people, then even [if an object must be carried] by four or five people, it should be permitted.”

[F] [*This is in line with*] what R. Mana said, “*In the days of R. Yosé the children were carrying a bench for R. Judah bar Pazzi, and the elders helped them.*”

[G] R. Eleazar in the name of R. Haninah: “There was the case in which they carried the wagon on the Sabbath.”

[H] But was this not a utensil [so why should that precedent be relevant]?

- [I] [It is] so that you should not say that since these objects are used only in their proper place, they may not be carried on the Sabbath. [That is not the case.]
- [J] R. Judah in the name of Samuel: “Large baskets and large containers do they carry on the Sabbath.”
- [K] [Why is this statement relevant?] [It is] so that you should not say that since these objects are used only in their proper place, they may not be carried on the Sabbath. [That is not the case.]
- [L] R. Abba in the name of Samuel: “As to a press for beds [of planks], they may carry it about on the Sabbath.”
- [M] R. Ba in the name of Rab: “They may carry the upper and the lower piece of the press, except for the standing parts at the side.”
- [N] *Said R. Ba, “That which you have said applies to the pillars there [at the sides which are permanently affixed to the spot and which cannot be dug up], but as to the pillars which are here [not permanently implanted], it is permitted.”*
- [O] R. Zeira in the name of R. Judah in the name of Rab: “The webs and the ropes of a loom one may move about on the Sabbath.”
- [P] That which R. Yosé said, R. Yohanan asked R. Judah b. Levi: “What is the law as to moving the parts of a loom on the Sabbath?”
- [Q] He said to him, “They may move them about.”
- [R] R. Judah b. Pazzi did not say so, but R. Yohanan asked R. Judah b. Levi, “What is the law as to moving the parts of a loom on the Sabbath?”
- [S] He said to him, “They do not move them about.”
- [T] He said to him, “Why?”
- [U] He said to them, “Because they do not move them about [it is a tradition; that is a sufficient reason].”

17:2

[A] One handles a hammer to spilt nuts,

[B] an ax to chop off a fig,

[C] a saw to cut through cheese,

[D] a shovel to scoop up dried figs,

[E] a winnowing shovel or a fork to give something thereon to a child,

[F] a spindle or a shuttle staff to thrust into something,

[G] a sewing needle to take out a thorn,

[H] a sack maker's needle to open a door.

[I:1 A] Lo, if it is not to split nuts [and so throughout], one may not handle such a tool.

[B] *It must follow that the Mishnah's rule follows the principle of R. Nehemiah, for R. Nehemiah said, "Tools are not handled except when needed [for a purpose appropriate to the Sabbath]."*

[C] R. Ba, [16b] R. Judah, R. Hinena bar Shelemayya in the name of Rab: "Sages concur with the view of R. Nehemiah in the case of a dyer's pins, tubs, and beams: a dyer's pin, with which one closes, a tub, in which one beats, and a beam, with which one breaks up [food]."

[I:2 A] A utensil which serves a distinctive purpose prohibited on the Sabbath may be handled only in the case of a need [appropriate to the Sabbath], while one which serves a distinctive purpose permitted on the Sabbath may be handled both in the case of a need appropriate to the Sabbath and otherwise.

[B] Said R. Yosé, "Take note of the full extent to which [sages] have applied lenient rulings in the case of the Sabbath. For even in the case of things which are not usually used for purposes appropriate to the Sabbath [such as the items listed at M. 17:2], they have permitted to be utilized for the sake of purposes that are legitimate to the Sabbath."

[C] R. Eleazar said, "Why is a three legged table susceptible to uncleanness? [It is] because the waiter eats his food from it. Why is its stand susceptible to uncleanness? Because the waiter leans on it. See, then, to what extent sages have imposed a strict law in matters of uncleanness, for even on account of uses of the table which are not normal uses of the table [on which account the table is susceptible to uncleanness as a useful object], sages have declared the table susceptible to uncleanness in connection with its use."

[II:1 A] **A winnowing shovel or a fork to give something thereon to a child, a spindle or a shuttle staff to thrust into something [M. 17:2E-F]:**

- [B] *Said R. Simon, “R. Abbahu permitted me to take eye salve off on the Sabbath with it [a needle].”*
- [C] *R. Ba bar Kohen in the name of R. Sheshet: “The Mishnah itself has made that same point: **A sewing needle to take out a thorn [M. 17:2G,]** for if it is not so, then what is the difference between a thorn and this [to which you have referred]?”*
- [D] *R. Ba asked before R. Mana, “What is the law as to kneading [eye salve] on a festival?”*
- [E] He said to him, “It is not food for a living creature [and so it may not be kneaded].”

17:3

- [A] **A reed for olives, if it has a knot on its top, is susceptible to uncleanness.**
- [B] **And if not, it is not susceptible to uncleanness.**
- [C] **One way or the other, it is handled on the Sabbath.**
- [I:1 A] Members of the household of R. Yannai say, “[The Mishnah at M. 17:3A refers to] a reed which one adapted for inspecting the status of olives. How so? If it came up covered with liquid, one may be certain that the processing in the press is finished. And if not, one may be certain that the processing in the press is not finished.”
- [B] *Said to him R. Mana, “Samuel taught only that with such a tool one may draw out the oil.”*
- [I:2 A] **A reed which a householder set up with which to open and shut a door [Y. throughout has window] – if it was tied on and suspended [from the door], they open and shut the door with it,**
- [B] **and if not, they do not open and shut the door with it.**
- [C] **Rabban Simeon b. Gamaliel says, “[If] it is set up [for this purpose], even though it is not tied on, and even though it is not suspended [it is permitted to make use of it]” [T. Shab. 14:3F-H].**
- [D] And did not R. Yohanan state, “Hilpai took me and showed me a door bolt in the house of Rabbi, which was tied on even though it was not suspended [and it was utilized on the Sabbath? But had it not been tied on, it would not have been appropriate for Sabbath use.]”
- [E] [Concurring with C,] said R. Yudan, “Since one takes it and puts it into his hand, it is regarded as equivalent to a key [to the lock] .”

17:4

[A] R. Yosé says, “All utensils are handled,

[B] “except for a large saw or plowshare.”

[C] All utensils are handled in case of need and not in case of need.

[D] R. Nehemiah says, “They are handled only in case of need.”

[I:1 A] R. Judah in the name of Rab: “The law accords with R. Nehemiah, who has said, **“They are handled only in case of need.”**”

[I:2 A] *R. Yohanan and rabbis from over there [in Babylonia]: One said, “‘For need’ refers to the need of using the object in itself, and ‘not for need’ refers to not needing to use the object in itself. [Then] R. Nehemiah says, ‘They are handled only when they are needed for use in themselves.’”*

[B] *And the other said, “‘For need’ refers to the need to use either the object itself or the space in which the object is located [on account of which the object may be moved elsewhere, e.g., into the sunlight so one may sit in the shade], and ‘not for need’ means not for using the object itself and not for using the space in which the object is located. [Then] R. Nehemiah says, ‘They may be moved about only in the case of one’s needing to use the object itself or the place in which the object is located.’”*

[I:3 A] *It has been taught: Said R. Yudan, “The House of Shammai and the House of Hillel concur [M. Bes. 1:5/I-J] that they may bring full utensils when needed, and empty ones when one intends to fill them.*

[B] “Concerning what did they dispute?

[C] “Concerning bringing empty ones which are not intended to be filled.

[D] “For the House of Shammai prohibit.

[E] “And the House of Hillel permit” [T. Besah 1:11D-H].

[F] *Now the House of Shammai is consistent with the view of R. Nehemiah, and yet you have said that the law accords with R. Nehemiah, and not that the law accords with the House of Shammai?*

17:5

[A] All utensils which are handled on the Sabbath – fragments deriving from them may be handled [along with them],

[B] on condition that they perform some sort of useful work [even if it is not what they did when they were whole]:

[C] fragments of a kneading trough – to cover the mouth of a barrel,

[D] glass fragments – to cover the mouth of a flask.

[E] R. Judah says, “On condition that they perform the sort of work which they did [when they were whole]:

[F] “fragments of a kneading trough – to pour porridge into them,

[G] “glass fragments – to pour oil into them.”

[I:1 A] *There we have learned: ... glass enough to scrape the end of a shuttle [M. 8:6], and here you say this [that is, stating a different criterion for the sherds of glass]?*

[B] R. Aha, R. Miasha in the name of Rabbis of Caesarea: “Here we speak of thick sherds, there of sharp ones.”

[C] *And there is he who proposes to state, “Here we speak of handling the objects only, there we speak of taking them out of storage [in which case a smaller volume is subject to liability].”*

17:6

[A] A stone in a gourd shell [used for weighing it] –

[B] if one can draw water in it and it does not fall out,

[C] they draw water with it [the gourd shell].

[D] And if not, they do not draw water with it. [E] A branch tied to a pitcher – they draw water with it on the Sabbath.

[I:1 A] *We have learned [at M. 21:1:] [A man takes his son, along with the stone in his hand, a basket] with a stone in it.*

[B] *It has been taught by the household of Rabbi: “Food with a stone in it ... [That is, one may carry a basket containing a stone only when there is food in the basket.]”*

[C] *R. Jacob bar Zabedi in the name of R. Abbahu: “R. Hiyya bar Joseph and R. Yohanan [had a dispute about this matter].*

[D] *“R. Hiyya bar Joseph accorded with the rule of the Mishnah [at M. 21:1, which does not demand there be food in the basket along with the stone].*

[E] *“R. Yohanan accorded with that which has been taught by a member of the household of Rabbi.”*

[F] *The Mishnah stands at variance with the position of R. Yohanan: A stone in a gourd shell used for weighing it – if they draw water in it and it does not fall out, they draw water with it, [and if not, they do not draw water with it] [M. 17:6A -D].*

[G] [No, that case is different, for] since the stone is tightly affixed to the gourd, it is treated as tantamount to the body of the gourd itself [and hence the consideration of food does not enter the decision].

[H] *The end [of the cited passage of the Mishnah] differs from the view of R. Hiyya bar Joseph: **And if not, they do not draw water with it.***

[I] Said R. Yudan, “Since it is used to weigh down the gourd, it is treated as if the gourd is handled on account of the stone.”

[J] *How does R. Yohanan treat the matter?*

[K] He holds that it is treated as if the gourd itself is handled.

[L] *The following passage of the Mishnah stands at variance with the position of R. Yohanan: **A man may take up his son with a stone in his hand, a basket with a stone in it [M. 21:1].***

[M] *And it has been taught by a member of the household of Rabbi: “A stone and food that is in [the basket].”*

[N] R. Kohen in the name of rabbis from over there: “They have treated a child as equivalent to food.”

[O] There they say, “They have treated a stone in the hand of the child as equivalent to a tested amulet in the hand of the child [which may be carried on its own].”

17:7

[A] R. Eliezer says, “The window shutter [stopper of a skylight] –

[B] “When it is tied on and suspended, they shut [the window] with it.

[C] “And if not, they do not shut [the window] with it.”

[D] And sages say, “One way or the other, they shut the window with it.”

[E] All utensil covers which have handles are handled on the Sabbath .

[F] Said R. Yosé, “Under what circumstances? In the case of lids over openings in the ground.

[G] “But as to lids of utensils, one way or the other [without or with handles], they are moved about on the Sabbath.”

- [I:1 A] [As to **M. Er. 10:11A**, **A bolt that is dragged on the ground, thus fastened to the gate by a long rope and not merely suspended, is permitted in the Temple and forbidden in the provinces,**] what is a bolt that is dragged on the ground?
- [B] Said R. Yohanan, “It is one that is fastened [on to the door], even though it is not suspended [from the door].”
- [C] Said R. Yohanan, “Hilpai took me and showed me a bolt in the house of Rabbi, which was tied [onto the door], even though it was not suspended [from the door].”
- [D] Said R. Yohanan, “[With reference to **M. Er. 10:1 R. Judah says, ‘One that could be laid apart was permitted in the Temple, and one that was dragged on the ground was permitted in the provinces.’**] *The view of an individual here [at M. Er. 10:11, that is, Judah] accords with the unattributed ruling there [at M. 17:7D], and the view of an individual there [at M. 17:7A-C] accords with the unattributed ruling here [at M. Er. 10:11].*”
- [E] *R. Yosé asked before R. Jeremiah, “How shall we decide the case?”*
- [F] *He said to him, “On the basis of what R. Yohanan has said, ‘Hilpai took me and showed me a bolt in the house of Rabbi, which was tied [onto the door], even though it was not suspended [from the door],’ that would indicate that it is in accord with the view of R. Judah that we decide the case [= one dragged on the ground is permitted].”*
- [G] R. Huna in the name of R. Samuel produced the ruling, “The law accords with R. Judah] in a case in which the bolt was attached to the door.”
- [H] R. Yannai [“Father-in-law of”] R. Ammi said, “... in a case in which the bolt was attached to the door.”
- [I] That is the case [with an arrangement in which the bolt is attached] with something that can hold it up [so the attachment of the bolt is a firm one].
- [J] The bolt of R. Eleazar was bound up with reed grass.
- [K] If the bolt fell out [and was not firmly attached to the door], it is forbidden [to utilize it].
- [L] If it fell out but not wholly [: its knot loosened] so –

[M] R. Jacob bar Aha in the name of rabbis: “One may stretch [the rope] with his fingertips [until the rope is properly in place and the bolt reattached].”

[II:1 A] All utensil covers, etc. [M. 17:7E]:

[B] Abba bar Kahana, R. Hiyya bar Ashi in the name of Rab: “The law accords with the position of R. Yosé.”

YERUSHALMI SHABBAT

CHAPTER EIGHTEEN

18:1

[A] [16c] They clear away even four or five baskets of straw or grain on account of guests,

[B] or on account of [avoiding] neglect of the house of study.

[C] But [they do] not [clear away] a storeroom.

[D] They clear away clean heave offering, doubtfully tithed produce, first tithe whose heave offering has been removed, second tithe and consecrated produce which have been redeemed;

[E] and dried lupine, for it is food for goats [some texts read: “poor people”];

[F] but [they do] not [clear away] produce from which tithes have not been removed, first tithe whose heave offering has not been removed, second tithe and consecrated produce which have not been redeemed;

[G] arum, or mustard.

[H] Rabban Simeon b. Gamaliel permits in the case of arum,

[I] because it is food for ravens [in the house].

[I:1 A] R. Zeira asked R. Josiah, “What is the measure of these baskets [at M. 18:1A]?”

[B] He said to him, “Let us derive the law for an unspecified item from that at which it is spelled out.

[C] “*For we have learned there: with three baskets, each holding three seahs in volume [M. Sheq. 3. 2A][, which are nine seahs per basket, that is, twenty-seven seahs in all,] they take up the heave offering of the coins collected in the sheqel chamber.*”

[D] *There we have learned: [He is liable for] transferring [on the Sabbath from one domain to another] enough wine to mix a cup [M. Shab. 8:1A].*

[E] R. Zeira asked R. Josiah, “What is the measure of volume in such a cup?”

[F] He said to him, “Let us derive the law for an unspecified item from that at which it is spelled out.

[G] *“For R. Hiyya taught: ‘The four cups of wine for Passover should be of the volume of a quarter log of wine according to the Italian measure [which is larger than the regular measure]’ [cf. T. Pes. 10:1C].”*

[I:2 A] [In the case of a storage room which one has not cleared out prior to the Sabbath,] what is the law as to clearing out the storage room [M. 18:1C] following this order?

[B] *Let us derive the answer from the following:* But [those who dispute] concur that one may not touch a storage room at all [if he needs food for the Sabbath; that is, he may not derive food from the storage room], but he may make some sort of a path in it and go in and come out [so one may not start with the storage room the process of clearing space].

[I:3 A] *There is a Tannaite authority who teaches: “They may handle produce in which heave offering has accidentally been mixed.”*

[B] *There is a Tannaite authority who teaches: “They may not handle [produce in which heave offering has accidentally been mixed].” [This produce had been properly prepared, contrary to the condition of the items at M. 18:1F, but it also is not available for eating, contrary to the condition of the items at M. 18:1D.]*

[C] Said R. Eleazar, *“He who holds that they may handle produce into which heave offering has been mixed [speaks] of heave offering that is clean [since that produce may be bought by a priest and eaten by him]. [If it were unclean heave offering, the entire mixture would have to be burned, and that may not be moved about.]*

[D] *“And he who holds that they may not handle it [speaks] of a mixture of unclean heave offering, [which can never be eaten by anybody].”*

[E] [And, further, one may handle a mixture of unclean heave offering and ordinary produce] when there is sufficient [clean, unconsecrated produce] to neutralize [the insignificant volume of unclean heave offering in the mixture].

[F] But in the case of a mixture in which there is insufficient [clean unconsecrated produce to neutralize the unclean heave offering], one may not [handle such a mixture].

[II:1 A] [With reference to M. 21:1C: **They handle unclean heave offering along with clean heave offering or with unconsecrated food,**] who stands behind the view that one may handle [such unclean heave offering]?

[B] *It is R. Eliezer, for we have learned: [A seah of unclean heave offering which fell into a hundred of clean unconsecrated produce and so is neutralized – R. Eliezer says, “Let it be lifted out and burned.] For I say, “The seah which fell into the unconsecrated produce is the same seah that is raised up”* [M. Ter. 5:2A-C]. [The mixture also may be carried on the Sabbath, since the unclean heave offering is not nullified and may be transported as at M. 21:1.]

[II:2 A] [With reference to M. Dem. 7:5: **If a man had fully untithed figs at home and he was in the house of study or in the field and unable to attend to them, he says, “Two figs out of one hundred which I shall separate, behold, these are made heave offering, and the following ten are made first tithe, and the following nine are made second tithe,”**] R. Eleazar said, “A man may stand on the eve of the Sabbath [Friday] and say, ‘Lo, this is made heave offering tomorrow,’ but a man may not stand on the Sabbath and say, ‘Lo, this is heave offering tomorrow.’ [The status of heave offering may take effect the next day in the former but not the latter instance. Since one may not separate the heave offering on the Sabbath, he also may not make such a statement on that day. This is relevant, in a general way only, to M. 18:1F.]”

[B] R. Yosé b. R. Bun says, “A man may not stand on the eve of the Sabbath [Friday] and say, ‘Lo, this is heave offering tomorrow.’”

[C] *The following passage of the Mishnah stands at variance with the view of R. Yosé b. R. Bun: **A flagon which is in the status of Tebul Yom [that which had been immersed on the selfsame day and would become fully clean only after sunset] which one had pulled from a jar containing first tithe which was yet untithed [in respect to heave offering of tithe] – if he said, “Lo, this will be heave offering of tithe once it gets dark [and the flagon is clean]” – lo, this is heave offering of tithe [once it gets dark]. If he said, “Lo, this is [food for an] erub, however, he has said nothing [of consequence], [because the erub is made of food which can be eaten while it is still day. Here the***

food is not permitted until sunset, since one cannot consume unclean heave offering [M. T. Y. 4:4A -D]. [Yosé b. R. Bun obviously cannot concur with the first of the two rules before us.]

[D] He may interpret the passage to speak of what may be done only *after* the fact [but not as a *truly* correct way of doing things. His position is that it should not be done. If it has been done, he may concede that it is valid.]

[E] *And has it not been taught: R. Hiyya says, "Can you say that this deals only after the fact? [Surely not!]"*

[F] *R. Yosé b. R. Bun retracted his position.*

[G] [*Reverting to the interpretation of the case of the Mishnah just now cited,*] *how does one make such a stipulation?*

[H] [He holds that the status applies as] from now, "once I shall actually separate the part designated as heave offering." ["The status of heave offering takes effect retroactively from this time, at the moment (later on) that I shall actually separate the produce to be heave offering."]

[I] But what if it is clean heave offering [which a priest may eat on the Sabbath]?

[J] [If so,] he should say, "[It is] already [in the status of heave offering] once I shall have eaten [the rest of the produce, covered by the designated portion of heave offering]."

[K] And what if it is unclean heave offering [which a priest may not eat]?

[L] [If so,] he should say, "[It is] already [in the status of heave offering, once I shall have left in the corner [the inedible produce]."

[M] *It has been taught:* They may handle both clean heave offering and unclean heave offering alike [on the Sabbath, even though the latter may not be eaten]. [If one has made a stipulation on Friday, on the Sabbath one may handle the heave offering.]

[N] [*Referring to M. Dem. 7:5,*] *said R. Zeira, "That is to say, the untithed but liable produce, which is in the mixture [may be moved about, by virtue of the fact that the next day it will be properly tithed]."*

[O] *It has been taught:* It is permitted to carry it about. How so? One sets his eyes on part of it [so indicating its status as

heave offering when his stipulation takes effect], and then he eats the remainder].

- [II:3 A] *It has been taught (in Tosefta's version): They handle mustard, because it is food for doves,*
- [B] **and cistus, because it is food for gazelles,**
- [C] **and fragments of dass, for it is food for ostriches.” [= T. attributes to Rabban Simeon b. Gamaliel.]**
- [D] **Said [T.: “to him”] R. Nathan, “If so, let them handle bundles of twigs, because it is food for elephants.”**
- [E] [T. adds:] **This is the governing principle: Whatever is set aside for its distinctive purpose do they handle, and whatever is not set aside for its distinctive purpose they do not handle [T. Shab. 14:8].**
- [III:1 A] **Rabban Simeon b. Gamaliel permits in the case of arum, because it is food for ravens [M. 18:1H-I].**
- [B] *How shall we interpret the matter?* If we deal with a case in which the householder has that particular species, and also that species is [commonly] found in the marketplace, then all parties must concur that it is permitted [to handle food for that species].
- [C] If we deal with a case in which the man does not own that particular species, and that particular species also is not [commonly] found in the marketplace, then all parties must concur that it is forbidden.
- [D] *So we must interpret the case to address the situation of a man who owns that particular species, while that particular species is not [commonly] found in the marketplace.*
- [E] Rabbis hold that, since that particular species is not [commonly] found in the marketplace, it is as if the man himself also does not own that particular species [and he too may not handle the produce that particular species eats].
- [F] But Rabban Simeon b. Gamaliel holds that since the man owns that particular species, it is as if that particular species is [commonly] found in the marketplace.”

18:2

- [A] **Bundles of straw, branches, or young shoots –**
- [B] **if one prepared them for food for cattle,**
- [C] **they handle them,**

[D] **And if not, they do not handle them.**

[E] **They invert a basket for chickens, so that they may go up [into the hen house] and down on it.**

[F] **A chicken which fled – they drive it along until it goes back [into the chicken yard].**

[G] **They pull calves or young asses along the public way.**

[H] **A mother drags along her child.**

[I] **Said R. Judah, “Under what circumstances? When [the child] lifts up one foot and puts the other down. But if he drags [his feet], it is forbidden [to drag it].”**

[I:1 A] *Said R. Zeira, “This passage [at M. 18:2A-D] accords only with the view of R. Hanina [who sees the straw as suitable for food, not for sitting, unless made ready], for he said, ‘We were going up with Rabbi to the Hot Springs at Gerar, and he would say to us, ‘Choose for yourselves pieces of stones, and [if you do] you are permitted to handle them tomorrow [on the Sabbath].’”*

[B] *Said R. Yosé, “This case is different, for [a bundle] serves as a kind of stool [for sitting], [and so would not require designation in advance].”*

[C] *R. Eleazar objected, “And lo, have we not learned, **Bundles of straw?** Now is straw not regarded as scattered about [and hence not suitable for sitting, unless adapted for that purpose]?”*

[I:2 A] *The Mishnah stands at variance with the position of him who has said, “Whatever sort of object has been designated for a purpose prohibited on the Sabbath by the householder himself is prohibited [and may not be carried about].”*

[B] *For we have learned: **A stone which is over the mouth of a jar one tilts the jar on its side and the stone falls off [M. 21:2A -B].***
[According to A, one should not be permitted to move the jar.]

[C] *R. Ba in the name of R. Hiyya bar Ashi interprets the passage to speak of one who has forgotten [the arrangement at dusk prior to the Sabbath, and cannot then do anything about it]. [Accordingly, he may tilt the jar. But under ordinary circumstances, had he arranged matters as they now are, he might not tilt the jar.]*

[D] *The Mishnah stands at variance with the position of him who has said, “Whatever sort of object has been designated [by the householder himself] for a purpose prohibited on the Sabbath is prohibited [and may not be carried about].”*

- [E] *For we have learned: They invert a basket for chickens, so that they may go up and down on it* [M. 18:2E].
- [F] *In this regard it has been taught:* If the chickens ran up the basket on their own [without the householder’s intervention], it is forbidden to move it. [Here the householder has done nothing to prohibit his rights to the basket, yet it is prohibited.]
- [G] [That in fact is not the operative consideration. Rather,] *said R. Bun bar Hiyya before R. Zeira*, “Interpret the passage to speak of a case in which [the basket] is repulsive, [and that is why, on the Sabbath, the householder may not handle it or move it about]. [The operative consideration then is not as has been alleged.]”
- [H] *He said to him, “And has not R. Hoshaiah taught:* ‘Even if it was [a basket large enough for] a *seah*’s volume or a *tarqab*’s volume [it may not be moved about]’? Now can you say that baskets of such size are repulsive [and so prohibited]?”

18:3

- [A] **They do not deliver cattle on the festival, but they help out.**
- [B] **And they do deliver a woman on the Sabbath.**
- [C] **And they call a midwife for her from a distant place,**
- [D] **and they violate the Sabbath on her [the woman in childbirth’s] account.**
- [E] **And they tie the umbilical cord.**
- [F] **R. Yosé says, “Also: They cut it.”**
- [G] **And all things required for circumcision do they perform on the Sabbath .**
- [I:1 A] **How do they help out [T.: in the delivery of a cow on a festival]?**
- [B] **They bring wine and blow into its nose and [T.:] put a teat into its mouth and hold up the offspring so that it not fall down. [Y.: and puts his hand below and receives it (the off spring) and draws its teat and places it in its mouth.]**
- [C] **Rabban Simeon b. Gamaliel says, “We would make a [T.: clean] beast take an interest in the offspring on the festival” [T. Shab. 15:2].**
- [D] **What does one do? He puts a clump of salt on its womb, and it will want to give suck to the offspring.**
- [II:1 A] **And they call a midwife for her from a distant place [M. 18:3C]:**

[B] *That accords with the following, which we have learned there: **And not only this, but a midwife who comes to help a delivery [also is treated as an inhabitant of a town and enjoys access to the two thousand cubits in any direction permitted to other inhabitants] [M. R.H. 2:5].***

[III:1 A] **And they violate the Sabbath on her account [M. 18:3D]:**

[B] Samuel said, "They make a fire for her, even in summer."

[IV:1 A] **And they tie the umbilical cord [M. 18:3E]:**

[B] *This accords with the following: A servant girl of Bar Qappara went and brought forth a child on the Sabbath. A woman came and asked Rabbi [whether they might tie and cut the umbilical cord]. He said to her, "Go and ask the midwife." She said to him, "There is no midwife [here]." He said to her, "Go and follow your usual practice." She said to him, "There is no established practice." He said to her, "Go and cut the umbilical cord, in line with the view of R. Yosé [at M. 18:3F]."*

[V:1 A] [With reference to the meaning of M. 18:3G,] the Mishnah means to say that all that is necessary for a woman in childbirth do they carry out on the Sabbath [and the reference to circumcision is not meant to be limiting, but rather, illustrative].

[V:2 A] *It has been taught: **As to the disposition of the afterbirth on the Sabbath: rich people cover it with oil, and poor people cover it with straw and dirt.***

[B] **Both sorts of people then bury it in the ground [cf. T. Shab. 15:3],** so as to hand over a pledge to the earth [that ultimately, but not now, the babe also will return to the earth].

YERUSHALMI SHABBAT

CHAPTER NINETEEN

19:1

[A] **R. Eliezer says, “If one did not bring a utensil [used for circumcision] on the eve of the Sabbath, he brings it openly on the Sabbath.”**

[B] **And in the time of the danger, one covers it up in the presence of witnesses.**

[C] **And further did R. Eliezer state, “They cut wood to make coals to prepare an iron utensil [for circumcision].”**

[D] **A governing principle did R. Aqiba state, “Any sort of labor [in connection with circumcision] which it is possible to do on the eve of the Sabbath does not override [the restrictions of] the Sabbath, and circumcision which it is not possible to do on the eve of the Sabbath does override [the prohibitions of] the Sabbath.”**

- [I:1 A] *Said R. Yohanan, “We originally supposed that in all matters [involving the doing of a religious commandment], R. Eliezer takes a position different [from that of sages and holds that in every instance making ready things that facilitate, but are not directly involved in, the doing of a religious duty is permissible on the Sabbath].*
- [B] “But since R. Eliezer found it necessary to provide an exegesis to that effect in the repeated usage of the word, ‘firstfruits,’ [it follows that not in all instances, but only in some, does the making ready of things only indirectly needed for carrying out a religious action override the restrictions of the Sabbath.]
- [C] “[This exegesis of the laws of firstfruits is as follows:] Just as the reference to firstfruits in the case of the cereal offering, [‘If you offer a cereal offering of firstfruits to the Lord, you shall offer for the cereal offering of your firstfruits crushed new grain from fresh ears, parched with fire’ (Lev. 2:14),] means that the rite overrides the restrictions of the Sabbath, so the reference to firstfruits in regard to the two loaves of showbread also means that preparation of the bread overrides the restrictions of the Sabbath.

- [D] “*That is to say that* it is not with regard to all matters [involving the doing of a religious commandment] that R. Eliezer takes a position different [from that of sages, but only in some such instances].”
- [E] Said R. Samuel bar R. Isaac, “With regard to all matters [involving the doing of a religious commandment] R. Eliezer takes a position [different from that of sages].”
- [F] “And why is it necessary for R. Eliezer to provide an exegesis of the repeated references to ‘firstfruits’? It is to indicate that while the principle of making these offerings is a matter of Sabbath rest [so making such offerings always overrides the Sabbath], [but as to] making ready things that assist[, but are not integral to,] the doing of the religious duty, [that too overrides the restrictions of the Sabbath, even though these constitute acts of] forbidden labor [under ordinary circumstances]. [It is in this latter regard that the exegesis of Scripture must be provided; the former proposition does not need it.]”
- [G] *They objected*, “*And lo, it has been taught: The lulab and its appurtenances override the restrictions of the Sabbath.*” [No biblical verse proves this item. Eliezer must then hold his principle in all cases.]
- [H] Said R. Jonah, “This has to do with bringing [the palm branches] from the top of the palm tree.”
- [I] *And has it not been taught*: “Preparing the ram’s horn and its appurtenances overrides the Sabbath”?
- [J] This encompasses bringing the ram’s horn from outside of the Sabbath limit.
- [K] [Reverting to G-H:] *And so it has been taught*: They do not smooth, plane, or tie [the *lulab* on the Sabbath].
- [L] *It has been taught in the name of R. Eliezer*: “A *lulab* and its appurtenances override the restrictions of the Sabbath.”
- [M] *Said R. Jonah*, “*This is distinct from our passage of the Mishnah [and deals with matters of Sabbath rest, not prohibited acts of labor].*”
- [I:2 A]** *It has been taught*: There was a case, and Rabbi decided it in accord with the view of R. Eliezer.
- [B] Said R. Yohanan, “The association [of sages] raised this question: Why did Rabbi leave the view of sages and act in accord with R. Eliezer?”

[C] Said R. Hoshaiiah, “We asked Rabbi Judah the circumciser about the conditions of this case of circumcision, and he told us, ‘It took place in an alleyway that was not open on both sides.’ [Here he permitted carrying.]”

[D] *It is in accord with what we have learned:* “It is forbidden to carry objects from such an alleyway into the surrounding houses, or from the surrounding houses into the alleyway” [cf. M. Er. 6:8]. [In this case the people had failed to prepare the meal of commingling, so Rabbi had to permit bringing the necessary instruments for the rite of circumcision.]

[E] Said R. Abbahu, “I interpret the case to involve an infant and a knife located in the alleyway when the Sabbath began.”

[F] But is it not forbidden to carry the objects throughout the alleyway?

[G] *[And along these same lines] they asked before R. Yosé, “Is it the case that, just as it is said, ‘In the case of utensils that were located anywhere in a courtyard, it is permitted to carry them throughout the courtyard,’ so it is the law that, ‘in the case of utensils located in an alleyway at the time that the Sabbath came, they may be carried about anywhere in the alleyway throughout the Sabbath on the Sabbath’?”* [Even in the absence of a meal of commingling, one may carry utensils throughout the courtyard, if they were located there when the Sabbath began. Does this same rule pertain to an alleyway?]

[H] *They asked him, but he did not respond to them. For R. Yosé would state a matter only in its correct context. Now when they reached the study of the laws of meals of commingling, he said to them in the name of R. Yohanan, “Utensils which were located in the alleyway when the Sabbath began may be carried throughout the alleyway [on the Sabbath]. And along these same lines, utensils which were located in a courtyard when the Sabbath began may be carried throughout the courtyard [on the Sabbath].”*

[I] Rab [by contrast] said, “They may carry them [in the case of an alleyway] only within four cubits [of their original location on the Sabbath].”

[J] *Said R. Yosé b. R. Bun, “Rab is consistent with views expressed elsewhere, and R. Yohanan is consistent with views expressed elsewhere.”*

[K] R. Yohanan, who maintains that the presence of a cross-beam [signifying a doorway to an alleyway] suffices without the preparation of a meal of commingling [ownership to the

alleyway], also maintains that they may carry utensils throughout the alleyway.

[L] Rab, who maintains that the presence of a cross-beam without the preparation of a meal of commingling does not serve to unify the alleyway into a common domain, also holds the position that they may carry such objects about only within the space of four cubits of their original location.

[M] *In the view of R. Yohanan, for what purpose do they prepare a meal establishing joint ownership throughout the alleyway [if the mere presence of a symbolic gateway suffices]?*

[N] Said R. Yosé, “It does serve to make all of the private domains into a single domain [so allowing the carrying of objects from the houses into the alleyway].”

- [I:3 A] R. Simon in the name of R. Joshua b. Levi: “As to a knife for use for a circumcision [which one has not brought on the eve of the Sabbath], one makes a line [of people, from the place in which the knife is located to the place in which the child is located, and they] hand it [from one to the next, until it reaches the child].”
- [B] *Bar Marinah had a case, and he asked R. Simon, who permitted doing it that way. He asked R. Immi, who prohibited it that way, and R. Simon was angered.*
- [C] *But has it not been taught: If one has asked a sage, who permitted a deed, he should ask another sage, for he might prohibit it?*
- [D] *Said R. Yudan, “This is how the case was: He asked R. Immi, who forbade him [to do it that way], and then he asked R. Simon, who permitted it. Then R. Immi got angry.”*
- [E] *It is in line with that which has been taught: If one has asked a sage, and he prohibited [doing a deed], he may not then ask another sage, hoping that he will permit the same matter.*
- [F] *In the time of R. Jeremiah they forgot the key of the great synagogue, and they came and asked him. He said to them, “When you see a crowd of people going by, bring the key through a line [in which each transports the key the permitted four cubits, until it reaches the door of the synagogue; alternatively, through a circle, by which the area is temporarily set off].”*

[G] *The full extent of the degree to which R. Jeremiah is prepared to carry this same principle is seen in that case.*

[H] Every line [or circle= partition] which is made, whether knowingly or unknowingly, lo, this is a valid line [or circle – for the transmission of an object].

[I] R. Judah bar Pazzi gave a decision permitting people to bring [objects] through closed [courtyards], [to bring them in their sandals.]

[J] R. Hinena bar Papa gave a decision to make a line [alternatively, “circle”] and to bring [what was needed] even through locked courtyards [preferably: “in their sandals”].

[K] *R. Samuel bar Abedomi had a case in which it was necessary to circumcise [possibly: the son] of R. Shesheah, his son, but people forgot to bring the knife. He asked R. Mana, who said to him, “Let the matter be postponed until tomorrow.”*

[L] *He asked R. Isaac bar Eleazar, who said to him, “As to crushing the spices, that you did not forget! But as to bringing the knife, that you forgot! So let the matter be postponed until the next day!”*

[M] [17a] *R. Yosé b. R. Bun in the name of R. Hunah: “The Mishnah has indicated that it is forbidden to make a line [or circle to transport an object from hand to hand].*

[N] *“For we have learned: R. Eliezer says, ‘If one did not bring a utensil used for circumcision on the eve of the Sabbath, he brings it openly on the Sabbath’ [M. 19:1 A].* Now if you maintain that it is permitted to make [a line or circle], someone then will not find [enough people] to make such a line [circle], and will he not then bring the knife? [That is, Aqiba does not exercise the option of making a partition, and, it must follow, it is forbidden to do so.]”

[I:4 A] They asked Hillel the Elder [in connection with M. Pes. 6:1], “What should the people do who have not brought their knives with them [to slaughter the Passover lamb]?”

[B] He said to them, “I have heard but then forgotten [the (relevant) law]. But let the people of Israel be. If they are not prophets, they are disciples of prophets.”

- [C] Forthwith whoever had for his Passover offering a lamb stuck the knife into the wool, and if it was a sheep, he tied the knife to the horns of the sheep, so it turned out that the [animals designated as] Passover offerings brought along the knives for the owners.
- [D] When [Hillel] saw what they had done, he remembered the law. He said to them, “This is what I heard from the instruction of Shemayah and Abtalion.”
- [E] R. Zeira in the name of R. Eleazar: “Any teaching of Torah which is not attached to the authority of a named source is not a valid teaching of Torah.”

[I:5 A] *There we have learned: “If one rode upon [a red cow], leaned upon it, suspended something on its tail, crossed the river on it, doubled up its leading rope, placed his cloak upon it, it is unfit [M. Par. 2:3E].* [All of these constitute using the cow for an act of labor.]

[B] *The foregoing rule may be derived from the present one and, the present one from the foregoing one.*

[C] *The foregoing rule may be derived from the present rule:* If one suspended a knife upon it [the beast] to slaughter the beast, it is valid[ly carried]. [The red cow is not invalidated in this way, not an act of labor done by a Holy Thing.]

[D] *And the latter ruling may be derived from the present one:* Any act of labor which is for the sake of preparing Holy Things is not an invalidating act of labor. [If one put on the red cow a shoe so that it should not slip, it is not invalidated as having borne the burden of the shoe.]

[I:6 A] Now why should not [Hillel] have permitted them to transport the knife through a line [of people, handing it from one to the next, or through the temporary partition of a circle]?

[B] He accords with the position of R. Immi.

[C] But even if you maintain that he accords with the principle espoused by R. Simon [that such a mode of transporting the knife is permitted], one may say that, just as this rule was forgotten, so the other rule also was forgotten [so Hillel did not permit them to use the line or circle or people because he did not remember that that is a permissible procedure].

[D] Said R. Abin, “And is it not the case that it is not possible for the seven years of a septennate to go by without having the fourteenth of Nisan coincide with the Sabbath? Accordingly, how could they have forgotten a law [so recently practiced]?”

[E] It was so as to magnify the greatness of Hillel.

[I:7 A] *It has been taught [following T.’s version]:* **R. Eliezer says, “Just as slaughtering [the Passover sacrifice] overrides [the prohibitions of] the Sabbath, so things done to make possible the slaughtering of the animal should likewise override [the prohibitions of] the Sabbath.”**

[B] **A governing principle did R. Aqiba state, [T.:] “Any form of labor which it is possible to carry out on the eve of the Sabbath does not override the Sabbath [M. Pes. 6:2L]. And that which it is not possible to carry out on the eve of the Sabbath overrides [the prohibitions of] the Sabbath.” [Y.: “No. If you say (thus) regarding slaughtering which is not possible to carry out on the eve of Sabbath, will you say (thus) regarding things done to make possible the slaughtering which can be carried out from the eve of the Sabbath?”]**

[C] **Said to him R. Eliezer, “The sacrificial parts of the public offering will prove [to the contrary]. For they are suitable [to be offered] at the end of the Sabbath, but they nonetheless override [the prohibitions of the Sabbath and are offered up] at their proper time.**

[D] **“Now what difference does it make to me whether we speak of things done to make possible the slaughtering of the animal carried out after [Y.: “before”] the actual act of slaughter and the things done to make possible the slaughtering of the animal carried out before [Y.: “after”] the actual act of slaughter?”**

[E] **Said to him R. Aqiba, “Now in the case of things done to make possible the slaughtering of the animal carried out after the slaughter of the animal, the actual act of slaughter has indeed overridden [the prohibitions of the Sabbath]. But will the things done to make possible the slaughtering of the animal which are carried out before the actual act of slaughter override [the prohibitions of] the Sabbath? For as yet the act of slaughter will not actually have overridden [the prohibitions of] the Sabbath.**

[F] **“Furthermore, perhaps some point of invalidation will befall [the rite; Y.: “the offering”], in which case one turns out to have**

profaned the Sabbath [Y.: “to have overridden the Sabbath”] and not actually carried out the Passover-sacrificial rite at all” [T. Pes. 5:1].

[G] *Now with regard to an infant, what consideration [parallel to F] is there?*

[H] Perhaps the infant will fall ill, and it will turn out that one overrides the prohibitions of the Sabbath without a consequent rite of circumcision.

[I] *They objected [to Aqiba’s argument], “Lo, there is the case of an altar which fell down on the Sabbath. [Whatever has been offered on the altar is invalid. How then can the public offering be made on the Sabbath, thus overriding its restrictions, for there is always the possibility that the altar will collapse on the Sabbath. Yet it is not proper to rebuild the altar on the Sabbath.*

[J] Surely the altar is something that can be built on the preceding day. [If then it falls down on the Sabbath, it may not be rebuilt.]

[K] What if it produced a wart [on the Sabbath]. Lo, it is not appropriate to cut [it out] on the Sabbath?

[L] A [normal] wart is something that one can appropriately cut [out] on the previous day.

[M] That if the seventh day after one has been made unclean, on which occasion one must be sprinkled with purification water, should coincide with the fourteenth of Nisan and the Sabbath? Now in this case, one is not going to be sprinkled on the Sabbath. [Why should Aqiba maintain that the sprinkling does not override the prohibitions of the Sabbath under any circumstances? The person could not do it the preceding day.]

[N] [No, that is not an argument,] for there are sorts of sprinklings which may be done on the preceding day [even if this is not one of them, and so, in general, sprinkling purification water will not override the prohibitions of the Sabbath].

19:2

[A] They do prepare all that is needed for circumcision on the Sabbath:

[B] they cut [the mark of circumcision], tear, suck [out the wound].

- [C] **And they put on it a poultice and cumin.**
- [D] **If one did not pound it on the eve of the Sabbath, he chews it in his teeth and puts it on.**
- [E] **If one did not mix wine and oil on the eve of the Sabbath, let this be put on by itself and that by itself.**
- [F] **And they do not make a bandage in the first instance.**
- [G] **But they wrap a rag around [the wound of the circumcision].**
- [H] **If one did not prepare [the necessary rag] on the eve of the Sabbath, he wraps [the rag] around his finger and brings it, and even from a different courtyard.**
- [I:1 A] “Circumcising, he shall be circumcised” (Gen. 17:13) – The repetition of the same word represents a decree that there should be two aspects to the act of circumcision, one which serves for the circumcision, the other which serves for trimming the crown, one for circumcision and one for trimming the shreds of flesh.
- [B] Up to this point the matter has been interpreted in accord with the principle of R. Aqiba, who has said that when a word is repeated, it is for the purpose of encompassing yet a second matter.
- [C] But in accord with R. Ishmael, who has said that where words are repeated, it is merely because the Torah is speaking in its usual way [and not to supply the occasion for an exegesis to encompass an otherwise omitted consideration],
- [D] [as, for example,] “And now you have gone away because you longed greatly [for your father’s house, but why did you steal my gods?]” (Gen. 31:30), “For I was indeed stolen [out of the land of the Hebrews; and here also I have done nothing that they should put me into the dungeon]” (Gen. 40:15) –
- [E] how does he know [that these same parts of the rite of circumcision must be properly done]?
- [F] Said R. Judah bar Pazzi, “[So he let him alone.] Then it was that she said, ‘Surely you are a bridegroom of blood,’ because of the circumcisions’ (Ex. 4:26). On this basis [the use of the plural], we know that there are two acts of circumcision, one for circumcision, the other which serves for trimming the crown, one for circumcision and one for trimming the shreds of flesh.”
- [I:2 A] Rab said, “‘Circumcising, he shall be circumcised’ (Gen. 17:23) – on the basis of this verse, we know that one who is born circumcised has

to be circumcised again by the drawing of a single drop of blood to mark the covenant.

[B] “‘Circumcising, he shall be circumcised’ – on the basis of this verse, we know that an uncircumcised Israelite may not perform the rite of circumcision unless he will first circumcise himself, and, it is hardly necessary to say, the same applies to an uncircumcised gentile.”

[C] R. Levi said, “It is written, ‘[And God said to Abraham,] As for you, you shall keep my covenant, [you and your descendants after you throughout their generations]’” (Gen. 17:9). The meaning is to encompass you and all who are like you.”

[D] *It has been taught:* “An Israelite may circumcise a Samaritan, but a Samaritan may not circumcise an Israelite, because the Samaritan is circumcised for the sake of the Mountain of Gerizim,” the words of R. Judah.

[E] Said to him R. Yosé, “And where [in the entire Torah] do we find that [the one who performs the rite of] circumcision has to do so with the right attitude? But let [the Samaritan] continue to perform the rite of circumcision for the sake of Mount Gerizim until he drops dead.”

[F] “The one whose mark of circumcision has been covered over should not [again] be circumcised, so as not to come into danger,” the words of R. Judah.

[G] Said to him R. Yosé, “Now there were many whose mark of circumcision was covered over in the time of Ben Kozeba, and all of them afterward were circumcised, and they lived and fathered sons and daughters.”

[I:3 A] He whose mark of circumcision was covered over, one who was born circumcised, and one who had been circumcised prior to conversion – in all instances, it is necessary to produce a drop of blood from him as a mark of the covenant.

[B] *It has been taught:* R. Simeon b. Eleazar said, “The House of Shammai and the House of Hillel did not dispute concerning the case of one who was born circumcised, that one [indeed] must draw a drop of blood as a mark of circumcision, because in this case, the foreskin has been pressed back.

[C] “Concerning what did they dispute? Concerning a proselyte who converted while already circumcised, for the House of Shammai say, ‘It is necessary to draw from him a drop of blood to mark the

covenant,' and the House of Hillel say, 'It is not necessary to draw from him a drop of blood to mark the covenant.'”

[D] R. Isaac bar Nahman in the name of R. Hoshaiah: “The law accords with the opinion of the disciple [that is, R. Simeon b. Eleazar].”

[E] *A case came before Rab, and he ruled, “On the basis of that which is taught, ‘... because it is a foreskin that has been pressed back,’ that is to say, that it most certainly is a foreskin, and on that account they set aside the restrictions of the Sabbath [and perform the rite of circumcision on that day].”*

[F] R. Abbahu said, “They do not override the restrictions of the Sabbath on that account, and one has to draw a drop of blood in observance of the covenant from him.”

[G] *R. Adda bar Ahva had a son who was born in this way [that is,] with his penis mashed, and he died.*

[H] Said R. Abin, “[That is not what happened. Rather,] in the rite of circumcision he had his testicles crushed, and [his father] prayed concerning him that he die [since he could then not enter into the community].”

[I] The rabbis of Caesarea say, “In the rite of circumcision he had his penis clipped off, and his father prayed for him that he might die.”

[II:1 A] [With reference to M. 19:2E, **If one did not mix wine and oil on the eve of the Sabbath, let this be put on by itself and that by itself,**] *R. Yohanan bar Mareh asked, “If they were mixed together at the bottom [on the eve of the Sabbath, but they were not mixed together at the top], what is the law as to going and stirring them up at the top?” [This question is not answered.]*

19:3

[A] **They wash off the infant,**

[B] **both before the circumcision and after the circumcision,**

[C] **and they sprinkle him,**

[D] **by hand but not with a utensil.**

[E] **R. Eleazar b. Azariah says, “They wash the infant on the third day after circumcision [even if it] coincides with the Sabbath,**

- [F] “since it says, ‘And it came to pass on the third day when they were sore’ (Gen. 34:25).”
- [G] [If the sexual traits of the infant are a matter of] doubt, or [if the infant] bears the sexual traits of both sexes, they do not violate the Sabbath on his account.
- [H] And R. Judah permits in the case of an infant bearing the traits of both sexes.
- [I:1 A] *We have learned: They bathe a child [on the third day after circumcision, even if this coincides with the Sabbath] [M. 9:3C = M. 19:3E].*
- [B] *A Tannaite authority [added to L:”of the house of Rab”] [formulates the law]: “They wash the mark of circumcision.”*
- [C] R. Abbahu in the name of R. Yohanan: “The law follows the view of him who says, ‘They wash the [whole] child.’”
- [D] R. Abbahu in the name of R. Yohanan: “The law follows the view of him who says, ‘They wash the child.’”
- [E] Said R. Yosé, “Of necessity you must rule, ‘They wash the child’ [not merely the mark of circumcision].”
- [F] *Samuel taught, “Under no circumstances do they withhold oil or hot water from the wound on the Sabbath.”*
- [G] Said R. Yosé, “Every hour did R. Zeira, my teacher, say to me, ‘Repeat your tradition, including these words: ‘And not only so, but they also splash water on the wound on the Sabbath.’ Now if you maintain that the proper reading is, ‘They wash the mark of circumcision only,’ then what is the difference between a wound affecting an adult and one affecting a minor? [Surely, therefore, the reading must be, ‘They wash the entire body of the infant on the Sabbath.’]”
- [H] R. Abbahu in the name of R. Eleazar: “The law accords with the view of R. Eleazar b. Azariah [at M. 19:3E].”
- [I] *R. Bun in the name of R. Abbahu, “The scriptural basis for the view of R. Eleazar b. Azariah is here: ‘On the third day, when they were sore, [two of the sons of Jacob, Simeon and Levi, Dinah’s brothers, took their swords and came upon the city unawares and killed all the males]’ (Gen. 34:25). ‘When it was sore’ is not written here, but rather, ‘When they were sore.’ Thus Scripture speaks of a time at which all of their limbs were sore for them [hence the whole body].”*

[J] *R. Jacob bar Aha said R. Eleazar and R. Yohanan instructed midwives, “Any sort of potions which you administer on an ordinary day you may administer on the Sabbath.”*

[K] It was necessary to give this instruction [not for the day of the circumcision, but rather] for the third day when it coincided with the Sabbath [M. 9:3C].

[L] Samuel said, “On account of the danger to life, they may heat water for him.”

[M] R. Yosé b. R. Bun in the name of Rabbis there [in Babylonia]: “They may heat water for him on the Sabbath.”

[N] *And so too has it been taught:* One may heat a sheet and put it on a wound on the Sabbath.

[O] A person should not take a trough full of hot water and put it on his belly on the Sabbath.

[P] *R. Joshua b. Levi said, “The sole valid reading here is: ‘It is permitted to do so.’”*

[II:1 A] **As to infants that may or may not fall into the category of the androgyne [17b] [bearing sexual traits of both sexes], they do not violate the Sabbath on his account. And R. Judah permits in the case of an infant bearing the traits of both sexes [M. 19:3G-H]:**

[B] *There we have learned: All are liable for an appearance offering [Ex. 23:14, Deut. 16:16], except for a deaf-mute, idiot, minor, one without pronounced sexual character is tics, one who exhibits the sexual traits of both sexes [M. Hag. I:1A-C].*

[C] [Now, since Judah treats the person with sexual traits of both sexes as subject to the requirement of circumcision, hence as a male, we ask:] How does R. Judah deal with this issue?

[D] *Let us derive the answer from the following: R. Yohanan b. Dahabai said in the name of R. Judah: “Also the blind person” [T. Hag. 1:1 F].*

[E] *Now a person does not say, “Also,” unless he concurs with that which has gone before. [Hence he would concur that, in the matter of the appearance offering, the person who exhibits the sexual traits of both sexes is treated as a non-male.]*

[F] *It follows that the opinions assigned to R. Judah are at variance with one another.* There he has treated [the Scripture's reference to males] to exclude [the person with the sexual traits of both sexes], while here he has interpreted [the matter] as inclusive [of the same category].

[G] R. Judah and rabbis interpret the same verse. R. Judah expounds "male" (Gen. 17:14).

[H] And Rabbis interpret the verse (as follows): "Any circumcised [male who is not circumcised in the flesh of his foreskin shall be cut off from his people; he has broken my covenant]" (Gen. 17:14). Why does Scripture find it necessary to say "male," [which surely is extraneous]? It is to indicate that the whole of the person to be circumcised must be male.

[I] R. Judah interprets the word, "Male," [in a different way]. Why does Scripture say, "Uncircumcised"? It is to include someone who is only partially uncircumcised [within the law].

[J] *But here* he understands the following verse in a different way: "[Three times in the year shall] all your males [appear before the Lord your God]" (Ex. 23:17). This excludes the person with the sexual traits of both male and female.

19:4

[A] He who had two infants, one to circumcise on the eve of the Sabbath and one to circumcise on the Sabbath,

[B] and who forgot [which was which] and circumcised the one to be circumcised on the eve of the Sabbath on the Sabbath,

[C] is liable.

[D] [If he had] one to circumcise after the Sabbath and one to circumcise on the Sabbath,

[E] and he forgot and on the Sabbath circumcised the one to be circumcised after the Sabbath,

[F] R. Eliezer declares him liable to a sin offering.

[G] And R. Joshua exempts him.

[I:1 A] "[The formulation of M. 19:4D-G,]" said R. Yohanan, "Accords with the view of what is at issue as presented by R. Meir.

[B] "For he has said, 'A matter, the doing of which involves the accomplishment of a religious duty, [in the view of all parties] will be exempt [from punishment], and a matter the doing of which does not involve the accomplishment of a religious duty [L: so being liable for

punishment], will be subject to dispute [between Eliezer and Joshua]. [Eliezer holds at M. 19:4E-F that circumcising on the Sabbath the one to be done after the Sabbath is culpable, since the religious requirement of doing the deed on the eighth day, when it coincides with the Sabbath, is not in play. In contrast, however, when a person in error circumcised on the Sabbath an infant whose eighth day was on Friday, all authorities presumably would hold that that person is exempt. This would support a reading in M. 19:4C of “exempt.”]

- [C] “[Differing from Meir,] R. Simeon says, ‘As to both a matter the doing of which involves the accomplishment of a religious duty, so producing liability, and as to a matter the doing of which does not involve the accomplishment of a religious duty, so being exempt from punishment, there is a dispute.’”
- [D] [Referring to M. Pes. 6:5, which is as follows: **The (animal designated as) a Passover offering which one slaughtered under an improper designation on the Sabbath (which coincides with the fourteenth of Nisan) – one is liable on that account for a sin offering. And as to (animals designated for) any other animal offerings, which one slaughtered for the sake of a Passover sacrifice – if they are not appropriate (to be offered as a Passover sacrifice), one is liable. But if they are appropriate (e.g., male lambs, to be offered as a Passover sacrifice) – R. Eliezer declares him liable for a sin offering. And R. Joshua declares him exempt. Said R. Eliezer, “Now if a Passover offering, which is permitted when offered under the correct designation, when one offered it under some other (than the correct) designation, he is liable, animal offerings which are prohibited when offered under their proper designation, when he offered them under some other designation, is it not logical that he should be liable (to a sin offering)?” Said to him R. Joshua, “No. If you have stated the rule in the case of a Passover sacrifice, in which case he has offered it under another, prohibited designation, will you say the same in the case of animal sacrifices, in which case he has offered them under another, but permitted, designation?” Said to him R. Eliezer, “The public offerings will prove the matter. For they are permitted when offered under the proper designation. But he who slaughters (other offerings) under their designation (on the Sabbath) is liable.” Said to him R. Joshua, “No. If you have stated the rule in the case of the sacrificial parts of public offerings, which are subject to a limited number, will you say the same of a Passover offering, which is not subject to a limited number?” R. Meir says, “Also: He who slaughters (other animal offerings) under the**

designation of sacrificial parts of a public offering is exempt (from liability)." The slaughtering of an animal set aside for the Passover sacrifice in the name of a Passover sacrifice may be done on the Sabbath. But for any other purpose the animal may not be slaughtered on that day. If a person slaughters an animal *set* aside for the Passover offering under some other, improper designation, e.g., as peace offerings, therefore, he is liable for a sin offering for having violated the Sabbath. If animals set aside for other purposes are slaughtered as Passover sacrifices on the Sabbath, if these animals are not eligible in any case to serve as a Passover sacrifice, for instance, being females or too old, the person obviously is liable. But what if the animals are eligible to serve as Passover sacrifices? Then what has the person done? To be sure, he has set aside an animal for some purpose other than the Passover sacrifice. But it can serve as a Passover sacrifice. On the Sabbath he has offered it up as a Passover sacrifice – just as he should. So the main issue is whether the original designation is indelible or has been effectively revised by what the person actually has done. Eliezer holds the man liable; Joshua declares him exempt. The debate which follows rests upon formal, rather than substantive, considerations. Eliezer points out that, if the man had taken an animal designated as a Passover offering and offered it up as peace offerings, he would have been liable, just as all parties agree at M. Pes. 6:5A-B. Now, he points out, animals designated for other offerings may not be offered under their proper designation. If he offers them under an improper designation (that is, as a Passover offering), they surely should be liable. So what Eliezer concludes is that, just as the correctness of the designation is of no account, so it is of no account now. Joshua's reply points out the obvious fact that, when the designation of the animal set apart for the Passover sacrifice is changed, it is changed for a purpose which is not acceptable for the Sabbath. But when the man takes animals set apart for other purposes and designates them, on the Sabbath, for use for the Passover sacrifice, he in fact has designated them for a purpose which is permitted on the Sabbath. Eliezer now says pretty much the same thing a second time. He refers to public offerings. They are permitted when offered under the proper designation, that is, as the daily burnt offering and as the additional offerings for the Sabbath or for the festival. These override the prohibitions of the Sabbath. But if someone takes an animal designated for some other purpose and sacrifices it as a public offering, he is liable. Joshua implicitly concedes this fact. But he points out that there is a reason for it. There are only a few animals to be used for public sacrifices. Therefore if one takes an animal not meant for that purpose, he should be able to avoid the error of offering it up for a

communal sacrifice. But many animals deriving from many Israelites are offered for Passover sacrifices. It is an error which is difficult to avoid. [This second phase of the argument is not very impressive. Meir at the end improves the matter by denying the facticity of the fact presented by Eliezer; he leaves Joshua in a stronger position than before.] R. Yosé in the name of R. Yohanan: “As to the view of R. Meir, it applies to a case in which we deal with an unblemished sheep, a year old, presented under the rules governing peace offerings, and suitable for exchange for the purpose of a Passover offering. [Under these conditions, there is a possibility for error, on account of which one will be exempt, in Joshua’s opinion.]”

- [E] [Referring to M. Pes. 6:5J:] You may derive from that statement three rules: [first, the consideration that] the type of offering under discussion [in which case, from Joshua’s view, one will be exempt] is one which is not subject to a numerical limit [so there will be many such animals available for sacrifice, as in the case of the Passover]; [second, we deal] with something which is [delete: “not”] commonly exchanged [for some other purpose, so that there is ample reason for the officiating priest to make such an effort as to the origin and original designation of the beast]; [third, it must involve] a matter the doing of which accomplishes a religious obligation. [Under these conditions, Joshua, as read by Meir, rules as he does.]
- [F] How can you amplify this matter of our dealing with something not subject to a numerical limit?
- [G] *R. Jeremiah reasoned*, “The Torah has not applied a numerical limit to the number of Passover offerings that will override the restrictions of the Sabbath in any given year.”
- [H] *R. Yosé reasoned*, “You cannot find out how many they really are [they are so numerous]. [It is easy enough in such a case to slaughter an animal as a Passover offering, since there are so many available for that purpose.]”
- [I] *When R. Yosé would reach the matter of the infants subject to doubt [under discussion at M. 19:4], he would remark*, “Well did R. Jeremiah say: ‘Can you say that at issue is that you cannot find out how many they really are?’ [Surely not. Rather, the consideration is] that the Torah has not applied a numerical limit to the number of Passover offerings that will override the restrictions of the Sabbath in any given year.”
- [J] [Reverting to the discussion of Simeon’s view, having worked out Meir’s,] R. Hisda said, “As to the view of R. Simeon [who

interprets the dispute at the present passage of the Mishnah in line with M. 19:4A-C, when we come to the parallel dispute at M. Pes. 6:5, we deal with a case] in which there was a single association formed for the purpose of sacrificing a lamb for the Passover offering, which had not yet slaughtered its lamb. [In such a case, we have the possibility that the slaughterer is preoccupied with the religious duty to slaughter the animal, just as in a case where one of the infants still needs to be circumcised. Hence, as Simeon maintains, Eliezer and Joshua still dispute as to whether one is liable or exempt on account of what he has done.]”

- [I:2 A] [Following a third version of the Mishnah:] *Said R. Zeira, “A statement of R. Yannai indicates that [in his view, at M. 19:4A-C,] we deal with a case in which [the responsible party] has forgotten and on the eve of the Sabbath circumcised the child to be circumcised on the Sabbath. [Hence there is no child left whose circumcision overrides the restrictions of the Sabbath. That is why even in Joshua’s view the man is liable.]”*
- [B] If one circumcised the infant at dawn [on the Sabbath, then circumcised the other child], R. Zeira said, “R. Yannai thought to say, ‘He is exempt [from liability].’
- [C] “R. Ba said, ‘He is liable.’” [In this instance Yannai holds the man is exempt in the case of the child to be circumcised on the eve of the Sabbath, if the rite is done on the Sabbath, since, on that occasion, the man was preoccupied with circumcising at the right time the one to be circumcised on the Sabbath. Accordingly, in Yannai’s view, we exempt the man from punishment, because of extenuating circumstances. It must follow that as to M. 19:4A-C, all parties will concur that if one forgot and on the eve of the Sabbath circumcised the one to be done on the Sabbath, there are no further extenuating circumstances, so all parties will concur that he is liable. As to Ba’s position, even in the present case of doing both children on the morning of the Sabbath, there are no extenuating circumstances, since, when the child to be done on Friday was circumcised, the other child, for whom the Sabbath was the right time, had already been dealt with.]
- [D] *For what purpose then was it necessary to supply the position of R. Yannai?*
- [E] It is to show you the full extent to which, in his view, it is likely for infants to be confused with one another.

[F] *The view of R. Zeira accords with the case as specified by [accords with the approach of] R. Yannai, and the view of R. Ba accords with the case as interpreted by [approach of] R. Meir.*

[G] [Regarding an unspecified matter:] *Said R. Mana before R. Yosé, “That which R. Hisda has said accords with the interpretation of what is at issue presented by R. Simeon, and what R. Yannai has said accords with the view of R. Meir. And do they provide a reply [in the dispute] in accord both with the view of R. Meir and with the position of R. Simeon? [Do we respond with something that is subject to a dispute? Surely not. What Yannai has stated bears no relationship to what Hisda has said.] Rather, do we find that there is a dispute between R. Meir and R. Simeon regarding a leftover [infant]? [According to Simeon the dispute holds even if there is only one infant.]*

[H] As to these infants who are subject to doubt [at M. 19:5], how do you treat the case? Is it equivalent to a case in which there is a limited number of [possibilities for error], or to one in which there is an unlimited number of [possibilities for error]?

[I] *If you treat it as equivalent to a case in which there is a limited number of possibilities for error, then one must impose the qualification that there is at hand another infant who requires circumcision [among those who have been subject to confusion]. [Joshua will exempt the man who has committed the error only if at least one of the infants indeed was supposed to be circumcised on the Sabbath.]*

[J] [If you treat it as equivalent to a case in which there is not a limited number, then (this applies) even if there is *not* at hand another infant which requires circumcision.

[K] *Said R. Yosé, “In accord with the position of the rabbis, it is to be inferred that the case is treated as one in which there is not a limited number of possibilities, with the qualification that there is at hand another infant who requires circumcision.” *

[L] [Referring to the contrast of M. 19:4A-C, D-G, and based on the reading of the Mishnah presented above but which did not know Yannai’s opinion] *see here!* If one pushed up the time of an infant [circumcising him too soon], he is exempt [at M. 19:4E], while if he delayed the time of the circumcision [of an infant], and did it too late [M. 19:4A-C], he is liable! [This is anomalous.]

[M] *R. Huna said, “The Mishnah [reading before us] has things reversed. For it has been taught: Said R. Simeon, ‘R. Eliezer and R. Joshua did not dispute concerning him who had an infant to circumcise after the Sabbath and who circumcised him on the Sabbath, that he is liable.*

[N] **“About what did they dispute?**

[O] **“About him who had an infant to circumcise on the eve of the Sabbath and who circumcised him on the Sabbath.**

[P] **“For R. Eliezer declares him liable to a sin offering.**

[Q] **“And R. Joshua exempts him’ [T. Shab. 15:10A-E].”**

[R] *Said R. Yosé b. R. Bun, “But it was on the basis of the same question that R. Yannai made his qualification, ‘And that is the case in which one forgot and circumcised on the eve of the Sabbath the one who was to be circumcised on the Sabbath.”*

[S] *R. Adda bar Ahbah said, “This is the picture of matters in accord with the positions of R. Meir and R. Simeon. But in the view of R. Yosé, even in the case of a matter in the accomplishment of which no religious duty whatsoever is involved, since one has made an error in such a case because he was intending to do a religious duty, he is exempt from all penalty.”*

[I:3 A] **[For so long as one is involved in the rite of circumcision on the Sabbath, one may go over even those shreds of flesh which do not invalidate the rite of circumcision.] But once he has ceased [to conduct the operation], he may go back only over those shreds of flesh which, if left, invalidate the circumcision [T. Shab. 15:4F -G].**

[B] *Said R. Yohanan, “In the view of R. Yosé, even if one left off the operation, he still may go back and cut even those shreds of flesh which, if left, do not invalidate the rite of circumcision at all.”*

[C] *Which R. Yosé is at hand?*

[D] *It is the one whose view we have learned there: R. Yosé says, “If the first festival day of the Feast [of Tabernacles] coincided with the Sabbath, and one forgot and brought out the lulab into the public domain, he is exempt [from penalty], since he took it out with the intention of carrying out a permitted action” [M. Suk. 3:14].*

[E] The rule is the same both for transporting the knife to be used for a rite of circumcision, and also for the law of unleavened bread .

[F] On the basis of that which R. Yohanan has said, “In the view of R. Yosé, even if one left off the operation, he still may go back and cut even those shreds of flesh which, if left, do not invalidate the rite of circumcision at all,” *that is to say*, the rule is the same even for carrying the knife for circumcision [which may be done, even if the basic operation already has been performed], and even for the law of unleavened bread.

19:5

[A] **An infant is circumcised on the eighth, ninth, tenth, eleventh, or twelfth days [after birth],**

[B] **never sooner, never later.**

[C] **How so?**

[D] **Under normal circumstances, it is on the eighth day.**

[E] **M he was born at twilight, he is circumcised on the ninth day.**

[F] **[If he was born] at twilight on the eve of the Sabbath, he is circumcised on the tenth day [the following Sunday].**

[G] **In the case of a festival which falls after the Sabbath, he will be circumcised on the eleventh day [Monday].**

[H] **In the case of two festival days of the New Year, he will be circumcised on the twelfth day [Tuesday].**

[I] **An infant who is sick – they do not circumcise him until he gets well.**

[I:1 A] There may be an infant who is circumcised on the very day of his birth.

[B] *What would be a practical illustration of that theory?*

[C] If the mother gave birth and afterward on the same day converted [with the infant] to Judaism, the child will be circumcised on the day of his birth.

[D] But if the mother converted and only afterward gave birth, the child is circumcised on the eighth day [as are all Israelite children].

[II:1 A] [Referring to M. 19:5F] Jacob of Kefar Naborayya asked R. Haggai, “Why not rule, if the child was born at twilight, he is to be circumcised at twilight [eight days later]?”

[B] *He said to him, “If you and I were able to go through a single gate, would we be able to do it exactly [so as to know which one of us went first]?”*

- [III:1 A] [With reference to **M. 19:5I, An infant who is sick – they do not circumcise him until he gets better,**] Samuel said, “[Even if] he caught a fever [for one moment], they wait on him for thirty days.”
- [B] As to that thirty-day period, what is the law on giving him nourishment deriving from produce in the status of heave offering? [Is he uncircumcised such that he may not eat such produce? Or does the fact that the untimely circumcision is not due to his failure mitigate the law?]
- [C] What is the law as to anointing him with oil in the status of heave offering?
- [D] *Let us derive the answer to that question from the following: **An uncircumcised priest and all unclean priests do not eat heave offering. Their wives and slaves do eat heave offering [M. Yeb. 8:1A-B].*** [Accordingly, the infant may not eat food in the status of heave offering until he is circumcised.]
- [E] R. Aha in the name of R. Tanhum b. R. Hiyya: “The status of uncircumcision applies only from the eighth day and onward.”
- [F] *[Along these same lines,] it has been taught [as above]:* For the entire thirty day period it is forbidden to feed [the infant described earlier] nourishment in the status of heave offering, and it is forbidden to anoint him with oil in the status of heave offering.
- [G] *As to the night prior to the eighth day, how do you deal with it?* [Is this regarded as part of the eight days during which the uncircumcised infant does not fall into the category of uncircumcision? Or since the rite could not be performed by night in any event, does the night of the eighth day fall into the category of time during which the rite is not yet required?]
- [H] *On the basis of the following teaching* [the answer to that question is clear:] On the night of the eighth day it enters the fold to be tithed. [That is, an animal is not suitable to sacrifice prior to the age of eight days; likewise such a premature animal is not subject to tithing. If tithing takes place on the night of the eighth day, and it will be eight days old the next day, it does enter the fold for tithing. Accordingly, the trait of being premature does not not pertain to the night.]

[I] *That is to say*, the night prior to the eighth day is equivalent to the eighth day.

[J] *And so it has been taught*: For the entire span of seven days it is permitted to feed [the infant not circumcised] nourishment in the status of heave offering, and it is permitted to anoint with oil in that status.

19:6

[A] **These are the shreds [of the foreskin, if they remain] which render the circumcision invalid:**

[B] **flesh that covers the greater part of the corona –**

[C] **and such a one does not eat heave offering.**

[D] **And if he was fat [so the corona appears to be covered up], one has to fix it up for appearance's sake.**

[E] **[If] one circumcised but did not trim the circumcision [the cut did not uncover the corona, since the membrane was not split and pulled down], it is as if he did not perform the act of circumcision.**

[I:1 A] **These are the shreds which render the circumcision invalid: Flesh that covers the greater part of the corona [M. 19:6A-B] –**

[B] R. Abina in the name of R. Jeremiah: “That is the flesh that covers the greater part of the height of the corona.”

[C] R. Yosé b. Hanina said, “It means [flesh] that covers the greater part of the height of the corona.”

[D] **[And if he is fat, (so that he looks uncircumcised), he must fix it up for appearance's sake (M. 19:6D):]** R. Tabi in the name of Samuel: “They examine it [the penis] when it is erect. [If he appears to be circumcised, that suffices.]”

[II:1 A] **If he circumcised but did not trim the circumcision, it is as if he did not circumcise at all [M. 19:6E]:**

[B] [The membrum must be trimmed, with shreds which invalidate the circumcision removed.] *It has been taught*: [If one did not trim it,] he is subject to punishment by extirpation.

[C] *R. Aha in the name of R. Abbahu*: “*That which you have said* applies in a case in which there is not sufficient time left in the day [for circumcision is done only by day] to trim the flesh. But if there is

sufficient time in the day to do so, one trims it and need not scruple. [That is, a second party may complete the job.]”

[II:2 A] *It has been taught [in regard to completing the trimming]: So long as the person performing the rite is yet doing the work, he may return to incomplete aspects of it, whether to remnants which would invalidate the circumcision or to remnants which, if left, would not invalidate the rite of circumcision. Once he has left off the work, he may resume the work only as to cutting off the fringes of flesh which if left would invalidate the rite of circumcision [T. Shab. 15:4].*

[B] Said R. Yohanan, “In the view of R. Yosé, even if he has left off the work, he may resume it so as to cut off the fringes of flesh which if left would not invalidate the rite of circumcision.”

[C] *To which R. Yosé [does Yohanan refer]?*

[D] *It is the one represented in the following, which we have learned there:*

[E] **R. Yosé says, “If the first day of the Festival [of Sukkot] coincides with the Sabbath, if one forgot and brought his lulab out into the public domain, he is exempt [from the obligation to bring a sin offering], because he brought it out intending to do what is permitted” [M. Suk. 3:14].** [Yosé thus is lenient in allowing someone to complete a religious duty, even in contravention to the strict requirements of the law.]

[F] Is the rule the same for carrying the knife for use for circumcision and in respect to unleavened bread [for Passover]?

[G] [We answer] on the basis of what R. Yohanan said, “In the view of R. Yosé, even if he has left off the work, he may resume it so as to cut off the fringes of flesh which if left would not invalidate the rite of circumcision” –

[H] *that is to say that* the same rule applies to carrying the knife for use for circumcision and in respect to unleavened bread [for Passover].

YERUSHALMI SHABBAT

CHAPTER TWENTY

20:1

- [A] [17c] R. Eliezer says, “On the festival they spread out a filter, and on the Sabbath they pour [wine] into one which is spread out.”
- [B] And sages say, “On the festival they do not spread out a filter, and on the Sabbath they do not pour [wine] into one which is spread out.
- [C] “But on the festival they pour [wine] into one which is spread out.”
- [I:1 A] *It has been taught* : Sages concede to R. Eliezer that they do not put up tents to begin with on the festival day, and it goes without saying, on the Sabbath.
- [B] Concerning what did they differ?
- [C] Concerning adding [to existing ones].
- [D] For R. Eliezer says, “They do not add to them on the festival, and it goes without saying, on the Sabbath.”
- [E] And sages say, “They add to them on the Sabbath, and it goes without saying, on the festival day” [T. Shab. 12:14H-L, complementing M. 17:7].
- [F] *Now here [at M. 20:1] do we not deal with adding [to an existing tent, for so far as spreading the filter out to begin with, that would in any event constitute making a tent]?*
- [G] Said R. Abin bar Kahana, “Interpret the Mishnah [at M. 20:1A] to speak of spreading out a new filter, which one will prepare for use as a utensil [if on the Sabbath one poured wine into it – hence sages prohibit].”
- [H] *All the more so, then, do we have an inconsistency in the views of R. Eliezer. Now if there [at M. 20:1], in which instance one prepares the object to serve as a utensil, you have said [he holds] it is permitted to do so, here [at M. 17:7], in which one does not prepare the object to*

serve as a utensil, is it not an argument a fortiori [that one should be permitted to do so]? [Yet he says one is forbidden to do so!]

- [I:2 A]** *[With reference to M. 20:1A,] said R. Hinena, “The view of R. Eliezer accords with the position of R. Judah, for it has been taught in the name of R. Judah, ‘Also [sages] have permitted [on the festival] handling things that serve to make food ready [and not merely the food itself].’ [That is why one may set up a filter on the festival day, even though under other circumstances it would constitute an act prohibited on the count of setting up a tent.]”*
- [B] R. Aha in the name of R. Ba, “It accords with the view of him who said that one may make something ready, on condition that it is from above. [That is, if one adds to a tent, one may do so if the tent is spread out at the top. It may then be further unfolded and spread out toward the bottom.]”
- [C] *This accords with the following case: In the time of R. Judah b. Pazzi there was a place for lying down in the schoolhouse, and they would spread out the hangings on the preceding day to the extent of four cubits, and then on the next day [the Sabbath itself] they would spread the remainder [of the bedding].*
- [D] *They supposed that this was in accord with the view of R. Judah b. Pazzi, but they looked into the matter and found out that it accorded with the view of R. Judah b. Pazzi only if one spread out the greater part of the bedding [in advance of the Sabbath].*
- [I:3 A]** R. Hiyya in the name of R. Yohanan: “He who spreads out a tent on the Sabbath is liable on the count of building.”
- [B] Said R. Zeira, “He is only in the status of one who spreads them out and doubles them up on the Sabbath [which is not permitted, but which is not in the category of building].”
- [C] *R. Ba bar Kohen asked before R. Yosé, “What is the law in regard to the veil on the ark? [Is it permitted to open it?]”*
- [D] He said to him, “Since it has been spread out on the preceding day, one is in the status of opening and closing it on the Sabbath [which is permitted, and this is not in the character of spreading a tent].”
- [I:4 A]** R. Zeira, R. Hiyya bar Ashi in the name of Samuel: “He who strains [wine to remove the lees] is liable on the count of selection [winnowing].”

- [B] Said R. Zeira, “It is surely more reasonable that it is on the count of sifting.”
- [C] *Both R. Jonah and R. Yosé say, “At first we were inclined to say that R. Zeira has spoken well. Just as in sifting, the chaff falls to the bottom and the grain rises to the top, so with straining wine, the wine goes to the bottom and the lees float to the top. And why [was a festival] left over [excluded] from the rule applicable to the Sabbath [regarding the prohibition of the category of selection (winnowing)] and left over from the category of straining?*
- [D] “It [a festival] has been removed from the general prohibition regarding selection: **He makes his selection in his usual way, putting it down using his lap, a basket, or a dish [M. 1:10C].** And it has been removed from the general prohibition regarding straining, since on the festival day they may also pour wine into a strainer that has been spread out[, as stated in M. Shab. 20:1].
- [E] “But [for purposes of cooking on the festival] has not the general prohibition regarding sifting been removed? For R. Hanina Beroqa in the name of R. Judah said, ‘One may not sift flour a second time on a festival, but they sift it on the outer side of the sieve. [Sifting may be done only in an unusual way.]’ Now if you maintain that [straining] is comparable to sifting, then it should be prohibited to strain [wine on the festival day, as we see that it is forbidden to sift in the normal way].”
- [F] *Said R. Yosé b. R. Bun, “[The question as to sifting flour on the outer sides of the sieve,] this is not in accord with the view of R. Judah. For it has been taught in the name of R. Judah, ‘But even as to making use of utensils used for preparing food, they have permitted doing so [that is, even without making some change from the practice on ordinary days].’ [Judah then would not require using the outer sides on the sieve at all.]”*
- [G] *The question, however, was: What is the law as to sifting the flour a second time on the outer parts of the sieve, in accord with the view of rabbis [who differ from Judah, F]? [Since this can be done the day before the festival, do the rabbis prohibit doing so altogether, or do they permit doing so in the extraordinary manner permitted, to begin with, by Judah? [To this question Hanina Beroqah responded in E.]*

20:2

[A] **They pour water over wine dregs so that they will be clarified.**

[B] And they strain wine in cloths or in a twig basket.

[C] And they put an egg into a mustard strainer.

[D] And they prepare honeyed wine on the Sabbath.

[E] R. Judah says, “On the Sabbath [it is done] in a cup, and on a festival day in a flagon, and on the intervening days of a festival in a barrel.”

[F] R. Sadoq says, “All depends on the number of guests.”

[I:1 A] R. Ba in the name of R. Judah in the name of Rab: “[The rule of M. 20:2B] is on condition that one not make it like a receptacle [out of the cloths, as one does on ordinary days].”

[B] *This question then was raised:* “What is the law about forcing down [the cloths] so that they form a receptacle on their own?”

[C] R. Mattenaiah said, “One places [the cloth] on its side, so long as one does not do things on the Sabbath as he does them on an ordinary day.”

[II:1 A] [*With reference to M. 20:2C:*] *The meaning of the Mishnah is that they may mash an egg into a mustard strainer.*

[B] As to a clump of mustard, R. Yosé in the name of R. Eliezer: “One crushes it by hand but not with a utensil.”

[C] R. Jacob bar Aha, R. Yohanan in the name of R. Yannai: “One crushes it whether by hand or by a utensil.”

[D] Said to him R. Yohanan, “And is it not the case that even the most brutish people do not do it that way [by hand].”

[E] R. Hezekiah came [from Caesarea and reported:], R. Abbahu in the name of R. Yohanan: “One may crush it whether by hand or by a utensil.”

[III:1 A] They prepare honeyed wine on the Sabbath [M. 20:2D]:

[B] R. Yosé in the name of R. Yohanan: “Wine, honey, and pepper.”

20:3

[A] They do not soak asafoetida in warm water.

[B] But one puts it into vinegar.

[C] And they do not soak vetches or rub them.

[D] But one puts them into a sieve or a basket.

[E] They do not sift chopped straw in a sifter.

[F] Nor does one put it on a high place so that the chaff will fall out.

[G] But one takes it in a sieve and pours it into the crib.

[I:1 A] *Said R. Mana, “The meaning of the Mishnah [at M. 20:3A-B] is that one places it before himself into vinegar [so that he will eat it right away, not so that it will soak in the vinegar].”*

[B] R. Huna said, “They have referred [in M. 20:3A] only to warm water. Lo, as to [soaking it in] cold water, that is permitted.”

[C] R. Yohanan in the name of R. Yannai: “Even to do so in cold water is forbidden.”

[D] Said to him R. Yohanan, “Now have they not formulated the tradition only with reference to warm water? But have we labored for nothing?”

[E] R. Huna said, “As to asafoetida water, it is permitted to drink it on the Sabbath.”

[F] Samuel said, “Asafoetida itself is food only for healthy people.”

[G] *R. Huna said, “He who eats a zuz weight of it falls into danger as to his life, and his flesh creeps.”*

[H] *R. Ba ate a zuz weight of it and jumped into the river.*

[II:1 A] They do not soak vetches [M. 20:3C]:

[B] This is on the count of not selecting [among them].

[C] And they do not rub them [M. 20:3C]:

[D] This is on the count of not threshing.

[III:1 A] They do not sift chopped straw in a sifter, nor does one put it on a high place so that the chaff will fall out [M. 20:3E-F]:

[B] This is on the count of winnowing.

20:4

[A] “They clean out [a manger] before a stall ox.

[B] “And they sweep aside [spilled or leftover fodder] on account of a grazing animal, “ the words of R. Dosa.

[C] And sages prohibit [doing so].

[D] They take [fodder] from before one beast and put it before another beast on the Sabbath.

- [I:1 A] [The reason for M. 20:4A-B is:] What the fat ox leaves over, the grazing animal eats [hence it may be cleared out. Since what the grazing animal leaves over is not eaten by another animal, it can only be handled indirectly].
- [B] *The following is a question:* What is the law as to taking fodder from before one beast and putting it before another on the Sabbath?
- [C] *Is there not a Mishnah passage that says explicitly, “One may take [fodder] from one beast and put it before another beast”?*
- [D] *The Mishnah speaks* of doing so from one species of beast for another of the same species. The question is whether one may do so from one species for another that is not of its species.
- [E] *It has been taught:* One may take food from before an ass and put it before a cow, from before a beast [17d] with an insensitive mouth [which is unselective about what it eats] and place the food before a beast with a sensitive mouth.

20:5

- [A] **The straw which is on the bed**
- [B] **one should not shift it with his hand.**
- [C] **But he shifts it with his body.**
- [D] **And if it was food for a beast, or if there was a cushion or a sheet on it, he may shift it with his hand.**
- [E] **A press of householders**
- [F] **do they loosen but do they not tighten.**
- [G] **And one of laundrymen one should not touch [at all].**
- [H] **R. Judah says, “If it was untied on the eve of the Sabbath, one may untie the whole thing and remove [clothing from] it.”**
- [I:1 A] *The Mishnah [at M. 20:5A-C] speaks of a case in which one had not slept on it [the straw on the bed] previously. But if he had slept on it previously, it is like the thing [the bed] itself .*
- [B] Said R. Jacob bar Idi, “The earlier authorities asked: ‘What is the law as to his shifting the straw with his knuckles?’”
- [C] Said R. Yannai: “[They say] ‘bald’ [to] one who is bald. ‘Rob’ [to] one who has been robbed. ‘Pour cold water’ on him who is cold. His house [that he has rented out] falls, [they say to him] ‘rebuild it’ [e.g., for the renter].” [That is, those that have get more. Thus

those that have a cushion may shift the straw, those without, too poor, may not.]

[D] *R. Hiyya taught*, “That law is the law [= onerous] to the poor.”

[II:1 A] [*With reference to M. 20:5E-H,*] **has it not been taught: Sages concur with R. Meir [at M. Bes. 4:3E - G] in the case of knots which are on the ground, that one may loosen, unravel, and untie them, [T.:] but they may not cut them [Y.: “and they cut them”]. And on the Sabbath they may loosen and [T.:] untie, but may not unravel [Y.: “or untie”] or cut them. And in the case of those on utensils on the Sabbath it is permitted, and, it goes without saying, on the festival [T. Y.T. 3:12]. [Why, then, may they not loosen or even touch a press of laundrymen?]**

[B] *That is to say that they have treated the press as equivalent to the ground [and one would appear to be building it].*

[C] *Said R. Yosé, “The Mishnah has made that point: A press of laundry men one should not touch [at all] [M. 20:5G].”*

YERUSHALMI SHABBAT

CHAPTERS TWENTY-ONE THROUGH TWENTY-FOUR

21:1

- [A] A man takes up his child, with a stone in [the child's] hand,
[B] or a basket with a stone in it
[C] And they handle clean heave offering along with unclean heave offering or with unconsecrated food.
[D] R. Judah says, "Also: They take out the one part of heave offering that has fallen into a hundred parts of unconsecrated food."

21:2

- [A] A stone which is over the mouth of a jar –
[B] one tilts [the jar] on its side and [the stone] falls off.
[C] [If] it [the jar] was among [other] jars, one lifts it [the jar] up and [then] turns it on its side, so that it [the coin] falls off.
[D] Coins which are on a pillow –
[E] one shakes the pillow, and they fall off.
[F] M there was a spot on it, one wipes it off with a rag.
[G] [If] it was of leather, they pour water on it until it disappears.

21:3

- [A] The House of Shammai say, "They take up bones and shells from the table."
[B] And the House of Hillel say, "One removes the entire table and shakes it out." [Palestinian texts make A the view of the House of Hillel, and B the view of the House of Shammai.]
[C] They remove from the table crumbs less than an olive's bulk in size,
[D] pods of chick-peas, and pods of lentils,

[E] because it is food for a beast.

[F] A sponge, if it has a handle –

[G] they wipe with it.

[H] And if not, they do not wipe with it.

[I] And sages say, “One way or the other, it is handled on the Sabbath.

[J] [Some texts add:] “And it does not receive uncleanness.”

22:1

[A] A jar which broke [on the Sabbath] –

[B] they save from it[s wine] enough sustenance for three meals.

[C] And one says to others, “Come along and save some for yourself” –

[D] on condition that one not sponge it up.

[E] They do not squeeze pieces of fruit to get out the juice.

[F] And if the juice came out on its own, it is prohibited [for use on the Sabbath].

[G] R. Judah says, “If [the produce was intended] for food, what exudes from it is permitted.

[H] “And if [the produce was intended] for drink, what exudes from it is prohibited.”

[I] Honeycombs which one broke on the eve of the Sabbath and [their liquids] exuded on their own – they are prohibited.

[J] And R. Eleazar permits [use of the honey on the Sabbath].

22:2

[A] Whatever is put into hot water on the eve of the Sabbath – they soak it [again] in hot water on the Sabbath.

[B] And whatever is not put into hot water on the eve of the Sabbath – they [only] rinse it in hot water on the Sabbath,

[C] except for pickled fish, small salted fish, and Spanish tuna fish,

[D] for rinsing them is the completion of their preparation [for eating].

22:3

[A] A person breaks a jar to eat dried figs from it,

[B] on condition that he not intend [in opening the jar] to make it into a utensil.

[C] “But they do not pierce the plug of a jar, “ the words of R. Judah.

[D] And sages [MSS: “R. Yosé”] permit it.

[E] And they do not pierce it on the side.

[F] And if it was pierced, one should not put wax on it.

[G] because he would [have to] spread it over [which is a prohibited act].

[H] Said R. Judah, “A case came before Rabban Yohanan ben Zakkai in Arab, and he said, ‘I fear on his account that he should bring a sin offering [for violating the Sabbath].’”

22:4

[A] They put a cooked dish in a cistern so that it may be preserved,

[B] and [a vessel containing] fresh water into foul water to keep it cool,

[C] and cold water into the sun to warm it up.

[D] He whose clothing fell into water on the way goes along in them and does not scruple.

[E] [When] he reaches the outer courtyard, he spreads them out in the sun.

[F] But [this he does not do] in front of people.

22:5

[A] He who bathes in cave water or in the water of Tiberias and dried himself, even with ten towels, may not then carry them in his hand.

[B] But ten men dry their faces, hands, and feet with a single towel and bring it along in their hand.

22:6

[A] They anoint and massage [the stomach].

[B] But they do not have it kneaded or scraped.

[C] They do not go down to a muddy wrestling ground.

[D] And they do not induce vomiting [on the Sabbath].

[E] And they do not straighten [the limb of] a child or set a broken limb.

[F] He whose hand or foot was dislocated should not pour cold water over them.

[G] But he washes in the usual way.

[H] And if he is healed, he is healed.

23:1

[A] A man [on the Sabbath] asks for jugs of wine or oil from his fellow,

[B] provided that he does not say to him, “Lend [them] to me.”

[C] And so a woman [borrows] loaves of bread from her neighbor.

[D] And if one does not trust the other, he leaves his cloak with him and settles with him after the Sabbath.

[E] And so is the case on the eve of Passover in Jerusalem when that day coincides with the Sabbath:

[F] One leaves his cloak with him and takes his Passover lamb and settles with him after the festival.

23:2

[A] A man may count the number of his guests and the savory portions orally, but not by what is written down.

[B] And he casts lots with his children and the members of his household at the table [to decide who gets which portion],

[C] on condition that he not intend to offset a larger portion, against a small one,

[D] because of [the prohibition of playing with] dice [on the Sabbath].

[E] And they cast lots on a festival day for [which priest gets which part of] Holy Things,

[F] but not for the portions.

23:3

[A] [18a] A man should not hire workers on the Sabbath.

[B] And a man should not say to his fellow to hire workers for him.

[C] They do not wait at twilight at the Sabbath limit to hire workers,

[D] or to bring in produce.

[E] But one may wait at the Sabbath limit at twilight to guard [produce, and after nightfall] he brings back the produce in his hand.

[F] A governing principle did Abba Saul state, “Whatever I have the right to say [to another person to do], on that account I have the right to wait at twilight at the Sabbath limit.”

23:4

[A] They wait at the Sabbath limit at twilight to attend to the business of a bride,

[B] and the affairs of a corpse.

[C] to bring it a coffin and wrappings.

- [D] A gentile who brought wailing pipes on the Sabbath – an Israelite should not make a lament with them,
[E] unless they came from a nearby place.
[F] [If] they made for him [a gentile] a coffin and dug a grave for him, an Israelite may be buried therein.
[G] But if this was done for an Israelite, he may not ever be buried therein.

23:5

- [A] They prepare all that is needed for a corpse.
[B] They anoint and rinse it,
[C] on condition that they not move any limb of a corpse.
[D] They remove the mattress from under it.
[E] And they put it on [cool] sand so that it will keep.
[F] They tie the chin,
[G] not so that it will go up, but so that it will not droop [further].
[H] And so in the case of a beam which broke –
[I] they support it with a bench or the beams of a bed,
[J] not so that it will go up, but so that it will not droop further.
[K] They do not close the eyes of a corpse on the Sabbath,
[L] nor on an ordinary day at the moment the soul goes forth.
[M] And he who closes the eyes of a corpse at the moment the soul goes forth, lo, this one sheds blood.

24:1

- [A] He who was overtaken by darkness on the road
[B] gives his purse to a gentile.
[C] If there is no gentile with him, he leaves it on an ass.
[D] [When] he reaches the outermost courtyard [of a town], he removes [from the ass] those utensils which may be handled on the Sabbath.
[E] And [as to] those [utensils] which are not to be handled on the Sabbath, he unloosens the ropes, and the bundles fall by themselves.

24:2

- [A] They loosen bundles of hay in front of cattle,

[B] and they spread out bunches,

[C] but not small bundles.

[D] And they do not chop up unripe stalks of corn or carobs before cattle,

[E] whether large or small [beasts],

[F] R. Judah permits in the case of carobs for small beasts.

24:3

[A] They do not stuff food into a camel or cram it [into its mouth].

[B] But they put food into its mouth.

[C] And they do not fatten calves [with food against their will], but they put food into their mouths [in the normal way].

[D] And they force feed chickens.

[E] They put water into the bran, but they do not knead it.

[F] And they do not put water before bees or doves which are in dovecotes.

[G] But they do put it before geese, chickens, and Herodian doves.

24:4

[A] They cut up gourds before cattle,

[B] and carrion meat before dogs.

[C] R. Judah says, "If there it was not carrion on the eve of the Sabbath, it is prohibited,

[D] "because it is not something which has been made ready [before the Sabbath for use on the Sabbath]."

24:5

[A] They abrogate vows on the Sabbath.

[B] And they receive questions [to absolve] vows [which involve matters] which are required for the Sabbath.

[C] They stop up a light hole.

[D] And they measure a piece of stuff and an immersion pool.

[E] There was this case. In the time of the father of R. Sadoq and of Abba Saul b. Botnit, they stopped up the light hole with a pitcher and tied a pot with reed grass [to a stick] to know whether or not there was in the roofing an opening of a handbreadth square.

[F] "And from their deed we learned that they stop up, measure, and tie up on the Sabbath."

CHAPTER TWENTY-TWO

THE STRUCTURE OF YERUSHALMI SHABBAT

Whether or not the Talmud of the Land of Israel is carefully organized in large-scale, recurrent structures and guided by a program that we may call systematic forms the principal question addressed by an academic commentary. The preceding chapters therefore have pointed toward the presentation set forth here. By “structure” I mean, a clearly-articulated pattern that governs the location of fully-spelled out statements. By “system,” I mean, a well-crafted and coherent set of ideas that explain the social order of the community addressed by the writers of a document, a social philosophy, a theory of the way of life, world view, and character of the social entity formed by a given social group. I see a collective, anonymous, and political document, such as the one before us, as a statement to, and about, the way in which people should organize their lives and govern their actions. At issue then in any document such as the remarkable one before us is simple: does this piece of writing present information or a program, facts to whom it may concern, or a philosophically and aesthetically cogent statement about how things should be? The connection between structure and system is plain to see. From the way in which people consistently frame their thoughts, we move to the world that, in saying things in one way rather than in some other, they wish to imagine. Modes of formulating thought adumbrate modes of imagining the world in which people wish to live, to which they address these thoughts.

If the document exhibits structure and sets forth a system, then it is accessible to questions of rationality. We may ask about the statement that its framers or compilers wished to make by putting the document together as they did. But if we discern no structure and perceive no systematic inquiry or governing points of analysis, then all we find here is inert and miscellaneous information, facts but no propositions, arguments, viewpoints. Now as a matter of fact the Talmud of the Land of Israel commonly finds itself represented as lacking organization and exhibiting a certain episodic and notional character. That view moreover characterizes the reading and representation of the document by learned and experienced scholars, who have devoted their entire lives to Talmud study and

exegesis. It must follow that upon the advocate of the contrary view – the one implicit in the representation of the document for academic analysis – rests the burden of proof. I set forth the allegation that the Talmud of the Land of Israel exhibits a structure and follows a system and therefore exhibits a commonly-intelligible rationality. The claim to write an academic commentary explicitly states that proposition. For the tractate before us, I have therefore to adduce evidence and argument.

I maintain that through the normal procedures of reasoned analysis we may discern in the tractate a well-crafted structure. I hold that the structure made manifest, we may further identify the purpose and perspective, the governing system of thought and argument, of those who collected and arranged the tractate's composites and put them together in the way in which we now have them. By "structure" I mean, how is a document organized? and by "system," what do the compilers of the document propose to accomplish in producing this complete, organized piece of writing? The answers to both questions derive from a simple outline of the tractate as a whole, underscoring the types of compositions and composites of which it is comprised. Such an outline tells us what is principal and what subordinate, and how each unit – composition formed into composites, composites formed into a complete statement – holds together and also fits with other units, fore and aft. The purpose of the outline then is to identify the character of each component of the whole, and to specify its purpose or statement. The former information permits us to describe the document's structure, the latter, its system.

While the idea of simply outlining a Talmud-tractate beginning to end may seem obvious, I have never made such an outline before, nor has anyone else. (I have provided complete outlines for the Mishnah and for the Tosefta in relationship to the Mishnah, and, not always in outline form, for the Midrash-compilations of late antiquity as well) Yet, as we shall now see, the character of the outline dictates all further analytical initiatives. Specifically, when we follow the layout of the whole, we readily see the principles of organization that govern. These same guidelines on organizing discourse point also to the character of what is organized: complete units of thought, with a beginning, middle, and end, often made up of smaller, equally complete units of thought. The former we know as composites, the latter as compositions.

Identifying and classifying the components of the tractate – the composites, the compositions of which they are made up – we see clearly how the document coheres: the plan and program worked out from beginning to end. When we define that plan and program, we identify the facts of a pattern that permit us to say in a specific and concrete way precisely what the compilers of the tractate intended to accomplish. The structure realizes the system, the program of analysis and thought that takes the form of the presentation we have before us. From what people do, meaning, the way in which they formulate their ideas and organized

them into cogent statements, we discern what they proposed to do, meaning, the intellectual goals that they set for themselves.

These goals – the received document they wished to examine, the questions that they brought to that document – realized in the layout and construction of their writing, dictate the points of uniformity and persistence that throughout come to the surface. How people lay out their ideas guides us into what they wished to find out and set forth in their writing, and that constitutes the system that defined the work they set out to accomplish. We move from how people speak to the system that the mode of discourse means to express, in the theory that modes of speech or writing convey modes of thought and inquiry.

We move from the act of thought and its written result backward to the theory of thinking, which is, by definition, an act of social consequence. We therefore turn to the matter of intention that provokes reflection and produces a system of inquiry. That statement does not mean to imply I begin with the premise of order, which sustains the thesis of a prior system that defines the order. To the contrary, the possibility of forming a coherent outline out of the data we have examined defines the first test of whether or not the document exhibits a structure and realizes a system. So everything depends upon the possibility of outlining the writing, from which all else flows. If we can see the order and demonstrate that the allegation of order rests on ample evidence, then we may proceed to describe the structure that gives expression to the order, and the system that the structure sustains.

The present work undertakes the exegesis of exegesis, for the Yerushalmi, like its counterpart in the one of Babylonia, is laid out as a commentary to the Mishnah. That obvious fact defined the character of my academic commentary, since we have already faced the reality that our tractate is something other than a commentary, though it surely encompasses one. The problems that captured my attention derived from the deeper question of how people make connections and draw conclusions. To ask about how people make connections means that we identify a problem – otherwise we should not have to ask – and what precipitated the problem here has been how a composition or a composite fits into its context, when the context is defined by the tasks of Mishnah-commentary, and the composition or composite clearly does not comment on the Mishnah-passage that is subjected to comment.

The experience of analyzing the document with the question of cogency and coherence in mind therefore yields a simple recognition. Viewed whole, the tractate contains no gibberish but only completed units of thought, sentences formed into intelligible thought and self-contained in that we require no further information to understand those sentences, beginning to end. The tractate organizes these statements as commentary to the Mishnah. But large tracts of the writing do not comment on the Mishnah in the way in which other, still larger

tracts do. Then how the former fit together with the latter frames the single most urgent question of structure and system that I can identify.

Since we have already examined enormous composites that find their cogency in an other than exegetical program, alongside composites that hold together by appeal to a common, prior, coherent statement – the Mishnah-sentences at hand – what justifies my insistence that an outline of the document, resting on the premise that we deal with a Mishnah-commentary, govern all further description? To begin with, the very possibility of outlining this tractate derives from the simple fact that the framers have given to their document the form of a commentary to the Mishnah. It is in the structure of the Mishnah-tractate that they locate everything together that they wished to compile. We know that is the fact because the Mishnah-tractate defines the order of topics and the sequence of problems.

Relationships to the Mishnah are readily discerned; a paragraph stands at the head of a unit of thought; even without the full citation of the paragraph, we should find our way back to the Mishnah because at the head of numerous compositions, laid out in sequence one to the next, clauses of the Mishnah-paragraph are cited in so many words or alluded to in an unmistakable way. So without printing the entire Mishnah-paragraph at the head, we should know that the received code formed the fundamental structure because so many compositions cite and gloss sentences of the Mishnah-paragraph and are set forth in sequence dictated by the order of sentences of said Mishnah-paragraph. Internal evidence alone suffices, then, to demonstrate that the structure of the tractate rests upon the Mishnah-tractate cited and discussed here. Not only so, but the sentences of the Mishnah-paragraphs of our tractate are discussed in no other place in the entire Talmud of the Land of Israel in the sequence and systematic exegetical framework in which they are set forth here; elsewhere we may find bits or pieces, but only here, the entirety of the tractate.

That statement requires one qualification, and that further leads us to the analytical task of our outline. While the entire Mishnah-tractate of treated here is cited in the Talmud of the Land of Israel, the framers of the Talmud of the Land of Israel by no means find themselves required to say something about every word, every sentence, every paragraph. On the contrary, they discuss only what they choose to discuss, and glide without comment by large stretches of the tractate. A process of selectivity, which requires description and analysis, has told the compilers of the Talmud of the Land of Israel's composites and the authors of its compositions (This statement requires refinement. I do not know that all available compositions have been reproduced, and that the work of authors of compositions of Mishnah-exegesis intended for a talmud is fully exposed in the document as we have it. That is not only something we cannot demonstrate – we do not have compositions that were not used, only the ones that were – but something that we must regard as unlikely on the face of matters. All we may say is positive: the character of the compositions that address Mishnah-exegesis tells us about the concerns of the

writers of those compositions, but we cannot claim to outline all of their concerns, on the one side, or to explain why they chose not to work on other Mishnah-sentences besides the ones treated here. But as to the program of the compositors, that is another matter: from the choices that they made (out of a corpus we cannot begin to imagine or invent for ourselves) we may describe with great accuracy the kinds of materials they wished to include and the shape and structure they set forth out of those materials. We know what they did, and that permits us to investigate why they did what they did. What we cannot know is what they did not do, or why they chose not to do what they did not do. People familiar with the character of speculation and criticism in Talmudic studies will understand why I have to spell out these rather commonplace observations. I lay out an argument based on evidence, not on the silences of evidence, or on the absence of evidence – that alone.) what demands attention, and what does not. Our outline has therefore to signal not only what passage of the Mishnah-tractate is discussed, but also what is not discussed, and we require a general theory to explain the principles of selection (“making connections, drawing conclusions” meaning, to begin with, making selections). For that purpose, in the outline, I reproduce the entirety of a Mishnah-paragraph that stands at the head of a Talmudic composite, and I underscore those sentences that are addressed, so highlighting also those that are not.

It follows that the same evidence that justifies identifying the Mishnah-tractate as the structure (therefore also the foundation of the system) of Yerushalmi-tractate before us also presents puzzles for considerable reflection. The exegesis of Mishnah-exegesis is only one of these. Another concerns the purpose of introducing into the document enormous compositions and composites that clearly hold together around a shared topic or proposition, e.g., my appendix on one theme or another, my elaborate footnote providing information that is not required but merely useful, and the like. My earlier characterization of composites as appendices and footnotes signalled the fact that the framers of the document chose a not-entirely satisfactory way of setting out the materials they wished to include here, for large components of the tractate do not contribute to Mishnah-exegesis in any way at all. If these intrusions of other-than-exegetical compositions were proportionately modest, or of topical composites negligible in size, we might dismiss them as appendages, not structural components that bear much of the weight of the edifice as a whole. Indeed, the language that I chose for identifying and defining these composites – footnotes, appendices, and the like – bore the implication that what is not Mishnah-commentary also is extrinsic to the Talmud of the Land of Israel’s structure and system.

But that language served only for the occasion. In fact, the outline before us will show that the compositions are large and ambitious, the composites formidable and defining. Any description of the tractate’s structure that dismisses as mere accretions or intrusions so large a proportion of the whole misleads. Any notion that “footnotes” and “appendices” impede exposition and disrupt thought, contribute extraneous information or form tacked-on appendages – any such notion begs the question: then why fill up so much space with such purposeless information? The right way is to ask whether the document’s topical composites

play a role in the re-presentation of the Mishnah-tractate by the compilers of the Talmud of the Land of Israel. We have therefore to test two hypotheses:

1. the topical composites (“appendices,” “footnotes”) do belong and serve the compilers’ purpose

or

2. the topical composites do not participate in the re-presentation of the Mishnah-tractate by Yerushalmi and do not belong because they add nothing and change nothing.

The two hypotheses may be tested against the evidence framed in response to a single question: is this topical composite necessary? The answer to that question lies in our asking, what happens to the reading of the Mishnah-tractate in light of the topical composites that would not happen were we to read the same tractate without them? The outline that follows systematically raises that question, with results specified in due course. It suffices here to state the simple result of our reading of the tractate, start to finish: the question of structure, therefore also that of system, rests upon the position we identify for that massive component of the tractate that comprises not Mishnah-commentary but free-standing compositions and composites of compositions formed for a purpose other than Mishnah-commentary.

The principal rubrics are given in small caps. The outline takes as its principal rubrics two large-scale organizing principles.

The first is the divisions of the Mishnah-tractate to which the Talmud of the Land of Israel-tractate serves as a commentary. That simple fact validates the claim that the tractate exhibits a fully-articulated structure. But the outline must also underscore that the Mishnah-tractate provides both more and less than the paramount outline of the Talmud of the Land of Israel-tractate. It is more because sentences in the Mishnah-tractate are not analyzed at all. These untreated Mishnah-sentences are given in bold face lower case caps, like the rest of the Mishnah, but then are specified by underlining and enclosure in square brackets.

Second, it is less because the structure of the tractate accommodates large composites that address topics not defined by the Mishnah-tractate. That brings us to the second of the two large-scale modes of holding together both sustained analytical exercises and also large sets of compositions formed into cogent composites. These are treated also as major units and are indicated by Roman numerals, alongside the Mishnah-paragraphs themselves; they are also signified in small caps. But the principal rubrics that do not focus on Mishnah-commentary but on free-standing topics or propositions or problems are not given in boldface type. Consequently, for the purposes of a coherent outline we have to identify as

autonomous entries in our outline those important composites that treat themes or topics not contributed by the Mishnah-tractate.

I. YERUSHALMI SHABBAT 1:1

[A] [ACTS OF] TRANSPORTING OBJECTS FROM ONE DOMAIN TO ANOTHER [WHICH VIOLATE] THE SABBATH (I) ARE TWO, WHICH [INDEED] ARE FOUR [FOR ONE WHO IS] INSIDE. (2) AND TWO WHICH ARE FOUR [FOR ONE WHO IS] OUTSIDE.

- 1.** **I:1:** [In reference to M. 1:1A, which refers to transporting an object from private to public domain, and has in mind a person standing outside and extending an object inside, that is, from public to private domain, and vice versa, thus “two,” and which then adds two (thus two – four) for a person standing inside and extending an object out into public domain, so two contexts capable of subdivision into four – the question now is raised as follows:] Is the meaning [of Transportation of objects from one domain to the other on Sabbath is] of two sorts, which yield four subdivisions, [meant] to impose liability, and [is the meaning of Transportation of objects from one domain to the other on the Sabbath is] of two sorts, which yield four subdivisions, [meant] to declare exempt from punishment? [Or is the meaning,] [Transportation of objects from one domain to the other on the Sabbath is of two divisions which yield] four subdivisions to impart liability, and. four to exempt from punishment?

- 2.** **I:2:** Yosé in the name of R. Yohanan: “If one brought in a half of a dried fig and took out a half of a dried fig, he is liable [for transporting] whole fig from private to public domain.” What R. Yohanan has said does not accord with the view of R. Yosé. For it has been taught: If one took out a half of a fig and went and took out another half of a fig [from private to public domain] in a single spell of inadvertence [that is, he did not remember between the two acts that it was indeed the Sabbath], he is liable [since the two actions join together, so the volume requisite to liability has been transported from private to public domain]. If this was in two spells of inadvertence, he is exempt. [That is, if he forgot it was the Sabbath and carried, and then remembered it was the Sabbath, and subsequently forgot again and carried once more, he is exempt. This is because the two acts are considered separate. Since in each case, he was not carrying the requisite amount for being culpable (i.e., an olive’s bulk), he is exempt.] R. Yosé said, “If it was in a single spell of inadvertence, and it was a single domain [e.g., a public domain], he is liable. Even if it

was in a single spell of inadvertence, but if it involves two domains [e.g., public domain, but such domain is divided by a sliver of intervening land], or if it involved two spells of inadvertence but only a single domain, the man is exempt.” Now here is our question [in which we see why Yohanan’s statement is not in accord with Yosé’s view]: if in the view of R. Yosé, two distinct acts of bringing out [a half of a fig] are deemed not to join together [to form a volume requisite for liability], is it not an argument a fortiori that one act of bringing in and another act of taking out [less than the requisite volume will not join together, since here we have two domains for sure]? It follows that what R. Yohanan has said is not in accord with the view of R. Yosé.

3. **I:3:** R. Yosé in the name of R. Yohanan: “He who takes an object from private to public domain is liable only when he puts the object down.” R. Jacob bar Ada in the name of R. Yohanan: “He is liable only if he both takes the object up [in one domain] and puts it down [in the other domain].”
4. **I:4:** Said R. Yannai, “If one swallowed a half of an olive’s bulk [of prohibited fat] and vomited it up, and then he swallowed it again, he is liable. If he put half a fig into his mouth and went and took it out into public domain, he is exempt [that is, if he took it from private to public domain, for he has not taken from one domain to the other a volume sufficient to impose liability. The two separate acts do not add up to a completely prohibited volume, as in the case of A, above.]”
5. **I:5:** “[Since carrying an object is not equivalent to standing still and putting it down,]” said R. Yohanan, “he who takes an object from private domain to public domain through neutral domain [karmelit, which is neither the one nor the other, without putting the object down in the neutral domain], is liable [since the passage through the neutral domain is not marked by laying down the object, with the result that the effective domains are solely public and private. Had the man put the object down in the neutral domain, having taken it out of private domain, he would not have been liable; had he taken it from neutral domain to public domain, he would not have been liable. But transporting it across the neutral domain has no effect.]”
6. **I:6:** R. Huna in the name of Rab: “All concur in the case of one who throws [an object from private to public domain, across a piece of neutral domain], that he is liable. All parties take the view that the airspace over a piece of neutral domain is not equivalent to the actual neutral domain itself. [Hence passing through the airspace does not

affect the tossed object.] Where they differ, it concerns taking an object [from private to public domain through neutral domain]. Ben Azzai declares the person exempt Eon the count of transporting the object, since, if the object passes through neutral domain, it is as if it has come to rest there]. And sages declare him liable.” R. Judah in the name of Rab: “All concur in the case of one who takes an object out [from private domain to public domain through neutral domain] that he is exempt [from liability]. All parties take the view that transporting the object is equivalent to putting it down [in neutral domain]. Where they differ, it concerns tossing the object. Ben Azzai declares the person exempt, and sages impose liability. Ben Azzai treats the airspace over neutral domain as equivalent to the actual neutral domain itself. [Hence passing through the airspace affects the tossed object, and it is as if the object has come to rest. The person has not completed the transport of the object from private to public domain in one fell swoop.] Sages do not treat the airspace over neutral domain as equivalent to the actual neutral domain itself, [on which account they declare the man who has tossed the object to be liable].”

7. **I:7:** R. Yohanan raised the following question: “If one was standing in public domain, and he tossed an object, but, before it fell to the ground, he went ahead and caught it – what is the law?”
8. **I:8:** Said R. Yohanan, “If one was standing in public domain and collected some rain from the contained airspace of private domain, and took the rain back into public domain, he is liable.”
9. **I:9:** If one was standing inside private domain with his hand full of fruit, and he stuck his hand out the window into public domain, and at that instant, the Sabbath day became sanctified, he is forbidden from bringing his hand [bearing the fruit,] back inside the window.

[B] HOW SO? [IF ON THE SABBATH] THE BEGGAR STANDS OUTSIDE AND THE HOUSE HOLDER INSIDE, [AND] THE BEGGAR STUCK HIS HAND INSIDE AND PUT [A BEGGAR’S BOWL] INTO THE HAND OF THE HOUSEHOLDER, OR IF HE TOOK [SOMETHING] FROM INSIDE IT AND BROUGHT IT OUT, THE BEGGAR IS LIABLE, THE HOUSEHOLDER IS EXEMPT.

1. **II:1:** R. Judah in the name of Samuel: “And that rule applies when the hand of the beggar is within ten cubits of the ground. [That is, the householder is liable for putting something into the beg gar’s hand, when the beggar’s hand is within ten cubits of the ground, for then the beggar’s hand is within public domain.]”

2. **II:2:** R. Hisda in the name of Ashi: “In the case of a reed, poked into the ground of public domain, ten handbreadths in height to make use of the space from inside the reed to public domain, or from public domain to the space inside the reed, [since the reed is not four cubits in breadth, and so does not constitute a domain unto itself. Hence it is totally part of public domain. Thus one may move an object (“make use”) from the reed to the street.]” Rab said, “A chair in front of a building that stands in the public domain [which is used to hand things from within the house to the street, or from the street to within the house,] ten handbreadths high and four cubits broad – he who makes use of it for transporting objects from within the house to the public domain or vice versa is liable, [since it constitutes a private domain unto itself]. R. Hoshaiiah taught, “A candlestick standing in the public domain, ten handbreadths high, with the holders at the top four cubits in breadth – he who utilizes what is in [the holders] and takes the contents to the public domain, or from the public domain to the candlestick, is liable.” [Cf. T. 10:7]

a. **II:3:** How do we know that the airspace ten handbreadths above the ground constitutes a different domain [from the ground]?

[C] **[If] THE HOUSEHOLDER STUCK HIS HAND OUTSIDE AND PUT [SOMETHING] INTO THE HAND OF THE BEGGAR, OR IF HE TOOK [SOMETHING] FROM IT AND BROUGHT IT INSIDE, THE HOUSEHOLDER IS LIABLE, AND THE BEGGAR IS EXEMPT. [If] THE BEGGAR STUCK HIS HAND INSIDE, AND THE HOUSEHOLDER TOOK [SOMETHING] FROM IT, OR IF [THE HOUSEHOLDER] PUT SOMETHING IN IT AND HE [THE BEGGAR] REMOVED IT, BOTH OF THEM ARE EXEMPT. [If] THE HOUSEHOLDER PUT HIS HAND OUTSIDE AND THE BEGGAR TOOK [SOMETHING] FROM IT, OR IF [THE BEGGAR] PUT SOMETHING INTO IT AND [THE HOUSEHOLDER] BROUGHT IT BACK INSIDE, BOTH OF THEM ARE EXEMPT.**

1. **III:1:** R. Jacob bar Aha in the name of Hezekiah, rabbis in the name of R. Yohanan: “[They are exempt] because [of the rule that two who do a single act of labor [are not liable]. [Liability is incurred for a sin offering only on the basis of an individual’s action.]” Rab asked Rabbi, “If another party lifted up a burden and put it on someone’s shoulder, and the latter forgot and took it out [from private to public domain, what is the law]?”

2. **III:2:** There are four domains so far as the Sabbath is concerned: private domain, public domain, neutral domain, and closed alleyways [a place of non-liability]. What is private domain? A ditch ten [handbreadths] deep and four wide, and so too: a mound ten handbreadths high and four wide – this constitutes absolutely private

domain. What is [PT: “absolutely”] public domain? A high road or a [large] public square, [PT: “and a desert”] and open alleyways [which open out at both ends] – [Tosefta:] this constitutes absolutely public domain. They do not transport an object from private domain into public domain, and they do not transport an object from public domain into private domain. And if one transported an object out, or brought an object in, advertently, he is liable for a sin offering. [If he did so] deliberately, he is subject to the punishment of extirpation, or he is stoned. The same rules apply to the one who takes out and the one who brings in, the one who stretches [something] out, and the one who throws [something] in – [Tosefta: in all such cases,] he is liable. But the sea, a valley, a colonnade, and a threshold (karmelit) ground are neither private domain nor public domain.[On the Sabbath] they do not carry out of, or put [things] into, such places. But if one carried out or put [something] into [such a place], he is exempt [from punishment] [T. Shab. 1:1-4C].

3. **III:3:** As to the meaning of the word for neutral domain, karmelit, R. Hiyya taught, “It follows the meaning of barley [karmel] which is tender (RK) and fully ripened (ML’). It is not green or dried up but middling. Here too, it is not public domain nor private domain but neutral domain (karmelit).”
4. **III:4:** What is the definition of neutral domain [in the present context]? R. Yosé in the name of R. Yohanan: “It would be, for example, typified by the store of Bar Yustini” [which apparently was fully within the colonnade and not separated off by partitions].
5. **III:5:** [In the case of] a courtyard belonging to public domain, with blind alleyways [which do not open out], [if] they prepared an erub, they are permitted [to carry across the boundaries from one domain to the other]. [If] they did not prepare an erub, they are prohibited [from doing so] [T. Shab. 1:5].
6. **III:6:** And said R. Yosé, “The threshold of which they spoke [in the earlier passages] is one which is four handbreadths broad and is not ten high.” If you say it is ten high and four broad, it constitutes a domain unto itself. [C] If you say it is ten high but not four broad, then you deal with that of which R. Hisda spoke in the name of Assi: “A reed stuck into the ground in public domain, ten handbreadths high – it is permitted [to take objects out of that reed and utilize them in public domain, or vice versa, since it is not a domain unto itself but part of public domain]. But that is on condition that one not exchange positions [by standing in an exempt area and take something from

private domain and hand it on to public domain, by reason of his standing in a neutral area.” [So what case can be at hand at A?] Rather, the threshold with which we deal is one which is not four handbreadths broad or ten high [so as not to go over the ground of A].

II. YERUSHALMI SHABBAT 1:2

[A] A MAN SHOULD NOT SIT DOWN CLOSE TO THE [TIME OF THE] AFTERNOON [PRAYER], UNLESS HE ALREADY HAS PRAYED.

1. **I:1:** We have learned [for the formulation of M. 1:2A], Close to the afternoon prayer. R. Hiyya [by contrast] taught [the passage in this language]: “Close to nightfall.” The Mishnah as we have it must be supplemented by R. Hiyya’s version, and R. Hiyya’s version likewise must be supplemented by the Mishnah as we have it. If R. Hiyya’s version [alone] had been available, but not that of the Mishnah, we should have supposed that the rule not to [get a haircut] applies only to nightfall, and not to [the time of] the afternoon prayer. It was necessary therefore to have the formulation of the Mishnah as we have it. For if [only] the version of the Mishnah were in hand, as we have it, and we had not learned the version of R. Hiyya we should have supposed that the rule pertains solely to the time of the afternoon prayer, and if both versions referred solely to the matter of nightfall, we should have supposed that the rule pertains solely to nightfall.

[B] BEFORE THE BARBER, NOR [AT THAT TIME] SHOULD A MAN GO INTO A BATHHOUSE

1. **II:1:** What is the point at which we regard a haircut as having begun?
2. **II:2:** What is the point at which the bath begins [and subsequently cannot be interrupted]?
 - a. **II:3:** Exegetical gloss.

[C] OR INTO A TANNERY,

1. **III:1:** Now look here. One is supposed to keep distant from someone who smells bad, [and yet you teach M. 1:2E, they need not break off]!

[D] NOR TO EAT,

1. **IV:1:** What is the beginning of the eating of a meal [at which point, the meal cannot be interrupted for the Prayer?]?

[E] NOR TO ENTER INTO JUDGMENT.

1. **V:1:** Jeremiah and R. Joseph: One said, “Once they have gone into session in court [they do not interrupt].” The other said, “Once the judges have heard the claims of the contending parties [they do not interrupt].” If they began, they do not interrupt.”

[F] **BUT IF THEY BEGAN, THEY DO NOT BREAK OFF [WHAT THEY WERE DOING]. THEY INTERRUPT [WHAT THEY WERE DOING] TO SAY THE SHEMA. BUT THEY DO NOT INTERRUPT [WHAT THEY WERE DOING] TO SAY THE PRAYER.**

1. **VI:1:** Said R. Aha, “The recitation of the Shema derives from the authority of the Torah, while the recitation of the Prayer does not derive from the authority of the Torah [This is why one may interrupt to say the Shema but not to say the Prayer.]” Said R. Ba, “As to the recitation of the Shema, the time for saying it is fixed, while the time for saying the Prayer is not fixed.” Said R. Yosé, “Recitation of the Shema need not be accompanied by appropriate concentration, while saying the Prayer must be accompanied by appropriate concentration.”

III. YERUSHALMI SHABBAT 1:3

[A] **A TAILOR SHOULD NOT GO OUT CARRYING HIS NEEDLE NEAR NIGHTFALL, LEST HE FORGET AND CROSS [A BOUNDARY]; NOR A SCRIBE WITH HIS PEN.**

1. **I:1:** [In T.’s version:] A tailor should not go out carrying his needle near nightfall, lest he forget and cross a boundary [M. 1:3A-B], nor a carpenter with the beam on his shoulder, nor a dyer with the color sample behind his ear, nor a money changer with the denar behind his ear, nor a wool carder with a cord around his neck.”But if they went forth, all of them are exempt [from liability to punishment],” the words of R. Meir.R. Judah says, “[If] a craftsman [goes forth] in the usual way of his craft, he is liable. “But all the other men [who carry out the tools of a craftsman but do not practice that craft] go out thus [without liability; T. reads “are exempt”]” [T. Shab. 1:8].

[B] **AND [ON THE SABBATH] ONE SHOULD NOT SEARCH HIS CLOTHES [FOR FLEAS]:**

1. **II:1:** This is forbidden [in the public domain] even on other days of the week because it is not gentile.] He who picks vermin out of his garments, lo, this one should squeeze them and toss them out, on condition that he not squeeze them. Abba Saul says, “He takes them off and tosses them out, “on condition that he not kill them” [T. Shab. 16:22F-I].

2. **II:2:** R. Hiyya taught, “[With reference to M. 1:3D, not reading by the light of a lamp,] but he may make use of a light [to see what is] inside a cup or inside a dish, and he need not scruple about the matter” [T. Shab. 1:11G-H].

[C] OR READ BY THE LIGHT OF A LAMP.

1. **III:1:** Samuel said, “This rule has been taught only in the case of a person reading by himself. But in the case of two, since they can stop one another [from touching the lamp, which is prohibited], it is permitted [for them to read by the light of a lamp].”
2. **III:2:** [In T.’s version:] Said R. Ishmael, “One time I read by the light of a lamp and I wanted to tilt it. [L: “I shall read and not tilt,” and he was just about to tilt [the lamp and remembered] and said,]” “I said, ‘How great are the words of sages, who rule (They do not read on Sabbath nights by the light of a lamp’ [M. 1:3D] (L. reads: lest one forget and tilt it).” R. Nathan says, “He [Ishmael] most certainly did tilt it. “And written on his notebook is the following: ‘Ishmael b. Elisha tilted a lamp on the Sabbath. ““When the sanctuary will be rebuilt, he will bring a sin offering”” [T. Shab. 1:13A-E].

[D] NONETHELESS THEY STATE: [ON THE SABBATH] A TEACHER SEES [BY THE LIGHT OF A LAMP] WHERE THE CHILDREN ARE READING, BUT HE DOES NOT READ.

1. **IV:1:** Said R. Eleazar, “In any case in which we have learned, ‘nonetheless,’ we deal with a law revealed to Moses at Sinai.”
2. **IV:2:** It has been taught: Rabban Simeon b. Gamaliel says, “Children prepare their chapters on Sabbath nights with the light of a lamp” [T. Shab. 1:12].

[E] SIMILARLY: A MAN ZAB SHOULD NOT EAT A MEAL WITH A WOMAN ZAB, BECAUSE IT LEADS TO TRANSGRESSION.

1. **V:1:** It has been taught [in T.’s version]: Said R. Simeon b. Eleazar, “Come and see how far the keeping of cleanness has spread. For the ancients did not decree, making a rule that a clean man should not eat a meal with a menstruating woman. For the ancients did not eat with menstruating women [and therefore there was no need to make such a rule]. But the ancients did rule, ‘A Zab should not eat a meal with a woman, because it leads to transgression”” [T. Shab. 1:14].
2. **V:2:** It has been taught: For the House of Shammai say, “A Zab who is an abstainer [a Pharisee] should not eat with a Zab who is of the common folk.” And the House of Hillel permit [T. Shab. 1:15].

3. **V:3:** On this basis, R. Phineas b. Yair says, “Heedfulness leads to cleanliness, cleanliness leads to cultic purity, cultic purity leads to holiness, holiness leads to modesty, modesty leads to the fear of sin, the fear of sin leads to the Holy Spirit, the Holy Spirit leads to the piety, the piety leads to the resurrection of the dead, and the resurrection of the dead “leads to Elijah, blessed be his memory”[M. Sot. 9:15].

IV. YERUSHALMI SHABBAT 1:4

[A] **THESE ARE SOME OF THE LAWS WHICH THEY STATED IN THE UPPER ROOM OF HANANIAH B. HEZEKIAH B. GURION WHEN THEY WENT UP TO VISIT HIM. THEY TOOK A VOTE, AND THE HOUSE OF SHAMMAI OUTNUMBERED THE HOUSE OF HILLEL. AND EIGHTEEN RULES DID THEY DECREE ON THAT VERY DAY.**

1. **I:1:** And that day was as harsh for Israel as the day on which the golden calf was made [T. Shab. 1:16]. R. Eliezer says, “On that day they overfilled seah measure [to overflowing].” R. Joshua says, “On that day they leveled the seah measure [compressing everything in it up to the top].” [“For so long as the measure is full and one puts more into it, in the end it will give up part of what (already) is in it.”] [T. Shab. 1:17].
2. **I:2:** These are the matters on which they issued decrees: Bread prepared by gentiles, their cheese, their oil, and their daughters; their semen and urine; the laws governing one who has suffered a nocturnal emission; the laws covering the uncleanness of gentile territory. There we have learned: These render heave offering unfit: He who eats food unclean in the first remove; and he who eats food unclean in the second remove; he who drinks unclean liquid; he whose head and the greater part of whose body enter drawn water; one who was clean, on whose head and the greater part of whose body three logs of drawn water fall; a holy book; hands; a tebul-yom; and food and utensils which have been made unclean by unclean liquids [M. Zab. 5:12].
- a. **I:3:** Their bread [cf. M. A.Z. 2:8B(2): R. Jacob bar Aha in the name of R. Jonathan [citations: “Yohanan”]: “The law [permit ting gentile bread for Israelite benefit, but not consumption] was an irregular measure [passed in an emergency, but contrary to the real law.]”

- b.** I:4: [Stewed and pickled vegetables into which it is customary to put wine and vinegar, these are prohibited (M. A.Z. 2:8D(4):] They said before R. Hiyya the Great, “R. Simeon b. Yohai taught so likewise], ‘You shall purchase food from them for money, that you may eat; and you shall also buy water of them for money, that you may drink’ (Deut. 2:6). [Now the statement by Moses explicitly permits Israelites to purchase and drink water from gentiles, and by analogy, we reason as follows:] Just as water is something which does not change from its natural state, so anything which is not changed from its natural state [may be purchased from gentiles and consumed by Israelites – which would exclude something pickled].”
- c.** I:5: Their cheese: Said R. Jeremiah, “Milk produced by a gentile’s cow] – why is it forbidden? Because of the mixture [of milk from] an unclean beast [together with that produced by a clean beast, since the gentile need not scruple about such considerations].” And so it has been taught in a Tannaitic tradition [in contradiction to A]: An Israelite may sit at the other side of his corral, and a gentile may milk the cows and bring the milk to him, and he need not scruple [that is, the Israelite to drink it] [T. A.Z. 4:11P].
- d.** I:6: [Their oil (M. A.Z. 2:8B(3):] Who forbade their oil?[B] Judah said, “Daniel forbade it: ‘And Daniel resolved [that he would not defile himself with the king’s rich food or with the wine which he drank]’ (Dan. 1:8).” [C] R. Aha, R. Tanhum bar Hiyya in the name of R. Yohanan, and some say it is in the name of R. Joshua b. Levi, “Because [Daniel] saw that [Israelites] were [risking their lives to] go up to the Royal Mountain [to collect the olives, so he made a decree concerning it, since] they were put to death on account [of avoiding the use of gentile oil].” [D] Who permitted it? Rabbi and his court [permitted their oil] [M. A.Z. 2:8C].
- e.** I:7: Their daughters: Said R. Eleazar, “In seven places [in Scripture] it is written, ‘You should not intermarry with them.’” Hence how can you claim that it was prohibited as one of the eighteen matters?
- f.** I:8: R. Joshua Onayya taught, “[The reference to a prohibition as to their daughters in fact refers to] prohibiting eggs cooked by them.”
- g.** I:9: Their semen [is unclean, by decree of the Houses]: But did not R. Aha say, R. Hinena in the name of R. Yohanan, “The semen of

a gentile is insusceptible to uncleanness [that is, not a source of uncleanness].”

i. I:10: As to one who has suffered a nocturnal emission: R. Ba bar Aha in the name of Rabbi: “[While such a person is unclean,] he may repeat laws, though he may not repeat sayings pertaining to lore.”

h. I:11: And concerning the laws about territory of the gentiles: Did not R. Zeira bar Abina in the name of R. Jeremiah say, “Yosé b. Yoezer of Seridah and Yosé b. Yohanan of Jerusalem decreed that the territory of the gentiles should be unclean, and likewise that that is the case for glass utensils”? R. Yosé said, “R. Judah b. Tabbi [made that decree].” R. Judah said, “R. Judah b. Tabbai and Simeon b. Shetah made a decree concerning metal utensils. Hillel and Shammai made a decree concerning the cleanness of hands.”

3. I:12: Samuel said, “[As to the statement that a court may not annul the ruling of another court unless it is superior to it,] that statement applies, in particular, to the eighteen matters [under discussion here]. But as to matters other than these eighteen, even a lesser court may nullify the ruling of another court.”

V. YERUSHALMI SHABBAT 1:5

[A] THE HOUSE OF SHAMMAI SAY, “THEY DO NOT [ON FRIDAY AFTERNOON] SOAK INK, DYESTUFFS, OR VETCHES, UNLESS THERE IS SUFFICIENT TIME FOR THEM TO BE [FULLY] SOAKED WHILE IT IS STILL DAY.” AND THE HOUSE OF HILLEL PERMIT.

1. I:1: What is the scriptural basis for the view of the House of Shammai? The House of Shammai say, “‘Six days shall you labor and do all your work’ (Ex. 20:9) – [meaning] complete all while it is still day [before the Sabbath].” And what is the scriptural basis for the view of the House of Hillel? [And the House of Hillel say,] “‘Six days shall you labor and on the seventh [you shall rest’ (Ex. 23:12) – [work is what you should do all six days and not on the seventh]” (T. Shab. 1: 21F-G)].

2. I:2: The House of Shammai stated one argument to the House of Hillel, and they could not answer them. The House of Hillel stated one argument to the House of Shammai, and they could not answer them. Said to them the House of Hillel, to the House of Shammai, “Do you

not concede that: “They lay down olive-press beams and suspend winepress rollers [M. Shab. 1:9B] [on the eve of the Sabbath] at dusk. [“So it is sufficient for dyes and vetches to be subject to the same rule]” [T. Shab. 1:23A-C].

VI. YERUSHALMI SHABBAT 1:6

[A] **THE HOUSE OF SHAMMAI SAYS, “THEY DO NOT PUT BUNDLES OF [WET] FLAX INTO THE OVEN UNLESS THERE IS TIME FOR THEM TO STEAM OFF WHILE IT IS STILL DAY. AND [THEY DO NOT PUT] WOOL INTO THE CAULDRON UNLESS THERE IS SUFFICIENT TIME FOR IT TO ABSORB THE COLOR WHILE IT IS STILL DAY. “AND THE HOUSE OF HILLEL PERMIT.**

1. **I:1:** [In allowing time to steam the flax while it is still day,] what do the House of Shammai profit? [After all, the bleaching will not be completed in any event during the Sabbath.]
2. **I:2:** [As to M. 1:6B-C,] R. Judah in the name of Samuel: “And [the House of Hillel permit] in a case in which the cauldron is movable. But if the cauldron was fixed, it is forbidden [to put wool into it over the Sabbath], for the dyer will be concerned that his dye not be totally consumed [in the boiling process] and so he will add water [which is forbidden on the count of boiling].”

VII. YERUSHALMI SHABBAT 1:7

[A] **THE HOUSE OF SHAMMAI SAY, “THEY DO NOT SPREAD OUT NETS FOR WILD BEASTS, FOWL, OR FISH, UNLESS THERE IS SUFFICIENT TIME FOR THEM TO BE CAUGHT WHILE IT IS STILL DAY.” AND THE HOUSE OF HILLEL PERMIT.**

1. **I:1:** [= Y. Besah 3:2, treating M. Besah 3:2A, which states that “Nets for wild beasts, fowl, or fish made before the holiday, one should not take from them on the holiday, unless he knows that [the catch] was caught by the eve of the holiday. [The question now must be asked how one knows when the beast got caught:] Who lets [the owner] know [whether or not the beast was caught while it was still day]? If the trap was in disarray [while it was yet daylight], it is obvious that the beast was caught while it was still day. If it was not in disarray, then it is obvious that nothing was trapped in it while it was still day. [No.] Even if the trap was in disarray, one takes account of the possibility that a beast was not trapped while it was yet daylight.

2. **I:2:** [With reference to M. Bes. 3:2A-C:] R. Hiyya in the name of Rab declared that that rule is indeed the law.
3. **I:3:** [As to M. Bes. 3:2D, Gamaliel's view that fish caught by a gentile are permitted, but he would not accept them: R. Zeira in the name of Rab]: "They considered ruling that [when he said that they are permitted, he meant] that they are permitted on the next day [but may not be used on the festival, just as M. Bes. 3:2A-C maintain]." R. Hezekiah and R. Uzziel b. R. Honiah of Beth Hauran: "They are permitted – literally [on the festival day itself]." They contemplated ruling that in a case of doubt the matter is permitted. [Gamaliel then differs from M. Bes. 3:2A-C.] R. Hananiah and R. Jonathan both maintain, "In the case of a doubt such as this, it is forbidden."

VIII. YERUSHALMI SHABBAT 1:8

[A] THE HOUSE OF SHAMMAI SAY, "THEY DO NOT SELL ANYTHING TO A GENTILE OR BEAR A BURDEN WITH HIM, AND THEY DO NOT LIFT UP A BURDEN ONTO HIS BACK, UNLESS THERE IS SUFFICIENT TIME FOR HIM TO REACH A NEARBY PLACE [WHILE IT IS STILL DAY]. " AND THE HOUSE OF HILLEL PERMIT.

1. **I:1:** What is the definition of "a nearby place"?
2. **I:2:** [With reference to the meaning of M. 1:8C,] there is he who wishes to say, "Until he reaches his house." And there is he who wishes to say, "Until he reaches his village."
3. **I:3:** They do not hand over to a gentile [food] on the stipulation that he will take it out. If he took it and went out on his own, one is not subject to [responsibility for his deed]. They do not hand over to a dog [food] so that he will take it and go out. If he took it and went out on his own, one is not subject [to responsibility for what he has done].
4. **I:4:** It has been taught [in Tosefta's version]: Israelite workmen who were working with a gentile [T.: at the time of their festival] – in the case of [doing so] in an Israelite's household, it is prohibited [to work on the occasion of the festival] [T. + YF: permitted]. In the case of [doing so] in a gentile's household, it is permitted [T. + YF: prohibited]. R. Simeon b. Eleazar says, "[T.: If he was hired by the day, whether working in the household of an Israelite or working in the household of a gentile, it is prohibited. If he was hired as a contractor, working in the household of an Israelite is permitted. Working in the household of a gentile is prohibited]." "Under what circumstances? In

the case of working on what is plucked [T.: as yet unplucked]. But as to working on what is not yet plucked [T.: plucked], it is prohibited. [L + YF] “And in another town, one way or the other, it is permitted” [T. A.Z. 1:3B-I].

- 5. I:5:** They do not send letters with a gentile either on Friday or on Thursday. The House of Shammai prohibit doing so even on Wednesday. And the House of Hillel permit. They said concerning R. Yosé the Priest that writing of his was never found in the hand of a gentile [A-D = a variant of T. Shab. 13:11] They do not set sail on the Great Sea either on Friday or on Thursday. The House of Shammai prohibit doing so even on Wednesday. And the House of Hillel permit. But if it was [not] because of a dire necessity, then, for instance, in the case of [the sea voyage] from Tyre to Sidon, it is permitted to make such a trip, even on Friday]. They do not set sail with a ship, neither on the eve of the Sabbath nor on Thursday. The House of Shammai prohibit doing so even on Wednesday. And the House of Hillel permit. If it was to a near place, for example, from Tyre to Sidon, it is permitted.] [E-H = variant of T. Shab. 13:13] They do not besiege a gentile town less than three days before the Sabbath. That which you have said applies to making an optional war. But as to making an obligatory war, even on the Sabbath [it is permitted to do so]. for so we find that Jericho was conquered only on the Sabbath. For it is written, “You shall march around the city, all the men of war going around the city once. Thus shall you do for six days” (Josh. 6:3). [Since on each day they rested in their camp, it does not count as starting a siege.]And it is written, “And on the seventh day you shall march around the city seven times” (Josh. 6:4). [Here the actual siege started.]And it is written, “Until it falls” (Deut. 20:20), even on the Sabbath. [Cf. T. Erub. 3:4].

IX. YERUSHALMI SHABBAT 1:9

[A] THE HOUSE OF SHAMMAI SAY, “THEY DO NOT GIVE HIDES TO A [GENTILE] TANNER, OR CLOTHING TO A GENTILE LAUNDRYMAN, UNLESS THERE IS SUFFICIENT TIME FOR THEM TO BE DONE WHILE IT IS STILL DAY.” AND IN THE CASE OF ALL OF THEM, THE HOUSE OF HILLEL PERMIT, WHILE THE SUN IS STILL SHINING.

- 1. I:1:** [In the view of the House of Shammai,] what constitutes sufficient time [M. 1:9C)?

2. **I:2:** If one handed over his garments to a gentile laundryman, and came and found him working on it on the Sabbath, it is forbidden [to derive benefit from his labor].
- [B] SAID RABBAN SIMEON B. GAMALIEL, “THE HOUSEHOLD OF FATHER HAD THE HABIT OF GIVING WHITE CLOTHES TO A GENTILE LAUNDRYMAN THREE DAYS BEFORE THE SABBATH.”
1. **II:1:** [B] They referred only to white ones. Lo, as to colored ones, that is not the case. Accordingly, we infer that white ones are harder to do than colored ones [T. Shab. 1:22F-G].
- [C] AND THESE AND THOSE CONCUR THAT THEY LAY DOWN OLIVE-PRESS BEAMS AND WINEPRESS ROLLERS.
1. **III:1:** Both R. Samuel and R. Yosé b. Haninah say, “Each drop already has been uprooted from its place, [so the process has commenced prior to the Sabbath].” [Therefore the House of Shammai follow the House of Hillel in M. 1:9H.]

X. YERUSHALMI SHABBAT 1:10

- [A] THEY DO NOT ROAST MEAT, ONIONS, AND EGGS, UNLESS THERE IS TIME FOR THEM TO BE ROASTED WHILE IT IS STILL DAY.
1. **I:1:** R. Bun bar Kahana in the name of rabbis: “A dish that had sufficiently cooked may remain on [even] an oven, the flame of which had not been covered with ashes.”
- [B] THEY DO NOT PUT BREAD INTO AN OVEN AT DUSK, NOR CAKES ON THE COALS, UNLESS THERE IS TIME FOR THEM TO FORM A CRUST [EVEN] ON THE TOP SURFACE WHILE IT IS STILL DAY.”
1. **II:1:** R. Jacob bar Aha in the name of R. Assi: “Women are more prompt with regard to bread than to a cooked dish. [That explains the lenient ruling of M. 1:10D.]”
- [C] R. ELIEZER SAYS, “SUFFICIENT TIME FOR ITS BOTTOM SURFACE [ONLY] TO FORM A CRUST.
1. **III:1:** R. Eliezer [M. 1:10E] concurs in the case of showbread [that the rule of M. 1:10D applies], for it is called bread only when its upper face has formed a crust in the oven.

XI. YERUSHALMI SHABBAT 1:11

[A] THEY LOWER THE PASSOVER OFFERING INTO AN OVEN AT DUSK [WHEN THE FOURTEENTH OF NISAN FALLS ON A FRIDAY].

1. I:1: There we have learned: After nightfall they went out and roasted their Passover offerings [but not on the Sabbath itself] [M. Pes. 5:10], and you say this [that outside the Temple they may roast the Passover offering at dusk on the Sabbath eve and carry it to the oven at dusk]!
2. I:2: [As to a Passover offering which one took off the fire while it was still day and found it was not sufficiently cooked,] if the Passover offering is whole, one may put it back into the oven [for further cooking, on its own, on the Sabbath]. But if it was cut into pieces, one may not put it back onto the flame [T. Pes. 7:2].

[B] AND THEY LIGHT THE FIRE IN THE FIREPLACE OF THE HOUSE OF THE HEARTH [M. TAM. 1:12]. BUT IN THE PROVINCES, [THEY DO SO ONLY IF] THERE IS SUFFICIENT TIME FOR THE FLAME TO CATCH OVER THE LARGER PART OF [THE WOOD]. R. JUDAH SAYS, “IN THE CASE OF CHARCOAL [ONE MAY LIGHT THE FIRE IF THERE IS TIME FOR THE FIRE TO CATCH] ANY QUANTITY [OF CHARCOAL] WHATSOEVER.”

1. II:1: R. Zeira, R. Judah in the name of Rab: “Four sorts of fires [may be kindled on the eve of the Sabbath if there is time for the fire to catch] any amount [of the fuel] whatsoever: A fire made from olive scraps, mulch, oil, and pits – if such a fire has caught any amount at all [of the fuel], it is permitted.”

XII. YERUSHALMI SHABBAT 2:1

[A] WITH WHAT DO THEY KINDLE [THE SABBATH LIGHT] AND WITH WHAT DO THEY NOT KINDLE [IT] ? THEY DO NOT KINDLE WITH CEDAR FIBER,

1. I:1: R. Hiyya bar Ba said, “It is the wooly substance of cedar twigs.” R. Aha in the name of R. Hiyya: “Cedar wood.”

[B] UNCARDED FLAX,

1. II:1: R. Hinena in the name of R. Phineas: “It is linen that has not been hatched.”

[C] RAW SILK,

1. III:1: The cissaros blossom.

[D] WICK OR BAST,

1. IV:1: [This is] ornita.

[E] WICK OF THE DESERT,

1. V:1: This is meant literally [a grass that grows in the desert].

[F] OR SEAWEED;

1. VI:1: It is similar to flax.

[G] [OR] WITH PITCH, WAX,

1. VII:1: Up to this point we have dealt with wicks. From this point onward we deal with fuel for the lamp.[The reason for the various rulings is now supplied.] R. Abbahu in the name of R. Yohanan: "It is because the flame is drawn backward, and the householder may forget and remove the wick. [And he will be in the dark]."Furthermore, the flame may not kindle over the greater part of the oil."

[H] CASTOR OIL,

1. VIII:1: R. Yosé in the name of R. Hiyya: "It is oil of ivy seeds."

[I] OIL [GIVEN TO A PRIEST AS HEAVE OFFERING WHICH HAD BECOME [UNCLEAN AND MUST THEREFORE BE] BURNED, [GREASE FROM] THE FAT TAIL,

1. IX:1: Said R. Hisda, "That is to say that it is prohibited to light a fire out of Holy Things, which will continue burning on the Sabbath." [Holy things should not be burned on the Sabbath or Festival.]

2. IX:2: R. Yosé taught before R. Yohanan, "How do we know from Scripture that all of those who are to be circumcised should be circumcised only by day? Scripture states, 'And on the [eighth] day [the flesh of his foreskin shall be circumcised' (Lev. 12:3)."

- a. IX:3: All those who are liable to immerse do so under ordinary circumstances by day, except for the menstruating woman and the woman after childbirth, who immerse only by night. A menstruating woman whose time had passed may immerse whether by day or by night [on the eighth or successive days, after the onset of her period].

3. **IX:4:** An Israelite girl who came to kindle a lamp from a priest girl[‘s light] – she dips the wick in oil in the status of heave offering which is fit for burning and so lights the lamp for her [T. Ter. 10:9L-M]

[J] **OR TALLOW. NAHUM THE MEDE SAYS, “THEY KINDLE [THE SABBATH LAMP] WITH MELTED TALLOW.” AND SAGES SAY, “ALL THE SAME IS THAT WHICH IS MELTED AND THAT WHICH IS NOT MELTED: THEY DO NOT KINDLE WITH IT.” A DOUBLE STOVE WHICH [PEOPLE] HAVE HEATED WITH STUBBLE OR STRAW – THEY PUT COOKED FOOD ON IT. [BUT IF THEY HEATED IT] WITH PEAT OR WITH WOOD, ONE MAY NOT PUT [ANYTHING] ON IT UNTIL HE HAS SWEEPED IT OUT, OR UNTIL HE HAS COVERED IT WITH ASHES. THE HOUSE OF SHAMMAI SAY, “HOT WATER BUT NOT COOKED FOOD [MAY ONE PUT ON IT ON THE EVE OF THE SABBATH].” AND THE HOUSE OF HILLEL SAY, “HOT WATER AND COOKED FOOD.” THE HOUSE OF SHAMMAI SAY, “[ON THE SABBATH] THEY TAKE OFF [HOT WATER PLACED THEREON] BUT THEY DO NOT PUT IT BACK.” AND THE HOUSE OF HILLEL SAY, “ALSO: THEY PUT IT BACK.”**

1. **X:1:** R. Barona said, “In the case of tallow, one may drip into it any amount of oil and kindle such a lamp for the Sabbath.”
2. **X:2:** R. Hananiah, R. Baronah in the name of Rab: “Tallow which one has chopped up, and the innards of fish – they kindle a lamp with them.”
3. **X:3:** There is a Tannaite authority who teaches: They may kindle the lamp with naphtha. There is a Tannaite authority who teaches: They may not kindle the lamp with naphtha.

XIII. YERUSHALMI SHABBAT 2:2

[A] **THEY DO NOT KINDLE [A LIGHT] FOR THE FESTIVAL DAY WITH [HEAVE-OFFERING] OIL [WHICH HAD BECOME UNCLEAN AND MUST BE] BURNED.**

1. **I:1:** [With reference to M. 2:2A,] lo, [the exclusion only of the listed item means that] all of the other items listed above are permitted for use in the lamp for the festival day.

[B] **R. ISHMAEL SAYS, “THEY DO NOT KINDLE [THE SABBATH LAMP] WITH TAR, BECAUSE OF THE HONOR OWING TO THE SABBATH.”**

1. **II:1:** What is the difference between tar [which is prohibited] and the innards of fish [which are permitted]?

- [C] **AND SAGES PERMIT ALL KINDS OF OILS: SESAME OIL, NUT OIL, RADISH OIL, FISH OIL, TAR, AND NAPHTHA.**
- 1. III:1:** R. Yohanan b. Nuri got up on his feet and said, “What will the people in Babylonia do, who have only sesame oil? What will the people in Medea do, who have only nut oil? What will the people in Alexandria do, who have only radish oil? What will the people of Cappadocia do, who have neither one nor the other?”
 - 2. III:2:** It has been taught: R. Simeon b. Eleazar says, “They do not kindle [the lamp for the Sabbath] with balsam [T. Shab. 2:3A].”

XIV. YERUSHALMI SHABBAT 2:3

- [A] **WITH NOTHING WHICH EXUDES FROM A TREE DO THEY LIGHT [THE SABBATH LIGHT], EXCEPT FOR FLAX. AND NOTHING WHICH EXUDES FROM A TREE CONTRACTS UNCLEANNESS [AS A TENT] THROUGH OVERSHADOWING [A CORPSE] EXCEPT FOR FLAX. A WICK MADE OF CLOTH WHICH ONE TWISTED BUT DID NOT SINGE – R. ELIEZER SAYS, “IT IS SUSCEPTIBLE TO UNCLEANNESS, AND THEY DO NOT KINDLE [THE SABBATH LAMP] WITH IT.”**
- 1. I:1:** [As to M. 2:3A,] said R. Simeon bar R. Isaac, “It is written, ‘[And you shall command the people of Israel that they bring to you pure beaten olive oil for the light,] that a lamp may be setup to burn continually’ (Ex. 27:20). [Sages] drew the inference that you have only flax that produces a suitable flame.”
 - 2. I:2:** It has been taught: R. Simeon b. Eleazar says, “Whatever exudes from a tree is not subject to the rule concerning [a piece of cloth] three fingerbreadths by three fingerbreadths; and they make use of it for sekhakh [covering for a Sukkah]; except for flax” [T. Shab. 2:4D-F].
 - 3. I:3:** Said R. Eleazar, “They derived the law that flax falls under the category of ‘Tent’ [as at M. 2:3B] from the statements concerning the tabernacle.”
- [B] **R. AQIBA SAYS, “IT IS INSUSCEPTIBLE TO UNCLEANNESS, AND THEY DO KINDLE [THE SABBATH LAMP] WITH IT.”**
- 1. II:1:** R. Eleazar asked, “What is the law as to treating under the category of ‘Tent’ a covering made of the hide of an unclean beast?”
 - 2. II:2:** There we have learned: “[A piece of cloth] less than three-by-three handbreadths which one used to stop up a hole in the bathhouse,

to empty out a cooking pot, or to wipe off the millstones, “whether kept in readiness [set aside for a particular purpose] or not kept in readiness, is still susceptible to uncleanness,” the words of R. Eliezer. R. Joshua says, “Whether kept in readiness or not kept in readiness, it is insusceptible to uncleanness [since it is used like a rag which has been thrown out].” R. Aqiba says, “That which is kept in readiness is susceptible, and that which is not kept in readiness is insusceptible” [M. Kel. 28:2].

3. **II:3:** [As to Aqiba’s view at M. 2:3E,] it is not the end of the matter that the cloth is insusceptible to uncleanness.

XV. YERUSHALMI SHABBAT 2:4

- [A] A PERSON SHOULD NOT PIERCE AN EGGSHELL WITH OIL AND PUT IT ON THE OPENING OF A LAMP SO THAT [THE OIL] WILL DRIP [OUT AND SUSTAIN THE LAMP], EVEN IF IT IS MADE OUT OF EARTHENWARE. AND R. JUDAH PERMITS [DOING SO].**
1. **I:1:** Why may one not do what is prohibited at M. 2:4A? [Because the [fire has not] begun [prior to the Sabbath] on each and every drop. Or perhaps the reason is different, namely, so that the householder will not forget and tip the lamp [to improve the flow of fuel].
- [B] BUT IF THE POTTER JOINED IT TO BEGIN WITH [TO THE LAMP], IT IS PERMITTED, [Y. LACKS:] BECAUSE IT IS ONE UTENSIL. A PERSON MAY NOT FILL A DISH WITH OIL AND PUT IT BESIDE A LAMP AND PLACE THE HEAD OF THE WICK INTO IT, SO THAT IT WILL DRAW [OIL FROM THE DISH OF OIL].**
1. **II:1:** It is different in this case, for the whole constitutes one utensil.
- [C] AND R. JUDAH PERMITS [DOING SO].**
1. **III:1:** Judah is consistent with rulings stated elsewhere. For R. Judah said, “Flowing liquid is regarded as a single entity [joined together].” [Y. Erub. 10:5] It has been taught: If there is a single wick drawing from two cups, dishes, or plates of oil, it is forbidden [for use on the Sabbath]. R. Judah permits such an arrangement.

XVI. YERUSHALMI SHABBAT 2:5

- [A] **HE WHO PUTS OUT A LAMP BECAUSE HE IS AFRAID OF GENTILES, THUGS, A BAD SPIRIT, OR IF IT IS SO THAT A SICK PERSON MIGHT SLEEP, IS EXEMPT [FROM LIABILITY TO PUNISHMENT].**
- I:1:** Said R. Samuel bar R. Isaac, “[When we say,] because of gentiles, it is specifically to gentiles who pose a danger, and likewise, thugs.” R. Yosé asked, “If it is [permitted] on account of thugs who pose a danger, then it should be taught in the language, ‘It is permitted’ [rather than as phrased at C].”
- [B] **[IF HE DID SO] TO SPARE THE LAMP, THE OIL, THE WICK, HE IS LIABLE.**
- II:1:** [With reference to the language, to spare the lamp, oil, wick, M. 2:5D:] What is the difference between saving from what is in the lamp [= the oil] and saving from what is in the olive [itself]?
- [C] **AND R. YOSÉ EXEMPTS [HIM FROM LIABILITY TO PUNISHMENT] IN ALL INSTANCES EXCEPT FOR [ONE WHO DOES SO TO SPARE] THE WICK, BECAUSE HE [THEREBY] MAKES [IT INTO] CHARCOAL.**
- III:1:** [With regard to M. 2:5F-G,] said R. Yohanan, “R. Yosé said R. Simeon both maintain the same principle.” Just as R. Yosé has said, “[One is liable] only if he will have need of the wick itself, “so R. Simeon has said, “[One is liable] only if he has need of the thing itself.’ [If one performs an act of labor for a purpose extraneous to the thing done, he is not liable.]”
 - III:2:** There we have learned: All who cause damage [on the Sabbath] are exempt [M. 13:2], except for him who sets fire to a stack of grain and him who makes a wound.
 - III:3:** If one made a fire and blew it out with a single breath, one is liable on both counts.
 - III:4:** He who stirs up coals on the Sabbath is liable for a sin offering. R. Simeon b. Eleazar says in the name of R. Eleazar b. R. Sadoq, “He is liable for two sin offerings,” for he puts out the ones on top and makes the ones on the bottom glow.” He who stirs up coals in order to warm himself by them is exempt [from liability to punishment] [T. Shab. 2:8].

5. **III:5:** [If a person] kindled a fire and cooked [on it] – There is a Tannaite authority who teaches, “He is liable on two counts.” There is a Tannaite authority who teaches, “He is liable on only one count.”
6. **III:6:** A non-priest who served in the Temple on the Sabbath, or a blemished priest who served at the altar while in a state of uncleanness – R. Hiyya the Elder said, “Such a one is liable on two counts.” Bar Qappara said, “He is liable on one count [not being a priest, or being a blemished priest, respectively].”

XVII. YERUSHALMI SHABBAT 2:6

[A] ON ACCOUNT OF THREE TRANSGRESSIONS DO WOMEN DIE IN CHILDBIRTH:

1. **I:1:** There is a Tannaite authority who [at M. 2:6A] repeats the formulation as, “die young.” There is a Tannaite authority who repeats it as, “die in childbirth.”

[B] BECAUSE THEY ARE NOT METICULOUS IN THE LAWS OF MENSTRUAL SEPARATION,

1. **II:1:** [Menstrual separation:] The first man was the lifeblood of the world.

[C] IN [THOSE COVERING] THE DOUGH OFFERING,

1. **III:1:** The first man was the clean dough offering for the world, for it is written, [reading Gen. 2:6 here and not in B:] “But a flow would well up from the ground and water the whole face of the earth.” And it is written, “Then the Lord God formed man of dust from the ground, [and breathed into his nostrils the breath of life; and man became a living being]” (Gen. 2:7).

[D] AND IN [THOSE COVERING] THE KINDLING OF A LAMP [FOR THE SABBATH].

1. **IV:1:** The first man was the light of the world, since it is written, “The spirit of man is the lamp of the Lord, [searching all his innermost parts]” (Prov. 20:27). But Eve caused him to die. Therefore the religious requirement concerning kindling a lamp for the Sabbath was assigned to woman.

XVIII. YERUSHALMI SHABBAT 2:7

- [A] **THREE THINGS MUST A MAN STATE IN HIS HOUSE ON THE EVE OF SABBATH AT DUSK: “HAVE YOU TITHED?” “HAVE YOU PREPARED THE ERUB?” “[THEN] KINDLE THE LAMP [FOR THE SABBATH].” [IF] IT IS A MATTER OF DOUBT WHETHER OR NOT IT IS GETTING DARK, THEY DO NOT TITHE THAT WHICH IS CERTAINLY UNTITHED,**
1. **I:1:** [A continuation of the baraita cited immediately above, at M. 2:6:] It has been taught: Rabban Simeon b. Gamaliel says, “The laws of Holy Things, purification water, and rendering food susceptible to uncleanness truly are the essentials of the Torah. And all three of them are given over to ordinary folk.” [There were three things to be done: They kindle the Sabbath lamp, prepare the erub, and (then) bury things which are to be kept hot (over the Sabbath)] [T. Shab. 2:10].
 1. **I:2:** [Following the more logical order of the stringency of the requirement for these several actions,] would it not have been more appropriate to follow the following order? “Kindle the lamp for the Sabbath,” then “Have you tithed? Have you prepared the erub?” [It is a more serious offense to kindle the lamp on the Sabbath than to prepare the erub on the Sabbath. To insure that he does not kindle on the Sabbath, therefore, he should kindle first.]
- [B] **[IF IT IS A MATTER OF DOUBT WHETHER OR NOT IT IS GETTING DARK, THEY DO NOT TITHE THAT WHICH IS CERTAINLY UNTITHED, AND THEY DO NOT IMMERSE UTENSILS:**
1. **II:1:** The following story concerns R. Eliezer, who was dying on the eve of the Sabbath at dusk. Hyrcanus, his son, came in to remove his phylacteries.
- [C] **AND THEY DO NOT IMMERSE UTENSILS, AND THEY DO NOT KINDLE LAMPS.**
1. **III:1:** The Mishnah speaks of large utensils. But as to small ones, one may practice cunning and immerse them.
- [D] **BUT THEY DO TITHE THAT WHICH IS DOUBTFULLY TITHED PRODUCE,**
1. **IV:1:** [In explaining the meaning of the word for doubtfully tithed produce, “demaï,” said] R. Yosé in the name of R. Abbahu, R. Hezekiah in the name of R. Judah b. Pazzi, “Who has properly separated the tithes from this produce, who has not done so?”

[E] AND THEY DO PREPARE THE ERUB, AND THEY DO COVER UP WHAT IS TO BE KEPT HOT.

1. V:1: Said R. Hiyya bar Ashi, “That which you say concerns preparing the erub union for courtyards [which is done as a matter of doubt, since the courtyards may or may not be private property anyhow]. But as to the erub meal covering the union of Sabbath boundaries, that is a matter of the law of the Torah [and is not subject to doubt, therefore certainly may not be done].”

XIX. YERUSHALMI SHABBAT 3:1

[A] A DOUBLE STOVE WHICH [PEOPLE] HAVE HEATED WITH STUBBLE OR STRAW – THEY PUT COOKED FOOD ON IT.

1. I:1: The meaning of the Mishnah [at M. 3:1B, putting cooked food on] is that they may keep cooked food on the stove. The formulation of the Mishnah’s rule accords with the principle of R. Judah. For we have learned: Two double stoves which are paired,[D] one of them swept out and with its ashes covered, and one of them not swept out and with its ashes covered – they keep something on the one which has been swept out and had its ashes covered [and they do not keep anything on the one which has not been swept out and had its ashes covered]. And what is it that they keep on it? “The House of Shammai say, ‘They do not keep anything at all on it.’ “And the House of Hillel say, ‘They keep on it hot water but not cooked food.’ “[If] one removed the cooking pot, all concur that he should not put it back,” the words of R. Meir. R. Judah says, “The House of Shammai say, ‘Hot water, but not cooked food.’” “And the House of Hillel say, ‘Hot water and cooked food.’” “[If] he removed [it from the stove], the House of Shammai say, ‘He should not put it back.’ “And the House of Hillel say, ‘He may put it back’” [T. Shab. 2:13].

a. I:2: Secondary expansion of the foregoing.

[B] [BUT IF THEY HEATED IT] WITH PEAT OR WITH WOOD, ONE MAY NOT PUT [ANYTHING] ON IT UNTIL HE HAS SWEEPED IT OUT, OR UNTIL HE HAS COVERED IT WITH ASHES. THE HOUSE OF SHAMMAI SAY, “HOT WATER BUT NOT COOKED FOOD [MAY ONE PUT ON IT ON THE EVE OF THE SABBATH].” AND THE HOUSE OF HILLEL SAY, “HOT WATER AND COOKED FOOD.”

1. II:1: Daniel, son of R. Qattina, in the name of R. Assi: “The spines of palm branches are in the category of peat and wood [M. 3:1C].”

2. **II:2:** He who sweeps out the ashes – must he do so until he sweeps out all that is necessary? [Or does it suffice to sweep out one place within the stove?] He who covers over the fire with ashes – must he do so all that is necessary, [or may he cover over only one part of the fire]? If one covered the fire with ashes, and it flamed up again, what is the law? [Does he have to repeat the procedure?]
3. **II:3:** For it has been taught: “One who tithes his produce or who cooks [food] on the Sabbath, “[if he does so] inadvertently, he may eat [what he has cooked]. “[if he does so] deliberately, he may not eat it,” the words of R. Meir. R. Judah says, “[If] he did so inadvertently, he may eat it at the end of the Sabbath. If he did so deliberately, he may not eat it [at any time].” R. Yohanan Hassandlar says, “[If he did so] inadvertently, it may be eaten at the end of the Sabbath by others, but not by him. “[If he did so] deliberately, it should not be eaten either by him or by others” [T. Shab. 2:15].
4. **II:4:** It has been taught: A woman should not fill a pot with peas and pulse and put it into the oven on the eve of the Sabbath at dusk. If she put them in, at the end of the Sabbath they are forbidden for as long as they take to prepare fresh [T. Shab. 3:1].
5. **II:5:** “He who plants seed on the Sabbath, if he did so inadvertently, may preserve [the plants which come up from the seed]. But if he did so deliberately, he must uproot [the plants which come up from the seed]. But in the case of [seed planted in] the Seventh Year, whether this is done inadvertently or deliberately, he must uproot [the plants which come up]?” R. Judah says, “Matters are precisely the opposite. In the case of one who plants on the Sabbath, whether one has done the deed inadvertently or deliberately, one must uproot [the plants which come up later on]. In the case of the Seventh Year, [if he sowed the seed] inadvertently, he may allow the plants to grow. [If he did so] deliberately, he must uproot them” [T. Shab. 2:21].

[C] **THE HOUSE OF SHAMMAI SAY, “[ON THE SABBATH] THEY TAKE OFF [HOT WATER PLACED THEREON] BUT THEY DO NOT PUT IT BACK.” AND THE HOUSE OF HILLEL SAY, “ALSO: THEY PUT IT BACK.”**

1. **III:1:** [As to M. 3:1G-H, from the Hillelite viewpoint:] If one removed the pot while it was still day, he puts it back while it was still day. If he removed it after it had gotten dark, he puts it back after it had gotten dark. If he removed the pot while it was still day, and then the day became sanctified [by darkness, what is the law]? [This question is not answered.]

XX. YERUSHALMI SHABBAT 3:2

[A] AN OVEN WHICH [PEOPLE] HAVE HEATED WITH STUBBLE OR WITH STRAW — ONE SHOULD NOT PUT ANYTHING EITHER INTO IT OR ON TOP OF IT. A SINGLE STOVE WHICH [PEOPLE] HAVE HEATED WITH STUBBLE OR WITH STRAW, LO, THIS IS EQUIVALENT TO A DOUBLE STOVE. [IF THEY HEATED IT] WITH PEAT OR WITH WOOD, LO, IT IS EQUIVALENT TO AN OVEN.

1. **I:1:** Bar Qappara taught, “It is forbidden even to put anything near it [M. 3:2A].”
2. **I:2:** Said R. Yosé, “As to laws of the Sabbath, with respect to a single stove, you are guided by the rules governing heating the stove up. [Sometimes it is in the category of a double stove, and sometimes it is in the category of an oven.] But as to matters of uncleanness, the single stove follows the rules governing the purpose for which it is made [that is, if it is made to serve as double stove, then it follows the rules of uncleanness of a double stove, and if as an oven, it follows the rules of an oven].”]

XXI. YERUSHALMI SHABBAT 3:3

[A] THEY DO NOT PUT AN EGG BESIDE A KETTLE [ON THE SABBATH] SO THAT IT WILL BE COOKED.

1. **I:1:** There we have learned: An apple in the status of heave offering which one chopped up and placed in dough, as a result of which the dough was leavened — lo, this dough is forbidden [for consumption by a non-priest] [M. Ter. 10:2A-C]. It has been taught: R. Yosé permits [eating it] [T. Ter. 8:9]. R. Aha, R. Abbahu in the name of R. Yosé bar Haninah: “Where they differ, it is in the case of the apple’s causing leavening through its juice. “But as to its causing leavening through its substance, all parties concur that [the dough] is permitted [to non-priests, because this is not in the category of leavening].” [The pertinence of the foregoing is now established.] R. Yosé is consistent with his positions held elsewhere, for just as he has said there, “The effect of leavening on the part of the apple is not wholly established,” so he maintains here [at M. 3:3C] that the work of cooking the food [under the condition described at M. 3:3] is not wholly established.

2. **I:2:** It has been taught: Said R. Yohanan bar Mareh, “That rule applies in a case in which he did not remove his hand from the kettle. But if he removed his hand from the kettle, it is forbidden.”
3. **I:3:** An unripe fig which one stored in straw, and so too a cake which one stored under coals – if part of it is in the open, one may take it on the Sabbath. But if not, one may not take it. Eleazar b. Taddai says, “One may spear them with a spit or with a knife and take them on the Sabbath” [T. Shab. 16:10].

[B] AND ONE SHOULD NOT CRACK IT INTO [HOT] WRAPPINGS. AND R. YOSÉ PERMITS. AND ONE SHOULD NOT BURY IT IN SAND OR IN ROAD DIRT SO THAT IT WILL BE ROASTED.

1. **II:1:** [With reference to M. 3:3B,] there they say, “What has been heated in the sun is permitted [for use on the Sabbath, since there is no possibility of erring in this regard], while what is a secondary effect [comparable to] having been heated in the sun [such as M. 3:3B’s instance] is forbidden [since one may then err and reason that just as what has been heated in the sun is permitted, so what has been heated in a flame likewise is permitted]. [To avoid this sort of egregious error in analogies, the entire procedure is prohibited.]” Rabbis here, by contrast, say, “Both utilizing the sun and utilizing what is comparable to the sun is permitted, [and we make no decree against the latter by reason of possible error].”

[C] M’SH S: THE PEOPLE OF TIBERIAS BROUGHT A PIPE OF COLD WATER THROUGH A SPRING OF HOT WATER. SAGES SAID TO THEM, “IF [THIS WAS DONE] ON THE SABBATH, [THE WATER] IS IN THE STATUS OF HOT WATER WHICH HAS BEEN HEATED ON THE SABBATH [ITSELF]. “IT IS PROHIBITED FOR USE IN WASHING AND IN DRINKING.

1. **III:1:** At first they would stop up the stoppers to the bath on the eve of the Sabbath [leaving hot water in the bath], and people would come in and wash on the Sabbath. They were suspect of filling the [fire below] with wood on the eve of the Sabbath, so that the fire would continue burning on the Sabbath. Accordingly, they prohibited washing in the water on the Sabbath, [since it was heated for that purpose on that day,] but they permitted merely perspiring there [on the Sabbath]. The [sages] then suspected the people of going in and washing and then saying, “We were only perspiring.” [Therefore] the [Sages] prohibited both washing and perspiring.

[D] [IF THIS WAS DONE] ON THE FESTIVAL DAY, [THE WATER] IS IN THE STATUS OF HOT WATER WHICH HAS BEEN HEATED ON THE FESTIVAL DAY. IT IS PROHIBITED FOR USE IN WASHING, BUT PERMITTED FOR USE IN DRINKING.”

- 1. IV:1:** As to hot water heated on the festival, and so too, hot water heated on the eve of the Sabbath for use on the Sabbath, Rab and Samuel – One of them said, “One may with such water wash one’s face, hands, and feet.” The other said, “One may with such water wash his entire body, limb by limb.”
- 2. IV:2:** A certain philosopher asked Bar Qappara, [and so too] Abbat asked Levi Sarisa, “Why should it be permitted to drink the water but forbidden to wash in it [in line with M. 3:3/I]?”

[E] A MILLIARUM WHICH IS CLEAR OF ASHES – THEY DRINK FROM IT ON THE SABBATH.

- 1. V:1:** Lo, if it is not clear of ashes, one may not do so.

[F] AN ANTIKHI [BOILER], EVEN THOUGH IT IS CLEAR OF ASHES – THEY DO NOT DRINK FROM IT.

- 1. VI:1:** R. Hananiah, R. Yosé, R. Aha Abba in the name of R. Yohanan: “It is because it [the water] will be heated up by its sides [which are hot].”

XXII. YERUSHALMI SHABBAT 3:4

[A] A KETTLE [CONTAINING HOT WATER] WHICH ONE REMOVED [FROM THE STOVE] – ONE SHOULD NOT PUT COLD WATER INTO IT SO THAT IT [THE COLD WATER] MAY GET WARM. BUT ONE MAY PUT [ENOUGH COLD WATER] INTO IT OR INTO A CUP SO THAT [THE HOT WATER] WILL COOL OFF.

- 1. I:1:** R. Ba the son of R. Hiyya bar Ba, R. Hiyya in the name of R. Yohanan: “They have taught only that one may pour the cold water into a cup [of hot water, to cool off the hot water]. Lo, as to [pouring cold water] into [the pot itself], that may not [be done].”
- 2. I:2:** It has been taught: They put hot water into cold water, but not cold water into hot water, in accord with the view of the House of Shammai. And the House of Hillel say, “They put hot water into cold water, or cold water into hot water.” Under what circumstances? In the case of a cup, but as to a bath, they put hot water into cold water, but

as to putting cold water into hot water, that is forbidden. And R. Simeon permits doing so.

3. **I:3:** “A man may go down and immerse in cold water and come up and heat himself by the fire,” the words of R. Meir. And sages prohibit doing so.
4. **I:4:** All concur with regard to pouring the hot water from the first vessel, in which it has been heated, into a second vessel, that it is permitted [to use the hot water for any purpose, once it has been poured into the second vessel].

XXIII. YERUSHALMI SHABBAT 3:5

[A] THE PAN OR POT WHICH ONE HAS TAKEN OFF THE STOVE WHILE IT IS BOILING – ONE MAY NOT PUT SPICES INTO IT. BUT HE MAY PUT [SPICES] INTO [HOT FOOD WHICH IS] IN A PLATE OR A DISH.

1. **I:1:** What is the law as to putting spices in on the bottom, and pouring boiling food on top of spices [from the original pot, in which the food had been cooked, rather than from a second pot]?
2. **I:2:** What is the law as to pouring out the contents of the original pot, in which food has been brought to the boiling point, through the spout of the pot? [Is this regarded as a second utensil or as part of the first?]

[B] R. JUDAH SAYS, “INTO ANYTHING MAY ONE PUT [SPICES], EXCEPT WHAT HAS VINEGAR OR FISH BRINE [IN IT].”

1. **II:1:** In the view of R. Judah, anything salted falls into the category of fish brine, and wine falls into the category of vinegar.

XXIV. YERUSHALMI SHABBAT 3:6

[A] [ON THE SABBATH] THEY DO NOT PUT A UTENSIL UNDER A LAMP TO CATCH THE OIL. BUT IF ONE PUT IT THERE WHILE IT IS STILL DAY, IT IS PERMITTED. BUT THEY DO NOT USE ANY OF THAT OIL [ON THE SABBATH], SINCE IT IS NOT SOMETHING WHICH WAS PREPARED [BEFORE THE SABBATH FOR USE ON THE SABBATH].

1. **I:1:** R. Haggai asked, “If the flame, kindled prior to sunset, went out while it was still daylight on Friday, but the householder found out

about it only after it had gotten dark, [is the oil in the lamp in the status of that which has not been designated for use on the Sabbath and hence inaccessible on that day]?”

2. **I:2:** Said R. Yohanan, “You have nothing that is in fact available [to the householder] and not regarded as ready and designated for use on the Sabbath except for one thing alone. [That is, if something may be used for its normal purpose as is, without further preparation, then it is regarded as prepared for use. It is assumed the householder intended to use it on the Sabbath and hence it is available for use on the Sabbath, except in one case, this one. So in all other instances, if the item may be used and is ready for use, even though the householder has somehow lost the object from mind, it remains available for use, at his will, on the Sabbath. The exception is the dish at M. 3:6. It is ready for its normal use. Yet unless it has been placed in its position in advance, it may not be used. The oil has no bearing on its usefulness; it may serve any number of purposes. Nonetheless, it is not available for Sabbath use, as M. 3:6A says.]”

XXV. YERUSHALMI SHABBAT 3:7

[A] THEY CARRY A NEW LAMP, BUT NOT AN OLD ONE.

1. **I:1:** Hiyya bar Aha objected, “And lo, we have learned: A basket may be turned over for chickens, so they may run up and down it [M. 18:2:]” [And it has been taught regarding it: If they went onto it [the basket] by themselves, one may not move them [cf. T. Shab. 15:1).] They say, “This rule [at M. 3:7A] represents the opinion of R. Judah.” It has been taught: “They carry a new lamp, but not an old one” [M. 3:6E], the words of R. Judah. R. Meir says, “All sorts of lamps do they carry, except for a lamp which one has lit on that very Sabbath.” R. Simeon says, “All sorts of lamps do they carry, except for a lamp which is [actually] burning on the Sabbath [M. 3:6F-G]. “[If] the flame went out, it is permitted to carry it. [T. adds: But a cup, a dish, and a lantern which they extinguished one should not move from their place [T. Shab. 3:13].”
2. **I:2:** R. Simeon b. Laqish gave a decision in Tripolis: “A small candlestick may be carried about. [It has no fixed place and may be moved around.]”
3. **I:3:** It has been taught: A lamp which is on a plank – if one tilts [Y.: removes] the plank, and the lamp falls off, [one puts the plank back in

its place] [T. Shab. 3:14B-C]. Said R. Yohanan, “One who does such a thing is nearly liable to bring a sin offering. If he tips it forward, [he is nearly liable] on the count of moving the flame about, and if he tips it backward, [he is nearly liable] on the count of putting out the flame.” Samuel bar Abba before R. Yosé: “This is so if he put the flame out.” He said to him, “Let your mind be at ease.”

[B] R. SIMEON SAYS, “ANY SORT OF LAMP DO THEY CARRY, EXCEPT FOR A LAMP WHICH IS BURNING ON THE SABBATH.”

- 1. II:1:** [R. Simeon says, “ALL sorts of lamps do they carry, except for a lamp which is (actually) burning on the Sabbath (M. 3:6F-G).” (If) one put it out, it is permitted to carry it.] But a cup, a dish, and a lantern which they extinguished one should not move from their place” [T. Shab. 3:13].
- 2. II:2:** R. Ba bar Hiyya in the name of R. Yohanan: “As to a counter it is forbidden to move it about.” R. Ammi gave a decision that it is permitted to do so.
- 3. II:3:** R. Aha bar Hinena, R. Yosé in the name of R. Yohanan: “As to a small candelabrum, it is permitted to move it about.” And is it not a utensil? And is not everything in the house regarded as ready for use on the Sabbath? [Why should this ruling be required at all?] Said R. Yosé b. R. Bun, “Interpret the case to be one in which the man took the object with him for business [and did not pay attention to its being available for use in the house for the Sabbath]. [Accordingly, it is not among the objects ready for use on that day, and the rule has therefore to be specified as at A.] “Or perhaps the object came to hand only at dark on the eve of the Sabbath, and you should not draw any conclusions from that fact.”

XXVI. YERUSHALMI SHABBAT 3:8

[A] THEY PUT A UTENSIL UNDER A LAMP TO CATCH THE SPARKS.

- 1. I:1:** Here you say: On the Sabbath they do not put a utensil under a lamp to capture the sparks, nor should one put water into it, because he thereby puts out the sparks [cf. M. 3:8], while here you say, They do put a utensil under the lamp [M. 3:8A]

[B] BUT [ON THE SABBATH] ONE MAY NOT PUT WATER INTO IT, BECAUSE HE THEREBY PUTS OUT [THE SPARKS].

1. **II:1:** R. Samuel in the name of R. Zeira: “This represents the view of R. Yosé.”

XXVII. YERUSHALMI SHABBAT 4:1

[A] WITH WHAT DO THEY COVER [UP FOOD TO KEEP IT HOT], AND WITH WHAT DO THEY NOT COVER UP [FOOD TO KEEP IT HOT]? THEY DO NOT COVER WITH PEAT, COMPOST, SALT, LIME:

1. **I:1:** [Explaining why one may not cover up food with these substances, even while it is still day, prior to the Sabbath:] The reason is that these things both boil and cause boiling, so while it is still day the cook will remove them [from covering the food]. The food may lose some of their heat in his hand, and then he will put them back [when it is the Sabbath], and they will continue to add heat (to the food). Accordingly, sages have forbidden covering up food in them.
2. **I:2:** [Taking up the issue of the stress on covering up food while it is still day, we wish now to ask whether one may simply not cover up food at all once the Sabbath has begun.] There we have learned: If it is a matter of doubt whether or not it is getting dark [i.e., that the Sabbath has begun]..., they do cover up what is to be kept hot [M. 2:7]. The reason, then, is that it has not gotten dark. But if it had gotten dark, one would not have been allowed to cover the food over at all – [and that would mean, with any sort of substance. Why is this the case?]
3. **I:3:** [They forbade keeping food warm through covering it up on account of the possibility of leaving the food on the stove. [If one is permitted to cover it up, he will assume it is equally permissible to leave food on the stove to keep it hot.] And contrariwise: they have forbidden leaving food on the stove on account of the possibility of covering it up. They forbade using a stove for keeping food warm, in the case of a stove which produces only a small amount of hot air, on account of the possibility of one’s then using a stove which produces a great deal of hot air. They forbade keeping warm on the Sabbath itself food that had been thoroughly cooked, because [one might then keep warm] food that had not been thoroughly cooked [with the result that it will be further cooked on the Sabbath]. They forbade keeping water hot because [one might then] keep food hot that had been cooked thoroughly. [L reads: “They forbade keeping food hot that had been cooked thoroughly because (one might then) keep water hot.”] Then they retracted and permitted keeping water hot.

4. **I:4:** It has been taught: they do not cover food in hot ashes [lest they contain glowing coals and cause additional cooking].
5. **I:5:** If [things which add heat were] mixed up [with things which do not add heat,] what is the law as to using it for a covering? Let us derive the rule from the following: They cover up food to keep it hot with cloth, produce, and the wings of a dove [M. 4:1G]. [The failure to indicate that among the items that may be used is a mixture such as A proposes proves that such a mixture may not be used.]

[B] OR SAND, WHETHER WET OR DRY.

1. **II:1:** There we have learned: They put the corpse in sand so that it will keep [M. 23:5].

[C] OR WITH STRAW, GRAPE SKINS, FLOCKING [RAGS], OR GRASS, WHEN WET.

1. **III:1:** Straw is like a bailee: it returns just what you give to it.

[D] BUT THEY DO COVER UP [FOOD TO KEEP IT HOT] WITH THEM WHEN THEY ARE DRY.

1. **IV:1:** It is not the end of the matter that they may not do so when they are wet. But even if they were dry and were artificially moistened, [one may not use them,] on the analogy of flocking rags. For are not flocking rags in the category of things which had been dried and then were moistened?

[E] THEY COVER UP [FOOD TO KEEP IT HOT] WITH CLOTH, PRODUCE, THE WINGS OF A DOVE:

1. **V:1:** [With reference to M. 4:1D-F's mention of wet and dry grass:] there we have learned: [As to sherds which were used with unclean liquids and which fell into the airspace of the oven, when the oven is heated, it is unclean, for liquid eventually exudes.] And so is the rule with new olive peat. But with respect to old olive peat, the oven is clean [M. Kel. 9:5]. What is the definition of new and of old?

[F] HACKLED FLAX, AND CARPENTER'S SAWDUST. R. JUDAH PROHIBITS IN THE CASE OF SOFT [HACKLED FLAX] AND PERMITS IN THE CASE OF COARSE [HACKLED FLAX].

1. **VI:1:** We have learned the formulation of the Mishnah using the word nesoret, while teachers of the house of rabbi read, neoret.

XXVIII. YERUSHALMI SHABBAT 4:2

[A] THEY COVER UP [FOOD TO KEEP IT HOT] WITH FRESH HIDES, AND THEY CARRY [HANDLE] THEM;

1. **I:1:** R. Judah b. Pazzi in the name of R. Jonathan: “That which you say [about carrying hides] applies when they are with the householder. But if they are in storage [at a craftsman’s, for example], it is not in such an instance that the rule applies. [In the latter in-stance the hides are available to be worked and are not ready for purposes suitable for the Sabbath.]”

[B] WITH WOOL SHEARINGS, BUT THEY DO NOT CARRY THEM. HOW DOES ONE [REMOVE THE WOOL SHEARINGS, SINCE HE MAY NOT TOUCH THEM]? HE [SIMPLY] TAKES OFF THE COVER, AND [THE WOOL SHEARINGS] FALL OFF [ON THEIR OWN]. **R. ELEAZAR B. AZARIAH SAYS, “A BASKET [HOLDING A POT AND SHEARINGS] DOES HE TURN ON ITS SIDE, AND HE REMOVES [THE FOOD],” LEST HE SHOULD TAKE IT AND NOT BE ABLE TO PUT IT BACK.” AND SAGES SAY, “HE TAKES [OUT THE FOOD] AND PUTS IT BACK.”**

1. **II:1:** R. Judah and R. Yohanan: “That which you say [about not carrying wool shearings] applies when they are in storage. But if they are with the householder, it is not in such an instance that the rule applies.
2. **II:2:** R. Jeremiah in the name of Rab: “They spread out mats on trays of bricks [which are left out to dry, in the event of rain] on the Sabbath. [Since one might choose to sit on them, they are regarded as ready and available for a permitted purpose.]”
3. **II:3:** R. Bisna in the name of R. Yosé bar Hanina: “It is forbidden to carry the teeth of a comb [or web] used for weaving veils [since these are designed for work and not an activity permitted on the Sabbath].” There were nets spread on the ground, and they were drying up in the sun. They came and asked Rab, “What is the law about carrying them out of the sun?” He said to them, “Consider using them to place them under your heads,” and on the strength of that possible use on the Sabbath, he permitted them to carry the nets.

XXIX. YERUSHALMI SHABBAT 4:3

[A] [IF] HE DID NOT COVER UP [THE FOOD] WHILE IT IS STILL DAY, HE SHOULD NOT COVER IT UP AFTER DARK. [BUT IF] HE COVERED IT UP AND IT BECAME

UNCOVERED, IT IS PERMITTED TO COVER IT UP AGAIN. ONE FILLS A JUG [ON THE SABBATH WITH COLD FOOD OR LIQUID] AND PUTS IT UNDER A PILLOW OR A BLANKET [TO KEEP IT COOL].

- 1.** **I:1:** If one removed the cover from the food while it was still day, he may put it back while it is still day. If he removed it once it had gotten dark, he may put it back thereafter as well. If he took it off while it was still daylight, and then the day became sanctified [through sunset, what is the law? This question is not answered.]
- 2.** **I:2:** R. Ba in the name of R. Judah: “If in removing the kettle from the wool flocking, the hole in which the kettle had been placed was spoiled, it is forbidden to put the kettle back [by rearranging the flocking]. But it is permitted to move the kettle from one stove to another.”
- 3.** **I:3:** It has been taught: They do not cover up hot food or water once it has gotten dark, but they may add cloths or utensils to put over them [cf. T. 3:20A-B].
- 4.** **I:4:** And just as they do not cover up hot water to begin with on the Sabbath [M. 4:3A], so they do not cover up snow and ice [vs. M. 4:3C] [T. Shab. 3:23E-F].

XXX. YERUSHALMI SHABBAT 5:1

[A] WITH WHAT DOES A BEAST [EX. 20:10] GO OUT [ON THE SABBATH], AND WITH WHAT DOES IT NOT GO OUT? A CAMEL GOES OUT WITH ITS CURB, A FEMALE CAMEL WITH ITS NOSE RING:

- 1.** **I:1:** It has been taught: R. Ishmael b. R. Yosé in the name of his father [says], “There are four domesticated beasts that are led by a curb, and these are they: “A horse, mule, asses, and camel” [T. Shab. 4:1A].

[B] A LIBYAN ASS WITH ITS BRIDLE:

- 1.** **II:1:** There is a Tannaite authority who gives the word as LDGQS. He who gives the word as LWBDQS [as it is in the Mishnah] cites in support of his view the following verse, “And the Libyans and the Ethiopians shall follow in his train” (Dan. 11:43). He who gives the word as LGDQS [or: NYBRQWS] [in more current usage means] AMBATOS. What is the meaning of the word AMBATOS? It is an ass that goes up [on it, i.e., for riding].

[C] AND A HORSE WITH ITS CHAIN. AND ALL BEASTS WHICH WEAR A CHAIN GO OUT WITH A CHAIN”

1. **III:1:** [Noting the repetition of the rule for the horse with its chain at M. 5:1C, all beasts which wear a chain,] R. Samuel in the name of R. Zeira: “Just as you make that point with respect to the prohibition, so the same point applies with regard to all other beasts in respect to the absence of such a prohibition. [The horse provides the analogy for all beasts in this instance; all of them may wear a chain.]”
2. **III:2:** And a horse with its chain [M. 5:1B]: [With reference to M. 5:1C, And they sprinkle on them, etc.:] And has it not been taught: A ring of man is susceptible to uncleanness as an ornament. A ring of a beast and one serving a utensil, and all other rings when not attached to something susceptible to uncleanness, are insusceptible to uncleanness [since they do not serve the needs of man] [M. Kel. 12:1A-B]. [Why then should it be necessary to sprinkle on the chains at all or to immerse them?]

[D] AND ARE LED BY A CHAIN”

1. **IV:1:** And will the chain not make some sort of a ditch [in the dirt, when it is dragged along]?

[E] AND THEY SPRINKLE ON THE [CHAINS IF THEY BECOME UNCLEAN] AND IMMERSER THEM IN PLACE [WITHOUT REMOVING THEM].

1. **V:1:** There we have learned: And she should not immerse when dressed in them, unless she loosens them [M. 6:1C], and here you say this?

XXXI. YERUSHALMI SHABBAT 5:2

[A] AN ASS GOES OUT WITH ITS SADDLECLOTH WHEN IT IS TIED ON TO HIM [BEFORE THE SABBATH].

1. **I:1:** [With reference to M. 5:2A,] Samuel said, “That is the case if it is tied to him in advance of the Sabbath. [But if one merely spreads the blanket, that may be done on the Sabbath itself.]”

[B] RAMS GO OUT STRAPPED UP [AT THE MALE ORGAN].

1. **II:1:** One puts a tanned hide against the heart [of the beast], and it protects the female.

[C] AND FEMALE [SHEEP] GO FORTH STRAPPED OVER [AND THUS RAISING] THEIR TAILS, UNDER [AND THUS LOWERING] THEIR TAILS, OR WEARING PROTECTIVE CLOTHS. AND GOATS GO FORTH [WITH] BOUND [UDDERS]. R. YOSÉ PROHIBITS IN THE CASE OF ALL OF THEM, EXCEPT FOR THE CASE OF EWES WEARING PROTECTIVE CLOTHS.

1. **III:1:** There is a Tannaite authority who repeats the word as SHWZWT, and there is a Tannaite authority who repeats the word as SWZWT. [While both mean uplifted tails, they are given distinct renderings].
2. **III:2:** As to protective cloths, it is something soft and thick.
3. **III:3:** As to tying something under [thus lowering] their tails [KBWLWT], it is so that a male will not mount them.

[D] R. JUDAH SAYS, “GOATS GO FORTH WITH BOUND UDDERS TO KEEP THEM DRY, BUT NOT TO COLLECT THE MILK.”

1. **IV:1:** It has been taught: R. Judah b. Betera says, “Whether it is to keep them dry or to collect the milk, it is forbidden.”

XXXII. YERUSHALMI SHABBAT 5:3

[A] AND WITH WHAT DOES [A BEAST] NOT GO OUT? A CAMEL DOES NOT GO OUT WITH A PAD, NOR WITH FORELEGS BOUND TOGETHER [OR: HIND LEGS BOUND TOGETHER] OR WITH A HOOF TIED BACK TO THE SHOULDER. AND SO IS THE RULE FOR ALL OTHER BEASTS.

1. **I:1:** [The pad] is like a rock [of a plumb line] to level the crookedness [of a wall].

[B] ONE SHOULD NOT TIE CAMELS TO ONE ANOTHER AND LEAD THEM. BUT ONE PUTS THE ROPES [OF ALL OF THEM] INTO HIS HAND AND LEADS THEM, SO LONG AS HE DOES NOT TWIST [THE ROPES TOGETHER].

1. **II:1:** Said R. Ba, “It is so that people will not suspect the man, saying, ‘So-and-so went out to do his ordinary labor on the Sabbath day.’” [As to not twisting the ropes together,] Assi says, “It is because of the consideration of mixed seeds.” R. Judah in the name of Samuel said, “If it is tied to the neck of the beast, it is prohibited. If it is hung down from the neck of the beast, it is permitted.”

XXXIII. YERUSHALMI SHABBAT 5:4

- [A] AN ASS DOES NOT GO OUT WITH ITS SADDLECLOTH WHEN IT IS NOT TIED TO HIM, OR WITH A BELL, EVEN THOUGH IT IS PLUGGED, OR WITH THE LADDER YOKE AROUND ITS NECK, OR WITH A STRAP ON ITS LEG. AND FOWL DO NOT GO FORTH WITH RIBBONS OR STRAPS ON THEIR LEGS.
1. **I:1:** It has been taught: But it walks about in the courtyard [wearing it (M. 5:4A)] [T. Shab. 4:5K]. It has been taught: Rabban Simeon b. Gamaliel says,] “An ass goes forth with its saddle when it is tied on to it to keep it warm, and this is on condition that one not tie the band on to it and pass the strap under its tail” [T. Shab. 4:2].
 2. **I:2:** R. Jeremiah asked before R. Zeira, “Whence do we learn these various rules? For we have learned: The laws of the Sabbath are like mountains suspended from a thread [so far as scriptural bases for them are concerned] [M. Hag. 1:8]. And you say this? [The distinctions made in the Mishnah appear to rest on no clear authority.]” [Why ask regarding a particular Sabbath law, for as a whole they have few supports.]
- [B] AND RAMS DO NOT GO FORTH WITH A WAGON UNDER THEIR FAT TAIL.
1. **II:1:** It is because it makes a ditch in the ground.
- [C] AND EWES DO NOT GO FORTH PROTECTED [WITH THE WOOD CHIP IN THEIR NOSE].
1. **III:1:** [B] R. Judah said, “It is a ball of wool.” R. Yosé in the name of R. Hama bar Hanina: “It is a root of an herb, and it is called Yahanonah.”
- [D] AND A CALF DOES NOT GO OUT WITH ITS RUSH YOKE,
1. **IV:1:** [B] R. Huna said, “It is a small plow.” R. Hisda said, “It is a wooden board.” Abba bar R. Huna said, “It is a furcated spear [set under the head of the calf [to prevent it from lowering its head to give suck to its young].”
- [E] NOR A COW WITH A HEDGEHOG SKIN [TIED AROUND THE UDDER], OR WITH A STRAP BETWEEN ITS HORNS.
1. **V:1:** The herdsman puts such a skin around her teats so that it will not give suck to its calf.
- [F] THE COW OF R. ELEAZAR B. AZARIAH WOULD GO OUT WITH A STRAP BETWEEN ITS HORNS, NOT WITH THE APPROVAL OF THE SAGES.

1. **VI:1:** R. Ba, Rab and Samuel – both of them say, “In the view of sages, even [if the strap between the horns, M. Bes. 2:8B] is to lead the cow, it is forbidden [for the cow to go forth on the Sabbath with such a strap].” R. Ba in the name of Samuel: “If the cow’s horns were pierced [so that the strap was integral to them], it is permitted.”
2. **VI:2:** [As to the view of Eleazar b. Azariah that a cow may go out with a strap between the horns, M. 5:4J-K,] Genibah said, “It is merely a law that Eleazar came to teach [but it is not that he actually did so].”

XXXIV. YERUSHALMI SHABBAT 6:1

- [A] WITH WHAT DOES A WOMAN GO OUT, AND WITH WHAT DOES SHE NOT GO OUT? A WOMAN SHOULD NOT GO OUT WITH WOOLEN RIBBONS, FLAXEN RIBBONS, OR WITH BANDS AROUND HER HEAD – (AND SHE SHOULD NOT IMMERSE [WHEN DRESSED] IN THEM UNLESS SHE LOOSENS THEM –)**
1. **I:1:** R. Nahman bar Jacob said, “[As to M. 6:1C,] since the woman loosens [these objects], for they interpose [when she immerses on account of completing] her menstrual period, she may forget and walk [carrying them] for four cubits. [Hence to begin with she may not wear them.]”
 2. **I:2:** There we have learned: These interpose [between the body and water in an immersion pool] on human beings: threads of wool, threads of flax, and ribbons on the heads of girls. R. Judah says, “Those made of wool or hair do not interpose, because water enters into them” [M. Miq. 9:1]. Samuel said, “We should not list the threads of hair in the opinion of R. Judah [since all parties concur on that matter], but only threads of wool. But as to threads of hair, in the view of all parties, they do not interpose.” The words of the sages: R. Ba in the name of R. Judah, R. Zeira in the name of Rabbis: “If there was a single thread, it interposes. If there were two, they are subject to doubt. If there were three, they do not interpose.”
 3. **I:3:** Kahana asked Rab, “What is the law on going out [on the Sabbath] wearing cord chains [as a belt]?” He said to him, “So do they rule: It is forbidden to a person to go forth wearing belts? [Of course not. It is permitted to do so. Here too, it is permitted.]”
 4. **I:4:** And we learn thus: A man may not go out with a bell around his neck, but he goes forth with a bell on his garment. [T. continues: And neither this one nor that one receives uncleanness] [T. Shab. 5:7A-C].

[B] OR WITH A FOREHEAD BAND, HEAD BANGLES, WHEN THEY ARE NOT SEWN ON, OR WITH A HAIR NET, INTO THE PUBLIC DOMAIN:

- 1. II:1:** Or with a forehead band [M. 6:1D]: R. Bun bar Hiyya: “It is a kind of charm which one places on the forehead.” Head bangles [when they are not sewn on] [M. 6:1D]: Fixed dyed [garlands ()]. Or with a hair net [M. 6:1D]: A kind of net. It has been taught: R. Simeon b. Eleazar permits [wearing one]. The view of R. Simeon b. Eleazar accords with the position of Rabbi. Just as Rabbi has said, “Something which is not visible is permitted” [as in M. 5:5], so R. Simeon b. Eleazar said, “Something which is not visible [but which is worn underneath the hair] is permitted” [cf. T. Shab. 4:7D].
- 2. II:2:** On what account are ornaments prohibited [for wear on the Sabbath]?
- 3. II:3:** R. Halapta b. Saul taught [regarding M. Bes. I:10], “It is forbidden to send them [on a festival day].” Said R. Mana, “They have stated only that it is forbidden to send them [on a festival day]. Lo, as to wearing them, that is permitted.”
- 4. II:4:** They do not look into a mirror on the Sabbath. But if it was affixed to the wall [T. Shab. 13:16] – Rabbi permits doing so. And sages prohibit.
- 5. II:5:** It has been taught: They do not go out wearing a chaplet. Three things were said concerning a chaplet: It is not subject to the prohibitions of diverse materials [wool and flax in the same garment, and it is not subject to uncleanness imparted to cloth by negaim, and they do not go out wearing it on the Sabbath. R. Simeon b. Eleazar says, “Also: It is not subject to the prohibition of a crown for a bride [imposed after the destruction of the Temple as a sign of mourning]” [T. Shab. 4:7].

[C] NOR [SHOULD SHE GO OUT] WITH A [TIARA IN THE FORM OF] A GOLDEN CITY, A NECKLACE, NOSE RINGS, A RING LACKING A SEAL, OR A NEEDLE LACKING A HOLE.

- 1. III:1:** R. Judah said, “For instance, a ‘Jerusalem of gold.’” Rabbis of Caesarea say, “A crown [on which Jerusalem is incised].”
- 2. III:2:** There we have learned: Two in the name of R. Eliezer: “A woman may go out into public domain on the Sabbath wearing a ‘golden city’ and pigeon flyers are disqualified as witnesses.” [M. Ed. 2:7] It has been taught: R. Meir declares liable [T. Shab. 4:6B]. The

shared language between R. Meir and rabbis poses no problems: R. Meir declares liable, and sages exempt [from a sin offering] [as at M. 6:1G]. The shared language between R. Eliezer and rabbis poses no problems. R. Eliezer permits, and sages prohibit. But there is a problem harmonizing the word choices used by R. Meir and R. Eliezer. R. Meir declares liable for a sin offering, while Eliezer permits doing so to begin with [a considerable spread of opinions].

- 3.** **III:3:** R. Inyano bar Sisai said in the name of R. Eliezer, “In any setting in which they have said, ‘She should not go forth, and if she went forth, she is liable to bring a sin offering,’ a woman may not go forth wearing such an item even in her courtyard. And in any place in which they have said, ‘She may not go forth, but if she did go forth [wearing such a thing], she is not liable to a sin offering,’ she is permitted to wear such an item in her courtyard.”

XXXV. YERUSHALMI SHABBAT 6:2

[A] A MAN SHOULD NOT GO OUT WITH A NAIL-STUDED SANDAL:

- 1.** **I:1:** For what reason did they make a decree against wearing a nail-studded sandal? Some say, “Because pregnant women might see the top of it [i.e., its impression] and [thinking it came from a soldier’s sandal, become frightened] miscarry.” Some say, “Because pregnant women might hear the noise of clomping and miscarry.” Some say, “Because, frightened by the sound of the noise, people would press together in flight and kill one another.”
- 2.** **I:2:** And how many nails may there be in a sandal [for a person to be permitted to go about in it on the Sabbath without violating the law]? R. Yohanan said, “Five, for the five books of the Torah.” R. Hanina said, “Seven [to correspond to the seven days in a week], as in [‘Your bars shall be iron and bronze;] and as your days, so shall your strength be’ (Deut. 33:25).” Rabbis practiced the law in accord with this statement of R. Hanina. R. Aha expounded in the name of R. Haninah, “Nine.” Rabbi would put eleven on this one and thirteen on the other, that is, the number of priestly cohorts. “The sayings of the wise are like goads, and like nails firmly fixed...” (Qoh. 12:11). Just as there are twenty-four priestly watches, so there may be twenty-four nails.
- 3.** **I:3:** A sandal whose two straps were broken, or whose strappings were torn, or from which even one sole separated, is [deemed broken, and so] insusceptible to uncleanness. If one of its ears tore off, or one of its

strappings, or if the larger part of one sole was separated from it, it is susceptible to uncleanness [as a useful object]. R. Judah says, "If it is the inner one, it is susceptible to uncleanness, if it is the outer one it is not susceptible to uncleanness" [T. Kel. B.B. 4:5].

[B] A SINGLE SANDAL

- 1. II:1:** Said R. Abba, "It is because of the possibility of bringing the man under suspicion. It is so that people will not say, 'We saw that Mr. So-and-so's sandal snapped, and he carried it under his arm [on the Sabbath].'"

[C] IF HE HAS NO WOUND ON HIS FOOT:

- 1. III:1:** Lo, if he has a wound on his foot, he may put on his sandal. On which foot does he put his sandal?

[D] TEFILLIN:

- 1. IV:1:** They leave home on Friday, near dark, wearing phylacteries, but they do not leave home wearing a nail-studded sandal on Friday at dark.

[E] AN AMULET WHEN IT IS NOT BY AN EXPERT, A BREASTPLATE, A HELMET, OR WITH GREAVES. BUT IF HE WENT OUT [WEARING ANY ONE OF THESE], HE IS NOT LIABLE TO A SIN OFFERING.

- 1. V:1:** What is the definition of an amulet made by an expert? It is any which has served to bring healing, and which did so a second and a third time [T. Shab. 4:9A-B]. They go forth wearing an amulet made by an expert, whether it contains writing or is made of roots [T. Shab. 4:9C]. But that is on condition that one not put it into a ring or a bracelet [T. Shab. 4:9F].
- 2. V:2:** R. Yosé b. R. Bun in the name of R. Yosé: "In the case of a wound that has healed, [on the Sabbath] they may put on it some sort of poultice, because it serves only to protect it [and not to promote healing]." Abun in the name of rabbis from over there [in Babylonia]: "They may put such a thing on a wound on the Sabbath, because it serves only to protect the wound." Said R. Tanhuma, "The exception is grape leaves, which serve to promote healing." Said R. Huna, "As to the *peah* root, it is very good for healing, when it has five or seven knots, nine knots even better, so long as one does not put water on it on the Sabbath [in which case the clear intent is to promote healing]."

XXXVI. YERUSHALMI SHABBAT 6:3

[A] A WOMAN SHOULD NOT GO OUT WITH A NEEDLE WHICH HAS A HOLE, WITH A RING WHICH HAS A SEAL, WITH A COCHLEA BROOCH, WITH A SPICE BOX, OR WITH A PERFUME FLASK. “AND IF SHE WENT OUT, SHE IS LIABLE TO A SIN OFFERING,” THE WORDS OF R. MEIR. AND SAGES DECLARE [HER] EXEMPT IN THE CASE OF A SPICE BOX AND A PERFUME FLASK.

1. **I:1:** A tailor should not go out carrying his needle on the eve of the Sabbath near nightfall, lest he forget and cross a boundary [M. 1:3A-B], nor a carpenter with the beam on his shoulder. nor a dyer with the color sample behind his ear, nor a money changer with the denar behind his ear, nor a wool corder with a cord around his neck. “But if they went forth, all of them are exempt [from liability to punishment],” the words of R. Meir. Sages say, “[If] a craftsman [goes forth carrying his tools] in the usual way of his craft, he is liable. “But all the other men [who carry out the tools of a craftsman but do not practice that craft] are exempt [from liability to punishment]” [T. Shab. 1:8].
2. **I:2:** With reference to M. 6:3A: A ring which has a seal produces liability. Hence such a ring is not an ornament for a woman. But in general women’s rings are regarded as ornaments, whether with a seal or not.] R. Aha in the name of R. Abba bar R. Nahman: “It represents the view of R. Nehemiah. For we have learned there: A ring which is of metal, and its seal of coral, is unclean. A ring which is of coral, and its seal of metal, is clean [M. Kel. 13:6].

XXXVII. YERUSHALMI SHABBAT 6:4

[A] A MAN SHOULD NOT GO OUT WITH A SWORD, BOW, SHIELD, CLUB, OR SPEAR. AND IF HE WENT OUT, HE IS LIABLE TO A SIN OFFERING. R. ELIEZER SAYS, “THEY ARE ORNAMENTS FOR HIM.” AND SAGES SAY, “THEY ARE NOTHING BUT UGLY, “SINCE IT IS SAID, ‘AND THEY SHALL BEAT THEIR SWORDS INTO PLOWSHARES AND THEIR SPEARS INTO PRUNING HOOKS; NATION SHALL NOT LIFT UP SWORD AGAINST NATION, NEITHER SHALL THEY LEARN WAR ANY MORE’ (Is. 2:4).” A GARTER IS INSUSCEPTIBLE TO UNCLEANNESS, AND THEY GO OUT IN IT ON THE SABBATH. ANKLE CHAINS ARE SUSCEPTIBLE TO UNCLEANNESS, AND THEY DO NOT GO OUT IN THEM ON THE SABBATH.

1. **I:1:** It is written, “And the people of Israel went up out of the land of Egypt equipped for battle” (Ex. 13:18). This teaches that they were armed with five different types of weapons.

2. **I:2:** What is the scriptural basis for the position of R. Eliezer?
3. **I:3:** R. Hiyya in the name of R. Yohanan: “A berit is on one leg, while kebalim [ankle chains] are joined by a chain.” R. Judah says, “A berit is a knee band.”
4. **I:4:** It is written, “In that day the Lord will take away the finery of the anklets, the headbands, and the crescents” (Is. 3:18). Finery of the anklets, slippers, as you say, “[The Lord said: Because the daughters of Zion are haughty and walk with out stretched necks, glancing wantonly with their eyes, mincing along as they go,] tinkling with their feet” (Is. 3:16). Veils are braided bands worn in the hair, as you find: A band with which the hair net is fastened [T. Kel. B.B. 5:15]. Crescents are necklace chains.

XXXVIII. YERUSHALMI SHABBAT 6:5

- [A] A WOMAN GOES OUT IN HAIR RIBBONS, WHETHER MADE OF HER OWN HAIR OR OF THE HAIR OF ANOTHER WOMAN OR OF A BEAST; AND WITH FOREHEAD BAND, HEAD BANGLES SEWN [ON THE HEADDRESS], A HAIR NET, AND FALSE LOCKS, IN THE COURTYARD; WITH WOOL IN HER EAR, WOOL IN HER SANDALS, WOOL SHE HAS USED FOR A NAPKIN FOR HER MENSTRUAL FLOW:**
1. **I:1:** Hanan [bar Immi said before R. Judah [in the name of] Menassia bar Jeremiah, “But that [M. 6:5A] is on condition that a girl should not go out wearing ribbons appropriate for an old woman, nor an old woman with ribbons appropriate for a girl. [The concern is that the ribbons not be too loose.]”
 2. **I:2:** [As to the word for locks,] said R. Abbahu, “Whatever rests on the hair is called a lock.”
 3. **I:3:** [As to M. 6:5: wool in the ear:] R. Yannai: “The wool in the ear of Zeira fell out. [It was soaked in oil.] He wanted to put it back on the Sabbath [delete “on grounds that it is a mere ornament” ()]. His associates rebuked him.
- [B] A FALSE TOOTH AND A GOLD TOOTH – RABBI PERMITS. AND SAGES PROHIBIT.**
1. **II:1:** [As to M. 6:5H-J,] said R. Mana, “I heard a reason for this matter from R. Samuel in the name of R. Zeira, but I don’t know what I heard.” What is the upshot of the matter? [Why are both sorts of teeth subject to prohibition?]

2. **II:2:** R. Yosé and R. Ammi: One of them had a toothache, and the other gave him instructions [on what is permitted to do on the Sabbath], and the other had an earache, and the one gave him instructions [on the matter]. But we do not know who said this and who said that.

[C] **PEPPER, A LUMP OF SALT, AND ANYTHING SHE PUTS INTO HER MOUTH, ON CONDITION THAT SHE NOT FIRST PUT IT THERE ON THE SABBATH. AND IF IT FELL OUT, SHE MAY NOT PUT IT BACK.**

1. **III:1:** [As to M. 6:5E, as qualified by F,] R. Yannai interpreted [the statement of F] to speak in particular of pepper and a lump of salt.

XXXIX. YERUSHALMI SHABBAT 6:6

[A] **PEOPLE MAY GO OUT WITH A SELA COIN ON A BUNION. LITTLE GIRLS GO OUT WITH THREADS AND EVEN CHIPS IN THEIR EARS. ARABIAN WOMEN [GO OUT] VEILED. MEDEAN WOMEN [GO OUT] WITH CLOAKS LOOPED UP OVER THEIR SHOULDERS. AND [SO IS THE RULE] FOR ANY PERSON, BUT SAGES SPOKE CONCERNING PREVAILING CONDITIONS.**

1. **I:1:** They go out with a sela coin on a bunion [M. 6:6A]: [A bunion is a] sore on the sole of the foot. R. Aha in the name of R. Ba bar Mamel: “Even a piece of silver foil [may be used for that purpose].”

XL. YERUSHALMI SHABBAT 6:7

[A] **SHE WEIGHTS HER CLOAK WITH A STONE, A NUT, OR A COIN, ON CONDITION THAT SHE NOT ATTACH THE WEIGHT FIRST ON THE SABBATH.**

1. **I:1:** It has been taught: Rabban Simeon b. Gamaliel says, “They have referred [at M. 6:7A] to weighting a cloak only with a coin or a stone [if she does not do so to begin with on the Sabbath]. “Lo, as to a nut – it is permitted [to weight (or hook) the cloak with it even on the Sabbath], because that is something which may be handled on the Sabbath.”

XLI. YERUSHALMI SHABBAT 6:8

[A] “A CRIPPLE [LACKING A LEG] GOES FORTH WITH HIS WOODEN STUMP, “ THE WORDS OF R. MEIR [Y. YOSÉ]. AND R. YOSÉ [Y. MEIR] PROHIBITS IT. AND IF IT HAS A RECEPTACLE FOR PADS, IT IS SUSCEPTIBLE TO UNCLEANNESS. HIS KNEE PADS ARE SUSCEPTIBLE TO UNCLEANNESS IMPARTED BY PRESSURE [TO SOMETHING UPON WHICH A ZAB MAY LIE OR SIT], THEY GO FORTH WITH THEM ON THE SABBATH, AND THEY GO INTO A COURTYARD WITH THEM. HIS CHAIR AND ITS PADS ARE SUSCEPTIBLE TO UNCLEANNESS IMPARTED BY PRESSURE, THEY DO NOT GO OUT WITH THEM ON THE SABBATH, AND THEY DO NOT GO IN WITH THEM INTO A COURTYARD.

1. I:1: [As to the principle of M. 6:8A,] Samuel said, “They go forth in it on the count of its serving as a shoe, and they enter a courtyard wearing it.” R. Yannai raised the following question [on the reason one must specify both that it serves as a shoe and also that one may go into the courtyard with it]: “‘They go forth in it since it is a shoe,’ so it falls into the category of a shoe. [Why add,] ‘They enter the courtyard wearing it’? Then is it not a shoe?”

[B] AN ARTIFICIAL ARM IS INSUSCEPTIBLE TO UNCLEANNESS, AND THEY DO NOT GO OUT IN IT.

1. II:1: What is the meaning of, An artificial arm is insusceptible to uncleanness, [and they do not go out in it] [M. 6:8F)?

XLII. YERUSHALMI SHABBAT 6:9

[A] BOYS GO OUT IN GARLANDS, AND PRINCES WITH BELLS. [AND SO IS THE RULE] FOR ANY PERSON, BUT SAGES SPOKE CONCERNING PREVAILING CONDITIONS. 1.I:1: Boys go out in garlands [M. 6:9A]: Garlands of leaves. And princes with bells [M. 6:9A]: R. Zeira said, “Bells on his shoulder. “What is the meaning of, For any person? Whether poor boys or rich boys.” R. Ila said, “It refers to bells on his clothes. “What is the meaning of, For any person? Whether adult or minor.”

[B] “THEY GO OUT WITH A LOCUST’S EGG, A FOX’S TOOTH, A NAIL FROM THE GALLOWS OF AN IMPALED CONVICT, FOR PURPOSES OF HEALING,” THE WORDS OF R. YOSÉ. AND R. MEIR SAYS, “EVEN ON A WEEKDAY IT IS PROHIBITED [TO GO FORTH WITH SUCH OBJECTS]:

- II:1:** They go out with a locust's egg: It is good for the ear. And with a fox's tooth: It is good for the teeth. And with a nail from the gallows of an impaled convict: It is good to heal a spider's bite.

[C] **BECAUSE OF THE 'WAYS OF THE AMORITE' [WHICH ISRAELITES ARE NOT TO ADOPT]."**

- III:1:** Samuel, R. Abbahu in the name of R. Yohanan: "Whatever serves to bring healing is not prohibited on the count of 'the ways of the Amorite' [M. 6:10D-E]." He who says, "Dargan, Qardan," lo, this is one of "the ways of the Amorites." R. Judah says, "They may say Dagan on account of the idol of that name, "since it says, '[Now the lords of the Philistines, gathered to offer a great sacrifice] to Dagan their god, and to rejoice' (Judg. 16:23)." He who says, "Dani, Dano," lo, this is one of "the ways of the Amorites." R. Judah says, "This is because of the idol, Dan, "since it says, 'As thy god lives, O Dan,' and 'As the way of Beersheba lives' (Amos 8:14)" [T. Shab. 7:2-3].

XLIII. YERUSHALMI SHABBAT 7:1

[A] **A GENERAL PRINCIPLE DID THEY STATE CONCERNING THE SABBATH:**

- I:1:** What is the meaning of this reference to a general principle [at M. 7:1A]? Said R. Yosé b. R. Bun, "It is to indicate that the generalization before us is more important than the generalization at tractate Shebiit ['A general principle have they laid down concerning produce of the Seventh Year: Whatever is food for man or cattle, etc. (M. Sheb. 7:1A)].' "For the restrictions of the Sabbath apply to everything, while those of the Seventh Year apply only to work in the fields alone." There we have learned: A general principle have they laid down concerning produce of the Seventh Year [M. Sheb. 7:1A]. What is the meaning of this reference to a general principle? Said R. Yosé b. R. Bun, "It is to indicate that the generalization before us is more important than the generalization concerning tithing. For the rules of the Seventh Year apply both to food for man and food for beasts, while the rules of tithing apply only to food for man alone."

[B] **WHOEVER FORGETS THE BASIC PRINCIPLE OF THE SABBATH:**

- II:1:** We have learned [at M. 7:1B], Whoever forgets the basic principle of the Sabbath. But there is a Tannaite authority of the household of Rabbi who repeats the tradition as follows: "Whoever does not know the principle of the Sabbath [to begin with]." R. Eleazar

concurr with the version of our Mishnah. R. Yohanan repeats the passage in accord with the view of the authority of the house of Rabbi. Lo, it follows, R. Eleazar said, "Whoever forgets the basic principle of the Sabbath," [thereby implying] that if he does not know it to begin with, he is entirely exempt.

[C] **AND PERFORMED MANY ACTS OF LABOR ON MANY DIFFERENT SABBATH DAYS IS LIABLE ONLY FOR A SINGLE SIN OFFERING. HE WHO KNOWS THE PRINCIPLE OF THE SABBATH AND PERFORMED MANY ACTS OF LABOR ON MANY DIFFERENT SABBATHS IS LIABLE FOR THE VIOLATION OF EACH AND EVERY SABBATH. HE WHO KNOWS THAT IT IS THE SABBATH AND PERFORMED MANY ACTS OF LABOR ON MANY DIFFERENT SABBATHS IS LIABLE FOR THE VIOLATION OF EACH AND EVERY GENERATIVE CATEGORY OF LABOR. HE WHO PERFORMS MANY ACTS OF LABOR OF A SINGLE TYPE IS LIABLE ONLY FOR A SINGLE SIN OFFERING.**

1. **III:1:** How do we know [that there may be diverse liabilities, as the Mishnah indicates]? [Cited is Lev. 4:2, "If any one sins unwittingly in any of the things which the Lord has commanded not to be done,] and does any one of them" – "And does one," "And does then," "And does of them," "And does one," serves to impose liability for each and every deed. "them" – to impose liability on all the deeds on a single count. "of them" – to impose liability for doing a deed analogous to a principal type of prohibited deed.
2. **III:2:** Associates say, "'Six days shall work be done; but on the seventh day is a Sabbath of solemn rest, a holy convocation; you shall do not work;] it is a Sabbath to the Lord in all your dwellings' (Lev. 23:3). This serves to impose liability for each and every Sabbath [day that a person violates]."
3. **III:3:** An adult who was taken captive among gentiles [and he loses track of the calendar] – Rab and Samuel: One said, "He counts six days and then observes the Sabbath." The other said, "He observes the Sabbath and then counts six days." R. Isaac bar Eleazar in the name of R. Nahman bar Jacob: "He counts six days and observes the Sabbath, five and observes the Sabbath, four and observes the Sabbath, three and observes the Sabbath, two and observes the Sabbath, one and observes the Sabbath. [If he was taken on a Sunday, he counts six days, on a Monday, five, and so on down. He would remember that he was observing the Sabbath, hence we do not make provision for that possibility.]"
4. **III:4:** We have learned there: Said R. Aqiba, "I asked R. Eliezer, 'He who performs many acts of prohibited labor on many Sabbaths [not read in Palestinian circles: "but of a single sort of prohibited labor"] in

a single spell of inadvertence – what is the law? “Is he liable for a single offering for all of them, or is he liable for an offering for each and every one?” “He said to me, ‘He is liable for an offering for each and every such action, on the basis of an argument a fortiori: “Now if in the case of a menstruating woman, who does not yield many sorts of subdivisions of transgression or many sorts of sin offerings, one is liable for each and every act of sexual relations, “the Sabbath, which yields many sorts of subdivisions of transgression [different types of labor] and many sorts of sin offerings on their account – is it not logical that he should be liable for each and every act of labor?’ “I said to him, ‘No. If you have so stated in the case of having sexual relations with a menstruating woman, who is subject to two distinct warnings – “for the man is subject to warning against having sexual relations with a menstruating woman, and a menstruating woman is subject to warning against having sexual relations with the man – “will you say the same for the Sabbath, to which applies only a single warning?’ “He said to me, ‘He who has sexual relations with minors [who are menstruating] will prove the matter. For to them applies only a single warning [that applicable to him, since they are exempt]. Yet he is liable for each and every act of sexual relations.’ “I said to him, ‘No. If you have so stated in connection with him who has sexual relations with [menstruating] minors, in which instance, even though there is no warning applicable to them now, there will be such a warning applicable to them in due course, “will you so rule in the case of the Sabbath, which is subject to a warning neither now nor in due course?’ “He said to me, ‘He who has sexual relations with a beast will prove the matter.’” I said to him, ‘The beast is subject to the same rule as the Sabbath’” [M. Ker. 3:10]. Both R. Zeira in the name of R. Hisda, R. Ila in the name of R. Simeon b. Laqish say, “He asked him about the case in which one deliberately violated the Sabbath, but inadvertently performed forbidden acts of labor. [The issue is the matter of several Sabbaths, not several acts of labor. The specification of the single sort of prohibited labor is of no consequence.] “It is in such a case that we have learned [the inquiry about doing] many acts of labor, not with regard to doing so on many Sabbaths, that one becomes liable.”

- 5. III:5:** What is the difference between a case in which there have been deliberate violations of the Sabbath and inadvertent practice of many acts of forbidden labor, and a case in which there have been inadvertent violations of the Sabbath and deliberate performance of acts of forbidden labor? Said R. Yosé, “And why is one who deliberately violates the Sabbath but inadvertently performs forbidden acts of labor liable on each count? It is because if you say to him, ‘It is

a forbidden act of labor,' he will cease to do it, and do some other [permitted] acts of labor instead. "And why is one who inadvertently violates the Sabbath but deliberately performs many acts of labor liable only on one count? For if you should say to him, 'It is the Sabbath,' he forthwith will stop his actions, [and hence it is deemed a single act]."

6. III:6: If one inadvertently violated the Sabbath and also inadvertently performed acts of forbidden labor – R. Hammuna says, "He is liable on only one count alone." Said to him R. Zeira, "Is not that view not a matter of an argument a fortiori? If one who deliberately violated the Sabbath and inadvertently performed acts of forbidden labor is not liable for each such action, he adds, because of inadvertent [violations] of Sabbath, should he loose inadvertent acts of labor?"

7. III:7: Jeremiah asked before R. Zeira, "If one harvested a half fig on one Sabbath, doing so deliberately in knowledge that it was the Sabbath, but inadvertently in respect to the prohibition of acts of labor, and if he cut a half fig on another Sabbath, inadvertently doing so as to the Sabbath but deliberately doing so as to the prohibited acts of labor, as to the inadvertent acts of labor involved in this deed – what is the law on their joining together? "Is it plausible to say that Sabbaths may be treated as distinct from one another, or that Sabbaths may be treated as joined together to one another? Lo, dishes [of food] may be treated as separate from one another, and dishes of food may be treated as joined together." He said to him, "I do not know the reason for the rule of the dish." But is it not a teaching of the Mishnah: If one has written a single letter on an ordinary day and another letter on the Sabbath, R. Eliezer declares him liable to a sin offering, and R. Joshua exempts him [one letter this Sabbath and one on the next Sabbath. R. Eliezer liable, and R. Joshua exempts him]." [The cited portion indicates that Eliezer joins the two acts] Said R. Azariah before R. Mana, "Interpret the case to involve deliberate action. [Then there is no liability to a sin offering.]" [The word "sin offering" is an explanatory gloss in the text.] He said to him, "Is it not an argument a fortiori? If in the case of a deliberate action, in which instance one does not make distinctions, there also is no issue of joining together, in the case of inadvertent action, where one may divide actions from one another, is it not an argument a fortiori that there should be no joining together?" Said R. Hananiah, "The law has held as you have said only in the case of one's harvesting a half fig deliberately on the Sabbath, and inadvertently performing prohibited acts of labor, and a half fig at twilight, in inadvertence as to the Sabbath but deliberate knowledge as to forbidden acts of labor." As to the inadvertent aspects of the one and the other: what is the law on their joining together?"

XLIV. YERUSHALMI SHABBAT 7:2

[A] THE GENERATIVE CATEGORIES OF ACTS OF LABOR [PROHIBITED ON THE SABBATH]:

1. **I:1:** How from the Torah do we know that there are these generative categories? R. Samuel bar Nahman in the name of R. Jonathan: “They stand for the forty-less-one times the word, ‘work,’ is written in the Torah.” Simeon b. Yohai taught, “‘For six days you shall eat unleavened bread; and on the seventh day there shall be a solemn assembly to the Lord your God; you shall do no work on it’ (Deut. 16:8). Lo, this reference to the word, ‘work,’ comes to complete the count of forty-less-one acts of labor that are written in the Torah.” R. Yosé b. R. Bun in the name of R. Samuel bar Nahmani: “The number stands for the forty-less-one times that the words ‘labor’ and ‘work’ are written in connection with the building of the tabernacle.” Said R. Yosé b. Hanina, “‘This is the thing,’ is not written, but rather, ‘[Moses assembled all the congregation of the people of Israel, and said to them,] These are the things which the Lord has commanded you to do’ (Ex. 35:1). The expansion from ‘thing’ through ‘things of’ to ‘things’ is meant to signify that there are both generative categories and also secondary analogies.” R. Yosé b. R. Bun in the name of R. Samuel bar Nahmani: “The number stands for the forty-less-one times that the words ‘labor’ and ‘work’ are written in connection with the building of the tabernacle.”

[B] ARE FORTY LESS ONE:

1. **II:1:** For what purpose [is the figure specified]? It is to indicate that if one has carried out all of these acts of labor in a single spell of inadvertence, he is liable on only one count.
2. **II:2:** If two things were specified as distinct from the general rule, what is the law as to their being divided [so that one is punishable on each count]? Let us derive the answer from the following: [The same rules apply to the altar and the ramp for this purpose.] From where [do we know that]: He who offers up a piece of the meat of a sin offering, a piece of the meat of the guilt offering, a piece of the meat of Most Holy Things, a piece of the meat of Lesser Holy Things, a bit of the remnant of the omer, of the Two Loaves and the Show Bread and of the residue of meal offerings, or of leaven or of honey – [all of these] transgress a negative commandment. Scripture says, “For you shall burn no leaven nor any honey as an offering by fire to the Lord” (Lev. 2:11) [T. Mak. 5:3]. Lo, anything, part of which is offered on the altar

fires, lo, it is subject to the prohibition against offering up [such a thing].

a. **II:3:** Where we have a general rule stated affirmatively, and a specific instance of the rule expressed negatively [how do we interpret the matter, and for what purpose]? In the opinion of R. Eleazar, you have a case of a general rule followed by a specific explication of the general rule [which limits the general rule, as illustrated in the following dispute]: R. Eleazar says, “People receive a flogging on the count of plowing in the Sabbatical Year.” R. Yohanan said, “People do not receive a flogging on the count of plowing in the Sabbatical Year.

3. **II:4:** There we have learned: There are four generative causes of damages: ox, pit, crop-destroying beast, and conflagration = M. B.Q. 1:1A]. An ox refers to damage done by the horn. [If so, I then goring and pushing also constitute generative categories R. Hiyya taught, “Biting, lying down, and pushing are secondary categories of horn” [cf. M. B.Q. 1:4B]. There we have learned: The generative categories of uncleanness are: the creeping things, semen [M. Kel. 1:1A]. What are the derivatives of the creeping thing? R. Judah in the name of R. Nahum: “[Objects made unclean from] the indirect contact [with an unclean person].

[C] (1) HE WHO SEWS, (2) PLOWS:

1. **III:1:** And is plowing a generative category? R. Hiyya taught, “Digging a hole, digging a ditch, and piercing a hole are secondary derivatives of plowing.” [If one is liable for these actions as much as for plowing itself, in what way are they derivative at all? Indeed, they are not. Rather,] all the generative categories of forbidden labor have been derived from the sanctuary. [Work done for the sanctuary on the Sabbath may not be done outside of the sanctuary.]

2. **III:2:** R. Hiyya in the name of R. Yohanan: “He who cooks [meat in the status of] carrion on a festival day is not subjected to a flogging, for [cooking carrion] is permitted under the general principle that [it is permitted to] cook on the festival, [and that covers the carrion too, even though one may not actually eat the carrion meat].” R. Simeon b. Laqish says, “He is flogged, for [cooking carrion is] not permitted under the general principle that [it is permitted to] cook on the festival, and that covers cooking only what in fact one is permitted to eat [excluding, then, carrion].”

3. **III:3:** On account of any action that serves to improve the produce, one is liable on the count of sowing: sowing, bending, grafting, trimming, nipping shoots, cutting, tying up wounds on a tree, stripping, covering with powder, fumigating, removing wormy parts, cutting, anointing, watering, perforating, preparing a covering, and doing any sort of deed which improves the produce – [any of these actions brings with it] liability on the count of sowing.

[D] (3) REAPS:

1. **IV:1:** R. Hiyya taught [in T.'s version]: He who pulls up, reaps, cuts grapes, harvests olives, cuts dates, and hoes – these are all deemed a single type of forbidden labor [T. Shab. 9:17E].

[E] (4) BINDS SHEAVES:

1. **V:1:** He who binds sheaves: R. Samuel bar Sisartai asked, “What are the derivatives of sheaf binding?” R. Yosé: “I heard some sort of logic in this matter from R. Simeon in the name of R. Aha, but I don’t know what I heard. How am I to differentiate the case of pounding rice, barley, or beans, in which instance one is liable on the count of threshing, and the case of laying out for drying dates, raisins, or brittle cakes [made of flour of parched grain], in which instance one is liable on the count of binding sheaves, [for, e.g., in drying these items the small pieces tend to stick together]?”
2. **V:2:** As to a woman, when she mixes wheat, she is liable on the count of winnowing. When she husks the heads of garlic, the liability is on the count of threshing. For breaking them open at the sides, liability is on the count of selecting. For cutting it in slices, it is on the count of milling. For sifting, it is on the count of winnowing. When she completes the act of labor, it is on the count of “smiting the hammer on the anvil.” As to him who works in flax stalks, he is liable on the count of threshing. He who beats flax using a rolling pin is liable on the count of grinding [crushing the seeds]. If he works on flax stalks with a rake, he is liable on the count of winnowing. If he works them with a shovel, he is liable on the count of selecting. [When he divides them, he is liable on the count of winnowing. When he separates them, it is on the count of cutting. When he completes his work, he is liable on the count of “striking a hammer on the anvil.” As to him who grinds garlic [on the Sabbath]: When he strips the heads, he is liable on the count of threshing. When he sifts the garlic in a sieve, he is liable on the count of selecting. When he grinds it in the pestle, he is liable on the count of milling. When he puts liquid on it, he is liable on the

count of threshing. When he completes the labor, he is liable on the count of “the hammer striking the anvil.”

3. **V:3:** Hiyya in the name of R. Yohanan: [Salted] fish which one pressed out – if it was so as to eat the flesh of the fish itself, he is exempt. If it was to get at the brine, he is liable. Rab said, “Pickled vegetables which one pressed out – if it was so as to eat the vegetables themselves, he is exempt. If it was to get at the juice, he is liable. “As to steamed [vegetables], whether it is to get at their substance or at their juice, it is forbidden.” Samuel said, “All the same are pickles and steamed [vegetables], whether it is to get at their food substance or at their juice, it is forbidden.”

[F] (5) THRESHES, WINNOWS, (7) SELECTS [FIT FROM UNFIT PRODUCE OR CROPS]; (8) GRINDS, (9) SIFTS, (10) KNEADS:

1. **VI:1:** Said R. Yudan, “There is he who may choose pebbles all day long and will not be liable. There is he who takes no more than a fig’s bulk and forthwith is subject to liability.”
2. **VI:2:** R. Jonah asked, “If one did so [selected food] on the Sabbath, in the view of the House of Shammai [at M. Bes. 1:10], what is the law as to his being liable? [On a festival one selects the food (kernel) out of the refuse (husk), but not the refuse out of the food. If on the Sabbath one selected the refuse out of the food, will he be liable in the view of the House of Shammai?]”
3. **VI:3:** If one selected one kind of food from some other kinds of food – Hezekiah said, “He is liable.” R. Yohanan said, “He is exempt.”
4. **VI:4:** It is taught: They do not select [winnow], grind, or sift. He who selects [winnows], grinds, or sifts on the Sabbath is stoned, and on a festival day incurs forty lashes. And lo, we have learned: He makes his selection in his usual way, putting it down using his lap, a basket, [or a dish; but not using a board, sifter, or sieve (and so preparing a large quantity for the next day)] [M. Bes. 1:10C-D]. [As to the contradiction between A and B,] said R. Hanina of Antonia, “The former represents the view of Rabban Gamaliel, who has said, He swills and separates the husks [M. Bes. 1:10E], [using the water to separate the kernel from the husk, but does not make a selection in the way outlined above. Hence if one made his selection in the usual way, he would be liable, just as III.A has stated.]” And lo, it is taught: The members of the house hold of Rabban Gamaliel would crush pepper in their pepper mill [on the festival day] [T. Y.T. 2:16A; cf. M. Bes. 2:8D]. [There is

no contradiction.] It is permitted to grind, but prohibited to make a selection [winnow].

5. **VI:5:** R. Zeira, R. Hiyya bar Ashi in the name of Samuel: “He who strains [wine to remove the lees] is liable on the count of selection [winnowing].”

[G] GRINDING:

1. **VII:1:** Grinding: One who crushes salt or pulverizes pepper is liable on the count of grinding. One who [on the Sabbath] sifts powder of gypsum is liable on the count of winnowing. One who kneads gypsum, powder for collyrium, or spices [on the Sabbath] is liable on the count of kneading. He who kneads, tears a lump of dough into pieces to form cakes, lays out dough – all of them are subject to the single count of kneading. [They are regarded as a single action.]

[H] (11) BAKES:

1. **VIII:1:** With reference to the inclusion of baking, M. 7:2, and the failure to mention cooking, we note that in the tabernacle, the source for the generative categories, there was no baking, but only cooking the spices,] so you see that baking is a derivative of cooking, and you phrase matters in this way [referring to baking]?
2. **VIII:2:** As to all of these measures [which the rabbis have supplied, this is how they apply:] As to food: the bulk of a fig. As to food for a beast, enough to fill the mouth of a lamb. As to cooking: sufficient time over the heat to cook an egg lightly. [As to seasoning: sufficient to season an egg slightly” = YF] As to weaving: sufficient to weave the breadth of a sit, doubled over. As to spinning: sufficient to spin the length of a sit, doubled.

[I] (12) HE WHO SHEARS WOOL:

1. **IX:1:** He who shears wool: If one sheared without further specification of purpose, what is the law [as to the minimum measure on account of which one is liable]?
2. **IX:2:** There we have learned: R. Yosé ben Meshullam says, “He who slaughters a firstling makes a place with the hatchet on either side and pulls out the hair so as to clear a place for the slaughtering cut, and this is on condition that he does not remove the wool from its place.” And so he who pulls up the hair to examine the place of a blemish [M. Bekh. 3:3]. [One thereby avoids violating the rule of not shearing a firstling, Deut. 15:19.] R. Ila in the name of R. Simeon b. Laqish: “He

who pulls up a hair from a beast in the status of Holy Things is exempt [since this is not in the category of shearing].”

[J] (13) WASHES IT:

1. **X:1:** He who washes [lit., “whitens”] it [M. 7:2C(13)]: He who pitches wood for vessels or ropes for a windlass.

[K] (14) BEATS IT:

1. **XI:1:** He who hatchels baste, down, or papyrus is liable on the count of beating.

[L] (15) DYES IT, SPINS:

1. **XII:1:** What sort of dyeing was there in the tabernacle?
2. **XII:2:** He who launders and he who wrings out – it is a single type of forbidden labor. It is taught: R. Ishmael b. R. Yohanan b. Beroqah says, “In the case of dyers in Jerusalem did they deem wringing out as an act of labor unto itself” [T. Shab. 9:18].

[M] (17) WEAVES:

1. **XIII:1:** He who makes ropes and he who makes cord are liable on the count of weaving. He who on the Sabbath makes knotted webs, sieves, and mats is liable on the count of weaving. If a woman begins to arrange the threads for weaving a knitted mat, she is liable on the count of weaving.

[N] (18) MAKES TWO LOOPS, (19) WEAVES TWO THREADS, (20) SEPARATES TWO THREADS; (21) TIES, (22) UNTIES, (23) SEWS TWO STITCHES, (24) TEARS IN ORDER TO SEW TWO STITCHES;

1. **XIV:1:** What sort of tying was done in the tabernacle?
2. **XIV:2:** R. Hoshaiyah taught, “Wicker baskets for dates and plaited baskets for dates does one untie and retie [on the Sabbath], on condition that he not tie a knot.” But is this not untying a knot? [No, for] it is treated as tantamount to breaking a jar to eat the figs therein.
3. **XIV:3:** [With relevance to M. Kil. 9:10: He who fastens (wool and linen together) with a single fastening (of thread) (i.e., with an incomplete stitch) – it (i.e., the fastening) is not considered a connector (for uncleanness), and it (i.e., the fabrics joined by the fastening) is not subject to (the laws of) diverse kinds, and he who undoes it (i.e., the fastening) on the Sabbath is exempt (from liability

for teasing a stitch in order to sew another). (If he brought both ends (of the thread) to one side (i.e., if he completed the stitch) – it (i.e., the stitch) is considered a connector (for uncleanness), and it (i.e., the fabrics joined by the stitch) is subject to (the laws of) diverse kinds, and he who undoes it (i.e., the stitch) on the Sabbath is liable. R. Judah says, “(The above rules do apply) only if he makes three (fastenings) (i. e., one complete and one incomplete stitch).” A thread which is inserted only once through two fabrics (taken, in this context, to be wool and linen) does not serve to connect them together. The thread thus is not considered a connector for uncleanness, the fabrics of wool and linen do not combine to form a garment of diverse kinds, and one is permitted to undo the fastening on the Sabbath. In this instance one is not liable for tearing a stitch in order to sew it again, since the stitch has not been completed. If, on the other hand, one brings the thread through the fabrics again, and thus completes a full stitch, the thread is regarded as connecting the two fabrics together. Judah maintains that the fabrics are not considered to be connected unless the thread is inserted through them an additional time, or three times in all.] R. Hanina said [in regard to the foregoing], “That rule applies if the thread and the needle pass entirely through the entire breadth of the two fabrics.”

4. **XIV:4:** The language of “tearing” is used with reference to garments, and of “ripping apart” for leather or hides.

[O] (25) **HE WHO TRAPS A DEER:**

1. **XV:1:** He who captures a mollusk and crushes it – there is a Tannaite authority who teaches: He is liable on two counts [Judah, so T. Shab. 8:2C]. And there is a Tannaite authority who teaches: He is liable on only one count.

[P] (26) **SLAUGHTERS IT,**

1. **XVI:1:** R. Simeon b. Laqish said, “There should be no reference to ‘slaughtering’ here. For ‘slaughtering’ is a derivative of inflicting an injury.”

[Q] (27) **FLAYS IT, (28) SALTS IT, (29) CURES ITS HIDE:**

1. **XVII:1:** He who cures its hide [M. 7:2H(29)]: What sort of curing of hides was done in the tabernacle?

[R] (30) **SCRAPES IT, AND (31) CUTS IT UP:**

1. **XVIII:1:** What sort of scraping was in the tabernacle?

2. **XVIII:2:** He who rubs a hide on a pillar is liable. On what count is he liable? R. Yosé in the name of R. Judah b. Levi, R. Aha in the name of R. Judah b. Levi: “On the count of scraping.” That which you have said applies to a newly [slaughtered beast’s hide], but in the case of an old [hide], there is a dispute between R. Eliezer and sages, for they have the following debate: [In T.’s version:] “He who sweeps the floor, he who sprinkles it, he who curdles milk or cheese [T.: washes it, and he who anoints it], “and he who takes out a loaf of honey, on the Sabbath, is liable for a sin offering. l”If he does so on a festival day, he is given forty stripes,”] the words of R. Eliezer. And sages say, “[Whether he does so on the Sabbath or on the festival, he is exempt. “His liability is only] because of the principle of Sabbath rest” [cf. M. Shab. 10:6A-E] [T. Shab. 9:13 with variations]

[S] (32) HE WHO WRITES TWO LETTERS, (33) ERASES TWO LETTERS IN ORDER TO WRITE TWO LETTERS:

1. **XIX:1:** If one blotted out a single large letter, in the space of which there is sufficient area to write two ordinary letters, he is liable [having erased a space for writing those two letters]. If he wrote one very large letter, even though there is in the space occupied by it sufficient area for writing two ordinary letters, he is exempt.

[T] (34) HE WHO BUILDS:

1. **XX:1:** What sort of building was involved in the tabernacle [with reference to M. 7:2J(34)]? They would put the boards on top of the bases. But was this not merely temporary? Said R. Yosé, “Since they would encamp and journey on the instructions [of God], was it as if it was temporary?” Said R. Yosé b. R. Bun, “Since the Holy One, blessed be he, had promised them that he would bring them into the Land, was it as if it was permanent?”

[U] (35) TEARS DOWN; (36) HE WHO PUTS OUT A FIRE, (37) KINDLES A FIRE; (38) HE WHO HITS WITH A HAMMER;

1. **XXI:1:** He who destroys [M. 7:2J(35)]: That pertains in particular to one who does so on account of need [and not wantonly]. R. Hama bar Uqba in the name of R. Simeon b. Laqish: “He who increases the size of a utensil made of wicker is liable on the count of building.” R. Ila in the name of R. Simeon b. Laqish: “He who blows up a glass utensil is liable on the count of building.”

[V] (39) HE WHO TRANSPORTS AN OBJECT FROM ONE DOMAIN TO ANOTHER — LO, THESE ARE THE FORTY GENERATIVE ACTS OF LABOR LESS ONE.

1. **XXII:1:** [Winnowing, selecting, sifting (M. 7:2B)] are liable on the count of transporting the refuse.
2. **XXII:2:** And why is the matter of stretching out [an object from one domain and the other] not taught along with the list [at M. 7:2L(39), transporting an object from one domain to another]?

XLV. YERUSHALMI SHABBAT 7:3

[A] **AND A FURTHER GENERAL RULE DID THEY STATE: WHATEVER IS SUITABLE FOR STORAGE, WHICH PEOPLE GENERALLY STORE IN SUCH QUANTITY AS ONE HAS TAKEN OUT ON THE SABBATH – HE IS LIABLE TO A SIN OFFERING ON ITS ACCOUNT ON THE SABBATH. AND WHATEVER IS NOT SUITABLE FOR STORAGE, WHICH PEOPLE GENERALLY DO NOT STORE IN SUCH QUANTITY AS ONE HAS TAKEN OUT ON THE SABBATH – ONLY HE IS LIABLE ON ITS ACCOUNT WHO STORES IT AWAY [AND WHO THEN TAKES IT OUT].**

1. **I:1:** [Explaining the reference to something's being not suitable for storage] R. Huna in the name of R. Eleazar: "This speaks of something which has been used for idolatry." R. Yohanan said, "It speaks of things from which one may not derive benefit." R. Hisda said, "It refers merely to minute quantities of materials [which people would not usually regard as worth storing at all]."

XLVI. YERUSHALMI SHABBAT 7:4

[A] **HE WHO TAKES OUT A QUANTITY OF STRAW SUFFICIENT FOR A COW'S MOUTHFUL; PEA STALKS SUFFICIENT FOR A CAMEL'S MOUTHFUL; EARS OF GRAIN SUFFICIENT FOR A LAMB'S MOUTHFUL; GRASS SUFFICIENT FOR A KID'S MOUTHFUL; GARLIC OR ONION LEAVES:**

1. **I:1:** R. Jonah, R. Yosé of Galilee in the name of R. Yosé b. Haninah: "What is subject to a stricter rule [being liable at a smaller quantity] completes the requisite volume for [liability for a sort of food subject to] a less severe ruling, but what is [subject to] a less severe ruling does not complete [the requisite volume of what is composed of produce subject] to a more severe ruling. Herbs complete the volume required of straw [so that the straw complemented by the herbs will reach the volume of liability], but straw does not complete the volume required of herbs."

2. **I:2:** R. Hoshaiiah taught, “If one took out straw for a cow in the volume sufficient to fill the mouth of a cow, if one took out straw for] a lamb in the volume sufficient for a mouthful for a lamb, he is liable.” R. Ila said R. Yohanan asked, “If so, then if one took out food for a sick person, if it is enough to fill the mouth of a sick person, he should be liable, [and yet we do not vary the quantities in terms of such a multiplicity of cases].”

[B] [IF] FRESH, A DRIED FIG’S BULK, [AND IF] DRY, SUFFICIENT FOR A KID’S MOUTHFUL – [SUPPLY: HE IS LIABLE,] AND THEY DO NOT JOIN TOGETHER WITH ONE ANOTHER [TO FORM A QUANTITY SUFFICIENT FOR CULPABILITY], BECAUSE THEY ARE NOT SUBJECT TO EQUIVALENT MEASURES. HE WHO TAKES OUT FOODSTUFFS [FOR A HUMAN BEING] IN THE VOLUME OF A DRIED FIG IS LIABLE. AND THEY DO JOIN TOGETHER WITH ONE ANOTHER [TO FORM A QUANTITY SUFFICIENT FOR CULPABILITY], BECAUSE THEY ARE SUBJECT TO EQUIVALENT MEASURES, EXCEPT FOR THEIR HUSKS, KERNELS, STALKS, COARSE BRAN, AND FINE BRAN:

1. **II:1:** [With reference to M. 7:4B] R. Bun bar Hiyya asked, “But what if the dish the man took out was not of a fig’s bulk? [Why so much spice? Since at the outset it was less than the requisite volume, is liability incurred?]”

[C] R. JUDAH SAYS, “EXCEPT FOR THE HUSKS OF LENTILS, WHICH ARE COOKED WITH THEM.”

1. **III:1:** [As to M. 7:4H] Zeira bar Hananiah in the name of R. Hanina: “That which you have said applies to red lentils, but as to black ones, which are easily separated [and are not cooked with the lentils, the rule is the same as above].”

XLVII. YERUSHALMI SHABBAT 8:1

He who takes out wine enough to mix a cup; milk enough for a gulp; honey enough to put on a sore; oil enough to anoint a small limb; water enough to rub off an eye salve; and of all other liquids, a quarter log; and of all slops [refuse], a quarter log.

1. **I:1:** Zeira asked R. Josiah, “What is the minimum measure [of the volume] of the cups [of wine to incur a liability]?” He said to him, “Let us derive what is not explicated from what is made explicit. “For R. Hiyya taught, ‘The four cups of which they have spoken are to

contain a quarter [log] according to the Italian measure [which is larger than the regular measure].”

2. **I:2:** [As to the authority behind M. 8:1A, wine enough to mix a cup,] R. Yosé b. R. Bun in the name of R. Yohanan: “This represents the view of R. Judah.” For it has been taught: Water enough for a swallow. R. Judah says, “Enough to rub off an eye salve” [M. 8:1A]. He who takes out wine enough for a gulp [swallow]. R. Judah says, “Enough for mixing a cup [of wine] one-fourth of a one-fourth log, [which suffices to join with three parts water to make up a full one-fourth log.] [M. 8.1A]” [T. Shab. 8:10F-G, A-B.]
3. **I:3:** What is the requisite measure of the cups of wine [to be drunk at the Passover seder]? R. Abin said, “A *tetarton*, that is, a quarter [of a quarter *log*]. What is the law on drinking all four cups in a single span?” On the basis of what R. Yohanan has said, “In the case of the Hallel-Psalms [recited in the Passover meal], if one has heard them in the synagogue, he has carried out his obligation,” that is to say that even if one drank all four cups in a single span [and not spaced out over the meal], he has carried out his obligation. What is the law on drinking them bit by bit? Have they maintained that one should get drunk, not drink? [To the contrary.] If one drinks the wine in widely separated gulps, will he not get drunk? [Accordingly, one may not do so.] What is the law on carrying out one’s obligation to drink four cups of wine with wine that has been produced in the Seventh Year? [Since the fields and vineyards are not tended in the seventh year, its vintage will not be of good quality.] R. Hoshaiah taught, “They carry out the obligation to drink four cups of wine with wine that has been produced in the Seventh Year.”
4. **I:4:** It has been taught: “In the case of dry wine, an olive’s bulk [is the minimum measure,]” the words of R. Nathan [T. Shab. 8:10C].
5. **I:5:** R. Simon in the name of R. Joshua b. Levi, “There was the case of a mule, belonging to the household of Rabbi, which died. They declared its blood insusceptible to uncleanness on the count of carrion. [The blood of carrion does not impart uncleanness as does carrion.]” R. Eleazar asked R. Simon, “To what extent?” But the latter did not respond.
6. **I:6:** It has been taught: [Rabban Simeon b. Gamaliel says,] “Blood enough for eye shadow for one eye, [for thus do they shadow a cataract of the eye]” [T. Shab. 8:10/I].

7. **I:7:** Milk [M. 8:1A]: That which you have said speaks of milk of a clean domesticated beast; but as to milk from unclean domesticated beast, it must be enough to provide eye salve for one eye.
8. **I:8:** Honey [M. 8:1A]: That which you have said speaks of the old kind.
9. **I:9:** Oil enough to anoint a small limb [M. 8:1A]: That refers in particular to the small limb of a one-day-old baby.
10. **I:10:** Water enough to rub off an eye salve [M. 8:1A]: Said R. Eleazar, “That which you have said applies to water that comes from dew.
11. **I:11:** R. Ba in the name of R. Hisda: “The Mishnah speaks of slops poured from one house to another.”

[B] R. SIMEON SAYS, “ALL OF THEM ARE [SUBJECT TO THE MEASURE OF] A QUARTER LOG.

1. **II:1:** Sages reply to R Simeon, “Surely it is not possible to speak of honey in the measure of a quarter log, or vinegar in the measure of a quarter log!” He replied to them, “Just as you maintain that all sorts of foodstuffs join together to form the volume of a dried fig [requisite to impose liability for transportation], so we maintain that all liquids join together to form the volume of a quarter log [necessary to impose liability for transportation]”

[C] AND THEY HAVE STATED ALL THESE MEASURES ONLY WITH REFERENCE TO THOSE WHO STORE THEM AWAY.”

1. **III:1:** Said R. Mana, “So far as people who store them away are concerned, any volume at all will be culpable [since they will have shown by their action that even so slight a volume is worthwhile to them].”

XLVIII. YERUSHALMI SHABBAT 8:2

[A] HE WHO TAKES OUT ROPE ENOUGH TO MAKE A HANDLE FOR A BASKET; REED CORD ENOUGH TO MAKE A HANGER FOR A SIFTER OR A SIEVE —

1. **I:1:** That which you have said [at M. 8:2A] refers to soft rope. But as to hard rope, it must be sufficient to kindle a fire capable of cooking a small egg.

2. **I:2:** Reed cord enough to make a hanger for a sifter or a sieve [M. 8:2A]: That which you have said refers to rope used for the inner side of the sifter or a sieve. But as to rope used for the outer side, it must be sufficient to tie two loops to a sifter or a sieve. It is taught: Palm sprouts – enough to make a handle for a twig basket [T. Shab. 8:9C]. That which you have said refers to soft ones. But as to hard ones, it must be sufficient to make a border. If one took out a utensil made of twigs, he is liable. Strings made of the fibrous bast of the palm – two. A root for planting – two. [A root] for a beast – a lamb’s mouthful. If it is for use as wood, in the measure of wood [cf. 9:5A]. He who takes out two hairs of a horse’s tail or of a cow’s tail, lo, this one is liable. Because he makes them into hunting traps [T. Shab. 9:1].

[B] **R. JUDAH SAYS, “ENOUGH TO USE IT TO TAKE THE MEASURE OF A SHOE FOR A CHILD “ – PAPER ENOUGH TO WRITE ON IT A RECEIPT FOR A TAX COLLECTOR.**

1. **II:1:** But that refers to a child who knows how to lace up a sandal.

[C] **AND HE WHO TAKES OUT A RECEIPT FOR A TAX COLLECTOR IS LIABLE:**

1. **III:1:** It has been taught: He who takes out a receipt of a tax collector before he has shown it to the tax collector is liable. After he has shown it to the tax collector, he is exempt. R. Judah says, “Also: After he has shown it to the tax collector, he is liable, because he keeps it to show it to the tax farmer” [M. 8:2D] [T. Shab. 8:11]. He who takes out a bond, before he has shown it to the creditor, is liable. After he has shown it to the creditor, he is exempt. R. Judah says, “Also: After he has shown it to the creditor, he is liable, because he may be able to show it to another creditor as well” [T. Shab. 8:12B-C].

[D] **USED PAPER ENOUGH TO WRAP AROUND A SMALL PERFUME BOTTLE.**

1. **IV:1:** It is taught: If there is open space sufficient to contain two letters, he is liable [T. Shab. 8:12A].

XLIX. YERUSHALMI SHABBAT 8:3

[A] **LEATHER – ENOUGH TO MAKE AN AMULET. [INFERIOR PARCHMENT – ENOUGH TO WRITE A MEZUZAH ON IT.**

1. **I:1:** There is a Tannaite authority who repeats the version [at M. 8:3A]: Enough to put on an amulet.

- [B] SUPERIOR PARCHMENT — ENOUGH TO WRITE A SMALL PERICOPE FOR THE TEFILLIN ON IT, WHICH IS “HEAR O ISRAEL.” INK — ENOUGH TO WRITE TWO LETTERS.
1. II:1: That which you have said applies to the better surface of the hide, but as to the inferior surface of the hide, it is sufficient to write two pericope that go into the mezuzah [M. 8:3B].
 2. II:2: As to ink, if one took out ink with a quill, it is sufficient to write two letters.
- [C] EYE SHADOW — ENOUGH TO SHADOW ONE EYE. [LIME — ENOUGH TO PUT ON THE HEAD OF A LIME TWIG.
1. III:1: Said R Bun bar Hiyya, “For a woman puts eye shadow on one of her eyes and goes out to the market.”
- [D] PITCH OR SULPHUR — ENOUGH FOR MAKING A SMALL HOLE.
1. IV:1: R. Yosé bar Hanina said, “They have taught this rule with reference to these things in liquid state.”
- [E] WAX — ENOUGH TO PUT OVER A SMALL HOLE.
1. V:1: R. Hiyya taught, “Enough to put over a crack.”

L. YERUSHALMI SHABBAT 8:4

- [A] GLUE — ENOUGH TO PUT ON THE HEAD OF A LIME TWIG. CLAY — ENOUGH TO MAKE THE [BELLOW’S] HOLE OF THE CRUCIBLE OF A GOLDSMITH. R. JUDAH SAYS, “ENOUGH TO MAKE A PROP.” BRAN — ENOUGH TO PUT ON THE MOUTH OF THE CRUCIBLE OF A GOLD SMITH; QUICKLIME — ENOUGH TO SMEAR THE LITTLE FINGER OF A GIRL.
1. I:1: What is clay? It is white powder clay.
 2. I:2: Samuel said, “As to dirt: enough to cover up the blood of a small bird.”
 3. I:3: It has been taught: As to pottery, any amount, and as to reed rope, any amount, is it permitted to carry in the house.
- [B] R. JUDAH SAYS, “ENOUGH TO MAKE A HAIR CROWN.” R. NEHEMIAH SAYS, “ENOUGH TO MAKE SIDE CURLS.”

1. **II:1:** [As to M. 8:4F-G:] Said Rabbi, “The opinion of R. Judah appears to me preferable when it is of the volume of an egg, and the opinion of R. Nehemiah when it is mashed” [T. Shab. 8:20F].

LII. YERUSHALMI SHABBAT 8:5

[A] “EARTH FOR CLAY ENOUGH TO MAKE A SEAL FOR A LARGE SACK,” THE WORDS OF **R. AQIBA**. AND SAGES SAY, “A SEAL FOR A LETTER.” “MANURE OR FINE SAND ENOUGH TO MANURE A CABBAGE STALK,” THE WORDS OF **R. AQIBA**. AND SAGES SAY, “ENOUGH TO MANURE A LEEK.” COARSE SAND ENOUGH TO COVER A PLASTERER’S TROWEL; REED ENOUGH TO MAKE A PEN. AND IF IT WAS THICK OR BROKEN, ENOUGH TO [MAKE A FIRE TO] COOK THE SMALLEST SORT OF EGG, MIXED [WITH OIL] AND PUT IN A PAN.

1. **I:1:** R. Hiyya in the name of R. Yohanan: “[With reference to M. 8:5F’s pen,] that is to say, a pen which reaches up to the joints of the fingers.”
2. **I:2:** Said R. Yosé, “Every reference to an egg which we have learned with reference to Mishnah tractate Kelim [at chapter 17] refers to an actual egg. But in tractate Shabbat, the volume of a fig is equivalent to that of an egg.”

LII. YERUSHALMI SHABBAT 8:6

[A] BONE ENOUGH TO MAKE A SPOON. **R. JUDAH** SAYS, “ENOUGH TO MAKE A TOOTH [OF A KEY] WITH IT.”

1. **I:1:** What is the meaning of “a tooth” [at M. 8:6B]?

[B] GLASS ENOUGH TO SCRAPE THE END OF A SHUTTLE.

1. **II:1:** There we have learned: [Fragments of glass – to cover the mouth of a flask...] Fragments of a glass vessel into which one may pour oil are regarded as useful [M. 17:5], and here you say this [that the criterion is as stated, a quite different one]? While in 17:5 sages speak of a glass fragment even if the glass has never formed part of a utensil, while in 8:6C the anonymous sages apparently require that the fragment have such a function.]

[C] PEBBLE OR STONE ENOUGH TO THROW AT A BIRD. **R. ELIEZER B. R. JACOB** SAYS, “ENOUGH TO THROW AT A BEAST.”

1. **III:1:** Simeon bar Ba in the name of R. Yohanan: “Sufficient in weight to throw at the back of a bird and the bird will feel it.”
2. **III:2:** It has been taught: [R. Yosé says,] “A rounded and smooth pebble the size of an olive, the size of a nut, or the size of an egg – one takes it and dries his feet off with it.” R. Ishmael b. R. Yosé says in the name of his father, “One [Y.: “Up to...”] the size of his hand [may be handled for this purpose]” [T. Shab. 13:17].
3. **III:3:** Hiyya taught, “A sherd of any character at all – it is forbidden to wipe oneself therewith [on grounds of danger].” Said R. Yosé b. R. Bun, “It is not the end of the matter that that prohibition applies to a sherd, but even the handles of jugs [may not be used for that purpose].” [And the same applies] to anything that goes into the kiln and is taken out. R. Yosé b. Yosé said, “A pebble used by his fellow for wiping himself and water of a volume of less than forty seahs is it forbidden to use for wiping oneself.”

LIII. YERUSHALMI SHABBAT 8:7

[A] “**POTSHERD ENOUGH TO PUT BETWEEN ONE BOARD AND ANOTHER,**” THE WORDS OF **R. JUDAH. R. MEIR SAYS, “ENOUGH TO SCOOP UP FIRE.” R. YOSÉ SAYS, “ENOUGH TO HOLD A QUARTER LOG [OF LIQUID].” SAID R. MEIR, “EVEN THOUGH THERE IS NO PROOF FOR THE PROPOSITION, THERE IS AT LEAST A HINT FOR IT: ‘AND THERE SHALL NOT BE FOUND AMONG THE PIECES OF IT A SHERD TO TAKE FIRE FROM THE HEARTH’ (Is. 30: 14).” SAID TO HIM R. YOSÉ, “FROM THAT SAME VERSE THERE IS PROOF [FOR MY PROPOSITION]: ‘OR TO SCOOP UP WATER WITHAL OUT OF THE CISTERN.’”**

1. **I:1:** A potsherd of any size – R. Yohanan said, “They consecrate [the water for the red heifer process of purification] with it.” R. Simeon b. Laqish says, “They do not do so.”

LIV. YERUSHALMI SHABBAT 9:1

[A] SAID **R. AQIBA, “HOW DO WE KNOW OF AN IDOL THAT IT IMPARTS UNCLEANNESS WHEN IT IS CARRIED AS A MENSTRUATING WOMAN [IMPARTS UNCLEANNESS WHEN SHE IS CARRIED TO THE ONE WHO CARRIES HER]? “SINCE IT IS SAID, ‘YOU SHALL CAST THEM AWAY LIKE A MENSTRUAL THING, YOU SHALL SAY TO IT, GET THEE HENCE’ (Is. 30: 22):”**

- 1.** **I:1:** “Abomination” is written in connection with the menstruating woman, “abomination” is written in connection with dead creeping things, and “abomination” is written in connection with an idol. ‘In connection with the menstruating woman: “... for whoever shall do any of these abominations – [the persons] that do them shall be cut off...” (Lev. 18:29). [Lev. 18:19 explicitly includes under the stated curse one who has sexual relations with a menstruating woman.] In connection with idolatry: “And you shall not bring an abominable thing into your house [and become accursed like it; you shall utterly detest and abhor it; for it is an accursed thing]” (Deut. 7:26). ‘In connection with dead creeping things: “You shall not eat any abominable thing” (Deut. 14:3). ‘But I do not know to which matter an analogy is to be drawn. ‘R. Aqiba said, “It is to be compared to the abomination stated with reference to the menstruating woman:”’ Just as a menstruating woman imparts uncleanness to the one who carried her, so an idol imparts uncleanness to the one who carries it [M. 9:1C].”
- 2.** **I:2:** Said R. Haninah, “That is to say that the uncleanness imputed to an idol is not clear[ly derived from the Torah]. For if that were not so, would one compare it to a lesser [source of uncleanness], and not compare it to a more severe [source of uncleanness]?” Said R. Mana, “It is clear [that the source of uncleanness to which the idol is comparable is the Torah, even though the analogy is drawn to both a minor and a major source of uncleanness]. Now why does one compare it to a corpse and to a dead creeping thing? To derive evidence therefrom for the minor [forms] which apply to [both these sources of uncleanness]. [That is, the purpose is to impose on the idol the small volume sufficient to impart uncleanness which applies in the case of a corpse, an olive’s bulk, and to compare the idol to the dead creeping thing in that the idol will not impart uncleanness to the one who carries it.]”
- 3.** **I:3:** What is the scriptural basis of R. Aqiba[‘s position, comparing the idol to a menstruating woman as to uncleanness]? “You shall [utterly detest and] abhor it” (Deut. 7:26) – like menstrual uncleanness. What is the scriptural basis of the rabbis? “You shall utterly detest [and abhor it]” (Deut. 7:26) – like a dead creeping thing.
- 4.** **I:4:** There is a version of the Mishnah tradition which states, “An idol is like a menstruating woman [as to uncleanness], and the appurtenances of an idol [also] are like a menstruating woman.” And there is a [contradictory] version of the Mishnah tradition which states,

“An idol is like a menstruating woman [as to uncleanness] but its appurtenances are like a dead creeping thing [as to uncleanness].”

[B] “JUST AS THE MENSTRUATING WOMAN IMPARTS UNCLEANNESS WHEN SHE IS CARRIED, SO AN IDOL IMPARTS UNCLEANNESS WHEN IT IS CARRIED.”

- 1. II:1:** Now does this statement [of M. A.Z. 3:6F] not stand at variance with that which R. Yohanan [Y. A.Z.: R. Simeon b. Laqish] said, “An idol which was broken is permitted” [– a question which all the more so applies to Simeon b. Laqish]? And we have had the theory: If in the future one does not plan to put the sherds back together, all parties concur that it is permitted? But lo, we have learned, There are three sorts of stones [= three different ways to make the stone into an idol] [M. A.Z. 3:7].
- 2. II:2:** R. Ba in the name of Rab: “One who prostrates himself to a house has forbidden it. But if he did so to a tree, he has not prohibited it.”

LV. YERUSHALMI SHABBAT 9:2

[A] “HOW DO WE KNOW OF A BOAT THAT IT IS INSUSCEPTIBLE TO UNCLEANNESS? “SINCE IT SAYS, ‘THE WAY OF A SHIP IN THE MIDST OF THE SEA’ (PROV. 30: 19):

- 1. I:1:** [Rather than citing the verse of Scripture,] may one not derive the same fact [M. 9:2A] from the analogy to the sea itself? That is to say: Just as the sea is insusceptible to uncleanness, so the ship is insusceptible to uncleanness. And may one not derive the same fact from the analogy to sacking? While sacking serves on both sea and land, a boat serves only on the sea and not on the land.

[B] “HOW DO WE KNOW OF A GARDEN BED, SIX HANDBREADTHS SQUARE, THAT [FIVE DIFFERENT KINDS OF SEED] MAY BE SOWN IN IT, FOUR ON THE SIDES AND ONE IN THE MIDDLE [M. KIL. 3:1]? “SINCE IT SAYS, ‘FOR AS THE EARTH BRINGS FORTH HER BUD AND AS THE GARDEN CAUSES SEEDS SOWN IN IT TO SPRING FORTH’ (Is. 61:11). “‘ITS SEED’ IS NOT SAID, BUT ‘ITS SEEDS.’”

- 1. II:1:** The smallest number of “its seeds” is two varieties. [Why should there be more than that?] Said R. Samuel bar Sisereta, “[That is a soluble problem.] From two you may then derive four [varieties of seeds]. In the case of two varieties of seeds, you plant at the outset rows six handbreadths long and then proceed to plant progressively

shorter rows, and likewise, in the case of four varieties of seeds, you plant rows of six handbreadths and progressively shorten the rows.

LVI. YERUSHALMI SHABBAT 9:3

- [A] “**HOW DO WE KNOW OF HER WHO EMITS SEMEN ON THE THIRD DAY [AFTER HAVING HAD SEXUAL RELATIONS] THAT SHE IS UNCLEAN? “SINCE IT SAYS, ‘AND BE READY AGAINST THE THIRD DAY, COME NOT NEAR A WOMAN’ (EX. 19:15).**
1. **I:1:** Said R. Yohanan, “It was from the procedure at Sinai that they derived the rule [at M. 9:3A; alternatively, the rule in M. Miq. 8:3]. Moses came down on Tuesday [: “on the third (of the month)], saying to them, ‘Be ready against the third day, do not come near a woman’ (Ex. 19:15). Now whoever ceased to have sexual relations on the third day then may count [L adds: “the third,] Tuesday night, Wednesday, Wednesday night, Thursday, and as to Thursday night and Friday, if a woman emitted semen on Thursday night [= five spans], she is unclean, but if it was on Friday, she is clean [after five spans]. [In this case there are five spans of cleanness.] As to whoever ceased to have sexual relations on Wednesday, we may then count Wednesday, Wednesday night, Thursday, and as to Thursday night and Friday, if a woman emitted semen at night on Thursday night, she would be unclean, while if it was on Friday by day, she is clean. [In this case there are fewer than five spans of cleanness, but it was acceptable.]”
- [B] “**HOW DO WE KNOW THAT THEY BATHE A CHILD ON THE THIRD DAY AFTER CIRCUMCISION, EVEN IF THIS COINCIDES WITH THE SABBATH? “SINCE IT SAYS, ‘AND IT CAME TO PASS ON THE THIRD DAY WHEN THEY WERE SORE’ (GEN. 34: 25).**
1. **II:1:** We have learned: They bathe a child [on the third day after circumcision, even if this coincides with the Sabbath] [M. 9:3C]: A Tannaite authority of the house of Rabbi [formulates the law], “They wash the mark of circumcision.” R. Abbahu in the name of R. Yohanan: “The law follows the view of him who says, ‘They wash the child.’”
- [C] “**HOW DO WE KNOW THAT THEY TIE A RED THREAD ON THE HEAD OF THE SCAPEGOAT [WHICH IS SENT FORTH]? “SINCE IT SAYS, ‘THOUGH YOUR SINS BE AS SCARLET, THEY SHALL BE WHITE AS SNOW’ (IS. 1:18).”**

1. **III:1:** At first they would tie a crimson thread onto their windows. In the case of some of them it turned white, and in the case of some of them it remained red. The result was that these became ashamed before those. So they went and tied it at the door of the Temple. There were years in which it turned white, and there were years in which it remained red. They went and tied it to a rock [M. Yoma 6:5C].

LVII. YERUSHALMI SHABBAT 9:4

[A] **“HOW DO WE KNOW THAT ON THE DAY OF ATONEMENT ANOINTING IS TANTAMOUNT TO DRINKING? EVEN THOUGH THERE IS NO DIRECT PROOF OF THE PROPOSITION, THERE IS A HINT AT IT, SINCE IT SAYS, ‘AND IT CAME INTO HIS INWARD PARTS LIKE WATER AND LIKE OIL INTO HIS BONES’ (Ps. 109:18).**

1. **I:1:** There is the following pertinent statement: On the Sabbath, anointing with oil both for enjoyment and otherwise is permitted. On the Day of Atonement, anointing both for enjoyment and otherwise is forbidden. On the ninth of Ab and on any other fast day of the community, anointing for enjoyment is forbidden, but that which is not merely for enjoyment is permitted.

LVIII. YERUSHALMI SHABBAT 9:5

[A] **HE WHO BRINGS OUT WOOD--ENOUGH TO COOK A SMALL EGG; SPICES--ENOUGH TO SPICE A SMALL EGG; AND THEY JOIN TOGETHER WITH ONE ANOTHER [TO MAKE UP THE REQUISITE QUANTITY TO IMPOSE LIABILITY]. NUTSHELLS, POMEGRANATE SHELLS, WOAD, AND DYER’S MADDER-- ENOUGH TO DYE A GARMENT AS SMALL AS A HAIR NET:**

1. **I:1:** [As to M. 9:5B, spices in general:] There is a problem. Do cinnamon and salt join together [to form the requisite volume for culpability]?
2. **I:2:** There we have learned: The prohibited measure is for bleachers, hacklers, dyers, and spinners [M. 13:4], and yet you say this [that the requisite measure is so much larger, namely, to dye a small garment]!

[B] **URINE, SODA, SOAP, CIMOLIAN EARTH, OR LION’S LEAF--ENOUGH TO LAUNDER A GARMENT AS SMALL AS A HAIR NET. R. JUDAH SAYS, “ENOUGH [EARTH] TO SPREAD OVER A BLOODSTAIN” [M. Nid. 9: 6].**

- II:1:** Soda is carbonate of soda; soap is sulphur; Cimolian earth is alkaline ashes. Lion's leaf – R. Yosé b. R. Bun said, "Stones of wind."

LIX. YERUSHALMI SHABBAT 9:6

[A] PEPPER IN ANY QUANTITY AT ALL; TAR IN ANY QUANTITY AT ALL; VARIOUS SORTS OF SPICES AND METAL TOOLS [FOR POUNDING SPICES] IN ANY QUANTITY AT ALL; STONES OF THE ALTAR, DIRT OF THE ALTAR, WORN-OUT HOLY SCROLLS, AND THEIR WORN-OUT COVERS--IN ANY QUANTITY AT ALL. FOR THEY STORE THEM AWAY IN ORDER TO HIDE THEM [FOR PERMANENT STORAGE]. R. JUDAH SAYS, "ALSO: HE WHO TAKES OUT ANY OF THE APPURTENANCES OF AN IDOL IN ANY QUANTITY AT ALL [IS LIABLE], "SINCE IT SAYS, 'AND THERE SHALL CLEAVE NOUGHT OF THE DEVOTED THING TO YOUR HAND' (DEUT. 13:17)."

- I:1:** It has been taught: Also of anything that smells bad – any quantity at all."

LX. YERUSHALMI SHABBAT 9:7

[A] HE WHO TAKES OUT A PEDDLER'S BASKET, EVEN THOUGH THERE ARE MANY DIFFERENT SORTS OF THINGS IN IT, IS LIABLE ONLY FOR A SINGLE SIN OFFERING.

- I:1:** M. 9:7A's specification that there is only liability for a single sin offering hardly requires specification. So] there is this problem: If the man had taken out over and over again various things, in a single spell of inadvertence, would he not be liable only for a single sin offering?

[B] GARDEN SEEDS--LESS THAN A DRIED FIG'S BULK. R. JUDAH B. BETERA SAYS, "FIVE."

- II:1:** What is the reasoning of R. Judah b. Betera? That is the way seeds usually are sown in a furrow.

[C] TWO CUCUMBER SEEDS, TWO GOURD SEEDS, TWO EGYPTIAN BEAN SEEDS, A CLEAN:

- III:1:** It has been taught: Medean grain seeds – two. R. Samuel in the name of R. Zeira: "Seeds for wheat, since they are especially prized, are treated in the category of other garden seeds which are not going to be eaten."

[D] A LIVE LOCUST--IN ANY QUANTITY WHATSOEVER; A DEAD ONE--THE SIZE OF A DRIED FIG:

- 1. IV:1:** That which you have said applies to a clean locust. But as to an unclean one, the appropriate minimum is enough to fill the mouth of a dog.

[E] A VINEYARD BIRD [A KIND OF LOCUST] WHETHER ALIVE OR DEAD--IN ANY QUANTITY AT ALL, FOR THEY STORE IT AWAY FOR [LATER USE AS] A REMEDY.

- 1. V:1:** Said R. Aha, “A woman having a pustulate face sucks on such a locust and is healed.”

[F] R. JUDAH SAYS, “ALSO ONE WHO TAKES OUT A LIVING UNCLEAN LOCUST IN ANY QUANTITY AT ALL, “FOR THEY STORE IT AWAY FOR A CHILD TO PLAY WITH IT.”

- 1. VI:1:** Lo, may we then conclude, in the case of a clean one whether it is alive or dead, the requisite measure is a fig’s bulk?

LXI. YERUSHALMI SHABBAT 10:1

[A] HE WHO PUT [SOMETHING] AWAY FOR SEED, FOR A SAMPLE, OR FOR A REMEDY, AND [THEN] TOOK IT OUT ON THE SABBATH IS LIABLE FOR ANY AMOUNT WHATSOEVER. BUT ANY [OTHER] PERSON IS LIABLE ON ITS ACCOUNT ONLY FOR THE SPECIFIED MEASURE PERTINENT TO IT [THAT SORT OF THING]. [IF THE PERSON] WENT AND PUT IT BACK, HE IS LIABLE [SHOULD HE TAKE IT OUT AGAIN] ONLY FOR THE SPECIFIED MEASURE PERTINENT TO IT.

- 1. I:1:** R. Jeremiah said R. Yosé b. R. Haninah asked, “May we say that this law of the Mishnah [at M. 10:1A-B] represents the view of R. Judah, who has said, ‘A man will be liable [for Sabbath violations] on account of the tools of his trade, [even when others would not be liable under similar circumstances]’? [Referring here to putting something away for a sample – however negligible the quantity – would illustrate that principle of Judah’s. The contrary view is that we do not distinguish the criteria for a craftsman from those for others.]”
- 2. I:2:** If one party put the substance away and another one took it out, the latter is exempt [since he did not put away this paltry volume for storage]. R. Simeon b. Eleazar declares him liable.

LXII. YERUSHALMI SHABBAT 10:2

[A] HE WHO TAKES OUT FOOD AND PUT IT DOWN ON THE THRESHOLD, WHETHER HE THEN WENT AND TOOK IT OUT, OR SOMEONE ELSE TOOK IT OUT, IS EXEMPT [FROM LIABILITY TO A SIN OFFERING], FOR HE HAS NOT [COMPLETELY] PERFORMED HIS [PROHIBITED] ACT OF LABOR AT ONE TIME. A BASKET WHICH IS FULL OF PRODUCE, WHICH ONE PUT ON THE OUTER [HALF OF THE] THRESHOLD, EVEN THOUGH THE LARGER QUANTITY OF THE PRODUCE IS OUTSIDE – HE IS EXEMPT UNLESS HE TAKES OUT THE ENTIRE BASKET.

1. I:1: Hezekiah said, “The Mishnah [at M. 10:2E-H] speaks of a basket of cucumbers or gourds, in which case part of the [edible] food is inside and part out. But in the case of a basket full of produce, once one has taken a dried fig’s bulk of food outside, he has incurred liability.” They said that a statement of R. Yohanan differs from this view. For R. Hiyya said in the name of R. Yohanan, “A frame with shelves, part of which is standing inside and part outside – if one took something from one part and put it into the other part, he is exempt. If he took it up, [he is liable] only when he takes up the whole thing at once.”
2. I:2: Hezekiah said, “If one removed a bundle from private domain to public domain, if before he put it down in public domain, the top of the bundle was above ten [handbreadths], since the whole of it has not come to rest in public domain, the man is exempt.” Said R. Samuel bar R. Isaac, “If one took a beam from private domain to public domain, if before he put it down in public domain, the beam went into a different private domain, since the whole of it has not come to rest in public domain, he is exempt.” Said R. Yohanan, “A stone located in public domain, ten [handbreadths] high and four broad – he who takes something [located] in it into public domain, or from public domain to the stone, is liable.” Samuel said, “A basket full of produce located in public domain [at a spot] ten [handbreadths] high and four broad – he who takes produce from it to the public domain, or from the public domain to the basket, is exempt.”

LXIII. YERUSHALMI SHABBAT 10:3

[A] HE WHO TAKES [SOMETHING] OUT, WHETHER IN HIS RIGHT HAND OR IN HIS LEFT, IN HIS LAP [BETTER: “CHEST CAVITY” OR “POCKET”] OR ON HIS SHOULDER, IS

LIABLE, FOR SO IS THE MANNER OF CARRYING [AN OBJECT] BY THE CHILDREN OF KOHATH [NUM. 7:9]. [IF HE RAKES SOMETHING OUT ON THE BACK OF HIS HAND, ON HIS FOOT, IN HIS MOUTH, OR IN HIS ELBOW, IN HIS EAR, OR IN HIS HAIR, OR IN HIS WALLET WITH ITS MOUTH DOWNWARD, BETWEEN HIS WALLET AND HIS CLOAK, IN THE HEM OF HIS CLOAK, IN HIS SHOE, IN HIS SANDAL, HE IS EXEMPT [FROM LIABILITY TO A SIN OFFERING]. FOR HE HAS NOT CARRIED [THE OBJECTS] OUT THE WAY PEOPLE [GENERALLY] CARRY OUT [OBJECTS].

- 1.** **I:1:** R. Yosé raised the question, “If so, if one took as much as a fig out on his shoulder, he is liable. [That is, since the Mishnah says, ‘He who takes,’ without further limitation, it would include such an act.” But is this the sort of way in which the children of Kohath carried an object? And it is written, “And Eleazar the son of Aaron the priest shall have charge of the oil for the light, the fragrant incense, the continual cereal offering, and the anointing oil, [with the oversight of all the tabernacle and all that is in it, of the sanctuary and its vessels]” (Num. 4:16). “The oil for the light” in his right hand; “the fragrant incense,” in his left hand; “the continual cereal offering” for that day suspended from his arm; and as to “the anointing oil,” where was it located?

LXIV. YERUSHALMI SHABBAT 10:4

[A] **HE WHO INTENDS TO CARRY OUT SOMETHING IN FRONT OF HIM, AND IT SLIPPED BEHIND HIM, IS EXEMPT. [IF HE INTENDED TO CARRY IT OUT] BEHIND HIM AND IT SLIPPED IN FRONT OF HIM, HE IS LIABLE.**

- 1.** **I:1:** There we have learned: [The Sabbath and the Day of Atonement – one performed an act of labor at twilight but is not certain in which category he performed the act of labor – R. Eliezer declares him liable to a sin offering, and R. Joshua declares him exempt (M. Ker. 4:2K-N).] R. Simeon Shezuri and R. Simeon say, “They did not dispute about something that falls into a single category, that he is liable. Concerning what did they dispute? Concerning something that falls into two distinct categories. For R. Eliezer declares him liable for a sin offering and R. Joshua exempts”[M. Ker. 4:3A-E]. R. Ila in the name of R. Eleazar, “[The passage before us, M. 10:4A accords with him who has said, ‘They disputed about something that falls into a single category.’ But in accord with him who said, ‘They disputed about something that falls into two categories,’ here [M. 10:4] we deal with something which falls into two categories, and he is exempt. [But in his view all parties should concur that he is liable.]”

[B] TRULY DID THEY SAY, A WOMAN WHO WORE DRAWERS [AND TOOK SOME THING OUT IN THEM], WHETHER IN FRONT OF HER OR BEHIND HER, IS LIABLE, FOR THEY ARE LIKELY TO BE MOVED AROUND. **R. JUDAH SAYS, “ALSO: LETTER CARRIERS.”**

- 1.** **II:1:** Truly [did they speak] [M. 10:4C]: Said R. Eliezer, “Every place in which the language, ‘Truly,’ is used, represents a law revealed to Moses at Sinai.”

LXV. YERUSHALMI SHABBAT 10:5

[A] ONE WHO CARRIES OUT A LOAF OF BREAD INTO THE PUBLIC DOMAIN IS LIABLE. **IF TWO PEOPLE CARRIED IT OUT, THEY ARE EXEMPT. [IF] ONE PERSON COULD NOT CARRY IT OUT, BUT TWO PEOPLE CARRIED IT OUT, THEY ARE LIABLE. AND R. SIMEON DECLARES [THEM EXEMPT].**

- 1.** **I:1:** “By doing...” (Lev. 4:2) – an individual who performed [a forbidden act] is liable, while two or three who performed it [together] are exempt [= M. 10:5B].

[B] ONE WHO CARRIES OUT FOOD IN A VOLUME LESS THAN THE SPECIFIED MEASURE IN A UTENSIL IS EXEMPT EVEN ON ACCOUNT OF [TAKING OUT] THE UTENSIL, FOR THE UTENSIL IS SECONDARY TO IT [THE FOOD].

- 1.** **II:1:** [With reference to M. 10:5E,] said R. Samuel bar R. Isaac, “That which you have said addresses a case in which they needed the utensils, for instance, in the case of berries. But if they did not need the utensils, one is liable also for taking out the utensil.”

[C] [ONE WHO CARRIES OUT] A LIVING PERSON IN A BED IS EXEMPT EVEN ON ACCOUNT OF [TAKING OUT] THE BED, FOR THE BED IS SECONDARY TO HIM. [IF HE CARRIED OUT] A CORPSE IN A BED, HE IS LIABLE. AND SO [ONE WHO CARRIES OUT] AN OLIVE’S BULK OF CORPSE MATTER AND AN OLIVE’S BULK OF CARRION AND A LENTIL’S BULK OF A DEAD CREEPING THING IS LIABLE. AND **R. SIMEON DECLARES [HIM] EXEMPT.**

- 1.** **III:1:** [One who carries out] a living person in a bed is exempt even on account of taking out the bed [M. 10:5G]: for a living person [theoretically] bears his own weight. If he carried out a corpse in a bed, he is liable [M. 10:5I]: This represents the view of all parties [including Simeon], for has it not been taught, “[If one carries out something that has] a bad smell, in any volume at all, [he is liable for transporting such an object]. [Simeon will concur in this ruling, since the action is purposeful.]

LXVI. YERUSHALMI SHABBAT 10:6

[A] HE WHO PARES HIS FINGERNAILS WITH ONE ANOTHER, OR WITH HIS TEETH, SO TOO [IF HE PULLED OUT THE HAIR OF] HIS HEAD, MUSTACHE, OR BEARD — AND LIKEWISE SHE WHO DRESSES HER HAIR, PUTS ON EYE SHADOW, OR ROUGES HER FACE — R. ELIEZER DECLARES [THEM] LIABLE [FOR DOING SO ON THE SABBATH]. AND SAGES PROHIBIT [DOING SO] BECAUSE OF [THE PRINCIPLE OF J SABBATH REST. HE WHO PICKS [SOMETHING] FROM A POT WHICH HAS A HOLE [IN THE BOTTOM] IS LIABLE.

1. I:1: R. Abbahu in the name of R. Yosé b. R. Hanina: “Where do they differ?” It is when the person has pared his own nails, but if someone else did so, they are [merely] repulsive, [and even Eliezer will concur that there is no sin offering in this case.]” And as to the view of sages, R. Aha, R. Nahum in the name of Rab: “Under no circumstances is one liable unless he removes [the nails] into a basket.”
2. I:2: She who puts on eye shadow is liable on account of writing. She who rouges her face is liable on account of dyeing.

[B] [IF HE PICKS SOMETHING FROM A POT] WHICH HAS NO HOLE [IN THE BOTTOM], HE IS EXEMPT. BUT R. SIMEON EXEMPTS HIM BOTH IN THIS CASE AND IN THAT CASE.

1. II:1: [As to M. 10:6F-H,] Isaac bar Orion said, “Where do they dispute? Only in a case in which one did not pull up the plant at the point of perforation. But if one pulled up the plant at the point of perforation [on the bottom], even R. Simeon concurs [that he is liable].”

LXVII. YERUSHALMI SHABBAT 11:1

[A] ONE WHO THROWS [AN OBJECT] FROM PRIVATE DOMAIN TO PUBLIC DO MAIN, [OR] FROM PUBLIC DOMAIN TO PRIVATE DOMAIN, IS LIABLE.

1. I:1: Throwing [an object] is a derivative of transporting an object [from private to public domain].

[B] [ONE WHO THROWS AN OBJECT] FROM PRIVATE DOMAIN TO PRIVATE DO MAIN, AND PUBLIC DOMAIN INTERVENES — R. AQIBA DECLARES [HIM] LIABLE [TO A SIN OFFERING]. AND SAGES EXEMPT [HIM].

1. **II:1:** Despite the dispute at [M. 1:1B-D,] there is no difference between the view of [Rabbi Aqiba] and the view of rabbis, that the object must come to rest from public domain into the private domain [for liability to be incurred]. In the view of Rabbi [Aqiba], even if it did not come to rest [is not one liable]? In the view of rabbis, [one is liable only] if it came to rest.
2. **II:2:** [As to the dispute at M. 11:1B-D,] Samuel said, “They have reported the tradition [as a dispute] only when the object remains below ten handbreadths [from the ground]. Lo, if it passes above ten handbreadths, it is forbidden [to throw such an object, even in the view of sages]. [If the object is thrown lower than ten handbreadths, it is as if it has come to rest on the ground. The dispute does not extend to tossing an object above ten handbreadths. Sages prohibit this as much as does Aqiba.]”
3. **II:3:** R. Isaac b. R. Eleazar asked, “If one tossed an object from private domain to public domain, and realized before the object was in public domain [that he should not have done so], do we maintain, in the theory of R. Aqiba, that the object is treated as if it has come to rest in public domain, in which case the one who tossed it is liable on two counts [the transportation into public domain, the coming to rest, and further transportation in public domain, on the theory that the moment the object comes into public domain it is deemed to have come to rest in public domain, then to have traveled onward]?”
4. **II:4:** R. Abbahu says in the name of R. Eleazar in the name of R. Yohanán: “If one was standing in public domain and tossed an object higher than ten handbreadths, they examine [the case], so that if the object falls back and comes to rest within four cubits of the man, he is exempt, and if not, he is liable.”
5. **II:5:** It has been taught in the name of R. Judah, “If one tossed an object four cubits in public domain, he is liable.”

LXVIII. YERUSHALMI SHABBAT 11:2

[A] HOW SO? TWO BALCONIES OPPOSITE ONE ANOTHER [EXTENDING] INTO THE PUBLIC DOMAIN — HE WHO STRETCHES OUT OR THROWS [AN OBJECT] FROM THIS ONE TO THAT ONE IS EXEMPT. IF BOTH OF THEM WERE [DIFFERENT PRIVATE DOMAINS ON THE SAME SIDE OF THE STREET AND] AT THE SAME STORY, HE WHO STRETCHES [AN OBJECT OVER] IS LIABLE, AND HE WHO THROWS FROM ONE TO THE OTHER IS EXEMPT. FOR THUS WAS THE MODE OF LABOR OF THE

LEVITES: TWO WAGONS, ONE BEHIND THE OTHER, IN THE PUBLIC DOMAIN – THEY STRETCH BEAMS FROM THIS ONE TO THAT ONE, BUT THEY DO NOT THROW [THEM FROM ONE TO THE OTHER].

- I:1:** Rab said, “[At M. 11:2A-C,] one should read not ‘exempt’ but ‘permitted.’” In the view of Rab, as to space above ten handbreadths, it is permitted [to transport objects therein]. In the opinion of Samuel, as to the space above ten hand breadths, it is forbidden [to transport objects therein].
- I:2:** Said R. Yohanan, “[Just as is the case with the bank of the cistern and the cistern, so] a standing part and a hole [beside it] join together to form the requisite volume of four cubits [M. 11:2/I]. And that is the case when the standing part is larger in breadth than the hole.”

[B] THE BANK OF A CISTERN, OR A ROCK, TEN HANDBREADTHS HIGH AND FOUR BROAD – HE WHO TAKES [SOMETHING] FROM THAT AREA OR WHO PUTS SOMETHING ONTO THAT AREA IS LIABLE. [IF THEY WERE] LESS THAN THE STATED MEASUREMENTS, HE IS EXEMPT.

- II:2:** With what sort of case do we deal? If the [bank or rock] are ten handbreadths high and four broad, they constitute a domain by themselves. If they are ten [handbreadths high] but are not four broad, it is to this case that R. Hisda in the name of Issi addressed this statement: “As to a reed stuck [into the ground] in the public domain ten handbreadths high [but not four broad], it is permitted to put things in from one domain [public] or from the other [private], so long as one not then exchange [objects from one domain to the other via the reed].”
- II:2:** [As to M. 11:2K, If they were less than the stated measurements, he is exempt:] said R. Yohanan, “One should read here not ‘exempt,’ but ‘permitted.’” [The clause refers to the breadth and not the height.]

LXIX. YERUSHALMI SHABBAT 11:3

[A] HE WHO THROWS [SOMETHING FROM A DISTANCE OF] FOUR CUBITS TO WARD A WALL – [IF HE THROWS IT] ABOVE TEN HANDBREADTHS, IT IS AS IF HE THREW IT INTO THE AIR [WHICH IS PUBLIC DOMAIN]. [IF IT IS] BELOW TEN HANDBREADTHS, IT IS AS IF HE THREW IT ONTO THE GROUND [WHICH IS PRIVATE DOMAIN]. HE WHO THROWS [AN OBJECT TO A DISTANCE OF] FOUR CUBITS ON THE GROUND IS LIABLE. IF HE THREW [AN OBJECT] WITHIN THE SPACE OF FOUR CUBITS AND IT ROLLED BEYOND FOUR CUBITS, HE IS EXEMPT.

[IF HE THREW AN OBJECT] BEYOND FOUR CUBITS AND IT ROLLED BACK WITHIN FOUR CUBITS, HE IS LIABLE.

- 1. I:1:** The Mishnah speaks of [a wall, M. 11:3A] which has no niche. But if there is a niche [in the wall], then there is a dispute between R. Meir and sages. [That is, where the wall is thick enough, we regard the small hole as enlarged to four square, so one becomes liable. That is Meir's view. If not, one is not liable. Sages take the view that we do not, in imagination, hollow out the wall to complete the space necessary for liability. If there is a distinct domain, it comes into play, and invokes liability. But if not, we do not treat it as though there were such a domain.]
- 2. I:2:** R. Hisda said [with reference to M. 11:3A's wall], "We deal with a wall that slopes downward toward the earth." But will the object not in the end come back down to the earth [so why should we assume, B, that it is as if the man has thrown the object into the air, when we know it will ultimately fall back]?

LXX. YERUSHALMI SHABBAT 11:4

[A] HE WHO THROWS [AN OBJECT TO A DISTANCE OF] FOUR CUBITS INTO THE SEA IS EXEMPT.

- 1. I:1:** It is not the end of the matter that one throws the object only four cubits into the sea. But even if he should throw it over the entire sea, he would be exempt, for the entire sea is regarded as neutral domain.

[B] IF IT WAS SHALLOW WATER AND A PUBLIC PATH PASSED THROUGH IT, HE WHO THROWS INTO IT [AN OBJECT FOR A DISTANCE OF] FOUR CUBITS IS LIABLE. AND WHAT IS THE MEASURE OF SHALLOW WATER? LESS THAN TEN HANDBREADTHS IN DEPTH. [IF IT WAS] SHALLOW WATER, AND A PUBLIC PATH PASSED THROUGH IT, HE WHO THROWS INTO IT TO A DISTANCE OF FOUR CUBITS IS LIABLE.

- 1. II:1:** And [referring to M. 11:4B, E,] why have you repeated the same statement twice? R. Haninah in the name of R. Phineas: "It deals with two different shallow areas, one in which the public go, the other in which the public go only in case of dire necessity. [It is so] that you should not say, in this latter instance, since the public use this path only in a case of dire necessity, it does not fall into the category of public domain, but rather private domain. Accordingly, it is necessary to say that it is public domain too."

LXXI. YERUSHALMI SHABBAT 11:5

[A] **HE WHO THROWS [AN OBJECT] FROM THE SEA TO DRY LAND OR FROM DRY LAND TO THE SEA, OR FROM THE SEA TO A BOAT, OR FROM A BOAT TO THE SEA, OR FROM ONE BOAT TO ANOTHER, IS EXEMPT. [IF] BOATS ARE TIED TOGETHER, THEY MOVE [OBJECTS FROM ONE TO THE OTHER]. IF THEY ARE NOT TIED TOGETHER, EVEN THOUGH THEY LIE CLOSE TOGETHER, THEY DO NOT MOVE [OBJECTS] FROM ONE TO THE OTHER.**

1. **I:1:** [When we speak of boats tied together, M. 11:5E,] Abba bar R. Huna said, “It is a case in which they are tied together [even merely] by [ropes made of] reed.” Yosé b. R. Bun said, “And [the law about carrying objects from boat to boat] applies to a case in which they prepared a meal of commingling [to form a single domain among the boats].” Both R. Hiyya and R. Imma, both in the name of R. Eleazar: One said, “[The law applies] when there is a space no greater than four cubits between [the boats].” The other said, “That is so even when there is a space of four cubits between [the boats].”
2. **I:2:** A boat in the sea, ten handbreadths high – they do not carry from [the boat] to the sea or from the sea into it. R. Judah says, “[If it is] ten handbreadths deep but not ten handbreadths high, they do carry from it to the sea, but not from the sea to it” [T. Shab. 10:14].
3. **I:3:** A rock in the sea ten handbreadths high – they do not carry anything from it to the sea or from the sea to it. [If it is] less than the specified dimensions, lo, this is permitted. [In T.’s version, which in one form or another is required here:] [The rules of A-B apply] so long as it is equivalent in area to [no more than] a space sufficient for the sowing of two *seahs* of seed [T. Shab. 10:12].
4. **I:4:** R. Hamnuna said, “A plank which protrudes from a ship, and is less than four cubits in breadth – it is permitted to sit on it and to utilize it for one’s bodily needs on the Sabbath. [This amounts to pouring slops into the sea.]” Said R. Mana, “If he had referred to ‘a broken-down box,’ [rather than to a plank], it would have been preferable [since the language, ‘box,’ is more modest, given the purpose served by the plank].” Said R. Abun, “He who wants to provide a remedy for a ship, so that he may pour out slops from it on the Sabbath, puts a board out for three cubits, in the case of a board which is four cubits broad, and you regard the partitions [beneath] as if they ascend [and complete the partition around the board]!”

LXXII. YERUSHALMI SHABBAT 11:6

[A] HE WHO THROWS [AN OBJECT] AND REALIZES [REMEMBERS WHAT HE HAS DONE] AFTER IT LEAVES HIS HAND, [IF] ANOTHER PERSON CAUGHT IT, [IF] A DOG CAUGHT IT, OR [IF] IT BURNED UP IN A FIRE [INTERVENING IN ITS FLIGHT PATH] – HE IS EXEMPT. IF HE THREW IT INTENDING TO INFLICT A WOUND, WHETHER ON A MAN OR ON A BEAST, AND REALIZES [WHAT HE HAS DONE] BEFORE IT INFLICTED THE WOUND, HE IS EXEMPT. THIS IS THE GENERAL PRINCIPLE: ALL THOSE WHO MAY BE LIABLE TO SIN OFFERINGS IN FACT ARE NOT LIABLE UNLESS BOTH AT THE BEGINNING AND THE END, THEIR [SIN] IS DONE INADVERTENTLY. [BUT] IF THE BEGINNING OF THEIR [SIN] IS INADVERTENT AND THE END IS DELIBERATE, [OR] THE BEGINNING DELIBERATE AND THE END INADVERTENT, THEY ARE EXEMPT – UNLESS BOTH AT THE BEGINNING AND AT THE END THEIR [SIN] IS INADVERTENT.

1. **I:1:** The meaning of the Mishnah [at M. 11:6A] is that the man then acted deliberately [in completing the action, so that part was inadvertent and part deliberate]. [Now this encompasses the possibility that while at the outset and the end the deed was deliberate, in the middle, it was inadvertent.] And this poses a problem, for if someone shot an arrow to kill a living being, and people admonished him, and he repented – does that fact mean a thing? [Surely not! What difference does it make, once the object has left the man’s hand, that he later repented?]
2. **I:2:** R. Yosé b. Haninah said, “If the man acted inadvertently, this means, in ignorance of the fact that he violates a negative commandment, and if he acted deliberately, this means, in full awareness of the fact that he violates a negative commandment.” R. Joshua b. Levi said, “If the man did the deed inadvertently, this means, in ignorance of the fact that the penalty is extirpation, and if he did it deliberately, it is in full awareness of the fact that the penalty is extirpation.”
3. **I:3:** It has been taught: People should not engage themselves in [the possibility of violating the law either concerning] forbidden fat or forbidden sexual connections [so as to avoid the sorts of problems of deliberate as against inadvertent action with which we deal here]. He who engages himself [in that way] in a matter involving the Sabbath is exempt, while if he does so in a matter involving forbidden fat or forbidden marital connections, he is liable. [The meaning of “engaging oneself” is that, if on the Sabbath one formed the intent to do permitted

labor, but instead did forbidden labor, he has inadvertently done what he should not do. This is what is subject to the usage at hand.]

LXXIII. YERUSHALMI SHABBAT 12:1

[A] HE WHO BUILDS [ON THE SABBATH] – HOW MUCH MUST HE BUILD SO AS TO BECOME LIABLE [ON THAT COUNT]? HE WHO BUILDS – IN ANY MEASURE AT ALL.

- 1. I:1:** What sort of building was involved in the tabernacle? They would put the boards on top of the bases.

[B] HE WHO HEWS STONE, STRIKES WITH A HAMMER OR ADZ, BORES – IN ANY MEASURE AT ALL IS LIABLE. THIS IS THE GOVERNING PRINCIPLE: WHOEVER ON THE SABBATH PERFORMS A FORBIDDEN ACT OF LABOR AND [THE RESULT OF] HIS ACT OF LABOR ENDURES IS LIABLE.

- 1. II:1:** He who hews out stones or pillars or millstones, who cuts mosaics or who hews clods [of earth or metal] (BWLYN) – are liable on the count of hewing [M. 12:1C]. R. Jeremiah in the name of Rab: “He who assembles a folding couch on the Sabbath is liable on the count of building.”
- 2. II:2:** It has been taught: R. Simai says, “He who assembles a curved horn is liable. And a flat one – he is exempt. R. Eleazar b. R. Simeon says, “[He who puts back] the branches of a candelabrum is liable, and [the joint] of a plasterer’s pole is exempt” [T. Shab. 12:14N, M].
- 3. II:3:** The Mishnah [at M. Pes. 6:1] does not accord with the view of R. Simeon, for it has been taught: He who digs, scrapes, or cuts thorns – in any measure at all [on the Sabbath], lo, this one is liable. R. Simeon says, “[He is not liable] unless he digs the whole of it, unless he scrapes the whole of it, unless he cuts thorns off the whole of it. [In T.’s version] “He who paints a picture [is not liable] unless he paints the whole of it. “He who tans a hide [is not liable] unless he tans the whole of it” [T. Shab. 11:3]. [At M. Pes. 6:1, by contrast, it is stated that scraping the entrails of the Passover offering does not override the restrictions of the Sabbath. Since Simeon says that one may do part of the work without incurring liability, he will not concur.]

[C] RABBAN SIMEON B. GAMALIEL SAYS, “ALSO: HE WHO HITS WITH A HAMMER ON AN ANVIL WHEN HE IS PERFORMING AN ACT OF LABOR IS LIABLE. “FOR HE IS TANTAMOUNT TO ONE WHO IMPROVES [PREPARES FOR ANOTHER] ACT OF LABOR.”

- 1.** **III:1:** Now there is this problem with the view of Rabban Simeon b. Gamaliel [at M. 12:1E-F]: If one had taken [a sickle] in order to harvest grain, but did not in fact harvest any grain, does this amount to anything? [Obviously not.]

LXXIV. YERUSHALMI SHABBAT 12:2

[A] **HE WHO PLOWS [ON THE SABBATH] – IN ANY MEASURE WHATSOEVER, HE WHO WEEDS, HE WHO CUTS OFF DEAD LEAVES, AND HE WHO PRUNES – IN ANY MEASURE WHATSOEVER, IS LIABLE. HE WHO GATHERS BRANCHES OF WOOD – IF [IT IS] TO IMPROVE [THE FIELD] – IN ANY MEASURE AT ALL; IF [IT IS] FOR A FIRE – IN A MEASURE [OF WOOD] SUFFICIENT TO COOK A SMALL EGG, [IS LIABLE].**

- 1.** **I:1:** What sort of plowing was done in the sanctuary? They plowed so as to plant herbs [for dyestuffs for the hangings].

[B] **HE WHO GATHERS HERBS IF [IT IS] TO IMPROVE [THE FIELD] – IN ANY MEASURE AT ALL; IF IT IS FOR CATTLE [TO EAT] – IN THE MEASURE OF A LAMB’S MOUTHFUL, [IS LIABLE].**

- 1.** **II:1:** [With reference to M. 12:2/I-M, which goes over ground treated elsewhere], why do I need, if it is to improve the field – in any measure at all; if it is for cattle to eat – in the measure of a lamb’s mouthful [M. 12:2J-L]?

LXXV. YERUSHALMI SHABBAT 12:3

[A] **HE WHO WRITES TWO LETTERS, WHETHER WITH HIS RIGHT HAND OR WITH HIS LEFT, WHETHER THE SAME LETTER [TWICE] OR TWO DIFFERENT LETTERS, OR WITH TWO PIGMENTS,**

- 1.** **I:1:** Who stands behind the view that merely making a mark [less than a whole word] incurs liability? It is R. Yosé [M. 12:3H].

[B] **IN ANY ALPHABET, IS LIABLE.**

- 1.** **II:1:** What is the meaning of, “In any language [alphabet]” [M. 12:3]? Even if he wrote alef as alpha [= Greek].

[C] **SAID R. YOSÉ, “THEY IMPOSED LIABILITY [ON ONE WHO WRITES] TWO LETTERS ONLY BECAUSE OF MAKING A MARK. “FOR SO DID THEY WRITE [MAKE A MARK] ON THE BOARDS OF THE TABERNACLE, TO DETERMINE WHICH WAS**

PAIRED WITH WHICH.” SAID R. JUDAH, “WE FIND THAT A SHORT NAME COMES FROM A LONG NAME, SHEM FROM SHIMEON OR FROM SHEMUEL, NOAH FROM NAHOR, DAN FROM DANIEL [SOME TEXTS ADD — BUT NOT ASSUMED BY Y.:] GAD FROM GADIEL.”

1. **III:1:** And [as to Yosé’s opinion] should one not take account of the possibility of putting what belongs below above, and what belongs above below [since the marks on the boards had to conform to a plan]?
2. **III:2:** It has been taught: “And Gad from Gadiel.”
3. **III:3:** It has been taught in the name of R. Judah, “If one wrote the same letter twice, but it forms a word, he is liable, for instance ShSh, TT, GG, RR, HH.”
4. **III:4:** The opinions attributed to R. Judah are inconsistent. For it has been taught: “Is it possible [to suppose] that one is liable only for writing the entire name, for weaving the entire garment, for sifting the entire contents of the sieve? Scripture therefore says, ‘Part of one....’ [‘Say to the people of Israel, If any one sins unwittingly in any of the things which the Lord has commanded not to be done, and does [part of] any one of them’ (Lev. 4:2).]”

LXXVI. YERUSHALMI SHABBAT 12:4

[A] **HE WHO [ON THE SABBATH] WRITES TWO LETTERS DURING A SINGLE SPELL OF INADVERTENCE IS LIABLE. [IF] HE WROTE WITH INK, CAUSTIC, RED DYE, GUM, OR COPPERAS, OR WITH ANYTHING WHICH LEAVES A MARK, ON TWO WALLS [FORMING A CORNER], OR ON TWO LEAVES OF A TABLET, WHICH ARE READ WITH ONE ANOTHER, HE IS LIABLE. HE WHO WRITES ON HIS FLESH IS LIABLE. HE WHO SCRATCHES A MARK ON HIS FLESH — R. ELIEZER DECLARES HIM LIABLE TO A SIN OFFERING. AND R. JOSHUA DECLARES HIM EXEMPT.**

1. **I:1:** If one wrote with ink on vegetable leaves, with liquids or fruit juice on a proper tablet, [in either case,] he is exempt — unless he writes with something which lasts on something which lasts [T. Shab. 11:8J].
2. **I:2:** In the case of witnesses who do not know how to sign their names — R. Simeon b. Laqish said, “One makes a mark before them in ink, and they sign in red paint, or in red paint, and they sign in ink.” Said to him R. Yohanan, “Because we are engaged in a discussion of the laws of the Sabbath, shall we make a law regarding the release of a man’s wife [through such a questionable mode of signing a writ of divorce]?”

Rather, one brings a blank piece of paper and cuts the letters before them [in their proper shape], and they then sign their names [by following the lines of the cuts].”

3. **I:3:** Said R. Eliezer to them, “Now did not Ben Satra learn [Y.: bring magic] only in such wise?” They said to them, “Because of one fool shall we impose liability [Y.: “destroy”] on all intelligent folk?” [T. Shab. 11:5].
4. **I:4:** “... and he writes her [a bill of divorce and puts it in her hand and sends her out of his house...]” (Deut. 24:1) and not [when he] incises [the letters with a knife].”... and he writes...” – and not when he forms letters by dropping [in a manner by forming the letters dot by dot]. “... and he writes...” – not when he pours.”... and he writes...” – not when he incises.

LXXVII. YERUSHALMI SHABBAT 12:5

[A] [If] ONE WROTE WITH FLUIDS [BLOOD, WATER, MILK, HONEY, ETC., AS AT M. MAKH. 6:4], FRUIT JUICE, DIRT FROM THE STREET, WRITER’S SAND, OR WITH ANYTHING WHICH DOES NOT LEAVE A LASTING MARK, HE IS EXEMPT. [If] HE WROTE] WITH THE BACK OF HIS HAND, WITH HIS FOOT, MOUTH, OR ELBOW, [If] HE WROTE ONE LETTER ALONGSIDE A LETTER ALREADY WRITTEN, [If] HE WROTE A LETTER ON TOP OF A LETTER [ALREADY WRITTEN], [If] HE INTENDED TO WRITE A HET AND WROTE TWO ZAYINS, [If HE WROTE] ONE ON THE GROUND AND ONE ON THE BEAM, [If] HE WROTE [TWO LETTERS] ON THE TWO WALLS OF THE HOUSE, ON THE TWO SIDES OF A TABLET, SO THAT THEY CANNOT BE READ WITH ONE ANOTHER, HE IS EXEMPT.

1. **I:1:** If one was supposed to write the divine name [when writing a Scroll of the Torah] and instead intended to write, “Judah [YHWDH],” but forgot and did not write the D [thus producing the divine name, but not by intention], lo, the divine name stands blotted out [since it has not been sanctified by the scribe’s intention], and he then confirms it in the status of sanctification [by writing it with appropriate intention]. R. Judah says, “He passes the pen over it and confirms it.” They said to him, “Then he does not do it in the best possible way.”

[B] [If] HE WROTE ONE LETTER AS AN ABBREVIATION, R. JOSHUA B. BETERA DECLARES HIM LIABLE. AND SAGES DECLARE HIM EXEMPT.

1. **II:1:** What is the theory of R. Joshua b. Betera [at M. 12:5K- L]?

LXXVIII. YERUSHALMI SHABBAT 12:6

[A] **HE WHO WRITES TWO LETTERS IN TWO DISTINCT SPELLS OF INADVERTENCE, ONE IN THE MORNING AND ONE AT TWILIGHT, RABBAN GAMALIEL DECLARES HIM LIABLE. AND SAGES DECLARE HIM EXEMPT.**

- I:1:** Now there is this problem with the position of Rabban Gamaliel. If one harvested about a fig's bulk of produce in the morning and then about a fig's bulk of produce at twilight in a single spell of inadvertence, is it possible to suppose that he is not liable? [Surely he is liable] Just as two spells of inadvertence are not deemed distinct from one another in that case, so too they should not be deemed joined together [as against M. 12:6A-C]. R. Mana said the following without specifying an authority, R. Abun in the name of R. Yohanan: "The reason for the position of Rabban Gamaliel is this: in that case, there is no possibility of an act of knowing about only half of an act of labor." And along these same lines, is there no such thing as a deliberate violation of the law in the case of merely a half olive's bulk? If one ate half an olive's bulk of forbidden fat deliberately, and half an olive's bulk inadvertently, what is the law as to their joining together?

LXXIX. YERUSHALMI SHABBAT 13:1

[A] **R. ELIEZER SAYS, "HE WHO WEAVES THREE THREADS AT THE BEGINNING [OF THE WEB], OR [WHO ADDED] ONE ONTO THAT WHICH IS ALREADY WOVEN, IS LIABLE." AND SAGES SAY, "WHETHER AT THE BEGINNING OR AT THE END, ITS MEASURE [FOR CULPABILITY] IS TWO THREADS."**

- I:1:** Said R. Ulla, "The reason for the view of R. Eliezer is that it is by means of adding the third thread that the act of labor is made permanent." Does R. Eliezer concur with R. Judah? For we have learned there: [He who fastens wool and linen together with a single fastening of thread – the fastening is not considered a connector for uncleanness, and the fabrics are not subject to the laws of diverse kinds, and he who undoes the fastening on the Sabbath is exempt from liability. If he brought both ends of the thread to one side, so completing the stitch, the stitch is considered a connector....] R. Judah says, "That is the case only if he makes three fastenings [and not only two.]" And a sack and a basket that are bound together and patched with wool and linen, respectively, are joined together so as to fall under the law of diverse kinds [M. Kil. 9:10]. [Speaking from the perspective of Y. Kil. 9:6 and referring to the present passage as "there,"] said R. Simon, "The reason for the view of R. Eliezer there [M. 13:1A] is that it is by means of adding the third thread that the act

of labor is made permanent. But here [as to Kilayim] if there are less than three stitches, the hem may readily be separated.” [He may well concur, therefore, with rabbis, not with Judah, at Y. Kil. 9:6.] You may turn out to say that, in the view of R. Eliezer, there are times at which the requisite measure is three [threads], specifically, when it is at the beginning [of the web]; sometimes there are two, when it involves adding to a thread woven the preceding day [and thus completed to the measure of three threads], sometimes one, when it involves adding to two woven the preceding day.

2. **I:2:** He who weaves two threads on the hem and on the border [Y. adds: even of any amount], lo, this one is liable. He who weaves three threads at the beginning [M. 13:1A] [of the process of weaving] – lo, this one is liable. To what is this likened? To [weaving] a small belt two threads over the breadth of three meshes [in size] [T. Shab. 12:1C-F].

3. **I:3:** All concur in the case of him who writes the divine name on the Sabbath that he is liable only if he will complete [writing the whole name]. If one wrote one letter and thereby completed the writing of the whole name, or one letter and thereby completed the writing of the book, he is liable [cf. M. Shab. 12:5E] [T. Shab. 11:7F-G]. If one wrote a single letter on an ordinary day, and a letter on the Sabbath [so completing the word], R. Eliezer declares him liable to a sin offering. And R. Joshua declares him exempt. Why [does Joshua exempt him from culpability]? It is either because the consideration of the lasting effect of the act of labor [and in this case, there is none], or because it is not a case in which this second letter may be joined together with the first. Now see here! If someone wove one thread on an ordinary day, and the other thread on the Sabbath, is it possible that he would not be exempt from all liability? [Surely he is exempt!] Is it possible, nonetheless, that the thread cannot be regarded as joined together [to the one already woven]? [Surely not! Hence the operative consideration can only be the former of the two principles.] Therefore the reason is that the consideration of the lasting effect of the act of labor [is paramount, and here there is none].

LXXX. YERUSHALMI SHABBAT 13:2

[A] HE WHO MAKES TWO MESHES FOR THE HEDDLES OR THE SLAY [OF A LOOM], [OR TWO MESHES] IN A SIFTER, SIEVE, OR BASKET, IS LIABLE. HE WHO SEWS TWO

STITCHES [IS LIABLE]. AND HE WHO TEARS IN ORDER TO SEW TWO STITCHES [IS LIABLE].

1. **I:1:** The Aramaic words for heddles and slay are given in place of the Hebrew of M. 13:2A.
2. **I:2:** R. Ba, R. Jeremiah in the name of Rab: “He who tightens the sides of a thread on the Sabbath is liable on the count of sewing.” We may say it is on the count of both sewing and tying.

LXXXI. YERUSHALMI SHABBAT 13:3

[A] **HE WHO TEARS [HIS CLOTHING] BECAUSE OF HIS ANGER OR ON ACCOUNT OF HIS BEREAVEMENT, [AND] ALL THOSE WHO EFFECT DESTRUCTION, ARE EXEMPT. BUT HE WHO DESTROYS IN ORDER TO IMPROVE — THE MEASURE [FOR] HIS [ACTION] IS THE SAME AS FOR HIM WHO IMPROVES.**

1. **I:1:** They asked before R. Ba, “[As to tearing a garment in fulfillment of the requirement for mourning, if one does so on the Sabbath and if one thereby fulfills the requirement, then we must regard the act as effective. In that case, we must wonder why he is not liable,] in accord with that which you have said there: ‘He who slaughters his sin offering on the Sabbath has effected atonement, but he must bring another one’ [cf. T. Pes. 5:7E], [the new one on account of the sin just now committed,] “and so too here, the rule should be that the man has not carried out his obligation to make a tear in his garment. “But the rule should accord only with the theory of R. Simeon, for R. Simeon has said, ‘One is liable only if he has demonstrated need for [the object or] the deed done unto itself.’ [In the present case, then, we do not know whether or not the man has carried out his obligation in regard to mourning.]”
2. **I:2:** It has been taught: As to stolen unleavened bread, it is forbidden to say a blessing over it. Said R. Hoshaiah, “This is on account of the following verse: ‘For the wicked boasts of the desires of his heart, and the man greedy for gain curses and renounces the Lord’ (Ps. 10:3).” Said R. Jonah, “That which you have said applies at the outset [when the man first finds the unleavened bread], but, as to the end of the matter, is it not the case that the man merely owes the owner of the unleavened bread repayment for it [but the one who has stolen it becomes the owner and may say a blessing over it]?”

LXXXII. YERUSHALMI SHABBAT 13:4

[A] THE MEASURE FOR ONE WHO BLEACHES, HACKLES, DYES, OR SPINS IS A DOUBLE SIT. AND HE WHO WEAVES TWO THREADS — HIS MEASURE IS A SIT.

1. **I:1:** There we have learned: He who carries out pieces of wood is liable if he takes out enough to cook a small egg [or shells of walnuts or skins of pomegranates or wood or madder enough to dye a garment small as a hair net] [M. 9:5], and here you say this [M. 13:4A]?

LXXXIII. YERUSHALMI SHABBAT 13:5

[A] **R. JUDAH SAYS, “HE WHO HUNTS A BIRD INTO A TOWER TRAP, OR A DEER INTO A HOUSE, IS LIABLE.” AND SAGES SAY, “[HE WHO DRIVES] A BIRD INTO A TOWER TRAP, OR A DEER INTO A HOUSE [ALTERNATIVE, “GARDEN”], INTO A COURTYARD, OR INTO A CORRAL.” RABBAN SIMEON B. GAMALIEL SAYS, “NOT ALL CORRALS ARE THE SAME. THIS IS THE GOVERNING PRINCIPLE: [IF] IT YET LACKS FURTHER WORK OF HUNTING, HE [WHO PENS IT IN ON THE SHABBATH] IS EXEMPT. [IF] IT DOES NOT LACK FURTHER WORK OF HUNTING, HE IS LIABLE.”**

1. **I:1:** Said R. Hinena, “The Mishnah [before us, at M. Bes. 3:1] does not accord with the view of R. Judah. For we have learned: He who hunts a bird into a tower trap or a deer into a house is liable [M. 13:5A]. Lo, if one should hunt in a garden or a vivarium, one is exempt. [Yet M. Bes. 3:1 says that one may catch a wild beast or fowl from a vivarium. Accordingly, Judah cannot concur.]”
2. **I:2:** The opinions assigned to R. Judah are inconsistent. For we have learned there: They do not catch fish in a vivarium on a festival day. And they do not cast food for them. [But they do catch a wild beast or fowl from a vivarium.] Lo, as to a garden or a vivarium, one is exempt. [T. Y.T. 3:1 indicates that this is Judah’s view]. Yet at M. Shab. 13:5, Judah declares such a person liable.]The opinions assigned to rabbis are inconsistent. For we have learned: He who drives a bird into a tower trap or a deer into a house [“garden”], into a courtyard or into a corral, is liable [M. 13:5D]. There we have learned, [by contrast,] But they do catch a wild beast or fowl from a vivarium, and they do cast food for them [M. Bes. 3:1C-D]. Lo, with regard to a garden or a courtyard, that is not permitted.
3. **I:3:** R. Ulla said, “They asked before R. Aha, “Shall we learn [in M. Bes. 3:1F the formulation used in M. Shab. 13:5F:] Whatever lacks some phase of the process of hunting, one is liable, but whatever does

not lack some phase of the process of hunting, one is exempt? He said to them, ‘[The use of the language, prohibited, rather than the language, liable, may be explained as follows:] And are we not dealing with a case in which the beast is locked up in the courtyard or vivarium? [So there is no question of an act of hunting in the normal sense, which would be subject to liability, but rather a matter of what is permitted or prohibited.] Thus: Whatever lacks some phase of the process of hunting is prohibited..., but whatever does not lack some phase of the process of hunting is permitted.’”

4. **I:4:** They slaughter animals kept in enclosures, but not those kept in hunting nets or bins [which may have been caught on the festival day itself] [T. Y.T. 3:1G].

LXXXIV. YERUSHALMI SHABBAT 13:6

[A] A DEER WHICH ENTERED A HOUSE, AND SOMEONE LOCKED IT IN – HE [WHO LOCKED IT IN] IS LIABLE. [IF] TWO PEOPLE LOCKED IT IN, THEY ARE EXEMPT. [IF] ONE PERSON COULD NOT LOCK THE DOOR, AND TWO PEOPLE DID SO, THEY ARE LIABLE. AND R. SIMEON DECLARES THEM EXEMPT.

1. **I:1:** “... in doing it...” (Lev. 4:2) – an individual who does [a prohibited action] is liable, and two or three people who [together] do [a single prohibited action] are exempt [thus explaining M. 13:6B].
2. **I:2:** Huna said, “If one person was strong and one weak, if the sick person locked the door as much as was required, and the healthy person did not lock the door as much as was required, the sick person is liable, and the healthy person is exempt.” R. Yosé b. R. Bun in the name of R. Huna: “If the deer was running in the normal way, and one had the intention of locking the door for himself, and he [actually] locked the door for himself and the deer, it is permitted.” R. Yosé b. R. Bun in the name of R. Huna: “If one saw a child struggling in the river and he had the intention of pulling him out, and to pull out a net full of fish with him, it is permitted.” R. Yosé b. R. Bun in the name of R. Huna: “If one was digging up a mound of stones and had the intention of bringing up [a person crushed underneath it] and to bring up a sack of gold coins with the person, he still is permitted [to enjoy the use of the coins].”

LXXXV. YERUSHALMI SHABBAT 13:7

[A] IF ONE OF THEM SAT DOWN AT THE DOORWAY AND DID NOT COMPLETELY FILL IT [SO THAT THE DEER COULD YET ESCAPE], BUT A SECOND PERSON SAT DOWN AND FINISHED FILLING IT, THE SECOND PERSON IS LIABLE. [IF] THE FIRST PERSON SAT DOWN AT THE DOORWAY AND FILLED IT UP, AND A SECOND ONE CAME ALONG AND SAT DOWN AT HIS SIDE, EVEN THOUGH THE FIRST ONE GOT UP AND WENT ALONG, THE FIRST REMAINS LIABLE, AND THE SECOND EXEMPT. LO, TO WHAT IS THIS EQUIVALENT? TO ONE WHO LOCKS HIS HOUSE TO SHUT IT UP [AND PROTECT IT], AND A DEER TURNS OUT TO BE SHUT UP [AND TRAPPED] INSIDE.

1. I:1: R. Shimi asked, “What is the law as to putting food before them [deer which are captured on the Sabbath]?”
2. I:2: R. Shimi asked, “What is the law on turning a utensil over on [a creature that is already trapped]?”
3. I:3: R. Shimi asked, “What is the law as to tying it with a rope [since it is already trapped]?”

LXXXVI. YERUSHALMI SHABBAT 14:1

[A] THE EIGHT CREEPING THINGS MENTIONED IN THE TORAH [THE WEASEL, MOUSE, GREAT LIZARD, GECKO, LAND CROCODILE, LIZARD, SAND LIZARD, AND CHAMELEON] – HE WHO HUNTS THEM OR WOUNDS THEM IS LIABLE. AND AS TO ALL OTHER ABOMINATIONS AND CREEPING THINGS, HE WHO WOUNDS THEM IS EXEMPT. HE WHO HUNTS THEM FOR USE IS LIABLE. [HE WHO HUNTS THEM] NOT FOR USE IS EXEMPT.

1. I:1: Zeriqan in the name of [delete: R. Yohanan] Immi: “There was a dispute between R. Yohanan and R. Simeon b. Laqish. “One said, ‘[M. 14:1A-B, maintaining that these creeping things have hides] represents the opinion of all parties.’ “The other said, ‘It is subject to dispute.’ “Now we do not know which one has said this, and which one has said that.” Said R. Zeira, “Let us sort out the respective positions of the rabbis on the basis of their statements, which we have learned there: In the case of the following, their skin is deemed tantamount to their flesh [in what regards uncleanness]: the skin of man, the domestic pig; R. Yosé says, ‘The skin of a wild pig also;’ [the skin of the hump of a young camel, the skin of the head of a young calf, the skin of the hooves, the skin of the genitals, the skin of a fetus, the skin beneath the fat tail, and the skin of the gecko, the chameleon, the lizard, and the

land crocodile. R. Judah says, ‘The lizard is equivalent to the weasel.’ But when their hides have been treated or trampled upon to render them fit for use, they become insusceptible to uncleanness, except for the skin of a man. R. Yohanan b. Nuri says, ‘The skin of the eight creeping things is equivalent to skin (and is not one with their flesh)’ [M. Hul. 9:2].” R. Yohanan said, “They have taught this rule only in respect to the prohibition and to the matter of uncleanness. But as to flogging, the skin is regarded as hide [not meat], and they do not administer a flogging on its account in respect to the prohibition against eating carrion.” R. Simeon b. Laqish said, “Rabbi has formulated a seamless pericope of the Mishnah [so the distinction just now proposed is unworkable]. Whether it is as to a prohibition or as to flogging or as to uncleanness, [the same rule applies.]” [Thus Yohanan interprets the Mishnah before us as representing the opinion of all parties, inclusive of Yohanan ben Nuri, since the dispute involving Yohanan b. Nuri treats only the prohibition and the matter of uncleanness. Simeon b. Laqish, by contrast, holds that the rule covers the equivalency of the hide and the flesh for all purposes, including the Sabbath, in which case the present rule accords only with the position of Yohanan b. Nuri.]

2. **I:2:** He who hunts [Y.: spiders] flies [Y.: locusts] and mosquitoes [so T.’s version] is liable. R. Judah declares him exempt [T. Shab. 12:4F-G]. And so did R. Judah say, “People are liable only on account of something which is ordinarily hunted.” He who hunts locusts in the time of dew is exempt. [If he does so] in the time of heat, he is liable. Eleazar b. Mahabai [Y.: Ahbai] says, “Also in the time of the heat, if they come on in dense columns, he is exempt” [T. Shab. 12:5A-C]. He who hunts a lame deer, [Y.: “a blind one,”] a sick one, or a young one, is exempt. He who hunts an old one is liable [T. Shab. 12:4A-B].

[B] **A WILD BEAST AND A BIRD WHICH ARE IN HIS DOMAIN — HE WHO HUNTS THEM IS EXEMPT. HE WHO WOUNDS THEM IS LIABLE.**

1. **II:1:** The rule has been stated only with reference to the domain of man. Lo, if they were not within the domain of man, one is liable.

LXXXVII. YERUSHALMI SHABBAT 14:2

[A] **THEY DO NOT MAKE PICKLING BRINE ON THE SABBATH. BUT ONE MAKES SALT WATER AND DIPS HIS BREAD IN IT OR PUTS IT INTO COOKED FOOD. SAID R. YOSÉ, “NOW IS THAT NOT PICKLING BRINE, WHETHER IT IS LARGE QUANTITY OR SMALL QUANTITY? “WHAT IS THE SORT OF SALT WATER WHICH IS**

PERMITTED? ONE FIRST PUTS OIL INTO WATER OR INTO SALT [AND THEN MIXES THE SALT WITH THE WATER].”

- I:1:** What is the difference between pickling brine and salt water? Pickling brine has to be prepared by an expert. Salt water does not have to be prepared by an expert.
- I:2:** They prepare honeyed wine on the Sabbath [M. 20:2]. Yosé in the name of R. Yohanan: “It is a mixture of wine, honey, and spices.” R. Yosé in the name of R. Yohanan: “It is permitted to mix these ingredients but forbidden to grind them up.” R. Yosé in the name of R. Yohanan: “That which is on the count of mixing is permitted; that which is on the count of grinding up is forbidden.” Now here [M. 14:2A] are we not dealing with something which is on the count of mixing [so why should it be forbidden]? R. Judah b. Titus, R. Judah b. Pazzi, Simeon bar Ba in the name of R. Yohanan: “The case here is different for it constitutes the completion of the preparation of the mixture.”

LXXXVIII. YERUSHALMI SHABBAT 14:3

[A] **THEY DO NOT EAT GREEK HYSSOP ON THE SABBATH, BECAUSE IT IS NOT A FOOD FOR HEALTHY PEOPLE.**

- I:1:** Somebody asked R. Simeon bar Karsena, “What is the law about drinking on the Sabbath water mixed with wine flavored with resin of cedar?”
- I:2:** [With reference to M. 14:3A, Greek hyssop:] But does it not affect the area within the lips [in which case it is permitted to drink it, even for healing]?

[B] **BUT ONE EATS PENNYROYAL:**

- II:1:** It is maidenhair.

[C] **OR DRINKS KNOTGRASS WATER. ALL SORTS OF FOODS A PERSON EATS [WHICH SERVE FOR] HEALING:**

- III:1:** That is what its name implies.

[D] **AND ALL SUCH DRINKS HE MAY DRINK, EXCEPT FOR PALM-TREE WATER [PURGATIVE WATER] OR A CUP OF ROOT WATER, BECAUSE THEY ARE [SOLELY] FOR JAUNDICE. BUT ONE MAY DRINK PALM-TREE WATER [TO QUENCH] HIS THIRST. AND ONE ANOINTS WITH ROOT OIL, [IF IT IS] NOT FOR HEALING.**

1. **IV:1:** [As to the reference to palm-tree water, M. 14:3F:] R. Ba asked R. Jeremiah, “Do we repeat the passage as ‘purgative water’ (DQR) or palm-tree water (DQL)?”
2. **IV:2:** Simeon bar Ba in the name of R. Haninah: “He who whispers [over a wound] puts oil on the head [of the injured party] and whispers, but this is on condition that he not put the oil on by hand or with a utensil.”
3. **IV:3:** They whisper [an incantation] for the eye and the intestines, for snakes and scorpions, and they pass [medicine] over the eye on the Sabbath.
4. **IV:4:** They may bathe in the Great Sea and in the waters of Tiberias, even though one has the intention of finding healing, but not in steeping water or in the waters of Sodom. Under what circumstances [are the latter prohibited]? When one is seeking to find healing. Lo, if it is to rise up from the status of uncleanness to the status of cleanness, it is permitted to do so.
5. **IV:5:** It has been taught: They may anoint a sick person on the Sabbath with aromatic water [or wine, oenanthe]. Under what circumstances? When one has made the mixture on Friday. But if one did not make the mixture on Friday, it is forbidden to do so. They do not mix wine and oil for a sick person on the Sabbath. Said R. Simeon [Y. Shab: Samuel] b. Eleazar, “R. Meir permitted to mix wine and oil and to anoint a sick person on the Sabbath. And once he fell ill, and we wanted to prepare so for him but he did not let us do so. “We said to him, ‘Our master, will you nullify your own opinion during your lifetime?’” He said to us, ‘Even though that happens to be my opinion, my heart has never been so puffed up in my whole life as to let me violate the opinion of my colleagues’” [T. Shab. 12:12B-L].

LXXXIX. YERUSHALMI SHABBAT 14:4

[A] **HE WHO IS PAINED BY HIS TEETH MAY NOT SUCK VINEGAR THROUGH THEM. BUT HE DUNKS [HIS BREAD] IN THE NORMAL WAY, AND IF HE IS HEALED, HE IS HEALED. HE WHO IS PAINED BY HIS LOINS MAY NOT ANOINT THEM WITH WINE OR VINEGAR. BUT HE ANOINTS WITH OIL — NOT WITH ROSE OIL. PRINCES [ON THE SABBATH] ANOINT THEMSELVES WITH ROSE OIL ON THEIR WOUNDS, SINCE IT IS THEIR WAY TO DO SO ON ORDINARY DAYS.**

1. **I:1:** It is written, “Like vinegar to the teeth, and smoke to the eyes [, so is the sluggard to those who send him]” (Prov. 10:26), and yet you say this? [How can you imply that vinegar is good for the teeth?] Said R. Simeon bar Ba, “The Mishnah speaks of vinegar deriving from fruit, [while Scripture speaks of wine vinegar].”
2. **I:2:** It has been taught: [He who is pained by his teeth] may not suck wine and vinegar through them and spit it out. But he sucks and swallows [it] [T. Shab. 12:9A-B]. The Mishnah indicates that one is prohibited to suck the vinegar and to swallow it [vs. B above], for we have learned: He who is pained by his teeth may not suck vinegar through them [M. 14:4A]. How then [may we interpret this apparent contradiction between the Tosefta and the Mishnah]?
3. **I:3:** Associates in the name of R. Ba bar Zabeda: “Any [wound] which is located from the lips and inward do they heal on the Sabbath [since such a wound involves danger to life].” R. Zeira objected, “Lo, we have learned in the Mishnah: He who is suffering from his teeth [nonetheless, on the Sabbath] may not suck vinegar through them [M. 14:4A]. Now are not the teeth interior to the lips? [So why is it not permitted to apply healing on the Sabbath?]”
4. **I:4:** Said R. Haninah, “The Tannaitic teaching said thus, ‘that one may not attain healing through Bloodshed.’” For we have learned in the following Mishnah passage: “[The woman who is in hard labor – they chop up the child in her womb and remove it limb by limb, because her life takes precedence over its life.] (If) the greater part [of the child] had gone forth, they do not touch it, for they do not set aside one life on account of another life [M. Oh. 7:6]. [“They take account of the possibility that he might die, and they do not set aside one life on account of another life.”] It is not the end of the matter that [if] someone said to a person, “Kill so-and-so,” [he should not do

[B] **R. SIMEON SAYS, “ALL ISRAELITES ARE PRINCES.”**

1. **II:1:** R. Ba bar Zabeda in the name of Rab: “The law accords with R. Simeon [at M. 14:4H]. For if not, who has ever given rose oil to a poor person, who did not anoint with it?”

XC. YERUSHALMI SHABBAT 15:1

[A] **ON ACCOUNT OF [TYING] WHAT SORTS OF KNOTS [ON THE SABBATH] ARE [PEOPLE] LIABLE? A CAMEL DRIVER’S KNOT, AND A SAILOR’S KNOT. AND JUST AS ONE**

IS LIABLE FOR TYING THEM, SO HE IS LIABLE FOR UNTYING THEM. **R. MEIR SAYS, “ANY KNOT WHICH HE CAN UNTIE WITH ONE HAND — THEY ARE NOT LIABLE ON ITS ACCOUNT [FOR TYING IT].”**

1. **I:1:** What sort of tying was done in the tabernacle? They tied the hangings.

XCI. YERUSHALMI SHABBAT 15:2

[A] YOU HAVE KNOTS ON ACCOUNT OF WHICH THEY ARE NOT LIABLE, LIKE A CAMEL DRIVER’S KNOT AND A SAILOR’S KNOT. A WOMAN TIES THE SLIT OF HER SHIFT, THE STRINGS OF HER HAIR NET AND OF HER BELT, THE THONGS OF A SHOE OR SANDAL, [LEATHER] BOTTLES OF WINE OR OIL, AND A COVER OVER MEAT.

1. **I:1:** [Since a woman ordinarily may tie or untie the slit of her shift, the sort of knot under discussion at M. 15:2B requires specification. “It is,”] said R. Hezekiah, “applicable to opening the hem which adheres to the shift.”
2. **I:2:** If the thongs came out of his shoe or sandal, one may take them and put them back, so long as he does not tie them up [T. Shab. 12:14/0-R]. If the nose of the sandal was removed [cf. T. Shab. 12:14V], there is a Tannaite authority who teaches, “It is permitted to put it back.” And there is a Tannaite authority who teaches, “It is forbidden to put it back.”

[B] R. ELIEZER B. JACOB SAYS, “THEY TIE A KNOT BEFORE A DOMESTIC BEAST SO THAT IT WILL NOT GO FORTH.”

1. **II:1:** [As to M. 15:2C,] do [his colleagues] differ from R. Eliezer b. Jacob [that they may tie a knot before a domestic beast so that it will not go forth]? The answer will be found on the basis of the following teaching [in T.’s version]: Sages concur with R. Meir [M. Bes. 4:3E-G] in the case of knots which are on the ground, that one may loosen, untie, and unravel them, but they may not cut [Y.: “may cut”] them. And on the Sabbath they may loosen [T. adds: and untie], but may not unravel [Y.: or untie] or cut them. And in the case of utensils on the Sabbath, it is permitted, and, it goes without saying, on the festival. [If a cistern is covered with a cover which is tied down, one may untie the knot. This in sages’ view is not tantamount to an act of destruction] [T. Y.T. 3:12].

[C] THEY TIE A BUCKET WITH A BELT BUT NOT WITH A ROPE. R. JUDAH PERMITS [TYING WITH A ROPE].

1. **III:1:** R. Ba says, “the Mishnah speaks of a rope drawn through a loop [not knotted].”

[D] A GOVERNING PRINCIPLE DID R. JUDAH STALE, “ON ACCOUNT OF ANY SORT OF KNOT WHICH DOES NOT LAST THEY ARE NOT LIABLE.”

1. **IV:1:** R. Samuel in the name of R. Zeira, “This is the meaning of the Mishnah: On account of any sort of knot which does not last – for it is temporary – they are not liable.

XCII. YERUSHALMI SHABBAT 15:3

[A] THEY FOLD UP CLOTHING EVEN FOUR OR FIVE TIMES. AND THEY SPREAD BEDS ON THE NIGHT OF THE SABBATH FOR USE ON THE SABBATH, BUT NOT ON THE SABBATH FOR USE AFTER THE SABBATH. R. ISHMAEL SAYS, “THEY FOLD CLOTHES AND LAY OUT BEDS ON THE DAY OF ATONEMENT FOR THE SABBATH. “AND FAT PIECES OF THE SABBATH OFFERING ARE OFFERED ON THE DAY OF ATONEMENT. BUT THE FAT PIECES OFFERING OF THE DAY OF ATONEMENT ARE NOT OFFERED ON THE SABBATH.” R. AQIBA SAYS, “THOSE OF THE SABBATH ARE NOT OFFERED ON THE DAY OF ATONEMENT, AND THOSE OF THE DAY OF ATONEMENT ARE NOT OFFERED ON THE SABBATH.”

1. **I:1:** The members of the house of R. Yannai say, “Folding up clothing by two people is forbidden. [It may be done only by an individual without assistance.]”
2. **I:2:** R. Haggai in the name of R. Samuel bar Nahman: “Sabbaths and festivals have been given only for eating and drinking. Since the mouth is weary [if it cannot be used], they also permitted people to be engaged on them [= Sabbaths and festivals] in the study of Torah as well.”
3. **I:3:** It has been taught [in Tosefta’s version]: They rinse cups, dishes, and plates [T.’s version: utensils on the Sabbath for use on that same Sabbath but not on one Sabbath for use on some other Sabbath. How so? [If] one ate in them] on the night of the Sabbath, he may rinse them to eat in them in the morning. [If he ate in them] in the morning, he may rinse them so to eat in them for the main meal. If he ate in them for the main meal, he may rinse them to eat in them at the afternoon meal. If he ate in them at the afternoon meal, he may not rinse them from that time forth. The cups does he rinse all the day, for there is no time as to drinking [T. Shab. 12:17F-I].

4. **I:4:** R. Zeira in the name of R. Hisda, “As to a Day of Atonement which coincided with the Sabbath, they do not sound the shofar. After the Sabbath they do not say the Habdalah prayer.”

XCIII. YERUSHALMI SHABBAT 16:1

[A] ALL HOLY SCRIPTURES — THEY SAVE THEM FROM FIRE, WHETHER THEY READ IN THEM OR DO NOT READ IN THEM.

1. **I:1:** What is the meaning of the phrase, Whether they read in them or do not read in them [M. 16:1C]? Whether they contain mistakes or do not contain mistakes. And lo, it has been taught: As to a scroll which contains two or three errors on every column, one corrects that scroll and reads in it. If there are four, he does not read in it. On the basis of that which we have learned: And on what account do they not read in some of them? Because of the neglect of the study house [M. 16:1E-F], that is to say, the law applies both to books of the Pentateuch and also to prophetic writings. [That indicates there is a distinction between those two categories of Scripture] and holy writings.
2. **I:2:** The Mishnah’s rule [M. 16:1A-B] accords with R. Simeon, for R. Simeon has said, “No matter prohibited on grounds of [mere] Sabbath rest stands against the requirements of preserving the sanctity of the sacred scriptures. [That is why one may save the scrolls from fire.]”

[B] AND EVEN THOUGH THEY ARE WRITTEN IN ANY LANGUAGE, [IF THEY BECOME USELESS] THEY REQUIRE STORAGE [AND ARE NOT TO BE BURNED].

1. **II:1:** [As to M. 16:1 D, even though they are written in any language,] from whose viewpoint is it necessary to make that specification?
2. **II:2:** There is the case of Rabban Gamaliel, who was supervising the builders on the Temple Mount. They brought to him a scroll of Job, written in Aramaic translation, and he told the builders to hide it under the stones [they were laying] [T. Shab. 13:2C].
3. **II:3:** Even though they have said, “They do not read in Holy Scriptures except from the afternoon offering and onward, still, they do review [orally] what they have read in them and they do expound what is in them. [And if] one has a need to check something, he takes the Holy Scripture and checks it” [T. Shab. 13:1A-C].
4. **II:4:** There was the incident in which Rabbi, R. Hiyya the Elder, and R. Ishmael b. R. Yosé were in session and reviewing the scroll of

Lamentations on the eve of the ninth of Ab which coincided with the Sabbath, doing so from the time of the afternoon offering and onward. They omitted one alphabetical chapter, saying, “Tomorrow we will go and complete it.” Now when [Rabbi] was leaving for his house, he fell and injured his finger, and he recited in his own regard the following verse: “Many are the sufferings of the wicked” (Ps. 32:10). Said to him R. Hiyya, “These things happened to you on our account, for so it is written, ‘The breath of our nostrils, the anointed of the Lord, was caught for their corrupt deeds’ (Lam. 4:20).” Said to him R. Ishmael b. R. Yosé, “Even if we had not been studying this very passage, it would have been appropriate for us to say so. How much the more so is it appropriate since we have been studying this passage!” [Rabbi] went home and put on his finger a dry sponge, and he wrapped reed grass around it, on the outside of the sponge. Said R. Ishmael b. R. Yosé, “From this matter we have learned three rules: (1) A sponge does not bring healing, but only protects the sore; (2) reed grass is regarded as made ready in advance for its purpose; (3) it is permitted to read in the sacred writings only from the afternoon offering onward.”

[C] AND ON WHAT ACCOUNT DO THEY NOT READ IN [SOME OF] THEM? BECAUSE OF THE NEGLECT OF THE STUDY HOUSE.

1. **III:1:** [With reference to M. 16:1E-F,] If that is the case, then in a locale in which there is a study house, they should not read [in them], but in a place in which there is not a study house, it should be permitted to read [in them]? You may not take the position, for there is only that which R. Nehemiah has taught. For R. Nehemiah has taught, “On what account did they rule, ‘They do not read in Holy Scriptures except after the afternoon offering’? Because of ordinary documents. “For if you tell him that it is permitted, he may even say, ‘What does it matter if I am engaged in [reading] my documents. Because you say to him that it is prohibited, he will then say, ‘Holy Scriptures are prohibited, ordinary documents all the more so!’” [T. Shab. 13:1D-E].
2. **III:2:** That [M. 16:1E-F, since Mishnah is studied in the study house] is to say that study of the Mishnah takes precedence over study of Scripture. That supports what R. Simeon b. Yohai has taught. For R. Simeon b. Yohai has taught, “He who is engaged in the study of Scripture – it is a [good] trait [measure] which is not a [good] trait [which holds nothing]. He who engages in the study of the Mishnah – it is a [good] trait from which one takes his [just] reward. He who engages in the study of [Talmud argumentation and analysis of traditions] – you have no measure greater than that one [since it includes both determined rulings and their deliberation]. One should

always pursue [for practical purposes] the study of Mishnah more than the study of the Talmud [for set and ordered teachings provide a more reliable guide].”

3. **III:3:** [As to scrolls containing] blessings [e.g., amulets] in which are written [T.: even though they include the letters of the Divine Name and] many citations of the Torah, they do not save them [T.: but they are allowed to burn where they are]. On this basis they have stated, “Those who write blessings are [T.: like those who] burn the Torah.” There is this case. A certain person would write blessings, and [T.: they told R. Ishmael about him.] R. Ishmael went to examine him. [When he [Ishmael] was climbing the ladder,] he [the writer] sensed his coming. He took the sheaf of blessings and threw [T.: put] it into a dish of water. And in accord with the following statement did R. Ishmael address him, “The punishment for the latter deed is harder than that for the former” [T. Shab. 13:4B-D].
4. **III:4:** Said R. Joshua b. Levi, “As to an aggadic passage, one who writes it down has no share in the world to come; he who preaches it will be burned; and he who hears it will receive no reward.” Said R. Joshua b. Levi, “In my entire life I never looked into a book of *aggadah*, except one time I looked, and I found: One hundred and seventy-five sections of the Torah, in which there occurs an expression of speaking, saying, or commanding, correspond to the number of years of the life of Abraham, our father. “For it is written, ‘[You have ascended on high, you have led captivity captive;] you have received gifts for the sake of the man’ (Ps. 68:18). “And it is written, ‘The greatest man among the giants’ (Josh. 14:15) ““The hundred and forty-seven psalms included in the book of Psalms correspond to the number of years of the life of Jacob, our father. This teaches that all the praises which Israel offer to the Holy One, blessed be he, correspond to the number of years of the life of Jacob, our father. What is the scriptural basis for this view? ‘Yet you are holy, O you that are enthroned upon the praises of Israel’ (Ps. 22:3). ““The hundred and twenty-three times that Israel respond with *hallelujah* correspond to the number of years of the life of Aaron. What is the scriptural basis? ‘Hallelujah, praise God in his holiness’ (Ps. 150:1), meaning, ‘with his holy man,’ that is, Aaron, the holy man of God.’ “Nonetheless, I was afraid at night.”
5. **III:5:** As to the books of Evangelists and the books of the *minim*, [they do not save them from a fire. But they are allowed to burn where they are] [T. Shab. 13:5A]. There is a Tannaite authority who teaches: One tears out the mentions of the Divine Name and burns them [= the scrolls]. There is a Tannaite authority who teaches: They and the

references to the Divine Name which are in them [are to be burned] [T. Shab. 13:1B]. [In T.'s version:] Said R. Tarfon, "May I bury my sons, if such things come into my hands [Y.: "my house"] and I do not burn them, even the references to the Divine Name which are in them. "And if someone was running after me, I should go into a temple of idolatry, but I should not go into their houses [of worship]. "For idolaters do not recognize the Divinity in denying Him, but these recognize the Divinity and deny Him. "And about them Scripture states, 'Behind the door and the doorpost you have set up your symbol [for deserting me, you have uncovered your bed'] (Is. 57:8)." [Y. instead reads: "And regarding them David said, 'Do not I hate those who hate you,' etc. (Ps. 139:21)."] Said R. Ishmael, [Y. has: "This is the exposition that they expounded:] "Now if to bring peace between a man and his wife, the Omnipresent declared that a scroll written in a state of sanctification should be blotted out by water, "the books of the *minim*, which bring enmity [Y. adds: "strife, and dissension] between Israel and their Father who is in heaven, all the more so should be blotted out, "they with the references to the Divine Name in them, [T.:] "and concerning them has Scripture stated, 'Do I not hate them that hate thee, O Lord? And do I not loathe them that rise up against thee? I hate them with perfect hatred, I count them my enemies' (Ps. 139:21-22)." [T.:] Just as they do not save them on account of fire, so they do not save them from a ruin, a flood, or anything which will destroy them [T. Shab. 13:5D-K].

XCIV. YERUSHALMI SHABBAT 16:2

[A] THEY SAVE THE CASE OF A SCROLL WITH THE SCROLL AND THE CASE OF TEFILLIN WITH THE TEFILLIN,

- 1. I:1:** The Mishnah [M. 16:2A-B] speaks of a case in which the [scroll case or tefillin case] is not joined to [the scroll or tefillin]. But if it is joined to it, then it is deemed tantamount to the object itself. There is no problem in understanding why that should be the case for the case of a scroll with the scroll. But as to the case of tefillin with the tefillin – [why is that the rule]? [That is, the scroll loses in worth without its case. But why should it be permitted to save the case of the tefillin, since the tefillin are readily removed from it anyhow?]

[B] EVEN THOUGH THERE IS MONEY IN THEM.

1. **II:1:** This accords with what R. Jacob bar Aha said, Hinena Qartegenah in the name of R. Hoshaiyah: “A saddlebag which contains money – one puts a loaf of bread on it and carries it about.”

[C] **AND WHITHER DO THEY [TAKE THEM TO] SAVE THEM? TO A CLOSED ALLEY [WHICH IS NOT OPEN AS A THOROUGHFARE AND SO IS NOT PUBLIC DOMAIN]. BEN BETERA SAYS, “ALSO: TO ONE WHICH IS OPEN [AS A THOROUGHFARE].”**

1. **III:1:** Lo, as to bringing the objects to an alley open on both sides, one may not do so. [The supposition now is that one may not carry the objects via an open alleyway to a closed one. Along familiar lines, then, we imagine that the reason is that the open alley, in the status of neutral domain, is deemed the resting place for the objects carried through it, so, it follows, we further assume that carrying the object through the neutral domain is tantamount to setting them down in that domain. Accordingly we now ask:] In all other contexts you maintain that carrying an object is not equivalent to setting it down, while here you treat carrying the object as tantamount to setting it down. Rather, [the rule before us assumes that the person] tosses [the objects into the open-ended alleyway, and there the objects come to rest].

XCV. YERUSHALMI SHABBAT 16:3

[A] **THEY SAVE FOOD ENOUGH FOR THREE MEALS – WHAT IS SUITABLE FOR HUMAN BEINGS FOR HUMAN BEINGS, WHAT IS SUITABLE FOR CATTLE FOR CATTLE. HOW SO? [IF] A FIRE BROKE OUT ON THE NIGHT OF THE SABBATH, THEY SAVE FOOD FOR THREE MEALS. [IF IT BROKE OUT] IN THE MORNING, THEY SAVE FOOD FOR TWO MEALS. [IF IT BROKE OUT] IN THE AFTERNOON, [THEY SAVE FOOD FOR] ONE MEAL. R. YOSÉ SAYS, “UNDER ALL CIRCUMSTANCES THEY SAVE FOOD FOR THREE MEALS.”**

1. **I:1:** R. Bun bar Hiyya in the name of R. Ba bar Mamel: “The passage before us accords with the view of R. Nehemiah, for he has said, ‘[Utensils] may be moved about only in a case of need’ [M. 17:4].”
2. **I:2:** The passage before us [permitting saving food on the night of the Sabbath for three meals, even though the first of the three may already have been eaten, M. 16:3D,] accords with the position of R. Hundeqes, who has said, “Under all circumstances they save food for three meals.”

3. **I:3:** What is there to say about [a fire that broke out on the night of] the Day of Atonement?
4. **I:4:** It has been taught: They save enough food for a sick person or for a child in accord with an average measure [and do not take less, even though the sick person or minor eats less], but for a person of large appetite, they save enough food for him to eat. They prepare a meal of commingling for a sick person or for a minor in accord with the actual food such a person would eat, but for a person of large appetite they set up a symbolic meal in accord with the appetite of the average person.
5. **I:5:** It has been taught: They put out a fire in order to save [Holy Scriptures but not to save heave offering] [T. Shab. 13:6K].
6. **I:6:** It has been taught: They also impart uncleanness in order to save [heave offering]. And has it not been taught: “She shall not touch any Holy Thing” (Lev. 12:4) – serving to encompass even heave offering.
7. **I:7:** It has been taught: Just as they save [food] from a fire, so they save it from gentiles, from a flood, from a ruin, and from anything which causes the loss [of the food].

XCVI. YERUSHALMI SHABBAT 16:4

- [A] THEY SAVE A BASKET FULL OF LOAVES OF BREAD, EVEN IF IT CONTAINS ENOUGH FOOD FOR A HUNDRED MEALS, A WHEEL OF PRESSED FIGS, AND A JUG OF WINE.**
1. **I:1:** The Mishnah’s rule [at M. 16:4A-C] accords with the principle of R. Yosé, for he has said, “Under all circumstances they save food for three meals” [M. 16:3G]. Since the whole [of the bread, figs, or wine] forms a single entity, it is as if the whole constitutes food for one meal.
- [B] AND ONE SAYS TO OTHERS, “COME AND SAVE [WHAT YOU CAN] FOR YOURSELVES [AS WELL].”**
1. **II:1:** For so it is usual to invite guests for the Sabbath.
- [C] NOW IF THEY WERE INTELLIGENT, THEY COME TO AN AGREEMENT WITH HIM AFTER THE SABBATH. WHITHER DO THEY [TAKE THEM TO] SAVE THEM? TO A COURTYARD WHICH IS INCLUDED WITHIN AN ERUB. BEN BETERA SAYS, “ALSO: TO ONE WHICH IS NOT INCLUDED WITHIN AN ERUB.”**

1. **III:1:** There we have learned: [In the case of a loan of wine or oil on the Sabbath], one leaves his cloak with him [as a pledge] and makes a reckoning with him after the Sabbath [M. 23:1]. There you say that one leaves a pledge with him [the owner of the food], and here what do you say?

XCVII. YERUSHALMI SHABBAT 16:5

[A] **AND TO THAT PLACE ONE TAKES OUT ALL HIS UTENSILS. AND HE PUTS ON ALL THE CLOTHING WHICH HE CAN PUT ON, AND HE CLOAKS HIMSELF IN ALL THE CLOAKS HE CAN PUT ON. R. YOSÉ SAYS, “EIGHTEEN ITEMS OF CLOTHING.” AND HE GOES BACK, PUTS ON CLOTHING, AND TAKES IT OUT,**

1. **I:1:** And these are they: Cloak, under-tunic, hollow belt, linen tunic, shirt, felt cap, cotton shirt, pair of trousers, pair of shoes, pair of socks, shoes, hat on his head, girdle around his loins, and scarf around his neck.

[B] **AND HE SAYS TO OTHERS, “COME AND SAVE [THE CLOTHING] WITH ME.”**

1. **II:1:** For so it is usual to lend clothing on the Sabbath.

XCVIII. YERUSHALMI SHABBAT 16:6

[A] **R. SIMEON B. NANNOS SAYS, “THEY SPREAD OUT A LAMB’S HIDE OVER A CHEST, BOX, OR CUPBOARD, WHICH HAVE CAUGHT FIRE, FOR IT WILL [ONLY] SINGE.” AND THEY MAKE A PARTITION WITH ANY SORT OF UTENSILS, WHETHER FILLED [WITH WATER] OR EMPTY, SO THAT THE FIRE WILL NOT PASS. R. YOSÉ PROHIBITS DOING SO WITH NEW CLAY UTENSILS FILLED WITH WATER, FOR THEY CANNOT TAKE THE FIRE, SO WILL SPLIT OPEN, AND [THE WATER WITHIN THEM] WILL PUT OUT THE FIRE.**

1. **I:1:** Ba bar Mamel in the name of Rab: “A scroll which has caught fire on one side – one puts water on the other side, and if the fire goes out, it goes out. “If the scroll caught fire on both sides, one unrolls it and reads in it, and if the fire goes out, it goes out. “A cloak which caught fire on one side – one puts water on the other side, and if the fire goes out, it goes out. “If it caught fire on both sides, one takes it and puts it on, and [if in the process] the fire goes out, it goes out.”

2. **I:2:** What follows serves M. 3:8B-C, above 3:8/11.A-D, and has no place here:] R. Samuel in the name of R. Zeira: “[M. 3:8B-C] represents the view of R. Yosé.”

XCIX. YERUSHALMI SHABBAT 16:7

- [A] **A GENTILE WHO CAME TO PUT OUT A FIRE — THEY DO NOT SAY TO HIM, “PUT IT OUT, “ OR “DO NOT PUT IT OUT, “ FOR YOU ARE NOT RESPONSIBLE FOR HIS SABBATH REST.**
1. **I:1:** In the time of R. Immi, a fire broke out in the village. R. Immi issued a proclamation in the marketplace of the Aramaeans, saying, “Whoever does [something] will not lose out!” Said R. Eleazar b. R. Yosé before R. Yosé, “[It was all right to do this, for] it was a matter of danger.” If it was a matter of danger, then even R. Immi should have put the fire out.
- [B] **BUT A MINOR [ISRAELITE CHILD] WHO CAME TO PUT OUT A FIRE — THEY DO NOT HEARKEN TO HIM [AND LET HIM DO SO], BECAUSE HIS SABBATH REST IS YOUR RESPONSIBILITY.**
1. **II:1:** But has it not been taught: “If they saw [a minor] going out and collecting herbs, you are not responsible for him”?

C. YERUSHALMI SHABBAT 16:8

- [A] **THEY COVER A LAMP WITH A DISH SO THAT IT WILL NOT SCORCH A RAFTER;**
1. **I:1:** [M. 16:8] accords with that which R. Simeon b. R. Yannai said, “I did not hear the following from father. My sister heard it and told me in his name: ‘An egg born on a festival — they put a dish near it so that it will not roll away. But they do not turn a dish over on it.’”
- [B] **AND THE EXCREMENT OF A CHILD;**
1. **II:1:** But is this not food for chickens [so why can one not simply remove it for that purpose, rather than leaving it in place]?
- [C] **AND A SCORPION, SO THAT IT WILL NOT BITE. SAID R. JUDAH, “A CASE CAME BEFORE RABBAN YOHANAN B. ZAKKAI IN ARAB, AND HE SAID, ‘I SUSPECT [HE IS LIABLE FOR] A SIN OFFERING.’”**

1. **III:1:** R. Ulla said, “He spent eighteen years there in Arab, and only these two cases came before him. He said, ‘O Galilee, Galilee, you have hated the Torah. You will end up working for tax farmers.’”

CI. YERUSHALMI SHABBAT 16:9

[A] **A GENTILE WHO LIT A CANDLE — AN ISRAELITE MAY MAKE USE OF ITS LIGHT. BUT [IF HE DID SO] FOR AN ISRAELITE, IT IS PROHIBITED [TO DO SO ON THE SABBATH]. [IF A GENTILE] DREW WATER TO GIVE WATER TO HIS BEAST, AN ISRAELITE GIVES WATER TO HIS BEAST AFTER HIM. BUT [IF HE DID SO] FOR AN ISRAELITE, IT IS PROHIBITED [TO USE IT ON THE SABBATH]. [IF] A GENTILE MADE A GANGWAY BY WHICH TO COME DOWN FROM A SHIP, AN ISRAELITE GOES DOWN AFTER HIM. BUT [IF HE DID SO] FOR AN ISRAELITE, IT IS PROHIBITED [TO USE IT ON THE SABBATH].**

1. **I:1:** What is the law if a gentile did so for himself and also for an Israelite?

[B] **M'SH B: RABBAN GAMALIEL AND ELDERS WERE TRAVELING BY BOAT, AND A GENTILE MADE A GANGWAY BY WHICH TO COME DOWN OFF THE SHIP, AND RABBAN GAMALIEL AND SAGES WENT DOWN BY IT.**

1. **I:1:** With reference to M. 16:9H:] They said to him, “Is it all right for us to disembark?” He said to them, “Since he did not make it in our behalf, we are permitted to disembark” [T. Shab. 13:14C, G].

CII. YERUSHALMI SHABBAT 17:1

[A] **ALL UTENSILS MAY BE HANDLED ON THE SABBATH, AND THEIR [DETACHED] DOORS ALONG WITH THEM, EVEN THOUGH THEY WERE DETACHED ON THE SABBATH.**

1. **I:1:** [The reference to] the doors of the house makes its new point, and [the reference to] the doors of utensils makes its new point. [The reference to] the doors of the house makes this new point: Even though they were detached on the eve of the Sabbath, it nonetheless is forbidden to move them about on the Sabbath. [The reference to] the doors of utensils makes this new point: Even though they were detached on the Sabbath [M. 17:1C] it is permitted to move them about on the Sabbath.

[B] **FOR THEY ARE NOT EQUIVALENT TO DOORS OF A HOUSE, FOR THE [LATTER] ARE NOT PREPARED [IN ADVANCE OF THE SABBATH TO BE USED].**

1. **II:1:** For they are utilized only when on the ground.
2. **II:2:** “[All utensils may be handled on the Sabbath], except for a large saw or plowshare” [M. 1 7:M-B]. Rabban Simeon b. Gamaliel says, “Also: the anchor of a boat.” [T.:] R. Yosé says, “Also a large spade” [T. Shab. 14:1C-E]. A mortar, if there is garlic in it, they may handle, and if not, they may not handle it. Rabban Simeon b. Gamaliel says, “A small mortar which is put onto a table, lo, it is equivalent to a dish, and they may move it about” [T. Shab. 13:17G-H].
3. **II:3:** They do not move boards of a ship on the Sabbath. But if the boards were suitable to serve as a cover for a utensil or for food, lo, they are in the status of covers of utensils, and may be carried about on the Sabbath. R. Ila said, “Even though you may say, ‘They are in the status of covers of utensils,’ that rule applies if they have the [distinctive] name [= appearance] of a utensil.” A utensil [reading KLY instead of KL] that is carried by two people they may carry by means of three people. But they may not carry such an object by means of four or five people.

CIII. YERUSHALMI SHABBAT 17:2

[A] ONE HANDLES A HAMMER TO SPLIT NUTS, AN AX TO CHOP OFF A FIG, A SAW TO CUT THROUGH CHEESE, A SHOVEL TO SCOOP UP DRIED FIGS,

1. **I:1:** Lo, if it is not to split nuts [and so throughout], one may not handle such a tool.
2. **I:2:** A utensil which serves a distinctive purpose prohibited on the Sabbath may be handled only in the case of a need [appropriate to the Sabbath], while one which serves a distinctive purpose permitted on the Sabbath may be handled both in the case of a need appropriate to the Sabbath and otherwise.

[B] A WINNOWING SHOVEL OR A FORK TO GIVE SOMETHING THEREON TO A CHILD, A SPINDLE OR A SHUTTLE STAFF TO THRUST INTO SOMETHING, A SEWING NEEDLE TO TAKE OUT A THORN, A SACK MAKER’S NEEDLE TO OPEN A DOOR.

1. **II:1:** Said R. Simon, “R. Abbahu permitted me to take eye salve off on the Sabbath with it [a needle].”

CIV. YERUSHALMI SHABBAT 17:3

[A] **A REED FOR OLIVES, IF IT HAS A KNOT ON ITS TOP, IS SUSCEPTIBLE TO UNCLEANNESS. AND IF NOT, IT IS NOT SUSCEPTIBLE TO UNCLEANNESS. ONE WAY OR THE OTHER, IT IS HANDLED ON THE SABBATH.**

- 1.** **I:1:** Members of the householder of R. Yannai say, “[The Mishnah at M. 17:3A refers to] a reed which one adapted for inspecting the status of olives. How so? If it came up covered with liquid, one may be certain that the processing in the press is finished. And if not, one may be certain that the processing in the press is not finished.”
- 2.** **I:2:** A reed which a householder set up with which to open and shut a door [Y. throughout has window] – if it was tied on and suspended [from the door], they open and shut the door with it, and if not, they do not open and shut the door with it. Rabban Simeon b. Gamaliel says, “[If] it is set up [for this purpose], even though it is not tied on, and even though it is not suspended [it is permitted to make use of it]” [T. Shab. 14:3F-H].

CV. YERUSHALMI SHABBAT 17:4

[A] **R. YOSÉ SAYS, “ALL UTENSILS ARE HANDLED, “EXCEPT FOR A LARGE SAW OR PLOWSHARE.” ALL UTENSILS ARE HANDLED IN CASE OF NEED AND NOT IN CASE OF NEED. R. NEHEMIAH SAYS, “THEY ARE HANDLED ONLY IN CASE OF NEED.”**

- 1.** **I:1:** R. Judah in the name of Rab: “The law accords with R. Nehemiah, who has said, “They are handled only in case of need.””
- 2.** **I:2:** R. Yohanan and rabbis from over there [in Babylonia]: One said, “‘For need’ refers to the need of using the object in itself, and ‘not for need’ refers to not needing to use the object in itself. [Then] R. Nehemiah says, “They are handled only when they are needed for use in themselves.””
- 3.** **I:3:** It has been taught: Said R. Yudan, “The House of Shammai and the House of Hillel concur [M. Bes. 1:5/I-J] that they may bring full utensils when needed, and empty ones when one intends to fill them. Concerning what did they dispute? Concerning bringing empty ones which are not intended to be filled. For the House of Shammai prohibit. And the House of Hillel permit” [T. Y.T. (Besah) 1:11D-H].

CVI. YERUSHALMI SHABBAT 17:5

[A] ALL UTENSILS WHICH ARE HANDLED ON THE SABBATH — FRAGMENTS DERIVING FROM THEM MAY BE HANDLED [ALONG WITH THEM], ON CONDITION THAT THEY PERFORM SOME SORT OF USEFUL WORK [EVEN IF IT IS NOT WHAT THEY DID WHEN THEY WERE WHOLE]: FRAGMENTS OF A KNEADING TROUGH — TO COVER THE MOUTH OF A BARREL, GLASS FRAGMENTS — TO COVER THE MOUTH OF A FLASK. R. JUDAH SAYS, “ON CONDITION THAT THEY PERFORM THE SORT OF WORK WHICH THEY DID [WHEN THEY WERE WHOLE]: “FRAGMENTS OF A KNEADING TROUGH — TO POUR PORRIDGE INTO THEM, “GLASS FRAGMENTS — TO POUR OIL INTO THEM.”

1. I:1: There we have learned: glass enough to scrape the end of a shuttle [M. 8:6], and here you say this [that is, stating a different criterion for the sherds of glass]?

CVII. YERUSHALMI SHABBAT 17:6

[A] A STONE IN A GOURD SHELL [USED FOR WEIGHING IT] — IF ONE CAN DRAW WATER IN IT AND IT DOES NOT FALL OUT, THEY DRAW WATER WITH IT [THE GOURD SHELL]. AND IF NOT, THEY DO NOT DRAW WATER WITH IT. A BRANCH TIED TO A PITCHER — THEY DRAW WATER WITH IT ON THE SABBATH.

1. I:1: We have learned [at M. 21:1:] [A man takes his son, along with the stone in his hand, a basket] with a stone in it. It has been taught by the household of Rabbi: “Food with a stone in it... [That is, one may carry a basket containing a stone only when there is food in the basket.]” R. Jacob bar Zabedi in the name of R. Abbahu: “R. Hiyya bar Joseph and R. Yohanan [had a dispute about this matter]. “R. Hiyya bar Joseph accorded with the rule of the Mishnah [at M. 21:1, which does not demand there be food in the basket along with the stone]. “R. Yohanan accorded with that which has been taught by a member of the household of Rabbi.”

CVIII. YERUSHALMI SHABBAT 17:7

[A] R. ELIEZER SAYS, “THE WINDOW SHUTTER [STOPPER OF A SKYLIGHT] — “WHEN IT IS TIED ON AND SUSPENDED, THEY SHUT [THE WINDOW] WITH IT. “AND IF

NOT, THEY DO NOT SHUT [THE WINDOW] WITH IT.” AND SAGES SAY, “ONE WAY OR THE OTHER, THEY SHUT THE WINDOW WITH IT.”

- I:1:** [As to M. Er. 10:11A, A bolt that is dragged on the ground, thus fastened to the gate by a long rope and not merely suspended, is permitted in the Temple and forbidden in the provinces,] what is a bolt that is dragged on the ground? Said R. Yohanan, “It is one that is fastened [on to the door], even though it is not suspended [from the door].” Said R. Yohanan, “Hilpai took me and showed me a bolt in the house of Rabbi, which was tied [onto the door], even though it was not suspended [from the door].” Said R. Yohanan, “[With reference to M. Er. 10:1 R. Judah says, ‘One that could be laid apart was permitted in the Temple, and one that was dragged on the ground was permitted in the provinces.] The view of an individual here [at M. Er. 10:11, that is, Judah] accords with the unattributed ruling there [at M. 17:7D], and the view of an individual there [at M. 17:7A-C] accords with the unattributed ruling here [at M. Er. 10:11].”

[B] ALL UTENSIL COVERS WHICH HAVE HANDLES ARE HANDLED ON THE SABBATH. SAID R. YOSÉ, “UNDER WHAT CIRCUMSTANCES? IN THE CASE OF LIDS OVER OPENINGS IN THE GROUND. “BUT AS TO LIDS OF UTENSILS, ONE WAY OR THE OTHER [WITHOUT OR WITH HANDLES], THEY ARE MOVED ABOUT ON THE SABBATH.”

- II:1:** Abba bar Kahana, R. Hiyya bar Ashi in the name of Rab: “The law accords with the position of R. Yosé.”

CIX. YERUSHALMI SHABBAT 18:1

[A] THEY CLEAR AWAY EVEN FOUR OR FIVE BASKETS OF STRAW OR GRAIN ON ACCOUNT OF GUESTS, OR ON ACCOUNT OF [AVOIDING] NEGLECT OF THE HOUSE OF STUDY. BUT [THEY DO] NOT [CLEAR AWAY] A STOREROOM.

- I:1:** Zeira asked R. Josiah, “What is the measure of these baskets [at M. 18:1A]?” He said to him, “Let us derive the law for an unspecified item from that at which it is spelled out. “For we have learned there: with three baskets, each holding three seahs in volume [M. Sheq. 3. 2A] [, which are nine seahs per basket, that is, twenty-seven seahs in all,] they take up the heave offering of the coins collected in the sheqel chamber.” There we have learned: [He is liable for] transferring [on the Sabbath from one domain to another] enough wine to mix a cup [M. Shab. 8:1A].

2. **I:2:** [In the case of a storage room which one has not cleared out prior to the Sabbath,] what is the law as to clearing out the storage room [M. 18:1C] following this order?
3. **I:3:** There is a Tannaite authority who teaches: “They may handle produce in which heave offering has accidentally been mixed.” There is a Tannaite authority who teaches: “They may not handle [produce in which heave offering has accidentally been mixed].” [This produce had been properly prepared, contrary to the condition of the items at M. 18:1F, but it also is not available for eating, contrary to the condition of the items at M. 18:1D.]

[B] THEY CLEAR AWAY CLEAN HEAVE OFFERING, DOUBTFULLY TITHED PRODUCE, FIRST TITHE WHOSE HEAVE OFFERING HAS BEEN REMOVED, SECOND TITHE AND CONSECRATED PRODUCE WHICH HAVE BEEN REDEEMED; AND DRIED LUPINE, FOR IT IS FOOD FOR GOATS [SOME TEXTS READ: “POOR PEOPLE”]; BUT [THEY DO] NOT [CLEAR AWAY] PRODUCE FROM WHICH TITHES HAVE NOT BEEN REMOVED, FIRST TITHE WHOSE HEAVE OFFERING HAS NOT BEEN REMOVED, SECOND TITHE AND CONSECRATED PRODUCE WHICH HAVE NOT BEEN REDEEMED; ARUM, OR MUSTARD.

1. **II:1:** [With reference to M. 21:1C: They handle unclean heave offering along with clean heave offering or with unconsecrated food,] who stands behind the view that one may handle [such unclean heave offering]?
2. **II:2:** [With reference to M. Dem. 7:5: If a man had fully untithed figs at home and he was in the house of study or in the field and unable to attend to them, he says, “Two figs out of one hundred which I shall separate, behold, these are made heave offering, and the following ten are made first tithe, and the following nine are made second tithe,”] R. Eleazar said, “A man may stand on the eve of the Sabbath [Friday] and say, ‘Lo, this is made heave offering tomorrow,’ but a man may not stand on the Sabbath and say, ‘Lo, this is heave offering tomorrow.’ [The status of heave offering may take effect the next day in the former but not the latter instance. Since one may not separate the heave offering on the Sabbath, he also may not make such a statement on that day. This is relevant, in a general way only, to M. 18:1F.]” R. Yosé b. R. Bun says, “A man may not stand on the eve of the Sabbath [Friday] and say, ‘Lo, this is heave offering tomorrow.’”
3. **II:3:** It has been taught (in Tosefta’s version): They handle mustard, because it is food for doves, and cistus, because it is food for gazelles, and fragments of dass, for it is food for ostriches.” [= T. attributes to

Rabban Simeon b. Gamaliel.] Said [T.: “to him”] R. Nathan, “If so, let them handle bundles of twigs, because it is food for elephants.” [T. adds:] This is the governing principle: Whatever is set aside for its distinctive purpose do they handle, and whatever is not set aside for its distinctive purpose they do not handle [T. Shab. 14:8].

[C] **RABBAN SIMEON B. GAMALIEL PERMITS IN THE CASE OF ARUM, BECAUSE IT IS FOOD FOR RAVENS [IN THE HOUSE].**

- 1. III:1:** How shall we interpret the matter? If we deal with a case in which the householder has that particular species, and also that species is [commonly] found in the marketplace, then all parties must concur that it is permitted [to handle food for that species]. If we deal with a case in which the man does not own that particular species, and that particular species also is not [commonly] found in the marketplace, then all parties must concur that it is forbidden. So we must interpret the case to address the situation of a man who owns that particular species, while that particular species is not [commonly] found in the marketplace. Rabbis hold that, since that particular species is not [commonly] found in the marketplace, it is as if the man himself also does not own that particular species [and he too may not handle the produce that particular species eats]. But Rabban Simeon b. Gamaliel holds that since the man owns that particular species, it is as if that particular species is [commonly] found in the marketplace.”

CX. YERUSHALMI SHABBAT 18:2

[A] **BUNDLES OF STRAW, BRANCHES, OR YOUNG SHOOTS — IF ONE PREPARED THEM FOR FOOD FOR CATTLE, THEY HANDLE THEM, AND IF NOT, THEY DO NOT HANDLE THEM. THEY INVERT A BASKET FOR CHICKENS, SO THAT THEY MAY GO UP [INTO THE HENHOUSE] AND DOWN ON IT. A CHICKEN WHICH FLED — THEY DRIVE IT ALONG UNTIL IT GOES BACK [INTO THE CHICKEN YARD]. THEY PULL CALVES OR YOUNG ASSES ALONG THE PUBLIC WAY. A MOTHER DRAGS ALONG HER CHILD. SAID R. JUDAH, “UNDER WHAT CIRCUMSTANCES? WHEN [THE CHILD] LIFTS UP ONE FOOT AND PUTS THE OTHER DOWN. BUT IF HE DRAGS [HIS FEET], IT IS FORBIDDEN [TO DRAG IT].”**

- 1. I:1:** Said R. Zeira, “This passage [at M. 18:2A-D] accords only with the view of R. Hanina [who sees the straw as suitable for food, not for sitting, unless made ready], for he said, ‘We were going up with Rabbi to the Hot Springs at Gerar, and he would say to us, ‘Choose for yourselves pieces of stones, and [if you do] you are permitted to handle them tomorrow [on the Sabbath].’”

2. **I:2:** The Mishnah stands at variance with the position of him who has said, “Whatever sort of object has been designated for a purpose prohibited on the Sabbath by the householder himself is prohibited [and may not be carried about].” For we have learned: A stone which is over the mouth of a jar one tilts the jar on its side and the stone falls off [M. 21:2A -B]. [According to A, one should not be permitted to move the jar.]

CXI. YERUSHALMI SHABBAT 18:3

[A] THEY DO NOT DELIVER CATTLE ON THE FESTIVAL, BUT THEY HELP OUT. AND THEY DO DELIVER A WOMAN ON THE SABBATH.

1. **I:1:** How do they help out [T.: in the delivery of a cow on a festival]? They bring wine and blow into its nose and [T.:] put a teat into its mouth and hold up the offspring so that it not fall down. [Y.: and puts his hand below and receives it (the off spring) and draws its teat and places it in its mouth.] Rabban Simeon b. Gamaliel says, “We would make a [T.: clean] beast take an interest in the offspring on the festival” [T. Shab. 15:2].

[B] AND THEY CALL A MIDWIFE FOR HER FROM A DISTANT PLACE:

1. **II:1:** That accords with the following, which we have learned there: And not only this, but a midwife who comes to help a delivery [also is treated as an inhabitant of a town and enjoys access to the two thousand cubits in any direction permitted to other inhabitants] [M. R.H. 2:5].

[C] AND THEY VIOLATE THE SABBATH ON HER [THE WOMAN IN CHILDBIRTH’S] ACCOUNT:

1. **III:1:** Samuel said, “They make a fire for her, even in summer.”

[D] AND THEY TIE THE UMBILICAL CORD. R. YOSÉ SAYS, “ALSO: THEY CUT IT.”

1. **IV:1:** This accords with the following: A servant girl of Bar Qappara went and brought forth a child on the Sabbath. A woman came and asked Rabbi [whether they might tie and cut the umbilical cord]. He said to her, “Go and ask the midwife.” She said to him, “There is no midwife [here].” He said to her, “Go and follow your usual practice.” She said to him, “There is no established practice.” He said to her, “Go and cut the umbilical cord, in line with the view of R. Yosé [at M. 18:3F].”

[E] AND ALL THINGS REQUIRED FOR CIRCUMCISION DO THEY PERFORM ON THE SABBATH.

1. **V:1:** With reference to the meaning of M. 18:3G,] the Mishnah means to say that all that is necessary for a woman in childbirth do they carry out on the Sabbath [and the reference to circumcision is not meant to be limiting, but rather, illustrative].
2. **V:2:** It has been taught: As to the disposition of the afterbirth on the Sabbath: rich people cover it with oil, and poor people cover it with straw and dirt. [follows the reading which makes the last word open the next clause: And on a weekday:”] Both sorts of people then bury it in the ground [cf. T. Shab. 15:3], so as to hand over a pledge to the earth [that ultimately, but not now, the babe also will return to the earth].

CXII. YERUSHALMI SHABBAT 19:1

[A] **R. ELIEZER SAYS, “IF ONE DID NOT BRING A UTENSIL [USED FOR CIRCUMCISION] ON THE EVE OF THE SABBATH, HE BRINGS IT OPENLY ON THE SABBATH.” AND IN THE TIME OF THE DANGER, ONE COVERS IT UP IN THE PRESENCE OF WITNESSES. AND FURTHER DID R. ELIEZER STATE, “THEY CUT WOOD TO MAKE COALS TO PREPARE AN IRON UTENSIL [FOR CIRCUMCISION].” A GOVERNING PRINCIPLE DID R. AQIBA STATE, “ANY SORT OF LABOR [IN CONNECTION WITH CIRCUMCISION] WHICH IT IS POSSIBLE TO DO ON THE EVE OF THE SABBATH DOES NOT OVERRIDE [THE RESTRICTIONS OF] THE SABBATH, AND CIRCUMCISION WHICH IT IS NOT POSSIBLE TO DO ON THE EVE OF THE SABBATH DOES OVERRIDE [THE PROHIBITIONS OF THE SABBATH.]”**

1. **I:1:** Said R. Yohanan, “We originally supposed that in all matters [involving the doing of a religious commandment], R. Eliezer takes a position different [from that of sages and holds that in every instance making ready things that facilitate, but are not directly involved in, the doing of a religious duty is permissible on the Sabbath]. But since R. Eliezer found it necessary to provide an exegesis to that effect in the repeated usage of the word, ‘firstfruits,’ [it follows that not in all instances, but only in some, does the making ready of things only indirectly needed for carrying out a religious action override the restrictions of the Sabbath.] [This exegesis of the laws of firstfruits is as follows:] Just as the reference to firstfruits in the case of the cereal offering, [‘If you offer a cereal offering of firstfruits to the Lord, you shall offer for the cereal offering of your firstfruits crushed new grain from fresh ears, parched with fire’ (Lev. 2:14),] means that the rite

overrides the restrictions of the Sabbath, so the reference to firstfruits in regard to the two loaves of showbread also means that preparation of the bread overrides the restrictions of the Sabbath. That is to say that it is not with regard to all matters [involving the doing of a religious commandment] that R. Eliezer takes a position different [from that of sages, but only in some such instances].”

2. **I:2:** It has been taught: There was a case, and Rabbi decided it in accord with the view of R. Eliezer. Said R. Yohanan, “The association [of sages] raised this question: Why did Rabbi leave the view of sages and act in accord with R. Eliezer?” Said R. Hoshaiah, “We asked Rabbi Judah the circumciser about the conditions of this case of circumcision, and he told us, ‘It took place in an alleyway that was not open on both sides.’ [Here he permitted carrying.]”
3. **I:3:** R. Simon in the name of R. Joshua b. Levi: “As to a knife for use for a circumcision [which one has not brought on the eve of the Sabbath], one makes a line [of people, from the place in which the knife is located to the place in which the child is located, and they] hand it [from one to the next, until it reaches the child].”
4. **I:4:** They asked Hillel the Elder [in connection with M. Pes. 6:1], “What should the people do who have not brought their knives with them [to slaughter the Passover lamb]?” He said to them, “I have heard but then forgotten [the (relevant) law]. But let the people of Israel be. If they are not prophets, they are disciples of prophets.” Forthwith whoever had for his Passover offering a lamb stuck the knife into the wool, and if it was a sheep, he tied the knife to the horns of the sheep, so it turned out that the [animals designated as] Passover offerings brought along the knives for the owners. When [Hillel] saw what they had done, he remembered the law. He said to them, “This is what I heard from the instruction of Shemayah and Abtalion.” R. Zeira in the name of R. Eleazar: “Any teaching of Torah which is not attached to the authority of a named source is not a valid teaching of Torah.”
 - a. **I:5:** There we have learned: “If one rode upon [a red cow], leaned upon it, suspended something on its tail, crossed the river on it, doubled up its leading rope, placed his cloak upon it, it is unfit [M. Par. 2:3E]. [All of these constitute using the cow for an act of labor.] The foregoing rule may be derived from the present one and, the present one from the foregoing one. The foregoing rule may be derived from the present rule: If one suspended a knife upon it [the beast] to slaughter the beast, it is valid[ly carried].

[The red cow is not invalidated in this way, not an act of labor done by a Holy Thing.]

- b. I:6: Now why should not [Hillel] have permitted them to transport the knife through a line [of people, handing it from one to the next, or through the temporary partition of a circle]? He accords with the position of R. Immi. But even if you maintain that he accords with the principle espoused by R. Simon [that such a mode of transporting the knife is permitted], one may say that, just as this rule was forgotten, so the other rule also was forgotten [so Hillel did not permit them to use the line or circle or people because he did not remember that that is a permissible procedure].

5. **I:7:** It has been taught [following T.'s version]: R. Eliezer says, "Just as slaughtering [the Passover sacrifice] overrides [the prohibitions of] the Sabbath, so things done to make possible the slaughtering of the animal should likewise override [the prohibitions of] the Sabbath." A governing principle did R. Aqiba state, [T.:] "Any form of labor which it is possible to carry out on the eve of the Sabbath does not override the Sabbath [M. Pes. 6:2L]. And that which it is not possible to carry out on the eve of the Sabbath overrides [the prohibitions of] the Sabbath." [Y.: "No. If you say (thus) regarding slaughtering which is not possible to carry out on the eve of Sabbath, will you say (thus) regarding things done to make possible the slaughtering which can be carried out from the eve of the Sabbath?"] Said to him R. Eliezer, "The sacrificial parts of the public offering will prove [to the contrary]. For they are suitable [to be offered] at the end of the Sabbath, but they nonetheless override [the prohibitions of the Sabbath and are offered up] at their proper time. "Now what difference does it make to me whether we speak of things done to make possible the slaughtering of the animal carried out after [Y.: "before"] the actual act of slaughter and the things done to make possible the slaughtering of the animal carried out before [Y.: "after"] the actual act of slaughter?" Said to him R. Aqiba, "Now in the case of things done to make possible the slaughtering of the animal carried out after the slaughter of the animal, the actual act of slaughter has indeed overridden [the prohibitions of the Sabbath]. But will the things done to make possible the slaughtering of the animal which are carried out before the actual act of slaughter override [the prohibitions of] the Sabbath? For as yet the act of slaughter will not actually have overridden [the prohibitions of] the Sabbath. "Furthermore, perhaps some point of invalidation will befall [the rite; Y.: "the offering"], in which case one turns out to have profaned the Sabbath [Y.: "to have overridden the Sabbath"] and not actually carried out the Passover-sacrificial rite at all" [T. Pes. 5:1].

CXIII. YERUSHALMI SHABBAT 19:2

[A] **THEY DO PREPARE ALL THAT IS NEEDED FOR CIRCUMCISION ON THE SABBATH: THEY CUT [THE MARK OF CIRCUMCISION], TEAR, SUCK [OUT THE WOUND]. AND THEY PUT ON IT A POULTICE AND CUMIN. IF ONE DID NOT POUND IT ON THE EVE OF THE SABBATH, HE CHEWS IT IN HIS TEETH AND PUTS IT ON. IF ONE DID NOT MIX WINE AND OIL ON THE EVE OF THE SABBATH, LET THIS BE PUT ON BY ITSELF AND THAT BY ITSELF. AND THEY DO NOT MAKE A BANDAGE IN THE FIRST INSTANCE. BUT THEY WRAP A RAG AROUND [THE WOUND OF THE CIRCUMCISION].**

- 1. I:1:** “Circumcising, he shall be circumcised” (Gen. 17:13) – The repetition of the same word represents a decree that there should be two aspects to the act of circumcision, one which serves for the circumcision, the other which serves for trimming the crown, one for circumcision and one for trimming the shreds of flesh. Up to this point the matter has been interpreted in accord with the principle of R. Aqiba, who has said that when a word is repeated, it is for the purpose of encompassing yet a second matter. But in accord with R. Ishmael, who has said that where words are repeated, it is merely because the Torah is speaking in its usual way [and not to supply the occasion for an exegesis to encompass an otherwise omitted consideration], [as, for example,] “And now you have gone away because you longed greatly [for your father’s house, but why did you steal my gods?]” (Gen. 31:30), “For I was indeed stolen [out of the land of the Hebrews; and here also I have done nothing that they should put me into the dungeon]” (Gen. 40:15) – how does he know [that these same parts of the rite of circumcision must be properly done]?
- 2. I:2:** Rab said, “‘Circumcising, he shall be circumcised’ (Gen. 17:23) – on the basis of this verse, we know that one who is born circumcised has to be circumcised again by the drawing of a single drop of blood to mark the covenant. ‘Circumcising, he shall be circumcised’ – on the basis of this verse, we know that an uncircumcised Israelite may not perform the rite of circumcision unless he will first circumcise himself, and, it is hardly necessary to say, the same applies to an uncircumcised gentile.”
- 3. I:3:** He whose mark of circumcision was covered over, one who was born circumcised, and one who had been circumcised prior to conversion – in all instances, it is necessary to produce a drop of blood from him as a mark of the covenant. It has been taught: R.

Simeon b. Eleazar said, “The House of Shammai and the House of Hillel did not dispute concerning the case of one who was born circumcised, that one [indeed] must draw a drop of blood as a mark of circumcision, because in this case, the foreskin has been pressed back. Concerning what did they dispute? Concerning a proselyte who converted while already circumcised, for the House of Shammai say, ‘It is necessary to draw from him a drop of blood to mark the covenant,’ and the House of Hillel say, ‘It is not necessary to draw from him a drop of blood to mark the covenant.’”

[B] IF ONE DID NOT PREPARE [THE NECESSARY RAG] ON THE EVE OF THE SABBATH, HE WRAPS [THE RAG] AROUND HIS FINGER AND BRINGS IT, AND EVEN FROM A DIFFERENT COURTYARD.

- 1.** **II:1:** [With reference to M. 19:2E, If one did not mix wine and oil on the eve of the Sabbath, let this be put on by itself and that by itself,] R. Yohanan bar Mareh asked, “If they were mixed together at the bottom [on the eve of the Sabbath, but they were not mixed together at the top], what is the law as to going and stirring them up at the top?” [This question is not answered.]

CXIV. YERUSHALMI SHABBAT 19:3

[A] THEY WASH OFF THE INFANT, BOTH BEFORE THE CIRCUMCISION AND AFTER THE CIRCUMCISION, AND THEY SPRINKLE HIM, BY HAND BUT NOT WITH A UTENSIL. **R. ELEAZAR B. AZARIAH SAYS, “THEY WASH THE INFANT ON THE THIRD DAY AFTER CIRCUMCISION [EVEN IF IT] COINCIDES WITH THE SABBATH, “SINCE IT SAYS, ‘AND IT CAME TO PASS ON THE THIRD DAY WHEN THEY WERE SORE’ (GEN. 34:25).” [IF THE SEXUAL TRAITS OF THE INFANT ARE A MATTER OF] DOUBT,**

- 1.** **I:1:** We have learned: They bathe a child [on the third day after circumcision, even if this coincides with the Sabbath] [M. 9:3C = M. 19:3E]. A Tannaite authority [added to L: “of the house of Rab”] [formulates the law]: “They wash the mark of circumcision.”

[B] OR [IF THE INFANT] BEARS THE SEXUAL TRAITS OF BOTH SEXES, THEY DO NOT VIOLATE THE SABBATH ON HIS ACCOUNT. AND **R. JUDAH PERMITS IN THE CASE OF AN INFANT BEARING THE TRAITS OF BOTH SEXES.**

- 1.** **II:1:** As to the androgyne [bearing sexual traits of both sexes], they do not violate the Sabbath on his account. And R. Judah permits in the case of an infant bearing the traits of both sexes [M. 19:3G-H]: There

we have learned: All are liable for an appearance offering [Ex. 23:14, Deut. 16:16], except for a deaf-mute, idiot, minor, one without pronounced sexual character is tics, one who exhibits the sexual traits of both sexes [M. Hag. I:1A-C]. [Now, since Judah treats the person with sexual traits of both sexes as subject to the requirement of circumcision, hence as a male, we ask:] How does R. Judah deal with this issue? Let us derive the answer from the following: R. Yohanan b. Dahabai said in the name of R. Judah: “Also the blind person” [T. Hag. 1:1 F].

CXV. YERUSHALMI SHABBAT 19:4

[A] **HE WHO HAD TWO INFANTS, ONE TO CIRCUMCISE ON THE EVE OF THE SABBATH AND ONE TO CIRCUMCISE ON THE SABBATH, AND WHO FORGOT [WHICH WAS WHICH] AND CIRCUMCISED THE ONE TO BE CIRCUMCISED ON THE EVE OF THE SABBATH ON THE SABBATH, IS LIABLE. [IF HE HAD] ONE TO CIRCUMCISE AFTER THE SABBATH AND ONE TO CIRCUMCISE ON THE SABBATH, AND HE FORGOT AND ON THE SABBATH CIRCUMCISED THE ONE TO BE CIRCUMCISED AFTER THE SABBATH, R. ELIEZER DECLARES HIM LIABLE TO A SIN OFFERING. AND R. JOSHUA EXEMPTS HIM.**

1. **I:1:** “[The formulation of M. 19:4D-G,]” said R. Yohanan, “Accords with the view of what is at issue as presented by R. Meir. For he has said, ‘A matter, the doing of which involves the accomplishment of a religious duty, [in the view of all parties] will be exempt [from punishment], and a matter the doing of which does not involve the accomplishment of a religious duty [L: so being liable for punishment], will be subject to dispute [between Eliezer and Joshua]. [Eliezer holds at M. 19:4E-F that circumcising on the Sabbath the one to be done after the Sabbath is culpable, since the religious requirement of doing the deed on the eighth day, when it coincides with the Sabbath, is not in play. In contrast, however, when a person in error circumcised on the Sabbath an infant whose eighth day was on Friday, all authorities presumably would hold that that person is exempt. This would support a reading in M. 19:4C of “exempt.”] [Differing from Meir,] R. Simeon says, ‘As to both a matter the doing of which involves the accomplishment of a religious duty, so producing liability, and as to a matter the doing of which does not involve the accomplishment of a religious duty, so being exempt from punishment, there is a dispute.’”

2. **I:2:** [Following a third version of the Mishnah:] Said R. Zeira, “A statement of R. Yannai indicates that [in his view, at M. 19:4A-C,] we deal with a case in which [the responsible party] has forgotten and on the eve of the Sabbath circumcised the child to be circumcised on the Sabbath. [Hence there is no child left whose circumcision overrides the restrictions of the Sabbath. That is why even in Joshua’s view the man is liable.]” If one circumcised the infant at dawn [on the Sabbath, then circumcised the other child], R. Zeira said, “R. Yannai thought to say, ‘He is exempt [from liability].’ “R. Ba said, ‘He is liable.’” [In this instance Yannai holds the man is exempt in the case of the child to be circumcised on the eve of the Sabbath, if the rite is done on the Sabbath, since, on that occasion, the man was preoccupied with circumcising at the right time the one to be circumcised on the Sabbath. Accordingly, in Yannai’s view, we exempt the man from punishment, because of extenuating circumstances. It must follow that as to M. 19:4A-C, all parties will concur that if one forgot and on the eve of the Sabbath circumcised the one to be done on the Sabbath, there are no further extenuating circumstances, so all parties will concur that he is liable. As to Ba’s position, even in the present case of doing both children on the morning of the Sabbath, there are no extenuating circumstances, since, when the child to be done on Friday was circumcised, the other child, for whom the Sabbath was the right time, had already been dealt with.]
3. **I:3:** [For so long as one is involved in the rite of circumcision on the Sabbath, one may go over even those shreds of flesh which do not invalidate the rite of circumcision.] But once he has ceased [to conduct the operation], he may go back only over those shreds of flesh which, if left, invalidate the circumcision [T. Shab. 15:4F -G].

CXVI. YERUSHALMI SHABBAT 19:5

- [A] AN INFANT IS CIRCUMCISED ON THE EIGHTH, NINTH, TENTH, ELEVENTH, OR TWELFTH DAYS [AFTER BIRTH], NEVER SOONER, NEVER LATER. HOW SO? UNDER NORMAL CIRCUMSTANCES, IT IS ON THE EIGHTH DAY.**
1. **I:1:** There may be an infant who is circumcised on the very day of his birth.
- [B] IF HE WAS BORN AT TWILIGHT, HE IS CIRCUMCISED ON THE NINTH DAY. [IF HE WAS BORN] AT TWILIGHT ON THE EVE OF THE SABBATH, HE IS CIRCUMCISED ON THE TENTH DAY [THE FOLLOWING SUNDAY]. IN THE CASE OF A FESTIVAL WHICH FALLS AFTER THE SABBATH, HE WILL BE CIRCUMCISED ON THE ELEVENTH DAY**

[MONDAY]. IN THE CASE OF TWO FESTIVAL DAYS OF THE NEW YEAR, HE WILL BE CIRCUMCISED ON THE TWELFTH DAY [TUESDAY].

1. **II:1:** [Referring to M. 19:5F] Jacob of Kefar Naborayya asked R. Haggai, “Why not rule, if the child was born at twilight, he is to be circumcised at twilight [eight days later]?”

[C] AN INFANT WHO IS SICK – THEY DO NOT CIRCUMCISE HIM UNTIL HE GETS WELL.

1. **III:1:** [With reference to M. 19:5I, An infant who is sick – they do not circumcise him until he gets better,] Samuel said, “[Even if] he caught a fever [for one moment], they wait on him for thirty days.” As to that thirty-day period, what is the law on giving him nourishment deriving from produce in the status of heave offering? [Is he uncircumcised such that he may not eat such produce? Or does the fact that the untimely circumcision is not due to his failure mitigate the law?]

CXVII. YERUSHALMI SHABBAT 19:6

[A] THESE ARE THE SHREDS [OF THE FORESKIN, IF THEY REMAIN] WHICH RENDER THE CIRCUMCISION INVALID: FLESH THAT COVERS THE GREATER PART OF THE CORONA – AND SUCH A ONE DOES NOT EAT HEAVE OFFERING. AND IF HE WAS FAT [SO THE CORONA APPEARS TO BE COVERED UP], ONE HAS TO FIX IT UP FOR APPEARANCE’S SAKE.

1. **I:1:** These are the shreds which render the circumcision invalid: Flesh that covers the greater part of the corona [M. 19:6A-B] – R. Abina in the name of R. Jeremiah: “That is the flesh that covers the greater part of the height of the corona.” R. Yosé b. Hanina [L text: “Yosé”] said, “It means [flesh] that covers the greater part of the height of the corona.”

[B] [IF] ONE CIRCUMCISED BUT DID NOT TRIM THE CIRCUMCISION [THE CUT DID NOT UNCOVER THE CORONA, SINCE THE MEMBRANE WAS NOT SPLIT AND PULLED DOWN], IT IS AS IF HE DID NOT PERFORM THE ACT OF CIRCUMCISION.

1. **II:1:** If he circumcised but did not trim the circumcision, it is as if he did not circumcise at all [M. 19:6E]: [The membrum must be trimmed, with shreds which invalidate the circumcision removed.] It has been taught: [If one did not trim it,] he is subject to punishment by extirpation. R. Aha in the name of R. Abbahu: “That which you have said applies in a case in which there is not sufficient time left in the day [for circumcision is done only by day] to trim the flesh. But if

there is sufficient time in the day to do so, one trims it and need not scruple. [That is, a second party may complete the job.]”

2. **II:2:** It has been taught [in regard to completing the trimming]: So long as the person performing the rite is yet doing the work, he may return to incomplete aspects of it, whether to remnants which would invalidate the circumcision or to remnants which, if left, would not invalidate the rite of circumcision. Once he has left off the work, he may resume the work only as to cutting off the fringes of flesh which if left would invalidate the rite of circumcision [T. Shab. 15:4].

CXVIII. YERUSHALMI SHABBAT 20:1

- [A] **R. ELIEZER SAYS, “ON THE FESTIVAL THEY SPREAD OUT A FILTER, AND ON THE SABBATH THEY POUR [WINE] INTO ONE WHICH IS SPREAD OUT.” AND SAGES SAY, “ON THE FESTIVAL THEY DO NOT SPREAD OUT A FILTER, AND ON THE SABBATH THEY DO NOT POUR [WINE] INTO ONE WHICH IS SPREAD OUT. BUT ON THE FESTIVAL THEY POUR [WINE] INTO ONE WHICH IS SPREAD OUT.”**
1. **I:1:** It has been taught: Sages concede to R. Eliezer that they do not put up tents to begin with on the festival day, and it goes without saying, on the Sabbath. Concerning what did they differ? Concerning adding [to existing ones]. For R. Eliezer says, “They do not add to them on the festival, and it goes without saying, on the Sabbath.” And sages say, “They add to them on the Sabbath, and it goes without saying, on the festival day” [T. Shab. 12:14H-L, complementing M. 17:7]. Now here [at M. 20:1] do we not deal with adding [to an existing tent, for so far as spreading the filter out to begin with, that would in any event constitute making a tent]?
 2. **I:2:** [With reference to M. 20:1A,] said R. Hinena, “The view of R. Eliezer accords with the position of R. Judah, for it has been taught in the name of R. Judah, ‘Also [sages] have permitted [on the festival] handling things that serve to make food ready [and not merely the food itself].’ [That is why one may set up a filter on the festival day, even though under other circumstances it would constitute an act prohibited on the count of setting up a tent.]” R. Aha in the name of R. Ba, “It accords with the view of him who said that one may make something ready, on condition that it is from above. [That is, if one adds to a tent, one may do so if the tent is spread out at the top. It may then be further unfolded and spread out toward the bottom.]”

3. **I:3:** Hiyya in the name of R. Yohanan: “He who spreads out a tent on the Sabbath is liable on the count of building.” Said R. Zeira, “He is only in the status of one who spreads them out and doubles them up on the Sabbath [which is not permitted, but which is not in the category of building].” R. Ba bar Kohen asked before R. Yosé, “What is the law in regard to the veil on the ark? [Is it permitted to open it?]”
4. **I:4:** Zeira, R. Hiyya bar Ashi in the name of Samuel: “He who strains [wine to remove the lees] is liable on the count of selection [winnowing].” Said R. Zeira, “It is surely more reasonable that it is on the count of sifting.” Both R. Jonah and R. Yosé say, “At first we were inclined to say that R. Zeira has spoken well. Just as in sifting, the chaff falls to the bottom and the grain rises to the top, so with straining wine, the wine goes to the bottom and the lees float to the top. And why [was a festival] left over [excluded] from the rule applicable to the Sabbath [regarding the prohibition of the category of selection (winnowing)] and left over from the category of straining? “It [a festival] has been removed from the general prohibition regarding selection: He makes his selection in his usual way, putting it down using his lap, a basket, or a dish [M. 1:10C]. And it has been removed from the general prohibition regarding straining, since on the festival day they may also pour wine into a strainer that has been spread out[, as stated in M. Shab. 20:1].”But [for purposes of cooking on the festival] has not the general prohibition regarding sifting been removed? For R. Hanina Bar Yakah in the name of R. Judah said, ‘One may not sift flour a second time on a festival, but they sift it on the outer side of the sieve. [Sifting may be done only in an unusual way.]’ Now if you maintain that [straining] is comparable to sifting, then it should be prohibited to strain [wine on the festival day, as we see that it is forbidden to sift in the normal way].”

CXIX. YERUSHALMI SHABBAT 20:2

[A] THEY POUR WATER OVER WINE DREGS SO THAT THEY WILL BE CLARIFIED. AND THEY STRAIN WINE IN CLOTHS OR IN A TWIG BASKET.

1. **I:1:** R. Ba in the name of R. Judah in the name of Rab: “[The rule of M. 20:2B] is on condition that one not make it like a receptacle [out of the cloths, as one does on ordinary days].” This question then was raised: “What is the law about forcing down [the cloths] so that they form a receptacle on their own?”

[B] AND THEY PUT AN EGG INTO A MUSTARD STRAINER.

- II:1:** [With reference to M. 20:2C:] The meaning of the Mishnah is that they may mash an egg into a mustard strainer. As to a clump of mustard, R. Yosé in the name of R. Eliezer: “One crushes it by hand but not with a utensil.” R. Jacob bar Aha, R. Yohanan in the name of R. Yannai: “One crushes it whether by hand or by a utensil.”

[C] **AND THEY PREPARE HONEYED WINE ON THE SABBATH. R. JUDAH SAYS, “ON THE SABBATH [IT IS DONE] IN A CUP, AND ON A FESTIVAL DAY IN A FLAGON, AND ON THE INTERVENING DAYS OF A FESTIVAL IN A BARREL.” R. SADOQ SAYS, “ALL DEPENDS ON THE NUMBER OF GUESTS.”**

- III:1:** R. Yosé in the name of R. Yohanan: “Wine, honey, and pepper.”

CXX. YERUSHALMI SHABBAT 20:3

[A] **THEY DO NOT SOAK ASAFOET’DA IN WARM WATER. BUT ONE PUTS IT INTO VINEGAR.**

- I:1:** Said R. Mana, “The meaning of the Mishnah [at M. 20:3A-B] is that one places it before himself into vinegar [so that he will eat it right away, not so that it will soak in the vinegar].” R. Huna said, “They have referred [in M. 20:3A] only to warm water. Lo, as to [soaking it in] cold water, that is permitted.” R. Yohanan in the name of R. Yannai: “Even to do so in cold water is forbidden.”

[B] **AND THEY DO NOT SOAK VETCHES OR RUB THEM. BUT ONE PUTS THEM INTO A SIEVE OR A BASKET.**

- II:1:** Said R. Mana, “The meaning of the Mishnah [at M. 20:3A-B] is that one places it before himself into vinegar [so that he will eat it right away, not so that it will soak in the vinegar].” R. Huna said, “They have referred [in M. 20:3A] only to warm water. Lo, as to [soaking it in] cold water, that is permitted.” R. Yohanan in the name of R. Yannai: “Even to do so in cold water is forbidden.”

[C] **THEY DO NOT SIFT CHOPPED STRAW IN A SIFTER. NOR DOES ONE PUT IT ON A HIGH PLACE SO THAT THE CHAFF WILL FALL OUT. BUT ONE TAKES IT IN A SIEVE AND POURS IT INTO THE CRIB.**

- III:1:** This is on the count of winnowing.

CXXI. YERUSHALMI SHABBAT 20:4

[A] “THEY CLEAN OUT [A MANGER] BEFORE A FAT [= STALL] OX. “AND THEY SWEEP ASIDE [SPILLED OR LEFTOVER FODDER] ON ACCOUNT OF A GRAZING ANIMAL,” THE WORDS OF R. DOSA. AND SAGES PROHIBIT [DOING SO]. THEY TAKE [FODDER] FROM BEFORE ONE BEAST AND PUT IT BEFORE ANOTHER BEAST ON THE SABBATH.

1. **I:1:** [The reason for M. 20:4A-B is:] What the fat ox leaves over, the grazing animal eats [hence it may be cleared out. Since what the grazing animal leaves over is not eaten by another animal, it can only be handled indirectly]. The following is a question: What is the law as to taking fodder from before one beast and putting it before another on the Sabbath? Is there not a Mishnah passage that says explicitly, “One may take [fodder] from one beast and put it before another beast”?

CXXII. YERUSHALMI SHABBAT 20:5

[A] THE STRAW WHICH IS ON THE BED ONE SHOULD NOT SHIFT IT WITH HIS HAND. BUT HE SHIFTS IT WITH HIS BODY. AND IF IT WAS FOOD FOR A BEAST, OR IF THERE WAS A CUSHION OR A SHEET ON IT, HE MAY SHIFT IT WITH HIS HAND.

1. **I:1:** The Mishnah [at M. 20:5A-C] speaks of a case in which one had not slept on it [the straw on the bed] previously. But if he had slept on it previously, it is like the thing [the bed] itself. Said R. Jacob bar Idi, “The earlier authorities asked: ‘What is the law as to his shifting the straw with his knuckles?’” Said R. Yannai: “[They say] ‘bald’ [to] one who is bald. ‘Rob’ [to] one who has been robbed. ‘Pour cold water’ on him who is cold. His house [that he has rented out] falls, [they say to him] ‘rebuild it’ [e.g., for the renter].” [That is, those that have get more. Thus those that have a cushion may shift the straw, those without, too poor, may not.]

[B] A PRESS OF HOUSEHOLDERS DO THEY LOOSEN BUT DO THEY NOT TIGHTEN. AND ONE OF LAUNDRYMEN ONE SHOULD NOT TOUCH [AT ALL]. R. JUDAH SAYS, “IF IT WAS UNTIED ON THE EVE OF THE SABBATH, ONE MAY UNTIE THE WHOLE THING AND REMOVE [CLOTHING FROM] IT.”

1. **II:1:** [With reference to M. 20:5E-H,] has it not been taught: Sages concur with R. Meir [at M. Bes. 4:3E - G] in the case of knots which are on the ground, that one may loosen, unravel, and untie them, [T.:]

but they may not cut them [Y.: “and they cut them”]. And on the Sabbath they may loosen and [T.:] untie, but may not unravel [Y.: “or untie”] or cut them. And in the case of those on utensils on the Sabbath it is permitted, and, it goes without saying, on the festival [T. Y.T. 3:12]. [Why, then, may they not loosen or even touch a press of laundrymen?] That is to say that they have treated the press as equivalent to the ground [and one would appear to be building it]. Said R. Yosé, “The Mishnah has made that point: A press of laundry men one should not touch [at all] [M. 20:5G].”

CXXIII. YERUSHALMI SHABBAT 21:1

[A] A MAN TAKES UP HIS CHILD, WITH A STONE IN [THE CHILD’S] HAND, OR A BASKET WITH A STONE IN IT AND THEY HANDLE CLEAN HEAVE OFFERING ALONG WITH UNCLEAN HEAVE OFFERING OR WITH UNCONSECRATED FOOD. R. JUDAH SAYS, “ALSO: THEY TAKE OUT THE ONE PART OF HEAVE OFFERING THAT HAS FALLEN INTO A HUNDRED PARTS OF UNCONSECRATED FOOD.”

CXXIV. YERUSHALMI SHABBAT 21:2

[A] A STONE WHICH IS OVER THE MOUTH OF A JAR — ONE TILTS [THE JAR] ON ITS SIDE AND [THE STONE] FALLS OFF. [IF] IT [THE JAR] WAS AMONG [OTHER] JARS, ONE LIFTS IT [THE JAR] UP AND [THEN] TURNS IT ON ITS SIDE, SO THAT IT [THE COIN] FALLS OFF. COINS WHICH ARE ON A PILLOW — ONE SHAKES THE PILLOW, AND THEY FALL OFF. M THERE WAS A SPOT ON IT, ONE WIPES IT OFF WITH A RAG. [IF] IT WAS OF LEATHER, THEY POUR WATER ON IT UNTIL IT DISAPPEARS.

CXXV. YERUSHALMI SHABBAT 21:3

[A] THE HOUSE OF SHAMMAI SAY, “THEY TAKE UP BONES AND SHELLS FROM THE TABLE.” AND THE HOUSE OF HILLEL SAY, “ONE REMOVES THE ENTIRE TABLE AND SHAKES IT OUT.” [PALESTINIAN TEXTS MAKE A THE VIEW OF THE HOUSE OF HILLEL, AND B THE VIEW OF THE HOUSE OF SHAMMAI.] THEY REMOVE FROM THE TABLE CRUMBS LESS THAN AN OLIVE’S BULK IN SIZE, PODS OF CHICK-PEAS, AND PODS OF LENTILS, BECAUSE IT IS FOOD FOR A BEAST. A SPONGE, IF IT HAS A HANDLE — THEY WIPE WITH IT. AND IF NOT, THEY DO NOT WIPE WITH IT. AND SAGES SAY, “ONE WAY OR THE OTHER, IT IS HANDLED ON THE SABBATH. [SOME TEXTS ADD:] “AND IT DOES NOT RECEIVE UNCLEANNESS.”

CXXVI. YERUSHALMI SHABBAT 22:1

[A] A JAR WHICH BROKE [ON THE SABBATH] — THEY SAVE FROM IT[S WINE] ENOUGH SUSTENANCE FOR THREE MEALS. AND ONE SAYS TO OTHERS, “COME ALONG AND SAVE SOME FOR YOUR SELF” — ON CONDITION THAT ONE NOT SPONGE IT UP. THEY DO NOT SQUEEZE PIECES OF FRUIT TO GET OUT THE JUICE. AND IF THE JUICE CAME OUT ON ITS OWN, IT IS PROHIBITED [FOR USE ON THE SABBATH]. R. JUDAH SAYS, “IF [THE PRODUCE WAS INTENDED] FOR FOOD, WHAT EXUDES FROM IT IS PERMITTED. “AND IF [THE PRODUCE WAS INTENDED] FOR DRINK, WHAT EXUDES FROM IT IS PROHIBITED.” HONEYCOMBS WHICH ONE BROKE ON THE EVE OF THE SABBATH AND [THEIR LIQUIDS] EXUDED ON THEIR OWN — THEY ARE PROHIBITED. AND R. ELEAZAR PERMITS [USE OF THE HONEY ON THE SABBATH].

CXXVII. YERUSHALMI SHABBAT 22:2

[A] WHATEVER IS PUT INTO HOT WATER ON THE EVE OF THE SABBATH — THEY SOAK IT [AGAIN] IN HOT WATER ON THE SABBATH. AND WHATEVER IS NOT PUT INTO HOT WATER ON THE EVE OF THE SABBATH — THEY [ONLY] RINSE IT IN HOT WATER ON THE SABBATH, EXCEPT FOR PICKLED FISH, SMALL SALTED FISH, AND SPANISH TUNA FISH, FOR RINSING THEM IS THE COMPLETION OF THEIR PREPARATION [FOR EATING].

CXXVIII. YERUSHALMI SHABBAT 22:3

[A] A PERSON BREAKS A JAR TO EAT DRIED FIGS FROM IT, ON CONDITION THAT HE NOT INTEND [IN OPENING THE JAR] TO MAKE IT INTO A UTENSIL. “BUT THEY DO NOT PIERCE THE PLUG OF A JAR, “ THE WORDS OF R. JUDAH. AND SAGES [MSS: “R. YOSÉ”] PERMIT IT. AND THEY DO NOT PIERCE IT ON THE SIDE. AND IF IT WAS PIERCED, ONE SHOULD NOT PUT WAX ON IT. BECAUSE HE WOULD [HAVE TO] SPREAD IT OVER [WHICH IS A PROHIBITED ACT]. SAID R. JUDAH, “A CASE CAME BEFORE RABBAN YOHANAN BEN ZAKKAI IN ARAB, AND HE SAID, ‘I FEAR ON HIS ACCOUNT THAT HE SHOULD BRING A SIN OFFERING [FOR VIOLATING THE SABBATH].”

CXXIX. YERUSHALMI SHABBAT 22:4

[A] **THEY PUT A COOKED DISH IN A CISTERN SO THAT IT MAY BE PRESERVED, AND [A VESSEL CONTAINING] FRESH WATER INTO FOUL WATER TO KEEP IT COOL, AND COLD WATER INTO THE SUN TO WARM IT UP. HE WHOSE CLOTHING FELL INTO WATER ON THE WAY GOES ALONG IN THEM AND DOES NOT SCRUPLE. [WHEN] HE REACHES THE OUTER COURTYARD, HE SPREADS THEM OUT IN THE SUN. BUT [THIS HE DOES NOT DO] IN FRONT OF PEOPLE.**

CXXX. YERUSHALMI SHABBAT 22:5

[A] **HE WHO BATHES IN CAVE WATER OR IN THE WATER OF TIBERIAS AND DRIED HIMSELF, EVEN WITH TEN TOWELS, MAY NOT THEN CARRY THEM IN HIS HAND. BUT TEN MEN DRY THEIR FACES, HANDS, AND FEET WITH A SINGLE TOWEL AND BRING IT ALONG IN THEIR HAND.**

CXXXI. YERUSHALMI SHABBAT 22:6

[A] **THEY ANOINT AND MASSAGE [THE STOMACH]. BUT THEY DO NOT HAVE IT KNEADED OR SCRAPED. THEY DO NOT GO DOWN TO A MUDDY WRESTLING GROUND. AND THEY DO NOT INDUCE VOMITING [ON THE SABBATH]. AND THEY DO NOT STRAIGHTEN [THE LIMB OF] A CHILD OR SET A BROKEN LIMB. HE WHOSE HAND OR FOOT WAS DISLOCATED SHOULD NOT POUR COLD WATER OVER THEM. BUT HE WASHES IN THE USUAL WAY. AND IF HE IS HEALED, HE IS HEALED.**

CXXXII. YERUSHALMI SHABBAT 23:1

[A] **A MAN [ON THE SABBATH] ASKS FOR JUGS OF WINE OR OIL FROM HIS FELLOW, PROVIDED THAT HE DOES NOT SAY TO HIM, "LEND [THEM] TO ME." AND SO A WOMAN [BORROWS] LOAVES OF BREAD FROM HER NEIGHBOR. AND IF ONE DOES NOT TRUST THE OTHER, HE LEAVES HIS CLOAK WITH HIM AND SETTLES WITH HIM AFTER THE SABBATH. AND SO IS THE CASE ON THE EVE OF PASSOVER IN JERUSALEM WHEN THAT DAY COINCIDES WITH THE SABBATH: ONE LEAVES HIS CLOAK WITH HIM AND TAKES HIS PASSOVER LAMB AND SETTLES WITH HIM AFTER THE FESTIVAL.**

CXXXIII. YERUSHALMI SHABBAT 23:2

[A] A MAN MAY COUNT THE NUMBER OF HIS GUESTS AND THE SAVORY PORTIONS ORALLY, BUT NOT BY WHAT IS WRITTEN DOWN. AND HE CASTS LOTS WITH HIS CHILDREN AND THE MEMBERS OF HIS HOUSEHOLD AT THE TABLE [TO DECIDE WHO GETS WHICH PORTION], ON CONDITION THAT HE NOT INTEND TO OFFSET A LARGER PORTION, AGAINST A SMALL ONE, BECAUSE OF [THE PROHIBITION OF PLAYING WITH] DICE [ON THE SABBATH]. AND THEY CAST LOTS ON A FESTIVAL DAY FOR [WHICH PRIEST GETS WHICH PART OF] HOLY THINGS, BUT NOT FOR THE PORTIONS.

CXXXIV. YERUSHALMI SHABBAT 23:3

[A] A MAN SHOULD NOT HIRE WORKERS ON THE SABBATH. AND A MAN SHOULD NOT SAY TO HIS FELLOW TO HIRE WORKERS FOR HIM. THEY DO NOT WAIT AT TWILIGHT AT THE SABBATH LIMIT TO HIRE WORKERS, OR TO BRING IN PRODUCE. BUT ONE MAY WAIT AT THE SABBATH LIMIT AT TWILIGHT TO GUARD [PRODUCE, AND AFTER NIGHTFALL] HE BRINGS BACK THE PRODUCE IN HIS HAND. A GOVERNING PRINCIPLE DID ABBA SAUL STATE, “WHATEVER I HAVE THE RIGHT TO SAY [TO ANOTHER PERSON TO DO], ON THAT ACCOUNT I HAVE THE RIGHT TO WAIT AT TWILIGHT AT THE SABBATH LIMIT.”

CXXXV. YERUSHALMI SHABBAT 23:4

[A] THEY WAIT AT THE SABBATH LIMIT AT TWILIGHT TO ATTEND TO THE BUSINESS OF A BRIDE, AND THE AFFAIRS OF A CORPSE. TO BRING IT A COFFIN AND WRAPPINGS. A GENTILE WHO BROUGHT WAILING PIPES ON THE SABBATH – AN ISRAELITE SHOULD NOT MAKE A LAMENT WITH THEM, UNLESS THEY CAME FROM A NEARBY PLACE. [IF] THEY MADE FOR HIM [A GENTILE] A COFFIN AND DUG A GRAVE FOR HIM, AN ISRAELITE MAY BE BURIED THEREIN. BUT IF THIS WAS DONE FOR AN ISRAELITE, HE MAY NOT EVER BE BURIED THEREIN.

CXXXVI. YERUSHALMI SHABBAT 23:5

[A] THEY PREPARE ALL THAT IS NEEDED FOR A CORPSE. THEY ANOINT AND RINSE IT, ON CONDITION THAT THEY NOT MOVE ANY LIMB OF A CORPSE. THEY REMOVE THE MATTRESS FROM UNDER IT. AND THEY PUT IT ON [COOL] SAND SO THAT IT WILL KEEP. THEY TIE THE CHIN, NOT SO THAT IT WILL GO UP, BUT SO THAT IT WILL NOT DROOP [FURTHER]. AND SO IN THE CASE OF A BEAM WHICH BROKE – THEY SUPPORT IT WITH A BENCH OR THE BEAMS OF A BED, NOT SO THAT IT

WILL GO UP, BUT SO THAT IT WILL NOT DROOP FURTHER. THEY DO NOT CLOSE THE EYES OF A CORPSE ON THE SABBATH, NOR ON AN ORDINARY DAY AT THE MOMENT THE SOUL GOES FORTH. AND HE WHO CLOSES THE EYES OF A CORPSE AT THE MOMENT THE SOUL GOES FORTH, LO, THIS ONE SHEDS BLOOD.

CXXXVII. YERUSHALMI SHABBAT 24:1

[A] HE WHO WAS OVERTAKEN BY DARKNESS ON THE ROAD GIVES HIS PURSE TO A GENTILE. IF THERE IS NO GENTILE WITH HIM, HE LEAVES IT ON AN ASS. [WHEN] HE REACHES THE OUTERMOST COURTYARD [OF A TOWN], HE REMOVES [FROM THE ASS] THOSE UTENSILS WHICH MAY BE HANDLED ON THE SABBATH. AND [AS TO] THOSE [UTENSILS] WHICH ARE NOT TO BE HANDLED ON THE SABBATH, HE UNLOOSENS THE ROPES, AND THE BUNDLES FALL BY THEMSELVES.

CXXXVIII. YERUSHALMI SHABBAT 24:2

[A] THEY LOOSEN BUNDLES OF HAY IN FRONT OF CATTLE, AND THEY SPREAD OUT BUNCHES, BUT NOT SMALL BUNDLES. AND THEY DO NOT CHOP UP UNRIPE STALKS OF CORN OR CAROBS BEFORE CATTLE, WHETHER LARGE OR SMALL [BEASTS], R. JUDAH PERMITS IN THE CASE OF CAROBS FOR SMALL BEASTS.

CXXXIX. YERUSHALMI SHABBAT 24:3

[A] THEY DO NOT STUFF FOOD INTO A CAMEL OR CRAM IT [INTO ITS MOUTH]. BUT THEY PUT FOOD INTO ITS MOUTH. AND THEY DO NOT FATTEN CALVES [WITH FOOD AGAINST THEIR WILL], BUT THEY PUT FOOD INTO THEIR MOUTHS [IN THE NORMAL WAY]. AND THEY FORCE FEED CHICKENS. THEY PUT WATER INTO THE BRAN, BUT THEY DO NOT KNEAD IT. AND THEY DO NOT PUT WATER BEFORE BEES OR DOVES WHICH ARE IN DOVECOTES. BUT THEY DO PUT IT BEFORE GEESE, CHICKENS, AND HERODIAN DOVES.

CXL. YERUSHALMI SHABBAT 24:4

[A] THEY CUT UP GOURDS BEFORE CATTLE, AND CARRION MEAT BEFORE DOGS. R. JUDAH SAYS, "IF THERE IT WAS NOT CARRION ON THE EVE OF THE SABBATH, IT IS PROHIBITED, "BECAUSE IT IS NOT SOMETHING WHICH HAS BEEN MADE READY [BEFORE THE SABBATH FOR USE ON THE SABBATH]."

CXLI. YERUSHALMI SHABBAT 24:5

[A] THEY ABROGATE VOWS ON THE SABBATH. AND THEY RECEIVE QUESTIONS [TO ABSOLVE] VOWS [WHICH INVOLVE MATTERS] WHICH ARE REQUIRED FOR THE SABBATH. THEY STOP UP A LIGHT HOLE. AND THEY MEASURE A PIECE OF STUFF AND AN IMMERSION POOL. THERE WAS THIS CASE. IN THE TIME OF THE FATHER OF R. SADOQ AND OF ABBA SAUL B. BOTNIT, THEY STOPPED UP THE LIGHT HOLE WITH A PITCHER AND TIED A POT WITH REED GRASS [TO A STICK] TO KNOW WHETHER OR NOT THERE WAS IN THE ROOFING AN OPENING OF A HANDBREADTH SQUARE. “AND FROM THEIR DEED WE LEARNED THAT THEY STOP UP, MEASURE, AND TIE UP ON THE SABBATH.”

TRACTATE

‘ERUBIN

The given of the halakhah of ‘*Erubin* (commingling rites) is that people are to stay in their place on the Sabbath day. That means each person has a place, defined as four cubits (enough for a burial plot), and, further, that he may move from that place for the distance of two thousand cubits in any direction. Accordingly, the halakhah set forth principally by tractate ‘*Erubin* focuses on the verses that link the act of eating with the locus of residence: “See! The Lord has given you the sabbath, therefore on the sixth day he gives you bread for two days; remain every man of you in his place, let no man go out of his place on the seventh day. So the people rested on the seventh day” (Exod 16:29–30 RSV). The juxtaposition of a double-supply of bread for Friday and Saturday and remaining in place leaves no doubt that (1) one stays home, on the one hand, and that (2) home is where one eats, on the other.

The halakhah formulates matters at two levels; on the surface it attends to minutia of carrying from one domain to the other (*Shabbat*) and to the detailed, richly instantiated definition of private domain (‘*Erubin*). But at the heart of these matters, profound reflection on the meaning of what is private and what is shared takes place. The tractate therefore addresses in detail the problem of how Israelites on the Sabbath can move about from one private domain to another, arranging matters so that shared and common ownership of private domain secures for all parties the right to carry in the space held in common. Since where one eats, there one resides, one answer provided is to prepare a symbolic, or fictive, meal, the right to which is shared by all. By this meal all householders commingle their property rights, and thus form of various private domains a single common estate. Another answer provided is to establish a boundary around the entire set of private domains, one that like a wall forms of them all a single property. The medium of commingling by which the one or the other procedure is carried out is called an ‘*erub*, which refers either to the symbolic, shared meal or to the equally fictive demarcation line, as the case requires.

- I. The delineation of a limited domain
 - A. Forming an alley-way into a single domain
 - B. Forming an area occupied by a caravan into a single domain for the

Sabbath

C. A well in public domain

II. The 'Erub and the Sabbath-limit of a town

A. The 'Erub: a symbolic meal for establishing joint ownership of a courtyard or for establishing symbolic residence for purposes of travel on the Sabbath

B. The 'Erub and violating the Sabbath-limit

C. Defining the Sabbath-limit of a town

III. The 'Erub and commingling ownership of a courtyard or an alleyway

A. The 'Erub and the courtyard

B. Areas that may be deemed either distinct from one another or as a commingled domain so that the residents have the choice of preparing a joint 'Erub or two separate ones

C. The *shittuf* and the alleyway

D. Neglecting the 'Erub for a courtyard

E. An 'Erub for more than one courtyard

F. The 'Erub and the area of roofs

IV. Public domain in general

YERUSHALMI ERUBIN

CHAPTER ONE

1:1

[A] [The crossbeam above] an alley entry which is higher than twenty cubits one should diminish [making it lower].

[B] R. Judah says, “It is not necessary.”

[C] And [the alley entry] of a breadth [wider] than ten cubits one should diminish [making it narrower].

[D] If it has the shape of a doorway,

[E] even though it is wider than ten cubits,

[F] it is not necessary to diminish [it, making it narrower].

[I:1 A] [The following discussion serves Y. Suk. 1:1A: **A sukkah which is taller than twenty cubits is invalid. R. Judah declares it valid**, and also M. 1:1A-B. Judah holds that what we have is valid to serve as a doorway and so symbolically to link the dwellings within into a single domain for purposes of carrying on the Sabbath.] R. Yosé stated what follows without specifying the name of an authority; R. Aha [presents it] in the name of Rab: “*Rabbis [derive the requisite dimensions from the analogy of the doorway of the Temple building, and R. Judah, from the measurements of the porch [ulam leading to the interior of the Temple].*”

[B] If the measurement derives from the doorway of the porch, then it should be sufficient if it is forty cubits high.

[C] *For we have learned there: The entrance to the porch was forty cubits high, and its breadth was twenty cubits [M. Mid. 3:7A].*

[D] *R. Hiyya taught:* [In Judah’s view it is valid] even if it is forty or fifty cubits high.

[E] *Bar Qappara taught:* [It is valid] even if it is a hundred cubits high [in Judah’s view].

- [F] *Said R. Abin, “R. Judah is consistent with his views held elsewhere, and the same is so for rabbis.*
- [G] *“For we have learned there: ‘And so with viaducts: they may move objects underneath them from place to place on the Sabbath,’ the words of R. Judah. And sages prohibit [doing so] [M. Er. 9:4].*
- [H] *“Just as, in that instance, you regard the projecting cornice as if it descends and closes off [the area beneath, so forming an area in which it is permitted to carry], so here, you regard the roof [of the sukkah] as if it descends and closes off [the area beneath, so forming the sheltered area of the sukkah].*
- [I] *“Accordingly, that of R. Judah with respect to the sukkah is the same as his view with regard to the alleyway. The view of rabbis with regard to the sukkah is the same as their view with regard to the alleyway.”*
- [J] *[Surely that cannot be the case, for] the two are not wholly parallel to one another.*
- [K] There are items that are valid in a *sukkah* but invalid in the designation of an alleyway [through provision of a symbolic gate], and there are items that are valid in the designation of an alleyway but invalid in a *sukkah*.
- [L] The use of pronged poles is valid in a *sukkah* but invalid in designating an alleyway.
- [M] *And so it has been taught:* If one brought four poles [and stuck them in the ground] and spread roofing over them, in the case of a *sukkah* it is valid. In the case of setting up a symbolic gate for an alleyway, it is not valid. [In the latter case the poles are stuck outside of the gateway itself and hence do not serve, even with a pole placed on top of them, to form a symbolic gateway.]
- [N] [With respect to the invalidity of such an arrangement in the case of the gateway to an alley,] *that which you have said applies to those three handbreadths or more higher than the walls of the alleyway. But if they are not three handbreadths or higher than the walls of the alleyway, such an arrangement is valid.*
- [O] [With respect to the invalidity of such an arrangement when the prongs are three handbreadths or more higher than the walls of the alleyway,] *that is so when the prongs are not four*

handbreadths apart [in breadth, the alleyway is less than the stated *measure*]. But if it is four handbreadths in breadth, even if the prongs are somewhat higher, the arrangement is valid.

[P] [Reverting to the argument of J-K: There are arrangements of] board-partitions valid in the case of a *sukkah*, but invalid in the case of designating the symbolic gate for an alleyway.

[Q] *And so it has been taught:* If two of the walls are full, and one is even merely a handbreadth wide, the *sukkah* is valid. [In the case of the alleyway, by contrast, there must be three valid sides – the two sides and the top.]

[R] R. Hiyya in the name of R. Yohanan: “Two must be four-by-four handbreadths, but the third may be *even a single* handbreadth, and such an arrangement is valid.”

[S] In the case of an alleyway, by contrast, it is valid only if it is closed in on four sides.

[T] [Again reverting to J-K:] If the contained area is ten cubits broad, in the case of a *sukkah* it is valid, and in the case of an alleyway it is invalid.

[U] [As to what is valid for an alleyway and invalid for a *sukkah*:] If one trained over the top a vine or a gourd, [in a *sukkah* it is invalid as roofing, but in an alleyway it does not invalidate the upper beam].

[V] [In declaring such an arrangement valid in the case of an alleyway,] *that which you have said applies to* an area that takes two *seahs* of seed. But if the enclosed area is greater than that, it is like an enclosed area surrounded by plants, in which case one may carry only to the extent of four cubits.

[W] **If the light is greater than the shade [created by the roofing [M. Suk. 1:1E],** in the case of a *sukkah* it is invalid, and in the case of an alleyway, it is valid.

[X] A *sukkah* that is roofed over is invalid, but an alley entry that is roofed over remains valid.

[Y] R. Ammi in the name of R. Hoshai: “It is not the end of the matter that it be wholly roofed over. But if one merely placed a cornice four cubits wide, [it is deemed to serve as a partition, so] the reason explained at G-H,] and so it permits [carrying] in the entire alleyway [as if it formed a partition].”

[I:2 A] R. Aha, R. Hinena in the name of Kahana: “The law does not accord with R. Judah.”

[B] *But if that is not the case, then shall we have to say that where there is a dispute between R. Judah and sages, the law accords with R. Judah? [Surely not! That contradicts all established facts as to the designation of the law. Why make such a declaration?]*

[C] [This is why A is necessary.] Since R. Jacob bar Idi said in the name of R. Joshua b. Levi, “In matters of the law of Erubin, the law accords with the opinion of him who gives the more lenient ruling,” and [illustrating that fact,] R. Isaac bar Nahman] said in the name of R. Joshua b. Levi, “The law follows the view of R. Yohanan b. Nuri,”

[D] *and [in that regard] we raised this objection,* “Did not R. Jacob bar Idi say in the name of R. Joshua b. Levi, ‘In matters of the law of Erubin, the law accords with the opinion of him who gives the more lenient ruling,’ [did not R. Isaac bar Nahman say in the name of R. Joshua b. Levi, ‘The law follows the *view* of R. Yohanan b. Nuri,’

[E] *“and we then raised this question in that regard: We proposed to say,* ‘Where there is a disagreement between two individuals [that may well be the case], but where there is a disagreement between an individual and the collectivity of the sages, that is not the *case*,’

[F] “[that is why we need to learn what] R. Jacob bar Aha, R. Jacob bar Idi in the name of R. Joshua b. Levi taught: ‘The law accords with R. Yohanan b. Nuri, even where sages differ from him,’

[G] “accordingly, here, the law should follow the opinion of R. Judah, and even though there is the collectivity of sages who disagree with him.” [So it is necessary to make explicit the final decision.]

[H] Samuel said, “In matters of the law of Erubin, the law accords with the opinion of him who gives the more lenient ruling.”

[I] *Said to him R. Hiyya bar Ashi, “For example, that which we have learned there: ‘**And so with viaducts: they may move objects underneath them from place to place on the Sabbath,**’ the words of R. Judah. And sages prohibit [doing so] [M. 9:4]? [Does the law follow Judah here?]”*

[J] [Samuel] said to him, “I did not say [that that is the case for] Erubin but rather the issue of partitions [That is another matter entirely.]”

[K] *Kahana concurred with this view of Samuel’s, and, accordingly, he maintained that it is necessary to state [in that instance], “The law does not accord with R. Judah.” [And that covers M. 1:1 as well, since here we deal with a question of the correct construction of partitions, not with the matter of the effect of the meal of commingling, that is, Erubin in the narrowest sense.]*

- [I:3 A] The Mishnah [at M. 1:1A] states only, **higher than twenty cubits**. Lo, up to twenty cubits [in height], [the symbolic gateway formed by the crossbeam] remains valid.
- [B] *The formulation of the Mishnah accords with the view of Rab, for Rab said, “The purpose of specifying exact measurements is to impose a lenient ruling. [In cases of measurements, one is lenient. As at A, one may go right up to the full extent of the specified measurement.]”*
- [C] R. Yohanan said, “The purpose of specifying exact measurement is to impose a strict ruling.”
- [D] R. Hiyya in the name of R. Yohanan: “In the case of a crossbeam above an alleyway which is located above twenty cubits [from the ground], one sets a crossbeam within the space twenty cubits from the ground, and so diminishes the distance to within twenty cubits of the ground.”
- [E] [In this regard] R. Yosé said, “And that is the case if the entire construction providing the crossbeam lies within twenty cubits of the ground [and not only part of it]. [The beam has to be level with the ground, not at an angle, for this corrective procedure to be valid.]” [This illustrates C’s strict ruling.]

[F] *R. Hilqiah said in the name of R. Aha, “But that qualification accords even with the principle of Rab [and there is nothing excessively strict about it,] for Rab said, ‘An act of slaughter completed halfway across the gullet is valid.’ [Hence we treat half of a requisite measure as equivalent to the whole of it,] and why has he held that it is invalid? It is only for appearance’s sake. [The same consideration pertains here. That is, if only half of the corrective beam lies within twenty cubits of the ground, the arrangement has technically been validated. Nonetheless, Rab concurs that the whole of it should lie within twenty cubits of the ground. And] why here has he held that it is invalid? It again is on account of appearance’s sake. For if you should rule that he should put the new crossbeam [merely] within [the space twenty cubits from the ground, but not necessarily placing the whole crossbeam within the required space], then he will turn out to place the whole of it above the space twenty cubits from the ground.”*

[I:4 A] One should diminish [the height of the crossbeam. making it lower] [M. 1:1A]:

[B] How does one diminish the height of the crossbeam? One makes an attachment at the gate of the alleyway and thereby permits [carrying in the alleyway on the Sabbath] [cf. T. Er. 1:1D-E].

[C] How broad should this attachment be [within the alleyway]?

[D] R. Aha in the name of R. Hoshaiyah: “Four handbreadths, the breadth of a space [worthy of consideration].”

[E] R. Yosé says, “A handbreadth, the breadth of the beam.”

[F] The associates say, “Any breadth at all, for in this case there will no longer be a crossbeam set at the excessive] height of twenty cubits and a breadth of a handbreadth [for the crossbeam will have been diminished].”

[G] If the crossbeam was not ten cubits high, one has to hollow out [the ground, to increase the height of the crossbeam, assuming it cannot be raised].

[H] How much must one hollow out [underneath the cross beams, to raise it to a requisite height]?

[I] R. Aha said, “Four cubits, sufficient to form a valid alley entry.”

[J] R. Yosé said, “Four handbreadths, sufficient to form a space [worthy of consideration].”

[K] R. Jacob bar Aha, R. Yosé in the name of R. Yohanan: “One may dig a ditch at the entrance [18c] of the alleyway, ten handbreadths deep and four broad, and in this way he will render it permitted [to carry in the alleyway], whether at the inside or at the outside.”

[L] But that is the case on condition that the ditch be located within three handbreadths of the walls of the alleyway.

[M] **[Referring to T. Er. 1:6: With a projection from one wall and a projection from the other, if the two projections are three handbreadths, or more apart, the alley entry requires another crossbeam; Rabban Simeon b. Gamaliel says, “Four,” we now observe:]** *Even in accord with him who said there “four,” in the present case he will concur that three constitute the limit here. Why? There we deal with the space outside of the alley entry itself, while here we deal with the space within the alley entry.*

[N] If one built a fence at the gateway of an alleyway, ten handbreadths high and four broad, it serves to permit [carrying in the alleyway], whether on the side or at the outside [parallel to the effect of a ditch].

[O] If there was a fence [mound] there [formed, for instance, by a pile of stones], if in the aggregate the pile forms a partition ten handbreadths high within a space of three cubits, the alley entry nonetheless requires a crossbeam, but if not, it does not require one.

[P] *There is a Tannaite authority who formulates the rule with the measurement of four [rather than three, as at N].*

[Q] *Who is the one who has held that it must be [of the stated height] within three? It is rabbis. Who held that it must be within four? It is R. Meir [who imposes the more lenient ruling, and allows the pile of stones to serve if it forms the requisite partition within a space even of four cubits].*

[R] If there was a declivity in the middle of the alley, for those who dwell at the top of the alley and inward] it is regarded as a ditch, and for those who dwell at the bottom of the alley [and outward] it is regarded as equivalent to a fence [so its serves the needs of all the alley dwellers].

- [II:1 A] **And the alley entry of a breadth wider than ten cubits should one diminish, making it narrower [M. 1:1C]:**
- [B] **How does one diminish its breadth? One sets up a beam at the gate of the alleyway and so permits [carrying in] the alleyway [cf. T. Er. 1].**
- [II:2 A] **[And if it has the shape of a doorway (M. 1:1D):] *This statement refers to the breadth [not the height] of the doorway.***
- [B] *And the rabbis treat [a gateway with the shape of a doorway such that] even if in height [it exceeds the specified limits, it is not necessary to diminish the height of the gateway. The shape, as measured by the breadth, is decisive.]*
- [C] But is such a doorway not equivalent to a breach through the full dimensions of the doorway? [How can it be treated as a doorway, if it is too high? Is it not merely a hole in the wall?]
- [D] It is treated as a portico [in which the presence of pillars is deemed to define the contained space].
- [E] Rabbi permitted carrying in] a portico [defined by pillars] in Bet She'arim.
- [F] How many pillars were there?
- [G] R. Jacob bar Aha said, "R. Hiyya [and] R. Yosé – one said, 'Six,' and the other said, 'Eight.'"
- [H] *Said R. Jacob bar Aha, "Now there was no dispute between them. The one who said six does not take account of the two outside ones, and the one who said eight takes into account those two outside pillars."*
- [I] R. Jacob bar Aha in the name of R. Eleazar: "Whether there are six or eight is not the ultimate issue. The main thing is this: If many people cross through the area, even if there are two [pillars marking the entry], the area will be forbidden [for carrying on the Sabbath, since we have nothing other than a breach in a wall, not a defined entry way], and if only a few people cross through the area, then even any small number [of pillars] will result in the area's being permissible for carrying on the Sabbath."
- [J] *In any event that is how the case was [that is, there were eight pillars in the portico permitted by Rabbi, but the law does not depend on the number of pillars].*

- [K] And a portico that was open through its entire side to public domain –
- [L] *R. La [said that] Rab and R. Yohanan both say, “People may carry throughout the whole of the portico, [which is treated as enclosed space].”*
- [M] Samuel said, “People may carry only for four cubits [so the area is treated as tantamount merely to public domain].”
- [N] Said R. Yosé, “But does Samuel not concur in the case of an alleyway which is roofed over at a height of more than twenty cubits, that it is valid [for carrying on the Sabbath]? [Surely the presence of the roof unites the area into a single domain.] *But does Samuel hold that whatever serves to make the alleyway suitable for carrying on the Sabbath, e.g., the provision of a crossbeam, must be set within twenty cubits on the ground? [Then Samuel imposes a very strict rule on even a roofed-over portico!]*”
- [O] [Concurring in this critical view,] R. Aha, R. Hinena in the name of R. Hoshaiiah: “And that is the case when whatever serves to make the alleyway suitable for carrying on the Sabbath, e.g., the provision of a crossbeam, is set within twenty cubits of the ground.”
- [P] [Explaining this line of argument,] said R. Yosé, “And even if Samuel should maintain that, in the case of an alleyway which is roofed over at a height greater than twenty cubits, the alleyway is suitable for carrying, still, the case of an alleyway is not comparable to that of a portico at all [so Samuel may well have a separate opinion for the latter]. The alleyway is made for the use of the houses that front on it, while the portico is made only for its airspace [following].
- [Q] “If there is the case of an alleyway which is not roofed over, if one put an appropriate crossbeam at the entry way within twenty cubits of the ground, would it not be valid [for carrying objects on the Sabbath]? [Of course it would be a suitable area for carrying objects on the Sabbath.] But in the case of a portico which is not roofed over, if one put a crossbeam within twenty cubits of the ground at the entry way, would that make any difference at all?”

[Certainly not! That is why Samuel imposes the strict rule we have reviewed above.]”

- [II:3 A] If the alley entry was fifteen cubits wide, R. Ba and R. Huna in the name of Rab: “One sets up a board three cubits and a bit more wide, and places it two cubits away from the wall [and this fills the excess area]. That board and the slight additional amount are regarded as a sidewall [of an entry way]. And this is so on condition that the standing side beam is larger than the empty space [between it and the wall].
- [B] But why not make the board four handbreadths broad? *For has it not been taught: In the case of an alleyway wider than ten cubits, one sets up a board in the middle [which is four cubits broad], [and puts a beam across one of the sides and that suffices (T. Er. 1:3B)]?* [Why does Rab not propose the remedy supplied by Tosefta here?]
- [C] Said R. Ba bar Pappi, “It is so as to permit carrying on both sides of the beam without setting up a crossbeam, [and this is accomplished by the procedure of A].”
- [D] *There is a Tannaite authority who teaches* [at B], “One sets up a reed or a pronged spear.”
- [E] *There is a Tannaite authority who teaches*, “One sets up a board four handbreadths broad.”
- [F] Said R. Yosé, “The law accords with the one who says, ‘One sets up a board four handbreadths broad.’”
- [G] *It has been taught:* Rabban Simeon b. Gamaliel says, “As to an alleyway with two openings, one sets a crossbeam at one end, and that serves to permit [carrying in the entire alleyway].”
- [H] R. Aha in the name of R. Levi, “The law does not accord with the view of Rabban Simeon b. Gamaliel.”
- [I] Said R. Ba, “But that is the case if one utilized a reed or a pronged pole. But if one set up a board four cubits broad [as the marker of the alley’s entry], then the law accords with the view of Rabban Simeon b. Gamaliel.”
- [J] *And so too it has been taught:* In the case of an alleyway that of them, and that serves to permit [carrying throughout the alleyway on the Sabbath].

[K] Said R. Yosé, “And that is the rule if one put the beam at the middle [of the gateways] But if he put it at the outermost gateway [it will not serve to permit carrying throughout the alleyway].”

[L] [There is no problem in understanding how the marked-off gateway serves to permit carrying so far as the breach in the alleyway nearest to the gateway is concerned.]

[M] But what serves to permit in the case of the breach in the alleyway that is further away?

[N] Said R. Shimi, “Interpret the passage in accord with the view of Rabban Simeon b. Gamaliel [who permits carrying in an alleyway, if one has formed a symbolic gateway anywhere among the entries to the alleyway]. *Then you may not infer anything further from the cited law.*”

- [II:4 A]** An alleyway which is bent and open at both ends [so that there is an L-shaped alleyway, open to the street at each end of the L] –
- [B] R. Yohanan said, “One puts a side bar and a crossbeam at one end [thus forming a valid gateway at one open end of the alleyway], and prepares something like the shape of a doorway at the other end as well [so that each stick of the L is served by a gateway]. [This has the effect of treating each stick of the L as a separate domain.]”
- [C] R. Simeon b. Laqish said, “One sets up either a side post or a crossbeam [so forming a gateway], and that serves to permit [carrying on the Sabbath throughout the alleyway].” [At the corner of the L, however, no arrangement is required.]
- [D] *In the view of R. Simeon b. Laqish*, they sought to provide a remedy for themselves [that is, the dwellers in the two wings of the alleyway, in this wise:] these make use of the area up to the wall [marking off the end of one wing of the alleyway], and those make use of the area marked off by the other wall [at the end of their wing of the alleyway]. [This, however, leaves subject to the use of dwellers in each wing that shared area in the corner of the L, and leads to the following question:]
- [E] But does it not turn out that there are dwellers of two distinct domains making use of a single domain? [Surely that is an anomaly.]
- [F] Rather, these use of the point at which the alleyway twists, and those do the same.

- [G] But here too do we not turn out to have dwellers in two distinct domains each making use of an area in fact prohibited to them?
- [H] As to Rab and Samuel, Rab concurs with the view of R. Yohanan, and Samuel with that of R. Simeon b. Laqish.
- [I] *R. Yohanan and R. Simeon b. Laqish were living in the alleyway in which R. Isaac lived [which was bent, as above, A]. R. Simeon b. Laqish carried in the alleyway, in accord with his view of the law of the matter. R. Yohanan did not prohibit carrying there, but he also did not carry there. [Explaining his position,] said R. Yohanan, “Let the people who live in this alleyway transgress in ignorance of the law and not transgress deliberately.”*
- [J] Did he carry or did he not carry [objects in the alleyway]?
- [K] If you say that he did carry [objects about in the courtyard], then the opinions attributed to R. Yohanan are at variance with one another, and if you maintain that he did not carry objects in the alleyway, then he should also have imposed a prohibition on the people who lived in the alleyway [preventing them from carrying objects about in the alleyway]!
- [L] R. Yohanan treated his domain as null.
- [M] Said R. Aha, “R. Simeon b. Laqish persuaded R. Yohanan [of the rightness of the former’s position, so that the latter] did go and transport objects in the alleyway.”
- [N] Said R. Mattenaiah, “And that is just as well. [Had he not actually carried objects in the alleyway, he would not have been able to serve the residents of the alleyway merely by refraining from issuing a prohibition against their action.] *For in the pertinent case [M. 6: 2], what is the reason for the view of R. Meir?* They have treated [the offender who did not participate in the meal of commingling for the courtyard and so prevented other dwellers from using it] as one who has violated the law inadvertently, in the context of one who has done so deliberately.
- [O] “*What is the reason for the view of rabbis?* Since the offender [referred to at M. 6:2] is suspect of carrying in the courtyard, they have treated him as violating the law deliberately. [The upshot is that if Yohanan had not actually carried in the alleyway, he would always have been able to retract his view, but once he had done the deed, he could not retract, and that is

why it was important, in Mattenaiah's view, for him actually to do as Simeon b. Laqish said.]"

[P] They said to him, "[Even if we say that one who inadvertently violates the law does not impose a prohibition on the other dwellers of the alleyway, that applies to one who transported objects inadvertently. But if he brought out utensils into the common property on account of the fact that he did not believe in the power of the meal of commingling at all, he has not got the power to nullify his own right to the courtyard so that the others may treat him as if he were not a recalcitrant co-owner, rather, as if he were simply not present.] If so, the ones who differ from R. Yohanan [and maintain that it is permitted to carry in the courtyard] should be treated as is the Sadducee [of M. 6:2], so far as the other dwellers of the alleyway are concerned, and let it be prohibited to the dwellers of the alleyway."

[Q] Said R. Yosé b. R. Bun, "A Sadducee [mentioned at M. 6:2] is suspect regarding the carrying of objects [in the shared courtyard, *but here what do you have to say?*]"

[R] *What further practical difference is there in the views of the two cited authorities?*

[S] If , the alleyway was shaped like an X –

[T] R. Yohanan said, "One places a side beam and crossbar at this side, and likewise makes the shape of a gateway at the other side."

[U] R. Simeon b. Laqish said, "Will not any number of cross beams serve to permit [carrying in this area? [That is from your viewpoint. But from my viewpoint, a single setup will suffice.]"

[II:5 A] R. Jeremiah in the name of R. Bun: "In the case of an alleyway in which there was a breach in the wall at the inner partition facing the gateway to the extent of four cubits, [it is regarded as an alleyway that is open at both ends].

[B] "If it is at the side [not facing the entry, it is regarded as open at both ends] only if the breach is more than ten cubits. [That is, if there is in a side wall of an alleyway a gap of up to ten cubits, it is regarded, as a wall, if it was reached in the front wall, built across the entrance to

reduce the size of the entrance, only a gap of four cubits is permissible.”

- [C] *Associates in the name of Rab: “There is no difference in the law governing a breach either facing the entry or at the side. The permissible breadth of the breach is four cubits.”*
- [D] *They proposed to rule: He who maintains that, if it is at the side, a breach of more than ten cubits is not permitted, while, lo, if it was less than ten cubits, it is permitted, treats a case in which there is a height of four cubits [at the entry of the alley, left in the wall].*
- [E] *He who has said that whether the breach is facing the entry to the alleyway or at the side, the permissible breadth of the breach is four cubits, holds that view in particular when there is not a remnant of the wall of the breadth of four cubits .*
- [F] [No, that is not a possible harmonization of the positions assigned to Rab,] *for did we not reason that Rab accords with R. Yohanan [who holds that in the case of an alleyway which is curved and open at both ends, we deal with the alleyway as if it were straight but open at both ends? In that case, what difference can it make whether the alleyway before us is breached facing the entry or at the side?]*
- [G] Said R. Yosé b. R. Bun, “It is so as to make the entire domain one [permitting transportation of objects throughout, that R. Yohanan and Rab require setting up a side beam and a crossbar at one side of the alleyway, and something in the shape of a gateway at the other].”

[II:6 A] An alleyway, the wall of which was broken down from the side toward the top [of the crossbeam] –

- [B] the rabbis of Caesarea said R. Hiyya, R. Yosé: “If four cubits of the wall are yet standing [toward the crossbeam], one must set up a crossbeam [over the breach], and if not, it is not necessary. [If the broken-down area is less, then it is null and of no account.]”
- [C] What is the difference between this case and an alleyway that has two entries to begin with? For in the case of an alleyway with two entries, is it not the case that one puts a crossbeam over one of the entries and thereby permits [carrying through the entire area]?
- [D] Said R. Aha bar Jacob, “[The cases are not similar, for] in the case of an alleyway that has two entries, is it not usual for people to go in through one entry and to go out through another? *But in this case*, will people go in through the entry and go out [18d] through the breach? [Surely not!]”

- [II:7 A]** If there is a single crossbeam, what is the law on its permitting transportation of objects in two alleyways [side by side, so that the beam serves one alleyway and yet stretches over to serve the other]?
- [B] R. Jeremiah said R. Zira and R. Abbahu [maintained diverse opinions, as follows]: “One said, ‘It is forbidden,’ and the other said, ‘It is permitted’ [to utilize a single crossbeam].”
- [C] *He who said*, “It is forbidden,” speaks of a case in which the beam was located more than three handbreadths above the wall that serves the two alleyways.
- [D] *He who said*, “It is permitted,” speaks of a case in which the beam was set less than three handbreadths above the wall that *serves* the two alleyways [so QH].
- [II:8 A]** R. Zeirah asked, “How is a courtyard rendered permissible [to transport objects therein]?”
- [B] *It has been taught*: Rabbi says, “It is through setting up a single board [at the entry of the courtyard].”
- [C] And sages say, “It is by setting up two boards.”
- [D] R. Jeremiah in the name of R. Hiyya: “The law accords with him who says, ‘By setting up two boards.’”
- [E] “But I maintain that it is by a single board, [on the basis of that which R. Yosé has said that the rule accords with him who said,] ‘That is on condition that there is a board four handbreadths broad on one side, and a board four handbreadths broad on the other side.’”
- [F] And R. Yosé in the name of R. Yohanan: “The law follows the view of him who said, ‘It is through setting up two boards.’ But I say it is through setting up a single board, on the stipulation that it is a board four handbreadths broad on one side and one four handbreadths broad on the other side.”
- [G] But if there should be only three handbreadths on one side and three handbreadths on the other?
- [H] It would accord with that which was said in the name of R. Yohanan: “If there is a board and any bit more on one side and a board and any bit more on the other side [that suffices].”
- [II:9 A]** R. Zeira, R. Huna in the name of Rab: “An alleyway the breadth and length of which are equivalent is not permitted [for carrying] by providing [merely] a side beam and a crossbeam, but requires setting

up boards [to form a symbolic wall and gateway] as in the case of a courtyard.”

- [B] *Samuel heard this statement from him and repeated it forty times [to memorize it].*
- [C] *Rabbis of Caesarea did not report the matter in this way, but rather as follows: “Samuel asked Rab, ‘How much must the length be greater than the breadth [to constitute an alleyway rather than a courtyard]?’”*
- [D] *“He replied and said to him, ‘Any amount at all,’ and he repeated this statement forty times [to memorize it], for one may need Rab and not find him [and hence had best memorize his teachings].”*

[II:10 A] *There we have learned [M. 6:8:] If one of the occupants of an alley forgot to share in the meal of commingling for the alley, the occupants are unrestricted, since the alley is to the courtyards as the courtyard is to the houses.*

- [B] How many courtyards are there in an alleyway?
- [C] Both Rab and Samuel say, “There may be no fewer than two courtyards to constitute an alleyway.”
- [D] R. Jacob bar Aha in the name of R. Yohanan: “Even if there is one courtyard on one side and one courtyard on the other.”
- [E] R. Aha, R. Hinena in the name of R. Yohanan said, “Even if there is one courtyard on one side, a house on another side, a house on yet another side, and a store on the fourth side, [that adds up to an alleyway].”
- [F] R. Nahman bar Jacob in the name of R. Yohanan: “An alleyway is made up of no fewer than two courtyards, a courtyard is made up of no fewer than two houses.”
- [G] A courtyard the length and breadth of which are the same is not rendered permitted [as to carrying on the Sabbath] by constructing a side beam and crossbeam [as an alleyway] but rather by setting up boards, as is the case for a courtyard.
- [H] Samuel asked Rab, “How much must the length be greater than the breadth, so that it [may constitute an alleyway]?”
- [I] He said to him, “Any amount at all.”
- [J] *Those who dwell in the Land of Israel square the measure [and add any further amount to one side, thus constituting an alleyway instead of a courtyard].*

[K] Five alleyways open into a single alleyway, if the standing [wall] is greater than the broken-down wall, and the broken-down wall is greater than the standing wall, it is not necessary to construct a crossbeam. If there is a space of four cubits between them, it is regarded as the requisite distance.

[L] *R. Hoshaiiah taught*, “In the case of doors that open into the public way: when they are open, the place where they are located is treated as public domain. When they are closed, it is treated as private domain”

[M] Alleyways that open outward to the sea are treated as equivalent to those that open out into a valley. [In both instances we deal with neutral domain.]

[N] The alleyway in which R. Hanin lived did not require the setting up of a symbolic gateway at the entrance [even though the doorway was wider than ten cubits], for the entry way drew in [descended] by ten handbreadths of height in a space of three cubits [and hence the steep descent served as a signification of an entry way]. This was an ordinance that [sages] ordained so as to permit residents of the houses down below [to carry about in the courtyard]. [Accordingly, the sharp descent was treated as equivalent to a partition.]

[III:1 A] And if it has the shape of a doorway, even though it is wider than ten cubits, it is not necessary to diminish [it, making it narrower] [M. 1:1D-F].

[B] *Hananiah bar Shelamayya was in session, teaching Hiyya, son of Rab. Rab stuck his head out the window and said to him, “That is not how matters are. [Rather, one has to diminish the size of the entry way, even though it has the shape of a doorway.]”*

[C] *He said to him, “And should we not repeat the matter in this way?”*

[D] *He said to him, “I shall repeat it for you and tell you that that is not how matters are.”*

[E] *Abba bar Huna said, “The shape of the doorway of which they have spoken is this: a beam on one side and a beam on the other, forming doorposts, and a reed rope over them.”*

[F] *R. Yannai b. R. Ishmael in the name of R. Simeon b. Laqish: “[It should also have] a hinge, thus lacking only a door.”*

[G] *R. Hiyya taught*, “**How do they permit carrying In alleyways with an entry way more than fifteen cubits wide that open up outward into public domain]**?”

[H] “**R. Judah says, ‘One sets up a side beam on one side and a side beam on the other, and a crossbeam on one side and a crossbeam on the other.’**”

[I] “**And sages say, ‘One sets up a side beam and crossbeam on one side and makes something like the shape of a doorway on the other side’”** [cf. T. Er. 7:13].

[J] R. Jeremiah in the name of R. Samuel bar R. Isaac: “[It should also have] a hinge, thus lacking only a door.”

[K] *R. Jeremiah made this statement before R. Zeirah*. He said to him, “What do you think you’ve got there anyhow? For R. Ila in the name of R. Yohanan [said], ‘When we speak of the shape of a doorway, we mean have a post on one side and a post on the other, with a reed rope stretched across them.’”

[L] *Said R. Yosé*, “*The rabbis from here [the Land of Israel] are consistent with their larger theory, and the rabbis from there likewise. The rabbis from there, who maintain that the shape of a doorway of which they have spoken involves a post on this side and a post on that side, with a reed rope stretched across the top, also maintain that nothing further [is required as to diminishing the too-wide doorway], while the rabbis from here [Yannai, Simeon b. Laqish], who require even a hinge, so taking the position that the only thing the gateway should lack is a door, also maintain that something further is required [in diminishing the doorway wider than fifteen cubits].*”

[III:2 A] Hananiah, son of the brother of R. Joshua, says, “[With reference to alleyways opening out onto public domain,] the House of Shammai say, ‘One has to put up a door on one side and a door on the other, and, when the people go in or come out, they have actually to close the door.’”

[B] “The House of Hillel say, ‘One must put up a door on one side, and the shape of a door on the other.’”

[C] Said Samuel, “The law accords with the view of Hananiah, son of the brother of R. Joshua.”

[D] *But has not that view already been stated [by Hoshaiiah, when he said that, when doors open into the public way, the place in which they are*

located is treated as public domain, and, when closed, it is treated as private domain? It must follow that the doors must be closed up. What, therefore, has Samuel contributed?

[E] Said R. Ba, “It is that through the presence of the door in particular, the gate is closed up, [since Hoshaiiah did not make explicit reference to the door].”

[III:3 A] R. Aha gave instruction in the case of an entry way [open to public domain] closed up only by a construction in the shape of a door, that it must be set four cubits within [the alleyway, and not at the exit point].

[B] *R. Aibu gave an opinion, [in accord with the foregoing of Hananiah].*

[C] R. Zeirah in the name of R. Hisda: “As to pegs which protrude from the walls of an alleyway – one may set a crossbeam on them and thereby permit [carrying throughout] the alleyway.”

[D] And that is with the proviso that they lie within three handbreadths of the walls of the alleyway.

[E] *Two Amoraim: One said, “That is with the proviso that they are sufficiently firm to receive the weight of the beam and [supporting] bricks.”*

[F] *The other said, “Even if they are not sufficiently firm to receive the weight of the beam and supporting bricks, [the stated rule applies].”*

[III:4 A] [Since the space directly beneath the crossbeam is regarded as external to the alleyway, hence not an area suitable for carrying,] *R. Zeira raised this question: “How can it be that while in the area beneath the crossbeam, it is forbidden [to transport objects more than four cubits], the alleyway itself should be rendered [by that same crossbeam] permitted [for the transportation of objects more than four cubits]?”*

[B] Said R. Aha bar Ila, “And why not? *And do we not find that this very point has been made by Samuel, for Samuel has said, ‘In the area beneath the crossbeam – it is forbidden [to transport objects more than four cubits], while in the alleyway itself it is permitted [to transport objects more than four cubits].’*”

[C] R. Zeira in the name of Samuel: “[The area] under the crossbeam and between the side posts is regarded as equivalent to the threshold.” [If so, then what is the status of the threshold?]

[D] *R. Zeira asked, “In what regard is it in the status of the threshold? Is it in the status of the threshold and so permitted [as to carrying*

objects], or is it in the status of the threshold and therefore prohibited?”

[E] *Said R. Zeira, “When I was there [in Babylonia], this question troubled me, and when I came up here, I heard R. Yosé in the name of R. Yohanan [state], ‘A threshold ten handbreadths high but not four broad is permitted in both domains [so that people in private domain may use it, and people in public domain also may use it.]’*

[F] “But that is with the proviso that one not confuse [an item belonging to one party, that is a resident of private domain, with an item belonging to the other, that is, a resident of public domain.]”

[G] *Said R. Mana before R. Yosé, “See how he has formulated his statement. He has said that that is the case only when the threshold is not four cubits broad. But if it is four cubits broad, then it is forbidden [to transfer objects from either private or public domain into that threshold.]”*

[H] *He said to him, “And the law is the same for a beam projecting outside of a house [in which there is not a breadth of four cubits under it. [But if there is a space of four cubits under such a beam, it is forbidden to carry under that space, since it constitutes a domain by itself. So if there is a crossbeam [of the stated dimensions, is it not permitted [to carry under it]? [That is, if a beam is four cubits in breadth, it constitutes a covering for the entire alleyway; as we know, a covered alleyway is deemed a single domain and permitted for carrying objects.]”*

[I] R. Zeira said, “Samuel and R. Yohanan [ruled in this matter]. Samuel said, ‘The space under the beam is forbidden [as to carrying],’ and R. Yohanan said ‘It is permitted.’

[J] “But all parties concur that the space between the side posts is forbidden [as to carrying].”

[K] *And so too it has been taught: In the case of an alleyway lined with side posts, if the space between one side post and the next was four handbreadths, people may carry as far as the outermost side post, and if not, they may carry only to the innermost one [up to the inner edge of the innermost post at the other side].*

[L] Rabbis of Caesarea in the name of R. Uqba, “That is the case if the outermost post does not project beyond the side posts. But if the outermost post does project beyond the side posts, they may carry as far as the outermost post [since it clearly was put up so as to serve to permit carrying throughout the alleyway].”

1:2

[A] **The validation of an alley entry [for carrying of objects on the Sabbath] –**

[B] **the House of Shammai say, “It must have] a side post and a crossbeam.”**

[C] **And the House of Hillel say, “A side post or a crossbeam.”**

[D] **R. Eliezer says, “Two side posts.”**

[E] **In the name of R. Ishmael said a certain disciple before R. Aqiba, “The House of Shammai and the House of Hillel did not dispute concerning an alley entry which is less than four cubits wide, that it [is validated] either by a side post or by a crossbeam.**

[F] **“Concerning what did they dispute?**

[G] **“Concerning one which is broader than four cubits, up to ten cubits.**

[H] **“For: The House of Shammai say ‘A side post and a crossbeam. ‘**

[I] **“And the House of Hillel say, ‘A side post or a crossbeam.””**

[J] **Said R. Aqiba, “Concerning both this case and that case did they dispute.”**

[I:1 A] [With regard to M. 1:2D, Eliezer’s statement,] what is the meaning of **two side posts**? Does it mean, “a side post and a crossbeam,” in accord with the position of the House of Shammai, or, “two side posts and no crossbeam,” in accord with the view of the House of Hillel?

[B] And does it involve a crossbeam of three handbreadths, in accord with the view of R. Yosé [at M. 1:6C], or of any breadth at all, in accord with the position of rabbis?

[C] *Let us derive the answer from the following line T.’s version:* There was the precedent, in which R. Eliezer went to Joseph b. Peredah in Ublin.

[D] And he saw that he had an alley entry with only a single side post.

[E] [19a] He said to him, “Make a second for it.”

- [F] He said to him, “Do you instruct me to close it up?”
- [G] He said to him, “Let it be closed up. On what basis did you decide to spend the Sabbath in such wise [with an alley entry having only a single side post]!” [T. Shab. 1:2].
- [H] *That story then implies that he was of the view that it must be three handbreadths, in accord with the view of R. Yosé. for if it were a matter of a beam of any size at all, as is the view of rabbis, then he might as well have destroyed only any small part of it [instead of the whole thing, as the story indicates].*
- [II:1 A] [As to M. 1:2E-J,] *it has been taught:* The law accords with the opinion of the disciple.
- [B] *But if that is not the case, then shall we have to maintain that the law accords with the House of Shammai? And does the law follow the House of Shammai and not the House of Hillel? [Of course not. Then what is the point of A?]*
- [C] *But since it has been taught [in T.’s version]:* Rabban Simeon b. Gamaliel says, “Any alley entry which is less than four cubits broad – lo, this requires nothing. [That which is broader than ten cubits – one sets up a board in the middle and puts a beam across one of them and that suffices” [T. Er. 1:3A-B], **[the disciple’s statement is important, to indicate that the law does not follow Simeon b. Gamaliel, but rather the view of sages].**
- [II:2 A] As to the view of sages, R: Huna in the name of Rab: “An alleyway the entry of which is not so broad as four cubits does not require any sort of indication [that it is a doorway] at all.”

1:3

- [A] **The crossbeam of which they spoke [should be] wide [enough] to hold a half-brick.**
- [B] **And the half-brick is the half of a brick of three handbreadths.**
- [C] **It is sufficient for the crossbeam to be a handbreadth wide, [enough] to hold a half-brick lengthwise .**
- [I:1 A] Said R. Ba, “[The meaning of setting the brick lengthwise, M. 1:3C,] is so that It can hold a row of bricks lengthwise.”
- [B] *It has been taught:* **Rabban Simeon b. Gamaliel says, “It must be such as to be able to take a row of bricks breadth-wise” [cf. T. Er. 1:4C].**

[C] What is at issue between these two views?

[D] Said R. Asian, “The strength of the crossbeam is at issue between them. *In the view of rabbis*, it has to be able to hold twenty bricks, *and in the view of Rabban Simeon b. Gamaliel*, it has to be able to hold forty.

[I:2 A] In the case of two cross beams, each one a half handbreadth broad, how much space may there be between them [so that they may be regarded as a single crossbeam for the purpose of holding bricks]?

[B] R. Zeira said, “A half handbreadth. [This will then yield a total breadth of a handbreadth and a half.] For there will be a half handbreadth on one side, a half handbreadth on the other, and a half handbreadth in between.”

[C] *R. Hoshaiiah taught*, “A handbreadth [would be an acceptable space].”

[I:3 A] If there are two cross beams, one a third and a bit more [of a handbreadth and a half, and the other a third and a bit more [of a handbreadth and a half, and between the two a space of less than a third of a handbreadth –

[B] *the law governing this situation accords with that which R. Yohanan said*, “The standing part [of the wall around the cistern] and the dug-out space join together to form the requisite breadth of four handbreadths, so long as the standing part is greater than the excavated part. [Here too the two beams do join together with the empty space between them, so long as the beams form the larger part of the total space encompassed by the whole].”

[I:4 A] As to a beam which protrudes from one wall but does not reach the other,

[B] or a case in which there were two beams, opposite one another but not touching directly] –

C] if the space between the one and the other is three handbreadths [or more] one has to set a crossbeam to close off the top of the alleyway], and if not, it is not necessary to set a crossbeam there [cf. T. Er. 1:6A-D].

[D] *There is a Tannaite authority who teaches [at C]*, “four,” [instead of three].

[E] *He who formulates the tradition using the number of three handbreadths reckons with sufficient space for a human being to pass through.*

[F] *He who formulates the tradition* using the number of four handbreadths reckons with space sufficient to be taken into account [under ordinary circumstances].

[I:5 A] A crossbeam [set at an angle] so that one side lies above twenty cubits and the other below the height of twenty cubits –

[B] they so regard it that, if one should cut off the beam within three handbreadths [of the wall], the beam would appear to be within twenty cubits of the ground, the arrangement is permitted, and if not, it is forbidden.

[C] A crossbeam set at an angle so that one side lies above ten handbreadths [of the ground] and one side lies below ten handbreadths of the ground –

[D] they so regard it that, if one should cut off the beam within three handbreadths of the wall, the beam would appear to be above ten handbreadths [of the ground], the arrangement is permitted, and if not it is forbidden.

[I:6 A] If there were two cross beams, one above the other –

[B] R. Yosé b. Judah says, “They regard the lower one as if it goes upward, and the upper one as if it goes downward,

[C] “on condition that the lower one not be lower than ten handbreadths, and the upper one not be above twenty cubits [from the ground]” [T. Er. 1:5B-C].

[D] *It turns out that R. Yosé b. R. Judah teaches* the law in accord with the theory of his father and also differs from the theory of his father.

[E] *He teaches the law in accord with the theory of his father, for* he has said, “They regard the one on the bottom as if it is on the top, and the one on the top as if it is on the bottom [so treating them as joined].”

[F] But he differs from his father, for he has said, “And that is on condition that the lower one not be lower than ten handbreadths from the ground, and the upper one not be above twenty cubits above the ground.”

[G] If now you want to maintain that he accords in this regard with the theory of his father, then the rule should be that it is valid however high it is.

[H] R. Yosé, Hinena bar Shelemayya, R. Yudan, Hinena bar Shilayya in the name of Rab: “And that is within the proviso that the upper beam lie within three handbreadths of the lower beam.”

1:4

[A] **It [the crossbeam] should be wide enough to hold a half-brick,**

[B] **And strong enough to hold a half-brick.**

[C] **R. Judah says, “[It should be] wide enough [to hold a half-brick] even though it is not sufficiently strong [to hold a half-brick].**

[I:1 A] *It has been taught:* R. Simeon says, “It must be sufficiently strong, even though it is not sufficiently broad [as at M. I: 4A-B] [thus the opposite of M. 1:4C].”

[B] R. Huna in the name of Rab: “The law accords with the opinion of R. Meir [who stands behind M. 1:4A-B].”

[C] Samuel said, “The law accords with the view of R. Judah.”

[D] And R. Joshua b. Levi said, “The law is in line with the opinion of R. Simeon.”

[E] *R. Simeon bar Karsena said, “Since you have said, ‘The law accords with this party,’ and ‘The law accords with that party,’ one who practices the law in this way need not scruple, and one who practices the law in that way need not scruple.”*

[F] *Said R. Mana, “Since it has been stated that the law is in accord with [the anonymous authority of] the rabbis [at M. 1:4A-B], people should ignore the view of individuals and practice the law in accord with the rabbis.”*

[I:2 A] *Rab came to a certain place. He saw an alleyway, which was rendered permitted [for carrying] merely by means of a single crossbeam [that was very thin]. He gave it a knock with his staff and knocked it down.*

[B] *Said to him R. Huna, “There is a palm tree yet standing [which can serve as the crossbeam].”*

[C] *He said to him, “Does R. Huna have eyes to see, and Rab not have eyes to see [that tree]? But lo, I shall prohibit them from carrying in the alleyway relying on that crossbeam on the present Sabbath, and for the next Sabbath [when in advance they may form the proper intention] I shall permit them to carry on the count of the palm tree, and in this way they will know that if the palm tree should be cut down, it will be forbidden to carry in the alleyway.”*

[D] *And there is he who wishes to state [that what Rab said was this:] “So that they should not think that the law accords with R. Judah.”*

[E] For **R. Judah** says, **“It should be wide enough to hold a half brick even though it is not sufficiently strong to hold a half-brick”** [M. 1:4C].

[F] *R. Hinena did not report matters in this way. Rather, [he said,] Rab went to a certain place and saw an alleyway, the crossbeam of which had been removed, on which account he forbade carrying in that alleyway.*

[G] *Said to him R. Hunah, “There is a palm tree standing [at the head of the alleyway, which may serve as a crossbeam and permit the people to carry in the alleyway].”*

[H] *Rab said to him, “Does R. Hunah have eyes to see it, and Rab not have eyes to see it? But lo, I shall prohibit them from carrying in the alleyway relying on that crossbeam on the present Sabbath, and for the next Sabbath I shall permit them to carry on the count of the palm tree, and in this way they will know that the palm tree so should be cut down, it will be forbidden ,”.., to carry in the alleyway.”*

[I] *And there is he who wishes to state [that what Rab said was this:] “It is so that they should not think that the law accords with R. Judah.”*

[I:3 A] ***For we have learned there:*** What is the outer area? “It is any area near the town,” the words of R. Judah [M. Bes. 1:2E-F].

[B] *The views assigned to R. Judah are at variance.*

[C] ***For we have learned there:*** R. Judah says, “Even if there is nothing [in an outer area] except for a cistern or a pit or a cavern, they may carry things in that area” [M. Er. 2:5]. [**Judah then differs from the view of Judah b. Baba, at the same passage, that one may carry about such an area if it is near the town.**]

[D] And here has he said this [that any area near a town is subject to the stated rule, even if there is no cistern, pit, or cavern therein]?

[E] Said R. Mana, “[Judah treats the cistern, pit, or cavern] as equivalent to the hut.”

1:5

[A] “[If] it was of straw or reeds, they regard it as if it were made of metal.”

[B] [If it was] curved, they regard it as if it were straight.

[C] [If it was] round, they regard it as if it were square.

[D] Whatever is three handbreadths in circumference is one handbreadth in width.

[I:1 A] From whose viewpoint is it necessary to specify [the rule of M. 1:5B]?

[B] [Since Judah, M. 1. 4, stresses the criterion of the breadth of the crossbeam even at the expense of its strength,] it is important from the viewpoint of R. Judah, who has said, **“It should be wide enough to hold a half brick, even though it is not sufficiently strong to hold a half brick”** [M. 1:4C].

[II:1 A] **If it was curved, they regard it as if it were straight [M. 1:5B]:**

[B] R. Aha in the name of R. Zeira: “This represents the view of R. Judah in particular.”

[C] R. Yosé in the name of R. Zeira: “It represents the view of all parties.”

[D] [The rule of M. 1:5B] applies, in particular, to a crossbeam, the curved part of which is on the side [of the alley entry, outside of the area to be covered by the crossbeam]. In the case of such a curvature of the crossbeam, that sort of curve does not invalidate [carrying about in] the alleyway.

[E] But in the case of curvature of the crossbeam which will invalidate [carrying in the alleyway], lo, in such a case, that is forbidden.

[F] What, then, is the sort of curvature of the crossbeam which serves to invalidate [carrying] in the alleyway?

[G] It is any in which, if one should cut off the curved parts of the crossbeam, there will be a space between one end and the other of less than three handbreadths]. [in such a case more than three handbreadths of the crossbeam protrudes as a curvature beyond the alley entry.]

[III:1 A] **If it was round, they regard it as if it were square [M. 1:5C]:**

[B] This too represents the position of R. Judah [in particular].

[IV:1 A] [As to M. 1:5D,] they derived this fact from the measurements of the molten sea:

- [B] “Then he made the molten sea; it was round, ten cubits from brim to brim, and five cubits high, and a line of thirty cubits measured its circumference” (1 Kings 7:23).[C] It is not possible to say that it is round, for it already has been indicated that it is square. It furthermore is not possible to say that it is square, for it already has been indicated that it was round [in the cited verse].
- [D] If you say it was square, you turn out to say that one hundred sixty-[six] parts of [water for the purpose of] purification did the sea contain, and if you say it was round, you turn out to say that one hundred twenty-[five] parts of [water for the purpose of] purification did the sea contain.
- [E] Accordingly, you must conclude that the two upper cubits [of the sea] were round, and the three lower cubits [of the full height of five cubits] were square.
- [F] You turn out to rule that the sea held one hundred fifty parts of [water for the purposes of] purification.
- [G] **[In T.’s version:] [Y. lacks: R. Yosé says,]** “In reference to the sea which Solomon made, one verse of Scripture says, ‘It holds three thousand baths’ (2 Chron. 4:5). And in another place, Scripture says, ‘It held two thousand baths’ (1 Kings 7:26). It is not possible to maintain that it held ‘two thousand,’ for already ‘three thousand’ has been said, and it is not possible to claim it held three thousand,’ for ‘two thousand’ already has been said. On this basis you turn out to rule: Two thousand in liquid measure are three thousand in dry measure” [T. Kel. B.M. 5:2].
- [H] On this basis sages calculated that forty *seahs* in liquid measure constitute two *kors* in dry measure.

1:6

- [A] **The side posts of which they spoke – their height must be ten handbreadths,**
- [B] **And their breadth and thickness may be in any measure at all.**
- [C] **R. Yosé says, “Their breadth must be three handbreadths.”**
- [I:1 A] *Where the Mishnah presents a dispute on the thickness of the side posts, it speaks of a case in which the side posts are distant from the wall [of the alley entry], but if they were adjacent to the alley entry[‘s] wall, then R. Yosé also will concur.*

- [B] *And so has it been taught:* “In the case of one who has made side posts for an alleyway, if they are less than three handbreadths from the ground, [19b] or they are nearer to the wall than three, it is permitted [to carry in the alleyway]”? [Even here Yosé requires thick posts!]
- [C] That is the case, further, with the proviso that the standing part [of the side posts] be greater [in measure] than the empty space [between the side posts and the wall on either side].
- [I:2 A] Building stones which protrude from the building – if there is not a space of three handbreadths between one and the other, are regarded as equivalent to side posts [T. Er. 1:9].
- [B] If a corner [of a building] protrudes on one side, and the corner [of a building] protrudes on the other [so forming an entry way to an alley], they are treated as equivalent to side posts.
- [I:3 A] A wall, one side of which recedes more than the other
- [B] and which appears even from within but looks to be recessed from without,
- [C] or appears even from without and looks to be recessed from within,
- [D] is deemed equivalent to side posts [T. Er. 1:10].
- [E] If the side post formed an extension [of the wall of the entry way, so that it appeared to be a side post when viewed from within the alley, but appeared to be a part and extension of the wall when viewed from outside of the alleyway],
- [F] Abba bar R. Hunah says, “They regard it as if it were etched in [to the wall, and thus it forms a valid indication of the gateway to the alleyway].”
- [G] *R. Hisdai objected, “And have we not learned:* A large to a small one – the larger one is permitted, and the smaller one is forbidden, [for the smaller courtyard is treated as a doorway to the larger one] [M. 9:2C-E]. But why not treat the walls of the larger courtyard as doorposts for the walls of the smaller one, so that the smaller one is permitted? [Cannot the walls of the smaller be regarded as etched in?]”
- [H] **Said to him Abba bar R. Hunah,** “Interpret the passage to speak of a case in which the walls of the larger courtyard are drawn back more than ten handbreadths [from the breach in the walls of the inner courtyard, so that the walls of the inner courtyard enter into the larger courtyard and are distant from the walls of the latter. Now there is no possibility of seeing the walls of the inner courtyard as flat on the

inside and extended on the outside, since the outer walls cannot possibly appear to form the inner courtyard's walls as well.]"

[I] *R. Asian taught before R. Aha*, "If the walls of the larger courtyard are eleven cubits, and the ones of the smaller courtyard a single cubic, that represents a challenge to Abba bar R. Hunah]. [The larger courtyard's walls are now greater than those of the smaller courtyard by a cubit, that is, six handbreadths, three on either side.]"

[J] *This Tannaite teaching was besought but not actually located [in the name of any known authority]*.

[K] Said to him Aha, "This is what R. Simeon b. Laqish said: 'Any Mishnah teaching which has not entered into the aggregate [of teachings bearing the names of known authorities] is not regarded as reliable.'"

[L] [As to the teaching presented by R. Asian,] *said R. Yosé*, "It accords with the view of him who said, 'A courtyard is made permissible [for carrying on the Sabbath] by setting up two boards [as a symbolic fence], so long as there is a board four handbreadths broad on one side, and a board of four handbreadths wide on the other side. [But we have here boards of three on each side.] [The authority may then hold the same principle. namely, we have eleven handbreadths in the walls of the larger courtyard, and in the smaller courtyard, ten. How so? The walls of the smaller courtyard are two handbreadths distant from the walls of the larger courtyard on one side, and four on the other. Since we require a board of four handbreadths broad on either side and do not have that or its equivalent, there is nothing to serve to permit carrying in the smaller courtyard].'"

[M] [*Concurring in the foregoing,*] *said R. Yosé b. R. Bun*, "And even if you say so, [*the cited teaching*] accords with him who said, 'A courtyard is rendered permitted [for carrying on the Sabbath by setting up] two boards, so long as there is a board four handbreadths broad on one side, and a board four handbreadths broad on the other side.'"

[N] *R. Uqbah in the name of rabbis from over there*: "[The reason the smaller courtyard is not permitted for carrying is that the remaining walls] are assigned to the larger courtyard and are not assigned to the smaller courtyard."

- [I:4 A]** In the case of a wall, one side of which protrudes and one side of which is drawn back [so that the wall fronting on the public domain is uneven] –
- [B] Kahana said, “One sets the crossbeam diagonally and utilizes the space diagonally as well [so that the space covered by the diagonal line of the courtyard likewise may be utilized by carrying; but we do not permit carrying in the entire space of the doorway to the alleyway].”
- [C] R. Aha in the name of Kahana: “One sets the crossbeam diagonally and utilizes the space diagonally as well, but that is on the stipulation that the crossbeam not be drawn back more than ten cubits [from the baseline formed by the frontage on public domain marked by its counterpart wall].”
- [D] *And in the view of R. Yosé, that is how R. Abedimi, who came down [to Babylonia] [interprets the case]:* “That is on the stipulation that the crossbeam not be drawn back more than ten cubits [as above].”
- [E] R. Aha in the name of R. Simeon b. Levi: “And that is on the stipulation that the [other] wall not be drawn back more than four cubits [from the wall that protrudes]. [The differential from the baseline of public domain, between the one wall and the other, may not exceed four cubits.]”
- [F] *It turns out that what poses a problem to one side is self-evident to the other, and vice versa.* [One party declares the case valid only if the differential is not more than four cubits; otherwise he is in doubt. The other party declares the case valid if the differential runs up to ten cubits.]
- [G] [As to Kahana’s statement,] said R. Ulla, “The Tannaite teaching [cited by Kahana] applies to a case in which the differential runs from three to four cubits. If it is less than three cubits, then, [even if the diagonal runs more than ten cubits], it is permitted. If it is greater than four cubits, then even if the diagonal is less than ten, it is forbidden. Accordingly, the sole point at issue is a case in which the differential runs from three to four cubits.”

1:7

- [A] With any sort of material do they make sideposts,**
[B] even something which is animate.
[C] And R. Meir prohibits [using an animate object].

- [D] And [an animate creature which is used to cover up the entrance of a tomb] imparts uncleanness as a sealing stone.
- [E] But R. Meir declares it clean [when used for that purpose].
- [F] And they write on [an animate creature writs of divorce for women.
- [G] And R. Yosé the Galilean declares it invalid [when used for that purpose].
- [I:1 A] *It has been taught:* “With anything that is animate they may make the wall of a *sukkah*, but they may not make side posts [for an alleyway],” the words of R. Meir.
- [B] And sages say, “They do not use an animate object for a wall, but they do use it for a sidepost.”
- [C] *Said R. Yosé, “There are two Tannaite authorities [who represent the position of Meir, one in the Mishnah, M. 1:7C, the other in the cited passage, A].*
- [D] “[As to the view of Meir] the Tannaite authority who has said that they may use an animate object for a wall for a *sukkah* also maintains that they may use it for a side post, and the one who has said they may not use it for a wall also holds they may not use it for a side post [all: in Meir’s view].”
- [E] *Said R. Aha, “We have a single Tannaite authority who represents the opinion of R. Meir.*
- [F] “But why then may one use it for a partition? For if it should be removed, will one not notice that fact!”
- [G] “And they may not use it for a side post, for if it should be removed, one will not notice that fact! [That is to say, it may be used for a wall, since it is removed, one will notice that fact, but it may not be used for a side post, since one may not be aware of its loss.]”
- [H] *R. Joshua, the Southerner, was standing with the disciples of R. Aha [who claims there is a single Tannaite authority’s representation of Meir’s view]. He said to them, “Now take note of the concluding part of the same tradition, which stands at variance with the position of your master: And sages say, ‘They may not use an animate creature for a wall for a *sukkah*, but they may make use of it for a side post.’ Now if in the case in which, should it be removed, one will not take note of the fact, you have said it is permitted to make use of such a thing, here, in a case in which, should it be removed, one will surely take note of that fact, is it not an argument a fortiori [that it should be permitted]? [Whatever the*

authority for Meir's view, there surely are two Tannaite authorities representing the views of sages. One holds that an animate creature may not be used for a wall, all the more so for a side post, and the other maintains that one may use it for a side post and all the more so for a wall.]"

[I] *Accordingly, there are two Tannaite authorities, so far as R. Aha is concerned, [with respect to the position of sages,] just as you have said earlier that there are two Tannaite authorities vis-a-vis the view of R. Yosé.*

- [I:2 A] R. Simeon bar Karsena in the name of R. Aha: "R. Meir, R. Yosé, and R. Eleazar b. Azariah – all three of them maintain the same view.
- [B] R. Meir: **An animate creature used to cover up the entrance of a tomb imparts uncleanness as a sealing stone. But R. Meir declares it clean [when used for that purpose] [M. 1:7D-E].**
- [C] R. Yosé in the matter of tents:
- [D] **R. Yosé says, "A house located on a ship does not serve [as a tent] to spread about corpse-uncleanness"[M. Oh. 8:5J].**
- [E] R. Eleazar b. Azariah, *as it has been taught*: There was the case of R. Eleazar b. Azariah and R. Aqiba who were traveling on a ship. R. Aqiba made a *sukkah* on the bow, and the wind came and carried it off. Said to him R. Eleazar b. Azariah, "Aqiba, where *is your sukkah* now?"
- [II:1 A] [With reference to M. Git. 2:3L-M = M. 1:7G: **R. Yosé the Galilean says, "They do not write a writ of divorce on anything that is alive or on foodstuffs,"**] *what is the scriptural basis for the ruling of R. Yosé the Galilean?*
- [B] Scripture says, "A book [document]" (Deut. 24:1).
- [C] Just as a book is not a living thing, so included is anything which is inanimate.
- [D] Just as a book is not edible, so anything which is not edible is accepted.
- [E] *What is the basis for the ruling of rabbis [M. Git. 2:3H]?*
- [F] Just as a book is something which is not attached to the ground, so anything which is not attached to the ground is acceptable.
- [G] *In the opinion of R. Yosé the Galilean, are stems of produce in the status of produce [when they are attached]?*

- [H] *Let us derive the law from the following:*
- [I] If he wrote it [a writ of divorce] on the horn of a deer, cut it off, then had it signed and gave it to her – it is a valid writ of divorce.
- [J] It is because he cut it off and afterward had it signed.
- [K] Lo, if he had had it signed and .then cut it off, it would not have been acceptable. [So the stem when attached must be regarded as part of the produce.]
- [L] R. Aha in the name of R. Miasha, “And the dispute [about whether it is all right if written on the horn of a deer (M. Git. 2:3H)] applies if he wrote it on the bony inside of the horn.
- [M] “But if he should write it on the pithy hollow part of the horn, it is as if it were cut off [from the horn], and it is valid [in the view of all].”
- [N] *R. Jonah raised the question:* “Is the rule also the same in the case of rendering seed susceptible to uncleanness [that is, by watering the seed, in line with Lev. 11:34, 37]? [That is, the law holds that when water falls on seed, and the owner of the seed approves, then the seed is rendered susceptible to uncleanness. Yosé deems an animate being to be in the status of that which is attached to the ground and so insusceptible to uncleanness. Does he maintain that with regard to rendering seed susceptible to uncleanness, an animate creature also is deemed to be attached to the ground? The rule is that if when the water – e.g., rain – was falling, one gave thought to utilizing it for his own purposes, then that water imparts susceptibility, as explained. If he gave thought to utilizing the water only for what is still attached to the ground, however, then the water does not impart susceptibility to what it hits thereafter which is not attached to the ground. Now the question is, If one gave thought to utilizing the rain for the beast, and it fell from the beast to harvest produce, is the produce rendered susceptible to uncleanness by that water?]”
- [O] *What would be a practical case?* If one gave thought that water should fall on a cow, and from the cow onto food –
- [P] there R. Yosé the Galilean said, “‘A book’ – Just as a book is not a living thing, so included is anything which is inanimate. [Thus an animate creature is treated as equivalent to what is attached to the ground.]”

[Q] And here do you say the same, namely, [the animate creature is as if it were attached to the ground, as explained at N]?

[R] Or perhaps the case is different, for it is written, “And any food in it which may be eaten, upon which water may come, shall be unclean and all drink which may be drunk from every such vessel shall be unclean” (Lev. 11:34). [The utensil is detached from the ground and so the liquid therein can impart susceptibility. I[S] If that is the case, then even if he had given thought that rain should fall for the purpose of filling cisterns, ditches, and caves, [the water will have the capacity to impart susceptibility to uncleanness].

[S] The case here is different, for it is written, “Utensil.” [But as to the status of water dripping from a cow, the question stands.]

1:8

[A] A caravan which encamped in a valley, and which [the travelers] surrounded with a fence made out of cattle yokes –

[B] they carry [things] about in it,

[C] on condition that the fence be ten handbreadths high,

[D] and there not be breaks [in the fence] larger than the built-up parts.

[E] Any break [in the fence] which is about ten cubits wide is permitted,

[F] because it is tantamount to a doorway

[G] [But a break in the fence] larger than that is prohibited.

[I:1 A] R. Ada in *the* name of R. Hisdai: “To whom is the rule [at M. 1:8C-D] important? It is important to R. Yosé b. R. Judah.”

[B] For R. Yosé b. R. Judah says, “Any partition which is not made up of both warp and woof is not regarded as a partition.”

[C] But he concurs here [that a partition of a warp alone is permitted.

[D] *And so it has been taught:* They may make a partition with any sort of object, even with saddles, saddle cushions, or camels, so long as there is not the space between one saddle and another of the breadth of a saddle, or between one cushion and another of the breadth of a cushion, or between one camel and another of the breadth of a camel.

- [E] And that is also on condition that a standing portion of the partition not face a standing portion of the partition [on the opposite side], and a breach in the partition face a breach in the partition [on the other side].
- [F] But a standing portion of the partition must face a breach in the partition [on the other side], and a breach in the partition a stag] [T. Erub. 2:1A-G].
- [I:2 A] [With reference to M. Kil. 4:4: **If the three handbreadths, which would suffice for a kid to enter, it is deemed a valid partition. If a fence was breached for a space of ten cubits, such may be deemed an entrance (= M. 1:8E). If it is wider than this, it is forbidden to sow opposite the breach. If many breaches were made in the fence, yet what is yet standing is greater than the area that is broken down, it is permitted to sow opposite the breach; if the broken-down part is broader than the standing part, it is forbidden:**] You turn out to rule as follows:
- [B] As to mixed seeds in a vineyard [in which a fence must be erected to keep distinct the patches of a field sown in different seeds], if there is a breach less than three handbreadths, it is as if it were closed up.
- [C] If the breach were from three to four handbreadths, if the standing part of the fence is greater than the broken-down part of the fence, it is permitted [to sow seeds by the breach, as if it were a fully valid fence], and if the breaches were greater than the standing part of the fence, it is forbidden.
- [D] If the breaches were from four to ten handbreadths, if the standing part of the fence was greater than the broken-down part, it is permitted [to sow opposite the breaches]. If the broken-down part is greater than the standing part, then opposite the standing part of the fence it is permitted to sow [seeds of a different sort from what is on the other side of the fence], and in the area opposite the breach, it is forbidden.
- [E] If it is greater than ten handbreadths, even though the standing part of the fence is greater than the broken-down part of the fence, while it is permitted to sow opposite the standing part of the fence, it is forbidden to sow opposite the broken-down part of the fence.
- [F] Now as to the matter of the Sabbath [in constructing a partition to permit carrying in a courtyard]: Any case where there is a breach less than three handbreadths, it is as if it were fully closed up.

- [G] If there is a breach from three to four handbreadths, or from four to ten, if the part of the fence that was standing is greater than the part that was breached, it is permitted [to carry in the courtyard].
- [H] If [19c] the part that was broken down was greater than the part that was standing, it is forbidden [to carry].
- [I] If the breach was greater than ten handbreadths, even though the standing part of the fence was greater than the broken-down part, it is forbidden [to carry in the courtyard].
- [J] *R. Hananiah, R. Judah b. Pazzi in the name of R. Yohanan*, “*There is no need here to refer to a gap of from three to four handbreadths.*”
- [K] “[Why not?] One may have here a breach of three handbreadths and not have a place in which four handbreadths [of fence are actually standing].”
- [L] *R. Mana objected [to J]: “But have we not learned, **They may surround a camp with reeds [M. Er. 1:10]**? [Now Hananiah has maintained that so small a gap as four handbreadths need not be specified at all. Yet] does a reed take up any space at all? [Surely not. Yet it can be used to create a partition.]”*
- [M] He said to him, “Do not answer me with reference to a breach of less than three handbreadths, for a breach less than three handbreadths is regarded as if it were closed up.”
- [N] *R. Yosé b. R. Bun in the name of Rab: “In any event since the standing part of the fence is greater than the broken-down part, it is permitted [to carry in that area].”*

1:9

- [A] **They surround [the camp] with three ropes one above the other,**
- [B] **on condition that between one rope and the next there be no space more than three handbreadths.**
- [C] **The size of the ropes must be so that their [total] thickness is more than a handbreadth,**
- [D] **so that the whole will be ten handbreadths high.**
- [I:1 A] Said R. Zeira, “They have stated this rule [cf. M. Suk. 1:10] only with reference to a partition ten or more than ten cubits high.
- [B] “Lo, if it is less than that measure, there is no valid partition at all.”

[C] *And so it has been taught [that at issue is a height of ten cubits]:* If one brought [for the use of a sukkah] a wall less than ten handbreadths high, and raised it less than three handbreadths high above the ground, the arrangement is permitted.

[D] *There* you have ruled [with regard to a partition for the Sabbath] that a space less than three handbreadths in height is treated as if it were closed up.

[E] *And here you have said* [with reference to a sukkah], “Any space less than three handbreadths is treated as closed up.”

[F] *If you wish to raise a question, this is how you should phrase it:* If one brought a wall four handbreadths in height and a bit more, and raised it above the ground two handbreadths less any small amount

[G] *that then accords with that which R. Yohanan has said:* “The standing part and the excavated part of the wall around a cistern] join together to form the requisite four [handbreadths in height], so long as the standing part be greater than the excavated part.” [Less than a space of three handbreadths is regarded as part of the wall. If there is a wall four handbreadths high, two above the ground, then four from the roofing of the sukkah, it is valid.]

[I:2 A] [As to M. 1:9A-B,] R. Simeon b. Laqish in the name of R. Judah b. Hananiah, “If one inserted four reeds into the four corners of a vineyard and tied a thread above [the reeds from one to another], it affords protection as a braid [that is, it forms a partition with regard to mixed seeds, and it is therefore permitted to sow seed near the vineyard, as if the vineyard were separated from the seed by a wall]. [This construction suffices for such a purpose.]”

[B] [Such a construction would not serve as a gateway to link an alleyway, however, and hence,] said R. Yohanan, “As is the rule governing partitions for the purposes of the Sabbath, so is the rule defining a suitable partition in the case of mixed seeds in a vineyard.”

[C] Said R. Yohanan, “There was the case in which R. Joshua b. Qorha went to R. Yohanan b. Nuri in Nagnigad. He showed him a field, which was called ‘the white house.’ Now in the fence there were breaches of a breadth of more than ten cubits. [Yohanan b. Nuri] would then take pieces of wood and fill up the gaps, or take reeds and fill up the gaps, so that he closed the space of the breaches to under ten cubits.

[D] “He said, ‘This form is a proper partition for the purposes of the Sabbath.’” [This illustrates Yohanan’s position that a single definition applies to fences for the purposes of both mixed seeds and the Sabbath.]

[E] Said R. Zeira, “R. Simeon b. Laqish concurs with regard to the Sabbath that a braid does not afford protection in a gap of larger than ten cubits.”

[F] *Said R. Haggai, “The Mishnah has made the same point:*

[G] “They surround the camp with three ropes, one above the other [M. 1:9A).

[H] “Now if you say that a braid affords protection for a space of more than ten handbreadths, along these same lines a single rope should do the same. [Creating the shape of a doorway serves only for ten handbreadths’ breach.]”

[I] *R. Jonah said R. Hoshaiah asked about the rule pertaining to the braid: “Is it placed above or at the side?*

[J] “If you say that it may be set on top [and that serves to create the case it surely creates a symbolic gateway].

[K] “But if you say it may be set on the side, lo, as to setting it on top, that should not be done.”

[L] If you say it is set on top, R. Haggai spoke well.

[M] If you say it is set on the side, then R. Haggai has said nothing whatsoever [at E-F].

[N] [Why do you say so?] What is your choice? If it is placed on top, lo, it serves on top [to fill up a breach of ten handbreadths]. And if it is set on the side, lo, on the side [it fills the same gap]. [Why reject Haggai’s statement, E-F?]

[O] [Interpreting Haggai’s position,] rabbis of Caesarea in the name of R. Jeremiah: “Apply the law to a case in which the reeds were in the form of poles [broad at the top and narrow at the bottom]. [The Mishnah at M. 1:9 speaks of poles that are broad on top and narrow on the bottom. At the sides, then, the poles are narrow and will not hold a rope more than ten handbreadths in length. But if it is stretched across the top, the poles will serve for even a greater distance.]”

- [P] R. Zeira, R. Abedimi of Haifa in the name of R. Simeon b. Laqish: “As to height, even up to a hundred cubits [the three will be suspended properly and the partition will serve quite adequately].”
- [Q] *Said R. Yudan, “That which you have said applies to the matter of making a partition to prevent the appearance of mixed seeds in a vineyard, but so far as creating a partition to allow carry on the Sabbath, a braid of this kind should not be higher than the beam.”*
- [R] Said R. Yosé said Rabbi: “The same rule governing a partition applies both for a partition with regard to mixed seeds in a vineyard and a partition for allowing carrying in a courtyard on the Sabbath.”
- [S] *In the view of Rabbi* what is the difference between setting up beam [as a symbolic gateway] and a partition made by a braid.
- [T] A symbolic gateway constituted by a beam affords protection. [that is, constitutes suitable unification of the courtyard within for purposes of carrying on the Sabbath] even if it is on only a single side [of the courtyard]. A braid, by contrast, affords protection only if it surrounds the courtyard on all four sides.
- [U] *Now what has been said accords with the statement of R. Zeira in the name of R. Hamnuna, “A braid [partition] affords protection only if it forms an enclosure on all four sides.”*
- [V] Said R. Ba bar Mamel, “Balconies that overhang vineyards – it is forbidden to carry underneath them [on the Sabbath], for they are regarded as an extension of the roof [of the house].”
- [W] But is not the extension of the roof of a house covered by a braid?
- [X] *Said R. Phineas, “A case came before R. Jeremiah involving four columns on which were four pestles, and he permitted carrying beneath them on the Sabbath on grounds that they formed symbolic gateways.”*
- [Y] *R. Bun and [a different] R. Bun asked before R. Zeirah, “As to a braid, what is the law on its serving in the case of a sukkah? [That is, is the shape of a gateway formed in this way serviceable as a wall for a sukkah?]*”

[Z] He said to them, “The overhanging *sukkah-roofing* does not serve [to form a wall] in a *sukkah*.”

[AA] What difference would there be between that and this?

[BB] This [the shape of a doorway] has been made to serve as a wall [of a *sukkah*], but that [the overhanging ends of the *sukkah* roofing] has not been made for that purpose.

[CC] *Said R. Abbahu, “All of this discussion is for the purpose of give and take. But as to legal decision, it is forbidden to give a decision [that such a construction may serve as a wall for a sukka].”*

[DD] Now if in the case of a *sukkah*, which is subject to a lenient rule, you maintain that view, that such a partition is forbidden [to serve as a wall], as to the Sabbath, which is subject to a stricter rule, is it not an argument a fortiori [that a braided wall will not serve as a suitable partition, or symbolic doorway, to permit carrying in a courtyard

[EE] *R. Bun bar Hiyya asked before R. Zeira, “Who taught that a braid will serve? Is it not R. Yohanan b. Nuri?”*

[FF] *He said to him, “Yes, that is the case.”*

1:10

[A] They surround [a camp] with reeds,

[B] on condition that there not be between one reed and the next three handbreadths [of empty space].

[C] “And they spoke specifically of the case of a caravan [at rest], “ the words of R. Judah.

[D] And sages say, “They spoke of a caravan only because of prevailing conditions.”

[E] “Any partition which is not of warp and woof is no partition, “ the words of R. Yosé b. R. Judah.

[F] And sages say, “One of the two [is enough].”

[G] Four matters did they declare exempt [from liability if done by people] in a [military] camp:

[H] **They gather wood from any location.**

[I] **And they are exempt from the requirement of washing hands [before eating];**

[J] **and from the laws concerning doubtfully tithed produce**

[K] **and from the requirement to prepare an erub [to join the several tents so that things may be taken from one another.**

[I:1 A] “In the case of a caravan, they may surround the camp with reeds,” the words of R. Judah [M. 1:10C].

[B] Lo, an individual [who wants to make a partition of this kind must make one formed] of warp and woof.

[C] *Lo, from the viewpoint of R. Judah what is the difference between an individual's making such a partition and a caravan's doing so, and why is it that rabbis do not make a distinction between an individual's partition and a caravan's partition?*

[D] *Let us derive the answer from the following [given in T.'s version]:*

[E] **A caravan which encamped on a mound ten handbreadths high,**

[F] or in a crevice ten handbreadths deep,

[G] or in a field surrounded by a fence ten handbreadths high –

[H] **they carry objects about in it,**

[I] on condition that they fill the entire area,

[J] and not leave empty an area sufficient for the sowing of two seahs of seed.

[K] And if the area is only a Space of two seahs, they carry about therein,

[L] even if they do not fill up the entire space [T. Er. 2:3].

[M] R. Aha in the name of R. Hinena: “[They may fill the field, in line with I-L] even with camel saddles or saddle cushions.”

[N] *A statement of R. Huna indicates that that is on condition that man is involved [in filling up the space of the two seahs].*

[O] For R. Ba said in the name of R. Hunah: “If there should be one or two men, one assigns to [each of] them a space [for carrying objects] of two *seahs* of ground. If they are three, they

assign to them a space of six *seahs*. If there are still more than this, they add in due proportion. [Each gets two *seahs* of space.] [If there are three men involved in the caravan, they set the fence around a space of six or seven *seahs* of ground, but not eight, so as not to leave as much as two *seahs* of ground without a human resident. Accordingly, rabbis, M. 1:10D, do not differentiate between an individual and a whole caravan of people, because, in any event, they assign, in due proportion, two *seahs* of space to each one, with the proviso that two *seahs* of space not be left vacant. To them, therefore, it makes no difference whether there is only one person or many, since the appropriate ground-area will be filled up one way or the other.]

- [I:2 A]** A caravan is made up of no fewer than three people. A gentile may not make up the necessary number to constitute a caravan.
- [B] May a minor make up the requisite number of participants in a caravan? [This question is not answered.]
- [C] *What would be a practical case?*
- [D] If there were two Israelites, and, on Friday afternoon, they prepared a gesture of commingling [serving to join the area into a common domain for the purpose of carrying in an area of two *seahs* on the Sabbath], and then [on the Sabbath] a gentile joined them, so adding to the number in the caravan, the Sabbath already has taken effect with the additional area subject to prohibition [against carrying on the Sabbath]. [They may carry only in the area originally covered by their gesture of commingling.]
- [E] If they were three, and two of them prepared a gesture of commingling [the third having been a gentile], and then the gentile went his way and so diminished the number in the caravan, the Sabbath has already entered at a point at which the permissible area [for all three had been established, in consequence of which it is still permissible to carry throughout the original area].
- [I:3 A]** R. Deripah said R. Nisa asked, “What is the law as to assigning to them three triangulated plots, in such a way that this one may carry in the two *seahs* assigned to that, and that one may carry objects in the two *seahs* set aside for this one?” [This question is not answered.]
- [I:4 A]** *R. Aha in the name of R. Hisdai: “The view of R. Yosé b. R. Judah accords with the theory of his father and also differs from a theory of his father.*

[B] “It accords with the .theory of his father in the case of an individual, in regard to an area of more than two *seahs*, and he differs from his father in the case of a caravan, in respect to an area of less than two *seahs*.” [Judah and his son Yosé concur that an individual cannot utilize a space of more than two *seahs*. At T. Er. 2:5B, R. Judah says, “An individual should not make for himself an area larger than two *seahs*.” That involves a fence either of warp or woof. Should a fence be of both warp and woof, the rule will be different. Judah however accepts a fence of either warp or woof for a caravan, and Yosé, M. 1:10E, does not .]

[C] *Whence do we derive the fact that, in R. Judah’s position, a partition constructed for an individual for an area larger than two seahs must be made of warp and woof?*

[D] *Let us derive it from the following: For R. Aha said R. Hanin taught, R. Yosé in the name of R. Sheshet: “Just as they differ here, so they differ in the matter of [constructing a fence so that] diverse species of seeds [will not appear to grow together in a single field]. Now in the matter of mixed seeds, do we not deal with a field even of the size of a roba [a quarter of a seah’s area]? [Accordingly, a fence made of both warp and woof will serve for the purposes of an individual.]”*

[II:1 A] [As to M. 1:10G-K,] how large is such a military camp?

[B] R. Hananiah said, “A hundred: ‘So Gideon and the hundred men who were with him came to the outskirts of the camp at the beginning of the middle watch, when they had just set the watch; and they blew the trumpets and smashed the jars that were in their hands’ Judg. 7:19).”

[C] *R. Abinah raised this question: “If it had said, ‘a camp, and the men who were with him, a hundred,’ it would have been a suitable proof.”*

[D] R. Yohanan said, “The camp is ten: ‘When David’s young men came, they said all this to Nabal in the name of David; and then they waited’ (1 Sam. 25:9).”

[E] What is the meaning of “and then they waited” (1 Sam. 25:9)?

[F] R. Yusta bar Shunah said, “They made camp” [a wordplay on *wayanuhu* and *mahaneh*].

[G] R. Judah ben Pazzi said, “A camp is ten: ‘For from day to day men kept coming to David to help him, until there was a great army, like an army of God’ (1 Chron. 12:22). Now how large is an army of God?. It is ten.”

[H] *It has been taught in the name of R. Judah: “Twelve thousand, the size of the camp of Israel.”*

[II:2 A] A military camp which goes forth for an optional war may grab freshly cut wood but may not grab [19d] seasoned wood.

[B] An army which goes forth for an obligatory war may grab both seasoned and freshly cut wood.

[C] R. Daniel, son of R. Qatinah, in the name of R. Huna: “If the wood was made up in bundles, it is forbidden.”

[D] Up to this point the rule applies in the case of a camp not pitched near a thicket, [but this is the case] even if the camp is pitched near a thicket of wood;

[E] the rule applies [about not washing hands] when the camp is not located near a spring, [but this is the case] even if the camp is pitched near a spring.

[F] The rule applies [about being exempt from the laws of doubtfully tithed produce; as to edibles] which went with them into town, [edibles] are exempt [from the laws of doubtfully tithed produce]. If [edibles] came forth with them from the town, the food already has become liable to the laws of doubtfully tithed produce.

[G] R. Yosé in the name of R. Abbahu, said R. Hezekia: in the name of R. Judah b. Pazzi, “Doubtfully tithed produce is produce that one has set aright [so far as tithes and offerings are concerned] but not set aright [having left some aspects of its status unattended to].”

[III:1 A] **And from the requirement to prepare an erub to join the several tents so that things may be taken from one another [M. 1:10K]:**

[B] R. Hiyya bar Ashi said, “That which you have said applies to meals of commingling for courtyards. But as to meals of commingling covering the Sabbath boundaries [establishing the Sabbath boundary as two thousand cubits the location of the symbolic meal], that constitutes a requirement based upon the law of the Torah.”

[C] And is there a consideration of courtyards in a camp? Indeed so, it is to permit carrying in the tents located in the camp.

[D] *That is in line with the following, which has been taught: **Tents located in a camp require a meal of commingling, while tents located in a caravan do not require a meal of commingling [T. Er. 2:5F].***

[III:2 A] R. Judah b. Tema says, “They make camp anywhere [even without the permission of the owner of the field], and in the spot in which they are killed, there they are to be buried” [T. Er. 2:6B-C].

[B] That is so that you should not conclude that they should be treated as were the [gentiles] who were slain in the wars.

[C] *There is a Tannaite authority who teaches:* “It is forbidden to remove them.”

[D] *There is a Tannaite authority who teaches:* “It is permitted to remove them.”

[E] *Said R. Hisdai, “He who has said that it is permitted to remove them deals with a case in which [the bones] are gathered all together, and he who has said that it is forbidden to remove them deals with a case in which [the bones] are scattered.”*

[III:3 A] Just as, when they go forth to war, they are exempt from the four matters [of M. 1:10G-K], so when they come back from war, they are exempt from [these same] four matters.

[B] *R. Yosé b. R. Bun derived that fact from the following:* “Now therefore proclaim in the ears of the people, saying, Whoever is fearful and trembling, let him return home circuitously from Mt. Gilead; [twenty-two thousand of the people returned, and ten thousand remained]’ (Judg. 7:3).”

[C] And why do they go back circuitously? On account of the enemy. [So the same rule applies.]

[D] R. Yosé b. R. Bun in the name of Rab: “Just as when they go forth to war, they are exempt from four matters [of M. 1:10G-K], so when they come back from war, they are exempt from [these same] four matters.”

YERUSHALMI ERUBIN

CHAPTER TWO

2:1

[A] They set up boards around wells [in the public domain].

[B] “Four corner-pieces appearing like eight [single boards] [are to be set up],” the words of R. Judah

[C] R. Meir says, “Eight appearing like twelve [are to be set up].

[D] “Four are corner-pieces, and four are flat.”

[E] Their height is to be ten handbreadths, and their breadth six, and their thickness in any measure at all.

[F] “And the space between them is to be enough for two teams of three oxen each,” the words of R. Meir.

[G] R. Judah says, “Four oxen each,

[H] “tied together and not widely apart,

[I] “one going in while the other goes out.”

[I:1 A] [The reason that they set up four corner-pieces] is that the breaches [in the wall surrounding the well in public domain] are more than the standing boards, and, accordingly, one has to set up corner-pieces, rather than flat boards [each of four cubits in breadth].

[B] [Why so? For the corner-pieces } give indication that they are set up to permit access to the well [on the part of the oxen]. [It is on that count that there may be a breach larger than the standing part of the wall around the well, and setting up the corner-pieces is what indicates it.]

[C] R. Zeira in the name of R. Eleazar: “Here you have an opportunity to learn the extent of the rules governing setting up boundaries for the Sabbath. For if one had done so, [namely, set up this sort of fence] under any other circumstances, and gone and thrown an object four cubits in public domain, he would be liable. [But by setting up this

fence, in the present circumstance, he is not liable for transporting an object.]”

[D] Said R. Yosé, “For under all other circumstances the standing part of a partition must be greater than the breached part, but here you have imposed a lenient rule, allowing the breached part to be greater than the standing part.

[E] “[On the other hand,] you have stated a stricter rule in another aspect, for in all other cases one utilizes a board of four handbreadths broad, while here, one utilizes a board of six handbreadths in breadth [M. 2:1E].”

[I:2 A] R. Jeremiah in the name of Rab: “They have permitted the use of strips of wood around wells [facilitating use of the wells on the Sabbath in the way described at M. 2:1] only in the case of those who make a pilgrimage for the festival alone.”

[B] R. Abin said, “It is for the time that the pilgrims for the festivals are coming [not only for the pilgrims themselves].”

[C] R. Jeremiah in the name of R. Samuel bar R. Isaac: “It is because of those who come up for the festival [that this arrangement is permitted under all circumstances].”

[D] *Said R. Ezra before R. Mana, “There is a Tannaite teaching which indicates that that is so: ‘They prepare wood strips around wells at this time.’”*

[E] *And lo, we have learned: **Water may be drawn on the Sabbath by means of a wheel from the cistern of the exiles [20a] and from the great cistern, and, on a festival day [but not on the Sabbath] from the Haqquer Well also [M. 10:14].*** [This indicates that a construction such as is described at M. 2:1 is made even at this time.]

[F] On what account may they draw water from a Haqquer Well with a wheel on the festival day?

[G] When the Israelites came up from the Exile and encamped at that well, the prophets who were among them stipulated with them that they might draw water from a Haqquer Well with a wheel on the festival day.

[H] Not all Haqquer Wells did they permit, but only that one alone, at which they had encamped.

[I] Just as you have said there, what was permitted was permitted, so here what was permitted [and not at any other time or place].

[Accordingly, it is not permitted to make a fence of boards around a well in public domain, such as is described at M. 2:1].

[J] R. Abedima of Haifa gave a decision in Haifa, R. Jeremiah gave a decision in Halap, in regard to setting up boards around wells in this time [that one may do so].

- [I:3 A] *They proposed to say, “R. Meir will concede the view of R. Judah, but R. Judah will not concede the view of R. Meir.”*
- [B] R. Meir will concede the view of R. Judah: *Now R. Meir holds that the boards may be flat [and not formed into corners], and you say such a thing? [How can he concede Judah’s position, that the boards must be made into corners, when Meir holds they may be flat?]*
- [C] [So far as Meir is concerned,] if you make corner-pieces [that would suffice, even if you do not make flat boards.
- [D] Nonetheless [he imposes a stricter rule, in that] he maintains, since one may err and suppose that any sort of partition prepared in the public domain for the Sabbath may be of such a character, so one may go and make such a construction in some context other than [the well], and so incur liability. [Thus he imposes a still stricter requirement, that there be boards as well as corner-pieces. But in strict law, corner-pieces alone would suffice, just as Judah maintains.]
- [E] *R. Aha in the name of R. Hinena: “This one will not concur with the view of that one, and that one will not concur with the view of this one.”*
- [F] *Said R. Mana, “Even though my teacher, R. Yosé, did not say the following matter explicitly, he said something along these same lines.*
- [G] *“R. Bun and [another] R. Bun asked before R. Zeira, ‘How far may a flat board be distant from a corner-piece, so that there need not be yet another flat board set to fill the space in between?’*
- [H] *“He said to them, ‘A space of less than three handbreadths is as if it were completely closed up. One broader than six is sufficiently set apart [so that another board is not needed].’*
- [I] *“Thus we must interpret [the area of unclarity] as the space from three to four handbreadths.*
- [J] *“Now if you maintain that R. Meir accords with the view of R. Judah, then why should there not be a corner-piece that is lengthened, so there need not be the addition of a flat piece? [Accordingly, in Mana’s view, Yosé also will maintain that Meir does not concur with Judah.]”*

[K] [Maintaining that also from Meir's position, if one lengthened the corner-pieces, that suffices, without the addition of a flat piece,] said R. Ba bar Mamel, "R. Meir requires the addition of flat pieces only within the theory of R. Judah. [It is solely in the framework of the measurements adopted by Judah, M. 2:1G-I, that Meir maintains flat pieces must be added. The flat pieces serve to diminish the open space to ten cubits. But so far as Meir is concerned, if one simply extended the corner-pieces, that would ordinarily suffice.]"

[L] [Rejecting Ba bar Mamel's claim,] said R. Yosé, "And even from his perspective, in any event is not the standing part of the fence larger than the breaches in the fence? Since the standing part of the fence is greater than the breaches in the fence, it is necessary [from Meir's own viewpoint] to add flat pieces [and Meir will not suffice with corner-pieces alone]."

[I:4 A] If there was a single stone shaped like a cube, they examine it. If it should be divided, and there would be six handbreadths on this side and six handbreadths on that side, at the corners, it is deemed equivalent to boards [T. Er. 1:12B-C].

[B] *There is a Tannaite authority who teaches, If it should be smoothed down.*

[C] *They proposed to rule, "He who said, 'If it should be divided,' measures from within, and he who said, 'If it should be smoothed down,' measures from without."*

[D] Said R. Yosé, "Not only so, but are you going to require measuring the distance as if from the outermost leaf of a piece of garlic? [How thin are you going to have to slice the stone!] But in point of fact there can be no difference, *for in the view of both him who has said, 'If one smooths it down,' and of him who has said, 'If one divides it,' one measures from inside.*

[E] "[At issue is another consideration altogether.] He who says, 'If it should be smoothed out,' speaks of a round one, and he who said, 'If it should be divided,' speaks of a square one. [The issue then is whether there is a cubit at each side, in which case the rock may form a suitable corner.]

[F] "You should know that that is the case, *for so the Tannaite authority replied to his fellow: 'There is no difference between my opinion and your opinion at all, but you speak of a round stone and I speak of a square stone.'*"

- [I:5 A] If there was there [at a well] a ditch ten handbreadths deep and four broad, with six handbreadths on one side and six on the other [that is, it is an L-shaped ditch, of the stated dimensions,] then it is treated as equivalent to a corner-piece.
- [B] It is not the end of the matter that that rule applies to a ditch, but even if there is a heap of stones, [or a case in which] part of the corner is made up by a ditch, and part by a heap of stones, [the same rule applies].
- [C] If there were five reeds, and there were not three handbreadths between one and the other, and they cover a space of six handbreadths on one side and six on the other [laid out as an L], they are treated as equivalent to a corner-piece.
- [D] If there were three reeds and a reed-grass rope above [as in a doorway], what is the law as to their affording protection on the grounds of forming a plaited partition?
- [E] But does a plaited partition afford protection, unless its character is clear on all sides? [The plaiting has to be complete on all sides, not merely at the top, as at D.]
- [F] At issue, rather, is a case in which the reeds joined round about by reed grass. Are they regarded as closed up [and a single object]? Is it the case that, *just as you say there*, that “They regard it so that, if it should be divided, and there are six handbreadths on either side, it is regarded as a corner-piece,” *so do you maintain the same view here* [in dividing up the reeds joined by reed grass]?
- [G] There you have to smooth it down to the fineness of the shell of a piece of garlic, but here, *what choice do you have?* If you say so, the requirements of the plaited rope are nullified.
- [I:6 A] **A wall, tree, or partition of reeds is regarded as equivalent to boards [T. 1:15A].**
- [B] If they grew up on their own, the people may carry in the space demarcated by them to an area of two *seahs*. If one made them on his own, one may carry in the space demarcated by them up to a *kor's* or two *kor's* space.
- [C] If there was the case of a very large cistern, if then for half of it one prepared a wall of boards, and for half of it one did not prepare a wall of boards,

[D] for the half for which one prepared a wall of boards, it is permitted [to draw water], and from the half for which one did not prepare a wall of boards, it is forbidden [to draw water].

[E] If there were two cisterns, as to the board in the middle, what is the law on its being assigned both to this side and to that side?

[F] *Where there is a question*, it is in a case in which there were two people who were drawing water. But if there was only one person [owning both and] drawing water, [the partition] is assigned to both sides.

[I:7 A] [If there was a courtyard open to the space enclosed by the boards, it is permitted to carry from the courtyard to the area enclosed by the boards, [Y.: but not] and from the area enclosed by the boards to the courtyard.

[B] **[If] there were two there, both of them are prohibited,**

[C] **[but it is permitted to carry in the space enclosed by the boards] [T. Er. 1:15].**

[D] Said R. Ba, “It is not the end of the matter that that is the rule for two courtyards. But even if it was a single courtyard, and in the courtyard were two houses, [the same rule applies]. [It is prohibited to carry.]”

[E] *They proposed to state that* that is the case when they did not prepare a meal of commingling. But lo, if they prepared a meal of commingling, they are permitted [to carry from house to house].

[F] R. Daniel, son of R. Qattinah, in the name of R. Huna: “Even if they prepared a meal of commingling they are prohibited, for such a meal of commingling does not serve to make them into one domain.”

[G] *R. Huna is consistent with views held elsewhere, for there is the following dispute:*

[H] In the case of an alleyway, one side of which was inhabited by gentiles and the other side of which was inhabited by Israelites

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[I] R. Huna in the name of Rab said, “If the Israelites prepared a meal of commingling, serving the doors [of their houses], the gentile nonetheless prohibits [their carrying about in the courtyard, because he owns part of the courtyard and is not covered by the meal].”

[J] Abba bar bar Hanilai in the name of R. Yohanan, “Even if they prepared a meal of commingling to serve transportation of objects through the windows, the gentile does not serve to prohibit their transporting their objects that way.” [Huna differs.]

[K] *Now even if R. Huna concurs with the view of R. Yohanan there that it is permitted, he agrees here that it is forbidden.*

[L] For in that case [involving the cistern], it is possible that the cistern will go dry tomorrow. In that case the householder may suppose also that a meal of commingling is valid for boards around a well. But a meal of commingling does not serve for the boards around a well [except when the well is in operation]. [Hence Huna imposes a strict rule.]

[I:8 A] Said R. Yosé b. R. Bun, “They permitted transporting objects in the area marked off by boards around a well only for the purpose of drawing water in that area alone.”

[B] If water should come into the cistern only on the Sabbath, [it may not be drawn] for the Sabbath has already come into effect at the point at which it was forbidden to draw water from the well.

[C] If the well went dry on the Sabbath [and then water came back to it], it is permitted to use that water, for when the Sabbath came, the well was permitted for the drawing of water.

[D] [Going over the issue of A,] R. Jonah said R. Nisa asked, “What is the law as to carrying objects within the boards?”

[E] We may rule as follows: If there is a space between one board and the next of four handbreadths, as in the case of a threshold, it is forbidden, and if not, as in the case of a threshold, it is permitted [to carry other objects].

[F] It is permitted to place objects there from one side and the other, on condition that one not then exchange said objects [moving them from one domain to the other].

[I:9 A] *It has been taught: “[The space at issue at M. 2:1F-I] is ten cubits,” the words of R. Meir.*

[B] **R. Judah says, “Thirteen or fourteen” [T. Er. 1:13B-C].**

[C] “You take a cubit and a half, with a cubit between them.”

2:2

- [A] **It is permitted to bring [the fence] close to the well,**
[B] **so long as the head and greater part of a cow will be inside [the enclosed] when it drinks.**
[C] **And it is permitted to draw them back any distance at all,**
[D] **so long as one increases the number of boards.**

- [I:1 A] R. Jeremiah in the name of R. Samuel bar R. Isaac: “And that measure [of a cubit of partition and a cubit of space, applicable to all other beasts,] is the same as the measure stated here [at M. 2:2B],
[B] “so that even a camel, the whole of which will be outside of the fence of boards, will be permitted [to drink from the well].
[C] “But if [a fence of boards is so set up as to be] less than the stated dimensions [at M. 2:2B], then even a young animal, the whole of which is within [the boards around the well,] is forbidden [to drink from the well]. [There are no variations in the dimensions fixed by sages.]”
[D] *It has been taught:* R Simeon b. Eleazar says, “The dimensions of a camel with its accoutrements [are what is required].”
[E] *Does this statement differ from the foregoing [at A-C]?* As long as a cow may stretch out its neck, so a camel may twist his neck around [shortening it, as it were].
[F] *Now what have you gained [with this explanation of what is at issue],* for does not a cow stand in public domain and eat fodder located in private domain? [Since that is certainly permitted, what concern is it that the cow or camel drink water from a private domain while standing in a public domain anyhow?]
[G] [Differentiating the case of F, in which the cow or camel eats on its own, from the case before us, in which the owner provides the water], *said R. Yosé,* “*There [where we set a fixed dimension] it is a case in which the owner supplies the water, while here [in which there is no prohibition against the animal’s standing in public domain and eating what is in private domain], the animal eats on its own. [In the former instance we take account of the animal’s not eating from private to public domain, because the owner is responsible, so, from Simeon b. Eleazar’s view, there must be adequate space, within private domain, for the beast. Where the beast eats on its own, there is no responsibility taken by the owner for the beast’s actions. Hence it must follow that*

Simeon b. Eleazar does differ from the law which assigns a single dimension for all beasts.]”

- [I:2 A]** *In the view of R. Meir*, there may be corner-pieces or boards. In the view of R. Judah, there must be corner-pieces but not boards. [In extending the dimensions of the fence to cover more ground, M. 2:2C-D, Judah wants the use of corner-pieces. Meir wants additional boards to close off excessive spaces in the fence.]

2:3

- [A]** **R. Judah says, “They [may draw them back from the well only] so far as to leave two seahs of space.”**
- [B]** **They said to him, “The measure of two seahs space has been stated only in connection with what is required for a garden or an outer area.**
- [C]** **“But if it was a cattle-pen, fold, store-yard, or courtyard, even a space of five kors, even a space of ten kors, is permitted.”**
- [D]** **So it is permitted to draw the boards back any distance at all,**
- [E]** **so long as one increases the number of boards.**
- [I:1 A]** [From the viewpoint of Judah, M. 2:3A,] what is the rule on the space occupied by the cistern’s being included in the two seahs of space [one is permitted to mark off by the fence]?
- [B]** *Let us derive* the rule from the following:
- [C]** **R. Simeon b. Eleazar says, “A cistern or ditch two seahs in length by two seahs in breadth is permitted.**
- [D]** **“It is permitted to expand the area only to the space needed for the head and greater part of the body of a cow” [T. Er. 1:13N-O].**
- [E]** That indicates that the space occupied by the cistern is included in the two seahs of space under discussion [20b].

2:4

- [A]** **R. Judah says, “If a public path went through them [the boards], one should divert it to the side.”**
- [B]** **And sages say, “It is nor necessary [to do so].”**
- [C]** **“All the same are a cistern serving the public, a well serving the public, and a well serving an individual: they set up boards for them.**

[D] **“But for a cistern serving an individual they set up a partition ten handbreadths high,”** the words of R. Aqiba.

[E] R. Judah b. Baba says, **“They set up boards only for a cistern serving the public alone.**

[F] **“But for the rest they set up a [rope] belt ten handbreadths high.”**

[I:1 A] *Said R. Yohanan, “The two theories attributed to R. Judah are at variance with one another. For we have learned there: ‘And so in the case of viaducts open at both ends, they carry underneath them on the Sabbath,’ the words of R. Judah. And sages prohibit [cf. M. 9:5]. [From Judah’s decision it follows that the fact that the public way intervenes does not have the effect of nullifying the power of the partition. Here, at M. 2:4A, he holds the contrary.]”*

[B] *Said R. Eleazar, “There is no contradiction [among the views of either Judah, on the one side, or sages, on the other].”*

[C] *[The explanation of how the cases are distinguished from one another derives from what] R. Jeremiah said, “For [Eleazar] maintains the view of R. Judah, for R. Judah said, ‘That which you have said pertains to a path that opens out into a valley [which is differentiated, thus neutral domain]. [In that case, the public way does not vitiate the power of the partition.] But if the path opened out into public domain, [the passage of the public way does vitiate the partition, and hence] it is forbidden [to carry in an area partitioned off but traversed by the public*

[D] *Said R. Yosé, “In every instance R. Eleazar relies upon R. Hiyya the Elder. R. Hiyya the Elder taught, **How do they permit carrying in the public domain? R. Judah says, ‘One sets up a side post on one side and a side post on the other, or a crossbeam on one side and a crossbeam on the other.’ And sages say, ‘A side beam and a crossbeam on one side, and let him make a symbolic door on the other side’ [cf. T. Er. 7:13D-G].”** [Now Hiyya indicates that Judah suffices in the stated arrangement, even in respect to the public domain.] How then can he make the distinction he has proposed here?”*

[E] Here [at Hiyya picture of Judah’s view] we deal with a gap of ten handbreadths [e.g., in a valley], while here [where Judah holds we must divert the public path], we deal with a gap of thirteen [between the corner-pieces of the wall around the cistern].

[F] [As to this distinction between an alleyway that opens into public domain and the thirteen handbreadths of space permitted

in the case of the wall around the cistern, E,] *a statement of the rabbis differs*. For R. Aha said R. Hoshaiyah asked Abba, “‘How broad may be the opening of an alleyway *in the view of R. Judah?*’ And he answered him, ‘Thirteen cubits.’ *And here has he said this?*” [How then is the distinction proposed at E going to stand up?]

[G] The rabbis of Caesarea say, “There [in the alleyway] the standing part of the partition is greater than the breaches in the partition, while here [at the cistern] the breaches in the partition are greater than the standing part in the partition.
[Consequently, the two cases are to be differentiated.]

[II:1 A] [As to M. 2:4C-D,] what is the difference between a cistern serving the public and a cistern serving an individual?

[B] A cistern serving the public is well known, while a cistern serving an individual is not well known.

[C] If that is the case, then the same rule should apply to a well [serving an individual, M. 2:4D].

[D] But a well serving the public does not often run dry, while a well serving an individual usually goes dry. [The latter therefore must have a more elaborate provision, since it may not serve its permitted purpose.]

[II:2 A] R. Jacob bar Aha Amram, R. Judah in the name of Samuel: “The law accords with R. Judah b. Baba.”

[B] *Said R. Judah, father of R. Mattenaiah, “The Mishnah has made that same point: **They set up boards for a cistern** – but not for wells [even if they serve the public, as M. 2:4E maintains].”*

[C] *And lo, we have learned: **“But for a cistern serving an individual they set up a partition ten handbreadths high,” the words of R. Aqiba [M. 2:4D].*** [There is no dispute between Aqiba and Judah b. Baba with regard to the cistern serving an individual.]

[D] *But thus we must interpret the matter, to speak of a well serving the public, and, along these same lines, they set up a wall of boards for cisterns for a well serving the public [as well].*

2:5

[A] And further did R. Judah b. Baba say, “As to a garden or an outer area [no more than] seventy cubits and two-thirds by seventy cubits and two-thirds, surrounded by a wall ten hand-breadths high,

[B] “they carry about in it,

[C] “so long as there is a watchman’s hut or a house, or it is near town [where the owner lives].”

[I:1 A] [For a full translation of this passage, see my *Talmud of the Land of Israel. A Preliminary Translation*, 12:80-81]. R. Samuel bar Nahman in the name of R. Jonathan: “They derived the stated dimensions from the courtyard of the tabernacle [that is, the area of two *seahs* is deduced from the dimensions of the courtyard]: ‘The length of the court shall be a hundred cubits, and the breadth fifty everywhere’ (Exod. 27:18).”

[B] *R. Samuel bar Nahman said in the name of R. Jonathan, “The side of a square whose area equals that of a court 100x50 square cubits is more than 70 and two-thirds.”*

[C] *This is in line with that which has been taught: There is a small point of difference here, and sages could not solve the problem.*

[I:2 A] An outer area which covers two *seahs*’ space – it is permitted to carry there in only four cubits [in the case of an area not surrounded for a dwelling house, as at M. 2:5A-C].

[B] If there were two areas, each one a *seah* in space, the second lacking four cubits, [which fields had been opened, through a breach in the partition between them, into one another]

[C] R. Zeirah in the name of R. Yohanan: “They may carry in the area [since we do not have two *seahs* of space in any event] regarding the second field as completing [the requisite space] of the first.”

[D] R. La in the name of R. Yohanan: “They do not carry in the area, thus not regarding the second field as completing the requisite space of the first. [The two fields originally were separated and are not now regarded as joined together with one another.]”

[E] Said R. Zeira, “R. La concurs that if there were three fields, in one a *seah* of space, in the second and in the third likewise, they all concur that people may carry, regarding the second field as completing the requisite area of the first.”

- [I:3 A] As to an outer area which covers two *seahs* of space,
- [B] said R. Abbahu, “Since such an area may be transformed into private domain through the encampment of a caravan, [it is regarded as private domain, so that] if one tossed an object from public domain into that area, he is liable.”
- [C] *R. Samuel bar R. Isaac* asked, “But it is only when a caravan’s camping will permit it [that the area becomes private domain, so why should he not be exempt until that actually is the case]?”
- [D] As to prohibiting tossing an object into such an area, it is indeed forbidden. But as to declaring the one who does so liable to a sin-offering, no such liability is present here.
- [E] If so, in the case of an alleyway, the crossbeam of which is above twenty cubits, since, *in the view of R. Judah*, such an arrangement is valid, if one tossed an object from public domain into the alleyway, he should be liable.
- [F] [Along these same lines,] in the case of an alleyway which has a breach greater than ten cubits, *since in the view of R. Judah* such an alley way has been breached to a greater breadth than thirteen cubits, if one tossed an object from public domain into the alleyway, he should be liable.

- [I:4 A] A courtyard which is open into an outer area – they may carry an object from the courtyard to the outer area, but not from the outer area into the courtyard.
- [B] *R. Yudan of Antodarayya* asked, “What is the law as to carrying from one outer area into another outer area through a courtyard [located between the two]?” [This question is not answered.]

2:6

- [A] **R. Judah** says, “Even if there is in it only a cistern, pit, or cavern, they carry about in it.”
- [B] **R. Aqiba** says, “Even if there is in it none of these things, they carry about in it.
- [C] “so long as it is of the space of seventy cubits and two-thirds by seventy cubits and two-thirds [and no more].”
- [I:1 A] *The opinions assigned to R. Judah are at variance with one another, for we have learned there: What is the outer area? It is any area near the town, “ the words of R. Judah [M. Bes. 4:2E-F].*

- [B] *And here has he said this* [that any area, even not near a town, is subject to the stated rule, if there is a cistern, pit, or cavern therein]?
- [C] *Said R. Mana, “R. Judah treats the cistern pit or cavern as equivalent to a hut* [that Judah b. Baba requires for such an area to be treated as permissible for carrying].”

2:7

- [A] **R. Eliezer says, “If its length is longer than its breadth even by a single cubit, they do not carry therein.”**
- [B] **R. Yosé says, “Even if its length is two times its breadth, they do carry therein.”**
- [I:1 A] *It has been taught: R. Eliezer says, “If its length is longer than its breadth even by a single cubit, they do not carry therein”* [M. 2:7A].
- [B] *This stands at variance with the position of R. Jonathan* [at Y. 2:5].
- [C] **R. Yosé says, “Even if its length is two times its breadth, they do carry therein”** [M. 2:7B].
- [D] *This supports the position of R. Jonathan.*
- [E] *Further, it has been taught with regard to the laws of mixed seeds* [in supplying the dimension of a field the size of a roba]: **It is to be a square. R. Yosé says, “Even if it is twice as long as it is wide, [it is an adequate arrangement]”** [T. Kil. 2:6F-H].

2:8

- [A] **Said R. Ilai, “I heard from R. Eliezer, ‘Even if it is a kor’s space [seventy-five thousand square cubits].’**
- [B] **“And so did I hear from him, ‘The inhabitants of a courtyard, one of whom forgot and did not prepare an erub –**
- [C] **“as to his house, it is prohibited for him to bring in [something] or take [it] out.**
- [D] **“But for them it is permitted.’**
- [E] **“And so did I hear from him, ‘They fulfill their obligation [to eat bitter herbs] through hart’s tongue on Passover. ‘**
- [F] **“And I made the rounds of all his disciples, and I looked for a partner for myself [in holding these traditions], but found none.”**

- [I:1 A] R. Abbahu in the name of R. Eliezer: “[It is not actually *a kor’s* space that Eliezer has pronounced permitted for carrying, but rather a case in which] two *seahs* fit into a *kor’s* space, [for instance, where there are crevices or sloping fields. *It is to such a case that*] the *Mishnah* speaks.”
- [II:1 A] **“And so did I hear from him: ‘The inhabitants of a courtyard, one of whom forgot and did not prepare an erub – as to his house, it is prohibited for him to bring in something or take it out, but for them it is permitted’” [M. 2:8B-D]:**
- [B] *There [at M. 6:3], we deal with the opinion of rabbis, while here it is the view of R. Eleazer.*
- [C] Rabbis hold the view that one may annul his rights of ownership to a courtyard, but he may not nullify his rights of ownership to his house [unless he so states explicitly].
- [D] R. Eliezer says, “Just as a man nullifies his rights of ownership to his house, so he nullifies his rights of ownership to his courtyard. [That is the case even if he nullifies his rights to only one of the components of his property.]”
- [E] *In accord with the view of R. Eliezer, why not let the householder be treated as a guest, not as owner, for the moment], and let it be permitted to carry objects in the courtyard [since he is not owner of his own house, having nullified his right and remaining only in the status of a guest]? [His house is now in the status of the houses of the other tenants of the courtyard.]*
- [F] R. Hiyya bar Ada in the name of R. Simeon b. Laqish: “It is a penalty imposed by R. Eliezer [for not participating in the meal of commingling, and the householder may therefore not take objects from his house into the courtyard (M. 2:8C)].”
- [G] *R. Shimi raised the following question: “The very requirement of a meal of commingling derives solely from the authority of the rabbis. Will they then impose a penalty of this sort, when a man has acted totally inadvertently, in the view of R. Eliezer? [Surely not!]”*
- [H] *R. Ba, son of R. Pappi, raised the question: “If one said, ‘Lo, I annul my rights of ownership to my house [having neglected to participate in the meal of commingling],’ will rabbis also concur [that he is forbidden, as at M. 2:8C]? If one said, ‘Lo, I*

annul my right to the courtyard,' R. Eliezer will concur [that he has not nullified his rights of ownership to his house].”

[III:1 A] “And so did I hear from him, ‘They fulfill their obligation to eat bitter herbs through hart’s tongue on Passover’” [M. 2:8E]:

[B] [As to M. 2:8F,] we considered maintaining that the reference was only to the matter of hart’s tongue. But a teaching turned up that that statement [of Ilai] pertains to all three items.

YERUSHALMI ERUBIN

CHAPTER THREE

3:1

[A] With any [food] do they prepare an erub and a shittuf [meal of commingling for a courtyard and alleyway, respectively],

[B] except for water and salt.

[C] And any [food] is purchased with money set aside as [second] tithe,

[D] except for water and salt.

[E] He who vows [to abstain] from food is permitted [to make use of] water and salt.

[F] They prepare an erub for a Nazir with wine,

[G] and for an Israelite with heave-offering.

[H] Sumkhos says, “With unconsecrated produce.

[I] “[And for a priest they prepare an erub and locate it] in a grave area.”

[J] R. Judah says, “Even in a graveyard,

[K] “because he can go outside and eat.”

[I:1 A] [20c] *Said R. Aha, “This [M. 3:1A] represents the view of R. Eliezer, for we have learned there: They may prepare a meal of commingling for a courtyard or an alleyway with anything except for water and salt,’ the words of R. Eliezer [M. 7:10].”*

[B] Rejecting this view,] R. Yosé said, “The present passage of the Mishnah represents the view of all parties. [When Joshua, at M. 7:10, requires use of bread, rather than any other sort of food, he speaks of the case of making a meal of commingling for courtyards. But when the Mishnah speaks of making a meal of commingling in general, it speaks both of such a meal [supply: not] for courtyards [but] for establishing a Sabbath boundary [and in that latter case, any sort of food may be used].”

[I:2 A] [*When the Mishnah says that a meal of commingling may be prepared from any sort of food,] it represents the view of R. Meir, for it has been*

taught: With any sort of food which is eaten fresh, as is, they prepare a meal of commingling. If it is eaten only with bread, they do not prepare a meal of commingling with it.

- [B] As to onions, *in the view of R. Meir* they do not prepare a meal of commingling with them.
- [C] *For it has been taught: R. Judah said, “There was a precedent, set when R. Meir spent the Sabbath in Ardiqsis, when someone came to him and said, ‘I made a meal of commingling with onions,’ and R. Meir made him stay within his four cubits”* [T. Er. 6:4].
- [D] Accordingly, even though R. Meir has said, “They may make a meal of commingling for courtyards or alleyways with anything except for water and salt,” that is on condition that it is something which is eaten fresh, as is [without bread].
- [E] As to arum and colocasia, *in the view of rabbis*, they do not prepare a meal of commingling with them.
- [F] *We have learned two governing principles, and they are not similar to one another.*
- [G] [First], with any sort of food do they prepare a meal of commingling [for a courtyard or an alleyway], except for salt, – [and that would then include] both something which is eaten fresh, as is, and something which is not eaten fresh, as is, [but rather with bread].
- [H] [Second,] any food may be purchased with money set aside as second tithe, except for water and salt, on condition that it is something that is eaten fresh, as is.
- [I:3 A] With any sort of food do they prepare a meal of commingling for courtyards and alleyways, except for water and salt, both in the view of R. Aqiba and in the view of R. Ishmael.
- [B] Now as to money in the status of second tithe, any sort of food may be purchased with it, in the view of R. Aqiba, except for water and salt.
- [C] *But as to the view of R. Ishmael: R. Ishmael has taught, “And spend the money for whatever you desire, oxen, or sheep, or wine or strong drink, whatever your appetite craves; and you shall eat there before the Lord your God and rejoice, you and your household’* (Deut. 14:26).
- [D] “And spend the money for whatever you desire’ – lo, this is a generalization.

- [E] “‘Oxen, sheep, wine, or strong drink’ – this is an exemplification.
- [F] “‘Whatever your appetite craves’ – . this is a further generalization.
- [G] “Thus we have a generalization, an exemplification of the foregoing, and a further generalization, with the result that you may reason [in applying the law] only in accord with what is like those things contained within the exemplification. This then indicates: Just as the exemplifications speak explicitly of something which is an offspring of the land, so I may include only something which is an offspring [20d] of the land [excluding fish, locusts, and the like].”

[H] R. Aqiba interprets the matter differently: “Just as the exemplifications of the generalization speak of what is the fruit of the offspring of the land, or the fruit of what renders that suitable, so I may include only something which is the fruit of the offspring of the land or the fruit of what renders that suitable.”

[I] What is the practical difference between the two positions?

[J] Fish and locusts [or: fowl and fish], mushrooms and truffles.

[K] In the view of R. Aqiba, they may be purchased with money in the status of second tithe, and in the view of R. Ishmael, they may not be purchased with money in the status of second tithe.

[I:4 A] With any food do they prepare an erub and a shittuf except for water and salt [M. 3:1A-B]:

- [B] Said R. Yosé, “It is because the body does not derive sustenance from them.”
- [C] Said R. Levi, “It is because through them a curse is carried out, [water with the flood, salt with Sodom].”

[I:5 A] Said R. Eleazar, “If one turned the two into saltwater, they may be purchased with money in the status of second tithe.”

- [B] R. Aha in the name of R. Miasha: “And that is the case if one put oil into the mixture.”
- [C] *R. Yosé raised the question*, “If so, then should one make a meal of commingling only in proportion to the [amount of oil] in the mixture?”
- [D] *There we have learned: They do not give to the poor from the threshing floor as poorman’s tithe less than a half log of wine. R. Aqiba says, “A quarter.” Or a quarter log of oil. R. Aqiba says, “An eighth”*[M. Pe. 8:5].

[E] R. Eleazar said, “And so is the rule for the [amount of produce required in a] meal of commingling.”

[F] *Said R. Hinena, “That which you have said is the case for wine but not for oil.”*

[I:6 A] *It has been taught: Wine must be enough for drinking along with two meals.*

[B] Oil must be enough to eat with food for two meals.

[C] Vinegar must be enough for dipping food for two meals [T. Er. 6:3A-C].

[D] R. Jeremiah in the name of R. Samuel bar R. Isaac: “It must be sufficient to dip a bundle of vegetables sufficient as food for two meals.”

[E] *R. Isaac Atoshayya said before R. Zeira in the name of the house of R. Yannai: “One may make a meal of commingling with raw*

[F] *To whom is such a matter a problem anyhow? It is to R. Meir. It is so that you should not say, “Since they make the mouth stink, one may not use them for a meal of commingling.”*

[G] *They may make a meal of commingling with salted fish; they may make a meal of commingling with salted meat.*

[H] *As to fresh [uncooked] meat, they may make a meal of commingling with it, for we have learned: **Babylonians eat it raw, because they think it is fine [M. Men. 10:7].***

[I] *R. Yudan asked, “As to kalbuda-grass, since there are Samaritans who eat it raw, do they use it for a meal of commingling?”*

[J] Samuel bar Shilat in the name of Rab: “They prepare a meal of commingling with them.”

[K] *They asked before him, “What are they?”*

[L] *He said to them, “Cress, purslane, and clover [as specified above, now with Aramaic equivalents].”*

[II:1 A] He who vows to abstain from food is permitted to make use of water and salt [M. 3:1E]:

- [B] *There we have learned: **He who takes a vow not to eat what is cooked is permitted [to eat what is] roasted or seethed [M. Ned. 6:1A].***
- [C] *[M. Ned. 6:1A indicates that the Mishnah does not regard roasting or seething as cooking. And yet elsewhere] the Mishnah has maintained that that which is seethed is called “cooked.”*
- [D] *For we have learned: **He would cook the peace-offerings or seethe them [M. Naz. 6:9A].** [Then at Num. 6:19, the shoulder of the ram is called cooked.]*
- [E] Now Scripture, for its part, refers to roasting as cooking: “And they cooked the Passover lamb over a fire” (2 Chron. 35:13).
- [F] Now if, in this latter instance, you wish to maintain that they did not act in accord with the requirements of the law, R. Jonah Bosrayya said that it was in accord with the law [that they had acted].
- [G] *So it follows that the Mishnah maintains that that which is seethed is called “cooked,” while the Scripture has held that that which is roasted is called “cooked.”*
- [H] *And have we not learned: **He who takes a vow not to eat what is cooked is permitted to eat what is roasted or seethed [M. Ned. 6:1A]?***
- [I] Said R. Yohanan, “In matters of vows the sages have followed the usages of common speech.”
- [J] Said R. Josiah, “In matters of vows the sages have followed the linguistic usage of the Torah.” [Hence he will differ from M.’s rule and will maintain that if a person takes a vow not to eat what is cooked, he may not eat what is roasted or seethed.]
- [K] *What practical difference is there between these two positions?*
- [L] [A case in which one says,] “Qonam [i.e., sanctified] be wine, which I shall not taste on the festival.” [Such a vow prevents his drinking wine on the festival, and the issue is the extent of the festival, that is, Tabernacles].
- [M] *In the view of R. Yohanan, he is prohibited from drinking wine on the last day of the festival, [since, when they refer to it, people mean the entire span of the festival, even though the final day is not part of the Festival of Tabernacles itself, but is a distinct and additional festival day].*

[N] *In the view of R. Josiah*, he is permitted to drink wine on the last day of the festival [for the reason stated above].

[O] [No, that is not the case.] Even R. Josiah concedes that he is prohibited [to drink wine on that last day].

[P] R. Josiah has made his statement only so as to impose the stricter rule.

[Q] *R. Hiyya bar Ba said*, “*R. Yohanan would eat dumplings [boiled in water] and say, ‘I have not tasted food today.’*”

[R] *And lo, we have learned*, **He who takes a vow not to eat food is permitted to have water and salt [M. 3:1E]** [which indicates that these dumplings also fall into the category of food].

[S] [*R. Yohanan*] *interprets [this teaching of M. 3:1E] to accord with the view of R. Josiah, who has said that*, as far as vows are concerned, they follow the usage of language in the Torah.

[T] And how do we know that [in the Torah] all sorts of things may be called food?

[U] R. Aha bar Ila said, “‘Ten asses loaded with grain, bread, and provision’ (Gen. 45:23). Why does Scripture refer to ‘provision’? It is to indicate that all sorts of things are regarded as provisions [of food].”

[II:2 A] If one took a vow not to eat a loaf of bread, they may use a loaf of bread in a meal of commingling including him. If one declared a loaf of bread to be sanctified, they may not make use of it for a meal of commingling [T. Er. 2:10C-G].

[B] **If one took a vow not to eat a loaf of bread, they may use the loaf of bread in a meal of commingling**, for someone else may eat it [though this person may not].

[C] **If one declared a loaf of bread to be sanctified, they may not make use of it for a meal of commingling**, for neither he nor anyone else may eat it.

[D] *R. Aha asked*, “But may someone not raise a question leading to the abrogation of his act of consecration [for a sage may declare the act null, on proper grounds, in which case the loaf becomes available for common use]?”

[E] *R. Aha said, R. Miasha asked in another regard, “R. Simeon said Hiyya son of Rab said, ‘An idol which one adapted as a doorpost for an alleyway serves to permit carrying in the alleyway,’ and here do you say this? [Why cannot a loaf of bread that has been consecrated be used – that is, the very opposite of the idol?]”*

[F] *Said R. Eleazar, “There, one way or the other, the alleyway has been closed off, and here what do you have?”*

[III:1 A] **They prepare an erub for a Nazir with wine [M. 3:1F],** for someone else may drink it,

[B] **and for an Israelite with heave-offering [M. 3:1G],** for a priest may eat it.

[IV:1 A] **and for a priest in a grave area [M. 3:1/I].**

[B] *Now does the statement of the Mishnah accord [in specifying a grave area not a graveyard] with the view of the House of Shammai?*

[C] For the House of Shammai say, “They prepare a meal of commingling for a person only if his utensils are in the place in which the meal is set. [The priest can enter the grave area using certain procedures to assure he is not contaminated, but he may not enter a graveyard.]”

[D] *Sumkhos accords with the position of the House of Shammai, for we have learned: **Sumkhos says, “And for a priest [they prepare a meal of commingling] even with unconsecrated produce and locate it in a grave area” [M. 3:1H-I].***

[E] If that is the case, then even in a graveyard [it should be permitted to locate such a meal],

[F] for a priest may violate the restrictions imposed merely on account of Sabbath rest land so transport what is needed], and he may eat the meal [on the Sabbath], for he may enter [the graveyard] in a chest, box, or cupboard, and prepare for himself [therein] a space less than a square handbreadth [which will not permit the entry of corpse-uncleanness, since such a space is too small to permit corpse-uncleanness to enter], and he may then spear the meal with a spindle or splinter land so retrieve it], and he may then eat it. [Accordingly, the distinction proposed above is not a valid one, for the meal remains accessible.]

3:2

[A] They prepare an erub with doubtfully tithed produce, first tithe whose heave-offering has been removed, and second tithe and consecrated produce which have been redeemed.

[B] And priests [do so] with dough-offering and with heave-offering

[C] But [they do] not [prepare an erub] with food from which heave offering and tithe have-not been taken, first tithe the heave offering of which has not been removed, or second tithe and consecrated produce which have not been redeemed.

[D] He who sends his erub with a deaf-mute, an idiot, or a minor,

[E] or with someone who does not concede the validity of the erub –

[F] it is not a valid erub.

[G] But if he said to someone else to receive it from him,

[H] lo, this is a valid erub.

[I:1 A] *R. Jacob the Southerner raised this question: “[May we say that] the rule of the Mishnah does not accord with the position of the House of Shammai?”*

[B] *“For we have learned, [As to a lulab or etrog] in the status of doubtfully tithed produce, the House of Shammai declare it invalid, and the House of Hillel declare it valid. And as to one in the status of second tithe in Jerusalem, one should not take it up [and wave it], but if one has done so, his act is valid [M. Suk. 3:5]. [Will the House of Shammai not concur with M. 3:2A’s view on a meal of commingling made up of doubtfully tithed produce?]”*

[C] *R. Sheshet in the name of R. Hiyya the Elder: “As to untithed produce, liable for tithing, which is subject to a stipulation [as to the parts to be designated tithes, when the stipulation comes into effect], it is permitted to handle such produce on the Sabbath. What does one do? He fixes his gaze on part of it [so indicating that that part is the requisite segment for tithing], and he eats the rest of it” [This discussion is more fully worked out at Y. Dem. 7:5.]*

[D] *And it has been taught: The House of Shammai say, “They do not prepare a meal of commingling out of produce in the status of second tithe in Jerusalem.”*

[E] *Said R. Jeremiah, “That which you have said [as to the position of the House of Shammai] is pertinent to meals of commingling for courtyards. But as to meals of commingling of boundaries [permitting one to traverse in one direction beyond the two*

thousand cubits assigned to his village], *it is taught that* if a man of the provinces put his meal of commingling in Jerusalem, he may then go up and eat it there [so there is no reason to prohibit him from using produce in the status of second tithe for that meal].”

[II:1 A] [As to M. 3:2D’s reference to a minor,] Samuel said, “[If one has made use, in sending his meal of commingling to the Sabbath limit,] of a child nine or ten years old, his meal of commingling is valid.”

[B] [With reference to the same matter,] *said R. Yosé*, “*That which you have said* applies to a meal of commingling set at the Sabbath limit. But in the case of a meal of commingling for use in a courtyard, even a minor [is permitted to set it].”

[II:2 A] Said R. Joshua [b Levi], “On what account do they prepare a meal of commingling of a courtyard? It is for the sake of peace.”

[B] There was the case of a woman who was on bad terms with her neighbor She sent her meal of commingling with her son. *The other took him and hugged and kissed him. He went and told his mother this. She said, “Is this how she loved me, and I did not know about it!” They thus became friends once again.*

[C] *That is in line with the following verse of Scripture:* “Her ways are ways of pleasantness, and all her paths are peace” (Prov. 3:17).

[II:3 A] **He who sends his erub with a deaf-mute, idiot, or minor [M. 3:2D]:**

[B] **[But if he said to someone else to receive it from him, lo, this is a valid erub (M 3:2G-H):]** Said R. Eleazar, “But [the sender] must supervise him [anyhow]!”

[C] *There R Yosé said in the name of R. Sheshet, R. Eleazar bar Yosé in the name of R. Abun, “In the case of someone who says to his fellow, ‘Lo, I shall separate tithe through your good offices,’ he does not have to supervise him [to see that he does it properly], and here have you said this?”*

[D] Said R. Hiyya bar Ada, “Here [where no supervision is necessary] we speak of an adult, and there [where it is], we speak of a minor “

[E] R Aha in the name of R Hinena: “And even if you say that in both cases we speak of an adult or in both cases we speak of a minor. there, [where we deal with tithing and do not require suspension], it is a case in which he says to him, ‘Lo, I shall separate tithes through your good offices,’ in which case, [since he has given explicit instructions to the

agent], he need not supervise his actions. *Here, by contrast*, we deal with a case in which he says to him, ‘Prepare a meal of commingling for me.’ [In this latter case, since so much discretion is left in the hands of the agent. the one who makes the statement has to see it is properly carried out.]”

[F] [Following the version at Y Ma 2:2::] *That rule may be derived from a close reading of this one, and vice versa.* for if one says to him, “I shall prepare a meal of commingling through your good offices,” he need not supervise him And the rule here derives from the other, for if one says to him, “Tithe for me,” he must supervise him.

3:3

[A] [If] one put it into a tree –

[B] If it is above ten handbreadths, his erub is not a valid erub.

[C] If he put it] below ten handbreadths, his erub is a valid erub.

[D] [If] he put it in a cistern,

[E] even if it was a hundred cubits deep,

[F] his erub is a valid erub.

[G] [If] he put it at the tip of a reed or at the tip of a stick,

[H] when it is uprooted and stuck [into the ground],

[I] even if it is a hundred cubits high,

[J] lo, this is a valid erub.

[K] [If] he put it into a cupboard and lost the key, lo, this is a valid erub.

[L] R. Eliezer says, “If he does not know that the key is where it belongs, it is not a valid erub.”

[I:1 A] [21a] Lo, this is a valid erub [M. Er. 3:3C], but it is forbidden to carry it about [since he may not climb the tree to get at it]. If it was located three handbreadths from the ground, it is permitted [to carry it about] [T. Er. 2:13].

[B] *Now here is the question:*

[C] If the *erub* [meal of commingling] is valid, it should be permitted to carry it about, and if it is not permitted to carry it about, then it should not be deemed a valid *erub*.

[D] [The prohibition against climbing a tree to get at the *erub* is merely by reason of the general laws on Sabbath rest, which include the one against making use of the tree on that day.] Indeed, it would be

appropriate for him to violate the restrictions governing Sabbath rest [and to utilize the tree by climbing it, and so to] eat the *erub*.

[E] If that is the case, then even if the *erub* is higher than ten handbreadths, it should be valid in all regards.

[F] R. Judah in the name of Samuel: “Interpret the Mishnah to speak of a case in which the beam of the tree as four handbreadths [thus forming a domain unto itself, which one may not enter]. [The tree thus constitutes private domain, and one may not carry from the tree to the public domain.]”

[G] Said R. Mana, “And the rule then applies to a case in which the public domain completely surrounds the tree on all sides [for the reason clear from F],

[H] “and in the case of one who says, ‘Let my place of spending the Sabbath be beneath the tree.’ [The man is in public domain, the tree in private.]”

[I] *It has been taught*, “[If] he put it into a basket and hung it in a tree above ten handbreadths, his *erub* is not valid.

[J] “[If he hung the basket] lower than ten handbreadths, his *erub* is valid.

[K] “And it is prohibited to handle it,” [the words of Rabbi] [T. Er. 2:13D-F].

[L] If he put it lower than three handbreadths, it is permitted to do so.

[M] *Now here is the question*:

[N] If the *erub* is valid, it should be permitted to carry it about, and if it is not permitted to carry it about, then it should not be a valid *erub*.

[O] R. Aha in the name of R. Hinena: “It is suitable to turn the basket on its side and [without detaching it from the tree] nullifying the private domain that is-represented by that basket. [The man may get at the *erub* without carrying it from one domain to another by inclining the basket.]”

[P] Said R. Yosé, “That is to say that a bench which one set in the public domain, ten handbreadths high and four broad, since one may turn it over and thereby nullify it as private domain,

[Q] “[if one set an *erub* on such a bench,] his *erub* is valid, and it is permitted to carry it about [by analogy to the case of the basket].”

[R] *There we have learned: If two sides of a sukkah are formed by a tree, and one is made by man, or two are made by man and one is formed by a tree, it is valid. But they do not go up into that sukkah on the festival day [M. Suk. 2:4E-H].*

[S] Now here you have said that the *erub* is valid, and that it is permitted to carry it about [in line with O]. [But does a person not utilize the tree on the Sabbath or festival, if he follows Aha's instructions at O? Why is it forbidden to use the *sukkah* leaning on a tree on the festival or Sabbath, but permitted in regard to the *erub*?]

[T] Said R. Jeremiah, "Here [with regard to the *sukkah*], one has set the *sukkah* above [in the branches, and one has to climb the tree to get to the *sukkah*, built as a tree house]. [That is forbidden.] There [with regard to the basket], one reaches out to the basket from the side [and does not have to climb the tree to get at it]."

[U] *[In accord with Jeremiah's reasoning, we may] derive a rule from that case for this one, and a rule from this case for that one.*

[V] *We may derive a rule from this case for that one:* If there were two poles protruding [from a tree], and one spread *sukkah* roofing on them, it is a valid *sukkah*, and it is permitted to enter it on the festival, [since one enters the *sukkah* without climbing the tree, and that is permissible, in line with the conception of Aha at O].

[W] *And a rule may be derived from that case for the present one:* If the basket was located in the thick foliage of the tree, the *erub* is valid, but it is forbidden to carry it about [since one has not got access to it, for it is in the tree itself, not hanging at an edge].

[X] Said R. Yosé, "It is not sound to assign one case to the edge of the tree branches, the other to the center of the foliage. Rather:] both that case and this one deal with the side of the tree's [boughs, and not the center]. [That is, both the *sukkah* and the basket are located in such wise as to be accessible without climbing the tree.]

[Y] *"Then how shall we interpret the problem [dealt with by Jeremiah at T]?"*

[Z] “It is in accord with R. Jacob bar Aha in the name of R. Zeira: ‘It represents the view of R Simeon b. Eleazar.’

[AA] “For R. Simeon b. Eleazar says, ‘It is permitted to make use of the sides of a beast on the Sabbath,’

[BB] “and the same rule applies to the sides of a beast as to the sides of a tree. [The contradiction between the rules is resolved more elegantly when we simply declare that what is hanging from the side of a tree, or a sukkah located at the side of the tree and not as a tree house, may be utilized on the Sabbath or a festival, in which case M Suk. 2:3 will not accord with Simeon b. Eleazar as read by Zeira-Yosé.]”

[II:1 A] [With reference to M. 3:3C and its contrast to M. 3:3B,] do you not regard the [*erub* placed in] a deep place as equivalent to one placed in a high place? [Why is the cistern not regarded as private domain?]

[B] Abba bar R. Huna said, “We deal with a case in which one has said, ‘My place of spending the Sabbath will be located down in the bottom of the pit,’ [in which case the man has full access to the meal].”

[III:1 A] **If he put it at the rip of a reed or at the tip of a stick, where it is uprooted and stuck into the ground, even if it is a hundred cubits high, lo, this is a valid erub [M. 3:3G-N].**

[B] It is because the reed is uprooted and stuck into the ground. Lo, if it were not uprooted and stuck into the ground, the *erub* would not be a valid one.

[C] *Does this not stand at variance with that which R. Judah said in the name of Samuel, “Interpret the Mishnah to speak of a case in which the spread of the tree was four handbreadths [thus forming a domain unto itself, which one may not enter]. [The tree constitutes private domain, and one may not carry from the tree to public domain?]”*

[D] [A different consideration is at issue here, for] R. Mana said, “That rule applies, in particular, when there is a tray set at the top of the reed [on which the meal is set].”

[III:2 A] *It has been taught [with reference to M. 3:3K-L], R. Eliezer says, “If the key was lost in the field, it is not a valid erub, but if it was lost in town, lo, it is a valid erub’ [T. Er. 2:15B].*

- [B] **If the key is lost in the field, it is not a valid erub**, for he cannot bring the meal back to the place in which he has acquired his place of Sabbath rest.
- [C] **But if it was in town, lo, it is a valid erub**, for he can bring the meal back to the place in which he is free [to move].
- [D] R. Eliezer has ruled well, *but what is the reason for the contrary view of rabbis?*
- [E] *Said R. Ba, son of R. Pappi, “It represents the view of R. Meir, for R. Meir has said [in the following passage of the Mishnah]: ‘[If] house was full of produce and blocked up, but there is a hole therein, one may take produce from the hold.’ R. Meir says, ‘One may even make a hole to begin with and rake produce from the house’ [M. Bes. 4:3]. [Likewise, here, even though the key is lost, the man may break into the cupboard and take the meal.]”*
- [F] But has R. Meir’s statement not been made only with reference to actions taken on a festival day [on which it is permitted to prepare food]? *But has he made reference to the Sabbath? And here we deal with the Sabbath!*
- [G] *Said R. Abba Mari, “It represents the view of R. Eliezer b. Jacob, for we have learned there: R. Eliezer b. Jacob says, ‘They may tie a rope up before cattle to keep them from starving out’ [M. Shab. 15:2]. The same rule applies to tying and untying.”*
- [H] *That which you have said explains the case of a cupboard made of stone.*
- [I] But in the case of a cupboard made of wood, one is in the status of simply breaking open a jar to eat figs from it [and that is permitted in any event]. [This is a still better explanation for rabbis’ position at M. 3:3K].

3:4

- [A] [If] it rolled outside the Sabbath limit,
- [B] or if a heap of stones fell on it,
- [C] or if it was burned,
- [D] or [if it was] heave-offering and was made unclean –
- [E] while it was still day,
- [F] it is not a valid erub.
- [G] [If] it happened after nightfall, lo, this is a valid erub.

- [H] **If it is a matter of doubt,**
- [I] **R Meir and R. Judah say, “Lo, it is like the ass-driver and camel-driver.”**
- [J] **R. Yosé and R. Simeon say, “A matter of doubt concerning an erub is resolved in favor of fitness.”**
- [K] **Said R. Yosé, “Abtulemos gave testimony in the name of five elders concerning a matter of doubt in regard to an erub, that it is resolved in favor of fitness.”**
- [I:1 A] They have stated only, **And was made unclean [M. 3:4D].**
- [B] If it is a matter of doubt whether it was made unclean while it was still day or after dark, [that is the rule].
- [C] But if it is a matter of doubt whether the erub-meal was clean or unclean [in the case of food in the status of heave-offering], do they regard that as a valid meal of commingling?
- [D] R Samuel bar Nahman in the name of R. Jonathan: “The governing Criterion is established by the prevailing assumption. [If there is no prevailing assumption as to the condition of the food, it is invalid.]”
- [E] *R Judah objected to R Yosé and R Simeon, “If the meal had been eaten while it was still day, is it possible that it would be permitted [to utilize the erub-meal? Certainly not. A person remains in his status as permitted until it is clarified that he certainly is forbidden.”*
- [F] *R Yosé and R. Simeon objected to R. Meir and R. Judah, “If the erub-meal had been eaten after dark, is it possible that he would be prohibited? [Certainly not] A person remains in his status as prohibited until it will be clarified that he certainly is permitted.”*
- [I:2 A] What is the law as to assigning the man two thousand cubits from the location of his erub-meal to his home [since he has not acquired a location for spending the Sabbath at all]?
- [B] R. Ba bar Mamel said, “They assign him that right.”
- [C] R Samuel bar R. Isaac said, “They do not assign it to him.”
- [D] *R. Shimi said before R. Yosé in the name of R. Aha, “Whether there is a dispute, it is in accord with the position of R. Meir [at M. 4:4]. But so far as R. Judah is concerned, all parties concur that they assign him that right.”*

[E] Now the conception of the case of the ass-driver and camel driver held by R. Meir is not the same as the conception of the ass-driver and camel-driver held by R. Judah.

[F] The ass-driver and camel-driver as R. Meir conceives it is this: The man does not acquire ownership of the erub-meal he has prepared, for his erub-meal did not effect acquisition for him. He also is not in the status of the other residents of his town, for he has given thought to separate his right of movement from that of the rest of the residents of his town.

[G] The conception of the camel-driver and ass-driver held by R. Judah is that the man has not given thought to separate his right of movement from that of the other residents. of his town.

[I:3 A] *There we have learned:* **[Two immersion pools. in one of which there are forty seahs of undrawn water, and in one of which there are nor, one immersed in one of them and does not know in which one of them he immersed –] a matter of doubt concerning him is resolved as clean. R. Yosé declares unclean. [For R. Yosé says, ‘Everything which is in the assumption of being unclean always remains in its condition of unfitness until it will be known that it has been made clean. But a matter of doubt concerning it, when it pertains to its becoming unclean or conveying uncleanness, is resolved as clean’]** [M. Miq. 2:2M-R]. [Thus we simply confirm the prevailing assumption. If something is assumed unclean and we are not sure it has become clean, it is held to be unclean. If it is assumed to be clean and we are not sure it has become unclean, it is held to be clean.]

[B] Said R. Jonah, “R. Yosé declares unclean only because of the proof [that one of the two pools was lacking and hence ineffective anyhow, and that is so even if the uncleanness to be wiped away ,was of a minor order]. [But if there is a case in which one went down to immerse and is not sure whether or not he actually has done so, or whether the pool has enough water, in which instance we have no firm proof as to the true state of affairs in any way, Yosé will not declare the man unclean.]”

[C] Said R. Yosé, “And even in the case [of a single immersion pool], R. Yosé likewise imposes the ruling of uncleanness.”

[D] *The opinions assigned to R. Yosé there are at variance with the one that is before us here.*

[E] *For we have learned:* **Said R. Yosé, “Abtulemos gave testimony in the name of five elders concerning a matter of doubt in**

regard to an erub, that it is resolved in favor of fitness” [M. 3:4K]. And here he has said this [that a matter of doubt is resolved to the strict side, here in favor of uncleanness.]

[F] [The solution to the problem is simple.] *There he speaks in his own name, while here he speaks in the name of the five elders.*

- [I:4 A] *The assumption thus far is that one who holds there that the matter of doubt is resolved in favor of cleanness there also maintains here that it is permitted, and he who rules there that the matter of doubt is resolved as unclean will maintain here that it is forbidden.*
- [B] *But even in accord with him who said there that it is resolved as unclean here will concur that it is permitted.*
- [C] *Said R. Hinena, “Is it not the case, however, that the dispute there concerns merely what is subject only to a decree of sages, and a matter of doubt deriving from a ruling of sages is resolved in a lenient way? But here we deal with the meal of commingling, and the meal of commingling derives from the rulings of the Torah. So a matter of doubt deriving from a ruling of the Torah is resolved in a strict way.”*
- [D] *Now is the meal of commingling based upon a rule of the Torah?*
- [E] *R. Jonathan said before R. Hiyya the Elder in the name of R. Simeon b. R. Yosé b. Laqonia, “People are flogged for violating the Sabbath boundaries [going beyond them], and that is on the authority of the Torah.”*
- [F] *Said R. Hiyya the Elder, “And is it not the case that the only penalties applicable to the Sabbath are either stoning or extirpation?”*
- [G] *He said to him, “And is it not written, ‘See! The Lord has given you the Sabbath, therefore on the sixth day he gives you bread for two days remain every man of you in his place, let no man go out of his place on the seventh day’ (Exod. 16:29)? [Here is a negative commandment, on account of violation of which one would be flogged.]”*
- [H] *He said to him, “Is ‘not’ written here? Is it not written, ‘Let no man.’ [and that is the sort of negative on account of which flogging is not incurred]?”*
- [I] *He said to him, “And is it not written, ‘Do not eat any of it raw or boiled with water, but roasted, its head with its legs and its inner parts’ (Exod. 12:9)? [On account of violating this negative, which is like that above, one is flogged. That proves the point.]”*

[J] Said R. Yosé b. R. Bun, “Even so, this one remained firm in accord with the tradition he had received, and that one remained firm in accord with the tradition he had received.”

[I:5 A] Said R. Samuel bar Sistra, “As to a meal of commingling, they have treated it as equivalent to the matter of doubt, in matters of betrothal affecting a deaf-mute. [That is, there is no possibility of addressing a question to solve the problem.]”

[B] *R. Jeremiah asked, “Up to this point [in comparing the case of the erub-meal whose status is in doubt to the case of the betrothal of a deaf-mute], we have dealt with a case in which the erub-meal is available. But even if it is burned [at twilight, so we do not know whether it was available or not at sunset, does the same rule apply]? [In such a case we cannot permit use of the erub on grounds of resolving the doubt as we would in the case of a deaf-mute.]”*

[C] *Said R. Yosé, “I have interpreted the matter in accord with what R. Hoshaiiah said, ‘You have come to the point of the laws governing Sabbath limits, which is that these laws do not clearly derive from the teachings of the Torah.’ [Accordingly, we do assign a lenient ruling, as in the case above.]”*

[D] *R. Mana asked, “Granted that the matter of two thousand cubits is not clearly [based on the law of the Torah]. The matter of four thousand cubits [as the limit of movement on the Sabbath] clearly does derive from the laws of the Torah.”*

[E] R. Simeon bar Karsena in the name of R. Aha: “You have nothing so clear among them all except for this fact: the Sabbath limit established at twelve mils, according to the dimensions of the camp of Israel, [is firmly based on the authority of the Torah].”

3:5

[A] **A man stipulates [21b] concerning his erub and says, “If gentiles come from the east, my erub is at the west.**

[B] **“[If they come] from the west, my erub is at the east.”**

[C] **“If they come from both directions, then to the place which I shall choose shall I go.**

[D] **“If they come from neither side, lo, I am in the status of the other people of my town.”**

[I:1 A] *Thus does the Mishnah teach: A man stipulates concerning his erub [that is, he has to leave two, one in one direction, one in the other].*

- [B] *Said R. Eleazar, “Who taught the passage in the language, ‘If they came, and if they did not come’? It is R. Meir.”*
- [C] *Which R. Meir?*
- [D] *Associates say, “It is R. Meir of tractate Qiddushin, for it has been taught:*
- [E] **“He who says to a woman, “Lo, you are betrothed on condition that it rain” –**
- [F] **“if it rained, she is betrothed, and if not, she is not betrothed**
- [G] **“R Meir says, “Whether or not it rained, she is betrothed [M Qid. 3:3], unless he should state his condition twice [once positively, one negatively].”**
- [H] **“All concur that if he said, “after it has rained,” if it had rained, she is betrothed, and if it did not, she is not betrothed.”**
- [I] *R Yosé said, “It is the R Meir of Erubin.*
- [J] **“For we have learned there, If it is a matter of doubt, R Meir and R Judah say, ‘Lo, this is the case of an ass-driver and a camel-driver [M 3:4H-I] [trying to lead an ass and a camel in the same yoke, with one driven from the back, the other led from the front, so that no progress is possible at all.’ [The issue is resolution of doubt, not the doubled stipulation, and, in Erubin, Meir rules strictly.]”**
- [K] *R. Yosé and R. Simeon say, “[If it is a matter of doubt, the erub is permitted.”*
- [L] *Said R. Yosé, “R. Meir gave this ruling [at M. 3:4] only in order to invoke the strict side to things.”*
- [M] *Said R. Mana, “And that is so [that we should rule strictly]. In the case of his erub he does not make acquisition of a place for the Sabbath rest, for his erub did not make acquisition of a place for Sabbath rest alongside that of the other townsfolk where he lives, for he has contemplated movement separate from that of his fellow townsfolk.*
- [N] **“And in this case [Meir likewise chooses the strict ruling]: to the first party she is not betrothed, for it did not rain, and to the second she is not betrothed, for the first party did not express two times, [one positively, one negatively hence the situation is unclear].”**

[O] *R. Haggai asked before R. Yosé, “And if that is [has said], then there is [no reason for Moses to have stated the condition] twice.”*

[P] He said to him, “That case is different, for the Land was before them, and he wanted to take it out of their power.”

[I:2 A] R. Judah bar Shalom, R. Judah bar Pazzi in the name of R. Yohanan, “With respect to the conditional writ of betrothal they followed the theory of R. Meir of tractate Qiddushin. [The stipulation must be stated positively and negatively.]”

[B] *R Hananiah, associate of the rabbis, raised the question: “Why do I have to maintain that that is solely the view of R. Meir? Even in accord with rabbis [it would be the law].*

[C] “Did not R. Abbahu state in the name of R. Yohanan: ‘The proper text of the conditional writ of betrothal is this: “I, Mr. So-and-so, betroth you, Miss Such-and-such, daughter of Mr. So-and-such, on condition that I marry you before such-and-such a day and take you in marriage by such-and-such a day, and if that time comes and I have not married you, I shall have no claim whatsoever on you.”’”

[D] “*And let him say, ‘On condition,’ so that he not have to repeat the stipulation?*

[E] “If he had not stated the condition twice, how will the act of betrothal be nullified [if the condition is not met]? [So all parties concur when it comes to betrothals.]”

[F] *Said R. Yosé b. R. Bun, “In all cases R. Meir maintains the view that the implications of a negative statement encompass a positive one, but here he does not maintain that view.”*

[G] Said R. Mattanaiah, “A stricter rule applies in the case of forbidden marital connections.”

[I:3 A] If one made no stipulation, [what is the law]?

- [B] *Let us derive the answer from the following:* **[If there were two men, and each one] prepared an erub [for both], this one doing so to the north, and that one to the south,**
- [C] **this one may go northward in accord with the extent of the erub of the other in the south,**
- [D] **and that one may go southward in accord with the limit of this one in the north.**
- [E] **But if they set the Sabbath line in the middle [between them, so one made his erub for two thousand cubits to the north of the line, and the other made his erub from two thousand cubits to the south of the line],**
- [F] **they should not move from their place [T. Er. 3:4A-E].** [The answer to the question is that if there is no stipulation, then the restrictions of both of the erub-meals take effect.]
- [G] In the case of a beast belonging to two partners –
- [H] this one prepared a meal of commingling [for both, inclusive of the status of the beast] at the north, and that one did the same at the south –
- [I] the beast may go northward in accord with the extent of the *erub* of the other in the south,
- [J] and it may go southward in accord with the limit of this one in the north.
- [K] But if they set the Sabbath line in the middle between them [so one made his *erub* for two thousand cubits to the north of the line, and the other made his erub from two thousand cubits to the south of the line,]
- [L] the beast should not move from its place.
- [M] If they slaughtered the beast –
- [N] Rab said, “The limbs [are deemed joined to one another in that they] derive sustenance from one another [in consequence of which the limbs may not be moved on the Sabbath by either partner].”
- [O] Ulla bar Ishmael said, “The limbs [are] not [deemed joined to one another in that they] derive sustenance from one another [in consequence of which each partner may take the

parts of the beast belonging to him and move them to the point at which he is permitted to move].”

[P] Rab concurs in the case of a jug [of wine, belonging to two partners,] that each owner has acquired his share in the jug at the beginning [with the result that each may take his share to his territory as soon as the jug is divided up].

[II:1 A] *[With reference to M. 3:5C:] The meaning of the Mishnah is, **If gentiles come from both directions. If they come from neither side.***

[B] If gentiles come from the east, his *erub* is at the west [cf. M. 3:5B].

[C] *There is a Tannaite authority who teaches, “In the east.”*

[D] *He who formulates the passage “In the east” speaks of the case in which the troops come as a garrison [and are welcomed by the population], while he who formulates the passage “In the west” speaks of a case in which Roman [enemy] troops come.*

3:6

[A] **If a sage comes from the east, my erub is at the east;**

[B] **“if he comes from the west, my erub is at the west.**

[C] **“If one comes from both directions, then to the place which I shall choose I shall go.**

[D] **“If he comes from neither side, lo, I am in the status of the other people of my town.” R. Judah says.”If one of them was his master, he goes to his master.**

[E] **“If both of them were his masters, to the place which he shall choose he goes.”**

[I:1 A] *[With reference to M. 3:6A,] there is a Tannaite authority who formulates the matter “In the west.”*

[B] *The one who formulates the matter “In the east’ speaks of the case in which sages [come to town, whom the man wishes to receive properly].*

[C] *He who formulates the matter “In the west” speaks of [an occasion on which] a revenuer was collecting to collect support for the schools.*

3:7

- [A] R. Eliezer says, “In connection with a festival day adjacent to the Sabbath, whether before or after it, a man prepares two erubs and says,
- [B] “My erub for the first day is at the east, and for the second it is at the west.’
- [C] “For the first it is at the west and for the second it is at the east.’
- [D] “My erub is for the first day, and the second leaves me in the status of the others who dwell in my town.’
- [E] “My erub is for the second day, and the first leaves me in the status of others who dwell in my town.”
- [F] And sages say, “He makes an erub for a single direction.
- [G] “Or he does not make an erub at all [vs. B, C].
- [H] “He either makes an erub for both days,
- [I] “Or he does not make an erub at all [vs. D, E].
- [J] “What should he do?
- [K] “He sends it on the first day [to the point he wants], awaits nightfall for it, takes it and goes along.
- [L] “And on the second day he awaits nightfall for it, then he eats it.
- [M] “He turns out to profit from his journeying and to profit from his erub.
- [N] “[If] it was eaten on the first day, his erub is for the first day, and it is not an erub for the second day.”
- [O] Said to them R. Eliezer, “You concede to me then that they are two [distinct periods of] sanctification.”
- [I:1 A] And sages say, “He makes an erub for a single direction” [M. 3:7F]:
- [B] *This is the meaning of the statement in the Mishnah: Either he makes an erub for a single direction for two days, or he does not make an erub at all.*
- [I:2 A] R. Eliezer concedes that they do not prepare an erub for half a day for the north and for half a day for the south.
- [B] For they do not divide up a single day.
- [C] And sages say, “Just as they do not divide up a single day, so they do not divide up two days” [T. Er. 4:1C-E].

[D] And they concur that he should not put his erub meal in a basket [that is, it is forbidden to make a new erub on the festival day]. [It therefore also is prohibited to put the erub-meal designated on the eve of the festival in the same basket with his other loaves of bread, for the reason now specified.]

[E] Said R. Ba, “[The reason is that] he might forget and eat it.”

[F] If he did put it in the same basket [and he does not know which one it is], he has to take the entire basket to the proper location [for the erub-meal].

[G] If he ate one of the erub-meals while it was still day, lo, he is in the position of one who is both an ass-driver and a camel-driver.

[I:3 A] *There we have learned: A flagon which is in the status of Tebul Yom [that which had been immersed on the selfsame day, and which becomes fully clean only at sunset] and which one had filled from a jar containing first tithe [wine] which was yet untithed [in respect to heave-offering of tithe] – if he said, “Lo, this will be heave-offering of tithe once it gets dark [and the flagon is clean], “lo, [his words take effect and] this is heave offering of tithe [once it gets dark]. If he said, “Lo, this is food for an erub-meal, however, he has said nothing of consequence, because the erub-meal is made of food which can be eaten while it is still day, prior to sunset. But here the food is not permitted to be eaten until sunset, since one cannot consume unclean heave offering, and the wine becomes clean only at sunset] [M. T. Y. 4:4A-D].*

[B] *R. Jonah said R. Hama bar Aqiba raised the question: “Surely this passage of the Mishnah cannot accord with the view of R. Eliezer. For R. Eliezer has said, ‘They may prepare an erub meal for a person once it has gotten dark,’ [and here we maintain that that is not the case]. [But so far as Eliezer is concerned, one may prepare two erub-meals for the two distinct days of a Sabbath-festival sequence, in consequence of which one takes effect after dark.]”*

[C] [Rejecting this view,], R. Jeremiah in the name of R. Zeira: “It represents the view of all parties there [since there is no possibility of preparing the erub-meal while it is still light]. *But here, by contrast,* while it is still an ordinary, unconsecrated day, the man is able to acquire for himself a place for spending the Sabbath rest [and festival-rest] on two successive days.”

- [I:4 A] *R. Haggai raised this possibility: “If one was standing on Thursday and said, ‘Let a place of Sabbath-rest be acquired for me for the Sabbath [at the location of the erub,]’ [even though this is two days in advance], in the view of R. Eliezer, he has acquired the place of Sabbath-rest, and in the view of the rabbis he has not.”*
- [B] [Rejecting this proposal,] said R. Yosé, “And why is it the case that they may not make an *erub* for someone on the festival for use on the Sabbath? It is because they prepare an *erub* for a person on the eve of the Sabbath [and there is no reason to do so on the festival, rather than on an ordinary day]. But here, since it is quite proper to prepare an *erub*-meal on Friday for the Sabbath, it is no less proper to prepare an *erub*-meal even on Thursday for the Sabbath.”
- [I:5 A] [In T.’s version:] **Said to them R. Eliezer, “Do you not concede that the one who prepares an erub with his feet for the first day has to prepare an erub with his feet for the second day? [M. 3:7K-L].**
- [B] **“[If] his erub was eaten before it got dark, he may not go out depending upon it on the same day” [M. 3:7N].**
- [C] **They said to him, “True.”**
- [D] **He said to them, “Is this not what I said: They are two days?”**
- [E] **They said to him, “Do you not concede that they do not prepare an erub on one day [the festival] for its fellow [the Sabbath]?”**
- [F] **He said to them, “True.”**
- [G] **They said to him, “Is this not what we said: They are one day?” [T. Er. 4:1F-L].**

3:8

- [A] **R. Judah says, “As to a New Year at which one suspected [the month] might be intercalated [so that the New Year would be observed on the thirtieth of Elul and on the first of Tishré],**
- [B] **“a man prepares two erubs and says,**
- [C] **“‘My erub for the first day is at the east, and for the second is at the west.’**
- [D] **“‘My erub for the first day is at the west and for the second is at the east.’**
- [E] **“‘My erub is for the first day, and for the second, I am in the status of the other people who dwell in my town.’**

[F] **“My erub is for the second day, and for the first, I am in the status of the other people who dwell in my town.”**

[G] **But sages did not concur with him.**

[I:1 A] *There is this dispute:* The leftovers of a wick, fire, or oil, [of a flame] extinguished on the Sabbath – what is the law on kindling them on the adjacent festival day?

[B] Both Rab and R. Haninah maintain that it is prohibited to do so.

[C] And R. Yohanan said that it is permitted to do so.

[D] *Said R. Mana before R. Yudan,* “On what basis do they create an analogy between a wick and the case of the egg? [The wick was in being on both days.]”

[E] *He said to him,* “It is on the basis of the fact that we see the rabbis comparing the one to the other [that we do so]. [The rabbis are Rab and Haninah, who prohibit the wick as they do the egg. Yohanan likewise makes such a comparison, permitting the wick as much as the egg.]”

[F] *“That then indicates that the same rule applies to both matters.”*

[I:2 A] In the name of four elders they have ruled, “If a person’s *erub* is eaten up on the first day [of a festival], lo, he is in the status of his fellow townfolk on the second [in which case the two days are treated as separate and distinct from one another, and not a single, protracted holy day. Hence he would require a separate *erub* for each day. Since he has one only for the first, on the second day his *erub* is no different from that of the townspeople in general.]”

[B] R. Huna in the name of Rab: “The law accords with the view of the four elders.”

[C] *R. Hisda raised the question:* “The views assigned to Rab are at variance. There he has treated the festival and Sabbath as two distinct spans of holiness, while here he has treated them as a single, protracted span of holiness.”

[D] *For they differ as follows:*

[E] The leftovers of a wick, fire, and oil, which went out on the Sabbath – what is the law as to kindling them on the festival day?

[F] Both Rab and R. Haninah say that it is forbidden to do so [since they form a single protracted period of holiness].

[G] And R. Yohanan said, "It is permitted to do so."

[H] *And R. Mana said before R. Yudan, "On what basis do they create an analogy between a wick and the case of an egg?"*

[I] *He said to him, "It is on the basis of the fact that we see the rabbis comparing the one to the other [that we do so]."*

[J] "That then indicates that the same rule applies to both matters."

[K] *R. Aha reached the following conclusion on the basis of what he had been taught, while R. Yosé said it on the basis of his own reasoning: "The position of the four elders accords with the theory of R. Eliezer [that we deal with two separate periods of consecration]."*

[L] *Said R. Mana before R. Yosé, "[Where, as at M 4:10 below, we have a dispute between] R. Meir and R. Judah, is it not the case that the law does not accord with R. Judah? And yet in the ruling of the four elders, will the law accord with R. Eliezer. Now if, in that case [of M. 4:10, below], in a case in which the man has not acquired a share in the erub-meal, I do not rule that he should treat as distinct his right of movement from the right of movement of the other residents of his town, here, where his erub-meal has acquired the right for him [to move about], is it not an argument a fortiori [that he should be treated as separate in his rights of movement from the others who dwell in his village]?"*

- [I:3 A]** If one has effected his act of commingling Sabbath boundaries through the use of a loaf of bread on the first [of two holy days], he does the same on the second, so long as it is with the same loaf of bread that he has made the erub-meal on the second day.
- [B] If he effected an act of commingling by his feet [walking to the place at which he wishes to locate his Sabbath limit and remaining there at sunset] [21c] on the first day, he must effect the act of commingling by his feet [walking as above] on the second day.
- [C] If he has effected an act of commingling of Sabbath boundaries by walking [to the place he wishes to designate as the center of his Sabbath residence and remaining there at sunset] on the first day, he may utilize a loaf of bread for the same purpose on the second day.
- [D] If he has utilized a loaf of bread [on the first day], he should not effect his act of commingling through walking [as above] on the second day.

- [E] *Does this rule proceed along the lines of that which you say there [at M. 4:9], so that, if one has made an erub with his feet, he should not make an erub with a loaf of bread, and along these same lines, if he has made an erub with a loaf of bread, he should not then make one with his feet [as at D]?*
- [F] This serves to provide a lenient ruling for a poor man, who has not got a loaf of bread [and so may effect his *erub* by using his
- [G] Just as you say there that if he has done so with his feet, he should not make an erub with a loaf of bread, along these same lines, if he has done so with a loaf of bread he should not do so with his feet [on the second day].
- [H] This serves to provide a lenient ruling [for the rich], so that they should not have to go to the trouble of going forth and making the *erub* with their feet.
- [I] As you have said there, If he has done so with his feet, he should not make an *erub* with a loaf of bread; along these same lines, If he has done so with a loaf of bread, he should not do so with his feet.

3:9

[A] **And further did R. Judah say, “A man stipulates [on the New Year] about a basket of produce on the first day of a festival and eats it on the second.**

[B] **“And so too an egg born on the first day of the festival [of the New Year] may be eaten on the second.**

[C] **But sages did not concur with him.**

[I:1 A] R. Abin in the name of rabbis over there: “They have treated him as one who goes to his town [and, en route, does not know which of two days will be the festival day]. [He has a right to make such stipulations as are proposed at M. 3:9A].”

[I:2 A] [In the version of T.:] **Lo, if there was a basket of fruit in his possession, which had not been properly tithed,**

[B] **[this day] he says, “If today is the festival day, nothing that I say is so. But if not, I designate the heave-offering and tithes which are in it[s pieces of fruit]” [M. 3:9A].**

[C] **And he leaves it.**

[D] **And the next day he says, “If today is the festival day, nothing that I say is so. But if not, I designate the heave-offering and tithes which are in its pieces of fruit]” [T. Er. 4:3A-D].**

[I:3 A] *The opinions assigned to R. Judah are at variance with one another, for there [with reference to the dispute of Eliezer and sages, as adjudicated by the four sages, above,] he treats [a festival and an adjacent Sabbath as] a single spell of holiness, while here he treats them as two spells of holiness.*

[B] [These are readily to be differentiated.] In that case, there is a single protracted spell of holiness [covering the Sabbath and festival], while here, one day is certainly holy, and the other day is ordinary.

[C] *Along these same lines the theories attributed to rabbis are at variance. There they treat the case as one involving two distinct spells of holiness, while here they treat it as a single span of holiness.*

[D] There, they treat a festival day adjacent to a Sabbath as an ordinary day adjacent to a Sabbath, while here, they treat both days as equal.

[I:4 A] Sages concur with R. Judah in the case of the two festival days of the New Year [that they constitute a single, protracted, spell of holiness, for] they derive from an enactment of the former prophets.

[B] R. Ba, R. Hiyya in the name of R. Yohanan: “[Do not gaze at me because I am swarthy, because the sun has scorched me.] My mother’s sons were angry with me – they made me keeper of the vineyards – but my own vineyard I have not kept!” (Song 1:6). What made me guard the vineyards? It is because of not keeping my own vineyard.

[C] “What made me keep two festival days in Syria? It is because I did not keep one proper festival day in the Holy Land.

[D] “I imagined that I would receive a reward for the two days, but I receive a reward only for one of them.

[E] “Who made it necessary that I should have to separate two pieces of dough-offering from grain grown in Syria? It is because I did not separate a single piece of dough-offering in the Land of Israel.

[F] “I thought that I might receive a reward for the two, but I receive a reward only for one.”

[G] R. Yohanan cited the following verse in their regard: “Moreover I gave them statutes that were not good and ordinances by which they could not have life’ (Ezek. 20:25).”

[H] *R. Abbahu went to Alexandria, and permitted the people to carry lulabs to the synagogue on the Sabbath day [as was done in the Temple], when that day coincided with the first festival day of Sukkot. Rabbi heard and said, “Who will promise to bring R. Abbahu to them every year [to give them instructions on proper conduct]?”*

[I] *R. Yosé sent a letter to them: “Even though we have written to you about the proper arrangements [dates] for the festivals, do not revise the custom established for you by your forefathers, whose souls are at rest.”*

3:10

[A] **R. Dosa b. Harkinas says, “He who goes before the ark on the first day of the New Year says,**

[B] **“Give us strength, Lord our God, on this first day of the month,**

[C] **“whether it is today or tomorrow.’**

[D] **“On the next day he says, ‘If it is today or yesterday.’”**

[E] **And sages did not concur with him.**

[I:1 A] It is because he says, “If it is today or yesterday” [M. 3:10D] [that sages did not concur with him (M. 3:10E)].

[B] *This [position of sages] accords with that which R. Jacob bar Aha said in the name of R. Yosé, “He who goes before the ark on the festival day of the New Month does not have to make mention of the New Month [that is, he does not add the Additional Service for that day].”*

[C] The same rule applies here, [for a single statement for the New Year will suffice for both days].

YERUSHALMI ERUBIN

CHAPTER FOUR

4:1

- [A] He whom gentiles took forth [beyond the Sabbath limit],
[B] or an evil spirit
[C] has only four cubits [in which to move about].
[D] [If] they brought him back, it is as if he never went out.
[E] [If] they carried him to another town,
[F] or put him into a cattle-pen or a cattle-fold,
[G] Rabban Gamaliel and R. Eleazar b. Azariah say, “He may walk about the entire area.”
[H] R. Joshua and R. Aqiba say, “He has only four cubits [in which to move about].”
[I] M’S^H S: They came from Brindisi [Brundisium] and their ship was sailing at sea.
[J] Rabban Gamaliel and R. Eleazar b. Azariah walked about the whole ship.
[K] R. Joshua and R. Aqiba did not move beyond four cubits.
[L] For they wanted to impose a strict ruling on themselves.

[I:1 A] [21d] [Is not the rule at M. 4:1A-C self-evident? No, that is not so, for] if that is not the explicit rule, then what shall we have to say? Let him be treated as equivalent to one who has gone forth beyond the Sabbath limit with full permission, and assign to him two thousand cubits’ of space in all directions?

[B] *Accordingly, it is necessary to make it explicit that he has access only to the four cubits [of M. 4:1A-C].*

[I:2 A] How do we know the limit of four cubits [which one may have as the limit of one’s private location for spending the Sabbath]?

- [B] “[See! The Lord has given you the Sabbath, therefore on the sixth day he gives you bread for two days;] remain every man of you in his place, [let no man go out of his place on the seventh day]” (Exod. 16:29). [One’s “place” is defined as four cubits.]
- [C] And how do we know the limit of two thousand cubits? “Let no man go out of his place on the seventh day” (Exod. 16:29).
- [D] Perhaps matters should be just the opposite [with four cubits deriving from “place” and two thousand cubits deriving from remaining in place]?
- [E] Said R. Eliezer, *and we have learned*, Assa b. Aqiba says, “The word ‘place is used in two places.’ It is used as cited here, and it is further used in the following verse: ‘[But if he did not lie in wait for him, but God let him fall into his hand,] then I will appoint [for you a place to which he may flee]’ (Exod. 21:13).
- [F] “Just as the word ‘place’ used in this latter verse must refer to the area of two thousand cubits, so the word ‘place’ used here likewise must refer to two thousand cubits.”
- [G] As to the four cubits to which they have referred, it addresses the space occupied by the entire height of a person with his hands spread out as well.
- [H] R. Judah says, **“It is three cubits, so that [in the fourth] he may take a jug from under his head and put it at his feet”** [T. Er. 3:11D-G].
- [I] When a person [stuck within four cubits] relieves himself, he does it at one side, and when he prays, he prays at the diagonally opposite corner [of the four cubits].
- [I:3 A] *R. Judah b. Pazzi asked*, “As to the four cubits of which they have spoken, do the four cubits of which they have spoken constitute a boundary [so that all four must be in one domain, that is, public or private], or do they not constitute a boundary [so that two may be in public domain and two in private domain]?”
- [B] “If you say that they constitute a boundary, then one may not assign to the man four cubits in two areas [domains], while if you say they do not constitute a boundary, then one may assign to him four cubits in two areas [private and public domain].”
- [C] *Said R. Zeira*, “*The Mishnah has indicated that the four cubits of which they have spoken constitute a boundary [so that all four must be*

in a single domain, e.g., all in public domain]. *For we have learned: If there were two persons, part of the four cubits of this one are in the four cubits of that one – they bring their food and eat in the middle], on condition that this one not take something out of his area and put it into the area of his fellow [M. 4:6A-D]. [This shows that each person is wholly within a single domain.]”*

[II:1 A] [At to M. 4:1D, **If they brought him back, it is as if he never went out:**] The text states only that they brought him back.

[B] Lo, if he went back [on his own], he is forbidden [to move about as if he never went out].

[C] *Said R. Aha, “This represents the position of R. Nehemiah.*

[D] *“For it has been taught: In the case of produce that was taken into public domain and brought back into private domain – if this was done inadvertently, they may be eaten. If this was done deliberately, they may not be eaten.*

[E] *“R. Nehemiah says, ‘Whether this happened inadvertently or deliberately, they may not be eaten, unless it was in an inadvertent manner that the produce was brought back to its original place in private domain.’”*

[F] *Moreover, the position of R. Nehemiah accords with the view of R. Meir, for it has been taught: “He who separates tithe and he who cooks on the Sabbath – if this is done inadvertently, he may eat the food. If this was done deliberately, he may not do so,” the words of R. Meir.*

[II:2 A] If a person acquired a place of Sabbath residence [e.g., in a valley], and [on the Sabbath] gentiles came along and surrounded it with a partition

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[B] R. Huna said, “This partition has done no good for the man at all. He may walk in two thousand cubits [from his place of Sabbath rest] but carries for only four cubits.”

[C] Hiyya, son of Rab, said, “He may both walk and carry objects for two thousand cubits, [so that the partition serves for the man’s benefit and creates private domain for him].”

[D] R. Jacob bar Aha, R. Abona in the name of Hiyya, son of Rab: “He may walk about for two thousand cubits, and may transport an object for four thousand cubits by throwing it.”

[E] *They wished to propose the following thesis: “Where there is a dispute, it is within the theory of R. Joshua and R. Aqiba [at M. 4:1H]. [If one was not within the partition by day on Friday, the partition is null.] But so far as the position taken by Rabban Gamaliel and R. Eleazar b. Azariah [M. 4:1G] is concerned, there is no basis for a dispute whatsoever. [For they permit walking over the entire area. The partition is suitable for all purposes.]”*

[F] [But that is not the case.] Even in accord with the position of Rabban Gamaliel and R. Eleazar b. Azariah, there is the same dispute. [How so?] A more lenient rule pertains to him who has acquired for himself a place of Sabbath residence than to him who has not acquired a place of Sabbath residence for himself, [and in the case before us, the man has not done so. Hence while Gamaliel and Eleazar take a lenient position at M. 4:1G, they may take a less lenient position in the present instance. So from their viewpoint also a dispute may be constructed.]”

[G] **[If gentiles] put the man at the gate of a cattle-pen or cattle-fold [M. 4:1F]:**

[H] *within the theory of R. Joshua and R. Aqiba, they assign the man free use of two cubits within the cattle-fold and two cubits outside of it.*

[I] *In the theory of Rabban Gamaliel and R. Eleazar b. Azariah, they do not assign to him two cubits inside and two cubits outside the pen.*

[J] For if, to the contrary, you rule that one may assign the man two cubits inside and two cubits outside the cattle-pen, then, [within their thesis], the man will have the right to carry in the entire cattle-pen.

[K] If they set the man in the middle of the cattle-pen, if half of the pen was within the limit and half of it outside of the limit –

[L] *R. Aha made his statement on the basis of what he had learned, while R. Judah said it on the basis of reasoning –*

[M] the answer to this question depends upon the dispute [in the case] involving R. Hunah and Hiyya, son of Rab. [Huna allows him to walk or carry throughout the area. Hiyya, son of Rab, lets him traverse the whole area but carry only for four cubits.]

[III:1 A] R. Zeira, R. Huna in the name of Rab: “Since **R. Joshua and R. Aqiba wanted to impose a strict ruling on themselves [M. 4:1 L].**

that indicates that the law follows the view of Rabban Gamaliel and R. Eleazar b. Azariah.”

- [B] R. Ba in the name of R. Hiyya bar Ashi: “Also in the case of a cattle-pen or cattle-fold [M. 4:1F], the law is in accord with the position of Rabban Gamaliel and R. Eleazar b Azariah.”
- [C] Hananiah, son of the brother of R. Joshua, says, “Throughout that entire day these parties argued with those parties, until the brother of my father came and made a decision between the contending parties and ordained that the law should accord with Rabban Gamaliel and R. Eleazar b. Azariah in the case of conduct on the ship, and in accord with R. Joshua and R. Aqiba in the case of the cattle-pen or cattle-fold.”
- [D] What then is the difference between a cattle-pen and a ship?
- [E] R. Zeira said, “In the case of the ship, since the partitions rise and fall in it, [it is not regarded as a solid partition forming a single domain].”
- [F] Associates said, “[In the case of a ship], since [the waves take it up from one frame of four cubits and put it down into another frame of four cubits, [it is regarded as not a single domain, as Joshua and Aqiba maintain at M. 4:1K].”
- [G] *What is the practical difference between these two explanations of the point of differentiation?*
- [H] If the ship was like a platform [open on all sides, lacking in partitions]:
- [I] *In the view of associates*, it is then permitted, while in the view of R. Zeira, it is forbidden [since, in his view, the operative factor is the inadequacy of the partitions constituted by the sides of the ship anyhow].
- [J] If the sea was smooth, *in the view of associates*, it remains forbidden [to carry about, as Joshua and Aqiba maintain, since the operative condition is still in effect as at F]. In the view of R. Zeira, it is permitted [since the partitions now are not moved about but remain in place].
- [K] *Said R. Zeira, “The Tannaite teaching that follows has made the same point: The four cubits of which they have so spoken do not constitute a boundary [such that public and*

private domain may not be mixed, two cubits in the one, two in the other].”

4:2

[A] On one occasion they did not enter the harbor until it had gotten dark [on Friday night].

[B] They said to Rabban Gamaliel.”Is it all right for us to disembark?”

[C] He said to them.”It is all right, for beforehand I was watching, and we were within the Sabbath limit before it got dark.”

[I:1 A] Rabban Gamaliel had a tube for measuring distances, through which he could take a visual citing of the distance on a plane.

[B] And what difference does it make to me that the ship had come within the Sabbath limit before it got dark? Even after darkness, [it should have been all right to disembark], for is this not Rabban Gamaliel [who maintains that one has the use of the entire area even though, when the Sabbath took effect, one was not within the partitions of the area, as above M. 4:1]?

[C] Interpret the case to be one in which the ship was at the pier, which, in area, was larger than two *seahs* in extent, or which lacked partitions, or which did not have partitions ten handbreadths high, or in which the breaches in the wall were greater than ten cubits, or in which the standing part was facing the standing part of the wall. and the breaches facing other breaches [in which case the arrangements are not satisfactory].

4:3

[A] He who went forth beyond the Sabbath line] on a permissible mission,

[B] but they said to him, “The deed already has been done,”

[C] has two thousand cubits in every direction [in which to walk about].

[D] If he was within the Sabbath limit, it is as if he never went forth.

[E] For all those who go forth to save [someone in danger] may go back to their place.

[I:1 A] [*Is the rule of this passage not obvious? No, it is not,*] for if this were not the case, then how might we have ruled? Let the man be treated as is one who has been forcibly taken beyond the Sabbath limit, who has as permissible space only four cubits.

[B] Accordingly, it is necessary to make explicit that he has the right to move about in every direction for two thousand cubits [M. 4:3C].

- [II:1 A] [As to the meaning of, **If he was within the Sabbath line, M. 4:3D**], said R. Hunah, “That is the case if the four cubits [owing to the man] were included [within the original Sabbath limit he enjoyed], just as does the Sabbath limit of Tiberias lie [within four cubits of I the Sabbath limit of Magdalah.”
- [B] R. Hunah in the name of R. Ada bar Ahwah, R. La in the name of R. Simeon b. Laqish: “And even if he went forth to Magdalah and came back, it is as if he did not go forth. [Even if he was informed, when he was within the Sabbath limit of Magdalah, that the deed had already been done, if he went on to Magdalah and did not go home, lo, he is as if he never left home [as at M. 4:3D)”
- [C] *R. Joshua the Southerner asked, “Up to this point we have dealt with a case in which he went forth inadvertently. But what is the law if he went forth even deliberately? [That is, if he went to Magdalah inadvertently, not knowing that he might return to his house, then he may go home. But if he had gone to Magdalah deliberately, knowing that the deed had been done, is it possible that it is prohibited for him to go home?]”*
- [D] *Said R. Phineas, “The Mishnah so indicates: **For all those who go forth to save someone in danger may go back to their place [M. 4:3E]** – even carrying their weapons of war [if that was the occasion].”*
- [II:2 A] *It has been taught: **If gentiles came against towns located near the frontier, even to grab straw, even to grab a loaf of bread,***
- [B] **they go forth against them carrying weapons, and they violate the prohibitions of the Sabbath on *their* account [T. Er. 3:5G-H].**
- [C] **If they came against towns [surrounded by Israelite populations], they do not go forth against them armed, unless they came for blood [cf. T. Er. 3:5C-F].**
- [D] **At first they would leave their weapons in the house nearest the wall.**
- [E] **One time they ran about and were in haste to grab their weapons, and [in their confusion] they ended up killing one another.**
- [F] **They made an ordinance that each one should go home [to get his weapon] [T. Er. 3:6A-C].**

4:4

[A] [22a] **He who took up a resting place while on the road [on the eve of Sabbath at twilight, and there acquired the place where he would spend the Sabbath],**

[B] **and [at dawn] got up and saw. and lo, he is near a town,**

[C] **“since it was not his intention [to enter that town],**

[D] **“he may not enter the town, “ the words of R. Meir.**

[E] **R. Judah says, “He may enter it.”**

[F] **Said R. Judah, “Such a case happened, and R. Tarfon entered a town which he had not previously intended [to make his Sabbath residence].”**

[I:1 A] Said [sages to R. Judah], “Was not the schoolhouse of R. Tarfon within two thousand cubits, or perhaps he had joined himself to the other residents of his town while it was still day [on Friday]? [That would account for Tarfon’s act, without contradicting Meir’s principle.]”

[B] *A teaching was found:* In the morning, the sun came out. They said to him, “Rabbi, lo, the town is before you. Enter.” [If he had known, as A claims, that he was within the Sabbath limit, and if he had intended to enter the town, he would not have waited until sunrise. [This would reinforce Judah’s interpretation of Tarfon’s act.]

4:5

[A] **He who fell asleep on the way and did not realize that it had gotten dark**

[B] **“has two thousand cubits in every direction, “ the words of R. Yohanan b. Nuri.**

[C] **But sages say, “He has only four cubits.”**

[D] **R. Eleazar says, “And he is [deemed standing] in the middle of them.”**

[E] **R. Judah says, “To whichever direction he wants he may go.”**

[F] **And R. Judah concedes that if he made a choice for himself, he cannot then retract his choice.**

[I:1 A] *R. Zeira in the name of R. Hisdai: “The reason for the view of R. Yohanan b. Nuri [at M. 4:5B] is this:* If the man had been awake, he would have been able to acquire a place of Sabbath residence on that spot. If he was asleep, has he not acquired a place of Sabbath residence on that spot? [He surely has, but] he has only two thousand cubits in every direction.”

[B] R. Judah says, “Even if he was awake and did not acquire for himself a place of Sabbath rest [on that spot, as the sun set nonetheless, he has only two thousand cubits in any direction.]”

[C] *The position of R. Judah accords with the theory of R. Yohanan b. Nuri.*

[D] For R. Yohanan b. Nuri said, “Since, if he had been awake, he would have acquired for himself a place of Sabbath residence on that spot, if he was awakened, has he not acquired for himself a place of Sabbath residence there? [He surely has, but] he has only two thousand cubits in every direction.”

[E] *R. Hunah said R. Nahman bar Jacob asked, “In the case of a gentile who immersed [Saturday morning, thus becoming an Israelite] after the eastern skies were lit up – since, if he had been awake, he would have acquired there a place of Sabbath rest [with the consequent right of moving two thousand cubits in any direction, do we make this same statement in this case as well]?”*

[F] Is the ruling in accord with the position of R. Yohanan b. Nuri?

[G] *Let us derive the answer from the following:* [The proof-text is missing.]

[H] For R. Isaac bar Nahman in the name of R. Joshua b. Levi said, “The law accords with the position of R. Yohanan b. Nuri.”

[II:1 A] If [within the theory of Judah, M. 4:5F, that one may select a place of Sabbath residence in any direction he wishes,] one has selected for himself a place of Sabbath residence while it is still daylight, he may retract his decision while it is still daylight.

[B] If he did so after it got dark, [so long as he has not begun a trip in the direction originally chosen,] after it got dark he may choose a different direction and so retract his original choice.

[C] But what if he selected for himself a place of Sabbath residence while it was still day, [and began on the journey in that direction, and fell asleep, and, while he was sleeping,] the Sabbath day was consecrated? [May he retract his decision?]

[D] *Let us derive the answer from the following: “He may not enter the town,” the words of R. Meir. R. Judah says, “He may enter it” [M. 4:4D-E].* [Judah thus maintains that if someone fell asleep en route, he

still may enter the town. Now in this case, while it was still day the man wanted to acquire a place of Sabbath residence where he was located. Nonetheless Judah permits him to retract after it got dark, and to enter the town. But this supposition contradicts M. 4:5F, that there is a case in which one cannot retract. Accordingly, we now must ask at what sort of case there may be retraction.]

- [E] *[M. 4:5F] does not refer to the materials of [M. 4:5] at all, but it refers to the rule that stands at the beginning of the pericope: **He whom gentiles took forth beyond the Sabbath limit, or an evil spirit [M. 4:1A-B].***” And it is in that regard,” said R. Bun, “that R. Judah concurs: if the man then selected for himself a place of Sabbath rest, he cannot retract any longer. [If the man has chosen the four cubits allowed him in the case of M. 4:1A-B, he may not retract that choice and select four other cubits.]”

4:6

[A] **[If] there were two persons –**

[B] **part of [the four] cubits of this one are in the [four] cubits of that one**

–

[C] **they bring [their food] and eat in the middle,**

[D] **on condition that this one not take something out of his area and put it into the area of his fellow.**

[E] **[If] there were three, with the [limit of the] one in the middle wholly overlapped by the limits of the other two,**

[F] **[the one in the middle] is permitted [to eat] with them, and they are permitted [to eat with him].**

[G] **And the two outer ones are prohibited [to eat] with one another.**

[H] **Said R. Simeon, “To what is the matter comparable?**

[I] **“To three courtyards open to one another and open to the public way.**

[J] **“[If] two of them were covered by an erub with the one in the middle, that one in the middle is permitted [access] to both of them, and they are permitted [access] to it.**

[K] **“But the two outside courtyards are prohibited [access] from one to the other.”**

[I:1 A] Even though R. Hananiah b. Antigonos differed from rabbis in the matter of cubits [at M. 4:7K], he concurs with them here in the matter of establishing the Sabbath limit for a town.

4:7

[A] He who was coming along the way and who was concerned that darkness might overtake him,

[B] and who knew about a certain tree or a fence and said,

[C] “My place of residence for the Sabbath will be under it,”

[D] has said nothing at all.

[E] [If he said,] “My place of residence for the Sabbath is at its root,”

[F] he may then go from the place at which he is standing to the root, for the distance of two thousand cubits, and from the location of its root up to his house, for two thousand cubits.

[G] So he turns out to have the right to go four thousand cubits after it gets dark.

[H] If he does not recognize [any landmark],

[I] or he is not an expert in the law,

[J] and [if he] said, “My place of Sabbath residence is in the place where I am now located,” he has acquired two thousand cubits in all directions from the place where he is located –

[K] “As though it were a circle,” the words of R. Hanina b. Antigonos.

[L] And sages say, “As though it were a square,

[M] “like a square tablet –

[N] “so that he may enjoy the benefit of the corners.”

[I:1 A] If there were two people, one of whom knew a spot and one who did not, this one who knows a spot goes along [taking with him] that one who does not know a spot, and that one who does not know a spot goes along with this one who knows a spot [so that the one who can make the statement does so in behalf of the other].

4:8

[A] This is the meaning of that which they have said:

[B] “The poor man makes an erub with his feet’

[C] Said R. Meir, “We have only the poor man [to whom to apply the rule].”

[D] R. Judah says, “All the same are the poor man and the rich man:

[E] “They ruled that they make an erub with a loaf of bread only to make things easier for the rich man.

[F] **“So that he should not have to go out and make an erub with his feet.”**

[I:1 A] R. Meir maintains the view that the principal act of providing for an erub-meal is done with a loaf of bread. Why have they said that it may be done, instead, with one’s feet [by walking to the place at which one wishes to take up Sabbath residence and remaining on the spot when darkness falls on Friday evening]? It is to make things easier for the poor man who has no loaf of bread [to use for that purpose].

[B] R. Judah said, to the contrary, that the principal mode of providing for an erub-station is done with one’s feet. and why have they ruled that it may be done with a loaf of bread? It is to make things easier for the rich man, who is spared the need of actually making the trip on foot.

[C] *Even though R. Judah has said, “The principal mode of providing for an erub-station is done with one’s feet,” nonetheless, [in performing that act,] one must not sit at home and say, “May a place of Sabbath residence be acquired for me in such and such a place.” Rather, one must go out to the field in which he wishes to establish residence] and say, “Let a place of Sabbath rest be acquired for me in this place,” and he must wait there until sunset, and then he goes along and comes back to his village.*

[D] *And so it has been taught: Said R. Judah, “There is this precedent: In the household of Mammal and in the household of Gurion from Romah, they would hand out dried figs to the poor in time of famine.*

[E] **“The poor people of Shihin went out and made an erub with their feet, so they could go into the other town and eat figs once it got dark” [T. Er. 4:9L-M].**

[F] And whatever they did, they did at the instructions of sages.

4:9

[A] **“He who went to go to a town with which [the people of his town] were making an erub,**

[B] **“and his friend made him come back –**

[C] **“he is permitted to go to the other town on the Sabbath.**

[D] **“But all the other people of his town are prohibited from doing so,” the words of R. Judah.**

[E] **R. Meir says, “Anyone who could have made an erub and did not make an erub, lo, this one is like the ass-driver and the camel-driver.”**

[I:1 A] *One may explain the statements [of M. 4:9C-D, he is permitted to go to the other town, but the other townsfolk of his are not,] in two ways.*

[B] First, the friend has said, “I shall provide an *erub* for you and for the residents of your town,” and. [not carrying out his promise,] he made an *erub* covering the other residents of his town, but he did not prepare an *erub* for him. The man then is forbidden to go in that direction [for the entire distance, but, retaining -- credit for the Sabbath limits of his town in general, which he has not relinquished,] he is permitted to go in all of the other directions [covered by the normal Sabbath boundaries] of his town. But the other townsfolk are permitted to go [the additional distance] in that direction, while they are [therefore] forbidden to go in the other directions [normally encompassed by the Sabbath boundary] of their town.

[C] *Second, one may interpret this case in a different way.* The friend said to him, “I shall make an *erub* for you and for the other residents of your town,” but he did not prepare an *erub* either for him or for the other residents of his town. He may then continue to travel in that direction [in which he had originally been heading], since his feet [in walking in that direction while it was still day] acquired for him the right to move in that direction on the preceding day, [that is, Friday afternoon]. But the other residents of his town are forbidden to go in that direction [there being no *erub* to allow them to do so]. Then they are permitted to go in the other directions [normally covered by the Sabbath boundary of their] town, [which they have not relinquished]. [The man did not prepare the *erub* for the others, but the effect of his actually making the trip is still valid.]

4:10

[A] **He who went beyond the Sabbath line, even by a single cubit, should not reenter.**

[B] **R. Eliezer says, “[If he went out] for two cubits, he may reenter. [If he went out] for three, he may not reenter.”**

[C] **He who was overtaken by darkness outside of the Sabbath limit, even by a single cubit, may not reenter.**

[D] **R. Simeon says, “Even if he is fifteen cubits outside, he may reenter.**

[E] **“For surveyors do not measure exactly, for the benefit of people who err.”**

- [I:1 A] Both R. Aha in *the* name of R. Hinena and R. Hisdai say, “[Eliezer] has specified only ‘two.’ Lo, if he were two cubits and a bit more [outside of the Sabbath boundary], he may not reenter.
- [B] “*Now the Mishnah indicates the view of R. Eliezer, for R. Eliezer said, ‘If he went out by two cubits, he may reenter. If he went out by three, he may not reenter’ [M. 4:10B].* [Consequently, if it is only by two and bit more, he may not reenter. The Mishnah has chosen its measurement with exactness.]”
- [C] *Said to him R. Yosé, “Now let us consider the latter part of his statement: If he went out for three, he may not reenter [M. 4:].* Lo, if it was less than three cubits by any amount at all, he may reenter [contrary to the proposal of A-B].”
- [I:2 A] *The disciples wished to propose that the ruling of R. Eliezer applies [to a case in which one actually was within the Sabbath boundary and] went out. But if he was outside of the limit when it got dark, the same measurement does not apply [and he then will concur with M. 4:10A].*
- [B] *But a teaching is available in which the same rule governs both cases.*
- [C] *They proposed to say that the position taken by R. Simeon [at M. 4:10D-E] applies in a case in which one was outside of the Sabbath limit when it got dark. But if he actually went out from inside the Sabbath limit, it is not in such a case that Simeon takes his view.*
- [D] *But the same teaching is available to the contrary, indicating that the same rule applies to both cases.*

YERUSHALMI ERUBIN

CHAPTER FIVE

5:1

[A] How do they augment towns [extending their limits for purposes of defining the Sabbath line]?

[B] [If among the houses at the outskirts] one house recedes and one house projects,

[C] [or] a turret [of the town wall] recedes and part projects,

[D] [if] there were there ruins ten handbreadths high,

[E] or bridges or sepulchres containing a dwelling-house,

[F] they extend the measure outward so as to take account of them.

[G] And they make it [the Sabbath limit of the area of the town] as if it were shaped like a square tablet,

[H] so that [the town's people] may gain the benefit of the corners.

[I:1 A] [21b] [If among the houses at the outskirts] one house recedes, they bring it out toward the city line.

[B] If one house projects, they draw the city line out to the house.

[I:2 A] Rab said, "They add a 'limb' ('BR) to a town [in connection with the Sabbath limits (M. 5:1A)]."

[B] Samuel said, "They augment from within ('BR)."

[C] *The one who said*, "They add," understands the law to mean that they augment the city with a limb ('BR).

[D] *The one who said*, "They augment from within ('BR)," compares the matter to a pregnant woman (M'WBRT).

[E] *There we have learned*: **They say a blessing over a flame only once they make use of [(or derive pleasure) from its light].**

[F] Rab said, "they derive pleasure."

[G] Samuel said, “‘They sustain’ [with an *ayin*].”

[H] And Samuel said, “‘They sustain (Y’WTW).”

[I] *The one who maintains that the correct reading is with an *alef** derives evidence from the following verse: “‘Only on this condition will we consent (N’WT) to you” (Gen. 34:15).

[J] *The one who maintains that the correct reading is with an *ayin** cites the following verse: “‘That I may know how to sustain (‘WT) with a word him who is weary” (Isa. 50:4).

[K] *There we have learned: **Before their festivals [M. A.Z. 2:1A].***

[L] Rab said, “‘Their testimonies [spelling the word for festivals at M. A.Z. 1:2A with an *ayin*].”

[M] And Samuel said, “‘Their calamity (with an *alef*).”

[N] *He who claims that the word is spelled with an *ayin** [as “‘their testimonies,”] draws evidence from the following verse: “‘Let them bring their witnesses to justify them” (Isa. 43:9).

[O] *And he who claims that the word is spelled with an *alef**, as “‘their festivals,” draws evidence from the following verse: “‘For the day of their calamity (YDM) is at hand” (Deut. 32:35).

[P] How does Samuel interpret the scriptural verse cited by Rab, “‘And their testimonies”?

[Q] They are going on the day of judgment to shame those who keep them.

[I:3 A] R. Yohanan in the name of R. Hoshaiiah: “‘They add a limb to it [in connection with establishing the Sabbath boundary of a town].”

[B] *He set his eyes on him and stared at him.*

[C] He said to him, “‘Why are you staring at me? Is it because I need to cite teachings in your name that you are laughing at me? Then [others] have gone much further than you [in the same matter anyhow].”

[D] *[In any event Yohanan continued to study with Hoshaiiah] for thirteen years, receiving him as his master, until he no longer needed [to learn what he had to teach].*

[E] R. Samuel in the name of R. Zeira: “‘If it has only been this, it would have been sufficient reward, that he greeted his master

[every day], for whoever greets his master is as if he greets the Indwelling Presence.”

[F] R. Berekhiah, R. Jeremiah in the name of R. Hiyya bar Ba: “It is written, ‘Now Moses used to take the tent [and pitch it outside the camp, far off from the camp; and he called it the tent of meeting. And every one who sought the Lord would go out to the tent of meeting, which was outside the camp]’ (Exod. 33:7).”

[G] *And how far was it?* R. Isaac said, “A *mil*.”

[H] [“And everyone who sought the Lord” (Exod. 33:7):] “And everyone who sought Moses” is not written here. Rather what is written is, “And everyone who sought the Lord.” This indicates that whoever greets his master is as if he greets the Indwelling Presence.

[I] R. Helbo, R. Hunah in the name of Rab: “It is written, ‘Now Elijah, the Tishbite, of Tishbe in Gilead, said to Ahab, ‘As the Lord the God of Israel lives, before whom I stand’ (1 Kings 17:1). Now [at this point] was Elijah not merely an apprentice to the prophets? [How could he speak as a prophet, saying, ‘before whom I stand’?] But this teaches that every time he stood before Ahijah, the Shilonite, his master, it was as if he stood before the Indwelling Presence.”

[J] R. Helbo in the name of members of the household of Shiloh: “Even if Elijah asked for water before him, Elisha would pour it on his hands.”

[K] *What is the scriptural basis for this statement?* “[And Jehoshaphat said, ‘Is there no prophet of the Lord here, through whom we may inquire of the Lord?’ Then one of the king of Israel’s servants answered,] ‘Elisha the son of Shaphat is here, who poured water on the hands of Elijah’” (2 Kings 3:11).

[L] It is not written, “who studied Torah,” but rather, “who poured water on the hands of Elijah.”

[M] It is written, “Now the boy Samuel was ministering to the Lord under Eli. And the word of the Lord was rare in those days; there was no frequent vision” (1 Sam. 3:1).

[N] But is it not the case that he was ministering only to Eli [and not directly to the Lord]? But this indicates that every act of service he performed before Eli, his master, is as if he performed it before the Indwelling Presence.

[O] *R. Ishmael taught*, “[And Jethro, Moses’ father-in-law, offered a burnt-offering and sacrifices to God;] and Aaron came with all the elders of Israel to eat bread with Moses’ father-in-law before God’ (Exod. 18:12).

[P] “Now was it before God that they were eating? Rather, this teaches that he who receives his fellow is as if he receives the Indwelling Presence.”

[I:4 A] [As to M. 5:1A] *R. Jacob bar Aha, R. Yosé in the name of R. Yohanan*: “At what point do they add? They add [to the augmentation of a town for purposes of the Sabbath limit] from the point at which houses are located along a line with the gateway of the town for a distance of two thousand cubits [and no more].”

[B] *Said R. Yosé to R. Yosé bar Aha*, “Is it not reasonable that that is the case only for houses in line [only] with the indentations of the city wall? But if the houses are in line with the city [wall itself], then one may extend the Sabbath limit] even for a still greater distance.”

[C] *He said to him*, “I too maintain that view.”

[D] [Proving this same point,] *he said to him*, “Why, after all, should we add to the city without limit by treating the houses as if they are in line with the indentations in the wall, so that one has to extend the town limits to a line with them? Perhaps we should maintain that the additional houses, outside of the line, constitute the town itself, and the town, as we have it, should be regarded as indented, standing within the proper line, in which case one has to extend the town’s limits to the point even with the additional houses.”

[II:1 A] **[As to bridges or sepulchres containing a dwelling house, they extend the measure outward so as to take account of them (M.:1E-F):]** *Said R. Nahman*, “[These are regarded as situated within the town, so that one takes the measure] at the very outer limits of the town.”

[F] *A statement made by R. Simeon makes the same point.*

[G] For R. Simeon b. Yohai said, **“I can make it possible for people to go up from Tiberias to Sepphoris, and from Tyre to Sidon,**

[H] **“because of the caves and towers which are between those towns”** [T. Er. 4:11].

[I] What is the law as to adding the area covered by one indentation to that covered by another? A statement of R. Simeon b. Laqish indicates that they do add one area covered by an indentation to another.

[J] For R. Simeon b. Laqish said, “I can so arrange matters that Bet Maon may be encompassed within the Sabbath boundary of Tiberias. For you regard the stadium [of the town] as if it were filled with houses, and the Roman camp is [in any event] set within seventy and two-thirds cubits distance from the stadium, with Bet Maon situated within seventy and two-thirds cubits of the Roman camp. If, then, you extend the line from the bleachers [above the stadium] you find that the sepulchre of Siriqin lies within that line, within a distance of seventy and two-thirds cubits, and if then you extend the line to the Pottery from the sepulchre of Siriqin, it too lies within the distance of seventy and two-thirds cubits.

[Accordingly, the radius of seventy and two-thirds cubits from Tiberias extends to the various locations just now specified, except for the stadium. Then the stadium itself is included as an extension of one of the extensions encompassed by the indentations, as specified.]”

[K] What is the law as to adding one augmentation of a town[’s Sabbath territory] to another such augmentation?

[L] *A statement of R. Simeon b. Yohai indicates that one indeed does add one augmentation of a town to another such augmentation.*

[M] For **R. Simeon bar Yohai said, “I can make it possible for people to go up from Tyre to Sidon and from Tiberias to Sepphoris, because of the caves and towers which are between those towns”** [T. Er. 4:11].

[N] [But that statement is not wholly decisive, for] here [we deal with] making a journey, while [the question has pertained to] augmenting the city’s Sabbath boundary. [The question is not then worked out further.]

[II:2 A] R. Aha said, “R. Hiyya the Elder and Bar Qappara had a difference of opinion. One of them maintained that [the rule about augmenting a town, M. 5:1A] pertains to a large town. But as to a small town, the additional area assigned to the town should not be greater than [22c] the principal area of the town itself.

[B] “*The other took the position that the same rule applies to both a large town and a small town. One augments the town in either case by the measure of two thousand cubits [as if it were shaped like a square tablet, M. 5:1G].*”

[C] Said R. Phineas, “There was the case of an experienced disciple, who for three and half years learned the law of augmentation of a town before his master. Then he went and succeeded in extending [the Sabbath limit to encompass] the whole of Galilee. But he did not suffice to do the same in the south before the time was no longer propitious for doing so. [The disciple demonstrated by including small building and outlying areas within the Sabbath limit that the whole of Galilee could be formed into a single area for purposes of Sabbath journeying.]”

[II:3 A] R. Ba, R. Judah in the name of Rab: “A town that is shaped like a bow – if the distance between the two ends of the bow is four thousand cubits less one, one measures the Sabbath limits to cover the entire encompassed area as well as two thousand cubits beyond.

[B] “If, however, the distance from one end to the other is four thousand cubits [or more], one measures from the point at which one calculates the Sabbath augmentation only for two thousand cubits.”

[C] [Explaining why the distance must be somewhat less than four thousand cubits] said R. Aha, “*R. Samuel reasoned: ‘If one places his sandal here, he may come from this side and take it from here, and if he puts it on the other side, he may come and take it from there. One comes from this side and one comes from that side. From a single direction it is forbidden [to make the entire traversal], while from the two directions [from either side of the bow it is permitted [to make the entire traversal. Accordingly, the distance from each side of the bow must be slightly under two thousand cubits.]*”

[II:4 A] R. Ba in the name of R. Judah: “If there was a large town, with a ditch ten handbreadths deep and four broad running through it [constituting, therefore, an autonomous domain], one regards the ditch as if it is filled with dirt and pebbles. [In this way the ditch does not serve to divide the city into two distinct domains.]

- [B] “But if not, one regards the ditch as if it is open-ended [in which case the town is constituted into two distinct domains].”
- [C] R. Ba, Immi bar Ezekiel in the name of Rab: “As to a town built at the edge of a ravine, if the distance between the town and the valley is four handbreadths, one measures from the wall of the town. If it is three, one measures [the Sabbath augmentation] from the outer lip of the ravine.
- [D] This is on condition that the ravine not encompass an area of more than seventy and two-thirds cubits.

[E] *How shall we interpret this condition?* If the ten handbreadths are encompassed in distance of three cubits [from the wall of the town], does one measure from the outer lip of the ravine? [Surely not.]

[F] If it is within four cubits, does one measure from the wall itself?

[G] *Thus at issue is the issue of the case in which* it is from three to four cubits [of the wall]. [In this case the rule of D is invoked.]

[II:5 A] Rab said, “In the case of a town made up entirely of tents, each resident measures from the location of his tent.

- [B] “If there were three huts and three towers, one measures from the outermost [of the lot]. [Each tent is regarded as a single unit, not part of a town, however many there may be.]”
- [C] *Assi objected*, “And lo, it has been written, ‘You shall have a place outside the camp, and you shall go out to it’ (Deut. 23:12!). How would they be able to go out to that place [if the tent of each was the base point for his Sabbath limit]? [The camp as a whole was too large to permit each to travel two thousand cubits and so to find himself outside of the limits of the camp. Accordingly, Rab must be wrong.]”
- [D] [*Along these same lines,*] *R. Hiyya, son of R. Shabbetai, objected*, “How could the people go out to the schoolhouse of Moses?”
- [E] Moses arranged for them three huts and three towers [adding to the Sabbath boundary of the town].
- [F] Said R. Yosé, “Since the people made camp and broke camp at the instructions of the Divine Word, it was as if they encamped only for a moment, [which accounts for the fact that they did not constitute a town].”

[G] [Rejecting this view,] said R. Yosé b. R. Bun, “Since the Holy One, blessed be he, had promised them that he would bring them into the Land, it was as if each encampment was permanent.”

[H] It is in this regard that R. Abin said, “Moses arranged for them three huts and three watchtowers.”

- [III:1 A] [As to M. 5:1G: **They make the Sabbath limit of the area of the town as if it were shaped like a square tablet;**] the sides are squared so as to correspond to the four directions of the world, the western side corresponding to the western side of the world, the southern side to the southern side of the world.
- [B] Said R. Yosé, “If one does not know how to square the town so as to make it correspond with the directions of the world, one may go and learn [how to do so] from the passage of the sun through the seasons.
- [C] “The line from the line at which the sun rises on the first day of the season of Tammuz to the point at which the sun rises on the first day of the season of Tebeth – these form the eastern side.
- [D] “The line from the point at which the sun sets on the first day of the season of Tebeth to the point at which it sets on the first day of the season of Tammuz – these form the western side.
- [E] “And the rest constitute the northern and southern sides.”
- [F] That is in line with the following verse of Scripture: “The wind blows to the south, and goes round to the north; round and round goes the wind, and on its circuits the wind returns” (Qoh. 1:6).
- [G] “It blows to the south” by day; “and goes round to the north” by night; “round and round goes the wind, and on its circuits the wind returns” – these are the sides to the east and west.
- [H] [As to recognizing the eastern and western directions,] there is no problem in understanding how people did so in the time of Shilo and in the eternal house [in Jerusalem].
- [I] For R. Aha said in the name of Samuel bar R. Isaac, “How much did the earlier prophets labor to set up the eastern gate [of the Temple] in such a way that the sun would shine directly through it on the first day of the season of Tebeth and on the first day of the season of Tammuz.”
- [J] [That gate] had seven names: the gate of the turning; the gate of the foundation; the sun gate; the arrival gate; the middle gate; the new gate; the upper gate.

- [K] “The gate of the turning” – for there unclean people turned aside. That is in line with what is written, “‘Away! Unclean!’ men cried at them; ‘Away! Away! Touch not!’ So they became fugitives and wanderers; men said among the nations, ‘They shall stay with us no longer’” (Lam. 4:15).
- [L] “The gate of the foundation” – for there they laid the foundation for the law.
- [M] “The sun gate” – for it faces the sunrise. That is in line with the following verse: “Who commands the sun, and it does not rise; who seals up the stars” (Job 9:7).
- [N] “The arrival gate” – for it serves for entry and exit.
- [O] “The middle gate” – for it is located between two other gates.
- [P] “The new gate” – for there the scribes renewed the law.
- [Q] “The upper gate” – for it is located above the Israelite’s courtyards, the rampart, and the women’s courtyard.
- [R] Now the eternal house had a distinguishing trait [in that it was located in conjunction with the four directions of the compass].
- [S] Now in the wilderness, who laid forth the directions for the people? It is in line with that which is written, “Then the Kohathites set out, carrying the holy things, and the tabernacle was set up before their arrival” (Num. 10:21) – this refers to the ark. But the sons of Merari set up the tabernacle before the Kohathites arrived, who were carrying the ark.
- [T] How did the Israelites proceed through the wilderness?
- [U] R. Hama bar Haninah and R. Hoshaiah: *One said*, “In the pattern of a box [square].” *The other said*, “In the form of a beam.” [The former had them move in a square, the latter Indian-file.]
- [V] *He who maintains that they moved in the pattern of a box* cites the following verse: “[Then the tent of meeting shall set out, with the camp of the Levites in the midst of the camps;] as they encamp, so shall they set out, each in position, standard by standard” (Num. 2:17).

[W] *He who maintains that they moved in the pattern of a beam* cited the following: “[Then the standard of the camp of the men of Dan,] acting as the rear guard of all the camps, set out by their companies; [and over their host was Ahiezer the son of Ammishaddai]” (Num. 10:25).

[X] *He who maintains that they moved in the pattern of a beam* – how does he interpret the evidence that they moved in the pattern of a box: “As they encamp, so shall they set out”? Just as they encamp in accord with the instructions of the Divine Word, so they travel in accord with the instructions of the Divine Word.

[Y] *And he who maintains that they travel along the lines of a box* – how does he interpret the evidence that they moved in the pattern of a beam: “Acting as the rear guard of all the camps, set out by their companies”? It wag because the tribe of Dan was so populous that it traveled at the end.

[Z] Accordingly, to whoever lost something [the tribe of Dan] would restore it.

[AA] This is in line with that which is written, “[Then the standard of the camp of the men of Dan,] acting as the gatherers [of lost objects] for all the camps, set out by their companies; [and over their host was Ahiezer the son of Ammishaddai]” (Num. 10:25).

[III:2 A] *It has been taught in the name of R. Judah: “Also its cornices and walls are measured with it” [T. Er. 4:7B].*

[B] *R. Hoshaiah raised the question: “The contained airspace [not roofed over] of a courtyard – what is the law as to its being measured with the town?”*

[C] *Let us derive the answer from the following: In the case of a house which was breached at one side, the space of the house still is measured along with that of the town. If it is breached in two directions, however, it is not measured with the town.*

[D] [In this regard,] R. Abin said in the name of R. Judah: “That is the case when the beam of the house has been removed [in which case, lacking a roof, it cannot be called a dwelling at all]. But if the beam of the house has not been removed, it is measured with the town.”

[E] Now when the beam has been removed, is this not equivalent to the airspace of the courtyard? [Hence the airspace is not included.]

[F] [No, that is a false conclusion.] In that case [B] the courtyard is an element of a dwelling house [so, even lacking a roof, it is measured as part of the house with the town], while here [C], [the house lacking a beam] is not regarded as part of a dwelling [and hence, as indicated, it is not included]. [But it also does not serve as a model for the problem of B.]

[III:3 A] [With reference to M. 5:1G,] If one circumscribed a [circular] town by a square and formed it into the shape of a square tablet, and laid out the Sabbath limits in the shape of a square tablet (M. 5:1G), when one measures, he does not measure from the middle point [of the town],

[B] because one loses [the corners].

[C] But one measures from the northeastern corner [and assigns two thousand cubits in the northeasterly direction, and he measures from the southwestern corner and assigns two thousand cubits in the southwesterly direction. Then he goes and lays out a square in the form of a square tablet. The town turns out to gain four hundred cubits on this side and four hundred cubits on that side [T. Er. 4:13].

5:2

[A] “They assign the outer area [of seventy and two-thirds cubits] to the town,” the words of R. Meir.

[B] And sages say, “They referred to the outer area only when it falls between two towns.

[C] “If this one [has a further area of] seventy cubits and two-thirds and that one [has a further area of seventy cubits and two-thirds, one assigns an outer area to each town,

[D] “so that they may form one domain.”

[E] And so is the rule for three villages arranged in a triangle:

[F] if there is a distance between the two outermost ones of one hundred forty-one and a third cubits,

[G] the middle village makes all three of them form one domain.

[I:1 A] R. Hunah in the name of Rab: “R. Meir and rabbis [at M. 5:2A-B] interpret [each in his own way] a single verse of Scripture, [which is as follows: ‘(The pasture lands of the cities, which you shall give to the

Levites, shall reach) from the wall of the city (outward a thousand cubits all round)’ (Num. 35:4)].

- [B] “R. Meir takes up the clause ‘from the wall of the city.’ Why does Scripture find it appropriate to add ‘outward’? It is on the strength of this passage that we learn that they assign an outer area to [any] town.
- [C] “Rabbis interpret with emphasis upon ‘outward.’ Why does Scripture find it necessary to state, ‘from the wall of the city.’ It is on the strength of this usage that we learn that they do not assign an outer area to a [single] town.”
- [D] [As to M. 5:2C-D,] *that is to say that* they assign an outer area to a town [even in the view of rabbis].
- [E] *R. Jacob bar Aha, R. Abonah, R. Nahum in the name of Samuel bar Abba: “[This represents a new] passage of the Mishnah [in accord with an authority other than the one represented in the foregoing passage].”*

[II:1 A] And so is the rule for three villages arranged in a triangle [M. 5:1]:

- [B] Samuel said, “That is the case when they are arranged in a line.”
- [C] Bar Qappara said, “That is the case when they are arranged in a triangle.”
- [D] *Which one then is in the middle [as M. 5:2G indicates]?*
- [E] *There is no problem for the one who says that they are arranged in a row, since the one in the middle [clearly is identified].*
- [F] *But in the view of the one who has said, “They are arranged in a triangle,” which one is in the middle?*
- [G] Said R. Samuel, brother of R. Berekhiah, “If you take a fix from one side, this one is in the middle, and if you take a fix from the other side, this one is in the middle.”
- [H] [As to M. 5:2G,] R. Jacob bar Aha, R. Yosé in the name of R. Hananiah: “That is on condition that the one in the middle is no more than [22d] two thousand cubits distant from the others.”
- [I] *Said R. Yosé, ‘I raised this question before R. Jacob bar Aha: ‘We have learned: **If between the two outermost ones there is a distance of one hundred forty-one and a third cubits [M. 5:3F],** ‘ the one in the middle then serves all three of them, so allowing [traversing the distance between] the two outer ones.*

[J] “If there were two [times the stated measure of one hundred forty-one and a third cubits], as to the one in the middle, what is the law on its being assigned to the one side or the other? [That is the two at the extremes are out of relationship to one another. What about the one in the middle? It stands, after all, less than the requisite distance from the two of them.]”

[K] *Where there is a question*, it is where there were two people from the middle village, each going in his own direction. But if it was a single individual [resident in the middle village], he certainly may go in either direction.

5:3

[A] They measure only with a rope fifty cubits long,

[B] no less, no more.

[C] And one measures only with the rope held] at a level with his heart.

[D] [If] one was measuring and reached a valley or a fence,

[E] he takes count only of the horizontal span and continues his measuring.

[F] If he came to a mountain, he takes account only of the horizontal span and continues his measuring.

[G] And this is on condition that he does not go outside the Sabbath limit.

[H] If he cannot take account of the horizontal span,

[I] in this case, said R. Dosetai b. R. Yannai in the name of R. Meir “I heard that they treat hills as though they were pierced.”

[I:1 A] What is the measure of [the rope for measuring] the Sabbath boundary? It is that of forty ropes [fifty cubits long, thus, two thousand cubits],

[B] not less, for one stretches the rope and so gains [additional length], nor more, for [the rope] curls and causes a loss [in the permissible distance for walking]

[C] *There is a Tannaite authority who teaches: One measures with a rope of flax. And there is a Tannaite authority who teaches: One measures with a chain. And there is a Tannaite authority who teaches: One measures with a rope of four cubits.*

[D] Said R. Joshua, “You have no measure more reliable than a chain, but what can I do? For it is written by the prophets, ‘[When he brought me there, behold, there was a man, whose appearance was

like bronze,] with a line of flax and measuring reed in his hand; [and he was standing in the gateway]” (Ezek. 40:3).

- [I:2 A] If from the surveyor to a ravine was a distance of seventy-five cubits
—
- [B] *two Amoraim deal with this matter.*
- [C] *One said, “He measures with a rope fifty cubits long; then he doubles it up to a length of twenty-five.”*
- [D] *The other said, “He measures with a rope of fifty cubits, and as to the remaining distance, he measures with a rope four cubits long.”*
- [E] If a ravine was narrow at the top and broad at the bottom, up to a depth of fifty cubits, you regard the ravine as if it were filled with dirt and pebbles [and ignore the greater span at the bottom of the ravine], but if not, you regard it as if one would climb up and climb down [the ravine].
- [F] If it was a crooked ravine,
- [G] R. Hisdai said, “One makes a visual estimate in accord with his measure on a plane, and then he does the same on a hill.” [Note T. 4:15H-J: **If it was a crooked valley and he cannot swallow it up, he pierces it on an upward plane, pierces it on a downward plane, and he makes a visual estimate in accord with his measure, and that is how he measures.**]
- [II:1 A] [As to M. 5:4F, **If one came to a mountain, he takes account only of the horizontal span,**] R. Aha, R. Hinena, R. Jeremiah in the name of R. Samuel bar R. Isaac: “And that is the rule, if the measure of the mountain is at least four handbreadths, a place of which one would *take account.*”
- [III:1 A] R. Yosé, R. Abonah in the name of R. Judah, R. Yudan presented the view in the name of Rab: “As to M. 5:3/I, piercing mountains,] the man on the top holds his end on a level with his head, and the man on the bottom on a level with his feet” [Cf **T. Er. 4:14B: The man on the top holds his end on a level with his feet, and the man on the bottom holds his end on a level with his heart. The words of R. Meir. And sages say “They do not pierce mountains.”**]
- [B] *All parties concur that they pierce mountains, and even if the upper one holds the measure at his head and the lower one at his loins, all parties concur that they pierce mountains.*

- [C] *Where they differ*, it is in the case in which the man at the top holds the measure at his feet, and the one at the bottom, at his heart.
- [D] R. Meir [cf. T. Er. 4:14A-D, cited above,] says, “They pierce the mountains [in that way].” And sages say, “They do not pierce mountains [in that way].”
- [III:2 A] Raba in the name of R. Judah, R. Zeira in the name of Mar Uqba: “[**M. 5:3A:**] **They measure only with a rope fifty cubits long** [in order to establish the Sabbath boundaries of a town].”
- [B] R. Zeira in the name of R. Hisdai says, “They do not measure by level distance [between two places separated by mountains, but include the mountain in ground measure] either in the towns of the Levites [to determine its borders] or in the location of a heifer whose neck is broken [to determine which city is closer].”
- [C] *And this view accords with the opinion of him who said*, “**A thousand cubics constitute the outskirts of a village, and two thousand, the Sabbath limit**” [**M. Sot. 5:3**]. [That is, for the cities of refuge no measure by level distance was taken, but for the establishment of the Sabbath limit, they did survey by level distance.]
- [D] *But in accord with the one [Eleazar b. R. Yosé the Galilean] who said*, “**A thousand are the outskirts, and two thousand encompass the fields and vineyards of a town [M. Sot. 5:3]** – did they not derive the rule for the Sabbath limit from the boundaries of the towns of the Levites? [That is, we know the Sabbath limit’s measurement from that specified for the cities of refuge. Thus from this viewpoint would it follow that] if for the main point of interest they do not make a survey by level distance, for the secondary point of interest, will they make a survey by level distance, [that is, for the Sabbath limit]? [obviously not! So the authority of B is C, not D.]”
- [III:3 A] And how do we know from Scripture that they do not bury the dead in the Levites’ towns?
- [B] R. Abbahu in the name of R. Yosé bar Haninah: “‘The cities shall be theirs to dwell in, and their pasture lands shall be for their cattle and for their livestock and for all their beasts’ (Num. 35:3). For that which is alive have the pasture lands been given over, and not for burial of the dead.”

5:4

[A] **They measure only by an expert.**

[B] [If] one extended the limit more in one place and less in another place, they observe the greater measure.

[C] [If] there was a greater distance for one [expert] and a lesser distance for another,

[D] they observe the greater measure.

[E] Even a slave, even a slave girl, are believed to state, “Up to this point is the Sabbath line.”

[F] For sages did not rule in this matter to impose a strict ruling, but to impose a lenient one.

[I:1 A] In the case of an amateur [surveyor] who extended the limit [beyond what had been known] – they do not listen to him.

[I:2 A] Said R. Hoshaiyah, “You have come to the point of the laws governing Sabbath limits, which is that these laws do not clearly derive from the teachings of the Torah. [Accordingly, we assign a lenient ruling.]”

[B] *R. Mana asked*, “Granted that the matter of two thousand cubits is not clearly [based on the law of the Torah]. The matter of four thousand cubits [as the limit of movement on the Sabbath] clearly derives from the laws of the Torah.”

[C] R. Simeon bar Karsena in the name of R. Aha: “You have nothing so clear among them all except for this fact: the Sabbath limit established at twelve mils, according to the dimensions of the camp of Israel, [is firmly based on the authority of the Torah].”

5:5

[A] A town belonging to a single owner which was converted into public domain [with many owners] –

[B] they prepare an erub covering the whole of it.

[C] And one which was public domain and was converted into [private domain] one belonging to a single owner –

[D] they do not prepare an erub covering the whole,

[E] unless one excluded a section of it

[F] “[of the size of] the town of Hadashah in Judah, in which there were fifty residents,” the words of R. Judah.

[G] R. Simeon says, “Three courtyards, each containing two houses.”

[I:1 A] [As to a town belonging to an individual which was converted into a town belonging to many people,] *it has been taught in the name of R. Judah*, “They do not provide an erub for it in parts. [That is, in the case

of a town formerly constituting a single domain, with the people used to preparing a single *erub* for the whole, we invoke the rule of M. 5:5A-B, specifically for the purpose of covering the entire town. But one may not prepare an *erub* for only part of the town, since it had formerly been a whole and complete unit.]”

[B] *The opinions assigned to R. Judah are confused.*

[C] *For R. Hiyya taught:* How does one permit [carrying in] the public domain? R. Judah says, “One sets up a side piece at this side and a side piece at that, a crossbeam at this side and a crossbeam at that.” And sages say, “One sets up a side beam and a crossbeam at this side, and makes the shape of a doorway at the other side.”

[D] *And here do you say this [A]?* [Hence Judah concurs that it is possible to render carrying permitted in various alleyways by themselves, and the fact that one is permitted and another not does not play any role. Here, by contrast, he says one must provide for the entire area, and not only for part of it.]

[E] *It is not in this regard [that the cited statement of Judah, A,] has been laid down. Rather, it is in another regard altogether, namely:* Even in the case of a large city, such as Antioch, if it has only a single doorway, they prepare a single *erub* for the entire city.

[F] *It has been taught in the name of R. Judah,* “They do not prepare an *erub* for it in parts [but only as a whole]. [But if the town has two gateways, one part of town may prepare an *erub* by itself, utilizing one gateway, and the other does the same using the second.]”

[G] *Said R. Yosé,* “[Since the city, E, is regarded as a single entity, so that if people prepared an *erub* for only parts of it, in Judah’s view they make it prohibited for others to carry within the city if they have not participated in their *erub*,] so that is to say, [the same rule pertains to] residents of an alleyway who placed their crossbeam at the gate of the alleyway. They are then permitted to carry objects in the alleyway in which they live, but others [not participants in the *erub*] may not then carry in that alleyway. If, on the other hand, the residents of various alleyways provided such a crossbeam, each group for its own alleyway, all of them are forbidden to carry [in line with A, F].”

[H] How then does one make it possible [for every alleyway to be treated by itself, so its residents may carry therein]?

[I] He sets a crossbeam at the gate of the alleyway, so permitting carrying in that alleyway [for the crossbeam serves to symbolize that the alleyway is distinct from any other].

[J] In the case of five small alleyways opening into one alleyway, [if the residents have] placed their crossbeam in the middle of the alleyway, these [on one side of it] then are permitted, and those [on the other side] are forbidden [to carry in the alleyway].

[K] If these and those [all the residents of the alleyways] did so, all of them are forbidden.

[L] How then does one make it possible [as above, H]? He sets a crossbeam at the gate of the alleyway, so permitting carrying in that alleyway [as at I].

[M] *When R. Phineas came up here, at the market of the circumcisers, he saw an arch from one side to the other. He said to them, "Have you then divided your erub? [Is it your intent to have the beam serve as an erub for half of the marketplace? Is that why it is put up this way?]"*

[N] Said to him R. Judah bar Shalom, "It has been put up to strengthen the houses, and not to serve as an *erub*."

[II:1 A] Unless one excluded a section of it of the size of the town of Hadashah in Judah [M. 5:5E-F]:

[B] For instance, Sanan, *Hadashah*, and Migdal Gad.

[C] In which there are fifty residents [M. S:5F],

[D] counting even men, women, and children.

[E] Assi said, "But that is on condition that they are Israelites."

[F] R. Ba bar Mamel, Simeon bar Hiyya in the name of Rab: "[As to the excluded section (M. 5:5E),] the doorways of that section must open into the excluded section."

[G] Said R. Mana, “Since the doorways open into it, the whole of it becomes a single domain.”

5:6

[A] He who was in the east and said to his son, “Prepare an erub for me in the west,”

[B] in the west and said to his son, “Prepare an erub for me in the east,”

[C] if the distance between him and his house is two thousand cubits, and between him and his erub is more than this distance,

[D] he is permitted to go to his house and prohibited from going to his erub.

[E] [If] to his erub was a distance of two thousand cubits and to his house a distance greater than that,

[F] he is prohibited from going to his house and permitted to go to his erub.

[G] He who places his erub in the extended area [seventy and two-thirds cubits of the outer area] of the town has done nothing whatsoever.

[H] [If] he placed it beyond the Sabbath line,

[I] even by a single cubit,

[J] what he gains [in one direction] he loses [in the other direction].

[I:1 A] *There is a problem troubling Bar Qappara, [namely, how is it possible for his house to be further than his erub, M. 5:6E, if his erub is west of his house, and he is east of his house? Accordingly, he interprets the language of M. 5:6A-B to mean] that “east” refers to east of his son, and “west” means west of his son.*

[B] *There is then no problem in understanding the case in which from him to his house is a distance of two thousand cubits, and to his erub more than that. In that case he is permitted to go to his house and forbidden to go to his erub.*

[C] *If to his erub is a distance of two thousand cubits, and to his house is more than that, he is permitted to go to his erub and forbidden to go to his house. [It is on this account that he wishes to interpret the language of the Mishnah as explained at A.]*

5:7

[A] The people of a large town traverse the entire area of a small town [located within the limits of the large town].

[B] and the people of the small town may nor traverse the entire area of the large town.

[C] How so?

[D] He who was in a large town but placed his erub in a small town [therein],

[E] in a small town and placed his erub in a large town.

[F] traverses the entire area and two thousand cubits beyond.

[G] R. Aqiba says, “He has only two thousand cubits from the location of his erub.”

[I:1 A] *This is the sense of the Mishnah: The people of a large town traverse the entire area of a small town [located within the limits of the large town], and the people of the small town may nor traverse the entire area of the large town. How so?*

[B] The words “how so” do not belong here. [What follows is not to be taken to illustrate M. 5:7A-B.]

[I:2 A] [As to M. 5:6H: He who placed his *erub* outside of the Sabbath limit,] with regard to the town itself, what is the law as to its being counted with the measure of two thousand cubits?

[B] Said R. Hezekiah, R. Simon in the name of R. Yohanan: “The town does not count in the measure of two thousand cubits. [Accordingly, in line with M. 5:7A, the men of the larger city may traverse their entire city, without reference to its size, as well as the small town, within its limits. But the men of the small town may not traverse the entire large town, because their boundary is encompassed in the large town. Only if one has spent the Sabbath in the large town or placed his *c?rub* there does he have the right to traverse the entire large town.”

[C] Said R. Eleazar, “The town does count in the measure of two thousand cubits. [One counts two thousand cubits from the outer boundary of the town.]” [Cf. T. Er. 3:13A-C: **He who takes up Sabbath residence in a town, even one so large as Antioch, may traverse the area of the entire town, and outside of it for a distance of two thousand cubits as well.**]

[I:3 A] **At first the townsfolk of Tiberias would traverse the whole of Hammata.**

[B] **But the townsfolk of Hammata went only up to the place of the bow.**

- [C] **Now the townfolk of Tiberias and the townfolk of Hanunata have gone and formed a single town [for the purposes of the Sabbath limit] [T. Er. 5:2].**
- [D] Said R. Jeremiah, “**There was a case in which an old shepherd came before Rabbi and said to him, ‘I recall that the townfolk of Migdal Geder would go down to Hammata, up to the outermost courtyard near the bridge.’**
- [E] **“And Rabbi permitted the townfolk of Migdal to do down to Hammata up to the outermost courtyard, by the bridge.**
- [F] **“And Rabbi further permitted the townfolk of Geder to go down to Hammata and to go up to Geder.**
- [G] **“But the townfolk of Hammata did not go up to Geder [T. Er. 4:16K-N].”**
- [H] Said R. Mana, “It was because [they were in different] domains.”
- [I] Said R. Yosé b. R. Bun, “It was not on account of this consideration. *But it was because we have learned: **The people of [23a] a large town [in this case, Geder,] traverse the entire area of a small town, and the people of the small town may not traverse the entire area of the large town [M. 5:7A-B].***”
- [I:4 A] R. Isaac bar Nahman in the name of R. Haninah: “Tn the case of the dispute [at M. 5:7D-G, in which one places his *erub* in another town], *the two parties disagree* concerning the case in which they placed their *erub* in the piazza. But if they put it in houses, also R. Aqiba concurs [that the owners of the *erub*] may traverse the entire area and two thousand cubits beyond, [for the houses, close together as they are, form a single entity].”
- [B] *R. Ba son of R. Pappi asked*, “[In accord with your thesis,] if this town was one which prepared an *erub* for the entire town, and they set their *erub* in the piazza, is this not similar to a case in which they set their *erub* in the houses? [Surely it would be so, and Aqiba has introduced no such distinction. Hence there is none, and the claim of A is false.]”
- [I:5 A] A city which was destroyed [in which one put his *erub*] –
- [B] R. Eleazar says, “He may traverse the entire area and two thousand cubits beyond.”
- [C] Samuel said, “He has only two thousand cubits from the location of his *erub*.”

[D] R. Ba bar Kahana, R. Hiyya bar Assi in the name of Rab: “He who puts his *erub* in a stall or in an enclosed field may traverse the entire area and two thousand cubits beyond.”

[E] “[For] are not a stall or an enclosed field equivalent to an area in which houses and residences have been destroyed?”

[I:6 A] As to a new town, one measures from the houses. In an old one, one measures from the wall.

[B] What is a new one, and what is an old one?

[C] R. Zeira in the name of R. Hisda: “If one built houses and afterward built the wall, this is a new town. If he built the wall and afterward built the houses, this is an old one.”

[D] R. Zeira said, “One way or the other, it is a new town. What is an old town? Any in which there had been residences, which were then destroyed.”

[E] *R. Zeira is consistent with his views expressed elsewhere, for there is the following dispute:*

[F] If nine built [a partition] for the purpose of marking out an outer area and one did so [completing the partition for] a residence,

[G] said R. Eleazar, “And even if the tenth built it as a residence,

[H] lo, this is in the status of a residence” [cf. PM].

[I] A person who lives, or takes up Sabbath residence, in a town enjoys the rights of the town to a Sabbath area as marked out

5:8

[A] Said to them R. Aqiba, “Now do you not concede to me that in the case of one who places his *erub* in a cave, he may go only two thousand cubits from the place at which his *erub* is located?”

[B] They said to him, “Under what circumstances?”

[C] “When there are no inhabitants in it.

[D] “But if there are inhabitants in it, he traverses the entire area and two thousand cubits beyond its Sabbath line.

[E] “It turns out to be more lenient [for him who puts his *erub*] inside [the cave] than [for him who puts his *erub*] on top of it.”

[F] As to the one who measures, concerning whom they have spoken,

[G] they assign to him only two thousand cubits,

[H] even if his measuring rope ends in a cave [even an inhabited one].

- [I:1 A] [In line with the positions of sages, M. 5:8B-E,] Jacob bar Aha in the name of R. Eliezer: “A more lenient rule applies to the case of one who acquires his place of Sabbath residence in an enclosed field than to the one who places his erub in an enclosed field.
- [B] “He who acquires his place of Sabbath residence in an enclosed field may traverse the whole of it and in addition two thousand cubits. But he who places his erub in an enclosed field may go only two thousand cubits from the place at which his erub is located.”
- [C] *R. Zeira asked*, “If one said, ‘Let a place of Sabbath residence be acquired for me in an enclosed area’ – [is this adequate]? [Or must he be physically present to acquire a place of Sabbath residence therein?]”
- [D] *Said R. Hananiah, son of R. Hillel*, “*There is a dispute on this matter between R. Meir and R. Judah.*
- [E] “R. Meir says, ‘The principal part of the erub-meal is in the meal.’ Accordingly, [we regard the man as if] he has placed his erub in the enclosed area. He has access only to the space measured two thousand cubits from the place in which his erub is located.
- [F] “R. Judah says, ‘The principal part of the erub is effected with his feet.’ Accordingly, in this case, he is in the status of one who says, ‘Let a place of Sabbath residence be acquired for me in the enclosed area.’ He may therefore traverse the whole of it, as well as two thousand cubits beyond it.”

[I:2 A] **The roof of a tower is deemed equivalent to the town; the roof of a cave is equivalent to the fields [cf. T. Er. 4:10K-L].** [If one placed his erub-meal on the roof of a tower, it is as if he put it in town, since people use the area constantly. Putting it on the roof of a cave is equivalent to placing one’s erub-meal in the fields, since there are no residents there.]

[II:1 A] [With reference to M. 5:8B-E: **if there are no inhabitants:**] does this mean actual residents, or does the rule apply even though the area is merely appropriate for residents?

- [B] On the basis of what R. Isaac bar Nahman in the name of R. Haninah said [in explaining M. 5:8C, **When there are no inhabitants in it**], ‘You regard the cave as if it were full of water and mud,’ *we may say*

that, even if it is merely suitable for residents, [it falls under the stated rule].”

- [III:1 A] [With reference to M. 5:7D-F,I said R. Isaac b. R. Eliezer, “That is to say, in the case of a cave which has two gateways, if there is a distance from one to the other of four thousand cubits less one, who one may traverse the entire cave, as well as the area outside of it, to a limit of two thousand cubits.
- [B] “If the distance is four thousand cubits, he may move only two thousand cubits from the place at which his erub-meal is located.”
- [C] *Said R. Ba, “R. Zeira explained this rule: If he should put his sandals here, he may come from this direction and take them. If he should put his sandals there, he may come from the other direction and take them.*
- [D] “*What is the difference between coming from this direction and coming from that direction? If he comes from one direction, it will be forbidden [to traverse the entire area], while if he comes from two directions, he will be permitted, [since he can move in two thousand cubits anyhow].”*
- [E] R. Aha in the name of R. Hinena: “If the roof of the cave was four thousand cubits less one cubit, one may traverse the whole of it, as well as for two thousand cubits beyond it, by means of the holes [in the roof].”
- [F] As to the outer parts of roofs, what is the law?
- [G] R. Yosé in the name of R. Jacob bar Aha R. Ainiyya bar Pazzi in the name of R. Judah, R. Aha produced the same statement in the name of Samuel: “As to the outer parts of roofs, they may carry on them even for the space of a *kor* or two.”
- [H] Rab said, “They may carry on them even for a space of two *seahs*.”
- [I] *Said R. Yosé b. R. Bun, “A statement of Rab stands at variance with this view.*
- [J] “*For we have learned there: All the roofs of a town are regarded as a single domain [M. 9:1A].*
- [K] “Samuel said, ‘One may carry for two *seahs* [since the roofs are nothing more than in the status of an enclosed area].”’

[L] “Rab said, ‘One may carry in that area even for a *kor* or *two kors* [since we regard the space as attached to the housing below, hence in the status of parts of residential areas].”

[M] The same rule applies to the outer sides of roofs as applies to the outer sides of a ship.

YERUSHALMI ERUBIN

CHAPTER SIX

6:1

[A] “He who dwells in the same courtyard with a gentile,

[B] “or with [an Israelite] who does not concede the validity of the erub

—

[C] “lo, this one [the gentile or nonbeliever] restricts him [from using the courtyard],” the words of R. Meir.

[D] R. Eliezer b. Jacob says, “Under no circumstances does anyone prohibit [the believer in the erub to make use of the courtyard] unless two Israelites prohibit one another.”

[I:1 A] [23b] A courtyard inhabited by gentiles —

[B] lo, [for the purpose of carrying on the Sabbath] it is the equivalent of a cattle pen. It is permitted to bring something in and to take something out from the courtyard to the houses which open onto it, and from the houses which open onto it into the courtyard. And utensils which were kept for the Sabbath in the courtyard it is permitted to carry around in the courtyard. [But if] a single Israelite lived in that courtyard, lo, this one prohibits it [for carrying]. For it is tantamount to his courtyard [for the purposes of the restrictions of the Sabbath about carrying therein] [T. Er. 5:19]. [If the gentile is in the status of a beast in the present context, then why should he have the power to prohibit the Israelite’s use of the courtyard?]

[C] *Rabbis objected to R. Eliezer b. Jacob* [M. 6:1D], “If an Israelite and a beast [belonging to another Israelite] dwelt in the same courtyard, is it possible that the beast [belonging to the other Israelite, who has not participated in the erub-meal for the courtyard] does not prohibit [the Israelite from carrying in the courtyard]? [Of course it has that power.] Just as the beast has the power to prohibit [carrying] in the courtyard, so a gentile has that same power of prohibition. [If the Israelite can keep his beast in the courtyard, he also owns a share therein.]”

[D] *R. Eliezer b. Jacob objected to the view of the rabbis, “If an Israelite and a beast live in the same courtyard, does the beast [itself] prohibit [the Israelite’s use of the courtyard on the Sabbath]? [Obviously not. It is not the beast but the beast’s owner’s share in the courtyard which is the operative consideration.] Just as the beast itself has not got the power to prohibit [carrying] in the courtyard, so a gentile has not got that power.”*

[I:2 A] R. Yosé in the name of R. Yohanan: “The law is not in accord with R. Yohanan b. Nuri [M. 4:5].”

[B] *R. Hoshaiiah asked, “The reason that is an issue is in accord with that which has been taught, ‘R. Eliezer b. Jacob say, ‘[Even though many differ from him. the law accords with him as against the majority.] But so far as the view of rabbis who differ from R. Yohanan b. Nuri, [it is not necessary to indicate that the law accords with them, for in that case the law follows the majority].”*

6:2

[A] **Said Rabban Gamaliel, “Where was the case of a Sadducean who lived with us in the same alleyway in Jerusalem.**

[B] **“And father said to us, ‘Make haste and bring all sorts of utensils into the alleyway before he brings out his and prohibits you [from carrying about in it].”**

[C] **R. Judah says it in another version, “Make haste and do all your needs in the alleyway before he brings out his utensils and prohibits you [from using it].”**

[I:1 A] R. Aha, R. Hinena in the name of Kahana: “The law does not accord with R. Judah.”

[B] *But if that is not the case, then shall we have to say that where there is a dispute between R. Judah and sages, the law accords with R. Judah? [Surely not! Why then make such a declaration?]*

[C] *[This is why A is necessary,] since R. Jacob bar Idi said in the name of R. Joshua b. Levi, “In matters of the law of Erubin, the law accords with the opinion of him who imposes the more lenient ruling,” and [illustrating that fact,] R. Nahman bar Isaac said in the name of R. Joshua b. Levi, “The law follows the view of R. Yohanan b. Nuri,”*

[D] *and [in that regard,] we raised this objection, “Did not R. Jacob bar Idi say in the name of R. Joshua b. Levi, ‘In matters of the law of Erubin, the law accords with the opinion of him who imposes the more*

lenient ruling,' did not R. Isaac bar Nahman say in the name of R. Joshua b. Levi, 'The law follows the view of R. Yohanan b. Nuri,'

- [E] *“and we then raised this question in that regard: We propose to rule, where there is a disagreement between two individuals, [that may well be the case,] but where there is a disagreement between an individual and the collectivity of the sages, that is not the case,*
- [F] *“[that is why we need to learn what R. Jacob bar Aha, R. Jacob bar Idi in the name of R. Joshua b. Levi [said], ‘The law accords with R. Yohanan b. Nuri, and even where sages differ from him,’*
- [G] *“accordingly, here, the law should follow the opinion of R. Judah, and even though there is the collectivity of sages who disagree with hi,n.”*
- [I:2 A]** R. Jeremiah in the name of Rab: “In the case of a courtyard with two gateways, in which an Israelite and a gentile dwell, [and one courtyard is within, the other outside, opening toward an alleyway, so one gateway opens into the alleyway, the other opens from the inner to the outer courtyard, and the Israelite and gentile live in the inner courtyard] –
- [B] *“in the case of the Israelite, you follow the status of the more usually utilized courtyard [the inner one], and in the case of the gentile, you follow the status of the less usually utilized courtyard.” [The Israelite may utilize the inner courtyard; there is only a gentile in addition, and, in accord with Eliezer b. Jacob’s position, he is not taken into account. The inner courtyard therefore is fully available for the Israelite’s use, as if he lived there by himself. As to the outer courtyard, by contrast, since the gentile has rights of access, Israelites living therein are forbidden to carry objects in that courtyard on the Sabbath.]*
- [C] *“If [in the case of three connected courtyards,] there was an Israelite on this side, an Israelite on that side, and a gentile in the middle [between them], both for the Israelite and for the gentile one follows the status of the more usually utilized courtyard. [This is not so as to prohibit carrying on the part of the Israelites. Rather, it is for the following purpose that the rule is stated:]*
- [D] *“If [the Israelite in the inner courtyard] annulled his rights [in favor of the Israelite living in the outermost one], that which is more usually utilized is treated as if it is less usually utilized.*
- [E] *“If he [the Israelite] rented his rights of domain, that which was less usually utilized is treated as the more usually utilized courtyard.*

- [F] “If the occupant of the less usually utilized courtyard [the outermost one] prepared an erub-meal with the other; the more usually utilized courtyard has not thereby been rendered permissible for carrying [since, in the presence of the gentile, the erub-meal is null anyhow].”
- [I:3 A] A resident alien, resident slave, and spiteful apostate – lo, such a one is in the status of a gentile for all purposes [having to do with the erub-meal].
- [I:4 A] *There is a Tannaite authority who teaches:* A government official [quaestor] [in a courtyard] imposes a prohibition as soon as he takes up residence, and billeted troops [or travelers] after thirty days.
- [B] *And there is a Tannaite authority who teaches:* **A government official imposes a prohibition after he has been in residence for thirty days, and billeted troops [or travelers] never impose a prohibition at all [T. Er. 5:22A-B].**
- [C] *He who maintains the view that the government official imposes a prohibition [on the Israelites’ use of the courtyard] forthwith speaks of one who is in regular residence, and the billeted troops [or travelers] do so after thirty days specifically in the case of those who are not in regular residence.*
- [D] *And he who says that the government official imposes a prohibition after thirty days speaks of those who take up residence with permission, and when he says the billeted troops [or travelers] never impose a prohibition, he speaks of those who enter without permission.*
- [I:5 A] R. Jacob bar Aha in the name of R. Eleazar: “[As to the dispute of Meir, who stands behind M. 6:2A-B, and Judah, M. 6:2C,] at issue between them is the possibility of annulling one’s right of domain in the courtyard.”
- [B] “R. Meir says, ‘One has the right to annul his domain in the courtyard,’ and rabbis say, ‘One does not have the right to annul his domain in the courtyard.’”
- [C] Now if R. Meir says, “He has the right to nullify his domain,” how can you say that the language “Make haste” applies [at M. 6:2B]? [Cannot the gentile nullify his rights? If he can, why make haste?]
- [D] *Even though R. Meir does maintain that he has the right to nullify his domain in the courtyard, nonetheless he concurs that the [Israelites must] acquire domain in the courtyard first.*

- [E] *And so it has been taught:* “It is because he has the right to nullify his domain in the courtyard, just as does an Israelite.” the words of R. Meir.
- [F] [But there is a contrary ruling at M. 6:4:] **“Whether one did so inadvertently or deliberately, lo, this one prohibits [carrying on the part of the others, “ so R. Meir.** That is, if one gave over his right and then took his possessions out into the courtyard, he has the power of prohibiting the others from doing so. It is as if he has retracted his transfer of domain. Now if that is the case, what good does it do the Israelites to bring out their possessions before the other party?]
- [G] *The correct reading of this passage of the Mishnah is that* he does not impose a prohibition on their use of the courtyard [if after he gave over his right of dominion in the courtyard, he brought his own objects out].
- [H] [Reverting to A, above,] R. Aha in the name of R. Hinena: “All parties concur that he does have the right to nullify his domain in the courtyard. Where there is an issue, it has to do with his right to retract.
- [I] “R. Meir says, ‘He may annul his right to the courtyard and then retract his action,’ and sages say, ‘He may annul his right but may not retract.’”
- [J] Now if R. Meir says, “He may annul his right of domain and retract,” how can you say that the language “Make haste” applies [at M. 6:2B]? [If] he gentile can retract, why bother to make haste?]
- [K] Even though R. Meir does maintain that he has the right to nullify his domain in the courtyard and then retract, nonetheless he concurs that [if done this way, the Israelites] acquired domain in the courtyard first.
- [L] *And so it has been taught:* “It is because he has the right to nullify his domain in the courtyard, just as does an Israelite,” the words of R. Meir.
- [M] [But there is a contrary ruling at M. 6:4:] **“Whether one did so inadvertently or deliberately, lo, this one prohibits [carrying on the part of the others,]” so R. Meir.**
- [N] *The correct reading of this passage of the Mishnah is that* he does not impose a prohibition on their use of the courtyard.

6:3

[A] **The men of a courtyard, one of whom forgot and did not participate in the erub with the others –**

[B] **his house is prohibited, both for him and for them, from bringing things in and from taking things out.**

[C] **And theirs are permitted both for him and for them.**

[D] **[If] they gave him their right [of access], he is permitted, and they are prohibited.**

[E] **[If] they were two [who forgot], they prohibit one another.**

[F] **For one person gives or takes the right of access.**

[G] **But [while two can give the right of access, they cannot take it.**

[I:1 A] **Theirs are permitted both for him and for them [M. 6:3C],** for he has annulled his right of domain [and is in the status of a guest].

[B] What is the rule as to retracting in return [so that the party who has been given the right of domain over the whole may go and return that right, as well as his own, in favor of the first party]?

[C] A disciple of Rab in the name of Rab: “The process of nullification may be reversed.”

[D] Samuel said, “The process of nullification may not be reversed.”

[E] *The Mishnah passage differs from the view of Samuel: **Theirs are permitted both by him and for them,** for he has annulled his right of domain, and we have further learned, **If they gave him their right of access, he is permitted and they are prohibited [M. 6:3D].** [Thus after he has annulled his right for them, they went and gave their right of domain back to him, and, accordingly, the Mishnah presupposes that one may reverse the process of nullification of rights of domain, contrary to Samuel’s view.]*

[F] Interpret the passage to represent two distinct cases [and not a consecutive sequence of acts of nullification and reversion].

[I:2 A] *It has been taught [in T.’s version]: **One person who did not join in the erub [23c] gives up his right to one who did participate in the erub.***

[B] **And two who shared in the erub give their right to one who did not share in the erub.**

- [C] **Two who did not share in the erub give their right to the courtyard to two who did share in the erub,**
- [D] **or to one who did not share in the erub.**
- [E] **But two who shared in the erub may not give their right to two who did not share in the erub [M. 6:3G],**
- [F] **and two who did not share in the erub may not give up their right to two who did not share in the erub. For so long as they are living in the courtyard, and one of them forgot and did not share in the erub, lo, this one prohibits use of the erub to the others who live there] [T. Er. 5:17].**
- [G] All have the power to give up their right or take the right[s of others] except for two who have not participated in the erub-meal. who can give the right of access but cannot take it [cf. M. 6:3G].
- [I:3 A] R. Hisdai said, “Each of ten Israelites dwelling in a single house [or courtyard] has to annul his right of domain [if he has not participated in the erub-meal, so that one of them may carry objects in the courtyard].”
- [B] Said R. Yosé, “Each of ten gentiles dwelling in a single house [or courtyard] has to rent out his right of domain [to nullify his right and hence permit Israelite owners to utilize the courtyard as a common domain on the Sabbath].”
- [C] Said R. Ba, “There was the case of the wife of a Persian, who rented out the rights of domain of her courtyard without her husband’s knowledge. *The case came before R. Samuel, who permitted [the Israelites to utilize the courtyard, as a validly rented one, with the gentile’s having relinquished his rights].*”
- [D] *They reasoned that* the same rule applies to the man’s servant or day laborer.
- [E] The law thus is that an Israelite nullifies his rights to the common courtyard, while a gentile rents them out.
- [F] And why should the gentile not be able to nullify his rights? He may retract.
- [G] If that is the case, then even if he rents out his rights of domain, may he not retract?
- [H] If he should do so, then, funds having been paid over, it is as if he possesses stolen property, [and his rights are null].

[I] *To what extent [does one pay money for the right of domain for the Sabbath]? The answer accords with that which R. Yosé said in the name of R. Mana bar Tanhum, R. Abbahu in the name of R. Yohanan: “A piece of real property is not acquired for the sum of less than a perutah.”*

[J] *[To the contrary,] a deed of R. Jacob bar Aha indicates that one may do so even in exchange for a nut or a date.*

[K] *When R. Jacob bar Aha would go out to stay in an inn, if he found it possible to provide a remedy [for carrying on the Sabbath among the various huts in the inn courtyard], he would do so. and if not, he would scatter his possessions among the various dwellings [which he wished to visit on the Sabbath], leaving his staff here and his sandal there and his pouch in another place. [That is, Jacob bar Aha would try to rent all the rooms of the inner inn. The innkeeper would not do so, expecting more guests. Jacob would pay for the room without further specification, then spread his possessions among all the rooms, thus taking possession of the entire house in exchange for the rental fee].*

[L] *Said R. Mattenayya, “That which you have said applies to the case of a gentile innkeeper [who might be of a mind to transfer the rabbi’s possessions back to his room, and therefore he put them here and there, so that they would not be gathered together in one place]. [Since the objects were scattered about, they represented marks of his ownership of the places in which they were located.] But if the innkeeper was an Israelite, he would not be suspect of moving the objects about [back to Jacob’s room].”*

6:4

[A] By what time must they hand over [the right of access]?

[B] The House of Shammai say, “While it is still day.”

[C] And the House of Hillel say, “After it has gotten dark.”

[D] He who gave his right of access and then took something out,

[E] “whether he did so inadvertently or deliberately,

[F] “lo, this one prohibit [the others],” the words of R. Meir.

[G] R. Judah says, “[If he did so] deliberately, he prohibits the others. [If he did so] inadvertently, he does not prohibit the others.”

[I:1 A] *The meaning of the Mishnah is, “By what time must they nullify the right of access?”*

[B] The House of Shammai say, “While it is still day.”

[C] And the House of Hillel say, “Also after it got dark.”

[D] *If that is not the correct phrasing of the matter, then the Mishnah’s ruling is one in which the House of Shammai take up the lenient position, and the House of Hillel the strict position.*

[II:1 A] **He who gave up his right of access and then took something out [M. 6:4D]:**

[B] *The meaning of the Mishnah is, He who nullified his right of access and took something out.*

[III:1 A] **“Whether he did so inadvertently or deliberately” [M. 1:6E]:**

[B] *The meaning of the Mishnah [for the view of Meir] is, He does not prohibit the others.*

[III:2 A] **[In T.’s version:] Three [Y: two] who were living in a courtyard, one of whom died,**

[B] **and the property fell as an inheritance to someone else –**

[C] **[if this happened] before it got dark ton the eve of the Sabbath]**

[D] **[the new landholder] does not prohibit [use of the courtyard to the others by reason of his absence from the erub].**

[E] **[If this happened] after it got dark, lo, this one does prohibit [use of the courtyard] [T. Er. 5:13].**

[F] R. Aha in the name of R. Hinena: “This represents the view of the House of Shammai.

[G] “For the House of Shammai say, ‘They may not nullify rights of access once it has gotten dark.’ But the House of Hillel say, ‘They do nullify rights of access [even] once it has gotten dark.’”

[H] Said R. Yosé b. R. Bun, “If the owner has died, you have no act of nullification of rights of access greater than that!”

[I] **[If] a stranger had a house in that courtyard and he died,**

[J] and his share of the courtyard fell as an inheritance to one of the people who already was living in the courtyard,

[K]] [if this happened] before it grew dark, lo, this one prohibits [use of the courtyard to the tenants].

[L] [If this happened] after it got dark, he [no longer] prohibits use of the courtyard to the residents] [T. Er. 5:14].

[M] Here too this is the view of the House of Shammai.

[N] For the House of Shammai say, "They may not nullify rights of access once it has gotten dark." But the House of Hillel say, "They do nullify rights of access once it has gotten dark."

[III:3 A] What is the law as to acquiring rights of access through rental once it has gotten dark?

[B] *R. Hiyya, R. Yosé, R. Imma went up to the Hot Springs of Gader. They asked R. Hama bar Joseph, and he permitted doing so.*

[C] *R. Yohanan heard about the ruling and said, "You have done the right thing."*

[D] *R. Simeon b. Laqish heard and said, "You have not done the right thing."*

[E] *Do they then differ?*

[F] *R. Zeira said, "By no means. They do not differ. He who has said, 'You did the right thing' that you rented [the right of domain from a gentile landholder in the court yard. who was not at home prior to the advent of the Sabbath but came home on the Sabbath day itself]. He who has said, 'You did not do the right thing, that you carried objects about in the courtyard [without first renting the right of domain from the gentiles.] Accordingly, both parties, in Zeira's view, concur that one may acquire rights of access under the conditions stated at A. They agree the gentile prohibits use even in his absence.]"*

[G] [Differing from Zeira's picture,] *R. Ba said, "They indeed differ. He who has said, 'You did the right thing,' meant, 'You did the right thing in renting out the gentile's right of domain and also that you carried objects in the courtyard.' He who has said, 'You did not do the right thing,' meant, 'You did not do the right thing in renting the gentile's right and in carrying objects about in the courtyard.'"*

[H] *[In the view of the party who holds that in part of the Sabbath has been marked by the courtyard's being permitted for carrying, the*

whole of it bears the same trait,] R. Ba asked, “Is the same conception applicable to setting up partitions [around a field, so that it may constitute a place of Sabbath residence]? [That is, does the principle applicable to the passage of time on the Sabbath pertain also to the provision of space for carrying on the Sabbath?]”

[I] *What would be a practical case?*

[J] *If there were two Israelites, and, on Friday afternoon, they prepared a gesture of commingling [serving to join the area into a common domain for the purpose of carrying in an area of two *seahs* on the Sabbath], and then [on the Sabbath] a gentile joined them, [so adding to the number in the caravan], the Sabbath already has taken effect with the additional area subject to prohibition [against carrying on the Sabbath]. [They may carry only in the area originally covered by their gesture of commingling.]*

[K] *If they were three, and two of them prepared a gesture of commingling [the third having been a gentile], and then the gentile went his way [and so diminished the number in the caravan], the Sabbath has already entered at a point at which the permissible area for all three had been established, [in consequence of which it is still permissible to carry throughout the original area].*

[L] *Support for the position of R. Ba derives from the following: Any Sabbath which has taken effect under conditions permitting [movement] remains permitted [throughout], and vice versa [as at J, K], except for the case of him who nullifies his right of domain.*

[M] *And there is he who says, “except in the case of him who nullifies his rights of domain and except for him who rents out his rights of domain.”*

[III:4 A] *What is the law as to renting a right of domain from an innkeeper?*

[B] *R. Hinena and R. Jonathan went up to the Hot Springs of Geder. They said, “Let us wait here until the elders come up from the south.” R. Epes the Southerner came, and they asked him, and he permitted [the procedure].*

[C] *R. Simeon b. Laqish heard and said, “Since a gentile [innkeeper] may come and make us leave, we have not accomplished a thing.”*

[D] *Simeon bar Ba said R. Yohanan asked, “If that is the case, then even our houses do not belong to us! [Troops may be billeted at any time.]”*

[E] R. Yusti b. R. Simon in the name of R. Baitos: “While our houses do not really belong to us for purposes of permanent residence, nonetheless, as to putting us out, they may not put us out. But in the case of an innkeeper, he does have the right to put us out [e.g., of rooms we have not paid for, if others come and require them].”

6:5

[A] A householder who was a jointholder [in a commercial relation] with neighbors –

[B] with one in wine and with the other in wine, –

[C] they do not need to prepare an erub.

[D] [If one partnership] is in wine and the other is in oil,

[E] they do need to prepare an erub.

[F] R Simeon says, “All the same is the rule for this case and for that case, [if they are jointholders], they do not need to prepare an erub.”

[I:1 A] R. Ba in the name of R. Judah, “The Mishnah[’s choice of words] speaks of common practice.”

[II:1 A] With one in wine and with the other in wine [M. 6:5B] –

[B] since the householder will not take account of a mixture of the wine,

[C] it is not necessary to prepare an *erub*.

[III:1 A] If one partnership is in wine and the other is in oil [M. 6:5D],

[B] since the householder will *take account* of a mixture of the two,

[C] it is necessary to prepare [a distinct] *erub*.

[III:2 A] R. Ba bar Kahana, R. Hiyya bar Ashi in the name of Rab: “The Mishnah speaks of a case in which the food is located in a single utensil. [But if they have two utensils, even if wine is in both, they must prepare an *erub*.]”

[III:3 A] *Said R. Zeriqan, “The reason for the view of R. Simeon [at M. 6:5F] is that it is the usual way to drink an oil-and-wine-drink.”*

[III:4 A] *It has been taught: R. Eleazar b. Taddai says, “One way or the other, they are prohibited unless they prepare an erub” [T. Er. 5:9G].*

[B] R. Aha in the name of Rab: “The law is in accord with the R. Eleazar b. Taddai.”

[C] R. Jacob bar Aha in the name of R. Zeira: “The view of R. Eleazar b. Taddai accords with that of R. Meir.”

[D] *Which statement of R. Meir?*

[E] *Said R. Mana, “It is R. Meir who said, ‘It is by means of an erub-meal or a shittuf-meal [that courtyards and alleyways are made into single domains, respectively].’”* [Eliezer b. Taddai accords with Meir’s principle that the erub must be prepared, so people will not forget its importance.]

[F] *Said R. Yosé b. R. Bun, “It is the R. Meir who has said, ‘They prepare an erub-meal [for a courtyard] for a man only with his knowledge and consent.’”* [Eleazar concurs that that is so in joining alleyways.]

[G] *The view of R. Mana will accord with that of R. Zeira.*

[H] *The view of Rab will accord with that of R. Meir.*

[I] R. Zeira in the name of R. Yohanan, “In the laws of Erubin and in those of public fasting, everybody follows the view of R. Meir.”

[J] R. Jacob bar Aha in the name of R. Yohanan: “That is also the case in regard to the rules of reading the Scroll of Esther. Everybody follows the view of R. Meir.”

6:6

[A] Five associations who observed the Sabbath in one eating hall –

[B] The House of Shammai say, “An erub [is required] for each and every association.”

[C] And the House of Hillel say, “One erub serves all of them.”

[D] But they concur that, when part of them are staying in private rooms or upper chambers, they require an erub for each and every association.

[I:1 A] [If] the eating room is before them [when they are in separate rooms], then they are in a situation parallel to houses opening up onto a common courtyard [T. Er. 5:8].

[B] *How shall we interpret the case?* If there were curtains reaching up to the beams, then all parties must concur that they prepare an erub-meal for each association by itself.

- [C] If there are no curtains dividing the groups reaching up to the beams, then all parties concur that they prepare a single erub-meal.
- [D] *Hence we must interpret the issue [of M. 6:6] to involve curtains ten handbreadths high.*
- [E] [The Houses] further concur that if they were partners in a piece of dough or a cooked dish] they prepare a single erub for all the groups.
- [F] *R. Asyan raised the question, “If that is the case, then even if some of them are located in rooms or upper chambers, [they should still be covered by the common meal, contrary to M. 6:6D].”*

- [I:2 A] R. Ba in the name of R. Judah: “In the case of two houses, one inside the other, if one has prepared an *erub* for the inner house, the outer house does not have [23d] to prepare an *erub*. If one prepared an *erub* for the outer house, the inner one still has to prepare an *erub*.”
- [B] Said R. Phineas, “Also with respect to courtyards there is this exchange. If one has prepared an *erub* for the inner room, he has to do the same for the outer one. If he has done so for the outer room, he does not have to do so for the inner room.”
- [C] R. Jacob bar Aha, R. Abbahu in the name of R. Joshua b. Levi: “Even if the people in the inner room have not prepared an *erub*, the outer room does not require an *erub*. Why? It is treated as a gatehouse [to the inner room].”
- [D] *It would then appear that one does not take account of a gatehouse when it comes to dealing with an upper room [so that if one lives in a courthouse serving an upper room, he has no affect on the status of the upper room].*
- [E] *A statement of Rab indicates that one does take account of a gatehouse when dealing with an upper room.*
- [F] *For R. Ba, R. Judah in the name of Rab: “[With reference to M. 8:4,] that which you have said pertains to a gatehouse involving an individual’s use only. But as to a gatehouse used by the public, lo, an *erub* placed there is valid, and one who lives there, lo, he has the power [should he not participate in the common *erub*] of prohibiting [use of the shared domain].”*
- [I:3 A] R. Ba in the name of R. Judah: “In the case of two men, one of whom enjoys domain [in a courtyard] and one of whom does not,

- [B] “if this one who has domain in the courtyard prepared an *erub*, the one who does not have domain in the courtyard also has been permitted [to utilize the courtyard].
- [C] “If the one who does not have domain prepared an *erub*, the one who does have domain has not thereby been permitted to utilize the courtyard.”

6:7

- [A] **Brothers [delete: who were in partnership] who ate at the table of their father but who slept in their respective houses**
- [B] **require an erub for each one.**
- [C] **Therefore if one of them forgot and did not prepare an erub,**
- [D] **he annuls his right [in the common courtyard, so the others may carry therein].**
- [E] **Under what circumstances?**
- [F] **When they bring their erub to some other place.**
- [G] **But if the erub was brought to them,**
- [H] **or if there were no [other] residents with them in the courtyard,**
- [I] **they do not have to prepare an erub.**

[I:1 A] Where is the principal location of residence?

[B] *R. Jonah said, “There is a dispute between Rab and Samuel. One said, ‘In the location in which [they eat] their bread.’ The other said, ‘In the location in which they sleep.’”*

[C] *Now we do not know which one said this and which one said that.*

[D] *On the basis of that which Samuel taught, “The area ten handbreadths above the ground [is subject to the prohibitions governing] Sabbath rest [and constitutes a separate domain, so that one who tosses an object from private domain through private domain through the airspace ten handbreadths above the ground is subject to a prohibition on the grounds of Sabbath rest,” we may find the answer. That is, any area above ten handbreadths in which one eats his meal constitutes a separate domain. Samuel will be able to regard such an area as a distinct domain, without regard to sleeping there. Thus it follows that it is Samuel who has said that the principal location of residence is where people eat their bread.*

[E] *The following passage of the Mishnah stands at variance with the principle of Samuel: **Brothers who ate [at the table of***

their father] [M. 6:7A-B]. [This should then constitute their principal place of residence, with the consequence that they do not have to prepare an *erub* for each one.]

[II:1 A] R. Hiyya bar Ashi in the name of Rab: “*The Mishnah speaks of a case in which the brothers collect food from their father [and eat it in their own houses].*”

[B] In any event, are they not partners in what they eat [so can the food received from the father not constitute a proper *erub*]? [Why are they deemed separate entities?]

[C] *Said R. Ba, “R. Samuel explained that their father gives them rights of ownership only over what they eat alone. [They are not partners in ownership of the food at all.]”*

[D] If that is the case, then even if the *erub* was brought to them [M. 6:7G] [they should have to prepare an *erub*].

[E] They treated the case in the way in which the house in which they leave the *erub*-meal is deposited is treated, [and the residents of that house do not have to add food to the common meal]. [Likewise, the residents of that house do not have to prepare an *erub*. That accounts for the rule cited at D.]

[II:2 A] Samuel said, “The householder, his sons, and dependents make an *erub*-meal through a single loaf of bread.”

[B] *Now does Samuel differ?* [We have explained that the Mishnah speaks of a case in which the people collect the food and take it to their own homes. How can that be done, if they are to prepare a common *erub*, and if they use a single loaf of bread for that purpose? For] there he has said that the principal place of residence is where they eat, and here he has said this!

[C] Interpret the rule before us to speak of a case in which they were partners [in the bread]. [Since they are partners in the bread, it may serve all of them, but each must declare this loaf of bread to be his *erub*-meal. If one of the partners declared it to be an *erub* meal only for himself, Samuel also will concur that that is not permitted. We shall now see that partners may utilize a single loaf of bread for a common *erub*.]

[D] *This statement accords with that which R. Ahiyya b. R. Zeira said, “They prepare an *erub*-meal with a half of a loaf of bread.”*

[E] *But we have learned: If one bakes a whole seah of flour, but produces only part of a loaf, this may not be used for an erub-meal [M. 7:10]. How can you say [they may prepare an erub-meal with only half a loaf]!*

[F] Interpret the passage to speak of a case in which two were partners in [the loaf of bread, but the bread itself was whole and complete].

[II:3 A] As to the house in which they leave the erub-meal, [does that house have also to prepare an *erub*]?

[B] *The mother of R. Jacob bar Aha died. [He did not participate in the erub-meal. It was in his house that the erub-meal was deposited.]*

[C] *Said R. Yosé to R. Abbahu, “Repeat the following tradition [and he will know what to do], so he repeated as follows: The House of Shammai prohibit, and the House of Hillel permit. [Accordingly, the law follows the House of Hillel, and it is not necessary for the person in whose home the erub-meal is deposited to participate in it.]”*

[D] R. Hamnuna said, “The house in which they leave the erub-meal requires no further [arrangements for carrying in a common domain on the Sabbath].”

[E] R. Hisdai said, “[The householder in that situation] is treated as an [autonomous] partner [in the erub-meal].”

[F] *Said to him R. Hamnuna, “The positions of the rabbis [in what follows] do not permit you to take that position. For there is a dispute.”*

[G] In the case of an alleyway, one side of which was inhabited by gentiles, and the other side of which was inhabited by Israelites,

[H] R. Huna in the name of Rab said, “If the Israelites prepared a meal of commingling, serving to join ownership of the doors [of their houses], the gentile nonetheless prohibits [their carrying about in the courtyard, because he owns part of the courtyard and is not covered by the meal].”

[I] Abba bar Hunah in the name of R. Yohanan: “Even if they prepared a meal of commingling to serve transportation of objects through the windows, the gentile does not serve to prohibit their transporting their objects that way.” [The erub serves to unite all the Israelites into a single domain, and then you have one gentile and one Israelite. Following Eliezer b. Jacob, the presence of the gentile then is null.]

[J] [The pertinence of the foregoing to our problem is now spelled out. All parties concur that the *erub* transforms all the Israelites into a single entity. Then the householder with whom the *erub is* deposited is part of the larger entity and cannot be regarded merely as a partner, standing on an equal plane with, but separate from, all the others put together, as Hisda has wished to say. Accordingly,] if you say he is in the status of an equal partner [with the others], the procedure should be forbidden [in the situations cited at G-I].

[II:4 A] R. Jacob bar Aha, R. Yosé in the name of R. Yohanan: “Residents of an alleyway who placed their erub-meals in two separate places – if it was because they had no single satisfactory utensil to hold the lot, lo, this procedure is valid. *If* it was so as to divide up their erub-meal [protecting each one’s share], it is forbidden. [In that case it would appear that the donors have wished to preserve the food each has contributed, so it is not really a common meal any more.]”

[B] *R. Yosé ridiculed anyone who said, “The circle [of figs] is large,” [since this constituted ridiculing the erub-meal].*

[C] *R. Yosé b. R. Bun said a blessing over it on the eve of the Sabbath, saying that a religious duty had been performed through it.*

[II:5 A] ***It has been taught: They keep an erub-meal in the house in which it has usually been left, for the sake of peace [T. Er. 5:11].***

[B] *Said R. Abun, “The passage speaks of the residence in which it has usually been left. [But one may move it from one room to another in the established house.]”*

6:8

[A] **Five courtyards open to one another and open to an alley –**

[B] **[if] they prepared an erub for the courtyards but did not prepare a shittuf for the alley,**

[C] **they are permitted to carry things about in the courtyards and prohibited from doing so in the alley.**

[D] **If they prepared a shittuf for the alley, they are permitted in both places.**

[E] **[If] they prepared an erub in the courtyards and prepared a shittuf in the alley,**

[F] **but [if] one of the people who lives in the courtyard forgot and did not share in the erub,**

[G] the [other residents] are permitted both here and there.

[H] [If one of] the people who lives in the alleyway [forgot and] did not participate in the *shittuf*,

[I] they are permitted to carry things in the courtyards but prohibited from doing so in the alleyway.

[J] For the alleyway is to courtyards as a courtyard is to houses.

[I:1 A] and prohibited from doing so in the alley [M. 6:8C], for the alleyway is to courtyards as a courtyard is to houses [M. 6:8J].

[B] The operative consideration is that the [courtyards] are open to one another and also open to the alley [M. 6:8A].

[C] But if they were open to one another and not open to the alleyway, even if they had prepared a common *erub* [for each courtyard, respectively], they would be forbidden [as to carrying from one courtyard to another].

[D] [Why should C's conclusion be the case?] *Said R. Yosé, "It represents an application of the principle of R. Aqiba, for R. Aqiba has said, 'The right of access constitutes grounds for forbidding [transporting objects in a courtyard].' [If someone has rights of access and does not participate in the erub for a courtyard, even though he does not live there, his absence from the common erub for the courtyard renders it an area in which people may not carry.]"*

[II:1 A] **If they prepared an erub for the courtyards but did not prepare a shittuf for the alley [they are permitted to carry things about in the courtyards and prohibited from doing so in the alley (M. 6:8B-C):**

[B] *this is the view of R. Meir [that both are needed].*

[C] For R. Meir has said, "[Carrying in the courtyard and alleyway is permitted] by the *erub* and *shittuf* [respectively]."

[D] Everyone follows the law in accord with the view of R. Meir.

[E] R. Zeira in the name of R. Yohanan: "Also in the reading of the Scroll of Esther everyone follows the law in accord with R. Meir."

[F] In the laws of Erubin and in laws governing public fasts everyone follows the law in accord with R. Meir.

[G] R. Jacob bar Aha in the name of R. Yohanan in the name of R. Eleazar, "Even though R. Meir has said that the matter of nullifying one's domain applies also [to an alleyway!.. as much as

to a courtyard], he concurs that if one of the residents forgot and did not prepare an erub, he may rely on his share in the *shittuf* [covering the alleyway, in line with M. 6:8D].”

[H] [Challenging this view of Meir’s concurrence, we ask:] *Who maintains that it is through- an erub-meal and a shittuf* [that one is permitted to carry in the courtyard and alleyway, respectively]? Is it not R. Meir, who has said that it is through an erub-meal and a *shittuf* [as above]? [Why then should Meir regard the two as interdependent, if both are needed, so that the latter covers the absence of the former?]

[I] [R. Meir says,] “*You will make it possible for people to forget the laws of Erubin [if you provide for their carrying without their setting up an erub-meal]. [But if only one of them forget, there is no concern on that score.]*”

[J] R. Aha, R. Ila explained, “[*The consideration operative for Yohanan and Eleazar is that*] *only one among the residents [is involved, in which case it will not lead to a general forgetfulness]. [How so?]* Perhaps one of the residents may go to a courtyard which does not require a *shittuf* [to permit carrying in the outer alleyway]. What would be such a courtyard which does not have to participate in an alleyway? It is the innermost courtyard [which is not directly connected to the alleyway]. Now the resident will see that the people of that courtyard have prepared an erub but not a *shittuf*, and he too will imagine that the erub-meal suffices without a *shittuf*, while that is not the case [in the courtyard in which he lives]. [Meir in general wants both the erub-meal and the *shittuf-meal*, so that people will realize that both are required, and that the one is useless without the other when both are to be provided. But in the present case, in which only one individual is involved, he does not have the concern.] ‘

[K] *Another [Amora] said,* “[Behind Meir’s reasoning is this consideration:] Perhaps one of the residents may go to a courtyard in which the *shittuf* has already been prepared, and he will see that the people [by the time he gets there] neither prepare an *erub-meal* nor provide a *shittuf*. He too will refrain from preparing an erub-meal and a *shittuf*. [That is why Meir requires an *erub*, even in an alley where a *shittuf* has already been set up, to take account of this possibility. Now in this case there is no difference between the failure of one or many to prepare the *erub* or *shittuf*, and therefore he will not concur that

one without the other is ever proper. Accordingly, our passage of the Mishnah cannot follow the theory of Meir.]”

- [II:2 A] *It is self-evident that people prepare an erub for courtyards and a shittuf for an alleyway.*
- [B] If people have prepared an *erub* for courtyards, [only], if they then wanted to take a share in the *shittuf* covering the courtyard, they may not do so.
- [C] If they have taken a share in the courtyard’s *shittuf*, if then they wanted to share in an *erub* for a courtyard, they may participate in the *erub*.
- [D] *It has been taught: People prepare an erub and also a shittuf as well,”* the words of R. Meir.
- [E] And sages say, “People prepare an *erub* for courtyards or they prepare a *shittuf* for an alleyway. If they have prepared an *erub* for courtyards, they are permitted to carry in the courtyards but forbidden to do so in the alleyway. If they have prepared a *shittuf* for the alleyway, they are permitted to carry in both places.”
- [F] *He said to them, “Then you will make us forget the laws of Erubin, for the alleyway is to the courtyards as the courtyard is to the houses.”*
- [II:3 A] How many courtyards are there in an alleyway?
- [B] Both Rab and Samuel say, “There may be no fewer than two courtyards to constitute an alleyway.”
- [C] R. Jacob bar Aha in the name of R. Yohanan: “Even if there is one courtyard on one side and one courtyard on the other.”
- [D] R. Aha, R. Hinena in the name of R. Yohanan said, “Even if there is one courtyard on one side, a house on another side, a house on yet another side, and a store on the fourth side [that adds up to an alleyway].”
- [E] *R. Nahman bar Jacob in the name of R. Yohanan in the name of R. Yohanan asked, “An alleyway is made up of no fewer than two courtyards; a courtyard is made up of no fewer than two houses.”*
- [F] A courtyard the length and breadth of which are the same is not rendered permitted [as to carrying on the Sabbath] by constructing a side beam and crossbeam but rather by setting up boards] as is the case for a courtyard.
- [G] Samuel asked Rab, “How much must the length be greater than the breadth, so that it [may constitute an alleyway]?”

[H] He said to him, “Any amount at all.”

[I] *Those who dwell in the Land of Israel square the measure [and add a further amount to one side, thus constituting an alleyway instead of a courtyard].*

[II:4 A] *Said R. Yosé, “When I was over there [in Babylonia] I heard R. Judah asking Samuel, ‘If one separated his coin for the sheqel-tax for the Temple and then dropped dead, [what is the disposition of the designated coin]?’*

[B] “He said to him, ‘It is to go to the fund for a freewill-offering.’”

[C] As to the excess of the excess of the tenth of fine flour [of the high priest, which he would offer every day]

[D] R. Yohanan said, “One must dispose of it in the Salt Sea.”

[E] R. Eleazar says, “The proceeds [for the sale of the excess] are to go to the fund for a freewill-offering.”

[F] *They asked before him, “What is the law as to nullifying [24a] one’s right of domain in a courtyard in which he does not dwell? [If a resident of a courtyard did not share in the erub of his courtyard, may he then nullify not only his rights to that courtyard, thus permitting others to carry therein, but also to another courtyard in which he has the right of access along with other residents of the courtyard in which he dwells?]”*

[G] He said to them, “One may do so.”

[H] *They asked before R. Yosé, “Just as you maintain there that utensils which were in the courtyard when the Sabbath came into effect may be carried throughout the courtyard [even though they did not prepare an erub for the courtyard so as to bring utensils from the houses into the courtyard], so also do you maintain that utensils which were in the alleyway when the Sabbath took effect may be carried throughout the alleyway [even though there was no shittuf prepared for the alleyway]?”*

[I] *Now they asked this question when they were studying the laws of the Sabbath, and he did not reply to them, for R. Yosé would discuss a matter only in its appropriate context. Now when they reached the laws of Erubin, he stated to them in the name of R. Yohanan, “Utensils which were in the alleyway when the Sabbath took effect may be carried in the alleyway.”*

[J] Rab said, “They may carry them only for four cubits.”

[K] *Said R. Yosé b. R. Bun, “Rab is consistent with his positions in general, and the same is so for R. Yohanan who maintains that a crossbeam [alone] affords permission to carry in the alleyway, even without preparation of a *shittuf*, also will take the view in the present case that the utensils may be carried throughout the alleyway [since no *shittuf* is necessary, anyhow]. Rab, who maintains that the presence of a crossbeam does not permit carrying in the alleyway without provision of a *shittuf* as well, also takes the view that they may carry in the alleyway only for four cubits.”*

[L] *In the view of R. Yohanan, for what purpose then do they prepare a *shittuf* for the alleyway anyhow?*

[M] *Said R. Yosé b. R. Bun, “It is so as to form all the domains into a single domain.”*

- [III:1 A] It is self-evident that people may rely on a *shittuf* for an alleyway [if they forgot to prepare an *erub* for the courtyard (M. 6:8D)].
- [B] What is the law as to relying on a *shittuf* in the case of courtyards [for which they forgot to provide an *erub*]?
- [C] *R. Jacob bar Aha and R. Zeira both take the same view, one in the name of Mar Uqban, and one in the name of R. Nahman bar Judah: “They do rely on a *shittuf* in the case of courtyards [even though it was not provided for that purpose], in the case of the first Sabbath [in which it is discovered that they need to do so], because of emergency.”*
- [D] *R. Yosé b. R. Bun in the name of R. Judah: “For example, the people of Bar Daleh, who are not particular about their bread [may follow the stated procedure].”*
- [E] *R. Ba in the name of R. Judah: “And even in a case in which people are not like those of Bar Daleh, who are (not) particular about their bread, [the same procedure may be followed].”*
- [F] *It was taught: There was a case in which people who lived in a common alley were sitting in the open space of a courtyard, and [before they could prepare a *shittuf* for the alleyway] the Sabbath took effect. The case came before Samuel, who said, “Since the people have begun with a meal while it was still day, it is permitted [for them to regard that food as effective for the present purpose].”*

[G] *The precedent then indicates that* it is permitted to provide for the erub-meal even if the people are sitting in the open air of the courtyard.

[H] *It further indicates that* that is the case even if they had not prepared an *erub* in advance.

[I] *It further indicates that* that is the case even if they did not have the intention [of providing for an erub through the food they had on the table, until after the fact].

[J] [Delete:] *It further indicates that* two domains do not make use of a single domain.

[K] *It further indicates that* they do not rely on a *shittuf* for courtyards in the case of the first Sabbath [in which it is discovered that they need to do so], because of emergency.

[III:2 A] It is obvious that it is necessary to put an *erub* in a particular house in a courtyard [since the erub signifies a place of residence, which, we recall, Rab requires as the critical consideration]. But does a *shittuf* require location in a house?

[B] R. Aha in the name of Rab: “One places it either in the open air of a courtyard, or in the open air of an alleyway.”

[C] *A statement of Rab thus indicates that* the *erub* must be located in a house [since he holds that only the *shittuf* may be left in the open air].

[D] *A statement of Samuel indicates that* a *shittuf* has to be left in the house, [although we do not have the statement in hand].

[E] *The following Tannaite teaching stands at variance with what Samuel has said:* “As to a *shittuf*, one puts it in the gatehouse [of the alleyway].”

[F] R. Bun bar Hiyya, R. Abbahu in the name of R. Yohanan: “One puts it in the open air of a courtyard or in the open air of an alleyway.”

6:9

[A] Two courtyards, one inside the other –

[B] [the people of] the inner one prepared an erub, but [the people of] the outer one did not prepare an erub.

[C] The people in the inner courtyard are permitted [to carry things], and the people in the outer courtyard are prohibited [from doing so].

[D] [If the people of the] outer [courtyard prepared an erub but [the people of the inner one did] not, then both of them are prohibited [from carrying things about].

[E] [If] this one prepared an erub for itself and that one prepared an erub for itself,

[F] [the area of] this one is permitted by itself, and that one is permitted by itself.

[G] R. Aqiba prohibits in the case of the outer one.

[H] For the right of access restricts it.

[I] And sages say, “The right of access does not restrict it.”

[I:1 A] Said R. Yosé, “This [M. 6:9A-C] represents the view of R. Aqiba, for R. Aqiba has said, “The right of access constitutes grounds for prohibiting [use of the courtyard, if a resident enjoying that right has not participated in the *erub*].””

[B] Said R. La in the name of R. Yannai, “One who has rights of access both is forbidden to carry in that courtyard and imposes a prohibition on others in the courtyard, [should he fail to participate in the *erub* of that courtyard].”

6:10

[A] [If] one of the people in the outer courtyard forgot and did not join in the erub,

[B] the inner one is permitted, and the outer one is prohibited.

[C] [If one of the people in the] inner [courtyard forgot and] did not prepare an erub,

[D] both of them are prohibited.

[E] If they made their erub in a single location, and someone forgot [to participate],

[F] whether [he lived] in the inner courtyard or in the outer courtyard,

[G] and he did not join in the erub,

[H] both of them are prohibited.

[I] But if the [courtyards] belonged [wholly] to individuals, they do not have to prepare an erub.

[I:1 A] If one of the residents of the outer courtyard forgot and did not join in the erub, the outer courtyard is forbidden, for it has not been covered by an erub-meal valid for all its residents, and the inner courtyard likewise is forbidden for the people have placed

their erub-meal in a location which, in any event, is forbidden [cf. T. Er. 5:27, which assigns this view to Aqiba].

[B] If one of the residents of the inner courtyard forgot and did not join the erub-meal, the inner courtyard is forbidden [as to carrying], since it has not been provided with an erub-meal, and the outer one is also forbidden, for they have located their erub-meal in a forbidden place,

[C] since the right of access imposes a prohibition [should those who exercise that right not join in the *erub* for the area which they may traverse].

[D] If one of the residents of the inner courtyard forgot and did not join in the erub-meal, there is no problem in understanding why the outer courtyard should be forbidden, for it has not been covered by a valid erub.

[E] But as to the inner courtyard, why is that the case? Because they have placed their *erub* in a forbidden place? Lo, [that is false, for] they did not place their erub-meal in a forbidden place. Rather, the operative reason is that the right of access [of someone who has not participated in the erub] imposes a prohibition [on the area to which that person has access].

[F] [But that reason also does not apply, for] lo, there is no right of access to impose a prohibition [in the case of the inner courtyard] !

[G] Said R. Yosé, “Since they have placed the erub [for both courtyards] in a single location, all of the courtyards are treated as a single domain [so that if one of the residents of the outer courtyard has been remiss, his sloth affects the residents of the inner one as well].”

[I:2 A] R. Hunah in the name of Rab: “The law of the courtyard’s partition does not pertain to a gentile; the law of [dividing upper from lower stories by means of a] partition does not apply to a gentile.”

[B] The law of dividing courtyards does not pertain to a gentile, in that, if he was living in an upper room, you treat him as if he is brought downstairs [and lives in the courtyard], so prohibiting use of the courtyard [to two or more Israelites who live downstairs].

[C] The law of the partition does not pertain to a gentile, so that, if he was living in an inner courtyard, you treat him as if he is located in the outer one, so prohibiting use of the courtyard [to two or more Israelites who live in the outer courtyard].

[D] R. La in the name of R. Eleazar: “The law of the courtyard does pertain to a gentile, so that if there were an Israelite and a gentile living in the inner courtyard or in the upper room, the gentile imposes a prohibition only if there were two or more Israelites living there. [If the Israelite prepared a partition and so separated himself from the outer courtyard, so that a gentile and single Israelite household were located together in the inner courtyard, the gentile does not impose a prohibition. Accordingly, there are conditions in which a partition does serve to separate the gentile from the Israelite, so that the presence of the gentile will not prohibit carrying in the outer courtyard, should the gentile be located in the inner one]”

[E] R. Ba in the name of R. Judah: “He who has a partition before his house[‘s entryway], ten handbreadths high – in the case of an Israelite, it does not impose a prohibition, but in the case of a gentile it does. [The Israelite thereby has removed himself from the community of other Israelites in the courtyard, by separating his domain from the common one. His not participating in the erub therefore does not have the result of prohibiting their use of the courtyard. But since the gentile is not subject to the law of a partition, his making such a partition is null, and he continues to impose a prohibition on the Israelite’s use of the common courtyard, since there is no way they can make it a single, common domain.]”

[F] *The theories assigned to R. Ba are confused.* There R. Ba, R. Judah in the name of Samuel said, “A wall surrounded on both sides with ladders – they make an erub individually, and, if they wanted, they may make an *erub* collectively.” [Now Ba has said that the Israelite who makes a partition thereby separates himself from the common courtyard. Here, however, even though there are ladders connecting the courtyards, they still may be deemed distinct courtyards and may prepare separate erub-meals. The ladders therefore make no difference. Why here may the man remove himself from the common courtyard by a partition, even in respect to the one who lives above him in the upper room?]

[G] Said R. Yosé b. R. Bun, “There are the ladders regarded as equivalent to openings between the two courtyards? [No, that is not the case.] But here [in the case of a partition between the upper and lower stories, there is an effective barrier,] for it is the way of people who live on top to go downstairs, while it is not the way of people who live on the bottom to go upstairs.

[Accordingly, the people downstairs may partition themselves off from those upstairs or others in the courtyard.]”

YERUSHALMI ERUBIN

CHAPTER SEVEN

7:1

[A] A window [in the dividing wall] which is between two courtyards,
[B] four handbreadths square, within ten handbreadths [of the ground]

—

[C] they [the residents of the two courtyards] make an erub individually.

[D] But if they wanted, they make a single erub [for both areas].

[E] [If it is] less than four handbreadths square or [if it is] above the ground by more than ten handbreadths,

[F] they make an erub individually, and they do not make an erub jointly.

[I:1 A] [24b] A web of rope diminishes the dimensions of a window for purposes of the Sabbath [so separating the two courtyards, in line with M. 7:1E-F], but not for purposes of establishing ownership through usucaption of the window [so preventing a neighbor from blocking up the space of the window].

[B] Stubble and straw do not diminish the dimensions of the window. dirt and pebbles do diminish the dimensions of the window.

[C] Said R. Yosé [b.] R. Bun, “If grass grew up in the window. it does not serve to diminish its dimensions.”

[D] [As to the rule of M. 7:1E-F,] they asked before R. Abba, “Does the rule applicable to the case of a window between two courtyards also apply to a window between two houses?”

[E] He said to them, “Yes.”

[F] “And along these same lines, to a window between two gardens [or: roofs]?”

[G] He said to them, “Yes” [cf. T. Er. 7:13A].

[H] What is the law as to preparing an erub [joining domains] through hatchways [e.g., between an upper room and a roof, or between one roof and another]?

[I] Said R. Abba Mari, “There is a dispute on this matter, *for we have learned there: All roofs of a town constitute a single domain* [M. 9:1].

[J] “Samuel said, ‘[One may carry only for the area of] two *seahs* [as in the *case* of an outer area not joined to a dwelling, since the roof is not a continuation of the dwelling beneath. Accordingly, one also may not prepare an *erub* using the aperture as the connection, because the window exits to what in fact is not another residence at all].’

[K] “Rab said, ‘They may carry in such an area even for the extent of a *kor’s* or two *kor’s* space, [since the roof is a continuation of the house]. [The aperture serves to join the house to the roof area, and one may indeed prepare an erub-meal via the aperture.]’”

[II:1 A] [As to M. 7:1B,] it is not the end of the matter that all of the area of four handbreadths square must lie within ten handbreadths of the ground.

[B] Even if only part of the four handbreadths of the other two dimensions lie within ten handbreadths of the ground, it is as if the whole of the four-by-four handbreadths lies within ten handbreadths of the ground.

[C] If the window had a circumference of ninety-six handbreadths [twenty-four at each side], even if any part at all lay within ten handbreadths of the ground, it is as if the four handbreadths square lay within ten handbreadths of the ground.

[D] If the window was round [with a radius of fourteen], and it had a circumference of ninety, etc. [the rest of this statement is not spelled out].

[II:2 A] What is the law as to diminishing the dimensions of a window [with reference to its height] through placing utensils there [thus bringing the ground upward and leaving the window closer to the ground]?

[B] R. Hiyya bar Ashi said, “They do diminish the distance through the use of utensils.”

[C] R. Jonah, R. Isaac bar Tabelai said R. Yohanan, “They do not diminish the distance of a window from the ground by placing utensils there.”

[D] *There they say*, “There is a dispute between R. Hiyya the Elder and R. Ishmael b. R. Yosé. One said, ‘It is forbidden,’ and the other said, ‘It is permitted.’”

[E] *He who has said* it is forbidden takes account of the possibility that one may forget and carry [the utensils about, and hence restore the window to its original dimensions].

[F] *R. Yohanan bar Mareh gave instructions to put stones on top of [utensils used for such a purpose].*

[G] *It has been taught: **With any sort of materials do they diminish [the height of a window, bringing it down within ten handbreadths of the ground]: stones, bricks, or an Egyptian ladder, on condition that one affix the ladder permanently for that purpose [T. Er. 7:10C].***

[H] R. Ba in the name of R. Judah: “Even if one did not permanently affix the ladder.”

[I] *And has it not been taught, “**on condition that one affix the ladder permanently for that purpose [T. Er. 7:10C]?”***

[J] R. Ba said, “And that is the rule if one has designated the ladder for that particular purpose.

[K] “*R. La gave a decision in accord with this teaching: ‘And that is the case if one affixed the ladder for that purpose.’”*

[L] [As to the capacity of the ladder to diminish the distance between the window and the ground,] *both R. Jonah and R. Yosé, one in the name of Mar Uqban and one in the name of R. Nahman bar Jacob: “The distance between the steps on the ladder must be less than three handbreadths. It must be four handbreadths broad. The side posts of the ladder complete the requisite breadth of four handbreadths.”*

[M] Yosé said, “A stone which one has arranged for steps serves to diminish the distance between the window and the ground.

[N] “In any event the side posts do not complete the requisite distance of ten handbreadths. The post is treated like a thick step.”

[O] R. Yosé in the name of R. Bun bar Kahana: “It is necessary that the steps [of the ladder] be four

handbreadths distant from the wall, sufficient to constitute a space of which one would take note .”

[P] [Concurring in this principle and making it more specific,] R. Hezekiah in the name of R. Bun bar Kahana: “That step which serves to diminish the height of ten handbreadths of the window is the one that must be distant from the wall by four handbreadths, sufficient to constitute a place of which one would take note.”

[Q] *R. Jacob the Southerner asked*, “[Here we treat the distance of four handbreadths as the minimum to serve as a space between the wall and the ladder. But elsewhere the minimum distance is three. We recall that, at Y. 1:7, we stated,] ‘If one brought a partition of seven and a half handbreadths and suspended it less than three handbreadths above the ground, [carrying in the enclosed area] is permitted [for we regard the three and a half handbreadths as null, and hence we have a partition-wall of ten handbreadths in height].’

[R] “Accordingly, there you have said that only space of less than three handbreadths is treated as if it were closed up, while here you have maintained that only space less than four handbreadths is treated as if it were closed up [as at M. 7:1E].”

[S] *If you want to raise a question, this is the question you should raise*: If one brought a partition four handbreadths in height plus any small amount, and if one then suspended it two handbreadths less any amount above the ground [do we hold that the partition is imaginarily extended in both directions, upward and downward]?

[T] *The answer accords with that which R. Yohanan has said*, “The standing [filled-in, partitioned] part of a wall and the empty space join together to form the requisite measure of four handbreadths, so long as the filled-in portion is more than the empty portion of the wall.”

7:2

- [A] A wall between two courtyards,
[B] ten handbreadths high and four broad –
[C] they make an erub individually, and they do not make a single erub
[for both courtyards].
[D] [If] there was produce on top of it, these climb up from this side and
eat it, and those climb up from that side and eat it,
[E] on condition that they not bring [the fruit] down.
[F] [If] the wall was breached to a height of less than ten cubits [from the
ground],
[G] they make an erub individually.
[H] But if they wanted, they make a single erub [jointly],
[I] because it is equivalent to a doorway.
[J] [But if the breach is] larger than this, they must make an erub jointly,
and they do not make an erub individually.

- [I:1 A] Now why should the Mishnah specify that the wall is four
handbreadths broad? Even if it were not four handbreadths broad, [the
same rule would apply].
- [B] *It is on account of the later clause of the same passage of the
Mishnah: These climb up from this side and eat it, [etc.] [M. 7:2D].*
- [C] If the wall were not four handbreadths broad, [would it be permitted to
take fruit down from the top of the wall, which, (with its inadequate
dimensions,) does not constitute an autonomous domain]?
- [D] R. Ba in the name of Rab: “It is forbidden to people on both sides [to
climb up and get the fruit].”
- [E] R. Zeira in the name of Rab: “It is permitted to people on both sides
[to climb up and take the fruit]. [The area is deemed null, being of
inconsequential size.]”
- [F] *The opinions assigned to R. Ba are confused.* There R. Ba, R.
Judah in the name of Samuel said, “If one tossed an object, and it
came to rest on the top of a partition [surrounding private domain],
he is liable. [The partition is ten handbreadths high but not four
broad. It is surrounded by neutral domain. One tossed an object
which came to rest on the top of the partition. He is liable. It
follows that that area constitutes a domain unto itself, and imposes
liability.] Here he has said this [that it is forbidden on both sides,

thus regarding the top of the wall as subject to the domain of two distinct domains on either side].

[G] In the case of the partition surrounded by neutral domain, you regard the partition as if it were filled with pebbles and stones, [thus constituting a domain unto itself], *but here, what can you say [since it separates two distinct private domains]? [So the cases are different.]*

[H] You may know that this is the case, for R. Aha, R. Hinena in the name of R. Yohanan said, “Projections and walls which are ten handbreadths high and four broad – one is permitted to utilize the space on them, climbing up from either side, so long as one thereupon does not take an object from one domain, place it on top of the partition, and then take it off on the other side.”

[I] *R. Yohanan asked, “The opinions assigned to R. Ba are confused. There R. Ba, R. Judah in the name of Samuel said, ‘If one tossed an object, and it came to rest on the top of a partition, he is liable, and here has he said this?’ [Why not see the wall here the way we see it there, as explained at F-G?]”*

[J] Have we heard the rule governing a partition in private domain? We have heard the rule governing partitions in public domain. [In the case of a wall standing in public domain, ten handbreadths high but not four broad, as is the case in the cited case, it is quite reasonable that the wall serves as a partition for the neutral domain for the wall turns neutral into private domain. The wall constitutes a domain unto itself, even though it lacks the requisite breadth. But here, the wall separate two courtyards, both of them private domain anyhow. The wall does not make them private domain, as it renders the neutral domain into private domain. That is why it is also not regarded as a domain unto itself, as in the other case.]

[I:2 A] R. Ba, R. Judah in the name of Samuel: “A wall which one surrounded by ladders on both sides – they nonetheless prepare an *erub* separately, and they do not have the option of preparing a single *erub* covering both courtyards.”

[B] Said R. Yosé b. R. Bun, “Since the ladders are not placed opposite one another, the ladders do not serve as doorways [opening the two courtyards to one another.”

- [I:3 A] *It has been taught:* All ascents had a gradient of one cubit in three, except for the ascent of the altar, which rose at a gradient of ten handbreadths out of five and a third
- [B] For the altar is ten cubits high, and its ramp, thirty-two. [Thus any acceptable gradient, e.g., if one set a partition against a wall as a ramp, would be at a gradient of thirty percent.]
- [C] If one made a porch along the whole front of the wall, if it is four handbreadths broad, the courtyards joined by the wall prepare an *erub* [24c] separately, and if they wanted, they may prepare a single *erub*.
- [D] If it is not four handbreadths broad, they prepare an *erub* individually, and they may not prepare a common *erub*.
- [E] If it is four cubits broad, they prepare a single *erub* for both courtyards, and they may not prepare separate *erubs*. [The porch now lowers the height of the partition to less than ten handbreadths, so it is as if there is no partition between the two courtyards at all.]
- [II:1 A] [With reference to M. 7:2F:] *That which you have said* applies to a large wall, but in the case of a small one, the appropriate measure is the larger part of the wall.
- [B] **What is the definition of a large, and what is the definition of a small wall? A large one is any, the larger part of which is taller than ten cubits [Levy: greater than an area of ten by ten].**
- [C] **Lo, if [in the case of a small wall] it was breached over the greater part [it is no longer serviceable as a partition between the two courtyards] [cf. T. Er. 6:14].**
- [D] *That which you have said* applies to the middle of the wall, but as to the side of the wall, *it is not in that case that [the rule applies].*
- [E] *What is the definition of the side and what is the definition of the middle?*
- [F] We may say, if there are four handbreadths of the wall yet standing, this would constitute the center of the wall; if not, it would constitute the side. [In the former instance the breach must conform to the rule of M. 7:2F-I, and in the latter, it would not.]

7:3

- [A] **A trench that is between two courtyards,**
 [B] **ten handbreadths deep and four broad –**

[C] they make an erub individually and they do not make a single erub,
[D] even if it is full of straw or chopped hay.

[E] [If] it was filled up with dirt or stones, they make an erub jointly , and they do not make an erub individually.

[I:1 A] Lo, so far as the straw is concerned, [the Mishnah’s phrasing indicates that] if one had the thought of nullifying the effect of the straw [by removing it], that intent is null. [The Mishnah’s phrasing does not make provision for the householder’s intent for the straw; it is of no consequence whether it will be left there or removed. Dirt or stones, by contrast, do constitute permanent obstacles. Why not straw?]

[B] *The Mishnah before us then cannot accord with the view of R. Yosé, for R. Yosé has said, “In the case of straw, if one had the thought of nullifying the effect of straw, the presence of the straw is deemed null and of no effect. [If straw is left in place, however, it is equivalent to dirt or pebbles.]”*

[C] R. Yosé b. R. Bun in the name of R. Hisda: “It represents the view of all parties [at M. 7:3A-D]. That which R. Yosé said [about treating straw as equivalent in status to dirt] pertains to a case in which one mixed the straw up with dirt.”

[D] There is straw with the status of dirt, and dirt with the status of straw.

[E] [R. Yosé says,] “**Straw which one is not destined to remove, lo, it is like dirt, and dirt which one is destined to remove, lo, it is like straw**” [T. Ah. 15:5B].

[I:2 A] [As to the trench,] members of the house of R. Yannai said, “If one covered the trench with mats, its effect is null, [and the two courtyards are unified thereby].”

[B] *Now see here!* If one filled it with mats, it would not be nullified, but if one covered it with mats, is it nullified? [That is absurd.]

[C] If one filled it with twigs, it is a question.

[D] R. Zeriqan, R. Ammi in the name of R. Simeon b. Laqish: “And even with spit.”

7:4

[A] [If] one put over it [the trench] a board four handbreadths broad,

[B] and so: two balconies opposite one another [connected by a board] –

[C] they make an erub singly.

[D] But if they wanted, they make an erub jointly

[E] [If it was] less than this, they make an erub individually and they do not make an erub meal.

[I:1 A] *There is a Tannaite authority who [at M. 7:4D] teaches, “They prepare an erub separately, and they do not prepare an erub jointly.”*

[B] *There is a Tannaite authority who teaches, “They prepare an erub jointly, and they do not prepare an erub separately.”*

[C] *He who has said, “They prepare an erub separately and they do not prepare an erub jointly” refers “less than this” to the board.*

[D] *He who said, “They prepare an erub jointly and they do not prepare an erub separately” refers “less than this” to the empty hole.*

7:5

[A] A heap of straw which is between two courtyards,

[B] ten handbreadths high –

[C] they make an erub individually, and they do not make an erub jointly.

[D] These feed their cattle on one side, and those feed their cattle on the other side.

[E] [If] the straw diminished to a height of less than ten handbreadths,

[F] they make an erub jointly, and they do not make an erub individually.

[I:1 A] *Said R. Eleazar, “This is the meaning of the statement of the Mishnah [at M. 7:5D]: These fill their baskets on one side and feed the cattle, and those fill their baskets on the other side and feed their cattle.”*

[B] *[Explaining the meaning of the preceding statement,] said R. Haggai, “When we were in session before Menahem, we stated that [Eleazar’s gloss is] so that you will not say one [who fills his basket] is not in the position of destroying a tent but of setting up a tent, since, if the straw is tightly packed, one lays it at the sides of the basket. [That is not so.]”*

[C] *[Along these same lines,] R. Hoshaiah asked, “If one leaned straw heaps on either side against a chair, what is the law [regarding the act as one of building]?”*

[D] In this regard the operative criterion has been stated as whether it is temporary or permanent [construction]. [This is not regarded here as a permanent building and hence is not forbidden.]

[I:2 A] *It has been taught [cf. T. Er. 6:17; Y.'s text is followed here:]* **A heap of straw which is between two courtyards – [residents of this one] break open an entry on one side and feed their cattle, and residents of the other courtyard break open an entry on the other side and feed their cattle.**

[B] **If the pile of straw diminished to a height of less than ten handbreadths, both of them are forbidden [to use the pile], unless they prepare an erub [joining the two courtyards].**

[C] **Therefore, if one wanted, he may seal up his door or annul his right to make use of the courtyard, in which case he is prohibited from using the courtyard, but his fellow is permitted to make use of the whole thing.**

[D] [And so is the rule for a pit between two courtyards:] it is forbidden to draw water from it from two distinct courtyards. But if one of the parties annuls his right to draw water from it on the Sabbath, the other party may then do so]

[E] *That then indicates that* a person resident in one courtyard may nullify his rights to utilize another courtyard.

[F] [What follows is copied from above, Y. 6:8/VI.F-K, and does not belong here:] *That further indicates that* even if they have prepared an erub; that further indicates that even if they did not have the intention; that further indicates that residents of two distinct domains may not in common utilize a single domain.

[G] *That further indicates that* if this party has an entry of his own, and that party likewise, both parties are forbidden [from using the same courtyard].

[H] And so is the rule governing a house between two courtyards.

[I] *This does not accord with the view of R. Meir, for R. Meir has said, “A house which is locked up remains in the status of a house, and hence its resident is] forbidden from using the courtyard, while others are permitted to do so.”*

7:6

[A] **How do they make a partnership [a shittuf] in an alleyway?**

- [B] One [of the residents] sets down a jar [of food or drink] and states, “Lo, to.us belongs to all the residents of the alleyway.”
- [C] And thus he effects possession for them through his adult son or daughter, his Hebrew slave boy or slave girl, or his wife.
- [D] But he does nor effect possession in their behalf by means of his minor son or daughter, or by means of his Canaanite slave boy or slave girl,
- [E] because their hand is as his hand.

[I:1 A] *It has been taught:* One does not impart ownership [to the other residents of the alleyway] through a jug of wine in the cellar.

[B] Said R. Hoshaiiah, “The reason is that he may forget and confuse it with some other jug [and use for his own purposes the one he has set aside for joint ownership].”

[II:1 A] [With reference to **the Hebrew slave girl of M. 7:6C,**] *how shall we interpret the matter?* If we deal with an adult, then she has acquired [right to ownership of herself when she has produced] puberty signs [in consequence of which how can we speak of his acting through the slave girl]? If it is of a minor, does a minor effect acquisition [and so have the power to transfer ownership to other residents in the alleyway]?

[B] *Said R. Yudan bar Shalom before R. Yosé, “Interpret the law to accord with him who said, ‘A minor may set aside heave-offering.’”*

[C] *He said to him, “And even in accord with him who said, ‘A minor may not set aside heave-offering,’ may a minor effect acquisition?”*

[D] [Commenting now on M. M.S. 4:4, cited below, Q, the following, which plays no part in the present pericope, is stated:] *In the view of rabbis, the rule poses no problem.*

[E] [With reference to M. Git. 5:9G:] there they say in the name of R. Nahman bar Jacob, “Anyone to whom they give a pebble, and he takes it, a nut, and he throws it out – he who takes property from him is like him who takes it out of the garbage heap.

[F] [If] they gave him a nut and he takes it, a pebble and he throws it away, someone who takes from him commits theft, in the interests of peace [= M. Git. 5:9G].

[G] “If one gives him a nut and a pebble, and he takes them and puts them away and produces them later on, taking from him is an act of theft, pure and simple.”

- [H] Such a one effects acquisition for himself but not for someone else.
- [I] Rab Huna says, “Just as he effects acquisition for himself, so he effects acquisition for someone else.”
- [J] “All concur that an act of donation on his part is null, for it is said, ‘When a man gives [to his neighbor money or goods to keep]’ (Exod. 22:7). That which a man hands over is a gift, and not that which a child hands over,” the words of sages.
- [K] R. Judah b. Pazzi in the name of R. Yohanan, R. Jacob in the name of R. Yohanan: “Under no circumstances is it clearly a matter of theft [from a minor] until he produces two pubic hairs.”
- [L] *R. Abbahu in the name of R. Yohanan, “That which you have stated [that we deal with stealing beyond any doubt, M. Git. 5:9F] applies to the matter of retrieving the object from the one who has stolen it from the minor.*
- [M] “But as to imposing on a thief in such circumstances the requirement to bring an offering or to take an oath, all parties concur that there is such a requirement only in the case of a minor who has produced two pubic hairs.”
- [N] [We now return to M. M.S. 4:4. The issue is whether a minor can effect an act of ownership. We have explained, in accord with R. Nahman bar Jacob, that there are several possibilities, just now spelled out.] *But as to the rabbis over here [who hold that the minor cannot effect ownership for himself, as we shall see, that is not the case].*
- [O] *R. Yosé raised the question, “If so, then even for himself he should not be able to make acquisition. For it is said, ‘[If a man delivers] to his neighbor’ (Exod. 22:7) – that is, an act of donation is valid when the giver is of the status of his neighbor.”*
- [P] R. Yosé b. R. Bun in the name of R. Samuel bar R. Isaac, “And note the following concerning children, *for we have learned: As to little children, their purchase is valid and their sale is valid in the case of movables [M. Git. 5:8D-E].*
- [Q] “*And yet there we have learned [at M. M. S. 4:4]: However, let him not say this to his minor son or*

daughter, to his Canaanite servant or handmaid, for their deed is considered to be his deed. [There clearly is a contradictory assumption here.]”

[R] Rabbis of Caesarea say, “Here we deal with a child who has understanding, and there we deal with a child who does not have understanding.”

[III:1 A] *There we have learned: He who borrowed a cow and the one who lent it sent it along with his son, slave, or messenger, or with the son, slave, or messenger of the borrower, and it died, the borrower is exempt. [If the borrower had said to him, “Send it with my son,” “my slave,” “my messenger,” the borrower is liable] [M. B.M. 8:3].*

[B] Does this [latter clause] not indicate that the slave made acquisition of the object from his master in behalf of the other party? [Indeed it does.]

[C] Said R. Eleazar, “Interpret the passage to speak only of a Hebrew slave [in which case the question is not answered at all].”

[D] Said R. Yohanan, “No, you may as well interpret the passage to apply to a case in which it was a Canaanite slave. But interpret the passage to speak of a case in which the lender said to him, ‘Open the gate for it, and it will follow along on its own.’ *For we have learned that* leading the cow is tantamount to drawing it [and so effecting ownership of it].

[E] “If one has called the cow and it came after him, he is liable for what happens to the cow just as if he had borrowed it.”

[F] *R. Zeira derived from the following passage that the slave does not acquire ownership from his master in behalf of a third party: “**But he does not effect possession [of a meal of commingling] in their behalf through his minor son or daughter, or through his Canaanite slave boy or slave girl, for their hand is as his hand**’ [M. 7:6D-E].*

[G] “*Does that not indicate that a slave cannot impart ownership from his master in behalf of a third party?*”

[H] Interpret the cited statement to accord [solely] with the position of R. Meir, for R. Meir treats the hand of a slave as tantamount to the hand of his master.

[I] *And has it not been taught that it is his wife that is under discussion [and she may do what the slave may not]? [It cannot be me.]* For R.

Meir treats the hand of a wife as equivalent to the hand of her husband.

[J] *R. Haninah in the name of R. Pinhas: “Interpret the matter in accord with the following Tannaite authority who taught: **One’s wife does not redeem in his behalf produce in the status of second tithe. ‘One’s wife redeems on his behalf produce in the status of second tithe [without paying the added fifth],’ according to the words of R. Simeon b. Eleazar in the name of R. Meir [T. M.S. 4:7D-E].***

[K] *“Now this Tannaite authority of the views of R. Meir treats the hand of the slave as the hand of his master, but not the hand of the wife as the hand of her husband, [so Meir may stand behind the cited law].”*

7:7

[A] [If] the food diminished in volume [to less than the prescribed quantity], one adds to it and effects possession for the others.

[B] And he need not inform them.

[C] [But if] the number [of residents of the alleyway] became larger, one adds to the food and effects possession for them.

[D] And he does need to inform them.

[I:1 A] What is the meaning of “informing them”?

[B] If there were new residents, he has to inform them that he has added to the food, and he effects ownership in their behalf. If the food diminished and was used up completely, [he tells them] that it has been used up.

[C] *Does that then not indicate that he does not impart ownership for them over the body of the food itself?*

[D] Said R. Haninah, “Interpret the case to be one in which the mice dragged the food away.”

7:8

[A] What is its prescribed volume?

[B] When the [residents] are numerous, food sufficient for two meals for all of them.

[C] When they are few in numbers, a dried fig’s bulk –

[D] [Y lacks] such that may be taken out on the Sabbath –

[E] for each and every one.

[I:1 A] Rab said, “The definition of ‘numerous’ is seventeen, and the definition of ‘few’ is sixteen.”

[B] R. Yohanan said, “Wherever [the food for two meals], if divided among them, would not be sufficient to allow for each a volume of food as much as the *size* of a dried fig, the residents are held to be many,’ and a quantity of food for two meals suffices; otherwise they are regarded as ‘few.’”

[C] *They proposed to state: now the two authorities do not differ. What Rab said accords with [the exact measurement supplied by] R. Simeon, while what R. Yohanan said accords with [the approximate measurement supplied by] R. Yohanan b. Beroqah.*

7:9

[A] Said R. Yosé, “Under what circumstances?

[B] ‘At the beginning of [preparing] the erub.

[C] ‘But for what remains [later on] in the erub, any amount at all [will do].

[D] “For they have spoken about preparing an erub for courtyards [in addition to the alleyway] only so that children will not forget.”

[I:1 A] What is the definition of “what remains later on in the erub”?

[B] The answer accords with that which R. Yosé said in the name of R. Hoshaiyah: “In the case of a hyssop [used for sprinkling purification water], if one has been able to dip it and sprinkle water with it one time, that is valid [and even if it lacks a part, it remains so]. From that point onward what you have is what remains later on.”

[C] *Here too the definition is the same.*

[I:2 A] Said R. Joshua b. Levi, “On what account do they prepare an *erub* for courtyards [in addition to alleyways]? It is for the sake of peace.”

[B] There was the story of a woman who was at odds with her friend. The woman sent [24d] her share of the common *erub* with her son, and the other woman took him and hugged and kissed him. He came home and told his mother, who said, “She really likes me, and I did not know it.” On that account they made peace.

[C] *That is in line with this verse of Scripture: “Her ways are ways of pleasantness, and all her paths are peace” (Prov. 3:17).*

7:10

- [A] **“With anything [which is edible] do they prepare an erub or a shittuf, except for water or salt, “ the words of R. Eliezer.**
- [B] **R. Joshua says, “A loaf of bread is [what is to be used for] an erub.”**
- [C] **A baking, even of a whole seah of flour, if it is only part of a loaf – they do not make an erub with that.**
- [D] **[But] a whole loaf [even] the size of a small coin which is whole – they do make an erub with that.**
- [E] **“A man pays over a maah-coin to a storekeeper or to a baker so that he will acquire for him a portion in an erub, “ the words of R. Eliezer.**
- [F] **And sages say, “His coins alone have not acquired for him [a portion in an erub].”**
- [G] **But they concur that with any others [except for bakers], his coins do secure for him a share in the erub.**
- [H] **For they prepare an erub for a man only with his knowledge and consent.**
- [I] **Said R. Judah, “Under what circumstances? In the case of an erub serving for the mingling of Sabbath limits.**
- [J] **“But in the case of erubs serving to join together courtyards, they prepare an erub for a man both with his knowledge and consent and without his knowledge and consent.**
- [K] **“For they acquire a benefit for a man not in his presence.**
- [L] **“But they do not exact a penalty for a man not in his presence.”**
- [I:1 A] [As to M. 7:10F,] R. Abbahu in the name of R. Yohanan: “That is to say that, on the authority of the law of the Torah, coins do not effect acquisition. [That is the clear implication of sages’ view.]”
- [B] No, that case [that is, M. 7:10E-F,] is different, for the baker may forget and take out [what the man has purchased and give it to someone else].
- [C] If that is the case, then even if one came to the storekeeper, [the rule should be the same]. [That is, if the consideration is what the baker may do, then the erub-meal itself should not be left with the baker, lest he sell it to someone else.]
- [D] [Continuing to follow the reorganization of the Mishnah by the Talmud:] **And sages say, “His coins alone have not acquired for him a portion in an erub” [M. 7:10F].**

[E] That is to say that the coins do effect acquisition *on the* authority of the law of the Torah”for the storekeeper transfers ownership through a third party.

[F] R. Aha in the name of R. Hinena [son of R. Abbahu] said, “Father did not take that view.”

[G] **They concur that with any others [except for bakers], his coins do secure for him a share in the erub [M. 7:10G].**

[II:1 A] **For they prepare an erub for a man only with his acknowledge and consent [M. 7:10H]:**

[B] *This statement of the Mishnah represents the view of R. Meir.* [Delete: For R. Meir said, “[It is necessary to establish the right to carry in a courtyard and in an alleyway] both with an *erub-meal* [and with a *shittuf-meal*].”

[C] R. Zeira in the name of R. Yohanan: “In the laws of Erubin and in those governing a public fast, everyone follows the law in accord with the view of R. Meir.”

[D] R. Jacob in the name of R. Yohanan: “Also in the laws governing the reading of the Scroll of Esther, everyone is accustomed to follow the law in accord with the view of R. Meir.”

[II:2 A] R. Isaac b. Haqqolah in the name of R. Yudan the Patriarch: “They prepare an *erub* for a person against his will.”

[B] *And so it has been taught:* **Residents of an alley may impose the requirement upon one another to provide [funds to purchase] a side beam and a crossbeam [to permit carrying in the alleyway] [T. B.M. 11:1A].**

[C] *And has it not been taught:* Lo, if they told someone to join in the erub, and he does not decline, [they may go into his house and prepare the *erub* against his will]?

[D] But if he had declined to participate, would they have forced him? [Certainly not.]

[E] *Said R. Yudan, “The cited passage accords with the view of R. Meir [who maintains the view that one may not force a person to participate in an erub].”*

[F] Said R. Yosé b. R. Bun, “You may interpret the passage to accord with the views of all parties, in an instance in which the man was a Sadducee [who to begin with did not concur in the notion that an *erub*

serves to commingle ownership]. [In the case of an *erub* prepared for a recusant, to begin with the act is null.]”

[G] *And has it not been taught: “Lo, if someone forgot and did not share in the erub,*

[H] *“and he brought something out into the courtyard,*

[I] *“whether he did so inadvertently or deliberately, lo, this one prohibits [use of the courtyard for the other residents],” the words of R. Meir.*

[J] **R. Judah says, “If he did so deliberately, he prohibits [use of the courtyard for the other residents].**

[K] **“If he did so inadvertently, he does not prohibit [its use]” [T. Er. 5:15].** [Now why should the one who failed to prepare the *erub* deliberately come under consideration, if one may prepare the *erub* against that person’s will?]

[L] Should the one who deliberately failed to join impose a prohibition, when they may prepare the *erub* for him against his will?

[M] It is merely a penalty [outside of the law].

[N] If that is the case, then he should be forbidden [to carry in the courtyard of which he has failed to join in the *erub*], but his fellow should be permitted to do so.

[O] Since his fellow had the power to prepare an *erub* for him [on the prior day] and did not do so, they impose the penalty on the fellow too.

[P] *Does R. Meir not concur in the principle: They acquire a benefit for a man not in his presence, but they do not establish an obligation for a man not in his presence [M. 7:10K-L]?*

[Q] *R. Meir holds the view that this does not constitute a benefit for him.*

[R] [*Why not? Because*] *a person does not want anyone else to go into his house except with his knowledge and consent.*

[S] R. Ba, son of R. Pappi. in the name of R. Hama bar Haninah: “There was the case of a woman who prepared an *erub* for her mother-in-law without her knowledge and consent, and the case came before R. Ishmael [b. R. Yosé,

who sought to prohibit [the woman from benefiting from the erub].

[T] “R. Hiyya the Elder said to him, ‘This is what I heard from your father: So far as you can impose a lenient ruling in matters of *Erubin*, do so.’”

YERUSHALMI ERUBIN

CHAPTER EIGHT

8:1

[A] How do they prepare a *shittuf* for the Sabbath line?

[B] One puts down a jug [of food of some sort] and says, “Lo, this belongs to all the residents of my town, “

[C] “to whoever goes to the house of mourning” or “to the house of celebration.”

[D] Whoever accepted for himself [a share in the ownership of this meal] while it was still day is permitted [to walk to the limit of two thousand cubits from the location of the *shittuf*].

[E] [But whoever accepts for himself ownership] after it gets dark is prohibited [from doing so],

[F] for they do not prepare an *erub* once it gets dark.

[I:1 A] [25a] *Now we note that [in the formula prescribed in the Mishnah,] we have not learned that [the one who prepares the *shittuf* does not] assign ownership [to the others as he does in the case of an *erub* for courtyards]. Why is that the case?*

[B] Samuel said, “There [with regard to the *shittuf* for an alleyway,] *we have learned that the one who sets it up assigns ownership to all the others, from which it follows that it is necessary so to assign ownership; while here, where we have not learned that the one who arranges the *shittuf* for the Sabbath line assigns ownership to all others, it is not necessary to do so.*”

[C] R. Yohanan said, “In fact it is an argument a fortiori that one must do so. *That is to say, since, in regard to preparing an *c?rub* for courtyards, which derives from the authority of scribes, you maintain that it is necessary to assign ownership, in the case of an *erub* for the Sabbath boundary, deriving, as it does, from the authority of the Torah, is it not an argument a fortiori that one indeed does have to assign ownership?*”

[D] *The position of Rab accords with the view of R. Yohanan.*

[E] Said R. Yosé b. R. Bun, “[The view of Samuel in differentiating between the two sorts of provisions for the Sabbath is that] the former serves to join all of the distinct domains into one [on account of which all parties must be joint owners of the *erub*, but that consideration does not apply to the *shittuf* for the Sabbath boundary].”

8:2

[A] What is its requisite measure?

[B] Food sufficient for two meals for each one,

[C] “[composed of] the food he eats on an ordinary day and not on the Sabbath,” the words of R. Meir.

[D] R. Judah says, “On the Sabbath and not on an ordinary day “

[E] And this one and that one intend [thereby] to give a lenient ruling.

[F] R. Yohanan b. Beroqah says, “[Not less than] a loaf worth a pondion, from wheat at one sela for four seahs of flour.”

[G] R. Simeon says, “Two-thirds of a loaf of a size of three to a qab.”

[H] Half of that measure is what is required for a house afflicted with a *nega*, and half of that is the measure to invalidate the [person’s] body [for the eating of food in the status of heave-offering].

[I:1 A] *R. Meir says, “On an ordinary day, for he does not have much to eat, so he eats only a small quantity of bread. On the Sabbath, when he has much to eat, he also eats a great deal of bread.”*

[B] *R. Judah says, “On an ordinary day, on which he does not have much to eat, he eats a great deal of bread. On the Sabbath, on which he has much to eat, he eats only a little bread.”*

[II:1 A] [As to M. 8:2F-G,] so it has been taught: The opinions of the two in fact are close to one another.

[B] *Now see here! The one [Yohanan b. Beroqah] treats a loaf as equivalent in volume to twelve eggs [a half qab], and the other [Simeon] treats the loaf as equivalent to eight eggs in volume, and you say this! [How can their opinions be close together?]*

[C] [As to the view of Yohanan b. Beroqah,] R. Huna said, “You deduct a third for the costs of making the loaf [to be paid for the milling and the baking]. [That leaves a volume of eight.]”

[D] *R. Yosé b. R. Bun assigned to bakers [a permissible profit] in line with that which R. Huna has stated, so long as the volume of bread*

they have baked is in line with what he has said. [But if the volume is great, they may not profit in equivalent proportion, because the costs per item then are much lower.]

8:3

- [A] **The residents of a courtyard and the residents of a gallery above a courtyard] who forgot and did not prepare an erub [joining the courtyard and the gallery] –**
- [B] **all the area [e.g., a mound or pillar] above ten handbreadths is assigned to the gallery.**
- [C] **[All the area] lower than this is assigned to the courtyard.**
- [D] **The bank around a cistern and the stone, [if] higher than ten handbreadths, are assigned to the gallery.**
- [E] **[If] lower than that they are assigned to the courtyard.**
- [F] **Under what circumstances?**
- [G] **In the case of what adjoins [the gallery].**
- [H] **But in the case of that which is distant [separate from the gallery], even if it is ten handbreadths high, it is assigned to the courtyard.**
- [I] **What is the definition of adjoining [the gallery]?**
- [J] **Whatever is not distant by more than four handbreadths.**
- [I:1 A] But [is not what is in the courtyard] to be assigned to the residents of the lower part [that is, of the courtyard, since, after all, the objects are located in the courtyard and not on the balcony]?
- [B] Said R. Yudan, “That is to say that if the ruin of Reuben is located in the courtyard of Simeon, and Simeon [readily] makes use of it, it is as if it belongs to [Simeon].”
- [I:2 A] [In the case of a distinct domain between two courtyards, and each courtyard readily has access to it,] *it is self-evident that* if this side has an entry-way to the area, and that side likewise, both parties are forbidden to utilize the area of the house between the two courtyards so far as tossing an object or letting down an object [as the case may be]. [That is, unless there is a proper erub, commingling rights of domain, neither party may utilize that space in the manner convenient to it, either by letting something down into it, or tossing something over into it.]
- [B] Samuel said, “As to letting something down, it is permitted, for that is an ordinary way of doing things [so there is ready access], while as to

tossing an object, it is forbidden, for that is not an ordinary way of doing things.”

- [C] Rab said, “One has done nothing [legitimate, either way]. [That is, both parties are forbidden, for in either case is this a convenient way to utilize the space.]”
- [D] *The following passage of the Mishnah stands at variance with the view of Rab: All the area above ten handbreadths is assigned to the gallery. All the area lower than this is assigned to the courtyard [M. 8:3B-C].*
- [E] Now is it not the case that this one may toss an object up onto a mound [in the middle of the courtyard], and that one may let an object down to it? [The area in the case of what is above ten handbreadths is assigned to the residents of the porch, who may make use of it. This is contrary to the view of Rab.]
- [F] *The Mishnah before us speaks of a case in which the mound sets within three handbreadths below the upper area, while it is ten handbreadths above the ground. [If it is more than] three handbreadths below the porch, it is forbidden for the residents of the upper area to utilize it. [Since the mound is so high and so near, it is easy for the residents of the upper balcony to utilize it. The people down below can only toss things upward. The mound is assigned to the upper story.]*
- [G] *Where Rab and Samuel differ, it is in the case of a mound to which [access for each party is] equally [distant, that is, ten handbreadths above the ground, ten handbreadths below the porch].*
- [I:3 A] [If between two courtyards was a] ruin –
- [B] R. Yohanan said, “One assigns the ruin to its owner [if he is able to utilize it conveniently].”
- [C] Up to this point, we have dealt with a case in which one may make use of the ruin through his own doorway [e.g., dumping garbage on it out the front door].
- [D] If, however, one could only utilize the ruin through a window [e.g., because the ruin is not located in the domain of the user] –
- [E] R. Aha in the name of R. Jonathan: “Even so, one assigns the ruin to its owner.”
- [F] R. Eleazar b. R. Simeon in the name of R. Hoshaiyah: “If there were three [such ruins – one near one door, one near the other, and the third in the middle] – this one utilizes the ruin near his door, and that

one utilizes the ruin near his door, and the one in the middle is forbidden.

[G] “Under what circumstances is this the rule? It is when the middle one belongs to them both. But if the one in the middle belonged to a third party, this one utilizes one ruin, and the other utilizes both.”

[II:1 A] [With reference to M. 8:3D:] Said R. Yohanan, “The standing part of a partition and the empty spaces in it [or below it] join together to form the ten handbreadths [in height] and the four [in breadth]. And that is the case only if the standing part is greater than the empty spaces.”

[B] *R. Zeira asked*, “Is that the case only if the standing part on this side and on that side be greater [on both sides of the cistern]?”

[C] *Said R. Yosé*, “*It is self-evident to R. Zeira that the standing part on one side does not join together [with the standing part on the other sides]. It is self-evident to him that the standing part on one side [must be larger in perimeter] than the empty space in the remainder [of the perimeter]. It is no issue to him except as to what is required even in the case of the other half of the standing part? [Does this too have to be greater than the empty space nearby?]*”

[III:1 A] [As to M. 8:3/I-J,] R. Jeremiah in the name of R. Samuel bar R. Isaac: “*The Mishnah [speaks of a case in which the object adjoining the gallery is] from three to four handbreadths from the gallery.*”

[B] “[If the mound is distant from the balcony by] less than three handbreadths, [lo, it is as if it were attached to the balcony and belongs only to it, not to the residents of the courtyard. Therefore,] even if it is taller than ten handbreadths, it is permitted.

[C] “[If the mound is four handbreadths away from the gallery, even if it is] less than ten handbreadths high, it is forbidden, [because in this instance the residents of the balcony cannot readily utilize the mound].

[D] “[Where there is a problem, it is a case in which the mound is] more than three handbreadths from the balcony, [in which case it belongs to the residents of the courtyard,]

[E] “but it is less than four cubits away, [in which case it is easy for the residents of the balcony to make use of it].”

[F] That is so [with reference to a cistern] where there is no beam [covering the cistern], [in which case the cistern may be assigned to the residents of the balcony]. But if there is a beam covering a cistern, whatever the height of the partitions of the cistern, it belongs to the

residents of the courtyard [since they can readily remove the cover, while the residents of the balcony will have to come down to get at the cistern].

- [G] Said Rabbi, “That is so when there is no hole. But if there is a hole, the cistern is used through the hole, [in which case the upstairs residents are perfectly able to use the cistern, and, with the walls at the stated height, the cistern is assigned to the residents of the balcony].”

8:4

[A] He who places his erub in a gatehouse, portico, or gallery – it is not a valid erub.

[B] And he who lives there [in the gatehouse, portico, or gallery and who does not share in the erub] does not prohibit him [from carrying objects in the courtyard].

[C] [He who places his erub] in a shed for straw, cattle, wood, or stores – lo, this is a valid erub.

[D] And he who lives there [in the straw, cattle-, wood-, or storage-shed and who does not share in the erub] does prohibit him [from carrying objects in the courtyard].

[E] R. Judah says, “If the householder has the right of storage there, the other] does not prohibit him [from carrying objects in the courtyard. since the householder now is part owner of the shed].”

[I:1 A] *R. Judah in the name of Rab: “That which you have said [at M. 8:4A-B] applies in the case of a gatehouse belonging to an individual. But in the case of a gatehouse belonging to the public, lo, [if one put an erub-meal therein,] it is a valid erub, and he who lives there does prohibit others from carrying objects in the courtyard [should he fail to participate in the common erub].”*

[II:1 A] Members of the household of R. Yannai say, “[With reference to M. 8:4E,] if [the householder has the right to keep in the storehouse] even a peg for hanging his sandal, [that constitutes a right of storage sufficient to provoke the rule stated by Judah].”

[B] R. Ba bar Hinena said, “Even a lid, even a tray.”

[C] Rab said, “But that is on condition that it is something which may be handled on the Sabbath.”

[D] Said R. Ba, “There was the case of someone who had a chicken coop inside the house of his fellow. He came in without permission of the other. [The issue was whether this constitutes right of

storage.] *The case came before Rab*, who ruled, ‘Since he has to give them water, it is in the status of something which may be handled on the Sabbath, [so he does have the right of storage (= M. 8:4E)].’”

[E] *R. Jacob in the name of Samuel*: “*Disciples of R. Yohanan went up to Akhbari, and they relied on this statement of R. Yannai.*”

[F] *Hezekiah did not rule in this way. Rather, [he said,] “R. Hiyya, R. Assi, and R. Ammi went up to Akhbari, and heard a ruling in the name of the house of R. Yannai: “The law accords with the view of R. Judah.”*”

8:5

[A] **“He who leaves his house and goes to spend the Sabbath in another town –**

[B] **“all the same are a gentile and an Israelite –**

[C] **“lo, this one [who has not participated in the erub of the courtyard where his house is located] prohibits [the others from carrying about in the courtyard],” the words of R. Meir.**

[D] **R. Judah says, “He does not prohibit [their carrying in the courtyard].”**

[E] **R. Yosé says, “A gentile prohibits, an Israelite does not prohibit [their carrying about on the Sabbath],**

[F] **“for it is not usual for an Israelite to return [home] on the Sabbath.”**

[G] **R. Simeon says, “Even if he left his house and went to spend the Sabbath with his daughter in that very same town, he does not prohibit [the others from carrying in the courtyard],**

[H] **“for he already has banished from his mind [the possibility of coming back on that Sabbath].”**

[I:1 A] *This ruling [at M. 8:5A-C] illustrates the position of R. Meir, for R. Meir says, “A house that is locked nonetheless imposes a prohibition, [should the owner not participate in the erub, on all the other residents of the courtyard].”*

[B] [As to M. 8:5E, Yosé’s distinction, may it not be asked,] Can the Israelite not come along, relying upon an *erub*, coming by and returning home? [Accordingly, the Israelite also may serve to prohibit use of the courtyard, should he not participate in the *erub* or nullify his rights to the common domain.]

[C] Mar Uqban in the name of Rab: “The law accords with R. Simeon.”

8:6

[A] **A cistern which is between two courtyards –**

[B] **they do not draw water from it on the Sabbath,**

[C] **unless they made for it a partition ten handbreadths high,**

[D] **whether it is above, beneath, or within its rim.**

[E] **Rabban Simeon b. Gamaliel says, “The House of Shammai say, ‘Below’**

[F] **“And the House of Hillel say, ‘Above.’”**

[G] **Said R. Judah, “The partition should not be [expected to be] more powerful than the wall which is between [the courtyards].”**

[I:1 A] *The views of rabbis differ [with regard to M. 8:6A-D]. For R. Jacob in the name of R. Joshua b. Levi said, “The law [that they may draw water from the cistern on the Sabbath] applies if the partition goes down into the water, so that one may let down a bucket [and draw water from one side or the other].”*

[B] But [with this arrangement] does it not turn out that residents of two different domains will utilize a single domain [in common]?

[C] [No, that is not a problem, for] they have estimated that the bucket does not go more than four handbreadths down into the water, [and the partition then will divide the two parts of the cistern to that depth, as A has said].

[D] [Differing from A,] R. Tabelai in the name of Rab: “The rule governing the ruin does not apply to the case of water, [so a suspended partition in the case of water is sufficient; there is no need for the sort of partition described at A-C].

[E] “If there was a roof, you regard the roof as if it descends and closes off [the two parts of the cistern]. Along these same lines, if there was a cornice, you regard it as if it descends and closes off [one part of the cistern from the other].”

[II:1 A] *The opinions assigned to R. Judah are confused. There he has said: [A woman who borrowed from her girlfriend] spice, water, or salt for her dough – lo, they are in the status of the two of them [so far as transporting these substances are concerned. R. Judah declares exempt in the case of water, for it is of no substance [M. Bes. 5:4C-E]. [It is assumed that his view is that, since water flows on its own,*

there is no issue of the water's being assigned to a particular place for the Sabbath. People may take it wherever they themselves are allowed to go. In that case, in the present instance as well, why should the water be subject to the consideration of a partition, since it flows every which way anyhow.

[B] *Here how can he say this* [M. 8:6G, indicating his basic agreement with the principle at issue here, which is that the water is designated as belonging to a particular place on the Sabbath? [This question is not answered.]

[II:2 A] Said R. Huna, "The rule [of M. 8:6A-C] applies to a case in which the partition protrudes into the open area of the cistern itself, [but the partition may not go under the surface of the water]."

8:7

[A] **A water channel which passes through a courtyard –**

[B] **they do not draw water from it on the Sabbath,**

[C] **unless they made for it a partition ten handbreadths high,**

[D] **at its entry point and at its exit point.**

[E] **R. Judah says, "The wall which is above it is regarded as a partition."**

[F] **Said R. Judah, "There was the following precedent: From the water channel of Abel did they draw water at the instruction of the elders on the Sabbath."**

[G] **They said to him, "It was because it was not of the requisite size [and so did not constitute neglected public domain]."**

[I:1 A] *The Mishnah [at M. 8:7A] speaks of a water channel which is ten handbreadths deep and four broad [in which case it constitutes a domain unto itself].*

[B] [What follows addresses the case of the precedent cited by Judah, M. 8:7F. The channel of which Judah speaks, from which people drew water, in fact ran down the middle of a street in Abel, not through courtyards. Now the question is asked:] But was the water channel not open at both sides? [So why, from Judah's viewpoint, was it permitted to draw water from the water channel? Judah regards the wall as a suitable partition, so M. 8:6, but here what sort of wall serves as a partition?]

[C] [It is possible that the channel] was open only at one side [and not at the other], in which case they rendered it permitted by setting up a side beam and a crossbeam.

[D] Or, in the case of a street open at both ends, they rendered it permitted by setting up a side beam and a crossbeam on one side, and a symbolic door on the other.

[E] But does it not turn out that residents of two distinct domains utilize a single domain in common? [Since, from Judah's view point, the water channel was of requisite dimensions to form domain unto itself, it also divided the two sides of the street into two distinct domains. Accordingly, how could the people draw water from it?]

[F] R. Yosef b. R. Bun in the name of R. Samuel bar R. Isaac: "Interpret the case to involve a street on which there were houses on one side. [The people in those houses set up some sort of barrier to form the alleyway into a domain for their use, and serves, in Judah's view, as a sufficient partition also for the water channel.]"

[I:2 A] *It is obvious* in the case of a water channel ten handbreadths deep but not four broad [thus not constituting a distinct domain] that it is permitted to carry objects in that area, and it also is permitted to draw water from it, [since it does not constitute a distinct domain but is part of the private domain in which it is located].

[B] *It is obvious that* if it is four handbreadths broad but not ten deep, it is permitted to carry objects about in it.

[C] What is the law as to drawing water from it?

[D] R. Hinena said, "It is permitted."

[E] R. Mana said, "It is forbidden."

[F] *The Mishnah differs from the view of R. Mana: They said to him, "It was because it was not of the requisite size and so did not constitute neutral domain" [M. 8:7G].* [If it had been lacking in either of the requisite dimensions, then, whether depth or breadth, it would have been permitted to draw water.]

[G] It was not ten handbreadths deep or four broad. But if it had not been ten deep but it was four broad, would it be forbidden [so far as Mana is concerned]?

[H] And even if it were four handbreadths broad but not ten deep, it would be permitted, [since it lacked one of the requisite dimensions]!

[I] [*Mana replies, "No, that is not pertinent, since] the case was what it was, [and neither of the requisite dimensions was present].*

[Accordingly, one cannot draw any conclusions from the case at all.]”

8:8

- [A] A balcony which is above water –**
- [B] they do not draw water from it on the Sabbath,**
- [C] unless they made for it a partition ten handbreadths high,**
- [D] whether above or below.**
- [E] And so two balconies, one above the other.**
- [F] [If] they made [a partition] for the one on top and did not do so for the one on the bottom,**
- [G] both of them are prohibited –**
- [H] unless they prepare an erub.**

[I:1 A] R. Zeira, R. Judah in the name of Rab: “And this rule [of M. 8:8C-D] applies on condition that the partition extends beneath the surface of the water to the extent of a bucket, [so that when the bucket is in the water, it is in an area clearly delineated as private domain].”

[II:1 A] [As to M. 8:8E-H,] does it not turn out that residents of two distinct domains are utilizing a single domain in common? [The supposition here is explained as follows: The upper balcony has a partition down to the sea. This partition serves without the residents’ of the upper balcony having to let their bucket down through a hole between the upper and lower balconies. The partition extends beyond the balcony, so that the bucket is let down into that partition from the balcony. If the upper balcony has a partition and the lower one does not, and if there is no erub either, then both parties are prohibited from letting down buckets. If the lower balcony has a partition for itself within the perimeter of the partition of the upper balcony, residents of the upper balcony, as well as those of the lower, may draw water, for the bucket passes through the partitioned airspace of the two partitions. Now the Talmud asks: are not residents of the two domains using a single common domain, namely, the airspace between the two partitions? If so, why is it necessary to specify, M. 8:8F, and did not do so for the one on the bottom? Even if a partition had been provided for the bottom balcony, the residents thereof still would be forbidden to use the airspace between the two partitions. This question is not answered.]

[II:2 A] Said R. Huna, “And the rule [of M. 8:8E-H] applies only if the partition sets within three handbreadths of the balcony. [If it was

further than this, the upper balcony's residents may utilize the partition without reference to the lower balcony's domain, since they are further out, and their airspace is distinct from that of the lower balcony.]"

[II:3 A] *It has been taught, "R. Hananiah b. Aqabiah [25b] says, "A balcony that overhangs the sea at a distance of ten handbreadths in height – one makes a hole in the plaster and draws water through it on the Sabbath" [T. Er. 6:27].*

[B] R. Jacob bar Aha in the name of R. Yosé, "And that is the case if the hole is four handbreadths square, and that is the case if the partitions are ten handbreadths in height."

[C] There in Babylonia they say, "Even if the partitions are not ten handbreadths in height, the case is treated as if [the partition were affixed to the water] with a sharp nail. [That is, since the partition may be suspended in the water, even if it is not ten handbreadths high, it is permitted. This then rejects M. 8:8A-D]."

[II:4 A] *[As to a balcony above water, M. 8:8A,] R. Iddi said before R. Hiyya, "It is permitted to draw water but forbidden to pour out slops."*

[B] *He said to him, "When we appoint sages [to be certified for office], we shall count you among them."*

[C] *R. Mana ridiculed him [since he could see no distinction between drawing water and pouring out slops].*

[D] *R. Yosé b. R. Bun gave a reason [for the stated distinction]: "It is permitted to draw water, for he draws the water from within his established partition, but it is forbidden to pour out slops, since he will surely pour the slops outside his partition."*

[E] Said R. Hiyya bar Ba, "R. Hananiah b. Aqabiah stated his rule only with reference to the Sea of Tiberias, which is surrounded by mountains thus, it is as if it has a large-scale partition. [But in the case of other bodies of water, there must be a partition.]"

[F] R. Eleazar asked R. Yohanan, "As to an approach road to a town, what if one throws an object from such a street into an open public road, or from an open public road into an approach road to a town? [This sort of road is not totally equivalent to public domain.]"

[G] He said to him, "In your view, there can never be an area which is totally in the category of public domain!"

[H] [Indeed so!] R. Simeon b. Laqish said, “Under no circumstances may an area fall wholly into the category of public domain unless it is open-ended from one end of the world to the other.”

[I] *The opinions assigned to R. Simeon b. Laqish are at variance, for he has said, “No territory falls into the category of public domain at this time, but only in the age to come, for it is said, ‘Every valley shall be lifted up, and every mountain and hill be made low; the uneven ground shall become level, and the rough places a plain’ (Isa. 40:4).”*

[J] *The following passage of the Mishnah stands at variance with the view of R. Simeon b. Laqish: **What is public domain? The paths of Ber Gilgul and the like of them – are private domain in regard to the Sabbath and public domain with regard to uncleanness [M. Toh. 6:6E-G].***

[II:5 A] [With reference to M. Suk. 1:10: **If the sides of a sukkah are suspended from above and hang three handbreadths higher than the ground, the sukkah is not valid; if they are built from below upward and measure ten handbreadths, it is valid. R. Yosé says, “Just as from below to above, the height of the side must be only ten handbreadths, so from the top downward it must be ten handbreadths (even though the lower side of the wall is more than three handbreadths from the ground)”**]:] Said R. Yohanan, “R. Yosé has made this statement only with regard to the *sukkah*. But as regards the laws of the Sabbath, also R. Yosé will concur [that the partition must be within three handbreadths of the ground].”

[B] *A statement of R. Hanina indicates that the rule applies also to matters affecting the Sabbath.* For R. Haninah said, “A ruler came to Sepphoris, and they hung up hangings [in his honor]. R. Ishmael b. R. Yosé permitted carrying within their area, in accord with the theory of his father. [Now these hangings did not lie within three handbreadths of the ground.]”

[C] R. Yosé b. R. Bun in the name of R. Samuel bar R. Isaac: “[The view of] R. Yosé b. R. Hanina accords with the position of R. Hananiah, and both of them differ from the theory of R. Yohanan [as to the position of Yosé].

[D] “For [delete: R. Yosé bar Haninah] R. Yudan, R. Yosé, and Hananiah b. Aqabiah – all three of them say the same thing [in imposing a lenient ruling, so far as carrying within partitions is concerned].

[E] “R. Judah’s ruling on the space under bridges [is that it is permitted to carry in that space, even though it is enclosed only on two sides].

[F] “R. Yosé – in the matter of the *sukkah*.

[G] “R. Hananiah b. Aqabiah, *for it has been taught*: R. Hananiah permitted three things. He permitted a balcony, the husks of pulse that had been wet down [unintentionally, that these are not rendered susceptible to uncleanness], and the bringing of a towel [to the washhouse, despite the possibility that it will be wrung out].”

[II:6 A] [Referring back to M. 8:8E-H,] R. Abbahu in the name of R. Yosé: “That which you have said applies to a case in which the residents of the balconies make use of holes in the floor of the balconies for drawing water. [In such a case, they must establish partitions or prepare an erub joining their two domains.]

[B] “But if they made use of the space outside [of the framework of the balconies], it is permitted [as is]. [Then the bucket goes down outside of the framework of the domain of the lower of the two balconies.]”

[C] *And so it has been taught [in T.’s version]:* **Three stories, one above the other –**

[D] **the upper and lower one belonging to one person, and the middle one to another –**

[E] **one should not let down a bucket from the upper one to the lower one by way of the middle one.**

[F] **For they do not let down a bucket from one domain to another domain through a [further, distinct] domain.**

[G] **But one may raise up a bucket from the lower story to the upper story [if it does] not go through] the middle one [T. Er. 8:3].**

[H] *Said R. Samuel bar R. Isaac, “That which you have said applies within. But as to the area outside, it is forbidden.”*

[I] R. Zeira said, “Whether within or without, it is forbidden.”

[J] *The following Tannaite passage stands at variance with that which R. Zeira has said:* **A man may let down a bucket of meat and put it on a projection which is four handbreadths broad.**

[K] [If there was] a window in between, which is four by four handbreadths broad, however, it is prohibited to do so.

[L] For they do not move objects from one domain to another through yet a third domain [cf. M. Erub. 10:4A-B] [T. Er. 8:4].

[M] *How does R. Samuel bar R. Isaac deal with this passage?*

[N] He interprets it to speak of a case in which the two are on the same level [the man letting the bucket down, the one receiving it, so it is not as if there is a passage from one domain to the other].

8:9

[A] A courtyard which is less than four cubits [in area] –

[B] they do not pour slops into it on the Sabbath,

[C] unless they made for it a hole holding two seahs [in volume],

[D] from the edge downward,

[E] whether inside or outside [the courtyard].

[F] But: that which is outside one has to cover.

[G] And that which is inside one does not have to cover.

[H] R. Eliezer b. Jacob says, “A drain which is covered over for four cubits in the public domain –

[I] “they pour water [from the courtyard] into it on the Sabbath.”

[J] And sages say, “Even if a roof or a courtyard is a hundred cubits [in area],

[K] “one should not pour water [directly] into the mouth of the drain.

[L] “But he pours it onto the roof, and the water goes down into the drain.”

[M] The courtyard and the portico join together to constitute the four cubits.

[N] And so two stories [of habitations] opposite one another [separated by a courtyard of less than four cubits] –

[O] some made a hole, and some did not make a hole –

[P] those who made the hole are permitted [to throw out slops].

[Q] And those who did not make a hole are prohibited [from doing so].

[I:1 A] They estimated that a place sufficient to absorb the amount of water used by a person in a given day is two hundred *seahs*, and four cubits

absorb the equivalent in volume to two hundred *seahs*. [This explains the area specified at M. 8:9A. If the area is less than the four cubits, provision must be made for the runoff of water.]

[B] If the hole in the ground [M. 8:9C] should be perforated, *there is a Tannaite authority who says*, “One has to stop it up [so that the water will not *simply* flow out into public domain].”

[C] *There is a Tannaite authority who says*, “One does not have to stop it up.”

[D] If the hole in the ground should be filled up, *there is a Tannaite authority who says*, “One has to empty it out.”

[E] *And there is a Tannaite authority who says*, “One does not have to do so.”

[F] *Said R. Mana*, “It is one and the same Tannaite authority in each of the two matters. He who has said, ‘It is necessary to stop up the hole,’ also prohibits pouring out the water, and he who has said, ‘It is not necessary to stop up the hole,’ also holds that it is permitted to pour out the water.”

[G] *Said to him R. Hiyya*, “Son of my master! This is what your father, R. Jonah, maintained in this matter: If the hole was on an incline, flowing inward, then even if the hole is larger than ten cubits, it remains permitted [since the water flows into the courtyard and not out into the public domain]. But if the flow was outward, then even if the hole was less than two cubits, it is forbidden, [since the water will flow outward, and this must be avoided].

[H] “But we deal with a hole on a level plane.”

[I:2 A] *The Mishnah passage before us differs from the view of R. Yohanan: **The courtyard and the portico join together to constitute the four cubits [M. 8:9M].***

[B] Interpret the Mishnah to speak of a case in which the courtyard and the portico are on a level plane.

[C] *The following Tannaite passage differs from R. Simeon b. Laqish, [who takes the position that a high and a low area, e.g., a roof and a courtyard, will not join together to form the requisite four cubits, even though the courtyard and the portico do join together:] **A balcony, roof, and courtyard join together to form the requisite four cubits [T. Er. 6:19A].***

- [D] Said R. Hananiah, “This too speaks of a case in which they are all on the same level. You must know that it is so, *for it has been said, an upper room, the courtyard and h do not join together to form the requisite four cubits* [T. Er. 6:20A]. This deals with a case in which they are not all on the same level. [Hence the other is as stated.]”
- [I:3 A] Said R. Jeremiah, “R. Meir and R. Eliezer b. Jacob have both said the same thing.
- [B] “*R. Eliezer b. Jacob, as we have learned: R. Eliezer b. Jacob says, ‘A drain which is covered over for four cubits in the public domain – they pour water from the courtyard into it on the Sabbath. ‘ And sages say, ‘Even if a roof or a courtyard is a hundred cubits in area, one should not pour water directly into the mouth of the drain ‘* [M. 8:9H-K].
- [C] “*R. Meir, for it has been taught: ‘Culverts that are in cities, [holding 100 seahs], even though they are perforated – one may pour slops into them on the Sabbath,’ the words of R. Meir* [T. Er. 6:18A-B].”
- [II:1 A] [As to M. 8:9J-L:] *So too it has been taught:* [As to a drain covered over for four cubits in the public domain,] if it was flowing along, it is permitted to [pour water into it on the Sabbath].
- [B] If it was the rainy season, it is permitted to do so.
- [C] In the case of spouts which pour out into public domain, it is forbidden to pour water into them [on the Sabbath].
- [D] *And has not Bar Qappara taught, “If it was a discrete place, it is permitted to do so”?*
- [E] *That differs from the view of Rab and cannot be validated. For Rab has said, “Anything that is forbidden for appearance’s sake may not be done even in an innermost room [where no one can possibly see].”*

YERUSHALMI ERUBIN

CHAPTER NINE

9:1

[A] “All roofs of a town are a single domain,

[B] “so long as one roof is not ten handbreadths higher or lower [than the others],” the words of R. Meir.

[C] And sages say, “Each and every one is a domain unto itself.”

[D] R. Simeon says, “All the same are roofs, courtyards, and outer areas

—

[E] “each constitutes a single domain in regard to utensils which have been kept, therein, for the Sabbath,

[F] “and not [a single domain] for utensils which have been kept for the Sabbath in the house.”

[I:1 A] [25c] *R. Yosé b. R. Bun* said, “There is a dispute between Rab and Samuel [relevant to the view of sages, M. 9:1C, that each roof is a domain unto itself. If that is the case, to what extent, within each domain, may one carry objects about?]”

[B] “Samuel said, ‘Up to two *seahs* of space [is permissible for carrying objects, no matter how large the roof’s area].’”

[C] “Rab said, ‘They may carry in a space even of a *kor* or two *kors*.’”

[I:2 A] *They proposed to interpret the dispute [of M. 9:1A-C] between R. Meir and rabbis to pertain to a case in which the residents did not prepare an erub [joining the houses below]. But if they did prepare an erub, [then sages will concur with Meir’s position].*

[B] One may interpret the matter as parallel to a case in which all of the houses belonged to a single man.

[II:1 A] *The Mishnah [M. 9:1C] speaks of a case in which the entries serving all the residents were connected to the roofs with a Tyrian or an Egyptian ladder. But if all entries to the roof went up on an Egyptian*

ladder, except for one which used a Tyrian ladder, that one utilizing the Tyrian ladder [which is fixed permanently in place] is deemed to constitute a gateway, and the rest are regarded as a case in which one goes up or down through climbing [not using a usual doorway at all]. [Then only the owner of the Tyrian ladder enjoys a normal access to the roofs.]

- [II:2 A] [From the viewpoint of Meir, if the roofs are flat, and from the viewpoint of sages, in the case of a single roof,] what is the law as to carrying objects about on the whole of the roof?
- [B] Samuel said, “One may carry throughout the whole of it.”
- [C] Rab said, “People may carry only for four cubits.”
- [D] *The following passage of the Mishnah differs from the view of Rab: A large roof near a small one – the large one is permitted [as an area for carrying], but the small one is prohibited [M. 9:2A-B].*
- [E] *There is no problem as to interpreting the statement on the larger courtyard. One may say that it is permitted to carry for four cubits. But why should it be forbidden to carry in the small one even for four cubits? Does a prohibition under any circumstances extend to carrying for four cubits?*
- [F] [Both authorities must deal with this question, and accordingly,] Rab and Samuel say, “They do assign four cubits to the resident before his doorway [that is, before the doorway available to the smaller courtyard]. [The residents of the smaller courtyard may carry only for four cubits in that specified area.]”
- [G] R. Yosé b. R. Bun in the name of Samuel said, “If there was an open gate as an entry to the roof from the courtyard, even so it is permitted to carry objects from the larger roof to the courtyard, [for, in the viewpoint of sages, the two of them constitute a single domain,] for the wall demarcating the courtyard is not broken down over the breadth of it, but it is forbidden to do so in the case of the smaller courtyard, for the wall demarcating the courtyard is broken down over the breadth of it. [The smaller courtyard is wholly open to the larger one, but the larger courtyard is not wholly lacking a wall. Accordingly, even if you say that the larger courtyard is available for carrying by all parties, since it retains an enclosure on all sides and is unaffected by the condition of the smaller one, the smaller courtyard remains wholly forbidden, since it is not enclosed on all sides. This provides a satisfactory answer from the viewpoint of both Rab and Samuel to the problem raised

at D, as to how the large is permitted and the small forbidden for carrying.]”

- [II:3 A]** [T.’s version:] [**“All the roofs of a town are a single domain [M. 9:1A]. It is prohibited to carry something up or to bring something down from the courtyard to the roofs, or from the roofs to the courtyard. But all (objects) which were kept for the Sabbath in the courtyard may be carried about in the courtyard. And those kept for the Sabbath on the roofs may be carried about on the roofs,”** the words of R. Meir. And sages say, **“Each one constitutes a domain unto itself.”**] Said to them R. Meir, **“Do you not concede [in the case of the men of a courtyard who forgot and did not participate in an erub,] that it is prohibited to bring in or to take out objects from the courtyard to the houses and from the houses to the courtyard? Yet all [objects] which were kept for the Sabbath in the courtyard are permitted to be carried about in the courtyard.**
- [B]** **“So what is the difference between the roof and the courtyard?”**
- [C]** They said to him, **“If you have stated the rule in regard to the courtyard, underneath which there are no distinct residences, will you state the same rule in regard to roofs, beneath which there are distinct residences?”**
- [D]** He said to them, **“So too in the case of a courtyard, sometimes there are distinct residences underneath it.”**
- [E]** They said to him, **“No. If you have stated the rule with regard to the courtyard, in which case everyone will not recognize what is his [part of the courtyard], will you state the rule in the case of roofs, in which case each person recognizes what is his [part]?”**
- [F]** He said to them, **“No. If it [a roof area] was divided up, or if it was made in mosaics, will not everyone recognize what is his?”**
- [G]** Said R. Simeon b. Eleazar, **“Up to this point was the reply”** [T. Er. 7:14A-L].
- [H]** [Claiming the sages have a better reply,] said R. Yosé b. R. Bun, **“At this point they answered before him [in yet another way].**
- [I]** **“They said to him, ‘No, if you have stated your position in the case of a courtyard, the partitions of which do not extend upward to it [so indicating the area belonging to each party, as at A-B, D], will you take the same view in the case of a courtyard, the partitions of which do**

extend upward to it [so that each householder knows which area is his own]? [In this case the alleged analogy falls away.]’

[J] “And he replied to them, ‘I too take the view that what we extend downward we extend upward [so, even though the walls do not extend from the houses to the roof, it is as if they do]. [Then the analogy to the courtyard holds perfectly well, and my question stands.]’”

[II:4 A] *It has been taught* [in T.’s version]: **Said R. Judah, “Here is a precedent: In the time of the danger, we would bring a scroll of the Torah from the courtyard up to the roof, and from one roof to another, where we would read in the scroll.”**

[B] **They said to him, “One may not adduce proof from what was done in the time of the danger” [T. Er. 5:24N-O].**

[C] **Said Rabbi, “When I was studying [Torah] with R. Simeon in Teqoa, we used to bring oil in an unguent from the courtyard to the roof, and from the roof to the shed, and from one shed to another shed, until we reached the spring.**

[D] **“And there we would wash ourselves [using the oil we had carried]” [T. Er. 5:24L-M].**

[II:5 A] [Reverting to the disputes at M. 9:1 ,] *it turns out that there are three [so , rather than four] items under dispute.*

[B] **All roofs of a town are a single domain [M. 9:1 A].**

[C] **R. Judah says, “The courtyard and roofs constitute a single domain.”**

[D] **R. Simeon says.”The courtyard, roof, outer area, constitute a single domain in regard to utensils which have been kept therein for the Sabbath, but not [a single domain] for utensils which have been kept for the Sabbath in the house” [M. 9:1E-F].**

[E] R. Yohanan said, “That is the case when the people did not prepare an *erub* for commingling the domains. But if they did so, the courtyard is in the status of the houses, and the roofs constitute a domain unto themselves.”

[F] Said R. Zeira, “The same rule applies in a case in which they did prepare an *erub*-meal and to a case in which they did not do

[G] *The Mishnah stands at variance with the position of R. Zeira: And not for utensils which have been kept for the Sabbath in the house [M. 9:1].*

[H] If it is not a case in which they did not prepare an erub-meal, then it is necessary to raise this question: If it is forbidden to take [utensils] from the roof, is it not an argument a fortiori that [It is forbidden to take utensils] to the roof?

[I] *Said R. Bun bar Kahana before R. La*, “We deal with a case in which the residents of this area prepared an erub by themselves, and the ones of that area did likewise.”

[J] Even so, **not for utensils which have been kept for the Sabbath therein.**

[K] *Rabbis of Caesarea in the name of R. Yosé b. R. Bun*: “The position of Samuel accords with the view of Rab, and both of them differ from the theory of R. Yohanan. For we have learned: **All roofs of a town are a single domain [M. 9:1A].**

[L] “Samuel said, ‘[One may carry] up to two *seahs*.’

[M] “Rab said, ‘Even in an area of a *kor* or two *kors* it is permitted to carry objects.’”

9:2

[A] A large roof near a small one –

[B] the large one Is permitted [as an area for carrying], and [to take something from the large to] the small one is prohibited.

[C] A large courtyard [the wall of] which was breached [so as to give access] to a small one –

[D] the large one is permitted, and the small one is forbidden,

[E] for it [the smaller roof or courtyard] is like a doorway to the large one.

[I:1 A] *The Mishnah speaks of that same roof. But as to a roof belonging to another party, it is forbidden. [That is, it is permitted to carry in that same roof, belonging as it does to a single owner. The owner may take an object from the area in which the wall is not breached to the area in which it is breached. But it is not permitted to take an object from the latter to the former. The smaller area, the wall of which is breached, here is assumed to belong to another owner. That is the operative consideration, not whether or not the wall is breached.*

[B] *The Mishnah [at M. 9:2A-B] speaks of a case in which the two roofs are not on the same plane. But if they are on the same plane, it is permitted. [conjectures that this is taken over from M. Bes. 5:1 /I.A-C,*

which is as follows: When the rule, M. Bes. 5:1A-B, permits letting down pieces of produce through a hatchway on a festival, the Mishnah speaks of fruit from the roof of that house in particular. But as to fruit on the roof of some other house, it is forbidden. But if the roofs were on the same level, so not much extra labor is involved, it is permitted.]

- [I:2 A] [Reference is made to Y. 6:8, at which Samuel rules that if a matter is permitted for part of the Sabbath, it is permitted for the whole of it.] *The following passage of the Mishnah stands at variance with Samuel's position: A large roof near a small one – the large one is permitted as an area for carrying, and the small one is prohibited [M. 9:2A-B].* But why should it not be permitted [if Samuel's principle is accepted] to carry in the smaller area up to the point at which the partitions had stood [before the wall broke down]? [After all, that area had been permitted for part of the Sabbath!]
- [B] *Associates said before R. Yosé in the name of R. Ahayyah, "That which Samuel has said applies to the very same Sabbath [on which, e.g., the wall was breached], while what the Mishnah passage before us says pertains to the Sabbath thereafter. [Accordingly, there is no conflict between the two positions.]"*
- [C] *How shall we interpret the matter?* If the people [owning the smaller courtyard] prepared an *erub* [covering both courtyards], then whether it is on the present Sabbath or on the coming one, they should be permitted [to carry, regarding the two areas as a single common domain]. If, on the other hand, they did not prepare an *erub*,^{lb} at all, then whether for the present Sabbath or for the one coming thereafter, it should be forbidden to carry. [Accordingly, the proposed harmonization itself raises problems for the interpretation of the passage of the Mishnah before us.]
- [D] *As to the actual event, this is how it was.*
- [E] *Said R. Bun bar Kahana before R. La, "[It was a case in which] this group made an erub for the one courtyard, and that group did for the other. Even so, the residents owning the larger courtyard are permitted to carry things about, for the whole of the wall of the larger courtyard has not been breached, while the residents of the smaller courtyard are forbidden to carry objects about, for the whole of the wall of the smaller courtyard was breached."*

9:3

- [A] **A courtyard which [on the Sabbath] was breached [so as to give access] to the public way [or to any other distinct domain] –**

[B] “he who brings [objects] from within it to private domain. or from private domain into it, is liable, “ the words of R. Eliezer.

[C] And sages say, “[He who brings objects] from within it to the public way, or from the public way into it, is exempt.

[D] “for [the courtyard now] is in the status of neutral domain.”

[I:1 A] R. Zeriqa, R. Jacob bar Bun in the name of R. Haninah: “R. Eliezer’s rule [imposing liability] applies only to the space in the area of the walls themselves. [But as to the rest of the courtyard. he concurs that it is in the status of neutral domain.]

[B] “The rule further applies to a case in which the comers were removed on both sides, [but if the corners survived, Eliezer concurs that the space still delineated by the corner is not in the status of public domain].

[C] “But that is on condition that the remaining corners encompass four handbreadths of area.”

[D] *Both R. Zeira and R. Ila [differing from Zeriqa]:* “The view of R. Eliezer that it is forbidden [to bring objects from the area to private domain, or from private domain into the area] applies to the space not occupied by the walls. [The whole courtyard is public domain.] But in the area occupied by the walls [which have fallen down], even rabbis concur [that it is now regarded as equivalent to public domain, not merely to neutral domain].”

[E] *Said R. Zeriqa,* “I spent plenty of time laying out the law with R. Jacob bar Bun, but I never heard this matter [A] from him.”

[F] *He said to him,* “And is it not possible that someone heard from an authority something that his fellow had not heard from that same authority?”

[G] R. Jeremiah in the name of Rab: “The rule applies when the corners [of the wall] have been removed, so long as they are equally [flattened].”

9:4

[A] A courtyard which [on the Sabbath] was breached [to give access] to public domain on two sides,

[B] and so too: a house which was breached on two sides,

[C] and so too: an alleyway the beams or side posts of which were removed –

- [D] “they are permitted on that Sabbath, but prohibited in time to come, “ the words of R. Judah.
- [E] R Yosé says, “If they are permitted on that Sabbath, they are permitted in time to come.
- [F] “And if they are prohibited in time to come, they are prohibited on that Sabbath.”
- [I:1 A] Why [does the Mishnah specify that the courtyard was breached to give access to public domain] on two sides? Even if it were only at one side, [that would suffice to raise *the* question before us].
- [B] And does it not accord with the view of Rabbi, for Rabbi has said, “A courtyard is rendered permitted [for carrying objects] through setting up two partitions”?
- [C] R. Samuel in the name of R. Zeira: “It is subject to dispute. *He who maintains the view there that a single partition suffices here will likewise refer to a single partition, and he who said there that two partitions suffice here will likewise refer to two partitions.*”
- [II:1 A] [As to M. 9:4B, **a house breached on two sides:**] If it was breached in the middle, it remains permitted [to carry in the house, since it is roofed over].
- [B] Samuel said, “[If it is breached in the middle, even where it is roofed over], it is forbidden [to carry in the house].”
- [C] *Said R. Zeira, “If this statement of Samuel’s is not derived from a teaching, there is a question to be raised in its regard. [Specifically, what does it mean?] If the entire side of the house is breached [and lies open in public domain, why should it be forbidden to carry there]?”*
- [D] *Said R. Yosé b. R. Bun, “That would be [similar to] a colonnade. If it is a colonnade, is it not [25d] then permitted [for carrying]?”*
- [II:2 A] Said R. Yohanan, “R. Eliezer [M. 9:3B] has made his statement only in regard to a courtyard and an alleyway. But as to a house, is it in the status of a bridge?”
- [II:3 A] Rab and R. Yohanan said, “It is forbidden, both on that Sabbath and on the coming Sabbath.”
- [II:4 A] Said R. Yohanan, “Costus, a gourd, an alleyway, a proselyte, and an ordinary person are subject to a strict rule.”
- [B] Costus, *as we learn in the following: “Costus, amomum, the principal spices, crowfoot, asafoetida, black pepper, and lozenges*

of safflower are purchased with money of second tithe, but do not receive uncleanness as food,” the words of R. Aqiba.

[C] **Said to him R. Yohanan b. Nuri, “If they are purchased with money of second tithe, then why do they not receive uncleanness as food? If they do not receive uncleanness as food. then they also should not be purchased with money of second tithe [M. Uqs. 3:5].”**

[D] R. Yohanan said, “It is subject to the following strict rule: It receives uncleanness as food, and may not be purchased with money of second tithe.”

[E] Gourd: *We have learned there:*

[F] **A gourd which they immersed in water which is not suitable for mixing – they mix with it before it is made unclean.**

[G] **[If however] it is made unclean, they do not mix with it.**

[H] **R. Joshua says, “If he mixes with it in the first place [before it is unclean], even at the end [after it is unclean] does he mix with it.**

[I] **“If he does not mix with it at the end, even in the first place he should not mix with it.”**

[J] **One way or the other he should not collect in it water which has been mixed [with ashes] [M. Par. 5:3].**

[K] R. Yohanan said, “It is subject to the following strict rule: They do not mix with it either in the first place or at the end.”

[L] As to an alleyway, *we have learned there:*

[M] **An alleyway the beams or side posts of which have been removed**
–

[N] **“they are permitted on that Sabbath, but prohibited in time to come, “ the words of R. Judah.**

[O] **R. Yosé says, “If they are permitted on that Sabbath, they are permitted in time to come.**

[P] **“And if they are prohibited in time to come, they are prohibited on that Sabbath “ [M. 9:4].**

[Q] R. Yohanan said, “It is subject to the following strict rule: It is prohibited both on that Sabbath and on the Sabbaths in time to come.”

- [R] The case of the proselyte, *for it has been taught*:
- [S] **A gentile who converted and who had wine and who said, “It is perfectly clear to me that it has not been made unclean” –**
- [T] **when others were engaged therewith, it is prohibited to him and prohibited to everyone else.**
- [U] **If the man himself [was engaged therewith], it is permitted to him and prohibited to everyone else.**
- [V] **R. Aqiba says, “If it is permitted to him, it is permitted to everyone else. If it is prohibited to him, it is prohibited to everyone else” [T. Toh. 9:7].**
- [W] R. Yohanan said, “He is subject to the following strict rule: The kegs of wine are regarded as prohibited both to him and to everyone else.”
- [X] The ordinary person [*am ha’ares*], *as it has been taught*:
- [Y] **An am haares who took on himself [the obligations of the haber], and who had clean foods, and who said, “It is perfectly clear to me that they have not been made unclean” –**
- [Z] **when others had been engaged therewith, they are prohibited to him and prohibited to everyone else.**
- [AA] [If] only he himself [was engaged therewith], they are permitted to him and prohibited to everyone else.
- [BB] **R. Aqiba says, “[If] they are permitted to him, they are permitted to everyone else; [if] prohibited to him, they are prohibited to everyone else” [T. Toh. 9:6].**
- [CC] R. Yohanan said, “He is subject to the following strict rule: The foods are regarded as prohibited both to him and to everyone else.”

9:5

- [A] **He who builds an upper room on top of two houses [opposite one another on a public road],**
- [B] **and so too, viaducts –**
- [C] **“they carry objects below them on the Sabbath,” the words of R. Judah.**
- [D] **And sages prohibit.**

[E] **And further did R. Judah say, “They prepare an erub for an alleyway which is a thoroughfare.”**

[F] **And sages prohibit.**

[I:1 A] R. Huna said, “An area that is roofed over does not fall into the category of public domain.”

[B] [Rejecting this view,] said R. Simeon bar Karsenah, “But have you not derived these laws from the analogy provided by the situation prevailing in the Wilderness [Tabernacle]? And in the Wilderness there was a roofed-over area, [namely, the wagons, which were covered]. [The area beneath and around them was deemed public domain. Accordingly, Huna cannot be right.]”

[C] *The Mishnah passage before us does not phrase matters in accord with [Simeon bar Karsenah], but: **And so too viaducts – “They carry objects below them on the Sabbath, “ the words of R. Judah. And sages prohibit [M. 9:5B-D].** The passage thus states only, **And sages prohibit.** But: “He is liable to a sin-offering” is not stated here, [in consequence of which the notion that a roofed-over area constitutes public domain is not contained within the passage before us].*

[I:2 A] What is the law as to having to provide a partition [from Judah’s viewpoint]? [That is to say, does Judah declare it permitted to carry in the stated areas because the two available partitions suffice, in which case, some sort of partition is necessary? Or does he declare it permitted to carry because we imagine that the roof descends and seals the area, in which case no partition is required beyond the roofed over area?]

[B] R. Ba said, “It requires a partition.”

[C] R. Yosé said, “It does not require a partition.”

[D] *Associates said before R. Yosé, “Well has R. Ba ruled, for we have learned: **Said R. Judah, “The partition should not be expected to be more powerful than the wall which is between [the courtyards] [M. 8:6G].** [This indicates that Judah does not require a partition, beyond the available wall.]”*

[E] He said to them, “There where there is a roof, it is not necessary to provide a partition, while here, where there is no roof, it is necessary to provide a partition.”

[F] *This is in line with that which [the Amora] R. Judah said [explaining the position of the Tannaite authority, R. Judah, whose opinions are before us], “That which you have said pertains to a*

path that opens out into a valley [which is differentiated, thus neutral domain]. [In that case, the public way does not vitiate the power of the partition.] But if the path opened out into public domain, [the passage of the public way does vitiate the partition, and hence] it is forbidden [to carry in an area partitioned off but traversed by the public way]" [Y. 2:4/I.B]. [This statement further indicates that in Judah's view partitions are not the critical consideration]

[G] That is the case when there is no partition. But if there is a partition, it is permitted, [and that is without regard to the presence of a roof]. [Hence, as Ba has said, the critical consideration is not the roof but the partition.]

YERUSHALMI ERUBIN

CHAPTER TEN

10:1

[A] He who finds tefillin [in the public way]

[B] brings them in one by one.

[C] Rabban Gamaliel says, “Two sets at a time.”

[D] Under what circumstances?

[E] In the case of used ones.

[F] But in the case of new ones, he is exempt [from the obligation of putting them in a protected place].

[G] [If] he found them arranged in sets or in bundles,

[H] he waits until darkness while standing over them, and [then] he brings them in.

[I] But in a situation of danger, he covers them up and goes along

[I:1 A] He who finds tefillin brings them in one by one [pair by pair] [M. 10:1A-B], just as they are worn as clothing, one on the head, one on the arm.

[B] Rabban Gamaliel says, “Two sets at a time” [M. 10:1C], two on his head, two on his arm.

[I:2 A] R. Abbahu, R. Eleazar: “He who puts on *tefillin* at night violates a positive commandment, for it is said, ‘You shall therefore keep this ordinance from day to day [and from year to year]’ (Exod. 13:10). ‘In the daytime’ and not by night.”

[B] *Yet lo, R. Abbahu sat and taught [traditions] in the evening, with his tefillin on.*

[C] They were at the side [not as they usually were worn], and it was as if they were a mere bailment in his hand, [so not as if he wore them to fulfill his religious obligation to do so].

- [D] [Explaining Abbahu's action,] *there is he who wishes to explain as follows*: “The rule has been stated only in the language of ‘He who puts on,’ but if the *tefillin* were on the man while it was still day, it is permitted to leave them on at night.”
- [E] *There is he who wishes to explain as follows*: “The religious duty affecting them applies until the last pedestrians have left the marketplace [even if this is by night].”
- [F] *There is he who wishes to derive the fact* [that the Sabbath is not the correct occasion for wearing *tefillin*] from the following: “And it shall be for a sign upon your hand” (Exod. 13:9) – applicable to those days on which a sign is required, excluding, therefore, the Sabbath and festival days which themselves constitute an equivalent sign.
- [G] But has it not been stated, “From day to day” (Exod. 13:10)?
- [H] *You have, therefore, adequate explanation* [of the multiple proofs for the same proposition] *only on the basis of that which R. Yohanan has said*, “As to any matter for which there is no clear-cut proof, they derive evidence in support of such a proposition from many proof-texts.”
- [I] How do we know that women [are not obligated to wear *tefillin*]?
- [J] “And you shall teach them to your sons, [talking of them when you are sitting in your house, and when you are walking by the way, and when you lie down, and when you rise]” (Deut. 11:19) – and not your daughters.
- [K] He who is liable to study Torah also is liable to wear *tefillin*. women, who are not liable to study Torah, also are not liable to wear *tefillin*.
- [L] *They objected*, “Lo, there is the case of Michal, daughter of Saul, who wore *tefillin*. The wife of Jonah, furthermore, made a festival pilgrimage, and sages in neither case stopped them from doing so.”
- [M] R. Hezekiah in the name of R. Abbahu: “The wife of Jonah did they send away [and they did not permit her to complete the festival pilgrimage]. Michal, daughter of Saul, found that the sages objected to what she did.”

[N] *They proposed, “In the view of rabbis, the matter is not well founded, while in the view of Rabban Gamaliel, the matter is well founded [in light of H]. [That then is what is at issue. Rabbis take the view, M. 10:1A-B, that the Sabbath may well be a time for wearing tefillin, on account of which one wears the tefillin as one normally would, so as not to transgress the law of not adding to the requirements of a given religious deed. If one put on two at a time, and the time was a normal one for wearing tefillin, he would violate the law against adding to what is required, in this case by putting on two sets of tefillin. Gamaliel says that the Sabbath certainly is not a time for wearing tefillin. One puts on two at a time in order to save them.]”*

[O] Said R. Jeremiah in the name of R. Samuel, “[The reason Gamaliel specifies that one brings in two, and no more than two, at a time, is that] they took a measurement and ruled that the place on the forehead at which the tefillin are worn holds up to two tefillin.

[P] If that is the case, then even on an ordinary day [one should be permitted to wear two sets of tefillin, on the head and on the arm].

[Q] *Said R. Haggai, “If someone wants to put on [two] he may indeed do so.”*

[R] Said R. Zeriqa, “R. Hamnuna explained, ‘One puts on tefillin up to the place at which the head of an infant is soft [with the cranium not fully hardened, and that place will hold only a single box of tefillin, and not two].’”

[S] *There we have learned: R. Judah b. Baba gave testimony concerning a chicken that was stoned in Jerusalem because it had killed a human being [M. Ed. 6:1D]. It saw the soft skull of an infant and went and pecked at it [and the child died].*

[II:1 A] [As to the interpretation of M. 10:1C, **two sets at a time,**] said R. Yosé, “The meaning of the Mishnah is, ‘And that is on condition that one bring them in two at a time.’ [One must not look as if he is putting on tefillin on the Sabbath and so does it in an odd way.]”

[B] R. Yosé b. R. Bun in the name of R. Aha: “One puts on even two at a time [and all the more so, one at a time].”

[C] *They proposed to explain that in the view of rabbis, the matter [of not wearing tefillin on the Sabbath] is not well grounded in proof-texts, while in the view of R. Aha [better: Gamaliel] it is well grounded in proof-texts.*

[D] In any event, why should one not bring the *tefillin* back in his hand?

[E] It is better that one bring them as one wears a garment and not as one carries a burden.

[F] [Furthermore,] it is better to set aside the restrictions of the Sabbath only one time, and not to do so two times [in support of M.

[II:2 A] *It has been taught: All the same are a man and a woman [who may find tefillin. Both are to follow the rule of bringing them in] [T. Er. 8:15].*

[B] [But from the view of him who holds that it is not clearly established that the Sabbath is not a time for wearing *tefillin*, there should be a considerable difference between a man and a woman. For the man is then obligated, and the woman is not obligated, to wear the *tefillin*, on the Sabbath as well. This problem is now spelled out.] *The statement [at A] poses no problems to him who maintains that there is ample proof [that the tefillin are not worn on the Sabbath]. But from the viewpoint of him who says that there is not ample proof [that the tefillin are not worn on the Sabbath], it cannot be clearly the case that men [do not wear tefillin], while it is clearly the case that women [do not wear tefillin].*

[C] *Said R. Eleazar, “Who stands behind the statement concerning the woman? It is Rabban Gamaliel [who holds that there is no difference between the obligation of the man and the woman in this regard].”*

[D] *But has it not been taught: Tabi, the slave of Rabban Gamaliel, would put on tefillin, and sages did not object? [Delete: Now in this case, surely they did object.] Yet does not the same rule apply to a slave and a woman? [Accordingly, there should be a considerable difference, in Gamaliel’s view, between the woman and the man in the matter of A-B].*

[III:1 A] Under what circumstances? In the case of used ones. But in the case of new ones, he is exempt from the obligation of putting them into a protected place [M. 10:1D-F].

[B] Why is this the case? It is because old ones have been inspected [and are certified as valid], while new ones have not.

[C] *It has been taught:* “As to *tefillin*, it is necessary to examine them [to see that they are valid] once every twelve months,” the words of Rabbi.

[D] Rabban Simeon b. Gamaliel says, “It is not necessary to do so.”

[E] Hillel the Elder says, “These derive from my maternal grandfather.”

[F] If one found them arranged in sets or in bundles [M. 10:1G]:

[G] He inspects the condition of the first box of the first set, and so in the case of the second and third.

[H] Isaac b. Eleazar asked, “Does one serve to establish the prevailing assumption concerning the condition of all of them, or [must one examine] each one by itself?”

[I] If you say that one serves to establish the prevailing assumption concerning the condition of all of them, then one inspects the condition of the first box of the first set. If one must examine each one by itself then one must inspect three pairs from each set.

[IV:1 A] But in a situation of danger, he covers them up and goes along [M. 10:1/I]:

[B] **If it was raining, lo, this one covers himself up in a piece of leather [protecting the scroll], and he covers [the tefillin with his own garment] [cf. T. Er. 8:16D].**

[C] *R. Aha in the name of R. Ba:* “*That which you have said* applies in the case of a piece of leather which is soft, but in the case of one which is hard, it is in the category of a burden.

[D] “It further applies to a case in which the place in which the *tefillin* were located was sloping. But if it was not sloping, *it is not in such a place in which one [is permitted to leave them and come back later, as at M. 10:1/I].*”

10:2

- [A] R. Simeon says, “He hands them to his fellow: and he to his fellow, until it reaches the outermost courtyard of the town.
- [B] “And so in the case of his son [who was born in the field on the Sabbath]:
- [C] “He hands him over to his fellow, and his fellow; even one hundred.”
- [D] R. Judah says, “A man hands over a jug to his fellow, and his fellow to his,
- [E] “even outside of the Sabbath line.”
- [F] They said to him, “This object should not go further than the feet of its master [may take it].”
- [I:1 A] Both R. Eliezer and R. Abedimi in the name of R. Mana – one of them said, “[M. 10:2B] speaks of an infant in the time of danger.”
- [B] *His fellow answered him*, “If it deals with an infant in the time of danger, let them bring him in by hand [carrying him in the normal way].”
- [C] [Since the danger was in violating the edict against circumcision, in which case whatever had to do with the circumcision might be done on the Sabbath,] he replied to him, “We deal with a case in which he can bring him in in a permitted manner. [The permitted manner is the way in which the Mishnah has outlined the procedure.]”
- [II:1 A] R. Simeon b. Laqish in the name of Levi Sokayya: “[When the Mishnah at M. 10:3D refers to this procedure,] *the Mishnah speaks of* a case in which one pours water from one jug to the next [but does not pass the actual jug].
- [B] “*If that is not the case, one cannot interpret the passage in accord with R. Judah’s views expressed elsewhere*, for R. Judah says, ‘Flowing liquid [is not regarded as having substance and may be transmitted in the manner just now described.’ The jug, by contrast, can travel no further than its owner is permitted to move. So what is transported can only be water.]”

10:3

- [A] He who was reading in a scroll on the threshold,
- [B] [and] it rolled out of his hand,
- [C] may roll it back to himself.

- [D] **[If] he was reading on the top of the roof, and the scroll rolled out of his hand,**
- [E] **before it falls to within ten handbreadths [of the ground], he may roll it back to himself.**
- [F] **Once it has fallen to within ten handbreadths [of the ground], he turns it over onto the written side [to protect it].**
- [G] **R. Judah says, “Even if it is distant from the ground by only so much as a hair’s breadth,**
- [H] **“he may roll it back to himself.”**
- [I] **R. Simeon says, “Even if it has touched the ground itself, he may roll it back to himself.**
- [J] **“For nothing which is prohibited by reason of Sabbath rest stands against the [honor due to] the Sacred Scriptures. J’**
- [I:1 A] *The Mishnah takes the view that in the threshold it is permitted [to leave the scroll], but outside of the threshold it is forbidden [for in that case, one brings the scroll from neutral domain to private domain].*
- [B] [Answering the question of how on the Sabbath the person brought the scroll from the house to the threshold, which, as A has said, may not be done,] one may interpret the case to involve someone sitting and reading in the scroll while it was still day, who forgot and then brought it out to the threshold [at dusk].
- [II:1 A] **Before it falls to within ten handbreadths of the ground. he may roll it back to himself. once it has fallen to within ten [26b] handbreadths of the ground [M. 10:3E-F], it is forbidden [to roll it back].**
- [B] R. Jacob bar Aha in the name of R. Yosé: “This represents the view of R. Judah, who has said, ‘It is forbidden to make use of the airspace within ten handbreadths of the ground [since within ten handbreadths of the ground, the airspace is deemed equivalent to the ground itself].’”
- [III:1 A] **Once it has fallen to within ten handbreadths of the ground, he turns it over onto the written side to protect it [M. 10:3F]:**
- [B] Why? It is so that the actual writing will not be ruined.
- [C] *This accords with what R. Aha said, R. Samuel bar R. Nahman: “In the case of a scroll which is not covered by a cloth, [in the rain] one turns it over onto the written side, so that the writing will not be ruined.”*

[IV:1 A] R. Judah says, “Even if it is distant from the ground by only so much as a hair’s breadth, he may roll it back to himself” [M. 10:3G-H]:

- [B] *The principles assigned to R. Judah are in a state of confusion. There he has said, “It is forbidden to make use of the airspace within ten cubits of the ground,” and here he has said this!*
- [C] *Said R. Yohanan, “We should have here not R. Judah but R. Meir and sages.”*
- [D] R. Yosé in the name of R. Yohanan: “It is not the end of the matter that the rule involves an entire scroll. Even if the man retains in his hand merely a strap [tied to the scroll, the same rule applies].”

10:4

[A] A projection before a window –

[B] they put things out on it and take things back from it on the Sabbath.

- [I:1 A]** [The rule of the Mishnah refers only to a] single projection, but if there were two [the second being below the one under discussion, and both of them being ten handbreadths above the ground], it is forbidden [to use either projection].
- [B] [For both projections enter into the same domain, and] residents of two different domains are forbidden to make use of a single domain in common.
- [C] *That conception pertains* when the projection is not four cubits [in which case it is in the status of private domain, part of the wall].
- [D] But if it is four cubits in size, [it is available for use] in line with that which R. Aha said in the name of R. Yohanan, “Cornices and walls ten handbreadths high and four broad – it is permitted to utilize them from the domain on one side or the other, so long as one does not move [an object from one domain to that space and from there to the other domain].”

10:5

[A] A man stands in private domain and moves something about in public domain,

[B] in public domain and moves something about in private domain,

[C] on condition that he not move the object outside of four cubits [from where he picked it up].

- [D] **A man should not stand in private domain and urinate into public domain.**
- [E] **in public domain and urinate into private domain.**
- [F] **And so too he should not spit [across the Sabbath line].**
- [G] **R. Judah says, “Also: he whose spit is loose in his mouth should not walk four cubits until he has spit it out.”**
- [I:1 A] It is not the end of the matter that **a man stands in private domain and moves something about in public domain, in public domain and moves something about in private domain, on condition that he not move the object outside of four cubits from where he picked it up [M. 10:1A-C].**
- [B] *Said Rab, “The Mishnah [further] makes the point [that Meir will differ]:* **A man should not stand in private domain and open a door in public domain, in public domain and open a door in private domain, unless he has made a partition ten handbreadths high,”** the words of R. Meir [M. 10:9A-C].
- [II:1 A] [With reference to M. 10:5G:] Rab said, “[Judah refers to] **one’s phlegm. [Cf. T. Er. 8:7A.]”**
- [B] *R. Yohanan said, “[Judah refers to] one’s phlegm, for if that is not the case, [and if Judah refers only to spit, then Judah is inconsistent, for] R. Judah is consistent in maintaining that any sort of flowing liquid is regarded as connected [and hence the conditions of M. 10:5G cannot be met merely by spit but rather by phlegm, unconnected as it is to the flowing spit in his mouth].”*
- [II:2 A] It is not the end of the matter that one should not **stand in private domain and urinate into public domain [M. 10:1D].**
- [B] But he should not even stand in public domain and urinate in public domain, so that the drops of water roll along down into private domain. That too is forbidden.
- [C] Said R. Yosé b. R. Bun, “It is not the end of the matter that one should not **stand in public domain and urinate into private domain [M. 10:1E].**
- [D] “But he should not even stand in private domain and urinate in private domain, so that the drops of water roll along down into public domain. That too is forbidden.”

[E] *Said R. Yosé, “That then implies: A pipe which stands in public domain, ten handbreadths high and four broad – they do not pour slops into it, which will roll along down.”*

10:6

[A] **A man should not stand in private domain and drink in public domain,**

[B] **in public domain and drink in private domain,**

[C] **unless he has poked his head and the greater part of his body into the same domain as that in which he drinks.**

[D] **And so in the case of a winepress.**

[E] **A man scoops up water out of a gutter less than ten handbreadths from the ground.**

[F] **And from a waterspout**

[G] **in any manner he may drink.**

[I:1 A] *There is no difficulty* in understanding why it should be prohibited to stand in private domain and drink in public domain [M. 10:6A]. [In that case he must bend over to less than ten cubits, thus in public domain, so he transports liquid from public to private domain.]

[B] But if he stands in public domain and drinks in private domain, is his mouth not above a height of ten handbreadths [and that space also is public domain? So why is he held to transport water from private to public domain?]

[C] No, the case is differentiated, for the water rolls downward [into the part of his body which is located in private domain].

[I:2 A] *It has been taught: A camel, the head and greater part of the body of which are inside –*

[B] **they feed it inside.**

[C] **[If the head and greater part of the body of the camel] are outside, they feed it outside [T. Er. 8:6A-C].**

[D] *There is no problem* in understanding why, if the camel is inside, they feed it inside.

[E] But if the camel is outside, [does one not then move the fodder from the courtyard to the public domain?]

[F] [No, that is not a consideration, for] is not the mouth of the camel located above ten handbreadths from the ground [in neutral domain]? [That is permitted.]

- [I:3 A] *[A statement of R. Jacob bar Aha should appear here. Then:] R. Yosé b. R. Bun [said], “The traditions assigned to him are confused. For did not R. Jacob bar Aha state in the name of R. Haninah, ‘The three cubits nearest a partition are regarded as tantamount to the partition’?”*
- [B] Interpret the matter to involve an object which has fallen outside of three cubits, which is not four handbreadths broad.
- [C] If one stuck a reed into the ground, and surrounded it with some sort of a partition [not of a normal kind], and one tossed something into it from the public domain –
- [D] R. Isaac b. Eleazar says, “The matter is subject to dispute.”
- [E] *R. Judah objected, “And have we not learned: **If the wife was standing on the rooftop and he threw the writ of divorce to her, once it has reached the airspace of the roof, lo, this woman is divorced [M. Git. 8:3G-HJ]?”***
- [F] *Said R. Eleazar, “[With reference to M. 8:3G-H, the wife standing on the rooftop,] the Mishnah deals with a rooftop surrounded by a parapet.”*
- [G] And the law applies to a case in which the writ has fallen into the contained airspace of the parapet.
- [H] In the case of a rooftop lacking a parapet, the law applies when the writ has fallen into the airspace within three cubits of the roof. For three cubits of airspace nearest to the roof are tantamount to the roof itself.
- [I] R. Jacob bar Aha, R. Ba bar Hamnuna in the name of R. Ada bar Ahva, “Along these same lines is the law for the Sabbath. For the three cubits nearest a partition are deemed tantamount to the partition itself.”]
- [II:1 A] *Said R. Hiyya, “**And so is the case of a winepress [M. 10:6D]. This has to do with the matter of tithing.**” [At issue is M. Ma. 4:4: “**They may drink out of the winepress, whether mixed with hot water or cold, and be exempt from tithes, “ the words of R. Meir. R. Eliezer b. R. Sadoq declares them liable to tithes.** Now the point pertinent here is that one should not drink wine from the winepress unless he has*

poked his head and the greater part of his body into the same domain as that in which he drinks, just as at M. 10:6C-D.]

[III:1. A] [As to M. 10:6E, **A man scoops up water out of a gutter less than ten handbreadths from the ground,**] R. Judah said, “This represents the view of R. Meir, for he has said, ‘You regard the wall as leveled.’”

[B] R. Jacob bar Aha in the name of R. Eleazar: “It represents the view of all parties. We deal with a case in which the wall slants at a grade of ten handbreadths to three.”

[C] *R. Yosé asked*, “If the wall slants at a grade of ten handbreadths to three, then it is in the status of a roof. If there [with reference to the matter of delivery of the writ of divorce], we maintain that the actual coming to rest of the writ of divorce is not required [for the writ to be regarded as falling into the woman’s domain], the rule is that the writ is deemed in her domain if it comes to rest, here, in which it must come to rest, is it not an argument a fortiori?”

[D] *Said R. Hanina before R. Mana*, “In any case it has not come to rest.”

[E] He said to him, “Since it is not in the dimensions of four handbreadths, even if it has come to rest it is as if it has not come to rest. ‘

10:7

[A] A cistern in the public domain, with its surrounding bank ten handbreadths high –

[B] a window which is above it –

[C] they draw water from it on the Sabbath.

[D] a garbage dump in the public domain ten handbreadths high –

[E] a window which is above it –

[F] they pour out slops into it on the Sabbath.

[I:1 A] [Since the Mishnah specifies that the partition is ten handbreadths high, it would appear to exclude a case in which the cistern is in a hole ten handbreadths deep. Accordingly, we must ask,] Do you not regard depth as equivalent to height [in the assessment of the effects of the partition]?

[B] [The Mishnah speaks of a case] in which the mouth of the cistern is not four handbreadths square [in which case it cannot constitute

private domain, but remains in public domain, unless the surrounding partition reaches the requisite height]. [But were the mouth of the cistern four handbreadths broad, then the depth of ten would suffice.]

- [I:2 A] Up to this point [we have dealt with such a distinct area which is sufficiently] close [so that a window is directly above it, e.g., at M. 10:7B, E, where it is within four cubits of the wall]. What is the rule if the cistern or garbage dump is more distant [from the overhanging windows]?
- [B] Rab and Samuel: One said, “One puts a board [from the window at the wall to the cistern, and draws water in that wise].”
- [C] The other said, “One places a reed [in the ground] between the window and the board, [so obstructing the public domain].”
- [D] *Now we do not know which party took one position, and which the other.*
- [E] *On the basis of Samuel’s statement, “The area above ten handbreadths is forbidden for utilization only as a matter of Sabbath rest,” it follows that he is the one who has said, “One puts a board [from the window at the wall to the cistern].” [It would not suffice to put a reed in the ground down below. in any event one would be drawing water from one private domain to another through the airspace ten handbreadths above the ground, and that, Samuel has said, is forbidden. Accordingly, he will wish to solve that problem through the use of a board.]*
- [I:3 A] If there were two [rooms above the cistern, belonging to two different people,]
- [B] *there were two Amoraim* [who differed on the space that must separate the two windows so that each may utilize the cistern on his own]. *One said, “A space of ten is required,” and the other said, “A space of four.”*
- [C] *The one who held the view that ten handbreadths’ difference must separate the two windows objected to the one who said that four suffice: “Does it not turn out that occupants of two distinct domains turn out to utilize a single domain?”*
- [D] *He replied to him, “The fact that the public domain [is between the two domains] nullifies [the effects of having two distinct domains utilize the same common domain]. [In this case it is not as if there are two distinct domains within two handbreadths of one another.]”*

- [I:4 A] [As to the cistern of M. 10:7A, it is permitted to draw water from it through the window above,] on condition that the area of the cistern not be more than two *seahs*,
- [B] the partitions not be higher than ten handbreadths,
- [C] the breaches therein not be more than ten cubits wide,
- [D] and the area of the partition that is standing not be opposite another such area, and a breach opposite another breach.

10:8

- [A] **A tree which overshadows the ground –**
- [B] **if its foliage was not three handbreadths above the ground,**
- [C] **they carry under it.**
- [D] **[If] its roots are three handbreadths above the ground,**
- [E] **one should not sit on them.**
- [F] **[With] a [movable] door in the rear court –**
- [G] **[with] bundles of briars in a breach –**
- [H] **or with mats –**
- [I] **they do not stop up an opening [with them],**
- [J] **unless they are raised above the ground.**
- [I:1 A] R. Aha in the name of Rab: “It is forbidden to tread on the roots of a vine shoot on the Sabbath. The same rule applies to a tree and a cabbage.”
- [B] [As to M. 10:8D-E,] that is the case if the roots are three handbreadths high. But if they are not three handbreadths high, they are equivalent to the ground.
- [II:1 A] [As to M. 10:8F-J,] *the Mishnah speaks of* a case in which they do not have hinges.
- [B] But if they do have hinges, that falls *under the rubric concerning which we have learned the following: A door which is dragged [on the ground], a reed mat which is dragged, and screens which are dragged –*
- [C] **they open and close them on the Sabbath, and, it goes without saying, on the festival. A door which has a hinge – they open and close it on the Sabbath [T. Er. 8:12A-C].**

[D] **A mat which is affixed and suspended – one may open and close it on the Sabbath, and it goes without saying, on the festival [cf. T. Er. 8:11A-B].**

10:9

[A] **“A man should not stand in private domain and open a door in public domain,**

[B] **“in public domain and open a door in private domain,**

[C] **“unless he has made a partition ten handbreadths high,” the words of R. Meir.**

[D] **They said to him, “There is this precedent. In the poulterers’ market in Jerusalem they used to shut up their shops and leave the key in the window above the door.”**

[E] **R. Yosé says, “It was the market of the wool dealers.”**

[I:1 A] R. Aha, R. Hinena in the name of Kahana: “The law is not in accord with the view of R. Meir.”

[I:2 A] Abba bar Pappi asked, “To what does R. Meir compare the wall in which the lock is located [in the passage of Tosefta which follows]? To a wall that is smooth or to one that is perforated?”

[B] “If you say that it is like a smooth one, then even if the lock is higher than ten handbreadths, it should be permitted [vs. J-K], and if you say it is perforated, then even if it is lower than ten handbreadths, it should be forbidden [vs. H-I].”

[C] [The passage to which Abba has referred is now given as follows, in T.’s version:] **The doors of gardens which have gate-houses on the inner side – they open and close them on the inside.**

[D] **[If they are] on the outside, they open and close them on the outside.**

[E] **[If they are] on one side and on the other, they open and close them on one side and on the other.**

[F] **If they do not have any on either side,**

[G] **and so too, doorways of shops on the public way –**

[H] **R. Meir says, “When the lock is lower than ten handbreadths, one takes the key from the threshold and puts it into the lock and opens the door and carries it [the key] into the house.**

- [I] “And he puts it back into the lock and locks the door and leaves [the key] in its [original] place.
- U] “When the lock is higher than ten handbreadths, he brings the key on the eve of the Sabbath and puts it into the lock and opens the door and carries it into the house.
- [K] “And he puts it back into the lock and locks the door and takes it and leaves it in its place.”
- [L] And sages say, “Also: When the lock is higher than ten handbreadths, he takes the key from the threshold and puts it into the lock and opens the door and carries it into the house.
- [M] “And he puts it back into the lock and locks the door and takes [the key] and leaves it on the window which is above the threshold.
- [N] “If the window is four-by-four handbreadths, it is prohibited to do so [however],
- [O] “for they do not carry objects from one domain to another” [T. Er. 7:1].
- [P] *That is to say that R. Meir treats it as smooth*
- [Q] [26c] *There is no problem* in understanding why for a door at the outside, it is necessary to have a gatehouse [in public domain], but why is it necessary to have one if the door is on the inside?
- [R] [Even though the doorway opens outward, even though it then is unlocked or locked on the inside,] it appears as though two domains utilize a single domain in common.

10:10

- [A] A bolt with a knob on its end –
- [B] R. Eleazar prohibits.
- [C] And R. Yosé permits.
- [D] Said R. Eleazar, M'SH B: “In the synagogue in Tiberias they permitted [using it on the Sabbath],
- [E] “until Rabban Gamaliel and elders came and prohibited it for them.”
- [F] R. Yosé says, “They treated it as prohibited. Rabban Gamaliel and the elders came and permitted it for them.”
- [G] A bolt which is dragged on the ground –
- [H] they lock the doors with it in the Temple, but not in the provinces.

[I] **And one which rests on the ground [not fastened] both here and there is prohibited.**

[J] **R. Judah says, “The one which rests on the ground is permitted in the Temple,**

[K] **“and the one which is dragged on the ground is permitted in the provinces.”**

[I:1 A] Said R. Yosé b. Rabbi, “In accord with the view of him who permits [using a bolt with a knob on its end = Yosé], one treats the bolt as secondary to the knob [which is an ordinary utensil]. In accord with the one who prohibits [Eleazar], one treats the knob as secondary to the bolt [and in using the bolt one is building].”

[II:1 A] [As to M. 10:10G, **a bolt that is dragged on the ground**, thus fastened to the gate by a long rope and not merely suspended, is **permitted in the Temple and forbidden in the provinces,**] what is a bolt [that is dragged on the ground]?

[B] Said R. Yohanan, “It is one that is fastened onto the door, even though it is not suspended from the door.”

[C] Said R. Yohanan, “Hilpai took me and showed me a bolt in the House of Rabbi, which was tied onto the door, even though it was not suspended from the door.”

[D] Said R. Yohanan, “[With reference to M. 10:10J-K: **R. Judah says, ‘One that could be laid apart was permitted in the Temple, and one that was dragged on the ground was permitted in the provinces.’**] *The view of an individual here [Judah] accords with the anonymously stated rule there [at M. Shab. 17:7D], and the rule of the individual there [at M. Shab. 17:7A-C] accords with the unattributed ruling here [at M. Er. 10:10G-I].*”

[E] *R. Yosé asked before R. Jeremiah, “How shall we decide a case?”*

[F] *He said to him, “On the basis of what R. Yohanan has said, ‘Hilpai took me and showed me a bolt in the House of Rabbi, which was tied onto the door, even though it was not suspended from the door,’ that would indicate that it is in accord with the view of R. Judah that we decide a case.”*

[G] *R. Huna in the name of R. Samuel produced the statement, “The law accords with R. Judah in a case in which the bolt was attached to the door.”*

[H] *R. Yannai, father-in-law of R. Ammi* said, “in a case in which the bolt was attached to the door.

[I] “That is the case with an arrangement in which [the bolt is attached] with something that can hold it up [so the attachment of the bolt is a firm one.”

[J] The bolt of R. Eleazar was bound up with reed grass.

[K] If the bolt fell out [and was not firmly attached to the door], it is forbidden to utilize it.

[L] If it was squeezed [into a hole in the ground, that is, the opposite of being detached and lying without a close connection to the door],

[M] R Jacob bar Aha in the name of rabbis: “One may stretch it with his fingertips [until the rope is properly in place].”

[N] **All utensil covers, (etc.) [M. Shab. 17:7E]:**
Abba bar Kahana, R. Hiyya bar Ashi in the name of Rab: “The law accords with the position of R. Yosé.”

10:11

[A] They put back [into its sock] the lower pivot [of a door] in the Temple, but not in the provinces.

[B] And the upper pivot of a door both here and there is prohibited.

[C] R Judah says, “The upper one, in the Temple, and the lower one, in the provinces.”

[D] They put back a plaster [on a wound] in the Temple, but not in the provinces.

[E] And to begin with here and there it is prohibited [to apply a plaster].

[I:1 A] [As to M. 10:11B, the reason that even in the Temple one may not put the upper pivot back is that], said R. Yosé b. R. Bun [or: R. Jonathan], “Not every deed prohibited by reason of Sabbath rest have they permitted in the sanctuary.”

[I:2 A] *It has been taught: One should not dry off a plaster [removing the pus] so as not to turn out to spread [the salve], for one who spreads something [smooths down] on the Sabbath is liable for a sin-offering [T. Pes. 7:1].*

[B] *And [along these same lines,] has it not been taught: [If a plaster slipped downward, one may push it back upward, and if it slipped upward, one may push it back downward?*

[C] **One may uncover a part of the plaster on one side and dry off the wound on that side, and uncover part of the plaster on the other side and dry off the wound on that side, but one may not dry off the plaster itself, so as not to turn out to spread the salve, for one who spreads on the Sabbath is liable to a sin-offering [T. Pes. 7:1].**

[D] *It has been taught:* A bandage that becomes moist – they put it back on the Sabbath.

[E] R. Jacob bar Aha in the name of R. Yosé: “And that is the case if it becomes moist on the spot facing the wound itself.”

[F] *For has it not been taught [along these same lines]:* If a plaster slipped downward, one may push it back upward, and if it slipped upward, one may push it back downward,

[G] on condition [contact with] the wound not be entirely broken.

[H] R. Yosé b. R. Bun in the name of R. Yosé: “In the case of a wound that has healed, they put on it some sort of poultice, because it serves only to protect it [and not to promote healing].”

[I] *R. Abun in the name of rabbis from over there [in Babylonia]:* “They may put such a thing on a wound on the Sabbath, because it serves only to protect the wound.”

[J] Said R. Tanhuma, “The exception is grape leaves, which serve to promote healing.”

[K] *Said R. Huna, “As to the peah-root, it is very good for healing, when it has five, seven, or nine knots, so long as one does not put water on it on the Sabbath [in which case the clear intent is to promote healing].”*

[L] They do not recite a verse of Scripture over a wound on the Sabbath. And that formula which they recite against the demon Yebrohah is prohibited.

[M] [If someone said,] “Come and recite this verse over my son, because he is suffering,” “Put a Torah scroll on him,” “Put phylacteries on him so that he will be able to sleep” – it is forbidden.

[N] *And lo, it has been taught:* “They would recite a psalm for the suffering in Jerusalem”?

[O] Said R. Yudan, “Here it is when one already has been afflicted, [in which case it is forbidden to do so,] while there [where it is permitted to recite that psalm], it is prior to one’s having been afflicted.”

[P] And what is that psalm of the afflicted?

[Q] “Many are saying of me, there is no help for him in God. But thou, O Lord, art a shield about me, my glory, and the lifter of my head” (Ps. 3:2-3), and the entire psalm.

[R] “He who dwells in the shelter of the Most High, who abides in the shadow of the Almighty” (Ps. 91:1) until “because you, O Lord, are my refuge” (Ps. 91:9).

10:12

[A] **They tie a string [of a musical instrument] in the Temple, but not in the provinces.**

[B] **And to begin with here and there it is prohibited [to tie up a string].**

[C] **They cut off a wen in the Temple, but not in the provinces.**

[D] **But if it is [done] with a utensil, here and there it is prohibited [to cut off a wen].**

[I:1 A] *Said R. Yosé b. R. Bun, “This represents the view of R. Simeon b. R. Yosé.”*

[B] *For it has been taught [in T.’s version]: [The string of a violin which broke – they tie it up. (If) one tied it up and it broke (again), they tie it up (again).] Said R. Simeon b. Eleazar, “And is it not so that if they tie it, it produces no sound anyhow?*

[C] **“But one threads it down from above and fastens it below” [T. Er. 8:19].**

[D] *It has been taught: R. Simeon b. Eleazar says, “Priests, Levites, musical instruments, and the people as well are indispensable to the cult” [T. Ta. 3:3D].*

[II:1 A] **They cut off a wen in the Temple, but not in the provinces [M. 10:12C]:**

- [B] *There we have learned:* **[Carrying the animal designated as a Passover-offering to the Temple, bringing it from outside to inside the Sabbath limit, and] cutting off a wen which is on it do not override the prohibitions of the Sabbath.**
- [C] **R. Eliezer says, “They do override the prohibitions of the Sabbath” [M. Pes. 6:1D-E].**
- [D] How then can you say this [= A]?
- [E] R. Simon in the name of R. Joshua b. Levi in the name of R. Pedat: “It is because of the disarray of the priestly lotteries [since if the priest cannot remove the wen, he will not be suitable for the labor of the rite, and a priest will be lacking for the lottery for the acts of service in that rite].”
- [F] Said R. Yosé, “And that is the case [D] if they already have drawn the lot [in which case, one must allow the priest to make himself suitable for the rite].”
- [G] Said R. Simeon b. Laqish in the name of Levi Sikayyah: “That is the case whether the wen has peeled or not peeled.”
- [H] R. Simeon b. Yaqim said, “Here [where it is forbidden to cut the wen], we deal with one that bears pus, and there [where it is permitted to cut it], we deal with a dry one.”
- [I] R. Yosé b. Hanina said, “Here [where it may be cut off], it is where it is removed by hand, and there [where it may not be cut off] it is where it is removed by a utensil.”
- [J] *[As will be explained below,] The view of R. Simeon b. Yaqim accords with the position of Bar Qappara, and that of R. Yosé b. Hanina accords with that of R. Yohanan.*
- [K] *For it has been taught:* All those who do damage [on the Sabbath] are exempt, except for one who kindles a fire and one who inflicts a wound.
- [L] Bar Qappara said, “That is the case, even if the one who does so has no need of the blood of the wound or the ashes of the fire.”
- [M] Said R. Yohanan, “And that rule applies only if one has need of the blood or the ashes [as the case may be].” [Simeon b. Yaqim allows removing only a dry wen, because in the case of one with pus, he does injury – and that is the case even though he does not need the blood.

This accords with Bar Qappara's view that one is liable on account of making a wound even if he does not need the blood. Yosé b. Hanina permits removing the wen by hand, but not with a utensil – even if one makes a wound which produces blood. It follows that, since the one who removes the wen does not need the blood, he is exempt, just as Yohanan has said.]

[N] R. Aha, R. Hanina in the name of R. Yohanan: "In both places we deal with one that has pus on it. The prohibition applies, then, when one requires the blood, [and the reason it is permitted here is that one does not require the blood]."

10:13

[A] **A Temple priest who hurt his finger –**

[B] **one ties reed grass around it in the Temple, but not in the provinces.**

[C] **But if it is to remove blood. here and there it is prohibited.**

[D] **They scatter salt on the [altar] ramp so that they will not slip.**

[E] **And they draw water from the cistern of the Exiles and from the great cistern with a waterwheel on the Sabbath,**

[F] **and from the Haqqar Well on a festival day.**

[I:1 A] [26d] [With reference to M. 10:13B,] Judah b. Rabbi said, "They have taught [that such a procedure is permitted] only in the case of reed grass. But as to using a bandage, it is forbidden, on grounds that it is an addition to the priestly garments [over and above what the priest is supposed to wear]."

[B] *The theory expressed herein is that having too many priestly garments is equivalent to having too few of them.*

[C] [Presenting a different reason from that proposed by A,] R. Jacob bar Aha in the name of R. Yosé: "This represents the view of R. Hanina, for R. Hanina said, 'That is on condition [that reed grass may be used] only if the covering does not interpose between the priest's flesh and the garment he is wearing, or between one garment and another.' [So the operative consideration is interposition, not the addition of garments.]"

[D] *In the view of R. Hanina, then, what is a case in which something is prohibited as constituting the wearing of additional garments?*

[E] Two tunics, two turbans, two britches, two girdles.

[F] [Within this theory,] as to a priest who hurt his finger and wrapped around it a girdle of some kind – [does this constitute wearing additional garments]?

[G] Is any sort of girdle, however it is worn, prohibited under the category of wearing only a single girdle, or is it invalid only to wear the girdle as a garment? [This question is not answered.]

[I:2 A] *It has been taught:* They draw liquids by means of a siphon on the Sabbath, and water may be allowed to drip from a perforated vessel used in sick rooms on the Sabbath for a sick person.

[B] They draw liquids by means of a siphon – a kind of borer.

[C] And water may be allowed to drip from a perforated vessel – there is he who proposes to explain that this is in order to wake up the sick person [through the sound of the dripping].

[D] *There is he who proposes to explain that* this is a kind of clepsydra.

[I:3 A] In the case of a courtyard on which it rained, and in which was a house of mourning or a house of festivities – lo, this one may take up the stone and pour off the water, so long as one not do it on the Sabbath in the way he does it on an ordinary day.

[I:4 A] *It has been taught:* **They do not draw water with a scale on the Sabbath [using it as a lever].**

[B] **But if he wanted to save the rope or the cord, lo, this is permitted [T. Er. 8:21].**

[II:1 A] **They draw water from the cistern of the Exiles and from the great cistern with a waterwheel on the Sabbath, and from the Haqqar Well on a festival day [M. 10:13E-F]:**

[B] **On what account do they draw water from the Haqqar Well with a waterwheel on the festival?**

[C] **But when the residents of the Exile came up and camped by it, the prophets permitted them to draw water from the Haqqar Well on the festival.**

[D] **And not all Haqqar Wells did they permit, but only that one by they had encamped [T. Er. 8:22].**

[E] Just as you said there, what was permitted was permitted, so here too what was permitted was permitted [and not at any other time or place].

10:14

- [A] A dead creeping thing which is found in the Temple –
- [B] “a priest removes it with his belt [even on the Sabbath],
- [C] “so as not to keep uncleanness [in the Temple],” the words of R. Yohanan b. Beroqah.
- [D] R. Judah says, “[He does so] with a wooden tongs, so as not to increase uncleanness [by imparting it to his belt].”
- [E] From what areas do they remove it?
- [F] “From the sanctuary, the porch, and the area between the porch and the altar, “ the words of R. Simeon b. Nanos.
- [G] R. Aqiba says, “A place in which [if a man entered while unclean] deliberately, he is liable for extirpation, and inadvertently, he is liable to a sin-offering –
- [H] “from there do they remove it.
- [I] “But all other locations [in the Temple], they simply turn over a psykter onto it.”
- [J] R. Simeon says, “Wherever sages have permitted something to you, they have given you what already is yours.
- [K] “For they have permitted to you only [what was withheld to begin with] by reason of Sabbath rest.”
- [I:1 A] Said R. Yohanan b. Zeroqah to [Judah], “Do you not turn out to keep uncleanness in the Temple?”
- [B] [Judah] said to [Yohanan], “Do you not turn out to increase uncleanness?”
- [C] He said to him, “It is better to transgress a negative commandment but not through one’s own deed, than to violate a negative commandment through one’s own deed [which one must go and do].”
- [D] *Said R. Yosé b. R. Bun, “The dispute before us follows along the lines of the following one, as we have learned there: **How do they separate dough-offering in uncleanness on the festival day [the fifteenth of Nisan? It cannot be left until the next day, lest it ferment, and it cannot be burned. The dough is unclean. One cannot bake it, for the priest in any event is not permitted to eat it, and whatever cannot be eaten also cannot be baked on a festival. But it also is not to be burned, for holy things may not be burned on a festival. It cannot be left overnight, since, with Passover in effect, it is prohibited to permit the possibility of fermentation.]**” R. Eliezer*

says, “She should not designate the bit of dough as dough-offering until the dough is baked.”

[E] **R. Judah b. Betera says, “She should put it in cold water.”**

[F] **R. Joshua b. Hananiah says, “This is not the sort of leaven concerning which people are admonished, ‘Let it not be seen’ (Exod. 13:7) and ‘Let it not be found’ (Exod. 12:19). But she separates it in the normal way, leaving it until the evening, and if it leavens, so be it” [M. Pes. 3:3].**

[G] Said to him R. Joshua, “Do you not turn out to burn holy things on a festival day?”

[H] Said to him R. Eliezer, “They are burned without [the woman’s intervention], on their own.”

[I] He said to R. Joshua, “Do you not turn out to violate the prohibitions against leaven’s being seen and being found in one’s house?”

[J] [Joshua] said to him, “It is better to violate a negative commandment not through one’s own deed, than to violate a negative commandment through one’s own deed.”

[K] *There we have learned: If blood that should be sprinkled one time was mixed up with other blood that should be sprinkled once, each is sprinkled once. If what should be sprinkled four times was mixed up with what should be sprinkled four times, each is sprinkled four times. If what should be sprinkled four times was mixed up with what should be sprinkled once –*

[L] **R. Eliezer says, “Let each be sprinkled four times.”**

[M] **R. Joshua says, “Let each be sprinkled once.”**

[N] **R. Eliezer said to him, “Do you not turn out to transgress, ‘You shall not diminish from it’ (Deut. 12:3)?”**

[O] **Said to him R. Joshua, “Do you not turn out to transgress, ‘You shall not add thereto, ‘ [so the one sprinkling itself must suffice]?”**

[P] [Joshua] said to him, “It is better to transgress a negative commandment not through one’s own deed than to violate a negative commandment through one’s own deed [which one must go and do].”

[I:2 A] *There we have learned: The leper put his head inside the Temple court, and the priest placed blood on the tip of his ear. He put his*

hand inside, and he placed it on the thumb of his hand. He put his foot inside, and he placed it on the big toe of his foot. R. Judah says, “The three of them did he put inside all at once” [M. Neg. 14:9A -D]. [A leper may not enter the Israelites’ courtyard until he has become clean. But in order to put the blood on his limbs, he has to go into the courtyard. The anonymous authority says one may not practice deception by putting all three inside at once, but he does it one by one. Judah maintains that one may practice deception by poking in all three at one time.]

[B] *The opinions assigned to R. Judah are confused. There* [at M. Neg. 14:9D] he has said it is permitted to practice deception, *and here* [at M. 10:14D] he has said it is forbidden to do so [by increasing uncleanness in the courtyard].

[C] There [at M. Neg. 14:9] the consideration is that the man [following PM] should not impart uncleanness three times. Here, by contrast, the uncleanness already is present and known [and the priest in no way is responsible].

[D] *Along these same lines, the theory of rabbis vis-a-vis Judah is confused. There* they maintain that it is forbidden to practice deception, while here they hold that it is permitted to do so [by removing the dead creeping thing with his girdle, so increasing uncleanness].

[E] *There the consideration is that the man may poke his head and the greater part of his body inside the courtyard [if he puts in all three at once], and consequently, he will be liable to extirpation. Here, by contrast, the operative consideration is not to bring unclean garments into the Temple.*

[II:1 A] [Spelling out his argument, Judah adds,] “Furthermore, it is possible to leave the Temple without any real delay in keeping the uncleanness therein [for one may find tongs right away].”

[B] He said to him, “It is better to transgress a negative commandment not through one’s own deed than to violate a negative commandment through one’s own deed.”

[II:2 A] [If one] has removed [uncleanness] from a place in which, if a man entered while unclean deliberately, he would be liable for extirpation [and inadvertently, he is liable to a sin-offering,] and it fell down in a place on account of which [under the stated conditions], one is not liable to extirpation, that which he was carrying already has been

subjected to the requirement of being taken out, [and it certainly is picked up and taken out].

[B] [The question is this:] If one found another [dead creeping thing] alongside the one which he has to take out [which had fallen down in a location not subject to extirpation], does one take out both of them, or does he take out only one of them?

[II:3 A] The laws of the Sabbath, festal offering, and sacrilege are like mountains suspended by a hair, with very little Scripture and many laws. So they do not have that on which to depend. [In this regard did R. Joshua say, “Tongs were made with tongs. Who made the first tongs? [Now is this not my view: they were created [on the eve of the Sabbath]” [M. Abot 5:6:] Among the ten things created on the eve of the Sabbath at dusk were the tongs made with tongs [T. Er. 8:23].

[B] *Said R. Hanina before R. Mana*, “And what do you say in this regard?”

[C] [He replied,] “On the basis of one rule governing tongs, they derived rules covering many tongs, and, along these same lines, on the basis of the rules of Sabbath rest covering one sort of labor, they derived the rules of Sabbath covering many sorts of matters.”

CHAPTER ELEVEN

THE STRUCTURE OF YERUSHALMI ERUBIN

Whether or not the Talmud of the Land of Israel is carefully organized in large-scale, recurrent structures and guided by a program that we may call systematic forms the principal question addressed by an academic commentary. The preceding chapters therefore have pointed toward the presentation set forth here. By “structure” I mean, a clearly-articulated pattern that governs the location of fully-spelled out statements. By “system,” I mean, a well-crafted and coherent set of ideas that explain the social order of the community addressed by the writers of a document, a social philosophy, a theory of the way of life, world view, and character of the social entity formed by a given social group. I see a collective, anonymous, and political document, such as the one before us, as a statement to, and about, the way in which people should organize their lives and govern their actions. At issue then in any document such as the remarkable one before us is simple: does this piece of writing present information or a program, facts to whom it may concern, or a philosophically and aesthetically cogent statement about how things should be? The connection between structure and system is plain to see. From the way in which people consistently frame their thoughts, we move to the world that, in saying things in one way rather than in some other, they wish to imagine. Modes of formulating thought adumbrate modes of imagining the world in which people wish to live, to which they address these thoughts.

If the document exhibits structure and sets forth a system, then it is accessible to questions of rationality. We may ask about the statement that its framers or compilers wished to make by putting the document together as they did. But if we discern no structure and perceive no systematic inquiry or governing points of analysis, then all we find here is inert and miscellaneous information, facts but no propositions, arguments, viewpoints. Now as a matter of fact the Talmud of the Land of Israel commonly finds itself represented as lacking organization and exhibiting a certain episodic and notional character. That view moreover characterizes the reading and representation of the document by learned and experienced scholars, who have devoted their entire lives to Talmud study and

exegesis. It must follow that upon the advocate of the contrary view – the one implicit in the representation of the document for academic analysis – rests the burden of proof. I set forth the allegation that the Talmud of the Land of Israel exhibits a structure and follows a system and therefore exhibits a commonly-intelligible rationality. The claim to write an academic commentary explicitly states that proposition. For the tractate before us, I have therefore to adduce evidence and argument.

I maintain that through the normal procedures of reasoned analysis we may discern in the tractate a well-crafted structure. I hold that the structure made manifest, we may further identify the purpose and perspective, the governing system of thought and argument, of those who collected and arranged the tractate's composites and put them together in the way in which we now have them. By "structure" I mean, how is a document organized? and by "system," what do the compilers of the document propose to accomplish in producing this complete, organized piece of writing? The answers to both questions derive from a simple outline of the tractate as a whole, underscoring the types of compositions and composites of which it is comprised. Such an outline tells us what is principal and what subordinate, and how each unit – composition formed into composites, composites formed into a complete statement – holds together and also fits with other units, fore and aft. The purpose of the outline then is to identify the character of each component of the whole, and to specify its purpose or statement. The former information permits us to describe the document's structure, the latter, its system.

While the idea of simply outlining a Talmud-tractate beginning to end may seem obvious, I have never made such an outline before, nor has anyone else. (I have provided complete outlines for the Mishnah and for the Tosefta in relationship to the Mishnah, and, not always in outline form, for the Midrash-compilations of late antiquity as well) Yet, as we shall now see, the character of the outline dictates all further analytical initiatives. Specifically, when we follow the layout of the whole, we readily see the principles of organization that govern. These same guidelines on organizing discourse point also to the character of what is organized: complete units of thought, with a beginning, middle, and end, often made up of smaller, equally complete units of thought. The former we know as composites, the latter as compositions.

Identifying and classifying the components of the tractate – the composites, the compositions of which they are made up – we see clearly how the document coheres: the plan and program worked out from beginning to end. When we define that plan and program, we identify the facts of a pattern that permit us to say in a specific and concrete way precisely what the compilers of the tractate intended to accomplish. The structure realizes the system, the program of analysis and thought that takes the form of the presentation we have before us. From what people do, meaning, the way in which they formulate their ideas and organized

them into cogent statements, we discern what they proposed to do, meaning, the intellectual goals that they set for themselves.

These goals – the received document they wished to examine, the questions that they brought to that document – realized in the layout and construction of their writing, dictate the points of uniformity and persistence that throughout come to the surface. How people lay out their ideas guides us into what they wished to find out and set forth in their writing, and that constitutes the system that defined the work they set out to accomplish. We move from how people speak to the system that the mode of discourse means to express, in the theory that modes of speech or writing convey modes of thought and inquiry.

We move from the act of thought and its written result backward to the theory of thinking, which is, by definition, an act of social consequence. We therefore turn to the matter of intention that provokes reflection and produces a system of inquiry. That statement does not mean to imply I begin with the premise of order, which sustains the thesis of a prior system that defines the order. To the contrary, the possibility of forming a coherent outline out of the data we have examined defines the first test of whether or not the document exhibits a structure and realizes a system. So everything depends upon the possibility of outlining the writing, from which all else flows. If we can see the order and demonstrate that the allegation of order rests on ample evidence, then we may proceed to describe the structure that gives expression to the order, and the system that the structure sustains.

The present work undertakes the exegesis of exegesis, for the Yerushalmi, like its counterpart in the one of Babylonia, is laid out as a commentary to the Mishnah. That obvious fact defined the character of my academic commentary, since we have already faced the reality that our tractate is something other than a commentary, though it surely encompasses one. The problems that captured my attention derived from the deeper question of how people make connections and draw conclusions. To ask about how people make connections means that we identify a problem – otherwise we should not have to ask – and what precipitated the problem here has been how a composition or a composite fits into its context, when the context is defined by the tasks of Mishnah-commentary, and the composition or composite clearly does not comment on the Mishnah-passage that is subjected to comment.

The experience of analyzing the document with the question of cogency and coherence in mind therefore yields a simple recognition. Viewed whole, the tractate contains no gibberish but only completed units of thought, sentences formed into intelligible thought and self-contained in that we require no further information to understand those sentences, beginning to end. The tractate organizes these statements as commentary to the Mishnah. But large tracts of the writing do not comment on the Mishnah in the way in which other, still larger

tracts do. Then how the former fit together with the latter frames the single most urgent question of structure and system that I can identify.

Since we have already examined enormous composites that find their cogency in an other than exegetical program, alongside composites that hold together by appeal to a common, prior, coherent statement – the Mishnah-sentences at hand – what justifies my insistence that an outline of the document, resting on the premise that we deal with a Mishnah-commentary, govern all further description? To begin with, the very possibility of outlining this tractate derives from the simple fact that the framers have given to their document the form of a commentary to the Mishnah. It is in the structure of the Mishnah-tractate that they locate everything together that they wished to compile. We know that is the fact because the Mishnah-tractate defines the order of topics and the sequence of problems.

Relationships to the Mishnah are readily discerned; a paragraph stands at the head of a unit of thought; even without the full citation of the paragraph, we should find our way back to the Mishnah because at the head of numerous compositions, laid out in sequence one to the next, clauses of the Mishnah-paragraph are cited in so many words or alluded to in an unmistakable way. So without printing the entire Mishnah-paragraph at the head, we should know that the received code formed the fundamental structure because so many compositions cite and gloss sentences of the Mishnah-paragraph and are set forth in sequence dictated by the order of sentences of said Mishnah-paragraph. Internal evidence alone suffices, then, to demonstrate that the structure of the tractate rests upon the Mishnah-tractate cited and discussed here. Not only so, but the sentences of the Mishnah-paragraphs of our tractate are discussed in no other place in the entire Talmud of the Land of Israel in the sequence and systematic exegetical framework in which they are set forth here; elsewhere we may find bits or pieces, but only here, the entirety of the tractate.

That statement requires one qualification, and that further leads us to the analytical task of our outline. While the entire Mishnah-tractate of treated here is cited in the Talmud of the Land of Israel, the framers of the Talmud of the Land of Israel by no means find themselves required to say something about every word, every sentence, every paragraph. On the contrary, they discuss only what they choose to discuss, and glide without comment by large stretches of the tractate. A process of selectivity, which requires description and analysis, has told the compilers of the Talmud of the Land of Israel's composites and the authors of its compositions (This statement requires refinement. I do not know that all available compositions have been reproduced, and that the work of authors of compositions of Mishnah-exegesis intended for a talmud is fully exposed in the document as we have it. That is not only something we cannot demonstrate – we do not have compositions that were not used, only the ones that were – but something that we must regard as unlikely on the face of matters. All we may say is positive: the character of the compositions that address Mishnah-exegesis tells us about the concerns of the

writers of those compositions, but we cannot claim to outline all of their concerns, on the one side, or to explain why they chose not to work on other Mishnah-sentences besides the ones treated here. But as to the program of the compositors, that is another matter: from the choices that they made (out of a corpus we cannot begin to imagine or invent for ourselves) we may describe with great accuracy the kinds of materials they wished to include and the shape and structure they set forth out of those materials. We know what they did, and that permits us to investigate why they did what they did. What we cannot know is what they did not do, or why they chose not to do what they did not do. People familiar with the character of speculation and criticism in Talmudic studies will understand why I have to spell out these rather commonplace observations. I lay out an argument based on evidence, not on the silences of evidence, or on the absence of evidence – that alone.) what demands attention, and what does not. Our outline has therefore to signal not only what passage of the Mishnah-tractate is discussed, but also what is not discussed, and we require a general theory to explain the principles of selection (“making connections, drawing conclusions” meaning, to begin with, making selections). For that purpose, in the outline, I reproduce the entirety of a Mishnah-paragraph that stands at the head of a Talmudic composite, and I underscore those sentences that are addressed, so highlighting also those that are not.

It follows that the same evidence that justifies identifying the Mishnah-tractate as the structure (therefore also the foundation of the system) of Yerushalmi-tractate before us also presents puzzles for considerable reflection. The exegesis of Mishnah-exegesis is only one of these. Another concerns the purpose of introducing into the document enormous compositions and composites that clearly hold together around a shared topic or proposition, e.g., my appendix on one theme or another, my elaborate footnote providing information that is not required but merely useful, and the like. My earlier characterization of composites as appendices and footnotes signalled the fact that the framers of the document chose a not-entirely satisfactory way of setting out the materials they wished to include here, for large components of the tractate do not contribute to Mishnah-exegesis in any way at all. If these intrusions of other-than-exegetical compositions were proportionately modest, or of topical composites negligible in size, we might dismiss them as appendages, not structural components that bear much of the weight of the edifice as a whole. Indeed, the language that I chose for identifying and defining these composites – footnotes, appendices, and the like – bore the implication that what is not Mishnah-commentary also is extrinsic to the Talmud of the Land of Israel’s structure and system.

But that language served only for the occasion. In fact, the outline before us will show that the compositions are large and ambitious, the composites formidable and defining. Any description of the tractate’s structure that dismisses as mere accretions or intrusions so large a proportion of the whole misleads. Any notion that “footnotes” and “appendices” impede exposition and disrupt thought, contribute extraneous information or form tacked-on appendages – any such notion begs the question: then why fill up so much space with such purposeless information? The right way is to ask whether the document’s topical composites

play a role in the re-presentation of the Mishnah-tractate by the compilers of the Talmud of the Land of Israel. We have therefore to test two hypotheses:

1. the topical composites (“appendices,” “footnotes”) do belong and serve the compilers’ purpose

or

2. the topical composites do not participate in the re-presentation of the Mishnah-tractate by Yerushalmi and do not belong because they add nothing and change nothing.

The two hypotheses may be tested against the evidence framed in response to a single question: is this topical composite necessary? The answer to that question lies in our asking, what happens to the reading of the Mishnah-tractate in light of the topical composites that would not happen were we to read the same tractate without them? The outline that follows systematically raises that question, with results specified in due course. It suffices here to state the simple result of our reading of the tractate, start to finish: the question of structure, therefore also that of system, rests upon the position we identify for that massive component of the tractate that comprises not Mishnah-commentary but free-standing compositions and composites of compositions formed for a purpose other than Mishnah-commentary.

The principal rubrics are given in small caps. The outline takes as its principal rubrics two large-scale organizing principles.

The first is the divisions of the Mishnah-tractate to which the Talmud of the Land of Israel-tractate serves as a commentary. That simple fact validates the claim that the tractate exhibits a fully-articulated structure. But the outline must also underscore that the Mishnah-tractate provides both more and less than the paramount outline of the Talmud of the Land of Israel-tractate. It is more because sentences in the Mishnah-tractate are not analyzed at all. These untreated Mishnah-sentences are given in bold face lower case caps, like the rest of the Mishnah, but then are specified by underlining and enclosure in square brackets.

Second, it is less because the structure of the tractate accommodates large composites that address topics not defined by the Mishnah-tractate. That brings us to the second of the two large-scale modes of holding together both sustained analytical exercises and also large sets of compositions formed into cogent composites. These are treated also as major units and are indicated by Roman numerals, alongside the Mishnah-paragraphs themselves; they are also signified in small caps. But the principal rubrics that do not focus on Mishnah-commentary but on free-standing topics or propositions or problems are not given in boldface type. Consequently, for the purposes of a coherent outline we have to identify as

autonomous entries in our outline those important composites that treat themes or topics not contributed by the Mishnah-tractate.

I. YERUSHALMI ERUBIN 1:1

[A] [THE CROSSBEAM ABOVE] AN ALLEY ENTRY WHICH IS HIGHER THAN TWENTY CUBITS ONE SHOULD DIMINISH [MAKING IT LOWER]. R. JUDAH SAYS, “IT IS NOT NECESSARY.”

1. **I:1:** [The following discussion serves Y. Suk. 1:1A: A sukkah which is taller than twenty cubits is invalid. R. Judah declares it valid, and also M. 1:1A-B. Judah holds that what we have is valid to serve as a doorway and so symbolically to link the dwellings within into a single domain for purposes of carrying on the Sabbath.] R. Yosé stated what follows without specifying the name of an authority; R. Aha in the name of Rab: “Rabbis [derive the requisite dimensions from the analogy of the doorway of the Temple building, and R. Judah, from the measurements of the porch [*ulam* leading to the interior of the Temple].” If the measurement derives from the doorway of the porch, then it should be sufficient if it is forty cubits high.
 - a. I:2: R. Aha, R. Hinena in the name of Kahana: “The law does not accord with R. Judah.”
2. **I:3:** The Mishnah [at M. 1:1A] states only, higher than twenty cubits. Lo, up to twenty cubits [in height], [the symbolic gateway formed by the crossbeam] remains valid. The formulation of the Mishnah accords with the view of Rab, for Rab said, “The purpose of specifying exact measurements is to impose a lenient ruling. [In cases of measurements, one is lenient.] [As at A, one may go right up to the full extent of the specified measurement.]” R. Yohanan said, “The purpose of specifying exact measurement is to impose a strict ruling.” R. Hiyya in the name of R. Yohanan: “In the case of a crossbeam above an alleyway which is located above twenty cubits [from the ground], one sets a crossbeam within the space twenty cubits from the ground, and so diminishes the distance to within twenty cubits of the ground [In this regard] R. Yosé said, “And that is the case if the entire construction providing the crossbeam lies within twenty cubits of the ground [and not only part of it]. [The beam has to be level with the ground, not at an angle, for this corrective procedure to be valid.]”
3. **I:4:** One should diminish [the height of the crossbeam. making it lower] [M. 1:1A]: How does one diminish the height of the

crossbeam? One makes an attachment at the gate of the alleyway and thereby permits [carrying in the alleyway on the Sabbath] [cf. T. Er. 1:1D-E]. How broad should this attachment be [within the alleyway]? R. Aha in the name of R. Hoshaiyah: “Four handbreadths, the breadth of a space [worthy of consideration].” R. Yosé says, “A handbreadth, the breadth of the beam.” The associates say, “Any breadth at all, for in this case there will no longer be a crossbeam set *at* the excessive] height of twenty cubits and a breadth of a handbreadth [for the crossbeam will have been diminished].” If the crossbeam was not ten cubits high, one has to hollow out [*the* ground, to increase *the* height of the crossbeam, assuming it cannot be raised].

[B] AND [THE ALLEY ENTRY] OF A BREADTH [WIDER] THAN TEN CUBITS ONE SHOULD DIMINISH [MAKING IT NARROWER].

1. **II:1:** And the alley entry of a breadth wider than ten cubits should one diminish, making it narrower [M. 1:1C]: How does one diminish its breadth? One sets up a beam at the gate of the alleyway and so permits [carrying in] the alleyway [cf. T. Er.1].
2. **II:2:** [And if it has the shape of a doorway (M. 1:1D):] This statement refers to the breadth [not the height] of the doorway. And the rabbis treat [a gateway with the shape of a doorway such that] even if in height [it exceeds the specified limits, it is not necessary to diminish the height of the gateway. The shape, as measured by the breadth, is decisive.]
3. **II:3:** If the alley entry was fifteen cubits wide, R. Ba and R. Huna in the name of Rab: “One sets up a board three cubits and a bit more wide, and places it two cubits away from the wall [and this fills the excess area]. That board and the slight additional amount are regarded as a sidewall [of an entry-way]. And this is so on condition that the standing side beam is larger than the empty space [between it and the wall]. But why not make the board four handbreadths broad? For has it not been taught: In the case of an alleyway wider than ten cubits, one sets up a board in the middle [which is four cubits broad], [and puts a beam across one of the sides and that suffices (T. Er. 1:3B)]? [Why does Rab not propose the remedy supplied by Tosefta here?] Said R. Ba bar Pappi, “It is so as to permit carrying on both sides of the beam without setting up a crossbeam, [and this is accomplished by the procedure of A].”
4. **II:4:** An alleyway which is bent and open at both ends [so that there is an L-shaped alleyway, open to the street at each end of the L] – R. Yohanan said, “One puts a side bar and a crossbeam at one end [thus

forming a valid gateway at one open end of the alleyway], and prepares something like the shape of a doorway at the other end as well [so that each stick of the L is served by a gateway]. [This has the effect of treating each stick of the L as a separate domain.]” R. Simeon b. Laqish said, “One sets up either a side post or a crossbeam [so forming a gateway], and that serves to permit [carrying on the Sabbath throughout the alleyway].” [At the corner of the L, however, no arrangement is required.]

5. **II:5:** Jeremiah in the name of R. Bun: “In the case of an alleyway in which there was a breach in the wall at the inner partition facing the gateway to the extent of four cubits, [it is regarded as an alleyway that is open at both ends]. “If it is at the side [not facing the entry, it is regarded as open at both ends] only if the breach is more than ten cubits. [That is, if there is in a side wall of an alleyway a gap of up to ten cubits, it is regarded, as a wall, if it was reached in the front wall, built across the entrance to reduce the size of the entrance, only a gap of four cubits is permissible.” Associates in the name of Rab: “There is no difference in the law governing a breach either facing the entry or at the side. The permissible breadth of the breach is four cubits.”
6. **II:6:** An alleyway, the wall of which was broken down from the side toward the top [of the crossbeam] – the rabbis of Caesarea said R. Hiyya, R. Yosé: “If four cubits of the wall are yet standing [toward the crossbeam], one must set up a crossbeam [over the breach], and if not, it is not necessary. [If the broken-down area is less, then it is null and of no account.]”
7. **II:7:** If there is a single crossbeam, what is the law on its permitting transportation of objects in two alleyways [side by side, so that the beam serves one alleyway and yet stretches over to serve the other]?
8. **II:8:** Zeirah asked, “How is a courtyard rendered permissible [to transport objects therein]?” It has been taught: Rabbi says, “It is through setting up a single board [at the entry of the courtyard].” Rabbis say, “It is by setting up two boards.”
9. **II:9:** R. Zeira, R. Huna in the name of Rab: “An alleyway the breadth and length of which are equivalent is not permitted [for carrying] by providing [merely] a side beam and a crossbeam, but requires setting up boards [to form a symbolic wall and gateway] as in the case of a courtyard.”
10. **II:10:** There we have learned [M. 6:8:] If one of the occupants of an alley forgot to share in the meal of commingling for the alley, the

occupants are unrestricted, since the alley is to the courtyards as the courtyard is to the houses. How many courtyards are there in an alleyway? Both Rab and Samuel say, “There may be no fewer than two courtyards to constitute an alleyway.” R. Jacob bar Aha in the name of R. Yohanan: “Even if there is one courtyard on one side and one courtyard on the other.” R. Aha, R. Hinena in the name of R. Yohanan said, “Even if there is one courtyard on one side, a house on another side, a house on yet another side, and a store on the fourth side, [that adds up to an alleyway].” R. Nahman bar Jacob in the name of R. Yohanan: “An alleyway is made up of no fewer than two courtyards, a courtyard is made up of no fewer than two houses.”

[C] IF IT HAS THE SHAPE OF A DOORWAY, EVEN THOUGH IT IS WIDER THAN TEN CUBITS, IT IS NOT NECESSARY TO DIMINISH [IT, MAKING IT NARROWER].

1. **III:1:** And if it has the shape of a doorway, even though it is wider than ten cubits, it is not necessary to diminish [it, making it narrower] [M. 1:1D-F]. Hananiah bar Shelamayya was in session, teaching Hiyya, son of Rab. Rab stuck his head out the window and said to him, “That is not how matters are. [Rather, one has to diminish the size of the entry way, even though it has the shape of a doorway.]” He said to him, “And should we not repeat the matter in this way?” He said to him, “I shall repeat it for you and tell you that that is not how matters are.” Abba bar Huna said, “The shape of the doorway of which they have spoken is this: a beam on one side and a beam on the other, forming doorposts, and a reed rope over them.” Yannai b. R. Ishmael in the name of R. Simeon b. Laqish: “[It should also have] a hinge, thus lacking only a door.” Hiyya taught, “How do they permit carrying In alleyways with an entry way more than fifteen cubits wide that open up outward into public domain]? Judah says, ‘One sets up a side beam on one side and a side beam on the other, and a crossbeam on one side and a crossbeam on the other.’ “And sages say, ‘One sets up a side beam and crossbeam on one side and makes something like the shape of a doorway on the other side” [cf. T. Er. 7:13].
2. **III:2:** Hananiah, son of the brother of R. Joshua, says, “[With reference to alleyways opening out onto public domain,] the House of Shammai say, ‘One has to put up a door on one side and a door on the other, and, when the people go in or come out, they have actually to close the door.’ The House of Hillel say, ‘One must put up a door on one side, and the shape of a door on the other.’”
3. **III:3:** R. Aha gave instruction in the case of an entry way [open to public domain] closed up only by a construction in the shape of a door,

that it must be set four cubits within [the alleyway, and not at the exit point].

4. **III:4:** [Since the space directly beneath the crossbeam is regarded as external to the alleyway, hence not an area suitable for carrying,] R. Zeira raised this question: “How can it be that while in the area beneath the crossbeam, it is forbidden [to transport objects more than four cubits], the alleyway itself should be rendered [by that same crossbeam] permitted [for the transportation of objects more than four cubits]?” Said R. Aha bar Ila, “And why not? And do we not find that this very point has been made by Samuel, for Samuel has said, ‘In the area beneath the crossbeam – it is forbidden [to transport objects more than four cubits], while in the alleyway itself it is permitted [to transport objects more than four cubits].’” R. Zeira in the name of Samuel: “[The area] under the crossbeam and between the side posts is regarded as equivalent to the threshold.” [If so, then what is the status of the threshold?] R. Zeira asked, “In what regard is it in the status of the threshold? Is it in the status of the threshold and so permitted [as to carrying objects], or is it in the status of the threshold and therefore prohibited?”

II. YERUSHALMI ERUBIN 1:2

[A] **THE VALIDATION OF AN ALLEY ENTRY [FOR CARRYING OF OBJECTS ON THE SABBATH] – THE HOUSE OF SHAMMAI SAY, “IT MUST HAVE] A SIDE POST AND A CROSSBEAM.” AND THE HOUSE OF HILLEL SAY, “A SIDE POST OR A CROSSBEAM.” R. ELIEZER SAYS, “TWO SIDE POSTS.”**

1. **I:1:** With regard to M. 1:2D, Eliezer’s statement,] what is the meaning of two side posts? Does it mean, “a side post and a crossbeam,” in accord with the position of the House of Shammai, or, “two side posts and no crossbeam,” in accord with the view of the House of Hillel? And does it involve a crossbeam of three handbreadths, in accord with the view of R. Yosé [at M. 1:6C], or of any breadth at all, in accord with the position of rabbis? Let us derive the answer from the following line T.’s version: There was the precedent, in which R. Eliezer went to Joseph b. Peredah in Ublin. And he saw that he had an alley entry with only a single side post. He said to him, “Make a second for it.” He said to him, “Do you instruct me to close it up?” He said to him, “Let it be closed up. On what basis did you decide to spend the Sabbath in such wise [with an alley entry having only a single side post]!” [T. Shab. 1:2].

[B] IN THE NAME OF R. ISHMAEL SAID A CERTAIN DISCIPLE BEFORE R. AQIBA, “THE HOUSE OF SHAMMAI AND THE HOUSE OF HILLEL DID NOT DISPUTE CONCERNING AN ALLEY ENTRY WHICH IS LESS THAN FOUR CUBITS WIDE, THAT IT [IS VALIDATED] EITHER BY A SIDE POST OR BY A CROSSBEAM. CONCERNING WHAT DID THEY DISPUTE? CONCERNING ONE WHICH IS BROADER THAN FOUR CUBITS, UP TO TEN CUBITS. FOR: THE HOUSE OF SHAMMAI SAY ‘A SIDE POST AND A CROSSBEAM. AND THE HOUSE OF HILLEL SAY, ‘A SIDE POST OR A CROSSBEAM.’” SAID R. AQIBA, “CONCERNING BOTH THIS CASE AND THAT CASE DID THEY DISPUTE.”

1. **II:1:** [As to M. 1:2E-J,] it has been taught: The law accords with the opinion of the disciple. But if that is not the case, then shall we have to maintain that the law accords with the House of Shammai? And does the law follow the House of Shammai and not the House of Hillel? [Of course not. Then what is the point of A?]
2. **II:2:** As to the view of sages, R: Huna in the name of Rab: “An alleyway the entry of which is not so broad as four cubits does not require any sort of indication [that it is a doorway] at all.”

III. YERUSHALMI ERUBIN 1:3

[A] THE CROSSBEAM OF WHICH THEY SPOKE [SHOULD BE] WIDE [ENOUGH] TO HOLD A HALF-BRICK. AND THE HALF-BRICK IS THE HALF OF A BRICK OF THREE HANDBREADTHS. IT IS SUFFICIENT FOR THE CROSSBEAM TO BE A HANDBREADTH WIDE, [ENOUGH] TO HOLD A HALF-BRICK LENGTHWISE :

1. **I:1:** Said R. Ba, “[The meaning of setting the brick lengthwise, M. 1:3C,] is so that It can hold a row of bricks lengthwise.” It has been taught: Rabban Simeon b. Gamaliel says, “It must be such as to be able to take a row of bricks breadth-wise” [cf. T. Er. 1:4C].
2. **I:2:** In the case of two cross beams, each one a half handbreadth broad, how much space may there be between them [so that they may be regarded as a single crossbeam for the purpose of holding bricks]? R. Zeira said, “A half handbreadth. [This will then yield a total breadth of a handbreadth and a half.] For there will be a half handbreadth on one side, a half handbreadth on the other, and a half handbreadth in between.” R. Hoshaiyah taught, “A handbreadth [would be an acceptable space].”
3. **I:3:** If there are two cross beams, one a third and a bit more [of a handbreadth and a half, and the other a third and a bit more [of a

handbreadth and a half, and between the two a space of less than a third of a handbreadth – *the law governing this situation accords with that which* R. Yohanan said, “The standing part [of the wall around the cistern] and the dug-out space join together to form the requisite breadth of four handbreadths, so long as the standing part is greater than the excavated part. [Here too the two beams do join together with the empty space between them, so long as the beams form the larger part of the total space encompassed by the whole.”

4. **I:4:** As to a beam which protrudes from one wall but does not reach the other, or a case in which there were two beams, opposite one another but not touching directly] – if the space between the one and the other is three handbreadths [or more] one has to set a crossbeam to close off the top of the alleyway], and if not, it is not necessary to set a crossbeam there [cf. T. Er. 1:6A-D].
5. **I:5:** A crossbeam [set at an angle] so that one side lies above twenty cubits and the other below the height of twenty cubits – they so regard it that, if one should cut off the beam within three handbreadths [of the wall], the beam would appear to be within twenty cubits of the ground, the arrangement is permitted, and if not, it is forbidden. A crossbeam set at an angle so that one side lies above ten handbreadths [of the ground] and one side lies below ten handbreadths of the ground – they so regard it that, if one should cut off the beam within three handbreadths of the wall, the beam would appear to be above ten handbreadths [of the ground], the arrangement is permitted, and if not it is forbidden.
6. **I:6:** If there were two cross beams, one above the other – R. Yosé b. Judah says, “They regard the lower one as if it goes upward, and the upper one as if it goes downward, “on condition that the lower one not be lower than ten handbreadths, and the upper one not be above twenty cubits [from the ground]” [T. Er. 1:5B-C]

IV. YERUSHALMI ERUBIN 1:4

- [A] It [THE CROSSBEAM] SHOULD BE WIDE ENOUGH TO HOLD A HALF-BRICK, AND STRONG ENOUGH TO HOLD A HALF-BRICK. R. JUDAH SAYS, “[IT SHOULD BE] WIDE ENOUGH [TO HOLD A HALF-BRICK] EVEN THOUGH IT IS NOT SUFFICIENTLY STRONG [TO HOLD A HALF-BRICK].

1. **I:1:** It has been taught: R. Simeon says, “It must be sufficiently strong, even though it is not sufficiently broad [as at M. I: 4A-B] [thus the opposite of M. 1:4C].”
2. **I:2:** Rab came to a certain place. He saw an alleyway, which was rendered permitted [for carrying] merely by means of a single crossbeam [that was very thin]. He gave it a knock with his staff and knocked it down. Said to him R. Huna, “There is a palm tree yet standing [which can serve as the crossbeam].” He said to him, “Does R. Huna have eyes to see, and Rab not have eyes to see [that tree]? But lo, I shall prohibit them from carrying in the alleyway relying on that crossbeam on the present Sabbath, and for the next Sabbath [when in advance they may form the proper intention] I shall permit them to carry on the count of the palm tree, and in this way they will know that if the palm tree should be cut down, it will be forbidden to carry in the alleyway.”
3. **I:3:** For we have learned there: What is the outer area? “It is any area near the town,” the words of R. Judah [M. Bes. 1:2E-F]. The views assigned to R. Judah are at variance. For we have learned there: R. Judah says, “Even if there is nothing [in an outer area] except for a cistern or a pit or a cavern, they may carry things in that area” [M. Er. 2:5]. [Judah then differs from the view of Judah b. Baba, at the same passage, that one may carry about such an area if it is near the town.] And here has he said this [that any area near a town is subject to the stated rule, even if there is no cistern, pit, or cavern therein]? Said R. Mana, “[Judah treats the cistern, pit, or cavern] as equivalent to the hut.”

V. YERUSHALMI ERUBIN 1:5

[A] “[**IF**] IT WAS OF STRAW OR REEDS, THEY REGARD IT AS IF IT WERE MADE OF METAL.”

1. **I:1:** From whose viewpoint is it necessary to specify [the rule of M. 1:5B]? [Since Judah, M. 1:4, stresses the criterion of the breadth of the crossbeam even at the expense of its strength,] it is important from the viewpoint of R. Judah, who has said, “It should be wide enough to hold a half brick, even though it is not sufficiently strong to hold a half brick” [M. 1:4C].

[B] [**IF IT WAS**] CURVED, THEY REGARD IT AS IF IT WERE STRAIGHT :

- II:1:** Aha in the name of R. Zeira: “This represents the view of R. Judah in particular[.]” R. Yosé in the name of R. Zeira: “It represents the view of all parties.” [The rule of M. 1:5B] applies, in particular, to a crossbeam, the curved part of which is on the side [of the alley entry, outside of the area to be covered by the crossbeam]. In the case of such a curvature of the crossbeam, that sort of curve does not invalidate [carrying about in] the alleyway. But in the case of curvature of the crossbeam which will invalidate [carrying in the alleyway], lo, in such a case, that is forbidden.

[C] [IF IT WAS] ROUND, THEY REGARD IT AS IF IT WERE SQUARE.

- III:1:** This too represents the position of R. Judah [in particular].

[D] WHATEVER IS THREE HANDBREADTHS IN CIRCUMFERENCE IS ONE HANDBREADTH IN WIDTH.

- IV:1:** [As to M. 1:5D,] they derived this fact from the measurements of the molten sea: “Then he made the molten sea; it was round, ten cubits from brim to brim, and five cubits high, and a line of thirty cubits measured its circumference” (I Kings 7:23).[C] It is not possible to say that it is round, for it already has been indicated [cf:PM] that it is square. It furthermore is not possible to say that this squared, for it already has been indicated that it was round [in the cited verse]. If you say it was square, you turn out to say that one hundred sixty-[six] parts of [water for the purpose of] purification did the sea contain, and if you say it was round, you turn out to say that one hundred twenty-[five] parts of [water for the purpose of] purification did the sea contain. Accordingly, you must conclude that the two upper cubits [of the sea] were round, and the three lower cubits [of the full height of five cubits] were square. You turn out to rule that the sea held one hundred fifty parts of [water for the purposes of] purification.

VI. YERUSHALMI ERUBIN 1:6

[A] THE SIDE POSTS OF WHICH THEY SPOKE — THEIR HEIGHT MUST BE TEN HANDBREADTHS, AND THEIR BREADTH AND THICKNESS MAY BE IN ANY MEASURE AT ALL. R. YOSÉ SAYS, “THEIR BREADTH MUST BE THREE HANDBREADTHS.”

- I:1:** Where the Mishnah presents a dispute on the thickness of the side posts, it speaks of a case in which the side posts are distant from the

wall [of the alley entry], but if they were adjacent to the alley entry[‘s] wall, then R. Yosé also will concur.

2. **I:2:** Building stones which protrude from the building – if there is not a space of three handbreadths between one and the other, are regarded as equivalent to side posts [T. Er. 1:9]. If a corner [of a building] protrudes on one side, and the corner [of a building] protrudes on the other [so forming an entry way to an alley], they are treated as equivalent to side posts.
3. **I:3:** A wall, one side of which recedes more than the other and which appears even from within but looks to be recessed from without, or appears even from without and looks to be recessed from within, is deemed equivalent to side posts [T. Er. 1:10].
4. **I:4:** In the case of a wall, one side of which protrudes and one side of which is drawn back [so that the wall fronting on the public domain is uneven] – Kahana said, “One sets the crossbeam diagonally and utilizes the space diagonally as well [so that the space covered by the diagonal line of the courtyard likewise may be utilized by carrying; but we do not permit carrying in the entire space of the doorway to the alleyway].” R. Aha in the name of Kahana: “One sets the crossbeam diagonally and utilizes the space diagonally as well, but that is on the stipulation that the crossbeam not be drawn back more than ten cubits [from the baseline formed by the frontage on public domain marked by its counterpart wall].”

VII. YERUSHALMI ERUBIN 1:7

[A] WITH ANY SORT OF MATERIAL DO THEY MAKE SIDE POSTS, EVEN SOMETHING WHICH IS ANIMATE. AND R. MEIR PROHIBITS [USING AN ANIMATE OBJECT]. AND [AN ANIMATE CREATURE WHICH IS USED TO COVER UP THE ENTRANCE OF A TOMB] IMPARTS UNCLEANNESSE AS A SEALING STONE. BUT R. MEIR DECLARES IT CLEAN [WHEN USED FOR THAT PURPOSE]. AND THEY WRITE ON [AN ANIMATE CREATURE WRITS OF DIVORCE FOR WOMEN.

1. **I:1:** It has been taught: “With anything that is animate they may make the wall of a sukkah, but they may not make side posts [for an alleyway],” the words of R. Meir. And sages say, “They do not use an animate object for a wall, but they do use it for a sidepost.”
2. **I:2:** Simeon bar Karsena in the name of R. Aha: “R. Meir, R. Yosé, and R. Eleazar b. Azariah – all three maintain the same view. R.

Meir: An animate creature used to cover up the entrance of a tomb imparts uncleanness as a sealing stone. But R. Meir declares it clean [when used for that purpose] [M. 1:7D-E]. R. Yosé in the matter of tents: R. Yosé says, “A house located on a ship does not serve [as a tent] to spread about corpse-uncleanness”[M. Oh. 8:5J]. R. Eleazar b. Azariah, as it has been taught: There was the case of R. Eleazar b. Azariah and R. Aqiba who were traveling on a ship. R. Aqiba made a sukkah on the bow, and the wind came and carried it off. Said to him R. Eleazar b. Azariah, “Aqiba, where is your sukkah now?”

[B] AND R. YOSÉ THE GALILEAN DECLARES IT INVALID [WHEN USED FOR THAT PURPOSE].

1. **II:1:** [With reference to M. Git. 2:3L-M = M. 1:7G: R. Yosé the Galilean says, “They do not write a writ of divorce on anything that is alive or on foodstuffs,”] what is the scriptural basis for the ruling of R. Yosé the Galilean? Scripture says, “A book [document]” (Deut. 24:1). Just as a book is not a living thing, so included is anything which is inanimate. Just as a book is not edible, so anything which is not edible is accepted. What is the basis for the ruling of rabbis [M. Git. 2:3H]? Just as a book is something which is not attached to the ground, so anything which is not attached to the ground is acceptable.

VIII. YERUSHALMI ERUBIN 1:8

[A] A CARAVAN WHICH ENCAMPED IN A VALLEY, AND WHICH [THE TRAVELERS] SURROUNDED WITH A FENCE MADE OUT OF CATTLE YOKES — THEY CARRY [THINGS] ABOUT IN IT, ON CONDITION THAT THE FENCE BE TEN HANDBREADTHS HIGH, AND THERE NOT BE BREAKS [IN THE FENCE] LARGER THAN THE BUILT-UP PARTS. ANY BREAK [IN THE FENCE] WHICH IS ABOUT TEN CUBITS WIDE IS PERMITTED, BECAUSE IT IS TANTAMOUNT TO A DOORWAY [BUT A BREAK IN THE FENCE] LARGER THAN THAT IS PROHIBITED:

1. **I:1:** Ada *in the* name of R. Hisdai: “To whom is the rule [at M. 1:8C-D] important? It is important to R. Yosé b. R. Judah.” For R. Yosé b. R. Judah says, “Any partition which is not made up of both warp and woof is not regarded as a partition.” But he concurs here [that a partition of a warp alone is permitted.
2. **I:2:** [With reference to M. Kil. 4:4: If the three handbreadths, which would suffice for a kid to enter, it is deemed a valid partition. If a fence was breached for a space of ten cubits, such may be deemed an entrance (= M. 1:8E). If it is wider than this, it is forbidden to sow

opposite the breach. If many breaches were made in the fence, yet what is yet standing is greater than the area that is broken down, it is permitted to sow opposite the breach; if the broken-down part is broader than the standing part, it is forbidden:] You turn out to rule as follows: As to mixed seeds in a vineyard [in which a fence must be erected to keep distinct the patches of a field sown in different seeds], if there is a breach less than three handbreadths, it is as if it were closed up. If the breach were from three to four handbreadths, if the standing part of the fence is greater than the broken-down part of the fence, it is permitted [to sow seeds by the breach, as if it were a fully valid fence], and if the breaches were greater than the standing part of the fence, it is forbidden. If the breaches were from four to ten handbreadths, if the standing part of the fence was greater than the broken-down part, it is permitted [to sow opposite the breaches]. If the broken-down part is greater than the standing part, then opposite the standing part of the fence it is permitted to sow [seeds of a different sort from what is on the other side of the fence], and in the area opposite the breach, it is forbidden. If it is greater than ten handbreadths, even though the standing part of the fence is greater than the broken-down part of the fence, while it is permitted to sow opposite the standing part of the fence, it is forbidden to sow opposite the broken-down part of the fence.

IX. YERUSHALMI ERUBIN 1:9

[A] THEY SURROUND [THE CAMP] WITH THREE ROPES ONE ABOVE THE OTHER, ON CONDITION THAT BETWEEN ONE ROPE AND THE NEXT THERE BE NO SPACE MORE THAN THREE HANDBREADTHS. THE SIZE OF THE ROPES MUST BE SO THAT THEIR [TOTAL] THICKNESS IS MORE THAN A HANDBREADTH, SO THAT THE WHOLE WILL BE TEN HANDBREADTHS HIGH:

1. **I:1:** Said R. Zeira, “They have stated this rule [cf. M. Suk. 1:10] only with reference to a partition ten or more than ten cubits high. “Lo, if it is less than that measure, there is no valid partition at all.” And so it has been taught [that at issue is a height of ten cubits]: If one brought [for the use of a sukkah] a wall less than ten handbreadths high, and raised it less than three handbreadths high above the ground, the arrangement is permitted.
2. **I:2:** [As to M. 1:9A-B,] R. Simeon b. Laqish in the name of R. Judah b. Hananiah, “If one inserted four reeds into the four corners of a vineyard and tied a thread above [the reeds from one to another], it

affords protection as a braid [that is, it forms a partition with regard to mixed seeds, and it is therefore permitted to sow seed near the vineyard, as if the vineyard were separated from the seed by a wall]. [This construction suffices for such a purpose.]” [Such a construction would not serve as a gateway to link an alleyway, however, and hence,] said R. Yohanan, “As is the rule governing partitions for the purposes of the Sabbath, so is the rule defining a suitable partition in the case of mixed seeds in a vineyard.”

X. YERUSHALMI ERUBIN 1:10

[A] **THEY SURROUND [A CAMP] WITH REEDS, ON CONDITION THAT THERE NOT BE BETWEEN ONE REED AND THE NEXT THREE HANDBREADTHS [OF EMPTY SPACE]. “AND THEY SPOKE SPECIFICALLY OF THE CASE OF A CARAVAN [AT REST],” THE WORDS OF R. JUDAH. AND SAGES SAY, “THEY SPOKE OF A CARAVAN ONLY BECAUSE OF PREVAILING CONDITIONS.” “ANY PARTITION WHICH IS NOT OF WARP AND WOOF IS NO PARTITION,” THE WORDS OF R. YOSÉ B. R. JUDAH. AND SAGES SAY, “ONE OF THE TWO [IS ENOUGH].”**

- 1.** **I:1:** “In the case of a caravan, they may surround the camp with reeds,” the words of R. Judah [M. 1:10C]. Lo, an individual [who wants to make a partition of this kind must make one formed] of warp and woof. Lo, from the viewpoint of R. Judah what is the difference between an individual’s making such a partition and a caravan’s doing so, and why is it that rabbis do not make a distinction between an individual’s partition and a caravan’s partition? Let us derive the answer from the following [given in T.’s version]: A caravan which encamped on a mound ten handbreadths high, or in a crevice ten handbreadths deep, or in a field surrounded by a fence ten handbreadths high – they carry objects about in it, on condition that they fill the entire area, and not leave empty an area sufficient for the sowing of two seahs of seed. And if the area is only a Space of two seahs, they carry about therein, even if they do not fill up the entire space [T. Er. 2:3].
- 2.** **I:2:** A caravan is made up of no fewer than three people. A gentile may not make up the necessary number to constitute a caravan. What would be a practical case? If there were two Israelites, and, on Friday afternoon, they prepared a gesture of commingling [serving to join the area into a common domain for the purpose of carrying in an area of two seahs on the Sabbath], and then [on the Sabbath] a gentile joined them, so adding to the number in the caravan, the Sabbath already has

taken effect with the additional area subject to prohibition [against carrying on the Sabbath]. [They may carry only in the area originally covered by their gesture of commingling.] If they were three, and two of them prepared a gesture of commingling [the third having been a gentile], and then the gentile went his way and so diminished the number in the caravan, the Sabbath has already entered at a point at which the permissible area [for all three had been established, in consequence of which it is still permissible to carry throughout the original area].

3. **I:3:** R. Deripah said R. Nisa asked, “What is the law as to assigning to them three triangulated plots, in such a way that this one may carry in the two *seahs* assigned to that, and that one may carry objects in the two *seahs* set aside for this one?” [This question is not answered.]
4. **I:4:** R. Aha in the name of R. Hisdai: “The view of R. Yosé b. R. Judah accords with the theory of his father and also differs from a theory of his father. It accords with the theory of his father in the case of an individual, in regard to an area of more than two *seahs*, and he differs from his father in the case of a caravan, in respect to an area of less than two *seahs*.” [Judah and his son Yosé concur that an individual cannot utilize a space of more than two *seahs*. At T. Er. 2:5B, R. Judah says, “An individual should not make for himself an area larger than two *seahs*.” That involves a fence either of warp or woof. Should a fence be of both warp and woof, the rule will be different. Judah however accepts a fence of either warp or woof for a caravan, and Yosé, M. 1:10E, does not.]

[B] FOUR MATTERS DID THEY DECLARE EXEMPT [FROM LIABILITY IF DONE BY PEOPLE] IN A [MILITARY] CAMP: THEY GATHER WOOD FROM ANY LOCATION. AND THEY ARE EXEMPT FROM THE REQUIREMENT OF WASHING HANDS [BEFORE EATING]; AND FROM THE LAWS CONCERNING DOUBTFULLY TITHED PRODUCE

1. **II:1:** [As to M. 1:10G-K,] how large is such a military camp? R. Hananiah said, “A hundred: ‘So Gideon and the hundred men who were with him came to the outskirts of the camp at the beginning of the middle watch, when they had just set the watch; and they blew the trumpets and smashed the jars that were in their hands’ Judg. 7:19).” R. Yohanan said, “The camp is ten: ‘When David’s young men came, they said all this to Nabal in the name of David; and then they waited’ (1 Sam. 25:9).” It has been taught in the name of R. Judah: “Twelve thousand, the size of the camp of Israel.”
2. **II:2:** A military camp which goes forth for an optional war may grab freshly cut wood but may not grab seasoned wood. An army which

goes forth for an obligatory war may grab both seasoned and freshly cut wood.

[C] AND FROM THE REQUIREMENT TO PREPARE AN ERUB [TO JOIN THE SEVERAL TENTS SO THAT THINGS MAY BE TAKEN FROM ONE ANOTHER

1. **III:1:** R. Hiyya bar Ashi said, “That which you have said applies to meals of commingling for courtyards. But as to meals of commingling covering the Sabbath boundaries [establishing the Sabbath boundary as two thousand cubits the location of the symbolic meal], that constitutes a requirement based upon the law of the Torah.”
2. **III:2:** R. Judah b. Tema says, “They make camp anywhere [even without the permission of the owner of the field], and in the spot in which they are killed, there they are to be buried” [T. Er. 2:6B-C]. That is so that you should not conclude that they should be treated as were the [gentiles] who were slain in the wars.
3. **III:3:** Just as, when they go forth to war, they are exempt from the four matters [of M. 1:10G-K], so when they come back from war, they are exempt from [these same] four matters. R. Yosé b. R. Bun in the name of Rab: “Just as when they go forth to war, they are exempt from four matters [of M. 1:10G-K], so when they come back from war, they are exempt from [these same] four matters.”

XI. YERUSHALMI ERUBIN 2:1

[A] THEY SET UP BOARDS AROUND WELLS [IN THE PUBLIC DOMAIN]. “FOUR CORNER-PIECES APPEARING LIKE EIGHT [SINGLE BOARDS] [ARE TO BE SET UP],” THE WORDS OF **R. JUDAH R. MEIR** SAYS, “EIGHT APPEARING LIKE TWELVE [ARE TO BE SET UP]. FOUR ARE CORNER-PIECES, AND FOUR ARE FLAT.” THEIR HEIGHT IS TO BE TEN HANDBREADTHS, AND THEIR BREADTH SIX, AND THEIR THICKNESS IN ANY MEASURE AT ALL. “AND THE SPACE BETWEEN THEM IS TO BE ENOUGH FOR TWO TEAMS OF THREE OXEN EACH,” THE WORDS OF **R. MEIR. R. JUDAH** SAYS, “FOUR OXEN EACH, “TIED TOGETHER AND NOT WIDELY APART, “ONE GOING IN WHILE THE OTHER GOES OUT.”

1. **I:1:** [The reason that they set up four corner-pieces] is that the breaches [in the wall surrounding the well in public domain] are more than the standing boards, and, accordingly, one has to set up corner-pieces, rather than flat boards [each of four cubits in breadth]. [Why so? For the corner-pieces} give indication that they are set up to permit access to the well [on the part of the oxen]. [It is on that count that

there may be a breach larger than the standing part of the wall around the well, and setting up the corner-pieces is what indicates it.]

2. **I:2:** Jeremiah in the name of Rab: “They have permitted the use of strips of wood around wells [facilitating use of the wells on the Sabbath in the way described at M. 2:1] only in the case of those who make a pilgrimage for the festival alone.” R. Abin said, “It is for the time that the pilgrims for the festivals are coming [not only for the pilgrims themselves].” R. Jeremiah in the name of R. Samuel bar R. Isaac: “It is because of those who come up for the festival [that this arrangement is permitted under all circumstances].”
3. **I:3:** They proposed to say, “R. Meir will concede the view of R. Judah, but R. Judah will not concede the view of R. Meir.” R. Meir will concede the view of R. Judah: Now R. Meir holds that the boards may be flat [and not formed into corners], and you say such a thing? [How can he concede Judah’s position, that the boards must be made into corners, when Meir holds they may be flat?] [So far as Meir is concerned,] if you make corner-pieces [that would suffice, even if] you do not make flat boards. Nonetheless [he imposes a stricter rule, in that] he maintains, since one may err and suppose that any sort of partition prepared in the public domain for the Sabbath may be of such a character, so one may go and make such a construction in some context other than [the well], and so incur liability. [Thus he imposes a still stricter requirement, that there be boards as well as corner-pieces. But in strict law, corner-pieces alone would suffice, just as Judah maintains.] R. Aha in the name of R. Hinena: “This one will not concur with the view of that one, and that one will not concur with the view of this one.”
4. **I:4:** If there was a single stone shaped like a cube, they examine it. If it should be divided, and there would be six handbreadths on this side and six handbreadths on that side, at the corners, it is deemed equivalent to boards [T. Er. 1:12B-C]. There is a Tannaite authority who teaches, If it should be smoothed down. They proposed to rule, “He who said, ‘If it should be divided,’ measures from within, and he who said, ‘If it should be smoothed down,’ measures from without.”
5. **I:5:** If there was there [at a well] a ditch ten handbreadths deep and four broad, with six handbreadths on one side and six on the other [that is, it is an L-shaped ditch, of the stated dimensions,] then it is treated as equivalent to a corner-piece. It is not the end of the matter that that rule applies to a ditch, but even if there is a heap of stones, [or a case in which] part of the corner is made up by a ditch, and part by a heap

of stones, [the same rule applies]. If there were five reeds, and there were not three handbreadths between one and the other, and they cover a space of six handbreadths on one side and six on the other [laid out as an L], they are treated as equivalent to a corner-piece. If there were three reeds and a reed-grass rope above [as in a doorway], what is the law as to their affording protection on the grounds of forming a plaited partition?

6. **I:6:** A wall, tree, or partition of reeds is regarded as equivalent to boards [T. 1:15A]. If they grew up on their own, the people may carry in the space demarcated by them to an area of two *seahs*. If one made them on his own, one may carry in the space demarcated by them up to a *kor's* or two *kor's* space. If there was the case of a very large cistern, if then for half of it one prepared a wall of boards, and for half of it one did not prepare a wall of boards, for the half for which one prepared a wall of boards, it is permitted [to draw water], and from the half for which one did not prepare a wall of boards, it is forbidden [to draw water]. If there were two cisterns, as to the board in the middle, what is the law on its being assigned both to this side and to that side?
7. **I:7:** [If there was a courtyard open to the space enclosed by the boards, it is permitted to carry from the courtyard to the area enclosed by the boards, [Y.: but not] and from the area enclosed by the boards to the courtyard. [If] there were two there, both of them are prohibited, [but it is permitted to carry in the space enclosed by the boards] [T. Er. 1:15].
8. **I:8:** Said R. Yosé b. R. Bun, “They permitted transporting objects in the area marked off by boards around a well only for the purpose of drawing water in that area alone.” If water should come into the cistern only on the Sabbath, [it may not be drawn] for the Sabbath has already come into effect at the point at which it was forbidden to draw water from the well. If the well went dry on the Sabbath [and then water came back to it], it is permitted to use that water, for when the Sabbath came, the well was permitted for the drawing of water.
9. **I:9:** It has been taught: “[The space at issue at M. 2:1F-I] is ten cubits,” the words of R. Meir. R. Judah says, “Thirteen or fourteen” [T. Er. 1:13B-C]. “You take a cubit and a half, with a cubit between them.”

XII. YERUSHALMI ERUBIN 2:2

[A] IT IS PERMITTED TO BRING [THE FENCE] CLOSE TO THE WELL, SO LONG AS THE HEAD AND GREATER PART OF A COW WILL BE INSIDE [THE ENCLOSED] WHEN IT DRINKS. AND IT IS PERMITTED TO DRAW THEM BACK ANY DISTANCE AT ALL, SO LONG AS ONE INCREASES THE NUMBER OF BOARDS.

1. **I:1:** R. Jeremiah in the name of R. Samuel bar R. Isaac: “And that measure [of a cubit of partition and a cubit of space, applicable to all other beasts,] is the same as the measure stated here [at M. 2:2B], so that even a camel, the whole of which will be outside of the fence of boards, will be permitted [to drink from the well]. But if [a fence of boards is so set up as to be] less than the stated dimensions [at M. 2:2B], then even a young animal, the whole of which is within [the boards around the well,] is forbidden [to drink from the well]. [There are no variations in the dimensions fixed by sages.]” It has been taught: R. Simeon b. Eleazar says, “The dimensions of a camel with its accoutrements [are what is required].” Does this statement differ from the foregoing? As long as a cow may stretch out its neck, so a camel may twist his neck around [shortening it, as it were].
2. **I:2:** In the view of R. Meir, there may be corner-pieces or boards. In the view of R. Judah, there must be corner-pieces but not boards. [In extending the dimensions of the fence to cover more ground, M. 2:2C-D, Judah wants the use of corner-pieces. Meir wants additional boards to close off excessive spaces in the fence.]

XIII. YERUSHALMI ERUBIN 2:3

[A] **R. JUDAH SAYS,** “THEY [MAY DRAW THEM BACK FROM THE WELL ONLY] SO FAR AS TO LEAVE TWO SEAHS OF SPACE.” THEY SAID TO HIM, “THE MEASURE OF TWO SEAHS SPACE HAS BEEN STATED ONLY IN CONNECTION WITH WHAT IS REQUIRED FOR A GARDEN OR AN OUTER AREA. BUT IF IT WAS A CATTLE-PEN, FOLD, STORE-YARD, OR COURTYARD, EVEN A SPACE OF FIVE KORS, EVEN A SPACE OF TEN KORS, IS PERMITTED.” SO IT IS PERMITTED TO DRAW THE BOARDS BACK ANY DISTANCE AT ALL, [E] SO LONG AS ONE INCREASES THE NUMBER OF BOARDS.

1. **I:1:** [From the viewpoint of Judah, M. 2:3A,] what is the rule on the space occupied by the cistern’s being included in the two seahs of space [one is permitted to mark off by the fence]?

XIV. YERUSHALMI ERUBIN 2:4

[A] **R. JUDAH SAYS, “IF A PUBLIC PATH WENT THROUGH THEM [THE BOARDS], ONE SHOULD DIVERT IT TO THE SIDE.” AND SAGES SAY, “IT IS NOT NECESSARY [TO DO SO].”**

- I:1:** Said R. Yohanan, “The two theories attributed to R. Judah are at variance with one another. For we have learned there: ‘And so in the case of viaducts open at both ends, they carry underneath them on the Sabbath, ‘ the words of R. Judah. And sages prohibit [cf. M. 9:5]. [From Judah’s decision it follows that the fact that the public way intervenes does not have the effect of nullifying the power of the partition. Here, at M. 2:4A, he holds the contrary.]” Said R. Eleazar, “There is no contradiction [among the views of either Judah, on the one side, or sages, on the other].”

[B] **“ALL THE SAME ARE A CISTERN SERVING THE PUBLIC, A WELL SERVING THE PUBLIC, AND A WELL SERVING AN INDIVIDUAL : THEY SET UP BOARDS FOR THEM. “BUT FOR A CISTERN SERVING AN INDIVIDUAL THEY SET UP A PARTITION TEN HANDBREADTHS HIGH,” THE WORDS OF R. AQIBA. R. JUDAH B. BABA SAYS, “THEY SET UP BOARDS ONLY FOR A CISTERN SERVING THE PUBLIC ALONE. “BUT FOR THE REST THEY SET UP A [ROPE] BELT TEN HANDBREADTHS HIGH.”**

- II:1:** [As to M. 2:4C-D,] what is the difference between a cistern serving the public and a cistern serving an individual? A cistern serving the public is well known, while a cistern serving an individual is not well known.

XV. YERUSHALMI ERUBIN 2:5

[A] **AND FURTHER DID R. JUDAH B. BABA SAY, “AS TO A GARDEN OR AN OUTER AREA FOR MORE THAN] SEVENTY CUBITS AND TWO-THIRDS BY SEVENTY CUBITS AND TWO-THIRDS, SURROUNDED BY A WALL TEN HAND-BREADTHS HIGH, THEY CARRY ABOUT IN IT, SO LONG AS THERE IS A WATCHMAN’S HUT OR A HOUSE, OR IT IS NEAR TOWN [WHERE THE OWNER LIVES].”**

- I:1:** R. Samuel bar Nahman in the name of R. Jonathan: “They derived the stated dimensions from the courtyard of the tabernacle [that is, the area of two *seahs* is deduced from the dimensions of the courtyard]: ‘The length of the court shall be a hundred cubits, and the breadth fifty everywhere’ (Exod. 27:18).” R. Samuel bar Nahman said in the name

of R. Jonathan, “The side of a square whose area equals that of a court 100 x 50 square cubits is more than 70 and two-thirds.”

2. **I:2:** An outer area which covers two *seahs*’ space – it is permitted to carry there in only four cubits [in the case of an area not surrounded for a dwelling house, as at M. 2:5A-C]. If there were two areas, each one a *seah* in space, the second lacking four cubits, [which fields had been opened, through a breach in the partition between them, into one another] R. Zeirah in the name of R. Yohanan: “They may carry in the area [since we do not have two *seahs* of space in any event] regarding the second field as completing [the requisite space] of the first.” R. La in the name of R. Yohanan: “They do not carry in the area, thus not regarding the second field as completing the requisite space of the first. [The two fields originally were separated and are not now regarded as joined together with one another.]”
3. **I:3:** As to an outer area which covers two *seahs* of space, said R. Abbahu, “Since such an area may be transformed into private domain through the encampment of a caravan, [it is regarded as private domain, so that] if one tossed an object from public domain into that area, he is liable.” R. Samuel bar R. Isaac asked, “But it is only when a caravan’s camping will permit it [that the area becomes private domain, so why should he not be exempt until that actually is the case]?”
4. **I:4:** A courtyard which is open into an outer area – they may carry an object from the courtyard to the outer area, but not from the outer area into the courtyard.

XVI. YERUSHALMI ERUBIN 2:6

[A] **R. JUDAH SAYS, “EVEN IF THERE IS IN IT ONLY A CISTERN, PIT, OR CAVERN, THEY CARRY ABOUT IN IT.” R. AQIBA SAYS, “EVEN IF THERE IS IN IT NONE OF THESE THINGS, THEY CARRY ABOUT IN IT. SO LONG AS IT IS OF THE SPACE OF SEVENTY CUBITS AND TWO-THIRDS BY SEVENTY CUBITS AND TWO-THIRDS [AND NO MORE].”**

1. **I:1:** The opinions assigned to R. Judah are at variance with one another, for we have learned there: What is the outer area? It is any area near the town,” the words of R. Judah [M. Bes. 4:2E-F]. And here has he said this [that any area, even not near a town, is subject to the stated rule, if there is a cistern, pit, or cavern therein]?

XVII. YERUSHALMI ERUBIN 2:7

- [A] R. ELIEZER SAYS, “IF ITS LENGTH IS LONGER THAN ITS BREADTH EVEN BY A SINGLE CUBIT, THEY DO NOT CARRY THEREIN.” R. YOSÉ SAYS, “EVEN IF ITS LENGTH IS TWO TIMES ITS BREADTH, THEY DO CARRY THEREIN.”
1. I:1: It has been taught: R. Eliezer says, “If its length is longer than its breadth even by a single cubit, they do not carry therein” [M. 2:7A]. R. Yosé says, “Even if its length is two times its breadth, they do carry therein” [M. 2:7B].

XVIII. YERUSHALMI ERUBIN 2:8

- [A] SAID R. ILAI, “I HEARD FROM R. ELIEZER, ‘EVEN IF IT IS A KOR’S SPACE [SEVENTY-FIVE THOUSAND SQUARE CUBITS]:’”
1. I:1: R. Abbahu in the name of R. Eliezer: “[It is not actually a *kor*’s space that Eliezer has pronounced permitted for carrying, but rather a case in which] two *seahs fit* into a *kor*’s space, [for instance, where there are crevices or sloping fields. It is to such a case that] the Mishnah speaks.”
- [B] “AND SO DID I HEAR FROM HIM, ‘THE INHABITANTS OF A COURTYARD, ONE OF WHOM FORGOT AND DID NOT PREPARE AN ERUB — AS TO HIS HOUSE, IT IS PROHIBITED FOR HIM TO BRING IN [SOMETHING] OR TAKE [IT] OUT. BUT FOR THEM IT IS PERMITTED:’”
1. II:1: “And so did I hear from him: ‘The inhabitants of a courtyard, one of whom forgot and did not prepare an erub — as to his house, it is prohibited for him to bring in something or take it out, but for them it is permitted’” [M. 2:8B-D]: There [at M. 6:3], we deal with the opinion of rabbis, while here it is the view of R. Eleazer. Rabbis hold the view that one may annul his rights of ownership to a courtyard, but he may not nullify his rights of ownership to his house [unless he so states explicitly]. R. Eliezer says, “Just as a man nullifies his rights of ownership to his house, so he nullifies his rights of ownership to his courtyard. [That is the case even if he nullifies his rights to only one of the components of his property.]”
- [C] “AND SO DID I HEAR FROM HIM, ‘THEY FULFILL THEIR OBLIGATION [TO EAT BITTER HERBS] THROUGH HART’S TONGUE ON PASSOVER.’ AND I MADE THE

ROUNDS OF ALL HIS DISCIPLES, AND I LOOKED FOR A PARTNER FOR MYSELF [IN HOLDING THESE TRADITIONS], BUT FOUND NONE.”

1. **III:1:** [As to M. 2:8F,] we considered maintaining that the reference was only to the matter of hart’s tongue. But a teaching turned up that that statement [of Ilai] pertains to all three items.

XIX. YERUSHALMI ERUBIN 3:1

- [A] WITH ANY [FOOD] DO THEY PREPARE AN ERUB AND A SHITTUF [MEAL OF COMMINGLING FOR A COURTYARD AND ALLEYWAY, RESPECTIVELY], EXCEPT FOR WATER AND SALT. AND ANY [FOOD] IS PURCHASED WITH MONEY SET ASIDE AS [SECOND] TITHE, EXCEPT FOR WATER AND SALT.**
1. **I:1:** Said R. Aha, “This [M. 3:1A] represents the view of R. Eliezer, for we have learned there: They may prepare a meal of commingling for a courtyard or an alleyway with anything except for water and salt,’ the words of R. Eliezer [M. 7:10].” Rejecting this view,] R. Yosé said, “The present passage of the Mishnah represents the view of all parties. [When Joshua, at M. 7:10, requires use of bread, rather than any other sort of food, he speaks of the case of making a meal of commingling for courtyards. But when the Mishnah speaks of making a meal of commingling in general, it speaks both of such a meal [supply: not] for courtyards [but] for establishing a Sabbath boundary [and in that latter case, any sort of food may be used].”
 2. **I:2:** [When the Mishnah says that a meal of commingling may be prepared from any sort of food,] it represents the view of R. Meir, for it has been taught: With any sort of food which is eaten fresh, as is, they prepare a meal of commingling. If it is eaten only with bread, they do not prepare a meal of commingling with it. As to onions, in the view of R. Meir they do not prepare a meal of commingling with them. For it has been taught: R. Judah said, “There was a precedent, set when R. Meir spent the Sabbath in Ardiqsis, when someone came to him and said, ‘I made a meal of commingling with onions,’ and R. Meir made him stay within his four cubits” [T. Er. 6:4]. Accordingly, even though R. Meir has said, “They may make a meal of commingling for courtyards or alleyways with anything except for water and salt,” that is on condition that it is something which is eaten fresh, as is [without bread].
 3. **I:3:** With any sort of food do they prepare a meal of commingling for courtyards and alleyways, except for water and salt, both in the view of

R. Aqiba and in the view of R. Ishmael. Now as to money in the status of second tithe, any sort of food may be purchased with it, in the view of R. Aqiba, except for water and salt. But as to the view of R. Ishmael: R. Ishmael has taught, “‘And spend the money for whatever you desire, oxen, or sheep, or wine or strong drink, whatever your appetite craves; and you shall eat there before the Lord your God and rejoice, you and your household’ (Deut. 14:26). “‘And spend the money for whatever you desire’ – lo, this is a generalization. “‘Oxen, sheep, wine, or strong drink’ – this is an exemplification. “‘Whatever your appetite craves’ – . this is a further generalization. “‘Thus we have a generalization, an exemplification of the foregoing, and a further generalization, with the result that you may reason [in applying the law] only in accord with what is like those things contained within the exemplification. This then indicates: Just as the exemplifications speak explicitly of something which is an offspring of the land, so I may include only something which is an offspring of the land [excluding fish, locusts, and the like].” R. Aqiba interprets the matter differently: “‘Just as the exemplifications of the generalization speak of what is the fruit of the offspring of the land, or the fruit of what renders that suitable, so I may include only something which is the fruit of the offspring of the land or the fruit of what renders that suitable.”

4. **I:4:** With any food do they prepare an erub and a shittuf except for water and salt [M. 3:1A-B]: Said R. Yosé, “It is because the body does not derive sustenance from them.” Said R. Levi, “It is because through them a curse is carried out, [water with the flood, salt with Sodom].”
5. **I:5:** Said R. Eleazar, “If one turned the two into saltwater, they may be purchased with money in the status of second tithe.” R. Aha in the name of R. Miasha: “And that is the case if one put oil into the mixture.” R. Yosé raised the question, “If so, then should one make a meal of commingling only in proportion to the [amount of oil] in the mixture?”
6. **I:6:** Wine must be enough for drinking along with two meals. Oil must be enough to eat with food for two meals. Vinegar must be enough for dipping food for two meals [T. Er. 6:3A-C]. R. Jeremiah in the name of R. Samuel bar R. Isaac: “It must be sufficient to dip a bundle of vegetables sufficient as food for two meals.”

[B] He who vows [TO ABSTAIN] FROM FOOD IS PERMITTED [TO MAKE USE OF] WATER AND SALT.

1. **II:1:** He who vows to abstain from food is permitted to make use of water and salt [M. 3:1E]: There we have learned: He who takes a vow

not to eat what is cooked is permitted [to eat what is] roasted or seethed [M. Ned. 6:1A]. [M. Ned. 6:1A indicates that the Mishnah does not regard roasting or seething as cooking. And yet elsewhere] the Mishnah has maintained that that which is seethed is called “cooked.” For we have learned: He would cook the peace-offerings or seethe them [M. Naz. 6:9A]. [Then at Num. 6:19, the shoulder of the ram is called cooked.]

2. **II:2:** If one took a vow not to eat a loaf of bread, they may use a loaf of bread in a meal of commingling including him. If one declared a loaf of bread to be sanctified, they may not make use of it for a meal of commingling [T. Er. 2:10C-G]. If one took a vow not to eat a loaf of bread, they may use the loaf of bread in a meal of commingling, for someone else may eat it [though this person may not]. If one declared a loaf of bread to be sanctified, they may not make use of it for a meal of commingling, for neither he nor anyone else may eat it.

[C] **THEY PREPARE AN ERUB FOR A NAZIR WITH WINE:**

1. **III:1:** They prepare an erub for a Nazir with wine [M. 3:1F], for someone else may drink it, and for an Israelite with heave-offering [M. 3:1G], for a priest may eat it.

[D] **AND FOR AN ISRAELITE WITH HEAVE-OFFERING. SUMKHOS SAYS, “WITH UNCONSECRATED PRODUCE. [AND FOR A PRIEST THEY PREPARE AN ERUB AND LOCATE IT] IN A GRAVE AREA.” R. JUDAH SAYS, “EVEN IN A GRAVEYARD, “BECAUSE HE CAN GO OUTSIDE AND EAT.”**

1. **IV:1:** and for a priest in a grave area [M. 3:1/I]. Now does the statement of the Mishnah accord [in specifying a grave area not a graveyard] with the view of the House of Shammai? For the House of Shammai say, “They prepare a meal of commingling for a person only if his utensils are in the place in which the meal is set. [The priest can enter the grave area using certain procedures to assure he is not contaminated, but he may not enter a graveyard.]”

XX. YERUSHALMI ERUBIN 3:2

[A] **THEY PREPARE AN ERUB WITH DOUBTFULLY TITHED PRODUCE, FIRST TITHE WHOSE HEAVE-OFFERING HAS BEEN REMOVED, AND SECOND TITHE AND CONSECRATED PRODUCE WHICH HAVE BEEN REDEEMED. AND PRIESTS [DO SO] WITH DOUGH-OFFERING AND WITH HEAVE-OFFERING BUT [THEY DO] NOT [PREPARE AN ERUB] WITH FOOD FROM WHICH HEAVE OFFERING AND TITHE HAVE-NOT BEEN**

TAKEN, FIRST TITHE THE HEAVE OFFERING OF WHICH HAS NOT BEEN REMOVED, OR SECOND TITHE AND CONSECRATED PRODUCE WHICH HAVE NOT BEEN REDEEMED.

- I:1:** R. Jacob the Southerner raised this question: “[May we say that] the rule of the Mishnah does not accord with the position of the House of Shammai? For we have learned, [As to a lulab or etrog] in the status of doubtfully tithed produce, the House of Shammai declare it invalid, and the House of Hillel declare it valid. And as to one in the status of second tithe in Jerusalem, one should not take it up [and wave it], but if one has done so, his act is valid [M. Suk. 3:5]. [Will the House of Shammai not concur with M. 3:2A’s view on a meal of commingling made up of doubtfully tithed produce?]”

[B] HE WHO SENDS HIS ERUB WITH A DEAF-MUTE, AN IDIOT, OR A MINOR, OR WITH SOMEONE WHO DOES NOT CONCEDE THE VALIDITY OF THE ERUB — IT IS NOT A VALID ERUB. BUT IF HE SAID TO SOMEONE ELSE TO RECEIVE IT FROM HIM, LO, THIS IS A VALID ERUB.

- I:1:** [As to M. 3:2D’s reference to a minor,] Samuel said, “[If one has made use, in sending his meal of commingling to the Sabbath limit,] of a child nine or ten years old, his meal of commingling is valid.”
- II:2:** Said R. Joshua [b Levi], “On what account do they prepare a meal of commingling of a courtyard? It is for the sake of peace.”
- II:3:** He who sends his erub with a deaf-mute, idiot, or minor [M. 3:2D]: [But if he said to someone else to receive it from him, lo, this is a valid erub (M 3:2G-H):] Said R. Eleazar, “But [the sender] must supervise him [anyhow]!” There R Yosé said in the name of R. Sheshet, R. Eleazar bar Yosé in the name of R. Abun, “In the case of someone who says to his fellow, ‘Lo, I shall separate tithe through your good offices.’ he does not have to supervise him [to see that he does it properly], and here have you said this?” Said R Hiyya bar Ada, “Here [where no supervision is necessary] we speak of an adult, and there [where it is], we speak of a minor”

XXI. YERUSHALMI ERUBIN 3:3

[A] [IF] ONE PUT IT INTO A TREE — IF IT IS ABOVE TEN HANDBREADTHS, HIS ERUB IS NOT A VALID ERUB.

- I:1:** Lo, this is a valid erub [M. Er. 3:3C], but it is forbidden to carry it about [since he may not climb the tree to get at it]. If it was located three handbreadths from the ground, it is permitted [to carry it about] [T. Er. 2:13]. Now here is the question: If the *erub* [meal of commingling] is valid, it should be permitted to carry it about, and if it is not permitted to carry it about, then *it* should not be a valid *erub*. [The prohibition against climbing a tree to get at the *erub* is merely by reason of the general laws on Sabbath rest, which include the one against making use of the tree on that day.] Indeed, it would be appropriate for him to violate the restrictions governing Sabbath rest [and to utilize the tree by climbing it, and so to] eat the erub. It has been taught, “[If] he put it into a basket and hung it in a tree above ten handbreadths, his erub is not valid. “[If he hung the basket] lower than ten handbreadths, his erub is valid. “And it is prohibited to handle it,” [the words of Rabbi] [T. Er. 2:13D-F]. If he put it lower than three handbreadths, it is permitted to do so. Now here is the question: If the erub is valid, it should be permitted to carry it about, and if it is not permitted to carry it about, then it should not be a valid erub.

[B] **[IF HE PUT IT] BELOW TEN HANDBREADTHS, HIS ERUB IS A VALID ERUB. [IF HE PUT IT IN A CISTERN, EVEN IF IT WAS A HUNDRED CUBITS DEEP, HIS ERUB IS A VALID ERUB.**

- II:1:** [With reference to M. 3:3C and its contrast to M. 3:3B,] do you not regard the [*erub* placed in] a deep place as equivalent to one placed in a high place? [Why is the cistern not regarded as private domain?]

[C] **[IF] HE PUT IT AT THE TIP OF A REED OR AT THE TIP OF A STICK, WHEN IT IS UPROOTED AND STUCK [INTO THE GROUND], EVEN IF IT IS A HUNDRED CUBITS HIGH, LO, THIS IS A VALID ERUB. [IF] HE PUT IT INTO A CUPBOARD AND LOST THE KEY, LO, THIS IS A VALID ERUB. R. ELIEZER SAYS, “IF HE DOES NOT KNOW THAT THE KEY IS WHERE IT BELONGS, IT IS NOT A VALID ERUB.”**

- III:1:** It is because the reed is uprooted and stuck into the ground. Lo, if it were not uprooted and stuck into the ground, the *erub* would not be a valid one.
- III:2:** It has been taught [with reference to M. 3:3K-L], R. Eliezer says, “If the key was lost in the field, it is not a valid erub, but if it was lost in town, lo, it is a valid erub’ [T. Er. 2:15B]. If the key is lost in the field, it is not a valid erub, for he cannot bring the meal back to the place in which he has acquired his place of Sabbath rest. But if it was in town, lo, it is a valid erub, for he can bring the meal back to the place in which he is free [to move].

XXII. YERUSHALMI ERUBIN 3:4

[A] [If] IT ROLLED OUTSIDE THE SABBATH LIMIT, OR IF A HEAP OF STONES FELL ON IT, OR IF IT WAS BURNED, OR [IF IT WAS] HEAVE-OFFERING AND WAS MADE UNCLEAN — WHILE IT WAS STILL DAY, IT IS NOT A VALID ERUB. [If] IT HAPPENED AFTER NIGHTFALL, LO, THIS IS A VALID ERUB. If IT IS A MATTER OF DOUBT, R MEIR AND R. JUDAH SAY, “LO, IT IS LIKE THE ASS-DRIVER AND CAMEL-DRIVER.” R. YOSÉ AND R. SIMEON SAY, “A MATTER OF DOUBT CONCERNING AN ERUB IS RESOLVED IN FAVOR OF FITNESS.” SAID R. YOSÉ, “ABTULEMOS GAVE TESTIMONY IN THE NAME OF FIVE ELDERS CONCERNING A MATTER OF DOUBT IN REGARD TO AN ERUB, THAT IT IS RESOLVED IN FAVOR OF FITNESS.”

1. **I:1:** They have stated only, And was made unclean [M. 3:4D]. If it is a matter of doubt whether it was made unclean while it was still day or after dark, [that is the rule]. But if it is a matter of doubt whether the erub-meal was clean or unclean [in the case of food in the status of heave-offering], do they regard that as a valid meal of commingling?
2. **I:2:** What is the law as to assigning the man two thousand cubits from the location of his erub-meal to his home [since he has not acquired a location for spending the Sabbath at all]? R. Ba bar Mamel said, “They assign him that right.” R Samuel bar R. Isaac said, “They do not assign it to him.”
3. **I:3:** There we have learned: [Two immersion pools. in one of which there are forty seahs of undrawn water, and in one of which there are nor, one immersed in one of them and does not know in which one of them he immersed –] a matter of doubt concerning him is resolved as clean. R. Yosé declares unclean. [For R. Yosé says, ‘Everything which is in the assumption of being unclean always remains in its condition of unfitness until it will be known that it has been made clean. But a matter of doubt concerning it, when it pertains to its becoming unclean or conveying uncleanness, is resolved as clean’] [M. Miq. 2:2M-R]. [Thus we simply confirm the prevailing assumption. If something is assumed unclean and we are not sure it has become clean, it is held to be unclean. If it is assumed to be clean and we are not sure it has become unclean, it is held to be clean.] Said R. Jonah, “R. Yosé declares unclean only because of the proof [that one of the two pools was lacking and hence ineffective anyhow, and that is so even if the uncleanness to be wiped away, was of a minor order]. [But if there is a case in which one went down to immerse and is not

sure whether or not he actually has done so, or whether the pool has enough water, in which instance we have no firm proof as to the true state of affairs in any way, Yosé will not declare the man unclean.]"

4. **I:4:** The assumption thus far is that one who holds there that the matter of doubt is resolved in favor of cleanness there also maintains here that it is permitted, and he who rules there that the matter of doubt is resolved as unclean will maintain here that it is forbidden. But even in accord with him who said there that it is resolved as unclean here will concur that it is permitted. Said R. Hinena, "Is it not the case, however, that the dispute there concerns merely what is subject only to a decree of sages, and a matter of doubt deriving from a ruling of sages is resolved in a lenient way? But here we deal with the meal of commingling, and the meal of commingling derives from the rulings of the Torah. So a matter of doubt deriving from a ruling of the Torah is resolved in a strict way."
5. **I:5:** Said R. Samuel bar Sistra, "As to a meal of commingling, they have treated it as equivalent to the matter of doubt, in matters of betrothal affecting a deaf-mute. [That is, there is no possibility of addressing a question to solve the problem.]"

XXIII. YERUSHALMI ERUBIN 3:5

[A] **A MAN STIPULATES CONCERNING HIS ERUB AND SAYS."**IF GENTILES COME FROM THE EAST, MY ERUB IS AT THE WEST. "[IF THEY COME] FROM THE WEST, MY ERUB IS AT THE EAST."

1. **I:1:** Thus does the Mishnah teach: A man stipulates concerning his erub [that is, he has to leave two, one in one direction, one in the other]. Said R. Eleazar, "Who taught the passage in the language, 'If they came, and if they did not come'? It is R. Meir." Which R. Meir? Associates say, "It is R. Meir of tractate Qiddushin, for it has been taught: "He who says to a woman, "Lo, you are betrothed on condition that it rain" – "if it rained, she is betrothed, and if not, she is not betrothed "R Meir says, Whether or not it rained, she is betrothed [M Qid. 3:3], unless he should state his condition twice [once positively, one negatively] "All concur that if he said, ' after it has rained, ' if it had rained, she is betrothed, and if it did not, she is not betrothed " R Yosé said, "It is the R Meir of Erubin "For we have learned there, If it is a matter of doubt, R Meir and R Judah say, 'Lo, this is the case of an ass-driver and a camel-driver [M 3:4H-I] [trying to lead an ass and a camel in the same yoke, with one driven from the

back, the other led from the front, so that no progress is possible at all.’ [The issue is resolution of doubt, not the doubled stipulation, and, in Erubin, Meir rules strictly.]”

a. I:2: R. Judah bar Shalom, R. Judah bar Pazzi in the name of R. Yohanan, “With respect to the conditional writ of betrothal they followed the theory of R. Meir of tractate Qiddushin. [The stipulation Is stated positively and negatively.]”

2. I:3: If one made no stipulation, [what is the law]? Let us derive the answer from the following: [If there were two men, and each one] prepared an erub [for both], this one doing so to the north, and that one to the south, this one may go northward in accord with the extent of the erub of the other in the south, and that one may go southward in accord with the limit of this one in the north. But if they set the Sabbath line in the middle [between them, so one made his erub for two thousand cubits to the north of the line, and the other made his erub from two thousand cubits to the south of the line], they should not move from their place [T. Er. 3:4A-E]. [The answer to the question is that if there is no stipulation, then the restrictions of both of the erub-meals take effect.]

[B] “IF THEY COME FROM BOTH DIRECTIONS, THEN TO THE PLACE WHICH I SHALL CHOOSE SHALL I GO. “IF THEY COME FROM NEITHER SIDE, LO, I AM IN THE STATUS OF THE OTHER PEOPLE OF MY TOWN.”

1. II:1: [With reference to M. 3:5C:] The meaning of the Mishnah *is*, If gentiles come from both directions. If they come from neither side. If gentiles come from the east, his *erub is* at the west [cf. M. 3:5B].

XXIV. YERUSHALMI ERUBIN 3:6

[A] IF A SAGE COMES FROM THE EAST, MY ERUB IS AT THE EAST; “IF HE COMES FROM THE WEST, MY ERUB IS AT THE WEST. “IF ONE COMES FROM BOTH DIRECTIONS, THEN TO THE PLACE WHICH I SHALL CHOOSE I SHALL GO. “IF HE COMES FROM NEITHER SIDE, LO, I AM IN THE STATUS OF THE OTHER PEOPLE OF MY TOWN.” R. JUDAH SAYS. “IF ONE OF THEM WAS HIS MASTER, HE GOES TO HIS MASTER. “IF BOTH OF THEM WERE HIS MASTERS, TO THE PLACE WHICH HE SHALL CHOOSE HE GOES.”

1. I:1: [With reference to M. 3:6A,] there is a Tannaite authority who formulates the matter “In the west.”

XXV. YERUSHALMI ERUBIN 3:7

[A] R. ELIEZER SAYS, “IN CONNECTION WITH A FESTIVAL DAY ADJACENT TO THE SABBATH, WHETHER BEFORE OR AFTER IT, A MAN PREPARES TWO ERUBS AND SAYS, “MY ERUB FOR THE FIRST DAY IS AT THE EAST, AND FOR THE SECOND IT IS AT THE WEST.’ “FOR THE FIRST IT IS AT THE WEST AND FOR THE SECOND IT IS AT THE EAST.’ “MY ERUB IS FOR THE FIRST DAY, AND THE SECOND LEAVES ME IN THE STATUS OF THE OTHERS WHO DWELL IN MY TOWN.’ “MY ERUB IS FOR THE SECOND DAY, AND THE FIRST LEAVES ME IN THE STATUS OF OTHERS WHO DWELL IN MY TOWN.” AND SAGES SAY, “HE MAKES AN ERUB FOR A SINGLE DIRECTION. “OR HE DOES NOT MAKE AN ERUB AT ALL. HE EITHER MAKES AN ERUB FOR BOTH DAYS, “OR HE DOES NOT MAKE AN ERUB AT ALL. WHAT SHOULD HE DO? “HE SENDS IT ON THE FIRST DAY [TO THE POINT HE WANTS], AWAITS NIGHTFALL FOR IT, TAKES IT AND GOES ALONG. AND ON THE SECOND DAY HE AWAITS NIGHTFALL FOR IT, THEN HE EATS IT. HE TURNS OUR TO PROFIT FROM HIS JOURNEYING AND TO PROFIT FROM HIS ERUB. “[IF] IT WAS EATEN ON THE FIRST DAY, HIS ERUB IS FOR THE FIRST DAY, AND IT IS NOT AN ERUB FOR THE SECOND DAY.” SAID TO THEM R. ELIEZER, “YOU CONCEDE TO ME THEN THAT THEY ARE TWO [DISTINCT PERIODS OF] SANCTIFICATION.”

1. **I:1:** And sages say, “He makes an erub for a single direction” [M. 3:7F]: This is the meaning of the statement in the Mishnah: Either he makes an erub for a single direction for two days, or he does not make an erub at all.
2. **I:2:** Eliezer concedes that they do not prepare an erub for half a day for the north and for half a day for the south. For they do not divide up a single day. And sages say, “Just as they do not divide up a single day, so they do not divide up two days” [T. Er. 4:1C-E]. And they concur that he should not put his erub meal in a basket [that is, it is forbidden to make a new erub on the festival day]. [It therefore also is prohibited to put the erub-meal designated on the eve of the festival in the same basket with his other loaves of bread, for the reason now specified.]
3. **I:3:** There we have learned: A flagon which is in the status of Tebul Yom [that which had been immersed on the selfsame day, and which becomes fully clean only at sunset] and which one had filled from a jar containing first tithe [wine] which was yet untithed [in respect to heave-offering of tithe] – if he said, “Lo, this will be heave-offering of tithe once it gets dark [and the flagon is clean],” lo, [his words take effect and] this is heave offering of tithe [once it gets dark]. If he said,

“Lo, this is food for an erub-meal, however, he has said nothing of consequence, because the erub-meal is made of food which can be eaten while it is still day, prior to sunset. But here the food is not permitted to be eaten until sunset, since one cannot consume unclean heave offering, and the wine becomes clean only at sunset] [M. T. Y. 4:4A-D]. R. Jonah said R. Hama bar Aqiba raised the question: “Surely this passage of the Mishnah cannot accord with the view of R. Eliezer. For R. Eliezer has said, ‘They may prepare an erub meal for a person once it has gotten dark,’ [and here we maintain that that is not the case]. [But so far as Eliezer is concerned, one may prepare two erub-meals for the two distinct days of a Sabbath-festival sequence, in consequence of which one takes effect after dark.]”

4. **I:4:** R. Haggai raised this possibility: “If one was standing on Thursday and said, ‘Let a place of Sabbath-rest be acquired for me for the Sabbath [at the location of the erub,]’ [even though this is two days in advance], in the view of R. Eliezer, he has acquired the place of Sabbath-rest, and in the view of the rabbis he has not.”
5. **I:5:** [In T.’s version:] Said to them R. Eliezer, “Do you not concede that the one who prepares an erub with his feet for the first day has to prepare an erub with his feet for the second day? [M. 3:7K-L]. “[If] his erub was eaten before it got dark, he may not go out depending upon it on the same day” [M. 3:7N]. They said to him, “True.” He said to them, “Is this not what I said: They are two days?” They said to him, “Do you not concede that they do not prepare an erub on one day [the festival] for its fellow [the Sabbath]?” He said to them, “True.” They said to him, “Is this not what we said: They are one day?” [T. Er. 4:1F-L]

XXVI. YERUSHALMI ERUBIN 3:8

- [A] **R. JUDAH SAYS, “AS TO A NEW YEAR AT WHICH ONE SUSPECTED [THE MONTH] MIGHT BE INTERCALATED [SO THAT THE NEW YEAR WOULD BE OBSERVED ON THE THIRTIETH OF ELUL AND ON THE FIRST OF TISHRÉ], “A MAN PREPARES TWO ERUBS AND SAYS, “MY ERUB FOR THE FIRST DAY IS AT THE EAST, AND FOR THE SECOND IS AT THE WEST.’ “MY ERUB FOR THE FIRST DAY IS AT THE WEST AND FOR THE SECOND IS AT THE EAST.’ “MY ERUB IS FOR THE FIRST DAY, AND FOR THE SECOND, I AM IN THE STATUS OF THE OTHER PEOPLE WHO DWELL IN MY TOWN.’ “MY ERUB IS FOR THE SECOND DAY, AND FOR THE FIRST, I AM IN THE STATUS OF THE OTHER PEOPLE WHO DWELL IN MY TOWN.” BUT SAGES DID NOT CONCUR WITH HIM.**

1. **I:1:** There is this dispute: The leftovers of a wick, fire, or oil, [of a flame] extinguished on the Sabbath – what is the law on kindling them on the adjacent festival day? Both Rab and R. Haninah maintain that it is prohibited to do so. And R. Yohanan said that it is permitted to do so.
2. **I:2:** In the name of four elders they have ruled, “If a person’s erub is eaten up on the first day [of a festival], lo, he is in the status of his fellow townsfolk on the second [in which case the two days are treated as separate and distinct from one another, and not a single, protracted holy day. Hence he would require a separate erub for each day. Since he has one only for the first, on the second day his erub is no different from that of the townspeople in general.]”
3. **I:3:** If one has effected his act of commingling Sabbath boundaries through the use of a loaf of bread on the first [of two holy days], he does the same on the second, so long as it is with the same loaf of bread that he has made the erub-meal on the second day. If he effected an act of commingling by his feet [walking to the place at which he wishes to locate his Sabbath limit and remaining there at sunset] on the first day, he must effect the act of commingling by his feet [walking as above] on the second day. If he has effected an act of commingling of Sabbath boundaries by walking [to the place he wishes to designate as the center of his Sabbath residence and remaining there at sunset] on the first day, he may utilize a loaf of bread for the same purpose on the second day. If he has utilized a loaf of bread [on the first day], he should not effect his act of commingling through walking [as above] on the second day. Does this rule proceed along the lines of that which you say there [at M. 4:9], so that, if one has made an erub with his feet, he should not make an *erub* with a loaf of bread, and along these same lines, if he has made an erub with a loaf of bread, he should not then make one with his feet [as at D]?

XXVII. YERUSHALMI ERUBIN 3:9

[A] AND FURTHER DID R. JUDAH SAY, “A MAN STIPULATES [ON THE NEW YEAR] ABOUT A BASKET OF PRODUCE ON THE FIRST DAY OF A FESTIVAL AND EATS IT ON THE SECOND. AND SO TOO AN EGG BORN ON THE FIRST DAY OF THE FESTIVAL [OF THE NEW YEAR] MAY BE EATEN ON THE SECOND. BUT SAGES DID NOT CONCUR WITH HIM.

1. **I:1:** R. Abin in the name of rabbis over there: “They have treated him as one who goes to his town [and. en route, does not know which of two days will be the festival day]. [He has a right to make such stipulations as are proposed at M. 3:9A].”
2. **I:2:** [In the version of T.:] Lo, if there was a basket of fruit in his possession, which had not been properly tithed, this day] he says, “If today is the festival day, nothing that I say is so. But if not, I designate the heave-offering and tithes which are in it[s pieces of fruit]” [M. 3:9A]. And he leaves it. And the next day he says, “If today is the festival day, nothing that I say is so. But if not, I designate the heave-offering and tithes which are in its pieces of fruit” [T. Er. 4:3A-D].
3. **I:3:** The opinions assigned to R. Judah are at variance with one another, for there [with reference to the dispute of Eliezer and sages, as adjudicated by the four sages, above,] he treats [a festival and an adjacent Sabbath as] a single spell of holiness, while here he treats them as two spells of holiness. [These are readily to be differentiated.] In that case, there is a single protracted spell of holiness [covering the Sabbath and festival], while here, one day is certainly holy, and the other day is ordinary.
4. **I:4:** Sages concur with R. Judah in the case of the two festival days of the New Year [that they constitute a single, protracted, spell of holiness, for] they derive from an enactment of the former prophets.

XXVIII. YERUSHALMI ERUBIN 3:10

[A] **R. DOSA B. HARKINAS SAYS, “HE WHO GOES BEFORE THE ARK ON THE FIRST DAY OF THE NEW YEAR SAYS, ‘GIVE US STRENGTH, LORD OUR GOD, ON THIS FIRST DAY OF THE MONTH, WHETHER IT IS TODAY OR TOMORROW.’ ON THE NEXT DAY HE SAYS, ‘IF IT IS TODAY OR YESTERDAY.’” AND SAGES DID NOT CONCUR WITH HIM.**

1. **I:1:** It is because he says, “If it is today or yesterday” [M. 3:10D] [that sages did not concur with him (M. 3:10E)].

XXIX. YERUSHALMI ERUBIN 4:1

[A] **HE WHOM GENTILES TOOK FORTH [BEYOND THE SABBATH LIMIT], OR AN EVIL SPIRIT HAS ONLY FOUR CUBITS [IN WHICH TO MOVE ABOUT].**

1. **I:1:** [Is not the rule at M. 4:1A-C self-evident? No, that is not so, for] if that is not the explicit rule, then what shall we have to say? Let him be treated as equivalent to one who has gone forth beyond the Sabbath limit with full permission, and assign to him two thousand cubits' of space in all directions? Accordingly, it is necessary to make it explicit that he has access only to the four cubits [of M. 4:1A-C].
2. **I:2:** How do we know the limit of four cubits [which one may have as the limit of one's private location for spending the Sabbath]?
3. **I:3:** R. Judah b. Pazzi asked, "As to the four cubits of which they have spoken, 'Do the four cubits of which they have spoken constitute a boundary [so that all four must be in one domain, that is, public or private], or do they not constitute a boundary [so that two may be in public domain and two in private domain]?"

[B] [If] THEY BROUGHT HIM BACK, IT IS AS IF HE NEVER WENT OUT. [If] THEY CARRIED HIM TO ANOTHER TOWN, OR PUT HIM INTO A CATTLE-PEN OR A CATTLE-FOLD, RABBAN GAMALIEL AND R. ELEAZAR B. AZARIAH SAY, "HE MAY WALK ABOUT THE ENTIRE AREA."

1. **II:1:** The text states only that they brought him back. Lo, if he went back [on his own], he is forbidden [to move about as if he never went out].
2. **II:2:** If a person acquired a place of Sabbath residence [e.g., in a valley], and [on the Sabbath] gentiles came along and surrounded it with a partition – R. Huna said, "This partition has done no good for the man at all. He may walk in two thousand cubits [from his place of Sabbath rest] but carries for only four cubits." Hiyya, son of Rab, said, "He may both walk and carry objects for two thousand cubits, [so that the partition serves for the man's benefit and creates private domain for him]." R. Jacob bar Aha, R. Abona in the name of Hiyya, son of Rab: "He may walk about for two thousand cubits, and may transport an object for four thousand cubits by throwing it."

[C] R. JOSHUA AND R. AQIBA SAY, "HE HAS ONLY FOUR CUBITS [IN WHICH TO MOVE ABOUT]." M'SH S: THEY CAME FROM BRINDISI [BRUNDISIUM] AND THEIR SHIP WAS SAILING AT SEA. RABBAN GAMALIEL AND R. ELEAZAR B. AZARIAH WALKED ABOUT THE WHOLE SHIP. R. JOSHUA AND R. AQIBA DID NOT MOVE BEYOND FOUR CUBITS. FOR THEY WANTED TO IMPOSE A STRICT RULING ON THEMSELVES.

1. **III:1:** R. Zeira, R. Huna in the name of Rab: "Since R. Joshua and R. Aqiba wanted to impose a strict ruling on themselves [M. 4:1 L]. that

indicates that the law follows the view of Rabban Gamaliel and R. Eleazar b. Azariah.” R. Ba in the name of R. Hiyya bar Ashi: “Also in the case of a cattle-pen or cattle-fold [M. 4:1F], the law is in accord with the position of Rabban Gamaliel and R. Eleazar b Azariah.”

XXX. YERUSHALMI ERUBIN 4:2

[A] ON ONE OCCASION THEY DID NOT ENTER THE HARBOR UNTIL IT HAD GOTTEN DARK [ON FRIDAY NIGHT]. THEY SAID TO RABBAN GAMALIEL. “IS IT ALL RIGHT FOR US TO DISEMBARK?” HE SAID TO THEM. “IT IS ALL RIGHT, FOR BEFOREHAND I WAS WATCHING, AND WE WERE WITHIN THE SABBATH LIMIT BEFORE IT GOT DARK.”

1. **I:1:** Rabban Gamaliel had a tube for measuring distances, through which he could take a visual citing of the distance on a plane. And what difference does it make to me that the ship had come within the Sabbath limit before it got dark? Even after darkness, [it should have been all right to disembark], for is this not Rabban Gamaliel [who maintains that one has the use of the entire area even though, when the Sabbath took effect, one was not within the partitions of the area, as above M. 4:1]?

XXXI. YERUSHALMI ERUBIN 4:3

[A] HE WHO WENT FORTH BEYOND THE SABBATH LINE] ON A PERMISSIBLE MISSION, BUT THEY SAID TO HIM, “THE DEED ALREADY HAS BEEN DONE,” HAS TWO THOUSAND CUBITS IN EVERY DIRECTION [IN WHICH TO WALK ABOUT].

1. **I:1:** [Is the rule of this passage not obvious? No, it is not,] for if this were not the case, then how might we have ruled? Let the man be treated as is one who has been forcibly taken beyond the Sabbath limit, who has as permissible space only four cubits. Accordingly, it is necessary to make explicit that he has the right to move about in every direction for two thousand cubits [M. 4:3C].

[B] IF HE WAS WITHIN THE SABBATH LIMIT, IT IS AS IF HE NEVER WENT FORTH. FOR ALL THOSE WHO GO FORTH TO SAVE [SOMEONE IN DANGER] MAY GO BACK TO THEIR PLACE.

1. **II:1:** [As to the meaning of, If he was within the Sabbath line, M. 4:3D], *said* R. Hunah, “That is the case if the four cubits [owing to the man] were included [within the original Sabbath limit he enjoyed], just

as does the Sabbath limit of Tiberias lie [within four cubits of] the Sabbath limit of Magdalah.” R. Hunah in the name of R. Ada bar Ahwah, R. La in the name of R. Simeon b. Laqish: “And even if he went forth to Magdalah and came back, it is as if he did not go forth. [Even if he was informed, when he was within the Sabbath limit of Magdalah, that the deed had already been done, if he went on to Magdalah and did not go home, lo, he is as if he never left home [as at M. 4:3D].”

2. **II:2:** It has been taught: If gentiles came against towns located near the frontier, even to grab straw, even to grab a loaf of bread, they go forth against them carrying weapons, and they violate the prohibitions of the Sabbath on their account [T. Er. 3:5G-H]. If they came against towns [surrounded by Israelite populations], they do not go forth against them armed, unless they came for blood [cf. T. Er. 3:5C-F]. At first they would leave their weapons in the house nearest the wall. One time they ran about and were in haste to grab their weapons, and [in their confusion] they ended up killing one another. They made an ordinance that each one should go home [to get his weapon] [T. Er. 3:6A-C].

XXXII. YERUSHALMI ERUBIN 4:4

[A] **HE WHO TOOK UP A RESTING PLACE WHILE ON THE ROAD [ON THE EVE OF SABBATH AT TWILIGHT, AND THERE ACQUIRED THE PLACE WHERE HE WOULD SPEND THE SABBATH], AND [AT DAWN] GOT UP AND SAW. AND LO, HE IS NEAR A TOWN, “SINCE IT WAS NOT HIS INTENTION [TO ENTER THAT TOWN], “HE MAY NOT ENTER THE TOWN,” THE WORDS OF R. MEIR. R. JUDAH SAYS, “HE MAY ENTER IT.” SAID R. JUDAH, “SUCH A CASE HAPPENED, AND R. TARFON ENTERED A TOWN WHICH HE HAD NOT PREVIOUSLY INTENDED [TO MAKE HIS SABBATH RESIDENCE].”**

1. **I:1:** Said [sages to R. Judah], “Was not the schoolhouse of R. Tarfon within two thousand cubits, or perhaps he had joined himself to the other residents of his town while it was still day [on Friday]? [That would account for Tarfon’s act, without contradicting Meir’s principle.]” A teaching was found: In the morning, the sun came out. They said to him, “Rabbi, lo, the town is before you. Enter.” [If he had known, as A claims, that he was within the Sabbath limit, and if he had intended to enter the town, he would not have waited until sunrise. [This would reenforce Judah’s interpretation of Tarfon’s act.]

XXXIII. YERUSHALMI ERUBIN 4:5

[A] HE WHO FELL ASLEEP ON THE WAY AND DID NOT REALIZE THAT IT HAD GOTTEN DARK HAS TWO THOUSAND CUBITS IN EVERY DIRECTION, “THE WORDS OF R. YOHANAN B. NURI. BUT SAGES SAY, “HE HAS ONLY FOUR CUBITS.” R. ELEAZAR SAYS, “AND HE IS [DEEMED STANDING] IN THE MIDDLE OF THEM.”

1. II:1: R. Zeira in the name of R. Hisdai: “The reason for the view of R. Yohanan b. Nuri [at M. 4:5B] is this: If the man had been awake, he would have been able to acquire a place of Sabbath residence on that spot. If he was asleep, has he not acquired a place of Sabbath residence on that spot? [He surely has, but] he has only two thousand cubits in every direction.” R. Judah says, “Even if he was awake and did not acquire for himself a place of Sabbath rest [on that spot, as the sun set nonetheless, he has only two thousand cubits in any direction.”

[B] R. JUDAH SAYS, “TO WHICHEVER DIRECTION HE WANTS HE MAY GO.” AND R. JUDAH CONCEDES THAT IF HE MADE A CHOICE FOR HIMSELF, HE CANNOT THEN RETRACT HIS CHOICE.

1. II:1: If [within the theory of Judah, M. 4:5F, that one may select a place of Sabbath residence in any direction he wishes,] one has selected for himself a place of Sabbath residence while it is still daylight, he may retract his decision while it is still daylight. If he did so after it got dark, [so long as he has not begun a trip in the direction originally chosen,] after it got dark he may choose a different direction and so retract his original choice. But what if he selected for himself a place of Sabbath residence while it was still day, [and began on the journey in that direction, and fell asleep, and, while he was sleeping,] the Sabbath day was consecrated? [May he retract his decision?]

XXXIV. YERUSHALMI ERUBIN 4:6

[A] [IF] THERE WERE TWO PERSONS — PART OF [THE FOUR] CUBITS OF THIS ONE ARE IN THE [FOUR] CUBITS OF THAT ONE — THEY BRING [THEIR FOOD] AND EAT IN THE MIDDLE, ON CONDITION THAT THIS ONE NOT TAKE SOMETHING OUT OF HIS AREA AND PUT IT INTO THE AREA OF HIS FELLOW. [IF] THERE WERE THREE, WITH THE [LIMIT OF THE] ONE IN THE MIDDLE WHOLLY OVERLAPPED BY THE LIMITS OF THE OTHER TWO, [THE ONE IN THE MIDDLE] IS PERMITTED [TO EAT] WITH THEM, AND THEY ARE PERMITTED [TO EAT WITH HIM]. AND THE TWO OUTER ONES ARE PROHIBITED [TO EAT] WITH ONE ANOTHER. SAID R. SIMEON, “TO WHAT IS THE MATTER COMPARABLE?” TO THREE COURTYARDS OPEN TO ONE ANOTHER AND OPEN TO THE PUBLIC WAY. “[IF] TWO OF THEM WERE

COVERED BY AN ERUB WITH THE ONE IN THE MIDDLE, THAT ONE IN THE MIDDLE IS PERMITTED [ACCESS] TO BOTH OF THEM, AND THEY ARE PERMITTED [ACCESS] TO IT. “BUT THE TWO OUTSIDE COURTYARDS ARE PROHIBITED [ACCESS] FROM ONE TO THE OTHER.”

1. **I:1:** Even though R. Hananiah b. Antigonos differed from rabbis in the matter of cubits [at M. 4:7K], he concurs with them here in the matter of establishing the Sabbath limit for a town.

XXXV. YERUSHALMI ERUBIN 4:7

[A] **HE WHO WAS COMING ALONG THE WAY AND WHO WAS CONCERNED THAT DARKNESS MIGHT OVERTAKE HIM, AND WHO KNEW ABOUT A CERTAIN TREE OR A FENCE AND SAID, “MY PLACE OF RESIDENCE FOR THE SABBATH WILL BE UNDER IT,” HAS SAID NOTHING AT ALL. [IF HE SAID,] “MY PLACE OF RESIDENCE FOR THE SABBATH IS AT ITS ROOT,” HE MAY THEN GO FROM THE PLACE AT WHICH HE IS STANDING TO THE ROOT, FOR THE DISTANCE OF TWO THOUSAND CUBITS, AND FROM THE LOCATION OF ITS ROOT UP TO HIS HOUSE, FOR TWO THOUSAND CUBITS. SO HE TURNS OUT TO HAVE THE RIGHT TO GO FOUR THOUSAND CUBITS AFTER IT GETS DARK. IF HE DOES NOT RECOGNIZE [ANY LANDMARK], OR HE IS NOT AN EXPERT IN THE LAW, AND [IF HE] SAID, “MY PLACE OF SABBATH RESIDENCE IS IN THE PLACE WHERE I AM NOW LOCATED,” HE HAS ACQUIRED TWO THOUSAND CUBITS IN ALL DIRECTIONS FROM THE PLACE WHERE HE IS LOCATED — “AS THOUGH IT WERE A CIRCLE,” THE WORDS OF R. HANINA B. ANTIGONOS. AND SAGES SAY, “AS THOUGH IT WERE A SQUARE, “LIKE A SQUARE TABLET — “SO THAT HE MAY ENJOY THE BENEFIT OF THE CORNERS.”**

1. **I:1:** If there were two people, one of whom knew a spot and one who did not, this one who knows a spot goes along [taking with him] that one who does not know a spot, and that one who does not know a spot goes along with this one who knows a spot [so that the one who can make the statement does so in behalf of the other].

XXXVI. YERUSHALMI ERUBIN 4:8

[A] **THIS IS THE MEANING OF THAT WHICH THEY HAVE SAID: “THE POOR MAN MAKES AN ERUB WITH HIS FEET’ SAID R. MEIR, “WE HAVE ONLY THE POOR MAN [TO WHOM TO APPLY THE RULE].” R. JUDAH SAYS, “ALL THE SAME ARE THE POOR MAN AND THE RICH MAN: “THEY RULED THAT THEY MAKE AN ERUB WITH A LOAF OF BREAD ONLY TO MAKE THINGS EASIER FOR THE RICH MAN.**

“SO THAT HE SHOULD NOT HAVE TO GO OUR AND MAKE AN ERUB WITH HIS FEET.”

- I:1:** R. Meir maintains the view that the principal act of providing for an erub-meal is done with a loaf of bread. Why have they said that it may be done, instead, with one’s feet [by walking to the place at which one wishes to take up Sabbath residence and remaining on the spot when darkness falls on Friday evening]? It is to make things easier for the poor man who has no loaf of bread [to use for that purpose]. R. Judah said, to the contrary, that the principal mode of providing for an erub-station is done with one’s feet. and why have they ruled that it may be done with a loaf of bread? It is to make things easier for the rich man, who is spared the need of actually making the trip on foot.

XXXVII. YERUSHALMI ERUBIN 4:9

[A] “HE WHO WENT TO GO TO A TOWN WITH WHICH [THE PEOPLE OF HIS TOWN] WERE MAKING AN ERUB, “AND HIS FRIEND MADE HIM COME BACK — “HE IS PERMITTED TO GO TO THE OTHER TOWN ON THE SABBATH. “BUT ALL THE OTHER PEOPLE OF HIS TOWN ARE PROHIBITED FROM DOING SO,” THE WORDS OF R. JUDAH. R. MEIR SAYS, “ANYONE WHO COULD HAVE MADE AN ERUB AND DID NOT MAKE AN ERUB, LO, THIS ONE IS LIKE THE ASS-DRIVER AND THE CAMEL-DRIVER.”

- I:1:** One may explain the statements [of M. 4:9C-D, he is permitted to go to the other town, but the other townfolk of his are not,] in two ways. First, the friend has said, “I shall provide an *erub* for you and for the residents of your town,” and. [not carrying out his promise,] he made an *erub* covering the other residents of his town, but he did not prepare an *erub* for him. The man then is forbidden to go in that direction [for the entire distance, but, retaining (credit for the Sabbath limits of his town in general, which he has not relinquished,] he is permitted to go in all of the other directions [covered by the normal Sabbath boundaries] of his town. But the other townfolk are permitted to go [the additional distance] in that direction, while they are [therefore] forbidden to go in the other directions [normally encompassed by the Sabbath boundary] of their town. Second, one may interpret this case in a different way. The friend said to him, “I shall make an *erub* for you and for the other residents of your town,” but he did not prepare an *erub* either for him or for the other residents of his town. He may then continue to travel in that direction [in which he had originally been heading], since his feet [in walking in that direction while it was still day] acquired for him the right to move in

that direction on the preceding day, [that is, Friday afternoon]. But the other residents of his town are forbidden to go in that direction [there being no *erub* to allow them to do so]. Then they are permitted to go in the other directions [normally covered by the Sabbath boundary of their] town, [which they have not relinquished]. [The man did not prepare the *erub* for the others, but the effect of his actually making the trip is still valid.]

XXXVIII. YERUSHALMI ERUBIN 4:10

[A] HE WHO WENT BEYOND THE SABBATH LINE, EVEN BY A SINGLE CUBIT, SHOULD NOT REENTER. R. ELIEZER SAYS, “[IF HE WENT OUT] FOR TWO CUBITS, HE MAY REENTER. [IF HE WENT OUT] FOR THREE, HE MAY NOT REENTER.” HE WHO WAS OVERTAKEN BY DARKNESS OUTSIDE OF THE SABBATH LIMIT, EVEN BY A SINGLE CUBIT, MAY NOT REENTER. R. SIMEON SAYS, “EVEN IF HE IS FIFTEEN CUBITS OUTSIDE, HE MAY REENTER. “FOR SURVEYORS DO NOT MEASURE EXACTLY, FOR THE BENEFIT OF PEOPLE WHO ERR.”

- 1. I:1:** Both R. Aha in *the* name of R. Hinena and R. Hisdai say, “[Eliezer] has specified only ‘two.’ Lo, if he were two cubits and a bit more [outside of the Sabbath boundary], he may not reenter. Now the Mishnah indicates the view of R. Eliezer, for R. Eliezer said, ‘If he went out by two cubits, he may reenter. If he went out by three, he may not reenter’ [M. 4:10B]. [Consequently, if it is only by two and bit more, he may not reenter. The Mishnah has chosen its measurement with exactness.]”
- 2. I:2:** The disciples wished to propose that the ruling of R. Eliezer applies [to a case in which one actually was within the Sabbath boundary and] went out. But if he was outside of the limit when it got dark, *the* same measurement does not apply [and he then will concur with M. 4:10A]. But a teaching is available in which the same rule governs both cases. They proposed to say that the position taken by R. Simeon [at M. 4:10D-E] applies in a case in which one was outside of the Sabbath limit when it got dark. But if he actually went out from inside the Sabbath limit, it is not in such a case that Simeon takes his view. But the same teaching is available to the contrary, indicating that the same rule applies to both cases.

XXXIX. YERUSHALMI ERUBIN 5:1

[A] **H**OW DO THEY AUGMENT TOWNS [EXTENDING THEIR LIMITS FOR PURPOSES OF DEFINING THE SABBATH LINE]? [IF AMONG THE HOUSES AT THE OUTSKIRTS] ONE HOUSE RECEDES AND ONE HOUSE PROJECTS, [OR] A TURRET [OF THE TOWN WALL] RECEDES AND PART PROJECTS, [IF] THERE WERE THERE RUINS TEN HANDBREADTHS HIGH:

- I:1:** [If among the houses at the outskirts] one house recedes, they bring it out toward the city line. If one house projects, they draw the city line out to the house.
- I:2:** Rab said, "They add a 'limb' ('BR) to a town [in connection with the Sabbath limits (M. 5:1A)]." Samuel said, "They augment from within ('BR)." The one who said, "They add," understands the law to mean that they augment the city with a limb ('BR). The one who said, "They augment from within ('BR)," compares the matter to a pregnant woman (M'WBRT).
- I:3:** R. Yohanan in the name of R. Hoshaiyah: "They add a limb to it [in connection with establishing the Sabbath boundary of a town]."
- I:4:** [As to M. 5:1A] R. Jacob bar Aha, R. Yosé in the name of R. Yohanan: "At what point do they add? They add [to the augmentation of a town for purposes of the Sabbath limit] from the point at which houses are located along a line with the gateway of the town for a distance of two thousand cubits [and no more]." Said R. Yosé to R. Yosé bar Aha, "Is it not reasonable that that is the case only for houses in line [only] with the indentations of the city wall? But if the houses are in line with the city [wall itself], then one may extend the Sabbath limit] even for a still greater distance."

[B] **O**R BRIDGES OR SEPULCHRES CONTAINING A DWELLING-HOUSE, THEY EXTEND THE MEASURE OUTWARD SO AS TO TAKE ACCOUNT OF THEM.

- II:1:** [As to bridges or sepulchres containing a dwelling house, they extend the measure outward so as to take account of them (M.: 1E-F):] Said R. Nahman, "[These are regarded as situated within the town, so that one takes the measure] at the very outer limits of the town."
- II:2:** R. Aha said, "R. Hiyya the Elder and Bar Qappara had a difference of opinion. One of them maintained that [the rule about augmenting a town, M. 5:1A] pertains to a large town. But as to a small town, the additional area assigned to the town should not be greater than the principal area of the town itself. The other took the

position that the same rule applies to both a large town and a small town. One augments the town in either case by the measure of two thousand cubits [as if it were shaped like a square tablet, M. 5:1G].”

3. **II:3:** R. Ba, R. Judah in the name of Rab: “A town that is shaped like a bow – if the distance between the two ends of the bow is four thousand cubits less one, one measures the Sabbath limits to cover the entire encompassed area as well as two thousand cubits beyond. If, however, the distance from one end to the other is four thousand cubits [or more], one measures from the point at which one calculates the Sabbath augmentation only for two thousand cubits.”
4. **II:4:** R. Ba in the name of R. Judah: “If there was a large town, with a ditch ten handbreadths deep and four broad running through it [constituting, therefore, an autonomous domain], one regards the ditch as if it is filled with dirt and pebbles. [In this way the ditch does not serve to divide the city into two distinct domains.] But if not, one regards the ditch as if it is open-ended [in which case the town is constituted into two distinct domains].”
5. **II:5:** Rab said, “In the case of a town made up entirely of tents, each resident measures from the location of his tent. If there were three huts and three towers, one measures from the outermost [of the lot]. [Each tent is regarded as a single unit, not part of a town, however many there may be.]”

[C] **AND THEY MAKE IT [THE SABBATH LIMIT OF THE AREA OF THE TOWN] AS IF IT WERE SHAPED LIKE A SQUARE TABLET, SO THAT [THE TOWN’S PEOPLE] MAY GAIN THE BENEFIT OF THE CORNERS.**

1. **III:1:** [As to M. 5:1G: They make the Sabbath limit of the area of the town as if it were shaped like a square tablet;] the sides are squared so as to correspond to the four directions of the world, the western side corresponding to the western side of the world, the southern side to the southern side of the world. Said R. Yosé, “If one does not know how to square the town so as to make it correspond with the directions of the world, one may go and learn [how to do so] from the passage of the sun through the seasons. “The line from the line at which the sun rises on the first day of the season of Tammuz to the point at which the sun rises on the first day of the season of Tebeth – these form the eastern side. “The line from the point at which the sun sets on the first day of the season of Tebeth to the point at which it sets on the first day of the season of Tammuz – these form the western side. “And the rest constitute the northern and southern sides.”

2. **III:2:** It has been taught in the name of R. Judah: “Also its cornices and walls are measured with it” [T. Er. 4:7B]. R. Hoshaiah raised the question: “The contained airspace [not roofed over] of a courtyard – what is the law as to its being measured with the town?”
3. **III:3:** [With reference to M. 5:1G,] If one circumscribed a [circular] town by a square and formed it into the shape of a square tablet, and laid out the Sabbath limits in the shape of a square tablet (M. 5:1G), when one measures, he does not measure from the middle point [of the town], because one loses [the corners]. But one measures from the northeastern corner [and assigns two thousand cubits in the northeasterly direction, and he measures from the southwestern corner and assigns two thousand cubits in the southwesterly direction. Then he goes and lays out a square in the form of a square tablet. The town turns out to gain four hundred cubits on this side and four hundred cubits on that side [T. Er. 4:13].

XL. YERUSHALMI ERUBIN 5:2

[A] “THEY ASSIGN THE OUTER AREA [OF SEVENTY AND TWO-THIRDS CUBITS] TO THE TOWN,” THE WORDS OF R. MEIR. AND SAGES SAY, “THEY REFERRED TO THE OUTER AREA ONLY WHEN IT FALLS BETWEEN TWO TOWNS. “IF THIS ONE [HAS A FURTHER AREA OF] SEVENTY CUBITS AND TWO-THIRDS AND THAT ONE [HAS A FURTHER AREA OF SEVENTY CUBITS AND TWO-THIRDS, ONE ASSIGNS AN OUTER AREA TO EACH TOWN, “SO THAT THEY MAY FORM ONE DOMAIN.”

1. **I:1:** R. Hunah in the name of Rab: “R. Meir and rabbis [at M. 5:2A-B] interpret [each in his own way] a single verse of Scripture, [which is as follows: ‘(The pasture lands of the cities, which you shall give to the Levites, shall reach) from the wall of the city (outward a thousand cubits all round)’ (Num. 35:4)]. R. Meir takes up the clause ‘from the wall of the city.’ Why does Scripture find it appropriate to add ‘outward’? It is on the strength of this passage that we learn that they assign an outer area to [any] town. Rabbis interpret with emphasis upon ‘outward.’ Why does Scripture find it necessary to state, ‘from the wall of the city.’ It is on the strength of this usage that we learn that they do not assign an outer area to a [single] town.”

[B] AND SO IS THE RULE FOR THREE VILLAGES ARRANGED IN A TRIANGLE: IF THERE IS A DISTANCE BETWEEN THE TWO OUTERMOST ONES OF ONE HUNDRED FORTY-ONE AND A THIRD CUBITS, THE MIDDLE VILLAGE MAKES ALL THREE OF THEM FORM ONE DOMAIN.

1. **II:1:** Samuel said, “That is the case when they are arranged in a line.” Bar Qappara said, “That is the case when they are arranged in a triangle.”

XLI. YERUSHALMI ERUBIN 5:3

- [A] THEY MEASURE ONLY WITH A ROPE FIFTY CUBITS LONG, NO LESS, NO MORE. AND ONE MEASURES ONLY WITH THE ROPE HELD] AT A LEVEL WITH HIS HEART. [IF ONE WAS MEASURING AND REACHED A VALLEY OR A FENCE, HE TAKES COUNT ONLY OF THE HORIZONTAL SPAN AND CONTINUES HIS MEASURING.**
1. **I:1:** What is the measure of [the rope for measuring] the Sabbath boundary? It is that of forty ropes [fifty cubits long, thus, two thousand cubits], not less, for one stretches the rope and so gains [additional length], nor more, for [the rope] curls and causes a loss [in the permissible distance for walking]
 2. **I:2:** If from the surveyor to a ravine was a distance of seventy-five cubits – two Amoraim deal with this matter. One said, “He measures with a rope fifty cubits long; then he doubles it up to a length of twenty-five.” The other said, “He measures with a rope of fifty cubits, and as to the remaining distance, he measures with a rope four cubits long.” If a ravine was narrow at the top and broad at the bottom, up to a depth of fifty cubits, you regard the ravine as if it were filled with dirt and pebbles [and ignore the greater span at the bottom of the ravine], but if not, you regard it as if one would climb up and climb down [the ravine].
- [B] IF HE CAME TO A MOUNTAIN, HE TAKES ACCOUNT ONLY OF THE HORIZONTAL SPAN AND CONTINUES HIS MEASURING. AND THIS IS ON CONDITION THAT HE DOES NOT GO OUTSIDE THE SABBATH LIMIT.**
1. **II:1:** [As to M. 5:4F, If one came to a mountain, he takes account only of the horizontal span,] R. Aha, R. Hinena, R. Jeremiah in the name of R. Samuel bar R. Isaac: “And that is the rule, if the measure of the mountain is at least four handbreadths, a place of which one would take account.”
- [C] IF HE CANNOT TAKE ACCOUNT OF THE HORIZONTAL SPAN, IN THIS CASE, SAID R. DOSETAI B. R. YANNAI IN THE NAME OF R. MEIR “I HEARD THAT THEY TREAT HILLS AS THOUGH THEY WERE PIERCED.”**

1. **III:1:** Yosé, R. Abonah in the name of R. Judah, R. Yudan presented the view in the name of Rab: “As to M. 5:3/I, piercing mountains,] the man on the top holds his end on a level with his head, and the man on the bottom on a level with his feet” [Cf T. Er. 4:14B: The man on the top holds his end on a level with his feet, and the man on the bottom holds his end on a level with his heart. The words of R. Meir. And sages say “They do not pierce mountains.”] All parties concur that they pierce mountains, and even if the upper one holds the measure at his head and the lower one at his loins, all parties concur that they pierce mountains. Where they differ, it is in the case in which the man at the top holds the measure at his feet, and the one at the bottom, at his heart. R. Meir [cf. T. Er. 4:14A-D, cited above,] says, “They pierce the mountains [in that way].” And sages say, “They do not pierce mountains [in that way].”
2. **III:2:** Raba in the name of R. Judah, R. Zeira in the name of Mar Uqba: “[M. 5:3A:] They measure only with a rope fifty cubits long [in order to establish the Sabbath boundaries of a town].” R. Zeira in the name of R. Hisdai says, “They do not measure by level distance [between two places separated by mountains, but include the mountain in ground measure] either in the towns of the Levites [to determine its borders] or in the location of a heifer whose neck is broken [to determine which city is closer].”
3. **III:3:** And how do we know from Scripture that they do not bury the dead in the Levites’ towns?

XLII. YERUSHALMI ERUBIN 5:4

[A] THEY MEASURE ONLY BY AN EXPERT. [IF] ONE EXTENDED THE LIMIT MORE IN ONE PLACE AND LESS IN ANOTHER PLACE, THEY OBSERVE THE GREATER MEASURE. [IF] THERE WAS A GREATER DISTANCE FOR ONE [EXPERT] AND A LESSER DISTANCE FOR ANOTHER, THEY OBSERVE THE GREATER MEASURE. EVEN A SLAVE, EVEN A SLAVE GIRL, ARE BELIEVED TO STATE, “UP TO THIS POINT IS THE SABBATH LINE.” FOR SAGES DID NOT RULE IN THIS MATTER TO IMPOSE A STRICT RULING, BUT TO IMPOSE A LENIENT ONE.

1. **I:1:** In the case of an amateur [surveyor] who extended the limit [beyond what had been known] – they do not listen to him.
2. **I:2:** Said R. Hoshaiyah, “You have come to the point of the laws governing Sabbath limits, which is that these laws do not clearly derive

from the teachings of the Torah. [Accordingly, we assign a lenient ruling.]”

XLIII. YERUSHALMI ERUBIN 5:5

[A] **A TOWN BELONGING TO A SINGLE OWNER WHICH WAS CONVERTED INTO PUBLIC DOMAIN [WITH MANY OWNERS] — THEY PREPARE AN ERUB COVERING THE WHOLE OF IT. AND ONE WHICH WAS PUBLIC DOMAIN AND WAS CONVERTED INTO [PRIVATE DOMAIN] ONE BELONGING TO A SINGLE OWNER — THEY DO NOT PREPARE AN ERUB COVERING THE WHOLE :**

- I:1:** As to a town belonging to an individual which was converted into a town belonging to many people,] it has been taught in the name of R. Judah, “They do not provide an erub for it in parts. [That is, in the case of a town formerly constituting a single domain, with the people used to preparing a single *erub* for the whole, we invoke the rule of M. 5:5A-B, specifically for the purpose of covering the entire town. But one may not prepare an erub for only part of the town, since it had formerly been a whole and complete unit.]”

[B] **UNLESS ONE EXCLUDED A SECTION OF IT “[OF THE SIZE OF] THE TOWN OF HADASHAH IN JUDAH, IN WHICH THERE WERE FIFTY RESIDENTS,” THE WORDS OF R. JUDAH. R. SIMEON SAYS, “THREE COURTYARDS, EACH CONTAINING TWO HOUSES.”**

- II:1:** Unless one excluded a section of it of the size of the town of Hadashah in Judah [M. 5:5E-F]: For instance, Sanan, Hadashah, and Migdal Gad. In which there are fifty residents [M. 5:5F], counting even men, women, and children. Assi said, “But that is on condition that they are Israelites.”

XLIV. YERUSHALMI ERUBIN 5:6

[A] **HE WHO WAS IN THE EAST AND SAID TO HIS SON, “PREPARE AN ERUB FOR ME IN THE WEST,” IN THE WEST AND SAID TO HIS SON, “PREPARE AN ERUB FOR ME IN THE EAST,” IF THE DISTANCE BETWEEN HIM AND HIS HOUSE IS TWO THOUSAND CUBITS, AND BETWEEN HIM AND HIS ERUB IS MORE THAN THIS DISTANCE, HE IS PERMITTED TO GO TO HIS HOUSE AND PROHIBITED FROM GOING TO HIS ERUB. [IF] TO HIS ERUB WAS A DISTANCE OF TWO THOUSAND CUBITS AND TO HIS HOUSE A DISTANCE GREATER THAN THAT, HE IS PROHIBITED FROM GOING TO HIS HOUSE AND PERMITTED TO GO TO HIS ERUB. HE WHO PLACES HIS ERUB IN**

THE EXTENDED AREA [SEVENTY AND TWO-THIRDS CUBITS OF THE OUTER AREA] OF THE TOWN HAS DONE NOTHING WHATSOEVER. [IF] HE PLACED IT BEYOND THE SABBATH LINE, EVEN BY A SINGLE CUBIT, WHAT HE GAINS [IN ONE DIRECTION] HE LOSES [IN THE OTHER DIRECTION].

1. **I:1:** There is a problem troubling Bar Qappara, [namely, how is it possible for his house to be further than his *erub*, M. 5:6E, if his *erub* is west of his house, and he is east of his house? Accordingly, he interprets the language of M. 5:6A-B to mean] that “east” refers to east of his son, and “west” means west of his son.

XLV. YERUSHALMI ERUBIN 5:7

[A] THE PEOPLE OF A LARGE TOWN TRAVERSE THE ENTIRE AREA OF A SMALL TOWN [LOCATED WITHIN THE LIMITS OF THE LARGE TOWN]. AND THE PEOPLE OF THE SMALL TOWN MAY NOT TRAVERSE THE ENTIRE AREA OF THE LARGE TOWN. HOW SO? HE WHO WAS IN A LARGE TOWN BUT PLACED HIS ERUB IN A SMALL TOWN [THEREIN], IN A SMALL TOWN AND PLACED HIS ERUB IN A LARGE TOWN. TRAVERSES THE ENTIRE AREA AND TWO THOUSAND CUBITS BEYOND. R. AQIBA SAYS, “HE HAS ONLY TWO THOUSAND CUBITS FROM THE LOCATION OF HIS ERUB.”

1. **I:1:** This is the sense of the Mishnah: The people of a large town traverse the entire area of a small town [located within the limits of the large town], and the people of the small town may not traverse the entire area of the large town. How so? The words “how so” do not belong here. [What follows is not to be taken to illustrate M. 5:7A-B.]
2. **I:2:** [As to M. 5:6H: He who placed his *erub* outside of the Sabbath limit,] with regard to the town itself, what is the law as to its being counted with the measure of two thousand cubits?
3. **I:3:** At first the townsfolk of Tiberias would traverse the whole of Hammata. But the townsfolk of Hammata went only up to the place of the bow. Now the townsfolk of Tiberias and the townsfolk of Hammata have gone and formed a single town [for the purposes of the Sabbath limit] [T. Er. 5:2].
4. **I:4:** R. Isaac bar Nahman in the name of R. Haninah: “In the case of the dispute [at M. 5:7D-G, in which one places his *erub* in another town], the two parties disagree concerning the case in which they placed their *erub* in the piazza. But if they put it in houses, also R. Aqiba concurs [that the owners of the *erub*] may traverse the entire

area and two thousand cubits beyond, [for the houses, close together as they are, form a single entity].”

5. **I:5:** A city which was destroyed [in which one put his *erub*] – R. Eleazar says, “He may traverse the entire area and two thousand cubits beyond.” Samuel said, “He has only two thousand cubits from the location of his *erub*.” R. Ba bar Kahana, R. Hiyya bar Assi in the name of Rab: “He who puts his *erub* in a stall or in an enclosed field may traverse the entire area and two thousand cubits beyond.”
6. **I:6:** As to a new town, one measures from the houses. In an old one, one measures from the wall. What is a new one, and what is an old one?

XLVI. YERUSHALMI ERUBIN 5:8

[A] SAID TO THEM R. AQIBA, “NOW DO YOU NOT CONCEDE TO ME THAT IN THE CASE OF ONE WHO PLACES HIS ERUB IN A CAVE, HE MAY GO ONLY TWO THOUSAND CUBITS FROM THE PLACE AT WHICH HIS ERUB IS LOCATED?”

1. **I:1:** [In line with the positions of sages, M. 5:8B-E,] Jacob bar Aha in the name of R. Eliezer: “A more lenient rule applies to the case of one who acquires his place of Sabbath residence in an enclosed field than to the one who places his *erub* in an enclosed field. He who acquires his place of Sabbath residence in an enclosed field may traverse the whole of it and in addition two thousand cubits. But he who places his *erub* in an enclosed field may go only two thousand cubits from the place at which his *erub* is located.”
2. **I:2:** The roof of a tower is deemed equivalent to the town; the roof of a cave is equivalent to the fields [cf. T. Er. 4:10K-L]. [If one placed his *erub*-meal on the roof of a tower, it is as if he put it in town, since people use the area constantly. Putting it on the roof of a cave is equivalent to placing one’s *erub*-meal in the fields, since there are no residents there.]

[B] THEY SAID TO HIM, “UNDER WHAT CIRCUMSTANCES? WHEN THERE ARE NO INHABITANTS IN IT.

1. **II:1:** The roof of a tower is deemed equivalent to the town; the roof of a cave is equivalent to the fields [cf. T. Er. 4:10K-L]. [If one placed his *erub*-meal on the roof of a tower, it is as if he put it in town, since people use the area constantly. Putting it on the roof of a cave is

equivalent to placing one's erub-meal in the fields, since there are no residents there.]

[C] **“BUT IF THERE ARE INHABITANTS IN IT, HE TRAVERSES THE ENTIRE AREA AND TWO THOUSAND CUBITS BEYOND ITS SABBATH LINE. “IT TURNS OUT TO BE MORE LENIENT [FOR HIM WHO PUTS HIS ERUB] INSIDE [THE CAVE] THAN [FOR HIM WHO PUTS HIS ERUB] ON TOP OF IT.” AS TO THE ONE WHO MEASURES, CONCERNING WHOM THEY HAVE SPOKEN, THEY ASSIGN TO HIM ONLY TWO THOUSAND CUBITS, EVEN IF HIS MEASURING ROPE ENDS IN A CAVE [EVEN AN INHABITED ONE].**

1. **III:1:** [With reference to M. 5:7D-F,I said R. Isaac b. R. Eliezer, “That is to say, in the case of a cave which has two gateways, if there is a distance from one to the other of four thousand cubits less one, who one may traverse the entire cave, as well as the area outside of it, to a limit of two thousand cubits. “If the distance is four thousand cubits, he may move only two thousand cubits from the place at which his erub-meal is located.” Said R. Ba, “R. Zeira explained this rule. If he should put his sandals here, he may come from this direction and take them. If he should put his sandals there, he may come from the other direction and take them. “What is the difference between coming from this direction and coming from that direction? If he comes from one direction, it will be forbidden [to traverse the entire area], while if he comes from two directions, he will be permitted, [since he can move in two thousand cubits anyhow].”

XLVII. YERUSHALMI ERUBIN 6:1

[A] **“HE WHO DWELLS IN THE SAME COURTYARD WITH A GENTILE, “OR WITH [AN ISRAELITE] WHO DOES NOT CONCEDE THE VALIDITY OF THE ERUB – “LO, THIS ONE [THE GENTILE OR NONBELIEVER] RESTRICTS HIM [FROM USING THE COURTYARD],” THE WORDS OF R. MEIR. R. ELIEZER B. JACOB SAYS, “UNDER NO CIRCUMSTANCES DOES ANYONE PROHIBIT [THE BELIEVER IN THE ERUB TO MAKE USE OF THE COURTYARD] UNLESS TWO ISRAELITES PROHIBIT ONE ANOTHER.”**

1. **I:1:** A courtyard inhabited by gentiles – lo, [for the purpose of carrying on the Sabbath] it is the equivalent of a cattle pen. It is permitted to bring something in and to take something out from the courtyard to the houses which open onto it, and from the houses which open onto it into the courtyard. And utensils which were kept for the Sabbath in the courtyard it is permitted to carry around in the courtyard. [But if] a single Israelite lived in that courtyard, lo, this one

prohibits it [for carrying]. For it is tantamount to his courtyard [for the purposes of the restrictions of the Sabbath about carrying therein] [T. Er. 5:19]. [If the gentile is in the status of a beast in the present context, then why should he have the power to prohibit the Israelite's use of the courtyard?]

2. **I:2:** R. Yosé in the name of R. Yohanan: "The law is not in accord with R. Yohanan b. Nuri [M. 4:5]."

XLVIII. YERUSHALMI ERUBIN 6:2

[A] SAID RABBAN GAMALIEL, "WHERE WAS THE CASE OF A SADDUCEAN WHO LIVED WITH US IN THE SAME ALLEYWAY IN JERUSALEM. AND FATHER SAID TO US, 'MAKE HASTE AND BRING ALL SORTS OF UTENSILS INTO THE ALLEYWAY BEFORE HE BRINGS OUT HIS AND PROHIBITS YOU [FROM CARRYING ABOUT IN IT].'" R. JUDAH SAYS IT IN ANOTHER VERSION, "MAKE HASTE AND DO ALL YOUR NEEDS IN THE ALLEYWAY BEFORE HE BRINGS OUT HIS UTENSILS AND PROHIBITS YOU [FROM USING IT]."

1. **I:1:** R. Aha, R. Hinena in the name of Kahana: "The law does not accord with R. Judah."
2. **I:2:** Jeremiah in the name of Rab: "In the case of a courtyard with two gateways, in which an Israelite and a gentile dwell, [and one courtyard is within, the other outside, opening toward an alleyway, so one gateway opens into the alleyway, the other opens from the inner to the outer courtyard, and the Israelite and gentile live in the inner courtyard] – "in the case of the Israelite, you follow the status of the more usually utilized courtyard [the inner one], and in the case of the gentile, you follow the status of the less usually utilized courtyard." [The Israelite may utilize the inner courtyard j there is only a gentile in addition, and, in accord with Eliezer b. Jacob's position, he is not taken into account. The inner courtyard therefore is fully available for the Israelite's use, as if he lived there by himself. As to the outer courtyard, by contrast, since the gentile has rights of access, Israelites living therein are forbidden to carry objects in that courtyard on the Sabbath.] "If [in the case of three connected courtyards,] there was an Israelite on this side, an Israelite on that side, and a gentile in the middle [between them], both for the Israelite and for the gentile one follows the status of the more usually utilized courtyard. [This is not so as to prohibit carrying on the part of the Israelites. Rather, it is for the following purpose that the rule is stated:] "If [the Israelite in the inner courtyard] annulled his rights [in favor of the Israelite living in

the outermost one], that which is more usually utilized is treated as if it is less usually utilized. “If he [the Israelite] rented his rights of domain, that which was less usually utilized is treated as the more usually utilized courtyard. “If the occupant of the less usually utilized courtyard [the outermost one] prepared an erub-meal with the other; the more usually utilized courtyard has not thereby been rendered permissible for carrying [since, in the presence of the gentile, the erub-meal is null anyhow].”

3. **I:3:** A resident alien, resident slave, and spiteful apostate – lo, such a one is in the status of a gentile for all purposes [having to do with the erub-meal].
4. **I:4:** There is a Tannaite authority who teaches: A government official [quaestor] [in a courtyard] imposes a prohibition as soon as he takes up residence, and billeted troops [or travelers] after thirty days. And there is a Tannaite authority who teaches: A government official imposes a prohibition after he has been in residence for thirty days, and billeted troops [or travelers] never impose a prohibition at all [T. Er. 5:22A-B].
5. **I:5:** R. Jacob bar Aha in the name of R. Eleazar: “[As to the dispute of Meir, who stands behind M. 6:2A-B, and Judah, M. 6:2C,] at issue between them is the possibility of annulling one’s right of domain in the courtyard. R. Meir says, ‘One has the right to annul his domain in the courtyard,’ and rabbis say, ‘One does not have the right to annul his domain in the courtyard.’”

XLIX. YERUSHALMI ERUBIN 6:3

[A] THE MEN OF A COURTYARD, ONE OF WHOM FORGOT AND DID NOT PARTICIPATE IN THE ERUB WITH THE OTHERS — HIS HOUSE IS PROHIBITED, BOTH FOR HIM AND FOR THEM, FROM BRINGING THINGS IN AND FROM TAKING THINGS OUT. AND THEIRS ARE PERMITTED BOTH FOR HIM AND FOR THEM. [IF] THEY GAVE HIM THEIR RIGHT [OF ACCESS], HE IS PERMITTED, AND THEY ARE PROHIBITED. [IF] THEY WERE TWO [WHO FORGOT], THEY PROHIBIT ONE ANOTHER. FOR ONE PERSON GIVES OR TAKES THE RIGHT OF ACCESS. BUT [WHILE TWO CAN GIVE THE RIGHT OF ACCESS, THEY CANNOT TAKE IT.

1. **I:1:** Theirs are permitted both for him and for them [M. 6:3C], for he has annulled his right of domain [and is in the status of a guest]. What is the rule as to retracting in return [so that the party who has been given the right of domain over the whole may go and return that right, as well as his own, in favor of the first party]?

2. **I:2:** It has been taught [in T.'s version]: One person who did not join in the erub gives up his right to one who did participate in the erub. And two who shared in the erub give their right to one who did not share in the erub. Two who did not share in the erub give their right to the courtyard to two who did share in the erub, or to one who did not share in the erub. But two who shared in the erub may not give their right to two who did not share in the erub [M. 6:3G], and two who did not share in the erub may not give up their right to two who did not share in the erub. For so long as they are living in the courtyard, and one of them forgot and did not share in the erub, lo, this one prohibits use of the erub to the others who live there] [T. Er. 5:17].
3. **I:3:** R. Hisdai said, "Each of ten Israelites dwelling in a single house [or courtyard] has to annul his right of domain [if he has not participated in the erub-meal, so that one of them may carry objects in the courtyard]." Said R. Yosé, "Each of ten gentiles dwelling in a single house [or courtyard] has to rent out his right of domain [to nullify his right and hence permit Israelite owners to utilize the courtyard as a common domain on the Sabbath]."

L. YERUSHALMI ERUBIN 6:4

- [A] **BY WHAT TIME MUST THEY HAND OVER [THE RIGHT OF ACCESS]? THE HOUSE OF SHAMMAI SAY, "WHILE IT IS STILL DAY." AND THE HOUSE OF HILLEL SAY, "AFTER IT HAS GOTTEN DARK:"**
1. **I:1:** The meaning of the Mishnah is, "By what time must they nullify the right of access?" The House of Shammai say, "While it is still day." And the House of Hillel say, "Also after it got dark."
- [B] **HE WHO GAVE HIS RIGHT OF ACCESS AND THEN TOOK SOMETHING OUT:**
1. **II:1:** The meaning of the Mishnah is, He who nullified his right of access and took something out.
- [C] **"WHETHER HE DID SO INADVERTENTLY OR DELIBERATELY, "LO, THIS ONE PROHIBIT [THE OTHERS]," THE WORDS OF R. MEIR. R. JUDAH SAYS, "[IF HE DID SO] DELIBERATELY, HE PROHIBITS THE OTHERS. [IF HE DID SO] INADVERTENTLY, HE DOES NOT PROHIBIT THE OTHERS."**
1. **III:1:** The meaning of the Mishnah [for the view of Meir] is, "He does not prohibit the others."

2. **III:2:** [In T. 's version:] Three [Y: two] who were living in a courtyard, one of whom died, and the property fell as an inheritance to someone else – [if this happened] before it got dark on the eve of the Sabbath [the new landholder] does not prohibit [use of the courtyard to the others by reason of his absence from the erub]. [If this happened] after it got dark, lo, this one does prohibit [use of the courtyard] [T. Er. 5:13]. [If] a stranger had a house in that courtyard and he died, and his share of the courtyard fell as an inheritance to one of the people who already was living in the courtyard,] [if this happened] before it grew dark, lo, this one prohibits [use of the courtyard to the tenants]. [If this happened] after it got dark, he [no longer] prohibits use of the courtyard to the residents [T. Er. 5:14].
3. **III:3:** What is the law as to acquiring rights of access through rental once it has gotten dark?
4. **III:4:** What is the law as to renting a right of domain from an innkeeper?

LI. YERUSHALMI ERUBIN 6:5

- [A] A HOUSEHOLDER WHO WAS A JOINTHOLDER [IN A COMMERCIAL RELATION] WITH NEIGHBORS:
1. **I:1:** R. Ba in the name of R. Judah, “The Mishnah[‘s choice of words] speaks of common practice.”
- [B] WITH ONE IN WINE AND WITH THE OTHER IN WINE, – THEY DO NOT NEED TO PREPARE AN ERUB:
1. **II:1:** since the householder will not take account of a mixture of the wine, it is not necessary to prepare an *erub*.
- [C] [IF ONE PARTNERSHIP] IS IN WINE AND THE OTHER IS IN OIL, THEY DO NEED TO PREPARE AN ERUB. R SIMEON SAYS, “ALL THE SAME IS THE RULE FOR THIS CASE AND FOR THAT CASE, [IF THEY ARE JOINTHOLDERS], THEY DO NOT NEED TO PREPARE AN ERUB.”
1. **III:1:** since the householder will take account of a mixture of the two, it is necessary to prepare [a distinct] erub.
 2. **III:2:** R. Ba bar Kahana, R. Hiyya bar Ashi in the name of Rab: “The Mishnah speaks of a case in which the food is located in a single

utensil. [But if they have two utensils, even if wine is in both, they must prepare an erub.]”

3. **III:3:** Said R. Zeriqan, “The reason for the view of R. Simeon [at M. 6:5F] is that it is the usual way to drink an oil-and-wine-drink.”
4. **III:4:** It has been taught: R. Eleazar b. Taddai says, “One way or the other, they are prohibited unless they prepare an erub” [T. Er. 5:9G].

LII. YERUSHALMI ERUBIN 6:6

[A] **FIVE ASSOCIATIONS WHO OBSERVED THE SABBATH IN ONE EATING HALL — THE HOUSE OF SHAMMAI SAY, “AN ERUB [IS REQUIRED] FOR EACH AND EVERY ASSOCIATION.” AND THE HOUSE OF HILLEL SAY, “ONE ERUB SERVES ALL OF THEM.” BUT THEY CONCUR THAT, WHEN PART OF THEM ARE STAYING IN PRIVATE ROOMS OR UPPER CHAMBERS, THEY REQUIRE AN ERUB FOR EACH AND EVERY ASSOCIATION.**

1. **I:1:** [If] the eating room is before them [when they are in separate rooms], then they are in a situation parallel to houses opening up onto a common courtyard [T. Er. 5:8].
2. **I:2:** Ba in the name of R. Judah: “In the case of two houses, one inside the other, if one has prepared an *erub* for the inner house, the outer house does not have to prepare an *erub*. If one prepared an *erub* for the outer house, the inner one still has to prepare an *erub*.” Said R. Phineas, “Also with respect to courtyards there is this exchange. If one has prepared an *erub* for the inner room, he has to do the same for the outer one. If he has done so for the outer room, he does not have to do so for the inner room.” R. Jacob bar Aha, R. Abbahu in the name of R. Joshua b. Levi: “Even if the people in the inner room have not prepared an *erub*, the outer room does not require an *erub*. Why? It is treated as a gatehouse [to the inner room].”
3. **I:3:** Ba in the name of R. Judah: “In the case of two men, one of whom enjoys domain [in a courtyard] and one of whom does not, if this one who has domain in the courtyard prepared an *erub*, the one who does not have domain in the courtyard also has been permitted [to utilize the courtyard]. If the one who does not have domain prepared an *erub*, the one who does have domain has not thereby been permitted to utilize the courtyard.”

LIII. YERUSHALMI ERUBIN 6:7

[A] **BROTHERS WHO ATE AT THE TABLE OF THEIR FATHER BUT WHO SLEPT IN THEIR RESPECTIVE HOUSES REQUIRE AN ERUB FOR EACH ONE. THEREFORE IF ONE OF THEM FORGOT AND DID NOT PREPARE AN ERUB, HE ANNULS HIS RIGHT [IN THE COMMON COURTYARD, SO THE OTHERS MAY CARRY THEREIN]. UNDER WHAT CIRCUMSTANCES? WHEN THEY BRING THEIR ERUB TO SOME OTHER PLACE.**

1. **I:1:** Where is the principal location of residence?

[B] **BUT IF THE ERUB WAS BROUGHT TO THEM, OR IF THERE WERE NO [OTHER] RESIDENTS WITH THEM IN THE COURTYARD, THEY DO NOT HAVE TO PREPARE AN ERUB.**

1. **II:1:** Hiyya bar Ashi in the name of Rab: “The Mishnah speaks of a case in which the brothers collect food from their father [and eat it in their own houses].” In any event, are they not partners in what they eat [so can the food received from the father not constitute a proper erub]? [Why are they deemed separate entities?] Said R. Ba, “R. Samuel explained that their father gives them rights of ownership only over what they eat alone. [They are not partners in ownership of the food at all.]” If that is the case, then even if the erub was brought to them [M. 6:7G] [they should have to prepare an erub]. They treated the case in the way in which the house in which they leave the erub-meal is deposited is treated, [and the residents of that house do not have to add food to the common meal]. [Likewise, the residents of that house do not have to prepare an erub. That accounts for the rule cited at D.]

2. **II:2:** Samuel said, “The householder, his sons, and dependents make an erub-meal through a single loaf of bread.” Now does Samuel differ? [We have explained that the Mishnah speaks of a case in which the people collect the food and take it to their own homes. How can that be done, if they are to prepare a common erub, and if they use a single loaf of bread for that purpose? For] there he has said that the principal place of residence is where they eat, and here he has said this!

3. **II:3:** As to the house in which they leave the erub-meal, [does that house have also to prepare an erub]? The mother of R. Jacob bar Aha died. [He did not participate in the erub-meal. It was in his house that the erub-meal was deposited.] Said R. Yosé to R. Abbahu, “Repeat the following tradition [and he will know what to do], so he repeated as follows: The House of Shammai prohibit, and the House of Hillel permit. [Accordingly, the law follows the House of Hillel, and it is not

necessary for the person in whose home the erub-meal is deposited to participate in it.]” R. Hamnuna said, “The house in which they leave the erub-meal requires no further [arrangements for carrying in a common domain on the Sabbath].” R. Hisdai said, “[The householder in that situation] is treated as an [autonomous] partner [in the erub-meal].”

4. **II:4:** R. Jacob bar Aha, R. Yosé in the name of R. Yohanan: “Residents of an alleyway who placed their erub-meals in two separate places – if it was because they had no single satisfactory utensil to hold the lot, lo, this procedure is valid. If it was so as to divide up their erub-meal [protecting each one’s share], it is forbidden. [In that case it would appear that the donors have wished to preserve the food each has contributed, so it is not really a common meal any more.]”
5. **II:5:** It has been taught: They keep an erub-meal in the house in which it has usually been left, for the sake of peace [T. Er. 5:11].

LIV. YERUSHALMI ERUBIN 6:8

[A] FIVE COURTYARDS OPEN TO ONE ANOTHER AND OPEN TO AN ALLEY –

1. **I:1:** and prohibited from doing so in the alley [M. 6:8C], for the alleyway is to courtyards as a courtyard is to houses [M. 6:8J]. The operative consideration is that the [courtyards] are open to one another and also open to the alley [M. 6:8A]. But if they were open to one another and not open to the alleyway, even if they had prepared a common *erub* [for each courtyard, respectively], they would be forbidden [as to carrying from one courtyard to another].

[B] [IF] THEY PREPARED AN ERUB FOR THE COURTYARDS BUT DID NOT PREPARE A SHITTUF FOR THE ALLEY, THEY ARE PERMITTED TO CARRY THINGS ABOUT IN THE COURTYARDS AND PROHIBITED FROM DOING SO IN THE ALLEY. IF THEY PREPARED A SHITTUF FOR THE ALLEY, THEY ARE PERMITTED IN BOTH PLACES.

1. **II:1:** this is the view of R. Meir [that both are needed]. For R. Meir has said, “[Carrying in the courtyard and alleyway is permitted] by the *erub* and *shittuf* [respectively].” Everyone follows the law in accord with the view of R. Meir.
2. **II:2:** It is self-evident that people prepare an erub for courtyards and a shittuf for an alleyway. If people have prepared an erub for courtyards, [only], if they then wanted to take a share in the shittuf covering the

courtyard, they may not do so. If they have taken a share in the courtyard's *shittuf*, if then they wanted to share in an erub for a courtyard, they may participate in the erub.

3. **II:3:** How many courtyards are there in an alleyway?
4. **II:4:** Said R. Yosé, "When I was over there [in Babylonia] I heard R. Judah asking Samuel, 'If one separated his coin for the *sheqel*-tax for the Temple and then dropped dead, [what is the disposition of the designated coin]?' "He said to him, 'It is to go to the fund for a freewill-offering.'" As to the excess of the excess of the tenth of fine flour [of the high priest, which he would offer every day]? R. Yohanan said, "One must dispose of it in the Salt Sea." R. Eleazar says, "The proceeds [for the sale of the excess] are to go to the fund for a freewill-offering." They asked before him, "What is the law as to nullifying one's right of domain in a courtyard in which he does not dwell? [If a resident of a courtyard did not share in the *erub* of his courtyard, may he then nullify not only his rights to that courtyard, thus permitting others to carry therein, but also to another courtyard in which he has the right of access along with other residents of the courtyard in which he dwells?]" He said to them, "One may do so." They asked before R. Yosé, "Just as you maintain there that utensils which were in the courtyard when the Sabbath came into effect may be carried throughout the courtyard [even though they did not prepare an *erub* for the courtyard so as to bring utensils from the houses into the courtyard], so also do you maintain that utensils which were in the alleyway when the Sabbath took effect may be carried throughout the alleyway [even though there was no *shittuf* prepared for the alleyway]?"

[C] [IF] THEY PREPARED AN ERUB IN THE COURTYARDS AND PREPARED A SHITTUF IN THE ALLEY, BUT [IF] ONE OF THE PEOPLE WHO LIVES IN THE COURTYARD FORGOT AND DID NOT SHARE IN THE ERUB, THE [OTHER RESIDENTS] ARE PERMITTED BOTH HERE AND THERE. [IF ONE OF] THE PEOPLE WHO LIVES IN THE ALLEYWAY [FORGOT AND] DID NOT PARTICIPATE IN THE SHITTUF, THEY ARE PERMITTED TO CARRY THINGS IN THE COURTYARDS BUT PROHIBITED FROM DOING SO IN THE ALLEYWAY. FOR THE ALLEYWAY IS TO COURTYARDS AS A COURTYARD IS TO HOUSES.

1. **III:1:** It is self-evident that people may rely on a *shittuf* for an alleyway [if they forgot to prepare an *erub* for the courtyard (M. 6:8D)]. What is the law as to relying on a *shittuf* in the case of courtyards [for which they forgot to provide an *erub*]?

2. **III:2:** It is obvious that it is necessary to put an *erub* in a particular house in a courtyard [since the *erub* signifies a place of residence, which, we recall, Rab requires as the critical consideration]. But does a *shittuf* require location in a house? R. Aha in the name of Rab: “One places it either in the open air of a courtyard, or in the open air of an alleyway.”

LV. YERUSHALMI ERUBIN 6:9

[A] TWO COURTYARDS, ONE INSIDE THE OTHER — [THE PEOPLE OF] THE INNER ONE PREPARED AN ERUB, BUT [THE PEOPLE OF] THE OUTER ONE DID NOT PREPARE AN ERUB. THE PEOPLE IN THE INNER COURTYARD ARE PERMITTED [TO CARRY THINGS], AND THE PEOPLE IN THE OUTER COURTYARD ARE PROHIBITED [FROM DOING SO]. [IF THE PEOPLE OF THE] OUTER [COURTYARD PREPARED AN ERUB BUT [THE PEOPLE OF THE INNER ONE DID] NOT, THEN BOTH OF THEM ARE PROHIBITED [FROM CARRYING THINGS ABOUT]. [IF] THIS ONE PREPARED AN ERUB FOR ITSELF AND THAT ONE PREPARED AN ERUB FOR ITSELF, [THE AREA OF] THIS ONE IS PERMITTED BY ITSELF, AND THAT ONE IS PERMITTED BY ITSELF. R. AQIBA PROHIBITS IN THE CASE OF THE OUTER ONE. FOR THE RIGHT OF ACCESS RESTRICTS IT. AND SAGES SAY, “THE RIGHT OF ACCESS DOES NOT RESTRICT IT.”

1. **I:1:** Said R. Yosé, “This [M. 6:9A-C] represents the view of R. Aqiba, for R. Aqiba has said, ‘The right of access constitutes grounds for prohibiting [use of the courtyard, if a resident enjoying that right has not participated in the *erub*].’” Said R. La in the name of R. Yannai, “One who has rights of access both is forbidden to carry in that courtyard and imposes a prohibition on others in the courtyard, [should he fail to participate in the *erub* of that courtyard].”

LVI. YERUSHALMI ERUBIN 6:10

[A] [IF] ONE OF THE PEOPLE IN THE OUTER COURTYARD FORGOT AND DID NOT LOIN IN THE ERUB, THE INNER ONE IS PERMITTED, AND THE OUTER ONE IS PROHIBITED. [IF ONE OF THE PEOPLE IN THE] INNER [COURTYARD FORGOT AND] DID NOT PREPARE AN ERUB, BOTH OF THEM ARE PROHIBITED. IF THEY MADE THEIR ERUB IN A SINGLE LOCATION, AND SOMEONE FORGOT [TO PARTICIPATE], WHETHER [HE LIVED] IN THE INNER COURTYARD OR IN THE OUTER COURTYARD, AND HE DID NOR JOIN IN THE ERUB, BOTH OF THEM ARE

PROHIBITED. BUT IF THE [COURTYARDS] BELONGED [WHOLLY] TO INDIVIDUALS, THEY DO NOT HAVE TO PREPARE AN ERUB.

1. **I:1:** If one of the residents of the outer courtyard forgot and did not join in the erub, the outer courtyard is forbidden, for it has not been covered by an erub-meal valid for all its residents, and the inner courtyard likewise is forbidden for the people have placed their erub-meal in a location which, in any event, is forbidden [cf. T. Er. 5:27, which assigns this view to Aqiba]. If one of the residents of the inner courtyard forgot and did not join the erub-meal, the inner courtyard is forbidden [as to carrying], since it has not been provided with an erub-meal, and the outer one is also forbidden, for they have located their erub-meal in a forbidden place, since the right of access imposes a prohibition [should those who exercise that right not join in the *erub* for the area which they may traverse]. If one of the residents of the inner courtyard forgot and did not join in the erub-meal, there is no problem in understanding why the outer courtyard should be forbidden, for it has not been covered by a valid erub. But as to the inner courtyard, why is that the case? Because they have placed their *erub* in a forbidden place? Lo, [that is false, for] they did not place their erub-meal in a forbidden place. Rather, the operative reason is that the right of access [of someone who has not participated in the erub] imposes a prohibition [on the area to which that person has access].
2. **I:2:** Hunah in the name of Rab: “The law of the courtyard’s partition does not pertain to a gentile; the law of [dividing upper from lower stories by means of a] partition does not apply to a gentile.” R. La in the name of R. Eleazar: “The law of the courtyard does pertain to a gentile, so that if there were an Israelite and a gentile living in the inner courtyard or in the upper room, the gentile imposes a prohibition only if there were two or more Israelites living there. [If the Israelite prepared a partition and so separated himself from the outer courtyard, so that a gentile and single Israelite household were located together in the inner courtyard, the gentile does not impose a prohibition. Accordingly, there are conditions in which a partition does serve to separate the gentile from the Israelite, so that the presence of the gentile will not prohibit carrying in the outer courtyard, should the gentile be located in the inner one]”

LVII. YERUSHALMI ERUBIN 7:1

[A] A WINDOW [IN THE DIVIDING WALL] WHICH IS BETWEEN TWO COURTYARDS:

1. **I:1:** A web of rope diminishes the dimensions of a window for purposes of the Sabbath [so separating the two courtyards, in line with M. 7:1E-F], but not for purposes of establishing ownership through usucaption of the window [so preventing a neighbor from blocking up the space of the window]. Stubble and straw do not diminish the dimensions of the window. dirt and pebbles do diminish the dimensions of the window. Said R. Yosé [b.] R. Bun, “If grass grew up in the window. it does not serve to diminish its dimensions.” [As to the rule of M. 7:1E-F,] they asked before R. Abba, “Does the rule applicable to the case of a window between two courtyards also apply to a window between two houses?” He said to them, “Yes.” “And along these same lines, to a window between two gardens [or: roofs]?” He said to them, “Yes” [cf. T. Er. 7:13A].

[B] FOUR HANDBREADTHS SQUARE, WITHIN TEN HANDBREADTHS [OF THE GROUND] – THEY [THE RESIDENTS OF THE TWO COURTYARDS] MAKE AN ERUB INDIVIDUALLY. **BUT** IF THEY WANTED, THEY MAKE A SINGLE ERUB [FOR BOTH AREAS]. [IF IT IS] LESS THAN FOUR HANDBREADTHS SQUARE OR [IF IT IS] ABOVE THE GROUND BY MORE THAN TEN HANDBREADTHS, THEY MAKE AN ERUB INDIVIDUALLY, AND THEY DO NOT MAKE AN ERUB JOINTLY.

1. **II:1:** [As to M. 7:1B,] it is not the end of the matter that all of the area of four handbreadths square must lie within ten handbreadths of the ground. Even if only part of the four handbreadths of the other two dimensions lie within ten handbreadths of the ground, it is as if the whole of the four-by-four handbreadths lies within ten handbreadths of the ground. If the window had a circumference of ninety-six handbreadths [twenty-four at each side], even if any part at all lay within ten handbreadths of the ground, it is as if the four handbreadths square lay within ten handbreadths of the ground.
2. **II:2:** What is the law as to diminishing the dimensions of a window [with reference to its height] through placing utensils there [thus bringing the ground upward and leaving the window closer to the ground]? R. Hiyya bar Ashi said, “They do diminish the distance through the use of utensils.” R. Jonah, R. Isaac bar Tabelai said R. Yohanan, “They do not diminish the distance of a window from the ground by placing utensils there.”

LVIII. YERUSHALMI ERUBIN 7:2

[A] A WALL BETWEEN TWO COURTYARDS, TEN HANDBREADTHS HIGH AND FOUR BROAD — THEY MAKE AN ERUB INDIVIDUALLY, AND THEY DO NOT MAKE A SINGLE ERUB [FOR BOTH COURTYARDS]. [IF] THERE WAS PRODUCE ON TOP OF IT, THESE CLIMB UP FROM THIS SIDE AND EAT IT, AND THOSE CLIMB UP FROM THAT SIDE AND EAT IT, ON CONDITION THAT THEY NOT BRING [THE FRUIT] DOWN.

1. **I:1:** Now why should the Mishnah specify that the wall is four handbreadths broad? Even if it were not four handbreadths broad, [the same rule would apply]. It is on account of the later clause of the same passage of the Mishnah: These climb up from this side and eat it, [etc.] [M. 7:2D]. If the wall were not four handbreadths broad, [would it be permitted to take fruit down from the top of the wall, which, (with its inadequate dimensions,) does not constitute an autonomous domain]? R. Ba in the name of Rab: “It is forbidden to people on both sides [to climb up and get the fruit].” R. Zeira in the name of Rab: “It is permitted to people on both sides [to climb up and take the fruit]. [The area is deemed null, being of inconsequential size.]”
2. **I:2:** R. Ba, R. Judah in the name of Samuel: “A wall which one surrounded by ladders on both sides — they nonetheless prepare an *erub* separately, and they do not have the option of preparing a single *erub* covering both courtyards.” Said R. Yosé b. R. Bun, “Since the ladders are not placed opposite one another, the ladders do not serve as doorways [opening the two courtyards to one another.]”
3. **I:3:** It has been taught: All ascents had a gradient of one cubit in three, except for the ascent of the altar, which rose at a gradient of ten handbreadths out of five and a third For the altar is ten cubits high, and its ramp, thirty-two. [Thus any acceptable gradient, e.g., if one set a partition against a wall as a ramp, would be at a gradient of thirty percent.] If one made a porch along the whole front of the wall, if it is four handbreadths broad, the courtyards joined by the wall prepare an *erub* separately, and if they wanted, they may prepare a single *erub*. If it is not four handbreadths broad, they prepare an *erub* individually, and they may not prepare a common *erub*. If it is four cubits broad, they prepare a single *erub* for both courtyards, and they may not prepare separate *erubs*. [The porch now lowers the height of the partition to less than ten handbreadths, so it is as if there is no partition between the two courtyards at all.]

[B] **[IF]** THE WALL WAS BREACHED TO A HEIGHT OF LESS THAN TEN CUBITS **[FROM THE GROUND]**, THEY MAKE AN ERUB INDIVIDUALLY. **BUT** IF THEY WANTED, THEY MAKE A SINGLE ERUB **[JOINTLY]**, BECAUSE IT IS EQUIVALENT TO A DOORWAY. **[BUT IF THE BREACH IS]** LARGER THAN THIS, THEY MUST MAKE AN ERUB JOINTLY, AND THEY DO NOT MAKE AN ERUB INDIVIDUALLY.

- 1.** **II:1:** [With reference to M. 7:2F:] That which you have said applies to a large wall, but in the case of a small one, the appropriate measure is the larger part of the wall. What is the definition of a large, and what is the definition of a small wall? A large one is any, the larger part of which is taller than ten cubits [Levy: greater than an area of ten by ten]. Lo, if [in the case of a small wall] it was breached over the greater part [it is no longer serviceable as a partition between the two courtyards] [cf. T. Er. 6:14].

LIX. YERUSHALMI ERUBIN 7:3

[A] A TRENCH THAT IS BETWEEN TWO COURTYARDS, TEN HANDBREADTHS DEEP AND FOUR BROAD — THEY MAKE AN ERUB INDIVIDUALLY AND THEY DO NOT MAKE A SINGLE ERUB, EVEN IF IT IS FULL OF STRAW OR CHOPPED HAY. **[IF]** IT WAS FILLED UP WITH DIRT OR STONES, THEY MAKE AN ERUB JOINTLY, AND THEY DO NOT MAKE AN ERUB INDIVIDUALLY.

- 1.** **I:1:** Lo, so far as the straw is concerned, [the Mishnah's phrasing indicates that] if one had the thought of nullifying the effect of the straw [by removing it], that intent is null. [The Mishnah's phrasing does not make provision for the householder's intent for the straw; it is of no consequence whether it will be left there or removed. Dirt or stones, by contrast, do constitute permanent obstacles. Why not straw?]
- 2.** **I:2:** [As to the trench,] members of the house of R. Yannai said, "If one covered the trench with mats, its effect is null, [and the two courtyards are unified thereby]."

LX. YERUSHALMI ERUBIN 7:4

[A] **[IF]** ONE PUT OVER IT **[THE TRENCH]** A BOARD FOUR HANDBREADTHS BROAD, AND SO: TWO BALCONIES OPPOSITE ONE ANOTHER **[CONNECTED BY A BOARD]** — THEY MAKE AN ERUB SINGLY. **BUT** IF THEY WANTED, THEY MAKE AN ERUB

JOINTLY [IF IT WAS] LESS THAN THIS, THEY MAKE AN ERUB INDIVIDUALLY AND THEY DO NOT MAKE AN ERUB MEAL.

1. **I:1:** There is a Tannaite authority who [at M. 7:4D] teaches, “They prepare an erub separately, and they do not prepare an erub jointly.” There is a Tannaite authority who teaches, “They prepare an erub jointly, and they do not prepare an erub separately.”

LXI. YERUSHALMI ERUBIN 7:5

[A] A HEAP OF STRAW WHICH IS BETWEEN TWO COURTYARDS, TEN HANDBREADTHS HIGH — THEY MAKE AN ERUB INDIVIDUALLY, AND THEY DO NOT MAKE AN ERUB JOINTLY. THESE FEED THEIR CATTLE ON ONE SIDE, AND THOSE FEED THEIR CATTLE ON THE OTHER SIDE. [IF] THE STRAW DIMINISHED TO A HEIGHT OF LESS THAN TEN HANDBREADTHS, THEY MAKE AN ERUB JOINTLY, AND THEY DO NOT MAKE AN ERUB INDIVIDUALLY.

1. **I:1:** Said R. Eleazar, “This is the meaning of the statement of the Mishnah [at M. 7:5D]: These fill their baskets on one side and feed the cattle, and those fill their baskets on the other side and feed their cattle.”
2. **I:2:** A heap of straw which is between two courtyards — [residents of this one] break open an entry on one side and feed their cattle, and residents of the other courtyard break open an entry on the other side and feed their cattle. If the pile of straw diminished to a height of less than ten handbreadths, both of them are forbidden [to use the pile], unless they prepare an erub [joining the two courtyards]. Therefore, if one wanted, he may seal up his door or annul his right to make use of the courtyard, in which case he is prohibited from using the courtyard, but his fellow is permitted to make use of the whole thing.

LXII. YERUSHALMI ERUBIN 7:6

[A] HOW DO THEY MAKE A PARTNERSHIP [A SHITTUF] IN AN ALLEYWAY? ONE [OF THE RESIDENTS] SETS DOWN A JAR [OF FOOD OR DRINK] AND STATES, “LO, TO US BELONGS TO ALL THE RESIDENTS OF THE ALLEYWAY.”

1. **I:1:** It has been taught: One does not impart ownership [to the other residents of the alleyway] through a jug of wine in the cellar.

[B] AND THUS HE EFFECTS POSSESSION FOR THEM THROUGH HIS ADULT SON OR DAUGHTER, HIS HEBREW SLAVE BOY OR SLAVE GIRL, OR HIS WIFE.

- 1. II:1:** [With reference to the Hebrew slave girl of M. 7:6C,] how shall we interpret the matter? If we deal with an adult, then she has acquired [right to ownership of herself when she has produced] puberty signs [in consequence of which how can we speak of his acting through the slave girl]? If it is of a minor, does a minor effect acquisition [and so have the power to transfer ownership to other residents in the alleyway]? Said R. Yudan bar Shalom before R. Yosé, “Interpret the law to accord with him who said, ‘A minor may set aside heave-offering.’” He said to him, “And even in accord with him who said, ‘A minor may not set aside heave-offering,’ may a minor effect acquisition?”

[C] BUT HE DOES NOT EFFECT POSSESSION IN THEIR BEHALF BY MEANS OF HIS MINOR SON OR DAUGHTER, OR BY MEANS OF HIS CANAANITE SLAVE BOY OR SLAVE GIRL, BECAUSE THEIR HAND IS AS HIS HAND.

- 1. III:1:** There we have learned: He who borrowed a cow and the one who lent it sent it along with his son, slave, or messenger, or with the son, slave, or messenger of the borrower, and it died, the borrower is exempt. [If the borrower had said to him, “Send it with my son,” “my slave,” “my messenger,” the borrower is liable] [M. B.M. 8:3]. Does this [latter clause] not indicate that the slave made acquisition of the object from his master in behalf of the other party? [Indeed it does.] Said R. Eleazar, “Interpret the passage to speak only of a Hebrew slave [in which case the question is not answered at all].” Said R. Yohanan, “No, you may as well interpret the passage to apply to a case in which it was a Canaanite slave. But interpret the passage to speak of a case in which the lender said to him, ‘Open the gate for it, and it will follow along on its own.’ For we have learned that leading the cow is tantamount to drawing it [and so effecting ownership of it]. “If one has called the cow and it came after him, he is liable for what happens to the cow just as if he had borrowed it.”

LXIII. YERUSHALMI ERUBIN 7:7

[A] [If] THE FOOD DIMINISHED IN VOLUME [TO LESS THAN THE PRESCRIBED QUANTITY], ONE ADDS TO IT AND EFFECTS POSSESSION FOR THE OTHERS. AND HE NEED NOT INFORM THEM. [BUT IF] THE NUMBER [OF RESIDENTS OF THE ALLEYWAY] BECAME LARGER, ONE ADDS TO THE FOOD AND EFFECTS POSSESSION FOR THEM. AND HE DOES NEED TO INFORM THEM.

1. **I:1:** What is the meaning of “informing them”?

LXIV. YERUSHALMI ERUBIN 7:8

[A] **WHAT IS ITS PRESCRIBED VOLUME? WHEN THE [RESIDENTS] ARE NUMEROUS, FOOD SUFFICIENT FOR TWO MEALS FOR ALL OF THEM. WHEN THEY ARE FEW IN NUMBERS, A DRIED FIG’S BULK – [Y LACKS] SUCH THAT MAY BE TAKEN OUT ON THE SABBATH – FOR EACH AND EVERY ONE.**

1. **I:1:** Rab said, “The definition of ‘numerous’ is seventeen, and the definition of ‘few’ is sixteen.” R. Yohanan said, “Wherever [the food for two meals], if divided among them, would not be sufficient to allow for each a volume of food as much as the *size* of a dried fig, the residents are held to be many,’ and a quantity of food for two meals suffices; otherwise they are regarded as ‘few.’”

LXV. YERUSHALMI ERUBIN 7:9

[A] **SAID R. YOSÉ, “UNDER WHAT CIRCUMSTANCES? AT THE BEGINNING OF [PREPARING] THE ERUB. BUT FOR WHAT REMAINS [LATER ON] IN THE ERUB, ANY AMOUNT AT ALL [WILL DO]. FOR THEY HAVE SPOKEN ABOUT PREPARING AN ERUB FOR COURTYARDS [IN ADDITION TO THE ALLEYWAY] ONLY SO THAT CHILDREN WILL NOT FORGET.”**

1. **I:1:** What is the definition of “what remains later on in the erub”?
2. **I:2:** Said R. Joshua b. Levi, “On what account do they prepare an *erub* for courtyards [in addition to alleyways]? It is for the sake of peace.”

LXVI. YERUSHALMI ERUBIN 7:10

[A] **“WITH ANYTHING [WHICH IS EDIBLE] DO THEY PREPARE AN ERUB OR A SHITTUF, EXCEPT FOR WATER OR SALT,” THE WORDS OF R. ELIEZER. R. JOSHUA SAYS, “A LOAF OF BREAD IS [WHAT IS TO BE USED FOR] AN ERUB.” A BAKING, EVEN OF A WHOLE SEAH OF FLOUR, IF IT IS ONLY PART OF A LOAF – THEY DO NOT MAKE AN ERUB WITH THAT. [BUT] A WHOLE LOAF [EVEN] THE SIZE OF A SMALL COIN WHICH IS WHOLE – THEY DO MAKE AN ERUB WITH THAT. “A MAN PAYS OVER A MAAH-COIN TO A STOREKEEPER OR TO A BAKER SO THAT HE WILL ACQUIRE FOR HIM A PORTION IN AN ERUB,” THE WORDS OF R. ELIEZER. AND SAGES SAY, “HIS COINS ALONE HAVE NOT ACQUIRED FOR HIM [A PORTION**

IN AN ERUB.]” **BUT THEY CONCUR THAT WITH ANY OTHERS [EXCEPT FOR BAKERS], HIS COINS DO SECURE FOR HIM A SHARE IN THE ERUB.**

- I:1:** As to M. 7:10F,] R. Abbahu in the name of R. Yohanan: “That is to say that, on the authority of the law of the Torah, coins do not effect acquisition. [That is the clear implication of sages’ view.]” No, that case [that is, M. 7:10E-F,] is different, for the baker may forget and take out [what the man has purchased and give it to someone else]. If that is the case, then even if one came to the storekeeper, [the rule should be the same]. [That is, if the consideration is what the baker may do, then the erub-meal itself should not be left with the baker, lest he sell it to someone else.] [Continuing to follow ‘s reorganization:] And sages say, “His coins alone have not acquired for him a portion in an erub” [M. 7:10F]. That is to say that the coins do effect acquisition *on the* authority of the law of the Torah” for the storekeeper transfers ownership through a third party.

[B] FOR THEY PREPARE AN ERUB FOR A MAN ONLY WITH HIS KNOWLEDGE AND CONSENT. SAID R. JUDAH, “UNDER WHAT CIRCUMSTANCES? IN THE CASE OF AN ERUB SERVING FOR THE MINGLING OF SABBATH /LIMITS. “BUT IN THE CASE OF ERUBS SERVING TO JOIN TOGETHER COURTYARDS, THEY PREPARE AN ERUB FOR A MAN BOTH WITH HIS KNOWLEDGE AND CONSENT AND WITHOUT HIS KNOWLEDGE AND CONSENT. “FOR THEY ACQUIRE A BENEFIT FOR A MAN NOT IN HIS PRESENCE. “BUT THEY DO NOT EXACT A PENALTY FOR A MAN NOT IN HIS PRESENCE.”

- I:1:** For they prepare an erub for a man only with his knowledge and consent [M. 7:10H]: This statement of the Mishnah represents the view of R. Meir. [Delete: For R. Meir said, “[It is necessary to establish the right to carry in a courtyard and in an alleyway] both with an *erub-meal* [and with a *shittuf-meal*].” R. Zeira in the name of R. Yohanan: “In the laws of Erubin and in those governing a public fast, everyone follows the law in accord with the view of R. Meir.” R. Jacob in the name of R. Yohanan: “Also in the laws governing the reading of the Scroll of Esther, everyone is accustomed to follow the law in accord with the view of R. Meir.”
- II:2:** Isaac b. Haqolah in the name of R. Yudan the Patriarch: “They prepare an erub for a person against his will.” And so it has been taught: Residents of an alley may impose the requirement upon one another to provide [funds to purchase] a side beam and a crossbeam [to permit carrying in the alleyway] [T. B.M. 11:1A]. And has it not been taught: Lo, if they told someone to join in the erub, and he does not decline, [they may go into his house and prepare the erub against his

will]? But if he had declined to participate, would they have forced him? [Certainly not.] Said R. Yudan, “The cited passage accords with the view of R. Meir [who maintains the view that one may not force a person to participate in an erub].” Said R. Yosé b. R. Bun, “You may interpret the passage to accord with the views of all parties, in an instance in which the man was a Sadducee [who to begin with did not concur in the notion that an erub serves to commingle ownership]. [In the case of an erub prepared for a recusant, to begin with the act is null.]”

LXVII. YERUSHALMI ERUBIN 8:1

[A] **HOW DO THEY PREPARE A SHITTUF FOR THE SABBATH LINE? ONE PUTS DOWN A JUG [OF FOOD OF SOME SORT] AND SAYS, “LO, THIS BELONGS TO ALL THE RESIDENTS OF MY TOWN,” “TO WHOEVER GOES TO THE HOUSE OF MOURNING” OR “TO THE HOUSE OF CELEBRATION.” WHOEVER ACCEPTED FOR HIMSELF [A SHARE IN THE OWNERSHIP OF THIS MEAL] WHILE IT WAS STILL DAY IS PERMITTED [TO WALK TO THE LIMIT OF TWO THOUSAND CUBITS FROM THE LOCATION OF THE SHITTUF]. [BUT WHOEVER ACCEPTS FOR HIMSELF OWNERSHIP] AFTER IT GETS DARK IS PROHIBITED [FROM DOING SO], FOR THEY DO NOT PREPARE AN ERUB ONCE IT GETS DARK.**

1. **I:1:** Now we note that [in the formula prescribed in the Mishnah,] we have not learned that [the one who prepares the shittuf does not] assign ownership [to the others as he does in the case of an erub for courtyards]. Why is that the case? Samuel said, “There [with regard to the shittuf for an alleyway,] we have learned that the one who sets it up assigns ownership to all the others, from which it follows that it is necessary so to assign ownership; while here, where we have not learned that the one who arranges the shittuf for the Sabbath line assigns ownership to all others, it is not necessary to do so.” R. Yohanan said, “In fact it is an argument a fortiori that one must do so. That is to say, since, in regard to preparing an erub for courtyards, which derives from the authority of scribes, you maintain that it is necessary to assign ownership, in the case of an erub for the Sabbath boundary, deriving, as it does, from the authority of the Torah, is it not an argument a fortiori that one indeed does have to assign ownership?”

LXVIII. YERUSHALMI ERUBIN 8:2

[A] WHAT IS ITS REQUISITE MEASURE? FOOD SUFFICIENT FOR TWO MEALS FOR EACH ONE:

1. **I:1:** R. Meir says, “On an ordinary day, for he does not have much to eat, so he eats only a small quantity of bread. On the Sabbath, when he has much to eat, he also eats a great deal of bread.” R. Judah says, “On an ordinary day, on which he does not have much to eat, he eats a great deal of bread. On the Sabbath, on which he has much to eat, he eats only a little bread.”

[B] “[COMPOSED OF] THE FOOD HE EATS ON AN ORDINARY DAY AND NOT ON THE SABBATH,” THE WORDS OF R. MEIR. R. JUDAH SAYS, “ON THE SABBATH AND NOT ON AN ORDINARY DAY” AND THIS ONE AND THAT ONE INTEND [THEREBY] TO GIVE A LENIENT RULING. R. YOHANAN B. BEROQAH SAYS, “[NOT LESS THAN] A LOAF WORTH A PONDION, FROM WHEAT AT ONE SELA FOR FOUR SEAHs OF FLOUR.” R. SIMEON SAYS, “TWO-THIRDS OF A LOAF OF A SIZE OF THREE TO A QAB.” HALF OF THAT MEASURE IS WHAT IS REQUIRED FOR A HOUSE AFFLICTED WITH A NEGA, AND HALF OF THAT IS THE MEASURE TO INVALIDATE THE [PERSON’S] BODY [FOR THE EATING OF FOOD IN THE STATUS OF HEAVE-OFFERING].

1. **II:1:** [As to M. 8:2F-G,] so it has been taught: The opinions of the two in fact are close to one another.

LXIX. YERUSHALMI ERUBIN 8:3

[A] THE RESIDENTS OF A COURTYARD AND THE RESIDENTS OF A GALLERY ABOVE A COURTYARD WHO FORGOT AND DID NOT PREPARE AN ERUB [JOINING THE COURTYARD AND THE GALLERY] — ALL THE AREA ABOVE TEN HANDBREADTHS IS ASSIGNED TO THE GALLERY. [ALL THE AREA] LOWER THAN THIS IS ASSIGNED TO THE COURTYARD.

1. **I:1:** But [is not what is in the courtyard] to be assigned to the residents of the lower part [that is, of the courtyard, since, after all, the objects are located in the courtyard and not on the balcony]? Said R. Yudan, “That is to say that if the ruin of Reuben is located in the courtyard of Simeon, and Simeon [readily] makes use of it, it is as if it belongs to [Simeon].”
2. **I:2:** [In the case of a distinct domain between two courtyards, and each courtyard readily has access to it,] it is self-evident that if this side has

an entry-way to the area, and that side likewise, both parties are forbidden to utilize the area of the house between the two courtyards so far as tossing an object or letting down an object [as the case may be]. [That is, unless there is a proper erub, commingling rights of domain, neither party may utilize that space in the manner convenient to it, either by letting something down into it, or tossing something over into it.] Samuel said, “As to letting something down, it is permitted, for that is an ordinary way of doing things [so there is ready access], while as to tossing an object, it is forbidden, for that is not an ordinary way of doing things.” Rab said, “One has done nothing [legitimate, either way]. [That is, both parties are forbidden, for in either case is this a convenient way to utilize the space.]”

- 3. I:3:** If between two courtyards was a] ruin – R. Yohanan said, “One assigns the ruin to its owner [if he is able to utilize it conveniently].”

[B] THE BANK AROUND A CISTERN AND THE STONE, [IF] HIGHER THAN TEN HANDBREADTHS, ARE ASSIGNED TO THE GALLERY. [IF] LOWER THAN THAT THEY ARE ASSIGNED TO THE COURTYARD. UNDER WHAT CIRCUMSTANCES? IN THE CASE OF WHAT ADJOINS [THE GALLERY]. BUT IN THE CASE OF THAT WHICH IS DISTANT [SEPARATE FROM THE GALLERY], EVEN IF IT IS TEN HANDBREADTHS HIGH, IT IS ASSIGNED TO THE COURTYARD.

- 1. II:1:** [With reference to M. 8:3D:] Said R. Yohanan, “The standing part of a partition and the empty spaces in it [or below it] join together to form the ten handbreadths [in height] and the four [in breadth]. And that is the case only if the standing part is greater than the empty spaces.”

[C] WHAT IS THE DEFINITION OF ADJOINING [THE GALLERY]? WHATEVER IS NOT DISTANT BY MORE THAN FOUR HANDBREADTHS.

- 1. III:1:** [As to M. 8:3/I-J,] R. Jeremiah in the name of R. Samuel bar R. Isaac: The Mishnah [speaks of a case in which the object adjoining the gallery is] from three to four handbreadths from the gallery. “[If the mound is distant from the balcony by] less than three handbreadths, [lo, it is as if it were attached to the balcony and belongs only to it, not to the residents of the courtyard. Therefore,] even if it is taller than ten handbreadths, it is permitted. “[If the mound is four handbreadths away from the gallery, even if it is] less than ten handbreadths high, it is forbidden, [because in this instance the residents of the balcony cannot readily utilize the mound]. “[Where there is a problem, it is a case in which the mound is] more than three handbreadths from the balcony, [in which case it belongs to the residents of the courtyard,]

“but it is less than four cubits away, [in which case it is easy for the residents of the balcony to make use of it].”

LXX. YERUSHALMI ERUBIN 8:4

[A] **HE WHO PLACES HIS ERUB IN A GATEHOUSE, PORTICO, OR GALLERY — IT IS NOT A VALID ERUB. AND HE WHO LIVES THERE [IN THE GATEHOUSE, PORTICO, OR GALLERY AND WHO DOES NOT SHARE IN THE ERUB] DOES NOT PROHIBIT HIM [FROM CARRYING OBJECTS IN THE COURTYARD]. [HE WHO PLACES HIS ERUB IN A SHED FOR STRAW, CATTLE, WOOD, OR STORES — LO, THIS IS A VALID ERUB. AND HE WHO LIVES THERE [IN THE STRAW, CATTLE-, WOOD-, OR STORAGE-SHED AND WHO DOES NOT SHARE IN THE ERUB] DOES PROHIBIT HIM [FROM CARRYING OBJECTS IN THE COURTYARD].**

1. **I:1:** R. Judah in the name of Rab: “That which you have said [at M. 8:4A-B] applies in the case of a gatehouse belonging to an individual. But in the case of a gatehouse belonging to the public, lo, [if one put an erub-meal therein,] it is a valid *erub*, and he who lives there does prohibit others from carrying objects in the courtyard [should he fail to participate in the common *erub*].”

[B] **R. JUDAH SAYS, “IF THE HOUSEHOLDER HAS THE RIGHT OF STORAGE THERE, THE OTHER] DOES NOT PROHIBIT HIM [FROM CARRYING OBJECTS IN THE COURTYARD. SINCE THE HOUSEHOLDER NOW IS PART OWNER OF THE SHED].”**

1. **II:1:** Members of the household of R. Yannai say, “[With reference to M. 8:4E,] if [the householder has the right to keep in the storehouse] even a peg for hanging his sandal, [that constitutes a right of storage sufficient to provoke the rule stated by Judah.]” R. Ba bar Hinena said, “Even a lid, even a tray.” Rab said, “But that is on condition that it is something which may be handled on the Sabbath.”

LXXI. YERUSHALMI ERUBIN 8:5

[A] **“HE WHO LEAVES HIS HOUSE AND GOES TO SPEND THE SABBATH IN ANOTHER TOWN — “ALL THE SAME ARE A GENTILE AND AN ISRAELITE — “LO, THIS ONE [WHO HAS NOT PARTICIPATED IN THE ERUB OF THE COURTYARD WHERE HIS HOUSE IS LOCATED] PROHIBITS [THE OTHERS FROM CARRYING ABOUT IN THE COURTYARD],” THE WORDS OF R. MEIR. R. JUDAH SAYS, “HE DOES NOT PROHIBIT [THEIR CARRYING IN THE COURTYARD].” R. YOSÉ SAYS, “A GENTILE PROHIBITS, AN ISRAELITE DOES NOT PROHIBIT [THEIR CARRYING**

ABOUT ON THE **SABBATH**], “FOR IT IS NOT USUAL FOR AN **ISRAELITE** TO RETURN [HOME] ON THE **SABBATH**.” **R. SIMEON** SAYS, “EVEN IF HE LEFT HIS HOUSE AND WENT TO SPEND THE **SABBATH** WITH HIS DAUGHTER IN THAT VERY SAME TOWN, HE DOES NOT PROHIBIT [THE OTHERS FROM CARRYING IN THE COURTYARD], FOR HE ALREADY HAS BANISHED FROM HIS MIND [THE POSSIBILITY OF COMING BACK ON THAT **SABBATH**].”

- I:1:** This ruling [at M. 8:5A-C] illustrates the position of R. Meir, for R. Meir says, “A house that is locked nonetheless imposes a prohibition, [should the owner not participate in the *erub*, on all the other residents of the courtyard].” [As to M. 8:5E, Yosé’s distinction, may it not be asked,] Can the Israelite not come along, relying upon an *erub*, coming by and returning home? [Accordingly, the Israelite also may serve to prohibit use of the courtyard, should he not participate in the *erub* or nullify his rights to the common domain.]

LXXII. YERUSHALMI ERUBIN 8:6

[A] **A CISTERN WHICH IS BETWEEN TWO COURTYARDS — THEY DO NOT DRAW WATER FROM IT ON THE **SABBATH**, UNLESS THEY MADE FOR IT A PARTITION TEN HANDBREADTHS HIGH, WHETHER IT IS ABOVE, BENEATH, OR WITHIN ITS RIM. **RABBAN SIMEON B. GAMALIEL** SAYS, “THE HOUSE OF **SHAMMAI** SAY, ‘BELOW’ ‘AND THE HOUSE OF **HILLEL** SAY, ‘ABOVE.’”**

- I:1:** The views of rabbis differ [with regard to M. 8:6A-D]. For R. Jacob in the name of R. Joshua b. Levi said, “The law [that they may draw water from the cistern on the Sabbath] applies if the partition goes down into the water, so that one may let down a bucket [and draw water from one side or the other].”

[B] **SAID R. JUDAH, “THE PARTITION SHOULD NOT BE [EXPECTED TO BE] MORE POWERFUL THAN THE WALL WHICH IS BETWEEN [THE COURTYARDS].”**

- II:1:** The opinions assigned to R. Judah are confused. There he has said: [A woman who borrowed from her girlfriend] spice, water, or salt for her dough – lo, they are in the status of the two of them [so far as transporting these substances are concerned. R. Judah declares exempt in the case of water, for it is of no substance [M. Bes. 5:4C-E]. [It is assumed that his view is that, since water flows on its own, there is no issue of the water’s being assigned to a particular place for the Sabbath. People may take it wherever they themselves are allowed to go. In that case, in the present instance as well, why should the water be subject to the consideration of a partition, since it flows every

which way anyhow. Here how can he say this [M. 8:6G, indicating his basic agreement with the principle at issue here, which is that the water is designated as belonging to a particular place on the Sabbath? [This question is not answered.]

2. **II:2:** Said R. Huna, “The rule [of M. 8:6A-C] applies to a case in which the partition protrudes into the open area of the cistern itself, [but the partition may not go under the surface of the water].

LXXIII. YERUSHALMI ERUBIN 8:7

[A] **A WATER CHANNEL WHICH PASSES THROUGH A COURTYARD THEY DO NOT DRAW WATER FROM IT ON THE SABBATH, UNLESS THEY MADE FOR IT A PARTITION TEN HANDBREADTHS HIGH, AT ITS ENTRY POINT AND AT ITS EXIT POINT. R. JUDAH SAYS, “THE WALL WHICH IS ABOVE IT IS REGARDED AS A PARTITION.” SAID R. JUDAH, “THERE WAS THE FOLLOWING PRECEDENT: FROM THE WATER CHANNEL OF ABEL DID THEY DRAW WATER AT THE INSTRUCTION OF THE ELDERS ON THE SABBATH.” THEY SAID TO HIM, “IT WAS BECAUSE IT WAS NOT OF THE REQUISITE SIZE [AND SO DID NOT CONSTITUTE NEGLECTED PUBLIC DOMAIN].”**

1. **I:1:** The Mishnah [at M. 8:7A] speaks of a water channel which is ten handbreadths deep and four broad [in which case it constitutes a domain unto itself]. [What follows addresses the case of the precedent cited by Judah, M. 8:7F. The channel of which Judah speaks, from which people drew water, in fact ran down the middle of a street in Abel, not through courtyards. Now the question is asked:] But was the water channel not open at both sides? [So why, from Judah’s viewpoint, was it permitted to draw water from the water channel? Judah regards the wall as a suitable partition, so M. 8:6, but here what sort of wall serves as a partition?]
2. **I:2:** It is obvious in the case of a water channel ten handbreadths deep but not four broad [thus not constituting a distinct domain] that it is permitted to carry objects in that area, and it also is permitted to draw water from it, [since it does not constitute a distinct domain but is part of the private domain in which it is located]. It is obvious that if it is four handbreadths broad but not ten deep, it is permitted to carry objects about in it. What is the law as to drawing water from it?

LXXIV. YERUSHALMI ERUBIN 8:8

[A] A BALCONY WHICH IS ABOVE WATER — THEY DO NOT DRAW WATER FROM IT ON THE SABBATH, UNLESS THEY MADE FOR IT A PARTITION TEN HANDBREADTHS HIGH, WHETHER ABOVE OR BELOW.

1. **I:1:** R. Zeira, R. Judah in the name of Rab: “And this rule [of M. 8:8C-D] applies on condition that the partition extends beneath the surface of the water to the extent of a bucket, [so that when the bucket is in the water, it is in an area clearly delineated as private domain].”

[B] AND SO TWO BALCONIES, ONE ABOVE THE OTHER. [IF] THEY MADE [A PARTITION] FOR THE ONE ON TOP AND DID NOT DO SO FOR THE ONE ON THE BOTTOM, BOTH OF THEM ARE PROHIBITED — UNLESS THEY PREPARE AN ERUB.

1. **II:1:** [As to M. 8:8E-H,] does it not turn out that residents of two distinct domains are utilizing a single domain in common? [The supposition here is explained as follows: The upper balcony has a partition down to the sea. This partition serves without the residents’ of the upper balcony having to let their bucket down through a hole between the upper and lower balconies. The partition extends beyond the balcony, so that the bucket is let down into that partition from the balcony. If the upper balcony has a partition and the lower one does not, and if there is no erub either, then both parties are prohibited from letting down buckets. If the lower balcony has a partition for itself within the perimeter of the partition of the upper balcony, residents of the upper balcony, as well as those of the lower, may draw water, for the bucket passes through the partitioned airspace of the two partitions. Now the Talmud asks: are not residents of the two domains using a single common domain, namely, the airspace between the two partitions? If so, why is it necessary to specify, M. 8:8F, and did not do so for the one on the bottom? Even if a partition had been provided for the bottom balcony, the residents thereof still would be forbidden to use the airspace between the two partitions. This question is not answered.]
2. **II:2:** Said R. Huna, “And the rule [of M. 8:8E-H] applies only if the partition sets within three handbreadths of the balcony. [If it was further than this, the upper balcony’s residents may utilize the partition without reference to the lower balcony’s domain, since they are further out, and their airspaces is distinct from that of the lower balcony.]”
3. **II:3:** It has been taught, “R. Hananiah b. Aqabiah says, “A balcony that overhangs the sea at a distance of ten handbreadths in height —

one makes a hole in the plaster and draws water through it on the Sabbath” [T. Er. 6:27].

4. **II:4:** [As to a balcony above water, M. 8:8A,] R. Iddi said before R. Hiyya, “It is permitted to draw water but forbidden to pour out slops.”
5. **II:5:** [With reference to M. Suk. 1:10: If the sides of a sukkah are suspended from above and hang three handbreadths higher than the ground, the sukkah is not valid; if they are built from below upward and measure ten handbreadths, it is valid. R. Yosé says, “Just as from below to above, the height of the side must be only ten handbreadths, so from the top downward it must be ten handbreadths (even though the lower side of the wall is more than three handbreadths from the ground):] Said R. Yohanan, “R. Yosé has made this statement only with regard to the sukkah. But as regards the laws of the Sabbath, also R. Yosé will concur [that the partition must be within three handbreadths of the ground].”
6. **II:6:** [Referring back to M. 8:8E-H,] R. Abbahu in the name of R. Yosé: “That which you have said applies to a case in which the residents of the balconies make use of holes in the floor of the balconies for drawing water. [In such a case, they must establish partitions or prepare an erub joining their two domains.] But if they made use of the space outside [of the framework of the balconies], it is permitted [as is]. [Then the bucket goes down outside of the framework of the domain of the lower of the two balconies.]”

LXXV. YERUSHALMI ERUBIN 8:9

[A] **A COURTYARD WHICH IS LESS THAN FOUR CUBITS [IN AREA] – THEY DO NOT POUR SLOPS INTO IT ON THE SABBATH, UNLESS THEY MADE FOR IT A HOLE HOLDING TWO SEAHS [IN VOLUME], FROM THE EDGE DOWNWARD, WHETHER INSIDE OR OUTSIDE [THE COURTYARD]. BUT: THAT WHICH IS OUTSIDE ONE HAS TO COVER. AND THAT WHICH IS INSIDE ONE DOES NOT HAVE TO COVER. R. ELIEZER B. JACOB SAYS, “A DRAIN WHICH IS COVERED OVER FOR FOUR CUBITS IN THE PUBLIC DOMAIN – “THEY POUR WATER [FROM THE COURTYARD] INTO IT ON THE SABBATH.”**

1. **I:1:** They estimated that a place sufficient to absorb the amount of water used by a person in a given day is two hundred seahs, and four cubits absorb the equivalent in volume to two hundred seahs. [This explains the area specified at M. 8:9A. If the area is less than the four cubits, provision must be made for the runoff of water.] If the hole in

the ground [M. 8:9C] should be perforated, there is a Tannaite authority who says, “One has to stop it up [so that the water will not simply flow out into public domain].” There is a Tannaite authority who says, “One does not have to stop it up.” If the hole in the ground should be filled up, there is a Tannaite authority who says, “One has to empty it out.” And there is a Tannaite authority who says, “One does not have to do so.”

2. **I:2:** The Mishnah passage before us differs from the view of R. Yohanan: The courtyard and the portico join together to constitute the four cubits [M. 8:9M]. Interpret the Mishnah to speak of a case in which the courtyard and the portico are on a level plane.
3. **I:3:** Said R. Jeremiah, “R. Meir and R. Eliezer b. Jacob have both said the same thing. “R. Eliezer b. Jacob, as we have learned: R. Eliezer b. Jacob says, ‘A drain which is covered over for four cubits in the public domain – they pour water from the courtyard into it on the Sabbath.’ And sages say, ‘Even if a roof or a courtyard is a hundred cubits in area, one should not pour water directly into the mouth of the drain’ [M. 8:9H-K]. “R. Meir, for it has been taught: ‘Culverts that are in cities, [holding 100 seahs], even though they are perforated – one may pour slops into them on the Sabbath,’ the words of R. Meir [T. Er. 6:18A-B].”

[B] AND SAGES SAY, “EVEN IF A ROOF OR A COURTYARD IS A HUNDRED CUBITS [IN AREA], “ONE SHOULD NOT POUR WATER [DIRECTLY] INTO THE MOUTH OF THE DRAM. “BUT HE POURS IT ONTO THE ROOF, AND THE WATER GOES DOWN INTO THE DRAIN.” THE COURTYARD AND THE PORTICO JOIN TOGETHER TO CONSTITUTE THE FOUR CUBITS. AND SO TWO STORIES [OF HABITATIONS] OPPOSITE ONE ANOTHER [SEPARATED BY A COURTYARD OF LESS THAN FOUR CUBITS] – SOME MADE A HOLE, AND SOME DID NOT MAKE A HOLE – THOSE WHO MADE THE HOLE ARE PERMITTED [TO THROW OUT SLOPS]. AND THOSE WHO DID NOT MAKE A HOLE ARE PROHIBITED [FROM DOING SO].

1. **II:1:** [As to M. 8:9J-L:] So too it has been taught: [As to a drain covered over for four cubits in the public domain,] if it was flowing along, it is permitted to [pour water into it on the Sabbath]. If it was the rainy season, it is permitted to do so. In the case of spouts which pour out into public domain, it is forbidden to pour water into them [on the Sabbath].

LXXVI. YERUSHALMI ERUBIN 9:1

- [A] “ALL ROOFS OF A TOWN ARE A SINGLE DOMAIN, “SO LONG AS ONE ROOF IS NOT TEN HANDBREADTHS HIGHER OR LOWER [THAN THE OTHERS],” THE WORDS OF R. MEIR.
- I:1:** Yosé b. R. Bun said, “There is a dispute between Rab and Samuel [relevant to the view of sages, M. 9:1C, that each roof is a domain unto itself. If that is the case, to what extent, within each domain, may one carry objects about?] “Samuel said, ‘Up to two *seahs* of space [is permissible for carrying objects, no matter how large the roof’s area].’ “Rab said, ‘They may carry in a space even of a *kor* or two *kors*.’
 - I:2:** They proposed to interpret the dispute [of M. 9:1A-C] between R. Meir and rabbis to pertain to a case in which the residents did not prepare an *erub* [joining the houses below]. But if they did prepare an *erub*, [then sages will concur with Meir’s position].
- [B] AND SAGES SAY, “EACH AND EVERY ONE IS A DOMAIN UNTO ITSELF.” R. SIMEON SAYS, “ALL THE SAME ARE ROOFS, COURTYARDS, AND OUTER AREAS – “EACH CONSTITUTES A SINGLE DOMAIN IN REGARD TO UTENSILS WHICH HAVE BEEN KEPT, THEREIN, FOR THE SABBATH, “AND NOT [A SINGLE DOMAIN] FOR UTENSILS WHICH HAVE BEEN KEPT FOR THE SABBATH IN THE HOUSE.”
- II:1:** The Mishnah [M. 9:1C] speaks of a case in which the entries serving all the residents were connected to the roofs with a Tyrian or an Egyptian ladder. But if all entries to the roof went up on an Egyptian ladder, except for one which used a Tyrian ladder, that one utilizing the Tyrian ladder [which is fixed permanently in place] is deemed to constitute a gateway, and the rest are regarded as a case in which one goes up or down through climbing [not using a usual doorway at all]. [Then only the owner of the Tyrian ladder enjoys a normal access to the roofs.]
 - II:2:** [From the viewpoint of Meir, if the roofs are flat, and from the viewpoint of sages, in the case of a single roof,] what is the law as to carrying objects about on the whole of the roof? Samuel said, “One may carry throughout the whole of it.” Rab said, “People may carry only for four cubits.”
 - II:3:** [“All the roofs of a town are a single domain [M. 9:1A]. It is prohibited to carry something up or to bring something down from the courtyard to the roofs, or from the roofs to the courtyard. But all (objects) which were kept for the Sabbath in the courtyard may be carried about in the courtyard. And those kept for the Sabbath on the

roofs may be carried about on the roofs,” the words of R. Meir. And sages say, “Each one constitutes a domain unto itself.”] Said to them R. Meir, “Do you not concede [in the case of the men of a courtyard who forgot and did not participate in an erub,] that it is prohibited to bring in or to take out objects from the courtyard to the houses and from the houses to the courtyard? Yet all [objects] which were kept for the Sabbath in the courtyard are permitted to be carried about in the courtyard. “So what is the difference between the roof and the courtyard?” They said to him, “If you have stated the rule in regard to the courtyard, underneath which there are no distinct residences, will you state the same rule in regard to roofs, beneath which there are distinct residences?” He said to them, “So too in the case of a courtyard, sometimes there are distinct residences underneath it.” They said to him, “No. If you have stated the rule with regard to the courtyard, in which case everyone will not recognize what is his [part of the courtyard], will you state the rule in the case of roofs, in which case each person recognizes what is his [part]?” He said to them, “No. If it [a roof area] was divided up, or if it was made in mosaics, will not everyone recognize what is his?” Said R. Simeon b. Eleazar, “Up to this point was the reply” [T. Er. 7:14A-L].

4. **II:4:** Said R. Judah, “Here is a precedent: In the time of the danger, we would bring a scroll of the Torah from the courtyard up to the roof, and from one roof to another, where we would read in the scroll.” They said to him, “One may not adduce proof from what was done in the time of the danger” [T. Er. 5:24N-O]. Said Rabbi, “When I was studying [Torah] with R. Simeon in Teqoa, we used to bring oil in an unguent from the courtyard to the roof, and from the roof to the shed, and from one shed to another shed, until we reached the spring. “And there we would wash ourselves [using the oil we had carried]” [T. Er. 5:24L-M].
5. **II:5:** [Reverting to the disputes at M. 9:1,] it turns out that there are three [so, rather than four] items under dispute. All roofs of a town are a single domain [M. 9:1 A]. R. Judah says, “The courtyard and roofs constitute a single domain.” R. Simeon says. “The courtyard, roof, outer area, constitute a single domain in regard to utensils which have been kept therein for the Sabbath, but not [a single domain] for utensils which have been kept for the Sabbath in the house” [M. 9:1E-F].

LXXVII. YERUSHALMI ERUBIN 9:2

[A] A LARGE ROOF NEAR A SMALL ONE — THE LARGE ONE IS PERMITTED [AS AN AREA FOR CARRYING], AND [TO TAKE SOMETHING FROM THE LARGE TO] THE SMALL ONE IS PROHIBITED. A LARGE COURTYARD [THE WALL OF] WHICH WAS BREACHED [SO AS TO GIVE ACCESS] TO A SMALL ONE — THE LARGE ONE IS PERMITTED, AND THE SMALL ONE IS FORBIDDEN, FOR IT [THE SMALLER ROOF OR COURTYARD] IS LIKE A DOORWAY TO THE LARGE ONE.

- 1.** **I:1:** The Mishnah speaks of that same roof. But as to a roof belonging to another party, it is forbidden. [That is, it is permitted to carry in that same roof, belonging as it does to a single owner. The owner may take an object from the area in which the wall is not breached to the area in which it is breached. But it is not permitted to take an object from the latter to the former. The smaller area, the wall of which is breached, here is assumed to belong to another owner. That is the operative consideration, not whether or not the wall is breached. The Mishnah [at M. 9:2A-B] speaks of a case in which the two roofs are not on the same plane. But if they are on the same plane, it is permitted. [conjectures that this is taken over from M. Bes. 5:1/I.A-C, which is as follows: When the rule, M. Bes. 5:1A-B, permits letting down pieces of produce through a hatchway on a festival, the Mishnah speaks of fruit from the roof of that house in particular. But as to fruit on the roof of some other house, it is forbidden. But if the roofs were on the same level, so not much extra labor is involved, it is permitted.]
- 2.** **I:2:** [Reference is made to Y. 6:8 in which Samuel rules that if a matter is permitted for part of the Sabbath, it is permitted for the whole of it.] The following passage of the Mishnah stands at variance with Samuel's position: A large roof near a small one — the large one is permitted as an area for carrying, and the small one is prohibited [M. 9:2A-B]. But why should it not be permitted [if Samuel's principle is accepted] to carry in the smaller area up to the point at which the partitions had stood [before the wall broke down]? [After all, that area had been permitted for part of the Sabbath!] Associates said before R. Yosé in the name of R. Ahayyah, "That which Samuel has said applies to the very same Sabbath [on which, e.g., the wall was breached], while what the Mishnah passage before us says pertains to the Sabbath thereafter. [Accordingly, there is no conflict between the two positions.]"

LXXVIII. YERUSHALMI ERUBIN 9:3

[A] A COURTYARD WHICH [ON THE SABBATH] WAS BREACHED [SO AS TO GIVE ACCESS] TO THE PUBLIC WAY OR TO ANY OTHER DISTINCT DOMAIN — “HE WHO BRINGS [OBJECTS] FROM WITHIN IT TO PRIVATE DOMAIN. OR FROM PRIVATE DOMAIN INTO IT, IS LIABLE,” THE WORDS OF R. ELIEZER. AND SAGES SAY, “[HE WHO BRINGS OBJECTS] FROM WITHIN IT TO THE PUBLIC WAY, OR FROM THE PUBLIC WAY INTO IT, IS EXEMPT. “FOR [THE COURTYARD NOW] IS IN THE STATUS OF NEUTRAL DOMAIN.”

1. **I:1:** Zeriqa, R. Jacob bar Bun in the name of R. Haninah: “R. Eliezer’s rule [imposing liability] applies only to the space in the area of the walls themselves. [But as to the rest of the courtyard. he concurs that it is in the status of neutral domain.] “The rule further applies to a case in which the comers were removed on both sides, [but if the corners survived, Eliezer concurs that the space still delineated by the corner is not in the status of public domain]. [C] “But that is on condition that the remaining corners encompass four handbreadths of area.”

LXXIX. YERUSHALMI ERUBIN 9:4

[A] A COURTYARD WHICH [ON THE SABBATH] WAS BREACHED [TO GIVE ACCESS] TO PUBLIC DOMAIN ON TWO SIDES:

1. **I:1:** Why [does the Mishnah specify that the courtyard was breached to give access to public domain] on two sides? Even if it were only at one side, [that would suffice to raise the question before us].

[B] AND SO TOO: A HOUSE WHICH WAS BREACHED ON TWO SIDES, AND SO TOO: AN ALLEYWAY THE BEAMS OR SIDE POSTS OF WHICH WERE REMOVED — “THEY ARE PERMITTED ON THAT SABBATH, BUT PROHIBITED IN TIME TO COME,” THE WORDS OF R. JUDAH. R YOSÉ SAYS, “IF THEY ARE PERMITTED ON THAT SABBATH, THEY ARE PERMITTED IN TIME TO COME. “AND IF THEY ARE PROHIBITED IN TIME TO COME, THEY ARE PROHIBITED ON THAT SABBATH.”

1. **II:1:** [As to M. 9:4B, a house breached on two sides:] If it was breached in the middle, it remains permitted [to carry in the house, since it is roofed over]. Samuel said, “[If it is breached in the middle, even where it is roofed over], it is forbidden [to carry in the house].”
2. **II:2:** Said R. Yohanan, “R. Eliezer [M. 9:3B] has made his statement only in regard to a courtyard and an alleyway. But as to a house, is it in the status of a bridge?”

3. **II:3:** Rab and R. Yohanan said, “It is forbidden, both on that Sabbath and on the coming Sabbath.”
4. **II:4:** Said R. Yohanan, “Costus, a gourd, an alleyway, a proselyte, and an ordinary person are subject to a strict rule.”

LXXX. YERUSHALMI ERUBIN 9:5

[A] HE WHO BUILDS AN UPPER ROOM ON TOP OF TWO HOUSES [OPPOSITE ONE ANOTHER ON A PUBLIC ROAD], AND SO TOO, VIADUCTS — “THEY CARRY OBJECTS BELOW THEM ON THE SABBATH,” THE WORDS OF R. JUDAH. AND SAGES PROHIBIT. AND FURTHER DID R. JUDAH SAY, “THEY PREPARE AN ERUB FOR AN ALLEYWAY WHICH IS A THOROUGHFARE.” AND SAGES PROHIBIT.

1. **I:1:** R. Huna said, “An area that is roofed over does not fall into the category of public domain.”
2. **I:2:** What is the law as to having to provide a partition [from Judah’s viewpoint]? [That is to say, does Judah declare it permitted to carry in the stated areas because the two available partitions suffice, in which case, some sort of partition is necessary? Or does he declare it permitted to carry because we imagine that the roof descends and seals the area, in which case no partition is required beyond the roofed over area?] R. Ba said, “It requires a partition.” R. Yosé said, “It does not require a partition.”

LXXXI. YERUSHALMI ERUBIN 10:1

[A] HE WHO FINDS TEFILLIN [IN THE PUBLIC WAY] BRINGS THEM IN ONE BY ONE.

1. **I:1:** He who finds tefillin brings them in one by one [pair by pair] [M. 10:1A-B], just as they are worn as clothing, one on the head, one on the arm. Rabban Gamaliel says, “Two sets at a time” [M. 10:1C], two on his head, two on his arm.
2. **I:2:** R. Abbahu, R. Eleazar: “He who puts on *tefillin* at night violates a positive commandment, for it is said, ‘You shall therefore keep this ordinance from day to day [and from year to year]’ (Exod. 13:10). ‘In the daytime’ and not by night.”

[B] RABBAN GAMALIEL SAYS, “TWO SETS AT A TIME.”

1. **II:1:** [As to the interpretation of M. 10:1C, two sets at a time,] said R. Yosé, “The meaning of the Mishnah is, ‘And that is on condition that one bring them in two at a time.’ [One must not look as if he is putting on *tefillin* on the Sabbath and so does it in an odd way.]” R. Yosé b. R. Bun in the name of R. Aha: “One puts on even two at a time [and all the more so, one at a time].”
2. **II:2:** It has been taught: All the same are a man and a woman [who may find *tefillin*. Both are to follow the rule of bringing them in] [T. Er. 8:15]. [But from the view of him who holds that it is not clearly established that the Sabbath is not a time for wearing *tefillin*, there should be a considerable difference between a man and a woman. For the man is then obligated, and the woman is not obligated, to wear the *tefillin*, on the Sabbath as well. This problem is now spelled out.] The statement [at A] poses no problems to him who maintains that there is ample proof [that the *tefillin* are not worn on the Sabbath]. But from the viewpoint of him who says that there is not ample proof [that the *tefillin* are not worn on the Sabbath], it cannot be clearly the case that men [do not wear *tefillin*], while it is clearly the case that women [do not wear *tefillin*]. Said R. Eleazar, “Who stands behind the statement concerning the woman? It is Rabban Gamaliel [who holds that there is no difference between the obligation of the man and the woman in this regard].”

[C] **UNDER WHAT CIRCUMSTANCES? IN THE CASE OF USED ONES. BUT IN THE CASE OF NEW ONES, HE IS EXEMPT [FROM THE OBLIGATION OF PUTTING THEM IN A PROTECTED PLACE]. [IF] HE FOUND THEM ARRANGED IN SETS OR IN BUNDLES, HE WAITS UNTIL DARKNESS WHILE STANDING OVER THEM, AND [THEN] HE BRINGS THEM IN.**

1. **III:1:** Under what circumstances? In the case of used ones. But in the case of new ones, he is exempt from the obligation of putting them into a protected place [M. 10:1D-F]. Why is this the case? It is because old ones have been inspected [and are certified as valid], while new ones have not.**[D] But in a situation of danger, he covers them up and goes along**
1. **IV:1:** But in a situation of danger, he covers them up and goes along [M. 10:1/I]: If it was raining, lo, this one covers himself up in a piece of leather [protecting the scroll], and he covers [the *tefillin* with his own garment] [cf. T. Er. 8:16D].

LXXXII. YERUSHALMI ERUBIN 10:2

[A] R. SIMEON SAYS, “HE HANDS THEM TO HIS FELLOW: AND HE TO HIS FELLOW, UNTIL IT REACHES THE OUTERMOST COURTYARD OF THE TOWN.” AND SO IN THE CASE OF HIS SON [WHO WAS BORN IN THE FIELD ON THE SABBATH]: “HE HANDS HIM OVER TO HIS FELLOW, AND HIS FELLOW; EVEN ONE HUNDRED.”

1. I:1: Both R. Eliezer and R. Abedimi in the name of R. Mana – one of them said, “[M. 10:2B] speaks of an infant in the time of danger.” His fellow answered him, “If it deals with an infant in the time of danger, let them bring him in by hand [carrying him in the normal way].” [Since the danger was in violating the edict against circumcision, in which case whatever had to do with the circumcision might be done on the Sabbath,] he replied to him, “We deal with a case in which he can bring him in in a permitted manner. [The permitted manner is the way in which the Mishnah has outlined the procedure.]”

[B] R. JUDAH SAYS, “A MAN HANDS OVER A JUG TO HIS FELLOW, AND HIS FELLOW TO HIS, “EVEN OUTSIDE OF THE SABBATH LINE.” THEY SAID TO HIM, “THIS OBJECT SHOULD NOT GO FURTHER THAN THE FEET OF ITS MASTER [MAY TAKE IT].”

1. II:1: R. Simeon b. Laqish in the name of Levi Sokayya: “[When the Mishnah at M. 10:3D refers to this procedure,] the Mishnah speaks of a case in which one pours water from one jug to the next [but does not pass the actual jug]. If that is not the case, one cannot interpret the passage in accord with R. Judah’s views expressed elsewhere, for R. Judah says, ‘Flowing liquid [is not regarded as having substance and may be transmitted in the manner just now described.’ The jug, by contrast, can travel no further than its owner is permitted to move. So what is transported can only be water.]”

LXXXIII. YERUSHALMI ERUBIN 10:3

[A] HE WHO WAS READING IN A SCROLL ON THE THRESHOLD, [AND] IT ROLLED OUT OF HIS HAND, MAY ROLL IT BACK TO HIMSELF. [IF] HE WAS READING ON THE TOP OF THE ROOF, AND THE SCROLL ROLLED OUT OF HIS HAND:

1. I:1: On the threshold it is permitted [to leave the scroll], but outside of the threshold it is forbidden [for in that case, one brings the scroll from neutral domain to private domain]. [Answering the question of how on the Sabbath the person brought the scroll from the house to the threshold, which, as A has said, may not be done,] one may interpret

the case to involve someone sitting and reading in the scroll while it was still day, who forgot and then brought it out to the threshold [at dusk].

[B] BEFORE IT FALLS TO WITHIN TEN HANDBREADTHS [OF THE GROUND], HE MAY ROLL IT BACK TO HIMSELF.

- 1. II:1:** R. Jacob bar Aha in the name of R. Yosé: “This represents the view of R. Judah, who has said, ‘It is forbidden to make use of the airspace within ten handbreadths of the ground [since within ten handbreadths of the ground, the airspace is deemed equivalent to the ground itself].’”

[C] ONCE IT HAS FALLEN TO WITHIN TEN HANDBREADTHS [OF THE GROUND], HE TURNS IT OVER ONTO THE WRITTEN SIDE [TO PROTECT IT].

- 1. III:1:** Why? So that the actual writing will not be ruined.

[D] R. JUDAH SAYS, “EVEN IF IT IS DISTANT FROM THE GROUND BY ONLY SO MUCH AS A HAIR’S BREADTH, “HE MAY ROLL IT BACK TO HIMSELF.” R. SIMEON SAYS, “EVEN IF IT HAS TOUCHED THE GROUND ITSELF, HE MAY ROLL IT BACK TO HIMSELF. “FOR NOTHING WHICH IS PROHIBITED BY REASON OF SABBATH REST STANDS AGAINST THE [HONOR DUE TO] THE SACRED SCRIPTURES.”

- 1. IV:1:** The principles assigned to R. Judah are in a state of confusion. There he has said, “It is forbidden to make use of the airspace within ten cubits of the ground,” and here he has said this!

LXXXIV. YERUSHALMI ERUBIN 10:4

[A] A PROJECTION BEFORE A WINDOW — THEY PUT THINGS OUT ON IT AND TAKE THINGS BACK FROM IT ON THE SABBATH.

- 1. I:1:** [The rule of the Mishnah refers only to a] single projection, but if there were two [the second being below the one under discussion, and both of them being ten handbreadths above the ground], it is forbidden [to use either projection]. [For both projections enter into the same domain, and] residents of two different domains are forbidden to make use of a single domain in common.

LXXXV. YERUSHALMI ERUBIN 10:5

[A] A MAN STANDS IN PRIVATE DOMAIN AND MOVES SOMETHING ABOUT IN PUBLIC DOMAIN, IN PUBLIC DOMAIN AND MOVES SOMETHING ABOUT IN PRIVATE

DOMAIN, ON CONDITION THAT HE NOT MOVE THE OBJECT OUTSIDE OF FOUR CUBITS [FROM WHERE HE PICKED IT UP]. A MAN SHOULD NOT STAND IN PRIVATE DOMAIN AND URINATE INTO PUBLIC DOMAIN. IN PUBLIC DOMAIN AND URINATE INTO PRIVATE DOMAIN. AND SO TOO HE SHOULD NOT SPIT [ACROSS THE SABBATH LINE].

1. **I:1:** It is not the end of the matter that a man stands in private domain and moves something about in public domain, in public domain and moves something about in private domain, on condition that he not move the object outside of four cubits from where he picked it up [M. 10:1A-C].

[B] **R. JUDAH SAYS, “ALSO: HE WHOSE SPIT IS LOOSE IN HIS MOUTH SHOULD NOT WALK FOUR CUBITS UNTIL HE HAS SPIT IT OUT.”**

1. **II:1:** [With reference to M. 10:5G:] Rab said, “[Judah refers to] one’s phlegm. [Cf. T. Er. 8:7A.]” R. Yohanan said, “[Judah refers to] one’s phlegm, for if that is not the case, [and if Judah refers only to spit, then Judah is inconsistent, for] R. Judah is consistent in maintaining that any sort of flowing liquid is regarded as connected [and hence the conditions of M. 10:5G cannot be met merely by spit but rather by phlegm, unconnected as it is to the flowing spit in his mouth].”
2. **II:2:** It is not the end of the matter that one should not stand in private domain and urinate into public domain [M. 10:1D]. But he should not even stand in public domain and urinate in public domain, so that the drops of water roll along down into private domain. That too is forbidden. Said R. Yosé b. R. Bun, “It is not the end of the matter that one should not stand in public domain and urinate into private domain [M. 10:1E]. “But he should not even stand in private domain and urinate in private domain, so that the drops of water roll along down into public domain. That too is forbidden.” Said R. Yosé, “That then implies: A pipe which stands in public domain, ten handbreadths high and four broad – they do not pour slops into it, which will roll along down.”

LXXXVI. YERUSHALMI ERUBIN 10:6

[A] **A MAN SHOULD NOT STAND IN PRIVATE DOMAIN AND DRINK IN PUBLIC DOMAIN, IN PUBLIC DOMAIN AND DRINK IN PRIVATE DOMAIN, UNLESS HE HAS POKED HIS HEAD AND THE GREATER PART OF HIS BODY INTO THE SAME DOMAIN AS THAT IN WHICH HE DRINKS.**

1. **I:1:** There is no difficulty in understanding why it should be prohibited to stand in private domain and drink in public domain [M. 10:6A]. [In that case he must bend over to less than ten cubits, thus in public domain, so he transports liquid from public to private domain.] But if he stands in public domain and drinks in private domain, is his mouth not above a height of ten handbreadths [and that space also is public domain? So why is he held to transport water from private to public domain?]
2. **I:2:** It has been taught: A camel, the head and greater part of the body of which are inside – they feed it inside. [If the head and greater part of the body of the camel] are outside, they feed it outside [T. Er. 8:6A-C].
3. **I:3:** [A statement of R. Jacob bar Aha should appear here. Then:] R. Yosé b. R. Bun [said], “The traditions assigned to him are confused. For did not R. Jacob bar Aha state in the name of R. Haninah, ‘The three cubits nearest a partition are regarded as tantamount to the partition?’” Interpret the matter to involve an object which has fallen outside of three cubits, which is not four handbreadths broad. If one stuck a reed into the ground, and surrounded it with some sort of a partition [not of a normal kind], and one tossed something into it from the public domain – R. Isaac b. Eleazar says, “The matter is subject to dispute.”

[B] AND SO IN THE CASE OF A WINEPRESS.

1. **II:1:** Said R. Hiyya, “And so is the case of a winepress [M. 10:6D]. This has to do with the matter of tithing.” [At issue is M. Ma. 4:4: “They may drink out of the winepress, whether mixed with hot water or cold, and be exempt from tithes,” the words of R. Meir. R. Eliezer b. R. Sadoq declares them liable to tithes. Now the point pertinent here is that one should not drink wine from the winepress unless he has poked his head and the greater part of his body into the same domain as that in which he drinks, just as at M. 10:6C-D.]

[C] A MAN SCOOPS UP WATER OUT OF A GUTTER LESS THAN TEN HANDBREADTHS FROM THE GROUND. AND FROM A WATERSPOUT IN ANY MANNER HE MAY DRINK.

1. **III:1:** [As to M. 10:6E, A man scoops up water out of a gutter less than ten handbreadths from the ground.] R. Judah said, “This represents the view of R. Meir, for he has said, ‘You regard the wall as leveled.’” R. Jacob bar Aha in the name of R. Eleazar: “It represents the view of all parties. We deal with a case in which the wall slants at a grade of ten handbreadths to three.”

LXXXVII. YERUSHALMI ERUBIN 10:7

- [A] A CISTERN IN THE PUBLIC DOMAIN, WITH ITS SURROUNDING BANK TEN
HANDBREADTHS HIGH — A WINDOW WHICH IS ABOVE IT — THEY DRAW
WATER FROM IT ON THE SABBATH. A GARBAGE DUMP IN THE PUBLIC DOMAIN
TEN HANDBREADTHS HIGH — A WINDOW WHICH IS ABOVE IT — THEY POUR
OUT SLOPS INTO IT ON THE SABBATH.
- 1.** **I:1:** [Since the Mishnah specifies that the partition is ten handbreadths high, it would appear to exclude a case in which the cistern is in a hole ten handbreadths deep. Accordingly, we must ask,] Do you not regard depth as equivalent to height [in the assessment of the effects of the partition]? [The Mishnah speaks of a case] in which the mouth of the cistern is not four handbreadths square [in which case it cannot constitute private domain, but remains in public domain, unless the surrounding partition reaches the requisite height]. [But were the mouth of the cistern four handbreadths broad, then the depth of ten would suffice.]
 - 2.** **I:2:** Up to this point [we have dealt with such a distinct area which is sufficiently] close [so that a window is directly above it, e.g., at M. 10:7B, E, where it is within four cubits of the wall]. What is the rule if the cistern or garbage dump is more distant [from the overhanging windows]? Rab and Samuel: One said, “One puts a board [from the window at the wall to the cistern, and draws water in that wise].” The other said, “One places a reed [in the ground] between the window and the board, [so obstructing the public domain].”
 - 3.** **I:3:** If there were two [rooms above the cistern, belonging to two different people,] there were two Amoraim [who differed on the space that must separate the two windows so that each may utilize the cistern on his own]. One said, “A space of ten is required,” and the other said, “A space of four.”
 - 4.** **I:4:** [As to the cistern of M. 10:7A, it is permitted to draw water from it through the window above,] on condition that the area of the cistern not be more than two *seahs*, the partitions not be higher than ten handbreadths, the breaches therein not be more than ten cubits wide, and the area of the partition that is standing not be opposite another such area, and a breach opposite another breach.

LXXXVIII. YERUSHALMI ERUBIN 10:8

[A] A TREE WHICH OVERSHADOWS THE GROUND — IF ITS FOLIAGE WAS NOT THREE HANDBREADTHS ABOVE THE GROUND, THEY CARRY UNDER IT. [IF] ITS ROOTS ARE THREE HANDBREADTHS ABOVE THE GROUND, ONE SHOULD NOT SIT ON THEM.

1. **I:1:** R. Aha in the name of Rab: “It is forbidden to tread on the roots of a vine shoot on the Sabbath. The same rule applies to a tree and a cabbage.” [As to M. 10:8D-E,] that is the case if the roots are three handbreadths high. But if they are not three handbreadths high, they are equivalent to the ground.

[B] [WITH] A [MOVABLE] DOOR IN THE REAR COURT — [WITH] BUNDLES OF BRIARS IN A BREACH — OR WITH MATS — THEY DO NOT STOP UP AN OPENING [WITH THEM], UNLESS THEY ARE RAISED ABOVE THE GROUND.

1. **II:1:** [As to M. 10:8F-J,] the Mishnah speaks of a case in which they do not have hinges. But if they do have hinges, that falls under the rubric concerning which we have learned the following: A door which is dragged [on the ground], a reed mat which is dragged, and screens which are dragged — they open and close them on the Sabbath, and, it goes without saying, on the festival. A door which has a hinge — they open and close it on the Sabbath [T. Er. 8:12A-C]. A mat which is affixed and suspended — one may open and close it on the Sabbath, and it goes without saying, on the festival [cf. T. Er. 8:11A-B].

LXXXIX. YERUSHALMI ERUBIN 10:9

[A] “A MAN SHOULD NOT STAND IN PRIVATE DOMAIN AND OPEN A DOOR IN PUBLIC DOMAIN, “IN PUBLIC DOMAIN AND OPEN A DOOR IN PRIVATE DOMAIN, “UNLESS HE HAS MADE A PARTITION TEN HANDBREADTHS HIGH,” THE WORDS OF **R. MEIR**. THEY SAID TO HIM, “THERE IS THIS PRECEDENT. IN THE POULTERERS’ MARKET IN JERUSALEM THEY USED TO SHUT UP THEIR SHOPS AND LEAVE THE KEY IN THE WINDOW ABOVE THE DOOR.” **R. YOSÉ** SAYS, “IT WAS THE MARKET OF THE WOOL DEALERS.”

1. **I:1:** R. Aha, R. Hinena in the name of Kahana: “The law is not in accord with the view of R. Meir.”
2. **I:2:** Abba bar Pappi asked, “To what does R. Meir compare the wall in which the lock is located [in the passage of Tosefta which follows]? To a wall that is smooth or to one that is perforated? “If you say that it is like a smooth one, then even if the lock is higher than ten

handbreadths, it should be permitted [vs. J-K], and if you say it is perforated, then even if it is lower than ten handbreadths, it should be forbidden [vs. H-I].” [The passage to which Abba has referred is now given as follows, in T.’s version:] The doors of gardens which have gate-houses on the inner side – they open and close them on the inside. [If they are] on the outside, they open and close them on the outside. [If they are] on one side and on the other, they open and close them on one side and on the other. If they do not have any on either side, and so too, doorways of shops on the public way – R. Meir says, “When the lock is lower than ten handbreadths, one takes the key from the threshold and puts it into the lock and opens the door and carries it [the key] into the house. “And he puts it back into the lock and locks the door and leaves [the key] in its [original] place. “When the lock is higher than ten handbreadths, he brings the key on the eve of the Sabbath and puts it into the lock and opens the door and carries it into the house. “And he puts it back into the lock and locks the door and takes it and leaves it in its place.” And sages say, “Also: When the lock is higher than ten handbreadths, he takes the key from the threshold and puts it into the lock and opens the door and carries it into the house. “And he puts it back into the lock and locks the door and takes [the key] and leaves it on the window which is above the threshold. “If the window is four-by-four handbreadths, it is prohibited to do so [however], “for they do not carry objects from one domain to another” [T. Er. 7:1].

XC. YERUSHALMI ERUBIN 10:10

[A] A BOLT WITH A KNOB ON ITS END – R. ELEAZAR PROHIBITS. AND R. YOSÉ PERMITS. SAID R. ELEAZAR, M’SH B: “IN THE SYNAGOGUE IN TIBERIAS THEY PERMITTED [USING IT ON THE SABBATH], “UNTIL RABBAN GAMALIEL AND ELDERS CAME AND PROHIBITED IT FOR THEM.” R. YOSÉ SAYS, “THEY TREATED IT AS PROHIBITED. RABBAN GAMALIEL AND THE ELDERS CAME AND PERMITTED IT FOR THEM.”

- 1. I:1:** Said R. Yosé b. Rabbi, “In accord with the view of him who permits [using a bolt with a knob on its end = Yosé], one treats the bolt as secondary to the knob [which is an ordinary utensil]. In accord with the one who prohibits [Eleazar], one treats the knob as secondary to the bolt [and in using the bolt one is building].”

[B] A BOLT WHICH IS DRAGGED ON THE GROUND – THEY LOCK THE DOORS WITH IT IN THE TEMPLE, BUT NOT IN THE PROVINCES. AND ONE WHICH RESTS ON THE

GROUND [NOT FASTENED] BOTH HERE AND THERE IS PROHIBITED. **R. JUDAH SAYS, “THE ONE WHICH RESTS ON THE GROUND IS PERMITTED IN THE TEMPLE, “AND THE ONE WHICH IS DRAGGED ON THE GROUND IS PERMITTED IN THE PROVINCES.”**

- 1.** **II:1:** [As to M. 10:10G, a bolt that is dragged on the ground, thus fastened to the gate by a long rope and not merely suspended, is permitted in the Temple and forbidden in the provinces,] what is a bolt [that is dragged on the ground]? Said R. Yohanan, “It is one that is fastened onto the door, even though it is not suspended from the door.”

XCI. YERUSHALMI ERUBIN 10:11

[A] THEY PUT BACK [INTO ITS SOCK] THE LOWER PIVOT [OF A DOOR] IN THE TEMPLE, BUT NOT IN THE PROVINCES. AND THE UPPER PIVOT OF A DOOR BOTH HERE AND THERE IS PROHIBITED. R JUDAH SAYS, “THE UPPER ONE, IN THE TEMPLE, AND THE LOWER ONE, IN THE PROVINCES.” THEY PUT BACK A PLASTER [ON A WOUND] IN THE TEMPLE, BUT NOT IN THE PROVINCES. AND TO BEGIN WITH HERE AND THERE IT IS PROHIBITED [TO APPLY A PLASTER].

- 1.** **I:1:** [As to M. 10:11B, the reason that even in the Temple one may not put the upper pivot back is that], said R. Yosé b. R. Bun [or: R. Jonathan], not every deed prohibited by reason of Sabbath rest have they permitted in the sanctuary.
- 2.** **I:2:** It has been taught: One should not dry off a plaster [removing the pus] so as not to turn out to spread [the salve], for one who spreads something [smooths down] on the Sabbath is liable for a sin-offering [T. Pes. 7:1]. And [along these same lines,] has it not been taught: [If a plaster] slipped downward, one may push it back upward, and if it slipped upward, one may push it back downward? One may uncover a part of the plaster on one side and dry off the wound on that side, and uncover part of the plaster on the other side and dry off the wound on that side, but one may not dry off the plaster itself, so as not to turn out to spread the salve, for one who spreads on the Sabbath is liable to a sin-offering [T. Pes. 7:1].

XCII. YERUSHALMI ERUBIN 10:12

- [A] **THEY TIE A STRING [OF A MUSICAL INSTRUMENT] IN THE TEMPLE, BUT NOT IN THE PROVINCES. AND TO BEGIN WITH HERE AND THERE IT IS PROHIBITED [TO TIE UP A STRING].**
1. **I:1:** Said R. Yosé b. R. Bun, “This represents the view of R. Simeon b. R. Yosé.” For it has been taught [in T.’s version]: [The string of a violin which broke – they tie it up. (If) one tied it up and it broke (again), they tie it up (again).] Said R. Simeon b. Eleazar, “And is it not so that if they tie it, it produces no sound anyhow? “But one threads it down from above and fastens it below” [T. Er. 8:19].
- [B] **THEY CUT OFF A WEN IN THE TEMPLE, BUT NOT IN THE PROVINCES. BUT IF IT IS [DONE] WITH A UTENSIL, HERE AND THERE IT IS PROHIBITED [TO CUT OFF A WEN].**
1. **II:1:** There we have learned: [Carrying the animal designated as a Passover-offering to the Temple, bringing it from outside to inside the Sabbath limit, and] cutting off a wen which is on it do not override the prohibitions of the Sabbath. R. Eliezer says, “They do override the prohibitions of the Sabbath” [M. Pes. 6:1D-E]. How then can you say this [= A]? R. Simon in the name of R. Joshua b. Levi in the name of R. Pedat: “It is because of the disarray of the priestly lotteries [since if the priest cannot remove the wen, he will not be suitable for the labor of the rite, and a priest will be lacking for the lottery for the acts of service in that rite].”

XCIII. YERUSHALMI ERUBIN 10:13

- [A] **A PRIEST WHO HURT HIS FINGER — ONE TIES REED GRASS AROUND IT IN THE TEMPLE, BUT NOT IN THE PROVINCES. BUT IF IT IS TO REMOVE BLOOD. HERE AND THERE IT IS PROHIBITED. THEY SCATTER SALT ON THE [ALTAR] RAMP SO THAT THEY WILL NOT SLIP.**
1. **I:1:** [With reference to M. 10:13B,] Judah b. Rabbi said, “They have taught [that such a procedure is permitted] only in the case of reed grass. But as to using a bandage, it is forbidden, on grounds that it is an addition to the priestly garments [over and above what the priest is supposed to wear].” The theory expressed herein is that having too many priestly garments is equivalent to having two few of them.

[Presenting a different reason from that proposed by A,] R. Jacob bar Aha in the name of R. Yosé: “This represents the view of R. Hanina, for R. Hanina said, ‘That is on condition [that reed grass may be used] only if the covering does not interpose between the priest’s flesh and the garment he is wearing, or between one garment and another.’ [So the operative consideration is interposition, not the addition of garments.]”

2. **I:2:** It has been taught: They draw liquids by means of a siphon on the Sabbath, and water may be allowed to drip from a perforated vessel used in sick rooms on the Sabbath for a sick person. They draw liquids by means of a siphon – a kind of borer. And water may be allowed to drip from a perforated vessel – there is he who proposes to explain that this is in order to wake up the sick person [through the sound of the dripping].
3. **I:3:** In the case of a courtyard on which it rained, and in which was a house of mourning or a house of festivities – lo, this one may take up the stone and pour off the water, so long as one not do it on the Sabbath in the way he does it on an ordinary day.
1. **I:4:** It has been taught: They do not draw water with a scale on the Sabbath [using it as a lever]. But if he wanted to save the rope or the cord, lo, this is permitted [T. Er. 8:21].

[B] **AND THEY DRAW WATER FROM THE CISTERN OF THE EXILES AND FROM THE GREAT CISTERN WITH A WATERWHEEL ON THE SABBATH, AND FROM THE HAQQAR WELL ON A FESTIVAL DAY.**

1. **II:1:** They draw water from the cistern of the Exiles and from the great cistern with a waterwheel on the Sabbath, and from the Haqqar Well on a festival day [M. 10:13E-F]: On what account do they draw water from the Haqqar Well with a waterwheel on the festival? But when the residents of the Exile came up and camped by it, the prophets permitted them to draw water from the Haqqar Well on the festival. And not all Haqqar Wells did they permit, but only that one by they had encamped [T.Er. 8:22].

XCIV. YERUSHALMI ERUBIN 10:14

[A] **A DEAD CREEPING THING WHICH IS FOUND IN THE TEMPLE – “A PRIEST REMOVES IT WITH HIS BELT [EVEN ON THE SABBATH], “SO AS NOT TO KEEP UNCLEANNESS [IN THE TEMPLE],” THE WORDS OF R. YOHANAN B. BEROQAH.**

1. **I:1:** Said R. Yohanan b. Zeroqah to [Judah], “Do you not turn out to keep uncleanness in the Temple?” [Judah] said to [Yohanan], “Do you not turn out to increase uncleanness?” He said to him, “It is better to transgress a negative commandment but not through one’s own deed, than to violate a negative commandment through one’s own deed [which one must go and do].”
2. **I:2:** There we have learned: The leper put his head inside the Temple court, and the priest placed blood on the tip of his ear. He put his hand inside, and he placed it on the thumb of his hand. He put his foot inside, and he placed it on the big toe of his foot. R. Judah says, “The three of them did he put inside all at once” [M. Neg. 14:9A -D]. [A leper may not enter the Israelites’ courtyard until he has become clean. But in order to put the blood on his limbs, he has to go into the courtyard. The anonymous authority says one may not practice deception by putting all three inside at once, but he does it one by one. Judah maintains that one may practice deception by poking in all three at one time.] The opinions assigned to R. Judah are confused. There [at M. Neg. 14:9D] he has said it is permitted to practice deception, and here [at M. 10:14D] he has said it is forbidden to do so [by increasing uncleanness in the courtyard]. There [at M. Neg. 14:9] the consideration is that the man [following PM] should not impart uncleanness three times. Here, by contrast, the uncleanness already is present and known [and the priest in no way is responsible].

[B] R. JUDAH SAYS, “[HE DOES SO] WITH A WOODEN TONGS, SO AS NOT TO INCREASE UNCLEANNESS [BY IMPARTING IT TO HIS BELT].” FROM WHAT AREAS DO THEY REMOVE IT? “FROM THE SANCTUARY, THE PORCH, AND THE AREA BETWEEN THE PORCH AND THE ALTAR,” THE WORDS OF R. SIMEON B. NANOS. R. AQIBA SAYS, “A PLACE IN WHICH [IF A MAN ENTERED WHILE UNCLEAN] DELIBERATELY, HE IS LIABLE FOR EXTIRPATION, AND INADVERTENTLY, HE IS LIABLE TO A SIN-OFFERING — “FROM THERE DO THEY REMOVE IT. “BUT ALL OTHER LOCATIONS [IN THE TEMPLE], THEY SIMPLY TURN OVER A PSYKTER ONTO IT.” R. SIMEON SAYS, “WHEREVER SAGES HAVE PERMITTED SOMETHING TO YOU, THEY HAVE GIVEN YOU WHAT ALREADY IS YOURS. “FOR THEY HAVE PERMITTED TO YOU ONLY [WHAT WAS WITHHELD TO BEGIN WITH] BY REASON OF SABBATH REST.”

1. **II:1:** Spelling out his argument, Judah adds,] “Furthermore, it is possible to leave the Temple without any real delay in keeping the uncleanness therein [for one may find tongs right away].”
2. **II:2:** [If one] has removed [uncleanness] from a place in which, if a man entered while unclean deliberately, he would be liable for

extirpation [and inadvertently, he is liable to a sin-offering,] and it fell down in a place on account of which [under the stated conditions], one is not liable to extirpation, that which he was carrying already has been subjected to the requirement of being taken out, [and it certainly is picked up and taken out]. [The question is this:] If one found another [dead creeping thing] alongside the one which he has to take out [which had fallen down in a location not subject to extirpation], does one take out both of them, or does he take out only one of them?

- 3. II:3:** The laws of the Sabbath, festal offering, and sacrilege are like mountains suspended by a hair, with very little Scripture and many laws. So they do not have that on which to depend. [In this regard did R. Joshua say, “Tongs were made with tongs. Who made the first tongs? [Now is this not my view: they were created [on the eve of the Sabbath]” [M. Abot 5:6:] Among the ten things created on the eve of the Sabbath at dusk were the tongs made with tongs [T. Er. 8:23].

TRACTATE

PESAHIM

The topic of *Pesahim*—the celebration of Passover—is defined by Scripture, from which the basic rules derive. The most important passage is found at Exod 12. Scripture deals with these topics in order:

- (1) setting aside and killing a lamb for the Passover (Exod 12:1–13);
- (2) unleavened bread and the taboo against leaven and what is leavened, with the festival of unleavened bread (Exod 12:14–20); and
- (3) the lamb again (Exod 12:21–28). Deut 16:1–8 is explicit that the sacrifice of the Passover lamb is to take place only in Jerusalem.

Tractate *Pesahim* presents the topics in logical order, dealing in two sizable units, first with the prohibition of leaven and other preparations for the festival, and second, with offering the Passover-sacrifice, roasting it, and eating it. The halakhah thus focuses upon the cult, even in connection with a rite that is carried out in the home. A third, rather perfunctory unit, chapter ten of the Mishnah-tractate, takes up the rite of the seder, the Passover-meal itself. The halakhah in the present topic takes for granted knowledge of the existence of a Passover-ritual such as is contained in the *Haggadah*. The tractate provides no rules for conduct on the festival days, for these occur in the tractates *Mo'ed Qatan* and *Besah*, which cover all festival days equally.

The household is made ready to serve as part of the cult by the removal of leaven and all marks of fermentation from the home; now man eats only that same unleavened bread that is God's portion through the year. The household is further made the locus of a rite of consuming other specified foods (for example, bitter herbs). The main point, however, is that the offering sacrificed in the Temple yields meat to be eaten in the household, that is, at home, and not only in the Temple courtyard. The festivals of Tabernacles and Pentecost, by contrast, do not entail a home-offering of a similar character, nor does the celebration of the New Month. The tractate *Yoma* describes an occasion that is celebrated at the Temple or in relationship to the Temple. In this wider context, the halakhah of *Pesahim* alone sets forth an occasion in the life of all Israel that commences in the Temple but concludes at home. Its message, is that for Passover in particular—"season of

our freedom”—the home and the Temple form a single continuum. The advent of Israel’s freedom from Egypt is an occasion of sanctification: it represents the differentiation of Israel from the nations, represented by Egypt, by means of a blood rite.

I. Preparation for Passover

- A.** Removal of leaven
- B.** Grains suitable for unleavened bread, herbs suitable for the bitter herbs
- C.** Removal and avoidance of what is fermented
- D.** Other requirements for the fourteenth of Nisan

II. The Passover-offering: slaying and eating it

- A.** General rules on slaughtering the lamb designated as the Passover offering
- B.** The special problems of the Sabbath
- C.** Roasting and eating the Passover offering
- D.** Uncleanness and the Passover offering
- E.** Not breaking the bone of the Passover offering
- F.** Eating the offering in a group other than the natural family
- G.** Dealing with unclean and other persons in whose behalf the Passover is not to be slaughtered
- H.** The second Passover
- I.** The animal designated for a Passover that is lost or for which a substitute is designated

III. The Passover seder

YERUSHALMI PESAHI

CHAPTER ONE

1:1

[A] On the night preceding the fourteenth [of Nisan] they search for leaven by the light of a lamp [the single wick oil lamp].

[B] Any place into which they do not [normally] bring leaven does not require searching.

[C] And why did they say, “[They search] two rows in the wine vault”? [They refer to] a place into which they bring leaven.

[D] The House of Shammai say, “Two rows over the entire surface of [the rack of jars in] the wine vault.”

[E] And the House of Hillel say, “The outermost rows which are the uppermost.”

[I:1 A] [27a] It is written, “And you shall observe the commandment of the unleavened bread because on this very day I brought your hosts out of the land of Egypt, [you shall observe this day throughout your generations as an institution for all times]. In the first [month] on fourteenth of the month in the evening you shall eat unleavened bread,” (Exod. 12:17-18A).

[B] *How shall we interpret these statements?*

[C] If [the verses refer] to eating unleavened bread, it is already written [in a preceding verse], “Seven days you shall eat unleavened bread” (Exod. 12:15).

[D] And if to state that [one] starts [eating unleavened bread] on the fourteenth, and is it not written, “[You shall eat unleavened bread] until the twenty-first day of the month” (Exod. 12:18B)? [Since the seven-day period ends on the twenty-first, it must start on the fifteenth and not the fourteenth.]

[E] Rather if [Exod. 12:17-18’s reference to observing the commandment of unleavened bread, and, in particular, its mention of the fourteenth]

is not relevant to the eating of unleavened bread, apply it to the destruction of leaven [so that the leaven be destroyed on the fourteenth, and the unleavened bread be eaten on the fifteenth].

- [I:2 A] Why [is the search to be conducted] by the light of a lamp [as specified in M. 1:1]?
- [B] Said R. Samuel bar R. Isaac, “Because the lamp [is a means to] search very meticulously [being effective regarding even the smallest quantity or the smallest area].”
- [C] Why [is the search to be concluded] at night?
- [D] Said R. Yosé, “Because searching with a lamp is good only at night.”
- [E] R. Mana did not say thus but rather derived the rule from a verse]: “And you shall observe this day throughout your generations as an institution for ever” (Exod. 12:17). Act so that the day and the night are guarded [from leaven].
- [F] And [if so] let him start on the thirteenth so that he may have the day and the night guarded?
- [G] He *too accords with that which* R. Yosé said [that searching with a lamp is good only at night; hence the searching should start at night].
- [H] And let him start [the search] on the night of the thirteenth?
- [I] *If [you teach] thus*, [one should search] even from the New Moon [the beginning of the month]? [But starting then is too early to assure that on a later date the premises are still leaven free. Hence searching may begin only with the night of the fourteenth .]
- [J] *R. Jeremiah said, R. Samuel bar Isaac asked*, “What is the law: is it permitted to search [out leaven] by the light of a torch?”
- [K] *Why does he ask?*
- [L] Because its light wavers.
- [M] *R. Samuel bar R. Isaac is consistent with views expressed elsewhere*, for R. Samuel bar R. Isaac said [that a lamp is used] “because the lamp [is a means to] search very meticulously.”
- [N] [Proof texts now confirm the use of the lamp as well as its effectiveness:] **Even though there is no proof for the matter, [there is a] hint to the matter: “On that day I will search Jerusalem with lamps. And I will punish the men who rest**

untroubled on their lees, who say to themselves, ‘The Lord will do nothing, good or bad’]” (Zeph. 1:12) [T. Pes. 1:1C].

[O] *And there are those who want to say,*

[P] *Let us derive this rule from this [following verse]:* **“The life-breath of a person is the lamp of the Lord, revealing all his inner parts” (Prov. 20:27) [the lamp is thus assumed to spot everything [T. 1:1D].**

[I:3 A] *Said R. Yosé, “[Even though a lamp is appropriate for searching at night,] the teaching said that searching during the day is considered a [valid] searching,” for we have learned [in M. 1:3A]: R. Judah says, “We search [for leaven] on the night of the fourteenth and on the fourteenth during the morning and during the time of destruction [of the leaven].”*

[B] *Not only [is this the view of] R. Judah but even of the rabbis for we have learned [in M. 1:3B]: And sages say, “If one did not search on the night of the fourteenth, he should search during the fourteenth.”*

[C] *And is one required to search by the light of a lamp [even when it is conducted during the day]?*

[D] *Let us derive the rule from the following:*

[E] **They search [for leaven] not by the light of the sun, and not by the light of the moon, and not by the light of the stars, but only by the light of a lamp [T. 1:1B].**

[F] *It makes sense [to say] “not by the light of the moon, and not by the light of the stars” but what of “not by the light of the sun”? And is the sun [visible] at night? [Of course not. Rather, as it is put in an additional clause found in many medieval citations: You may explain that it applies when a person did not search the previous evening.] This indicates that even during the day [a person] is required to search by the light of the lamp.*

[G] *Not only in a house lacking sunlight, but even for a house having sunlight – even during the day [a person] is required to search by the light of the lamp.*

[H] *Concerning dark alleys [e.g., covered and therefore quite dark even during the day], is one permitted from the outset to search them [during the day] by the light of a lamp?*

[I] *The words of the rabbis [in the following tradition] indicate that it [a lamp] does not illuminate during the day as it illuminates during the night, for R. Huna said, “When we fled [and hid] in the caves of the Great Synagogue, [we] lit candles for ourselves.” When they became dim we knew that it was day and when they became bright we knew that it was night.”*

[J] *And this follows in accord with that which R. Ahva bar Zeira said: “Noah on entering the ark brought precious stones and jewels with him. When they became dim he knew that it was day, and when they became bright he knew that it was night.”*

[K] Why [did Noah have to know whether it was day or whether it was night]?

[L] [In order to feed the animals, for] there are animals that eat by day and there are animals that eat by night.

[M] And [did Noah have to make use of an artificial source of illumination, for] lo, it is written, “Make an opening for the ark” (Gen. 6:17)?

[N] [*The above tradition*] *is in accord with the one who said that the heavenly bodies did not function during the year of the flood.*

[I:4 A] *R. Jeremiah asked, “Do synagogues or study houses require searching?”*

[B] *Why does he ask?* [Since these are places into which food is not brought, should it not be self-evident that they are exempted from a search?]

[C] [Not so] for [people] bring [food] therein for New Moon meals.

[D] [*If that is the case*] *let it be self-evident to him [that a search is required].*

[E] He thus asks because their light is great: Is one permitted initially to search them during the day by the light of a lamp? [Hence in this situation is there sufficient light to search by day?]

[I:5 A] [Assuming that in general courtyards require a search:] *R. Yosé asked, “Do the courtyards in Jerusalem in which [they] eat loaves of the thanksgiving offering and wafers of the Nazirites require a*

search?" [Since they are searched daily to avoid leaving over offerings beyond their prescribed time limits.]

- [B] [Even] without it are they not searched because of remnant of sacrificial meat [to remove and then burn remnants of a sacrifice left over after its proper time]?
- [C] *Let it accord with that which R. Zechariah the son-in-law of R. Levi taught:* "A menstruant rubs [her fingers through her hair] and combs [it out before bathing to insure that water may penetrate the hair completely]. The wife or [unmarried daughter of a priest, who immersed herself as a special act of piety prior to eating the daily heave-offering] does not rub and comb out [her hair, for, since she immerses herself daily, it is presumed that even without this measure she will insure that the water completely penetrate her hair]. A menstruant who is the wife or daughter of a priest rubs and combs out [her hair] [– being so required] in order not to distinguish between one menstruant and another." So here [in the case of Jerusalem courtyards they rule as they do] in order not to distinguish between one [procedure of] removal and another.
- [D] [Taking exception to the comparison in C:] *Rabban Gamaliel bar Inyana teaches before R. Mana,* "A menstruant [even if she is the wife or daughter of a priest], who interrupts [her immersion] all seven days, rubs and combs out [her hair]; the wife or daughter of a priest who immerses herself every day does not rub and comb out [her hair]." [Hence a menstruant who is the wife or daughter of a priest, who does not immerse herself daily because she may not eat heave-offering during the period of her impurity, should take the precaution of rubbing and combing out her hair, and the principle of not differentiating between one menstruant and another does not apply.]
- [E] He [R. Mana] said to him, "[The comparison in C] was posed regarding a woman 'waiting one day for one day.'" [The wife or daughter of a priest, like any woman during the intermediate days after her period, who sees a spot of blood, watches herself one day for each day of the spotting to determine if the blood is insignificant or if it is part of a bleeding for three days running, making her a Zabah or severe hemorrhage (Lev. 15:25). Even though she waits only the one day and therefore in immersing herself at the end of the day does not appear to be different from any other wife or daughter of a priest, she still must rub and comb out her hair in order not to differentiate between different women who are impure]."

- [I:6 A] **The upper and lower holes of the house, and the balcony, and the cellar, and the upper chamber, and the roof of a house, the roof of a tower, a straw shed, and a cattle shed, and a woodshed, and a storage shed, the wine-storage area, and the oil-storage area, and the fruit-storage area – [all] do not require searching [T. 1:3].**
- [B] It is understandable [regarding] the upper [holes], but what of the lower ones?
- [C] *This indicates that* they [the authors of this rule] were not apprehensive regarding falling [food – lest food fall into places where people normally do not reach or take leaven].
- [D] Said R. Yosé, “You may explain it that both [types of holes] were [not in the ground] but in the wall, one above ten [hand breadths] and one below ten [handbreadths and therefore in this case the concern for falling does not apply.]” 19
- [E] *And do we not learn [in the same text] “a cellar”* [is exempt from searching]? *This indicates that* they were not apprehensive of falling [food].
- [F] [No.] A child fears to go there [and hence we cannot deduce from here that they were not apprehensive concerning falling food].
- [G] [Still we should be apprehensive.] Be concerned to say perhaps leaven has rolled into there.
- [H] You may explain that [the text] refers to a cellar that has a rim [projecting up, preventing leaven from rolling in].
- [I] **And the roof of a house and the roof of a tower:**
- [J] *This refers to* [a roof] elevated three handbreadths [from the ground]. But if they are not elevated three handbreadths, they are considered [to have the same status] as the earth.
- [K] And [this rule] applies to [a roof] on which leaven was not used. But one on which leaven was used – even if it was very high – requires searching.
- [L] *Said R. Mana, “And this makes sense. [For otherwise] we would say thus:* even a papyrus basket [used for bread] if it was [kept] very high up would not need searching.”
- [M] *It is taught: Rabban Simeon b. Gamaliel says, “A bed which divides a house [by spanning the width of the house] and under which wood and rocks are*

resting – [a person] searches out the outer side [from the bed outward] and does not search out the inner side [the other side of the house] [T. 1:3B].”

[N] Because wood and rocks are resting under it [this is the law]. Lo, if wood and rocks are not resting under it, [a person] is required to search out the inner side. This indicates that [the authorities] were apprehensive concerning falling [food].

[O] [No.] I may say [that the inner side requires a search because] an infant crawled under the bed and brought leaven therein.

[I:7 A] A wine vault requires searching. An oil vault does not require searching.

[B] What is the difference between wine and oil?

[C] [The need for] wine is not determinable. [The need for] oil is determinable. [Since one cannot estimate the amount of wine needed for a meal, the person who may have to fetch the additional wine might bring some food into the wine vault.]

[D] A storage area, whether of wine or oil, does not require searching.

[E] What is a vault? All [places] in the courtyard where [something] is put along with bread.

[F] There is a vault that resembles a storage area and there is a storage area that resembles a vault. A vault in which he is embarrassed to eat, lo, it resembles a storage area. And a storage area in which he is not embarrassed to eat, lo, it resembles a vault.

[G] [An analogous distinction may be found in the law of marriage:] There is a courtyard [generally considered a private domain] that resembles an alley [generally considered a public thoroughfare] and [there is] an alley that resembles a courtyard. A courtyard in which the public crosses through, lo, it is like an alley. And an alley in which the public does not cross through, lo, it resembles a courtyard.

[H] [Challenging the ruling regarding the wine-storage area:] Take account of the possibility that perhaps the servants bring leaven therein.

[I] It is not the custom of servants to bring leaven therein – only sweet things, for the latter [in whetting one’s thirst, provide a means to] test fine wine.

[I:8 A] **One who goes on a journey [before Passover] prior to thirty days, does not have to search; within thirty [when the requirement to search is in effect], [the person] is required to search. [T. 1:4A].**

[B] *This refers to a situation in which one intends to return. [Then, if prior to thirty days, the person may leave the search until after the trip; but, if within thirty days, the person must search before the trip]. But if one does not intend to return, even [if it is] prior to thirty days, one is required to search.*

[C] And this refers to a case of uncertainty [whether or not leaven is present in one’s domain]. But in the case of a certainty – [one is required to remove the leaven] even [if one leaves home] at the New Year.

[D] [In dispute with B:] Said R. Ba, “And even if one intends to return [before Passover begins], one is required to search lest [one] change one’s mind and not return.”

[I:9 A] All are reliable concerning the destruction of leaven, even women, even slaves.

[B] R. Jeremiah [said] in the name of R. Zeira, “Delete [from A the clause] ‘even women’ [for such special mention is not necessary]. Women by their own right are reliable because they are slow and search very meticulously.”

[C] **Samaritans [literally, “Kutim”], as long as they prepare their unleavened bread [at the same time] as Israel [identically calculating the date of Passover], are reliable concerning the destruction of leaven. If they do not prepare their unleavened bread [at the same time] as [the people of] Israel, they are not reliable concerning the destruction of leaven [cf. T. 2:2B].**

[D] *Said R. Yosé, “This refers to [Samaritan] houses, but regarding [their] courtyards – they are suspect, for they expound [Exod. 12:19], ‘[Leaven] shall not be found in your houses’ [to prohibit, literally, its being found in their houses but] not in their courtyards.”*

[E] *It is taught: Rabban Simeon b. Gamaliel says, “Every commandment that Samaritans follow they observe with greater punctiliousness than Israel [T. 2:3B].”*

[F] *Said R. Simeon, “This refers to the former [times] when they were settled in their villages. But now, since they observe neither commandments nor remnants of commandments, they are suspect and they are corrupted.”*

[I:10 A] They ask concerning the laws of Passover on Passover, the laws of Pentecost on Pentecost, [and] the laws of the Festival [of Sukkot] on the Festival. In the assembly house [of study] they ask prior to thirty days [before the holiday]. Rabban Simeon b. Gamaliel says, “Two weeks” [T. Meg. 3:5].

[B] *R. Yohanan accords with rabbis [that is, the anonymous authorities whom Rabban Simeon b. Gamaliel disputes in A] and the Associates accord with Rabban Simeon ben Gamaliel.*

[C] *Said R. Yohanan, “The reason of the rabbis is: for thus Moses on the First Passover [the one falling on the regular date] stood and related to them [the Israelites] the laws of the second Passover. [Responding to those who on the first Passover were unable to bring an offering, Moses told them that they should bring it one month later, so Num 9: 5].*

[D] *And the Associates accord with Rabban Simeon b. Gamaliel [for the Associates draw upon the following model of Moses in explaining the rationale for the law]: for thus Moses on the New Moon [the beginning of the month of Nisan] stood and related to them [the Israelites] the laws of Passover. [Exod. 12, which sets out the various laws of Passover, opens (v. 2) as if speaking of the very beginning of the month.]*

[II:1 A] And in what situation did they say, [They search] two rows in the wine vault [M. 1:1C]?

[B] *[Explaining the House of Shammai’s position that a person searches out two rows across the whole storehouse:] R. Huna [said] in the name of Rab, “[One] investigates the outermost row like a [Greek] gamma [two layers, one vertical and one horizontal].”*

[C] *Bar Qappara teaches, “[One] investigates it like two gammas [two outer layers, two vertical and two horizontal].”*

[D] *If [the wine vault] was put in the middle of the house [i.e., the room], according to the view of R. Huna one strips it of one layer [all around]. According to the view of Bar Qappara [one] strips it of two layers [all around].*

[E] If [the wine vault] was constructed [in the shape of] steps [exposing several layers of surface area] one investigates each [in the pattern of a] gamma.

[F] R. Jacob bar Aha [said] in the name of Hezekiah, Simeon bar Ba [said] in the name of R. Yohanan, **“The outermost row, [which] is the upper [running along the top], which faces the door and the beam [of the roof], [and the one] that is further in from it [T. 1:2D].**

[G] *It is taught* [as an alternative formulation of the preceding law, replacing the phrase “[and the one] that is further in from it” with:] **“[and the one] that is below it” [T. 1:2D].** [G’s revision of F makes the tradition accord with the T. 1:2D’s explanation of the House of Hillel.]

[H] *They wanted to say that the person who said* “[and the one] that is further in from it” all the more so [holds that one additionally searches out the row] that is below it [a second vertical and a second horizontal row]; *[and that] the person who said* **“[and the one] that is below it”** [would assert], lo, [the row] further in from it does not [require searching, that is, one searches out two horizontal but only one vertical row].

[I] If one used one-half of a row, *it is evident that* the used portion requires [searching of the row] that is further in from it and [or] of the one that is below it. [But] that unused portion, does it require [searching of the row] that is further in from it and [or] of the one that is below it? [The question is left unanswered.]

[II:2 A] *This refers to* those [rows] that have spaces [in between]. But regarding those that are pressed tightly together, [one] passes a lamp by them and it is sufficient.

[B] This [requirement to search a vault] indicates that [the authorities] were apprehensive concerning falling [food].

[C] Said R. Phinehas from Jaffa, “[One cannot deduce this, for] I might say that on arranging them [the rows, the arranger] brought leaven into it.” [The extra searching is therefore not necessarily required out of a concern for falling.]

1:2

[A] **They do not scruple that a weasel might have dragged [leaven] from house to house and place to place.**

[B] **For if so, [they will have to scruple that the weasel has dragged leaven] from courtyard to courtyard and from town to town,**

[C] **[so] there is no end to the matter.**

[I:1 A] *Said R. Jonah, “Thus [the Mishnah] should teach: [They are not scrupulous in connection with the weasel’s dragging leaven] from city to city and from courtyard to courtyard, from place to place and from house to house.”*

[B] *Said R. Yosé, “It is appropriate even according to the Mishnah [which states in M. 1:2A, proceeding in logical order from most likely to the absurd]: **They do not scruple that a weasel might have dragged [leaven] from house to house and place to place. For if so, [they will have to scruple that the weasel has dragged leaven] from courtyard to courtyard and from town to town, [so] there is no end to the matter.** For if you are apprehensive from house to house, be apprehensive from place to place. If you are apprehensive from place to place, be apprehensive from courtyard to courtyard. If you are apprehensive from courtyard to courtyard, be apprehensive from city to city. Can all of Israel search out [all] their leaven at once! [Of course not; hence we would never rest assured that an animal had not dragged leaven from a city not yet searched out to one that had been searched out.]”*

1:3

[A] **R. Judah says, “They seek out [leaven] (1) on the night of the fourteenth, (2) on the fourteenth in the morning, and (3) at the time of removal.”**

[B] **And sages say, “[If] one did not seek out [leaven] on the night of the fourteenth, he may seek it out (1) on the fourteenth.**

[C] **“If he did not seek it out on the fourteenth, let him seek it out (2) at the appointed time [11 A.M. to 12 noon on the fourteenth].**

[D] **“[If] he did not seek it out at the appointed time, let him seek it out (3) after the appointed time [to nightfall].”**

[E] **And what he wishes to hold over [for food until the time for burning leaven], let him leave in a discrete place, so that it shall not require examination afterward.**

- [I:1 A] Said R. Yohanan, “*R. Judah’s reason* [is that the three searches] correspond to the three times that [the phrase] ‘There shall not be seen unto you’ is written in the Bible [Exod. 13:7A; Exod. 13:7B; Deut. 16:4]
- [B] And is it not written, “You shall remove leaven from your houses” (Exod. 12:15)? [There are thus more than three verses mentioning the removal of leaven.]
- [C] It [Exod. 12:15] is an instance of a positive commandment [while R. Judah’s reason is based on prohibitions].
- [D] And is it not written, “No leaven shall be found in your houses for seven days” (Exod. 12:19) [which is a fourth verse formulated as a prohibition]?
- [E] Said R. Yosé, “Because this [formulation used in the set of three verses, in B] needs that [Exod. 12:19] and that [Exod. 12:19] needs this [formulation in the set of three verses] they are considered as one [verse]. [Exod. 12:19 thus does not make up a fourth distinct prohibition, as G explains:]
- [F] “There shall not be seen unto you” – I would have said [this implies that if a non-Jew] deposited [leaven] with him [for safe keeping], it is permitted [since the leaven does not belong “unto you”]. [Therefore] the teaching [the verse] says, “[Leaven] there shall not be found in your houses” [evidently thus applying to any leaven, whether or not yours, as long as it is in your houses]. If [it, on the other hand, had only stated,] “There shall not be found in your houses” – I would have said [that this implies that if a non-Jew] assigns it a space [literally, “a house”], [the leaven] would be prohibited. [Therefore] the teaching says, “There shall not be seen unto you.” How so? [If a non-Jew] deposited [leaven] with him, [it is] prohibited; [if the non-Jew] assigned it a space, [it is] permitted [for the leaven neither belongs to a Jew nor is in a portion of his house that may be used; hence it does not fall under the ban].
- [G] *The logic of R. Judah is reversed [in the following texts, for he does not consistently follow his principle]:*
- [H] *For it is taught: R. Judah says, “They search out [leaven] on the night of the fourteenth and on the fourteenth both in the morning and at the time of destruction” [M. 1:3A].*
- [I] And there [in another text] [Judah] says, “If one did not search on the night of the fourteenth, one should search on the fourteenth.” [While B

speaks of all three times as mandatory, C refers to them as three alternatives, with the second one applicable if one did not perform the first one.]J4

- [J] [Assuming that Judah concurs with the rule of M. 1:3C:] [In Judah's view] is one required to search three times [on the fourteenth itself if one has not searched the evening before]?
- [K] [Yes.] Just as when the time of destruction has not arrived, you say one is required to search three times. Once the time of destruction [of leaven] has arrived [on the fourteenth], is it not [logical] all the more so [that one is required to search three times]?

[L] *It [the question] is asked only [regarding the following]:* **[If] one did not search on the fourteenth, one should search during the holiday [M. 1:3C]** – [in this case] is [one] required to search three times?

[M] [Yes.] Just as when the time of destruction has not arrived, you say one is required to search three times. Once the time of destruction has arrived, all the more so [is one required to search three times – the logic above likewise applies here].

[N] *[The question is asked only [regarding the following]:* If one did not search during the holiday, should [one] search after the holiday [the full three times]? [Since the requirement to make three searches during the holiday was deduced by logic, it cannot be employed to argue concerning the post-holiday situation. This time the question, not easily dismissed, is left unanswered.]

[II:1 A] And what he leaves [over] he should set in a hidden place so that it will not require searching after it [M. 1:3D].

- [B] What does he do? He covers it with a utensil.
- [C] [If] he covered it with a utensil and did not find it – I may say a hand took it [and so the leaven is not lying about]. [If] he did not cover it with a utensil and did not find it, does that house require searching, or do all the houses require searching?
- [D] *We may learn [an answer] from this:*
- [E] **[If one] lost an olive's bulk of corpse matter in a house – [if one] sought and did not find it, the house is pure [for assumably a rat or the like has taken it]. When it is found, the house conveys uncleanness retroactively [to what is in it, for then we cannot**

assume that it is a common situation of a rat or the like taking the corpse matter] [T. Ahil. 4:8; cf. T. Toh. 3:5].

[F] This [case of uncleanness] may learn from that and that may learn from this. This may learn from that: losing is like resting. [Just as in the case of not finding leaven when left uncovered, even if one put an olive's bulk of corpse matter in the house and did not just lose it, one must search it out.] *And that [rule, governing the case of Passover] may be learned from this:* you are required to search only that house. [Just as in the case of corpse uncleanness, the search applies only to that house.]

[G] And according to R. Judah [not only are the adjoining houses exempt from searching but] is not even that house [itself] exempt from searching?

[H] *We may learn from this:*

[I] **Said R. Judah, "A case concerning the bondwoman of an olive harvester in Rimmon who threw a stillbirth into a pit. And a priest came and looked [therein] to see what she threw. And the case came before the sages [to decide if the priest is assumed to have drawn sufficiently close to the corpse to become impure, which according to M. Ahilot is twenty-four cubits]. And they declared him clean, for it is the manner of a rat and a marten to drag it [the corpse]" [T. Ahil. 16:13]**

[J] [The comparison in G is inappropriate since it deals with meat rather than bread:] It [the animal] runs after meat, but it does not run after a loaf [which must therefore be lying around and is to be searched out].

[K] And even if you say that [the animal] runs after meat and after the loaf, meat it drags and eats, a loaf it drags and leaves [unconsumed – therefore the latter must be searched out].

[L] The sages of Caesarea [say] in the name of R. Abbahu, "We are not concerned [that is, we do not consider the possibility] that a rat dragged [and ate it, as in G; rather it must otherwise have been moved and be lying around. Hence the house must be searched.] But according to R. Judah, [we] are concerned [and therefore we do not assume that the leaven was taken, e.g., by a child, and was left

around; therefore, according to R. Judah one does not have to search the house].”

1:4

[A] **R. Meir says, “They eat [leaven] throughout the fifth [hour on the fourteenth of Nisan], and they burn it at the beginning of the sixth hour [noon].”**

[B] **And R. Judah says, “They eat [leaven] through the fourth hour, keep it in suspense throughout the fifth hour, and burn it at the beginning of the sixth hour.”**

[I:1 A] **R. Meir says, “[They] eat [leaven] throughout the fifth hour, [M. 1:4A].”**

[B] R. Meir says, “From the sixth hour onwards [until the festival itself, the presence of leaven is prohibited] by reason of their words [on the basis of rabbinic injunction].”

[C] R. Judah says, “From the sixth hour onwards [leaven is prohibited] by reason of the authority of the Torah.”

[D] *What is R. Meir’s reason?* “But on the first day [you shall remove leaven from your houses]” (Exod. 12:15) – this refers to the fifteenth [the festival’s first day]. Perhaps [leaven is prohibited only] once it has become dark? The teaching [of the Bible] says, “but.” How so? [Taking “but” as indicating that one must add something:] give to it [to the prohibition, i.e., apply it] one hour before sunset.

[E] *What is R. Judah’s reason?* “But on the first day [you shall remove leaven from your houses]” (Exod. 12:15) – this refers to the fourteenth [the day preceding the festival]. Perhaps [this proscribes] the complete day? The teaching says, “but.” How so? [Taking “but” to exclude:] divide the day, half for leaven and half for unleavened bread.

[F] *Meir’s logic is reversed:* *There* [regarding the law of Passover in Exod. 12:15] he says, “But” to expand [the prohibition with an extra hour preceding the fifteenth], and here [regarding the law of Exod. 12:16 authorizing the preparation of food on a festival] he says, ‘But’ [which serves] to limit [any type of work other than that needed for preparing food]. [In the former instance, the word “but” denotes an expansion of the law, and in the latter, a limitation.] [Meir is assumed to be represented in the anonymous M. Bes. 5:2 and Meg. 1:5.]

[G] Said R. Samuel bar Abedoma, “[There is no inconsistency, for the addition caused by the ‘but’ results in] limiting it that it be without

leaven.” [Since here the addition causes an exclusion of leaven, the effect of the “but” is identical in both cases.]

[H] [Offering additional biblical grounding for R. Meir and R. Judah’s positions:]

[I] R. Meir says, “‘You shall not eat anything leavened upon it [; for seven days upon it you shall eat unleavened bread]’ (Deut. 16:3) – [‘upon it’ signifies:] upon its eating [when eating the Passover sacrifice no leaven shall be eaten].” R. Judah says, “‘You shall not eat anything leavened upon it – [‘upon it’ signifies:] upon its preparation [when preparing the sacrifice, on the fourteenth].”

[J] *R. Judah maintains that* there are a positive and a negative commandment pertaining to its eating and a positive and a negative commandment pertaining to its destruction [– from noon on the fourteenth, which is thus treated like the actual festival days. A positive commandment pertaining to its eating [is]: “for seven days upon it you shall eat unleavened bread” (Deut. 16:3) – and not leavened. Every negative commandment that is derived from the force of a positive commandment is considered a positive commandment. A negative commandment pertaining to its eating [is]: “you shall not eat anything leavened upon it” (Deut. 16:3). A positive commandment pertaining to its destruction [is]: “[on the very first day] you shall remove leaven [from your houses]” (Exod. 12:15). A negative commandment pertaining to its destruction” [is]: “no leaven shall be found in your houses for seven days” (Exod. 12:19).

[I:2 A] Lo, R. Meir says, “From the sixth hour onwards [leaven is prohibited] by reason of their words. [That is, the time is added by decree of scribes, not by the rule of the Torah.] The seventh [hour, i.e., the latter half of the day, it] is prohibited because of a fence [as a precautionary period preceding the day’s final hour when leaven becomes biblically prohibited]. The sixth [hour, just prior to noon], why [is it prohibited]? Because of a fence? And is there a fence for a fence? [But precautionary measures generally are not instituted to prevent the violation of a precautionary measure.] Rather [the sixth hour is prohibited not as a fence but because] the sixth hour gets confused with the seventh.” [Hence it is directly prohibited as part of the prohibition of the seventh hour.]

[B] Lo, R. Judah says, “From the fifth hour onwards [eating leaven is prohibited] by reason of the authority of the Torah,’ the sixth [hour] is prohibited because of a fence [lest the sixth become confused with the seventh hour]. The fifth why? Because of a fence? And is there a fence for a fence? Rather [the fifth is prohibited] because the fifth gets confused with the seventh” [and thus the fifth and sixth hours form part of the same fence].

[C] *R. Judah’s logic is reversed: There [regarding M. San. 5:3’s rule concerning discrepancies in witnesses’ testimony] he says, “The fifth hour does not get confused with the seventh” [and hence a discrepancy between the fifth and seventh hours is significant]. [M. San. 5:3, treating the testimony of two witnesses, reads: “...(1) One (witness) says, ‘In the third (hour the matter occurred), ‘and one (witness) says, ‘In the half hour’ – their testimony is canceled. R. Judah says, ‘Their testimony stands.’ (.2) One says, ‘In the fifth hour, ‘and one says, ‘In the seventh hour’ – their testimony is canceled, because in the fifth (hour) the sun is in the east, and in the seventh the sun is in the west.”* Since Judah disputes only (1), he assumably agrees with (2) and its stated reason, that the fifth and seventh hours are not confused.]

[D] Said R. Yosé, “There [M. San. 5:3] the matter is given over to a court and a court is scrupulous [hence it will insure that an error does not occur]. *But here* the matter is given over to women and women are slow [and hence they are likely to lose track of time, confusing the fifth and seventh hours].”

[E] [As an alternative to D:] Said R. Yosé b. R. Bun, “There [in M. San. 5:3 the case involves] the beginning of the fifth [hour and] the end of the seventh [hour, a considerable amount of time]. But here [in M. Pes. 1:4, the case involves] the end of the fifth [hour and] the beginning of the seventh.” [Since the latter case may more likely cause a mistake, it is understandable that it might require greater precaution.]

[F] *And it is taught thus* [regarding M. San. 5:3]: “**because in the beginning of the fifth [hour] the sun is in the east, and in the end of the seventh the sun is in the west**” [cf. T. San. 9:1]. The sun never turns to the west until the end of the seventh. [The Tannaite rule makes it explicit that M. San. 5:3 treats a situation that is unlikely to cause confusion.]

[I:3 A] Rab said, “According to R. Meir, one who sanctifies [a marriage, betrothing a woman,] with leaven from the sixth hour onwards [when leaven, then becoming prohibited, loses its value] has not

accomplished anything [for a marriage must be performed with an object having some value.]”

- [B] *Said R. Huna, “And this is correct. If [one used] Cortavnician wheat in the desert – would it be worth anything during the holiday?”* [Of course not. This wheat, although it is very hard and even if moistened is unlikely to become actually leavened, was classified by the Rabbis through an extension of the law to be created as leavened on Passover. The comparison is thus between two types of prohibited substances: rabbinically defined leaven during the biblically defined period of Passover, and biblically defined leaven during the rabbinically defined period of prohibition. Just as in the former, so in the latter the leaven lacks value and cannot be used to transact a betrothal.]
- [C] *Once a person left a pledge of a saddlebag of bread pieces with R. Hiyya the Elder. Said R. Yosé b. R. Bun: “It was Yohanan of Huqqoq [in Northern Palestine].” [R. Hiyya] came [and] asked Rabbi [Judah the Patriarch what he should do with the leaven left in his possession now that Passover was coming]. He said to him, “Let it be sold on the authority of the court at the time of destruction of leaven so that the owner of the pledge will not suffer the financial loss, for it would be prohibited to make use of the leaven after Passover].”*
- [D] *A person left a pledge of a vessel of kutah [a preserve consisting of sour milk, bread crust, and salt] with R. Hiyya b. Ashi. [The latter] came [and] asked Rab [what he should do with the preserve containing leaven]. [Rab] said to him, “Let it be sold on the authority of the court at the time of the destruction [of leaven]”*
- [E] *Which time of destruction?*
- [F] *R. Jeremiah says, “In the morning [of the fourteenth].”*
- [G] *R. Ba says, “The fifth hour according to R. Judah [for already in the fifth hour eating leaven is prohibited].”*
- [H] *Said R. Yosé, “It is correct [what] R. Jeremiah said. Did they at all say that [one] should touch them [the pledges] to sell them except in order to return a lost object to owners? [Selling the pledge containing leaven was permitted to avoid the loss to the owner that Passover would bring in rendering prohibited any leaven unsold, and in] the fifth [hour] according to R. Judah [the pledge] is not worth anything [for already then it may not be consumed by a person but may only be given to an animal].”*

[I] The Associates say, “[In] the fifth [hour] according to R. Judah, [if one] sanctified it [the pledge containing leaven], [it] is sanctified [dedicated to the Temple]. [If one] set it aside as heave offering, it is not considered heave-offering.” “[If one] sanctified it, [it] is sanctified” – [because] the dedicated item has an assessed value to be redeemed [for it has some value as food for animals].” [If one] set it aside as heave-offering, it is not considered heave-offering” – because heave-offering is designed only for [human] consumption.

[J] *R. Yosé said to them, “The opposite makes sense: [If one] sanctified it, [it] is not sanctified. [If one] set it aside as heave-offering, lo, it is considered heave-offering.” “[If one] sanctified it, [it] is not sanctified” – for they do not redeem sanctified items to feed them to dogs [M. Tem. 6:5].*” [If one] set it aside as heave offering, lo, it is considered heave-offering” – from the Torah it is pure [permitted] and it is you who have instituted burning for it. [Thus by biblical law it is considered heave-offering and the rabbinic injunction concerning the fifth hour cannot undermine that fact – even according to R. Judah.]

1:5

[A] **And further did R. Judah say, “Two [unfit] loaves of bread of a thank-offering which were invalid were left lying on the roof of the portico [of the Temple].**

[B] **“So long as they are lying there, everybody eats [leaven].**

[C] **“[When] one of them is removed, they suspend and do not eat [leaven] but also do not burn it.**

[D] **“[When] the second one of them is removed, everybody begins burning [the leaven].”**

[E] **Rabban Gamaliel says, “[Leaven] in the status of unconsecrated food is eaten through the fourth hour, and [leaven in the status of] heave-offering through the fifth. Then they burn at the beginning of the sixth hour.”**

[I:1 A] R. Simeon b. Laqish said in the name of R. Yannai, “[The two loaves] were fit.

[B] “Why [then] does it [the author of M. 1:5] declare them unfit?

[C] “So that [they] do not slaughter the offering over them.” [Yannai apparently holds that the thank-offerings were not offered on the fourteenth of Nisan. Accordingly, if loaves have been previously set aside, that is, have had their value dedicated, for thank offerings, while they in themselves do not become holy – a status actualized only when the accompanying Thank offering is slaughtered – they may not be eaten; hence they were put on the Temple portico.]”

[D] And do they not become sanctified by the act of the slaughter? So [since the accompanying Thank offering had not yet been slaughtered], let [the person] redeem [the loaves] and eat [them]? [Here and throughout the discussion the Yerushalmi assumes, in contrast to Yannai above, that Thank offerings were offered on the fourteenth.]

[E] *Said R. Hananiah, “[Much] unconsecrated food lies before him yet uneaten [on Passover eve], and you say, ‘Let [the person] redeem and eat [the loaves]!’”*

[F] [Rather] R. [Hananiah said, “They [the loaves] were [actually] unfit: since [prior to Passover] due to the leaven in the Thank offering, they [people] would rush to bring their Thank offering, and it is impossible that [in the haste] the blood of one of them would not spill, and [as a result] it [and its accompanying loaves] become unfit.”

[I:2 A] *It is taught: Two cows plow in Jerusalem [on the day preceding Passover: as long as both plowed, people ate leaven; when one stopped, they suspended eating; when both stopped, they burned the leaven].”*

[B] And is not Jerusalem a place where it was customary not to work on the fourteenth [of Nisan, as mentioned by M. 4:1; hence how could plowing serve as a sign]?

[C] It appears as if [they] are plowing [e.g., standing as if about to plow].

[D] *Some Tannaite authorities state, “Two [large] lamps were burning and [served as a sign].”*

[E] *Some Tannaite authorities state, “Two sheets [served as a sign].*

[F] *Said R. Phinehas, “And they [in D and E] do not dispute [in regard to the signs used on the fourteenth of Nisan]. The one who said ‘two lamps’ [D] refers to weekdays. The one who said ‘two sheets’ refers to the Sabbath [when one may not light lamps to serve as a sign.]”*

[G] *R. Hananiah asked before R. Mana, “Let them assign a shofar blast [as a sign] for it [to inform people to stop eating and them to burn the leaven].”*

[H] Said [R. Mana] to him, “If you say thus [that shofar blasts serve as a sign], it might be said that perhaps they were blowing [the shofar] for the [morning] Daily Whole Offering and they [people] would become confused [for in mistaking this blast for the one accompanying the Daily Whole Offering, people would fail to cease eating leaven on time].”

[I] *He said to him, “And lo, we learned [in regard to shofar blasts in the Temple]: **Three [blasts were sounded] to stop the people from work [each blast signifying a more advanced stage preceding the Sabbath] and three [blasts were sounded] to distinguish between holy and profane** [to inform people that the Sabbath is starting and they must end their final preparations]’ [And there we are not concerned lest people mistake the blasts for those announcing the evening Daily Whole Offering, a mistake that would cause them to continue working into the Sabbath.]*

[J] He said to them, “There [regarding the blasts preceding the Sabbath], every Sabbath eve they sound [the shofar] and therefore they do not err. But here [regarding the fourteenth of Nisan], once a year they [sound the shofar]. If you say thus [that shofar blasts are sounded on Passover eve], even they [people] would believe perhaps they were sounding [the shofar] for the [afternoon] Daily Whole Offering, and they would become confused.”

- [I:3 A] Why [do they continue to eat heave-offering during the fifth hour? Is it] because of its holiness or because [since it is prohibited to non-priests] those who may eat it are not [readily] found [so that it is necessary to provide extra time to locate priests to consume it]?
- [B] *For [the determination of the law, in] what [case] does the difference between these [reasons given at A have a practical implication]?*
- [C] [For the law] of the loaves of the Thank offering [which are holy but may be eaten by non-priests]. If you say [the reason is] that “those who may eat it are not [readily] found,” [in the case of] these [loaves], those who may eat them are [readily] found. If you say “because of its

holiness,” these are holy [and hence would be eaten through the fifth hour to provide extra time to minimize desecration of holy items].

- [D] [To help answer C’s question of which paradigm applies, a Tannaite rule is cited:] R. Nathan says, “[They] took [two] fit loaves, waited an hour [to allow this extra time to] eat them [as with heave-offering], and [people] suspend [eating] but do not burn [their unconsecrated leaven]. [The taking of these two loaves, which were actually to be eaten, signaled people to suspend eating and await burning.]”
- [E] *Could you say that* [they provide an extra hour for eating] because “those who may eat it are not [readily] found?” [Of course not, for waiting an extra hour will not produce additional eaters, since, as the text itself states, non-priests suspend eating leaven.] Rather [the reason must be] “because of its holiness” [i.e., to insure that the holy loaves are consumed] – so here [the special procedure regarding heave-offering is used] because of its holiness.
- [F] Said R. Judah b. Pazzi, “It appears that the halakhah should follow Rabban Gamaliel, because he says an abstract of both of them.” [Disregarding the chronology, he is considered to accord with Judah’s position that unconsecrated food may be eaten through the fourth hour and to accord with Meir that some other food – consecrated food – may be eaten through the fifth hour.]
- [G] R. Abun came [and said] R. Yohanan [said] in the name of R. Simeon b. Yosedeq.” The halakhah follows Rabban Gamaliel, for he says an abstract of both of them.”

1:6

- [A] **R. Hananiah, Prefect of the priests, says, “In the days of the priests they never refrained from burning meat which had been made unclean by an Offspring of uncleanness with meat which had been made by a Father of uncleanness,**
- [B] **“even though they [thereby] add uncleanness to its uncleanness [that of the meat made unclean by an Offspring of uncleanness].”**
- [I:1 A] Bar Qappara says, “The Father of Uncleanness [imparts uncleanness] by reason of the authority of the Torah. The Offspring of Uncleanness [imparts uncleanness] by reason of their words [on the basis of rabbinic injunction].”
- [B] R. Yohanan says, “Both the former and the latter [impart uncleanness] by reason of the authority of the Torah.”

- [C] *Bar Qappara's position causes no problems.* [In his understanding, the force of the Mishnah's ruling is understandable, since two things of very different nature – something biblically unclean with something only rabbinically unclean – would be mixed.]
- [D] *According, however, to R. Yohanan* [who claims that all the meat is made unclean by the Torah], the Father of Uncleanness [which the Mishnah mentions] makes [something] a first [generation], [and] an Offspring of Uncleanness [which the Mishnah mentions and which at this point is assumed to be a first generation] makes [something] a second [generation]. [But] a second [generation] that touches a first [generation], lo it remains in its place as a second generation! [A second that touches a first remains a second generation because objects (here the first generation) generally make something unclean at one remove from their own uncleanness. Here the object already is at the second generation so that its degree of uncleanness is merely repeated.]
- [E] [The Mishnah's reference to an Offspring of Uncleanness refers not to a first generation but to a second generation. Since meat touching it becomes a third generation, the Mishnah poses no problems] because the third [generation] that touches a first [generation, is made a second [generation]. [The third which comes in contact with the first generation has its uncleanness increased; hence the ruling is understandable.]

[F] *It is taught: "The House of Shammai say, '[They] do not burn clean meat [that requires burning] with unclean meat.' And the House of Hillel permit it [T. 1:7 end]."*

[G] *Bar Qappara's position causes no problems.* [The force of the House of Hillel's ruling in E is understandable, since the case involves two things of very different nature]: They burn something invalid by reason of the Torah [invalid but not unclean, such as sacrificial meal which was left over after the proper time and which for that reason is to be burned] with something invalid with uncleanness by reason of the Torah. And [assuming that this view of the House of Hillel comprises the primary legal position], it is necessary for us to learn [from R. Hananiah's teaching, that they may burn] something unclean by reason of their [the rabbis'] words [mixed] with something unclean by reason of the Torah. [Hananiah thus extends the principle permitting the burning together of meat invalid because of two biblical injunctions to the case involving one biblical and one rabbinic injunction.]

[H] *According to R. Yohanan's position*, if [as the Hillelites state] they burn something invalid by reason of the Torah [such as meat left over after its proper time] with something unclean by reason of the Torah [which will impart uncleanness to the former for the first time] all the more so [may they burn] something unclean by reason of the Torah with something unclean by reason of their words [i.e., rabbinically unclean, which merely entails making one item slightly more unclean]. [Hananiah's ruling, since it does not extend the Hillelite position, would be unnecessary.]

[I] R. Hananiah the Prefect of the Priests taught it [M. 1:6] in the name of both the House of Shammai and the House of Hillel. [In teaching something agreeable to all, even to the House of Shammai, who hold that they do not burn unclean with invalid meat, Hananiah's ruling – permitting mixed burning of two things already unclean biblically – does represent an advance.]

[J] *Said R. Mana before R. Yosé, "According to R. Yohanan's position it is all right,*

[K] "for said R. Yohanan, '[Regarding] six [cases of] doubtful [uncleanness – cases in which it was not known whether the object that came into contact with heave-offering had definitely become unclean] they suspended judgment [and did not require burning], and in Usha they imposed burning on them [as is ruled in M. Toh. 4:5, which appears below].'"

[L] [And] did not R. Hananiah the Prefect of the Priests live prior to Usha? And prior to Usha there was no burning [imposed on uncleanness] by reason of their words [on rabbinically defined uncleanness]. [Yohanan's construction of the law, which would have Hananiah speak of two cases of biblical uncleanness and thus biblically required burning, fits Hananiah's pre-Ushan dates, because the law then did not prescribe burning for a rabbinically defined uncleanness such as in the six cases of doubtful uncleanness.]

[M] [But according to Bar Qappara there is a problem: how could Hananiah speak of a biblically unclean piece of meat and a rabbinically defined one – for the latter then was not subject to burning?]

[N] [R. Yosé] said to him, “You may explain that it became unclean through [contact with] a glass utensil [an impurity which at an earlier date had been made subject to burning].”

[O] He [R. Mana] said to him, “Even if you say that it became unclean through [contact with] a glass utensil [the question remains against Bar Qappara]: Did not R. Zeira say [that] R. Abuna [said] in the name of R. Jeremiah, “Yosé ben Yoezer of Seredah and Yosé ben Yohanan of Jerusalem enacted uncleanness on the Gentile lands and on glass utensils?” [The enactment indicates that Gentile lands and glass utensils were treated alike. Hence, since the Gentile lands are mentioned as one of the six things for which burning was decreed in Usha, assumably the glass utensil also became liable at Usha – and subsequent to Hananiah.]

[P] R. Jonah said, “R. Judah b. Tabbai [enacted uncleanness on metal utensils].” R. Yosé said, “Judah b. Tabbai and Simeon b. Shetah enacted uncleanness on metal utensils [that a rewelded broken vessel reverts to its original uncleanness] and Hillel and Shammai enacted on purity of hands [that plain hands, unwashed, impart uncleanness to heave-offerings].”

[Q] [Do not employ R. Jeremiah’s tradition in C to challenge Bar Qappara regarding Hananiah:] R. Jeremiah considered making the ruling, “[The two early Yosés, in C, applied to] Gentile land and glass utensils a state of suspension, [but burning was not decreed until Usha].”

[R] R. Yosé [believing that gentile lands and glass utensils had different histories] considered making the ruling, “Gentile lands [were declared in an early time, as in the days of the two Yosés, to be subject to] suspension [and were subsequently, at Usha, made subject to burning,] but glass utensils [not explicitly numbered among the Ushan enactments, were declared in an early time, as in the time of the Yosés, to be subject to] burning [just as metal utensils had been, as he reports in D].” [Hence a type of non-biblical uncleanness subject to burning

existed to which Hananiah could have referred in M. 1:6.]

[S] **These are the six cases of doubtful [uncleanness of substances that touched a heave-offering for which they imposed burning on the heave-offering]: on the doubt of the area of a grave [because crushed bones from a plowed grave may have been carried over a field into which the heave-offering has been carried]; on the doubt of [dirt from] Gentile lands [because its earth may contain parts of a decayed human body]; on the doubt of an am ha'ares's clothes [for his menstruate wife may have sat on them]; on the doubt of spittle [because it may be from an unclean person such as a menstruate or person with a flux]; on the doubt of human urine [e.g., from an unclean person] that is [mixed up with and in an amount] corresponding to an animal 's urine [because it is unclear whether or not the human urine's appearance has been neutralized]; on certain contact with them when it is a case of doubtful uncleanness [because it is uncertain whether or not the object touched is unclean] – on these [they enacted the] burning of heave-offering [M. Toh. 4:5].**

1:7

[A] **Added R. Aqiba and said, “In the days of the priests they never refrained from burning oil [in the status of heave-offering] made invalid by one who had immersed in that same day, in a lamp which had been made unclean by one who had contracted corpse uncleanness,**

[B] **“even though they [thereby] add uncleanness to its uncleanness [that of the heave-offering oil invalidated by one who had immersed on that same day].”**

[I:1 A] *According to the position of R. Yohanan [who explains that the Offspring of Uncleanness is unclean on rabbinic authority], there [in M. 1:6] they burn something unclean by reason of the Torah with something unclean by reason of the Torah [Hananiah's ruling] and*

[Aqiba in M. 1:7] comes to add [that they may burn] something invalid by reason of the Torah [a third generation removed of uncleanness, something unclean but unable to impart uncleanness] with something unclean by reason of the Torah.

- [B] *According to the position of Bar Qappara [who explains that the Offspring of Uncleanness is unclean biblically, however], there [M. 1:6] they burn something unclean by reason of their words with something unclean by reason of the Torah, and here [R. Aqiba would add that they may burn] something invalid by reason of the Torah with something unclean by reason of the Torah – [this being the case he] comes only to subtract [that is, narrow the application of the principle and not to extend it, for while M. 1:6 treats two injunctions of disparate origins, one biblical and one rabbinic, M. 1:7 would treat two injunctions both biblical in origin]!*
- [C] You may explain it [that Aqiba in M. 1:7] treats [oil made unclean by contact with] a one who had immersed on that selfsame day [who had initially become unclean] from a plowed grave-field which [is considered unclean only] by reason of their words. [Aqiba would thus extend the principle to allow burning together a biblical Father of Uncleanness with something unclean rabbinically, which thereby becomes unclean at one generation's remove.]
- [D] [Turning to the explanation of R. Yohanan's position in A, a question is posed based on a statement attributed to him:] R. Hananiah the Prefect of the priests taught it [the ruling in M. 1:6] in the name of both the House of Shammai and the House of Hillel. On the basis of this logic, Yohanan's explanation here must likewise continue to maintain a position agreeable to both Houses, but it does not, for R. Aqiba, who is supplementing the statement of Hananiah [M. 1:6A], would fail to teach in agreement with the Shammaites who explicitly prohibit burning together something biblically invalid with something biblically unclean .]
- [E] *Said R. Mana in the presence of R. Yosé, "[R. Aqiba supplements the words of Hananiah not by adding the burning together of something invalid by reason of the Torah with something unclean by reason of the Torah, as suggested in A, but by adding something else that is in accord with both Houses because] R. Aqiba follows his own approach, for R. Aqiba said, '[And if any of those (aforementioned unclean things) falls into an earthen vessel, everything inside it] shall cause uncleanness' usually rendered: 'it shall be unclean'] (Lev. 11:33) – it shall cause uncleanness by reason of the authority of the Torah." [The Bible would thus mandate that an object within the vessel, unclean at*

most in the second degree removed, may cause uncleanness to what it touches, here in the third degree. This applies to unconsecrated food and all the more so to heave-offering and holy foods. Hence R. Aqiba, in dealing with oil in the status of heave-offering in M. 1:7, would speak of third generation of uncleanness not simply as invalid but as biblically unclean and able to impart further uncleanness. Burning this together with something unclean by reason of the Torah would, therefore, be permitted even in the House of Shammai's position.]

[F] *Said R. Yosé b. R. Bun, "Even though R. Ishmael does not hold that 'it shall cause uncleanness' (Lev. 11:33) [means] – it shall cause uncleanness in the case of food, he holds that 'it shall cause uncleanness' [means] – it shall cause uncleanness in cases of vessels."* [Even though D's construction of R. Aqiba is based on correlating R. Aqiba's position with a particular Aqiban biblical exegesis, the portion relevant to M. 1:7, dealing with a lamp, a type of vessel, does not make up an idiosyncratic Aqiban ruling, for R. Ishmael agrees with it].

[I:2 A] *There are teachers who teach, "[a lamp that had been made unclean by] corpse uncleanness.. ." [The lamp itself received uncleanness from the corpse.]*

[B] There are teachers who teach, "[a lamp that had been made unclean] in (B-) corpse uncleanness...." [The lamp received the corpse uncleanness secondhand, through an individual who had touched the corpse.]

[C] *The one who said, "corpse uncleanness" – this refers to a vessel requiring [only] rinsing [to be restored to cleanness, generally nonmetal vessels]. The one who said, "in corpse uncleanness" – this refers to a metal vessel. [In assuming that R. Aqiba speaks of burning a third degree of uncleanness with a first degree, there are two ways of construing the Mishnah such that the lamp in question becomes unclean one generation removed. First, if we deal with metal vessels, which gain a degree of uncleanness identical to that of the object that makes them unclean, the Mishnah refers to someone who had touched a corpse, becoming a Father of Uncleanness (called, by some, unclean one generation removed). Such a person, by touching a metal vessel, makes it unclean one generation removed. Alternatively, if the vessel is not metal, it may become unclean one generation removed by directly touching the corpse itself.]*

[D] *What is the [scriptural] reason [for the status of nonmetal vessels]?* “[When a person dies in a tent, whoever enters the tent and whoever is in the tent shall be unclean] every open vessel,” [with no lid fastened down] it shall be unclean” (Num. 19:14-15).” It shall be unclean” – truly unclean] and it does not become a Father of Uncleanness to impart uncleanness [to others]. [The exclusion refers to an unspecified vessel, taken typically to be earthenware.]

1:8

[A] **Said R. Meir, “From their opinions we learn that they burn [leaven in the status of] heave-offering which is [cultically] clean with that which is [cultically] unclean on Passover.”**

[B] **Said to him R. Yosé, “That is not the right conclusion [to draw by analogy from the opinions of Hananiah and Aqiba].**

[C] **“For R. Eliezer and R. Joshua concur that they burn this by itself and that by itself.**

[D] **“Concerning what did they differ?**

[E] **“Concerning that whose status [as to cultic cleanness] was subject to suspension and concerning that which is certainly cultically unclean.’**

[F] **“For R. Eliezer says, ‘This is to be burned by itself, and that is to be burned by itself.’**

[G] **“And R. Joshua says, ‘Both of them together [are to be burned].”**

[I:1 A] **[they burn [leaven in the status of] heave-offering which is [cultically] clean with that which is [cultically] unclean on Passover:]** What is “on Passover”?

[B] On the fourteenth [at the time of the destruction of leaven and thus prior to the explicit biblical ban on leaven on the festival itself].

[I:2 A] [Defining Meir’s referent in “their words”:] **Said R. Yohanan, “From the words of R. Aqiba [in M. 1:7] [and] from the words of R. Hananiah the Prefect of the Priests [M. 1:6].”**

[B] **R. Simeon b. Laqish said, “From the words of R. Eliezer and from the words of R. Joshua.”**

[C] *Said R. Zeira in the presence of R. Yosé, “According to R. Simeon b. Laqish [the Mishnah] is all right [we understand why the Mishnah includes clause C]. According to R. Yohanan, why do R. Eliezer and R. Joshua come here [why are their opinions cited]?”*

[D] *He said to him, “They are [the teachings of two] Tannaite authorities.”* [Since the Mishnah consists of two separate units, A-B taught by one Tannaite authority or authority and C by another, A-B is unrelated to C]

[I:3 A] R. Yosé [the Amora said] in the name of R. Yohanan, “All concur that on the sixteenth [of Nisan, in the midst of the festival] they burn [leaven in the status of] heave-offering which is [cultically] clean with that which is [cultically] unclean.”

[B] *R. Yosé objected, “Why does R. Yosé [the Tannaite authority, in B of the Mishnah] say, ‘It is not an [appropriate] analogy’?”*

[C] [Interrupting the narrative and clarifying why Yosé in B had believed the analogy to be appropriate:] R. Yosé [asked thus] because he heard that R. Yohanan said [defining R. Meir’s referent], “From the words of R. Aqiba and from the words of R. Hananiah the Prefect of the Priests [Meir made his deduction].” And he heard that Bar Qappara said, “The Father of Uncleanness [imparts uncleanness] by reason of the authority of the Torah. The Offspring of Uncleanness [imparts uncleanness] by reason of their words [on the basis of rabbinic injunction].” And he did not hear that R. Yohanan said, “Both the former and the latter [impart uncleanness] by reason of the authority of the Torah.” [A logical foundation thus exists for Meir’s deduction].

[D] *And he asked, “Just as it is permitted to burn something biblically prohibited [meat left over after its proper time – see y. 1:6 I.F] with something biblically unclean, for thus they burn something biblically unclean with something biblically unclean, thus it should be permitted to burn something prohibited by reason of their words [leaven in the status of heave-offering that is clean – on the fourteenth at the time of destruction] with something biblically unclean [leaven in the status of heave-offering that is unclean, the subject of Meir’s deduction] for thus they burn something unclean by reason of their words with something biblically unclean [the subject of Hananiah’s testimony in M. 1:6, which thus provides a precedent for burning together two things the uncleanness of each of which derives from a different basis].*

[E] But [this logic must be invalid, because] something prohibited is different from something unclean. [Thus Hananiah’s statement, treating two things the uncleanness of which derives from disparate origins, one biblical and one rabbinic, cannot serve as the basis for an analogy regarding two things, one unclean and one prohibited,

even though both sees shale the characteristic of containing elements the uncleanness of which derives from disparate origins, one biblical and one rabbinic.] However, [this objection is fallacious for] R. Yosé said in the name of R. Yohanan, “All concur that on the sixteenth they burn [leaven in the status of] heave-offering which is clean with that which is unclean” – [and] just as you did not distinguish for us between something prohibited by reason of the Torah [the clean leaven on the sixteenth] and something unclean by reason of the Torah [the leaven which is heave-offering and unclean on the sixteenth], for thus they burn something unclean by reason of the Torah with something unclean by reason of the Torah, thus you should not distinguish for us between something prohibited by reason of their words and something unclean by reason of the Torah, for thus they burn something unclean by reason of their words with something unclean by reason of the Torah. [Drawing on the tradition regarding the sixteenth, which he transmitted in Yohanan’s name, Yosé would have realized that the logic is valid.]

[F] Rather [for the Tannaite authority R. Yosé to reject Meir’s argument, the Amora R. Yosé must observe], Both the former and the latter [must impart uncleanness] by reason of the authority of the Torah. [Even though he lacked Yohanan’s tradition to this effect, the logic of the situation would have made Yosé realize that this must be the case.]

[G] [Reverting to the narrative and picking up after Yosé’s question in C:] Came R. Hiyya bar Ba from Tyre and said in the name of R. Yohanan, “Both the former and the latter [impart uncleanness] by reason of the authority of the Torah.”

[H] And [, the Amora R. Yosé continued,] “*I said, Fine [this must be so]. There [the case of Hananiah involves] something biblically unclean with something biblically unclean. Even here does [the case of Meir’s deduction involve] something invalid by reason of the Torah with something unclean by reason of the Torah? [It does not; rather it treats something invalid by reason of rabbinic injunction, the leaven which is heave-offering and clean on the fourteenth after the time of destruction begins, with the heave-offering which is unclean.]*

[I] “Hence R. Yosé [in the Mishnah] thus said, ‘It is not an [appropriate] analogy.’”

[J] *Now R. Yohanan has a problem with R. Meir[‘s view], and this is what R. Yosé said, “It is not an [appropriate] analogy.”* [Following

Yohanan's interpretation that the two items that Hananiah mentioned impart uncleanness by reason of the Torah, Meir's position is problematic.]

[K] *And Bar Qappara has a problem with R. Yosé['s view], and this is what R. Meir said: "From their words we learned."*

[Following Bar Qappara's interpretation that Hananiah spoke of one thing biblically unclean and one thing rabbinically unclean, R. Yosé's objection is problematic and Meir's deduction appears cogent.]

[L] *Bar Qappara accords with R. Simeon b. Laqish, for R. Simeon b. Laqish said [that Meir derived his argument] from the words of R. Eliezer and R. Joshua.* [The appropriateness of Hananiah's case is thus irrelevant, for Meir drew upon Eliezer's and Joshua's dispute regarding heave offering.]

[M] *Said R. Abin, "R. Meir follows his own approach. For R. Meir is as stringent regarding things [enjoined] by reason of their words as with those [enjoined] by reason of the authority of the Torah."* [Since he treats the two categories equally and in an argument can draw on either, Yohanan can classify the Offspring of Uncleanness as biblical without breaking his syllogism.]

[N] [Picking up on the preceding reference to Meir's stringent treatment of rabbinic injunctions:] *Where do we find that R. Meir is as stringent regarding things [enjoined] by reason of their words as with the those [enjoined] by reason of the authority of the Torah?*

[O] *Said R. Hinenah, "As that which we learned there, 'One who sees a dark red stain [on her undergarment not knowing when it had occurred], lo, she is in an unsettled condition [not knowing how to calculate the onset of her period of menstruation and of the eleven intermediate days between menstruation periods], and she is [also] apprehensive regarding a flux [alternatively, if since previously wearing the garment she suffered a flux for three days and then found a large stain, she is concerned lest the minimum amount flowed on each of the three days and stained the same spot, thereby representing a flux and making her unclean] – the words of R. Meir.* [Although the rabbis are the ones who held that dark red spots make a woman unclean and despite the present uncertainty when

the spot had occurred, Meir declares her unclean.] **And sages say, Dark red spots [found on an undergarment] are not probative regarding a flux”** [M. Nid. 6:13].

- [I:4 A] [Supplying analogous views from M. Terumot:] *There we learn: A jug of heave-offering regarding which a doubt of uncleanness occurred [e.g., whether or not an unclean person touched it] – R. Eliezer says, “If it was lying in an exposed place, one should lay it in a hidden place; and if it was uncovered, one should cover it.” [Despite the doubt, the person is required to prevent certain uncleanness.] R. Joshua says, “If it was lying in a hidden place, one should lay it in an exposed place; and if it was covered, one should uncover it.”* [One’s priority is thus not in preventing its uncleanness but rather in preventing it from being improperly consumed. One precludes its consumption by leaving it exposed and indirectly causing it to become unclean.] Then it may be burned. **Rabban Gamaliel says, “He should not make any changes “** [M. Ter. 8:8].
- [B] Said R. Yosé b. R. Bun, “From the rulings of the three of them [in A, we learned that heave-offering the status of which is] suspended – one is prohibited from burning it.” [For even Joshua does not permit a person directly to defile the heave-offering with one’s own hands.]
- [C] [Supplying M. Ter. 8:9, which is assumed by the rest of the pericope: **(If) a jug (of wine of clean heave-offering) in the upper vat is broken and the lower (part of the vat contains) unclean (unconsecrated wine)R. Eliezer and R. Joshua concur that if (they) are able to save a fourth (of a log) of it in cleanness, one must save (it).But if not – R. Eliezer says, “Let it descend and become unclean, but let him not make it unclean with his hands” (M. Ter. 8:9).** If the clean heave-offering mixes with the unclean unconsecrated wine, the former becomes unclean and the latter, unless it is one hundred times the former so as to nullify it, is forbidden to non-priests. Hence, no one may consume any of the mixture. In (1), the authorities agree on a procedure even though the time taken to find clean vessels to save a fourth of a log of the heave-offering results in some of it descending and making the unclean unconsecrated portion prohibited. Where this procedure is unavailable, the authorities disagree. In (2), Eliezer holds that one should not use unclean vessels, which make the upper heave-offering unclean, even though it would prevent the descending portion from rendering the bottom unconsecrated portion unusable. Joshua assumably holds that one may use the unclean vessels even though they immediately make the wine unclean, because

in any event once it comes in contact with the lower portion it will become unclean on its own.]

- [D] [Analyzing how M. Ter. 8:8-9 relate to Meir's and Yosé's positions:] Associates [say] in the name of R. Eleazar, "The first [rule for the] jug [M. Ter. 8:8] accords with R. Yosé [for in that case one is not permitted to burn the two directly, as noted in B]. The [rule for the] second one [M. Ter. 8:9] accords with R. Meir [for the action taken will cause a change in status]."
- [E] [Explaining this evaluation:] Associates say, "The [rule for the] first jug accords with R. Yosé but R. Meir does not concur with it [for he can find support from R. Joshua's opinion]. The [rule for the] second jug accords with R. Meir *but R. Yosé does not concur with it.*"
- [F] *Said R. Yosé [the Amora] to them [the Associates], "See, what do you say [is it reasonable?]:* The [rule for the] first jug accords with R. Yosé, but according to R. Meir they burn [the heave offering of doubtful status], and according to R. Simeon [as cited below] they [similarly] burn [it]; then let R. Meir and R. Simeon outweigh R. Yosé, and let [the person] burn [it]. But we see rabbis, a case comes before them, say: Go and wait!"
- [G] Where do we find that R. Simeon says, "They burn [doubtfully unclean heave-offering]?"
- [H] *This [is] what we learn, "R. Eliezer concurs with R. Joshua that they burn this by itself and this by itself " [M. 1:8C]. [And] said R. Yohanan, "R. Simeon taught it."*
- [I] [And further from this:] **If you say, R. Meir does not hold [that the heave-offering is of doubtful status] and lo, it is taught: "[When the fourteenth falls on the Sabbath,] heave-offering that is of doubtful status and unclean they burn it on Sabbath eve when it gets dark [at the end of the thirteenth of Nisan]" – the words of R. Meir. And sages say, "[They burn it] in its proper time" [T. 3:10].** [For Meir, permitting burning in this special case at this time indicates that the heave-offering of doubtful status has not already been burned. Hence, he apparently neither treats heave-offering of doubtful status as unclean nor would otherwise permit its burning, and again we see that D-E do not seem reasonable.]
- [J] *Said R. Ezra before R. Mana, "Explain that it is a case of [heave-offering] of doubtful status concerning which it is possible to ask [a sage whether or not it is unclean – and since its status can be clarified, it is not to be burned] ."*

[K] [*Rejecting Zeira's explanation,*] Said [R. Mana] to him, “And thus said R. Yosé, ‘Everything to which we refer here deals with a [heave-offering] of doubtful status concerning which it is not possible to ask a sage. But in a case of [heave-offering] of doubtful status concerning which it is possible to ask [a sage], lo, it is clean [once the matter is clarified]!’” [Following Mana, the heave-offering would not even be called “of doubtful status.”]

[L] *And it is taught likewise: A heave-offering of doubtful status of which they said, “It is clean” [and as a result a person did not plan to ask a sage and did not especially watch it] – it is unclean. If [the person] said, Lo, I shall lay [it aside] in order to ask [a sage] about it – lo, it is clean [once its cleanness is clarified because the person kept his attention on it].* [T. Ter. 7:18, which further confirms that heave-offering of doubtful status, the status of which can be clarified, is treated as clean.] “

[M] *What is the upshot [in resolving the law that Meir generally does not permit burning heave-offering of doubtful status]?*

[N] Said R. Yosé b. R. Bun, “Explain that the doubt in respect to uncleanness regarding it occurred at sunset, *and [hence] we cannot derive implications* [from the fact that the heave-offering of doubtful status is burned only at Sabbath eve and not earlier, since the question of its uncleanness only arose at this moment. Meir therefore comes to differ with the sages, who hold that the heave-offering of doubtful status is burned on the Sabbath, and in general he permits burning suspended heave-offering of doubtful status.]

[O] [*Yosé said to the Associates,*] “*And you say that the [case of the] second jug accords with R. Meir, but R. Yosé does not concur with it.*

[P] “*But lo, it is taught: ‘In what cases [do the opinions in M. Ter. 8:9 hold – including R. Joshua’s implied disagreement with R. Eliezer that if a person is not able to save a fourth of a log of wine in cleanness, one may use unclean vessels to save the lower portion]? In the case of a tank [of the lower portion of the vat holding the unclean unconsecrated wine] that does not contain a sufficient amount to nullify [the descending heave-offering] [that is, where the lower is not one hundred times the upper]. But in the case of a tank that contains a sufficient amount to nullify [the descending heave-offering] – [it] is prohibited to make unclean even any amount [of the descending heave-offering].*

[Q] “And if [this Mishnah] accords with R. Meir, then it is the same whether it is a tank that contains a sufficient amount to nullify or whether it is a tank that does not contain a sufficient amount to nullify – [then it] is prohibited to make unclean even any amount [of the descending heave-offering]? [Drawing on the language of the previous text, it is asked why the person may not make the descending heave-offering unclean, for in any event once it becomes nullified with the lower portion, its status will change and become unclean.]

[R] “And further [we may object to the assertion that regarding M. Ter. 8:9 R. Yosé does not follow R. Meir in adopting Joshua’s permission to use unclean vessels to save the descending heave offering] *from this which we learn, ‘Said to him R. Yosé, “It is not an [appropriate] analogy” [M. 1:8].* A person does not say, “It is [not an analogy]” unless by implication 108 he concurs with the former [text, in this case M. Ter. 8:9].” [Unless one agrees with the referent of an analogy, one would object not to the analogy but to the principle.]

[S] *What is the upshot [regarding C’s observation that Yosé would concur with M. Ter. 8:9]?*

[T] Said R. Yosé b. R. Bun, “There [regarding M. Ter. 8:9, R. Yosé would concur with R. Joshua in permitting a person to save the lower tank of oil by stopping the descending heave-offering with unclean vessels] in order to have consideration for Israel’s property. *But here what can you [say]?”*

[U] Even here, does he not cause Israel to lose property, for he needs [a double amount of] wood to burn this by itself “and this by itself? [Hence also regarding M. 1:8 he should have consideration for Israel’s property.]

[V] For a great loss [sages] were concerned, [but] for a small loss they were not concerned.

[W] [Regarding C’s observation that Yosé would concur with M. Ter. 8:9, which would contradict Associates’ evaluation of the text:] *Said R. Hananiah before R. Mana, “Explain [that the Associates’ evaluation] accords with the one who said [that Meir referred in their words to] the words of R. Aqiba and the words of R. Hananiah the Prefect of the Priests, and [accordingly] one cannot learn anything [regarding M.*

Ter. 8:9] from it [from Yosé's terminology, in M. 1:8B, that 'It is not an analogy']." [Since the two Mishnaic passages are not connected, the Associates can thus maintain that Meir, and not Yosé, agrees with Joshua, and that Yosé, even in that case, believes one should not directly, with one's own hands, make the heave-offering unclean.]

[X] *R. Zeira [and] R. Ila, both of them in the name of R. Eleazar [say], "The [rule for the] first jug [M. Ter. 8:8] accords with R. Yosé, and the [rule for the] second [M. Ter. 8:9] accords with both R. Meir and R. Yosé."*

[Y] *Said R. Ezra before R. Mana, "Does this [M. Ter. 8:8] not dispute R. Yosé [in M. 1:8C]?"* [Assuming that Yosé is speaking in M. 1. 8B and C: the assertion has R. Yosé accord with M. Ter. 8:8, in which Joshua only indirectly allows heave offering to become unclean by not carefully watching it, contradicts Yosé's explicit claim that R. Joshua holds that unclean and heave-offerings of doubtful status are burned together, for although they may actually have been clean, in contact with the unclean heave-offering it will surely become unclean.]

[Z] *Said [R. Mana] to him, "And it does not accord with R. Yosé, I will surely say that it [also] does not accord with R. Meir. Because we find that R. Yosé burns [heave-offering] of doubtful status in all cases; and, lo, we find has cited below] that even R. Meir burns [heave-offering] of doubtful status in all cases [– a direct action not countenanced by M. Ter. 8:8]. [According to whom would it then follow?]"*

[AA] *Said R. Mana, "I went to Caesarea, and I heard R. Zeriqan in the name of Zeira [say], 'R. Meir burns [heave-offering] of doubtful status in all cases.' And I said to him, [Does this apply] for example, to the one that is of doubtful status [due to uncleanness possibly caused] by something by reason of the authority of the Torah [that is, does the severity of the possible cause of the uncleanness*

require the burning]?’ And he said to me, ‘If I explain it that it became unclean by a Gentile dwelling [which in Palestine by rabbinic injunction is assumed to be unclean until verified to be free of corpses of still-births], what can you do? [*Lo*] *it is taught: A Gentile dwelling [which imparts uncleanness to heave-offerings] – [they] consider doubtful [the heave-offering].’ R. Yose b. R. Judah says, ‘[They] burn [thereon the heave-offering]’ [T. Ahil. 18:7].*

[BB] R. Huna in the name of R. Zeira [said], “R. Meir burns [heave offering] of doubtful status on the other days of the year [in addition to Passover eve].”

[CC] *And lo, it is taught as a Tannaite rule: When the fourteenth falls on the Sabbath,] heave-offering that is of doubtful status [and] unclean — they burn it on Sabbath eve when it gets dark [at the end of the thirteenth of Nisan]” — the words of R. Meir. And sages say, “[They burn it] in its proper time” [T. 3:10,]. And let [the person] burn it in the morning [if, as you say, one may burn it at any time, and not be limited, because of the leaven, to immediately prior to Passover]?*

[DD] You may explain that he was slothful and did not burn [it Friday morning]. [Meir’s point, then, is that he may burn it *even* at this late hour.]

[EE] *Know that it is thus, for it is taught: [Heave-offering that is of doubtful status and] unclean — is this not because [the person] was slothful and did not burn [the unclean heave-offering]? [Since in mentioning unclean heave-offering, which all agree may be burned at any time, the text must be referring to a case of a slothful person, we cannot deduce anything from the fact that the heave-offering of doubtful status likewise was not burned earlier.]*

[FF] [As an alternative way of understanding why the text specifies burning on Sabbath eve when it gets dark:] Said R. Abba Mari the brother of R. Yosé, “Explain that the uncleanness was contracted by it at that hour, and [hence] *we cannot learn anything from [it].*” [Considering this situation and Meir’s intent to preclude burning doubtfully or certainly unclean heave-offerings on the Sabbath, the proposed fact does not disprove the view of that Meir permits burning at other times as well.]

[GG] Said R. Yohanan, “R. Simeon [in M. Bekh. 5:2] and R. Joshua [in M. Ter. 8:9], both of them said the same thing.” [They both apparently espouse the identical principle: R. Simeon believes that one is not in violation of the ban on blemishing a firstborn because without the bleeding the animal would die and become disqualified anyway. R. Joshua similarly holds that one may use unclean vessels to stop the flow of the descending heave-offering from contaminating the unclean, unsanctified wine in the vat’s tank, because otherwise the heave-offering mixed with the unsanctified wine could no longer be consumed.]

[HH] *Said R. Ila, “R. Simeon [in the case] of the firstborn and R. Joshua [in the case] of the heave-offering – the former does not concur with the latter, and the latter does not concur with the former.”* [Different factors may apply to each case. For example, R. Simeon may be guided by the fact that in bleeding the animal one does not intend to blemish it even though that may be the result. But he would not so rule in R. Joshua’s case in which the individual intentionally takes the unclean vessels to stop the flow and thus causes the descending heave-offering to become unclean. On the other hand, R. Joshua may rule as he does because the descending heave-offering will

definitely make contact with the wine in the tank below, rendering both unusable. But in the case of the firstling, one cannot be certain that without the bleeding the animal will die.]

[II] Said R. Zeira, “It makes sense that R. Simeon concurs with R. Joshua [but R. Joshua does not concur with R. Simeon].” “[R. Simeon permits the individual to act in a case in which the undesired result, the animal’s death, is only probable and not necessary. He surely would allow the person to take action if the undesired result were certain, as in the case of the descending heave-offering. But R. Joshua, who speaks of the case in which the undesired result is definite, would not offer the same ruling when the result is only probable.]

[JJ] *Said R. Bun bar Hiyya to R. Zeira, “According to your position that R. Simeon concurs with R. Joshua:] and, lo, we learned, [‘But how may be burn produce of uncertain status with produce which is certainly unclean?] R. Eliezer concurs with R. Joshua that they burn this [clean heave-offering] by itself and this [unclean heave-offering] by itself [T. 1:5, in wording and explicitly attributed to R. Simeon]. And let [the person] burn both of them together?” [For at the time of destruction of leaven, even the clean heave-offering, being leaven, must definitely be burned. It should not matter that it will become unclean when burned with the unclean offering.]*

[KK] [R. Zeira responds: “It is [still] clean by reason of the authority of the Torah [for at the sixth hour, when leaven is being burned, the Bible does not prohibit eating clean heave-offering]. You [addressing the rabbis through the questioner] are the one that

imposed burning on it.’ [Since according to Scripture it may yet be eaten, a person should not directly make it unclean by burning it with the unclean heave-offering.]”

[LL] In any event, has it not become unfit through interruption of concentration [that occurs in the sixth hour, since in that hour the rabbinic prohibition on eating the heave-offering takes effect, and it causes people to cease guarding the heave-offering]? [And] did not R. Yohanan say, “Interruption [of concentration disqualifies] by reason of the authority of the Torah?” [Hence, at the time of burning, a person should be permitted to burn the previously clean heave-offering with the unclean heave-offering – just as:] Bleeding [a firstborn] according to R. Simeon [is permitted, for otherwise in dying it will become disqualified] by reason of the Torah. [And] the second jug [M. Ter. 8:9] according to R. Meir [may be made unclean, for otherwise, in descending into the vat of unclean unconsecrated wine, the clean heave-offering will become disqualified] by reason of the Torah.

[MM] It is not so [– that a person interrupts his concentration on the heave-offering at the time of burning leaven]. Rather he watches it lest it touch [and thereby become mixed up with] other [ritually] clean things [that he may still eat].

[NN] *Objected R. Isaac the son of R. Hiyya the Elder*, “Consider if it [the heave-offering] were put on burning coals [to burn it at the time of destruction of leaven, is it permitted to put unclean heave-offering with the leaven, burning both together – for in such a situation the person has surely interrupted his concentration on the heave-offering and no longer watches it?]”

[OO] He said to him, “‘When he puts it’ [indicates a case after the fact, but Simeon in the formulation ‘they burn,’ addresses what is preferable for a person to do before the fact].”

[PP] *Said R. Mana to R. Shammai, “You say that R. Simeon [who rules concerning a firstborn] concurs with R. Joshua [who rules concerning heave-offering]. But R. Joshua does not accept [the position of] R. Joshua.”* [R. Joshua appears to contradict himself” at M. Ter. 8:9, he permits indirectly making the clean heave-offering unclean, yet in M. Pes. 1:8 he concurs with Eliezer in requiring, at the time of destruction, the separate burning of clean and unclean heave-offering!]

[QQ] *He said to him [in response], “They are [the teachings of two] Tannaite authorities [whose own disparate perspectives shaped their transmission of Joshua’s opinion]. There [in M. Terumot] R. Meir [speaks] in the name of R. Joshua. But here [in M. Pesahim] R. Simeon [speaks] in the name of R. Joshua.”*

[RR] *There we learned, “A firstborn seized by [an excess] of blood. even if it would die, they do not bleed it” – the words of R. Judah. And sages say, “[One] may bleed [it] as long as [in the process of bleeding] one does not make a defect in it. If one made a defect in it, lo, one may not slaughter [an animal] in its place, [since the defect did not occur naturally].” R. Simeon says, “[One] may bleed [it] even though one [thereby] makes a defect in it” [M Bekh. 5:2].*

[SS] *R. Abbahu [said] in the name of R. Eleazar, “R. Judah accords with Rabban Gamaliel [in M. Ter. 8:8, above, who*

says that one should not make any changes in doubtfully unclean heave-offering]; and rabbis are in accord with R. Eliezer [in M. Ter. 8:8, who likewise requires that a person act to protect and not to spoil the object – there doubtfully unclean heave-offering – preventing it from becoming certainly unclean]; and R. Simeon is in accord with R. Joshua” [in M. Pes. 1:8, who likewise permits doing something even though it will have an unintended adverse effect and even though the necessity to act is only probable and not definite: the former in effect permits blemishing the animal despite the doubt whether or not the animal will definitely die without the bleeding, and the latter, in permitting the burning of suspended and certainly unclean heave-offering together, causes the heave-offering to become certainly unclean despite the doubt whether or not the suspended doubtfully unclean heave offering had initially contracted uncleanness].

[TT] *It is taught in the name of R. Simeon [as an alternative version of his view in M. Bekh. 5:2:]: “[One] may bleed [it] even though he intends to make a defect in it.”*

[UU] And [this version, countenancing the bleeding even where the person intends the undesired side effect,] is in accord with the latter R Joshua [M. Ter 8:9, where Joshua analogously permits a person to employ unclean vessels to stop the descending heave offering although he intends thereby to make the heave-offering unclean – for in both cases the object would be destroyed anyway].

[VV] *Said R. Bun bar Hiyya before R. Zeira,*
“Explain that [C] is a case of dedicated [animals] for which he is responsible [if they are lost], and it is in accord with R. Simeon [in M. Bekh. 5:2 and is not an alternative transmission of his position by a different intermediary Tannaite authority.” [S explains: When people who took it upon themselves to offer a sacrifice of well-being set aside an animal which subsequently develops an excess of blood, they may blemish and then redeem (and eat) the animal – for the ban on blemishing holy things does not apply to objects which have no sanctity.]

[WW] R. Abbahu [said] in the name of R. Simeon b. Laqish, “The reason of R. Judah [who in M. Bekh, proscribes any bleeding of the firstling] is, ‘[You may eat meat] You may not partake of it [blood]; you must pour it out on the ground like water’ (Deut. 12:24). [And the preceding section treats the eating of firstlings.] [S preferably reads Deut. 15:23, which explicitly treats firstlings: ‘Only you must not partake of its blood you shall pour it out on the ground like water.’] I [God] permitted [shedding] its blood only by pouring [– for eating – and not by bleeding]

[XX] [Questioning the appropriateness of basing a ban on bleeding on a law proscribing the partaking of blood:] *Objected R. Abba Mari the brother of R. Yosé,* “And lo, it is written thus even regarding disqualified dedicated objects [where bleeding is surely permitted because the animal is already blemished:] ‘You may not partake of it; you must pour it out on the ground like water’ (Deut. 12:24) – which forms

part of a pericope on sacrifices and is preceded by: ‘But whatever you desire you may slaughter and eat meat’ (v. 15).]” [Since such a reference and ban on pouring of blood cannot therefore be construed to apply to bleeding, F’s reading of the verse must be faulty.]

[YY] Said R. Hiyya bar Adda, “‘It [the verse] was said in order to make [something] fit for uncleanness: just as water makes can object] fit, so blood should make [something] fit.’” [In thus suggesting that Deut. 12’s mention of the pouring of blood in slaughtering an animal refers to making something fit to receive uncleanness, the phrase cannot be used to illuminate the usage or directly address the topic of Deut. 15:23.]

[ZZ] [Turning to the reason for the other two opinions in M. Bekh. 5:2:] R. Abbahu [said] in the name of R. Yohanan, “Both of them [sages and R. Simeon] expounded the same verse,’ ‘[And when a person offers a sacrifice of well-being to the Lord] it must, to be acceptable, be without blemish: there must be no defect in it’ (Lev. 22:21).

[AAA] R. Simeon says, “When it is acceptable, you are not permitted to make a defect in it. But when it is not acceptable [for example when it has a defect, a major example of which is a fatal condition], you are permitted to make a defect in it.”

[BBB] And sages say, “Even if all of it were [full of] defects, you are not permitted to make a defect in it.”

YERUSHALMI PESAHI

CHAPTER TWO

2:1

- [A] So long as it is permitted to eat [leaven],
[B] one feeds [it] to domestic cattle, to a wild beast, and to fowl.
[C] And he sells it to a gentile,
[D] And it is permitted to derive benefit from it.
[E] Once its time has passed,
[F] it is forbidden to derive benefit from it.
[G] And one should not kindle an oven or a double stove with it.
[H] R. Judah says, “The only valid form of removal of leaven is through burning.”
[I] And sages say, “One also may crumble it up and scatter it in the wind or toss it into the sea.”

- [I:1 A] Said R. Immi, “*Who teaches*, So long as it is permitted to eat [leaven], one feeds [it] to domestic cattle, to a wild beast, and to fowl, [and by implication every hour that he] is forbidden to eat, [he] is forbidden to feed? R. Meir [who in M. 1: 4 holds that the destruction takes place as soon as eating ceases]. But according to R. Judah [in the same passage], in the fifth [hour], even though he is forbidden to eat, he is permitted to feed [an animal and is required to destroy the leaven in the beginning of the sixth hour].”
- [B] [*Challenging the association of M. 2:1 ‘s rule regarding feeding the leaven to animals with R. Meir:*] R. Ba retorted, “And did we not learn: **Leaven [beginning to ferment] should be burned, but one who eats it is exempt** [from punishment – for it is not normally edible] [M. 3:5]. And said R. Huna in the name of Rab, ‘One is permitted to feed it to dogs’ [which contradicts M. 2:1’s principle]. [Hence if M. 3: 5 represents R. Meir’s view, M. 2:1 cannot.]”

[C] [Mooting B's objection:] *Said R. Yosé, "What did we learn [in M. 2:1], 'Every leavened bread'? Surely not, [but rather], '[Every] hour'!* Who is the one who teaches [with the formulation] 'hours'? [Is it not] R. Meir [who then cannot be the teacher of M. 3:5, the focus of which is the object ('leaven') and not the time period ('hours')]."

[II:1 A] [A] *Said R. Bun bar Hiyya before R. Zeira, "This [M. 2:1, in particular clause E, **Once its time has passed, it is forbidden to derive benefit from it**] indicates that it is permitted to feed it to ownerless animals" [for the leaven tossed to the wind could conceivably be picked up by an animal and eaten].*

[B] *Retorted R. Jeremiah, "And did we not learn [in M. 2:1E], **one crumbles** [the leaven]."*

[C] [In asking this question in B] R. Jeremiah thought that [R. Bun bar Hiyya understood the Mishnah to speak of] loaves [i.e., that one scatters even loaves of leaven].

[D] Said to him R. Yosé, "[R. Bun bar Hiyya believed that the Mishnah] spoke only of crumbling. Since he crumbled it, it is nullified" [and hence while loaves remain forbidden, crumbled leaven may be given to ownerless animals].

[E] *And what [source] says this [that it is forbidden to feed leaven to ownerless animals, for substances from which one is forbidden to derive benefit generally may be fed to ownerless animals]?*

[F] "[Remember this day, on which you went free from Egypt,] No leaven shall be eaten" (Exod. 13:3) today (Exod. 13:4) [which prohibits] even [feeding] dogs. Lo, this comes c to forbid [a person] from deriving benefit from it

[G] *What do we treat of [in this teaching]? If [we treat] his dog, is that not [a case of] deriving of benefit from that which is forbidden? Rather we treat even other people's dog[s].*

[H] [The proper deduction from the Mishnah hence should be formulated:] This [mention of crumbling the leaven before tossing it to the wind] indicates that it is forbidden to feed it to owner less animals.

[II:2 A] [Said] R. Abbahu in the name of R. Eleazar, "Wherever it is said, 'You [sing.] shall not eat,' 'you [plur.] shall not eat,' [or] 'they shall not eat,' you should recognize a prohibition on deriving benefit [just] like a prohibition on eating, until a verse comes and specifies to you

[otherwise], as it specifies to you regarding [taking] a limb from a living animal and regarding an animal that died a natural death.

[B] “And what did [it] specify to us regarding [taking] a limb from a living animal? ‘You shall not eat flesh torn by beasts [from a living animal] in the field; you shall cast it to the dogs’ (Exod. 22:30).

[C] “And what did it specify to us regarding an animal that died a natural death? ‘You shall not eat anything that has died a natural death – give it to the stranger in your community to eat, or you may sell it to a foreigner’ (Deut. 14:21).”

[D] *Teaches Hezekiah*, “And who has prohibited it for a dog [such that Scripture needs a clause to permit giving the torn flesh to a dog]?”

[E] [The first in a series of questions challenging A’s principle:] And, lo, it is written, “You shall eat no fat of ox or sheep or goat” (Lev. 7:23). Now, do you recognize [from this verse] a prohibition on deriving benefit [just] like a prohibition on eating [a proposition inconsistent with teachings elsewhere, which suggest that an Israelite, though forbidden to eat fat, might still derive some benefit from it]?

[F] It is different, for it is written [in the next verse], “Fat from animals that died or were torn by beasts may be put to any use, but you must not eat it” (Lev. 7:24) [thus specifying that deriving benefit is permitted].

[G] And, lo, it is written, “But you shall eat of the blood” (Deut. 12:16). Now, do you recognize [from this verse] a prohibition against deriving benefit [just] like a prohibition against eating [– a proposition inconsistent with a rule such as in M. Yoma 5:6, which permits selling animal blood to gentiles]?

[H] It is different, for it is written [in the latter part of the verse], “You shall pour it out on the ground like water” (Deut. 12:16b). Just as water is permitted for deriving benefit, so blood should be permitted for deriving benefit.

[I] And, lo, it is written, “This is why the children of Israel to this day do not eat the thigh muscle” (Gen. 32:33)? [This would prohibit deriving benefit, but would be inconsistent with a rule such as in M. Hul. 7:2, which speaks of giving the thigh to a gentile.]

[J] Said R. Abbahu, “I explained that [text] in regard to the thigh muscle of an animal that died on its own [which Scripture

explicitly states may be given to a gentile, obviously along with its thigh muscle.”]

[K] And, lo, it is written, “Until that very day, [until you have brought the offering of your God,] you shall eat no bread or parched grain or fresh ears” (Lev. 23:14). [Following A’s principle, this suggests a ban even on deriving benefit. But is this not inconsistent with a rule such as in M. Men. 10:8, which permits giving animals grain cut before bringing the first sheaf?]

[L] Said R. Abba Mari the brother of R. Yosé, “It is different, for the verse has set a time [for that prohibition].” [Since the ban on eating new grain is in force only before bringing the first sheaf but not afterward, the originally forbidden grain later becomes permitted; hence this rule, qualitatively different from the other prohibitions, should not be so stringent as to prohibit deriving benefit from the grain in the former period (SC). In fact, the rule itself may preclude a prohibition against deriving benefit, because the knowledge that the grain will become permitted represents an actual benefit that an individual derives from the grain].

[M] And, lo, it is written, “You shall not eat them [among all the things that swarm upon the earth], for they are an abomination” (Lev. 11:42) [which would suggest a ban even on deriving benefit. But is this not inconsistent with a rule such as in M. Shebi’it 7:4, which permits hunters to sell these “abominable” creatures to gentiles]?

[N] Said R. Nana, “[By using this word] the verse excludes from it the prohibition against deriving benefit [for only the creatures themselves may not be eaten].”

[O] Following the principle that a man on eating does not necessarily include a ban on deriving benefit: Said] R. Abbahu in the name of R. Yohanan, “One who makes a bandage: from [the fat of] a stoned ox or from leaven which has passed through Passover is not liable for a lashing, for its negative injunction [against deriving benefit in addition to eating] is not clear [for the scriptural ban literally speaks of not eating];

[P] “from mixed seeds in the vineyard, is liable for lashes”;

[Q] [parenthetically, the reason is as follows] — said R. Haninah, “[You shall not sow your vineyard with a second kind of seed] else [the crop] may not be used’ (Deut. 22:9), [which means] lest a fire must be lighted [to burn it, an exposition which supplies the negative injunction required for the lashes]” —

[R] “from *orlah* [the first three-years crop of fruit from a tree] is a question [whether or not lashes are imposed]. [In reference to Lev. 19:23:] a positive injunction to keep a person [from deriving any benefit] is written [“you shall regard its fruit as forbidden”], a negative injunction [to prohibit] eating is written [“not to be eaten”], a negative injunction to keep a person [from deriving any benefit] is not written.”]

[S] *The [following] teaching is in dispute with R. Yohanan:* “By [mere] logical conclusion [from the text], ‘[When an ox gores a man or a woman to death,] the ox shall be stoned’ (Exod. 21:28), do we not know that its meat is forbidden to be eaten? What [then] does the teaching say [in stating in the latter part of that verse] ‘and its flesh shall not be eaten?’ It comes to inform you that just as it is forbidden to eat, so it is forbidden to derive benefit [which would preclude making bandages from its fat].”

[T] *What does R. Yohanan [do with] it [the latter clause of the verse]?*

[U] He explains it to refer to the case in which the owners went and slaughtered it [the ox that killed a person] before the judgment was rendered, [and thus even if the ox were not killed by the stoning at the court’s decree, its meat may not be eaten; hence the verse is not available to prohibit deriving of benefit].

[V] *R. Zeira asked before R. Abbahu, “Here you say thus [that a ban on deriving benefit is included], and here you say thus [that it is not included]?”*

[W] *He said to him, “This [tradition was] in the name of R. Eleazar, and this was in the name of R. Yohanan.”*

[X] The rabbis of Caesarea, [said] R. Abbahu in the name of R. Yohanan, “Wherever it says ‘you shall not eat’ [or] ‘you [plur.] shall not eat,’ you should not recognize a prohibition on deriving benefit [just] like a prohibition on eating — ‘you shall not cause [it] to be eaten’ [or] ‘it shall not be caused to be eaten’ [= ‘it shall not be eaten’], you should recognize a prohibition on deriving benefit [just] like a prohibition on eating.

[Y] “The construction of a leading rule for all [such cases is based on:] ‘But no sin offering may be eaten from which any blood is brought into the Tent of Meeting for expiation in the sanctuary; any such shall be consumed in fire’ (Lev. 6:23).” [The verse explicitly states that something that “may not be eaten” must be totally destroyed.]

[Z] *Hezekiah teaches in support of R. Yohanan [because in expounding the following instances of “you shall eat” such that the stipulated exceptions apply to special cases – and not to allow deriving of benefit (for which no proof assumably is necessary) – Hezekiah must consider the verb “they shall not eat” to prohibit only eating and not deriving benefit]:*

[AA] “By [mere] logical conclusion from that which it says: ‘You shall eat no fat of ox or sheep or goat’ (Lev. 7:23) [we learn that the fat is forbidden]. For what purpose is it said, ‘Fat from animals that died or were torn by beasts may be put to any service, but you

must not eat it]’ (Lev. 7:24)? [To teach that it is usable] even for service of the Most High [e.g., for treating hides, and thus is not impure, although forbidden for human consumption].

[BB] “By [mere] logical deduction from that which it says: ‘But you shall not partake [lit., “eat”] of the blood’ (Deut. 12:16) [we learn that blood is forbidden]. For what purpose is it said, ‘You shall pour it out on the ground like water’ (Deut. 12:16b)? [To teach that] just as water makes something susceptible to impurity, so blood should make something susceptible.

[CC] “By [mere] logical deduction from that which it says: ‘You shall not eat anything that has died a natural death’ (Deut. 14:21) [we would learn that such a thing is forbidden]. For what purpose is it said, ‘Give it to the stranger in your community – to eat, or you may sell it to a foreigner (ibid)’? It comes to inform you that a resident alien eats animals that died a natural death [although the Israelite may not do so].

[DD] “By [mere] logical deduction from that which it says: ‘You shall not eat flesh torn by beasts [from a living animal] in the field’ (Exod. 22:30) [we would learn the ban on eating a limb separated from a living animal]. What does the teaching say [in stating] ‘you shall cast IT to the dogs’ (ibid.)? It you cast to the dogs but you do not cast to the dogs profane animals that were slaughtered in the courtyard [of the Temple; cf. M. Tem 6:4].”

[EE] *A teaching supports this one [R. Eleazar] and a teaching supports this one [R. Yohanan].*

[FF] *A teaching supports R. Eleazar: “No leaven shall be eaten’ (Exod. 13:3) [serves]*

to render the one who feeds [leaven to another person as guilty] as the one who eats. And you say to make the one who feeds like the one who eats! Or perhaps it is only to prohibit a person from deriving benefit [from leaven]? And when it [Scripture] says, ‘You shall not eat anything leavened with it’ (Deut. 16:3), behold we have learned that he is forbidden to derive benefit [– a deduction which supports R. Eleazar]. [Hence] what does the teaching say [in stating] ‘no leaven shall be eaten’? To render the one who feeds like the one who eats” – the words of R. Josiah.

[GG] [*The latter half of this Tannaite rule supports R. Yohanan.*] R. Isaac says, “[This derivation] is not necessary. Rather, just as [in the case of] crawling things which are [enjoined with the force of a] light [punishment,] [Scripture] regarded the one who feeds [them] as being like the one who eats [them]; [in the case of] leaven which is [enjoined with the force of a] severe [punishment, extirpation,] is it not logical that the one who feeds [them] should be regarded as being like the one who eats [them]? And [hence] what does the teaching say [in stating] ‘No leaven shall be eaten?’ The verse comes only to prohibit him from deriving benefit”

[HH] Therefore it is written “it shall not be eaten”; lo, from “you shall not eat” [we] cannot understand anything – and this supports R. Yohanan.

[III:1 A] [A] One should not light an oven or stove with it [M. 2:1C].

[B] If [a person] violated [this prohibition] and lit [the oven or stove, what is the law regarding what is later cooked in it]?

[C] *Let it [the law] be in accord with this [that follows]: [If one lit an oven with them (the wood from an Asherah idol) if [it was] a new oven] – it should be broken up [for in firing the oven its*

construction had been completed]; and if [it was] an old [oven] – it should be cooled down [(before reusing, thus preventing derivation of benefit from the previous firing). “If one baked bread in it (without the oven’s being broken up or cooled down, respectively), one is forbidden to benefit from the bread” (a clause which answers B’s question)] [M. A.Z. 3:9]

- [IV:1 A] [A] *It is taught: R. Judah says, Removal of leaven [is performed] only by burning [M. 2:1D].***
- [B] “[The requirement to burn leaven] is a matter of logical deduction: Just as the offensive sacrifice (sacrificial meat in the status of refuse) and the leftover sacrificial food [after its prescribed time to be eaten] (remnant of sacrificial meat), which are not subject to the prohibitions of not being seen and not being found, are [destroyed] only by burning (Exod. 12:10), [so] leaven, which is subject to the prohibitions of not being seen and not being found, by logic should it not be [destroyed] only by burning?”
- [C] They said to R. Judah, “Every logical deduction which you draw the intent of which is to make [the matter] stringent [here, to require burning] but the end of which results in a leniency – is not a [valid] logical deduction: Lo, if one does not find fire, should one sit and not destroy [one’s leaven]? Has the Torah not said, ‘[On the very first day] you shall remove leaven from your houses’ (Exod. 12:15)” [which requires removal of the leaven with any means].”
- [D] In a similar vein said R. Judah, “‘When a woman at childbirth bears a male [, she shall be unclean seven days]’ (Lev. 12:2). What does the teaching say [in stating this rule]? Because it is said, ‘She shall be unclean seven days on the eighth day the flesh of his foreskin shall be circumcised’ (Lev. 12:2-3), I learn that when [the newborn] comes out alive [and will undergo circumcision,] he imparts uncleanness of birth to his mother; from where [do we learn] that when he comes out stillborn, he [also] imparts uncleanness of birth to his mother?”
- [E] Said R. Judah, “Lo, I may make a logical deduction [to prove this]: Just as when one born alive who does not impart uncleanness of seven days to his mother and to whoever [or “whatever”] enters with him into the tent [for being under the same roof with one who is in the state of imparting uncleanness, as specified in Num. 19:14-19], does impart uncleanness of birth to his mother; so the one born dead who imparts uncleanness of seven days to his mother and to whoever [or “whatever”] enters with him and (to

whoever enters with his mother into the tent, is it not logical that he should impart uncleanness of birth to his mother?”

[F] [They] said to R. Judah, “Every logical deduction which you draw the intent of which is to make [the matter] stringent [here, to impart uncleanness] but the end of which results in a leniency – is not a [valid] logical deduction:

[G] “Lo, if the living [newborn] purifies his mother [through a period of purification of forty or eighty days, as specified in Lev. 12:4-6], should the stillborn, [in an identical fashion,] purify his mother? [Obviously not!]

[H] “If I am unable (to prove my point) through a logical deduction, therefore the Torah said,], ‘a male’ [child] to include the stillborn.” [By employing the word “male” unnecessarily, as an extra word, or instead of “child” or the like, Lev. 12:2 suggests that any male, dead or alive, will impart uncleanness].

[I] In a similar vein said R. Judah, “You shall live [seven days] in booths” (Lev. 23:42) [made up] of any matter –

[J] for R. Judah says, “Logic suggests that the booth should be made only from the four species [associated with the lulab and etrog].

[K] “Just as a lulab, the requirement of which does not apply at nights as during the days, is made only from the four species, is it not logical that a booth, the requirement of which applies at nights as during the days, should only be made from the four species?”

[L] They said to R. Judah, “Every logical deduction which you draw the intent of which is to make [the matter] stringent [here, to require the four species] but the end of which results in a leniency – is not a [valid] logical deduction:

[M] “Lo, if [one] did not find anything of the four species, should one sit without a booth? But the Torah has said, ‘You shall live in booths’ – [which implies] a booth made up of any material.

[N] “And thus Ezra said, ‘and that they must announce and proclaim throughout all their towns and Jerusalem as follows, “Go out to the mountains, [and bring leafy branches of olive trees, pine trees, myrtles, palms and [other] leafy trees to make booths”’ – a list which mentions items other than just the four species]”

- [O] [Reverting to A-B's focus on the removal of leaven:] R. Judah retracted and drew a different [kind of] deduction [based on a comparison instead of a major-to-minor inference]: "Leaven is forbidden to eat and leftover sacrificial food is forbidden to eat: just as the latter [is destroyed] through burning, so the former [should be destroyed] through burning."
- [P] [They] said to him, "An animal that died a natural death will prove to the contrary, for it is forbidden to eat but not [necessarily removed] through burning."
- [Q] He said to them, "[That objection is not cogent:] Leaven is forbidden to eat and to derive benefit from, and leftover sacrificial food is forbidden to eat and to derive benefit from. [Hence] an animal that died a natural death should not prove to the contrary, for it is not forbidden to derive benefit from."
- [R] They said to him, "And lo, a ox that was put to death by stoning should prove to the contrary, for it is forbidden to eat and to derive benefit from and it is not [destroyed] through burning."
- [S] He said to them, ["That objection is not cogent:] Leaven is forbidden to eat and to derive benefit from and [violators] are liable for [the penalty of] extirpation and leftover sacrificial food is forbidden to eat and to derive benefit from, and [violators] are liable for extirpation. [Hence] a stoned ox should not prove to the contrary, for one [who eats it] does not become liable for extirpation."
- [T] [They] said to him, "And lo, the fat of a stoned ox should prove to the contrary, for it is forbidden to eat and to derive benefit from, and one becomes liable for extirpation for [eating] it, but it is not [destroyed] through burning."
- [U] He said to them, "[That objection is not cogent:] Leaven is forbidden to eat and to derive benefit from, and [violators of the ban] are liable for extirpation for [eating] it, and it has a time [in which it is permitted, i.e., up to the prescribed hour on the fourteenth of Nisan]; and leftover sacrificial food is forbidden to eat and to derive benefit from, and [violators of the ban] are liable for extirpation, and it has a time [in which it is permitted, i.e., through the end of the night in question]; [but] the fat of a stoned ox

should not prove to the contrary for it lacks a time [in which it is permitted].”

[V] They said to him, “And, lo, a suspensive guilt offering [which became invalid after it was slaughtered, for example, because the individual cleared up his doubt as to the original act and, if he had sinned, could bring a standard guilt offering; see M. Tem. 7:6 and M. Ker. 6:1] according to your reasoning [in declaring that it should be buried] should prove to the contrary, for it is forbidden to eat and to derive benefit from, and [violators of its ban] are liable for extirpation over it, and it has a time [in which it is to be destroyed] and it is not [destroyed] through burning”

[W] And R. Judah became quiet.

[IV:2 A] *It is taught:* Before its time of removal [the fifth hour] has arrived, you remove it with any means; once its time of removal has arrived [from the fifth hour], you remove it with burning.

[B] And it follows [in accord with] R. Judah.

[C] *There are those who teach [the text in A with the following variation:]* “Before its time of removal has arrived, you remove it with burning; once its time of removal has arrived, you remove it with any means.”

[D] *And it [C’s version] follows [in accord with] rabbis [the anonymous “sages” in M. 2:1E with whom R. Judah disputes].*

[IV:3 A] Rabbi says, “[The requirement of] ‘you shall remove leaven from your houses’ (Exod. 12:15) [is fulfilled with] a means which would make [the leaven] impossible to be seen and to be found [requirements specified in Exod. 12:19, 13:7, and Deut. 16:4]. And what is it? It is through burning” [for thus the substance can no longer be seen or found].”

[B] *R. Jeremiah asked,* “The firstborn of a donkey [which is to be redeemed to preempt its dedication to the Lord] which killed [a person], with what is its execution, with breaking of the neck [which Exod. 13:13 and 34:20 prescribe for the unredeemed firstborn donkey], with stoning [the mode of execution for the animal that killed]?”

[C] R. Benjamin bar Levi asked [regarding the position of sages:], “Loaves of thanksgiving [on Passover eve] that became leftover sacrificial food (*remnant of sacrificial meat*) [and normally would be burned], shall I say, if they have become leftover sacrificial food

before their time of removal arrived, you remove them with burning; once their time of removal has arrived, you remove them with any means?” [For rabbis who hold that leaven before its time of removal is burned and afterward removed by any means, do we say that loaves which fell under the rule of leftover sacrificial food before the ban on leaven took effect, for example, on the thirteenth, are to be burned – which accords with the standard destruction of leftover sacrificial food; but if they became leftover sacrificial food after the ban on leaven took effect, i.e., on the fourteenth, they are to be removed by any means – because the mode of removing leaven takes precedence over that of the leftover sacrificial food?]

2:2

[A] Leaven belonging to a gentile which has remained over Passover –

[B] one is permitted to derive benefit from it.

[C] But that of an Israelite –

[D] one is prohibited to derive benefit from it,

[E] since it is said, “Let it not be seen with you” (Ex. 13:7).

[F] R. Simeon b. Gamaliel says, “Whatever a dog cannot search after [is considered removed].”

[I:1 A] Lo, [the leavened bread of a gentile which has remained over Passover], is it forbidden to eat?

[B] *The teaching [the Mishnah] speaks about* a place where they were not accustomed to eat gentile bread. But where they are accustomed to eat gentile bread it is permitted even to eat [it].

[C] What is the law as to [deriving benefit from a gentile’s leavened bread] during Passover?

[D] R. Jeremiah said, “It is permitted.”

[E] Yosé said, “It is forbidden.”

[F] *Objected R. Yosé, “And lo, it is taught: An Israelite should not rent his beast to a gentile to carry leavened bread on it.”*

[G] [R. Jeremiah] explained it [as referring to a case in which] he [the Israelite] came with it [accompanying his animal – and hence the leavened bread appeared to be his or he openly appeared to derive benefit from the leavened bread].

[H] [Continuing R. Yosé's objections:] "*And lo, it is taught*: 'An Israelite should not rent his boat to a gentile to bring leavened bread on it?'"

[I] He explains it [as referring to a case in which] he came with it.

[J] "*And lo, it is taught*, 'An Israelite should not rent his house to a gentile so that he put leavened bread therein.' Can you say it is when he [the Israelite] resides with him?" [Obviously not]

- [I:2 A] A gentile's roof that was adjacent to an Israelite's roof and leavened bread rolled from the gentile's roof to the Israelite's roof – lo, this one pushes it with a reed [into the gentile's domain].
- [B] If it was the Sabbath or the holy day [of Passover] – Rab said, "One inverts a vessel on it."
- [C] Rab said, "[Before Passover a person] is required to say, 'All leavened bread that I have in my house and of which I do not know, let [its ownership] be nullified.'"
- [D] Rab said, "[Before Passover a person] is required to say [the following blessing:], '[Praised art Thou, king of the universe] who has sanctified us with His commandments and commanded us regarding the commandment of removal of leavened bread.'"
- [E] Rab said, "[Before Passover a person] who plastered his house with leaven is required to remove [it]."
- [F] [Challenging E:] *it is taught*: "Said R. Simeon B. Eleazar, '[A mass of hardened] dough that [one] made into a seating block is considered nullified.'"
- [G] [He] explained it [that it was] either [a case in which the majority of sages] are in disagreement with R. Simeon b. Eleazar or that [it was a case of dough [which] was disgusting [and being inedible, did not require removal].
- [I:3 A] **An Israelite and a gentile who were traveling [together] on a boat, and leavened bread was in the possession of the Israelite – lo, this one sells it to the gentile or gives it to him as a gift, and after Passover he buys it back, provided that he gives it to him as a real gift [without stipulations].**
- [B] [For example,] that Israelite should say to the gentile, "Before you buy [some leavened bread] for one hundred, come and buy [from me] for two hundred [for the more you buy, the greater your potential profit],

- [C] “before you buy it from a gentile, come and buy it from an Israelite [perhaps to allow those Israelites who do not buy bread baked by a gentile to eat the bread],
- [D] “lest I need [some later] and buy [it] from you after Passover [for a higher sum]” [T. 2:12-13].
- [E] One who rents a house to his friend – before [the latter] entered therein [taking possession], the lessor is required to remove [the leavened bread]; once [the latter] entered therein, the renter is required to remove [the leavened bread].
- [F] Said R. Simeon, “When [does this hold]? When he gave him the key. But when he did not give him the key, [the renter] is not required to remove [the leavened bread].”
- [G] Said R. Judah b. Pazzi, “What if he gave him [a bailee] the key [to the house which he has been entrusted to watch], what is the law? [Is the bailee required to remove the leavened bread?]
- [H] Said R. Zechariah the in-law of R. Levi, “It is a dispute between R. Simeon and sages, *for we learned there*:
- [I] **“One who gave his key to an am ha-ares – the house remains pure for he [the former] gave him [the latter] only the guarding of the key” [Toh. 7:1].**
- [J] *It is taught: R. Simeon declares [the house] impure [T. Toh. 8:1].*
- [K] **A gentile who visited an Israelite with leavened bread in his hand, [the Israelite] is not required to remove [the leavened bread]. If he deposited [leavened bread for safekeeping] with him [the Israelite], he is required to remove [the leaven]. If [the gentile assigned it a space [lit., “a house,” in which the leavened bread will be placed], he is not required to remove [the leaven] [T. 2:11].**
- [L] [If a person] did not remove [the leavened bread before Pass over], after Passover what is the law?
- [M] R. Jonah said, “It is permitted.”
- [N] R. Yosé said, “It is forbidden.”
- [O] Said R. Jonah, “It is the leavened bread of the gentile [and hence remains permitted]. [And as far as] the

Israelite [is concerned], he is the one who violated [a rule] in not removing the leavened bread [– a violation which does not affect the leaven's status].”

- [I:4 A] Who [is the authority] who teaches [in M. 2:2A], “[**Leavened bread shall not be found?**”
- [B] R. Judah, *for it is taught:*
- [C] “**One who eats leavened bread from six hours and on, and likewise leavened bread which remained over Passover – lo, this one violates a negative commandment but is not subject to extirpation’ – the words of R. Judah.**
- [D] “**R. Simeon said, ‘Whatever does not entail extirpation does not entail a negative commandment’” [T. 1:8].**
- [E] R. Simeon admits regarding the prohibition that it is forbidden [– assumably for leaven from the sixth hour on and for that which remained after Passover]
- [F] What is the nature of its prohibition?
- [G] R. Jeremiah said, “Its prohibition is a matter of the Torah.”
- [H] R. Jonah and R. Yosé, both of them say, “Its prohibition is from their [rabbis’] words.”
- [I] *What is the reason of R. Judah?* “Leavened bread shall not be eaten today” (Exod. 13:3-4). With what [situation] do we deal [in this verse]? If during the festival, it is written “Seven days, you should eat unleavened bread” (Exod. 12:15).
- [J] *How does R. Simeon understand the reason [the verse] of R. Judah,* “Leavened bread shall not be eaten today”?
- [K] *Said R. Bun bar Hiyya,* “*He explains it according to R. Yosé the Galilean, for it is taught: R. Yosé the Galilean says, ‘I say the Egyptian Passover was only one day [in duration], for it is said, ‘Leavened bread shall not be eaten today’” [T. 8:21].’*
- [L] “Leaven shall not be found unto you” –
- [M] *There are those who teach,* “Leaven shall not be found unto YOU’ – of yours you are not to see [find] the leaven, [“but” in L mistakenly added between the lines, although missing in the quotation in M below] of the Most High you may see.”

- [N] *There are those who teach*, “Even of the Most High [you shall not see].”
- [O] *The one who said*, “[leaven of] yours you are not to see [find], [but leaven] of the Most High you may see,” [this applies] when they sanctified it before [the time of] its removal.
- [P] *The one who said*, “Even of the Most High [you may not see],” [this applies] when they sanctified it after [the time of] its removal.
- [Q] *Said R. Bun bar Hiyya before R. Zeira*, “Explain that is a case of dedicated [animals] for which he is responsible [if they are lost] in accord with R. Simeon[‘s position].”
- [R] “Leaven shall not be found unto you” –
- [S] *There are those who teach*, “‘Leaven shall not be found unto you’ – of yours you are not to see [find] the leavened bread, of the street you may see.”
- [T] *There are those who teach*, “Even of the street [you shall not see].”
- [U] *The one who said*, “Of yours you are not to see [find], of the street you may see,” [this applies] when they renounced ownership before [the time of] its removal.
- [V] *The one who said*, “Even of the street [you may not see],” [this applies] when they renounced ownership after [the time of] its removal.
- [W] *Said R. Bun bar Hiyya before R. Zeira*, “Explain that [it] is a case of dedicated [animals], [for which he is responsible (if they are lost) in accord with R. Simeon[‘s position].”
- [X] If [a person] renounced ownership of his leavened bread on the thirteenth, after Passover what is the law [regarding the status of the leaven]?
- [Y] R. Yohanan said, “It is forbidden.” R. Simeon b. Laqish said, “It is permitted.”
- [Z] *Objected R. Yohanan to R. Simeon b. Laqish*, “Do you not admit to me that [if a person renounced ownership of leavened bread] from the sixth hour [of the day = noon] it is forbidden [even though it has become ownerless]?”

[AA] [Simeon b. Laqish] said to him, “There its prohibition caused it [to become ownerless (i.e., unusable), and the Torah considered it as part of the person’s property regarding the prohibition]. *[But] here [when the renouncing took place prior to the time that the ban takes effect, the leavened bread is no longer his], what can you say!*”

[BB] *Said R. Yosé to R. Phinehas, “Do you remember when we used to say that R. Yohanan is in accord with R. Yosé [as in M. Nedarim 8:4, where he makes renouncing of property contingent on a second party’s taking possession of the property], and R. Simeon b. Laqish is in accord with R. Meir [the assumed anonymous disputant of R. Yosé in M. Nedarim 8:4, who claims that taking possession is not required]? This is not correct. Rather, R. Yohanan is apprehensive of deception and R. Simeon b. Laqish is not apprehensive of deception.”* [The deception has been explained to refer to a person who never renounced ownership but who later claimed to have done so, or to one who made a renunciation with a reservation or as a ruse so as to use the leavened bread after Passover].

[CC] *What is the [practical] difference between them [the two rationales mentioned]?*

[DD] [If before Passover] a ruin fell on it [the leaven]. *The one [Yohanan] who was apprehensive of deception – there is no possibility of deception here and [the leaven, when dug up after Passover,] is permitted. The one [Simeon b. Laqish] who says that possession [by a second party causes the renounced property to leave the owner’s possession] – there is no possibility of possession here, and [hence the leaven] is forbidden [for it is considered to have remained the property of the Jew].*

[EE] All agree regarding the case of a convert who died [before Passover without any Jewish relatives to inherit his property, which therefore became ownerless,] where an Israelite distributed the property [which may include leavened bread that

remained over Passover,] that according to the one who was apprehensive regarding deception, [here that concern is not relevant and hence] it is permitted; and according to the one who said that possession [is necessary, here that requirement is not necessary either, since there is no doubt that the property has left the original owner's possession and, hence,] it is permitted.

[I:5 A] *There we learned: A slave whose master pledged him as security to others and manumitted him – according to the letter of the law, the slave is not liable for anything; but for the perfection of the world, they compel his [second] master to manumit him, and [the slave] writes a bond [a promissory note] equal to his value. R. Simeon ben Gamaliel [says], “One does not write, he only manumits [i.e., only manumitting takes place but not writing – and presumably the debt is paid by the original master]” [M. Git. 4:4].*

[B] Who manumits [the slave]?

[C] Rab said, “Either the first master or the latter master.”

[D] Said R. Yohanan, “Only the first master manumits.”

[E] *R. Haggai objected before R. Yosé, “The teaching [in the Mishnah] is in dispute with Rab: ‘An Israelite who lent a gentile on security of his [the gentile’s] leavened bread – after Passover, it is permitted to be enjoyed [M. 2: 2C]. If you say it [the leavened bread, as a result of being pledged as a security, was] in the domain of the Israelite, it should be forbidden.” [Since it is not, evidently only the original owner (here the gentile) has power over the security (here the leaven); likewise in the case of a slave, only the original owner and not the “second master” should be in a position to manumit.]*

[F] *What does Rab do with it [E]?*

[G] Said R. Yudan, “It is a leniency applied in the case of manumission [in that even though otherwise the creditor does not have any rights over the security, he can effect manumission because sages were specially solicitous of a slave],

[H] *“in accord with what is taught:*

[I] “One who pledged his slave as a security pledge – [if he] sells him, [the slave] is not sold; [if he] manumits him, lo, this one is manumitted.” [This distinction applying to the act of the original owner attests to manumission’s special quality.]

[J] *Support for R. Yohanan comes from here: “R. Simeon b. Gamaliel says, ‘One does not write, he only manumits’”* [M. Git. 4:4].

[K] [On the basis of the preceding logic, M. Git. 4:4 would be problematic:] If one secured one’s field as a pledge to one’s fellow and then sold it, perhaps the creditor [who has the lien] cannot come and seize [the field]? [Should not the second owner’s (the creditor’s) action likewise have some affect on the slave?]

[L] Said R. Abbahu, “R. Yohanan [in the following tradition] has opened an aperture that illuminates like the sun:

[M] ‘We do not find a slave that is manumitted who is then reenslaved.’” [Since this principle takes priority over other considerations, the creditor (“second owner”) cannot seize the slave once he has been manumitted; hence the creditor does not have rights over the slave.]

[N] On that basis should not [the slave] write a bond against his value [for once his owner has manumitted him, he owes no obligation]?

[O] Said R. Ila, “It is preferable that he say to him, ‘Give me two hundred zuz which I claim against you,’ and he should not say to him, ‘You are my slave.’” [Hence, it is preferable for the slave to write a bond and become a debtor.]

[P] *Rabbis of Caesarea in the name of R. Nasa [say], “R. Simeon b. Gamaliel accords with R. Meir. Just as R. Meir imposes a fine for a matter of words [which do not comprise a physical act creating visible damage], so R. Simeon b. Gamaliel imposes a fine for a matter of words.*

[Q] “*For it is taught: ‘A bond which provides for interest [the taking of which is banned by the Torah] – they impose a fine on that person and*

he collects neither the principle nor the interest’ – the words of R. Meir [T. B.M. 5:20]. And sages say, ‘One collects the principle but one does not collect the interest.’” [Meir’s treatment of the pledge of interest is thus compared to R. Simeon ben Gamaliel’s view of the second master’s verbal act of manumission.]

[II:1 A] R. Simeon b. Gamaliel says, “Whatever a dog cannot search after [is considered removed]” [M. 2:2E].

[B] To what extent

[C] R. Yohanan in the name of R. Simeon ben Yosedeq [said], “Up to three handbreadths.” [Leaven buried more than three handbreadths below the surface of the ground is considered out of the reach of a dog.]

2:3

[A] He [who is not a priest] who on Passover inadvertently eats leaven which is in the status of heave offering

[B] pays the principal [which he consumed] and a penalty of an added fifth [of the value of the principal].

[C] [If he did so] deliberately, he is exempt from the requirement to make restitution,

[D] and [even] from repaying its value when it is assessed merely for use as wood [fuel].

[I:1 A] *It is taught:* R. Simeon b Eleazar says in the name of R. Simeon b. Yosedeq, “The teaching [the Mishnah] deals with a case in which one set aside unleavened bread [as heave-offering] and it leavened; but if he set it aside [on Passover] as leavened, in such a case [the Mishnah’s ruling] does not [apply, for no one would claim that it would even become heave-offering]” [T. 1:10].

[B] When one set aside [as heave-offering] unleavened produce in place of [a larger batch of] leaven – [regarding this] said R. Zeira, “All heave-offering which does not render the remaining portion permitted for eating [because, e.g., it is leavened produce] is not heave-offering.”

[C] When one set aside [on Passover] leavened produce in place of unleavened produce – [regarding this] said R. Zeira, “Since if he [set aside as heave-offering produce] from it [the leavened produce] in place of it [a larger batch which is likewise leavened], it is not heave-offering; therefore even if [one set aside as heave-offering] from it

[leaven produce] in place of another spot [other produce which is not leavened], it is not heave-offering.”

[D] If he kneaded four quarters [of dough] by themselves [which is less than the minimum of five quarters of dough from which M. Hal. 2:6 requires hallah to be set aside] and caused them to leaven and [another] four quarters by themselves and [then] mixed them [with the combined amount now liable to hallah] –

[E] if they warned him [against eating from the mixture] because of [the ban on] eating food subject to tithing but not yet tithed [pending the separation of priestly and levitical gifts, here hallah], he is not liable for lashes [for eating food subject to tithing but not yet tithed]; [if they warned him against eating from the mixture] because of [the ban on] eating leaven on Passover, he is liable for lashes [for eating leaven];

[F] [for] a weighty prohibition is added to a light prohibition, but a light prohibition [that of food subject to tithing but not yet tithed, which entails the less severe punishment of death at the hand of Heaven, for which he was warned] does not fall on top of a weighty prohibition [that of eating leaven, which entails the more severe punishment of extirpation, “extirpation,” for which he was initially liable but for which he was not warned – because when a person is liable to two punishments, in this case for the violations on eating leaven and food subject to tithing but not yet tithed, the more severe punishment alone is in effect];

[G] but if he mixed them and then caused them to leaven – if they warned him [against eating from the mixture] because of [the ban on] food subject to tithing but not yet tithed [at a point when he was not yet liable for leaven], he is liable for lashes [for food subject to tithing but not yet tithed]; because of [the ban on] eating leaven on Passover, he is liable for lashes [for leaven], [for] a weighty prohibition falls on top of a light prohibition but a light prohibition does not fall on top of a weighty prohibition.

[H] If he made a pile [of the grain] and prostrated himself to it [thus making it prohibited due to the ban on benefiting from objects of idolatrous worship] and then smoothed it [thereby finishing the pile and making it food subject to tithing but not yet tithed] and then ate it – if they warned him [against eating it] because of [the ban on] food subject to tithing but not yet tithed, he is not liable to lashes; because of [the ban on] eating [objects of] idolatrous worship, he is liable for lashes; [for] a

weighty prohibition [the violation on eating the objects of idolatrous worship] falls on top of a light prohibition [the food subject to tithing but not yet tithed] but a light prohibition does not fall on top of a weighty prohibition.

[I] But if he smoothed it [the pile] and then prostrated himself to it [making it liable for food subject to tithing but not yet tithed before the idolatry ban] – if they warned him [against eating it] because of [the ban on] eating food subject to tithing but not yet tithed, [he] is liable for lashes; because of [the ban on] idolatry, [he] is liable for lashes; a weighty prohibition falls on top of a light prohibition but a light prohibition does not fall on top of weighty prohibition.

- [I:2 A] *R. Bun b. R. Hiyya asked, “One who eats leaven which is in the status of heave-offering on Passover – to whom does he pay [the reparation which M. 2:3 requires, for the produce was fit for neither a priest nor a non-priest]?”*
- [B] *It is a subject of dispute between R. Yohanan and R. Simeon b. Laqish, for they differed: [A grandson] who stole heave-offering from his mother’s father who was a priest, [and this priest then died, leaving his property to be inherited by this same grandson who had stolen the produce] – R. Yohanan said, “He pays the tribe [of priests, i.e., any priest, for the stolen produce must be removed from under his hand].”*
- [C] *Simeon b. Laqish said, “He pays himself [who now stands in place of the priestly grandfather, since in retrospect he stole from his own property.” [Since he is not a priest, he sets aside produce in the original amount plus a fifth, sells it to a priest, and pockets the proceeds of the sale. By analogy, the one who ate leavened heave-offering on Passover would pay, according to R. Yohanan, a priest, and, according to R. Simeon b. Laqish, himself.]*
- [D] *Said R. Mana before R. Yosé, “It makes sense that R. Simeon b. Laqish would concur with R. Yohanan that, regarding the ‘fifth,’ he pays it to the tribe [of priests, for it serves as atonement for the misappropriation of the sacred property].”*
- [E] *He said to him, “I also hold thus, for the ashes of impure heave-offering go to the tribe [and can be used even though no one may benefit from the impure heave-offering before it is burnt].”*
- [F] *R. Yosé b. R. Bun came and said in the name of R. Aha, “Even regarding it [the fine in the amount of the ‘fifth’] they are in dispute.”*

[G] [*The following question will lead into another attempted answer to the question.:*] *R. Yosé* asked, “One who derives benefit from consecrated property less than a *perutah* amount?” [What is the law, should he be liable for payment?]

[H] *He said to him*, “Let us derive the answer from the following:”

[I] “And he shall make restitution for that of the sancta wherein he was remiss [and shall add a fifth to it and give it to the priest]” (Lev. 5:16) – this excludes [the case of stolen sancta worth] less than the value of a *perutah* [which is less than the normal amount in a financial transaction or payment].

[J] *There are those who teach the teaching [in an alternative version:]* “includes.”

[K] *The one who says* “excludes” refers to a sacrifice. *The one who says* “includes” refers to payment. [In arguing that the two versions of the teaching are complementary, the pericope concludes that payment or restitution does apply to less than the value of a *perutah*.]

[L] [Now comes the deduction to answer the question:] Just as you say that there [in the case of trespass on sancta where a person has benefited or made use of] less than the value of a *perutah* deliberately, even though he does not pay [the added] one fifth and the *guilt* offering [which Lev. 5:15 -16 require for inadvertent acts], he pays [restitution] to the holy [to the Temple]; so I say, here [regarding leavened heave-offering on Passover] he should pay to the tribe. [: The comparison is based on the rule that in the case of less than a *perutah*'s amount there is no requirement of returning stolen property and, thus, making restitution to the priest in a case of sancta. Yet in the case of sancta, the law does require restitution to the tribe.]

[M] [Challenging J's argument:] *The Associates say before R. Yosé*, “**And is it not a [matter taken up in a] Mishnah, One who [is not a priest who] on Passover eats leaven which is in the status of heave-offering – inadvertently, he pays the principal and [an added] one-fifth; deliberately; he is exempt from payment [of restitution] and [even] from [paying its] value as wood-fuel [M. 2:3] [and hence does the Mishnah not explicitly rule regarding deliberately eating leavened heave-offering that there is no restitution, which surely also precludes paying**

the tribe]?” [By implication, if a comparison should be made, the case of leavened heave-offering would suggest that the analogous case of trespass against sancta valued at less than a *perutah* should not entail any restitution!]

[N] [Rejecting the latter implication:] He said to them, “There [M. Pes. 2:3] it cannot be supplemented [to bring it to an amount that would become liable, for any amount of leavened heave-offering is valueless on Passover], but here [in trespassing against sancta less than a *perutah* in value] it can be supplemented [by an additional trespass, bringing it up to a *perutah* in value – and therefore one can maintain that it should require payment of restitution to the tribe].”

[I:3 A] [If on Passover a non-priest acted] inadvertently in [eating] heave-offering and deliberately in [eating] leaven; or inadvertently in [eating] grapes or drinking wine which were] heave-offering and deliberately in [violation of his being a] Nazir; or inadvertently in [eating] heave-offering and deliberately in [violation of it being] the Day of Atonement [the cases which, e.g., M. Pes. 2:3, for the first case, and T. Ter. 7:1, for the latter two, require restitution and payment of an added fifth] –

[B] If you interpret [the ban on eating] as consisting of two [distinct] violations [deriving from two separate prohibitions, one of which was performed inadvertently and one deliberately], it is appropriate [that the person pay restitution for misappropriating the heave-offering, for in this case the deliberate act entailing a punishment of lashes would not cancel out the other punishment, and the principle that for a single act, a person is inflicted not with two punishments but rather with the more severe one, would not apply]; but if you explain it in terms of a single matter [as a violation of eating], it is a dispute between R. Yohanan and R. Simeon b. Laqish [whose views are interpreted to represent distinct positions as to whether or not payment is made in the case in which lashes are imposed, with R. Yohanan reportedly in the negative in certain circumstances and Simeon b. Laqish in the affirmative. Hence, M. Pes. 2:3’s case fits best if the violation is taken as deriving from two distinct prohibitions].

2:4

[A] These are types [of grains through bread made from which] a person fulfills his obligation [to eat unleavened bread] on Passover:

[B] (1) wheat, (2) barley, (3) spelt, (4) rye, and (5) oats.

[C] And [people] fulfill [this same obligation] through [grain] which has been only doubtfully tithed, through first tithe the heave offering of which has been removed, and through second tithe and food which has been consecrated, which have been redeemed;

[D] and priests [do so] through [unleavened bread deriving from] dough offering and through [unleavened bread] in the status of heave offering.

[E] [But people do] not [fulfill this obligation through eating unleavened bread] from which tithes have not been removed at all, first tithe from which heave offering has not been removed, second tithe and food which has been consecrated, which have not been redeemed.

[F] [Unleavened] loaves brought with a thank offering and wafers of a Nazir –

[G] [if] he made them for his own use [as his sacrifice], they do not fulfill their obligation through eating them.

[H] [If] he made them for sale in the marketplace, they do fulfill their obligation through eating them.

[I:1 A] It is written [in reference to bread], “and when you eat of the bread of the land, you shall set some aside as a gift to the Lord” (Num. 15:19). I would have said that all the grains [lit., matters] are liable for dough-offering. Therefore, the teaching [Scripture] says, “Of the bread” – and not every kind of bread [“of,” denotes some of the kinds of bread].

[B] If “of the bread” – and not every kind of bread [is included], I only know wheat and barley [which, e.g., Deut. 8:8 specifies as the breads of the land] [the remaining kinds how do we know]? The teaching says, “as the first yield of your baking[, you shall set some aside as a gift to the LORD]” (Num. 15:20) [which] serves to include [additional kinds].

[C] And let it include all kinds?

[D] *R. Yosé in the name of R. Simeon [b. Laqish]: “This is taught by R. Ishmael: R. Jonah, R. Zeira, R. Simeon b. Laqish in the name of R. Ishmael; Said R. Mana, “I went to Caesarea and I heard R. Ahava bar Zeira, and my father [Zeira] said it in the name of R. Ishmael: “It said ‘bread’ in regard to Passover [Deut. 16:3] and it said ‘bread’ in regard to dough-offering [Num. 15:19]; just as the bread which is said regarding Passover refers to a kind that becomes unleavened and leavened [for the verse mentions both, ‘you shall not eat anything leavened with it; for seven days thereafter you shall eat unleavened bread’], so bread which is said regarding*

dough-offering [refers to] a kind that becomes unleavened and leavened, and they tested and found that only the five kinds become unleavened and leavened, and all the other kinds do not become unleavened and leavened but rather decay.”

[E] **R. Yohanan b. Nuri said, “Qaramit [glyceria fluitans wheat] is liable for dough-offering [T. Hal. 1:1].”**

[F] R. Yohanan b. Nuri said, “It becomes unleavened and leavened.”

[G] And rabbis say, “It does not become unleavened and leavened.”

[H] And let them test it?

[I] They differ over its very test: R. Yohanan ben Nuri said [that they] tested it and found that it becomes unleavened and leavened, and rabbis say [that they] tested it and did not find that it becomes unleavened and leavened.

[I:2 A] *There we learn, “An apple [which was in the status of heave offering] which was chopped and placed into a dough mixture and [thereby] leavened it [the dough] – lo, it is prohibited [for a non-priest to consume because even though fruit juices do not cause a regular leavening process, they still impart a taste to the dough].” [A marginal addition unnecessarily supplies the rest of the Mishnah: “barley (in the status of heave-offering) which fell into a water pit, even though it made it [the later] smell, its water is permitted”]* [M. Ter. 10:2].

[B] [Glossing the first part of the preceding Mishnah:] *It is taught: R. Yosé says, “[The dough mixture] is permitted [T. Ter. 8:9] [for this is not a standard leavening].”*

[C] *R. Aha, R. Abbahu in the name of R. Yosé bar Haninah, “In what case do they dispute? When [the dough] leavens from its [the apple’s] juice. But when [it] leavens from its substance, all agree that it is permitted.”*

[D] *R. Yosé is in accord with his view [elsewhere]. Just as he said there [regarding M. Ter. 10:2] that its leavening is not [considered] a proper [lit., “certain”] leavening, so he says here [regarding M. Shab. 3:3] that its cooking [through the heat of the sun] is not [considered] a proper cooking [so as to render an object to be prohibited; hence the dispute over qaramit may also center on different evaluations of a process that is like, but not identical to, normal leavening].*

[E] *It is taught*: Unripe fruit which was stored in [grain in the status of] food subject to tithing but not yet tithed [to ripen under the heat of the straw], and a cake which was stored in embers [to bake] – if some of them were revealed, they are carried [i.e., handled]’ on the Sabbath; and if not, they are not carried [i.e., handled].

- [I:3 A] Whence do we learn that priests fulfill their obligation [to eat unleavened bread] on Passover [night] with [unleavened bread that derives from] dough-offering or heave-offering and an Israelite with second tithe?
- [B] The teaching says, “[At night you shall eat unleavened bread” (Exod. 12:18),”You shall eat unleavened bread” (Exod. 12: 20); [this repetition of the injunction] indicates an inclusion. Perhaps they might fulfill their obligation with firstfruits? The teaching says, “In all your settlements you shall eat unleavened bread” (ibid.), unleavened bread which is eaten in all settlements [is included]. The firstfruits are excluded, for they are not eaten in all settlements.
- [C] *They retorted*, “Lo, second tithe – lo, it is not eaten in all settlements?”
- [D] It is fit to be redeemed [even in Jerusalem if it has become impure] and to be eaten in all settlements.
- [E] *R. Bun bar Hiyya asked [challenging C]*, “If so, that [produce] which was bought with money [in the status] of second tithe [and] which became unclean according to R. Judah [an allusion to M. M.S. 3:10, **That (produce) which was bought with money [in the status] of second tithe (and) which became unclean should be redeemed. R. Judah says, “It should be buried.” They said to R. Judah, “If second tithe itself which became unclean, lo, it is redeemed, that (produce) which was bought with money (in the status) of second tithe (and) which became unclean, is it not logical that it [also] should be redeemed?” He said to them, “No. If you say that this is so regarding second tithe which is redeemed in a state of cleanness at a distance (from Jerusalem – as suggested in M.M.S.3:4), can you say so regarding that (produce) which was bought with money [in the status] of second tithe, which is not redeemed in a state of cleanness at a distance from Jerusalem**], since it may not be redeemed and eaten in all the settlements, they do not fulfill [their obligation] with it?”
- [F] [Likewise in response to C:] *R. Simeon b. Laqish asked*, “If so, a batch of dough-offering [in the status] of second tithe in Jerusalem, since it

may not be redeemed and eaten in all settlements [even if it becomes unclean, but must be burned], [is it not the case that they] do not fulfill [their obligation] with it?”

- [G] Perhaps they might fulfill their obligation with loaves of a thank-offering [Lev. 7:16] and wafers of a Nazir [Num. 6:15]? The teaching says, “Seven days you shall eat unleavened bread” (Exod. 12:15). Unleavened bread is eaten all seven [days] and loaves of a thank offering and wafers of a Nazir are not eaten all seven [but only on the day they are brought and the ensuing night].
- [H] R. Jonah in the name of R. Simeon b. Laqish, “From the fact that loaves of a thank-offering and wafers of a Nazir are eaten within the whole territory of the land of Israel [at least at one point in Israelite history, according to M. Zeb. 14:7], the teacher of oral tradition [who taught the Tannaite rule appropriately] was not able to exclude them from [Exod. 12:18’s rule that unleavened bread be eaten in every] ‘settlement.’”
- [I] R. Yosé in the name of R. Simeon b. Laqish, “This indicates that loaves of a thank-offering and wafers of a Nazir were eaten in all the cities of Israel; hence the teacher of oral tradition was not able to exclude them from [Exod. 12:18’s rule that unleavened bread be eaten in every] ‘settlement.’”
- [J] This is fine as to loaves of a thank-offering, but as to wafers of a Nazir, did not R. Yohanan say [in response to a version of M. Meg. 1:10 which differentiated, in ancient Israelite cultic history, between a great high place such as at Nob and Gibeon, which served the whole community, and a lesser high place, which served individuals supposedly only before and after the building of the Shiloh Temple and before the building of the Jerusalem Temple,] that a Nazir’s offering, prescribed by Num. 6:13-15, being considered a freely willed offering because the individual voluntarily became a Nazir, would have been sacrificed at the lesser high places], “Remove [from the text] Nazirite, [for the sacrifice of a] Nazirite is an obligation [for once the individual voluntarily became a Nazir that person subsequently is required to bring the Nazir offering].”
- [K] [Drawing on the terminological distinction denoting great and lesser high places in M. Zeb. 14:6-7:] Said R. Bun bar Kahana, “You may explain that [the case of a Nazir wafer eaten in all Israelite settlements refers to a situation in which] his [the Nazir’s] sin offering [which comes first, according to M. Nazir

6:7,] was offered at Shiloh [the great high place, which was then destroyed (1 Sam. 4)], and his burnt and whole offerings [were offered as a voluntary act] in [the period of] Nob and Gibeon [other Israelite settlements where great high places existed and during the period of which local altars flourished – and it is at such non-centralized locations that the latter offerings along with the Nazir wafer were taken].”

[L] *R. Hananiah [and] R. Ezra asked before R. Mana*, “Did not Rabbi say in the name of R. Yosé, ‘Festive whole offerings which are offered at a [lesser] high place are fit but they are not credited to the owners as obligatory [offerings]’; hence would not the Nazir’s burnt or whole offerings, as required sacrifices, if offered at the local high places, likewise lose their status (and effectiveness) as a Nazirite offering and therefore not entail the eating of the Nazirite wafer) which would mean that we remain without a situation in which Nazirite wafers might be eaten in “every settlement”]?”

[M] *Rather it [R. Bun’s explanation] is in accord with R. Judah*, for R. Judah said, “A sin offering and a Passover offering for an individual [are brought] in a great high place; a sin offering and a Passover offering for an individual [are] not [brought] in a lesser high place.” [While all required offerings of an individual are restricted to a great high place, voluntary sacrifices including the burnt and whole offerings of a Nazir are brought in a lesser high place and thus in “every settlement”; alternatively, if the Nazirite burnt and whole offerings are construed as required sacrifices, the implication might be that while Passover and sin offerings are restricted to a great high place, other required offerings such as the Nazirite’s are not. Significantly, according to this representation of Judah – and not all sages – we can conceive of a Nazirite sin offering at Shiloh.]

[N] [Rejecting the explanation that an individual’s required offering was sacrificed at a lesser high place:] *It accords only [with the view of] R. Simeon, for R. Simeon said, “As soon as one of its blood [portions from any of the three animal sacrifices] was thrown on it, the Nazir is rendered permitted to drink urine and to become unclean through contact with the dead” [M. Nazir 6:9] [hence the other two sacrifices are not required for*

dissolving the Naziriteship and should be construed not as required but as voluntary offerings, and it is for this reason that they, like the accompanying wafer of a Nazir, can be brought in lesser high places in all settlements].

- [I:4 A] R. Simon in the name of R. Joshua ben Levi, “That olive’s amount with which a person fulfills his obligation on Passover must not contain any liquid [e.g., wine, oil, or honey.]”
- [B] R. Jeremiah said, “That was said as a religious duty [describing the optimal manner for fulfilling the commandment].”
- [C] Ba said, “[A] was said as a religious duty [describing the optimal manner for fulfilling the commandment].”
- [D] Judah bar Pazzi said, “[A] was said as an indispensable condition [for the fulfillment of the commandment].”
- [E] *The comment of R. Bun bar Hiyya indicates that it was set forth as an indispensable position, [as specified in the following:]*
- [F] *R. Bun bar Hiyya objected, “And did we not learn, **Loaves of thank-offering if a person made them for sale in the market, he fulfills his obligation with them [M. 2:4]? Can you say [that that refers to] loaves of a thank offerings which lack fluid [for does not Lev. 7:13 require that they be made with oil]?” [In not differentiating between A and the Mishnah by restricting the Mishnah’s permission to use loaves of a thank offering to fulfill the commandment of eating unleavened bread to after the fact, R. Bun bar Hiyya surely assumes that A was said as an indispensable requirement for fulfilling the commandment.]***
- [G] Said R. Yosé, “There it [is a case of] a fourth [of a log of oil], and the fourth is divided up among several kinds [of loaves,” specifically, according to M. Men. 7:1, thirty of forty loaves were unleavened and of these ten were made into loaves, ten soaked cakes, and ten wafers, with the result that each one lacks the minimum requirement].
- [H] *And where is the source stating that [i.e., that A’s prohibition of liquids is valid]?*
- [I] Perhaps [a person] fulfills his obligation with soaked cakes [pulp of flour mixed with oil and, sometimes, hot water? [Therefore] the teaching says, “And you shall watch the unleavened bread” (Exod. 12:17) – unleavened bread that requires watching; this one is excluded for it does not require watching [for it cannot ferment (cf. Mekhilta DRBY 12:17)]. [Hence liquids that if added prevent fermenting may not be used in making unleavened bread.]

[J] “Because it does not require watching!” Lo, if it would require watching, [people] fulfill [their obligations] with it. *And lo, it is taught [thus]: “They fulfill [their obligation] with mixed unleavened bread [T. 2:21] even though it lacks the taste of grain – as long as most of it is grain.”* [This seemingly would support the addition of liquids.]

[K] *They considered making the ruling* [that this ruling refers to unleavened bread] mixed with liquid. [But] let us [rather] say [it is] mixed with sesame seeds [or] mixed with nuts [dry mixtures; hence unleavened bread mixed with liquids may remain prohibited].

[L] [*Searching for another source proscribing the mixing of liquids:*] *And where is the source that states this?*

[M] Perhaps a person does not fulfill [his obligation] with thick bread baked on coals [a fine type of bread]? How do we know [that one fulfills the obligation with] even unleavened bread the likes of Solomon’s [who, according to I Kings 5:2, was renowned for the fine bread served at his court]? The teaching says [a second time], “You shall eat unleavened bread.” It amplifies [to include breads baked even in fancy fashions]. What does the teaching say, “the bread of a mourner” (Deut. 16:4). [It] excludes Syrian [bread], and pan bread, and a pancake [the dough of which is kneaded in fancy fashion].

[N] They fulfill [their obligation] with thick unleavened bread up to a handbreadth, like the show-bread [which, according to Lev. 2:5-9, was made with frankincense and, in contrast to usual meal offerings, without oil yet with twice as much flour (e.g., Num. 15:4) and which, M. Men. 5:1, was unleavened]. They fulfill [their obligation] with raw [undercooked] unleavened bread as long as [it] will break into pieces without becoming individual threads.

[O] [Relating the case of unleavened bread to M. Suk. 1:2’s dispute between the Houses of Shammai and Hillel regarding the use of an old sukkah for the holiday of Sukkot:] Old unleavened bread [not prepared intentionally for Passover, which by presumption means older than thirty days, as in M. Suk. 1:2’s law of sukkah] is a matter of dispute between the House of Shammai and the House of Hillel [with the former proscribing and the latter permitting its use].

[P] Said R. Yosé, “It is a unanimous opinion [with even the House of Hillel prohibiting its use on Passover night]: because [a person] did not make it for the sake of Passover, it is certain that [that person] did not act punctiliously with it [to make it for the sake of unleavened bread”

[Q] [They] fulfill [their obligation] with combed bread whether decorated or not [with designs on the bread, despite the fact that decorated bread is the food of the wealthy],

[R] even though they said, “[People] do not make decorated combed bread on Passover.”

[S] *It is taught:* R. Judah said, “Baitos b. Zonin asked Rabban Gamaliel and the sages in Yavneh, ‘Is it permitted to make decorated combed bread on Passover?’ They said to him, ‘It is forbidden because a woman lingers over them and they become leavened.’ He said to them, ‘If thus, let [them] make it in a mold [which would enable the unleavened bread to be decorated quickly]?’ They said to him, ‘[We cannot permit that, for people] would say, “All combed breads are prohibited but the combed breads of Baitos b. Zonin are permitted.”’”

[T] *It is taught:* **R. Yosé says, “They make combed bread [thin] like wafers and they do not make combed bread [T. 2:19].**

2:5

[A] And these are herbs through [eating of] which a person fulfills his obligation on Passover:

[B] (1) lettuce, (2) chicory, (3) pepper wort, (4) endives, and (5) dandelion.

[C] They fulfill their obligation by eating them, whether they are (1) fresh or (2) dried,

[D] but not [if they are] pickled [in vinegar], (4) stewed, or (5) cooked.

[E] And they join together to form the requisite volume of an olive’s bulk.

[F] And they fulfill their obligation by eating their stalks,

[G] **and [if they are] in the status of produce which has not been fully tithed, first tithe the heave offering of which has been removed, and second tithe and food which has been consecrated, which have been redeemed.**

[I] A) **With lettuce** – lettuce;

[B] **with chicory** – endive;

[C] **with tamkhah** [pepperwort] – gingidium, another type of bitter herb);

[D] **with harhavina** – R. Yosé b. R. Bun said, “yasse holi [a name of another herb];”

[E] **and with sonchus** – a bitter vegetable with silvery appearance and possessing sap.

[F] [Questioning the appropriateness of lettuce as the bitter herb:] Lo, lettuce is [called] sweet! Lo, it is not called lettuce but sweet.

[G] R. Hiyya in the name of R. Hoshayah [said], “Its [the Egyptian experience’s] very essence is compared to lettuce: just as lettuce initially is sweet and eventually [when left in the field] becomes bitter, thus the Egyptians treated our ancestors in Egypt, initially [very hospitably saying to Joseph and his brothers], ‘[The land of Egypt is open before you;] settle your father and your brothers in the best part of the land’ (Gen. 47:6), and afterward ‘ruthlessly they made life bitter for them with harsh labor at mortar and bricks’” (Exod. 1:14).

[II:1 A] **Whether fresh] or withered [M. 2:5B = T. 2:21].**

[B] *There are those who teach*, “but not withered.”

[C] *Said R. Hisda*, “*The one who said ‘withered,’* refers to the stalk; *the one who said, ‘but not withered,’* refers to the leaves.”

[III:1 A] R. Hiyya in the name of R. Yohanan [said], “A pickled olive [which is used not for its oil but for food, though generally only after being treated] – over it one says [the blessing], ‘[Praised be Thou] who createst the fruit of the tree.’”

[B] R. Benjamin bar Yefet in the name of R. Yohanan [said], “Steamed vegetable, over it one says [the blessing], ‘By Whose word all things come into existence.’”

[C] *Said R. Samuel bar R. Isaac*, “*The teaching [M. 2:5B] supports R. Benjamin bar Yefet, ‘but not pickled, nor steamed, nor cooked.’* If they are in their natural state, [surely a person] would fulfill his

obligation with them on Passover?” [Hence steaming, like pickling, the mode of preparation mentioned that is relevant here, must transform the produce from its natural state; therefore, just as one cannot use steamed or pickled vegetables for bitter herbs, so over them one says the generic, all-encompassing blessing, “By Whose word all things come into existence” and not the blessing “Who creates the fruit of the earth” or [for a fruit from a tree] “Who creates the fruit of the tree.”]

[D]] *Said R. Zeira, “Who is better able to derive the implications of what R. Yohanan says, is it R. Hiyya bar Ba or R. Benjamin? [Did] not R. Hiyya bar Ba [receive the tradition more accurately and, hence, we should follow his version of the tradition]?*

[E] *“And moreover [we know] from this [which follows]: Because we see rabbis enter New Moon meals, take lupines, and say over them the blessing, ‘Who createst the fruit of the earth.’ And are not lupines [regularly eaten] steamed [to remove the bitterness of their seeds]?” [Hence such use of the blessing normally associated with produce in its natural state should likewise apply to pickled olives.]*

[F] [And regarding the argument based on M. Pes. 2:5:] If you want you can say: It is different here because the Torah [Exod. 12:8; Num. 9:11] specified [that we use] bitter herbs. [It is for this reason that steaming or pickling the vegetable is prohibited, and not because it changes the herb’s state.]

[G] And as far as lupines are concerned, once they are steamed they lose their bitterness. [Because of its bitterness, a lupine is not normally eaten raw but steamed, and hence when it is in that state it requires the blessing, “Who createst the fruit of the earth.” That argument is not probative regarding eating other steamed vegetables.]

[H] *Said R. Yosé b. R. Bun, “And they do not dispute. An olive, since it is customary to eat it raw [i.e., as is or in its natural shape], even if pickled it [is treated as though it] remains in its natural state; [but] a [regular] vegetable, as soon as it is steamed, changes.” [Hence Hiyya in the name of Yohanan speaks of a special case which should not be generalized for all types of vegetables.]*

2:6

[A] **[During Passover,] they do not soak coarse bran for fowl but they scald [it]**

[B] A woman should not soak bran which she takes with her to the bathhouse.

[C] But she rubs it dry on her skin.

[D] A person should not chew grains of wheat to put on his sore on Passover, because they ferment.

[I:1 A] *It is taught [regarding two terms, found, for example, in M. Hal. 1: 6], R. Ishmael b. R. Yosé said in the name of his father, “What is meisah? Placing hot water into flour; ‘Halitah? Flour into hot water” [T. Hal. 1:1B-2A]. [Since the two procedures differ only in the sequence of placing the hot water and therefore the same law applies to each, the choice of one or the other term signifies with which position one associates the House of Hillel and the halakhah. Hence M. Pes. 2: 6, in employing the verbal form halitah and in not considering this procedure proper cooking, represents the lenient choice. But according to the other approach – some sources attribute it to R. Yosé – which employs the term meisah and associates the Hillelites with a stringent position, the law in M. Pes. 2: 7A would be different, as spelled out:]*

[B] Therefore here [M. Pes. 2: 6A] whether hot water into coarse bran or whether coarse bran into hot water [– it is prohibited]. [So would be the halakhah according to whoever associates the Hillelites with the position that such actions make up proper cooking and therefore entail leavening.]

[I:2 A] The Mishnah’s prohibition applies] in a case in which there is fat in them [the grain, which may be leavened by one’s saliva, an eventuality not likely with thin and dried grains or likely to occur only after the grain had already decayed, which would not be problematic].

[I:3 A] A malagma [a bandage comprising mostly grain kneaded in water or wine] which decayed

[B] *there are those who teach*, “it must be removed.”

[D] *And there are those who teach*, “**It need not be removed**” [T. 3:3B].

[E] *The one who said*, “it must be removed” [speaks of] a case in which it leavened and afterward decayed [and hence the bandage had entered a period in which it was in the forbidden status of leaven].

[F] *And the one who said*, “**it need not be removed**” [speaks of] a case in which it decayed and afterward leavened [because a decayed object does not fall into the category of leaven].

2:7

- [A] **They do not put meal into haroset [the mixture of fruit, spice, and wine used for sweetening the bitter herb on Passover] or into mustard.**
- [B] **But if one has put it in, he must eat it forthwith.**
- [C] **And R. Meir prohibits [eating it].**
- [D] **They do not boil the Passover lamb in [one of the seven specified] liquids or in fruit juice.**
- [E] **But they baste it or dip it in them.**
- [F] **Water used by a baker must be poured out, because it ferments.**
- [I:1 A] **They do not put meal into haroset [the mixture of fruit, spice, and wine used for sweetening the bitter herb on Passover] or into mustard. But if one has put it in, he must eat it forthwith – as long as [one] does not tarry.**
- [B] **R. Meir prohibits** because one tarries [and the flour leavens].
- [I:2 A] It is written, “[Do not eat any of it raw or] cooked in any way with WATER, [but roasted over the fire]” (Exod. 12:9).
- [B] [From this verse] I only know [that] water [is prohibited for cooking the Passover offering].
- [C] From where [do I know] to include other liquids [in this ban]?
- [D] The teaching says, “Cooked in any way.”
- [E] Until here [the explanation from Scripture] accords with R. Aqiba. According to R. Ishmael [who does not derive laws from repetition of wording, how do we know this ruling]?
- [F] R. Ishmael teaches: “It is a [logical inference from] minor to major. Just as water [which lacks a taste of its own and] which does not communicate its taste [to the Passover offering], you say is forbidden – other liquids, which communicate their taste, all the more so [should be forbidden]”
- [I:3 A] **They do not knead unleavened bread with liquids, but they form [and smooth its surfaces] with liquids [T. 3:5B].**
- [B] **Said R. Aqiba, “I was with R. Eliezer and with R. Joshua on a ship and I kneaded their unleavened bread with liquids.”**
- [C] **They do not knead unleavened bread with boiling water because they form a paste [a dumpling, which cannot serve as unleavened**

bread], and with tepid water because they ferment, but they knead them with cool water [T. 3:5A].

[D] *And lo, we learned: All the meal offerings are kneaded with tepid water and are watched so that they do not leaven” [M. Men. 5:2].*

[E] R. Ammi in the name of R. Simeon b. Laqish, “There [in the case of meal offerings] the matter is handed over to priests and the priests are scrupulous. But here the matter is handed over to women and women are slothful.”

[F] [Since it is clear that women may not knead with tepid water,] *we are in doubt only regarding priests themselves.* What is the law? May they knead their unleavened bread in tepid water?

[G] [A negative answer emerges by analogy:] *Let it accord with what R. Zechariah the son-in-law of R. Levi taught: “A menstruant runs [her fingers through her hair] and combs [it out before bathing to insure that water may penetrate the hair completely]. A female priest [a priest’s wife or an unmarried daughter of a priest, who immersed herself in a special act of piety prior to eating the daily heave-offering] does not rub and comb out [her hair, for since she immerses herself daily, it is presumed even without this measure that she will insure that the water completely penetrates her hair]. A menstruant who is a female priest rubs and combs out [her hair, being so required] in order not to distinguish between one menstruant and another. So here [in the case of kneading unleavened bread with liquids, the priests are forbidden] in order not to distinguish between one [procedure of] unleavened bread and another.”*

[II:1 A] Water used by a baker should be poured out, because they ferment [the residue of flour] [M. 2:7D].

[B] *There are those who teach: “They pour them in the place of broken ground” [T. 3:6].*

[C] *And there are those who teach: “They pour them into a sloping place.”*

[D] *Said R. Yosé, “The one who said, ‘They pour them in the place of broken ground’ [speaks] of a case in which the broken ground was big [and thereby can absorb all the water and not let any of it collect as a stagnant body enabling the flour to ferment].*

[E] *“The one who said, ‘in a sloping place’ [speaks] of a case in which the slope was high [and the water would either become absorbed in the*

course of falling, or it would scatter sufficiently at the bottom and therefore not collect in a single location].”

[F] Said to him [to R. Yosé], “R. Ila your master would argue thus” [similarly differentiating between the positions represented].

[II:2 A] [If one] soaked wheat and barley in water and they leavened, lo, these are forbidden; [if they] did not leaven are permitted.

[B] R. Yosé said, “[If one] soaked barley in water, if they split, lo, these are forbidden. [If one] soaked them in vinegar, [they are] permitted because the vinegar contracts them” [T. 3: 4].

[C] R. Samuel bar R. Isaac had sour wine; he placed therein barley so that it might ferment [become vinegar]. He asked R. Immi. He said to him, “You are required to remove [it] – apparently because it is assumed that liquids other than water cause leavening].

[D] *R. Hananiah the son of R. Kirai had honey mixed with fine flour.* He asked R. Mana. He said to him, “You have to remove [that leaven].”

[E] *One of the household of R. Kirai had kegs of oil within his wheat storeroom. He asked rabbis [what he should do regarding the possibility of leaven that might have been caused by moisture exuding through the walls of the kegs]. [They] said to him, “Go and scrape off what is under them [under the oil kegs].”*

[F] *R. Immi taught regarding kutah kegs [used for a preserve containing sour milk, bread crust, and salt, that a person] fills them with water for three complete days [so as to render them suitable for Passover use].*

YERUSHALMI PESAHI

CHAPTER THREE

3:1

[A] These [things] are removed at Passover:

[B] (1) Babylonian porridge, (2) Median beer, (3) Edomite vinegar, (4) Egyptian barley beer;

[C] (5) dyers' pulp, (6) cooks' starch flour, and (7) scribes' paste.

[D] R. Eliezer says, "Also: Women's ornaments."

[E] This is the general principle: Whatever is made of any kind of grain, lo, this is removed on Passover.

[F] Lo, these matters are subject to an admonition.

[G] But extirpation does not apply to them.

[I:1 A] And these [substances] are removed on Passover:

[B] *Said R. Mana, "And all of them [must be removed only if they are mixed] with water." [Only water brings about leavening, but fruit juices do not.]*

[C] **Babylonian kutah** [M. 3:1A] – *that in which kneaded crumbs have been placed.*

[D] **Median beer** [M. 3:1A] – *that in which barley flour has been placed.*

[E] **Edomite vinegar** [M. 3:1A] – *southern [i.e., from a part of Judea], besimah [wine vinegar].*

[F] Initially, when [they] made wine in a state of purity [so that it might be used in the Temple] for libations, wine would not ferment [as a divine sign of appreciation]. *And they would place therein barley so that it would ferment, and they would call it southern besimah [wine vinegar, which was regularly made from barley].*

[G] **Egyptian zithom [barley beer]** [M. 3:1A] – *zaetayah.*

- [H] **And dyers' broth [M. 3:1B]** – that in which barley flour is placed in order that the dye catch.
- [I] **Cooks' dough [M. 3:1B]** – Said R. Hiyya bar Ba, “[A person] brings ears not one-third full and crushes them and makes them like safflower loaves and puts them in a pot and it carries away the froth.”
- [J] **And scribes' glue [M. 3:1B]** – *in Alexandria they make the molds [holding the glue for paper] from dough.*
- [II:1 A] **[R. Eliezer says, “Even women’s cosmetics [M. 3:1C].”**
- [B] *There are those who teach* [that Eliezer spoke of] “cosmetics.”
- [C] *There are those who teach* (that R. Eliezer spoke of “toilet paste.”
- [D] [*The one who said* [R. Eliezer spoke of] “toilet paste” [which contains grain but which does not ferment until after it is stuck to the human body – so ruling out of a concern lest it leaven after application when the person bathes, once it had already become disgusting to the human eye], all the more so [would this rule apply to] cosmetics [which are not so disgusting].
- [E] *The one who said* [R. Eliezer spoke of] “cosmetics,” – lo, toilet paste [is] not [removed, for it had become disgusting before it fermented].7
- [II:2 A] It is written, “All that is leavened you shall not eat” (Exod. 12:20) – to include Babylonian *kutah*, and Median beer, and Edomite vinegar, that they be subject to [biblical] warning [prohibiting eating them].
- [B] Perhaps they should be subject to extirpation?
- [C] [Therefore] the teaching says, “For all who eat leavened bread will be cut off” (Exod. 12:15) [and not something with merely an admixture of grain]. [The exegesis is built either on the use of the adjective “all” and what it modifies, or on the variation in terminology (whereby the ban on eating employs “leavened,” while the statement regarding the punishment of extirpation uses “leavened bread”).]
- [D] *The Associates asked before R. Jonah*, “Here (Exod. 12:20) it is written, ‘All [leavened you shall not eat]’ and here (Exod. 12:15) it is written, ‘[For] all [who eat leavened bread will be cut off].’ Here you include [Babylonian *kutah* and such under the prohibition], but here you exclude [the items from extirpation].”
- [E] He said to them, “[You misunderstand the basis of the deduction, for both instances of ‘all’ are used to include:] Here (Exod. 12:15) [speaking of the injunction to *eat* unleavened bread and not to eat

leavened bread, on the basis of the use of the term ‘all’] he included those who eat [– while from the choice of the word “leavened bread,” he excluded substances eaten which are not bread], but here (Exod. 12:20) [speaking of substances that should not be eaten, from the use of the term ‘all’] he included things eaten.

- [F] *They asked, “[Nevertheless, why should a person who eats these foods not be liable for extirpation], for lo, is it not taught: ‘They fulfill [their obligation] with mixed unleavened bread’ [T. 2:21] even though it lacks the taste of grain – as long as most of it is grain?*
- [G] “And these [substances, mentioned in M. 3:1,] since [they] are mostly leaven, should be liable [for extirpation]?” [How the substance could be mostly grain has posed exegetical problems because the items in M. 3:1A by definition are assumed to contain less than a major part of grain.]
- [H] He said to them, “It is different, for it is written [in reference to unleavened bread] – [i.e., ‘Seven days you shall eat unleavened bread, bread of distress’ (Deut. 16:3)] [and even mixed unleavened bread maintains the appearance of bread] but these [items in M. 3:1] are not bread [and hence without that appearance, despite being mostly grain, do not make one liable for extirpation].”
- [I] *R. Yosé asked, “And is it not taught: By its [unleavened bread’s] very nature only unleavened bread is called leavened bread: ‘Seven days you shall eat unleavened bread, bread of distress’ (Deut. 16:3), and here you [claim to] learn [the nature of] leavened bread from unleavened bread [such that in order to fall under the classification “leavened bread” a substance would have to have the characteristics of “unleavened bread”]? [Since obviously you would not learn the rule for leavened bread from unleavened, is not E’s objection that the items in M. 3:1 lack the appearance of “bread” irrelevant; is not D’s comparison therefore valid?]*
- [J] “*And more so, from this which is taught: ‘A person fulfills his obligation [to eat unleavened bread on the first night of Passover] with a soaked wafer and a boiled wafer which has not been mashed’ [T. 2:19].* says only [that] ‘which has not been mashed’; lo, if it has been mashed – in no [way does a person fulfill one’s obligation with it for it has lost the appearance of bread].
- [K] “And regarding leavened bread you say: One who mashes leavened bread and swallows it is liable [and if the details of leavened bread were learned from unleavened bread, the mashing should render the bread no longer ‘bread,’ and the person should not be liable]!”

- [L] *What is the upshot [as to why the “all” written regarding the punishment of extirpation does not apply to M. 3:1 ‘s items]?*
- [M] R. Yosé [said] in the name of R. Iddi, “Its [the items in M. 3:1] leaven is not considered a proper [lit., “certain”] leavening.”
- [N] What is the law, should [a person] be flogged [for eating M. 3:1’s items on Passover]?
- [O] R. Jeremiah [said] in the name of R. Eleazar, R. La [said it] in the name of R. Simeon b. Laqish, “Indeed, one does not flog [and these items are included in M. 3:1 only to apply the warning to them but not to impose lashes if the prohibition is violated],
- [P] The words of Rab say that even to flog one does not flog,
- [Q] *for it is taught:* “Regarding proper leavened bread, one is liable for extirpation, and [regarding] its mixture, one absorbs forty [lashes less one].”
- [R] Rab said, “This [mixture refers to a] leaven [mixture which by itself is normally not considered edible].”
- [S] And let [Rab] say, “[Its ‘mixture’ refers to] Babylonian *kutah* and Median beer!” [Since he did not say that, he must consider that these drinks do not make a person liable for lashes.”
- [T] *Said R. Bun bar Kahana before R. La,* “You may explain [that mention of a mixture] deals [neither with “leaven” as suggested by Rab nor with the cases of M. 3:1 but] with [actual] leavened bread and unleavened bread which have become mixed together.”
- [U] *Said R. Yosé,* “*I asked regarding this [teaching] of R. Bun bar Kahana: with what case do we deal?* If with a case in which most of it [the mixture] is leavened bread, one is liable for extirpation [and not merely a flogging]. If with a case in which most of it is unleavened bread, one [conceivably] fulfills with it one’s obligation on Passover [and minimally one would not become liable for “lashes”].”
- [V] *Said R. Samuel b. R. Isaac,* “*Teaches R. Joshua Unyah:* ‘You may explain that [the case of flogging, which does not entail extirpation, deals with a mixture] that contains leavened bread but lacks an olive [amount in bulk, the minimum making one liable for extirpation] [and yet makes one liable for flogging] in accord with R. Simeon, for R.

Simeon said, ‘Any amount [makes one liable] for flogging.’

- [II:3 A] R. Jeremiah, R. Samuel b. R. Isaac in the name of Rab, “A pot in which one cooked leaven one should not cook therein from the same kind [of food] except after the Passover [for the taste of the leavened food remains in the pot].”
- [B] Lo, from another kind, it is permitted [on Passover] as long as [one does it] after [subsequently cooking prior to Passover] three cooked foods [which lack leaven and which assumably would impose their own taste replacing any lingering taste of the initial leavened food].
- [C] Just as it [the taste of the leavened food] is neutralized by something not of its kind, so it will be neutralized by its [own] kind. [Hence why specify that three cookings of another kind of food are necessary; even of the same kind should suffice.]
- [D] A kind [of food] stirs [up the leavened taste of] its same kind to cause a prohibition.
- [E] *Said R. Jacob b. Zabedi, “R. Abbahu ordered the [flour] grinders not to place baskets on top of each other lest they become hot and [the grain therein] ferment.”*
- [F] *R. Hinena b. Pappa went to the grinders [in order to insure their fastidiousness].*
- [G] *R. Yosé b. R. Bun ground [flour] for himself sufficient [for his Passover needs]*
- [H] [As to the standard technique to obtain the best possible flour by conditioning the grain through slightly moistening it before milling, which provides whiter flour and retains more of the endosperm among the bran,] R. Abun instructed the grinders to put one-fourth [the standard one-fourth of a *log*] of water into a *modius* [a Roman measure corresponding to one or one and one-half *seah*, which would comprise twenty-four or thirty-six *log* of grain, with one *modius* producing about twenty- five Roman pounds of bread] and to moisten it four times.
- [I] To condition the grain – R. Hananiah and R. Mana [differed:] One said that on grasses [which may be slightly moist], it is permitted to moisten; [on dry mud,] it is forbidden. And the other reverses [holding the former forbidden and the latter permitted].

[J] Said R. Hananiah the son of R. Hillel, “And even according to the one who said that on grasses it is permitted, it applies [only when one] gathers them from the sixth hour [noon] and on.”

[K] Why? For [by then] the dew evaporates from it.

3:2

[A] Dough which is in the cracks of a kneading trough,

[B] if there is an olive’s bulk in a single place –

[C] one is liable to remove it.

[D] And if not, it is deemed null by reason of its inconsequence.

[E] And so with regard to uncleanness:

[F] if one is fastidious about it, it interposes.

[G] And if he wants to keep it, lo, it is deemed equivalent to [and part of] the kneading trough.

- [I:1 A] Associates in the name of R. Yohanan, R. Simon in the name of R. Joshua b. Levi, “[The Mishnah speaks of a case] in which [the dough can be] peeled off all of it together [for example, if a thread of dough connects more than one clump, making up the minimum amount, even though at any one point there is less than an olive’s bulk, it must be removed].”
- [B] Up to here [the Mishnah can be construed following the interpretation in A to treat] moist [dough]. [What of] dry [dough]?
- [C] Since if it had been moist it could have been peeled off all of it together, even [if it is] dry it accords with this arrangement.
- [D] R. Jeremiah in the name of R. Zeira, “[If] two halves of an olive’s bulk are within a house [at different spots], the house does not join them [to make up the minimum amount]; within a utensil, the utensil joins them.”
- [E] [Challenging D:] *And lo, we learn: less than this, it is [considered] nullified by reason of its inconsequence [M. 3:2A] – [hence even within a utensil the two globs should not be joined but should be nullified]?*
- [F] Here [in D where they join] it is a case in which they are unattached [to the trough and theoretically could end up touching each other when, for example, the utensil is moved], but here [in the Mishnah where they are nullified] it is a case in which they are attached [to the trough].’

[G] What is the law where [a person] reduced it [the dough, making it less than an olive's bulk]? Is it nullified, or because it had [previously] been appropriate to remove, is one required to remove all of it?

[H] To what degree [do we so rule]? Up to the major part of the trough. If one reduced the major part of the trough, is the [remaining smaller than olive's bulk amount] nullified? Or because it had been appropriate to remove, is one required to remove all of it? [If we assume that if most of the trough was covered with dough, one must remove even an individual clump that is less than an olive's bulk in one spot, then following the procedure suggested in G, if one peeled the bulk of the dough off the trough leaving only a small portion, is a person liable to remove the remaining dough?]

[I] There said R. Jeremiah in the name of R. Zeira, "(If) two (clumps each the size of) half an olive are within the house, the house does not join them; within a utensil, the utensil joins them." And here you say thus?]

[II:1 A] [First defining the referent of the rule that a person's intent (whether or not the person is bothered by the presence of a small amount of dough in a trough) affects the cleanness status of a trough:] **[And so with regard to uncleanness:] if one is fastidious about it [the small clump of dough], it interposes [M. 3:2B] –** for immersion [preventing the trough from becoming clean and hence a person should remove the clump prior to immersing the trough]; and if not, it does not interpose for immersion.

[B] It is the same [rule, i.e., that fastidiousness affects whether or not an intervening object like the clump interposes] both for immersion and sprinkling [water, a lesser form of purification; hence if a utensil required sprinkling, a clump would prevent the whole trough from becoming clean through the sprinkling].

[C] Even though a small dough portion, regarding which a person is not fastidious, does not interpose for immersion, which would have prevented the whole trough from being purified, but rather is considered as if part of the trough, nevertheless, when the clump had come in contact with a source of uncleanness:] [We learn that] it is not [considered] a connective for uncleanness from this, but **if he wants to keep it – lo, it is [considered] as part of the kneading-trough [M. 3:2B];** and if not, it is considered as resembling [: but not identical with] the trough [i.e., what is crucial is the person's active intent in

wanting to keep the dough; hence even if the person is not fastidious about it, yet is indifferent as to whether or not to keep it, the clump and the trough are not considered joined so as render the latter unclean].

[D] [In contrast to A-C which suggest that, where fastidiousness regarding the clump is lacking, the clump is a connective for purification through immersion or sprinkling but not for rendering unclean:] R. Simeon b Laqish said, “Thus taught Rabbi, ‘Excrement under the [toilet] seat concerning which a person would not be fastidious], is considered a connective for uncleanness but is not considered a connective for [rendering clean through] sprinkling [cf. T. Par. 12:17].”

[E] R. Simeon b. Laqish in the name of R. Simeon b. Kahana, “A limb hanging down [from the body], a fingernail hanging down, excrement that is under the seat the band [around a] sound [calabash] gourd [shell] added to further strengthen it and prevent it from breaking when used as a drawing vessel,]”

[F] R. Yosé b. R. Bun said, “Even a [youth’s] tuft of hair which he plucked [about which the child does not care] are considered a connective for sprinkling but are not considered a connective for uncleanness.” [Hence even though if one of these secondary objects were sprinkled, it and the primary object would both be purified, nevertheless, if one of them came in contact with a source of uncleanness, the primary object would not be rendered unclean].”

[G] What is the difference between uncleanness and sprinkling [to account for the different rulings]?

[H] [Explaining the unusual ruling in E, as set out by ‘s reversal of clauses:] Said R. La, “Regarding sprinkling it is written, ‘And [the person shall] sprinkle on the tent and on the vessels’ (Num. 19:18) – that is, on all the things kept in a vessel [irrespective whether or not it comprises a useful addition to the vessel]; but here [regarding uncleanness] it says, ‘[but if water is put on the seed and any part of a carcass falls upon it, it shall be unclean] for you’ (Lev. 11:38) – whatever is done for your benefit. [Hence it must be something needed by the object].

[II:2 A] There we say, “Thin wafers – R. Isaac instructed that on Passover making one [wafer is permitted without fear of dough rising]; two [or] three are prohibited unless the person rinses off his hands in water” [these wafers were flattened with a person’s hands, to which the

dough would stick – hence it became necessary to wash the hands between wafers].

[B] *It is taught*: “Boxes from Biri [or “Beroea,” a city well known for its wooden boxes, in which people regularly put leavened bread] must be removed” [because presumably crumbs have become stuck on the sides or in the crevices of the boxes].

[C] *R. Yosé instructed that presses for kneading dough must be removed.*

[II:3 A] [Building on an assumed definition of “dumb” dough:] R. Abbahu in the name of R. Yohanan said, “Dough that cooled-’ – [if] there was not another like it there which leavened [to indicate the status of the “dumb” dough], until when [after kneading does one have to wait before it becomes forbidden]?”

[B] R. Jacob bar Aha, R. Ulla of Caesarea in the name of R. Haninah, “Sufficient [time] to walk four miles.”

3:3

[A] **How [on the festival] do they set apart the dough-offering [if the dough is in a state of] uncleanness?**

[B] R. Eliezer says, “A woman should not designate [the dough-offering] before it is baked.”

[C] R. Judah b. Betera says, “She should put it into cold water.”

[D] Said R. Joshua, “This is not the sort of leaven concerning which people are warned under the prohibitions, ‘Let it not be seen’ (Ex. 13:7), and ‘Let it not be found’ (Ex. 12:19).”

[E] “But she separates it and leaves it until evening.

[F] “And if it ferments, it ferments.”

[I:1 A] *The teaching [Mishnah] deals with a case in which [the dough] became unclean after it was rolled. But if it became unclean before it was rolled, [a person] should make it into qab portions [comprising less than the minimum one and one-fourth qab of dough M. Hal. 2:6 declares to be liable for a Dough-offering]*

[B] [*The Mishnah*] *speaks of a case in which she kneaded on the festival [of Passover]. But if she kneaded on the eve of the festival [the law] is in accord with this [following tradition] which is taught: “One who kneads [dough] on the festival separates its Dough-offering on the festival; [if one] kneads on the eve of the festival and forgot to separate its Dough-offering, it is forbidden to move it [on the*

festival]. [And without a doubt] it is not necessary to say [that it is forbidden] to take [Dough offering] from it [T. Y.T. 1:14,].”

- [C] It did not say “[if one] started dough” but “[if one] kneaded.” Lo, [would this imply that if one only] started dough [one would] not [become liable to separate the Dough-offering, which runs counter to texts such as M. Hal. 3:1 which states that dough becomes liable to a Dough-offering as soon as water is added to it]?
- [D] Said R. Samuel the brother of R. Berekhiah, “You may explain [that the text in B] speaks of unclean dough the Dough-offering of which one separates only at the end [of its preparation; hence if one merely started preparing unclean dough, one would not separate its Dough-offering on a festival].”
- [E] Said R. Yosé b. R. Bun, “By right, [the text in B] deals with clean dough, [for which one] should separate its Dough-offering at the end [when it forms a single mass]. [However they] enacted an enactment that [one] should separate its Dough-offering at the beginning [e.g., as stipulated in M. Hal. 3:1] so that [one] not render unclean the dough [and through it the Dough-offering; hence one separates Dough offering before dough might become unclean].”
- [I:2 A]** The teaching [in the Mishnah] deals with the festival of Passover. Lo, on Pentecost or Tabernacles [where the issue of leaven is not a factor], it is permitted [to leave the unclean dough until the night, when it may be burned].
- [B] R. Yosé b. R. Bun, R. Huna in the name of R. Aha, “Even on Pentecost and on Tabernacles [separating such dough] is forbidden because [since the dough is not permissible beforehand, it falls under the category of working on a holiday, biblically termed a ‘sacred convocation,’ which is prohibited, for example, by] ‘No work at all shall be done on them’ (Exod. 12:16).”
- [C] What difference is there between it [separating the unclean Dough-offering, which, following B’s construction of the Mishnah, would be prohibited] and cleaning vegetables?
- [D] The latter [even without the act of cleaning] is fit to be eaten, but the former [without separating the Dough-offering] is not fit to be eaten [making only the former into an act of actual preparation of the object which would be forbidden].
- [E] *Rabbis of Caesarea asked*, “What difference is there between it [separating the Dough-offering] and sorting lentils on the holiday?”

[Without separating the beans from the refuse they could not be eaten yet it is permitted.]

- [II:1 A] How should [a person] act according to R. Eliezer [who says one can handle the dough until it is baked, when it is designated and then properly left till the evening for burning]?
- [B] [A person] acts with shrewdness and says: “This [portion] I want to eat and this [portion] I want to eat’;” and one bakes all of it, and when he removes it [from the oven, one] acts with shrewdness and says: “This [portion] I want to store away and this [portion]” and leaves one [the last one which is then designated as Dough offering].
- [II:2 A] **Said R. Joshua to him [R. Eliezer], “Do you not end up like one who burns holy things on the holiday [in leaving the Dough offering to burn in the oven after baking the dough, which, is a distinct violation]?”**
- [B] **R. Eliezer said to him, “They burn on their own accord [with out a separate act of burning, for the Dough-offering merely re mains in the oven after it and the rest of the dough are baked].”**
- [C] **Said lo him R Joshua, “Do you not end up violating the ban on seeing and finding leaven [on one’s premises by allowing it to rise]?”**
- [D] **[R. Joshua] said to him, “It is preferable to violate a negative commandment which did not appear before you [leaving the dough which eventually will become leaven on its own] than a negative commandment which appeared before you [letting the Dough-offering forthwith burn on the festival through one’s action, be it indirect].” [T. 3: 7].**
- [E] *Said R. Phinehas, “These disputes are like these [following] disputes, for we learn there: (1) [Blood] that is to be sprinkled once, [which was confused with (other blood) that is to be sprinkled once – they (each) should be sprinkled once. (2) (Blood) that is to be sprinkled four times (which was confused with blood) that is to be sprinkled four times – they (each) should be sprinkled four times. (3) (Blood) that is to be sprinkled four times (which was confused with blood) that is to be sprinkled once – R. Joshua says, “They (each) should be sprinkled four times”] [M. Zeb. 8:10].*

- [F] Said to him R. Eliezer, “And lo, don’t you end up violating the ban on not ‘diminishing’ anything from a commandment (Deut. 12:32)?”
- [G] Said to him R. Joshua, “And lo, don’t you end up violating the ban on not ‘adding’ to a commandment (ibid.)?” (3) And said [R. Joshua] to him, “It is preferable to violate a negative commandment which did not appear before me than a negative commandment which did appear before me” [T. Zeb. 8:23].
- [II:3 A] *According to the opinion of R. Eliezer*, let [the person] designate it [after the dough bakes] and then remove it [from the baked dough without leaving it to burn]?
- [B] It is forbidden to move it [once it has been designated, for it is not usable by either Israelites or priests on the festival].
- [C] And let [a person] remove it and [then] designate it?
- [D] [One should not do that] lest a person forget and eat [it].
- [E] And let [a person] remove it, and designate it, and take it with another [portion of dough] to a corner [out of the way], *as that which we learn there: They move clean heave-offering with unclean [or unclean] with common produce [M. Shab. 21:1].*
- [F] *But it is not similar.* There [M. Shab. 21:1, taking] the unclean [portion] is necessary for [moving] the clean [e.g., when the unclean is on top of the clean]. But here [in E’s construction of the Mishnah’s case], the common produce is [moved only] for the sake of the unclean.
- [G] *The Associates asked*, “And let [the person] toss it into the garbage and then dedicate it [to the Temple and, being holy, people will avoid it]?”
- [H] And may a person dedicate [to the Temple] something which is not his [for in tossing it into the garbage, the person has renounced ownership]?
- [I] And let [the person] dedicate it [to the Temple] and then toss it into the garbage?
- [J] And may a person declare ownerless [by tossing something into the garbage] something which is not his [but belongs to the Temple]?

[K] *R. Jeremiah asked*, “And let [the person] break it up and toss it into the air of the house [such that not a single piece of an olive’s bulk exists in one location] and then designate it?”

[II:4 A] There *R. Jeremiah* said in the name of *R. Zeira*, “[If] two halves of an olive’s bulk [of leaven] are within a house [at different locations], the house does not join them [to make up the minimum amount]; within a utensil, the utensil joins them.” But here he [the Mishnah, in particular, *R. Eliezer*] says thus [that one may designate the portion of dough left over in the oven as Dough-offering on behalf of the baked dough already taken out of the oven as if they make up one unit]?

[B] [Rejecting the comparison of the two subjects:] Said *R. Yosé*, “While it [the dough] is yet [even] in the air of the house, [the person] may designate it [for even the air of the house joins [to make up the minimum amount] for Dough offering; [but even] the ground of a house does not join to make up [the minimum amount] for leaven.”

[II:5 A] **It [an animal] and its young that fell into a pit [on a festival] – *R. Eliezer* says, “[One] should raise up the first with the plan to slaughter it and should slaughter it, and the second, [they] feed it] so that it not die.” *R. Joshua* says, “[They] should raise up the first one with the plan to slaughter [it] but [need] not slaughter [it] and practicing shrewdness, should raise up the second. Even though [one] intends not to slaughter either one of them – it is permitted.” [T. Y.T. 3:2, which augments M. Bes. 2:4].**

[B] [Noting that *R. Eliezer* in *M. Pes. 3:3* and *T. Y.T. 3:2* apparently takes opposite positions as to whether or not one should employ an artifice:] *R. Bun bar Hiyya asked*: “Is not *R. Eliezer’s* logic reversed? There [T. Y.T.] he says it is forbidden to act with shrewdness and here [M. Pes.] he says it is permitted to act with shrewdness.”

[C] [The different positions do not make up a contradiction:] Here [he so rules] because of the ban on seeing and finding leaven [which justifies any necessary means to remove the leaven]. There, what can you say [is there any comparable justification]?

[D] [Noting a comparable inconsistency regarding *R. Joshua’s* views:] “*R. Joshua’s* logic is reversed. There [T. Y.T.] he says it is permitted to act with shrewdness, and here [M. Pes.] he says it is forbidden to act with shrewdness.”

[E] Said *R. Idi*, “Here [T. Y.T., where the individual moves the animal] it is a matter of an added prohibition on not doing certain activities on the Sabbath which, though not technically constituting prohibited

labors, are a violation of the ‘rest’ appropriate for the Day of Rest] and here [M. Pes., where the individual bakes the unclean dough which is not for human consumption, if it were the Sabbath, it would be a violation entailing] a liability for a sin-offering.”

[F] Said R. Yosé b. R. Bun, “There [in the case of the animal caught in the pit, one can employ an artifice] so as to have compassion on the property of Israel; here [regarding the unclean Dough-offering which is to be burned and which benefits neither an Israelite nor a priest], *what can you say [is there any such loss justifying the use of an artifice]?*”

[G] *R. Isaac and R. Josiah [differed regarding their attitude to R. Eliezer and R. Joshua:] One [said] like this [master] and one like this [other master].*

[H] *R. Berekhiah expounded in accord with that of Ben Beterah [in M. Pes. 3:3C and thus disputes R. Isaac and R. Josiah who support Eliezer or Joshua]:*

[I] **“The teaching said thus [likewise], ‘[As soon as the dough] swells, she should wet it with cold water’” [M. 3:4].**

[J] *The words of the rabbis are in dispute [with R. Isaac and R. Josiah for R. Hezekiah, R. Abbahu in the name of R. Eleazar said, “Wherever Rabbi taught [in the Mishnah] a dispute and then taught [one of those two positions in the dispute] anonymously, the halakhah is like the anonymous [position – and hence as far as M. 3:3 is concerned in accord with Ben Beterah] .”*

3:4

[A] **Rabban Gamaliel says, “Three women knead dough together and [then] bake in the oven one after the other in sequence.”**

[B] **And sages say, “Three women work with the dough. One kneads, while the next rolls out, and the third bakes.”**

[C] **R. Aqiba says, “All women, all wood, and all ovens are not to be taken as equivalent.**

[D] **“This is the general rule: [If] the dough swells, let her slap it with cold water.”**

[I:1 A] [If following Gamaliel, the women work in sequence:] *It is taught:* “[Before one can bake one’s dough:] the first waits sufficient [time] for firing [of the oven]; and the second [in turn, who starts kneading at the same time as the first person, waits] sufficient [time] for two firings [of the oven, for the first person’s and then her own use of the

oven] and one baking [that of the first person]; and the third [person, who likewise starts simultaneously with the first two, waits] sufficient [time] for three firings [of the oven – for the first two individuals’ and then her own use of the oven] and two bakings [the second baking being the added time that must be waited for the second person to finish baking]. [But] if [this third person] made the first loaf [that she had formed at the very beginning] last [placing it into the oven last and not at the beginning of her baking, hence leaving it unattended while her first batch bakes, that individual will end up waiting] sufficient [time] for three firings [of the oven] and three bakings [the third baking being this added time for her own initial batch].”

[B] [Regarding sages who suggest that to the degree possible, people work in different stages of processing, in sequence, and do not start kneading at the same time, the following presents the case in which all three actually will be involved:] *It is taught*: “[If] this [third] one finishes her kneading [after the first two had previously done so], and this [second] one finishes her forming the cakes [allowing the third to start kneading] and this [first] one [who by now] finishes her firing [the oven]: the first [person ends up] waiting sufficient [time] for a firing [of the oven before she can bake her dough]; and the second [who, as we just stated, starts kneading after the first one kneads and while the first one forms the dough, and therefore finishes kneading just as the first begins to bake], sufficient [time] for her firing [of the oven to prepare it for her own dough] and the baking of her [first] friend; and the third [who does not start kneading until the second finishes kneading and forming the loaves waits] sufficient [time] for two firings [of the oven, to prepare it for the second person and then for herself] and one baking [by the second person between the firing of the oven by the second and third persons].

[C] “If [this last person does not bake the loaves in the order she kneaded them but] makes the first loaf [that she had formed] last [leaving it unattended while a first batch bakes, that individual will end up waiting] sufficient [time] for two firings and two bakings [with the second baking being the added time for her own initial batch].”

[I:2 A] **Rabban Gamaliel says, “Three women knead [dough] at the same time and bake in one oven, one after the other.” And sages say, “Three women occupy themselves with the dough: one kneads, and one rolls, and one bakes [M. 3:4].”**

[B] *R. Hoshea teaches: “And another comes and kneads after them” [T. 3:8A]*

- [C] *There are those who teach, “[In preparing] with wheat, [one may use up to] three qabs and with barley [up to] four qabs.”*
- [D] [Alternatively:] *And there are those who teach, “[In preparing] with wheat four qabs and with barley three qabs” [T. 3:8B].*
- [E] [Harmonizing the two traditions:] *The one who said, “with wheat three qabs” – when they have fat; “and with barley four qabs” – when they lack fat.*
- [F] *The one who said, “with wheat four qabs” – when they are soft [and small and not fully ripened and thus do not produce the maximum amount of flour]; “and with barley three qabs” – when they are hard [dry and fully ripe and thus produce much flour].*

3:5

- [A] **“Dough beginning to ferment is to be burned, but the one who eats it is exempt.**
- [B] **“Dough which is wholly fermented must be burned, and the one who eats it is liable to extirpation.**
- [C] **“What is the definition of dough beginning to ferment?**
- [D] **“That [on which streaks begin to appear] like locust’s horns.**
- [E] **“And that which is wholly fermented?**
- [F] **“Dough on which the cracks are all entangled together,” the words of R. Judah.**
- [G] **And sages say, “As to both this one and that one, the one who eats it is liable to extirpation.”**
- [H] **And what is the definition of that which is beginning to ferment?**
- [I] **Dough whose surface turns white like a man whose hair stands on end.**
- [I:1 A] [Regarding Judah’s opinion, in particular the need to remove the *si’ur*]: R. Huna in the name of Rab, “It is permitted to feed it to dogs. [Hence, in not prohibiting benefit beyond human consumption, it emerges as not totally inedible.]”
- [I:2 A] Explaining why sages reject Judah’s definition of *si’ur*:] Bar Qappara teaches: “You do not have a streak above that does not have several streaks below it [hence anything of this sort should be liable just like dough beginning to ferment.

3:6

- [A] **The fourteenth [of Nisan] which coincides with the Sabbath –**

[B] they remove all [the leaven]

[C] “before the Sabbath,” the words of R. Meir.

[D] And sages say, “At its proper time.”

[E] R. Eleazar b. R. Sadoq says, “[Leaven which is] heave offering is to be removed before the Sabbath, and that which is unconsecrated should be removed at its proper time.”

[I:1 A] *R. Meir [in M. 3: 6] is in accord with R. Eliezer [in M. 3:3] and [regarding the principle articulated] goes further than R. Eliezer,*

[B] for R. Eliezer says [that a person burns unclean dough from which one is to set aside a Dough-offering on Passover, when it has already become forbidden], so that one does not come to violate [the commandment] on not seeing or finding [leaven], [while] R. Meir says [that one burns all such dough even dough the status of which is unclear and unclean on the eve immediately “before the Sabbath,” even though the fire will continue to burn on the Sabbath, despite the fact that the time of its prohibition has not yet arrived] so that one does not come to a doubtful [situation which might become a violation of the commandment of] not seeing and finding leaven [for one so acts on the basis of the possibility that the leaven will not be consumed before the onset of its prohibition].

[C] *Rabbis [in M. 3:6, who aver that the dough is burned not immediately before the Sabbath but at the proper time of the day, even if it is on the thirteenth when the fourteenth coincides with the Sabbath] are in accord with R. Joshua [in M. 3:3] and go further than R. Joshua, for R. Joshua says, “They do not burn sacred [produce] on a holiday” and rabbis [as represented at y. Shab. 2:2, deducing from M. Shab. 2:2] say, that even on a weekday they do not [start to] burn sacred [produce when it would continue to burn on the Sabbath – and hence require the produce to be burned at its “proper time,” earlier in the day (and not “immediately before the Sabbath”), since in this instance, because the leavened produce is destined to become prohibited, it does not fall under the general prohibition of burning].*

[I:2 A] *It is taught: Said R. Judah, “The House of Shammai and the House of Hillel did not dispute [when the thirteenth falls on a Friday] regarding [the ruling] that it is forbidden to burn clean heave-offering nor did they dispute the permissibility of burning the unclean heave-offering. Regarding what did they dispute? Regarding the produce the status of which is undetermined, for the House of Shammai say, ‘[They] do not burn.’ And the House of Hillel say, ‘[They] burn.’”*

[B] The House of Shammai said to the House of Hillel, “Do you not say regarding the clean [heave-offering] that it should not be burned [before the Sabbath starts], for I may say perhaps a priest established his Sabbath domain within the [Sabbath] limits, and he will come and eat [the produce] on the Sabbath. Similarly the produce of undetermined status should not be burned, for I may say perhaps [the prophet] Elijah [who is destined to return and resolve unclear situations] established his Sabbath domain on Mount Carmel, and he will come and testify on the Sabbath regarding it that it is clean [and may be eaten by any Israelite].”

[C] Said to them the House of Hillel, “We are assured that Elijah will not come either on Sabbaths or holidays. [Hence the suspended produce will not lose its doubtful status on the Sabbath].”

[I:3 A] R. Abbahu [said] in the name of R. Yohanan, “R. Eleazar b. R. Sadoq [in prescribing the burning of the heave-offering immediately “before the Sabbath” and unconsecrated produce at this standard hour, be it even on the thirteenth, in M. 3:6] is in accord with Rabban Gamaliel. Just as Rabban Gamaliel [in M. 1:5] distinguished between unconsecrated food [which may be eaten throughout the fourth hour of the fourteenth of Nisan] and [leaven in the status of] heave-offering [which may be eaten later, throughout the fifth hour], so R. Eleazar b. R. Sadoq [in 3:6] distinguished between unconsecrated food and heave-offering [and prescribes that the latter be burned later than the former.]”

[B] “Just as you say that the halakhah follows Rabban Gamaliel; similarly the halakhah follows R. Eleazar b. R. Sadoq.”

3:7

[A] **He who goes to slaughter his Passover lamb, to circumcise his son, or to eat the betrothal meal at his father-in-law’s house,**

[B] **and remembers that he has left some leaven in his house,**

[C] **if he can go back and remove it and go on to do his religious duty, let him go back and remove it.**

[D] **But if not, let him nullify it in his heart.**

[E] **[If he was going] to help against an invasion or to save someone from drowning in a river, from thugs, from a fire, or from a suddenly collapsed house, let him nullify it in his heart.**

[F] **[If he was going] to enjoy the festival rest on a pleasure jaunt, let him go back immediately [and remove the leaven].**

[I:1 A] Said R. Yosé b. R. Bun, “Come and see how great is peace for [visiting one’s in-laws which is done to establish harmony in a family] is compared to two matters over which [people] are liable for extirpation [= extirpation]: the circumcision of one’s son and the slaughter of one’s Passover offering!”

[B] Which takes precedence?

[C] Said R. Phinehas, “From that which is written, ‘[If a stranger who dwells with you would offer the Passover to the Lord,] all his males must be circumcised; then he shall be admitted to offer it it’ (Exod. 12:48) – this indicates that the circumcision of one’s son takes precedence over the slaughtering of one’s Passover offering.”

[D] [M. 3: 7B’s rule applies] even if one is able to return and remove [the leaven] and go back and rescue [the person in danger];

[E] [M. 3:7C’s rule applies] even if one is able to go and establish a resting place and [then] return and remove [the leaven].

[II:1 A] What is “**to establish a resting place [fora] voluntary [purpose] [M. 3:7C]**”?

[B] [To be] with one’s master or with a person who is greater than one in [knowledge of] Torah.’ [Hence a “voluntary” purpose entails some religious duty.

[C] [Based on the definition in B-C:] Thus taught Rabbi [as the editor of the Mishnah], “Deeds precede study” [as indicated by the contrasting of the prescribed procedures for performing religious acts in clauses A-B with that for arranging to study with one’s master, in C, and by the characterization of the latter as only a “voluntary” matter].

[D] [Challenging D:] They voted in the upper room of the house of Aris in Lod, “study precedes deeds.”

[E] [Reflecting on E’s position:] R. Abbahu sent R. Haninah, his son, to learn Torah in Tiberias. *They came and said to [R. Abbahu], “[R. Haninah] does pious acts” [he escorts the dead].*

[F] He [R. Abbahu] sent and said to him, “Have I sent you to Tiberias because ‘there are no graves’ in Caesarea’s? For they have already voted conclusively in the upper chamber of Bet Aris in Lod that study precedes deeds.”

[G] *The rabbis of Caesarea say, “This which you say applies when there is someone [else] to do [the deed]; but if there is no one there to do [the deed], the deed precedes.”*

[H] *A case: R. Hiyya, R. Yosé, [and] R. Immi tarried in coming [to study] before R. Eleazar. He said to them, “Where were you?”*

[I] They said to him, “We did a pious act” [accompanying the dead].

[J] He said to them, “And were there not others there?”

[K] They said to him, “He was a neighbor” [for whom one has to perform extra acts of piety].

3:8

[A] And so too: He who went forth from Jerusalem and remembered that he had in hand meat in the status of Holy Things,

[B] if he had already passed Mount Scopus, he burns it right where he is.

[C] But if not, let him go back and burn it before the Temple pile with wood which has been set aside for the altar hearth.

[D] And for how much [leaven or meat of Holy Things] do they return?

[E] R. Meir says, “This and that are subject to the measure of an egg’s bulk.”

[F] R. Judah says, “This and that are subject to the measure of an olive’s bulk.”

[G] And sages say, “Flesh in the status of Holy Things [A] is subject to the measure of an olive’s bulk.

[H] “And leaven [M. 3:7B] is subject to the measure of an egg’s bulk.”

[I:1 A] [Defining the area within the boundary and demonstrating that this extended area is considered holy by drawing on Zechariah’s picture of future pilgrims to Jerusalem:] R. Simon in the name of R. Joshua b. Levi, “It is written, ‘In that day, all the shadows of [“bells on”] the horses shall be inscribed “Holy to the Lord’ (Zech. 14:20) – up to the point that horses run and do not cast a shadow [being overshadowed by the shadow of the city and its walls].”

[B] *R. Samuel b. R. Isaac asked, “If it [whatever is in sight of Jerusalem] is sacred [in the same status as if in Jerusalem], let [the person] burn it in its place [and not return to the Temple Mount]?”*

[C] Even in Jerusalem they burn it [any invalid offering] with the altar's woodpile, [and individuals need to provide their own wood; hence returning represents a leniency].

[D] That part [of the offering that] goes out [from the holy precincts thereby becoming invalid as prescribed in Exod. 12:46 and as assumed in M. Pes. 7:9,12]: What do you do with it? Is [it considered] like [an offering] which has become unclean outside [the holy precincts and should be burned in its place], or is [it considered] like [an offering] which has become unclean inside?

[E] Said R. Yosé, "Since [the meat] has been found to be invalid as a result of its location, it is considered like that which has become unclean outside [and should therefore be burned in its place]."

[F] Said R. Yosé b. R. Bun, "[Any sacrificial meat which becomes invalid by taking it out of its designated place of consumption] is [considered] clean on the basis of the word of Scripture. You are the one who imposed uncleanness on it [for example, by declaring that it renders hands unclean]. Is it not sufficient that you imposed on it uncleanness, but you [also] want to make it like that which has become unclean outside [which may not be burned with the public wood from the altar pile but must be burned in its place]! [Rather, consider it] like that which has become unclean inside [and may be burned inside with the altar's public woodpile]."

[II:1 A] *There are those teachers who teach reversing the opinions [of R. Meir and R. Judah].*

[B] R. Jacob bar Aha [taught] in the name of R. Yosé in accord with [the reading found in] our Mishnah.

[C] *Said R. Yudan, "There is a sign [to remember which opinion goes with whom] from that [dispute] in [Mishnah] Berakhot regarding the minimum amount of food required to make one liable to say the formal Invitation to Grace after Meals and Grace itself]: **For how much [food] do they invite [people to join in saying the formal Introduction to Grace]? For an olive's bulk. R. Judah says, For an egg's bulk [M. Ber. 7:2].**" [Judah in y. Pes. should likewise employ the measure of an egg, and Meir (Judah's assumed disputant in M. Berakhot), that of an olive.]*

[D] *It is taught:* Less than this [minimum amount specified in the Mishnah], they do not bother the person to return [to remove his leaven, for example]."

[E] What is the difference between this and that? [Assuming E responds to D: why does D's mention of not returning apply in particular to the case of leavened bread but not sacred meat? Most commentaries, however, explain that the question responds to M. 3:8E, sages' requirement of a smaller measure for meat than for leavened bread.]

[F] This [the leavened bread] is susceptible to annulling [even at a distance, as laid out in M. 3:7, and hence even if one does not bother to return, one may get rid of one's leaven irrespective of the amount].

[G] [While] this [sacred meat] is not susceptible to annulling [and burning it is perforce the only recourse]

[H] [Regarding Judah's opinion requiring an egg's amount for both substances:] Up to this point [we understand regarding] sacred meat [that the criterion should be the egg], where do we learn regarding leavened bread [that the criterion is an egg; should it not be an olive's bulk, which is the amount making one liable for violating the ban on not seeing leaven]?

[I] Said R. Yosé b. R. Bun, "*From that which we learn, **And similarly one who has gone out from Jerusalem** — this indicates that whatever [measure] applies to this [sacred meat] applies to this [leavened bread].*"

YERUSHALMI PESAHI

CHAPTER FOUR

4:1

[A] Where people are accustomed to do work on the eve of Passover prior to noon – they do [so]. Where they are accustomed not to do [so] – they do not do [so]

[B] One who goes from a place where they [people] do to a place where they do not do [so], or from where they do not to where they do – they impose on him the stringencies of the place which he has left and the stringencies of the place to which he has gone

[C] But a person should not vary [from the local custom] so as [to avoid, continuousness]

[I:1 A] Where they are accustomed to do work, [M. 4:1A].

[B] It is written, “There shall you slaughter the Passover sacrifice, in the evening” (Deut. 16:6). I know only that he is to slaughter [the offering].

[C] From where [do I learn that] his agent [may do so likewise]?

[D] The teaching [the verse] says, “You shall cook and eat it” (Deut. 16:7) [which suggests that a person is required to participate only in the cooking and eating; hence v. 6 should not be construed to restrict the slaughtering to the person alone].

[E] What [then] is the meaning of “There shall you slaughter the Passover sacrifice, in the evening?”

[F] It is not right that you should be engaged in your work while your sacrifice is being offered [the notion behind our Mishnah].

[G] Indeed they prohibited doing work, *as [in] this which is taught*: “Therefore everyone who made a vow [to bring] wood and first fruits [to the Temple] – [that is] one who says, “I take it upon myself [to bring] wood for the altar and logs for the pile: he is prohibited

regarding lamenting and fasting and [similarly] from working on that day.”

- [I:2 A] Said R. Jonah, “[Taking into account that] these daily offerings are the sacrifices of all of Israel: if all of Israel went up to Jerusalem [daily, it would not be right for] is it not written, ‘three times a year all your males shall appear [before the Lord your God]’ (Deut. 16:16 – does the verse not require only three times a year)?
- [B] “[And] if all of Israel remained idle [following the proposition that people should not be engaged in work while their sacrifice is being offered], and is it not written, ‘And you shall gather in your new grain’ (Deut. 11:1)? Who would gather in the new grain for them?
- [C] “Rather, the former prophets established twenty-four watches Corresponding to each watch there was a post [stationed] in Jerusalem of priests and of Levites and of Israelites [M Tan 4:2] [and these functioned as the agents of Israel, T. Tan. 3:2-3].”
- [D] *It is taught:* “Twenty-four thousand post[s] from Jerusalem and half a post from Jericho [a truncated allusion to a verse: “Twenty-four thousand” (were the number of Levites “in charge of the work of the House of the Lord”) (I Chron 23:3). (One) post from Jerusalem and a half a post from Jericho.”]
- [E] “Jericho could have supplied a full post, but in order to honor Jerusalem it would only supply half a post. The Priests [were] for the service, and the Levites for their platform [standing ready to sing] and the Israelites testify on behalf of themselves that they are agents of all of Israel.”
- [F] [Highlighting the importance of Israelite representatives:] *It was taught as a Tannaite statement: R. Simeon ben Eleazar says, “Priests, and Levites, and Israelites, and the song are essential to [“hinder”] the sacrifice [all are indispensable]” [T. Tan. 3:3].*
- [G] R. Abun in the name of R. Eleazar [said], “*The reason for [the view of] R. Simeon b. Eleazar [lies in 2 Chron. 29:28’s description of Hezekiah’s cleansing of the Temple:] ‘All the congregation prostrated themselves’ – these are Israel; ‘the SONG was sung’ – these are the Levites, ‘and the trumpets were blown’ – these are the Priests; ‘All of this’ until the end of the burnt offering’ – all hinder the sacrifice.*”
- [H] *R. Tanhuma in the name of R. Eleazar derived the rule from this [verse]: “And from among the Israelites I formally assign the*

Levites to Aaron and his sons' – these are the Levites; 'to perform the service for the Israelites in the Tent of Meeting' – these are the Priests [= the Levites are to assist in the priestly work]; 'and to make expiation for the Israelites' – this is the song [which is their only cultic act that they perform alone]; 'so that no plague may afflict the Israelites for coming too near the sanctuary' – these are Israel (Num. 8:19) [thus either the Levites serve as agents for Israel or the Israelites themselves participate]."

[I] [On the "song":] How do we know that the song is called expiation?

[J] Hinenah the father of bar Neteh in the name of R. Benaiah, "'And to make expiation for the Israelites' (Num. 8:19) – this is the song [the remaining cultic activity presumably not covered in the mention of "service" just above]."

[K] And how do we know that the song is essential to [expiation's taking effect]? R. Jacob bar Aha, R. Simeon the Councilman in the name of R. Haninah [said], "'And to make expiation for the Israelites' – this is the song."

[I:3 A] And lo, a paschal offering, behold it is a sacrifice for all of Israel, and they [the authors of M. 4:1] made it [working before noon on the day when it is offered] contingent on custom [for should not work be forbidden throughout the day]?

[B] Said R. Abbahu, "[The fourteenth of Nisan] is different [from a day on which an individual brings an offering], for the Passover offering is sacrificed only from the sixth hour and onward, [and hence it is not comparable to a situation of an individual who, though he may bring an offering at any hour, chooses to bring it after the sixth hour and therefore may not work throughout the day]."

[C] *R. Abbahu asked*, "If one said, 'I pledge a burnt offering from the sixth hour and onward,' is he permitted to perform work prior to the sixth hour?"

[D] Said R. Yosé, "A Passover offering that they sacrificed in the morning is not a Passover sacrifice. A burnt offering that they sacrificed in the morning is a burnt offering." [Since a burnt offering that was offered in the morning, even though pledged for the afternoon, is valid, work is prohibited throughout the day.]

[I:4 A] [Regarding] all the matters [that follow] they made it contingent upon an actual custom:

- [B] *Women who are accustomed not to work: on the departure of the Sabbath* – this does not comprise a custom; until the synagogue¹ lets out [on Saturday night, which is likely to be a little later than the precise end of the Sabbath because in synagogues people include additional prayers] – [this is] a custom; on Mondays and Thursdays [the days on which the Torah is read] – [it is] not a custom; until the fast-meeting [or “fast-prayer session”] lets out [for one of the Monday and Thursday fasts, accepted by the pious, when penitential and other special prayers were recited] – [this is] a custom; on the Sabbath eves – [it is] not a custom; from *afternoon prayer* time onwards [on Sabbath eves] – [this is] a custom; on the day of the [New] Moon – [this is] a custom.
- [C] *Said R. Zeira, “Women who are accustomed not to start a loom from the beginning of [the month of] Ab and onward – [this is] a custom, for in it [Ab] the foundation stone [a stone from which the world was women] ceased [functioning]. What is the [scriptural] reason [for this association]? ‘When the foundations are destroyed’ (Ps. 11:3).” [It is assumed that this Psalm to David referring to a destruction alludes to the Temple’s destruction, which is mourned in the month of Ab.]*
- [D] *Said R. Hinena, “All the matters [above, whether or not based on actual customs] are [in effect] a custom [and should not be disregarded].”*
- [E] *Acacia trees [which were used in the holy ark’s construction and hence venerated] were in Magdala of the Dyers. They came and asked R. Haninah the associate of the rabbis, “Is it permitted to work them?”*
- [F] *He said to them, “Since your ancestors were accustomed to treat them as prohibited, do not change the custom of your ancestors, whose souls are at peace.”*
- [G] *R. Eleazar [said] in the name of R. Abin, “[Regarding] every matter that one does not know is permitted and in error [treats] as prohibited, one appears before sages and they permit him; and [regarding] every matter that one knows is permitted but treats as prohibited, one appears before sages and 1_ they do not permit him.”*

[I:5 A] **They sit on a Gentile’s bench [on which a Gentile merchant sells wares] on the Sabbath [even though it might appear as if they were engaged in business] [T. M.Q. 2:14A].**

[B] **A case (M’S H B) regarding Rabban Gamaliel who sat on a Gentile’s bench on the Sabbath in Akko. [Locals] said to him,**

“They are not accustomed here to sit on a Gentile’s bench on the Sabbath,” and he did not want to tell them that it is permitted to act thus, but rather he got up and left.

[C] A case concerning Judah and Hillel, the sons of Rabban Gamaliel, who went in to bathe in the baths of Kabul. They said to them, “Two brothers are not accustomed here to bathe together [out of modesty],” and they did not want to say that it is permitted, but rather they entered one at a time.

[D] And moreover [there was a case concerning them] that they went out to walk with gilded bark [apparently loosely fitted] sandals on Sabbath night in Beri. [Locals] said to them, “They are not accustomed here to walk with gilded bark sandals on the Sabbath [lest the sandals fall off and be carried home].” And they did not want to tell them that it is permitted thus, but rather they sent them home with their servants [T. M.Q. 2:15-16].

[I:6 A] Not only regarding Passover [e.g, not working prior to noon on the day on which the offering was brought, on the eve of Passover,] but also regarding a custom [people are to accept and maintain stringencies]:

[B] The net-fishers of Tiberias, and the grist-makers of Sepphoris, [and] the grain crushers of Akko accepted upon themselves not to work on the intermediate days of the festival [cf. M. M.Q. 2:5].

[C] It is understandable regarding the grist-makers of Sepphoris [and] the grain crushers of Akko [as R. Yosé reports in M. M.Q. 2:5, they imposed a stringency upon themselves]; regarding the net-fishers of Tiberias [not mentioned in M. M.Q. 2:5], however, do they not diminish the joy of the festival [by decreasing the availability of fish]?

[D] [The angler] fishes with a hook, [and] he fishes with a small net.

[E] Even thus, do they not diminish the joy of the festival [for their catch would be smaller than needed]?

[F] *R. Ammi cursed them because they diminished the joy of the holiday.*

[I:7 A] Relating to the Mishnah’s concern for the impact of changing locations on a person’s custom:] [If people who had taken upon themselves a prohibition] fled from place to place and wanted to retract [their prohibition, what is the law]?

[B] *Let it come [and be resolved] in accord with the following that R. Ba said, “The people of Meshal took upon themselves not to sail on the*

Great Sea [the Mediterranean, due to the danger involved]. They came and asked Rabbi [Judah the Patriarch], saying to him, ‘Our ancestors were accustomed not to sail on the Great Sea; what shall we do?’

[C] “He said to them, ‘Since your ancestors were accustomed to treat it as a prohibition, do not deviate from the custom of your ancestors whose souls are at peace.’”

[D] And may not a person consult a sage to absolve his vow?

[E] There the one who took the vow consults. Here [regarding the people of Mesha] “your ancestors” vowed.

[F] All the more so should they not be permitted [to have the vow absolved, for there is a self-evident basis for absolving it, since their ancestors did not contemplate that the practice would deleteriously affect their descendants] !

[G] *Said R. Hananiah, “It is not because of that [reason that Rabbi did not agree to their request] but because of this [which follows]:*

[H] *Rabbi was the student of R. Judah, for R. Judah said, ‘It is forbidden to sail on the Great Sea [due to danger].’”*

[II:1 A] **[He who goes from a place in which they do work to a place in which they do not do work, or from a place in which they do not do work to a place in which they do do work – they lay upon him the strict rules followed in the place from which he has gone forth and the strict rules followed in the place to which he has gone. But a person should not vary [from the local custom] so as [to avoid] contentiousness:]** R. Simeon b. Laqish asked R. Yohanan, “And is it not forbidden because of the ban of ‘you shall not divide up into sects’ (Deut. 14:1).

[B] He said to him, “[That principle applies] when some [people] act in accord with the House of Shammai and others act in accord with the House of Hillel [i.e., when they put into practice differing legal positions but not, e.g., diverse local customs].”

[II:2 A] [Questioning this construction of the principle of *you shall not divide up into sects:*] “[In the disputes] of the House of Shammai and the House of Hillel, does not the law follow the House of Hillel [and since therefore acting in accord with the House of Shammai should be simply wrong, even without consideration of *you shall not divide up into sects*, the principle would not be applicable]?”

- [B] He said to him, “[The ban applies] when some [people] act in accord with R. Meir and others act in accord with R. Yosé.”
- [C] “[In the disputes] of R. Meir and R. Yosé, does not the law follow R. Yosé?”
- [D] *He said to him, “There are two Tannaite authorities who [transmit] regarding R. Meir and there are two Tannaite authorities who [transmit] regarding R. Yosé.”* [Since Tannaite authorities after R. Meir and R. Yosé often differed as to what the masters had actually said and even reversed their opinions, making the principle in E unreliable, the ban of *you shall not divide up into sects* is relevant to prevent over proliferation of conflicting practices.]
- [E] He said to him, “Lo, the New Year and the Day of Atonement [are subject to divergent opinions in M. R.H. 4:5 regarding blowing the shofar in conjunction with a prayer speaking of God’s sovereignty and]
- [F] “in Judah they practice in accord with R. Aqiba [in blowing the shofar] and in Galilee they practice in accord with R. Yohanan ben Nuri [in not blowing, a divergence in practice attested in T. R.H. 2:11 and no fuss is made; but should not the principle of *you shall not divide up into sects* apply]?”
- [G] He said to him, “That [case] is different, for
- [H] “if [one] went and acted in Judah in accord with Galilee and in Galilee in accord with Judah – [one] has fulfilled [one’s obligation].” [Since they disputed only before but not after the fact, the matter is not subject to *you shall not divide up into sects*]
- [I] [Posing the challenge regarding the third area:] “Lo, [regarding] Purim, lo, [M. Meg. 1:1 prescribes that] some read [the Book of Esther] on the fourteenth [of Adar] and others read [it] on the fifteenth [but should not the principle of *you shall not divide up into sects* apply]?”
- [J] He said to him: “The one who arranged the Mishnah [and who set out the divergent practices in this case] found support in the Bible [which states, ‘Consequently, these days are recalled and observed in every generation:] by every family, every province, and every city’ (Est. 9:28).”
- [II:3 A]** It is satisfactory [when an individual left] a place where they work [on Passover eve prior to noon] and goes to where they do not work. [When one leaves] a place where they do not work [and goes] to where they do work, however, let him be idle, for are there not some idlers

[already] in that place [and hence in not working he would not cause a controversy but rather appear, e.g., to be an unemployed individual]?

[Bl R. Simon [said] in the name of R. Yohanán, “It is a case of one’s causing astonishment [if one refrains from working, for example when the individual is known in general to work].”

4:2

[A] **And similarly:**

[B] **one who brings Seventh-Year produce [cut after having grown on its own] from a place in which [that variety] has ceased [to be available in the fields] to a place in which it has not ceased. or from a place in which [that variety] has not yet ceased to a place in which it has ceased**

[C] **is liable to effect the removal of the produce [normally required for produce that has been cut once none of that kind is attached to the earth].**

[D] **R Judah says.” Go and bring [some] for yourself – you too”**

[I:1 A] [The Mishnah refers to a case in which the particular produce] has ceased in Tiberias but has not ceased in Sepphoris, [and the individual who brought produce to Tiberias] said to him [who challenges him], “From Sepphoris I brought them [the produce]. If you do not believe me, **‘go and bring [some] for yourself – you too’**” [Since it all depends on the produce, and the locals too may bring some from the other place, the individual need not follow the stringency of the place to which he has come.]

[B] R. Hananiah in the name of R. Phinehas said, “R. Judah [in our Mishnah] and R. Yosé [as cited below], both of them said the same thing.

[C] **“For we learned there: [In the Seventh Year they eat produce collected into their homes relying] on the ownerless [produce declared free for all in the field] and they do not eat [relying] on the guarded [in, e.g., a fenced field or courtyard not open to all but still attached to the earth]. R. Yosé says. [They rely] even on that which is guarded”** [M. Shebi’it 9:4] [According to Yosé, the individual with the produce could have] said to them [to whoever challenges him], “From the guarded I brought [the produce], and if you do not believe me, lo, field so-and-so is guarded before you, **‘go and bring [some] for yourself – you too.’**” [The analogous case in our Mishnah would be not an instance of two cities but a situation in which there is a guarded field within the city the produce of which has

not yet been fully picked. R. Judah would hold that as long as there is some produce attached to the ground, even in this guarded field, people may eat from cut produce and do not yet have to effect the removal. The individual in M. :2C who brought produce from this guarded field therefore says to those challenging him that they too can fetch produce from there. Accordingly, the person is not actually at variance with the local custom. But B provides an alternative example to the Mishnah's case: Yosef's dispute at M. Shebi'it treats only a guarded area within a single field while the rest of that field is unguarded.]

4:3

[A] Where people are accustomed to sell small cattle to gentiles, they sell them.

[B] Where they are not accustomed to sell, they do not sell them.

[C] Nowhere do they sell them large cattle, calves, or foals

[D] whole or maimed.

[E] R. Judah permits [selling] maimed ones.

[F] Ben Beterah permits in the case of a horse.

[I:1 A] And is it permitted to raise [small animals in the Holy Land; is this not explicitly proscribed in M. B. Q. 7:7]?

[B] Said R. Ba, “[It refers to an area] such as Mahir, which is sixteen mil by sixteen mil” [a wilderness area in the Holy Land sufficiently large, as indicated in T. Bekh. 7:3, for grazing animals to wander without devouring the produce of neighboring localities]

[C] *They proposed to state: the one who said that it is permitted to sell [them maintains that] it is permitted to leave them alone [with a gentile]; [and] the one who said that it is forbidden to sell [them maintains that] it is forbidden to leave [them] alone [with a gentile].*

[D] *R. Jonah, R. Eleazar in the name of Rab [said], “And even according to the one who said that it is permitted to sell [them,] it is [still] forbidden to leave them alone [with a gentile].”*

[E] [Addressing the authority in D:] What is the difference between selling and leaving [the animal] alone [with a gentile]?

[F] There, as soon as he sells [the animal] to him, it is considered the animal of a gentile, [and since the Gemara assumes that gentiles believed human copulation with an animal sterilized the animal, the gentile would refrain from allowing this or anything else that

might damage his own animal]. But here [it is considered] the animal of an Israelite, and [the gentile] is suspected concerning it [on account of bestiality].³

[II:1 A] Where they are accustomed not to sell, they do not sell [M 4:3B]

- [B] Why [is it forbidden]? Because he [thereby] removes it from the obligation [to give first] fleece [to the priest].
- [C] Consider [however] if it was a goat [where there is no fleece]?
- [D] [It is forbidden] because he removes it from the obligation [to give] a firstling to the priest
- [E] Consider [however] if it was a male [which obviously does not produce offspring].
- [F] [It is forbidden] because he removes it from the obligation [to give to the priest] gifts [of the shoulder, jaws, and maw when it is slaughtered].
- [G] If this is the operative reasoning, one should not sell him [a gentile] wheat because he removes it from the obligation [to set aside and give] Dough-offering [of bread made from the grain – regularly given to the priest]; one should not sell him wine and oil because he removes them from the obligation [to say a blessing over them]. [Since one may sell these items, G would seem to refute the logic in B.]

[III:1 A] And, in all places they do not sell them large animals:

- [B] What is the difference between a large [animal] and a small animal?
- [C] A large animal is capable [of doing work on the Sabbath] to make [the Israelite who retains responsibility over the animal] liable for a sin-offering.
- [D] A small animal lacks the capability [of doing such work] to make [its master] liable for a sin-offering.
- [E] But may [the gentile] not milk or shear [the small animal, making the owner liable for violating the Sabbath]?
- [F] There [in doing something to the small animal, the gentile] becomes liable, but here [in loading down the large animal or such where the animal itself then does the work], the animal becomes liable, [and the animal's owner – the Jew – must live up to the requirement to let one's animal rest on the Sabbath]. [Hence the differentiation between the large and small animals appears cogent.]

[G] But as soon as he sells it to him, is it not the animal of a gentile?

[H] Said R. Ammi the Babylonian in the name of the rabbis of that place [Babylonia], “Sometimes he sells it [the large animal to the gentiles to by the beast] out and he when] returns after three days, and as a result [the gentile] performs work [on the Sabbath] with the animal of the Israelite.

[I] If that is the operative reasoning, [let the Mishnah state:] for testing [it] is forbidden; but not for a test [it] is permitted?

[J] The latter [is proscribed] because of the former [as a preventive measure].

[III:2 A] [If] one transgressed [the local custom not to sell small animals] and sold [such an animal to a gentile], do they impose a fine on him?

[B] Just as they [theoretically] impose a fine as a matter of law, so they impose a fine in practice.

[C] How do we know that they impose a fine on a person in practice [that is, that we should make the argument in B]?

[D] [*We have a precedent:*] *A certain person sold a camel to an Aramean [a gentile or Roman]. The case came before R. Simeon b. Laqish and he fined him double’ [the value of the animal] in order that he should [cancel the sale with the Aramean and] retrieve the camel.*

[E] Said R. Yosé b. R. Bun, “[Simeon b. Laqish] imposed a fine on him for trafficking as a broker [and not on the Israelite who had sold the animal to the broker], and people would call him, ‘*The man who traffics as a broker with the Arameans.*’ [*The derogatory epithet supports Yosé’s claim that the individual was a broker.*”

[F] R. Simeon b. Laqish [in imposing a fine] is in accord with R. Judah, *for it is taught* in the name of R. Judah [that a penalty is imposed even where the strict letter of the law does not require it]:

[G] “One who takes [an animal from a gentile under contract [to raise it and share in the profits] and [when] it produces a firstling, he estimates with him its worth and gives half of the value to a priest. [If] he gave it to him under contract, he estimates with him even ten times [its] value [so as to buy it back] and gives all the value to a priest. And sages say, ‘Since the finger of a gentile is the middle [of the matter], it has become exempt from [the obligation of] a firstling [and the

individual does not have to give a priest anything” [T. Bekh. 2:1]

[H] *R. Simeon b. Laqish is in accord with R. Judah and goes further [in restriction] than R. Judah.*

[I] What R. Judah said [– requiring a fine – was stated] because of [a violation of] the laws of the firstling [which are based on the Torah and here the fine applies only to the special case of firstlings sold or given under contract to a non-Jew]. What R. Simeon b. Laqish said [– requiring a fine – was stated] because of [a violation of] the laws of large cattle [which are based not on the Torah but on a rabbinic enactment and, moreover, apply in all cases of large animals sold to a non-Jew].

[IV:1 A] R. Judah permits in the case of a maimed one [M 4:3E].

[B] **R. Judah referred only to a maimed one that cannot be healed [for that condition would remove the concern for the original ban; if it had been imposed lest the animal might be used for a sacrifice, such a defect would make it unacceptable for the altar, even for gentiles, and if it had been lest the animal be worked on the Sabbath, such an animal would never be put to work but would only be slaughtered for food] [T. A.Z. 2:3].**

[C] **They said to him, “But lo, [the gentiles may still] bring her a male, and she will copulate with him [producing an offspring that might be worked on the Sabbath]” [T. A.Z. 2:3].**

[D] **He said to them, “I only said [that it is permitted] in regard to a maimed male ‘that cannot be healed.’”**

[E] **They said to him, “But lo, they bring him a female, and he copulates with her [T. A.Z.:”she copulates with him”] and she produces an offspring [which could be worked on the Sabbath].”**

[F] R. Abun [said] in the name of rabbis from there [Babylonia], “This [a text such as B or D] indicates that it is prohibited to make offspring available to them” [to gentiles, e.g., through selling the gentile an animal that could be pregnant or that could breed or through breeding the Jew’s animal with the gentile’s].”

[G] *There we learned, “One who buys the embryo of an ass of a gentile, [and] one who sells [it to] him [the gentile] even though he is not permitted [to do so due to the ban on selling gentiles large animals], [and] one who joins in partnership with him [the gentile in buying an ass], and one who receives [an ass]*

from him [the gentile] under contract or gives it to him under contract [to raise the ass and share in the offspring – the offspring] is exempt from the [obligation of] the firstling [M Bekh 1:1]”

[H] *R. Haggai asked R. Yosé, “Does this not indicate that it is prohibited to make unborn embryos available [to gentiles]?”*

[I] He said to him, “R. Abun has preceded you [in making this point], for R. Abun said in the name of the rabbis from there: ‘This indicates that it is prohibited to make offspring available to them [to gentiles].’”

[V:1 A] Ben Beterah permits in the case of a horse

[B] R. Judah [ben Beterah] referred only to a male horse, for it kills its master in war. [With a mare, which would be unsuitable for battle and which presumably, therefore, would be used only for riding and hunting birds, one does not violate the ban on providing gentiles with things harmful to society, as set out in M. A.Z. I:7].

[V:2 A] [Explaining why a male horse is unreliable in battle:] *Some say for it runs after a female [horse].*

[B] *And some say, for it halts to urinate.*

[C] *What is the difference between them?*

[D] A gelding. The one who said, “for it runs after a female,” it [the castrated horse] does not run after a female [and therefore it may be sold to gentiles].

[E] *The one who said, “for it halts to urinate,” even that one halts to urinate [and therefore may not be sold to gentiles].*

[V:3 A] [The above opinion represents] the words of the sages [the halakhah].

[B] [Supplying the rationale for Ben Beterah’s anonymous disputants for prohibiting the sale of even a horse:]: R. Aha [said] in the name of R. Tanhum bar Hiyya, “When it [a horse] grows old, he enslaves it to a millstone [and a Jew would become liable for its work on the Sabbath].”

[C] [Providing a different or additional rationale for Ben Beterah:] R. Yosé b. R. Bun [said] in the name of R. Huna, “Ben Beterah and R. Nathan said the same thing [that the master of an animal – a horse in Ben Beterah’s case – does not bear responsibility for its action on the Sabbath and hence the Sabbath law is not relevant], *for it is taught:*

- [D] **“If one brought out [on the Sabbath, from private to public domain] a domesticated animal, or a wild beast, or fowl, whether live or dead, one is liable.**
- [E] **“R. Nathan says, ‘Dead – one is liable; alive – one is exempt’ [because a master does not carry responsibility for a living beast, which carries its own weight]’ [T. Shab. 8:34].**
- [F] “Rabbis hold [that one who takes out an animal in the specified manner is accountable] because of the liability for a sin offering and [yet] they respond to him [Ben Beterah] thus [with the less compelling reason such as presented above]! [While the concern lest a horse sold to a gentile be later harnessed to a millstone comprises merely an extension of Exod. 23:12’s requirement that one’s animals rest on the Sabbath, taking out the animal on the Sabbath entails a far more severe and basic violation!]”
- [G] *According to his logic they answered him [saying]:* “According to your logic, in that you say [you are concerned] because of the laws of a large animal [which is prohibited due to rabbinic extension of the law], we also hold [that it remains prohibited to sell a horse, for] when it grows old he enslaves it to a millstone.” [A horse does not do work on the Sabbath lest its owner become liable for a sin offering. Hence asks: if sages believe that a violation of the ban on carrying is involved, why do they not object with that rationale instead of with that of the millstone? If one assumes that the concern for carrying on the Sabbath applies only to a large animal and not any animal, But one appropriately should be apprehensive of the contingency that the animal will be put to work on a millstone.]
- [V:4 A] **Rabbi says, “I say that he is forbidden [to sell horses to a gentile] because of two matters: because of [selling] weapons and because of the laws of a large animal” [T. A.Z. 2:3].**
- [B] *And it is taught likewise* [that the concern for selling weapons is operative]: “A large wild animal [i.e., beast, which generally is too large or dangerous for work] is like a small domesticated animal.” [Just as M. 4:3 A-B rules that selling the latter depends on local custom, similarly no general ban applies to the former.]
- [C] *Who taught this [teaching]?* Rabbi [whose position, assumably represented by an anonymous Mishnah, is evidenced by M. A.Z. 1:7’s ban on selling bears and lions, large wild animals, forbidden only due to the specified reason that they cause public damage].
- [D] [And] these are the words of the sages [the halakhah].

[E] R. Bisna, Hanin bar Ba [said] in the name of Rab, “A large wild animal is like a large domesticated one.”

4:4

[A] Where they are accustomed to eat roasted [meat] on the nights of Passover, they eat [it].

[B] Where they are accustomed not to eat [it], they do not eat [it].

[C] Where they are accustomed to light the lamp on the nights of the Days of Atonement, they light [it].

[D] Where they are accustomed not to light [the lamp], they do not light [it].

[E] They light [a lamp, in any event] in synagogues and in study houses, and in dark alleys and for the sick

[I:1 A] *R. Ba asked before R. Immi*, “[Does the Mishnah’s rule] apply even to the meat of a calf [i.e., is the Mishnah concerned with broiling because the Passover offering was broiled, or only with a broiled lamb since the sacrifice was a lamb]?”

[B] He said to him, “Even the meat of a calf.”

[C] “Does [the Mishnah’s concern apply] even to meat of a fowl?”

[D] He said to him, “Even the meat of a fowl.”

[E] *They considered making the ruling*, “[It applies] even to [roasting] an egg, even [roasting] a fish [].”

[F] [By way of an answer to E:] Said R. Yudan b. R. Hanin, “[The Mishnah’s rule applies] so long as [the food has been prepared through] a type of slaughter.”

[I:2 A] *It is taught*: R. Simeon b. Eleazar says, “[On] the Day of Atonement that falls on the Sabbath, even where they are accustomed not to light, they light [following the usual practice on Sabbath eve].”

[B] R. Simon in the name of R. Joshua b. Levi, R. Yosé b. Saul in the name of Rabbi, “The halakhah follows R. Simeon b. Eleazar.”

[C] *R. Hiyya bar Ba expounded to Tiberians in accord with this [teaching] of R. Simeon b. Eleazar.*

[D] R. Yosé said it [, the following tradition, with the attribution of] R. Samuel bar Nahman in the name of R. Jonathan [and alternatively] R. Hezekiah said it [with the attribution of] R. Jacob bar Aha in the name of R. Samuel bar Nahman, “The place where they are

accustomed to light is more praiseworthy than where they are accustomed not to light [as explained in E- F].”

[E] Said R. Jeremiah, “Know that it [the proposition in D] is correct, for [on] the Days of Atonement that fall on the Sabbath, even where they are accustomed not to light, they light [out of respect for the Sabbath; hence lighting is an act in respect for the day’s special quality].”

[F] R. Ba [and] R. Simeon, both of them say, “Know that it [the above proposition] is correct, for a [typical] man is modest and [throughout the year] does not have marital relations by the light of a lamp.” [Hence lighting reinforces the ban on marital relations on Yom Kippur.]

[G] [F’s argument is vitiated by the rephrasing of a Tannaite rule that explains the Mishnah:] Both according to the one who says they light and according to the one who says they do not light – [it is] because of proclivity to sin [through sexual relations] [cf. T. 3:17C].

[H] [Explaining G:] *According to the one who said, “they light,”* [it is so ruled] in order that he see [the light] and become embarrassed [and refrain from intercourse]; *and according to the one who says, “they do not light”* [it is so ruled] in order that [a person] not see [his wife] and become aroused. [Therefore, by implication, not lighting also inhibits sexual relations.]

[I:3 A] *It is taught:* “[They light lamps] even in outhouses and bathhouses [where even on the Day of Atonement a menstruant or a man who had a seminal emission would go and bathe].”

[B] It was necessary [to teach] thus [that] even [in] places that were accustomed not to light, they light [lamps in these locations to avoid dirtying one’s clothes or slipping and harming oneself].

[I:4 A] [On] the Day of Atonement that falls on the Sabbath is it permitted to wash pressed and steamed vegetables from [the time of] *afternoon prayer* onward [so that they will be ready to eat immediately when the fast ends, even though one prepares the food on the holy day for the following day, which is normally prohibited]?

[B] Rab said, “[It is] forbidden.”

[C] R. Eleazar said, “Permitted.”

- [D] R. Jacob bar Aha [said] in the name of R. Eleazar, “Why did they say [that] they wash pressed and steamed vegetables [on regular Days of Atonement] from afternoon prayer onward? Because of danger [from hunger if one has to delay breaking one’s fast for the additional time needed to wash the food].
- [E] “Is the danger of the Day of Atonement that falls on the Sabbath distinct [and] is [the danger] of the Day of Atonement that falls on a weekday distinct?” [Since obviously the danger is the same, if washing is permitted in the latter case it should also be permitted in the former.]
- [F] *Retorted R. Hananiah the fellow of the rabbis, “The teaching disputes R. Eleazar [in C]:* [Regarding the weekly twelve breads of display which were set out each Sabbath in the Temple on a special table and which replaced the previous week’s bread removed and eaten by the priests (Lev. 24:5-9)] **‘[On] the Day of Atonement that falls on the Sabbath, the loaves [which then cannot be eaten because of the fast] are distributed in the evening [at the outgoing of the Day of Atonement]’ [M Men 11:7].** [This indicates that they do not initiate on the Day of Atonement an activity that cannot be completed during the same day.]
- [G] It [the bread of display] makes up a special case [different from our situation], since it is a simple matter [to take a bite of the bread] perhaps he will forget and eat [and therefore the bread is not distributed until later; but because washing vegetables takes longer, one will not similarly in error eat some of the vegetables].
- [H] *Retorted R. Phinehas, “The teaching of R. Eleazar disputes him [he contradicts himself].* The Day of Atonement that falls on the Sabbath, the “day of rest” [mentioned regarding preparing food for the Sabbath, Exod. 16:23, entails] a cessation from work, and [that which falls] on a weekday, the “day of rest” [mentioned regarding the Day of Atonement, Lev. 23:32 entails] a cessation from work.
- [I] “If on a weekday you cease from work, should [you not do so] all the more so on the Sabbath?” [The injunction to “rest” on a Day of Atonement should be even greater on a Sabbath which itself has the prescription to rest.]
- [J] This [classification of the mention of the “day of rest” on the Sabbath as a cessation from work] is needed only [to include] that even things which you are permitted to do [on a Day of Atonement that falls] on a weekday, you should cease from [doing] on the Sabbath. And what is this? This is washing of pressed and steamed vegetables. [The teaching of Eleazar disputes Eleazar in C and agrees with Rab, in B.]

[K] R. Jacob bar Zabedi [said] in the name of R. Abbahu, “It seems reasonable [that one may wash pressed and steamed vegetables on the Day of Atonement from afternoon prayer onward] in the case of something that normally reaches its prepared state with cold water. But with something that normally reaches its prepared state with hot water, until the kettle seethes one washes [the vegetables; hence one is prohibited from washing such foods before dark].”

[L] Said R. Mana, “If you say thus [that the permission does not apply to vegetables to be prepared in boiling water], even [such a person] will delay and will not wash [the vegetables until the evening], and as a result he will endanger himself [by waiting despite his hunger – hence these vegetables also may be washed on the Sabbath before the fast ends].”

- [I:5 A] R.. Ba asked before R. Immi, “Is it permitted to wash pressed and steamed vegetables from afternoon prayer onward?”
- [B] *He said to him, “Permitted.”*
- [C] R. Jacob bar Aha asked R. Hiyya and R. Yosé, “Is it permitted to wash pressed and steamed vegetables from afternoon prayer onward?”
- [D] *They’ said to him, “Permitted.”*
- [E] R. Zeira asked before R. Immi, “Is it permitted to say to a [non-Jewish] dumpling [maker when it is still the Day of Atonement], ‘Make me a dumpling’?”
- [F] *He said to him, “Permitted.”*
- [G] “[Is it permitted to say], ‘Make me a pastry?’”
- [H] “[*It is*] *permitted.*”
- [I] “*Make me a wick?*”
- [J] He said to him, “No.”
- [K] What is the difference between the former [items] and the latter [item]. The former is a matter of “that which every person is to eat” and the latter is not “that which every person is to eat” [the category of things permitted to prepare on festivals according to Exod. 12:16]. [The danger posed by the lack of food hence entails special consideration.]

4:5

[A] **Where they are accustomed to do work on the Ninth of Ab, they do [it].**

[B] Where they are accustomed not to do [it], they do not do [it].

[C] And in all places students of sages are idle

[D] Rabban Simeon b Gamaliel says, “Let all people make them selves like the students of sages”

[I:1 A] R. Abun, R. Simeon b. Laqish [said] in the name of Rabban Judah Nesiah [grandson of R. Judah the Patriarch], “[The Mishnah] deals with a case in which one causes astonishment [if one refrains from working when others work, for example, when the individual is known in general to work].”

[II:1 A] [Regarding Rabban Simeon ben Gamaliel’s view:] **Let all people make themselves like the students of sages [M :5D]** [And is it not so that the sages never went so far as to enact idleness on the Ninth of Ab [but left the requirement up to local custom]? [Understanding that Simeon b. Gamaliel suggests that people imitate students of a sage, the Gemara challenges that such an opinion in effect recommends the practice to all. But while earlier authorities may have recognized this custom, they did not impose it on people.]

4:6

[A] And sages say, “In Judah they would do work on Passover eve up to noon, and in Galilee they would not do [work] at all “

[B] [As to] the night [leading into the day of the fourteenth] – the House of Shammai prohibit [doing work]; and the House of Hillel permit [it] until the sun shines

[I:1 A] Lo, the day is prohibited [a deduction derived from the fact that the Houses, in M. 4:6B, dispute only the case of the night and thus seem to accord with the practice in Galilee, in M. 1:6A].

[B] R. Eleazar in the name of R. Hoshaiiah, “[The rule at M. 1:6A receives support from the following verse:] ‘[In the first month, on the fourteenth] DAY [of the month,] there shall be a Passover sacrifice to the LORD’ (Num. 28:16).” [Since the verse speaks without qualification of the day devoted to the Passover sacrifice, if it is inappropriate to work while one’s animal is being offered, one must refrain from work all day.]

[C] [Regarding the different formulations in M. 1:1 and 6:] R. Jacob bar Aha [said] in the name of R. Yohanan, R. La [said] in the name of R. Eleazar, “Two students taught it [the Mishnah: the teacher of M. 4:1 believed the variations followed different customs, while the teacher of

M. 4:6 held that they were due to actual rulings proscribing work in the stipulated location].”

- [D] *Said R. Zeira, “I am able to say that there are three Tannaite authorities who taught the Mishnah, and not just two*: One said, ‘[work is] prohibited’ [the teacher of M. 4:6B who reported the opinion of the House of Shammai and the House of Hillel (who by implication also prohibits working during the day)]. And one said, ‘Permitted’ [the author of M. 4:6A]. And one said, ‘[It is a matter of a] custom.’

4:7

- [A] **R. Meir says, “Any sort of work that [a person] started before the fourteenth [of Nisan], [one] completes it on the fourteenth**
- [B] **“But he should not begin it [the work] at the outset on the fourteenth, even if [he] can complete it [on that same day].”**
- [C] **And sages say, “Three artisans do work on Passover eves And these are they: tailors, barbers, and launderers”**
- [D] **R Yosé bar Judah says, “Even shoemakers”**
- [I:1 A] **R Meir says, “Any sort of work that [a person] started before the fourteenth, [one] completes it on the fourteenth [M 4:7A]”**
- [B] **And [this holds] as long as [he is preparing] an item that is needed for the holiday.**
- [C] **But he should not begin it [the work] at the outset on the fourteenth [M 4:7B1].**
- [D] **[And this applies] even [to] an item that is needed for the holiday.**
- [E] **And sages say, “Three artisans do work on Passover eves [tailors, barbers, and launderers], tailors, for thus an untrained [person] sews in his usual way on the intermediate days of the holiday; barbers, for thus Nazirites and lepers [whose periods of separation end with the onset of the holiday] shave on the intermediate day of the holiday [Num. 6:5, 18; Lev. 14:8-9]; launderers, for thus it is the way of those going from the state of impurity to purity [when their process of purification draws to completion] to launder [their clothing] on the intermediate days of the holiday” [Lev. 14:47; Num. 19:19].**
- [F] **R. Yosé b. R. Judah says, “Even the shoemakers, for thus it is the way of pilgrims to fix their shoes and sandals [which be come**

worn in the course of the pilgrimage to Jerusalem] on the intermediate days of the holiday” [T. 3:18E-F].

[G] And rabbis say, “[The exception does not apply to shoemakers, for the pilgrims] were rich and would go up on animals [and not on foot].”

4:8

[A] They set out hen-coops [i.e., the eggs in the coop, e.g., on straw, or very possibly the coops themselves] for chickens on the fourteenth

[B] A chicken that fled – they return (it) to its place [to sit on its eggs, on the festival itself].

[C] And if it died, they set another in its place

[D] They rake [refuse] from under the feet of an animal on the fourteenth,

[E] and on the intermediate days of the festival they remove [the refuse] to the sides

[F] They take and bring utensils from the artisan’s house [on the fourteenth], even though they are not for the purpose of the festival

[I:1 A] They set out hen-coops for chickens on the fourteenth [M. 4:8A]

[B] Lo, on the intermediate days of the festival it is forbidden [to set up the coop for the first time].

[C] [Supporting B’s position that active steps to produce offspring are prohibited on the intermediate days of the festival:] They do not cause an animal to copulate on the intermediate days of the festival, but they bring it to the corral [to initiate the action by itself].

[D] R. Judah says, “An ass which desires a male [when it is in heat] they cause it to copulate [on the intermediate days] so that it does not cool off [and result in a loss]. And every other animal – they bring it to the corral.”

[E] And they bleed a person and an animal on the intermediate days of the festival. And they do not withhold medicine from a person or animal on the intermediate days of the festival [even though such therapeutic acts require work] [T. M.Q. 2:11].

[II:1 A] And a chicken that fled – they return (it) to its place [to sit on its eggs] [M 4:8B]

[B] And it [the Mishnah refers to] a case such that they return it [the chicken] within three days to its compartment.

[C] **And if it died, they set another in its place [M 1:8C]**

[D] And it refers to a case such that it [the chicken that died] sat on its egg [for at least] three days from time to time [three full days].

[E] *Said R. Mana, "The teaching said thus:* [Because M. 4:8C is assumed to refer to the days of the festival itself, and the chicken initially would have been placed on the egg on the fourteenth at the latest, the text must refer to a chicken that had sat on eggs for three days:] The fourteenth, fifteenth [the first day of the holiday], and sixteenth [the first of the intermediate days] and a part of the day [of the sixteenth when the chicken apparently fled] is considered as if it were a full day."

[F] Said R. Abun, "You may explain that it [the chicken] sat on the egg by itself *and [hence] you cannot deduce anything [from the Mishnah].*" [Since the chicken by itself could have sat on the egg only on the fifteenth, the full complement of three days would be lacking.]

[II:2 A] Dung that is in the alleyway, they remove it to the side; [dung] that is in the stall and that is in the courtyard, they take it out to the dunghill [T. 3:18].

[B] *Said R. Ba, "This [A's prescription to take refuse from a courtyard to a dunghill] you should say [refers to] a small courtyard, but regarding a large courtyard, one removes [the refuse] to the side.*

[C] "The stall [mentioned in A], whether big or small, they take it [the refuse] out to the dunghill."

[D] Said R. Ba, "[This is so] because its offensiveness is great."

4:9

[A] **Six rules did the men of Jericho make.**

[B] **For three, [sages] reproved them, and for three they did not reprove them.**

[C] **These are the three for which they did not reprove them:**

[D] (1) **They grafted palms [on the fourteenth of Nisan] the whole day; (2) they did not make the prescribed divisions in the Shema; and (3) they reaped and stacked [wheat] before the [offering of] the sheaf of first barley [omer].**

[E] **and they did not reprove them.**

[F] And these are the three for which they reproved them:

[G] (1) they permit use of Egyptian figs [from stems which had been] dedicated to the Temple; (2) they eat on the Sabbath fruit which had fallen under a tree; and (3) they leave over the corner of the field [peah] in the case of vegetables –

[H] and sages did reprove them.

- [I:1 A]** *Who teaches* “they reap”? R. Meir [who, is assumed to be the anonymous disputant of Judah, says that they reap with the sages’ approval].
- [B]** *Who teaches*, “They pile”? R. Judah [who holds that they even pile and did not elicit sages’ protest].
- [C]** *Said R. Jacob bar Susai before R. Yosé*, “**Everyone [even R. Judah] admits that they reap [even before the fact and with sages’ approval], and everyone [even R. Meir] admits that they do not pile [i.e., although sages did not protest, they did not approve].**
- [D]** “**Regarding what do they differ? Regarding grafting [or pollinating] palm trees: R. Meir says, ‘They graft palms all day [of the fourteenth of Nisan] and with the approval of sages they acted.’ R. Judah says, ‘They were not acting with the approval of sages [but they did not protest]’” [cf. T. 3:19].**
- [II:1 A]** How would they recite the Shema’ without pause?
- [B]** Said R. Aha said R. Zeira, said R. Ila, “**Hear O Israel, the Lord is Our God, the Lord is One**” – but they would not interrupt between each word, the opinion of R. Meir. [Not interrupting applies to each word of the Shema’ declaration.]
- [C]** R. Judah says, “**They would interrupt, but they would not say [the accompanying clause], ‘Praised be His glorious kingdom forever and ever.’”**
- [D]** [Said] R. Yosé said R. Zeira, [said] R. Ila: “**Hear O Israel, The Lord, ,” but they would not interrupt between [the word] “one” and “Praised [Be His],” the opinion of R. Meir. [Not interrupting applies to the end of the Shema’ declaration and what follows.]**
- [E]** R. Judah says, “**They would interrupt, but they would not say, ‘Praised be His glorious kingdom forever and ever’” [T. 3:19].**
- [III:1 A]** How would they [consider] permitted fruit of trees that had been dedicated [to the Temple]?

[B] Said to them sages, “Do you not admit to us that the [subsequent] growths of dedicated items are prohibited?”

[C] They said to them, “Our ancestors, when they dedicated [the trees], only dedicated the trunks because of strong-fisted men [“men of fist”] who would come and forcefully take them.” [Because such violent men who demonstrated little respect for private property would have sought to avoid sacrilege, the original dedication had been with this understanding] [T. 3:22].

[III:2 A] *What did rabbis believe in saying [to the men of Jericho that they [the ancestors] had dedicated the trunks and fruit?*

[B] Even if you say that they had dedicated the trunks and did not dedicate the fruit, *it is problematic for rabbis [as the following question articulates, and, moreover, the fruit might even be assumed to be prohibited].*

[C] One who dedicated a field containing trees, what is the law: may one leave over [for oneself] some of the [subsequent] growths?

[D] *We may derive the answer from this: One who dedicates his vineyard before the bunches (which would have gone to the poor) were distinguished on it, the bunches do not belong to the poor, Once the bunches are distinguished on it, the bunches belong to the poor. R Yosé says, “The poor should give the costs of growing from the time that the vineyard was dedicated to the Temple “What is considered Forgotten Sheaves among [the vines on] an espalier? Whatever he is not able to stretch out his arm to and take grapes inaccessible to a person returning along the trellised vines). And regarding ground trained vines? As soon as (the grape-gatherer) passes it by (any grapes irrespective of their accessibility)l [M. Peah 7:8]. [Just as the poor, according to M. Peah 7:8A, obtain the growths even though the bunches continue to grow on the consecrated vines, the owner should be permitted the subsequent growths.]*

[E] [The case of G] is different, **for a person does not dedicate something which is not his [T. Peah 3:13]** [because the act of dedication cannot affect something that is no longer his but rather the property of the poor].

[F] Now, [if so] even if the clusters had not become distinguished, the clusters should belong to the poor? [If the clusters cannot be considered the owner’s property – for it is as if in their early stage

when the vineyard was dedicated they were subject to a lien by the poor – why does M. Peah 7:8A rule otherwise?]

[G] It is different, for it is a vineyard [planted] for dedication. [The whole vineyard, the vines along with the undistinguished clusters, are deemed to have been dedicated.]

[H] *In accord with what we learn: One who plants a vineyard as holy [dedicated] is exempt from individual grapes fallen off during cutting, orlah, fourth- year produce, and clusters, but is liable for the laws of Seventh Year produce [which cannot be stored up or traded and the ownership of which at a certain point is to be renounced so all may equally take it] [T. Peah 3:15].* [In the former cases the poor lack any prior claims.]

[I] [Offering a scriptural basis for the exception of the law of the Seventh Year:] R. Zeira [said] in the name of R. Yohanan, “‘The land shall observe a Sabbath of the Lord’ (Lev. 25:2). Even something that is ‘of the Lord,’ [i.e., dedicated,] the holiness of the seventh year [the “Sabbath”] applies to it.”

[J] *R. Hiyya bar Adda asked before R. Mana, “To eat it [the Seventh-Year portions of the dedicated vineyard] without redemption is not possible, for it is impossible for dedicated objects to leave [the status of consecrated produce] without redemption. To redeem it and to eat it [you are not able, for would it not] be like one who acquires an ax with Seventh-Year monies?”* [If dedicated Seventh-Year produce, which normally is to be eaten and not sold, is redeemed by supposedly transferring the “dedication” to the money given for the Temple’s upkeep, both the produce and the money remain consecrated (under Seventh-Year status) because one may only eat, drink, or anoint oneself with Seventh-Year produce but one may not use it in transactions. The act of redemption is thus no better than buying an ax with money from Seventh-Year produce.]

[K] He said to him, “The treasurer would exchange them [the monies] with someone else.” [Adding an exchange enables one to redeem the dedicated produce so that it may be eaten in the status of normal Seventh-Year produce. If the Temple treasurer exchanges the redemption money with other money, the produce and the original money fall under the Seventh-Year status and the money in the treasurer’s hands is unencumbered

by the laws of the Seventh Year though it is “dedicated” and thus fit for the Temple’s upkeep.] 102

[L] *Said R. Mattaniah, “What do I need [with such an answer? We have a less complicated one:] We may explain it in accord with that of R. Yohanan [regarding M. Ned. 4:8 that speaks of one person forbidden by a vow to have any benefit from a second individual, ‘If they were on a road and he (the former) has nothing to eat, If there is no one else with them, (the latter) puts (the food) on a stone or on a fence and says, “Lo, they (the foods) are ownerless for all that wish,” and the former takes and eats. And R Yosé forbids (M Ned 4:8).*

[M] “[Yohanan explains:] ‘The opinion of R. Yosé depends upon the fact that his [the former person’s] vow preceded his [the other person’s] renunciation –

[N] ‘but here [the rule is different] because the renunciation’c [the taking effect of the law of the Seventh Year which makes all property in a sense ownerless] preceded his dedication [and hence the latter does not remove the bunch from belonging to the poor].”

[O] [Continuing with the commentary on M. Peah 7:8A-B, cited in G above:] Said R. Yohanan, “There was a case and [they] taught in accord with R. Yosé [that the poor must pay to the Temple the cost of growing from the time that the vineyard was dedicated].

[P] *Does this [text, M. Peah 7:8C’s definition of the Forgotten Sheaf among the espalier, namely “whatever he cannot take by stretching out his arm”] not dispute R. Yohanan, for R. Yohanan said [regarding olives], “As soon as [the gatherer] passed and forgot it, lo, it is considered a Forgotten Sheaf?”*

[Q] It is different with an espalier [which M. Kil. 6:1 defines as including at least five vines], for it is its custom to be checked. [Large trellises, in contrast to olives (which evidently were not planted in such large arrangements), were customarily, after an initial pass, checked through a second time.]

[R] *Even R. Hoshaiiah – does it [M. Peah 7:8D] not dispute, for R. Hoshaiiah said, “I was stamping*

olives with R. Hiyya the Elder and he said to me, 'Every olive which you can extend your hand to and take is not a Forgotten Sheaf?'"

[S] It [M. 7:8D] is different, for all ground-trained vines are distinct furrows [like a discrete line of vines to which one does not return once one has passed it by].

[III:3 A] *R. Abba bar Kahana said before R. Immi, "One who rents his house to his fellow and [then finds] that he needs its money [which would be obtainable by selling the house, what is the law]?"*

[B] [R. Immi] said to him, "[In renting out the house, he] did not think that he would die in starvation [and therefore the sale takes effect]."

[C] R. Zeira, R. La, both of them say, "A lease is like a sale and is acquired in a purchase [by the new owner, and thus the sale does not terminate the tenancy, and the buyer may not evict the tenant and occupy the house]

[D] *It is taught: "One who rents his house to his fellow and dedicates it, lo, this one [the renter] dwells in it and pays rent to the Temple" [T. B.M. 8:30].*

[E] When [does this apply]? When [the renter] has not prepaid the rent. But if he had prepaid his rent, lo, this one dwells in it free. [Although he does not have to pay any (additional) rent to the Temple, he does not perform a sacrilege by making use of holy objects, here dwelling in the dedicated house.]

[F] *In the days of R. Mana a unit of troops [was stationed] in Sepphoris, and their [the Sepphorian] children were [forcefully] pledged to them [to the troops, i.e., the troops seized the children as recruits, a levy that could be commuted by payment of the gold recruit money]*

[G] *When they were about to leave, R. Mana issued a proclamation in accord with R. Immi [in B, to the effect that the Sepphorians could sell their houses even if occupied by tenants so that they could afford to redeem their sons by paying the tax being levied by the Roman soldiers].*

[H] *He said, "[I decide thus] not because I hold his view [R. Immi's] but rather [as a special emergency law] for*

the sake of the Sepphorians that their children not be [permanently] forfeited.”

[IV:1 A] They eat fallen fruit from under [the trees] [M 4:9C].

[B] How shall we define [this case]? If it is a case in which [the fruit] fell on the festival eve, all agree [that it is] permitted. If it is a case in which [the fruit] fell on the festival day, all agree that [it is] prohibited. Rather we must define it as unspecified [fallen fruit, about which it is not known when it fell]. [In protesting against eating fruit which may or may not have undergone the pre-Sabbath or pre-festival required preparation, sages address an indefinite situation and violation.]

[V:1 A] They set aside peah [corners of their field] for vegetables [M 4:9C, the sixth practice].

[B] **They would give only from turnip and from porret [head of a leek] for they are [regularly] picked [all] at once. [Since these vegetables usually become ripe at the same time and may be pre served, e.g., by pickling, they may be considered to undergo a regular harvest.] R. Yosé says, “Also from cabbage [did they leave corners]” [T. 3:20A].**

[C] **A case regarding Big Thumb, whose son set aside peah for vegetables for the poor. And his father came and found them [the poor] standing by the entrance of the garden. [The father] said to them, “Leave what is in your hands.” They left what was in their hands and [the father] gave them twice as much in [produce] that had already been tithed. His eye was not stingy [in desiring to prevent them from taking from the garden]. Rather he was solicitous of the words of sages [T. 3:20B].**

[D] *Once when rabbis needed a donation, they sent R. Aqiba and one of the rabbis with him. They came and were about to enter [Big Thumb’s] house and they heard the voice of a youth saying to him, “What shall I buy you today?”*

[E] *He said to him, “Endive, not from today but from yesterday, for it is withered and cheap.”*

[F] *They left him and went [elsewhere first]. After the whole community contributed they came to his house.*

[G] *He said to them, “Why did you not come to me first as you had been accustomed?”*

- [H] *They said, “We did come, and we heard the voice of a youth saying to you, ‘What shall I buy for you today?’ and you said to him, ‘Endive, not from today but from yesterday, because it is withered and cheap.’”*
- [I] *He said [to them], “That which is between me and my youth you know. [But] do you know that which is between me and my creator? Nevertheless, go and speak to her [my wife] and she will give you one modius [a Roman measure] of denarim.”*
- [J] *They went and told her [what her husband had said].*
- [K] *She said to them, “What did he say to you, a large [heaped-up] or a small [leveled, modius]?”*
- [L] *They said to her, “He said without specification.”*
- [M] *She said to them, “I shall give to you a large quantity. And if he said ‘large,’ lo, I have fulfilled [his request]; and if not [and he only said a leveled amount], I shall calculate the increase from my marriage gift.”*
- [N] *As soon as her husband heard this, he doubled her marriage settlement [the bride money to be paid by the husband at the termination of the marriage]*

YERUSHALMI PESAHI

CHAPTER FIVE

5:1

[A] The Daily Whole Offering [of the afternoon] [generally] was slaughtered at half after the eighth hour [after dawn, about 2:30 p.m.] and offered up at half after the ninth hour [about 3:30 p.m.].

[B] On the eve of Passover, [the Daily Whole Offering] was slaughtered at half after the seventh hour and offered up at half after the eighth hour,

[C] whether on an ordinary day or on the Sabbath.

[D] [If, however,] the eve of Passover coincided with the eve of the Sabbath [Friday], it was slaughtered at half after the sixth hour [12:30 p.m.] and offered up at half after the seventh hour [1:30 p.m.],

[E] and [then] the Passover-offering [was slaughtered] after it.

[I:1 A] The Daily Whole Offering [daily offering] is slaughtered, [M. 5:1A].

[B] It is written, “Now this is what you shall offer upon the altar,” [“Two yearling lambs each day, regularly”] (Exod. 29:38). I might have said that both of them should be offered in the morning or both of them at twilight.

[C] [Therefore] the teaching says, “You shall offer the one lamb in the morning [and you shall offer the other (lit., “second” lamb at twilight)]” (Exod. 29:39).

[D] I might have said that [the lamb] of the morning should be offered with the sunrise and that of the twilight with the sunset,

[E] [therefore] the teaching says, “at twilight.”

[F] Now] it is said “twilight” here (Exod. 29) and it is said twilight” there (Exod. 12:6) [regarding the Passover offering]; just as “twilight”

which is said there [denotes] from the sixth hour and on, so “twilight” which is said here [denotes] from the sixth hour and on.

- [G] *Why did you see [fit] to say that “twilight” [in Exod. 12:6 denotes] from the sixth hour and on?*
- [H] [For it says]: “[Up! we will attack at noon.] Alas for us! For the day is declining, the shadows of the evening grow long” (Jer. 6:4). [Here the word “evening” is applied to a period that ensues after the time of noon, once the day starts to decline and the shadows of evening start].
- [I] Just as “evening” which is said there [denotes] from the sixth hour and on [after “noon”], so “evening” which is said here [denotes] from the sixth hour and on.
- [J] And should it be fit [to offer a Passover sacrifice] from the sixth hour and on?
- [K] R. Joshua b. Levi said, “[The idiom ‘twilight’ is made up of two words] that yield ‘between the evenings.’ How [is this to be understood]? Divide ‘between the evenings’ [in the sense of the two periods in which the day becomes darker; hence, divide between the post-noon period, when the day grows darker, and the post-afternoon period, when the day becomes even darker with the onset of night] and assign two-and-one-half hours before it [the sacrifice] and two-and-one-half hours after it and one hour for involvement with it [the doing and preparation of the Daily Whole Offering offering]. You may say that the Daily Whole Offering offering is offered at the ninth-and-one-half hour [and the time of the Passover sacrifice is derived from that of the Daily Whole Offering offering.]”
- [L] *Said R. Yosé, “R. Joshua b. Levi did not cite the first part [of the Tannaite rule, which specifically treats the case of the Passover offering] and said the later part [of the Tannaite rule, which treats the case of Daily Whole Offering and, therefore, had to make an argument based on analogy.]*
- [M] *“for is it not taught thus: ‘Hananiah b. Judah says, “I may understand the Hebrew phrase (Exod. 12:6) [as] ‘Between the two evenings:’ between the evening of the fourteenth and the evening of the fifteenth. Perhaps it should include the day and the night, [therefore] the teaching says ‘day’ (Num. 28:16). When it says ‘day’ it excludes the night. If [you say] ‘day,’ perhaps [the offering is to be slaughtered] at the second hour of the day? [Therefore] the teaching says, in the ‘evening’ (Deut. 16:4). If [you say] in the*

‘evening,’ perhaps [it should be done] once it gets dark? Behold, [however,] the teaching says, ‘between the evening.’

[N] “Lo, how [should it be understood]? Divide between the evenings and assign two-and-one-half hours before it [the sacrifice] and two-and-one-half hours after it and one hour for involvement with [the Passover offering.] You as a result may say that the Passover sacrifice is offered at the ninth-and-one-half hour.”

[O] *Said R. Yosé, “This which you say [that the Passover sacrifice is offered at the ninth-and-one-half hour] applies [as far as its being] a [required] commandment is concerned [before the fact], but [as far as its being] an indispensable condition is concerned, for we have learned in the Mishnah:*

[P] **“If one slaughtered it [the Passover offering]: before noon – it is invalid; ‘ [Then Yosé glosses:] after noon, immediately – [it is] fit; before the Daily Whole Offering sacrifice – it is fit” [M. 5:3].”**

[Q] *And let him say likewise regarding the morning?*

[R] Here it says “between the evenings” [which calls for the division between the two evenings]. Can you say there, “between the mornings”? [Only such an idiom would call for the division of the morning.]

[I:2 A] R. Joshua b. Levi said, “The [times of the required daily] prayers were learned from the patriarchs,’...Nevertheless they did not remove him from his distinction, rather they appointed him Av-Bet-Din.”

[II:1 A] *Who teaches [that the Daily Whole Offering offerings are prepared and slaughtered on the eve of Passover at the same time] whether [they] fall on a weekday or the Sabbath [M. 5:1B]?*

[B] R. Ishmael, *for it is taught:* “As is its order [that of Passover eve that fell] on a weekday, so is its order [when Passover eve fell] on the Sabbath” – the words of R. Ishmael.

[C] R. Aqiba said, “As is its order [that of Passover eve that fell] on the eve of Sabbath, so is its order [when Passover eve fell] on the Sabbath.”

[D] Lo [how can this be]? [Since R. Ishmael prescribes that the Daily Whole Offering is offered at the eighth-and-one-half hour and the Passover sacrifice thereafter, while R. Aqiba prescribes that the Daily Whole Offering is offered at the seventh-and-one-half hour and the

Passover sacrifice thereafter, if we consider the two masters in relation to each other:] R. Ishmael delays one hour for its preparation and R. Aqiba makes it an hour early for involvement with it?

[E] [That is not Aqiba's reason. Rather, since apparently after sacrificing the Passover offering, people in response to the day's festivity and the joy of the Sabbath would drink wine, Aqiba provides people with an additional hour between the sacrifice and the eating of the offering and the unleavened bread for the effect of the wine to wear off] so that they do not enter into a performing a religious duty when one is drunk.

[II:2 A] [In response to M. 5:1B's rule that the Daily Whole Offering on Passover eve is sacrificed an hour early, at the eighth-and- one-half hour, and that the Passover offering comes an hour later, "between the evenings":] And let one offer the Passover sacrifice first [at the eighth-and-one-half hour] and the Daily Whole Offering after it [at its standard time, "between the evenings"]?

[B] If you say thus, you end up undoing the [required division of] "between the evenings" of the Passover offering [which places the sacrifice at the ninth-and-one-half hour in the middle of two periods, as expounded above].

[C] If you follow [the requirement of] "between the evenings" of the Passover offering, do you not end up undoing [the requirement] of "between the evenings" of the Daily Whole Offering?

[D] The Daily Whole Offering, if you undo its [normal time frame] now, you uphold it afterward. The Passover offering, if you undo [its time frame] now, when would you uphold it [i.e., there never would be a situation in which it could be followed]?

[E] [In response to M. 5:1C's rule that when Passover eve falls on Friday, both the Daily Whole Offering and the Passover offering are sacrificed early:] And let one offer the Passover sacrifice first [in this special case alone, before its usual time] and the Daily Whole Offering after it [at its standard time]?

[F] [It is preferable that] an object [the Passover offering] regarding which it is said "in the evening" (Deut. 16:6) and "between the evenings" (Exod. 12:6) be done later than an object [the Daily Whole Offering offering] regarding which it says only "between the evenings" (Num. 28)

[G] R. Jeremiah asked, "Why did you see [fit] to say [that the term 'evening' refers to] the late evening [the second of the two

‘evenings’ in the phrase ‘between the evenings’ and denoting the onset of the night]? Alternatively, let [it refer to] the early evening [the first of the two evenings, when the shadows start to lengthen after midday].

[H] “*Rather [say] thus*: Let an act regarding which it is said, ‘between the evenings’ [and] ‘at sundown’ (Deut. 16:6) be done later than an act regarding which it is said only ‘between the evenings’ [hence the Passover offerings should come after the Tamid].”

[I] *The language of the teaching supports R. Jeremiah*:

[J] “There you shall offer the Passover sacrifice in the evening [at sundown, the time of day when you departed from Egypt]” (Deut. 16:6) – “in the evening” you offer [it]; “at sundown” [at the onset of night] you eat [it]; [at] “the time of day when you departed from Egypt” you roast [it, i.e., just prior to the time of eating, hence before nightfall]. [Since the term “in the evening” denotes the time when the sacrifice is offered and it takes place before it is eaten “at sundown,” it must precede sundown and refer to the “early evening,” from the sixth hour and on, just as Jeremiah suggested in K].

[K] *There are those who teach*, “In the evening” [the second “evening,” when the light darkens at the onset of night] you eat; “at sundown” [lit., “at the time of the coming of the sun,” i.e., when it turns to the west after noon, after the sixth hour] you offer [it]; [at] “the time of day when you departed from Egypt” you roast [cf. Mekhilta Bo 5, p. 17, in part].

[L] And let both of them [the Daily Whole Offering and Passover sacrifices] be offered together?

[M] Said R. Yosé, “The second Daily Whole Offering is to be second [in relation to] the lamb [of the Daily Whole Offering, i.e., the morning Daily Whole Offering] and not to be second [in relation to] the Passover offering.”

[II:3 A] *It is taught*: R. Nathan says, “Every day the Daily Whole Offering is slaughtered at the sixth-and-one-half [hour] and offered at the seventh-and-one-half [hour].”

[B] What is “every day”?

[C] Every Passover eve [whether or not it falls on Sabbath eve, in contrast with M. 5:1 which applies this time frame only to Sabbath eve and a one hour later sequence for non-Friday Passover eves].

[D] *Said R. Yosé b. R. Bun, “The reason for that teaching [is] in order to provide a half hour between groups.” [If the Daily Whole Offering finishes at the seventh-and-one-half hour and then the three Pass over groups each take one hour to offer the Passover sacrifice, three periods of one half hour remain in a twelve-hour day, allowing a break of one half hour between groups.]*

[E] [Specifying the sequence of cultic activities at “twilight”:] *it is taught, “The Daily Whole Offering’s blood and organs precede the Passover offering, and the Passover offering ‘ [precedes] the incense [which Exod. 30:7-8 prescribes and situates at ‘between the evenings’], and the incense [precedes] the tending of the candles [prescribed at Exod. 27:20-21, Lev. 25:1-4, and set at ‘between the evenings’ at Exod. 30:8].”*

[F] *There are teachers who teach [a variation in E’s sequence]: “The Daily Whole Offering’s blood and organs precede the incense, and the incense [precedes] the Passover offering, and the Passover offering [precedes] the tending of the candles – so that the Daily Whole Offering libations [which generally immediately follow the burning of the (Daily Whole Offering’s) incense] be offered with it [in accord with the standard procedure and not be separated by the Passover offering, which might have led to misinterpretation of the nature of the libations] .”*

[G] [Following the sequence of E:] **And there is nothing preceding the morning Daily Whole Offering and nothing later than the twilight [or “evening”] Daily Whole Offering except for the Passover offering and the incense on Passover eves [T. 4:2].**

[H] From where [is it learned] that nothing precedes the morning Daily Whole Offering? The teaching states, “[The fire on the altar shall be kept burning, every morning the priest shall feed wood to it, lay out] THE burnt offering on it” (Lev. 6:5) [thus requiring that the first thing on the morning fire be the burnt offering, understood to be the Daily Whole Offering burnt offering].

[I] And from where [is it learned] that nothing should be delayed after the twilight Daily Whole Offering? The teaching states, “[Every morning the priest shall feed wood to it, lay out the burnt offering on it, and on it

[after the morning Daily Whole Offering but not after the twilight Tamid] turn into smoke the fat parts of the offerings of well-bring” (Lev. 6:5).

[J] R. Simeon b. Laqish said, “It is not written here (Lev. 6:5), ‘[Every morning the priest shall feed wood to it,] lay out a burnt offering on it,’ but [rather] ‘lay out the burnt offering on it,’ [instructing us] so that the [other] burnt offering should not precede the morning Daily Whole Offering [burnt offering].”

[K] *It is taught*, R. Ishmael the son of R. Yohanan b. Beroqah says, “Those [who have gone through purification] lacking only the atonement [sin offering which is brought, for example, by a woman who just gave birth] bring their atonement [offering] after the twilight Daily Whole Offering so that they may immerse themselves [forthwith] and eat their Passover offerings in the evening” [T. 4:2].

[L] *Said R. Yudan*, “This which is said applies to a rich leper [who has gone through purification], but as to a poor leper, does he not bring a bird [which like other kinds of purification does not entail burning of fat parts on the altar]?”

[M] *Said R. Samuel b. Abedoma*, “Does he not bring a guilt offering [and R. Ishmael b. R. Yohanan b. Beroqah is the one who says, in a text such as T. Naz. 4:8, that a guilt offering, like a sin offering, prevents the purification from going into effect; hence his opinion would apply to all types of lepers, even the poor, whose burning of the fats of the guilt offering, if not already brought, would have to follow the twilight Daily Whole Offering?

5:2

[A] An [animal that had originally been designated as a] Passover sacrifice which one slaughtered under an improper designation [“not for its name,” that is, for another purpose than the one for which the beast had been selected, namely, as a Passover sacrifice],

[B] or received the blood and tossed the blood of which under an improper designation,

[C] or under its proper designation and under an improper designation,

[D] or under an improper designation and under its proper designation,

[E] is invalid.

[F] How [is it done] both under its proper designation and not under its proper designation?

[G] [If one slaughtered it] for the sake of a Passover-offering and for the sake of peace-offerings.

[H] Under an improper designation and under a proper designation?

[I] [If one slaughtered it] for the sake of peace-offerings and for the sake of a Passover-offering.

[I:1 A] How do we know that [a person] is required to slaughter it [the Passover offering] under its [proper] designation?

[B] R. Ba in the name of Rab [said, the verse, ““And you shall say, It is the Passover sacrifice [to the Lord]” (Exod. 12:27) [comes] to state that if they slaughtered [the lamb] under the designation of a Passover offering, lo, it is a Passover offering; but if not, it is not a Passover offering.”

[C] How do we know [that] all the rest of its actions [those required for the sacrifice, must also be performed under its proper designation]?

[D] “And you shall make [a Passover offering to the Lord. And you shall slaughter the Passover sacrifice for the Lord]” (Deut. 16:1-2) – [the more general verb teaches] that all its [required] actions must be [performed] under the designation of the Passover offering. Now [on this basis] even the burning of the sacrificial portions [should be done under the proper designation]? The teaching says, “[You shall] slaughter “ Just as slaughtering is special in that it prevents the atonement [from going into effect, if it is not performed, so everything that has a similar effect is included, while] the burning of the sacrificial portions is excluded, for it does not prevent [the efficaciousness of] the atonement.

[E] Where do we learn regarding a sin offering [that slaughtering it under a proper designation is required]?

[F] “[He shall lay his hands upon the head of the sin offering,] and he shall slaughter it as a sin offering” (Lev. 4:33).

- [G] How do we know regarding the rest of its actions [that they must be under the proper designation]?
- [H] [Here too Scripture uses a more general verb:] “[The Levites shall now lay their hands upon the heads of the bulls;] one shall be done to the Lord as a sin offering” (Num. 8:12). Now, [on the basis of this usage] even the burning of the sacrificial portions [should be done under the proper designation]? [Therefore] the teaching says, “and he shall slaughter it” (Lev. 4:33). Just as slaughtering is special in that [if it is not performed] it prevents the atonement [from going into effect, so everything that has a similar effect is included; but] the burning of the sacrificial portions is excluded, for it does not prevent [the efficaciousness of] the atonement.
- [I] Where do we learn that a sin offering [should be] designated for the [animal’s] owner?
- [J] Said R. Jeremiah, “And the priest shall then offer the sin offering and make expiation for him who is to be cleansed from his uncleanness [before the Lord]” (Lev. 14:19).
- [K] Said to him R. Yosé, “Now [on the basis of this], even the burning of the sacrificial portions [should be done for the owner]? [Therefore] the teaching says, ‘and make expiation.’ Just as tossing [the blood] is special in that it prevents the atonement [from going into effect if it is not performed, so everything that has a similar effect is included, while] the burning of the sacrificial portions is excluded, for it does not prevent [the efficaciousness of] the atonement.”
- [L] Where do we learn that a Passover offering [should be] designated for the [animal’s] owner?
- [M] It is a matter of logic. If a sin offering, for which thinking of uncircumcised and unclean [people, to include them under the animal’s designation,] does not make it unfit – must be [performed] for the [animal’s] owner; a Passover offering, for which thinking of uncircumcised and unclean [people, to include them under the animal’s designation,] makes it unfit – should it not be necessary that it be [performed] for the [animal’s] owner?
- [N] [Denying the appropriateness of M’s comparison:] No, if you say [thus] regarding a sin offering, which is a sacrifice of higher sanctity, shall you say [likewise] regarding a Passover offering, which is a sacrifice of lesser sanctity?
- [O] Said R. Yosé, “Did you not learn a case in which ‘thinking’ [can bring about disqualification]? [And] the Torah in created

[requirements] of thinking in regard to the Passover offering more than [with] the sin offering.” [We derive from the sin offering not general matters but only something dealing with a person’s state of mind, and the Torah in that particular area made the Passover offering more stringent than a sin offering.]

[P] *Said R. Hananiah before R. Mana*, “And do we learn [that a sin offering must be under the designation of its owner] from the sin offering of a leper? Is not the sin offering of a leper specified to [teach] a novel element, namely, that it requires libations [in contrast to other types of sin offerings] under the designation of its owner, and from a matter that is specified to [teach] a novel element one does not learn [other conclusions by comparison]?”

[Q] *Said [R. Mana] to him*, “And the sin offering of a leper – from where is it learned that it would be unfit if performed not under proper designation? Is it not from this verse, which is written, ‘[He shall lay his hands upon the head of the sin offering,] and it shall be slaughtered as a sin offering’ (Lev. 4:33) [thus by comparison with another case of a sin offering] and it [further] is written, ‘This is the Torah of the sin offering’ (Lev. 6:18) [teaching that there is] one Torah [law] for all types of sin offerings? Hence, from the place that it is learned [that there should not be a change in designation of the type of sacrifice], there it teaches [that it should remain under the designation of its owner].”

- [I:2 A]** [If one] slaughtered [the Passover offering] under its proper designation [as a Passover offering but with the intention] to toss its blood not under its proper designation:
- [B] *Said R. Yohanan*, “There is [the category of] ‘not under its proper designation’ [when an individual transfers his intention] from one act [in the sacrificial process] to another act [, in this case while doing the act of slaughtering one thinks of the act of tossing the blood,] and it makes [the Passover lamb] unfit.”
- [C] *R. Simeon b. Laqish* said, “There is no [category of] ‘not under its proper designation’ from one act to another so that it should be fit.”
- [D] *Said R. Ila*, “[*R. Yohanan*] learned from the [law of wrongful] intention applicable to sacrificial meat in the status of refuse [which, strictly speaking, involves the intention to eat the sacrifice out of its proper time but which, as *M. Zeb. 2:2* indicates, was extended to

include intending to toss the blood outside its proper time or location]: R. Yohanan [holds that] if [one] tossed [the blood] not under its proper designation [outside its proper time,] would it not be sacrificial meat in the status of refuse? Hence if one slaughtered [the lamb] under its proper designation [but with the intention] to toss its blood not under its proper designation, [it] is unfit.”

[E] *Said R. Yosé, “For two reasons, [the rule for] intention in the case of sacrificial meat in the status of refuse does not teach regarding [the impact of] intention in the case of unfitness:*

[F] “[On the one hand] if [one] slaughtered [the animal] under its proper designation [but with the intention] to receive its blood not under its proper designation, would it not be fit [, for prior intention as an aspect of proper designation is crucial, in the blood service, only regarding the tossing of the blood]? [Yet if one] slaughtered it under its proper designation [and] caught its blood not under its proper designation, it is unfit. [On the other hand, however,] if [one] slaughtered it under its proper designation [but with the intention] to burn its sacrificial portions not under its proper designation [i.e., outside its proper time], would it not be sacrificial meat in the status of refuse? [Yet if one] slaughtered it under its proper designation [but] burned its sacrificial portions not under its proper designation [i.e., outside its proper time], it is fit.” [Opposing principles apply to the cases of unfitness and sacrificial meat in the status of refuse. Although intention during slaughtering regarding receiving the blood under the wrong name does not affect the sacrifice, such intention during the actual receiving of the blood does render the animal unfit. But regarding a sacrifice outside its proper time, although intention during slaughtering regarding burning of the sacrificial portions renders the sacrifice sacrificial meat in the status of refuse, improper intention during the time of burning the sacrificial portions does not render the offering sacrificial meat in the status of refuse].

[G] [Strengthening Yosé’s challenge in C:] *Said R. Yosé, “I saw R. Jeremiah grabbing R. Ba. [He] said to him, ‘Tell me R. Yohanan’s reason. Why [if one] slaughtered it under its proper designation [but with the intention] to toss its blood not under its proper designation – [is it] unfit?’*

[H] “[R. Ba said to R. Jeremiah,] ‘It is considered from the beginning as if one slaughtered it under its proper designation [and then] not under its proper designation and it is [therefore] unfit.’ [We thus

treat the case as if during the time of slaughter the person had two intentions regarding the act of slaughter.]

[I] “He [R. Jeremiah] said to him, ‘And if so [following your reasoning], even [if one] slaughtered it under the designation of those who will eat it [but with the intention] to toss its blood not under the designation of those who will eat it, it should be considered from the beginning as if one slaughters it for those who will eat it and [then] for those who will not eat [where some proper intention existed regarding the slaughtering] – and it should be fit [as M. 5:3 states]?’

[J] “[*But*] you cannot [say thus], for R. Ila said in the name of R. Yohanan, ‘[If one] slaughtered it for those who are to eat it [but with the intention] to toss its blood not for those who will eat it – [it] is unfit.’”

[K] R. Jacob bar Aha came [and said] in the name of R. Yohanan, “[If one] slaughtered for those who are to eat it [but with the intention] to toss its blood not for those who are to eat it – [it] is fit.”

[L] *R. Yosé [who differed with R. Yohanan (or with Ila’s explanation thereof)] took support from the [existence of] two [conflicting] opinions of R. Yohanan. Why [on the one hand if one] slaughtered it under its proper designation [but with the intention] to toss it not under its proper designation – is it unfit? [Because] it is considered from the beginning as if [one] slaughters it under its proper designation and [then] not under its proper designation, and it [therefore] is unfit. [Yet, on the other hand] why [if one] slaughtered it for those who will eat it [but with the intention] to toss its blood not for those who will eat it – it is fit? And it should be considered as if from the beginning one slaughters it for those who can eat it and [then] for those who cannot eat it – and it should be unfit?’*

[M] *R. Hananiah said before R. Mana in the name of R. Yudan, “The rationale for R. Yohanan is as follows:*

[N] “Whatever procedure which would take place at a particular sacrificial act and [wrongful] intention disqualifies it [wrongful] intention disqualifies it from another sacrificial act [i.e., prior to the act, for example]: [If one] slaughtered it under its proper designation [but] tossed its blood not under its proper designation, would it not be unfit? [Therefore, if one] slaughtered it under its proper designation [but with the

intention] to toss its blood not under its proper designation [but under the name of another offering] – it is unfit.”

[O] [Two exceptions disprove Yudan’s rendering of Yohanan’s principle: He (ostensibly, R. Mana) said to him,] “If [one] slaughtered it under its proper designation [but with the intention] to receive’ its blood not under its proper designation [Assis, “Explanation”: i.e., outside its proper time], would it not be fit [for an animal does not become sacrificial meat in the status of refuse unless the wrongful intention is part of an act in which the animal is consumed by a human or the altar, which is not the case regarding receiving the blood]? Yet at the time of receiving [the blood, wrongful] intention [e.g., to toss its blood, to burn its sacrificial portions, or to eat the meat – outside the proper times] affects it.

[P] “Lo, whatever matter which would take place at a particular sacrificial act and [wrongful] intention affects it, [wrongful] intention does not affect it [before the fact] from another sacrificial act.’

[Q] “[Similarly, in reverse] If [only slaughtered it under its proper designation [but with the intention] to burn its sacrificial portions not under its proper designation [i.e., outside its proper time], would it not be sacrificial meat in the status of refuse? Yet at the time of burning of the sacrificial portions [wrongful] intention does not affect it. [Differing results apply because an offering becomes sacrificial meat in the status of refuse only during the four key sacrificial acts which include slaughtering the animal and catching (“receiving”), conveying, and tossing its blood but not burning its sacrificial portions (M. Zeb..2:3).

[R] “Lo, whatever matter which would take place at a particular sacrificial act and [wrongful] intention does not affect it, [wrongful] intention affects it [before the fact] from another sacrificial act.”

[S] [Yudan,] said to him [the authority (Mana?) who objected], “Do not answer me from [the case of intention in the law of] pigg?ll regarding [the law of] unfitness,

[T] “*for R. Yosé said, ‘Because of two matters [regarding receiving blood and burning sacrificial portions] intention in the case of sacrificial meat in the status of refuse does not resemble intention in the case of unfitness’*” [i.e., he argued only from improper intention in the case of unfitness.]

[U] *What is the difference [between R. Ila's explanation which draws on a comparison with sacrificial meat in the status of refuse, and R. Ba's rationale, which claims that the unfitness is caused by assuming that the person at slaughtering had two intentions]?*

[V] Said R. Samuel bar Abedoma, "The reversal [of the positions attributed to Yohanan and Simeon b. Laqish would apply] during the rest of days of the year:

[W] "[If one] slaughtered it [the paschal lamb] under its proper designation [as a Passover offering, but with the intention] to toss its blood not under its proper designation [e.g., as a well-being offering] during the rest of the days of the year – according to R. Yohanan [it is] fit; according to R. Simeon b. Laqish, it is unfit." [On the one hand, R. Ba's explanation would indeed have R. Yohanan declare the sacrifice fit, for the two intentions in this situation (throughout the rest of the year) would be considered tantamount to slaughtering the animal with two intentions, one under proper designation and one not, which does not invalidate the offering. An animal slaughtered as a Passover offering not on the fourteenth of Nisan is considered a well-being offering, making the first intention's object identical to the second, which explicitly had dealt with a well-being offering. But, on the other hand, according to R. Ila's rationale, R. Yohanan would declare the animal unfit, for the wrongful intention regarding the future tossing of the blood will still make the animal unfit, as in cases of sacrificial meat in the status of refuse.]

[I:3 A] *Said R. Yohanan, "Regarding this [following tradition] R. Abba bar Abba came [into the study session and said] that they [Babylonians] say, 'From where do we know that a Passover sacrifice [not in its appropriate time] is changed to a well-being offering? The teaching says, "And if his offering for a sacrifice of well-being to the Lord is from the flock" (Lev. 3:6) – whatever comes from the flock serves as a well-being offering.'"*

[B] They retorted, "Lo, a burnt offering comes from the flock [and yet M. Sheq. 2:5 states that remaining funds from a burnt offering are used for a burnt offering and not a well-being offering and, hence, a burnt offering cannot be changed to a well-being offering]?"

- [C] [A's principle applies] if the item comes only from the flock. A burnt offering is excluded for it comes even from the herd [as Lev. 1:3 states].
- [D] They retorted, "Lo, a guilt offering [for which a ram from the flock may be brought but not an animal from the herd, according to A's principle, should be able to be changed to a well-being offering, but M. Sheq. 2:5 states that their remaining funds must be used for a free-will offering]?"
- [E] Said R. Bun bar Kahana, "'From the flock' (Lev. 3:6) denotes an item from the whole flock. A guilt offering is excluded for it comes only from the rams [and not also from the sheep]."
- [F] [Here, regarding the Passover offering] you say [the word] "from" comes to include [expanding the category to include whatever comes from the whole flock] but here [i.e., elsewhere,] you say [the word] "from" comes to exclude [limiting a category]?
- [G] Said R. Mana, "[The word "from" even here maintains its usual usage and] excludes that which only comes from rams [, the guilt offering, so that it cannot be changed into a well-being offering]."
- [H] And they retorted, "And lo, is it not written, 'if his offering is from the flock, or sheep or of goats for a burnt offering' (Lev. 1:10). This implies [following A's logic but contradicting A's conclusion, that 'whatever comes from the sheep or goats serves as a burnt offering' and, therefore, that remaining monies for a Passover offering serve - for a burnt offering]?"
- [I] Said R. Abin, "[We] change an object which is for eating [the Passover offering, which from the outset is to be eaten,] to an object which is for eating [a well-being offering], and [we] do not change an object which is for eating to an object which is not for eating [a burnt offering]."
- [J] Said R. Yosé B. R. Bun, "[We] change sacrifices of a lesser sanctity [e.g., Passover offerings] to sacrifices of a lesser sanctity [e.g., well-being offerings] and [we] do not change sacrifices of a lesser sanctity to sacrifices of a higher sanctity [e.g., burnt offerings]."
- [K] *Said R. Yohanan, "Regarding this R. Hananiah came in [and said] that they said, 'The Passover offering is changed to a well-being offering only if it was slaughtered under the designation of a well-being offering' – and I say: even [if it had been slaughtered] under the designation of a burnt offering."*

[L] *Said R. La, "The rationale for R. Yohanan [comes from the following]: 'And if from the flock is his offering for a sacrifice – a well-being offering' (Lev. 3:6), whatever is a sacrifice serves as a well-being offering."*

[M] [Is a Passover offering] changed to [another sacrifice] with a wrongful intention [that would make the sacrifice unfit]?

[N] *What would be a practical illustration of that conception?* [If one] slaughtered it under the designation of a burnt offering with the intention to toss its blood tomorrow [and thus not at its proper time], in any event it is unfit:

[O] If you say [the Passover offering] is changed [to another sacrifice] where there is a wrongful intention [e.g., even to toss its blood outside its proper time] – [it] is sacrificial meat in the status of refuse [like any animal in that situation]; if you say [a Passover offering] is not changed [to another sacrifice] where there is a wrongful intention [for at the very moment that the person changed the animal's designation he intended to make it sacrificial meat in the status of refuse, and hence the change cannot go into effect] – [it] is unfit [for he slaughtered the Passover offering under the designation of a burnt offering].

[I:4 A] [If one] slaughtered [a Passover offering] under the proper designation and [then] not under the proper designation during the rest of the days of the year [is it fit or not]? [During the rest of the year – before Passover – does intention with proper designation function to disqualify just as, on Passover, intention without proper designation does?]

[B] R. Bun bar Hiyya [said] in the name of Samuel bar Abba, "Because it lacks a designation [since designating an offering as a Passover offering on a day other than the fourteenth of Nisan is a meaningless act], it is considered as if [one] slaughters it under its proper designation and [then] not under its proper designation in silence [i.e., as if without any designation] – and it is fit."

[C] [Assuming the situation of the fourteenth of Nisan and the days preceding are compared in B:] [He] *said to him, "And if so, even if [one] slaughtered it under its proper designation [but with the intention] to toss its blood not under its proper designation [during the rest of the year, but let it be considered from the beginning as if [one] slaughters it under its proper designation and [then] not under its proper designation – and it should be fit?"*

[D] Said R. Abba Mari, “Who says [we follow a principle that if the animal is slaughtered] in silence – [it] is fit? Alternatively we should say, in silence – [it] is unfit [and it would be fit only if one formally articulated one’s purpose and uprooted any prior alternative intention].

5:3

[A] **[If] one slaughtered it not for those who [can] eat it or not for those who are registered for it,**

[B] **for uncircumcised men or for unclean ones,**

[C] **it is invalid.**

[D] **[If one slaughtered it] for those who eat it and not for those who eat it, for those who are registered for it and not for those who are registered for it,**

[E] **for those who are circumcised and for those who are uncircumcised,**

[F] **for those who are unclean and for those who are clean,**

[G] **it is valid.**

[H] **[If] one slaughtered it before midday, it is invalid,**

[I] **since it is said, “At twilight” (Ex. 12:6).**

[J] **[If] one slaughtered it before [the time of] the Daily Whole Offering, it is valid,**

[K] **so long as someone stirs its blood until the blood of the Daily Whole Offering is tossed.**

[L] **But if it[s blood] was tossed [before tossing the blood of the daily whole-offering], it is valid.**

[I:1 A] How do we know that he is required to slaughter it for those who can eat it?

[B] R. Yohanan [said] in the name of R. Ishmael [quoting the comment of R. Josiah, one of Ishmael’s most important students], “According to what each person should eat, you shall slaughter [the lamb]” (Exod. 12:4).

[C] Said R. Josiah, “This is an Aramaic expression as when a person says to his friend, ‘Slaughter this lamb for me.’”

[I:2 A] **How [are we to understand the case of] for those who cannot eat it [M. 5:3A]? [If] one slaughtered it for the sake of a sick person [and] elder who are unable to eat an olive’s amount.**

- [B] **How [are we to understand the case of] for those who are not registered for [eating] it [M. 5:3A]? [If one] slaughtered it for the sake of the members of another association [T. 4:2].**
- [C] [As to the phrase, “who are unable to eat an olive’s amount”:] *This implies that* a minor counts to make [the Passover offering] invalid.
- [D] *This implies that* if he was on a long distance journey and one slaughtered it on his behalf – it is invalid.
- [E] *This implies [that] this supports the Southerners, for the Southerners say,* “Organs that have been lost [before the blood is tossed], [wrongful] intention [e.g., to burn the organs outside their appropriate time frame] affects them as if they are existent [disqualifying the offering].” [Even though a sick or elderly person is only able to eat less than an olive’s amount and wrongful intention to eat such an amount is inconsequential, sacrificing the animal for the sick or elderly does invalidate the offering, because the person thought that he could eat an olive’s amount. Intention therefore proves sufficient by itself, for in each of these three situations the animal physically cannot be appropriately eaten because the minor is unable to eat an olive’s amount, the traveler is on a journey, and the organs are not present.]
- [F] *This implies that* if one slaughtered it so that half of his association would eat of it [with the other half excluded, but without specifying who falls into each group, and hence neither group from a practical point of view is able to eat the animal] – it is invalid [despite the case’s ostensible contradiction to M. 5:3A, which declares that if one slaughtered the animal for both those who can and those who cannot eat it, it is fit]!
- [G] *Said R. Haggai before R. Yosé,* “You may explain [that sacrificing for the sick disqualifies the offering, deals with a case such] that all of them [the group] were sick [and the person thought of all of them together, for all together they should be able to consume an olive’s amount. Hence the animal is disqualified not solely because of the sacrificer’s belief that a sick or elderly person can eat the olive’s amount – which is very different from E’s case and therefore D’s logic does not lead to a contradiction with M. 5:3A].
- [H] [R. Yosé] *said to him,* “Let it [then] be taught: [If one slaughtered it] for the members of an unfit [i.e., sick] association [and not **just ‘for the sake of a sick person’**].”

[I] [He] said to him, “[The case] deals with a situation in which there were fit people there and [one] slaughtered it for those who are invalid [e.g., two elderly or sick who together are able to consume the olive’s amount; hence all to whom he referred were sick].”

[J] Said R. Eleazar, “The teaching [M. 5:3A, in declaring the Passover offering fit where a person slaughtered it both for those who can and those who cannot eat it] treats a situation in which it was slaughtered for those who can eat it [without differentiation] and [then] those who can eat it and those who cannot eat it [e.g., the elderly and sick] ate it. But if [one both] slaughtered it from the beginning [explicitly] for, and it was eaten by, those who can eat it and those who cannot eat it – [it] is invalid.”

[I:3 A] *R. Simlai came before R. Jonathan [and] said to him, “Teach me aggadah.”*

[B] [He] said to him, “I have a tradition from my ancestors not to teach aggadah to Babylonians or to Southerners, for they are haughty and lightweight in Torah, and you are a Nehardean [by origin] and reside in the South and moreover a minor [who is likely to misunderstand].”

[C] He said to him, “[At least] tell me *one [halakhic] thing*: What is the difference between [a Passover offering which was slaughtered] under its designation and [at some point in the activity] not under its designation [M. 5:2, where the offering is invalid] and [one both] for those who can eat it and for those who cannot eat it [M. 5:3A, where the offering is fit]?”

[D] He said to him, “Under its designation and [at some point in the activity] not under its designation – its disqualification [derives] from [the animal] itself; for those who can eat it and for those who cannot eat it – its disqualification [derives] from other people. Under its designation and [at some point in the activity] not under its designation – you are not able to clarify [or “separate”] its invalid portion from amidst its fit portion; for those who can eat it and for those who cannot eat it – you are able to clarify [or “separate”] its invalid portion from amidst its fit portion. Under its designation and [at some point in the activity] not under its designation – applies to all sacrifices; for **those who can eat it and for those who cannot eat it** – applies only to the Passover offering.”

[E] *Said R. Yosé, “From this [following tradition] of R. Eleazar you may vitiate two [distinctions set out in D], for R. Eleazar said, ‘The*

teaching [M. 5:3A, in declaring the Passover offering fit where a person slaughtered it both for those who can and those who cannot eat it] treats a situation in which it was slaughtered for those who can eat it [without differentiation] and [then] it was eaten by those who can eat it and those who cannot eat it [e.g., the elderly and sick]. But if [one both] slaughtered it [explicitly] from the beginning for, and it was eaten by, those who can eat it and those who cannot eat it – [it] is invalid.’

[F] “Lo, [in the latter case which Eleazar declares invalid] its disqualification [derives] from other people and you are able to clarify [or “separate”] its invalid portion from amidst its fit portion, and you [in D] say S thus [that such features explain why the Passover offering would be fit]?”

[G] “Rather [the sole valid distinction is that], **under its designation and [at some point in the activity] not under its designation** – applies to all sacrifices; **for those who can eat it and for those who cannot eat it** – applies only to the Passover offering.”

[H] *Said R. Abin, “There is another [distinction]: **under its designation and [at some point in the activity] not under its designation** – applies to all the cultic acts; **for those who can eat it and for those who cannot eat it** – applies only to slaughtering.”*

[I:4 A] [If one slaughters the Passover offering:] [both] for those who can eat an olive’s amount [in bulk] and for those who cannot eat an olive’s amount [in bulk] – it is fit; [both] for those who can eat an olive’s amount [in bulk] and for those who cannot eat half an olive’s amount [in bulk] – all the more so, it is fit; [both] for those who can eat half an olive’s amount [in bulk] and for those who cannot eat half an olive’s amount [in bulk, what is the law]?

[B] *With what situation do we deal?* If intention [to eat half an olive in bulk] was [effective] to make fit [e.g., if one had intention for those who can appropriately eat the offering and that each would eat half an olive in bulk, and it is fit, such] intention [for those who cannot eat that they would eat half an olive in bulk] should be [effective] to make invalid. If [such] intention is not [effective] to make invalid [such] intention should not be [effective] to make fit.

[C] *Said R. Yosé, “The teaching indicates that intention [to eat half an olive in bulk] is [effective only] to make fit [but not to make invalid], for we learn there:*

[D] “‘[If one performed one of the specified cultic acts on condition] to eat half an olive [in bulk] and to burn half an olive [in bulk] – it is fit, because [the two intended acts of] eating and burning [of less than an olive amount] do not join [to make up the requisite minimum amount] [M. Zeb. 2:5].’”

[I:5 A] [If] one slaughtered [a Passover offering with the intention] that half of his association should eat from it [with the other half excluded, but without specifying who falls into each group] –

[B] R. Jonah declares [it] invalid [although it is a case of slaughtering the animal for both those who can and those who cannot eat it, which M. 5:3A.2 declares fit, here all are forbidden to eat from it because one cannot know who falls into which group and] it is considered as if the edible portion of these [who were thought of] adheres to the edible portion of these [others who were not thought of,] and since the latter do not eat, the former do not eat [and therefore in actuality the case falls under the category of M. 5:3A, slaughtering for those who cannot eat].

[C] R. Yosé said, “[It] is fit” [for the animal, nevertheless, was slaughtered with the intent that one half the association eat from it and, therefore, that half comprises “those who can eat from it,” and the case falls under category M. 5:3].

[D] *In the second cycle [of study] R. Yosé retracted.*

[E] *Said to him R. Phineas, “Did not my master [“rabbi”] teach us [that it is] fit?”*

[F] *Said [R. Yosé] to him, “Let this [teaching] be fixed in your memory like a nail,*

[G] “[as indicated in the following tradition, to wit, that it is fit only after the fact:] **[If] one slaughtered it [the Passover offering]: before noon – it is invalid** [M. 5:3B, because even the afternoon Daily Whole Offering daily offering cannot yet be sacrificed],’ after noon, immediately [despite its being before the afternoon Daily Whole Offering is actually offered] – it is fit.” [Yosé retracted as to what comprises the preferred procedure, not the indispensable condition, and despite the impropriety, eating the Passover offering may proceed.]

[II:1 A] [A] **Before the Daily Whole Offering sacrifice – it is fit [M. 5:3C].**

[B] *And it was taught likewise: “Perhaps if the Passover offering preceded the Daily Whole Offering, the Daily Whole Offering should not be*

done later? The teaching says, ‘[You shall offer one lamb in the morning, and the second lamb] you shall offer [at twilight]’ (Num. 28:1) [the unnecessary repetition of the verb] includes [viz., that the Daily Whole Offering should be offered in any event].”

- [C] Said R. Abun, “The teaching [in B] indicates [that] the Passover offering itself is fit, [for] if you say [it is] invalid, it is as if [the Passover offering] had not preceded it.”
- [D] There you say [regarding the sequence of cultic activities, in particular the place of organs, at “twilight”]: The Daily Whole Offering’s blood and organs precede the Passover offering, and the Passover offering [precedes] the incense [which Exod. 30:7-8 prescribes and situates at “between the evenings”], and the incense [precedes] the tending of the candles [prescribed at Exod. 27:20-21, Lev. 25:1-4, and set at “between the evenings” at Exod. 30:8], and here [M. 5:3C] you say thus [, projecting that only the sequence of the tossing of the blood is crucial , that if one slaughtered it **before the Daily Whole Offering – it is fit as long as someone stirs its blood until the blood of the Daily Whole Offering will be tossed!**
- [E] Said R. La, “Here [the text speaking of the Daily Whole Offering’s organs] treats a case of a living [Passover offering; hence the organs precede], but here [M. 5:3C, the text] treats a case of a slaughtered [Passover offering, the tossing of the blood of which may not be delayed beyond the tossing of the Daily Whole Offering’s blood].”

5:4

- [A] **He who slaughters the Passover-offering with leaven [still in his possession] transgresses a negative commandment (Ex. 34:25).**
- [B] **R. Judah says, “Also: the Daily Whole Offering [for the fourteenth of Nisan].”**
- [C] **R. Simeon says, “[He who slaughters] the Passover-offering on the fourteenth [with leaven in his possession] under the proper designation is liable.**
- [D] **“[If he did so] not under the proper designation, he is exempt.**
- [E] **“And so to all other offerings, [whether he slaughtered them] under the proper designation or under an improper designation, he is exempt.**
- [F] **“And on the festival [itself, if he slaughtered it] under a proper designation, he is exempt. [If he slaughtered it] under an improper designation, he is liable.**

- [G] **“And as to all other offerings, whether he slaughtered them under their proper designation or under an improper designation, he is liable,**
- [H] **“except for a sin-offering which he slaughtered under an improper designation.”**
- [I:1 A] From where do we know that one who offers a Passover sacrifice with leaven [in one’s possession] transgresses a negative commandment?
- [B] The teaching says, “You shall not offer the blood of My sacrifice with anything leavened” (Exod. 34:25).
- [C] I only know that one who offers [the sacrifice is liable]. From where do I know regarding one who tosses [its blood]?
- [D] The teaching says, “[You shall] not [offer] blood [of .my sacrifice] with leaven” [– specifying the blood when it could have simply said, “You shall not offer My sacrifice with anything leavened”].
- [E] Said R. Samuel b. R. Isaac, “From [the fact] that he becomes liable for tossing [assumably after having already slaughtered the Passover sacrifice with leaven in one’s possession], *this indicates that the Passover sacrifice itself remains fit.*”
- [F] Said R. Yosé, “You can explain [the case of becoming liable for tossing without resorting to B’s deduction by positing] that a [person] chanced on leaven between slaughtering and tossing or that [two individuals were involved and] this one [who has no leaven in his possession] slaughters and this one [who has the leaven] tosses [hence tossing with leaven would disqualify the offering].”
- [G] *Taught Hezekiah*, “‘You shall not offer the blood of My sacrifice with anything leavened’ (Exod. 34:25). The Torah called it ‘my sacrifice’ [even though it may have been sacrificed with leaven in the possession of the participant, indicating that the offering remains fit].”
- [H] *Said R. Mana*, “*If it were not for Hezekiah who taught it* , we might say, contrary to C’s logic, that if a Passover offering is disqualified, one nevertheless becomes liable for tossing its blood, because] we [do] find [that there exists] an unfit object regarding which one [nevertheless] becomes liable for a sin-offering” [such as, in the case of M. Zeb. 13:1, a person who slaughters and then sacrifices a sin offering outside the holy precincts is liable for both actions even though the first action had disqualified the sacrifice].
- [I] [That point is underscored by the following tradition and Hisda’s gloss thereon:] One who permits disqualified [meal offering, which

Lev. 6:10 stipulates should not be baked with leaven and which M. Men. 5:1 states should be made out of unleavened bread,] to leaven:

[J] *There are those who teach – “[one] is liable” [T. Men. 6:9]; [and] there are those who teach – “exempt.”*

[K] *Said R. Hisda, “The opinions are not inconsistent:] The one who said ‘liable’ speaks of a case in which it became disqualified because of its fermentation. The one who said ‘exempt’ speaks of a case in which [it] did not become disqualified because of its fermentation.” [Both cases likewise deal with a situation in which the second act entailed a violation similar to the first one, they produce an additional violation.]*

[I:2 A] [If] one burned the sacrificial portions with leaven [in one’s possession]:

[B] *There are those who teach – “[one] is liable”;*

[C] *and there are those who teach – “[one] is exempt.”*

[D] *The one who taught “liable” [holds, as in the case of tossing of blood with leaven in one’s possession, that a derivation is made from the fact that] “blood” (Exod. 34:25) [means] of any sort. [Any type of cultic act involving whatever type of blood that permits an individual to eat from “My sacrifice,” i.e., the Passover offering, should not be undertaken with leaven in one’s possession. Hence just as in the instance of tossing the blood, the liability is extended beyond the slaughtering of the animal, so in the present case, where there may be some leftover blood].*

[E] *The one who said “exempt” [derives the ban on offering the sacrifice with leaven in one’s possession from Exod. 34:25’s mention of an] offering.*

[F] How is offering [the animal] distinctive?

[G] In that it is indispensable for expiation, to the exclusion of burning the sacrificial portions, which is not indispensable for expiation.

[H] [If, e.g., someone who has gone through purification lacking only the (bird) sin atonement offering and who brings it after the twilight Daily Whole Offering so that he may immerse himself forthwith and eat the Passover offerings in the evening, if such a person] pinched a bird’s neck with leaven [in one’s possession]:

There are those who teach – “[one] is liable”; and there are those who teach – “[one] is exempt.”

[I] *The one who taught “liable”* [holds, regarding tossing of blood with leaven in one’s possession, that a derivation is made from the fact that] “blood” (Exod. 34:25) [means] of any sort. [Any type of cultic act involving whatever type of blood that permits an individual to eat from “My sacrifice,” i.e., the Passover offering, should not be undertaken with leaven in one’s possession. Hence, just as in the instance of tossing the blood, the liability is extended beyond the slaughtering of the animal, so in the present case regarding the blood of the pinched bird]. *The one who said “exempt”* [derives the ban on offering the sacrifice with leaven in one’s possession from Exod. 34:25’s mention of a sacrifice with the term] “offering”, to the exclusion of a bird which is not an “offering” [which by definition entails sacrificial slaughtering of the animal with a knife and not pinching.

[J] *R. Jacob bar Zabedi asked before R. Yosé, “The one who said ‘liable’ – it is satisfactory, [for] just as you say regarding an exemption [that the blood of a bird exempts the leper from [the punishment of] extirpation when the leper has eaten holy things because it functions like the blood of the animal of a sin offering; so also regarding a liability that when one slaughters, i.e., pinches the bird, with leaven in one’s possession, one’s liability is like that of one who slaughters an animal]. As to the one who said ‘exempt,’ what is the reason?”*

[K] He said to him, “[Only a comparison between similar categories is valid: They] learn punishment [of one who slaughters with leaven in one’s possession] from punishment [of one who slaughters outside the sacred area – a comparison inapplicable regarding pinching for it does not cause a liability when done outside the sacred area]. But [E’s comparison is also inapplicable, for it draws on a quality of the blood and not its potential for culpability:] They do not learn punishment [of pinching with leaven in one’s possession] from an exemption [in that the bird exempts a person from extirpation].”

[L] *The rabbis of Caesarea asked, “Perhaps one who received or conveyed [the Passover offering’s blood to the altar] with leaven [in one’s possession] should be liable? The teaching says, ‘offering’. How is an offering distinctive? In that [they] are liable regarding it [if they slaughtered it]*

outside the holy precincts, to the exclusion of one who received or conveyed [its blood to the altar] with leaven [in one's possession] regarding which [they] are not liable [if performed] outside.

[M] “Perhaps one who burned the sacrificial portions with leaven [in one's possession] should be liable? The teaching says [regarding the sprinkling of blood], ‘And he shall make expiation’ (Exod. 14:19, 20, 31, and esp. 53).

[N] How is tossing [of blood] distinctive? In that it is indispensable for expiation, to the exclusion of burning of sacrificial portions, which is not indispensable for expiation [and hence would not make a person liable if done with leaven in one's possession].”

[O] *R. Jacob bar Zabedi asked before R. Yosé*, “Instead of deducing [from these verses] to exempt, deduce to make liable:

[P] “Perhaps one who burned sacred portions [L + Lg in error: “received or conveyed”] with leaven [in one's possession] should be exempt? The teaching says, ‘offering’ . How is an offering distinctive? In that [they] are liable regarding it [if they slaughtered it] outside the holy precincts. So I will include burning of sacred portions regarding which one is liable [if performed] outside [the holy precincts].

[Q] “Perhaps one who received or conveyed [a Passover offering's blood to the altar] [with leaven [in one's possession] should be exempt? The teaching says, ‘And he shall make expiation’ (Exod. 14:19, 20, 31, and esp. 53). How is tossing [of blood] distinctive? In that it is indispensable for expiation. So I will include receiving or conveying [its blood to the altar] which are indispensable for expiation.”

[R] He [R. Yosé] said to him, “[Scripture] teaches a matter that is identical in both of them. [It] does not teach a matter that is not identical in both of them:

[S] “‘Offering’ – how is ‘offering’ distinctive? In that it is [both] indispensable for expiation and regarding it [they] are liable [for slaughtering it]

outside the holy precincts, to the exclusion of receiving or conveying [the sacrifice's blood to the altar] regarding which [although indispensable for expiation, they] are not liable [for slaughtering it] outside. [Likewise this holds] to the exclusion of burning of sacrificial portions which are not indispensable for expiation."

- [I:3 A] *There we learn, "The House of Shammai say, 'Leaven [becomes forbidden in] an olive's [bulk] and leavened food [in] a date's [bulk].'* "And the House of Hillel say, 'Both are in an olive 's [bulk] [M. Bes. 1:2].'"
- [B] R. Zeriqan [said] in the name of R. Yosé b. Hanina, "They taught [in the Mishnah] only regarding removal [of leaven], but regarding eating [the criterion is] an olive's amount [in bulk; hence in the latter case the House of Shammai would agree with the House of Hillel]."
- [C] [Regarding the rule for leaven, which is more severe than that for leavened food for the House of Shammai:] R. Abbahu [said] in the name of R. Yohanan, "Regarding both removing it and eating it [the criterion for the House of Hillel is] an olive's [amount in bulk]."
- [D] *R. Mana took up the claim of R. Hezekiah. He said, "From where did my master hear this matter [the tradition cited in C]?"*
- [E] He said to him, "From R. Abbahu."
- [F] *He said to him, "And we say that R. Abbahu [said it] in the name of R. Yohanan regarding both removing it and eating it [that the criterion for the House of Hillel is] an olive's amount [in bulk]."*
- [G] If one slaughtered it [the Passover offering] with leaven [in one's possession], according to which [action] do you follow [to fix the minimum of leaven constituting a violation], its eating or its removal?
- [H] There [at y. 3:2] said R. Jeremiah in the name of R. Zeira, "Two [portions of leaven] half-an-olive size in bulk within a house – the house does not join [them together]; within a vessel – the vessel joins [them together to make up the minimum amount rendering the individual liable]."
- [I] [If they] slaughtered [the Passover offering] with them [the two half portions of leaven in one's possession, what is the law]?

[J] Since if they would be within the house and the house would not join [them – they] are exempt? Or since if they would be within the vessel, the vessel would join [them] – [they] are liable?

[K] [A more basic problem exists regarding *si'ur*, which M. 3:5 considers forbidden (subject to burning before Passover) but eating of which does not make one liable for extirpation and which consists either of a kind of dough not fully leavened (unfinished) and hence not fully edible or, according to Rab, a mixture of leaven with another substance:] [If one] slaughtered it [the Passover offering] with *si'ur* [in one's possession, what is the law]?

[L] Since [at y. 3:5] R. Huna said in the name of Rab, "It is permitted to feed it to one's dog" – [it] is permitted? Or since Rab said, "[They] impose lashes over eating it" – [he] is liable? [The question is left unanswered.]

- [I:4 A] R. Simeon b. Laqish said, "[The Mishnah's rule applies] so long as the slaughterer is one of the members of the association."
- [B] R. Yohanan said, "[The rule applies if the leaven] belongs to the slaughterer even though he is not a member of the association."
- [C] R. Jacob b. Aha [said in the name of] R. Yohanan, "[The rule applies if the leaven] belongs to the slaughterer even though he is not a member of the association [or if it] belongs to one of the members of the association *even* though he is not the slaughterer."⁸⁷
- [D] R. Yohanan said, "Even [if the leaven] was placed with him in Jerusalem."
- [E] R. Simeon b. Laqish said, "So long as [it] is placed with him in the [Temple] courtyard."
- [F] *This one follows his approach and this one follows his approach.*
- [G] *For they are in dispute:* [Regarding] two days of the festival of the Diaspora [the second day of which is added in the Diaspora because it was difficult to ascertain ahead of time exactly when the festival should start; hence, since one of the two days is observed out of a "doubt," if a person warned another individual that he was violating the law of the festival, the potential violation would be a "doubtful violation," as would be the warning:]
- [H] Yohanan said, "[They] accept a warning on doubt."

[I] Simeon b. Laqish said, “[They] do not accept warning on doubt.”

[J] All agree that if [it] was placed before him in [adds: “the courtyard that he is liable. What (therefore) is the difference between them? If (it) was placed before him in”] a window in Jerusalem [it depends on what is construed to be the rationale:] The one who said doubt [was the issue dividing the masters, in this case] it is [a matter] of surety [because the person can see the leaven through the window and the person would be liable]. The one who said that [the leaven must actually be] in the courtyard, [lo] it is in Jerusalem [and therefore not valid].

[I:5 A] What is the reason for R. Judah?

[B] [The verse states,] “The blood of My offering” [read as a plural, “My offerings,” which means] the blood of the Passover offering and the blood of the daily offering.

[I:6 A] *Said R. Yohanan, “The reason of R. Simeon [is as follows]: One verse says, ‘You shall not slaughter the blood of My sacrifice with anything leavened’ (Exod. 34:25), and one verse says, ‘You shall not offer the blood of My sacrifice with anything leavened’ (Exod. 23:18). [They come to teach that] the same [law applies] both [to] the Passover offering on the fourteenth [of Nisan] and [to] all other sacrifices on the intermediate days of the festival.”*

[B] Why did you see fit to include them [all other sacrifices] on the intermediate days of the festival and to exclude them from the fourteenth of Nisan?

[C] After Scripture included [it then] excluded, [for the latter verse, Exod. 34:25, goes on specifically to mention the Passover offering: “and the sacrifice of the Feast of Passover shall not be left lying until morning”]. [Therefore] I include them [the remaining sacrifices] on the intermediate days of the festival which [already has a ban on] not seeing and not finding [leaven], and [I] exclude them from the fourteenth [of Nisan] for they are not [under the ban on] not seeing and not finding [leaven].

[D] *And [following C’s logic that on the fourteenth there is no biblical basis for a ban on leaven, Simeon] holds in accord with that which R. Meir said, for R. Meir said, “From the sixth hour onward [until the festival itself, the presence of leaven is prohibited] by reason of their words [on the basis of rabbinic injunction alone].”*

[E] Said R. Mana, “Wherever’ it is written “an offering of the Passover festival” [i.e., Exod. 34:25] we treat a case of the fourteenth [of Nisan; hence Exod. 34 must refer to the fourteenth].”

[I:7 A] Said R. Yohanan, “An association [or “association” of sages or disciples, drawing on a text such as M. 9:6] would ask, ‘*With what situation do we deal?* If in a case [in which the animal] had been lost [e.g., on the fourteenth, and then replaced] and [subsequently] found before the expiation [, the offering of the sacrifice], whether [it had been] under its proper designation [or] whether not under its proper designation – it is disqualified and sent to pasture [so as on its own to become blemished]. [Alternatively,] if in a case [in which the animal] had been lost [e.g., on the fourteenth, and then replaced] and [subsequently] found after expiation [the offering of the sacrifice], whether [it had been] under its proper designation [or] whether not under its proper designation – it is fit [for] it [is considered a] whole offering?’

[B] “And it [the association] explained it [that it] deals with a case in which the owners became unclean or they intentionally [failed to offer the Passover sacrifice] and [the animal] was postponed to the second Passover [one month later]. [In such a case if during the festival one slaughtered the animal] under its proper designation [one is] exempt, for it [the animal] is disqualified [from serving as a sacrifice]. [And if] not under its proper designation [one is] liable, for [it] the animal is fit [as a whole offering].”

[I:8 A] In response to M. 5:4B’s reference to “**And [one who slaughters the Passover offering] on the festival [itself], under its [proper] designation is exempt,**” the Talmud asks:] *And what case* [is there, i.e., do we find a case of slaughtering the Passover offering] under its proper designation and one is liable [for slaughtering the offering with leaven in one’s possession] [and the animal is fit]?

[B] There [in Babylonia, they] say in the name of R. Hisda, “[Assuming that a designated Passover offering was not used and the owners had registered themselves for another Passover offering which was slaughtered at the regular time, the case deals with a situation] in which, between the first and second [Passovers], its first birthday was completed [disqualifying it, according to Exod. 12:5, from serving as the offering].” [In such a situation, the animal would be offered as a whole offering; hence, even though it was slaughtered during the festival under the designation of a Passover offering, it is automatically converted to a whole offering and is validly offered as such. As a

result, the participant is liable for slaughtering with leaven in one's possession.]

- [C] R. La [said] in the name of R. Yohanan, “[It deals with a situation] in which the time for its offering [lit., “expiation”] was completed [and hence it was no longer useful].” [Following Yohanan’s approach (in accord with M. Pes. 9:6) that a Passover offering is slaughtered as a whole offering only when the animal had been temporarily lost, and in the interim, before it was found, the owners had themselves included under another Passover offering that was then sacrificed on time. Such an animal, when slaughtered during the festival with leaven in one’s possession under the designation of a Passover offering, makes one liable, and it (the animal) is considered to have become a whole offering.]
- [D] **A Passover offering the time for which was completed and which was slaughtered under its [proper] designation [as a Passover offering] in its [proper] time [in the afternoon of the fourteenth of Nisan]**
- [E] **or [if one] slaughtered other [kinds of offerings] under its [the Passover offering’s] designation in its time [i.e., on the fourteenth]**
—
- [F] **R. Eliezer declares [it] disqualified, and R. Joshua declares [it] fit [T. 4:5A].**
- [G] [Explaining D’s first case:] R. Elixir declares [it] disqualified, for he is like one who slaughters a Passover offering under the designation of a whole offering [which M. 5:2 declares disqualified]. R. Joshua declares [it] fit, for he is like one who slaughters a whole offering under the designation of a Passover offering. [For R. Eliezer, on the one hand, although the animal is to be sacrificed as a whole offering, it retains something of its former identity as a Passover offering until it is formally redesignated as a whole offering; hence, if slaughtered under the designation of a Passover offering, since it is after its first birthday, it is disqualified. For R. Joshua, on the other hand, no formal redesignation is necessary and, as is stated in the second case, the animal is fit.]
- [H] Since its time was completed, it makes no difference whether one slaughters a Passover offering under the designation of a whole offering or whether one slaughters a whole offering under the designation of a Passover offering?

[I] According to the view of R. Hisda, [the cited passage deals with a situation] in which [the animal's] first birthday was completed between the first and second [Passovers – after the replacement had been offered, as set out in B, and the animal was offered in its time on the eve of the second Passover (the fourteenth of Iyyar)]. [Hence, Elixir considers such an animal, which automatically is considered as destined to be a whole offering (a status which takes effect if it is renamed properly), as a Passover sacrifice slaughtered in its proper time under the designation of a whole offering and hence not under its proper designation. Since it therefore was not renamed, it is disqualified. R. Joshua, who does not require formal renaming, considers the animal at the time of slaughter to be automatically converted to a whole offering and therefore fit.]

[J] According to the view of R. La in the name of R. Yohanan, [the first case deals with a situation] in which the time for its offering was completed. [The animal, which was temporarily lost and found after a replacement had been offered and which was sacrificed later on the fourteenth, and thus in its proper time, is considered a whole offering in accord with M. 9:5. In this situation Eliezer and Joshua follow their respective approaches.]

5:5

[A] The Passover [-offering] is slaughtered [by people divided into] three groups,

[B] as it is said, “And the whole [1] assembly of the [2] congregation of [3] Israel shall slaughter it” (Ex. 12:6) –

[C] [this yields] assembly, congregation, and Israel.

[D] [When] the first group entered, the courtyard was packed, [then] the doors of the courtyard were locked.

[E] They blew on the shofar a sustained, a quavering, and a sustained note.

[F] The priests stood in rows, with basins of silver and gold in their hands.

[G] One row had wholly silver ones, another wholly gold ones; they were not mixed up.

[H] And the basins did not have bases, lest they put them down, and the blood [of the Passover sacrifice] congeal.

[I:1 A] R. Jacob bar Aha [said] in the name of R. Yosé, “Power was given to Moses’ voice,

- [B] “and his voice traveled throughout the land of Egypt, the distance of a forty-days journey.
- [C] “And what did [it] say? ‘From one place to another place [makes up] one group. And from a given third place to a given fourth place [makes up] one group.’
- [D] “And do not be surprised [that Moses’ voice could travel so far]. For if [concerning] dust, the nature of which is not to travel, you [Scripture] said, ‘and it shall become a fine dust all over the land of Egypt’ (Exod. 9:9), a voice, the nature of which is to travel, is it not [the case] all the more so?”
- [E] Said R. Levi, “Just as power was given to Moses’ voice, so [it] was given to Pharaoh’s voice,
- [F] “and his voice traveled throughout the land of Egypt the distance of a forty-days journey.
- [G] “And what did [it] say, “‘Up, depart from among my people you and the Israelites with you! Go worship the Lord” (Exod. 12:31). [In the past you were the servants of Pharaoh; from now on you are the servants of the Lord.”
- [H] “At that very moment [the Israelites in response] said, “‘Hallelujah. Give praise, O servants of the Lord” (Ps. 113) and not the servants of Pharaoh.”
- [I:2 A]** *It was taught:* “A daily whole offering which has libations [accompanying it], they sound a sustained blast at the time of the libations. A Passover offering which lacks libations, they sound a sustained blast at the time of its slaughter.”
- [I:3 A]** *A story [concerning:] R. Zeira and R. Jacob bar Aha and R. Abina, who were sitting [together].*
- [B] Said R. Abina, “[Mishnah’s procedure was] due to deceivers [who would substitute less precious for more precious basins].”
- [C] Said R. Jacob bar Aha to him [R. Abina], “[Did you say it] with your full mouth [without any reservation]?”
- [D] Said R. Zeira to him [R. Abina], “Say to him [R. Jacob b. Aha]: [It is] with half your mouth [with some reservation].”
- [E] R. Jeremiah came [and said] in the name of R. Yohanan, “[The Mishnah’s procedure was] due to deceivers.”

5:6

[A] **An Israelite slaughtered [the Passover lamb] and a priest received the blood, handed it to his fellow, and his fellow to his fellow,**

[B] **[each one] receiving a full basin and handing back an empty one.**

[C] **The priest nearest the altar tossed [the blood] in a single act of tossing, toward the base.**

[I:1 A] One verse says, “But the firstlings of cattle, sheep, or goats you may not redeem; they are consecrated. You shall dash their blood against the altar” (Num. 18:17), and another verse says, “and of your [other] sacrifices, the blood shall be poured out on the altar of the Lord your God” (Deut. 12:27). If [the blood is disposed by] pouring out why [does the former verse speak of] dashing, and if [the blood is disposed by] dashing why [does the latter verse speak of] pouring out?

[B] *It is taught:* [regarding the blood of the sin offering, mentioned at Lev. 4:7, “and all the rest of the bull’s blood he shall pour out at the base of the altar”:] “[It] should be ‘poured’ and not dripped [drop by drop]; it should be ‘poured’ and not sprinkled [with one’s finger]; it should be ‘poured’ and not dashed [thrown from afar onto the altar’s side]” [Hence, the blood should be poured from close by all at once onto the altar’s base].

[C] And tradition [the non-Pentateuchal portions of Scripture] explained [regarding Hezekiah’s Passover, resolving the inconsistent usage presented in A]: “the priests dashed the blood [which they received] from the Levites” (2 Chron. 30:16). [Since the term “dashes” is used by Scripture, it must be included within the category of “pouring” and thus is a proper term for M. 5:6 to use].

[D] *All agree regarding “pouring” that it [means] thus [in accord with its literal sense, “to pour”] and regarding “sprinkling” that it [means] thus [in accord with its literal sense, to sprinkle”]. Regarding what do they differ? Regarding “dashing.”*

[E] R. Hananiah and R. Mana [differ over this matter:]

[F] R. Mana said, “‘Dashing’ is like pouring.”

[G] R. Hananiah said, “‘Dashing’ is like sprinkling.”

[H] Said R. Yohanan b. Madaya [or Maraya], “A verse supports R. Hananiah, ‘[Whoever touches a corpse, and does not cleanse himself, defiles the Lord’s tabernacle;] since the water of cleansing was not dashed on him, he remains unclean,’ (Num

19:13). Lo it stands near ‘sprinkling’ [specified in Num. 18:18-19] and you call it dashing?” [Hence “dashing” is considered under the category of “sprinkling,” and not “pouring.”]

5:7

[A] **The first group went out and the second group came in.**

[B] **The second group went out and the third group came in.**

[C] **In accord with the rite of the first group were the rites of the second and third.**

[D] **[The Levites meanwhile] proclaimed the Hallel Psalms [113-118].**

[E] **If they completed [the recitation], they repeated it, and if they completed the second time, they repeated it for a third –**

[F] **even though they never in all their days had to repeat it a third time.**

[G] **R. Judah says, “In all the days of the third group they never even reached the verse, I love the Lord because he has heard my voice (Ps. 116:1), because its numbers were small.”**

[I:1 A] *There we learn [regarding the sequence of fasts for rain, when rain finally arrives:] “They went out and ate and drank and returned at twilight and read the Great Hallel” [M. Tan. 3:9].*

[B] **What is the Great Hallel?**

[C] R. Parnokh in the name of R. Haninah [said], **“Praise the God of Gods’ (Ps. 136:t)’ [T. Tan. 2:17].**

[D] Said R. Yohanan, “As long as [one starts] from [the preceding chapter] ‘[Give praise, you servants of the LORD] who stand in the house of our God’ (Ps. 135:2).”

[E] *Why these two sections?*

[F] R. Zeira, R. Abbahu in the name of R. Samuel b. Nahman, “Because the descent of rain is included in them.”

[G] *According to the view of R. Yohanan [requiring Ps. 135] it is fine, for it is written, “He who makes clouds rise from the end of the earth [He makes lightning for the rain]” (Ps. 135:7).*

[H] *But according to R. Haninah what [can you say]? Because it is written, “Who gives food to all flesh, His steadfast love is eternal” (Ps. 136:25).*

[I] *R. Ba and R. Simon both of them say, “[The ‘Great Hallel’ refers to] this one of ours [the standard Hallel recited on holidays, apparently Psalms 115-16].”*

[J] *R. Joshua b. Levi said, “This one of ours.”*

[K] *Bar Qappara said, “This one of ours.”*

[L] *Bar Qappara [holds] in accord with his position [elsewhere], for we learn: “In all the days of the third group they never reached [the verse], ‘I love the Lord for He heard my voice’ (Ps. 116:1) because its folk were few [M. 5:7B]. Teaches Bar Qappara, “This [Psalm section that includes Ps. 115 extending to Ps. 116:1 (Halivni, p. 589)] is the Great Hallel.”*

[M] *A son of a Patricius [noble] passed before the lectern [to lead the service on a fast day after rain had fallen]; he said to them, “Answer after me what I say.” This [declaration] indicates that this [Hallel] is not this one of ours [for with the standard Hallel people respond only with the leading verses or fixed refrains and not with each verse].*

[N] *Said R. Mana, “[No, despite the declaration, the Hallel in question was] this one of ours. [But because] the miracle had been great, therefore he said to them, ‘Answer after me what I say’ [every verse, following the practice of repeating praises].”*

[I:2 A] *It is taught, “It [the third group] was called the group of lazy ones” [T. 4:11].*

[B] *Said R. Abun, “Now, if regarding a matter the commandment of which is thus [to tarry so that there be a third group] it is called the “group of lazy ones,” whoever is slothful regarding a commandment [that does not entail a delay] all the more so [would be called “lazy”].”*

5:8

[A] **In accord with the rite as conducted on an ordinary day, so was the conduct of the rite on the Sabbath.**

[B] **And the priests mopped up the courtyard [on the Sabbath, just as on a weekday],**

[C] **contrary to sages’ wishes.**

[D] **R. Judah says, “A cup was filled with the mingled blood [which had been spilled]. One tossed it with a single act of tossing on the altar.”**

[E] **And sages did not concur with him.**

[I:1 A] Said R. Jonathan, “They did not permit every act proscribed so as to maintain the restfulness of the Sabbath in the Temple, [hence even though the washing in may have only been an act proscribed so as to maintain the restfulness of the Sabbath, **sages still forbade it because technically it was not a cultic act**],

[B] **‘and the priests sank in blood up to their knees [T. 4:12].’**

[C] [Responding to A.1:] And [to prevent the priestly garments from being soiled], what did they do? [They] would make benches” [along the wall] for them [to step on].

[I:2 A] *There we learn:* **R. Judah makes one liable if or consuming the last blood [which oozes out at an animal’s death, for it is considered forbidden blood] [M. Ker. 5:1]**

[B] Said R. Yohanan, “R. Judah included it [the last oozing blood under the category of “blood”] only regarding extirpation, thus for drinking such blood and not, e.g., for expiation on the altar.”

[C] Came R. Hezekiah, R. Abbahu in the name of R. Yohanan [and said], “R. Judah included it [the last oozing blood under the category of “blood”] only regarding extirpation.”

[D] *There they say in the name of R. Hisda, “The [following] teaching [said] thus [as asserted in B-C:]*

[E] **“[Disagreeing with R. Judah, as in M. 5:8C, that priests would dash the collected blood on the altar:] ‘They said to him [apparently assuming that ANY collected spilled blood would have been an animal’s last oozing blood], Is it not the last oozing blood and the last oozing blood is disqualified on the altar,**

[F] *“and moreover from the following: and the majority of it was not collected in a utensil, and blood which was not collected in a utensil [from under the animal during the act of slaughter] is disqualified on the altar [T. 4:1D-E].”* [From the fact that R. Judah is not represented as responding to these two arguments, he assumably agrees with their principles, the first of which is in accord with B-C’s claim and therefore there is no requirement to dash this blood.]

- [G] *And does R. Judah hold [the position that] blood annuls blood [e.g., that in a mixture of blood to be dashed on the altar, the blood that had spilled on the floor and that was collected annuls a lesser amount of blood that had originally been caught in a utensil during slaughter]? [Surely, as M. Zeb. 8:6 and Hul. 6:5 testify, he asserts the opposite, viz., that blood that had spilled out of the basin receiving the blood from a slaughtered animal is not disqualified by being mixed with mingled spilled blood and consequently may be dashed on the altar – even in the diluted amount found in a cup filled from the aggregate of blood on the floor]?*
- [H] [Hence] just as he rejects the latter though he acquiesces, thus he rejects the former though he acquiesces. [Since he does have an adequate response to the former, i.e., by claiming that he speaks of a situation in which some of the collected blood was lifeblood. Judah’s procedure remains legitimate and validates a Passover offering none of the blood of which had otherwise been dashed on the altar.]
- [I] *R. Yosé b. R. Bun in the name of R. Hisda, “The teaching said thus:*
- [J]”[Regarding Lev. 17’s ban on drinking blood formulated in the context of a sacrificed animal:] **‘I know [from the context that this liability regarding blood] applies only to the life blood of sanctified animals,** an entity that is fit for expiation [by being tossed on the altar].
- [K] **How do we know [that the liability applies to] the lifeblood of profane [animals] as well as to the last oozing blood whether of profane or sanctified [animals]? The teaching says, “Blood” and “any blood” (Lev. 17:10)?** [The exegesis is based on the repetition and expanded formulation of the phrase “any blood,” where “blood” would have summed to expand the law, as is evident from reading Lev. 17:10-12 in full: “And if any man of the house of Israel or of strangers who reside among them partakes of any blood, I will set My face against the person who partakes of the blood, and I will cut him off from among his kin (v. 10). For the life of the flesh is in the blood, and I have assigned it to you for making expiation, for your lives upon the altar; it is the blood, as life, that effects expiation (v. 11). Therefore I say to the Israelite people No person among you shall partake of blood, nor shall the stranger among you partake of blood” (v. 12).]
- [L] When it regarding “life,” it mentions “expiation.” [But when it speaks] regarding the last oozing blood, it does not mention “expiation” .]

5:9

[A] How do they hang up [the carcasses] and flay them?

[B] Iron hooks were set into the walls and pillars, on which they would hang up and flay the carcasses [M. Mid. 3:5].

[C] And for whoever did not have space for hanging and flaying his carcass,

[D] there were thin smooth poles, and one would put one end on his shoulder and one on the shoulder of his fellow,

[E] and [thereon] hang and flay the carcass.

[F] R. Eliezer says, “On the fourteenth of Nisan which coincided with the Sabbath, he would put his hand on the shoulder of his fellow, and the hand of his fellow on his shoulder, and thereon suspend and flay the carcass.”

[I:1 A] R. Zeira in the name of R. Eleazar [says], “[The arrangement of] the staves [between the cakes of the show-bread on the Sabbath which does not take precedence over the Sabbath (M. Men. 11:6)] and poles [on which the Passover offering’s carcass might be hung and flayed and which R. Eliezer says are not used when the Sabbath coincides with the fourteenth of Nisan] [M. Pes. 5:9] were taught before [the sages granted] permission [to move] utensils on the Sabbath” [M. Shab. 17:1].

5:10

[A] He slit open the carcass and removed its sacrificial portions, put them on a tray and [a priest] burned them on the altar.

[B] [When the fourteenth of Nisan coincided with the Sabbath], the first group went out and took seats on the Temple mount, the second on the Rampart, and the third remained in its place.

[C] Once it got dark, they went out and roasted their Passover lambs.

[I:1 A] It is written, “And [he] sprinkled some of the blood [on the altar]” – from all of it. [All of the animal must be intact when the dashing takes place.]

[B] Said R. Abina, “It is valid so long as long as [the sprinkling comes] from a whole offering.”

[C] It is written, “[And Aaron’s sons] shall burn it [on the altar]” [Lev. 3:5], “And [the priest] shall burn it [on the altar]” (Lev. 3:11), “And [the priest] shall burn them [on the altar]” (Lev. 3:16).

- [D] What does the teaching say [in the formulation] “and [they] shall burn it” (v. S)? [That it be] the fit one and not the disqualified one. [In referring to the sacrifice and the portions offered on the altar, the pronoun indicates that the portions that are burned must similarly be fit to be offered on the altar.]
- [E] “And [the priest] shall burn it” (v. 11)? That one should not mix fatty portions [of one offering] with fatty portions [of another offering] [but burn each offering’s portions individually].
- [F] “And [the priest] shall burn them” (v. 16)? All of them together.
- [G] Here you say, “And [the priest] shall burn it” (v. 11)? That one should not mix fatty portions [of one offering] with fatty portions [of another offering], and here you say, “And [the priest] shall burn them” (v. 16) [assumably, different portions together]?
- [H] [One is] to process all of them [the several fatty portions of each offering] together [without interruption – in contrast, e.g., to the burning of a burnt offering’s limbs].
- [I] Said R. La, “Here [M. 5:10 deals] with a tray [on which portions from several offerings may be placed] and here [C deals with portions placed directly] on the altar [where only one offering at a time may be burned].”

[I:2 A] *Does not R. Hiyya teach: “There was no sitting in the courtyard except for kings of the David’s house” [T. San. 4:4]?*

- [B] And R. Immi in the name of R. Simeon b. Laqish [said], “Even for the kings of the David’s house there was no sitting in the courtyard?”
- [C] You may explain that he rested himself on the wall and sat.
- [D] And is it not written, “Then King David came and sat before the Lord,” (1 Chron. 17:16) [which indicates that King David himself actually sat]?
- [E] Said R. Ayyo b. Nagri, “[‘And he sat’ should be read as] ‘and he quieted himself [concentrated his mind] for prayer.’”
- [F] **The first group exited and sat in the Temple mount, the second group [on going out sat] on the rampart, and the third [remained] in its place [M. 5:10B]** [and does this not contradict A-E’s point that people did not sit in the Temple courtyard]?
- [G] R. Nahman in the name of R. Mana [said], “What did we learn [in M. 5:10B as to the third group]? “And it sat in its place’ [the verb

used regarding the first group]? [No. Rather] ‘it stood in its place.’” [“In its place,” therefore, means following usage “stopped” or “remained,” and not “sat.”]

YERUSHALMI PESAHIIM

CHAPTER SIX

6:1

[A] These matters regarding the Passover sacrifice override [the prohibitions of] the Sabbath:

[B] (1) slaughtering it, (2) tossing its blood, (3) scraping its entrails, and (4) burning its [sacrificial] pieces of fat.

[C] But roasting it and rinsing its entrails do not override [the prohibitions of] the Sabbath.

[D] Carrying it [to the Temple], bringing it from outside to inside the Sabbath limit, and cutting off a wen which is on it do not override [the prohibitions of] the Sabbath.

[E] R. Eliezer says, “They do override [the prohibitions of the Sabbath].”

[I:1 A] These matters regarding the Passover sacrifice, [M. 6:1].

[B] This law [of M. 6:1A-B] was forgotten by the Elders of Beterah.

[C] Once the fourteenth [of Nisan] fell on the Sabbath and they did not know if the Passover sacrifice overrides the Sabbath or not. [They] said, “There is here a certain Babylonian, and Hillel is his name, who served Shemaiah and Abtalion. [Perhaps he] knows whether a Passover sacrifice overrides the Sabbath or not. Possibly something good [can come] from him.” [They] sent and called him.

[D] They said to him, “Have you ever heard when the fourteenth [of Nisan] falls on the Sabbath, whether [it] overrides the Sabbath or not?”

[E] He said to them, “Do we have only one Passover offering alone that overrides the Sabbath in the whole year? And are there not many Passover offerings that would override the Sabbath in the whole year?”

[F] *There are those who teach* “one hundred.”

[G] *There are those [others] who teach, “two hundred.”*

[H] *There are [other still] who teach, “three hundred.”*

[I] *The one who says “one hundred” [refers to] the Daily Whole Offering [daily] offerings [which are offered every morning and evening; hence twice on each Sabbath throughout the year].*

[J] *The one who says “two hundred” [refers to] Daily Whole Offering offerings and the Sabbath additional offerings [two in number offered after the morning sacrifice every Sabbath: Num. 28:9].*

[K] *The one who says “three hundred” [refers to] Daily Whole Offering offerings, and the Sabbath additional offerings, [and those] of festivals, and of new moons, and of the intermediate days of the festival.*

- [L] **They said to him, “We have already said that ‘something good [can come] from you.”**
- [M] **He started to expound for them from an [analogy], and from a an argument a fortiori and from a inference by analogy] based on identity of words.**
- [N] **“From an analogy: since a Daily Whole Offering offering is a community sacrifice and a Passover offering is a community sacrifice [being brought in a group joined with others], just as a Daily Whole Offering offering, a community sacrifice, overrides the Sabbath, so a Passover offering, a community sacrifice, overrides the Sabbath.**
- [O] **“From an argument a fortiori: If a Daily Whole Offering offering, for [improperly or not] J offering which one does not become liable to extirpation, overrides the Sabbath, a Passover offering, for [improperly] offering which one becomes liable to extirpation, all the more so should override the Sabbath.**
- [P] **“From an inference by analogy based on identity of words: it is said regarding a Daily Whole Offering offering ‘in its time’ (Num. 28:2) and it is said regarding the Passover offering ‘in its time’ (Num. 9:2) just as the Daily Whole Offering offering regarding which it says ‘in its time’ overrides the Sabbath, so a Passover offering regarding which it says ‘in its time’ [surely] overrides the Sabbath.”**

- [Q] [They] said to him, “We have already said, ‘Is there something good [that can come] from the Babylonian?’
- [R] “The analogy that you stated has an answer: No – [for] if you hold regarding a Daily Whole Offering offering which has a limit [two only each Sabbath], would you say regarding a Passover offering that has no limit [since it depends on the number of Israelites, that it too overrides the Sabbath]?
- [S] “The argument a fortiori that you stated has an answer: No – [for] if you hold thus regarding a Daily Whole Offering offering which is [of] the most holy sacrifices [, being a burnt offering completely burned on the altar, and hence superseding the Sabbath], would you say [thus] regarding a Passover offering which is of the lesser sacrifices?
- [T] “The argument by analogy based on the appearance of the same words in two passages, that you stated [has an answer:] for a person does not deduce a such an argument n his own.”
- [U] [On the notion of not deducing an analogy based on the appearance of the same word in two contexts, on one’s own authority:]
- [V] R. Yosé b. R. Bun said in the name of R. Abba bar Mamal, “If a person may deduce a such an argument on his own authority, he might make the creeping thing impart uncleanness by tent and the dead [carcass] impart uncleanness when [the dead flesh] is the size of a lentil, for he might expound [the similar phrase stated, first, regarding the uncleanness imparted by a dead swarming thing that touches:] ‘a cloth [or] a skin’ (Lev. 11:32), [and, second, regarding the uncleanness imparted by a human corpse that came in contact with:] ‘a cloth [or] a skin’ (Num. 31:20] for an argument based on analogy.
- [W] “Hence if a creeping thing is in a person’s hand, even if he immerses in the waters of the Siloam or the waters of creation, he can never become clean. [But] once he has thrown it [the creeping thing] away, immediately he becomes clean.”
- [X] R. Yosé b. R. Bun in the name of R. [Ab]ba bar Mamal [said], “A person deduces a an argument by analogy in order to confirm his learning and a person does not deduce a an argument by analogy to undo his learning.”
- [Y] R. Yosé b. R. Bun in the name of R. Ba bar Mamal, “A person deduces a an argument a fortiori on his own authority and a person

does not deduce a an argument by analogy on his own authority.
Therefore they respond [= challenge] from a an argument a fortiori
and they do not respond from an argument a fortiori “

[Z] And even though [Hillel] sat and expounded to them all day, [they] did not accept [the teaching] from him until he told them [using the language of an oath], “May [evil] befall me [if I lie]. Thus I have heard from Shemaiah and Abtalion.”

[AA] As soon as they heard this from him, they stood up and appointed him patriarch over them.

[BB] As soon as [they had appointed him patriarch over them,]” he began to castigate them with words, saying, “What caused you to need this Babylonian? Is it not because you failed to serve the two great men of the world, Shemaiah and Abtalion, who were sitting with you?”

[CC] As soon as [Hillel] castigated them with words, a law escaped his memory, specifically:

[DD] [They] said to him, “What should [we] do for the people, for [before the Sabbath] they did not bring their knives [to slaughter the animal, which you have now demonstrated is permitted]?”

[EE] He said to them, “This law I have heard but I have forgotten. Rather, [then,] leave Israel [alone]. If they are not prophets, they are the children of prophets [and will know by themselves what to do].”

[FF] Immediately whoever had Passover offering was a lamb would stick the knife in its wool; [if it was a kid, he would tie it between his horns. As a result, the beasts they had designated for use as their Passover offerings brought their knives with them [T. 4:13-14].

[GG] As soon as he saw this happening, he remembered the law, saying, “Thus I heard from Shemaiah and Abtalion.”

[HH] R. Zeira in the name of R. Eleazar [said], “Any teaching that does not have a foundation [in an attribution to an earlier authority] is not a teaching.”

[II] *There we learned:* [If] one rode on it, leaned on it, hung on its tail, crossed the river with it, doubled the reins on it, put one’s cloak on it – it [the red heifer] is invalid (2) But [if one] tied it with its reins, made a sandal for it lest it slip, spread one’s cloak over it because of flies, [it] is valid. (3)

This is the principle, Whatever is for its need [the animal's] is valid, for another's need, is invalid [M. Par 2:3].

[JJ] *This one is derived from that one and that one is derived from this one [so that each case contributes a detail].*

[KK] This one [the case of the red heifer] is derived from that one [the Passover offering]: that if one hung on it a knife to slaughter it, it is valid. And that one [the Passover offering] is derived from this one [the red heifer]: that every [form of] work [done with the animal] that is for the sake of the sacrifices [themselves] is not considered work [so as to render the animal unfit].

[LL] And let [Hillel] permit them [to bring their knives] by means of a circle [an interconnected group of individuals who, singing and dancing together, make up a dividing wall so that the area between their homes and the place where they are going, here the Temple, would be considered an enclosed area and not a public space. Hence, they would be permitted to carry the knives]?

[MM] Rather [since he did not, he must rule] in accord with R. Immi [who prohibits using the ruse of an interconnecting circle].

[NN] And you can even say that he is in accord with R. Simon [who, in the same account in which R. Immi appears, permits using the ruse of a circle]. Just as this [procedure for the knives] escaped [Hillel, so] this one escaped [him].

[OO] Said R. Abun, "And behold, it is not possible for the years of a seven-year period to occur [without] the fourteenth [of Nisan] coinciding with the Sabbath [at least once – hence the situation was not so unusual]!"

[PP] And why did the law escape them? In order to give greatness to Hillel.

[QQ] *Said R. Mana, "I heard from R. Judah and from all the rabbis, "Why do they treat the lower house [or "dynasty"] [that of the Patriarch] with respect [and do not replace it with individuals who are greater in learning, just as Hillel had replaced the Beterah elders]? So as not to increase disputes in Israel."*

[RR] Three put aside their crowns in this world and inherited life in the world to come [as a reward]. And these are they:

[SS] Jonathan b. Saul [the firstborn who told David to rule (1 Sam. 13:17)], and Eleazar b. Azariah [who reportedly temporarily became patriarch when Rabban Gamaliel was deposed but who gave the office back to Gamaliel]; and the Elders of Beterah.

[TT] Jonathan b. Saul? Said R. La, “Even women [weaving] behind the slips [in a loom] knew that David was destined to rule [and, hence, his act of ceding to David was not so meritorious].”

[UU] Eleazar b. Azariah? He [remained] second [in prestige after Gamaliel and, hence, did not give up all that much].

[VV] *There is no one like this [group of] Elders of Beterah, who dismissed themselves from the Patriarchate and appointed [Hillel] as patriarch.*

[WW] *Rabbis of Caesarea say, “Even R. Haninah of Sepphoris [who gave up his position] for R. Mana.”*

[XX] Said R. Joshua b. Qivsay, “All my days I would run away from office. Now that I have entered [upon it], whoever comes to oust me, I will come down upon him with this kettle.

[YY] “Just as a kettle scalds and wounds and blackens, so I will come down upon him.”

[ZZ] *Said R. Yosé b. R. Bun, “God forbid that [R. Joshua b. Qivsay] wanted it [authority for its sake]. Rather he would say, ‘Who can tell me that there is another who will sanctify Heaven’s name like me.’”*

[I:2 A] For [clarifying] three matters Hillel went up from Babylonia [to the land of Israel]:

[B] [Regarding Lev. 13:37’s ruling:] “[The scall is healed;] he is clean” [said in reference to a person afflicted on his head or beard who has gone through a second set of seven days of isolation and whose “scall has remained unchanged in color, and black hair has grown in it” (Lev. 13:37)].

- [C] Is it possible [that] he is exempt and can just go [at that point]? The teaching [therefore] says, “The priest shall pronounce him clean” (the conclusion of v. 37). If [the verse stated only], “The priest shall pronounce him clean,” is it possible that if the priest stated regarding one unclean [that he is] clean, perhaps he will be clean? [Obviously not.] The teaching [therefore] states [both], “He is clean” and “The priest shall pronounce him clean.”
- [D] For this [clarification of the two clauses] Hillel went up from Babylonia.
- [E] One verse says, “You shall slaughter the Passover offering for the Lord your God, from the flock and the herd” (Deut. 16:2). And another verse says, “From the sheep or from the goats you may take it” (Exod. 12:5) [and not from the herd]! How is this possible: The flock for the Passover offering and the herd for the festive offering [that accompanied the Passover sacrifice].
- [F] One verse says, “Six days you shall eat unleavened bread” (Deut. 16:8). And another verse says, “Seven days you shall eat unleavened bread” (Exod. 12:15). How is this possible? Six [days you shall eat] from the new grain [which is permitted after bringing the first sheaf of new grain on the second day] and seven you shall eat from the old grain [which may be consumed also on the first day of the festival, when the new grain is still prohibited].
- [G] And he expounded [thus on his own] and [fortuitously] taught [it] in agreement [with the correct position, as he was to learn later] and he went up [to Israel] and received [it as a] halakhah [as an accepted tradition, e.g., from Shemaiah and Abtalion].

[II:1 A] Scraping its entrails [M. 6:1B]:

- [B] Said R. Yohanan, “‘The Lord made everything for his honor’ [usually rendered, “for a purpose”] (Prov. 16:4) [teaching] that [a person] should not appear as one taking the sacrificial parts from a disgusting offering [which it would be if left unscraped and uncleaned; hence such action is permitted on the Sabbath].”
- [C] *Teaches R. Ishmael:* “Skinning it overrides [the prohibition of] the Sabbath.”
- [D] *It is taught:* **R. Ishmael b. R. Yohanan b. Beroqa says, “On the Sabbath [one] would skin [the animal starting with the hind legs proceeding] up to the breast [at which point one can remove the entrails]” [T. 4:10].**

- [E] *What is the reason of R. Ishmael?* So that [a person] should not appear as one taking entrails from a disgusting offering.
- [F] How does R. Ishmael b. R. Yohanan b. Beroqa deal with this procedure? For, [as specified in M. 5:9,] because [one] turns it upside down [and hangs it on a hook, with its hind legs up, and skins it, working one's way down, when one stops after reaching the breast, the flayed skin would fall down over the head.] [Would not a person still appear] as one who takes entrails from a disgusting offering?
- [G] Said R. Yohanan, "R. Ishmael and R. Ishmael b. R. Yohanan b. Beroqa said the same thing, "Just as R. Ishmael said, '[For doing something in the Temple, in the case of M. Men. regarding the number of times barley would be reground to make it into the Omer] the preferable [procedure] overrides [the Sabbath], the best [using more barley and regrinding it additional times to make it as fine as possible] does not override.'"
- [H] R. Ishmael b. R. Yohanan b. Beroqa says, "The preferable (procedure to remove the entrails from the Passover offering) overrides and the best (procedure) does not override."
- [I] "If you say: it [skinning the complete animal] is the preferable [procedure and not the best procedure, and R. Ishmael b. R. Yohanan b. Beroqa, who in D, eschews this practice, holds that employing even the preferable procedure does not override the Sabbath, why should one skin the animal to the breast – it should be prohibited], let him [rather] tear it [just as much as he needs] and remove the entrails?"
- [J] *Said R. Yosé b. R. Bun, "[R. Ishmael b. R. Yohanan b. Beroqa] holds the view of R. Simeon,*
- [K] "*for it is taught:: One who scrapes, one who bores [a hole, [or] one who cuts up any amount on the Sabbath is liable.*
- [L] "**R. Simeon b. Eleazar says, 'One who drags is liable – [this applies only] once one drags one's full need; one who bores [a hole, is liable] – [this applies only] once one bores one's full need; one who cuts [is liable] – [this applies only] once one cuts one's full need.'**"
- [M] **And one who treats the skin [of an animal] – [this applies only] once one treats [it] for whatever is one's need [T. Shab. 11:3A-B].** [R. Ishmael b. R. Yohanan b. Beroqa indeed believes that a preferred procedure does not override the Sabbath but, in

following Simeon's view, would apply that principle only to a category of labor which entails fully completing the act which is therefore prohibited by the Torah. Hence, while he classifies skinning the *complete* animal as a preferred procedure and, therefore, prohibited, he permits skinning up to the breast because, being an incomplete act, it is only a rabbinically prohibited "labor."
]

[N] [*Similarly*] said Jacob bar Aha, "[R. Ishmael b. R. Yohanan b. Beroqa] holds the view of R. Simeon,

[O] "*for R. Simeon does not treat part of a labor like its entirety. And rabbis [i.e., R. Simeon's anonymous disputants] treat part of a labor like all of it.*"

[P] [And with reference to R. Simeon b. Gamaliel's view in M. Shab. 12:1 holding that one who hits a mallet on an anvil during the course of work is liable because it is like preparing work:] *And there is a question against R. Simeon b. Gamaliel: If a [person] began to harvest but did not harvest, perhaps it [that action, adds up to] something? [Surely not! M. Shab. 12:1's case, therefore, should be similar in that in both cases the individual does not accomplish any prohibited labor.]*

[Q] *Said Rab, "R. Simeon b. Gamaliel holds the view of R. Judah, for it is taught: **One who beats [the warp with a rod] and one who beats the web is liable' [T. Shab. 8:2].** Lo, this one [in L] is liable because he [is considered] like one who arranges [exercises] one's hand [for this particular task]. And [likewise], here [the action should be prohibited] because it [is considered] as if one arranges one's hand."*

[III:1 A] **And burning its fat [M. 6:1B]:**

- [B] "And the fat of My festal offering shall not be left lying until morning" (Exod. 23:18) [but must be burned before the morning, which would mean that they are offered throughout the night and on the Sabbath].
- [C] But may weekday sacrificial portions [from the previous day which these are] be burned during the festival [which begins at sunset]?
- [D] Said R. Abbahu, "I have explained it [the verse in B] as referring to a situation in which the fourteenth of Nisan fell on the Sabbath [and hence the sacrificial portions are those of a Sabbath offering]."

[E] *R. Jonah asked* [responding to Exod. 23:18's specific language of "My festal offering], "If [it is a case] in which the fourteenth coincided with the Sabbath, a festal offering does not come with it [the Passover offering, as specified in M. 6:3].

[F] "[Rather] the Torah stated [in Exod. 23:18] that one should offer it [toward evening] while it is still day so that one should not transgress [the ban] on leaving the offering lying [until morning, for once night ensues one will be prohibited from burning it; hence the verse applies to any fourteenth of Nisan]."

[G] And [similarly] here [as to fulfilling a vow to bring a certain animal as an offering prior to its becoming one year old, where the period ends on the festival], let one offer it while it is still day [before the beginning of the festival at night] so that one not transgress the ban on "delaying [fulfilling it]" (Deut. 23:22) [which otherwise would have been caused by the prohibition on offering the sacrifice on the festival].

[H] Said R. Hinenah, "If one transgressed and brought [the animal, i.e., as a festal offering or the fulfillment of the vowed offering, on the night of the festival] would it not be fit? Since if one would have thus transgressed and brought [the animal where it would nevertheless be] fit [one] transgresses [the ban, i.e., either on leaving the fat till morning or on delaying one's offering]."

[IV:1 A] But roasting it and rinsing its entrails do not override [the Sabbath] [M 6:1C]

[B] *We learned: Once it became dark, they went out and roasted their Passover offerings [M. 5:10C, which is assumed to refer to Saturday night, as if such roasting were prohibited on the Sabbath itself], but here you [M. Shab. 1:11] say thus, [that just prior to the Sabbath, the Passover offering is let down into the oven to roast on its own accord as darkness falls, which indicates that the roasting overrides the Sabbath, as M. Pes. 6:1C states].*

[C] To "let [the animal] down into the oven" [prior to the Sabbath, teaches M. Shab. 1:11, and not directly to initiate roasting the animal on the Sabbath].

[V:1 A] Carrying it [to the Temple], and taking it from outside [to inside] the [Sabbath] limit [do not override (the Sabbath)] [M 6:1D]

[B] [The Mishnah] spoke only of outside Jerusalem [where such actions are prohibited]. Lo, outside the [Temple] courtyard [yet within

Jerusalem], it is permitted because [it is only a matter of the injunction to maintain] restfulness [on the Sabbath, which is a category] that [they] permitted in the Temple.

[VI:1 A] **And cutting off a wen [do not override (the Sabbath)] [M 6:1D]**

- [B] *There [in M. Erub.] we learn: **And they cut off a wart [that appeared] on a priest in the Temple precincts but not in the country [M. Erub. 10:13].***
- [C] Here [M. Erub.] you say [it] overrides [the Sabbath] and here [M. Pes. 6:1] you say [it] does not override.
- [D] Said R. Simon, R. Joshua b. Levi in the name of Bar Padayah, ["M. Erub. 10:13 permits cutting warts] out of [a concern for] disarranging the allotments [of Temple services among the priests, one of whom otherwise would become disqualified]."
- [E] Said R. Yosé, "And [the Mishnah refers to a case] in which they already made the allotments."
- [F] R. Simeon b. Laqish [said] in the name of R. [Levi] Sovayvah, "Here [M. Erub.'s permission to cut off a wart] applies when [the wart] crumbles, but here [M. Pes.'s ban on extirpation a wart] applies when it does not crumble."
- [G] R. Simeon b. Yaqim said, "Here [M. Pes.'s ban on extirpation a wart] applies when it is soft, but here [M. Erub.'s permission] applies when it is dried up."
- [H] R. Yosé b. R. Haninah said, "Here [M. Erub.'s permission to cut off a wart] applies when it is [done] with a hand, but here [M. Pes.'s ban] applies when it is [done] with a utensil."
- [I] *R. Simeon b. Laqish [who defines the permitted wart as a crumbled wart] accords with Bar Qappara, and R. Yosé b. R. Haninah [who holds that the permission applies to an act done by hand] accords with R. Yohanan, for it is taught: **All those who spoil are exempt except for one who causes a fire and makes a wound**" [T. Shab. 8:4].*
- [J] Bar Qappara said, "Even if one did not need the blood, even if one did not need the dust [one is liable for making the wound]." [By analogy to the case of removing a wart, Simeon b. Yaqim permits it only if it is dried up with no possibility of blood coming out.]
- [K] Said R. Yohanan, "As long as one needs the blood [from the wound] and as long as one needs the dust [from the fire – for the act must have some purposeful goal to make one liable]" .[Hence by analogy,

Yosé b. R. Haninah's exemption of removing a wart by a hand, which would apply even to a soft wart, would hold when the individual does not need the blood from the wound even if some blood does flow. In the case of cultic need the removal would be fully permitted.]

[L] R. Aha, R. Haninah in the name of R. Yohanan [said], "We deal with a situation in which both here [M. Erub.'s permission to cut off the wart] and here [M. Pes.'s ban] it is soft – as long as one needs the blood." [Because the criterion for determining if it is permitted is the purpose of the act, and in M. Erub. the act is not for a personal need but for the sacrifices, one is fully permitted to remove the wart.

6:2

[A] Said R. Eliezer, "Now is it not logical [that these, too, should override the prohibitions of the Sabbath]?"

[B] "Now if slaughtering, which is prohibited under the category of labor, overrides [the prohibitions of] the Sabbath, these, which are [prohibited only] by reason of Sabbath rest [relying not upon the Scriptural prohibition of actual labor] – should they not override [the prohibitions of] the Sabbath?"

[C] Said to him R. Joshua, "A festival day will prove [to the contrary. On festival days it is permitted to prepare necessary food (Ex. 12:16). For they permitted work to be done on that day which is normally prohibited by reason of labor, but it is prohibited to do on that day [other actions] which are prohibited [merely] by reason of Sabbath rest."

[D] Said to him R. Eliezer, "Now what is the meaning of this, Joshua? How shall proof be derived from that which is an optional deed for that which is an obligatory one?"

[I:1 A] **And taking it from outside [to inside] the [Sabbath] limit [M 6:1D]** [which Eliezer at M. 6:1E claims overrides the Sabbath, can be considered, on the basis of Eliezer's reference in M. 6:2A, merely an act which normally is prohibited so as to produce a "restful" Sabbath or holiday, but which in the special case of Passover could be overridden, and not a biblically prohibited labor]. *This supports the following which R. Jonathan said before R. Hiyya the Elder in the name of R. Simeon b. Yosé bar Laqonyah, "They impose lashes regarding [the violation of] Sabbath limits on the basis of the Torah."*

[B] Said to him R. Hiyya the Elder, "And lo, on the Sabbath there are only [the punishments of] stoning and extirpation [which Scripture

mentions, but not a negatively formulated prohibition of labor, which by definition would be taken to entail lashes]?” [Hence the ban on carrying something outside the Sabbath limits would be derived only from the general category of an act prohibited by reason of Sabbath rest.

- [C] [Jonathan] said to him, “And is it not written, ‘Let everyone remain where he is; let no (‘L) person leave his place on the seventh day’ (Exod. 16:29) [hence there is a negatively formulated prohibition]?”
- [D] [Hiyya the Elder] said to him, “Is it written, ‘do not’? Rather the formulation] ‘al [let no] is written [and only the former entails lashes].
- [E] [Jonathan] said to him, “And is it not written, ‘Let not [one] (‘L) eat any of it raw’ (Exod. 12:9)?”
- [F] He [further] said to him, “Is it written *lav*? Rather it is written ‘al [and nevertheless lashes are imposed for violating this injunction]!”
- [G] Said R. Yosé b. R. Bun, “Despite [the citation of a contrary proof-text] this one stands by his tradition and this one stands by his tradition.”
- [I:2 A] Cutting of its wart [M 6:1D] [which R. Eliezer in M. 6: IE rules does override the Sabbath, even] with a utensil [can it be considered, based on Eliezer’s reference in M. 6:2A, merely a biblically prohibited labor.
- [B] *Said R. Abbahu, “R. Yosé b. Haninah taught [for this very reason, in his version of Mishnah 6:1] only ‘**carrying and taking**’ [the lamb]; lo, not ‘extirpation its wart’ [which he would prohibit on a biblical basis].”*
- [C] *Because he holds [that the reference to extirpation a wart would refer] to a utensil, [he teaches thus]; lo, if he holds that [it would] not [refer] to a utensil, [he would admit that the prohibition falls] under the category of restfulness.*
- [D] [But] did not R. Abbahu in the name of R. Yosé b. Haninah say [regarding M. Shab. 10:6, which states, “**If a person removed his fingernails one with the other or with his teeth R Eliezer makes [such a person] liable for a sin offering [for violating an actual labor falling, for example, within the category of shearing wool] And sages say one is liable for violating a) an injunction to rest from a “permitted” act which entails a religious duty [only and not an actual labor]”: In what circumstances are they in dispute? When the person [himself] removed them [the nails or the other items enumerated in M. Shab. 10:6,]’ but if another person removed them,**

they are considered disgusting [to him, so even according to R. Eliezer, this is not a useful act, which is the criterion making the act a violation of the ban on Sabbath labor but it is only prohibited as an injunction to rest from a “permitted” act which entails a religious duty]?”

[E] And this [Passover] offering [the wart from which is removed] is like the “other” [who removes a person’s nails; in both situations one does not perform the act on oneself]? [Because therefore even with a utensil one would violate only a an injunction to rest from a “permitted” act which entails a religious duty, the master in B could have included “extirpation a wart” in the Mishnah.]

[F] Said R. Yosé, “It is different here because it is written, ‘[It is a Passover] sacrifice [to the Lord]’ (Exod. 12:27) [indicating that this offering, like all standard sacrifices, should be free of blemishes, which would include a wart; hence removing a wart with a utensil represents a careful and useful act and thus an actual labor.]”

[I:3 A] Said R. Mana, “Sprinkling [blood, in the case mentioned in M. 6:3] is a an injunction to rest from a “permitted” act which entails a religious duty and these [special cases enumerated in M. Erub. 10:15] are a an injunction to rest from a “permitted” act which entails a religious duty Sprinkling [according to R. Eliezer in M. 6:3] overrides and these [even in the Temple as specified in M. Erubin] do not override [the Sabbath]?”

[B] “Rather [the situations must be incomparable] for this [latter set of M. Erubin cases] involves the offering and this [former case of sprinkling] involves the offerer.”

[C] The comment of R. Zeira [as cited below, in E, in response to D] indicates [that] the offering and the offerer are the same [as far as the law is concerned]:

[D] *Teaches R. Judah b. Pazzi [the tradition] of Bar Qappara before R. Zeira:* “It surprises me how R. Eliezer accepted the answer from R. Joshua, for this [set of cases in M. 6:1 to which R. Eliezer refers] involves the offering, and this [case which Joshua mentions in M. 6:2B regarding preparing food on a festival] involves the offerer [a person , for instead of his response in M. 6:2C, Eliezer could have relied on this more basic objection].’

[E] [R. Zeira] said to him, “Bar Qappara was surprised; R. Eliezer was not surprised [for he was not bothered by the comparison].”

- [I:4 A] Does [Eliezer in referring in M. 6:2C to “an injunction to rest from a permitted act which entails a religious duty” have in mind an act falling into the category of] an injunction to rest from a permitted act which entails a religious duty [an injunction to rest from a “permitted” act which entails a religious duty]? *Do we not learn, One who profanes sacrifices and despises the festivals and violates the covenant of Abraham our father [circumcision] and is brazen in the Torah [belittling it], even though he possess Torah and good deeds, he has no portion in the world to come [M Abot 3:11]?* [How can you then consider a an injunction to rest from a “permitted” act which entails a religious duty (injunction to rest) out of respect for the festival only a “permitted” matter – it is required?]
- [B] Said R Jeremiah, “What does [the term] [mean]? [It denotes an injunction to rest from a permitted act which entails a religious duty in its simple sense and not as part of the idiom an injunction to rest from a permitted act which entails a religious duty of an injunction to rest from a “permitted” act which entails a religious duty, and therefore in referring to a totally mundane act such as a common meal which does not require cooked foods] [if one] wants, one cooks; [if one] wants, one does not cook. [In contrast, Eliezer’s argument had been based on defining an injunction to rest from a permitted act which entails a religious duty as abstention from a biblically prohibited labor.]
- [C] *Said R. Yosé, “Thus R. Eliezer could have responded to R. Joshua [who could have asked]: ‘Lo, the festival offering of the festival according to your approach would prove [the point] for they permitted regarding it [acts falling] under the category of labor but prohibited regarding it [acts falling] under the category of an injunction to rest from a “permitted” act which entails a religious duty!’ [R. Eliezer, assumed to be a follower of the House of Shammai, would hold, like the House of Shammai, in M. Hag. 2:3, that one does not lay one’s hand on the festive offering on the Sabbath even though one may slaughter it.] And [R. Eliezer] could have [then] responded to him: ‘No. If you say [thus] regarding the festival offering with respect to which [people] are not liable for extirpation [if they do not offer it], shall you say [thus] regarding the Passover offering with respect to which [people] are liable for extirpation?’”*
- [D] *And let [R. Eliezer] answer him in the Mishnah [accordingly], “No. If you say [thus] regarding a Festival for [the violation of which] one does not become liable to extirpation, would you say [so] regarding Passover for [the violation of which] one becomes liable to extirpation?”*

[E] [The reason he did not respond in this manner is either] *in accord with what R. Immi said*, “They were rich in answers” [and the retort M. 6:2D attributes to Eliezer comprises one of many possible answers,] *or in accord with what R. Nasa said*, “[The situation] resembles a person who has two reasons and retorts with [just] one of them”

6:3

[A] R. Aqiba replied and said, “Sprinkling [purification water on an unclean person] will prove the case. For it is an obligatory deed, and it is normally prohibited by reason of Sabbath rest, and it does not override [the prohibitions of] the Sabbath.

[B]”So you, do not be surprised concerning these matters, for even though they are obligatory deeds, and they are prohibited merely by reason of Sabbath rest, they should not override [the prohibition of] the Sabbath.”

[C] Said to him R. Eliezer, “And upon this very fact I base my reasoning:

[D] “Now, if slaughtering, which is prohibited by reason of constituting an act of labor, overrides [the prohibitions of] the Sabbath, sprinkling [purification water on an unclean person], which is prohibited [merely] by reason of Sabbath rest – is it not logical that it [too] should override [the prohibitions of] the Sabbath?”

[E] Said to him R. Aqiba, “Matters are just the opposite. Now if sprinkling [purification water on an unclean person], which is prohibited by reason of Sabbath rest, does not override [the prohibitions of the Sabbath], slaughtering, which is prohibited by reason of constituting a prohibited act of labor – is it not logical that it, too, should not override [the prohibitions of] the Sabbath?”

[F] Said to him R. Eliezer, “Aqiba, you have uprooted that which is written in the Torah: At the twilight, at its appointed time (Num. 9:3) – whether this be an ordinary day or the Sabbath.”

[G] He said to him, “Rabbi, bring me an ‘appointed time’ referring to these matters just as ‘appointed time’ refers to the actual act of slaughtering.”

[H] A governing principle did R. Aqiba state, “Any form of labor which it is possible to carry out on the eve of the Sabbath does not override the Sabbath.

[I] “Slaughtering, which it is not possible to carry out on the eve of the Sabbath, does override the Sabbath.”

[I:1 A] For thirteen years R. Aqiba would come before R. Eliezer, who would not pay any attention to him. And this [statement regarding sprinkling

the waters of purifications, presented in M. 6:3] comprised the opening of his first response before R. Eliezer.

- [B] [Applying a biblical verse in appreciation of Aqiba and the astuteness of his comment:] Said R. Joshua to [Eliezer], “There is the army you sneered at; now go out and fight it” (Jud.9:38).
- [C] [Proof of the ultimate ascendancy of Aqiba is the placement of his opinion before Eliezer’s in the following text:]
- [D] *There we learned [in reference to Num. 9:10-13’s rule permitting those on a “distant journey” (v. 10) or a “journey” (v. 13) to bring the Passover offering one month later:] “What is a ‘distant journey’? From [the place] Modiin and outward and the equivalent distance in every direction,” the words of R Aqiba*
- [E] **R Eliezer says, “From the threshold of the courtyard and outward [hence anyone who for whatever reason is outside the Temple courtyard and, therefore, unable to bring the Passover offering may offer it one month later]” [M 9:2]**
- [F] Said R. Yohanan, “R. Eliezer spoke only to exempt [a person who may even have intentionally not brought the offering at the time of the Second Passover] from extirpation” [because being on a “distant journey” during the time of the First Passover had made one exempt from the requirement to bring the sacrifice.”
- [G] *Said R. Eleazar, “The teaching [M. 9:1] says thus” [M. 9:1, stating that Scripture mentions being on a journey to indicate whether or not a person is liable for extirpation, can be construed to testify to the specific point presented in D.]*
- [I:2 A] **[R. Aqiba answered and said, “Sprinkling the water [of purification on one who has become defiled through contact with a corpse on the seventh day following one’s uncleanness, should the seventh day fall on a Sabbath that coincides with the eve of Passover,] will prove [my point], for it is a religious duty” [M 6:3A]**
- [B] And is it a commandment to sprinkle [what commandment is fulfilled as a result of sprinkling]?
- [C] You may explain [the Mishnah’s terminology if the case be such] that a person’s seventh day [of purification] coincided with the fourteenth of Nisan that coincided with the Sabbath; for if it were a weekday, one would sprinkle [blood] on him and afterwards he would proceed to slaughter his Passover offering and he [then would] eat it in the

evening. [However,] since it was the Sabbath, and one does not sprinkle [blood on] him [as it is prohibited on the Sabbath], as a result one would be prevented from [performing] the commandments [in not being able to offer the Passover offering].

[D] Said R. Hoshaya, “You may explain [M. 6:3’s mention of “commandment” if the case be such] that a person’s seventh day coincided with the thirteenth [of Nisan] that coincided with the Sabbath; for if it were a weekday, one would sprinkle [blood] on him and tomorrow he would proceed to slaughter his Passover offering and he would [then] eat it in the evening. However, [since] it was the Sabbath, and one does not sprinkle [blood] on him, as a result one would be prevented from [performing] the commandments [in not being able to offer the Passover offering].” [In this rendering, the person who was sprinkled presumably had to wait for the evening in order to be permitted to slaughter the Passover lamb.]

[E] *There is found a Tannaite teaching along the same lines:*

[F] Said R. Judah bar Pazzi, “You may explain [M. 9:2] in accord with the one who said [that Eliezer held that being unavailable on a journey denotes] from the threshold of Jerusalem and outward [and not ‘from the threshold of the Temple courtyard and outward’],

[G] “[for if you do not say thus] they respond with a matter which [applies] from outside of Jerusalem [converting food tithes to money to take to Jerusalem, as specified in Deut. 14:20] with regard to a matter that is within Jerusalem [being unavailable to bring the Passover offering because one is beyond the threshold of the Temple courtyard]. [Hence the latter criterion, that for the Passover offering, is likewise from the city’s threshold and outward.] [Aware of the existence of two versions of Eliezer’s opinion regarding the definition of being on a “journey” and of a proof-text for Eliezer based on a comparison with the law of tithes (T. 8:2)].

[II:1 A] And does a person say to his master, “Perhaps reverse” [your argument, the language attributed to Aqiba in M. 6:3C] !

[B] Because R. Eliezer was in the process of teaching him the halakhah that sprinkling does not override the Sabbath, and he countered him in midst of the argument, therefore he says to him, “perhaps reverse.”

[II:2 A] *It was taught: R. Eliezer says, ‘Just as slaughtering overrides the Sabbath, so the appurtenances of slaughtering override the Sabbath.’*

- [B] **Said to him R. Aqiba, “No. If you say regarding slaughtering which cannot be performed on the eve of the Sabbath [that it] overrides the Sabbath, shall you say regarding the appurtenances of slaughtering which can be performed on the eve of the Sabbath [that they] override the Sabbath?”**
- [C] **Said to him R. Eliezer, “The sacrificial portions of the public offering should prove [my point], for one may perform [burn] them at the outgoing of the Sabbath, but lo, they override the Sabbath. What difference [is there to me] between the appurtenances of slaughtering before the slaughtering and the appurtenances of slaughtering after the slaughtering?”**
- [D] **Said to him R. Aqiba, “[No.] What [is there] to the appurtenances of slaughtering after slaughtering [that causes them to] override the Sabbath? For slaughtering [which is considered part of the same religious duty] has already overridden the Sabbath [and one may therefore proceed with the concluding burning of the appurtenances, that is, the sacrificial portions of the public offering]. Shall the appurtenances of slaughtering before slaughtering override [the Sabbath]? But slaughtering has not yet overridden the Sabbath!**
- [E] **“Another matter [characteristic differentiating the two:] For if one would find the sacrificial animal disqualified one would end up overriding the Sabbath [by performing the appurtenances] without slaughtering [taking place]” [T. 5:1].**
- [F] *Regarding an infant who has to be circumcised on the eighth day even if it should fall on the Sabbath, as discussed in M. Shab. 19], what can you [say as a rationale to distinguish auxiliary actions before and after the circumcision]?*
- [G] Perhaps the infant will become sick and as a result one overrides the Sabbath [with the auxiliary acts] without circumcision [itself taking place].
- [H] *They asked, “Lo, [if] the altar collapsed on the Sabbath, lo, is it not fit to be rebuilt on the Sabbath [for prior to the Sabbath it obviously need not – and therefore could not – have been done]?”*
- [I] [There was] a kind of altar fit to be built yesterday [even if not this exact one].
- [J] Consider, if a wart appeared [on the Sabbath], lo, [following Aqiba’s logic] is one not permitted to remove it on the Sabbath [for

obviously it could not be removed before the Sabbath, even though Eliezer's anonymous disputants in M. 6:1D prohibit it)? [The reason for the prohibition must be that there was] a kind of wart fit to be removed yesterday.

[K] Consider if [a person who had become unclean and] whose seventh day of [of purification] coincided with the Sabbath, lo, [following Aqiba's logic] is [that one] not fit to be sprinkled [with blood of purification] on the Sabbath [even though Aqiba himself, in M. 6:3A, states that it is forbidden]? [The reason must be that there was] a kind of sprinkling fit to be sprinkled yesterday.

6:4

[A] **When does one [also] bring a [freewill] festal-offering with it [over and above the Passover-offering]?**

[B] **When [the Passover-offering] is offered on an ordinary day, [with most people] in a state of cleanness, and [meat of the Passover-offering] is not sufficient [for all registered for it].**

[C] **But when it is offered on the Sabbath, and [meat] is abundant, and [most people are] in a state of uncleanness,**

[D] **they do not bring with it a [freewill] festal-offering.**

[E] **A festal-offering derives from the flock of sheep or from the herd of oxen, from lambs or from goats, from males or from females.**

[F] **And it is eaten for two days and the intervening night [to the night of the fifteenth of Nisan].**

[I:1 A] *It is taught*, The festive offering of the fourteenth [of Nisan] used to come from [monies redeemed from] tithes [which were to be taken to Jerusalem and there spent on food].

[B] R. Jacob bar Aha in the name of Samuel bar Abba, "This [teaching in A] indicates that [the festive offering] is voluntary [and not a biblically mandated requirement, for] if [you] say [that it was] an obligation, [would] a matter that comes out of an obligation come from [monies from] tithes?"

[C] *It is taught*, **The festive offering that accompanies the Passover offering would be eaten first, so that the Passover offering might be eaten [in a] satiated [state]" [T. 5:3].**

[D] And let the Passover offering not be eaten satiated? [What difference does it make? Indeed, because the rule for satiation applies to the eating of all sacred offerings, let the festive offering be eaten when satiated?]

- [E] R. Yosé b. R. Bun [said] in the name of R. Jacob bar Dasai, “[The rule of satiation is more crucial regarding the Passover offering] so that [a person] should not come to [violate] the breaking of the bone [of the Passover offering, out of hunger, which is proscribed by Exod. 12:46, a rule not applicable to the festive offering] .”
- [F] *It is taught, The [remains of the] festive offering that accompanies the Passover offering would be removed [with it] [cf. T. 5:3].*
- [G] [But] come and see: The festive offering is eaten for two days and the Passover offering is eaten [only] until midnight [of the first day] and you say thus?
- [H] That presents a case in which [the festive offering] goes up on one’s table with it [with the Passover offering] [cf. T. 5:3]. [That is is a special case, either out of concern lest some of the Passover offering not be removed (for example, by becoming mixed up with the other offering) or lest some of the festive offering be eaten after the Passover offering, thus preempting the latter from being eaten last].
- [I] **[And similarly] foods that go up with it on the table are required to be removed with it” [T. 5:3].**
- [J] Said R. Yosé, “This [teaching] indicates that whoever ate soft cheese and intends to eat a piece of meat is required to remove pieces” [i.e., of bread that had been eaten with the cheese (or crumbs of the cheese itself]

6:5

- [A] **The [animal designated as a] Passover offering that [a person] slaughtered not under its proper designation on the Sabbath [which coincides with the fourteenth of Nisan] – one is liable for a sin offering on its account**
- [B] **And as to [animals designated for] all other animal offerings that [a person] slaughtered under the designation of a Passover offering – if they are not fit [to be offered], [that person] is liable; but if they are fit, R Eliezer declares [the person] liable for a sin offering and R. Joshua declares [the person] exempt**
- [C] Said R Eliezer, “Now, if the Passover offering which is permitted [when offered] under its proper designation, when [one] converted its designation [one is] liable, the [other] animal offerings which are prohibited [when offered] under their designation, when [one] converted their designation, is it not logical that [one] would become liable [regarding them]?”

- [D] Said R Joshua, “No If you say [thus] regarding the Passover offering when [one] converted it to a prohibited object [forbid den to slaughter on the Sabbath], shall you say [thus] regarding [other] animal offerings when [one] converted them to a permitted object [permitted to slaughter on the Sabbath]?”
- [E] Said to him R Eliezer, “The public offerings [such as the daily burnt offerings and Sabbath additional offerings] may prove [my point], for [they] are permitted under their proper designation, but one who slaughters [other offerings] under their designation is liable”
- [F] Said to him R Joshua, “No If you say [thus] regarding public offerings which have a limit [in their required number and hence since they are less likely to be involved in a mix-up, if one does occur a person would be culpable], shall you say [thus] regarding the Passover offering which lacks a limit [and which is therefore more likely to be the subject of a mistake]?”
- [G] R Meir says, “Even one who slaughters [other animals] under the designation of public offerings is exempt”
- [I:1 A] *The teaching [Mishnah 6:5A] treats a case in which [one] knows that it is a Passover offering but [consciously] slaughtered it under the designation of an offering of well-being [thinking, however, either that such an act is not prohibited on the Sabbath, or that if prohibited it would not make one liable for a sacrifice].*
- [B] [If] one “knew” [i.e., thought, the Passover offering] was an offering of well-being but [consciously] slaughtered it under the designation of a burnt offering –
- [C] R. Mana said, “Its performance [yet] entails a commandment,” [fulfilling the requirement to bring a Passover offering, for the person converted the offering only because it was mistakenly assumed not to be a Passover offering; if the person had remembered its true identity, he would not have converted it].
- [D] R. Yosé said, “Its performance does not entail a commandment” [for what is crucial is not the initial error but the final conscious act, which was inappropriately to convert the animal to a burnt offering].
- [E] [Supporting R. Yosé’s position that the final act of intention is crucial:] If they were rams of a public offering [such as for the Sabbath additional offering] which one thought were [one-year-old] sheep, but slaughtered them under the designation of rams, perhaps they do not count for the public as rams? [Of course they do, despite the initial mix-up.]

[F] *And it is taught thus [likewise]:* “Rams of a public offering, which [a person] thought were sheep but slaughtered them under the designation of rams, are counted for the public under the designation of the obligatory sacrifice of rams, and hence would not make a person liable for Sabbath violation as a result of their slaughter].

[G] *The teaching [M. 6:5B] treats a case in which* one thought that it [the animal offering] is a Passover offering and slaughtered it under the designation of a Passover offering [and the animal was fit to serve as a Passover offering – regarding such a case Eliezer and Joshua dispute].

[H] But if] one knew [i.e., thought] that it was an offering of well-being but thought that it is permitted to convert an offering of well-being into a Passover offering [i.e., the error was regarding the law and not the nature of the animal] –

[I] R. Mana said, “Its performance does not entail a religious duty.”

[J] R. Yosé said, “Its performance entails a religious duty.”

[K] *R. Mana’s [view] makes sense in the former case [B] and R. Yosé’s [view] in the latter case.*

[I:2 A] [They] say, “This [response] of R. Eliezer is not a [proper] answer to R. Joshua, for he [Joshua] can say to him, ‘How do you answer me from an object that customarily is transferred excess Passover offerings are regularly offered as offerings of well-being; hence when a Passover offering is offered under the wrong designation, a mistake presumably took place and a violation occurs – how can you argue from such an animal] as to an object that is not customarily transferred [such as sacrificing a well-being offering as a Passover offering, which if done is not likely to have taken place under the assumption that the animal was a well-being offering and through a common mix-up, but rather under the assumption that the animal, fitting the physical characteristics of a Passover offering, was a *Passover offering*, and the act therefore resembles committing an error in the process of performing a religious duty which does not engender a violation].

[B] “*And this [response] of R. Joshua, is not a [proper] answer to R. Eliezer, for he can say to him, ‘Lo, the Passover offering of Reuben that [one] slaughtered under the designation of Simeon, lo, [the person] converted it to a permitted object [in that it remained a Passover offering], but you would say that [one is] liable [because of the change in designation of ownership].’”*

[II:1 A] R. Meir says, “One who slaughters [other animals] under the designation of public offerings – is exempt” [M 6:5G]:

[B] Said R. Eleazar, “The opinion of R. Meir, [who exempts, applies to one who slaughtered] even a calf [under the designation of a Passover offering on the Sabbath, out of a misunderstanding of the law, for example, by misreading Deut. 16:2, because erring regarding such a law is like erring regarding a matter of a religious duty].”

[C] *You learn from it two [factors that are necessary to make one exempt]. You learn from it: an object that has no limit [for any number of Passover offerings may be slaughtered] and that entails a religious duty in its performance.*

[II:2 A] R. Simeon b. Laqish said, “[A matter that] entails a commandment in its performance, for example: [if] one’s deceased childless brother’s widow [sister-in-law whom a levir is to marry because his brother died without children] is a menstruant and [he] had intercourse with her [thus ostensibly fulfilling Deut. 25:5’s commandment of taking the sister-in-law, though in the process violating the laws of impurity, he is exempt].

[B] “(A matter that) does not entail a commandment in its performance, for example: one’s sister-in-law (who is to be taken) and one’s wife in a state of impurity (are before a person), and (he) had intercourse with her (his wife). (The violation in having relations with one’s wife, who is impure, is not vitiated by the fact that he had the intention to fulfill the commandment of levirate marriage – levirate marriage – with his sister-in-law, for the latter was only intended and not done).]”

[C] R. Yohanan said, “[A matter that] entails a religious duty in its performance, for example: two spits [are before a person], one of [unconsecrated (meat) and one of sacred (meat)] [and the person intended to eat the latter but ate the former. He is exempt].

[D] “[A matter that does not entail a commandment in its performance, for example: two spits (are before a person)], one of slaughtered [meat] and one of a carrion, and one intended to eat one [the former] but [actually] ate the other [the latter].” [The definition of an action that entails a commandment centers on a person’s intention and not on accomplishing the intended act].

[E] *The teaching [Mishnah] is in dispute with R. Simeon b. Laqish:*

[F] **“[One who has two infants, one to circumcise after the Sabbath and one to circumcise on the Sabbath (e.g., if the former twin**

was born just after the Sabbath and the latter on the Sabbath, their eighth day of circumcision will be separated by a day) and one forgot” [which was which] and circumcised that of different Sabbath on the Sabbath – R Eliezer declares [the person] liable to a sin offering, but R. Joshua exempts [M Shab 19:4]”

[G] Lo, [in this case] its [the action’s] performance does not entail a religious duty, yet R. Joshua exempts!

[H] Samuel of Cappadocia said “[M. Shab. 19:4 is inconclusive because] tomorrow the action entails a religious duty.” [Although circumcising on the Sabbath the infant that was born after the Sabbath does not entail a religious duty, from the vantage point of after the Sabbath it does entail a religious duty.]

[II:3 A] [As to M. Shab. 19:4: “One who had two infants, one to circumcise on the eve of the Sabbath and one to circumcise on the Sabbath, but forgot and circumcised that of Sabbath eve on the Sabbath – (all agree in declaring the person) exempt; (if) he circumcised that of after the Sabbath on the Sabbath (before the required eighth day) – R Eliezer declares (the person) liable, but R. Joshua exempts:] Said R. Yohanan, “[M. Shab. 19:4] follows R. Meir, for

[B] “R. Meir said, ‘A matter that entails a commandment in its performance [e.g., circumcising that of Sabbath eve on the Sabbath] is exempt, and [one] that does not entail a commandment in its performance is subject to a dispute.’

[C] “R. Simeon says, ‘A matter that does not entail a commandment in its performance – [one is] liable; and a matter that does entail a commandment in its performance is subject to a dispute.’”

[D] R. Yosé said in the name of R. Yohanan, “[M. Pes. 6:5 presents] the opinion of R. Simeon It is with the condition that it is a lamb, unblemished, one year old, an offering of well-being [i.e., not unconsecrated] and fit to be exchanged for a Passover offering” [i.e., that it be a male] [only then would R. Joshua, as cited in M. 6:5B, declare the person exempt].

[E] [According to R. Yohanan] you learn from it three [factors that are necessary to make one exempt]. You learn from it: an object that has no limit [for any number of Passover offerings may be slaughtered], and an object that is customarily exchanged, and an object that entails a commandment in its performance [for, as M. Zeb. 1:1 states, if an

animal offering was sacrificed under the wrong designation, it is a valid offering, though it does not fulfill the obligation for which the animal was originally brought].

[F] *What is [the meaning of] something “that has no limit”? [To what does the lack of a limit refer?]*

[G] *R. Jeremiah considered making the ruling that the Torah did not set a limit on how many Passover offerings should override the Sabbath every year [i.e., the phrase denotes sacrifices the numbers of which were not stipulated by the Torah, and hence a person could err by assuming that a given animal was also to be sacrificed].*

[H] *R. Yosé considered making the ruling that you are unable to count their number [i.e., it denotes a situation in which it is impossible to determine the numbers of people who brought sacrifices, and hence one might err in thinking that the animal came from one of the people].*

[I] *R. Yosé, when he came to [M. Shab. 19:4, which treats] the infants who are in doubt [as to which to circumcise on the Sabbath would test Joshua’s exemption for one who circumcised the baby to be circumcised after the Sabbath on the Sabbath against the two criteria associated with Meir could identify therein (1) the fulfillment of a religious duty and (2) something “that has no limit” in accord with R. Jeremiah’s definition and therefore] would say, “R. Jeremiah has taught us nicely. Can you say [in such a case that the criterion is an object] the number of which you are unable to count? [Obviously not because we deal with one infant (or at most two, according to Simeon’s reconstruction of the Mishnah).] Rather [the criterion is] that the Torah did not set a limit on how many Passover offerings should override the Sabbath every year” [which in reference to M. Shab. 19:4 means that the Torah did not limit the number of circumcisions to take place, for every male child is to be circumcised on the eighth day].”*

[J] Said R. Hisda, “The opinion of R. Simeon [who claims that the dispute and hence Joshua’s exemption applies to an action that entails a commandment] should be explained as long as there remained one group that had not [yet] slaughtered [its Passover lamb and hence the individual would still be involved in fulfilling the commandment].”

- [K] [Making use of a statement of R. Yannai that assumes the following version of M. Shab. 19:4: **“If one circumcised that of Sabbath eve on the Sabbath – all agree that one is liable; but if one circumcised that of after the Sabbath on the Sabbath – Eliezer declares liable, but Joshua exempts”**] Said R. Zeira, “The statement of R. Yannai indicates [that the Mishnah applies] as long as one forgot and circumcised that [infant] of the Sabbath on the eve of the Sabbath” [thus in addition to circumcising that of after the Sabbath on the Sabbath]. [In such a situation, in contrast to Hisda, the questionable action would take place without an additional instance of the commandment remaining to be fulfilled.]
- [L] [What if the person] circumcised him [the infant of the Sabbath] in the morning [and afterward, later on the Sabbath, that of Sabbath eve]?
- [M] R. Zeira said, “R. Yannai [would] think exempt [for the Sabbath is being overridden for the person anyway].”
- [N] R. Abba said, “[The person] is liable [for the overriding of the Sabbath was never meant to apply to the infant of Sabbath eve].”
- [O] *And to which [case] of circumcision did R. Yannai speak?*
- [P] [R. Yannai] came to inform you what is the common way for infants to be mixed up. [Although he spoke of the more common situation of mixing up the days of the two infants and not the chance mistake of circumcising both on the same day, his criterion would preclude that case as well.]
- [Q] *According to the view of R. Zeira explaining R. Yannai, the position of Rab supports [declares that the halakhah follows] R. Meir.*
- [R] *Said R. Mana before R. Yosé, “What R. Hisda said follows R. Simeon [and his version of M. Shab. 19:4, and] what R. Yannai said follows R. Meir [and his version of M. Shab. 19:4] and [they] respond with a matter based on a dispute between R. Meir and R. Simeon!”* [Since Meir and Simeon dispute the proper version of the teaching, they may also dispute all related points, including whether or not a remaining instance of the religious duty still needs to be performed for the person to be exempted, with Simeon requiring it, as Hisda suggests, and Meir not requiring it, in accord with Zeira’s view of Yannai.]

[S] *And do we find a dispute between R. Meir and R. Simeon regarding a remaining [infant needing to be circumcised – or an additional Passover sacrifice to be offered]? [No. Hence Zeira’s comment is valid.]*

[T] *[As to the case of] these infants who are in doubt [M. Shab. 19:4], how do you consider them? Like a matter that has a limit or like a matter that has no limit? If you consider them like a matter that has a limit [: i.e., unlike the Passover offering], [its rule would apply as long as there is another infant to circumcise. If you consider them like a matter that has no limit, [its rule would apply] even if there is no other infant to circumcise*

[U] *Come see: If [one] preceded its time [circumcising that of after the Sabbath on the Sabbath, according to Joshua, a person is] exempt [even though he has not fulfilled the commandment, yet if one] delayed its time [circumcising that of Sabbath eve on the Sabbath, which fulfills the commandment, a person is] liable!*

[V] *R. Huna said, “The [dispute in the] Mishnah [M. Shab. 19:4, which accords with Meir’s version] is reversed’ [and there exists an alternative version of the dispute (in Simeon’s teaching, as set forth) which is preferable:], for it is taught: **Said R. Simeon, ‘R. Eliezer and R. Joshua did not dispute regarding one who was to circumcise [an infant] after the Sabbath and circumcised him on the Sabbath that he was liable; regarding what did [they] dispute? Regarding one who was to circumcise [an infant] on Sabbath eve and circumcised him on the Sabbath, for R. Eliezer [declares him] liable to a sin offering and R. Joshua exempts’**” [T. Shab. 15:10]. [This version of the issues does not consider a person who precedes the time of circumcision to be exempt.]*

[W] *Said R. Yosé b. R. Bun, “[This was one] of the questions that R. Yannai asked [and answered]: ‘And it [the first part of M. Shab. 19:4, which casts R. Joshua as agreeing that a person who circumcises the infant of Sabbath eve on the Sabbath is liable] concerns a case such that he forgot and circumcised that of the Sabbath on Sabbath eve” [and hence without an infant legally to circumcise on the Sabbath, the person was not authorized to override the Sabbath].*

[X] R. Adda bar Ahvah said, “These [versions of the dispute in the Mishnah and in Huna’s citation] are the opinions of R. Meir and R. Simeon, but R. Yosé holds that even a matter the performance of which does not entail a commandment, since one errs in its regard for the sake of a commandment, one is exempt.

[Y] [As to one who circumcises on the Sabbath: as long as he is involved in the circumcision (he) returns even for the shreds of the corona that do not invalidate the circumcision;] [if he] disengages, [he] returns only for the shreds of the corona that invalidate the circumcision [T. 15:4].

[Z] Said R. Yohanan, “The opinion of R. Yosé [is that] even [one who] disengages returns even for the shreds of the corona that do not invalidate the circumcision.”

[AA] *From which tradition of R. Yosé [do you derive his opinion on this matter]?*

[BB] *That which we learn: “R. Yosé says, ‘[If] the first day of the festival coincided with the Sabbath [and a person] forgot and took his lulab out into the public domain — [one] is exempt because one [initially] took it out with permission “ [Since in Palestine it had been the custom to take up (but not carry outside) the lulab on the festival’s first day even when it coincided with the Sabbath, the person had erred in taking the lulab as was otherwise customary] [M. Suk 3:14].*

[CC] Even regarding the knife of circumcision thus? Even regarding unleavened bread thus? [Is one who forgot and took these objects out on the Sabbath liable?]

[DD] *From that which R. Yohanan said, “The opinion of R. Yosé [is that] even [one who] disengages returns even for the shreds of the corona that do not invalidate the circumcision” – this indicates [that] even regarding the knife of circumcision [it is]*

thus. Even regarding unleavened bread [it is] thus.

6:6

[A] If one slaughtered [the Passover sacrifice on the Sabbath] not for the sake of those who may eat it, not for the sake of those who are counted on it, for uncircumcised people, or for unclean people, he is liable.

[B] [If he slaughtered it] for those who may eat it and for those who may not eat it,

[C] for those who are registered with it and for those who are not registered with it,

[D] for those who are circumcised and for those who are uncircumcised,

[E] for those who are clean and for those who are unclean, he is exempt.

[F] [If] he slaughtered it [on the Sabbath] and it turned out to be blemished, he is liable.

[G] [If] he slaughtered it and it turned out to be terefah in its inner parts, he is exempt.

[H] [If] he slaughtered it and then it became known that the owner had withdrawn his hand [from taking a share in it],

[I] or had died,

[J] or had become unclean,

[K] he is exempt,

[L] because he slaughtered it [at a time when it was] permitted [to do so].

[I:1 A] Said R. Eleazar, “For whom was it necessary [to teach M. 6:6B, for is not its declaration that one is liable for slaughtering a blemished animal on the Sabbath self-evident, because with an unfit animal an individual is not involved in performing a religious duty]? For R. Meir [whose exemption for sacrificing an animal under the designation of a Passover offering on the Sabbath, presented in M. 6:5G, extends even to one who slaughtered a calf but, M. 6:6 now teaches, would not apply to a blemished animal for, being unfit for any type of sacrifice, it is highly unlikely to be slaughtered out of a simple human error].”

[B] Does R. Eleazar follow R. Simeon b. Laqish? Just as R. Simeon b. Laqish said [that an exempted action involves] “a matter that entails a commandment in its performance,” so R. Eleazar said [that an exempted action involves] a matter that entails a commandment in its performance? [Since in defining this notion, Simeon b. Laqish requires an individual to accomplish the commanded action, would the

slaughterer of the blemished animal be liable only because he did not fulfill his intention?)

- [C] If you say that it [the case of M. 6:6] is different [and therefore the person is liable] for it, [the animal] is blemished and a blemished animal is not customarily mixed up, lo, a calf – behold it [too] is not customarily mixed up, but R. Eleazar said, “The opinion of R. Meir, [who exempts, applies to one who slaughtered] even a calf?” [Hence B’s correlation seems reasonable.]
- [D] Said R. Yosé, “If [one] can say [that] R. Eleazar follows R. Yohanan [who requires that the person only intend to do the commandment], it fits, for R. Yohanan said, ‘a blemished animal is not customarily mixed up [and hence slaughtering it on the Sabbath makes one liable]; a calf is customarily mixed up, for thus there was a need for Hillel [to come from Babylonia and resolve the ambiguity created by the different language in Deut. 16:2 and Exod. 12:5 and the possible reference to a calf].
- [I:2 A] Lo, [the implication of M. 6:6B’s mention of a defect which is “*internal*” is that one which is] external – [regarding it one is] liable.
- [I:3 A] Said R. Yohanan, “[M. 6:8B’s exemption] represents [the position even of] R. Simeon [who makes Joshua’s exemption, in M. 6:5, apply to an action that entails a religious duty, and the sages all the more so would concur].”
- [B] R. Jacob bar Aha, R. Immi in the name of R. Simeon b. Laqish, “It represents [the position of even] R. Simeon.”
- [C] R. Hama bar Uqba in the name of R. Yosé b. R. Haninah, “One who withdraws his hand [dissociating oneself] from his Passover offering, the animal itself is offered as a whole offering” [and need not be left to pasture until it becomes blemished and then sold and its monies used for an offering].
- [D] R. Jonah said, “This refers to a whole offering that is fit.”
- [E] Yosé said, “It refers to a whole offering that is unfit “
- [F] But lo, do we not learn [in M. 6:8B regarding such a case:]
exempt?
- [G] [We] thought **exempt** [and] fit. [We] explain it [however] **exempt** [and] unfit.
- [H] R. Yosé in the name of R. Yohanan, “The only instance of the Passover offering [in which] the animal itself is offered as a

whole offering is where [the registered animal] became lost and [later] was found after the owners [registrants] offered another animal [in its stead].”

[I] *But lo, do we not learn [in M. 6:8B regarding a variety of comparable cases:] exempt?*

[J] [We] *thought to rule that the sense is, exempt* [and] fit. [We] explain it [however] **exempt** [and the sacrifice is] unfit.

[K] Samuel said, “All cases of the sin offering regarding which they said it must be put to death [as stipulated in M. Tem. 4:1, one of the cases of which is a sin offering the owners of which died before the animal was offered], in similar cases of the Passover offering [such as the death of the owners mentioned in M. Pes. 6:6B], the animal itself is offered as a whole offering” [which means it is fit].

[L] *But lo do we not learn [in M. 6:8B regarding comparable cases:] exempt?*

[M] [We] *thought to rule that the sense is, exempt* [and] unfit. [We] explain it [however] **exempt** [and the sacrifice is] fit.

[I:4 A] R. Yosé [said] in the name of R. Yohanan, “It [M. 6:6, in particular as revealed in the case of the registrants’ withdrawal of their hands and in light of the Mishnah’s final explanatory clause] represents [the view of] R. Judah, *for we learn there [in the Mishnah:] ‘[They] do not slaughter the Passover offering for a single individual,’ the words of R. Judah. And R. Yosé permits [it] [M. 8:7].* [If the Mishnah can speak of a person’s slaughtering the animal “with permission” although owners had dissociated themselves, the animal perforce must still be registered with at least one remaining owner, for otherwise it would automatically become disqualified; hence initially there had to have been at least two owners, which accords with Judah’s position.]”

[B] *R. Zeira asked before R. Mana, “Where do we find [that a person is] exempt and [the object is] permitted?”*

[C] [R. Mana] said to him [R. Zeira], “*We learn here [in M. 6:8A regarding four cases] ‘exempt’ and we learn there [in M. 5:3A.2 regarding the identical four cases] ‘fit.’*” [Hence whoever exempts the slaughterer of animals that are appropriate for a Passover offering under the designation of a Passover offering would consider the

offering fit; similarly the authority who declares the cases in M. 6:8B exempt would also consider the animals in those cases fit]

[D] And regarding all of them [the cases of M. 6:6B] R. Ishmael the son of R. Yohanan b. Beroqa says, “Let its appearance become disfigured [spoiled by being left overnight] and go out to the place of burning” [but not be destroyed immediately; cf. T. 6:6].

[E] *R. Eleazar b. R. Yosé asked before R. Yosé, “[This assumption that the animal has gained some special dimension preventing it from being immediately destroyed] fits when [the owners] died or became unclean [which could take place after the slaughtering, which starts the sacrificial process].*

[F] “[What about M. 6:6B’s third case:] where the owners withdrew their hands? *How shall we understand [this case]? If while [the animal was] alive [the owners dissociated themselves], does making the animal disqualified render [or ‘leave’ it] fit? It is unfit [in itself and not just due to external considerations].’ If [the owner dissociated from the animal] after slaughter, is there withdrawing [of hands] after slaughter?*

[G] “[Rather [shall we say] it [M. 6:6] represents [the view of] R. Simeon, for R. Simeon said [in M. 8:3], ‘There is withdrawal [of hands after slaughter]?’”

[H] [Answering the question:] Because he [the owner-sponsor] has [scriptural] permission to withdraw [his hands before slaughter – which the slaughterer, however, did not know had taken place,] it is disqualified [yet without making the animal in itself unfit; hence it] renders [or “leaves” the animal] fit [and it cannot be immediately burned, a situation which assumably would apply as well if the owners died or became unclean,] and requires [disfigurement of] appearance.

YERUSHALMI PESAHI

CHAPTER SEVEN

7:1

[A] How do they roast the Passover offering?

[B] They bring a spit of pomegranate wood,

[C] and stick it through [the carcass] from the mouth to the buttocks.

[D] “And one puts its legs and entrails inside it,” the words of R. Yosé the Galilean.

[E] R. Aqiba says, “That would be a kind of cooking. But one hangs them outside [the carcass].”

[I:1 A] Why [use a spit made] of pomegranate [wood]?

[B] Said R. Hiyya bar Ba, “All trees drip moisture and that of pomegranate does not drip moisture.”

[C] *With what situation do we deal?* If with moist [wood], even that of pomegranate drips. If with dry [wood], even all trees do not drip.

[D] Rather [teach] thus [as the reason in C:] All trees are dry outside and moist inside. Pomegranate is dry outside and dry inside. [Hence using the latter type of wood insures that no moisture would drip and no inadvertent boiling take place .]

[I:2 A] *It is taught in the name of R. Judah:* [One] roasts it with a metal spit.

[B] [They] said to him, “But lo, [the metal spit] is hot and imparts heat [to the animal, thereby preventing the scripturally required roasting by fire].”

[C] [He] said to them, “Just as that of wood does not burn [because it is preserved by the animal’s carcass surrounding it], so that of metal does not impart heat [for its heat is tempered by the animal’s carcass].”

[D] [They] said to him, “The wood does not resemble the metal, for [in the case of] the wood, [if] part of it becomes hot, all of it does not

become hot; but [as for] metal, [if] part of it becomes hot, all of it becomes hot. [Therefore, only with a metal spit does the heat of the exposed portion spread to the portion within the animal and contribute to its cooking” [T. 5:8].

[I:3 A] *There are those who teach:* “[They] stick it [into the animal] from the buttocks to the mouth.”

[B] *According to this external teacher* [in contrast to the teacher represented in the Mishnah], [One] goes and inverts [the animal, so that the position of the head is the same as that in the Mishnah’s procedure].

[II:1 A] *What [is Yosé the Galilean’s reason, in M. 7:1B, for placing the entrails inside the animal]?*

[B] *[Either] R. Yosé the Galilean considers it [the animal with the entrails inside] like a thick thigh [and the flame roasts the whole meat through including the entrails];*

[C] or (2) [he] expounds a verse: “[But roasted –] its head over its legs and over its entrails” (Exod. 12:9).

[D] *What is the difference between them [the two possible reasons]?*

[E] [If one] roasted it [the legs and entrails] in an unconsecrated lamb:

[F] If you say “R. Yosé the Galilean considers it like a thick thigh” – [it is] fit [for the meat will be fully burned according to this procedure];

[G] if you say “[he] expounds a verse, ‘[But roasted – its head over its legs and over its entrails’ (Exod. 12:9)” – [it is] unfit [for the verse requires the entrails to be roasted along with the Passover lamb].

[H] [Alternatively, if one] cut [a piece of] meat from it [the Passover lamb] and roasted it in it [the lamb]:

[I] If you say “R. Yosé the Galilean considers it like a thick, thigh” – [it is] fit [for the meat will be fully burned according to this procedure];

[J] if you say “[he] expounds a verse, ‘[But roasted –] its head over its legs and over its entrails’ (Exod. 12:9)” – [it is] unfit [for the verse requires that the animal be fully intact except for the head, legs, and entrails which are separated so as to be cleaned].

- [K] [Alternatively, if one] roasted it [the legs and entrails] in the heat of a pot [placed in the oven]:
- [L] If [one] says, “R. Yosé the Galilean considers it like a thick thigh” – it is fit [for the animal is appropriately prepared and not boiled even if the flame is separated by the pot];
- [M] if one says, “[he] expounds a verse, ‘[But roasted –] its head over its legs and over its entrails’ (Exod. 12:9)” – it is unfit [for Scripture requires that the legs and entrails are to be cooked inside the Passover lamb].
- [N] [“And is it fit?”] *But is it not taught:* “‘roasted by fire’ (Exod. 12:9) and not roasted by a pot?” [Hence according to either rationale, it should be unfit.]
- [O] [In regard to a situation in which [the meat] touches the pot [but where it does not, it cannot be considered roasting].
- [P] This [the ensuing dispute between Yosé the Galilean and rabbis] indicates [that he] expounds a verse [thus substantiating the second rationale]:
- [Q] [As to a dispute on the relative location of two objects such as that between Abba Saul and anonymous authorities in M. Men. 11:5 regarding the placement of frankincense in relation to the bread of display, mentioned in Lev. 24:5-9, in which Abba Saul requires the frankincense to be next to the bread, and the anonymous authorities that it be on top of the bread:] All agree that [the biblical word] “on it” [the term in the anonymous sages’ proof-text from Num. 2:20] means that it is near. Regarding what do they dispute? [Regarding the word] “on” [the term used in Scripture regarding the frankincense, at Lev. 24:7]: Abba Saul says, “‘With (‘L) each row’ [denotes] near the row.” And rabbis say “‘With (‘L) [now taken as “on”] each row’ [denotes] on top of [lit., “on the roof of”] the row.”
- [R] Abba Saul is in accord with R. Aqiba [who, in saying the entrails go outside the animal, interprets the biblical term “on” in the sense of near] and sages with R. Yosé the Galilean [who, in requiring the entrails to be in the animal, understands the word “on” in the literal sense of on *top* of it].
- [S] [Taking into account the following portion of a Tannaite rule, which treats variations on the standard arrangement of the twelve loaves into two piles of six loaves and which

relates to the definition of the term:] **Rabbi** says, “**Even [if one] made them [into] two rows of fourteen [loaves], we consider the upper ones as if they are not there and the bottom ones are fit [T. Men. 11:14].**”

[T] R. Yosé b. R. Bun in the name of R. Yohanan, “Rabbi [who holds that the frankincense would be placed on the side and not on the top of the upper discounted loaves, for those extra loaves would interpose] and Abba Saul [who in takes “on” in the sense of near] follow the approach of R. Meir [who disputes R. Judah in M. Men. 11:5] as to [the dimensions of] the table [for the bread of display, with R. Judah envisioning no empty space between the two piles and R. Meir two handbreadths, in which the frankincense would be placed, thus being set next to the loaves].”

[II:2 A] “Its insides outside],” the words of R. Tarfon.

[B] R. Ishmael says, “Kid completely roasted [here taken as “helmeted” with all its portions inside].”

[C] R. Tarfon [in A] follows R. Aqiba [of M. 7:1C, who requires the entrails to hang outside the animal] and R. Ishmael [in A] follows R. Yosé the Galilean [of M. 7:1B, who requires the entrails to hang inside].

[II:3 A] *Teaches R. Yosé*, “What is a kid completely roasted? It is roasted whole, its head with its legs and with its entrails. [If one] steamed part [of it] or seethed part [of it in water,] this is not a kid completely roasted.

[B] “They bring in a kid roasted whole [even] on the nights of the first day of the Festival [Sukkot] and [even] on the first day of Passover. They bring a calf roasted whole on the nights of the first day of Passover but not a kid roasted whole.” [Because the calf never served as a Passover offering, using the calf would not represent an imitative act of the sacrifice. Similarly, because the Passover offering was eaten only Passover night, eating it roasted whole at other times, even during the daytime on Passover’s first day, when there is no synchronization with the Passover offering, would be unobjectionable.]

[II:4 A] *It is taught*: “**Said R. Yosé, ‘Todos of Rome directed the Romans that [they] should eat kids roasted whole on the nights of Passover.’**”

[B] **“Sages sent and said to him [Todos], ‘Were you not Todos, would we not put you under a ban?’”**

[C] What does Todos mean?

[D] *Said R. Hananiah, “He would send maintenance [support] for rabbis.”*

[E] **“Do you not end up bringing the public to eat holy things outside [the holy precinct]” [T. Y.T. 2:15].**

[F] “For whoever brings the public to eat holy things outside [the holy precincts] should be put under a ban.”

[G] R. Yosé b. R. Bun in the name of Rab [said], “This indicates that it is forbidden for a person to say to his fellow, ‘Here are the monies, and go and buy with them meat for the Passover [for someone might assume that the individual meant the Passover *lamb* and not the festival of Passover].’ Rather [a person] says, ‘Here are these monies and go and buy meat with them for me to roast.’”

[II:5 A] *R. Immi asked, “[If one] cleared out [the coals of the oven] and roasted [the Passover offering] with it [that is with the oven’s residual heat preserved in its stones or sides, what is the law as to whether or not this is permitted]?”*

[B] Said R. Jeremiah, “According to whom is this an issue?”

[C] “According to R. Yosé the Galilean [for it is unclear whether his reliance on the scriptural text leads him to understand that the requirement of ‘roasted by fire’ (Exod. 12:9) entails the actual presence of fire, here the coals, or whether the oven suffices by itself, since it had been heated by the fire] But according to R. Aqiba [who does not appear to be so guided by the scriptural wording], it is self-evident [that cooking with the heat of the oven alone may be considered ‘roasting’].”

[D] Said R. Yosé, “And even according to R. Aqiba it is a question [for no fire at all appears to be present during the actual time of cooking].”

[E] [Challenging the assumption of the initial question by taking account of the fact that different types of ovens existed, some having the fire or coals totally or partially inside and others outside:] When coals are in the air [that is, in a hollow compartment] of the oven, it is roasted in half an hour; [when] the coals are in the air of the world [outside the oven], it is roasted in an hour. [Hence:] what is the difference whether [it] is roasted partially by the oven or whether it is roasted completely by the oven? [Since in either case the oven contributes to the cooking,

the Passover animal in any event would not be totally roasted by the fire and any use of an oven instead of an open fire would be prohibited!]

- [F] [Rejecting the prior premise:] Said R. Yosé b. R. Bun, “An oven does not contribute to the coals at all [but] only contains the heat. [Therefore] when the coals are in the air of the oven, [it] is roasted in half an hour [because the heat is not dissipated]; when the coals are in the air of the world, [it] is roasted in an hour.”

7:2

- [A] **They do not roast the Passover offering either on a [metal] spit or on a grill.**
- [B] **Said R. Sadoq, “M’SH B: Rabban Gamaliel said to Tabi his servant, ‘Go and roast the Passover offering for us on a grill.’”**
- [C] **[If] it touched the earthenware part of an oven, one should scale off that place [which has been roasted by the heat of the oven’s side].**
- [D] **[If] some of its gravy dripped on the earthenware and went back onto it, he must take some [of the meat] away from that place [and burn it].**
- [E] **[If] some of its gravy dripped on the flour, he must take a handful away from that place.**
- [I:1 A] “Roasted by fire” (Exod. 12:8) – and not roasted by a [metal] spit, not roasted by a pot, not roasted by a grill, not roasted by any [other] object.
- [B] [Posing a question based on the law of uncleanness due to leprosy regarding which it is stated:] “[When the skin of one’s body sustains a burn by fire” (Lev. 13:24) – perhaps [this means that it must be] festering [in order for it potentially to be unclean]?”
- [C] The teaching therefore says, “and the patch from the burn [is a discoloration]” (ibid.) [indicating that the wound has caused a “patch” of raw flesh, “a still granulating lesion, within which a discoloration develops”].
- [D] If “the patch from the burn is a discoloration,” perhaps [this indicator of leprosy applies only] once it becomes scabby [meaning that the burn heals well]?
- [E] The teaching says, “burn by fire” [meaning that the burn is still discernible and thus not healed].

- [F] How so [can these opposite deductions be resolved and the verse understood]? It has become healed [and yet] it is not [fully] healed.
- [G] And thus it says below [to the effect that some mark of the wound remains]: “[But if the discoloration has remained stationary, not having spread on the skin, and it is faded, it is the swelling from the burn. The priest shall pronounce him clean, for] it is the scar of the burn (Lev. 13:28) – [this applies only] once [the skin] is covered over like a garlic skin [“probably a layer of fibrin”].
- [H] [In these expositions it is assumed that a burn may occur from contact not only with the fire directly but also with coals or red hot ashes] and here [M. Pes. 7:2] he says thus [that anything less than direct roasting is not considered “by fire”] !
- [I] Said R. Eleazar, “There [regarding the law of Passover, it is written], ‘[They shall eat it] roasted over the fire’ (Exod. 12:8) [and further] ‘[Do not eat any of it] but roasted over the fire’ (Exod. 12:9). The verse repeated itself [in using the word fire] to impose an indispensable restriction. But here [regarding the uncleanness of leprosy it is written], ‘[When the skin of one’s body sustains a burn by fire,] and the patch from the burn is a discoloration’ (Lev. 13:24) [without repeating the key term fire indicating that the burn be] of any sort [even in direct].”
- [J] Said R. Samuel bar Abedoma, “There [regarding the law of Passover, Scripture contains the two key terms] ‘[This is the] law [of the Passover offering]’ (Exod. 12:43) [and] ‘[There shall be one] Torah [for the citizen of the country]’ (Exod. 12:49) [which make the rules contained in the section] indispensable. [*But here [in the section on leprosy] what does [Scripture] have?*] [*It lacks such terms?*]”
- [K] Does Rabban Gamaliel lack [the exposition based on the repetition of] “roasted by fire?” [Would not that deduction based on the peculiar scriptural usage preclude Gamaliel’s practice?]
- [L] [Gamaliel has the exposition but in a form such that] he holds that the Egyptian Passover [at the time of the Exodus, is to be] “roasted by fire,” [but] the Passover throughout the ages [after the first Passover] is not [to be] “roasted by fire.” [Cf. Exod. 12:8, which in referring to the roasting, states “on that same night,” pointing to the Exodus specifically].
- [M] Said R. Yosé b. R. Bun, “Rabban Gamaliel treats the subspecies of fire [such as cooking through the heat of a grill] like fire [itself], while rabbis [the term applied to the

anonymous authorities in M. 7:1A] *do not treat* the subspecies of fire like fire.” 37 [Hence while rabbis would not prepare the Passover offering on a grill, Gamaliel would.]

[N] Rabban Gamaliel is in dispute with sages and [moreover even] effectuates the halakhah in accord with his view? [It is one thing for Gamaliel to dispute, but it is assumed he would not act on his own view where it disagrees with a majority of sages]

- [I:2 A] If [Scripture] had said, “Do not eat any of it except roasted” and had not said [the next word of the intervening phrase:] ‘raw’ [not cooked sufficiently to make the meat edible, and in that sense uncooked, a term which Exod. 12:9 presents after “do not eat any of it”], I would have said [that if a person] parched it and [then] roasted it – [it would be] permitted [despite its not being fully roasted by the fire all at once].³⁹ Thus there is a need that it be said “uncooked” [which precludes anything but a full roasting].
- [B] Or if [Scripture] had said, “Do not eat any of it except roasted” and had not said [the next word of the intervening phrase:] “or cooked [in any way with water],” I would have said [that if a person] had steamed it [e.g., had poured steaming water over it] and [then] roasted it, it would be permitted. Thus there is a need that it be said “or cooked [in any way with water]” [which precludes steaming, which represents a method of food preparation less thorough than boiling].
- [C] Or if [Scripture] had said, “Do not eat any of it except roasted” and had not said [the next word of the intervening phrase:] “[or cooked] in any way [with water],” I would have said [that if a person] had boiled it and [then] roasted it, it would be permitted. Thus there is a need that it be said “uncooked” (N’) [which precludes anything but a full roasting]. Thus there is a need that it be said “or cooked” [in any way with water – which precludes steaming with water]. Thus there is a need that it be said “[or cooked] in any way” [with water – which precludes boiling with water].
- [D] [If] one ate an olive’s amount in bulk of uncooked [meat from the Passover lamb] before nightfall [the onset of the requirement to eat it] –
- [E] *there are those teachers who teach:* “[the person] is culpable.”
- [F] *and there are those teachers who teach:* “[the person] is not culpable” [cf. T. 6:10].

[G] *The one who said “culpable,”* [understands the verse] “Do not eat any of it uncooked” – in all ways.

[H] *And the one who said “exempt,”* [understands that] when he falls under the requirement of getting up and eating roasted [meat from the Passover offering, when it becomes dark], he falls under ban on eating [it] “uncooked” (N’). When he does not fall under the requirement of getting up and eating roasted [meat from the Passover offering, e.g., before it becomes dark], he does not fall under ban on eating [it] “uncooked.”

[I] [If] one broke a bone in it [the Passover offering, thus violating Exod. 12:46’s ban] before nightfall [the onset of the requirement to eat the Passover lamb] –

[J] *there are those teachers who teach:* “[the person] is culpable”;³

[K] *and there are those teachers who teach:* “[the person] is not culpable.”

[L] *The one who said “culpable”* [understands the verse] “Nor shall you break a bone in it” – in all ways.

[M] *And the one who said “not culpable”* [understands that] when he does not fall under the requirement of getting up and eating roasted [meat from the Passover offering, e.g., before it becomes dark], he does not fall under ban of “nor shall you break a bone in it.” When he falls under the requirement of getting up and eating roasted [meat from the Passover offering], he falls under the ban of “nor shall you break a bone in it.” I

[II:1 A] [If the animal] touched the earthenware of the oven – [(one) should pare away its place (of contact because it was cooked by the heat of the earthenware and not the fire)] [M. 7:2C] – it [the portion of the meat that had touched the earthenware] is unfit in itself and is burned immediately.

[B] [If] some of its liquid dripped onto the earthenware [and then back again onto the animal – (one) should remove its place (of contact where the liquid was absorbed and not just pare it at the exterior portion)] [M. 7:2D] – it is a disqualification [caused by external considerations which] leaves it [the meat otherwise] fit [for the meat itself did not touch the earthenware] and requires [its] appearance [to become disfigured by being left overnight to spoil].

- [C] [If] some of the liquid dripped onto the flour (that was on the oven) – (one) should rake away a handful (of flour) from its (the liquid’s) place [of contact] [because that portion of the gravy was cooked through the heat of the flour and not of the fire directly] [M. 7:2E] – Hiyyah bar Adda in the name of R. Simeon b. Laqish, “*This which you say [in the Mishnah] applies to hot [flour] but regarding cold [flour] it is prohibited.*”
- [D] Said R. Eleazar, “The Torah did not say [that] it [the Passover offering] should not roast others but that it should not be roasted because of others [and where the flour is cool it is the flour that becomes heated by the animal and not vice versa].”

7:3

- [A] [If] one basted it with oil in the status of heave offering –**
[B] if it was an association of priests [who were registered for this offering], they may eat it.
[C] If it was one of Israelites,
[D] if it was [yet] raw, let one rinse it off.
[E] If it was [already] roasted, let one scale off the outer surface.
[F] [If] one basted it with oil in the status of second tithe,
[G] he may not charge its value against the members of the association [registered for that offering].
[H] For they do not redeem second tithe [for funds] in Jerusalem [itself].

[I:1 A] [If one] basted it [M. 7:3A].

- [B] [The Mishnah] stated only “**[if one] basted it**” [then rinsing or paring away the exterior is sufficient, depending on the situation], lo, if one seasoned it [it is] forbidden [for thereby one would nullify the taste of the Passover offering].
- [C] *A certain [non-priestly] person cooked a chicken by [the fire of] oil [in the status of heave offering] which was required to be burned [because, for example, it had become unclean]. He came [and] asked R. Bisna [what to do]. [R. Bisna] said to him, “Go [and] steam it” [which would ruin the already-cooked meat and therefore prevent the person from benefiting from the oil’s improper use].*

[I:2 A] Thus is the teaching [the correct rendering or reading of M. 7:3E]:
 They do not redeem second tithe produce in Jerusalem.

7:4

[A] **Five things are offered in a state of cultic uncleanness but are not eaten in a state of cultic uncleanness:**

[B] (1) **the first sheaf of barley presented on the sixteenth of Nisan [omer] [Lev. 23:10], (2) the Two Loaves of Bread [Lev. 23:17], (3) the Show Bread [Lev. 24:5], (4) communal peace offerings [Lev. 23:19], and (5) the goats which are offered at the New Month [Num. 28:15].**

[C] **[But] the Passover offering, which is offered in a state of cultic uncleanness, is eaten in a state of cultic uncleanness,**

[D] for to begin with it is offered only for eating.

[I:1 A] And are not all communal sacrifices offered in a state of uncleanness? [Hence the first part of M. 7:3A's apodosis is unnecessary.]

[B] [*That clause*] comes only in order to tell you that even though they are offered in a state of uncleanness, they are not eaten in a state of uncleanness.

[C] *Whether according to the one who says that the bread is essential [R. Aqiba in M. Men. 4:3] [or] whether according to the one who says that the lambs are essential [Simeon b. Nanos], they are four [in toto only]? [If they are to be treated as separate entities, then whatever one considers to be the indispensable object would comprise only the fourth item and there would not necessarily be fifth item.]*

[D] *The Tannaite authority [of the Mishnah] was concerned for [both] of them [both views] and taught us [therefore] file, [making both the loaves and the sacrifice indispensable and each required for the other to be offered].*

[I:2 A] *There are Tannaite authorities who teach [that] all [five] of them are learned from the [case of] the Passover offering;*

[B] [*and*] *there are Tannaite authorities who teach [that] each one is learned from its own context.*

[C] *The one who said that all of them are learned from the Passover offering [reasons thus:] Just as [the term] "as its set time, which is said regarding the Passover offering [either in Num. 9:2, "Let the Israelite people offer the Passover sacrifice its set time," or in the next verse, Num. 9:3, "You shall offer it (the Passover offering) on the fourteenth day of this month, at twilight, at its set time," indicates that the object in question, the Passover offering] supersedes uncleanness [for irrespective of any special circumstances, it is to be offered "at its set*

time”] so “at its set time,” which is said regarding all of them [in Num. 29:39’s conclusion to the account of the sacrificial rites for festival occasions, “All these you shall offer to the Lord at your set times” indicates that these other festival objects] supersede uncleanness.

[D] *The one who said that each one is learned from its own context, how does he know it?*

[E] *And he holds in accord with this which is taught:*

[F] “Rabbi says, ‘What does the teaching [that is, Scripture] say [in the following verse]: “So Moses declared the set times of the Lord” (Lev. 23: 44)? [Do not vv. 33-34 already state that the Lord instructed Moses to speak to the Israelites regarding the festivals]?”

[G] ‘Because we learned only as to the Passover offering and the daily offering that they should supersede the Sabbath, for it is said regarding them, “At its set times” [at Num. 9:2-3 and Num. 28:2, respectively], from where [is it derived that] all the remaining communal sacrifices [supersede the Sabbath]? The teaching says [regarding the additional festival and New Moon sacrifices], “All these you shall offer to the Lord at the set times” (Num. 29:39).

[H] ‘In regard to the sheaf of first barley [omer] and that which is offered with it (Lev. 23:12) and as to the two loaves and that which is offered with them (Lev. 23:18) [all of which are not mentioned in Numbers 29,] we have not heard. [It is for these matters which appear earlier in the same chapter that] the teaching [Scripture, closing the whole section of the festival calendar,] says, “So Moses declared the set times of the Lord” (Lev. 23:44) – [Scripture] fixed them as obligatory].

[I] ‘that all of them should be offered in uncleanness’.”

[J] Just as they are offered in uncleanness, let [them] thus be eaten in uncleanness [something which runs counter to M. 7:4A’s rule]?”

[K] It is a scriptural enactment, “Flesh that touches anything unclean shall not be eaten; [it shall be consumed in fire]” (Lev. 7 19).

[L] And say thus even regarding the Passover offering [regarding which M. 7:4C makes an exception]?”

[M] It is different *for it was initially brought solely for consumption* [as indicated in Exod. 12:4, “you shall apportion the lamb according to what each person should eat”].

7:5

[A] [If] the meat [of the Passover, offered by clean sacrificers] was made unclean but the fat continued [clean],

[B] one does not toss the blood.

[C] [If] the fat was made unclean but the meat continued [clean],

[D] one does toss the blood.

[E] And in the case of [other] things which have been consecrated it is not so, but:

[F] even though the meat is made unclean, if the fat continued [clean],

[G] one does toss the blood,

[I:1 A] *And [M. 7:5] is not in accord with R. Nathan, for R. Nathan said, “[People] fulfill [their obligation] by tossing [the blood of the Passover offering] without eating [it].”*

[B] What is the reason?

[C] “And the entire congregation of the community of Israel will slaughter it at twilight” (Ex. 12:40) – “it,” even though there is available only a single beast designated as a Passover, all of the community carry out their obligation through a single act of sprinkling the blood. But it is not possible, under such circumstances, that there will be an olive’s bulk of meat for every single one.

[I:2 A] The following proposition is self-evident: if the meat was made unclean, while the sacrificial parts remain validly available, one tosses the blood in behalf of the sacrificial portions.

[B] If the sacrificial portions were made unclean but the meat was still validly available, one tosses the blood for the meat.

[C] If the meat was made unclean, and the sacrificial portions were lost –

[D] Said R. Shimi, “In that case, it is not to be seen as equivalent to a case in which the meat was made unclean and the sacrificial portions were lost. Rather, just as you say in a case in which the residue of the meal offering was made unclean or lost, while the handful of meal offering remained validly available, one burns the incense, in that case, just as you say one takes the handful, so too here, one tosses the blood.”

[E] Said R. Eleazar, “Interpret the case in accord with the position of R. Eleazar, for R. Eleazar said, “Even though the residue was unavailable, there is the possibility of presenting the handful.”

- [F] If the offering is made in a state of uncleanness. what is the rule concerning those who present the offering, as to their having the right to eat the sacrificial portions?
- [G] What would represent a practical case?
- [H] If blemished priests slaughtered the sacrificial animal, and clean priests tossed the blood.”
- [I] Said R. Hila, “‘And the meat that will touch any unclean thing will not be eaten’ – lo, this has not been touched by any unclean thing. So as to the meat, any clean priest may eat it.”
- [J] [Said] R. Zeira, “Since if the Passover offering may be presented in a state of uncleanness and eaten in a state of uncleanness, here too, it is as though it were presented in a state of uncleanness.”

[K] *Now where did R. Zeira make that statement?*

[L] *It is in line with what Samuel said, “Said R. Zeira, ‘Here is a question: if an offering is presented when the blood has become unclean how is the rite performed? Since there is no aspect in which the offering is permitted so far as having its blood tossed, it is as though it were presented in a state of uncleanness Or, alternatively, since if one violated the rule and tossed the blood, it will be deemed acceptable in any event, it is as though it were not presented in a condition of uncleanness at all.*

[M] [And, continuing the exposition, he proceeded:] “*Let us derive the answer from the following, which R. Hoshaiyah said: “‘The frontlet shall be on Aaron’s forehead that Aaron may take away any sin arising from the holy things [that the Israelites consecrate]’ (Exod. 28:38) – the sin of that which is offered; not the sin of those who make the offering.*” [Hence, when the registered Israelites are unclean, even if only at the time of the tossing of the blood, the sin of that tossing is not “taken away” and the animal would be unfit. Thus, when the blood becomes unclean, it is as if uncleanness has taken hold of the entire animal.]

[N] [There is a] difference between that which is offered [a sacrifice] for an individual and that which is offered for the community.

[O] [Where the animal has become unclean:] that which is offered for an individual – if [the owner] has [an other animal], [they] say to him, “bring [it],” and if not, they [do not] permit him to toss the blood before the fact.

[P] [Those who make the offering (for an individual, where they become unclean), whether or not [such a person] has [another animal, it is not acceptable (to the altar).

[Q] [But] those who offer for the community [where they become unclean], whether or not [one] has [another animal], [if] one transgressed and tossed, it is acceptable [to the altar] [for in regard to the public no sin is involved that would need to be absolved or “taken away” – which is in contrast to an individual’s Passover sacrifice, which is treated as if it is wholly unfit].

- [I:3 A] Said R. Eleazar, “The teaching states that **the Passover offering which is offered in the state of uncleanness is eaten in the state of uncleanness**]’ deals with a case in which lit] came in a state of uncleanness from the first moment [T.6:1A],
- [B] “but if [it initially] was presented in a state of purity and [only afterwards, after tossing became unclean – [it] is not eaten in a state of uncleanness.
- [C] [But if it] had been slaughtered in purity and the community [subsequently] became unclean, the blood should be tossed in purity but the flesh should not be eaten in uncleanness [T.6:1B].
- [D] R. La [said] in the name of R. Yohanan, “[That represents the position of R. Nathan, for R. Nathan said, ‘[People] fulfill [their obligation] by tossing [the blood of the Passover offering] without eating [it]’ [despite the people’s not eating the animal, its blood is tossed in purity, thus fulfilling the people’s obligation].”
- [E] [If one] slaughtered it in purity but the blood became unclean, the community should toss its blood [Lg: “but the blood and the community became unclean, the blood should be tossed”] in uncleanness but the flesh should not be eaten in uncleanness [= T. 6:1C].
- [F] R. Jeremiah [said] in the name of R. Yohanan, “[The ruling prohibiting eating is decided] because of visual misinterpretation so that [people] should not say, ‘We saw a Passover offering [that] came in purity and was eaten in uncleanness.’”
- [G] Now [on this basis say that] the blood should not be tossed in uncleanness?
- [H] It is so that [people] should not say, “We saw a Passover offering that came in purity and was tossed in uncleanness”?

- [I] *Lo, you must end up saying that it represents the position of R. Nathan [who, in holding that eating is not indispensable, would claim that the authorities behind this teaching took a preventive measure regarding eating, but not regarding tossing, which is indispensable].*
- [J] [Further treating Nathan's view:] R. Nathan admits, regarding a sick or elderly person, [that such a person, who is not capable of eating the required olive's amount, in bulk, of the animal, cannot be the sole registrant on the Passover animal when it is slaughtered].
- [K] R. Nathan admits' regarding a association the [priestly] officiant of which became unclean that they [the registered Israelites] are postponed to the second Passover [one month later, even though he usually holds that once the blood has been fittingly tossed, there is no requirement for a second Passover].
- [L] R. Nathan admits regarding a association in which a wen [which Lev. 2:22 lists as a defect disqualifying an offering] was found in its [the Passover offering's] hide [indicating that the animal had initially been unfit,] that they [the registrants] are postponed to the second Passover [for the disqualification of the animal the blood of which is tossed bars them from fulfilling their requirement] .
- [M] Five associations [after the tossing of the blood of their Passover offerings] the hides of the Passover offerings of which became mixed up, with a wen being found on the hide of one of them [indicating that while four of the five had fulfilled their requirement with the tossing, one had been disqualified, though it is not known which one], all of them [, being under suspicion,] go out to the place of burning, and [their registrants] are exempt from performing a second Passover [for all but one had fulfilled their obligations, yet none of them eats the flesh of the Passover animals].
- [N] *[They] considered making the ruling that it represents the position of R. Nathan.*
- [O] You may explain [that the case where the wen was disclosed only after the tossing of the blood, represents] the unanimous position, and it is considered like [a Passover offering of the community] that became unclean through a possible sunken grave [a source of uncleanness that could not have been known when the sacrifice was brought and slaughtered]. [Although the uncleanness of the possible sunken grave became known only after the tossing, it is considered as if at that point the offering

had initially become unclean, because, as M. 7:6 declares, the frontlet renders the animal acceptable to the altar though the meat is not eaten by the registrants. In such a case, where there is doubt as to which is which, they do not require the observance of the second Passover.]

[I:4 A] [In such a case with reference to the Passover offering, where M. 7:5A states that **[one] does not toss the blood:**] But according to R. Nathan [one] tosses the blood.

[B] [Hence R. Nathan extends to the case of the Passover offering M. 7:5C's case of "other offerings," the proof-text for which follows:] R. Yohanan, R. Ishmael [said] in the name of R. Joshua, "One verse says, 'But the firstlings of cattle, sheep, or goats shall not be redeemed; they are consecrated. You shall dash their blood against the altar, and turn their fat into smoke (as an offering by fire for a pleasing odor to the Lord. But their meat shall be yours)' (Num. 18:17-18) [which thus speaks of tossing the blood as well as offering the animal's fat *and meat*], and one verse says, 'And the priest shall dash the blood against the altar of the Lord at the entrance of the Tent of Meeting; and turn the fat into smoke as a pleasing odor to the Lord' (Lev. 17:6) [which does *not* mention the animal's "meat"] – [the variation, in mentioning the meat, indicates that it is a sufficient but not necessary condition and, therefore, the tossing cannot take place] until there may be there either meat to eat or sacrificial portions to be burned."

[I:5 A] *There [M. Men. 3:4, regarding the meal offering,] we learn: [If] the remainder became unclean, [if] the remainder was burned, [if] the remainder was lost – according to the rule of R. Eliezer: [it is] fit; and according to the rule of R. Joshua, [it is] unfit. If one had not placed the handful in the serving utensil – it is unfit. R. Simeon declares it fit. If one burned its handful twice in two sessions – it is fit [M. Men. 3:1].*

[B] [Explaining the rationales for the deductions of Eliezer and Joshua stated in A:] *According to the view of R. Eliezer, if there is no blood there is no flesh, [but] even though there is no flesh there is blood. [By analogy:] if there is no handful [left] there is no remainder, [but] even though there is no remainder [left] there is a handful. According to the view of R. Joshua: If there is no blood there is no flesh, [and] if there is no flesh there is no blood. [By analogy:] if there is no handful [left] there is no remainder, [and] if there is no remainder [left] there is no handful.*

[C] Said R. Mana, “You may explain [the text referred to regarding the handful of flour] in accord with R. Eliezer, for **R. Eliezer said, ‘Even though there is no remainder [left] there is a handful’ [T. Men. 4:5B].**”

[D] [Regarding M. 7:5A:] Said R. Yosé b. R. Bun, “Rab and R. Yohanan, both of them said, ‘**R. Joshua admits that if [a person] transgressed and tossed the blood [even though there is no flesh] it is acceptable [to the altar, even though before the fact he was forbidden to so act]’ [cf. T. Zeb. 4:1].**”

7:6

[A] [If] the congregation was made unclean, or the greater part of it,
[B] or if the priests were unclean while the congregation remained clean,
[C] [the Passover offering] is prepared in a state of uncleanness.

[D] [If] a minority of the congregation was made unclean,
[E] those who remain clean keep the first Passover [offering], and those who are unclean keep the second.

[I:1 A] *Who is the teacher [of the Mishnah who teaches that the majority must be of the entire Israelite people, not just that of a single tribe]?*

[B] *It is R. Meir, for R. Meir teaches [in reference to M. Hor. 1:6’s rule: **If the court gave an (erroneous) instruction and the entire congregation (of Israel)’ acted in reliance upon their word, (the members of the court) bring a bull (as a sin offering, as stipulated in Lev. 4:13-14) the words of R. Meir:***

[C] “[It is the same whether] it is half of all the tribes [i.e., irrespective of the tribal divisions] or [whether] it is half of each tribe – as long as there is a majority [of either the total population, in the first case, or of the number of tribes, in the second case, who acted in accord with the erroneous directive of the court].”

[D] R. Judah says, “[Where it is a case of] half of each and every tribe [following the court’s erroneous instructions, a bull must be brought] – as long as [there is] a majority [of the community’s total population because, for example, more than half of one tribe followed the instructions];

[E] “[where it is a case of] entire tribes [following the court’s erroneous instructions, even though they do not make up the majority of the total

population of all the tribes], one tribe draws in its wake all the tribes [to bring bulls for a sacrifice].

[F] R. Meir says, “All the tribes [together] are called [the] ‘congregation.’”

[G] R. Judah says, “Each [individual] tribe is called [a] ‘congregation.’”

[H] *R. Judah is in accord with R. Simeon:* Just as R. Simeon says, “Every tribe is called a ‘congregation,’” so R. Judah says, “Every tribe is called a ‘congregation.’”

[I] *What is the [practical] difference between them [Judah and Simeon with whom he is compared but is not identical]?*

[J] [The matter of one tribe] drawing in its wake [the rest of the Israelite people]: R. Simeon says, “One tribe does not draw in its wake all the tribes, [but rather the unclean and clean tribes prepare the Passover offering separately]”; R. Judah says, “One tribe does draw in its wake all the tribes [and hence all prepare the Passover offering in uncleanness].” [While both agree that a single tribe which acts on the court’s erroneous instruction becomes liable to bring a bull, they differ as to whether that tribe makes the other tribes similarly liable to bring a bull.]

[K] Even though R. Judah [disputing Simeon] said, “One tribe draws in its wake all the tribes,” [he] admits [to Simeon] that the [erroneous] decision [that the tribe followed] must emanate from the Chamber of the Hewn Stone [of the national court and not just from a tribal court].

[L] “The rationale for that teacher [comes from the following verse, which refers to a central court above the local courts], [‘You shall carry out the verdict that is announced to you] from that place that the Lord will choose [observing scrupulously all their instructions to you’ (Deut. 17:10) [which in this case led the tribes to err].”

[M] *What is the rationale for R. Judah?*

[N] [Referring to the rule applicable to a congregation that unwittingly failed to observe one of the commandments:] “[The priest shall make expiation for the whole Israelite community....] The whole Israelite community shall be forgiven [for it happened to the entire people through error]” (Num. 15:25-26) [that is, irrespective of the number of tribes that actually sinned, whole community needs expiation and hence is drawn in the wake of the sinners].

[O] *What is the rationale for R. Simeon?*

[P] “For it happened to the entire people through error” (Num. 15:26) [the concluding phrase thus indicating that they all had participated in the error and that some are not infected solely by the others’ sin].

[Q] What does R. Simeon do with the rationale of R. Judah? [The clause] “The whole Israelite community shall be forgiven” [comes to teach that this applies] except for women and children [i.e., they are not counted in reckoning the majority of the community].

[R] I] What does R. Simeon do with the rationale of R. Judah?

[S] “For it happened to the entire people through error” (Num. 15:26) [comes to teach that this ruling applies] except where it initially was intentional and ended up in error.

[T] *R. Abun [said] in the name of R. Benjamin b. Levi, “Scripture supports the one who said that every tribe is called a congregation: ‘A nation and a congregation of nations shall descend from you’ (Gen. 35 and Benjamin [alone of all the tribes] had not yet been born [when this statement had been made; hence the appellation ‘congregation’ could have referred only to the one as yet unborn and not to all the tribes].”*

[U] Hiyya b. Ba [said], “Just as they disagree here, thus they disagree regarding uncleanness.”

[V] *It is taught [regarding bringing a Passover offering in uncleanness]:*

[W] [If] half the community was clean and half was unclean – the clean prepare the first [Passover] and the unclean the second [Passover] – the words of R. Meir.

[X] R. Simeon said, “The clean prepare it by themselves and the unclean prepare it by themselves.”

[Y] They said to him, “The Passover offering does not come in halves. Rather, either all of them prepare it in cleanness, or all of them prepare it in uncleanness” [T. 6:2].

[Z] *Who [is the Tannaite authority who] said to him [that retort]?*

[AA] R. Meir.

[BB] *The approach of R. Judah is in reverse [appears inconsistent with the view that M. Menahot attributes to*

sages and which is assumed to represent R. Meir's opinion] for we learn there:

[CC] [If] one of the loaves [of Pentecost] or one of the rows [of the weekly show bread] became unclean – R. Judah says, “Both of them [the loaves or rows] go out to the place of burning, because a communal offering is not divided.”

[DD] And sages say, “The unclean remains in its uncleanness and the clean may be eaten [by the priests]” [M. Men. 2:2].

[EE] R. Yosé b. R. Bun [said] in the name of R. Yohanan, “Who [is the Tannaite authority who] spoke to him [that retort]? Sages who are in accord with the approach of R. Meir [i.e., who agree with Meir in one regard but not another regard – and thus not R. Meir himself, who does dispute R. Simeon but for different reasons].”

- [I:2 A]** *According to the view of R. Meir, that [Passover offering in which the relationship of clean to unclean registrants is] one-half to one-half [exactly], what is done with it? Is it [treated] like [a case of] a majority [of unclean individuals, or] like a minority?*
- [B]** [Both alternatives are problematic:] If you say [the unclean half is considered] as a majority “minority”, the clean ones [which likewise would be considered as a minority] do not prepare the first [Passover – for they do not make up a majority of the people].
- [C]** If you say [the unclean half is considered] as a minority; the unclean ones do not prepare the second [Passover, which is not designed for a majority of the community; rather they would prepare the first one in uncleanness].
- [D]** Said R. Yosé, “[Meir can be explained following either alternative:] [The Torah] did not say [that] a majority [who are] clean do prepare the first [Passover] [and that] a majority [who are] unclean do not prepare the second [Passover]. [The Torah] has said only that a majority [who are] unclean should not be postponed to the second Passover.” [Hence the principle is viable where the unclean make up exactly one-half of the community: if they are not considered a majority, the clean appropriately prepare the first Passover, for there is no majority of unclean to postpone them to the second Passover, and the unclean prepare the second Passover, for only if they had made up a majority of the people would they not have been postponed to the

second Passover; and if they are considered a majority, the clean “majority” appropriately prepares the first Passover and the unclean “majority,” who need not necessarily be postponed to the second Passover yet may be, prepare the second Passover.]

- [E] *According to the view of R. Judah* [who says in M. Men. 2:2 that a **communal offering is not divided**], that [Passover offering in which the relationship of clean to unclean registrants is] one-half to one-half [exactly], what is done with it?
- [F] R. Ba [said] in the name of Rab, “[They] make [one of the clean individuals] unclean by contact with an unclean reptile [thereby creating a majority of unclean individuals].”
- [G] Samuel said, “They send him [one of the clean individuals] on a distant journey [thereby reducing the number of those in a clean status, making the unclean ones into a majority].”
- [H] [Samuel’s procedure] is in accord with the one who said “**an individual tips [the balance] regarding uncleanness**” [cf. T. 6:2C]. But according to the one who said “an individual does not tip [the balance] regarding uncleanness,” they send two [of the clean individuals on a distant journey].
- [I] Rab in accord with R. Eleazar. Just as R. Eleazar said, “[If] the community were those who have touched of carrion [or] those who have touched of reptiles – they [prepare the Passover offering] in uncleanness,” when there is no water there for immersion.
- [J] But if there is water there for immersion, they do not prepare [the Passover offering] in uncleanness [and in such a situation Rab would adopt Samuel’s procedure].
- [K] I] Said R. Eleazar, “[A Passover offering] that comes with unclean ministering vessels is like one that comes in uncleanness [and would be prepared in uncleanness].
- [L] “The same [law applies] whether [a Passover offering] comes with uncleanness of ministering vessels, whether [it] comes with uncleanness of hands, whether [it] comes with uncleanness of knives.”
- [I:3 A] [If] the community was [divided into] a third one unclean with flux [Lev. 15], a third unclean [by reason of corpse uncleanness], [and] a third clean, [what procedure is followed]?

- [B] R. Mana in the name of Hezekiah, “The [combined] one unclean with flux [Lev. 15] and unclean outnumber the clean, and they prepare [the Passover offering] in uncleanness, but the one unclean with flux [Lev. 15] [themselves] prepare neither the first nor the second [Passover offering].”
- [C] Said R. Zeira, “The one unclean with flux [Lev. 15] is treated like an apostate by reason of rejecting the instruction [of a court, that is the one unclean with flux [Lev. 15] is like one who flagrantly and intentionally violates a law]. Just as it is said there [in the case of a community or majority thereof that acts on a court’s erroneous decision that] an apostate as to the instruction [of a court, i.e., who regularly rejects the court’s instructions] does not affect the calculation [to tip the balance of the number of Jews when, of all the rest, half sinned unwittingly by following the erring court and half did not], so here [a one unclean with flux [Lev. 15]] does not affect the calculation [to make the unclean into a majority].”
- [I:4 A] Members of a association, one of whom became unclean [after bringing the offering but before its blood was tossed on the altar], and it is not known which one [it was], are required to prepare a second Passover [T. 7:15A – since by reason of doubt they all are ineligible to eat the offering, the animal’s blood had been tossed without anyone’s being fit to eat it, causing the animal to become invalid].**
- [B] **[Of] a community, one of whom became unclean and it is not known which one [it was], R. Zeira said, “[They] should prepare [it] in uncleanness” [T. 7:15B].**
- [C] [As an alternative to Zeira’s procedure:] *R. Hoshaya teaches*, “Let [them] prepare [it] in doubtful [uncleanness].” [The Passover offering is prepared in cleanness and is to be eaten by all, even those doubtfully unclean, but not those certainly unclean. According to both Zeira and Hoshaya, the offering is eaten and the community’s celebration is not postponed to the second Passover].
- [D] *[This] makes sense only in accord with what R. Hoshaya teaches*, so that [one] should not punish an individual [who is certainly unclean] with extirpation [for partaking, with the rest of the community, of a Passover offering prepared in cleanness].
- [I:5 A] R. Immi [said] in the name of R. Simeon b. Laqish, “Regarding erring] instruction [from a court which the community follows], go after [the number of Jews residing] in the Land of Israel.**

[B] “Regarding uncleanness, go after the majority of those who enter the [Temple] courtyard.”

[C] [In the latter case:] What [is the law, do they] tally each and every group [of the three groups of Israelites entering the courtyard separately], or do [they] tally only the first group [and if the majority thereof are unclean, all prepare the offering in uncleanness]?

[D] Said R. Yosé b. R. Bun, “While they are outside [the courtyard] they tally themselves.”

[E] Said R. Joshua b. Levi, “Regarding [the commandment] to appear [before the Lord on festivals go after [those Jews] from Lebo-Hamat to the Wadi of Egypt.”

[F] R. Tanhuma [said] in the name of R. Huna, “The reason for R. Joshua b. Levi [is the following verse:] ‘So Solomon observed the Feast at that time before the Lord our God, and all Israel with him [coming from Lebo-Hamath to the Wadi of Egypt’ (1 Kgs. 8:65).”

7:7

[A] **A Passover offering, the blood of which was tossed,**

[B] **and afterward it becomes known that it [the Passover offering] was made unclean [after it had been slaughtered] –**

[C] **the [high priest’s] frontlet effects acceptance.**

[D] **[If] the person [of any of the sacrificers] was made unclean,**

[E] **the high priest’s frontlet does not effect acceptance.**

[F] **For they have stated:**

[G] **As to the Nazirite and one who prepares the Passover offering,**

[H] **the high priest’s frontlet effects acceptance despite uncleanness affecting the blood, but the high priest’s frontlet does not effect acceptance for uncleanness affecting the person [of the sacrificer (the one for whom the rite is performed)].**

[I] **[If] one was made unclean by reason of uncleanness in the nethermost depths, the high priest’s frontlet effects acceptance.**

[I:1 A] The teaching [in the Mishnah] speaks of a case in which [the Passover offering] became unclean after [the blood] descended into the cavity of the utensil [used to receive the blood, which completes the act of tossing of the blood and enables the frontlet to propitiate]. But if [it] became unclean while it was above [the utensil], it is considered as

[one] which receives water [and not blood, rendering the tossing invalid and the frontlet unable to propitiate].

- [II:1 A]** From where [do we derive the rule that the frontlet propitiates for] doubtful [uncleanness] of a grave of the deep [M. 7:7D]?
- [B] R. Jacob b. Aha [said] in the name of rabbis, “[Comparing the two subjects of the following verse:] ‘[When any who are defiled by a corpse] or are on a long journey of you [or of your posterity and would offer a Passover sacrifice to the Lord]’ (Num. 9:10) – just as [your journey is a public fact] visible ‘to you’, so whatever [is ‘defiled by a corpse,’ which denotes a source of uncleanness, that] is visible [has the same effect of postponing a person to the second Passover], [thus] excluding a grave of the deep which is not visible.”
- [C] Up to this point [we have derived an answering concerning] those preparing a Passover offering. [But] where do we derive [this rule in regard to] a Nazir [with which M. 7:7C itself compares the Passover rule]?
- [D] Said R. Yohanan in the name of R. Yannai, “[The verse, in speaking of a Nazir who becomes defiled by corpse uncleanness, states:] ‘If a person dies [suddenly] near him’ (Num. 6:9). Just as [a person dying] ‘near him’ is visible, so whatever is visible [has the same effect], [thus] excluding a grave of the deep which [by definition] is not visible.”
- [II:2 A]** Concerning a community which became unclean by reason of a doubtful [uncleanness of the] deep, what is the law? Should the frontlet propitiate for it [allowing the community to eat the meat and in this regard act differently from a community that had become unclean after sprinkling, which does not eat the sacrificial meat in uncleanness]?
- [B] [The answer may be derived by logic with] an argument a fortiori: Now if an individual whose strength was weakened [i.e., who is at a disadvantage] in the case of a known [source of] uncleanness [in that the frontlet does not propitiate], [and] you increased his strength [i.e., put him at an advantage] in the case of a doubtful [uncleanness] of a grave of the deep [so that the frontlet does propitiate]; the community, the strength of which you increased in the case of a known [source of] uncleanness [in that the frontlet does propitiate], all the more should you increase its strength in the case of doubtful [uncleanness] of a grave of the deep! [Hence the answer to A should be in the affirmative.]

- [C] [Rejecting B’s logic by noting that for both the Passover offering and the Nazir, the argument is faulty:] The leniency that you make concerning an individual [results in] your making a stringency concerning the community. [This is now explained by setting out the problems created by making the onset of the uncleanness the point when one learns of the uncleanness:]
- [D] “The leniency that you make concerning an individual” – for if [the uncleanness] became known to him after sprinkling, [he] should be treated like one who became unclean after sprinkling [in that the frontlet propitiates for both], so that [he] should not be postponed to the second Passover;
- [E] “[results in] your making a stringency concerning the community” – for if [the uncleanness] became known to it [the community] after sprinkling [regarding such a case we previously said that the community could eat the Passover offering in uncleanness, but now in declaring that the knowledge of the uncleanness is considered the onset of the uncleanness, it] should be treated like one who became unclean *after*” sprinkling, so that [it] should not eat the meat [for a community that became unclean after sprinkling does not eat the sacrificial meat in uncleanness].
- [F] The leniency that you make concerning a clean Nazir [results in] your making a stringency concerning an unclean Nazir.
- [G] “The leniency that you make concerning a clean Nazir” – for if it [the uncleanness] became known to him *after* sprinkling, he should be treated like one who became unclean *after* sprinkling [of the blood of the sacrifices, which are brought at the end of the period of the Nazirite, as stipulated in Num. 6:13-17, yet before the shaving of the consecrated hair, the burning of the locks of hair, and the wave offering (Num. 6:18-20)], so that [he] should not bring an offering by reason of uncleanness [for the period of Naziriteship (already technically completed with sacrifice) has not been defiled, as M. Pes. 7:7C indicates];
- [H] “[results in] your making a stringency concerning an unclean Nazir” [who must undergo the seven-day period of purification for becoming unclean, as stipulated in Num. 19:14].
- [I] and then procedures for rededication to the Naziriteship, specified in Num. 6:8-12] – for if it [the uncleanness] became known *after* sprinkling [of the waters on the person on the seventh day of purification (or, alternatively, of the rededication sacrifices on the day after the seven-day period of purification), yet before the process of

rededication to being a Nazir (or, alternatively, before starting anew the days of the Nazirite), instead of counting seven days from the actual date of contact with the source of uncleanness and then performing the rededication rite and bringing in toto only one set of offerings, following the proposition that the knowledge of the uncleanness represents the onset of the person's uncleanness, the person] should be treated like one who became unclean and again became unclean [*after* the sprinkling] so that he should bring an offering by reason of uncleanness for each one [of the counts of uncleanness]. [In being required to undergo repeated periods of purification for each act of uncleanness of the deep that one might become informed of at the completion of each of the purification periods (or in the rededication periods), the person, in the process of rededication, must bring a separate set of sacrifices for each instance of uncleanness.]

[J] [*This is in line*] with that which has been taught: “**[A Nazir who became unclean and again became unclean brings an offering by reason of uncleanness for each one [of the counts of uncleanness]]**” [cf. T. Naz. 4:8].

[II:3 A] [Assuming that the Mishnah refers to the frontlet's propitiating for the uncleanness of the owners:] The officiating priest for the Passover offering, what is the law? Would the frontlet propitiate for him [should he become unclean with uncleanness of the deep]?

[B] [The answer may be derived by logic with] an argument a fortiori: Now if the owners [of the Passover animal] whom you have placed at a disadvantage when [one of them is] an elderly or sick person [for the Passover offering, which was initially brought solely for consumption (M. 7:4) is not slaughtered for them, for they presumably are incapable of eating], yet you placed them at an advantage in the case of a doubtful 124 [uncleanness] of a grave of the deep [in that the frontlet does propitiate], then the officiating priest whom you placed at an advantage in the case of an elderly or sick person [i.e., should the priest be elderly or sick, he is fit to officiate, for his fitness is not contingent on his ability to eat], all the more so should you place him at an advantage in the case of doubtful [uncleanness] of a grave of the deep! [Hence the answer to A should be in the affirmative.]

[C] [Rejecting B's logic:] No, if you said [thus] concerning the owners whom you placed at an advantage in regard to all the remaining [cases of] uncleanness in the year [in that even when unclean they may send sacrifices], shall you say [thus as well] concerning an officiating priest whom you placed at a disadvantage in regard to all the remaining

[cases of] uncleanness of the entire year, in [that they may not officiate]?

[D] Hence, since you placed him at a disadvantage in regard to all the remaining [cases of] uncleanness of the entire year, you should place him at a disadvantage in regard to uncleanness by reason of a corpse on Passover [when it is a case of uncleanness of the deep].

[E] *What is upshot [of the law]?*

[F] R. Nahman in the name of R. Mana [said], “[In reference to the verse, ‘When any who are defiled by a corpse or are on a long journey of you or of your posterity and would offer a Passover sacrifice to the Lord’ (Num. 9:10), it is written] ‘Of you’ [in the plural form, indicating that the rule holds] whether [it be] him or his officiating priest.” [Hence the answer to A is in the affirmative.]

[G] Up to this point [we have derived an answer concerning] those preparing a Passover offering. [But] where do we derive [this rule in regard to] a Nazir [to which M. 7:7C itself compares the Passover rule]?

[H] *R. Yosé b. R. Bun in the name of R. Hisda [said], “[We considered making the ruling [in reference to the verse, ‘If a person dies suddenly near him’ (Num. 6:9) (in the singular form, indicating that the rule applies only)] ‘near [= to] him’ – not to his officiating priest.*

[I] *“But from that which it is taught [in M. 7:7C that] it is the same concerning a Nazir and one preparing a Passover offering – this indicates that what applies to this [the latter] applies to this [the former – and therefore the affirmative answer applies also to a Nazir].”*

[II:4 A] What is a grave “of the deep” [which would be considered unknown to people]?

[B] A corpse that is buried in stubble or straw, earth ll or pebbles [which by themselves might cover up a body], but that “which is buried in water or in a dark place or in clefts of boulders [places into which a body would not fall on its own and into which a passing person might see] does not make up a grave of the deep [T. Zabim 2:9].

[C] A general rule of the matter: whatever you are not able [: not likely] to clear out [but is left in its place] makes up a grave of the deep; and

whatever you are able [: are likely] to clear out [and may have been moved and hence known by at least one person], does not make up a grave of the deep.

[D] And [what about] stubble or straw you are not able to clear out? [An unanswered question].

[II:5 A] [As to M. Erub. 7:3, **If a trench runs between two adjacent courtyards ten handbreadths deep and four handbreadths wide, they prepare two erubs and do not prepare one jointly even if it was filled up with stubble and straw; but if it was filled up with earth or pebbles, they) prepare one Erub (jointly) and do not prepare two Erubin:**] *The teaching [M. Erub. 7:3 in its discounting of a straw filler for the trench] is not in accord with R. Yosé,*

[B] for R. Yosé said, “Straw [which is used to fill up a house containing a source of uncleanness and which makes the house unusable] and [one] negated it, it is [considered] negated, [and the contents of the house remain clean with the uncleanness assumed to move only upward and downward – for here Yosé considers straw, in addition to the earth and gravel specified in M. Ahilot and also mentioned in M. Erub. 7:3C but not discounted as a filler, as not readily removable from the house and hence permanently in place].”

[C] R. Yosé b. R. Bun [said] in the name of R. Hisda, “[No.] [M. Erub. 7:3] represents the view of all parties [even Yosé]. What R. Yosé said [in considering straw an adequate filler for a house so as to make the house unusable and therefore ritually clean] deals with a case in which [one] mixed it’ with earth [but where it is not so mixed, as in the case of M. Erub. 7:3, it is not considered a permanent object].”

[D] [Validating B’s approach that M. Erub. 7: 3 could represent even Yosé’s view but providing a different rationale:] **There is straw that is like earth and there is earth that is like straw. Straw that you are not destined [likely] to clear out, lo, it is like earth. Earth that you are destined [likely] to clear out, lo, it is like straw [T. Oh. 15:5, explicitly attributed to R. Yosé].**

[E] A member of the house of R. Yannai says, “[If one] covered it [the straw in the trench mentioned in M. Erub. 7: 3] with mattings, it is considered abandoned [and hence of lasting substance – and the filler of the trench would then not be discounted and the courtyard would require only a single Erub].”

[F] Now see here! [If one] filled it [the trench] up with mattings, it is not considered abandoned, [but if one merely] covered it up with mattings, it is considered abandoned!

[G] [The case of a person who] filled it up with dried palm branches is an issue [i.e., whether or not they were intended to make up a permanent filling for the trench].

[H] R. Zeriqan, R. Ammi in the name of R. Simeon b. Laqish [said], “If the trench was less (than four handbreadths wide, it does not divide the courtyard), even if it [the trench] is empty.”

[II:6 A] What is a grave “of the deep”?

[B] Whatever a person does not remember.

[C] And be concerned to say lest there is someone in a far corner of the world [who] knows [of it] [cf. T. Zabim 2:9B]. [For] there is a presumption that a live person will be preoccupied with the dead [who is his fellow]

[D] You may explain that [one] found it [the dead remains] in a compressed condition [with its head next to its legs, suggesting that the person had been, for example, crushed by rocks and was never actually buried].

[II:7 A] *It is taught:* “There is nothing that produces a grave of the deep except a corpse” [T. Zabim 2:9D].

[B] Lo, a woman with a flux [Lev. 15] – (does) she not (produce a grave of the deep [a doubtful case of uncleanness in the same manner])? Lo, an animal’s carrion, [does] it not [produce a grave of the deep]?

[C] [But is it not a matter of an argument] a fortiori: Now, if the corpse which does not produce uncleanness of couch and seat [uncleanness caused by an unclean person’s lying or sitting on an object] does produce uncleanness by reason of a grave of the deep, a woman unclean with flux, who does produce uncleanness of couch and seat, should [it] not logically produce uncleanness of a grave of the deep?

[D] For what matter was it said [initially, in A,] **“There is nothing that produces a grave of the deep except a corpse”?** [Was it not] to exclude a woman unclean with flux [Lev. 15] who produces uncleanness of] lying or sitting? [C’s argument blindly disregards the meaning of the different factors, for producing uncleanness of the deep

entails a leniency, to wit, the frontlet propitiates and the individual does not have to bring a second Passover. Hence marshaling something entailing a greater stringency than a corpse does not yield a logical deduction that this entity should likewise produce a grave of the deep.]

- [II:8 A] *There we learned: All animal sacrifices the blood of which was received [by] a commoner [non-priest], [a priest who is] an a mourner before the burial of his kinsman or one who immersed oneself that day and is waiting for sunset to become ritually clean, one missing [one of the required] garments, one whose atonement is incomplete [lacking only the sacrifice offered on the day after one's immersion], or one without washed hands or feet [as prescribed in Exod. 30:18-21], one uncircumcised, unclean, sitting, one standing on top of utensils [or] on top of an animal [or] on top of his fellow [without his feet on the floor] – [any one of these] is invalid [M. Zeb. 2:1].*
- [B] The Southerners say, “We deal [in M. Zeb. 2:1’s reference to an unclean priest] with one unclean by reason of uncleanness of a flux or uncleanness of leprosy. But [assuming that we may treat alike a community and an individual priest in regard to uncleanness caused by a corpse, a priest] unclean by reason of a corpse does not disqualify [the animal sacrifices] since [uncleanness of a corpse] was excepted from the general rule of uncleanness for the community regarding a Passover offering [in that the community is permitted to prepare the Passover offering in uncleanness].”
- [C] [Claiming that an officiating priest unclean by corpse uncleanness does disqualify:] *Retorted R. Simeon b. Laqish to the Southerners, “[No.] If the owners [of the sacrifice] whom you placed at an advantage in regard to all the remaining [cases of] uncleanness in the year [so that even when unclean they may send sacrifices], yet you placed them at a disadvantage when one is unclean by reason of a corpse in regard to a Passover offering [in that such a person must wait to prepare a second Passover], then an officiating priest whom you have placed at a disadvantage in regard to all the remaining [cases of] uncleanness of the entire year [in that he might not officiate], is it not logical that you should place him at a disadvantage in the case of uncleanness by reason of a corpse in regard to a Passover offering?”*
- [D] And furthermore, Rabbi taught: **“The frontlet propitiates for the uncleanness of the blood. The frontlet does not propitiate for the uncleanness of the body [here assumed to refer to a priest who has contracted uncleanness of a corpse]” [M. 7:7C]!**

- [E] [Assuming that M. 7:7C does not pose a problem, for the Southerners could construe uncleanness of the body as types of uncleanness that come out of the body, such as a flux or leprosy, M. 7:7D does pose a problem:] *If you say, “We deal [in M. Zeb. 2:1’s reference to an unclean priest’s disqualifying a sacrifice only] with one unclean by reason of uncleanness of a flux or uncleanness of leprosy,” [but one unclean by reason of a corpse does not disqualify], you cannot do so for we learn, “[That which] becomes unclean with the uncleanness of the deep – the frontlet propitiates” [M. 7:7D]* [and since uncleanness of the deep is produced only by a corpse, the frontlet propitiates only for such a count of uncleanness – “of the deep” – which by definition excludes “known” sources of uncleanness such as a definite uncleanness of a corpse] .
- [F] *What do the Southerners do [with the proof from M. 7:7D]?*
- [G] They explain it in regard to the owners. [Distinguishing between the referents of M. 7:7A-C and D, they could claim that M. 7:7D refers to the owners alone, suggesting that the frontlet propitiates only for their unknown sources of uncleanness (“of the deep”) but that M. 7:7B-C refers to uncleanness that comes out of the body in general, such as uncleanness of a flux or leprosy but *not* uncleanness by reason of a corpse, in this case that of the priest.]
- [H] *And lo, we learn “Nazir”* [in M. 7:7C – and Scripture warns a Nazir to avoid uncleanness only by reason of a corpse and not by reason of any of the uncleanness that come out of the body. The Mishnah would thus state that uncleanness by reason of a corpse would *not* be propitiated but would defile – in opposition to the Southerners’ interpretation.]
- [I] [The Southerners] explain it [M. 7:7B-C] in regard to the officiating priests [in the case of uncleanness that comes out of the body, and should such a person be a Nazir the frontlet does not propitiate; hence the Mishnah does not preclude the case of uncleanness by reason of a corpse].
- [J] *According to the approach of R. Simeon b. Laqish* [who holds that uncleanness of the body includes uncleanness by reason of a corpse and that for all such cases the sacrifice would be defiled] there is no difference between owners and officiating priests [for M. 7:7C refers to both of them in stating that the frontlet does not propitiate].
- [K] [Referring to Simeon b. Laqish’s reasoning], said R. Jeremiah, “Lo, this is an argument a fortiori which has a rejoinder, for

they [the Southerners] could say to him [Simeon b. Laqish], No! If you say [thus] concerning owners [of the Passover animal] whose strength you weakened when [any of them is] an elderly or sick person [for the Passover offering is not slaughtered for them], shall you say thus concerning an officiating priest whose strength you increased in the case of an elderly or sick person [i.e., should the priest be elderly or sick, he is fit to officiate].”

[L] And every argument a fortiori that has a rejoinder – that argument a fortiori is nullified.

[M] [Providing another objection,] said R. Hananiah, “Lo, this is an argument a fortiori which has a rejoinder, *for [the Southerners] could say to him [Simeon b. Laqish], ‘No! If you say [thus] concerning an owner [of the Passover animal], the [lack of] circumcision of whose males and slaves prevents ‘_ him [from participating in the Passover offering, as stated in Exod. 12:44, 48], shall you say [thus] concerning an officiating priest, the [lack of] circumcision of whose males and slaves does not prevent him [from participating in the Passover offering]?’”*

[N] And every argument a fortiori that has a rejoinder, that argument a fortiori is nullified.

[O] [*Challenging the Southerners’ assumption,*] R. Isaac bar Gupta asked before R. Mana, “If [the rule as to] an individual [who has become unclean] regarding the Passover offering were to be learned from [the rule applicable to] the community regarding the Passover offering [such that the individual, like the community, would not be postponed to the second Passover, then the rule as to] an officiating priest regarding the remaining days of the year [would] be learned from [the rule applicable to] the community regarding the Passover offering.” [But obviously, if in the former case, where both treat the Passover offering, the status of an individual is not learned from the community, then surely in the latter case, in which the person whose status will be illuminated is not involved with the Passover offering, the case of the individual (priest) would not be learned from that of the community.]

[P] R. Ammi asked [further challenging the Southerners], “That [mention of] unclean [in M. Zeb. 2:1], how do

you construe it? With regard to one unclean with uncleanness of flux or uncleanness of leprosy?"

[Q] *And lo, we learned [earlier in the very same Mishnah]:* **“One whose atonement is incomplete” [M. Zeb. 2:1]. If [a person] disqualifies [a sacrifice] once [one] has immersed oneself [that is, undergoing the immersion that takes place on the day prior to bringing the sacrifice], would one not all the more so [disqualify a sacrifice] before one has immersed [for example, when one is unclean by reason of a flux or leprosy]?**

[R] *[Moreover,] that [mention] of one who immersed himself that day and waits for sunset so as to become ritually clean [M. Zeb. 2:1], how do you construe it?* With regard to [one who has become a unclean by reason of a corpse?

[S] *Come and see.* [If] one unclean by reason of a corpse does not disqualify [a sacrifice, as the Southerners propose], would not all the more so a who had become unclean by reason of a corpse [not do so]?

[T] Rather [M. Zeb. 2:1] must refer to a one unclean who has immersed and who now awaits sunset to complete the process of purification, [who had become unclean] by reason of an unclean reptile.

[U] *Come and see* [however one unclean who has immersed and who now awaits sunset to complete the process of purification, [who had become unclean] from a corpse does not disqualify [a sacrifice], would not all the more so a one unclean who has immersed and who now awaits sunset to complete the process of purification [who had become unclean] from an unclean reptile [which is a less severe source of uncleanness, not do so]?

[V] Said R. Samuel bar Yudan, “[M. Zeb. 2:1’s mention of a one unclean who has immersed and who now awaits sunset to complete the process of purification] refers to a case Of one who touched those with a flux [and who remains unclean until the evening but does not have to undergo immersion].” [assuming Samuel b. Yudan would attempt to avoid the problem raised by R. question regarding the Mishnah’s need to specify

disqualifications in addition to “one whose atonement is incomplete,” suggest that R. Ammi’s question is not problematic, since one who touches a one unclean with flux [Lev. 15] remains unclean until the evening and does not require Immersion.]

[W] Rabbis of Caesarea explain all of it [M. Zeb. 2:1] in regard to a one unclean with flux [Lev. 15] in the status of one who has immersed and awaits sunset for the completion of the rites of purification who experienced one [instance of bleeding and hence is unclean only for one day], one unclean with flux who experienced two [instances of bleeding and hence is unclean for a week but does not have to bring a sacrifice], one whose atonement is incomplete who experienced three [instances of bleeding and, hence, is fully unclean and even required to bring a sacrifice]. [As M. Zeb. 2:1’s various clauses are thus all necessary, that Mishnah can be construed in accord with the Southerners’ explanation that a priest unclean by reason of corpse uncleanness does not disqualify the sacrifice.]

[X] [Challenging the construction of the Southerners’ position:] *According to the approach of the Southerners*, one who touches a one unclean with flux [Lev. 15] [is treated] like a one unclean with flux [Lev. 15]? [What is the basis for such a view?]

[Y] *We may derive [an answer to the question] from this which R. Eleazar [said] in the name of R. Hoshaya*, “[It (the frontlet) shall be on Aaron’s forehead] so that Aaron may take away any sin arising from holy things [that the Israelites consecrate]’ (Exod. 28:38) – the sin of that which is offered; not the sin of those who make the offering”

[Z] What is “the sin of that which is offered” [which the frontlet propitiates]? The blood of a one unclean with flux [Lev. 15]? [Obviously that is not something which would be offered.] [Rather] is it not [blood which] a one unclean with flux [Lev. 15] touches? *And similarly*, “the sin of those who make the offering,” [which the frontlet does not propitiate, refers to] one who touches a one unclean with flux

[Lev. 15] [hence such a priest is treated like a one unclean with flux [Lev. 15].

[AA] This indicates that [if] the community was made up of those who have touched of one unclean with flux [Lev. 15] and those who have touched of one unclean with flux [Lev. 15], [they] do not prepare [the Passover offering] in uncleanness [for they are not propitiated by the frontlet but are to wait a month to prepare the second Passover].

7:8

[A] [If] the whole or the larger part [of the Passover offering] was made unclean,

[B] they burn it before the Temple building, with wood set aside for the altar hearth.

[C] [If] the lesser part of it was made unclean, and as to that which remains over [and is not eaten in the time limit set for the eating of the Passover offering] –

[D] they burn it in their courtyards or on their roofs with their own wood.

[E] But the cheapskates burn it before the Temple building, so as to enjoy the use of wood set aside for the altar hearth [instead of using their own].

[I:1 A] R. Hama bar Uqba in the name of R. Yosé b. Haninah [says], “In order to expose him to proclaim that [the one burning the sacrifice] spoiled it.”

[B] **[If a person] said, “Behold I will burn it before the Temple mount with my own wood [as if to appear magnanimous despite his initial negligence in allowing the animal to become unclean]” – they do not listen to him [T. 3:13].**

[C] [The tradition in B] need not [be said] except [for the sake of conveying the case of a person who] said, “Behold, I will burn it on my roof with my own wood” [as then the person would neither make use of the public wood nor perform a public act that others might observe] – all the more so they do not listen to him. [He is not allowed to circumvent the procedure because it is aimed at publicizing his negligence, as suggested in A.]

[I:2 A] [Explaining why they do not allow a person to burn a minor part of an unclean offering before the Temple mount with his own wood:] Said R. Jeremiah in the name of R. Hila, “To proclaim [to] the one who

comes after him that [the one who is burning his unclean offering] is stingy.” [Because burning before the Temple mount is always done with the public wood of the altar pile, whoever is not required to burn there and does so appears blatantly stingy. To insure that such a burning conveys this message, no one is permitted to use his private wood at the Temple mount.]

[B] [Supporting A:] Know that in every place [the Mishnah] does not call him [such a person] “stingy,” but here you call him “stingy” [hence it is reasonable to assume that M. 7:8C’s use of this appellation is significant in conveying the purpose of the rule].

[I:3 A] [Contrasting the differing requirements for burning unclean meat with the wood pile of the altar found in M. 7:8, which specifies that the whole or most of the animal become unclean, and in M. 3:8, which treats even a small amount of unclean sacred meat: **one who has gone out from Jerusalem and remembers that he has in his possession sacred meat which thereby becomes invalid” and yet which states: “if it had not gone beyond the lookout spot outside Jerusalem he returns and burns it before the Temple mount with the woodpile of the altar:**] They] made a leniency in regard to a traveling guest S [the pilgrim in M. 3:8, who could not be expect to have a personal source of wood and hence may make use of the public pile (without being considered “stingy”)].

[I:4 A] Said R. Yohanan, “A tower stood on the Temple mount and was called birah.”

[B] R. Simeon b. Laqish said, “The whole Temple mount was called birah,

[C] “[as is exemplified in the following verse describing David’s entreaty before God:] ‘[As to Solomon, give him a whole heart to observe Your commandments, Your admonitions, and Your laws,] and to fulfill them all, and to build this birah for which I have made provision’ (1 Chron. 29:19) [and here the term obviously refers to the Temple or Temple area and not just to a small edifice in it such as a tower].”

7:9

[A] **The Passover offering which went forth [from Jerusalem] or which was made unclean is to be burned immediately [on the fourteenth].**

[B] **[If] the owner was made unclean or died,**

[C] **its appearance is allowed to spoil, and it is to be burned on the sixteenth of Nisan.**

- [D] R. Yohanan b. Beroqah says, “Also: his is to be burned immediately, for it has no one to eat it.”
- [I:1 A] *Teaches R. Hiyya: “[A case of] unfitness in itself is burned immediately. [A case of] unfitness, regarding a precondition [of the offering that does not make the animal in itself unfit, for example, when the owners died or became unclean] requires [disfigurement of] appearance [being left to spoil overnight]” [T. 6:6].*
- [B] *Said R. Yosé, “A Tannaite teaching said likewise [that one must distinguish between these two types of unfitness]: A Passover offering that went out [of Jerusalem thereby becoming unclean] or that [otherwise] became unclean is [considered] unfit in itself and is burned immediately. [If] the owners became unclean or died, it is [a case of] unfitness [of the offering] and requires [disfigurement of] appearance.”*
- [II:1 A] R. Hama bar Uqba in the name of R. Yosé bar Haninah [said], “R. Nehemiah [as cited in B below] and R. Yohanan b. Beroqa [as cited in M. 7:9C] both said the same thing.”
- [B] *For it is taught [in a passage which speaks in regard to Leviticus 10’s account of Aaron, who, after the death of his sons Nadab and Abihu during the period of priestly initiation, burned the goat of the sin offering rather than eating of it]:*
- [C] Said R. Nehemiah, “[Because of the pre-mourning period between a relative’s death and burial) it was burned. Therefore it was said (in Aaron’s response to Moses’ reprimand, Lev. 10:19): ‘See, this day they brought their sin offering and their burnt offering before the Lord, and such things have befallen me. Had I eaten sin offering today, would the Lord have approved?’ [Aaron on his own followed the principle represented, for example, in Deut. 26:14, which speaks of the inappropriateness of eating consecrated objects while in mourning.]”
- [D] [R. Judah and R. Simeon say,] “And was it because of the rites of mourning that it was burned? Was it not burned rather because of the uncleanness [of the particular offering]?”
- [E] For if it had been burned because of observing the rites of mourning, all three [of the goats of the three different sin offerings scheduled to be sacrificed that day: that of the Israelites (Lev. 9:3, 15); that of Nahshon (Num. 7:16-17); and that of the new moon (of Nisan which coincided with the eighth day of the initiation and with the day of the dedication of the sanctuary Lev. 10:16-17)] should have been burned.

[Lev. 10:16-17, 19, however, speaks of only one offering that had been burned, and that one, in en tailing atonement for the “community,” must have been the new moon offering; it had somehow become unclean.]

[F] Another matter [an alternative objection]: [Even if they were in a state of the rites of mourning,] was Phineas [the son of Eleazar] not with them [and being a priest but not in a state of the rites of mourning, could he not have eaten the goat]?

[G] Another matter [an alternative objection]: And was it not permitted to eat it at night? [Even if they were in a state of observing the rites of mourning, since it does not apply at night, some other reason must explain the burning of the goat.]

[H] *According to the view of R. Nehemiah*, let him burn [all three]!

[I] R. Nehemiah [in fact] holds [that] all three were burned.

[J] [But] Phineas could have eaten [them]?

[K] Phineas, however, had not yet been appointed high priest.

[L] But Aaron should have eaten [it] at night?

[M] R. Nehemiah holds that the rites of mourning [applies at] night [on the basis of] the Torah.

[N] Said R. Jeremiah, “Even R. Yosé the Galilean holds like them [R. Nehemiah and R. Yohanan b. Beroqa].” [From Yosé’s view, which on the basis of the case of Aaron’s sin offering – specifically the language in Lev. 10:17-18 (cf. Lev. 6:23) – yielded the position that sin offerings for all time become disqualified if their blood is taken into the sanctuary and hence, must be burned immediately, we learn that in a case of disqualification regarding a precondition of the offering, the animal should be burned immediately.]

[II:2 A] *We learned there: A sin offering the blood of which was received in two cups – [if] one of them went out [of the Temple’s courtyard], the inner one [remains] fit; [if] one of them went inside [into the sanctuary within the Temple], R. Yosé the Galilean declares the one [remaining] on the outside [part of the Temple] fit and sages declare [it] unfit [M. Zeb. 8:12].*

[B] [Said R. Eleazar, “Know that it [the case of M. Zeb. 8:12’s two cups of blood, one of which became disqualified by being taken into the

sanctuary,] is [an instance of] unfitness regarding a precondition of the offering according to R. Yosé the Galilean, for behold its companion cup remains outside [within the Temple courtyard] and it is fit.

[C] “Know that it [this case] is [an instance of] unfitness of [the offering] itself according to rabbis [Yosé the Galilean’s disputants, termed in the Mishnah “sages”], for behold it remains within its precinct [within the Temple courtyard when the other cup had been taken inside the sanctuary] and it is unfit.”

[D] [Assuming that Yosé’s and sages’ views in M. Zebahim differ over the notion of “all” or “part” of the blood and explaining how each would interpret Moses’ criticism of Aaron, “Since its blood was not brought inside the sanctuary, you should certainly have eaten it in the sanctuary, as I commanded” (Lev. 10:18)]

[E] Rabbis expound: because some of its blood was not brought inside, “you should certainly have eaten it.” Lo, if some of its blood had gone inside, you would have acted appropriately in that you burned [the animal].

[F] R. Yosé the Galilean expounded: because all of its blood did not go inside, “you should certainly have eaten it.” Lo, if all of its blood had gone inside, [only then] would you have acted appropriately in that you burned [the animal].

[G] [Providing proof-texts for sages’ and Yosé’s assumed positions regarding “all” or “part” of the blood:]

[H] *What is the reason [proof-text] of the rabbis?* “But no sin offering [may be eaten] from which any blood is brought [into the Tent of Meeting for expiation in the sanctuary; any such shall be consumed in fire]” (Lev. 6:23) – even some of its blood.

[I] *What is the reason [proof-text] of R. Yosé the Galilean?* “Since its blood was not brought into the sanctuary [you should certainly have eaten it in the sanctuary]” (Lev. 10:18) [which is understood to refer to all of its blood].

[II:3 A] *It is taught* [in regard to Lev. 6:17-23’s rule of the sin offering]: R. Yosé the Galilean says, “This whole case refers only to bullocks that are to be burned and goats that are to be burned [i.e., not to an outer sin offering but to an inner sin offering (e.g., that of a whole community that sins in ignorance and whose bull, after its sacrificial blood rite, is burned outside the camp, as described in Lev. 4:13-21)] to impose regarding them a negative prohibition for eating them and to teach that

their unfit [specimens] are burned on the Temple mount [instead of being taken outside the camp, i.e., outside the Temple].”

- [B] They said to him, “Whence [do we know] that an [outer] sin offering, if some of its blood went inside, should be unfit?”
- [C] He said to them, “Not from this verse [Lg adds: “which is written”], ‘Since its blood was not brought into the sanctuary [you should certainly have eaten it in the sanctuary]’ (Lev. 10:18)?”
- [D] Lo, it does not say, “some of its blood” (MDMH, but rather “all of its blood” [i.e., the unqualified “its blood” is assumed to denote blood without qualification or limitation, and thus “all” the blood]?
- [E] The answer [that is, the logical argument attributed to Yosé in M. Zeb. 8:12] to R. Aqiba, who used to say, “of its blood’ (Lev. 6:23) [denotes] even some of its blood.”

7:10

- [A] **Bones, sinews, and that which is left over [and not eaten within the stated limits] are to be burned on the sixteenth of Nisan.**
- [B] **[If] the sixteenth of Nisan coincides with the Sabbath, they are to be burned on the seventeenth.**
- [C] **For [burning] them does not override the prohibitions either of the Sabbath or of a festival day.**

[I:1 A] A bone on which there is no flesh –

[B] R. Yohanan said, “It is prohibited to break it.”

[C] R. Simeon b. Laqish said, “It is permitted to break it.”

[D] *R. Yohanan asked R. Simeon b. Laqish, “And lo, we learned, ‘**The bones and the sinews and the leftover portions should be burned on the sixteenth**’ [M. 7:10A] [and presumably the mention of ‘bones’ refers to a bone without flesh (especially since the third item, the ‘leftover portions,’ would cover the case of flesh;) – and if the ban on breaking does not apply to a bone without flesh, why must it be burned]?”*

[E] And let [one] cut [open] the bone?

[F] [One may not] because of the marrow that is in the bone [which becomes a “*leftover portion*” requiring burning].

[I:2 A] And let [one] strip the flesh from the bone and enjoy the bone? [Why then does the Mishnah require burning of the bone?]

- [B] [*Answering A:*] [*They*] considered making the ruling, “[*They*] do not strip [even] the disqualified [portions, here, of the Passover offering].”
- [C] Said R. Eleazar, “And even if you say, ‘[*They*] do strip [disqualified portions],’ explain it in accord with R. Jacob,
- [D] “for **R. Jacob said, ‘That which comes initially fit and [subsequently] becomes unclean is prohibited [under the ban of] breaking a bone’ [T. 6:9B].**” [The principle would equally apply to a disqualification such as being “leftover.]
- [I:3 A] R. Immi [said] in the name of R. Eleazar, “Why did [*they*] say, ‘**The bones and the sinews and the leftover portions should be burned on the sixteenth** ‘ [M. 7:10A?]”
- [B] “Because one who burns [the bone prior to that time] falls under the category of [one who] breaks [a bone].” [This rationale assumes that breaking a bone applies only to fit bones and not to those that have become unfit by being left over.]
- [I:4 A] Samuel said, “[*They*] are registered [for a Passover offering] on the marrow in the head, and [*they*] are not registered on the marrow in the bone.”
- [B] [*Explaining A:*] “[*They*] are registered on the marrow in the head” – for he is able to remove it by way of the ear [e.g., with a chip]; “[*they*] are not registered on the marrow in the bone” – for he is able to remove it only by way [by means] of breaking.
- [C] R. Yohanan said, “[*They*] are registered on the marrow in the bone [because a person may remove the marrow by burning with a coal, which is not to be considered equivalent to breaking].”
- [D] R. Jacob bar Aha [said] in the name of R. Yohanan, “They are not registered on the marrow of the bone, but if [*they*] are registered – [*they*] are [considered] registered. [Despite the prohibition of burning, if one so acted, the marrow remains valid and any registration based on it becomes valid.]”
- [E] *According to the view of R. Yohanan [in declaring valid after the fact a registration on the marrow, must assume that burning is not equivalent to breaking], let [a person] burn [the marrow before the fact] and be registered [on it]?*
- [F] [He does not do so before the fact] because of the loss of holy portions [indirectly causing the loss of some of the marrow through the burning].

[G] According to the view of Samuel, let [one] burn [the bone – instead of breaking it] and be registered [on the Passover offering]?

[H] Samuel holds like R. Eleazar [who believes that burning is equivalent to breaking; hence Samuel would assert that in all circumstances one may not be registered on the marrow].

[I] [Furthermore:] Samuel holds like R. Jacob, for **R. Jacob said, “That which comes initially fit and [subsequently] becomes unclean is prohibited [under the ban of] breaking a bone” [T. 6:9B]**.. [Samuel’s ban on burning also fits Jacob’s view, which would explain that the Mishnah requires burning on the sixteenth because prior to that time there is no viable alternative procedure such as burning the bone to remove the marrow.]

[I:5 A] [Responding to R. Yosé’s teaching, in y. Shab. 2:1, that differentiates between the burning on a Sabbath or festival eve of sacred sacrificial and non-sacrificial portions that would continue to burn into the next day; the former (burning sacred portions) being prohibited and the latter (burning non-sacred portions) permitted:] *Why did you see [fit] to say thus [that the sacred portions constitute a special case]?*

[B] [Because of the verse,] “You shall not leave any of it over until morning; if any of it is left until morning, you shall burn it” (Exod. 12:10). [In twice mentioning the word “morning” in regard to the leftover Passover offering, the verse indicates that the burning is to occur] after two mornings, after the morning of the fifteenth and after the morning of the sixteenth [and not on the festival day itself]

[C] And [further we find an analogous situation regarding the well-being offerings that are burned on the third day, as] it is written, “And what is then left on the flesh of the sacrifice shall be consumed in fire on the third day” (Lev. 7:17) [and should not be consumed until then, even during the night after the second day].

[D] [Posing a question patterned after y. Shab. 2:1’s earlier deduction from M. Shab. 2:1 that it is prohibited to kindle a fire with sacred portions to burn from Sabbath eve into the Sabbath:] What is the law, is it permitted to kindle the fire with a pyre of leaven [which was started prior to Passover and which continued to burn on Passover]?

[E] [*According to*] *the one who learned* [the law of burning leaven] from [the case of] leftover [sacred] portions – it is prohibited. [Just as it is prohibited to burn sacred portions from a festival or Sabbath eve into the next day, so one does not burn leaven on Passover even if the

burning started on Passover eve.] *According to*] *the one who does not learn from* [the case of] leftover [sacred] portions – it is permitted.

- [F] Said R. Bun bar Hiyya, “[As to burning leftover sacred oil at night:] They followed the approach of R. Ishmael. Just as R. Ishmael said there (in the case of the Sabbath) that an infant whose time for circumcision has passed (i.e., who is more than eight days old is circumcised either during the day or during the night, so here, if the time has passed (for eating the leftover sacred oil, it) is burned either during the day or during the night.”]

7:11

- [A] **Whatever is eaten of a full-grown ox may be eaten of a tender lamb, even the ends of the shoulder blades and the gristly parts.**
- [B] **He who breaks the bone of a Passover offering which is in a state of cultic cleanness – lo, this person receives forty stripes.**
- [C] **But one who leaves over [any part] of a Passover offering which is in a state of cultic cleanness and one who breaks a bone of a Passover offering which is in a state of cultic uncleanness do not receive forty stripes.**

[I:1 A] Soft sinews that are not necessarily destined to harden] –

- [B] R. Yohanan said, “[People] are registered on them [so that the sinews would comprise their portion in the Passover offering].”

[C] R. Simeon b. Laqish said, “[People] are not registered on them.”

[D] *R. Jacob b. R. Aha [said] in the name of R. Zeira, “The approach of R. Yohanan is reversed [and] the approach of R. Simeon b. Laqish is reversed [that is, both appear inconsistent with their views elsewhere].”*

[E] *For they are in dispute, for we learned there [in M. Hul. 9:2]: [In the case of] these, their skin [hide] is deemed equivalent to their meat: (1) the skin of man, and (2) skin of a domesticated pig – R. Yosé says, “Also: The hide of a wild boar” – and (3) skin of the hump of a young camel, and (4) the skin of the head of a young calf, and (5) the skin of the hooves, and (6) the skin of the genitals, and (7) the skin of the foetus, and (8) the skin which is under the fat tail, and (9) the skin of the hedgehog, and the chameleon, and the lizard, and the snail. R. Judah says, “The lizard is equivalent to the weasel.” And all of them which one tanned, or on which one trampled so [that they are fit for] use are clean [and do not impart food uncleanness],*

except for the skin of man. R. Yohanan b. Nuri says, “The eight creeping things (Lev. 11:29-30) have hides.”

[F] Said R. Yohanan, “They taught [in this text; i.e., it speaks] only regarding a prohibition [on eating] and regarding [imparting] uncleanness, but regarding lashing [for eating the skin] it is [considered] skin, but [they] do not impose lashes regarding it under the category of carrion [for it eventually hardens].”

[G].R. Simeon b. Laqish said, “Rabbi taught an undisputed Mishnah without differentiating between a prohibition, lashing, [and] uncleanness [and hence the skin of the specified animals is considered like flesh for all matters].”

[H] *The approach of R. Simeon b. Laqish is reversed! There [regarding the imposition of lashes on eating skin] he treats it [the skin] like flesh [despite the skin and flesh making up different substances] and here [regarding registering to eat the sinews] he does not treat it like flesh [for the fact that the flesh and sinews make up different substances accounts for the invalidity].*

[I] *The approach of R. Yohanan is reversed! There he does not treat it like flesh [because skin and flesh are different substances], and here he treats it like flesh [despite their being different substances].*

[J] [Regarding Yohanan’s purported inconsistency:] Said R. Judah b. Pazzi, “It is different [the two cases are not comparable]. There [we speak of] skin, and skin eventually hardens [which is not the case regarding sinews].” [Hence, Yohanan can find the differences decisive regarding skin but not sinews.]

[L] *All the more so the approach of R. Simeon b. Laqish is reversed! Just as if there where it eventually hardens, he treats it like flesh, here, where it does not eventually harden, all the more so [should he treat it like flesh]? [If he holds the two substances comparable, where the skin hardens, should he not do so where the sinews do not harden?]*

[M] *Said R. Abun, “The reason of R. Simeon b. Laqish [is based not on logic but on Scripture:] ‘They shall eat the flesh’ (Exod. 12: 8) – [which is to be taken literally and therefore] not sinews.”*

[O] *The rabbis of Caesarea said, “R. Hiyya and R. Isaac [differed on the assessment of this apparent inconsistency:] one reversed [the actual opinions making the two masters consistent in their positions] and one [taught] in accord with this teacher’ [the current version presented above].”*

[P] *The one who reversed does not have these [above] questions [to resolve, for the masters would appear consistent].*

[II:1 A] And how much must one break [in a bone of the Passover offering so as to make oneself liable]?

[B] R. Yosé and R. Zeira [said] in the name of R. Yohanan, “Sufficient that a hand become caught.”

[C] *R. Jonah said [that] R. Zeira and R. Ba, both of them said in the name of R. Yohanan [the following differing reports]: “One said, ‘Sufficient that a hand become caught,’ and the other said, ‘Even [sufficient for] a fingernail [to become caught].”*

[D] *The one who said “a hand” [senses the break], all the more so a fingernail [would suffice]. The one who said a “fingernail” [suffices to sense the break] – but not a hand].*

[E] *There are those who say:] R. Yohanan and R. Simeon b. Laqish – both of them said, “In all situations [a person] is not liable until he breaks a bone that has flesh on it and [the break in the bone should come] from the place of the flesh.”*

[F] *R. Jacob b. R. Aha said [that] Samuel bar Abba asked, “If it is so [that the requirements hold], in all situations [a person] is not liable unless he take a stone and crush [a bone with it] [for otherwise in, e.g., using one’s hand to break the bone, the flesh would separate and no longer remain attached to the bone]?”*

[G] “[Nor shall you break] a bone [of it]” (Exod. 12:46) [the formulation in the singular comes] to make [one] liable regarding each bone.

[H] *This which you say [that rule applies] where [there is] one warning [then one is liable only once in regard to an individual bone] but [not] where [there are] two warnings, for then even [where there was] a single bone and [one] broke it and broke it once again it, [one] is liable twice [once for each act of breaking].*

[I] R. Jeremiah asked, “Is not this [following tradition attributed to Simeon b. Laqish] in dispute with R. Simeon b. Laqish, for R. Simeon b. Laqish said, ‘A bone on which there is no flesh, it is permitted to break it.’ [And here he] said only that [one] should not be lashed [for he speaks of a person not being ‘liable’ for breaking a bone without flesh] – lo, as to a prohibition, [it is] prohibited?”

[III:1 A] But one who leaves over [portions even] in a clean [offering] and one who breaks [the bone] in an unclean [offering] is not lashed forty [times]:

[B] *R. Abun in the name of R. Eleazar [said], “The teaching deals with a case in which [the offering] initially was presented in [a state of] uncleanness, but if it came in [a state of] cleanness and [then] became unclean [it is considered] like [one] that came in [a state of] cleanness and they impose lashes on breaking it[s bone].”*

[C] *R. Yohanan asked R. Simeon b. Laqish, “And lo, we learned, ‘**The bones and the sinews and the leftover portions should be burned on the sixteenth**’ [M. 7:10A] [and presumably the mention of ‘bones’ refers to a bone without meat (especially since the third item, the ‘leftover portions,’ would cover the case of meat;) – and if the ban on breaking does not apply to a bone without meat, why must it be burned]?”*

[D] And let one cut [open] the bone?

[E] [One may not] because of the marrow [that is in the bone – which becomes a “*leftover portion*” requiring burning].

[F] And let one strip the meat from the bone [= “and enjoy the bone”]? [Why then does the Mishnah require burning of the bone?] And [following Simeon b. Laqish’s position] let one cut [the bone]?

[G] So that [in the process] it not split under the flesh [that might be elsewhere on the bone].

7:12

[A] A limb [of a Passover offering] part of which projected outside [of Jerusalem] –

[B] one cuts it away until he reaches the bone,

[C] pares off the flesh until he reaches the joint,

[D] and then he cuts it away.

[E] And in the case of Holy Things, he [simply] chops it off with a chopper.

[F] For to [any of the Holy Things except for the Passover offering], the law against breaking a bone does not apply.

[G] From the doorstep and toward the inner part of the city is an area deemed inside the city.

[H] From the doorstep and outward is an area deemed outside the city.

[I] The windows and the thick part of the wall are deemed an area inside the city

[I:1 A] R. Simon, R. Joshua b. Levi in the name of bar Pedayah, "Sacrificial meat in the status of refuse and remnant of sacrificial meat join to impart uncleanness to hands, bringing about a punishment when they comprise an olive's amount."

[B] What is the law: Would [sacrificial meat in the status of refuse and remnant] render heave offering invalid?

[C] [The answer is clear from a] an argument fortiori: If [offerings that become sacrificial meat in the status of refuse or remnant] impart uncleanness to hands, [rendering them] capable of invalidating the heave offering, they themselves all the more so [should directly be able to invalidate the heave offering].

[I:2 A] That part [of the offering that] projects out [from the holy precincts, thereby becoming invalid], *what do you do with it?* Does it impart uncleanness to hands or does it not impart uncleanness to hands?

[B] [Assuming that eating sacrificial meat in the status of refuse and remnant of sacrificial meat poses more severe consequences than eating a portion of an offering that projects out from the holy precincts:] If you say: that part that projects out [a violation for which milder preventive measures are needed than for preventing eating an offering after its proper time, as in remnant of sacrificial meat or sacrificial meat in the status of refuse] imparts uncleanness to hands, [then logically] sacrificial meat in the status of refuse and remnant of sacrificial meat surely render heave offering invalid [for they cannot be in the same status as a sacrificial portion that projects out]?

[C] If you say: the sacrificial meat in the status of refuse and remnant of sacrificial meat do not render heave offering invalid, that part that projects out was not subject to any type of preventive measure. For otherwise [if you declare that part to be capable of imparting uncleanness], the outer portion would impart uncleanness to the inner portion' [which would invalidate the entire offering – a position no

one would entertain; it would run counter to M. 7:12, which sets out a procedure for cutting and separating limbs that extended outside of the designated area].

[D] *Said R. Abin, “Which authority claims that an object may become unclean due to contact with itself? Is it not R. Meir [who, as in M. Hul. 4:4, holds a minority position rejected by the majority]?”*

[E] And did not R. Joshua say, “All things which are clean when they are in the majority [e.g., a limb of a Passover offering which remains clean despite the invalidity of a minor part of it], once its larger part is cut off [as prescribed in M. 7:12, its contact with the rest of the offering] is considered not under [the category of] [something] separated but [as an independent unclean object] under [the category of] touching it [the offering] and it would become invalid?” [According to all authorities, then, a portion of the offering extending out of the holy precincts and considered “unclean” could impart uncleanness to the rest of the offering.]

[F] Said R. Hananiah, “It is a case in which one cuts off small portions and throws [them] away [and each one cannot make up a sufficient amount to impart uncleanness to the larger limb].”

[II:1 A] R. Ba in the name of R. Judah [said], “They did not sanctify below the door frame of Jerusalem [within the area of the door way].”

[B] R. Jeremiah in the name of R. Samuel b. R. Isaac, “[They left that location unconsecrated] so that the lepers could protect themselves below them [under the city gates] in sunny weather from the sun and in rainy weather from the rain.”

[C] *And similarly* [should we not argue that they] did not sanctify below the door frame of the Temple Mount so that one unclean with flux [Lev. 15] could protect themselves below them in the sunny weather from the sun and in the rainy weather from the rain?

[D] [No.] A leper [without the measure] has no place to protect [himself in Jerusalem], [but] one unclean with flux [Lev. 15] has a place to protect himself in all of Jerusalem [outside the Temple’s outer courtyards, for even if a person with a flux had been excluded from the courtyards, he could find refuge in the rest of the city].

[E] *R. Yohanan b. Madaya in the name of R. Phineas [said], “From [the fact] that we see rabbis removing their sandals below the door frame of the Temple Mount [in accord with M.Ber. 9:5, which bans the wearing of shoes in the Temple Mount] – this indicates*

that they did not sanctify [the area] below the door frame of the Temple Mount.”

- [II:2 A] Rab asked R. Hiyyah the Elder, “What is the law regarding the roofs of Jerusalem?”
- [B] He said to him, “*From [the fact] that they spin a parable: [When there were so many people registered on Passover lambs, each received a portion of] a Passover offering in [the size of] an olive and the Hallel [sung during the eating of the offering] breaks the roofs [due to the overpowering sound] – this indicates that the roofs of Jerusalem are sanctified [for the people ate the offerings thereon].*”
- [C] R. Jeremiah, R. Meesha [in the name of] R. Samuel b. R. Isaac in the name of Rab, “The roofs of Jerusalem are unconsecrated [not sacred].”
- [D] *And lo, we learned, “**From the door frame and within [is considered] as within, and from the door frame and outward [is considered] as without**” [M. 7:12C] [which suggests everything on the inner side of the doorway of Jerusalem is holy, even the roofs of the houses within that area].*
- [E] You may explain it [the Mishnah, in declaring the items within as holy, that it speaks] regarding a roof that is surrounded by the space of the courtyard [and is therefore neither adjacent to the wall nor projecting above it – but roofs otherwise are not sacred].
- [F] *And lo, we learned, “**The windows and the thickness of the wall [of Jerusalem are considered] as inside**” [M. 7:12D] [and the thickness of the walls would include the space above the walls, 6 which like the roofs would not be surrounded by the space of the courtyard. Yet the implication of the Mishnah is that the space above the walls is considered sacred, which contradicts the notion that the roofs are not sacred]?*
- [G] Even it [M. 7:12D, could be construed to speak] regarding a roof that is surrounded by the space of the courtyard,
- [H] *and it is in accord with that which R. Aha in the name of R. Hinena said, “‘He has caused wall and rampart to mourn’ (Lam. 2:8) – [this refers to] a wall and a smaller [i.e., lower, inner] wall [and the Mishnah would refer to the latter lower wall, and hence the space above that wall would be encircled by the courtyard and not project above the height of the outer wall].”*

- [I] If they sanctified the thickness of the wall [encompassing, e.g., holes in the wall], all the more so [they did likewise for a] window, [so why then does the Mishnah specify both items]?
- [J] Said R. Aha, “It is necessary [to specify a window] in regard to a window that is above the door frame [within the doorway complex, e.g., above the door itself].”
- [K] Even though you might say: they did not sanctify below the doorframe of Jerusalem, the window that is above the door frame they did sanctify.
- [L] *It was taught in the name of R. Judah, “The caves under the Temple [are considered] unconsecrated and the roofs of the Temple [are considered] sanctified” [T. Kel. B.Q. 1:11].*
- [M] *R. Immi in the name of R. Simeon b. Laqish [said], “The teaching [in the Mishnah] said thus [likewise that the underground areas are unconsecrated]: A fire was there [in the Immersion Chamber] and a seemly privy and this was its seemliness. If one found it – if it was locked, one knew that a person was there; opened, one knew that there was not anyone there” [M. Tam. 1:1] [for the presence of the privy indicates that the underground area was not sacred, as suggested by Deut. 23:10-15].”*
- [N] Said R. Yosé, “And is excrement [a matter of ritual] impurity; is it not merely [rather a matter of] cleanliness [being considered filth]?” [Hence, technically it could be situated in a sacred area – if not for esthetic considerations and the disrespect involved.]
- [O] *And where does [the Mishnah] say this [that the underground areas are unconsecrated]? [In the following clause:]*
- [P] **“[If one of them (of the priests) suffered a pollution, he would] go out and go along the passage that runs under the Birah [the Temple building], and candles were lit [there] on both sides, until he reaches the Immersion Chamber” [M. Tam. 1:1].**
- [Q] If [the caves underground] had been sanctified, [the priest] would go the shortest route [to become ritually clean by immersion and not take such a circuitous route

along the way of the whole Temple building; cf. M. Shebi'it 2:3].

7:13

[A] Two associations [registered for two separate Passover offerings] that were eating in one room –

[B] these turn their faces to one side and eat,

[C] and those turn their faces to the other side and eat.

[D] And the kettle is in the middle [between them].

[E] And when the waiter [who eats with one association but serves them both] stands up to mix the wine [of the company with which he is not eating],

[F] he shuts his mouth and turns his face away until he gets back to his own association,

[G] and then continues eating.

[H] And a bride turns her face aside while she eats,

- [I:1 A]** It is written, “[It shall be eaten in one house;] you shall not take out from the house any of the flesh outside” (Exod. 12:46). I only know [from this verse regarding] outside the house; where [do I learn regarding] outside the association? The teaching [the verse] says, “You shall not take out outside.” [The command is assumed to have two referents, one to “the house” and the one to “the flesh,” and the last word, “outside,” is understood to relate in particular to the second referent: “do not take out from the house” and “do not take out from the flesh outside.” The latter command thereby states: “do not take the flesh outside the place of its eating.”]
- [B]** Said R. Yudan, “From here [we learn] that if [one, after starting to eat with the association,] said, ‘Behold I am outside the association’ [yet continues to eat] – that person [is considered to have dissociated himself from the association and] becomes liable [for violating the ban, even if there is no other association in the house.”]
- [C]** Said R. Mana, “Let the verse state, ‘Do not take out outside’ [meaning outside the place of its eating] and we would say: if one is liable [for taking flesh] outside the association, all the more [so would one be liable when one took the flesh] outside the house?”]
- [D]** *R. Immi queried*, “[If one] took out [flesh] from one association to another association in two houses [does one] become liable twice, [once] for [violating the ban on] ‘You shall not take out from the house’ and [once] for [violating the ban on] ‘You shall not take

outside’?” [In thinking of such a situation, where the double referent in Exod. 12:46 is necessary to impose a double liability on a person, Mana’s question is answered, for Mana’s proposed logical extension could produce a second prohibition, but not, on that basis alone, a punishment for violating the prohibition.]

- [I:2 A] [If the members of the association] registered on the Passover offering – [if] one [person] took out [flesh in the measure of] an olive, [that person is] liable; [if] two or three [took out an olive’s amount, they are] exempt [from liability for punishment for violating a negative commandment],
- [B] because the members of the association are fit to extend themselves to them [moving the site of the association to the place of the two or three individuals – something that would not be fitting for them to do for a solitary individual] though they violate a positive commandment [of “it shall be eaten in one house” (Exod. 12:46), which was understood to require eating the offering in one location].
- [C] And according to R. Simeon, even a positive commandment [they] do not violate, *for it is taught*:
- [D] “‘The houses in which they are to eat it’ (Exod. 12:7) – [this use of the plural form of house] teaches that the Passover offering is eaten in two places [i.e., it may be allocated to two associations].
- [E] “‘Perhaps also those who eat it may eat it in two places [i.e., that they be free to roam about eating it]?”
- [F] “‘The teaching [the verse, therefore] states, ‘It shall be eaten in one house.’ How is this so? A Passover offering is eaten in two places, but its eaters do not eat it in two places. [Different parts of the animal may be eaten by *different people* in separate associations in two locations, but the same individuals may not eat it in the two places]’
- [G] “‘R. Simeon says, ‘Even its those who eat it eat it in two places.’”
- [H] *How does R. Simeon understand [the verse]* “‘It shall be eaten in one house”?”
- [I] To the effect that a association [should not be divided as they start eating with] part of it eating inside and part of it eating outside [at the same time].
- [J] [According to the above presentation of R. Simeon’s view,] An individual [in a association that may even have started to eat the Passover offering] who took outside the association [flesh

in the amount of] an olive, because the members of the association are fit to extend [themselves] to him, [that individual] is exempt [for violating] a negative commandment [if the other members of the association, who by definition comprise two or more individuals, have not yet finished eating, they would not even violate a positive commandment for joining him in eating the offering].

[K]] [In response to the statement that it is R. Simeon who avers that they do not even violate a positive commandment:] *R. Hiyya bar Ba asked*, “Why [must this position be assumed to] follow R. Simeon alone, [it may] even follow rabbis;

[L] “because the members of the association are fit to extend themselves to them [and that is why they] are exempt from [violating] a negative commandment – [on the same basis] they should even [be exempt] regarding a positive commandment?” [Just as from the former perspective it is not considered two locations, so from the latter perspective it should be considered a single location .]

[II:1 A] A waiter who ate [flesh of a Passover offering in the amount of] an olive and he was at the side of the oven [and not with the rest of the association with which he is registered], if he is clever, he fills his stomach from it [from the oven – because once he moves from there, he (as an individual) may no longer eat the flesh with the rest of the original group, for he may not eat in two locations].

[B] If [the members of the association] wanted to honor him, [they] come and eat with him at the side of the oven. And if not, they give him his portion and [he] eats in his place.

[C] There, [in Babylonia] they say, “That rule represents the position of R. Simeon [who is assumed to hold that although he may not rejoin the group they may join him without any violation].”

[D] *But [those authorities] did not hear that R. Hila, R. Isi, R. Eleazar in the name of R. Hoshaya said*, “All agree that at the outset [before they start to eat the offering] they [the members of a association] divide up [into separate groups and] that afterward [once they started eating] they do not divide up. *Regarding what do they dispute?* Regarding a situation in which they were sitting and eating and a beam breaks over them – R. Simeon says, ‘They take up their portion and [together] eat in another location.’ And sages say, ‘They do not take up their portion and eat in another location [for a association may not eat in two

locations].” [A’s case allowing the association to divide up would therefore represent all viewpoints where the association had not yet started to eat.

[E] *R. Hiyya bar Ba said [that] R. Yosé b. Haninah queried [or stated], “Now [on the basis of the assertion that at the outset, before eating has ensued, they may divide up into two fellow ships] one who takes out [flesh] is not liable until the moment that he eats [– for until that moment the rest of the association may join that individual]?” [Does this not contradict the claim that a single individual would be liable?]*

[F] *R. Samuel came [and reported that] R. Abbahu in the name of R. Yohanan [said], “One who takes out is not liable until the moment that he eats.”*

[G] *Said. R. Zeira, “And it is taught there: ‘An individual that took outside the association [flesh in the amount of] an olive is liable and [yet in removing the flesh from its proper location] he did not disqualify himself from the association.’*

[H] *“This indicates [that the rule applies] even [when] he did not eat [from the flesh of the offering].*

[I] *“If [you] say one has eaten, why does [that person] not disqualify himself from the association? [Since in fulfilling the requirement to eat of the Passover offering he disqualifies himself from the association, for he cannot eat in two locations, the case must envision that the person has not eaten from ;he flesh and yet is liable.]”*

[J] *Said R. Yosé, “Since [one] took it out, [one] has disqualified it [and, hence,] even [if one] ate [it one] has eaten a disqualified object [and hence has not disqualified oneself from fulfilling one’s requirement to partake of the Passover offering with one’s original association].”*

[K] *And where is this point stated? [In the following text:] There is a break after a break [successive breakings of the bone of the Passover offering are considered separate acts entailing separate violations of the ban on breaking the offering’s bone, but] there is not taking out after taking out. [Once the first violation on taking out flesh takes place subsequent acts are not culpable.]*

[L] *Either this implies [that] since [one] has taken it out [one] has disqualified it [for the second time around one has taken out*

something already disqualified, which therefore leaves one exempt]. Or this implies [that] one who takes out [flesh] is not liable until the moment that he eats [from it – for one does not twice take out the same thing so as to be liable twice.]

[M] *This matter is self-evident:* [if] these started [to eat] and those [other members of the association] became unclean [before they started to eat], the clean [members of the group] gain rights over the portion of those who are unclean. And more so even [if] these started [to eat] and they became unclean, the clean [who have not yet started to eat] gain rights over the portion of those who are unclean. But [if] these and those [all the members of the group] began [to eat] and one of them became unclean, the clean do not gain rights over the portion of those who are unclean. [In these situations, eating does comprise the dividing line.]

- [II:2 A] An individual [from a association, during the time of eating] roams around the whole house and a association does not roam around the whole house.
- [B] *And do we not learn:* “**Two associations [what were eating (the Passover offering) in the same house – these (members of one association) turn their faces this way and eat and those (members of the other association) turn their faces that way and eat]**” [M. 7:13A] [and the requirement to turn faces seems to apply to each individual of the association and so to suggest that they all must be together in the association, which would preclude one of them from roaming about]?
- [C] This [implication that an individual must remain with the association] applies only regarding two [associations, when both of them are in a single house], lo, [regarding] one, no [then an individual may roam about].
- [D] *And did we not learn:* “**and the warmer [is situated] in the middle [and when the waiter is about to pour (mix wine, he) closes his mouth and turns his face until he reaches his fellow ship and (then) eats]**” [M. 7:13B] [and here the waiter is obviously getting up to go to the warmer and he merely has to close his mouth and turn his head]?
- [E] [The case of the waiter is different because:] the [empty] place that the waiter [left and to which he will return] testifies regarding him that his association is there.

[F] *But we learn [further]: “and the bride turns her face and eats” [M. 7:13C] –* does she not thus face away and appear apart even though, as in the previous clause, there are two associations in the house]?

[G] Said R. Hiyya b. Ba, “Because of embarrassment [they permitted only a bride to turn away and to be slightly apart – but other individuals may not separate themselves in this fashion].”

YERUSHALMI PESAHI

CHAPTER EIGHT

8:1

[A] A woman, when she is in the home of her husband –

[B] [if] her husband slaughtered [a Passover offering] in her behalf, and her father slaughtered [a Passover offering] in her behalf,

[C] [she] should eat of that which is slaughtered by her husband.

[D] [If] she went to observe the first festival [after marriage] in her father's house,

[E] [if] her father slaughtered [a Passover offering] in her behalf, and her husband slaughtered [a Passover offering] in her behalf,

[F] let her eat in whichever place she wants.

[G] A [minor] orphan in behalf of whom [several] guardians have slaughtered [a Passover offering] eats in the place which he wants.

[H] A slave belonging to two partners should not eat [of a Passover offering] belonging to either one of them.

[I] He who is half-slave and half-free should not eat [of the Passover offering] of his master.

[I:1 A] [Addressing (originally) the meal offering for a suspected adulteress, which, according to Num. 5:15, her husband brings, and in response to the question whether, if we assume the husband may set aside the meal offering for her without her knowledge because he is a partner in it with her, may another person do so as well?] Said R. Yohanan, “[In the case of] four [types of individuals who are] lacking purification, they designate [an offering] for them without their knowledge. And these are they: a one unclean with flux [Lev. 15] [a man with a flux] and a zabah [a woman who bled for three days running, making her a severe hemorrhage (Lev. 15:25)], and one who gives birth, and a leper,

[B] “for similarly a person designates [one of these offerings] for his infant child [lit., ‘son’] when [even] he is in the crib.” [The cases are analogous in that while the infant is not capable of knowledge, the four

lacking purification are without knowledge, and those incapable of knowledge (a category usually defined as a minor or one deaf and dumb) could be in a situation of “lacking purification.” For example, a priest feeds his infant sacred produce even if he had become unclean by reason of a zabah and lacks the mental capacity to bring an offering (see M. Neg. 14:12) – because he has designated an offering for him without his knowledge].

[C] That is satisfactory [regarding] the one unclean with flux [Lev. 15] and the zabah and the leper, but [as to] the one who gives birth – does a child give birth? [Obviously not, as is now explained by reference to a female who has not yet grown two pubic hairs:]

[D] Did not R. Redipah say [in the name of] R. Jonah in the name of R. Huna, “[If a female] became pregnant and gave birth: before she grew two hairs of majority – she and her child die; once she grew two hairs – she and her child live. [If she] became pregnant before she grew two hairs and gave birth after she grew two hairs – she lives and her child dies”?

[E] What is the upshot?

[F] For similarly a person designates [an offering] for his deaf-and-dumb daughter.

[G] [But this alternative is likewise problematic:] As soon as [she] grew [two hairs] which must be the case if she gave birth] did [she] not leave the domain of her father [and hence he may not offer a sacrifice for her]?

[H] Rather: “For similarly a person designates [an offering] for his deaf-and-dumb wife.” [The deaf-and-dumb wife continues to eat from her husband’s sacred produce even after she gives birth, for her husband brings an offering for her purification without her knowledge.]

[I] [Making clear how Yohanan’s comment illuminates the initial question:] And here [in the case of a suspected adulteress in regard to] a suspected adulteress who was a minor, you cannot [apply Yohanan’s proposition to argue that another person may bring an offering for her, as is now explained:] for R. Zeira said [in the name of] R. Yosé in the name of R. Yohanan “A minor [married girl] who committed harlotry does not have the volition [to have committed her sin willingly with the knowledge of its consequences] so as to become forbidden to her husband.” [Since by definition a suspected adulteress must have capacity for knowledge, she must bring an offering for herself; her

husband comprises an exception because he has partnership with her in it and not because he is doing it to benefit her and atone for her.]

- [J] And [similarly in regard to] a deaf-and-dumb female, you cannot [apply Yohanan's proposition to argue that a person may bring an offering for the deaf and dumb] for it is written [with respect to the woman who undergoes the ordeal of the suspected adulteress], "And the woman should say 'Amen, amen'" (Num. 5: 22) [and a deaf-and-dumb person could not make that declaration].
- [K] Said R. Abin, "[The case of a suspected adulteress] is different, for it is written [regarding the pilgrimage], 'And you and your household should rejoice' (Deut. 14:26), [y. Sotah adds: 'and he is prevented from rejoicing with her, he designates (an offering) without her knowledge']." [Since without the offering he cannot give her happiness and the offering makes her fit for the household, the husband like anyone else may bring an offering for her – and the husband does not comprise a special exception because he has partnership with her in the sacrifice.]
- [L] R. Jeremiah in the name of R. Yohanan [said], "A person [with the force of a vow] accepts upon himself the obligation to bring an offering of a Nazir for his fellow without his knowledge [or consent] but does not designate it except with his knowledge."
- [M] R. Zeira in the name of R. Yohanan [said], "A person [with the force of a vow] accepts upon himself the obligation to bring an offering of a sin offering [for eating forbidden] fat for his fellow without his knowledge but does not designate it except with his knowledge."
- [N] R. Zeira [said] in the name of R. Eleazar, "A person slaughters his fellow's Passover offering without his knowledge but does not designate it except with his knowledge."
- [O] *Said R. Eleazar, "The teaching [the Mishnah] said likewise: 'A woman when she is in her husband's house: [if] her father has slaughtered [the Passover offering] for her [and] her husband [also] slaughtered [an offering] for her – she should eat from that of her husband [M. 8:1A].'"*
- [P] With what situation do we deal [in Eleazar's tradition]? If it is a situation in which they protest [in which the woman articulates that she does not want to be included in the animal set aside for her without her knowledge – then the act of designation is not effective, as Eleazar states, and the Mishnah

provides support, [since] an average woman, [for whom we have no explicit declaration of preference, presumably would] protest saying, “I want to be with my husband.” [Hence it makes sense for her father’s act of designation not to be effective.] But [if Eleazar deals with a situation in which they do not protest [and even then the other person’s act of designation is not effective – then the proof from the Mishnah is inappropriate, for] the teaching [the Mishnah] comes to treat a case in which they protest [based on the assumption regarding most women, as stated above; but where she did not protest her father’s act might be valid].

[Q] *R. Jeremiah in the name of R. Yohanan [said], “The teaching [the Mishnah] deals with a case in which they protest [then the woman may eat only from her husband’s offering, but where she did not protest, she theoretically may be permitted to eat even from her father’s] .”*

[R] *Is this [view attributed to Yohanan that the rule applies only where they protest] not in dispute with R. Eleazar, for R. Eleazar said, “A person slaughters the Passover offering of his fellow without his knowledge but does not designate it without his knowledge [which would preclude eating from her father’s offering even where she did not protest]”?*

[S] A Passover offering and a sin offering differ: a Passover offering, when it grows older [if it is not used as a Passover offering], is worthy to be a source of atonement [it retains its sanctity as an offering being converted to a whole offering]; a sin offering, when it grows older, [however], is not worthy to be a source of atonement [but must be put to death]. [Hence it is reasonable for Yohanan to distinguish between the two cases and to aver that a Passover offering set aside without the wife’s knowledge and without her protesting comprises a valid offering.]

[I:2 A] Said R. Yohanan, “They taught [that the woman eats with her father] in regard to an ‘anxious festival’ (*regel redufin*).” [Because of that special situation, the wife on the first festival eats with her father, but otherwise she could or would eat with her husband – as M. 8:1B contemplates.]

[B] What is “an anxious festival”?

[C] Said R. Yosé b. R. Bun, “This is the first festival [after marriage] for [which] her husband chases her to the house of her father

[D] [If] she did not go [for] the first festival [after her marriage], what is the law? May the second festival be considered “an anxious festival”?

[E] In all situations she has “an anxious festival”.

[F] Is a widow subject to [the law of] “an anxious festival”? [Reference is to a widow in her own or her in-laws’ house or, more probably, to a widow who remarried – Is such a person anxious to go to her father’s house on the festival?]

[G] *We may derive the [answer] from this [following text]:* “[**If she**] **went to spend the first festival [after her marriage] in her father’s house: [if] her father slaughtered for her [and] her husband slaughtered for her, she may eat from wherever she prefers**” [M. 8:1B]. [Since the Mishnah specifies that **she “went to spend the first festival in her father’s house,” language which is not used in M. 8:1A**), her going to her father’s house is crucial, and even if she is a widow the law of “an anxious festival” applies, and for that reason she may eat “where she prefers, “ even at her father’s.]

[H] Either this [text] implies that] in all situations she has “an anxious festival” or this [text] implies [that] a widow has the law of “*an anxious festival*” –

[I] Said R. Yosé b. R. Bun, “You may explain that [the Mishnah’s text refers to a case in which] she has children [from her former marriage] but not a husband, and an unspecified woman [a woman for whom we have no explicit declaration of preference presumably would] protest, saying, ‘I want to be with my children.’ [Accordingly, from M. 8:1B we could deduce only that where she has not articulated a preference by, for example, going to her father’s house, she presumably would want to be with her children, but nothing can be concluded regarding a woman without children and, hence, we would not have a basis to answer the initial question.]

[I:3 A] Said R. Eleazar, “The Passover offering of women is optional, but for it they [nevertheless] override the Sabbath.”

[B] R. Jacob b. R. Aha in the name of R. Eleazar [said], “The Passover offering of women and of slaves is optional, [and] all the more so for it they override the Sabbath.”

- [C] Their unleavened bread, what is it [is it eaten as a requirement or an optional act]?
- [D] R. Eleazar said, “It is an obligation.”
- [E] R. Zeira said, “[It is subject to a] dispute.” [Whoever says that the Passover offering is obligatory holds that the unleavened bread is obligatory, and whoever says that the offering is optional holds that the unleavened bread is optional.]
- [F] R. Hila said, “[It is a] unanimous opinion.” [Even those who say that the offering is optional hold that the unleavened bread is obligatory.]
- [G] *A Tannaite teaching supports this [position] and a teaching supports this [other position, as now spelled out:]*
- [H] *A teaching supports R. Zeira [that Tannaite authorities disputed the matter]: “**Lettuce [the bitter herb], unleavened bread, and the Passover offering on the first night [of Passover are] obligatory and on the other days [are] optional. [R. Simeon says, ‘For men (it is) obligatory and for women optional’]**” [T. 2:11]. [The unnamed first authority, in not differentiating between men and women, holds – in contrast to R. Simeon – that these objects are obligatory for women on the first night.]-*
- [I] *A teaching supports R. Hila: “‘You shall not eat anything leavened with it; for seven days thereafter you shall eat unleavened bread, bread of distress’ (Deut. 16:3). [Both clauses apply to the same person:] Whoever is under [the ban on] not eating anything leavened, lo, that one is under [the command], ‘Arise, eat unleavened bread!’ And women, since they are under the ban on eating anything leavened, lo, they are under [the command], ‘Arise, eat unleavened bread.’”*
- [J] *And lo, did we not learn: “**All positive commandments that are dependent upon the time, men are liable and women are exempt**” [M. Qid. 1:7] [and would not this therefore exclude the eating of unleavened bread, which is time bound]?*
- [K] Said R. Mana, “A stringency applies to a positive commandment that results from a negative [commandment, here the ban on eating anything leavened which, therefore, makes up an exception to J’s general rule].”

[L] [With respect to the passage of the Mishnah that follows: Joseph the Priest. He also brought up his sons and household members (a term here understood to denote his wife) to perform the second (lit., “minor”) Passover in Jerusalem, and they (unspecified authorities or sages) turned him back lest the matter should be established as an obligation” (M. Hal. 4:12 = T. Pes. 8:10B)], *that rule accords with the one who said, “The Passover offering of women is optional.”* [As this comment mentions a Passover offering in general yet explains the situation of a woman’s second Passover, it refers to an opinion that treats both the first and second Passover. In the former case, a woman’s Passover offering would be optional and for the latter it would be forbidden. This is made clear in what follows:]

[M] [Providing background on the status of a woman’s Passover offering:] *It is taught: “A woman performs the first Passover for herself and [for] the second [she performs] joined with others’ – the words of R. Meir.*

[N] **“R. Yosé says, ‘A woman performs the second Passover for herself, even on the Sabbath, and it is not necessary to say [that she performs] the first [Passover for herself].’**

[O] **“R. Eleazar b. R. Simeon says, ‘A woman performs the first Passover joined with others and does not perform the second Passover’” [T. Pes. 8:10A].** [The third opinion would seem to supply the proof for the characterization of M. Hal. 4:12: those instructing Joseph the Priest to remove his wife would hold that a woman should not be at all involved in a second Passover and should only as an optional act be joined with others in the first Passover.]

[P] *What is the reason of R. Meir* [regarding the first Passover]? “Each of them [lit., “a man,” “YS] shall take a lamb to a family [lit., “to the house of the fathers,”] [thus the offering may be for males] — [and] if they want “a lamb to a household (LBYT)” (Exod. 12:3) [house denotes women].

[Q] *What is the reason of R. Yosé?* “Each of them shall take a lamb to a family,” all the more so to a house: [Deriving the case of the first Passover from the first clause, the Gemara suggests that if one takes a lamb for the “house of the fathers,” surely one could do so for the “house” by itself, which would therefore include a woman. Then the second clause, “a lamb for a house,” which would appear extraneous, teaches regarding the second Passover that a woman (a “house”) may bring a lamb.]

[R] *What is the reason of R. Eleazar b. R. Simeon?* “Each of them” [lit., “a man shall take a lamb to a family, to a house hold”] (Exod. 12:3) — not a woman. [The initial word specifying a “man” precludes women’s bringing a Passover offering by themselves.]

[S] How do rabbis [the disputants of R. Eleazar b. R. Simeon, which in regard to the first Passover would include both Meir and Yosé] understand the term a “man”? To exclude a minor. [The word “man” precludes, not a woman by herself, but a minor by himself from slaughtering the Passover offering.]

[T] [Referring to Joseph the Priest’s act,] Said R. Jonah, “And even according to the one who said that the Passover offerings of women are obligatory. that case is different for the matter [of Joseph’s bringing of his wife] was well-known [lit., “distinguished,” and for that reason there was a concern] ‘lest the matter should be established as an obligation.’” [Meir, for example, who holds that women are obliged to participate in the first Passover and permits them to participate with men in the second Passover, labeling the latter action as “optional,” even he would not want Joseph the Priest’s wife to participate in the second Passover, for Joseph, being distinguished, would attract attention, and people might misconstrue the

action and believe that she did so out of obligation and not just as an optional act.]

- [II:1 A] **An orphan for whom [his] guardians slaughtered may eat from wherever he prefers [from whichever guardian he prefers] [M. 8:1C].**
- [B] *The teaching treats a case of a minor orphan [whose preference is inconsequential because he is under the authority of the guardians], but in the case of an adult orphan, should we consider [it] like one who registers himself on two Passover offerings simultaneously?*
- [C] *For teaches R. Hiyya, “**One who is registered on two Passover offerings simultaneously eats from whichever of them is slaughtered first [for whatever is first will satisfy him since presumably he does not have a preference regarding from which offering he eats]**” [T. 7:3].*
- [D] *Said R. Yosé, “The teaching [M. 8:2 likewise] said thus: [**One who says to his slave, ‘Go and slaughter the Passover offering for me:’**] [if he] slaughtered a kid and a lamb [he] should eat from the first one [M. 8:2A].”*
- [III:1 A] **A slave belonging to two partners should not eat from that of both of them [M. 8:1D].**
- [B] R. Yosé says, “His master has no right to tell him, ‘You are not permitted to be registered on the Passover offering.’ Rather he says to him, ‘You are not permitted to be registered on this [animal] – only on this [other animal].” [Since an owner may forbid his slave (or portion of his slave) to eat from his own or from another person’s offering, the slave may not find an appropriate offering to eat. The Mishnah thus treats a case in which the masters are particular.]
- [C] Sometimes he is registered on three Passover offerings simultaneously.
- [D] *How so?* A slave of two partners must be registered on the Passover offering [where the owners do not object, the slave may be registered, for example, on his own offering, for otherwise each owner could forbid the slave to eat from the other owner’s offering]. [If then] one of them manumitted his portion, [the slave] must be registered on another Passover offering [for his side with the newly acquired manumitted identity may no longer be under the registration for a slave]. [If then] both of them manumitted him [i.e., the second owner now joined in manumitting his half], he

must be registered on another Passover offering [for he has undergone an additional change in status, becoming fully free.]

[E] *Samuel b. Abba asked*, “[In the case of] the slave, what is the law? May he eat from the three of them [for each of the registrations had been validly performed, geared to the person’s status at each juncture, and the first and second registrations did not become nullified as the person became subject to new obligations]?”

[F] Said R. Yosé, “[Yes, all three are valid, for] if you say, ‘A slave should not eat from the three of them,’ on that basis, [a person half-slave and half-free,^{J3} who according to one reading of M. 8:1E is only forbidden to eat from his master’s offering, but by implication may eat from his own] should not be registered on the Passover offering lest his master change his mind and manumit him [and by your logic disqualify the previously registered offering] and cause disqualified sacred [portions to become] mixed up in the divine service!”

[G] *R. Jacob b. Aha said R. Zeira asked*, “[Regarding] the master, what is the law? May he fulfill his requirement with the slave’s sanctification [of the animal designating it as a Passover offering]?”

[H] *And is this not a [Mishnaic] teaching? “The one who says to his slave, ‘Go and slaughter the Passover offering for me”’ [M. 8:2A]?*

[I] *The teaching [speaks of a case in which the slave acts] with the knowledge of his master.*

[J] *For what [case] does he need [to find an answer]? Where [it is] without the knowledge of his master [even following the notion that the designation of a Passover offering requires an individual’s knowledge, the case of a slave could be different, since this master regularly relies on him.]*

[IV:1 A] **One who is half-slave and half-free should not eat from that of his master.**

[B] R. Hiyya in the name of R. Yohanan [said], “One who is half slave and half-free [who] sanctified a woman [to be his wife] – they are not concerned regarding sanctification [lest the marriage took effect].”

- [C] *Similarly*: [if in such a case a person] divorced [a woman], they are not concerned regarding a divorce [lest a divorce took effect].
- [D] Samuel said, “[They] are apprehensive for a divorce.”
- [E] *Samuel concurs in the view of R. Judah, for we learn there*: “[**If one who is half-slave and half-free stole – R. Judah holds [him] liable and sages exempt**” [M. San. 11:1].

8:2

- [A] **He who says to his slave, “Go and slaughter a Passover offering in my behalf” –**
- [B] [if] he slaughtered a kid, let him eat it.
- [C] [If] he slaughtered a lamb, let him eat it.
- [D] [If] he slaughtered both a kid and a lamb, let him eat from the former.
- [E] [If the slave] forgot what his master said to him, what should he do?
- [F] Let him slaughter both a kid and a lamb and say, “If my master told me to prepare a kid, the kid is his and the lamb is mine, and if my master told me to prepare a lamb, the lamb is his and the kid is mine.”
- [G] [If the slave did as specified but] his master forgot what he had said to him, both of them [the animals killed by the slave] go out to the place of burning.
- [H] **But they are exempt from the requirement of preparing the second Passover.**
- [I:1 A] *Teaches R. Hiyya*, “**One who is registered on two Passover offerings simultaneously eats from whichever of them is slaughtered first, [for whatever is first will satisfy him since presumably he does not have a preference regarding from which offering he eats]**” [T. 7:3].
- [B] *Said R. Yosé*, “*The teaching [at M. 8:2 likewise] said this*: “[**One who says to his slave, “Go and slaughter the Passover offering for me:”**] [if] he slaughtered a kid and a lamb, he should eat from the first one [M. 8:2A].”
- [II:1 A] R. Eleazar and R. Yohanan, both of them say, “It [the author of the Mishnaic passage who in M. 8:2D does not require the preparation of the second Passover and thus makes the act of slaughter and its auxiliary acts, including tossing of the blood, crucial] is R. Nathan,

- [B] “for R. Nathan said, ‘[They] fulfill their obligation with tossing [of the blood of the Passover offering] without eating.’”
- [C] R. Hezekiah [said] in the name of R. Ba b. Mamal, “You may explain [the case as one in] which his master forgot [in the interim] between slaughtering and tossing [of the blood – and in this even rabbis, Nathan’s disputants, agree].” [Hence the critical factor is not the tossing of the blood but the correct preparation of the animal, and God, so to speak, knows which was the specified animal.]
- [D] [*Challenging B:*] Said R. Hezekiah, “One of the rabbis asked” – and [some] say that it was he [Hezekiah himself who asked] – “And do we not learn, **[If one] forgot what his master said to him. [One] should slaughter [both] a kid and a lamb**” [M. 8:2B-C] [as here the slave could make a declaration on the animals, and it is specified that it takes place before the slaughtering, the doubt obviously arose before that act, so in M. 8:2D, should not the case similarly involve a doubt that arose before the slaughtering, and hence does not the Mishnah accord with R. Nathan?]”“ [Nathan exempts the owners from a second Passover when they remain fit to eat the animal but do not do so because of a doubt that may have existed even during the time of slaughter.]
- [E] Said R. Yohanan, “[If one] set aside one’s Passover offering: before one converted and [then] converted; [or] before one was manumitted and [then] was manumitted; before one produced two hairs [the signs of majority, making one liable for sins] and [then] produced two hairs – [such a person, because of his new status] must be registered on another Passover offering.”
- [F] Said R. Yudan, “All the [cases of] doubt [wherein there is doubt regarding the fitness of the Passover offering, yet the individual does not bring a second Passover offering] follow the opinion of R. Nathan, except for the one who tosses the blood of one’s sin offering or the blood of one’s guilt offering, [for in the latter cases, if there was] a doubt whether [one] tossed the blood at night [which is invalid] or during the day [with the doubt thus involving not the act for which the sacrifice is brought but the execution of the offering; for example, when the tossing took place during the time of sunset a doubt arises as to whether it was actually daytime or nighttime] it is considered like a doubtful atonement, and [in the matter of] a doubtful atonement [the source of atonement, here the sacrifice,] atones [and this type of case accords even with rabbis] “ [In all cases of doubt regarding the fitness of the animal caused by one of the procedures in bringing the sacrifice and for which a

person may not eat the animal, it is Nathan who exempts from the second Passover, for he is the one who claims that eating the animal is not crucial. For sages, however, who prohibit eating the sacrifice due to the doubt, the tossing is not effective on an animal which may not be eaten, but where there is a doubt whether the act of tossing itself is proper or not, even sages admit that the person is exempt from a second Passover (for the doubt is not something that affects the eating per se).]

8:3

[A] **He who says to his children, “Lo, I shall slaughter the Passover offering in behalf of the one of you who will get up to Jerusalem first” –**

[B] **once the first [child] poked his head and the greater part of his body into the city, he has effected acquisition of his share and has furthermore effected acquisition in behalf of his brothers along with himself.**

[C] **Under all circumstances do [people] register with [a Passover offering] so long as there is an olive’s bulk of meat for each and every one of them.**

[D] **They register and then withdraw their registration from it until the moment that one will slaughter it.**

[E] **R. Simeon says, “Until one will toss the blood on his behalf.”**

[I:1 A] Said R. Yohanan, “Do not [understand] here, **‘Behold I will slaughter’** [literally]. Rather [the text means], ‘I will designate.’ And why does it teach, **‘Behold I will slaughter’**? In order to prod [them to go to Jerusalem quickly].” [One should not take the reference literally because the master presumably holds that a person does not register his sons on a Passover offering after it is slaughtered, but rather always registers them in advance. Hence, the son could not **“effect acquisition of his portion or that of his brethren with him”** (M. 8:3B), since they have already been designated.]

[I:2 A] R. Eleazar in the name of R. Hoshaiia [said], “It is a stipulation imposed by the court that one designates his Passover offering and the other designates his coins [so as to obtain a portion in someone else’s animal], [the former] assigns him [the latter] a portion from his [animal] and the coins [the former receives] become unconsecrated by themselves.” [The Passover offering is distinct from other sacrifices in that one may sell a part of one’s already-sanctified offering, and the coins are unconsecrated even though they are redeemed by an already consecrated animal; coins normally, however, do not revert to

unconsecrated status unless redeemed for an unconsecrated animal which takes upon itself the consecration.]

- [B] *What [is the import of A]?*
- [C] Does it mean [the animal] becomes unconsecrated and in turn becomes consecrated [as if prior to the time of the sale of the portion of the animal, the animal (or that portion of the animal) becomes unconsecrated, and the money in effect is therefore re deemed for an unconsecrated animal which then becomes consecrated, leaving the money unconsecrated]?
- [D] Or with that [condition they] originally consecrated [the animal and the money]? [Did the animal's owner consecrate the animal so that it would maintain its dedication and not revert to an unconsecrated status even if it would be used to redeem dedicated money, which would become at that point unconsecrated, or did the person with the money dedicate the money so that it would become and remain consecrated until the point at which it effects acquisition of a portion of the Passover offering, and at that moment the money would revert to unconsecrated status – despite the already-consecrated status of the animal?]
- [E] *What difference does it make? [In what circumstances do these different views yield different results?]*
- [F] If one designated one hundred *maneh* [a weight in gold or silver equal to one hundred common coins] for his Passover offering and [the other person who had an already-designated animal] assigns him against fifty. If you say, “[the animal] becomes unconsecrated and in turn becomes consecrated” – the remaining [fifty] coins are consecrated [for only fifty are redeemed against the animal, leaving the other fifty unredeemed]. If you say “with that [condition they] originally consecrated [the animal and the money]” – the remaining coins are unconsecrated [for the full hundred were consecrated as a group until one was able to gain acquisition in a Passover offering and that has been effected].
- [G] *R. Jacob b. Aha said, Samuel b. Abba asked, “Consider, if [the animal's owner] assigns [a portion to another person] for free. What can you [say]? Does [the animal] become unconsecrated and in turn become consecrated?” [While this would be the normal situation where a person assigned a portion of his offering in exchange for money from his fellow, where it is done free, the animal obviously need not become unconsecrated to redeem the monies and thereby deconsecrate them; hence the process of assigning a portion to*

someone would produce two different sequences, which is unacceptable legally. The reason therefore must be that “with that (stipulation they) originally consecrated (the animal and the money) “[

- [H] *The words of the rabbis [as follows] indicate that “[the animal] does not become unconsecrated and in turn becomes consecrated.”*
- [I] *There we learned, “[If a person] gave her [a prostitute] money, that money may be used to acquire a sacrifice, [for Deut. 23:19’s ban on using a prostitute’s hire for the altar refers to the hire itself and not something for which it is exchanged]; wine, oil, meal or anything of a kind which is offered on the altar – [it is] forbidden. [(If one gave) her animals already dedicated (as offerings), lo, these are permitted (for the animals no longer belong to the person); birds, lo, these are forbidden]” [M. Tem. 6:4].*
- [J] R. Simeon b. Laqish said, “[M. Tem. 6:4’s reference to giving a prostitute animals already dedicated] refers to one who assigns himself a portion in his Passover or festive offering.”
- [K] *This indicates that “[the animal] does not become unconsecrated and in turn become consecrated.” [For] if you say “[the animal] becomes unconsecrated and [then] in turn becomes consecrated,” [the animal when it becomes unconsecrated] would be forbidden as a prostitute’s hire. [Rather, the sanctification was initially made with the stipulation that the money would become unconsecrated and the animal would remain consecrated.]*
- [L] [Alternatively] you may explain that [the Mishnah] deals with a case in which nothing entered her [the prostitute’s] hand [and that is why it is not a case of prostitute’s wages; and the principle in effect is that “the animal becomes unconsecrated and in turn becomes consecrated”].
- [M] *Know that [that is not without precedent] for we learn there: “[One who is forbidden by a vow to benefit from his fellow, (his fellow nevertheless)... offers for him the bird offerings of a person with a flux or of a woman after childbirth “ [M. Ned. 4:2-3] – is this not a case in which nothing entered his hand [the hand of the one under the vow]? Similarly here [regarding the prostitute, the case applies] where nothing entered her hand.*
- [N] [With regard to M. Bes. 5:2’s rule, which states, “**And they do not dedicate animals, on the festival, and all the more so on the Sabbath,**”] R. Jacob b. Aha in the name of Immi [said], “R. Yohanan and R. Simeon b. Laqish differed. One said, “They

dedicate [animals on the festival]' and one said, 'They do not dedicate [animals on the festival].'"

[O] Rabbis of Caesarea explain them [the foregoing positions]: "R. Yohanan said, '[They] dedicate initially on the festival.' R. Simeon b. Laqish said, '[They] do not dedicate initially on the festival.'" [They dispute as to whether or not before the fact it is permitted.]

[P] [With regard to M. Shabbat 23:1, "**And thus on the eves of Passover in Jerusalem that coincide with the Sabbath, a person leaves his cloak with him (his fellow from whom he will obtain an animal for the offering) and eats his Passover offering and makes a financial reckoning with him after the festival,**"] *there are those who teach:* "One goes to the seller of lambs." *There are [others] who teach:* "One goes to the seller of Passover offerings."

[Q] *The one who said, "One goes to the seller of lambs" [holds] the view of the one who said, "They dedicate [animals on the festival or Sabbath]" [for the animal is not yet dedicated].*

[R] *The one who said, "One goes to the seller of Passover offerings" [holds] the view of the one who said, "They do not dedicate [animals on the festival]" [for the animals are already set aside as offerings].*

[S] *This implies that "[the animal] does not become unconsecrated and in turn becomes consecrated." [For] if you should say that "[the animal] becomes unconsecrated and in turn becomes consecrated," it should be forbidden under the ban on dedicating."*

[T] *And [behold] we learned, "[They] do not dedicate" [M. Bes. 5:2]? [How could someone therefore aver the opposite?]*

[U] R. Hananiah and R. Mana: One said, "[The Mishnah's ban] treats a case in which one dedicates for the morrow [but for the same day it is permitted]."

[V] And the other said, "[The Mishnah's ban] treats a case in which one dedicates for the Temple's upkeep [but dedication on the festival or Sabbath for the altar is permitted]."

[W] Said R. Shammai, “And even according to the one who said, [(They) do not dedicate (animals)’ (the position permitting a dedication)] treats a case in which one dedicates in the courtyard [of the Temple] [which otherwise would be prohibited due to] the injunction of Sabbath rest, which they [however] annulled in the Temple [and which therefore applies only to dedications performed outside the Temple area].”

- [I:3 A] On what basis in Scripture do we know that they register [on a Passover offering]?
- [B] The teaching says, “[But if the household is too small for a lamb, then let him share with the neighbor closest to his house hold] in the number of persons” (Exod. 12:4) [The verse indicates that the individuals must be numbered for the offering.]
- [C] How do we know that they register [others on a Passover offering]?
- [D] It is said here, “[You shall apportion] the lamb [according to what each person should eat]” (Exod. 12:4) [which is understood to be a regulation that applies not just to the first Passover in Egypt], and it is said in regard to Egypt, “[Speak to the whole community of Israel and say that on the tenth of this month each of them shall take] a lamb [to a family, a lamb to a household]” (Exod. 12:3) [which treats a detail applying only to the time of the Exodus]. Just as the “lamb” mentioned in regard to Egypt [verse 3] is alive and not slaughtered, so the “lamb” mentioned here [in verse 4] is alive and not slaughtered.
- [E] What is the reason of R. Simeon [in M. 8:3E, who says that a person may withdraw his registration until the blood is tossed]?
- [F] [Logic proves the case:] If [a member of the group registered on an animal] died between slaughtering and tossing, perhaps the [remaining] owners are not atoned for [by the animal – obviously they fulfill the obligation of the Passover offering despite the loss of some of their numbers]. [What difference is there] whether [some] died [or] whether [some] withdrew their registration from it?

8:4

- [A] **He who registered others in his share [of the Passover offering] – the [other] members of the association have the right to give him his share [to eat elsewhere], and he eats what is his, and they eat what is theirs.**

- [I:1 A] **The members of the association one of whose members had strong hands [that could quickly grab food] have the right to tell him, “Take your share and eat by yourself.” [They may do this] not only [regarding the] Passover offering but even if [the members of the association] made a joint meal, they have the right to tell him, “Take your share and eat by yourself” [T. 7:10].**
- [B] If [from the onset] they knew him [and his eating habits], with such a consideration [in mind] they made a stipulation with him from the beginning [and may not ask him to eat separately].
- [I:2 A] R. Huna said, “[If a person] designated his Passover offering and said, ‘On condition that no one else will be registered with me’ – no one else may be registered with him. [But if] he designated it without any reservation, all who will come are its registrants [as if included in the initial act of designation].”
- [B] *R. Jacob b. Aha [said] in the name of R. Zeira, “Did the teaching say likewise?*
- [C] **“But if the household is too small [for a lamb] (Exod. 12:4)’ – [this] teaches that they may decrease [themselves] in number [by withdrawing from the offering] so long as there be there one from the first association and one from the second association’ – the words of R. Judah. R. Yosé says, ‘Whether from the first or the second [association], so long as [they] do not leave the Passover offering by itself [ownerless – for any moment]’ [T. 7:7B].**
- [D] “If you say, ‘All who will come are its registrants,’ there is no difference whether they are members of the first or second association [for, retroactively included in the initial dedication, they are all equally “its registrants”]?”
- [E] *What difference does it make [whether we follow Huna’s formulation or Zeira’s citation of the Judah-Yosé dispute]?*
- [F] [If] one designated one’s Passover offering and withdrew one’s hand and then registered someone else with him – *according to the view of R. Huna*, it is valid [for the assumption is that a dedication entails a retroactive blanket inclusion of whoever will be registered]; *according to the view of R. Zeira*, it is invalid [for since the animal was temporarily left “by itself,” the procedure does not fulfill even R. Yosé’s requirement].
- [G] [Citing another difference between these masters based on the law of Substitution (Lev. 23:9-10), according to which a

dedicated offering may not be replaced by another animal, but if a Substitution is nevertheless brought, the initial offering remains dedicated and the Substitution is deemed a valid offering:] *According to the view of R. Zeira*, [from the moment of the initial designation until additional registrants are added] it is an instance of a sanctified animal of an individual, and a sanctified animal of an individual renders a Substitute [a valid offering]. *According to the view of R. Huna*, [since the later registrants are retroactively considered to be included in the initial designation] it is an instance of a sanctified animal of partners [i.e., of the initial designator and his added registrants] and a sanctified animal of partners does not render a Substitute [a valid offering] [see M. Tem. 1:6, 2:1].

[H] [A counterpart to the previous views of Huna and Zeira:]
[If] one hundred people registered on it [one after another]

—

[I] R. Huna said, “If there is an olive’s amount [of the offering] sufficient for each and every one, it is valid; and if not, it is invalid [for all the registrants are deemed chronologically to have been registered on the animal at the same time].”

[J] Said R. Zeira, “Wherever there is an olive’s amount sufficient for each and every one of them, it is valid; and if not [i.e., where not], it is invalid.” [Since the registrants are deemed to be added in sequence and not retroactive to the initial time of designation, for those for whom an olive’s amount remains, the Passover offering is fit].

[K] *And it is taught thus [in accord with Zeira]:* “**[If a person] registered [others] on it and returned and registered [additional people] on it, until the point that there is an olive’s amount sufficient for each and every one of them, it is valid; and if not [after that point], [it] is invalid**” [cf. T. 7:6B].

8:5

[A] **A person afflicted with flux uncleanness who has experienced two appearances of flux – they slaughter [the Passover offering] in his behalf on the [evening of] the seventh day [Lev. 15:1].**

[B] **[If] he experienced three, they slaughter [the Passover offering] in his behalf on his eighth day.**

- [C] A woman who awaits day by day [since she had a flow during the eleven days between one menstrual period and the next and has immersed and now awaits a complete day free of flow, after which she is clean] – they slaughter [a Passover offering] in her behalf on her second clean day [for the reason given above].
- [D] [If] she experienced a flow on two successive days, they slaughter [a Passover offering] in her behalf on the third day.
- [E] And as to a woman afflicted with flux uncleanness [having had three discharges], they slaughter [a Passover offering] in her behalf on the eighth day.
- [F] “They do not slaughter [a Passover offering] in behalf of a single individual,” the words of R. Judah.
- [G] And R. Yosé permits [doing so].
- [H] Even if there is an association of a hundred people who cannot eat an olive’s bulk of the meat – they do not slaughter [a Passover offering] in their behalf.
- [I] They do not form an association consisting only of women, slaves, and [or] children.
- [I:1 A] *Teaches R. Hiyya:* “A menstruant – [they] slaughter [a Passover offering] for her on the eighth [day – for a menstruant does not immerse herself until the night of her eighth day, after which she must await the daylight hours of that day and experience the sun setting in order for her to become fit to eat holy things].

[B] “One who has intercourse with a menstruant [who thereby becomes unclean] – [they] slaughter [a Passover offering] for him on the seventh [day – for he may immerse on the seventh day itself and therefore experience the setting of the sun on that day, after which he may eat holy things].”

[C] Said R. Yosé, “This means that one who has intercourse with a menstruant becomes clean on his seventh day [although otherwise he is unclean for seven days like the menstruant].”

8:6

- [A] In behalf of (1) one who suffers a bereavement of a close relative on that same day, (2) one who has the task of clearing away a ruin [and may, in fact, thereby suffer corpse uncleanness],
- [B] and so too: (3) one whom they have promised to free from prison –
- [C] (4) a sick person, and (5) a senile person, [both of whom] can eat an olive’s bulk of the meat of a Passover offering –

[D] they slaughter [a Passover offering].

[E] In the case of all of these, [however], they do not slaughter [a Passover offering] in their behalf alone,

[F] lest they lead the Passover offering to suffer invalidation.

[G] Therefore, if some form of invalidation befell them, they are exempt from having to prepare a second Passover offering,

[H] except in the case of one who has the task of clearing away a ruin,

[I] for [if he uncovers a corpse] he is unclean to begin with [at the time that he animal was sacrificed].

[I:1 A] *R. Yosé b. R. Bun, Abba b. Bar Hanah in the name of R. Yohanan, “The teaching [in the Mishnah] deals with a case in which Israelites imprisoned him [then the promise to free him may be relied on], but if gentiles captured him [their promise is unreliable as conveyed in the following verse speaking of foreigners:] ‘Whose mouths speak lies and whose oaths are false’ (Ps. 144:8).*

[B] “[The Mishnah] treats a case in which [the imprisoned person] was held outside of Jerusalem. But where [he is] held in Jerusalem, even [if] they did not promise him [that he would be freed, he] is like one whom they promised [for we can be assured that he will be in a position to partake of the Passover offering, because his share can be brought into the prison].”

[C] *R. Jonah and R. Yosé both of them said, “Initially we said, ‘An uncircumcised Israelite [in expectation of his forthcoming circumcision, before the time of eating of the offering] – they toss blood in his behalf,’ but we did not say any thing [of consequence, i.e., we were in error].”*

[D] *R. Simon b. Zabedi taught before R. Hila, “It says here ‘And if a stranger who dwells with you would offer the Passover to the Lord, all his males must be circumcised; then he shall be admitted to offer it’ (Exod. 12:48), and it says there, ‘[And any slave a man has bought by money] then may eat of it [once he has been circumcised]’ (Exod. 12:44). Just as the ‘then’ said there [in Exod. 12:44 deals with a situation in which the individual may eat the offering provided that he is fit during the time of eating [the action mentioned in that verse] ,S so the ‘then’ said here [in Exod. 12:48 applies], provided that he is fit during the time of slaughter [the action mentioned in that verse].*

[I:2 A] At times he is considered like them [the other categories in M. 8:6]. At times they are considered like him.

- [B] “At times he is considered like them”: [this] refers to [one who found a corpse after opening an] elongated heap, [for] I [may] say, “The blood was tossed for him before he reached the place of impurity” [and he is therefore exempt from bringing the second Passover].
- [C] “At times they are considered like him” – in regard to a circular heap [where he is assumed to have overshadowed the corpse from the outset]: [if] an invalidation befell one of them between slaughtering and tossing [of the blood], they are considered like him in regard to a circular heap [for in being unfit during the time of tossing, they do not fulfill their requirement but must bring a second Passover offering].

8:7

- [A] **“They do not slaughter [a Passover offering] in behalf of a single individual,”** the words of R. Judah.
- [B] **And R. Yosé permits [doing so].**
- [C] **Even if there is an association of a hundred people who cannot eat an olive’s bulk of the meat – they do not slaughter [a Passover offering] in their behalf.**
- [D] **They do not form an association consisting only of women, slaves, and [or] children.**
- [I:1 A] *Said R. Yohanan, “R. Judah’s [reasoning is based upon the following verse:] ‘You are not permitted to slaughter the Passover offering in one of your settlements’ (Deut. 16:5) [with the ‘in one’ taken to mean ‘for one,’ i.e., for one individual].”*
- [B] *What does R. Yosé [who holds that one may slaughter it for a single individual] do with the reason of R. Judah?*
- [C] *He may explain it in accord with R. Eleazar b. Matia, for it is taught: **“R. Eleazar says, ‘Perhaps a single individual might tip the balance regarding uncleanness [of the community, providing a majority of one who are unclean, as a result of which the unclean individuals are not postponed to the second Passover, but the entire community performs the first Passover in uncleanness]?’ The teaching says, “You are not permitted to slaughter the Passover offering in one” [meaning you should not rely on one individual in guiding you how to offer the Passover sacrifice; rather you should rely on at least two individuals]”** [T. 6:2C].*
- [D] *Said R. Yohanan, “R. Judah admits that if [a person] transgressed [the ban on not sacrificing the offering for a single individual] and*

tossed the blood, that it is favorably received [by God, and that person does not have to bring a second Passover offering];

[E] “[and that if he] transgressed and slaughtered [the animal for a single individual, they] permit him to toss the blood.”

[I:2 A] *It is taught:* “[They] do not form a association of women and slaves and minors because [together] they increase licentiousness” [T. 8:6].

[B] *Bar Qappara teaches* [the foregoing teaching with an alternative rationale]: “so as not to bring Holy Things to a state of disgrace [which might occur, because the specified individuals are not accustomed to taking the proper precautions regarding holy objects].”

[C] R. Jacob b. Aha in the name of R. Issi “[They] do not form a association of converts because they are’ [overly] exacting with it [the offering] and they [would] bring it into a state of invalidation.”

8:8

[A] **One who has suffered a bereavement of a close relative immerses and eats his Passover offering in the evening,**

[B] **but [he may not eat any other] Holy Things [in that evening].**

[C] **He who hears word [of the death of a close relative], [92A] and he who is gathering up bones [for secondary burial] immerses and eats Holy Things.**

[D] **A proselyte who converted on the eve of Passover [the fourteenth of Nisan] –**

[E] **the House of Shammai say, “He immerses and eats his Passover offering in the evening.”**

[F] **And the House of Hillel say, “He who takes his leave of the foreskin is as if he took his leave of the grave [and must be sprinkled on the third and seventh day after circumcision as if he had suffered corpse uncleanness].”**

[I:1 A] *Said R. Yosé b. R. Bun, “The teaching [the Mishnah in differentiating between the eating of the Passover offering and other Holy Things] speaks of a case in which [a person] became a bereaved [individual] at the beginning [even before the slaughtering of the Passover offering or] between slaughtering and tossing [of the blood]. [As the law of the bereaved person is assumed to be in effect biblically during the day and only by rabbinic extension at night, its application at night depends on the nature of the injunction associated with eating or not eating the particular offering in question. On the one hand, it was not applied to*

prohibit the eating of the Passover offering, because the failure to eat a Passover offering entails extirpation, the divine punishment of “extirpation.” On the other hand, it was applied to prohibit eating other Holy Things, because the requirement to eat them is only a matter of a positive commandment.]

- [B] “But if [he became] a bereaved [person] after atonement [the tossing of the blood], it has already been favorably received [by God].” [Since in fulfilling the requirement to bring a Passover offering, he becomes free of the threat of extirpation and is enjoined to eat the offering only by way of a positive commandment, the evening extension of the law of bereavement remains in force and prohibits him from eating from that offering]
- [C] *And it is taught thus:* “What is the [period of] bereavement? ‘From the time of death until the movement of burial’ – the words of Rabbi. [Hence after burial before nightfall, the mourner may eat Holy Things.] And sages say, ‘The entire day through [until nightfall].’”
- [D] *You are able to say [that the formulation] a leniency and a stringency according to [the view of] Rabbi, [and] a leniency and a stringency according to [the view of] sages.*
- [E] “*A leniency according to Rabbi:*” [If a person] died and was buried in that very hour – *according to the view of Rabbi* [the mourner] is prohibited [from eating Holy Things] only for that hour. According to the view of sages, [the mourner] is prohibited for that entire day.
- [F] “*A leniency according to rabbis:*” [If a person] died and was buried after three days – according to the view of sages, [the mourner] is prohibited from eating Holy Things for that entire day [of death]. *According to the view of Rabbi,* [the mourner] is prohibited until the third day [to the time of burial].
- [G] R. Abbahu came [and said] in the name of R. Yohanan and R. Huna, “Both of them said, ‘Rabbi admits to sages that [such a person] is prohibited only for that entire day.’”
- [H] *And it is taught thus [that the rule of bereavement does not extend beyond that day]:*
- [I] Rabbi says, “Know that the law of bereavement during the night is not [explicit in] the Torah, for behold, they said, **‘One who suffers a bereavement of a close relative immerses [himself] and eats his Passover offering in the evening [M. 8:8A].’**”

[J] And lo, the law of bereavement during the day [in the period prior to burial]” was based on the Torah [but in no way extends beyond the day and, hence, the person at night immerses and eats from the Passover offering]!

[K] R. Yosé b. R. Bun [said] in the name of R. Hisda, “You may explain [that the Mishnah, quoted by Rabbi] treats [a dead person] buried at sunset, and [therefore] you cannot learn any thing from it [in particular its insistence that the immersing and eating take place at night and not during the day after the burial].” [There is no significance to the fact that the person acts at night (as if then the rule of bereavement does not apply), for it may just be the first opportunity the person had to immerse.]

[L] R. Abbahu [said] in the name of R. Eleazar, “The [law of] bereavement applies only to a dead person [and not for other losses], for it is written, ‘[Your men shall fall by the sword, and your mighty men in battle.] And her gates shall be bereaved and mourn’ (Is. 3:25-26).”

[M] R. Hiyya b. Adda retorted, “And lo, is it not written [in regard to the drying up of rivers], ‘And the anglers shall be bereaved and all who cast lines into the Nile shall mourn’ (Isa. 19:8)?”

[N] *Said R. Hinena, “Thus [the tradition should be read]: ‘The [law of] bereavement – in regard to uncleanness – applies only to a dead person.’”*

[I:2 A] *It is taught:* “The day of hearing [of the death of a close relative] is like the day of burial, so far as rending [one’s garment in anguish] and [the rules of] mourning [such as overturning one’s bed] and counting the seven-day [period of mourning] and counting the thirty-day [period]. [But so far as] eating Holy Things is concerned, lo, they are like [the rule associated with] gathering bones one immerses and eats the Holy Things.”

[B] And [following] gathering of bones, one immerses and eats the Holy Things [immediately]?

[C] R. Yosé b. R. Bun [said] in the name of R. Hisda, “You may explain that [it treats a case in which the bones were gathered and] buried just as it became dark.”

[D] “And this and that [persons who performed ossilegium or experienced the burial of a close relative] immerse and eat their Passover offering [correct to “Holy Things”] in the evening.”

[E] [Challenging the ostensible deduction from M. 8:8B that after performing ossilegium and immersing, one may immediately eat of Holy Things:] And [following secondary] burial [of the bones of a relative, one] eats Holy Things [immediately, as implied by M. 8:8B, which states that those who perform ossilegium “i immerse and eat Holy Things,” but does not, in contrast to M. 8:8A, stipulate that this take place “in the evening”]?”

[F] *Said R. Yosé b. R. Bun, “Both of them treat a case in which hearing [about the death of a relative is involved]: [If one] heard that he experienced the death [of a relative] yesterday, one immerses and eats Holy Things [immediately. If one] heard that bones were gathered [and reburied] yesterday, one immerses and eats Holy Things [immediately]. [But if both reports treated the relative’s death or ossilegium on that very day, then after immersion the person has to wait until the evening to eat the Holy Things.]*

[I:3 A] *It is taught:* One who moves a coffin from place to place is not subject to [the mourning rites applicable to] gathering of bones.

[B] *Said R. Aha, “This which you say refers to a stone coffin. But regarding a wooden coffin, [the person] is subject to [the mourning rites applicable to] gathering of bones.”*

[C] *Said R. Yosé, “Even regarding a wooden coffin, [a person] is not subject to [the mourning rites applicable to] gathering of bones.”*

[D] What is [considered] gathering of bones?

[E] Those who carry them [the bones] about in a sheet from place to place.

[F] *R. Haggai [said] in the name of R. Zeira, “Gathering of bones [is to be understood] according to its plain sense [i.e., the gathering of individual bones, and not the transport of bones in some other object].”*

[G] *And it is taught thus: “Gathering of bones [means] gathering bone [after] bone once the flesh decomposes.”*

[H] *It is taught:* There is no [law of] hearing [word] for the gathering of bones [of a relative; that is, mourning does not

apply where a person personally did not see but only received a report that his relative's bones had been gathered].

[I] Said R. Haggai, "And this is the case when [the person] heard on the next day [after the bones had been gathered]. But if [one] heard on that very day, there is [a law] of hearing [word] for gathering of bones [and the person mourns till that evening]."

[J] And is there a measure [a minimum amount of bones to activate the law] for gathering of bones?

[K] *Taught Niqomaki before R. Zeira*: "There is no measure for gathering of bones" –

[L] *In accord with this [which]* R. Mana instructed R. Hillel of Kipra to tend this garment] and mourn [on the gathering of any number of bones], in accord with R. Aha [who held that mourning rites applicable to gathering of bones are triggered by the movement of a wooden coffin, which would contain an unknown number of bones]. He [further instructed Hillel of Kipra, who was a priest,] not to become unclean by following the view of R. Yosé [who held that mourning rites applicable to gathering of bones are *not* triggered by moving a coffin. Nonetheless, R. Mana instructed R. Hillel of Kipra that he should avoid impurity even in such a case, in contrast to an actual burial, where for his deceased father he would set aside his priestly precaution and become unclean]."

[M] *It is taught*: Gathering of bones – they do not say in their regard lamentations and elegy, and they say in their regard neither blessings due to mourners nor comforting due to mourners.

[N] What are the 'blessings due to mourners'?

[O] What they say in the synagogue.

[P] What is comforting due to mourners?

[Q] What they say in" line."

[R] *It is taught*: But [they] say words on them.

[S] What are "words"?

[T] Rabbis of Caesarea say, “Acclamations [of the deceased].”

[II:1 A] *What is the reason of the House of Shammai?*

[B] [Citing a verse from the account of the encounter with the Midianites, in which Moses tells the Israelites to purify themselves and the Midianite female child captives they had taken:] “You and your captives” (Num. 31:19) – Just as you did not become unclean until you entered the covenant [at Sinai], so your captives did not become unclean until they entered the covenant [hence, uncleanness that occurs before conversion does not require a process of purification].

[C] *What is the reason of the House of Hillel?*

[D] “You and your captives” – just as you require sprinkling [for purification] on the third and seventh [days, as stipulated in Num. 31:19], so your captives require sprinkling on the third and seventh [days] [for uncleanness by reason of contact with a corpse that, prior to conversion, did not take effect but that now, after conversion, applies retroactively (as if the captives just had contact with a grave)]. [The situation of Numbers 31, which specifies that it applies to all those who had contact with a corpse, is assumed to be paradigmatic for the conversion of every gentile, in that all gentiles are assumed to have had contact with a corpse.]

[E] But [the latter exegesis] is not compelling, for R. Hiyya b. Joseph [and] Giddul b. Benjamin [said] in the name of Rab, “The House of Hillel admit that if one transgressed and [despite not being sprinkled for purification] tossed the blood [of the Pass over offering], that it is favorably received [by God, and, that the person may eat from the offering that night].

[II:2 A] A Nazir who became unclean through a condition of doubt [occurring in] a private domain –

[B] R. Hoshaya the Elder said, “The Nazir shaves [at the end of the seven-day period of purification that he had to undertake because he is considered to have become definitively unclean (Num. 6:9)] .”

[C] R. Yohanan said, “The Nazir does not shave [for as he is not considered to have become definitely unclean, he does not undergo the process of purification], *for we learn there: Every uncleanness from a corpse because of which a Nazir shaves [in that it aborts his period of Naziriteship] makes one liable on its account for entering the Temple. And every uncleanness from a corpse because of*

which a Nazir does not shave does not make one liable on its account for entering the Temple [M. Naz. 7:4]. [On the basis of the above principles, because one who experienced a condition of doubt in a private domain is not considered unclean as far as entering the Temple is concerned, that person does not have to shave.]”

[D] *[Over] what type of “doubtful” uncleanness [does a Nazir shave, i.e., become unclean]?*

[E] *R. Yohanan said, “[The type mentioned at] the head of the chapter [of Mishnah Nazir, i.e., M. Naz. 8:1, which treats an individual who states that he had seen one of the Nazirim become unclean but did not know which one – in that case, but not in A above, the Nazir shaves].”*

[F] *R. Hoshaya the Elder said, “That [type] which [is mentioned] here [in A treating a doubt occurring in private property].”*

[G] An individual who became unclean by reason of a condition of doubt [occurring in] a private domain on Passover – R. Hoshaya the Elder said, “[The person] should be postponed to the second Passover, [for, consistent with his view, the person is assumed without a doubt to have become unclean].”

[H] R. Yohanan said, “[At the time for (offering the) Passover, because the person may still be clean and therefore may not simply be postponed to the second Passover, following a special procedure,] they send him on a long journey [thereby, in accord with Num. 9:10, making him ineligible for the first Passover; hence, in assuming the person did not become definitively unclean, Yohanan remains consistent with his view at A above].”

[I] *And this is in accord with this which R. Yohanan said, “[If one] became unclean with uncleanness of the deep lb [an unknown uncleanness, for example, that of a hidden corpse; see M. Pes. 7:7] – they send him on a long journey.”*

[J] A community that became unclean through a condition of doubt [occurring in] a private domain on Passover –

[K] Yohanan said, “Let them do it [offer the Passover sacrifice] in their [state of] doubt [for if they are clean, well and good, and if they are unclean, in the case of a community, uncleanness is overridden in any case].”

[L] Hoshaya the Elder said, “Let [them (all)] do it in uncleanness.”

[M] [Said R. Hoshaya, “That [they] should do [it] in their [state of] doubt.”

[N] Further, R. Hoshaya said [his opinion] only to [impose a] stringency. [On the one hand, for example, since the first Passover is prepared in uncleanness and no second Passover will be brought (for a second Passover is brought only when the first one comes in cleanness), no minority members of the community may say they will wait till later; even individuals who are without a doubt unclean join in the first Passover. On the other hand, although the community assumes it is now unclean, it is not free from the need to try to avoid definite conditions of uncleanness.]

[O] R. Yohanan in the name of R. Benaiah [said], “An uncircumcised Israelite [who became unclean] – they toss [blood] on his behalf [for purification, despite his being uncircumcised],

[P] “for thus we found that our ancestors in the desert while uncircumcised received sprinkling [to purify themselves from uncleanness of the corpses of those who had died in the sojourn in the desert (Joshua 5)].”

[Q] Said R. Hisda, “[That precedent is] in accord with the one who said that [they] were circumcised on the eleventh [day of Nisan, which was one day after the Israelites crossed the Jordan River, and which therefore gave them one day of rest to recuperate from their travels].” [In order for them to have eaten the Passover offering in cleanness they would need a two-stage process of sprinkling on the third and seventh days, and since the seventh day had to fall on the fourteenth of Nisan, the first sprinkling (on the “third” day of the seven days) would have had to fall on the tenth of Nisan, before they were circumcised.]

[R] “But according to the one who said that [they] were circumcised on the tenth, they did not receive sprinkling while [still] uncircumcised [but were already circumcised].”

[S] Said R. Abun, “In any event, did [they] not count [the days] for sprinkling while uncircumcised?” [Irrespective of whether they were circumcised on the tenth or eleventh, for the “third” day to fall on the tenth of Nisan, they had to start counting the days before the tenth and, thus, while the Israelites were uncircumcised; just as the counting is then valid, so is the sprinkling.]

[T] R. Eleazar in the name of R. Hananiah, “There was a case of an uncircumcised priest who sprinkled [blood on unclean people as part of the process of purification] and his sprinklings were declared fit [— and if he is sprinkled all the more so should it be valid].”

[U] *And it was taught thus:* **R. Eliezer b. Jacob says, “Soldiers were the guards of the hinges [of the gates] in Jerusalem [and would become unclean from the uncleanness of those entering and leaving the city] and [they] immersed and ate their Passover offerings in the evening” [T. 7:14].**

YERUSHALMI PESAHI

CHAPTER NINE

9:1

[A] “[The Lord said to Moses, Say to the people of Israel, if any man of you or of your descendants is unclean or is on a long journey” (Num. 9:9-10):] he who was unclean or on a long journey

—

[B] and did not observe the first [Passover], let him keep the second Passover [on the fourteenth of Iyyar].

[C] [If] he inadvertently or under constraint failed to observe the first Passover, let him keep the second Passover.

[D] If so, why is it said, “Unclean...or on a long journey”?

[E] For these are exempt from punishment by extirpation, and those are liable to punishment by extirpation [if they deliberately refrain from observing the second Passover].

[I:1 A] [Whoever was unclean (M. 9:1A)]: “Unclean by [contact with] the dead” (Num. 9:10): I know only, [the case of one unclean by [contact with] the dead. Whence [do I know that] those who are forced [to omit the Passover offering] and those who err [and omit it are likewise able to fulfill their responsibility by offering the second Passover]?

[B] The teaching says: “Each and every man” (Num. 9:10) [which included [these additional cases].

[C] Thus far [what we have learned is] according to R. Aqiba [who derives legal rulings from repetitions in the biblical text]. According to R. Ishmael [who sees such expressions as part of normal speech, how do we derive this ruling]?

[D] *Taught R. Ishmael:* “The one who is ‘unclean by [contact with] the dead’ is not like [the one who is ‘on a] distant journey,’ nor is the [one who is ‘on a] distant journey’ like the one who is ‘unclean by contact with dead.’

- [E] “[Yet] the common element between them is that one who did not offer the first [Passover offering] must offer the second.
- [F] “So [in the same way] I may include those who are forced [to omit the offering] or who err [and omit it] who if they did not offer the first [Passover offering] must offer the second.”
- [G] Whence [do we know that] one who intentionally [omitted the offering of the first Passover may offer the second]?
- [H] Said R. Zeira, “‘And the man’ (Num. 9:13) – to include the one who intentionally [omitted the first Passover offering].”
- [I] *We have learned [in our version of M. 9:1B]: “If he erred [and omitted the offering] or was forced [against his will]. Taught R. Hiyya [in an alternate version of the Mishnah]: “If he erred [and omitted the offering], or was forced [against his will], or intentionally [omitted it].”*
- [J] *Said R. Yosé, “The teaching [of M. 9:1C] states this [that one who omitted the Passover offering intentionally must offer the second Passover, as proposed by the alternate version of M. in G, when it states]:*
- [K] **“Because these [that is, those unclean or on a distant journey] are exempt from [the penalty of] excision [if they fail to offer even the second Passover offering], and the others are liable for [the penalty of] excision if they omitted both Passovers.”**
- [L] “What [case] do you have [in] which [the individual] is ‘liable for [the penalty of] excision’? Is it not the one who intentionally [omitted the Passover offering whom the Mishnah includes among those who must offer the second Passover?]”
- [M] “Unclean by [contact with] the dead” (Num. 9:10): I only know that one unclean by [contact with] the dead [is prevented from offering the first Passover and is required to offer the second]. Whence [do I know to include] one unclean as a result of a flux and one afflicted with the skin disease?
- [N] The teaching [of the Torah] states: “one unclean” (Num. 9:10). 9 [With this general term] it included [one unclean as a result of a flux and one afflicted with leprosy among those who offer the second Passover].
- [O] [So] why did the teaching say “unclean [by contact with] the dead”?

[P] Rather, [to teach that] **an individual who is unclean by [contact with] the dead is postponed “ to the second Passover, but [the offering of] a community which is unclean by [contact with] the dead is not postponed to the second Passover [and ob serves the first Passover in a state of uncleanness] [T. 8:4]**

[Q] [The offering of a community which is] unclean with uncleanness of a flux or with the uncleanness of leprosy is postponed until the second Passover. [A community which is] unclean with the uncleanness of idolatry] – they treated it like the uncleanness of a flux or leprosy [and its offering is postponed until the second Passover].

[I:2 A] **[If] it is possible for Israel to build the Temple [between the first Passover and second Passover], [then] an individual offers the second Passover, but the community does not offer the second Passover.**

[B] **R. Judah says, “The community offers the second Passover, for thus we have found regarding Hezekiah [king of Judah] that he offered the second Passover. This is that which is written, ‘For most of the people – many from Ephraim and Manasseh, [Issachar and Zebulun – had not purified themselves] (2 Chron. 30:18)’ [T. 8:4].**

[C] *There are [some] teachers who teach,* “They intercalate the year [as a result, postponing Passover by a month] because of uncleanness.”

[D] *There are [other] teachers who teach,* “They do not intercalate the year because of uncleanness”

[E] *The one who says,* “They do not intercalate the year because of uncleanness,” [learns] from it from the very same verse, for it says, “yet they ate the Passover offering in violation of what was written” (2 Chron. 30:18)].

[F] *The one who says,* “They intercalate the year because of uncleanness,” how does he interpret [the words of the verse], “in violation of what was written?” Because they intercalated [by adding a second month of] Nisan, and they do not [i.e., they may not] intercalate [any month] except Adar.

[G] This [view that “they intercalate the year because of uncleanness”, is in accord with that which R. Simon b. R. Zabedi said, “They found the skull of Ornan [i.e., Araunah] the Jebusite under the

altar' [and it rendered them unclean with the uncleanness of the dead, and there was not enough time to purify themselves by Passover].

[H] It is written [regarding the purification of the Temple by Hezekiah], "They began the sanctification on the first day of the first month; on the eighth day of the month [they reached the porch of the Lord. They sanctified the House of the Lord for eight days, and on the sixteenth day of the first month they finished]" (2 Chron. 29:17). But could they not clean out all the idolatrous images which were there in one day?

[I] Said R. Idi, "[The delay was] because of the 'figures of Chaldeans' which were 'engraved in vermilion' (Ezek. 23:14)" [which were difficult to erase].

[J] It is written [in the prayer of Hezekiah, "The good Lord will provide atonement for] everyone who set his mind on worshiping God, the Lord God of his fathers, [even if he is not purified for the sanctuary]" (2 Chron. 30:18-19).

[K] R. Simon b. Zabedi and R. Samuel b. Nahmani: *one says*, "Even though [Hezekiah] did many [things] to bring about the purification of the sanctuary, he did not fulfill the purification of the sanctuary," *and the other says*, "Despite all the good deeds that [Hezekiah] performed, he did not [try to] fulfill the purification of the sanctuary."

[L] Hezekiah, king of Judah, did six things. Regarding three [of them, the sages] agreed with him, but regarding three they did not agree with him.

[M] And which are the three regarding which they agreed with him? He ground up the brass serpent [2 Kings 18:4], and they agreed with him; he dragged the bones of his father [Ahaz] on a bier of ropes [cf. 2 Chron 28:27],³² and they agreed with him; he hid away the tablet of cures, and they agreed with him.

[N] And which are the three regarding which they did not agree with him? He cut down the doors of the Temple ["and gave them to the king of Assyria" (2 Kings 18:16)], and they did not agree with him; he closed up the source of the waters of Gihon [2 Chron. 32:30], and they did not agree with him; 3 he intercalated the month of Nisan during Nisan [cf. 2

Chron. 30:2; adding a second Adar on or after the New Moon of Nisan], and they did not agree with him.

- [I:3 A] If the community was [unclean], half of them *zabim* [afflicted with a flux, Lev. 15] and half of them unclean [because of contact with the dead] –
- [B] R. Adda b. Ahvah said, [following :] “The *zabim* are considered in comparison with those unclean [by contact with the dead] like the unclean in comparison with those who are clean. [Accordingly,] those who are unclean [by contact with the dead] observe [the first Passover but] the *zabim* are postponed to the second Passover.”
- [C] R. Huna said, “There is no restitution [i.e., observance of second Passover] for a Passover offering which comes in [a state of] uncleanness.” [Hence, in the case described in B, the *zabim* have no opportunity to offer a Passover sacrifice].
- [D] If the majority of the community was clean and a minority was unclean, [if] some of the clean ones died between the slaughtering and the tossing [of the blood, so that the unclean became the majority], after which [majority] do you go [in determining if a second Passover may be offered], after [that of the time of] slaughter or [that of the time of] tossing [the blood]?
- [E] If you say: after [that of the time of] slaughter, they are not offering [the Passover] in [a state of] uncleanness, [for the majority was clean at the time of slaughter]. If you say: after [that of the time of] tossing [the blood], they are offering [the Passover] in [a state of] uncleanness, [since at the time of tossing the blood, the majority was unclean].
- [F] If the majority of the community was unclean and a minority was clean, [if] some of the unclean ones died between the slaughtering and the tossing [of the blood, so that the clean became the majority], after which [majority] do you go [in determining if a second Passover may be offered], after [that of the time of] slaughter or [that of the time of] tossing [the blood]?
- [G] If you say: after [that of the time of] slaughter, they are offering [the Passover] in [a state of] uncleanness, [for the majority was unclean at the time of slaughter]. If you say: after [that of the time of] tossing [the blood], they are not offering [the Passover] in [a state of] uncleanness, [since at the time of tossing the blood, the majority was clean].

9:2

[A] What is the meaning of “a long journey”?

[B] “[A journey to any place] from Modiin and beyond,

[C] “and in accord with this same distance in all other directions,” the words of R. Aqiba.

[D] R. Eliezer says, “[A journey] beyond the very threshold of the Temple courtyard.”

[E] Said R. Yosé, “Therefore there is a point over the letter hé, to tell you that it is not because it is really a distant journey, but even one who is anywhere outside the threshold of the Temple courtyard and beyond [falls under the rule].”

[I:1 A] *R. Simon said, “R. Hiyya the Elder and Bar Qappara are in dispute: one says, ‘[To be liable for not offering the first Passover, one has to be close enough] in order that he should come and eat.’ The other says, ‘in order that he should come and toss [the blood].’ [The latter opinion implies a lesser distance, since he must arrive earlier at the Temple to be present for the tossing of the blood which took place before the meat was eaten.]*

[B] *And even according to the one who says, “[one has to be close enough] in order that he should come and eat,” this applies in a case where he is within two thousand cubits [ca. 3000 feet] of the [Sabbath] boundary [of Jerusalem] by nightfall. [If he is further away, he is exempt.]*

[C] Said R. Zeira, “*And it is taught there: If he was located from Modi’in and within, but his legs [were] weak, perhaps he should be [considered] obligated [to sacrifice the Passover offering in the Temple]? The teaching [of the Torah] says, “[But if a man who is clean and not on a journey] refrains [from offering the Passover sacrifice]” (Num. 9:13), which exempts this one who did not refrain [but was unable].*

[D] “If he was located from Modi’in and further out, and the horse is in his hand [so that he can travel to Jerusalem in sufficient time], perhaps he should be [considered] obligated? The teaching [of the Torah] says, “And was not on a journey” (Num. 9:13), which exempts this one who was on a journey.

[E] “If he was located from Modi’in and within before the sixth hour [noon, when the obligation to offer the Passover begins, and] he went out [beyond the distance of Modi’in before the sixth hour, perhaps he should be [considered] obligated? The teaching [of the Torah] says,

“refrains from offering” (Num. 9:13), [to teach that] one who refrains at the time for offering [the Passover, i.e., after noon] is obligated; [one who refrains] when it is not [yet] the time for offering [the Passover] is exempt.”

- [I:2 A] R. Abbahu in the name of R. Yohanan: “Both of them [R. Aqiba and R. Eliezer in M. 9:2B-C] are interpreting the same scriptural passage[s] as the basis for an argument based on the identity of words in two distinct passages. There [(alone) shall you slaughter the Passover sacrifice, in the evening]’ (Deut. 16:6); [and regarding the second tithe,] ‘[And you shall feast] There [in the presence of the Lord your God]’ (Deut. 14:26). [Once this analogy is established, further conclusions can be drawn from comparing these two institutions:]
- [B] “One [R. Eliezer, M. 9:2C, makes an analogy between the Passover sacrifice and the second tithe and] says: [just as ‘Should the distance be too great for you’ (Deut. 14:24) regarding the second tithe refers to Jerusalem, the place in which it must be eaten, so the ‘long journey’ (Num. 9:10) regarding the Passover sacrifice refers to] outside [of the place] where it is offered [i.e., the Temple court].
- [C] “The other [R. Aqiba, M. 9:2B] says: [just as in the case of the second tithe ‘Should the distance be too great for you’ (Deut. 14:24) refers to outside of the boundary of Jerusalem, so in the case of the Passover offering, the ‘long journey’ refers to one who is] outside of [the Passover offering’s] boundary [i.e., outside of Jerusalem].”
- [D] [Supporting R. Eliezer, M. 9:2C:] Associates in the name of R. Yohanan: “‘But if a man who is clean and was not on a journey [refrains from offering the Passover sacrifice] ,’ excluding the one who was on a journey,” [even if he is only a short distance from the Temple court].
- [E] R. Zeira [said] in the name of R. Yohanan: “When it [Scripture] warns S [in Num. 9:10], it mentions ‘a distant [journey].’ When it [Scripture] lays down the punishment [of excision in Num. 9:13], it does not mention ‘distant’ [referring rather to ‘a journey’].” [This omission indicates that one is not obligated for omitting the first Passover if he is even a short distance away from the Temple court.]
- [F] And the rabbis say [supporting R. Yosé, M. 9:2D], “Whenever the [letters in the] text outnumber the dots [over the letters], you interpret the text and ignore the dot[ted letters].
- [G] “And whenever the dot[ted letter]s outnumber the [letters in the] text, you interpret the dot[ted letters] and ignore the [rest of the] example.”

[H] Said R. Yosé, “Even if there is only one dot there above [a letter], you interpret the dot[ted letters] and ignore the [rest of the] text. The [letter] *he* in ‘long’ (‘distant’) is dotted; the man is distant, but the journey [need] not be distant.” [In the phrase a “long journey” (Num. 9:10), the feminine ending, the letter *he*, indicating that “long” (“distant”) refers to “journey,” is dotted to indicate that it is to be ignored and that the adjective is to be taken as referring to the person, who is exempt if located at any distance from the threshold of the Temple court.]

9:3

[A] **What is the difference between the first Passover and the second?**

[B] **The first Passover is subject to the prohibition about leaven: “It shall not be seen and it shall not be found” (Ex. 12:19, 13:7).**

[C] **As to the second, unleavened bread and leaven may be in the house right alongside one another.**

[D] **The first Passover requires the recitation of the Hallel Psalms when it is eaten, but the second Passover does not require the recitation of Hallel Psalms when it is eaten.**

[E] **This and that require a Hallel Psalm to be sung while they are being prepared.**

[F] **And [both Passover-offerings] are eaten roasted, with unleavened bread and bitter herbs.**

[G] **And [both Passover-offerings] override [the prohibitions of the] Sabbath.**

[I:1 A] It is written [regarding the second Passover offering], “And they shall not leave any of it over until morning” (Num. 9:12). If [this means that it is required] to eat it [completely],⁶² this is the positive commandment regarding it [the second Passover offering].

[B] “They shall not break a bone of it” (ibid.). This is the negative commandment regarding it.

[C] So when it says, “They shall offer it in strict accord with the law of the Passover sacrifice” (ibid.), perhaps I should include [as requirements of the second Passover] the removal of leaven and the eating of unleavened bread for all seven days [as is required for the first Passover]?

[D] The teaching [of the Torah] says, “They shall eat it with unleavened bread and bitter herbs” (Num. 9:11). [The singling out of this prescription indicates that] you have nothing besides the Passover

offering itself which can invalidate it except pieces of unleavened bread and bitter herbs alone. [Hence, the removal of leaven and eating unleavened bread for seven days are not required for the second Passover.]

[E] And this [presumption that removal of leaven and the eating of unleavened bread for seven days should be required] is in accord with [the view of] R. Ishmael, for R. Ishmael said, “[Where there is] a general ruling and [afterwards] a specific ruling, everything is in the general ruling.” Perhaps [therefore] all the things [required for the first Passover offering] should invalidate it [the second Passover offering as well]?

[F] The teaching [of the Torah] says, “They shall eat it with unleavened bread and bitter herbs” (Num. 9:11). [The singling out of this prescription indicates that] you have nothing besides the Passover offering itself which can invalidate it except pieces of unleavened bread and bitter herbs alone. [Hence, the removal of leaven and eating unleavened bread for seven days are not required for the second Passover.]

[I:2 A] *There are [some] teachers who teach,* “For [omission of] the second [Passover offering] one is punished by excision; for [omission of] the first [Passover] one is not punished by excision.”

[B] *There are [other] teachers who teach,* “For [omission of] the first [Passover] one is punished by excision; for [omission of] the second [Passover] one is not punished by excision.”

[C] *And there are [still other] teachers who teach:* “Whether for [omission of] the first [Passover] or the second [only], one is exempt; one is not punished by excision [unless he intentionally omits both Passovers –].”

[D] *And there are (still other) teachers who teach:* “For (omission of) the first (Passover) one is not punished by excision unless he (purposely) did not offer the second.]

[E] *The one who says,* “For [omission of] the first Passover] one is punished by excision” [understands] “[that man] shall bear his guilt” (Num. 9:13) to refer to the first [Passover].

[F] *The one who says,* “For [omission of] the second Passover] one is punished by excision” [understands] “[that man] shall bear his guilt” (ibid.) to refer to the second [Passover].

- [G] *The one who says*, “Whether for [omission of] the first [Passover] or the second [only], one is not punished by excision,” [understands] “[that man] shall bear his guilt” (ibid.) to refer to [one who intentionally omits –] both the first [Passover] and the second.
- [H] *The one who says that* for [omission of] the second [Passover] one is punished by excision only if he [purposely] did not offer the first [Passover understands] “for he did not present the Lord’s offering at its set time” (Num. 9:13) to refer to the first [Passover], and “that man] shall bear his guilt” (ibid.) to refer to the second.
- [II:1 A]** Said R. Yohanan in the name of R. Simeon b. Yehosedeq, “It is written, ‘For you, there shall be singing as on a night when a festival is hallowed’ (Isa. 30:29 [taken to be referring to Passover night]). [The obligation to recite the Hallel psalms on] Passover evening comes to teach [that in a similar way the Hallel psalms are to be recited] upon the downfall of Sennacherib.
- [B] “And it turns out that from it [the downfall of Sennacherib, the following] is learned [regarding Passover:] Just as this [the occasion of Sennacherib’s downfall] requires [the recitation of] the Hallel [psalms], so that [the eating of the Passover offering at night] requires [the recitation of] the Hallel psalms.” [Since the verse is understood to compare the rejoicing at the downfall of Sennacherib with that of Passover evening, i.e., the first Passover, we can learn that Hallel must be recited in the evening, when the first Passover offering is being eaten, in accordance with M. 9:3C, not just in the afternoon when it is being slaughtered, as is required for the second Passover, M. 9:3D].
- [C] If so, [perhaps we should say:] just as this one [the first Passover] requires [an accompanying] festival sacrifice, so that one [the second Passover] should also require a festival sacrifice?
- [D] Said R. Zeira, “[For you, there shall be singing] as on a night when a festival is hallowed’ (Isa. 30:29). That which requires [the singing of] Hallel [psalms at night, i.e., the first Passover, A. I] requires a festival sacrifice; that which does not require [the singing of] Hallel [psalms at night, i.e., the second Passover] does not require a festival sacrifice.”
- [E] Then perhaps ‘it [the second Passover] overrides uncleanness? (‘
- [F] [No!] “You said that the entire thing does not come [i.e., the second Passover is not offered] except because of uncleanness” and you say that it overrides uncleanness? [Hence, one who remains unclean at the time of the second Passover does not bring a Passover offering].second Passover would be allowed to sacrifice

even so. Rather it provides an opportunity for those who were unclean on the fourteenth of Nisan to sacrifice a month later. Those still unclean at the time of the second Passover may not sacrifice the Passover offering at that time.

9:4

[A] **A Passover-offering which was offered in uncleanness –**

[B] **males afflicted with flux uncleanness, females afflicted with flux uncleanness, menstruating women and women unclean by reason of childbirth should not eat from it.**

[C] **But if they ate [from it], they are exempt from the punishment of extirpation.**

[D] **R. Eliezer declares them exempt [from extirpation] even on account of coming into the sanctuary.**

[I:1 A] *It was taught:* R. Meir declares liable [those in M. 9:4A if they ate], but R. Simeon declares [them] exempt [in agreement with M. 9:4B].

[B] *What is the reason for [the opinion of] R. Simeon?*

[C] **“As for the [other] flesh, anyone who is clean may eat such flesh. But the person who, in a state of uncleanness, eats flesh from the [Lord’s] sacrifices of well-being, [that person shall be cut off from his kin]” (Lev. 7:19-20).**

[D] **That which is permissible to [slaughtered for] those who are clean, they are obligated regarding it because of uncleanness, which excludes [the case of] a Passover which is offered when [the majority of the community is in a state of] uncleanness, from which *zabim* and *zabot* [men and women with fluxes], menstruants, and women after childbirth [Lev. 12] have eaten (T. Pes. 8:9) [In such a case we say that] that which is not permissible to those who are clean, they are not obligated regarding it because of uncleanness.**

[E] *If one ate a burnt offering [or] ate the parts [of the animal which are offered on the altar from a whole offering, do we say that] since these are not permitted to those who are clean, they are not obligated regarding it because of uncleanness? [This question is left unanswered.]*

[II:1 A] [Referring to M. 9:4C:] *If one [who is prohibited from entering the Temple] entered at night [or] entered before the sixth hour [noon, when the obligation to slaughter the Passover offering has not yet*

come into effect, what is the law? Is such a person still exempt according to R. Eliezer? The question is left unanswered.]

- [II:2 A] *Said R. Yosé, “If R. Eleazar were to adopt the opinion of R. Simeon [hence M. 9:4B], what is the reason [for the two commands regarding a woman after childbirth during her period of uncleanness]: ‘she shall not touch any consecrated thing, nor enter the sanctuary’ (Lev. 12:4)? [One alone should suffice, for] one who is obligated for eating consecrated food is obligated for entering the sanctuary, and one who is not obligated for eating consecrated food is not obligated for entering the sanctuary.*
- [C] “If R. Simeon were to adopt the opinion of R. Eleazar, what is the reason [for the two commands regarding a woman after childbirth during her period of uncleanness]: ‘she shall not touch any consecrated thing, nor enter the sanctuary’ (Lev. 12:4). [One alone should suffice, for] one who is obligated for entering the sanctuary is obligated for eating consecrated food, and one who is not obligated for entering the sanctuary is not obligated for eating consecrated food]

9:5

- [A] **What is the difference between the Passover of Egypt and the Passover of the succeeding generations?**
- [B] **As to the Passover of Egypt – (1) [the lamb’s] designation took place on the tenth of Nisan. (2) It required sprinkling of the blood of the lamb with a branch of hyssop on the lintel of the door and on the two doorposts. And (3) it was eaten in haste in a single night.**
- [C] **But the Passover observed by the succeeding generations applies [to leaven] for all seven days [and not only for one night].**
- [I:1 A] *There are [some] teachers who teach: “Cataracts and growths in the eye disqualify it [i.e., the Passover of Egypt].”*
- [B] *There are [other] teachers who teach: “Cataracts and growths in the eye do not disqualify it.”*
- [C] *[According to] the one who says, “Cataracts and growths in the eye disqualify it,” it is fine, for it is written, “Your [Passover] lamb shall be without blemish” (Exod. 12:5).*
- [D] *[According to] the one who says, “Cataracts and growths in the eye do not disqualify it,” how can he explain [the need for the command], “Your [Passover] lamb shall be without blemish” (Exod. 12:5)?*

[E] [If you want to explain it by claiming that it comes to exclude offering an animal missing an entire limb,] even among the sons of Noah this is the case [so there would be no need for a verse to explain it.

[F] [Proving that the sons of Noah are obligated to bring offerings only from animals which have all their limbs:] Did not R. Yosé say as follows,

[G] “R. Eleazar explained to the Associates, ““And of all that live, of all flesh” (Gen. 6:19), that they should be complete in [having all] their limbs.”” [Noah was commanded to take only animals with all their limbs into the ark, since he would later use some for sacrifices.]

[H] [Asking why the heifer, whose neck is broken to expiate for a murder in the field, must be a complete animal (the original context of this material in y. Sotah):] There [in the case of the animals brought into the ark by Noah], they have [a potential] of being offered on the altar [as sacrifices]. But here [in the case of the heifer whose neck is broken as atonement for a murder (Deut. 21:1-9)], they are not offered on the altar [as sacrifices]? [So why do they have to be complete in all their limbs?]

[I] R. Huna [said] in the name of R. Jeremiah, “Since regarding it [the heifer], there is written [the language of] atonement [‘Atoned’; ‘and the blood guilt will be atoned’ (Deut. 21:8)], as is the case with sacrifices, it is [considered] like that which is offered on the altar.”

[I:2 A] Concerning where the blood was placed on the door frame and the meaning of Hebrew *saf*, usually translated “threshold”:] *And it is taught thus:* “Our forefathers in Egypt had three altars: [The] lintel and [the] two doorposts.”

[B] *There are [other] teachers who teach:* “Four [altars]: [the] threshold (*saf*), [the] lintel and [the] two doorposts.”

[C] [Explaining the dispute in A-B as based on the meaning of the Hebrew word *saf* (Exod. 12:22):] *There are [some] teachers who teach:* “The *saf* is a vessel [i.e., a basin]”; *there are [other] teachers who teach:* “The *saf* is a threshold.”

[D] [Explaining the views in C:] The one who says that the *saf* is a vessel [bases his view on the passage], “the basins (*sippot*, plural

of *saf*), snuffers, sprinkling bowls” (1 Kings 7:50) [which shows that *saf* means “basin”].

[E] *The one who says that the saf is a threshold* [bases himself on the passage], “When they placed their threshold (*sippam*) next to My threshold (*sippi*) [and their doorposts next to My door posts]” (Ezek. 43:8), [indicating that *saf* can refer to a part of the door frame].

[F] *The one who says that [safis a] vessel, [it is] appropriate that it is written, “[dip it (the hyssop) in] the blood that is in the basin”* (Ex. 12:22). *The one who says that it is a threshold, how can he explain “[dip it in the blood that is in the] basin”* (Exod. 12:22) [which seems to refer to] a vessel?

[G] He brings a *saf*, which is a [type of] vessel and places it on the threshold, and dips [the hyssop into the blood] and sprinkles [it]. [The first occurrence of *saf* in the verse requires that the blood be placed in a vessel, and the second that the vessel be placed on the threshold].

[I:3 A] *It was taught:* “Ben Bag Bag says, ‘Your lamb shall be without blemish’ (Exod. 12:5); [even] if there has been shearing [and the fleece has been removed, the animal still is considered [perfect and] without blemish.”

[B] *But lo, it has been taught:* “‘If his offering is from [among] the flock’ (Lev. 1:10); to exclude the smooth [shorn] ones among them [from being offered as sacrifices, for shearing is tantamount to a blemish]?”

[C] [Agreeing with A against B:] Said R. Abun, “‘From [among] the flock’ (Lev. 1:10) [is] to exclude that which the Torah set aside for you [as forbidden]: a [male] animal that has relations [with a woman]; a [female] animal with which [a man] had relations; an animal designated [for an idolatrous sacrifice] j and an animal which has been worked [Hence, a shorn animal may be considered unblemished and may be offered as a Passover sacrifice.]

[I:4 A] Said R. Yosé, “Even R. Yosé the Galilean agrees with them [with the sages, M. 9:5] that the Passover of Egypt lasted for only one day]. *For it is taught: R. Yosé the Galilean says, “I say that the Passover of Egypt was [that leaven was only forbidden in Egypt for] only one day, for it is written, ‘No unleavened bread shall be eaten’ [and at the start of the next sentence] ‘Today’* (Exod. 13:34) (T. 8:210).”

9:6

[A] Said R. Joshua, “I have heard: (1) that a beast declared to be substituted for an animal set aside for a Passover-offering is offered, and (2) that a beast declared to be substituted for an animal set aside for a Passover-offering is not offered. And I cannot explain [the contradiction between these two opinions].”

[B] Said R. Aqiba, “I shall explain [the two sayings]. [In the case of a beast designated as a substitute for an animal set apart as a Passover-offering which was lost], the [lost] Passover-offering which turned up before the slaughtering of the [substituted] Passover-offering is set out to pasture until it is blemished, then is sold, and peace-offerings are to be purchased with the money received for it, and so, too, is the rule for the beast substituted for it. [But if the lost beast which had been set aside for a Passover-offering was found] after the slaughtering of the Passover-offering [substituted in its place], it is offered as peace-offerings, and so, too, is the rule for the beast substituted for it.”

[I:1 A] *R. Yudan asked*, “The law is the same in the case of the substitute for a guilt offering. There is a case in which the substitute for a guilt offering is sacrificed, and there is a case in which the substitute for a guilt offering is not sacrificed. [So why was R. Joshua confused about the law in M. 9:6A?]”

[B] Said R. Yosé, “[These cases are not the same:] A Passover offering which is offered in the morning [of the fourteenth of Nisan] is not a [valid] Passover offering. A burnt offering which is offered in the morning is [still] a [valid] burnt offering. [Since in the case of the Passover there is a time limit for the offering, the two cases are not analogous.]”

[I:2 A] If he made a substitution for it on the thirteenth [of Nisan],

[B] R. Zeira says, “Its substitute is offered as a whole offering.”

[C] R. Samuel b. R. Isaac says, “Its substitute is not offered as a whole offering.”

[D] *Evidence in behalf of the position of R. Samuel b. R. Isaac derives from the following: “[If the first Passover was found] after [the slaughter of the second] Passover, he should bring [it] as a whole offering. And the same [is the law] for its substitute [M. 9:6B].* If you say that if one made a substitution for it on the thirteenth [of Nisan], its substitute is offered as a whole offering, [R. Aqiba] should have given this answer [to R. Joshua question in M. 9:6A instead of

the answer he gives in M. 9:6B]. Is it not better to learn the [law of the] substitute for a Passover offering from the [law of the] Passover offering and not to learn the [law of the] substitute for a whole offering from the [law of the] Passover offering?

[E] R. Hila [said] in the name of Samuel, “[If] the owner [of an animal designated as a Passover offering] died on the thirteenth [of Nisan], it itself is offered as a whole offering.

[F] And why did he not say: “on the fourteenth [of Nisan]?”

[G] [Because he holds the view that] whatever [animal] was fit to be offered on the day of the Passover offering [the fourteenth of Nisan] itself is not offered as a whole offering. [Once the animal entered the fourteenth of Nisan while its owner was still alive it can never be offered as a whole offering, but must instead be pastured until it becomes unfit for sacrifice.]

[I:3 A] *There [M. Tem. 4:1] we learned: “The offspring of [an animal designated as] a sin offering, and the substitute for [an animal designated as] a sin offering, and [an animal designated as] a sin offering the owner of which had died [should be allowed to die].*

[B] **“[An animal designated as a sin offering,] the [first] year of which passed, or which was lost, or which was found to be blemished, [if it is after the owner had gained atonement (through the tossing of the blood), it shall be allowed to die.... If it is before the owner has gained atonement (through the tossing of the blood), it should pasture until it becomes unfit for a sacrifice.]”**

[C] [It is] the offspring of a sin offering about which they dispute:

[D] [If] a community set aside a female [animal for a sin offering, instead of the required male,] or if a prince [i.e., king] set aside a she-goat [instead of the required he-goat], R. Jeremiah says, “It has not become sanctified [and, hence,] its offspring may be offered [as a sacrifice].

[E] R. Yosé says “It has become sanctified [and, hence,] its offspring must be allowed to die.”

[F] [In reference [to M Tem. 2:2: **An animal designated as a sin offering for an individual, the owner of which has gained atonement (by the tossing of the blood of another animal), should be allowed to die. (An animal designated as) a sin offering for a community, is not allowed to die.] R. Judah says, “It is allowed to die.” Said R. Simeon, “Just as we have seen in the cases of the offspring of an animal designated as a sin**

offering, and the substitute for (an animal designated as) a sin offering, and (an animal designated as) a sin offering the owner of which had died, that the words apply to (the case of) an individual, but not to a community, so (in the cases of an animal) the owner of which has (already) gained atonement (by the tossing of the blood of another animal) or the (first) year of which had passed, the words apply to (the case of) an individual, but not to a community], the argument of R. Yosé is from this: You cannot say that there is [a case of] the offspring of [an animal designated as] a sin offering for the community, since the community does not bring a female [animal as a sin offering].’

[G] He only said: “You cannot say.” Hence, if someone designated it [a male animal for this sacrifice], it has [nonetheless] become sanctified [and if it has an offspring it is considered to be the offspring of an animal designated as a sin offering and is allowed to die].

[H] Said R. Yosé b. R. Bun, “R. Jeremiah spoke correctly [when he said that ‘It has not become sanctified and, hence, that its offspring may be offered as a sacrifice].”

[I] [In reference to M. Tem. 3:3: If one set aside a female (animal) as a guilt offering (since only males may be offered for this purpose), it should pasture until it becomes unfit for sacrifice, then it should be sold, and he should bring a burnt offering with its value. The animal itself is not sacrificed, but the one who designates it is obligated to bring a burnt offering of equivalent value.]

[J] [If his guilt offering has (already) been offered, then the value (of the animal designated for the guilt offering) should be applied for a freewill offering.]

[K] [R. Simeon says, “It should be sold, even though it has no (other) blemish].

[L] For is it [the view of R. Jeremiah] not the view of R. Simeon. For R. Simeon says [that] a female [animal designated] as a burnt offering does not become sanctified, except in the sanctity of its value.

[M] *And [it is regarding] the substitute for a sin offering about which they dispute:*

[N] [If] one made a substitution for it [the Passover offering] on the thirteenth [of Nisan],

[O] R. Zeira says, “Its substitute is offered as a whole offering.

[P] R. Samuel b. R. Isaac says, “Its substitute is not offered as a whole offering.”

[Q] And [an animal designated as] a sin offering the owner of which had died should be allowed to die:

[R] [This is] in accordance with that which R. Hila said in the name of Samuel, “[If] the owner [of an animal designated as a Passover offering] died on the thirteenth [of Nisan], it itself is offered as a whole offering.”

[S] And why did he not say: “On the fourteenth [of Nisan]?”

[T] [Because] everyone agrees that whatever [animal] was fit to be offered on the day of the Passover offering [the fourteenth of Nisan] itself is not offered as a whole offering. [Once the animal entered the fourteenth of Nisan while its owner was still alive, it can never be offered as a whole offering, but must instead be pastured until it becomes unfit for sacrifice.]

[U] “And [an animal designated as a sin offering,] the [first] year of which passed” [M. Tem. 4:1].

[V] [*This is*] in accordance with that which R. Hisda said, “[This refers to a case] where its [first] year passed between the first and second [Passovers].

[W] R. Hila in the name of R. Yohanan, “[This refers to a case] where the time for gaining atonement through this [sacrifice. by tossing its blood,] has passed.

[X] “Or which was lost, or which was found: it is certainly [considered] as surplus [of the Passover offering].

[Y] R. Yosé in the name of R. Yohanan, “You do not have [a case of] a Passover offering which itself is offered as a whole offering except where it was lost and then found after the owners had gained atonement [by the tossing of the blood] [Whenever the Passover offering is found, even if it is after

noon, the Passover is not offered as a whole offering.]

[Z] Or [which was found to be] blemished [M. Tem. 4:1].

[AA] R. Zeira asked before R. Yosé, “Does it not make sense [to say that] the blemished animal [about] which we teach here [in M. Tem. 4:1] is [also] lost? [Hence, it must be allowed to die. But if it had only been lost (and not blemished as well), and was found before the tossing of the blood of the other animal, it would be pastured until it became unfit for sacrifice.]

[BB] *He [R. Yosé] said to him [R. Zeira], “I [also] think so.”*

[I:4 A] [If] he set aside his Passover offering and it was lost, and so he set aside another in its stead, but did not have a chance to offer the second before the first was found, and both are available:

[B] *There are [some] teachers who teach, “It is required to offer the first” [T. 9:12].*

[C] *There are [other] teachers who teach, “It is required to offer the second.”*

[D] *And Samuel taught as follows [in the formulation of a Tannaite formulation: “[Since there is a dispute among the Tannaite authorities,] he should chose the nicest of them [and offer it as the Passover sacrifice], and the second should pasture until it becomes unfit for sacrifice. Then it should be sold and he should bring a whole offering with its value on the sixteenth [of Nisan].” [Since it is a voluntary whole offering, it may not be offered on the festival itself, so it is postponed to the sixteenth].*

[E] [But] R. Eleazar said, “It itself should be sacrificed as a whole offering on the sixteenth” [T. 9:15].

[F] *The [following statement] of Rabbi [Judah the Prince] goes according to [the view of] R. Eleazar, and Samuel taught it in his formulation:*

[G] *For it is taught: “[If one set aside his sin offering and it was lost, and he set aside another in its stead, (and) did not have a chance to offer it until the first was found, and both of them*

are perfect (unblemished), one of them should be offered as a sin offering and the second should be allowed to die.]

[H] [“Rabbi [Judah the Prince] says,] ‘There is no [case in which] the sin offering [is allowed to die] except when it is found after the owner has gained atonement [by the tossing of the blood]. [And] there is no [case in which] the money [set aside for the purchase of a sin offering] goes into the Dead Sea [i. e., is disposed of], except when it is found after the owner has gained atonement [by the tossing of the blood]’” [M. Tem. 4:3].

9:7

[A] He who designates a female animal for his Passover-offering [which must be male (Ex. 12:5)],

[B] or a male two years old [though it must be one year old] –

[C] [the animal so designated] is set out to pasture until it suffers a blemish, then it is sold, and the coins received for it fall for a freewill-offering.

[D] He who designates an animal for his Passover-offering and who died –

[E] his son should bring it in his stead not as a Passover-offering, but as peace-offerings.

[I:1 A] *The teaching [of the Mishnah, 9:7A] [refers] to [a point] after atonement has been gained [by the tossing of the blood of a Passover offering].*

[B] *The teaching [of the Mishnah, 9:7A] is not in accord with Rabbi [Judah the Prince] nor with R. Simeon, for it is taught:*

[C] **“[One who set aside a female (animal) for his passover offering,] before the offering of the Passover, it should pasture until it becomes unfit for a sacrifice, [then] be sold, and he should bring [another] Passover offering with its value. After the offering of the Passover,”⁹ it should be offered as a whole offering.**

[D] **“R. Simeon says, ‘Before the offering of the Passover, it should be sold, even if it has no [other] blemish. After the offering of the Passover, it should be offered as a whole offering’” [T. Pes. 9:20 = T. Tem. 2:3].**

[I:2 A] *Did we not think to say the same [in reference to M. 9:7B]? Whatever [animal] was fit to be offered on the day of the Passover offering [the fourteenth of Nisan] itself is not offered as a whole offering. [Once the*

animal entered the fourteenth of Nisan while its owner was still alive, it can never be offered as a whole offering, but must instead be pastured until it becomes unfit for sacrifice.]

[B] Explain it [as referring to a case] where he set aside money

9:8

[A] **An animal set aside for a Passover-offering which was confused with animals set apart for other animal sacrifices –**

[B] **all of them are to be set out to pasture until they suffer a blemish, then are to be sold, and with the proceeds of the best of them one is to bring an animal of one sort [of sacrifice], and with the proceeds of the best of them he is to bring an animal of another sort,**

[C] **and he must make up the difference [in the cost] from his own pocket.**

[D] **[If] it was confused with firstlings –**

[E] **R. Simeon says, “If it is for an association of priests, let them eat it.”**

[I:1 A] In reference to M. M.S. 3:2: **It is forbidden to buy heave offering (which may only be eaten by priests) with the money of (second) tithe (which must be brought to Jerusalem and spent on food to be eaten there). because one reduces (the opportunity for) eating it. But R. Simeon permits (it).** Since heave offering has more strictures regarding its eating, being limited to priests and their families, exchanging the money of second tithe for heave offering may lead indirectly to the tithe’s not being eaten as prescribed. R. Simeon believes that there is no prohibition on indirectly causing offerings to become disqualified and, hence, has no objection to this exchange,] *it was taught:* **“It is forbidden to purchase [produce of] the Sabbatical year with money of the [second] tithe [since when the time for disposing of Sabbatical produce comes, it will be disqualified and will never be eaten]” [T. Shebi’it 7:1].**

[C] R. Yosé says, “It is a dispute.” [This is the view of the sages which accords with that in M. M.S. 3:2, but R. Simeon (ibid.) would disagree here as well, permitting the purchase of Sabbatical produce with money of second tithe, since he permits indirectly causing offerings to become disqualified.]

[D] Said R. Jonah, “It is unanimous, [and there is no dispute over the ruling in B, since] those [priests] who eat of the heave offering are meticulous. [R. Simeon would agree that heave offering may be

bought with the money of second tithe, since the priests can be depended on to eat it as is required.

- [E] *R. Hananiah objected before R. Mana, “Have we not learned [in M. 9:8B]: [An animal designated as a Passover offering] which was mixed up with firstborn animals, R. Simeon says, “If there is an association of [all] priests, [the Passover offering and the firstborn offerings should be offered and] they should eat [the offerings together on Passover eve]. And it was taught regarding it, ‘They should be eaten according to [the law pertaining to] the stricter among them.’” [The time limit for eating the Passover offering is midnight of the night of the sacrifice, whereas the firstborn offering may usually be eaten for a period of two days and the following night. Nonetheless, R. Simeon permits this. Hence, he has no objection to indirectly causing offerings to be disqualified and would, therefore, disagree also with B, as asserted by R. Yosé].*
- [H] He [R. Mana] said to him [R. Hananiah], “Those who eat the Passover offering in its appropriate time are [as] meticulous as those who eat heave offering. [They can be depended on to eat of all the offerings before midnight, as is required. Hence, as asserted by R. Jonah, R. Simeon did not dispute the case in.]
- [I] “You should know that this is the case, *for we learn: They do not roast meat, onion, or an egg except if they will be roasted [M. Shab. 1:10].* [It is forbidden to begin cooking right before the Sabbath lest someone stir the coals after the onset of the Sabbath and in so doing violate the Sabbath.] *And we learn, ‘They lower the Passover offering into the oven right before nightfall’ [M. Shab. 1:11].*” [Here there is no such concern. Since the members of the association are meticulous, even if not priests, we can rely on them not to violate the Sabbath in the process of roasting the Passover offering. In the same way, they can be relied upon to eat of all the offerings before midnight, as is required.]

9:9

- [A] An association, the Passover-offering of which was lost,
[B] and which said to someone, “Go and find and slaughter another one for us,”
[C] and that one went and found and slaughtered [another],
[D] but they, too, went and bought and slaughtered [one for themselves]
—
[E] if his was slaughtered first, he eats his, and they eat with him of his.

- [F] But if theirs was slaughtered first, they eat of theirs, and he eats of his.
- [G] And if it is not known which of them was slaughtered first,
- [H] or if both of them were slaughtered simultaneously,
- [I] then he eats of his, and they do not eat with him, and theirs goes forth to the place of burning,
- [J] but they are exempt from having to observe the second Passover.
- [K] [If] he said to them, “If I come back late, go and slaughter a Passover-offering in my behalf,”
- [L] [now] he went and found [an animal] and slaughtered it,
- [M] and they purchased and slaughtered an animal as well.
- [N] If theirs was slaughtered first, they eat of theirs, and he eats with them.
- [O] And if his was slaughtered first, he eats of his, and they eat of theirs.
- [P] And if it is not known which of them was slaughtered first,
- [Q] or if they were slaughtered simultaneously,
- [R] they eat of theirs, and he does not eat with them.
- [S] And his goes forth to the place of burning.
- [T] And he is exempt from having to observe the second Passover.
- [U] [If] he gave instructions to them, and they gave instructions to him [with the same consequences as before],
- [V] all of them eat from the first.
- [W] But if it is not known which of them was slaughtered first,
- [X] both of them go forth to the place of burning.
- [Y] [If] he did not give instructions to them, and they did not give instructions to him, they are not responsible for one another.
- [Z] Two associations, the Passover-offerings of which were confused – [AA] these take [draw] possession of one of them for themselves, and those take possession of one of them for themselves.
- [BB] One [member] of these goes to the others, and one [member] of the others comes to these.
- [CC] And thus do they say, “If this Passover-offering is ours, withdraw from yours and register with ours. And if this Passover-offering is yours, we withdraw from ours and register with yours.”
- [DD] And so, too, five associations, each with five or ten members –

[EE] each one of the associations takes possession of [one of the confused Passover-offerings] and so do they declare.

[I:1 A] Said R. Yohanan, “This [M. 9:9B] is according to R. Nathan,

[B]”for R. Nathan said: ‘They fulfill their obligation [of offering the Passover] by the tossing [of the blood, even without eating]’ T. 7:5].”

[I:2 A] **[If before leaving to search for the missing animal,] he said to them, “If I am late, [go out and] slaughter on my behalf,” and so forth [T. 9:2].**

[B] *Taught Bar Qappara:* “Silence is becoming for the wise, how much more so for the stupid. For thus Solomon said, ‘Even a fool, if he keeps silent, is deemed wise’ (Prov. 17:28). And it is not necessary to say [that the same is the case for] a wise person who keeps silent” [T. 9:2]. [For in the case where nothing is said, they all fulfill their obligations and get to eat of the Passover offering.]

9:10

[A] Two people whose Passover-offerings were confused –

[B] this one takes possession of one of the animals, and that one takes possession of one of the animals.

[C] This one registers with himself a third party, and that one registers with himself a third party.

[D] This one approaches that, and that one approaches this, and thus do they declare:

[E] “If this Passover-offering is mine, then you withdraw from yours and register with mine. And if this Passover-offering is yours, then I withdraw from mine and register with yours.”

[I:1 A] *Said R. Yohanan, “This [M. 9:10B] is according to R. Judah, for we have learned: ‘We do not slaughter a Passover offering for an individual,’ the words of R. Judah. But R. Yosé permits [it]’ (M. 8:7).”* [In accord with R. Judah, the Mishnah requires that there be more than one person registered on the Passover offering.]

[B] Lo, [if that is the case, if [one of the groups is] of four, [and their Passovers are mixed up, they may] not [follow the procedure outlined, as it may result in a Passover being offered without the participation of any of its original registrants.]

[C] But did not R. Yohanan say that this is according to R. Judah? [If so, the arrangement proposed will not work, since only one of the original

registrants will remain, and it is forbidden to offer a Passover sacrifice on behalf of one person.]

[D] Said [*the Amora*] R. Yosé, “The entire statement which he [*R. Yohanan in A*] said, to the effect that it is according to R. Judah, is because we learn there: **‘We do not slaughter a Passover offering for an individual,’** the words of R. Judah. **But R. Yosé permits [it]**” [Hence, this procedure is in accord with the view of R. Yosé, not with that of R. Judah.]

YERUSHALMI PESA'HIM

CHAPTER TEN

10:1

[A] On the eve of Passover from just before the afternoon prayer [the afternoon's daily whole-offering], a person should not eat, until it gets dark.

[B] And even the poorest Israelite should not eat until he reclines at his table.

[C] And they should provide him with no fewer than four cups of wine,

[D] and even if [the funds] come from public charity.

[I:1 A] *The teaching [the Mishnah] represents the position of R. Judah [who holds that one refrains from eating on the eve of all Sabbaths and festivals].*

[B] *As it is taught: "Sabbath eve from the time of the afternoon offering onward a person should not taste anything until it gets dark so that he may enter the Sabbath with an appetite," the words of R. Judah.*

[C] R. Yosé says, '[A person] continues to eat until he finishes [the meal].'

[D] "They interrupt [eating] because of the Sabbath [to welcome it by reciting the Sanctification blessing]," the words of R. Judah.

[E] R. Yosé says, "They do not interrupt."

[F] There is a case concerning Rabban Simeon b. Gamaliel and R. Yosé b. Halafta who [prior to the time of the afternoon offering] were dining in Akko on the Sabbath eve and the time of Sabbath came.

- [G] Said Rabban Simeon b. Gamaliel to R. Yosé b. Halafta, “Do you want us to interrupt [our meal] because of the Sabbath [and thus take R. Judah’s position into consideration]?”
- [H] [R. Yosé b. Halafta] said to him, “Every day you would prefer my opinion in the presence of R. Judah and now you prefer R. Judah’s in my presence? ‘Does he mean to ravish the queen in my own palace’ (Est. 7:8).”
- [I] [Rabban Simeon b. Gamaliel] said to him, “If so, let us not interrupt lest [following our action] the law be fixed in Israel according to R. Judah.”
- [J] They did not move from there until they fixed the law according to R. Yosé [T. Ber. 5:1].
- [K] R. Judah [said] in the name of Samuel, “These [the foregoing] are the opinions of R. Judah and R. Yosé. [But] the opinion of Sages [the law] is: [A person] spreads a napkin [over the bread] and sanctifies [the day by reciting the sanctification blessing]. [One briefly interrupts the meal by covering the food and not by removing it.]”
- [I:2 A] What is the law, is it permissible to eat dried fruit [which whets one’s thirst]?
- [B] R. Judah Nesiáh bathed and he came thirsty [in the late afternoon].
- [C] He asked R. Mana, “Since I am thirsty, may I drink?” /
- [D] He said to him, “[No, for] R. Hiyya teaches: ‘A person is prohibited from tasting anything until it gets dark.’”
- [E] Said R. Levi, “One who eats unleavened bread on Passover eve is like one who has intercourse with his betrothed in his in-laws’ [literally: father-in-law’s] house – and one who has intercourse with his betrothed in his in-laws’ house is liable to lashes.” [For both, one must wait for the proper time.] “
- [F] *It is taught:* R. Judah b. Beterah says, “One is prohibited [from eating] both leavened and unleavened bread.”
- [G] R. Simon [said] in the name of R. Joshua b. Levi, “Rabbi [Judah the Patriarch] was accustomed to eat neither leavened nor unleavened bread” –
- [H] neither unleavened bread because of this [tradition] of R. Levi, nor leavened bread because of this [tradition] of R. Judah b. Beterah.”

[I] *And was Rabbi a student of R. Judah b. Beterah [that he should follow the latter's opinion in this matter]? Was he not [instead] a student of R. Jacob b. Qorshai? Rather [he refrained from eating leavened bread] because he was a firstborn [and the firstborn fasted on the day preceding Passover].*

[J] *Said R. Mana, "R. Jonah, my father, was a firstborn and he ate!" [Therefore we must assume that the fast of the firstborn was not (yet) an accepted custom and the fact that Rabbi may have been a firstborn is not crucial.]*

[K] *Said R. Tanhum, "[Rabbi acted thus] not because of this [reason], but because of the following: Rabbi was sickly. When he ate during the day, he would not [be able to] eat in the evening.*

[L] *"And why here [in this case] would he not eat during the day? In order to enter [upon] the unleavened bread with an appetite."*

[I:3 A] Said R. Levi, "Because it is the custom of slaves to eat standing, here [on Passover night, the Mishnah requires people] to eat reclining to proclaim that they have gone out from slavery to freedom."

[B] R. Simon [said] in the name of R. Joshua b. Levi, "That olive's amount [of unleavened bread] with which a person fulfills his obligation on Passover – one must eat it reclining."

[C] R. Yosé asked before R. Simon, "Does this apply even to a slave before his master, even to a woman before her husband?"

[D] He said to him, "Son of noble ancestors! Up to this point is what I have heard [i.e., only what I reported]."

[II:1 A] Said R. Hiyya b. Adda, "Because it is not pleasant for a person to eat from the communal fund, here [he is required] **'even if [the funds come] from the charity plate.'**" [Because of the importance of drinking four cups, the Mishnah requires a person to take, not just from the communal fund, which provides a weekly allotment, but even from the charity plate, which provides a daily allotment. Since this requires a person to appear daily, it poses an even greater source of embarrassment.]

[II:2 A] *It is taught: On a festival, a man is required to make his wife and children happy. With what does he make them happy? With wine. R. Judah says, "Women with what is appropriate for them; and children, with what is appropriate for them" [T. 10:4].*

- [B] **“Women, with what is appropriate for them”** – for example, fine linen garments and belts.
- [C] **“and children, with what is appropriate for them”** – for example, walnuts and almonds.
- [D] They say, “R. Tarfon used to do this.”

[II:3 A] Whence [did they derive the requirement] for four cups?

- [B] R. Yohanan [said] in the name of R. Benaiah, “[They] correspond to the four redemptions [or acts of redemption, mentioned in reference to Egypt]: ‘Say, therefore, to the Israelite people: I am the Lord. I will take you out’ [‘from under the burdens of the Egyptians and deliver you from their bondage. I will redeem you with an outstretched arm and through extraordinary chastisements’]. ‘And I will take you to be my people,’ (Exod. 6:6-7). [These verses contain the four terms:] ‘I will take out,’ ‘I will deliver,’ ‘I will redeem,’ ‘I will take.’”
- [C] R. Joshua b. Levi said, “[They] correspond to the four cups of [wine mentioned in reference to] Pharaoh: ‘Pharaoh’s cup was in my hand, [and I took the grapes,] and I pressed them into Pharaoh’s cup, and placed the cup in Pharaoh’s hand’ (Gen. 40:11) ‘and you will place Pharaoh’s cup in his hand,’ (Gen. 40:13). [‘But think of me when all is well with you again so as to free me from this place’ (Gen. 40:14).]” [The four cups in the dream and its interpretation brought or preceded a redemption, in this instance that of Joseph.]
- [D] R. Levi said, “[They] correspond to the four [world] kingdoms [that have oppressed Israel and that precede the kingdom of God – Babylonia, Media, Greece, and Rome, with each cup perhaps marking the release of Israel from a different oppressor].”
- [E] And rabbis say, “[They] correspond to the four cups of retribution that the Holy One Praised be He will give the nations of the world to drink: ‘For thus said the Lord, the God of Israel, to me: “Take from MY hand this cup of wine – of wrath [– and make all the nations to whom I send you drink of it]”’ (Jer. 25:15); [‘Flee from the midst of Babylon... for this is a time of vengeance for the Lord, He will deal retribution to her]. Babylon was a golden cup in the Lord’s hand[, it made the whole earth drunk’ (Jer. 51:[6-]7); ‘For in the Lord’s hand there is a cup [with foaming wine fully mixed; from this He pours; all the wicked of the earth drink, draining it to the very dregs]’ (Ps. 75:9); ‘He will rain down upon the wicked blazing coals and sulfur, a scorching wind shall be the portion of their cup’ (Ps. 11:6).”

[F] [In the last verse in E,] What is “the portion of their cup”?

[G] R. Abin said, “A bowl of poterion like the bowl of poterion after bathing [usually given after a bath to relax the muscles but in this case used to bring about a punishment].”

[H] [Continuing the words of the Rabbis in E:] “And corresponding to them [to the four cups of retribution], the Holy One, Praised be He, will give Israel four cups of consolation to drink: ‘The Lord is my allotted share and cup’ (Ps. 16:5); ‘[You spread a table for me in full view of my enemies;] You anoint my head with oil; my drink is abundant’ (Ps. 23:5); and this [verse:] ‘I raise the cup of deliverances’ (Ps. 116:13) [provides an additional] two [cups (as “deliverances” is plural), each of which represents a separate act of deliverance].”

[II:4 A] *There [in M. Shab. 8:1] we learned, “One who takes wine out [on the Sabbath from a public domain to a private one or vice versa incurs a liability when the wine is] – sufficient to mix a cup “*
[Since one part of raw wine is diluted with three parts of water to make a cup of drinkable wine, the Mishnah speaks of the minimum amount of wine that will prove useful.]

[B] R. Zeira asked R. Josiah, “What are the sizes of the cups?”

[C] He said to him, “Let us learn something not explicit [by analogy] with something explicit: *for R. Hiyya teaches: “The “four cups” that they spoke of [in M. Pes. 10:1] hold a quarter-log [one-fourth of a log, a small liquid measure] of wine according to the Italian measure [which is larger than the regular measure].”*

[D] *There we learned [in M. Shab. 18:1]: “[On the Sabbath people may] clear away even four or five baskets of straw or grain [e.g., to provide space for guests to sit, and not incur a liability].”*

[E] R. Zeira asked R. Josiah, “What is the size of a basket?”

[F] He said to him, “Let us learn something not explicit [by analogy] with something explicit, *for we learned there [in M. Sheq. 3:2, in reference to the baskets used to gather the contributions collected in the Temple]: With three baskets, each holding three seahs, they take out the contributions from the chamber [in the Temple].”*

[G] *R. Yosé b. R. Bun [said] in the name of R. Yohanan, “It [M. Shab. 8:1] represents the view of R. Judah, for it is taught: [One incurs liability for carrying abroad:] water –*

sufficient to swallow [between three-fourths and one quarter-log]; R. Judah says, “Sufficient to mix a cup; wine – sufficient to swallow [i.e., as long as the liquid is sufficient to swallow].” R. Judah says, “Sufficient to mix a cup [one-fourth of a quarter-log, which suffices to join with three parts water to make up a full quarter-log” – whether the wine is in a raw or already partially diluted state and, therefore, whether or not any other amount of water is present] [T. Shab. 8:10]. [Since M. Shab. 8:1 likewise is not concerned if any of the wine is diluted, it conveys Judah’s opinion.]”

[H] [If the wine is already] mixed, how much [incurs liability when taken abroad]? [When the initial drink taken abroad is already diluted, does the standard remain one-fourth of a *quarter-log* of raw wine, or, because the initial mixture may already be drinkable or can yield a drinkable mixture with less than the one-fourth of a *quarter-log* of wine, does the standard decrease? According to the latter alternative, the standard should perhaps become a mouthful of wine.]

[I] *Let us learn the answer from the following:* [One incurs liability for carrying abroad:] water – sufficient to swallow; R. Judah says, “Sufficient to mix a cup;” wine – sufficient to swallow; R. Judah says, “Sufficient to mix a cup.” [Since Judah’s disputant speaks of swallowing the wine, the drink must already be mixed. There fore, since even there Judah requires an amount sufficient to mix a cup, he must insist on the same standard in all cases, whether or not the wine is already diluted.]”

[II:5 A] What is the size of the cups?

[B] R. Mana said, “A tetraton; that is, a fourth [i.e., a quarter-log] “ [Mana, using the Greek word for a “fourth,” supplies an exact measure in use in his day].

[C] Is it permitted to drink the [four cups] in a single span [without interruption]?

[D] From what R. Yohanan said, “[In regard to] Hallel [the special Psalms said Passover night in two portions, one before and one after eating], if one heard them [the two parts together] in the synagogue, one fulfilled one’s obligation” – this indicates that if one drank them [the four cups] in a single span, one has fulfilled one’s obligation. [As set out in T. Pes. 10:8, those unable to recite

the Hallel by themselves go to the synagogue and, if they are unable to go back and forth twice, recite the two portions together. Accordingly, after dinner, without the second portion separating the third and fourth cups, they end by drinking the two later cups in succession.]

[E] Is it permitted to drink them bit by bit [literally, with interruptions]?

[F] Did they at all say that [a person] should drink except to gain nourishment [or “to become full”]? If one drinks bit by bit, one does not gain nourishment [or “become full” – and thus it is not permitted]

[G] Does a person fulfill his obligation with wine of the Seventh Year? [Since the fields and vineyards are not tilled in the Seventh Year, the vintage will not be of good quality.]

[H] *R. Hoshai* teaches: “They fulfill their obligation with wine of the Seventh Year.”

[I] Does a person fulfill his obligation with *qonditon* [wine mixed with honey and spices]?

[J] *From what Bar Qappara* teaches, “*Qonditon* is like wine” – *this indicates that they fulfill their obligation with qonditon.*

[K] Does a person fulfill his obligation with [overly] diluted [wine]?

[L] *From that which R. Hiyya* teaches [cf. **T. Pes. 10:1**], “**Four cups of which they have spoken [in M. 10:1], one fulfills one’s obligation in their regard whether they are raw or diluted as long as they have the taste and appearance of wine [even if diluted more than the usual amount].**”

[M] Said R. Jeremiah, “It is a commandment to fulfill one’s obligation with red wine, as it is said, ‘Do not look at wine when it is red’ (Prov. 23:31).” [In referring to those who get drunk and seek after fancy mixed wines, the verse mentions red wine in a manner suggesting its superiority.]

- [II:6 A] *It is taught:* “[On the Sabbath one incurs liability for carrying abroad] cooked [wine] – sufficient for seasoning.” [Since cooking a small amount of wine in a pot, even less than the amount necessary to mix for drinking, helps to flavor the food, that small quantity constitutes the useful amount incurring a liability.]
- [B] Does a person fulfill his obligation [on Passover] with boiled wine [which is weaker than regular wine]?
- [C] R. Jonah said, “They fulfill their obligation with boiled wine.”
- [D] *R. Mana acted in accord with his own opinion, for R. Mana drank the four cups of Passover night and bandaged his head [due to the pain] until the Feast of Weeks. [Since R. Mana, who generally did not drink wine, drank on Passover night, he brought upon himself a severe headache.]*
- [E] *R. Judah b. R. Ilai drank the four cups of Passover night and bandaged his head until Sukkot.*
- [F] *A certain [Roman] matron saw him with his face lit up. She said to him, “Old man, old man. You are one of three things: either you are a wine drinker, or you are a lender on interest, or you are a pig breeder.” [In the latter two possibilities, his beaming face would reflect the satisfaction derived from an easy livelihood.]*
- [G] *He said to her, “May the breath of that woman be blown out. I am none of these three things. Rather my teaching is within me [and it enlightens my face], for it is written, ‘A person’s wisdom lights up his face’ (Eccl. 8:1).”*
- [H] *R. Abbahu came to Tiberias. R. Yohanan’s students saw him with his face lit up.*
- [I] *They said before R. Yohanan, “R. Abbahu has found a treasure.”*
- [J] [R. Yohanan] *said to them, “Why [do you think so]?”*
- [K] *They said to him, “His face is lit up.”*
- [L] *He said to them, “Perhaps he has heard a new lesson [or ‘word of Torah’].”*
- [M] *When [R. Abbahu] came before him [Yohanan], [Yohanan] said to him, “What new lesson have you heard?”*
- [N] [Abbahu] *said to him, “An old supplementary teaching.”*

[O] [R. Yohanan] applied to him [the verse], “A person’s wisdom lights up his face” (Eccl. 8:1).

[II:7 A] *Said R. Haninah, “The log-measure referred to in the Torah is the Sepphorian old tomanta [one-eighth of a qab] for brine.”*

[B] *Said R. Jonah, “I am familiar with it, for the House of R. Yannai measure honey with it.”*

[C] *It is taught: “[The quarter-log is equal to] one-half of one-eighth [= one-sixteenth] of the old Tiberian [measure].”*

[D] *Said R. Yohanan, “This [one-half of one-eighth of the Tiberian measure mentioned in C] had been our [measure].”*

[E] *And why did he [Yohanan in D] not call [it] “old” [as it was termed in C]?*

[F] *Because it had been [used] in his day [e.g., in his youth and, hence, he wanted to be more precise than C’s formulation].*

[G] *And there are those who say that it had become small, and it increased and [then] decreased, but it did not decrease to the size it had been [and therefore Yohanan, in not calling it “old,” distinguished the later version from the earlier one].*

[H] *What is the size of a cup [in cubic measurements that will hold a quarter-log of a log]?*

[I] *R. Yosé [said] in the name of R. Judah bar Pazzi; R. Yosé b. R. Bun [said] in the name of Samuel, “Two fingers by two fingers by one-and-five-sixths fingers.”*

[II:8 A] *It is taught: “Dry [solidified wine incurs a liability for carrying it abroad on the Sabbath when it is] the size of an olive,” the words of R. Nathan [T. Shab. 8:10].*

[B] *The rabbis of Caesarea [said], Yosé b. R. Bun in the name of R. Yohanan, “R. Nathan follows R. Simeon: Just as R. Simeon said [in M. Shab. 8:1, that for all the liquids the measure for incurring a liability is] a quarter-log so R. Nathan said when it solidifies it makes up an olive’s amount.” [In effect both R. Simeon and R. Nathan adopt a quarter-log as the measure. Just as R. Simeon, relating to the object only in its present state and disregarding how it might otherwise be used, requires a quarter-log for all liquids, so R. Nathan, when speaking of a liquid, requires the single standard of a quarter-log, for this is the amount producing the measure of a solid olive. Although*

Nathan formulates his opinion in terms of a state in which the liquid cannot be mixed (when it is solidified), the Talmud assumes that he applies the same measure where the liquid can be mixed.]

10:2

- [A] **When they have mixed the first cup of wine –**
- [B] **the House of Shammai say, “He says a blessing over the day, and afterward he says a blessing over the wine.”**
- [C] **And the House of Hillel say, “He says a blessing over the wine, and afterward he says a blessing over the day.”**
- [I:1 A] **What is the reason of the House of Shammai? Because the Sanctification of the days causes the wine to be brought [because the former requirement, being distinct from the latter action, provides the reason for bringing the wine] and [a person] is already liable for the Sanctification of the day before the wine comes [and could recite it as soon as the Sabbath or festival starts, for example, in a liturgical prayer such as the Prayer, a practice that eventually became standard and preferred for Friday night and festival nights. Accordingly, in using the cup of wine, a person acts on an already-existing requirement to say the Sanctification].**
- [B] **What is the reason for the House of Hillel? Because the wine causes the Sanctification of the day to be said. Another matter [reason]: [The obligation to recite the benediction on] wine is perpetual and [the obligation to recite the] Sanctification is not perpetual [T. 10:2-3].**
- [C] [In the first of three deductions based on alternative portions of the reasons in A-B:] Said R. Yosé, “[It follows] from the opinions of them both [that with respect to] wine and Habdalah [the benediction marking the conclusion of the Sabbath and festivals], the wine precedes: [Drawing on A’s first element:] Is it not the reason of the House of Shammai that the Sanctification of the day causes the wine [to be brought], and here since Habdalah does not cause the wine to be brought, the wine precedes? [Drawing on B’s second reason:] Is it not the reason of the House of Hillel that [the obligation to recite the benediction on] wine is perpetual and [the obligation to recite the] Sanctification is not perpetual, and here since the wine is perpetual [as part of the normal evening meal at the outgoing of the Sabbath] and the Habdalah is not perpetual, the wine precedes?”
- [D] Said R. Mana, “[It follows] from the opinions of both of them [that with respect to] wine and Habdalah, the Habdalah precedes. [Drawing

on A's second element:] Is it not the reason of the House of Shammai that [the person] has become liable for the Sanctification of the day before the wine comes, and here, since [the person] is liable for Habdalah before the wine comes, the Habdalah precedes? [Drawing on B's first reason:] Is it not the reason of the House of Hillel that the wine causes the Sanctification of the day to be said, and here, since the wine does not cause the Habdalah to be said, the Habdalah precedes?"

[E] Said R. Zeira, "[It follows] from the opinions of both of them that they say the Habdalah without wine, but they say the Sanctification only with wine [for both Houses assume that the Sanctification cannot be said on some other food; either the Sanctification causes the wine to be brought or the wine enables the Sanctification to be recited]."S

[F] *This is the [personal] opinion of R. Zeira, for R. Zeira said, "They say the prayer, Habdalah, over beer, but they go from place to place to hear Sanctification."* [Without wine and being unable to substitute another food, people have to hear the Sanctification recited by someone else.]

[G] Said R. Yosé b. R. Bun, "They are accustomed there [in Babylonia that] wherever they do not have wine, the prayer leader goes before the ark and says one benediction that comprises seven [which summarizes the seven blessings of the Sabbath evening Tefillah and which functions here as a substitute for the Sanctification of the day that is otherwise preferably said over a cup of wine], and concludes it [with the blessing formula], "Who sanctifies Israel and the Sabbath Day."

10:3

[A] [When] they bring him [the food], he dips the lettuce [in vinegar]

[B] before he comes to the breaking of the bread.

[C] They brought him unleavened bread, lettuce, and a mixture of apples, nuts, and wine, resembling mortar, and two dishes.

[D] even though a mixture of apples, nuts, and wine, resembling mortar is not a religious obligation.

[E] R. Eleazar b. R. Sadoq says, "It is a religious obligation."

[F] And in the time of the Temple they would bring before him the carcass of the Passover-offering.

[I:1 A] The Associates [said] in the name of R. Yohanan, "[A person] is required to dip the lettuce [bitter herbs] twice" [once before and once

with the bread condiment – along with the other prescribed elements of the celebration, as indicated in M. 10:3A-B].

- [B] R. Zeira [said] in the name of R. Yohanan, “[A person] is not required to dip the bitter herbs twice” [for once suffices].
- [C] R. Simeon b. Laqish said, “If [a person] did not dip the first time, he is required to dip the second time.” [If he dipped the first time, it suffices to fulfill the required dipping usually associated with the latter stage in the rite, when the bitter herbs are eaten as part of the biblical set of foods associated originally with the Passover sacrifice.]
- [D] *The teaching [M. Pes. 10:4] is in dispute with R. Simeon b. Laqish: “For [on] all [the other] nights we dip once and this night twice.”* [Hence, even if one dipped the first time, one should dip the second time.]
- [E] *R. Simeon b. Laqish holds in accord with the following of Bar Qappara.*
- [F] “For [on] all [the other] nights we dip [the bitter herbs] with the bread and here we dip it by itself.” [Instead of the everyday procedure of eating lettuce or a bitter herb along with the bread as part of the meal, today, indicating its special role, we dip it by itself. This version of M. 10:4’s question regarding bitter herbs poses no problem to Simeon b. Laqish’s position.]
- [G] *The [following] teaching is in dispute with R. Yohanan, “They fulfill [their requirement] in regard to [eating] unleavened bread [on Passover evening] whether one has intention [to fulfill the requirement] or whether one does not have intention.”* [Not requiring proper intention for eating unleavened bread is surely inconsistent with Yohanan’s position in A (requiring that the dipping take place at the requisite time and that all the elements of the Passover meal, the unleavened bread, bitter herbs, and, in the time of the Temple, the Passover offering, be eaten together), which is understood to require eating the bitter herbs with proper intention. If intention was not required, the lettuce would only need to be dipped once, as a condiment, and this would fulfill the requirement of bitter herbs as well.]
- [H] [No.] And here [regarding unleavened bread] since he reclines, there is the presumption that he has had intention. [Since a person reclines while eating unleavened bread, causing a change in posture that makes him take notice of what he is doing, the teaching concerning unleavened bread treats a special case and

cannot be used to challenge Yohanan's position on dipping and eating the bitter herbs.]

[I] *R. Jeremiah objected before R. Zeira, "The teaching [M. 10:3] is in dispute with R. Simeon b. Laqish: "They served him unleavened bread and lettuce (WHZRT) [the bitter herbs] and haroset even though the haroset is not a [biblical] commandment' – [this implies that] lettuce is [still] a [biblical] commandment even though it was brought earlier in the ceremony and thus contradicts Simeon b. Laqish's opinion, in C, which holds that if one dipped the first time, one does not have to dip later]."*

[J] [R. Zeira] said to him, "For that reason, Rab dips with spinach beet." [Representing Rab as using a spinach beet for the second dipping provides Zeira with an answer to R. Jeremiah: the Mishnah's mention of the second dipping need not refer to a bitter herb. Hence, because the Mishnah requires only that the *haroset* be accompanied by another item, the lettuce provides only an example of such an accompanying food.]

[I:2 A] **Merchants of Jerusalem used to say, "Come and take the spices of the commandment" [T. Pes. 10:10].** [The language attributed to the vendors indicates that people believed that the *haroset*, which contained spices, was prescribed by law, thus supporting Eleazar b. Sadoq's view in M. 10:2B.]

[B] The members of the household of Isi [his wife said] in the name of Isi, "And why is it [the *lettuce* called *dokhah* [literally, "pounded"]? Because it [the *lettuce* is pounded (DKH) with it [the bitter herbs]."

[C] R. Joshua b. Levi said, "It is required to be thick."

[D] *This implies [that the lettuce is a remembrance of the mud. [The texture of the haroset symbolizes the mud used by the Israelites in making bricks for the Egyptians.]*

[E] *There are those who teach, "It is required to be murky [or "soft"]." This implies [that the lettuce is a remembrance of the blood [of redemption, either of the first plague or the last one, when blood was put on the doorposts as a sign to protect the Israelite homes].*

[I:3 A] *It is taught: "And in the outer areas [outside the holy precincts where the Passover offering was eaten] [they bring] two cooked foods, one as a remembrance of the Passover offering and one as a remembrance of the festive offering."*

10:4

[A] They mixed for him a second cup of wine.

[B] And here the son asks his father [questions].

[C] But if the son has not got the intelligence to do so, the father teaches him [to ask by pointing out:]

[D] “How different is this night from all other nights!

[E] “For on all other nights we eat leavened or unleavened bread. But this night all of the bread is unleavened.

[F] “For on all other nights we eat diverse vegetables, but on this night, only bitter herbs.

[G] “For on all other nights we eat meat which is roasted, stewed, or boiled. But this night all of the meat is roasted.

[H] “For on all other nights we dip our food one time, but on this night, two times.”

[I] In accord with the intelligence of the son the father instructs him.

[J] He begins [answering the questions] with disgrace and concludes with glory, and explains [the Scriptures from], “A wandering Aramean was my father...” (Deut. 26:5ff) until he completes the entire section.

[I:1 A] *R. Hiyya teaches:* “The Torah [in explaining the Passover events] spoke corresponding to four [types of] children: a wise child; an evil child; a foolish child; and a child who does not know [or have intelligence] to ask.

[B] “A wise child, what does he say, ‘What mean the exhortations, laws, and norms which the Lord your God has enjoined upon us’ (Deut. 6:20)?’ You, in turn, say to him, ‘It was with a mighty hand the Lord brought us out of Egypt, from the house of bondage’ (Exod. 13:14).

[C] “An evil child, what does he say, ‘What is this rite of yours’ (Exod. 12:26)? – [Meaning] what is this bother that you impose on us every year? Because he excluded himself from the group, you, in turn, say to him, ‘It is because of what the Lord did for me [when I went from Egypt]’ (Exod. 13:8). ‘For me’ [He] did [it], for that person [He] did not do [it]. If that person had been in Egypt, he would never had been worthy to be redeemed from there.

[D] “The simple [child], what does he say? ‘What does this mean’ (Exod. 13:14)? You, in turn, teach him the laws of Passover, that ‘they do not end [with] *afiqomon*’ [M. 10:6F] What is

afiqomon? That one should not get up from one association and join another association [as was customary in after-dinner revelry gatherings].

[E] “The child who does not know how to ask, you open [the discussion] for him first.”

[F] *Said R. Yosé, “The teaching [M. 10:4] [likewise] says thus: ‘If the child lacks intelligence, his father instructs him’” [M. 10:4B].*

[I:2 A] Rab said, “As [our ancients, i.e., Joshua, practiced] at the [very] beginning, ‘In olden times, your ancestors [Terah, father of Abraham and father of Nahor] lived [beyond the Euphrates]’ [‘and worshiped other gods’]. ‘But I took your father Abraham from beyond the Euphrates,’ [‘and led him though the whole land of Canaan’] ‘and multiplied’ [‘his offspring. I gave him Isaac....’] (Josh. 24:2-3).⁷⁵ [We therefore follow Joshua’s model in tracing our ignoble origins to the idolatrous background of our ancestors.] [Resumed at C.]

[B] [Commenting on the defective spelling of the word *ve’arbeh*, usually rendered as “multiplied”:] Said R. Aha, “W’RB is written [without the final *he*, which therefore may be read as a form of RYB, meaning “test”]: How many tests did I test him [Abraham] before I gave him Isaac.”

[C] “Another matter: I became in regard to him [to Abraham] an ambush – if he sinned to give him [his due], and if he justified [himself] to give him [his due – a child, Isaac, as a reward].”

10:5

[A] **Rabban Gamaliel did state, “Whoever has not referred to these three matters connected to the Passover has not fulfilled his obligation, and these are they: Passover, unleavened bread, and bitter herbs.**

[B] **“Passover – because the Omnipresent passed over the houses of our forefathers in Egypt.**

[C] **“Unleavened bread – because our forefathers were redeemed in Egypt.**

[D] **“Bitter herbs – because the Egyptians embittered the lives of our forefathers in Egypt.**

[E] “In every generation a person is duty-bound to regard himself as if he personally has gone forth from Egypt, since it is said, ‘And you shall tell your son in that day saying, it is because of that which the Lord did for me when I came forth out of Egypt’ (Ex. 13:8). Therefore we are duty-bound to thank, praise, glorify, honor, exalt, extol, and bless him who did for our forefathers and for us all these miracles. He brought us forth from slavery to freedom, anguish to joy, mourning to festival, darkness to great light, subjugation to redemption, so we should say before him, Hallelujah.”

[F] To what point does one say [Hallel]?

[G] The House of Shammai say, “To a joyful mother of children (Ps. 113:9).”

[H] And the House of Hillel say, “To a flint-stone into a springing well (Ps. 114:8).”

[I] And he concludes with [a formula of] Redemption.

[J] R. Tarfon says, “...who redeemed us and redeemed our forefathers from Egypt.’

[K] “And he did not say a concluding benediction.”

[L] R. Aqiba says, “....So, Lord, our God, and God of our fathers, bring us in peace to other appointed times and festivals, rejoicing in the rebuilding of your city and joyful in your Temple worship, where may we eat of the animal sacrifices and Passover-offerings,’ up to, ‘Blessed are you, Lord, who has redeemed Israel.”

[I:1 A] Said the House of Shammai to them, “And have the Israelites gone forth from Egypt that he mentions the Exodus from Egypt?” [Since the communal meal over the Passover lamb in recreating the Egyptian event precedes the actual Exodus, it is inappropriate at night to give thanks for the Exodus.]

[B] Said the House of Hillel to them, “If he waits until the cock crows [to mention the redemption, e.g., in the morning service, it is still inappropriate, for] they still did not reach halfway to redemption. [Therefore] how do they mention “redemption” [later or in the morning service] while [the Israelites] have not yet been redeemed?

[C] “And lo, they only went forth at midday, as it is said, ‘And it was in the middle of that day the Lord took the Israelites out,’ [‘from the land of Egypt’] (Exod. 12:51) [T. Pes. 10:9].

[D] “Rather, once [a person] starts with a religious duty, one tells him ‘finish.’”

[E] [*Questioning the logic of the House of Shammai in A,*] responded R. Abuna bar Sehorah, “Has [a person] not already mentioned [the Exodus from Egypt] over a cup [in the Sanctification blessing said at the evening ceremony’s beginning, as stated in M. 10:2]?”

[I:2 A] *It was taught:* “They say the [special] ‘time’ [thanking the Lord for bringing the person to this moment or ‘time’] only on the three pilgrimage festivals.”

[B] *Said R. Mana,* “*The teaching [quoting Deut. 16:16 to specify on which days one mentions in the Sanctification the special character of the day] said likewise:* ‘on the feast of Unleavened Bread, on the Feast of Weeks, and on the feast of Tabernacles’ [each being called a or festival].”

[C] *It is taught:* “Whenever the Torah writes, ‘a holy assembly,’ [one] is required to mention the ‘time.’” [By this criterion, one should also include New Year’s day and the Day of Atonement, likewise called “holy assemblies,” as in Lev. 23: 24 and 27.]

[D] *Said R. Tanhuma,* “This is fitting. Whoever sees a date blossoming, perhaps is not required to mention ‘time’! [Surely, he is required to.] Lo, the New Year and the Day of Atonement, [should also elicit the saying of ‘time’ which not only are called ‘holy assemblies’ but likewise are seasonal occurrences].”

[E] [Lo, the New Year and the Day of Atonement are the subjects of divergent opinions in M. R.H. 4:5 regarding blowing the shofar in conjunction with a prayer speaking of God’s sovereignty, and] in Judah they practice in accord with R. Aqiba [in blowing the shofar], and in Galilee they practice in accord with R. Yohanan ben Nuri [in not blowing the shofar, a divergence in practice attested in T. R.H. 2:11, and no objection is raised. But should we not apply the principle of “*you shall not break up into sects*” which prohibits the existence of different customs, lest the community break into different groups]?

[F] [It is different (there).] If one went and acted in Judea in accord with [the practice of] Galilee or in Galilee in accord with [the practice of] Judea, one has fulfilled [one’s obligation]. [Since they disputed only before, but not after, the fact, the matter is not subject to “*you shall not break up into sects.*”]

[G] Lo, [in the case of] Purim [M. Meg. 1:1 prescribes that] some read [the Book of Esther] on the fourteenth [of Adar] and some read [it] on the fifteenth [but should not the principle of] “*you shall not break up into sects.*”)?

[H] It is different [there], for it is written, “[And these days of Purim are recalled and observed in every generation:] by every family, every province, and every city” (Est. 9:28) [and hence the author of M. Megillah relied on scriptural support in requiring variations in custom].

- [I:3 A] [Hallel, the Psalms praising and thanking God for redemption:] It is written, “In exacting retribution for Israel, when people offer willingly – Praise the Lord” (Jud. 5:2). Let the heads of the people offer willingly – when the Holy One Praised be He does miracles for them – [that is,] they should sing a song.
- [B] They responded, [challenging the principle in A:] “Lo, [what of the redemption of] Mordecai and Esther [when Hallel is not said]?”
- [C] It is different [there], for they were outside the Land [of Israel].
- [D] They responded, “Lo, what of the Egyptian redemption [which also occurred outside the Land but for which Hallel is said]?”
- [E] It is different [there], for it was the beginning of their redemption [that was completed when they entered the Land of Israel].
- [F] *And there are those who want to say that* [in the days of] Mordecai and Esther [the Jews] were redeemed from their enemies but they were not redeemed from the [foreign] domination. [Since it is for this reason that the hymns to God are not said, and not because of being outside the Land, the reciting of Hallel over the Egyptian redemption no longer poses a problem.]

10:6

- [A] **They mixed the third cup for him.**
- [B] **He says a blessing for his food.**
- [C] **And at the fourth cup, he completes the Hallel Psalms and after it he says the grace of song.**
- [D] **Between these several cups of wine, if he wants to drink more wine, he may do so.**
- [E] **But between the third and the fourth cup of wine, he may not drink more wine.**

[F] And after the Passover meal they do not conclude with dainties.

[I:1 A] After [eating from] the Passover offering, they do not end [with] afiqomon [dainties; alt.: revelry] (M. 10:6F):Why [is it prohibited]?

[B] So that he should not become drunk.

[C] [But] is he not already drunk [from the earlier drinking]?

[D] What is the difference between wine [drunk] in the midst of the meal and wine [drunk] after the meal? Wine after the meal causes drunkenness; that which is in the midst of the meal does not cause drunkenness.

[I:2 A] What is afiqomon?

[B] R. Simon [said] in the name of R. Inanini bar R. Sisay, “Kinds of music [characteristically played at after-dinner revelries].”

[C] R. Yohanan said, “Kinds of sweet things [commonly eaten after the meal to whet one’s thirst for further drinking].”

[D] Samuel said, “For example, the mushrooms and pigeons of Hananiah bar Shilat [which were delicacies eaten after the main part of the meal].”

10:7

[A] If some of those present fell asleep, they may eat again.

[B] But if all fell asleep, they may not eat again.

[C] R. Yosé says, “If they merely drowsed, they may eat again, but if they fell into a deep sleep, they may not eat again.”

[D] The Passover-offering after midnight [when it may not be eaten any longer] imparts uncleanness to hands.

[E] That which has been made refuse or remnant impart uncleanness to the hands.

[F] “If one has said the blessing for the Passover-offering, he renders unnecessary a blessing over any other animal sacrifice that he may eat. If he said a blessing over any other animal sacrifice that he ate, he has not made unnecessary a blessing over the Passover offering,” the words of R. Ishmael.

[G] R. Aqiba says, “This one doesn’t render that unnecessary, and that one doesn’t render this unnecessary.”

- [I:1 A]** Why [if they all fall asleep, may they not eat again]? Is it because of being distracted from the thought [of the offering], or is it because midnight passed?
- [B] Conclude: If there is another association [in the house], lo, midnight did not pass. [If the hour were the issue, it would be irrelevant whether all or some of them fell asleep, since that other association would surely wake them before midnight.]
- [C] *Thus, the reason that [the group all of whom fall asleep] may not [eat further] must be* because of being distracted from the thought [the concentration on the sacrifice].
- [I:2 A]** [Regarding the application of the laws of sacrificial meat in the status of refuse and remnant of sacrificial meat to prevent improper eating of an offering:] R. Simon in the name of R. Joshua b. Levi, “Sacrificial meat in the status of refuse and remnant of sacrificial meat join to impart uncleanness to hands, bringing about a punishment when they comprise an olive’s amount.”
- [B] What is the law: Would [sacrificial meat in the status of refuse and remnant render heave offering invalid]?
- [C] [The answer is clear from a] an argument a fortiori: If [offerings that become sacrificial meat in the status of refuse or remnant impart uncleanness to hands [rendering them] capable of invalidating the heave offering, they themselves all the more so [should directly be able to invalidate the heave offering].
- [I:3 A]** That part [of the offering that] projects out [from the holy precincts, thereby becoming invalid as prescribed in Exod. 12:46], what do you do with it? Does it impart uncleanness to hands or does it not impart uncleanness to hands?
- [B] [Assuming that eating sacrificial meat in the status of refuse and remnant of sacrificial meat poses more severe consequences than a portion of an offering that projects out from the holy precincts:] If you say: that part that projects out [a violation for which milder preventive measures are needed than for preventing eating an offering after its proper time as in remnant of sacrificial meat or sacrificial meat in the status of refuse] imparts uncleanness to hands, [then logically] sacrificial meat in the status of refuse and remnant of sacrificial meat surely render heave offering invalid [for they cannot be of the same status as a sacrificial portion that projects out]? [Add: If you say: the sacrificial meat in the status of refuse and remnant of sacrificial meat do not render heave offering invalid,] that part that projects out was

not subject to any type of preventive measure. For otherwise [if you declare that part to be capable of imparting uncleanness], the outer portion would impart uncleanness to the inner portion [which would invalidate the entire offering – a position no one would entertain; it would run counter to M. 7:12, which sets out a procedure for cutting and separating limbs that extended outside of the designated area].

[C] [B's proof is faulty:] *Said R. Abin, "Who claims that an object may become unclean due to contact with itself? Is it not R. Meir [who, as in M. Hul. 4:4, holds a minority position rejected by the majority]?"*

[D] [B's logic is not flawed:] And did not R. Joshua say, "All things which are clean when they are in the majority [e.g., a limb of a Passover offering which remains clean despite the invalidity of a minor part of it], once its larger part is cut off [as prescribed in M. 7:12, its contact with the rest of the offering] is considered not under [the category of] [something] separated but [as an independent unclean object] under [the category of] touching it [the offering] and it would become invalid?" [According to all authorities, then, a portion of the offering extending out of the holy precincts and considered "unclean" could impart uncleanness to the rest of the offering.]

[E] Said R. Hananiah, "It is a case in which one cuts off small portions and throws them away [and each one cannot make up sufficient amount to impart uncleanness to the larger limb]."

[I:4 A] [As to a association all of whom fall asleep:] *You may say that* [it is a case in which] midnight passed.

[B] *Is [the reason for proscribing such a association from further eating] not* because of being distracted [for otherwise even a association of which less than all fell asleep would be prohibited from eating further]? Thus the reason that [the group all of whom fall asleep] may not [eat further] must be because of being distracted [from concentration on the sacrifice].

[II:1 A] [Regarding the blessing over one sacrifice applying to the other sacrifice:] *Said R. Zeira, "Is it [not logical] that [if one] said the blessing over the Passover offering, one did not exempt that over the festive offering, but [if one said] that of the festive offering one exempts that of the Passover offering, because the Passover offering is included under the category of a festive offering?"*

[B] Said R. Mana, "[No]. The Passover sacrifice is essential and the festival sacrifice is contingent [for the festival offering was designed to accompany the Passover offering]."

CHAPTER ELEVEN

THE STRUCTURE OF YERUSHALMI PESAHIM

Whether or not the Talmud of the Land of Israel is carefully organized in large-scale, recurrent structures and guided by a program that we may call systematic forms the principal question addressed by an academic commentary. The preceding chapters therefore have pointed toward the presentation set forth here. By “structure” I mean, a clearly-articulated pattern that governs the location of fully-spelled out statements. By “system,” I mean, a well-crafted and coherent set of ideas that explain the social order of the community addressed by the writers of a document, a social philosophy, a theory of the way of life, world view, and character of the social entity formed by a given social group. I see a collective, anonymous, and political document, such as the one before us, as a statement to, and about, the way in which people should organize their lives and govern their actions. At issue then in any document such as the remarkable one before us is simple: does this piece of writing present information or a program, facts to whom it may concern, or a philosophically and aesthetically cogent statement about how things should be? The connection between structure and system is plain to see. From the way in which people consistently frame their thoughts, we move to the world that, in saying things in one way rather than in some other, they wish to imagine. Modes of formulating thought adumbrate modes of imagining the world in which people wish to live, to which they address these thoughts.

If the document exhibits structure and sets forth a system, then it is accessible to questions of rationality. We may ask about the statement that its framers or compilers wished to make by putting the document together as they did. But if we discern no structure and perceive no systematic inquiry or governing points of analysis, then all we find here is inert and miscellaneous information, facts but no propositions, arguments, viewpoints. Now as a matter of fact the Talmud of the Land of Israel commonly finds itself represented as lacking organization and exhibiting a certain episodic and notional character. That view moreover characterizes the reading and representation of the document by learned and experienced scholars, who have devoted their entire lives to Talmud study and

exegesis. It must follow that upon the advocate of the contrary view – the one implicit in the representation of the document for academic analysis – rests the burden of proof. I set forth the allegation that the Talmud of the Land of Israel exhibits a structure and follows a system and therefore exhibits a commonly-intelligible rationality. The claim to write an academic commentary explicitly states that proposition. For the tractate before us, I have therefore to adduce evidence and argument.

I maintain that through the normal procedures of reasoned analysis we may discern in the tractate a well-crafted structure. I hold that the structure made manifest, we may further identify the purpose and perspective, the governing system of thought and argument, of those who collected and arranged the tractate's composites and put them together in the way in which we now have them. By "structure" I mean, how is a document organized? and by "system," what do the compilers of the document propose to accomplish in producing this complete, organized piece of writing? The answers to both questions derive from a simple outline of the tractate as a whole, underscoring the types of compositions and composites of which it is comprised. Such an outline tells us what is principal and what subordinate, and how each unit – composition formed into composites, composites formed into a complete statement – holds together and also fits with other units, fore and aft. The purpose of the outline then is to identify the character of each component of the whole, and to specify its purpose or statement. The former information permits us to describe the document's structure, the latter, its system.

While the idea of simply outlining a Talmud-tractate beginning to end may seem obvious, I have never made such an outline before, nor has anyone else. (I have provided complete outlines for the Mishnah and for the Tosefta in relationship to the Mishnah, and, not always in outline form, for the Midrash-compilations of late antiquity as well) Yet, as we shall now see, the character of the outline dictates all further analytical initiatives. Specifically, when we follow the layout of the whole, we readily see the principles of organization that govern. These same guidelines on organizing discourse point also to the character of what is organized: complete units of thought, with a beginning, middle, and end, often made up of smaller, equally complete units of thought. The former we know as composites, the latter as compositions.

Identifying and classifying the components of the tractate – the composites, the compositions of which they are made up – we see clearly how the document coheres: the plan and program worked out from beginning to end. When we define that plan and program, we identify the facts of a pattern that permit us to say in a specific and concrete way precisely what the compilers of the tractate intended to accomplish. The structure realizes the system, the program of analysis and thought that takes the form of the presentation we have before us. From what

people do, meaning, the way in which they formulate their ideas and organized them into cogent statements, we discern what they proposed to do, meaning, the intellectual goals that they set for themselves.

These goals – the received document they wished to examine, the questions that they brought to that document – realized in the layout and construction of their writing, dictate the points of uniformity and persistence that throughout come to the surface. How people lay out their ideas guides us into what they wished to find out and set forth in their writing, and that constitutes the system that defined the work they set out to accomplish. We move from how people speak to the system that the mode of discourse means to express, in the theory that modes of speech or writing convey modes of thought and inquiry.

We move from the act of thought and its written result backward to the theory of thinking, which is, by definition, an act of social consequence. We therefore turn to the matter of intention that provokes reflection and produces a system of inquiry. That statement does not mean to imply I begin with the premise of order, which sustains the thesis of a prior system that defines the order. To the contrary, the possibility of forming a coherent outline out of the data we have examined defines the first test of whether or not the document exhibits a structure and realizes a system. So everything depends upon the possibility of outlining the writing, from which all else flows. If we can see the order and demonstrate that the allegation of order rests on ample evidence, then we may proceed to describe the structure that gives expression to the order, and the system that the structure sustains.

The present work undertakes the exegesis of exegesis, for the Yerushalmi, like its counterpart in the one of Babylonia, is laid out as a commentary to the Mishnah. That obvious fact defined the character of my academic commentary, since we have already faced the reality that our tractate is something other than a commentary, though it surely encompasses one. The problems that captured my attention derived from the deeper question of how people make connections and draw conclusions. To ask about how people make connections means that we identify a problem – otherwise we should not have to ask – and what precipitated the problem here has been how a composition or a composite fits into its context, when the context is defined by the tasks of Mishnah-commentary, and the composition or composite clearly does not comment on the Mishnah-passage that is subjected to comment.

The experience of analyzing the document with the question of cogency and coherence in mind therefore yields a simple recognition. Viewed whole, the tractate contains no gibberish but only completed units of thought, sentences formed into intelligible thought and self-contained in that we require no further information to understand those sentences, beginning to end. The tractate organizes these statements as commentary to the Mishnah. But large tracts of the

writing do not comment on the Mishnah in the way in which other, still larger tracts do. Then how the former fit together with the latter frames the single most urgent question of structure and system that I can identify.

Since we have already examined enormous composites that find their cogency in an other than exegetical program, alongside composites that hold together by appeal to a common, prior, coherent statement – the Mishnah-sentences at hand – what justifies my insistence that an outline of the document, resting on the premise that we deal with a Mishnah-commentary, govern all further description? To begin with, the very possibility of outlining this tractate derives from the simple fact that the framers have given to their document the form of a commentary to the Mishnah. It is in the structure of the Mishnah-tractate that they locate everything together that they wished to compile. We know that is the fact because the Mishnah-tractate defines the order of topics and the sequence of problems.

Relationships to the Mishnah are readily discerned; a paragraph stands at the head of a unit of thought; even without the full citation of the paragraph, we should find our way back to the Mishnah because at the head of numerous compositions, laid out in sequence one to the next, clauses of the Mishnah-paragraph are cited in so many words or alluded to in an unmistakable way. So without printing the entire Mishnah-paragraph at the head, we should know that the received code formed the fundamental structure because so many compositions cite and gloss sentences of the Mishnah-paragraph and are set forth in sequence dictated by the order of sentences of said Mishnah-paragraph. Internal evidence alone suffices, then, to demonstrate that the structure of the tractate rests upon the Mishnah-tractate cited and discussed here. Not only so, but the sentences of the Mishnah-paragraphs of our tractate are discussed in no other place in the entire Talmud of the Land of Israel in the sequence and systematic exegetical framework in which they are set forth here; elsewhere we may find bits or pieces, but only here, the entirety of the tractate.

That statement requires one qualification, and that further leads us to the analytical task of our outline. While the entire Mishnah-tractate of treated here is cited in the Talmud of the Land of Israel, the framers of the Talmud of the Land of Israel by no means find themselves required to say something about every word, every sentence, every paragraph. On the contrary, they discuss only what they choose to discuss, and glide without comment by large stretches of the tractate. A process of selectivity, which requires description and analysis, has told the compilers of the Talmud of the Land of Israel's composites and the authors of its compositions (This statement requires refinement. I do not know that all available compositions have been reproduced, and that the work of authors of compositions of Mishnah-exegesis intended for a talmud is fully exposed in the document as we have it. That is not only something we cannot demonstrate – we do not have

compositions that were not used, only the ones that were – but something that we must regard as unlikely on the face of matters. All we may say is positive: the character of the compositions that address Mishnah-exegesis tells us about the concerns of the writers of those compositions, but we cannot claim to outline all of their concerns, on the one side, or to explain why they chose not to work on other Mishnah-sentences besides the ones treated here. But as to the program of the compositors, that is another matter: from the choices that they made (out of a corpus we cannot begin to imagine or invent for ourselves) we may describe with great accuracy the kinds of materials they wished to include and the shape and structure they set forth out of those materials. We know what they did, and that permits us to investigate why they did what they did. What we cannot know is what they did not do, or why they chose not to do what they did not do. People familiar with the character of speculation and criticism in Talmudic studies will understand why I have to spell out these rather commonplace observations. I lay out an argument based on evidence, not on the silences of evidence, or on the absence of evidence – that alone.) what demands attention, and what does not. Our outline has therefore to signal not only what passage of the Mishnah-tractate is discussed, but also what is not discussed, and we require a general theory to explain the principles of selection (“making connections, drawing conclusions” meaning, to begin with, making selections). For that purpose, in the outline, I reproduce the entirety of a Mishnah-paragraph that stands at the head of a Talmudic composite, and I underscore those sentences that are addressed, so highlighting also those that are not.

It follows that the same evidence that justifies identifying the Mishnah-tractate as the structure (therefore also the foundation of the system) of Yerushalmi-tractate before us also presents puzzles for considerable reflection. The exegesis of Mishnah-exegesis is only one of these. Another concerns the purpose of introducing into the document enormous compositions and composites that clearly hold together around a shared topic or proposition, e.g., my appendix on one theme or another, my elaborate footnote providing information that is not required but merely useful, and the like. My earlier characterization of composites as appendices and footnotes signalled the fact that the framers of the document chose a not-entirely satisfactory way of setting out the materials they wished to include here, for large components of the tractate do not contribute to Mishnah-exegesis in any way at all. If these intrusions of other-than-exegetical compositions were proportionately modest, or of topical composites negligible in size, we might dismiss them as appendages, not structural components that bear much of the weight of the edifice as a whole. Indeed, the language that I chose for identifying and defining these composites – footnotes, appendices, and the like – bore the implication that what is not Mishnah-commentary also is extrinsic to the Talmud of the Land of Israel’s structure and system.

But that language served only for the occasion. In fact, the outline before us will show that the compositions are large and ambitious, the composites formidable and defining. Any description of the tractate's structure that dismisses as mere accretions or intrusions so large a proportion of the whole misleads. Any notion that "footnotes" and "appendices" impede exposition and disrupt thought, contribute extraneous information or form tacked-on appendages – any such notion begs the question: then why fill up so much space with such purposeless information? The right way is to ask whether the document's topical composites play a role in the re-presentation of the Mishnah-tractate by the compilers of the Talmud of the Land of Israel. We have therefore to test two hypotheses:

1. the topical composites ("appendices," "footnotes") do belong and serve the compilers' purpose

or

2. the topical composites do not participate in the re-presentation of the Mishnah-tractate by Yerushalmi and do not belong because they add nothing and change nothing.

The two hypotheses may be tested against the evidence framed in response to a single question: is this topical composite necessary? The answer to that question lies in our asking, what happens to the reading of the Mishnah-tractate in light of the topical composites that would not happen were we to read the same tractate without them? The outline that follows systematically raises that question, with results specified in due course. It suffices here to state the simple result of our reading of the tractate, start to finish: the question of structure, therefore also that of system, rests upon the position we identify for that massive component of the tractate that comprises not Mishnah-commentary but free-standing compositions and composites of compositions formed for a purpose other than Mishnah-commentary.

The principal rubrics are given in small caps. The outline takes as its principal rubrics two large-scale organizing principles.

The first is the divisions of the Mishnah-tractate to which the Talmud of the Land of Israel-tractate serves as a commentary. That simple fact validates the claim that the tractate exhibits a fully-articulated structure. But the outline must also underscore that the Mishnah-tractate provides both more and less than the paramount outline of the Talmud of the Land of Israel-tractate. It is more because sentences in the Mishnah-tractate are not analyzed at all. These untreated Mishnah-sentences are given in bold face lower case caps, like the rest of the Mishnah, but then are specified by underlining and enclosure in square brackets.

Second, it is less because the structure of the tractate accommodates large composites that address topics not defined by the Mishnah-tractate. That brings us

to the second of the two large-scale modes of holding together both sustained analytical exercises and also large sets of compositions formed into cogent composites. These are treated also as major units and are indicated by Roman numerals, alongside the Mishnah-paragraphs themselves; they are also signified in small caps. But the principal rubrics that do not focus on Mishnah-commentary but on free-standing topics or propositions or problems are not given in boldface type. Consequently, for the purposes of a coherent outline we have to identify as autonomous entries in our outline those important composites that treat themes or topics not contributed by the Mishnah-tractate.

I. YERUSHALMI PESAHIM 1:1

[A] **ON THE NIGHT PRECEDING THE FOURTEENTH [OF NISAN] THEY SEARCH FOR LEAVEN BY THE LIGHT OF A LAMP [THE SINGLE WICK OIL LAMP]. ANY PLACE INTO WHICH THEY DO NOT [NORMALLY] BRING LEAVEN DOES NOT REQUIRE SEARCHING.**

- 1. I:1:** It is written, “And you shall observe the commandment of the unleavened bread because on this very day I brought your hosts out of the land of Egypt, [you shall observe this day throughout your generations as an institution for all times]. In the first [month] on fourteenth of the month in the evening you shall eat unleavened bread,” (Exod. 12:17-18A). How shall we interpret these statements? If [the verses refer] to eating unleavened bread, it is already written [in a preceding verse], “Seven days you shall eat unleavened bread” (Exod. 12:15). And if to state that [one] starts [eating unleavened bread] on the fourteenth, and is it not written, “[You shall eat unleavened bread] until the twenty-first day of the month” (Exod. 12:18B)? [Since the seven-day period ends on the twenty-first, it must start on the fifteenth and not the fourteenth.] Rather if [Exod. 12:17-18’s reference to observing the commandment of unleavened bread, and, in particular, its mention of the fourteenth] is not relevant to the eating of unleavened bread, apply it to the destruction of leaven [so that the leaven be destroyed on the fourteenth, and the unleavened bread be eaten on the fifteenth].
- 2. I:2:** Why [is the search to be conducted] by the light of a lamp [as specified in M. 1:1]? Said R. Samuel bar R. Isaac, “Because the lamp [is a means to] search very meticulously [being effective regarding even the smallest quantity or the smallest area].” Why [is the search to be concluded] at night? Said R. Yosé, “Because searching with a lamp is good only at night.”

3. **I:3:** Said R. Yosé, “[Even though a lamp is appropriate for searching at night,] the teaching said that searching during the day is considered a [valid] searching,” for we have learned [in M. 1:3A]: R. Judah says, “We search [for leaven] on the night of the fourteenth and on the fourteenth during the morning and during the time of destruction [of the leaven].” Not only [is this the view of] R. Judah but even of the rabbis for we have learned [in M. 1:3B]: And sages say, “If one did not search on the night of the fourteenth, he should search during the fourteenth.” And is one required to search by the light of a lamp [even when it is conducted during the day]? Let us derive the rule from the following: They search [for leaven] not by the light of the sun, and not by the light of the moon, and not by the light of the stars, but only by the light of a lamp [T. 1:1B]. It makes sense [to say] “not by the light of the moon, and not by the light of the stars” but what of “not by the light of the sun”? And is the sun [visible] at night? [Of course not. Rather, as it is put in an additional clause found in many medieval citations: You may explain that it applies when a person did not search the previous evening.] This indicates that even during the day [a person] is required to search by the light of the lamp. Not only in a house lacking sunlight, but even for a house having sunlight – even during the day [a person] is required to search by the light of the lamp.
4. **I:4:** R. Jeremiah asked, “Do synagogues or study houses require searching?”
5. **I:5:** [Assuming that in general courtyards require a search:] R. Yosé asked, “Do the courtyards in Jerusalem in which [they] eat loaves of the thanksgiving offering and wafers of the Nazirites require a search?” [Since they are searched daily to avoid leaving over offerings beyond their prescribed time limits.] [Expanding on the question:] [Even] without it are they not searched because of remnant of sacrificial meat [to remove and then burn remnants of a sacrifice left over after its proper time]?
6. **I:6:** The upper and lower holes of the house, and the balcony, and the cellar, and the upper chamber, and the roof of a house, the roof of a tower, a straw shed, and a cattle shed, and a woodshed, and a storage shed, the wine-storage area, and the oil-storage area, and the fruit-storage area – [all] do not require searching [T. 1:3].
7. **I:7:** A wine vault requires searching. An oil vault does not require searching. What is the difference between wine and oil? [The need for] wine is not determinable. [The need for] oil is determinable. [Since one cannot estimate the amount of wine needed for a meal, the person

who may have to fetch the additional wine might bring some food into the wine vault.]

8. **I:8:** One who goes on a journey [before Passover] prior to thirty days, does not have to search; within thirty [when the requirement to search is in effect], [the person] is required to search. [T. 1:4A]. This refers to a situation in which one intends to return. [Then, if prior to thirty days, the person may leave the search until after the trip; but, if within thirty days, the person must search before the trip]. But if one does not intend to return, even [if it is] prior to thirty days, one is required to search. And this refers to a case of uncertainty [whether or not leaven is present in one's domain]. But in the case of a certainty – [one is required to remove the leaven] even [if one leaves home] at the New Year.
9. **I:9:** All are reliable concerning the destruction of leaven, even women, even slaves. R. Jeremiah [said] in the name of R. Zeira, “Delete [from A the clause] ‘even women’ [for such special mention is not necessary]. Women by their own right are reliable because they are slow and search very meticulously.” Samaritans [literally, “Kutim”], as long as they prepare their unleavened bread [at the same time] as Israel [identically calculating the date of Passover], are reliable concerning the destruction of leaven. If they do not prepare their unleavened bread [at the same time] as [the people of] Israel, they are not reliable concerning the destruction of leaven [cf. T. 2:2B].
10. **I:10:** They ask concerning the laws of Passover on Passover, the laws of Pentecost on Pentecost, [and] the laws of the Festival [of Sukkot] on the Festival. In the assembly house [of study] they ask prior to thirty days [before the holiday]. Rabban Simeon b. Gamaliel says, “Two weeks” [T. Meg. 3:5].

[B] AND WHY DID THEY SAY, “[THEY SEARCH] TWO ROWS IN THE WINE VAULT”? [THEY REFER TO] A PLACE INTO WHICH THEY BRING LEAVEN. THE HOUSE OF SHAMMAI SAY, “TWO ROWS OVER THE ENTIRE SURFACE OF [THE RACK OF JARS IN] THE WINE VAULT.” AND THE HOUSE OF HILLEL SAY, “THE OUTERMOST ROWS WHICH ARE THE UPPERMOST.”

1. **II:1:** And in what situation did they say, [They search] two rows in the wine vault [M. 1:1C]? [Explaining the House of Shammai's position that a person searches out two rows across the whole storehouse:] R. Huna [said] in the name of Rab, “[One] investigates the outermost row [lit. pares it] like a [Greek] gamma [two layers, one vertical and one horizontal].” Bar Qappara teaches, “[One] investigates it like two gammas [two outer layers, two vertical and two horizontal].” If [the

wine vault] was put in the middle of the house [i.e., the room], according to the view of R. Huna one strips it of one layer [all around]. According to the view of Bar Qappara [one] strips it of two layers [all around]. If [the wine vault] was constructed [in the shape of] steps [exposing several layers of surface area] one investigates each [in the pattern of a] gamma. R. Jacob bar Aha [said] in the name of Hezekiah, Simeon bar Ba [said] in the name of R. Yohanan, “The outermost row, [which] is the upper [running along the top], which faces the door and the beam [of the roof], [and the one] that is further in from it [T. 1:2D].

2. **II:2:** This refers to those [rows] that have spaces [in between]. But regarding those that are pressed tightly together, [one] passes a lamp by them and it is sufficient. This [requirement to search a vault] indicates that [the authorities] were apprehensive concerning falling [food].

II. YERUSHALMI PESAHIM 1:2

[A] **THEY DO NOT SCRUPLE THAT A WEASEL MIGHT HAVE DRAGGED [LEAVEN] FROM HOUSE TO HOUSE AND PLACE TO PLACE. FOR IF SO, [THEY WILL HAVE TO SCRUPLE THAT THE WEASEL HAS DRAGGED LEAVEN] FROM COURTYARD TO COURTYARD AND FROM TOWN TO TOWN, [SO] THERE IS NO END TO THE MATTER.**

1. **I:1:** Said R. Jonah, “Thus [the Mishnah] should teach: [They are not scrupulous in connection with the weasel’s dragging leaven] from city to city and from courtyard to courtyard, from place to place and from house to house.” Said R. Yosé, “It is appropriate even according to the Mishnah [which states in M. 1:2A, proceeding in logical order from most likely to the absurd]: They do not scruple that a weasel might have dragged [leaven] from house to house and place to place. For if so, [they will have to scruple that the weasel has dragged leaven] from courtyard to courtyard and from town to town, [so] there is no end to the matter. For if you are apprehensive from house to house, be apprehensive from place to place. If you are apprehensive from place to place, be apprehensive from courtyard to courtyard. If you are apprehensive from courtyard to courtyard, be apprehensive from city to city. Can all of Israel search out [all] their leaven at once! [Of course not; hence we would never rest assured that an animal had not dragged leaven from a city not yet searched out to one that had been searched out.]”

III. YERUSHALMI PESAHIM 1:3

[A] **R. JUDAH SAYS, “THEY SEEK OUT [LEAVEN] (1) ON THE NIGHT OF THE FOURTEENTH, (2) ON THE FOURTEENTH IN THE MORNING, AND (3) AT THE TIME OF REMOVAL.” AND SAGES SAY, “[IF] ONE DID NOT SEEK OUT [LEAVEN] ON THE NIGHT OF THE FOURTEENTH, HE MAY SEEK IT OUT (1) ON THE FOURTEENTH. IF HE DID NOT SEEK IT OUT ON THE FOURTEENTH, LET HIM SEEK IT OUT (2) AT THE APPOINTED TIME [11 A.M. TO 12 NOON ON THE FOURTEENTH]. [IF] HE DID NOT SEEK IT OUT AT THE APPOINTED TIME, LET HIM SEEK IT OUT (3) AFTER THE APPOINTED TIME [TO NIGHTFALL].”**

- 1.** **I:1:** Said R. Yohanan, “R. Judah’s reason [is that the three searches] correspond to the three times that [the phrase] ‘There shall not be seen unto you’ is written in the Bible [Exod. 13:7A; Exod. 13:7B; Deut. 16:4] And is it not written, “You shall remove leaven from your houses” (Exod. 12:15)? [There are thus more than three verses mentioning the removal of leaven.] It [Exod. 12:15] is an instance of a positive commandment [while R. Judah’s reason is based on prohibitions]. And is it not written, “No leaven shall be found in your houses for seven days” (Exod. 12:19) [which is a fourth verse formulated as a prohibition]? Said R. Yosé, “Because this [formulation used in the set of three verses, in B] needs that [Exod. 12:19] and that [Exod. 12:19] needs this [formulation in the set of three verses] they are considered as one [verse]. [Exod. 12:19 thus does not make up a fourth distinct prohibition, as G explains:] “There shall not be seen unto you” – I would have said [this implies that if a non-Jew] deposited [leaven] with him [for safe keeping], it is permitted [since the leaven does not belong “unto you”]. [Therefore] the teaching [the verse] says, “[Leaven] there shall not be found in your houses” [evidently thus applying to any leaven, whether or not yours, as long as it is in your houses]. If [it, on the other hand, had only stated,] “There shall not be found in your houses” – I would have said [that this implies that if a non-Jew] assigns it a space [literally, “a house”], [the leaven] would be prohibited. [Therefore] the teaching says, “There shall not be seen unto you.” How so? [If a non-Jew] deposited [leaven] with him, [it is] prohibited; [if the non-Jew] assigned it a space, [it is] permitted [for the leaven neither belongs to a Jew nor is in a portion of his house that may be used; hence it does not fall under the ban].

[B] AND WHAT HE WISHES TO HOLD OVER [FOR FOOD UNTIL THE TIME FOR BURNING LEAVEN], LET HIM LEAVE IN A DISCRETE PLACE, SO THAT IT SHALL NOT REQUIRE EXAMINATION AFTERWARD.

- 1.** **II:1:** What does he do? He covers it with a utensil. [If] he covered it with a utensil and did not find it – I may say a hand took it [and so the leaven is not lying about]. [If] he did not cover it with a utensil and did not find it, does that house require searching, or do all the houses require searching?

IV. YERUSHALMI PESAHIM 1:4

[A] **R. MEIR SAYS, “THEY EAT [LEAVEN] THROUGHOUT THE FIFTH [HOUR ON THE FOURTEENTH OF NISAN], AND THEY BURN IT AT THE BEGINNING OF THE SIXTH HOUR [NOON].” AND R. JUDAH SAYS, “THEY EAT [LEAVEN] THROUGH THE FOURTH HOUR, KEEP IT IN SUSPENSE THROUGHOUT THE FIFTH HOUR, AND BURN IT AT THE BEGINNING OF THE SIXTH HOUR.”**

- 1.** **I:1:** Meir says, “From the sixth hour onwards [until the festival itself, the presence of leaven is prohibited] by reason of their words [on the basis of rabbinic injunction].” Judah says, “From the sixth hour onwards [leaven is prohibited] by reason of the authority of the Torah.” What is R. Meir’s reason? “But on the first day [you shall remove leaven from your houses]” (Exod. 12:15) – this refers to the fifteenth [the festival’s first day]. Perhaps [leaven is prohibited only] once it has become dark? The teaching [of the Bible] says, “but.” How so? [Taking “but” as indicating that one must add something:] give to it [to the prohibition, i.e., apply it] one hour before sunset. What is R. Judah’s reason? “But on the first day [you shall remove leaven from your houses]” (Exod. 12:15) – this refers to the fourteenth [the day preceding the festival]. Perhaps [this proscribes] the complete day? The teaching says, “but.” How so? [Taking “but” to exclude:] divide the day, half for leaven and half for unleavened bread.
- 2.** **I:2:** Lo, R. Meir says, “From the sixth hour onwards [leaven is prohibited] by reason of their words. [That is, the time is added by decree of scribes, not by the rule of the Torah.] The seventh [hour, i.e., the latter half of the day, it] is prohibited because of a fence [as a precautionary period preceding the day’s final hour when leaven becomes biblically prohibited]. The sixth [hour, just prior to noon], why [is it prohibited]? Because of a fence? And is there a fence for a fence? [But precautionary measures generally are not instituted to prevent the violation of a precautionary measure.] Rather [the sixth

hour is prohibited not as a fence but because] the sixth hour gets confused with the seventh.” [Hence it is directly prohibited as part of the prohibition of the seventh hour.] Lo, R. Judah says, “From the fifth hour onwards [eating leaven is prohibited] by reason of the authority of the Torah,’ the sixth [hour] is prohibited because of a fence [lest the sixth become confused with the seventh hour]. The fifth why? Because of a fence? And is there a fence for a fence? Rather [the fifth is prohibited] because the fifth gets confused with the seventh” [and thus the fifth and sixth hours form part of the same fence].

3. **I:3:** Rab said, “According to R. Meir, one who sanctifies [a marriage, betrothing a woman,] with leaven from the sixth hour onwards [when leaven, then becoming prohibited, loses its value] has not accomplished anything [for a marriage must be performed with an object having some value.”

V. YERUSHALMI PESAHIM 1:5

[A] AND FURTHER DID R. JUDAH SAY, “TWO [UNFIT] LOAVES OF BREAD OF A THANK-OFFERING WHICH WERE INVALID WERE LEFT LYING ON THE ROOF OF THE PORTICO [OF THE TEMPLE]. SO LONG AS THEY ARE LYING THERE, EVERYBODY EATS [LEAVEN]. [WHEN] ONE OF THEM IS REMOVED, THEY SUSPEND AND DO NOT EAT [LEAVEN] BUT ALSO DO NOT BURN IT. [WHEN] THE SECOND ONE OF THEM IS REMOVED, EVERYBODY BEGINS BURNING [THE LEAVEN].” RABBAN GAMALIEL SAYS, “[LEAVEN] IN THE STATUS OF UNCONSECRATED FOOD IS EATEN THROUGH THE FOURTH HOUR, AND [LEAVEN IN THE STATUS OF] HEAVE-OFFERING THROUGH THE FIFTH. THEN THEY BURN AT THE BEGINNING OF THE SIXTH HOUR.”

1. **I:1:** Simeon b. Laqish said in the name of R. Yannai, “[The two loaves] were fit. “Why [then] does it [the author of M. 1:5] declare them unfit? “So that [they] do not slaughter the offering over them.” [Yannai apparently holds that the thank-offerings were not offered on the fourteenth of Nisan. Accordingly, if loaves have been previously set aside, that is, have had their value dedicated, for thank offerings, while they in themselves do not become holy – a status actualized only when the accompanying Thank offering is slaughtered – they may not be eaten; hence they were put on the Temple portico.]”
2. **I:2:** It is taught: Two cows plow in Jerusalem [on the day preceding Passover: as long as both plowed, people ate leaven; when one stopped, they suspended eating; when both stopped, they burned the

leaven].” And is not Jerusalem a place where it was customary not to work on the fourteenth [of Nisan, as mentioned by M. 4:1; hence how could plowing serve as a sign]? It appears as if [they] are plowing [e.g., standing as if about to plow]. Some Tannaite authorities state, “Two [large] lamps were burning and [served as a sign].” Some Tannaite authorities state, “Two sheets [served as a sign]. Said R. Phineas, “And they [in D and E] do not dispute [in regard to the signs used on the fourteenth of Nisan]. The one who said ‘two lamps’ [D] refers to weekdays. The one who said ‘two sheets’ refers to the Sabbath [when one may not light lamps to serve as a sign.]”

- 3. I:3:** Why [do they continue to eat heave-offering during the fifth hour? Is it] because of its holiness or because [since it is prohibited to non-priests] those who may eat it are not [readily] found [so that it is necessary to provide extra time to locate priests to consume it]? For [the determination of the law, in] what [case] does the difference between these [reasons given at A have a practical implication]? [For the law] of the loaves of the Thank offering [which are holy but may be eaten by non-priests]. If you say [the reason is] that “those who may eat it are not [readily] found,” [in the case of] these [loaves], those who may eat them are [readily] found. If you say “because of its holiness,” these are holy [and hence would be eaten through the fifth hour to provide extra time to minimize desecration of holy items].

VI. YERUSHALMI PESAHIM 1:6

[A] **R. HANANIAH, PREFECT OF THE PRIESTS, SAYS, “IN THE DAYS OF THE PRIESTS THEY NEVER REFRAINED FROM BURNING MEAT WHICH HAD BEEN MADE UNCLEAN BY AN OFFSPRING OF UNCLEANNESS WITH MEAT WHICH HAD BEEN MADE BY A FATHER OF UNCLEANNESS, EVEN THOUGH THEY [THEREBY] ADD UNCLEANNESS TO ITS UNCLEANNESS [THAT OF THE MEAT MADE UNCLEAN BY AN OFFSPRING OF UNCLEANNESS].”**

- 1. I:1:** Bar Qappara says, “The Father of Uncleanness [imparts uncleanness] by reason of the authority of the Torah. The Offspring of Uncleanness [imparts uncleanness] by reason of their words [on the basis of rabbinic injunction].” R. Yohanan says, “Both the former and the latter [impart uncleanness] by reason of the authority of the Torah.” Bar Qappara’s position causes no problems. [In his understanding, the force of the Mishnah’s ruling is understandable, since two things of very different nature – something biblically unclean with something only rabbinically unclean – would be mixed.] According, however,

to R. Yohanan [who claims that all the meat is made unclean by the Torah], the Father of Uncleanness [which the Mishnah mentions] makes [something] a first [generation], [and] an Offspring of Uncleanness [which the Mishnah mentions and which at this point is assumed to be a first generation] makes [something] a second [generation]. [But] a second [generation] that touches a first [generation], lo it remains in its place as a second generation! [A second that touches a first remains a second generation because objects (here the first generation) generally make something unclean at one remove from their own uncleanness. Here the object already is at the second generation so that its degree of uncleanness is merely repeated.]

VII. YERUSHALMI PESAHIM 1:7

[A] ADDED R. AQIBA AND SAID, “IN THE DAYS OF THE PRIESTS THEY NEVER REFRAINED FROM BURNING OIL [IN THE STATUS OF HEAVE-OFFERING] MADE INVALID BY ONE WHO HAD IMMERSED IN THAT SAME DAY, IN A LAMP WHICH HAD BEEN MADE UNCLEAN BY ONE WHO HAD CONTRACTED CORPSE UNCLEANNESS, EVEN THOUGH THEY [THEREBY] ADD UNCLEANNESS TO ITS UNCLEANNESS [THAT OF THE HEAVE-OFFERING OIL INVALIDATED BY ONE WHO HAD IMMERSED ON THAT SAME DAY].”

1. **I:1:** According to the position of R. Yohanan [who explains that the Offspring of Uncleanness is unclean on rabbinic authority], there [in M. 1:6] they burn something unclean by reason of the Torah with something unclean by reason of the Torah [Hananiah’s ruling] and [Aqiba in M. 1:7] comes to add [that they may burn] something invalid by reason of the Torah [a third generation removed of uncleanness, something unclean but unable to impart uncleanness] with something unclean by reason of the Torah. According to the position of Bar Qappara [who explains that the Offspring of Uncleanness is unclean biblically, however], there [M. 1:6] they burn something unclean by reason of their words with something unclean by reason of the Torah, and here [R. Aqiba would add that they may burn] something invalid by reason of the Torah with something unclean by reason of the Torah – [this being the case he] comes only to subtract [that is, narrow the application of the principle and not to extend it, for while M. 1:6 treats two injunctions of disparate origins, one biblical and one rabbinic, M. 1:7 would treat two injunctions both biblical in origin]!
2. **I:2:** There are teachers who teach, “[a lamp that had been made unclean by] corpse uncleanness...” [The lamp itself received

uncleanness from the corpse.] There are teachers who teach, “[a lamp that had been made unclean] in (B-) corpse uncleanness....” [The lamp received the corpse uncleanness secondhand, through an individual who had touched the corpse.] The one who said, “corpse uncleanness” – this refers to a vessel requiring [only] rinsing [to be restored to cleanness, generally nonmetal vessels]. The one who said, “in (B-) corpse uncleanness” – this refers to a metal vessel. [In assuming that R. Aqiba speaks of burning a third degree of uncleanness with a first degree, there are two ways of construing the Mishnah such that the lamp in question becomes unclean one generation removed. First, if we deal with metal vessels, which gain a degree of uncleanness identical to that of the object that makes them unclean, the Mishnah refers to someone who had touched a corpse, becoming a Father of Uncleanness (called, by some, unclean one generation removed). Such a person, by touching a metal vessel, makes it unclean one generation removed. Alternatively, if the

VIII. YERUSHALMI PESAHIM 1:8

[A] SAID R. MEIR, “FROM THEIR OPINIONS WE LEARN THAT THEY BURN [LEAVEN IN THE STATUS OF] HEAVE-OFFERING WHICH IS [CULTICALLY] CLEAN WITH THAT WHICH IS [CULTICALLY] UNCLEAN ON PASSOVER.” SAID TO HIM R. YOSÉ, “THAT IS NOT THE RIGHT CONCLUSION [TO DRAW BY ANALOGY FROM THE OPINIONS OF HANANIAH AND AQIBA]. FOR R. ELIEZER AND R. JOSHUA CONCUR THAT THEY BURN THIS BY ITSELF AND THAT BY ITSELF. CONCERNING WHAT DID THEY DIFFER? CONCERNING THAT WHOSE STATUS [AS TO CULTIC CLEANNESS] WAS SUBJECT TO SUSPENSION AND CONCERNING THAT WHICH IS CERTAINLY CULTICALLY UNCLEAN.’ FOR R. ELIEZER SAYS, ‘THIS IS TO BE BURNED BY ITSELF, AND THAT IS TO BE BURNED BY ITSELF.’ AND R. JOSHUA SAYS, ‘BOTH OF THEM TOGETHER [ARE TO BE BURNED].”

1. I:1: [they burn [leaven in the status of] heave-offering which is [cultically] clean with that which is [cultically] unclean on Passover:] What is “on Passover”? On the fourteenth [at the time of the destruction of leaven and thus prior to the explicit biblical ban on leaven on the festival itself].
2. I:2: [Defining Meir’s referent in “their words”:] Said R. Yohanan, “From the words of R. Aqiba [in M. 1:7] [and] from the words of R. Hananiah the Prefect of the Priests [M. 1:6].” R. Simeon b. Laqish said, “From the words of R. Eliezer and from the words of R. Joshua [C of the Mishnah].” Said R. Zeira in the presence of R. Yosé,

“According to R. Simeon b. Laqish [the Mishnah] is all right [we understand why the Mishnah includes clause C]. According to R. Yohanan, why do R. Eliezer and R. Joshua come here [why are their opinions cited]?” He said to him, “They are [the teachings of two] Tannaite authorities.” [Since the Mishnah consists of two separate units, A-B taught by one Tannaite authority or authority and C by another, A-B is unrelated to C]

- 3.** **I:3:** R. Yosé [the Amora said] in the name of R. Yohanan, “All concur that on the sixteenth [of Nisan, in the midst of the festival] they burn [leaven in the status of] heave-offering which is [cultically] clean with that which is [cultically] unclean.” R. Yosé objected, “Why does R. Yosé [the Tannaite authority, in B of the Mishnah] say, ‘It is not an [appropriate] analogy’?” Came R. Hiyya bar Ba from Tyre and said in the name of R. Yohanan, “Both the former and the latter [impart uncleanness] by reason of the authority of the Torah.” And [, the Amora R. Yosé continued,] “I said, Fine [this must be so]. There [the case of Hananiah involves] something biblically unclean with something biblically unclean. Even here does [the case of Meir’s deduction involve] something invalid by reason of the Torah with something unclean by reason of the Torah? [It does not; rather it treats something invalid by reason of rabbinic injunction, the leaven which is heave-offering and clean on the fourteenth after the time of destruction begins, with the heave-offering which is unclean.] “Hence R. Yosé [in the Mishnah] thus said, ‘It is not an [appropriate] analogy.’”
- 4.** **I:4:** [Supplying analogous views from M. Terumot:] There we learn: A jug of heave-offering regarding which a doubt of uncleanness occurred [e.g., whether or not an unclean person touched it] – R. Eliezer says, “If it was lying in an exposed place, one should lay it in a hidden place; and if it was uncovered, one should cover it.” [Despite the doubt, the person is required to prevent certain uncleanness.] R. Joshua says, “If it was lying in a hidden place, one should lay it in an exposed place; and if it was covered, one should uncover it.” [One’s priority is thus not in preventing its uncleanness but rather in preventing it from being improperly consumed. One precludes its consumption by leaving it exposed and indirectly causing it to become unclean.] Then it may be burned. Rabban Gamaliel says, “He should not make any changes” [M Ter. 8:8]. Said R. Yosé b. R. Bun, “From the rulings of the three of them [in A, we learned that heave-offering the status of which is] suspended – one is prohibited from burning it.” [For even Joshua does not permit a person directly to defile the heave-offering with one’s own hands.] [Supplying M. Ter. 8:9, which is assumed by the rest of the pericope: (If) a jug (of wine of clean heave-offering) in the

upper vat is broken and the lower (part of the vat contains) unclean (unconsecrated wine)R. Eliezer and R. Joshua concur that if (they) are able to save a fourth (of a log) of it in cleanness, one must save (it).But if not – R. Eliezer says, “Let it descend and become unclean, but let him not make it unclean with his hands” (M. Ter. 8:9). (If the clean heave-offering mixes with the unclean unconsecrated wine, the former becomes unclean and the latter, unless it is one hundred times the former so as to nullify it, is forbidden to non-priests. Hence, no one may consume any of the mixture. In (1), the authorities agree on a procedure even though the time taken to find clean vessels to save a fourth of a log of the heave-offering results in some of it descending and making the unclean unconsecrated portion prohibited. Where this procedure is unavailable, the authorities disagree. In (2), Eliezer holds that one should not use unclean vessels, which make the upper heave-offering unclean, even though it would prevent the descending portion from rendering the bottom unconsecrated portion unusable. Joshua assumably holds that one may use the unclean vessels even though they immediately make the wine unclean, because in any event once it comes in contact with the lower portion it will become unclean on its own.) [Analyzing how M. Ter. 8:8-9 relate to Meir’s and Yosé’s positions:] Associates [say] in the name of R. Eleazar, “The first [rule for the] jug [M. Ter. 8:8] accords with R. Yosé [for in that case one is not permitted to burn the two directly, as noted in B]. The [rule for the] second one [M. Ter. 8:9] accords with R. Meir [for the action taken will cause a change in status].” [Explaining this evaluation:] Associates say, “The [rule for the] first jug accords with R. Yosé but R. Meir does not concur with it [for he can find support from R. Joshua’s opinion]. The [rule for the] second jug accords with R. Meir but R. Yosé does not concur with it.”

IX. YERUSHALMI PESAHI 2:1

[A] SO LONG AS IT IS PERMITTED TO EAT [LEAVEN], ONE FEEDS [IT] TO DOMESTIC CATTLE, TO A WILD BEAST, AND TO FOWL. AND HE SELLS IT TO A GENTILE, AND IT IS PERMITTED TO DERIVE BENEFIT FROM IT.

- 1. I:1:** Said R. Immi, “Who teaches, So long as it is permitted to eat [leaven], one feeds [it] to domestic cattle, to a wild beast, and to fowl, [and by implication every hour that he] is forbidden to eat, [he] is forbidden to feed? R. Meir [who in M. 1: 4 holds that the destruction takes place as soon as eating ceases]. But according to R. Judah [in the same passage], in the fifth [hour], even though he is forbidden to eat,

he is permitted to feed [an animal and is required to destroy the leaven in the beginning of the sixth hour].” [Challenging the association of M. 2:1 ‘s rule regarding feeding the leaven to animals with R. Meir:] R. Ba retorted, “And did we not learn: Leaven [beginning to ferment] should be burned, but one who eats it is exempt [from punishment – for it is not normally edible] [M. 3:5]. And said R. Huna in the name of Rab, ‘One is permitted to feed it to dogs’ [which contradicts M. 2:1 ‘s principle].[Hence if M. 3: 5 represents R. Meir’s view, M. 2:1 cannot.]”

[B] ONCE ITS TIME HAS PASSED, IT IS FORBIDDEN TO DERIVE BENEFIT FROM IT.

1. **II:1:** Said R. Bun bar Hiyya before R. Zeira, “This [M. 2:1, in particular clause E, Once its time has passed, it is forbidden to derive benefit from it] indicates that it is permitted to feed it to ownerless animals” [for the leaven tossed to the wind could conceivably be picked up by an animal and eaten]. Retorted R. Jeremiah, “And did we not learn [in M. 2:1E], one crumbles [the leaven].”
2. **II:2:** [Said] R. Abbahu in the name of R. Eleazar, “Wherever it is said, ‘You [sing.] shall not eat,’ ‘you [plur.] shall not eat,’ [or] ‘they shall not eat,’ you should recognize a prohibition on deriving benefit [just] like a prohibition on eating, until a verse comes and specifies to you [otherwise], as it specifies to you regarding [taking] a limb from a living animal and regarding an animal that died a natural death. “And what did [it] specify to us regarding [taking] a limb from a living animal? ‘You shall not eat flesh torn by beasts [from a living animal] in the field; you shall cast it to the dogs’ (Exod. 22: 30). “And what did it specify to us regarding an animal that died a natural death? ‘You shall not eat anything that has died a natural death – give it to the stranger in your community to eat, or you may sell it to a foreigner’ (Deut. 14: 21).” Teaches Hezekiah, “And who has prohibited it for a dog [such that Scripture needs a clause to permit giving the torn flesh to a dog]?”

[C] AND ONE SHOULD NOT KINDLE AN OVEN OR A DOUBLE STOVE WITH IT.

1. **III:1:** If [a person] violated [this prohibition] and lit [the oven or stove, what is the law regarding what is later cooked in it]?

[D] R. JUDAH SAYS, “THE ONLY VALID FORM OF REMOVAL OF LEAVEN IS THROUGH BURNING.” AND SAGES SAY, “ONE ALSO MAY CRUMBLE IT UP AND SCATTER IT IN THE WIND OR TOSS IT INTO THE SEA.”

1. **IV:1:** It is taught: R. Judah says, Removal of leaven [is performed] only by burning [M. 2:1D]. “[The requirement to burn leaven] is a matter of logical deduction: Just as the offensive sacrifice (sacrificial meat in the status of refuse) and the leftover sacrificial food [after its prescribed time to be eaten] (remnant of sacrificial meat), which are not subject to the prohibitions of not being seen and not being found, are [destroyed] only by burning (Exod. 12:10), [so] leaven, which is subject to the prohibitions of not being seen and not being found, by logic should it not be [destroyed] only by burning?” They said to R. Judah, “Every logical deduction which you draw the intent of which is to make [the matter] stringent [here, to require burning] but the end of which results in a leniency – is not a [valid] logical deduction: Lo, if one does not find fire, should one sit and not destroy [one’s leaven]? Has the Torah not said, ‘[On the very first day] you shall remove leaven from your houses’ (Exod. 12:15)” [which requires removal of the leaven with any means]. In a similar vein said R. Judah, “‘When a woman at childbirth bears a male [, she shall be unclean seven days]’ (Lev. 12:2). What does the teaching say [in stating this rule]? Because it is said, ‘She shall be unclean seven days on the eighth day the flesh of his foreskin shall be circumcised’ (Lev. 12:2-3), I learn that when [the newborn] comes out alive [and will undergo circumcision,] he imparts uncleanness of birth to his mother; from where [do we learn] that when he comes out stillborn, he [also] imparts uncleanness of birth to his mother?”
2. **IV:2:** It is taught: “Before its time of removal [the fifth hour] has arrived, you remove it with any means; once its time of removal has arrived [from the fifth hour], you remove it with burning.” And it follows [in accord with] R. Judah. There are those who teach [the text in A with the following variation:] “Before its time of removal has arrived, you remove it with burning; once its time of removal has arrived, you remove it with any means.” And it follows [in accord with] rabbis [the anonymous “sages” in M. 2:1E with whom R. Judah disputes].
3. **IV:3:** Rabbi says, “[The requirement of] ‘you shall remove leaven from your houses’ (Exod. 12:15) [is fulfilled with] a means which would make [the leaven] impossible to be seen and to be found [requirements specified in Exod. 12:19, 13:7, and Deut. 16:4]. And what is it? It is through burning” [for thus the substance can no longer be seen or found].”

X. YERUSHALMI PESAHIM 2:2

[A.] LEAVEN BELONGING TO A GENTILE WHICH HAS REMAINED OVER PASSOVER – ONE IS PERMITTED TO DERIVE BENEFIT FROM IT. BUT THAT OF AN ISRAELITE – ONE IS PROHIBITED TO DERIVE BENEFIT FROM IT, SINCE IT IS SAID, “LET IT NOT BE SEEN WITH YOU” (EX. 13:7).

1. **I:1:** Lo, [the leavened bread of a gentile which has remained over Passover], is it forbidden to eat? The teaching [the Mishnah] speaks about a place where they were not accustomed to eat gentile bread. But where they are accustomed to eat gentile bread it is permitted even to eat [it]. What is the law as to [deriving benefit from a gentile’s leavened bread] during Passover?
2. **I:2:** A gentile’s roof that was adjacent to an Israelite’s roof and leavened bread rolled from the gentile’s roof to the Israelite’s roof – lo, this one pushes it with a reed [into the gentile’s domain]. If it was the Sabbath or the holy day [of Passover] – Rab said, “One inverts a vessel on it.” Rab said, “[Before Passover a person] is required to say, ‘All leavened bread that I have in my house and of which I do not know, let [its ownership] be nullified.’” Rab said, “[Before Passover a person] is required to say [the following blessing:], ‘[Praised art Thou, king of the universe] who has sanctified us with His commandments and commanded us regarding the commandment of removal of leavened bread.’” Rab said, “[Before Passover a person] who plastered his house with leaven is required to remove [it].”
3. **I:3:** An Israelite and a gentile who were traveling [together] on a boat, and leavened bread was in the possession of the Israelite – lo, this one sells it to the gentile or gives it to him as a gift, and after Passover he buys it back, provided that he gives it to him as a real gift [without stipulations]. [For example,] that Israelite should say to the gentile, “Before you buy [some leavened bread] for one hundred, come and buy [from me] for two hundred [for the more you buy, the greater your potential profit], “before you buy it from a gentile, come and buy it from an Israelite [perhaps to allow those Israelites who do not buy bread baked by a gentile to eat the bread], “lest I need [some later] and buy [it] from you after Passover [for a higher sum]” [T. 2:12-13]. One who rents a house to his friend – before [the latter] entered therein [taking possession], the lessor is required to remove [the leavened bread]; once [the latter] entered therein, the renter is required to remove [the leavened bread].

4. I:4: Who [is the authority] who teaches [in M. 2:2A], “[Leavened bread] shall not be found?” R. Judah, for it is taught: “One who eats leavened bread from six hours and on, and likewise leavened bread which remained over Passover – lo, this one violates a negative commandment but is not subject to extirpation’ – the words of R. Judah. “R. Simeon said, ‘Whatever does not entail extirpation does not entail a negative commandment’” [T. 1:8].

5. I:5: There we learned: A slave whose master pledged him as security lo others and manumitted him – according to the letter of the law, the slave is not liable for anything; but for the perfection of the world, they compel his [second] master to manumit him, and [the slave] writes a bond [a promissory note] equal to his value. R. Simeon ben Gamaliel [says], “One does not write, he only manumits [i.e., only manumitting takes place but not writing – and presumably the debt is paid by the original master]” [M. Git. 4:4]. Who manumits [the slave]? Rab said, “Either the first master or the latter master.” Said R. Yohanan, “Only the first master manumits.” R. Haggai objected before R. Yosé, “The teaching [in the Mishnah] is in dispute with Rab: ‘An Israelite who lent a gentile on security of his [the gentile’s] leavened bread – after Passover, it is permitted to be enjoyed [M. 2: 2C].’ If you say it [the leavened bread, as a result of being pledged as a security, was] in the domain of the Israelite, it should be forbidden.” [Since it is not, evidently only the original owner (here the gentile) has power over the security (here the leaven); likewise in the case of a slave, only the original owner and not the “second master” should be in a position to manumit.]

[B] R. SIMEON B. GAMALIEL SAYS, “WHATEVER A DOG CANNOT SEARCH AFTER [IS CONSIDERED REMOVED].”

1. II:1: To what extent R. Yohanan in the name of R. Simeon ben Yosedeq [said], “Up to three handbreadths.” [Leaven buried more than three handbreadths below the surface of the ground is considered out of the reach of a dog.]

XI. YERUSHALMI PESAHI M 2:3

[A] HE [WHO IS NOT A PRIEST] WHO ON PASSOVER INADVERTENTLY EATS LEAVEN WHICH IS IN THE STATUS OF HEAVE OFFERING PAYS THE PRINCIPAL [WHICH HE CONSUMED] AND A PENALTY OF AN ADDED FIFTH [OF THE VALUE OF THE PRINCIPAL]. [IF HE DID SO] DELIBERATELY, HE IS EXEMPT FROM THE

REQUIREMENT TO MAKE RESTITUTION, AND [EVEN] FROM REPAYING ITS VALUE WHEN IT IS ASSESSED MERELY FOR USE AS WOOD [FUEL].

1. **I:1:** It is taught: R. Simeon b Eleazar says in the name of R. Simeon b. Yosedeq, “The teaching [the Mishnah] deals with a case in which one set aside unleavened bread [as heave-offering] and it leavened; but if he set it aside [on Passover] as leavened, in such a case [the Mishnah’s ruling] does not [apply, for no one would claim that it would even become heave-offering]” [T. 1:10]. When one set aside [as heave-offering] unleavened produce in place of [a larger batch of] leaven – [regarding this] said R. Zeira, “All heave-offering which does not render the remaining portion permitted for eating [because, e.g., it is leavened produce] is not heave-offering.” When one set aside [on Passover] leavened produce in place of unleavened produce – [regarding this] said R. Zeira, “Since if he [set aside as heave-offering produce] from it [the leavened produce] in place of it [a larger batch which is likewise leavened], it is not heave-offering; therefore even if [one set aside as heave-offering] from it [leaven produce] in place of another spot [other produce which is not leavened], it is not heave-offering.”
2. **I:2:** Bun b. R. Hiyya asked, “One who eats leaven which is in the status of heave-offering on Passover – to whom does he pay [the reparation which M. 2:3 requires, for the produce was fit for neither a priest nor a non-priest]?” It is a subject of dispute between R. Yohanan and R. Simeon b. Laqish, for they differed: [A grandson] who stole heave-offering from his mother’s father who was a priest, [and this priest then died, leaving his property to be inherited by this same grandson who had stolen the produce] – R. Yohanan said, “He pays the tribe [of priests, i.e., any priest, for the stolen produce must be removed from under his hand].” R. Simeon b. Laqish said, “He pays himself [who now stands in place of the priestly grandfather, since in retrospect he stole from his own property.]” [Since he is not a priest, he sets aside produce in the original amount plus a fifth, sells it to a priest, and pockets the proceeds of the sale. By analogy, the one who ate leavened heave-offering on Passover would pay, according to R. Yohanan, a priest, and, according to R. Simeon b. Laqish, himself.]
3. **I:3:** [If on Passover a non-priest acted] inadvertently in [eating] heave-offering and deliberately in [eating] leaven; or inadvertently in [eating grapes or drinking wine which were] heave-offering and deliberately in [violation of his being a] Nazir; or inadvertently in [eating] heave-offering and deliberately in [violation of it being] the Day of Atonement [the cases which, e.g., M. Pes. 2:3, for the first case, and T.

Ter. 7:1, for the latter two, require restitution and payment of an added fifth] – If you interpret [the ban on eating] as consisting of two [distinct] violations [deriving from two separate prohibitions, one of which was performed inadvertently and one deliberately], it is appropriate [that the person pay restitution for misappropriating the heave-offering, for in this case the deliberate act entailing a punishment of lashes would not cancel out the other punishment, and the principle that for a single act, a person is inflicted not with two punishments but rather with the more severe one, would not apply]; but if you explain it in terms of a single matter [as a violation of eating], it is a dispute between R. Yohanan and R. Simeon b. Laqish [whose views, at y. Ter. 7:1 and elsewhere, are interpreted to represent distinct positions as to whether or not payment is made in the case in which lashes are imposed, with R. Yohanan reportedly in the negative in certain circumstances and Simeon b. Laqish in the affirmative. Hence, M. Pes. 2:3's case fits best if the violation is taken as deriving from two distinct prohibitions].

XII. YERUSHALMI PESAḤIM 2:4

[A] **THESE ARE TYPES [OF GRAINS THROUGH BREAD MADE FROM WHICH] A PERSON FULFILLS HIS OBLIGATION [TO EAT UNLEAVENED BREAD] ON PASSOVER: (1) WHEAT, (2) BARLEY, (3) SPELT, (4) RYE, AND (5) OATS. AND [PEOPLE] FULFILL [THIS SAME OBLIGATION] THROUGH [GRAIN] WHICH HAS BEEN ONLY DOUBTFULLY TITHED, THROUGH FIRST TITHE THE HEAVE OFFERING OF WHICH HAS BEEN REMOVED, AND THROUGH SECOND TITHE AND FOOD WHICH HAS BEEN CONSECRATED, WHICH HAVE BEEN REDEEMED; AND PRIESTS [DO SO] THROUGH [UNLEAVENED BREAD DERIVING FROM] DOUGH OFFERING AND THROUGH [UNLEAVENED BREAD] IN THE STATUS OF HEAVE OFFERING. [BUT PEOPLE DO] NOT [FULFILL THIS OBLIGATION THROUGH EATING UNLEAVENED BREAD] FROM WHICH TITHES HAVE NOT BEEN REMOVED AT ALL, FIRST TITHE FROM WHICH HEAVE OFFERING HAS NOT BEEN REMOVED, SECOND TITHE AND FOOD WHICH HAS BEEN CONSECRATED, WHICH HAVE NOT BEEN REDEEMED. [UNLEAVENED] LOAVES BROUGHT WITH A THANK OFFERING AND WAFERS OF A NAZIR – [IF] HE MADE THEM FOR HIS OWN USE [AS HIS SACRIFICE], THEY DO NOT FULFILL THEIR OBLIGATION THROUGH EATING THEM. [IF] HE MADE THEM FOR SALE IN THE MARKETPLACE, THEY DO FULFILL THEIR OBLIGATION THROUGH EATING THEM.**

1. **I:1:** It is written [in reference to bread], “and when you eat of the bread of the land, you shall set some aside as a gift to the Lord” (Num. 15:19). I would have said that all the grains [lit., matters] are liable for

dough-offering. Therefore, the teaching [Scripture] says, “OF the bread” – and not every kind of bread [the prefix M-, lit., “from,” denotes some of the kinds of bread]. If “of the bread” – and not every kind of bread [is included], I only know wheat and barley [which, e.g., Deut. 8:8 specifies as the breads of the land] [the remaining kinds from where do we learn”]? The teaching says, “as the first yield of your baking[, you shall set some aside as a gift to the LORD]” (Num. 15:20) [which] serves to include [additional kinds]. And let it include all kinds? R. Yosé in the name of R. Simeon [b. Laqish]: This is taught by R. Ishmael; R. Jonah, R. Zeira, R. Simeon b. Laqish in the name of R. Ishmael; Said R. Mana, “I went to Caesarea and I heard R. Ahava bar Zeira [L between the lines: “say”], and my father [Zeira] said it in the name of R. Ishmael.” “It said ‘bread’ in regard to Passover [Deut. 16:3] and it said ‘bread’ in regard to dough-offering [Num. 15:19]; just as the bread which is said regarding Passover refers to a kind that becomes unleavened and leavened [for the verse mentions both, ‘you shall not eat anything *leavened* with it; for seven days thereafter you shall eat *unleavened* bread’], so bread which is said regarding dough-offering [refers to] a kind that becomes unleavened and leavened, and they tested and found that only the five kinds become unleavened and leavened, and all the other kinds do not become unleavened and leavened but rather decay.”

2. **I:2:** There we learn, “An apple [which was in the status of heave offering] which was chopped and placed into a dough mixture and [thereby] leavened it [the dough] – lo, it is prohibited [for a non-priest to consume because even though fruit juices do not cause a regular leavening process, they still impart a taste to the dough].” [A marginal addition unnecessarily supplies the rest of the Mishnah: “barley (in the status of heave-offering) which fell into a water pit, even though it made it [the later] smell, its water is permitted”] [M. Ter. 10:2]. [Glossing the first part of the preceding Mishnah:] It is taught: R. Yosé says, “[The dough mixture] is permitted [T. Ter. 8:9] [for this is not a standard leavening].” R. Aha, R. Abbahu in the name of R. Yosé bar Haninah, “In what case do they dispute? When [the dough] leavens from its [the apple’s] juice. But when [it] leavens from its substance, all agree that it is permitted.”
3. **I:3:** Whence do we learn that priests fulfill their obligation [to eat unleavened bread] on Passover [night] with [unleavened bread that derives from] dough-offering or heave-offering and an Israelite with second tithe? The teaching says, “[At night you shall eat unleavened bread” (Exod. 12:18),”You shall eat unleavened bread” (Exod. 12:20); [this repetition of the injunction] indicates an inclusion. Perhaps they

might fulfill their obligation with firstfruits? The teaching says, “In all your settlements you shall eat unleavened bread” (ibid.), unleavened bread which is eaten in all settlements [is included]. The firstfruits are excluded, for they are not eaten in all settlements. They retorted, “Lo, second tithe – lo, it is not eaten in all settlements?” It is fit to be redeemed [even in Jerusalem if it has become impure] and to be eaten in all settlements.

- 4.** **I:4:** Simon in the name of R. Joshua ben Levi, “That olive’s amount with which a person fulfills his obligation on Passover must not contain any liquid [e.g., wine, oil, or honey.]” R. Jeremiah said, “That was said as a religious duty [describing the optimal manner for fulfilling the commandment].” R. Ba said, “[A] was said as a religious duty [describing the optimal manner for fulfilling the commandment].” R. Judah bar Pazzi said, “[A] was said as an indispensable condition [for the fulfillment of the commandment].” The comment of R. Bun bar Hiyya indicates that it was set forth as an indispensable position, [as specified in the following:] R. Bun bar Hiyya objected, “And did we not learn, Loaves of thank-offering if a person made them for sale in the market, he fulfills his obligation with them [M. 2:4]? Can you say [that that refers to] loaves of a thank offerings which lack fluid [for does not Lev. 7:13 require that they be made with oil]?” [In not differentiating between A and the Mishnah by restricting the Mishnah’s permission to use loaves of a thank offering to fulfill the commandment of eating unleavened bread to after the fact, R. Bun bar Hiyya surely assumes that A was said as an indispensable requirement for fulfilling the commandment.] Said R. Yosé, “There it [is a case of] a fourth [of a log of oil], and the fourth is divided up among several kinds [of loaves,” specifically, according to M. Men. 7:1, thirty of forty loaves were unleavened and of these ten were made into loaves, ten soaked cakes, and ten wafers, with the result that each one lacks the minimum requirement].

XIII. YERUSHALMI PESAHIM 2:5

[A] **AND THESE ARE HERBS THROUGH [EATING OF] WHICH A PERSON FULFILLS HIS OBLIGATION ON PASSOVER: LETTUCE, (2) CHICORY, (3) PEPPER WORT, (4) ENDIVES, AND (5) DANDELION.**

- 1.** **I:1:** With lettuce – lettuce; with chicory – endive; with tamkhah [pepperwort] – gingidium, another type of bitter herb; with harhavina – R. Yosé b. R. Bun said, “yasse holi [a name of another herb];” and

with sonchus – a bitter vegetable with silvery appearance and possessing sap.

[B] THEY FULFILL THEIR OBLIGATION BY EATING THEM, WHETHER THEY ARE (1) FRESH OR (2) DRIED,

- 1. II:1:** Whether fresh] or withered [M. 2:5B = T. 2:21]. There are those who teach, “but not withered.” Said R. Hisda, “The one who said ‘withered,’ refers to the stalk; the one who said, ‘but not withered,’ refers to the leaves. while harmonizing the two traditions, in not permitting withered herbs may be seen to accord with B in prohibiting withered leaves.]

[C] BUT NOT [IF THEY ARE] PICKLED [IN VINEGAR], (4) STEWED, OR (5) COOKED. AND THEY JOIN TOGETHER TO FORM THE REQUISITE VOLUME OF AN OLIVE’S BULK. AND THEY FULFILL THEIR OBLIGATION BY EATING THEIR STALKS, AND [IF THEY ARE] IN THE STATUS OF PRODUCE WHICH HAS NOT BEEN FULLY TITHED, FIRST TITHE THE HEAVE OFFERING OF WHICH HAS BEEN REMOVED, AND SECOND TITHE AND FOOD WHICH HAS BEEN CONSECRATED, WHICH HAVE BEEN REDEEMED.

- 1. III:1:** Hiyya in the name of R. Yohanan [said], “A pickled olive [which is used not for its oil but for food, though generally only after being treated] – over it one says [the blessing], ‘[Praised be Thou] who createst the fruit of the tree.’” R. Benjamin bar Yefet in the name of R. Yohanan [said], “Steamed vegetable, over it one says [the blessing], ‘By Whose word all things come into existence.’” Said R. Samuel bar R. Isaac, “The teaching [M. 2:5B] supports R. Benjamin bar Yefet, ‘but not pickled, nor steamed, nor cooked.’ “If they are in their natural state, [surely a person] would fulfill his obligation with them on Passover?” [Hence steaming, like pickling, the mode of preparation mentioned that is relevant to the y. Pes. context, assumably must transform the produce from its natural state; therefore, just as one cannot use steamed or pickled vegetables for bitter herbs, so over them one says the generic, all-encompassing blessing, “By Whose word all things come into existence” (and not the blessing “Who creates the fruit of the earth” or [for a fruit from a tree] “Who creates the fruit of the tree”).]

XIV. YERUSHALMI PESAHIM 2:6

[A] THEY DO NOT SOAK BRAN FOR FOWL, BUT THEY SCALD [IT]. A WOMAN SHOULD NOT SOAK BRAN WHICH SHE TAKES WITH HER TO THE BATHHOUSE. BUT SHE

RUBS IT DRY ON HER SKIN. A PERSON SHOULD NOT CHEW GRAINS OF WHEAT TO PUT ON HIS SORE ON PASSOVER, BECAUSE THEY FERMENT.

1. **I:1:** It is taught [regarding two terms, found, for example, in M. Hal. 1: 6], R. Ishmael b. R. Yosé said in the name of his father, “What is meisah? Placing hot water into flour; ‘Halitah? Flour into hot water” [T. Hal. 1:1B-2A]. [Since the two procedures differ only in the sequence of placing the hot water and therefore the same law applies to each, the choice of one or the other term signifies with which position one associates the House of Hillel and the halakhah. Hence M. Pes. 2: 6, in employing the verbal form halitah and in not considering this procedure proper cooking, represents the lenient choice. But according to the other approach – some sources attribute it to R. Yosé – which employs the term meisah and associates the Hillelites with a stringent position, the law in M. Pes. 2: 7A would be different, as spelled out:] Therefore here [M. Pes. 2: 6A] whether hot water into coarse bran or whether coarse bran into hot water [– it is prohibited]. [So would be the halakhah according to whoever associates the Hillelites with the position that such actions make up proper cooking and therefore entail leavening.]
2. **I:2:** The Mishnah’s prohibition applies] in a case in which there is fat in them [the grain, which may be leavened by one’s saliva, an eventuality not likely with thin and dried grains or likely to occur only after the grain had already decayed, which would not be problematic].
3. **I:3:** A malagma [a bandage comprising mostly grain kneaded in water or wine] which decayed there are those who teach, “it must be removed.” And there are those who teach, “It need not be removed” [T. 3:3B]. The one who said, “it must be removed” [speaks of] a case in which it leavened and afterward decayed [and hence the bandage had entered a period in which it was in the forbidden status of leaven]. And the one who said, “it need not be removed” [speaks of] a case in which it decayed and afterward leavened [because a decayed object does not fall into the category of leaven].

XV. YERUSHALMI PESAHIM 2:7

[A] **THEY DO NOT PUT MEAL INTO HAROSET [THE MIXTURE OF FRUIT, SPICE, AND WINE USED FOR SWEETENING THE BITTER HERB ON PASSOVER] OR INTO MUSTARD. BUT IF ONE HAS PUT IT IN, HE MUST EAT IT FORTHWITH. AND R. MEIR PROHIBITS [EATING IT]. THEY DO NOT BOIL THE PASSOVER LAMB IN [ONE OF**

THE SEVEN SPECIFIED] LIQUIDS OR IN FRUIT JUICE. BUT THEY BASTE IT OR DIP IT IN THEM.

- 1.** **I:1:** They do not put meal into haroset [the mixture of fruit, spice, and wine used for sweetening the bitter herb on Passover] or into mustard. But if one has put it in, he must eat it forthwith – as long as [one] does not tarry. R. Meir prohibits because one tarries [and the flour leavens].
- 2.** **I:2:** It is written, “[Do not eat any of it raw or] cooked in any way with water, [but roasted over the fire]” (Exod. 12:9). [From this verse] I only know [that] water [is prohibited for cooking the Passover offering]. From where [do I know] to include other liquids [in this ban]? The teaching says, “Cooked in any way.” Until here [the explanation from Scripture] accords with R. Aqiba. According to R. Ishmael [who does not derive laws from repetition of wording, how do we know this ruling]? R. Ishmael teaches: “It is a [logical inference from] minor to major. Just as water [which lacks a taste of its own and] which does not communicate its taste [to the Passover offering], you say is forbidden – other liquids, which communicate their taste, all the more so [should be forbidden]”
- 3.** **I:3:** They do not knead unleavened bread with liquids, but they form [and smooth its surfaces] with liquids [T. 3:5B]. Said R. Aqiba, “I was with R. Eliezer and with R. Joshua on a ship and I kneaded their unleavened bread with liquids.” They do not knead unleavened bread with boiling water because they form a paste [a dumpling, which cannot serve as unleavened bread], and with tepid water because they ferment, but they knead them with cool water [T. 3:5A].

[B] WATER USED BY A BAKER MUST BE Poured OUT, BECAUSE IT FERMENTS.

- 1.** **II:1:** There are those who teach: “They pour them in the place of broken ground” [T. 3:6]. And there are those who teach: “They pour them into a sloping place.” Said R. Yosé, “The one who said, ‘They pour them in the place of broken ground’ [speaks] of a case in which the broken ground was big [and thereby can absorb all the water and not let any of it collect as a stagnant body enabling the flour to ferment]. “The one who said, ‘in a sloping place’ [speaks] of a case in which the slope was high [and the water would either become absorbed in the course of falling, or it would scatter sufficiently at the bottom and therefore not collect in a single location].”
- 2.** **II:2:** [If one] soaked wheat and barley in water and they leavened, lo, these are forbidden; [if they] did not leaven are permitted. R. Yosé

said, “[If one] soaked barley in water, if they split, lo, these are forbidden. [If one] soaked them in vinegar, [they are] permitted because the vinegar contracts them” [T. 3: 4]..

XVI. YERUSHALMI PESAHIM 3:1

[A] THESE [THINGS] ARE REMOVED AT PASSOVER: (1) BABYLONIAN PORRIDGE, (2) MEDIAN BEER, (3) EDMITE VINEGAR, (4) EGYPTIAN BARLEY BEER; (5) DYERS’ PULP, (6) COOKS’ STARCH FLOUR, AND (7) SCRIBES’ PASTE.

1. **I:1:** And these [substances] are removed on Passover: Said R. Mana, “And all of them [must be removed only if they are mixed] with water.” [Only water brings about leavening, but fruit juices do not.] Babylonian *kutah* [M. 3:1A] – that in which kneaded crumbs have been placed. Median beer [M. 3:1A] – that in which barley flour has been placed. Edomite vinegar [M. 3:1A] – southern [i.e., from a part of Judea], *besimah* [wine vinegar].

[B] **R. ELIEZER SAYS, “ALSO: WOMEN’S ORNAMENTS.” THIS IS THE GENERAL PRINCIPLE: WHATEVER IS MADE OF ANY KIND OF GRAIN, LO, THIS IS REMOVED ON PASSOVER. LO, THESE MATTERS ARE SUBJECT TO AN ADMONITION. BUT EXTIRPATION DOES NOT APPLY TO THEM.**

1. **II:1:** Eliezer says, “Even women’s cosmetics [M. 3:1C].” There are those who teach [that Eliezer spoke of] “cosmetics.” There are those who teach (that R. Eliezer spoke of “toilet paste.”
2. **II:2:** It is written, “All that is leavened you shall not eat” (Exod. 12:20) – to include Babylonian *kutah*, and Median beer, and Edomite vinegar, that they be subject to [biblical] warning [prohibiting eating them]. Perhaps they should be subject to extirpation? [Therefore] the teaching says, “For all who eat leavened bread will be cut off” (Exod. 12:15) [and not something with merely an admixture of grain]. [The exegesis is built either on the use of the adjective “all” and what it modifies, or on the variation in terminology (whereby the ban on eating employs “leavened,” while the statement regarding the punishment of extirpation uses “leavened bread”).] The Associates asked before R. Jonah, “Here (Exod. 12:20) it is written, ‘All [leavened you shall not eat]’ and here (Exod. 12:15) it is written, ‘[For] all [who eat leavened bread will be cut off].’ Here you include [Babylonian *kutah* and such under the prohibition], but here you exclude [the items from extirpation]!” He said to them, “[You misunderstand the basis of the deduction, for both instances of ‘all’ are

used to include:] Here (Exod. 12:15) [speaking of the injunction to *eat* unleavened bread and not to eat leavened bread, on the basis of the use of the term ‘all’] he included those who eat [– while from the choice of the word “leavened bread,” he excluded substances eaten which are not bread], but here (Exod. 12:20) [speaking of substances that should not be eaten, from the use of the term ‘all’] he included things eaten.

3. **II:3:** Jeremiah, R. Samuel b. R. Isaac in the name of Rab, “A pot in which one cooked leaven one should not cook therein from the same kind [of food] except after the Passover [for the taste of the leavened food remains in the pot].” Lo, from another kind, it is permitted [on Passover] as long as [one does it] after [subsequently cooking prior to Passover] three cooked foods [which lack leaven and which assumably would impose their own taste replacing any lingering taste of the initial leavened food]. Just as it [the taste of the leavened food] is neutralized by something not of its kind, so it will be neutralized by its [own] kind. [Hence why specify that three cookings of another kind of food are necessary; even of the same kind should suffice.] A kind [of food] stirs [up the leavened taste of] its same kind to cause a prohibition.

XVII. YERUSHALMI PESAHI^M 3:2

[A] DOUGH WHICH IS IN THE CRACKS OF A KNEADING TROUGH, IF THERE IS AN OLIVE’S BULK IN A SINGLE PLACE – ONE IS LIABLE TO REMOVE IT. AND IF NOT, IT IS DEEMED NULL BY REASON OF ITS INCONSEQUENCE.

1. **I:1:** Associates in the name of R. Yohanan, R. Simon in the name of R. Joshua b. Levi, “[The Mishnah speaks of a case] in which [the dough can be] peeled off all of it together [for example, if a thread of dough connects more than one clump, making up the minimum amount, even though at any one point there is less than an olive’s bulk, it must be removed].” Up to here [the Mishnah can be construed following the interpretation in A to treat] moist [dough]. [What of] dry [dough]? Since if it had been moist it could have been peeled off all of it together, even [if it is] dry it accords with this arrangement.

[B] AND SO WITH REGARD TO UNCLEANNESS: IF ONE IS FASTIDIOUS ABOUT IT, IT INTERPOSES. AND IF HE WANTS TO KEEP IT, LO, IT IS DEEMED EQUIVALENT TO [AND PART OF] THE KNEADING TROUGH:

1. **II:1:** [First defining the referent of the rule that a person’s intent (whether or not the person is bothered by the presence of a small amount of dough in a trough) affects the cleanness status of a trough:]

[And so with regard to uncleanness:] if one is fastidious about it [the small clump of dough], it interposes [M. 3:2B] – for immersion [preventing the trough from becoming clean and hence a person should remove the clump prior to immersing the trough]; and if not, it does not interpose for immersion. It is the same [rule, i.e., that fastidiousness affects whether or not an intervening object like the clump interposes] both for immersion and sprinkling [water, a lesser form of purification; hence if a utensil required sprinkling, a clump would prevent the whole trough from becoming clean through the sprinkling]. Even though a small dough portion, regarding which a person is not fastidious, does not interpose for immersion, which would have prevented the whole trough from being purified, but rather is considered as if part of the trough, nevertheless, when the clump had come in contact with a source of uncleanness:] [We learn that] it is not [considered] a connective for uncleanness from this, but if he wants to keep it – lo, it is [considered] as part of the kneading-trough [M. 3:2B]; and if not, it is considered as resembling [: but not identical with] the trough [i.e., what is crucial is the person’s active intent in wanting to keep the dough; hence even if the person is not fastidious about it, yet is indifferent as to whether or not to keep it, the clump and the trough are not considered joined so as render the latter unclean]. [In contrast to A-C which suggest that, where fastidiousness regarding the clump is lacking, the clump is a connective for purification through immersion or sprinkling but not for rendering unclean:] R. Simeon b Laqish said, “Thus taught Rabbi, ‘Excrement under the [toilet] seat concerning which a person would not be fastidious], is considered a connective for uncleanness but is not considered a connective for [rendering clean through] sprinkling [cf. T. Par. 12:17].”

2. **II:2:** There we say, “Thin wafers – R. Isaac instructed that on Passover making one [wafer is permitted without fear of dough rising]; two [or] three are prohibited unless the person rinses off his hands in water” [these wafers were flattened with a person’s hands, to which the dough would stick – hence it became necessary to wash the hands between wafers].
3. **II:3:** Building on an assumed definition of “dumb” dough:] R. Abbahu in the name of R. Yohanan said, “Dough that cooled-’ – [if] there was not another like it there which leavened [to indicate the status of the “dumb” dough], until when [after kneading does one have to wait before it becomes forbidden]?”

XVIII. YERUSHALMI PESAHIM 3:3

[A] **H**OW [ON THE FESTIVAL] DO THEY SET APART THE DOUGH-OFFERING [IF THE DOUGH IS IN A STATE OF] UNCLEANNESS?

- 1.** **I:1:** The teaching [Mishnah] deals with a case in which [the dough] became unclean after it was rolled. But if it became unclean before it was rolled, [a person] should make it into qab portions [comprising less than the minimum one and one-fourth qab of dough M. Hal. 2:6 declares to be liable for a Dough-offering] [The Mishnah] speaks of a case in which she kneaded on the festival [of Passover]. But if she kneaded on the eve of the festival [the law] is in accord with this [following tradition] which is taught: “One who kneads [dough] on the festival separates its Dough-offering on the festival; [if one] kneads on the eve of the festival and forgot to separate its Dough-offering, it is forbidden to move it [on the festival]. [And without a doubt] it is not necessary to say [that it is forbidden] to take [Dough offering] from it [T. Y.T. 1:14,].” It did not say “[if one] started dough” but “[if one] kneaded.” Lo, [would this imply that if one only] started dough [one would] not [become liable to separate the Dough-offering, which runs counter to texts such as M. Hal. 3:1 which states that dough becomes liable to a Dough-offering as soon as water is added to it]?
- 2.** **I:2:** he teaching [in the Mishnah] deals with the festival of Passover. Lo, on Pentecost or Tabernacles [where the issue of leaven is not a factor], it is permitted [to leave the unclean dough until the night, when it may be burned]. R. Yosé b. R. Bun, R. Huna in the name of R. Aha, “Even on Pentecost and on Tabernacles [separating such dough] is forbidden because [since the dough is not permissible beforehand, it falls under the category of working on a holiday, biblically termed a ‘sacred convocation,’ which is prohibited, for example, by] ‘No work at all shall be done on them’ (Exod. 12:16).”

[B] **R. ELIEZER SAYS, “A WOMAN SHOULD NOT DESIGNATE [THE DOUGH-OFFERING] BEFORE IT IS BAKED.” R. JUDAH B. BETERA SAYS, “SHE SHOULD PUT IT INTO COLD WATER.” SAID R. JOSHUA, “THIS IS NOT THE SORT OF LEAVEN CONCERNING WHICH PEOPLE ARE WARNED UNDER THE PROHIBITIONS, ‘LET IT NOT BE SEEN’ (EX. 13:7), AND ‘LET IT NOT BE FOUND’ (EX. 12:19). BUT SHE SEPARATES IT AND LEAVES IT UNTIL EVENING. AND IF IT FERMENTS, IT FERMENTS.”**

1. **II:1:** How should [a person] act according to R. Eliezer [who says one can handle the dough until it is baked, when it is designated and then properly left till the evening for burning]?
2. **II:2:** Said R. Joshua to him [R. Eliezer], “Do you not end up like one who burns holy things on the holiday [in leaving the Dough offering to burn in the oven after baking the dough, which, is a distinct violation]?” R. Eliezer said to him, “They burn on their own accord [with out a separate act of burning, for the Dough-offering merely remains in the oven after it and the rest of the dough are baked].” Said lo him R Joshua, “Do you not end up violating the ban on seeing and finding leaven [on one’s premises by allowing it to rise]?” [R. Joshua] said to him, “It is preferable to violate a negative commandment which did not appear before you [leaving the dough which eventually will become leaven on its own] than a negative commandment which appeared before you [letting the Dough-offering forthwith burn on the festival through one’s action, be it indirect].” [T. 3: 7].
3. **II:3:** According to the opinion of R. Eliezer, let [the person] designate it [after the dough bakes] and then remove it [from the baked dough without leaving it to burn]? It is forbidden to move it [once it has been designated, for it is not usable by either Israelites or priests on the festival]. [Some commentaries add a rhetorical question: “and one should re move it?”] And let [a person] remove it and [then] designate it? [One should not do that] lest a person forget and eat [it]. And let [a person] remove it, and designate it, and take it with another [portion of dough] to a corner [out of the way], as that which we learn there: They move clean heave-offering with unclean [or unclean] with common produce [M. Shab. 21:1].
4. **II:4:** There R. Jeremiah said in the name of R. Zeira, “[If] two halves of an olive’s bulk [of leaven] are within a house [at different locations], the house does not join them [to make up the minimum amount]; within a utensil, the utensil joins them.” But here he [the Mishnah, in particular, R. Eliezer] says thus [that one may designate the portion of dough left over in the oven as Dough-offering on behalf of the baked dough already taken out of the oven as if they make up one unit]?
5. **II:5:** It [an animal] and its young that fell into a pit [on a festival] – R. Eliezer says, “[One] should raise up the first with the plan to slaughter it and should slaughter it, and the second, [they] feed it] so that it not die.” R. Joshua says, “[They] should raise up the first one with the plan to slaughter [it] but [need] not slaughter [it] and

practicing shrewdness, should raise up the second. Even though [one] intends not to slaughter either one of them – it is permitted.” [T. Y.T. 3:2, which augments M. Bes. 2:4]. [Noting that R. Eliezer in M. Pes. 3:3 and T. Y.T. 3:2 apparently takes opposite positions as to whether or not one should employ an artifice:] R. Bun bar Hiyya asked: “Is not R. Eliezer’s logic reversed? There [T. Y.T.] he says it is forbidden to act with shrewdness and here [M. Pes.] he says it is permitted to act with shrewdness.”

XIX. YERUSHALMI PESAHIM 3:4

[A] **RABBAN GAMALIEL SAYS, “THREE WOMEN KNEAD DOUGH TOGETHER AND [THEN] BAKE IN THE OVEN ONE AFTER THE OTHER IN SEQUENCE.” AND SAGES SAY, “THREE WOMEN WORK WITH THE DOUGH. ONE KNEADS, WHILE THE NEXT ROLLS OUT, AND THE THIRD BAKES.” R. AQIBA SAYS, “ALL WOMEN, ALL WOOD, AND ALL OVENS ARE NOT TO BE TAKEN AS EQUIVALENT. THIS IS THE GENERAL RULE: [IF] THE DOUGH SWELLS, LET HER SLAP IT WITH COLD WATER.”**

- 1. I:1:** [If following Gamaliel, the women work in sequence:] It is taught: “[Before one can bake one’s dough:] the first waits sufficient [time] for firing [of the oven]; and the second [in turn, who starts kneading at the same time as the first person, waits] sufficient [time] for two firings [of the oven, for the first person’s and then her own use of the oven] and one baking [that of the first person]; and the third [person, who likewise starts simultaneously with the first two, waits] sufficient [time] for three firings [of the oven – for the first two individuals’ and then her own use of the oven] and two bakings [the second baking being the added time that must be waited for the second person to finish baking]. [But] if [this third person] made the first loaf [that she had formed at the very beginning] last [placing it into the oven last and not at the beginning of her baking, hence leaving it unattended while her first batch bakes, that individual will end up waiting] sufficient [time] for three firings [of the oven] and three bakings [the third baking being this added time for her own initial batch].”
- 2. I:2:** Rabban Gamaliel says, “Three women knead [dough] at the same time and bake in one oven, one after the other.” And sages say, “Three women occupy themselves with the dough: one kneads, and one rolls, and one bakes [M. 3:4].” R. Hoshea teaches: “And another comes and kneads after them” [T. 3:8A] There are those who teach, “[In preparing] with wheat, [one may use up to] three qabs and with barley

[up to] four qabs.” [Alternatively:] And there are those who teach, “[In preparing] with wheat four qabs and with barley three qabs” [T. 3:8B]. [Harmonizing the two traditions:] The one who said, “with wheat three qabs” – when they have fat; “and with barley four qabs” – when they lack fat.

XX. YERUSHALMI PESAHIM 3:5

[A] “DOUGH BEGINNING TO FERMENT IS TO BE BURNED, BUT THE ONE WHO EATS IT IS EXEMPT. DOUGH WHICH IS WHOLLY FERMENTED MUST BE BURNED, AND THE ONE WHO EATS IT IS LIABLE TO EXTIRPATION. WHAT IS THE DEFINITION OF DOUGH BEGINNING TO FERMENT? THAT [ON WHICH STREAKS BEGIN TO APPEAR] LIKE LOCUST’S HORNS. AND THAT WHICH IS WHOLLY FERMENTED? DOUGH ON WHICH THE CRACKS ARE ALL ENTANGLED TOGETHER,” THE WORDS OF R. JUDAH. AND SAGES SAY, “AS TO BOTH THIS ONE AND THAT ONE, THE ONE WHO EATS IT IS LIABLE TO EXTIRPATION.” AND WHAT IS THE DEFINITION OF THAT WHICH IS BEGINNING TO FERMENT? DOUGH WHOSE SURFACE TURNS WHITE LIKE A MAN WHOSE HAIR STANDS ON END.

1. **I:1:** [Regarding Judah’s opinion, in particular the need to remove the *si’ur*]: R. Huna in the name of Rab, “It is permitted to feed it to dogs. [Hence, in not prohibiting benefit beyond human consumption, it emerges as not totally inedible.]”
2. **I:2:** Explaining why sages reject Judah’s definition of *si’ur*:] Bar Qappara teaches: “You do not have a streak above that does not have several streaks below it [hence anything of this sort should be liable just like dough beginning to ferment.

XXI. YERUSHALMI PESAHIM 3:6

[A] THE FOURTEENTH [OF NISAN] WHICH COINCIDES WITH THE SABBATH – THEY REMOVE ALL [THE LEAVEN] BEFORE THE SABBATH,” THE WORDS OF R. MEIR. AND SAGES SAY, “AT ITS PROPER TIME.” R. ELEAZAR B. R. SADOQ SAYS, “[LEAVEN WHICH IS] HEAVE OFFERING IS TO BE REMOVED BEFORE THE SABBATH, AND THAT WHICH IS UNCONSECRATED SHOULD BE REMOVED AT ITS PROPER TIME.”

1. **I:1:** Meir [in M. 3: 6] is in accord with R. Eliezer [in M. 3:3] and [regarding the principle articulated] goes further than R. Eliezer, for R. Eliezer says [that a person burns unclean dough from which one is to

set aside a Dough-offering on Passover, when it has already become forbidden], so that one does not come to violate [the commandment] on not seeing or finding [leaven], [while] R. Meir says [that one burns all such dough even though the status of which is unclear and unclean on the eve immediately “before the Sabbath,” even though the fire will continue to burn on the Sabbath, despite the fact that the time of its prohibition has not yet arrived] so that one does not come to a doubtful [situation which might become a violation of the commandment of] not seeing and finding leaven [for one so acts on the basis of the possibility that the leaven will not be consumed before the onset of its prohibition]. Rabbis [in M. 3:6, who aver that the dough is burned not immediately before the Sabbath but at the proper time of the day, even if it is on the thirteenth when the fourteenth coincides with the Sabbath] are in accord with R. Joshua [in M. 3:3] and go further than R. Joshua, for R. Joshua says, “They do not burn sacred [produce] on a holiday” and rabbis [as represented at y. Shab. 2:2, deducing from M. Shab. 2:2] say, that even on a weekday they do not [start to] burn sacred [produce when it would continue to burn on the Sabbath – and hence require the produce to be burned at its “proper time,” earlier in the day (and not “immediately before the Sabbath”), since in this instance, because the leavened produce is destined to become prohibited, it does not fall under the general prohibition of burning].

2. **I:2:** It is taught: Said R. Judah, “The House of Shammai and the House of Hillel did not dispute [when the thirteenth falls on a Friday] regarding [the ruling] that it is forbidden to burn clean heave-offering nor did they dispute the permissibility of burning the unclean heave-offering. Regarding what did they dispute? Regarding the produce the status of which is undetermined, for the House of Shammai say, ‘[They] do not burn.’ And the House of Hillel say, ‘[They] burn.’”
3. **I:3:** R. Abbahu [said] in the name of R. Yohanan, “R. Eleazar b. R. Sadoq [in prescribing the burning of the heave-offering immediately “before the Sabbath” and unconsecrated produce at this standard hour, be it even on the thirteenth, in M. 3:6] is in accord with Rabban Gamaliel. Just as Rabban Gamaliel [in M. 1:5] distinguished between unconsecrated food [which may be eaten throughout the fourth hour of the fourteenth of Nisan] and [leaven in the status of] heave-offering [which may be eaten later, throughout the fifth hour], so R. Eleazar b. R. Sadoq [in 3:6] distinguished between unconsecrated food and heave-offering [and prescribes that the latter be burned later than the former.”

XXII. YERUSHALMI PESAHIM 3:7

[A] HE WHO GOES TO SLAUGHTER HIS PASSOVER LAMB, TO CIRCUMCISE HIS SON, OR TO EAT THE BETROTHAL MEAL AT HIS FATHER-IN-LAW'S HOUSE, AND REMEMBERS THAT HE HAS LEFT SOME LEAVEN IN HIS HOUSE, IF HE CAN GO BACK AND REMOVE IT AND GO ON TO DO HIS RELIGIOUS DUTY, LET HIM GO BACK AND REMOVE IT. BUT IF NOT, LET HIM NULLIFY IT IN HIS HEART. [IF HE WAS GOING] TO HELP AGAINST AN INVASION OR TO SAVE SOMEONE FROM DROWNING IN A RIVER, FROM THUGS, FROM A FIRE, OR FROM A SUDDENLY COLLAPSED HOUSE, LET HIM NULLIFY IT IN HIS HEART.

1. I:1: Said R. Yosé b. R. Bun, "Come and see how great is peace for [visiting one's in-laws which is done to establish harmony in a family] is compared to two matters over which [people] are liable for extirpation [= extirpation]: the circumcision of one's son and the slaughter of one's Passover offering!"

[B] [IF HE WAS GOING] TO ENJOY THE FESTIVAL REST ON A PLEASURE JAUNT, LET HIM GO BACK IMMEDIATELY [AND REMOVE THE LEAVEN].

1. II:1: What is "to establish a resting place [fora] voluntary [purpose] [M. 3:7C]? [To be] with one's master or with a person who is greater than one in [knowledge of] Torah.' [Hence a "voluntary" purpose entails some religious duty. [Based on the definition in B-C:] Thus taught Rabbi [as the editor of the Mishnah], "Deeds precede study" [as indicated by the contrasting of the prescribed procedures for performing religious acts in clauses A-B with that for arranging to study with one's master, in C, and by the characterization of the latter as only a "voluntary" matter]. [Challenging D:] They voted in the upper room of the house of Aris in Lod, "study precedes deeds."

XXIII. YERUSHALMI PESAHIM 3:8

[A] AND SO TOO: HE WHO WENT FORTH FROM JERUSALEM AND REMEMBERED THAT HE HAD IN HAND MEAT IN THE STATUS OF HOLY THINGS, IF HE HAD ALREADY PASSED MOUNT SCOPUS, HE BURNS IT RIGHT WHERE HE IS. BUT IF NOT, LET HIM GO BACK AND BURN IT BEFORE THE TEMPLE PILE WITH WOOD WHICH HAS BEEN SET ASIDE FOR THE ALTAR HEARTH.

1. I:1: [Defining the area within the boundary and demonstrating that this extended area is considered holy by drawing on Zechariah's picture of

future pilgrims to Jerusalem:] R. Simon in the name of R. Joshua b. Levi, “It is written, ‘In that day, all the shadows of [“bells on”] the horses shall be inscribed “Holy to the Lord’ (Zech. 14:20) – up to the point that horses run and do not cast a shadow [being overshadowed by the shadow of the city and its walls].” R. Samuel b. R. Isaac asked, “If it [whatever is in sight of Jerusalem] is sacred [in the same status as if in Jerusalem], let [the person] burn it in its place [and not return to the Temple Mount]?” Even in Jerusalem they burn it [any invalid offering] with the altar’s woodpile, [and individuals need to provide their own wood; hence returning represents a leniency].

[B] AND FOR HOW MUCH [LEAVEN OR MEAT OF HOLY THINGS] DO THEY RETURN? R. MEIR SAYS, “THIS AND THAT ARE SUBJECT TO THE MEASURE OF AN EGG’S BULK.” R. JUDAH SAYS, “THIS AND THAT ARE SUBJECT TO THE MEASURE OF AN OLIVE’S BULK.” AND SAGES SAY, “FLESH IN THE STATUS OF HOLY THINGS [A] IS SUBJECT TO THE MEASURE OF AN OLIVE’S BULK AND LEAVEN [M. 3:7B] IS SUBJECT TO THE MEASURE OF AN EGG’S BULK.”

- 1. II:1:** There are those teachers who teach reversing the opinions [of R. Meir and R. Judah]. R. Jacob bar Aha [taught] in the name of R. Yosé in accord with [the reading found in] our Mishnah. Said R. Yudan, “There is a sign [to remember which opinion goes with whom] from that [dispute] in [Mishnah] Berakhot regarding the minimum amount of food required to make one liable to say the formal Invitation to Grace after Meals and Grace itself]: For how much [food] do they invite [people to join in saying the formal Introduction to Grace]? For an olive’s bulk. R. Judah says, For an egg’s bulk [M. Ber. 7:2].” [Judah in y. Pes. should likewise employ the measure of an egg, and Meir (Judah’s assumed disputant in M. Berakhot), that of an olive.]

XXIV. YERUSHALMI PESAḤIM 4:1

[A] WHERE THEY ARE ACCUSTOMED TO DO WORK ON THE EVE OF PASSOVER UP TO NOON, THEY DO SO. WHERE THEY ARE ACCUSTOMED NOT TO DO SO, THEY DO NOT DO SO.

- 1. I:1:** Where they are accustomed to do work, [M. 4:1A]. It is written, “There shall you slaughter the Passover sacrifice, in the evening” (Deut. 16:6). I know only that he is to slaughter [the offering]. From where [do I learn that] his agent [may do so likewise]? The teaching [the verse] says, “You shall cook and eat it” (Deut. 16:7) [which suggests that a person is required to participate only in the

cooking and eating; hence v. 6 should not be construed to restrict the slaughtering to the person alone]. What [then] is the meaning of “There shall you slaughter the Passover sacrifice, in the evening?” It is not right that you should be engaged in your work while your sacrifice is being offered [the notion behind our Mishnah]. Indeed they prohibited doing work, as [in] this which is taught: “Therefore everyone who made a vow [to bring] wood and first fruits [to the Temple] – [that is] one who says, “I take it upon myself [to bring] wood for the altar and logs for the pile: he is prohibited regarding lamenting and fasting and [similarly] from working on that day.”

2. **I:2:** Said R. Jonah, “[Taking into account that] these daily offerings are the sacrifices of all of Israel: if all of Israel went up to Jerusalem [daily, it would not be right for] is it not written, ‘three times a year all your males shall appear [before the Lord your God]’ (Deut. 16:16 – does the verse not require only three times a year)? “[And] if all of Israel remained idle [following the proposition that people should not be engaged in work while their sacrifice is being offered], and is it not written, ‘And you shall gather in your new grain’ (Deut. 11:1)? Who would gather in the new grain for them? “Rather, the former prophets established twenty-four watches Corresponding to each watch there was a post [stationed] in Jerusalem of priests and of Levites and of Israelites [M Tan 4:2] [and these functioned as the agents of Israel; cf. T. Tan. 3:2-3].” It is taught: “Twenty-four thousand post[s] from Jerusalem and half a post from Jericho [a truncated allusion to a verse: “Twenty-four thousand” (were the number of Levites “in charge of the work of the House of the Lord”) (I Chron 23:3). (One) post from Jerusalem and a half a post from Jericho.”] “Jericho could have supplied a full post, but in order to honor Jerusalem it would only supply half a post. The Priests [were] for the service, and the Levites for their platform [standing ready to sing] and the Israelites testify on behalf of themselves that they are agents of all of Israel.”

3. **I:3:** And lo, a paschal offering, behold it is a sacrifice for all of Israel, and they [the authors of M. 4:1] made it [working before noon on the day when it is offered] contingent on custom [for should not work be forbidden throughout the day]? Said R. Abbahu, “[The fourteenth of Nisan] is different [from a day on which an individual brings an offering], for the Passover offering is sacrificed only from the sixth hour and onward, [and hence it is not comparable to a situation of an individual who, though he may bring an offering at any hour, chooses to bring it after the sixth hour and therefore may not work throughout the day].”

4. **I:4:** [Regarding] all the matters [that follow] they made it contingent upon an actual custom: Women who are accustomed not to work: on the departure of the Sabbath – this does not comprise a custom; until the synagogue’ lets out [on Saturday night, which is likely to be a little later than the precise end of the Sabbath because in synagogues people include additional prayers] – [this is] a custom; on Mondays and Thursdays [the days on which the Torah is read] – [it is] not a custom; until the fast-meeting [or “fast-prayer session”] lets out [for one of the Monday and Thursday fasts, accepted by the pious, when penitential and other special prayers were recited] – [this is] a custom; on the Sabbath eves – [it is] not a custom; from afternoon prayer time onwards [on Sabbath eves] – [this is] a custom; on the day of the [New] Moon – [this is] a custom. Said R. Zeira, “Women who are accustomed not to start a loom from the beginning of [the month of] Ab and onward – [this is] a custom, for in it [Ab] the foundation stone [a stone from which the world was women] ceased [functioning]. What is the [scriptural] reason [for this association]? ‘When the foundations are destroyed’ (Ps. 11:3).” [It is assumed that this Psalm to David referring to a destruction alludes to the Temple’s destruction, which is mourned in the month of Ab.]
5. **I:5:** They sit on a Gentile’s bench [on which a Gentile merchant sells wares] on the Sabbath [even though it might appear as if they were engaged in business] [T. M.Q. 2:14A]. A case (M’SH B) regarding Rabban Gamaliel who sat on a Gentile’s bench on the Sabbath in Akko. [Locals] said to him, “They are not accustomed here to sit on a Gentile’s bench on the Sabbath,” and he did not want to tell them that it is permitted to act thus, but rather he got up and left. A case concerning Judah and Hillel, the sons of Rabban Gamaliel, who went in to bathe in the baths of Kabul. They said to them, “Two brothers are not accustomed here to bathe together [out of modesty],” and they did not want to say that it is permitted, but rather they entered one at a time. And moreover [there was a case concerning them] that they went out to walk with gilded bark [apparently loosely fitted] sandals on Sabbath night in Beri. [Locals] said to them, “They are not accustomed here to walk with gilded bark sandals on the Sabbath [lest the sandals fall off and be carried home].” And they did not want to tell them that it is permitted thus, but rather they sent them home with their servants [T. M.Q. 2:15-16].
6. **I:6:** Not only regarding Passover [e.g, not working prior to noon on the day on which the offering was brought, on the eve of Passover,] but also regarding a custom [people are to accept and maintain stringencies].

7. **I:7:** Relating to the Mishnah's concern for the impact of changing locations on a person's custom:] [If people who had taken upon themselves a prohibition] fled from place to place and wanted to retract [their prohibition, what is the law]? Let it come [and be resolved] in accord with the following that R. Ba said, "The people of Meshal took upon themselves not to sail on the Great Sea [the Mediterranean, due to the danger involved]. They came and asked Rabbi [Judah the Patriarch], saying to him, 'Our ancestors were accustomed not to sail on the Great Sea; what shall we do?' "He said to them, 'Since your ancestors were accustomed to treat it as a prohibition, do not deviate from the custom of your ancestors whose souls are at peace.'"

[B] HE WHO GOES FROM A PLACE IN WHICH THEY DO WORK TO A PLACE IN WHICH THEY DO NOT DO WORK, OR FROM A PLACE IN WHICH THEY DO NOT DO WORK TO A PLACE IN WHICH THEY DO DO WORK — THEY LAY UPON HIM THE STRICT RULES FOLLOWED IN THE PLACE FROM WHICH HE HAS GONE FORTH AND THE STRICT RULES FOLLOWED IN THE PLACE TO WHICH HE HAS GONE. BUT A PERSON SHOULD NOT VARY [FROM THE LOCAL CUSTOM] SO AS [TO AVOID] CONTENTIOUSNESS.

1. **II:1:** Simeon b. Laqish asked R. Yohanan, "And is it not forbid den because of the ban of 'you shall not divide up into sects' (Deut. 14:1). He said to him, "[That principle applies] when some [people] act in accord with the House of Shammai and others act in accord with the House of Hillel [i.e., when they put into practice differing legal positions but not, e.g., diverse local customs]."
7. **II:2:** [Questioning this construction of the principle of *you shall not divide up into sects*:] "[In the disputes] of the House of Shammai and the House of Hillel, does not the law follow the House of Hillel [and since therefore acting in accord with the House of Shammai should be simply wrong, even without consideration of *you shall not divide up into sects*, the principle would not be applicable]?" He said to him, "[The ban applies] when some [people] act in accord with R. Meir and others act in accord with R. Yosé." "[In the disputes] of R. Meir and R. Yosé, does not the law follow R. Yosé?" He said to him, "There are two Tannaite authorities who [transmit] regarding R. Meir and there are two Tannaite authorities who [transmit] regarding R. Yosé." [Since Tannaite authorities after R. Meir and R. Yosé often differed as to what the masters had actually said and even reversed their opinions, making the principle in E unreliable, the ban of *you shall not divide up into sects* is relevant to prevent over proliferation of conflicting practices.]

3. **II:3:** It is satisfactory [when an individual left] a place where they work [on Passover eve prior to noon] and goes to where they do not work. [When one leaves] a place where they do not work [and goes] to where they do work, however, let him be idle, for are there not some idlers [already] in that place [and hence in not working he would not cause a controversy but rather appear, e.g., to be an unemployed individual]?

XXV. YERUSHALMI PESAHIM 4:2

[A] **SIMILARLY: HE WHO BRINGS PRODUCE OF THE SEVENTH YEAR FROM A PLACE IN WHICH THAT PARTICULAR VARIETY HAS COME TO AN END TO A PLACE IN WHICH IT HAS NOT YET COME TO AN END, OR FROM A PLACE IN WHICH IT HAS NOT YET COME TO AN END TO A PLACE IN WHICH IT HAS COME TO AN END, IS LIABLE TO EFFECT THE REMOVAL OF THE PRODUCE. R. JUDAH SAYS, “THEY TELL HIM, ‘GO AND BRING SOME FOR YOURSELF – YOU, TOO.’”**

1. **I:1:** [The Mishnah refers to a case in which the particular produce] has ceased in Tiberias but has not ceased in Sepphoris, [and the individual who brought produce to Tiberias] said to him [who challenges him], “From Sepphoris I brought them [the produce]. If you do not believe me, ‘go and bring [some] for yourself – you too” [Since it all depends on the produce, and the locals too may bring some from the other place, the individual need not follow the stringency of the place to which he has come.]

XXVI. YERUSHALMI PESAHIM 4:3

[A] **WHERE PEOPLE ARE ACCUSTOMED TO SELL SMALL CATTLE TO GENTILES, THEY SELL THEM.**

1. **I:1:** And is it permitted to raise [small animals in the Holy Land; is this not explicitly proscribed in M. B. Q. 7:7]? Said R. Ba, “[It refers to an area] such as Mahir, which is sixteen mil by sixteen mil” [a wilderness area in the Holy Land sufficiently large, as indicated in T. Bekh. 7:3, for grazing animals to wander without devouring the produce of neighboring localities]

[B] **WHERE THEY ARE NOT ACCUSTOMED TO SELL, THEY DO NOT SELL THEM.**

1. **II:1:** Why [is it forbidden]? Because he [thereby] removes it from the obligation [to give first] fleece [to the priest]. Consider [however] if it was a goat [where there is no fleece]? [It is forbidden] because he removes it from the obligation [to give] a firstling to the priest. Consider [however] if it was a male [which obviously does not produce offspring]. [It is forbidden] because he removes it from the obligation [to give to the priest] gifts [of the shoulder, jaws, and maw when it is slaughtered].

[C] NOWHERE DO THEY SELL THEM LARGE CATTLE, CALVES, OR FOALS WHOLE OR MAIMED.

1. **III:1:** What is the difference between a large [animal] and a small animal? A large animal is capable [of doing work on the Sabbath] to make [the Israelite who retains responsibility over the animal] liable for a sin-offering. A small animal lacks the capability [of doing such work] to make [its master] liable for a sin-offering.
2. **III:2:** [If] one transgressed [the local custom not to sell small animals] and sold [such an animal to a gentile], do they impose a fine on him? Just as they [theoretically] impose a fine as a matter of law, so they impose a fine in practice. How do we know that they impose a fine on a person in practice [that is, that we should make the argument in B]? [We have a precedent:] A certain person sold a camel to an Aramean [a gentile or Roman]. The case came before R. Simeon b. Laqish and he fined him double' [the value of the animal] in order that he should [cancel the sale with the Aramean and] retrieve the camel. Said R. Yosé b. R. Bun, "[Simeon b. Laqish] imposed a fine on him for trafficking as a broker [and not on the Israelite who had sold the animal to the broker], and people would call him, 'The man who traffics as a broker with the Arameans.' [The derogatory epithet supports Yosé's claim that the individual was a broker.]

[D] R. JUDAH PERMITS [SELLING] MAIMED ONES.

1. **IV:1:** Judah permits in the case of a maimed one [M 4:3E]. R. Judah referred only to a maimed one that cannot be healed [for that condition would remove the concern for the original ban; if it had been imposed lest the animal might be used for a sacrifice, such a defect would make it unacceptable for the altar, even for gentiles, and if it had been lest the animal be worked on the Sabbath, such an animal would never be put to work but would only be slaughtered for food] [T. A.Z. 2:3]. They said to him, "But lo, [the gentiles may still] bring her a male, and she will copulate with him [producing an offspring that might be worked on the Sabbath]" [T. A.Z. 2:3]. He said to them, "I only said

[that it is permitted] in regard to a maimed male ‘that cannot be healed.’ They said to him, “But lo, they bring him a female, and he copulates with her [T. A.Z.: “she copulates with him”] and she produces an offspring [which could be worked on the Sabbath].”

[E] BEN BETERAH PERMITS IN THE CASE OF A HORSE.

1. **V:1:** R. Judah [ben Beterah] referred only to a male horse, for it kills its master in war. [With a mare, which would be unsuitable for battle and which presumably, therefore, would be used only for riding and hunting birds, one does not violate the ban on providing gentiles with things harmful to society, as set out in M. A.Z. I:7].
2. **V:2:** [Explaining why a male horse is unreliable in battle:] Some say for it runs after a female [horse]. And some say, for it halts to urinate.
3. **V:3:** [The above opinion represents] the words of the sages [the halakhah]. [Supplying the rationale for Ben Beterah’s anonymous disputants for prohibiting the sale of even a horse:]: R. Aha [said] in the name of R. Tanhum bar Hiyya, “When it [a horse] grows old, he enslaves it to a millstone [and a Jew would become liable for its work on the Sabbath].” [Providing a different or additional rationale for Ben Beterah:] R. Yosé b. R. Bun [said] in the name of R. Huna, “Ben Beterah and R. Nathan said the same thing [that the master of an animal – a horse in Ben Beterah’s case – does not bear responsibility for its action on the Sabbath and hence the Sabbath law is not relevant], for it is taught: If one brought out [on the Sabbath, from private to public domain] a domesticated animal, or a wild beast, or fowl, whether live or dead, one is liable. R. Nathan says, ‘Dead – one is liable; alive – one is exempt’ [because a master does not carry responsibility for a living beast, which carries its own weight]” [T. Shab. 8:34]. Rabbis hold [that one who takes out an animal in the specified manner is accountable] because of the liability for a sin offering and [yet] they respond to him [Ben Beterah] thus [with the less compelling reason such as presented above]! [While the concern lest a horse sold to a gentile be later harnessed to a millstone comprises merely an extension of Exod. 23:12’s requirement that one’s animals rest on the Sabbath, taking out the animal on the Sabbath entails a far more severe and basic violation!]
3. **V:4:** Rabbi says, “I say that he is forbidden [to sell horses to a gentile] because of two matters: because of [selling] weapons and because of the laws of a large animal” [T. A.Z. 2:3]. And it is taught likewise [that the concern for selling weapons is operative]: “A large wild animal [i.e., beast, which generally is too large or dangerous for work] is like a

small domesticated animal.” [Just as M. 4:3 A-B rules that selling the latter depends on local custom, similarly no general ban applies to the former.]

XXVII. YERUSHALMI PESAHIM 4:4

[A] WHERE THEY ARE ACCUSTOMED TO EAT [THE MEAT OF THE PASSOVER] ROASTED ON THE NIGHTS OF PASSOVER, THEY EAT IT [THAT WAY]. WHERE THEY ARE ACCUSTOMED NOT TO EAT IT [ROASTED], THEY DO NOT EAT IT [THAT WAY]. WHERE THEY ARE ACCUSTOMED TO LIGHT A CANDLE ON THE NIGHT OF THE DAY OF ATONEMENT, THEY LIGHT IT. WHERE THEY ARE ACCUSTOMED NOT TO LIGHT IT, THEY DO NOT LIGHT IT. BUT IN ANY CASE THEY LIGHT IT IN SYNAGOGUES, STUDY HOUSES, DARK ALLEYS, AND FOR THE SICK.

1. **I:1:** Ba asked before R. Immi, “[Does the Mishnah’s rule] apply even to the meat of a calf [i.e., is the Mishnah concerned with broiling because the Passover offering was broiled, or only with a broiled lamb since the sacrifice was a lamb]?” He said to him, “Even the meat of a calf.” “Does [the Mishnah’s concern apply] even to meat of a fowl?” He said to him, “Even the meat of a fowl.”
2. **I:2:** It is taught: R. Simeon b. Eleazar says, “[On] the Day of Atonement that falls on the Sabbath, even where they are accustomed not to light, they light [following the usual practice on Sabbath eve].”
3. **I:3:** It is taught: “[They light lamps] even in outhouses and bathhouses [where even on the Day of Atonement a menstruant or a man who had a seminal emission would go and bathe].”
4. **I:4:** [On] the Day of Atonement that falls on the Sabbath is it permitted to wash pressed and steamed vegetables from [the time of] *afternoon prayer* onward [so that they will be ready to eat immediately when the fast ends, even though one prepares the food on the holy day for the following day, which is normally prohibited]? Rab said, “[It is] forbidden.” R. Eleazar said, “Permitted.”
5. **I:5:** Ba asked before R. Immi, “Is it permitted to wash pressed and steamed vegetables from afternoon prayer onward?” He said to him, “Permitted.” R. Jacob bar Aha asked R. Hiyya and R. Yosé, “Is it permitted to wash pressed and steamed vegetables from afternoon prayer onward?” They’ said to him, “Permitted.” R. Zeira asked before R. Immi, “Is it permitted to say to a [non-Jewish] dumpling [maker when it is still the Day of Atonement], ‘Make me a dumpling’?” He

said to him, “Permitted.” “[Is it permitted to say], ‘Make me a pastry?’” “[It is] permitted.” “Make me a wick?” He said to him, “No.” What is the difference between the former [items] and the latter [item]. The former is a matter of “that which every person is to eat” and the latter is not “that which every person is to eat” [the category of things permitted to prepare on festivals according to Exod. 12:16]. [The danger posed by the lack of food hence entails special consideration.]

XXVIII. YERUSHALMI PESAHIM 4:5

[A] WHERE THEY ARE ACCUSTOMED TO DO WORK ON THE NINTH OF AB, THEY DO IT. WHERE THEY ARE ACCUSTOMED NOT TO DO WORK, THEY DO NOT DO IT. AND IN EVERY PLACE DISCIPLES OF SAGES REFRAIN [FROM LABOR].

1. I:1: R. Abun, R. Simeon b. Laqish [said] in the name of Rabban Judah Nesiah [grandson of R. Judah the Patriarch], “[The Mishnah] deals with a case in which one causes astonishment [if one refrains from working when others work, for example, when the individual is known in general to work].”

[B] RABBAN SIMEON B. GAMALIEL SAYS, “UNDER ALL CIRCUMSTANCES SHOULD A MAN ACT ON HIS OWN ACCOUNT LIKE A DISCIPLE OF A SAGE.”

1. II:1: [And is it not so that the sages never went so far as to enact idleness on the Ninth of Ab [but left the requirement up to local custom]? [Understanding that Simeon b. Gamaliel suggests that people imitate students of a sage, the Gemara challenges that such an opinion in effect recommends the practice to all. But while earlier authorities may have recognized this custom, they did not impose it on people.]

XXIX. YERUSHALMI PESAHIM 4:6

[A] AND SAGES SAY, “IN JUDAH THEY DID WORK ON THE EVE OF PASSOVER UP TO NOON, BUT IN GALILEE THEY DID NOT DO SO AT ALL.” AND AS TO THE NIGHT [BEFORE THE FOURTEENTH OF NISAN], THE HOUSE OF SHAMMAI PROHIBIT [DOING WORK AT THAT TIME]. AND THE HOUSE OF HILLEL PERMIT UP TO SUNRISE.

1. I:1: Lo, the day is prohibited [a deduction derived from the fact that the Houses, in M. 4:6B, dispute only the case of the night and thus seem to accord with the practice in Galilee, in M. 1:6A]. R. Eleazar in the name of R. Hoshaiyah, “[The rule at M. 1:6A receives support from

the following verse:] ‘[In the first month, on the fourteenth] DAY [of the month,] there shall be a Passover sacrifice to the LORD’ (Num. 28:16).” [Since the verse speaks without qualification of the day devoted to the Passover sacrifice, if it is inappropriate to work while one’s animal is being offered, one must refrain from work all day.]

XXX. YERUSHALMI PESAHIM 4:7

[A] **R. MEIR SAYS, “ANY SORT OF WORK WHICH A PERSON BEGAN BEFORE THE FOURTEENTH [OF NISAN] DOES HE COMPLETE ON THE FOURTEENTH OF NISAN. BUT HE SHOULD NOT BEGIN [A PROJECT] AT THE OUTSET ON THE FOURTEENTH, EVEN THOUGH HE CAN COMPLETE IT [ON THAT SAME DAY].” AND SAGES SAY, “THREE SORTS OF CRAFTSMEN PERFORM WORK ON THE EVE OF PASSOVER UP TO NOON, AND THESE ARE THEY: “TAILORS, BARBERS, AND LAUNDRYMEN.” R. YOSÉ B. R. JUDAH SAYS, “ALSO: SHOEMAKERS.”**

- 1. I:1:** R Meir says, “Any sort of work that [a person] started before the fourteenth, [one] completes it on the fourteenth [M 4:7A]” And [this holds] as long as [he is preparing] an item that is needed for the holiday. But he should not begin it [the work] at the outset on the fourteenth [M 4:7B1]. [And this applies] even [to] an item that is needed for the holiday. And sages say, “Three artisans do work on Passover eves [tailors, barbers, and launderers], tailors, for thus an untrained [person] sews in his usual way on the intermediate days of the holiday; barbers, for thus Nazirites and lepers [whose periods of separation end with the onset of the holiday] shave on the intermediate day of the holiday [Num. 6:5, 18; Lev. 14:8-9]; launderers, for thus it is the way of those going from the state of impurity to purity [when their process of purification draws to completion] to launder [their clothing] on the intermediate days of the holiday” [Lev. 14:47; Num. 19:19]. R. Yosé b. R. Judah says, “Even the shoemakers, for thus it is the way of pilgrims to fix their shoes and sandals [which be come worn in the course of the pilgrimage to Jerusalem] on the intermediate days of the holiday” [T. 3:18E-F].

XXXI. YERUSHALMI PESAHIM 4:8

[A] **THEY SET OUT HEN COOPS FOR CHICKENS ON THE FOURTEENTH.**

- 1. I:1:** They set out hen-coops for chickens on the fourteenth [M. 4:8A] Lo, on the intermediate days of the festival it is forbidden [to set up the

coop for the first time]. [Supporting B's position that active steps to produce offspring are prohibited on the intermediate days of the festival:] They do not cause an animal to copulate on the intermediate days of the festival, but they bring it to the corral [to initiate the action by itself]. R. Judah says, "An ass which desires a male [when it is in heat] they cause it to copulate [on the intermediate days] so that it does not cool off [and result in a loss]. And every other animal – they bring it to the corral." And they bleed a person and an animal on the intermediate days of the festival. And they do not withhold medicine from a person or animal on the intermediate days of the festival [even though such therapeutic acts require work] [T. M.Q. 2:11].

[B] **AND A CHICKEN WHICH FLED DO THEY RETURN TO ITS PLACE [TO SET ON ITS EGGS]. AND IF IT DIED, THEY SET ANOTHER IN ITS PLACE. THEY CLEAR AWAY [REFUSE] FROM BENEATH THE FEET OF CATTLE ON THE FOURTEENTH [OF NISAN], AND ON [THE INTERVENING DAYS OF] THE FESTIVAL THEY PUSH [THE DUNG] TO THE SIDES. THEY TAKE AND BRING UTENSILS TO THE HOUSE OF A CRAFTSMAN, EVEN THOUGH THEY ARE NOT NEEDED FOR THE FESTIVAL.**

- 1.** **II:1:** And a chicken that fled – they return (it) to its place [to sit on its eggs] [M 4:8B] And it [the Mishnah refers to] a case such that they return it [the chicken] within three days to its compartment. And if it died, they set another in its place [M 1:8C] And it refers to a case such that it [the chicken that died] sat on its egg [for at least] three days from time to time [three full days].
- 2.** **II:2:** Dung that is in the alleyway, they remove it to the side; [dung] that is in the stall and that is in the courtyard, they take it out to the dunghill [T. 3:18].

XXXII. YERUSHALMI PESAHIM 4:9

[A] **SIX RULES DID THE MEN OF JERICO MAKE. FOR THREE, [SAGES] REPROVED THEM, AND FOR THREE THEY DID NOT REPROVE THEM. THESE ARE THE THREE FOR WHICH THEY DID NOT REPROVE THEM: (1) THEY GRAFTED PALMS [ON THE FOURTEENTH OF NISAN] THE WHOLE DAY;**

- 1.** **I:1:** Who teaches "they reap"? R. Meir [who, is assumed to be the anonymous disputant of Judah, says that they reap with the sages' approval]. Who teaches, "They pile"? R. Judah [who holds that they even pile and did not elicit sages' protest]. Said R. Jacob bar Susai before R. Yosé, "Everyone [even R. Judah] admits that they reap [even before the fact and with sages' approval], and everyone [even R. Meir]

admits that they do not pile [i.e., although sages did not protest, they did not approve]. “Regarding what do they differ? Regarding grafting [or pollinating] palm trees: R. Meir says, ‘They graft palms all day [of the fourteenth of Nisan] and with the approval of sages they acted.’ R. Judah says, ‘They were not acting with the approval of sages [but they did not protest]’” [cf. T. 3:19].

[B] (2) THEY DID NOT MAKE THE PRESCRIBED DIVISIONS IN THE SHEMA;

- 1. II:1:** How would they recite the Shema’ without pause? Said R. Aha said R. Zeira, said R. Ila, “Hear O Israel, the Lord is Our God, the Lord is One” – but they would not interrupt between each word, the opinion of R. Meir. [Not interrupting applies to each word of the Shema’ declaration.] R. Judah says, “They would interrupt, but they would not say [the accompanying clause], ‘Praised be His glorious kingdom forever and ever.’” [Alternatively:] [Said] R. Yosé said R. Zeira, [said] R. Ila: “Hear O Israel, The Lord,” but they would not interrupt between [the word] “one” and “Praised [Be His],” the opinion of R. Meir. [Not interrupting applies to the end of the Shema’ declaration and what follows.] R. Judah says, “They would interrupt, but they would not say, ‘Praised be His glorious kingdom forever and ever’” [T. 3:19].

[C] AND (3) THEY REAPED AND STACKED [WHEAT] BEFORE THE [OFFERING OF] THE SHEAF OF FIRST BARLEY [OMER] – AND THEY DID NOT REPROVE THEM.

- 1. III:1:** How would they [consider] permitted fruit of trees that had been dedicated [to the Temple]? Said to them sages, “Do you not admit to us that the [subsequent] growths of dedicated items are prohibited?” They said to them, “Our ancestors, when they dedicated [the trees], only dedicated the trunks because of strong-fisted men [“men of fist”] who would come and forcefully take them.” [Because such violent men who demonstrated little respect for private property would have sought to avoid sacrilege, the original dedication had been with this understanding] [T. 3:22].
- 2. III:2:** What did rabbis believe in saying [to the men of Jericho that they [the ancestors] had dedicated the trunks and fruit? Even if you say that they had dedicated the trunks and did not dedicate the fruit, it is problematic for rabbis [as the following question articulates, and, moreover, the fruit might even be assumed to be prohibited]. One who dedicated a field containing trees, what is the law: may one leave over [for oneself] some of the [subsequent] growths?

- 3.** **III:3:** Abba bar Kahana said before R. Immi, “One who rents his house to his fellow and [then finds] that he needs its money [which would be obtainable by selling the house, what is the law]?” [R. Immi] said to him, “[In renting out the house, he] did not think that he would die in starvation [and therefore the sale takes effect].” R. Zeira, R. La, both of them say, “A lease is like a sale and is acquired in a purchase [by the new owner, and thus the sale does not terminate the tenancy, and the buyer may not evict the tenant and occupy the house] It is taught: “One who rents his house to his fellow and dedicates it, lo, this one [the renter] dwells in it and pays rent to the Temple” [T. B.M. 8:30]. When [does this apply]? When [the renter] has not prepaid the rent. But if he had prepaid his rent, lo, this one dwells in it free. [Although he does not have to pay any (additional) rent to the Temple, he does not perform a sacrilege by making use of holy objects, here dwelling in the dedicated house.]

[D] **AND THESE ARE THE THREE FOR WHICH THEY REPROVED THEM: (1) THEY PERMIT USE OF EGYPTIAN FIGS [FROM STEMS WHICH HAD BEEN] DEDICATED TO THE TEMPLE; THEY EAT ON THE SABBATH FRUIT WHICH HAD FALLEN UNDER A TREE:**

- 1.** **IV:1:** How shall we define [this case]? If it is a case in which [the fruit] fell on the festival eve, all agree [that it is] permitted. If it is a case in which [the fruit] fell on the festival day, all agree that [it is] prohibited. Rather we must define it as unspecified [fallen fruit, about which it is not known when it fell]. [In protesting against eating fruit which may or may not have undergone the pre-Sabbath or pre-festival required preparation, sages address an indefinite situation and violation.]

[E] **THEY LEAVE OVER THE CORNER OF THE FIELD [PEAH] IN THE CASE OF VEGETABLES – AND SAGES DID REPROVE THEM.**

- 1.** **V:1:** They set aside peah [corners of their field] for vegetables [M 4:9C, the sixth practice]. They would give only from turnip and from porret [head of a leek] for they are [regularly] picked [all] at once. [Since these vegetables usually become ripe at the same time and may be pre served, e.g., by pickling, they may be considered to undergo a regular harvest.] R. Yosé says, “Also from cabbage [did they leave corners]” [T. 3:20A]. A case regarding Big Thumb, whose son set aside peah for vegetables for the poor. And his father came and found them [the poor] standing by the entrance of the garden. [The father] said to them, “Leave what is in your hands.” They left what was in their hands and [the father] gave them twice as much in [produce] that

had already been tithed. His eye was not stingy [in desiring to prevent them from taking from the garden]. Rather he was solicitous of the words of sages [T. 3:20B].

XXXIII. YERUSHALMI PESAHIM 5:1

[A] THE DAILY WHOLE-OFFERING [OF THE AFTERNOON] [GENERALLY] WAS SLAUGHTERED AT HALF AFTER THE EIGHTH HOUR [AFTER DAWN, ABOUT 2:30 P.M.] AND OFFERED UP AT HALF AFTER THE NINTH HOUR [ABOUT 3:30 P.M.]. ON THE EVE OF PASSOVER, [THE DAILY WHOLE-OFFERING] WAS SLAUGHTERED AT HALF AFTER THE SEVENTH HOUR AND OFFERED UP AT HALF AFTER THE EIGHTH HOUR:

1. I:1: The Daily Whole Offering [daily offering] is slaughtered, [M. 5:1A]. It is written, “Now this is what you shall offer upon the altar,” [“Two yearling lambs each day, regularly”] (Exod. 29:38). I might have said that both of them should be offered in the morning or both of them at twilight. [Therefore] the teaching says, “You shall offer the one lamb in the morning [and you shall offer the other (lit., “second” lamb at twilight)]” (Exod. 29:39). I might have said that [the lamb] of the morning should be offered with the sunrise and that of the twilight with the sunset, [therefore] the teaching says, “at twilight.” Now] it is said “twilight” here (Exod. 29) and it is said twilight” there (Exod. 12:6) [regarding the Passover offering]; just as “twilight” which is said there [denotes] from the sixth hour and on, so “twilight” which is said here [denotes] from the sixth hour and on. Why did you see [fit] to say that “twilight” [in Exod. 12:6 denotes] from the sixth hour and on? [For it says]: “[Up! we will attack at noon.] Alas for us! For the day is declining, the shadows of the evening grow long” (Jer. 6:4). [Here the word “evening” is applied to a period that ensues after the time of noon, once the day starts to decline and the shadows of evening start]. Just as “evening” which is said there [denotes] from the sixth hour and on [after “noon”], so “evening” which is said here [denotes] from the sixth hour and on.

2. I:2: R. Joshua b. Levi said, “The [times of the required daily] prayers were learned from the patriarchs, ’...Nevertheless they did not remove him from his distinction, rather they appointed him Av-Bet-Din.”

[B] WHETHER ON AN ORDINARY DAY OR ON THE SABBATH. [IF, HOWEVER,] THE EVE OF PASSOVER COINCIDED WITH THE EVE OF THE SABBATH [FRIDAY], IT WAS SLAUGHTERED AT HALF AFTER THE SIXTH HOUR [12:30 P.M.] AND OFFERED UP

AT HALF AFTER THE SEVENTH HOUR [1:30 P.M.], AND [THEN] THE PASSOVER-OFFERING [WAS SLAUGHTERED] AFTER IT.

1. **II:1:** Who teaches [that the Daily Whole Offering offerings are prepared and slaughtered on the eve of Passover at the same time] whether [they] fall on a weekday or the Sabbath [M. 5:1B]? R. Ishmael, for it is taught: “As is its order [that of Passover eve that fell] on a weekday, so is its order [when Passover eve fell] on the Sabbath” – the words of R. Ishmael. R. Aqiba said, “As is its order [that of Passover eve that fell] on the eve of Sabbath, so is its order [when Passover eve fell] on the Sabbath.”
2. **II:2:** [In response to M. 5:1B’s rule that the Daily Whole Offering on Passover eve is sacrificed an hour early, at the eighth-and- one-half hour, and that the Passover offering comes an hour later, “between the evenings”:] And let one offer the Passover sacrifice first [at the eighth-and-one-half hour] and the Daily Whole Offering after it [at its standard time, “between the evenings”]? If you say thus, you end up undoing the [required division of] “between the evenings” of the Passover offering [which places the sacrifice at the ninth-and-one-half hour in the middle of two periods, as expounded above]. If you follow [the requirement of] “between the evenings” of the Passover offering, do you not end up undoing [the requirement] of “between the evenings” of the Daily Whole Offering? The Daily Whole Offering, if you undo its [normal time frame] now, you uphold it afterward. The Passover offering, if you undo [its time frame] now, when would you uphold it [i.e., there never would be a situation in which it could be followed]? [In response to M. 5:1C’s rule that when Passover eve falls on Friday, both the Daily Whole Offering and the Passover offering are sacrificed early:] And let one offer the Passover sacrifice first [in this special case alone, before its usual time] and the Daily Whole Offering after it [at its standard time]? [It is preferable that] an object [the Passover offering] regarding which it is said “in the evening” (Deut. 16:6) and “between the evenings” (Exod. 12:6) be done later than an object.
3. **II:3:** It is taught: R. Nathan says, “Every day the Daily Whole Offering is slaughtered at the sixth-and-one-half [hour] and offered at the seventh-and-one- half [hour].” What is “every day”? Every Passover eve [whether or not it falls on Sabbath eve, in contrast with M. 5:1 which applies this time frame only to Sabbath eve and a one hour later sequence for non-Friday Passover eves].

XXXIV. YERUSHALMI PESAHIM 5:2

[A] AN [ANIMAL THAT HAD ORIGINALLY BEEN DESIGNATED AS A] PASSOVER SACRIFICE WHICH ONE SLAUGHTERED UNDER AN IMPROPER DESIGNATION [“NOT FOR ITS NAME,” THAT IS, FOR ANOTHER PURPOSE THAN THE ONE FOR WHICH THE BEAST HAD BEEN SELECTED, NAMELY, AS A PASSOVER SACRIFICE], OR RECEIVED THE BLOOD AND TOSSED THE BLOOD OF WHICH UNDER AN IMPROPER DESIGNATION, OR UNDER ITS PROPER DESIGNATION AND UNDER AN IMPROPER DESIGNATION, OR UNDER AN IMPROPER DESIGNATION AND UNDER ITS PROPER DESIGNATION, IS INVALID. HOW [IS IT DONE] BOTH UNDER ITS PROPER DESIGNATION AND NOT UNDER ITS PROPER DESIGNATION? [IF ONE SLAUGHTERED IT] FOR THE SAKE OF A PASSOVER-OFFERING AND FOR THE SAKE OF PEACE-OFFERINGS. UNDER AN IMPROPER DESIGNATION AND UNDER A PROPER DESIGNATION? [IF ONE SLAUGHTERED IT] FOR THE SAKE OF PEACE-OFFERINGS AND FOR THE SAKE OF A PASSOVER-OFFERING.

1. **I:1:** How do we know that [a person] is required to slaughter it [the Passover offering] under its [proper] designation? R. Ba in the name of Rab [said, the verse, ““And you shall say, It is the Passover sacrifice [to the Lord]” (Exod. 12:27) [comes] to state that if they slaughtered [the lamb] under the designation of a Passover offering, lo, it is a Passover offering; but if not, it is not a Passover offering.” How do we know [that] all the rest of its actions [those required for the sacrifice, must also be performed under its proper designation]? “And you shall make [a Passover offering to the Lord. And you shall slaughter the Passover sacrifice for the Lord]” (Deut. 16:1-2) – [the more general verb teaches] that all its [required] actions must be [performed] under the designation of the Passover offering. Now [on this basis] even the burning of the sacrificial portions [should be done under the proper designation]? The teaching says, “[You shall] slaughter” Just as slaughtering is special in that it prevents the atonement [from going into effect, if it is not performed, so everything that has a similar effect is included, while] the burning of the sacrificial portions is excluded, for it does not prevent [the efficaciousness of] the atonement. Where do we learn regarding a sin offering [that slaughtering it under a proper designation is required]? “[He shall lay his hands upon the head of the sin offering,] and he shall slaughter it as a sin offering” (Lev. 4:33). How do we know regarding the rest of its actions [that they must be under the proper designation]? [Here too Scripture uses a more general verb:] “[The Levites shall now lay their hands upon the heads of the bulls,] one shall be done to the Lord as a sin offering” (Num. 8:12). Now, [on the basis of this usage] even the burning of the sacrificial portions [should be done under the proper designation]? [Therefore] the teaching says, “and he shall slaughter it” (Lev. 4:33). Just as

slaughtering is special in that [if it is not performed] it prevents the atonement [from going into effect, so everything that has a similar effect is included; but] the burning of the sacrificial portions is excluded, for it does not prevent [the efficaciousness of] the atonement.

2. **I:2:** [If one] slaughtered [the Passover offering] under its proper designation [as a Passover offering but with the intention] to toss its blood not under its proper designation: Said R. Yohanan, “There is [the category of] ‘not under its proper designation’ [when an individual transfers his intention] from one act [in the sacrificial process] to another act [in this case while doing the act of slaughtering one thinks of the act of tossing the blood,] and it makes [the Passover lamb] unfit.” R. Simeon b. Laqish said, “There is no [category of] ‘not under its proper designation’ from one act to another so that it should be fit.”
3. **I:3:** Said R. Yohanan, “Regarding this [following tradition] R. Abba bar Abba came [into the study session; alternatively, “up to the land of Israel”] [and said] that they [ostensibly, Babylonians] say, ‘From where do we know that a Passover sacrifice [not in its appropriate time] is changed to a well-being offering? The teaching says, “And if his offering for a sacrifice of well-being to the Lord is from the flock” (Lev. 3:6) – whatever comes from the flock serves as a well-being offering.’” They retorted, “Lo, a burnt offering comes from the flock [and yet M. Sheq. 2:5 states that remaining funds from a burnt offering are used for a burnt offering and not a well-being offering and, hence, a burnt offering cannot be changed to a well-being offering]?” [A’s principle applies] if the item comes only from the flock. A burnt offering is excluded for it comes even from the herd [as Lev. 1:3 states]. They retorted, “Lo, a guilt offering [for which a ram from the flock may be brought but not an animal from the herd, according to A’s principle, should be able to be changed to a well-being offering, but M. Sheq. 2:5 states that their remaining funds must be used for a free-will offering]?”
4. **I:4:** [If one] slaughtered [a Passover offering] under the proper designation and [then] not under the proper designation during the rest of the days of the year [is it fit or not]? [During the rest of the year – before Passover – does intention with proper designation function to disqualify just as, on Passover, intention without proper designation does?] R. Bun bar Hiyya [said] in the name of Samuel bar Abba, “Because it lacks a designation [since designating an offering as a Passover offering on a day other than the fourteenth of Nisan is a meaningless act], it is considered as if [one] slaughters it under its

proper designation and [then] not under its proper designation in silence [i.e., as if without any designation] – and it is fit.”

XXXV. YERUSHALMI PESAHIM 5:3

[A] [If] ONE SLAUGHTERED IT NOT FOR THOSE WHO [CAN] EAT IT OR NOT FOR THOSE WHO ARE REGISTERED FOR IT, FOR UNCIRCUMCISED MEN OR FOR UNCLEAN ONES, IT IS INVALID. [If one slaughtered it] FOR THOSE WHO EAT IT AND NOT FOR THOSE WHO EAT IT, FOR THOSE WHO ARE REGISTERED FOR IT AND NOT FOR THOSE WHO ARE REGISTERED FOR IT, FOR THOSE WHO ARE CIRCUMCISED AND FOR THOSE WHO ARE UNCIRCUMCISED, FOR THOSE WHO ARE UNCLEAN AND FOR THOSE WHO ARE CLEAN, IT IS VALID. [If] ONE SLAUGHTERED IT BEFORE MIDDAY, IT IS INVALID, SINCE IT IS SAID, “AT TWILIGHT” (Ex. 12:6).

- 1.** **I:1:** How do we know that he is required to slaughter it for those who can eat it? R. Yohanan [said] in the name of R. Ishmael [quoting the comment of R. Josiah, one of Ishmael’s most important students], “According to what each person should eat, you shall slaughter [the lamb]” (Exod. 12:4). Said R. Josiah, “This is an Aramaic expression as when a person says to his friend, ‘Slaughter this lamb for me.’”
- 2.** **I:2:** How [are we to understand the case of] for those who cannot eat it [M. 5:3A]? [If] one slaughtered it for the sake of a sick person [and] elder who are unable to eat an olive’s amount. How [are we to understand the case of] for those who are not registered for [eating] it [M. 5:3A]? [If one] slaughtered it for the sake of the members of another association [T. 4:2].
- 3.** **I:3:** Simlai came before R. Jonathan [and] said to him, “Teach me aggadah.” [He] said to him, “I have a tradition from my ancestors not to teach aggadah to Babylonians or to Southerners, for they are haughty and lightweight in Torah, and you are a Nehardean [by origin] and reside in the South and moreover a minor I [who is likely to misunderstand].” He said to him, “[At least] tell me one [Lg: “this,” i.e., halakhic,] thing, What is the difference between [a Passover offering which was slaughtered] under its designation and [at some point in the activity] not under its designation [M. 5:2, where the offering is invalid] and [one both] for those who can eat it and for those who cannot eat it [M. 5:3A.2, where the offering is fit]?” He said to him, “Under *its* designation and [at some point in the activity] not under its designation – its disqualification [derives] from [the animal] itself; for those who can eat it and for those who cannot eat it

– its disqualification [derives] from other people. Under its designation and [at some point in the activity] not under its designation – you are not able to clarify [or “separate”] its invalid portion from amidst its fit portion; for those who can eat it and for those who cannot eat it – you are able to clarify [or “separate”] its invalid portion from amidst its fit portion. Under its designation and [at some point in the activity] not under its designation – applies to all sacrifices; for those who can eat it and for those who cannot eat it – applies only to the Passover offering.”

- 4.** **I:4:** [If one slaughters the Passover offering:] [both] for those who can eat an olive’s amount [in bulk] and for those who cannot eat an olive’s amount [in bulk] – it is fit; [both] for those who can eat an olive’s amount [in bulk] and for those who cannot eat half an olive’s amount [in bulk] – all the more so, it is fit; [both] for those who can eat half an olive’s amount [in bulk] and for those who cannot eat half an olive’s amount [in bulk, what is the law]?
- 5.** **I:5:** [If] one slaughtered [a Passover offering with the intention] that half of his association should eat from it [with the other half excluded, but without specifying who falls into each group] – R. Jonah declares [it] invalid [although it is a case of slaughtering the animal for both those who can and those who cannot eat it, which M. 5:3A.2 declares fit, here all are forbidden to eat from it because one cannot know who falls into which group and] it is considered as if the edible portion of these [who were thought of] adheres to the edible portion of these [others who were not thought of,] and since the latter do not eat, the former do not eat [and therefore in actuality the case falls under the category of M. 5:3A, slaughtering for those who cannot eat]. R. Yosé said, “[It is fit” [for the animal, nevertheless, was slaughtered with the intent that one half the association eat from it and, therefore, that half comprises “those who can eat from it,” and the case falls under category M. 5:3].

[B] **[If] ONE SLAUGHTERED IT BEFORE [THE TIME OF] THE DAILY WHOLE-OFFERING, IT IS VALID, SO LONG AS SOMEONE STIRS ITS BLOOD UNTIL THE BLOOD OF THE DAILY WHOLE-OFFERING IS TOSSED. BUT IF IT[S BLOOD] WAS TOSSED [BEFORE TOSSING THE BLOOD OF THE DAILY WHOLE-OFFERING], IT IS VALID.**

- 1.** **II:1:** Before the Daily Whole Offering sacrifice – it is fit [M. 5:3C]. And it was taught likewise: “Perhaps if the Passover offering preceded the Daily Whole Offering, the Daily Whole Offering should not be done later? The teaching says, ‘[You shall offer one lamb in the morning, and the second lamb] you shall offer [at twilight]’ (Num.

28:1) [the unnecessary repetition of the verb] includes [viz., that the Daily Whole Offering should be offered in any event].” Said R. Abun, “The teaching [in B] indicates [that] the Passover offering itself is fit, [for] if you say [it is] invalid, it is as if [the Passover offering] had not preceded it.”

XXXVI. YERUSHALMI PESAHIM 5:4

[A] HE WHO SLAUGHTERS THE PASSOVER-OFFERING WITH LEAVEN [STILL IN HIS POSSESSION] TRANSGRESSES A NEGATIVE COMMANDMENT (EX. 34:25). R. JUDAH SAYS, “ALSO: THE DAILY WHOLE-OFFERING [FOR THE FOURTEENTH OF NISAN].” R. SIMEON SAYS, “[HE WHO SLAUGHTERS] THE PASSOVER-OFFERING ON THE FOURTEENTH [WITH LEAVEN IN HIS POSSESSION] UNDER THE PROPER DESIGNATION IS LIABLE. [IF HE DID SO] NOT UNDER THE PROPER DESIGNATION, HE IS EXEMPT. AND SO TO ALL OTHER OFFERINGS, [WHETHER HE SLAUGHTERED THEM] UNDER THE PROPER DESIGNATION OR UNDER AN IMPROPER DESIGNATION, HE IS EXEMPT. AND ON THE FESTIVAL [ITSELF, IF HE SLAUGHTERED IT] UNDER A PROPER DESIGNATION, HE IS EXEMPT. [IF HE SLAUGHTERED IT] UNDER AN IMPROPER DESIGNATION, HE IS LIABLE. AND AS TO ALL OTHER OFFERINGS, WHETHER HE SLAUGHTERED THEM UNDER THEIR PROPER DESIGNATION OR UNDER AN IMPROPER DESIGNATION, HE IS LIABLE, EXCEPT FOR A SIN-OFFERING WHICH HE SLAUGHTERED UNDER AN IMPROPER DESIGNATION.”

- 1. I:1:** From where do we know that one who offers a Passover sacrifice with leaven [in one’s possession] transgresses a negative commandment? the teaching says, “You shall not offer the blood of My sacrifice with anything leavened” (Exod. 34:25). I only know that one who offers [the sacrifice is liable]. From where do I know regarding one who tosses [its blood]? The teaching says, “[You shall] not [offer] blood [of my sacrifice] with leaven” [– specifying the blood when it could have simply said, “You shall not offer My sacrifice with anything leavened”]. Said R. Samuel b. R. Isaac, “From [the fact] that he becomes liable for tossing [assumably after having already slaughtered the Passover sacrifice with leaven in one’s possession], this indicates that the Passover sacrifice itself remains fit.” Said R. Yosé, “You can explain [the case of becoming liable for tossing without resorting to B’s deduction by positing] that a [person] chanced on leaven between slaughtering and tossing or that [two individuals were involved and] this one [who has no leaven in his possession] slaughters and this one [who has the leaven] tosses [hence tossing with leaven would disqualify the offering].” Teaches Hezekiah,

“‘You shall not offer the blood of My sacrifice with anything leavened’ (Exod. 34:25). The Torah called it my sacrifice (ZBHY) [even though it may have been sacrificed with leaven in the possession of the participant, indicating that the offering remains fit].”

- 2. I:2:** [If] one burned the sacrificial portions with leaven [in one’s possession]: There are those who teach – “[one] is liable”; and there are those who teach – “[one] is exempt.” The one who taught “liable” [holds, as in the case of tossing of blood with leaven in one’s possession, that a derivation is made from the fact that] “blood” (Exod. 34:25) [means] of any sort. [Any type of cultic act involving whatever type of blood that permits an individual to eat from “My sacrifice,” i.e., the Passover offering, should not be undertaken with leaven in one’s possession. Hence just as in the instance of tossing the blood, the liability is extended beyond the slaughtering of the animal, so in the present case, where there may be some leftover blood]. The one who said “exempt” [derives the ban on offering the sacrifice with leaven in one’s possession from Exod. 34:25’s mention of an] offering. How is offering [the animal] distinctive? In that it is indispensable for expiation, to the exclusion of burning the sacrificial portions, which is not indispensable for expiation. [If, e.g., someone who has gone through purification lacking only the (bird) sin atonement offering and who brings it after the twilight Daily Whole Offering so that he may immerse himself forthwith and eat the Passover offerings in the evening, if such a person] pinched a bird’s neck with leaven [in one’s possession]: There are those who teach – “[one] is liable”; and there are those who teach – “[one] is exempt.”
- 3. I:3:** There we learn, “The House of Shammai say, ‘Leaven [becomes forbidden in] an olive’s [bulk] and leavened food [in] a date’s [bulk].’ ‘And the House of Hillel say, ‘Both are in an olive ‘s [bulk] [M. Bes. 1:2].’” R. Zeriqa[n] [said] in the name of R. Yosé b. Hanina, “They taught [in the Mishnah] only regarding removal [of leaven], but regarding eating [the criterion is] an olive’s amount [in bulk; hence in the latter case the House of Shammai would agree with the House of Hillel].” [Regarding the rule for leaven, which is more severe than that for leavened food for the House of Shammai:] R. Abbahu [said] in the name of R. Yohanan, “Regarding both removing it and eating it [the criterion for the House of Hillel is] an olive’s [amount in bulk].”
- 4. I:4:** Simeon b. Laqish said, “[The Mishnah’s rule applies] so long as the slaughterer is one of the members of the association.” R. Yohanan said, “[The rule applies if the leaven] belongs to the slaughterer even though he is not a member of the association.” R. Jacob b. Aha [said in

the name of] R. Yohanan, “[The rule applies if the leaven] belongs to the slaughterer even though he is not a member of the association [or if it] belongs to one of the members of the association *even* though he is not the slaughterer.” 87 R. Yohanan said, “Even [if the leaven] was placed with him in Jerusalem.” R. Simeon b. Laqish said, “So long as [it] is placed with him in the [Temple] courtyard.”

5. **I:5:** What is the reason for R. Judah? [The verse states,] “The blood of My offering” [read as a plural, “My offerings,” which means] the blood of the Passover offering and the blood of the daily offering.
6. **I:6:** Said R. Yohanan, “The reason of R. Simeon [is as follows]: One verse says, ‘You shall not slaughter the blood of My sacrifice with anything leavened’ (Exod. 34:25), and one verse says, ‘You shall not offer the blood of My sacrifice with anything leavened’ (Exod. 23:18). [They come to teach that] the same [law applies] both [to] the Passover offering on the fourteenth [of Nisan] and [to] all other sacrifices on the intermediate days of the festival.” Why did you see fit to include them [all other sacrifices] on the intermediate days of the festival and to exclude them from the fourteenth of Nisan? After Scripture included [it then] excluded, [for the latter verse, Exod. 34:25, goes on specifically to mention the Passover offering: “and the sacrifice of the Feast of Passover shall not be left lying until morning”]. [Therefore] I include them [the remaining sacrifices] on the intermediate days of the festival which [already has a ban on] not seeing and not finding [leaven], and [I] exclude them from the fourteenth [of Nisan] for they are not [under the ban on] not seeing and not finding [leaven].
7. **I:7:** Said R. Yohanan, “An association [or “association” of sages or disciples, drawing on a text such as M. 9:6] would ask, ‘With what situation do we deal? If in a case [in which the animal] had been lost [e.g., on the fourteenth, and then replaced] and [subsequently] found before the expiation [, the offering of the sacrifice], whether [it had been] under its proper designation [or] whether not under its proper designation – it is disqualified and sent to pasture [so as on its own to become blemished]. [Alternatively,] if in a case [in which the animal] had been lost [e.g., on the fourteenth, and then replaced] and [subsequently] found after expiation [the offering of the sacrifice], whether [it had been] under its proper designation [or] whether not under its proper designation – it is fit [for] it [is considered a] whole offering?’ And it [the association] explained it [that it] deals with a case in which the owners became unclean or they intentionally [failed to offer the Passover sacrifice] and [the animal] was postponed to the second Passover [one month later]. [In such a case if during the

festival one slaughtered the animal] under its proper designation [one is] exempt, for it [the animal] is disqualified [from serving as a sacrifice]. [And if] not under its proper designation [one is] liable, for [it] the animal is fit [as a whole offering].”

XXXVII. YERUSHALMI PESAHIM 5:5

[A] **THE PASSOVER-OFFERING IS SLAUGHTERED [BY PEOPLE DIVIDED INTO] THREE GROUPS, AS IT IS SAID, “AND THE WHOLE ASSEMBLY OF THE CONGREGATION OF ISRAEL SHALL SLAUGHTER IT” (EX. 12:6) – [THIS YIELDS] ASSEMBLY, CONGREGATION, AND ISRAEL. [WHEN] THE FIRST GROUP ENTERED, THE COURTYARD WAS PACKED, [THEN] THE DOORS OF THE COURTYARD WERE LOCKED. THEY BLEW ON THE SHOFAR A SUSTAINED, A QUAVERING, AND A SUSTAINED NOTE THE PRIESTS STOOD IN ROWS, WITH BASINS OF SILVER AND GOLD IN THEIR HANDS. ONE ROW HAD WHOLLY SILVER ONES, ANOTHER WHOLLY GOLD ONES; THEY WERE NOT MIXED UP. AND THE BASINS DID NOT HAVE BASES, LEST THEY PUT THEM DOWN, AND THE BLOOD [OF THE PASSOVER SACRIFICE] CONGEAL.**

- 1.** **I:1:** Jacob bar Aha [said] in the name of R. Yosé, “Power was given to Moses’ voice, “and his voice traveled throughout the land of Egypt, the distance of a forty-days journey. “And what did [it] say? ‘From place x to place y [makes up] one group. And from place y to place [makes up] one group.’ “And do not be surprised [that Moses’ voice could travel so far]. For if [concerning] dust, the nature of which is not to travel, you [Scripture] said, ‘and it shall become a fine dust all over the land of Egypt’ (Exod. 9:9), a voice, the nature of which is to travel, is it not [the case] all the more so?” Said R. Levi, “Just as power was given to Moses’ voice, so [it] was given to Pharaoh’s voice, “and his voice traveled throughout the land of Egypt the distance of a forty-days journey. “And what did [it] say, “‘Up, depart from among my people you and the Israelites with you! Go worship the Lord” (Exod. 12:31). [n the past you were the servants of Pharaoh; from now on you are the servants of the Lord.” “At that very moment [the Israelites in response] said, “‘Hallelujah. Give praise, O servants of the Lord” (Ps. 113) and not the servants of Pharaoh.””
- 2.** **I:2:** It was taught: “A daily whole offering which has libations [accompanying it], they sound a sustained blast at the time of the libations. A Passover offering which lacks libations, they sound a sustained blast at the time of its slaughter.”

3. **I:3:** A story [concerning:] R. Zeira and R. Jacob bar Aha and R. Abina, who were sitting [together]. Said R. Abina, “[Mishnah’s procedure was] due to deceivers [who would substitute less precious for more precious basins].” Said R. Jacob bar Aha to him [R. Abina], “[Did you say it] with your full mouth [without any reservation]?” Said R. Zeira to him [R. Abina], “Say to him [R. Jacob b. Aha]: [It is] with half your mouth [with some reservation].” R. Jeremiah came [and said] in the name of R. Yohanan, “[The Mishnah’s procedure was] due to deceivers.”

XXXVIII. YERUSHALMI PESAHIM 5:6

[A] **AN ISRAELITE SLAUGHTERED [THE PASSOVER LAMB] AND A PRIEST RECEIVED THE BLOOD, HANDED IT TO HIS FELLOW, AND HIS FELLOW TO HIS FELLOW, [EACH ONE] RECEIVING A FULL BASIN AND HANDING BACK AN EMPTY ONE. THE PRIEST NEAREST THE ALTAR TOSSED [THE BLOOD] IN A SINGLE ACT OF TOSSING, TOWARD THE BASE.**

1. **I:1:** One verse says, “But the firstlings of cattle, sheep, or goats you may not redeem; they are consecrated. You shall dash their blood against the altar” (Num. 18:17), and another verse says, “and of your [other] sacrifices, the blood shall be poured out on the altar of the Lord your God” (Deut. 12:27). If [the blood is disposed by] pouring out why [does the former verse speak of] dashing, and if [the blood is disposed by] dashing why [does the latter verse speak of] pouring out? It is taught: [regarding the blood of the sin offering, mentioned at Lev. 4:7, “and all the rest of the bull’s blood he shall pour out at the base of the altar”:] “[It] should be ‘poured’ and not dripped [drop by drop]; it should be ‘poured’ and not sprinkled [with one’s finger]; it should be ‘poured’ and not dashed [thrown from afar onto the altar’s side]” [Hence, the blood should be poured from close by all at once onto the altar’s base]. And tradition [the non-Pentateuchal portions of Scripture] explained [regarding Hezekiah’s Passover, resolving the inconsistent usage presented in A]: “the priests dashed the blood [which they received] from the Levites” (2 Chron. 30:16). [Since the term “dashes” is used by Scripture, it must be included within the category of “pouring” and thus is a proper term for M. 5:6 to use].

XXXIX. YERUSHALMI PESAHIM 5:7

[A] THE FIRST GROUP WENT OUT AND THE SECOND GROUP CAME IN. THE SECOND GROUP WENT OUT AND THE THIRD GROUP CAME IN. IN ACCORD WITH THE RITE OF THE FIRST GROUP WERE THE RITES OF THE SECOND AND THIRD. [THE LEVITES MEANWHILE] PROCLAIMED THE HALLEL PSALMS [113-118]. IF THEY COMPLETED [THE RECITATION], THEY REPEATED IT, AND IF THEY COMPLETED THE SECOND TIME, THEY REPEATED IT FOR A THIRD — EVEN THOUGH THEY NEVER IN ALL THEIR DAYS HAD TO REPEAT IT A THIRD TIME. R. JUDAH SAYS, “IN ALL THE DAYS OF THE THIRD GROUP THEY NEVER EVEN REACHED THE VERSE, ‘I LOVE THE LORD BECAUSE HE HAS HEARD MY VOICE’ (Ps. 116:1), BECAUSE ITS NUMBERS WERE SMALL.”

1. I:1: There we learn [regarding the sequence of fasts for rain, when rain finally arrives:] “They went out and ate and drank and returned at twilight and read the Great Hallel” [M. Tan. 3:9]. What is the Great Hallel? R. Parnokh in the name of R. Haninah [said], “‘Praise the God of Gods’ (Ps. 136:7)’ [T. Tan. 2:17]. Said R. Yohanan, “As long as [one starts] from [the preceding chapter] ‘[Give praise, you servants of the LORD] who stand in the house of our God’ (Ps. 135:2).”
2. I:2: It is taught, “It [the third group] was called the group of lazy ones” [T. 4:11].

XL. YERUSHALMI PESAHIM 5:8

[A] IN ACCORD WITH THE RITE AS CONDUCTED ON AN ORDINARY DAY, SO WAS THE CONDUCT OF THE RITE ON THE SABBATH. AND THE PRIESTS MOPPED UP THE COURTYARD [ON THE SABBATH, JUST AS ON A WEEKDAY], CONTRARY TO SAGES’ WISHES. R. JUDAH SAYS, “A CUP WAS FILLED WITH THE MINGLED BLOOD [WHICH HAD BEEN SPILLED]. ONE TOSSED IT WITH A SINGLE ACT OF TOSSING ON THE ALTAR.” AND SAGES DID NOT CONCUR WITH HIM.

1. I:1: Said R. Jonathan, “They did not permit every act proscribed so as to maintain the restfulness of the Sabbath in the Temple, [hence even though the washing in may have only been an act proscribed so as to maintain the restfulness of the Sabbath, sages still forbade it because technically it was not a cultic act], ‘and the priests sank in blood up to their knees [T. 4:12].”
2. I:2: There we learn: R. Judah makes one liable if or consuming the last blood [which oozes out at an animal’s death, for it is considered forbidden blood] [M. Ker. 5:1] Said R. Yohanan, “R. Judah included it

[the last oozing blood under the category of “blood”] only regarding extirpation, thus for drinking such blood and not, e.g., for expiation on the altar.” Came R. Hezekiah, R. Abbahu in the name of R. Yohanan [and said], “R. Judah included it [the last oozing blood under the category of “blood”] only regarding extirpation.” There [assumably in Babylonia] they say in the name of R. Hisda, “The [following] teaching [said] thus [as asserted in B-C:] “[Disagreeing with R. Judah, as in M. 5:8C, that priests would dash the collected blood on the altar:] ‘They said to him [apparently assuming that ANY collected spilled blood would have been an animal’s last oozing blood], Is it not the last oozing blood and the last oozing blood is disqualified on the altar, “and moreover from the following: “and the majority of it was not collected in a utensil, and blood which was not collected in a utensil [from under the animal during the act of slaughter] is disqualified on the altar [T. 4:1D-E].” [From the fact that R. Judah is not represented as responding to these two arguments, he assumably agrees with their principles, the first of which is in accord with B-C’s claim and therefore there is no requirement to dash this blood.]

XLI. YERUSHALMI PESAHIM 5:9

[A] HOW DO THEY HANG UP [THE CARCASSES] AND FLAY THEM? IRON HOOKS WERE SET INTO THE WALLS AND PILLARS, ON WHICH THEY WOULD HANG UP AND FLAY THE CARCASSES [M. MID. 3:5]. AND FOR WHOEVER DID NOT HAVE SPACE FOR HANGING AND FLAYING HIS CARCASS, THERE WERE THIN SMOOTH POLES, AND ONE WOULD PUT ONE END ON HIS SHOULDER AND ONE ON THE SHOULDER OF HIS FELLOW, AND [THEREON] HANG AND FLAY THE CARCASS. R. ELIEZER SAYS, “ON THE FOURTEENTH OF NISAN WHICH COINCIDED WITH THE SABBATH, HE WOULD PUT HIS HAND ON THE SHOULDER OF HIS FELLOW, AND THE HAND OF HIS FELLOW ON HIS SHOULDER, AND THEREON SUSPEND AND FLAY THE CARCASS.”

- 1. I:1:** R. Zeira in the name of R. Eleazar [says], “[The arrangement of] the staves [between the cakes of the show-bread on the Sabbath which does not take precedence over the Sabbath (M. Men. 11:6)] and poles [on which the Passover offering’s carcass might be hung and flayed and which R. Eliezer says are not used when the Sabbath coincides with the fourteenth of Nisan] [M. Pes. 5:9] were taught before [the sages granted] permission [to move] utensils on the Sabbath” [M. Shab. 17:1].

XLII. YERUSHALMI PESAHIM 5:10

[A] HE SLIT OPEN THE CARCASS AND REMOVED ITS SACRIFICIAL PORTIONS, PUT THEM ON A TRAY AND [A PRIEST] BURNED THEM ON THE ALTAR. [WHEN THE FOURTEENTH OF NISAN COINCIDED WITH THE SABBATH], THE FIRST GROUP WENT OUT AND TOOK SEATS ON THE TEMPLE MOUNT, THE SECOND ON THE RAMPART, AND THE THIRD REMAINED IN ITS PLACE. ONCE IT GOT DARK, THEY WENT OUT AND ROASTED THEIR PASSOVER LAMBS.

- 1. I:1:** It is written, “And [he] sprinkled some of the blood [on the altar]” – from all of it. [All of the animal must be intact when the dashing takes place.] Said R. Abina, “It is valid so long as long as [the sprinkling comes] from a whole offering.” It is written, “[And Aaron’s sons] shall burn it [on the altar]” [Lev. 3:5], “And [the priest] shall burn it [on the altar]” (Lev. 3:11), “And [the priest] shall burn them [on the altar]” (Lev. 3:16). What does the teaching say [in the formulation] “and [they] shall burn it” (v. S)? [That it be] the fit one and not the disqualified one. [In referring to the sacrifice and the portions offered on the altar, the pronoun indicates that the portions that are burned must similarly be fit to be offered on the altar.] “And [the priest] shall burn it” (v. 11)? That one should not mix fatty portions [of one offering] with fatty portions [of another offering] [but burn each offering’s portions individually]. “And [the priest] shall burn them” (v. 16)? All of them together.

XLIII. YERUSHALMI PESAHIM 6:1

[A] THESE MATTERS REGARDING THE PASSOVER SACRIFICE OVERRIDE [THE PROHIBITIONS OF] THE SABBATH: (1) SLAUGHTERING IT, (2) TOSSING ITS BLOOD, (3) SCRAPING ITS ENTRAILS:

- 1. I:1:** These matters regarding the Passover sacrifice, [M. 6:1]. This law [of M. 6:1A-B] was forgotten by the Elders of Beterah. Once the fourteenth [of Nisan] fell on the Sabbath and they did not know if the Passover sacrifice overrides the Sabbath or not. [They] said, “There is here a certain Babylonian, and Hillel is his name, who served Shemaiah and Abtalion. [Perhaps he] knows whether a Passover sacrifice overrides the Sabbath or not. Possibly something good [can come] from him.” [They] sent and called him. They said to him, “Have you ever heard when the fourteenth [of Nisan] falls on the Sabbath,

whether [it] overrides the Sabbath or not?” He said to them, “Do we have only one Passover offering alone that overrides the Sabbath in the whole year? And are there not many Passover offerings that would override the Sabbath in the whole year?” They said to him, “We have already said that ‘something good [can come] from you.’” He started to expound for them from an [analogy], and from an argument a fortiori and from an inference by analogy] based on identity of words. “From an analogy: since a Daily Whole Offering offering is a community sacrifice and a Passover offering is a community sacrifice [being brought in a group joined with others, just as a Daily Whole Offering offering, a community sacrifice, overrides the Sabbath, so a Passover offering, a community sacrifice, overrides the Sabbath. “From an argument a fortiori: If a Daily Whole Offering offering, for [improperly or not] offering which one does not become liable to extirpation, overrides the Sabbath, a Passover offering, for [improperly] offering which one becomes liable to extirpation, all the more so should override the Sabbath. “From an inference by analogy based on identity of words: it is said regarding a Daily Whole Offering offering ‘in its time’ (Num. 28:2) and it is said regarding the Passover offering ‘in its time’ (Num. 9:2) just as the Daily Whole Offering offering regarding which it says ‘in its time’ overrides the Sabbath, so a Passover offering regarding which it says ‘in its time’ [surely] overrides the Sabbath.” [They] said to him, “We have already said, ‘Is there something good [that can come] from the Babylonian?’ “The analogy that you stated has an answer: No – [for] if you hold regarding a Daily Whole Offering offering which has a limit [two only each Sabbath], would you say regarding a Passover offering that has no limit [since it depends on the number of Israelites, that it too overrides the Sabbath]? “The argument a fortiori that you stated has an answer: No – [for] if you hold thus regarding a Daily Whole Offering offering which is [of] the most holy sacrifices [, being a burnt offering completely burned on the altar, and hence superseding the Sabbath], would you say [thus] regarding a Passover offering which is of the lesser sacrifices? “The argument by analogy based on the appearance of the same words in two passages, that you stated [has an answer:] for a person does not deduce a such an argument n his own.” [On the notion of not deducing an analogy based on the appearance of the same word in two contexts, on one’s own authority:] And even though [Hillel] sat and expounded to them all day, [they] did not accept [the teaching] from him until he told them [using the language of an oath], “May [evil] befall me [if I lie]. Thus I have heard from Shemaiah and Abtalion.” As soon as they heard this from him, they stood up and appointed him patriarch over them. As soon as [they had appointed

him patriarch over them,”) he began to castigate them with words, saying, “What caused you to need this Babylonian? Is it not because you failed to serve the two great men of the world, Shemaiah and Abtalion, who were sitting with you?” As soon as [Hillel] castigated them with words, a law escaped his memory, specifically: [They] said to him, “What should [we] do for the people, for [before the Sabbath] they did not bring their knives [to slaughter the animal, which you have now demonstrated is permitted]?” He said to them, “This law I have heard but I have forgotten. Rather, [then,] leave Israel [alone]. If they are not prophets, they are the children of prophets [and will know by themselves what to do].” Immediately whoever had Passover offering was a lamb would stick the knife in its wool; [if it was a kid, he would tie it between his horns. As a result, the beasts they had designated for use as their Passover offerings brought their knives with them [T. 4:13-14].

- 2. I:2:** For [clarifying] three matters Hillel went up from Babylonia [to the land of Israel]: [Regarding Lev. 13:37’s ruling:] “[The scall is healed;] he is clean” [said in reference to a person afflicted on his head or beard who has gone through a second set of seven days of isolation and whose “scall has remained unchanged in color, and black hair has grown in it” (Lev. 13:37)]. Is it possible [that] he is exempt and can just go [at that point]? The teaching [therefore] says, “The priest shall pronounce him clean” (the conclusion of v. 37). If [the verse stated only], “The priest shall pronounce him clean,” is it possible that if the priest stated regarding one unclean [that he is] clean, perhaps he will be clean? [Obviously not.] The teaching [therefore] states [both], “He is clean” and “The priest shall pronounce him clean.” For this [clarification of the two clauses] Hillel went up from Babylonia. One verse says, “You shall slaughter the Passover offering for the Lord your God, from the flock and the herd” (Deut. 16:2). And another verse says, “From the sheep or from the goats you may take it” (Exod. 12:5) [and not from the herd]! How is this possible: The flock for the Passover offering and the herd for the festive offering [that accompanied the Passover sacrifice]. One verse says, “Six days you shall eat unleavened bread” (Deut. 16:8). And another verse says, “Seven days you shall eat unleavened bread” (Exod. 12:15). How is this possible? Six [days you shall eat] from the new grain [which is permitted after bringing the first sheaf of new grain on the second day] and seven you shall eat from the old grain [which may be consumed also on the first day of the festival, when the new grain is still prohibited]. And he expounded [thus on his own] and [fortuitously] taught [it] in agreement [with the correct position, as he was to learn

later] and he went up [to Israel] and received [it as a] halakhah [as an accepted tradition, e.g., from Shemaiah and Abtalion].

[B] AND RINSING ITS ENTRAILS DO NOT OVERRIDE [THE PROHIBITIONS OF] THE SABBATH:

- 1. II:1:** Said R. Yohanan, “‘The Lord made everything for his honor’ [usually rendered, “for a purpose”] (Prov. 16:4) [teaching] that [a person] should not appear as one taking the sacrificial parts from a disgusting offering [which it would be if left unscraped and uncleaned; hence such action is permitted on the Sabbath].” Teaches R. Ishmael: “Skinning it overrides [the prohibition of] the Sabbath.” It is taught: R. Ishmael b. R. Yohanan b. Beroqa says, “On the Sabbath [one] would skin [the animal starting with the hind legs proceeding] up to the breast [at which point one can re move the entrails]” [T. 4:10].

[C] AND (4) BURNING ITS [SACRIFICIAL] PIECES OF FAT.

- 2. III:1:** And burning its fat [M. 6:1B]: “And the fat of My festal offering shall not be left lying until morning” (Exod. 23:18) [but must be burned before the morning, which would mean that they are offered throughout the night and on the Sabbath]. But may weekday sacrificial portions [from the previous day which these are] be burned during the festival [which begins at sunset]? Said R. Abbahu, “I have explained it [the verse in B] as referring to a situation in which the fourteenth of Nisan fell on the Sabbath [and hence the sacrificial portions are those of a Sabbath offering].” R. Jonah asked [responding to Exod. 23:18’s specific language of “My festal offering”, “If [it is a case] in which the fourteenth coincided with the Sabbath, a festal offering does not come with it [the Passover offering, as specified in M. 6:3]. “[Rather] the Torah stated [in Exod. 23:18] that one should offer it [toward evening] while it is still day so that one should not transgress [the ban] on leaving the offering lying [until morning, for once night ensues one will be prohibited from burning it; hence the verse applies to any fourteenth of Nisan].”

[D] BUT ROASTING IT:

- 1. IV:1:** We learned: Once it became dark, they went out and roasted their Passover offerings [M. 5:10C, which is assumed to refer to Saturday night, as if such roasting were prohibited on the Sabbath itself], but here you [M. Shab. 1:11] say thus, [that just prior to the Sabbath, the Passover offering is let down into the oven to roast on its own accord as darkness falls, which indicates that the roasting overrides the Sabbath, as M. Pes. 6:1C states].

[E] BRINGING IT FROM OUTSIDE TO INSIDE THE SABBATH LIMIT:

1. **V:1:** [The Mishnah] spoke only of outside Jerusalem [where such actions are prohibited]. Lo, outside the [Temple] courtyard [yet within Jerusalem], it is permitted because [it is only a matter of the injunction to maintain] restfulness [on the Sabbath, which is a category] that [they] permitted in the Temple.

[F] AND CUTTING OFF A WEN WHICH IS ON IT DO NOT OVERRIDE [THE PROHIBITIONS OF] THE SABBATH. R. ELIEZER SAYS, “THEY DO OVERRIDE [THE PROHIBITIONS OF THE SABBATH].”

1. **VI:1:** And cutting off a wen [do not override (the Sabbath)] [M 6:1D] There [in M. Erub.] we learn: And they cut off a wart [that appeared] on a priest in the Temple precincts but not in the country [M. Erub. 10:13]. Here [M. Erub.] you say [it] overrides [the Sabbath] and here [M. Pes. 6:1] you say [it] does not override. Said R. Simon, R. Joshua b. Levi in the name of Bar Padayah, [“M. Erub. 10:13 permits cutting warts] out of [a concern for] disarranging the allotments [of Temple services among the priests, one of whom otherwise would become disqualified].” Said R. Yosé, “And [the Mishnah refers to a case] in which they already made the allotments.” R. Simeon b. Laqish [said] in the name of R. [Levi] Sovayvah, “Here [M. Erub.’s permission to cut off a wart] applies when [the wart] crumbles, but here [M. Pes.’s ban on extirpation a wart] applies when it does not crumble.” R. Simeon b. Yaqim said, “Here [M. Pes.’s ban on extirpation a wart] applies when it is soft, but here [M. Erub.’s permission] applies when it is dried up.” R. Yosé b. R. Haninah said, “Here [M. Erub.’s permission to cut off a wart] applies when it is [done] with a hand, but here [M. Pes.’s ban] applies when it is [done] with a utensil.”

XLIV. YERUSHALMI PESAHIM 6:2

[A] SAID R. ELIEZER, “NOW IS IT NOT LOGICAL [THAT THESE, TOO, SHOULD OVERRIDE THE PROHIBITIONS OF THE SABBATH]? NOW IF SLAUGHTERING, WHICH IS PROHIBITED UNDER THE CATEGORY OF LABOR, OVERRIDES [THE PROHIBITIONS OF] THE SABBATH, THESE, WHICH ARE [PROHIBITED ONLY] BY REASON OF SABBATH REST [RELYING NOT UPON THE SCRIPTURAL PROHIBITION OF ACTUAL LABOR] – SHOULD THEY NOT OVERRIDE [THE PROHIBITIONS OF] THE SABBATH?” SAID TO HIM R. JOSHUA, “A FESTIVAL DAY WILL PROVE [TO THE CONTRARY. ON FESTIVAL DAYS IT IS PERMITTED TO PREPARE NECESSARY FOOD (EX. 12:16). FOR THEY PERMITTED WORK TO BE DONE ON THAT DAY WHICH IS NORMALLY PROHIBITED BY REASON OF LABOR, BUT IT IS PROHIBITED

TO DO ON THAT DAY [OTHER ACTIONS] WHICH ARE PROHIBITED [MERELY] BY REASON OF SABBATH REST.” SAID TO HIM R. ELIEZER, “NOW WHAT IS THE MEANING OF THIS, JOSHUA? HOW SHALL PROOF BE DERIVED FROM THAT WHICH IS AN OPTIONAL DEED FOR THAT WHICH IS AN OBLIGATORY ONE?”

1. **I:1:** And taking it from outside [to inside] the [Sabbath] limit [M 6:1D] [which Eliezer at M. 6:1E claims overrides the Sabbath, can be considered, on the basis of Eliezer’s reference in M. 6:2A, merely an act which normally is prohibited so as to produce a “restful” Sabbath or holiday, but which in the special case of Passover could be overridden, and not a biblically prohibited labor]. This supports the following which R. Jonathan said before R. Hiyya the Elder in the name of R. Simeon b. Yosé bar Laqonyah, “They impose lashes regarding [the violation of] Sabbath limits on the basis of the Torah.” Said to him R. Hiyya the Elder, “And lo, on the Sabbath there are only [the punishments of] stoning and extirpation [which Scripture mentions, but not a negatively formulated prohibition of labor, which by definition would be taken to entail lashes]?” [Hence the ban on carrying something outside the Sabbath limits would be derived only from the general category of an act prohibited by reason of Sabbath rest. [Jonathan] said to him, “And is it not written, ‘Let everyone remain where he is; let no (‘L) person leave his place on the seventh day’ (Exod. 16:29) [hence there is a negatively formulated prohibition]?” [Hiyya the Elder] said to him, “Is it written, ‘do not’? Rather the formulation] ‘al [let no] is written [and only the former entails lashes]. [Jonathan] said to him, “And is it not written, ‘Let not [one] (‘L) eat any of it raw’ (Exod. 12:9)?” He [further] said to him, “Is it written ‘do not’? Rather it is written ‘let not’ [and nevertheless lashes are imposed for violating this injunction]!” Said R. Yosé b. R. Bun, “Despite [the citation of a contrary proof-text] this one stands by his tradition and this one stands by his tradition.”
2. **I:2:** Cutting of its wart [M 6:1D] [which R. Eliezer in M. 6: IE rules does override the Sabbath, even] with a utensil [can it be considered, based on Eliezer’s reference in M. 6:2A, merely a biblically prohibited labor.
3. **I:3:** Said R. Mana, “Sprinkling [blood, in the case mentioned in M. 6:3] is a an injunction to rest from a “permitted” act which entails a religious duty and these [special cases enumerated in M. Erub. 10:15] are a an injunction to rest from a “permitted” act which entails a religious duty Sprinkling [according to R. Eliezer in M. 6:3] overrides and these [even in the Temple as specified in M. Erubin] do not override [the Sabbath]? Rather [the situations must be incomparable]

for this [latter set of M. Erubin cases] involves the offering and this [former case of sprinkling] involves the offerer.”

4. **I:4:** Does [Eliezer in referring in M. 6:2C to “an injunction to rest from a permitted act which entails a religious duty” have in mind an act falling into the category of] an injunction to rest from a permitted act which entails a religious duty [an injunction to rest from a “permitted” act which entails a religious duty]? *Do we not learn*, One who profanes sacrifices and despises the festivals and violates the covenant of Abraham our father [circumcision] and is brazen in the Torah [belittling it], even though he possess Torah and good deeds, he has no portion in the world to come [M Abot 3:11]? [How can you then consider a an injunction to rest from a “permitted” act which entails a religious duty (injunction to rest) out of respect for the festival only a “permitted” matter – it is required?]
- Said R Jeremiah, “What does [the term] [mean]? [It denotes an injunction to rest from a permitted act which entails a religious duty in its simple sense and not as part of the idiom an injunction to rest from a permitted act which entails a religious duty of an injunction to rest from a “permitted” act which entails a religious duty, and therefore in referring to a totally mundane act such as a common meal which does not require cooked foods] [if one] wants, one cooks; [if one] wants, one does not cook. [In contrast, Eliezer’s argument had been based on defining an injunction to rest from a permitted act which entails a religious duty as abstention from a biblically prohibited labor.]

XLV. YERUSHALMI PESAHIM 6:3

- [A] **R. AQIBA REPLIED AND SAID, “SPRINKLING [PURIFICATION WATER ON AN UNCLEAN PERSON] WILL PROVE THE CASE. FOR IT IS AN OBLIGATORY DEED, AND IT IS NORMALLY PROHIBITED BY REASON OF SABBATH REST, AND IT DOES NOT OVERRIDE [THE PROHIBITIONS OF] THE SABBATH. SO YOU, DO NOT BE SURPRISED CONCERNING THESE MATTERS, FOR EVEN THOUGH THEY ARE OBLIGATORY DEEDS, AND THEY ARE PROHIBITED MERELY BY REASON OF SABBATH REST, THEY SHOULD NOT OVERRIDE [THE PROHIBITION OF] THE SABBATH.” SAID TO HIM R. ELIEZER, “AND UPON THIS VERY FACT I BASE MY REASONING. NOW, IF SLAUGHTERING, WHICH IS PROHIBITED BY REASON OF CONSTITUTING AN ACT OF LABOR, OVERRIDES [THE PROHIBITIONS OF] THE SABBATH, SPRINKLING [PURIFICATION WATER ON AN UNCLEAN PERSON], WHICH IS PROHIBITED [MERELY] BY REASON OF SABBATH REST – IS IT NOT LOGICAL THAT IT [TOO] SHOULD OVERRIDE [THE PROHIBITIONS OF] THE SABBATH?”**

1. **I:1:** For thirteen years R. Aqiba would come before R. Eliezer, who would not pay any attention to him. And this [statement regarding sprinkling the waters of purifications, presented in M. 6:3] comprised the opening of his first response before R. Eliezer. [Applying a biblical verse in appreciation of Aqiba and the astuteness of his comment:] Said R. Joshua to [Eliezer], “There is the army you sneered at; now go out and fight it” (Jud. 9:38). [Proof of the ultimate ascendancy of Aqiba is the placement of his opinion before Eliezer’s in the following text:] There we learned [in reference to Num. 9:10-13’s rule permitting those on a “distant journey” (v. 10) or a “journey” (v. 13) to bring the Passover offering one month later:] “What is a ‘distant journey’? From [the place] Modiin and outward and the equivalent distance in every direction,” the words of R Aqiba R Eliezer says, “From the threshold of the courtyard and outward [hence anyone who for whatever reason is outside the Temple courtyard and, therefore, unable to bring the Passover offering may offer it one month later]” [M 9:2]
2. **I:2:** Aqiba answered and said, “Sprinkling the water [of purification on one who has become defiled through contact with a corpse on the seventh day following one’s uncleanness, should the seventh day fall on a Sabbath that coincides with the eve of Passover,] will prove [my point], for it is a religious duty” [M 6:3A] And is it a commandment to sprinkle [what commandment is fulfilled as a result of sprinkling]? You may explain [the Mishnah’s terminology if the case be such] that a person’s seventh day [of purification] coincided with the fourteenth of Nisan that coincided with the Sabbath; for if it were a weekday, one would sprinkle [blood] on him and afterwards he would proceed to slaughter his Passover offering and he [then would] eat it in the evening. [However,] since it was the Sabbath, and one does not sprinkle [blood on] him [as it is prohibited on the Sabbath], as a result one would be prevented from [performing] the commandments [in not being able to offer the Passover offering]. Said R. Hoshaya, “You may explain [M. 6:3’s mention of “commandment” if the case be such] that a person’s seventh day coincided with the thirteenth [of Nisan] that coincided with the Sabbath; for if it were a weekday, one would sprinkle [blood] on him and tomorrow he would proceed to slaughter his Passover offering and he would [then] eat it in the evening. However, [since] it was the Sabbath, and one does not sprinkle [blood] on him, as a result one would be prevented from [performing] the commandments [in not being able to offer the Passover offering].” [In this rendering, the person who was sprinkled presumably had to wait for the evening in order to be permitted to slaughter the Passover lamb.]

[B] SAID TO HIM R. AQIBA, “MATTERS ARE JUST THE OPPOSITE. NOW IF SPRINKLING [PURIFICATION WATER ON AN UNCLEAN PERSON], WHICH IS PROHIBITED BY REASON OF SABBATH REST, DOES NOT OVERRIDE [THE PROHIBITIONS OF THE SABBATH], SLAUGHTERING, WHICH IS PROHIBITED BY REASON OF CONSTITUTING A PROHIBITED ACT OF LABOR — IS IT NOT LOGICAL THAT IT, TOO, SHOULD NOT OVERRIDE [THE PROHIBITIONS OF] THE SABBATH?” SAID TO HIM R. ELIEZER, “AQIBA, YOU HAVE UPROOTED THAT WHICH IS WRITTEN IN THE TORAH: AT THE TWILIGHT, AT ITS APPOINTED TIME (NUM. 9:3) — WHETHER THIS BE AN ORDINARY DAY OR THE SABBATH.” HE SAID TO HIM, “RABBI, BRING ME AN ‘APPOINTED TIME’ REFERRING TO THESE MATTERS JUST AS ‘APPOINTED TIME’ REFERS TO THE ACTUAL ACT OF SLAUGHTERING.” A GOVERNING PRINCIPLE DID R. AQIBA STATE, “ANY FORM OF LABOR WHICH IT IS POSSIBLE TO CARRY OUT ON THE EVE OF THE SABBATH DOES NOT OVERRIDE THE SABBATH. SLAUGHTERING, WHICH IT IS NOT POSSIBLE TO CARRY OUT ON THE EVE OF THE SABBATH, DOES OVERRIDE THE SABBATH.”

1. II:1: And does a person say to his master, “Perhaps reverse” [your argument, the language attributed to Aqiba in M. 6:3C] ! Because R. Eliezer was in the process of teaching him the halakhah that sprinkling does not override the Sabbath, and he countered him in midst of the argument, therefore he says to him, “perhaps reverse.”
2. II:2: It was taught: R. Eliezer says, ‘Just as slaughtering overrides the Sabbath, so the appurtenances of slaughtering override the Sabbath.’ Said to him R. Aqiba, “No. If you say regarding slaughtering which cannot be performed on the eve of the Sabbath [that it] overrides the Sabbath, shall you say regarding the appurtenances of slaughtering which can be performed on the eve of the Sabbath [that they] override the Sabbath?” Said to him R. Eliezer, “The sacrificial portions of the public offering should prove [my point], for one may perform [burn] them at the outgoing of the Sabbath, but lo, they override the Sabbath. What difference [is there to me] between the appurtenances of slaughtering before the slaughtering and the appurtenances of slaughtering after the slaughtering?” Said to him R. Aqiba, “[No.] What [is there] to the appurtenances of slaughtering after slaughtering [that causes them to] override the Sabbath? For slaughtering [which is considered part of the same religious duty] has already overridden the Sabbath [and one may therefore proceed with the concluding burning of the appurtenances, that is, the sacrificial portions of the public offering]. Shall the appurtenances of slaughtering before slaughtering override [the Sabbath]? But slaughtering has not yet overridden the Sabbath! “Another matter [characteristic differentiating the two:] For if one would find the sacrificial animal disqualified one would end up

overriding the Sabbath [by performing the appurtenances] without slaughtering [taking place]” [T. 5:1].

XLVI. YERUSHALMI PESAHIM 6:4

[A] WHEN DOES ONE [ALSO] BRING A [FREEWILL] FESTAL-OFFERING WITH IT [OVER AND ABOVE THE PASSOVER-OFFERING]? WHEN [THE PASSOVER-OFFERING] IS OFFERED ON AN ORDINARY DAY, [WITH MOST PEOPLE] IN A STATE OF CLEANNESS, AND [MEAT OF THE PASSOVER-OFFERING] IS NOT SUFFICIENT [FOR ALL REGISTERED FOR IT]. BUT WHEN IT IS OFFERED ON THE SABBATH, AND [MEAT] IS ABUNDANT, AND [MOST PEOPLE ARE] IN A STATE OF UNCLEANNESS, THEY DO NOT BRING WITH IT A [FREEWILL] FESTAL-OFFERING. A FESTAL-OFFERING DERIVES FROM THE FLOCK OF SHEEP OR FROM THE HERD OF OXEN, FROM LAMBS OR FROM GOATS, FROM MALES OR FROM FEMALES. AND IT IS EATEN FOR TWO DAYS AND THE INTERVENING NIGHT [TO THE NIGHT OF THE FIFTEENTH OF NISAN].

1. **I:1:** It is taught, The festive offering of the fourteenth [of Nisan] used to come from [monies redeemed from] tithes [which were to be taken to Jerusalem and there spent on food]. It is taught, The festive offering that accompanies the Passover offering would be eaten first, so that the Passover offering might be eaten [in a] satiated [state]” [T. 5:3]. It is taught, The [remains of the] festive offering that accompanies the Passover offering would be removed [with it] [cf. T. 5:3].

XLVII. YERUSHALMI PESAHIM 6:5

[A] THE [ANIMAL DESIGNATED AS] A PASSOVER-OFFERING WHICH ONE SLAUGHTERED UNDER AN IMPROPER DESIGNATION ON THE SABBATH [WHICH COINCIDES WITH THE FOURTEENTH OF NISAN] — ONE IS LIABLE ON THAT ACCOUNT FOR A SIN-OFFERING. AND AS TO [ANIMALS DESIGNATED FOR] ANY OTHER ANIMAL-OFFERINGS, WHICH ONE SLAUGHTERED FOR THE SAKE OF A PASSOVER SACRIFICE — IF THEY ARE NOT APPROPRIATE [TO BE OFFERED AS A PASSOVER SACRIFICE], ONE IS LIABLE. BUT IF THEY ARE APPROPRIATE [FOR EXAMPLE, MALE LAMBS, TO BE OFFERED AS A PASSOVER SACRIFICE] — **R. ELIEZER** DECLARES HIM LIABLE FOR A SIN-OFFERING. AND **R. JOSHUA** DECLARES HIM EXEMPT. SAID **R. ELIEZER**, “NOW IF FOR A PASSOVER-OFFERING, WHICH IS PERMITTED WHEN OFFERED UNDER THE CORRECT DESIGNATION — WHEN ONE OFFERED IT UNDER SOME OTHER [THAN THE CORRECT] DESIGNATION, HE IS LIABLE, “FOR ANIMAL-OFFERINGS, WHICH ARE PROHIBITED WHEN OFFERED UNDER THEIR PROPER DESIGNATION — WHEN HE OFFERED THEM UNDER SOME

OTHER DESIGNATION, IS IT NOT LOGICAL THAT HE SHOULD BE LIABLE [TO A SIN-OFFERING]?” SAID TO HIM R. JOSHUA, “NO. IF YOU HAVE STATED THE RULE IN THE CASE OF A PASSOVER SACRIFICE, IN WHICH CASE HE HAS OFFERED IT UNDER ANOTHER, PROHIBITED DESIGNATION, WILL YOU SAY THE SAME IN THE CASE OF ANIMAL SACRIFICES, IN WHICH CASE HE HAS OFFERED THEM UNDER ANOTHER, PERMITTED DESIGNATION?” SAID TO HIM R. ELIEZER, “THE PUBLIC OFFERINGS WILL PROVE THE MATTER. FOR THEY ARE PERMITTED WHEN OFFERED UNDER THE PROPER DESIGNATION. BUT HE WHO SLAUGHTERS [OTHER OFFERINGS] UNDER THEIR DESIGNATION [ON THE SABBATH] IS LIABLE.” SAID TO HIM R. JOSHUA, “NO. IF YOU HAVE STATED THE RULE IN THE CASE OF THE SACRIFICIAL PARTS OF PUBLIC OFFERINGS, WHICH ARE SUBJECT TO A LIMITED NUMBER, WILL YOU SAY THE SAME OF A PASSOVER-OFFERING, WHICH IS NOT SUBJECT TO A LIMITED NUMBER?”

1. **I:1:** The teaching [Mishnah 6:5A] treats a case in which [one] knows that it is a Passover offering but [consciously] slaughtered it under the designation of an offering of well-being [thinking, however, either that such an act is not prohibited on the Sabbath, or that if prohibited it would not make one liable for a sacrifice]. [If] one “knew” [i.e., thought, the Passover offering] was an offering of well-being but [consciously] slaughtered it under the designation of a burnt offering – R. Mana said, “Its performance [yet] entails a commandment,” [fulfilling the requirement to bring a Passover offering, for the person converted the offering only because it was mistakenly assumed not to be a Passover offering; if the person had remembered its true identity, he would not have converted it]. R. Yosé said, “Its performance does not entail a commandment” [for what is crucial is not the initial error but the final conscious act, which was inappropriately to convert the animal to a burnt offering].
2. **I:2:** They] say, “This [response] of R. Eliezer is not a [proper] answer to R. Joshua, for he [Joshua] can say to him, ‘How do you answer me from an object that customarily is transferred excess Passover offerings are regularly offered as offerings of well-being; hence when a Passover offering is offered under the wrong designation, a mistake presumably took place and a violation occurs – how can you argue from such an animal] as to an object that is not customarily transferred [such as sacrificing a well-being offering as a Passover offering, which if done is not likely to have taken place under the assumption that the animal was a well-being offering and through a common mix-up, but rather under the assumption that the animal, fitting the physical characteristics of a Passover offering, was a Passover offering, and the act therefore resembles committing an error in the process of performing a religious duty which does not engender a violation].

“And this [response] of R. Joshua, is not a [proper] answer to R. Eliezer, for he can say to him, ‘Lo, the Passover offering of Reuben that [one] slaughtered under the designation of Simeon, lo, [the person] converted it to a permitted object [in that it remained a Passover offering], but you would say that [one is] liable [because of the change in designation of ownership].”

[B] R. MEIR SAYS, “ALSO: HE WHO SLAUGHTERS [OTHER ANIMAL-OFFERINGS] UNDER THE DESIGNATION OF SACRIFICIAL PARTS OF A PUBLIC OFFERING IS EXEMPT [FROM LIABILITY].”

- 1. II:1:** Said R. Eleazar, “The opinion of R. Meir, [who exempts, applies to one who slaughtered] even a calf [under the designation of a Passover offering on the Sabbath, out of a misunderstanding of the law, for example, by misreading Deut. 16:2, because erring regarding such a law is like erring regarding a matter of a religious duty].” You learn from it two [factors that are necessary to make one exempt]. You learn from it: an object that has no limit [for any number of Passover offerings may be slaughtered] and that entails a religious duty in its performance.
- 2. II:2:** Simeon b. Laqish said, “[A matter that] entails a commandment in its performance, for example: [if] one’s deceased childless brother’s widow [sister-in-law whom a levir is to marry because his brother died without children] is a menstruant and [he] had intercourse with her [thus fulfilling Deut. 25:5’s commandment of taking the sister-in-law, though in the process violating the laws of impurity, he is exempt]. “(A matter that) does not entail a commandment in its performance, for example: one’s sister-in-law (who is to be taken) and one’s wife in a state of impurity (are before a person), and (he) had intercourse with her (his wife). (The violation in having relations with one’s wife, who is impure, is not vitiated by the fact that he had the intention to fulfill the commandment of levirate marriage – levirate marriage – with his sister-in-law, for the latter was only intended and not done).]” R. Yohanan said, “[A matter that] entails a religious duty in its performance, for example: two spits [are before a person], one of [unconsecrated (meat) and one of sacred (meat)] [and the person intended to eat the latter but ate the former. He is exempt]. “[A matter that does not entail a commandment in its performance, for example: two spits (are before a person)], one of slaughtered [meat] and one of a carrion, and one intended to eat one [the former] but [actually] ate the other [the latter].” [The definition of an action that entails a commandment centers on a person’s intention and not on accomplishing the intended act].

3. **II:3:** [As to M. Shab. 19:4: “One who had two infants, one to circumcise on the eve of the Sabbath and one to circumcise on the Sabbath, but forgot and circumcised that of Sabbath eve on the Sabbath – (all agree in declaring the person) exempt; (if) he circumcised that of after the Sabbath on the Sabbath (before the required eighth day) – R Eliezer declares (the person) liable, but R. Joshua exempts:] Said R. Yohanan, “[M. Shab. 19:4] follows R. Meir, for “R. Meir said, ‘A matter that entails a commandment in its performance [e.g., circumcising that of Sabbath eve on the Sabbath] is exempt, and [one] that does not entail a commandment in its performance is subject to a dispute “R. Simeon says, ‘A matter that does not entail a commandment in its performance – [one is] liable; and a matter that does entail a commandment in its performance is subject to a dispute.’” R. Yosé said in the name of R. Yohanan, “[M. Pes. 6:5 presents] the opinion of R. Simeon It is with the condition that it is a lamb, unblemished, one year old, an offering of well-being [i.e., not unconsecrated] and fit to be exchanged for a Passover offering” [i.e., that it be a male] [only then would R. Joshua, as cited in M. 6:5B, declare the person exempt].

XLVIII. YERUSHALMI PESAHIM 6:6

[A] IF ONE SLAUGHTERED [THE PASSOVER SACRIFICE ON THE SABBATH] NOT FOR THE SAKE OF THOSE WHO MAY EAT IT, NOT FOR THE SAKE OF THOSE WHO ARE COUNTED ON IT, FOR UNCIRCUMCISED PEOPLE, OR FOR UNCLEAN PEOPLE, HE IS LIABLE. [IF HE SLAUGHTERED IT] FOR THOSE WHO MAY EAT IT AND FOR THOSE WHO MAY NOT EAT IT, FOR THOSE WHO ARE REGISTERED WITH IT AND FOR THOSE WHO ARE NOT REGISTERED WITH IT, FOR THOSE WHO ARE CIRCUMCISED AND FOR THOSE WHO ARE UNCIRCUMCISED, FOR THOSE WHO ARE CLEAN AND FOR THOSE WHO ARE UNCLEAN, HE IS EXEMPT. [IF] HE SLAUGHTERED IT [ON THE SABBATH] AND IT TURNED OUT TO BE BLEMISHED, HE IS LIABLE. [IF] HE SLAUGHTERED IT AND IT TURNED OUT TO BE TEREFAH IN ITS INNER PARTS, HE IS EXEMPT. [IF] HE SLAUGHTERED IT AND THEN IT BECAME KNOWN THAT THE OWNER HAD WITHDRAWN HIS HAND [FROM TAKING A SHARE IN IT], OR HAD DIED, OR HAD BECOME UNCLEAN, HE IS EXEMPT, BECAUSE HE SLAUGHTERED IT [AT A TIME WHEN IT WAS] PERMITTED [TO DO SO].

1. **I:1:** Said R. Eleazar, “For whom was it necessary [to teach M. 6:6B, for is not its declaration that one is liable for slaughtering a blemished animal on the Sabbath self-evident, because with an unfit animal an individual is not involved in performing a religious duty]? For R. Meir [whose exemption for sacrificing an animal under the designation of a

Passover offering on the Sabbath, presented in M. 6:5G, extends even to one who slaughtered a calf but, M. 6:6 now teaches, would not apply to a blemished animal for, being unfit for any type of sacrifice, it is highly unlikely to be slaughtered out of a simple human error].

2. **I:2:** Lo, [the implication of M. 6:6B's mention of a defect which is "*internal*" is that one which is] external – [regarding it one is] liable.
3. **I:3:** Said R. Yohanan, "[M. 6:8B's exemption] represents [the position even of] R. Simeon" [who makes Joshua's exemption, in M. 6:5, apply to an action that entails a religious duty, and the sages all the more so would concur]. R. Jacob bar Aha, R. Immi in the name of R. Simeon b. Laqish, "It represents [the position of even] R. Simeon."
4. **I:4:** R. Yosé [said] in the name of R. Yohanan, "It [M. 6:6, in particular as revealed in the case of the registrants' withdrawal of their hands and in light of the Mishnah's final explanatory clause] represents [the view of] R. Judah, for we learn there [in the Mishnah:] '[They] do not slaughter the Passover offering for a single individual,' the words of R. Judah. And R. Yosé permits [it] [M. 8:7]. [If the Mishnah can speak of a person's slaughtering the animal "with permission" although owners had dissociated themselves, the animal perforce must still be registered with at least one remaining owner, for otherwise it would automatically become disqualified; hence initially there had to have been at least two owners, which accords with Judah's position.]"

XLIX. YERUSHALMI PESAHIM 7:1

[A] HOW DO THEY ROAST THE PASSOVER OFFERING? THEY BRING A SPIT OF POMEGRANATE WOOD, AND STICK IT THROUGH [THE CARCASS] FROM THE MOUTH TO THE BUTTOCKS.

1. **I:1:** Why [use a spit made] of pomegranate [wood]? Said R. Hiyya bar Ba, "All trees drip moisture and that of pomegranate does not drip moisture."
2. **I:2:** It is taught in the name of R. Judah: [One] roasts it with a metal spit. [They] said to him, "But lo, [the metal spit] is hot and imparts heat [to the animal, thereby preventing the scripturally required roasting by fire]." [He] said to them, "Just as that of wood does not burn [because it is preserved by the animal's carcass surrounding it], so that of metal does not impart heat [for its heat is tempered by the

animal's carcass]." [They] said to him, "The wood does not resemble the metal, for [in the case of] the wood, [if] part of it becomes hot, all of it does not become hot; but [as for] metal, [if] part of it becomes hot, all of it becomes hot. [Therefore, only with a metal spit does the heat of the exposed portion spread to the portion within the animal and contribute to its cooking" [T. 5:8].

3. **I:3:** There are those who teach: "[They] stick it [into the animal] from the buttocks to the mouth."

[B] "AND ONE PUTS ITS LEGS AND ENTRAILS INSIDE IT," THE WORDS OF **R. YOSÉ THE GALILEAN**. **R. AQIBA** SAYS, "THAT WOULD BE A KIND OF COOKING. **BUT ONE HANGS THEM OUTSIDE [THE CARCASS]."**

1. **II:1:** What [is Yosé the Galilean's reason, in M. 7:1B, for placing the entrails inside the animal]? [Either] R. Yosé the Galilean considers it [the animal with the entrails inside] like a thick thigh [and the flame assumably roasts the whole meat through including the entrails]; or (2) [he] expounds a verse: "[But roasted –] its head over its legs and over its entrails" (Exod. 12:9). What is the difference between them [the two possible reasons]? [If one] roasted it [the legs and entrails] in an unconsecrated lamb: If you say "R. Yosé the Galilean considers it like a thick thigh" – [it is] fit [for the meat will be fully burned according to this procedure]; if you say "[he] expounds a verse, '[But roasted – its head over its legs and over its entrails' (Exod. 12:9)'" – [it is] unfit [for the verse requires the entrails to be roasted along with the Passover lamb]. [Alternatively, if one] cut [a piece of] meat from it [the Passover lamb] and roasted it in it [the lamb]: If you say "R. Yosé the Galilean considers it like a thick thigh" – [it is] fit [for the meat will be fully burned according to this procedure]; if you say "[he] expounds a verse, '[But roasted –] its head over its legs and over its entrails' (Exod. 12:9)'" – [it is] unfit [for the verse requires that the animal be fully intact except for the head, legs, and entrails which are separated so as to be cleaned]. [Alternatively, if one] roasted it [the legs and entrails] in the heat of a pot [placed in the oven]: If [one] says, "R. Yosé the Galilean considers it like a thick thigh" – it is fit [for the animal is appropriately prepared and not boiled even if the flame is separated by the pot]; if one says, "[he] expounds a verse, '[But roasted –] its head over its legs and over its entrails' (Exod. 12:9)'" – it is unfit [for Scripture requires that the legs and entrails are to be cooked inside the Passover lamb].

2. **II:2:** “Tokh bar [here assumed to mean with its insides outside]” – the words of R. Tarfon. R. Ishmael says, “Kid completely roasted [here taken as “helmeted” with all its portions inside]
3. **II:3:** Teaches R. Yosé, “What is a gedi kid completely roasted [a “kid completely roasted”]? Roasted whole, its head with its legs and with its entrails. [If one] steamed part [of it] or seethed part [of it in water,] this is not a gedi kid completely roasted. “They bring in a kid roasted whole [even] on the nights of the first day of the Festival [Sukkot] and [even] on the first day of Passover. They bring a calf roasted whole on the nights of the first day of Passover but not a kid roasted whole.”
4. **II:4:** It is taught: “Said R. Yosé, ‘Todos of Rome directed the Romans that [they] should eat kids roasted whole on the nights of Passover.’ “Sages sent and said to him [Todos], ‘Were you not Todos, would we not put you under a ban?’” [Interpolating an interpretation of Todos’s name, based on a play on words, and explaining why Todos was respected:] What does Todos mean? Said R. Hananiah, “He would send maintenance [support] for rabbis.” [Todos (Theudas), a possible abbreviation of Theodosius, is rendered not as “divine gift” but as a giver of divine gifts.] ““Do you not end up bringing the public to eat holy things outside [the holy precinct]”” [T. Y.T. 2:15]. “For whoever brings the public to eat holy things outside [the holy precincts] should be put under a ban.”
5. **II:5:** Immi asked, “[If one] cleared out [the coals of the oven] and roasted [the Passover offering] with it [that is with the oven’s residual heat preserved in its stones or sides, what is the law as to whether or not this is permitted]?” Said R. Jeremiah, “According to whom is this an issue? “According to R. Yosé the Galilean [for it is unclear whether his reliance on the scriptural text leads him to understand that the requirement of ‘roasted by fire’ (Exod. 12:9) entails the actual presence of fire, here the coals, or whether the oven suffices by itself, since it had been heated by the fire] But according to R. Aqiba [who does not appear to be so guided by the scriptural wording], it is self-evident [that cooking with the heat of the oven alone may be considered ‘roasting’].”

L. YERUSHALMI PESAHIM 7:2

[A] THEY DO NOT ROAST THE PASSOVER OFFERING EITHER ON A [METAL] SPIT OR ON A GRILL. SAID R. SADOQ, “M’SH B: RABBAN GAMALIEL SAID TO TABI HIS SERVANT, “GO AND ROAST THE PASSOVER OFFERING FOR US ON A GRILL.””

1. **I:1:** “Roasted by fire” (Exod. 12:8) – and not roasted by a [metal] spit, not roasted by a pot, not roasted by a grill, not roasted by any [other] object. [Posing a question based on the law of uncleanness due to leprosy regarding which it is stated:] “[When the skin of one’s body sustains a] burn by fire” (Lev. 13:24) – perhaps [this means that it must be] festering [in order for it potentially to be unclean]? The teaching therefore says, “and the patch from the burn [is a discoloration (baheret)]” (ibid.) [indicating that the wound has caused a “patch” of raw flesh, “a still granulating lesion, within which a baheret develops”]. If “the patch from the burn is a discoloration,” perhaps [this indicator of leprosy applies only] once it becomes scabby [meaning that the burn heals well]? The teaching says, “burn by fire” [meaning that the burn is still discernible and thus not healed]. How so [can these opposite deductions be resolved and the verse understood]? It has become healed [and yet] it is not [fully] healed. And thus it says below [to the effect that some mark of the wound remains]: “[But if the discoloration has remained stationary, not having spread on the skin, and it is faded, it is the swelling from the burn. The priest shall pronounce him clean, for] it is the scar of the burn (Lev. 13:28) – [this applies only] once [the skin] is covered over like a garlic skin [“probably a layer of fibrin”].
2. **I:2:** If [Scripture] had said, “Do not eat any of it except roasted” and had not said [the next word of the intervening phrase:] ‘raw’ [not cooked sufficiently to make the meat edible, and in that sense uncooked, a term which Exod. 12:9 presents after “do not eat any of it”], I would have said [that if a person] parched it and [then] roasted it – [it would be] permitted [despite its not being fully roasted by the fire all at once].³⁹ Thus there is a need that it be said “uncooked” [which precludes anything but a full roasting]. Or if [Scripture] had said, “Do not eat any of it except roasted” and had not said [the next word of the intervening phrase:] “or cooked [in any way with water],” I would have said [that if a person] had steamed it [e.g., had poured steaming water over it] and [then] roasted it, it would be permitted. Thus there is a need that it be said “or cooked [in any way with water]” [which precludes steaming, which represents a method of

food preparation less thorough than boiling]. Or if [Scripture] had said, “Do not eat any of it except roasted” and had not said [the next word of the intervening phrase:] “[or cooked] in any way [with water],” I would have said [that if a person] had boiled it and [then] roasted it, it would be permitted. Thus there is a need that it be said “uncooked” (N’) [which precludes anything but a full roasting]. Thus there is a need that it be said “or cooked” [in any way with water – which precludes steaming with water]. Thus there is a need that it be said “[or cooked] in any way” [with water – which precludes boiling with water].

[B] [If] IT TOUCHED THE EARTHENWARE PART OF AN OVEN, ONE SHOULD SCALE OFF THAT PLACE [WHICH HAS BEEN ROASTED BY THE HEAT OF THE OVEN’S SIDE]. [If] SOME OF ITS GRAVY DRIPPED ON THE EARTHENWARE AND WENT BACK ONTO IT, HE MUST TAKE SOME [OF THE MEAT] AWAY FROM THAT PLACE [AND BURN IT]. [If] SOME OF ITS GRAVY DRIPPED ON THE FLOUR, HE MUST TAKE A HANDFUL AWAY FROM THAT PLACE.

1. **II:1:** [If the animal] touched the earthenware of the oven – [(one) should pare away its place (of contact because it was cooked by the heat of the earthenware and not the fire)] [M. 7:2C] – it [the portion of the meat that had touched the earthenware] is unfit in itself and is burned immediately. [If] some of its liquid dripped onto the earthenware [and then back again (on to) it (the animal) – (one) should remove its place (of contact where the liquid was absorbed and not just pare it at the exterior portion)] [M. 7:2D] – it is a disqualification [caused by external considerations which] leaves it [the meat otherwise] fit [for the meat itself did not touch the earthenware] and requires [its] appearance [to become disfigured by being left overnight to spoil]. [If] some of the liquid dripped onto the flour (that was on the oven) – (one) should rake away a handful (of flour) from its (the liquid’s) place [of contact] [because that portion of the gravy was cooked through the heat of the flour and not of the fire directly] [M. 7:2E] – Hiyyah bar Adda in the name of R. Simeon b. Laqish, “This which you say [in the Mishnah] applies to hot [flour] but regarding cold [flour] it is prohibited.”

LI. YERUSHALMI PESAHI 7:3

[A] [If] ONE BASTED IT WITH OIL IN THE STATUS OF HEAVE OFFERING – IF IT WAS AN ASSOCIATION OF PRIESTS [WHO WERE REGISTERED FOR THIS OFFERING], THEY MAY EAT IT. IF IT WAS ONE OF ISRAELITES, IF IT WAS [YET] RAW, LET ONE

RINSE IT OFF. IF IT WAS [ALREADY] ROASTED, LET ONE SCALE OFF THE OUTER SURFACE. [IF] ONE BASTED IT WITH OIL IN THE STATUS OF SECOND TITHE, HE MAY NOT CHARGE ITS VALUE AGAINST THE MEMBERS OF THE ASSOCIATION [REGISTERED FOR THAT OFFERING]. FOR THEY DO NOT REDEEM SECOND TITHE [FOR FUNDS] IN JERUSALEM [ITSELF]:

1. **I:1:** [The Mishnah] stated only “[if one] basted it” [then rinsing or paring away the exterior is sufficient, depending on the situation], lo, if one seasoned it [it is] forbidden [for thereby one would nullify the taste of the Passover offering].
2. **I:2:** Thus is the teaching [the correct rendering or reading of M. 7:3E]: They do not redeem second tithe produce in Jerusalem.

LII. YERUSHALMI PESAHIM 7:4

[A] FIVE THINGS ARE OFFERED IN A STATE OF CULTIC UNCLEANNESS BUT ARE NOT EATEN IN A STATE OF CULTIC UNCLEANNESS: (1) THE FIRST SHEAF OF BARLEY PRESENTED ON THE SIXTEENTH OF NISAN [OMER] [LEV. 23:10], (2) THE TWO LOAVES OF BREAD [LEV. 23:17], (3) THE SHOW BREAD [LEV. 24:5], (4) COMMUNAL PEACE OFFERINGS [LEV. 23:19], AND (5) THE GOATS WHICH ARE OFFERED AT THE NEW MONTH [NUM. 28:15]. [BUT] THE PASSOVER OFFERING, WHICH IS OFFERED IN A STATE OF CULTIC UNCLEANNESS, IS EATEN IN A STATE OF CULTIC UNCLEANNESS, FOR TO BEGIN WITH IT IS OFFERED ONLY FOR EATING.

1. **I:1:** And are not all communal sacrifices offered in a state of uncleanness? [Hence the first part of M. 7:3A’s apodosis is unnecessary.] [That clause] comes only in order to tell you that even though they are offered in a state of uncleanness, they are not eaten in a state of uncleanness.
2. **I:2:** There are Tannaite authorities who teach [that] all [five] of them are learned from the [case of] the Passover offering; [and] there are Tannaite authorities who teach [that] each one is learned from its own context. The one who said that all of them are learned from the Passover offering [reasons thus:] Just as [the term] “as its set time, which is said regarding the Passover offering [either in Num. 9:2, “Let the Israelite people offer the Passover sacrifice its set time,” or in the next verse, Num. 9:3, “You shall offer it (the Passover offering) on the fourteenth day of this month, at twilight, at its set time,” indicates that the object in question, the Passover offering] supersedes uncleanness [for irrespective of any special circumstances, it is to be offered “at its

set time”] so “at its set time,” which is said regarding all of them [in Num. 29:39’s conclusion to the account of the sacrificial rites for festival occasions, “All these you shall offer to the Lord at your set times” indicates that these other festival objects] supersede uncleanness.

LIII. YERUSHALMI PESAHIM 7:5

[A] [IF] THE MEAT [OF THE PASSOVER, OFFERED BY CLEAN SACRIFICERS] WAS MADE UNCLEAN BUT THE FAT CONTINUED [CLEAN], ONE DOES NOT TOSS THE BLOOD. [IF] THE FAT WAS MADE UNCLEAN BUT THE MEAT CONTINUED [CLEAN], ONE DOES TOSS THE BLOOD. AND IN THE CASE OF [OTHER] THINGS WHICH HAVE BEEN CONSECRATED IT IS NOT SO, BUT: EVEN THOUGH THE MEAT IS MADE UNCLEAN, IF THE FAT CONTINUED [CLEAN], ONE DOES TOSS THE BLOOD:

- 1.** **I:1:** And [M. 7:5] is not in accord with R. Nathan, for R. Nathan said, “[People] fulfill [their obligation] by tossing [the blood of the Passover offering] without eating [it].” What is the reason? “And the entire congregation of the community of Israel will slaughter it at twilight” (Ex. 12:40) – “it,” even though there is available only a single beast designated as a Passover, all of the community carry out their obligation through a single act of sprinkling the blood. But it is not possible, under such circumstances, that there will be an olive’s bulk of meat for every single one.
- 2.** **I:2:** The following proposition is self-evident: if the meat was made unclean, while the sacrificial parts remain validly available, one tosses the blood in behalf of the sacrificial portions. If the sacrificial portions were made unclean but the meat was still validly available, one tosses the blood for the meat. If the meat was made unclean, and the sacrificial portions were lost – Said R. Shimi, “In that case, it is not to be seen as equivalent to a case in which the meat was made unclean and the sacrificial portions were lost. Rather, just as you say in a case in which the residue of the meal offering was made unclean or lost, while the handful of meal offering remained validly available, one burns the incense, in that case, just as you say one takes the handful, so too here, one tosses the blood.”
- 3.** **I:3:** Said R. Eleazar, “The teaching [M. 7:4C, which states that ‘the Passover offering which is offered in the state of uncleanness is eaten in the state of uncleanness]’ deals with a case in which [it] came in a state of uncleanness from the first moment [= T.6:1A], “but if [it initially] came in a state of purity and [only afterwards, after tossing

became unclean – [it] is not eaten in a state of uncleanness. [But if it] had been slaughtered in purity and the community [subsequently] became unclean, the blood should be tossed in purity but the flesh should not be eaten in uncleanness [T.6:1B]. [If one] slaughtered it in purity but the blood became unclean, the community should toss its blood [Lg: “but the blood and the community became unclean, the blood should be tossed”] in uncleanness but the flesh should not be eaten in uncleanness [= T.6:1C].

4. **I:4:** [In such a case with reference to the Passover offering, where M. 7:5A states that [one] does not toss the blood:] But according to R. Nathan [one] tosses the blood. [Hence R. Nathan extends to the case of the Passover offering M. 7:5C’s case of “other offerings,” the proof-text for which follows:] R. Yohanan, R. Ishmael [said] in the name of R. Joshua, “One verse says, ‘But the firstlings of cattle, sheep, or goats shall not be redeemed; they are consecrated. You shall dash their blood against the altar, and turn their fat into smoke (as an offering by fire for a pleasing odor to the Lord. But their meat shall be yours)’ [Num. 18:17-18] [which thus speaks of tossing the blood as well as offering the animal’s fat and meat], and one verse says, ‘And the priest shall dash the blood against the altar of the Lord at the entrance of the Tent of Meeting; and turn the fat into smoke as a pleasing odor to the Lord’ [Lev. 17:6] [which does not mention the animal’s “meat”] – [the variation, in mentioning the meat, indicates that it is a sufficient but not necessary condition and, therefore, the tossing cannot take place] until there may be there either meat to eat or sacrificial portions to be burned.”

LIV. YERUSHALMI PESAHIM 7:6

[A] [If] THE CONGREGATION WAS MADE UNCLEAR, OR THE GREATER PART OF IT, OR IF THE PRIESTS WERE UNCLEAR WHILE THE CONGREGATION REMAINED CLEAR, [THE PASSOVER OFFERING] IS PREPARED IN A STATE OF UNCLEARNESS. [If] A MINORITY OF THE CONGREGATION WAS MADE UNCLEAR, THOSE WHO REMAIN CLEAR KEEP THE FIRST PASSOVER [OFFERING], AND THOSE WHO ARE UNCLEAR KEEP THE SECOND.

1. **I:1:** Who is the teacher [of the Mishnah who teaches that the majority must be of the entire Israelite people, not just that of a single tribe]? It is R. Meir, for R. Meir teaches [in reference to M. Hor. 1:6’s rule: If the court gave an (erroneous) instruction and the entire congregation (of Israel) acted in reliance upon their word, (the members of the

court) bring a bull (as a sin offering, as stipulated in Lev. 4:13-14) the words of R. Meir]: “[It is the same whether] it is half of all the tribes [i.e., irrespective of the tribal divisions] or [whether] it is half of each tribe – as long as there is a majority [of either the total population, in the first case, or of the number of tribes, in the second case, who acted in accord with the erroneous directive of the court].” R. Judah says, “[Where it is a case of] half of each and every tribe [following the court’s erroneous instructions, a bull must be brought] – as long as [there is] a majority [of the community’s total population because, for example, more than half of one tribe followed the instructions]; “[where it is a case of] entire tribes [following the court’s erroneous instructions, even though they do not make up the majority of the total population of all the tribes], one tribe draws in its wake all the tribes [to bring bulls for a sacrifice]. R. Meir says, “All the tribes [together] are called [the] ‘congregation.’” R. Judah says, “Each [individual] tribe is called [a] ‘congregation.’”

- 2. I:2:** According to the view of R. Meir, that [Passover offering in which the relationship of clean to unclean registrants is] one-half to one-half [exactly], what is done with it? Is it [treated] like [a case of] a majority [of unclean individuals, or] like a minority? [Both alternatives are problematic:] If you say [the unclean half is considered] as a majority “minority”, the clean ones [which likewise would be considered as a minority] do not prepare the first [Passover – for they do not make up a majority of the people]. If you say [the unclean half is considered] as a minority; the unclean ones do not prepare the second [Passover, which is not designed for a majority of the community; rather they would prepare the first one in uncleanness]. Said R. Yosé, “[Meir can be explained following either alternative:] [The Torah] did not say [that] a majority [who are] clean do prepare the first [Passover] [and that] a majority [who are] unclean do not prepare the second [Passover]. [The Torah] has said only that a majority [who are] unclean should not be postponed to the second Passover.” [Hence the principle is viable where the unclean make up exactly one-half of the community: if they are not considered a majority, the clean appropriately prepare the first Passover, for there is no majority of unclean to postpone them to the second Passover, and the unclean prepare the second Passover, for only if they had made up a majority of the people would they not have been postponed to the second Passover; and if they are considered a majority, the clean “majority” appropriately prepares the first Passover and the unclean “majority,” who need not necessarily be postponed to the second Passover yet may be, prepare the second Passover.]

3. **I:3:** [If] the community was [divided into] a third one unclean with flux [Lev. 15], a third unclean [by reason of corpse uncleanness], [and] a third clean, [what procedure is followed]? R. Mana in the name of Hezekiah, “The [combined] one unclean with flux [Lev. 15] and unclean outnumber the clean, and they prepare [the Passover offering] in uncleanness, but the one unclean with flux [Lev. 15] [themselves] prepare neither the first nor the second [Passover offering].”
4. **I:4:** Members of a association, one of whom became unclean [after bringing the offering but before its blood was tossed on the altar], and it is not known which one [it was], are required to prepare a second Passover [T. 7:15A – since by reason of doubt they all are ineligible to eat the offering, the animal’s blood had been tossed without anyone’s being fit to eat it, causing the animal to become invalid. (4:615, 611-12)]. [Of] a community, one of whom became unclean and it is not known which one [it was], R. Zeira said, “[They] should prepare [it] in uncleanness” [T. 7:15B].
5. **I:5:** Immi [said] in the name of R. Simeon b. Laqish, “Regarding erring] instruction [from a court which the community follows], go after [the number of Jews residing] in the Land of Israel. “Regarding uncleanness, go after the majority of those who enter the [Temple] courtyard.”

LV. YERUSHALMI PESAHIM 7:7

[A] A PASSOVER OFFERING, THE BLOOD OF WHICH WAS TOSSED, AND AFTERWARD IT BECOMES KNOWN THAT IT [THE PASSOVER OFFERING] WAS MADE UNCLEAN [AFTER IT HAD BEEN SLAUGHTERED] – THE [HIGH PRIEST’S] FRONTLET EFFECTS ACCEPTANCE.

1. **I:1:** The teaching [in the Mishnah] speaks of a case in which [the Passover offering] became unclean after [the blood] descended into the cavity of the utensil [used to receive the blood, which completes the act of tossing of the blood and enables the frontlet to propitiate]. But if [it] became unclean while it was above [the utensil], it is considered as [one] which receives water [and not blood, rendering the tossing invalid and the frontlet unable to propitiate].

[B] [IF] THE PERSON [OF ANY OF THE SACRIFICERS] WAS MADE UNCLEAN, THE HIGH PRIEST’S FRONTLET DOES NOT EFFECT ACCEPTANCE. FOR THEY HAVE STATED: AS TO THE NAZIRITE AND ONE WHO PREPARES THE PASSOVER OFFERING, THE HIGH PRIEST’S FRONTLET EFFECTS ACCEPTANCE DESPITE UNCLEANNESS

AFFECTING THE BLOOD, BUT THE HIGH PRIEST'S FRONTLET DOES NOT EFFECT ACCEPTANCE FOR UNCLEANNESS AFFECTING THE PERSON [OF THE SACRIFIER (THE ONE FOR WHOM THE RITE IS PERFORMED)]. [IF] ONE WAS MADE UNCLEAN BY REASON OF UNCLEANNESS IN THE NETHERMOST DEPTHS, THE HIGH PRIEST'S FRONTLET EFFECTS ACCEPTANCE.

- 1. II:1:** From where [do we derive the rule that the frontlet propitiates for] doubtful [uncleanness] of a grave of the deep [M. 7:7D]? R. Jacob b. Aha [said] in the name of rabbis, “[Comparing the two subjects of the following verse:] ‘[When any who are defiled by a corpse] or are on a long journey of you [or of your posterity and would offer a Passover sacrifice to the Lord]’ (Num. 9:10) – just as [your journey is a public fact] visible ‘to you’, so whatever [is ‘defiled by a corpse,’ which denotes a source of uncleanness, that] is visible [has the same effect of postponing a person to the second Passover], [thus] excluding a grave of the deep which is not visible.”
- 2. II:2:** Concerning a community which became unclean by reason of a doubtful [uncleanness of the] deep, what is the law? Should the frontlet propitiate for it [allowing the community to eat the meat and in this regard act differently from a community that had become unclean after sprinkling, which does not eat the sacrificial meat in uncleanness]? [The answer may be derived by logic with] an argument a fortiori: Now if an individual whose strength was weakened [i.e., who is at a disadvantage] in the case of a known [source of] uncleanness [in that the frontlet does not propitiate], [and] you increased his strength [i.e., put him at an advantage] in the case of a doubtful [uncleanness] of a grave of the deep [so that the frontlet does propitiate]; the community, the strength of which you increased in the case of a known [source of] uncleanness [in that the frontlet does propitiate], all the more should you increase its strength in the case of doubtful [uncleanness] of a grave of the deep! [Hence the answer to A should be in the affirmative.]
- 3. II:3:** [Assuming that the Mishnah refers to the frontlet's propitiating for the uncleanness of the owners:] The officiating priest for the Passover offering, what is the law? Would the frontlet propitiate for him [should he become unclean with uncleanness of the deep]? [The answer may be derived by logic with] an argument a fortiori: Now if the owners [of the Passover animal] whom you have placed at a disadvantage when [one of them is] an elderly or sick person [for the Passover offering, which was initially brought solely for consumption (M. 7:4) is not slaughtered for them, for they presumably are incapable of eating], yet you placed them at an advantage in the case of a

doubtful [uncleanness] of a grave of the deep [in that the frontlet does propitiate], then the officiating priest whom you placed at an advantage in the case of an elderly or sick person [i.e., should the priest be elderly or sick, he is fit to officiate, for his fitness is not contingent on his ability to eat], all the more so should you place him at an advantage in the case of doubtful [uncleanness] of a grave of the deep! [Hence the answer to A should be in the affirmative.]

4. **II:4:** What is a grave “of the deep” [which would be considered unknown to people]? A corpse that is buried in stubble or straw, earth or pebbles [which by themselves might cover up a body], but that “which is buried in water or in a dark place or in clefts of boulders [places into which a body would not fall on its own and into which a passing person might see] does not make up a grave of the deep [T. Zabin 2:9A, C].
5. **II:5:** [As to M. Erub. 7:3, If a trench runs between two adjacent courtyards ten handbreadths deep and four handbreadths wide, they prepare two erubs and do not prepare one jointly even if it was filled up with stubble and straw; but if it was filled up with earth or pebbles, they) prepare one Erub (jointly) and do not prepare two Erubin:] The teaching [M. Erub. 7:3 in its discounting of a straw filler for the trench] is not in accord with R. Yosé, for R. Yosé said, “Straw [which is used to fill up a house containing a source of uncleanness and which makes the house unusable] and [one] negated it, it is [considered] negated, [and the contents of the house remain clean with the uncleanness assumed to move only upward and downward – for here Yosé considers straw, in addition to the earth and gravel specified in M. Ahilot and also mentioned in M. Erub. 7:3C but not discounted as a filler, as not readily removable from the house and hence permanently in place].”
6. **II:6:** What is a grave “of the deep”? Whatever a person does not remember. And be concerned to say lest there is someone in a far corner of the world [who] knows [of it] [cf. T. Zabin 2:9B]. [For] there is a presumption that a live person will be preoccupied with the dead [who is his fellow] You may explain that [one] found it [the dead remains] in a compressed condition [with its head next to its legs, suggesting that the person had been, for example, crushed by rocks and was never actually buried].
7. **II:7:** It is taught: “There is nothing that produces a grave of the deep except a corpse” [T. Zabin 2:9D]. Lo, a woman with a flux [Lev. 15] – (does) she not (produce a grave of the deep [a doubtful case of

uncleanness in the same manner])? Lo, an animal's carrion, [does] it not [produce a grave of the deep]? [But is it not a matter of an argument] a fortiori: Now, if the corpse which does not produce uncleanness of couch and seat [uncleanness caused by an unclean person's lying or sitting on an object] does produce uncleanness by reason of a grave of the deep, a woman unclean with flux, who does produce uncleanness of couch and seat, should [it] not logically produce uncleanness of a grave of the deep?

- 8. II:8:** There we learned: All animal sacrifices the blood of which was received [by] a commoner [non-priest], [a priest who is] an a mourner before the burial of his kinsman or one who immersed oneself that day and is waiting for sunset to become ritually clean, one missing [one of the required] garments, one whose atonement is incomplete [lacking only the sacrifice offered on the day after one's immersion], or one without washed hands or feet [as prescribed in Exod. 30:18-21], one uncircumcised, unclean, sitting, one standing on top of utensils [or] on top of an animal [or] on top of his fellow [without his feet on the floor] – [any one of these] is invalid [M. Zeb. 2:1]. The Southerners say, “We deal [in M. Zeb. 2:1's reference to an unclean priest] with one unclean by reason of uncleanness of a flux or uncleanness of leprosy. But [assuming that we may treat alike a community and an individual priest in regard to uncleanness caused by a corpse, a priest] unclean by reason of a corpse does not disqualify [the animal sacrifices] since [uncleanness of a corpse] was excepted from the general rule of uncleanness for the community regarding a Passover offering [in that the community is permitted to prepare the Passover offering in uncleanness].” [Claiming that an officiating priest unclean by corpse uncleanness does disqualify:] Retorted R. Simeon b. Laqish to the Southerners, “[No.] If the owners [of the sacrifice] whom you placed at an advantage in regard to all the remaining [cases of] uncleanness in the year [so that even when unclean they may send sacrifices], yet you placed them at a disadvantage when one is unclean by reason of a corpse in regard to a Passover offering [in that such a person must wait to prepare a second Passover], then an officiating priest whom you have placed at a disadvantage in regard to all the remaining [cases of] uncleanness of the entire year [in that he might not officiate], is it not logical that you should place him at a disadvantage in the case of uncleanness by reason of a corpse in regard to a Passover offering?”

LVI. YERUSHALMI PESAHIM 7:8

[A] [If] THE WHOLE OR THE LARGER PART [OF THE PASSOVER OFFERING] WAS MADE UNCLEAN, THEY BURN IT BEFORE THE TEMPLE BUILDING, WITH WOOD SET ASIDE FOR THE ALTAR HEARTH. [If] THE LESSER PART OF IT WAS MADE UNCLEAN, AND AS TO THAT WHICH REMAINS OVER [AND IS NOT EATEN IN THE TIME LIMIT SET FOR THE EATING OF THE PASSOVER OFFERING] – THEY BURN IT IN THEIR COURTYARDS OR ON THEIR ROOFS WITH THEIR OWN WOOD. BUT THE CHEAPSKATES BURN IT BEFORE THE TEMPLE BUILDING, SO AS TO ENJOY THE USE OF WOOD SET ASIDE FOR THE ALTAR HEARTH [INSTEAD OF USING THEIR OWN].

1. **I:1:** Hama bar Uqba in the name of R. Yosé b. Haninah [says], “In order to expose him to proclaim that [the one burning the sacrifice] spoiled it.” [If a person] said, “Behold I will burn it before the Temple mount with my own wood [as if to appear magnanimous despite his initial negligence in allowing the animal to become unclean]” – they do not listen to him [T. 3:13].
2. **I:2:** [Explaining why they do not allow a person to burn a minor part of an unclean offering before the Temple mount with his own wood:] Said R. Jeremiah in the name of R. Hila, “To proclaim [to] the one who comes after him that [the one who is burning his unclean offering] is stingy.” [Because burning before the Temple mount is always done with the public wood of the altar pile, whoever is not required to burn there and does so appears blatantly stingy. To insure that such a burning conveys this message, no one is permitted to use his private wood at the Temple mount.]
3. **I:3:** [Contrasting the differing requirements for burning unclean meat with the wood pile of the altar found in M. 7:8, which specifies that the whole or most of the animal become unclean, and in M. 3:8, which treats even a small amount of unclean sacred meat: one who has gone out from Jerusalem and remembers that he has in his possession sacred meat which thereby becomes invalid” and yet which states: “if it had not gone beyond the lookout spot outside Jerusalem he returns and burns it before the Temple mount with the woodpile of the altar:] They] made a leniency in regard to a traveling guest S [the pilgrim in M. 3:8, who could not be expect to have a personal source of wood and hence may make use of the public pile (without being considered “stingy”)].

4. **I:4:** Said R. Yohanán, “A tower stood on the Temple mount and was called birah.” R. Simeon b. Laqish said, “The whole Temple mount was called birah.”

LVII. YERUSHALMI PESAHIM 7:9

- [A] **THE PASSOVER OFFERING WHICH WENT FORTH [FROM JERUSALEM] OR WHICH WAS MADE UNCLEAN IS TO BE BURNED IMMEDIATELY [ON THE FOURTEENTH]. [IF] THE OWNER WAS MADE UNCLEAN OR DIED, ITS APPEARANCE IS ALLOWED TO SPOIL, AND IT IS TO BE BURNED ON THE SIXTEENTH OF NISAN.**
1. **I:1:** Teaches R. Hiyya: “[A case of] unfitness in itself is burned immediately. [A case of] unfitness, regarding a precondition [of the offering that does not make the animal in itself unfit, for example, when the owners died or became unclean] requires [disfigurement of] appearance [being left to spoil overnight]” [T. 6:6].
- [B] **R. YOHANAN B. BEROQAH SAYS, “ALSO: HIS IS TO BE BURNED IMMEDIATELY, FOR IT HAS NO ONE TO EAT IT.”**
1. **II:1:** Hama bar Uqba in the name of R. Yosé bar Haninah [said], “R. Nehemiah [as cited in B below] and R. Yohanán b. Beroqa [as cited in M. 7:9C] both said the same thing.” For it is taught [in a passage which speaks in regard to Leviticus 10’s account of Aaron, who, after the death of his sons Nadab and Abihu during the period of priestly initiation, burned the goat of the sin offering rather than eating of it]: Said R. Nehemiah, “[Because of the pre-mourning period between a relative’s death and burial) it was burned. Therefore it was said (in Aaron’s response to Moses’ reprimand, Lev. 10:19): ‘See, this day they brought their sin offering and their burnt offering before the Lord, and such things have befallen me. Had I eaten sin offering today, would the Lord have approved?’ [Aaron on his own followed the principle represented, for example, in Deut. 26:14, which speaks of the inappropriateness of eating consecrated objects while in mourning.]”
2. **II:2:** We learned there: A sin offering the blood of which was received in two cups – [if] one of them went out [of the Temple’s courtyard], the inner one [remains] fit; [if] one of them went inside [into the sanctuary within the Temple], R. Yosé the Galilean declares the one [remaining] on the outside [part of the Temple] fit and sages declare [it] unfit [M. Zeb. 8:12]. [Said R. Eleazar, “Know that it [the case of M. Zeb. 8:12’s two cups of blood, one of which became disqualified by being taken into the sanctuary,] is [an instance of] unfitness

regarding a precondition of the offering according to R. Yosé the Galilean, for behold its companion cup remains outside [within the Temple courtyard] and it is fit. “Know that it [this case] is [an instance of] unfitness of [the offering] itself according to rabbis [Yosé the Galilean’s disputants, termed in the Mishnah “sages”], for behold it remains within its precinct [within the Temple courtyard when the other cup had been taken inside the sanctuary] and it is unfit.” [Assuming that Yosé’s and sages’ views in M. Zebahim differ over the notion of “all” or “part” of the blood and explaining how each would interpret Moses’ criticism of Aaron, “Since its blood was not brought inside the sanctuary, you should certainly have eaten it in the sanctuary, as I commanded” (Lev. 10:18)]

- 3. II:3:** It is taught [in regard to Lev. 6:17-23’s rule of the sin offering]: R. Yosé the Galilean says, “This whole case refers only to bullocks that are to be burned and goats that are to be burned [i.e., not to an outer sin offering but to an inner sin offering (e.g., that of a whole community that sins in ignorance and whose bull, after its sacrificial blood rite, is burned outside the camp, as described in Lev. 4:13-21)] to impose regarding them a negative prohibition for eating them and to teach that their unfit [specimens] are burned on the Temple mount [instead of being taken outside the camp, i.e., outside the Temple].” They said to him, “Whence [do we know] that a[n outer] sin offering, if some of its blood went inside, should be unfit?” He said to them, “Not from this verse [Lg adds: “which is written”], ‘Since its blood was not brought into the sanctuary [you should certainly have eaten it in the sanctuary]’ (Lev. 10:18)?” Lo, it does not say, “some of its blood” (MDMH, but rather “all of its blood” [i.e., the unqualified “its blood” is assumed to denote blood without qualification or limitation, and thus “all” the blood]?)

LVIII. YERUSHALMI PESAHIM 7:10

[A] BONES, SINEWS, AND THAT WHICH IS LEFT OVER [AND NOT EATEN WITHIN THE STATED LIMITS] ARE TO BE BURNED ON THE SIXTEENTH OF NISAN. [IF] THE SIXTEENTH OF NISAN COINCIDES WITH THE SABBATH, THEY ARE TO BE BURNED ON THE SEVENTEENTH. FOR [BURNING] THEM DOES NOT OVERRIDE THE PROHIBITIONS EITHER OF THE SABBATH OR OF A FESTIVAL DAY.

- 1. I:1:** A bone on which there is no flesh – R. Yohanan said, “It is prohibited to break it.” R. Simeon b. Laqish said, “It is permitted to break it.”

2. **I:2:** And let [one] strip the flesh from the bone and enjoy the bone? [Why then does the Mishnah require burning of the bone?]
3. **I:3:** R. Immi [said] in the name of R. Eleazar, “Why did [they] say, ‘The bones and the sinews and the leftover portions should be burned on the sixteenth ‘ [M. 7:10A? “Because one who burns [the bone prior to that time] falls under the category of [one who] breaks [a bone].” [This rationale apparently assumes that breaking a bone applies only to fit bones and not to those that have become unfit by being left over.]
4. **I:4:** Samuel said, “[They] are registered [for a Passover offering] on the marrow in the head, and [they] are not registered on the marrow in the bone.” R. Yohanan said, “[They] are registered on the marrow in the bone [apparently because a person may remove the marrow by burning with a coal, which is not to be considered equivalent to breaking].”

LIX. YERUSHALMI PESAHI M 7:11

[A] WHATEVER IS EATEN OF A FULL-GROWN OX MAY BE EATEN OF A TENDER LAMB, EVEN THE ENDS OF THE SHOULDER BLADES AND THE GRISTLY PARTS.

1. **I:1:** Soft sinews that are not necessarily destined to harden] – R. Yohanan said, “[People] are registered on them [so that the sinews would comprise their portion in the Passover offering].” R. Simeon b. Laqish said, “[People] are not registered on them.”

[B] HE WHO BREAKS THE BONE OF A PASSOVER OFFERING WHICH IS IN A STATE OF CULTIC CLEANNES — LO, THIS PERSON RECEIVES FORTY STRIPES.

1. **II:1:** And how much must one break [in a bone of the Passover offering so as to make oneself liable]? R. Yosé and R. Zeira [said] in the name of R. Yohanan, “Sufficient that a hand become caught.” R. Jonah said [that] R. Zeira and R. Ba, both of them said in the name of R. Yohanan [the following differing reports]: “One said, ‘Sufficient that a hand become caught,’ and the other said, ‘Even [sufficient for] a fingernail [to become caught].”

[C] BUT ONE WHO LEAVES OVER [ANY PART] OF A PASSOVER OFFERING WHICH IS IN A STATE OF CULTIC CLEANNES AND ONE WHO BREAKS A BONE OF A PASSOVER OFFERING WHICH IS IN A STATE OF CULTIC UNCLEANNES DO NOT RECEIVE FORTY STRIPES.

1. **III:1:** R. Abun in the name of R. Eleazar [said], “The teaching deals with a case in which [the offering] initially came in [a state of] uncleanness, but if it came in [a state of] cleanness and [then] became unclean [it is considered] like [one] that came in [a state of] cleanness and they impose lashes on breaking it[s bone].”

LX. YERUSHALMI PESAHIM 7:12

[A] A LIMB [OF A PASSOVER OFFERING] PART OF WHICH PROJECTED OUTSIDE [OF JERUSALEM] – ONE CUTS IT AWAY UNTIL HE REACHES THE BONE, PARES OFF THE FLESH UNTIL HE REACHES THE JOINT, AND THEN HE CUTS IT AWAY. AND IN THE CASE OF HOLY THINGS, HE [SIMPLY] CHOPS IT OFF WITH A CHOPPER. FOR TO [ANY OF THE HOLY THINGS EXCEPT FOR THE PASSOVER OFFERING], THE LAW AGAINST BREAKING A BONE DOES NOT APPLY.

1. **I:1:** R. Simon, R. Joshua b. Levi in the name of bar Pedayah, “Sacrificial meat in the status of refuse and remnant of sacrificial meat join to impart uncleanness to hands, bringing about a punishment when they comprise an olive’s amount.”
2. **I:2:** That part [of the offering that] projects out [from the holy precincts, thereby becoming invalid], what do you do with it? Does it impart uncleanness to hands or does it not impart uncleanness to hands? [Assuming that eating sacrificial meat in the status of refuse and remnant of sacrificial meat poses more severe consequences than eating a portion of an offering that projects out from the holy precincts:] If you say: that part that projects out [a violation for which milder preventive measures are needed than for preventing eating an offering after its proper time, as in remnant of sacrificial meat or sacrificial meat in the status of refuse] imparts uncleanness to hands, [then logically] sacrificial meat in the status of refuse and remnant of sacrificial meat surely render heave offering invalid [for they cannot be in the same status as a sacrificial portion that projects out]? If you say: the sacrificial meat in the status of refuse and remnant of sacrificial meat do not render heave offering invalid, that part that projects out was not subject to any type of preventive measure. For otherwise [if you declare that part to be capable of imparting uncleanness], the outer portion would impart uncleanness to the inner portion’ [which would invalidate the entire offering – a position no one would entertain; it would run counter to M. 7:12, which sets out a procedure for cutting and separating limbs that extended outside of the designated area].

[B] FROM THE DOORSTEP AND TOWARD THE INNER PART OF THE CITY IS AN AREA DEEMED INSIDE THE CITY. FROM THE DOORSTEP AND OUTWARD IS AN AREA DEEMED OUTSIDE THE CITY. THE WINDOWS AND THE THICK PART OF THE WALL ARE DEEMED AN AREA INSIDE THE CITY:

- 1. II:1:** Ba in the name of R. Judah [said], “They did not sanctify below the door frame of Jerusalem [within the area of the door way].” R. Jeremiah in the name of R. Samuel b. R. Isaac, “[They left that location unconsecrated] so that the lepers could protect themselves below them [under the city gates] in sunny weather from the sun and in rainy weather from the rain.”
- 2. II:2:** Rab asked R. Hiyah the Elder, “What is the law regarding the roofs of Jerusalem?” He said to him, “From [the fact] that they spin a parable: [When there were so many people registered on Passover lambs, each received a portion of] a Passover offering in [the size of] an olive and the Hallel [sung during the eating of the offering] breaks the roofs [due to the overpowering sound] – this indicates that the roofs of Jerusalem are sanctified [for the people ate the offerings thereon].” R. Jeremiah, R. Meesha [in the name of] R. Samuel b. R. Isaac in the name of Rab, “The roofs of Jerusalem are unconsecrated [not sacred].” And lo, we learned, “From the door frame and within [is considered] as within, and from the door frame and outward [is considered] as without” [M. 7:12C] [which suggests everything on the inner side of the doorway of Jerusalem is holy, even the roofs of the houses within that area].

LXI. YERUSHALMI PESAHIM 7:13

[A] TWO ASSOCIATIONS [REGISTERED FOR TWO SEPARATE PASSOVER OFFERINGS] THAT WERE EATING IN ONE ROOM – THESE TURN THEIR FACES TO ONE SIDE AND EAT, AND THOSE TURN THEIR FACES TO THE OTHER SIDE AND EAT. AND THE KETTLE IS IN THE MIDDLE [BETWEEN THEM].

- 1. I:1:** It is written, “[It shall be eaten in one house;] you shall not take out from the house any of the flesh outside” (Exod. 12:46). I only know [from this verse regarding] outside the house; where [do I learn regarding] outside the association? The teaching [the verse] says, “You shall not take out outside.” [The command is assumed to have two referents, one to “the house” and the one to “the flesh,” and the last word, “outside,” is understood to relate in particular to the second referent: “do not take out from the house” and “do not take out from the flesh outside.” The latter command thereby states: “do not take the

flesh outside the place of its eating.” Said R. Yudan, “From here [we learn] that if [one, after starting to eat with the association,] said, ‘Behold I am outside the association’ [yet continues to eat] – that person [is considered to have dissociated himself from the association and] becomes liable [for violating the ban, even if there is no other association in the house.” Said R. Mana, “Let the verse state, ‘Do not take out outside’ [meaning outside the place of its eating] and we would say: if one is liable [for taking flesh] outside the association, all the more [so would one be liable when one took the flesh] outside the house?”

- 2. II:2:** If the members of the association] registered on the Passover offering – [if] one [person] took out [flesh in the measure of] an olive, [that person is] liable; [if] two or three [took out an olive’s amount, they are] exempt [from liability for punishment for violating a negative commandment], because the members of the association are fit to extend themselves to them [moving the site of the association to the place of the two or three individuals – something that would not be fitting for them to do for a solitary individual] though they violate a positive commandment [of “it shall be eaten in one house” (Exod. 12:46), which was understood to require eating the offering in one location]. And according to R. Simeon, even a positive commandment [they] do not violate, for it is taught: “‘The houses in which they are to eat it’ (Exod. 12:7) – [this use of the plural form of house] teaches that the Passover offering is eaten in two places [i.e., it may be allocated to two associations]. “Perhaps also those who eat it may eat it in two places [i.e., that they be free to roam about eating it]? “The teaching [the verse, therefore] states, ‘It shall be eaten in one house.’ How is this so? A Passover offering is eaten in two places, but its eaters do not eat it in two places. [Different parts of the animal may be eaten by different people in separate associations in two locations, but the same individuals may not eat it in the two places]” “R. Simeon says, ‘Even its eaters eat it in two places.’”

[B] AND WHEN THE WAITER [WHO EATS WITH ONE ASSOCIATION BUT SERVES THEM BOTH] STANDS UP TO MIX THE WINE [OF THE COMPANY WITH WHICH HE IS NOT EATING], HE SHUTS HIS MOUTH AND TURNS HIS FACE AWAY UNTIL HE GETS BACK TO HIS OWN ASSOCIATION, AND THEN CONTINUES EATING. AND A BRIDE TURNS HER FACE ASIDE WHILE SHE EATS:

- 1. II:1:** A waiter who ate [flesh of a Passover offering in the amount of] an olive and he was at the side of the oven [and not with the rest of the association with which he is registered], if he is clever, he fills his stomach from it [from the oven – because once he moves from there,

he (as an individual) may no longer eat the flesh with the rest of the original group, for he may not eat in two locations]. If [the members of the association] wanted to honor him, [they] come and eat with him at the side of the oven. And if not, they give him his portion and [he] eats in his place.

2. **II:2:** An individual [from a association, during the time of eating] roams around the whole house and a association does not roam around the whole house. And do we not learn: “Two associations [what were eating (the Passover offering) in the same house – these (members of one association) turn their faces this way and eat and those (members of the other association) turn their faces that way and eat]” [M. 7:13A] [– the requirement to turn faces seems to apply to each individual of the association and so to suggest that they all must be together in the association, which would preclude one of them from roaming about]? This [implication that an individual must remain with the association] applies only regarding two [associations, when both of them are in a single house], lo, [regarding] one, no [then an individual may roam about].

LXII. YERUSHALMI PESAHIM 8:1

[A] A WOMAN, WHEN SHE IS IN THE HOME OF HER HUSBAND – [IF] HER HUSBAND SLAUGHTERED [A PASSOVER OFFERING] IN HER BEHALF, AND HER FATHER SLAUGHTERED [A PASSOVER OFFERING] IN HER BEHALF, [SHE] SHOULD EAT OF THAT WHICH IS SLAUGHTERED BY HER HUSBAND. [IF] SHE WENT TO OBSERVE THE FIRST FESTIVAL [AFTER MARRIAGE] IN HER FATHER’S HOUSE, [IF] HER FATHER SLAUGHTERED [A PASSOVER OFFERING] IN HER BEHALF, AND HER HUSBAND SLAUGHTERED [A PASSOVER OFFERING] IN HER BEHALF, LET HER EAT IN WHICHEVER PLACE SHE WANTS.

1. **I:1:** [Addressing (originally) the meal offering for a suspected adulteress, which, according to Num. 5:15, her husband brings, and in response to the question whether, if we assume the husband may set aside the meal offering for her without her knowledge because he is a partner in it with her, may another person do so as well?] Said R. Yohanan, “[In the case of] four [types of individuals who are] lacking purification, they designate [an offering] for them without their knowledge. And these are they: a one unclean with flux [Lev. 15] [a man with a flux] and a zabah [a woman who bled for three days running, making her a severe hemorrhage (Lev. 15:25)], and one who gives birth, and a leper, “for similarly a person designates [one of these

offerings] for his infant child [lit., ‘son’] when [even] he is in the crib.” [The cases are analogous in that while the infant is not capable of knowledge, the four lacking purification are without knowledge, and those incapable of knowledge (a category usually defined as a minor or one deaf and dumb) could be in a situation of “lacking purification.” For example, a priest feeds his infant sacred produce even if he had become unclean by reason of a zabah and lacks the mental capacity to bring an offering (see M. Neg. 14:12) – because he has designated an offering for him without his knowledge]. Rather: “For similarly a person designates [an offering] for his deaf-and-dumb wife.” [The deaf-and-dumb wife continues to eat from her husband’s sacred produce even after she gives birth, for her husband brings an offering for her purification without her knowledge.] [Making clear how Yohanan’s comment illuminates the initial question:] And here [in the case of a suspected adulteress in regard to] a suspected adulteress who was a minor, you cannot [apply Yohanan’s proposition to argue that another person may bring an offering for her, as is now explained:] for R. Zeira said [in the name of] R. Yosé in the name of R. Yohanan “A minor [married girl] who committed harlotry does not have the volition [to have committed her sin willingly with the knowledge of its consequences] so as to become forbidden to her husband.” [Since by definition a suspected adulteress must have capacity for knowledge, she must bring an offering for herself; her husband comprises an exception because he has partnership with her in it and not because he is doing it to benefit her and atone for her.] And [similarly in regard to] a deaf-and-dumb female, you cannot [apply Yohanan’s proposition to argue that a person may bring an offering for the deaf and dumb] for it is written [with respect to the woman who undergoes the ordeal of the suspected adulteress], “And the woman should say ‘Amen, amen’” (Num. 5:22) [and a deaf-and-dumb person could not make that declaration]. [Rejecting H:] Said R. Abun, “[The case of a suspected adulteress] is different, for [y. Sotah reads ‘since’] it is written [regarding the pilgrimage], ‘And you and your household should rejoice’ (Deut. 14:26), [y. Sotah adds: ‘and he is prevented from rejoicing with her, he designates (an offering) without her knowledge’].” [Since without the offering he cannot give her happiness and the offering makes her fit for the household, the husband *like anyone else* may bring an offering for her – and the husband does not comprise a special exception because he has partnership with her in the sacrifice.]

2. **I:2:** Said R. Yohanan, “They taught [that the woman eats with her father] in regard to an ‘anxious festival’ (*regel redufin*).” [Because of

that special situation, the wife on the first festival eats with her father, but otherwise she could or would eat with her husband – as M. 8:1B contemplates.]

3. **I:3:** Said R. Eleazar, “The Passover offering of women is optional, but for it they [nevertheless] override the Sabbath.” R. Jacob b. R. Aha in the name of R. Eleazar [said], “The Passover offering of women and of slaves is optional, [and] all the more so for it they override the Sabbath.” Their unleavened bread, what is it [is it eaten as a requirement or an optional act]? R. Eleazar said, “It is an obligation.” R. Zeira said, “[It is subject to a] dispute.” [Whoever says that the Passover offering is obligatory holds that the unleavened bread is obligatory, and whoever says that the offering is optional holds that the unleavened bread is optional.] R. Hila said, “[It is a] unanimous opinion.” [Even those who say that the offering is optional hold that the unleavened bread is obligatory.]

[B] A [MINOR] ORPHAN IN BEHALF OF WHOM [SEVERAL] GUARDIANS HAVE SLAUGHTERED [A PASSOVER OFFERING] EATS IN THE PLACE WHICH HE WANTS.

1. **II:1:** The teaching treats a case of a minor orphan [whose preference is inconsequential because he is under the authority of the guardians], but in the case of an adult orphan, should we consider [it] like one who registers himself on two Passover offerings simultaneously? For teaches R. Hiyya, “One who is registered on two Passover offerings simultaneously eats from whichever of them is slaughtered first [for whatever is first will satisfy him since presumably he does not have a preference regarding from which offering he eats]” [T. 7:3].

[C] A SLAVE BELONGING TO TWO PARTNERS SHOULD NOT EAT [OF A PASSOVER OFFERING] BELONGING TO EITHER ONE OF THEM.

1. **III:1:** Yosé says, “His master has no right to tell him, ‘You are not permitted to be registered on the Passover offering.’ Rather he says to him, ‘You are not permitted to be registered on this [animal] – only on this [other animal].” [Since an owner may forbid his slave (or portion of his slave) to eat from his own or from another person’s offering, the slave may not find an appropriate offering to eat. The Mishnah thus treats a case in which the masters are particular.] Sometimes he is registered on three Passover offerings simultaneously. How so? A slave of two partners must be registered on the Passover offering [where the owners do not object, the slave may be registered, for example, on his own offering, for otherwise each owner could forbid the slave to eat from the other owner’s offering]. [If then] one of them manumitted his portion, [the slave] must be registered on another

Passover offering [for his side with the newly acquired manumitted identity may no longer be under the registration for a slave]. [If then] both of them manumitted him [i.e., the second owner now joined in manumitting his half], he must be registered on another Passover offering [for he has undergone an additional change in status, becoming fully free.]

[D] HE WHO IS HALF-SLAVE AND HALF-FREE SHOULD NOT EAT [OF THE PASSOVER OFFERING] OF HIS MASTER.

- 1. IV:1:** R. Hiyya in the name of R. Yohanan [said], “One who is half slave and half-free [who] sanctified a woman [to be his wife] – they are not concerned regarding sanctification [lest the marriage took effect].”

LXIII. YERUSHALMI PESAHIM 8:2

[A] HE WHO SAYS TO HIS SLAVE, “GO AND SLAUGHTER A PASSOVER OFFERING IN MY BEHALF” – [IF] HE SLAUGHTERED A KID, LET HIM EAT IT. [IF] HE SLAUGHTERED A LAMB, LET HIM EAT IT.

- 1. I:1:** Teaches R. Hiyya, “One who is registered on two Passover offerings simultaneously eats from whichever of them is slaughtered first, [for whatever is first will satisfy him since presumably he does not have a preference regarding from which offering he eats]” [T. 7:3].

[B] [IF] HE SLAUGHTERED BOTH A KID AND A LAMB, LET HIM EAT FROM THE FORMER. [IF THE SLAVE] FORGOT WHAT HIS MASTER SAID TO HIM, WHAT SHOULD HE DO? LET HIM SLAUGHTER BOTH A KID AND A LAMB AND SAY, “IF MY MASTER TOLD ME TO PREPARE A KID, THE KID IS HIS AND THE LAMB IS MINE, AND IF MY MASTER TOLD ME TO PREPARE A LAMB, THE LAMB IS HIS AND THE KID IS MINE.” [IF THE SLAVE DID AS SPECIFIED BUT] HIS MASTER FORGOT WHAT HE HAD SAID TO HIM, BOTH OF THEM [THE ANIMALS KILLED BY THE SLAVE] GO OUT TO THE PLACE OF BURNING. BUT THEY ARE EXEMPT FROM THE REQUIREMENT OF PREPARING THE SECOND PASSOVER.

- 1. II:1:** Eleazar and R. Yohanan, both of them say, “It [the author of the Mishnaic passage who in M. 8:2D does not require the preparation of the second Passover and thus makes the act of slaughter and its auxiliary acts, including tossing of the blood, crucial] is R. Nathan, “for R. Nathan said, ‘[They] fulfill their obligation with tossing [of the blood of the Passover offering] without eating.’”

LXIV. YERUSHALMI PESAHIM 8:3

[A] HE WHO SAYS TO HIS CHILDREN, “LO, I SHALL SLAUGHTER THE PASSOVER OFFERING IN BEHALF OF THE ONE OF YOU WHO WILL GET UP TO JERUSALEM FIRST” — ONCE THE FIRST [CHILD] POKED HIS HEAD AND THE GREATER PART OF HIS BODY INTO THE CITY, HE HAS EFFECTED ACQUISITION OF HIS SHARE AND HAS FURTHERMORE EFFECTED ACQUISITION IN BEHALF OF HIS BROTHERS ALONG WITH HIMSELF. UNDER ALL CIRCUMSTANCES DO [PEOPLE] REGISTER WITH [A PASSOVER OFFERING] SO LONG AS THERE IS AN OLIVE’S BULK OF MEAT FOR EACH AND EVERY ONE OF THEM. THEY REGISTER AND THEN WITHDRAW THEIR REGISTRATION FROM IT UNTIL THE MOMENT THAT ONE WILL SLAUGHTER IT. R. SIMEON SAYS, “UNTIL ONE WILL TOSS THE BLOOD ON HIS BEHALF.”

1. I:1: Said R. Yohanan, “Do not [understand] here, ‘Behold I will slaughter’ [literally]. Rather [the text means], ‘I will designate.’ And why does it teach, ‘Behold I will slaughter’? In order to prod [them to go to Jerusalem quickly].”
2. I:2: R. Eleazar in the name of R. Hoshaiia [said], “It is a stipulation imposed by the court that one designates his Passover offering and the other designates his coins [so as to obtain a portion in someone else’s animal], [the former] assigns him [the latter] a portion from his [animal] and the coins [the former receives] become unconsecrated by themselves.” [The Passover offering is distinct from other sacrifices in that one may sell a part of one’s already-sanctified offering, and the coins are unconsecrated even though they are redeemed by an already consecrated animal; coins normally, however, do not revert to unconsecrated status unless redeemed for an unconsecrated animal which takes upon itself the consecration.]
3. I:3: On what basis in Scripture do we know that they register [on a Passover offering]?

LXV. YERUSHALMI PESAHIM 8:4

[A] HE WHO REGISTERED OTHERS IN HIS SHARE [OF THE PASSOVER OFFERING] — THE [OTHER] MEMBERS OF THE ASSOCIATION HAVE THE RIGHT TO GIVE HIM HIS SHARE [TO EAT ELSEWHERE], AND HE EATS WHAT IS HIS, AND THEY EAT WHAT IS THEIRS.

1. **I:1:** The members of the association one of whose members had strong hands [that could quickly grab food] have the right to tell him, “Take your share and eat by yourself.” [They may do this] not only [regarding the] Passover offering but even if [the members of the association] made a joint meal, they have the right to tell him, “take your share and eat by yourself” [T. 7:10].

2. **I:2:** Huna said, “[If a person] designated his Passover offering and said, ‘On condition that no one else will be registered with me’ – no one else may be registered with him. [But if] he designated it without any reservation, all who will come are its registrants [as if included in the initial act of designation].” R. Jacob b. Aha [said] in the name of R. Zeira, “Did the teaching say likewise? “‘But if the household is too small [for a lamb] (Exod. 12:4)’ – [this] teaches that they may decrease [themselves] in number [by withdrawing from the offering] so long as there be there one from the first association and one from the second association’ – the words of R. Judah. R. Yosé says, ‘Whether from the first or the second [association], so long as [they] do not leave the Passover offering by itself [ownerless – for any moment]’ [T. 7:7B]. If you say, “All who will come are its registrants,” there is no difference whether they are members of the first or second association [for, retroactively included in the initial dedication, they are all equally “its registrants”]?”

LXVI. YERUSHALMI PESAHIM 8:5

[A] A PERSON AFFLICTED WITH FLUX UNCLEANNESS WHO HAS EXPERIENCED TWO APPEARANCES OF FLUX – THEY SLAUGHTER [THE PASSOVER OFFERING] IN HIS BEHALF ON THE [EVENING OF] THE SEVENTH DAY [LEV. 15:1]. [IF] HE EXPERIENCED THREE, THEY SLAUGHTER [THE PASSOVER OFFERING] IN HIS BEHALF ON HIS EIGHTH DAY. A WOMAN WHO AWAITS DAY BY DAY [SINCE SHE HAD A FLOW DURING THE ELEVEN DAYS BETWEEN ONE MENSTRUAL PERIOD AND THE NEXT AND HAS IMMERSSED AND NOW AWAITS A COMPLETE DAY FREE OF FLOW, AFTER WHICH SHE IS CLEAN] – THEY SLAUGHTER [A PASSOVER OFFERING] IN HER BEHALF ON HER SECOND CLEAN DAY [FOR THE REASON GIVEN ABOVE]. [IF] SHE EXPERIENCED A FLOW ON TWO SUCCESSIVE DAYS, THEY SLAUGHTER [A PASSOVER OFFERING] IN HER BEHALF ON THE THIRD DAY. AND AS TO A WOMAN AFFLICTED WITH FLUX UNCLEANNESS [HAVING HAD THREE DISCHARGES], THEY SLAUGHTER [A PASSOVER OFFERING] IN HER BEHALF ON THE EIGHTH DAY.

1. **I:1:** Teaches R. Hiyya: “A menstruant – [they] slaughter [a Passover offering] for her on the eighth [day – for a menstruant does not immerse herself until the night of her eighth day, after which she must await the daylight hours of that day and experience the sun setting in order for her to become fit to eat holy things]. One who has intercourse with a menstruant [who thereby becomes unclean] – [they] slaughter [a Passover offering] for him on the seventh [day – for he may immerse on the seventh day itself and therefore experience the setting of the sun on that day, after which he may eat holy things].”

LXVII. YERUSHALMI PESAHIM 8:6

[A] **IN BEHALF OF (1) ONE WHO SUFFERS A BEREAVEMENT OF A CLOSE RELATIVE ON THAT SAME DAY, (2) ONE WHO HAS THE TASK OF CLEARING AWAY A RUIN [AND MAY, IN FACT, THEREBY SUFFER CORPSE UNCLEANNESS], AND SO TOO: (3) ONE WHOM THEY HAVE PROMISED TO FREE FROM PRISON – (4) A SICK PERSON, AND (5) A SENILE PERSON, [BOTH OF WHOM] CAN EAT AN OLIVE’S BULK OF THE MEAT OF A PASSOVER OFFERING – THEY SLAUGHTER [A PASSOVER OFFERING]. IN THE CASE OF ALL OF THESE, [HOWEVER], THEY DO NOT SLAUGHTER [A PASSOVER OFFERING] IN THEIR BEHALF ALONE, LEST THEY LEAD THE PASSOVER OFFERING TO SUFFER INVALIDATION. THEREFORE, IF SOME FORM OF INVALIDATION BEFELL THEM, THEY ARE EXEMPT FROM HAVING TO PREPARE A SECOND PASSOVER OFFERING, EXCEPT IN THE CASE OF ONE WHO HAS THE TASK OF CLEARING AWAY A RUIN, FOR [IF HE UNCOVERS A CORPSE] HE IS UNCLEAN TO BEGIN WITH [AT THE TIME THAT HE ANIMAL WAS SACRIFICED].**

1. **I:1:** R. Yosé b. R. Bun, Abba b. Bar Hanah in the name of R. Yohanan, “The teaching [in the Mishnah] deals with a case in which Israelites imprisoned him [then the promise to free him may be relied on], but if gentiles captured him [their promise is unreliable as conveyed in the following verse speaking of foreigners:] ‘Whose mouths speak lies and whose oaths are false’ (Ps. 144:8). [The Mishnah] treats a case in which [the imprisoned person] was held outside of Jerusalem. But where [he is] held in Jerusalem, even [if] they did not promise him [that he would be freed, he] is like one whom they promised [for we can be assured that he will be in a position to partake of the Passover offering, because his share can be brought into the prison].”
2. **I:2:** At times he is considered like them [the other categories in M. 8:6]. At times they are considered like him. At times he is considered

like them”: [this] refers to [one who found a corpse after opening an] elongated heap, [for] I [may] say, “The blood was tossed for him before he reached the place of impurity” [and he is therefore exempt from bringing the second Passover]. At times they are considered like him” – in regard to a circular heap [where he is assumed to have overshadowed the corpse from the outset]: [if] an invalidation befell one of them between slaughtering and tossing [of the blood], they are considered like him in regard to a circular heap [for in being unfit during the time of tossing, they do not fulfill their requirement but must bring a second Passover offering].

LXVIII. YERUSHALMI PESAHIM 8:7

[A] “THEY DO NOT SLAUGHTER [A PASSOVER OFFERING] IN BEHALF OF A SINGLE INDIVIDUAL,” THE WORDS OF **R. JUDAH**. AND **R. YOSÉ** PERMITS [DOING SO]. EVEN IF THERE IS AN ASSOCIATION OF A HUNDRED PEOPLE WHO CANNOT EAT AN OLIVE’S BULK OF THE MEAT — THEY DO NOT SLAUGHTER [A PASSOVER OFFERING] IN THEIR BEHALF THEY DO NOT FORM AN ASSOCIATION CONSISTING ONLY OF WOMEN, SLAVES, AND [OR] CHILDREN.

1. **I:1:** Said R. Yohanan, “R. Judah’s [reasoning is based upon the following verse:] ‘You are not permitted to slaughter the Passover offering in one of your settlements’ (Deut. 16:5) [with the ‘in one’ taken to mean ‘for one,’ i.e., for one individual].”
2. **I:2:** It is taught: “[They] do not form a association of women and slaves and minors because [together] they increase licentiousness” [T. 8:6]. Bar Qappara teaches [the foregoing teaching with an alternative rationale]: “so as not to bring Holy Things to a state of disgrace [which might occur, because the specified individuals are not accustomed to taking the proper precautions regarding holy objects].”

LXIX. YERUSHALMI PESAHIM 8:8

[A] ONE WHO HAS SUFFERED A BEREAVEMENT OF A CLOSE RELATIVE IMMERSSES AND EATS HIS PASSOVER OFFERING IN THE EVENING, BUT [HE MAY NOT EAT ANY OTHER] HOLY THINGS [IN THAT EVENING]. HE WHO HEARS WORD [OF THE DEATH OF A CLOSE RELATIVE], AND HE WHO IS GATHERING UP BONES [FOR SECONDARY BURIAL] IMMERSSES AND EATS HOLY THINGS.

1. **I:1:** Said R. Yosé b. R. Bun, “The teaching [the Mishnah in differentiating between the eating of the Passover offering and other Holy Things] speaks of a case in which [a person] became a bereaved [individual] at the beginning [even before the slaughtering of the Passover offering or] between slaughtering and tossing [of the blood]. [As the law of the bereaved person is assumed to be in effect biblically during the day and only by rabbinic extension at night, its application at night depends on the nature of the injunction associated with eating or not eating the particular offering in question. On the one hand, it was not applied to prohibit the eating of the Passover offering, because the failure to eat a Passover offering entails extirpation, the divine punishment of “extirpation.” On the other hand, it was applied to prohibit eating other Holy Things, because the requirement to eat them is only a matter of a positive commandment.] But if [he became] a bereaved [person] after atonement [the tossing of the blood], it has already been favorably received [by God].” [Since in fulfilling the requirement to bring a Passover offering, he becomes free of the threat of extirpation and is enjoined to eat the offering only by way of a positive commandment, the evening extension of the law of bereavement remains in force and prohibits him from eating from that offering]
2. **I:2:** It is taught: “The day of hearing [of the death of a close relative] is like the day of burial, so far as rending [one’s garment in anguish] and [the rules of] mourning [such as overturning one’s bed] and counting the seven-day [period of mourning] and counting the thirty-day [period]. [But so far as] eating Holy Things is concerned, lo, they are like [the rule associated with] gathering bones one immerses and eats the Holy Things.”
3. **I:3:** It is taught: One who moves a coffin from place to place is not subject to [the mourning rites applicable to] gathering of bones. Said R. Aha, “This which you say [in A] refers to a stone coffin. But regarding a wooden coffin, [the person] is subject to [the mourning rites applicable to] gathering of bones.” Said R. Yosé, “Even regarding a wooden coffin, [a person] is not subject to [the mourning rites applicable to] gathering of bones.”

[B] A PROSELYTE WHO CONVERTED ON THE EVE OF PASSOVER [THE FOURTEENTH OF NISAN] – THE HOUSE OF SHAMMAI SAY, “HE IMMERSES AND EATS HIS PASSOVER OFFERING IN THE EVENING.” AND THE HOUSE OF HILLEL SAY, “HE WHO TAKES HIS LEAVE OF THE FORESKIN IS AS IF HE TOOK HIS LEAVE OF THE GRAVE [AND MUST BE SPRINKLED ON THE THIRD AND SEVENTH DAY AFTER CIRCUMCISION AS IF HE HAD SUFFERED CORPSE UNCLEANNESS].”

1. **II:1:** What is the reason of the House of Shammai? [Citing a verse from the account of the encounter with the Midianites, in which Moses tells the Israelites to purify themselves and the Midianite female child captives they had taken:] “You and your captives” (Num. 31:19) – Just as you did not become unclean until you entered the covenant [at Sinai], so your captives did not become unclean until they entered the covenant [hence, uncleanness that occurs before conversion does not require a process of purification]. What is the reason of the House of Hillel? “You and your captives” – just as you require sprinkling [for purification] on the third and seventh [days, as stipulated in Num. 31:19], so your captives require sprinkling on the third and seventh [days] [for uncleanness by reason of contact with a corpse that, prior to conversion, did not take effect but that now, after conversion, applies retroactively (as if the captives just had contact with a grave)]. [The situation of Numbers 31, which specifies that it applies to all those who had contact with a corpse, is assumed to be paradigmatic for the conversion of every gentile, in that all gentiles are assumed to have had contact with a corpse.]

2. **II:2:** A Nazir who became unclean through a condition of doubt [occurring in] a private domain – R. Hoshaya the Elder said, “The Nazir shaves [at the end of the seven-day period of purification that he had to undertake because he is considered to have become definitively unclean (Num. 6:9)].” R. Yohanan said, “The Nazir does not shave [for as he is not considered to have become definitively unclean, he does not undergo the process of purification], for we learn there: Every uncleanness from a corpse because of which a Nazir shaves [in that it aborts his period of Naziriteship] makes one liable on its account for entering the Temple. And every uncleanness from a corpse because of which a Nazir does not shave does not make one liable on its account for entering the Temple [M. Naz. 7:4]. [On the basis of the above principles, because one who experienced a condition of doubt in a private domain is not considered unclean as far as entering the Temple is concerned, that person does not have to shave.]”

LXX. YERUSHALMI PESAHIM 9:1

[A] “[THE LORD SAID TO MOSES, SAY TO THE PEOPLE OF ISRAEL, IF ANY MAN OF YOU OR OF YOUR DESCENDANTS IS UNCLEAN OR IS ON A LONG JOURNEY” (NUM. 9:9-10):] HE WHO WAS UNCLEAN OR ON A LONG JOURNEY, AND DID NOT OBSERVE THE FIRST [PASSOVER], LET HIM KEEP THE SECOND PASSOVER [ON THE FOURTEENTH OF IYYAR]. [IF] HE INADVERTENTLY OR

UNDER CONSTRAINT FAILED TO OBSERVE THE FIRST PASSOVER, LET HIM KEEP THE SECOND PASSOVER. IF SO, WHY IS IT SAID, “UNCLEAN...OR ON A LONG JOURNEY”? FOR THESE ARE EXEMPT FROM PUNISHMENT BY EXTIRPATION, AND THOSE ARE LIABLE TO PUNISHMENT BY EXTIRPATION [IF THEY DELIBERATELY REFRAIN FROM OBSERVING THE SECOND PASSOVER].

- 1.** **I:1:** [Whoever was unclean (M. 9:1A)]: “Unclean by [contact with] the dead” (Num. 9:10): I know only, [the case of one unclean by [contact with] the dead. Whence [do I know that] those who are forced [to omit the Passover offering] and those who err [and omit it are likewise able to fulfill their responsibility by offering the second Passover]? The teaching says: “Each and every man” (Num. 9:10) [which] included [these additional cases]. Thus far [what we have learned is] according to R. Aqiba [who derives legal rulings from repetitions in the biblical text]. According to R. Ishmael [who sees such expressions as part of normal speech, how do we derive this ruling]?
- 2.** **I:2:** [If] it is possible for Israel to [re-]build the Temple [between the first Passover and second Passover], [then] an individual offers the second Passover, but the community does not offer the second Passover. R. Judah says, “The community offers the second Passover, for thus we have found’ regarding Hezekiah [king of Judah] that he offered the second Passover. This is that which is written, ‘For most of the people – many from Ephraim and Manasseh, [Issachar and Zebulun – had not purified themselves’] (2 Chron. 30:18)” [T. 8:4].
- 3.** **I:3:** If the community was [unclean], half of them *zabim* [afflicted with a flux, Lev. 15] and half of them unclean [because of contact with the dead] – R. Adda b. Ahavah said, [following :] “The *zabim* are considered in comparison with those unclean [by contact with the dead] like the unclean in comparison with those who are clean. [Accordingly,] those who are unclean [by contact with the dead] observe [the first Passover but] the *zabim* are postponed to the second Passover.” R. Huna said, “There is no restitution [i.e., observance of second Passover] for a Passover offering which comes in [a state of] uncleanness.” [Hence, in the case described in B, the *zabim* have no opportunity to offer a Passover sacrifice].

LXXI. YERUSHALMI PESAHIM 9:2

[A] WHAT IS THE MEANING OF “A LONG JOURNEY”? “[A JOURNEY TO ANY PLACE] FROM MODIIN AND BEYOND, AND IN ACCORD WITH THIS SAME DISTANCE IN ALL OTHER DIRECTIONS,” THE WORDS OF R. AQIBA. R. ELIEZER SAYS, “[A

JOURNEY] BEYOND THE VERY THRESHOLD OF THE TEMPLE COURTYARD.” SAID R. YOSÉ, “THEREFORE THERE IS A POINT OVER THE LETTER HÉ, TO TELL YOU THAT IT IS NOT BECAUSE IT IS REALLY A DISTANT JOURNEY, BUT EVEN ONE WHO IS ANYWHERE OUTSIDE THE THRESHOLD OF THE TEMPLE COURTYARD AND BEYOND [FALLS UNDER THE RULE].”

- 1.** **I:1:** R. Simon said, “R. Hiyya the Elder and Bar Qappara are in dispute: one says, ‘[To be liable for not offering the first Passover, one has to be close enough] in order that he should come and eat.’ The other says, ‘in order that he should come and toss [the blood].’ [The latter opinion implies a lesser distance, since he must arrive earlier at the Temple to be present for the tossing of the blood which took place before the meat was eaten.] And even according to the one who says, “[one has to be close enough] in order that he should come and eat,” this applies in a case where he is within two thousand cubits [ca. 3000 feet] of the [Sabbath] boundary [of Jerusalem] by nightfall. [If he is further away, he is exempt.]
- 2.** **I:2:** Abbahu in the name of R. Yohanan: “Both of them [R. Aqiba and R. Eliezer in M. 9:2B-C] are interpreting the same scriptural passage[s] as the basis for an argument based on the identity of words in two distinct passages. There [(alone) shall you slaughter the Passover sacrifice, in the evening]’ (Deut. 16:6); [and regarding the second tithe,] ‘[And you shall feast] There [in the presence of the Lord your God]’ (Deut. 14:26). [Once this analogy is established, further conclusions can be drawn from comparing these two institutions:] “One [R. Eliezer, M. 9:2C, makes an analogy between the Passover sacrifice and the second tithe and] says: [just as ‘Should the distance be too great for you’ (Deut. 14:24) regarding the second tithe refers to Jerusalem, the place in which it must be eaten, so the ‘long journey’ (Num. 9:10) regarding the Passover sacrifice refers to] outside [of the place] where it is offered [i.e., the Temple court]. “The other [R. Aqiba, M. 9:2B] says: [just as in the case of the second tithe ‘Should the distance be too great for you’ (Deut. 14:24) refers to outside of the boundary of Jerusalem, so in the case of the Passover offering, the ‘long journey’ refers to one who is] outside of [the Passover offering’s] boundary [i.e., outside of Jerusalem].”

LXXII. YERUSHALMI PESAHIM 9:3

- [A] WHAT IS THE DIFFERENCE BETWEEN THE FIRST PASSOVER AND THE SECOND? THE FIRST PASSOVER IS SUBJECT TO THE PROHIBITION ABOUT LEAVEN: “IT SHALL

NOT BE SEEN AND IT SHALL NOT BE FOUND” (Ex. 12:19, 13:7). AS TO THE SECOND, UNLEAVENED BREAD AND LEAVEN MAY BE IN THE HOUSE RIGHT ALONGSIDE ONE ANOTHER.

1. **I:1:** It is written [regarding the second Passover offering], “And they shall not leave any of it over until morning” (Num. 9:12). If [this means that it is required] to eat it [completely],⁶² this is the positive commandment regarding it [the second Passover offering]. “They shall not break a bone of it” (ibid.). This is the negative commandment regarding it. So when it says, “They shall offer it in strict accord with the law of the Passover sacrifice” (ibid.), perhaps I should include [as requirements of the second Passover] the removal of leaven and the eating of unleavened bread for all seven days [as is required for the first Passover]? The teaching [of the Torah] says, “They shall eat it with unleavened bread and bitter herbs” (Num. 9:11). [The singling out of this prescription indicates that] you have nothing besides the Passover offering itself which can invalidate it except pieces of unleavened bread and bitter herbs alone. [Hence, the removal of leaven and eating unleavened bread for seven days are not required for the second Passover.]

2. **I:2:** There are [some] teachers who teach, “For [omission of] the second [Passover offering] one is punished by excision; for [omission of] the first [Passover] one is not punished by excision.” There are [other] teachers who teach, “For [omission of] the first [Passover] one is punished by excision; for [omission of] the second [Passover] one is not punished by excision.” And there are [still other] teachers who teach: “Whether for [omission of] the first [Passover] or the second [only], one is exempt; one is not punished by excision [unless he intentionally omits both Passovers –].” And there are (still other) teachers who teach: “For (omission of) the first (Passover) one is not punished by excision unless he (purposely) did not offer the second.]

[B] **THE FIRST PASSOVER REQUIRES THE RECITATION OF THE HALLEL PSALMS WHEN IT IS EATEN, BUT THE SECOND PASSOVER DOES NOT REQUIRE THE RECITATION OF HALLEL PSALMS WHEN IT IS EATEN. THIS AND THAT REQUIRE A HALLEL PSALM TO BE SUNG WHILE THEY ARE BEING PREPARED. AND [BOTH PASSOVER-OFFERINGS] ARE EATEN ROASTED, WITH UNLEAVENED BREAD AND BITTER HERBS. AND [BOTH PASSOVER-OFFERINGS] OVERRIDE [THE PROHIBITIONS OF THE] SABBATH.**

1. **II:1:** Said R. Yohanan in the name of R. Simeon b. Yehosedeq, “It is written, ‘For you, there shall be singing as on a night when a festival is hallowed’ (Isa. 30:29 [taken to be referring to Passover night]). [The

obligation to recite the Hallel psalms on] Passover evening comes to teach [that in a similar way the Hallel psalms are to be recited] upon the downfall of Sennacherib. And it turns out that from it [the downfall of Sennacherib, the following] is learned [regarding Passover:] Just as this [the occasion of Sennacherib's downfall] requires [the recitation of] the Hallel [psalms], so that [the eating of the Passover offering at night] requires [the recitation of] the Hallel psalms.” [Since the verse is understood to compare the rejoicing at the downfall of Sennacherib with that of Passover evening, i.e., the first Passover, we can learn that Hallel must be recited in the evening, when the first Passover offering is being eaten, in accordance with M. 9:3C, not just in the afternoon when it is being slaughtered, as is required for the second Passover, M. 9:3D].

LXXIII. YERUSHALMI PESAHIM 9:4

[A] A PASSOVER-OFFERING WHICH WAS OFFERED IN UNCLEANNESS, MALES AFFLICTED WITH FLUX UNCLEANNESS, FEMALES AFFLICTED WITH FLUX UNCLEANNESS, MENSTRUATING WOMEN AND WOMEN UNCLEAN BY REASON OF CHILDBIRTH SHOULD NOT EAT FROM IT.

- 1. I:1:** It was taught: R. Meir declares liable [those in M. 9:4A if they ate], but R. Simeon declares [them] exempt [in agreement with M. 9:4B].

[B] BUT IF THEY ATE [FROM IT], THEY ARE EXEMPT FROM THE PUNISHMENT OF EXTIRPATION. R. ELIEZER DECLARES THEM EXEMPT [FROM EXTIRPATION] EVEN ON ACCOUNT OF COMING INTO THE SANCTUARY.

- 1. II:1:** [Referring to M. 9:4C:] If one [who is prohibited from entering the Temple] entered at night [or] entered before the sixth hour [noon, when the obligation to slaughter the Passover offering has not yet come into effect, what is the law? Is such a person still exempt according to R. Eliezer? The question is left unanswered.]
- 2. II:2:** Said R. Yosé, “If R. Eleazar were to adopt the opinion of R. Simeon [hence M. 9:4B], what is the reason [for the two commands regarding a woman after childbirth during her period of uncleanness]: ‘she shall not touch any consecrated thing, nor enter the sanctuary’ (Lev. 12:4)? [One alone should suffice, for] one who is obligated for eating consecrated food is obligated for entering the sanctuary, and one who is not obligated for eating consecrated food is not obligated for entering the sanctuary.

LXXIV. YERUSHALMI PESAHIM 9:5

[A] WHAT IS THE DIFFERENCE BETWEEN THE PASSOVER OF EGYPT AND THE PASSOVER OF THE SUCCEEDING GENERATIONS? AS TO THE PASSOVER OF EGYPT – (L) [THE LAMB’S] DESIGNATION TOOK PLACE ON THE TENTH OF NISAN. (2) IT REQUIRED SPRINKLING OF THE BLOOD OF THE LAMB WITH A BRANCH OF HYSSOP ON THE LINTEL OF THE DOOR AND ON THE TWO DOORPOSTS. AND (3) IT WAS EATEN IN HASTE IN A SINGLE NIGHT. BUT THE PASSOVER OBSERVED BY THE SUCCEEDING GENERATIONS APPLIES [TO LEAVEN] FOR ALL SEVEN DAYS [AND NOT ONLY FOR ONE NIGHT].

1. **I:1:** There are [some] teachers who teach: “Cataracts and growths in the eye disqualify it [i.e., the Passover of Egypt].” There are [other] teachers who teach: “Cataracts and growths in the eye do not disqualify it.” [According to] the one who says, “Cataracts and growths in the eye disqualify it,” it is fine, for it is written, “Your [Passover] lamb shall be without blemish” (Exod. 12:5). [According to] the one who says, “Cataracts and growths in the eye do not disqualify it,” how can he explain [the need for the command], “Your [Passover] lamb shall be without blemish” (Exod. 12:5)?
2. **I:2:** Concerning where the blood was placed on the door frame and the meaning of Hebrew saf, usually translated “threshold”:] And it is taught thus: “Our forefathers in Egypt had three altars: [The] lintel and [the] two doorposts.” There are [other] teachers who teach: “Four [altars]: [the] threshold (saf), [the] lintel and [the] two doorposts.”
3. **I:3:** It was taught: “Ben Bag Bag says, ‘Your lamb shall be without blemish’ (Exod. 12:5); [even] if there has been shearing [and the fleece has been removed, the animal still is considered [perfect and] without blemish.” But lo, it has been taught: “‘If his offering is from [among] the flock’ (Lev. 1:10); to exclude the smooth [shorn] ones among them [from being offered as sacrifices, for shearing is tantamount to a blemish]?”
4. **I:4:** Said R. Yosé, “Even R. Yosé the Galilean agrees with them [with the sages, M. 9:5] that the Passover of Egypt lasted for only one day]. *For it is taught:* R. Yosé the Galilean says, “I say that the Passover of Egypt was [that leaven was only forbidden in Egypt for] only one day, for it is written, ‘No unleavened bread shall be eaten’ [and at the start of the next sentence] ‘Today’ (Exod. 13:34) (T. 8:210).”

LXXV. YERUSHALMI PESAHIM 9:6

[A] SAID R. JOSHUA, “I HAVE HEARD: (1) THAT A BEAST DECLARED TO BE SUBSTITUTED FOR AN ANIMAL SET ASIDE FOR A PASSOVER-OFFERING IS OFFERED, AND (2) THAT A BEAST DECLARED TO BE SUBSTITUTED FOR AN ANIMAL SET ASIDE FOR A PASSOVER-OFFERING IS NOT OFFERED. AND I CANNOT EXPLAIN [THE CONTRADICTION BETWEEN THESE TWO OPINIONS].” SAID R. AQIBA, “I SHALL EXPLAIN [THE TWO SAYINGS]. [IN THE CASE OF A BEAST DESIGNATED AS A SUBSTITUTE FOR AN ANIMAL SET APART AS A PASSOVER-OFFERING WHICH WAS LOST], THE [LOST] PASSOVER-OFFERING WHICH TURNED UP BEFORE THE SLAUGHTERING OF THE [SUBSTITUTED] PASSOVER-OFFERING IS SET OUT TO PASTURE UNTIL IT IS BLEMISHED, THEN IS SOLD, AND PEACE-OFFERINGS ARE TO BE PURCHASED WITH THE MONEY RECEIVED FOR IT, AND SO, TOO, IS THE RULE FOR THE BEAST SUBSTITUTED FOR IT. [BUT IF THE LOST BEAST WHICH HAD BEEN SET ASIDE FOR A PASSOVER-OFFERING WAS FOUND] AFTER THE SLAUGHTERING OF THE PASSOVER-OFFERING [SUBSTITUTED IN ITS PLACE], IT IS OFFERED AS PEACE-OFFERINGS, AND SO, TOO, IS THE RULE FOR THE BEAST SUBSTITUTED FOR IT.”

1. **I:1:** R. Yudan asked, “The law is the same in the case of the substitute for a guilt offering. There is a case in which the substitute for a guilt offering is sacrificed, and there is a case in which the substitute for a guilt offering is not sacrificed. [So why was R. Joshua confused about the law in M. 9:6A?]” Said R. Yosé, “[These cases are not the same:] A Passover offering which is offered in the morning [of the fourteenth of Nisan] is not a [valid] Passover offering. A burnt offering which is offered in the morning is [still] a [valid] burnt offering. [Since in the case of the Passover there is a time limit for the offering, the two cases are not analogous.]”
2. **I:2:** If he made a substitution for it on the thirteenth [of Nisan], R. Zeira says, “Its substitute is offered as a whole offering.” R. Samuel b. R. Isaac says, “Its substitute is not offered as a whole offering.”
3. **I:3:** There [M. Tem. 4:1] we learned: “The offspring of [an animal designated as] a sin offering, and the substitute for [an animal designated as] a sin offering, and [an animal designated as] a sin offering the owner of which had died [should be allowed to die.]” [An animal designated as a sin offering,] the [first] y ear of which passed, or which was lost, or which was found to be blemished, [if it is after the owner had gained atonement (through the tossing of the blood), it shall be allowed to die.... If it is before the owner has gained

atonement (through the tossing of the blood), it should pasture until it becomes unfit for a sacrifice.]"[It is] the offspring of a sin offering about which they dispute: [If] a community set aside a female [animal for a sin offering, instead of the required male,] or if a prince [i.e., king] set aside a she-goat [instead of the required he-goat], R. Jeremiah says, "It has not become sanctified [and, hence,] its offspring may be offered [as a sacrifice].R. Yosé says "It has become sanctified [and, hence,] its offspring must be allowed to die."

4. **I:4:** [If] he set aside his Passover offering and it was lost, and so he set aside another in its stead, but did not have a chance to offer the second before the first was found, and both are available:There are [some] teachers who teach, "It is required to offer the first" [T. 9:12].There are [other] teachers who teach, "It is required to offer the second."

LXXVI. YERUSHALMI PESAHIM 9:7

[A] HE WHO DESIGNATES A FEMALE ANIMAL FOR HIS PASSOVER-OFFERING [WHICH MUST BE MALE (Ex. 12:5)], OR A MALE TWO YEARS OLD [THOUGH IT MUST BE ONE YEAR OLD] – [THE ANIMAL SO DESIGNATED] IS SET OUT TO PASTURE UNTIL IT SUFFERS A BLEMISH, THEN IT IS SOLD, AND THE COINS RECEIVED FOR IT FALL FOR A FREEWILL-OFFERING. HE WHO DESIGNATES AN ANIMAL FOR HIS PASSOVER-OFFERING AND WHO DIED – HIS SON SHOULD BRING IT IN HIS STEAD NOT AS A PASSOVER-OFFERING, BUT AS PEACE-OFFERINGS.

1. **I:1:** The teaching [of the Mishnah, 9:7A] [refers] to [a point] after atonement has been gained [by the tossing of the blood of a Passover offering].
2. **I:2:** Did we not think to say the same [in reference to M. 9:7B]? Whatever [animal] was fit to be offered on the day of the Passover offering [the fourteenth of Nisan] itself is not offered as a whole offering. [Once the animal entered the fourteenth of Nisan while its owner was still alive, it can never be offered as a whole offering, but must instead be pastured until it becomes unfit for sacrifice.]

LXXVII. YERUSHALMI PESAHIM 9:8

[A] AN ANIMAL SET ASIDE FOR A PASSOVER-OFFERING WHICH WAS CONFUSED WITH ANIMALS SET APART FOR OTHER ANIMAL SACRIFICES – ALL OF THEM ARE TO BE SET OUT TO PASTURE UNTIL THEY SUFFER A BLEMISH, THEN ARE TO BE SOLD, AND WITH THE PROCEEDS OF THE BEST OF THEM ONE IS TO BRING AN

ANIMAL OF ONE SORT [OF SACRIFICE], AND WITH THE PROCEEDS OF THE BEST OF THEM HE IS TO BRING AN ANIMAL OF ANOTHER SORT, AND HE MUST MAKE UP THE DIFFERENCE [IN THE COST] FROM HIS OWN POCKET. [IF] IT WAS CONFUSED WITH FIRSTLINGS – R. SIMEON SAYS, “IF IT IS FOR AN ASSOCIATION OF PRIESTS, LET THEM EAT IT.”

- 1.** **I:1:** In reference to M. M.S. 3:2: It is forbidden to buy heave offering (which may only be eaten by priests) with the money of (second) tithe (which must be brought to Jerusalem and spent on food to be eaten there). because one reduces (the opportunity for) eating it. But R. Simeon permits (it). Since heave offering has more strictures regarding its eating, being limited to priests and their families, exchanging the money of second tithe for heave offering may lead indirectly to the tithe's not being eaten as prescribed. R. Simeon believes that there is no prohibition on indirectly causing offerings to become disqualified and, hence, has no objection to this exchange,] it was taught: “It is forbidden to purchase [produce of] the Sabbatical year with money of the [second] tithe [since when the time for disposing of Sabbatical produce comes, it will be disqualified and will never be eaten]” [T. Shebi'it 7:1].R. Yosé says, “It is a dispute.” [This is the view of the sages which accords with that in M. M.S. 3:2, but R. Simeon (ibid.) would disagree here as well, permitting the purchase of Sabbatical produce with money of second tithe, since he permits indirectly causing offerings to become disqualified.] Said R. Jonah, “It is unanimous, [and there is no dispute over the ruling in B, since] those [priests] who eat of the heave offering are meticulous. [R. Simeon would agree that heave offering may be bought with the money of second tithe, since the priests can be depended on to eat it as is required. R. Hananiah argued before R. Mana, “Have we not learned [in M. 9:8B]: [An animal designated as a Passover offering] which was mixed up with firstborn animals, R. Simeon says, “If there is a association of [all] priests], [the Passover offering and the firstborn offerings should be offered and] they should eat [the offerings together on Passover eve]. And it was taught regarding it, ‘They should be eaten according to [the law pertaining to] the stricter among them.’” [The time limit for eating the Passover offering is midnight of the night of the sacrifice, whereas the firstborn offering may usually be eaten for a period of two days and the following night. Nonetheless, R. Simeon permits this. Hence, he has no objection to indirectly causing offerings to be disqualified and would, therefore, disagree also with R. Yosé]

LXXVIII. YERUSHALMI PESAHIM 9:9

[A] AN ASSOCIATION, THE PASSOVER-OFFERING OF WHICH WAS LOST, AND WHICH SAID TO SOMEONE, “GO AND FIND AND SLAUGHTER ANOTHER ONE FOR US,” AND THAT ONE WENT AND FOUND AND SLAUGHTERED [ANOTHER], BUT THEY, TOO, WENT AND BOUGHT AND SLAUGHTERED [ONE FOR THEMSELVES] — IF HIS WAS SLAUGHTERED FIRST, HE EATS HIS, AND THEY EAT WITH HIM OF HIS. BUT IF THEIRS WAS SLAUGHTERED FIRST, THEY EAT OF THEIRS, AND HE EATS OF HIS. AND IF IT IS NOT KNOWN WHICH OF THEM WAS SLAUGHTERED FIRST, OR IF BOTH OF THEM WERE SLAUGHTERED SIMULTANEOUSLY, THEN HE EATS OF HIS, AND THEY DO NOT EAT WITH HIM, AND THEIRS GOES FORTH TO THE PLACE OF BURNING, BUT THEY ARE EXEMPT FROM HAVING TO OBSERVE THE SECOND PASSOVER. [IF] HE SAID TO THEM, “IF I COME BACK LATE, GO AND SLAUGHTER A PASSOVER-OFFERING IN MY BEHALF,” [NOW] HE WENT AND FOUND [AN ANIMAL] AND SLAUGHTERED IT, AND THEY PURCHASED AND SLAUGHTERED AN ANIMAL AS WELL. IF THEIRS WAS SLAUGHTERED FIRST, THEY EAT OF THEIRS, AND HE EATS WITH THEM. AND IF HIS WAS SLAUGHTERED FIRST, HE EATS OF HIS, AND THEY EAT OF THEIRS. AND IF IT IS NOT KNOWN WHICH OF THEM WAS SLAUGHTERED FIRST, OR IF THEY WERE SLAUGHTERED SIMULTANEOUSLY, THEY EAT OF THEIRS, AND HE DOES NOT EAT WITH THEM. AND HIS GOES FORTH TO THE PLACE OF BURNING. AND HE IS EXEMPT FROM HAVING TO OBSERVE THE SECOND PASSOVER. [IF] HE GAVE INSTRUCTIONS TO THEM, AND THEY GAVE INSTRUCTIONS TO HIM [WITH THE SAME CONSEQUENCES AS BEFORE], ALL OF THEM EAT FROM THE FIRST. BUT IF IT IS NOT KNOWN WHICH OF THEM WAS SLAUGHTERED FIRST, BOTH OF THEM GO FORTH TO THE PLACE OF BURNING. [IF] HE DID NOT GIVE INSTRUCTIONS TO THEM, AND THEY DID NOT GIVE INSTRUCTIONS TO HIM, THEY ARE NOT RESPONSIBLE FOR ONE ANOTHER. TWO ASSOCIATIONS, THE PASSOVER-OFFERINGS OF WHICH WERE CONFUSED, THESE TAKE [DRAW] POSSESSION OF ONE OF THEM FOR THEMSELVES, AND THOSE TAKE POSSESSION OF ONE OF THEM FOR THEMSELVES. ONE [MEMBER] OF THESE GOES TO THE OTHERS, AND ONE [MEMBER] OF THE OTHERS COMES TO THESE. AND THUS DO THEY SAY, “IF THIS PASSOVER-OFFERING IS OURS, WITHDRAW FROM YOURS AND REGISTER WITH OURS. AND IF THIS PASSOVER-OFFERING IS YOURS, WE WITHDRAW FROM OURS AND REGISTER WITH YOURS.” AND SO, TOO, FIVE ASSOCIATIONS, EACH WITH FIVE OR TEN MEMBERS — EACH ONE OF THE ASSOCIATIONS TAKES POSSESSION OF [ONE OF THE CONFUSED PASSOVER-OFFERINGS] AND SO DO THEY DECLARE.

1. I:1: Said R. Yohanan, “This [M. 9:9B] is according to R. Nathan, for R. Nathan said: ‘They fulfill their obligation [of offering the Passover] by the tossing [of the blood, even without eating]’ [T. 7:5].”
2. I:2: [If before leaving to search for the missing animal,] he said to them, “If I am late, [go out and] slaughter on my behalf,” and so forth

[T. 9:2]. Taught Bar Qappara: “Silence is becoming for the wise, how much more so for the stupid. For thus Solomon said, ‘Even a fool, if he keeps silent, is deemed wise’ (Prov. 17:28). And it is not necessary to say [that the same is the case for] a wise person who keeps silent” [T. 9:2]. [For in the case where nothing is said, they all fulfill their obligations and get to eat of the Passover offering.]

LXXIX. YERUSHALMI PESAHI^M 9:10

[A] **TWO PEOPLE WHOSE PASSOVER-OFFERINGS WERE CONFUSED — THIS ONE TAKES POSSESSION OF ONE OF THE ANIMALS, AND THAT ONE TAKES POSSESSION OF ONE OF THE ANIMALS. THIS ONE REGISTERS WITH HIMSELF A THIRD PARTY, AND THAT ONE REGISTERS WITH HIMSELF A THIRD PARTY. THIS ONE APPROACHES THAT, AND THAT ONE APPROACHES THIS, AND THUS DO THEY DECLARE: “IF THIS PASSOVER-OFFERING IS MINE, THEN YOU WITHDRAW FROM YOURS AND REGISTER WITH MINE. AND IF THIS PASSOVER-OFFERING IS YOURS, THEN I WITHDRAW FROM MINE AND REGISTER WITH YOURS.”**

1. **I:1:** Said R. Yohanan, “This [M. 9:10B] is according to R. Judah, for we have learned: ‘We do not slaughter a Passover offering for an individual,’ the words of R. Judah. But R. Yosé permits [it]’ (M. 8:7).” [In accord with R. Judah, the Mishnah requires that there be more than one person registered on the Passover offering.]

LXXX. YERUSHALMI PESAHI^M 10:1

[A] **ON THE EVE OF PASSOVER FROM JUST BEFORE THE AFTERNOON PRAYER [THE AFTERNOON’S DAILY WHOLE-OFFERING], A PERSON SHOULD NOT EAT, UNTIL IT GETS DARK. AND EVEN THE POOREST ISRAELITE SHOULD NOT EAT UNTIL HE RECLINES AT HIS TABLE. AND THEY SHOULD PROVIDE HIM WITH NO FEWER THAN FOUR CUPS OF WINE:**

1. **I:1:** The teaching [the Mishnah] represents the position of R. Judah [who holds that one refrains from eating on the eve of all Sabbaths and festivals]. As it is taught: “Sabbath eve from the time of the afternoon offering onward a person should not taste anything until it gets dark so that he may enter the Sabbath with an appetite,” the words of R. Judah. Yosé says, ‘[A person] continues to eat until he finishes [the meal].’ “They interrupt [eating] because of the Sabbath [to welcome it by reciting the Sanctification blessing],” the words of R. Judah. Yosé says, “They do not interrupt.’ A case concerning Rabban Simeon b.

Gamaliel and R. Yosé b. Halafta who [prior to the time of the afternoon offering] were dining in Akko on the Sabbath eve and the time of Sabbath came. Said Rabban Simeon b. Gamaliel to R. Yosé b. Halafta, “Do you want us to interrupt [our meal] because of the Sabbath [and thus take R. Judah’s position into consideration]?” [R. Yosé b. Halafta] said to him, “Every day you would prefer my opinion in the presence of R. Judah and now you prefer R. Judah’s in my presence? ‘Does he mean to ravish the queen in my own palace’ (Est. 7:8).” [Rabban Simeon b. Gamaliel] said to him, “If so, let us not interrupt lest [following our action] the law be fixed in Israel according to R. Judah.” They did not move from there until they fixed the law according to R. Yosé [T. Ber. 5:1].

2. **I:2:** What is the law, is it permissible to eat dried fruit [which whets one’s thirst]?
3. **I:3:** Said R. Levi, “Because it is the custom of slaves to eat standing, here [, on Passover night, the Mishnah requires people] to eat reclining to proclaim that they have gone out from slavery to freedom.”

[B] AND EVEN IF [THE FUNDS] COME FROM PUBLIC CHARITY.

1. **II:1:** Said R. Hiyya b. Adda, “Because it is not pleasant for a person to eat from the communal fund, here [he is required] ‘even if [the funds come] from the charity plate.’”
2. **II:2:** It is taught: “On a festival, a man is required to make his wife and children happy. With what does he make them happy? With wine. R. Judah says, ‘Women with what is appropriate for them; and children, with what is appropriate for them’ [T. 10:4].” “Women, with what is appropriate for them” – for example, fine linen garments and belts. “and children, with what is appropriate for them” – for example, walnuts and almonds.
3. **II:3:** Whence [did they derive the requirement] for four cups? R. Yohanan [said] in the name of R. Benaiah, “[They] correspond to the four redemptions [or acts of redemption, mentioned in reference to Egypt]: ‘Say, therefore, to the Israelite people: I am the Lord. I will take you out’ [‘from under the burdens of the Egyptians and deliver you from their bondage. I will redeem you with an outstretched arm and through extraordinary chastisements’]. ‘And I will take you to be MY people,’ (Exod. 6:6-7). [These verses contain the four terms:] ‘I will take out,’ ‘I will deliver,’ ‘I will redeem,’ ‘I will take.’” R. Joshua b. Levi said, “[They] correspond to the four cups of [wine mentioned in reference to] Pharaoh: ‘Pharaoh’s cup was in my hand, [and I took

the grapes,] and I pressed them into Pharaoh's cup, and placed the cup in Pharaoh's hand' (Gen. 40:11) 'and you will place Pharaoh's cup in his hand,' (Gen. 40:13). ['But think of me when all is well with you again 'so as to free me from this place' (Gen. 40:14).]'' [The four cups in the dream and its interpretation brought or preceded a redemption, in this instance that of Joseph.] R. Levi said, "[They] correspond to the four [world] kingdoms [that have oppressed Israel and that precede the kingdom of God – Babylonia, Media, Greece, and Rome, with each cup perhaps marking the release of Israel from a different oppressor].'' And rabbis say, "[They] correspond to the four cups of retribution that the Holy One Praised be He will give the nations of the world to drink: 'For thus said the Lord, the God of Israel, to me: "Take from MY hand this cup of wine – of wrath [– and make all the nations to whom I send you drink of it]"' (Jer. 25:15); 'Flee from the midst of Babylon... for this is a time of vengeance for the Lord, He will deal retribution to her]. Babylon was a golden cup in the LORD's hand[, it made the whole earth drunk' (Jer. 51:[6-]7); 'For in the Lord's hand there is a cup [with foaming wine fully mixed; from this He pours; all the wicked of the earth drink, draining it to the very dregs]' (Ps. 75:9); 'He will rain down upon the wicked blazing coals and sulfur, a scorching wind shall be the portion of their cup' (Ps. 11:6).''

4. **II:4:** There [in M. Shab. 8:1] we learned, "One who takes wine out [on the Sabbath from a public domain to a private one or vice versa incurs a liability when the wine is] – sufficient to mix. a cup" [Since one part of raw wine is diluted with three parts of water to make a cup of drinkable wine, the Mishnah speaks of the minimum amount of wine that will prove useful.]
5. **II:5:** What is the size of the cups? Is it permitted to drink the [four cups] in a single span [without interruption]? Is it permitted to drink them bit by bit
6. **II:6:** It is taught: "[On the Sabbath one incurs liability for carrying abroad] cooked [wine] – sufficient for seasoning." [Since cooking a small amount of wine in a pot, even less than the amount necessary to mix for drinking, helps to flavor the food, that small quantity constitutes the useful amount incurring a liability.] Does a person fulfill his obligation [on Passover] with boiled wine [which is weaker than regular wine]? R. Jonah said, "They fulfill their obligation with boiled wine."
7. **II:7:** Said R. Haninah, "The log-measure referred to in the Torah is the Sephorian old tomanta [one-eighth of a qab] for brine."

8. **II:8:** It is taught: “Dry [solidified wine incurs a liability for carrying it abroad on the Sabbath when it is] the size of an olive,” the words of R. Nathan [T. Shab. 8:10].

LXXXI. YERUSHALMI PESAHIM 10:2

[A] **WHEN THEY HAVE MIXED THE FIRST CUP OF WINE – THE HOUSE OF SHAMMAI SAY, “HE SAYS A BLESSING OVER THE DAY, AND AFTERWARD HE SAYS A BLESSING OVER THE WINE.” AND THE HOUSE OF HILLEL SAY, “HE SAYS A BLESSING OVER THE WINE, AND AFTERWARD HE SAYS A BLESSING OVER THE DAY.”**

1. **I:1:** What is the reason of the House of Shammai? Because the Sanctification of the days causes the wine to be brought [because the former requirement, being distinct from the latter action, provides the reason for bringing the wine] and [a person] is already liable for the Sanctification of the day before the wine comes [and could recite it as soon as the Sabbath or festival starts, for example, in a liturgical prayer such as the Tefillah, a practice that eventually became standard and preferred for Fri day night and festival nights. Accordingly, in using the cup of wine, a person acts on an already-existing requirement to say the Sanctification]. What is the reason for the House of Hillel? Because the wine causes the Sanctification of the day to be said. Another matter [reason]: [The obligation to recite the benediction on] wine is perpetual and [the obligation to recite the] Sanctification is not perpetual [T. 10:2-3]

LXXXII. YERUSHALMI PESAHIM 10:3

[A] **[WHEN] THEY BRING HIM [THE FOOD], HE DIPS THE LETTUCE [IN VINEGAR] BEFORE HE COMES TO THE BREAKING OF THE BREAD. THEY BROUGHT HIM UNLEAVENED BREAD, LETTUCE, AND A MIXTURE OF APPLES, NUTS, AND WINE, RESEMBLING MORTAR, AND TWO DISHES, EVEN THOUGH A MIXTURE OF APPLES, NUTS, AND WINE, RESEMBLING MORTAR IS NOT A RELIGIOUS OBLIGATION. R. ELEAZAR B. R. SADOQ SAYS, “IT IS A RELIGIOUS OBLIGATION.” AND IN THE TIME OF THE TEMPLE THEY WOULD BRING BEFORE HIM THE CARCASS OF THE PASSOVER-OFFERING.**

1. **I:1:** The Associates [said] in the name of R. Yohanan, “[A person] is required to dip the lettuce [bitter herbs] twice” [once before and once with the bread condiment – along with the other prescribed elements of the celebration, as indicated in M. 10:3A-B]. R. Zeira [said] in the

name of R. Yohanan, “[A person] is not required to dip the bitter herbs twice” [for once suffices]. R. Simeon b. Laqish said, “If [a person] did not dip the first time, he is required to dip the second time.” [If he dipped the first time, it suffices to fulfill the required dipping usually associated with the latter stage in the rite, when the bitter herbs are eaten as part of the biblical set of foods associated originally with the Passover sacrifice.]

- I:2:** Merchants of Jerusalem used to say, “Come and take the spices of the commandment” [T. Pes. 10:10]. [The language attributed to the vendors indicates that people believed that the *haroset*, which contained spices, was prescribed by law, thus supporting Eleazar b. Sadoq’s view in M. 10:2B.]
- I:3:** It is taught: “And in the outer areas [outside the holy precincts where the Passover offering was eaten] [they bring] two cooked foods, one as a remembrance of the Passover offering and one as a remembrance of the festive offering.”

LXXXIII. YERUSHALMI PESAHIM 10:4

[A] **THEY MIXED FOR HIM A SECOND CUP OF WINE. AND HERE THE SON ASKS HIS FATHER [QUESTIONS]. BUT IF THE SON HAS NOT GOT THE INTELLIGENCE TO DO SO, THE FATHER TEACHES HIM [TO ASK BY POINTING OUT:] “HOW DIFFERENT IS THIS NIGHT FROM ALL OTHER NIGHTS! “FOR ON ALL OTHER NIGHTS WE EAT LEAVENED OR UNLEAVENED BREAD. BUT THIS NIGHT ALL OF THE BREAD IS UNLEAVENED. “FOR ON ALL OTHER NIGHTS WE EAT DIVERSE VEGETABLES, BUT ON THIS NIGHT, ONLY BITTER HERBS. “FOR ON ALL OTHER NIGHTS WE EAT MEAT WHICH IS ROASTED, STEWED, OR BOILED. BUT THIS NIGHT ALL OF THE MEAT IS ROASTED. “FOR ON ALL OTHER NIGHTS WE DIP OUR FOOD ONE TIME, BUT ON THIS NIGHT, TWO TIMES.” IN ACCORD WITH THE INTELLIGENCE OF THE SON THE FATHER INSTRUCTS HIM. HE BEGINS [ANSWERING THE QUESTIONS] WITH DISGRACE AND CONCLUDES WITH GLORY, AND EXPLAINS [THE SCRIPTURES FROM], “A WANDERING ARAMEAN WAS MY FATHER...” (DEUT. 26:5FF) UNTIL HE COMPLETES THE ENTIRE SECTION.**

- I:1:** R. Hiyya teaches: “The Torah [in explaining the Passover events] spoke corresponding to four [types of] children: a wise child; an evil child; a foolish child; and a child who does not know [or have intelligence] to ask.”
- I:2:** Rab said, “As [our ancients, i.e., Joshua, practiced] at the [very] beginning, ‘In olden times, your ancestors [Terah, father of Abraham

and father of Nahor] lived [beyond the Euphrates] [‘and worshiped other gods’]. ‘But I took your father Abraham from beyond the Euphrates,’ [‘and led him though the whole land of Canaan’] ‘and multiplied’ [‘his offspring. I gave him Isaac....’] (Josh. 24:2-3).⁷⁵ [We therefore follow Joshua’s model in tracing our ignoble origins to the idolatrous background of our ancestors.]”

LXXXIV. YERUSHALMI PESAHIM 10:5

[A] **RABBAN GAMALIEL DID STATE, “WHOEVER HAS NOT REFERRED TO THESE THREE MATTERS CONNECTED TO THE PASSOVER HAS NOT FULFILLED HIS OBLIGATION, AND THESE ARE THEY: PASSOVER, UNLEAVENED BREAD, AND BITTER HERBS. “PASSOVER – BECAUSE THE OMNIPRESENT PASSED OVER THE HOUSES OF OUR FOREFATHERS IN EGYPT. “UNLEAVENED BREAD – BECAUSE OUR FOREFATHERS WERE REDEEMED IN EGYPT. “BITTER HERBS – BECAUSE THE EGYPTIANS EMBITTERED THE LIVES OF OUR FOREFATHERS IN EGYPT. “IN EVERY GENERATION A PERSON IS DUTY-BOUND TO REGARD HIMSELF AS IF HE PERSONALLY HAS GONE FORTH FROM EGYPT, SINCE IT IS SAID, ‘AND YOU SHALL TELL YOUR SON IN THAT DAY SAYING, IT IS BECAUSE OF THAT WHICH THE LORD DID FOR ME WHEN I CAME FORTH OUT OF EGYPT’ (EX. 13:8). THEREFORE WE ARE DUTY-BOUND TO THANK, PRAISE, GLORIFY, HONOR, EXALT, EXTOL, AND BLESS HIM WHO DID FOR OUR FOREFATHERS AND FOR US ALL THESE MIRACLES. HE BROUGHT US FORTH FROM SLAVERY TO FREEDOM, ANGUISH TO JOY, MOURNING TO FESTIVAL, DARKNESS TO GREAT LIGHT, SUBJUGATION TO REDEMPTION, SO WE SHOULD SAY BEFORE HIM, HALLELUJAH.” TO WHAT POINT DOES ONE SAY [HALLEL]? THE HOUSE OF SHAMMAI SAY, “TO A JOYFUL MOTHER OF CHILDREN (PS. 113:9).” AND THE HOUSE OF HILLEL SAY, “TO A FLINT-STONE INTO A SPRINGING WELL (PS. 114:8).” AND HE CONCLUDES WITH [A FORMULA OF] REDEMPTION. R. TARFON SAYS, “....WHO REDEEMED US AND REDEEMED OUR FOREFATHERS FROM EGYPT.’ “AND HE DID NOT SAY A CONCLUDING BENEDICTION.” R. AQIBA SAYS, “....SO, LORD, OUR GOD, AND GOD OF OUR FATHERS, BRING US IN PEACE TO OTHER APPOINTED TIMES AND FESTIVALS, REJOICING IN THE REBUILDING OF YOUR CITY AND JOYFUL IN YOUR TEMPLE WORSHIP, WHERE MAY WE EAT OF THE ANIMAL SACRIFICES AND PASSOVER-OFFERINGS,’ UP TO, ‘BLESSED ARE YOU, LORD, WHO HAS REDEEMED ISRAEL.””**

1. **I:1:** Said the House of Shammai to them, “And have the Israelites gone forth from Egypt that he mentions the Exodus from Egypt?” [Since the communal meal over the Passover lamb in recreating the Egyptian event precedes the actual Exodus, it is inappropriate at night to give thanks for the Exodus.] Said the House

of Hillel to them, “If he waits until the cock crows [to mention the redemption, e.g., in the morning service, it is still inappropriate, for] they still did not reach halfway to redemption. [Therefore] how do they mention “redemption” [later or in the morning service] while [the Israelites] have not yet been redeemed? “And lo, they only went forth at midday, as it is said, ‘And it was in the middle of that day the Lord took the Israelites out,’ [‘from the land of Egypt’] (Exod. 12:51) [T. Pes. 10:9].

2. **I:2:** It was taught: “They say the [special] ‘time’ [thanking the Lord for bringing the person to this moment or ‘time’] only on the three pilgrimage festivals.”
3. **I:3:** [Hallel, the Psalms praising and thanking God for redemption:] It is written, “In exacting retribution for Israel, when people offer willingly – Praise the Lord” (Jud. 5:2). Let the heads of the people offer willingly – when the Holy One Praised be He does miracles for them – [that is,] they should sing a song.

LXXXV. YERUSHALMI PESAHIM 10:6

[A] **THEY MIXED THE THIRD CUP FOR HIM. HE SAYS A BLESSING FOR HIS FOOD. AND AT THE FOURTH CUP, HE COMPLETES THE HALLEL PSALMS AND AFTER IT HE SAYS THE GRACE OF SONG. BETWEEN THESE SEVERAL CUPS OF WINE, IF HE WANTS TO DRINK MORE WINE, HE MAY DO SO. BUT BETWEEN THE THIRD AND THE FOURTH CUP OF WINE, HE MAY NOT DRINK MORE WINE. AND AFTER THE PASSOVER MEAL THEY DO NOT CONCLUDE WITH DAINTIES.**

1. **I:1:** After [eating from] the Passover offering, they do not end [with] *afiqomon* [dainties; alt.: revelry] (M. 10:6F): Why [is it prohibited]? So that he should not become drunk.
2. **I:2:** [Defining the term *afiqomon*:] R. Simon [said] in the name of R. Inanini bar R. Sisay, “Kinds of music [characteristically played at after-dinner revelries].” R. Yohanan said, “Kinds of sweet things [commonly eaten after the meal to whet one’s thirst for further drinking].”

LXXXVI. YERUSHALMI PESAHIM 10:7

[A] **IF SOME OF THOSE PRESENT FELL ASLEEP, THEY MAY EAT AGAIN. BUT IF ALL FELL ASLEEP, THEY MAY NOT EAT AGAIN. R. YOSÉ SAYS, “IF THEY MERELY**

DROWESED, THEY MAY EAT AGAIN, BUT IF THEY FELL INTO A DEEP SLEEP, THEY MAY NOT EAT AGAIN.” THE PASSOVER OFFERING AFTER MIDNIGHT [WHEN IT MAY NOT BE EATEN ANY LONGER] IMPARTS UNCLEANNESS TO HANDS. THAT WHICH HAS BEEN MADE REFUSE OR REMNANT IMPART UNCLEANNESS TO THE HANDS.

- 1. I:1:** Why [if they all fall asleep, may they not eat again]? Is it because of being distracted from the thought [of the offering], or is it because midnight passed?
- 2. I:2:** [Regarding the application of the laws of sacrificial meat in the status of refuse and remnant of sacrificial meat to prevent improper eating of an offering:] R. Simon in the name of R. Joshua b. Levi, “Sacrificial meat in the status of refuse and remnant of sacrificial meat join to impart uncleanness to hands, bringing about a punishment when they comprise an olive’s amount.”
- 3. I:3:** That part [of the offering that] projects out [from the holy precincts, thereby becoming invalid as prescribed in Exod. 12:46], what do you do with it? Does it impart uncleanness to hands or does it not impart uncleanness to hands?
- 4. I:4:** [As to a association all of whom fall asleep:] You may say that [it is a case in which] midnight passed. Is [the reason for proscribing such a association from further eating] not because of being distracted [for otherwise even a association of which less than all fell asleep would be prohibited from eating further]? Thus the reason that [the group all of whom fall asleep] may not [eat further] must be because of being distracted [from concentration on the sacrifice].

[B] IF ONE HAS SAID THE BLESSING FOR THE PASSOVER-OFFERING, HE RENDERS UNNECESSARY A BLESSING OVER ANY OTHER ANIMAL SACRIFICE THAT HE MAY EAT. IF HE SAID A BLESSING OVER ANY OTHER ANIMAL SACRIFICE THAT HE ATE, HE HAS NOT MADE UNNECESSARY A BLESSING OVER THE PASSOVER-OFFERING,” THE WORDS OF R. ISHMAEL. R. AQIBA SAYS, “THIS ONE DOESN’T RENDER THAT UNNECESSARY, AND THAT ONE DOESN’T RENDER THIS UNNECESSARY.”

- 1. II:1:** [Regarding the blessing over one sacrifice applying to the other sacrifice:] Said R. Zeira, “Is it [not logical] that [if one] said the blessing over the Passover offering, one did not exempt that over the festive offering, but [if one said] that of the festive offering one exempts that of the Passover offering, because the Passover offering is included under the category of a festive offering?”

TRACTATE

SHEQALIM

The half-sheqel, paid by all Israelites wherever located, serves as a principal medium by which all males are obligated, and women permitted, to effect an act of sanctification to God. The half-sheqel that is paid itself is sanctified in the way in which the heave-offering or tithe is sanctified, and the analogy to Second Tithe, on the one side, and the heave-offering paid to the priests, on the other, is explicit. The half-sheqel moreover is taken up in the consecrated manner—randomly, through an act of raising up—and then is used for the purchase of animals in behalf of all Israel and for certain other purposes connected with the cult and the building where it was located.

What the halakhah of the Oral Torah contributes is the articulation of the analogous relationship of the half-sheqel to tithes and heave-offering. It is through this particular medium that all Israel, not only the “enlandised” components of Israel, relate directly and concretely to God. For its part, Scripture describes the half-sheqel in this language:

The Lord said to Moses, “When you take the census of the people of Israel, then each shall give a ransom for himself to the LORD when you number them, that there be no plague among them when you number them. Each who is numbered in the census shall give this: half a sheqel, according to the sheqel of the sanctuary...., half a sheqel as an offering to the LORD. Every one who is numbered in the census, from twenty years old and upward, shall give the LORD’s offering. The rich shall not give more, and the poor shall not give less, than the half-sheqel, when you give the LORD’s offering to make atonement for yourselves. And you shall take the atonement money from the people of Israel, and shall appoint it for the service of the tent of meeting; that it may bring the people of Israel to remembrance before the LORD, so as to make atonement for yourselves.” (Exod 30:11–16 RSV)

The conception that through the half-sheqel everyone acquires a share in the atonement offering, predominates. Like Scripture, the Oral Torah clearly understands the half-sheqel as a tax in support of the Temple and its atonement-offerings in behalf of Israel. Here, then, is one medium of Israel’s relationship with God that transcends place, genealogy, and condition; the half-sheqel, unlike firstfruits, comes from any location, even beyond the Land, and comes from all Israelites.

YERUSHALMI SHEQALIM

CHAPTER 1

1:1

- [A] On the first day of Adar they make public announcement concerning [payment of] sheqel-dues and concerning the sowing of mixed seeds [Lev. 19:19, Deut. 22:9]
- [B] On the fifteenth day of that month they read the Megillah [Scroll of Esther] in walled cities.
- [C] And they repair the paths, roads, and immersion pools.
- [D] And they carry out public needs.
- [E] And they mark off the graves.
- [F] And they go forth [to inspect the fields] on account of mixed seeds.
- [I:1 A] [45d] And why [is the public announcement so early as] the first day of Adar?
- [B] It is so that the Israelites will bring their *sheqel*-taxes at their proper time, so that the heave-offering of the chamber may be taken up from newly given funds at the proper time, on the first of Nisan [a month later].
- [C] And [in this regard] said R. Samuel b. R. Isaac, “The heave-offering of the chamber was taken up to begin with [on the first day of the first month (Nisan)], in line with what is written, ‘And in the first month in the second year on the first day of the month, the tabernacle was erected’ (Exod. 40:17).
- [D] “And in this connection it has been taught: ‘On the day on which the tabernacle was raised up, on that same day the heave-offering [of the *sheqels*] was taken up [for the first time].”
- [E] R. Tabi, R. Josiah in the name of Kahana, “Here it is said, ‘[For each month of the months of [the year]]’ (Num. 28:14), and there it is said, ‘[This month shall be for you the beginning of] months’ (Exod. 12:2).
- [F] “Just as the word ‘months’, stated later, indicates that they count only from Nisan [as the first month], so ‘months,’ stated here, indicates that they count only from Nisan.”

[G] Said R. Jonah, “R. Tabi ignored the beginning of the Tannaitic passage and stated the end of it [E-F]. For lo, it is taught, ‘This is the burnt-offering of each month throughout the months of the year’ (Num. 28:14). Is it possible that one should take up the heave-offering [of *sheqels* in the chamber] every month through the year?

[H] “Scripture says, ‘of the months.’

[I] “In a single month one takes up the heave-offering for all the months of the year.

[J] “Is it possible to suppose that one may take up the heave-offering in any month one chooses?

[K] “Here it is said, ‘months’, and elsewhere it is said, ‘months.’

[L] “Just as when the word appears elsewhere it indicates that one counts only from Nisan, so here one counts only from Nisa.”

[II:1 A] What do they issue as a public announcement?

[B] R. Huna said, “They make a proclamation.”

[C] This is in line with what you cite in Scripture: “And proclamation was made throughout Judah and Jerusalem to bring in for the Lord the tax that Moses the servant of God laid upon Israel in the wilderness” (2 Chron. 24:9).

[III:1 A] There we have learned: *There is no difference between first Adar and second Adar except in the reading of the Scroll of Esther and in giving gifts to the poor [M. Meg. 1:4].*

[B] R. Simon in the name of R. Joshua b. Levi: “Also the announcement concerning the sheqel-tax and concerning the sowing of mixed seeds are differences between the two Adars.”

[C] [With reference to M. 1:1B,] R. Huna in the name of R. Hiyya the Elder: “All towns carry out their obligation to read the *Megillah* if they do so on the fourteenth of Adar, which is the proper time for reading it.” [This is without regard to what is done in the second Adar.] [This passage continues below V.A.]

[D] [Reverting to III.B], said R. Yose, “That is quite so, [that the difference is as specified by Simon]. For have they not said, ‘Public announcement is made concerning the *sheqel*-taxes so that the Isrealites will bring their *sheqel*-taxes at their proper time’ [I.A-B]?”

[E] “Now if you say [that they bring the *sheqel*-taxes] in the first Adar, in that year there will remain yet sixty days.

- [F] “Furthermore, have they not said that they go out to inspect the fields with regard to the sowing of mixed seeds except so that the growths may be discernible?”
- [G] “But if you maintain that they do so in the first Adar, up to that time the growths will be too small to be visible.”
- [H] R. Hezekiah asked, “Now if that is the principal consideration [as expressed at D (=I.A-B)], then should the Babylonians not make announcement about the *sheqel*-tax at the beginning of the winter, so that the heave-offering of the chamber may be taken up from the newly given funds at the proper time, on the first of Nisan? [The trip takes time.]”
- [I] R. Ulla objected [to H] before R. Mana, “And lo, we have learned: *At three times in the year do they take up the heave-offering of the coins collected in the sheqel-chamber: half a month before Passover, half a month before Passover, half a month before Pentecost, and half a month before the Festival [of Tabernacles] [M. 3:1A-B].*”
- [J] [Continuing his objection, Ulla] said to him, “Now should we not say, ‘Those who are nearby do it two weeks before Passover, those who are far away do it half a month before Pentecost, and those who are still further away than they do it half a month before the Festival?’”
- [K] [Mana] said to him, “All are subject to a single rule.
- [L] “And why have they said, *At three times in the year...*? It is to publicize the matter [that the public sacrifices come from the *sheqel*-tax]. [That is why three times a year the chamber is drawn upon for the needed funds.]”
- [IV:1 A]** R. Judah bar Pazzi in the name of Rabbi, “Lo, we read these verses, and can we not tremble?”
- [B] “On the good side: ‘All who were of a willing heart’ (Exod. 35:22).
- [C] “On the bad side: ‘So all the people took off the rings of gold which were in their ears and brought them to Aaron’ (Exod. 32:3).
- [D] “On the good side: ‘Then Moses brought the people out of the camp to meet God’ (Exod. 19:17).
- [E] “On the bad side: ‘Then all of you came near me, and said, Let us send men before us’ (Deut. 1:22).
- [F] “On the good side: ‘Then Moses and the people of Israel sang this song to the Lord’ (Exod. 15:1).
- [G] “On the bad side: ‘Then all the congregation raised a loud cry; and the people wept that night’” (Num. 14:1).

- [H] Said R. Hiyya bar Abba, “ ‘All the more they got up early to make all their deeds corrupt’ (Zeph. 3:7).
- [I] “Whenever they made their deeds corrupt, they got up early to do it.”
- [J] Said R. Abba bar Aha, “You cannot truly make sense of the character of this nation.
- [K] “When they are approached to build the golden calf, they contribute.
- [L] “When they are approached to build the altar, they contribute.”
- [M] R. Yose b. Hanina taught the following tradition: “Then you shall make a mercy seat of pure gold’ (Exod. 25:17). Let the gold of the mercy seat come and effect atonement for the gold you gave for the golden calf.”
- [N] R. Haninah in the name of R. Simeon b. Gamaliel: “Three heave-offerings were stated in this same connection, the heave-offering for the sockets, the heave-offering for the *sheqels*, and the heave-offering for the tabernacle.
- [O] “‘Speak to the people of Israel, that they take for me an offering’ (Exod. 25:2)—this refers to the heave-offering for the sockets.
- [P] “‘From every man whose heart makes him willing you shall receive the offering for me’—this refers to the heave-offering for *sheqels*.
- [Q] “‘And this is the offering which you shall receive from them’ (Exod. 25:3)—this refers to the heave-offering for the tabernacle.
- [R] “As to the heave-offering for the tabernacle, it is for the tabernacle.
- [S] “Whatever they wish to do they may do.
- [T] “As to the heave-offering for *sheqels*, this is for an offering.
- [U] “What they wish to do, let them do, so long as the share of all of them is equal.
- [V] “As to the heave-offering for the sockets, it is for the sockets.”
- [W] “The rich [46a] shall not give more, and the poor shall not give less” (Exod. 30:15).
- [X] Said R. Abun, “Also in the following passage there are three heave-offerings: ‘Everyone who is numbered in the census . . . shall give the Lord’s offering. The rich shall not give more, and the poor shall not

give less, than the half *sheqel*, when you give the Lord's offering to make atonement for yourselves" (Exod. 30:14-15).

- [V:1 A] *On the fifteenth day of that month [of Adar] they read the Megillah [Scroll of Esther] in the walled cities [M. 1:1B],*
- [B] Did not R. Helbo, R. Huna in the name of R. Hiyya the Elder [say], "All towns carry out their obligation to read the *Megillah* if they do so on the fourteenth of Adar, which is the proper time for reading it? [The rule that cities surrounded by a wall from the time of Joshua read it on the fifteenth] comes to teach you only that the commandments pertaining to the reading of the *Megillah* apply to the second month of Adar [should the year be intercalated, and a second Adar added, the *Megillah* is read in the second,] not in the first, Adar."
- [C] R. Yose and R. Aha were in session. Said R. Yose to R. Aha, "[The statement that all towns carry out their obligation if they do so on the fourteenth] applies post facto. But so far as the proper way of doing it, [it is to be on the fifteenth, as M. Meg. 1:1C specifies]."
- [D] [He said to him,] "And lo, it has been taught, In a place in which they are accustomed to read it on two days, they do read it on two days, [e.g., because of a doubt as to the status of the town]. [Now, if after the fact it is acceptable on the fourteenth, why should such towns read the *Megillah* on two successive days?]"
- [E] He said to him, "I too maintain that view [that in such a place, the *Megillah* is read on two days, and the people do not carry out their obligation if they read the *Megillah* only on the fourteenth of Adar]."
- [F] Said R. Mana, "And that is quite so. If someone read it on the fourteenth and then went and read it on the fifteenth, is it possible that they do not allow him to do so? [They certainly allow him to do so.] If you maintain that view, do you not turn out to set aside the time for reading the *Megillah* assigned to the villages by your own action? [If you say that everyone fulfills the obligation by reading on the fourteenth, you turn out to set aside the ordinance of sages, who assigned to the walled towns the date of the fifteenth, as at M. Meg. 1:1C.]"

[VI:1 A] It has been taught [in the Tosefta's version]: **Rabban Simeon b. Gamaliel says in the name of R. Yose, "They have to read it in the second Adar,**

- [B] **"for all religious duties which apply in the second Adar do not apply to the first Adar,**

- [C] **“except for lamentations and fasting, which apply in this [Adar] and in that [Adar]” [T. Meg. 1:6E-G].**
- [D] R. Ba, R. Jeremiah in the name of Rab, R. Simon in the name of R. Joshua b. Levi: “The law accords with Rabban Simeon b. Gamaliel.”
- [E] R. Huna, the Elder of Sepphoris, said, “R. Haninah was accustomed to practice the law in Sepphoris in accord with this view of Rabban Simeon b. Gamaliel.”
- [F] He has said only, “He was accustomed to do things thus-and-so.” Lo, as to the actual law, that is not the case.
- [G] [Continuing the passage of Tosefta begun above, A-C:] **And as to dating deeds, they write, “In the first Adar,” “In the second Adar.” But they write “second Adar,” merely as “second.”**
- [H] **R. Judah says, “For ‘second Adar,’ one writes a tav [standing for second in Aramaic], and that suffices” [T. Meg. 1:6H-I].**
- [VII:1 A] *And they repair the paths, roads, and immersion pools, and carry out all public needs [M. 1:1C-D]:*
- [B] These are public needs:
- [C] They judge monetary cases and capital cases and cases in which the penalty is flogging.
- [D] They redeem pledges of valuation and *herem-pledges* as well as objects that have been consecrated to the Temple.
- [E] They administer to an accused wife the water-that-brings-the- curse.
- [F] They burn the red cow, and they bring the neck of a calf [in the case of a neglected corpse].
- [G] They pierce the ear of a Hebrew slave [who wishes to remain with his master].
- [H] They declare a *mesora* to be clean.
- [I] They remove a shoe from a last, but they do not put it back.
- [J] There we have learned: *They water an irrigated field... And they mark off the graves [M. M.Q. 1:1-2].*
- [K] Were the graves not already marked off during Adar?
- [L] We may interpret the law to speak of a case in which a stream of water came down and washed away the marking.

[M] *And they go forth to inspect the fields on account of mixed seeds [M. 1:1F]:*

[N] Did they not do so in Adar?

[O] We may interpret the law to speak of a year [in which the crops] were slow to ripen and the sprouts [as a result] could not be discerned [early enough].

[VIII:1 A] How do we know that they mark off graves [to indicate the presence of a corpse]?

[B] R. Berekiah and R. Jacob bar Bat Jacob in the name of R. Honiah of Bart Hauran, R. Yose said it [in the name of] R. Jacob bar Aha in the name of R. Honia of Bart Hauran, R. Hezekiah, R. Uzziel, son of R. Honia of Bart Hauran, in the name of R. Honayya of Bart Hauran: “‘Unclean, unclean, shall he cry out’ (Lev. 13:45)—it is so that the uncleanness [present] will call out to you and tell you, ‘Keep away.’”

[C] R. Ila in the name of R. Samuel bar Nahman: “[‘They will set apart men to pass through the land continually and bury those remaining upon the face of the land, so as to cleanse it. . . .] And when these pass through the land and anyone sees a man’s bone, then he shall set up a sign by it . . .’ (Ezek. 39:14-15).

[D] “On the basis of the reference of this passage to ‘bone,’ we learn that they mark out bones when they are found.

[E] “On the basis of the reference to ‘man,’ we learn that **they mark out the place in which the backbone and skull are found [T. Sheq. 1:5I].**

[F] “On the basis of the reference to ‘set up,’ we learn that they mark the spot by plastering a stone permanently thereon.

[G] “If, in any case, you say that it is with a stone not plastered down, it may well roll away and impart uncleanness to some other place.

[H] “On the basis of the reference to ‘by it,’ we learn that it is to be set up in a clean place [in which no bone is found].

[I] “On the basis of the reference to ‘sign,’ we learn that they mark such a place.”

[J] **If one came across a marker stone, even though that is not how they make a permanent mark—if one overshadows such a stone, he is unclean [T. Sheq. 1:5D-E].** I maintain that there was a corpse buried thereunder. [Even though the stone is to be set up not over but

at the side of, the corpse, it is entirely possible that that is not what was done. Accordingly, we take account of the possibility that the stone was directly over the corpse.]

- [K] **[If] there were two [such stones, however,] he who overshadows them is unclean. [If he overshadows the ground] between them, he is unclean [T. Sheq. 1:5E-F].**
- [L] If one was ploughing between the stones, lo, they are treated as individual markers. [The ground] between them is clean, but [the ground round about each of them is unclean].
- [M] It was taught: They do not make a marker on account of coming across flesh. For the flesh may be consumed [in the passage of time, as it rots].
- [N] R. Yusta bar Shunam raised the question before R. Mana, “[If the flesh should turn up not rotted,] will it not then result in retroactively imparting uncleanness to clean things?”
- [O] He replied to him, “It is better that people should stumble on that account for a brief while [until the flesh rots], and not stumble on that account forever [on account of the permanent marker of uncleanness].”

The *sheqel* is due on the first day of Nisan, so there is public notice of one month. Warning also is given about uprooting mixed seeds. From the first of Nisan offerings are purchased from the funds which now fall due. The rest of the unit speaks of other events of the same season, tasks to be done on (or after) the fifteenth of Adar (B-F). The Talmud begins by providing both reasons and also scriptural foundations for Mishnah’s rule. Unit **I** does both, and unit **II** takes up the same task. Unit **III** begins with a citation of M. Meg. 1:4, to introduce the parallel between that passage and this one. Of special interest is the problem of how to do things when a year is intercalated and so receives a second month of Adar. **III.C** is misplaced and should be deleted. In fact it is the beginning of unit **V** and belongs there. I assume that the various exegeses collected in unit **IV** are introduced because of the theme of donations in general, and the *sheqel* in particular. Unit **V** supplements M. 1:1B. Unit **VI** carries forward the same theme as unit **V**. Unit **VII** quotes and glosses M. 1:1C-F, bringing the rule of E into juxtaposition with its parallel at M. M.Q. 1:2. Unit **VIII** supplements M. 1:1E.

1:2

- [A] **Said R. Judah, “In olden times [the agents] would uproot them [mixed seeds] and throw them before the [owner].**

- [B] **“When the transgressors became many, they would uproot them and throw them into the roads.**
- [C] **“They [finally] ordained that they should declare ownerless the entire field [in which mixed seeds had been planted].”**
- [I:1 A] *R. Judah says, etc. [M. 1:2A]. It has been taught: Said R. Judah, “In olden times [the agents] would uproot them [the crops of mixed seeds] and throw them before [the owner] [M. 1:2A],*
- [B] **“The owners would be glad on two counts, first, that others were weeding their fields for them, and the other, that they could yet derive benefit from the crops of mixed seeds.**
- [C] **“When transgressors became many, they would uproot them and throw them into the roads [M. 1:2B].**
- [D] **“Even so, they would still be glad, for others were weeding their fields for them.**
- [E] **“They finally ordained that they should declare ownerless the entire field in which mixed seeds had been planted” [M. 1:2C].**
- [II:1 A] **And what is the scriptural basis for the law that a field declared ownerless by a court indeed is regarded as ownerless?**
- [B] **As it is written, “If anyone did not come within three days, by order of the officials and the elders, all his property should be forfeited, and he himself banned from the congregation of the exiles” (Ezra 10:8).**
- [C] **How do we know that an ownerless field is exempt from the requirement of separating tithes?**
- [D] **R. Jonathan b. R. Isaac bar Aha derived that law from the following: “They do not intercalate the year either in the case of the Seventh Year or in the case of the year after the Seventh Year, but if they did so, lo, this is intercalated [T. San. 2:9].**
- [E] **“And is [what becomes liable] in the month that one adds to the year not exempt from tithes? [Hence, the court has declared what grows in that month to be in the status of ownerless property, as is the crop of the Seventh Year in general. It follows that what is declared by the court to be ownerless property also is exempt from tithes.]”**
- [F] **Up to this point we have dealt with the Seventh Year. What about the year after the Seventh Year?**
- [G] **Said R. Bun, “It is so as not to add to the prohibition of the new crop [any additional time]. [Hence the year following the Seventh Year is**

not intercalated, so as to permit the new crop, begun in the eighth year, to be available as soon as possible. If a second Adar is added, then the Nisan of the eighth year, at which point the new crop becomes available for use, would come thirty days later than otherwise.]"

- [H] Said R. Zeira in the name of R. Abbahu, "This statement which has been made [that they do not intercalate the year in the Seventh Year] applies to the case before Rabbi permitted purchasing vegetables from abroad for use in the land. But once Rabbi had permitted purchasing vegetables from abroad for use in the land, there was no longer any difference between the Seventh Year and the other years of the septennate."
- [I] It has been taught: **They do not intercalate [as at D]:**
- [J] Said R. Mana "That which you have said applied in olden times, when the years were in order. But now that the years are not in order, there is no longer any difference between the Seventh Year and the other years of the septennate."
- [K] It has been taught: The household of Rabban Gamaliel intercalated the year forthwith at the end of the Seventh Year.
- [L] [Referring to D-E, above,] said R. Abun, "There is no proof from that fact, from which indeed you may infer nothing. [Scripture itself indicates that there is a special reason behind D's rule, namely:] 'Guard the new moon [month] of Abib' (Deut. 16:1). Guard it that it come with the new [crop that it brings, hence, make certain that Abib, that is, Nisan, comes sufficiently after the vernal equinox so that there will be new crops at that time]. [Since Scripture itself has made that point, the fact that, if, in the Seventh Year, one intercalated Adar, the year is deemed intercalated, contains no implications as to the status of the crop produced in that month, contrary to the reasoning of D-E.]"
- [M] Whence, [then, do we learn that what has been declared ownerless by a court is free, also, of the requirement of separating tithes]?
- [N] It is from the following: *A heap of grain, from underneath which gleanings have not been taken—whatever touches the ground belongs to the poor* [M. Pe. 5:1]. [It is ownerless, and hence exempt from tithes.]
- [O] Now in this connection R. Ammi said in the name of R. Simeon b. Laqish, "This passage represents the view of the House of Shammai, [who maintain that what is ownerless only vis-a-vis the poor indeed is regarded as ownerless]. But in the view of the House of Hillel the poor

may consume the produce but must tithe it before they do. [Hence the passage does not prove the desired point.]”

- [P] And R. Yose said to him, “We have heard that it is exempt from the requirement to set aside tithes in the view of all parties, on grounds of imposing a penalty [on the owner, who should not have piled up grain in an area not yet searched out by the poor]. [Consequently, the crop really is not ownerless anyhow, so here too there is a special reason for the law, which cannot serve to prove the desired proposition.]”

If it turns out that a farmer has planted mixed seeds in his vineyard, the punishment is as specified by Judah. Unit I systematically cites and glosses the Mishnah. Unit II, which serves Y. Pe. 5:1, raises and works out its own question, specified at II.C. The reason it is attached is at II.A-B, which provide a scriptural basis for M. 1:2C.

1:3

- [A] **On the fifteenth of that same month [Adar] they set up moneychangers’ tables in the provinces.**
- [B] **On the twenty-fifth [of Adar] they set them up in the Temple,**
- [C] **Once they were set up in the Temple, they began to exact pledges [from those who had not paid the tax in specie].**
- [D] **From whom do they exact a pledge?**
- [E] **Levites, Israelites, proselytes, and freed slaves,**
- [F] **but not from women, slaves, and minors.**
- [G] **Any minor in whose behalf the father began to pay the sheqel does not again cease [to pay],**
- [H] **And they do not exact a pledge from priests,**
- [I] **for the sake of peace.**
- [J] **Said R. Judah, “Testified Ben Bukhri in Yabneh: Any priest who pays the sheqel does not sin.”**
- [K] **“Said to him Rabban Yohanan ben Zakkai, ‘Not so. But any priest who does not pay the sheqel sins.**
- [L] **“But the priests expound this scriptural verse for their own benefit: “And every meal-offering of the priest shall be wholly burned, it shall not be eaten” (Lev. 6:23).**
- [M] **““Since the omer, Two Loaves, and Show Bread [paid by the sheqel-tax] are ours, [if we contribute] are they to be eaten?””**

[I:1 A] *They do not exact a pledge from ... minors [M. 1:3F]:*

- [B] Lo, as to laying claim against them that they pay the *sheqel*, they do lay claim.
- [C] That which you have said [at B, concerning accepting the *sheqel* from a minor] applies when he has reached puberty.
- [D] But if he has not yet reached puberty, it is not in that case [that they accept a *sheqel* from him].
- [E] And as to exacting a pledge [for the unpaid *sheqel-tax*], they do so once [he has passed puberty and] produced two pubic hairs.
- [F] That is how the Mishnah is to be interpreted.
- [II:1 A] *They do not exact a pledge from priests [M. 1:3H]:*
- [B] for the sake of honor.
- [III:1 A] *Said R. Judah, “Testified ...”[M. 1:3J].*
- [B] Said R. Berekhiah, “The scriptural basis for the view of Rabban Yohanan ben Zakkai: ‘This will they give’ (Exod. 20:13)—all twelve tribes [inclusive of the priests] shall give [the *sheqel*].”
- [C] R. Tabi in the name of R. Hamnuna: ‘Thus did sages answer R. Judah[’s argument at M. 1:3L-M]: ‘An animal designated for use as a sin-offering of an individual is left to die [should it not be offered], and an animal designated as a sin-offering for the community is not left to die. A meal-offering of an individual is entirely burned up on the altar, but the meal-offering of the community is not entirely burned up on the altar.’ [Hence we may distinguish one sort of meal-offering from another, and assign Leviticus 6:23 to the category of the individual’s meal-offering, not the community’s. Accordingly, the community has a share in the public meal-offerings, which may be eaten by the priest, so priests may contribute to the cost of the flour for making them, contrary to the argument of M.1:3L-M.]”
- [D] Now there is this problem: How can you reply to a person on the basis of a fact that he does not accept?
- [E] For we have learned: *The sin-offering of the community is not left to die. R. Judah says, “It is left to die” [M. Yoma 6:1].*
- [F] [Since the reference of Leviticus 6:23 is to the meal-offering of the priest himself,] he answered them, “Is this not the freewill-offering of an individual? [How can the freewill-offering serve for the purchase of communal sacrifices? So if the priest contributes to the *sheqel-tax*, it is

only as a freewill-offering, and how can that serve the community's purpose?]"

[G] They said to him, "Once it is handed over to the community, it is as if it is part of the community's [property]."

[IV:1 A] It is written, "Each one who passes [46b] in the census [shall give this]" (Exod. 30:13).

[B] R. Judah and R. Nehemiah: One said, "Whoever passed through the sea [i.e., the Red Sea] will give this."

[C] The other said, "Whoever passed through the census will give this."

[D] He who said, "Whoever passed through the sea will give this," supports the view of Rabban Yohanan ben Zakkai [for that includes the priests].

[E] He who said, "Whoever passed in the census will give this," supports the view of Ben Bukhri [since the priests and Levites did not do so].

Moneychangers serve to change various coins into the *sheqel* required for the Temple tax. In the Temple the moneychangers take a pledge from one who has not yet paid his tax and, in exchange, give the required half - *sheqel*. They are therefore essential for the collection of the tax, which serves through the coming year to provide the offerings in the name of the community. The priests maintain (M. 1:3L-M) that, by analogy to the priest's meal-offering, any offering paid for, in whole or in part, by funds deriving from priests must be completely burned up. If priests give money for, e.g., offerings which Scripture specifically requires to be eaten (M. 1:3M), then the commandment to eat the offerings, such as those listed at M, is contravened by the priests' having provided money for the provision of these same offerings. It follows that priests cannot contribute to the *sheqel-offering*. M. 1:3E, H-I, reflect this opinion. Ben Bukhri's view is that if the priest gives the *sheqel*, it constitutes a gift to the community and no longer is his, so Ben Bukhri's theory accords with that of priests.

Units I and II clarify the meaning of the Mishnah, as indicated. Unit III amplifies the debate, spelling out Judah's position, as indicated, and giving a scriptural basis for Yohanan ben Zakkai's as well. Unit IV returns to the scriptural basis for the views of both parties.

1:4

- [A] Even though they have said [M. 1:3F], “They do not exact pledges from women, slaves, or minors,” if they paid the sheqel, they do accept it from them.
- [B] A Gentile and a Samaritan who paid the sheqel—they do not accept it from them.
- [C] Nor do they accept from them bird-offerings for male Zabs, bird-offerings for female Zabs, bird-offerings for women who have given birth, sin-offerings, or guilt-offerings.
- [D] But [offerings brought by reason of] vows and freewill-offerings they accept from them.
- [E] This is the governing principle: Anything which is vowed or given as a freewill-offering do they accept from them.
- [F] Anything which is not vowed or given as a freewill-offering do they not accept from them.
- [G] And so is the matter explained by Ezra, since it is said, “You have nothing to do with us to build a house unto our God” (Ezra 4:3).
- [H] And these are liable to the surcharge:
- [I] Levites, Israelites, proselytes, and freed slaves,
- [J] but not priests, women, slaves, or minors.
- [K] He who pays the sheqel in behalf of a priest, woman, slave, or minor, is exempt [from the surcharge].
- [L] And if he paid the sheqel for himself and for his fellow, he is liable for a single surcharge [for himself].
- [M] R. Meir says, “Two surcharges.”
- [N] He who pays a sela and takes back a sheqel in change is liable to two surcharges,
- [O] He who pays a sheqel [as a gift] for a poor man, for his neighbor, or a fellow townsman, is exempt.
- [P] But if he lent [the money to them], he is liable.
- [Q] Brothers who are partners who are liable to the surcharge are exempt from tithe of cattle.
- [R] But when they are liable to tithe of cattle, they are exempt from the surcharge.
- [S] And how much is the surcharge?
- [T] “A silver maah [= one twenty-fourth of a sela],” the words of R. Meir.

- [U] **And sages say, “A half [a silver maah].”**
- [I:1 A] *Even though they have said ... [M. 1:4A]:* Lo, as to laying claim against them for paying the *sheqel*, they do not lay claim against them for that purpose. [If they gave it, well and good, but if not, they do nothing.]
- [B] Here you have said, “They do not lay claim against them,” while there [at Y. 1:3A], you have said, “They do lay claim against them.”
- [C] Here [where they claim the payment, to be sure not exacting a pledge,] it is where they have produced two pubic hairs, and there [where they do not claim the payment at all], it is where they have not produced two pubic hairs.
- [II:1 A] *A Gentile and a Samaritan who paid the sheqel—they do not accept it from them [M. 1:4B]:*
- [B] Said R. Ba, “Interpret the cited rule to conform to the opinion of one who said, ‘A Samaritan is in the status of a Gentile.’”
- [C] For there is the following dispute:
- [D] “A Samaritan is in the status of a Gentile,” the words of Rabbi.
- [E] Rabban Simeon b. Gamaliel says, “A Samaritan is in the status of an Israelite for all purposes.”
- [F] Said R. Eleazar, “[The concluding passage of the Mishnah, M. 1:4C-G,] speaks only of Gentiles, but not of Samaritans [one way or the other, so the conclusion drawn just now does not necessarily follow].”
- [G] And so has it been taught: [With reference to Lev. 1:2: “When any man of you brings an offering to the Lord ...,”] “man” serves to encompass proselytes.
- [H] “Of you” serves to exclude apostates. [Samaritans are regarded as sincere converts, so they may bring offerings, and hence M. 1:4C-G cannot speak of Samaritans.]
- [I] The Mishnah stands at variance with the view of R. Eleazar [that M. 1:4Cff. speak only of Gentiles, not of Samaritans]: *Nor do they accept from them bird-offerings for male Zabs, bird-offerings for female Zabs, bird-offerings for women who have given birth, sin-offerings, or guilt-offerings [M. 1:4C].*
- [J] Now do bird-offerings for male *Zabs*, bird-offerings for female *Zabs*, and bird-offerings for women who have given birth derive from Gentiles at all? [No, they do not, since Scripture requires such

offerings only from Israelites. Hence under discussion must be Samaritans.]

- [K] Accordingly, can we say that the opening clause speaks [solely] of Gentiles, while the later cited passage speaks of Samaritans?
- [L] Yes, indeed, the opening clause speaks [solely] of Gentiles, while the later passage speaks of Samaritans.
- [III:1 A]** [In regard to M. 1:4G,] said R. Yohanan, “At the outset [of building the Temple] they do not accept from Gentiles either a concrete object [such as a brick or a beam] or something of value [that cannot be used in the building itself]. [The fear is that Israelites will become dependent on Gentiles and hence not do the work on their own, and ultimately the work will fail, that accounts for Ezra’s rule (Pene Moshe).]
- [B] “But once the building was done, they could accept from them something of value [that was not a concrete object], but they still could not accept from them a concrete object.”
- [C] R. Simeon b. Laqish said, “Whether at the outset or the end of the project, they accept from them neither a concrete object nor an object merely of value [but not to be used in the actual building].”
- [D] The following Tannaitic teaching stands at variance with the view of R. Yohanan:
- [E] *They do not accept from them a freewill-offering for sanctification for the upkeep of the house [T. Sheq, 1:7E].*
- [F] Interpret that statement to apply both to the outset and to the end of the building process, with respect solely to an object of value [but not a concrete item useful in the actual building].
- [G] R. Simeon b. Laqish said, “Whether at the outset or the end of the project, they accept from them neither a concrete object nor an object merely of value.”
- [H] The following Mishnaic passage stands at variance with the view of R. Simeon b. Laqish: *They agree that [a Gentile] may vow another’s worth and that his worth may be vowed by others [M. Ar. 1:2].*
- [I] Interpret the passage to speak of a burnt-offering [which may be given as a freewill-offering, in line with M. 1:4E].
- [J] There is no problem in that regard so far as their vowing [a freewill-offering] is concerned.

- [K] But is one subjected to the vow of bringing a burnt-offering? Surely not.
- [L] Rather the case involves an Israelite, whom a Gentile heard saying, “Lo, I pledge myself to bring a burnt-offering,” and he said, “What this one has said also is incumbent on me.”
- [M] Nonetheless, [still objecting to Simeon b. Laqish’s view,] does the Gentile not bring drink-offerings with the burnt-offering? And the excess [of funds brought for the purchase of] drink-offerings—does the excess not go for the purchase of utensils for the cultic service? It turns out that he does bring a concrete object [for use in the cult.] [This objection confronts both Simeon and Yohanan.]
- [N] [With reference to E, above, about not accepting a freewill-offering for the upkeep of the house, in which we said, F, that the statement applies to an object of value, and with reference, further, to M. Ar. 1:2: *R. Meir says, “The valuation of a Gentile may be vowed, but he cannot vow another’s valuation.” R. Judah says, “He may vow another’s valuation, but his valuation cannot be vowed by others.” But they agree that he may vow another’s worth, and that his worth may be vowed by others:* We now have to ask how these two rules fit together. For] *R. Yose b. R. Bun* objected, “[If in Meir’s view, Gentiles] are subject to valuations, [or, in Judah’s view, Gentiles] may pledge [another’s] valuation, do the proceeds not go to the upkeep of the Temple house [as against the rule cited in T. Sheq. 1:7E, above, that that may not be done]?”
- [O] “But just as you say there, His intention was for Heaven, and the funds on their own happen to come to serve for the upkeep of the house, so here you must say that the intent of the Gentile was for the sake of Heaven, and the proceeds on their own happen to come to serve for the upkeep of the house.”
- [P] How does *R. Simeon b. Laqish* interpret this matter?
- [Q] [Simeon does not allow any participation to Gentiles at all, in line with the following verse:] “You have nothing to do with us to build a house unto our God” (Ezra 4:3).
- [R] *R. Hezekiah* said *R. Simon* asked, “If so, they should not accept from Gentiles funds to maintain the water channel and the walls of the city and their towers! This is on the count, ‘You have nothing to do with us...’”

[IV:1 A] *And these are liable to the surcharge [M. 1:4H]:*

- [B] [What follows refers to T. Sheq. 1:8A-D: **“Trustees who paid a sheqel in behalf of orphans—lo, they are liable to the surcharge. He who pays a sheqel is liable to a surcharge,”** the words of R. Meir. And sages say, **“He who pays a sheqel is exempt from a surcharge.”** Now the orphans are not liable to the *sheqel*, in line with M. 1:4K. Yet Meir maintains the ones who pay the *sheqel* for them are liable to the surcharge. It follows that] the cited Tannaitic passage derives from R. Meir.
- [C] For R. Meir said, “Even though one is not liable to pay the *sheqel* in accord with the law of the Torah, the payment of the surcharge [by one who pays the *sheqel* in that person’s behalf, as a voluntary offering,] does derive from the Torah.”
- [D] R. Meir maintains that he who pays a whole *sheqel* is liable to the surcharge [= M. 1:4L].
- [E] For R. Meir said, “A kind of coin made of fire did the Holy One, blessed be he, produce from under his throne of glory, and he showed it to Moses, and he said to him, ‘This will they give’ (Exod. 30:13), a coin precisely like this one will they give, [and if they do not give it, they must pay the surcharge].”
- [F] *He who pays a sela and takes back a sheqel in change is liable to two surcharges* [M. 1:4N]:
- [G] Said R. Eleazar, “This represents the view of R. Meir.
- [H] “For it has been taught, *And these are liable to the surcharge ... for a single surcharge*, R. Meir says, ‘*Two surcharges*’” [M. 1:4H, L-M].
- [I] And Rab said, “[M. 1:4N] represents the view of all parties.
- [J] “For R. Meir said, ‘One [surcharge to cover] the *sheqel* that he gives, and one *sheqel* to cover the *sheqel* that he takes back in change, and one [surcharge] to cover the *sheqel* imposed by the teaching of the Torah.’”
- [K] In the opinion of Rab are there then three surcharges?
- [L] R. Jeremiah, R. Samuel b. R. Isaac in the name of Rab: “There are three surcharges, one covering the *sheqel* he pays over, one covering the *sheqel* he takes back in change, and one covering the *sheqel* described by the Torah.” [On the interpretation of this passage, cf. Pene Moshe.]

[V:1 A] *Brothers who are partners who are liable to the surcharge are exempt from tithe of cattle. But when they are liable to tithe of cattle, they are exempt from the surcharge [M. 1:4Q-R].*

[B] [To understand what follows, we must begin with a passage quoted only later in the unfolding of the argument, M. Bekh. 9:3: *That which is purchased or that which is given to someone as a gift are exempt from the law to tithe cattle. Brothers in partnership who are liable to a surcharge (in paying the sheqel) (explained below) are exempt from tithe of cattle. And those who are liable to tithe of cattle are exempt from the surcharge. If they acquired cattle from the property of the estate of their father, they are liable, and if not, they are exempt. If they divided the estate and then went and formed a partnership, they are liable to surcharge and exempt from tithe of cattle.* Now when someone pays a *half-sheqel* to the Temple, he is liable to a surcharge, to cover the cost of changing the money for the Temple's purposes. Individuals are liable to a *half-sheqel* plus the surcharge. The issue is whether the brothers, like other partners, together give the Temple tax of a *half-sheqel*, paying a whole *sheqel* to the Temple. If so, they pay the surcharge over and above the *sheqel*; they are deemed two strangers, not joint-owners of the estate. Now if they *are* regarded as strangers, then they are exempt from tithing herds they jointly own. Why? Because of the opening statement: *that which is purchased*—e.g., in the formation of a partnership—*is exempt*. At issue therefore is the point at which they form their partnership. If they form the partnership before the division of the estate, they are liable to tithe the cattle. Hence, they are exempt from the surcharge, since they are deemed one entity (joint heirs). If they form the partnership *after* the division of the estate, when all the cattle have entered their respective domains, they are exempt from tithing offspring born to their partnership, and, as is obvious, they are also liable to pay the surcharge as individuals in a re-formed partnership. So the critical point will be when the partnership is formed, and whether in its formation, the contribution of each party is assessed for purposes of forming the partnership. The discussion commences with the citation of the statement at M. Sheq. 1:4 on this same matter: *Brothers who are partners who are liable to the surcharge are exempt from tithe of cattle. But when they are liable to tithe of cattle, they are exempt from the surcharge (M. Sheq. 1:4Q-R).* What has happened, as is clear, is that the brothers take their share in the estate, and then they go and form a partnership to tend their cattle together. Then they are true partners, so they are liable to pay the surcharge but as we know, they are not liable to tithe the shared herd. If, by contrast,] they have not yet divided the estate, [they are not partners, but deemed one corporate

body]. [The herd, undivided, is liable to the tithe as it was when the father owned it. But they also do not pay the surcharge. Now Eleazar will gloss this statement so as to restate his established principle, which is that any sort of valid commercial exchange requires an assessment of the goods introduced into the exchange.]

- [C] Said R. Eleazar, “[The rule that, once they have divided the estate and formed a partnership, they are liable to the surcharge but exempt from the tithing of their herd] applies when they divide up and contribute to the partnership lambs for rams and rams for lambs. [Why? Because in this case there has been a proper appraisal of the value of the contribution of each to the partnership. In that case, we do not allege that this party has contributed what was already his. That is, when the father died, each brother acquired ownership of half of all the lambs and half of all the rams. If there is a contribution of *diverse* types of animals, there must be an appraisal, since it cannot be done on a one for one basis. Then we have a true partnership, and the offspring of the herd belong to partners and are not subject to tithe. The herd itself is exempt since it is deemed to have been *purchased* (appraised, exchanged), in line with M. Bekh. 9:1A. So the need to appraise the contribution of each brother to the herd sets the herd into the status of that which has been purchased.]
- [D] “But [Eleazar continues] if they split up lambs for lambs and rams for rams, it is as if the herd in common were contributed from the very outset. [That is, all we have is the inheritance of each brother, joined together as it always was in their father’s domain. When they formed their partnership, they did not establish a new entity but reformed the existing one. There is no need to appraise the whole, so the status of a purchase and trade has not been established. When the herd comes to the tithing season, the beasts are not in the status of that which has been purchased. Accordingly, we have no true partnership here. Tithing is required. Then, as we know, the surcharge on the *sheqel* paid to the Temple will not apply.]”
- [E] Said R. Yohanan, “But even if one party contributed lambs against another party’s lambs, or rams against rams, they remain in the status of purchasers, [and the beasts, *purchased* beasts, so, as we know, the conception of C is not invoked]. [It follows that, from Yohanan’s viewpoint, an appraisal of the value of the contribution of each to the partnership is *not* required. Mere exchange suffices to establish that we have a new entity, created by the exchange of each party for a share in the whole herd.]”

[F] “For we have learned there: *That which is purchased or that which is given to one as a gift is exempt from the law to tithe cattle. Brothers in partnership who are liable to a surcharge are exempt from tithe of cattle. And those who are liable to tithe of cattle are exempt from the surcharge. If they acquired cattle from the property of the estate of their father, they are liable. And if not, they are exempt. If they divided the estate and then went and formed a partnership, they are liable to surcharge and exempt from tithe of cattle* [M. Bekh. 9:3].”

[VI:1 A] [With reference to M. 1:4Q-R,] R. Hiyya said R. Jeremiah asked, “And why do we not say [in the formulation of the Mish-nah], There are times that they are liable for this and for that, [both the tithe of cattle and the surcharge,] and there are times that they are exempt both from this and from that?”

[B] “What would be practical cases [illustrative of both possibilities]?”

[C] “[If the brothers] divided the estate, without dividing the herd of cattle, they will be liable both for this and for that.

[D] “[If] they divided the herd of cattle, but they did not divide the estate [otherwise], they are exempt both for this and for that.”

[E] Said R. Mana, “That which you propose [at D] applies to a case in which the herd did not constitute the bulk of the assets of the estate, but if the herd constituted the bulk of the assets of the estate, then the herd is the decisive criterion as to the disposition of the estate [and what happens to it governs the brothers’ status].”

[F] R. Abin said R. Shimi asked, “[With reference to V.B, if the brothers did not divide the estate, they are not partners, so they are exempt from the *sheqel* but liable to the tithe of cattle,] is it because you have treated them as a single corporate body with regard to the liability to the tithe of the cattle that you exempt him from the surcharge? [Why not impose a strict rule as to the surcharge?]”

[G] [Abin] said to him, “No, this case is different [from one in which a man gives a *sela* to cover two individuals’ obligations for a *sheqel*]. Here he hands over a whole *sela*, [deriving from the father’s property, for the two of them, and in line with M. 1:4K, one who pays in behalf of minors—here, the brothers, paid for by the father’s undivided estate—is exempt from the surcharge].”

[H] If so, even if they divided the estate and went and formed a partnership once more, they should be liable to the tithe of cattle and exempt from the surcharge!

[I] But we have learned: *But when they are liable to tithe of cattle, they are exempt from the surcharge* [M. 1:4R],

[VII:1 A] R. Ba in the name of Abba bar R. Huna, “[With reference to M. 1:4Q-R,] the same rule applies to two brothers who have inherited the estate of their father, and to two brothers-in-law who inherited the estate of their father-in-law/’

[VIII:1 A] With these surcharges what do they do?

[B] “They fall to [the fund of] the sheqels,” the words of R. Meir.

[C] R. Eleazar says, “For a freewill-offering [when the altar is unoccupied],”

[D] R. Simeon Shezuri says, “Golden patches, for the golden foil for the house of the Holy of Holies.”

[E] Ben Azzai says, “The moneychangers come and collect them as their fee” [T. Sheq. 1:8].

[F] And some say, “They go for the repair of the roads.”

The Temple is owed a half-*sheqel*. But there are costs of changing money to be paid, covered by the surcharge (M. 1:4H). If someone pays over a *sela* worth two *sheqels* and gets a *sheqel* and a half back, there is a loss in the transaction, accounted for by the fee paid to the moneychanger. It follows that there is a surcharge owing from those who are required by law to pay the half-*sheqel* (I). But it is not exacted from those who to begin with are not required by law to pay the *half-sheqel*. This point—that those not obligated by law to pay the *half-sheqel*, but who choose to pay it, do not have to pay the surcharge—then is expanded at K, If someone who is liable to the surcharge pays the *half-sheqel* for someone who is not liable, the former does not have to pay the surcharge. The same point is made at L. If someone paid in his own behalf and also paid in behalf of his friend, he pays only for himself. Meir has the theory that the surcharge is required of anyone who owes the *half-sheqel*. Since the friend is liable to the *half-sheqel*, the one who provides it also should pay the surcharge. In the present case, the man has paid a single coin for the two. Sages’ view is that if the man pays a single coin for the two, he nonetheless has to pay the fee for the moneychanger, who will break the coin into the two half-*sheqels* required. But sages concur (N) that if one pays over a *sela*, which is four *sheqels*, and takes back a *sheqel* (L), he has to pay the two surcharges. One is for the *sela* which he paid over to the sanctuary, and one is for the *sheqel* which he took back in change. M. 1:4O-P make a

further point. If the *half-sheqel* is paid as a gift, there is no surcharge, just as we noted at K-L. But if one lends the money, then there is no gift, and of course a surcharge is involved. Q-R make yet another secondary point. Partners who paid the *sheqel* together—half for each—are liable to the surcharge (L). Our case, at Q-R, involves brothers who have inherited the father's estate and divided it. They then enter partnership. They are liable to the surcharge, if they pay the *sheqel* together, like any other partners (L). Cattle they divided up and then contributed to the partnership do not have to be tithed by these partners. When the estate has not yet been divided, so that the cattle herd is subject to the tithe as a single herd belonging to the father's estate, then the brothers do not have to tithe the cattle. They now are not yet partners, and therefore, if the estate pays their *half-sheqel* for each [= M. 1:40] they do not have to add the surcharge. They are in the status of the sons of a father who pays in behalf of his children. The amount of the surcharge, in Meir's opinion (T), is one twelfth of a *sheqel*, one twenty-fourth of a *sela*; Meir then wants a person to pay a half- *sheqel* and a sixth more. Sages want half this quantity, a *half-sheqel* and a twelfth more.

The Talmud's treatment goes right to the center of the Mishnah's principal concerns, first, the role of Gentiles and Samaritans in the cult, second, the matter of the surcharge. Units **I**, **II**, and **III** deal with the former. Units **I** and **II** stay close to the exegesis of the Mishnah. Unit **III** is an autonomous discussion, intersecting with the Mishnah only in the shared theme. There are some fairly serious textual problems in unit **III**, which I have not solved. Unit **IV**, equally difficult in its text, takes up Meir's view that the surcharge is a decree of the Torah, as much as the *half-sheqel* itself. Units **V** and **VI** proceed to the ambiguous status of brothers who are partners in ownership of a herd of cattle, as part of the father's as yet undivided estate. Unit **VI** carries forward the discussion of the same passage of the Mishnah, this time without the issue of the interplay of the parallel passage at M. Bekh. 9:3. Unit **VII** presents a minor point of clarification of the Mishnah. Unit **VIII** inserts the pertinent passage of the Tosefta.

YERUSHALMI SHEQALIM

CHAPTER TWO

2:1

- [A] They change sheqels into darics because of the burden of the journey.
- [B] Just as there were shofar-chests [for receiving the sheqel-tax] in the Temple, so there were shofar-chests in the provinces.
- [C] Townsfolk who sent their sheqels, which were stolen or lost
- [D] if the heave-offering already had been taken up, the [guardians of the funds] take an oath to the Temple revenueurs.
- [E] And if not, they take an oath before the [other] townsfolk, and the [other] townsfolk pay the sheqel in their stead.
- [F] [If the sheqels] were found, or the robbers returned them, both these [coins, paid by the other townsfolk,] and those [coins, originally put forth,] are the status of sheqels.
- [G] And they do not go to their credit for the coming year.
- [I:1 A] [46c] [As to M. 2:1A,] and why not turn the *sheqel-funds* into pearls [for the trip to Jerusalem]?
- [B] The pearls, [having a small market,] may depreciate in value, and the Temple will end up losing out.
- [C] That is in line with what we have learned there: *Whatever is to be redeemed may be redeemed with silver or its value, except for sheqel-taxes [which may be paid only in silver (M. Bekh. 9:7)].*
- [D] And they do not redeem them with utensils, [that is, paying over utensils to the cult in place of *sheqel-dues*. The *sheqels* must be kept as specie.]

- [E] For R. Samuel b. R. Isaac said, “The utensils may go down in value, and the Temple then will lose out.”
- [F] Here too, perhaps the price of pearls may go down, and the Temple will turn out to lose out.
- [II:1 A]** [As to M. 2:1B:] The Mishnah refers to new *sheqels* [for the given year, in which case there were *shofar-chests* in the provinces, not only in the Temple].
- [B] But as to old *sheqels* [for the preceding year], it is not in such a case [that there were chests in the provinces].
- [C] And so it has been taught: [There were chests for] old *sheqels* in the Temple, but not in the provinces.
- [III:1 A]** [As to M. 2:1C, if the *sheqels* were stolen or lost,] the Mishnah speaks of the case of an unpaid guardian [of the funds].
- [B] But in the case of a paid guardian, it is not in such a case [that the guardian of the funds takes an oath].
- [C] Said R. Abba, “And even if you say that the Mishnah speaks of a paid guardian: we deal with the case of a theft of funds by armed thugs, parallel to their being lost in a ship at sea [in which case the paid guardian simply takes an oath as to the facts and is exempt from paying restitution].”
- [IV:1 A]** [As to the distinction important to M. 2:1D-E between whether the heave-offering already had been taken up, in which case the *sheqels* now belong to the Temple, and not taken up, in which case the *sheqels* remain the responsibility of the townsfolk,] said R. Yusti b. R. Simon, “The Mishnah follows the view of one who said, They take up the heave-offering of *sheqels* for what has already been collected and for what is going to be collected, [e.g., subject to a pledge].”
- [B] “But in the view of one who says, ‘They do not take up the heave-offering of *sheqels* from what has already been collected and from what is going to be collected,’ it is not from such a viewpoint that the stated distinction can be made [since only when the *sheqels* actually reach the Temple, not before, do they belong to the Temple].”
- [V:1 A]** *Townsfolk who sent their sheqels, etc. [M. 2:1C-E]:*
- [B] Said R. Eleazar, “This law of the Mishnah represents the view of R. Simeon, for R. Simeon says, ‘As to Holy Things which a person is responsible to make up if lost, they are in the status of one’s own

property.’ [Hence there is an oath and the townsfolk have to make up the loss, if the Temple has not taken possession of the money.]”

- [C] R. Yohanan said, “It represents the view of all parties, for the oath at hand is an oath ordained [by sages merely to protect the sanctity of Holy Things, and hence, M. 2:1E does not reflect the sort of oath generated by Simeon’s theory (B)].”
- [D] In the view of R. Yohanan there is no problem understanding why *they take an oath to the Temple revenueurs, and if not, they take an oath before the other townsfolk, and the other townsfolk pay the sheqel in their stead* [M. 2:1D-E], for this is an oath ordained [as an ad hoc measure].
- [E] But in the view of R. Eleazar, as to their taking an oath to the townsfolk, [there is no problem, since they are responsible to make up the lost coins]. But as to their taking an oath to the Temple revenueurs, what in the world are the revenueurs doing here? [They have no claim.]
- [F] [The meaning is this:] They take an oath to the townsfolk in the presence of the Temple revenueurs so that [the latter] should not suspect [the townsfolk of stealing the money and claiming it was lost], or so that they should not be held to be transgressors [against the Temple property],
- [G] for even though the townsfolk undertake to pay for the loss, property is not lost to the Temple without [someone’s] taking an oath [in regard to what has happened to it].
- [V:1 A] If one has designated a coin for his *sheqel*, and the coin was lost—
- [B] R. Yohanan said, ‘He is liable to make it up, [if it was lost] before he handed it over to the Temple revenueur.’”
- [C] R. Simeon b. Laqish says, “What has been declared consecrated is in the domain of the Most High in every place in which it is located [and hence the coin is sanctified, and the man has carried out his obligation, even though the coin has not reached the Temple]. [Consequently, the man does not have to make up the loss, once the coin has been designated to fulfill his obligation.]”
- [D] The Mishnah before us stands at variance with the position of R. Simeon b. Laqish:
- [E] *They take an oath before the other townsfolk, and the other townsfolk pay the sheqel in their stead* [M. 2:1E].

[F] And not only so, but furthermore it is an oath taken as an or dinance [to protect the sanctity of goods designated for the Temple].

[VII:1 A] It has been taught: **[He who designates (a coin for) his sheqel, which got lost, and then designated another in its stead, and did not suffice to hand it over (to the Temple revenue) before the first was found, so that, lo, both of them are now available—this one and that one have the status of sheqels.] And the [one separated] first falls to the chest of new [sheqels], the [one separated] second, of old ones [T. Sheq. 1:9].**

[B] What is the definition of the first, and what is the definition of the second?

[C] R. Phineas b. R. Hiyya, R. Abba Mari: [Defining the first,] one said, “These are the ones that the townsfolk sent first.”

[D] The other said, “These are the ones that reached the domain of the Temple revenue first.”

We have three independent items at M. 2:1A, B, and then the important pericope of M. 2:1C-G. Now if the coins are lost, the agents of the court have to take an oath that they have not misappropriated the funds or otherwise mismanaged their work. To whom is this oath owing? If the *sheqels* are lost (C), and this happened after the act of taking up the heave-offering of the *sheqels*, then these *sheqels* are deemed to have entered into the Temple funds and to have belonged to the Temple. The oath therefore is owing to the revenue, since the coins, wherever they are located, belong to the Temple. There is no obligation, once the oath is taken, to make restitution. If the act of taking up the heave-offering of the *sheqels* has not taken place, then the coins—wherever they may be—do not yet belong to the Temple. Only the taking up of the heave-offering constitutes that act of acquisition which transfers all the coins into Temple property. Then the oath is taken to the townsfolk, to whom the coins still belong. It goes without saying that under all circumstances, the *sheqels*, when they are found, go to the benefit of the Temple.

Once again the Talmud systematically works through and broadens the frame of the Mishnah’s materials. Unit I asks an obvious question about M. 2:1A. Unit II lightly glosses M. 2:1B. Unit III interprets the sort of bailment at issue in M. 2:1C. Unit IV proceeds to the distinction at M. 2:1D-E. Unit V explains the thesis expressed at M. 2:1C-E. Unit VI carries forward exactly the same issue. Unit VII cites and glosses the Tosefta’s complement to the Mishnah. Here is an

example of what the Talmud looks like when it serves as a commentary to the Mishnah.

2:2

- [A] **He who hands over his sheqel to his fellow to pay the sheqel in his behalf, but [his fellow] paid the sheqel in his own behalf,**
- [B] **if the heave-offering had been taken up, [his fellow] has committed an act of sacrilege.**
- [C] **He who pays his sheqel from coins which had already been consecrated,**
- [D] **if the heave-offering had already been taken up, and an offering [bought from that money] had been offered, he has committed an act of sacrilege.**
- [E] **[If he paid the sheqel] from coins in the status of second tithing or from coins received in exchange for Seventh produce of the Seventh Year, he must consume [produce] equivalent to their value.**
- [I:1 A] He *who pays his sheqel* [M. 2:2C]. [At issue is the point at which the coin is consecrated, so that the act of sacrilege—appropriation for one’s personal use what belongs to the Temple—becomes possible. Now M. 2:2B specifies that it is at the point that the heave-offering of the *sheqels* has been taken up that the *sheqels* are consecrated.] We have learned, “If the animal [purchased with funds] has [actually] been offered,” [that is the point at which the money is consecrated, so if one thereafter used the funds for his personal benefit, he has committed an act of sacrilege].
- [B] And a member of the House of Rabbi taught, “If the heave-offering of the *sheqels* has been taken up” [as at M. 2:2B]. [The turning point, comparing the item before us (M. 2:2B) to the use of consecrated funds set aside for the purchase of a beast (I. A) will be when the beast purchased with the funds has been offered up. Then the funds set aside for this beast become consecrated, and use of them for some other purpose constitutes sacrilege.]
- [C] Who stands behind the teaching, *If the heave-offering had been taken up his fellow has committed an act of sacrilege* [M. 2:2B] [not comparing this matter to the one of sacrifice (I. A)]?
- [D] It represents the view of R. Simeon, for R. Simeon said, “He would receive the money forthwith, for the priests are prompt [at doing their business].” [Hence the priests take up heave-offering of the *sheqels*,

covering both what is in hand and what is expected later on, right away. Hence the money set aside (M. 2:2A), which has been used for the other purpose (M. 2:2B), already is deemed appropriated for the cult, as M. 2:2B specifies. There is no comparison, then, to the matter of the sacrifice (I.A) at all. This speaks for Simeon.]

[II:1 A] Now there is this problem [to be addressed to the Mishnah's rule]: In the case of one who steals an animal set aside as a burnt-offering for his fellow, and slaughters it without further specification [as to its use] —is it not for the sake of the original owner that the offering effects atonement [and not for the sake of the thief]? [Yet at M. 2:2A-B, we assume that the thief gains the benefit of the coin, and the original owner does not.]

[B] Said R. Yudan, “Interpret [the passage before us to speak of a case in which] the coin was signified [by the thief for his own benefit, not for the benefit of the owner].”

[III:1 A] *A member of the household of Rabban Gamaliel would go in and take his sheqel between his fingertips and throw it in front of the one who takes up the heave-offering of the sheqels, so as to make sure his coin would be used for the purchase of the public sacrifices. And the one who takes up the heave-offering intentionally pushes it into the basket [of the coins that are taken up for actually purchasing the beast] [M. 3:3A -B].*

[B] [Now the issue (M. 2 : 2B) is how we know that the coin was actually used for the purchase of offerings, so that we know that the thief has committed an act of sacrilege.] And should we not scruple that the coin went for the residue [of other purposes, and not for the purchase of an animal]? And does sacrilege apply to funds set apart for the purchase of residue, [that is, other purposes than the one of buying public animals for the public offerings]?

[C] But the Mishnah-passage before us follows the view of R. Meir, for R. Meir says, “The laws of sacrilege do apply to coins that are part of the residue.”

[D] A further possibility is to explain that the coin in question has been designated [for the purchase of a beast in particular, in line with the story about] a member of the household of Rabban Gamaliel who would intentionally [see to it that the coin was taken up] for the purpose of [purchasing a beast].

[IV:1 A] [With reference to M. 2:2A-B,] how has he derived benefit [from the coin]?

[B] Said R. Abin in the name of the rabbis from there [Babylonia], “Since the court would have exacted a pledge from him for the payment of his *sheqel*, and did not do so, it is as if he has derived benefit from the coin set aside by the other.”

[V:1 A] *From coins in the status of second tithe [M. 2:2E]:*

[B] This is in line with that which is written, “But a firstling of animals, which as a firstling belongs to the Lord, no man may dedicate; whether ox or sheep, it is the Lord’s” (Lev. 27:26).

[C] Any that already is holy is not subject to [a further act of] consecration.

[D] [If one has violated the rule of M. 2:2E,] what does he do?

[E] He brings a *sela* which is not consecrated, and he says, “Money in the status of second tithe, wherever located, is to be deconsecrated on the basis of this *sela* [which takes their place],” and the *sela* then enters the status of second tithe, and the remainder [of the coins] then enter the status of *sheqels* [for which purpose they have been used].

Once the appropriation is made (M. 2:2B), the *sheqel* belongs to the sanctuary and cannot be used for private purposes or to meet a personal obligation. M. 2:2C-D go over this same conception. The point of E is that the coins’ value must be translated back into produce. That is to say, since the coin used for the *sheqel* was in the status, e.g., of second tithe, the man must take a coin of value equivalent to the *sheqel* and declare the coin to be in the place of the money in the status of second tithe which he has used for his *sheqel*. This then is spent on food in Jerusalem, that is, as would have been the case with the original funds. The same applies to produce of the Seventh Year.

Unit I introduces the separate issue of the point at which a coin or a beast enters into the status of holiness, so that use of the coin or beast for one’s own purpose constitutes sacrilege. The text poses some difficulties, and my translation is at best a guess. But the basic intent—comparing our instance of sacrilege to the more commonplace principles at M. Me. 1:1—is clear. Unit II raises a second theoretical question on the matter of sacrilege in general, asking why the thief is guilty of sacrilege at all. Units III and IV repeat this same question. Unit V takes up M. 2:2E and explains how to remedy the situation created by the misuse of the coins already consecrated for some other purpose.

- [A] He who saves up [collects] coins and said, “Lo, these are for my sheqel”—
- [B] the House of Shammai say, “The surplus [over what is actually needed for his sheqel] goes for a freewill-offering.”
- [C] And the House of Hillel say, “The surplus [over what is actually needed for his sheqel] is unconsecrated.”
- [D] [If he said,] “I shall bring some of them for my sheqel,”
- [E] they concur that the surplus is unconsecrated.
- [F] [If he said,] “These are for the purchase of my sin-offering,”
- [G] they concur that the surplus is for a freewill-offering.
- [H] [If he said,] “I shall bring some of them for purchase of my sin-offering,”
- [I] they concur that the surplus is unconsecrated.
- [J] Said R. Simeon, “What is the difference between sheqel-taxes and the sin-offering?”
- [K] “Sheqel-taxes are subject to a prescribed limit, but a sin-offering is not subject to a prescribed limit.”
- [L] R. Judah says, “Also: Sheqel-taxes are not subject to a prescribed limit.
- [M] “For when the Israelites came up from the Exile, they would pay the sheqel in darics. Then they went and paid the sheqel in selas [double-sheqels]. Then they went and paid the sheqel in [sheqel]-coins. And they [even] wanted to pay the sheqel in denars.”
- [N] Said R. Simeon, “Even so, the charge for everyone was equal But in the case of a sin-offering, this one may bring a sin-offering worth two, and yet another may bring a sin-offering worth three.”
- [I:1 A] R. Yose in the name of R. Eleazar: “Where the Houses of Sham-mai and Hillel differ, it is when he saves up small change. But if he says, ‘These ... [coins lying here before me, all together are for the *sheqel*-tax],’ all parties concur that the surplus is for a freewill-offering, [since he specifies that the coins he is setting aside, whether needed or not, are for a *sheqel*-tax, all parties concur that they are consecrated].”
- [B] R. Hiyya [Leiden MS and *editio princeps*: R. Hezekiah], R. Bibi in the name of R. Eleazar: “Where the Houses of Shammai and Hillel differ, it is when he saves up small change. But if he says, These ...,’ all parties concur that the surplus is unconse-
crated. [The man knows full well that he cannot add to what is actually required for the *sheqel*-tax.

When he refers to ‘these,’ he can mean only what is needed for the *sheqel-tax* itself. He cannot be understood to refer to the other money in hand at all.]”

- [C] Said R. Hiyya, ‘The following passage of the Mishnah supports the view of R. Bibi: *Said R. Simeon, ‘What is the difference between sheqel-taxes and the sin-offering? Sheqel-taxes are subject to a prescribed limit, but a sin-offering is not subject to a prescribed limit’ [M. Sheq. 2:3J-K].*
- [D] “Now how shall we interpret this passage? If we deal with a case in which someone says, ‘I shall bring some of them as *sheqel*,’ all parties concur that the surplus is unconsecrated [as he has specified in saying, only *some* of them].
- [E] “If we deal with one who says, ‘I shall bring some of them for the purchase of my sin-offering,’ all parties concur that the money remaining must be unconsecrated.
- [F] “So we must deal with a case in which one says, [46d] These are *sheqel*-taxes.’ Since the Torah has set a prescribed limit to the amount required, the surplus over what the man needs is unconsecrated. In the case of a sin-offering, since the Torah has not set a prescribed limit to the matter, the surplus of funds set aside for a sin-offering will be used for freewill-offerings. [All parties then must concur that the remainder of the money is unconsecrated, just as Bibi has held.]”
- [G] How does R. Yose in R. Eleazar’s name interpret this same passage? He maintains that it deals with someone who collects small change, [and said, “These ...”; R. Simeon then explains the position of] the House of Hillel. [The Hillelites hold that the surplus is unconsecrated since there is a fixed limit to what can be paid. So we have nothing other than an act of consecration done in error, which is not the case with the sin-offering. But if all the money were set before the man and he said, “These ...,” then the Hillelites also will concur that the surplus goes for a freewill offering.]
- [H] And lo, we have learned: *The surplus of funds designated for use for a sheqel-tax is unconsecrated [M. 2:4A].*
- [I] Interpret this to speak of someone who collects small change, [and said, “These ...”; R. Simeon then explains the position of] the House of Hillel [as above at G].
- [J] If one has set aside a coin for his *sheqel* assuming that he owes it and turns out not to owe it—the coin is not sanctified.

- [K] If he set aside two of them assuming that he owes two, and turns out to owe only one of them—what do you do with the second coin? [What is the relevant analogy?]
- [L] [Do we compare this case to the following:] If one assumed that he was liable and turned out that he was not liable?
- [M] Or is it similar to the case of one who says, “These ...”?
- [N] Let us derive the answer from the following:
- [O] If one set aside an animal as his sin-offering, assuming that he was liable for one, and turned out not to be liable, it is not sanctified.
- [P] If he set aside two animals assuming that he was liable for them, and turned out to be liable for only one animal as a sin-offering, as to that second beast, what do you do with it?
- [Q] Is it parallel to the case in which he assumed that he was liable and turned out not to be liable, or is it parallel to the case of one who says, “These ...”?
- [R] But in that case, the beast is put out to pasture [until it is blemished, then it is sold, and the proceeds are used for a freewill-offering].
- [S] Here too the money is set aside for a freewill-offering.
- [T] [Delete: How can you say, ‘These’?]
- [II:1 A]** *R. Judah says, “... in darics. Then they went and paid the sheqel in selas,” [M. 2:3L-M] in accord with the obvious meaning of the word, selas.*
- [B] Then they went and paid the *sheqel* in *tibeon-coins*, that is, half-selas.
- [C] They wanted to pay the *sheqel* in small *denars* [a fourth of a *sela*], but they did not agree, on the basis of the following verse:
- [D] “We also lay upon ourselves the obligation to charge ourselves yearly with the third part of a *sheqel* for the service of the house of our God” (Neh. 11:32).
- [E] R. Hilqiah in the name of R. Aha: “On the basis of this verse we learn that a person must set aside a third of his required *sheqel-tax* three times a year.
- [F] “On the same basis we learn that they do not trouble the community more than three times in a year.”

[G] Said R. Abin, “Upon this same basis we learn that there are three *seah*-measures constituted by each of three baskets [for *sheqel-offerings*], three acts of separating the *sheqel-offerings* [for use in the cult] [cf. M. 3:1A, 3:2A].”

[III:1 A] It is written, “Each who is numbered in the census shall give this: half a *sheqel* according to the *sheqel* of the sanctuary (the *sheqel* is twenty *gerahs*), half a *sheqel* as an offering to the Lord” (Exod. 30:13).

[B] R. Judah and R. Nehemiah: One said, “Since they sinned [in the matter of the golden calf] at midday, [when the day was half over,] they give a *half-sheqel*.”

[C] The other said, “Since they sinned at the sixth hour, let them give a *half-sheqel*, which is a sixth of a *garmasin* [coin].”

[D] R. Joshua b. R. Nehemiah in the name of R. Yohanan ben Zak-kai: “Since they violated the Ten Commandments, let each one give ten grains [of silver, a *half-sheqel*].”

[E] R. Berekhiah, R. Levi in the name of R. Simeon b. Laqish: “Since they had sold the firstborn of Rachel [Joseph] for twenty silver pieces, let each one redeem his firstborn son for twenty pieces of silver.”

[F] R. Phineas in the name of R. Levi: “Since they sold the firstborn of Rachel for twenty pieces of silver, and each one of them got a *tibea*-coin, therefore let each one of them pay as his *sheqel* a *tibea*-coin.”

We now take up the question of the disposition of coins set aside for particular cultic purposes. If someone specifies that some of the coins will be used for his *sheqel*, obviously there is no reason to regard as consecrated all of them—but only those needed, hence, the surplus. If he specifies, moreover, that all of the coins will be used for a sin-offering, then all are holy, and the surplus cannot be counted as unconsecrated. To be sure, another sin-offering is not possible. It must serve for a particular sin. So the unneeded funds go for a freewill-offering. Likewise, the specification of H does not yield a dispute. The point at issue in A-C then is clear. The exposition of the Hillelite view now requires an explanation of why in their view the rule for the *sheqel* differs from that for the sin-offering. Simeon (M. 2:3J-K) provides that explanation, and it is a good one. If a person says, “These are for my *sheqel*,” he can be referring only to a fixed part of the entire collection of coins, since, everyone knows, there is a limit to what he will need. Hence his primary intention cannot be to consecrate all the coins, but only those he in fact will require. The surplus never was

subject to his intention. Judah objects to this view, but Simeon's reply is a sound one: the *sheqel* is not a variable tax.

Unit I takes up the Houses' dispute (M. 2:3A-C), spelling out what is at issue. For I.L-R, I follow the text at Y. Naz. 5:1. III.J-R, which differs slightly from what is before us here. Unit II goes over M. 2:3L—M, as indicated. Unit III provides an exegetical basis for the *half-sheqel* tax specified in Scripture.

2:4

- [A] **The surplus [of funds designated for use for] a sheqel-tax is unconsecrated [M. 2:3C].**
- [B] **The surplus of [coins collected to purchase] the tenth of an ephah, the surplus of bird-offerings for male Zabs, bird-offerings of female Zabs, bird-offerings for women who have given birth, sin-offerings [M. 2:3F], and guilt-offerings—**
- [C] **their surplus is for a freewill-offering.**
- [D] **This is the governing principle: Whatever comes for the purposes of a sin-offering or a guilt-offering—its surplus is for a freewill-offering.**
- [E] **The surplus of money set aside for a burnt-offering is used for the purchase of another burnt-offering.**
- [F] **The surplus of money set aside for a meal-offering is used for the purchase of another meal-offering.**
- [G] **The surplus of money set aside for peace-offerings is used for peace-offerings.**
- [H] **The surplus of money set aside for a Passover-offering is used for peace-offerings.**
- [I] **The surplus of money set aside for the offerings of Nazirs is used for [other] Nazir[s] offerings].**
- [J] **The surplus of money set aside for a [particular] Nazir is used for the purchase of a freewill-offering.**
- [I:1 A] R. Yose said, “When I was there [in Babylonia], I heard R. Judah asking Samuel, ‘If one has set aside his *sheqel-offering* and then died, [what do we do with the money]?’
- [B] “He said to him, ‘It goes for the purchase of a freewill-offering.’ [The money goes for the purchase of animals for sacrifice on behalf of the community, which are in the status of Most Holy Things,]”

- [C] The excess of money set aside for the purchase of the high priest's tenth *ephah* of fine flour—
- [D] R. Yohanan said, “The money is thrown into the Dead Sea.”
- [E] R. Eleazar says, “It is assigned for the purchase of a freewill-offering. [The funds are in the status of Most Holy Things.]”
- [F] The Mishnah-passage before us stands at variance with the view of R. Yohanan:
- [G] *The surplus of funds designated for use for a sheqel-tax is unconsecrated. The surplus of coins collected to purchase the tenth of an ephah, the surplus of bird-offerings for male Zabs, bird-offerings of female Zabs, bird-offerings for women who have given birth, sin-offerings, and guilt-offerings—their surplus is for a freewill-offering [M. 2:4A-B].* [The reference to funds set aside for the purchase of an *ephah* of fine flour clearly contradicts Yohanan's view of the disposition of the extra money.]
- [H] How does R. Yohanan interpret this rule?
- [I] He interprets it to speak of the surplus of funds collected to purchase an *ephah* of line flour for a sinner [too poor to pay for anything better], which applies to all Israelites [and not solely to the high priest's *ephah*]. [M. 2 :4 simply speaks of an *ephah* of fine flour collected for a different purpose.]
- [II:1 A]** R. Yose said, “Concerning the following matter did Abba bar Ba [Samuel] raise a question: They say that an animal set aside for use as a Passover-offering may be transferred for use for peace-offerings [= M. 2:4H], What is the source of that view?
- [B] “Scripture says, ‘If his offering for a sacrifice of peace-offering to the Lord is an animal from the flock, male or female, he shall offer it without blemish’ (Lev. 3:6).
- [C] “Whatever derives from the flock may be offered as peace-offerings.”
- [D] They objected, “Lo, there is the case of an animal, deriving only from a flock, designated for use as a burnt-offering. [Such an animal, once designated for use as a burnt-offering, cannot serve some other purpose, in line with the principle of M. 2:4E.]”
- [E] An animal designated as a burnt-offering is an exception, for such a burnt-offering may derive even from the herd.

- [F] They objected, “Lo, there is a guilt-offering [which cannot derive from the herd].”
- [G] Said R. Bun bar Kahana, “When Scripture says, ‘from the flock,’ it means from any sort of animal that is in the flock, but a guilt-offering may only be a ram, and not a goat or a sheep, which also fall into the category of flock.”
- [H] [A further objection to the reading of Lev. 3:6:] In all cases you interpret the use of the word “from” to serve to exclude, while here you read the word “from” to encompass [for use as a Passover-offering any sort of animal that falls into the category of flock].
- [I] Said R. Mana, “Here too the use of the word ‘from’ serves to exclude [certain categories of animals that derive from the flock]. The exclusion is, first, that the Passover-offering may not be an animal two years old, second, that the Passover-offering may not be a female animal.
- [J] “And with regard to the guilt-offering, furthermore, the use of the word ‘from’ serves to exclude, for the guilt-offering may derive only from rams alone.”
- [K] They objected, “Lo, it is written, ‘If his gift for a burnt-offering is from the flock, from the sheep or goats, he shall offer a male without blemish’ (Lev. 1:10). If so, the surplus funds originally set aside for purchase of a Passover should be used for a burnt-offering [vs. M. 2:4H].”
- [L] Said R. Abun, “They transfer something set aside for an animal that is sacrificed and then eaten, for another animal that is sacrificed and eaten, but they do not transfer something set aside for an animal that is sacrificed and then eaten, for one that is sacrificed and not eaten, [that is, for a burnt-offering, wholly burned up on the altar].”
- [M] [Along these same lines,] said R. Yose bar R. Bun, “They transfer something set aside for Lesser Holy Things for use for another sort of Lesser Holy Things, but they do not transfer something set aside for Lesser Holy Things for use for Most Holy Things.”
- [N] R. Yohanan said, “It was concerning this matter that R. Hani-nah raised a question.
- [O] “For they say that funds set aside for purchase of a Passover-offering may not be used for the purchase of peace-offerings, unless the animal was slaughtered for the sake of peace-offering, while I say that even if

they slaughtered the animal for the sake of a burnt-offering, [it is a valid transaction].”

- [P] Said R. Ila, “The scriptural basis for the position of R. Yohanan [is this]: ‘If his offering for a sacrifice of peace-offering to the Lord is an animal from the flock...’ Whatever is a sacrifice may be offered under the rules governing a peace-offering.”
- [Q] And may it be transferred through an invalidating intention? [This is now explained.]
- [R] What would be a practical instance [of Q]?
- [S] If one slaughtered the beast for a burnt-offering, having at the moment of slaughter the intention of tossing the blood on the next day, [which invalidates that act of slaughter,] in any event, the sacrifice is invalid.
- [T] [How so?] If you say that it may be transferred through an invalidating intention, it is invalid.
- [U] If you say that it may not be transferred through an invalidating intention, it also is invalid.
- [V] [With reference to M. Pes. 5 :2: *If the Passover-offering was slaughtered under its own name and then under some other name, it becomes invalid*, on other days of the year [than the day on which it is offered up in Nisan, how do we dispose of the animal]? [W] R. Bun bar Hiyya in the name of Samuel bar Aba, “Since it is subject to no proper designation at all [if it is slaughtered as a Passover-offering when it is not Passover], it is treated as if he has slaughtered both for its own name and not for its own name, in utter silence. [In such a case, the act of slaughter is entirely] valid, [and we may invoke the principle of M. 2:4H].”
- [X] He said to him, “If so, then even if one slaughtered the animal [on such a day] for its own name, and it was with the intention, at the act of slaughter, to toss the blood not for its own name, let it be treated as if, from the outset, it has been slaughtered both for its own name and not for its own name [because of this invalidating intention], with the consequence that it is treated as if it had been slaughtered in perfect silence [with no intention whatsoever], and so let it be entirely valid!”
- [Y] Said R. Abba Mari, “Who in the world maintains the view [which is the supposition of the question] that if it is slaughtered in perfect silence it is valid? Perhaps we should say that if it is slaughtered in perfect silence, it is invalid!”

[III:1 A] [*The surplus of money set aside for the offerings of Nazirs is used for other Nazirs' offering. The surplus of money set aside for a particular Nazirs offerings is used for the purchase of freewill offerings (M. Sheq. 2:4I-J).*]

[B] R. Hisda said, “[The rule that the surplus of funds set aside by a particular Nazir is used for the purchase of freewill offerings] applies in a case in which the sin-offering for that Nazir has been offered at the end. [That is, the burnt-offering and peace-offerings already have been offered, with the sin-offering at the end of the process. Then money is left over. Accordingly, the money is regarded as excess left over for the purchase of a sin-offering; such funds in general may be used for freewill-offerings.] But *if* the peace-offerings had been offered at the end, then the excess funds are deemed money left over for the purchase of peace-offerings and used for peace-offerings too.”

[C] Said R. Zeira, “Even if the sin-offerings [of the Nazir] had been offered as a peace-offering at the end, there is one law in the case of the Nazir, that the excess funds will serve for the purchase of freewill-offerings.”

[D] There is a Tannaitic teaching which supports the view of this party and there is a Tannaitic teaching which supports the view of that party.

[E] There is a Tannaitic teaching which supports the view of R. Zeira:

[F] What are coins which have been left undesignated? They are any in which are mixed up funds for the purchase of sin-offerings which ultimately must be left to die, [e.g., a Nazir who set aside such funds and then did not need them for his sin-offering, as at Y. Naz. 4:4E]. And even if one has designated funds for the purchase of sin-offerings which [ultimately must be] left to die in the midst of the lot, these are deemed to be funds left undesignated. [They are not regarded under any circumstances as surplus funds from the purchase of burnt-offerings or peace-offerings, and that is merely because funds left over after the purchase of sin-offerings are involved. This is precisely what Zeira has just now maintained.]

[G] The following Tannaitic teaching supports the view of R. Hisda:

[H] If someone has said, “These coins are for the purchase of my sin-offering, and the rest are for the purchase of the offerings required in fulfillment of my Nazirite-vow,” and then died, the laws of sacrilege apply to all of the money, and the laws of sacrilege do not apply to only part of the money. [Since money for a burnt-offering is mixed up, the laws of sacrilege apply to all the money. And yet the law] does not

say, “If the sacrificer dies, let the money fall to the purchase of a free will-offering.” [The money set aside for the sin-offering goes to the Dead Sea, and the rest of the money is used for burnt-offerings and peace-offerings. Accordingly, when the funds for the sin-offering are to be distinguished, e.g., when the sin-offering comes first, then the disposition of such funds follows the rule of the sin-offering. Otherwise it does not, just as Hisda has maintained.]

- [IV:1 A] Said R. Hisda, “The surplus of bread-offering of a Nazir is left to rot.”
- [B] Said R. Yose, “And that is so. One most certainly cannot offer it by itself, for bread is never offered all by itself. One also cannot offer it with the Nazirite offerings of someone else, for you have no Nazirite offerings which come without bread [to begin with, so no one else will need it]. Consequently, one has to rule that the surplus of bread of a Nazirite offering is left to rot.”
- [C] They reasoned further that the same rule applies to the surplus of the Nazirite’s bread and the surplus of funds designated for the Nazirite’s wine-offering. [The surplus wine will be poured out.]
- [D] Said R. Yose b. R. Bun, “The surplus of [funds set aside for] the wine-offering is in the status of Most Holy Things [like the surplus of money set aside for the purchase of a sin-offering or a guilt-offering], so that excess goes for a freewill-offering.”
- [E] In regard to the view of R. Yose b. R. Bun, Samuel, R. Hisda, and R. Eleazar, all three have maintained the same view as he does.
- [F] R. Hisda [is represented by] that which has already been noted [47a] here [A],
- [G] As to Samuel: R. Yose said, “When I was there [in Babylonia], I heard R. Judah asking Samuel, ‘If one has set aside his *sheqel*-offering and then died, [what do we do with the money]?’
- [H] “He said to him, ‘It goes for the purchase of a freewill-offering. [The money goes for the purchase of animals for sacrifice on behalf of the community, which are in the status of Most Holy Things.]’”
- [I] The excess of money set aside for the purchase of the high priest’s tenth *ephah* of fine flour—
- [J] R. Yohanan said, “The money is thrown into the Dead Sea.”
- [K] R. Eleazar says, “It is assigned for the purchase of a freewill-offering. [The money is in the status of Most Holy Things.]”

Unit **I** augments M. 2:4A in only a general way, raising what is a secondary case on the disposition of funds designated for a purpose that is no longer pertinent. This is made explicit at I.G. Unit **II** is primary to Y. Pes. 5:2, which is cited at the end and dealt with in its own terms. It is included, however, because it intersects with M. 2:4H, and within the redactional logic of the Talmud, the inclusion is perfectly reasonable. Unit **III**, which is primary at Y. Naz. 4:4, where it appears verbatim, serves the present unit equally well; unit **IV**, continuous with unit **III** at Y. Naz. 4:4, does not.

2:5

- [A] **The surplus of money collected for use of the poor is used by the poor.**
- [B] **The surplus of money collected for a particular poor person is used for that particular person.**
- [C] **The surplus of money collected for the redemption of captives is used for the redemption of captives.**
- [D] **The surplus of money collected for the redemption of a particular captive is used for that particular captive.**
- [E] **The surplus of money collected for burying the dead is used for the dead.**
- [F] **The surplus of money collected for a particular deceased person is used for his heirs.**
- [G] **R. Meir says, “The surplus of money collected for a particular deceased person is left over until Elijah comes.”**
- [H] **R. Nathan says, “[With] surplus of money collected for a particular deceased person they build a sepulcher on his grave.”**
- [I:1 A] [With reference to M. 2:5F,] if they collected funds to bury someone in the assumption that he had no resources, and it turned out that he did have resources,
- [B] R. Jeremiah proposed ruling: *“The surplus of money collected for a particular deceased person is used for his heirs”* [M. 2:5F].
- [C] Said to him R. Idi of Hutra, “But what if [the donors] had in mind only that particular deceased person?”
- [D] He said to him, “I do not hold that view. On what basis do you hold it?”

- [II:1 A] It has been taught: *R. Nathan says, “[With] the surplus of funds collected for that particular dead person they build a sepulcher on his grave [M. 2:50-R],*
- [B] “or they sprinkle perfume before his bier” [T. Sheq. 1:12P-Q].
- [III:1 A] It has been taught [in the Tosefta’s version]: They do not collect for a given garment [and give the poor man some other] garment.
- [B] And they do not collect funds for this particular captive and use them for some other captive.
- [C] But they do not interfere with the charity-collectors on that account [T. Sheq. 1:12R-T].
- [IV:1 A] It has been taught: Rabban Simeon b. Gamaliel says, “They do not make sepulchers for the righteous. Their teachings are their memorial.”
- [V:1 A] R. Yohanan was leaning and walking along with R. Hiyya bar Abba. R. Eliezer saw him and avoided him.
- [B] [Yohanan] said, “Lo, now there are two things that that Babylonian has done to me. One is that he did not greet me. The other is that he avoided me.”
- [C] [Jacob] said to him, “That is the custom over there, that the lesser party does not greet the more important authority. For they carry out the following verse of Scripture: ‘The young men saw me and withdrew, and the aged rose and stood’” (Job 29:8).
- [D] As they were going along, [they passed by a procession in which an idol was carried, and Jacob asked Yohanan,] “What is the law as to passing a procession in which an idol is being carried?”
- [E] He said to him, “And do you pay respect to the idol? Go before it and blind its eyes.”
- [F] [Jacob] said to him, “Well did R. Eleazar do to you, for he did not pass by you [since that would have required an inappropriate gesture].”
- [G] [Yohanan complained,] “And another thing that Babylonian did—he did not cite in my name a tradition of mine.”
- [H] R. Ammi and R. Assi entered the discussion before him. They said to him, “Rabbi, this is the story of what happened in the synagogue of the Tarsians, concerning a debate on a door bolt which has on its top a movable fastening contrivance [that may serve as a pestle]. In this matter R. Eliezer and R. Yose argued, until, in their anger, they tore a scroll of the Torah.”

- [I] They actually tore a scroll of the Torah?
- [J] Rather: A scroll of the Torah was torn.
- [K] Now there was present a certain elder, and his name was R. Yose b. Qisma. He said, “I shall be surprised if this synagogue is not turned into a Temple for idolatry.”
- [L] [Yohanan] said, “Are you comparing my matter to the case you have described?”
- [M] R. Jacob bar Idi entered the discourse. He said to him, “‘As the Lord commanded Moses his servant, so Moses commanded Joshua, and so Joshua did; he left nothing undone of all that the Lord had commanded Moses’ (Josh. 11:15). Now when Joshua was in session and expounding the law, did he say this, ‘Thus did Moses say’? But Joshua was in session and expounding the law, and everyone knew that the Torah was that of Moses. Now with you too, Eliezer goes into session and expounds the law, but everyone knows that [his] Torah is yours.”
- [N] He said to them, “How is it that you don’t know how to appease, the way the son of Idi, our colleague, does?”
- [O] And was it so important to R. Yohanan that people say traditions in his name? [Indeed it was,] for David himself prayed for mercy for himself, as it is said, “Let me dwell in thy tent forever! Oh to be safe under the shelter of thy wings, *selah*” (Ps. 61:4).
- [P] And did it enter David’s mind that he would live forever?
- [Q] But this is what David said before the Holy One, blessed be he, “Lord of the world, may I have the merit that my words be stated in synagogues and in schoolhouses.”
- [R] Simeon b. Nazira in the name of R. Isaac said, “Every disciple in whose name people cite a teaching of law in this world—his lips murmur with him in the grave, as it is said, ‘Your kisses like the best wine that goes down smoothly, gliding over lips of those that sleep’⁵ (Song of Sol. 7:9).
- [S] “Just as in the case of a mass of grapes, once a person puts his finger in it, forthwith even his lips begin to smack, so the lips of the righteous, when someone cites a teaching of law in their names—their lips murmur with them in the grave.”
- [T] What pleasure is there for him?
- [U] Bar Nazira said, “It is like the pleasure of drinking spiced wine.”

- [V] R. Isaac said, “It is like the pleasure of drinking vintage wine. Even though one drinks the wine, the taste lingers in his mouth.”
- [W] R. Giddal said, “He who cites a tradition in the name of the person who originally said it will see the one who said the tradition as if he is standing before him, as it is said, ‘Surely man goes as a shadow! Surely for nought are they in turmoil; man heaps up, and knows not who will gather!’” (Ps. 39:6).
- [X] And it is said, “Many a man proclaims his own loyalty” (Prov. 20:6)—this refers to people in general.
- [Y] “But a faithful man who can find?” (Prov. 20:6)—this refers to R. Zeira,
- [Z] For R. Zeira said to the framers of traditions that they must scruple as to the traditions of R. Sheshet, [citing his teachings in his name,] for he is a blind man.
- [AA] Said R. Zeira to R. Assi, “Do you know Bar Pedaiah, that you cite a tradition in his name?”
- [BB] He said to him, “R. Yohanan said it in his name.”
- [CC] Said to him R. Zeira to R. Assi, “Do you know Rab, that you cite traditions in his name?”
- [DD] He said to him, “R. Ada bar Ahvah said them in his name.”
- [VI:1 A]** Now there is not a generation in which there are no scoffers. What did the arrogant of that generation do? They went under David’s windows and cried out, “When will the Temple be built? When shall we go up to the house of our Lord?”
- [B] And he would say, “Even though they are trying to make me mad, may a curse come on me if I am not happy in my heart: ‘I was glad when they said to me, Let us go to the house of the Lord!’” (Ps. 122:1).
- [C] “When your days are fulfilled to go to be with your fathers, I will raise up your offspring after you” (1 Chron. 17:11).
- [D] [Said R. Samuel bar Nahman,] “Said the Holy One, blessed be he, to David, ‘David, I shall count out for you a full complement of days. I shall not give you less than the full number. Will Solomon, your son, not build the Temple in order to offer sacrifices in it? But more precious to me are the just and righteous deeds which you do than the offerings [which will be made in the Temple].’”
- [E] What is the relevant verse of Scripture?

[F] “To do righteousness and justice is more acceptable to the Lord than sacrifice” (Prov. 21:3).

After raising some minor points of clarification of the Mishnah in unit **I**, the Talmud cites the Tosefta’s complements to the Mishnah’s rules, as indicated, in units **II** and **III**. Unit **IV**, relevant in a general way to M. 2:5H, carries in its wake the huge anthology of sayings on citing in a person’s name the things that he has said, unit **V**. I do not know why unit **VI** has been tacked on, but it appears in the parallel, Y. M.Q. 3:7.

YERUSHALMI SHEQALIM

CHAPTER THREE

3:1

- [A] At three times in the year do they take up the heave-offering of the [coins collected in the sheqel-]chamber:
- [B] half a month before Passover, half a month before Aseret [Pentecost], and half a month before the Festival [of Tabernacles].
- [C] “And these are the ‘threshing floors’ [the times at which the obligation to tithe becomes operative] for tithing cattle,” the words of R. Aqiba.
- [D] Ben Azzai says, “On the twenty-ninth of Adar, on the first of Sivan, and on the twenty-ninth of Ab.”
- [E] R. Eleazar and R. Simeon say, “On the first of Nisan, on the first of Sivan, and on the twenty-ninth of Elul.”
- [F] On what account did they rule, “On the twenty-ninth of Elul,” instead of saying, “On the Erst of Tishre”?
- [G] Because it is a festival day, and it is not possible to give tithe on a festival day.
- [H] Therefore they set it a day earlier, on the twenty-ninth of Elul.
- [I:1 A] [47b] Said R. Abbahu, “Whenever we find in a Mishnah-tradition the language ‘PRS,’ it means ‘half,⁵ that is, half of a month,
- [B] half of the thirty days prior to a festival, during which [sages] expound the laws relating to that festival.”
- [II:1 A] [As to M. 3:1C, the three points in the year at which one is obligated to tithe cattle,] said R. Yohanan, “It is because these are the seasons at which the beasts give birth.”
- [B] R. Aha, R. Tanhum bar Hiyya in the name of R. Joshua b. Levi: “It is so that meat may be plentiful for those who come up for the pilgrim-festivals.”

- [C] Said R. Yudan, “It is so that the farmers will not become guilty of postponing [the fulfillment of their obligation].”
- [D] Said R. Yose, “Whoever postpones [tithing his] untithed [crops or herds] violates the warning against postponing [carrying out one’s duty].”
- [III:1 A] There we have learned, *R. Meir says*, “*The tithing of cattle takes place on the first of Elul*” [*M. Bekh. 9:5H*].
- [B] *R. Eleazar and R. Simeon say*, “*On the first of Tishre* [*M. R.H. 1:1*].
- [C] *Ben Azzai says*, “*Those that are born in Elul are tithed all by themselves [as a distinct group]*” [*M. Bekh. 9:5I*],
- [D] Said R. Huna, “The reason for the view of R. Meir is that up to that point, when the beasts give birth to small cattle, it is from the pregnancy that began earlier in the year [in Adar, with the offspring produced five months later, in Ab]. From that point forth they began to give birth on the basis of pregnancies begun later in the year; [that is, from the first of Elul on, pregnancies begun in Nisan come to term].”
- [E] R. Yose bar R. Bun in the name of R. Hunah: “The scriptural basis for the view of R. Eleazar and R. Simeon is as follows: ‘The meadows clothe themselves with flocks’ (Ps. 65:13)—this refers to those that give birth earlier. ‘The valleys deck them selves with grain’ (Ps. 65:13)—this refers to those that give birth later.
- [F] “‘They shout and sing together for joy’ (Ps. 65:13)—these and those together enter the corral to be tithed. [The former are the ones who become pregnant in Adar and give birth at the beginning of Ab, the latter are the ones who become pregnant at the end of Adar and the beginning of Nisan. These and those fall subject to tithing together, as indicated.]”
- [G] **Said [R. Simeon b.] Azzai, “Since these rule, ‘On the first of Elul,’ and those rule, ‘On the first of Tishre,’ those born in Elul are tithed by themselves [M. Bekh. 9:5I].**
- [H] **“How so?**
- [I] **“[Following the Tosefta’s text:] If there were born five in Ab, and five in Elul, five in Elul and five in Tishre, then those five born in Ab and those five born in Tishre do not join together [to form a group of ten subject to tithing]. The five born in Tishre and the five born in the subsequent Ab—lo, these do join together [to form ten for purposes of tithing]” [T. Bekh. 7:9D-G].**

- [J] Now was Ben Azzai available to effect a compromise between the opinions of his disciples [who lived long afterward]?
- [K] R. Jeremiah and R. Miasha in the name of R. Samuel bar R. Isaac: “For in this same matter were the fathers of the world engaged in debate. [Accordingly, Ben Azzai had the dispute in hand from earlier authorities.]”
- [L] Who were these fathers of the world?
- [M] R. Jonah taught before R. Jeremiah, “R. Ishmael and R. Aqiba.”
- [N] Is that to say that Ben Azzai was both a colleague and a disciple of R. Aqiba?
- [O] If you say that he was his master, then will someone say to his master, “Since these say this, and those say that ... ?”
- [P] R. Abun in the name of R. Samuel b. R. Isaac, “One may derive the true state of affairs from the following:
- [Q] *“Said R. Aqiba, ‘I concur in this case that the property remains in its former status.’*
- [R] *“Ben Azzai said to him, ‘Concerning the points of difference we are distressed.*
- [S] *“Will you now come to bring disagreement on the points on which they are in agreement?” [M. B.B. 9:10C-E].*
- [T] “That indicates, then, that Ben Azzai was both a colleague and a disciple of R. Aqiba.”
- [U] If you maintain that [Aqiba] was his master, does someone say to his master, *“Will you now come to bring disagreement on the points on which they are in agreement?”*
- [IV:1 A] There we have learned: *All beasts born from the first of Tishre to the twenty-ninth of the following Elul, lo, they join together for purposes of tithe.*
- [B] *Five born before New Year and five born after New Year do not join together [but do not add up to a sufficient number to permit tithing the herd].*
- [C] *Those born Eve days before the tithing season and those born five days after the tithing season do join together [M. Bekh. 9:6A-C]. [The tithing seasons are specified to indicate that, before the tithing season,*

one may make use of the animals as he likes. Once it arrives, he may not.]

- [D] [Now at A we treat all beasts born from the first of Tishre onward as a group, even though the beast will have been pregnant prior to the first of Tishre. We follow only the time of delivery, not the time of pregnancy.] Said R. Yose, “That is to say that in the case of tithing of cattle, the law does not take account either of the matter of the time of the formation of the fruits [as in the case of fruit of the tree, in which instance we differentiate at the point at which the fruit began to take shape, so that if the fruit began to take shape in the preceding year, it is tithed with that year’s crops, even if it became liable only in the year beyond,] or of the matter of the time that the crop reached a third of its full growth [as in the case of field crops, in which instance the crop is tithed with the year in which it has reached a third of its growth, even though it does not come to full ripeness until the turn of the following tithing year].
- [E] “If you say that in the case of tithing cattle we follow the criterion of the fruits taking shape [still in the womb], then the law should read, ‘All those that become pregnant from the first of Tishre to the twenty-ninth of the following Elul—[lo, their offspring join together for purposes of tithe,’ rather than as at A above].
- [F] “If you say that in the case of tithing cattle we follow the criterion of the crops reaching a third of full growth, then we should repeat the tradition as follows: ‘All those that are born up to the twenty-second of Elul [so that there will be some evidence of growth prior to the point at which they are obligated to tithing]’” (cf. Pene Moshe)].
- [G] [Arguing that the criterion of a third of full growth applies in other ways,] R. Shammai in the name of R. Bibi b. R. Hiyya: “They have indeed invoked the rule of a third of full growth in accord with R. Simeon, for **R. Simeon said, ‘A beast that is too young nonetheless enters the corral to be tithed’**” [T. Bekh. 7:6I].
- [H] R. Mana dealt with the view of R. Shammai. He said to him, “Now you have said your view. But there we have learned: *Ben Azzai says, ‘Cattle born in Elul are tithed by themselves’* [M. Bekh, 9:5I].
- [I] “Now that surely means, even if the beast was born as late as the twenty-ninth of Elul.
- [J] “Can you claim that Ben Azzai accords with the view of R. Simeon and not in accord with the view of rabbis? [Surely not!]

- [K] “Just as you have said from the viewpoint of rabbis that one leaves them for the following year, and they are tithed with those born in that same year, so you must say that Ben Azzai holds that one leaves them for the next season at which the farmers are liable to tithe their herds, and they are tithed along with those born in Elul [the following year].”
- [L] [Since, from the viewpoint of rabbis, all beasts born in a given year join together, even though they were born only at the very end of the year and those born at the end are yet too young,] said R. Hiyya, “That is to say that the days that the firstling is lacking [prior to being available for use or slaughter, that is, eight days in line with Lev. 22:27,] count in the numbering of his first year [so that he is reckoned, as to age, from the moment of birth].”
- [M] Said R. Mana, said R. Jonah, “Father derived that fact from the following: ‘All the firstling males that are born of your herd and flock you shall consecrate to the Lord your God; you shall do no work with the firstling of your herd, nor shear the firstling of your flock’ (Deut. 15:19). How so? From the moment of birth you count a year.”

The heave-offering of the chamber of *sheqels* (M. 3:1A) is the point at which the *sheqels* to be used for the coming season are taken up for the purchase of the public offerings. This is done before the festivals, at which point demands on the Temple treasury are greatest. Aqiba glosses by observing that at this same time cattle born during the preceding period become liable to the process of tithing. They are tithed, and those which are left over from the procedure of the tithe of cattle become available for sale and use on the coming festival. The other authorities do not differ about B, but about C. Ben Azzai sets variable dates, two weeks before Passover, less than a week before Pentecost, and a month and a half before Tabernacles. Ben Azzai deems animals born in Elul to be tithed as a separate group (M. Bekh. 9:5). Eleazar and Simeon allow two weeks for Passover, less than a week before Pentecost, and two weeks before Tabernacles. M. 3:1F-H gloss E.

Units **I** and **II** clarify the Mishnah in minor ways. Unit **III** takes up the important problem of the exegesis of M. Bekh. 9:5, which is the same as M. 3:1C-H, as well as the Tosefta’s complement to that passage of the Mishnah. Unit **III** explains the position assigned to Meir, then, as indicated, cites the Tosefta and deals with a minor problem in connection with Ben Azzai’s language. Unit **IV** then cites M. Bekh. 9:6, continuous with the foregoing, and presents a set of inferences to be drawn from that rule. In unit **IV**, G-M can stand further work.

3:2

- [A] With three baskets, each holding three seahs, they take up the heave-offering of the [coins collected in the sheqel-] chamber.
- [B] And written on them are the Hebrew letters, alef, bet, gimel.
- [C] R. Ishmael says, “Written on them were the Greek letters, Alpha, Beta, Gamma.”
- [D] He who takes up the heave-offering went in wearing neither a sleeved cloak, nor shoes, sandals, phylacteries, or an amulet—
- [E] lest [in the coming year] he lose all his money and people say [about him], “Because of a transgression against the [sheqel-] chamber did he lose his money.”
- [F] Or lest he get rich, and people say about him, “From the heave-offering of the [sheqel-] chamber did he get rich.”
- [G] For a person must give no cause for suspicion to other people, just as he must give no cause for suspicion to the Omnipresent,
- [H] as it is said, “And be guiltless toward the Lord and toward Israel” (Num. 32:22).
- [I] And so it says, “So shall you find favor and good understanding in the sight of God and humanity” (Prov. 3:4).
- [I:1 A] There we have learned: *They may clear away [on the Sabbath] four or five baskets of straw or grain to make room for guests [M.Shab. 18:1].*
- [B] R. Zeira asked R. Josiah, “What is the measure of these baskets?”
- [C] He said to him, “Let us derive the law for an unspecified item from that at which it is spelled out.”
- [D] For it has been taught: *With three baskets, each holding three seahs in volume [M. Sheq. 3:2A], which are nine seahs per basket, that is, twenty-seven seahs in all, they take up the heave-offering of the coins collected in the sheqel-chamber.*
- [E] *And written on them are the Hebrew letters, alef, bet, gimel.*
- [F] This is to indicate that one uses up the first before the second, and the second before the third.
- [G] There we have learned: *[He is liable for transferring on the Sabbath from one domain to another] enough wine to mix a cup [M.Shab. 8:1A].*
- [H] R. Zeira asked R. Josiah, “What is the measure of volume in such a cup?”

- [I] He said to him, “Let us derive the law for an unspecified item from that at which it is spelled out.
- [J] “For R. Hiyya taught: The four cups of wine for Passover should be of the volume of a quarter-*log* of Italian wine” [cf. T. Pes. 10:1C].
- [K] Said R. Yose bar Abin in the name of R. Yohanan, “It represents the view of R. Judah, for it has been taught: **Water—enough for a swallow. R. Judah says, ‘Enough to rub off an eye-salve’** [T. Shab. 8:10F-G, cf. M. Shab. 8:1A]. **Wine: Enough for a swallow. R. Judah says, ‘Enough for mixing a cup of wine’**” [T. Shab. 8:10A-B].
- [L] If it is already mixed, what is the volume?
- [M] Let us derive the answer from the following:
- [N] **Water: enough for a swallow. R. Judah says, “Enough to rub an eye-salve.” Wine: enough for a swallow. R. Judah says, “Enough for mixing a cup of wine”** [T. Shab. 8:10F-G, A-B, as above]. It follows from that that for already mixed [cups], it must be enough for mixing a cup of wine,
- [O] What is the volume of “cups”?
- [P] R. Abin said, “A quarter, that is, a quarter-*log*,”
- [Q] What is the law on drinking them, [the four cups to be drunk on Passover,] in a single swig?
- [R] On the basis of what R. Mana said, R. Yose said, “As to the *Hallel-Psalms*, [of the eve of Passover,] if one heard them in the synagogue, he has carried out his obligation,” it follows that if one drank the four cups in one swig, he has carried out his obligation [without the intervention of the *Hallel-Psalms* between the third and the fourth cup, since one will already have heard it in the synagogue].
- [S] What is the law as to drinking the four cups in small doses? Have [sages] not said, “One should drink not so as merely to sip and also not so as to get drunk. If one has drunk them in small doses, he will certainly not get drunk”?
- [T] What is the law as to carrying out one’s obligation to drink four cups of wine on Passover with wine deriving from produce of the Seventh Year [which does not belong to any one person but is deemed ownerless]?

- [U] R. Oshaiah taught, “They carry out the obligation to drink four cups of wine with wine deriving from produce of the Seventh Year.”
- [V] What is the law as to carrying out one’s obligation with spiced wine?
- [W] Since R. Bar Qappara said, “Spiced wine is in the status of wine,” it follows that they carry out their obligation with spiced wine.
- [X] What is the law as to carrying out one’s obligation with wine that has been diluted?
- [Y] Since R. Hiyya taught what follows, [the answer is that one may do so:] ***And they should provide him with no fewer than four cups of wine [M Pes. 10:1A-C], of a volume of a quarter-log, whether this is straight or mixed, whether this is new or old. R. Judah says, “But this is on condition that it has the taste and appearance of wine” [T. Pes. 10:1C-F].***
- [Z] Said R. Jeremiah, “It is a true fulfillment of the religious duty to carry out one’s obligation with red wine, since it is said, ‘Do not look at wine when it is red, when it sparkles in the cup and goes down smoothly’” (Prov. 23:31).
- [AA] [47c] It has been taught: If the wine is boiled, it should have some taste of the boiling process in it.
- [BB] What is the law as to carrying out one’s obligation with wine that has been boiled?
- [CC] Said R. Jonah, “They carry out the obligation with wine that has been boiled.”
- [DD] R. Jonah is consistent with views expressed elsewhere, for R. Jonah, when he would drink the four cups of Passover, would have a headache until the festival [of Pentecost].
- [EE] A lady saw his face shining. She said to him, “Old man! Old man! One of these three is affecting you: either you have drunk wine, or you are lending money on usurious interest, or you are raising pigs.”
- [FF] He said to her, “May that girl explode! Not one of the three is affecting me. But my learning is abundant in me, and so it is written, ‘A man’s wisdom makes his face shine’” (Qoh. 8:1).
- [GG] R. Abbahu came to Tiberias. The disciples of R. Yohanan saw that his face was glistening. The disciples informed R. Yohanan, “R. Abbahu has found a jewel.”

- [HH] He came to him and said to him, “What new lesson in the Light [Torah] have you heard recently?”
- [II] He said to him, “An old passage of Additional Traditions [Tosefta].”
- [JJ] He recited in his regard, “A man’s wisdom makes his face shine” (Qoh. 8:1).
- [KK] Said R. Hanin, “The *log*, in accord with the Torah-law, is equivalent to the ancient *tomanta* for *muries* in Sepphoris.”
- [LL] Said R. Jonah, “I know that measure, for the House of Yannai would measure honey in it.”
- [MM] It has been taught: A half of a Tiberian eighth-measure [is the quarter-log required by the Torah].
- [NN] Said R. Yohanan, “It is the measure that we use.”
- [OO] And why is it called old?
- [PP] Since it is still available in this time.
- [QQ] There are those who say that it was small, and it was enlarged.
- [RR] And there are those who say that they diminished it, but they did not diminish it to its original, small size.
- [SS] What is the measure of a cup?
- [TT] R. Yose in the name of R. Yose b. Pazzi, and R. Yose bar Bibi in the name of Samuel: “Two fingerbreadths by two fingerbreadths by two and seven-tenths fingerbreadths in depth, [so the volume of a quarter-tog is 10.8 cubic fingerbreadths].”
- [UU] Rabbis of Caesarea and R. Yose bar Bibi in the name of Samuel: “The view of R. Nathan accords with that of R. Simeon. What R. Simeon said in regard to a quarter-tog is what R. Nathan said in regard to a quarter- *log*.”
- [VV] “When wine congeals, it should be an olive’s bulk in volume.”
- [WW] R. Simon in the name of R. Joshua b. Levi: “There was a case involving a mule belonging to Rabbi, which died. They declared the blood that flowed from it to be insusceptible on the count of carrion. R. Eliezer asked R. Simon about the volume [that was declared insusceptible to uncleanness], and he paid no attention to him, so he asked R. Joshua b. Levi, and he told him, “Up to a quarter-*log* of the blood is clean. More than a quarter-log of the blood is unclean.”

- [XX] R. Eliezer was humiliated that R. Simon had not answered him and supplied the tradition.
- [YY] R. Bibi was in session and repeated this case. Said to him R. Isaac bar Kahanah, “Is it so that up to a quarter-tog of blood is clean, and more than that is unclean?”
- [ZZ] Now the latter hit him.
- [AAA] Said to him R. Zeriqa, “Since he asked you a question, do you hit him?”
- [BBB] He said to him, “It was because I was not thinking straight that I hit him.”
- [CCC] For R. Hanan said, “‘And your life shall hang in doubt before you’ (Deut. 28:66)—this refers to someone who buys grain from year to year, [owning no property of his own]. ‘And you shall fear night and day’ (Deut. 28:66)—this refers to one who buys grain from week to week. ‘And you shall have no assurance of your life’ (Deut. 28:66)—this refers to one who has to buy grain from the bread-baker, [buying a loaf at a time]. And I have to rely on the baker!”
- [DDD] And what is the upshot of the matter?
- [EEE] *R. Joshua b. Patorah gave testimony concerning the blood of a carcass that it is clean [M. Ed. 8:1A].*
- [FFF] What is the meaning of “clean”? It is clean in the sense that it does not render what is dry [and so insusceptible wet and therefore] susceptible to uncleanness. But as to imparting uncleanness [to what is susceptible to uncleanness], it certainly does impart uncleanness.
- [GGG] There we have learned: *The blood of a dead creeping thing is equivalent to its flesh. It imparts uncleanness, but [while a liquid] it does not impart susceptibility to uncleanness, and there is no other substance that bears these traits [M. Makh. 6:5].*
- [HHH] And the volume at which it imparts uncleanness [is such that] its blood imparts uncleanness as does its flesh [in the same volume].
- [III] Said R. Yose, “There was a dispute in this matter between two Amoras. One said, ‘It is unclean.’ And the other said, ‘It is clean.’ The one who said, ‘It is unclean,’ accords with R. Judah, and the one who said, ‘It is clean’ accords with R. Joshua b. Patorah.”

- [JJJ] Said to him R. Abedomah, one of those who went down [to Babylonia], “And that is well. For R. Judah was the authority for the patriarchate.”
- [II:1 A] *Lest in the coming year he lose all his money, and people say [about him, “Because of a transgression against the sheqel-chamber did he lose his money”] [M. 3:2E]:*
- [B] R. Ishmael taught, “Someone with long, curly hair should not take up the heave-offering, because of suspicion.”
- [III:1 A] It has been taught: The temple treasurers would inspect the matted hair [to make sure no money was secreted in it].
- [IV:1 A] It has been taught: **They continued chatting with him from the time that he went in until the time that he came out [T. Sheq. 2:2B].** [This keeps him from putting a coin in his mouth.]
- [B] And let them put water in his mouth?
- [C] Said R. Tannuma, “It is because of the blessing [that he must recite, that they cannot do so].”
- [V:1 A] **R. Samuel bar Nahman** in the name of R. Jonathan: “In the Torah, in the prophetic books, and in the Writings, we find that *a person must give no cause for suspicion to other people, just as he must give no cause for suspicion to the Omnipresent [M. 3:2G].*
- [B] “In the Torah: ‘[And the land is subdued before the Lord;] then after that you shall return and be free of obligation to the Lord and to Israel; [and this land shall be your possession before the Lord]’ (Num. 32:22).
- [C] “In the prophetic books: The Mighty One, God, the Lord! He knows, and lets Israel itself know!’ (Josh. 22:22).
- [D] “In the Writings: ‘So you will find favor and good repute in the sight of God and man’” (Prov. 3:4).
- [E] Gamaliel Zoga asked R. Yose bar R. Bun, “What is the best proof of all?”
- [F] He said to him, “You shall be free of obligation to the Lord and to Israel.”

Unit I begins with a reference to our Mishnah-passage. But the rest of it takes up unrelated matters, serving Y. Shab. 18:1 and Y. Pes. 10:1. Units II-V rapidly cite and lightly gloss the Mishnah.

3:3

- [A] A member of the household of Rabban Gamaliel would go in and take his sheqel between his fingertips and throw it in front of the one who takes up the heave-offering [of the sheqels, so as to make sure his coin would be used for the purchase of the public sacrifices].
- [B] And the one who takes up the heave-offering intentionally pushes it into the basket.
- [C] The one who takes up the heave-offering does not do so until he says to them, “Shall I take up the heave-offering?” And they say to him, “Take up heave-offering, take up heave-offering, take up heave-offering,” three times.
- [D] He took up [heave-offering] the first time and covered [the residue] with coverings.
- [E] [He took up the heave-offering] a second time and covered [the residue] with covers.
- [F] But the third time he did not cover [it up].
- [G] [He covered the first two times,] lest he forget and take up heave-offering from those sheqels from which heave-offering already had been taken.
- [H] He took up the heave-offering the first time in behalf of the land of Israel, the second time in behalf of cities surrounding it, and the third time in behalf of Babylonia, Media, and the more distant communities.
- [I:1 A] *A member of the household of Rabban Gamaliel, etc. [M. 3:3A]:*
- [B] Now if there were two piles of grain, and one took heave-offering from one of them in behalf of the other—is it possible that he has *not* thereby carried out the obligation of the other? [Of course he has. Why then should Gamaliel’s household have been so concerned?]
- [C] It was a source of pleasure to them that the offering should be brought only from their proper contribution first of all.
- [II:1 A] It has been taught [in regard to M. 3:3F]: If he removed the covering, all of the coins enter the status of residue.
- [III:1 A] It has been taught: The third, this was the richest fund of all of them, for in it were golden *istras* and golden *darics* [T. Sheq. 2:4D].
- [IV:1 A] It has been taught: *He took up the heave-offering the first time in behalf of the land of Israel, the second time in behalf of cities*

surrounding it, and the third time in behalf of Babylonia, Media, and the more distant communities [M. 3:3H], and for the sake of all Israel.

- [V:1 A] It has been taught: He took money from the first basket, [and] even though money yet remained from the first, he takes up coins from the second. If he took money from the second, even though there was money yet left in the second, he takes up money from the third.
- [B] If the third basket was completely empty, he goes back to the second. If the second was completely empty, he goes back to the first.
- [C] When all three of them were gone, he goes back and collects the *sheqel-tax* again. [Cf. T. Sheq. 2:1D-R]
- [D] R. Meir says, “He goes back to the residue [of *sheqels* passed over in the past].”
- [E] For R. Meir says, “The laws of sacrilege apply to the residue [of coins for they may need to make use of them at the end].”
- [VI:1 A] *And so does R. Pinhas b. Yair say, “Heedfulness leads to cleanliness, cleanliness leads to cleanness, cleanness leads to abstinence, abstinence leads to holiness, holiness leads to modesty, modesty leads to the fear of sin, the fear of sin leads to piety, piety leads to the Holy Spirit, the Holy Spirit leads to the resurrection of the dead, and the resurrection of the dead comes through Elijah, blessed be his memory, Amen” [Y. Sot. 9:16MM].*
- [B] *Heedfulness leads to cleanliness:* As it is written, “And when he has made an end of atoning for the holy place and the tent of meeting and the altar, he shall present the live goat” (Lev. 16:20).
- [C] *Cleanliness leads to cleanness:* As it is written, “And the priest shall make atonement for her, and she shall be clean” (Lev. 12:8).
- [D] *Cleanness leads to holiness:* As it is written, “And cleanse it and hallow it from the uncleanness of the people of Israel” (Lev. 16:19).
- [E] *Holiness leads to modesty:* As it is written, “For thus says the high and lofty One who inhabits eternity, whose name is Holy: ‘I dwell in the high and holy place, and also with him who is of a contrite and humble spirit, to revive the spirit of the humble, and to revive the heart of the contrite’” (Isa. 57:15). So you find purity and humility.
- [F] *Modesty leads to the fear of sin:* As it is written, “The reward for humility and fear of the Lord is riches and honor and life” (Prov. 22:4).

- [G] *The fear of sin leads to piety:* As it is written, “But the steadfast love of the Lord is from everlasting to everlasting upon those who fear him, and his righteousness to children’s children” (Ps. 103:17).
- [H] *Piety leads to the Holy Spirit:* As it is written, “Of old thou didst speak in a vision to thy faithful one” (Ps. 89:19).
- [I] *The Holy Spirit leads to the resurrection of the dead:* As it is written, “Thus says the Lord God to these bones: Behold, I will cause breath to enter you, and you shall live” (Ezek. 37:5).
- [J] *The resurrection of the dead comes through Elijah, blessed be his memory:* As it is written, “Behold I will send you Elijah, the prophet, before the great and terrible day of the Lord comes” (Mal. 4:5).
- [K] It has been taught in the name of R. Meir, “Whoever lives permanently in the land of Israel, speaks the Holy Language, eats his produce in a state of cultic cleanness, recites the *Shema* morning and night—let him be given the news that he belongs to the world to come.”

The first five units clearly cite and gloss the Mishnah, as indicated . The clarification of unit **V** is important and already familiar. The homiletical exegeses in unit **VI** carry forward the theme of unit **V**: heedfulness in fulfilling commandments eliminates the possibility of sin.

YERUSHALMI SHEQALIM

CHAPTER FOUR

4:1

- [A] As to the heave-offering [of the sheqel-chamber]: What did they do with it?
- [B] They purchase with it [animals for] daily whole-offerings, additional offerings, and their drink-offerings,
- [C] [wheat for] the omer, the Two Loaves, and the Show Bread,
- [D] and all [other] offerings made in behalf of the community.
- [E] Those who guard the aftergrowths of the Seventh Year receive their salary from the heave-offering of the [sheqel-]chamber.
- [F] R. Yose says, “Also: He who wishes to volunteer [may serve as] an unpaid guardian [of the aftergrowths].”
- [G] They said to him, “You too rule that they, [the omer, Two loaves, and Show Bread,] derive only from public funds.”
- [I:1 A] [47d] [Following the Tosefta’s version:] Why did they set aside [special] times for the wood-offering of priests and people?
- [B] For when the Israelites came up from the Exile, they found no wood in the wood-chamber.
- [C] These in particular went and contributed wood of their own, handing it over to the community, which they offered for the community.
- [D] On that account prophets stipulated with them that even if the wood-chamber should be loaded with wood, even with wood belonging to the community, these should have the privilege of contributing wood at this time, and at any occasion on which they wanted [T. Ta. 3:5A-D],
- [E] Said R. Aha, “This represents the view of R. Yose.

- [F] *“For R. Yose says, Also: He who wishes to volunteer may serve as an unpaid guardian of the aftergrowths”* [M. 4:1F].
- [G] [Differing from Aha,] R. Yose in the name of R. Ila: “It represents the view of all parties.
- [H] “Where they differ it has to do with the corpus of the offering, but as to things that accompany offerings, all concur that one may transfer the status of [such appurtenances of] an offering from private to public service.”
- [II:1 A] It has been taught: **A woman who made a tunic for her son—it is valid, on condition that she give it over for public use** [T.Yomal: 23A-B].
- [B] R. Aha said, “This represents the view of R. Yose.
- [C] “For R. Yose says, ‘Also: He who wishes to volunteer may serve as an unpaid guardian of the aftergrowths’” [M. 4:1F].
- [D] R. Yose in the name of R. Ila: “It represents the view of all parties.
- [E] “Where they differ, it has to do with the offering itself, but as to things that accompany offerings, all concur that one may transfer the status of [such appurtenances of] an offering from private to public service.”
- [F] The following Tannaitic passage differs from the view of R. Yose [(D), who imposes the distinction between the corpus of the offering itself and the things that make the offering possible, with these latter transferable from private to public use]: **Those days [of the wood-offering] it is prohibited to conduct rites of mourning or to have a fast, whether this is after the destruction of the Temple or before the destruction of the Temple** [Yerushalmi: When there is an offering or when there is no offering].
- [G] **R. Yose says, “After the destruction of the Temple it is permitted to lament”** [Yerushalmi: “They apply when there is an offering alone”] [T. Ta. 3:6A-C]. [If all parties concur that, when there was an offering, these days were observed as festivals—involving the wood-offering—then how can the wood be treated as a mere appendage of the offering, not as the corpus of the offering itself? Accordingly, the distinction critical to Yose’s view at D is not recognized here.]
- [H] And further, on the basis of the following: **Said R. Eleazar b. R. Sadoq, “I was among the descendants of Sanaah** [M. 4:5F; Ezra 2:35] **of the tribe of Benjamin. One time the ninth of Ab coincided with the day after the Sabbath, and we observed the fast but did**

not complete it” [T. Ta. 3:6D]. [On the pertinence of this item, cf. Pene Moshe.]

- [III:1 A] *Wheat for the omer, the Two Loaves, and the Show Bread, and all other offerings made in behalf of the community [M. 4:1C-D]:* [B-C are deleted here, as they recur at L-M.]
- [D] Since M.4:1E assumes that the wheat for the *omer* comes from fields subject to the restrictions of the Seventh Year, that is to say, from the land of Israel, the assumption here is that the wheat for the *omer* does not come from Syria. It then follows that] the Mishnah before us accords with the view of R. Ishmael.
- [E] For R. Ishmael said, “The *omer* does not come from wheat grown in Syria.”
- [F] There we have learned: *All meal-offerings of the community and of the individual derive from wheat grown in the land of Israel and from wheat grown abroad, from fresh produce [wheat grown in the present year] and from old [wheat, grown in the preceding year,] except for the omer and the Two Loaves of bread, which derive only from new wheat and from wheat grown in the land [M.Men. 8:1A-D].*
- [G] R. Huna in the name of R. Jeremiah: “This represents the view of R. Ishmael. For R. Ishmael says, “The *omer* does not derive from wheat grown in Syria.””
- [H] There we have learned: *There are ten degrees of holiness. The land of Israel is holier than all other lands. What is the mark of its holiness? From it they bring [wheat for the] omer, first fruits, Two Loaves, [and Show Bread], which they do not do with wheat from any other land [M. Kel. 1:6].*
- [I] R. Hunah in the name of R. Jeremiah: “This represents the view of R. Ishmael. For R. Ishmael says, “The *omer* does not derive from wheat grown in Syria.””
- [J] There we have learned: R. Ishmael says, [48a] “Just as ploughing is an optional matter, so harvesting is an optional matter [which may not be done on the Sabbath, in general]. But there is an exception in the case of harvesting wheat for the *omer*, which is a religious duty [and hence done by night, even on the Sabbath when the calendar requires it, that is, when the fifteenth of Nisan falls on the Sabbath].”
- [K] R. Ishmael is consistent with his principles expressed elsewhere, for R. Ishmael said, “The wheat for the *omer* does not derive from that grown in Syria,” and he is consistent in maintaining that cutting the wheat for

the *omer* is exceptional, in that it is a religious duty [and overrides the restrictions of the Sabbath].

- [L] Who is the Tanna responsible for the following: *Those who guard the aftergrowths of the Seventh Year receive their salary from the heave-offering of the sheqel-chamber* [M. 4:1E]?
- [M] It is R. Ishmael, [who maintains that this is a part of carrying out a public responsibility]. [Aqiba, who does not concur with Ishmael's reading at J, will not agree that we deal here with an aspect of a public religious duty.]
- [N] Said R. Yose, "It represents the whole view of all parties. For if they did not find wheat for that purpose in Syria, they bring it from the aftergrowths of wheat in the land of Israel, [and likewise in this instance, if the wheat does come from the aftergrowths, Aqiba also will concur that the guardians of the aftergrowths are paid from the Temple funds]."
- [O] As to the wheat for the *omer*, what is the law on sowing it to begin with in the Seventh Year [even though other kinds of farming are prohibited in that year] ?
- [P] [This is a poor question, for] R. Hiyya bar Ada asked before R. Mana, "Will it not turn out to be a case equivalent to one in which one takes a handful for the meal-offering from the residue, in which case the remainder may not be eaten by the priests? [One cannot offer something that the priests cannot eat, and no Israelite can eat grain deliberately cultivated in the land of Israel in the Seventh Year. Consequently, there is no question that wheat one has sown in the land in the taboo-year may not be used for the *omer*.]"
- [Q] He said to him, "[Why not] treat it as equivalent to the five matters which are offered in a state of uncleanness but not eaten in a state of uncleanness?" [M. Pes. 7:4].
- [IV:1 A] [As to paying the salary of the guards (M. 4:1E),] How does one carry the matter out?
- [B] One takes money from the moneychanger and gives it to the harvesters and the guards [of the growths] before the *omer* is offered. And he brings money from the heave-offering of the chamber, and deconsecrates that money on account of [the salary that has been paid],
- [C] And is that a proper procedure?

- [D] R. Aha in the name of R. Ba: “Whatever [the moneychanger] hands over is regarded as money belonging to [the sanctuary] from the very beginning.”
- [E] And it has been taught: The same applies to the stonecutters [who maintain the building].
- [F] What does one do?
- [G] He takes money from the moneychanger and gives it to the hewer of stones and the cutter of stones, before the stones have been set on the wall. Once the stones have been set on the walls, the treasurer brings money from the heave-offering of the chamber, and deconsecrates that money [for the money originally paid to the workers].
- [H] Is that arrangement satisfactory?
- [I] [Indeed so.] R. Yose b. R. Bun in the name of Samuel: “Whatever [the moneychanger] gives over is regarded as money belonging [to the sanctuary] from the very beginning.”

The main principle is at M. 4:1B-D: offerings made in behalf of all the people must derive from funds contributed by them all. The point of E is that, in the Seventh Year, when no crops may be sown, it is necessary to watch over the aftergrowth of wheat, so that there will be grain for the preparation of the *omer*, the Two Loaves, and the Show Bread (C). Since in ordinary years the wheat itself is purchased with the heave-offering of the *sheqel*-chamber, in the Seventh Year the wheat is secured through an appropriation from that same budget. Guards are hired to see that neither human beings nor animals eat the specified fields’ aftergrowth, which then is kept for use in the cult. Yose’s position is rejected (M. 4:1G), because if a person guards without pay, then the produce of the field guarded by him automatically becomes his possession, and this, M. 4:1C makes clear, is not possible. An individual cannot supply what the entire community must give.

Unit **I** provides a precedent for the principle that individuals may contribute to the public offerings, in line with the dispute at M. 4:1E-G. Both unit **I** and unit **II** then ask whether Yose can concur with the cited passage of Tosefta. Unit **III** turns to the derivation for wheat from the *omer*—the first sheaf of grain after the vernal equinox—with special reference to Ishmael’s view that it may derive only from wheat grown in the Holy Land. The importance of the issue is seen at **III.L-N**, although, in the present version, the articulation of the matter is not entirely clear. Unit **IV** asks yet another rather peripheral question,

about how the money in that holy status enjoyed by the *sheqel* is converted into secular funds.

4:2

- [A] The red cow [Num. 19:1ff.], the goat which is sent out, and the red thread [Lev. 16:5] derive from funds of the heave-offering of the [sheqel-]chamber.
- [B] The [cost of building] a causeway for the red cow, the causeway for the scapegoat which is sent forth, the thread between its horns, the [cost of the upkeep of the] water channel, the wall of the city and its turrets, and all needs of the city [of Jerusalem] derive from the residue [of funds of the sheqel-]chamber [coins not taken up with the heave-offering thereof].
- [C] Abba Saul says, “The ramp of the red cow—the high priests make it at their own expense.”
- [D] As to the surplus of the residue of the [sheqel-]chamber: What did they do with it?
- [E] They purchase with it wine, oil, and fine flour.
- [F] ‘And the profit [of the resale] belongs to the Temple,” the words of R. Ishmael.
- [G] R. Aqiba says, “They do not make money in what belongs to the Temple or in what belongs to the poor.”
- [H] The surplus of the heave-offering [itself] of the sheqel: What do they do with it?
- [I] [They buy] a golden plate for decorating the house of the Holy of Holies.
- [J] R. Ishmael says, “The surplus of the profits [on wine, oil, and Hour sold to people bringing private offerings] goes for [purchase of animals for sacrifice] for ‘dessert,’ [the unused time of the altar,]
- [K] “and the surplus of the heave-offering [of the sheqels] is for purchase of utensils for service.”
- [L] R. Aqiba says, “The surplus of the heave-offering [of the sheqels] goes for ‘dessert,’ and the surplus of the drink-offerings is for purchase of utensils for service,”
- [M] R. Hananiah, prefect of the priests, says, “The surplus of the drink-offerings goes for ‘dessert,’ and the surplus of the heave-offering [of the sheqels] is for the purchase of utensils for service.”

- [N] **But neither one [E, F] concurred in the matter of profits [both maintaining that profits are not permissible].**
- [I:1 A] *The red cow, etc. [M. 4:2A]:* R. Ishmael bar Nahman in the name of R. Jonathan, “There are three such threads. The one for the goat is to be of the weight of a *sela*; the one for the *me-sora*, of a *sheqel*; the one for a red cow, the weight of two *selas*”
- [B] R. Honiah of Beth Hauran, R. Ba bar Zabeda in the name of R. Simeon b. Halapta, “The one of a red cow was to be of the weight of two and a half *selas*”
- [C] And there are those who phrase the matter as ten *zuz*, [which is the same weight].
- [II:1 A] R. Judah in the name of Samuel: “Disciples of sages who give instruction to priests in the laws of slaughter, receiving the blood, [and] tossing the blood, receive their salary from the heave-offering of the chamber [of *sheqels*].”
- [B] R. Isaac bar Redipah in the name of R. Imi, “Those who examine blemishes in animals designated for Holy Things receive their salary from the heave-offering of the chamber.”
- [C] R. Aha, R. Tanhum bar Hiyya in the name of R. Simlai: “Those who examine and correct the scroll [of the Torah belonging to the Temple] court receive their salary from the heave-offering of the chamber.”
- [D] Giddal bar Benjamin in the name of R. Assi: “The two judges of larceny cases [M. Ket. 13:1] receive their salary from the heave-offering of the chamber.”
- [E] Samuel said, “The women who weave the veil [over the Holy of Holies] receive their salary from the heave-offering of the chamber.”
- [F] R. Hunah said, “They receive it from the heave-offering of funds donated for the upkeep of the building [of the Temple].”
- [G] On what do they differ?
- [H] Samuel treats the matter as equivalent to an offering [of the community], while R. Hunah treats it as equivalent to the building.
- [I] Said R. Hezekiah, R. Judah Gerogerot taught, “The incense and all public offerings are paid for from the heave-offering of the chamber. [Funds for] the golden altar and all utensils for service derive from the excess of funds given for the purchase of libation-offerings. [Funds for] the altar for the burnt-offering, the hall [*hekhal*], and the

courtyard, come from the residue of funds in the chamber [of *sheqels*]. [Funds for the maintenance of areas] outside of the courtyards come from the chamber for the upkeep of the house.”

[J] Now lo, it has been taught: “[Funds for] stones for the altar, the great hall, and the courtyard—the laws of sacrilege apply to them.” [These funds derive from the residue of coins, as indicated at I.]

[K] Now do the laws of sacrilege apply to the residue of the coins?

[L] But the passage accords with the principle of R. Meir, for R. Meir said, “The laws of sacrilege apply to the residue.”

[M] Said R. Hiyya, “But did R. Meir not say so only with reference to residue of coins given in that one year? Here we deal with the residue of coins deriving from former years.”

[III:1 A] Said R. Hezekiah, R. Judah Gerogerot taught, “The availability of a proper table, lamp, altar, and veil, are indispensable to the making of offerings.’ the words of R. Meir. And sages say, ‘You have nothing that is indispensable to an offering except for a proper laver and bowl [for the priests to wash their hands] alone.’”

[B] And did not R. Eliezer and R. Yose b. Haninah both say, “Anything of which [at Exod. 26:35-37] the language ‘opposite’ is used is indispensable, and anything of which the language ‘beside’ is used is not indispensable”?

[C] And R. Samuel bar R. Nahman said in the name of R. Jonathan: “And even an object of which the word ‘beside’ is used is indispensable.”

[D] And R. Ila in the name of Samuel bar Nahman said, “And even an object, of which the language ‘place’ is used is indispensable.” [All of these judgments differ from the view of sages at A.]

[E] Said R. Hanina, “Here [where these many objects must be in place for the rite to be valid], we deal with acts of service performed within, [e.g., the incense-offering, the lights on the candelabrum, the Show Bread, and the like,] while there [where only the laver and bowl are indispensable], we deal with acts of service performed without [on the outer altar].”

[IV:1 A] Said R. Hanina, “There was a great love of display among the sons of the high priests.

[B] **“For in regard to building the ramp for the red cow, they would spend more than sixty talents of gold, for the ramp of the cow**

remained, but one of the priests never took out his red cow on a ramp built by his fellow [before him].

[C] **“Rather, he would destroy it and build one of his own” [B] [T. Sheq. 2:6I-K].**

[D] R. Ulla objected before R. Mana, “And lo, it has been taught: ‘Simeon the Righteous prepared two red cows [in his lifetime]. On the ramp on which he brought forth this one, he did not bring forth that one.’ Now can you possibly say that Simeon the Righteous was ostentatious?”

[E] So why then [did each high priest make a new ramp for the red cow he proposed to burn]?

[F] It was for the sake of an additional [stringency] to apply to the rite of the red cow, a further point of differentiation in the rite of the red cow.

[G] [With reference to the ramp,] it has been taught: There would be protruding cornices and walls [on the ramp] so that the priests [on the ramp] would not stray [off the ramp] and be made unclean, [e.g., by uncleanness through being under the shadow of a roof that also overshadowed a corpse].

[V:1 A] *R. Aqiba says, “They do not make money [in what belongs to the Temple or in what belongs to the poor] [M. 4:2G].*

[B] [The reason is that there may also be a loss. Hence:] if one wanted [to stipulate] that the loss will be his but the profit will belong to the Temple, he is permitted to do so.

[C] There is the following [parallel]: Property of an estate was entrusted to Bar Zamina. He came and asked R. Mana, who instructed him, “If you want the loss to be yours and the profit to be the estate’s, it is permitted [to take risks].”

[D] Property of an estate was entrusted to R. Hiyya bar Ada, and he treated it that way.

[VI:1 A] [*R. Ishmael says,] “The surplus of the profits [on wine, oil, and flour sold to people bringing private offerings goes for purchase of animals for sacrifice for dessert]” [M. 4:2J]:*

[B] The Mishnah follows the basic thesis of R. Ishmael.

[C] [Explaining what is at issue between Ishmael and Aqiba and Hananiah,] R. Hiyya bar Joseph interpreted the Mishnah’s reference to “the surplus of the profits” [in Ishmael’s instance] to refer to the fee paid to the Temple, [and, from the viewpoint of Aqiba and Hananiah,]

the surplus of the drink-offerings refers to the rule [at M. 4:5 that the sanctuary will profit at the rate of] a *seah* for a quarter. [An extra *seah* of flour will be delivered to the Temple under the circumstances described below, that this is regarded as the surplus of the drink-offerings, for the flour is used with the libation, for the altar's dessert.]

- [D] R. Yohanan interpreted the Mishnah's reference to the surplus of the profits to speak of [the rule at M. 4:5 on] the *seah* [as above], and the surplus of the profits on the drink-offerings goes for the collection of quantities which remain, when filling from a brimful measure into smaller ones [Jastrow, p. 166].
- [E] Does R. Hiyya bar Joseph not take account of the disposition of this overflow of liquids?
- [F] Said R. Hezekiah, "What falls into the category of the extra *seah* for a quarter comprehends the disposition of the overflow."
- [G] In accord with the theory of R. Hiyya bar Joseph, there is no problem in the principle that they do not make a profit in what belongs to the Temple or in what belongs to the poor [M. 4:2G]. Therefore *neither this one [Aqiba] nor that one [Hananiah] concurs in the matter of the profits [M. 4:2N]*.
- [H] But in the view of R. Yohanan, there is a problem. For we have learned: *Whoever undertakes to provide flour at four seahs a sela, if the price deflated to three selas for a seah, still must provide it at four [M. 4:5B-C]*. And we have learned: *Neither this one nor that one concurs in the matter of the profits [M. 4:2N]*. [Hence Aqiba and Hananiah should differ from M. 4:5B-C, but no record of such a disagreement is in hand.
- [I] They did not concur with regard to use of the profits for the dessert for the altar, but they did concur to use the profits for utensils of service.
- [J] Up to this point we have covered the rule for the disposition of the value of the overflow of liquids deriving from communal libations. Is that the case likewise for the proceeds of the sale of the overflow of liquids purchased for the libation of an individual?
- [K] [Indeed so.] But does it not turn out, then, that utensils of service will then be purchased from funds contributed by an individual? [Is this legitimate?]
- [L] It accords with that which we have learned: **A woman who made a garment for her son [to use in service in the Temple]—it is valid, so long as she donates it to the community [T. Yoma 1:23A-B]**.

- [M] To this point we have dealt with the overflow of liquids. Is the rule the same for the overflow of dry stuffs?
- [N] It accords with that which we have learned there: *Drink-offerings which were sanctified in a utensil, and the animal-sacrifice with which they were brought turned out to be invalid—if there is there another animal sacrifice requiring drink-offerings, let them be offered with it. And if not, let them be invalidated by being kept overnight* [M. Men. 7:4].

Unit I adds a minor detail of fact. Unit II presents a rich complement to the Mishnah's rule on who is paid from the heave-offering taken up from the *sheqel-chamber*. Unit III takes up a quite separate matter and bears no relationship to the Mishnah. Unit IV takes up the Tosefta's complement to the Mishnah, as indicated. Unit V explains the theory behind Aqiba's position. I cannot claim to understand unit VI, even though I see no textual problems. Clearly the effort is to bring M. 4:2 into relationship with M. 4:5, below. But even with the lavish assistance of Pene Moshe, I do not follow the discussion.

4:3

- [A] **The surplus of [funds for] the frankincense: What did they do with it?**
- [B] **They set aside from it the wages of the craftsmen.**
- [C] **And [after] they declare it unconsecrated in exchange for the wages of the craftsmen,**
- [D] **they hand it over to the craftsmen as their salary.**
- [E] **And they go and buy it back from them [with money raised up] from a fresh heave-offering [of the sheqels].**
- [F] **If the new [heave-offering] came in due time, they buy it back [with money] from the new heave-offering [of the sheqels], but if not, [they buy it back with money] from the old.**
- [I:1 A] [With reference to the procedure of M. 4:3], does it not turn out that what has been consecrated is rendered unconsecrated by means of what has been consecrated, [since the surplus of funds for the frankincense is consecrated, the salary of the craftsman derives from consecrated funds]?
- [B] What does one do?
- [C] Said R. Simeon bar Bisna, "He brings [unconsecrated] coins, and he exchanges them for the building [work], and he brings frankincense

and exchanges it for those coins, and gives them to the workers as their salary.”

- [D] As to those coins, what does one do with them?
- [E] Rabbi says, “I maintain that they are given to the household of Garmu and the household of Abtines, who were experts in concocting the frankincense and in preparing the Show Bread.”
- [F] Said R. Samuel bar R. Isaac, “And this rule applies when they were owed money to them at the outset. [That is, the sanctuary owed this money to the workers at the outset. Hence it was for their payment that the money was set aside and designated. Now the money is paid over, as originally planned, to the workers.]”
- [G] R. Hiyya bar Ba asked, “[And if] they did not owe them money at the outset [what is the rule]?”
- [H] R. Ba in the name of R. Hiyya in the name of R. Yohanan: “They supply offerings for the altar when it is left vacant [with the money, if it is not needed to pay the workers, just as is done in general with surplus heave-offering of the *sheqel*-chamber].”
- [I] R. Ba bar Kohen asked before R. Yose, “The opinions assigned to R. Hiyya bar Ba are at variance, for there this is a question to him, while here it is self-evident to him.”
- [J] Where it is a problem to him, [it is where the funds are used for] a utensil of service. Where it is self-evident to him, [it is where the funds are used for] the altar at the time when it lies unused. [When the funds leave the category of surplus, may they be used to purchase utensils of service?]
- [K] For there is the following dispute:
- [L] If one compounded the frankincense [48b] in an unconsecrated [bowl, rather than in a utensil consecrated for the Temple service]—
- [M] R. Yose b. R. Haninah said, “It is invalid.”
- [N] R. Joshua b. Levi said, “It is valid.”
- [O] What is the basis for the view of R. Yose bar Haninah?
- [P] “It is holy and shall be holy unto you” (Exod. 30:32), meaning, it should be brought into being in a state of holiness [- in a consecrated utensil].

- [Q] What is the basis for the view of R. Joshua b. Levi? “It is holy”—that it should derive from funds in the heave-offering of the chamber, [and that is what is holy about the preparation of the frankincense, not the use of consecrated utensils of the Temple],
- [R] Said R. Yose b. R. Bun, “The position of R. Yose b. Haninah accords with the view of Samuel, and the view of R. Joshua b. Levi conforms with the theory of R. Yohanan.”
- [S] For we have learned: *He who sanctifies his property, and included in it were items suitable for use for public offerings [M. Sheq. 4:4A]*— [Answering the question of what such items are,] R. Yohanan said, “Incense.” [Now this incense has not been prepared in a utensil of service, and yet it is holy and may be used on the altar. Accordingly, Yohanan and Joshua b. Levi concur that a utensil of service need not be used in this connection.]
- [T] [The cited passage indicates that the items are to be given to craftsmen for their salary, then bought back for the Temple.] Said R. Hoshaiiah, “[There is no proof in respect to the concurrence of Yohanan and Joshua b. Levi, for] one may interpret the passage to speak of paying over the incense to a craftsman of the household of Abtines, which would collect its salary in incense [anyhow].”
- [U] And the view of R. Yose b. Haninah accords with Samuel, for R. Hunah said in the name of Samuel, “The pestle did they treat as a utensil of service for the sanctuary [and if it is not used, the incense is invalid].”
- [V] Said R. Yose b. R. Bun, R. Hunah stated the matter before R. Yose: “Is an item that has been sanctified in a utensil of service then redeemed [as M. Sheq. 4:3 states]?”
- [W] He said to him, “But is this not on the authority of Samuel? And Samuel said, ‘It is a lenient ruling that applies to the surplus [of funds for the frankincense].’”
- [X] For there is the following dispute:
- [Y] If there was an excess [of beasts designated for the] daily whole offering—
- [Z] Samuel said, “The beasts are redeemed even if they are unblemished.”
- [AA] R. Yohanan said, “They are redeemed in accord with the rules governing animals that are invalid for use for Holy Things [which are

left to pasture until they suffer a blemish and then may be redeemed, but not before].”

- [BB] If there was an excess of goats [designated for use for the rite of the Day of Atonement or other purposes]—
- [CC] In the view of Samuel, if an animal designated for a burnt-offering is to be redeemed, is it not an argument a fortiori that an animal designated for use as a sin-offering should be redeemed?
- [DD] In the view of R. Yohanan—
- [EE] R. Zeira said, “They are put out to pasture [as before].” Said R. Samuel bar R. Isaac, “They make use of the beast for the altar at a time when the altar is otherwise left vacant.”
- [FF] Now there is a problem: May an animal designated as a sin-offering be offered under the rules governing a burnt-offering?
- [GG] Said R. Yose, “The rule here is different, for offerings deriving from public funds are not defined as to their purpose except at the actual moment of slaughter [and hence the problem is no problem].”
- [HH] Said R. Hiyya, “It is a stipulation of the court [in general] concerning animals that are in excess that they may be offered as burnt-offerings.”

Frankincense is prepared for the whole year in advance. Enough is readied to serve for the solar year of 365 days. But the lunar calendar, followed in the cult, has only 354. Eleven *minas* of frankincense are annually left over, except in a leap year. Since public offerings from the first of Nisan onward derive from the heave-offering of the new *sheqels*, there will be an annual surplus of eleven days’ worth of frankincense (A-B) for the stated purpose, wages for Temple employees. Now this cannot be paid directly to the craftsmen. First, it is to be deconsecrated (C) and then handed over to the workers (D). The frankincense then is bought back out of the new funds, the *sheqels* taken up after the first of Nisan, so it can be used for the new cycle, which begins in Nisan.

The Talmud begins with a clarification of the Mishnah, as indicated at I.A. Then, however, it proceeds to investigate its own point of interest, taking up in the main the issues of M. 4:4 to clarify principles inhering in M. 4:3. From I.K to the end in no way is primary to our passage of the Mishnah.

4:4

- [A] He who sanctifies his property, and included in it were items suitable for use for public offerings—
- [B] “They are to be given to the craftsmen for their salary,” the words of R. Aqiba.
- [C] Said to him Ben Azzai, “That [method, of M. 4:5,] is not correct [in this case].
- [D] “But: They set apart from it the wages of the craftsmen.
- [E] “And they render it deconsecrated in exchange for the money due to the craftsmen.
- [F] “And they pay it over to the craftsmen as their salary.
- [G] “And then they go and buy it back from them out of the new heave-offering [of the sheqels].”
- [H] He who sanctifies his property and in it were cattle suitable for use on the altar,
- [I] males and females—
- [J] R. Eliezer says, “The males are to be sold for those who require burnt-offerings,
- [K] “and the females are sold for those who require peace-offerings.
- [L] “And proceeds received for them fall with the value of the rest of the donation for the upkeep of the Temple-house.”
- [M] R. Joshua says, “The males themselves are offered up as burnt-offerings,
- [N] “and the females are to be sold for those who require peace-offerings,
- [O] “and let one bring burnt-offerings with their proceeds.
- [P] “And the rest of the proceeds fall for the upkeep of the Temple-house. “
- [Q] R. Aqiba says, “I prefer the opinion of R. Eliezer to the opinion of R. Joshua.
- [R] “For R. Eliezer is consistent, while R. Joshua has made a distinction.”
- [S] Said R. Pappas, “I heard [a ruling on this subject] in accord with the opinion of each of them:
- [T] “For: He who sanctifies [his property] on explicit terms follows the opinion of R. Eliezer, and he who sanctifies his property without specification follows the opinion of R. Joshua.”

- [U] **He who sanctifies his property, in which were items suitable [actually] for use on the altar—**
- [V] **wine, oil, fowl—**
- [W] **R. Eliezer says, “They are to be sold to those who need that item, and let one bring burnt-offerings with the proceeds received for them.**
- [X] **“And the rest of the property falls for use in the upkeep of the house.”**
- [I:1 A] *He who sanctifies ... for use for public offerings [M. 4:4A]:*
- [B] R. Yohanan said, “[Such an item would be] incense.”
- [C] R. Hoshaiiah said, “Interpret the Mishnah to speak of the case of a craftsman of the household of Abtines, who received his salary in frankincense.”
- [D] What is the reason for the view of Ben Azzai [at M. 4:4C-G]?
- [E] [He takes his position] because that which is sanctified may not be deconsecrated through an act of labor, but only through an exchange for actual coins.
- [II:1 A] *There we have learned: There are rules applying to things sanctified for the upkeep of the house which do not apply to animals sanctified for the altar. For things which are sanctified without further specification go for the upkeep of the house [cf M. 4:4T]. The sanctity pertaining to the upkeep of the house applies to everything [that is donated, not merely to valid animals]. The laws of sacrilege apply to that which is produced by things which are sanctified for the upkeep of the house, [e.g., milk, wool, or eggs (M. Me. 3:5)]. The priests have no benefit from things sanctified for the upkeep of the house [M. Tem. 7:2],*
- [B] Said R. Hananiah, “This represents the view of R. Eliezer.”
- [C] For we have learned: *He who sanctifies his property and in it were cattle suitable for use on the altar, males and females— R. Eliezer says, “The males are to be sold for those who require burnt-offerings, and the females are sold for those who require peace-offerings. And proceeds received for them fall with the value of the rest of the donation for the upkeep of the Temple-house” [M. 4:4H-L]. [Here things sanctified without specification go for the upkeep of the house, even though some of the items could be used for the altar.]*

- [D] Said R. Yohanan, “The scriptural basis for the view of R. Eliezer is as follows: ‘When a man dedicates his house to be holy to the Lord, the priest shall value it as either good or bad; as the priest values it, so it shall stand’ (Lev. 27:14).
- [E] “With what do we now deal? If it is with a dwelling, it already has been stated, ‘And if he who dedicates it wishes to redeem his house, he shall add a fifth of the valuation in money to it, and it shall be his’ (Lev. 27:15).
- [F] “But we must deal [at Lev. 27:14] with one who sanctifies his property.
- [G] “On this basis we rule that a declaration of consecration [of goods without further specification] is for the upkeep of the house.”
- [III:1 A]** [With reference to M. 4:4H-T,] said R. Zeira, R. Hunah in the name of Rab, “Where there is a dispute it is in a case of one who sanctifies his property. But if he sanctified his herd [of sheep], all parties concur that it is used for the altar.”
- [B] R. Ba, R. Hunah in the name of Rab: “Where there is a dispute, it is in a case of one who sanctifies his herd [of sheep]. But if he sanctifies his property, all parties concur that it is used for the upkeep of the house.”
- [C] In the view of R. Zeira [as to what is at issue (A)], there is no incongruity.
- [D] But in the view of R. Ba, there is a difficulty. For if one consecrated a beast [as part of the larger donation of property], is it not [ordinarily] for the altar? [Why should we assume that it is *not* for the altar?]
- [E] [Ba now answers,] “Indeed, a beast ordinarily will be for the altar [even when it is part of a larger donation, including property not used for the altar, such as chickens]. And why has the man left the entire donation without instructions? It is because it is as if he [wishes to] say, ‘This donation [in toto] may serve only for the upkeep of the house.’”
- [F] R. Yohanan said, “There is no difference. The same dispute applies both to one who consecrates his property and to one who consecrates his flock.”
- [IV:1 A]** R. Hunah in the name of Rab, R. Abbahu in the name of R. Yohanan: “Items consecrated for the upkeep of the house, [e.g., beasts,] which one has redeemed even wholly unblemished still have gone forth to entirely secular purposes, [and are not regarded as consecrated merely

because they are suitable for the altar]. [Once they are redeemed, that completes their period of consecration.]”

- [B] A Tannaitic tradition has made the same point: Their offspring and their milk are permitted once they have been redeemed.
- [C] [That does not necessarily follow, for] R. Hezekiah in the name of R. Hisda [said], “Interpret the law to apply to a case in which one has redeemed them while they were still unblemished, but then they became blemished, [and it is only at that point that they go forth to unconsecrated status].”
- [D] R. Yose in the name of R. Hisda, “The Mishnah has made that very point: *Their offspring and their milk are prohibited [even] after they have been redeemed* [M. Tem. 7:1B; cf. M. Hul. 10:2].
- [E] R. Hezekiah in the name of R. Yose: “Items consecrated for the upkeep of the house which one has redeemed unblemished have [nonetheless] gone forth to a status of unconsecration. For if you say that they have *not* gone forth to secular status, [but are used, instead, for the altar,] then how is it possible that the status of things sanctified for the altar may apply to things sanctified for the upkeep of the house?”
- [F] [What sort of question is this? For even] blemished animals [which one has consecrated for the altar] enter into the status of sanctification for the altar, [and there is no more problem here than at E]!
- [G] For what purpose?
- [H] For shearing and working with the animal; [that is, these may not be done with a blemished animal consecrated for the altar, even though the animal also may not be made into an offering on the altar].
- [V:1 A] **He who separates a female for his burnt-offering, his Passover, or his guilt-offering, [which must be a male,] has effected an act of substitution; [so the female is deemed made holy as the substitute for the animals already designated for the specified offerings].**
- [B] **R. Simeon says, “If he separated it for his burnt-offering, he has effected an act of substitution. If it was for his Passover and his guilt-offering, he has not effected an act of substitution. You have nothing which imparts the status of substitute except something which may be put out to pasture until blemished” [T. Tem. 2:5A-C].**

- [C] R. Simeon b. Judah says in the name of R. Simeon, “If it was designated for his burnt-offering, his Passover, or his guilt-offering, he has not effected an act of substitution.”
- [D] Said R. Yohanan, “The reason for the view of R. Simeon [at B, that the burnt-offering designation is valid in the case of the female,] is that indeed we find in the case of a female-fowl that it is valid when brought as a burnt-offering.”
- [E] And R. Yohanan said, “The reason for the view of R. Simeon b. Judah [in the name of R. Simeon] is this: ‘If we find that R. Simeon differs when we have the substitution of a beast for another beast of the same sort, will he not all the more so differ when we have the substitution of something which is not of the same species as that for which it is declared a substitution, [that is, fowl for cattle]?’”
- [F] What is the case of his differing where we have an act of substitution of something for another beast of the same species? It is in line with that which has been taught:
- [G] **A guilt-offering [which requires a lamb] of the first year for which one brought a lamb two years old, and one requiring a lamb of the second year for which one brought a lamb of the first year [T. Zeb. 1:2] are valid, but do not go to their owners’ credit in fulfillment of their obligation to bring such an offering [following Pene Moshe’s text],**
- [H] R. Simeon says, “They themselves in no way are regarded as consecrated.” [This illustrates F.]
- [I] Said R. Yohanan, “R. Simeon and R. Joshua [of M. 4:4M-P] have taken the same position.
- [J] “Just as R. Joshua has said that if a female is dedicated for a burnt-offering, one has sanctified only the funds received for the sale of the beast,
- [K] “So R. Simeon has said, ‘If one has sanctified a female as a burnt-offering, he has consecrated only the funds received for sale of the beast.’
- [L] “For if you maintain that he has sanctified the corpus of the beast itself, [not just the value,] then [the rule in Simeon’s view should be] that the beast is let out to pasture until it has been blemished [and only then may be sold].”

- [M] **Said Rabbi, “I prefer the opinion of R. Simeon in the case of a Passover for from that which is sanctified as a Passover [the excess of funds set aside for the purpose of a Passover] are peace-offerings brought” [T. Tem. 2:5D].**
- [N] And why should he not say, “I do not accept the opinion of R. Simeon in the case of a guilt-offering, for the surplus of funds set aside for a guilt-offering may be used for a burnt-offering”?
- [O] Said R. Abin, “If one has sanctified an animal as a Passover, and offered up another beast as a Passover, then the original one may itself be offered as a peace-offering.
- [P] “If one has sanctified an animal as a guilt-offering, and offered another burnt-offering, the original beast itself may not be offered as a burnt-offering [but is put out to pasture until blemished, then sold].”
- [Q] What is the upshot of the matter?
- [R] This party, [Simeon,] maintains that if one has consecrated [a female as a Passover or a guilt-offering] he has consecrated the value of the beast only, [not the corpus of the beast].
- [S] And that party, [rabbis vis-a-vis Simeon,] holds that if he has consecrated [a female for the stated invalid purposes], nonetheless he has consecrated the corpus of the beast.
- [VI:1 A] R. Zeira in the name of R. Simeon b. Laqish: “The scriptural basis for the view of R. Joshua [at M. 4:4N-O, selling the females for peace-offerings and using the proceeds for burnt-offerings,] is as follows: ‘Say to Aaron and his sons and all the people of Israel, When any one of the house of Israel or of the sojourners in Israel presents his offering, whether in payment of a vow or as a freewill-offering which is offered to the Lord as a burnt-offering’ (Lev. 22:18).
- [B] “‘As a burnt-offering—everything is offered as a burnt-offering.
- [C] “‘To be accepted you shall offer a male without blemish, of the bulls or the sheep or the goats’ (Lev. 22:19).
- [D] “How do I know that even a female is accepted?
- [E] “Scripture says, ‘of the bulls’ which serves to encompass females.”
- [F] R. Isaac b. R. Eliezer asked, “It is written, ‘male’ (Lev. 22:19), and yet you maintain that ‘of the bulls’ serves to encompass females?

- [G] “And along these same lines, since it is written, ‘without blemish,’ you may say ‘of the bulls’ serves to encompass beasts!”
- [H] What is at issue between them?
- [I] Rab said, “The staff of the shuttle is at issue between them: [That is, there is a great difference between them.]”
- [VII:1 A] *R. Eliezer says, “They are to be sold to those who need that item, and let one bring burnt-offerings with the proceeds ...” [M. 4:4W]:*
- [B] R. Abbahu in the name of R. Simeon b. Laqish: “The scriptural basis for the position of R. Eliezer derives from the following: ‘Say to Aaron and his sons and all the people of Israel, When any one of the house of Israel or of the sojourners in Israel presents his offering, whether in payment of a vow or as a freewill-offering which is offered to the Lord as a burnt-offering’ (Lev. 22:18). [This indicates that] everything is offered as a burnt-offering.”
- [C] “To be accepted you shall offer a male without blemish, of the bulls or the sheep or the goats” (Lev. 22:19).
- [D] Is it possible to suppose that that encompasses even fowl?
- [E] Scripture says, “of the bulls,” and not fowl.
- [F] R. Jeremiah and R. Bun bar Hiyya were in session and saying, “There R. Yohanan said that the reason behind the view of R. Simeon is that a female fowl is valid for use as a burnt-offering, and here has he said this?” [Cf. Pene Moshe.]
- [G] Said R. Yose, “Interpret it, [the view of Eliezer (M, 4:4W),] in line with that which R. Samuel said [48c] in the name of R. Zeira: ‘Whatever cannot be offered on the altar—both it and the proceeds received from it have been sanctified only as to their value. [The items are sold, and with the proceeds offerings are purchased.]’ And you have spoken correctly [in saying] that to sacrifice it you cannot do that because it is written, ‘of the bulls’ [Lev. 22:19], which serves to exclude birds.
- [H] “[You are also correct that] to redeem it, you cannot do that, for there is no redeeming fowl.
- [I] “On that account one says: [When the man consecrated wine, oil, or fowl (M. 4:4V)], he has consecrated only the value thereof [to be received through the sale of the items].”

- [J] Associates in the name of R. Yohanan, R. Aibu bar Nigri said before R. Ila in the name of R. Yohanan, “The reason for this authority, [who maintains that these items are not used on the altar but sold (M. 4:4U-V), but the proceeds are not used for the upkeep of the house, rather for offerings (M. 4:4W),] derives from the following verse: ‘And if it is an unclean animal such as is not offered as an offering to the Lord, then the man shall bring the animal before the priest’ (Lev. 27:11).
- [K] “Why does Scripture specify ‘unclean,’ [since it also says, ‘such as is not offered’]? It is to say that even if it is unclean under the same count, the proceeds received for a blemished beast are used for the upkeep of the house. But as to wine, oil, and fowl, if they are blemished they cannot be redeemed, and consequently, the proceeds must go for offerings only.”
- [L] [Now there is] a problem [in reading the verse to refer to a blemished beast (Lev. 27:11)]. For in this matter it is written, “And the priest shall value it as either good or bad; as you, the priest, value it, so it shall be” (Lev. 27:12).
- [M] R. Zeira in the name of R. Eleazar: “What is stated here is only the following: ‘And if it is an unclean animal such as is not offered as an offering to the Lord, then the man shall bring the animal before the priest’ (Lev. 27:11). [This refers to] any that is not suitable to be offered either here or elsewhere. Such a beast does not effect substitution. Excluded then is a female fowl, for even though it may not be offered in this context, it is suitable to be offered in some other context.”
- [N] R. Abun and R. Bun asked before R. Zeira, “Lo, there is the case of the beast that has had sexual relations with a human being, or with whom a human being has had sexual relations. Such beasts are not suitable to be offered either in this context or in any other context, and yet, such beasts are subject to effect an act of substitution.”
- [O] He said to them, “I too stated the rule only with regard to a beast that is literally unclean, [not merely unfit].”
- [P] And there is this problem, for in this setting it is written, “And the priest shall value it ...” (Lev. 27:12).

In Aqiba’s conception (M. 4:4A-B), the items suitable for the altar, e.g., wine, flour, spices, are paid over to the craftsmen, (B), then bought back (G). Ben Azzai specifies a slightly more complicated procedure. Labor cannot be exchanged directly for something holy. The items suitable for the altar are set apart in the amount equivalent to what is

owing the craftsmen. Then money due to the craftsmen is exchanged for the items. The flour, wine, oil, or spice then is paid over to the craftsmen, who sell it back to the Temple. In this way the item is acquired by the heave-offering of the *sheqels* of the current year. It now may serve as a public offering. No longer is the individual who gave over the wine, oil, flour, and the like, responsible for a public offering, since the object has been acquired by public funds. At issue at M. 4:4H-T is the purpose of the donation. Eliezer's conception is that a dedication of property to the Temple belongs to the fund for the upkeep of the Temple-house. Therefore what can be used for the altar is sold for that purpose, with the proceeds then donated to the fund for the upkeep of the house. Joshua differs. Male cattle themselves are offered up, not converted for use by the Temple-fund for the upkeep of the house. The females likewise are used for the benefit of the altar. (Females cannot serve as burnt-offerings.) Aqiba then observes at M. 4:4Q-R that Eliezer treats the entire donation in a consistent way. Everything is for building maintenance. Joshua treats goods differently from items suitable for the altar. Pappayas proposes that, if a person sanctifies his property and explicitly states that he wants all items treated in the same way—for the upkeep of the house—then, obviously, Eliezer's view is invoked. But if not, then Joshua's is, and what can go right to the altar is sent up there. At M. 4:4U-X, Eliezer has the items suitable for the altar sold, and then the proceeds fall to the use of the altar, while the rest of the property goes to the Temple-house fund. So here he takes up the position of Joshua.

Unit **I** covers familiar ground and provides a simple explanation for M. 4:4A-G. Unit **II** brings us to the comparison of M. 4:4H-T and M. Tem. 7:2, as cited. We have a clear and straightforward discussion. Unit **III** outlines the possibilities for interpreting the dispute at M. 4:4H-T. Unit **IV** takes up a problem in the interpretation of M. Tem. 7:1, important in the foregoing discussion. Unit **V** seems on the surface out of place, since it does not serve the cited passage of M. Tem. 7:1-2, nor does it have anything to do with our passage. Yet its underlying interest is in whether one consecrates the beast or the value of the beast, in a case in which the beast itself may not be used for a designated purpose. While not directly pertinent to the discussion of M. 4:4J-P, it certainly falls within its frame of reference. Units **VI** and **VII** undertake to provide scriptural bases for the positions taken in the Mishnah by Joshua (M. 4:4N-O) and Eliezer (M. 4:4W). Unit **VI** poses no problems of interpretation, though there are certain absurdities in the exegesis, as **VI.G** points out. Unit **VII** presents problems I am not able to solve, once again despite Pene Moshe's lavish guidance.

Specifically, I do not see the progression from **VII.E** to **VII.F**, since I cannot find antecedent reference to Yohanan. **VII.G** does not appear to me continuous with **VII.F**. From that point, I lose the train of argument entirely.

4:5

- [A] Once every thirty days they fix prices for the [sheqel-]chamber.**
[B] Whoever undertakes to provide flour at four [seahs a sela]—
[C] [if] the price stood at three [selas for a seah]—
[D] he still must provide four.
[E] [If he undertook to provide it at] three [seahs for a sela] and the price stood at four, let him provide four.
[F] For the claim of the sanctuary is always paramount.
[G] And if the flour got wormy, the wormy flour is at his expense. And if the wine turned sour, the sour wine is at his expense.
[H] And he does not receive his fee until after the altar has effected acceptance.
- [I:1 A]** It has been taught in the name of R. Simeon, “The sellers immediately got their money, for the priests are prompt.”

The priests may be relied upon to complete transactions right away, so that the provisioners of the cult do not have to wait on their money (M. 4:5H) for very long.

YERUSHALMI SHEQALIM

CHAPTER FIVE

5:1

[A] **These are they who are appointed who were in the sanctuary [as its officers]: (1) Yohanan b. Pinhas is in charge of the seals. (2) Ahiah is in charge of the drink-offerings. (3) Matthew b. Samuel is in charge of the lots. (4) Petahiah is in charge of the bird-offerings (Petahiah is the same as Mordecai, and why is he called Petahiah? Because he is able to open questions and expound them and knows seventy languages.) (5) Ben Ahiah is in charge of bowel-sickness. (6) Nehuniah digs ditches [for water]. (7) Gebini is the herald. (8) Ben Geber is in charge of closing the gates. (9) Ben Bebai is in charge of the knout. (10) Ben Arzah is in charge of the cymbals. (11) Hugras b. Levi is in charge of the singing. (12) The house of Garmu is in charge of making the Show Bread. (13) The house of Abtinias is in charge of preparing the incense. (14) Eleazar is in charge of the hangings. (15) Pinhas is in charge of the clothing.**

[I:1 A] R. Hezekiah said, “R. Simon and rabbis: One said, The purpose is to list the suitable men of each generation.”

[B] “The other said, ‘He who lived in that generation listed the suitable men in his own generation.’”

[C] He who said that the purpose is to list the suitable men in every generation—in reference to all of them Scripture says, ‘The memory of the righteous is a blessing’ (Prov. 10:7).

[D] He who said, “He who lived in that generation listed the suitable men in his generation”—in reference to all [the rest] of them Scripture says, “But the name of the wicked will rot” (Prov. 10:7).

[E] And in what regard is it said, “The memory of the righteous is a blessing”?

[F] It is stated with regard to Ben Qatin and his associates.

- [II:1 A] Said R. Jonah, “It is written, Therefore I will divide him a portion with the great, and he shall divide the spoil with the strong; because he poured out his soul to death, and was numbered with the transgressors; yet he bore the sin of many, and made intercession for the transgressors’ (Isa. 53:12).
- [B] “This refers to R. Aqiba, who organized the learning of exegesis, laws and lore.”
- [C] And there are those that say, “These things did the men of the Great Assembly arrange. But what this one organized are the generalizations and particularizations.”
- [D] Said R. Abbahu, “It is written, The families also of the scribes that dwelt at Jabez; the Tirathites, the Shimeathites, and the Sucathites. These are the Kenites who came from Hammath, the father of the house of Rechab’ (1 Chron. 2:55). Why does Scripture say, ‘scribes’? It is because they arranged the Torah in numerical units, e.g.: ‘Five should not raise up heave-offering’ [M. Ter. 1:1], ‘Five sorts of grains are liable for dough-offering’ [M. Hal. 1:1], ‘Fifteen kinds of women exempt their co-wives’ [M. Yeb. 1:1], ‘There are thirty-six grounds for extirpation in the Torah’ [M. Ker. 1:1], ‘Thirteen traits were stated with respect to the carrion of clean fowl’ [M. Toh. 1:1], ‘There are four generative categories of damages’ [M. B.Q. 1:1], ‘The generative categories of labor are forty, minus one’” [M. Shab. 7:2].
- [E] Said R. Eliezer, “It is written, This Ezra went up from Babylonia. He was a scribe skilled in the law of Moses which the Lord the God of Israel had given; and the king granted him all that he asked, for the hand of the Lord his God was upon him’ (Ezra 7:6). Why does Scripture say, ‘scribe’?
- [F] “Just as he was a scribe for teachings of Torah, so he was a scribe for teachings of sages.”
- [G] R. Haggai in the name of R. Samuel bar Nahman: “The former generations ploughed, sowed, weeded, cleared, hoed, harvested, made sheaves, trampled, threshed, sifted, milled, sieved, kneaded, cut, baked [bread]—and we have nothing to eat!”
- [H] [48d] R. Abba bar Zamina in the name of R. Zeira: “If the ancients were angels, we are mortal men. If they were mortal men, we are asses.”
- [I] Said R. Mana, “At that time they said, we are not even comparable to the ass of R. Phineas b. Yair.”

- [III:1 A]** The ass of R. Phineas b. Yair was stolen by thieves by night. It spent three days with them but did not taste a thing. After three days had gone by, they decided to return the ass, saying, “Take it out of here, so that it not die with us.”
- [B] They put it out, and it went and stood at the gate of its master. It began to bray. [Phineas] said to them, “Open the gate for that miserable critter, for it has spent three days without eating.”
- [C] They opened the gate, and the ass went in. He said to them, “Give it something to eat.”
- [D] They set barley before the beast, but it did not want to eat.
- [E] They said to him, “Rabbi, the beast does not want to eat.”
- [F] He said to them, “Is the produce properly tithed?”
- [G] They said to him, “Yes.”
- [H] “And did you remove what must be taken from doubtfully tithed produce?”
- [I] They said to him, “No. Has not the Rabbi taught us, ‘He who purchases seed for a beast, flour for tanning hides, or oil for a lamp, is exempt from the rules governing doubtfully tithed produce’?”
- [J] He said to them, “What shall we do for this unfortunate critter, who imposes a very strict rule upon itself.”
- [K] They removed what had to be taken out of doubtfully tithed produce, and the beast ate.
- [IV:1 A]** *Petahiah is in charge of the bird-offerings [M. 5:1A4]:*
- [B] Come and take note of the power of that man, who is able to open questions and expound them.
- [V:1 A]** *And knows seventy languages [M. 5:1A4]:*
- [B] It has been taught: A Sanhedrin that contains two with the ability to undertake discussion, while all of them are suitable to follow it—lo, these are suitable to serve as a Sanhedrin.
- [C] If there are three, lo, this is middling.
- [D] If there are four, lo, this is a mark of unusual wisdom.
- [E] And in Yabneh there were four: Ben Azzai, Ben Zomai, B. Ha-kinai, and R. Eleazar b. Mattiah.

- [VI:1 A] Said R. Hisda, “One time there was a drought in the land of Israel, and they did not know from whence to bring grain for the *omer*. Now there was a deaf-mute there, who gave signs with his hands, one pointing toward the roof, the other to a cone-shaped hut.
- [B] “They brought the man before Petahiah, who said to them, ‘Is there any place which is called *Gaggot* [roofs] and *Serifin* [cone-shaped huts] or the opposite?’
- [C] “They went there and found [grain].”
- [D] Said R. Yose b. R. Bun, “One time there was a blight in the whole world, and they did not know from whence to bring wheat for the *omer*. There was there a deaf-mute, who gave signs with his hands, placing one hand over his eyes, and one hand on the socket of the bolt. They brought him to Petahiah. He said to them, ‘Is there a place that is called Eye-socket or Socket-eye?’
- [E] “They went there and found the grain they needed.”
- [F] Three women brought three pairs of doves to the Temple.
- [G] One said, “It is for my *onah* [period-uncleanness].”
- [H] Another said, “It is for my *yammah* [stream, excessive flux].”
- [I] The third said, “It is for my *zibah* [flux-uncleanness].”
- [J] In the case of the one who said, “It is for my *onah*”—they thought that she was flowing like a spring.
- [K] She said to them, “I had eye [*einah*] trouble [and have been healed, and this is a thank-offering].”
- [L] As to this one who said, “It is for my sea,” they thought that she was flowing like the sea.”
- [M] She said to them, “I was in danger in the sea [and it is a thank-offering].”
- [N] The one who said, “It is for my *zibah*”—they thought she was in fact unclean with *Zab*-uncleanness.
- [O] She said to them, “A wolf came to size my son [and we saved him, and it is a thank-offering].”

[VII:1 A] *Ben Ahiah* [M. 5:1A5]:

- [B] Since the priests would walk around barefoot on the stone floor, and ate meat and drank wine, they would have stomach trouble.

[C] Now he knew what sort of wine was good for the bowels, and what sort of wine was bad for the bowels.

[VIII:1 A] *Nehuniah digs ditches for water* [M. 5:1A6]:

[B] For he was a digger of ditches and caves [for water], and he knew under which stone was a spring of water, and under which stone was dry heat, and how far its dry heat reaches.

[C] Said R. Eliezer, “Yet his son died of thirst.”

[D] Said R. Hanina, “He who said, ‘The All-Merciful is forgiving’— may his bowels bulge out. But [God] is long-suffering but ultimately collects what is coming to him.”

[E] Said R. Aha, “It is written, ‘Our God comes, he does not keep silence, before him is a devouring fire, round about him a mighty tempest’ (Ps. 50:3).

[F] “He is meticulous with them as with a thread like a hair.”

[G] Said R. Yose, “It is not on the basis of that verse of Scripture, but rather on the basis of the following: ‘He is fearful for all those that are round about him’ (Ps. 89:8). Fear of him is greater for those that are near than for those that are far.”

[H] R. Haggai in the name of R. Samuel bar Nahman: There is the story of a pious man, who was a digger of wells, ditches, and cisterns [to provide water] for those who would pass by [for use on their journey]. One time his daughter was en route to be married, and a river swept her away.

[I] Everybody came up to him and wanted to give him comfort, and he did not accept consolation. R. Phineas b. Yair came to him and wanted to comfort him, but he did not accept consolation.

[J] He said [to those round about], “Is this your pious man?!”

[K] They said to him, “Rabbi, this is what this man does, and this is what happened to him!”

[L] He said to them, “It is not possible that he should honor his Creator by good deeds involving water, and [God] should smite him with water.”

[M] Forthwith the word came to the town, “The daughter of that man is coming.”

[N] Some say that she showed herself on a cloud, and there are those who say that an angel came down in the guise of R. Phineas b. Yair and saved her.

[IX:1 A] *Gebini is the herald [M. 5:1A7]:*

[B] For he made an announcement in the Temple.

[C] What did he say?

[D] “Let the priests arise for the sacred service, the Levites for the [singing on the] platform, and the Israelites for their delegation [as the counterpart to their region’s priesthood, undertaking the labor of the sacrificial service in a given week].”

[E] King Agrippa heard his voice from eight *parasangs*, and gave him many gifts.

[X:1 A] *Ben Geber is in charge of closing the gates [M. 5:1A8]:*

[B] Rab interpreted before the house of R. Shila the language, “The cock crowed,” as “The spokesman proclaimed.”

[C] They said to him, “Say, ‘The cock crowed.’”

[D] He said to them, “It is in accord with what we have learned: *Ben Geber* [M. 5:1A8]. Can you say that he was the son of a chicken?”

[XI:1 A] *Ben Bebai is in charge of the knout [M. 5:1A9]:*

[B] For he would twist the wicks.

[C] R. Yose went to Kuprah. He wanted to appoint authorities for them, but they would not accept office from him. He went up and said before them, “*Ben Bebai is in charge of the knout.*”

[D] “Now if this one, who was appointed to take care of the wicks, had the honor of being numbered among the great men of the generation, you, who are appointed to take care of the lives of people—how much the more so!”

[XII:1 A] *Ben Arzah is in charge of the cymbals [M. 5:1A10]:*

[B] This is in line with what we have learned there: *When he stopped to pour out the drink-offering, the prefect waved the towel, and Ben Arzah clashed the cymbal, and the Levites broke forth into singing [M. Tarn. 7:3].*

[XIII:1 A] *Hugras b. Levi is in charge of the singing [M. 5:1A11]:*

- [B] Said R. Aha, “He knew an especially pleasant song.”
- [C] They said about Hugas b. Levi that he made his voice pleasant when he sang by putting his thumb into his mouth and producing various melodies.
- [D] And all his brethren, the priests, would nod their heads at him [in approval].

- [XIV:1 A] *The house of Garmu was in charge of making the Show Bread [M. 5:1A12]: The members of the household of Garmu were experts in making Show Bread and they did not want to teach others [how to make it] [cf. M. Yoma 3:11B].***
- [B] **Sages sent and brought experts from Alexandria, in Egypt, who were expert in similar matters, but were not experts in removing it from the oven.**
- [C] **The members of the house of Garmu would heat the oven on the outside, and it [the loaf of bread] would be removed [on its own] on the inside.**
- [D] **The experts from Alexandria did not do so.**
- [E] **And some say this made it get moldy.**
- [F] **And when the sages learned of the matter, they said, “The Holy One, blessed be he, created the world only for his own glory, as it is said, ‘Everyone that is called by my name and whom I have created for my glory’ (Isa. 43:7), [so we might as well pay the tariff]”**
- [G] **They sent for them, and they did not come until they doubled their former salary.**
- [H] **“They used to take a fee of twelve manehs every day, and now they went and took a fee of twenty-four,” the words of R. Meir.**
- [I] **R. Judah says, “Twenty-four did they take every day, and now they went and took forth-eight manehs.”**
- [J] **Said to them sages, “Now why were you unwilling to teach?”**
- [K] **They said, “The members of father’s house knew that the Temple is destined for destruction, and they did not want to teach others how to do it, so that they should not be able to do it before an idol in the way in which they do it before the Omnipresent.”**

- [L] And on account of this next matter they are remembered with honor.
- [M] For a piece of clean bread was never found in the hands of their sons and daughters under any circumstances, so that people might not say about them, [49a] “They are nourished from the Show Bread.”
- [N] This was meant to carry out the following verse: “You shall be clean before the Lord and before Israel” (Num. 32:22) [T. Yoma 2:5].
- [XV:1 A] The members of the house of Abtinas were experts in preparing the incense for producing smoke [cf. M. Yoma 3:11C], and they did not want to teach others how to do so.
- [B] Sages sent and brought experts from Alexandria, in Egypt, who knew how to concoct spices in much the same way.
- [C] But they were not experts in making the smoke ascend [as well as the others].
- [D] The smoke coming from the incense of the house of Abtinas would ascend straight as a stick up to the beams, and afterward it scattered in all directions as it came down.
- [E] That of the Alexandrians would scatter as it came down forth with [not rising properly].
- [F] Now when the sages realized this, they said, “The Omnipresent has created the world only for his own glory, as it is said, ‘The Lord has made everything for his own purpose’” (Prov. 16:4).
- [G] Sages sent to them [the members of the house of Abtinas], but they declined to come until the sages doubled their wages.
- [H] “They had been receiving twelve manehs every day, and now they went and got twenty-four,” the words of R. Meir.
- [I] R. Judah says, “They had been getting twenty-four every day. Now they went and got forth-eight manehs.”
- [J] Sages said to them, “Now why were you unwilling to teach [others]?”
- [K] They said to them, “The members of father’s house knew that the Temple is destined for destruction, and they did not want to teach others their art, so that people would not burn incense before an

idol in the same way in which they burn incense before the Omnipresent.”

- [L] And in this [next] matter, they are remembered for good: A woman of their household never went out wearing perfume at any time,**
- [M] and not only so, but when they would marry into their household a woman from some other place, they made an agreement that she not put on perfume,**
- [N] so that people should not say, “Their women are putting on perfume made up from the preparation of the incense for the Temple.”**
- [O] This they did to carry out the following verse, “And you shall be clear before the Lord and before Israel” (Num. 32:22) [T.Yoma2:6].**

[XVI:1 A] Said R. Yose, “Once I was standing in Jerusalem, and I found a child of the household of Abtinus. I said to him, ‘My son, what family do you come from?’

- [B] “He said to me, ‘From such and such a family.’**
- [C] “I said to him, ‘My son, as to your fathers, since they wanted to magnify their own glory and diminish the glory of Heaven, therefore their glory is diminished, and the glory of Heaven is made great.’”**

[XVII:1 A] Said R. Aqiba: Simeon b. Luga told me, “A certain child of the sons of their sons and I were gathering grass in the field. Then I saw him laugh and cry.

- [B] “I said to him, ‘Why did you cry?’**
- [C] “He said to me, ‘Because of the glory of father’s house, which has gone into exile.’**
- [D] “I said to him, ‘Then why did you laugh?’**
- [E] “He said, ‘At the end of it all, in time to come, the Holy One, blessed be he, is going to make his descendants rejoice.’**
- [F] “I said to him, ‘Why? [What did you see to make you think of this?]**
- [G] “He said to me, ‘A smoke-raiser in front of me [made me laugh].’**
- [H] “I said to him, ‘Show it to me,’**

- [I] “He said to me, ‘We are subject to an oath not to show it to anyone at all.’”
- [J] Said R. Yohanan b. Nuri, “One time I was going along the way and an old man came across me and said to me, ‘I am a member of the house of Abtinah.’”
- [K] “‘At the beginning, when the house of father was discreet, they would give their scrolls [containing the prescriptions for frankincense only] to one another.’”
- [L] “‘Now take it, but be careful about it, since it is a scroll containing a recipe for spices.’”
- [M] “And when I came and reported the matter before R. Aqiba, he said to me, ‘From now on it is forbidden to speak ill of these people again.’”

[XVIII:1 A] *Eleazar is in charge of the hangings [M. 5:1A14]:*

- [B] He was the supervisor of those who weave the hangings.

[XIX:1 A] *Pinhas is in charge of the clothing [M. 5:1A15]:*

- [B] For he would serve as valet for the garments of the high priesthood.
- [C] There was the story of a priest who put the garments on a certain general, who gave him eight gold pieces.
- [D] And there are those who say he gave him twelve.

As is its way when dealing with lists, the Talmud presents an anthology of materials relevant to the Mishnah’s various items.

5:2

- [A] They appoint no fewer than three revenueurs and seven supervisors.
- [B] And they do not appoint fewer than two people to a public position of supervision in property matters,
- [C] except for Ben Ahiah who is in charge of the bowel-sickness [M. 5:1A5],
- [D] and Eleazar who is in charge of hangings [M. 5:1A14].
- [E] For them did the majority of the congregation accept.
- [I:1 A] *They appoint no fewer than three revenueurs and seven supervisors [M. 5:2A]:*

- [B] It has been taught: [They do not appoint] fewer than two financial officers.
- [C] This is in line with that which is written, “While Jehiel, Aza-ziah, Nahath, Asahel, Jerimoth, Jozabad, Eliel, Ismachiah, Mahath, and Benaiah were overseers assisting Conaniah and Shimei his brother, by the appointment of Hezekiah the king and Azariah the chief officer of the house of God” (2 Chron. 31:13).
- [D] Now as to the king and high priest, when he signs a document, the treasurer signs it and gives it to the supervisor.
- [E] The supervisor signs it and gives it to the financial officer.
- [F] The financial officer signs it and gives it to the high priest.
- [G] The high priest signs it and gives it to the king.
- [H] Now when he undoes [the document], the king examines his signature and undoes it.
- [I] The high priest examines his signature and undoes it.
- [J] The financial officer examines his signature and undoes it.
- [K] The supervisor examines his signature and undoes it.
- [L] The treasurer examines his signature and undoes it.

[II:1 A] *They do not appoint fewer than two people to a public position of supervision in property matters [M. 5:2B]:*

- [B] R. Nahman in the name of R. Mana: “It is in line with the following verse: ‘They shall receive gold, blue, and purple and scarlet stuff, and fine twined linen’” (Exod. 28:5).
- [C] Said R. Hama b. R. Hanina, “On the basis of the refuse of the tablets [which Moses got to keep], Moses got rich.”
- [D] That is in line with the following: “The Lord said to Moses, ‘Cut for yourself two tables [of stone like the first; and I will write upon the tables the words that were on the first tables, which you broke]’” (Exod. 34:1). This indicates that the cuttings [the refuse] should belong to Moses.
- [E] Said R. Hanin, “A quarry of precious stones and pearls did the Holy One, blessed be he, create out of his tent, and from that quarry Moses got rich.”

- [F] It is written, “Whenever Moses went out to the tent, all the people rose up and every man stood at his tent door and looked after Moses, until he had gone into the tent” (Exod. 33:8).
- [G] Two Amoras: One said, “[They stared at him] to scoff.”
- [H] The other said, “[They stared at him] in admiration.”
- [I] The one who said they did so to scoff: “Look at those fat thighs, look at that big belly. See the meat that he eats—that belongs to the Jews.
- [J] “See how he drinks what belongs to the Jews. Whatever property he owns comes from the Jews.”
- [K] The one who said that they did so in admiration: “See the righteous man and acquire merit because you have been able to lay eyes on him.”

The Talmud complements the Mishnah at the cited points.

5:3

- [A] **Four seals were in the Temple.**
- [B] **And on them was inscribed the following: “Calf,” “ram” [male], “kid,” “sinner.”**
- [C] **Ben Azzai says, “There were five, and they were written in Aramaic; ‘Calf,’ ‘ram,’ ‘kid,’ ‘poor sinner’ [Lev. 14:21], and ‘rich sinner’” [Lev. 14:10].**
- [D] **“Calf” signifies drink-offerings for [offerings from] the herd, large or small, male or female.**
- [E] **“Kid” signifies drink-offerings of the flock, whether large or small, male or female,**
- [F] **except for those which accompany rams,**
- [G] **“Ram” signifies drink-offerings which come with rams alone.**
- [H] **“Sinner” signifies drink-offerings which come with the three beasts of those afflicted by mesora.**
- [I] **He who wanted [to purchase] drink-offerings goes over to Yohanan [M. 5:1A], who is appointed to be in charge of the seals.**
- [J] **He pays him the fee and receives a seal from him.**
- [K] **He goes over to Ahiah [M. 5:1A2], who is appointed to be in charge of the drink-offerings.**
- [L] **He hands over the seal to him and receives the drink-offerings from him.**

- [M] Then in the evening the two come together, and Ahiah brings out the seals and receives money for them.
- [N] If there was an excess [of funds over seals], the excess belongs to the sanctuary.
- [O] And if there was too little money, Yohanan paid out of his own pocket.
- [P] For the claim of the sanctuary is always paramount.
- [Q] He who lost his seal—
- [R] they postpone his [case] until the evening.
- [S] If they found [money left over] enough to cover his seal, they give it to him.
- [T] But if not, he got nothing.
- [U] And the date of that day was written on [the seals], because of deceivers.
- [I:1 A] Now in the view of Ben Azzai, why does a poor sinner have [a seal]?
- [B] He would bring his *log* [of oil] with him. [That is, he brings the libation-offering owing with a single lamb, and a *log* of oil.]
- [C] But in the view of rabbis, he brings [what is sufficient] for a lamb.
- [II:1 A] As to the libation-offering owing for a ewe, what is it?
- [B] We have learned: “*Kid*” signifies drink-offerings for offerings from the flock, whether large or small, male or female [M. 5:3E].
- [C] That is to say that the libation-offerings for an ewe are the same as the libation-offerings for a lamb.
- [D] For it is written, “Thus it shall be done for each bull or ram, or for each of the male lambs or the kids” (Num. 15:11).
- [E] “For each bull”—why is this specified? It indicates that there is no distinction between the libation-offerings owing for a calf and those owing for a full-grown ox.
- [F] Now it would have been logical to argue in this way: The offspring of the flock requires drink-offerings, and the offspring of a herd requires drink-offerings.
- [G] If we have found that there is a distinction made between the drink-offerings owing for a sheep and those owing for a ram [as at M. 5:3F, G], along these same lines we should make a distinction between the drink-offerings owing for a calf and those owing for an ox.

- [H] Accordingly, Scripture says, “Thus it shall be done for each bull” (Num. 15:11), indicating that there is no distinction between the libation-offerings for a calf and those for an ox.
- [I] “Or ram” (Num. 15:11)—why is this stated?
- [J] It would have been logical to argue in this way: If we have found that there is a distinction between the drink-offerings brought for an animal one year old and those brought for an animal two years old, likewise we should make a distinction between drink-offerings brought for a two-year old beast and those brought for a three year old beast.
- [K] Accordingly, Scripture says, “Or ram.”
- [L] “Or for each of the male lambs or the kids” (Num. 15:11)— why is this stated?
- [M] It would have been logical to argue as follows: If we have found that there is a distinction between the drink-offerings brought for a sheep and those brought for a ram, so we should distinguish between the drink-offerings brought for a sheep and those brought for a ewe.
- [N] Scripture therefore is required to state, “Or for each of the male lambs or the kids.”
- [O] “Or the kids”—why is this said?
- [P] For it would have been logical to argue as follows: If we have found that there is a distinction between the drink-offerings brought for a sheep and those that are brought for a ram, along these same lines we should distinguish between the drink-offerings brought for a lamb and those brought for a he-goat.
- [Q] Scripture therefore is required to state, “Or for the kids,”
- [R] The Scripture thereby has established the basis for an analogy between the smallest of goats and the largest of he-goats. Just as this is brought with three *logs*, so that is brought with three *logs*.

[III:1 A] *And the date of that day was written on the seals [M. 5:3U]:*

- [B] But what if one matched the seal up with that day [a week later]?
- [C] The name of the priestly watch of that week was written on the seal.
- [D] But what if one matched it up with that priestly watch and that day [and used it a year later]?

- [E] The name of the year of the septennate, the name of the month [also] were written on the seal.
- [F] Even if he wanted to match it up, it would not be common to do so [under these conditions].

The purpose of the seals (M. 5:3A) was to signify that funds had been paid, in exchange for which drink-offerings were to be provided. Yohanan collected the funds, and Ahiah, who was in charge of purchasing the wine from suppliers, then handed over the necessary drink-offerings. The story is clear as given. Deceivers (M. 5:3U) might pick up a lost seal and claim it belonged to them on some other day than the day on which it was paid and used. The Talmud's principal interest is in the differentiations among the various drink-offerings that must be bought and brought with various sorts of sacrifices.

Unit I clarifies the position of Ben Azzai on this point. Unit II then provides an elaborate exegesis of the operative verse of Scripture. Unit III makes a minor point.

5:4

- [A] **Two chambers were in the Temple, one, the chamber of secret [gifts], the other, the chamber of utensils.**
 - [B] **The chamber of secret gifts: Those who fear sin secretly put their contribution into it, and poor folk of good family live off the proceeds [which they receive] in confidence,**
 - [C] **The chamber of utensils: Whoever contributes a utensil tosses it into it, and once in thirty days the revenueurs open it,**
 - [D] **and every utensil which they find there which is useful for the Temple upkeep do they leave [for that purpose].**
 - [E] **And as to the rest, they are sold for their value, and the proceeds fall to the chamber for the upkeep of the house.**
- [I:1 A] R. Jacob bar Idi and R. Isaac bar Nahman were supervisors [of the communal funds]. They would give R. Hama, father of R. Hoshaiyah, a *denar*. He then would divide it among others [who needed it].
- [B] R. Zechariah, father-in-law of R. Levi, was subject to public slander. People said that he did not [49b] have need but he took [charity anyhow]. After he died, they looked into the matter and found that he would divide up [the funds] among others [in need].
 - [C] R. Hinena bar Papa would pass out charity-funds by night. One time the lord of the spirits met him. He said to him, "Did not Our Rabbi

[Moses] teach us, ‘You shall not remove your neighbor’s landmark’ (Deut. 19:14), [meaning, you should not be out by night, over which I rule]?”

- [D] He said to him, “Is it not written, ‘A gift in secret averts anger; and a bribe in the bosom, strong wrath’?” (Prov. 21:14).
- [E] The other stepped back from him and fled.
- [F] Said R. Jonah, “‘Happy is he who gives to the poor’ is not written here, but rather, ‘Blessed is he who considers the poor’ (Ps. 41:1).
- [G] “This refers to one who examines the religious duty of charity, figuring out how to do it properly.”
- [H] How then did R. Jonah do it?
- [I] When he saw a poor person, son of worthy parents, who had lost his property, he would say to him, “Since I heard that you have inherited property from some other source, take some money now and pay me back later on.”
- [J] When the poor person would take the money, he would say to him, “It is a gift for you.”
- [K] [Said] Hiyya bar Ada: “There are eiders in our times, who take whatever people give to them from the New Year to the Great Fast [Yom Kippur]. From that time onward they do not accept anything. They would say, ‘What is needed for this year is already in hand.’”
- [L] Nehemiah of Shihin: A Jerusalemite met him. He said to him, “Acquire merit with me by giving me funds to buy a chicken.”
- [M] He said to him, “Here is a *tomita-coin* for meat,” and he bought meat and ate it and died.
- [N] People cried out, “Come and lament for the one whom Nehemiah killed.”
- [O] Nahum of Gim Zu was bringing a gift to the household of his father-in-law. A person afflicted with boils met him and said to him, “Acquire merit with me by giving me part of what you have in hand.”
- [P] He said to him, “Wait till I come back,” but when he got back, he found the man dead. He said, “Let the eyes be plucked out, which saw you and did not receive you. Let the hands that did not reach out and give to you be cut off. Let the legs which did not run to give something to you be broken.” And so it happened to him.

- [Q] R. Aqiba said to him, “Woe is me, that I see you in such condition!”
- [R] He said to him, “Woe is me, that I do not see you in such condition!”
- [S] He said to him, “Why do you curse me?”
- [T] He said to him, “Why do you rebel against suffering?”
- [U] The teacher of the son of R. Hoshaiah the Elder was blind, and he was accustomed to eat with him every day. One day he had guests, and he did not come to eat with him in the evening. He came to him, saying to him, “May my master not be angry with me, for I had guests today, and I thought that I would not allow my master’s honor to be cheapened today, so I did not eat with my master today.”
- [V] He said to him, “You have thereby appeased one who is seen but does not see. May the one who sees but is not seen accept your excuse.”
- [W] He said to him, “Whence did you learn this [curse]?”
- [X] He said to him, “From R. Eliezer b. Jacob. For to the town of R. Eliezer b. Jacob a blind man came. R. Eliezer b. Jacob sat below him, so that people would say, ‘If it were not that this man was a great man, R. Eliezer b. Jacob would not have sat himself down lower than he.’ They paid the blind man great honor [and supplied his needs]. The blind man asked, ‘Why thus?’ They said to him, ‘R. Eliezer b. Jacob sat below you.’
- [Y] “So the blind man prayed this prayer: ‘You have acted faithfully with one who is seen but does not see. May he who sees but is not seen act faithfully with you.’”
- [II:1 A]** R. Hama bar Haninah and R. Hoshaiah the Elder were strolling in the synagogues in Lud. Said R. Hama bar Haninah to R. Hoshaiah, “How much money did my forefathers invest here [in building these synagogues]!”
- [B] He said to him, “How many lives did your forefathers invest here! Were there not people who were laboring in Torah [who needed the money more]?”
- [C] R. Abun made the gates of the great hall [of study]. R. Mana came to him. He said to him, “See what I have made!”
- [D] He said to him, “‘For Israel has forgotten his Maker and built palaces’! (Hos. 8:14). Were there no people laboring in Torah [who needed the money more]?”

- [III:1 A] It has been taught: **As to Holy Things for the altar: They take out what is suitable for that purpose from things consecrated for the upkeep of the house.**
- [B] **As to Holy Things needed for the upkeep of the house: They do not take out what is suitable for that purpose from things consecrated for the altar [cf. T. Tem. 4:12C-D. Yerushalmi's text is clearly superior.]**
- [C] And lo, we have learned: *And every utensil which they find there which is useful for the Temple upkeep do they leave [for that purpose].*
- [D] *And as to the rest, they are sold for their value, and the proceeds fall to the chamber for the upkeep of the house [M. 5:4D-E].*
- [E] Said R. Hezekiah, "That is the meaning of the cited passage: For whatever needs are served by the chamber for the upkeep of the house, [including purchase of animals for the altar, when necessary]."

Units **I** and **II** present an anthology of stories about the practice of philanthropy from the rabbis' viewpoint. Unit **III** clarifies the interplay between a passage of the Mishnah and an intersecting passage of the Tosefta.

YERUSHALMI SHEQALIM

CHAPTER SIX

6:1

- [A] (1) Thirteen shofar-chests, (2) thirteen tables, [and] (3) thirteen acts of prostration were in the sanctuary.
- [B] The members of the household of Rabban Gamaliel and the members of the household of R. Hananiah, prefect of the priests, would do fourteen prostrations.
- [C] And where was the additional one?
- [D] Toward the woodshed,
- [E] for so did they have a tradition from their forebears that there the ark was stored away.
- [F] McSH B: A priest was going about his business and saw that a block of the pavement was slightly different from the rest.
- [G] He came and told his fellow.
- [H] He did not finish telling [him] before he dropped dead.
- [I] Then they knew without doubt that there the ark had been stored away.
- [I:1 A] [49c] It has been taught: These *shofar-chests* were curved, narrow at the top and wide at the bottom, on account of thieves, [so they cannot reach in and take out money].
- [II:1 A] It has been taught in the name of R. Eliezer, “The ark was taken away to exile in Babylonia since it says, ‘[Then Isaiah said to Hezekiah, Hear the word of the Lord. Behold the days are coming, when all that is in your house, and that which your fathers have stored up till this day, shall be carried to Babylonia.] No thing shall be left, says the Lord’ (2 Kings 20:16-17).
- [B] “And ‘thing’ means nothing other than the [ten] ‘things’ [commandments] which are in it.”

- [C] **R. Simeon says, “Lo, it says, ‘In the spring of the year King Nebuchadnezzar sent and brought him to Babylonia, with the precious vessels of the house of the Lord, [and made his brother Zedekiah king of Judah and Jerusalem’ (2 Chron. 36:10).**
- [D] **“Now what is the meaning of ‘the precious vessels of the house of the Lord’? This refers to the ark.”**
- [E] **R. Judah [Yerushalmi: Simeon] b. Laqqish says, “The ark was stored away in its proper place, since it says, ‘And the poles were so long that the ends of the poles were seen from the holy place before the inner sanctuary; but they could not be seen from outside; and they are there to this day” (1 Kings 8:8) [T. Sheq. 2:18].**
- [F] It is written, “were seen,” and you have said, “They could not be seen”!
- [G] But they were both visible and not visible, projecting like the two breasts of a woman.
- [H] And rabbis say, “It was in the chamber of the woodshed that the ark was hidden away.”
- [I] **McSH B: There was a priest** who had suffered a blemish, who was standing and chopping wood in the chamber of the woodshed, *and he saw that a block of the pavement was slightly different from the rest.*
- [J] *He came and told his fellow, “Come and see how this stone is different from the rest.”*
- [K] *He did not finish telling him before he dropped dead, and then they knew without doubt that there the ark had been stored away [M. 6:1H-I].*
- [L] **It has been taught in the name of R. Hoshaia, “He hit it with a mallet and fire burst forth and burned him up.”**
- [III:1 A] For it has been taught [following the Tosefta’s version]: **R. Judah b. Laqqish says, “There were two arks with Israel in the wilderness; one which went out with them to battle, and one which stayed with them in the camp.**
- [B] **“In the one which went out with them to battle there was a scroll of the Torah, as it is said, ‘And the ark of the covenant of the Lord went before them three days’ journey’ (Num. 10:33).**

[C] **“And this one which stayed with them in the camp, this is the one in which were the tablets and the sherds of the tablets, as it is said, ‘Neither the ark of the covenant of the Lord, nor Moses, departed out of the camp’” (Num. 14:44) [T. Sot. 7:18].**

[D] And rabbis say, “There was only one. It went forth to battle one time, in the day of Eli, [and] it was captured.”

[E] The following verse of Scripture supports the position of rabbis: “And [the Philistines] said, ‘Woe to us! For nothing like this has happened before. Woe to us! Who can deliver us from the power of these mighty gods?’” (1 Sam. 4:7-8).

[F] This was something they had never seen in their entire lives.

[G] The following verse of Scripture supports the position of R. Judah b. Laqish: “And Saul said to Ahijah, ‘Bring hither the ark of God.’ For the ark of God went at that time with the people of Israel” (1 Sam. 14:18).

[H] Now was the ark not in Qiriat Yearim?

[I] How do the rabbis interpret the verse just now cited?

[J] They say that Saul said, “Bring me the frontlet.”

[K] A further verse of Scripture supports the position of R. Judah b. Laqish: “Uriah said to David, The ark, Israel, and Judah dwell in booths; ... shall I then go into my house ... ?” (2 Sam. 11:11).

[L] Now was the ark not in Zion [normally]? [Hence it had been taken into battle.]

[M] How do the rabbis interpret the verse just now cited?

[N] The ark was kept in a booth which was covered over but used only temporarily, for the Temple had not yet been built at that time.

[IV:1 A] When the ark was hidden away, there were hidden away also the bottle containing the manna, the flask of the anointing oil, the staff of Aaron, with its almonds and blossoms, and the chest sent as a gift when the Philistines returned the Glory of Eli the God of Israel—all of them are in the house of the Most Holy of Holies.

[B] **When the ark was stored away, they were stored away with it [T. Yoma 2:15].**

[C] Who stored it away?

- [D] It was Josiah. When he saw that it was written, “The Lord will bring you and your king . . . to a nation that neither you nor your fathers have known” (Deut. 28:36), [he decided to do so].
- [E] This is in line with the following verse of Scripture: “And he said to the Levites who taught all Israel and who were holy to the Lord, ‘Put the holy ark in the house which Solomon the son of David, king of Israel, built; you need no longer carry it upon your shoulders’” (2 Chron. 35:3).
- [F] He said, “If it goes into exile with you to Babylonia, you are not going to bring it back to its place. But: ‘Now serve the Lord your God and his people Israel’” (2 Chron. 35:3).
- [G] The flask of anointing oil: “Take the finest spices: of liquid myrrh five hundred *sheqels*, and of sweet-smelling cinnamon half as much, that is, two hundred and fifty, and of aromatic cane two hundred and fifty, and of cassia five hundred, according to the *sheqel* of the sanctuary, and of olive oil a *hin*” (Exod. 30:23-24).
- [H] The *hin* contains twelve *logs* of liquid measure.
- [I] “In this [oil] they seethed the roots,” the words of R. Meir.
- [J] R. Judah says, “One would seethe them in water and then put oil on them. When the water would absorb the scent, one would then remove them, as the perfumers do.”
- [K] This is in line with that which is written, “And you shall make of these a sacred anointing oil, blended as by the perfumer; a holy anointing oil it shall be” (Exod. 30:25).
- [L] “It will be”—this refers for all generations to come (cf. Exod. 30-37).
- [M] It was taught: R. Judah b. R. Ilai says, “With the anointing oil which Moses made in the wilderness miracles were done from beginning to end [Y. Hor. 3:2X.N-JJ = M-R, IV.A-U].
- [N] “For at the outset there were only twelve *logs*, as it is said, ‘and of olive oil, a *hin*’ (Exod. 30:24).
- [O] “Now if there was not sufficient oil for putting oil on the wood, how much the more so [that the oil was insufficient for much else]!
- [P] “And yet the fire fed on it, the wood fed on it, the pot fed on it,
- [Q] “with it were anointed the tabernacle and all its utensils, the table and all its utensils, the lampstand and all its utensils;

- [R] “with it were anointed Aaron and his sons for all the seven days of consecration;
- [S] “from it were anointed high priests and kings. [And yet it sufficed (see V.D)!]”
- [V:1 A] A king [anointed] at the outset [of a dynasty] requires anointing. But the son of an anointed king does not, for it is said, “Arise, anoint him; for this is he” (1 Sam. 16:12).
- [B] This one requires anointing. But his son does not require anointing.
- [C] But a high priest son of a high priest requires anointing, even down to the tenth successive generation.
- [D] Now the whole [of the twelve *hin* of oil] will remain for the age to come, for it is said, “It will be holy anointing oil for all your generations” (Exod. 30:31).
- [E] They anoint kings only over a spring, as it is said, “Cause Solomon my son to ride on my own mule, and bring him down to Gihon; and let Zadok the priest and Nathan the prophet there anoint him king over Israel” (1 Kings 1:33-34).
- [F] They anoint a king who is son of a king only on account of dissension.
- [G] Why was Solomon anointed at all? Because of the struggle with Adonijah; Joash, because of Athaliah; Jehu, because of Joram.
- [H] Now is it not written, “Rise, anoint him; for this is he” (1 Sam. 16:12)?
- [I] This one requires anointing, but the kings of Israel do not require anointing.
- [J] But Jehoahaz, because of Jehoiakim, his brother, who was two years older than he, [was anointed].
- [K] Now did not Josiah hide the anointing oil away [so where did they get it]?
- [L] You must say, they anointed him with oil from a balsam tree.
- [M][49d] They anoint kings only from a horn. Saul and Jehu, who were anointed from a cruse, had a transient reign. David and Solomon, who were anointed from a horn, had an enduring reign.
- [N] They do not anoint priests as kings.
- [O] R. Judah of Ein-Todros: “This is on account of the verse which states, The scepter shall not depart from Judah” (Gen. 49:10).

- [P] Said R. Hiyya b. Adda, “[That he may not turn aside from the commandment . . .,] so that he may continue long in his kingdom, he and his children, in Israel’ (Deut. 17:20). What is written thereafter? The Levitical priests, that is, all the tribe of Levi, shall have no portion or inheritance with Israel” (Deut. 18:1).
- [Q] Said R. Yohanan: “Jonathan is the same as Jehoahaz.”
- [R] And is it not written, “The sons of Josiah, Johanan the firstborn” (1 Chron. 3:15)—firstborn to rule?
- [S] And is it not written, “The second Jehoiakim, the third Zedekiah, the fourth Shallum”? Zedekiah was third for the throne, and fourth in order of birth.
- [T] He was called Zedekiah, because he accepted the righteousness of the harsh decree.
- [U] Shallum was so called for in his time the household of David fulfilled its time.
- [V] His name was not really Shallum, nor was it Zedekiah, but it was Mattaniah,
- [W] as it is written, “And the king of Babylonia made Mattaniah, Jehoiachin’s uncle, king in his stead, and changed his name to Zedekiah” (2 Kings 24:17).
- [VI:1 A] Said R. Yohanan, “The ark was made in accord with the measure of a cubit of six handbreadths.”
- [B] Who taught that it was a cubit of six handbreadths?
- [C] It is R. Meir.
- [D] For we have learned: *R. Meir says, “All the cubit measures were middle sized except for the golden altar, the horns, the circuit, and the base of the altar” [M. Kel. 17:10A].*
- [E] In the view of R. Meir, who has said that the ark was made in accord with a cubic measure of six handbreadths, the length of the ark was fifteen cubits as it is written, “They shall make an ark of acacia wood; two cubits and half shall be its length, a cubit and a half its breadth, and a cubit and a half its height” (Exod. 25:10).
- [F] Thus a cubit is six, another cubit is six, and half a cubit is three.
- [G] And there were four tables of the law in it, two broken ones, two unbroken ones.

- [H] This is in line with that which is written, “[And I will write on the tables the words that were on the first tables] which you broke, and you shall put them [the broken tables] in the ark” (Deut. 10:2).
- [I] And each of the tablets of the law was six handbreadths long, and three wide.
- [J] Place the tablets breadthwise along the length of the ark, and there will then remain three handbreadths. Assign half a hand-breadth to each wall, and two handbreadths will remain for the scroll of the Torah.
- [K] Allow the surplus of three handbreadths [over the space occupied by the tablets] for the balcony.
- [L] The breadth of the ark is nine handbreadths, as it is written, “A cubit and a half its breadth” (Exod. 25:10).
- [M] Now there were four tablets in it, two broken and two unbroken, as it is written, “Which you broke, and you shall put them in the ark” (Deut. 10:2).
- [O] Each of the tablets was six handbreadths long.
- [P] Place the tablets lengthwise across the breadth of the ark.
- [Q] Three handbreadths will then remain, half a handbreadth on each side, for handling the tablets.
- [R] The place in which they deposit the scroll of the Torah is two cubits.
- [S] R. Simeon b. Laqish said, “The ark was made in accord with a cubit of five handbreadths.”
- [T] What Tanna maintains that it was one of five handbreadths?
- [U] It was R. Judah.
- [V] For we have learned there: *R. Judah says, “The cubit of the Temple building was six handbreadths, and of utensils, five”* [M. Kel. 17:10B].
- [W] Now the ark is a utensil.
- [X] In accord with the view of R. Judah, who has said that the ark was made in accord with a cubit of the measure of five handbreadths, the ark was twelve and a half handbreadths,
- [Y] for it is written, “They shall make an ark ... two cubits and a half shall be its length, a cubit and a half its breadth, and a cubit and a half its height” (Exod. 25:10).

- [Z] A cubit is five, another cubit is five, and half a cubit is two and a half.
- [AA] Now four tablets were in it, two broken, and two unbroken, as it is written, “Which you broke, and you shall put them in the ark” (Deut. 10:2).
- [BB] Each of the tables of the law was six handbreadths long and three wide.
- [CC] Place the tablets breadthwise along the long side of the ark, and there then will remain a half handbreadth, a fingerbreadth for the wall on one side, and a fingerbreadth for the wall on the other side.
- [DD] Now the breadth of the ark was seven handbreadths and a half, as it is written, “A cubit and half its breadth” (Exod. 25:10).
- [EE] A cubit is five handbreadths, and half a cubit is two and a half.
- [FF] Now there were four tablets in it, two broken and two unbroken, as it is written, “Which you broke, and you shall put them in the ark” (Deut. 10:2).
- [GG] Each of the tablets was six handbreadths long and three broad.
- [HH] Place the tablets lengthwise across the breadth of the ark.
- [II] There will then remain a handbreadth and a half, a fingerbreadth for the wall on this side, and a fingerbreadth for the wall on that side.
- [JJ] Then there will be half a handbreadth on this side, and half a handbreadth on that side, for handling.
- [VII:1 A]** How did Bezallel make the ark?
- [B] R. Haninah said, “He made three boxes, two of gold, one of wood. He put the one of gold into one of wood, and the one of wood into the other one of gold, and he covered it over.
- [C] “This is in line with that which is written, ‘And you shall overlay it with pure gold, within and without you shall overlay it, and you shall make upon it a molding of gold round about’” (Exod. 25:11).
- [D] Why does Scripture say, “You will overlay it”?
- [E] It encompasses the upper lip.
- [F] R. Simeon b. Laqish said, “He made a single box and covered it over.”
- [G] This is in line with that which is written, “And you shall overlay it with pure gold, within and without you shall overlay it.”

[H] Why does Scripture say, “You will overlay it”?

[I] R. Pinhas says, “To encompass the space between the boards.”

[VIII:1 A] How were the tablets laid out?

[B] R. Hananiah b. Gamaliel says, “Five commandments were on one side, and five on the other tablet.” This is in line with that which is written, “And he declared to you his covenant, which he commanded you to perform, that is, the ten commandments; and he wrote them upon two tables of stone” (Deut. 4:13), five on one side, five on the other.

[C] Rabbis say, “Ten were on one tablet, and ten were on the other.”

[D] This is in line with that which is written, “And he declared to you his covenant, which he commanded you to perform, that is, the ten commandments; and he wrote them upon two tables of stone” (Deut. 4:13).

[E] Ten on this tablet, ten on that one.

[F] R. Simeon b. Yohai says, “There were twenty on this tablet and twenty on that one.”

[G] This is in line with that which is written, “And he declared to you his covenant which he commanded you to perform, that is, the tens of commandments”—twenty on this tablet and twenty on that one.

[H] R. Simai says, “There were forty on this tablet and forty on that one. ‘On one side and on the other side they were written’ (Exod. 32:15),

[I] “They corresponded to one another as a tetragon [four-sided figure].”

[J] Hananiah, nephew of R. Joshua says, “Between each one of the commandments were its details and refinements.

[K] “[His arms are rounded gold, set with jewels. His body is ivory work,] encrusted with sapphires’ (Song of Sol. 5:14)-

[L] “Like the great sea.”

[M] R. Simeon b. Laqish, when he would reach this verse, would say, “Well did you teach me, Hananiah, nephew of R. Joshua.

[N] “Just as in the great sea, between one great wave and another are small swells, so between each commandment were the details and refinements of the Torah [written out].”

- [IX:1 A] Said R. Tanhuma, “I raised the question before R. Pinhas, ‘The law should be in accord with the view of R. Judah, and not in accord with the view of R. Meir.’
- [B] “What is the scriptural basis for the position of R. Judah? ‘Take this book of the law, and put it by the side of the ark of the covenant of the Lord your God, that it may be there for a witness against you’ (Deut. 31:26).
- [C] “In the opinion of R. Judah, who said this, where was the scroll of the Torah? It was set in a kind of chest, which they made for it outside [of the ark], and there the scroll of the Torah was kept. [So he can make sense of the verse.]”
- [D] “What is the scriptural basis for the position of R. Meir?”
- [E] “‘And you shall put the mercy seat on the top of the ark; and in the ark you shall put the testimony that I shall give you’ (Exod. 25:21).
- [F] “In the view of R. Judah, who maintains that considerations of temporal sequence do not apply in the Torah, [the verse cited by Meir poses no problems]. Why not?”
- [G] “‘And in the ark you shall put the testimony that I shall give you’ (Exod. 25:21).
- [H] “And afterward: ‘And you shall put the mercy seat on the top of the ark’ (Exod. 25:21). [Judah can interpret this language in accord with his position (QH).]”
- [X:1 A] R. Pineas in the name of R. Simeon b. Laqish: “The Torah which the Holy One, blessed be he, gave—[the hide on which it is written is] white fire.
- [B] “The letters with which it is engraved are black fire.
- [C] “It is fire, surrounded with fire, engraved out of fire, and set in fire.
- [D] “‘With flaming fire at his right hand’” (Deut. 33:2).

Units **I** and **II** complement the Mishnah, as indicated, adding nothing much of importance. Units **III** through the end present an anthology on the topic of the ark and various other themes regarded as relevant. The whole occurs at Y. Sot. 8:3.

6:2

- [A] **And where were these thirteen acts of prostration?**

- [B] Four times in the north, four in the south, three in the east, and two in the west,
- [C] toward the thirteen gates.
- [D] The gates to the south, counting from the western side: the Upper Gate, Kindling Gate, Gate of the Firstlings, Water Gate.
- [E] Why is it called Water Gate?
- [F] For through it they take the flask of water used in the water-offering on the Festival [of Tabernacles].
- [G] R. Eliezer b. Jacob says, “Through it ‘the waters trickle forth’ and in time to come ‘they will issue out from under the threshold of the house’” (Ezek. 47:1-5).
- [H] Opposite them at the north, counting from the west: Jeconiah’s Gate, the Gate of the Offering, Women’s Gate, Gate of the Song.
- [I] Why is it called Jeconiah’s Gate?
- [J] Because through it Jeconiah went forth on his way into exile.
- [K] On the east: Nicanor’s Gate.
- [L] And it had two wickets, one on the right, one on the left.
- [M] And two on the west,
- [N] which had no names.
- [I:1 A] The Mishnah accords with the view of Abba Yose B. Yohanan, who has said that [the prostrations were] toward the thirteen gates.
- [B] But in accord with the notion of the rabbis, there were only seven gates [50a] in the courtyard.
- [C] In the conception of the rabbis, then, where did these acts of prostration take place?
- [D] It is in accord with that which we have learned: *There were thirteen breaches in it, which the kings of Greece opened up. They went and closed them up again and decreed on their account thirteen acts of prostration* [M. Mid. 2:3B-D],
- [II:1 A] [With reference to M. 6:2E-G,] it is written, “On that day living waters shall flow out from Jerusalem, half of them to the eastern sea and half of them to the western sea; it shall continue in the summer as in winter” (Zech. 14:8).
- [B] It has been taught: [The spring that issues from] the Holy of Holies in its beginning to the veil is like the antennae of thorns and brambles. From the veil to the golden altar it is like the antennae of locusts. From

the golden altar to the courts it is like the thread of the warp. From the courtyard to the threshold of the house [M. 6:2G] it is like the thread of the woof. From there onward it is like the mouth of a flask.

- [C] It is written, “Then he brought me out by way of the north gate, and led me round on the outside to the outer gate, that faces toward the east; and the water was coming out on the south side. Going on eastward with a line in his hand, the man measured a thousand cubits, and then led me through the water; and it was ankle-deep. Again he measured a thousand, and led me through the water; and it was knee-deep. Again he measured a thousand, and led me through the water; and it was up to the loins. Again he measured a thousand, and it was a river that I could not pass through, for the water had risen; it was deep enough to swim in, a river that could not be passed through” (Ezek. 47:2-5).
- [D] “Again he measured a thousand, and it was a river that I could not pass through, for the water had risen; it was deep enough to swim in, a river that could not be passed through” (Ezek. 47:5).
- [E] Even a great ship could not pass through it.
- [F] What is the scriptural basis? “But there the Lord in majesty will be for us a place of broad rivers and streams, where no galley with oars can go, nor stately ship can pass” (Isa. 33:21).
- [G] “For the water had risen, it was deep enough to swim in” (Ezek. 47:5).
- [H] What is the meaning of “deep enough to swim in”?
- [I] [Water too swift] for rowing.
- [J] Said R. Hunah, “In some places they call swimming ‘splashing about.’”
- [K] “And he will spread out his hands in the midst of it as a swimmer spreads his hands out to swim; but the Lord will lay low his pride, together with the skill of his hands” (Isa. 25:11).
- [L] What is the meaning of adding “to swim”?
- [M] Said R. Yose b. R. Bun, “A spring that is spoken of throughout the world.”
- [N] It is written, “On that day there shall be a fountain opened for the house of David and the inhabitants of Jerusalem to cleanse them from sin and uncleanness” (Zech. 13:1).
- [O] R. Samuel bar Nahman in the name of R. Jonathan: “From the house of David and through the environs of Jerusalem, [the water will be]

valid as to menstrual uncleanness and for use for mixing with the red cow and making purification-water. From that point onward, the water is mixed. It is valid for use for the menstrual purification-rite, but invalid for use for mixing with the red cow's ashes and making purification-water."

- [P] Said R. Eleazar, "From the house of David and through the environs of Jerusalem the water will be valid as to the menstrual purification-rite and for making purification-water. From that point onward, the water is gutter-water. It is invalid both for use for purification from menstrual uncleanness and also for preparation of purification-water."
- [Q] **It is written, "And he said to me, This water flows toward the eastern region and goes down into the Arabah; and when it enters the stagnant waters of the sea, the water will become fresh" (Ezek. 47:8).**
- [R] **"This water flows toward the eastern region"—this refers to the sea at Sodom.**
- [S] **"And it goes down into the Arabah"—this refers to the sea at Tiberias.**
- [T] **"And when it enters the stagnant waters of the sea, the water will become fresh"—this is the Great Sea [T. Suk. 3:9].**
- [U] And why [is the Great Sea] called, "That which brings forth [water]"?
- [V] On account of the two times that it broke forth, once in the generation of Enosh, the other in the generation of the dispersion.
- [W] R. Eleazar in the name of R. Haninah: "On the first occasion the water rose up to Calabria, and the second time as far as the rocks of the Barbary Coast."
- [X] R. Aha in the name of R. Haninah: "On the first occasion the water rose up to the rocks on the Barbary Coast, and on the second occasion it rose up to Acre and Jaffa."
- [Y] "Thus far you shall come but no further" (Job 38:11).
- [Z] To Acre you may come, and you shall come no further.
- [AA] "And here shall your proud waves be stayed" (Job 38:11)—In Jaffa shall your proud waves be stayed.
- [BB] There is no problem in understanding why the Great Sea and the Salt Sea should be included, since it is to sweeten their waters.

- [CC] But as to the Sea of Tiberias and the Sea of Samekho, [what reason is there to include them (R)]?
- [DD] It is so as to encompass the fish that are in them, concerning which it is written, “Fishermen will stand beside the sea; from Engedi to Enegiaim it will be a place for the spreading of nets; its fish will be of very many kinds, like the fish of the Great Sea” (Ezek. 47:10).
- [EE] It has been taught: Rabban Simeon b. Gamaliel said, “It happened that I went to Sidon, and they put before me more than three hundred kinds of fish in a single dish.”
- [FF] “But its swamps and marshes will not become fresh; they are to be left for salt” (Ezek. 47:11).
- [GG] It is written, “And the water will be healed,” and yet you have said, “And they will *not* become fresh”?
- [HH] There is a place which is called, “And they will not be healed.”
- [II] It is written, “And on the banks, on both sides of the river, there will grow all kinds of trees for food. Their leaves will not wither nor their fruit fail, but they will bear fresh fruit every month, because the water for them flows from the sanctuary. Their fruit will be for food, and their leaves for healing” (Ezek. 47:12).
- [JJ] It has been taught: Said R. Judah, “Now in this world grain ripens in six months, and a fruit tree produces in twelve months. But in the world to come grain will ripen in one month, and a tree in two months.”
- [KK] What is the Scripture for this proposition? “They will bear fresh fruit every month” (Ezek. 47:12).
- [LL] Said R. Yose, “Now in this world grain ripens in six months, and a fruit tree produces fruit in twelve months. But in time to come grain will ripen in fifteen days, and a fruit tree will produce fruit in one month.
- [MM] “For so we find in the time of Joel that the grain ripened in fifteen days and the *omer*-offering was made out of that grain.
- [NN] “What is the scriptural basis for this view?
- [OO] “Be glad, O sons of Zion, and rejoice in the Lord, your God; for he has given the early rain for your vindication, he has poured down for you abundant rain, the early and the latter rain, as before” (Joel 2:23).

- [PP] And how does R. Yose interpret the statement, “They will hear fresh fruit every month” (Ezek. 47:12)?
- [QQ] There will be ripening in every single month.
- [RR] “And their leaves for healing” (Ezek. 47:12)—R. Yohanan said, “It means its fruit will peer out above it.”
- [SS] “Their fruit will be for food” (Ezek. 47:12)—
- [TT] Rab and Samuel: One said, “This serves to loosen the mouth above [and make the dumb speak],” and the other said, “It serves to loosen the mouth below [and help in conception].”
- [UU] R. Haninah and R. Joshua b. Levi: One said, “It serves to unloose the barren womb.” The other said, “It serves to unloose the mouth of the dumb.”

[III:1 A] *Opposite them at the north [M. 6:2H];*

- [B] You find that when Nebuchadnezzar came up here, he came and enthroned himself at Daphne, near Antioch. The great Sanhedrin came forth to greet him, saying to him, “The time for destroying this house [the Temple] has come.”
- [C] He said to them, “The one whom I made king over you—give him to me, and I shall go along my way.”
- [D] They came and told Jehoichin, king of Judea, “Nebuchadnezzar wants you,”
- [E] When he heard that from them, he took the keys of the Temple, went up to the roof of the Temple, and said before him, “Lord of the world! In the past we were faithful to you, and the keys to your house were handed over to us. Now that we are no longer faithful to you, lo, here are your keys, given back to you.”
- [F] Two Amoras: One said, “He threw them upward, and they did not come down again.”
- [G] The other said, “A kind of hand came forth and took them from his hand.”
- [H] When all the nobles of Judea saw this, they went up to the roofs of their houses and threw themselves down and died.
- [I] That is in line with what is written, “The oracle concerning the valley of vision. What do you mean that you have gone up, all of you, to the housetops, you who are full of shoutings, tumultuous city, exultant

town? Your slain are not slain with the sword or dead in battle” (Isa. 22:1-2).

Unit **I** locates the authority behind the Mishnah’s rule, as indicated. In so doing, as is its way, the Talmud succeeds in bringing contradictory passages of the Mishnah into juxtaposition. Unit **II** presents a vast anthology on the theme of M. 6:2E-G, the reference to Ezek. 47:1-5. Unit **III** proceeds to augment M. 6-2H briefly.

6:3

- [A] Thirteen tables were in the sanctuary:**
- [B] eight of marble in the shambles, on which they rinse the innards [of offerings];**
- [C] two at the west of the ramp, one of marble and one of silver—**
- [D] on the one of marble they lay out the limbs, and on the one of silver, the utensils of service;**
- [E] two in the porch on the inside, at the entry of the house, one of marble and one of gold—**
- [F] on the one of marble they put the Show Bread when it is brought in, and on the one of gold when it is taken out,**
- [G] for they promote what is holy to a higher status and do not bring it down;**
- [H] one of gold inside, on which the Show Bread is set at all times.**
- [I:1 A]** It has been taught: On the one made of silver [M. 6:3]—
- [B]** R. Yose in the name of R. Samuel bar R. Isaac, R. Hananiah presented it in the name of R. Yohanan: “There was none made of silver [and the reference should be removed from the Mishnah-chapter], because it gets hot.”
- [C]** Has it not been taught: This is one of the miracles that was done in the Temple: just as they laid down the bread [on the marble table] when it was hot, so when they took it off, it still was hot, as it is said, “To be replaced by hot bread on the day it is taken away” (1 Sam. 21:6).
- [D]** Said R. Joshua b. Levi, “They do not make mention of miracles.”
- [E]** They asked before R. Ila, “If there was no bread available, what is the law as to leaving what is there for the coming week?”
- [F]** He said to them, “It is written, ‘And you shall set the bread of the Presence on the table before me always’ (Exod. 25:30). There should be bread of the Presence, even if it is invalid.”

- [II:1 A]** Ten tables did Solomon make, as it is written, “He also made ten tables, and placed them in the Temple, five on the south side and five on the north. And he made a hundred basins of gold” (2 Chron. 4:8).
- [B] Now if you say that five were at the south [of the altar], and five at the north—is it not said that a table is valid only when located at the north?
- [C] For it is said, “And you shall set the table outside the veil, and the lampstand on the south side of the tabernacle opposite the table; and you shall put the table on the north side” (Exod. 26:35).
- [D] Why therefore does Scripture say, “Five on the south side and five on the north”?
- [E] But five were at the right of the table made by Moses, and five at the left.
- [F] Even so, one laid out the bread only on the table made by Moses alone,
- [G] as it is said, “[So Solomon made all the vessels that were in the house of the Lord; the golden altar, the golden] table for the bread of the Presence” (1 Kings 7:48).
- [H] R. Yose b. R. Judah says, “He would put it on all of the tables,
- [I] “as it is said, ‘So Solomon made all the things that were in the house of God: the golden altar, the tables for the bread of the Presence’” (2 Chron. 4:19).
- [III:1 A]** It has been taught: “The tables were located east and west [of the altar],” the words of Rabbi.
- [B] R. Eleazar b. R. Simeon says, “They were located north and south.”
- [C] He who says that they were east and west has no problems. All of them were suitable for service.
- [D] He who says that they were located north and south—
- [E] it turns out that the table was located at the south, and the candelabrum at the north.
- [F] And lo, it has been taught: The table was located at the midpoint in the house and beyond it, two cubits and a half from the wall, on the north side [of the altar], and the candelabrum was opposite it on the south side of the altar.

- [G] The golden altar was located in the middle of the house, dividing the house in half, extending somewhat outward.
- [H] And all of them were located within the innermost third of the house.
- [IV:1 A] Solomon made ten candelabra, as it is said, “And he made ten golden lampstands as prescribed, and set them in the Temple, five at the right and five at the left” (2 Chron. 4:7).
- [B] If you say that five were located at the north side of the altar, and five at the south—
- [C] is it not so that the candelabrum is valid only at the south side?
- [D] For it is said, “And you shall set the table outside the veil, and the lampstand on the south side of the tabernacle opposite the table; and you shall put the table on the north side” (Exod. 26:35).
- [E] What does Scripture mean when it says, “Five at the right and five at the left”? Five at the right of the candelabrum made by Moses, and five at the left of the candelabrum made by Moses.
- [F] Even [though Solomon made these candelabra], the priest would light up only the one that Moses made alone, as it is said, “They offer to the Lord every morning and every evening burnt-offerings and incense of sweet spices, set out the Show Bread on the table of pure gold, and care for the golden lampstand that its lamps may burn every evening; for we keep the charge of the Lord our God, but you have forsaken him” (2 Chron. 13:11).
- [G] R. Yose b. R. Judah says, “He would light up all of them, as it is said, ‘The lampstands [50b] and their lamps of pure gold to burn before the inner sanctuary, as prescribed; the flowers, the lamps, and the tongs, of purest gold’” (2 Chron. 4:20-21).
- [V:1 A] **All** of them [the items] were of the gold made by Solomon.
- [B] R. Judah in the name of Assi taught, “Solomon would take a thousand talents of gold and put them into the furnace, and take them out, until he had boiled them down to a single [very pure] talent.
- [C] “This is in line with that which is said, ‘He made it and all its utensils of a talent of pure gold’” (Exod. 37:24).
- [D] It has been taught: Said R. Yose b. R. Judah, “The story is told concerning the golden candelabrum that Moses made in the wilderness, that it had a single additional *denar* of gold [in it], and they put it into the furnace eight times, but it did not lose any [of its gold].

[E] “And that is well. Before it had reached full purity, it still was lacking, but [once they had put it into the furnace, and] it reached its full purity, it lacked for nothing.”

Unit **I** goes over the reading of the Mishnah, as indicated. Units **II** and **III** supplement the Mishnah’s reference to tables in the sanctuary, with special interest in M. 6:3F, the table for the Show Bread. Unit **IV** is on the model of unit **II**, and unit **V** is continuous with the foregoing.

6:4

- [A] **Thirteen shofar-chests were in the sanctuary.**
- [B] **And written on them were the following [in Aramaic]:**
- [C] **“New sheqels “ and “old sheqels,”**
- [D] **“bird-offerings,” and “young birds for a burnt-offering”; “wood” and “frankincense”; “gold for the Mercy-seat,” and on six, “for freewill-offerings.”**
- [E] **“New sheqels”—those for each year, [that is, for the present year].**
- [F] **“Old sheqels”—he who did not pay his sheqel last year pays his sheqel in the coming year.**
- [G] **“Bird-offerings”— these are for turtledoves .**
- [H] **“Young birds for a burnt-offering”—these are for pigeons.**
- [I] **“And all of them [G, H] are burnt-offerings,” the words of R. Judah.**
- [J] **And sages say, “Bird-offerings”—one is offered as a sin-offering and one as a burnt-offering [as at Qinnim, for a sin-offering].**
- [K] **“Young birds for the whole offering”—all of them are burnt-offerings.”**
- [L] **He who says, “Lo, I pledge myself to give wood,” should give no less than two pieces;**
- [M] **“Lo, I pledge ... frankincense” should give no less than a handful;**
- [N] **“Lo, I pledge ... gold” should give no less than a gold denar.**
- [O] **“And on six of them, for freewill-offerings”—**
- [P] **As to the freewill-offering: What did they do with it?**
- [Q] **They purchase burnt-offerings.**
- [R] **The meat is to the Lord, and the hides belong to the priests.**
- [S] **This exegesis did Jehoida, the high priest, expound: “ ‘It is a guilt-offering; he has certainly been guilty before the Lord’ (Lev. 5:19)**
-

- [T] **“This is the governing principle: Whatever is brought because of sin or guilt—with it burnt-offerings are purchased. The meat is for the Lord, and the hides go to the priests.**
- [U] **“Thus it turns out two Scriptures are carried out: ‘[He shall bring] his guilt-offering to the Lord’ (Lev. 5:15), and ‘For a guilt-offering for the priest’ (Lev. 5:18).**
- [V] **“and so it says, ‘The money for the guilt-offerings and the money for the sin-offerings was not brought into the house of the Lord; it was the priests’” (2 Kings 12:16).**
- [I:1 A] It has been taught: **R. Judah says, “There was no shofar-chest for bird-offerings in Jerusalem**
- [B] **“because of the possibility of confusion” [T. Sheq. 3:3B-C].**
- [C] For one of those who contributed the funds may die, and it will turn out the funds contributed for sin-offerings of those [women] who already have died will be mixed up with the [money of those who require the offerings].
- [D] And has it not been taught, [Tosefta’s version: The woman who put the funds for her bird-offering (M. 6:4J) into the shofar-chest may eat the meat of animal-sacrifices in the evening (T. Sheq. 3:3A)]: A woman who said, “Lo, I pledge myself to bring a pair of birds,” brings the funds for the birds and puts them into the chest, and she may eat Holy Things, [assuming that she has carried out her obligation,] and need not scruple that the priest may have been lax [about fulfilling her obligation].
- [E] And the priest need not scruple that the money may derive from funds contributed for sin-offerings by people who have died.
- [F] When we maintain that one must take account of that possibility, it is in the case of a sin-offering the owner of which certainly has died, [but not merely in the case of that possibility].
- [G] And [from the view of Judah, who does scruple about this possibility,] should we say, “Let us take four *zuz* and toss them into the river [for the one who has died, since for the deceased, no such offering is required,] and let us then permit the rest of the money for use”?
- [H] Lo, we rule, in general, that R. Judah does not adhere to the principle of selection [along those lines].
- [II:1 A] R. Yose b. R. Bun said, R. Ba bar Mamel asked, “If one said, ‘Lo, I pledge myself to give wood,’ may he bring a single piece of wood, [contrary to M. 6:4L]?”

- [B] Said R. Eleazar, “The Mishnah has indicated that this is regarded as an offering by itself, and that is regarded as an offering by itself,
- [C] “for we have learned there: *The two held in their hands two pieces of wood* [*M. Yoma 2:5*]. [Thus each piece was regarded as an offering, coming from a priest.]”
- [D] “Offering” (Lev. 2:1) indicates that one may offer wood [as a freewill-offering].
- [E] R. Joshua b. Levi said, “They are to be a cubit thick, measured by a spread-out cubit [roughly], and in length they are to be a cubit, with a closed [exact] cubit.”
- [F] R. Honi in the name of R. Ami, “Arranged like a steelyard.”
- [G] Said R. Samuel bar Isaac, “Since the place of the altar fire was only a cubit by a cubit, the wood therefore had to be a cubit measured exactly.”
- [H] And so it has been taught: A cubit in measure were the foundation, the circuit, the rim, the horn, and the wood pile.

[III:1 A] *Frankincense—should give no less than a handful* [*M. 6:4M*]:

- [B] Here it is stated “memorial portion” (Lev. 2:2), and there it is stated “memorial portion” (Lev. 2:9).
- [C] Just as “memorial portion” stated at that latter place speaks of a handful, so “memorial portion” stated here indicates that a handful is required.
- [D] If one might wish to argue, just as “memorial portion” stated there speaks of two handfuls, so “memorial portion” stated here speaks of two handfuls—
- [E] said R. Ila, “Have they not derived the law of the handful only from the meal-offering of the sinner? Just as in that case a handful that is lacking is invalid, so in this case a handful that is lacking is invalid [and there is no question of introducing the possibility of requiring two handfuls].”
- [F] Said R. Yose, “The statement of R. Ila implies that he who pledges to bring frankincense must bring it in accord with the largest handful-measurement of the available priest [so as to avoid bringing too little].”
- [G] R. Hezekiah in the name of R. Jeremiah: “[Not so, rather] even in accord with the handful-measurement of the owner.”

[IV:1 A] *Gold—should give no less than a gold denar [M. 6:4N]:*

[B] Said R. Eleazar, “And that rule applies if he made mention of a [gold] coin [in his pledge].

[C] “But if he did not make mention of a gold coin, then he may bring even a grain.”

[V:1 A] *And on six of them, for freewill-offerings [M. 6:40]:*

[B] Hezekiah said, “These represent the six fathers’ houses [priestly groups].”

[C] Bar Pedaiah said, “They represent the six domesticated beasts [used on the altar]: bullock, calf, goat, ram, lamb, and kid.”

[D] Samuel said, “They stand for the six offerings: bird-offerings of male or female Zabs, bird-offerings of women, sin-offerings, guilt-offerings, meal-offerings, and the tenth of an *ephah*.”

[E] Said R. Yohanan, “Because thank-offerings are abundant, they made many collections-boxes [to take in the money for that purpose].”

[VI:1 A] It is written, “And when they had finished, they brought [the rest of the money before the king and Jehoiada, and with it were made utensils for the house of the Lord, both for the service and for the burnt-offerings, and dishes for incense, and vessels of gold and silver. And they offered burnt-offerings in the house of the Lord continually all the days of Jehoiada]” (2 Chron. 24:14).

[B] R. Simeon bar Nahman in the name of R. Jonathan said, “He prepared two thank-offerings.”

[C] The house of R. Ishmael taught, “It was only a single thank-offering.”

[D] For it is written, “So the king commanded, and they made a chest, and set it outside the gate of the house of the Lord” (2 Chron. 24:8).

[E] “And Jehoiada the priest took a chest and bored a hole in the lid of it” (2 Kings 12:9).

[F] And is it not written, “So the king commanded, and they made a chest, and set it outside the gate of the house of the Lord” (2 Chron. 24:8)?

[G] [Why did they put it outside?] Said R. Huna, “It was because of the unclean people [who could not come inside].”

[VII:1 A] R. Hanina in the name of R. Joseph: “But there were not made for the house of the Lord basins of silver, snuffers, bowls, trumpets, or any

vessels of gold or of silver, from the money that was brought into the house of the Lord” (2 Kings 12:13). [For the relevance of this verse, cf. Pene Moshe.]

The Mishnah systematically explains the disposition of the funds placed in each of the chests. Whoever volunteered or owed the stated donations or offerings would pay for them in this way. Judah (M. 6:4I) maintains that fowl which are given as freewill-offerings are solely prepared as burnt-offerings. Sages (M. 6:4J) rightly note that one who owes fowl has his two birds offered as specified. Sages hold that one who offered bird-offerings would deposit funds for them in the chest (D3). M. 6:4L, M, N, go over the ground of M. 6:4D5, 6, 7. P-Q + R-V are slightly out of phase with the established exegetical pattern. The point is that money put aside for a sin- or guilt-offering cannot go to priests, since it is used for buying an offering. If money is left over, the priests buy voluntary burnt-offerings, of which they keep the hide. But of the sin- or guilt-offering they do not keep the hide.

Unit **I** presents Judah’s quite different view of the *shofar*-chests in the sanctuary, and the reasoning behind it. This allows the Talmud to articulate the contrary theory of the Mishnah. Unit **II** brings us to the amplification of M. 6:4L. Units **III**, **IV**, and **V** proceed to M. 6:4M, N, and O. Unit **VI** addresses the secondary question of the thank-offering noted in Scripture. Unit **VII** pertains to M. 6:4V; Pene Moshe explains the pertinence of the citation.

YERUSHALMI SHEQALIM

CHAPTER SEVEN

7:1

- [A] Money which is found between the chest for sheqels and that for freewill-offerings—
- [B] [if it is] nearer to the chest for sheqels, it falls to that for sheqels.
- [C] [If it is] nearer to that for freewill-offerings, it falls to that for freewill-offerings.
- [D] [If it is] halfway in between, it falls to that for freewill-offerings.
- [E] [If it is found] between the chest for wood and the chest for frankincense, [if it is] nearer to the chest for wood, it goes to the chest for wood,
- [F] [If it is] nearer the chest for frankincense, it goes to the chest for frankincense.
- [G] [If it is] halfway in between, it goes to the chest for frankincense.
- [H] [If it is found] between the chest for bird-offerings and the chest for young birds for whole-offerings,
- [I] [if it is] nearer the chest for bird-offerings, it goes to the chest for bird-offerings.
- [J] [If it is] nearer the chest for young birds for whole-offerings, it goes to the chest for young birds for whole-offerings.
- [K] [If it is] halfway in between, it goes to the chest for young birds for whole-offerings.
- [L] [If it is found] between unconsecrated coins and coins in the status of second tithe,
- [M] [if it is] nearer the unconsecrated coins, it goes to the purposes of unconsecrated coins.
- [N] [If it is] nearer to the coins in the status of second tithe, it falls for the purposes of money in the status of second tithe.

- [O] **[If it is] halfway in between, it goes to the purposes of money in the status of second tith.**
- [P] **This is the governing principle: They follow the status of that which is nearer, [even if this produces] a lenient ruling.**
- [Q] **But if the money is found exactly halfway in between, they impose the more stringent ruling.**
- [I:1 A] [50c] The only rule that was needed, [given the location of the various chests,] was one concerning a coin found between the chest for the *sheqel-offering* and the chest for the bird-offerings. [In the other cases the chests are not near one another in any event. The chest for the freewill-offering was at the end of the line, the one for the *sheqels* at the beginning.]
- [B] R. Abun in the name of R. Phineas: “The boxes in the Temple for contributions were put up so as to form a spiral figure [Jastrow, p. 619]. [Hence the chest for the *sheqel-offering* and the one for the freewill-offering were side by side.]”
- [II:1 A] *If it is halfway in between, it falls to that for freewill-offerings [M. 7:1C]:*
- [B] [Why not for the *sheqel-offering* instead?] There is he who wished to propose that the consideration is that the money may be left over [and not used as an offering at all, but rather for the upkeep of the house]. [But it may have been meant for the altar.]
- [C] There is he who wished to propose that the consideration is that the money which lands halfway in between is in the status of money belonging to a donor who has died, [and such funds go for the purchase of freewill-offerings]. [This is indicated in the following.]
- [D] Said R. Yose, “When I was there [in Babylonia], I heard R. Judah asking Samuel, ‘If one has set aside his *sheqel-offering* and then died, [what do we do with the money]?’
- [E] “He said to him, ‘It goes for the purchase of a freewill-offering.’ [The money goes for the purchase of animals for sacrifice in behalf of the community, which are in the status of Most Holy Things.]”
- [F] The excess of money set aside for the purchase of the high priest’s tenth *ephah* of fine flour—
- [G] R. Yohanan said, “The money is thrown into the Dead Sea.”
- [H] R. Eleazar says, “It is assigned for the purchase of a freewill-offering.”

- [III:1 A]** [With reference to M. 7:1K, one of the two bird-offerings is offered under the rule governing sin-offerings, while young birds for whole-offerings, as the name indicates, are burned up entirely. Accordingly, there is the following] question: Is it possible that a bird that is supposed to be prepared as a sin-offering may be offered as a burnt-offering?
- [B] Hezekiah in the name of R. Simeon b. Laqish: “It is a stipulation of the court concerning funds that are left over, that beasts purchased with them are to be offered as burnt-offerings.”
- [C] Then this woman [whose money has ended up halfway between the two chests, but who required a sin-offering as one of the two birds in her bird-offering]—by what means will she attain atonement?
- [D] Said R. Isaac, “[She brings others, for] it is a stipulation of the court: *He who provides bird-offerings must provide others in place of the invalid ones* [M. 7:3P].”

- [IV:1 A]** Now was it not required also to list such items as “between the chest for incense and the one for wood,” “for frankincense,” “for gold,” “for the Mercy Seat”?
- [B] These have been covered by the general statement at the end.
- [C] This is the governing principle: *They follow the status of that which is nearer... But if the money is found exactly halfway in between, they impose the more stringent ruling* [M. 7:1P-Q].

The Talmud undertakes a careful exegesis of the principal problems it sees in the Mishnah. The first concerns the need to articulate the items listed the Mishnah, unit I, with its counterpart, unit IV, the omission of other possible exemplary entries.

Unit II asks about the Mishnah’s preference. Unit III explains why we do not take account of a serious consideration in our disposition of a coin the status of which is unclear.

7:2

- [A] Money which was found before cattle-dealers—**
- [B] throughout the year, it is deemed money in the status of second tith.**
- [C] [If it is found] on the Temple Mount, it is assumed to be unconsecrated money**

- [D] [If it is found] in Jerusalem during a pilgrim festival, it is assumed to be money in the status of second tithe.
- [E] And at all other times of the year, it is deemed to be unconsecrated.
- [F] Meat which is found in the courtyard—
- [G] [if it is in] limbs, it is deemed to derive from burnt-offerings [M. Tam. 4:2].
- [H] [If it is in] pieces, it is deemed to derive from sin-offerings.
- [I] [If it is found] in Jerusalem, it is deemed to derive from peace-offerings.
- [J] In each instance its appearance is allowed to spoil, and it goes out to the place of burning.
- [K] [If] it is found out in the provinces,
- [L] [if it is in] limbs, it is deemed to be carrion.
- [M] [If it is in] pieces, it is permitted.
- [N] And at the time of a festival, when there is plenty of meat, even limbs are permitted.
- [I:1 A] Was it not necessary with reference to coins found on the Temple Mount [to indicate that they are consecrated, and not unconsecrated money (M. 7:2C)]?
- [B] R. Ba, R. Hiyya in the name of R. Yohanan: “It is an assumption that the priest does not remove money from the chamber before he has deconsecrated it through [exchange for] a beast [for the purchase of which the coin is designated]. [Hence when the coin is taken out of the chest, it already has been removed from its consecrated status and exchanged for said beast.]”
- [II:1 A] *Meat which is found [M. 7:2F]:*
- [B] R. Leazar in the name of R. Hoshaiyah: “A beast invalidated because, [when the priest was slaughtering it,] his attention wandered, is disposed of by allowing its appearance to spoil.”
- [C] The Mishnah has made the same point: *Its appearance is allowed to spoil, and it goes out to the place of burning [M. 7:2]*.
- [D] Said R. Yose, “And that is quite so. You certainly are not allowed to eat it, lest it might already have been spoiled [by the passage of the time in which it is permitted to eat the meat]. Consequently it is necessary to state, *Its appearance is allowed to spoil, and it goes out to the place of burning*” [M. 7:2].

[III:1 A] *If it is found in the provinces [M. 7:2K]:*

[B] R. Qerispa in the name of R. Yose b. R. Haninah, “The limbs [at M. 7:2L] are deemed to be literally carrion, and on their account one is flogged on the count of carrion.”

[C] The Mishnah has made that point: *If it is in limbs, it is deemed to be carrion [M. 7:2L].*

[IV:1 A] *If it is in pieces, it is permitted [M. 7:2M]:*

[B] *If it is in pieces, it is permitted*—not literally.

[C] And along these same lines: If it is found in limbs, it is regarded as carrion. They are flogged on their account on the count of carrion.

[D] R. Qerispa in the name of R. Yose b. R. Haninah: “Pieces of meat [which are found in the Temple courtyard] strung out on string are permitted. [For meat in the status of Holy Things is not strung out on strings. That which is found on the ash-heap in every place is prohibited]” [T. Sheq. 3:10].

[V:1 A] If there are nine stores selling meat in the status of carrion, and one selling meat that has been properly slaughtered, and one became confused [as to which store was the source of his meat]—

[B] he must take account of that fact, [and the meat he has is prohibited].

[C] And in regard to what is found [in the marketplace], they follow the status of the majority [of those who sell meat there, and in any event it is prohibited].

[D] If nine stores sell meat that was properly slaughtered, and one sells meat in the status of carrion, and one is confused [as to the source of his meat], he takes account of that fact.

[E] And in regard to what is found [in the marketplace], they follow the status of the majority [of those who sell meat there, and it is permitted].

[VI:1 A] Said R. Yohanan, “Meat that turns up in the hand of a Gentile is in the status of that which is found in the highway.”

[B] R. Eleazar b. R. Haggai was accompanied by R. Mana. He saw an Aramean cutting meat from his horse and giving it to his son [to roast and eat]. He said to him, “Does even this case fall under what R. Yohanan said, ‘Meat that turns up in the hand of a Gentile is in the status of that which is found in the highway [and follows the status of the majority of those who use that road]’?”

- [C] He said to him, “Rabbi, this is what R. Yose said, ‘And that rule applies when they have actually seen the meat go forth from an Israelite butcher shop,’”
- [D] A man went to buy a piece of meat from a butcher, but he did not give him any. He told a Roman, who brought him meat. He said to him, “Did you not take it from him by force?”
- [E] He said to him, “And did I not exchange it for a piece of carrion meat?” [Accordingly, the butcher is now deemed unfaithful and may not be patronized.]
- [F] R. Jeremiah in the name of R. Haninah: “The case came before Rabbi, who ruled, ‘[The Roman] does not have the power to prohibit Israelites from patronizing all of the butchershops in Sepphoris [by what he may say about the conduct of the owners].’”
- [G] Rab came down there [to Babylonia]. He saw that they imposed lenient rulings, and he imposed a strict ruling on them. [Here is an example.]
- [H] A man went and wanted to wash off in the river meat hanging on a crosspiece. The meat came out of his grip and floated away. He went and planned to get it back.
- [I] Rab said to him, “It is forbidden to you. For I say the piece you had was swept off by the river, which brought in its stead a piece of carrion.”
- [J] A man was walking in the marketplace and tasting a piece of meat. A *diata-bird* flew down and snatched it up from his hand. [As the bird flew off, the meat] fell down [beneath the bird]. [The man] went [and] wanted to take it [and eat it].
- [K] Rab said to him, “It is forbidden to you. For I say it was carrying a piece of carrion-meat, and it fell down, and then the bird swiped this piece of yours in its stead. [So the piece of meat you found is the carrion which the bird had been carrying, and that is why you may not eat the meat.]”
- [L] The river swept away the skins of wine-dealers, [who recovered them]. The case came before R. Isaac b. R. Eleazar, who ruled, “If the craftsmen recognize the knots that they tied on the skins, [they are permitted, as the same wineskins that were lost, and not wineskins belonging to idolaters, which Israelites may not use].”

- [M] A sausage was found in the synagogue of the councillors. The case came before R. Jeremiah, who ruled, “Let the butchers recognize their work [and indicate that it is valid meat].”
- [N] A roast lamb was found in the piazza of Gopta, and [the authorities] permitted it on two counts:
- [O] on the count of its being found [and so the finder does not have to seek the owner];
- [P] and on the count of the principle that most of the people who walk about there [are Israelites].
- [Q] On the count of its being found, for it has been taught: **He who rescues something from the mouth of a Hon, wolf, or bear, or from a riptide in the sea or a sudden surge of a river, and he who found something in a large piazza or campground—lo, these are deemed forthwith to be his, for the owner despairs [of ever getting his property back] [T. B.M. 2:2]**
- [R] As to the count of the principle that most of the people who walk about there are Israelites—
- [S] [should we be concerned on the count] of the beast’s having been slaughtered by a Gentile? [Surely not, because most people there are Israelites.]
- [T] It turned out that the roast lamb came from the house of Rabbi.
- [U] A circle of cheese was found in the hostel of Levi, and they permitted it on two counts:
- [V] on the count of its being found, [of which the owners have despaired, as above];
- [W] and on the count of the principle that most of the people who walk about there are Israelites.
- [X] On the count of its being found, for it has been taught: **He who rescues something from the mouth of a lion, wolf, or bear, or from a riptide in the sea or a sudden surge of a river, and he who found something in a large piazza or campground—lo, these are deemed forthwith to be his, for the owner despairs [of ever getting his property back] [T. B.M. 2:2],**
- [Y] And as to the count of the principle that most of the people who walk about there are Israelites—

- [Z] [should we be concerned on the count] of the cheese's having been made by Gentiles [and so being prohibited]?
- [AA] It turned out that the cheese came from the household of R. Eleazar b. R. Yose.
- [BB] Said R. Mana before R. Yose, "Yet we do see rabbis who make a declaration [that they have found such objects, hence who try to return them to the original owners]."
- [CC] He said to him, "Now if you yourself should find such an object, would you not take it? Your father, R. Jonah, did not maintain your view. But he said, 'Would it be the case that, when I find something, I find it [even] in some alleyway or in some more remote place, [for even here, I assume the owner has given up hope of finding his property, and I should take it.' And that is not even in a case involving the marketplace!]"
- [DD] Nonetheless, [50d] he found something but did not take it.

Money spent on meat is assumed to be second tithe coins brought to Jerusalem for this purpose (M. 7:2B). Consecrated coins cannot be used to purchase offerings, so C follows. M. 7:2C reverts to money found not in the meat-market. Here too, at certain times, it is tithe. But the streets are swept daily, so ordinarily found money is deemed unconsecrated. The presumptive status of the meat of unknown origin (M. 7:2F-N) is determined by its condition. The burnt-offering is cut into limbs, the sin-offering is chopped up for priests' use. Limbs in the provinces may have been carrion thrown to dogs.

Units **I** through **IV** gloss and cite the Mishnah, augmenting or otherwise clarifying its rules. Unit **V** presents a fundamental generalization on the rules governing meat found in the street. Unit **VI** then deals with a string of cases on the rules governing lost and found. It begins with the matter important at unit **V**. But from **VI.L** onward, the considerations of the Mishnah fall away. At issue in the unfolding of unit **VI** is whether or not one has to make a public announcement of what he has found and so try to seek out the original owner. Since this principle is joined to the one about following the status of most of the people apt to have been in a given location, the whole must be regarded as a protracted, if wandering, discussion.

7:3

- [A] **Cattle found between Jerusalem and Migdal Eder, and in an equivalent range on all sides of the city,**

- [B] [if] male, they are deemed to be burnt-offerings;
- [C] [if] female, they are deemed to be peace-offerings.
- [D] R. Judah says, “That which is suitable for Passover-offerings are Passover-offerings [if they are found] thirty days before that festival.”
- [E] Aforetimes they would exact pledges from the one who found [such a beast], until he brought its drink-offerings.
- [F] They ended up leaving them and running out.
- [G] The court ordained that its drink-offerings should derive from public funds.
- [H] Said R. Simeon, “Seven rules did the court ordain, and this [foregoing one] is one of them.
- [I] “A Gentile who sent his burnt-offering from overseas and sent drink-offerings with it—they are offered from what he has sent. But if not, they are offered from public funds.
- [J] “And so too a proselyte who died and left animals designated for sacrifices—if it has drink-offerings, they are offered from his estate. And if not, they are offered from public funds.
- [K] “And it is a condition imposed by the court on a high priest who died, that his meal-offering [Lev. 6:13] should derive from public funds.”
- [L] R. Judah says, “It derives from the funds of the heirs.”
- [M] And it was offered whole.
- [N] [Simeon continues, “They ordained] concerning salt and wood, that priests should be able to make use of them;
- [O] “concerning the red cow, that the laws of sacrilege should not apply to its ashes;
- [P] “concerning invalid bird-offerings, that [others to replace them] should derive from public funds.”
- [Q] R. Yose says, “He who provides the bird-offerings must provide others in place of invalid ones.”
- [I:1 A] [With reference to M. 7:3A-C,] R. Hoshaiyah the Elder said, “[The point is that one sells these beasts and] brings the designated offerings with the proceeds.”
- [B] Said to him R. Yohanan, “Do they say to a man, ‘Go and commit sacrilege with Holy Things’? [Hoshaiyah’s procedure is sacrilegious!]”

- [C] But in the case of each one [of the wandering beasts] they follow the majority: Males are regarded as [in general] having been designated whole-offerings, and females as having been designated peace-offerings.
- [D] And do not peace-offerings derive both from males and from females? [So that is no solution. Then] what does he do?
- [E] He removes them to a status of being unconsecrated and then goes and declares them to be burnt-offerings.
- [F] Said R. Zeira, “This is in line with that which you say there: ‘It is a stipulation of the court that beasts which are lost [and then found] are offered as burnt-offerings.’ Here too you say the same thing: ‘It is a stipulation of the court that beasts which are lost are offered as burnt-offerings.’”
- [G] [Supply from Y. Qid. 7:2.V.G:] And it is a problem: Is a peace-offering offered as a burnt-offering? [Surely not!]
- [H] Said R. Yose to R. Jacob bar Aha, “And is this then not done deliberately?”
- [I] He said to him, “Since it is a stipulation of the court, it is not regarded as deliberate violation of the law.”
- [II:1 A]** Said R. Yose, “When I was there [in Babylonia], I heard R. Judah asking Samuel, ‘If one has set aside his *sheqel-offering* and then died, [what do we do with the money]?’
- [B] “He said to him, ‘It goes for the purchase of a freewill-offering.’ [The money goes for the purchase of animals for sacrifice in behalf of the community.]”
- [C] And as to the excess of money set aside by the person for the purchase of a tenth *ephah* of fine flour—
- [D] R. Yohanan said, “The money is thrown into the Dead Sea.”
- [E] R. Eleazar says, “It is assigned for the purchase of a freewill-offering.”
- [III:1 A]** The tenth of an *ephah* of fine flour of the high priest [in fulfillment of the requirement of Lev. 6:20-21: “This is the offering which Aaron and his heirs shall offer to the Lord on the day when he is anointed: a tenth of an *ephah* of fine flour as a regular cereal-offering, half of it in the morning, and half in the evening. It shall be made with oil on a griddle...”] [Note in this connection, M. Men. 4:5: *The griddlecakes of the high priest were not offered in half [tenths of an ephah at a*

time], but one brings a whole tenth and divides it, and offers half in the morning and half at twilight. A priest who offered half in the morning and died, and in whose place, on that same day, they appointed another priest—the latter should not bring at twilight a half tenth of an ephah from his own property, nor half of the tenth of the first priest. But he brings a whole tenth and divides it and offers half, and the other half is left to perish. It turns out that two halves are offered, and two halves are left to perish. If they did not appoint another priest in place of the one who died, of whose property were the evening griddlecakes offered? R. Simeon says, “The community’s property.” R. Judah says, “The property of the heirs of the deceased.” And the whole tenth was offered. In this latter problem, if the high priest offered half of the whole cake in the morning, then died, his successor prepares a whole tenth of an *ephah* of flour as a griddlecake. If no successor was chosen on the same day, a whole tenth was prepared, and offered half in the morning and half at night. Simeon draws on public funds, Judah on the funds of the deceased’s estate. What follows then illuminates M. 7:3K, that is, Simeon’s position, as against Judah’s.]

- [B] R. Yohanan said, “One divides [the *ephah*] and afterward one sanctifies it [in a utensil].”
- [C] R. Simeon b. Laqish said, “One sanctifies it [in a utensil of service] and only afterward divides it [so as to offer half in the morning and half in the evening, in line with the cited passages of Scripture and the Mishnah].”
- [D] The following passage of the Mishnah stands at variance with the view of R. Yohanan: *He offers half, and the other half is left to perish* [M. Men. 4:5G]. [Since the other half also has been sanctified in a utensil, there is nothing to do with it. Yohanan’s procedure would have left the other half unsanctified and hence available for future use.]
- [E] R. Yohanan interprets the matter [without difficulty], for even coins [which were excess of money set aside by the person for the purchase of a tenth *ephah* of fine flour] will be thrown into the Dead Sea [as at II.C-D].
- [F] The following passage of the Mishnah differs from the view of R. Simeon b. Laqish: *It turns out that two halves are offered, and two halves are left to perish* [M. Men. 4:5H].
- [G] And in this regard it has been stated: **This half of his, which he does not offer, and the first half—their appearance is left to become disfigured, and the whole is sent out to the place of burning** [T.

Men. 7:10D]. [Why do we have to wait until the offering is spoiled? If it has itself been sanctified in a utensil, as Simeon alleges, then it should go to the place of burning forthwith, without an intervening stage of putrefication.]

- [H] Interpret the passage to conform to the view of R. Ishmael, who has said, “The tenth *ephah* of flour is sanctified.”
- [I] When the priest first approaches the liturgical labor, he brings his tenth *ephah* of fine flour and offers it up by his own hand.
- [J] All the same is the rule for the high priest and an ordinary priest: If they performed an act of service before they offered their tenth *ephah* of fine flour, their act of service is valid [T. Sheq. 3:25D, E].
- [K] R. Mana proposed to state, “[If a priest] came on the same day for his first act of service on which, in addition, he was appointed high priest, he brings two tenth-*ephah* offerings, one for this dedication [to service as high priest] and the other to carry out the obligation of the day [on which he begins service].”
- [L] “You shall bring it well mixed, in baked pieces [like a cereal-offering and offer it for a pleasing odor to the Lord]” (Lev. 6:21). When the cakes are offered, you should bake them [fresh], and you should not bake the meal-offering in the morning [for the purpose of the evening].
- [M] And lo, we have learned: *They had those who make the baked cakes begin to make baked cakes* [M. Tarn. 1:3J]. [These cakes would then serve for the whole day, that is, morning and night.]
- [N] Said R. Hiyya bar Aha, “The intent is to make hot cakes.”
- [O] [As to the process of bringing the cakes well mixed,] in baked pieces
—
- [P] R. Yose in the name of R. Haninah: “One fries the cake and afterward bakes it.”
- [Q] R. Aha in the name of R. Haninah: “One bakes the cake and afterward fries it.
- [R] “The word for baking means that one bakes the cake while it is still in pleasing [condition, that is, before it is fried].”
- [S] Rabbi says, “One bakes it while it is still in pleasant [condition].”
- [T] R. Dosa says, “Bake it while it is soft.”

- [U] The dispute of this second set of authorities runs parallel to the dispute of the first set.
- [V] The one who maintains the view that one makes it while it is yet in attractive condition accords with the view of the one who says one bakes it and then fries it.
- [W] The one who says that one bakes it while it is soft accords with the view of the one who says one fries it and then bakes it.
- [IV:1 A] [As to M. 7:3K, *A high priest who died ...* :] It is not the end of the matter that the law applies only to one who died.
- [B] But even if he was made unclean, it is the same.
- [C] And even if he was shunted aside because of a blemish, [do we say the same rule applies]?
- [D] R. Judah bar Pazzi of Bardellah, “And even if he was set aside by reason of a blemish, [the community has to pay the cost of the meal-offering owing on his account].”
- [V:1 A] [As to M. 7:3L, Judah: “*It derives from the funds of the heirs*”:] “How do we know that if a high priest died, and they did not appoint another in his place, that the meal-offering owed by him derives from the funds of the heirs?
- [B] “‘The priest from among Aaron’s sons, who is anointed to succeed him, shall offer it to the Lord’ (Lev. 6:22).
- [C] “Is it possible to suppose that one brings it in halves?
- [D] “Scripture says, ‘it’—meaning, ‘the whole of it have I specified,’” the words of R. Judah.
- [E] R. Simeon says, “It derives only from public funds [M. 7:3K].
- [F] “For it is said, ‘As decreed forever’ (Lev. 6:22). The party with which the covenant has been made wholly and permanently, [namely, the community,] will offer it up completely on the fire.”
- [VI:1 A] *A high priest who died* [M. 7:3K]:
- [B] R. Ba bar Mamel asked, “The views assigned to R. Simeon are at variance.
- [C] “There he has said that it derives from public funds [M. 7:3K, but this, he holds, is an ordinance ordained by the court]. [It follows that, by the law of the Torah,] he has said, it must derive from the heirs. [For he

has proved by the law of the Torah, at V.E, that the public funds provide the offering. Why then should it be represented not as a law of the Torah but as an ordinance of sages at M. 7:3H, K?]

[D] Said R. Hiyya bar Ba, “And does he not ask a good question?”

[E] R. Jacob bar Aha, R. Abbahu in the name of R. Yohanan: “By the law of the Torah it derives from public funds. I might have said that [the authorities] then go back and collect the money from the estate. Hence they ordained that the funds should come only from the heave-offering of the chamber.”

[VII:1 A] R. Yose said R. Yohanan asked, “What is the law [with regard to M. 7:3M: *It was offered whole*]? Does it mean that it was offered whole in the morning and at dusk? Or does it mean it was offered whole in the morning, and abrogated [for that day] at dusk?

[B] “Then [Yose continues] he proposed to solve the problem himself, for it is written that the daily whole-offering requires three *logs* of oil. Now [in connection with the day on which a high priest dropped dead, we may ask the same question, namely:] Are these three *logs* to be offered in the morning, and three at dusk, or is it one and a half in the morning, and one and a half at dusk? [If this problem is solved, the other likewise poses no difficulty.]”

[C] R. Hezekiah said, “Also the following posed a question to him: As to the two handfuls [of meal-offering], what is the law? Are the two handfuls offered in the morning, and two handfuls at dusk, or is it one handful in the morning, and one handful at dusk?”

[D] Said R. Yose, “Did they not derive the law governing the handful from the law governing the meal-offering of a sinner? Just as in that instance there must be two handfuls, so here there must be two handfuls.”

[E] Said R. Hezekiah, “Did they not derive the law governing the three *logs* of oil from the rules governing the daily whole-offering at dusk? Just as in that case there must be three *logs* [all at one time], so here there must be three *logs* [at one time].”

[F] And just as that was a problem for him in one connection, so it was a problem for him in the other [and no clear answer is given],

[VIII:1 A] *And concerning the red cow, that the laws of sacrilege should not apply to its ashes [M. 7:30]:*

- [B] R. Samuel bar Nahman in the name of R. Jonathan, “By strict logic the law should have been that the laws of sacrilege do apply to it. But they made a decree that the laws of sacrilege should not apply.”
- [C] And lo, it has been taught: “It is a sin-offering” (Num. 19:9)-this teaches that the laws of sacrilege apply to it.
- [D] That is to say, the laws of sacrilege apply to it, but they do not apply to its ashes.
- [E] Said R. Abbahu, “At first they would shake it and then put it on their sores. So they decreed that the laws of sacrilege apply to the ashes.
- [F] “Then, when they had established the fence in protection of the ashes, they decree that the laws of sacrilege need not apply any longer.”

[IX:1 A] *And concerning invalid bird-offerings, that others to replace them should derive from public funds [M. 7:3P]:*

- [B] [What follows belongs at Y. 7:1. III.A-D and not here:] Now as to this woman [who requires the offering]—through what bird will she gain atonement?
- [C] Said R. Isaac, “It is a stipulation of the court that *he who provides the bird-offerings must provide others in place of invalid ones.*”

Unit **I** clarifies M. 7:3A-C, raising a procedural question of importance. Unit **II** serves only as a prologue to unit **III**. Of interest in unit **III** is the intersection of M. 7:3K-L with M. Men. 4:5. This is made explicit, as a problem is framed to allow for the two passages to be brought into juxtaposition with one another. From **III**. K onward we have secondary expansions on the basic theme of M. Men. 4:5, none of which serves the present passage at all. It goes without saying that a case may be made to regard **III**. K to the end as a sequence of separate items. Unit **IV** cites and clarifies M. 7:3K. Unit **V** provides proof-texts for the two positions of M. 7:3K, L. Unit **VI** raises an acute question based on the language chosen by Simeon for his views. Unit **VII** proceeds to M. 7:3M and raises procedural questions, which are not answered. Unit **VIII** provides an explanation for the Mishnah’s law, as cited at M. 7:30. Unit **IX** cites the Mishnah and a discussion in which the Mishnah itself is cited, but not clarified. So the whole serves the passage of the Mishnah before us, or at least flows from materials that do so.

YERUSHALMI SHEQALIM

CHAPTER EIGHT

8:1

- [A] “All drops of spit which are found in Jerusalem are assumed to be clean,
- [B] “except for those [found in] the upper marketplace,” the words of R. Meir.
- [C] R. Yose says, “On the ordinary days of the year, those [found] in the middle [of the road] are unclean, and those found on the sides are clean. And at the time of the festival, those [found] in the middle of the road are clean, and those [found] on the sides are unclean,
- [D] “for, because [at festival-time] they [who are unclean] are few in number, they withdraw to the sides of the road.”
- [E] “All utensils found in Jerusalem,
- [F] “on the path down to an immersion-pool, are assumed to be unclean.
- [G] “[If they are found] on the path up from the immersion-pool, they are assumed to be clean.
- [H] “For the way down is different from the way up,” the words of R. Meir.
- [I] R. Yose says, “All of them are clean,
- [J] “except for a basket, shovel, or pick, [which are] particularly used for digging graves.”
- [K] A knife found on the fourteenth of Nisan—
- [L] one slaughters with it forthwith.
- [M] [If it is found] on the thirteenth, one immerses it again.
- [N] And as to a chopper, one way or the other, one immerses again.

- [O] [If] the fourteenth coincided with the Sabbath, one slaughters with it immediately.
- [P] [If the chopper was found] on the fifteenth of Nisan, one slaughters it with it immediately.
- [Q] [If] it was found tied to a knife, lo, this is in the status of [that] knife.
- [I:1 A] [51a] [With reference to the upper market (M. 8:1B):] R. Abin in the name of R. Joshua b. Levi: “There was a camp of Gentiles up there.”
- [B] Said R. Haninah, “They were stabbing wild asses in Jerusalem [to provide meat for the lions of the arena (Jastrow, p. 1114)], and pilgrims would wallow in the blood up to their knees.
- [C] “They came before sages, who did not object in any way, [thus treating the blood as clean, in line with the principle of the Mishnah].”
- [D] R. Simon in the name of R. Joshua b. Levi: “There was a case involving a mule belonging to Rabbi, which died. They declared the blood that flowed from it to be insusceptible on the count of carrion.
- [E] R. Eliezer asked R. Simon about the volume [that was declared insusceptible to uncleanness], and he paid no attention to him, so he asked R. Joshua b. Levi, and he told him, ‘Up to a quarter-fog of the blood is clean. More than a quarter-*log* of the blood is unclean.’”
- [F] R. Eliezer was humiliated that R. Simon had not answered him and supplied the tradition.
- [G] R. Bibi was in session and repeated this case. Said to him R. Isaac bar Bisnah, “How much [may there be and not render unclean]? Is it so that up to a quarter-*log*” of blood is clean, and more than that is unclean?”
- [H] Now the latter hit him.
- [I] Said to him R. Zeriqa, “Since he asked you a question, do you hit him?”
- [J] He said to him, “It was because I was not thinking straight that I hit him.”
- [K] For R. Hanan said, “‘And your life shall hang in doubt before you’ (Deut. 28:66)—this refers to someone who buys grain from year to year, [owning no property of his own]. ‘And you shall fear night and day’ (Deut. 28:66)—this refers to one who buys grain from week to week.’ ‘And you shall have no assurance of your life’ (Deut. 28:66)—

this refers to one who has to buy grain from the breadmaker, [buying a loaf at a time]. And I have to rely on the baker!”

[L] And what is the upshot of the matter?

[M] *R. Joshua b. Patorah gave testimony concerning the blood of a carcass that it is clean [M. Ed. 8:1A].*

[N] What is the meaning of “clean”? It is clean in the sense that it does not render what is dry, [and so insusceptible, wet and therefore] susceptible to uncleanness. But as to imparting uncleanness [to what is susceptible to uncleanness], it certainly does impart uncleanness.

[O] There we have learned: *The blood of a dead creeping thing is equivalent to its flesh. It imparts uncleanness, but [while a liquid] it does not impart susceptibility to uncleanness, and there is no other substance that bears these traits [M. Makh. 6:5].*

[P] And the volume at which it imparts uncleanness [is such that] its blood imparts uncleanness as does its flesh [in the same volume].

[Q] Said R. Yose, “There was a dispute in this matter between two Amoras. One said, ‘It is unclean.’ And the other said, ‘It is clean.’ The one who said, ‘It is unclean,’ accords with R. Judah, and the one who said, ‘It is clean,’ accords with R. Joshua b. Patorah.”

[R] Said to him R. Abedomah, one of those who went down [to Babylonia], “And that is well. For R. Judah was the authority for the patriarchate.”

[II:1 A] *All drops of spit [M. 8:1A]:*

[B] Did not R. Abbahu say in the name of R. Yose b Haninah, “They did not make a decree concerning the drops of spit in Jerusalem [regarding it as unclean]”? [Why should Meir maintain the view he does at M. 8:1B?]

[C] Lo, in this regard it has been stated: R. Abin in the name of R. Joshua b. Levi: “There was a camp of Gentiles up there.”

[III:1 A] *“On the ordinary days of the year [M. 8:1C], those who are unclean walk in the center of the road, and those who are clean walk on the side.*

[B] “And those who are clean go along without specifying their status, while those who are unclean say to them, ‘Keep away.’”

[C] “In the time of the festival, those who are clean walk in the center of the road, and those who are unclean walk at the side.

[D] “Those who are unclean go along without specifying their status, while those who are clean say to them, ‘Keep away.’”

[IV:1 A] *All utensils found in Jerusalem [M. 8:1E]:*

[B] Did not R. Abbahu say in the name of R. Yohanan, “They issued no decree [of presumed uncleanness] concerning utensils in Jerusalem”? [Hence why make the assumption expressed at M. 8:1F?]

[C] Since these utensils are found on the path down to the immersion-pool, that is treated as evidence [as to their status as uncleanness]. [The decree is effective only where there is no evidence at all.]

[V:1 A] [As to the pick (*merisah*) of M. 8:1J,] Abba Saul [51b] would call it a bird.

[B] He who cites the Mishnah-passage using the word *siporim* does so because it looks like a bird. He who cites the Mishnah-passage using the word *merisah* [for pick], does so because the pick makes the stones run [RWS] to the cemetery.”

[VI:1 A] *Chopper [M. 8:1P]:* It has been taught: If the knife is tied to it, lo, the knife is in the status of the chopper.

The Talmud provides brief points of clarification of the Mishnah’s rules. The secondary addition to unit I is because of the reference to an ass (I.B).

8:2

[A] **The veil [of the Temple] which contracted uncleanness from an offspring of uncleanness—**

[B] **they immerse it inside [the courtyard] and bring it in forthwith.**

[C] **And that which was made unclean by a father of uncleanness—**

[D] **they immerse it outside and spread it out on the rampart, for [to complete purification they must await] sunset.**

[E] **But if it was new, they spread it out on the roof of the portico,**

[F] **so that people may see how fine is its workmanship.**

[G] **Rabban Simeon b. Gamaliel says in the name of R. Simeon, son of the prefect, “The veil was a handbreadth thick, and was woven on a loom of seventy-two cords,**

[H] **“and each cord was made up of twenty-four threads.**

[I] **“It was forty cubits long, and twenty cubits broad.**

[J] **“It was made up of eighty-two times ten thousand threads.**

[K] **“And they make two a year.**

[L] **“And three hundred priests are needed to immerse it.”**

[I:1 A] [Explaining M. 8:2H, twenty-four threads, in line with Exod. 26:1, with special reference to “fine twined linen”: “And you shall make a screen for the door of the tent, of blue and purple and scarlet stuff and fine twined linen, embroidered with needlework” (Exod. 26:36), we note that the verse refers to blue, purple, and scarlet stuff, and linen, hence four threads. One mode of reaching the number of twenty-four strands is this:] If the cited text had read, “thread,” it would have meant one doubled to two; had it said twisted, it would have meant triplex; when it says twined, it means sixfold, and since there are four specified threads in the verse, lo, there must be twenty-four threads.

[B] It has been taught: They are thirty-two.

[C] If the cited text had read, “thread,” it would have meant one doubled to two; had it said, “twisted,” it would have meant four; when it says, “twined,” it means eight-fold, and since there are four specified threads in the verse, lo, there must be thirty-two threads.

[D] It has been taught: They are forty-eight.

[E] If the cited text had read, “thread,” it would have meant one doubled to two; it adds, “rope,” to indicate three; twisted, means six; twined, means twelve; and since there are four specified threads in the verse, lo, there must be forty-eight threads.

[II:1 A] One verse of Scripture states, “And you shall make a screen for the door of the tent, of blue and purple and scarlet stuff and fine twined linen, embroidered with needlework” (Exod. 26:36). [The stress is on “embroidered with needlework.”]

[B] And another verse of Scripture states, “Moreover you shall make the tabernacle with ten curtains of fine twined linen and blue and purple and scarlet stuff; with cherubim skillfully worked shall you make them” (Exod. 26:1). [The stress is on “skillfully worked.”]

[C] “Embroidered with needlework [means] there is one face [to the veil].

[D] “Skillfully worked” [means] there are two faces [to the veil].

[E] R. Judah and R. Nehemiah: One said, “‘Embroidered with needlework’ means that there is a lion on one side and a lion on the other. ‘Skillfully worked’ means that there is a lion on one side, and a blank surface on the other side.”

[F] The other said, “ ‘Embroidered with needlework’ means a lion on one side, and a blank surface on the other side. ‘Skillfully worked’ means that there is a lion on one side, and an eagle on the other side.”

[III:1 A] *It was made up of eighty-two times ten thousand threads [M. 8:2J]:*

[B] R. Isaac bar Bisna in the name of Samuel: “That is an exaggeration.”

[C] There we have learned: [*The ash-pile was in the middle of the altar.*] *Sometimes there was as much as three hundred kors of ashes on it [M. Tarn. 2:2].*

[D] R. Yose b. R. Bun in the name of Samuel: “That is an exaggeration.”

Unit I presents alternative theories on the fact presented at M. 8:2H, and unit II then provides exegeses of the pertinent proof-texts. Unit III comments on M. 8:2J.

8:3

[A] **Meat of Most Holy Things which was made unclean, whether by a father of uncleanness or by an offspring of uncleanness,**

[B] **whether inside or outside the Temple courtyard—**

[C] **the House of Shammai say, “All is burned inside,**

[D] **“except for that which was made unclean by a father of uncleanness, which is burned outside.”**

[E] **And the House of Hillel say, “All is burned outside, except for that which is made unclean by an offspring of uncleanness, which is burned inside.”**

[F] **R. Eliezer says, “That which is made unclean by a father of uncleanness, whether inside or outside, is to be burned outside.**

[G] **“That which is made unclean by an offspring of uncleanness, whether inside or outside, it is to be burned inside.”**

[H] **R. Aqiba says, “Where it is made unclean, there it is burned.”**

[I:1 A] Bar Qappara said, “A father of uncleanness is something decreed unclean by the authority of the Torah. An offspring of uncleanness is something decreed unclean by the authority of the scribes.”

[B] R. Yohanan said, “One way or the other, the authority is that of the Torah.”

[C] Now there is this question to be directed to the view of R. Yohanan on the basis of what the House of Shammai have said:

- [D] For *the House of Shammai* say, “*All is burned inside, except for that which was made unclean by a father of uncleanness, which is burned outside*” [M. 8:3C-D].
- [E] Accordingly [from Yohanan’s viewpoint], what point of differentiation is there between what is made unclean by a father of uncleanness which is to be burned outside, and what is affected by an offspring of uncleanness, which is burned [read:] inside?
- [F] Is not the uncleanness pertaining to each one not on the authority of the Torah?
- [G] And even from the viewpoint of the House of Hillel, is there not an equivalent difficulty [for the position of Yohanan]?
- [H] For *the House of Hillel* say, “*All is to be burned outside, except for that which is made unclean by an offspring of uncleanness, which is burned inside*” [M. 8:3E].
- [I] Accordingly [from Yohanan’s viewpoint], what point of differentiation is there between an offspring of uncleanness, burned inside, and a father of uncleanness, burned outside?
- [J] Is not the uncleanness pertaining to each one not on the authority of the Torah?
- [K] The rabbis in fact did not present this problem [to Yohanan], but rather to Bar Qappara, as follows:
- [L] Now there is this question to be directed to the view of Bar Qappara on the basis of what the House of Shammai have said:
- [M] For *the House of Shammai* say, “*All is burned inside, except for that which was made unclean by a father of uncleanness, which is burned outside*” [M. 8:3C-D].
- [N] What point of differentiation is there with regard to the father of uncleanness, whether it has been located outside or inside? Is the uncleanness imposed upon both this and that not on the authority of the Torah? [Why differentiate the item affected by the father of uncleanness inside from that outside?]
- [O] [The reason that the formulation of the Mishnah differentiates the point at which the uncleanness has occurred, on the basis of which there is a problem for Bar Qappara, is] only because of what R. Aqiba has said: “*Where it is made unclean, there it is burned*” [M. 8:3H], [That is why the point of differentiation is introduced into the formulations of the statement of the Houses. But the House of

Shammai in fact do not differentiate as to the offspring of uncleanness, for in all cases what has suffered uncleanness from that source, hence on the authority of scribes, is burned inside.]

- [P] And even on the basis of what the House of Hillel have said, there is no difficulty [for the position of Bar Qappara].
- [Q] For *the House of Hillel* say, “All is burned outside, except for that which is made unclean by an offspring of uncleanness, which is burned inside” [M. 8:3E].
- [R] What point of differentiation [from Bar Qappara’s viewpoint] can there be between the uncleanness imposed by an offspring of uncleanness, whether it is inside or outside of the court?
- [S] Is it not the case that the authority for the uncleanness of the offspring in both instances derives solely from the authority of the scribes?
- [T] It is because of that which R. Simeon has said, [indicating that what is made unclean outside of the courtyard never is brought into the courtyard, even if it is a minor sort of uncleanness,] “What a *mesora* has eaten or drunk is sent outside of the camps” [and not brought inside to be burned]. [Hence the explanation for the differentiation implicit in the Hillelite position in fact is simple.]

This exquisite construction allows the issue of the authority of the law to be spelled out against the grid of the distinctions important in the Mishnah. In fact, the points of differentiation presupposed in the present version really do not accommodate the objections to the positions of Yohanan and Bar Qappara, since we should have a differentiation affecting the father of uncleanness which has done its work outside, as against the father of uncleanness which has done its work inside, and so too with the offspring. Hence I should be inclined to think that the dispute between the two Amoras is based on a version of the Houses other than the one before us. A version more appropriate to the Talmud’s discussion is at T. M.S. 2:16.

8:4

- [A] **Limbs of the daily whole-offering are set down on the altar-ramp, on the lower half, on the east [Yerushalmi: west],**
- [B] **And those of the additional offerings are set down on the lower half of the ramp, at the west [Yerushalmi: east].**
- [C] **And those of the offerings for the New Months are set down on the rim of the altar, above.**

- [D] [Laws concerning] sheqel-dues and first fruits apply only in the time of the Temple.
- [E] But those concerning tithes of grain, tithes of cattle, and of firstlings apply both in the time of the Temple and not in the time of the Temple.
- [F] He who [nowadays] declares sheqels and first fruits to be holy—lo, this is deemed holy.
- [G] R. Simeon says, “He who says, ‘First fruits are holy’—they do not enter the status of Holy Things.”
- [I:1 A] What is the rim of the altar?
- [B] Between one horn and the next, a place for the passage of the priests and onward [T. Sheq. 3:19].
- [II:1 A] As to the additional offerings of the Sabbath and those of the New Month [M. 8:4B, C]: Which category takes precedence?
- [B] R. Jeremiah proposed to rule, “As to the additional offerings of the Sabbath and those of the New Month, the additional offerings of the New Month take precedence.”
- [C] Support for the position of R. Jeremiah is seen in the following:
- [D] As to the psalm for the Sabbath and the psalm for the New Month, the psalm for the New Month takes precedence [and is recited first].
- [E] Said R. Yose, “That case is different. For R. Hiyya said in the name of R. Yohanan: ‘It is so as to make the matter known and to inform people that it is the New Month [that the psalm for the New Month takes precedence].’”
- [F] What does one do?
- [G] He slaughters the additional offerings for the Sabbath and says in their connection the psalm for the New Month.
- [H] But in the present case, when there are both the additional offerings of the Sabbath and the additional offerings of the New Month, the additional offerings of the Sabbath take precedence, on the principle that *whatever is done more regularly than its fellow takes precedence over its fellow* [M. Zeb. 10:1A].
- [III:1 A] *Laws concerning sheqel-dues and first fruits, etc.* [M. 8:4D]:
- [B] Lo, [if one declares *sheqels* to be holy,] they are deemed holy [in line with M. 8:4F].

- [C] R. Simeon b. Judah in the name of R. Simeon: “Neither the one nor the other is regarded as holy” [as at M. 8:4G].
- [IV:1 A] It has been taught: **The requirement of a bird-offering for a proselyte applies only in the time of the Temple.**
- [B] **And one has to bring now a quarter-coin as the charge for his bird-offering.**
- [C] **Said R. Simeon, “[One does not have to set it apart now.] Rabban Yohanan b. Zakkai annulled that requirement, because of the possibility of disorder” [cf. M. 8:4D-G] [T. Sheq. 3:22].**
- [D] What is the meaning of the possibility of disorder?
- [E] It is in line with the following teaching: They do not declare [something] holy, pledge valuations, or declare [something] *herem*, nor do they raise up heave-offerings or tithes, at the present time.
- [F] And if one has declared something holy, pledged a valuation, declared something *herem*, or raised up [produce as a tithe or offering],
- [G] a garment [in question] is to be burned,
- [H] a beast [in question] is to be destroyed.
- [I] What does one do? He locks the gate before it, and it dies on its own.
- [J] And coins [so designated] are to be thrown into the Dead Sea.
- [K] If one violated the law and declared [something to be] holy—
- [L] on the basis of what R. Simeon said, **“Rabban Yohanan ben Zakkai annulled that requirement because of the possibility of disorder,”**
- [M] one may infer that if one has transgressed the law and declared [something to be] holy, he indeed has sanctified it.
- [N] R. Judah of Antodrayya asked before R. Yose, “Here you have said that the man has effected an act of consecration [M. 8:4F], and there [with reference to pledging *sheqels* for the upkeep of the house, once the Temple is no longer standing,] you have said that the man has not effected an act of consecration.”
- [O] He said to him, “There [with reference to the *sheqels*], they do not effect an act of consecration to begin with, because the religious duty is to make the offering from a newly raised up heave-offering of the chamber. [Sages have ordained that even after the fact *sheqels* set aside are not consecrated.]

- [P] “[Following the text as read by QH:] Here [with respect to other forms of consecration,] inclusive of the bird-offering of a proselyte, there is no consideration of differentiating what derives from the new [offerings from what derives from the old], so the case is quite different, and if, after the fact, one has declared something to be holy, it is regarded as consecrated.”
- [Q] And why not let the matter stand until the Temple is rebuilt [even in the case of the *sheqels*, discussed at O]?
- [R] Perhaps when the Temple is rebuilt as in the beginning, the heave-offering of the tithe will be taken up at its proper time, on the first of Nisan, [in which case what is left over from the earlier years will be in the category of superannuated].
- [S] In the present case [of the bird-offering of the proselyte], what is there to be said?
- [T] R. Hamnuna and R. Ada bar Ahva in the name of Rab: “The law is in accord with R. Simeon.”

After a brief clarification of the Mishnah, unit **I**, the Talmud raises a secondary question, as indicated, at unit **II**. Unit **III** provides an exegesis of the Mishnah, which lays the groundwork for the secondary discussion at unit **IV** on the status of the proselyte’s offering, or the money designated for it. **IV.O-S** present a number of textual and exegetical problems. I have taken the easier path of translating the text as defined and then explained by QH. But I cannot claim to present more than a rough approximation.

TRACTATE

YOMA

The Torah presents the offerings of the Day of Atonement as a narrative, mostly in Lev 16:1–34, concluding with a reference to the requirement of affliction of soul in atonement for sin. Tractate *Yoma* simply recapitulates the Written Torah. Of the eight chapters, the first seven provide a narrative, bearing interpolated materials, of the sacrificial rite of the Day of Atonement. The eighth does little more, taking up the rules of affliction of soul, that is, fasting. The key language is found at the Mishnah's last proposition:

He who says, "I shall sin and repent, sin and repent"—they give him no chance to do repentance. "I will sin and the Day of Atonement will atone,"—the Day of Atonement does not atone. For transgressions done between man and the Omnipresent, the Day of Atonement atones.

For transgressions between man and man, the Day of Atonement atones, only if the man will regain the good will of his friend.

This exegesis did R. Eleazar b. Azariah state: "*From all your sins shall you be clean before the Lord (Lev. 16:30)—for transgressions between man and the Omnipresent does the Day of Atonement atone. For transgressions between man and his fellow, the Day of Atonement atones, only if the man will regain the good will of his friend.*"

Said R. Aqiba, "Happy are you, O Israel. Before whom are you made clean, and who makes you clean? It is your Father who is in heaven, as it says, *And I will sprinkle clean water on you, and you will be clean (Ez. 36:25)*. And it says, *O Lord, the hope [Miqweh = immersion pool] of Israel (Jer. 17:13)—Just as the immersion pool cleans the unclean, so the Holy One, blessed be he, cleans Israel.*" (*m. Yoma* 8:9) {Jacob Neusner, *The Mishnah: A New Translation* (New Haven, Conn.: Yale University Press, 1988), 279}

It is only when we reach these concluding statements that we move beyond the Mishnah's reprise of the Torah's narrative and the Yerushalmi's amplification of that reprise. And what is at stake is the prophetic reading of the cult. Sages understood the prophets' critique not as repudiation of the cult but as refinement of it, and in the very context of their account of the blood-rite they therefore invoke the prophets' norms alongside the Torah's. Jeremiah's call to repentance, Isaiah's reflections on the role of death in the penitential process, God's infinite mercy, Ezekiel's insistence on purity of spirit—these flow into the exposition of the halakhah. Above all, sages underscore God's explicit promise to purify Israel, the promise set forth in Ezekiel's and Jeremiah's prophecies. So the halakhah

recasts the entire category of the Day of Atonement, taking the theme of atonement to require an account of repentance, on the one hand, and God's power to forgive and purify from sin, on the other. The main point is, the rites of atonement do not work *ex opere operato* ("from the work performed") but only conditionally. And it is the attitude and intention of the Israelite that sets that condition.

- I.** The conduct of the Temple rite on the Day of Atonement
 - A.** Preparing the high priest for the Day of Atonement
 - B.** Clearing the ashes from the altar
 - C.** The daily whole offering on the Day of Atonement
 - D.** The high priest's personal offering for the Day of Atonement
 - E.** The two goats and other offerings on the Day of Atonement
 - F.** The scape-goat and its rule
 - G.** The rite concludes with reading from the Torah and with prayer

- II.** The laws of the Day of Atonement
 - A.** Not eating, not drinking
 - B.** Repentance and atonement

YERUSHALMI YOMA

CHAPTER ONE

1:1

[A] [38a] Seven days before the Day of Atonement they set apart the high priest from his house to the councillors' chamber.

[B] And they [also] appoint another priest as his substitute,

[C] lest some cause of invalidation should affect him.

[D] R. Judah says, "Also: they appoint another woman as a substitute for his wife,

[E] "lest [his wife] die.

[F] "Since it says, 'And he shall make atonement for himself and for his house' (Lev. 16:6).

[G] "'His house' – this refers to his wife."

[H] They said to him, "If so, the matter is without limit."

[I:1 A] *R. Ba in the name of R. Yohanan derived [the proposition of M. 1:1A] from the following verse: "As has been done today, [the Lord has commanded to be done to make atonement for you]' (Lev. 8:34).*

[B] "This refers to the seven days of consecration [of the priest].

[C] "'The Lord has commanded' (Lev. 8:34).

[D] "This refers to the goat offered on the Day of Atonement."

[E] Or perhaps it refers only to the goat offered on the New Year?

[F] Said R. Ba, "'To make atonement for you' (Lev. 8:34) speaks of a form of atonement similar to this one. Just as the atonement effected for Aaron himself serves to expiate for the sins of the sons themselves, so in this instance the atonement effected for Aaron himself serves also to expiate for the sins of the sons themselves."

[G] *R. Jonah in the name of Bar Qappara derived [the proposition of M. 1:1A] from the following verse: "As has been done today, [the*

Lord has commanded to be done to make atonement for you]' (Lev. 8:34).

[H] "This refers to the seven days of consecration.

[I] "'The Lord has commanded' (Lev. 8:34).

[J] "This refers to the burning of the red cow [for the provision of ashes for the purification water].

[K] "Here it is stated, 'The Lord has commanded.'

[L] "And there [with reference to the red cow] it is stated, 'This is the statute of the law which the Lord has commanded: [Tell the people of Israel to bring you a red heifer without defect, in which there is no blemish, and upon which a yoke has never come]' (Num. 19:2). This refers to the goat offered on the Day of Atonement."

[M] Or perhaps it refers only to the goat offered on the New Year?

[N] *It accords with that which R. Ba said, "To make atonement for you' (Lev. 8:34) – this refers to a form of atonement similar to this one.*

[O] "Just as this form of atonement is valid only in connection with a high priest, so that form of atonement is valid only in connection with a high priest."

[I:2 A] What is the difference between the priest who burns the red cow and the priest who officiates on the Day of Atonement?

[B] The priest who officiates on the Day of Atonement – he is separated [merely] to preserve him in a state of cleanness, and his brethren, the other priests, may not touch him.

[C] The priest who burns the red cow – he is separated to preserve him in a state of sanctity, but his brethren, the priests, do lay hands on him,

[D] [T. continues:] except for those who help him,

[E] because he sprinkles [the water made with a mixture of the ashes] [T. Sot. 3:1].

[F] *In the view of R. Yohanan, who does not derive the rule [governing the high priest on the Day of Atonement] from the rule [governing the red cow], there is no problem [in explaining the stricter rule applicable to the priest who burns the red cow,] for it is a stricter rule that has been*

applied solely in the case of burning the red cow, a mode of differentiating that rite from all others.

- [G] *In the view of Bar Qappara, who does derive the law governing the high priest on the Day of Atonement from the law governing the burning of the red cow, why is it the case that here the other priests may lay hands on the high priest, while there they may not?*
- [H] Said R. Hiyya bar Ada, “It is so that his brethren, the other priests, will not make him unclean [in the case of the priest who burns the red cow] . [This is in line with M. Par. 3:1, he is sprinkled all seven days.]”
- [I] But is it not so that he is made unclean in any event on the count of his sprinkling the mixture of ashes and water?
- [J] [The reason, therefore, cannot involve considerations of uncleanness.] *Said R. Bun, “Bar Qappara too maintains that it is a stricter rule that has been applied solely in the case of burning the red cow, a mode of differentiating that rite from all others.”*
- [K] *R. Simeon b. Laqish raised the following question before R. Yohanan: “[Since you have derived the rule for the Day of Atonement from that governing the rite of consecration of the high priest, do you also maintain that] just as the ram brought as a consecration offering is indispensable to the rite, so [preparing the high priest through setting him apart to offer] the goat brought for the Day of Atonement [for the high priest himself] likewise is indispensable to the rite? [If the high priest is not set apart, may he not perform the rite, even after the fact? This seems unlikely, in light of M. 1:1B, since the substitute has not been set apart for seven days. Hence while that is the correct way, it is not indispensable.]”*
- [L] *And did [R. Yohanan] accept this counter-argument from him [without replying to it at all]?*
- [M] *[Not very likely, for we do have a reply to this argument] from what R. Mana said, “I should be surprised [that R. Simeon b. Laqish could make such an objection to the view of R. Yohanan],” and can you then imagine that R. Yohanan accepted this argument from him?*
- [N] *For they objected, “Do we not find a case in which a detail of the law that is indispensable may be derived from an analogy to a detail of a law that is not indispensable, or in which a detail of the law that is not indispensable may be derived from an analogy to a detail of a law that is indispensable?”*

[O] “[Indeed we do!] ‘And the priest shall bring it to the altar and wring off its head, and burn it on the altar; and its blood shall be drained on the side of the altar’ (Lev. 1:15).

[P] “Just as the wringing of the head is at the head of the altar [on the north side], so the burning is at the head of the altar.

[Q] “Yet wringing off the head is indispensable to the rite, while burning up the carcass is not indispensable to the rite.

[R] “Reference to a continual offering is made with regard to griddle cakes, and reference to a continual offering is made in regard to the show bread.

[S] “Just as the reference in the former case indicates the requirement that there be twelve cakes, so the reference in the latter means there must be twelve.

[T] “[Nonetheless], while the show bread is indispensable, the griddle cakes are not indispensable.

[U] “[Along these same lines], there is a reference to ‘taking’ with regard to the Passover-offering made in Egypt, in which one must take a clump of hyssop, and there is reference [38b] to ‘taking’ with regard to the palm branch for the Festival of Tabernacles. Just as ‘taking’ in the former instance means that one must bind up the material, so ‘taking’ in the latter instance means that one must bind up the material.

[V] “[Nonetheless], the binding of the materials in the case of the palm branch for Tabernacles is essential, while the binding of the materials in the case of the Passover celebration in Egypt was not essential.

[W] “Accordingly we have found cases in which a detail of a law that is indispensable is derived from a detail of the law that is not indispensable, and a detail of the law that is not indispensable is derived from a detail of the law that is indispensable.”

[X] *R. Simeon b. Laqish raises the following question [with regard to the proposed analogy of the seven days of consecration of the high priest]: And whence does R. Simeon b. Laqish derive the proposition [of M. 1:1A]?*

[Y] *It is from that which R. Ishmael taught, “But thus shall Aaron come into the holy place’ (Lev. 16:3). This accords with what is stated in the context [of the consecration of the high priest]. Just as in the context of the consecration of Aaron as high priest, they separate him for seven days, and he performs an act of service for seven days, and they instruct him for seven days [on what he is to do on the day of consecration] so in the case of this one [the high priest to officiate on the Day of Atonement], they separate him for seven days, and he performs an act of service for seven days, and they instruct him for seven days [on what he is to do on the Day of Atonement].”*

[Z] But is the matter of setting the high priest apart for seven days actually stated in regard to the preparation for the rite of consecration?

[AA] But since reference to the deaths of the two sons of Aaron is stated in this context (Lev. 16:1), while they died only in connection with the rite of consecration,

[BB] it follows that matters are as stated in that context.

[CC] *Accordingly, in the end R. Simeon b. Laqish does not derive the law from the cited verse of Scripture, but he acts as does someone who has heard a teaching [he himself does not accept] and raises questions about it.*

[DD] *Said R. Yosé b. R. Bun, “The scriptural basis for the position of R. Simeon b. Laqish is as follows: ‘The glory of the Lord settled on Mount Sinai, [and the cloud covered it six days; and on the seventh day he called to Moses out of the midst of the cloud]’ (Exod. 24:16).*

[EE] “Just as Moses entered before the innermost chamber only after he had been sanctified by the cloud for seven days, so Aaron did not enter the inner sanctum until he had been anointed by much oil for seven days.”

[FF] *In the view of R. Yohanan, why is the death of the sons of Aaron called to mind in this context, for they died only in the setting of the rite of consecration?*

[GG] Said R. Hiyya bar Ba, “The sons of Aaron died on the first day of Nisan. And why is their death called to mind in connection with the Day of Atonement?”

[HH] “It is to indicate to you that just as the Day of Atonement effects expiation for Israel, so the death of the righteous effects atonement for Israel.”

[II] Said R. Ba bar Binah, “Why did the Scripture place the story of the death of Miriam side by side with the story of the burning of the red cow?”

[JJ] “It is to teach you that just as the dirt of the red cow [mixed with water] effects atonement for Israel, so the death of the righteous effects atonement for Israel.”

[KK] Said R. Yudan b. Shalom, “Why did the Scripture set the story of the death of Aaron side by side with the story of the breaking of the tablets?”

[LL] “It is to teach you that the death of the righteous is as grievous before the Holy One, blessed be he, as the breaking of the tablets.”

[MM]”The people of Israel journeyed from Beeroth Bene Jaakan to Moserah. There Aaron died” (Deut. 10:6).

[NN] Now did Aaron die in Moserah? And was it not at Mount Hor that he died?

[OO] *That is in line with the following verse of Scripture:* “And Aaron, the priest, went up Mount Hor at the command of the Lord, and died there” (Num. 33:38).

[PP] But once Aaron died, the clouds of glory departed from Israel, and the Canaanites sought to make trouble for Israel.

[QQ] This is in line with the following verse of Scripture: “When the Canaanite, the king of

Arad, who dwelt in the Negeb, heard that Israel was coming by the way of Atharim, he fought against Israel” (Num. 21:1).

[RR] What is the meaning of “by the way of Atharim”?

[SS] He heard that Aaron, their great wayfarer, had died, for he would show the way [*tar*] for them.

[TT] “Come and let us fight them.”

[UU] The Israelites wanted to go back to Egypt and journeyed to the rear for eight journeys, but the tribe of Levi ran after them and slew eight families.

[VV] They slew four of them.

[WW] That is in line with that which is written:

[XX] “Of the Amramites, the Izharites, the Hebronites, and the Uzzielites” (1 Chron. 26:23).

[YY] When did they go back? In the time of David.

[ZZ] That is in line with that which is written, “In his days the righteous one flourishes” (Ps. 72:7).

[AAA] They said, “Who caused all this bloodshed for us?”

[BBB] They said, “It was because we did not perform the proper burial rights for that righteous man.”

[CCC] So they went and arranged a eulogy for him and performed the proper obsequies for that righteous man.

[DDD] And the Omnipresent treated the matter in their regard as if he had died there and been buried there,

[EEE] for they performed the proper obsequies for that righteous man.

- [I:3 A] Said R. Yosé bar Haninah, “The tenth *ephah* of fine flour and the priestly britches are indispensable [in the rite of consecration].
- [B] “*What is the scriptural proof?*”
- [C] “With reference both to this and to that, Scripture uses the language of ‘doing,’ [at Exod. 29:1: ‘And this is the thing that you shall do to them to hallow them to minister’].”
- [D] Said R. Haninah, “‘Thus you shall do to Aaron and to his sons, according to all that I have commanded you; through seven days shall you ordain them’ (Exod. 29:35): Whatever is stated in the passage [on the consecration of the priests] is indispensable to the rite.”
- [E] *This accords with what R. Samuel bar Nahman said in the name of R. Jonathan*, “It does not say ‘this,’ but ‘And this is the thing that thou shalt do unto them to hallow them’ (Exod. 29:1). This indicates that everything, including even the proclamation of the relevant biblical passage, is indispensable.”
- [F] Said R. Yohanan, “Whatever is indispensable in future generations [for the consecration of the high priest] is indispensable on this [first occasion of consecrating a high priest], and whatever is not indispensable in future generations is not indispensable on this one either.”
- [G] *What are the instances you have in mind?*
- [H] Laying on of hands and pouring out the residue of the blood at the base of the altar [done on the occasion of the original consecration of the priesthood], which are not indispensable in time to come, [in the view of Jonathan] are essential [and in the view of Yohanan are not indispensable].
- [I] Said R. Haninah, “The high priest’s front plate and headdress belonging to Aaron take precedence over the putting the girdles on the sons [of Aaron].”
- [J] Judah b. Rabbi says, “‘You shall gird them with girdles and bind caps on them; and the priesthood shall be theirs by a perpetual statute. Thus you shall ordain Aaron and his sons’ (Exod. 29:9). [This has Aaron dressed before the sons.]”
- [K] *Said R. Idi*, “*That which you have said* applies to defining the better way of doing things. But as to the religious requirement

of the matter: ‘And Moses brought Aaron and his sons, and washed them with water. And he put on him the coat, and girded him with the girdle, and clothed him with the robe, and put the ephod upon him, and girded him with the skillfully woven band of the ephod, binding it to him therewith. And he placed the breast-piece on him, and in the breast-piece he put the Urim and the Thummim. And he set the turban upon his head, and on the turban, in front, he set the golden plate, the holy crown, as the Lord commanded Moses. Then Moses took the anointing oil, and anointed the tabernacle and all that was in it, and consecrated them. And he sprinkled some of it on the altar seven times, and anointed the altar and all its utensils, and the layer and its base, to consecrate them. And he poured some of the anointing oil on Aaron’s head, and anointed him, to consecrate him. And Moses brought Aaron’s sons, and clothed them with coats, and girded them with girdles, and bound caps on them, as the Lord commanded Moses’”(Lev. 8:6-13).

[L] Said R. Eleazar b. R. Yosé, “It is clear to us that it was in a white garment that Moses served as high priest.”

[M] Said R. Tanhum bar Yudan, “*And so it has been taught*: All seven days of consecration Moses served as high priest, but on his account the Presence of God did not come to rest. When Aaron had put on the high priest’s garments and taken up the service, on his account the Presence of God came to rest.

[N] “*What is the scriptural basis for that statement?*”

[O] “[And an ox and a ram for peace offerings, to sacrifice before the Lord, and a cereal-offering mixed with oil;] for today the Lord will appear to you’ (Lev. 9:4).”

- [I:4 A] *R. Yosé bar Haninah asked*, “As to the tenth *ephah* of fine flour [offered by the high priest on the day of his consecration], how is it offered? Is it offered in halves [part in the morning, part in the evening], or is it offered entirely [at one time]?”
- [B] “On the basis of that which is written, ‘And Moses and Aaron went into the tent of meeting’ (Lev. 9:23) –
- [C] “this teaches that Moses went with him only to teach him the rite of burning the incense.
- [D] “That indicates that the meal-offerings were offered by halves.

[E] “For if you maintain that the thing was offered all at once, *then it should be indicated that* Moses went with him to teach him both the rite of burning the incense and the rite of offering the tenth *ephah* of fine flour.”

[F] [Objecting to this view,] said R. Tanhum bar Yudan, “And is it not with the rites performed within *that we are dealing* [at Lev. 9:23]? He had already taught him the way to carry out the rites done outside [inclusive of the one involving the meal- offering of consecration].”

[I:5 A] As to the rites of consecration, what is their status? Is this an offering deriving from an individual [the priest himself]? Or is it an offering deriving from communal funds?

[B] On the basis of that which is written, “And Aaron and his sons laid their hands on the head of the ram” (Lev. 8:18),

[C] it follows that it is regarded as an offering deriving from individuals.

[D] *And has it not been taught:* “It is an offering deriving from public funds”?

[E] Said R. Idi, “The community voluntarily donates the money and hands it over to the high priest.”

[I:6 A] As to the rites of consecration, what is the governing analogy [to determine the definition of a day]? Is it the analogy of other offerings [in which the day starts at dawn], or the analogy of the works of Creation [in which the day starts at sunset]?

[B] If you maintain that the correct analogy is to other offerings, then the night follows the day [so that the first offering comes in the morning].

[C] And if you maintain that the governing analogy is to the works of Creation, then the day follows the night.

[D] If you maintain that the governing analogy is to the other offerings, then the offering by night is the final one. There is no offering by day thereafter.

[E] And if you maintain that the governing analogy is to the works of Creation, then the first day [of the rite] is not followed by a night. [The first day concludes at sunset, and the second day then begins.]

[I:7 A] *There we have learned:* **These draw out the old loaves, and the others lay down the new ones. And a handbreadth of one new row lies up against a handbreadth of another, as it is said, “Before me**

perpetually” (Exod. 25:30). [“And you shall set the bread of the Presence on the table before me always” (Exod. 25:30)].

[B] [*The anonymous rule of*] *the cited passage of the Mishnah accords with R. Meir. [He does not want the table left vacant for any interval at all.]*

[C] From R. Yohanan [we have heard that] R. Meir concedes that if they removed the old bread at the dawn offering and arranged the new bread at twilight, this too fulfills the requirement that the bread be on the table perpetually.

[D] R. Yosé says, “Even though these take away the old loaves and then the others put down the new loaves, this too was deemed to carry out the requirement that the bread be set forth perpetually” [M. Men. 11:7N].

[E] [Said R. Yohanan as to arranging the new bread by day, prior to the night that follows, which Yosé requires,] R. Yosé [derived that rule] from the dwelling of Aaron and his sons in the tent of meeting during the seven days of consecration.

[F] “Just as you maintain in the case of Aaron’s and his sons’ dwelling in the tent of meeting, that it is necessary to assign a day to a night, and a night to a day [that is, one must dwell in the tent of meeting all night, without interruption, to the following day, and vice versa],

[G] “so too here, it is necessary to assign a day to the following night, and a night to the following day [so that if the bread is taken off the table in the morning, the fresh bread must be put on before nightfall on that same day, without interruption].”

[H] R. Hiyya bar Yosé said, “If one has assigned a day to the night, that suffices. [That is, it is quite true that the new bread has to be placed on the table by twilight of the day on which the old bread has been removed. But we need not say that one assigns a night to a day. The former is sufficient to meet the requirement of having the bread perpetually on the table. If it is on the table at the outset of the night, the law has been fulfilled.]”

[I] How does R. Hiyya bar Joseph deal with this matter of the dwelling of Aaron and his sons in the tent of meeting?

[J] Now if in the latter case, in which there is clear reference to a perpetual requirement, you have held that if one has assigned the day to the preceding night [and treated that as one unit], that suffices,

[K] with regard to the requirement that Aaron and his sons dwell in the tent of meeting for seven days, in which instance there is no reference at all to a perpetual requirement, is it not an argument a fortiori [that it will suffice if one assigns a day to the preceding night]?

[L] *You turn out to rule that in the view of R. Yohanan [E-G] [as will be explained] there were seven occasions on which Moses put up the tent of meeting, and six on which he took it down.*

[M] *In the view of R. Hiyya bar Joseph there were fourteen occasions on which he put it up [in the week of consecration] and thirteen on which he took it down.*

[N] *It has been taught:* For all seven days of [38c] ordination [“And you shall not go out from the door of the tent of meeting for seven days, until the days of your ordination are completed, for it will take seven days to ordain you; as has been done today, the Lord has commanded to be done to make atonement for you; at the door of the tent of meeting you shall remain day and night for seven days” (Lev. 8:33-35)] Moses would anoint the tabernacle and set it up [that is, he would sanctify the parts of the tent round about, then would set up the tent], and he would take it down, after having carried out the acts of priestly service of the day.

[O] On the eighth day he set it up but did not take it down. [Yohanan maintains that the sons of Aaron had to sit out in the tent each night, without interruption. Every day Moses would set up the tent and take it down. Accordingly, there were seven occasions on which he put up the tent, and six on which he took it down, since on the final day he did not take it down. Hiyya bar Joseph, by contrast, has a different view, Dwelling in the tent part of the night in his view is sufficient. After Aaron and his sons had spent the beginning of the night at the tent, they departed. He reads the cited verses to indicate that they had to stay there all day long, but only part of the night. Moses would, therefore, take the tent down by night, after they had been there part of the night, and he set it up again so they could come back later and spend the rest of the night there. In the morning he took it down and set it up again for the liturgy of the day. Accordingly, he took it down fourteen times, twice a night

for seven nights, and put it up thirteen times, since the last time he put it up he left it standing.]

[P] R. Yosé b. R. Judah said, “Also on the eighth day he set it up, anointed it, and [after performing the rites], took it down.” [Yosé maintains that the anointing took place both before and after the tent was set up.]

[Q] Said R. Zeira, “That is to say, [with reference to Hiyya bar Joseph] that setting up the tent by night is invalid so far as the liturgical service for the following day.

[R] *You turn out to rule that, in the opinion of R. Yohanan, within the theory of R. Yosé b. R. Judah, there were fourteen occasions on which the tent was set up [once by day, once by night] and thirteen on which it was taken down.*

[S] *In the view of R. Hiyya bar Joseph, within the theory of R. Yosé b. R. Judah, there were twenty-one occasions on which the tent was set up, and twenty on which it was taken down.*

[T] How do we know that [on the occasion of the ordination of Aaron and his tribe] the tent was taken down?

[U] Said R. Zeira: ““On the day when Moses had finished setting up the tabernacle, and had anointed and consecrated it with all its furnishings, and had anointed and consecrated the altar with all its utensils’ (Num. 7:1). This refers to the day on which his acts of setting up the tent had come to an end.”

[V] R. Simeon b. Laqish said, ““As has been done today, the Lord has commanded to be done to make atonement for you””(Lev. 8:34)

[W] *And has not this [proof-text] been adduced [in evidence in the matter of the proof for setting aside the high priest provided] by R. Yohanan and R. Simeon b. Laqish?*

[X] As to the eighth day [of consecration of Aaron and his sons]: *There is a Tannaite authority who teaches that the tent was anointed, and*

there is a Tannaite authority who teaches that it was not anointed.

[Y] *There is a Tannaite authority who teaches that it was dismantled, and there is a Tannaite authority who teaches that it was not dismantled.*

[Z] *Said R. Hanin, "It is self-evident to us that the one who maintains that it was anointed also holds that it was dismantled, and the one who maintains that it was not anointed also holds that it was not dismantled."*

[AA] *The one who maintains that it was anointed has no problems, for it is said, "[And he sprinkled some of it on the altar seven times, and anointed the altar and all its utensils, and the layer and its base, to] consecrate them" (Lev. 8:11).*

[BB] *But as to him who maintains that it was not anointed, how does he interpret the language "consecrated them"?*

[CC] *[He maintains the meaning of Scripture is this:] "I credit it to you as if it were lacking in anointing, and you then anointed it."*

[DD] *He who maintains that it was taken down has no difficulty, for it is written, "Seven days you shall make atonement for the altar, and consecrate it, and the altar shall be most holy; whatever touches the altar shall become holy" (Exod. 29:37).*

[EE] *But as to the view of him who maintains that it was not taken down, how does he interpret the verse: "Seven days you shall make atonement for the altar, and consecrate it, and the altar shall be most holy; whatever touches the altar shall become holy" (Exod. 29:37)?*

[FF] *It refers to a mode of atonement through blood [not through anointing].*

[GG] *This is in line with that which has been taught:* “On this one [the priest who officiates on the Day of Atonement] and on that one [the priest who burns the red cow] they sprinkle purification water from all the flasks of purification water that were there, so that the water may take the place of blood [of the days of ordination of Aaron and his sons], the words,” the words of R. Judah.

[HH] R. Yosé says, “It is in place of blood and of the anointing oil.” [Blood and oil serve for a single purpose. Therefore there is atonement through blood in place of the anointing oil.]

[I:8 A] [Referring to M. 1:1A, separating the high priest from his household,] **Ben Beterah explained, “It is done lest he have sexual relations with his wife when she is menstruating, and then he would be put away [unclean] for seven days” [T. Yoma 1:1B].**

[B] And are Israelites suspect on the count of having sexual relations with menstruating women?

[C] *It is in line with that which we have learned there:* If one was having sexual relations with a woman in a state of menstrual cleanness, but she said, “I have become unclean,” even if he separated forthwith, he is liable, for the going out is just as much a pleasure for him as the going in [M. Shebu. 2:4B-D]. [Here too we take account of the possibility that the high priest will have sexual relations with his wife assuming she is not in her period and that her period may commence during the act itself.]

[D] *You turn out to rule, what R. Yohanan provided [as the reason for separating the high priest from his household – which is the analogy to the seven days of ordination of Aaron – leaves] need for the reason also of Ben Beterah, and what Ben Beterah provided [as the reason for separating the high priest from his household – which has to do with the prohibition of sexual relations – leaves] need for the reason also of R. Yohanan.*

[E] *If we had the reason provided by R. Yohanan, and we had nothing stated by Ben Beterah, we should have said that he*

may have sexual relations and then go and sleep in the chamber of the councillors [M. 1:1A].

[F] *Accordingly, there is need for the consideration introduced by Ben Beterah.*

[G] *If we had the reason provided by Ben Beterah, and we had nothing stated by R. Yohanan, we should have said that he desists from sexual relations but may spend the night in his own house.*

[H] *Accordingly, there is need for the consideration introduced by R. Yohanan as well as need for the consideration introduced by Ben Beterah.*

[I:9 A] *It has been taught: **All chambers in the Temple were exempt from the requirement of having a mezuzah on their doorposts, except for the councillors' chamber,***

[B] ***for it was the residence of the high priest seven days a year [T. Yoma 1:2A-B].***

[C] [Holding that a dwelling one must use against his will is not subject to the requirement of a *mezuzah*,] R. Judah [conceded in this case that it was required] because it was a decree that [sages] decreed in connection with that room.

[D] “And you shall write them on the doorposts of your house and on your gates” (Deut. 6:9):

[E] *There is a Tannaite authority who teaches, “This serves to exclude the gates of the Temple Mount and the courts.”*

[F] *There is a Tannaite authority who teaches, “This serves to encompass them.”*

[G] *He who maintains that it is to exclude them is R. Judah.*

[H] *He who says that it is to encompass them is rabbis [vis-a-vis Judah].*

[I] R. Judah's view is a good one. But what is the reasoning behind that of rabbis?

[J] “É and on your gatesÉ “: Now are [the gates of the Temple those of] a dwelling house? [Surely not. Rabbi's view therefore appears to be without reason.]

[K] R. Yosé b. R. Bun objected, “And has it not been taught: ‘On your gates serves to encompass the gates of the city.’ And are these the gates of a dwelling? [Surely not, yet all agree that they require a mezuzah.]

[L] “Is this not because through them people enter en route to their dwellings, and here too people enter en route to their dwellings?”

[M] The mule-driver’s gate is liable for a mezuzah.

[N] A window which is four by four, in which slaves sit and fan their masters, is liable to a mezuzah.

[O] Small rooms, on top of one another, opening from the ground floor to an upper room are liable to a mezuzah, to be provided by the one who has the right of use of the lower threshold.

[P] *R. Yosé was distressed that he did not see the small room of R. Ilai, which was constructed in accord with the view of rabbis.*

[II:1 A] The councillors’ chamber [M. 1:1A]:

[B] Abba Saul would call it “the chamber of oil” [T. Yoma 1:3E].

[C] In the beginning they used to call it the chamber of oil, and now they call it the councillors’ chamber.

[D] *“The chamber of oil” is a nickname.*

[E] During the time of the First Temple, in which a man, his son, and grandson would serve as high priest, a total of eighteen high priests served.

[F] But in the Second Temple, since they bought the position for money,

[G] (and there are those who say that they would kill each other by witchcraft),

[H] eighty high priests served in that office.

[I] And there are those who say that it was eighty-one, there are those who say that it was eighty-two, there are those who say that it was eighty-three, there are those who say that it was eighty-four, and there are those who say that it was eighty-five.

[J] And among them Simeon the Righteous served for forty years.

[K] Said R. Aha, “It is written, ‘The fear of the Lord prolongs life’ (Prov. 10:27) – this refers to the high priests who served in the First Temple.

[L] “‘But the years of the wicked will be short’ (Prov. 10:27) – this refers to the high priests who served in the Second Temple.”

[M] There is the case of someone who sent with his son two silver measures full of silver coins and accompanying strikes of silver, and another who went and sent with his son two golden measures, full of gold pieces, accompanying strikes of gold [as a bribe].

[N] They said, “The foal has upset the candlestick.”

[II:2 A] We have found that the First Temple was destroyed only because they worshiped idols, practiced fornication, and committed murder, and so in the case of the Second Temple.

[B] [In T.’s version:] Said R. Yohanan b. Torta, “On what account was Shiloh destroyed? Because of the degradation of the festivals and the disgraceful disposition of the Holy Things which were there.

[C] “As to Jerusalem’s first building, on what account was it destroyed? Because of idolatry, licentiousness, and bloodshed which was in it.

[D] “But [as to] the latter [building] we know that they devoted themselves to Torah and were meticulous about tithes.

[E] “On what account did they go into exile? Because they loved money and hated one another without cause.

[F] “This teaches you that hatred of one for another is evil before the Omnipresent, and Scripture deems it equivalent to idolatry, licentiousness, and bloodshed” [T. Men. 13:22].

[G] *R. Zeirah, R. Jacob bar Aha, and R. Abonah were in session. They said, “[Hatred without cause] is worse, for the First Temple was rebuilt, while the Second Temple was not rebuilt.”*

[H] Said R. Zeira, “The people in the time of the First Temple repented, while those in the time of the Second Temple did not repent.”

[I] Said R. Eleazar, “In the case of the people in the time of the First Temple, their sin was revealed [for all to see], but the fullness of time

[of their suffering] also was revealed. For those in the time of the Second Temple their sin was not revealed, and the fullness of time [of their suffering] also was not revealed.”

[J] They asked R. Eliezer, “Are the latter generations more suitable people than the former ones?”

[K] He said to them, “Your witness as to the condition of the chosen house will prove the matter. Our fathers have removed the roof: ‘He has taken away the covering of Judah’ (Isa. 22:8).

[L] “We for our part we smashed the walls. ‘Remember, O Lord, against the Edomites the day of Jerusalem, how they said, ‘Raze it, raze it! Down to its foundations!’ (Ps. 137:7).”

[M] They said, “Any generation in the time of which the Temple is not rebuilt – Scripture regards it as if that generation itself had destroyed it.”

[III:1 A] They appoint another priest as his substitute lest some cause of invalidation [of the high priest who is to officiate on the Day of Atonement] should affect him [M. 1:1B-C].

[B] Now do they designate another priest along with him?

[C] *Said R. Haggai from there [Babylonia] that they do not designate another priest alongside, he may kill him.*

[D] “[This is the offering which Aaron and his sons shall offer to the Lord on the day when he is anointed: a tenth of an *ephah* of fine flour as a regular cereal offering.... The priest from among Aaron’s sons who is anointed to succeed] him [shall offer it to the Lord]” (Lev. 6:19-22) – one do they anoint, and they do not anoint two [so the substitute is not anointed at all].

[E] Said R. Yohanan, “On account of hatred did this one pass from office, and that one served in his place.

[F] “As to the former, all of the sanctity of the high priesthood pertains to him. The second [substitute] in no way is valid either to serve as high priest or to serve as an ordinary priest.”

[G] Said R. Yohanan, “If he [the first] passed from office and [nonetheless] performed an act of sacrificial service [on the Day of Atonement], his act of sacrificial service is valid.”

[H] [38d] *The act of sacrificial service of which one [is under discussion by Yohanan]?*

[I] *Let us infer the answer to that question from the following:*

[J] **There is the case of Ben Elem of Sepphoris. The high priest was affected by a seminal emission on the Day of Atonement [which rendered him invalid for service], and Ben Elem entered and served in his place.**

[K] **He came out and said to the king, “The bullock and ram which are offered this day – of whose animals are they offered, mine or the high priest’s?”**

[L] **Now the king knew full well what he was really asking [which was to stay in office and provide the animals himself]. He said to him, “It is not enough for you that you served for one moment before Him who spoke and brought the world into being**

[M] **Then Ben Elem understood that he had been separated from the high priesthood [T. Yoma 1:4].**

[N] **There is the case of Simeon b. Qimhit, who went out to talk with the king on the eve of the Day of Atonement at twilight, and a spur of spit [from the king’s mouth] splattered on [the priest’s] garment and so rendered him unclean. Judah his brother went in and served in his stead. Their mother [Qimhit] had the pleasure of seeing two sons in the office of the high priest on the same day.**

[O] **Seven sons did Qimhit have, and all of them served in the high priesthood. Sages sent and said to Qimhit, “Now what kinds of good deeds [did you do to merit such glory]?”**

[P] **She replied to them, “May [a terrible thing] happen to me, if [even] the beams of my house ever once gazed upon the hair of my head or the thread of my chemise in my entire life [because of modesty].”**

[Q] *They said, “All meal [QMH] is fine, but the meal of Qimhit is the finest of fine flour.”*

[R] **They recited in her regard the following verse: “The princess is decked in her chamber with gold-woven robes” (Ps. 45:13) [T. Yoma 1:5].**

[III:2 A] **Is it possible that the priest anointed for war brings the tenth of an *ephah* from his own property?**

- [B] Scripture says, “[The priest who is appointed from among Aaron’s] sons, who is anointed to succeed him, [shall offer it to the Lord]” (Lev. 6:22).
- [C] The one who has a son ready to succeed him shall bring the tenth of an *ephah*, and the one who has no son ready to succeed him does not bring a tenth of an *ephah*.
- [D] And how do we know in regard to the anointed for war that his son is not standing ready to succeed him?
- [E] Scripture says, “The son who is priest in his place shall wear them seven days when he comes into the tent of meeting to minister in the holy place” (Exod. 29:30) – as to the one who comes into the tent of meeting for service in the holy place, his son is ready to succeed him, and, as to the one who does not come into the tent of meeting for service in the sanctuary, his son does not succeed him.
- [F] And how do we know that [a priest anointed for war] may be designated for service as high priest?
- [G] Scripture states, “And Phineas son of Eleazar was the ruler over them in time past; the Lord was with him” (1 Chron. 9:20) [and he served as both anointed for war and high priest].
- [H] (*When R. Yosé wanted to speak critically to R. Eleazar b. R. Yosé, he would say to him, “He used to be with him.’ In the time of Zimri he opposed [evil], and in the time of the concubine of Gibeah, he did not oppose [evil].”*)
- [I] And how do you know that [the anointed for war] would receive inquiries in eight garments?
- [J] R. Ba bar Hiyya in the name of R. Yohanan: “‘The holy garments of Aaron shall be for his sons after him, to be anointed in them and ordained in them’ (Exod. 29:29). What does Scripture mean in saying ‘after him’? They shall follow him in order of high position.”
- [K] And how do we know that [the anointed for war] serves while wearing the eight garments [e.g., before the battle]?
- [L] R. Jeremiah, R. Immi in the name of R. Yohanan: “‘The holy garments of Aaron shall be for his sons after him.’ Why does Scripture say ‘after him’? In succession to sanctification which is after him.”

- [M] Said to him R. Jonah, "I was with you. He did not say 'serve,' but 'receive inquiries.'"
- [N] And in what garments did he receive inquiries?
- [O] *R. Hoshaiah introduced the Mishnah tradition of Bar Qappara of the South and taught the following Tannaite tradition: "And sages say, 'He does not serve in the four garments of an ordinary priest or in the eight of a high priest.'"*
- [P] Said R. Ba, "In logic the law should have been that he performs his act of service wearing four garments. And why does he not serve [in four]? So that people should not say, 'You know, we saw an ordinary priest who sometimes served in four garments, and sometimes in the eight garments of the high priest!'"
- [Q] Said R. Jonah, "But does he not carry out the act of service at the inner altar [where people will not see him anyhow]?"
- [R] But does he not receive inquiries outside [where people will see him]?
- [S] So people will [not] err by assuming that what he wore outside he also wore inside.
- [T] For did not R. Tarfon, the rabbi of all Israel, err in mistaking the shofar-sounding of the community for the shofar-sounding on the occasion of an offering?
- [U] *For it is taught: "And the sons of Aaron, the priests, shall blow the trumpets" (Num. 10:8) –*
- [V] "when they are unblemished, and not if they wear blemishes," the words of R. Aqiba.
- [W] Said to him R. Tarfon, "May I bury my sons, if I personally did not see Simeon, my mother's brother, who was lame in one of his legs, and yet he was standing in the courtyard with his trumpet in his hand, and he was sounding it!"
- [X] Said to him R. Aqiba, "Now is it possible that you saw him only at the time of the communal sounding of the trumpet?"
- [Y] "But I was stating the rule as it applies in the time of an offering [at which point the priests who blow the trumpet must be unblemished]."

[Z] Said to him R. Tarfon, “May I bury my sons if you have (not) erred, either to the right or to the left. I was the one who heard the tradition but could not explain it. But you explained the tradition and made it match the tradition [of what was actually done]. Lo, whoever leaves you leaves his own life.”

[AA] “And the priest who is anointed [and consecrated as priest in his father’s place] shall make atonement [wearing the holy linen garments]” (Lev. 16:32).

[BB] Why does Scripture say so?

[CC] For the entire pericope is stated with regard to Aaron. I know only that the Scripture thus speaks of a priest anointed with anointing oil. How do I know to include [under this precept] any other priest [who also carries on the same rite]? Scripture for that reason finds it necessary to specify “who is anointed.” [This refers to] the oil of anointing.

[DD] How do I know that the priest dedicated by many garments [*also* carries out the same rite]? Scripture for that reason states, “consecrated as a priest in his father’s place.”

[EE] And how do I know that the law applies to another who may be appointed [who was not the son of the preceding high priest]?

[FF] Scripture states, “And the priest shall make atonement.”

[GG] With what is he [who was not the son] appointed?

[HH] The rabbis of Caesarea in the name of R. Hiyya bar Joseph, “By a word of mouth [with no other rite but verbal appointment].”

[II] *Said R. Zeira, “Thus does the tradition state that they appoint elders by word of mouth.”*

[JJ] *Said R. Hiyya bar Ada, “The Mishnah tradition itself has made the same point, when [at M. Ed. 2:7 sages say to Aqabiah b. Mehallel,] ‘Retract [merely verbally] four teachings of yours, and we*

shall [verbally] make you head of the court of Israel.”

- [III:3 A] “How do we know that just as **they appoint another priest to serve as his substitute, lest some cause of invalidation should affect him, so they betroth for him another wife**, on the stipulation that something may affect his wife [and if that should not be the case, the betrothal is null]?”
- [B] “It is on the basis of this verse: ‘And he shall make atonement for himself and for his house’ (Lev. 16:6).
- [C] “**‘His house’ – this refers to his wife,**” the words of R. Judah [cf. M. 1:1D-G].
- [D] **Said to him R. Yosé, “If so, the matter is without limit” [M. I:1H].**
- [E] What is the meaning of “the matter is without limit”?
- [F] Perhaps this woman too may die, and the other wife may die.
- [G] *Said R. Mana, “Instead of raising questions to the position of R. Judah, raise questions to the view of rabbis [who concur with M. 1:1A-C]: Perhaps there will be some cause of invalidation for this high priest, perhaps there will be some cause of some other high priest!”*
- [H] Seminal emissions are commonplace [M. 1:1A-C], sudden death is not [M. 1:1D-G].
- [I] Accordingly, they have made the decree [described at M. 1:1A-C] concerning something that is commonplace, and they did not make a decree concerning something that is not commonplace.
- [J] *And lo, we find a case in which R. Judah holds the view that death is commonplace.*
- [K] *It is in line with that which we have learned there: R. Judah says, “Also: They appoint another woman as a substitute for his wife, lest his wife die” [M. 1:1D-E].*
- [L] *There we have learned: He who brought a writ of divorce, having left the husband aged or sick, hands it over in the assumption that he is still alive [M. Git. 3:3].*
- [M] *There you maintain that death is not commonplace, and here you maintain that death is commonplace.*

[N] There we deal with an individual, here we deal with the community. In the case of the community we impose a stricter rule.

[O] *But lo, we have found that R. Judah imposes a strict rule in the case of what happens to the individual.*

[P] *For it has been taught:* Said R. Judah, “There was no chest to collect funds for bird-offerings in Jerusalem, because of the possibility of confusion, lest one of the women [who has contributed money for a sin-offering to that chest] should die, and the funds she has contributed would then turn out to be money for sin offerings contributed by people who have died [and these may not be offered] mixed up with money for such offerings [contributed by living people].”

[Q] [With reference to Judah’s view about betrothal on stipulation,] why should he not betroth the woman on the pre ceding day? [That is, instead of positing the stipulation that the woman is betrothed should the high priest’s wife die on the Day of Atonement itself, why not simply betroth the woman with no stipulation, on the day before the Day of Atonement?]

[R] “And he shall make atonement for himself and for his house” (Lev. 16:6) means, and not for two houses [wives].

[S] *R. Gamaliel b. R. Inyoni asked before R. Mana, “But [in accord with the procedure of stipulating that the betrothal takes effect only should the high priest’s wife die on the Day of Atonement,] does this then not turn out to constitute an act of acquisition on the Sabbath [= Day of Atonement]?”*

[T] He said to him, “[The procedure is theoretically possible] because it is a prohibition based on the matter of Sabbath rest, and in that matter, they have released the prohibitions about Sabbath rest in the Temple.”

[U] R. Mana said, “That is to say, “Those who marry widows have to marry them while it is still daylight [on Friday] so that they should not be in the position of effecting an acquisition on the Sabbath day.””

1:2

[A] **All seven days he tosses the blood, offers up the incense, trims the lamps, and offers up the head and hind leg [of the daily whole offering].**

[B] **But on all other days, if he wanted to offer it up he offers it up.**

[C] **For a high priest offers up a portion at the head and takes a portion at the head [of the other priests].**

[I:1 A] And is not the high priest unclean because [purification water] has been sprinkled on him, [so how can he participate in the rite, M. 1:2A]?

[B] Said R. Yosé b. R. Bun, “It was after he offered up his sacrifices that they would sprinkle [the purification water] on him.”

[II:1 A] **For a high priest offers up a portion at the head and takes a portion at the head of the other priest [M. 1:2C].**

[B] *How so?*

[C] [In T.’s version:] **He says, “This sin-offering is mine,” “This guilt-offering is mine,” “One loaf of the two Two Loaves,” “Four or five loaves of the show bread [are mine]” [T. Yoma 1:5B].**

[D] *In one instance he takes the whole of the offering, while in the other he takes only part of it. [Why is this the case?]*

[E] Said R. [39a] Zeirah, “In the one case it involves the offering of an individual [in which case he takes the whole of it], and in the other case it involves the offering of the community [in which case he takes part of it].”

[F] *It has been taught: Rabbi says, “I say that he should take only half” [T. Yoma 1:5C].*

[G] *There is a Tannaite authority who teaches: Rabbi says, “I say that he should take half.”*

[H] *How so?*

[I] *If there was available a single hide –*

[J] *rabbis say, “He takes the whole of it.”*

[K] *Rabbi says, “I say that he takes half of it.”*

[L] *If there were available four or five hides –*

[M] rabbis say, “He takes one of them.”

[N] Rabbi says, “I say that he takes half.”

[O] *What is the scriptural basis for the view of Rabbi?*

[P] “And what is left of the cereal-offering shall be for Aaron and for his sons” (Lev. 2:10).

[Q] Now do we not know that Aaron is included in the category of his sons? Why then does Scripture refer explicitly to Aaron as well as to his sons?

[R] *It is to indicate that Aaron takes half and his sons take half.*

[S] *There is the following story: The council and the assembly both were obligated to present a donation [to the government]. The case came before Rabbi, who ruled, “Is not the council part of the assembly? [The latter includes the former.] For what purpose, therefore, did the decree state that the council and the assembly [were to make the donation]? It was to specify that this party should give half, and that party should give half.”*

[T] *Said R. Yosé b. R. Bun, “Rabbi is consistent with his view stated elsewhere, for Rabbi has said, ‘And what is left of the cereal-offering shall be for Aaron and for his sons’ (Lev. 2:10), indicating that Aaron gets half and his sons get half [with Aaron representing the high priesthood, as indicated above].”*

[U] *R. Ba bar Mamel objected, “And lo, a Tannaite teaching stands at variance: **He who says, ‘Lo, I pledge myself to bring a hundred tenths in one utensil,’ they force him to bring them sixty in one utensil and forty in another utensil. And if he brought them half in one utensil and half in another utensil, he has not fulfilled his obligation. If he said, ‘Lo, I pledge myself to bring a hundred tenths in two utensils,’ he brings half in one utensil and half in another utensil. And if he brought sixty in one utensil and forty in another utensil, he has fulfilled his obligation [T. Men. 12:7].***

[V] “Now if one said, ‘Lo, I pledge a hundred tenths,’ without further specification, and he did not indicate how many utensils he would use for bringing them, that is, for what purpose he made his statement, he brings them in two utensils, fifty in one, and fifty in the other.

[W] “*Now in this connection it has been taught: If he brought sixty in one utensil and forty in another utensil, he has fulfilled his obligation.* [Even if the matter is not divided up equally, the procedure is acceptable. Rabbi, by contrast, wants an even division throughout.]”

[X] Said R. Yosé b. R. Bun, “[The reason for the ruling above is special, and it is that the stated measure, sixty, is a valid measure in any event]. For up to sixty tenths may be absorbed into the pledge of one who [said that he would accept] the obligation upon himself to give sixty tenths at the outset. [Such a pledge being valid, T. Men. 12:8/M. Men. 12:4C:For so the community brings on the first day of the festival (Sukkot) which coincides with the Sabbath sixty tenths, but no more.]

[Y] “[*The point at which there was a question to be addressed from the present passage to the position of Rabbi is a different one. It would be appropriate*] to ask as follows: If one said, ‘Lo, I pledge myself to bring sixty tenths, delivering them in two utensils, he should bring thirty in one utensil, and thirty in the other. But if he brought forty in one utensil and twenty in another, he has carried out his obligation.’ [It would be in light of such a statement that there is a question to be addressed to Rabbi.]”

[Z] *Indeed there is a teaching formulated in just this way.*

[AA] [*Objecting to this entire line of argument,*] R. Hananiah, associate of the rabbis, asked, “Do they derive a rule covering financial affairs [that is, the division of the

emoluments of the priesthood] from the law covering the tenth *ephah* of fine flour [that is offered on the altar]?”

[BB] *Indeed so, for there is a teaching as follows:* And one derives the rule covering financial matters from the rule governing the tenth *ephah* of fine flour.

[CC] Said R. Abun, “[The cited law covering the bringing of the *ephah*] is on condition that one not bring the *ephahs* one has pledged in three utensils. [Two are the maximum.]”

[DD] R. Ba bar Mamel said, “Even in any number of utensils [it is acceptable].”

- [II:2 A] [With reference to M. 1:2A,] R. Yosé b. R. Bun in the name of R. Joshua b. Levi: “Every day the high priest puts on his garments and comes and offers the continual whole-offering of the morning. If, in addition, there are animals brought in fulfillment of vows or as thank-offerings, he offers them as well, and then he goes home.
- [B] “Then in the evening he comes along and offers the continual whole-offering brought at twilight. Then he goes and he spends the night in the councillors’ chamber.”
- [C] R. Uqbah in the name of R. Joshua b. Levi: “He did not do things this way except on the Sabbath and festival days.”
- [D] *There is a Tannaite authority who teaches:* “The priestly frontlet effects appeasement when it is on the forehead of the high priest.”
- [E] *There is a Tannaite authority who teaches:* “It does so even when it is lying in the corner, [and he is not wearing it].”
- [F] *He who maintains that* the priestly frontlet effects appeasement [only] when it is on the forehead of the high priest maintains that it was always on his forehead.
- [G] *He who maintains that* the priestly frontlet effects appeasement even when it is lying in the corner derives proof from the matter of the rite of the Day of Atonement [when the high priest wears white garments].

[H] *He who maintains that the priestly frontlet effects appeasement when it is on the forehead of the high priest supports the view of R. Yosé b. R. Bun [II.A-B],*

[I] *and the one who maintains that the priestly frontlet effects appeasement even when it is laying in the corner supports the view of R. Uqbah [II.C].*

1:3

[A] **They handed over to him elders belonging to the court, and they read for him the prescribed rite of the Day [of Atonement].**

[B] **And they say to him, “My lord, high priest, you read it with your own lips,**

[C] **“lest you have forgotten – or never [even] learned it to begin with.”**

[D] **On the eve of the Day of Atonement at dawn they set him up at the eastern gate and bring before him bullocks, rams, and sheep,**

[E] **so that he will be informed and familiar with the service.**

[I:1 A] **Lest you have forgotten, or never even learned it to begin with [M. 1:3C]:**

[B] *Has it not been taught: “The priest who is chief among his brethren, [upon whose head the anointing oil is poured, and who has been consecrated to wear the garments, shall not let the hair of his head hang loose, nor rend his clothes; he shall not go in to any dead body, nor defile himself, even for his father or for his mother]” (Lev. 21:10-11)?*

[C] **The meaning is that he should be made great by his brethren [T. Yoma 1:6B].**

[D] **“Upon whose head the anointing oil is poured” (Lev. 21:10) –**

[E] **Rabbi says, “[It is the religious requirement that the high priest be greater than his brethren] in beauty, strength, wealth, wisdom, and appearance” [T. Yoma 1:6A].**

[F] *Said R. Yosé b. R. Bun, “The cited passages [B-E] refer to the [learned] high priests in the time of the First Temple, while [the Mishnah speaks] of the [ignorant] high priests in the time of the Second Temple.”*

[II:1 A] **They set him up at the eastern gate [M. 1:3D]:**

[B] **Where did they set him up, inside or outside?**

- [C] *If you say that it was inside, it accords with that which we have learned there: **There were five immersions there on that day [M. 3:3]** – one on the count that no man ever entered the courtyard for the sacred service, even though he was clean, without immersing himself, and four on the counts of those required for the Day of Atonement.*
- [D] If you say that it was outside, then all five of them were on account of the Day of Atonement

[III:1 A] They bring before him bullocks, rams, and sheep [M. 1:3D]:

- [B] Why does the Mishnah not refer also to goats [since the rite of the Day of Atonement involves a goat as well]?
- [C] Said R. Ba Qartegina, “Even without it, does he not have to pour out [the blood of the goat, mixed with that of the bullock]? [Accordingly, when he does the latter, he will recall the need to do the former as well.]”
- [D] *There further is a Tannaite authority who includes in the formulation of the Mishnah’s passage: “**Goats**” [as well].*

1:4

[A] All seven days they did not hold back food or drink from him.

[B] [But] on the eve of the Day of Atonement at dusk they did not let him eat much,

[C] for food brings on sleep.

[I:1 A] *It has been taught:* They did not let him eat milk, eggs, cheese, fat meat, old wine, spiced wine, grits, or lentils.

[B] Samuel said, “And not an *etrog*.”

[C] Nor [did they let him eat] any thing that produces flux.

[D] Even so, they cited in his regard the following verse of Scripture: “Unless the Lord builds the house, those who build it labor in vain. Unless the Lord watches over the city, the watch man stays awake in vain” (Ps. 127:1).

[I:2 A] [But why did the high priest require such guards?] Was it not one of the miracles that were done in the Temple [that the high priest never suffered an emission of semen prior to the Day of Atonement]?

[B] Said R. Abin, “It is on the count of not putting God to the test.”

[C] Said R. Yosé b. R. Bun, “Here [in the case of the miraculous] we deal with the First Temple; there [in the case of the elaborate precautions required to prevent the emission], we deal with the Second Temple.”

1:5

[A] The elders of the court handed him over to the elders of the priesthood,

[B] who brought him up to the upper chamber of Abtinás.

[C] And they imposed an oath on him and took their leave and went along.

[D] [This is what] they said to him, “My lord, high priest: We are agents of the court, and you are our agent and agent of the court.

[E] “We abjure you by Him who caused his name to rest upon this house, that you will not vary in any way from all which we have instructed you.”

[F] He turns aside and weeps.

[G] And they turn aside and weep.

[I:1 A] [M. 1:5B’s chamber] was over the water gate, and near his chamber.

[B] [Following T.’s version:] **Why does he turn aside and weep [M. 1:5F]?**

[C] **Because it is necessary to impose an oath on him.**

[D] **And why do they turn aside and weep [M. 1:5F]?**

[E] **Because they have to impose an oath on him.**

[F] **And why do they have to impose an oath on him?**

[G] **Because there already was the case of that certain Boethusian, who offered up the incense while he was still outside, and the cloud of incense went forth and frightened the entire house.**

[H] **For the Boethusians maintained that he should burn the incense while he is still outside, as it says, “[And put the incense on the fire before the Lord, that] the cloud of the incense may cover [the mercy seat which is upon the testimony]” (Lev. 16:13).**

[I] **Sages said to them, “Now has it not also been stated, ‘And put the incense on the fire before the Lord’?**

- [J] **“From this it follows that whoever offers up incense offers up incense only inside.**
- [K] **“If so, why is it said, ‘The cloud of the incense may cover’?”**
- [L] **“This teaches that he puts into it something which causes smoke to arise.**
- [M] **“If therefore he did not put in something which makes smoke to arise, he is liable to the death penalty.”**
- [N] **Now when this Boethusian went forth, he said to his father, “In your entire lives you would expound the Scripture, but you never did the deed properly, until I arose and I went in and did it right.”**
- [O] **They said to him, “Even though we do expound matters as you say, we do not do things in the way in which we expound them. We obey the words of sages.**
- [P] **“I shall be very much surprised at you if you live for very long.”**
- [Q] **Not three days passed before they put him into his grave [T. Yoma 1:8].**
- [R] **And some say, “He came forth with his nose discharging worms, and with the footprint of a calf on his forehead.”**
- [S] *There is he who proposes to say that the heretic high priest mentioned in Mishnah-tractate Parah [who rejected the sages’ theory that the priest who burns the red cow must be unclean in the status of one who has immersed on the selfsame day and awaits sunset to be clean] is the same heretic high priest of Mishnah tractate Sukkah [who poured the water libation onto his feet rather than on the altar, and was stoned], who also is the same heretic high priest of Mishnah-tractate Yoma.*
- [T] *R. Simeon did not maintain that view. Rather, [he held,] it is either the same high priest involved with the red cow and with the rite of the festival, and the high priest of the Day of Atonement [before us] is another person, or the one of the burning of the red cow and of the Day of Atonement is one person, and the one of the story about the festival is another person.*
- [U] *He who maintains that he died soon after the incident holds that the same priest did all three deeds [between the Day of Atonement and the Festival of Sukkot].*
- [V] *The one who holds that he came forth from the inner sanctum with worms wriggling out of his nose, and with the footprint of a calf on*

his forehead, concurs with the view that the same priest responsible for the incident of the red cow and of the festival is one priest, and the high priest of the story of the Day of Atonement is another [who died that day], or the high priest of the burning of the red cow and of the Festival of Tabernacles is a single person, while the one of the Day of Atonement is another, or the one of the red cow [burned before the holy day] and the Day of Atonement is one person, and the one of Tabernacles is another person.

[W] The courtyard cried out in regard to these incidents, “Get out of here, sons of Eli, for you have imparted uncleanness to the house of our God.”

[X] On that day the horn of the altar was damaged [when the people threw their etrogs at the priest who poured the water libation on his feet], so the sacred service was canceled for that day, until they brought a lump of salt and put it on it, so that the altar would not appear to be damaged. For any altar lacking a horn, ramp, or foundation is invalid [T. Suk. 3:16D- E].

[Y] *They asked before R. Abbahu*, “[How could someone have struck the priest who burned the incense inside when no one was supposed to be there, even the devil?] For lo, it is written, ‘There shall be no man in the tent of meeting when he enters to make atonement in the holy place until he comes out and has made atonement for himself and for his house and for all the assembly of Israel’ (Lev. 16:17).

[Z] “That encompasses even the one concerning whom it is written, ‘As for the likeness of their faces, each had the face of a man in front; the four had the face of a lion on the right side, the four had the face of an ox on the left side, and the four had the face of an eagle at the back’”(Ezek. 1:10).

[AA] He said to them, “When he enters in the proper manner, the cited passage applies [but not otherwise].”

[I:2 A] It is written, “And he shall take a censer full of coals of fire from the altar before the Lord, and two handfuls of sweet incense beaten small; and he shall bring it within the veil and put the incense on the fire before the Lord, that the cloud of the incense may cover the mercy seat which is upon the testimony, lest he die” (Lev. 16:12-13).

[B] The meaning is that he should not prepare the mixture outside and bring it inside.

- [C] For lo, the Sadducees say that he should prepare it outside and bring it inside. If they do so before mortal man, all the more so before the Omnipresent!
- [D] “And it is written, ‘[And the Lord said to Moses, Tell Aaron your brother not to come at all times into the holy place within the veil, before the mercy seat which is upon the ark, lest he die;] for I will appear in the cloud upon the mercy seat’”(Lev. 16:2).
- [E] Said to them sages, “And lo, has it not already been stated, ‘And put the incense on the fire before the Lord, that the cloud of the incense may cover the mercy seat which is upon the testimony, lest he die’ (Lev. 16:13)?
- [F] [39b] “He puts it in only when he is inside the sanctum. If so, why is it said, ‘For I will appear in the cloud upon the mercy seat’? This teaches that he puts into the incense something that makes the smoke rise.”
- [G] And how do we know that he must put in something that makes the smoke rise? Scripture says, “[And put the incense on the fire before the Lord,] that the cloud of the incense may cover the mercy seat which is upon the testimony, lest he die”(Lev. 16:13).
- [H] Lo, this indicates that if he did not put into the incense something to make the smoke rise, or if he left out one of its spices, he is liable to the death penalty.
- [I] “Lest he die” (Lev. 16:13): Lo, this represents the penalty.
- [J] “For I will appear in the cloud upon the mercy seat” (Lev. 16:2): Lo, this provides the required admonition [in advance].
- [K] Said R. Eleazar b. R. Simeon, “Is it possible that the penalty and the admonition should be stated prior to the death of Aaron’s sons?
- [L] “Scripture states, ‘The Lord spoke to Moses, after the death of the two sons of Aaron, when they drew near before the Lord and died’ (Lev. 16:1).
- [M] “If Scripture says, ‘After the death of the two sons of Aaron’ (Lev. 16:1), is it possible that both of these passages were stated after the death of the two sons of Aaron?
- [N] “Scripture says, ‘For I will appear in the cloud upon the mercy seat’ (Lev. 16:2).
- [O] “How so?

[P] “The admonition was stated prior to the death of the two sons of Aaron, and the penalty was specified after the death of the two sons of Aaron.”

[Q] Said R. Zeira, “It is not written here, ‘For I have appeared in the cloud,’ but rather, ‘For I will appear.’”

[R] “On the basis of this formulation it follows that the Holy One, blessed be he, inflicts a penalty only after he has given an admonition.”

1:6

[A] **If he was a sage, he expounds [the relevant scriptures].**

[B] **And if not, disciples of sages expound for him.**

[C] **If he was used to reading [Scriptures], he read.**

[D] **And if not, they read for him.**

[E] **And what do they read for him?**

[F] **In Job, Ezra, and Chronicles.**

[G] **Zekhariah b. Qebutal says, “Many times I read for him in the book of Daniel.”**

[I:1 A] *It has been taught:* They read Proverbs and Psalms, because their message disturbs one’s sleep.

[I:2 A] Kahana asked Rab, “Is it Qebutar or Qebutal?”

[B] *Rab at that moment was praying and could not reply to him, but he made a gesture with his finger like a bird, indicating that it is Qebutar.*

1:7

[A] **[If] he tried to doze off, young priests snap their middle fingers before him and say to him, “My lord, high priest: Stand up and drive off [sleep] by walking on the cold stones.”**

[B] **And they would keep him busy until the time for the slaughter had come.**

[I:1 A] R. Huna said, “[The Mishnah means that] the finger is put into the mouth [to produce a shrill sound].”

[B] R. Yohanan said, “It was with the finger placed into the hand [and snapped].”

[C] *The following Tannaite passage stands at variance with the view of R. Yohanan: With the mouth, not with a harp or a lyre.*

[D] Interpret the passage to speak of a pleasant sound that is produced with the finger placed on the mouth, not on a harp or a lyre.

1:8

[A] Every day at the cock's crow or near it they take up the ashes from the altar,

[B] whether before or after it.

[C] At the Day of Atonement from midnight, and on festivals at the end of the first watch [they do so].

[D] And never did the cock crow before the courtyard was filled with masses of Israelites.

[I:1 A] *Said R. Mana, "Is it not reasonable to suppose that on the Day of Atonement they do it from the end of the first watch, and on festivals from midnight, on account of thirst? [There is nothing to drink in the courtyard overnight. That is not a consideration for the Day of Atonement, but it is a consideration for the festivals, when the priests may take a drink. Consequently, on festivals the priests get up somewhat later.]"*

[B] "[No, that is not a consideration,]" R. Yohanan said, "The taking up of the ashes is the beginning of the liturgy of the coming day, and it is necessary [for the priests in any event] to wash their hands and feet in the layer which is flooded with water [and, consequently, they also may take a drink if they want]. [Hence there is water available.]"

YERUSHALMI YOMA

CHAPTER TWO

2:2

[A] At first whoever wants to take up the ashes from the altar does so.

[B] And when they are many [who wanted to do so], they run up the ramp.

[C] And whoever gets there before his fellow, within four cubits of the altar, has acquired the right to do so.

[D] And if the two came at the same time, the one in charge says to them, “Choose up [by raising a finger].”

[E] And what do they put forth?

[F] One or two.

[G] But they did not put out the thumb in the Temple.

[H] There was the case of two who got there at the same time, running up the ramp.

[I] And one shoved his fellow.

[J] And he [the other] fell and broke his foot.

[K] When the court saw that the matter was dangerous, they ordained that the right of clearing off the ashes from the altar should be apportioned only by lot.

[L] There were four lots, and this was the first of the four.

[I:1 A] *R. Mana raised the question, “And why to begin with did they not establish a lot for the taking up of the ashes from the altar?”*

[B] *“Now take note that the act of slaughter is valid when done by lot, and yet you maintain that the one who does it is chosen by lot. Taking up the ashes on the altar may not be done by a non-priest, and do you maintain that [to begin with,] it is not done by a non-priest?”*

[Cl R. Mana reverted and said, “Slaughtering the sacrificial animal is valid only when done by day, while taking up the ashes of the altar is done

by night. If you maintain that the one who does it is chosen by lot, then he will not get up early on the possibility [that he may be chosen].”

[D] *Why do you maintain that [the clearing off of the ashes is done all night]?*

[E] “[The burnt-offering shall be on the hearth upon the altar] all night until the morning.... And [the priest] shall take up the ashes to which the fire has consumed the burnt-offering on the altar” (Lev. 6:9-10).

[F] This indicates that it is valid to take up the ashes all night long.

[I:2 A] A non-priest who raised up [the ashes of the altar] –

[B] R. Yohanan said, “He is liable.”

[C] R. Simeon b. Laqish said, “He is exempt.”

[D] What is the scriptural basis for the view of R. Simeon b. Laqish?

[E] “I give your priesthood as a gift, and anyone else who comes near shall be put to death” (Num. 18:7).

[F] It excludes this particular rite, which is a matter of raising up [the ashes] only].

[G] What is the scriptural basis for the view of R. Yohanan?

[H] “And you and your sons with you shall attend to your priesthood for all that concerns the altar” (Num. 18:7).

[I] R. Yosé b. R. Bun in the name of Rab: “There are four acts of service on account of which a priest who does them outside of the courtyard is liable, and a non-priest who does them inside the courtyard is liable. What are they? Offering up the incense, pouring out the blood, the water libation, and the wine libation.”

[J] *Now this accords with the view of R. Simeon b. Laqish.*

[K] Levi said, “Even [if a non-priest, in the courtyard,] raises up the ashes [he is liable].”

[L] *He accords with R. Yohanan.*

[M] *As to [a non-priest's] collecting the coals, there is this same dispute of R. Yohanan and R. Simeon b. Laqish.*

[N] *As to taking out the remainder of the ashes, there is this same dispute of R. Yohanan and R. Simeon b. Laqish.*

[O] [What follows deals with Lev. 6:11: “And he shall put off his garments and put on other garments and carry forth the ashes.” At issue is the meaning of the word “other.”] *The dispute accords with [39c] him who maintains that the word “other” [in “other garments”] indicates that the garments he puts on are to be inferior to the garments he takes off. [In that case, the verse indicates that a priest must remove the ashes, and the open question is in what sort of garments. Both parties then can differ on this matter.]*

[P] But in accord with him who maintains that the word “other” serves to encompass blemished priests [who are permitted to carry the ashes out], then there is no difference between a non priest and a blemished priest [and hence there can be no dispute between Yohanan and Simeon b. Laqish, since both parties will have to concur that a non-priest who carries out the ashes is not liable].

[I:3 A] All concur in the case of a non-priest who laid out a pile of wood on the altar, that he is liable.

[B] Said R. Zeira, “That is on condition that he does so with the two pieces of wood concerning which Scripture gave an admonition in connection with the service of the priesthood: ‘And the sons of Aaron the priest shall put fire on the altar, and lay wood in order upon the fire’”(Lev. 1:7).

[I:4 A] *It has been taught:* R. Judah said, “How do we know that the kindling of the kindling wood on the altar should be done only by a valid priest and with a consecrated utensil of service? Scripture states, ‘And the sons of Aaron the priest shall put fire on the altar, and lay wood in order upon the fire’”(Lev. 1:7).

[B] Said R. Simeon, “And can anyone imagine that a non-priest should approach the altar and make an offering? [Surely not!! If so, why is the verse written, ‘And the sons of Aaron the priest shall put fire on the altar, and lay wood in order upon the fire’ (Lev. 1:7)?

[C] “It is to teach the lesson that as to kindling the fire on the altar, the process of kindling should take place only at the head of the altar [on the north side].”

[D] *They objected:* “And lo, it is written, ‘Fire shall be kept burning upon the altar continually; it shall not go out’ (Lev. 6:13). On the basis of this verse we learn the lesson that as to kindling the fire on the altar, the process of kindling should take place only at the head of the altar [on the north side],” the words of R. Judah.

[E] *The opinions attributed to R. Judah thus are at variance with one another.* There he utilizes the verse to indicate that it is necessary that the fire be kindled by a valid priest [A], while here [he uses it to prove a different proposition, and hence] it is not necessary that the fire be kindled by a valid priest.

[F] Said R. Tanhum bar Yudan, “We may simply say that the fire is kindled at the head of the altar, and as to a non-priest [it goes without saying that he is excluded, since a non-priest may not come up to the altar anyhow].”

[I:5 A] If a non-priest raised up the ashes, and the wind blew them away, *there is a dispute of R. Yohanan and of R. Haninah.*

[B] For R. Haninah said, “If one put a handful of meal-offering on the fire, and the wind blew it away, if this was with the final blow of the wind, [by then] the owners have attained expiation [through the offering,] and the residue [of meal-offering] is released from the laws of sacrilege [and may be eaten by the priests]. [The offering has been received and is valid.]”

[C] R. Yohanan said, “That is the case when the fire will have burned up the greater part of it.”

[D] What is the meaning of “the greater part of it”? Has the statement been made to cover the greater part of the entire handful of meal-offering, or the greater part of each grain of the offering?

[E] R. Hezekiah, R. Jonah, R. Ba, R. Hiyya in the name of R.

Yohanan: “It has been stated with regard to the greater part of each grain [of the offering].”

[I:6 A] If one raised up half [of the ashes on the altar], *there is a dispute of R. Yohanan and R. Joshua b. Levi.*

[B] For R. Yohanan said, “As to a handful of meal-offering which has been consecrated in a utensil and which one offered up, even if it was only the sesame seeds [a tiny part of the whole], he has carried out his obligation.”

[C] R. Joshua b. Levi said, “*The Mishnah has not indicated that. But rather: If one burned the handful twice [in two halves] it is valid [M. Men. 3:4].*”

[D] R. Hama bar Uqbah in the name of R. Joshua b. Levi: “A handful of meal-offering may be no less than two olive’s bulks in volume, and burning up a handful of meal-offering may not involve less than an olive’s bulk of meal-offering.”

[E] R. Isaac b. R. Eleazar asked, “On this basis: A priest whose hand cannot hold two olive’s bulks of volume [of meal-offering] should be invalid for carrying out the service.”

[I:7 A] If one took up the ashes with his left hand, *there is a dispute of R. Yohanan and R. Judah b. Rabbi.*

[B] For R. Yohanan said, “One takes up a handful of meal-offering that has been sanctified in a utensil and offers it up, whether with his hand or in a utensil, whether in the right hand or the left hand.”

[C] Judah b. Rabbi says, “One may do it as is done in the case of a sin-offering, by hand, or he may do it as it is done with a guilt-offering, with a utensil, but that is on condition that it is done with the right hand.”

[D] *They objected* [to the notion that if it was done with the left hand, it is invalid with no remedy], “*Lo, it has been taught: One received the blood with his right hand and put it into his left hand and then puts it back into his right hand [M. Zeb. 3:2].* If he did it with his left hand he has to go back to the altar [and repeat the process of flicking the blood, doing it the second time with his right hand], is it not an argument a fortiori that the same rule applies in the case of the dish of frankincense [that it must be put on the fire with the right hand]? [But merely putting the matter in his left hand does not invalidate the rite. He surely may validate the rite by going back and doing the thing over again with the right hand.]”

[E] *Said R. La,* “*If this teaching has been taught by anyone, it is the teaching of R. Eleazar b. R. Simeon. For it has been taught: R. Eleazar b. R. Simeon says, ‘[The meal-offering] does not require sanctification in a bowl.’*”

[F] *R. Eleazar b. R. Simeon accords with the view of R. Simeon, his father, for we have learned there: If the meal-offering had not been put into a utensil of service, it is invalid. R. Simeon declares it valid [M. Men. 3:4].*

[G] *What is the upshot of the matter?*

[H] *Rabbis, who maintain that the meal-offering must be put into a utensil of service, require also that it be done with the right hand.*

[I] *R. Simeon, who does not require that it be done with a utensil of service, also does not require that it be done with the right hand.*

[I:8 A] *Said R. Mana, "I am surprised that rabbis compare the taking up of the ashes from the altar to the matter of offering up [the meal-offering]."*

[B] "But the comparison surely is to be drawn only [between taking up the ashes from the altar] and taking the handful [of meal-offering]. For each one is subject to the consideration of raising up [a handful]. [At Lev. 6:10, it says, 'And he shall] take up [the ashes],' and the other [the matter of meal-offering] likewise is described with the word 'take up.' For 'taking up' makes sense only when one has left a residue behind [from which one takes up what he takes up].

[C] "[Along these same lines of comparing the taking up of the ashes to the taking up of the meal-offering,] 'which the fire has consumed' (Lev. 6:10) – consuming means a minimum of an olive's bulk [hence one takes up at least an olive's bulk of ashes]."

[D] If the whole of the ashes added up to an olive's bulk, it is not possible to take up only part of it, for it would not then reach the requisite volume of an olive's bulk.

[E] To take up only part of it also is not possible, for there would be no residue left behind.

[F] "And he shall take up the ashes to which the fire has consumed the burnt-offering on the altar" (Lev. 6:10) – might one say that involved is only the ashes of the wood?

[G] Scripture says, "The ashes of the burnt-offering."

[H] If it is to be the ashes of the burnt-offering, is it possible that it may involve only the limbs of the burnt-offering?

[I] Scripture says, "Which the fire has consumed."

[J] How so?

[K] One cuts off the innermost part of what has been consumed by the fire and takes that down.

- [I:9 A]** It is a religious duty to put fire on before laying on the wood,
- [B] for it is said, “And the sons of Aaron the priest shall put fire on the altar, and lay wood in order upon the fire” (Lev. 1:7).
- [C] If one put the wood on before the fire,
- [D] [or] arranged the wood before taking up the ashes,
- [E] he lets the wood slide down the altar, and then removes the ashes; then he undoes the pile of wood, and he takes up the ashes.
- [I:10 A]** R. Jacob bar Aha said, “Hilpai asked, ‘The handful of meal offering which one placed on the fire by night – what is the law [governing its disposition]?’”
- [B] R. Jeremiah said, “Hilpai asked, ‘The limbs of the continual whole-offering of the morning which one placed on the fire by night – what is the law?’”
- [C] *And is the answer not a Tannaite teaching:* You have nothing that comes [onto the altar] before the continual whole-offering of the morning except for the incense-offering alone.
- [D] *The cited Tannaite passage speaks of* the proper religious duty and how to effect it. But Hilpai raised the question as to what is indispensable [to the proper carrying out of the rite]. [That is a separate question.]
- [I:11 A]** As to the priestly frontlet [which effects atonement for uncleanness unintentionally imparted to the cult], what is the law as to its effecting expiation for uncleanness affecting the hands [if one washed his hands and then, accidentally, they became unclean once he had come into the courtyard]?
- [B] As to the hands, what is the law on their invalidating [the rite] if one should go out [of the courtyard after washing them, and then go back in]?
- [C] *Is the answer not given in a Tannaite teaching:* If one has sanctified [by washing] his hands and feet and they became unclean, he immerses them, and they are clean. If he went forth [from the courtyard] they are not invalidated on the count of having gone forth.
- [D] *But in the theory of him who says that* the passage of the night does not invalidate [the condition, of already clean,] of the hands, [there is no question to be raised]. [Here too, going out of the court also does not invalidate the prior, acceptable condition of the hands.]

[E] *But here, in accord with the view of him who says that the passage of the night does invalidate the prior, suitable condition of the hands, [the question may be phrased as follows:] As to the hands, what is the law on their being rendered invalid because of an untimely washing? [If one washes them today, will they be validly washed for tomorrow on that count?]*

[F] *And is it not a Tannaite teaching: If one sanctified his hands and feet today for the service on the next day, [the hands are valid]?*

[I:12 A] Said R. Yohanan, “Taking up the ashes from the altar is the beginning of service of the next day. One has, therefore, to wash his hands and feet from the laver, which is filled with water [throughout the night]. [The water is not spoiled by being left overnight.]”

[B] R. Hiyya bar Joseph said, “Once one has handed over the day to the night, that suffices. [That is, the laver did not have to be filled with water all night. The concern is that the water not be left standing all night; if it is, when the morning star appears, the water is invalidated. A solution to the problem will now be presented.]”

[C] Associates in the name of R. Yohanan: “Once the priest had raised up [water, and then washed his hands and feet in it prior to taking up the ashes], he puts it back [into the laver, prior to the appearance of the morning star, marking the passage from night to day and imparting uncleanness to the water on the count of having been left all night]. [Accordingly, the issue of using invalid water is not a problem in the case of the lustration prior to taking the ashes off the altar, since this is done before the rise of the morning star.]”

[D] *The following Tannaite passage stands at variance with the view of R. Hiyya bar Joseph:*

[E] **“If one has sanctified his hands and feet by day, he does not have to sanctify them by night; if he did so by night, he has to sanctify them by day,”** the words of Rabbi. [The water is invalidated when left overnight.]

[F] **R. Eleazar b. R. Simeon says, “Even if he is engaged in the rite of sacrifice for three days running, the passage of the night does not invalidate in the case of washing hands and feet”** [T. Men. 1:13C],

[G] “for being left all night does not invalidate in the case of the hands, or in the case of acts of service left over [from former parts of the rite, that is, the burning up of limbs and pieces of meal-offering,

done at night and completed at a later time than the original offering].

[H] “But at the outset of acts of service, it is necessary [to sanctify hands and feet]. [Once the rite is underway, we do not take account of interruptions, but regard the original washing as sufficient.]” [Now with whom does Hiyya concur? Rabbi regards the passage of the night as invariably an invalidating cause. Hiyya, by contrast, holds that if one washed hands at the beginning of the night, that suffices. The passage of the night does not invalidate his hand-washing at the outset. Eleazar b. R. Simeon, for his part, wants hand-washing at the outset of a rite, and, as just now explained, Hiyya will not regard that as necessary under the stated conditions. So with whom can he concur?]

[I] *This is how R. Hiyya bar Joseph explains the passage:* “If one has sanctified his hands and feet by day, he does not have to sanctify them by night – that rule pertains to the residue of the acts of labor [that is, burning up the limbs and the bits and pieces of the meal-offering, which may be done all night anyhow]. But at the beginning of acts of service, it is necessary to sanctify the hands and feet by day,” the words of Rabbi.

[J] R. Eleazar b. R. Simeon says, “Even if one was engaged in acts of service for three days running, he does not have to sanctify his hands and feet, for passage of the night does not invalidate in regard to the hands, so far as carrying out the burning of the residues of the acts of service. But as to the beginning of acts of service, it is necessary to sanctify hands and feet.”

[K] *This is how R. Yohanan explains the passage:* “If one has sanctified his hands and feet by day, he does not have to sanctify them by night. If he sanctified his hands and feet by night, he has to sanctify them by day,” the words of Rabbi.

[L] R. Eleazar b. R. Simeon says, “Even if he was engaged in acts of service for three days running, he does not have to sanctify his hands and feet in connection with the residue of sacrifice, but at the outset of acts of service, one does have to sanctify hands and feet.” [Accordingly, Hiyya bar Joseph interprets the view of Eleazar b. R. Simeon to apply both to the residue of acts of service and to the beginning of an act of service. In neither instance does one have to sanctify hands and feet, because the passage of the night in any event does not invalidate the washing done at the outset, as he maintains. So it

is with Eleazar that Hiyya bar Joseph concurs. Yohanan for his part holds that, with regard to residues of acts of service, one need not wash hands. But at the outset of acts of service, one must do so.]

[I:13 A] Hilpai said, “Just as the passage of the night does not invalidate in the case of the hands, so the passage of the night does not invalidate in the case of [water in the] laver.”

[B] *The cited Tannaite passage does not concur with Hilpai’s view:* “If one has sanctified his hands and feet by day, he does not have to sanctify them by night. If he did so by night, he does have to sanctify them by day,” the words of Rabbi [who then disagrees with Hilpai’s principle].

[C] **R. Eleazar b. R. Simeon says, “Even if one is busy with acts of service for three days running, he does not have to sanctify his hands and feet, for the passage of the night does not invalidate in the case of the hands” [T. Men. 1:13C].**

[D] Lo, as to [water in the] laver, the passage of the night *does* invalidate [such water].

[E] *The disciples of R. Yohanan in the name of Hilpai Hakini:* “If one has sanctified his hands and feet, for passage of the night does not invalidate in the case of the hands.” Lo, in the case of [water in the] laver, the passage of the night does invalidate [such water].

[F] But that is with the proviso that it is the passage from day to night. [That is, if the water is left in the laver *from* daytime to the night, it is not invalidated, just as Hiyya bar Joseph claimed at the outset of this discussion.]

[II:1 A] [With reference to **M. 2:1C**] **Within four cubits of the altar:** [39d] Whether one is **within four cubits of the ramp** [or] within four cubits of the altar, does it make a difference? [Is the ramp equivalent to the altar so far as standing within its domain is concerned?]

[B] *On the basis of that which we have learned, **There was the case of two who got there at the same time, running up the ramp [M. 2:1H]**, it follows that within four cubits of the altar [is the definition of falling within the domain of the altar, and not merely being on the ramp up to the altar].*

[C] *Said R. Yosé b. R. Bun, “R. Hiyya taught this matter explicitly: ‘Whoever gets to within four cubits of the altar before his fellow has won out.’”*

[III:1 A] What is the meaning of “Choose up [by raising a finger]” [M. 2:1D]?

[B] “Put out a finger.”

[C] If priests put out one finger, they count it. If two, they count it. If three, they do not count it [cf. M. 2:1E-F].

[D] What is the meaning of “they do not count it”?

[E] Is it that they do not count it at all or that they do not count the extra finger?

[F] If one put out four fingers, the supervising priest hits the fellow with a strap, and the lottery is nullified.

[IV:1 A] But they did not put out the thumb in the Temple [M. 2:1G]:

[B] This is because of the possibility of deceit.

[IV:2 A] One does not say in the sanctuary, “From whom shall we begin the count?”

[B] **But the supervisor would lift up the miter of one of them [T. Yoma 1:10C],**

[C] **and they would know that it was from him that the count began.**

[D] **And should we not scruple that he may select the one of some one whom he liked, or of a relative of his?**

[E] **They would stand around in the form of a spiral figure [T. Yoma 1:10B].**

[F] How would the lottery run, right or left?

[G] *Said R. Bun bar Hiyya, “On the basis of that which has been taught, ‘He who won the right to burn the incense said to the one at his right hand, you then take up the fire-pan,’ that is to say that the lottery runs to the right.”*

[H] *The disciples of R. Jonah in the name of R. Hilpai Hakini: “The lottery runs to the left. The one who wins out wins out at the right. It is better that he should then assign the advantage to him whom the lottery has passed over two times than to him whom the lottery has passed over only one time.”*

[V:1 A] There was the case of two who got there at the same time, running up the ramp. One shoved the other [M. 2:1H-I], within four cubits

[of the altar]. The other then took out a knife and stabbed him in the heart.

- [B] R. Sadoq came and stood on the steps of the porch and said,
- [C] “Hear me, O brethren of the House of Israel! Lo, Scripture says, ‘If in the land which the Lord your God gives you to possess, anyone is found slain, lying in the open country, and it is not known who killed him, then your elders and your judges shall come forth, and they shall measure the distance to the cities which are around him that is slain’ [Deut. 21:1-2].
- [D] “Come and let us measure to find out for what area it is appropriate to bring the calf – for the Sanctuary, or for the courts !”
- [E] All of them moaned after his speech.
- [F] And afterward the father of the youngster came to them, saying, “O brethren of ours! I am your atonement. His [my] son is still writhing, so the knife has not yet been made unclean.”
- [G] This teaches you that the uncleanness of a knife is more grievous to Israelites than murder [T. Yoma 1:12A-G].
- [H] This was not to their credit. [The following nine lines serve M. 2:2, not M. 2:1, and are translated below.]

2:2

- [A] The second lot: Who slaughters the animal, who tosses the blood, who clears the ashes off the candelabrum, and who brings the limbs up the ramp:
- [B] the head, right hind-leg, two forelegs, rump, left hind-leg, breast, neck, two flanks, and innards;
- [C] the fine flour, the baked cakes [Lev. 6:21], and the wine.
- [D] Thirteen priests acquired the right to participate in the service.
- [E] Said Ben Azzai before R. Aqiba in the name of R. Joshua, “In the way in which it walked it was offered.”
- [I:1 A] “[The reason that the labor of the offering was divided among thirteen priests,]” said R. Yohanan, “is to make the matter well known.”
- [B] “[Along these same lines,]” said Rabbi, “is it not the case that the priest who clears the ashes off the inner altar also can clear the ashes out of the candelabrum? But it is in order to make the matter well known.”

[C] *There we have learned: He left the oil jar on the second step and went out [M. Tam. 3:9/I].*

[D] **He took the oil jar from the second step and prostrated himself and went out [M. Tam. 6:1H].**

[E] Said R. Yohanan, “Why did he go in for the burning of the incense two times? It is so as to make the matter well known.”

[F] R. Simeon b. Laqish said, “It is a matter of the law of the Torah: ‘Morning by morning when he dresses the lamps he shall burn [fragrant incense]’ (Exod. 30:7).”

[G] How does R. Yohanan interpret the same verse? The verse indicates that the one who performs the act of service both fixes up the lamp and also offers incense [and hence the verse does not call for the procedure Yohanan maintains is required]. [Consequently, the reason given by Yohanan is what stands before the procedure, not the requirement of Scripture].

[I:2 A] On the basis of what scripture are we informed to take the ashes off the inner altar?

[B] R. Pedat in the name of R. Eleazar: “[And he shall take away its crop with the feathers,] and cast it beside the altar on the east side, in the place for ashes’ (Lev. 1:16).

[C] “Now the reference to ‘in the place for ashes’ is hardly necessary. For if it were to indicate a place for it, it already is stated, ‘beside the altar.’

[D] “If it is to teach you that it is to be set at the east side of the ramp, it already is written, ‘on the east side.’ [Hence the added language indicates that the ashes are removed from the inner altar and set beside the outer altar.]”

[E] Further, [Eleazar] interpreted the use of the language “beside the altar,” used both here and also with reference to the outer altar to indicate that just as in this case, the ash is put “on the east side,” so in that case the ash is put “on the east side,” that is, on the east side of the ramp leading up to the altar.

[I:3 A] How do we know that the ash of the inner altar may not be used for the benefit [of the priests]?

[B] R. La in the name of R. Eleazar, “[With reference to Lev. 1:16: ‘And he shall carry forth the ashes (from the outer altar) outside the camp] to a clean place,’ meaning that the place is subject to the rules of

cleanness [and, consequently, the ash cannot be used for other than a cultic purpose].”

- [C] R. Zeirah in the name of R. Eleazar did not state matters in this way. Rather: “How do we know that the ashes removed from the outer altar may not be used for the benefit of the priests?”
- [D] “Since it is said, ‘in the place for ashes’ (Lev. 1:16). The meaning is that this specified place must be where the ash is kept for all time.
- [E] “How do we know the same rule for the ashes of the inner altar?”
- [F] “[With reference to the following two verses: ‘And Aaron shall burn fragrant incense on it; every morning when he dresses the lamps he shall burn it’ (Exod. 30:7); ‘And sprinkle on it seven times’ (Lev. 16:14):] Just as the sprinkling of the blood involves the altar itself, so the incense involves burning on the altar itself.
- [G] “And how do we know that what pertains to the inner altar is forbidden for the benefit of the priests?”
- [H] “It is an argument a fortiori. If what pertains to the outer altar [to which reference has just been made] is forbidden for the benefit of the priests, all the more so will what pertains to the inner altar [be forbidden to the priests]!”

[I:4 A] R. Zeirah in the name of R. Haninah: “Incense that was smothered [and ceased to smoke] has been spoiled, and that is the case even for large sherds of it. For the reference of the Scripture to ‘consuming it,’ [‘Whereto the fire has consumed the burnt offering on the altar’ (Lev. 6:3)] pertains only to the outer altar.”

[B] “A wick that was smothered [and went out] must be removed with the ashes.”

[C] Does this have to be done forthwith [when it goes out]?

[D] *A disciple of R. Hiyya bar Luliani said*, “Since it is necessary to put in fresh oil, [it follows that it is not to be removed forthwith, but only after the lamp has cooled off].”

[E] As to oil [remaining in the candelabrum], what is the law as to one’s having to take it out with the ashes? [May one leave the oil in the cup, or must it be removed and replaced by fresh oil every morning?]

[F] *A statement of R. Samuel bar R. Isaac indicates that* the oil has to be removed with the ashes [and replaced].

[G] [With reference to **M. Men. 9:3: Three and a half logs of oil were required for the candelabrum, a half log of oil for each lamp,**] *R. Samuel bar R. Isaac asked*, “Is it the case, then, that on the first day of the season of Tebeth, there is a half *log* of oil for each lamp, and on the first day of the season of Tammuz, there is likewise a half *log* of oil for each lamp? [That is, is the same amount of oil supplied both winter and summer, even though the nights are longer in the winter season than in the summer season?]” [This question of Samuel’s indicates that he assumes the oil is cleaned out and replaced each morning.]

[H] *Said R. Yosé*, “*There is no inference to be drawn from that statement. For we have learned there: Ben Babai was in charge of the wick [of the seven-branched candelabrum] [M. Sheq. 5:1]*, for he would weave the wicks. [This he did as needed, more wicks for long nights than for short ones.]”

[I:5 A] [With reference to **M. 1:2A: All seven daysÉhe offers up incense, trims the lamps; M. Tam. 3:9: He who had won the right to collect the ash of the inner altarÉhe who had won the right to clean the candlestick entered inÉ; M. Tam. 5:4: He who won the right to offer the incenseÉfollowed, at M. Tam. 5:5A: He who won the right to take up the ashes.** Accordingly, the implication is that trimming the lamps came before offering up the incense, while at M. 1:2A, the opposite order is indicated. Accordingly, it is asked:] Here [at M. Tam. 3:9, 5:4] you say that he trims the lamps and then offers incense, while there [at M. Yoma 1:2] you maintain that he offers the incense and then trims the lamps.

[B] *Said R. Yohanan*, “The version at Tamid is that of R. Simeon of Mispah [who puts the lamp before the incense, while the version at Yoma is that of rabbis, who reverse the order].”

[C] *Said R. Jacob bar Aha*, “*Is not the whole of the tractate the teaching of R. Simeon? But matters that pose a problem to rabbis are rendered anonymously in accord with the position of R. Simeon, while the rest of the unassigned statements accord also with the position of rabbis*” [translated following Pené Moshe].

[D] *R. Hezekiah, R. Aha in the name of R. Abbahu*: “Tractate Middot belongs to the authority of R. Eliezer b. Jacob.”

[E] *Said R. Yosé b. R. Bun*, “*But not the whole [of tractate Middot] follows [Eliezer], rather there were problems facing rabbis [who*

tried to see whether the whole of the tractate accords with his view and found that they could not].”

[F] What is the scriptural basis for the position of R. Simeon of Mispeh [in placing the lamp before the incense]?

[G] “And Aaron shall burn fragrant incense on it; every morning when he dresses the lamps he shall burn it” (Ex. 30:7). [Thus the verse refers first to the lamps, then the incense.]

[H] *R. Aha, R. Hinena in the name of R. Simeon bar Rabbi: “The scriptural basis for the view of rabbis is this: ‘In the tent of meeting, outside the veil which is before the testimony, Aaron and his sons shall tend it from evening to morning before the Lord. It shall be a statute forever to be observed throughout their generations by the people of Israel’ (Exod. 27:21).*

[I] “This means that there should be only the tending of the lamps alone.”

[I:6 A] Said R. Yohanan, “There was no lottery for the daily whole-offering at twilight. But they said, ‘He who won the right to perform a given task in the morning whole-offering will retain that right for the evening one.’”

[B] *And lo, it elsewhere has been taught: As is the lottery for the whole-offering of the morning, so is the lottery of the whole offering of the twilight; he who acquires a given right acquires it for himself [at each such lottery; hence one who did it in the morning did not do it at night].*

[C] R. Hezekiah in the name of R. Bun bar Kahana: “Interpret the cited passage to speak of the Sabbath. One lottery then covers the incoming priestly watch, the other covers the outgoing one. [That is, since, on the Sabbath, one group of priests leaves service and the other enters service, there have to be two lotteries.]”

[I:7 A] Said R. Yohanan, “[As to bringing up two logs of wood for the fire on the part of two priests, M. 2:4E, below,] they did not make a decree concerning adding the two pieces of wood at dawn [but only in the evening whole-offering].”

[B] *Said R. Yosé, “The Tannaite teaching has made the same point: **Every day at twilight a ram was offered by eleven [M. 2:4H]**, and with reference to the morning whole-offering nothing at all is stated.”*

[C] *R. Shimi asked*, “And why have they not made a decree concerning two pieces of wood [to be brought by the priests to the altar] in the morning?”

[D] *Said R. Mana*, “And did not *R. Shimi* hear what *R. Yohanan* said: ‘They made no decree concerning the two pieces of wood [to be brought up to the altar] in the morning’?”

[E] “And *R. Yosé* said, ‘*The Tannaite teaching has made that same point.*’”

[F] Then he retracted and said, “It may be that he has heard the teaching, but he is in the position of someone who has heard a teaching and proposes to ask a question about it.” [This then is the question *Shimi* wished to raise.]

[G] *R. Shimi raised the question*, “Why have they made a decree concerning the two pieces of wood to be brought up to the altar by the priests for the twilight whole-offering, but they did not make a decree concerning bringing up two pieces of wood for the whole-offering in the morning?”

[II:1 A] Thirteen priests acquired the right to participate in the service [M. 2:2D]:

[B] *In this regard it has been taught*: There are occasions on which there are fourteen, occasions for fifteen, occasions for sixteen [on the Festival of Tabernacles, on the Sabbath, and on the Sabbath of the Festival of Tabernacles, respectively]. There are not fewer or more than that number.

[C] **In the normal course of events, there are nine priests. On the Festival of Tabernacles, in the hand of one of the priests there was a flask of water**, lo, there are ten.

[D] **When the daily whole-offering is brought at twilight, there will be eleven priests**, two of them carrying two pieces of wood in their hands.

[E] **On the Sabbath there will be eleven. Two of them will bring in their hands two dishes of frankincense, for the show bread**, so there are then fourteen [ten plus four].

[F] **On the Sabbath that comes within the Festival of Tabernacles, one of the priests will bear in hand a flask of water [M. 2:4C- G]**. Accordingly, there are then sixteen [fifteen, according to the present text].

- [II:2 A] “You shall bring it [well mixed in baked pieces like a cereal-offering, and offer it for a pleasing odor to the Lord]” (Lev. 6:21). It is brought prior to the additional offerings.
- [B] And when it says, “You shall offer [it for a pleasing odor to the Lord]” (Lev. 6:21), the meaning is that it may also be brought after the libation-offering.
- [C] *There is a Tannaite authority who teaches* that it is brought prior to the drink-offerings.
- [D] *He who maintains that* it is brought prior to the drink-offerings means that it is prior to the drink-offerings of wine.
- [E] *He who holds that* it is brought after the drink-offerings refers to the drink-offerings that accompany the fine flour.
- [F] The offering of fine flour is prior to the baked pieces [of Lev. 6:21].
- [G] Even though the one is for the fire [40a] and the other also is for the fire, the former is the offering of an individual, while the latter is the offering of the community [which takes precedence].
- [H] The baked pieces take precedence over the dishes of frankincense.
- [I] Even though this is the offering of an individual and that is the offering of the community, the former is brought every day, and the latter is not brought every day [but only on Saturday].
- [J] The baked pieces take precedence over the wine.
- [K] This is for the fire, and that is for the bowls [and not for the fire].
- [L] As to the bowls of frankincense and wine [of the additional offerings], which takes precedence? [True, the wine is done more regularly, but the frankincense is put on the fire, while the wine is poured into bowls.]
- [M] *And is it not a Tannaite teaching:* Frankincense is prior to wine?
- [N] [But the cited teaching deals with] the offering of an individual, while the question pertains to a public

offering. [The question is a good one. It is not answered.]

- [II:3 A] [With reference to M. 2:2B,] this is how the Mishnah is to be read] [T. cites M. 2:2E:] **Said Ben Azzai to R. Aqiba in the name of R. Joshua, “In the way in which it walked, it was offered [M. 2:2E]: the head, the right hind-leg, the breast and throat, the two forelegs, the two flanks, the rump, the left hind-leg” [T. Yoma 1:13C].**
- [B] *Said R. Yohanan, “The scriptural basis for the view of Ben Azzai is this: ‘And burn the whole ram upon the altar’ (Exod. 29:18).*
- [C] “It is to be burned in such a way that it should appear as if it is walking on the altar.”
- [D] **The head, the right hind-leg –** and yet you say this?
- [E] Said R. Mana, “[When walking, a beast] stretches out its head [and] lifts up its foot.”

2:3

- [A] **The third lot: “Those who are new to the burning of the incense, come and draw lots.”**
- [B] **The fourth: “Those who are new and those who are experienced – who will bring up the limbs from the ramp to the altar itself?”**
- [I:1 A] Said R. Haninah, “In the entire history of the lottery no man ever won the lottery for burning the incense and then did so a second time [since only inexperienced priests participate].”
- [B] *Said R. Yosé, “The Mishnah has made that same point: **Those who are new to the burning of the incense, come and draw lots [M. 2:3A].”***
- [C] Said R. Haninah, “And so was the case for the use of the fire-pan.”
- [D] *Said R. Yosé, “A Tannaite teaching has made that same point: **But whoever won the right to care for the incense offering says to the one who is with him at his right hand, ‘You too – for the fire-pan’ [T. Yoma 1:11B].”***
- [E] It turns out that two priests would receive a blessing every time.
- [F] Rab said, “‘Bless, O Lord, his substance, and accept the work of his hands’ (Deut. 33:11).

[G] “There was the case of a priest, one of whose arms had wasted away. But he did not leave off [offering incense], for it is said, ‘Bless, O Lord, his substance, and accept the work of his hands.’”

2:4

[A] The daily whole-offering was offered by nine, ten, eleven, or twelve [priests], no less, no more.

[B] How so?

[C] It itself was offered by nine [priests].

[D] On the Festival [of Tabernacles], in the hand of one [additional priest] was a flask of water – thus ten.

[E] At dusk, by eleven: it itself by nine, and two, with two pieces of wood in their hands.

[F] And on the Sabbath, by eleven: it itself by nine and two priests, with two dishes of frankincense for the show bread in their hands.

[G] And on the Sabbath which coincides with the Festival [of Tabernacles], in the hand of yet another priest was a flask of water.

[H] A ram was offered by eleven: the meat by five, the innards, flour, and wine by two each.

[I] An ox was offered by twenty-four:

[J] the head and the right hind-leg – the head by one, and the right hind-leg by two;

[K] the rump and the left hind-leg – the rump by two, and the left hind-leg by two;

[L] the breast and the neck – the breast by one, and the neck by three;

[M] the two forelegs by two;

[N] the two flanks by two;

[O] the innards, the fine flour, and the wine by three each.

[P] Under what circumstances?

[Q] In the case of public offerings.

[R] But in the case of an individual’s offering,

[S] if [one priest] wanted to offer it up [all by himself], he offered it up.

[T] Flaying and cutting up both these and those [offerings] are subject to the same rules.

- [I:1 A] “And [Aaron’s sons the priests] shall lay [the pieces, the head, and the fat, in order upon the wood that is on the fire upon the altar]” (Lev. 1:8).
- [B] [With reference to Lev. 15:25: “(If a woman has a discharge of blood for many) days, (not at the time of her impurity, or if she has a discharge beyond the time of her impurity, all the days of the discharge she shall continue in uncleanness; as in the days of her impurity, she shall be unclean),”] is it possible to suppose that involved are a hundred [days]? Is it possible to suppose that involved are two hundred? [At issue is the number of days involved at Lev. 15:25.]
- [C] Said R. Aqiba, “In any case in interpreting the law in which you have the choice of imposing either a considerable measure or a small measure, if you impose the larger criterion, you may end up holding on to nothing, while if you impose the smaller criterion [which in any case is encompassed in the larger one], you end up holding on to something. [Accordingly, one should assume the smallest possible number in interpreting a given requirement.]”
- [D] *It has been taught:* R. Judah b. Beterah says, “If you have two measures, one which contains what you wish to measure, and one which does not contain it [but is much larger], all measure with the one which contains what you wish to measure, and do not measure with the one which does not contain it.”
- [E] Said R. Nehemiah, “Now does the Scripture come to open or to close [off possibilities]? Its purpose is not to close but to open, thus: If you say, ‘[If a woman has a discharge of blood for many] days, [not at the time of her impurity, or if she has a discharge beyond the time of her impurity, all the days of the discharge she shall continue in uncleanness; as in the days of her impurity, she shall be unclean]’ (Lev. 15:25), so that ‘days’ means ten, [one might maintain] they are not ten but a hundred, two hundred, a thousand, ten thousand.
- [F] “If you say that ‘days’ means two [days only], you have opened [the way, with the minimum plural being two].”
- [G] [Working along this same line of thought,] R. Mana said in the name of R. Judah, “‘Days’ means two days. Is it possible that there are many days [involved]? If you maintain that they are many days, has it not already been said ‘many’? Lo, Scripture speaks of only a few days, and how many are they? One must say, ‘They are two,’ and ‘many’ means they are three [in all].
- [H] “Is it possible to suppose that when it says ‘many,’ it means ten?”

- [I] “The Scripture has said ‘days,’ and it has said ‘many.’ Just as the smallest number of days is two, so the smallest addition referred to by ‘many’ is three.
- [J] “Is it possible to reckon that the two and the three – lo they are five? [So if the flow persists for five days, the woman is unclean?]
- [K] “And is it said ‘days and many’? And is it not said only ‘many days’?”
- [L] “How so? These many days should be more numerous than two, and how many are they? One must say ‘three.’”
- [M] “And Aaron’s sons the priests shall lay the pieces” (Lev. 1:8):
- [N] Is it possible to maintain that there may be a hundred [priests]?
- [O] Scripture states, “And the priest shall lay them in order upon the wood” (Lev. 1:12).
- [P] If Scripture states, “And the priest shall lay themÉ,” is it possible to suppose that it should be only a single priest to lay out all the limbs?
- [Q] Scripture says, “[And Aaron’s sons the priests] shall layÉ”
- [R] How so?
- [S] One priest lays out two limbs.
- [T] And how many limbs are there? Ten.
- [U] And one for the innards.
- [V] “It turns out that a lamb is taken up to the altar by six priests,” the words of R. Ishmael.
- [M] R. Aqiba says, “‘And they shall lay’ means two; ‘the sons of Aaron’ means two; ‘the priests’ means two. It turns out that six priests serve to bring a lamb up to the altar.”
- [X] [The following is interpolated and does not belong:] “‘The priests’ serve to encompass the bald priests [and others who are blemished, that they too, even though they may not serve, nonetheless must avoid corpse-uncleanness in line with Lev. 21:1ff.],” the words of R. Judah.
- [Y] [Reverting to V-W,] And does not Scripture speak of a beast of the herd?
- [Z] And how do you derive from scripture that the passage addresses the daily whole-offering of the morning?

[AA] Simeon bar Ba, R. Yohanan in the name of R. Yannai: “Here, ‘laying out’ is stated, and below, the same word is used: ‘And the priest shall lay themÉ’ (Lev. 1:12).

[BB] “Just as when the word ‘laying out’ is stated there, it speaks of the daily whole-offering of the morning, so when the word ‘laying out’ is used here, it speaks of the daily whole-offering of the morning.”

[CC] Ulla bar Ishmael in the name of R. Eleazar: “It is not necessary [to introduce the analogy by the repeated use of the same word AA-BB]. On the basis of the use of the language ‘and they shall lay,’ do we not know that they are two [priests who are to do the work]? And thus do you interpret the passage ‘and they shall lay out’ refers to two; ‘the sons of Aaron’ refers to two, ‘the priests’ refers to two. [This discourse surely refers to the lamb offered in the morning, which is the first offering of the day. For this is the first thing to be placed on the wood on the fire.]

[DD] “*And so it has been taught:* ‘You have nothing that takes precedence over the daily whole-offering in the morning, except for burning the incense alone.’”

[II:1 A] [As to M. 2:4H: A ram was offered by eleven.] Three priests can bring it up to the altar. And why is a ram offered by eleven priests?

[B] It is so as to make the matter well known [by the participation of many priests].

[C] Rabbis of Caesarea say, “On what account is the bullock offered by no fewer than twenty-four priests? It is so as to make the matter well known.

[D] “It is on the count of the following verse: ‘Within God’s house we walked in fellowship’ (Ps. 55:14).”

[III:1 A] [With reference to M. 2:4Q-S, we shall now prove that an ox belonging to an individual may be offered even by six priests:] Interpret the pertinent verse as follows: “And they shall lay out” refers to two priests. “Sons of Aaron” refers to two priests. “The priests” refers to two priests.

[B] On the basis of this passage, then, we learn that the ox offered by an individual is to be brought up by six priests.

YERUSHALMI YOMA

CHAPTER THREE

3:1

[A] [40b] The supervisor said to them, “Go and see whether the time for slaughtering the sacrifice has come.”

[B] If it has come, he who sees it says, “It is daylight!”

[C] Mattithiah b. Samuel says, “[He says,] ‘Has the whole east gotten light?’

[D] “‘To Hebron?’

[E] “and he says, ‘Yes.’”

[I:1 A] What is the meaning of “It is daylight”?

[B] It is the morning star.

[C] *There [in Babylonia] they say, “The sparkling star shines,” meaning, “The light-giver [the morning star] gives light.”*

[I:2 A] Is a single witness acceptable [in the procedure described here]?

[B] *This case is different*, for can you not prove [whether or not he is telling the truth, since, one way or the other, the facts become clear momentarily]?

[C] *But should you not take account of the fact that in the time in which he comes in and goes out, it indeed will become light, [but at the moment at which he said it was light, in fact it was not yet light]?*

[D] *The matter is readily known.*

[E] [There are other instances in which the testimony of a single witness is acceptable. For example,] if a single witness said, “Mr. So-and-so was born on the Sabbath,” they circumcise him on that day on the basis of that testimony.

[F] “It has gotten dark” at the end of the Sabbath – they carry [objects from one domain to the other] on the basis of his testimony.

[G] *R. Immi permitted carrying on the evidence of the midwife [that the child had been born on the Sabbath, and hence the rite of circumcision might be prepared and carried out on that day].*

[H] *R. Mattenayyah permitted carrying on the basis of the evidence of the lamplighters [that it was night].*

[I] *R. Ammi permitted carrying on the evidence of women, who testified that [when the child was born] the sun was yet light in the village of Susita.*

[II:1 A] [With reference to M. 3:1D:] Why does he ask, “To Hebron”?

[B] It is to call to mind the merit of the patriarchs.

3:2

[A] **And why were they required to do thus?**

[B] **For once the moonlight came up, and they supposed that the eastern horizon was bright, and so they slaughtered the daily whole offering and had to bring it out to the place of burning.**

[C] **They brought the high priest down to the immersion hut.**

[D] **This governing principle applied in the Temple: Whoever covers his feet [and defecates] requires immersion, and whoever urinates requires sanctification [the washing] of hands and feet.**

[I:1 A] The column of light of the moon rises straight up [like a stick], and the column of light of the sun irradiates over the entire eastern horizon.

[B] [Since the Day of Atonement falls at the tenth of the lunar month, why should there be a problem in differentiating moonlight from sunlight?] Indeed there was one incident at the end of the month, and [the one involving the Day of Atonement] came at the beginning of the month.

[I:2 A] And R. Hanina said, “From the time of daybreak until the eastern horizon is alight, one can walk four *mils*. From when the eastern horizon is lit up until the sun rises, one can walk four *mils*.”

[B] “And how [on the basis of Scripture] do we know that from the time of daybreak until the eastern horizon is alight, one can walk four *mils*? As it is said, ‘And when morning dawned, the angels urged Lot, saying, ‘The sun had risen on the earth when Lot came to Zoar’ (Gen. 19:15, 23).”

[C] From Sodom to Zoar the distance is greater than four *mils*!

[D] Said R. Zeira, “The angel smoothed the road before them.”

[E] And how do we know that, from when the eastern horizon lit up until the sun rises, one can walk four *mils*?

[F] Scripture might have said “When” (at Gen. 19:15). When it says “And when,” it means to indicate that each distance is equivalent to the other.

[G] *Said R. Yosé b. R. Bun, “As to the morning star, he who says that it is a star errs, for sometimes it rises early, and sometimes it rises late. [If it were a star, it would have a fixed time for rising.]”*

[H] *What is the upshot of the matter?*

[I] *It is like two sparks of fire which rise up from the flame and give light.*

[I:3 A] *One time R. Hiyya the Elder and R. Simeon b. Halapta were walking in the valley of Arabel at daybreak. They saw that the light of the morning star was breaking forth. Said R. Hiyya the Elder to R. Simeon b. Halapta, “Son of my master, this is what the redemption of Israel is like – at first, little by little, but in the end it will go along and burst into light.*

[B] *“What is the scriptural basis for this view? ‘Rejoice not over me, O my enemy; when I fall, I shall rise; when I sit in darkness, the Lord will be a light to me’ (Mic. 7:8).*

[C] *“So, in the beginning, ‘When the virgins were gathered together the second time, Mordecai was sitting at the king’s gate’ (Esther 2:19).*

[D] *“But afterward: ‘So Haman took the robes and the horse, and he arrayed Mordecai and made him ride through the open square of the city, proclaiming, Thus shall it be done to the man whom the king delights to honor’ (Esther 6:11).*

[E] *“And in the end: ‘Then Mordecai went out from the presence of the king in royal robes of blue and white, with a great golden crown and a mantle of fine linen and purple, while the city of Susa shouted and rejoiced’ [Esther 8:15].*

[F] *“And finally: ‘The Jews had light and gladness and joy and honor’ (Esther 8:16).”*

[I:4 A] *It has been taught: A priest who went out to speak with his fellow – if it was for some time, he has to immerse. If it was for a moment, he has to sanctify hands and feet [cf. T. Yoma 1:16A].*

[B] And is a conversation not for a brief moment?

[C] No, a conversation is different, for [the authorities] have treated it as equivalent to going out for some time.

[D] *It has been taught:* If one fell asleep [in the courtyard], he has to immerse. If he dozed, he has to sanctify hands and feet.

[E] “If one went to sleep, he has to immerse” – *and did not R. Hiyya teach*, “There was no sitting down in the courtyard, except for the kings of the House of David alone”?

[F] And R. Ammi said in the name of R. Simeon b. Laqish, “Even the kings of the House of David did not have the right to sit down in the courtyard.” [Accordingly, how would one fall asleep under these circumstances at all?]

[G] Interpret the law to speak of one who leaned up against a wall and fell asleep.

[H] And lo, it is written, “Then King David went in and sat before the Lord” (2 Sam. 7:18).

[I] Said R. Aibu bar Nigri, “He set himself down in prayer.”

3:3

[A] **A person does not enter the courtyard for the service, even if he is clean, unless he immerses.**

[B] **Five acts of immersion, and ten acts of sanctification of the hands and feet, does the high priest carry out on that day.**

[C] **And all of them are in the sanctuary at the Parvah chamber, except for this one alone.**

[I:1 A] *This is the way the passage of the Mishnah is to be read: A person does not enter the courtyard and the service, even if he is clean, unless he immerses [M. 3:3A].*

[B] [That is to say,] it is not the end of the matter that he comes for the service. But even if it is not for the service, [he still must immerse].

[I:2 A] **They asked Ben Zoma, “What is the reason for this immersion?”**

[B] **He said to them, “If he who goes in from one holy area to another requires immersion, he who enters from a secular area to a holy area all the more so should require immersion!” (Cf. T. Yoma 1:16B-C.)**

[C] *No, there is this question.* It may be that, if one goes from one holy area to another holy area, he should not require immersion, while if he goes from an unconsecrated area to a holy area, he should require immersion. [So the proposed argument does not stand.]

[D] *Said R. Shimi, “This is the proper version: [He said to them] ‘If one who goes in from one holy area to another, a place not subject to the punishment of extirpation, requires immersion, he who enters from an ordinary area to a holy place, which is subject to punishment of extirpation, surely should require immersion’ [T. Yoma 1:16C].”*

[E] And if one goes from one holy area to another, he should be liable to the punishment of extirpation [if he does not prepare appropriately] .

[F] *It accords with the following, which we have learned there:*

[G] **If [when a person did not realize he was unclean and in the Temple and so had to leave,] he prostrated himself or remained there for an interval sufficient for prostrating himself [M. Shebu. 2:3C].**

[H] How long is the time needed for prostrating oneself?

[I] R. Simon in the name of R. Joshua b. Levi: “It is the interval needed to recite the following: ‘[When all the children of Israel saw the fire come down and the glory of the Lord upon the Temple,] they bowed down with their faces to the earth on the pavement, and worshiped and gave thanks to the Lord, saying, For he is good, for his steadfast love endures forever’ (2 Chron. 7:3).”

[J] R. Abbahu added, “Up to ‘Praise the Lord, for he is good.’”

[K] R. Mana added, “Up to ‘Éfor his steadfast love endures forever.’”

[I:3 A] *It has been taught [in T.’s version:] R. Judah says, “This immersion too was required only because of real dirt.*

[B] **“Sometimes an old source of uncleanness clings to one’s hands.**

- [C] **“Because sometimes one is going to immerse [to clean up], he remembers that he is unclean and goes back [immerses and then goes] along” [T. Yoma 1:16D-F].**
- [D] *There we have learned: [He subject to flux who suffered a seminal flux, or a menstruant who discharged semen, or if] a woman had a flow of blood during sexual relations, they must immerse themselves [before they say the Prayer]. R. Judah declares them exempt [from having to do so] [M. Ber. 3:6].*
- [E] [What is R. Judah’s reasoning here?]
- [F] Does he differ on the ground that the kind of immersion required here involves merely immersion on account of dirt?
- [G] Or is his reason that it will do the person no good anyhow even if there is immersion [since the various people listed here are unclean, whether or not they immerse on the count of the flux or flow they have just had]?
- [H] *What is the practical difference between these two proposed reasons behind the view of R. Judah?*
- [I] If someone produces a flow of semen.
- [J] *If you say that* R. Judah differs because it is an immersion merely to remove dirt, this immersion is [not] required on the authority of the Torah [in which case], in this instance, Judah will [not] require [the immersion].
- [K] *If you say that* his reason is that if one does immerse, it will do him no good anyhow, [40c] in this instance it does good if the man immerses, so here he will maintain the view he has expressed *in the following teaching:*
- [L] **Said R. Judah, “This immersion too was required only because of real dirt. Sometimes an old source of uncleanness clings to one’s hands. Because sometimes one is going to immerse [to clean up], he remembers that he is unclean [on a more serious count], and he goes back, immerses, and then goes along [given in T.’s version, as above].”** [Accordingly, Judah’s reason is that even though the immersion is only to remove dirt, it may prove necessary after the fact, and therefore is to be carried out.]
- [M] *That is to say,* R. Judah did not differ because it was a matter of immersion to remove dirt, but it was because of the theory that,

even if one were to immerse, what good would it do him? [That is why he differed at M. Ber. 3:6.]

3:4

[A] They spread out a linen sheet between him and the crowd.

[B] He took off his clothes, went down, immersed, came up, and dried off.

[C] They brought him golden garments, and he put them on, and he sanctified his hands and feet.

[D] They brought him the daily whole-offering.

[E] He cut [the windpipe and gullet], and another priest completed the slaughtering on his behalf.

[F] He received the blood and tossed it.

[G] He went in to offer up the incense-offering of the morning, to trim the lamps, and to offer up the head and limbs, baked cakes, and wine.

[I:1 A] [As to M. 3:4E, he cut the windpipe and gullet,] R. Eleazar in the name of R. Hoshaiah: “He cut two or the greater part of two [of the organs of the throat, then handed the beast over to another priest].”

[B] *Said R. Yosé, “The Mishnah has made that point: They brought him the daily whole-offering. He cut [the windpipe and gullet], and another priest completed the slaughtering on his behalf [M. 3:4D-E].”*

[I:2 A] It is written, “[A beautiful heifer is Egypt,] but a gadfly from the north has come upon her” (Jer. 46:20). [What is the meaning of the word “come”?]

[B] R. Haninah and R. Joshua b. Levi: One said, “It slaughtered her.”

[C] *The other said, “It removed her.”*

[D] *The one who said that the meaning is “It slaughtered her” draws evidence from this passage: They brought him the daily whole-offering. He cut [the windpipe and gullet] [M. 3:4D-E].*

[E] *He who maintains that the meaning of the word “come” is that it removed her from her place draws evidence from the following use in Scripture: “I too was formed from a piece of clay” (Job 33:6).*

3:5

[A] The incense-offering of the morning was offered between the tossing of the blood and the offering up of the limbs.

[B] That of twilight [was offered up] between the burning of the limbs and the drink-offerings.

[C] If the high priest was decrepit or infirm, they heated hot water for him and poured it into the cold water,

[D] to relieve the chill.

[I:1 A] With reference to the daily whole-offering, it is written, “One lamb you shall offer in the morning, and the other lamb you shall offer in the evening” (Exod. 29:39).

[B] And with reference to the wood-offering, it is written, “The priest shall burn wood on it morning by morning” (Lev. 6:12).

[C] Something concerning which morning is stated twice takes precedence over something concerning which morning is stated only one time. [That accounts for M. 3:5A, incense before the limbs, which are compared to wood.]

[D] If that is the case, then why not do it before the tossing of the blood as well [vs. M. 3:5A]?

[E] R. Hila said, “With reference to the daily whole-offering, ‘You will prepare [offer]’ is written. The act of preparation takes precedence.”

[F] With regard to the daily whole-offering, it is written, “One lamb you shall offer in the morning, and the other lamb you shall offer in the evening” (Exod. 29:39).

[G] And with regard to the incense-offering, it is written, “And Aaron shall burn fragrant incense on it; morning by morning when he dresses the lamps he shall burn it” (Exod. 30:7).

[H] Something concerning which morning is stated twice [incense] takes precedence over something concerning which morning is stated only one time [daily whole-offering].

[I] *How shall we interpret this matter?*

[J] If it makes reference to the matter of burning up the limbs, are they not in the status of burning up mere pieces of wood?

[K] *But thus must we interpret the matter*, to indicate that [arranging the wood] takes precedence even over tossing the blood.

[L] With reference to the wood-offering, “morning” is stated two times, and with reference to the incense-offering, “morning” is stated two times.

[M] Accordingly, I do not know which of them takes precedence.

[N] Which one makes the other possible? It is the wood-offering which makes possible the incense-offering. It must follow that the wood-offering should take precedence over the incense offering.

[O] *Now see here!* The wood-offering comes before the blood rite, and the blood rite comes before the burning of the incense.

[P] *So how can you say this!*

[Q] Said R. Hila, “It is because I have not succeeded in proving the matter on the basis of logic, namely, the wood makes possible the incense-offering, *that the cited passage of Tannaite teaching was required [to state matters as it has, placing the incense-offering before the wood].*”

- [I:2 A]** *They proposed to rule,* Which items make possible the incense-offering? It is the coals [on the fire]. [Nothing else is required for the incense-offering.]
- [B] Said R. Eleazar, “[That is not the case, for there has to be an ingredient that] makes the smoke rise. [That too is required for the incense-offering.]”
- [C] With reference to the daily whole-offering, there is reference to twilight, and with regard to the incense-offering, there is reference to twilight.
- [D] This is in the context of discourse on the lamps. Concerning the lamps, there is reference to their burning from evening to morning [indicating that there is no further act of labor after the lamps have been kindled]. [This indicates that the burning of the incense at twilight is done after the offering of the daily whole-offering of the evening,] for a matter concerning which the language of twilight is used in the context of the kindling of the lamps must be carried out later than a matter concerning which only twilight is mentioned. [This proves the proposition just now stated, namely, that burning of the incense at twilight is done after the daily whole-offerings.]

- [E] If that is the case, then why should the incense-offerings not follow even the drink-offerings [vs. M. 3:5B]?
- [F] Said R. Hila, “The language ‘You shall prepare’ is used, indicating that in the evening-offering one should delay the deed [and offer the drink-offering last].”
- [G] *R. Bun bar Hiyya asked before R. Hila, “Here you have said that since the language of preparation is used, the act of preparation takes precedence, while there you have said that, since the language of preparation is used, the act of preparation takes place at the end of the rite!”*
- [H] Said to him R. Hila, “Each exegesis must follow the requirement of its own context.
- [I] “The daily whole-offering offered in the morning was subject to a general principle that it comes at the end of a series of preparatory steps. Accordingly, when Scripture uses the language of preparation, it means to give precedence to the act of preparation.
- [J] “The daily whole-offering offered at twilight was subject to a general principle that it comes at the beginning of a series of preparatory steps. Accordingly, when Scripture uses the language of preparation, it means to delay the act of preparation [until later than one might otherwise have placed it].”
- [K] *[When] R. Zeirah [heard this answer], he praised him and called him a true son of the Torah.*
- [II:1 A]** [With reference to M. 3:5C-D,] *it has been taught:* R. Judah said, “They prepared bars of iron and boiled them from the eve of the Day of Atonement, and tossed them into the cold water to relieve the chill.”
- [B] Does this not turn out to extinguish [the heat] on the Day of Atonement?
- [C] *But does R. Judah maintain the theory that the consideration of the generative categories of labor [prohibiting such an act as this] does not apply to the Day of Atonement?*
- [D] But may we then say that R. Judah and R. Simeon maintain the same position [namely, that an act of labor not done for its own sake, that is, for a constructive purpose, is not prohibited]? [In this case putting the hot rods into the water is not done to cool the rods, so it is not prohibited.]

[E] *Has it not been proposed that R. Yosé and R. Simeon both maintain the same view?* Accordingly, should we then say, R. Yosé, R. Judah, and R. Simeon all three maintain the same view? [The tradition specifying that Yosé accords with Simeon does not tell us that Judah does. Accordingly, it is not likely that his reason is that he accords with Simeon's principle. There must be some other consideration that leads to his view.]

[F] *Does R. Judah then maintain that a secondary effect of a generative category of fire is not in the same category as that generative category?* [That is, the heat in the bars is not fire, but it is a secondary development of fire. Judah will maintain that that secondary development is not subject to the same rule as the primary category of fire.]

[G] *That indeed is the case. R. Judah does maintain that a secondary development of fire is not equivalent to the fire itself [and is not subject to the same prohibitions].*

[H] *Rabbis, for their part, maintain that a secondary development of fire is subject to the same prohibitions as fire itself [on which account they do not concur with the procedure proposed by Judah, but rather that stated at M. 3:5C].*

[II:2 A] They heated hot water for him [M. 3:5C].

[B] *R. Joshua bar Abin, R. Simon in the name of R. Iniani b. Susai: "The reason for the position of this Tannaite authority [behind the cited rule] is that someone should not say, 'We say the high priest immerses in drawn water [which is not suitable for serving in an immersion pool] on the Day of Atonement,' [so they would pour the water into the immersion pool while it was yet cold, before it had heated up, since this would indicate that it was surely not drawn water. Then they would pour in hot water and heat up the pool.]"*

3:6

[A] **They brought him to the Parvah chamber, and it was in the sanctuary.**

[B] **They spread out a linen sheet between him and the crowd.**

[C] **He sanctified his hands and feet and took off his clothes.**

[D] **R. Meir says, "He took off his clothes, [then] sanctified his hands and feet."**

[E] **He went down, immersed, came up, and dried off.**

[F] They brought him white clothes.

[G] He put them on and sanctified his hands and feet.

[H] “At dawn he would put on a garment of Pelusium linen worth twelve manehs, and at dusk, he wore Indian linen worth eight hundred zuz,” the words of R. Meir.

[I] And sages say, “At dawn he would put on a garment worth eighteen manehs, and at dusk, one worth twelve manehs.

[J] “In all it was worth thirty manehs.”

[K] These belong to the public.

[L] And if he wanted to spend more, he could do so at his own expense.

[I:1 A] [With reference to M. 3:6C, D], *what is the scriptural basis for the position of R. Meir* [that the priest takes off his clothes, then sanctifies his hands and feet, as against sages’ reversal of the order of these actions]?

[B] “[Then Aaron shall come into the tent of meeting, and] shall put off [the linen garments which he put on when he went into the holy place, and shall leave them there; and he] shall bathe [his body in water in a holy place, and put on his garments, and come forth, and offer his burnt-offering and the burnt-offering of the people, and make atonement for himself and for the people]” (Lev. 16:23-24). [Meir maintains that the requirement is] taking off the garments, sanctifying hands and feet, then washing, then [again] sanctifying hands and feet.

[C] *What is the scriptural basis for the view of rabbis?*

[D] “He shall put off [the linen garments]Éand put on his garments” (Lev. 16:23-24).

[E] Scripture compares taking off the garments to putting them on. Just as putting on the garments requires sanctification of hands and feet, so taking them off requires sanctification of hands and feet [as is the specified order at M. 3:6C].

[F] *Said R. Mana before R. Yudan, “In the theory of R. Meir, the act of washing intervenes [between the immersion and putting on the clothing, since Meir wants a process of sanctifying hands and feet after the immersion of the entire body, as at B].”*

[G] *He said to him, “Do you consider that R. Meir maintains one first takes off the clothing, then sanctifies hands and feet, then washes [immerses], then sanctifies the hands and feet again?*

[H] “That is not the case. [But the order he requires is this:] he takes off the clothing, sanctifies hands and feet, then washes [immerses], then puts on the garments, and at the end, sanctifies hands and feet [again].”

[I] Samuel said, “All the same are the sanctification of hands and feet on the occasion of taking off the clothes and putting on the clothes: both of them pertain to what is to come [thereafter]. [Both sanctifications pertain to the clothing he is about to put on. Each time one must put on a fresh set of garments, he has to sanctify hands and feet before and afterward.]”

[J] Bar Qappara said, “One such sanctification pertains to the coming garments, and one to the garments that he has taken off just now. In both instances, he does the washing of hands and feet when already clothed.”

[K] Said R. Yohanan, “Both parties [Samuel, Bar Qappara], concur with regard to the first act of sanctifying hands and feet, that it pertains to an act of service which is to come [since in this case he has not done anything as yet, so there is no act of service already carried out to which it might pertain].”

[L] Said R. Yohanan, “All parties concur with regard to this first act of sanctifying hands and feet that it is indispensable to the rite.”

[M] What is the scriptural basis for this view?

[N] “And it shall be a statute to you in all your generations” (Lev. 16:29).

[O] Said R. Yohanan, “All concur with regard to the final sanctification that this pertains to rites of service already performed.”

[P] *Said R. Yosé, “The Mishnah for its part has made that same point: **Then he sanctified his hands and feet and took off his clothes. They brought him his own clothing and he put it on [M. 7:4F-G].***

[Q] “Now does someone sanctify his hands and feet and then put on unconsecrated clothing? [Obviously not!]”

[R] Said R. Yohanan, “When Scripture says, ‘And he shall put them on’ (Lev. 16:23), the meaning is that putting on the clothing is indispensable to the rite, but

sanctification of hands and feet is not indispensable to the rite.”

[S] *Along these same lines:* Putting on the garments is indispensable to the rite, and sanctification of hands and feet is not indispensable to the rite.

- [I:2 A] [When Scripture says, “He shall be girded with a linen] coat” (Lev. 16:4), the implication is that they should be doubled. [Each gets two.] *And this has been established as not in accord with the view of R. Yosé.*
- [B] *R. Samuel bar R. Isaac did not go down to the meetinghouse. He met up with R. Zeira. He said to him, “What was new in school today?”*
- [C] He said to him, “[When Scripture says, ‘He shall be girded with a linen] coat’ (Lev. 16:4), the implication is that they should be doubled. *And this does not accord with the view of R. Yosé.”*
- [D] *For it has been taught:* “And for Aaron’s sons you shall make coats [and girdles and caps; you shall make them for glory and beauty]” (Exod. 28:40).
- [E] Rabbis say, “Two coats for each one.”
- [F] R. Yosé says, “Even a single coat for each one [not doubled up].”
- [G] *What is the scriptural basis for the view of rabbis?*
- [H] “And for Aaron’s sons you shall make coats” [in the plural, hence, two].
- [I] *What is the scriptural basis for the view of R. Yosé?*
- [J] “For even a hundred sons of Aaron, you shall make a coat.”
- [K] When it says “fine linen,” it means that they must be new.
- [L] If you maintain that he should not wear worn garments, *lo, it is taught:* “And he shall put them on” (Lev. 16:23) – even if they are worn. [Hence the exclusionary effect of this usage is different. It excludes the use of garments which have been employed for secular purposes.]
- [M] R. Hananiah in the name of R. Yosé: “This is parallel to the dispute concerning leather that has been worked for the purpose of making an amulet. It is permitted to write a *mezuzah* on it.

[N] Rabban Simeon ben Gamaliel prohibits doing so.

[O] *Said R. Yosé, “We considered maintaining that where they differ [in regard to use of the garments] concerns use by an ordinary person. Lo, if the garments already have been used for sacred purposes [the Most High], there is no dispute.”*

[P] [But in point of fact, there also is a dispute in this latter matter:] *For it has been taught:* Stones for use for the sanctuary – it is necessary that hewing them be done in conditions of sanctity, and that they be hewn in the sanctuary.

[Q] As to garments for sacred use, it is necessary that the weaving be done in conditions of sanctity, and that they be woven in the sanctuary.

[R] And R. Haninah in the name of R. Yosé said, “This is subject to dispute.”

[S] *That is to say that the dispute also concerns these items when to begin with they have been prepared for the Most High.*

[T] *For it has been taught: **He who makes a utensil for the Most High – before it has been used for the Most High, it is permitted for use by an ordinary person. Once it has been used for the Most High, it is prohibited for use by an ordinary person*** [T. Men. 9:21].

[U] *It has been taught:* He who makes a utensil for the Most High – an ordinary person should not make use of it.

[V] *R. Hananiah in the name of R. Yosé: “This is subject to dispute, for it has been taught: He who makes a utensil for an ordinary person – before an ordinary person has made use of it, it is permitted to make use of it for purposes of the Most High. Once an ordinary person has made use of it, it is forbidden to be used for the Most High.”*

[W] *And lo, it has been taught:* He who makes a utensil for an ordinary person – it is forbidden to be used for the Most High.

[X] R. Hunah in the name of the rabbis over there:
“Interpret the passage to speak of a utensil that to begin with came from the heave-offering of the chamber [in which case the money for this utensil has been contributed for the service of the Most High], *in which case there is nothing to be derived from this rule.*”

[I:3 A] As to utensils of service, at what point do they enter the category of the sacred? Is it forthwith, or only after they have been used?

[B] If you say it is forthwith, there are no problems.

[C] If you say that it is only after [40d] they have been used, then are they sanctified simultaneously [with their first use]?

[D] *There are no problems in understanding* the case of the utensils of Moses, which were sanctified by anointing oil. But as to the ones of Solomon, did they both impart sanctity [to what was put into them] and become sanctified simultaneously [when they were used for the first time]?

[E] When they came into the Land, they poured out [holy materials] from the utensils of Moses to the utensils of Solomon.

[F] In case there was no utensil of Moses available, then was it simultaneously that they sanctified what was poured into them and also became sanctified [through their first usage]?

[G] And when they came up from the Exile, they emptied [holy materials] from utensils of Solomon to their own utensils. If there was no utensil of Solomon available, then at one and the same time what they poured into the utensil became holy, and the utensil itself was sanctified.

[I:4 A] Stones which one has hewed for the sake of a deceased person may not be used for benefit.

[B] If he hewed them both for a living person and for a deceased person, they are permitted for benefit.

[C] He who tosses a utensil before the bier of a corpse – if it falls within four cubits of the bier, it is forbidden for enjoyment.

[D] If it is outside of four cubits from the bier, it is permitted for enjoyment.

[I:5 A] You turn out to rule: On this day he immerses himself five times and he sanctifies hands and feet ten times [M. 3:3B]:

- [B] Now how do we know that there are two sanctifications of hands and feet for each immersion [that the high priest undertakes]?
- [C] Scripture says, “[Then Aaron shall come into the tent of meeting, and] shall put off [the linen garments which he put on when he went into the holy place, and shall leave them there; and he] shall bathe [his body in water in a holy place, and put on his garments, and come forth, and offer his burnt-offering and the burnt-offering of the people, and make atonement for himself and for the people]” (Lev. 16:23-24). [Thus he shall take off his garments, he shall wash (immerse), and he shall put on his garments.]
- [D] Said R. Eleazar b. R. Simeon, “And it is a matter of logic. Now if in a case in which there is no requirement of immersion, there is a requirement of sanctification of hands and feet, in a case in which there is a requirement of immersion [in the present one], is it not logical that there should be a requirement of sanctification of hands and feet?”
- [E] Take away what you have brought! For one might argue: Just as elsewhere, one such washing serves for the entire day, so here, one washing serves for the entire day!
- [F] Scripture says, “And he shall put off the linen garments which he had put on” (Lev. 16: 23)
- [G] Now what need is there for Scripture to say, “which he had put on”?
- [H] And would it enter our minds that he can take off anything but what he had already put on?
- [I] If so, why is it said, “which he had put on”?
- [J] Scripture thereby establishes an analogy between taking off the clothing and putting on the clothing.
- [K] Just as putting on the clothing is accompanied by the sanctification of hands and feet, so taking off the clothing is to be accompanied by sanctification of hands and feet.
- [L] *Said R. Mana, “Would not the opposite be more reasonable? The Scripture has drawn an analogy between putting on clothing and taking off clothing.*
- [M] “Just as taking off clothing is accompanied by sanctification of hands and feet, so putting on clothing is accompanied by sanctification of hands and feet.”

- [I:6 A] And is not a second-class garment of Pelusium linen more beautiful than a first-class garment of Indian linen?
- [B] But the latter is preferred because of the thing that is named “first.”
- [C] *There we have learned: **Than the first kind of oil from the first way of preparing the olives, there is none better; the second kind of oil from the first way of crushing the olives and the first kind of oil from the second way of crushing the olives are equal** [M. Men. 8:5].*
- [D] Is not the second drawing by the first process better than the first drawing of the second?
- [E] Likewise as regards oil, the latter is preferred because of the thing which is named first.
- [F] *How so?*
- [G] R. Nahman in the name of R. Mana: “In regard to the morning part of the rite, ‘fine linen garments’ is written four times, and in the afternoon part of the rite, the same word is written only one time [hence the rule of M. 3:6H, I].”
- [I:7 A] **There was this case: Ishmael b. Phiabi’s mother made for him a tunic worth a hundred manehs.**
- [B] **And he would stand and make offerings on the altar wearing it [T. Yoma 1:21].**
- [C] **There was this other case: Eleazar b. Harsom’s mother made for him a tunic for twenty thousand, and he would stand and make offerings on the altar while wearing it.**
- [D] **But his brethren, the priests, called him down,**
- [E] **because [it was so sheer that] he appeared naked while wearing it [T. Yoma 1:22].**
- [F] What did he do? He filled it up with water and walked around the altar seven times [to indicate how thick the fabric was].

3:7

- [A] **He came over to his bullock.**
- [B] **Now his bullock was set between the Porch and the Altar.**
- [C] **Its head was to the south and its face to the west.**
- [D] **And the priest stands at the east, with his face to the west.**

- [E] **And he puts his two hands on it and states the confession.**
- [F] **And thus did he say, “O Lord, I have committed iniquity, transgressed, and sinned before you, I and my house. O Lord, forgive the iniquities, transgressions, and sins, which I have done by committing iniquity, transgression, and sin before you, I and my house.**
- [G] **“As it is written in the Torah of Moses, your servant, ‘For on this day shall atonement be made for you to clean you. From all your sins shall you be clean before the Lord’ (Lev. 16:30).”**
- [H] **And they respond to him, “Blessed is the Name of the glory of his kingdom forever and ever.”**
- [I:1 A] **What is [the area to be defined as] the northern [side] of the altar, which is valid for slaughtering Most Holy Things?**
- [B] **“[From] the wall of the northern side of the altar to the northern wall of the courtyard, along the face of the entire altar. And this encompasses thirty-two cubits,” the words of R. Meir.**
- [C] **R. Eliezer b. R. Simeon adds [the area] from opposite [the space] between the entrance hall to the altar, up to the area opposite the knives’ room [the place in the Temple where the slaughtering knives were kept]. And this encompasses twenty-two cubits.**
- [D] **And Rabbi adds the area in which Israelites have the right to go, eleven cubits in breadth, and eighty-seven in length, and the area in which priests have the right to go, eleven in breadth and one hundred eighty-seven in length, from the surrounding enclosure of the northern wall to the eastern wall of the courtyard.**
- [E] **And just as the slaughtering is in the north, so is the receiving of the blood in the north [T. Zeb. 6:1A-E].**
- [I:2 A] **Said R. Yohanan, “We have not found that the slaughter of a beast in the sacrificial rite is invalid if it is done by a non-priest.”**
- [B] *Rab instructed his disciples, “In every place repeat the tradition as follows: [A priest always] slaughters [the sacrificial animal], except for the case of [the red] cow [which may be slaughtered by a non-priest].*
- [C] *“Along these same lines, repeat: ‘[A priest] tosses [the blood of the red] cow. [It follows that a non-priest here may do the slaughtering.]”*
- [D] *But R. Yohanan has said, “We do not find a case in which slaughtering a beast in the sacrificial rite is invalid when done by a non-priest.”*

- [E] *R. Hiyya bar Ba objected*, “And lo, it is written, ‘[And you shall give her to Eleazar the priest, and she shall be taken outside the camp and] slaughtered [before him; and Eleazar the priest shall take some of her blood with his finger,] and sprinkle [some of her blood toward the front of the tent of meeting seven times]’ (Num. 19:3-4).
- [F] “Just as the sprinkling of the blood is not valid when done by a woman as by a man, so the act of slaughter is not valid when done by a woman as by a man. [If a woman may not do it, a non-priest also may not do it.]”
- [G] He said to him, “Lo, in the matter of sprinkling the purification water, lo, it is a valid act when done by a non-priest, but invalid when done by a woman.”
- [H] He said to him, “In that context [concerning sprinkling the water], ‘priest’ is not written, but rather ‘man.’ Here, by contrast, it is written, ‘a priest,’ indicating, again, that the same rule applies to a non-priest and to a woman.
- [I] “*For what purpose is reference made to ‘a man’?* It is to indicate that it is valid when done by a non-priest.
- [J] “[And] the same rule applies to a man and to a woman.
- [K] “So if you maintain that the rite is valid when done by a non-priest, it should be valid when done by a woman.”
- [I:3 A]** R. Ishmael b. R. Isaac, R. Yohanan in the name of R. Simeon b. Yohai: “The bullock offered on the Day of Atonement requires [the service of] a priest.”
- [B] Why has he not made reference also to the goat?
- [C] *For he cites the language of Scripture, which reads*, “Then he shall kill the goat and bring its blood” (Lev. 16:15).
- [D] Just as the bringing of the blood must be done by a priest, so the slaughtering must be done by a priest.
- [E] [Concurring on the law but not on the formulation thereof,] R. Jacob bar Aha, R. Yosé, R. Yohanan in the name of R. Simeon b. Yohai: “The bullock and the goat offered on the Day of Atonement require the services of a priest.”
- [II:1 A]** [With reference to M. 3:7E,] said R. Haggai, “In the first confession he says, ‘O [holy] Name.’ But in the second confession he pronounces the Name [of the Lord].”

[II:2 A] *It has been taught [in T.'s version]: How does he state the confession?*

[B] “O Lord, I have committed iniquity, transgressed and sinned before you, I and my house. O Lord, forgive the iniquities, transgressions, and sins, which I have done in committing iniquity, transgression, and sin before you, I and my house, as it is written in the Torah of Moses, your servant, ‘For on this day shall atonement be made for you, to clean you; from all your sins shall you be clean before the Lord’ (Lev. 16:30) [M. 3:7F- G].

[C] “And the high priest further says, ‘[And Aaron shall lay both his hands upon the head of the live goat,] and confess over him all the iniquities of the people of Israel, and all their transgressions, all their sins’ (Lev. 16:21),” the words of R. Meir.

[D] And sages say, “‘Iniquities’ – these are those done deliberately. ‘Their transgressions’ – these are acts of rebellion. ‘Their sins’ – these are the misdeeds done inadvertently.

[E] “Now after he has confessed the deliberate iniquities and the acts of rebellion, shall he go back and confess their inadvertent misdeeds as well?

[F] “But how does he say the confession?

[G] “O Lord, I have committed iniquity, transgressed, and sinned before you....’ And they respond to him, ‘Blessed is the name of the glory of his kingdom for ever and ever’ [M. 3:7F-H].

[H] “For so do we find that it is the way of all those who confess in this way.

[I] “David said, ‘Both we and our fathers have sinned; we have committed iniquity, we have done wickedly’ (Ps. 106:6).

[J] “Solomon said, ‘We have sinned, we have transgressed, we have done wickedly’ (I Kings 8:47).

[K] “Now what is it that Moses said, ‘Forgiving iniquity, transgression, and sin’ (Exod. 34:7)?

[L] “But since he was making confession for deliberate violations of the law and acts of rebellion, it is as if they are deeds done inadvertently before him.

[M] “And thus did he confess, ‘I have sinned, I have transgressed, I have done wickedly before you’”[T. Yoma 2:1].

- [II:3 A] Ten times that day he expressed the Divine Name, six in regard to the bullock, three for the goat, and one for the lots [T. Yoma 2:2E].**
- [B] Those who were nearby would fall on their faces, and those who stood at a distance would say, “Blessed be the Name of his glorious kingdom for ever and ever.”
- [C] These and those would not move from the spot until he disappeared from their sight. [For] “This is my name for ever” (Exod. 3:15) may be read, “This is my name, which is to be concealed.”
- [D] In the beginning he would say the Divine Name in a loud voice. When undisciplined people became many, he would say it in a low voice.
- [E] Said R. Tarfon, “I would stand in line among my brethren, the priests, and I inclined my ear to the high priest, and I heard him swallow up [the Divine Name] in the singing of the priests.”
- [F] In the beginning the name was passed on to everybody. When undisciplined people became many, one would hand it over only to suitable folk.
- [G] *Samuel was walking by and heard a Persian curse his son using that name, and the son died. He said, “Let the person pass, and whoever heard it heard it.”*
- [H] *R. Inyoni b. Susai went up to R. Haninah in Sepphoris. He said to him, “Come, and I shall hand it over to you.” His son went and hid under his bed. He choked, and the other heard his voice and said, “How you people behave deceitfully! I’m leaving, and I’m not giving it over either to you or to him.”*
- [I] *A physician in Sepphoris said to R. Phineas bar Hama, “Come and I shall hand it over to you.”*
- [J] *He said to him, “I cannot do so.”*
- [K] *He said to him, “Why?”*
- [L] *He said to him, “I consume tithes, and he who [41a] regularly makes mention of the Divine Name cannot derive any benefit from other people at all [since he must be at a higher level of holiness].”*

3:8

- [A] He came to the east side of the courtyard, to the north of the altar, with the prefect at his right hand and the head of the father's house at the left.
- [B] There were two goats.
- [C] There also was a box with two lots.
- [D] They used to be of boxwood, but Ben Gamla made them of gold.
- [E] Consequently he was remembered with honor.
- [F] Ben Qatin made twelve stopcocks for the laver, which had had only two.
- [G] And he too made a mechanism for the laver, so its water should not be invalidated by being kept overnight.
- [H] King Monobases had handles made of gold for all the vessels used on the Day of Atonement.
- [I] Helene, his mother, set a golden candlestick over the door of the sanctuary.
- [J] She also made a golden tablet, on which was written the pericope of the accused wife.
- [K] As to Nicanor, miracles were done at his doors.
- [L] And they remembered him with honor.
- [I:1 A] What is [the area to be defined as] the northern [side] of the altar, which is valid for slaughtering Most Holy Things?
- [B] “[From] the wall of the northern side of the altar to the northern wall of the courtyard, along the face of the entire altar. And this encompasses thirty-two cubits,” the words of R. Meir.
- [C] R. Eliezer b. R. Simeon adds [the area] from opposite [the space] between the entrance hall to the altar, up to the area opposite the knives' room [the place in the Temple where the slaughtering knives were kept]. And this encompasses twenty-two cubits.
- [D] And Rabbi adds the area in which Israelites have the right to go, eleven cubits in breadth, and eighty-seven in length, and the area in which priests have the right to go, eleven in breadth and one hundred eighty-seven in length, from the sw rounding enclosure of the northern wall to the eastern wall of the courtyard.
- [E] And just as the slaughtering is in the north, so is the receiving of the blood in the north [T. Zeb. 6:1A-E].

- [I:2 A] The prefect [M. 3:8A] served for five purposes:
- [B] **The prefect says to him, “My Lord, high priest, raise your right hand” [M. 4:1D].**
 - [C] **The prefect at his right hand, and the head of the father’s house at the left [M. 3:8A].**
 - [D] The prefect waved flags.
 - [E] The prefect held him by the right hand and drew him up.
 - [F] One was not appointed high priest before he had served as prefect.
- [II:1 A] **There also was a box with two lots. They used to be of boxwood [M. 3:8C-D].**
- [B] What is boxwood?
 - [C] *It is a kind of cedar wood.*
 - [D] *R. Samuel brother of Rab asked, “If the golden ones were lost, what is the law as to making others instead of them out of gold?”*
 - [E] *The answer derives from the following: They raise the level of sanctification of an object but they do not lower it.*
- [II:2 A] [As to Ben Qatin’s twelve stopcocks,] why not arrange spigots one on top of the other [rather than arranging them around the laver]? [And why were twelve needed?]
- [B] [“The number,]” said R. Jonah, “accords with the day on which the most priests have to work with the daily whole-offering [that is, twelve for the ram].”
 - [C] The spigot on top was set there on the count of a utensil damaged in its greater part [is not regarded as a utensil]. Hence the water in the laver will not be regarded as drawn by a utensil and so unfit.
 - [D] But [what difference does this make]? For is not the one on the bottom also going to produce drawn water, on the count of the water’s coming within the contained space of the utensil? [So what good does this do?]
 - [E] Said R. Joshua b. Levi, “There was a water channel, which brought water to the laver from the depths. [So it was not drawn water anyhow.]”
 - [F] And the feet of the laver on the south side were broken down to the size of pomegranates.

- [II:3 A] R. Simeon bar Karsena in the name of R. Aha: “The sea was a place of immersion for priests.
- [B] “[He also made ten lavers in which to wash, and set five on the south side, and five on the north side. In these they were to rinse off what was used for the burnt-offering,] and the sea was for the priests to wash in” (2 Chron. 4:6).
- [C] And was it not a utensil?
- [D] A water channel brought water to it from the depths.
- [E] And its feet were broken down on the south side like pomegranates.
- [II:4 A] It is written, “And this was the number of them: thirty basins of gold, a thousand basins of silver, twenty-nine censers” (Ezra I:9).
- [B] As to the word for basins, R. Samuel bar Nahman said, “It is the place into which they collect the blood of the lamb.”
- [C] “A thousand basins of silver”: Said R. Simeon b. Laqish, “[The word for basins] means the place in which they gather the blood of the bullocks.”
- [D] “Twenty-nine censers”: Said R. Simeon, “These are the knives [used for slaughter].”
- [E] *This accords with that which we have learned there: **Thus was called the chamber of the slaughter-knives, for there they used to keep the knives [M. Mid. 4:7].***
- [III:1 A] **Helene, his mother, set a golden candlestick over the door of the sanctuary [M. 3:8/I]:**
- [B] *Two Amoras – one said, “It was a candelabrum.”*
- [C] *The other said, “They were snuffers.”*
- [D] Aqilas translated the language “toward a lamp” as “toward a light.”
- [III:2 A] **She also made a golden tablet, on which was written the pericope of the accused wife [M. 3:8/I]:**
- [B] **so that when the sun rises, sparks of golden light sparkle forth from it, so people know that the sun is rising [T. Yoma 2:3C].**
- [C] How was the passage written thereon?

[D] R. Simeon b. Laqish said in the name of R. Yannai, “It was written only in *alef-bet* [that is, the beginning of the words of the pericope, but not fully spelled out].”

[E] And lo it has been taught: In the writing used here, he wrote there [that is, he wrote the scroll and followed the way the scroll’s text was given on the golden tablet], not with thick or with thin but middling letters. [That is, the priest would write the scroll by copying what was on the golden tablet. This then implies that he copied everything out, not merely the beginning letters of each word.]

[F] Interpret the passage to mean that he copied an *alef* from the tablet onto the scroll, and so too with a *bet*, and so on.

[G] R. Hoshaiah taught [contrary to the foregoing view], “The entire pericope of the accused wife was completely written out on the scroll.

[H] “For from that scroll did he read and interpret all of the details of the pericope.”

[IV:1 A] **As to Nicanor, miracles were done at his doors. And they remembered him with honor [M. 3:8K-L]:**

[B] *It has been taught: They say: When Nicanor was bringing them from Alexandria, in Egypt, a gale rose in the sea and threatened to drown them. They took one of them and tossed it into the sea, and they wanted to throw in the other, but Nicanor would not let them. He said to them, “If you throw in the second one, throw me in with it.” He was distressed all the way to the wharf at Jaffa. Once they reached the wharf at Jaffa, the other door popped up from underneath the boat.*

[C] **And there are those who say one of the beasts of the sea swallowed it, and when Nicanor came to the wharf at Jaffa, it brought it up and tossed it onto dry land [T. Yoma 2:4F-G].**

[D] *This accords with that which we have learned there: All the gates that were there were changed and overlaid with gold, except for the doors of Nicanor’s gate, for with them a miracle was done; and some say, because their bronze shone like gold [M. Mid. 2:3].*

[E] **R. Eliezer b. Jacob says, “It was Corinthian bronze and shown like gold [it is as pretty as gold]” [T. Yoma 2:4D].**

3:9

- [A] But these [were remembered] dishonorably:
- [B] the members of the household of Garmu did not want to teach others how to make the show bread.
- [C] The members of the household of Abtinias did not want to teach others how to make the incense.
- [D] Hygras b. Levi knew a lesson of singing but did not want to teach it to anyone else.
- [E] Ben Qamsar did not want to teach others how to write.
- [F] Concerning the first ones listed is stated the following verse: “The memory of the just is blessed” (Prov. 10:7).
- [G] And concerning these [latter ones] is stated the following verse: “But the name of the wicked shall rot.”
- [I:1 A] [Given in the Tosefta’s version:] The members of the household of Garmu were experts in making show bread and in removing it from the oven, and they did not want to teach others [how to make it] [M. 3:9B].
- [B] Sages sent and brought experts from Alexandria, in Egypt, who were expert in similar matters, but were not experts in removing it from the oven.
- [C] The members of the house of Garmu would heat the oven on the outside, and it [the loaf of bread] would be removed on the inside.
- [D] The experts from Alexandria did not do so.
- [E] And some say this made it get moldy.
- [F] And when the sages learned of the matter, they said, “The Holy One, blessed be he, created the world only for his own glory, as it is said, ‘Everyone that is called by my name and whom I have created for my glory’ (Isa. 43:7).”
- [G] They sent for them, and they did not come until they doubled their former salary.
- [H] “They used to take a fee of twelve manehs every day, and they now went and took a fee of twenty-four,” the words of R. Meir.
- [I] R. Judah says, “Twenty-four did they take every day, and they now went and took forty-eight manehs.”
- [J] Said to them sages, “Now why were you unwilling to teach?”

- [K] They said, “The members of father’s house knew that the Temple is destined for destruction, and they did not want to teach others how to do it, so that they should not be able to do it before an idol in the same way in which they do it before the Omnipresent.”
- [L] And on account of this next matter they are remembered with honor:
- [M] For a piece of clean bread was never found in the hands of their sons and daughters under any circumstances, so that people might not say about them, “They are nourished from show bread.” [This was meant to carry out the following verse: “You shall be clear before the Lord and before Israel” (Num. 32:22)] [T. Yoma 2:5].
- [II:1 A] [Given in the Tosefta’s version:] The members of the house of Abtinah were experts in preparing the incense for producing smoke, [cf. M. 3:9C,] and they did not want to teach others how to do so.
- [B] Sages sent and brought experts from Alexandria, in Egypt, who knew how to concoct spices in much the same way.
- [C] But they were not experts in making the smoke ascend as well as the others.
- [D] The smoke coming from the incense made by the house of Abtinah would ascend straight as a stick up to the beams, and afterward it scattered in all directions as it came down.
- [E] That of the Alexandrians would scatter as it came down forthwith.
- [F] Now when the sages realized this, they said, “The Omnipresent has created the world only for his own glory, as it is said, ‘The Lord has made everything for his own purpose’ (Prov. 16:4).”
- [G] Sages sent to them [the members of the house of Abtinah], but they declined to come until the sages doubled their wages.
- [H] “They had been receiving twelve manehs every day, and now they went and got twenty-four,” the words of R. Meir.
- [I] R. Judah says, “They had been getting twenty-four every day. Now they went and got forty-eight manehs.”
- [J] Sages said to them, “Now why were you unwilling to teach [others]?”
- [K] They said to them, “The members of father’s house knew that the Temple is destined for destruction, and they did not want to teach

others their art, so that people would not burn incense before an idol in the same way in which they burn incense before the Omnipresent.”

[L] And in this next matter, they are remembered for good: A woman of their household never went out wearing perfume at any time.

[M] And not only so, but when they would marry into their house hold a woman from some other place, they made an agreement that she not put on perfume,

[N] so that people should not say, “Their women are putting on perfume [snatched] from the preparation of the incense for the Temple.” Thus they did to carry out the following verse, “And you shall be clear before the Lord and before Israel” (Num. 32:22) [T. Yoma 2:6].

[II:2 A] [Given in the Tosefta’s version:] Said R. Yosé, “I came across a child of the house of Abtinias. I said to him, ‘My child, from what family are you?’ He said to me, ‘From such-and-such a family.’

[B] “I said to him, ‘My son, because your fathers wanted to augment their glory and to diminish the glory of Heaven, therefore their glory is diminished and the glory of Heaven is augmented.’”

[II:3 A] [Given in the Tosefta’s version:] Said R. Aqiba, Simeon b. Luga told me, “A certain child of the sons of their sons and I were gathering grass in the field. Then I saw him laugh and cry. I said to him, ‘Why did you cry?’ He said to me, ‘Because of the glory of father’s house, which has gone into exile.’ I said to him, ‘Then why did you laugh?’ He said, ‘At the end of it all, in time to come, the Holy One, blessed be he, is going to make his descendants rejoice.’ I said to him, ‘What did you see [to make you think of this]?’ He said to me, ‘A smoke-raiser in front of me made me laugh.’ I said to him, ‘Show it to me.’ He said to me, ‘We are subject to an oath not to show it to anyone at all.’”

[B] Said R. Yohanan b. Nuri, “One time I was going along the way, and an old man came across me and said to me, ‘I am a member of the house of Abtinias. At the beginning, when the house of father was discrete, they would give to one another their scrolls [containing the prescriptions for frankincense]. Now take it, but be careful about it, since it is a scroll containing a recipe for spices.’

- [C] “And when I came and reported the matter before R. Aqiba, he said to me, ‘From now on it is forbidden to speak ill of these people again’”[T. Yoma 2:7A-C].
- [II:4 A] All of them found an excuse for their actions, except for Ben Qamsar [T. Yoma 2:8G].
- [II:5 A] *There we have learned: These are the ones who were appointed to office [in the Temple] [M. Sheq . 5:1]:*
- [B] R. Hezekiah said, “R. Simeon and rabbis: One said, ‘The purpose is to list the suitable men of each generation.’
- [C] “The other said, ‘He who lived in that generation listed the suitable men in his generation.’”
- [D] *He who said* that the purpose is to list the suitable men in every generation – in reference to all of them Scripture says, “The memory of the righteous is a blessing” (Prov. 10:7).
- [E] *He who said*, “He who lived in that generation listed the suitable men in his generation” – in reference to all of them Scripture says, “But the name of the wicked will rot” (Prov. 10:7).
- [F] And in what regard is it said, “The memory of the righteous is a blessing”?
- [G] It is stated with regard to Ben Qatin and his associates.

[II:6 A] [Given in the Tosefta’s version:] **And in regard to all of them, Ben Zoma would say the following: “Yours will they give you, by your own name will they call you, in your own place will they seat you. There is no forgetfulness before the Omnipresent. No man can touch what is ready for his fellow” [T. Yoma 2:7D].**

YERUSHALMI YOMA

CHAPTER FOUR

4:1

- [A] He shook the box [with the lots] and brought up the two lots.
- [B] On one was written, “For the Lord,” and on one was written, “For Azazel.”
- [C] The prefect was at his right, and the head of the ministering family [father’s house] at his left.
- [D] If the lot “for the Lord” came up in his right hand, the prefect says to him, “My lord, high priest, raise up your right hand.”
- [E] If the one “for the Lord” came up in his left hand, the head of the ministering family says to him, “My lord, high priest, raise up your left hand.”
- [F] He put them on the two goats and says, “For the Lord, a sin offering.”
- [G] R. Ishmael says, “He did not have to say ‘sin-offering,’ but only ‘For the Lord.’”
- [H] And they respond to him, “Blessed is the name of the glory of his kingdom for ever and ever.”
- [I:1 A] It is not the end of the matter [that he shakes] a box, but he may even utilize a basket.
- [B] And why have they specified that it is a box?
- [C] It is so as to make the matter public.
- [II:1 A] [With reference to M. 4:1B, writing the designation for the goats on slips,] why not bring two threads, one black, one white, and tie the threads on [the goats] and say, “This one is for the Lord, and that one is for Azazel”?
- [B] Scripture states, “And Aaron shall cast lots upon the two goats, one lot for the Lord, and the other lot for Azazel” (Lev. 16:8). [Accordingly, the procedure is as specified in Scripture.] [That is,] “One lot for the

Lord,” that it be designated that it is for the Lord, “and one lot for Azazel,” that it be designated that it is for Azazel.

- [C] And why may he not bring two pebbles, one black, one white, and put them on them, and say, “This is for the Lord and that is for Azazel”?
- [D] Scripture says, “One lot for the Lord,” that it be designated that it is for the Lord, “And one lot for Azazel,” that it be designated that it is for Azazel.
- [E] Why then may he not simply write on them [the pebbles], saying, “This one is for the Lord, that one is for Azazel”?
- [F] Scripture says, “One lot for the Lord” – that it bear its own distinctive character, indicating for all time that it is for the Lord.
- [G] And “One lot for Azazel” – that it bear its own distinctive character, indicating for all time that it is for Azazel.
- [H] The requirement that there be a clear indication in the lot itself that it serve its purpose indicates that they were incised.
- [I] *And so has it been taught:* With two boxes of lots the Land of Israel was divided up, one in which the lots were placed, and one in which the names of the tribes were placed.
- [J] Two apprentice priests stood [and drew lots]. That which this one drew [for the account of] that [named tribe] is what the tribe acquired.
- [K] In three ways was the Land of Israel divided, through lots, through the Urim and Thummim, and through exchange of money.
- [L] *This is in line with that which is written,* “And Joshua cast lots for them in Shiloh before the Lord; and there Joshua apportioned the land to the people of Israel, to each his portion” (Josh. 18:10).
- [M] “Lots” – this refers to the lots.
- [N] “Before the Lord” – this refers to the Urim and Thummim.
- [O] “Their inheritance shall be divided according to lot between the larger and the smaller” (Num. 26:56). “Between the larger and the smaller” – this refers to transfer of property through money payments.

[P] Said R. Abin, “If the Holy One, blessed be he, had not made each place charming to those who live there, the Land of Israel would never have been divided up [out of jealousy].”

[Q] *And so it has been taught:* There are three kinds of unique charm: A woman to the eye of her husband; a place to the eye of its inhabitants; a purchase to the eye of the purchaser.

[R] R. Abba son of R. Pappi, R. Joshua of Sikhnin in the name of Levi: “In the age to come the Holy One, blessed be he, will do so.”

[S] *That is in line with what is written,* “A new heart I will give you, and a new spirit I will put within you; and I will take out of your flesh the heart of stone and give you a heart of flesh” (Ezek. 36:26).

[T] “A heart of flesh” – a heart of sour grapes [a play on words], in that each one finds sour the share of his fellow [and prefers his own].

- [II:2 A]** When the lots are still in the box, if he touches them, so that they are confused [that is, after the priest has touched one of the lots, if the lots are mixed up], the disposition of the goats is not carried out in accord with its proper requirement.
- [B] If he touched them after he had taken them up out of the box, and [41c] then they were mixed up, the goats have been disposed of in accord with their proper rule.
- [C] If when he has taken them up, he touched them and they were confused, he would say this: “If the one for the Lord should come up in my right hand, let this one which is on my right be sanctified as holy. If the one for the Lord should come up in my left hand, let this one which is on my left hand be sanctified as holy.”
- [D] Even if he had said, “If the one for the Lord should come up in my right hand, let this [goat] at my left hand be holy,” it is holy.
- [E] “If the one for the Lord should come up in my left hand, let this one that is on my right hand be holy,” it is holy.
- [F] But if he said, “Whether the one of the Lord comes up in my right hand, or whether the one for the Lord comes up in my left hand, let

only this one that is on my right hand be holy,” [or,] “let only this one that is on my left hand be holy,” it is not deemed sanctified.

[G] On what account does he determine their status by an oral statement?

[H] When the Torah refers to “lots,” it means lots of any sort.

[II:3 A] Is it possible to suppose that the priest should put two lots on this goat and two lots on that goat?

[B] Scripture says, “Lots – one lot for the Lord, and the other lot for Azazel” (Lev. 16:8).

[C] Is it possible to suppose that he should put a lot for the Lord and one for Azazel on this one, and one for the Lord and one for Azazel on that one?

[D] Scripture says, “A lot.”

[E] *And is this not the meaning of what was said to begin with?*

[F] *This is what is meant:* Is it possible to suppose that once he has placed the lot for the Lord on the goat for the Lord, and the lot for Azazel on the goat for Azazel, he should go and reverse them?

[G] Scripture states, “One lot for the Lord,” meaning that here there is only a single lot for the Lord.

[H] “And one lot for Azazel,” meaning that here there is only a single lot for Azazel [and neither may be exchanged for the other].

[II:4 A] As to the priestly frontispiece, on it was written, “Holy to the Lord.”

[B] “Holy” was written below, and “the Lord” was written above.

[C] This is like a king who sits on his throne.

[D] *And along these same lines,* with regard to the lot marked “One for the Lord,” “One” is written below, and “for the Lord” is written above.

[E] Said R. Eleazar b. R. Yosé, “I saw it in Rome, and the name was written on it only in a single line, as ‘Holy to the Lord.’”

[II:5 A] “And Aaron shall cast lots upon the two goats” (Lev. 16:8).

[B] If a non-priest did it, it is validly done.

[C] *And along these same lines,* if a non-priest brought up the lots, is it invalid?

- [D] It is an argument a fortiori [that it should be valid]: If in the case of placing the lots on the goats, in which case Scripture explicitly refers to the sons of Aaron, if a non-priest placed the lots, it is a valid deed, then in the matter of bringing up the lots, in which case Scripture does not refer to the sons of Aaron at all; if a non-priest should bring up the lots, is it not an argument a fortiori that it *should* be valid?
- [E] *The question to be raised is not that but rather the following:* In the case of placing the lots on the heads of the goats, which is not indispensable to the rite, if a non-priest did it, it is valid.
- [F] But in the case of bringing up the lots, which is indispensable to the rite, if a non-priest did it, it is invalid.
- [G] For R. Isaac bar Haqqola said in the name of R. Yannai, “Taking up the lots from the box is indispensable to the rite. But placing the lots on the head of the goats is not indispensable to the rite.”
- [H] Said R. Yohanan, “The priest designates which goat is for which purpose even by an oral declaration [so that even bringing up the lots from the box is not indispensable to the rite].”
- [I] [With respect to the analysis of this statement of Yohanan,] *they proposed to state that* even if he designated one on one day, and one on the next, it is valid.
- [J] *In the view of R. Yannai, there is no problem.*
- [K] *In the view of R. Yohanan, who holds that* even if one designated one goat this day and one goat the next day, there is a problem,
- [L] for with respect to what matter does Scripture state “lots”? [That is, if the entire process may be carried out over two days, and by oral designation, then why does Scripture specify choosing by lot?]
- [M] It is to specify the appropriate way of carrying out the religious requirement, [but not to indicate that that way is indispensable].
- [N] *The following Tannaite passage differs from the view of R. Yohanan,* “And offer him for a sin-offering” (Lev. 16:9) – the lot indicates that the goat is a sin-offering, but mere oral designation does not designate the goat as a sin-offering.

[O] Interpret that teaching to speak of a case in which the goat has indeed been designated by lot. [That is, if a lot has been cast, then oral designation is null.]

[P] *The following Tannaite teaching differs from the view of R. Yannai [who maintains that the casting of lots is indispensable to the rite]:*

[Q] If the high priest did not cast lots or if he did not say the confession, the rite nonetheless is valid, but the proper carrying out of the religious duty is yet wanting.

[II:6 A] “One for the Lord” (Lev. 16:8):

[B] This serves to encompass the goat that is sent away, subjecting the goat to the rule of invalidation if it is not of the proper age. [That is, the animal for the sin-offering must be of a certain age; both goats must be of that age, so that either one may serve.]

[C] *Now this interpretation of the passage is important for the position of R. Yohanan, who has said that one may designate the goats even by an oral declaration.*

[D] *Accordingly, they proposed to say [that the verse is required, for one might have theorized that] even if one was designated on one day and one on the next, it is valid. [That is not the case,] in the view of R. Yohanan, who has said that even if one designated one on one day and one on the next, [both goats are validly designated; hence the exegesis is required, for otherwise a false conclusion, within the theory of Yohanan, would have been reached. Accordingly, the exegesis] poses no problems to R. Yohanan’s position. [He needs it to indicate that both goats must be suitable for a sin-offering, just as the proof-text has shown.]*

[E] *But in the view of R. Yannai, for what purpose has Scripture stated “lots”?* [This proves both goats have to be suitable for the lot marked “for the Lord.” Accordingly, the rules pertaining to the sin-offering apply also to the goat that has been sent away, B, just as we have maintained on the basis of the exegesis above. But Yannai’s

view already yields that position, since he regards the casting of lots as indispensable, and does not require the exegesis of a verse to prove that both goats must be suitable to serve as a sin-offering. So for what purpose is there an exegesis at all?] For one must take account of the possibility that the lot will come up “for the Lord” in either case, [so, as we just said, the goat must be suitable for a sin-offering]. [Hence it must be of the proper age.]

[F] Interpret the passage to speak of a case in which one wants to cast [a second time] lots [placing them on the heads of the goats]. [If one does so, then both goats must be suitable for a sin-offering; under no circumstances may there be a goat that is too young to serve as a sin-offering.]

[II:7 A] The two goats required for the Day of Atonement which one slaughtered outside of the Temple court –

[B] *there is a Tannaite authority who teaches that he is liable.*

[C] *And there is a Tannaite authority who teaches that he is exempt [from penalty, since the goats to begin with are not slaughtered within].*

[D] “[There is no conflict between these opinions,]” said R. Hisda.

[E] “*He who maintains that one is liable deals with a case in which the goat which is not to be prepared inside is the one which he has offered up.*

[F] “*The one who maintains that he is exempt speaks of a case in which the man offered up the goat which was to be prepared inside the Temple court.*”

[G] *Said R. Yosé, “R. Hisda proposed to make a comparison to the Passover-offering. [For an animal designated as a Passover offering which one slaughtered outside of the Temple courtyard on all days of the year other than Passover one is liable, because the animal should be slaughtered inside as peace-offerings. Like wise, the goat to be slaughtered inside, since it is suitable to be offered outside as the goat that is to be sent away, will produce liability if one slaughters it outside.] But the cases are not comparable.”*

[H] Said R. Mana bar Tanhum, “Both R. Eleazar and R. Yohanan maintain [that the case of the animal designated for a Passover offering is different, for] an animal designated for a Passover offering, the proper time for the slaughter of which has passed, on its own is transformed [into an animal suitable for peace offerings], [and the owner of the priest who slaughters it does not have to designate it for that purpose]. But here, by contrast, it is through the actual act of slaughter that the designation [of the goat] is changed from one purpose to some other purpose. [Accordingly, merely because it is suitable for some other purpose, that does not mean it is comparable to the case of the Passover, since in this instance mere suitability is null; an actual deed must be performed to change its status.]”

[I] *What is the upshot of the matter? [What is at issue between B and C?]*

[J] *He who maintains that he is liable maintains that the casting of lots is not indispensable.*

[K] *He who maintains that he is exempt holds that the casting of lots is indispensable. [Either goat, in the former opinion, may serve as the sin-offering for the Lord. Killing either one outside of the courtyard hence violates the law. If the casting of lots is indispensable, it means that only one of the two goats is suitable for a sin-offering.]*

[L] *But is it not so that there is here only one goat that is “for the Lord” [as a sin-offering]? [After all, the Tannaite authority’s view is that if one has slaughtered the goats outside, he is liable. But only one of the goats was meant to be slaughtered inside anyhow.]*

[M] Said R. Samuel, brother of R. Berekhiah, “It is a matter of alternatives [that the one who holds the man liable has in mind]. Once the lots have been cast, then [that Tannaite authority holds] one [who slaughters the goat outside] is liable for doing so with the one for the Lord, but exempt for doing so with the one for Azazel.”

[N] [Refining this qualification still further:] Said R. Ba, “And that rule applies, moreover, only after one has put the blood of the bullock [on the veil, at which point it is time to slaughter the goat as a sin-offering]. But if one has not yet placed the blood of the bullock [where it is to be tossed], the one who slaughters the aforementioned goat outside is still exempt [since at that moment that goat may not be slaughtered inside the courtyard anyhow].

[O] “This is because, as to the slaughtering of the goat, the placing of the blood of the bullock is indispensable.”

- [II:8 A] *R. Bun bar Hiyya asked before R. Zeirah:* “If one slaughtered the bullock before he cast lots for the goats, what is the law as to his being liable [for not following the proper order of the rite of the day]?”
- [B] *He said to him,* “*Let us derive the answer from the following:* The bullock is indispensable to the rite of the goat, the goat is indispensable to the rite of the bullock.
- [C] “That is to say, if one slaughtered the bullock before he cast lots, he is liable. If you say that he is exempt, *then the passage should read:* ‘The goat is not indispensable to the rite of the bullock.’” [If one performed one of the rites of the former after doing a rite connected to the latter, the whole is invalid. Each must be done in proper order in relation to the other.]
- [D] *Said R. Samuel bar Abedimi,* “*That is to say that* the rite of the goat is not indispensable to the rite of the bullock as to the placing of the blood between the bars projecting from the ark is concerned, but as to the placing of the blood on the veil, the rite of the goat is indispensable to the rite of the bullock. [Hence the reasoning of B-C is not ineluctable, since there is an alternative reading of the same language yielding a different set of facts altogether.]
- [E] “*What would be an illustration of this rule?* The high priest cannot put the blood of the bullock on the veil before he puts the blood of the goat on the area between the bars projecting from the ark.”

4:2

[A] **He tied a crimson thread on the head of the goat which was to be sent forth,**

[B] and set it up toward the way by which it would be sent out.

[C] And on that which was to be slaughtered [he tied a crimson thread] at the place at which the act of slaughter would be made [the throat].

[D] And he came to his bullock a second time [M. 3:8A] and put his two hands on it and made the confession.

[E] And thus did he say, “O Lord, I have committed iniquity transgressed, and sinned before you, I and my house and the children of Aaron, your holy people. “O Lord, forgive, I pray, the iniquities, transgressions, and sins which I have committed, transgressed, and sinned before you, I, my house, and the children of Aaron, your holy people,

[F] “as it is written in the Torah of Moses, your servant, ‘For on this day shall atonement be made for you to cleanse you. From all your sins shall you be clean before the Lord’ (Lev. 16:30).”

[G] And they responded to him, “Blessed is the name of the glory of his kingdom for ever and ever.”

[I:1 A] R. Samuel bar Nahman in the name of R. Jonathan: “There are three threads. The one for the goat is to weigh a *selah*; the one for the mesora is to weigh a *sheqel*; the one for the red cow is to weigh two *selas*.”

[B] Said R. Ba bar Zabeda in the name of R. Simeon b. Halapta, “The one for the red cow is to weigh two *selas* and a half.”

[C] *There are those who produce the statement in the language, “two zuz.”*

4:3

[A] He slaughtered it and received its blood in a basin.

[B] He handed it over to him who would stir it while he was standing on the fourth terrace of the sanctuary, so that [the blood] would not congeal.

[C] He took the fire-pan and went up to the top of the altar.

[D] He cleared off coals to either side and scooped up glowing cinders from below.

[E] Then he came down and set it down on the fourth terrace of the courtyard.

[I:1 A] *So the Mishnah is to be read [at M. 4:3B]:* On the fourth terrace of the courtyard [rather than the sanctuary].

[I:2 A] *It has been taught:* If one slaughtered the bullock outside, he is liable [since it is supposed to be slaughtered in the courtyard].

[B] If he took the incense inside [rather than in the courtyard], he is exempt. [He has done it in a more holy place than required, and that does not bring a penalty.]

[I:3 A] If the priest cleared off the coals, offered up incense, then the blood of the bullock [which he had just slaughtered] poured out, let him bring another bullock and bring its blood in [and flick the blood on the altar].

[B] If before he offered up the incense, the blood was poured out, the act of clearing the ashes is null. He has to clear away the ashes as at the outset.

[C] If it is a matter of doubt whether the blood was poured out before he had offered up the incense, or whether it was poured out after he had brought the incense –

[D] to bring another bullock and to bring in its blood is something you cannot do, for I say, Before he burned the incense the blood poured out, so that the [original] act of clearing off the ashes was null.

[E] To clear away the ashes as at the outset is something you cannot do, for I say that after he had offered up the incense the blood was spilled, and the original act of clearing away the ashes had been a valid one. Accordingly [should he follow this procedure], he will violate the law on the count of bringing in blood in excess [of what is required].

[F] Then the acts of service are nullified [there being no remedy]. [If the acts of service cannot be performed in their proper order, the whole thing is null.]

[G] You turn out to rule that the acts of service on that day indeed are nullified.

[I:4 A] If the high priest slaughtered the bullock and then died –

[B] what is the law as to someone else's bringing the blood in?

[C] R. Simeon b. Laqish said, “[But thus shall Aaron come into the holy place: with] a young bull’ (Lev. 16:3). But not with blood. [The new high priest has to kill his own bullock and bring in its blood.] “

[D] Both R. Haninah and R. Jonathan say, “Even with the blood [of the bullock killed by the recently deceased high priest].”

[E] *A statement of R. Joshua b. Levi indicates that he holds the same view, namely, he may bring even the blood [of the bullock of the dead high priest].*

- [F] For R. Haninah said, R. Ba in the name of R. Jonathan: “Even with the blood [as above, (D)].”
- [G] R. Joshua b. Levi asked, “If the high priest had taken a handful of incense and then dropped dead, what is the law as to his successor’s bringing in the handful he has taken?”
- [H] *Where he has a question*, it has to do with the handfuls, for it is written, “and two handfuls of sweet incense beaten small” (Lev. 16:12).
- [I] *But here, in which case it is not written*, “And with the blood [he has drawn from his bullock],” *it is self-evident to him that* the successor-high priest may bring in even the blood [of the deceased’s bullock].

4:4

- [A] **Every day he would scoop out the cinders with a silver fire-pan and empty them into a golden one.**
- [B] **But today he would clear out the coals in a gold one, and in that same one he would bring the cinders in[to the inner sanctuary].**
- [C] **On other days he would clear out cinders with one holding four qabs and empty that into one holding three.**
- [D] **But today he would clear them out with one holding three qabs, and in that same one he would bring the cinders in[to the inner sanctuary].**
- [E] **R. Yosé says, “Every day he would clear the cinders out in one holding a seah and empty it into one holding three qabs.**
- [F] **“But today he would clear the cinders in one holding three qabs, and in that same one he would bring the cinders in.”**
- [G] **Every day it was heavy.**
- [H] **But today it was light.**
- [I] **Every day its handle was short.**
- [J] **But today it was long.**
- [K] **“Every day it was of yellow gold,**
- [L] **“But today it was of red gold,” the words of R. Menahem.**

[I:1 A] *This [M. 4:4C] is in line with that which we have learned: **About a gab of cinders scattered from [the fire-pan of gold], and he swept them out into the water channel. And on the Sabbath he covered them over with a psykter [T. Tam. 5:5C-D].***

[II:1 A] **Every day it was heavy but today it was light [M. 4:4G-H]:**

[B] so as not to tire him out.

[C] **Every day its handle was short but today it was long [M. 4:4/I]:**

[D] so as not to tire him out.

[E] Every day it did not have a reduced cubit, but today it had a cubit and a half, so that the handle would assist [in lifting the burden].

[F] [41d] Every day there was no cover, but today there was a cover, so that it would not go out.

[G] But would a cover not be deemed to interpose?

[H] Said R. Yosé b. R. Bun, “One fixed it on with a nail, [so making it an integral part of the larger utensil].”

[III:1 A] There are seven kinds of gold: good gold, pure gold, closed gold, gold of Ufaz, refined gold, spun gold, and red gold [M. 4:4L].

[B] “Good gold” is as its name implies: “And the gold of that land is good” (Gen. 2:12).

[C] Said R. Isaac, “It is a good thing for him who has it at home, it is a good thing for him who has it [for company] when traveling.”

[D] Pure gold – for they put it into the furnace, and it does not lose any of its weight.

[E] *This accords with that which has been taught:* There was the case of the golden candelabrum which Moses made in the wilderness. It had an extra *denar* of gold in it. They put it into the furnace eighty times, and it did not lose any weight [but retained the same weight].

[F] And that is appropriate. Before it had reached its full purity, it lacked much. After it reached its full purity, it lacked nothing.

[G] Closed gold – for it shamed all other sorts of gold that were there [and made them want to be closed up and away from view].

[H] Said R. Samuel bar R. Isaac, “It is written, ‘Seven thousand talents of refined silver wherewith to overlay the walls of the house’ (1 Chron. 29:4). And it is written, ‘And the greater house he covered with cypress wood, which he overlaid with fine gold’ (2 Chron. 3:5). And do you say this? But it was a kind of gold that put all other kinds of gold to shame.”

- [I] Gold from Ufaz: R. Patroqi, brother of R. Derosa, in the name of R. Ba bar Binah: “It is like sulphur set on fire.”
- [J] Said R. Abin, “It is called in accord with the place from which it comes: ‘gold from Ufaz.’”
- [K] Refined gold: They would cut it up into little pieces and roll it in dough and feed it to ostriches, and they would strain it [and it issued forth in their excrement].
- [L] And some say they would bury it in manure for seven years.
- [M] Spun [slaughtered] gold: They spun it out like wax.
- [N] Hadrian had a quantity the weight of an egg.
- [O] Diocletian had only the weight of a Gordian *denar*.
- [P] Red gold: R. Simeon b. Laqish said, “It was as red as the blood of a bullock.”
- [Q] And some say, “It is a gold that produces fruit.”
- [R] *This is in line with that which we have learned there: A golden vine was standing at the entrance of the sanctuary, trained over the posts [M. Mid. 3:8F].*
- [S] Said R. Aha bar Isaac, “When Solomon built the Temple, he drew pictures of all sorts of trees within it. When the equivalent to those trees outside produced fruit, those that were inside also produced fruit.”
- [T] *That is in line with the verse of Scripture:* “It shall blossom abundantly, and rejoice with joy and singing. The glory of Lebanon shall be given to it, the majesty of Carmel and Sharon. They shall see the glory of the Lord, the majesty of our God” (Isa. 35:2).
- [U] When did they dry up [and cease to produce fruit]?
- [V] Said R. Isaac, Hinena bar Isaac: “When Manasseh set up an idol in the Temple, they dried up, as it is said, ‘[He rebukes the sea and makes it dry, he dries up all the rivers; Bashan and Carmel wither,] the bloom of Lebanon fades’ (Nahum 1:4).”

4:5

[A] Every day one would offer up half a maneh of incense at dawn and half at dusk.

[B] But today he would add his two handfuls [of incense].

[C] Every day it was fine.

[D] But today it was the finest of the fine.

[E] Every day the priests go up on the east side of the ramp and go down on the west.

[F] But today the high priest goes up right in the middle of the ramp and goes down right in the middle.

[G] R. Judah says, “At all times the high priest goes up in the middle and goes down in the middle.”

[H] Every day the high priest sanctifies his hands and feet from the laver.

[I] Today he does it from a golden jug.

[J] R. Judah says, “At all times the high priest sanctifies his hands and feet from a golden jug.”

[I:1 A] The compound of incense [was made up of] balm, onycha, galbanum, and frankincense, each in the quantity of seventy *manehs*; myrrh, cassia, spikenard, and saffron, each sixteen *manehs* by weight; costus, twelve; aromatic rind, three; cinnamon, nine *manehs*.

[B] You turn out to rule, They weight in all three hundred sixty- five *manehs*, for the days of the year.

[C] And there were the three of that day.

[D] *That is in line with that which we have learned: But today he would add his two handfuls of incense [M. 4:5B].*

[E] Lye obtained from leek, nine qabs; Cyprus wine, three seahs and three qabs.

[F] If there is no available cyprus wine, one may bring old white wine instead.

[G] Salt of Sodom, the fourth of a *qab*; and smoke-raiser [an herb that makes the smoke rise] – a small quantity.

[H] R. Nathan says, “Also Jordan resin – a small quantity.”

[I] If one put honey into it, he has rendered it unfit.

- [J] If one of the required ingredients has been left out, the one who did so is liable to the death penalty.
- [K] *It has been taught:* Rabban Simeon b. Gamaliel says, “Balm is nothing but a resin which exudes from the wood of the balsam tree; the lye obtained from leek was rubbed over the onycha in order to make it beautiful; and in the Cyprus wine the onycha was steeped, so that its odor might be strengthened.”
- [L] And is not urine good for it?
- [M] But they do not bring something with a bad smell into the courtyard, on account of the honor [owing to the place].
- [N] And when one was pounding the mixture, one would say, “Pound well, pound well,” because noise is good for the spices.
- [O] [If] one of its ingredients was lacking, or if one put even a little honey into it, it is invalid.
- [P] If one did not put salt into it, or if one put a smoke-raiser into it, he is liable to the death penalty.
- [Q] Said R. Zeirah, “And he transgresses on the count of putting in too much.”
- [R] *Bar Qappara taught:* “The perfumers in Jerusalem would say, ‘If one put into it a little honey,’ the whole world could not endure its smell.”
- [S] *It has been taught:* If one made a mixture of half of the stated quantities, it is valid.
- [T] As to thirds and quarters, we have heard nothing.
- [U] Rabbi says, “If it is in accord with the proportions [stated above], it is valid.”
- [V] *And as to that which you have said,* “If one mixed in half of the ingredients it is valid,” the meaning is half of each required ingredient [in proportion].
- [W] Once in every sixty or seventy years it was brought in part from the residue [of leftover incense].

[X] *That is in line with the following:* As to what was left over of the incense, what did they do with it?

- [I:2 A] *It has been taught:* If one offered up an olive's bulk of incense outside of the Temple, he is liable [since that bulk is suitable for use on the altar].
- [B] If he offered up less than an olive's bulk of incense inside the Temple, he is exempt.
- [C] R. Zeirah in the name of R. Jeremiah: "The community thereby is acquitted of its obligation [for incense on that day]. [After the fact it suffices.]"
- [D] R. Yosé b. R. Bun in the name of R. Jeremiah: "*On the basis of that which has been taught*, 'If one has burned an olive's bulk of incense outside of the Temple, he is liable,' you may infer that if one offered up less than an olive's bulk of incense inside the Temple, he is exempt [so the meaning is that one is not liable for offering too little]. [The thesis of the meaning of 'exempt' offered at (C) is rejected.]"
- [I:3 A] "[Incense beaten] small" (Lev. 16:12).
- [B] Why does Scripture say so?
- [C] Because Scripture says, "And you shall beat some of it very small, [and put part of it before the testimony in the tent of meeting where I shall meet with you; it shall be for you most holy]" (Exod. 30: 36).
- [D] If so, why is it said "small"?
- [E] That it should be extremely small.
- [F] What should he do?
- [G] He sets aside three *manehs* of it on the eve of the Day of Atonement, and he puts it back into a pestle [and pounds it], so as to fill up his hands with it, so as to carry out the requirement that it be extremely fine.
- [II:1 A] Said R. Jonah, "[As to M. 4:5/I:] That is except for the first act of sanctification [which is done in the laver]."
- [B] Said R. Yosé, "Even the first act of sanctification of hands and feet [is done from the golden one]."

[C] *The following Tannaite passage differs from the view of R. Jonah:*
“All the utensils which were in the Temple were suitable for use for sanctification of hands and feet.”

[D] Interpret that statement to apply to any such act except for the first act of sanctification.

[E] *The following passage of the Mishnah differs from the view of R. Yosé:* The use of the laver and bowl is indispensable.

[F] Interpret it to mean that the location at which they are set is indispensable. [But any utensil of service is acceptable in washing hands and feet.]

4:6

[A] **“Every day there were four stacks of wood there.**

[B] **“But today there were five,” the words of R. Meir.**

[C] **R. Yosé says, “Every day there were three,**

[D] **“but today there were four.”**

[E] **R. Judah says, “Every day there were two.**

[F] **“But today there were three.”**

[I:1 A] *What is the scriptural basis for the position of R. Meir?*

[B] “The fire on the altar shall be kept burning on it, it shall not go out” (Lev. 6:12).

[C] This refers to an array of wood to keep the fire going.

[D] “The priest shall burn wood on it” (Lev. 6:12).

[E] This refers to wood for burning up the limbs and parts [of the sacrificial animal].

[F] “And he shall lay the burnt-offering in order upon it” (Lev. 6:12).

[G] This refers to the principal array of wood.

[H] “And he shall burn on it the fat of the peace-offerings” (Lev. 6:12).

[I] This refers to the incense.

[J] *And does R. Yosé not concur that there is an array of wood for burning up the limbs?*

[K] *And does R. Judah not concur that there was an array of wood for keeping the fire going?*

[L] How does R. Judah interpret the statement “Fire on the altar shall be kept burning on it continually” (Lev. 6:12)?

[M] The fire to be kept burning continually concerning which I have addressed you shall be located only on the outer altar.

[I:2 A] Said R. Eleazar, “As to the limbs and parts which were not consumed in the evening in the fire, one makes them into a bonfire and burns them by themselves, and doing so overrides the prohibitions of the Sabbath.”

[B] *R. Jacob bar Aha in the name of R. Samuel bar Abba: “The Mishnah has made that point: **Every day there were four stacks of wood there [M. 4:6A].** [That would include the Sabbath.]”*

[C] *What do you derive from that statement? [Perhaps the Sabbath is not included.]*

[D] Said R. Mana, “**But today there were five [M. 4:6B]** [indicates that the fire overrides the rules of the Day of Atonement, hence also of the Sabbath].”

[E] *Said R. Bun bar Hiyya asked before R. Zeirah, “Will a matter [such as burning the limbs and parts] that is not indispensable to the rite override the prohibitions of the Sabbath?”*

[F] He said to him, “Lo, there is the case of witnesses to the appearance of new moon [who may travel on the Sabbath beyond the limits prescribed for them]. Lo, they are not indispensable, and yet they override the prohibitions of the Sabbath.

[G] *“For we have learned there: **On account of a journey requiring travel for a night and a day they violate the prohibitions of the Sabbath and go forth to give testimony about the new moon [M. R.H. 1:9D].**”*

[I:3 A] How do we know that, on the Day of Atonement, there is a fire [kindled for the burning of incense, rather than taking coals from the available fire for that purpose]?

[B] R. Jeremiah in the name of R. Pedat: “[And he shall take a censer full of] coals of [fire from the altar]’ (Lev. 16:12). Why does Scripture add the word ‘fire’? It indicates that the fire is null [42a] vis-a-vis the coals, [and hence a new fire has to be kindled].”

[C] “Coals of” – is it possible to suppose that they may be smouldering?

- [D] Scripture says, “fire.”
- [E] If it emphasizes “fire,” is it possible to suppose that it must be a leaping flame?
- [F] Scripture says, “coals of fire.”
- [G] How so?
- [H] He takes from those that are glowing.
- [I] And how do we know that the fire is deemed null vis-a-vis the coals [so that a new fire has to be kindled with the coals]?
- [J] Scripture says, “coals of fire.”
- [I:4 A] R. Joshua b. Levi said, “The show bread was not invalidated when the tribes made their journeys [in the desert and so dismantled the tabernacle].”
- [B] R. Yohanan said, “The show bread was invalidated when the tribes made their journeys.”
- [C] R. Hiyya in the name of R. Joshua b. Levi: “‘As they encamp, so they shall journey’ (Num. 2:17). Just as, when they are in camp, it is not invalidated, so, when they are journeying, it is not invalidated.”
- [D] R. Ammi in the name of R. Joshua b. Levi: “‘Then the tent of meeting shall set out, with the camp of the Levites in the midst of the camps’ (Num. 2:17). It is as if it is in the midst of the camps [and valid].”
- [E] R. Jacob bar Aha, R. Ammi in the name of R. Eleazar: “He who burns Holy Things outside [of the appropriate place, the Tent of Meeting,] when the tribes are making journeys is flogged.”
- [F] Said R. Yohanan, “**[He who puts a sacrifice on the altar when it is disassembled, or when the wind has raised the veil, has done nothing. If he did so] at the time of journeying, Holy Things are invalidated. And as to the unclean, each one keeps separate within his designated area [T. Zeb. 13:3B-D].**”
- [G] *Said R. Yosé, “This is how the statement is always repeated by the rabbis: ‘When the veil was removed, the area within the partitions was permitted to those unclean with flux-uncleanness and to mesoras.’”*
- [H] *[As to the dispute at A-B,] there is a Tannaite passage in support of the position of this party, and one in support of the view of that party.*

[I] *The following Tannaite teaching supports the view of R. Joshua b. Levi:*

[J] “[It will be kept burning] continually” (Lev. 6:12). “Continually” – even on the Sabbath. “Continually” – even in a state of uncleanness [so too, when making a journey].

[K] *The following Tannaite teaching supports the view of R. Yohanan:*

[L] “It shall not go out” (Lev. 6:12) – even on journeys.

[M] “On journeys what did they do with [the fire]? They would cover it over with a psykter,” the words of R. Judah.

[N] R. Simeon says, “Also in the time of journeying they would take the ashes off of it, as it is said, ‘And they shall take away the ashes from the altar, and spread a purple cloth over it’ (Num. 4:1 3).

[O] “Lo, if the altar was aflame, would the purple cloth not burn up?”

[P] How does R. Judah interpret this verse?

[Q] They would place a psykter over [the fire] on top.

[R] How does R. Judah interpret the statement “And they shall take away the ashes from the altar” (Num. 4:13)?

[S] They fatten it [accumulating ashes].

[T] *That is in accord with what R. Judah b. Pazzi said, “‘When they have eaten and are full and grown fat’ (Deut. 31:20).”*

YERUSHALMI YOMA

CHAPTER FIVE

5:1

[A] They brought the ladle and fire-pan out to him.

[B] And he took handfuls [of incense from the pan] and put [the incense] into the ladle –

[C] a large one in accord with the large size [of his hand], or a small one in accord with the small size [of his hand],

[D] such was the required measure [of the ladle].

[E] He took the fire-pan in his right hand and the ladle in his left.

[F] He then walked through the sanctuary, until he came to the space between the two veils which separate the holy place from the most holy place,

[G] and the space between them was a cubit.

[H] R. Yosé says, “There was only a single veil there alone,

[I] “since it says, ‘And the veil shall divide for you between the holy place and the most holy place ‘ (Exod. 26:33).”

[I:1 A] [42b] *And has the Mishnah not already stated: He took the fire-pan and went up to the top of the altar [M. 4:3C]? [Why state here: They brought the ladle and fire-pan out to him (M. 5:1A)?]*

[B] *The meaning of the Mishnah passage here is this: the ladle and the dish [for frankincense].*

[I:2 A] What is a ladle? It is a plate [used in general, not the ladle that was a utensil of service].

[B] Said R. Yosé, “*That is to say that it was an unconsecrated utensil. For if you say that a consecrated utensil [was used for the frankincense], something that has been sanctified in a utensil [is itself holy, and it may not be subject to] redemption [at all].*”

- [C] *This is in accord with the following dispute [as to whether it is necessary to use a utensil of service for compounding the frankincense].*
- [D] [If] one compounded the frankincense in an unconsecrated [bowl, rather than in a utensil consecrated for the Temple service] –
- [E] R. Yosé b. Haninah said, “It is invalid.”
- [F] R. Joshua b. Levi said, “It is valid.”
- [G] *What is the basis for the view of R. Yosé bar Haninah?*
- [H] “It is holy and shall be holy unto you” (Exod. 30:32), meaning, it should be brought in what is holy.
- [I] *What is the basis for the view of R. Joshua b. Levi?*
- [J] “It is holy” – that it should derive from funds in the heave-offering of the chamber, [and that is what is holy about the preparation of the frankincense, not the use of consecrated utensils of the Temple].
- [K] *Said R. Yosé b. R. Bun, “The position of R. Yosé b. Haninah accords with the view of Samuel, and the view of R. Joshua b. Levi conforms with the theory of R. Yohanan.*
- [L] *“For we have learned: **He who sanctifies his property, and included in it were items suitable for use for public offerings [M. Sheq. 4:4A]** – [Answering the question of what such items are,] R. Yohanan said, ‘incense.’ [Now this incense has not been prepared in a utensil of service, and yet it is holy and may be used on the altar. Accordingly, Yohanan and Joshua b. Levi concur that a utensil of service need not be used in this connection.]”*
- [M] [The cited passage indicates that the items are to be given to craftsmen for their salary, then bought back for the Temple.] Said R. Hoshaiyah, “[There is no proof in respect to the concurrence of Yohanan and Joshua b. Levi, for] one may interpret the passage to speak of paying over the incense to craftsmen of the household of Abtinah, who would collect their salary in incense [anyhow] .”
- [N] *And the view of R. Yosé b. Haninah accords with Samuel, for R. Hunah said in the name of Samuel, “The pestle did they treat as a utensil of service for the sanctuary, [and if it is not used, the incense is invalid].”*

- [O] *Said R. Yosé b. R. Bun, R. Hunah stated the matter before R. Yosé: “Is an item that has been sanctified in a utensil of service then redeemed [as M. Sheq. 4:3 states]?”*
- [P] He said to him, “But is this not on the authority of Samuel? And Samuel said, ‘It is a lenient ruling that applies to the surplus [of funds for the frankincense].’”
- [Q] *For there is the following dispute:*
- [R] If there was an excess [of beasts designated for the] daily whole offering –
- [S] Samuel said, “The beasts are redeemed even if they are unblemished.”
- [T] R. Yohanan said, “They are redeemed in accord with the rules governing animals that are invalid for use for Holy Things [which are left to pasture until they suffer a blemish and then may be redeemed, but not before].”
- [U] If there was an excess of goats [designated for use for the rite of the Day of Atonement or other purposes] –
- [V] *in the view of Samuel, if an animal designated for a burnt offering is to be redeemed, is it not an argument a fortiori that an animal designated for use as a sin-offering should be redeemed?*
- [W] *In the view of R. Yohanan –*
- [X] R. Zeira said, “They are put out to pasture [as before].”
- [Y] Said R. Samuel bar R. Isaac, “They make use of the beast for the altar at a time when the altar is otherwise left vacant.”
- [Z] *Now there is a problem: May an animal designated as a sin offering be offered under the rules governing a burnt-offering?*
- [AA] Said R. Yosé, “The rule here is different, for offerings deriving from public funds are not defined as to their purpose except at the actual moment of slaughter, [and hence the problem is no problem].”

[BB] Said R. Hananiah b. Teradion, “It is a stipulation of the court [in general] concerning animals that are in excess that they may be offered as burnt-offerings.”

- [I:3 A] “[And bring it to Aaron’s sons the priests. And he shall take from it] a handful [of the fine flour and oil, with all of its frankincense; and the priest shall burn this as its memorial portion upon the altar, an offering by fire, a pleasing odor to the Lord]” (Lev. 2:2).
- [B] Is it possible to interpret that statement to require that the priest’s grasp of the meal-offering must be such that the meal comes forth on both sides?
- [C] Scripture says, “In his hand” [and not exuding out the sides of his hand].
- [D] If the requirement is that the handful be in his hand, then is it possible that he should take a handful only with his fingertips?
- [E] Scripture says, “A handful.”
- [F] How so? He spreads the palm of his hand over the griddle or the stewing pan, and [he takes a handful], smoothing it down with his fingers from top to bottom.
- [G] There you say that he takes a handful [of meal, measured by his] fist, while here [at M. 5:1] you say his fistful [of incense as well]. [Now how do you know that the rule for taking a fistful of meal-offering, such as is described at Lev. 2:2, applies to taking the handful of incense under discussion here?]
- [H] R. Jacob bar Aha, R. Simon, in the name of R. Joshua b. Levi: “Just as elsewhere, a handful that is lacking is invalid, so here [with regard to the incense of the Day of Atonement], a handful that is lacking is invalid.”
- [I:4 A] As to the handful [of incense under discussion at M. 5:1B], what is the law on preparing it in a utensil of service, so sanctifying [the substance itself, placing it beyond redemption and later secularization]?
- [B] As to another [party], what is the law on his taking the handful and placing it into the hand of the high priest?
- [C] What is the law as to his applying a fixed measure [of volume] for the handful that he takes?

[D] Do they measure by the size of all handfuls in general, or do they measure only by his handful [who takes the incense]?

[E] R. Joshua b. Levi asked, “If [the high priest] took a handful [of incense] and then died, what is the law as to someone else’s bringing in his handful [of incense]?”

[F] “If you maintain that the handfuls of incense are prepared in a utensil of service and so are sanctified, then that is to say that if a high priest took a handful of incense and died, no one else may thereafter bring in his handful of incense.

[G] “Another party, furthermore, may not take the handful and put it into his hands.

[H] “They treat his hand as the operative measure of the handful, and they do not measure by reference to all handfuls [in general].

[I] “If, by contrast, you maintain that the handfuls of incense are not prepared in a utensil and so are not sanctified, [that is, the handful of incense itself is not consecrated,] *then it follows that*, if the high priest took a handful of incense and died, another may thereafter bring in his handful of incense.

[J] “Another party, furthermore, may take the handful and put it into his hands.

[K] “They do not treat his hand as the operative measure of the handful, but they measure by reference to the generality of handfuls [that is, the average size].”

[II:1 A] A large one in accord with the large size of his hand [M. 5:1 C]:

[B] Even in accord with that of Ben Qimhit, whose hand could hold four *qabs*.

[C] Or a small one in accord with the small size of his hand [M. 5:1C]:

[D] Even in accord with that of Ben Gamala, whose hand would hold only about two olive’s bulks.

[II:2 A] As to a non-priest’s transporting the blood, what is the law on the act’s being deemed valid?

[B] Hezeqiah said, “If a non-priest transports the blood, it is valid.”

[C] R. Yannai said, “If a non-priest transports the blood, it is invalid.”

- [D] *The following Mishnah passage stands at variance with the view of R. Yannai: **If he received the blood with his right hand and put it into his left hand, he must return it to his right hand** [M. Zeb. 3:2].*
- [E] Now is not putting the blood into his left hand equivalent to having a non-priest transport the blood? [Yet the blood is not invalidated, but may simply be restored to the right hand and then transported and tossed.]
- [F] Interpret the cited passage to speak of a case in which his left hand was toward the inner precincts [and hence this is not really a case of transporting the blood at all].
- [G] Said R. Ba, “And even if you say it was on the outer side, the case of transportation of the blood by a non-priest is different. For the transportation of the blood in the cited case is by the priest himself [even though it is in the wrong hand, and he simply restores the blood to the right hand].”
- [H] Said R. Zeirah, “The law does not treat putting out the hand as equivalent to transporting [the blood] by carrying.”
- [I] *The following passage of the Mishnah stands at variance with the view of R. Yannai:*
- [J] **If the blood was poured out from the utensil onto the floor and gathered up again, it is valid** [M. Zeb. 3:2]. [So there is a remedy, and why not also in the case of the non-priest’s transporting the blood?]
- [K] Said R. Bibi, “Interpret the rule to speak of a case in which the blood was rolling inward [toward the inner sanctum].”
- [L] Said R. Ba, “And even if you say the blood was rolling to the outer side, the case of transportation of the blood by a non-priest is different. For the transportation of the blood in the cited case is through the action of the blood itself.”
- [M] Said R. Zeirah, “The law does not treat putting out the hand as equivalent to transporting the blood by carrying.”
- [N] *The following passage of the Mishnah stands at variance with the view of R. Yannai: **He took the fire-pan in his right hand and the ladle in his left** [M. 5:1E]. [Carrying the object in the left hand is equivalent to its being carried by a non-priest, and yet it is valid.]*

[O] That case is different. [It is valid if carried in the left hand] because he cannot do it any other way.

[P] He can always hang it from his shoulder.

[Q] That would not be a respectable way of doing it.

[R] And let him switch hands [carrying the ladle with the incense in his right hand and the fire-pan in the left?]

[S] *The framers of this law are of the view that* if he switched hands, it is invalid, [because this is how things are to be done].

[T] And let him set the pan down. [That is, let him put the fire-pan containing the coals down on the ladle, carrying the whole with his right hand, and then when he burns the incense, he puts the ladle back into his left hand and the fire-pan in his right, as M. 5:1 E requires.]

[U] For the law there [at M. Tam. S:5] indicates further that he may set it down.

[V] There if he set it down, it is invalid; if he changed hands, it is invalid. But here, if he set it down, it is valid. If he changed hands, it is invalid.

[II:3 A] All concur that if he brought the objects in one by one, he has effected atonement.

[B] But he is liable on the count of entering into the inner sanctum more often than is required.

[C] For which one of these actions is he liable? [On account of the former, or on account of the latter?]

[D] Associates say, "On account of the latter."

[E] Said to them R. Yosé, "One says to him, 'Bring [in the ladle and fire-pan,] so the first act of bringing in is the principal one], and yet you say, 'For the latter'?"

[F] "But we must interpret the matter to apply to the former [of the two bringing-ins]."

[G] *There we have learned: If one prostrated himself or remained in the Temple [after learning he is unclean] for an interval sufficient for prostrating himself [M. Shebu. 2:3C]:*

[H] For which one of the cultic taboos is he liable, for the first [that is, because he was made unclean inside the Temple], or for the latter [that he has not gone out forthwith nor has even progressed further into the Temple precincts]?

[I] Associates say, “For the former.”

[J] Said to them R. Yosé, “One says to the man, ‘Get out!’ and yet you say, ‘For the former’? [That is, the principal concern is to get the man out of the Temple, so the liability surely derives from his not getting out quickly enough.]

[K] “But we must interpret the matter to apply to the latter concern [that is, the liability is for not leaving the Temple forthwith].”

[III:1 A] **And the space between them was a cubit [M. 5:1G]:**

[B] Said R. Hila, “There is an indication of the matter *in that which we have learned there: The dividing space was one cubit, and the Holy of Holies twenty cubits [M. Mid. 4:7]:*

[C] “What is the meaning of The dividing space was one cubit?”

[D] R. Jonah of Bosra said, “[It comes from a Greek word for confusion, that is,] it created confusion: What is it? Inside? Outside?”

[E] Said R. Yosé, “On the basis of the following verse of Scripture, ‘And the house, that is, the Temple before the sanctuary, was forty cubits long’ (I Kings 6:17), that is to say, it is inside.”

[F] Said to him R. Mana, “And lo, it is written, ‘And he made the most holy place; its length, corresponding to the breadth of the house, was twenty cubits, and its breadth was twenty cubits; he overlaid it with six hundred talents of fine gold’ (2 Chron. 3:8). That indicates it is outside.”

[G] *What is the scriptural basis for the view of rabbis [at M. 5:1G]?*

[H] “And you shall hang the veil from the clasps, and bring the ark of the testimony in thither within the veil; and the veil shall separate for you the holy place from the most holy” (Exod. 26:33)

[I] How does R. Yosé [M. 5:1H-I] interpret this passage?

[J] It refers to separating the holy place above from the most holy place below.

[K] *And do not the rabbis maintain this same view?*

[L] *They accord with that which we have learned: **The ends of flagstones divided the holy from the most holy** [cf. M. Mid. 1:6].*

5:2

[A] **The outer [veil] was looped up at the south. and the inner one at the north.**

[B] **He walks between them until he reaches the northern side.**

[C] **[When] he has reached the northern side, he turns around to ward the south, walks along with the curtain at his left until he has reached the ark.**

[D] **[When] he has reached the ark, he places the fire-pan between the two bars [Exod. 25:12].**

[E] **He piled up the incense on the coals, so that the whole house was filled with smoke.**

[F] **He came out, going along by the way by which he had gone in.**

[G] **And he said a short prayer in the outer area.**

[H] **He did not prolong his prayer, so as not to frighten the Israelites.**

[I:1 A] *It has been taught: “He would enter from the candelabrum, moving to the south,” the words of R. Meir.*

[B] *R. Yosé says, “He would enter from the table, moving to the north.”*

[C] *There is a Tannaite authority who teaches: He would enter from the golden altar to the candelabrum.*

[D] **He walks between them until he reaches the northern side [M. 5:2].**

[E] **He pushes the veil aside with his elbows so that the veil will not catch fire.**

[F] **When he has reached the northern side, he turns around toward the south,** and he would step backward, so as not to appear to pace between the bars.

[G] **What does he do [with the incense]?**

[H] **Said R. Haninah, “He puts the ladle down on the ground, and tosses the incense into the air and catches it in the fire pan.”**

[I] Samuel said, “He scatters the frankincense with his foot [so shoving it apart].”

[J] Said R. Yohanan, “He empties it from the ladle [onto the coals], and it floats upward in a column and afterward it spreads apart and descends.”

[K] He came out, going along by the way by which he had gone in [M. 5:2F].

[L] This accords with the view of R. Yosé [B]. [There was only one veil, which was pinned back on the north side, so he walked backward through that same opening.]

[M] But in accord with the view of R. Meir [A, who holds there were two veils,] *even if he wanted to move backward, he cannot do so.* Why not? So as not to turn his back on the holy place.

[N] It is written, “So Solomon came to the high place at Gibeon from before the tent of meeting to Jerusalem” (2 Chron. 1:13).

[O] *How shall we interpret this passage?*

[P] If he was coming from Jerusalem, then the passage should state, “from Jerusalem to the high place.”

[Q] If he was coming from the high place, the passage should state, “from the high place to Jerusalem.”

[R] Said R. Samuel bar Abodema, “He was coming to the high place, so as not to turn his back on the holy place.”

[II:1 A] And he said a short prayer in the outer area [M. 5:2G].

[B] This was the prayer of the high priest on the Day of Atonement, when he left the holy place whole and in one piece: “May it be pleasing before you, Lord, our God of our fathers, that [a decree of] exile not be issued against us, not this day or this year, but if a decree of exile should be issued against us, then let it be exile to a place of Torah.

[C] “May it be pleasing before you, Lord, our God and God of our fathers, that a decree of want not be issued against us, not this day or this year, but if a decree of want should be issued against us, then let it be a want of [the performance of] religious duties.

[D] “May it be pleasing before you, Lord, our God and God of our fathers, that this year be a year of cheap food, full bellies, good business; a year in which the earth forms clods, then is parched so as to form scabs, and then moistened with dew,

[E] “so that your people, Israel, will not be in need of the help of one another.

[F] “And do not heed the prayer of travelers [that it not rain].”

[G] Rabbis of Caesarea say, “And concerning your people, Israel, that they not exercise dominion over one another.”

[H] And for the people who live in the Sharon plain he would say this prayer: “May it be pleasing before you, Lord, our God and God of our fathers, that our houses not turn into our graves.”

[III:1 A] He did not prolong his prayer, so as not to frighten the Israelites [M. 5:2H]:

[B] There was the case of one high priest who prolonged his prayer, so they decided to go in after him. They say it was Simeon the Righteous.

[C] They said to him, “Why did you take so long?”

[D] He said to them, “I was praying for the sanctuary of your God, so that it should not be destroyed.”

[E] They said to him, “Even so, you should not have prolonged your prayer.”

[F] For forty years Simeon the Righteous served as high priest. In the final year, he said to them, “This year I am going to die.”

[G] They said to him, “How do you know?”

[H] He said to them, “Every year when I entered the house of the Holy of Holies, an old man dressed in white and cloaked in white went in with me and came out with me. This year he went in with me but he did not come out with me.”

[I] *They asked before R. Abbahu*, “And is it not written, ‘There shall be no man in the tent of meeting when he enters to make atonement in the holy place until he comes out and has made atonement for himself and for his house and for all the assembly of Israel’ (Lev. 16:17)?

[J] “That surely applies to them concerning whom it is written, ‘As for the likeness of their faces, each had the face of a man in

front; the four had the face of a lion on the right side, the four had the face of an ox on the left side, and the four had the face of an eagle at the back' (Ezek. 1:10). Even these were not in the tent of meeting."

[K] *He said to them, "What tells me that it was mortal man? I maintain that it was the Holy One, blessed be he."*

5:3

[A] Once the ark was taken away, there remained a stone from the days of the earlier prophets, called Shetiyyah.

[B] It was three fingerbreadths high.

[C] And on it did he put [the fire-pan].

[I:1 A] *It has been taught:* Before the ark was removed, he would go in and go out by the light of the ark. Once the ark was removed, he would have to feel his way in and feel his way out.

[I:2 A] Said R. Yohanan, "Why was it called 'Shetiyyah'? For from it the world was founded."

[B] *R. Hiyya taught,* "Why was it called 'Shetiyyah'? For from it the world was given water to drink."

[C] It is written, "The Mighty One, God the Lord, speaks and summons the earth from the rising of the sun to its setting. Out of Zion, the perfection of beauty, God shines forth" (Ps. 50:1-2).

[D] And it says, "Therefore thus says the Lord God, 'Behold, I am laying in Zion for a foundation a stone, a tested stone, a precious cornerstone, of a sure foundation: He who believes will not be in haste'" (Isa. 28:16).

5:4

[A] He took the blood from the one who had been stirring it.

[B] He [again] went into the place into which he had entered and again stood on the place on which he had stood.

[C] Then he sprinkled some [of the blood], one time upward and seven times downward.

[D] But he did not intentionally toss it upward or downward.

[E] But [he did it] like one who cracks a whip.

[F] And thus did he count: "One, one and one, one and two, one and three, one and four, one and five, one and six, one and seven."

- [G] He went out and he set down [the bowl of blood] on the golden stand in the Sanctuary.
- [H] They brought him the goat.
- [I] He slaughtered it and received its blood in a basin.
- [J] He went into that same place into which he had entered, and stood on that same place on which he had stood.
- [K] And he sprinkled some [of the blood], one time upward and seven times downward.
- [L] But he did not intentionally sprinkle upward or downward.
- [M] But he [did it] like one who cracks a whip.
- [N] And thus did he count: “One, one and one, one and two,” etc.
- [O] He went out and he set it on the second stand which was in the Sanctuary.
- [P] R. Judah says, “There was only one stand there alone.
- [Q] “He took the blood of the bullock and set down the blood of the goat in its place,”
- [R] and sprinkled some of it on the veil toward the ark outside.
- [S] [He sprinkled some of the blood] one time upward and seven times downward.
- [T] But he did not intentionally sprinkle upward or downward.
- [U] But he did it like one who cracks a whip.
- [V] And thus did he count: “One, one and one, one and two,” etc.
- [W] He took the blood of the goat and set down the blood of the bullock, and he sprinkled some of it on the veil toward the ark, on the outside of the veil,
- [X] one time upward and seven times downward.
- [Y] But he did not intentionally sprinkle upward or downward.
- [Z] But he did it like one who cracks a whip.
- [AA] And thus did he count: “One, one and one, one and two,” etc.
- [BB] Then he emptied the blood of the bullock into the blood of the goat, and poured the contents of the full basin into the empty one.
- [CC] “And he went out toward the altar which is before the door” (Lev. 16:18).
- [DD] This refers to the golden altar.

[I:1 A] What is the meaning of like one who cracks a whip [M. 5:4E]?

[B] Like the movement of one who administers lashes in court.

- [I:2 A] [Why does he not count to eight?] Said R. Yohanan, “It is so that he will not make a mistake.”
- [B] Said R. Zeira, “It is so that he will complete his acts of sprinkling at the number seven.”
- [C] *But lo, it is taught, “Seven and one” [T. Yoma 2:16F].*
- [D] Said R. Bun, “It is written, ‘And before the mercy seat he shall sprinkle the blood with his finger seven times’ (Lev. 16:14). Why does the Scripture say, ‘he will sprinkle’? It is so that the first act of sprinkling will be numbered [with each subsequent one] .”
- [I:3 A] It is written, “Sprinkling it upon the mercy seat [and before the mercy seat]” (Lev. 16:15).
- [B] Is it possible to suppose that it is sprinkled on its roof?
- [C] Scripture states, “And before the mercy seat.”
- [D] Is it possible to suppose that it is to be on its brow?
- [E] Scripture states, “UponÉand beforeÉ”
- [I:4 A] R. Zeirah said, “[The flicked blood] has to touch [the mercy seat] .”
- [B] R. Samuel bar R. Isaac said, “It does not have to touch it.”
- [C] *Said R. Bun bar Hiyya, “The scriptural basis for the view of R. Samuel bar R. Isaac [is this]:’And he will sprinkle it upon the mercy seat and before the mercy seat’ (Lev. 16:15).*
- [D] “Just as, when the mercy seat is mentioned elsewhere it means that the blood must be on its brow but not on its roof, and it does not have actually to touch it, so when mercy seat is stated here, it means that the blood is to be directed toward the brow, not on the roof, and it does not have actually to touch the mercy seat.”
- [E] *Said R. Yosé, “The theory of R. Bun bar Hiyya is this: The rule governing the sprinkling of the blood of the goat, above, is to be derived from the rule governing the sprinkling of the bullock, below.”*
- [I:5 A] “And he shall sprinkle it with his finger on the front of the mercy seat” (Lev. 16:14, for the blood of the bull, and Lev. 16:15, for the blood of the goat). This teaches that he puts one of the drops of blood above.
- [B] “And before the mercy seat” (Lev. 16:14, 15).
- [C] I do not know how many there should be.

- [D] Lo, I reason as follows: Putting the blood is required for the bullock of the high priest, below, and putting the blood is stated with respect to the goat, also below.
- [E] Just as tossing the blood is stated with regard to the bullock, indicating it is to be tossed below seven times, so the placing of the blood stated with regard to the goat is to be done below, seven times.
- [F] Or perhaps you should argue in this way:
- [G] Placing blood above is required, and placing blood below is required.
- [H] Just as placing the blood above demands a single drop of blood, so placing the blood below should require a single drop of blood.
- [I] Let us then determine the appropriate parallel.
- [J] One should derive the rule governing placing the blood below by analogy to other rules governing placing the blood below, and one should not derive the rule governing placing the blood below from the rule governing placing the blood above.
- [K] Or perhaps one should reason in this way:
- [L] Derive the rule governing the disposition of the blood of the goat from other rules governing the disposition of the blood of the goat, and do not derive the rule governing the disposition of the blood of the goat from the rule governing the disposition of the blood of the bullock.
- [M] Scripture actually states, “And do with [the goat’s] blood as he did with the blood of the bull” (Lev. 16:15).
- [N] Just as the blood of the bullock is sprinkled below seven times, so the blood of the goat is sprinkled below seven times.
- [O] And I do not know how much of the blood of the bullock is to be placed above.
- [P] Placing the blood is stated with regard to the goat, above, and placing the blood is stated with regard to the bullock, above.
- [Q] Just as placing the blood stated with regard to the goat is done above, one time, so placing the blood with regard to the bullock, above, is to be done one time.
- [R] Or perhaps one should reason in this way:
- [S] The requirement of placing the blood below is stated, and the requirement of placing the blood above is stated.

- [T] Just as placing the blood below is to be done seven times, so when placing the blood above is stated, it means it is to be done seven times.
- [U] Let us then determine the appropriate analogy.
- [V] They derive the rule governing placing the blood above from other rules governing placing the blood above, and they do not derive the rule for placing the blood above from that governing placing the blood below.
- [M] Or take the following route: They derive the rule governing the disposition of the blood of the bullock from the rule governing the disposition of the blood of the bullock, and they should not derive the rule governing the disposition of the blood of the bullock from the rule governing the disposition of the blood of the goat.
- [X] Scripture states, “And do with [the goat’s] blood just as he did with the blood of the bull” (Lev. 16:15).
- [Y] This means that all of the rites pertaining to the two of them should be exactly the same.
- [Z] Just as the blood of the bullock is tossed below seven times, so the blood of the goat is tossed below seven times.
- [AA] Just as the blood of the goat is tossed above one time, so the blood of the bullock is tossed above one time.
- [I:6 A]** “Thus he shall make atonement [for] the holy place” (Lev. 16:16).
- [B] The meaning is that he has to aim his tossings of the blood at the holy place.
- [I:7 A]** [With reference to Lev. 16:18:”Then he shall go out to the altar which is before the Lord and make atonement for it and shall take some of the blood of the bull and [some] of the blood of the goat and put it on the horns of the altar round about” (= M. 5:4CC):] said R. Nehemiah, “Since we find it stated with regard to the bullock that is brought because of violation in error of ‘any of the commandments,’ (Lev. 4:1ff), that the priest stands outside the altar and sprinkles the blood toward the curtain, when he sprinkles, it is possible to suppose that here too the priest does the same.
- [B] “Accordingly, Scripture states, ‘which is before the Lord.’”
- [C] And where was it? It was on the inner side of the altar.
- [D] Or perhaps the reference is only to the outer altar?

- [E] Scripture states [42d], “which is before the Lord.”
- [F] Lo, it speaks only of the inner altar.
- [I:8 A] All concur in the case of the bullock of the anointed priest and of the community [mentioned at Lev. 4:1ff.] that it is not necessary that the blood actually reach [the altar].
- [B] *Where there is a dispute* it concerns the bullock and the goat offered on the Day of Atonement.
- [C] *There is a Tannaite authority who teaches that* it has to reach [the spot].
- [D] *There is a Tannaite authority who teaches that* it does not have to reach [the spot] .
- [E] **Said R. Eleazar b. R. Yosé, “I myself saw it in Rome, and there were drops of blood on it. And he told me, ‘These are from the drops of blood of the Day of Atonement’”[T. Yoma 2:16J].**
- [F] *That would indicate that* the drops of blood have to reach it.
- [G] [Not necessarily so.] Even if you say that the drops of blood do not have to reach it, if they actually did reach it, they were valid nonetheless.
- [II:1 A] [With reference to M. 5:4BB:] If one poured the contents of a sanctified utensil into an unsanctified utensil, he has invalidated what he poured.
- [B] Lo, if he should pour the contents of a sanctified utensil into another sanctified utensil, he has not invalidated [what he has poured].
- [C] *Said R. Haggai before R. Yosé, “The Mishnah has made that very point: **Then he emptied the blood of the bullock into the blood of the goat and poured the contents of the full basin into the empty one** [M. 5:4BB].”*
- [D] [*He said to him,*] “*What do you derive from that statement?*”
- [E] Said R. Mana, “[What we have is a mixture of blood.] I say that he poured the contents of the bowl containing the blood of the bullock, which was full, into the bowl containing the blood of the goat, which was empty.”
- [F] Said R. Yosé b. R. Bun, “He poured the blood of the bullock into the blood of the goat [the bowl of which was full]. [That point may readily be conceded.] But then he proceeds to mix

them together [into a third utensil], so that they may be adequately mixed together.”

- [II:2 A]** How do we know that one has to mix [the blood of the bullock and the goat, M. 5:4BB]?
- [B] Scripture states, “And he shall take some of the blood of the bull and of the blood of the goat and put it on the horns of the altar round about” (Lev. 16:18).
- [C] That applies when they are mixed together.
- [D] Is it possible to suppose that he sprinkles the blood of this one by itself and that one by itself?
- [E] Scripture states, “Aaron shall make atonement upon its horns once a year; [with the blood of the sin-offering of atonement he shall make atonement for it once in the year throughout your generations; it is most holy to the Lord]” (Exod. 30:10).
- [F] One time in a year he effects atonement, and he does not effect atonement two times a year.
- [G] Or may we say: He utilizes the blood of a bullock one time in the year and not two times in the year?
- [H] *R. Ishmael taught*, “‘Aaron shall make atonement upon its horns once a year; [with the blood of the sin-offering of atonement he shall make atonement for it once in the year throughout your generations; it is most holy to the Lord]’ (Exod. 30:10).
- [I] “One time in the year he makes atonement, and two times in the year he does not make atonement.”
- [J] All concur with regard to the seven times the blood is placed below [on the altar, below the red line] that one has to pour out the blood, for it is written, “[He shall sprinkle the blood with his finger] seven times” (Lev. 16:19) – and not fourteen. [That is, one has to mix the blood of the two animals, the bullock and the goat, to purify and sanctify the altar.]
- [II:3 A]** If one received the blood of the bullock in three separate cups, and the blood of the goat in three separate cups, with the plan of putting blood from one of them on the projections, one on the veil, and one on the golden altar, which one is he supposed to pour into the other [for pouring on the altar in line with M. 5:4BB]?

- [B] And does a man give thought to carrying out the atonement only by halves [that he collected just enough blood in each cup by itself for the stated tasks, and not enough for taking care of the altar as well]?
- [C] Rather, this is how the matter is to be phrased:
- [D] If one has received the blood of the bullock in three cups and the blood of the goat in [the same] three cups, intending to place the blood from one of the cups on the projections, from one of the cups on the veil, and from one of the cups on the golden altar –
- [E] which one of them is he supposed to pour out [in line with M. 5:4BB]?
- [F] [*This matter depends upon*] *the dispute of R. Zeira and R. Hila, for they engaged in the following dispute:*
- [G] If one cast lots on three pairs [of goats, planning to] place the blood of one of them on the projections, the blood of one of them on the veil, and the blood of one of them on the golden altar, the mate of which one of these three goats used for the stated purpose is sent forth [to Azazel]? [That is, each of the selected goats, serving as a sin-offering, yields blood for a stated purpose. Each of the goats had a mate. The goat for Azazel must be taken from one of those mates. Which one?]
- [H] R. Zeirah said, “‘Éto make atonement over it’ [‘And Aaron shall present the goat on which the lot fell for the Lord and offer it as a sin-offering; but the goat on which the lot fell for Azazel shall be presented alive before the Lord, to make atonement over it’ (Lev. 16:10). The one through which one makes atonement – its fellow is sent out. The one through which one does not make atonement – its fellow is not sent out. [That would cover any of the goats whose blood was used at all.]”
- [I] R. Hila said, “‘Éto make atonement over it.’ The one through which all of the acts of atonement are completed – its fellow is sent forth. The one through which the entire work of atonement is not completed – its fellow is not sent forth.”
- [J] *In the view of R. Zeirah*, any one of the three therefore may be sent forth [that is, the pairs of any of the goats slaughtered for a sin-offering may be sent forth].
- [K] *In the view of R. Hila* only the mate of the last goat alone is to be sent forth. [Completing the rite of atonement is when the blood hits the golden altar.]

- [L] *Here likewise, in the view of R. Zeirah, it is blood of all three of the goats that he is supposed to mix together.*
- [M] *In the view of R. Hila, he is supposed to mix together only the blood of the one from which he sprinkled.*
- [N] If one received the blood of the bullock in three cups, and the blood of the goat in [those same] three cups, with the plan of placing blood from one of the cups on the projections, the blood from one of the cups on the veil, and the blood from one of the cups on the golden altar,
- [O] which of the three cups then is poured out onto the foundation [of the altar]?
- [P] *This matter depends upon the dispute of Rabbi and R. Eleazar b. R. Simeon, for they have the following dispute:*
- [Q] In the case of a sin-offering, the blood of which one collected in four cups, one uses blood from one cup for one sprinkling of blood, from another for another sprinkling of blood, and from another for another sprinkling of blood.
- [R] “How do we know, then, that he must pour out the remainder of the blood in *all* of the cups onto the foundation?”
- [S] “[And the priest shall take some of its blood with his finger and put it on the horns of the altar of burnt-offering,] and pour out the rest of its blood at the base of the altar’ (Lev. 4:30).
- [T] “Is it possible to suppose that even if he did not take blood from one of them for the purpose of four scatterings of blood, all of them should be poured out equally?”
- [U] “Scripture says, ‘[Then the priest shall take some of the blood of the sin-offering with his finger and put it on the horns of the altar of burnt-offering,] and pour the rest of its blood at the base of the altar of burnt-offering’ (Lev. 4:25).
- [V] “How so?”
- [W] “It is poured on the foundation of the altar, and the rest of the cups of blood [which have not been used at all] are poured out [merely] into the sewer,” the words of Rabbi.
- [X] R. Eleazar b. R. Simeon [says,] “How do we know that, even if one took blood from one of them for the purpose of

all four flickings of the blood, nonetheless all four of them are poured out on the foundation?]

[Y] “Scripture states, ‘[Then the priest shall take some of the blood of the sin-offering with his finger and put it on the horns of the altar of burnt-offering,] and pour the rest of its blood at the base of the altar of burnt-offering’”(Lev. 4:25).

[Z] *In the view of R. Eleazar b. R. Simeon*, all four cups are poured out on the foundations of the altar.

[AA] *In the opinion of Rabbi*, you have as blood to be poured out on the foundations only that cup, blood from which has been flicked onto the altar.

[BB] Associates say, “[In the assumption that the dispute concerns not a single animal killed as a sin-offering, the blood of which one collected in four cups, but two such animals, the blood of which was confused. The dispute is spelled out in a moment, FF.] If this one [that is, one such animal, the blood of which was confused with another,] was rendered refuse [by an improper intention of the officiating priest], the other one also has been rendered refuse.

[CC] “If the limbs of one of them were lost, they may sprinkle blood on the limbs of the other one [waiting to be burned up].”

[DD] All concur in the case of the bullock of the anointed priest and the community [that is, if one separated two animals, one for one, the other for the other, and the blood of the two animals was confused,] that it suffices if there is a single placing of the blood deriving from both of them. [There is no dispute in this case between Eleazar and Rabbi.]

[EE] Associates say, “As to limbs of validly sacrificed beasts that were confused with the limbs of invalidly sacrificed beasts, [what is required to validate the whole is] a single placing of blood deriving from the validly sacrificed animals.

[FF] “[*As explained above, BB,*] where there is a dispute, it involves the blood of two animals sacrificed as sin-offerings, which was confused.

[GG] “Rabbi says, ‘I say, they examine the blood. If it contains enough for a single tossing of the blood deriving from this animal, and a single tossing of the blood deriving from that animal, it is valid. And if not, it is invalid.’

[HH] “And sages say, ‘Even if there is sufficient blood only for a single sprinkling of blood for both of them, it is valid.’”

[II] *In the view of Rabbi*, there is a fixed volume of blood required for sprinkling on the altar.

[JJ] *In the view of rabbis* there is no fixed volume of blood required for sprinkling on the altar.

[KK] *This is to say*, in any event, that if this one turned out to be rendered refuse [by the improper intention of an officiating priest], the other one also has been rendered refuse.

[LL] If the limbs of this one were lost, they toss blood on the limbs of the other one [anyhow].

5:5

[A] He began to purify [the altar] [by sprinkling the blood] in a downward gesture.

[B] From what point does he start?

[C] From the northeastern corner, then to the northwestern, southwestern, and southeastern ones.

[D] At the place at which he begins in the process of purification on the outer altar, at that point does he complete doing the same at the inner altar.

[E] R. Eliezer says, “He stood right where he was and purified [the altar by sprinkling the blood of purification].”

[F] And at every one he sprinkled the horn from below to above,

[G] except for this one which was before him,

[H] on which he would sprinkle [the blood] from above to below.

[I:1 A] Why should he not start [the purification process] at the southeastern corner of the altar [rather than at the northeastern corner]? [This would allow the same pattern to apply both to the outer altar and to the inner altar.]

[B] Said R. Hila, “[He has to go around the altar starting by making] a right [turn as he proceeds up the ramp, and the southeastern corner is not] at the right [as he ascends].”

[C] And let him then start at the northwestern corner [instead of the northeastern one]? [That is the first corner he hits.]

[D] Said R. Eleazar, ““Then he shall go out to the altar”” (Lev. 16:18).

[E] And why not then begin at the southwestern corner?

[F] It is so that he will not end up turning his back on the holy place.

[G] But in the end is he not going to have to turn his back on the holy place?

[H] He retreats backward [so as not to do so].

[I] And why should he not then stand at the south and begin on the northeastern corner?

[J] It accords with that which R. Hila said, “[He has to go around the altar starting by making] a right [turn as he proceeds up the ramp, and the southeastern corner is not] at the right [as he ascends].”

[I:2 A] *It has been taught: R. Eliezer says, “He stood right where he was and purified the altar by sprinkling the blood of purification.”*

[B] **And at every one he sprinkled the horn from below to above, except for this one which was before him crosswise, on which he would sprinkle the blood from above to below [M. 5:5E-H; T. Yoma 3:1H-I].**

[C] R. Abbahu in the name of R. Yohanan: “Both of them interpret the same verse of Scripture: ‘[And he shall take some of the blood of the bull and of the blood of the goat and put it on the horns of the altar] round about’ (Lev. 16:18).

[D] “Rabbis understand by ‘round about’ a circumambulation of the altar.

[E] “R. Eliezer understands by ‘round about’ standing in one place and following the horns of the altar round about.”

[F] Two priests fled during the wars. One says, “I would stand in one place and purify [the altar], and the other says, “I would walk around the altar and purify it.”

[G] *Said R. Yudan, “That is to say, he who does it this way need not scruple, and he who does it that way need not scruple.”*

5:6

- [A] **He tossed the blood on the top of the altar seven times.**
- [B] **Then did he pour out the residue of the blood [used on the inner altar] onto the western base of the outer altar.**
- [C] **And that [the residue of the blood sprinkled on] the outer altar he poured out on the southern base.**
- [D] **The two streams of blood then mingled together in the [flow of the] surrounding channel and flowed down into the Qidron brook.**
- [E] **They are sold to gardeners for fertilizer.**
- [F] **And the law of sacrilege applies to them [until the sale].**
- [I:1 A] **“And he will sprinkle *É* upon it *É*” (Lev. 16:19): [He did not sprinkle it] on the dust or on the coals, [but only on the top surface of the altar] [T. Yoma 3:2B].**
- [B] *There is a Tannaite authority who teaches that it was on the northern side [that he placed the blood seven times], and there is a Tannaite authority who teaches that it was on the southern side.*
- [C] *The Tannaite authority who teaches that it was on the northern side is R. Eliezer.*
- [D] *And the Tannaite authority who teaches that it was on the southern side is rabbis [vis-a-vis Eliezer]. [For Eliezer has the priest stand in place, and that must be at the northern side.]*
- [I:2 A] [With reference to M. Tam. 2:5: **They selected from there fine pieces of fig wood with which to lay out the second altar fire, the one for the incense, toward the southwestern corner, four cubits to the north of the corner. On weekdays they took sufficient wood to produce an amount of five seahs of cinders, and on the Sabbath, sufficient for an amount of eight seahs of cinders. For there did they place the two dishes of frankincense which accompany the show bread, Why did they set up that fire on the southwestern corner?**] **R. Yosé said, “This is the reason. Whatever is taken from outside to be put inside is taken from the place nearest the inside [altar], and whatever is to go from inside and to be placed outside is placed on the spot nearest to the inside [as well]. [That is, whatever is taken from within to be placed outside is taken as near as possible to the inner altar] [T. Yoma 3:7A-B].**

- [B] [Explaining the reason that the coals every day are taken from the western side of the outer altar,] R. Jeremiah in the name of R. Pedat: “[The laws governing] the coals every day and the lamp at the West are derived from the laws covering the coals for the Day of Atonement, and the [laws covering] the two dishes of frankincense are derived from the laws covering the disposition of the residue of the blood.”
- [I:3 A] “And [43a] all the remaining blood of the bullock he shall pour out at the base of the altar” (Lev. 4:7) . This serves to encompass the bullock of the Day of Atonement, the blood of which is to be poured out [thus the rule at M. 5:6B].
- [B] And why has the proof not extended also to the blood of the goat?
- [C] Said R. Mana, “And without such a statement, is it not supposed to be [mixed with the blood of the bullock and] poured out? [Of course it is!]”
- [D] *It turns out that one says*, “‘And all the remaining blood of the bullock he shall pour out at the base of the altar’ (Lev. 4:7). This serves to encompass the blood of the bullock of the Day of Atonement, and that of the goat as well, the blood of both of which is to be poured out.
- [I:4 A] “And when he has made an end of atoning for the holy place [and the tent of meeting and the altar, he shall present the live goat]” (Lev. 16:20).
- [B] [With reference to M. 5:7, below,] *there is a Tannaite authority who teaches*: If he has made an end, then he has atoned.
- [C] *And there is a Tannaite authority who teaches*: **If he has atoned, he has made an end. [Cf. T. Yoma 3:8].**
- [D] *R. Abbahu in the name of R. Yohanan*: “*The dispute between them is as follows*: He who maintains that if one has completed the rite, he has made atonement, holds the view that the pouring out of the residue of the blood is indispensable to the rite [M. 5:6B, C].
- [E] “*He who maintains that if he has effected atonement, he has completed the rite, maintains that the pouring out of the residue of the blood is not indispensable. [If the entire rite, inclusive of pouring out the residue on the foundations, is done, then the atonement is complete.]*”
- [F] *R. Joshua b. Levi said*, “*The implications of the verse of Scripture are what is at issue between them. But as to the pouring out of the*

residue of the blood, [all parties concur that] the pouring out of the residue is not [indispensable to the rite].”

[G] R. Simon in the name of R. Joshua b. Levi: “The pouring out of the residue of the blood is not indispensable to the rite.”

[H] *What is the upshot of the matter? [What positions are taken by the contesting parties?]*

[I] *He who says*, “If he has completed the rite of purification, he has effected atonement,” requires four acts of placing the blood [between the projections, on the veil, on the horns of the altar of gold, and on the top of the altar, respectively]. [If all four have been done, then the atonement has been achieved.]

[J] *He who says*, “If he has effected atonement, he has completed the rite of purification,” requires only one act of placing the blood [and not four]. [That is, any one of the acts of placing the blood suffices.]

[I:5 A] *It has been taught*: Said R. Ishmael, “[With reference to Lev. 4:7: ‘And all the remaining blood of the bullock shall he pour out at the base of the altar,’] now if the residue of the blood of a sin-offering, which does not effect atonement, is placed at the foundation of the altar, the [two placings of blood which constitute] the beginning of the burnt-offering, which do effect atonement – is it not logical that these should be placed at the foundation of the altar?”

[B] Said to him R. Aqiba, “No. If you have made that statement with regard to the residue of the blood of the sin-offering, which does not effect atonement and is not suitable to effect atonement, so that these are placed at the foundation of the altar, the [two placings of blood which constitute] the beginning of the burnt-offering, which do effect atonement and which are suitable to effect atonement – is it not logical that these should be placed at the foundation of the altar?”

[C] [*What is at issue?*] *He who maintains that* they do not effect atonement holds that they do not effect atonement on the other days of the year. But on the Day of Atonement they do effect atonement.

[D] *He who formulates the matter in the language* “They do not effect atonement and they are not suitable to effect atonement” holds that they do not effect atonement on either the New Year or the Day of Atonement.

[E] *How shall we interpret the matter?*

[F] If it is to describe the appropriate fulfillment of the religious duty, then it surely is a religious duty to put the blood on the foundation of the altar [which is stated explicitly, as we have seen].

[G] Hence if at issue is not the matter of appropriately carrying out the religious duty, it must be a matter of whether or not the rite is indispensable.

[H] *Said R. Shimi, "The following Tannaite teaching indicates that pouring out the residue is indispensable to the rite. For we have learned:* [What comes now is the end of a sizable discourse, just as at A-B above, in which the Talmud cites only part of a passage in Sifra, as specified in the text. As above, I translate only what is in the Talmud.] Now if the drops of blood that are tossed below the red line around the altar – if one has put them above the line, they have not been accepted [to achieve expiation of the sin], for not one of them is placed above the red line anyhow, will you say the same thing of drops of blood to be placed above the red line, that, if one placed them below, [they have not achieved expiation? That cannot be true, for, rather, they have been accepted,] for one of them indeed is offered below the red line. The drops of blood to be tossed on the inner altar will prove [the contrary]. For one of them is offered on the outer altar. Nonetheless, if one has put them on the outer altar, they are not accepted.

[I] "What makes that rule the case for the drops of blood to be tossed on the inner altar, so that, if one put them on the outer altar, they have not been accepted, is the fact that the altar does not effect forgiveness through them. But will you say the same of the drops of blood to be tossed above the line, that if one put them below, they have been accepted, for lo, the horns of the altar effect forgiveness through them? [Accordingly, the rule indeed is different.] Since the horns of the altar effect forgiveness through them, if one has put them below the line, the act should be valid.

[J] "Scripture accordingly says, '[The priest that offers] it [for a sin-offering]' (Lev. 6:18, 19),

[K] "and this indicates that one should put the blood above the line, not that one puts the blood below the line."

[L] What is the meaning of the statement "The inner altar does not effect forgiveness through them"?

[M] Said R. Yosé b. R. Bun, “That it does not effect forgiveness through them, turning the remainder into residue [no longer needed]. But it is [when they have been tossed on] the projections and on the veil [that the remaining blood] is transformed into residue.”

[N] *Said R. Yosé, “The following Tannaite teaching indicates that pouring out the residue is not indispensable.*

[O] *“For we have learned: **If one did not pour it out, he did not invalidate the sacrifice [M. Zeb. 5:1].***

[P] *R. Borqai in the name of R. Yohanan: “The following Tannaite passage indicates that pouring out the residue is indispensable to the rite.*

[Q] *“For we have learned: ‘And he shall make atonement for the most holy place’ (Lev. 16:33) – this refers to the Holy of Holies.*

[R] *“‘The tent of meeting’ – this refers to the sanctuary.*

[S] *“‘The altar’ – this refers to the golden altar.*

[T] *“‘He shall make atonement’ – this refers to the courtyards.*

[U] *“Now is there a question of atonement in the courtyards? If so, it must refer only to the residue of the blood [which serves for the outer area, not for the altar, the veil, and the like, as we know]. [Accordingly, pouring out the residue is indispensable.]”*

[V] *R. Bun bar Hiyya asked, “In accord with the view of him who has said that pouring out the residue is indispensable to the rite, does doing so in the assigned place at the base of the altar also constitute an indispensable element in the rite?*

[W] *“May one pour out the residue by night? [Is doing so by day also indispensable?]*

[X] *“Does one slaughter an animal to produce them in the first place? [May one kill an animal*

simply to pour the residue of the blood on the foundation of the altar?]"

[Y] *Associates asked*, "Does the formation of an improper intention in regard to the residue constitute an invalidating cause [as it does in regard to the blood actually tossed on the altar]?"

[Z] R. Yudan asked, "If the residue is lost, what is the law?"

[AA] What is at issue for him is the law applying once one has begun to put [the blood on the altar], and there was not enough blood to serve as residue.

[BB] But if he had not yet begun to put the blood on the altar, all parties concur that there is no issue of residue at all to serve as residue. [None of these questions is answered.]

[II:1 A] [*With reference to M. 5:6E,*] *it has been taught*: "**The laws of sacrilege apply to the blood,**" the words of R. Meir and R. Simeon.

[B] **And sages say, "The laws of sacrilege do not apply to the blood,"** [T. Zeb. 6:9B-C] [= M. 5:6E].

[C] [Supplying the scriptural basis for the view of rabbis,] R. Abbahu in the name of R. Yohanan: "'For the life of the flesh is in the blood, and I have given it for you upon the altar to make atonement for your souls; for it is the blood that makes atonement' (Lev. 17:11). What is important to you in it is only the matter of its atonement for the soul alone. [The issue of sacrilege is not pertinent to the blood.]"

[D] R. Hiyya in the name of R. Yohanan: "'Whoever eats it shall be cut off' (Lev. 17:14). The only consideration applicable to it is extirpation [but not sacrilege.]"

[E] Said R. Zeirah, "The case of one who declared blood to be consecrated is at issue between these [two proposed explanations for the rule of M. 5:6E].

[F] "*The one who has said, 'What is important to you in it is only the matter of its atonement for the soul alone,' will hold that this blood*

[that has been consecrated], since it has no element of atonement in it, is not subject to the laws of sacrilege.

- [G] *“The one who has said, ‘The only consideration applicable to it is extirpation,’ will maintain that this blood [that has been consecrated], since it can produce the penalty of extirpation [if someone eats it], also is subject to the laws of sacrilege [as having been effectively consecrated].”*
- [H] R. Ba, R. Hiyya in the name of R. Yohanan came [and said]: “The case of one who declared blood to be consecrated for the upkeep of the house [that is, blood to be sold, with the proceeds used to maintain the Temple building,] is at issue between these [two proposed explanations for the rule of M. 5:6E].”
- [I] *[Since what is sanctified for the upkeep of the house is subject to sacrilege,] Rabbi Zeirah rejoiced at this proposal. He assumed that it had been stated with reference to the positions of rabbis.*
- [J] *He said to him, “And what’s with you? This statement has been made with regard to the view of R. Simeon [who holds that the blood is subject to the laws of sacrilege]. [His view then may be explained by reference to the consecration of blood for the up keep of the house.]”*
- [K] R. Ba son of R. Hiyya bar Ba: “Thus do sages reply to R. Simeon, ‘If one were to sell the blood [e.g., for fertilizer], would not the funds received in exchange not fall into the frame of the sanctuary?’” [The money certainly is holy.] If so, what is the difference between the proceeds received for the blood, and the blood itself? [The laws of sacrilege should not apply at all, since the money remains holy and beyond redemption.]”
- [L] *Now he differs from that which was stated by R. Eleazar. [That is, in claiming that if the proceeds are regarded as holy, the laws of sacrilege cannot apply at all, Ba differs from what Eleazar has said. For he maintains that] there are cases in which the rule is that one may not derive benefit [from something, for private use, but, nonetheless], the laws of sacrilege do not apply. Therefore, if one has sold them, the proceeds received in exchange are not held to be holy.*
- [M] “And there are cases in which the rule is that one may not derive benefit, but the laws of sacrilege do not apply. Therefore if one has sold them, the proceeds received for them are holy.

[N] “As to the ash taken off the inner altar and the candelabrum, one may not derive benefit from them, but the laws of sacrilege do not apply to them. Therefore if one has sold these ashes, the money is not held to be holy.

[O] “As to the blood, one may not derive benefit from it, and the laws of sacrilege do not apply to it. Accordingly, if one has sold the blood, the proceeds received for it are held in the status of consecration.”

5:7

[A] The entire rite of the Day of Atonement stated in accord with its proper order –

[B] if [the high priest] did one part of the rite before its fellow – , he has done nothing whatsoever.

[C] [If for instance] he took care of the blood of the goat before the blood of the bullock, let him go and sprinkle some of the blood of the goat after he has sprinkled the blood of the bullock.

[D] And if before he had completed the acts of placing the blood on the inner altar, the blood was poured out,

[E] let him bring other blood and go and sprinkle it to begin with on the inner altar [M. 5:3- 4].

[F] And so [is the rule] in the case of the sanctuary [M. 5:5], and so in the case of the golden altar [M. 5:5],

[G] for each of them constitutes an act of atonement unto itself [and need not be repeated].

[H] R. Eleazar and R. Simeon say, “From the place at which he broke off, from there he begins once more.”

[I:1 A] *It has been taught:* Said R. Judah, “Under what circumstances?

[B] “In the case of deeds done inside, while the high priest is wearing white garments.

[C] “But as to things done outside, while the high priest is wearing golden garments,

[D] “even if he did one deed before its fellow,

[E] “or repeated any one of all the rites,

[F] “what he has done is done” [T. Yoma 3:4].

- [G] And sages say, “Even in regard to things done outside, while the high priest is wearing golden garments,
- [H] “if he did one deed before its fellow,
- [I] “he has done nothing at all [and has to repeat the rite].”
- [J] R. Abbahu in the name of R. Yohanan: “Both parties interpret a single verse of Scripture: ‘Aaron shall make atonement upon its horns once a year; with the blood of the sin-offering of atonement he shall make atonement for it once in the year throughout your generations; it is most holy to the Lord’ (Exod. 30:10).
- [K] “[As to the meaning of the word] ‘once,’ *rabbis maintain that* it refers to all acts of service which the priest does once a year [whether inside or outside, without regard to the garments the priest is wearing].
- [L] “R. Judah maintains that it refers to the place into which he enters once a year [hence the inner sanctum alone].”
- [I:2 A]** R. Hoshaiiah in the name of R. Epes: “[When, at Y. 4:1, it is said, ‘The rite of the goat is not indispensable to the rite of the bullock as to the placing of the blood between the bars projecting from the ark is concerned, but as to the placing of the blood on the veil, the rite of the goat is indispensable to the bullock,’] that refers to the placing of the blood on the projections. But as to the placing of the blood on the veil, the goat is indispensable to the bullock. [That is, one must have placed the blood of the goat on the area between the bars projecting from the ark before he puts the blood of the bullock on the veil (Y. 4:1).]”
- [B] [Rejecting the view that the goat is indispensable in all regards,] said R. Eleazar, “If one put some of the blood of the bullock on the projections of the ark and on the veil, and afterward slaughtered the goat, that which was done first is still valid.”
- [C] Said R. Yosé, “[If the priest put some of the bullock’s blood on the projections, but not on the veil, the goat not having been slaughtered yet, and then he slaughtered the goat, and had blood of the goat and of the bullock in cups,] if the blood of the bullock and the blood of the goat, lying in the cup, poured out, is it possible that he may not bring another bullock [and toss its blood on the veil, and that that act is not] valid? [Of course it is valid!]
- [D] “What, then, is the difference between that procedure, in which he slaughtered the goat prior to putting the blood of the bullock on the veil, and this one, in which he slaughtered the goat after putting the blood of the bullock on the veil? [In both cases he has to bring another

bullock and slaughter it properly. The rule, then, is not as you maintain, that if he slaughtered the goat after he put the blood of the bullock on the veil, the procedure is valid.]"

[E] [Referring now to Lev. 16:14-15, "And he shall take some of the blood of the bull, and sprinkle it with his finger on the front of the mercy seat,Éthen he shall kill the goat of the sin-offering which is for the people, and bring its blood within the veil, and do with its blood as he did with the blood of the bull, sprinkling it upon the mercy seat and before the mercy seat," and the passage proceeds, at Lev. 16:16: "And so shall he do for the tent of meeting"], if the Scripture had stated only, "and he shall placeÉ," it would have been well. [That is, the pattern laid out in Scripture is to slaughter the goat after putting the blood of the bullock between the projections, and before putting the blood of the bullock on the veil, for Lev. 16:15 intervenes between Lev. 16:14 and Lev. 16:16. If then Scripture had stated merely, "and he will put the blood of the goat as he placed the blood of the bullock," but had not stated, "and he shall kill the goat," there would be no problem. Even if he had killed the goat after putting blood of the bullock on the veil, it would be a valid procedure. But by stating, "and he shall kill," it indicates that Scripture wishes to emphasize the exact pattern of actions. The killing of the goat must come between putting the blood of the bullock on the projections and putting it on the veil.]

[II:1 A] [As to M. 5:7G, H, under dispute is the rule governing putting the blood on the inner altar, M. 5:7D, the sanctuary, and the golden altar, M. 5:7F. Thus we have three locations on which the blood is to be tossed. Now the rite has been interrupted. How do we proceed? Since rabbis see each such placing of the blood as an individual act of atonement, rather than regarding the three of them as a continuous process], rabbis say that the three acts [individually – one at each location –] may be valid, or the three invalid [without affecting one another]. [That is why one takes up the rite at which he was interrupted and begins again to put the blood required for that rite on the specified location.]

[B] [Rejecting this view, Eleazar and Simeon do not see each act of placing blood as individual, nor do they maintain that each place is treated out of relationship with the other two. Rather, each time the blood is placed at each place is in relationship with all others. How many are these? For the blood of the bullock, one above the red line on the altar and seven below, in the inner altar; for the blood of the goat, the same, so sixteen; so too for the outer altar, eight from the blood of

the bullock, eight from the blood of the goat, so another sixteen, now thirty- two drops of blood; four drops of blood on the horns of the golden altar, and seven on the top of the altar, so eleven more, and, accordingly,] R. Eleazar and R. Simeon say, “Forty-three serve to validate, and forty-three serve to invalidate.”

[C] *Rabbis thus maintain that* each group of seven is deemed an act of atonement by itself.

[D] *Rabbi Eleazar and R. Simeon hold that* each [individual act of putting a drop of blood on a required location] constitutes an act of atonement by itself.

[E] *R. Zeirah in the name of R. Eleazar: “The scriptural basis for the view of R. Eleazar and R. Simeon [is this], ‘And when he has made an end of atoning for the holy place’ (Lev. 16:20). Even if only a single act of placing the blood has taken place, Scripture maintains that he has made an end of atoning.”*

[II:2 A] Said R. Eleazar, “If one put on the altar part of the required placings of blood, and then the blood poured out, they bring other [blood] in their stead.”

[B] If blood deriving from this source and blood deriving from that source [namely, the bullock, the goat] were poured out, this was done properly. [What is at issue?]

[C] At issue is a case in which one of the beasts has been subjected to a cause of invalidation. [The issue is whether or not the other beast is affected by it. If the blood is poured out as it should be, then the residue of the blood of the properly slaughtered beast is poured onto the foundation, and the second is poured into the gutter, as is blood of invalidly sacrificed beasts in general. The former is not affected by the invalidity of the latter.]

[D] Said R. Yosé, “And that is so. If he completed part of the required acts of putting blood on the altar, and then the blood poured out, is it possible to suppose that he does not bring other blood in its place, or that the laws of sacrilege [do not apply] to the original blood? [Of course not. The other blood is brought; the laws *do* apply. Since the blood brought the second time around is in place of the blood brought originally, we treat the entire collection of blood as a single entity, subject to one law.]”

[E] [43b] *R. Haggai asked before R. Yosé*, “Up to this point we have held [that an invalid intention concerning the second beast has no effect

upon the first] when one slaughtered the first [beasts] for a proper purpose, but only the second ones for an improper purpose.

- [F] “But if he slaughtered the first beasts for an improper purpose and the second ones for a proper purpose, [what is the law]? [That is, he slaughtered the first beasts with an invalidating thought in mind, and the blood was poured out. Then he slaughtered a second set of beasts, this time with the proper intention. Do we here too maintain that they form a single entity, thus invalidated to begin with, because the blood from the second act of slaughter merely comes to replace the invalid blood from the first beasts?]”
- [G] Said R. Yosé, “We find a case in which a thought or intention of the officiating priest, at the act of slaughter, which has to do with an invalidating plan for the blood of the beast, retrieves the beast from the effects of a thought or intention which has to do with a plan for the blood of the beast that would render the beast refuse [as explained at M. Zeb. 2:2, the distinction between invalidating thoughts and thoughts that impart the status of refuse to the beast].
- [H] “But do we find a case in which a thought that invalidates the beast [e.g., if the officiating priest forms the intention to toss the blood outside of the Temple court] has the effect of removing another beast altogether from the status of being valid? [That is, will the invalidating intention for the first beast have any effect at all upon the second beast, the one slaughtered in its stead? There is no basis for such a view.]”

YERUSHALMI YOMA

CHAPTER SIX

6:1

- [A] The two goats of the Day of Atonement –
- [B] the religious requirement concerning them is that the two of them be equivalent in appearance, height, and value,
- [C] and that they be purchased simultaneously.
- [D] But even though they are not equivalent [in these regards], they are valid.
- [E] [If] one purchased one this day and the other one the next, they are valid.
- [F] If one of them died, if before the casting of the lots it died, let [the priest] purchase a mate for the survivor.
- [G] But if after the casting of the lots it died, let one get another mate and cast lots for them as at the outset.
- [H] And he says, “If the one belonging to the Lord died, then this one upon which the lot ‘For the Lord’ has come up is to stand in its stead.
- [I] “And if the one which was for Azazel has died, this one upon which the lot ‘For Azazel’ has come up will stand in its stead.”
- [J] And the second one is to be put out to pasture until it is blemished, and then it is sold, and the money received for it is to fall to a freewill-offering.
- [K] For a sin-offering of the community is not left to die.
- [L] R. Judah says, “It is left to die.”
- [M] And further did R. Judah say, “[If] its blood is poured out, let the one who is to be sent forth be left to die.
- [N] “If the one which is to be sent forth died, let its [the other’s] blood be poured out.”

- [I:1 A] The smallest number of goats [Lev. 16:5: “two male goats for a sin-offering”] is two. Why then does Scripture specify “two”? To indicate that the two of them should be equivalent to one another.
- [B] The smallest number of lambs [Lev. 14:10] is two. Why then does Scripture specify “two”? To indicate that the two of them should be equivalent to one another.
- [C] The smallest number of birds is two. Why then does Scripture specify “two” [“two living clean birds,” Lev. 14:4]? To indicate that the two of them should be equivalent to one another.
- [D] The smallest number of trumpets is two. Why then does Scripture specify “two”? To indicate that the two of them should be equivalent to one another.
- [E] *R. Haggai objected to R. Yosé*, “And is it not written, ‘If a malicious witness rises against any man to accuse him of wrong-doing, then both parties to the dispute shall appear before the Lord’ (Deut. 19:16-17)?
- [F] “Shall we now say: ‘The smallest number of men is two’? Why then does Scripture specify, ‘the two parties’? To say that both of them must be equivalent to one another? But has it not been written [to the contrary, indicating that they need not be equivalent to one another], ‘You shall not pervert the justice due to the sojourner or to the fatherless’ (Deut. 24:17)? Lo, a sojourner may enter into a case with one who is not a sojourner, an orphan enters into a case with one who is not an orphan, and a widow enters into a case with one who is not a widow.
- [G] “If so, why has it been written ‘two’?
- [H] “It is a superfluous word, left available for drawing an analogy therefrom or for constructing an argument on the foundation of similarities.
- [I] “[This argument, specifically, is as follows:] Here it is stated ‘two,’ and below it says, ‘Now two men remained in the camp, one named Eldad, and the other named Medad, and the spirit rested upon them’ (Num. 11:26).
- [J] “Just as in the cited passage the reference is to men, not women, so here [with regard to testimony] the meaning is to permit [two] men, not women or children [to testify].
- [K] “Thus we have learned that a woman does not judge or give testimony in court.

[L] “From this we derive that a woman [likewise] does not judge in court .”

[M] R. Yosé b. R. Bun, R. Hunah in the name of R. Joseph: “Here, ‘two’ is said: ‘On the basis of two witnesses’ (Deut. 19:15); and elsewhere, ‘two’ is said: ‘Now two men remained (Num. 11:26).

[N] “[This argument, specifically, is as follows:] Here it is stated ‘two,’ and below it says, ‘Now two men remained in the camp, one named Eldad, and the other named Medad, and the spirit rested upon them’ (Num. 11:26)

[O] “Just as in the cited passage the reference is to men, not women, so here [with regard to testimony] the meaning is to permit [two] men, not women or children [to testify].

[P] “If so, why does Scripture specify, ‘Then the two parties in the dispute shall stand before the Lord’ (Deut. 19:17)?

[Q] “The meaning is that one may not stand while the other is sitting; one may not be totally silent while the other speaks his mind; one may not state his case as is fitting, while the other is told, ‘Cut it short.’ Thus the judge may not weaken the hand of one party while strengthening the case of the other.”

[R] [In T.’s version:] **Said R. Judah, “I heard that if the judge wanted to have one of the two of them sit down, he may do so.”**

[S] **R. Ishmael says, “They say to him, ‘Dress just as the other party is dressed, or give him garments equivalent to yours’” [T. San. 6:2H-J].**

[T] But is this [R] not forbidden, for one may not stand while the other is sitting, etc.?

[U] Said R. Ba in the name of R. Huna, “The witnesses have to stand when they give testimony, [since it is said, ‘And the two parties to the dispute shall stand before the Lord’ (Deut. 19:17).]”

[V] R. Jeremiah in the name of R. Abbahu: “Also those who are subject to trial must [43c] stand when they receive the judgment pertaining to them.”

[I:2 A] If the two goats are equivalent in the price paid for them, but in fact are not equivalent in value [one being finer than the other],

- [B] the goats do not accord with the religious requirement affecting them [M. 6:1B].
- [C] If the two goats are equivalent in value, but are not equivalent in the money paid for them,
- [D] the two goats do accord with the religious requirement affecting them.
- [E] If one of them is excellent in body, and the other excellent in appearance, which of the two takes precedence?
- [F] *R. Jeremiah proposed deriving the answer from the following:* [In the case of wheat for the sheaf to be waved in the Temple, it should be brought from fresh grain, but it may be brought from dried grain; likewise it should be cut from standing grain, but if not, it may be brought from already cut grain, so M. Men. 10:9.] If, then, there is fresh grain already cut down, and dried up grain awaiting cutting, the fresh grain that has already been cut down takes precedence [since in its corpus it is superior to the other].
- [G] *That then suggests that,* if there is a choice between one better in its body [fatter] and one better in appearance, the one better in its body takes precedence.

[II:1 A] *This is the point of the Mishnah [M. 6:1F-H]: Let him bring the two and cast lots over them as at the outset [M. 6:1 G], and he says, “Then this one upon which the lot, ‘For the Lord,’ has come up is to stand in its stead” [M. 6:1H].*

- [B] [As to M. 6:1/I,] which one of them is offered first? [That is, there are now two goats designated for the Lord. Which one is offered, which left to die?]
- [C] Rab said, “The second of the second pair.”
- [D] R. Yohanan said, “The second of the first pair.”
- [E] *Said R. Zeirah, “The scriptural basis for the view of R. Yohanan [is this]: ‘And Aaron shall present the goat on which the lot fell for the Lord, and offer it as a sin-offering’ (Lev. 16:21). This speaks of the first [goat designated for the Lord, that is the second goat of the first pair].”*
- [F] *Said R. La, “The scriptural basis for the view of R. Yohanan derives from that very verse cited just now, ‘And offer it as a sin-offering,’ [but it is interpreted somewhat differently, namely,] one has designated this goat with the stipulation [that if the mate dies, this one nonetheless will be offered].”*

- [G] *Now this theory of R. La accords with what R. Jonah said in the name of R. Zeirah: “Éand offer it as a sin-offering’ means that one has designated this goat with the stipulation [that if the mate dies], he will bring a mate for this goat [and offer up this one].”*
- [H] *Within the theory of R. Yohanan [who holds that the living beast is not set aside], if the second goat of the second pair should die, as to the second goat of the first pair, what is the law on its being set aside?*
- [I] R. Ba, R. Hiyya in the name of R. Yohanan: “If the second goat of the second pair died, the second goat of the first pair all the more so already has been set aside.”
- [J] *The view assigned to Rab produces inner contradictions. If the second goat of the first pair died, the second goat of the second pair already has been set aside.*
- [K] If one cast lots on three pairs [of goats, planning to] place the blood of one of them on the projections, the blood of one of them on the veil, and the blood of one of them on the golden altar, the mate of which one of these three goats used for the stated purpose is sent forth [to Azazel]? [That is, each of the selected goats, serving as a sin-offering, yields blood for a stated purpose. Each of the goats had a mate. The goat for Azazel must be taken from one of those mates. Which one?]
- [L] R. Zeirah said, “Éto make atonement over it’ [‘And Aaron shall present the goat on which the lot fell for the Lord and offer it as a sin-offering; but the goat on which the lot fell for Azazel shall be presented alive before the Lord, to make atonement over it’ (Lev. 16:9-10). The one through which one makes atonement – its fellow is sent out. The one through which one does not make atonement – its fellow is not sent out. [That would cover any of the goats whose blood was used at all.]”
- [M] R. Hila said, “Éto make atonement over it.’ The one through which all of the acts of atonement is completed – its fellow is sent forth. The one through which the entire work of atonement is not completed – its fellow is not sent forth.”
- [N] *In the view of R. Zeirah, any one of the three therefore may be sent forth [that is, the pairs of any of the goats slaughtered for a sin-offering may be sent forth].*

[O] *In the view of R. Hila, only the mate of the last goat alone is to be sent forth. [Completing the rite of atonement is when the blood hits the golden altar.]*

[III:1 A] **For the sin-offering of the community is not left to die. R. Judah says, “It is left to die” [M. 6:1K-L].**

[B] *[Now we recall that the man has gone and gotten two more goats and cast lots over them. There is then the following] question to be addressed to R. Judah: Does someone to begin with cast lots so that [a beast who is chosen] is merely left to die?*

[C] *Said R. Abun, “And do we not find that that is the case in accord with the view of R. Eleazar?”*

[D] *“For R. Eleazar said, ‘They are left to die’ [M. Tem. 3:3].”*

[E] *Said R. Mana, “Instead of addressing this question to the position of R. Judah, address it to the Mishnah itself, for we have learned there: **The offspring of a sin-offering, the substitute of a sin-offering, and an animal designated as a sin-offering, the owner of which has died, must be left to die** [M. Tem. 4:1]. [Now, we know, an animal declared a substitute for a beast designated as a sin-offering is left to die.] So does someone to begin with make a statement imposing the requirement that the beast be left to die? [Indeed, that is the case.]”*

6:2

[A] **He comes to the goat which is to be sent forth and lays his two hands on it and makes the confession.**

[B] **And thus did he say, “O Lord, your people, the house of Israel, has committed iniquity, transgressed, and sinned before you. Forgive, O Lord, I pray, the iniquities, transgressions, and sins, which your people, the house of Israel, have committed, transgressed, and sinned before you,**

[C] **“as it is written in the Torah of Moses, your servant, ‘For on this day shall atonement be made for you to clean you. From all your sins shall you be clean before the Lord’ (Lev. 16:30).”**

[D] **And the priests and people standing in the courtyard, when they would hear the Expressed Name [of the Lord] come out of the mouth of the high priest, would kneel and bow down and fall on their faces and say, “Blessed be the name of the glory of his kingdom for ever and ever.”**

[I:1 A] *Bar Qappara taught*, “[He did not mention, ‘Your people, the house of Israel,’ but only,] ‘They have committed iniquity, transgressed, and sinned.’”

[B] “This was so as not to call to mind what was disgraceful for Israel.”

[I:2 A] “[But the goat on which the lot fell for Azazel] shall be presented alive [before the Lord to make atonement over it, that it may be sent away into the wilderness to Azazel]” (Lev. 16:10). This teaches that it is destined to die [later on]. [If it dies, it must be replaced.]

[B] How long must it be kept alive?

[C] “Until: ‘And when he has made an end of atoning for the holy place’ (Lev. 16:20) [that is, after the confession, Lev. 16:21],” the words of R. Judah.

[D] R. Simeon says, “Until the time of the confession.”

[E] *In the view of R. Judah*, the confession is essential to the rite.

[F] *In the view of R. Simeon*, the confession is not essential to the rite.

[G] *What is the practical difference between the two opinions?*

[H] [A case in which] one slaughtered [the goat] without making the confession.

[I] *In the opinion of R. Judah*, one has to bring yet another bullock [Lev. 16:11ff.]

[J] *In the opinion of R. Simeon*, it is not necessary to bring yet another bullock.

[K] Further, with regard to the goat which is sent away, there is the same dispute.

[L] [If] they sent it forth without first reciting a confession over it,

[M] *in the opinion of R. Judah*, it is necessary to bring yet another goat.

[N] *In the opinion of R. Simeon*, it is not necessary to bring yet another goat.

[O] [If the priest] made the confession, then slaughtered the beast, but the blood was spilled out –

[P] do you maintain that it is [not only] necessary to bring another bullock [but] that it is [also] necessary to make the

confession a second time, or has [the priest] carried out his obligation through the original confession?

[Q] Also with regard to the goat which is sent forth, is it so, that one has to cast lots a second time, or is it sufficient to carry out one's obligation by [the confession and] the casting of lots done in connection with the first goat?
[These questions are not answered.]

6:3

[A] He gave [the scapegoat] over to the one who was to lead it out.

[B] All are valid to lead it out.

[C] But high priests made it a practice of not letting Israelites lead it out.

[D] Said R. Yosé, "M'SH W: Arsela led it out, and he was an Israelite."

[I:1 A] "[And Aaron shall lay both his hands upon the head of the live goat, and confess over him all the iniquities of the people of Israel, and all their transgressions, all their sins] and he shall put them upon the head of the goat,] and send him away into the wilderness by the hand of a man [who is in readiness]" (Lev. 16:21).

[B] This serves to validate the participation of a non-priest.

[C] "Who is in readiness" (Lev. 16:21).

[D] This means he should be destined for this task.

[E] "Who is in readiness" (Lev. 16:21).

[F] That he should be prepared.

[G] "Who is in readiness" (Lev. 16:21).

[H] Even on the Sabbath.

[I] "Who is in readiness" (Lev. 16:21).

[J] Even in a state of uncleanness.

[K] Is not being destined for the task the same as being in readiness for it?

[L] The meaning is that one should not send the beast forth with two men [but only with one].

[M] If they sent the goat out with two men [in succession], what is the law as to [the first messenger's] garments imparting uncleanness [in accord with the statement of Lev. 16:26: "And

he who lets the goat go to Azazel shall wash his clothes and bathe his body in water, and afterward he may come into the camp,” which indicates that his clothing imparts uncleanness. Now that speaks of the one who actually pushes the goat over the cliff. What about the status of the first of the two messengers then?]

[N] *Let us derive the answer from the following:* “And he who lets the goat go” (Lev. 16:26), thus excluding him who sends him who is sent. [This excludes the first of the two messengers.]

[O] *This then is to say that* if they sent the goat with two successive messengers, the garments of the former of the two do not impart uncleanness.

[P] If the goat fled on the way to the place of execution [and they caught him again,] the garments [of the messenger] impart uncleanness.

[Q] If the goat fled on the way back [that is, the goat did not perish but ran away], the garments [of the messenger] do not impart uncleanness.

- [I:2 A] [In T.’s version:] **They asked R. Eliezer, “Lo, if the goat which is to be sent fell sick, what is the law as to carrying it?”**
- [B] **He said to them, “Can he carry others?”**
- [C] **“[If] the one who sends it fell sick, what is the law as to sending it with someone else?”**
- [D] **He said to them, “Thus may you and I be in peace.”**
- [E] **“[If] he pushed it down and it did not die, what is the law as to going down after it and killing it?”**
- [F] **He said to them, “Thus be the fate of the enemies of the Omnipresent.”**
- [G] **It was not that R. Eliezer wanted to put them off, but that he never repeated a law that he had not heard from his masters.**
- [H] **And sages say, “[If] it fell ill, he does carry it.**
- [I] **“[If] the one who sends it fell ill, and does send it with someone else.**
- [J] **“[If] one pushed it down and it did not die, one should go down after it and kill it” [T. Yoma 3:14].**

- [I:3 A] **So long as Simeon the Righteous was alive, the goat did not get halfway down the mountain before it had been torn limb from limb.**
- [B] **Once Simeon the Righteous died, the goat would flee to the wilderness, and the Saracens would capture and eat it.**
- [C] **All the time that Simeon the Righteous was alive, the lot bearing the Divine Name would come up in the right hand. When Simeon the Righteous died, sometimes it would come up in the right hand, sometimes in the left.**
- [D] **All the time that Simeon the Righteous was alive, the western lamp would burn well. When Simeon the Righteous died, sometimes it would flicker out, and sometimes it would burn.**
- [E] **All the time that Simeon the Righteous was alive, the strap of crimson would turn white. When Simeon the Righteous died, sometimes it would turn white, sometimes red.**
- [F] **All the time that Simeon the Righteous was alive, the flame of the wood-offering would burn strongly. When they had placed two logs of wood in the morning, they would not then put on more all day long. When Simeon the Righteous died, the strength of the wood-offering diminished, so they did not hesitate to put wood on the fire all day long.**
- [G] **All the time that Simeon the Righteous was alive, a blessing was set upon the two loaves of bread and the show bread. The result was that each priest would get about an olive's bulk of bread, and some of them ate and had enough, while others ate and left bread over. When Simeon the Righteous died, this blessing was taken away from the two loaves of bread and the show bread, so that each priest got bread the size of a bean. So the modest priests kept their hands off the bread, while the gluttons divided it up among themselves [T. Sot. 13:7].**
- [H] There was the story about a priest in Sepphoris, who grabbed his share and the share of his fellow, and they called him "Son of the Bean," to this day.
- [I] This is the meaning of what David said, "Rescue me, O my God, from the hand of the wicked, from the grasp of the unjust and cruel man" (Ps. 71:4)

- [I:4 A] *It has been taught:* Forty years before the destruction of the Temple the western light went out, the crimson thread remained crimson, and the lot for the Lord always came up in the left hand.
- [B] They would close the gates of the Temple by night and get up in the morning and find them wide open.
- [C] Said [to the Temple] Rabban Yohanan ben Zakkai, “O Temple, why do you frighten us? We know that you will end up destroyed.
- [D] “For it has been said, ‘Open your doors, O Lebanon, that the fire may devour your cedars!’”(Zech. 11:1).
- [I:5 A] Forty years did Simeon the Righteous serve Israel as high priest. In the final year [43d] he said to them, “This year I am going to die.” They said to him, “Whom shall we appoint as your successor?”
- [B] He said to them, “Lo, there is my son, Nehunion, before you.”
- [C] They went and appointed Nehunion. Simeon, his brother, was jealous of him, and he went and put on a gown and a girdle. He said to them, “See what he has vowed to his beloved [wife], saying, “On the day on which I take office as high priest, I shall put on your gown and gird myself with your girdle.”
- [D] They looked into the matter, and they did not find that it was so.
- [E] They said: He fled from there to the Royal Mountain, and from there he fled to Alexandria, and he went and built an altar there, and in that regard he recited the following verse: “In that day there will be an altar to the Lord in the midst of the land of Egypt, and a pillar to the Lord at its border” (Isa. 19:19).
- [F] Now there is an argument a fortiori to be derived from this case.
- [G] Now if this one, who never took authority, see how in the end he pursued it, he who goes into authority and then is removed from it – how much the more so!
- [H] *It has been taught:* This represents the picture of matters as drawn by R. Meir.
- [I] But R. Judah says, “It was not that way. But they appointed Simeon, and Nehunion his brother was jealous of him, and he went and put on a gown and a girdle. He said, “See what he has vowed to his beloved [wife], sayingÉ”
- [J] *The rest is just as above.*

[K] And there is an argument a fortiori: Now if this one, who had not taken authority, see how in the end he led Israel to idolatry, he who took authority and then was removed from it, how much the more so!”

6:4

- [A] They made a ramp for it, on account of the Babylonians,
[B] who would pull out its hair and say, “Take and go, take and go. ‘
[C] The eminent people of Jerusalem used to accompany him to the first booth.
[D] There were ten booths from Jerusalem to the ravine, a distance of nine ris –
[E] seven and a half to a mile.
[F] At each booth they say to him, “Lo, here is food, here is water.”
[G] And they accompany him from one booth to the next,
[H] except for [the man in] the last [tabernacle] among them,
[I] who does not go along with him to the ravine.
[J] But he stands from a distance and observes what he does.

[I:1 A] *There is a Tannaite authority who teaches* [that the ramp referred to at M. 6:4A refers to] a protection for the body of the goat.

[B] *There is a Tannaite authority who teaches that it actually was a ramp.*

[C] Said R. Hiyya bar Joseph, “The Alexandrians would say, ‘How long are you going to hold back among us the [burden of our] destruction? [Send him forth immediately!]’”

[II:1 A] **The eminent people of Jerusalem used to accompany him to the first booth [M. 6:4C].**

[B] [Re. M. 6:4D-E: *It is taught* (in T.’s version):] **“There were ten tabernacles within a distance of twelve mils,”** the words of R. Meir.

[C] **R. Judah says, “There were nine tabernacles in a distance of ten mils.”**

[D] **R. Yosé says, “There were five tabernacles in a distance of ten mils.”**

[E] **And they share an erub with one to the other [so that they in the tabernacles may accompany the man] [M. 6:4G].**

[F] Said R. Yosé, son of R. Judah, “I can arrange them in two tabernacles [only]” [T. Yoma 3:13].

[III:1 A] At each booth they say to him, “Lo, here is food, here is water” [M. 6:4F]:

[B] [This was] to keep up his strength.

[C] Why so?

[D] For the evil impulse craves only what is forbidden.

[E] *This is illustrated in the following: R. Mana went up to visit R. Haggai [on the Day of Atonement], who was feeling weak. [Haggai] said to him, “I am thirsty.”*

[F] *He said to him, “Go drink something.”*

[G] *He left him and went away. After a while he came back to him.*

[H] *He said to him, “What happened to your thirst?”*

[I] *He said to him, “When you let me [drink], it went away.”*

[J] *R. Hiyya bar Ba dealt with the following case:*

[K] *Someone was going through the market [on the Day of Atonement], with his daughter with him. His daughter said to him, “Father, I am thirsty.”*

[L] *He said to her, “Wait a bit.”*

[M] *She said to him, “Father, I am thirsty.”*

[N] *He said to her, “Wait a bit.”*

[O] *And she died.*

[P] *R. Aha, when [on the Day of Atonement] he would say the Additional Prayer, would say before them, “My brethren, whoever has a child to feed, let him go and take care of the child.”*

6:5

[A] **Now what did he do?**

[B] **He divided the crimson thread.**

[C] **Half of it he tied to a rock, and half of it he tied between its horns.**

[D] **He then pushed it over backward, and it rolled down the ravine.**

[E] **And it did not reach halfway down the mountain before it broke into pieces.**

[F] **He came and sat himself down under the last tabernacle until it got dark.**

[G] **At what time does the one who takes the goat impart uncleanness to garments [Lev. 16:26]? Once he has gone forth from the wall of Jerusalem.**

[H] **R. Simeon says, “Once he has pushed it into the ravine.”**

[I:1 A] At first they would tie a crimson thread onto their windows. In the case of some of them it turned white, and in the case of some of them it remained red. The result was that these became ashamed before those.

[B] So they went and tied it at the door of the Temple. There were years in which it turned white, and there were years in which it remained red.

[C] They went and tied it to a rock [M. 6:5C].

[I:2 A] It is written, “Come now, let us reason together, says the Lord: though your sins are like scarlet, they shall be as white as snow; though they are red like crimson, they shall become like wool” (Isa. 1:18).

[B] It has been taught: R. Eliezer says, “‘Though your sins are like scarlet’ – between heaven and earth.

[C] “‘They shall be as white as snow’ – more than this, they shall be as white as wool.”

[D] R. Joshua says, “‘Though your sins are like two [a play on the word for scarlet, which, vocalized differently, reads ‘two’] – like the first two patriarchs.

[E] “‘They shall be as white as snow. Though they are red like crimson, they shall become like wool’ (Isa. 1:18).”

[F] Said R. Judah bar Pazzi, “‘Though your sins are like scarlet, they shall be as white as snow’ – the first time one sins. ‘Though they are red like crimson, they shall become like wool’ (Isa. 1:18) – the second time one sins.”

[G] And rabbis say, “When the sins of a man are as many as the years he has lived, they shall be like wool.”

6:6

[A] **[Meanwhile, the high priest] came to the bullock and goat which are to be burned.**

[B] He tore them open and removed their innards.

[C] He put them onto a dish and offered them up on the altar.

[D] He then twisted [the limbs of the beasts] on poles, and they carried them out to the place of burning.

[E] And when do they impart uncleanness to clothing [who carry out the limbs of the goat and bullock]?

[F] Once they have gone past the wall of the courtyard.

[G] R. Simeon says, "Once the fire has taken hold of the greater part of [the beasts' carcasses]."

[I:1 A] He came to the bullock, etc. [M. 6:6A]. *We have learned: He came to the bullock and goat which are to be burned [M. 6:6A].*

[B] *There is a Tannaite authority who [reversing the procedure, here] teaches: The high priest came to read [M. 7:1A].* [The version at M. 6:6A indicates that after the goat is sent out, forthwith the bullock and the goat which have been killed are attended to. The alternative version has the reading of Scripture take place after sending out the goat, and only then are the goat and bullock dealt with.]

[C] *Said R. Hananiah, "The following verse of Scripture supports the account of the procedure given in the Mishnah: 'Then he who lets the goat go to Azazel shall wash his clothes....' And what is written thereafter? 'And the bull for the sin-offering and the goat for the sin-offering shall be carried forth outside the camp' (Lev. 16:26-27). [Thus the two actions are back to back.]"*

[D] Said R. Mana, "And it is even possible to interpret the verses in accord with the authority behind the alternative version [B].

[Scripture's intent is not to prescribe the exact sequence, rather to indicate the ultimate outcome. That is,] *it is to be compared to someone who was planning to go up from Tiberias to Sepphoris. While he is still in Tiberias, people may say that he is living in Sepphoris, [since he will be there shortly]."*

[I:2 A] R. Zeriqan said R. Zeirah asked, "As to bullocks to be burned, and goats to be burned, which became unclean, what is the law on burning them in accord with the religious requirement for them?" [At issue is **M. Zeb. 12:5: Bullocks which are to be burned and goats which are to be burned (as at Lev. 4:3, 13-14; Lev. 16:9, Num. 15:24), when they are valid and burned in accord with their requirement (not having been invalidated), are burned in the place of ashes. And they who burn them impart uncleanness to their clothing (Lev. 16:28). But if they are invalid and therefore not burned in**

accord with their requirement, they are burned in the Temple precincts, and they do not impart uncleanness to clothing.]

- [B] *Where he raises his question is in a case in which they were made unclean after the blood was tossed. But if they were made unclean before the blood was tossed, I regard this as a case in which the offering falls under the category of coming in due time even in the case of the Sabbath, even in the case of uncleanness. [The blood can be tossed even though the beast is unclean and even on the Sabbath in the case of a communal offering. Hence there is no issue about that case; the burning of the carcass takes place in the appropriate place. The problem comes when the uncleanness takes place after the blood has been tossed. Is the burning now no longer in accord with the religious requirement affecting the beasts, since they have been made unclean? Or since the blood has been tossed, do we treat the carcass as fully in conformity to the law?]*
- [C] Said R. Yosé, “From the fact that Scripture refers to ‘in its proper time,’ *there is nothing at all to be derived. [It is true that a public offering overrides the restrictions of the Sabbath and of uncleanness, but that is where there is a fixed time for the rites.]*”
- [D] Said R. Mana, “Did not R. Yosé refrain [from raising that question here?] [It is quite correct to say that when they are made unclean before the sprinkling of the blood, they are burned in the normal way, since uncleanness is overlooked.]”
- [E] R. [Yosé] dealt with this passage, and said to him, “The same consideration [as to fixed time] applies to the bullock of the anointed priest and of the community [when they sin, Lev. 4:3, 13- 14].”
- [F] And R. Bun bar Hiyya said R. Eleazar asked, “As to bullocks to be burned, and goats to be burned, the greater part of which went out [of the courtyard] through the inclusion of the greater part of a limb which adds up to the greater part of the beast, [what is the law]? [Does this constitute invalidating the beast? Do we regard the fact that the greater part of the limb has gone forth as invalidating the whole of the beast, inclusive of the lesser part of the limb remaining inside the courtyard?]”
- [G] His formulation of the question indicates that the matter depends upon the disposition of the greater part of the beast. [If the larger part of the beast is taken out, the whole is invalidated. That is so, even though in a short time the beast has to be taken out anyhow. Doing so at the wrong time invalidates the carcass. But then, what

question is at hand at F, since, as we see, the greater part of the limb is assumed already to have been carried out of the courtyard?]

[H] *It is self-evident that* if the greater part of the beast is carried forth, and afterward the greater part of a limb that makes up the greater part of the beast has gone forth, [the beast obviously is invalidated] .

[I] *Is it not a question, rather, under different circumstances?* That is, if the beast went forth limb by limb, and afterward the greater part of the limb that completes the greater part of the beast went forth, [what is the law]?

[J] R. Hiyya bar Ba said R. Eleazar asked, “As to bullocks that are to be burned and goats that are to be burned that went forth [beyond the wall of the courtyard and] then came back inside, [what is the law as to the uncleanness of the garments of those who carry them (M. 6:6E-F)]?”

[K] *It is self-evident that when they are carried back in, the garments of the bearers are not made unclean. The question deals, does it not, with this:* Since they have begun to be carried forth, what is the law as to their imparting uncleanness to the clothing of those who bear the beasts? [Are the garments unclean of those who carried the beast outside originally, even though the beast is carried back in thereafter?]

[L] *Objecting [to this question] R. Ba [said], “And lo, we have learned: They would carry them on poles. If the foremost bearers went outside the wall, and the later had not yet gone outside the wall, the former impart uncleanness to clothing, and the latter do not impart uncleanness to clothing – until they actually go forth. If both went forth, these and those impart uncleanness to clothing [M. Zeb. 16:6A-E].* [If it were the case that, once *the* first act of taking the beast outside meant the clothes were made unclean, then here too, once the first pole-bearers went out, the beast should impart uncleanness also to the second group.]”

[M] Said R. Yudan, father of R. Mattaneh, “The case is different there [with regard to the bullock of the anointed priest and of the community, for, in that regard,] it is written, ‘And he shall carry forth [the bull outside the camp]’ (Lev. 16:21). The meaning is that

the uncleanness applies only when he carries out the carcass wholly outside of the courtyard [and not when he carries it out and brings it back].”

[N] R. Jeremiah said R. Eleazar asked, “As to the bullocks to be burned and the goats to be burned that were made unclean – what is the law as to their being invalidated on the count of being taken outside of the courtyard?” [This question is the same as that asked at A, J.]

[O] *The question may be raised in accord with the view of R. Simeon b. Laqish. But as to the view of R. Yohanan, [the answer] is self-evident. [This matter will now be spelled out.]*

[P] *They have the following dispute:*

[Q] **He who slaughters the thank-offering inside, while the bread offering accompanying the thank-offering is outside the wall — the bread is not sanctified [M. Men. 7:3A].** [The acceptability of the bread-offering depends upon that of the animal sacrifice which it accompanies, as at M. Men. 4:3. If the bread-offering is not situated where it may be eaten, as in the case above, it is not regarded as sanctified.]

[R] R. Yohanan said, “Outside of the wall of Jerusalem.”

[S] R. Simeon b. Laqish said, “Outside of the wall of the courtyard.” [The point of relevance is not yet clear.]

[T] *R. Simeon b. Laqish is consistent with views of his expressed elsewhere, for R. Ammi in the name of R. Simeon b. Laqish said, “The meat deriving from a beast offered as peace-offerings, which was taken out [of the courtyard], and afterward brought back, and some of the blood [of the original animal] was tossed in its regard, nonetheless has been rendered invalid on the count of its having been taken out of the*

courtyard.” [This is the point of relevance to N-O. Simeon b. Laqish regards removal from the courtyard as invalidating, and that is what has happened at N. Therefore there is a question, such as we originally confronted at A, above. That is, even though the time of bringing the carcasses out of the courtyard has not yet come, they have been taken out. Does this have the effect described at N?]

[U] Said R. Yosé, “And even in accord with the view of R. Yohanan, the question may well be asked. [For the cases remain parallel. How so?] As to Jerusalem, even though it does not serve as a partition for Most Holy Things, it does serve as such for Lesser Holy Things. The area outside of the wall of Jerusalem, by contrast, does not serve as a partition either for Most Holy Things or for Lesser Holy Things. [The case of the bread-offering accompanying a thank-offering is different from the present one, and while Yohanan has the stated view for the bread-offering, he may well concur that the law governing the bullocks and goats to be burned is different, for the reason just now given. The carcasses go outside of the wall of Jerusalem entirely. So long as the carcasses have not come to the time at which they are taken forth, it is possible that any sort of invalidation takes effect for them.]”

[V] Said R. Mana [to R. Yosé], “[The wall of Jerusalem] does not serve as a partition for [the carcasses].”

[W] R. Eleazar asked, “As to the bullocks to be burned and the goats to be burned, what is the law on their imparting uncleanness to food that has not been rendered susceptible to uncleanness, and without themselves being made unclean [by any other source of uncleanness], on

the grounds that, in the end [when they have been carried forth], they are going to impart uncleanness of a most grave order? [The bearers will be made unclean by their carrying these carcasses. What imparts uncleanness of a grave order imparts uncleanness to something which, otherwise, has not been rendered susceptible to be made unclean at all.]”

[X] *Samuel of Cappadocia objected*, “If that is the case, then the carcasses should impart uncleanness to the limbs [cut from them, prior to the carcasses being carried forth! Surely that cannot be the case, since the limbs *are* offered up.]”

[Y] But [the question applies] when the carcasses and the limbs have been separated from one another.

[Z] Even [44a] if you say that the limbs and carcasses have not been separated, the question is still valid, in line with the following: Purification water does not impart uncleanness in such a way that the object affected by the water then goes and imparts uncleanness to the water itself.

[AA] *R. Jeremiah objected [to Samuel of Cappadocia]*, “Lo, there is the case of the carrion of clean fowl. Lo, it imparts uncleanness to food without the food’s having been rendered susceptible to uncleanness, and without the carrion’s having been affected by a source of uncleanness, on the grounds that, in the end it is going to impart a grave form of uncleanness. [If one gave thought to eating the carrion of clean fowl, it imparts uncleanness as does food in the first remove of uncleanness (M. Toh. 1:1). Hence there is a good reason for raising the question of W.]”

[BB] Said R. Yosé, “[No, we must differentiate these matters. For] the carrion of clean fowl is not subject to the consideration of a partition [such as is in effect at M. 6:6F], while these are subject to the consideration of a partition.”

[CC] Said R. Mana, “The carrion of clean fowl is subject to the consideration of a partition. Man serves as the partition [in that it is only when the carrion reaches man’s gullet that the carrion does not impart uncleanness, exactly parallel to the effect of passing the wall of the courtyard on the carcasses of the goats and bullocks].

[DD] “For if that is not the case, then if one brought a dog and put clothes on it, and fed it carrion of clean fowl, would it not impart uncleanness to these garments except when the carrion reached its gullet? [Surely it would, on quite other grounds!]”

[EE] [Again differentiating these two matters,] said R. Eleazar, the Southerner, “The carrion of clean fowl – the partition affecting it may be in any location at all. In the case of these, the partition effecting them is solely at the outskirts of Jerusalem.”

[FF] Said R. Eleazar, “As to bullocks to be burned and goats to be burned, which the priest slaughtered with the intention of tossing their blood [not today, when it should be tossed, but] on the next day – the priest has rendered the beasts refuse [by his improper intention].

[GG] “If he did so with the intent of burning up the parts on the next day [rather than on the same day, as is required], he has imparted to them the status of refuse.

[HH] “If he did so with the intention of burning the meat on the next day, he has not imparted to them the status of refuse.

[II] “For the intention that he has formed in this regard does not pertain either to man’s eating the meat or to the altar’s consuming it [and hence, there is no consideration of refuse at all].”

[JJ] *R. Shimi asked*, “If the limbs were lost, what is the law as to tossing the blood on behalf of the meat anyhow?”

[KK] *And has he not heard that which R. Eleazar said*, “ÉFor the intention that he has formed does not pertain either to man’s eating the meat or to the altar’s consuming it”?

[LL] *R. Zakkai taught*, “A non-priest who burned the carcass imparts uncleanness to clothing [as does a priest who does so]. Where there is a question it is this: What is the law as to their being validly burned by night?”

[MM] “It is an argument a fortiori: If in the case of burning up the limbs, which may not be done by a non-priest, it is valid to do so by night, these, which may be burned by a non-priest, is it not logical that they also may be burned by night?” [So it is permitted to burn the carcasses by night.]”

- [I:3 A] He who burns [the carcasses becomes unclean], but not the one who kindles the fire, nor the one who lays out the wood [T. Yoma 2:17H].**
- [B] Who is the one who burns the carcass? It is the one who actually participates at the time of burning.
- [C] *Said R. Yosé, “This is to say that one who participates at the time of burning imparts uncleanness to the clothes [he is wearing].”*
- [D] R. Ammi in the name of R. Eleazar, “He who turns over as much as an olive’s bulk of the carcass imparts uncleanness to clothing.”
- [E] *The point at which there is a question is this:* If one was standing inside of Jerusalem and had a stick in his hand, and he [reached over and] turned over an olive’s bulk of the carcass – what is the law?
- [F] *Let us derive the answer from the following:* “And he shall carry forth the bull outside the camp and burn it as he burned the first bull” (Lev. 4:21).
- [G] Just as the category of “him who brings forth” applies to him only who actually brings the beast outside, so the category of “him who burns the beast” applies only to him who burns the carcass outside of Jerusalem.
- [H] [Rejecting E-F,] there Hezekiah said, “‘And he who burns the heifer shall be unclean until evening’ (Num. 19:8). This serves to encompass anyone who participates in the burning, even at a distance. Here too the rule is the same.”

6:7

- [A] They said to the high priest, “The goat has reached the wilderness.”**
- [B] Now how did they know that the goat had come to the wilderness?**
- [C] They made sentinel posts, and waved flags, so they might know that the goat had reached the wilderness.**
- [D] Said R. Judah, “Now did they not have a more impressive sign than that? From Jerusalem to Bet Hiddudo is three miles. They can walk a mile, come back a mile, and wait sufficient time to walk a mile, and so they will know that the goat has reached the wilderness.”**
- [E] R. Ishmael says, “Now did they not have another sign? There was a crimson thread tied to the door of the sanctuary. When the goat had reached the wilderness, the thread would turn white,**

[F] “as it says, ‘Though your sins be as scarlet, they shall be as white as snow’ (Isa. 1:18).”

[I:1 A] What are sentinel posts [M. 6:7C]?

[B] Platforms.

YERUSHALMI YOMA

CHAPTER SEVEN

7:1

- [A] The high priest came to read [in the women's court].
- [B] If he wanted to read while wearing linen garments, he reads [wearing them].
- [C] If not, he reads wearing his own white vestment.
- [D] The beadle of the community takes the scroll of the Torah and gives it to the head of the community, and the head of the community gives it to the prefect [of the priests], and the prefect gives it to the high priest.
- [E] The high priest rises and receives it and reads, "After the death" (Lev. 16), and "Howbeit on the tenth day" (Lev. 23:26-32).
- [F] Then he rolls up the Torah and holds it to his heart and says, "More than what I have read out before you is written here."
- [G] "And on the tenth" (Num. 29:7-11) which is in the Book of Numbers he reads by heart.
- [H] Then he says eight blessings over it: "Éfor the Torah,Éfor the Temple service,Éfor the confession,Éfor the forgiveness of sin,Éfor the sanctuary (by itself), for Israel (by themselves),Éand for the priests (by themselves), and for the rest of the Prayer."
- [I] He who can see the high priest when he is reading cannot see the bullock and goat which are burned.
- [J] And he who can see the bullock and goat when they are burned cannot see the high priest when he is reading.
- [K] But this is not because he is not permitted to do so, but because it was quite a distance.
- [L] The rites concerning both of them were done simultaneously.

[I:1 A] How do we know that the reading of a passage of Scripture is required?

[B] R. Idi in the name of R. Isaac: “[And this shall be an everlasting statute for you, that atonement may be made for the people of Israel once in the year because of all their sins.] And [Moses] did [as the Lord commanded him]’ (Lev. 16:34).

[C] “Why then does the passage go on, ‘As the Lord commanded him’?”

[D] “It is on this basis that the reading of a passage of Scripture is required.”

[II:1 A] [As to M. 7:1B, C:] R. Ammi in the name of R. Yohanan: “The rest of the acts of service he carries out in white garments.”

[B] *Said R. Mattana, “The Mishnah has made that point: **If not, he reads wearing his own white vestment [M. 7:1C].”***

[C] *R. Yosé asked, “Why [does he not carry them out in the golden garments]?”*

[D] “Is it because they are done outside? Lo, the act of slaughter – lo, it is done only outside, and yet he carries it out in golden garments.”

[E] R. Yosé in the name of R. Yohanan: “If he wanted, he carries it out in the golden garments; if he wanted he does so in the white ones.

[F] “We find that, in the case of slaughtering the beast, if he wanted, he carries it out in golden garments; if he wanted, he carries it out in white garments.”

[III:1 A] In all circumstances people go to the Torah. But here [at M. 7:1D] you say that they bring the Torah to them.

[B] But because *they are important men, the Torah is exalted through them.*

[C] *But lo, over there [in Babylonia] they bring the Torah to the exilarch, [who is not esteemed]?*

[D] *Said R. Yosé b. R. Bun, “Because the ancestry of David is imputed to him, they treat him in accord with the custom applicable to their ancestors [in the house of David].”*

[III:2 A] [With reference to M. Sot. 7:6H,] *there we have learned: **They may leave out verses in the Prophets, but not in the Torah [M. Meg. 4:4].***

[B] They leave out verses in a Prophetic reading, but they do not read out verses [in skipping] from one prophet to another.

[C] But in the case of one of the Twelve Minor Prophets, it is permitted.

[D] But they do not leave out verses in the Torah.

[E] R. Jeremiah in the name of R. Simeon b. Laqish, “The reason is that they may not roll up [or unroll] the scroll of the Torah in public [and thus inflict discomfort on the people].”

[F] *R. Yosé raised the question:* “Take note: What if it was a brief pericope? [There would be little bother.]

[G] “But it is so that the Israelites may hear the Torah read in its proper order [and so understand its teachings in context].”

[H] *And lo, we have learned,* “**Éand reads in it, ‘After the deathÉ, ‘ and ‘Howbeit on the tenth dayÉ’**”[M. 7:1E].

[I] That case is different, for the stated readings follow the order of the rite for the Day of Atonement.

[J] You will note that that is the case [that a different rule prevails here], for R. Simeon b. Laqish said, “In every place the reader of the Torah does not read [from memory], while he here [M. 7:1G] reads from memory.”

[K] *R. Yosé gave instructions to Bar Ulla, the preceptor of the synagogue of the Babylonians [in his town], “On the day on which you bring out only one Torah, roll it up behind the veil [so as not to bother the community]. If it is a day on which you bring out two Scrolls, you should take out one and put it back [and then take out the other].”*

[IV:1 A] **And afterward he says eight blessings [M. 7:1H].**

[B] **For the Torah:** “Éwho has chosen the Torah.”

[C] **For the Temple service:** “Éfor you alone in reverence do we serve.”

[D] **For the thanksgiving:** “Éto whom it is good to give thanks.”

[E] **For the forgiveness of sin:** “Éwho forgives the sins of his people Israel in mercy.”

[F] **For the sanctuary:** “Éwho has chosen the sanctuary.”

[G] And R. Idi said, “Éwho dwells in Zion.”

- [H] **For Israel:** “Éwho has chosen Israel.”
- [I] **For the priests:** “Éwho has chosen the priests.”
- [J] **And for the rest of the Prayer:** “Éwith supplication and beseeching for your people Israel need to be saved before you. Blessed are you, Lord, who hears prayer.”

7:2

- [A] If [the high priest] reads [the Scriptures] wearing linen garments, he sanctified his hands and feet, took them off, descended, immersed, came up, and dried off.
- [B] They brought him the golden garments.
- [C] He put them on and sanctified his hands and feet.
- [D] “Then he went out and prepared his ram and the ram of the people [Lev. 16:24], and the seven unblemished lambs a year old [Num. 29:8],” the words of R. Eliezer.
- [E] R. Aqiba says, “They were offered with the daily whole-offering made at dawn.
- [F] “And the bullock, burnt-offering, and goat offered outside [Num. 29:11] were offered with the daily whole-offering made at dusk.”
- [G] He sanctified his hands and feet and took off his clothes and went down and immersed and came up and dried off.
- [H] They brought him white garments, and he put them on, and sanctified his hands and feet.
- [I] He went in to bring out the ladle and fire-pan.
- [J] He sanctified his hands and feet, took off his clothes, went down and immersed, came up and dried off.
- [K] They brought him golden garments and he put them on. He sanctified his hands and feet, and entered in to offer up the incense made at dusk, to trim the lamps.
- [L] Then he sanctified his hands and feet, and took off his clothes.
- [M] They brought him his own clothing and he put it on.
- [N] Then they accompany him all the way home.
- [O] And they celebrate a festival for all his friends when he has come forth whole from the sanctuary.

[I:1 A] Said R. Yohanan, “This [M. 7:2D-F] represents the view of R. Eliezer and R. Aqiba, but in the view of sages all of them were offered with the daily whole-offering brought at twilight.”

- [B] *R. Huna in the name of R. Joseph, “The opinion of R. Eliezer [M. 7:2D] accords with the principle of the House of Shammai.*
- [C] “For the House of Shammai say, ‘When you have that which is offered more regularly and that which is at a higher level of sanctification, that which is offered more regularly takes precedence.’
- [D] “Likewise R. Eliezer says, ‘When you have that which is offered more regularly and that which is at a higher level of sanctification, that which is offered more regularly takes precedence.’ [The priest is at a higher level of sanctification, and the Nazir is in the status of that which is ‘more regular’ in that he must remain clean at all times.]”
- [E] *What would be a practical illustration [of Eliezer’s view]?*
- [F] The rite of service of the Day [of Atonement, that is, his ram, the ram of the people, and the seven unblemished lambs a year old] is holy, while the Additional Offerings of the Day come regularly. Accordingly, the rite of service of the Day takes precedence over the Additional Offerings of the Day.
- [G] [As to the view of Aqiba, M. 7:2E-F,] the bullock, ram, and seven unblemished lambs **were offered with the daily whole offering made at dawn, and the rest [of the offerings] were offered with the daily whole-offering made at dusk.**
- [H] R. Simeon b. Laqish said, “The reason for this second rule is so as to place the sin-offering near the sin-offering, and the burnt-offering near the burnt-offering. [That is to say, just as the goat offered outside, a sin-offering is prepared along with the bullock and the goat, which are sin-offerings prepared inside, so the ram of the high priest and the ram of the community, prepared as burnt-offerings, are offered alongside the daily whole-offering prepared in the evening, which is a whole-offering.]”
- [I] *There is he who wishes to say [in Aqiba’s view] that* the bullock and the ram, his ram and the ram of the community, and the seven unblemished lambs, were offered with the daily whole offering prepared at dawn, and the rest [of the sacrifices] were offered with the daily whole-offering prepared at twilight.
- [J] *And this Tannaite authority thus* suspends acts of service [of a similar order, that is, unlike (H), he presents an order in which the burnt-offerings of two categories are not offered at the same sequence of sacrifices at all].
- [K] *What is the scriptural basis for his view?*

[L] “[And he shall bathe his body in water in a holy place, and put on his garments,] and come forth, and offer his burnt-offering and the burnt-offering of the people, [and make atonement for himself and for the people]” (Lev. 16:24).

[M] [The Tannaite authority at I] follows what is stated in context. [The context is framed by Lev. 16:3:”But thus shall Aaron come into the holy place: with a young bull for a sin-offering and a ram for a burnt-offering.” And Lev. 16:5: “And he shall take from the congregationÉtwo male goats for a sin-offering and one ram for a burnt-offering.” The rams must be offered before the bullock and the goat, which are sin-offerings, since the sin-offerings must be kept adjacent to one another, that is, the goat offered inside and the goat offered outside, prepared consecutively. Therefore,] his ram and the ram of the people are offered as burnt-offerings, [along with the burnt-offerings of the Additional service of the day, hence after the daily whole-offering prepared at dawn].

[N] Said R. Bun bar Hiyya, “And as to the goat, what is the scriptural basis [for its position]?”

[O] “‘Besides the sin-offering of atonement’ indicating that the sin-offering of atonement already has taken precedence. [This then is the goat-offering prepared inside.]”

[I:2 A] “Then Aaron shall come into the tent of meeting” (Lev. 16:23).

[B] Whence does he come?

[C] From reading the specified scriptural passages.

[D] And where does he go?

[E] To get the ladle and fire-pan [he had left inside] [M. 7:2/I].

[F] It is written, “And he shall come forth and offer his burnt offering and the burnt-offering of the people” (Lev. 16:24) [and these are done in golden garments, while M. 7:2H-I has him put on white garments to bring out the ladle and fire-pan], and you say this?

[G] Furthermore, did not R. Yohanan say, “All concur with regard to bringing out the ladle and fire-pan that this is done after the daily whole-offering prepared in the evening has been sacrificed”?

[H] Said R. Yosé b. Haninah, “The entire passage is written in its correct order, except for this detail [which is not stated in the right order]. [Lev. 16:24 should be stated earlier in the description of the rite.]”

[I] Said. R. Yosé, “This too is stated in its proper place.

[J] “‘Then Aaron shall come into the tent of meeting’ (Lev. 16:23). Whence does he come? He comes from the prior act of sanctification of hands and face, which he has to carry out. And where does he go? He goes to the latter act of sanctification of hands and face. [That is to say, the Scripture’s intent is not precise but approximate. It indicates that between one act of service and the next he has to sanctify hands and feet and immerse. When he has dressed himself for one act of service, he sanctifies hands and feet; then when he goes to remove the garments, he does the same. That is the purpose of the cited passages.]”

[K] *Said R. Mana before R. Yosé, “Why do we not say that that is the case except for the final act of sanctification of hands and feet? [The verse of Scripture at Lev. 16:23-24 makes no reference to a further act of sanctification at all. It states, ‘He shall bathe his body in water in a holy place and put on his garments and come forth’ (Lev. 16:24). Whence do we learn that there is a final act of sanctification of hands and feet after the final changing of the clothes?]”*

[L] He said to him, “This case is different, for it is written, ‘Then Aaron shall come and shall put off the linen garments which he put on when he went into the holy place’ (Lev. 16:23).

[M] “Now why should Scripture say, ‘which he put on’?

[N] “Would it enter our minds that he takes off anything but what he had already put on?

[O] “Why then is it said, ‘which he put on’?

[P] “The Scripture thereby links the taking off of the clothes to the putting on. Just as putting them on is accompanied by sanctification of hands and feet, so taking them off is accompanied by sanctification of hands and feet.”

[II:1 A] Said R. Eleazar, “There is yet another act of service which he carries out in white garments, and what is it? It is taking out the ladle and fire-pan [M. 7:2H-I].”

[B] Said R. Yohanan, “All parties concur with regard to taking out the ladle and fire-pan that this is done after the offering of the daily whole-offering prepared at twilight.”

[II:2 A] [As to M. 7:2H-I,] why is this done in white garments?

[B] Said R. Hiyya bar Ba, “As is the act of service performed on high, so is the act of service performed down below.

[C] “Just as in regard to the act of service performed on high, it is said, ‘[And lo, six men came from the direction of the upper gate, which faces north, every man with his weapon for slaughter in his hand,] and with them was a man clothed in linen, [with a writing case at his side. And they went in and stood beside the bronze altar]’ (Ezek. 9:2),

[D] “so in regard to the act of service performed down below, it is said, ‘He shall put on the holy linen coat, [and shall have the linen breeches on his body, be girded with the linen girdle, and wear the linen turban; these are the holy garments. He shall bathe his body in water, and then put them on]’”(Lev. 16:4).

7:3

[A] The high priest serves in eight garments, and an ordinary priest in four:

[B] tunic, underpants, head covering, and girdle.

[C] The high priest in addition wears the breastplate, apron, upper garment, and frontlet.

[D] By these did they receive inquiries for the Urim and Thummim.

[E] And they received inquiry only from the king, the court, or from someone in the service of the public.

[I:1 A] On what account does the high priest serve in eight garments [M. 7:3A]?

[B] *R. Hananiah, associate of the rabbis, said,* “It is for the circumcision, which is eight days after birth, in line with the following verse of Scripture: ‘So shall you know that I have sent this command to you, that my covenant with Levi may hold, says the Lord of hosts’”(Mal. 2:4).

[C] Why does he not serve in golden garments?

[D] On account of excessive pride.

[E] Said R. Simon, "It is in line with the following: 'Do not put yourself forward in the king's presence or stand in the place of the great'" (Prov. 25:6).

[F] Said R. Levi, "It is because the prosecution cannot become the defense. Yesterday in their regard it is written concerning them, 'So Moses returned to the Lord and said, Alas, this people have sinned a great sin; they have made for themselves gods of gold' (Exod. 32:31). Today is he going to stand and serve in golden garments?"

[I:2 A] *R. Hiyya taught*, "'He shall put them on' (Lev. 16:4). [Playing on the letters LBSM,] 'And they will rot there.' There they were put away, there they rotted, and they were not valid for a future Day of Atonement."

[B] *It has been taught*: R. Dosa says, "They are valid for use by an ordinary priest."

[I:3 A] *It has been taught*: Rabbi says, "There are two separate matters under discussion, one involving the garments of the high priest, and the other involving the garments of an ordinary priest."

[I:4 A] [With reference to the dispute between Rabbi and Eleazar b. Simeon, who had a dispute on the girdle of an ordinary priest, one saying it was made up of wool and linen in the same web, the other saying it was of fine linen,] *it has been taught*:

[B] There is no dispute between Rabbi and R. Eleazar b. R. Simeon concerning the girdle of the high priest on the Day of Atonement, [all parties agreeing] that it is of fine linen, and concerning what he wore on the other days of the year, all concurring that it was of linen and wool.

[C] Concerning what do they differ?

[D] Concerning the girdle of an ordinary priest.

[E] For Rabbi says, "It is made of linen and wool."

[F] And R. Eleazar b. R. Simeon says, "It is not made of linen and wool."

[G] *R. Jacob bar Aha, R. Abbahu in the name of R. Yohanan*: "The scriptural basis for the view of Rabbi is as follows: 'Thus you shall do to Aaron and to his sons, according to all that I have commanded you; through seven days shall you ordain them' (Exod. 29:35).

[H] “Just as the garments of Aaron are made of linen and wool, so the garments of his sons are made of linen and wool.”

[I] How does R. Eleazar b. R. Simeon interpret the cited verse?

[J] Just as Aaron is garbed in what is appropriate for him, so his sons are garbed in what is appropriate for them.

[II:1 A] Said R. Simon, “Just as the offerings effect atonement, so the garments effect atonement.

[B] **“Tunic, underpants, head covering, and girdle [M. 7:3B]:**

[C] “The tunic effected atonement for those who wore linen and wool mixtures.”

[D] *There is he who wishes to say*, It is for those who shed blood, as you say, “Then they took Joseph’s robe, and killed a goat, and dipped the robe in the blood” (Gen. 37:21).

[E] “The underpants effected atonement for those who fornicate.

[F] *“This is in line with the following verse:* ‘And you shall make for them linen breeches to cover their naked flesh; from the loins to the thighs they shall reach’ (Exod. 28:42).

[G] “The head covering atoned for the proud.

[H] *“This is in line with the following verse:* ‘And you shall set the turban on his head, and put the holy crown upon the turban’ (Exod. 29:6).

[I] “The girdle atoned for thieves.”

[J] *And there is he who wishes to say*, “It is for those who trick people.”

[K] Said R. Levi, “It was thirty-two cubits, and he would twist it this way and that.”

[L] The breastplate [M. 7:3C] atoned for those who corrupt justice.

[M] *This is in line with the following verse:* “And you shall make a breast-piece of judgment, [in skilled work; like the work of the ephod you shall make it; of gold, blue and purple and scarlet stuff, and fine twined linen shall you make it]” (Exod. 28:15).

[N] The apron atoned for idolatry.

[O] *This is in line with the following verse: “For the children of Israel shall dwell many days without king or prince, without sacrifice or pillar, without ephod or teraphim” (Hos. 3:4).*

- [II:2 A] R. Simon in the name of R. Jonathan of Bet Gubrin: “For two matters was there no atonement, but the Torah provided atonement for them, and these are they: gossiping and killing someone inadvertently.
- [B] “For gossiping there was [44c] no atonement, but the Torah provided atonement for it in the bells on the garment.
- [C] “‘And it shall be upon Aaron when he ministers, and its sound shall be heard when he goes into the holy place before the Lord, and when he comes out, lest he die’ (Exod. 28:35).
- [D] “Let the sound of the bell come and atone for the sound [of the gossip’s tongue].
- [E] “For killing inadvertently there was no mode of atonement, but the Torah provided atonement in the death of the high priest.
- [F] “‘And the congregation shall rescue the manslayer from the hand of the avenger of blood, and the congregation shall restore him to his city of refuge, to which he had fled, and he shall live in it until the death of the high priest who was anointed with the holy oil’”(Num. 35:25).
- [II:3 A] *It has been taught:* R. Eliezer b. Jacob says, “Atonement is noted with regard to the inner altar, and atonement is noted with regard to the outer altar. Just as atonement stated with regard to the inner altar involves atonement provided by an animal taken from the herd for those who shed blood, so atonement stated with regard to the outer altar involves atonement provided by an animal taken from the herd for those who shed blood.
- [B] “In the one case, however, it is for an act done inadvertently, and in the other case it is for an act done deliberately.
- [C] “The heifer whose neck is broken is different, however, since it atones for a killing whether it was done inadvertently or deliberately.”
- [D] R. Yosé says, “Here it is for a sin that is known, while there it is for a sin that is not known.”
- [III:1 A] As to **the frontlet [M. 7:3C]**: *There is he who wishes to propose that it is for the sins of those who blaspheme, and there is he who wishes to propose that it is for the sins of those who are presumptuous.*

- [B] *He who maintains that it is for those who blaspheme finds no problems in that which is written, “And David put his hand in his bag and took out a stone, and slung it, and struck the Philistine on his forehead; the stone sank into his forehead, and he fell on his face to the ground” (1 Sam. 17:49).*
- [C] *And it is written, “It shall be upon Aaron’s forehead, and Aaron shall take upon himself any guilt incurred in the holy offering which the people of Israel hallow as their holy gifts; it shall always be upon his forehead, that they may be accepted before the Lord” (Exod. 28:38).*
- [D] *As to the view of him who maintains that it is because of presumptuousness: “Therefore the showers have been withheld, and the spring rain has not come; yet you have a harlot’s brow, you refuse to be ashamed” (Jer. 3:3).*

[IV:1 A] Why are they called Urim and Thummim [M. 7:3D]?

- [B] They are called Urim because they enlighten Israel.
- [C] They are called Thummim because they straighten out the road before them.
- [D] For when Israel was innocent, they would follow the straight road.
- [E] For so we find that they made things up on their own in the matter of the Valley of Benjamin [Judg. 20].
- [F] Said R. Judah, “Heaven forefend! They did not make things up on their own in the Valley of Benjamin. But at first it said, ‘Go up,’ but it did not say, ‘I have given himÉ,’ and at the end it said, ‘Go up,’ and it said, ‘I have given himÉ’”

[IV:2 A] Now two questions may not be presented at the same time.

- [B] But if two questions have been presented [to the Urim and Thummim] at the same time –
- [C] *there is a Tannaite authority who teaches, “One receives an answer to the first question but not to the second one.”*
- [D] *And there is a Tannaite authority who teaches, “One receives an answer to the second question but does not receive an answer to the first question.”*
- [E] *And there is a Tannaite authority who teaches, “One does not receive an answer either to the first question or to the second question.”*

[F] *He who says, “One receives an answer to the first question but not to the second one,” adduces in evidence the following verse: “Then said David, ‘O Lord, the God of Israel, thy servant has surely heard that Saul seeks to come to Keilah, to destroy the city on my account. Will the men of Keilah surrender me into his hand? Will Saul come down, as thy servant has heard? O Lord, the God of Israel, I beseech thee, tell thy servant.’ And the Lord said, ‘He will come down’”(1 Sam. 23:10-11).*

[G] David did not ask properly. It was necessary to ask in this way: “Will Saul come down,” and if he comes down, “Will the men of Keilah surrender me into his hand?”

[H] *The one who says, “One receives an answer to the second question but does not receive an answer to the first question,” adduces in evidence the following verse: “Will the men of Keilah surrender me into his hand?”*

[I] *The one who says, “One does not receive an answer either to the first question or to the second question,” adduces in evidence the following verse: “And David inquired of the Lord, ‘Shall I pursue after this band? Shall I overtake them?’ He answered him, ‘Pursue; for you shall surely overtake and shall surely rescue’”(I Sam. 30:8).*

[J] David sought mercy: “Will the men of Keilah surrender me into his hand? Will Saul come down, as thy servant has heard? O Lord, the God of Israel, I beseech thee, tell thy servant” (I Sam. 23:11).

[K] Note that he asked two questions but got three answers.

[L] “And David inquired of the Lord, ‘Shall I pursue after this band? Shall I overtake them?’ He answered him, ‘Pursue; for you shall surely overtake and shall surely rescue’”(I Sam. 30:8).

[IV:3 A] [In receiving answers from the Urim and Thummim,] *there is a Tannaite authority who teaches, “He hears the voice [of God].”*

[B] *There is a Tannaite authority who teaches, “The letters [on the Urim and Thummim] stand out.”*

[C] *He who maintains that the high priest hears a voice has no problem, for it is written, “And he heard the voice” (Num. 7:89).*

[D] *He who says that the letters on the frontispiece would stand out, lo, there is no het among the names of the tribes, nor a sadi, nor a quf. [So how could the letters be supplied as needed?]*

[E] The names of Abraham, Isaac, and Jacob were written on them as well.

[F] *And lo, there still is no tet among the names of the tribes?*

[G] “All these are the twelve tribes of Israel; and this is what their father said to them as he blessed them, blessing each with the blessing suitable to him” (Gen. 49:28).

YERUSHALMI YOMA

CHAPTER EIGHT

8:1

[A] **On the Day of Atonement it is forbidden to eat, drink, bathe, put on any sort of oil, put on a sandal, or engage in sexual relations.**

[B] **But a king and a bride wash their faces.**

[C] **“And a woman who has given birth may put on her sandal,” the words of R. Eliezer.**

[D] **And sages prohibit.**

[I:1 A] The penalty of extirpation applies to eating and drinking on the Day of Atonement, yet you say this, [that they are subject merely to the sort of prohibition affecting the other items on the list at M. 8:1A]?

[B] Said R. Hila, “It is when one eats or drinks to less than the requisite volume [to impose liability to extirpation] that it is necessary to list these items. [That is, the Mishnah’s meaning is that if one eats or drinks less than the stated volume, one still violates the prohibition against eating and drinking, even though the penalty of extirpation is not imposed.]”

[I:2 A] “You shall afflict yourselves” (Lev. 16:29):

[B] Is it possible to suppose that one should sit in the sun or in cold in order to suffer?

[C] Scripture states, “And you shall do no work” (Lev. 16:29).

[D] It is labor that is subject to a prohibition in another setting [namely, the Sabbath], and likewise affliction that I have imposed on you in another context.

[E] Just as we deal with forms of labor that I have prohibited you to do in another context, which is labor on account of the performance of which one is subject to extirpation, so affliction which I have imposed

on you in another setting is affliction on account of which one is subject to extirpation.

- [F] And what are these? They are [eating sacrificial meat that is] in the status of refuse or in the status of remnant. [For eating that meat on the Day of Atonement one is liable.]
- [G] And how do we know that eating wholly untithed food [also brings on the penalty of extirpation on the Day of Atonement]?
- [H] Scripture says, “[And it shall be a statute to you forever that in the seventh month, on the tenth day of the month,] you shall afflict yourselves, [and shall do no work, either the native or the stranger who sojourns among you]” (Lev. 16:29).
- [I] This serves as an inclusionary clause.
- [J] Then shall I include eating untithed food, subjecting one who does so to the death penalty [of extirpation], but not eating carrion [on the Day of Atonement], which is not subject to the death penalty?
- [K] Scripture states, “You shall afflict your souls.”
- [L] This serves as an inclusionary clause.
- [M] Then I shall include eating carrion, which is subject to a negative commandment, but I shall not include unconsecrated food, which is not subject to a negative commandment [so that if one eats unconsecrated food on the Day of Atonement, he is not subject to a penalty]?
- [N] Scripture has said, “You shall afflict your souls.”
- [O] This serves as an inclusionary clause.
- [P] Then shall I include unconsecrated food, which is not subject to the positive requirement of going and eating such food, but I shall not include [in the prohibition of eating on the Day of Atonement] food in the status of heave-offering and second tithe, which is subject to the positive requirement to go and eat such food [under specified circumstances]?
- [Q] Scripture says, “You shall afflict your souls.”
- [R] This serves as an inclusionary clause.
- [S] Then shall I include food in the status of heave-offering and second tithe, which is not subject to the prohibition against leaving over any as remnant, but I shall not include Holy Things, which are

subject to the negative rule against leaving any over [that is, eating them beyond the specified time limit]?

[T] Scripture says, “You shall afflict your souls.”

[U] This serves as an inclusionary clause.

[I:3 A] Another matter: “You shall afflict your souls” (Lev. 16:29):

[B] This refers to something which afflicts the body itself.

[C] What is it? It is [refraining from] eating and drinking.

[D] In the name of R. Ishmael they have said, “Here it is stated, ‘You will afflict your souls’ (Lev. 16:29).

[E] “And there it is stated, ‘And he humbled you and let you hunger and fed you with manna, which you did not know, nor did your fathers know; that he might make you know that man does not live by bread alone, but that man lives by everything that proceeds out of the mouth of the Lord’ (Deut. 8:3).

[F] “Just as ‘affliction’ stated there refers to affliction through hunger, so ‘affliction’ stated here refers to affliction through hunger.”

[G] And why are six items listed [at M. 8:1A]?

[H] These stand for the six afflictions stated in the relevant passage of Scripture.

[I] *But in fact there are only five references to affliction?*

[J] Said R. Tanhuma, “And one is added” [cf. PM for the possible meaning].

[I:4 A] **Bathing [M. 8:1A]:**

[B] R. Zeirah bar Hama, R. Yosé b. R. Hanina in the name of R. Joshua b. Levi: “On the occasion of a public fast, one may wash his face, hands, and feet in the usual way.

[C] “On the ninth of Ab, one washes his hands and then brings them across his face.

[D] “On the Day of Atonement, one washes his hands, then dries them on a towel, and brings the towel across his face.”

[E] *R. Jonah would soak a rag and put it under the jug [to be pressed out] [and then would use the rag on the Day of Atonement to dry off his face].*

[F] *And lo, it has been taught:* There is no difference between the ninth of Ab and a public fast except for the prohibition of labor in a place in which it is the custom [not to work on the ninth of Ab]. [This contradicts B-C.]

[G] If one was making a trip to his master or to his daughter and passed through the sea or a river, he does not have to scruple [that he has violated the prohibition against washing].

[H] If his feet got muddy, he may rinse them in water and need not scruple [on the same count].

[I] *R. Ba gave a decision in accord with the authority [behind G-H].*

[J] *R. Aha gave a decision in the case of someone who came from the road and his feet were troubling him, that it was permitted to wash them in water.*

[I:5 A] [As to **putting on a sandal** [M. 8:1A:] *it has been taught:* A mourner and one who had been excommunicated who were going from one town to another on the road are permitted to put on a sandal. When they come to a town, they must take them off.

[B] The same rule applies to the ninth of Ab and to a public fast.

[I:6 A] As to **anointing** [M. 8:1A]: *That is in line with the following, which has been taught:*

[B] On the Sabbath, anointing which is for the sake of pleasure and anointing which is not for the sake of pleasure are permitted.

[C] As to the Day of Atonement, anointing which is for the sake of pleasure and anointing which is not for the sake of pleasure are forbidden.

[D] On the ninth of Ab and on the occasion of a public fast, anointing which is for the sake of pleasure is prohibited, but that which is not for the sake of pleasure is permitted.

[E] *And lo, it has been taught:* anointing is equivalent to drinking so far as being subject to a prohibition is concerned, and so far as [in the case of produce in the status of second tithe] having to make up the loss is concerned, but not so far as punishment is concerned. [If a person who has no right to heave-offering or produce in the status of second tithe should use that produce for anointing, he has to pay for it with an added fifth, as if he had drunk the juice from that produce – [e.g.,

grape juice from grapes in the status of heave-offering]. But as to the penalty, there is no issue of flogging or extirpation.]

[F] As to the Day of Atonement, [they are equivalent] so far as prohibition is concerned, but not so far as the punishment is concerned.

[G] *And lo, it has been taught:* “So that they may not profane my holy name” (Lev. 22:2) – this serves to encompass [under the rule protecting consecrated produce and the punishment inflicted for violating its law] one who anoints or who drinks [what is not available to him for that purpose]. [This indicates that there is a penalty for anointing or drinking, as against the claim that there is no such punishment, F.]

[H] *Said R. Yohanan,* “*In the cited teaching there is no reference to anointing [and that should be removed from G].*”

[I] *Said R. Abba Mari,* “*In the cited teaching, if there is no reference to anointing, there also is no reference to drinking. [Both of them have been encompassed by the exegesis of the verse cited at G.] If that is not the case, [and if ‘so that they may not profane’ serves only to encompass drinking consecrated produce, if one has no right to it, but not using it as an ointment, then it follows that drinking is not under the category of eating, for if it were, why would this verse be required to deal with drinking as a separate item?]*”

[J] “Will a matter that derives from two separate prohibitions be regarded as joining together [in the way in which eating and drinking are deemed to join together, so that if one ate part of the requisite volume to be liable, and one drank the other part of the same substance, the two acts are regarded as a single act, so that the requisite volume has been reached, and one is liable? Now we know that eating and drinking do join together. Yet] do they then derive from two distinct [prohibitions]? [Surely not, if they are regarded as essentially the same action. Hence the entire tradition cited at (G) is unreliable and not to be followed.]”

[K] How do we know that not anointing with produce in the status of second tithe is covered by a positive commandment?

[L] *Said R. Eleazar in the name of R. Simai,* ““Nor have I offered any of [the tithe] to the dead’ (Deut. 26:14). *How*

shall we interpret this matter? If it is for the purpose of selling produce in the status of second tithe in order to purchase for the deceased a bier or shrouds, it is forbidden to do such a thing even for a living person [since the produce must be eaten in Jerusalem, and that would prohibit making such a purchase with proceeds received from selling it]. All the more so is it prohibited to do so for a corpse!

[M] “What then is a matter that is permitted for the living and prohibited for the dead [so that one may with proceeds of produce in the status of second tithe do the deed for a living person but may not for a deceased person]? One must say, That is anointing. [One may anoint with produce in the status of second tithe if one is alive, but may not use for a corpse an unguent deriving from such produce].”

[I:7 A] As to **putting on a sandal** [M. 8:1A]: *It has been taught:*

- [B] In the case of all of these of whom they have said that they are forbidden to put on a sandal, when such a person goes out onto the road, he puts on his sandal. When he reaches a town, he takes it off.
- [C] The same rule applies to a mourner or to a person who has been excommunicated.
- [D] *There is a Tannaite authority who teaches, “They may go out in felt shoes on the Day of Atonement.”*
- [E] *There is a Tannaite authority who teaches, “They may not go out in felt shoes on the Day of Atonement.”*
- [F] *Said R. Hisda, “He who says that one may go out in felt shoes speaks of those made of cloth, and he who says that one may not go out in felt shoes speaks of those made out of leather.”*
- [G] *R. Isaac bar Nahman went up to R. Joshua b. Levi on the night of the Great Fast. He went out to him wearing a slipper.*
- [H] *He said to him, “How about this?”*
- [I] *He said to him, “I am frail [and must wear such a thing on my feet].”*
- [J] *R. Samuel bar Nahman went to R. Joshua b. Levi on the night of a public fast. He went out to him wearing a slipper.*
- [K] *He said to him, “How about this?”*

[L] *He said to him, "I am frail."*

[M] *R. Simai Hamonah went out on the night of a fast wearing a slipper.*

[N] *A disciple of R. Mana instructed one of the relatives of the patriarch to wear a slipper [on a fast].*

[O] *He said to him, "Whence do you get that law?"*

[P] *He said to him, "From R. Joshua b. Levi."*

[Q] *He said to him, "R. Joshua b. Levi was frail [and does not provide an example for healthy people, who may not wear slippers]."*

- [I:8 A] **Sexual relations [M. 8:1A]:** *Now look here!* If someone is forbidden to bathe, is it not an argument a fortiori that it is forbidden to have sexual relations? [Why does the framer of the Mishnah find it necessary to specify this item?]
- [B] Interpret the matter to speak of a case in which they do not immerse [after having a seminal emission, in which case even though one may not bathe, sexual relations will still be lawful].
- [C] Or apply the rule to the period before Ezra ordained that those who have a seminal emission have to immerse [with the same result as at B].
- [D] R. Jacob bar Aha, R. Yosé in the name of R. Joshua b. Levi: "Uncleanness on account of a seminal emission comes only as a result of sexual relations."
- [E] R. Huna said, "Even if one saw himself in a pleasurable setting in a dream, [the consequent emission is a source of uncleanness]."
- [F] *They wanted to rule*, "And that is on condition that the emission is on account of a woman [about whom the man dreamed]."
- [G] Both R. Jonah and R. Yosé said, "Even on some other count [than dreaming about a woman]."
- [H] *And lo, we have learned [at M. 8:1A]:* **On the Day of Atonement it is forbidden to eat, drink, bathe, anoint, put on a sandal, and have sexual relations,**
- [I] *and in this connection it has been taught:* Those who have had a seminal emission immerse in the usual way, in private, on the Day of Atonement.

[J] *Does this not stand at variance with the view of R. Joshua b. Levi, for R. Joshua b. Levi has said, “A seminal emission is only on account of sexual relations”?* [If it is forbidden to have sexual relations, then why would there be a person who might immerse on the Day of Atonement? It must follow that the uncleanness by reason of a seminal emission may derive from some other cause than sexual relations.]

[K] Interpret the law to speak of a case in which one had sexual relations while it was still day [prior to the night of the Day of Atonement], and the man forgot and did not immerse [and the next day remembered]. [He then may immerse even on the Day of Atonement.]

[L] *And lo, it has been taught:* There was the case involving R. Yosé bar Halapta whom they saw immersing in private on the Day of Atonement.

[M] *Can you possibly say that* that holy body was subject to forgetting [in this way]?

[II:1 A] The king [M. 8:1B]:

[B] This is on the count of the following verse: “Your eyes will see the king in his beauty; they will behold a land that stretches afar” (Isa. 33:17).

[C] A bride [M. 8:1B]:

[D] This is on account of the possibility of envy.

[III:1 A] “And a woman who has given birth may put on her sandal,” the words of R. Eliezer [M. 8:1C]:

[B] *They supposed that to R. Eliezer is to be attributed only the concluding clause [as given above].*

[C] *But a teaching turned up in which all of the preceding [also B] are to be assigned to him.*

8:2

[A] He who eats a large date’s bulk [of food], inclusive of its pit –

[B] he who drinks the equivalent in liquids to a mouthful –

[C] is liable.

[D] All sorts of foods join together to form the volume of the the date’s bulk,

[E] **and all sorts of liquids join together to form the volume of a mouthful.**

[F] **He who eats and he who drinks –**

[G] **[these prohibited volumes] do not join together [to impose liability for eating or for drinking, respectively].**

[I:1 A] [Since M. 8:2A refers to the date’s bulk inclusive of the pit,] said R. Yosé, “That is to say that it is necessary to crush the empty space [within the date, in measuring the amount one has eaten, dealing then only with the solid matter].

[B] *“For if that is not the case, then the Mishnah should have said, “**the date’s bulk of food, inclusive of its pit** and the empty space within.”*

[C] *It has been taught: **R. Simeon b. Eleazar says, “Even of the volume of the fig produced in Namarin” [T. Yoma 4:3D].***

[I:2 A] *It has been taught, “A mouthful” [of liquid].*

[B] *Does the authority of that version differ [from the view of the authority of the Mishnah at M. 8:2B, that he states matters separate from the Mishnah]?*

[C] Indeed so: One is liable for drinking such a mouthful as can be put into only one cheek [but it need not be liquid sufficient to fill the entire mouth].

[D] *It has been taught in the name of the House of Shammai:”A mouthful in the volume of a quarter log.”*

[E] *R. Hiyya bar Ada asked before R. Mana, “And why is this not then taught among the lenient rulings of the House of Shammai and the strict rulings of the House of Hillel [since one is not liable unless he drinks a sizable volume of liquid]?”*

[F] He said to him, “It is because of the mouthful of Ben Abatiah, which could hold still more than a quarter log. [He would be liable, then, for a smaller volume of liquid under the rule of the House of Shammai than under that of the House of Hillel.]”

8:3

[A] **[If] one ate and drank in a single act of inadvertence, he is liable only for a single sin-offering.**

[B] **[If] he ate and did a prohibited act of labor, he is liable for two sin-offerings.**

[C] **M he ate foods which are not suitable for eating,**

[D] or drank liquids which are not suitable for drinking –

[E] [if] he drank brine or fish brine –

[F] he is exempt.

[G] As to children, they do not impose a fast on them on the Day of Atonement.

[H] But they educate them a year or two in advance, so that they will be used to doing the religious duties.

[I:1 A] [With reference to M. Shebu. 3:2A: “I swear that I won’t eat,” and he ate and drank – he is liable on only one count. Why not on two counts, one for each act?] It is because drinking is subsumed under eating, while eating is not subsumed under drinking.

[B] How do we know that drinking is subsumed under eating, [but eating is not subsumed under drinking]?

[C] *R. Jonah derived the two of them from the following:* “‘Therefore I have said to the people of Israel, No person among you shall eat blood’ (Lev. 17:12). *Now how shall we interpret the passage?* If it speaks of blood which has congealed, *has it not been taught: **Blood which has congealed is neither food nor drink*** [T. Toh. 2:5E]?”

[D] “*But thus must we interpret the matter:* [The blood is] just as it is [that is, liquid,] and yet the Torah has referred to consuming it as is ‘eating.’ [Consequently, eating encompasses drinking].”

[E] [Y. Shebu. 3:2/1.D. adds:] [*One may then*] *interpret the Mishnah passage as following the view of R. Aqiba, for R. Aqiba has said, “[Eating] any amount at all is an act of eating [just as is stated at M. Shebu. 3:1].”*

[F] *And has it not been taught: **He who mashes forbidden fat and swallowed it, he who coagulates blood and ate it, if it is of the volume of an olive’s bulk, he is liable*** [T. Ker. 2:19A-C]?”

[G] *Now what does R. Jonah do with the cited passage, [for it does not deem consuming blood which is not coagulated to be act of eating? Coagulated blood, moreover, is deemed food, contrary to the passage cited by Jonah above.] [That is, coagulated blood is not food so far as T. Toh. is concerned] to impart cleanness as a food, and to impart uncleanness as a liquid.*

[H] *R. Jonah went and derived the law as follows:* “‘And you shall spend the money for whatever you desire, oxen, sheep, wine, or strong

drink' (Deut. 14:26). [Thus eating any of these is called eating, inclusive of wine.]

- [I] “*Now how shall we interpret the passage?* If it refers to eating wine which has merely imparted a flavor to a cooked dish, and does that sort of flavor not spoil the cooked dish [and consequently, it could not be the subject of the cited verse]?”
- [J] “*But thus we must interpret the passage:* ‘In any form whatever’ – and the All-merciful has referred to [consuming wine in any form whatsoever] as an act of eating.”
- [K] *Rabbis of Caesarea say, “Interpret the passage [of Scripture] to refer to [‘eating’ wine in] a dish of figs or carobs ripened through caprification (prepared with wine) or to a rice dish [prepared with wine].* For whatever [in a dish] is secondary to the food is deemed to be tantamount to the food [and thus eaten, not drunk, in this context]. [Consequently, Deut. 14:26 does not demonstrate that drinking invariably is subsumed under eating.]”
- [L] *R. Yosé derived proof of the proposition [that drinking is subsumed under eating] from [the language of the Mishnah itself, as follows:]* “**[If one said,] ‘I swear that I shall not eat [or drink, ‘ but he drank, he is liable on only one count.’**”
- [M] *Associates said before R. Yosé, “And what does it say at the end? ‘I swear that I won’t eat and drink,’ and he ate and drank – [it should then say:] he is liable on only one count [and not on two counts, as M. Shebu. 3:2B in fact states]. [If drinking were subsumed under eating, then why should he be liable on two counts?]”*
- [N] Said to them R. Yosé, “Now if someone had two loaves in front of him and said, ‘I swear that I shall not eat this loaf of bread,’ and then went and said, ‘I swear that I shall not eat this other loaf of bread,’ and he ate both of them – is it possible that he should not be liable for both? [Obviously he is liable for both, because he has taken oaths regarding each. Likewise in the case of M., the man has taken an oath regarding eating and an oath regarding drinking, both of them stated explicitly. In such a case it is obvious that the man will be liable on two distinct counts, as M. says. But that has no bearing on the stated proposition that, in general, drinking is subsumed under eating, as M. Shebu. 3:2A makes clear.]”
- [O] *R. Haninah in the name of R. Pinhas derived the same proposition [that drinking is subsumed under eating] from the following passage:*

“I swear I won ‘t eat, ‘ and he ate food which is not suitable for eating or drank liquids which are not suitable for drinking, he is exempt (M. Shebu. 3:4A-C; cf. M 8:3C-D)].

- [P] “Lo, by implication, we must note, if he *had* eaten food which was suitable for eating or drink which was suitable for drinking, he would be liable. [This indicates that drinking is subsumed under eating.]”
- [Q] [Y. Yoma 8:3 lacks:] *R. Ba derives the same proposition from the following:*
- [R] “‘If one has eaten and drunk in a single spell of unawareness, he is liable for only one count.’
- [S] “That is the case when one has said, ‘I swear that I shall not eat and drink’ [and it would then indicate that drinking is subsumed under eating].”
- [T] *And in accord with the view of Rabbi, who said, “The passage states:] ‘I swear that I shall not eat’”*[what can we say about the same proposition]? [The adduced proof will not accord with Rabbi’s version of the passage, since he includes an explicit reference to drinking.]
- [U] *R. Hinena derives proof of the proposition from the following: **He who ate and drank in a single act of inadvertence is liable only for a single sin-offering [M. 8:3A].*** [Here the two actions are deemed one.]
- [V] *R. Abba Mari derived it from the following: “‘I have not eaten of the tithe while I was mourning’ (Deut. 26:13). But I have drunk! “*
- [M] Up to now we have dealt with a case in which one has said, “That I shall not eat,” but he drank. If he said, “That I shall not drink,” but he went and ate [is he liable]? [Clearly not.]
- [X] This indicates that drinking is subsumed under eating, but eating is not subsumed under drinking.
- [Y] *And there is he who proposes to derive the same proposition from the following: “‘You may not eat within your towns the tithe of your grain or of your wine or of your oil, or the firstlings of your herd or of your flock, or any of your votive offerings which you vow, or your freewill offerings, or the offering that you present” (Deut . 12:17) .*
- [Z] “Your wine” refers to wine; “your oil” refers to anointing.
- [AA] Now the Torah has referred to them both under the rubric of eating.

[BB] But this proof is not entirely suitable, for if you say it is suitable, then on account of misuse of the wine or oil outside the wall of Jerusalem, one should be flogged.

[CC] Said R. Yosé b. Haninah, “They do not administer a flogging for infractions against produce in the status of second tithe outside of Jerusalem’s wall, except for produce in the status of second tithe that is clean and that is brought into Jerusalem and taken out again.”

[DD] *And how do we know that it is not an entirely suitable proof? It is in line with that which has been taught:* In the case of the Sabbath, whether it is anointing out of sheer pleasure [or otherwise, as above, Y. 8:1].

[EE] How do we know that not anointing with produce in the status of second tithe is covered by a positive commandment?

[FF] Said R. Eleazar in the name of R. Simai, “‘Nor have I offered any of the tithe to the dead’ (Deut. 26:13). How shall we interpret this matter? If it is for the purpose of selling produce in the status of second tithe in order to purchase for the deceased a bier or shrouds, it is forbidden to do such a thing even for a living person [for reasons explained above], all the more so is it prohibited to do so for a corpse!

[GG] “What then is a matter that is permitted for the living and prohibited for the dead [so that with proceeds of produce in the status of second tithe one may do the deed for a living person but may not for a deceased person]? One must say, That is anointing. [One may anoint with produce in the status of second tithe if one is alive, but may not use for a corpse an unguent deriving from such produce.]”

[I:2 A] An admonition concerning not working on the Day [of Atonement]: “You shall do no work on this same day” (Lev. 23:28).

[B] The penalty: “And whoever does any work on this same day – that person I will destroy from among his people” (Lev. 23:30).

[C] An admonition as to afflicting the soul on that day: “For whoever is not afflicted on this same day shall be cut off from his people” (Lev. 23:29).

[D] The penalty: “Éshall be cut off from his people” (Lev. 23:29).

- [E] *There is no admonition against work by night, nor is there a statement governing the penalty; there is no admonition governing afflicting the soul by night, nor is there a penalty.*
- [F] *[As to the view that there is no explicit reference to penalty for doing so by night,] said R. Simeon b. Laqish, “What should the Scripture have said, ‘You should not afflict [your soul]’?!”*
- [G] But as to the statement “You shall not eat,” it is the fact that whenever the Torah refers to eating, the specified minimum volume is an olive’s bulk, while here it is a fig’s bulk.
- [H] Said R. Hoshaiyah, “[What Scripture could have said is] ‘Take heed, lest you not afflictÉ’ which would have yielded three admonitions.”
- [I] Said R. Hunah, “‘Take heed’ serves as it does in that statement that I have made to you: ‘Take heed, in an attack of leprosy, to be very careful to do according to all that the Levitical priests shall direct you; as I commanded them, so you shall be careful to do’”(Deut. 24:8).
- [J] *R. Hiyya taught, “Scripture need not have made reference [at Lev. 23:30] to the penalty with respect to performing prohibited acts of labor. Why not? I could have derived the fact of the penalty from the law governing affliction of the soul. Now if in the case of afflicting the soul, which is a lesser matter, if one does not do so, he is liable to extirpation, in the case of performing a prohibited act of labor, which is a serious matter, is it not a matter of logic that one should be liable to extirpation on that account?”*
- [K] “Accordingly, the purpose of stating the penalty inhering in performing a prohibited act of labor is solely to serve to provide an admonition to that which lies before it, with the following consequence: Just as the penalty stated with regard to performing a prohibited act of labor serves as an admonition for the preceding item, so the penalty stated with regard to afflicting the soul serves as an admonition for the act.”
- [L] *Said R. Zeirah, “Is that to say that they derive the law by means of analogical reasoning, even in the case of a verse left without exegesis as to one aspect of said verse?”*
- [M] *Said R. Yudan, “But does this mode of exegetical reasoning not follow the method of R. Aqiba? For R. Aqiba said, ‘They do indeed derive a law by analogical exegesis, even in a case in which there is no aspect of the verse left open for that purpose.’”*

- [N] [Reverting to the original problem, namely, proving that the prohibitions of eating and of labor apply by night as much as by day,] *it has been taught*: R. Eliezer b. Jacob says, “With respect to an act of labor, it is said, ‘For whoever does any work on this same dayÉ,’ (Lev. 23:30), and with respect to afflicting the soul, it is said, ‘For whoever is not afflicted on this same dayÉ’ (Lev. 23:29).
- [O] “Just as in the case of the reference to ‘this same day,’ in regard to a prohibited act of labor, there is no distinction between day and night, whether as to penalty or as to admonition, so when we read ‘on this same day,’ with regard to afflicting the soul, we should not make any distinction whatsoever between day and night, between penalty and admonition.”
- [P] *Up to this point we have followed the problem through the exegetical reasoning of R. Aqiba. How shall we approach it in line with the thinking of R. Ishmael?*
- [Q] *R. Ishmael taught*: “‘And it shall be a statute for you for ever that in the seventh month, on the tenth day of the month, you shall afflict yourselves and shall do no work’ (Lev. 16:29). The matters of afflicting oneself and working thus are joined together.
- [R] “Just as the forms of labor that I have prohibited for you are those on account of which one is liable to extirpation, so the forms of afflicting the soul that I have placed upon you are those on account of which one is liable to extirpation.”
- [II:1 A] [Illustrating M 8:3C-F:] R. Abbahu in the name of R. Yohanan: “He who eats mixed seeds in a vineyard [grain grown among vines] is flogged.”
- [B] R. Abbahu in the name of R. Yohanan: “[A non-priest] who chews on wheat which is in the status of heave-offering is flogged.”
- [C] R. Abbahu in the name of R. Yohanan, “[A non-priest] who swallows vinegar in the status of heave-offering is flogged.”
- [D] He who swallows vinegar in the status of heave-offering pays for the principal but does not have to pay the added fifth.
- [E] He who chews on wheat in the status of heave-offering pays for the principal, but does not have to pay the added fifth.
- [F] Rabbi says, “I say that he has to pay the principal and the added fifth.”
- [G] R. Jeremiah in the name of R. Ammi: “Sages concur with Rabbi in the case of him who swallows vinegar in the status of heave

offering after he has dipped his bread in it, that he has to pay the principle and the added fifth, because vinegar restores the spirits.”

- [III:1 A] [With reference to M. 8:3G-H:] As to children, they do not impose a fast on them on the Day of Atonement.
- [B] *R. Huna interpreted the statement of the Mishnah as follows: **As to children, they do not impose a fast on them on the Day of Atonement.*** Nor do they educate them prior to a year; prior to two years they do educate them. [If a child is healthy, he starts to fast on the holy day two years before he reaches maturity; if not, he starts one year in advance.]
- [C] *R. Yohanan interpreted the statement of the Mishnah as follows: **As to children, they do not impose a fast on them on the Day of Atonement.*** But they educate them a year in advance, two years in advance, completing the fast [through the day, in the case of a healthy child].
- [D] To what extent [in Yohanan’s view]? [That is, how young a child is allowed to fast for a number of hours, if not for the entire day?]
- [E] R. Aha, R. Hinenah, R. Jacob bar Idi in the name of R. Simeon b. Halapta: “At the age of nine or ten [they fast for a few hours].”

8:4

- [A] **A pregnant woman who smelled food [and grew faint] – they feed her until her spirits are restored.**
- [B] **A sick person – they feed him on the instruction of experts.**
- [C] **If there are no experts available, they feed him on his own instructions,**
- [D] **until he says, “Enough.”**
- [I:1 A] [With reference to M. 8:4A:] At the outset they roast something for her on a spit [so she can suck of it]. If she feels better, well and good. If not, they give her the actual, prohibited food [that she craves].
- [B] Two pregnant women came before R. Tarfon [to ask whether they may eat on the Day of Atonement].
- [C] *He sent two of his disciples to them. He said to them, “Go and tell them it is the Great Fast today.”*
- [D] *They spoke to the first and she was put at ease. They recited the following verse in her regard: “You are my God from my mother’s womb” (Ps. 22:10).*

[E] *They spoke to the second, but she was not put at ease. They recited the following verse of Scripture in her regard: “The wicked are estranged from the womb. Speakers of lies go astray as soon as they are born” (Ps. 58: 3).*

[I:2 A] If a sick person says, “I can take it,” and the physician says, “He cannot take it,” they listen to the physician.

[B] If the physician says, “He can take it,” [45b] and the sick person says, “I cannot take it,” they listen to the sick person.

[C] Where there is a problem, it is when the sick person says, “I can take it,” and the physician says, “I don’t know.”

[D] R. Abbahu in the name of R. Yohanan: “This is dealt with as a case of doubt concerning life and death, and in any case concerning life and death the needs of the sick person override the prohibitions of the Sabbath [and hence, also, of the Day of Atonement] .”

8:5

[A] **He who is seized by ravenous hunger – they feed him, even unclean things, until his eyes are enlightened.**

[B] **He who was bitten by a crazy dog – they do not feed him a piece of its liver’s lobe.**

[C] **And R. Mattiah b. Harash permits doing so.**

[D] **Further did R. Mattiah b. Harash say, “He who has a pain in his throat – they drop medicine into his mouth on the Sabbath,**

[E] **“because it is a matter of doubt as to danger to life.**

[F] **“And any matter of doubt as to danger to life overrides the prohibitions of the Sabbath.”**

[G] **He upon whom a building fell down –**

[H] **it is a matter of doubt whether or not he is there,**

[I] **it is a matter of doubt whether [if he is there], he is alive or dead,**

[J] **it is a matter of doubt whether [if he is there and alive he is a gentile or an Israelite –**

[K] **they clear away the ruin from above him.**

[L] **[If] they found him alive, they remove the [remaining] ruins from above him.**

[M] **But if they found him dead, they leave him be [until after the Sabbath].**

- [I:1 A] [With reference to M. 8:5A,] how do we know that they feed him figs and raisins in the status of heave-offering [even though he is a non-priest]?
- [B] *It is in line with the following:* “And they gave him a piece of cake of figs and two clusters of raisins. And when he had eaten, his spirit revived; for he had not eaten bread or drunk water for three days and three nights” (1 Sam. 30:12).
- [C] R. Huna said, “The twenty-four tenths [of an *ephah* of fine flour, baked into show bread,] which David ate [when the priest Abimelech fed him], he ate only because he was hungry.
- [D] *R. Yohanan had such an experience, and he ate everything he found before him, and in his regard they cited the following verse:* “For the protection of wisdom is like the protection of money; and the advantage of knowledge is that wisdom preserves the life of him who has it” (Eccles. 7:12).
- [I:2 A] *It has been taught [in T.’s version]:* **[He who was seized by ravenous hunger] – they feed him [that which violates the law in] the least [possible measure] [M. 8:6A].**
- [B] **How so?**
- [C] **[I] there were before him untithed produce and produce of the Seventh Year, they feed him produce of the Seventh Year.**
- [D] **[If there were] untithed produce and carrion, they feed him carrion;**
- [E] **Écarrion and heave-offering, they feed him heave- offering;**
- [F] **Éheave-offering and produce of the Seventh Year, they feed him produce of the Seventh Year [T. Yoma 4:4A-F].**
- [G] Where there is a problem, it concerns the choice of dough offering and produce from a tree in the first three years of its growth.
- [H] *R. Yosé stated the following question before R. Ba:* “[As to E,] heave-offering, if violated, is a sin on account of which one suffers the death penalty, while carrion is subject only to a negative commandment [hence flogging], and yet you say this [E]!”
- [I] *The passage accords with him who said that* [when the Jews returned to Zion] it was on their own initiative that they accepted the laws of tithes, [but in fact they do not enjoy the authority of the law of the Torah, rather only that of scribes]. [There is no death penalty.]

- [II:1 A]** [With reference to M. 8:5B:] The indications of a crazy dog [are these]:
- [B] its mouth hangs open, its spit drips, its ears flap, its tail hangs down between its legs, it walks on the edge of the road.
- [C] The other dogs bark at him.
- [D] And there is he who says, Also he barks, but no sound is heard.
- [E] *What makes this dog mad?*
- [F] Rab and Samuel: One said, “An evil spirit gets into him.” The other said, “A woman performs some witchcraft, which gets into him.”
- [G] Germani, the slave of R. Yudan the Patriarch, was bitten by a mad dog. He fed him a piece of the liver’s lobe [of the dog], but he was never healed.
- [H] Don’t let anyone tell you that a mad dog bit him and he lived, a snake bit him and he lived, a mule butted him and he lived –
- [I] but this refers specifically to a white mule.
- [II:2 A]** How do we know that a matter of doubt concerning life or death overrides the prohibitions of the Sabbath?
- [B] R. Abbahu in the name of R. Yohanan: “[Say to the people of Israel,] But you shall keep my Sabbaths, [for this is a sign between me and you throughout your generations, that you may know that I, the Lord, sanctify you]’ (Exod. 31:13). The word ‘but’ serves as an exclusionary clause [indicating that there are circumstances in which one does not keep the Sabbath].”
- [C] *There is he who proposes to say*, “Profane the Sabbath [one time] on a person’s account, so that he may sit and observe many Sabbaths.”
- [III:1 A]** [As to M. 8:5G-M,] R. Zeira, R. Hiyya in the name of R. Yohanan: “In the case of an alleyway, in which only one Israelite lives along with gentiles, and which fell down in an earthquake – [on the Sabbath] they labor to dig the stones out on account of the Israelite who is there. [That is, if the Israelite is in permanent residence, then there is a chance that he is the one who is buried, and the laws of the Sabbath are set aside on his account, since in the saving of life a lenient ruling is made.]”

- [B] To what extent [do they examine the body to see whether the person is yet alive]? *Two Amoraim [deal with this question].*
- [C] *One of them said, “Up to the nose.”*
- [D] *The other said, “Up to the belly button.”*
- [E] [*There is no dispute.*] *The one who said that they examine the body up to the nose speaks of a case in which the body is firm, such that, to be certain the individual is dead, we must go ahead and check for breathing.*
- [F] *The one who said that they examine him up to the belly button deals with a case in which [the body in general] is soft [to the touch, such that it is clear the individual is alive].*
- [G] *It has been taught: He who is prompt [about saving life] is praiseworthy, he who receives a question in that regard is disgraced, and one who raises such a question – lo, this one sheds blood [by the delay].*
- [H] *It has been taught: In any matter involving danger to life, one does not say, “Let the matters be done by gentiles or children,” but they should be done by adult Israelites [T. Shab. 15:15F].*
- [I] **M’S H S: A fire broke out in the courtyard of Joseph b. Simai of Sihin. The soldiers of the detachment in Sepphoris came to put it out, but he did not let them do so. A rain-cloud burst and put it out. Sages said, “It was not necessary [to behave in such a way].” Even so, after the Sabbath he sent each one of them a sela, and to their commander he sent fifty denars. Said sages, “It was not necessary to do so” [T. Shab. 13:9B].**
- [J] *A Nabataean lived in the neighborhood of R. Jonah. A fire hit the neighborhood of R. Jonah. The Nabataean went and wanted to put it out, but R. Jonah did not let him.*
- [K] *He said to him, “Because of your fortune, will it hit me? [That is, will Jonah agree to pay for any damages suffered by the Nabataean?]”*
- [L] *He said to him, “Yes, [and let it be].” The whole of it was saved [by a miracle].*
- [M] *R. Yudan of Kepar Ammi spread his cloak over a sheaf of wheat, and the fire went away.*

8:6

- [A] A sin-offering and an unconditional guilt-offering atone.
- [B] Death and the Day of Atonement atone when joined with repentance.
- [C] Repentance atones for minor transgressions of positive and negative commandments.
- [D] And as to serious transgressions, [repentance] suspends the punishment until the Day of Atonement comes along and atones.

- [I:1 A] *There we have learned:* And for a deliberate act of imparting uncleanness to the sanctuary and its Holy Things, a goat [whose blood is sprinkled] inside and the Day of Atonement effect atonement.
- [B] And for all other transgressions which are in the Torah –
- [C] the minor or serious, deliberate or inadvertent, those done knowingly or done unknowingly, violating a positive or a negative commandment, those punishable by extirpation and those punishable by death at the hands of a court,
- [D] the goat which is sent away [Lev. 16:21] effects atonement [Y. Shebu. 1:6].
- [E] [As to that which you have said about the goat prepared inside and the Day of Atonement effecting atonement for deliberately imparting uncleanness to the sanctuary and its Holy Things, the same sequence of sacrifice and the Day of Atonement also suspends punishment for such actions which were done inadvertently.] Are not minor sins subject to a negative commandment, and are not serious ones subject to extirpation or death at the hands of a court [so why does C specify these as distinct categories]?
- [F] *Said R. Judah, “Thus is the meaning of the Mishnah pericope: ‘Éthe minor or the serious, whether done deliberately or done inadvertently, and the ones done inadvertently, whether one became aware of them and whether one did not become aware of them.’”*
- [G] Which ones then are the minor transgressions? They are those in violation of positive or negative commandments.
- [H] And which ones are the serious transgressions? They are those on account of which one becomes liable to extirpation or to the death penalty at the hands of a court.
- [I] Just as the goat which is prepared [with its blood being sprinkled on the] inner [altar] effects atonement for transgressions done

deliberately, and effects suspension of punishment for sins done inadvertently for which an offering is required, so the goat which is sent forth does the same, [suspending punishment, but when the person becomes aware of what he has done, he must bring an offering].

[J] That statement poses no problems in the case of sins about which one is not aware [so the goat covers the required offering].

[K] But as to a sin about which one is informed, [so that one knows that he is liable to an offering,] is that the case also?

[L] *And have we not learned:* And how do we know that: **Those who owe sin-offerings and unconditional guilt-offerings for whom the Day of Atonement has passed [without their making said offerings] are liable to bring the offering after the Day of Atonement. [But] those who owe suspensive guilt- offerings are exempt [M. Ker. 6:4].**

[M] Said R. Bun bar Hiyya, “[The meaning of the Mishnah pericope is as follows:] Whether one is aware of them or is not aware of them [in cases of doubt one is exempted by the passage of the Day of Atonement]. [But that is not the case if one knew for sure that he was liable for an offering.]”

[I:2 A] And has not the Day of Atonement already effected atonement [so why should there be a matter of suspending punishment at all]?

[B] *R. Simeon in the name of Levi of Subayya: “The Mishnah speaks of a case in which one engages in an act of rebellion on the Day of Atonement itself. [Such a one does not believe that the Day of Atonement effects atonement. In the case of such a person the scapegoat does not effect complete atonement. But the scapegoat does suspend the punishment even for such a person.”*

[C] And why does [Simeon] not say that it speaks of a case in which one was not aware [of what he had done] on the Day of Atonement?

[D] This is what he wished to say: “Even if one was not aware of the deed on the Day of Atonement, the Day of Atonement effects atonement.”

8:7

[A] He who says, “I shall sin and repent, sin and repent” –

[B] they give him no chance to do repentance.

- [C] **“I will sin and the Day of Atonement will atone,” – the Day of Atonement does not atone.**
- [D] **For transgressions done between man and the Omnipresent, the Day of Atonement atones.**
- [E] **For transgressions between man and man, the Day of Atonement atones, only if the man will regain the good will of his friend.**
- [F] **This exegesis did R. Eleazar b. Azariah state: “‘From all your sins shall you be clean before the Lord’ (Lev. 16:30) – for transgressions between man and the Omnipresent does the Day of Atonement atone. For transgressions between man and his fellow, the Day of Atonement atones, only if the man will regain the good will of his friend.”**
- [G] **Said R. Aqiba, “Happy are you, O Israel. Before whom are you made clean, and who makes you clean? It is your Father who is in heaven,**
- [H] **“as it says, ‘And I will sprinkle clean water on you, and you will be clean’ (Ezek. 36:25).**
- [I] **“And it says, ‘O Lord, the hope [Miqweh = immersion pool] of Israel’ (Jer. 17:13) – Just as the immersion pool cleans the unclean, so the Holy One, blessed be he, cleans Israel.”**
- [I:1 A] [Transferred from Y. 8:6:] **As to violation of a positive commandment, [the Day of Atonement effects atonement] even if the person did not repent.**
- [B] **As to violation of a negative commandment –**
- [C] **R. Samuel in the name of R. Zeira: “[The Day of Atonement effects atonement] only if the person repented [of violating the negative commandment].”**
- [I:2 A] **He who states, “The burnt-offering does not effect atonement,” “The burnt-offering does not effect atonement for me,” –**
- [B] **the burnt-offering effects atonement for him.**
- [C] **[If he said,] “I do not want [the burnt-offering] to effect atonement for me,” it does not effect atonement for him against his will.**
- [D] **[If he said,] “The Day of Atonement does not effect atonement,” the Day of Atonement effects atonement.**
- [E] **[If he said,] “I do not want it to effect atonement for me,” it effects atonement for him against his will.**

[F] [Y. Shebu. 1:6 adds:] As to an offering, whether he said, “I do not believe that this offering effects atonement,” or, “that it effects atonement for me,” or if he said, “I know it does effect atonement, but I do not want it to effect atonement for me,” in all of these cases, it does not effect atonement against his will.

[G] *Said R. Haninah b. R. Hillel, “Is it not logical that the rule should be just the opposite? [In the case of an offering, whatever the man said, he did indeed bring an offering. But as to the Day of Atonement, if he said that he did not want it to effect atonement for him, it should not effect atonement for him.]”*

[H] *Does someone say to a king, “You are not a king”? [Surely not. So whatever the man says, the Day of Atonement does effect atonement.]*

[I:3 A] The burnt-offering effects atonement for the murmurings of one’s heart.

[B] What is the scriptural basis for that statement?

[C] “What is in your mind shall never happen” (Ezek. 20:32).

[D] Said R. Levi, “The burnt-offering effects atonement for what is in your mind, and so Job states, ‘And when the days of the feast had run their course, Job would send and sanctify them, and he would rise early in the morning and offer burnt-offerings according to the number of them all; for Job said, “It may be that my sons have sinned, and cursed God in their hearts.” Thus Job did continually’ (Job 1:5). This indicates that the burnt-offering effects atonement for the murmurings of the heart.”

[I:4 A] Rabbi says, “For all transgressions which are listed in the Torah the Day of Atonement effects atonement, except for the one who totally breaks the yoke [of Heaven] off of him, who removes the signs of the covenant, or who behaves presumptuously against the Torah.

[B] “For if such a person does repent, then atonement is effected for him, but if not, it is not effected for him.”

[C] *R. Zebida said R. Yosé raised the question: “Does Rabbi truly maintain that [except for the specified cases] the Day of Atonement [otherwise] effects atonement without [the sinner’s] repenting?”*

[D] R. Asian, R. Jonah, R. Ba, R. Hiyya in the name of R. Yohanan: “Rabbi concurs that the Day of Atonement does not effect atonement without an act of repentance. But one’s death washes away sin without an act of repentance.”

[E] *And so it has been taught:* The day of one's death is tantamount to an act of repentance.

[F] *Who taught that statement? It was Rabbi.*

[G] *Is this in line with that which we have learned there:*

[H] Death and the Day of Atonement effect atonement [only] with an act of repentance?

[I] That teaching is not in accord with the position of Rabbi.

- [I:5 A] **R. Mattiah b. Heresh asked R. Eleazar b. Azariah, "Have you heard of the four types of atonement that R. Ishmael used to expound?"**
- [B] **He said to him, "They ate three, besides [the requirement of] an act of repentance."**
- [C] **[These are the three types:] One Scripture says, "Return, O faithless children, says the Lord" (Jer. 3:14). And yet another verse of Scripture says, "For on this day shall atonement be made for you, to cleanse you; from all your sins you shall be clean before the Lord" (Lev. 16:30). [So one verse recommends repentance and the other grants absolution unconditionally.]**
- [D] **And one verse of Scripture says, "Then I will punish their transgression with the rod and their iniquity with scourges" (Ps. 89:32). And yet another verse of Scripture says, "Surely this iniquity will not be forgiven you till you die, says the Lord God of Hosts" (Isa. 22:14).**
- [E] **Now how are these verses to be reconciled [which speak of punishment and forgiveness, on the one side, and the impossibility of atonement except through death on the other]?**
- [F] **[If] one has violated a positive commandment but repented, he does not even leave the place [45c] before he is [wholly] forgiven. Concerning such a person the verse of Scripture says, "Return, O faithless children."**
- [G] **[If] one has violated a negative commandment and repented forthwith, the act of repentance suspends the punishment, and the Day of Atonement effects atonement for him. In such a case the Scripture states, "For on this day shall atonement be made for you."**

- [H] [If] one has violated a commandment involving extirpation or the death penalty inflicted by a court, and has done so deliberately, repentance and the Day of Atonement effect atonement in part, and suffering on other days of the year effects atonement in part. Concerning such a person, the verse of Scripture states, “Then I will punish their transgression with the rod and their iniquity with scourges.”
- [I] But as to him through whose action the Name of Heaven has been disgraced, repentance has not got the power to suspend punishment, nor does the Day of Atonement have the power to effect atonement, nor does suffering have the power to wipe away the guilt. But repentance and the Day of Atonement suspend the punishment, along with suffering; the man’s death wipes away the sin. Concerning such a person does Scripture make the statement: “Surely this iniquity will not be forgiven you till you die”?
- [J] Thus we have learned the fact that death wipes away [guilt and sin] [cf. T. Yoma 4:6-8].
- [K] Said R. Yohanan, “This represents the opinion of R. Eleazar b. Azariah, R. Ishmael, and R. Aqiba. But sages say, ‘The goat which is sent away effects atonement [unconditionally, without repentance].’”
- [L] Now if the goat and the Day of Atonement do not effect atonement, then how does one effect atonement?
- [M] R. Zira said, “In any way whatsoever.”
- [N] R. Hananiah says, “At the end.”
- [O] *What is the difference between their two views?*
- [P] If one has died forthwith.
- [Q] *In the opinion of R. Zira, [death] has effected atonement forthwith.*
- [R] *In the opinion of R. Haninah, [death] has not effected atonement.*
- [S] *Said R. Zira, “And a Tannaite reading supports the view of R. Haninah: A strict rule applies to the goat which does not apply to the Day of Atonement, and to the Day of Atonement which does not apply to the goat. The Day of Atonement effects atonement without a goat, but the goat does not effect atonement without the Day of Atonement.*

But the goat effects atonement forthwith, while the Day of Atonement effects atonement only at dark” [T. Yoma 4:16-17].

[T] *Said R. Huna when seated before R. Jeremiah, “And the master may interpret the teaching to apply to a case in which they intended to bring another goat but did not actually bring it.”*

[U] *R. Yosé b. R. Bun asked, “And does not the Holy One, blessed be he, perceive what is about to come into being, and it effects atonement forthwith?”*

[V] *Samuel said, “He who sinned against his fellow has to say to him, ‘I have done ill to you.’ If he accepts [this apology], well and good. If not, he brings people to win his forgiveness.*

[W] *“This is in line with that which is taught: ‘And he sings before men,’ he brings a row of men – and says: ‘I sinned, and perverted what was right, and it was not requited to me’ (Job 33 27).*

[X] *“And so it says, ‘He has redeemed my soul from going down into the Pit, and my life shall see the light’ (Job 33:28).*

[Y] *“It is necessary to appease one whom a person has injured [even] at his grave and to say, ‘I have injured you.’”*

- [I:6 A] *It has been taught [in T.’s version]: **Matters concerning which one has said confession on the preceding Day of Atonement one does not have to include in the confession on the coming Day of Atonement,***
- [B] **unless he did those same transgressions [in the intervening year].**
- [C] **[If] he committed those transgressions, he must include them in the confession.**
- [D] **[If] he did not commit the transgressions but he [nonetheless] included them in his confession –**
- [E] **concerning such a person the following is said: “As a dog returns to his vomit, so a fool returns to his folly” (Prov. 26:11).**

- [F] *It has been taught: R. Eliezer b. Jacob says, “Lo, such a person is conscientious and rewarded,*
- [G] *“since it is said, ‘For I acknowledge my transgressions’ (Ps. 51:3)” [T. Yoma 4:15].*
- [H] *How does R. Eliezer b. Jacob interpret the verse “As a dog returns to his vomit, so a fool returns to his folly” (Prov. 26:11)?*
- [I] *It speaks of a case in which he repeats that very sin.*
- [J] *How do rabbis interpret the verse cited by R. Eliezer b. Jacob, “For I acknowledge my transgressions” (Ps. 51:3)?*
- [K] *That such a person should not seem in his own sight as if he had not done such sins, but as if he had done them but had been forgiven for them.*
- [I:7 A] [In T.’s version:] **The religious duty of saying the confession [applies] at the eve of the Day of Atonement at dusk.**
- [B] **But sages have said, “A man should say the confession before eating and drinking,**
- [C] **“lest he be distracted while eating and drinking.”**
- [D] **And even though he has said the confession before eating and drinking, he has to say the confession after eating and drinking,**
- [E] **lest some untoward matter have affected the meal.**
- [F] **And even though he has said the confession after eating and drinking, he has to say the confession in the evening [prayer].**
- [G] **And even though he has said the confession in the evening [prayer], he has to say the confession in the morning [prayer].**
- [H] **And even though he has said the confession in the morning [prayer], he has to say the confession in the Additional Prayer.**
- [I] **And even though he has said the confession in the Additional Prayer, he has to say the confession in the afternoon prayer.**
- [J] **And even though he has said the confession in the afternoon prayer, he has to say the confession in the prayer for the closing of the gates [T. Yoma 4:15A-J] –**
- [K] *For the entire day is suitable for the confession.*
- [L] *How does he confess his sins?*

[M] R. Berekhiah in the name of R. Ba bar Binah: “I have sinned and done evil and remained of a vile mind, and I have walked in a distant past path [from you]. But what I have done I shall not do again. May it be pleasing to you, Lord, my God, to forgive me for all of my transgression, and grant me forgiveness for all my sins, and overlook all my wrongdoings.”

[I:8 A] *It has been taught:* “**And he has to specify each individual sin,**” the words of R. Judah b. Beterah,

[B] “as it is said, ‘O Lord, these people have sinned a great sin [and have made a god of gold]’ (Exod. 32:31).”

[C] R. Aqiba says, “It is not necessary.

[D] “If so, why does it say, ‘And made a god of gold’?”

[E] “But: Thus did the Omnipresent say, ‘Who made you make a god of gold? It is I, who gave you plenty of gold’” [T. Yoma 4:14R-V].

[F] Why so? Because an ass brays only after a basketful of carobs.

[I:9 A] It is written, “O thou hope of Israel, its savior in time of trouble, why shouldst thou be like a stranger in the land, like a wayfarer who turns aside to tarry for a night?” (Jer. 14:8).

[B] **Just as the immersion pool cleans the unclean, so does the Holy One, blessed be he, clean Israel [M. 8:7/I].**

[C] And so it says, “I will sprinkle clean water upon you, and you shall be clean from all your uncleanness, and from all your idols I will cleanse you” (Ezek. 36:25).

CHAPTER NINE

THE STRUCTURE OF YERUSHALMI YOMA

Whether or not the Talmud of the Land of Israel is carefully organized in large-scale, recurrent structures and guided by a program that we may call systematic forms the principal question addressed by an academic commentary. The preceding chapters therefore have pointed toward the presentation set forth here. By “structure” I mean, a clearly-articulated pattern that governs the location of fully-spelled out statements. By “system,” I mean, a well-crafted and coherent set of ideas that explain the social order of the community addressed by the writers of a document, a social philosophy, a theory of the way of life, world view, and character of the social entity formed by a given social group. I see a collective, anonymous, and political document, such as the one before us, as a statement to, and about, the way in which people should organize their lives and govern their actions. At issue then in any document such as the remarkable one before us is simple: does this piece of writing present information or a program, facts to whom it may concern, or a philosophically and aesthetically cogent statement about how things should be? The connection between structure and system is plain to see. From the way in which people consistently frame their thoughts, we move to the world that, in saying things in one way rather than in some other, they wish to imagine. Modes of formulating thought adumbrate modes of imagining the world in which people wish to live, to which they address these thoughts.

If the document exhibits structure and sets forth a system, then it is accessible to questions of rationality. We may ask about the statement that its framers or compilers wished to make by putting the document together as they did. But if we discern no structure and perceive no systematic inquiry or governing points of analysis, then all we find here is inert and miscellaneous information, facts but no propositions, arguments, viewpoints. Now as a matter of fact the Talmud of the Land of Israel commonly finds itself represented as lacking organization and exhibiting a certain episodic and notional character. That view moreover characterizes the reading and representation of the document by learned and experienced scholars, who have devoted their entire lives to Talmud study and

exegesis. It must follow that upon the advocate of the contrary view – the one implicit in the representation of the document for academic analysis – rests the burden of proof. I set forth the allegation that the Talmud of the Land of Israel exhibits a structure and follows a system and therefore exhibits a commonly-intelligible rationality. The claim to write an academic commentary explicitly states that proposition. For the tractate before us, I have therefore to adduce evidence and argument.

I maintain that through the normal procedures of reasoned analysis we may discern in the tractate a well-crafted structure. I hold that the structure made manifest, we may further identify the purpose and perspective, the governing system of thought and argument, of those who collected and arranged the tractate's composites and put them together in the way in which we now have them. By "structure" I mean, how is a document organized? and by "system," what do the compilers of the document propose to accomplish in producing this complete, organized piece of writing? The answers to both questions derive from a simple outline of the tractate as a whole, underscoring the types of compositions and composites of which it is comprised. Such an outline tells us what is principal and what subordinate, and how each unit – composition formed into composites, composites formed into a complete statement – holds together and also fits with other units, fore and aft. The purpose of the outline then is to identify the character of each component of the whole, and to specify its purpose or statement. The former information permits us to describe the document's structure, the latter, its system.

While the idea of simply outlining a Talmud-tractate beginning to end may seem obvious, I have never made such an outline before, nor has anyone else. (I have provided complete outlines for the Mishnah and for the Tosefta in relationship to the Mishnah, and, not always in outline form, for the Midrash-compilations of late antiquity as well) Yet, as we shall now see, the character of the outline dictates all further analytical initiatives. Specifically, when we follow the layout of the whole, we readily see the principles of organization that govern. These same guidelines on organizing discourse point also to the character of what is organized: complete units of thought, with a beginning, middle, and end, often made up of smaller, equally complete units of thought. The former we know as composites, the latter as compositions.

Identifying and classifying the components of the tractate – the composites, the compositions of which they are made up – we see clearly how the document coheres: the plan and program worked out from beginning to end. When we define that plan and program, we identify the facts of a pattern that permit us to say in a specific and concrete way precisely what the compilers of the tractate intended to accomplish. The structure realizes the system, the program of analysis and thought that takes the form of the presentation we have before us. From what

people do, meaning, the way in which they formulate their ideas and organized them into cogent statements, we discern what they proposed to do, meaning, the intellectual goals that they set for themselves.

These goals – the received document they wished to examine, the questions that they brought to that document – realized in the layout and construction of their writing, dictate the points of uniformity and persistence that throughout come to the surface. How people lay out their ideas guides us into what they wished to find out and set forth in their writing, and that constitutes the system that defined the work they set out to accomplish. We move from how people speak to the system that the mode of discourse means to express, in the theory that modes of speech or writing convey modes of thought and inquiry.

We move from the act of thought and its written result backward to the theory of thinking, which is, by definition, an act of social consequence. We therefore turn to the matter of intention that provokes reflection and produces a system of inquiry. That statement does not mean to imply I begin with the premise of order, which sustains the thesis of a prior system that defines the order. To the contrary, the possibility of forming a coherent outline out of the data we have examined defines the first test of whether or not the document exhibits a structure and realizes a system. So everything depends upon the possibility of outlining the writing, from which all else flows. If we can see the order and demonstrate that the allegation of order rests on ample evidence, then we may proceed to describe the structure that gives expression to the order, and the system that the structure sustains.

The present work undertakes the exegesis of exegesis, for the Yerushalmi, like its counterpart in the one of Babylonia, is laid out as a commentary to the Mishnah. That obvious fact defined the character of my academic commentary, since we have already faced the reality that our tractate is something other than a commentary, though it surely encompasses one. The problems that captured my attention derived from the deeper question of how people make connections and draw conclusions. To ask about how people make connections means that we identify a problem – otherwise we should not have to ask – and what precipitated the problem here has been how a composition or a composite fits into its context, when the context is defined by the tasks of Mishnah-commentary, and the composition or composite clearly does not comment on the Mishnah-passage that is subjected to comment.

The experience of analyzing the document with the question of cogency and coherence in mind therefore yields a simple recognition. Viewed whole, the tractate contains no gibberish but only completed units of thought, sentences formed into intelligible thought and self-contained in that we require no further information to understand those sentences, beginning to end. The tractate organizes these statements as commentary to the Mishnah. But large tracts of the

writing do not comment on the Mishnah in the way in which other, still larger tracts do. Then how the former fit together with the latter frames the single most urgent question of structure and system that I can identify.

Since we have already examined enormous composites that find their cogency in an other than exegetical program, alongside composites that hold together by appeal to a common, prior, coherent statement – the Mishnah-sentences at hand – what justifies my insistence that an outline of the document, resting on the premise that we deal with a Mishnah-commentary, govern all further description? To begin with, the very possibility of outlining this tractate derives from the simple fact that the framers have given to their document the form of a commentary to the Mishnah. It is in the structure of the Mishnah-tractate that they locate everything together that they wished to compile. We know that is the fact because the Mishnah-tractate defines the order of topics and the sequence of problems.

Relationships to the Mishnah are readily discerned; a paragraph stands at the head of a unit of thought; even without the full citation of the paragraph, we should find our way back to the Mishnah because at the head of numerous compositions, laid out in sequence one to the next, clauses of the Mishnah-paragraph are cited in so many words or alluded to in an unmistakable way. So without printing the entire Mishnah-paragraph at the head, we should know that the received code formed the fundamental structure because so many compositions cite and gloss sentences of the Mishnah-paragraph and are set forth in sequence dictated by the order of sentences of said Mishnah-paragraph. Internal evidence alone suffices, then, to demonstrate that the structure of the tractate rests upon the Mishnah-tractate cited and discussed here. Not only so, but the sentences of the Mishnah-paragraphs of our tractate are discussed in no other place in the entire Talmud of the Land of Israel in the sequence and systematic exegetical framework in which they are set forth here; elsewhere we may find bits or pieces, but only here, the entirety of the tractate.

That statement requires one qualification, and that further leads us to the analytical task of our outline. While the entire Mishnah-tractate of treated here is cited in the Talmud of the Land of Israel, the framers of the Talmud of the Land of Israel by no means find themselves required to say something about every word, every sentence, every paragraph. On the contrary, they discuss only what they choose to discuss, and glide without comment by large stretches of the tractate. A process of selectivity, which requires description and analysis, has told the compilers of the Talmud of the Land of Israel's composites and the authors of its compositions (This statement requires refinement. I do not know that all available compositions have been reproduced, and that the work of authors of compositions of Mishnah-exegesis intended for a talmud is fully exposed in the document as we have it. That is not only something we cannot demonstrate – we do not have

compositions that were not used, only the ones that were – but something that we must regard as unlikely on the face of matters. All we may say is positive: the character of the compositions that address Mishnah-exegesis tells us about the concerns of the writers of those compositions, but we cannot claim to outline all of their concerns, on the one side, or to explain why they chose not to work on other Mishnah-sentences besides the ones treated here. But as to the program of the compositors, that is another matter: from the choices that they made (out of a corpus we cannot begin to imagine or invent for ourselves) we may describe with great accuracy the kinds of materials they wished to include and the shape and structure they set forth out of those materials. We know what they did, and that permits us to investigate why they did what they did. What we cannot know is what they did not do, or why they chose not to do what they did not do. People familiar with the character of speculation and criticism in Talmudic studies will understand why I have to spell out these rather commonplace observations. I lay out an argument based on evidence, not on the silences of evidence, or on the absence of evidence – that alone.) what demands attention, and what does not. Our outline has therefore to signal not only what passage of the Mishnah-tractate is discussed, but also what is not discussed, and we require a general theory to explain the principles of selection (“making connections, drawing conclusions” meaning, to begin with, making selections). For that purpose, in the outline, I reproduce the entirety of a Mishnah-paragraph that stands at the head of a Talmudic composite, and I underscore those sentences that are addressed, so highlighting also those that are not.

It follows that the same evidence that justifies identifying the Mishnah-tractate as the structure (therefore also the foundation of the system) of Yerushalmi-tractate before us also presents puzzles for considerable reflection. The exegesis of Mishnah-exegesis is only one of these. Another concerns the purpose of introducing into the document enormous compositions and composites that clearly hold together around a shared topic or proposition, e.g., my appendix on one theme or another, my elaborate footnote providing information that is not required but merely useful, and the like. My earlier characterization of composites as appendices and footnotes signalled the fact that the framers of the document chose a not-entirely satisfactory way of setting out the materials they wished to include here, for large components of the tractate do not contribute to Mishnah-exegesis in any way at all. If these intrusions of other-than-exegetical compositions were proportionately modest, or of topical composites negligible in size, we might dismiss them as appendages, not structural components that bear much of the weight of the edifice as a whole. Indeed, the language that I chose for identifying and defining these composites – footnotes, appendices, and the like – bore the implication that what is not Mishnah-commentary also is extrinsic to the Talmud of the Land of Israel’s structure and system.

But that language served only for the occasion. In fact, the outline before us will show that the compositions are large and ambitious, the composites formidable and defining. Any description of the tractate's structure that dismisses as mere accretions or intrusions so large a proportion of the whole misleads. Any notion that "footnotes" and "appendices" impede exposition and disrupt thought, contribute extraneous information or form tacked-on appendages – any such notion begs the question: then why fill up so much space with such purposeless information? The right way is to ask whether the document's topical composites play a role in the re-presentation of the Mishnah-tractate by the compilers of the Talmud of the Land of Israel. We have therefore to test two hypotheses:

1. the topical composites ("appendices," "footnotes") do belong and serve the compilers' purpose

or

2. the topical composites do not participate in the re-presentation of the Mishnah-tractate by Yerushalmi and do not belong because they add nothing and change nothing.

The two hypotheses may be tested against the evidence framed in response to a single question: is this topical composite necessary? The answer to that question lies in our asking, what happens to the reading of the Mishnah-tractate in light of the topical composites that would not happen were we to read the same tractate without them? The outline that follows systematically raises that question, with results specified in due course. It suffices here to state the simple result of our reading of the tractate, start to finish: the question of structure, therefore also that of system, rests upon the position we identify for that massive component of the tractate that comprises not Mishnah-commentary but free-standing compositions and composites of compositions formed for a purpose other than Mishnah-commentary.

The principal rubrics are given in small caps. The outline takes as its principal rubrics two large-scale organizing principles.

The first is the divisions of the Mishnah-tractate to which the Talmud of the Land of Israel-tractate serves as a commentary. That simple fact validates the claim that the tractate exhibits a fully-articulated structure. But the outline must also underscore that the Mishnah-tractate provides both more and less than the paramount outline of the Talmud of the Land of Israel-tractate. It is more because sentences in the Mishnah-tractate are not analyzed at all. These untreated Mishnah-sentences are given in bold face lower case caps, like the rest of the Mishnah, but then are specified by underlining and enclosure in square brackets.

Second, it is less because the structure of the tractate accommodates large composites that address topics not defined by the Mishnah-tractate. That brings us

to the second of the two large-scale modes of holding together both sustained analytical exercises and also large sets of compositions formed into cogent composites. These are treated also as major units and are indicated by Roman numerals, alongside the Mishnah-paragraphs themselves; they are also signified in small caps. But the principal rubrics that do not focus on Mishnah-commentary but on free-standing topics or propositions or problems are not given in boldface type. Consequently, for the purposes of a coherent outline we have to identify as autonomous entries in our outline those important composites that treat themes or topics not contributed by the Mishnah-tractate.

I. YERUSHALMI YOMA 1:1

[A] SEVEN DAYS BEFORE THE DAY OF ATONEMENT THEY SET APART THE HIGH PRIEST FROM HIS HOUSE

1. **I:1:** Ba in the name of R. Yohanan derived [the proposition of M. 1:1A] from the following verse: “As has been done today, [the Lord has commanded to be done to make atonement for you]’ (Lev. 8:34). “This refers to the seven days of consecration [of the priest]. “The Lord has commanded’ (Lev. 8:34). “This refers to the goat offered on the Day of Atonement.” Or perhaps it refers only to the goat offered on the New Year? Said R. Ba, “‘To make atonement for you’ (Lev. 8:34) speaks of a form of atonement similar to this one. Just as the atonement effected for Aaron himself serves to expiate for the sins of the sons themselves, so in this instance the atonement effected for Aaron himself serves also to expiate for the sins of the sons themselves.”
2. **I:2:** What is the difference between the priest who burns the red cow and the priest who officiates on the Day of Atonement? The priest who officiates on the Day of Atonement – he is separated [merely] to preserve him in a state of cleanness, and his brethren, the other priests, may not touch him. The priest who burns the red cow – he is separated to preserve him in a state of sanctity, but his brethren, the priests, do lay hands on him, [T. continues:] except for those who help him, because he sprinkles [the water made with a mixture of the ashes] [T. Sot. 3:1].
3. **I:3:** Said R. Yosé bar Haninah, “The tenth *ephah* of fine flour and the priestly britches are indispensable [in the rite of consecration]. “What is the scriptural proof? “With reference both to this and to that, Scripture uses the language of ‘doing,’ [at Exod. 29:1: ‘And this is the thing that you shall do to them to hallow them to minister’].” Said R.

Haninah, “‘Thus you shall do to Aaron and to his sons, according to all that I have commanded you; through seven days shall you ordain them’ (Exod. 29:35): Whatever is stated in the passage [on the consecration of the priests] is indispensable to the rite.”

4. **I:4:** Yosé bar Haninah asked, “As to the tenth *ephah* of fine flour [offered by the high priest on the day of his consecration], how is it offered? Is it offered in halves [part in the morning, part in the evening], or is it offered entirely [at one time]? “On the basis of that which is written, ‘And Moses and Aaron went into the tent of meeting’ (Lev. 9:23) – “this teaches that Moses went with him only to teach him the rite of burning the incense. “That indicates that the meal-offerings were offered by halves. “For if you maintain that the thing was offered all at once, then it should be indicated that Moses went with him to teach him both the rite of burning the incense and the rite of offering the tenth *ephah* of fine flour.”
5. **I:5:** As to the rites of consecration, what is their status? Is this an offering deriving from an individual [the priest himself]? Or is it an offering deriving from communal funds? On the basis of that which is written, “And Aaron and his sons laid their hands on the head of the ram” (Lev. 8:18), it follows that it is regarded as an offering deriving from individuals
6. **I:6:** As to the rites of consecration, what is the governing analogy [to determine the definition of a day]? Is it the analogy of other offerings [in which the day starts at dawn], or the analogy of the works of Creation [in which the day starts at sunset]? If you maintain that the correct analogy is to other offerings, then the night follows the day [so that the first offering comes in the morning]. And if you maintain that the governing analogy is to the works of Creation, then the day follows the night. If you maintain that the governing analogy is to the other offerings, then the offering by night is the final one. There is no offering by day thereafter. And if you maintain that the governing analogy is to the works of Creation, then the first day [of the rite] is not followed by a night. [The first day concludes at sunset, and the second day then begins.]
7. **I:7:** There we have learned: These draw out the old loaves, and the others lay down the new ones. And a handbreadth of one new row lies up against a handbreadth of another, as it is said, “Before me perpetually” (Exod. 25:30). [“And you shall set the bread of the Presence on the table before me always” (Exod. 25:30)]. [The anonymous rule of] the cited passage of the Mishnah accords with R.

Meir. [He does not want the table left vacant for any interval at all.] From R. Yohanan [we have heard that] R. Meir concedes that if they removed the old bread at the dawn offering and arranged the new bread at twilight, this too fulfills the requirement that the bread be on the table perpetually. R. Yosé says, “Even though these take away the old loaves and then the others put down the new loaves, this too was deemed to carry out the requirement that the bread be set forth perpetually” [M. Men. 11:7N]. [Said R. Yohanan as to arranging the new bread by day, prior to the night that follows, which Yosé requires,] R. Yosé [derived that rule] from the dwelling of Aaron and his sons in the tent of meeting during the seven days of consecration. “Just as you maintain in the case of Aaron’s and his sons’ dwelling in the tent of meeting, that it is necessary to assign a day to a night, and a night to a day [that is, one must dwell in the tent of meeting all night, without interruption, to the following day, and vice versa], “so too here, it is necessary to assign a day to the following night, and a night to the following day [so that if the bread is taken off the table in the morning, the fresh bread must be put on before nightfall on that same day, without interruption].” R. Hiyya bar Yosé said, “If one has assigned a day to the night, that suffices. [That is, it is quite true that the new bread has to be placed on the table by twilight of the day on which the old bread has been removed. But we need not say that one assigns a night to a day. The former is sufficient to meet the requirement of having the bread perpetually on the table. If it is on the table at the outset of the night, the law has been fulfilled.]”

- 8. I:8:** [Referring to M. 1:1A, separating the high priest from his household,] Ben Beterah explained, “It is done lest he have sexual relations with his wife when she is menstruating, and then he would be put away [unclean] for seven days” [T. Yoma 1:1B]. And are Israelites suspect on the count of having sexual relations with menstruating women? It is in line with that which we have learned there: If one was having sexual relations with a woman in a state of menstrual cleanness, but she said, “I have become unclean,” even if he separated forthwith, he is liable, for the going out is just as much a pleasure for him as the going in [M. Shebu. 2:4B-D]. [Here too we take account of the possibility that the high priest will have sexual relations with his wife assuming she is not in her period and that her period may commence during the act itself.] You turn out to rule, what R. Yohanan provided [as the reason for separating the high priest from his household – which is the analogy to the seven days of ordination of Aaron – leaves] need for the reason also of Ben Beterah, and what Ben Beterah provided [as the reason for separating the high priest from

his household – which has to do with the prohibition of sexual relations – leaves] need for the reason also of R. Yohanan.

- I:9:** It has been taught: All chambers in the Temple were exempt from the requirement of having a mezuzah on their doorposts, except for the councillors' chamber, for it was the residence of the high priest seven days a year [T. Yoma 1:2A-B].

[B] TO THE COUNCILLORS' CHAMBER:

- II:1:** The councillors' chamber [M. 1:1A]: Abba Saul would call it "the chamber of oil" [T. Yoma 1:3E]. In the beginning they used to call it the chamber of oil, and now they call it the councillors' chamber. "The chamber of oil" is a nickname.
- II:2:** We have found that the First Temple was destroyed only because they worshiped idols, practiced fornication, and committed murder, and so in the case of the Second Temple. [In T.'s version:] Said R. Yohanan b. Torta, "On what account was Shiloh destroyed? Because of the degradation of the festivals and the disgraceful disposition of the Holy Things which were there. "As to Jerusalem's first building, on what account was it destroyed? Because of idolatry, licentiousness, and bloodshed which was in it. "But [as to] the latter [building] we know that they devoted themselves to Torah and were meticulous about tithes. "On what account did they go into exile? Because they loved money and hated one another without cause. "This teaches you that hatred of one for another is evil before the Omnipresent, and Scripture deems it equivalent to idolatry, licentiousness, and bloodshed" [T. Men. 13:22].

[C] AND THEY [ALSO] APPOINT ANOTHER PRIEST AS HIS SUBSTITUTE, LEST SOME CAUSE OF INVALIDATION SHOULD AFFECT HIM. R. JUDAH SAYS, "ALSO: THEY APPOINT ANOTHER WOMAN AS A SUBSTITUTE FOR HIS WIFE, "LEST [HIS WIFE] DIE. "SINCE IT SAYS, 'AND HE SHALL MAKE ATONEMENT FOR HIMSELF AND FOR HIS HOUSE' (LEV. 16:6). "HIS HOUSE' – THIS REFERS TO HIS WIFE." THEY SAID TO HIM, "IF SO, THE MATTER IS WITHOUT LIMIT."

- III:1:** They appoint another priest as his substitute lest some cause of invalidation [of the high priest who is to officiate on the Day of Atonement] should affect him [M. 1:1B-C]. Now do they designate another priest along with him? Said R. Haggai from there [Babylonia] that they do not designate another priest alongside, he may kill him. "[This is the offering which Aaron and his sons shall offer to the Lord on the day when he is anointed: a tenth of an *ephah* of fine flour as a regular cereal offering.... The priest from among Aaron's sons who is

anointed to succeed] him [shall offer it to the Lord]” (Lev. 6:19-22) – one do they anoint, and they do not anoint two [so the substitute is not anointed at all].

2. **III:2:** Is it possible that the priest anointed for war brings the tenth of an *ephah* from his own property? Scripture says, “[The priest who is appointed from among Aaron’s] sons, who is anointed to succeed him, [shall offer it to the Lord]” (Lev. 6:22). The one who has a son ready to succeed him shall bring the tenth of an *ephah*, and the one who has no son ready to succeed him does not bring a tenth of an *ephah*. And how do we know in regard to the anointed for war that his son is not standing ready to succeed him? Scripture says, “The son who is priest in his place shall wear them seven days when he comes into the tent of meeting to minister in the holy place” (Exod. 29:30) – as to the one who comes into the tent of meeting for service in the holy place, his son is ready to succeed him, and, as to the one who does not come into the tent of meeting for service in the sanctuary, his son does not succeed him. And how do we know that [a priest anointed for war] may be designated for service as high priest? Scripture states, “And Phineas son of Eleazar was the ruler over them in time past; the Lord was with him” (1 Chron. 9:20) [and he served as both anointed for war and high priest].
3. **III:3:** “How do we know that just as they appoint another priest to serve as his substitute, lest some cause of invalidation should affect him, so they betroth for him another wife, on the stipulation that something may affect his wife [and if that should not be the case, the betrothal is null]? “It is on the basis of this verse: ‘And he shall make atonement for himself and for his house’ (Lev. 16:6). “‘His house’ – this refers to his wife,” the words of R. Judah [cf. M. 1:1D-G]. Said to him R. Yosé, “If so, the matter is without limit” [M. 1:1H].

II. YERUSHALMI YOMA 1:2

[A] ALL SEVEN DAYS HE TOSSES THE BLOOD, OFFERS UP THE INCENSE, TRIMS THE LAMPS, AND OFFERS UP THE HEAD AND HIND LEG [OF THE DAILY WHOLE OFFERING]. BUT ON ALL OTHER DAYS, IF HE WANTED TO OFFER IT UP HE OFFERS IT UP.

1. **I:1:** And is the high priest not unclean because [purification water] has been sprinkled on him, [so how can he participate in the rite, M. 1:2A]?

[B] FOR A HIGH PRIEST OFFERS UP A PORTION AT THE HEAD AND TAKES A PORTION AT THE HEAD [OF THE OTHER PRIESTS].

- 1. II:1:** For a high priest offers up a portion at the head and takes a portion at the head of the other priest [M. 1:2C]. How so? [In T.'s version:] He says, "This sin-offering is mine," "This guilt-offering is mine," "One loaf of the two Two Loaves," "Four or five loaves of the show bread [are mine]" [T. Yoma 1:5B].
- 2. II:2:** [With reference to M. 1:2A,] R. Yosé b. R. Bun in the name of R. Joshua b. Levi: "Every day the high priest puts on his garments and comes and offers the continual whole-offering of the morning. If, in addition, there are animals brought in fulfillment of vows or as thank-offerings, he offers them as well, and then he goes home. "Then in the evening he comes along and offers the continual whole-offering brought at twilight. Then he goes and he spends the night in the councillors' chamber."

III. YERUSHALMI YOMA 1:3

[A] THEY HANDED OVER TO HIM ELDERS BELONGING TO THE COURT, AND THEY READ FOR HIM THE PRESCRIBED RITE OF THE DAY [OF ATONEMENT]. AND THEY SAY TO HIM, "MY LORD, HIGH PRIEST, YOU READ IT WITH YOUR OWN LIPS, LEST YOU HAVE FORGOTTEN – OR NEVER [EVEN] LEARNED IT TO BEGIN WITH."

- 1. I:1:** Lest you have forgotten, or never even learned it to begin with [M. 1:3C]: Has it not been taught: "The priest who is chief among his brethren, [upon whose head the anointing oil is poured, and who has been consecrated to wear the garments, shall not let the hair of his head hang loose, nor rend his clothes; he shall not go in to any dead body, nor defile himself, even for his father or for his mother]" (Lev. 21:10-11)? The meaning is that he should be made great by his brethren [T. Yoma 1:6B]. "Upon whose head the anointing oil is poured" (Lev. 21:10) – Rabbi says, "[It is the religious requirement that the high priest be greater than his brethren] in beauty, strength, wealth, wisdom, and appearance" [T. Yoma 1:6A].

[B] ON THE EVE OF THE DAY OF ATONEMENT AT DAWN THEY SET HIM UP AT THE EASTERN GATE

- 1. II:1:** Where did they set him up, inside or outside?

[C] AND BRING BEFORE HIM BULLOCKS, RAMS, AND SHEEP, SO THAT HE WILL BE INFORMED AND FAMILIAR WITH THE SERVICE.

1. **III:1:** Why does the Mishnah not refer also to goats [since the rite of the Day of Atonement involves a goat as well]?

IV. YERUSHALMI YOMA 1:4

[A] **ALL SEVEN DAYS THEY DID NOT HOLD BACK FOOD OR DRINK FROM HIM. [BUT] ON THE EVE OF THE DAY OF ATONEMENT AT DUSK THEY DID NOT LET HIM EAT MUCH, FOR FOOD BRINGS ON SLEEP.**

1. **I:1:** It has been taught: They did not let him eat milk, eggs, cheese, fat meat, old wine, spiced wine, grits, or lentils.
2. **I:2:** [But why did the high priest require such guards?] Was it not one of the miracles that were done in the Temple [that the high priest never suffered an emission of semen prior to the Day of Atonement]?

V. YERUSHALMI YOMA 1:5

[A] **THE ELDERS OF THE COURT HANDED HIM OVER TO THE ELDERS OF THE PRIESTHOOD, WHO BROUGHT HIM UP TO THE UPPER CHAMBER OF ABTINAS. AND THEY IMPOSED AN OATH ON HIM AND TOOK THEIR LEAVE AND WENT ALONG. [THIS IS WHAT] THEY SAID TO HIM, “MY LORD, HIGH PRIEST: WE ARE AGENTS OF THE COURT, AND YOU ARE OUR AGENT AND AGENT OF THE COURT. “WE ABJURE YOU BY HIM WHO CAUSED HIS NAME TO REST UPON THIS HOUSE, THAT YOU WILL NOT VARY IN ANY WAY FROM ALL WHICH WE HAVE INSTRUCTED YOU.” HE TURNS ASIDE AND WEEPS. AND THEY TURN ASIDE AND WEEP.**

1. **I:1:** Why does he turn aside and weep [M. 1:5F]? Because it is necessary to impose an oath on him. And why do they turn aside and weep [M. 1:5F]? Because they have to impose an oath on him. And why do they have to impose an oath on him? Because there already was the case of that certain Boethusian, who offered up the incense while he was still outside, and the cloud of incense went forth and frightened the entire house. For the Boethusians maintained that he should burn the incense while he is still outside, as it says, “[And put the incense on the fire before the Lord, that] the cloud of the incense may cover [the mercy seat which is upon the testimony]” (Lev. 16:13). Sages said to them, “Now has it not also been stated, ‘And put the incense on the fire before the Lord’? “From this it follows that whoever offers up incense offers up incense only inside. “If so, why is

it said, 'The cloud of the incense may cover'? "This teaches that he puts into it something which causes smoke to arise. "If therefore he did not put in something which makes smoke to arise, he is liable to the death penalty." Now when this Boethusian went forth, he said to his father, "In your entire lives you would expound the Scripture, but you never did the deed properly, until I arose and I went in and did it right." They said to him, "Even though we do expound matters as you say, we do not do things in the way in which we expound them. We obey the words of sages. "I shall be very much surprised at you if you live for very long." Not three days passed before they put him into his grave [T. Yoma 1:8].

- 2. I:2:** It is written, "And he shall take a censer full of coals of fire from the altar before the Lord, and two handfuls of sweet incense beaten small; and he shall bring it within the veil and put the incense on the fire before the Lord, that the cloud of the incense may cover the mercy seat which is upon the testimony, lest he die" (Lev. 16:12-13). The meaning is that he should not prepare the mixture outside and bring it inside. For lo, the Sadducees say that he should prepare it outside and bring it inside. If they do so before mortal man, all the more so before the Omnipresent! "And it is written, '[And the Lord said to Moses, Tell Aaron your brother not to come at all times into the holy place within the veil, before the mercy seat which is upon the ark, lest he die;] for I will appear in the cloud upon the mercy seat'" (Lev. 16:2). Said to them sages, "And lo, has it not already been stated, 'And put the incense on the fire before the Lord, that the cloud of the incense may cover the mercy seat which is upon the testimony, lest he die' (Lev. 16:13)? "He puts it in only when he is inside the sanctum. If so, why is it said, 'For I will appear in the cloud upon the mercy seat'? This teaches that he puts into the incense something that makes the smoke rise."

VI. YERUSHALMI YOMA 1:6

[A] IF HE WAS A SAGE, HE EXPOUNDS [THE RELEVANT SCRIPTURES]. AND IF NOT, DISCIPLES OF SAGES EXPOUND FOR HIM. IF HE WAS USED TO READING [SCRIPTURES], HE READ. AND IF NOT, THEY READ FOR HIM. AND WHAT DO THEY READ FOR HIM? IN JOB, EZRA, AND CHRONICLES. ZEKHARIAH B. QEBUTAL SAYS, "MANY TIMES I READ FOR HIM IN THE BOOK OF DANIEL."

- 1. I:1:** It has been taught: They read Proverbs and Psalms, because their message disturbs one's sleep.

2. I:2: Kahana asked Rab, “Is it Qebutar or Qebutal?”

VII. YERUSHALMI YOMA 1:7

[A] [If]HE TRIED TO DOZE OFF, YOUNG PRIESTS SNAP THEIR MIDDLE FINGERS BEFORE HIM AND SAY TO HIM, “MY LORD, HIGH PRIEST: STAND UP AND DRIVE OFF [SLEEP] BY WALKING ON THE COLD STONES.” AND THEY WOULD KEEP HIM BUSY UNTIL THE TIME FOR THE SLAUGHTER HAD COME.

1. I:1: R. Huna said, “[The Mishnah means that] the finger is put into the mouth [to produce a shrill sound].”

VIII. YERUSHALMI YOMA 1:8

[A] EVERY DAY AT THE COCK’S CROW OR NEAR IT THEY TAKE UP THE ASHES FROM THE ALTAR, WHETHER BEFORE OR AFTER IT. AT THE DAY OF ATONEMENT FROM MIDNIGHT, AND ON FESTIVALS AT THE END OF THE FIRST WATCH [THEY DO SO]. AND NEVER DID THE COCK CROW BEFORE THE COURTYARD WAS FILLED WITH MASSES OF ISRAELITES.

1. I:1: Said R. Mana, “Is it not reasonable to suppose that on the Day of Atonement they do it from the end of the first watch, and on festivals from midnight, on account of thirst? [There is nothing to drink in the courtyard overnight. That is not a consideration for the Day of Atonement, but it is a consideration for the festivals, when the priests may take a drink. Consequently, on festivals the priests get up somewhat later.]”

IX. YERUSHALMI YOMA 2:1

[A] AT FIRST WHOEVER WANTS TO TAKE UP THE ASHES FROM THE ALTAR DOES SO. AND WHEN THEY ARE MANY [WHO WANTED TO DO SO], THEY RUN UP THE RAMP.

1. I:1: Mana raised the question, “And why to begin with did they not establish a lot for the taking up of the ashes from the altar? “Now take note that the act of slaughter is valid when done by lot, and yet you maintain that the one who does it is chosen by lot. Taking up the ashes on the altar may not be done by a non-priest, and do you maintain that [to begin with,] it is not done by a non-priest?”

2. **I:2:** A non-priest who raised up [the ashes of the altar] – R. Yohanan said, “He is liable.” R. Simeon b. Laqish said, “He is exempt.”
3. **I:3:** All concur in the case of a non-priest who laid out a pile of wood on the altar, that he is liable.
4. **I:4:** It has been taught: R. Judah said, “How do we know that the kindling of the kindling wood on the altar should be done only by a valid priest and with a consecrated utensil of service? Scripture states, ‘And the sons of Aaron the priest shall put fire on the altar, and lay wood in order upon the fire’” (Lev. 1:7). Said R. Simeon, “And can anyone imagine that a non-priest should approach the altar and make an offering? [Surely not! If so, why is the verse written, ‘And the sons of Aaron the priest shall put fire on the altar, and lay wood in order upon the fire’ (Lev. 1:7)? “It is to teach the lesson that as to kindling the fire on the altar, the process of kindling should take place only at the head of the altar [on the north side].”
5. **I:5:** If a non-priest raised up the ashes, and the wind blew them away, there is a dispute of R. Yohanan and of R. Haninah. For R. Haninah said, “If one put a handful of meal-offering on the fire, and the wind blew it away, if this was with the final blow of the wind, [by then] the owners have attained expiation [through the offering,] and the residue [of meal-offering] is released from the laws of sacrilege [and may be eaten by the priests]. [The offering has been received and is valid.]” R. Yohanan said, “That is the case when the fire will have burned up the greater part of it.” What is the meaning of “the greater part of it”? Has the statement been made to cover the greater part of the entire handful of meal-offering, or the greater part of each grain of the offering?
6. **I:6:** If one raised up half [of the ashes on the altar], there is a dispute of R. Yohanan and R. Joshua b. Levi. For R. Yohanan said, “As to a handful of meal-offering which has been consecrated in a utensil and which one offered up, even if it was only the sesame seeds [a tiny part of the whole], he has carried out his obligation.” R. Joshua b. Levi said, “The Mishnah has not indicated that. But rather: If one burned the handful twice [in two halves] it is valid [M. Men. 3:4].”
7. **I:7:** If one took up the ashes with his left hand, there is a dispute of R. Yohanan and R. Judah b. Rabbi. For R. Yohanan said, “One takes up a handful of meal-offering that has been sanctified in a utensil and offers it up, whether with his hand or in a utensil, whether in the right hand or the left hand.” Judah b. Rabbi says, “One may do it as is done in the case of a sin-offering, by hand, or he may do it as it is done with a

guilt-offering, with a utensil, but that is on condition that it is done with the right hand.”

8. **I:8:** Said R. Mana, “I am surprised that rabbis compare the taking up of the ashes from the altar to the matter of offering up [the meal-offering]. “But the comparison surely is to be drawn only [between taking up the ashes from the altar] and taking the handful [of meal-offering]. For each one is subject to the consideration of raising up [a handful]. [At Lev. 6:10, it says, ‘And he shall] take up [the ashes],’ and the other [the matter of meal-offering] likewise is described with the word ‘take up.’ For ‘taking up’ makes sense only when one has left a residue behind [from which one takes up what he takes up]. “[Along these same lines of comparing the taking up of the ashes to the taking up of the meal-offering,] ‘which the fire has consumed’ (Lev. 6:10) – consuming means a minimum of an olive’s bulk [hence one takes up at least an olive’s bulk of ashes].”
9. **I:9:** It is a religious duty to put fire on before laying on the wood, for it is said, “And the sons of Aaron the priest shall put fire on the altar, and lay wood in order upon the fire” (Lev. 1:7). If one put the wood on before the fire, [or] arranged the wood before taking up the ashes, he lets the wood slide down the altar, and then removes the ashes; then he undoes the pile of wood, and he takes up the ashes.
10. **I:10:** Jacob bar Aha said, “Hilpai asked, ‘The handful of meal offering which one placed on the fire by night – what is the law [governing its disposition]?’” R. Jeremiah said, “Hilpai asked, ‘The limbs of the continual whole-offering of the morning which one placed on the fire by night – what is the law?’”
11. **I:11:** As to the priestly frontlet [which effects atonement for uncleanness unintentionally imparted to the cult], what is the law as to its effecting expiation for uncleanness affecting the hands [if one washed his hands and then, accidentally, they became unclean once he had come into the courtyard]? As to the hands, what is the law on their invalidating [the rite] if one should go out [of the courtyard after washing them, and then go back in]?
12. **I:12:** Said R. Yohanan, “Taking up the ashes from the altar is the beginning of service of the next day. One has, therefore, to wash his hands and feet from the laver, which is filled with water [throughout the night]. [The water is not spoiled by being left overnight.]” R. Hiyya bar Joseph said, “Once one has handed over the day to the night, that suffices. [That is, the laver did not have to be filled with water all

night. The concern is that the water not be left standing all night; if it is, when the morning star appears, the water is invalidated. A solution to the problem will now be presented.]” Associates in the name of R. Yohanan: “Once the priest had raised up [water, and then washed his hands and feet in it prior to taking up the ashes], he puts it back [into the laver, prior to the appearance of the morning star, marking the passage from night to day and imparting uncleanness to the water on the count of having been left all night]. [Accordingly, the issue of using invalid water is not a problem in the case of the washing prior to taking the ashes off the altar, since this is done before the rise of the morning star.]”

- 13. I:13:** Hilpai said, “Just as the passage of the night does not invalidate in the case of the hands, so the passage of the night does not invalidate in the case of [water in the] laver.”

[B] AND WHOEVER GETS THERE BEFORE HIS FELLOW, WITHIN FOUR CUBITS OF THE ALTAR, HAS ACQUIRED THE RIGHT TO DO SO.

- 1. II:1:** [With reference to M. 2:1C] Within four cubits of the altar:] Whether one is within four cubits of the ramp [or] within four cubits of the altar, does it make a difference? [Is the ramp equivalent to the altar so far as standing within its domain is concerned?] On the basis of that which we have learned, There was the case of two who got there at the same time, running up the ramp [M. 2:1H], it follows that within four cubits of the altar [is the definition of falling within the domain of the altar, and not merely being on the ramp up to the altar].

[C] AND IF THE TWO CAME AT THE SAME TIME, THE ONE IN CHARGE SAYS TO THEM, “CHOOSE UP [BY RAISING A FINGER].” AND WHAT DO THEY PUT FORTH? ONE OR TWO.

- 1. III:1:** What is the meaning of “Choose up [by raising a finger]” [M. 2:1D]? What is the meaning of “they do not count it”?

[D] BUT THEY DID NOT PUT OUT THE THUMB IN THE TEMPLE.

- 1. IV:1:** This is because of the possibility of deceit.
- 2. IV:2:** One does not say in the sanctuary, “From whom shall we begin the count?” But the supervisor would lift up the miter of one of them [T. Yoma 1:10C], and they would know that it was from him that the count began. And should we not scruple that he may select the one of some one whom he liked, or of a relative of his? They would stand around in the form of a spiral figure [T. Yoma 1:10B].

[E] **THERE WAS THE CASE OF TWO WHO GOT THERE AT THE SAME TIME, RUNNING UP THE RAMP. AND ONE SHOVED HIS FELLOW. AND HE [THE OTHER] FELL AND BROKE HIS FOOT. WHEN THE COURT SAW THAT THE MATTER WAS DANGEROUS, THEY ORDAINED THAT THE RIGHT OF CLEARING OFF THE ASHES FROM THE ALTAR SHOULD BE APPORTIONED ONLY BY LOT. THERE WERE FOUR LOTS, AND THIS WAS THE FIRST OF THE FOUR.**

1. **V:1:** There was the case of two who got there at the same time, running up the ramp. One shoved the other [M. 2:1H-I], within four cubits [of the altar]. The other then took out a knife and stabbed him in the heart. R. Sadoq came and stood on the steps of the porch and said, “Hear me, O brethren of the House of Israel! Lo, Scripture says, ‘If in the land which the Lord your God gives you to possess, anyone is found slain, lying in the open country, and it is not known who killed him, then your elders and your judges shall come forth, and they shall measure the distance to the cities which are around him that is slain’ [Deut. 21:1-2]. ‘Come and let us measure to find out for what area it is appropriate to bring the calf – for the Sanctuary, or for the courts!’ All of them moaned after his speech. And afterward the father of the youngster came to them, saying, “O brethren of ours! I am your atonement. His [my] son is still writhing, so the knife has not yet been made unclean.” This teaches you that the uncleanness of a knife is more grievous to Israelites than murder [T. Yoma 1:12A-G].

X. YERUSHALMI YOMA 2:2

[A] **THE SECOND LOT: WHO SLAUGHTERS THE ANIMAL, WHO TOSSES THE BLOOD, WHO CLEARS THE ASHES OFF THE CANDELABRUM, AND WHO BRINGS THE LIMBS UP THE RAMP: THE HEAD, RIGHT HIND-LEG, TWO FORELEGS, RUMP, LEFT HIND-LEG, BREAST, NECK, TWO FLANKS, AND INNARDS; THE FINE FLOUR, THE BAKED CAKES [LEV. 6:21], AND THE WINE.**

1. **I:1:** “[The reason that the labor of the offering was divided among thirteen priests,]” said R. Yohanan, “is to make the matter well known.” “[Along these same lines,]” said Rabbi, “is it not the case that the priest who clears the ashes off the inner altar also can clear the ashes out of the candelabrum? But it is in order to make the matter well known.” There we have learned: He left the oil jar on the second step and went out [M. Tam. 3:9/I]. He took the oil jar from the second step and prostrated himself and went out [M. Tam. 6:1H].
2. **I:2:** On the basis of what scripture are we informed to take the ashes off the inner altar? R. Pedat in the name of R. Eleazar: “[And he shall

take away its crop with the feathers,] and cast it beside the altar on the east side, in the place for ashes' (Lev. 1:16). "Now the reference to 'in the place for ashes' is hardly necessary. For if it were to indicate a place for it, it already is stated, 'beside the altar.' "If it is to teach you that it is to be set at the east side of the ramp, it already is written, 'on the east side.' [Hence the added language indicates that the ashes are removed from the inner altar and set beside the outer altar.]"

3. **I:3:** How do we know that the ash of the inner altar may not be used for the benefit [of the priests]?
4. **I:4:** Zeirah in the name of R. Haninah: "Incense that was smothered [and ceased to smoke] has been spoiled, and that is the case even for large sherds of it. For the reference of the Scripture to 'consuming it,' ['Whereto the fire has consumed the burnt offering on the altar' (Lev. 6:3)] pertains only to the outer altar." "A wick that was smothered [and went out] must be removed with the ashes."
5. **I:5:**[With reference to M. 1:2A: All seven daysÉhe offers up incense, trims the lamps; M. Tam. 3:9: He who had won the right to collect the ash of the inner altarÉhe who had won the right to clean the candlestick entered inÉ; M. Tam. 5:4: He who won the right to offer the incenseÉfollowed, at M. Tam. 5:5A: He who won the right to take up the ashes. Accordingly, the implication is that trimming the lamps came before offering up the incense, while at M. 1:2A, the opposite order is indicated. Accordingly, it is asked:] Here [at M. Tam. 3:9, 5:4] you say that he trims the lamps and then offers incense, while there [at M. Yoma 1:2] you maintain that he offers the incense and then trims the lamps. Said R. Yohanan, "The version at Tamid is that of R. Simeon of Mispeh [who puts the lamp before the incense, while the version at Yoma is that of rabbis, who reverse the order]." Said R. Jacob bar Aha, "Is not the whole of the tractate the teaching of R. Simeon? But matters that pose a problem to rabbis are rendered anonymously in accord with the position of R. Simeon, while the rest of the unassigned statements accord also with the position of rabbis." R. Hezekiah, R. Aha in the name of R. Abbahu: "Tractate Middot belongs to the authority of R. Eliezer b. Jacob." Said R. Yosé b. R. Bun, "But not the whole [of tractate Middot] follows [Eliezer], rather there were problems facing rabbis [who tried to see whether the whole of the tractate accords with his view and found that they could not]."
6. **I:6:** Said R. Yohanan, "There was no lottery for the daily whole-offering at twilight. But they said, 'He who won the right to perform a

given task in the morning whole-offering will retain that right for the evening one.”

7. **I:7:** Said R. Yohanán, “[As to bringing up two logs of wood for the fire on the part of two priests, M. 2:4E, below,] they did not make a decree concerning adding the two pieces of wood at dawn [but only in the evening whole-offering].”

[B] THIRTEEN PRIESTS ACQUIRED THE RIGHT TO PARTICIPATE IN THE SERVICE. [E] SAID BEN AZZAI BEFORE R. AQIBA IN THE NAME OF R. JOSHUA. “IN THE WAY IN WHICH IT WALKED IT WAS OFFERED.”

1. **II:1:** Thirteen priests acquired the right to participate in the service [M. 2:2D]: In this regard it has been taught: There are occasions on which there are fourteen, occasions for fifteen, occasions for sixteen [on the Festival of Tabernacles, on the Sabbath, and on the Sabbath of the Festival of Tabernacles, respectively]. There are not fewer or more than that number. In the normal course of events, there are nine priests. On the Festival of Tabernacles, in the hand of one of the priests there was a flask of water, so, there are ten. When the daily whole-offering is brought at twilight, there will be eleven priests, two of them carrying two pieces of wood in their hands. On the Sabbath there will be eleven. Two of them will bring in their hands two dishes of frankincense, for the show bread, so there are then fourteen [ten plus four]. On the Sabbath that comes within the Festival of Tabernacles, one of the priests will bear in hand a flask of water [M. 2:4C- G]. Accordingly, there are then sixteen [fifteen, according to the present text].
2. **II:2:** “You shall bring it [well mixed in baked pieces like a cereal-offering, and offer it for a pleasing odor to the Lord]” (Lev. 6:21). It is brought prior to the additional offerings. And when it says, “You shall offer [it for a pleasing odor to the Lord]” (Lev. 6:21), the meaning is that it may also be brought after the libation-offering. There is a Tannaite authority who teaches that it is brought prior to the drink-offerings. He who maintains that it is brought prior to the drink-offerings means that it is prior to the drink-offerings of wine. He who holds that it is brought after the drink-offerings refers to the drink-offerings that accompany the fine flour.
3. **II:3:** [With reference to M. 2:2B,] this is how the Mishnah is to be read] [T. cites M. 2:2E:] Said Ben Azzai to R. Aqiba in the name of R. Joshua, “In the way in which it walked, it was offered [M. 2:2E]: the head, the right hind-leg, the breast and throat, the two forelegs, the two flanks, the rump, the left hind-leg” [T. Yoma 1:13C].

XI. YERUSHALMI YOMA 2:3

[A] **THE THIRD LOT: “THOSE WHO ARE NEW TO THE BURNING OF THE INCENSE, COME AND DRAW LOTS. THE FOURTH: “THOSE WHO ARE NEW AND THOSE WHO ARE EXPERIENCED — WHO WILL BRING UP THE LIMBS FROM THE RAMP TO THE ALTAR ITSELF?”**

1. **I:1:** Said R. Haninah, “In the entire history of the lottery no man ever won the lottery for burning the incense and then did so a second time [since only inexperienced priests participate].”

XII. YERUSHALMI YOMA 2:4

[A] **THE DAILY WHOLE-OFFERING WAS OFFERED BY NINE, TEN, ELEVEN, OR TWELVE [PRIESTS], NO LESS, NO MORE. HOW SO? IT ITSELF WAS OFFERED BY NINE [PRIESTS]. ON THE FESTIVAL [OF TABERNACLES], IN THE HAND OF ONE [ADDITIONAL PRIEST] WAS A FLASK OF WATER — THUS TEN. AT DUSK, BY ELEVEN: IT ITSELF BY NINE, AND TWO, WITH TWO PIECES OF WOOD IN THEIR HANDS. AND ON THE SABBATH, BY ELEVEN: IT ITSELF BY NINE AND TWO PRIESTS, WITH TWO DISHES OF FRANKINCENSE FOR THE SHOW BREAD IN THEIR HANDS. AND ON THE SABBATH WHICH COINCIDES WITH THE FESTIVAL [OF TABERNACLES], IN THE HAND OF YET ANOTHER PRIEST WAS A FLASK OF WATER.**

1. **I:1:** “And [Aaron’s sons the priests] shall lay [the pieces, the head, and the fat, in order upon the wood that is on the fire upon the altar]” (Lev. 1:8). [With reference to Lev. 15:25: “(If a woman has a discharge of blood for many) days, (not at the time of her impurity, or if she has a discharge beyond the time of her impurity, all the days of the discharge she shall continue in uncleanness; as in the days of her impurity, she shall be unclean),”] is it possible to suppose that involved are a hundred [days]? Is it possible to suppose that involved are two hundred? [At issue is the number of days involved at Lev. 15:25.] Said R. Aqiba, “In any case in interpreting the law in which you have the choice of imposing either a considerable measure or a small measure, if you impose the larger criterion, you may end up holding on to nothing, while if you impose the smaller criterion [which in any case is encompassed in the larger one], you end up holding on to something. [Accordingly, one should assume the smallest possible number in interpreting a given requirement.]”

[B] A RAM WAS OFFERED BY ELEVEN: THE MEAT BY FIVE, THE INNARDS, FLOUR, AND WINE BY TWO EACH. AN OX WAS OFFERED BY TWENTY-FOUR: THE HEAD AND THE RIGHT HIND-LEG — THE HEAD BY ONE, AND THE RIGHT HIND-LEG BY TWO; THE RUMP AND THE LEFT HIND-LEG — THE RUMP BY TWO, AND THE LEFT HIND-LEG BY TWO; THE BREAST AND THE NECK — THE BREAST BY ONE, AND THE NECK BY THREE; THE TWO FORELEGS BY TWO; THE TWO FLANKS BY TWO; THE INNARDS, THE FINE FLOUR, AND THE WINE BY THREE EACH.

1. **II:1:** [As to M. 2:4H: A ram was offered by eleven.] Three priests can bring it up to the altar. And why is a ram offered by eleven priests?

[C] UNDER WHAT CIRCUMSTANCES? IN THE CASE OF PUBLIC OFFERINGS. BUT IN THE CASE OF AN INDIVIDUAL'S OFFERING, IF [ONE PRIEST] WANTED TO OFFER IT UP [ALL BY HIMSELF], HE OFFERED IT UP. FLAYING AND CUTTING UP BOTH THESE AND THOSE [OFFERINGS] ARE SUBJECT TO THE SAME RULES.

1. **III:1:** [With reference to M. 2:4Q-S, we shall now prove that an ox belonging to an individual may be offered even by six priests:] Interpret the pertinent verse as follows: "And they shall lay out" refers to two priests. "Sons of Aaron" refers to two priests. "The priests" refers to two priests.

XIII. YERUSHALMI YOMA 3:1

[A] THE SUPERVISOR SAID TO THEM, "GO AND SEE WHETHER THE TIME FOR SLAUGHTERING THE SACRIFICE HAS COME." IF IT HAS COME, HE WHO SEES IT SAYS, "IT IS DAYLIGHT!" MATTITHIAH B. SAMUEL SAYS, "[HE SAYS,] 'HAS THE WHOLE EAST GOTTEN LIGHT?'"

1. **I:1:** What is the meaning of "It is daylight"?
2. **I:2:** Is a single witness acceptable [in the procedure described here]? This case is different, for can you not prove [whether or not he is telling the truth, since, one way or the other, the facts become clear momentarily]? But should you not take account of the fact that in the time in which he comes in and goes out, it indeed will become light, [but at the moment at which he said it was light, in fact it was not yet light]? The matter is readily known.

[B] "TO HEBRON?" AND HE SAYS, "YES."

1. **I:1:** [With reference to M. 3:1D:] Why does he ask, "To Hebron"?

XIV. YERUSHALMI YOMA 3:2

[A] AND WHY WERE THEY REQUIRED TO DO THIS? FOR ONCE THE MOONLIGHT CAME UP, AND THEY SUPPOSED THAT THE EASTERN HORIZON WAS BRIGHT, AND SO THEY SLAUGHTERED THE DAILY WHOLE OFFERING AND HAD TO BRING IT OUT TO THE PLACE OF BURNING. THEY BROUGHT THE HIGH PRIEST DOWN TO THE IMMERSION HUT. THIS GOVERNING PRINCIPLE APPLIED IN THE TEMPLE: WHOEVER COVERS HIS FEET [AND DEFECATES] REQUIRES IMMERSION, AND WHOEVER URINATES REQUIRES SANCTIFICATION [THE WASHING] OF HANDS AND FEET.

1. **I:1:** The column of light of the moon rises straight up [like a stick], and the column of light of the sun irradiates over the entire eastern horizon.
2. **I:2:** And R. Hanina said, “From the time of daybreak until the eastern horizon is alight, one can walk four *mils*. From when the eastern horizon is lit up until the sun rises, one can walk four *mils*.”
3. **I:3:** One time R. Hiyya the Elder and R. Simeon b. Halapta were walking in the valley of Arabel at daybreak. They saw that the light of the morning star was breaking forth. Said R. Hiyya the Elder to R. Simeon b. Halapta, “Son of my master, this is what the redemption of Israel is like – at first, little by little, but in the end it will go along and burst into light. “What is the scriptural basis for this view? ‘Rejoice not over me, O my enemy; when I fall, I shall rise; when I sit in darkness, the Lord will be a light to me’ (Mic. 7:8). “So, in the beginning, ‘When the virgins were gathered together the second time, Mordecai was sitting at the king’s gate’ (Esther 2:19). “But afterward: ‘So Haman took the robes and the horse, and he arrayed Mordecai and made him ride through the open square of the city, proclaiming, Thus shall it be done to the man whom the king delights to honor’ (Esther 6:11). “And in the end: ‘Then Mordecai went out from the presence of the king in royal robes of blue and white, with a great golden crown and a mantle of fine linen and purple, while the city of Susa shouted and rejoiced’ [Esther 8:15]. “And finally: ‘The Jews had light and gladness and joy and honor’ (Esther 8:16).”
4. **I:4:** It has been taught: A priest who went out to speak with his fellow – if it was for some time, he has to immerse. If it was for a moment, he has to sanctify hands and feet [cf. T. Yoma 1:16A].

XV. YERUSHALMI YOMA 3:3

- [A] **A PERSON DOES NOT ENTER THE COURTYARD FOR THE SERVICE, EVEN IF HE IS CLEAN, UNLESS HE IMMERSSES. FIVE ACTS OF IMMERSION, AND TEN ACTS OF SANCTIFICATION OF THE HANDS AND FEET, DOES THE HIGH PRIEST CARRY OUT ON THAT DAY. AND ALL OF THEM ARE IN THE SANCTUARY AT THE PARVAH CHAMBER, EXCEPT FOR THIS ONE ALONE.**
- 1. I:1:** This is the way the passage of the Mishnah is to be read: A person does not enter the courtyard and the service, even if he is clean, unless he immerses [M. 3:3A]. [That is to say,] it is not the end of the matter that he comes for the service. But even if it is not for the service, [he still must immerse].
 - 2. I:2:** They asked Ben Zoma, “What is the reason for this immersion?” He said to them, “If he who goes in from one holy area to an other requires immersion, he who enters from a secular area to a holy area all the more so should require immersion!” (Cf. T. Yoma 1:16B-C.) No, there is this question. It may be that, if one goes from one holy area to another holy area, he should not require immersion, while if he goes from an unconsecrated area to a holy area, he should require immersion. [So the proposed argument does not stand.] Said R. Shimi, “This is the proper version: [He said to them] ‘If one who goes in from one holy area to another, a place not subject to the punishment of extirpation, requires immersion, he who enters from an ordinary area to a holy place, which is subject to punishment of extirpation, surely should require immersion’ [T. Yoma 1:16C].”
 - 3. I:3:** It has been taught [in T.’s version:] R. Judah says, “This immersion too was required only because of real dirt. “Sometimes an old source of uncleanness clings to one’s hands. “Because sometimes one is going to immerse [to clean up], he remembers that he is unclean and goes back [immerses and then goes] along” [T. Yoma 1:16D-F]. There we have learned: [He subject to flux who suffered a seminal flux, or a menstruant who discharged semen, or if] a woman had a flow of blood during sexual relations, they must immerse themselves [before they say the Prayer]. R. Judah declares them exempt [from having to do so] [M. Ber. 3:6].

XVI. YERUSHALMI YOMA 3:4

[A] **THEY SPREAD OUT A LINEN SHEET BETWEEN HIM AND THE CROWD. HE TOOK OFF HIS CLOTHES, WENT DOWN, IMMERSSED, CAME UP, AND DRIED OFF. THEY BROUGHT HIM GOLDEN GARMENTS, AND HE PUT THEM ON, AND HE SANCTIFIED HIS HANDS AND FEET. THEY BROUGHT HIM THE DAILY WHOLE-OFFERING. HE CUT [THE WINDPIPE AND GULLET], AND ANOTHER PRIEST COMPLETED THE SLAUGHTERING ON HIS BEHALF. HE RECEIVED THE BLOOD AND TOSSED IT. HE WENT IN TO OFFER UP THE INCENSE-OFFERING OF THE MORNING, TO TRIM THE LAMPS, AND TO OFFER UP THE HEAD AND LIMBS, BAKED CAKES, AND WINE.**

- 1. I:1:** [As to M. 3:4E, he cut the windpipe and gullet,] R. Eleazar in the name of R. Hoshaiyah: “He cut two or the greater part of two [of the organs of the throat, then handed the beast over to another priest].”
- 2. I:2:** It is written, “[A beautiful heifer is Egypt,] but a gadfly from the north has come upon her” (Jer. 46:20). [What is the meaning of the word “come”?] R. Haninah and R. Joshua b. Levi: One said, “It slaughtered her.” The other said, “It removed her.” The one who said that the meaning is “It slaughtered her” draws evidence from this passage: They brought him the daily whole-offering. He cut [the windpipe and gullet] [M. 3:4D-E]. He who maintains that the meaning of the word “come” is that it removed her from her place draws evidence from the following use in Scripture: “I too was formed from a piece of clay” (Job 33:6).

XVII. YERUSHALMI YOMA 3:5

[A] **THE INCENSE-OFFERING OF THE MORNING WAS OFFERED BETWEEN THE TOSSING OF THE BLOOD AND THE OFFERING UP OF THE LIMBS. THAT OF TWILIGHT [WAS OFFERED UP] BETWEEN THE BURNING OF THE LIMBS AND THE DRINK-OFFERINGS.**

- 1. I:1:** With reference to the daily whole-offering, it is written, “One lamb you shall offer in the morning, and the other lamb you shall offer in the evening” (Exod. 29:39). And with reference to the wood-offering, it is written, “The priest shall burn wood on it morning by morning” (Lev. 6:12). Something concerning which morning is stated twice takes precedence over something concerning which morning is stated only one time. [That accounts for M. 3:5A, incense before the limbs, which are compared to wood.]

2. **I:2:** They proposed to rule, Which items make possible the incense-offering? It is the coals [on the fire]. [Nothing else is required for the incense-offering.] Said R. Eleazar, “[That is not the case, for there has to be an ingredient that] makes the smoke rise. [That too is required for the incense-offering.]” With reference to the daily whole-offering, there is reference to twilight, and with regard to the incense-offering, there is reference to twilight. This is in the context of discourse on the lamps. Concerning the lamps, there is reference to their burning from evening to morning [indicating that there is no further act of labor after the lamps have been kindled]. [This indicates that the burning of the incense at twilight is done after the offering of the daily whole-offering of the evening,] for a matter concerning which the language of twilight is used in the context of the kindling of the lamps must be carried out later than a matter concerning which only twilight is mentioned. [This proves the proposition just now stated, namely, that burning of the incense at twilight is done after the daily whole-offerings.] If that is the case, then why should the incense-offerings not follow even the drink-offerings [vs. M. 3:5B]?

[B] IF THE HIGH PRIEST WAS DECREPIT OR INFIRM, THEY HEATED HOT WATER FOR HIM AND Poured IT INTO THE COLD WATER, TO RELIEVE THE CHILL.

1. **II:1:** [With reference to M. 3:5C-D,] it has been taught: R. Judah said, “They prepared bars of iron and boiled them from the eve of the Day of Atonement, and tossed them into the cold water to relieve the chill.” Does this not turn out to extinguish [the heat] on the Day of Atonement?
2. **II:2:** R. Joshua bar Abin, R. Simon in the name of R. Iniani b. Susai:”The reason for the position of this Tannaite authority [behind the cited rule] is that someone should not say, ‘We say the high priest immerses in drawn water [which is not suitable for serving in an immersion pool] on the Day of Atonement,’ [so they would pour the water into the immersion pool while it was yet cold, before it had heated up, since this would indicate that it was surely not drawn water. Then they would pour in hot water and heat up the pool.]”

XVIII. YERUSHALMI YOMA 3:6

[A] THEY BROUGHT HIM TO THE PARVAH CHAMBER, AND IT WAS IN THE SANCTUARY. THEY SPREAD OUT A LINEN SHEET BETWEEN HIM AND THE CROWD. HE SANCTIFIED HIS HANDS AND FEET AND TOOK OFF HIS CLOTHES. R. MEIR SAYS, “HE TOOK OFF HIS CLOTHES, [THEN] SANCTIFIED HIS HANDS AND FEET.” HE

WENT DOWN, IMMERSSED, CAME UP, AND DRIED OFF. THEY BROUGHT HIM WHITE CLOTHES. HE PUT THEM ON AND SANCTIFIED HIS HANDS AND FEET. “AT DAWN HE WOULD PUT ON A GARMENT OF PELUSIUM LINEN WORTH TWELVE MANEHS, AND AT DUSK, HE WORE INDIAN LINEN WORTH EIGHT HUNDRED ZUZ, “ THE WORDS OF R. MEIR. AND SAGES SAY, “AT DAWN HE WOULD PUT ON A GARMENT WORTH EIGHTEEN MANEHS, AND AT DUSK, ONE WORTH TWELVE MANEHS. “IN ALL IT WAS WORTH THIRTY MANEHS.” THESE BELONG TO THE PUBLIC. AND IF HE WANTED TO SPEND MORE, HE COULD DO SO AT HIS OWN EXPENSE.

1. **I:1:** [With reference to M. 3:6C, D], what is the scriptural basis for the position of R. Meir [that the priest takes off his clothes, then sanctifies his hands and feet, as against sages’ reversal of the order of these actions]? “[Then Aaron shall come into the tent of meeting, and] shall put off [the linen garments which he put on when he went into the holy place, and shall leave them there; and he] shall bathe [his body in water in a holy place, and put on his garments, and come forth, and offer his burnt-offering and the burnt-offering of the people, and make atonement for himself and for the people]” (Lev. 16:23-24). [Meir maintains that the requirement is] taking off the garments, sanctifying hands and feet, then washing, then [again] sanctifying hands and feet. What is the scriptural basis for the view of rabbis? “He shall put off [the linen garments] and put on his garments” (Lev. 16:23-24). Scripture compares taking off the garments to putting them on. Just as putting on the garments requires sanctification of hands and feet, so taking them off requires sanctification of hands and feet [as is the specified order at M. 3:6C].
2. **I:2:** [When Scripture says, “He shall be girded with a linen] coat” (Lev. 16:4), the implication is that they should be doubled. [Each gets two.] And this has been established as not in accord with the view of R. Yosé. R. Samuel bar R. Isaac did not go down to the meetinghouse. He met up with R. Zeira. He said to him, “What was new in school today?” He said to him, “[When Scripture says, ‘He shall be girded with a linen] coat’ (Lev. 16:4), the implication is that they should be doubled. And this does not accord with the view of R. Yosé.” For it has been taught: “And for Aaron’s sons you shall make coats [and girdles and caps; you shall make them for glory and beauty]” (Exod. 28:40). Rabbis say, “Two coats for each one.” R. Yosé says, “Even a single coat for each one [not doubled up].”
3. **I:3:** As to utensils of service, at what point do they enter the category of the sacred? Is it forthwith, or only after they have been used? If you say it is forthwith, there are no problems. If you say that it is only after

they have been used, then are they sanctified simultaneously [with their first use]?

4. **I:4:** Stones which one has hewed for the sake of a deceased person may not be used for benefit. If he hewed them both for a living person and for a deceased person, they are permitted for benefit.
5. **I:5:** You turn out to rule: On this day he immerses himself five times and he sanctifies hands and feet ten times [M. 3:3B]: Now how do we know that there are two sanctifications of hands and feet for each immersion [that the high priest undertakes]? Scripture says, “[Then Aaron shall come into the tent of meeting, and] shall put off [the linen garments which he put on when he went into the holy place, and shall leave them there; and he] shall bathe [his body in water in a holy place, and put on his garments, and come forth, and offer his burnt-offering and the burnt-offering of the people, and make atonement for himself and for the people]” (Lev. 16:23-24). [Thus: He shall take off his garments, he shall wash (immerse), and he shall put on his garments.]
6. **I:6:** And is not a second-class garment of Pelusium linen more beautiful than a first-class garment of Indian linen?
7. **I:7:** There was this case: Ishmael b. Phiabi’s mother made for him a tunic worth a hundred manehs. And he would stand and make offerings on the altar wearing it [T. Yoma 1:21]. There was this other case: Eleazar b. Harsom’s mother made for him a tunic for twenty thousand, and he would stand and make offerings on the altar while wearing it. But his brethren, the priests, called him down, because [it was so sheer that] he appeared naked while wearing it [T. Yoma 1:22].

XIX. YERUSHALMI YOMA 3:7

[A] HE CAME OVER TO HIS BULLOCK. NOW HIS BULLOCK WAS SET BETWEEN THE PORCH AND THE ALTAR. ITS HEAD WAS TO THE SOUTH AND ITS FACE TO THE WEST. AND THE PRIEST STANDS AT THE EAST, WITH HIS FACE TO THE WEST.

1. **I:1:** What is [the area to be defined as] the northern [side] of the altar, which is valid for slaughtering Most Holy Things? “[From] the wall of the northern side of the altar to the northern wall of the courtyard, along the face of the entire altar. And this encompasses thirty-two cubits,” the words of R. Meir. R. Eliezer b. R. Simeon adds [the area] from opposite [the space] between the entrance hall to the altar, up to the area opposite the knives’ room [the place in the Temple where the

slaughtering knives were kept]. And this encompasses twenty-two cubits. And Rabbi adds the area in which Israelites have the right to go, eleven cubits in breadth, and eighty-seven in length, and the area in which priests have the right to go, eleven in breadth and one hundred eighty-seven in length, from the surrounding enclosure of the northern wall to the eastern wall of the courtyard. And just as the slaughtering is in the north, so is the receiving of the blood in the north [T. Zeb. 6:1A-E].

2. **I:2:** Said R. Yohanan, “We have not found that the slaughter of a beast in the sacrificial rite is invalid if it is done by a non-priest.”
3. **I:3:** R. Ishmael b. R. Isaac, R. Yohanan in the name of R. Simeon b. Yohai: “The bullock offered on the Day of Atonement requires [the service of] a priest.”

[B] **AND HE PUTS HIS TWO HANDS ON IT AND STATES THE CONFESSION. AND THUS DID HE SAY, “O LORD, I HAVE COMMITTED INIQUITY, TRANSGRESSED, AND SINNED BEFORE YOU, I AND MY HOUSE. O LORD, FORGIVE THE INIQUITIES, TRANSGRESSIONS, AND SINS, WHICH I HAVE DONE BY COMMITTING INIQUITY, TRANSGRESSION, AND SIN BEFORE YOU, I AND MY HOUSE. “AS IT IS WRITTEN IN THE TORAH OF MOSES, YOUR SERVANT, ‘FOR ON THIS DAY SHALL ATONEMENT BE MADE FOR YOU TO CLEAN YOU. FROM ALL YOUR SINS SHALL YOU BE CLEAN BEFORE THE LORD’ (LEV. 16:30).” AND THEY RESPOND TO HIM, “BLESSED IS THE NAME OF THE GLORY OF HIS KINGDOM FOREVER AND EVER.”**

1. **II:1:** [With reference to M. 3:7E,] said R. Haggai, “In the first confession he says, ‘O [holy] Name.’ But in the second confession he pronounces the Name [of the Lord].”
2. **II:2:** It has been taught [in T.’s version]: How does he state the confession? “O Lord, I have committed iniquity, transgressed and sinned before you, I and my house. O Lord, forgive the iniquities, transgressions, and sins, which I have done in committing iniquity, transgression, and sin before you, I and my house, as it is written in the Torah of Moses, your servant, ‘For on this day shall atonement be made for you, to clean you; from all your sins shall you be clean before the Lord’ (Lev. 16:30) [M. 3:7F- G]. “And the high priest further says, ‘[And Aaron shall lay both his hands upon the head of the live goat,] and confess over him all the iniquities of the people of Israel, and all their transgressions, all their sins’ (Lev. 16:21),” the words of R. Meir. And sages say, “‘Iniquities’ – these are those done deliberately. ‘Their transgressions’ – these are acts of rebellion. ‘Their sins’ – these are the misdeeds done inadvertently. “Now after he has

confessed the deliberate iniquities and the acts of rebellion, shall he go back and confess their inadvertent misdeeds as well? “But how does he say the confession? “O Lord, I have committed iniquity, transgressed, and sinned before you....’ And they respond to him, ‘Blessed is the name of the glory of his kingdom for ever and ever’ [M. 3:7F-H]. “For so do we find that it is the way of all those who confess in this way. “David said, ‘Both we and our fathers have sinned; we have committed iniquity, we have done wickedly’ (Ps. 106:6). “Solomon said, ‘We have sinned, we have transgressed, we have done wickedly’ (1 Kings 8:47). “Now what is it that Moses said, ‘Forgiving iniquity, transgression, and sin’ (Exod. 34:7)? “But since he was making confession for deliberate violations of the law and acts of rebellion, it is as if they are deeds done inadvertently before him. “And thus did he confess, ‘I have sinned, I have transgressed, I have done wickedly before you’”[T. Yoma 2:1].

- 3.** **II:3:** Ten times that day he expressed the Divine Name, six in regard to the bullock, three for the goat, and one for the lots [T. Yoma 2:2E]. Those who were nearby would fall on their faces, and those who stood at a distance would say, “Blessed be the Name of his glorious kingdom for ever and ever.” These and those would not move from the spot until he disappeared from their sight. [For] “This is my name for ever” (Exod. 3:15) may be read, “This is my name, which is to be concealed.”

XX. YERUSHALMI YOMA 3:8

[A] HE CAME TO THE EAST SIDE OF THE COURTYARD, TO THE NORTH OF THE ALTAR, WITH THE PREFECT AT HIS RIGHT HAND AND THE HEAD OF THE FATHER’S HOUSE AT THE LEFT. THERE WERE TWO GOATS.

- 1.** **I:1:** What is [the area to be defined as] the northern [side] of the altar, which is valid for slaughtering Most Holy Things? “[From] the wall of the northern side of the altar to the northern wall of the courtyard, along the face of the entire altar. And this encompasses thirty-two cubits,” the words of R. Meir. R. Eliezer b. R. Simeon adds [the area] from opposite [the space] between the entrance hall to the altar, up to the area opposite the knives’ room [the place in the Temple where the slaughtering knives were kept]. And this encompasses twenty-two cubits. And Rabbi adds the area in which Israelites have the right to go, eleven cubits in breadth, and eighty-seven in length, and the area in which priests have the right to go, eleven in breadth and one hundred

eighty-seven in length, from the sw rounding enclosure of the northern wall to the eastern wall of the courtyard. And just as the slaughtering is in the north, so is the receiving of the blood in the north [T. Zeb. 6:1A-E].

2. **I:2:** The prefect [M. 3:8A] served for five purposes: The prefect says to him, “My Lord, high priest, raise your right hand” [M. 4:1D]. The prefect at his right hand, and the head of the father’s house at the left [M. 3:8A]. The prefect waved flags. The prefect held him by the right hand and drew him up. One was not appointed high priest before he had served as prefect.

[B] THERE ALSO WAS A BOX WITH TWO LOTS. THEY USED TO BE OF BOXWOOD, BUT BEN GAMLA MADE THEM OF GOLD. CONSEQUENTLY HE WAS REMEMBERED WITH HONOR. BEN QATIN MADE TWELVE STOPCOCKS FOR THE LAVER, WHICH HAD HAD ONLY TWO. AND HE TOO MADE A MECHANISM FOR THE LAVER, SO ITS WATER SHOULD NOT BE INVALIDATED BY BEING KEPT OVERNIGHT. KING MONOBASES HAD HANDLES MADE OF GOLD FOR ALL THE VESSELS USED ON THE DAY OF ATONEMENT.

1. **II:1:** What is boxwood?
2. **II:2:** [As to Ben Qatin’s twelve stopcocks,] why not arrange spigots one on top of the other [rather than arranging them around the laver]? [And why were twelve needed?] [“The number,]” said R. Jonah, “accords with the day on which the most priests have to work with the daily whole-offering [that is, twelve for the ram].” The spigot on top was set there on the count of a utensil damaged in its greater part [is not regarded as a utensil]. Hence the water in the laver will not be regarded as drawn by a utensil and so unfit.
3. **II:3:** R. Simeon bar Karsena in the name of R. Aha: “The sea was a place of immersion for priests.
4. **II:4:** It is written, “And this was the number of them: thirty basins of gold, a thousand basins of silver, twenty-nine censers” (Ezra I:9). As to the word for basins, R. Samuel bar Nahman said, “It is the place into which they collect the blood of the lamb.” “A thousand basins of silver”: Said R. Simeon b. Laqish, “[The word for basins] means the place in which they gather the blood of the bullocks.” “Twenty-nine censers”: Said R. Simeon, “These are the knives [used for slaughter].”

[C] HELENE, HIS MOTHER, SET A GOLDEN CANDLESTICK OVER THE DOOR OF THE SANCTUARY. SHE ALSO MADE A GOLDEN TABLET, ON WHICH WAS WRITTEN THE PERICOPE OF THE ACCUSED WIFE.

1. **III:1:** Two Amoras – one said, “It was a candelabrum.” The other said, “They were snuffers.”
2. **III:2:** She also made a golden tablet, on which was written the pericope of the accused wife [M. 3:8/I]: so that when the sun rises, sparks of golden light sparkle forth from it, so people know that the sun is rising [T. Yoma 2:3C]. How was the passage written thereon? R. Simeon b. Laqish said in the name of R. Yannai, “It was written only in *alef-bet* [that is, the beginning of the words of the pericope, but not fully spelled out].” And lo it has been taught: In the writing used here, he wrote there [that is, he wrote the scroll and followed the way the scroll’s text was given on the golden tablet], not with thick or with thin but middling letters. [That is, the priest would write the scroll by copying what was on the golden tablet. This then implies that he copied everything out, not merely the beginning letters of each word.] Interpret the passage to mean that he copied an *alef* from the tablet onto the scroll, and so too with a *bet*, and so on. R. Hoshaiiah taught [contrary to the foregoing view], “The entire pericope of the accused wife was completely written out on the scroll. “For from that scroll did he read and interpret all of the details of the pericope.”

[D] AS TO NICANOR, MIRACLES WERE DONE AT HIS DOORS. AND THEY REMEMBERED HIM WITH HONOR.

1. **IV:1:** It has been taught: They say: When Nicanor was bringing them from Alexandria, in Egypt, a gale rose in the sea and threatened to drown them. They took one of them and tossed it into the sea, and they wanted to throw in the other, but Nicanor would not let them. He said to them, “If you throw in the second one, throw me in with it.” He was distressed all the way to the wharf at Jaffa. Once they reached the wharf at Jaffa, the other door popped up from underneath the boat. And there are those who say one of the beasts of the sea swallowed it, and when Nicanor came to the wharf at Jaffa, it brought it up and tossed it onto dry land [T. Yoma 2:4F-G]

XXI. YERUSHALMI YOMA 3:9

[A] BUT THESE [WERE REMEMBERED] DISHONORABLY: THE MEMBERS OF THE HOUSEHOLD OF GARMU DID NOT WANT TO TEACH OTHERS HOW TO MAKE THE SHOW BREAD.

1. **I:1:** The members of the household of Garmu were experts in making show bread and in removing it from the oven, and they did not want to

teach others [how to make it] [M. 3:9B]. Sages sent and brought experts from Alexandria, in Egypt, who were expert in similar matters, but were not experts in removing it from the oven. The members of the house of Garmu would heat the oven on the outside, and it [the loaf of bread] would be removed on the inside. The experts from Alexandria did not do so. And some say this made it get moldy. And when the sages learned of the matter, they said, “The Holy One, blessed be he, created the world only for his own glory, as it is said, ‘Everyone that is called by my name and whom I have created for my glory’ (Isa. 43:7).” They sent for them, and they did not come until they doubled their former salary. “They used to take a fee of twelve manehs every day, and they now went and took a fee of twenty-four,” the words of R. Meir. R. Judah says, “Twenty-four did they take every day, and they now went and took forty-eight manehs.” Said to them sages, “Now why were you unwilling to teach?” They said, “The members of father’s house knew that the Temple is destined for destruction, and they did not want to teach others how to do it, so that they should not be able to do it before an idol in the same way in which they do it before the Omnipresent.” And on account of this next matter they are remembered with honor: For a piece of clean bread was never found in the hands of their sons and daughters under any circumstances, so that people might not say about them, “They are nourished from show bread.” [This was meant to carry out the following verse: “You shall be clear before the Lord and before Israel” (Num. 32:22)] [T. Yoma 2:5].

[B] THE MEMBERS OF THE HOUSEHOLD OF ABTINAS DID NOT WANT TO TEACH OTHERS HOW TO MAKE THE INCENSE. HYGRAS B. LEVI KNEW A LESSON OF SINGING BUT DID NOT WANT TO TEACH IT TO ANYONE ELSE. BEN QAMSAR DID NOT WANT TO TEACH OTHERS HOW TO WRITE. CONCERNING THE FIRST ONES LISTED IS STATED THE FOLLOWING VERSE: “THE MEMORY OF THE JUST IS BLESSED” (PROV. 10:7). AND CONCERNING THESE [LATTER ONES] IS STATED THE FOLLOWING VERSE: “BUT THE NAME OF THE WICKED SHALL ROT.”

1. **II:1:** The members of the house of Abtinas were experts in preparing the incense for producing smoke, [cf. M. 3:9C.] and they did not want to teach others how to do so. Sages sent and brought experts from Alexandria, in Egypt, who knew how to concoct spices in much the same way. But they were not experts in making the smoke ascend as well as the others. The smoke coming from the incense made by the house of Abtinas would ascend straight as a stick up to the beams, and afterward it scattered in all directions as it came down. That of the Alexandrians would scatter as it came down forthwith. Now when the sages realized this, they said, “The Omnipresent has created the world

only for his own glory, as it is said, ‘The Lord has made everything for his own purpose’ (Prov. 16:4).” Sages sent to them [the members of the house of Abtinah], but they declined to come until the sages doubled their wages. “They had been receiving twelve manehs every day, and now they went and got twenty-four,” the words of R. Meir. R. Judah says, “They had been getting twenty-four every day. Now they went and got forty-eight manehs.” Sages said to them, “Now why were you unwilling to teach [others]?” They said to them, “The members of father’s house knew that the Temple is destined for destruction, and they did not want to teach others their art, so that people would not burn incense before an idol in the same way in which they burn incense before the Omnipresent.” And in this next matter, they are remembered for good: A woman of their household never went out wearing perfume at any time. And not only so, but when they would marry into their house hold a woman from some other place, they made an agreement that she not put on perfume, so that people should not say, “Their women are putting on perfume [snatched] from the preparation of the incense for the Temple.” Thus they did to carry out the following verse, “And you shall be clear before the Lord and before Israel” (Num. 32:22) [T. Yoma 2:6].

2. **II:2:** Said R. Yosé, “I came across a child of the house of Abtinah. I said to him, ‘My child, from what family are you?’ He said to me, ‘From such-and-such a family.’ “I said to him, ‘My son, because your fathers wanted to augment their glory and to diminish the glory of Heaven, therefore their glory is diminished and the glory of Heaven is augmented.’”
3. **II:3:** Said R. Aqiba, Simeon b. Luga told me, “A certain child of the sons of their sons and I were gathering grass in the field. Then I saw him laugh and cry. I said to him, ‘Why did you cry?’ He said to me, ‘Because of the glory of father’s house, which has gone into exile.’ I said to him, ‘Then why did you laugh?’ He said, ‘At the end of it all, in time to come, the Holy One, blessed be he, is going to make his descendants rejoice.’ I said to him, ‘What did you see [to make you think of this]?’ He said to me, ‘A smoke-raiser in front of me made me laugh.’ I said to him, ‘Show it to me.’ He said to me, ‘We are subject to an oath not to show it to anyone at all.’” Said R. Yohanan b. Nuri, “One time I was going along the way, and an old man came across me and said to me, ‘I am a member of the house of Abtinah. At the beginning, when the house of father was discrete, they would give to one another their scrolls [containing the prescriptions for frankincense]. Now take it, but be careful about it, since it is a scroll containing a recipe for spices.’ “And when I came and reported the

matter before R. Aqiba, he said to me, ‘From now on it is forbidden to speak ill of these people again’”[T. Yoma 2:7A-C].

4. **II:4:** All of them found an excuse for their actions, except for Ben Qamsar [T. Yoma 2:8G].
5. **II:5:** There we have learned: These are the ones who were appointed to office [in the Temple] [M. Sheq. 5:1]: R. Hezekiah said, “R. Simeon and rabbis: One said, ‘The purpose is to list the suitable men of each generation.’ “The other said, ‘He who lived in that generation listed the suitable men in his generation.’”
6. **II:6:** And in regard to all of them, Ben Zoma would say the following: “Yours will they give you, by your own name will they call you, in your own place will they seat you. There is no forgetfulness before the Omnipresent. No man can touch what is ready for his fellow” [T. Yoma 2:7D].

XXII. YERUSHALMI YOMA 4:1

[A] HE SHOOK THE BOX [WITH THE LOTS] AND BROUGHT UP THE TWO LOTS.

1. **I:1:** It is not the end of the matter [that he shakes] a box, but he may even utilize a basket.

[B] ON ONE WAS WRITTEN, “FOR THE LORD,” AND ON ONE WAS WRITTEN, “FOR AZAZEL.” THE PREFECT WAS AT HIS RIGHT, AND THE HEAD OF THE MINISTERING FAMILY [FATHER’S HOUSE] AT HIS LEFT. IF THE LOT “FOR THE LORD” CAME UP IN HIS RIGHT HAND, THE PREFECT SAYS TO HIM, “MY LORD, HIGH PRIEST, RAISE UP YOUR RIGHT HAND.” IF THE ONE “FOR THE LORD” CAME UP IN HIS LEFT HAND, THE HEAD OF THE MINISTERING FAMILY SAYS TO HIM, “MY LORD, HIGH PRIEST, RAISE UP YOUR LEFT HAND.” HE PUT THEM ON THE TWO GOATS AND SAYS, “FOR THE LORD, A SIN OFFERING.” R. ISHMAEL SAYS, “HE DID NOT HAVE TO SAY ‘SIN-OFFERING,’ BUT ONLY ‘FOR THE LORD.’” AND THEY RESPOND TO HIM, “BLESSED IS THE NAME OF THE GLORY OF HIS KINGDOM FOR EVER AND EVER.”

1. **II:1:** [With reference to M. 4:1B, writing the designation for the goats on slips,] why not bring two threads, one black, one white, and tie the threads on [the goats] and say, “This one is for the Lord, and that one is for Azazel”? Scripture states, “And Aaron shall cast lots upon the two goats, one lot for the Lord, and the other lot for Azazel” (Lev. 16:8). [Accordingly, the procedure is as specified in Scripture.] [That

is,] “One lot for the Lord,” that it be designated that it is for the Lord, “and one lot for Azazel,” that it be designated that it is for Azazel. And why may he not bring two pebbles, one black, one white, and put them on them, and say, “This is for the Lord and that is for Azazel”? Scripture says, “One lot for the Lord,” that it be designated that it is for the Lord, “And one lot for Azazel,” that it be designated that it is for Azazel. Why then may he not simply write on them [the pebbles], saying, “This one is for the Lord, that one is for Azazel”? Scripture says, “One lot for the Lord” – that it bear its own distinctive character, indicating for all time that it is for the Lord. And “One lot for Azazel” – that it bear its own distinctive character, indicating for all time that it is for Azazel. The requirement that there be a clear indication in the lot itself that it serve its purpose indicates that they were incised.

2. **II:2:** When the lots are still in the box, if he touches them, so that they are confused [that is, after the priest has touched one of the lots, if the lots are mixed up], the disposition of the goats is not carried out in accord with its proper requirement. If he touched them after he had taken them up out of the box, and then they were mixed up, the goats have been disposed of in accord with their proper rule. If when he has taken them up, he touched them and they were confused, he would say this: “If the one for the Lord should come up in my right hand, let this one which is on my right be sanctified as holy. If the one for the Lord should come up in my left hand, let this one which is on my left hand be sanctified as holy.” Even if he had said, “If the one for the Lord should come up in my right hand, let this [goat] at my left hand be holy,” it is holy. “If the one for the Lord should come up in my left hand, let this one that is on my right hand be holy,” it is holy. But if he said, “Whether the one of the Lord comes up in my right hand, or whether the one for the Lord comes up in my left hand, let only this one that is on my right hand be holy,” [or,] “let only this one that is on my left hand be holy,” it is not deemed sanctified.
3. **II:3:** Is it possible to suppose that the priest should put two lots on this goat and two lots on that goat? Scripture says, “Lots – one lot for the Lord, and the other lot for Azazel” (Lev. 16:8). Is it possible to suppose that he should put a lot for the Lord and one for Azazel on this one, and one for the Lord and one for Azazel on that one? Scripture says, “A lot.” And is this not the meaning of what was said to begin with? This is what is meant: Is it possible to suppose that once he has placed the lot for the Lord on the goat for the Lord, and the lot for Azazel on the goat for Azazel, he should go and reverse them? Scripture states, “One lot for the Lord,” meaning that here there is only

a single lot for the Lord. “And one lot for Azazel,” meaning that here there is only a single lot for Azazel [and neither may be exchanged for the other].

4. **II:4:** As to the priestly frontispiece, on it was written, “Holy to the Lord.” “Holy” was written below, and “the Lord” was written above.
5. **II:5:** “And Aaron shall cast lots upon the two goats” (Lev. 16:8). If a non-priest did it, it is validly done. And along these same lines, if a non-priest brought up the lots, is it invalid? It is an argument a fortiori [that it should be valid]: If in the case of placing the lots on the goats, in which case Scripture explicitly refers to the sons of Aaron, if a non-priest placed the lots, it is a valid deed, then in the matter of bringing up the lots, in which case Scripture does not refer to the sons of Aaron at all; if a non-priest should bring up the lots, is it not an argument a fortiori that it *should* be valid?
 - a. **II:6:** “One for the Lord” (Lev. 16:8): This serves to encompass the goat that is sent away, subjecting the goat to the rule of invalidation if it is not of the proper age. [That is, the animal for the sin-offering must be of a certain age; both goats must be of that age, so that either one may serve.]
6. **II:7:** The two goats required for the Day of Atonement which one slaughtered outside of the Temple court – there is a Tannaite authority who teaches that he is liable. And there is a Tannaite authority who teaches that he is exempt. “[There is no conflict between these opinions,]” said R. Hisda. “He who maintains that one is liable deals with a case in which the goat which is not to be prepared inside is the one which he has offered up. “The one who maintains that he is exempt speaks of a case in which the man offered up the goat which was to be prepared inside the Temple court.”
7. **II:8:** Bun bar Hiyya asked before R. Zeirah: “If one slaughtered the bullock before he cast lots for the goats, what is the law as to his being liable [for not following the proper order of the rite of the day]?” He said to him, “Let us derive the answer from the following: The bullock is indispensable to the rite of the goat, the goat is indispensable to the rite of the bullock. “That is to say, if one slaughtered the bullock before he cast lots, he is liable. If you say that he is exempt, then the passage should read: “The goat *is not* indispensable to the rite of the bullock.” [If one performed one of the rites of the former after doing a rite connected to the latter, the whole is invalid. Each must be done in proper order in relation to the other.]

XXIII. YERUSHALMI YOMA 4:2

[A] HE TIED A CRIMSON THREAD ON THE HEAD OF THE GOAT WHICH WAS TO BE SENT FORTH, AND SET IT UP TOWARD THE WAY BY WHICH IT WOULD BE SENT OUT. AND ON THAT WHICH WAS TO BE SLAUGHTERED [HE TIED A CRIMSON THREAD] AT THE PLACE AT WHICH THE ACT OF SLAUGHTER WOULD BE MADE [THE THROAT]. AND HE CAME TO HIS BULLOCK A SECOND TIME [M. 3:8A] AND PUT HIS TWO HANDS ON IT AND MADE THE CONFESSION. AND THUS DID HE SAY, “O LORD, I HAVE COMMITTED INIQUITY TRANSGRESSED, AND SINNED BEFORE YOU, I AND MY HOUSE AND THE CHILDREN OF AARON, YOUR HOLY PEOPLE. “O LORD, FORGIVE, I PRAY, THE INIQUITIES, TRANSGRESSIONS, AND SINS WHICH I HAVE COMMITTED, TRANSGRESSED, AND SINNED BEFORE YOU, I, MY HOUSE, AND THE CHILDREN OF AARON, YOUR HOLY PEOPLE, “AS IT IS WRITTEN IN THE TORAH OF MOSES, YOUR SERVANT, ‘FOR ON THIS DAY SHALL ATONEMENT BE MADE FOR YOU TO CLEANSE YOU. FROM ALL YOUR SINS SHALL YOU BE CLEAN BEFORE THE LORD’ (LEV. 16:30).” AND THEY RESPONDED TO HIM, “BLESSED IS THE NAME OF THE GLORY OF HIS KINGDOM FOR EVER AND EVER.”

1. I:1: R. Samuel bar Nahman in the name of R. Jonathan: “There are three threads. The one for the goat is to weigh a *sela*; the one for the mesora is to weigh a *sheqel*; the one for the red cow is to weigh two *selas*.” Said R. Ba bar Zabeda in the name of R. Simeon b. Halapta, “The one for the red cow is to weigh two *selas* and a half.”

XXIV. YERUSHALMI YOMA 4:3

[A] HE SLAUGHTERED IT AND RECEIVED ITS BLOOD IN A BASIN. HE HANDED IT OVER TO HIM WHO WOULD STIR IT WHILE HE WAS STANDING ON THE FOURTH TERRACE OF THE SANCTUARY, SO THAT [THE BLOOD] WOULD NOT CONGEAL. HE TOOK THE FIRE-PAN AND WENT UP TO THE TOP OF THE ALTAR. HE CLEARED OFF COALS TO EITHER SIDE AND SCOOPED UP GLOWING CINDERS FROM BELOW. THEN HE CAME DOWN AND SET IT DOWN ON THE FOURTH TERRACE OF THE COURTYARD.

1. I:1: So the Mishnah is to be read [at M. 4:3B]: On the fourth terrace of the courtyard [rather than the sanctuary].
2. I:2: It has been taught: If one slaughtered the bullock outside, he is liable [since it is supposed to be slaughtered in the courtyard]. If he took the incense inside [rather than in the courtyard], he is exempt. [He

has done it in a more holy place than required, and that does not bring a penalty.]

3. **I:3:** If the priest cleared off the coals, offered up incense, then the blood of the bullock [which he had just slaughtered] poured out, let him bring another bullock and bring its blood in [and flick the blood on the altar]. If before he offered up the incense, the blood was poured out, the act of clearing the ashes is null. He has to clear away the ashes as at the outset. If it is a matter of doubt whether the blood was poured out before he had offered up the incense, or whether it was poured out after he had brought the incense – to bring another bullock and to bring in its blood is something you cannot do, for I say, Before he burned the incense the blood poured out, so that the [original] act of clearing off the ashes was null.
4. **I:4:** If the high priest slaughtered the bullock and then died – what is the law as to someone else’s bringing the blood in? R. Simeon b. Laqish said, “[But thus shall Aaron come into the holy place: with] a young bull’ (Lev. 16:3). But not with blood. [The new high priest has to kill his own bullock and bring in its blood.]” Both R. Haninah and R. Jonathan say, “Even with the blood [of the bullock killed by the recently deceased high priest].”

XXV. YERUSHALMI YOMA 4:4

[A] EVERY DAY HE WOULD SCOOP OUT THE CINDERS WITH A SILVER FIRE- PAN AND EMPTY THEM INTO A GOLDEN ONE. BUT TODAY HE WOULD CLEAR OUT THE COALS IN A GOLD ONE, AND IN THAT SAME ONE HE WOULD BRING THE CINDERS IN[TO THE INNER SANCTUARY]. ON OTHER DAYS HE WOULD CLEAR OUT CINDERS WITH ONE HOLDING FOUR QABS AND EMPTY THAT INTO ONE HOLDING THREE. BUT TODAY HE WOULD CLEAR THEM OUT WITH ONE HOLDING THREE QABS, AND IN THAT SAME ONE HE WOULD BRING THE CINDERS IN[TO THE INNER SANCTUARY]. R. YOSÉ SAYS, “EVERY DAY HE WOULD CLEAR THE CINDERS OUT IN ONE HOLDING A SEAH AND EMPTY IT INTO ONE HOLDING THREE QABS. “BUT TODAY HE WOULD CLEAR THE CINDERS IN ONE HOLDING THREE QABS, AND IN THAT SAME ONE HE WOULD BRING THE CINDERS IN.”

1. **I:1:** This [M. 4:4C] is in line with that which we have learned: About a qab of cinders scattered from [the fire-pan of gold], and he swept them out into the water channel. And on the Sabbath he covered them over with a psykter [T. Tam. 5:5C-D].

[B] **EVERY DAY IT WAS HEAVY. BUT TODAY IT WAS LIGHT. EVERY DAY ITS HANDLE WAS SHORT. BUT TODAY IT WAS LONG.**

1. **II:1:** Every day it was heavy but today it was light [M. 4:4G-H]: so as not to tire him out. Every day its handle was short but today it was long [M. 4:4I]: so as not to tire him out. Every day it did not have a reduced cubit, but today it had a cubit and a half, so that the handle would assist [in lifting the burden]. Every day there was no cover, but today there was a cover, so that it would not go out. But would a cover not be deemed to interpose?

[C] **“EVERY DAY IT WAS OF YELLOW GOLD, BUT TODAY IT WAS OF RED GOLD, “ THE WORDS OF R. MENAHEM.**

1. **III:1:** There are seven kinds of gold: good gold, pure gold, closed gold, gold of Ufaz, refined gold, spun gold, and red gold [M. 4:4L]. “Good gold” is as its name implies: “And the gold of that land is good” (Gen. 2:12). Said R. Isaac, “It is a good thing for him who has it at home, it is a good thing for him who has it [for company] when traveling.” Pure gold – for they put it into the furnace, and it does not lose any of its weight. This accords with that which has been taught: There was the case of the golden candelabrum which Moses made in the wilderness. It had an extra *denar* of gold in it. They put it into the furnace eighty times, and it did not lose any weight [but retained the same weight].

XXVI. YERUSHALMI YOMA 4:5

[A] **EVERY DAY ONE WOULD OFFER UP HALF A MANEH OF INCENSE AT DAWN AND HALF AT DUSK. BUT TODAY HE WOULD ADD HIS TWO HANDFULS [OF INCENSE]. EVERY DAY IT WAS FINE. BUT TODAY IT WAS THE FINEST OF THE FINE. EVERY DAY THE PRIESTS GO UP ON THE EAST SIDE OF THE RAMP AND GO DOWN ON THE WEST. BUT TODAY THE HIGH PRIEST GOES UP RIGHT IN THE MIDDLE OF THE RAMP AND GOES DOWN RIGHT IN THE MIDDLE. R. JUDAH SAYS, “AT ALL TIMES THE HIGH PRIEST GOES UP IN THE MIDDLE AND GOES DOWN IN THE MIDDLE.” EVERY DAY THE HIGH PRIEST SANCTIFIES HIS HANDS AND FEET FROM THE LAVER.**

- 1.I:1: The compound of incense [was made up of] balm, onycha, galbanum, and frankincense, each in the quantity of seventy manehs; myrrh, cassia, spikenard, and saffron, each sixteen manehs by weight; costus, twelve; aromatic rind, three; cinnamon, nine manehs. You turn out to

rule, They weight in all three hundred sixty- five manehs, for the days of the year.

2. **I:2:** It has been taught: If one offered up an olive's bulk of incense outside of the Temple, he is liable [since that bulk is suitable for use on the altar]. If he offered up less than an olive's bulk of incense inside the Temple, he is exempt.
3. **I:3:** "[Incense beaten] small" (Lev. 16:12). Why does Scripture say so? Because Scripture says, "And you shall beat some of it very small, [and put part of it before the testimony in the tent of meeting where I shall meet with you; it shall be for you most holy]" (Exod. 30:36). If so, why is it said "small"? That it should be extremely small. What should he do? He sets aside three *manehs* of it on the eve of the Day of Atonement, and he puts it back into a pestle [and pounds it], so as to fill up his hands with it, so as to carry out the requirement that it be extremely fine.

[B] TODAY HE DOES IT FROM A GOLDEN JUG. R. JUDAH SAYS, "AT ALL TIMES THE HIGH PRIEST SANCTIFIES HIS HANDS AND FEET FROM A GOLDEN JUG."

1. **II:1:** Said R. Jonah, "[As to M. 4:5/I:] That is except for the first act of sanctification [which is done in the laver]." Said R. Yosé, "Even the first act of sanctification of hands and feet [is done from the golden one]."

XXVII. YERUSHALMI YOMA 4:6

[A] "EVERY DAY THERE WERE FOUR STACKS OF WOOD THERE. "BUT TODAY THERE WERE FIVE," THE WORDS OF R. MEIR. R. YOSÉ SAYS, "EVERY DAY THERE WERE THREE, "BUT TODAY THERE WERE FOUR." R. JUDAH SAYS, "EVERY DAY THERE WERE TWO. "BUT TODAY THERE WERE THREE."

1. **I:1:** What is the scriptural basis for the position of R. Meir? "The fire on the altar shall be kept burning on it, it shall not go out" (Lev. 6:12). This refers to an array of wood to keep the fire going. "The priest shall burn wood on it" (Lev. 6:12). This refers to wood for burning up the limbs and parts [of the sacrificial animal]. "And he shall lay the burnt-offering in order upon it" (Lev. 6:12). This refers to the principal array of wood. "And he shall burn on it the fat of the peace-offerings" (Lev. 6:12). This refers to the incense.

2. **I:2:** Said R. Eleazar, “As to the limbs and parts which were not consumed in the evening in the fire, one makes them into a bonfire and burns them by themselves, and doing so overrides the prohibitions of the Sabbath.”
3. **I:3:** How do we know that, on the Day of Atonement, there is a fire [kindled for the burning of incense, rather than taking coals from the available fire for that purpose]? R. Jeremiah in the name of R. Pedat: “[And he shall take a censer full of] coals of [fire from the altar]’ (Lev. 16:12). Why does Scripture add the word ‘fire’? It indicates that the fire is null vis-a-vis the coals, [and hence a new fire has to be kindled].” “Coals of” – is it possible to suppose that they may be smouldering? Scripture says, “fire.” If it emphasizes “fire,” is it possible to suppose that it must be a leaping flame? Scripture says, “coals of fire.” How so? He takes from those that are glowing. And how do we know that the fire is deemed null vis-a-vis the coals [so that a new fire has to be kindled with the coals]? Scripture says, “coals of fire.”
4. **I:4:** Joshua b. Levi said, “The show bread was not invalidated when the tribes made their journeys [in the desert and so dismantled the tabernacle].” R. Yohanan said, “The show bread was invalidated when the tribes made their journeys.” R. Hiyya in the name of R. Joshua b. Levi: “‘As they encamp, so they shall journey’ (Num. 2:17). Just as, when they are in camp, it is not invalidated, so, when they are journeying, it is not invalidated.” R. Ammi in the name of R. Joshua b. Levi: “‘Then the tent of meeting shall set out, with the camp of the Levites in the midst of the camps’ (Num. 2:17). It is as if it is in the midst of the camps [and valid].”

XXVIII. YERUSHALMI YOMA 5:1

[A] THEY BROUGHT THE LADLE AND FIRE-PAN OUT TO HIM. AND HE TOOK HANDFULS [OF INCENSE FROM THE PAN] AND PUT [THE INCENSE] INTO THE LADLE –

1. **I:1:** And has the Mishnah not already stated: He took the fire-pan and went up to the top of the altar [M. 4:3C]? [Why state here: They brought the ladle and fire-pan out to him (M. 5:1A)?] The meaning of the Mishnah passage here is this: the ladle and the dish [for frankincense].
2. **I:2:** What is a ladle? It is a plate [used in general, not the ladle that was a utensil of service]. Said R. Yosé, “That is to say that it was an

unconsecrated utensil. For if you say that a consecrated utensil [was used for the frankincense], something that has been sanctified in a utensil [is itself holy, and it may not be subject to] redemption [at all].”

3. **I:3:** “[And bring it to Aaron’s sons the priests. And he shall take from it] a handful [of the fine flour and oil, with all of its frankincense; and the priest shall burn this as its memorial portion upon the altar, an offering by fire, a pleasing odor to the Lord]” (Lev. 2:2). Is it possible to interpret that statement to require that the priest’s grasp of the meal-offering must be such that the meal comes forth on both sides? Scripture says, “In his hand” [and not exuding out the sides of his hand]. If the requirement is that the handful be in his hand, then is it possible that he should take a handful only with his fingertips? Scripture says, “A handful.” How so? He spreads the palm of his hand over the griddle or the stewing pan, and [he takes a handful], smoothing it down with his fingers from top to bottom.
4. **I:4:** As to the handful [of incense under discussion at M. 5:1B], what is the law on preparing it in a utensil of service, so sanctifying [the substance itself, placing it beyond redemption and later secularization]? As to another [party], what is the law on his taking the handful and placing it into the hand of the high priest? What is the law as to his applying a fixed measure [of volume] for the handful that he takes? Do they measure by the size of all handfuls in general, or do they measure only by his handful [who takes the incense]?

[B] A LARGE ONE IN ACCORD WITH THE LARGE SIZE [OF HIS HAND], OR A SMALL ONE IN ACCORD WITH THE SMALL SIZE [OF HIS HAND], SUCH WAS THE REQUIRED MEASURE [OF THE LADLE]. **HE TOOK THE FIRE-PAN IN HIS RIGHT HAND AND THE LADLE IN HIS LEFT. HE THEN WALKED THROUGH THE SANCTUARY, UNTIL HE CAME TO THE SPACE BETWEEN THE TWO VEILS WHICH SEPARATE THE HOLY PLACE FROM THE MOST HOLY PLACE:**

1. **II:1:** A large one in accord with the large size of his hand [M. 5:1C]: Even in accord with that of Ben Qimhit, whose hand could hold four *qabs*. Or a small one in accord with the small size of his hand [M. 5:1C]: Even in accord with that of Ben Gamala, whose hand would hold only about two olive’s bulks.
2. **II:2:** As to a non-priest’s transporting the blood, what is the law on the act’s being deemed valid? Hezeqiah said, “If a non-priest transports the blood, it is valid.” R. Yannai said, “If a non-priest transports the blood, it is invalid.”

3. **II:3:** All concur that if he brought the objects in one by one, he has effected atonement. But he is liable on the count of entering into the inner sanctum more often than is required. For which one of these actions is he liable? [On account of the former, or on account of the latter?] Associates say, “On account of the latter.” Said to them R. Yosé, “One says to him, ‘Bring [in the ladle and fire-pan,] so the first act of bringing in is the principal one], and yet you say, ‘For the latter’? “But we must interpret the matter to apply to the former [of the two bringing-ins].”

[C] **AND THE SPACE BETWEEN THEM WAS A CUBIT. R. YOSÉ SAYS, “THERE WAS ONLY A SINGLE VEIL THERE ALONE, SINCE IT SAYS, ‘AND THE VEIL SHALL DIVIDE FOR YOU BETWEEN THE HOLY PLACE AND THE MOST HOLY PLACE’ (EXOD. 26:33).”**

1. **III:1:** And the space between them was a cubit [M. 5:1G]: Said R. Hila, “There is an indication of the matter in that which we have learned there: The dividing space was one cubit, and the Holy of Holies twenty cubits [M. Mid. 4:7]: “What is the meaning of “The dividing space was one cubit?” R. Jonah of Bosra said, “[It comes from a Greek word for confusion, that is,] it created confusion: What is it? Inside? Outside?”

XXIX. YERUSHALMI YOMA 5:2

[A] **THE OUTER [VEIL] WAS LOOPED UP AT THE SOUTH. AND THE INNER ONE AT THE NORTH. HE WALKS BETWEEN THEM UNTIL HE REACHES THE NORTHERN SIDE. [WHEN] HE HAS REACHED THE NORTHERN SIDE, HE TURNS AROUND TO WARD THE SOUTH, WALKS ALONG WITH THE CURTAIN AT HIS LEFT UNTIL HE HAS REACHED THE ARK. [WHEN] HE HAS REACHED THE ARK, HE PLACES THE FIRE-PAN BETWEEN THE TWO BARS [EXOD. 25:12]. HE PILED UP THE INCENSE ON THE COALS, SO THAT THE WHOLE HOUSE WAS FILLED WITH SMOKE. HE CAME OUT, GOING ALONG BY THE WAY BY WHICH HE HAD GONE IN.**

1. **I:1:** It has been taught: “He would enter from the candelabrum, moving to the south,” the words of R. Meir. R. Yosé says, “He would enter from the table, moving to the north.” There is a Tannaite authority who teaches: He would enter from the golden altar to the candelabrum. He walks between them until he reaches the northern side [M. 5:2]. He pushes the veil aside with his elbows so that the veil will not catch fire. When he has reached the northern side, he turns around toward the south, and he would step backward, so as not to appear to pace between the bars.

[B] AND HE SAID A SHORT PRAYER IN THE OUTER AREA.

- 1. II:1:** This was the prayer of the high priest on the Day of Atonement, when he left the holy place whole and in one piece: “May it be pleasing before you, Lord, our God of our fathers, that [a decree of] exile not be issued against us, not this day or this year, but if a decree of exile should be issued against us, then let it be exile to a place of Torah. “May it be pleasing before you, Lord, our God and God of our fathers, that a decree of want not be issued against us, not this day or this year, but if a decree of want should be issued against us, then let it be a want of [the performance of] religious duties. “May it be pleasing before you, Lord, our God and God of our fathers, that this year be a year of cheap food, full bellies, good business; a year in which the earth forms clods, then is parched so as to form scabs, and then moistened with dew, “so that your people, Israel, will not be in need of the help of one another. “And do not heed the prayer of travelers [that it not rain].”

[C] HE DID NOT PROLONG HIS PRAYER, SO AS NOT TO FRIGHTEN THE ISRAELITES.

- 1. III:1:** There was the case of one high priest who prolonged his prayer, so they decided to go in after him. They say it was Simeon the Righteous. They said to him, “Why did you take so long?” He said to them, “I was praying for the sanctuary of your God, so that it should not be destroyed.” They said to him, “Even so, you should not have prolonged your prayer.” For forty years Simeon the Righteous served as high priest. In the final year, he said to them, “This year I am going to die.” They said to him, “How do you know?” He said to them, “Every year when I entered the house of the Holy of Holies, an old man dressed in white and cloaked in white went in with me and came out with me. This year he went in with me but he did not come out with me.”

XXX. YERUSHALMI YOMA 5:3

[A] ONCE THE ARK WAS TAKEN AWAY, THERE REMAINED A STONE FROM THE DAY OF THE EARLIER PROPHETS, CALLED SHETIYYAH. IT WAS THREE FINGERBREADTHS HIGH. AND ON IT DID HE PUT [THE FIRE-PAN].

- 1. I:1:** It has been taught: Before the ark was removed, he would go in and go out by the light of the ark. Once the ark was removed, he would have to feel his way in and feel his way out.

2. **I:2:** Said R. Yohanan, “Why was it called ‘Shetiyyah’? For from it the world was founded.” R. Hiyya taught, “Why was it called ‘Shetiyyah’? For from it the world was given water to drink.”

XXXI. YERUSHALMI YOMA 5:4

[A] HE TOOK THE BLOOD FROM THE ONE WHO HAD BEEN STIRRING IT. HE [AGAIN] WENT INTO THE PLACE INTO WHICH HE HAD ENTERED AND AGAIN STOOD ON THE PLACE ON WHICH HE HAD STOOD. THEN HE SPRINKLED SOME [OF THE BLOOD], ONE TIME UPWARD AND SEVEN TIMES DOWNWARD. BUT HE DID NOT INTENTIONALLY TOSS IT UPWARD OR DOWNWARD. BUT [HE DID IT] LIKE ONE WHO CRACKS A WHIP. AND THUS DID HE COUNT: “ONE, ONE AND ONE, ONE AND TWO, ONE AND THREE, ONE AND FOUR, ONE AND FIVE, ONE AND SIX, ONE AND SEVEN.” HE WENT OUT AND HE SET DOWN [THE BOWL OF BLOOD] ON THE GOLDEN STAND IN THE SANCTUARY. THEY BROUGHT HIM THE GOAT. HE SLAUGHTERED IT AND RECEIVED ITS BLOOD IN A BASIN. HE WENT INTO THAT SAME PLACE INTO WHICH HE HAD ENTERED, AND STOOD ON THAT SAME PLACE ON WHICH HE HAD STOOD. AND HE SPRINKLED SOME [OF THE BLOOD], ONE TIME UPWARD AND SEVEN TIMES DOWNWARD. BUT HE DID NOT INTENTIONALLY SPRINKLE UPWARD OR DOWNWARD. BUT HE [DID IT] LIKE ONE WHO CRACKS A WHIP. AND THUS DID HE COUNT: “ONE, ONE AND ONE, ONE AND TWO,” ETC. HE WENT OUT AND HE SET IT ON THE SECOND STAND WHICH WAS IN THE SANCTUARY. R. JUDAH SAYS, “THERE WAS ONLY ONE STAND THERE ALONE. “HE TOOK THE BLOOD OF THE BULLOCK AND SET DOWN THE BLOOD OF THE GOAT IN ITS PLACE,” AND SPRINKLED SOME OF IT ON THE VEIL TOWARD THE ARK OUTSIDE. [HE SPRINKLED SOME OF THE BLOOD] ONE TIME UPWARD AND SEVEN TIMES DOWNWARD. BUT HE DID NOT INTENTIONALLY SPRINKLE UPWARD OR DOWNWARD. BUT HE DID IT LIKE ONE WHO CRACKS A WHIP. AND THUS DID HE COUNT: “ONE, ONE AND ONE, ONE AND TWO,” ETC. HE TOOK THE BLOOD OF THE GOAT AND SET DOWN THE BLOOD OF THE BULLOCK, AND HE SPRINKLED SOME OF IT ON THE VEIL TOWARD THE ARK, ON THE OUTSIDE OF THE VEIL, ONE TIME UPWARD AND SEVEN TIMES DOWNWARD. BUT HE DID NOT INTENTIONALLY SPRINKLE UPWARD OR DOWNWARD. BUT HE DID IT LIKE ONE WHO CRACKS A WHIP. AND THUS DID HE COUNT: “ONE, ONE AND ONE, ONE AND TWO,” ETC.

1. **I:1:** What is the meaning of like one who cracks a whip [M. 5:4E]?
2. **I:2:** [Why does he not count to eight?] Said R. Yohanan, “It is so that he will not make a mistake.”
3. **I:3:** It is written, “Sprinkling it upon the mercy seat [and before the mercy seat]” (Lev. 16:15). Is it possible to suppose that it is sprinkled

on its roof? Scripture states, “And before the mercy seat.” Is it possible to suppose that it is to be on its brow? Scripture states, “UponÉand beforeÉ”

4. **I:4:** R. Zeirah said, “[The flicked blood] has to touch [the mercy seat].” R. Samuel bar R. Isaac said, “It does not have to touch it.”
5. **I:5:** “And he shall sprinkle it with his finger on the front of the mercy seat” (Lev. 16:14, for the blood of the bull, and Lev. 16:15, for the blood of the goat). This teaches that he puts one of the drops of blood above. “And before the mercy seat” (Lev. 16:14, 15). I do not know how many there should be. Lo, I reason as follows: Putting the blood is required for the bullock of the high priest, below, and putting the blood is stated with respect to the goat, also below. Just as tossing the blood is stated with regard to the bullock, indicating it is to be tossed below seven times, so the placing of the blood stated with regard to the goat is to be done below, seven times. Or perhaps you should argue in this way: Placing blood above is required, and placing blood below is required. Just as placing the blood above demands a single drop of blood, so placing the blood below should require a single drop of blood. Let us then determine the appropriate parallel. One should derive the rule governing placing the blood below by analogy to other rules governing placing the blood below, and one should not derive the rule governing placing the blood below from the rule governing placing the blood above. Or perhaps one should reason in this way: Derive the rule governing the disposition of the blood of the goat from other rules governing the disposition of the blood of the goat, and do not derive the rule governing the disposition of the blood of the goat from the rule governing the disposition of the blood of the bullock. Scripture actually states, “And do with [the goat’s] blood as he did with the blood of the bull” (Lev. 16:15). Just as the blood of the bullock is sprinkled below seven times, so the blood of the goat is sprinkled below seven times. And I do not know how much of the blood of the bullock is to be placed above. Placing the blood is stated with regard to the goat, above, and placing the blood is stated with regard to the bullock, above. Just as placing the blood stated with regard to the goat is done above, one time, so placing the blood with regard to the bullock, above, is to be done one time. Or perhaps one should reason in this way: The requirement of placing the blood below is stated, and the requirement of placing the blood above is stated. Just as placing the blood below is to be done seven times, so when placing the blood above is stated, it means it is to be done seven times. Let us then determine the appropriate analogy. They derive the rule governing placing the blood above from other rules governing placing the blood

above, and they do not derive the rule for placing the blood above from that governing placing the blood below. Or take the following route: They derive the rule governing the disposition of the blood of the bullock from the rule governing the disposition of the blood of the bullock, and they should not derive the rule governing the disposition of the blood of the bullock from the rule governing the disposition of the blood of the goat. Scripture states, “And do with [the goat’s] blood just as he did with the blood of the bull” (Lev. 16:15). This means that all of the rites pertaining to the two of them should be exactly the same. Just as the blood of the bullock is tossed below seven times, so the blood of the goat is tossed below seven times. Just as the blood of the goat is tossed above one time, so the blood of the bullock is tossed above one time.

6. **I:6:** “Thus he shall make atonement [for] the holy place” (Lev. 16:16). The meaning is that he has to aim his tossings of the blood at the holy place.
7. **I:7:** [With reference to Lev. 16:18:”Then he shall go out to the altar which is before the Lord and make atonement for it and shall take some of the blood of the bull and [some] of the blood of the goat and put it on the horns of the altar round about” (= M. 5:4CC):] said R. Nehemiah, “Since we find it stated with regard to the bullock that is brought because of violation in error of ‘any of the commandments,’ (Lev. 4:1ff), that the priest stands outside the altar and sprinkles the blood toward the curtain, when he sprinkles, it is possible to suppose that here too the priest does the same. “Accordingly, Scripture states, ‘which is before the Lord.’” And where was it? It was on the inner side of the altar. Or perhaps the reference is only to the outer altar? Scripture states, “which is before the Lord.” Lo, it speaks only of the inner altar.
8. **I:8:** All concur in the case of the bullock of the anointed priest and of the community [mentioned at Lev. 4:1ff.] that it is not necessary that the blood actually reach [the altar]. Where there is a dispute it concerns the bullock and the goat offered on the Day of Atonement. There is a Tannaite authority who teaches that it has to reach [the spot]. There is a Tannaite authority who teaches that it does not have to reach [the spot]

[B] THEN HE EMPTIED THE BLOOD OF THE BULLOCK INTO THE BLOOD OF THE GOAT, AND Poured THE CONTENTS OF THE FULL BASIN INTO THE EMPTY ONE. AND HE WENT OUT TOWARD THE ALTAR WHICH IS BEFORE THE LORD” (LEV. 16:18). THIS REFERS TO THE GOLDEN ALTAR.

1. **II:1:** [With reference to M. 5:4BB:] If one poured the contents of a sanctified utensil into an unsanctified utensil, he has invalidated what he poured. Lo, if he should pour the contents of a sanctified utensil into another sanctified utensil, he has not invalidated [what he has poured].

2. **II:2:** How do we know that one has to mix [the blood of the bullock and the goat, M. 5:4BB]? Scripture states, “And he shall take some of the blood of the bull and of the blood of the goat and put it on the horns of the altar round about” (Lev. 16:18). That applies when they are mixed together. Is it possible to suppose that he sprinkles the blood of this one by itself and that one by itself? Scripture states, “Aaron shall make atonement upon its horns once a year; [with the blood of the sin-offering of atonement he shall make atonement for it once in the year throughout your generations; it is most holy to the Lord]” (Exod. 30:10). One time in a year he effects atonement, and he does not effect atonement two times a year. Or may we say: He utilizes the blood of a bullock one time in the year and not two times in the year?

3. **II:3:** If one received the blood of the bullock in three separate cups, and the blood of the goat in three separate cups, with the plan of putting blood from one of them on the projections, one on the veil, and one on the golden altar, which one is he supposed to pour into the other [for pouring on the altar in line with M. 5:4BB]? And does a man give thought to carrying out the atonement only by halves [that he collected just enough blood in each cup by itself for the stated tasks, and not enough for taking care of the altar as well]? Rather, this is how the matter is to be phrased: If one has received the blood of the bullock in three cups and the blood of the goat in [the same] three cups, intending to place the blood from one of the cups on the projections, from one of the cups on the veil, and from one of the cups on the golden altar – which one of them is he supposed to pour out [in line with M. 5:4BB]?

XXXII. YERUSHALMI YOMA 5:5

[A] HE BEGAN TO PURIFY [THE ALTAR] [BY SPRINKLING THE BLOOD] IN A DOWNWARD GESTURE. FROM WHAT POINT DOES HE START? FROM THE NORTHEASTERN CORNER, THEN TO THE NORTHWESTERN, SOUTHWESTERN, AND SOUTHEASTERN ONES. AT THE PLACE AT WHICH HE BEGINS IN THE PROCESS OF PURIFICATION ON THE OUTER ALTAR, AT THAT POINT DOES HE COMPLETE DOING THE SAME AT

THE INNER ALTAR. **R. ELIEZER SAYS, “HE STOOD RIGHT WHERE HE WAS AND PURIFIED [THE ALTAR BY SPRINKLING THE BLOOD OF PURIFICATION].” AND AT EVERY ONE HE SPRINKLED THE HORN FROM BELOW TO ABOVE, EXCEPT FOR THIS ONE WHICH WAS BEFORE HIM, ON WHICH HE WOULD SPRINKLE [THE BLOOD] FROM ABOVE TO BELOW.**

- 1. I:1:** Why should he not start [the purification process] at the southeastern corner of the altar [rather than at the northeastern corner]? [This would allow the same pattern to apply both to the outer altar and to the inner altar.] Said R. Hila, “[He has to go around the altar starting by making] a right [turn as he proceeds up the ramp, and the southeastern corner is not] at the right [as he ascends].” And let him then start at the northwestern corner [instead of the northeastern one]? [That is the first corner he hits.] Said R. Eleazar, ““Then he shall go out to the altar”” (Lev. 16:18).
- 2. I:2:** It has been taught: R. Eliezer says, “He stood right where he was and purified the altar by sprinkling the blood of purification.” And at every one he sprinkled the horn from below to above, except for this one which was before him crosswise, on which he would sprinkle the blood from above to below [M. 5:5E-H; T. Yoma 3:1H-I].

XXXIII. YERUSHALMI YOMA 5:6

[A] HE TOSSED THE BLOOD ON THE TOP OF THE ALTAR SEVEN TIMES. THEN DID HE POUR OUT THE RESIDUE OF THE BLOOD [USED ON THE INNER ALTAR] ONTO THE WESTERN BASE OF THE OUTER ALTAR. AND THAT [THE RESIDUE OF THE BLOOD SPRINKLED ON] THE OUTER ALTAR HE POURED OUT ON THE SOUTHERN BASE. THE TWO STREAMS OF BLOOD THEN MINGLED TOGETHER IN THE [FLOW OF THE] SURROUNDING CHANNEL AND FLOWED DOWN INTO THE QIDRON BROOK.

- 1. I:1:** And he will sprinkle Éupon itÉ” (Lev. 16:19): [He did not sprinkle it] on the dust or on the coals, [but only on the top surface of the altar] [T. Yoma 3:2B].
- 2. I:2:** [With reference to M. Tam. 2:5: They selected from there fine pieces of fig wood with which to lay out the second altar fire, the one for the incense, toward the southwestern corner, four cubits to the north of the corner. On weekdays they took sufficient wood to produce an amount of five seahs of cinders, and on the Sabbath, sufficient for an amount of eight seahs of cinders. For there did they place the two dishes of frankincense which accompany the show bread. Why did they set up that fire on the southwestern corner?] R. Yosé said, “This is

the reason. “Whatever is taken from outside to be put inside is taken from the place nearest the inside [altar], “and whatever is to go from inside and to be placed outside is placed on the spot nearest to the inside [as well]. [That is, whatever is taken from within to be placed outside is taken as near as possible to the inner altar] [T. Yoma 3:7A-B].

3. **I:3:** “And all the remaining blood of the bullock he shall pour out at the base of the altar” (Lev. 4:7). This serves to encompass the bullock of the Day of Atonement, the blood of which is to be poured out [thus the rule at M. 5:6B].
4. **I:4:** “And when he has made an end of atoning for the holy place [and the tent of meeting and the altar, he shall present the live goat]” (Lev. 16:20). [With reference to M. 5:7, below,] there is a Tannaite authority who teaches: If he has made an end, then he has atoned. And there is a Tannaite authority who teaches: If he has atoned, he has made an end. [Cf. T. Yoma 3:8].
5. **I:5:** It has been taught: Said R. Ishmael, “[With reference to Lev. 4:7: ‘And all the remaining blood of the bullock shall he pour out at the base of the altar,’] now if the residue of the blood of a sin-offering, which does not effect atonement, is placed at the foundation of the altar, the [two placings of blood which constitute] the beginning of the burnt-offering, which do effect atonement – is it not logical that these should be placed at the foundation of the altar?” Said to him R. Aqiba, “No. If you have made that statement with regard to the residue of the blood of the sin-offering, which does not effect atonement and is not suitable to effect atonement, so that these are placed at the foundation of the altar, the [two placings of blood which constitute] the beginning of the burnt-offering, which do effect atonement and which are suitable to effect atonement – is it not logical that these should be placed at the foundation of the altar?”

[B] THEY ARE SOLD TO GARDENERS FOR FERTILIZER. AND THE LAW OF SACRILEGE APPLIES TO THEM [UNTIL THE SALE].

1. **II:1:** [With reference to M. 5:6E,] it has been taught: “The laws of sacrilege apply to the blood,” the words of R. Meir and R. Simeon. And sages say, “The laws of sacrilege do not apply to the blood,” [T. Zeb. 6:9B-C] [= M. 5:6E].

XXXIV. YERUSHALMI YOMA 5:7

[A] THE ENTIRE RITE OF THE DAY OF ATONEMENT STATED IN ACCORD WITH ITS PROPER ORDER — IF [THE HIGH PRIEST] DID ONE PART OF THE RITE BEFORE ITS FELLOW — , HE HAS DONE NOTHING WHATSOEVER. [IF FOR INSTANCE] HE TOOK CARE OF THE BLOOD OF THE GOAT BEFORE THE BLOOD OF THE BULLOCK, LET HIM GO AND SPRINKLE SOME OF THE BLOOD OF THE GOAT AFTER HE HAS SPRINKLED THE BLOOD OF THE BULLOCK. AND IF BEFORE HE HAD COMPLETED THE ACTS OF PLACING THE BLOOD ON THE INNER ALTAR, THE BLOOD WAS POURED OUT, LET HIM BRING OTHER BLOOD AND GO AND SPRINKLE IT TO BEGIN WITH ON THE INNER ALTAR [M. 5:3- 4]. AND SO [IS THE RULE] IN THE CASE OF THE SANCTUARY [M. 5:5], AND SO IN THE CASE OF THE GOLDEN ALTAR [M. 5:5]:

1. **I:1:** It has been taught: Said R. Judah, “Under what circumstances? “In the case of deeds done inside, while the high priest is wearing white garments. “But as to things done outside, while the high priest is wearing golden garments, “even if he did one deed before its fellow, “or repeated any one of all the rites, “what he has done is done” [T. Yoma 3:4]. And sages say, “Even in regard to things done outside, while the high priest is wearing golden garments,” if he did one deed before its fellow, “he has done nothing at all [and has to repeat the rite].”
2. **I:2:** Hoshaiiah in the name of R. Epes: “[When, at Y. 4:1, it is said, ‘The rite of the goat is not indispensable to the rite of the bullock as to the placing of the blood between the bars projecting from the ark is concerned, but as to the placing of the blood on the veil, the rite of the goat is indispensable to the bullock,’] that refers to the placing of the blood on the projections. But as to the placing of the blood on the veil, the goat is indispensable to the bullock. [That is, one must have placed the blood of the goat on the area between the bars projecting from the ark before he puts the blood of the bullock on the veil (Y. 4:1).]” [Rejecting the view that the goat is indispensable in all regards,] said R. Eleazar, “If one put some of the blood of the bullock on the projections of the ark and on the veil, and afterward slaughtered the goat, that which was done first is still valid.” Said R. Yosé, “[If the priest put some of the bullock’s blood on the projections, but not on the veil, the goat not having been slaughtered yet, and then he slaughtered the goat, and had blood of the goat and of the bullock in cups,] if the blood of the bullock and the blood of the goat, lying in the cup, poured out, is it possible that he may not bring another bullock [and toss its blood on the veil, and that that act is not] valid? [Of course it is valid!] “What, then, is the difference between that

procedure, in which he slaughtered the goat prior to putting the blood of the bullock on the veil, and this one, in which he slaughtered the goat after putting the blood of the bullock on the veil? [In both cases he has to bring another bullock and slaughter it properly. The rule, then, is not as you maintain, that if he slaughtered the goat after he put the blood of the bullock on the veil, the procedure is valid.]”

[B] FOR EACH OF THEM CONSTITUTES AN ACT OF ATONEMENT UNTO ITSELF [AND NEED NOT BE REPEATED]. R. ELEAZAR AND R. SIMEON SAY, “FROM THE PLACE AR WHICH HE BROKE OFF, FROM THERE HE BEGINS ONCE MORE.”

- 1. II:1:** [As to M. 5:7G, H, under dispute is the rule governing putting the blood on the inner altar, M. 5:7D, the sanctuary, and the golden altar, M. 5:7F. Thus we have three locations on which the blood is to be tossed. Now the rite has been interrupted. How do we proceed? Since rabbis see each such placing of the blood as an individual act of atonement, rather than regarding the three of them as a continuous process], rabbis say that the three acts [individually – one at each location –] may be valid, or the three invalid [without affecting one another]. [That is why one takes up the rite at which he was interrupted and begins again to put the blood required for that rite on the specified location.] [Rejecting this view, Eleazar and Simeon do not see each act of placing blood as individual, nor do they maintain that each place is treated out of relationship with the other two. Rather, each time the blood is placed at each place is in relationship with all others. How many are these? For the blood of the bullock, one above the red line on the altar and seven below, in the inner altar; for the blood of the goat, the same, so sixteen; so too for the outer altar, eight from the blood of the bullock, eight from the blood of the goat, so another sixteen, now thirty- two drops of blood; four drops of blood on the horns of the golden altar, and seven on the top of the altar, so eleven more, and, accordingly,] R. Eleazar and R. Simeon say, “Forty-three serve to validate, and forty-three serve to invalidate.”
- 2. II:2:** Said R. Eleazar, “If one put on the altar part of the required placings of blood, and then the blood poured out, they bring other [blood] in their stead.” If blood deriving from this source and blood deriving from that source [namely, the bullock, the goat] were poured out, this was done properly. [What is at issue?] At issue is a case in which one of the beasts has been subjected to a cause of invalidation. [The issue is whether or not the other beast is affected by it. If the blood is poured out as it should be, then the residue of the blood of the properly slaughtered beast is poured onto the foundation, and the second is poured into the gutter, as is blood of invalidly sacrificed

beasts in general. The former is not affected by the invalidity of the latter.]

XXXV. YERUSHALMI YOMA 6:1

[A] THE TWO GOATS OF THE DAY OF ATONEMENT – THE RELIGIOUS REQUIREMENT CONCERNING THEM IS THAT THE TWO OF THEM BE EQUIVALENT IN APPEARANCE, HEIGHT, AND VALUE, AND THAT THEY BE PURCHASED SIMULTANEOUSLY. BUT EVEN THOUGH THEY ARE NOT EQUIVALENT [IN THESE REGARDS], THEY ARE VALID. [IF] ONE PURCHASED ONE THIS DAY AND THE OTHER ONE THE NEXT, THEY ARE VALID.

1.I:1: The smallest number of goats [Lev. 16:5: “two male goats for a sin-offering”] is two. Why then does Scripture specify “two”? To indicate that the two of them should be equivalent to one another. The smallest number of lambs [Lev. 14:10] is two. Why then does Scripture specify “two”? To indicate that the two of them should be equivalent to one another. The smallest number of birds is two. Why then does Scripture specify “two” [“two living clean birds,” Lev. 14:4]? To indicate that the two of them should be equivalent to one another. The smallest number of trumpets is two. Why then does Scripture specify “two”? To indicate that the two of them should be equivalent to one another.

2. I:2: If the two goats are equivalent in the price paid for them, but in fact are not equivalent in value [one being finer than the other], the goats do not accord with the religious requirement affecting them [M. 6:1B]. If the two goats are equivalent in value, but are not equivalent in the money paid for them, the two goats do accord with the religious requirement affecting them. If one of them is excellent in body, and the other excellent in appearance, which of the two takes precedence?

[B] IF ONE OF THEM DIED, IF BEFORE THE CASTING OF THE LOTS IT DIED, LET [THE PRIEST] PURCHASE A MATE FOR THE SURVIVOR. BUT IF AFTER THE CASTING OF THE LOTS IT DIED, LET ONE GET ANOTHER MATE AND CAST LOTS FOR THEM AS AT THE OUTSET. AND HE SAYS, “IF THE ONE BELONGING TO THE LORD DIED, THEN THIS ONE UPON WHICH THE LOT ‘FOR THE LORD’ HAS COME UP IS TO STAND IN ITS STEAD. “AND IF THE ONE WHICH WAS FOR AZAZEL HAS DIED, THIS ONE UPON WHICH THE LOT ‘FOR AZAZEL’ HAS COME UP WILL STAND IN ITS STEAD.” AND THE SECOND ONE IS TO BE PUT OUT TO PASTURE UNTIL IT IS BLEMISHED, AND THEN IT IS SOLD, AND THE MONEY RECEIVED FOR IT IS TO FALL TO A FREEWILL-OFFERING.

1. **II:1:** This is the point of the Mishnah [M. 6:1F-H]: Let him bring the two and cast lots over them as at the outset [M. 6:1 G], and he says, “Then this one upon which the lot, ‘For the Lord,’ has come up is to stand in its stead” [M. 6:1H]. [As to M. 6:1/I,] which one of them is offered first? [That is, there are now two goats designated for the Lord. Which one is offered, which left to die?] Rab said, “The second of the second pair.” R. Yohanan said, “The second of the first pair.”

[C] **FOR A SIN-OFFERING OF THE COMMUNITY IS NOT LEFT TO DIE. R. JUDAH SAYS, “IT IS LEFT TO DIE.” AND FURTHER DID R. JUDAH SAY, “[IF] ITS BLOOD IS Poured OUT, LET THE ONE WHO IS TO BE SENT FORTH BE LEFT TO DIE. “IF THE ONE WHICH IS TO BE SENT FORTH DIED, LET ITS [THE OTHER’S] BLOOD BE Poured OUT.”**

1. **III:1:** For the sin-offering of the community is not left to die. R. Judah says, “It is left to die” [M. 6:1K-L]. [Now we recall that the man has gone and gotten two more goats and cast lots over them. There is then the following] question to be addressed to R. Judah: Does someone to begin with cast lots so that [a beast who is chosen] is merely left to die? Said R. Abun, “And do we not find that that is the case in accord with the view of R. Eleazar? “For R. Eleazar said, ‘They are left to die’ [M. Tem. 3:3].”

XXXVI. YERUSHALMI YOMA 6:2

[A] **HE COMES TO THE GOAT WHICH IS TO BE SENT FORTH AND LAYS HIS TWO HANDS ON IT AND MAKES THE CONFESSION. AND THUS DID HE SAY, “O LORD, YOUR PEOPLE, THE HOUSE OF ISRAEL, HAS COMMITTED INIQUITY, TRANSGRESSED, AND SINNED BEFORE YOU. FORGIVE, O LORD, I PRAY, THE INIQUITIES, TRANSGRESSIONS, AND SINS, WHICH YOUR PEOPLE, THE HOUSE OF ISRAEL, HAVE COMMITTED, TRANSGRESSED, AND SINNED BEFORE YOU, “AS IT IS WRITTEN IN THE TORAH OF MOSES, YOUR SERVANT, ‘FOR ON THIS DAY SHALL ATONEMENT BE MADE FOR YOU TO CLEAN YOU. FROM ALL YOUR SINS SHALL YOU BE CLEAN BEFORE THE LORD ‘ (LEV. 16:30)?.” AND THE PRIESTS AND PEOPLE STANDING IN THE COURTYARD, WHEN THEY WOULD HEAR THE EXPRESSED NAME [OF THE LORD] COME OUT OF THE MOUTH OF THE HIGH PRIEST, WOULD KNEEL AND BOW DOWN AND FALL ON THEIR FACES AND SAY, “BLESSED BE THE NAME OF THE GLORY OF HIS KINGDOM FOR EVER AND EVER.”**

1. **I:1:** Bar Qappara taught, “[He did not mention, ‘Your people, the house of Israel,’ but only,] ‘They have committed iniquity, transgressed, and sinned.’ This was so as not to call to mind what was disgraceful for Israel.”

2. **I:2:** “[But the goat on which the lot fell for Azazel] shall be presented alive [before the Lord to make atonement over it, that it may be sent away into the wilderness to Azazel]” (Lev. 16:10). This teaches that it is destined to die [later on]. [If it dies, it must be replaced.] How long must it be kept alive? “Until: ‘And when he has made an end of atoning for the holy place’ (Lev. 16:20) [that is, after the confession, Lev. 16:21],” the words of R. Judah. R. Simeon says, “Until the time of the confession.”

XXXVII. YERUSHALMI YOMA 6:3

[A] HE GAVE [THE SCAPEGOAT] OVER TO THE ONE WHO WAS TO LEAD IT OUT. ALL ARE VALID TO LEAD IT OUT. BUT HIGH PRIESTS MADE IT A PRACTICE OF NOT LETTING ISRAELITES LEAD IT OUT. SAID R. YOSÉ, “M'SH W: ARSELA LED IT OUT, AND HE WAS AN ISRAELITE.”

1. **I:1:** “[And Aaron shall lay both his hands upon the head of the live goat, and confess over him all the iniquities of the people of Israel, and all their transgressions, all their sins] and he shall put them upon the head of the goat,] and send him away into the wilderness by the hand of a man [who is in readiness]” (Lev. 16:21). This serves to validate the participation of a non-priest. “Who is in readiness” (Lev. 16:21). This means he should be destined for this task. “Who is in readiness” (Lev. 16:21). That he should be prepared. “Who is in readiness” (Lev. 16:21). Even on the Sabbath. “Who is in readiness” (Lev. 16:21). Even in a state of uncleanness.
2. **I:2:** They asked R. Eliezer, “Lo, if the goat which is to be sent fell sick, what is the law as to carrying it?” He said to them, “Can he carry others?” “[If] the one who sends it fell sick, what is the law as to sending it with someone else?” He said to them, “Thus may you and I be in peace.” “[If] he pushed it down and it did not die, what is the law as to going down after it and killing it?” He said to them, “Thus be the fate of the enemies of the Omnipresent.” It was not that R. Eliezer wanted to put them off, but that he never repeated a law that he had not heard from his masters. And sages say, “[If] it fell ill, he does carry it. “[If] the one who sends it fell ill, and does send it with someone else. “[If] one pushed it down and it did not die, one should go down after it and kill it” [T. Yoma 3:14].
3. **I:3:** So long as Simeon the Righteous was alive, the goat did not get halfway down the mountain before it had been torn limb from limb. Once Simeon the Righteous died, the goat would flee to the

wilderness, and the Saracens would capture and eat it. All the time that Simeon the Righteous was alive, the lot bearing the Divine Name would come up in the right hand. When Simeon the Righteous died, sometimes it would come up in the right hand, sometimes in the left. All the time that Simeon the Righteous was alive, the western lamp would burn well. When Simeon the Righteous died, sometimes it would flicker out, and sometimes it would burn. All the time that Simeon the Righteous was alive, the strap of crimson would turn white. When Simeon the Righteous died, sometimes it would turn white, sometimes red. All the time that Simeon the Righteous was alive, the flame of the wood-offering would burn strongly. When they had placed two logs of wood in the morning, they would not then put on more all day long. When Simeon the Righteous died, the strength of the wood-offering diminished, so they did not hesitate to put wood on the fire all day long. All the time that Simeon the Righteous was alive, a blessing was set upon the two loaves of bread and the show bread. The result was that each priest would get about an olive's bulk of bread, and some of them ate and had enough, while others ate and left bread over. When Simeon the Righteous died, this blessing was taken away from the two loaves of bread and the show bread, so that each priest got bread the size of a bean. So the modest priests kept their hands off the bread, while the gluttons divided it up among themselves [T. Sot. 13:7].

4. **I:4:** It has been taught: Forty years before the destruction of the Temple the western light went out, the crimson thread remained crimson, and the lot for the Lord always came up in the left hand. They would close the gates of the Temple by night and get up in the morning and find them wide open. Said [to the Temple] Rabban Yohanan ben Zakkai, "O Temple, why do you frighten us? We know that you will end up destroyed. "For it has been said, 'Open your doors, O Lebanon, that the fire may devour your cedars!'"(Zech. 11:1).
5. **I:5:** Forty years did Simeon the Righteous serve Israel as high priest. In the final year he said to them, "This year I am going to die." They said to him, "Whom shall we appoint as your successor?" He said to them, "Lo, there is my son, Nehunion, before you." They went and appointed Nehunion. Simeon, his brother, was jealous of him, and he went and put on a gown and a girdle. He said to them, "See what he has vowed to his beloved [wife], saying, "On the day on which I take office as high priest, I shall put on your gown and gird myself with your girdle." They looked into the matter, and they did not find that it was so. They said: He fled from there to the Royal Mountain, and from there he fled to Alexandria, and he went and built an altar there, and in

that regard he recited the following verse: “In that day there will be an altar to the Lord in the midst of the land of Egypt, and a pillar to the Lord at its border” (Isa. 19:19).

XXXVIII. YERUSHALMI YOMA 6:4

- [A] **THEY MADE A RAMP FOR IT, ON ACCOUNT OF THE BABYLONIANS, WHO WOULD PULL OUT ITS HAIR AND SAY, “TAKE AND GO, TAKE AND GO:”**
- I:1:** There is a Tannaite authority who teaches [that the ramp referred to at M. 6:4A refers to] a protection for the body of the goat. There is a Tannaite authority who teaches that it actually was a ramp.
- [B] **THE EMINENT PEOPLE OF JERUSALEM USED TO ACCOMPANY HIM TO THE FIRST BOOTH. THERE WERE TEN BOOTHS FROM JERUSALEM TO THE RAVINE, A DISTANCE OF NINE RIS — SEVEN AND A HALF TO A MILE.**
- II:1:** [Re. M. 6:4D-E: It is taught (in T.’s version):] “There were ten tabernacles within a distance of twelve mils,” the words of R. Meir. R. Judah says, “There were nine tabernacles in a distance of ten mils.” R. Yosé says, “There were five tabernacles in a distance of ten mils.” And they share an erub with one to the other [so that they in the tabernacles may accompany the man] [M. 6:4G]. Said R. Yosé, son of R. Judah, “I can arrange them in two tabernacles [only]” [T. Yoma 3:13].
- [C] **AT EACH BOOTH THEY SAY TO HIM, “LO, HERE IS FOOD, HERE IS WATER.” AND THEY ACCOMPANY HIM FROM ONE BOOTH TO THE NEXT, EXCEPT FOR [THE MAN IN] THE LAST [TABERNACLE] AMONG THEM, WHO DOES NOT GO ALONG WITH HIM TO THE RAVINE. BUT HE STANDS FROM A DISTANCE AND OBSERVES WHAT HE DOES.**
- III:1:** At each booth they say to him, “Lo, here is food, here is water” [M. 6:4F]: [This was] to keep up his strength. Why so? For the evil impulse craves only what is forbidden.

XXXIX. YERUSHALMI YOMA 6:5

- [A] **NOW WHAT DID HE DO? HE DIVIDED THE CRIMSON THREAD. HALF OF IT HE TIED TO A ROCK, AND HALF OF IT HE TIED BETWEEN ITS HORNS. HE THEN PUSHED IT OVER BACKWARD, AND IT ROLLED DOWN THE RAVINE. AND IT DID NOT REACH HALFWAY DOWN THE MOUNTAIN BEFORE IT BROKE INTO PIECES. HE CAME AND SAT HIMSELF DOWN UNDER THE LAST TABERNACLE UNTIL IT GOT DARK. AT WHAT TIME DOES THE ONE WHO TAKES THE GOAT IMPART UNCLEANNESS TO**

GARMENTS [LEV. 16:26]? ONCE HE HAS GONE FORTH FROM THE WALL OF JERUSALEM. R. SIMEON SAYS, “ONCE HE HAS PUSHED IT INTO THE RAVINE.”

- 1.** **I:1:** At first they would tie a crimson thread onto their windows. In the case of some of them it turned white, and in the case of some of them it remained red. The result was that these became ashamed before those. So they went and tied it at the door of the Temple. There were years in which it turned white, and there were years in which it remained red. They went and tied it to a rock [M. 6:5C].
- 2.** **I:2:** It is written, “Come now, let us reason together, says the Lord: though your sins are like scarlet, they shall be as white as snow; though they are red like crimson, they shall become like wool” (Isa. 1:18). It has been taught: R. Eliezer says, “‘Though your sins are like scarlet’ – between heaven and earth. “‘They shall be as white as snow’ – more than this, they shall be as white as wool.” R. Joshua says, “‘Though your sins are like two [a play on the word for scarlet, which, vocalized differently, reads ‘two’] – like the first two patriarchs. “‘They shall be as white as snow. Though they are red like crimson, they shall become like wool’ (Isa. 1:18).” Said R. Judah bar Pazzi, “‘Though your sins are like scarlet, they shall be as white as snow’ – the first time one sins. ‘Though they are red like crimson, they shall become like wool’ (Isa. 1:18) – the second time one sins.” And rabbis say, “When the sins of a man are as many as the years he has lived, they shall be like wool.”

XL. YERUSHALMI YOMA 6:6

[A] [MEANWHILE, THE HIGH PRIEST] CAME TO THE BULLOCK AND GOAT WHICH ARE TO BE BURNED. HE TORE THEM OPEN AND REMOVED THEIR INNARDS. HE PUT THEM ONTO A DISH AND OFFERED THEM UP ON THE ALTAR. HE THEN TWISTED [THE LIMBS OF THE BEASTS] ON POLES, AND THEY CARRIED THEM OUT TO THE PLACE OF BURNING. AND WHEN DO THEY IMPART UNCLEANNESS TO CLOTHING [WHO CARRY OUT THE LIMBS OF THE GOAT AND BULLOCK]? ONCE THEY HAVE GONE PAST THE WALL OF THE COURTYARD. R. SIMEON SAYS, “ONCE THE FIRE HAS TAKEN HOLD OF THE GREATER PART OF [THE BEASTS’ CARCASSES].”

- 1.** **I:1:** He came to the bullock, etc. [M. 6:6A]. We have learned: He came to the bullock and goat which are to be burned [M. 6:6A]. There is a Tannaite authority who [reversing the procedure, here] teaches: The high priest came to read [M. 7:1A]. [The version at M. 6:6A indicates that after the goat is sent out, forthwith the bullock and the goat which have been killed are attended to. The alternative version

has the reading of Scripture take place after sending out the goat, and only then are the goat and bullock dealt with.]

2. **I:2:** R. Zeriqan said R. Zeirah asked, “As to bullocks to be burned, and goats to be burned, which became unclean, what is the law on burning them in accord with the religious requirement for them?” [At issue is M. Zeb. 12:5: Bullocks which are to be burned and goats which are to be burned (as at Lev. 4:3, 13-14; Lev. 16:9, Num. 15:24), when they are valid and burned in accord with their requirement (not having been invalidated), are burned in the place of ashes. And they who burn them impart uncleanness to their clothing (Lev. 16:28). But if they are invalid and therefore not burned in accord with their requirement, they are burned in the Temple precincts, and they do not impart uncleanness to clothing.] Where he raises his question is in a case in which they were made unclean after the blood was tossed. But if they were made unclean before the blood was tossed, I regard this as a case in which the offering falls under the category of coming in due time even in the case of the Sabbath, even in the case of uncleanness. [The blood can be tossed even though the beast is unclean and even on the Sabbath in the case of a communal offering. Hence there is no issue about that case; the burning of the carcass takes place in the appropriate place. The problem comes when the uncleanness takes place after the blood has been tossed. Is the burning now no longer in accord with the religious requirement affecting the beasts, since they have been made unclean? Or since the blood has been tossed, do we treat the carcass as fully in conformity to the law?]
3. **I:3:** He who burns [the carcasses becomes unclean], but not the one who kindles the fire, nor the one who lays out the wood [T. Yoma 2:17H]. Who is the one who burns the carcass? It is the one who actually participates at the time of burning. Said R. Yosé, “This is to say that one who participates at the time of burning imparts uncleanness to the clothes [he is wearing].”

XLI. YERUSHALMI YOMA 6:7

- [A] **THEY SAID TO THE HIGH PRIEST, “THE GOAT HAS REACHED THE WILDERNESS.”**
NOW HOW DID THEY KNOW THAT THE GOAT HAD COME TO THE WILDERNESS?
THEY MADE SENTINEL POSTS, AND WAVED FLAGS, SO THEY MIGHT KNOW THAT THE GOAT HAD REACHED THE WILDERNESS. SAID R. JUDAH, “NOW DID THEY NOT HAVE A MORE IMPRESSIVE SIGN THAN THAT? FROM JERUSALEM TO BET HIDDUDO IS THREE MILES. THEY CAN WALK A MILE, COME BACK A MILE, AND

WAIT SUFFICIENT TIME TO WALK A MILE, AND SO THEY WILL KNOW THAT THE GOAT HAS REACHED THE WILDERNESS.” R. ISHMAEL SAYS, “NOW DID THEY NOT HAVE ANOTHER SIGN? THERE WAS A CRIMSON THREAD TIED TO THE DOOR OF THE SANCTUARY. WHEN THE GOAT HAD REACHED THE WILDERNESS, THE THREAD WOULD TURN WHITE, “AS IT SAYS, ‘THOUGH YOUR SINS BE AS SCARLET, THEY SHALL BE AS WHITE AS SNOW’ (ISA. 1:18).”

1. I:1: What are sentinel posts [M. 6:7C]? Platforms.

XLII. YERUSHALMI YOMA 7:1

[A] THE HIGH PRIEST CAME TO READ [IN THE WOMEN’S COURT].

1. I:1: How do we know that the reading of a passage of Scripture is required?

[B] IF HE WANTED TO READ WHILE WEARING LINEN GARMENTS, HE READS [WEARING THEM]. IF NOT, HE READS WEARING HIS OWN WHITE VESTMENT.

1. II:1: R. Ammi in the name of R. Yohanan: “The rest of the acts of service he carries out in white garments.”

[C] THE BEADLE OF THE COMMUNITY TAKES THE SCROLL OF THE TORAH AND GIVES IT TO THE HEAD OF THE COMMUNITY, AND THE HEAD OF THE COMMUNITY GIVES IT TO THE PREFECT [OF THE PRIESTS], AND THE PREFECT GIVES IT TO THE HIGH PRIEST. THE HIGH PRIEST RISES AND RECEIVES IT AND READS, “AFTER THE DEATH” (LEV. 16), AND “HOWBEIT ON THE TENTH DAY” (LEV. 23:26-32). THEN HE ROLLS UP THE TORAH AND HOLDS IT TO HIS HEART AND SAYS, “MORE THAN WHAT I HAVE READ OUT BEFORE YOU IS WRITTEN HERE.” “AND ON THE TENTH “ (NUM. 29:7-11) WHICH IS IN THE BOOK OF NUMBERS HE READS BY HEART.

1. III:1: In all circumstances people go to the Torah. But here [at M. 7:1D] you say that they bring the Torah to them. But because they are important men, the Torah is exalted through them.
2. III:2: [With reference to M. Sot. 7:6H,] there we have learned: They may leave out verses in the Prophets, but not in the Torah [M. Meg. 4:4]. They leave out verses in a Prophetic reading, but they do not read out verses [in skipping] from one prophet to another. But in the case of one of the Twelve Minor Prophets, it is permitted.

[D] THEN HE SAYS EIGHT BLESSINGS OVER IT: “ÉFOR THE TORAH,ÉFOR THE TEMPLE SERVICE,ÉFOR THE CONFESSION,ÉFOR THE FORGIVENESS OF SIN,ÉFOR THE

SANCTUARY (BY ITSELF), FOR ISRAEL (BY THEMSELVES),^ÉAND FOR THE PRIESTS (BY THEMSELVES), AND FOR THE REST OF THE PRAYER.” HE WHO CAN SEE THE HIGH PRIEST WHEN HE IS READING CANNOT SEE THE BULLOCK AND GOAT WHICH ARE BURNED. AND HE WHO CAN SEE THE BULLOCK AND GOAT WHEN THEY ARE BURNED CANNOT SEE THE HIGH PRIEST WHEN HE IS READING. BUT THIS IS NOT BECAUSE HE IS NOT PERMITTED TO DO SO, BUT BECAUSE IT WAS QUITE A DISTANCE. THE RITES CONCERNING BOTH OF THEM WERE DONE SIMULTANEOUSLY.

1. **IV:1:** And afterward he says eight blessings [M. 7:1H]. For the Torah: “^Éwho has chosen the Torah.” For the Temple service: “^Éfor you alone in reverence do we serve.” For the thanksgiving: “^Éto whom it is good to give thanks.” For the forgiveness of sin: “^Éwho forgives the sins of his people Israel in mercy.” For the sanctuary: “^Éwho has chosen the sanctuary.” And R. Idi said, “^Éwho dwells in Zion.” For Israel: “^Éwho has chosen Israel.” For the priests: “^Éwho has chosen the priests.” And for the rest of the Prayer: “^Éwith supplication and beseeching for your people Israel need to be saved before you. Blessed are you, Lord, who hears prayer.”

XLIII. YERUSHALMI YOMA 7:2

[A] IF [THE HIGH PRIEST] READS [THE SCRIPTURES] WEARING LINEN GARMENTS, HE SANCTIFIED HIS HANDS AND FEET, TOOK THEM OFF, DESCENDED, IMMERSSED, CAME UP, AND DRIED OFF. THEY BROUGHT HIM THE GOLDEN GARMENTS. HE PUT THEM ON AND SANCTIFIED HIS HANDS AND FEET. “THEN HE WENT OUT AND PREPARED HIS RAM AND THE RAM OF THE PEOPLE [LEV. 16:24], AND THE SEVEN UNBLEMISHED LAMBS A YEAR OLD [NUM. 29:8],” THE WORDS OF R. ELIEZER. R. AQIBA SAYS, “THEY WERE OFFERED WITH THE DAILY WHOLE-OFFERING MADE AT DAWN. “AND THE BULLOCK, BURNT-OFFERING, AND GOAT OFFERED OUTSIDE [NUM. 29:11] WERE OFFERED WITH THE DAILY WHOLE-OFFERING MADE AT DUSK.” HE SANCTIFIED HIS HANDS AND FEET AND TOOK OFF HIS CLOTHES AND WENT DOWN AND IMMERSSED AND CAME UP AND DRIED OFF.

1. **I:1:** Said R. Yohanan, “This [M. 7:2D-F] represents the view of R. Eliezer and R. Aqiba, but in the view of sages all of them were offered with the daily whole-offering brought at twilight.” R. Huna in the name of R. Joseph, “The opinion of R. Eliezer [M. 7:2D] accords with the principle of the House of Shammai. “For the House of Shammai say, ‘When you have that which is offered more regularly and that which is at a higher level of sanctification, that which is offered more

regularly takes precedence.’ “Likewise R. Eliezer says, ‘When you have that which is offered more regularly and that which is at a higher level of sanctification, that which is offered more regularly takes precedence.’ [The priest is at a higher level of sanctification, and the Nazir is in the status of that which is ‘more regular’ in that he must remain clean at all times.]”

2. **I:2:** “Then Aaron shall come into the tent of meeting” (Lev. 16:23). Whence does he come? From reading the specified scriptural passages. And where does he go? To get the ladle and fire-pan [he had left inside] [M. 7:2/I]. It is written, “And he shall come forth and offer his burnt offering and the burnt-offering of the people” (Lev. 16:24) [and these are done in golden garments, while M. 7:2H-I has him put on white garments to bring out the ladle and fire-pan], and you say this? Furthermore, did not R. Yohanan say, “All concur with regard to bringing out the ladle and fire-pan that this is done after the daily whole-offering prepared in the evening has been sacrificed”? Said R. Yosé b. Haninah, “The entire passage is written in its correct order, except for this detail [which is not stated in the right order]. [Lev. 16:24 should be stated earlier in the description of the rite.]”.

[B] THEY BROUGHT HIM WHITE GARMENTS, AND HE PUT THEM ON, AND SANCTIFIED HIS HANDS AND FEET. HE WENT IN TO BRING OUT THE LADLE AND FIRE-PAN. HE SANCTIFIED HIS HANDS AND FEET, TOOK OFF HIS CLOTHES, WENT DOWN AND IMMERSSED, CAME UP AND DRIED OFF. THEY BROUGHT HIM GOLDEN GARMENTS AND HE PUT THEM ON. HE SANCTIFIED HIS HANDS AND FEET, AND ENTERED IN TO OFFER UP THE INCENSE MADE AT DUSK, TO TRIM THE LAMPS. THEN HE SANCTIFIED HIS HANDS AND FEET, AND TOOK OFF HIS CLOTHES. THEY BROUGHT HIM HIS OWN CLOTHING AND HE PUT IT ON. THEN THEY ACCOMPANY HIM ALL THE WAY HOME. AND THEY CELEBRATE A FESTIVAL FOR ALL HIS FRIENDS WHEN HE HAS COME FORTH WHOLE FROM THE SANCTUARY.

1. **II:1:** R. Eleazar said, “There is yet another act of service which he carries out in white garments, and what is it? It is taking out the ladle and fire-pan [M. 7:2H-I].” Said R. Yohanan, “All parties concur with regard to taking out the ladle and fire-pan that this is done after the offering of the daily whole-offering prepared at twilight.”
2. **II:2:** [As to M. 7:2H-I,] why is this done in white garments? Said R. Hiyya bar Ba, “As is the act of service performed on high, so is the act of service performed down below. “Just as in regard to the act of service performed on high, it is said, ‘[And lo, six men came from the direction of the upper gate, which faces north, every man with his weapon for slaughter in his hand,] and with them was a man clothed in

linen, [with a writing case at his side. And they went in and stood beside the bronze altar]’ (Ezek. 9:2), “so in regard to the act of service performed down below, it is said, ‘He shall put on the holy linen coat, [and shall have the linen breeches on his body, be girded with the linen girdle, and wear the linen turban; these are the holy garments. He shall bathe his body in water, and then put them on]’”(Lev. 16:4)

XLIV. YERUSHALMI YOMA 7:3

- [A] **THE HIGH PRIEST SERVES IN EIGHT GARMENTS, AND AN ORDINARY PRIEST IN FOUR: THE HIGH PRIEST SERVES IN EIGHT GARMENTS, AND AN ORDINARY PRIEST IN FOUR: TUNIC, UNDERPANTS, HEAD COVERING, AND GIRDLE. THE HIGH PRIEST IN ADDITION WEARS THE BREASTPLATE, APRON, UPPER GARMENT, AND FRONTLET. BY THESE DID THEY RECEIVE INQUIRIES FOR THE URIM AND THUMMIM. AND THEY RECEIVED INQUIRY ONLY FROM THE KING, THE COURT, OR FROM SOMEONE IN THE SERVICE OF THE PUBLIC. TUNIC, UNDERPANTS, HEAD COVERING, AND GIRDLE. 1.I:1: On what account does the high priest serve in eight garments [M. 7:3A]? R. Hananiah, associate of the rabbis, said, “It is for the circumcision, which is eight days after birth, in line with the following verse of Scripture:’So shall you know that I have sent this command to you, that my covenant with Levi may hold, says the Lord of hosts”’(Mal. 2:4). Why does he not serve in golden garments?**
2. **I:2:** R. Hiyya taught, “‘He shall put them on’ (Lev. 16:4). [Playing on the letters LBSM,] ‘And they will rot there.’ There they were put away, there they rotted, and they were not valid for a future Day of Atonement.”
 3. **I:3:** It has been taught: Rabbi says, “There are two separate matters under discussion, one involving the garments of the high priest, and the other involving the garments of an ordinary priest.”
 4. **I:4:** [With reference to the dispute between Rabbi and Eleazar b. Simeon, who had a dispute on the girdle of an ordinary priest, one saying it was made up of wool and linen in the same web, the other saying it was of fine linen,] *it has been taught:* There is no dispute between Rabbi and R. Eleazar b. R. Simeon concerning the girdle of the high priest on the Day of Atonement, [all parties agreeing] that it is of fine linen, and concerning what he wore on the other days of the year, all concurring that it was of linen and wool. Concerning what do they differ? Concerning the girdle of an ordinary priest. For Rabbi

says, "It is made of linen and wool." And R. Eleazar b. R. Simeon says, "It is not made of linen and wool."

[B] THE HIGH PRIEST IN ADDITION WEARS THE BREASTPLATE, APRON, UPPER GARMENT, AND FRONTLET.

- 1. II:1:** Said R. Simon, "Just as the offerings effect atonement, so the garments effect atonement. "Tunic, underpants, head covering, and girdle [M. 7:3B]: "The tunic effected atonement for those who wore linen and wool mixtures." There is he who wishes to say, It is for those who shed blood, as you say, "Then they took Joseph's robe, and killed a goat, and dipped the robe in the blood" (Gen. 37:21). "The underpants effected atonement for those who fornicate. "The head covering atoned for the proud. "The girdle atoned for thieves." And there is he who wishes to say, "It is for those who trick people." Said R. Levi, "It was thirty-two cubits, and he would twist it this way and that." The breastplate [M. 7:3C] atoned for those who corrupt justice. The apron atoned for idolatry.
- 2. II:2:** Simon in the name of R. Jonathan of Bet Gubrin: "For two matters was there no atonement, but the Torah provided atonement for them, and these are they: gossiping and killing someone inadvertently. "For gossiping there was no atonement, but the Torah provided atonement for it in the bells on the garment. "And it shall be upon Aaron when he ministers, and its sound shall be heard when he goes into the holy place before the Lord, and when he comes out, lest he die' (Exod. 28:35). "Let the sound of the bell come and atone for the sound [of the gossip's tongue]. "For killing inadvertently there was no mode of atonement, but the Torah provided atonement in the death of the high priest. "And the congregation shall rescue the manslayer from the hand of the avenger of blood, and the congregation shall restore him to his city of refuge, to which he had fled, and he shall live in it until the death of the high priest who was anointed with the holy oil"(Num. 35:25).
- 3. II:3:** It has been taught: R. Eliezer b. Jacob says, "Atonement is noted with regard to the inner altar, and atonement is noted with regard to the outer altar. Just as atonement stated with regard to the inner altar involves atonement provided by an animal taken from the herd for those who shed blood, so atonement stated with regard to the outer altar involves atonement provided by an animal taken from the herd for those who shed blood. "In the one case, however, it is for an act done inadvertently, and in the other case it is for an act done deliberately. "The heifer whose neck is broken is different, however,

since it atones for a killing whether it was done inadvertently or deliberately.”

[C] **BY THESE DID THEY RECEIVE INQUIRIES.**

1. **III:1:** As to the frontlet [M. 7:3C]: There is he who wishes to propose that it is for the sins of those who blaspheme, and there is he who wishes to propose that it is for the sins of those who are presumptuous.

[D] **FOR THE URIM AND THUMMIM. AND THEY RECEIVED INQUIRY ONLY FROM THE KING, THE COURT, OR FROM SOMEONE IN THE SERVICE OF THE PUBLIC**

1. **IV:1:** Why are they called Urim and Thummim [M. 7:3D]? They are called Urim because they enlighten Israel. They are called Thummim because they straighten out the road before them.
2. **IV:2:** Now two questions may not be presented at the same time. But if two questions have been presented [to the Urim and Thummim] at the same time – there is a Tannaite authority who teaches, “One receives an answer to the first question but not to the second one.” And there is a Tannaite authority who teaches, “One receives an answer to the second question but does not receive an answer to the first question.” And there is a Tannaite authority who teaches, “One does not receive an answer either to the first question or to the second question.”
3. **IV:3:** [In receiving answers from the Urim and Thummim,] there is a Tannaite authority who teaches, “He hears the voice [of God].” There is a Tannaite authority who teaches, “The letters [on the Urim and Thummim] stand out.”

XLV. YERUSHALMI YOMA 8:1

[A] **ON THE DAY OF ATONEMENT IT IS FORBIDDEN TO EAT, DRINK, BATHE, PUT ON ANY SORT OF OIL, PUT ON A SANDAL, OR ENGAGE IN SEXUAL RELATIONS. ON THE DAY OF ATONEMENT IT IS FORBIDDEN TO EAT, DRINK, BATHE, PUT ON ANY SORT OF OIL, PUT ON A SANDAL, OR ENGAGE IN SEXUAL RELATIONS.**

1. **I:1:** The penalty of extirpation applies to eating and drinking on the Day of Atonement, yet you say this, [that they are subject merely to the sort of prohibition affecting the other items on the list at M. 8:1A]?
2. **I:2:** “You shall afflict yourselves” (Lev. 16:29): Is it possible to suppose that one should sit in the sun or in cold in order to suffer?

Scripture states, “And you shall do no work” (Lev. 16:29). It is labor that is subject to a prohibition in another setting [namely, the Sabbath], and likewise affliction that I have imposed on you in another context. Just as we deal with forms of labor that I have prohibited you to do in another context, which is labor on account of the performance of which one is subject to extirpation, so affliction which I have imposed on you in another setting is affliction on account of which one is subject to extirpation. And what are these? They are [eating sacrificial meat that is] in the status of refuse or in the status of remnant. [For eating that meat on the Day of Atonement one is liable.]

3. **I:3:** Another matter: “You shall afflict your souls” (Lev. 16:29): This refers to something which afflicts the body itself. What is it? It is [refraining from] eating and drinking. In the name of R. Ishmael they have said, “Here it is stated, ‘You will afflict your souls’ (Lev. 16:29). “And there it is stated, ‘And he humbled you and let you hunger and fed you with manna, which you did not know, nor did your fathers know; that he might make you know that man does not live by bread alone, but that man lives by everything that proceeds out of the mouth of the Lord’ (Deut. 8:3). “Just as ‘affliction’ stated there refers to affliction through hunger, so ‘affliction’ stated here refers to affliction through hunger.”
4. **I:4:** Bathing [M. 8:1A]: R. Zeirah bar Hama, R. Yosé b. R. Hanina in the name of R. Joshua b. Levi: “On the occasion of a public fast, one may wash his face, hands, and feet in the usual way. “On the ninth of Ab, one washes his hands and then brings them across his face. “On the Day of Atonement, one washes his hands, then dries them on a towel, and brings the towel across his face.”
5. **I:5:** [As to putting on a sandal [M. 8:1A:] A mourner and one who had been excommunicated who were going from one town to another on the road are permitted to put on a sandal. When they come to a town, they must take them off.
6. **I:6:** As to anointing [M. 8:1A]: That is in line with the following, which has been taught: On the Sabbath, anointing which is for the sake of pleasure and anointing which is not for the sake of pleasure are permitted. As to the Day of Atonement, anointing which is for the sake of pleasure and anointing which is not for the sake of pleasure are forbidden. On the ninth of Ab and on the occasion of a public fast, anointing which is for the sake of pleasure is prohibited, but that which is not for the sake of pleasure is permitted. And lo, it has been taught: anointing is equivalent to drinking so far as being subject to a

prohibition is concerned, and so far as [in the case of produce in the status of second tithe] having to make up the loss is concerned, but not so far as punishment is concerned. [If a person who has no right to heave-offering or produce in the status of second tithe should use that produce for anointing, he has to pay for it with an added fifth, as if he had drunk the juice from that produce – [e.g., grape juice from grapes in the status of heave-offering]. But as to the penalty, there is no issue of flogging or extirpation.] As to the Day of Atonement, [they are equivalent] so far as prohibition is concerned, but not so far as the punishment is concerned. And lo, it has been taught: “So that they may not profane my holy name” (Lev. 22:2) – this serves to encompass [under the rule protecting consecrated produce and the punishment inflicted for violating its law] one who anoints or who drinks [what is not available to him for that purpose]. [This indicates that there is a penalty for anointing or drinking, as against the claim that there is no such punishment, F.]

7. I:7: As to putting on a sandal [M. 8:1A]: It has been taught: In the case of all of these of whom they have said that they are forbidden to put on a sandal, when such a person goes out onto the road, he puts on his sandal. When he reaches a town, he takes it off. The same rule applies to a mourner or to a person who has been excommunicated. There is a Tannaite authority who teaches, “They may go out in felt shoes on the Day of Atonement.” There is a Tannaite authority who teaches, “They may not go out in felt shoes on the Day of Atonement.”

8. I:8: Sexual relations [M. 8:1A]: Now look here! If someone is forbidden to bathe, is it not an argument a fortiori that it is forbidden to have sexual relations? [Why does the framer of the Mishnah find it necessary to specify this item?] Interpret the matter to speak of a case in which they do not immerse [after having a seminal emission, in which case even though one may not bathe, sexual relations will still be lawful]. Or apply the rule to the period before Ezra ordained that those who have a seminal emission have to immerse [with the same result as at B].

[B] BUT A KING AND A BRIDE WASH THEIR FACES.

1. II:1: The king [M. 8:1B]: This is on the count of the following verse: “Your eyes will see the king in his beauty; they will behold a land that stretches afar” (Isa. 33:17). A bride [M. 8:1B]: This is on account of the possibility of envy.

[C] “AND A WOMAN WHO HAS GIVEN BIRTH MAY PUT ON HER SANDAL,” THE WORDS OF R. ELIEZER. AND SAGES PROHIBIT.

1. **III:1:** They supposed that to R. Eliezer is to be attributed only the concluding clause [as given above]. But a teaching turned up in which all of the preceding [also B] are to be assigned to him.

XLVI. YERUSHALMI YOMA 8:2

[A] HE WHO EATS A LARGE DATE'S BULK [OF FOOD], INCLUSIVE OF ITS PIT – HE WHO DRINKS THE EQUIVALENT IN LIQUIDS TO A MOUTHFUL – IS LIABLE. ALL SORTS OF FOODS JOIN TOGETHER TO FORM THE VOLUME OF THE THE DATE'S BULK, AND ALL SORTS OF LIQUIDS JOIN TOGETHER TO FORM THE VOLUME OF A MOUTHFUL. HE WHO EATS AND HE WHO DRINKS – [THESE PROHIBITED VOLUMES] DO NOT JOIN TOGETHER [TO IMPOSE LIABILITY FOR EATING OR FOR DRINKING, RESPECTIVELY].

1. **I:1:** [Since M. 8:2A refers to the date's bulk inclusive of the pit,] said R. Yosé, "That is to say that it is necessary to crush the empty space [within the date, in measuring the amount one has eaten, dealing then only with the solid matter]. For if that is not the case, then the Mishnah should have said, 'the date's bulk of food, inclusive of its pit and the empty space within.'"
2. **I:2:** It has been taught, "A mouthful" [of liquid]. Does the authority of that version differ [from the view of the authority of the Mishnah at M. 8:2B, that he states matters separate from the Mishnah]? Indeed so: One is liable for drinking such a mouthful as can be put into only one cheek [but it need not be liquid sufficient to fill the entire mouth].

XLVII. YERUSHALMI YOMA 8:3

[A] [If] ONE ATE AND DRANK IN A SINGLE ACT OF INADVERTENCE, HE IS LIABLE ONLY FOR A SINGLE SIN-OFFERING. [If] HE ATE AND DID A PROHIBITED ACT OF LABOR, HE IS LIABLE FOR TWO SIN-OFFERINGS.

1. **I:1:** [With reference to M. Shebu. 3:2A: "I swear that I won't eat," and he ate and drank – he is liable on only one count. Why not on two counts, one for each act?] It is because drinking is subsumed under eating, while eating is not subsumed under drinking. How do we know that drinking is subsumed under eating, [but eating is not subsumed under drinking]? R. Jonah derived the two of them from the following: "Therefore I have said to the people of Israel, No person among you shall eat blood' (Lev. 17:12). Now how shall we interpret the passage?

If it speaks of blood which has congealed, has it not been taught: Blood which has congealed is neither food nor drink [T. Toh. 2:5E]? “But thus must we interpret the matter: [The blood is] just as it is [that is, liquid,] and yet the Torah has referred to consuming it as is as ‘eating.’ [Consequently, eating encompasses drinking].” [Y. Shebu. 3:2/1.D. adds:] [One may then] interpret the Mishnah passage as following the view of R. Aqiba, for R. Aqiba has said, “[Eating] any amount at all is an act of eating [just as is stated at M. Shebu. 3:1].” And has it not been taught: He who mashes forbidden fat and swallowed it, he who coagulates blood and ate it, if it is of the volume of an olive’s bulk, he is liable [T. Ker. 2:19A-C]?

2. **I:2:** An admonition concerning not working on the Day [of Atonement]: “You shall do no work on this same day” (Lev. 23:28). The penalty: “And whoever does any work on this same day – that person I will destroy from among his people” (Lev. 23:30). An admonition as to afflicting the soul on that day: “For whoever is not afflicted on this same day shall be cut off from his people” (Lev. 23:29). The penalty: “Éshall be cut off from his people” (Lev. 23:29). There is no admonition against work by night, nor is there a statement governing the penalty; there is no admonition governing afflicting the soul by night, nor is there a penalty.

[B] IF HE ATE FOODS WHICH ARE NOT SUITABLE FOR EATING, OR DRANK LIQUIDS WHICH ARE NOT SUITABLE FOR DRINKING – [IF] HE DRANK BRINE OR FISH BRINE – HE IS EXEMPT.

1. **II:1:** [Illustrating M 8:3C-F:] R. Abbahu in the name of R. Yohanan: “He who eats mixed seeds in a vineyard [grain grown among vines] is flogged.” R. Abbahu in the name of R. Yohanan: “[A non-priest] who chews on wheat which is in the status of heave-offering is flogged.” R. Abbahu in the name of R. Yohanan, “[A non-priest] who swallows vinegar in the status of heave-offering is flogged.”

[C] AS TO CHILDREN, THEY DO NOT IMPOSE A FAST ON THEM ON THE DAY OF ATONEMENT. BUT THEY EDUCATE THEM A YEAR OR TWO IN ADVANCE, SO THAT THEY WILL BE USED TO DOING THE RELIGIOUS DUTIES.

1. **III:1:** With reference to M. 8:3G-H:] As to children, they do not impose a fast on them on the Day of Atonement. R. Huna interpreted the statement of the Mishnah as follows: As to children, they do not impose a fast on them on the Day of Atonement. Nor do they educate them prior to a year; prior to two years they do educate them. [If a child is healthy, he starts to fast on the holy day two years before he reaches maturity; if not, he starts one year in advance.] R. Yohanan

interpreted the statement of the Mishnah as follows: As to children, they do not impose a fast on them on the Day of Atonement. But they educate them a year in advance, two years in advance, completing the fast [through the day, in the case of a healthy child].

XLVIII. YERUSHALMI YOMA 8:4

[A] **A PREGNANT WOMAN WHO SMELLED FOOD [AND GREW FAINT] – THEY FEED HER UNTIL HER SPIRITS ARE RESTORED. A SICK PERSON – THEY FEED HIM ON THE INSTRUCTION OF EXPERTS. IF THERE ARE NO EXPERTS AVAILABLE, THEY FEED HIM ON HIS OWN INSTRUCTIONS, UNTIL HE SAYS, “ENOUGH.”**

- 1. I:1:** [With reference to M. 8:4A:] At the outset they roast something for her on a spit [so she can suck of it]. If she feels better, well and good. If not, they give her the actual, prohibited food [that she craves].
- 2. I:2:** If a sick person says, “I can take it,” and the physician says, “He cannot take it,” they listen to the physician. If the physician says, “He can take it,” and the sick person says, “I cannot take it,” they listen to the sick person. Where there is a problem, it is when the sick person says, “I can take it,” and the physician says, “I don’t know.”

XLIX. YERUSHALMI YOMA 8:5

[A] **HE WHO IS SEIZED BY RAVENOUS HUNGER – THEY FEED HIM, EVEN UNCLEAN THINGS, UNTIL HIS EYES ARE ENLIGHTENED.**

- 1. I:1:** [With reference to M. 8:5A,] how do we know that they feed him figs and raisins in the status of heave-offering [even though he is a non-priest]? It is in line with the following: “And they gave him a piece of cake of figs and two clusters of raisins. And when he had eaten, his spirit revived; for he had not eaten bread or drunk water for three days and three nights” (1 Sam. 30:12).
- 2. I:2:** It has been taught [in T.’s version]: [He who was seized by ravenous hunger] – they feed him [that which violates the law in] the least [possible measure] [M. 8:6A]. How so? [If] here were before him untithed produce and produce of the Seventh Year, they feed him produce of the Seventh Year. [If there were] untithed produce and carrion, they feed him carrion; carrion and heave-offering, they feed him heave-offering; heave-offering and produce of the Seventh Year, they feed him produce of the Seventh Year [T. Yoma 4:4A-F].

[B] HE WHO WAS BITTEN BY A CRAZY DOG — THEY DO NOT FEED HIM A PIECE OF ITS LIVER’S LOBE. AND R. MATTIAH B. HARASH PERMITS DOING SO. FURTHER DID R. MATTIAH B. HARASH SAY, “HE WHO HAS A PAIN IN HIS THROAT — THEY DROP MEDICINE INTO HIS MOUTH ON THE SABBATH, “BECAUSE IT IS A MATTER OF DOUBT AS TO DANGER TO LIFE. “AND ANY MATTER OF DOUBT AS TO DANGER TO LIFE OVERRIDES THE PROHIBITIONS OF THE SABBATH.”

- 1. II:1:** [With reference to M. 8:5B:] The indications of a crazy dog [are these]: its mouth hangs open, its spit drips, its ears flap, its tail hangs down between its legs, it walks on the edge of the road. The other dogs bark at him. And there is he who says, Also he barks, but no sound is heard. What makes this dog mad?
- 2. II:2:** How do we know that a matter of doubt concerning life or death overrides the prohibitions of the Sabbath?

[C] HE UPON WHOM A BUILDING FELL DOWN — IT IS A MATTER OF DOUBT WHETHER OR NOT HE IS THERE, IT IS A MATTER OF DOUBT WHETHER [IF HE IS THERE], HE IS ALIVE OR DEAD, IT IS A MATTER OF DOUBT WHETHER [IF HE IS THERE AND ALIVE HE IS A GENTILE OR AN ISRAELITE — THEY CLEAR AWAY THE RUIN FROM ABOVE HIM. [IF] THEY FOUND HIM ALIVE, THEY REMOVE THE [REMAINING] RUINS FROM ABOVE HIM. BUT IF THEY FOUND HIM DEAD, THEY LEAVE HIM BE [UNTIL AFTER THE SABBATH].

- 1. III:1:** [As to M. 8:5G-M,] R. Zeira, R. Hiyya in the name of R. Yohanan: “In the case of an alleyway, in which only one Israelite lives along with gentiles, and which fell down in an earthquake — [on the Sabbath] they labor to dig the stones out on account of the Israelite who is there. [That is, if the Israelite is in permanent residence, then there is a chance that he is the one who is buried, and the laws of the Sabbath are set aside on his account, since in the saving of life a lenient ruling is made.]”

L. YERUSHALMI YOMA 8:6

[A] A SIN-OFFERING AND AN UNCONDITIONAL GUILT-OFFERING ATONE. DEATH AND THE DAY OF ATONEMENT ATONE WHEN JOINED WITH REPENTANCE. REPENTANCE ATONES FOR MINOR TRANSGRESSIONS OF POSITIVE AND NEGATIVE COMMANDMENTS. AND AS TO SERIOUS TRANSGRESSIONS, [REPENTANCE] SUSPENDS THE PUNISHMENT UNTIL THE DAY OF ATONEMENT COMES ALONG AND ATONES.

1. **I:1:** There we have learned: And for a deliberate act of imparting uncleanness to the sanctuary and its Holy Things, a goat [whose blood is sprinkled] inside and the Day of Atonement effect atonement. And for all other transgressions which are in the Torah – the minor or serious, deliberate or inadvertent, those done knowingly or done unknowingly, violating a positive or a negative commandment, those punishable by extirpation and those punishable by death at the hands of a court, the goat which is sent away [Lev. 16:21] effects atonement [Y. Shebu. 1:6]. [As to that which you have said about the goat prepared inside and the Day of Atonement effecting atonement for deliberately imparting uncleanness to the sanctuary and its Holy Things, the same sequence of sacrifice and the Day of Atonement also suspends punishment for such actions which were done inadvertently.] Are not minor sins subject to a negative commandment, and are not serious ones subject to extirpation or death at the hands of a court [so why does C specify these as distinct categories]?

2. **I:2:** And has not the Day of Atonement already effected atonement [so why should there be a matter of suspending punishment at all]? R. Simeon in the name of Levi of Subayya: “The Mishnah speaks of a case in which one engages in an act of rebellion on the Day of Atonement itself. [Such a one does not believe that the Day of Atonement effects atonement. In the case of such a person the scapegoat does not effect complete atonement. But the scapegoat does suspend the punishment even for such a person.]”

LI. YERUSHALMI YOMA 8:7

[A] HE WHO SAYS, “I SHALL SIN AND REPENT, SIN AND REPENT” – THEY GIVE HIM NO CHANCE TO DO REPENTANCE. “I WILL SIN AND THE DAY OF ATONEMENT WILL ATONE,” – THE DAY OF ATONEMENT DOES NOT ATONE. FOR TRANSGRESSIONS DONE BETWEEN MAN AND THE OMNIPRESENT, THE DAY OF ATONEMENT ATONES. FOR TRANSGRESSIONS BETWEEN MAN AND MAN, THE DAY OF ATONEMENT ATONES, ONLY IF THE MAN WILL REGAIN THE GOOD WILL OF HIS FRIEND. THIS EXEGESIS DID R. ELEAZAR B. AZARIAH STATE: “FROM ALL YOUR SINS SHALL YOU BE CLEAN BEFORE THE LORD’ (LEV. 16:30) – FOR TRANSGRESSIONS BETWEEN MAN AND THE OMNIPRESENT DOES THE DAY OF ATONEMENT ATONE. FOR TRANSGRESSIONS BETWEEN MAN AND HIS FELLOW, THE DAY OF ATONEMENT ATONES, ONLY IF THE MAN WILL REGAIN THE GOOD WILL OF HIS FRIEND.” SAID R. AQIBA, “HAPPY ARE YOU, O ISRAEL. BEFORE WHOM ARE YOU MADE CLEAN, AND WHO MAKES YOU CLEAN? IT IS YOUR FATHER WHO IS IN HEAVEN, “AS IT SAYS, ‘AND I WILL SPRINKLE

CLEAN WATER ON YOU, AND YOU WILL BE CLEAN' (EZEK. 36:25). "AND IT SAYS, 'O LORD, THE HOPE [MIQWEH = IMMERSION POOL] OF ISRAEL' (JER. 17:13) – JUST AS THE IMMERSION POOL CLEANS THE UNCLEAN, SO THE HOLY ONE, BLESSED BE HE, CLEANS ISRAEL."

1. **I:1:** As to violation of a positive commandment, [the Day of Atonement effects atonement] even if the person did not repent. As to violation of a negative commandment – R. Samuel in the name of R. Zeira: "[The Day of Atonement effects atonement] only if the person repented [of violating the negative commandment]." He who states, "The burnt-offering does not effect atonement," "The burnt-offering does not effect atonement for me," – the burnt-offering effects atonement for him. [If he said,] "I do not want [the burnt-offering] to effect atonement for me," it does not effect atonement for him against his will. [If he said,] "The Day of Atonement does not effect atonement," the Day of Atonement effects atonement. [If he said,] "I do not want it to effect atonement for me," it effects atonement for him against his will.
2. **I:2:** He who states, "The burnt-offering does not effect atonement," "The burnt-offering does not effect atonement for me," – the burnt-offering effects atonement for him. [If he said,] "I do not want [the burnt-offering] to effect atonement for me," it does not effect atonement for him against his will. [If he said,] "The Day of Atonement does not effect atonement," the Day of Atonement effects atonement. [If he said,] "I do not want it to effect atonement for me," it effects atonement for him against his will.
3. **I:3:** The burnt-offering effects atonement for the murmurings of one's heart. What is the scriptural basis for that statement? "What is in your mind shall never happen" (Ezek. 20:32).
4. **I:4:** Rabbi says, "For all transgressions which are listed in the Torah the Day of Atonement effects atonement, except for the one who totally breaks the yoke [of Heaven] off of him, who removes the signs of the covenant, or who behaves presumptuously against the Torah. For if such a person does repent, then atonement is effected for him, but if not, it is not effected for him."
5. **I:5:** Mattiah b. Heresh asked R. Eleazar b. Azariah, "Have you heard of the four types of atonement that R. Ishmael used to expound?" He said to him, "They ate three, besides [the requirement of] an act of repentance." [These are the three types:] One Scripture says, "Return, O faithless children, says the Lord" (Jer. 3:14). And yet another verse

of Scripture says, “For on this day shall atonement be made for you, to cleanse you; from all your sins you shall be clean before the Lord” (Lev. 16:30). [So one verse recommends repentance and the other grants absolution unconditionally.] And one verse of Scripture says, “Then I will punish their transgression with the rod and their iniquity with scourges” (Ps. 89:32). And yet another verse of Scripture says, “Surely this iniquity will not be forgiven you till you die, says the Lord God of Hosts” (Isa. 22:14). Now how are these verses to be reconciled [which speak of punishment and forgiveness, on the one side, and the impossibility of atonement except through death on the other]? [If] one has violated a positive commandment but repented, he does not even leave the place before he is [wholly] forgiven.

Concerning such a person the verse of Scripture says, “Return, O faithless children.” [1] one has violated a negative commandment and repented forthwith, the act of repentance suspends the punishment, and the Day of Atonement effects atonement for him. In such a case the Scripture states, “For on this day shall atonement be made for you.” [If] one has violated a commandment involving extirpation or the death penalty inflicted by a court, and has done so deliberately, repentance and the Day of Atonement effect atonement in part, and suffering on other days of the year effects atonement in part.

Concerning such a person, the verse of Scripture states, “Then I will punish their transgression with the rod and their iniquity with scourges.” But as to him through whose action the Name of Heaven has been disgraced, repentance has not got the power to suspend punishment, nor does the Day of Atonement have the power to effect atonement, nor does suffering have the power to wipe away the guilt. But repentance and the Day of Atonement suspend the punishment, along with suffering; the man’s death wipes away the sin. Concerning such a person does Scripture make the statement: “Surely this iniquity will not be forgiven you till you die”? Thus we have learned the fact that death wipes away [guilt and sin] [cf. T. Yoma 4:6-8].

- 6. I:6:** It has been taught [in T.’s version]: Matters concerning which one has said confession on the preceding Day of Atonement one does not have to include in the confession on the coming Day of Atonement, unless he did those same transgressions [in the intervening year]. [If] he committed those transgressions, he must include them in the confession. [If] he did not commit the transgressions but he [nonetheless] included them in his confession – concerning such a person the following is said: “As a dog returns to his vomit, so a fool returns to his folly” (Prov. 26:11). It has been taught: R. Eliezer b. Jacob says, “Lo, such a person is conscientious and rewarded, “since it

is said, 'For I acknowledge my transgressions' (Ps. 51:3)" [T. Yoma 4:15].

- 7.** **I:7:** The religious duty of saying the confession [applies] at the eve of the Day of Atonement at dusk. But sages have said, "A man should say the confession before eating and drinking, "lest he be distracted while eating and drinking." And even though he has said the confession before eating and drinking, he has to say the confession after eating and drinking, lest some untoward matter have affected the meal. And even though he has said the confession after eating and drinking, he has to say the confession in the evening [prayer]. And even though he has said the confession in the evening [prayer], he has to say the confession in the morning [prayer]. And even though he has said the confession in the morning [prayer], he has to say the confession in the Additional Prayer. And even though he has said the confession in the Additional Prayer, he has to say the confession in the afternoon prayer. And even though he has said the confession in the afternoon prayer, he has to say the confession in the prayer for the closing of the gates [T. Yoma 4:15A-J].
- 8.** **I:8:** It has been taught: "And he has to specify each individual sin," the words of R. Judah b. Beterah, "as it is said, 'O Lord, these people have sinned a great sin [and have made a god of gold]' (Exod. 32:31)." R. Aqiba says, "It is not necessary. "If so, why does it say, 'And made a god of gold'? "But: Thus did the Omnipresent say, 'Who made you make a god of gold? It is I, who gave you plenty of gold'" [T. Yoma 4:14R-V].
- 9.** **I:9:** It is written, "O thou hope of Israel, its savior in time of trouble, why shouldst thou be like a stranger in the land, like a wayfarer who turns aside to tarry for a night?" (Jer. 14:8). Just as the immersion pool cleans the unclean, so does the Holy One, blessed be he, clean Israel [M. 8:7/I]. And so it says, "I will sprinkle clean water upon you, and you shall be clean from all your uncleanness, and from all your idols I will cleanse you" (Ezek. 36:25).

TRACTATE

SUKKAH

Called simply “the Festival,” the festival of Sukkot forms the counterpart, in the autumn, to the festival of Passover in the spring. Both mark the first full moon after the respective equinox. Scripture links both to the Exodus; the Passover in detail and the festival of Sukkot in general terms. In both cases, however, the observance of the rite focuses attention elsewhere. Passover places Israel’s freedom into the context of the affirmation of life beyond sin while Sukkot returns Israel to the fragility of abiding in the wilderness. Sukkot, as sages portray the Festival, is to be seen only in the context of the penitential season that begins with the month of Elul, reaches its climactic moment with the judgment of the New Year and atonement of the Day of Atonement, and then works its way to an elegant conclusion in Sukkot. In the rhythm of the Torah’s time, Sukkot forms a meditation, performed by deeds, upon the uncertain life that is still open to judgment even beyond the penitential season. Israel recapitulates the life of the wilderness wanderings, beyond death yet before eternal life, by taking up residence in the fragile present and not yet in the perfected life that will take place in the Land when Israel regains Eden. As to the halakhah, Scripture supplies nearly all of the pertinent facts of Sukkot, the feast of booths of tabernacles in Lev 23:33-43. Numbers 29:12-38 specifies the offerings on the occasion of the festival of Sukkot, and Deut 16:13-15 specifies the use of the booth. Deuteronomy assigns the feast to Jerusalem while at the same time arranging for rejoicing in the towns elsewhere.

The halakhah takes as its task the presentation of three topics: (1) Temple rites, (2) home obligations, and (3) special media for, and modes of, the celebration of the Festival. First comes the home rite: building the sukkah. Second we consider the media for the celebration, the *lulav* and *etrog*. Finally we come to the Temple rites in their own terms and context. The sukkah must derive from man’s artifice and intent. It cannot be formed of what is attached to the ground, but must be made of what has grown from the ground, what is insusceptible to uncleanness, and what has been cut down. It must come about through the deliberate action of man. A natural sukkah is an oxymoron. The sukkah must represent an occasion, not a permanent arrangement, because a permanent sukkah is another oxymoron. The sukkah-roofing must afford shelter by means of what derives from nature but which has been detached from nature; human intervention is required.

- I. The appurtenances of the festival of Sukkot: the sukkah and the *lulab*
 - A. The sukkah and its roofing
 - B. The obligation to dwell in the sukkah
 - C. The *lulab* and the *etrog*

- II. The rites and offerings of the festival
 - A. The festival rites carried out on various days of the festival
 - B. The offerings

YERUSHALMI SUKKAH

CHAPTER ONE

1:1

[A] [51c] A sukkah which is taller than twenty cubits is invalid.

[B] R. Judah declares it valid.

[C] And one which is not ten handbreadths high,

[D] one which does not have three walls,

[E] or one, the light of which is greater than the shade of which,

[F] is invalid.

- [I:1 A] [The following discussion serves M. 1:1A: **A sukkah which is taller than twenty cubits is invalid. R. Judah declares it valid**, and also M. Er. 1:1A: **The entry to an alleyway which is taller than twenty cubits must be lowered. R. Judah says, “It is not necessary to do so;** (it is valid to serve as a doorway and so symbolically to link the dwellings within into a single domain for purposes of carrying on the Sabbath.)”] R. Yosé stated what follows without specifying the name of an authority; R. Aha [said it] in the name of Rab: “*Rabbis derive the requisite dimensions from the analogy of the doorway of the Temple building, and R. Judah, from the measurements of the doorway of the Porch (ulam) leading to the interior of the Temple.*”
- [B] If the measurement derives from the doorway of the Porch, then it should be sufficient even if it is forty cubits high.
- [C] *For we have learned there: **The entrance to the Porch was forty cubits high. and its breadth was twenty cubits [M. Mid. 3:7A].***
- [D] *R. Hiyya taught:* “[It is valid in Judah’s view] even if it is forty or fifty cubits high.”
- [E] *Bar Qappara taught,* “[It is valid in Judah’s view] even if it is a hundred cubits high.”

[F] *Said R. Abin, "R. Judah is consistent with his views held elsewhere, and the same is so for rabbis.*

[G] *"For we have learned there, 'And so with viaducts: they may move objects underneath them from place to place on the Sabbath, ' the words of R. Judah. And sages prohibit [doing so] [M. Er. 9:4].*

[H] *"Just as, in that instance, you regard the projecting cornice as if it descends and closes off [the area beneath, so forming an area in which it is permitted to carry], so here, you regard the roof [of the sukkah] as if it descends and closes off [the area beneath, so forming the sheltered area of the sukkah].*

[I] *"Accordingly, the view of R. Judah with respect to the sukkah is the same as his view with regard to the alleyway. The view of rabbis with regard to the sukkah is the same as their view with regard to the alleyway."*

[J] [Surely that cannot be the case, for] the two are not wholly parallel to one another.

[K] There are items that are valid in a *sukkah* but invalid in the designation of an alleyway [through provision of a symbolic gate], and there are items that are valid in the designation of an alleyway but invalid in a *sukkah*.

[L] The use of pronged poles is valid in a *sukkah* but invalid in designating an alleyway.

[M] *And so it has been taught:* If one brought four poles [and stuck them in the ground] and spread roofing over them, in the case of a *sukkah* it is valid. In the case of setting up a symbolic gate for an alleyway, it is not valid. [In the latter case the poles are stuck outside of the gateway itself and hence do not serve, even with a pole placed on top of them, to form a symbolic gateway.]

[N] With respect to the invalidity of such an arrangement in the case of the gateway to an alley,] that which you have said applies to those three handbreadths or more higher than the walls of the alleyway. But if they are not three handbreadths or higher than the walls of the alleyway, such an arrangement is valid.

[O] [With respect to the invalidity of such an arrangement when the prongs are three handbreadths or more higher

than the walls of the alleyway,] that is so when the prongs are not four hand breadths apart; [in breadth, the alleyway is less than the stated measure]. But if it is four handbreadths in breadth, even if the prongs are somewhat higher, the arrangement is valid.

[P] [Reverting to the argument of J-K:] [There are arrangements of] board-partitions valid in the case of a *sukkah*, but invalid in the case of designating the symbolic gate for an alleyway.

[Q] *And so it has been taught:* If two of the walls are valid, [Sld] and one is even an handbreadth high, [much too low,] the *sukkah* is valid. [In the case of the alleyway, by contrast, there must be three valid sides, the two sides and the top.]

[R] R. Hiyya in the name of R. Yohanan: “Two must be four by four handbreadths, but the third may be even a single handbreadth, and such an arrangement is valid.”

[S] In the case of an alleyway, by contrast, it is valid only if it is closed in on all four sides.

[T] [Again reverting to J-K:] If the contained area is ten cubits broad, in the case of a *sukkah* it is valid, and in the case of an alleyway it is invalid.

[U] [As to what is valid for an alleyway and invalid for a *sukkah*.] **If one trained a vine, gourd, or ivy over it, and then spread sukkah roofing on [one of these], it is in valid [M. 1:5A],** [but in an alleyway it does not invalidate the upper beam].

[V] [In declaring such an arrangement valid in the case of an alleyway,] *that which you have said* applies to an area of two *seahs*. But if the enclosed area is greater than that, it then serves to define an area fenced around to serve as a garden, in which case one may carry only to the extent of four cubits.

[W] **If the light is greater than the shade [M. Suk. 1:1E]** [created by the roofing], in the case of a *sukkah* it is invalid, and in the case of an alleyway, it is valid.

[X] A *sukkah* that is roofed over is invalid, but an alley-entry that is roofed over remains valid.

[Y] R. Aha in the name of R. Hoshaiah: “It is not the end of the matter that it be wholly roofed over. But if one merely placed a cornice four cubits wide, [it is deemed to serve as a partition, for the reason explained at G-H,] and so it permits [carrying] in the entire alleyway [as if it formed a partition].”

- [I:2 A] [What is the reason that sages declare a *sukkah* taller than twenty cubits to be invalid?] In the case of a house a good bit taller than this, is it possible that it does not require a parapet? [If the *sukkah* is analogous to a house, then if a *sukkah* is invalid at the specified height, do houses also fall from the category of laws governing dwellings at that same height?]
- [B] Is it not liable to have a *mezuzah* [on the doors]?
- [C] [The difference is this:] A house is roofed over, and a *sukkah* is not roofed over.
- [D] [That is not entirely so. For] we find the case of *sukkah* roofing which is treated as equivalent to the roof of a house.
- [E] *For we have learned there: If the distance from the wall to the sukkah roofing is three handbreadths, it is invalid [as a sukkah] [M. 1:10/I].*
- [F] [The difference between a *sukkah* and a house is this:] a house is surrounded by walls on four sides, but a *sukkah* is not surrounded by walls on four sides.
- [G] And lo, there is the case of a portico, which is open through its entire length to the public domain, [and yet,] R. Ila in the name of Rab, and R. Yohanan, *both say*, “They carry about [objects on the Sabbath] through the whole of it.”
- [H] *What is the upshot of the matter [to tell us why a sukkah taller than twenty cubits is invalid]?*
- [I] R. Abbahu in the name of R. Yohanan: “The Torah has said, ‘You shall dwell in booths for seven days; all that are native in Israel shall dwell in booths’ (Lev. 23:42).
- [J] “[If the roof is] up to twenty cubits, you sit in the shade of the *sukkah*. [If the roof is] more than twenty cubits high, you no longer are sitting in the shade of a *sukkah* but rather in the shade of the walls.”

[K] [As to the invalidity of a *sukkah* more than twenty cubits high,] said R. Jonah, “*that which you have said applies to a case in which the sukkah roofing is set higher than twenty cubits up the walls. But if it was set lower than twenty cubits up the walls, it is valid. [If the sukkah roofing itself is not twenty cubits off the ground, even though the walls are higher than that, the sukkah is valid.]*”

[L] Said to him R. Yosé, “In accord with your view, in emphasizing the location of the sukkah roofing on the walls, we should repeat the Mishnah’s wording as follows: ‘A *sukkah* which is set more than twenty cubits up the walls is invalid.’”

[I:3 A] [As to the invalidity of a *sukkah* more than twenty cubits high,] R. Ba in the name of Rab: “That applies to a sukkah that will hold only the head and the greater part of the body of a person and also his table.

[B] “But if it held more than that, it is valid [even at such a height].”

[C] [Giving a different reason and qualification,] R. Jacob bar Aha in the name of R. Josiah: “That applies [further] when the walls do not go all the way up with it [to the top, the roofing] but if the walls go all the way up with it to the roofing, it is valid.”

[D] [Proving that C’s reason, not A-B’s, is valid, we cite the following:] *Lo, the following Tannaitic teaching differs [in T.’s version]:* **Said R. Judah, “M’S H B: The sukkah of Helene was twenty cubits tall, and sages went in and out, when visiting her, and not one of them said a thing.”**

[E] **They said to him, “It was because she is a woman, and a woman is not liable to keep the commandment of sitting in a sukkah.”**

[F] **He said to them, “Now did she not have seven sons who are disciples of sages, and all of them were dwelling in that same sukkah!” [T. Suk. 1:1].**

[G] Do you then have the possibility of claiming that the *sukkah* of Helene could not hold more than the head and the greater part of the body and the table of a person? [Surely, someone of her wealth would not build so niggardly a *sukkah*.]

[H] Consequently, the operative reason is that the sides of the *sukkah* do not go all the way up [to the *sukkah roofing* at the top, leaving a space].

[I] *It stands to reason, then, that what R. Josiah has said is so.*

[J] *[And the Tannaitic teaching] does not differ [from sages' view], for it is the way of the rich to leave a small bit of the wall out beneath the sukkah roofing itself, so that cooling air may pass through.*

- [I:4 A] *R. Hoshaiiah raised the following question: “[In the case of a sukkah twenty cubits tall,] if one brought a plank [suitable for serving as sukkah roofing] and placed it [at an angle] on the piece of a column [ten handbreadths high, set in the middle of the sukkah], it is obvious that if one should measure from the board [which extends at an angle upward to the roof of the sukkah], there is a distance of twenty cubits [or more, as the board projects beyond the sukkah roofing]. If, on the other hand, one measures from the ground [to the height of the pillar, that is, the point at which the board is located], there is not a distance of twenty cubits.*
- [B] *“How do you treat [the sukkah roofing that is above the ground but not above the board]?”*
- [C] *“Is it deemed equivalent to invalid air space, or to invalid sukkah roofing? [That is, in line with M. 1:11, sukkah roofing may not be four cubits distant from the wall. The board that protrudes above twenty cubits is equivalent to a suspended side of a sukkah. In accord with M. 1:10, if a suspended side is three handbreadths above the ground, it is invalid. Now the problem is clear. If we take as definitive the part of the board outside of the upper ceiling of the sukkah, then it encompasses contained air space too large to constitute a valid sukkah. How much? Three handbreadths is the criterion. If we take account of the part of the board within the sukkah but separated from the wall, then if the sukkah roofing is four handbreadths or more from the wall, it is invalid.]*
- [D] *“If you treat it by the criterion of invalid contained air space, it invalidates at the measure of three handbreadths.*
- [E] *“If you treat it by the criterion of invalid sukkah roofing, it invalidates only at the measure of four cubits.”*
- [F] *R. Yosé b. R. Bun in the name of Hezekiah: “On what account did they rule, ‘Invalid sukkah roofing imparts invalidity only in the measure of four cubits?’ It is because the sukkah roofing only falls within the permissible dimensions of the sukkah to begin with [and a valid sukkah must be four by four cubits].”*

- [G] [Reverting to Hoshaiyah's question, A-E,] *said R. Miasha, "I am amazed that R. Hoshaiyah should raise such a question! Why should he not derive the answer from the statement of R. Ba bar Mamel?"*
- [H] **"For we have learned there: He who suspends the sides of the sukkah from above to below [that is, suspending the partitions from the roof], if they are three handbreadths above the ground, the sukkah is invalid [M. 1:10A-C]."**
- [I] "In this regard R. Ba bar Mamel said, 'That applies when he does not sit and eat in the shade of the partitions. But if he was sitting and eating in the shade of the partitions, it is valid.' [Along these same lines, Hoshaiyah can now answer his question. Just as Ba bar Mamel invokes the principle that we treat a partial wall as if it were complete, so we treat the pillar in the same way. If then one sits and eats in the area in which the pillar's covering diminishes the height of the *sukkah*, the area he uses as a *sukkah* is valid. Why then should Hoshaiyah have asked about invalidating measurements, when, under the stated conditions, it is not an invalid situation?]"
- [J] *Said R. Yosé, "The statement of R. Ba bar Mamel does not teach us anything at all. R. Ba bar Mamel derived his statement from the Mishnah, for we have learned:*
- [K] **"A balcony which is above water – they do not draw water from it on the Sabbath unless they made for it a partition ten hand breadths high, whether above or below [M. Er. 8:8].** [We have a balcony over the water. A hole in the floor of the balcony permits drawing water. But it is not permitted to do so on the Sabbath, because the balcony is private domain, and the water is neutral domain (*karmelit*). If a partition marks off a part of the water and makes it into private domain, however, whether this partition is located under the water or above it, then it is permitted to draw water on the Sabbath, that is, from private domain to private domain. Now in this case we introduce the principle invoked by Ba bar Mamel at I. We treat the partial wall as *if* it were complete. He derived that principle for the *sukkah* from the present one. The criticism *of* his position will be resumed at M.]
- [L] "In this regard, R. Zeira, R. Judah in the name of Rab: 'And that is the case only when the partition goes down into the water the measure of the dipper [so that when the dipper goes in to take up the water, it remains in demarcated, private domain].'"

- [M] [Reverting to the criticism of Ba bar Mamel's position:] But the two cases really are not parallel. The sea is an intermediate domain, *karmelit*, which is neither private nor public domain.
- [N] *But here* [one cannot invoke the principle of an imaginary extension of the wall], for the Torah has said, "You shall dwell in booths" (Lev. 23:42). From the very ground of the *sukkah* you measure twenty cubits. [The principle of the imaginary extension of the walls is precluded.]
- [I:5 A] If a *sukkah* was lower than ten handbreadths, and one hung up in it garlands [of produce, as decorations] which are suitable to serve as *sukkah roofing*, the garlands diminish the height of the *sukkah* to less than what is required [ten handbreadths], so that the *sukkah* is invalid.
- [B] But if not [that is, if the garlands are not suitable to serve as *sukkah-roofing*], while they diminish the height of the *sukkah*, they do not invalidate it.
- [C] If a *sukkah* was taller than twenty handbreadths, and one hung up in it garlands [as decorations] which are suitable to serve as *sukkah roofing*, the garlands diminish the height of the *sukkah* to less than its excessive height, so that the *sukkah* is valid.
- [D] But if not, while they diminish the height of the *sukkah*, they do not validate it. [In the case of C, the garlands suitable to serve as *sukkah roofing* are deemed to do so, with the result that, hanging down as they do, they diminish the height of the ceiling to what is within the required limits.]
- [E] Said R. Shimi, "As they have stated a rule for what is placed on top [as decoration], so they stated a rule as to what is placed on the floor.
- [F] "Straw and stubble [placed on the floor of the *sukkah*] do not serve to diminish its height; dirt and pebbles do serve to diminish the height. [The former rot and would not be used in a normal dwelling.]"
- [G] Said R. Yosé b. R. Bun, "If grass grew up in the *sukkah*, it does not serve to diminish the distance between the roof and the ground."
- [I:6 A] How [on the basis of Scripture] do we know that air space ten handbreadths above the ground constitutes a different domain [from the ground]?
- [B] R. Abbahu in the name of R. Simeon b. Laqish: "There I will meet with you, and from above the mercy seat, from between the two cherubim that are upon the ark of the testimony, I will speak with you

of all that I will give you in commandment for the people of Israel' (Ex. 25:22).

- [C] “And it is written, ‘Thus you shall say to the people of Israel: You have seen for yourselves that I have talked with you from heaven’ (Ex. 20:22).
- [D] “Just as ‘speaking’ stated elsewhere refers to a distinct domain [that is, heaven is distinct from earth], so ‘speaking’ stated here refers to a distinct domain.”
- [E] But was not the ark nine [and not ten] handbreadths high?
- [F] *Members of the household of R. Yannai said*, “The mercy seat [in addition] was a handbreadth [in height].”
- [G] *R. Zeira asked*, “How do we know that the mercy seat was a handbreadth in height?”
- [H] *R. Hananiah bar Samuel taught*, “To all utensils that were in the Temple the Torah assigned a length, breadth, and height, except for the mercy seat, to which the Torah assigned a length and breadth, but not a height.
- [I] “You may derive it from the smallest utensil in the Temple: ‘And you shall make around it a frame a handbreadth wide, and a molding of gold around the frame’ (Ex. 25:25). Just as here we have the height of a handbreadth, so there [with regard to the mercy seat] the height is a handbreadth.”
- [J] Or perhaps the meaning is, “You shall make a molding of gold around the frame,” meaning, “Just as here [in the case of the molding,] the height is any measure at all, so there [in the case of the mercy seat] it may be any measure at all” !
- [K] *What is the upshot of the matter?*
- [L] *R. Aha bar Jacob says*, “[And the priest shall dip his finger in the blood and sprinkle it seven times before the Lord] in front of [the veil]’ (Lev. 4:17). And ‘front’ can only be a handbreadth.”
- [M] *R. Yosé raised the question*, “Now in the case of a tall cupboard which stands in the house, of whatever height [even above ten handbreadths], is it possible that one is not permitted to make use of what is in it, taking it out of the cupboard and using it in the house, or to put something from the rest of the house back into the cupboard?”

[N] “But [Lev. 4:17] deals with the time that the priest is [tossing the blood seven times] in the various directions. [That verse has no bearing upon our question, because it deals with the quite separate matter of tossing the blood in various directions.]”

[O] [Reverting to the dimensions specified above, A, and, further, referring to **M. Kel. 17:10: R. Meir says, “All measurements of the Temple were according to the cubit of middle size” R. Judah says, “The standard of the cubit used for the building was six handbreadths, and for the utensils five handbreadths,”**] *now the attempted proof poses no problems to the view of him who says that all measurements were in accord with the standard of six handbreadths to a cubit. [This applied throughout.]*

[P] *But in accord with him who said that the measure had five handbreadths to a cubit, would the ark then not have been seven and a half handbreadths [rather than nine]? [The scriptural dimension is a cubit and a half, hence, seven and a half handbreadths, not nine.]*

[Q] R. Jacob bar Aha said, “[We deal with] a member of the house of R. Yannai and R. Simeon b. Yehosedeq. *One party derives the measurement [of ten handbreadths from the ground as a domain] from the height of the ark [as above, E-F], and the other party derives the measurements from the height of a wagon. And we do not know who derived the measurement from the height of the ark and who derived it from the height of a wagon.*”

[R] *It stands to reason that it is the member of the house of R. Yannai who derives the measurement from that of the ark, for the members of the household of R. [52a] Yannai said, “The ark was nine handbreadths in height and the mercy seat was one handbreadth in height.”*

[S] *Then R. Simeon b. Yehosedeq derives the stated measurement from the wagon.*

[T] *R. Zeira asked*, “How do we know that the wagons [used in the Temple] were ten handbreadths high?”

[U] Said R. Yosé, “And even if you say they were ten handbreadths high, *did not R. Nehemiah teach*, ‘The upholstered wagons were vaulted like tilted carts’? [Hence it was possible to get at the contents only through the door.]

[V] “Now in the case of a hole in the public domain, ten handbreadths deep and four broad, is it possible to suppose that it is not forbidden to make use of what is in it in the public domain, or what is in the public domain in it? [Of course, it is prohibited to do so, since this constitutes a domain unto itself. How would the case of the wagon – a distinct high place in public domain – supply a useful analogy?]”

[W] “But when they [on the Sabbath] extended the boards from one wagon to the next, they were straight-walled [and not arch covered]. [Accordingly, the wagons at that point were demonstrably ten handbreadths high, and, in that ordinary condition, without attention to the vault or arch, they supply a usable analogy.]”

[I:7 A] *It has been taught: Rabbi says*, “**A sukkah must be four cubits by four cubits, even though it does not have four walls**” [cf. T. Suk. 2:2F].

[B] **R. Simeon says**, “**It must have four walls, even though it is not four cubits square.**”

[C] **R. Judah says**, “**It must be four cubits square, or it must have four walls.**”

[D] **And so does R. Judah declare the sukkah liable to have a mezuzah, even though it is not four cubits by four cubits [in area] or does not have four walls.**

- [E] *It stands to reason that R. Judah will concur with these rabbis [A, B,] but these rabbis will not agree with R. Judah [C].*
- [F] That is, even though it is four cubits by four cubits, and it has four walls, [the rabbis cited above] will still maintain that it is exempt from the requirement of having a *mezuzah* [since it is not a dwelling at all], and it also does not serve to place produce brought within it into the status of produce that has not yet been tithed but requires tithing [as bringing produce into a home imposes such status on produce brought in from the field].
- [G] R. Simeon says, “It must have four [walls].”
- [H] Rabbis say, “Three.”
- [I] *What is the scriptural basis for the position of the rabbis [who accept a sukkah in which two walls are of appropriate dimensions, and the third even a handbreadth in height, as against Simeon, who wants three of requisite dimensions, and a fourth even a handbreadth in height .*
- [J] The word for “living in booths” [*sukkot*] is written three times, lo, yielding three [walls], one referring to the sukkah roofing above, and two referring to the walls beneath. And the requirement of yet a third wall [the little one, derives merely] from the teaching of the scribes.
- [K] *What is the scriptural basis for the view of R. Simeon?*
- [L] “You shall dwell in booths for seven days; all that are native in Israel shall dwell in booths, that your generations may know that I made the people of Israel dwell in booths when I brought them out of the land of Egypt: I am the Lord your God” (Lev. 23:42-43).
- [M] The word for booths [in the plural, *sukkot*,] is written once fully spelled out and twice defectively, thus four times in all, with one such reference applying to the sukkah roofing above, and three to the walls below; the fourth wall derives from the requirement of the scribes [and hence of other than normal proportions].
- [N] *R. Hiyya bar Ada said, “There are two Amoraic authorities. One supplied the scriptural basis for the view of rabbis, and the other, that for the view of R. Simeon.*

[O] “*What is the scriptural basis for the position of the rabbis?*”

[P] “‘It will be for a shade by day from the heat, and for a refuge and a shelter from the storm and rain’ (Is. 4:6). Lo, this then refers to the sukkah roofing above, and the three times that the sukkah is mentioned [at Lev. 23:42-43] supply the requirement that there be three walls.

[Q] “*What is the scriptural basis for the position of R. Simeon?*”

[R] “‘It will be for a shade by day from the heat, and for a refuge and a shelter from the storm and rain’ (Is. 4:6). Lo, this then refers to the sukkah roofing above.

[S] “Then [as before] the word for booths is written once fully spelled out and twice defectively, thus four times in all.”

[T] *Rabbis of Caesarea derive the basis for the view of R. Simeon and the basis for the view of rabbis from the following verse: “It will be for a shade by day from the heat, and for a refuge and a shelter from the storm and rain” (Is. 4:6).*

[U] “It will be for a shade by day from the heat” – lo, one time.

[V] “And for a refuge and a shelter” – two.

[W] “From the storm and rain” – *rabbis treat the storm and rain as a single reference.*

[X] *R. Simeon treats the storm and rain as two distinct references.*

[Y] *And so it has been taught: And sages say, “[A sukkah is valid if] two accord with the requirement of the law, and a third, even a handbreadth in height.” [R. Simeon says, “The third also must be in accord with the requirement of the law, but the fourth may be even a handbreadth in height” (T. Suk. 1:13A-B).]*

- [I:8 A] R. Hiyya in the name of R. Yohanan: “If two walls are four by four handbreadths and the third is even a handbreadth, the *sukkah* is valid.”
- [B] *R. Hoshaiiah raised the following question: “If one placed the wall the size of a handbreadth in between, [but not in contact with, either of the valid walls,] what is the law?”*
- [C] He then reverted and asked, “As to the two walls of four handbreadths which one placed in the middle [not in contact with one another], what is the law?”
- [D] *R. Jacob bar Aha, “A case along these lines came to R. Yosé and he declared the *sukkah* to be valid.”*
- [E] *And so has it been taught [in T.’s version]:*
- [F] **A large courtyard which is surrounded by pillars – lo, the pillars are tantamount to sides [for a *sukkah*]. [Even though the pillars form a partition between the roof and the *sukkah* roofing, the *sukkah* is valid] [T. Suk. 1:8A].**
- [G] *[With reference to C, above,] and lo, there is a Tannaitic teaching that differs: **If two were made in accord with the law [T. Suk. 1:13A], they are valid, and if not, they are not valid. [The position of this objection is that placing a wall in the middle does not constitute doing it in accord with the law, as is now made explicit.]***
- [H] *They reasoned that the point was that we speak of a wall in the middle [as explained at F, hence Yosé’s ruling is contradicted].*
- [I] Said R. Samuel bar R. Isaac, “[When the Tosefta speaks of not being set up in accord with the law, it means] setting up one will not in relationship with the other, valid wall [but extending one wall in one direction, another in a different direction]. [In such a case we do not have walls properly set up in accord with the law. But as to seeming up a wall in the middle, there is no objection.]”
- [J] Rab said, “The wall that is only a handbreadth high has to be set out form a valid wall by a distance of a handbreadth [so that it will be visible as a separate and distinct wall].”
- [K] [Differing from this view,] Samuel said, “Even if it is right up against a valid wall, it is acceptable, for people see it as if it protrudes [as a valid wall on its own, so the side will

not appear to have only two walls, even under such conditions].”

[L] R. Ba, Hinena bar Shelsmayyah, R. Jeremiah in the name of Rab: “Even if it is right up against a valid wall, it is acceptable, for people see it as if it protrudes [as a valid wall on its own, as above].”

[M] *R. Jacob bar Aha said, “R. Yohanan and R. Simeon b. Laqish: One concurred with this party, and the other concurred with that.”*

[N] *Kahana and Asa came and discussed the matter with Rab, [ultimately coming out] in accord with the position of Samuel.*

[O] R. Judah bar Pazzi in the name of R. Joshua b. Levi: “And that is the case if it is set within three handbreadths [a valid wall], as in the case of a [symbolic] gateway.”

- [I:9 A] R. Simeon b. Laqish said in the name of R. Judah b. Haninah, “If one inserted four reeds into the four corners of a vineyard and tied a thread above [the reeds, from one to another], it affords protection as a braid, [that is, it forms a partition with regard to mixed seeds, and it is therefore permitted to sow seed near the vineyard, as if the vineyard were separated from the seed by a wall]. [This braided partition suffices for such a purpose.]”
- [B] [Such a construction would not serve as a gateway to link an alleyway, however, and hence, rejecting this view,] said R. Yohanan, “As is the rule governing partitions for the purposes of the Sabbath, so is the rule defining a suitable partition in the case of mixed seeds in a vineyard.”
- [C] Said R. Yohanan, “There was the case in which R. Joshua b. Qorha went to R. Yohanan b. Nuri in Naginad. He showed him a field, which was called, ‘The area close by its fellow’ [because there were other seeds sown cheek by jowl with this field, separated from it by a fence]. Now in the fence there were breaches of a breadth of more than ten handbreadths. [Yohanan] would then take pieces of wood and fill up the gaps, or take reeds and fill up the gaps, so that he lessened the breaches to under ten handbreadths. He said to him, ‘As is the rule for repairing this fence, so is the rule for a proper partition for the purposes of the Sabbath.’” [This illustrates Yohanan’s position that a single definition applies to fences for the purposes of both mixed seeds and the Sabbath.]

[D] Said R. Zeira, “R. Simeon b. Laqish concurs with regard to the Sabbath that a braided partition does not afford protection in a gap larger than ten handbreadths. [The partition will not close off a huge gap.]”

[E] *Said R. Haggai, “The Mishnah has made the same point:*

[F] “They surround [the camp] with three ropes one above the other, on condition that between one rope and the next there be no space more than three handbreadths. The size of the ropes must be so that their [total] thickness is more than a handbreadth, so that the whole will be ten handbreadths high [M. Er. 1:9]. [If ropes are used they must be set within three handbreadths of another. If the ropes all together measure a bit more than a handbreadth, then the entire rope fence will be ten handbreadths.]

[G] “Now if you say that a braid affords protection for a space of more than ten handbreadths, along these same lines a single rope should do the same. [Creating the shape of a doorway serves only for ten handbreadths’ breach.]”

[H] *R. Jonah said R. Hoshaiah asked about the rule pertaining to the braid: “Is it placed above or at the side?*

[I] “If you say that it may be set on top [and that serves to create the shape of a doorway], then all the more so it may be set on the side [where it surely creates a symbolic gateway].

[J] “But if you say it may be set on the side, lo, as to setting it on top, that should not be done.

[K] “If you say it is set on top, R. Haggai spoke well.

[L] “If you say it is set on the side, then R. Haggai has said nothing whatsoever [at E-F].”

[M] [Y. Suk omits:] [Why do you say so?] What is your choice? If it is placed on top, lo, it serves on top [to fill up a breach of ten handbreadths], and if it is set on the side, lo, on the side [it fills the same gap]. [Why reject Haggai’s statement, E-F?]

[N] [Interpreting Haggai’s position,] Rabbis of Caesarea is the name of R. Jeremiah: “Apply the law to a case in which the reeds were in the form of poles [broad at the top and narrow at the bottom]. [The Mishnah at M. Er. 1:9 speaks of poles that are broad on top and narrow on the bottom. At the sides, then,

the poles are narrow and will not hold a rope more than ten handbreadths in length. But if the rope is stretched across the top, the poles will serve for an even greater distance.]”

[O] R. Zeira, R. Abedimi of Haifa in the name of R. Simeon b. Laqish: “As to height, even up to a hundred cubits [the thread will be suspended properly, and the partition will serve quite adequately].”

[P] *Said R. Yudan, “That which you have said applies to the matter of making a partition to prevent the appearance of mixed seeds in a vineyard, but so far as creating a partition to allow carrying on the Sabbath, braided partitions of this kind should not be higher than the roof.”*

[Q] Said R. Yosé, “The same rule governing a partition applies both for a partition with regard to mixed seeds in a vineyard and a partition for purpose of allowing carrying in a courtyard on the Sabbath.”

[R] *In the view of R. Yosé, what is the difference between setting up a beam [as a symbolic gateway] and a partition made by a braid?*

[S] A symbolic gateway constituted by a beam affords protection, [that is, constitutes suitable unification of the courtyard within, for purposes of carrying on the Sabbath] even if it is on only a single side [of the courtyard]. A braid, by contrast, affords protection only if it surrounds the courtyard on all four sides.

[T] *Now what has been said accords with the statement of R. Zeira in the name of R. Hamnuna, “A braided partition affords protection only if it forms an enclosure on all four sides.”*

[U] Said R. Ba bar Mamel, “Balconies that overhang vineyards – it is forbidden to carry underneath them [on the Sabbath], for they are regarded as an extension of the roof [of the house].”

[V] But does not the extension of the roof of a house afford protection as a braided partition?!

[W] *Said R. Phineas, “A case came before R. Jeremiah involving four columns on which were four pestles, and he permitted carrying beneath them on the*

Sabbath because [they afforded protection as] braided partitions.”

[X] *R. Bun and [a different] R. Bun asked before R. Zeira, “As to a braid, what is the law on its serving in the case of a sukkah? [That is, is the shape of a gateway formed in this way serviceable as a wall for a sukkah?]”*

[Y] He said to them, “A braid serves in the case of a *sukkah*.”

[Z] “As to the overhanging sukkah roofing, what is the law concerning it?”

[AA] He said to them, “The overhanging sukkah roofing does not serve [to form a wall] in a *sukkah*. What difference would there be between that and this?”

[BB] [He replied,] “This [the shape of a doorway] has been made to serve as a wall [of a *sukkah*], but that [the overhanging ends of the sukkah roofing] has not been made for that purpose.”

[CC] *Said R. Abbahu, “All of this discussion is for the purpose of give and take. But as to instruction, it is forbidden to give a decision [that such a construction may serve as a wall for a sukkah].”*

[DD] Now if in the case of a sukkah, which is subject to a lenient rule, you maintain that view, that such a partition is forbidden [to serve as a wall], as to the Sabbath, which is subject to a stricter rule, is it not an argument a fortiori [that a braided wall will not serve as a suitable partition, or symbolic doorway, to permit carrying in a courtyard]?

[EE] *R. Bun bar Hiyya asked before R. Zeira, “Who taught that a braided partition will serve? Is it not R. Yohanan b. Nuri [= C]*

[FF] *He said to him, “Yes, that is the case, but he is a single authority [as against the majority].”*

- [I:10 A] [With reference to **M. Kil. 4:4**: **If the space between the reeds of a reed partition was less than three handbreadths, which would suffice for a head to enter, it is deemed a valid partition. If a fence was breached for a space of ten cubits, such may be deemed an entrance. If it is wider than this, it is forbidden to sow opposite the breach. If many breaches were made in the fence, yet what is yet standing is greater than the area that is broken down, it is permitted to sow opposite the breach; if the broken down part is broader than the standing part, it is forbidden:**] You turn out to rule as follows:
- [B] As to mixed seeds in a vineyard [in which a fence must be erected to keep distinct the patches of a field sown in different seeds], if there is a breach less than three handbreadths, it is as if it were closed up.
- [C] If the breach were from three to four handbreadths, if the standing part of the fence is greater than the broken down part of the fence, it is permitted [to sow seeds by the breach, as if it were a fully valid fence], and if the breaches were greater than the standing part of the fence, it is forbidden.
- [D] If the breaches were from four to ten handbreadths, if the standing part of the fence was greater than the broken down part, it is permitted [to sow opposite the breaches]. If the broken down part is greater than the standing part, then opposite the standing part of the fence it is permitted to sow [seeds of a different sort from what is on the other side of the fence], and in the area opposite the breach, it is forbidden.
- [E] If it is greater than ten handbreadths, even though the standing part of the fence is greater than [52d] the broken down part of the fence, while it is permitted to sow opposite the standing part of the fence, it is forbidden to sow opposite the broken down part of the fence.
- [F] Now as to the matter of the Sabbath [in constructing a partition to permit carrying in a courtyard]: Any case where there is a breach less than three handbreadths, it is as if it were fully closed up.
- [G] If there is a breach from three to four handbreadths,
- [H] from four to ten, if the part of the fence that was standing is greater than the part that was breached, it is permitted [to carry in the courtyard].
- [I] If the part that was broken down was greater than the part that was standing it is forbidden [to carry].

[J] If the breach was greater than ten handbreadths, even though the standing part of the fence was greater than the broken down part, it is forbidden [to carry in the courtyard].

[K] *Said R. Hananiah, R. Judah b. Pazzi in the name of R. Yohanan, "There is no need here [G] to refer to a gap of from three to four handbreadths."*

[L] [Why not?] One may have here a breach of three handbreadths and not have a place in which four handbreadths [of fence are actually standing].

[M] *R. Mana objected [to K], "But have we not learned, **They may surround a camp with reeds [M. Er. 1:10]**? [Now Hananiah has maintained that so small a gap as four handbreadths need not be specified at all. Yet] does a reed take up any space at all? [Yet it can be used to create a partition.]"*

[N] *He said to him, "Do not answer me with reference to a breach of less than three handbreadths, for a breach less than three handbreadths is regarded as if it were closed up."*

[O] *R. Yosé b. R. Bun in the name of Rab: "In any event, since the standing part of the fence is greater than the broken down part, it is permitted [to carry in that area]."*

[I:11 A] The tips of lathes [used for the sukkah roofing] that protrude from the *sukkah* are treated as part of the *sukkah*.

[B] *R. Hunah in the name of rabbis over there: "That is on condition that the lathes protrude across the entire face of the [sukkah]."*

[C] *R. Jacob bar Aha, R. Yosé, R. Yohanan in the name of R. Hoshaiah: "And the rule applies even in the area before a valid wall [which is deemed extended]."*

[D] *R. Jacob bar Aha, R. Hiyya, R. Yohanan in the name of R. Hoshaiah: "And that is the case even not in the area before a valid wall. [That is, the protruding lathes are deemed themselves to form a valid wall, as they hang down from the roof.]"*

[E] *In accord with the version of R. Yosé [of what Yohanan said in Hoshaiah's name] there is no problem [in understanding the need for the ruling given above, A + C]. [The lathes have the effect of extending the wall.]*

[F] *But in the version of R. Hiyya bar Ba, what sort of lenient rule have you laid down? [That is, you maintain that even if there is no wall in*

the area in which the lathes protrude, you deem it as if there is a sukkah-wall, so treating the lathes “as part of the *sukkah*.” Now for what purpose does this rule serve in line with D?)

[G] The ruling serves the case in which the sunshine is greater than the shade of the *sukkah* [and so, without taking account of the shadow of the lathes, we should deem the *sukkah* to be invalid]. [The lathes are deemed part of the *sukkah*, in that the shade they cast is included in the calculation of the effects of the *sukkah* roofing.]

[II:1 A] One the light of which is greater than its shade is invalid [M. 1:1E-F].

[B] Lo, if it is half and half, it is valid.

[C] A *sukkah* bearing thin sukkah roofing, the shade of which is greater than its light, remains valid. [Thus: “half and half is invalid.”]

[D] Here then you claim that where the light is equal to the shade, it is valid, and there [by inference] it is invalid.

[E] Rabbis of Caesarea, R. Isaac bar Nahman in the name of R. Hoshaiiah: “[The ruling of C applies to a case in which a *sukkah* was built using a tree as its sukkah roofing. The tree was cut down for that purpose. The builder did not spread out the boughs equally over the *sukkah*, hence creating the impression of a *sukkah* with a thin covering.] So the case of the tree is different, for it is usual [in such a case] for one branch to extend in one direction, another in a different direction. [The issue of whether the light is greater than the shade is not pertinent in this case.]”

1:2

[A] A superannuated sukkah –

[B] the House of Shammai declare it invalid.

[C] And the House of Hillel declare it valid.

[D] And what exactly is a superannuated sukkah?

[E] Any which one made thirty days [or more] before the Festival [of Sukkot].

[F] But if one made it for the sake of the Festival,

[G] even at the beginning of the year,

[H] it is valid.

- [I:1 A] *It has been taught:* [From the viewpoint of the House of Hillel one nonetheless] must do something new to the *sukkah* [to validate it, if it was built more than thirty days before the Festival
- [B] Associates said, “It must involve a handbreadth [of the *sukkah* roofing].”
- [C] R. Yosé says, “It may be any measure at all.”
- [D] He who said, “It may be any measure at all,” requires that whatever is done cover the entire face of the *sukkah*.
- [I:2 A] *The same dispute pertains to unleavened bread [for use for Passover].*
- [B] *As to unleavened bread that is old, there is a dispute between the House of Shammai and the House of Hillel.*
- [C] Said R. Yosé, “It represents the view of all parties [that old unleavened bread may not be used on Passover]. [Why not?]”
- [D] “Because the unleavened bread was not prepared for the sake of Passover, it is perfectly obvious that the one who made it did no take pains with it [to keep it from leavening at all].”
- [I:3 A] **[In T.’s version:] The sukkah made by shepherds, the sukkah made by field-workers in the summer, [or] a sukkah which is stolen –**
- [B] **is invalid [T. Suk. 1:4A-B].**
- [C] A *sukkah* made by Samaritans – if it is made in accord with the law pertaining to it, it is valid.
- [D] If it is not made in accord with the law pertaining to it, it is invalid.
- [I:4 A] He who makes a *sukkah* for himself – what blessing does he say?
- [B] “Blessed who has sanctified us by his commandments and commanded us to make a *sukkah*.”
- [C] If he made one for someone else?
- [D] “to make a *sukkah* for his Name.”
- [E] If one went into the *sukkah* to dwell therein, he says, “Blessed who has sanctified us by his commandments and commanded us to dwell in a *sukkah*.”
- [F] Once he has said that blessing over the *sukkah* on the first nights of the Festival, he does not have to say a blessing over it again thereafter.

[G] Hanin bar Ba in the name of Rab: “And as to a blessing for the season, [‘who has kept us in life and brought us to this season’]? Once it has gotten dark, what is the law as to his having to make mention of the season?”

[H] R. Hoshaiiah said, “He has to make mention of the season.”

[I] R. Ila said, “He has to make mention of the season.”

[J] R. Zebidah said, “He has to make mention of the season.”

[K] [*Reformulating them,*] R. Hiyya bar Ada treated these statements as traditions [*that one had heard from another*]:

[L] “R. Zeirah, R. Isaac bar Nahman in the name of R. Hoshaiiah, R. Judah bar Pazzi in the name of R. Hama, father of R. Oshaiiah: ‘Once it has gotten dark, one has to make mention of the season.’”

1:3

[A] He who makes his sukkah under a tree is as if he made it in [his] house.

[B] A sukkah on top of a sukkah –

[C] the one on top is valid.

[D] And the one on the bottom is invalid.

[E] R. Judah says, “If there are no residents in the top one, the bottom one is valid.”

[I:1 A] In the case of two sukkah-roofs, one on top of the other, in which the upper roofing was such that the light was greater than the shade [and hence invalid], while the lower one was such that the light was not greater than the shade on its own, but, together with the other roof, the shade was greater than the light –

[B] what is the maximum of space that may be between the two roofs so that they should be deemed joined together [into a single sukkah roofing, hence a valid one for the sukkah beneath]?

[C] *There were two Amoraic authorities. One said, “Ten cubits,” and the other said, “Four.”*

[D] *The one who maintained that ten cubits distance are permissible objected to the one who said that only four are permissible, “If it is because of the principle of forming a tent [that you want the two so close together], we find that a tent may be no more than a handbreadth*

[in its principal dimensions, hence also height]. [So you permit too broad a space between the two roofs.]”

[II:1 A] R. Judah says, “If there are no residents in the top one, the bottom one is valid” [M. 1:3E].

[B] Is the law that there must actually be residents above [to invalidate the one beneath], or may it merely be suitable for residents [to invalidate the one beneath]?

[C] *On the basis of what a certain elder said to R. Zeira, “And even the one beneath is valid,” [we may derive the answer].*

[D] *For someone does not say, “Even,” unless he concurs with what has been said before.*

[E] *Consequently the answer is that if there actually are residents, the lower one is invalid, but if the upper one merely is suitable to serve residents, the lower one remains valid.*

1:4

**[A] [If] one spread a sheet on top of [a sukkah] on account of the hot sun,
[B] or underneath [the cover of boughs] on account of droppings [of the branches or leaves of the bough-cover],**

[C] or [if] he spread [a sheet] over a four-poster bed [in a sukkah],

[D] it is invalid [for dwelling or sleeping and so for fulfilling one’s obligation to dwell in the sukkah].

[E] But he spreads it over the frame of a two-poster bed.

[I:1 A] *It has been taught:* If one suspends rugs in the *sukkah*, it remains valid.

[B] *Said R. Haninah, “That which you have said applies to suspending them on the sides of the sukkah. But if one suspends them at the top, it is invalid.”*

[II:1 A] Or underneath the cover of boughs, on account of droppings of the branches of leaves of the bough-cover [M. 1:4B]:

[B] Said R. Yosé, “They have stated only, ‘On account of droppings.’ Lo, if one does so not on account of droppings, it is valid.”

[III:1 A] But he spreads it over the frame of a two-poster bed [M. 1:4E].

[B] R. Bibi in the name of R. Yohanan: “[This cover forms a kind of covered space, of which we do not take account,] just as one may have created an enclosed space by raising his two hands [within a covering].

[Doing so has no bearing on the validity of the *sukkah*; this does not constitute a roof within the roof.]”

1:5

[A] [If] one trained a vine, gourd, or ivy over it and then spread sukkah roofing on [one of these], it is invalid.

[B] But if the sukkah roofing exceeded them,

[C] or if he cut them [the vines] down,

[D] it is valid.

[E] This is the general rule:

[F] Whatever is susceptible to uncleanness and does not grow from the ground – they do not make a sukkah roofing with it.

[G] And whatever is not susceptible to uncleanness, but does grow from the ground [and has been cut off] – they do make a sukkah roofing with it.

[I:1 A] [As to M. 1:5C,] R. Ba in the name of Rab: “[The trained vines are valid roofing when cut down, if to begin with] the man trained them for that purpose.”

[B] R. Jacob bar Aha in the name of R. Zeira: “He has to shift them about [after cutting them down, so as to indicate that they now are meant to serve the purpose of covering the sukkah].”

[C] *Said R. Yosé, “Both rulings are intended to be lenient. Thus:*

[D] “If one trained them for this purpose [serving as *sukkah* covering] even though he did not shift them about,

[E] “or if he shifted them about even though he did not to begin with training them for this purpose, [the *sukkah* is valid].”

[II:1 A] [Illustrating M. 1:5F-G:] R. Ba, Hinena bar Shelamayya, R. Jeremiah in the name of Rab: “If one covered a *sukkah* with wedges, it is invalid.

[B] “If he did so with plain arrow shafts, it is valid. If he did so with bored shafts [which serve as a receptacle] it is invalid.”

[C] [If] one made a sukkah roofing of stalks of flax, it is valid.

[D] [If one made a sukkah roofing of] processed stalks of flax, it is invalid [T. Suk. 1:5].

[E] If one made a sukkah roofing of ropes or with sheaves of grain, it is valid [T. Suk. 1:4C].

[F] *There is a Tannaite authority who says that [a roofing of ropes] is valid, and there is a Tannaite authority who says that it is invalid.*

[G] *He who says that such a roofing is valid speaks of roping made of bast.*

[H] *He who says that such a roofing is invalid speaks of roping made of flax.*

[II:2 A] Said R. Yohanan: “It is written, ‘You shall keep the feast of booths seven days, when you make your ingathering from your threshing floor and your wine press’ (Deut. 16:13).

[B] “From the refuse of your threshing floor and your wine press you may make sukkah roofing for yourself.”

[C] R. Simeon b. Laqish said, “‘But a mist went up from the earth and watered the whole face of the ground’ (Gen. 2:6). [The analogy of the covering of the *sukkah* is to mist, which arises from the ground and is not susceptible to receive uncleanness.]”

[D] *Said R. Tanhuma, “This one is consistent with opinions held elsewhere, and that one is consistent with opinions held elsewhere.*

[E] “R. Yohanan has said, ‘The clouds came from above,’ and so he derives the rule from the reference to ‘your ingathering.’

[F] “R. Simeon b. Laqish said, ‘Clouds come from below,’ so he derives the rule from clouds [of mist].”

[G] *Said R. Abin, “This party is consistent with opinions held elsewhere, and that one is consistent with opinions held elsewhere.*

[H] “R. Yohanan compares the matter to one who sends his fellow a jug of wine, giving him the jug as well as the wine. [Along these same lines God gives the clouds along with the rain from heaven.]

[I] “R. Simeon b. Laqish compares the matter to a priest, who said to his fellow, ‘Send over your basket and take some grain for yourself.’ [Clouds come from below, and God puts rain in them in heaven.]”

1:6

[A] Bundles of straw, wood, or brush –

[B] they do not make a sukkah roofing with them.

[C] But any of them which one untied is valid.

[D] And all of them are valid [as is] for use for the sides [of the sukkah].

[I:1 A] [As to M. 1:6A-B,] R. Hiyya in the name of R. Yohanan: “It is because [the sukkah] will look like a storage-house.”

[B] R. Jacob bar Abbayye, R. Sheshet in the name of R. Hiyya the Elder: “A bundle is made up of no fewer than twenty-five sticks [of wood]. [Fewer than these do not, when tied together, add up to a bundle.]”

[I:2 A] Hinena bar Shelemayya in the name of Rab: “If one cut sheaves for use for sukkah roofing, they are not regarded as having ‘handles.’ [That is, what is attached to them does not serve to transmit uncleanness affecting that attachment to the food contained in the sheaves themselves. In the present instance, then, if a source of uncleanness touched the straw, food in the sheaf is unaffected.]”

[B] If one cut the sheaves to begin with for the purpose of *sukkah roofing* and then gave thought to them for use for food, the revised intention [for the sheaves] takes effect [so that now, if an attachment of a sheaf is in contact with a source of uncleanness, food in the sheaf is made unclean, that is, the rule of “handles” comes into play].

[C] If one cut the sheaves to begin with for food, and then gave thought to them for use for sukkah roofing,

[D] others say, “[The ‘handles’ take effect and transmit uncleanness in contact with them to food in the sheaf] unless the straw is larger in volume than the food in the sheaf and also than the handle [or protrusion]. [If the refuse of the sheaf is more abundant than either the food or the protrusion, the refuse annuls them, and the whole may then be used for *sukkah roofing*.]

[E] *Rab accords with this statement by the others [at D].*

[F] *How shall we treat the following case:* One cut a sheaf for use for *sukkah roofing*, and the sheaf was [wet down and so] rendered susceptible to uncleanness [but, being used for sukkah roofing, is not at that point susceptible to uncleanness], and if then the farmer said, “After they have served their purpose in carrying out the religious duty [of covering the *sukkah*], I shall bring the sheaves back to the threshing floor,”

[G] do the sheaves require being rendered susceptible to uncleanness a second time [in order to become susceptible to uncleanness],

[H] or does the first occasion on which they were rendered susceptible suffice [since, at that point, there was no intention of using the food in the sheaves at all]? [This question is not answered.]

[I:3 A] R. Yosé in the name of R. Hama bar Haninah: “[And you shall put in it the ark of the testimony,] and you shall screen the ark with the veil’ (Ex. 40:3).

[B] “On the basis of the use of the root for *sukkah*, as ‘screen,’ we learn that the side [of the *sukkah* also] is called *sukkah* covering.

[C] “On the basis of this verse, further, we learn that they may make the sides of the *sukkah* with something that is susceptible to uncleanness [since the veil is susceptible in that way].”

1:7

[A] “They make *sukkah* roofing with boards,” the words of R. Judah .

[B] And R. Meir prohibits doing so.

[C] [If] one put on top of it a board which is four handbreadths broad, it is valid,

[D] so long as one not sleep underneath [that particular board].

[I:1 A] R. Jeremiah in the name of Rab: “The dispute applies when the board is four handbreadths broad.”

[B] R. Yosé in the name of R. Yohanan: “The dispute applies to boards that have been planed for use in making utensils.”

[C] Now on the basis of what R. Jeremiah said in the name of Rab, “There is a dispute when the board is four handbreadths broad,” it must follow that all parties agree that if the boards are planed for use in making utensils, it is permitted to use such boards in the roofing of a *sukkah*.

[D] On the basis of what [52c] R. Jeremiah has said, “If one covered a *sukkah* with wedges, it is invalid,”

[E] in connection with which they said [that Rab] decided in accord with the position of R. Meir,

[F] *it follows that [from Meir's position] the same rule applies to this case and to that [namely, to planks four handbreadths broad and to planks that have been planed].*

[G] Now as to R. Yosé: in regard to what R. Yosé said in the name of R. Yohanan, "The dispute pertains to planks that were planed for use in making utensils." lo [the rule] for those four hand breadths wide is that all parties concur it is forbidden to do so.

[H] *[That indeed is so for] on the basis of R. Yosé's instructions in the great assembly, "They may make sukkah roofing out of the main beam of the ceiling," and they say that he gave instruction in accord with the view of R. Judah,*

[I] *it must follow that [from the viewpoint of Judah] the same rule applies both in this case and in that [both boards four handbreadths broad and boards that have been planed may be used for sukkah roofing].*

[II:1 A] [As to M. 1:7C-D, that it is not permitted to sleep under a board of that size,] *Samuel said "That which you have said applies to a board of the specified length. But as to one of that breadth it is permitted [to sleep under it]. [If the board is set lengthwise through the sukkah, then for its entire length there is no valid sukkah roofing at all. But if it was set breadth-wise, one may sleep under it. for there is valid roofing on both sides of the board.]"*

[B] *R. Yohanan and R. Simeon b. Laqish both say, "Whether it is set lengthwise or breadth-wise, it is valid."*

[C] R. Zeriqan in the name of R. Hamnuna rules in accord with the view of him who declares sleeping under such a board to be invalid whether it is set lengthwise or breadth-wise.

[D] *Rabin and R. Bun raised the question before R. Zeirah: 'How is it possible to interpret what both R. Yohanan and R. Simeon b. Laqish have said [that one may sleep under such a board, since .M. 1:7D says one may not do so]?"*

[E] He said to them, "It is because invalid sukkah roofing invalidates only four cubits [whether it is located in the middle of the roof or on sides]. [Now when M. 7D says one may not sleep under such a board. it is in accord with the principle that invalid sukkah roofing invalidates an area of four handbreadths. The sukkah it-self remains valid, if it is a

large one. But as to the view of the authority behind M. 1:7D, a *sukkah* of four cubits is deemed valid, accordingly, in his view the area beneath the board, on its own, constitutes an invalid *sukkah*.”]

[F] *The following Tannaitic teaching differs from the view of R.*

Hamnuna [who maintains that one may not sleep under such a board]: “In the case of a *sukkah* which has room for only one’s head, the greater part of his body, and his table, one may bring a board and join three handbreadths of it [to the *sukkah*, to enlarge the *sukkah*].”

[G] Now if you say that one does so breadth-wise – one cannot say so, for R. Zeriqan ruled in the name of R. Hamnuna in accord with the view of him who declares sleeping under such a board to be invalid whether it is set lengthwise or breadth-wise.

[H] *But thus we must interpret the matter:* The board is set lengthwise [contrary to the view of Hamnuna, that is, permissible], and as to the authority of the cited passage it is possible that he holds one may not sleep under that board [and hence the cited passage and the rule of M. 1:7D are coherent with one another].

1:8

[A] **A timber roofing which had no plastering –**

[B] **R. Judah says, “The House of Shammai say, ‘One loosens it and removes one [board] between each two.’**

[C] **“And the House of Hillel say, ‘One either loosens it or removes one [board] from between each two.’”**

[D] **R. Meir says, “One removes one from between each two, and does not loosen [the others at all].”**

[I:1 A] [In the view of R. Meir], if one has loosened a board, he does not have to remove one out of every two.

1:9

[A] **He who makes a roof for his *sukkah* out of spits or with the side pieces of a bed –**

[B] **if there is a space between them equivalent to their own breadth,**

[C] **[the *sukkah*] is valid.**

[D] **He who hollowed out a space in a haystack to make a *sukkah* therein**

–

[E] **it is no *sukkah*.**

- [I:1 A] *It was taught:* [The space between them (M. 1:9B)] must be greater than their own breadth.
- [B] Associates say, “[The reason for A is] that one handbreadth does not enter another handbreadth[’s area]. [That is, one cannot be precise about the matter, and hence we demand a slight bit more space between them. For one cannot fit exactly something of a handbreadth into precisely that amount of open space.]”
- [C] *R. Ba bar Mamel objected,* “Lo, in the case of a glass utensil, it is assumed that one can insert what is a handbreadth in its measurement into the space of a handbreadth.”
- [D] Said R. Yosé, “In such a case, what is exactly a handbreadth may fit into the space of an exact handbreadth and also come out, while in the present case, it may fit in but then will not emerge [leaving precisely the same space].”
- [II:1 A] [As to M. 1:9D-E,] R. Abbahu in the name of R. Yohanan: “The reason is that it appears like a storage-bin.”
- [B] *R. Hiyya taught,* “When Scripture says, ‘you will make for yourself’ (Deut. 16:13), it means to exclude what is already made [not for the purpose of a *sukkah*, e.g., a hole in a haystack].”
- [C] *What is the practical difference between these two views?*
- [D] A case in which a space already has been hollowed out is at issue between them, [in a case in which, for the *sukkah*, the man hollows out a bit more].
- [E] *In the view of R. Hiyya* it is valid.
- [F] *In the view of R. Yohanan* it is invalid [because of the additional labor].

1:10

- [A] **He who suspends the sides from above to below –**
- [B] **if they are three [or more] handbreadths above the ground,**
- [C] **[the *sukkah*] is invalid.**
- [D] **[If he builds the sides] from the ground upward,**
- [E] **if [they are] ten handbreadths above the ground,**
- [F] **[the *sukkah*] is valid.**
- [G] **R. Yosé says, “Just as [the required height] from below to above [when the wall is built up from the ground] is ten handbreadths,**

[H] “so [the required height] from above to below [when the wall is suspended from above toward the ground] is ten hairbreadths [even though the bottom is not within three handbreadths of the ground].”

[I] If one sets the sukkah roofing three handbreadths from the walls [of the sukkah], [the sukkah] is invalid.

[I:1 A] Said R. Yohanan, “R. Yosé spoke only in regard to the matter of the sukkah [at M. 1:10G-H]. But as to the matter of [a partition to permit carrying in a courtyard] on the Sabbath, also R. Yosé concurs [that a partition suspended more than three hand-breadths above the ground is invalid].”

[B] *A statement of R. Hanina indicates that* even for the matter of a partition constructed for purposes of carrying on the Sabbath, R. Yosé maintains the same view [that the partition, if of requisite dimensions, is imagined to descend].

[C] For R. Hanina said, “On the Sabbath a ruler came to Sepphoris, and they suspended rugs [in his honor, so connecting columns of a colonnade]. R. Ishmael b. R. Yosé permitted carrying [in the colonnade regarding these as adequate partitions to set off the area into a single domain], in accord with the theory of his father [Yosé].”

[D] *R. Yosé b. R. Bun in the name of R. Samuel bar R. Isaac “What R. Yosé b. Haninah said accords with the view of R. Hananiah, and both of them differ from R. Yohanan.*

[E] “For R. Yohanan said. R. Judah, R. Yosé, and R. Hananiah b. Aqabia – all three said one thing. R. Judah’s rule concerning aqueducts [that one may carry under them]; R. Yosé’s rule given here [I.C]; and R. Hananiah b. Aqabia.

[F] “*For it was taught:* R. Hananiah gave a permissive ruling in three matters: He permitted [placing produce in] a large reed [kept in water, without regarding produce placed therein as having been wet down and so rendered susceptible to uncleanness]; he permitted [drawing water from] a balcony [situated over water, so regarding the sides of the balcony as descending, in imagination. into the water and so forming a single domain]; and he permitted carrying towels [to the bathhouse on the Sabbath, without scruple that someone may wring out the towel, which is not permitted].”

1:11

- [A] A house, [the roof of] which was damaged, and on [the gaps in the roof of which] one put sukkah roofing –
- [B] if the distance from the wall to the sukkah roofing is four cubits, it is invalid [as a sukkah]
- [C] And so too, [is the rule for] a courtyard which is surrounded by a peristyle.
- [D] A large sukkah, [the roof of which] they surrounded with some sort of material with which they do not make sukkah-roofing –
- [E] if there was a space of four cubits below it,
- [F] it is invalid [as a sukkah].

[I:1 A] *R. Hiyya taught*, “If there is uncovered, hence invalid air space, it invalidates at a measure of three handbreadths. If there is invalid sukkah roofing [as in the unroofed gap at M. 1:11B], it invalidates only at a measure of four cubits.”

[B] *Said R. Yosé*, “We also have learned both of these rules [in the Mishnah]:

[C] “If there is uncovered, hence invalid air space, it invalidates at a measure of three handbreadths, *for we have learned: If one sets the sukkah roofing three handbreadths from the walls of the sukkah, the sukkah is invalid [M. 1:10/I].*

[D] “**If there is invalid sukkah roofing, it invalidates only at a measure of four cubits, for we have learned: A house, the roof of which was damaged, and on the gaps in the roof of which one put sukkah roofing, if the distance from the wall to the sukkah roofing is four cubits, it is in valid as a sukkah [M. 1:11A-B].**

[E] “Lo, if the distance is less, it is valid.”

[F] What is the rule as to sleeping underneath it? [That is, if the owner of the sukkah slept under inadequately roofed-over space, hence the open air space, does he thereby carry out his obligation to dwell in the sukkah?]

[G] R. Isaac b. Elishaya objected [that it is surely forbidden to sleep under that air space, for], “Lo, [the rule is that] soft mud completes [the requisite volume of natural water in an] immersion pool, yet it is forbidden to immerse in the soft mud. [One must immerse only in the water of the pool.] Here too

while the area is valid as a sukkah, it is not valid for sleeping, [that is, for use in the way in which the sukkah is supposed to be used].”

[H] [Reverting to Yosé’s claim that Hiyya’s rules may be derived from the present Mishnah’s laws, we shall now object that the parallel is not germane. There is a special reason that, in the case of a gap of sukkah roofing between the wall and the roof of four cubits, the roofing is invalid.] Hezekiah said, “It is because it appears like a crooked wall. [Then invalid roofing invalidates at a measure of four cubits even in the case of a large *sukkah*, as at M. 1:11D-F.]”

[I] *R. Hoshaiyah taught*, “It is because it appears like a crooked wall.

[J] *R. Ba, R. Hiyya in the name of R. Yohanan*: “It is because it appears like a crooked wall.”

[K] *R. Zeirah, R. Yosé in the name of Kahana*: “It is because it appears like a crooked wall.”

[L] [*In regard to all of these formulations,*] *said R. Jonah to R. Yosé*, “*And why do we not say*, ‘It is because invalid sukkah-roofing invalidates only at a measure of four cubits?’”

1:12

[A] He who makes his sukkah in the shape of a cone or who leaned it up against a wall –

[B] R. Eliezer declares it invalid,

[C] because it has no roof.

[D] And sages declare it valid.

[E] A large reed-mat,

[F] [if] one made it for lying on, is susceptible to uncleanness, and [so] they do not make sukkah roofing out of it.

[G] [If one made it] for sukkah roofing, they make sukkah roofing out of it, and it is not susceptible to uncleanness.

[H] R. Eliezer says, “All the same are a small one and a large one:

[I] “[if] one made it for Lying on, it is susceptible to uncleanness, and they do not make sukkah roofing out of it.

[J] “[If one made it for] sukkah roofing, they do make sukkah roofing out of it, and it is not susceptible to uncleanness.”

[I:1 A] R. Eliezer concedes [in regard to M. 1:12A-C] that if its roof is a handbreadth in size,

[B] or if it was a handbreadth above the ground,

[C] it is valid [T. Suk. 1:10B-D].

[D] *It has been taught:* He who makes his sukkah like a house in the forest of Lebanon [so that the tree trunks serve as the walls, and the sukkah roofing is spread above] – it is valid.

[E] For whom is such a ruling required?

[F] Is it not required to clarify the position of R. Eliezer? [To him the issue is whether or not there is a clearly discernible roof, M. 1:12C, not whether the walls have been erected for the purpose of the sukkah.]

[II:1 A] Abba bar Hana in the name of R. Yohanan: “The teaching [at M. 1:12E-G] concerns mats made in Usha.”

[B] R. Eliezer said, “Sages made in Usha without specification as to their purpose are susceptible to uncleanness [for they are routinely used for lying on], unless one actually uses them for tents [for sukkah roofing]. [Then their secondary use is clear.]

[C] “Mats made in Tiberias without specification as to their use are insusceptible to uncleanness [for they are routinely used for roofing] unless one actually uses them for Lying on.”

[D] *R. Isaac bar Haqqolah, R. Simeon b. Rabbi gave a decision in regard to mats placed over the door of stalls that they are in susceptible to uncleanness [since they are not used for Lying on].*

[E] *R. Immi taught:* “As to a mat made of twigs for covering a *sukkah*, that became unclean – what is the law as to using it for *sukkah roofing*?”

[F] This is covered by the dispute between R. Eliezer and sages [at M. 1:12E-J].

[G] *R. Isaac bar Eleazar gave a decision that, out of necessity, it is permitted to make use of the end-knots of a reed-mat for sukkah roofing.*

[H] *We have learned: So too if the end-knots of a reed-mat are untied, it is insusceptible to uncleanness [M. Kel. 20:7], and you say this!* [That is, it is not merely out of necessity, when there is no alternative. These knots in fact are insusceptible and therefore may be used.]

YERUSHALMI SUKKAH

CHAPTER TWO

2:1

[A] [52d] He who sleeps under a bed in a sukkah has not fulfilled his obligation.

[B] Said R Judah, “We had the practice of sleeping under the bed before the elders, and they said nothing at all to us.”

[C] Said R. Simeon, “M’SH B: Tabi, Rabban Gamaliel’s slave, slept under the bed.

[D] “And Rabban Gamaliel said to the elders, ‘Do you see Tabi, my slave – he is a disciple of a sage, so he knows that slaves are exempt from keeping the commandment of dwelling in the sukkah. That is why he is sleeping under the bed.’”

[E] “Thus we learned that he who sleeps under bed has not fulfilled his obligation.”

[I:1 A] *There we have learned: But he spreads it over the frame of a two-poster bed [M. 1:4E],*

[B] *and here does the law say this [M. 2:1A]!*

[C] Said R. Eliezer, “There [where it is permitted to sleep as described] he and his cloak are under the sukkah roofing. *But here* [at M. 2:1A] he and his cloak are under the bed [under the sukkah roofing].”

[I:2 A] *The theories attributed to R. Judah are contradictory. There he has said that a concrete practice of the law takes precedence over a matter of study [at Y. Pes. 3:7], and here he has said this [that when they came to study, they would sleep under the bed, and the elders did not object]! [The supposition is that Judah claims the elders kept silent because they regarded the study as more important and were not interested in whether or not the disciples carried out their religious duties in the proper way.]*

[B] [No, there is no contradiction. and indeed the cited case is irrelevant, for] R. Judah holds the view that he who sleeps under a bed is as if he slept under the *sukkah roofing* itself. [Hence the claimed implication is null.]

[C] *All the more so, then, are the theories attributed to R. Judah contradictory. For there we have learned: R. Judah says, “If there are no residents in the top one, the bottom one is valid” [M. 1:3E].*

[D] Lo, if there are residents in the upper *sukkah*, the lower *sukkah* is invalid. [Yet here he does not take account of the interposition of the bed between the *sukkah roofing* and the man, while there he does take account of the interposition of the intervening floor, should there be residents thereon, between the *sukkah roofing* and the people in the lower part of the *sukkah*.]

[E] *Said R. Yosé, “There an intervening contained air space is present, while here there is no intervening contained air space.”*

[I:3 A] *The theories assigned to Rabban Gamaliel are contradictory. For it has been taught: Tabi, the slave of Rabban Gamaliel, would wear tefillin, and sages did not object to his doing so.*

[B] *Here, by contrast, they objected to his doing so [accounting for Gamaliel’s need, M. 2:1D, to explain himself.*

[C] He did so so as not to make the sages in the *sukkah* squeeze together [but to provide them with more space]. [Hence he made the slave sleep under the bed 1

[D] If the operative consideration was so as not to make the sages in the *sukkah* sit cramped together. then the slave should have sat outside of the *sukkah* altogether.

[E] Tabi. Gamaliel’s slave. wanted to hear what the sages were saying [so he staved under the *sukkah*, hence under the bed].

2:2

[A] **He who props his *sukkah* up with the legs of a bed – it is valid.**

[B] **R. Judah says, “If it cannot stand on its own, it is invalid.”**

[I:1 A] [“The reason for Judah’s view,”] said R. Immi, “is that there is not a distance of ten handbreadths between the bed and the *sukkah roofing*. [The *sukkah roofing* rests on the ends of the bed. The roofing cannot stand on its own.]”

- [B] Said R. Ba, “The reason is that they do not set up a sukkah on something that is susceptible to uncleanness.”
- [C] *But lo, it has been taught [in T.’s version]:* **M’S H B: The Jerusalemites would let down their beds through the windows ten handbreadths high and covered over them with a sukkah roofing and slept under them [cf. M. Suk. 2:1B] [T. Suk. 2:3A].**
- [D] Now if you maintain that Judah’s reason is that they do not set up a *sukkah* on something that is susceptible to uncleanness – lo, here is a case in which they set it on something susceptible to uncleanness!
- [E] *It must follow that the reason is only that* there is not a distance of ten handbreadths between the bed and the *sukkah roofing*.

2:3

- [A] **A sukkah [the roofing of which] is loosely put together,**
 [B] **but the shade of which is greater than the light,**
 [C] **is valid.**
 [D] **The [sukkah] [the roofing of which] is tightly knit like that of a house,**
 [E] **even though the stars cannot be seen from inside it,**
 [F] **is valid.**

- [I:1 A] Rab and Samuel: One said that the word for “loosely put together” is “thin” (DLL), and the other that it is “loosely put together” (DBLL).
- [B] *He who utilizes the word, “thin,”* approves such a roofing when the shade of the sukkah roofing is greater than the light.
- [C] *He who utilizes the word, “loosely put together,”* approves such a roofing [even] when the shade of the sukkah roofing is not greater than the light [it lets through].
- [II:1 A] [*With reference to M. 2:3E,*] *is that to say that* [to begin with] the stars must be visible through the sukkah roofing?
- [B] R. Levi in the name of R. Hama bar Haninah: “That teaching pertains to the possibility of seeing sun shafts through the sukkah roofing [and not necessarily stars by night].”

2:4

- [A] **He who makes his sukkah on the top of a wagon or a boat – it is valid.**
- [B] **And they go up into it on the festival day.**

[C] [If he made it] at the top of a tree or on a camel, it is valid.

[D] But they do not go up into it on the festival day.

[E] [If] two [sides of a sukkah] are [formed by] a tree, and one is made by man,

[F] or two are made by man and one is [formed by] a tree,

[G] it is valid.

[H] But they do not go up into it on the festival day.

[I] [If] three are made by man and one is [formed by] a tree, it is valid.

[J] And they do go up into it on the festival day.

[K] This is the governing principle: In the case of any [sukkah] in which the tree may be removed, and [the sukkah] can [still] stand by itself, it is valid.

[L] And they go up into it on the festival day.

[I:1 A] [*With reference to M. 2:4, making a sukkah on a boat,*] how shall we interpret the matter?

[B] If the boat is beached, then all parties concur that it is permitted to do so.

[C] If the boat is en route, there is a dispute between R. Eleazar b. Azariah and R. Aqiba.

[D] *But thus must we interpret the issue:* we deal with a boat that lies in port.

[I:2 A] R. Simeon b. Karsena in the name of R. Aha: “R. Meir, R. Yosé, and R. Eleazar all expressed the same principle.”

[B] *R. Meir in connection with the sideposts [of an alleyway], for we have learned there:*

[C] **An animate creature which is used to cover up the entrance of a tomb imparts uncleanness as a sealing-stone. But R. Meir declares it clean when used for that purpose [M. Er. 1:7D-E].** [Since the beast is not set permanently at that spot, it is in susceptible to uncleanness.]

[D] *R. Yosé in the matter of spreading uncleanness through overshadowing.*

[E] **For R. Yosé says, “A cabin located on a boat does not have the power of spreading uncleanness to what lies in its shadow when it overshadows a corpse [M. Oh. 8:5].** [Since the boat is not affixed in

one place, it *does* not have the effect of spreading uncleanness as does a Tent.]”

[F] *R. Eleazar b. Azariah, for it has been taught:*

[G] There is the case of R. Eleazar b. Azariah and R. Aqiba on a ship. R. Aqiba built a *sukkah* on the bow of the ship, and the wind came and blew it off. Said to him R. Eleazar b. Azariah, “Aqiba, now where is your *sukkah*?” [Eleazar maintained that it was not an appropriate place for a *sukkah*, because the boat was moving and not at rest. Thus all three take the same view of a moving beast or vehicle. It is subject to a different set of laws from what is at rest.]

[I:3 A] [At issue is **M. Er. 3:3A-C:**] **[If] one put it into a tree – [If] it is above ten handbreadths, his erub is not a valid erub. [If he put it] below ten handbreadths, his erub is a valid erub.** [The *erub* must lie within the control of the person for whom it establishes a Sabbath residence. It also must lie in public domain, so that the person relying upon the *erub* has access to it (at least in theory). The problem of A-C, therefore, is simple. The area of the tree above ten handbreadths is private domain, that below is neutral domain (*karmelit*), neither private nor public. If the *erub* is above ten handbreadths, in the foliage of the tree, then, when sun sets and the *erub* acquires a place for the man, the man himself has not got access to the *erub*, which is not in public domain but in private property. So he could not at that moment climb up the tree and get at the token meal. The man must be able to get at the *erub* and eat it. He cannot do so – so it is no *erub*.] **Lo, this is a valid erub [M. Er. 3:3C] but it is forbidden to carry it about [since he may not climb the tree to get at it]. If it was located three handbreadths from the Found, it is permitted [to carry it about] [T. Er. 2:13].**

[B] Now here is the question:

[C] If the *erub* is valid, it should be permitted to carry it about, and if it is not permitted to carry it about, then it should not be a valid *erub*.

[D] [The prohibition against climbing a tree to get at the *erub* is merely by reason of the general laws on Sabbath rest, which include the one against making use of the tree on that day.] Indeed, it would be appropriate for him to violate the restrictions governing Sabbath rest [and to utilize the tree by climbing it, and so to] eat the *erub*.

[E] If that is the case, then even if the *erub* is higher than ten handbreadths, it should be valid in all regards.

- [F] R. Judah in the name of Samuel: “Interpret the Mishnah to speak of a case in which the beam of the tree was four handbreadths [thus forming a domain unto itself, which one may not enter]. [The tree thus constitutes private domain. One may not carry from the tree to the public domain.]”
- [G] Said R. Mana, “And the rule then applies to a case in which the public domain completely surrounds the tree on all sides [for the reason clear from F],
- [H] “and in the case of one who says, ‘Let my place of spending the Sabbath be beneath the tree.’ [The man is in public domain, the tree in private.]”
- [I] *It has been taught: “[If he put it] within three handbreadths, it is permitted to handle it.*
- [J] “[If] he put it into a basket and hung it in a tree above ten handbreadths, his *erub* is not valid.
- [K] “[If he hung the basket] lower than ten handbreadths, his *erub* is valid.
- [L] “And it is prohibited to handle it,” the words of Rabbi [T. Er. 2:13D-F].
- [M] If he put it lower than three handbreadths, it is permitted to do so.
- [N] *Now here is the question:*
- [O] If the *erub* is valid, it should be permitted to carry it about, and if it is not permitted to carry it about, then it should not be a valid *erub*.
- [P] R. Aha in the name of R. Hinena: “It is suitable to turn the basket on its side and [without detaching it from the tree] [53a] nullifying the private domain that is represented by that basket]. [The man may get at the *erub* without carrying it from one domain to another by inclining the basket.]”
- [Q] *Said R. Yosé, “That is to say that in the case of a bench which one set in the public domain, ten handbreadths high and four broad, since one may turn it over and thereby nullify it as private domain,*
- [R] “[if one set an *erub* on such a bench], his *erub* is valid, and it is permitted to carry it about [by analogy to the case of the basket.]”
- [S] *There we have learned: If two sides of a sukkah are formed by a tree, and one is made by man, or two are made by man*

and one is formed by a tree. it is valid. But they do not go up into that sukkah on the festival day [M. 2:4E-H].

[T] Now here you said that [the *sukkah*] is valid, but they do not go up into it on the festival day. Now here you have said that the *erub* is valid, and that it is permitted to carry it about [in line with P]. [But does a person not utilize the tree on the Sabbath or festival, if he follows Aha's instructions at P? Why is it forbidden to use the *sukkah* leaning on a tree on the festival or Sabbath, but permitted in regard to reaching the *erub*?]

[U] Said R. Jeremiah, "Here [with regard to the *sukkah*], one has set the *sukkah* above [in the branches, and one has to climb the tree to get to the *sukkah*, built as a tree house]. [That is forbidden.] There [with regard to the basket], one reaches out to the basket from below, [and does not have to climb the tree to get at it]."

[V] *[In accord with Jeremiah's reasoning, we may] derive a rule from that case for this one, and a rule from this case for that one.*

[W] *We may derive a rule from this case for that one:* If the basket was located in the side of the tree, the *erub* is valid, and it is permitted to carry it about [since one has got access to it, for it is in the side of the tree, not in the tree itself].

[X] *And a rule may be derived from that case for the present one:* If there were two poles protruding [from a tree], and one spread *sukkah* roofing on them, it is a valid *sukkah*, and it is permitted to enter it on the festival [since one enters the *sukkah* without climbing the tree, and that is permissible, in line with the conception of Aha at P].

[Y] Said R. Yosé, "[It is not sound to assign one case to the edge of the tree branches, the other to the center of the foliage. Rather:] both that case and this one deal with the side of the tree's [boughs, and not the center]. [That is, both the *sukkah* and the basket are located in such wise as to be accessible without climbing the tree.]

[Z] "Then how shall we interpret the problem [dealt with by Jeremiah at U]?"

[AA] "It is in accord with R. Jacob bar Aha in the name of R. Zeira: 'It represents the view of R. Simon b. Eleazar.'

[BB] “*For it has been taught*: R. Simeon b. Eleazar says, ‘It is permitted to make use of the sides of a beast on the Sabbath.’

[CC] “And the same rule applies to the sides of a beast as to the sides of a tree.” [The contradiction between the rules is resolved more elegantly when we simply declare that what is hanging from the side of a tree, or a *sukkah* located at the side of the tree and not as a tree house, may be utilized on the Sabbath or a festival, in which case M. 2:4 will not accord with Simeon b. Eleazar as read by Zeira-Yosé.]

2:5

[A] **He who makes his sukkah among trees, and the trees form its sides – it is valid.**

[B] **Agents engaged in a religious duty are exempt from the requirement of dwelling in a sukkah.**

[C] **Sick folk and those who serve them are exempt from the requirement of dwelling in a sukkah.**

[D] **[People] eat and drink in a random manner outside of a sukkah.**

[I:1 A] [As to M. 2:5B:] *R. Hunah went to Ein Tab for the sanctification of the New Moon. [He thus was engaged in a religious duty.] As he was going along, he became thirsty while on the road, but he did not agree to taste a thing until he had entered the shade of the sukkah of R. Yohanan, the scribe of Gopta.*

[II:1 A] [As to M. 2:5C,] said R. Mana, “**It is not the end of the matter that those who are so sick as to be dying [and those who serve them] are exempt. But even those who are sick but in no danger are exempt [cf. T. 2:2B-C].**”

[B] *It has been taught [in T.’s version]: Said Rabban Simeon b. Gamaliel, “M’S H W: I had a pain in the eye in Caesarion, and R. Yosé b. Rabbi permitted me to sleep, along with my servant, outside of the sukkah” [T. Suk. 2:2D].*

[C] R. Ba bar Zabeda said, “The groomsmen and all who share in the marriage-canopy are exempt from the religious duty of dwelling in the *sukkah*.”

[II:2 A] *It has been taught: [In T.’s version:] **City guards by day are exempt from the religious requirement of dwelling in a sukkah by day, but they are liable by night.***

[B] **City guards by night are exempt from the religious requirement of dwelling in a *sukkah* by night, but they are liable by day.**

[C] **City guards by day and by night are exempt from the religious requirement of dwelling in a *sukkah* by day and by night [T. Suk. 2:3C-E].**

[D] *That which you have said* applies to guards against invasion. But as to guards of money, they have treated them as equivalent to the guards of fields and orchards.

[E] *Abodema of Bilha was sleeping before his stall. R. Hiyya bar Ba came by and said to him, “Go, sleep in your sukkah.”*

[F] *R. Mana was the groomsman of R. Jacob bar Paliti. He came and asked R. Yosé, who said to him, “Go, sleep in your sukkah.”*

[G] *R. Isaac bar Marion was the groomsman of a certain man. He asked R. Eleazar, who said to him, “Go, sleep in your sukkah.”*

[II:3 A] **M’S H B: R. Ilai went to R. Eliezer in Lud. He said to him, “Now what’s going on, Ilai? Are you not among those who observe the festival? Have they not said that it is not praiseworthy of a person [Yerushalmi: for a disciple of sages] to leave his home on a festival? For it is said, ‘And you will rejoice on your festival’” (Deut. 16:14) [T. Suk. 2:1C].**

[B] There is the following: R. Zeirah went to the circumcision of [a son of] R. Ila, and he did not agree to taste a thing.

[C] *We do not know [the reason, that is,] whether it was because it was not his custom to eat a thing until he had prayed the Additional Prayer [on the festival], or whether it was because it is not praiseworthy for a disciple of sages to leave his home on a festival and to go along.*

[III:1 A] [As to M. 2:5D:] Said R. Eleazar, “There is such a thing as a random meal [that may be taken outside of a sukkah], but there is no such thing as random sleep. [All sleeping must be in the sukkah.]”

[B] [Giving Eleazar’s reason] associates say, “For someone sinks into sleep.”

[C] Said R. Ila, “For a man may sleep only a few winks and that is enough [sleeping for him, so it is never random].”

[D] *What is the practical difference among these various reasons?*

[E] Giving someone else wake-up instructions:

[F] *In the view of associates*, it is permitted to [sleep outside a *sukkah* if one does so, since that will take account of their concern].

[G] *In the view of R. Ila* it is forbidden [to sleep outside a *sukkah*, even if one tells someone else to wake him up, because that brief sleep may suffice and hence will not be considered random].

2:6

[A] **M'SH W: They brought Rabban Yohanan b. Zakkai some cooked food to taste, and to Rabban Gamaliel two dates and a dipper of water.**

[B] **And they said, "Bring them up to the sukkah."**

[C] **And when they gave to R. Sadoq food less than an egg's bulk, he took it in a cloth and ate it outside of the sukkah and said no blessing after it.**

[I:1 A] [With reference to M. 2:6,] *we theorized that he did not say a blessing after it* [M. 2:6C] means that he did not say the three complete blessings, but lo, he did say an abbreviated version.

[B] *The following has been taught:* He did not say one blessing, nor did he say three.

[I:2 A] *It has been taught:* In the case of any food, after which they say three blessings – before it they say, "Who brings forth bread from the earth."

[B] In the case of any food after which they do not say three blessings – before it they do not say, "Who brings forth bread from the earth."

[C] *They objected,* "Lo, there is the case of eating food in less than the volume of an olive's bulk. They do not say three blessings over such food. Now if that is the case, they also should not say before eating it, 'Who brings forth bread from the earth.'"

[D] R. Jacob bar Aha said, "It was in regard to other kinds of foods that the cited passage is required."

2:7

[A] **R. Eliezer says, "Fourteen meals is a person obligated to eat in the sukkah,**

[B] **"one by day and one by night."**

[C] And sages say, “There is no fixed requirement, except for the first two nights of the Festival alone.”

[D] And further did R. Eliezer say, “He who has not eaten his meal in the sukkah on the first night of the Festival should make up for it on the last night of the Festival.”

[E] And sages say, “there is no way of making it up.

[F] “Concerning such a case it is said, ‘That which is crooked cannot be made straight, and that which is wanting cannot be reckoned’”(Qoh. 1:15).

[I:1 A] *What is the Scriptural basis for the position of R. Eliezer?*

[B] In reference to the *sukkah*, it is said, “you will dwell” (Lev. 23:42).

[C] And elsewhere it is said, “At the door of the tent of meeting you shall dwell day and night for seven days, performing what the Lord has charged, lest you die; for so I am commanded” (Lev. 8:35).

[D] Just as the case of “dwelling” stated there indicates that the nights are equivalent to the days, so dwelling here indicates that the nights are equivalent to the days, [hence the rule of M. 2:7B].

[E] [As to the reason of sages,] R. Yohanan in the name of R. Ishmael: “‘Fifteenth [of the month]’ (Lev. 23:6) is stated with regard to Passover, and ‘Fifteenth [of the month]’ (Lev. 23:34) is stated with regard to the Festival. Just as the fifteenth stated with reference to Passover speaks of the first night as obligatory and the other days as optional [in respect to eating unleavened bread], so the fifteenth stated with regard to the Festival indicates that [sitting in the *sukkah*] on the first night is obligatory, and on all other days is optional.”

[F] *Associates asked*, “Do we then say, ‘Just as in the case of the Passover seder, one must eat the unleavened bread with a ravenous appetite, so here one must enter the *sukkah* with a ravenous appetite’?”

[G] *R. Zeirah asked*, “Do we further say that in regard to the unleavened bread on Passover, one must eat an olive’s bulk of unleavened bread, and so here, one must eat an olive’s bulk of grain in a *sukkah*?”

[H] R. Hoshaiah said, “All seven days are obligatory. [One must sit or dwell in the *sukkah* every day of the festival.]”

[I] *R. Berekhiah said*, “There is a dispute on that matter.”

[J] *R. Abona said*, “There is no dispute on that matter.

[K] “What R. Yohanan has said [E] [that the first night alone is obligatory] applies when a person has had the intention [of fulfilling his obligation on the first night].

[L] “What R. Hoshaiiah said [H] applies when one has not formed the intention [of fulfilling his obligation on the first night].”

[II:1 A] [With reference to M. 2:7D:] *It has been taught in the name of R. Eliezer, “He who did not make his sukkah on the eve of the Festival should not make it on the Festival itself.”*

[B] *And did not Bar Qappara teach, “If one’s sukkah fell down on the Festival, he may set it up on the Festival”?*

[C] R. Aha in the name of R. Hinena: “It is a penalty that R. Eliezer has imposed upon him who did not make his *sukkah* on the eve of the Festival.”

[II:2 A] *The opinions assigned to R. Eliezer are contradictory.*

[B] There he has said, “**Fourteen meals is a person obligated to eat in the sukkah**” [M. 2:7A], and here he has said this [that if one did not eat on the first night in the *sukkah*, he makes it up on the last night]. [But on the last night there is no *sukkah* any longer. It is no longer obligatory to eat there.]

[C] Said R. Aha, “As to carrying out the religious duty, [Eliezer and sages] are in agreement [that the religious duty applies only to the first night of the Festival, and, consequently, Eliezer concurred that it is merely a religious deed, but not an obligation, to eat the other meals in the *sukkah*].”

2:8

[A] **He whose head and the greater part of whose body are in the sukkah, but whose table is in the house –**

[B] **the House of Shammai declare invalid.**

[C] **And the House of Hillel declare valid.**

[D] **Said the House of Hillel to the House of Shammai, “Was not the precedent so, that the elders of the House of Shammai and the elders of the House of Hillel went along to pay a sick-call on R. Yohanan b. Hahorani, and they found him sitting with his head and the greater part of his body in the sukkah, and his table in the house, and they said nothing at all to him!”**

[E] Said the House of Shammai to them, “Is there proof from that story? But in point of fact they did say to him, ‘If this is how you act, you have never in your whole life fulfilled the religious requirement of dwelling in a sukkah!’”

[I:1 A] It is not the end of the matter [from the viewpoint of the House Shammai] that the whole table be in the house. Even if only of it is there, [it is invalid].

[B] How much would part of the table be? A handbreadth.

[I:2 A] [With reference to **M. Ter. 5:4**, which follows (in the translation of Alan Peck, *Terumot*, pp. 170-71): **A seah of unclean heave-offering which fell into a hundred seahs of clean heave offering – the House of Shammai declare (the mixture) forbidden (for consumption by a priest), but the House of Hillel permit. Said the House of Hillel to the House of Shammai, “Since clean (heave-offering) is forbidden to non-priests, and unclean (heave-offering) is forbidden to priests, if clean (heave-offering) can be neutralized, so unclean (heave-offering) can be neutralized.”** Said to them the House of Shammai, “No! If unconsecrated produce, to which leniency applies and which is permitted to non-priests, neutralizes clean (heave-offering), should heave-offering, to which stringency applies and which is forbidden to non-priests, (have that same power and) neutralize unclean (heave-offering)?” After they had agreed: **R. Eliezer says, “Let it be raised up and burned.”** But sages say, “It has been lost through its scantiness”:] *Judah bar Pazzi and R. Aibu bar Nigri were in session, saying, “We have learned: After they had agreed.*

[B] “Who agreed with whom? Was it the House of Shammai with the view of the House of Hillel, or the House of Hillel with the position of the House of Shammai?”

[C] They said, “Let us go out and learn [what others may know about the matter], and they heard *R. Hezekiah, R. Aha in the name of R. Judah b. Levi [state]*, ‘We have heard that the House of Shammai accepted the view of the House of Hillel only in regard to this matter alone.’”

[D] *R. Huna in the name of R. Aibu: “The Mishnah has made that same point: He who pours from jar to jar, and a Tebul Yom touched the stream of liquid – if there is in the jar any wine, the wine he touched is neutralized in a mixture of one hundred and one [M. T. Y. 2:7E-F].*

- [E] “If you maintain that the House of Hillel accepted the position of the House of Shammai, then the wine should not be neutralized [just as the House of Shammai do not accept the principle of neutralization at the cited passage of M. Ter. 5:4].”
- [F] [Rejecting this view,] *Who taught here*, “It may be neutralized”? It is neither the House of Hillel nor the House of Shammai.
- [G] Said R. Idi, “We may say that the House of Hillel is responsible for the framing of this tradition, prior to the House of Shammai’s concession to them.”
- [H] *Said R. Yosé*, “*The Mishnah has made that very point: **After they had agreed: R. Eliezer says, ‘Let it be raised up and burned.’*** Now was not R. Eliezer himself a member of the House of Shammai?”
- [I] [*Concurring in Yosé’s view,*] *said R. Hinenah*, “*The Tannaitic tradition has made the same point: ‘After these had agreed [53b] with those, it may be neutralized [just as the Hillelites insist].’*”
- [J] *Now is it possible that the House of Shammai should win the argument, and then concur with the opinion of [the House of Hillel (as H-I claim)]?*
- [K] *Said R. Abun*, “*There is the possibility of yet another reply here, in line with what R. Hoshaiiah taught [in T.’s version]:*
- [L] **‘And is it not an argument *a minori ad majus*? If in a case in which Torah was stringent, that of non-priests who eat heave offering, lo, [the heave-offering] is neutralized in unconsecrated produce [and then] eaten by non-priests, in a case in which Torah is lenient, that of priests who eat heave-offering, is it not logical that [the heave-offering] is neutralized in (correct to read:) heave-offering [and then] is eaten by priests?’ [T. Ter. 6:4J (Peck, p. 179)].’**
- [I:3 A] Why did the House of Hillel receive the grace that the law should be decided in accord with their views?
- [B] Said R. Judah bar Pazzi, “Because they put the words of the House of Shammai before their words.

[C] “Not only so, but they occasionally accepted the opinion of the House of Shammai and retracted theirs.”

[D] *R. Simon bar Zabeda objected before R. Ila, “Perhaps we should say that it was the Tannaitic framer of the traditions who saw that [the House of Shammai] were the elders of the two and so placed their opinion first [vs. B]?”*

[E] “**And lo, it has been taught: Was not the precedent so, that the elders of the House of Shammai and the elders of the House of Hillel went along to pay a sick-call on R. Yohanan b. Hahorani [M. 2:8D].**”

[F] “Should it not be said, ‘Our elders and your elders’? [Hence it was the Tannaitic framer of the tradition, and not the House of Hillel itself, who placed the opinion of the House of Shammai first.]”

[I:4 A] Said R. Zeirah, R. Hunah in the name of Rab: “The law accords with the position of the House of Shammai [at M. 2:8].”

[B] R. Jeremiah, R. Samuel bar R. Isaac in the name of Rab: “Since the House of Shammai drove off the House of Hillel [who had no reply to M. 2:8E], it follows that the law is in accord with their opinion.”

2:9

[A] **Women, slaves, and minors are exempt from the religious requirement of dwelling in a sukkah.**

[B] **A minor who can take care of himself is liable to the religious requirement of dwelling in a sukkah.**

[C] **M’S H W: Shammai the Elder’s daughter-in-law gave birth, and he broke away some of the plaster and covered the whole with sukkah-roofing over her bed, on account of the infant.**

[I:1 A] What is the definition of a minor [at M. 2:9B]?

[B] A member of the House of Yannai said, It is any who has to have his mother wipe him.”

[C] R. Yohanan said, “It is any who wakes up at night and calls out, ‘Mommy.’”

[D] *R. Hoshaiah taught: ‘A minor who can take care of himself is liable to the religious requirement of dwelling in a sukkah [M 2:9B], but he nonetheless carries out his obligation [in regard to*

carrying on the Sabbath] in relying upon the erub prepared by his mother.’

2:10

[A] **All seven days a person treats his sukkah as his regular dwelling and his house as his sometime-dwelling.**

[B] **[If] it began to rain, at what point is it permitted to empty out [the sukkah]?**

[C] **From the point at which the porridge will spoil.**

[D] **They made a parable: To what is the matter comparable?**

[E] **To a slave who came to bring a cup of wine for his master, and his master threw the flagon into his face.**

[I:1 A] It is written, “You shall dwell in booths for seven days; all that are native in Israel shall dwell in booths” (Lev. 23::2).

[B] And there is no “dwelling” except in the sense of “living permanently.”

[C] *That is in line with the following verse:* “When you come to the land which the Lord your God gives you. and you possess it and dwell in it, and then say, I will set a king over me. like all the nations that are round about me” I Deut. 17:11).

[D] ‘Dwelling’ in the *sukkah* means that one should eat in the *sukkah*, walk about in the *Sukkah*. and move his goods up into the sukkah.

[II:1 A] **If it began to rain, at what point is it permitted to empty out the sukkah? From the point at which the porridge will spoil [M. 2:9B-C].**

[B] It is not the end of the matter that the porridge must actually spoil.

[C] But even if it rained enough so as to spoil porridge [even if *it* did not actually spoil], [*that* suffices].

[D] It is not the end of the matter that it is a porridge of grits. But a porridge of anything at all [falls under the same rule].

[E] *It has been taught:* Just as they may empty out the *sukkah* on account of rain, so that may be done on account of heat or mosquitoes.

[II:2 A] Rabban Gamaliel would go in and out all night long.

[B] R. Eliezer would go in and out all night long.

[C] *A disciple of R. Mana instructed one of the relatives of the patriarch, “If one has gone out [because of mosquitoes, for example,] they do not trouble the person to go back in.”*

[D] *Did this disciple not hear that Rabban Gamaliel would go in and out all night long, [and] R. Eliezer would go in and go out all night long?*

YERUSHALMI SUKKAH

CHAPTER THREE

3:1

[A] [53c] A stolen or dried up palm branch is invalid.

[B] And one deriving from an asherah or an apostate town is invalid.

[C] [If] its tip was broken off, or [if] its leaves were split. it is invalid.

[D] [If] its leaves were spread apart. it is valid.

[E] R. Judah says. "Let him tie it up at the end."

[F] Thorn-palms of the Iron Mountain are valid.

[G] Any palm branch which is [only] three handbreaths long,

[H] sufficient to shake.

[I] is valid.

[I:1 A] [Explaining why a stolen palm branch is invalid,] *R. Hiyya taught:*
"And you shall take for yourselves [on the first day the fruit of goodly trees. branches of palm trees, and boughs of leafy trees, and willows of the brook]" Lev. 23:4). The meaning is that they must be yours and not stolen."

[B] Said R. Levi, "This one who takes a stolen palm branch – to what is he comparable?"

[C] "To one who pays respect to the ruler by bringing him a [gold] dish, and it turns out to belong to the ruler himself."

[D] They said. "Woe for this one, who turns his advocate into his critic!"

[II:1 A] [As to M. 3:1B, One deriving from an apostate town:] A ram's horn belonging to a Temple of idolatry, or one belonging to an apostate town –

[B] R. Eleazar said, "It is valid."

[C] *R. Hiyya taught,* "It is valid."

[D] *R. Hoshaiah taught, “It is invalid.”*

[E] All concur in the case of a palm branch [deriving from such a source] that it is invalid.

[F] What is the difference between a ram’s horn and a palm branch?

[G] Said R. Yosé, “In the case of a palm branch, it is written, ‘And you shall take for yourselves [on the first day the fruit of goodly trees, branches of palm trees, and boughs of leafy trees, and willows of the brook]’ (Lev. 23:40). The meaning is that it must belong to you, and it must not be in the category of what may not be used for your benefit.

[H] “*But here* it is written, ‘On the first day of the seventh month you shall have a holy convocation; you shall do no laborious work. It is a day for you to blow the trumpets’ (Num. 29:1). The trumpets may derive from any source [since no qualifying language is inserted].”

[I] [Offering a different point of differentiation,] said R. Eleazar, “There it is with the body of the object itself that one carries out the obligation. But here [in the case of the horn], it is merely with the sound that it makes. And can a sound be declared prohibited for one’s benefit? [Surely not.]”

[J] *What is at issue between Hiyya’s and Levi’s explanations?*

[K] If one stole a branch that had already been planed [for use on the festival].

[L] But if one stole the branch and then planed it himself [so acquiring it by changing its character permanently], then all the thief owes the original owner is money [on which both parties concur].

[II:2 A] If one stole a palm branch from one source, myrtle from a second, and a willow from yet a third and then he bound the three together into a bunch, [what is the law]?

[B] *Let us derive the answer from the following:*

[C] As to a *sukkah* that has been stolen –

[D] *there is a Tannaite authority who teaches that it is valid.*

[E] *There is a Tannaite authority who teaches that it is invalid.*

[F] R. Simeon in the name of R. Joshua b. Levi: “*He who has said that it is valid maintains that view when one has stolen the ground [on which*

he built the *sukkah*. [The ground is never regarded as stolen, since there is no substantial change made to it, so the thief never effects ownership. Consequently, the *sukkah* is regarded as one that is merely borrowed from the land-owner, and it is valid.]

[G] “*The one who has said that it is invalid deals with a case in which he stole the roofing. [In this case the thief has effected ownership of what he has stolen. In the case of the question we have raised, no permanent change has been made in the character of what has been stolen. Consequently, the thief does not effect ownership of the materials, and the branch, myrtle, and willow do not serve to fulfill his obligation.]*”

[H] But it is not possible that he will not tie them together [and so change their character].

[I] We deal with a case in which he holds them side by side at the top [but does not do anything to them, in line with the reasoning spelled out at F].

[J] [*As to the stolen sukkah,*] *rabbis of Caesarea in the name of R. Yohanan [differing from the picture of C-G]:*”In the opinion of both parties the *sukkah* that is stolen is invalid.

[K] “What is the definition of a stolen *sukkah*?”

[L] “It is one entered by one’s fellow without his knowledge and consent.”

[M] *This is illustrated by the following:*

[N] *Gamaliel Zuga made a sukkah in the marketplace. R. Simeon b. Laqish came by and said to him, “Who gave you permission [to build it here]?”*

[III:1 A] **A dried up one is invalid:**

[B] R. Abin in the name of R. Judah bar Pazzi: “A dried up one is invalid, in line with the following verse of Scripture: “The dead do not praise the Lord, nor do any that go down into silence” (Ps. 115:17).

[C] *It has been taught in the name of R. Judah, “A dried up one itself is valid” [cf. T. Suk. 2:9].*

[D] Said to them R. Judah, “And is it not so that in the sea ports they hand on their palm branches to their children as inheritances?”

[E] They said to him, “They do not derive the law from what is done under duress.”

- [III:2 A] *They asked before R. Abina, “If the ends of the lulab dried up, what is the law?”*
- [B] [Rethinking this question, they asked,] “What would be the difference between the ends and the body of the branch? [Surely if the latter is invalid when dried up, so the former will be invalid when dried up.]”
- [C] He said to them, “[No, there is a difference,] for the one is comely, and the other is not comely.”
- [III:3 A] R. Malokh in the name of R. Joshua b. Levi: “If the central rib of a branch of palm leaves was divided, it is in the status of its leaves being spread apart [and valid, in line with M. 3:1D].”
- [III:4 A] As to palm branches [Lev. 23:10] –
- [B] R. Tarfon says, “They must be bunches of palms.”
- [C] R. Aqiba says, “Palm branches as their name implies.”
- [D] R. Judah says, “If it is separated, he should tie it together.”
- [IV:1 A] What are the thorn-palms of the Iron Mountain that are valid [M. 3:1F)?
- [B] It is any, the head of which touches the side of the root of that.
- [IV:2 A] *It has been taught:* If a palm branch is dried up, it is invalid.
- [B] If it merely appears to be dried up, it is valid.
- [C] R. Simeon bar Abba in the name of R. Yohanan: “That is precisely the meaning of the Mishnah:
- [D] **“Sufficient to shake – it is valid [M. 3:1H-I].”**
- [IV:3 A] *It has been taught:* **A myrtle and a willow are to be three handbreadths long, and a palm branch, four.**
- [B] *It has been taught:* **“It is measured with a cubit of five handbreadths,” the words of R. Tarfon. [T. Suk. 2:8B-C.]**
- [C] **But sages say, “With a cubit of six handbreadths.”**
- [D] *In the view of R. Tarfon, they make use of wide handbreadths, and in the opinion of sages they make use of narrow handbreadths.*
- [IV:4 A] R. Jonah and R. Simeon b. Laqish in the name of R. Judah the Patriarch: “A palm branch is to be a handbreadth in length.”

- [B] R. Simeon in the name of R. Joshua b. Levi: “The hyssop must be a handbreadth in length.”
- [C] *R. Zeirah asked*, “Will a palm branch be a handbreadth and a hyssop also be a handbreadth?”
- [D] Said R. Yosé, R. Simon explained this matter, R. Hinena, R. Simon in the name of R. Joshua b. Levi:”A palm branch must be a handbreadth in length. A hyssop must be a handbreadth in length. A ram’s horn must be a handbreadth in length. An afterbirth [to be subject to the law] is a handbreadth in length.”
- [E] And some say, “Also the third side of the *sukkah* may be merely a handbreadth in height.”
- [F] *R. Zeira raised the question*: “When we say a palm branch must be a handbreadth in length, is that exclusive of the backbone? Likewise with the hyssop, is that exclusive of the berries?”
- [G] R. Yosé, R. Tabi in the name of Rab, R. Hinena, R. Parnakh, R. Mattenah, Yosé bar Menassia in the name of Rab: “A palm branch must be a handbreadth in length, exclusive of the backbone. A hyssop must be a handbreadth in length, exclusive of the berries.”

3:2

- [A] A stolen or dried up myrtle branch is invalid.**
- [B] And one deriving from an asherah or an apostate town is invalid.**
- [C] [If] its tip was broken off, [or if] its leaves were split,**
- [D] or if its berries were more numerous than its leaves,**
- [E] it is invalid.**
- [F] But if one then removed some of them, it is valid.**
- [G] And they do not remove [some of them] on the festival day.**

- [I:1 A]** It is written, “[And you shall take on the first day the fruit of goodly trees, branches of palm trees, and] boughs of leafy trees, [and willows of the brook; and you shall rejoice before the Lord your God seven days]” (Lev. 23:40).
- [B] The requirement is that the branches cover the larger part of it and resemble a chain, and what is such a tree? It is a myrtle.
- [C] *If you say that an olive resembles a chain*, still, its branches do not cover the larger part of it.

[D] *If you say that*, in the case of a zargunah-tree, its branches cover the larger part of it, still, it does not resemble a chain.

[E] [What is the tree that meets the stated requirement?] It is a myrtle.

[II:1 A] Hiyya bar Ada in the name of R. Yohanan: “[As to M. 3:2D, **If the berries were more numerous than the leaves, it is invalid,**] this has been taught in the case of black ones.”

[B] Why should it be invalid?

[C] Is it because they are not the same color as the wood [since the wood is green, the berries black]?

[D] Or is it because the fruit is ripe [and scripture wants the boughs, not the fruit, to be waved]?

[E] *What is the practical difference between these reasons?*

[F] A tree which produced green boughs.

[G] If the operative reason is that they are not similar to the wood, lo, these are not of the same color as the wood.

[H] *But the reason can only be because* the fruit is now ripe [so even green ones would be valid].

3:3

[A] **A stolen or dried up willow branch is invalid.**

[B] **And one deriving from an asherah or an apostate town is invalid.**

[C] **[If] its tip was broken off, [if] its leaves split, or [if it was] a mountain willow,**

[D] it is invalid.

[E] [If] it was shriveled, or [if] some of the leaves dropped off,

[F] or [if it came] from a [naturally watered] field [and did not grow by a brook],

[G] it is valid.

[I:1 A] It is written, “Willows of the brook” (Lev. 23:40).

[B] I know only that I may use willows that grow by a brook. How do I know that I may use willows that grow in a field that is watered by rain or a field in the mountains?

[C] Scripture says, “And willows....”

- [D] Abba Saul says, “[The use of the plural for] willows of the brook indicates that two separate purposes are served by willows. There is a willow to be included in the palm branch [*lulab*], and there is a willow to be used in the Temple.”
- [E] [Reverting to A-C,] if so, why is it said, “Willows of the brook” [if B is correct that willows growing under other circumstances are acceptable]?
- [F] That is meant to exclude the kind that grows in a waterless region.
- [G] What is the kind that grows in waterless regions?**
- [H] One that has teeth like a sickle is valid.**
- [I] One that has teeth like a saw [T. Suk. 2:7F-G] is invalid.**
- [J] What is a valid willow branch? One which has a red stem and an elongated leaf.**
- [K] What is an invalid willow branch? One which has a white stem and a round leaf [T. Suk. 2:7].**

3:4

- [A] **R. Ishmael says, “Three myrtle branches, two willow branches, one palm branch, and one citron [are required],**
- [B] **“even if two [of the myrtle branches] have their tips broken off, and only one does not have its tip broken off.”**
- [C] **R. Tarfon says, “Even if all three of them have their tips broken off, [they are valid].”**
- [D] **R. Aqiba says, “Just as one palm branch and one citron [are required], so one myrtle branch and one willow branch [are required].”**
- [I:1 A] [With reference to Lev. 23:40: “And you shall take on the first day the fruit of goodly trees, branches of palm trees, boughs of leafy trees, and willows of the brook,”] R. Ishmael provided the following exegesis [in support of his position at M. 3:4A]: “‘The fruit of goodly trees’ refers to a single piece of fruit. ‘Branches of palm trees’ refers to a single such branch. ‘Boughs of leafy trees’ refers to three boughs of myrtle. ‘Willows of the brook’ refers to two willows.
- [B] “Two trained [myrtle branches], and one which does not have its tip cut off.”

- [C] **R. Tarfon says.”Even if all three of them have their tips broken off they are valid” [M. 1:3C].**
- [D] *R. Ba bar.Mamel raised the following question before R. Immi: “Just as R. Ishmael requires several myrtle branches, should he [not] require several examples of each of the other species?”*
- [E] *He said to him.”Do you really think that, so far as R. Ishmael is concerned, if the tip is cut off, it falls into the category of goodly [trees]? [In fact, he requires only one example of the species.]*
- [F] **“And lo. we have learned: R. Tarfon says, ‘Even if all three of them have their ups broken off...’**
- [G] *“Now a person does not say, ‘Even,’ unless he concurs with what has gone before. [That indicates that Ishmael has said a single valid example alone is what is required.]”*
- [H] *Said R. Haggai, asking his question before R. Yosé, “What does R. Tarfon come to add to what R. Ishmael has said?”*
- [1] [53d] He said to him, “R. Ishmael does not hold the opinion that one with the tip cut off falls into the category of a goodly tree, while R. Tarfon maintains that one with the tip cut off does fall into the category of a goodly tree.”
- [I:2 A] *R. Yosé, when he came here [to the Land of Israel], saw people choosing the correct myrtle.*
- [B] *He said to them, “Why are the people of the West selecting one sort of myrtle [as against some other sort]?”*
- [C] *[He was answered:] Now has he not heard that which R. Simon said in the name of R. Joshua b. Levi, ““And that they should publish and proclaim in all their towns and in Jerusalem, Go out to the hills and bring branches of olive, wild olive, myrtle, palm, and other leafy trees to make booths, as it is written’ (Neh 8:15). [This indicates that there are types of myrtle that are used for the,Sukkah, and there are other types that are used in the lulab.]”*
- [D] *Is not a myrtle branch identical to a leafy branch?*
- [E] *There is a kind of myrtle for the sukkah, and a kind of leafy branch for the lulab. [So it is quite appropriate to select a kind of myrtle suitable for the lulab, as distinct from the kind suitable for use in the sukkah.]*
- [F] *R. Zeira [when he heard this teaching] made a point [of memorizing it].*

- [I:3 A] He who prepares a *lulab* for his own use says, “Blessed who has sanctified us by his commandments, and commanded us to make a *lulab*.”
- [B] If he did so for someone else, he says, “to make a *lulab* for His Name.”
- [C] When he takes it, what does he say?
- [D] “Blessed who has sanctified us by his commandments and commanded us concerning taking up the *lulab*.”
- [E] And he prays over it, saying, “Blessed who has kept us alive and sustained us and brought us to this season.”
- [F] And he says a blessing over it every time that he takes it up.
- [G] How do they say a blessing over the Hanukkah light?
- [H] Rab said, “Blessed who has sanctified us by his commandments and commanded us concerning the commandment to kindle the Hanukkah light.”
- [I] All concur that on the occasion of the first day of the Festival, one says, “concerning the taking of the *lulab*.”
- [J] *Where there is a dispute*, it concerns the other days of the festival.
- [K] R. Yohanan said, “[One says,] ‘concerning taking up the *lulab*.’”
- [L] And R. Joshua b. Levi said, “[One says,] ‘concerning the commandments of the elders [by whose authority we take up the *lulab*].’” [But it is not by the command of the Torah, on the remainder of the days of the festival. The Torah’s commandment pertains solely to the first day of the festival.]
- [M] What did Rab say concerning the *lulab*?
- [N] Now if with regard to the festival of Hanukkah, which derives solely from the authority of the scribes, he maintains that one says, ‘Concerning the commandment of lighting the Hanukkah light,’ with respect to the *lulab*, which, to begin with, derives from the Torah, is it not an argument *a fortiori* [that one should say the blessing as Yohanan maintains]?
- [O] What did R. Joshua b. Levi say with regard to the case of Hanukkah?

[P] Now if in the matter of the *lulab*, which derives from the authority of the Torah, one says, “concerning the commandment of the elders,” Hanukkah. which is a matter of scribal authority to begin with, all the more so [one should say that the commandment derives merely from the elders].

[Q] *The sole point at which we must raise a question*, then, is what R. Yohanan said with regard to Hanukkah.

- [I:4 A] Hiyya son of Rab said a blessing for each time [one takes the *lulab*].
- [B] R. Hunah said a blessing only one time alone.
- [C] R. Huna in the name of R. Joseph: “*The reasoning of R. Hunah is this*:
- [D] “Separating tithe from doubtfully tithed produce derives from the authority of the scribes, and taking up the *lulab* on the other days of the Festival, after the first, likewise derives from the authority of the scribes.
- [E] “Just as in the case of separating tithe from doubtfully tithed produce, one does not say a blessing, so with regard to taking up the *lulab* on the other days of the Festival, one does not say a blessing on that account.”

3:5

- [A] **A stolen or dried up citron is invalid.**
- [B] **And one deriving from an asherah or from an apostate town is invalid.**
- [C] **[If it derived from] orlah-fruit, it is invalid.**
- [D] **[If it derived from] unclean heave-offering, it is invalid.**
- [E] **[If it derived from] clean heave-offering, one should not carry it. But if he carried it, it is valid.**
- [F] **One which is in the status of doubtfully tithed produce –**
- [G] **the House of Shammai declare in valid.**
- [H] **And the House of Hillel declare valid.**
- [I] **And one in the status of second tithe in Jerusalem one should not carry. But if he carried it, it is valid.**
- [I:1 A] It is written, “The fruit of a goodly tree” (Lev. 23:40).

- [B] This refers to a tree the fruit of which is good, and the wood of which also is good.
- [C] And what sort of tree is that? It is the *etrog*.
- [D] If you say that it refers to a pomegranate, its fruit is good but its wood is not good.
- [E] If you say that it refers to a carob, its wood is good, but its fruit is not good.
- [F] [What then meets both qualifications?] It is the *etrog*.
- [G] What is the meaning of *hadar* [goodly]?
- [H] Said R. Levi, "That [the fruit] remains [*dar*] in the tree from year to year."
- [I] Said R. Tanhuma, "Aqilas translated, '*Hadar*' [goodly] as '*Hydor*' [the Greek word for water]. It then refers to a tree that grows by water."
- [J] *R. Simeon b. Yohai taught*, "And you shall take for yourself the fruit of a goodly tree" (Lev. 23:40). This refers to one the fruit of which is good, and the wood of which is good.
- [K] The flavor of the fruit is to be the same as the flavor of the wood, and the flavor of the wood is to be the same as the flavor of the fruit.
- [L] Its fruit, moreover, resembles its wood, and its wood resembles its fruit.
- [M] And what is this? It is the *etrog*.
- [I:2 A] *R. Jacob, the Southerner, raised the question [concerning M. Er. 3:2]: "The Mishnah [at M. Er. 3:2] does not accord with the view of the House of Shammai.*
- [B] **"For we have learned: As to an etrog deriving from doubtfully tithed produce the House of Shammai declare invalid, and the House of Hillel declare valid. And one in the status of second tithé in Jerusalem one should not carry, but if he carried it, it is valid [M. 3:5F-I]."**

3:6

- [A] [If] scars covered the greater part of it,
 [B] [if] its nipple was removed,

[C] [if] it was peeled, split, had a hole and so lacked any part whatsoever, it is invalid.

[D] [If] scars covered the lesser part of it,

[E] [if] its stalk was removed,

[F] [if] it had a hole but lacked no part whatsoever,

[G] it is valid.

[H] A dark-colored citron is invalid.

[I] And one which is green like a leek –

[J] R. Meir declares it valid.

[K] And R. Judah declares it invalid.

[I:1 A] R. Isaac bar Nahman in the name of Samuel: “All those traits that invalidate do so only on the first day of the Festival alone.”

[I:2 A] *There they say*, “[Even if it is scarred] on the greater part of it only on one side [it is invalid].

[B] “[If] its nipple [was scarred], it is as if the greater part of it [was scarred].”

[II:1 A] **If its nipple was removed [M. 3:6B]:**

[B] There they say, “Its rose.”

[C] R. Isaac bar Haqola said, “The spindle.”

[III:1 A] **If it was split [M. 3:6B]:**

[B] But it did not perforate within [through the skin], it remains valid.

[C] *This is in line with that which we have learned there: If its stalk was removed, if it had a hole but lacked no part whatsoever, it is valid [M. 3:6E-G].*

[IV:1 A] **A dark-colored citron is invalid [M. 3:6H]:**

[B] That which comes from Ethiopia is valid [vis-a-vis M. 3:6H].

[C] **One which is green like a leek [M. 3:6/I]:**

[D] R. Zeira asked before R. Immi, “Is it exactly as green as a leek, or is it merely similar to leek-green?”

[E] He said to him, “Exactly as green as a leek.”

F] What is the greenest of the green shades? R. Eliezer says, “Like wax and like a green gourd.” Sumkhos says, “Like

the wing of a peacock and like the branches of a palm tree.”
What is the reddest of the red? Like the finest crimson which is in the sea [T. Neg. 1:5B-F]. And here the law has said this? [With reference to leek, how can it be regarded as a deep green?]

[G] Said R. Phineas, “The case there [with respect to the leprosy sign of garments and skins] is different, for Scripture speaks of pale green [so leeks would not belong at F].”

3:7

[A] **The measure of the smallest [acceptable] citron –**

[B] **R. Meir says, “The size of a nut.”**

[C] **R. Judah says, “The size of an egg.”**

[D] **And as to the largest [acceptable size] –**

[E] **“It must be of such a size that one can hold two in one hand,” the words of R. Judah.**

[F] **R. Yosé says, “Even one in two hands.”**

[I:1 A] An *etrog* that was half-ripe –

[B] R. Aqiba says, “It is not regarded as fruit.”

[C] And sages say, “It is fruit.”

[D] *R. Ila, R. Yosé in the name of R. Eleazar: “The view of R. Simeon accords with the thesis of R. Aqiba, his teacher.*

[E] “Just as R. Aqiba has said, ‘A half-ripe *etrog* is not fruit,’ so R. Simeon has said, ‘A half-ripe *etrog* is not fruit.’”

[F] [Assuming Aqiba’s meaning is that the half-ripe *etrog* in no way is regarded as fruit, hence is exempt from tithing,] said R. Yosé, “And is it the case that whatever is valid for use as part of a *lulab* is liable for tithes, while whatever is not suitable for use as part of a *lulab* is not liable for tithes?”

[G] *They objected, “Lo, there is the case of the *etrog* that is spotted, lo, there is the case of an *etrog* grown in a frame, lo, there is the case of an *etrog* in the shape of a round ball. Lo, these are invalid for use in a *lulab*, but liable for tithing.”*

[H] [Since it is assumed that Simeon regards these as not liable, while Aqiba holds that they are,] it stands to reason that R. Simeon will concur with R. Aqiba [that they are invalid for use as part of a *lulab*],

while R. Aqiba will not concur with R. Simeon [that they also are exempt from tithing].

- [I] R. Simeon will concur with R. Aqiba, since Scripture refers to fruit, while these are not fruit.
- [J] R. Aqiba will not concur with R. Simeon, since this is the fact: “Lo, if it is an *etrog* that is spotted, lo, if it is an *etrog* grown in a frame, lo, if it is an *etrog* in the shape of a round ball, these are invalid for use in a *lulab*, but liable for tithing.”

[II:1 A] [With regard to **M. 3:7B, the size of a nut:**] *We have learned to repeat the formulation of the Mishnah, “Like a nut.”*

[B] *There is a Tannaite authority who teaches, “Up to the size of a nut.”*

[C] *The one who has said, “Like the size of a nut,” accepts one that is as big as a nut.*

[D] *The one who has said, “Up to the size of a nut,” will declare invalid one that is as big as a nut.*

[III:1 A] [With reference to M. 3:7D-F,] *said R. Yosé, “If Scripture had said, ‘And the tops of palm branches,’ it would have been well [for Judah’s view that one can hold two in one hand].*

[B] “But Scripture has said only, ‘The tops of palm branches.’”

[C] “That is, even if this one is in one hand, and that one is in the other hand.”

[D] They said concerning R. Aqiba that he came into the synagogue bearing an *etrog* on his shoulders.

3:8

[A] “They bind up the *lulab* [palm branch, willow branch, and myrtle branch] only with [strands of] its own species,” the words of R. Judah.

[B] R. Meir says, “Even with a rope fit is permitted to bind up the *lulab*].”

[C] Said R. Meir, “M’S^H B: The townfolk of Jerusalem bound up their palm branches with gold threads.”

[D] They said to him, “But underneath they [in fact had] tied it up with [strands of] its own species.”

[E] And at what point [in the Hallel psalms, 113-118] did they shake [the *lulab*]?

[F] “At ‘O give thanks unto the Lord’ (Ps. 118), beginning and end; and at, ‘Save now, we beseech thee, O Lord’”(Ps. 118:25), the words of the House of Hillel.

[G] And the House of Shammai say, “Also: At, ‘O Lord, we beseech thee, send now prosperity’”(Ps. 118:25).

[H] Said R. Aqiba, “I was watching Rabban Gamaliel and R. Joshua, for all the people waved their palm branches, but they waved their palm branches only at, ‘Save now, we beseech thee, O Lord’”(Ps. 118:25).

[I] He who was on a trip and had no lulab to carry –

[J] when he reaches home, should carry the lulab at his own table.

[K] [If] he did not carry his lulab in the morning, he should carry it at dusk,

[L] for the entire day is a suitable time for the palm branch.

[I:1 A] [With reference to M. 3:8E-H:] Lo, in “O give thanks to the Lord, for he is good” (Ps. 118:1), do they not [wave the lulab, in line with M. 3:8H]?

[B] [His intent was] to exclude [waving at] “O Lord, we beseech thee, send now prosperity” (Ps. 118:25). [The purpose, M. 3: 8H, was To reject the position of the House of Shammai at M. 3:8G.]

[II:1 A] [With reference to M. 3:8/I-L] R. Hiyya bar Ashi in the name of Rab: “This one who gets up very early to go on a trip takes the *lulab* and shakes it, the ram’s horn and sounds it [before he leaves home]. When, later in the day, the time for saying the *Shema* comes, lo, this one recites the *Shema* and says the Prayer.”

[II:2 A] *It has been taught:* One has to shake the *lulab* three times.

[B] *R. Zeira asked,* “Does a shake in one direction count as one, and a shake in another direction count as one, or is it an up and then a down motion in one direction that counts as one shake?”

[C] *There we have learned:* **The stain [of blood] must be scoured with each of them three times [M. Nid. 9:7].**

[D] *R. Zeira asked,* “Does a scouring in one direction represent one, a scouring in the other, a second, or is it an up and then a down motion in one direction that counts as one scouring?”

3:9

[A] **He for whom a slave, woman, or minor read answers after them by saying what they say.**

[B] **But it is a curse to him.**

[C] **If an adult male read for him, he answers after him [only] “Halleluyah.”**

[I:1 A] *It has been taught:* But they have said, “A woman says a blessing for her husband, a slave for his master, a child for his father.”

[B] There is no problem in understanding why a woman may say a blessing for her husband, a slave for his master.

[C] But as to a minor for his father, did not R. Aha say in the name of R. Yosé b. Nehorai, “‘Whatever they have said in respect to a minor[‘s doing a religious deed] is in order to educate him’? [Since the child is not subject to the religious duty, if he says a blessing, how can he serve to say it in behalf of his father, who is subject to the religious duty?]”

[D] Interpret the rule to speak of a case in which the father answers “Amen” after him.

[E] *That is in line with what we have learned there:* **He for whom a slave, woman, or minor read [the Hallel] answers after them by saying what they say. But it is a curse to him [M. 3:9A-B].**

[F] They have further said, “May a curse come upon one twenty years old he needs [the help of the reading of someone] ten years old.”

3:10

[A] **Where they are accustomed to repeat [the last nine verses of Ps. 118], let one repeat.**

[B] **[Where it is the custom] to say them only once, let one say them only once.**

[C] **[Where it is the custom] to say a blessing after it, let one say a blessing after it.**

[D] **Everything follows the custom of the locality.**

[E] **He who buys a lulab [palm branch, myrtle branch, willow branch] from his fellow in the Seventh Year – [the seller] gives him a citron as a gift.**

[F] For one is not permitted to buy [the citron] in the Seventh Year.

- [I:1 A]** Rab and Samuel: One said, "It is Halleluyah [in one word]," and the other said, "It is Hallelu Yah [in two words]."
- [B] *He who says that it is two words maintains that the word may be divided, but it may not be erased [since the word for God, Yah, is consecrated].*
- [C] *He who says that it is Halleluyah [in one word] permits the word to be blotted out [since the Yah is not written as the name of God] but does not allow it to be divided into two.*
- [D] *Now we do not know who has taken this position, and who has stated that one.*
- [E] *On the basis on what Rab has said, "I heard from my uncle [Hiyya], 'If someone were to give me the Book of Psalms written by R. Meir, I should be prepared to blot out every appearance of the word, Halleluyah, in it, for he did not write the word in tending to sanctify [the word for God when he wrote the word, Halleluyah],' it follows that he is the one who said, 'It is Halleluyah [as one word].'"*
- [F] [54a] *A statement of rabbis differs [from this view of Rab's]. For R. Simeon said in the name of R. Joshua b. Levi, "The book of Psalms makes use of ten different expressions of praise [for God]: Fortunate, victory, melody, song, psalm, instruction, joy, thanksgiving, prayer, blessing.*
- [G] "The greatest of all is Halleluyah, because it encompasses the divine Name and praise simultaneously. [Hence, Yah, in the word Halleluyah, stands for the divine Name.]"
- [I:2 A]** *R. Zeira asked before R. Abbahu, "What do we answer after the one who recites the Hallel psalms?"*
- [B] R. Abba of Kipa before R. Jonah, "Answer thus and so [as Scripture specifies]."
- [C] R. Eleazar did not respond thus and so.
- [D] Rab in the name of R. Abba bar Hanah in the name of Rab: "And that rule [as to replying] applies to him who responded by reciting the opening sentence of each paragraph."
- [E] *R. Zeira asked, "And what are these opening sentences?"*

[F] “Praise the Lord! Praise, O servants of the Lord, praise the name of the Lord! Blessed be the name of the Lord from this time forth and for evermore!” (Ps. 113:1-2).

[II:1 A] [With reference to M. 3:10B-C,] *they asked before R. Hiyya bar Ba*, “How do we know that if one heard the *Hallel* psalms but did not respond, he nonetheless has carried out his obligation?”

[B] *He said to him*, “*It is on the basis of the fact that we see our great rabbis standing in the congregation, and these say, ‘Blessed is he,’ and they reply, ‘Who comes in the name of the Lord,’ and both these and those thereby carry out their obligation.*”

[II:2 A] *R. Hoshaiyah taught*, “A man answers, ‘Amen,’ [to others who say Grace], even though he did not eat.

[B] “But he does not say, ‘Blessed is He, of whose food we have eaten,’ if he did not eat.”

[II:3 A] *It has been taught*: They do not say an “orphan-Amen,” or a “cut-off Amen.”

[B] What is an “orphan-Amen”?

[C] *Said R. Hunah*, “*It is one in which a person is liable to say a blessing, and he answers, ‘Amen,’ but he does not know on what account.*”

[II:4 A] *It has been taught*: As to a pagan who said a blessing for the Name – they answer, “Amen,” after him.

[B] If he said a blessing using the Name, they do not answer, “Amen,” after him.

[C] *Said R. Tanhuma*, “If an idolater blesses you, answer after him, ‘Amen.’

[D] “For it is written, ‘You shall be blessed above all peoples; there shall not be male or female barren among you, or among your cattle’”(Deut. 7:14).

[E] An idolater met R. Ishmael and blessed him. He said to him, “The proper reply for what you have said already has been stated.” Another met him and cursed him.

[F] He said to him, “The proper reply for what you have said already has been stated.”

[G] *His disciples said to him, “Rabbi, how is it possible that you said to this one precisely what you said to the other?”*

[H] *He said to them, “And has it not been written, ‘Cursed be every one who curses you, and blessed be every one who blesses you!’”*(Gen. 27:29)?

[II:5 A] [With reference to M. 3:10A-B,] Rabbi would repeat certain words in it.

[B] R. Eleazar b. Parta would augment certain words in it.

[III:1 A] [With reference to M. 3:10E-F,] said R. Eleazar, “This rule represents the view of the Elders of the Galilee.

[B] “For the Elders of the Galilee say, ‘It is forbidden to hand over to someone suspect of not observing the taboos of the Seventh Year [money sufficient for] food for two meals [since he is assumed to use the money to purchase food grown in the Sabbatical Year, and one may not do so].’ [Hence the *etrog* must come as a gift.]”

[C] Said R. Mattenayyah, “Interpret the rule to represent the view of all parties. It refers to a time in which *etrogs* were sold at high prices [and proceeds received for the *etrogs* by themselves would be sufficient to purchase two meals]. [Hence under these circumstances all parties maintain the same view.]”

[D] *There is the following case: Eetrogs were in short supply there [in Babylonia], and R. Nahman b. Jacob gave an etrog as a gift to his son.*

[E] He said to him, “When you have taken possession of it and of the religious duty to be done with it, return it to me.”

3:11

[A] At first the lulab was carried in the Temple for seven days, and in the provinces, for one day.

[B] When the Temple was destroyed, Rabban Yohanan b. Zakkai ordained that the lulab should be carried in the provinces seven days,

[C] as a memorial to the Temple;

[D] and that the whole of the day on which the omer is waved should be forbidden [for the use of new produce, which may be used only from the waving of the omer and thereafter; this had formerly been offered at noon].

[E] [If] the first festival day of the Festival [of Sukkot] coincides with the Sabbath, all the people bring their lulabs to the synagogue [on the day before].

[F] On the next day they get up and come along. Each one finds his own and takes it.

[G] For sages have said, “A person does not fulfill his obligation [to wave the lulab] on the first day of the Festival by using the lulab of his fellow.

[H] “And on all other days of the Festival, one does fulfill his obligation [to wave the lulab] by using the lulab of his fellow.”

[I] R. Yosé says, “[If] the first day of the Festival [of Sukkot] coincides with the Sabbath, [if] one forgot and brought his lulab out into the public domain, he is exempt [from the obligation to bring a sin-offering],

[J] “because he brought it out [intending to do what is] permitted.”

[I:1 A] It is written, “You shall rejoice before the Lord your God seven days” (Lev. 23:40).

[B] *There is a Tannaite authority who teaches*, “It is with regard to the rejoicing with the *lulab* that Scripture speaks.”

[C] *There is a Tannaite authority who teaches*, “It is with regard to the rejoicing [brought on by eating the meat] of peace-offerings that the Scripture speaks.”

[D] *He who has said that* it is with regard to the rejoicing of the peace-offerings that Scripture speaks maintains that doing so on the first day is based on the authority of the Torah, and doing so on the other days is on the authority of the Torah as well:] *He who says that* it is with regard to the rejoicing with the *lulab* that Scripture speaks holds that doing so on the first day is based on the authority of the Torah, and doing so on the other days also is based on the authority of the Torah.

[E] Consequently, in making his ordinance [M. 3:11, transferring to the provinces the rite of the Temple of carrying the *lulab* all seven days, doing in the synagogue what was done in the Temple], R. Yohanan ben Zakkai made his ordinance relying upon the law of the Torah.

[F] *But he who has said that* it is with regard to the rejoicing with the *lulab* that the Scripture spoke for the first day, as a matter of Torah law, but for the other days as a matter of law based on the authority of the scribes, then Rabban Yohanan ben Zakkai made his decree resting on the authority of the scribes (as well:)] *But he who says that* it is with

the rejoicing of the peace-offerings that Scripture speaks maintains that doing so on the first day is a matter of Torah law, but for the other days it is a matter of law based on the authority of the scribes, then Rabban Yohanan ben Zakkai made his decree resting on the authority of scribes [as well]. [Now the carrying of the *lulab* all seven days in the Temple was an ordinance of scribes, and doing so in the provinces, after the destruction, was an ordinance based on the authority of scribes tacked on to an ordinance based on the authority of scribes.]

[G] Now is it possible that there should be one ordinance tacked on to another such ordinance? [This question is not answered.]

[II:1 A] [As to the view that taking the *lulab* does not override the restrictions of the Sabbath except when the first day of the Festival coincides with the Sabbath, even in the Temple, which is implied at M. 3:11E and made explicit at M. 4:1,] *associates asked before R. Jonah*, “Just as you say, ‘Seven days you shall present offerings by fire to the Lord; on the eighth day you shall hold a holy convocation and present an offering by fire to the Lord; it is a solemn assembly; you shall do no laborious work’ (Lev. 23:36), and there is no week of seven days without a Sabbath [indicating that one carries out the festivals’ additional-offerings when the Sabbath coincides with a festival],

[B] “*so, along these same lines*, ‘And you shall take for yourself on the first day the fruit of goodly trees, branches of palm trees, and boughs of leafy trees, and willows of the brook; and you shall rejoice before the Lord your God seven days’ (Lev. 23:40). Here too it is specified that there are seven days of celebration, and there is no week of seven days without a Sabbath. [Accordingly, even when the first day of the Festival does not coincide with the Sabbath, on the Sabbath taking the *lulab* should be permitted, since the clear implication of Scripture is that that should be done.]”

[C] He said to them, “This case is different, for it is said, ‘And you shall take for yourself on the first *day*’” (Lev. 23:40). The Scripture has thus distinguished the first day from the others. [What applies that first day is then different.]”

[D] If that is the case, then in the sanctuary let the taking of *the lulab* on the first day that coincides with the Sabbath override the restrictions of the Sabbath. But in the provinces, let it not do so [as against M. 3:11 E] !

[E] Said R. Jonah, “If it were written, ‘And you shall take *before the Lord your God*’ [that is, this additional language indicates that the taking is to be before the Lord, hence in the Temple], I should say, Here you

have an exclusionary clause [excluding taking the *lulab* all seven days, inclusive of the Sabbath, in the provinces]. In another place, you have an inclusionary phrase [indicating the opposite]. But it says, ‘You will take for yourself,’ indicating, it is under all circumstances.

- [F] “‘And you will rejoice before the Lord your God for seven days’ indicates that it is Jerusalem. [Thus there are grounds for both *the* rule that *the lulab-rite* overrides the Sabbath in the Temple, even when the first day of the Festival does not fall on the Sabbath, and the rule that in the provinces the *lulab-rite* overrides the Sabbath *only* when the first day of the Festival coincides with the Sabbath.]”
- [III:1 A] [With reference to M. 3:1 I/I-J:] *Associates* say, “The reason for the position of R. Yosé is that a positive commandment [to carry the *lulab*] overrides the negative commandment [of not carrying an object from private to public domain on the Sabbath].”
- [B] *Said to them R. Yosé, “That is not the consideration important to R. Yosé [of M. 3:1 I/I-J]. Rather, it was on the basis of the reason behind what R. Ila said. And so has it been taught there:*
- [C] “This was the custom in Jerusalem. A man would go to the synagogue, with his *lulab* in his hand. He would recite the *Shema* and say the Prayer with his *lulab* in his hand.
- [D] [What follows is in T.’s amplified version: **“He would arise to read the translation (of the Scripture) or to take his place before the ark, with his *lulab* in his hand.**
- [E] **“(If) he arose to read in the Torah or to raise his hands (in the priestly benediction of the congregation), he would put it down on the ground.**
- [F] **“When he went out of the synagogue, his *lulab* was in his hand.**
- [G] **“When he went in to visit the sick and to comfort mourners, his *lulab* was in his hand.**
- [H] **“But when he entered the study-house, he would give it to his son or his messenger and return it to his house” (T. Suk. 2:10).** [The point is that it was customary to carry the *lulab* out of devotion to that religious duty.]
- [I] Once one has put down the *lulab* [having performed his religious duty with it], it is forbidden to carry it about, [since there is no further religious requirement involved].

[J] Said R. Abun, “That is to say that it is forbidden to derive benefit [from the *lulab*, except for a religious purpose].”

[K] *It has been taught*: They carry aromatic spices on the Sabbath to a sick person for use as a scent.

[L] *Rabbis of Caesarea say*, “As to a willow, it is permitted to wave it for a sick person on the Sabbath.”

[M] Is the same rule [as Yosé gives at M. 3:11/I-J] so for the knife for performing a circumcision, is the same so for unleavened bread?

[N] On the basis of what R. Yohanan has said, “In the view of R. Yosé, even if one has completed the rite of circumcision and left, he may go back [carrying the knife] on account of the sherds [of flesh that must be clipped off,] though these do not invalidate the fundamental rite of circumcision,”

[O] *it follows that the same rule [as is given at M. 3:11J] applies [in Yosé’s view] to the knife for performing the rite of circumcision and to the bringing of unleavened bread.*

3:12

[A] **A woman receives the *lulab* from her son or husband and puts it back into water on the Sabbath.**

[B] **R. Judah says, “On the Sabbath they put it back into [the same water], on the festival day they add water, and on the intermediate days of the festival they change the water.”**

[C] **A minor who knows how to wave the *lulab* is liable to the requirement of waving the *lulab*.**

[I:1 A] [If a minor] knows how to wave the *lulab*, he is liable to the requirement of waving the *lulab*.

[B] If he knows how to wrap himself up in a cloak, he is liable to put show-fringes on his garment.

[C] If he knows how to speak, his father teaches him the language of Torah.

[D] If he knows how to watch out for his hands, people may eat food in the status of heave-offering relying on his hands [if he touched it].

[E] [If he knows how to keep] his body, they eat food prepared in conditions of cultic cleanness relying on his person [if the food touched it].

[F] But he does not go before the ark [to lead the congregation in prayer], raise up his hands, or stand on the platform [as a Levitical singer], until his beard has filled out.

[G] Rabbi says, “And one does them all at the age of twenty and onward, as it is said, ‘They appointed the Levites, from twenty years old and upward, to have the oversight of the work of the house of the Lord’”(Ezra 3:8).

YERUSHALMI SUKKAH

CHAPTER FOUR

4:1

[A] [54b] [The rites of] the lulab and the willow branch [carried by the priests around the altar, M. 4:3] are for six or seven [days].

[B] The recitation of the Hallel psalms and the rejoicing are for eight [days].

[C] [The requirement of dwelling in the] sukkah and the water libation are for seven days.

[D] And the flute playing is for five or six.

[E] The lulab is for seven days: How so?

[F] [If] the first festival day of the Festival coincided with the Sabbath, the lulab is for seven days.

[G] But [if it coincided] with any other day, it is for six days.

[H] The willow-branch [rite] is for seven days: How so?

[I] [If] the seventh day of the willow branch coincided with the Sabbath, the willow-branch [rite] is for seven days.

[J] But [if it coincided] with any other day, it is for six days.

[I:1 A] R. Zeirah, R. Ila, R. Yosé in the name of R. Yohanan: “The willow-branch rite was revealed to Moses at Sinai [orally, not in writing].”

[B] *That view does not accord with the position of Abba Saul. For Abba Saul says, “The rite of the willow branch derives from the teaching of the Torah.*

[C] “‘Willows of the brook’ (Lev. 23:40) in the plural speaks of two matters, a willow for the *lulab*, and a willow for the Temple [rite]” [T. Suk. 3:1/1].

[D] R. Ba, R. Hiyya in the name of R. Yohanan: “The willow and the water libation were revealed to Moses at Sinai [with no basis in the written Torah].”

[E] *That is not in accord with the view of R. Aqiba.*

[F] For R. Aqiba said, “The water libation derives from the teaching of the Torah.

[G] “[Citing Num. 29:19:] ‘On the second day and their drink-offerings’ [in the plural, as against Num. 29:16, ‘and its drink-offering,’ so too for Num. 29:22, for the third day; Num. 29:25, for the fourth day, Num. 29:28, for the fifth day. Then:Num. 29:31:] ‘On the sixth day and its drink-offerings.’ [And also, Num. 29:33:] ‘On the seventh day according to the ordinance.’”

[I:2 A] [With reference to M. Sheb. 1:6, served by the foregoing, it is permitted to plough a field planted with saplings up to the New Year of the Seventh Year, but forbidden to plough a field planted with old trees beginning in the spring prior to the Seventh Year. This is claimed to represent a law revealed to Moses at Sinai. At M. Sheb. 1:6 it is stated, **If ten saplings are spread out over a seah’s space, the whole space may be ploughed for their sake until the New Year.**] *R. Hiyya bar Ba asked before R. Yohanan, “Why at this time, then, do they plough among old trees?”*

[B] He said to him, “When the law was revealed, it was given with the stipulation that if they wanted to plough they might do so.”

[C] R. Ba bar Zabeda in the name of R. Honayya of Beth Hauran: “The willow-rite, the water-libation, and the rule of ten saplings [of M. Sheb. 1:6] are based on the foundations of the prophets.”

[D] *Does he differ [from Yohanan, who maintains that it was a law revealed to Moses at Sinai]?*

[E] R. Yosé b. R. Bun in the name of Levi: “Thus was the law as they originally had it in hand, but they forgot it, and the second group went and made the law conform to the original opinion of the former one.

[F] “This serves to teach you that any matter for which a court is prepared to give its life will in the end endure as if it had been revealed to Moses at Sinai.”

[G] *This conforms to that which R. Mana said, “‘For it is no trifle for you, [but it is your life, and thereby you shall live long in the land which you are going over the Jordan to possess]’ (Deut. 32:47).*

[H] “If it is a trifle, it is on your account.

[I] “Why? Because you do not work hard at it.

[J] “But it is your life’ (Deut. 32:47).

[K] “When is it your life? When you work hard at it.”

- [I:3 A] *R. Yohanan said to R. Hiyya bar Ba, “O Babylonian! Two matters came up in your possession [from the Exile], prostration on a fast day [by spreading out the hands and feet], and the willow rite on the seventh day [M. 4:1A, H-I].”*
- [B] *Rabbis of Caesarea say, “Also the matter of blood-letting [indicating the times at which it is, or is not, beneficial].”*
- [C] *R. Simeon instructed those who calculate the calendar, “Pay attention that you do not so arrange matters that there is a requirement to sound the ram’s horn on the Sabbath [that is, so that the New Year not coincide with the Sabbath] and also so that there is no willow-rite on the Sabbath. [These rites do not override the prohibitions of the Sabbath.]*
- [D] *“But if you are forced to do so, have the sounding of the ram’s horn on the Sabbath, and do not have the willow-rite on the Sabbath.”*

4:2

- [A] **The religious requirement of the lulab [on the Sabbath]: How so?**
- [B] **[If] the first festival day of the Festival coincided with the Sabbath, they bring their lulabs to the Temple mount.**
- [C] **And the attendants take them from them and arrange them on the roof of the portico.**
- [D] **But old people leave theirs in a special room.**
- [E] **They teach them to make the following statement: “To whomever my lulab comes, lo, it is given to him as a gift.”**
- [F] **On the next day they get up and come along.**
- [G] **And the attendants toss them before them.**
- [H] **They grab at lulabs and hit one another.**
- [I] **Now when the court saw that this was leading to a dangerous situation, they ordained that each and every one should take his lulab in his own home.**
- [I:1 A] *R. Jacob, the Southerner, raised the question: “The Mishnah passage [M. 4:2E] before us does not conform to the view of R. Dosa.*

- [B] “For R. Dosa said, ‘[In declaring produce available to the poor as ownerless property,] in the morning a person has to declare, “Whatever the poor will collect today among the sheaves as ownerless property, lo, this is ownerless property.” [This must be said in advance.]’
- [C] “R. Judah says, ‘This may be said in the evening [even after the property has changed hands].’
- [D] “And sages say, ‘What is declared ownerless under duress is not regarded as ownerless, for we are not responsible to attend to the status of deceivers [poor who take what is in fact not due them]’ [cf. T. Pe. 2:5].”
- [E] [Spelling out a different question,] There you say [along the lines of the sages’ view], that what is declared ownerless property under duress is not regarded as ownerless property, while here you maintain that what is declared ownerless property under duress indeed is regarded as ownerless property.
- [F] Said R. Eleazar, “There it is declared ownerless property at the donor’s own instance. But here, it is willy-nilly that he declares the *lulab to be* ownerless property.”
- [G] Said R. Hananiah, son of R. Hillel, “And that is quite so. For you should know that in the present case the man already has in hand what is given in exchange for what he has handed over.”
- [H] *Rab instructed members of the house of R. Ahi, R. Hamnuna instructed the associates, “When you hand over a gift on the Festival [e.g., the lulab or etrog,] hand it over only with full and complete intent.”*
- [I] *There is the following instance: R. Huna handed over an etrog as a gift to his son. He said to him, “If the actual Festival day is today, lo, it is a gift to you. If it is tomorrow, lo, it is a gift to you.”*

4:3

- [A] **The religious requirement of the willow branch: How so?**
- [B] **There was a place below Jerusalem, called Mosa. [People] go down there and gather young willow branches. They come and throw them along the sides of the altar, with their heads bent over the altar.**

- [C] They blew on the shofar a sustained, a quavering, and a sustained note.
- [D] Every day they walk around the altar one time and say, “Save now, we beseech thee, O Lord! We beseech thee, O Lord, send now prosperity”(Ps. 118:25).
- [E] R. Judah says, “[They say,] ‘Ani waho, save us we pray! Ani waho, save us we pray!’”
- [F] And on that day [the seventh day of the willow branch] they walk around the altar seven times.
- [G] When they leave, what do they say?
- [H] “Homage to you, O altar! Homage to you, O altar!”
- [I] R. Eliezer says, “For the Lord and for you, O altar! For the Lord and for you, O altar!”
- [I:1 A] What is the meaning of the name, “Mosa”?
- [B] That it is excluded [from taxes].
- [C] *Said R. Tanhuma, “It was called Qalonayya [Colonia].”*
- [I:2 A] [As to the willow branches,] Bar Qappara said, “They were eleven cubits tall.”
- [B] *Said R. Yosé, “The Mishnah has indicated that point: **With their heads bent over the altar [M. 4:3B].”***
- [C] R. Zeira sent and asked R. Daniel, son of R. Qatina; “Have you heard from your father whether it is necessary to say a blessing [along with the willow-rite], whether it is taken by itself, and whether it is subject to a minimum measurement [as to length]?”
- [D] R. Aibu bar Nigri in the name of R. Huna came and said, “[54c] It does require a blessing; it is taken by itself [not bound up with the other species], but as to whether or not a required measurement as to length applies to it I have not heard.”
- [E] There they say R. Sheshet and R. Nahman bar Jacob: One said, “It must have three fresh twigs with leaves,” and the other said, “Even a single twig [suffices].”
- [II:1 A] [As to walking around the altar,] it was taught: [Priests who are] maimed [participate in the procession].
- [B] *R. Simeon b. Laqish asked before R. Yohanan, “Now will maimed priests enter the area between the porch and the altar?”*

[C] He said, “They were valid [for that purpose alone, but for no other].”

[III:1 A] R. Abbahu in the name of R. Yohanan: “This is how the Mishnah is to be read: ‘**Ani waho, save us we pray! Ani waho, save us we pray [two times]**’ [M. 4:3E].”

[B] Said R. Abbahu, “‘Stir up thy might and come to save us’ (Ps. 80:2) [is what R. Eliezer means to say, M. 4:3/I, that is], ‘To you be all praise.’”

[III:2 A] R. Ba Saronegayyah interpreted, “‘And the Lord will give victory to the tents of Judah first, [that the glory of the house of David and the glory of the inhabitants of Jerusalem may not be exalted over that of Judah]’ (Zech. 12:7). It is written, ‘And give victory.’”

[B] R. Zakkai interpreted, “‘[Writhe and grown, O daughter of Zion, like a woman in travail;] for now you shall go forth from the city and dwell in the open country; [you shall go to Babylon. There you shall be rescued, there the Lord will redeem you from the hand of your enemies]’ (Micah 4:10), ‘My presence will be in the field.’”

[C] Hananiah, son of the brother of R. Joshua says, “‘I am the Lord your God, who brought you out of the land of Egypt, out of the house of bondage’ (Ex. 20:2). It is written, ‘You were taken out [too], [that is, God also was in bondage but was taken out].’”

[D] R. Berekhiah, R. Jeremiah in the name of R. Hiyya bar Ba: “Levi bar Sisi interpreted in Nehardea as follows: ‘And they saw the God of Israel; and there was under his feet as it were a pavement of sapphire stone, like the very heaven for clearness’ (Ex. 24:10).

[E] “That applies before they were redeemed. But after they were redeemed, the brickwork was placed where the brick was generally kept. [That is, before Israel was redeemed, God had brickwork under his feet. He suffered along with Israel. After the redemption the brickwork was cast away.]”

[F] Said R. Berekhiah, “It is not written here, ‘A brickwork of sapphire,’ but, ‘The *like* of a brickwork,’ indicating that both it and all the implements required for it were given; it and the basket and the trowel pertaining to it were given.”

[G] Said R. Meyashah, “In regard to Babylonia it is written, ‘And above the firmament over their heads there was the likeness of a throne, in appearance like sapphire] and seated above the likeness of a throne was a likeness as it were of a human form’ (Ezek. 1:26).

[H] “And in regard to Egypt, it is written, ‘And they saw the God of Israel; and there was under his feet as it were a pavement of sapphire stone, like the very heaven for clearness’ (Ex. 24:10).

[I] “This serves to teach you that just as stone is tougher than brick, so the subjugation to Babylonia was tougher than the subjugation to Egypt.”

[J] *Bar Qappara taught*, “Before Israel was redeemed from Egypt, it was indicated in the firmament [‘a pavement of sapphire stone’]. Once they were redeemed, it no longer appeared in the firmament.

[K] “*What is the Scriptural evidence for this view?* ‘Like the very heaven for clearness’ (Ex. 24:10). *This refers to the heaven when it is clear of all clouds.*”

[L] *It has been taught in the name of R. Eliezer*, “An idol passed with Israel through the sea.

[M] “*What is the Scriptural basis for this statement?* ‘Whom thou didst redeem for thyself from Egypt, nations and its gods’”(2 Sam. 7:23).

[N] Said to him R. Aqiba, “Heaven forefend! If you say so, you treat the holy as profane. What is the meaning of, ‘Whom you redeemed for yourself from Egypt’? It is as if you redeemed yourself.”

[IV:1 A] And on that day they walk around the altar seven times [M. 4:3F]:

[B] Said R. Aha, “This is a memorial to [the victory at] Jericho.”

4:4

[A] As the rite concerning it [is performed] on an ordinary day, so the rite concerning it [is performed] on the Sabbath.

[B] But they would gather [the willow branches] on Friday and leave them in the gilded troughs [of water], so that they will not wither.

[C] R. Yohanan b. Beroqah says, “They would bring palm tufts and beat them on the ground at the side of the altar,

[D] “and that day was called the ‘day of beating palm tufts.’”

[E] Forthwith children throw away their lulabs and eat their citrons.

[I:1 A] [M. 4:4E] has said only, “Children.” Lo, adults do not do so.

- [B] Did not R. Abina say in the name of Rab: “An *etrog* that was invalidated on the first day of a Festival – it is permitted to eat it”? [It is not set aside for a religious duty. In that case, why can adults not do so?]
- [C] Said R. Yosé, “[The reason is not that consideration at all.] There [at M. 4:4E], the *etrog* is not suitable for the child to carry out his religious obligations, but others may do so.
- [D] “But here [in the case of which Rab spoke], neither he nor any one else may carry out his religious obligation with the invalid *etrog*. [There is nothing to do with it, so it may be eaten.]”

4:5

- [A] **The Hallel psalms and the rejoicing [peace-offerings of rejoicing] are for eight days: How so?**
- [B] **This rule teaches that a person is obligated for the Hallel psalms, for the rejoicing [eating of peace-offerings], and for the honoring of the festival day,**
- [C] **on the last festival day of the Festival,**
- [D] **just as he is on all the other days of the Festival.**
- [E] **The obligation to dwell in the sukkah for seven days: How so?**
- [F] **[If] one has finished eating [the last meal of the festival he should not untie his sukkah right away.**
- [G] **But he brings down the utensils [only] from twilight onward –**
- [H] **on account of the honor due to the last festival day of the Festival.**
- [I:1 A] *It was taught: On eighteen days and one night do they recite the Hallel psalms every year:*
- [B] **The eight days of the Festival, the eight days of Hanukkah, the Festival of Pentecost, and the first festival day of Passover and the night preceding it [T. Suk. 3:2A-B].**
- [I:2 A] R. Zeira, Ulla bar Ishmael in the name of R. Eleazar: “With [an animal designated as] peace-offerings for the festal offering, which one slaughtered on the eve of a festival [that is, prior to the festival day itself], one does not fulfill his obligation [to bring a festal offering] on the festival itself. [The slaughtering of the festal offering must take place at the time of the rejoicing on the festival itself, not prior to that time.]”

- [B] *R. Ba objected, “Lo, it has been taught, ‘With an animal designated as a festal offering which one slaughtered on the fourteenth [of Nisan, that is, the day prior to the first festival day of Passover,] people carry out their obligation on the count of the offering of rejoicing required for Passover. [This festal offering is slaughtered along with the Passover-offering, that is, prior to sundown on the fourteenth of Nisan.]’ Now do they not carry out their obligation with that animal on the count of peace offerings?”*
- [C] Said R. Zeira, “Interpret that statement to speak of a case in which [one postponed] slaughtering the animal until the festival day itself.”
- [D] [But, since the time of slaughtering it has passed, the beast falls into the category of peace-offerings,] R. Ba said to him, “If they slaughtered it on the festival, this no longer serves as a festal offering on the fourteenth [of Nisan, accompanying the Passover, such as is required].”
- [E] *What is the upshot of the matter? [Do people carry out their obligation on the count of bringing peace-offerings as a festal offering?]*
- [F] *Said R. Zeira, “When I was over there [in Babylonia], I heard R. Ba bar Ishmael teach in the name of R. Eleazar, while when I came up here, I heard the teaching taught by R. Hiyya in the name of R. Eleazar: ‘So that you will be altogether joyful’ (Deut. 16:15). The use of the word ‘altogether’ serves to encompass the night of the last day of the Festival, including that night within the season of rejoicing. [At that time the festal offering may be slaughtered to fulfill one’s obligation for the festival.]”*
- [G] “Or is it possible to maintain that the language also serves the purpose of including the first night of the festival?”
- [H] “Scripture has said, ‘Altogether,’ serving to differentiate.”
- [I] R. Hiyya in the name of R. Eleazar: “‘And you shall rejoice in your feast’ (Deut. 16:12). Since you are liable for a festal offering, you are liable for an offering of rejoicing. [One is not liable on the first night of a festival for a festal offering, therefore one is not liable to slaughter at that time an offering of rejoicing.]”
- [J] *They objected.”Lo, we have learned: [The recitation of] the Hallel psalms and the rejoicing[-offering] are for eight days [M. 4:5A]. Now what if the first day of the festival should coincide with the Sabbath? [The festal offering cannot be slaughtered that day.] As to slaughtering the festal offering on the eve of the festival*

[that is, on Friday,] one is not permitted to do so either, for R. Zeira has said, Zeira bar Ishmael in the name of R. Eleazar stated, With peace-offerings brought as a festal offering which one slaughtered on the eve of the festival one cannot carry out his obligation for a festal offering for the festival itself.’

[K] “As to slaughtering the animal on the festival, that too you cannot do, for we have indeed learned that a festal offering does not override the prohibitions of the Sabbath.

[L] “So under what circumstances have they stated that the recitation of the *Hallel* psalms and the rejoicing[-offering] can go on for eight days?”

[M] *Said R. Yosé, “R. Abodemi, who would go down to Babylonia, interpreted the passage to speak of priests, who could offer a goat [offered on the festival day, through which they would carry out their obligation to eat a rejoicing-offering] [M. Hag. 1:4C].”*

[II:1 A] [As to M. 4:5F.] R. Abba bar Kahana, R. Hiyya bar Ashi in the name of Rab: “A person has to invalidate his *sukkah* while it is still day [on the seventh day of the Festival, if he proposes to eat in it on the Eighth Day of Solemn Assembly, so that he will not appear to be eating in the *sukkah* and so adding to the Festival itself]. [By invalidating the *sukkah*, he indicates that he realizes he is not adding a day to the Festival but observing a separate festival, the Eighth Day of Solemn Assembly.]”

[B] R. Joshua b. Levi said, “[In any event,] he has to say the Sanctification of the day in his house [not in the *sukkah*].”

[C] R. Jacob bar Aha in the name of Samuel: “If one said the Sanctification in one house and decided to eat in some other house, he has to say the Sanctification [again].”

[D] R. Aha, R. Hinena in the name of Rab: “He who finds his *sukkah* pleasant says the Sanctification on the night of the final festival day in his house, then he goes up and eats in his *sukkah*.” [This contradicts C.]

[E] *Said R. Abin, “And they do not differ about this matter, for Rab [D] said what he said in a case in which the man did not intend to eat in some other house, while Samuel said [C] that if he intended to eat in some other house [he has to say the Sanctification again].”*

[F] [No, they differ, for,] *said R. Mana, “The statement of Samuel accords with R. Hiyya [A], and the statement of R. Hoshaiiah accords with the view of R. Joshua b. Levi [B].”*

[G] Said R. Immi, “That is to say that they disputed about this matter explicitly.”

4:6

[A] **The water libation – for seven days: How so?**

[B] **A golden flask, holding three logs in volume, did one fill with water from Siloam.**

[C] **[When] they reached the Water Gate, they blow a sustained, a quavering, and a sustained blast on the ram’s horn.**

[D] **[The priest] went on the ramp [at the south] and turned to his left [southwest].**

[E] **There were two silver bowls there.**

[F] **R. Judah says, “They were of plaster, but they had darkened because of the wine.”**

[G] **They were perforated with holes like a narrow snout,**

[H] **one wide, one narrow,**

[I] **so that both of them would be emptied together [one of its wine, flowing slowly, the other of its water, flowing quickly].**

[J] **The one on the west was for water, the one on the east was for wine.**

[K] **[If] he emptied the flask of water into the bowl for wine, and the flask of wine into the bowl for water, he has nonetheless carried. out the rite.**

[L] **R. Judah says, “A log [of water] would one pour out as the water libation all eight days.”**

[M] **And to the one who pours out the water libation they say, “Lift up your hand [so that we can see the water pouring out]!”**

[N] **For one time one [priest] poured out the water on his feet.**

[O] **And all the people stoned him with their citrons.**

[I:1 A] **“[They sound the *shofar*, M. 4:6C,] said R. Yosé b. Haninah, “so as to publicize the matter.”**

[B] *Yosé b. Haninah in the name of Menahem of Jodapata: “[That the water libation was to be three logs in volume] represents the position of R. Aqiba, who maintained that the water libation de rives from the*

authority of the Torah [and, by analogy to the one for wine, must be three logs in volume].”

[C] *There we learned: R. Eleazar says, “Also: He who pours a water libation on the Festival outside [of the Temple] is liable [on the count of a cultic act outside of the Temple] [M. Zeb. 13:6].”*

[D] Said R. Yohanan, “The entire theory of R. Eleazar accords with the one of R. Aqiba, his master.

[E] “Just as R. Aqiba has said, ‘The water libation derives from the authority of the Torah,’ so R. Eleazar has said, ‘The water libation derives from the authority of the Torah, [and that is why it must be done only in the Temple].”

[F] *[The statements that follow see a point of difference concerning the view of Eleazar.] What is the difference between the [Tannaite authorities, whose traditions follow]:*

[G] *There is a Tannaite authority who teaches in the name of R. Eleazar, “It is necessary that the drawing of the water be for the purpose of the [water-offering of] the Festival.”*

[H] *There is a Tannaite authority who teaches in the name of R. Eleazar, “It is not necessary that the drawing of the water be for the purpose of the Festival.”*

[I] *He who says that it is necessary that the drawing of the water be for the sake of the Festival maintains that R. Eleazar accords with R. Aqiba [that the rite derives from the authority of the Torah].*

[J] *He who says that it is not necessary that the drawing of the water be for the sake of the Festival maintains that R. Eleazar accords with rabbis [who do not regard the rite as deriving from the authority of the Torah]. [Hence the issue of designation of water for this rite is moot.]*

[K] *No, that is an impossible proposition. For R. Yohanan said, “The entire theory of R. Eleazar accords with the one of R. Aqiba, his master.*

[L] “Just as R. Aqiba has said, ‘The water libation derives from the authority of the Torah,’ so R. Eleazar has said, ‘The water libation derives from the authority of the Torah.’”

[M] *Then what is at issue [between the Tannaite authorities whose traditions are cited at G-H]?*

[N] Said R. Zeira, “It is the case of one who poured out a libation of three *logs* inside the Temple, and three *logs* outside the Temple.

[O] “*There is a Tannaite authority who teaches, ‘The water is subject to a maximum measure of volume,’ and there is a Tannaite authority who teaches, ‘The water is not subject to a maximum measure of volume.’*”

[P] “*He who has said that the water is subject to a maximum measure of volume declares the man exempt [for pouring out the water outside of the Temple, since he already has done so inside the Temple, and so carried out the required rite]. [What he did outside is null.]*”

[Q] “*He who has said that the water is not subject to a maximum measure of volume declares the man liable [for pouring out the water outside of the Temple, since, whatever he does in one place, what he does in the other is equally valid]. [There is no point at which one necessarily has carried out the obligation of the water libation.]*”

[I:2 A] Yosé bar Asyan in the name of R. Simeon b. Laqish: “The bowls have to be stopped up at the time of the libation.

[B] “*What is the scriptural basis for this position?*”

[C] “‘Its drink offering shall be a fourth of a *hin* for each lamb; in the holy place you shall pour out a drink offering [54d] of strong drink to the Lord’”(Num. 28:7).

[I:3 A] *It has been taught: R. Yosé says, “The cavity of the Pits was perforated down to the abyss.*

[B] “*What is the scriptural basis for this view?*”

[C] “‘**He digged it and cleared it of stones, and planted it with choice vines; he built a watchtower in the midst of it, and hewed out a wine vat in it; and he looked for it to yield grapes, but it yielded wild grapes’ (Is. 5:2).**”

[D] “‘**He built a watchtower in the midst of it’ – this refers to the Temple.**”

[E] “‘**He hewed out a wine vat in it’ – this refers to the altar.**”

[F] “‘**And also a wine vat’ – this refers to the cavity’ [T. Suk. 3:1SC-F].**”

- [G] R. Simeon says, “[The pits] were the work of Heaven [at the creation of the world].”
- [H] Since the pits were the work of Heaven, is it possible that they should not be well built, as would be the work of a craftsman?
- [I] Scripture says, “Your rounded thighs are like jewels, the work of a master hand” (Song 7:2).
- [J] They were better built than the work of a craftsman.
- [K] *It has been taught: R. Eliezer b. R. Sadoq says, “There was a small passageway between the ascent and the altar at the west side of the ramp.*
- [L] **“Once every seventy years the young priests would go down there and gather up the congealed wine, which looked like circles of pressed figs, and they burned it in a state of sanctity, as it is said, ‘In the holy place shall you pour out a drink offering of strong drink unto the Lord’ (Num. 28:7).**
- [M] **“Just as the pouring out must be in a state of sanctity, thus the burning of it must be in a state of sanctity” [T. Suk. 3:15].**
- [N] [Commenting on Num. 28:7, cited above, L.] Rabbi said, “Notice how the Torah has seized upon language expressing desire, satisfaction, and strong drink.”
- [O] R. Judah bar Laqorah in the name of R. Samuel bar Nahman:
 “When the Temple was destroyed, wine jelly ceased to be available, and white glass ceased to be used.”
- [P] What is white glass?
- [Q] It is cut glass.
- [II:1 A] [As to M. 4:6G-H:] *They proposed to state, “The wide one was for water, the narrow one for wine.”*
- [B] For R. Jonah in the name of R. Immi said, “A hole that will not let water pass will let wine pass, and one that will not let wine pass will let oil pass, and one that will not let oil pass will let honey pass.”
- [C] And even if you should state that the matter is opposite [so the wide one was for wine, the narrow one for water], it accords with the view of R. Judah.
- [D] **For R. Judah said, “A log of water would one pour out as the water libation all eight days” [M. 4:6L].**

[II:2 A] *R. Simeon b. Laqish asked before R. Yohanan, “If one carried out the libation-offering before the sacrifice [of the daily whole offering], what is the rule?*

[B] “If one poured out the water libation by night, what is the rule?

[C] “If one did not pour out the water libation on one day, what is the law as to doing so on the next day?”

[D] *He said to him, “Let us derive the answer from the following:*

[E] “R. Ila said in the name of R. Yosé, ‘And its libations’ (Num. 29:31) – [the plural indicates] one for the water libations and the other for the wine libations.’

[F] “*That indicates*, if one carried out the libation-offering before the sacrifice [of the daily whole-offering], it is valid.

[G] “If one poured out the water libation by night, it is valid.

[H] “If one did not pour out the water libation on one day, he should not pour out a water libation [for that same purpose] on the next day,

[I] “on the principle that if the day has passed, the offering pertaining to that day has passed also.”

[II:3 A] With reference to M. 4:1C, the water libation is for seven days, and Judah says, “It is for eight days”; and M. 4:6L, “There was a water libation of a *log*,” while sages say, “Three logs,” so M. 4:6B, we may then observe, in T.’s formulation:] **You turn out to rule, He who wants more water diminishes the number of days, and he who wants more days diminishes the volume of the water [T. Suk. 3:16K].**

[II:4 A] *There is he who proposes to state: “[The one who poured the water on his feet, M. 4:6N] is the same priest who misbehaved in connection with the burning of the red cow [at T. Par. 3:8, a Sadducee who rejected the conception of the law], and is also the same one who misbehaved in connection with the rite of the Day of Atonement [at Y. Yoma 1:5, burning the incense outside and bringing it inside the Holy of Holies]. [All three incidents were the work of one Sadducean priest.]”*

[B] *R. Simon did not hold that view, but he maintained either that the one responsible for the misconduct with the red cow and the one responsible for the misconduct at the rite of the Festival is one priest, while the one of the Day of Atonement is another,*

[C] *or that the one involving the red cow and the rite of the Day of Atonement was one and the same man, while the one involved with the rite of the Festival was another.*

[D] *He who has said that there were not many days before [the one who did things in the wrong way on the Day of Atonement] died holds that the same man did all three deeds [one on the Day of Atonement; between then and the Festival he burned the red cow in the wrong status as to uncleanness, then on the Festival he poured the water-offering onto his feet and was stoned and died].*

[E] *He who said that worms came out of his nose, and there was something like the footprint of a calf on his forehead, [so he died immediately,] maintains the view that either the one involved in the incident of the red cow and of the Festival was one priest, while the one involved on the Day of Atonement was a different priest,*

[F] *or the one involved in the incident of the red cow and the Day of Atonement was one priest, and the incident involving the Festival was another priest.*

[II:5 A] [With reference to M. 4:6N-O,] The courtyard cried out, “Get out of here! Get out of here, sons of Eli! For you have contaminated the house of our God.”

[B] On that day [now following T.’s text:] **the horn of the altar was damaged, so the sacred service was annulled for that day, until they brought a lump of salt and put it on it, so that the altar should not appear to be damaged.**

[C] **For any altar lacking a horn, ramp, or foundation is invalid.**

[D] [Y. lacks:] **R. Yosé b. R. Judah says, “Also the rim” [T. Suk. 3:16D-F].**

[II:6 A] [Reverting to the story of that the priest on the Day of Atonement had a footprint of a calf on his forehead, where could it have come from?"] *they asked before R. Abbahu, “For lo, it is written, ‘There shall be no man in the tent of meeting when he enters to make atonement in the holy place until he comes out’ (Lev. 16:17).*

[B] “That covers even those concerning whom it is written, ‘As for the likeness of their faces, each had the face of a man in front; the four had the face of a lion on the right side, the four had the face of an ox on the left side, and the four had the face of an eagle at the back’ (Ezek.

1:10). Even these should not be in the tent of meeting when he enters to make atonement for the holy.”

- [C] He said to them, “That [Lev. 16:17] applies when he goes in in the proper manner [but not when he has put incense into his hand before going in].”

4:7

[A] As the rite concerning it [was carried out] on an ordinary day, so was the rite [carried out] on the Sabbath.

[B] But on the eve of the Sabbath one would fill with water from Siloam a gold jug which was not sanctified,

[C] and he would leave it in a chamber [in the Temple].

[D] [If] it was poured out or left uncovered, one would fill the jug from the laver [in the courtyard].

[E] For wine and water which have been left uncovered are invalid for the altar.

[I:1 A] What difference does it make to me that the gold jug [M. 4:7B] was not sanctified? Even if it had been sanctified, [it should be acceptable]. [The man may pour the water in with the intent that the water not be regarded as sanctified. The concern of M. 4:7B is that if the water should be sanctified by the jug, then it will be invalidated by being left overnight.]

[B] For did not R. Aha, R. Hinena in the name of R. Yosé say, “‘You shall also anoint the altar of burnt offering and all its utensils, and consecrate the altar; and the altar shall be most holy’ (Ex. 40:10)?

[C] “‘Just as the altar only effects sanctification through one’s knowledge and intent, also utensils used for the altar will not effect sanctification except with knowledge and intent. [Accordingly, even if water is left in a sanctified vessel, it will not be regarded as sanctified, since the priest’s intention is not that the water be sanctified by the utensil in which it is kept overnight.]”

[D] Hezekiah said, “It is so that people should not say, ‘We saw water that was drawn for the sanctification [washing] of hands and feet rendered invalid by being kept overnight.’”

[E] Members of the house of R. Yannai say, “It is so that people will not say, ‘We saw water drawn for the Festival[‘s libation-offering] invalidated by being kept overnight [prior to use].”

[F] R. Yohanan said, “It is for appearance’s sake.”

- [G] *Now we do not know whether it was [for appearance's sake] in line with what Hezekiah said, or whether it was [for appearance's sake] in line with what R. Yannai's representative said.*
- [H] It represents a judgment based on the opinions of all parties.
- [I:2 A] R. Pedat in the name of R. Hoshaiyah: "Water used for the rite of the accused wife is invalidated if left standing overnight."
- [B] R. Aha in the name of R. Abina, "Any sort of material, part of which is not destined for the altar itself, is in no way rendered invalid by being left overnight."
- [II:1 A] [As to M. 4:7E, wine and water left uncovered may not be used for the altar,] they proposed to rule, "If one transgressed and brought [such wine or water], it is valid."
- [B] R. Joshua, the Southerner, taught before R. Jonah, that water and wine left uncovered are invalid for use on the altar.
- [C] *What is the scriptural basis for that view?*
- [D] "And one sheep from every flock of two hundred from the watering places of Israel" (Ezek. 45:15). It derives from something which is permitted for use in Israel. [This excludes water left uncovered, which people may not drink.]
- [E] Up to this point we have dealt with water. How about wine?
- [F] Said R. Shobetay, "'which cheers God and man' (Judges 9:13). [What man may drink may be given to God on the altar.]"

YERUSHALMI SUKKAH

CHAPTER FIVE

5:1

- [A] [55a] Flute playing is for five or six days:
- [B] This refers to the flute playing on bet hashshoebah,
- [C] which overrides the restrictions of neither the Sabbath nor of a festival day.
- [D] They said: Anyone who has not seen the rejoicing of bet hashshoebah in his life has never seen rejoicing.
- [I:1 A] Lo, [the flute playing] that accompanies the offering overrides [the prohibitions of the Sabbath, but otherwise, it does not].
- [B] *The Mishnah therefore has been formulated in accord with the view of R. Yosé b. R. Judah.*
- [C] *For it has been taught: “The playing of the flute along with the offering overrides the restrictions of the Sabbath,” the words of R. Yosé b. R. Judah.*
- [D] And sages say, “It does not override the restrictions of either the Sabbath or the festival.”
- [E] *There we have learned: On twelve days in the year the flute was played before the altar: on the occasion of slaughtering the first Passover-offering [on the fifteenth of Nisan], on the occasion of slaughtering the second Passover-offering for the fifteenth of Iyyarl, on the first festival day of Passover, on the festival day of Pentecost, and on the eight days of the Feast [Tabernacles] [M. Ar. 2:3]. Now can there be eight days without a Sabbath? [How can there be flute playing on all eight days, as M. Ar. 2:3 has said, as against M. 5:1A-C?]*
- [F] *R. Yosé stated the following matter without specifying an authority, while R. Yosé bar Bun said in the name of R. Yohanan, “It represents the view of R. Yosé b. R. Judah.” [The foregoing assumes T.’s version,*

which is as follows: **“Flute playing overrides the restrictions of the Sabbath,” the words of R. Yosé b. R. Judah. And sages say, “It does not override the restrictions even of the festival day” (T. Suk. 4:14A-B).**

[G] *In the view of those rabbis* [who differ from Yosé b. R. Judah], why does the flute playing not override the restrictions of the Sabbath?

[H] It is because it is not clear [from the Scripture that there should be such a rite].

[I] And lo, it is written, “And all the people went up after him, playing on pipes, and rejoicing with great joy, so that the earth was split by their noise” (1 Kings 1:40).

[J] The Scripture speaks of the rejoicing in connection with Solomon [and not the Festival].

[I:2 A] R. Jonah in the name of R. Ba bar Mamel: ““You shall have a song as in the night when a holy feast is kept; and gladness of heart, as when one sets out to the sound of the flute to go to the mountain of the Lord, to the Rock of Israel’ (Is. 30:29). So long as the flute playing is practiced, the Hallel psalms are part of the custom as well.”

[B] R. Yosé b. R. Bun in the name of R. Ba bar Mamel: “Why do they recite the *Hallel* psalms all seven days of the Festival? It is on account of the *lulab*, which is renewed every day.”

[C] *And why do we have to seek these several teachings in respect to the flute playing?*

[D] *We have learned that* this comes at specified times, and that comes at specified times.

[E] This is beloved and that is beloved.

[F] So they have made what is beloved depend upon what is beloved

[G] [Along these same lines as F,] on Pentecost one says to [the priest], “Here is unleavened bread for you, here is leavened bread for you.”

[H] *There is a Tannaite authority who teaches,* “Here is leavened bread for you, here is unleavened bread for you.”

[I] *He who said,* “Here is unleavened bread” [first] holds that it is more desired.

[J] *He who said*, “Here is leavened bread” holds that it is offered more regularly, [and therefore takes precedence].

[I:3 A] Said R. Joshua b. Levi, “Why is it called *bet hashshoebah* [place of drawing]?”

[B] “For from there they draw the Holy Spirit, in line with the following verse of Scripture, ‘With joy you will draw water from the wells of salvation’”(Is. 12:3).

[I:4 A] *There is the following story: R. Levi and Judah bar Nahman were collecting two selas [a week] to gather together a congregation before R. Yohanan.*

[B] *R. Levi entered and preached*, “Jonah the son of Amittai came from the tribe of Asher, for it is written, ‘Asher did not drive out the inhabitants of Akko nor the inhabitants of Sidon’ (Judges 1:3 1).

[C] “And it is written, ‘Arise, go to Zarephath, which belongs to Sidon, and dwell there. Behold, I have commanded a widow there to feed you’”(I Kings 17:9).

[D] *R. Yohanan went up and preached*, “Jonah b. Amittai came from the tribe of Zebulun, for it is written, ‘The third lot came up for the tribe of Zebulun, according to its families. And the territory of its inheritance reached as far as Sarid’ (Josh. 19:10).

[E] “And it is written, ‘Thence it goes to Daberath, then up to Japhia; from there it passes along on the east toward the sunrise to Gath-hepher, to Eth-kazin, and going on to Rimmon it bends toward Neah’ (Josh. 19:13).

[F] “And it is written, ‘He restored the border of Israel from the entrance of Hamath as far as the Sea of the Arabah, according to the word of the Lord, the God of Israel, which he spoke by his servant Jonah the son of Amittai, the prophet, who was from Gath-hepher’”(2 Kings 14:25).

[G] *On another Sabbath, said R. Levi to Judah bar Nahman*, “*Take these two selas and go, gather the congregation before R. Yohanan.*” *He went in and said before them*, “Correctly did R. Yohanan teach us. His mother came from Asher, while his father came from Zebulun. ‘Zebulun shall dwell at the shore of the sea; he shall become a haven for ships, and his border shall be at Sidon’ (Gen. 49:13).

[H] “An offshoot that went forth from him was from Sidon.

[I] “And it is written, ‘He went down to Joppa’” (Jonah 1:3).

[J] *Was it not necessary to say, “He went down to Akko”?*

[K] Said R. Jonah, “Jonah b. Amittai was one of those who came up for the festivals [to Jerusalem], and he came in for the rejoicing of *bet hashshoebah*, and the Holy Spirit rested on him.

[L] “This serves to teach you that the Holy Spirit rests only on someone whose heart is happy.

[M] “What is the scriptural basis for this view? ‘But now bring me a minstrel. And when the minstrel played, the power of the Lord came upon him’ (2 Kings 3:15).

[N] Said R. Benjamin bar Levi, “It is not written here, ‘And when the minstrel played,’ but rather, ‘And when the harp played [on its own].’” [This serves Y. Ber. 1:1 and has no place here.]

- [I:5 A] *It has been taught [in T.’s version]:* **Said R. Judah, “Whoever has never seen the double colonnade [the basilica-synagogue] of Alexandria in Egypt has never seen Israel’s glory in his entire life.**
- [B] **“It was a kind of large basilica, with one colonnade inside another.**
- [C] **“Sometimes there were [55b] twice as many people there as those who went forth from Egypt.**
- [D] **“Now there were seventy-one [Y.: seventy] golden thrones set up there, one for each of the seventy-one elders, each one worth twenty-five talents of gold, with a wooden platform in the middle.**
- [E] **“The minister of the synagogue stands on it, with flags in his hand. When one began to read, the other would wave the flags so the people would answer, ‘Amen,’ for each and every blessing. Then that one would wave the flags, and they would answer, ‘Amen.’**
- [F] **“They did not sit in a jumble, but the goldsmiths sat by themselves, the silversmiths by themselves, the weavers by themselves, the bronze-workers by themselves, and the blacksmiths by themselves.**
- [G] **“All this why? So that when a traveller came along, [he could find his fellow craftsmen,] and on that basis he could gain a living” [T. Suk. 4:6].**
- [H] And who destroyed it all? It was the evil Trajan.

- [I:6 A] *R. Simeon b. Yohai taught*, “The Israelites were warned at three points not to go back to the Land of Egypt.
- [B] “For it is said, ‘And Moses said to the people, Fear not, stand firm, and see the salvation of the Lord, which he will work for you today; for the Egyptians whom you see today, you shall never see again’ (Ex. 14:13).
- [C] “‘Since the Lord has said to you, You shall never return that way again’ (Deut. 17:16).
- [D] “‘And the Lord will bring you back in ships to Egypt, a journey which I promised that you should never make again; and there you shall offer yourselves for sale to your enemies as male and female slaves, but no man will buy you’ (Deut. 28:68).
- [E] “In all three instances they did go back, and in those three instances they fell.
- [F] “Once in the time of Sennacherib, king of Assyria, as it is said, ‘Woe to those who go down to Egypt for help and rely on horses, who trust in chariots because they are many and in horsemen because they are very strong, but do not look to the Holy One of Israel or consult the Lord!’ (Is. 31:1).
- [G] “What is written thereafter? ‘The Egyptians are men, and not God; and their horses are flesh, and not spirit. When the Lord stretches out his hand, the helper will stumble, and he who is helped will fall, and they will all perish together’ (Is. 31:3).
- [H] “Once in the time of Yohanan b. Qorah: ‘Then the sword which you fear shall overtake you there in the land of Egypt; and the famine of which you are afraid shall follow hard after you to Egypt; and there you shall die’”(Jer. 42:16).
- [I:7 A] In the time of Tronianus, the evil one, a son was born to him on the ninth of Ab, and [the Israelites] were fasting.
- [B] His daughter died on Hanukkah, and [the Israelites] lit candles.
- [C] His wife sent a message to him, saying, “Instead of going out to conquer the barbarians, come and conquer the Jews, who have rebelled against you.”
- [D] *He thought that the trip would take ten days, but he came in five.*
- [E] *He came and found the Israelites occupied in study of the Light [Torah], with the following verse: “The Lord will bring a nation*

against you from afar, from the end of the earth, as swift as the eagle flies, a nation whose language you do not understand” (Deut. 28:49).

- [F] *He said to them, “With what are you occupied?”*
- [G] *They said to him, “With thus-and-so.”*
- [H] *He said to them, “That man [I] thought that it would take ten days to make the trip, and I arrived in five days.” His legions surrounded them and killed them.*
- [I] He said to the women, “‘Obey’ my legions, and I shall not kill you.”
- [J] *They said to him, “What you did to the ones who have fallen do also to us who are yet standing.”*
- [K] He mingled their blood with the blood of their men, until the blood flowed into the ocean as far as Cyprus.
- [L] At that moment the horn of Israel was cut off, and it is not destined to return to its place until the son of David will come.

5:2

- [A] **At the end of the first festival day of the Festival [the priests and Levites] went down to the woman’s courtyard.**
- [B] **And they made a major enactment [by putting men below and women above].**
- [C] **And there were golden candle-holders there, with four gold bowls on their tops, and four ladders for each candle stick.**
- [D] **And four young priests with jars of oil containing a hundred and twenty logs, [would climb up the ladders and] pour [the oil] into each bowl.**
- [I:1 A] [In T.’s version:] **Said R. Joshua b. Hananiah, “In all the days of celebrating Bet hashshoebah, we never saw a moment of sleep.**
- [B] **“We would get up in time for the morning daily whole-offering.**
- [C] **“From there we would go to the synagogue, from there to the additional offerings [in the Temple], from there to eating and drinking, from there to the study house, from there to the Temple to see the evening’s daily whole-offering, from there to the celebration of the rejoicing of Bet hashshoebah [T. Suk. 4:5A-D].**
- [D] *And lo, it has been taught, If someone said, “By an oath! I shall not sleep for three days” — they flog him for taking an oath that he*

cannot keep, and he may sleep right away. [How can Joshua claim people did not sleep for days on end?]

[E] They would doze off.

[II:1 A] And they made a major enactment:

[B] What was this enactment that they made there?

[C] It was that they set up the men by themselves and the women by themselves.

[D] *That is in line with what we have learned there: **In the beginning the [women’s court] was empty. but they surrounded it with a gallery, so that the women would look on from above, and the men below, so that they should nor mingle together** [M. Mid 2:5].*

[E] Whence did they learn this rule?

[F] From a teaching of the Torah: “The land shall mourn, each family by itself; the family of the house of David by itself, and their wives by themselves; the family of the house of Nathan by itself, and their wives by themselves” (Zech. 12:12).

[G] [Interpreting the verse just now cited, there were] *two Amoras. One said*, “This refers to a lamentation for the Messiah.”

[H] *The other said*, “This refers to a lamentation for the evil impulse.”

[I] *He who said*, “This refers to a lamentation for the Messiah”: now if at a time at which they are in mourning, you have said, “The men must be by themselves and the women by themselves,” when they are rejoicing, is it not an argument *a fortiori!*

[J] *He who said*, “This refers to a lamentation for the evil impulse:” now if at a time at which they are not subject to the evil impulse, you have said, “The men must be by themselves and the women by themselves,” when they are subject to the evil impulse, is it not an argument *a fortiori!*

[III:1 A] There were golden candle-holders there [M. 5:2C]:

[B] Bar Qappara said, “And they were a *hundred cubits high*.”

[C] *And lo, it has been taught: Whatever is a hundred cubits high has to be thirty-three cubits broad at the base.*

[D] *How with a ladder on this side and a ladder on that side [M. 5:2C], each taking up thirty-three cubits. [the area required for the ladder on either side and the base would be sixty-six cubits for each lamp].*

[E] *Lo, it has been taught: **The Temple Court was in all a hundred and eighty-seven cubits long and a hundred and thirty-five cubits wide** [Two candle holders, therefore, would fill up 132 cubits alone, and with the space taken up by the ladders, 136 cubits. The courtyard would not be sufficiently wide for such an arrangement.]*

[F] *There is a teaching: The place in which they stood was subject to a miracle.*

[IV:1 A] What is the meaning of: **With jars of oil ...[M. 5:2D]**?

[B] Does it mean that all of them together had a hundred and twenty logs of oil,

[C] or each one of them individually had a hundred and twenty logs of oil? [This question is not answered.]

5:3

[A] **Out of the worn-out undergarments and girdles of the priests they made wicks,**

[B] **and with them they lit the candlesticks.**

[C] **And there was not a courtyard in Jerusalem which was not lit up from the light of bet hashshoebah.**

[I:1 A] *It has been taught: Out of the worn-out undergarments of the high priest they kindled the lamps that were inside [the Temple], and out of the worn-out undergarments of the ordinary priests they kindled the lamps that were outside [in the courtyard].*

[I:2 A] Said R. Samuel bar R. Isaac, “It is written, ‘[And you shall command the people of Israel that they bring to you pure beaten olive oil for the light,] that a lamp may be set up to burn continually’ (Ex. 27:20).

[B] “They determined that you have nothing that produces a good flame except for a wick of linen.”

[I:3 A] What is the meaning of the word for **they made wicks [at M. 5:3A]**?

[B] *R. Haggai interpreted it before R. Yosé, “They make wicks of them.”*

- [II:1 A]** *It was taught:* **There was not a courtyard in Jerusalem which was not lit up from the light of bet hashshoebah [M. 5:3C].**
- [B] *It was taught:* A woman can sift wheat by the light of the fire [of the Temple pile].
- [C] And was this not regarded as violating the laws of sacrilege?
- [D] No, for R. Joshua b. Levi said, “Smell, sight, sound — they are not subject to the laws of sacrilege.”
- [II:2 A]** **There were six sounds that they could hear from Jericho:**
- [B] **From Jericho did they hear the sound of the great gate opening. From Jericho did they hear the sound of the shovel.**
- [C] **From Jericho did they hear the sound of the wooden device which Ben Qarin made for the layer.**
- [D] **From Jericho did they hear the sound of Gabmi, the crier.**
- [E] **From Jericho did they hear the sound of the flute.**
- [F] **From Jericho did they hear the sound of the cymbal.**
- [G] **There are those who say, “Also the voice of the high priest when he made mention of the divine Name on the Day of Atonement.”**
- [H] **From Jericho they could smell the scent of the compounding of the incense.**
- [I] **Said R. Eleazar b. Diglai, “My father’s house and goats were on the mountain of Mikhwar, and they sneezed from the smell of the compounding of the incense” [M. Tam. 3:8, omitting M. Tam. 3:8G-H. which would have made eight, rather than six sounds].**

5:4

- [A] **The pious men and wonder-workers would dance before them with flaming torches in their hand,**
- [B] **and they would sing before them songs and praises.**
- [C] **And the Levites beyond counting played on harps, lyres, cymbals, trumpets, and [other] musical instruments,**
- [D] **[standing as they played] on the fifteen steps which go down from the Israelites’ court to the women’s court —**
- [E] **corresponding to the fifteen Songs of Ascents which are in the Book of Psalms —**

- [F] on these the Levites stand with their instruments and sing their song.
- [I:1 A] The pious men and wonder-workers [M. 5:4A]:
- [B] [In T.'s version:] **What did they sing?**
- [C] **“Happy is he who has not sinned. But all who have sinned will He forgive.”**
- [D] **And some of them say, “Fortunate is my youth, which did not bring my old age into shame” — these [who say this song] are the wonder-workers.**
- [E] **And some of them say, “Fortunate are you, O years of my old age, for you will atone for the years of my youth” — these [who say this song] are the penitents [T. Suk. 4:2].**
- [I:2 A] *Hillel the Elder: When he would see people acting arrogantly, would say to them, “If I am here, who is here?”*
- [B] *“Does [God] need their praise? And is it not written, ‘A stream of fire issued and came forth from before him; a thousand thousands served him, and ten thousand times ten thousand stood before him; the court sat in judgement, and the books were opened’” (Dan. 7:10).*
- [C] *When he would see people acting modestly, he would say to them, “If we are not here, who is here? For even though [God] has before him any number of those who praise him, still, precious to him is the praise coming from Israel more than anything else.*
- [D] *“What is the scriptural basis for this statement? ‘[Now these are the last words of David: The oracle of David, the son of Jesse, the oracle of the man who was raised on high, the anointed of the God of Jacob,] the sweet-psalmist of Israel’ (2 Sam. 23:1).*
- [E] *“...enthroned [55c] on the praises of Israel” (Ps. 22:4).*
- [I:3 A] [As to the dancing,] Ben Yehosedeq was praised because of his jumping about.
- [B] [In Tosefta's version:] **M'SH B: Rabban Simeon b. Gamaliel danced with eight flaming torches, and not one of them fell to the ground.**
- [C] **Now when he would prostrate himself, he would put his finger on the ground, bow low, kiss [the ground], and forthwith straighten up [T. Suk. 4:4].**
- [D] What is bowing and what is kneeling?

[E] R. Hiyya the Elder demonstrated an act of bowing before Rabbi, and he was lamed and healed.

[F] Levi bar Sisi demonstrated an act of kneeling before Rabbi, and he was lamed but not healed.

[I:4 A] It is written, “And David returned to bless his household. But Michal the daughter of Saul came out to meet David, [and said, ‘How the king of Israel honored himself today, uncovering himself today before the eyes of his servants’ maids, as one of the vulgar fellows shamelessly uncovers himself!’]” (2 Sam. 6:20).

[B] What is the meaning of “one of the vulgar fellows”?

[C] Said R. Abba bar Kahana, “The most vulgar of them all — this is a dancer!”

[D] She said to him, “Today the glory of father’s house was revealed.”

[E] They said about Saul’s house that [they were so modest] that their heel and their toe never saw [their privy parts].

[F] This is in line with that which is written, “And he came to the sheepfolds [by the way, where there was a cave; and Saul went in to relieve himself]” (I Sam. 24:3).

[G] R. Abun in the name of R. Eleazar: “It was a sheepfold within yet another sheepfold.”

[H] “And Saul went in to relieve himself: [“cover his feet”]: [*David*] saw him lower his garments slightly and excrete slightly [*as needed*].

[I] [*David*] said, “How can anyone lay a hand on such a righteous body!”

[J] *This is in line with that which he said to him*, “Lo, this day your eyes have seen how the Lord gave you today into my hand in the cave; and some bade me kill you, but it spared you” (I Sam. 24:10).

[K] It is not written, “I spared you,” but “It spared you” — that is, “Your own modesty is what spared you.”

[L] “And David said to Michal, ‘It was before the Lord, who chose me above your father, and above all his house, to appoint me as prince over Israel, the people of the Lord — and I will make merry before the Lord. I will make myself yet more contemptible than this, and I will be abased in your eyes; but by

the maids of whom you have spoken, by them I shall be held in honor”(2 Sam. 6:21-22).

[M] For they are not handmaidens, but mothers.

[N] And how was Michal punished? “And Michal the daughter of Saul had no child [to the day of her death]” (2 Sam. 6:23).

[O] And is it now not written, “...and the sixth was Ithream of Eglah, David’s wife” (2 Sam. 3:5)?

[P] She lowed like a cow (Eglah) and expired [giving birth on the day of her death].

5:5

[A] **And two priests stood at the upper gate which goes down from the Israelites’ court to the women’s court, with two trumpets in their hands.**

[B] **[When] the cock crowed, they sounded a sustained, a quavering, and a sustained note on the shofar.**

[C] **[When] they got to the tenth step, they sounded a sustained, a quavering, and a sustained blast on the shofar.**

[D] **[When] they reached the courtyard, they sounded a sustained, a quavering, and a sustained blast on the shofar.**

[E] **They went on sounding the shofar in a sustained blast until they reached the gate which leads out to the east.**

[F] **[When] they reached the gate which leads out to the east, they sounded a sustained, a quavering, and a sustained blast on the shofar.**

[G] **[When] they reached the gate which goes out toward the east, they turned around toward the west,**

[H] **and they said, “Our fathers who were in this place ‘turned with their backs toward the Temple of the Lord and their faces toward the east, and they bowed down to the sun toward the east’ (Ezek. 8:16).**

[I] **“But as to us, our eyes are to the Lord.”**

[J] **R. Judah says, “They said it a second time, ‘We belong to the Lord, our eyes are toward the Lord.’”**

[I:1 A] [As to M. 5:5B, **When the cock crowed,**] Rab interpreted before the members of the house of R. Shiloh, “The cock crowed,” as “The crier proclaimed.”

[B] They said to him, “[does it not mean,] ‘The cock (GBR) crowed’?”

[C] *He said to them, “And lo, we have learned the language, **Son of man (GBR) (M. Sheq. 5:1)**. Can you claim that this means, ‘Son of a chicken’?”*

[II:1 A] *R. Jeremiah asked, “[With reference to the tenth step, M. 5:5C,] is this the tenth from the top, or the tenth from the bottom?”*

[II:2 A] Said R. Hiyya bar Ba, “It is not written here [at Ezek. 8:16], ‘They made an act of prostration’ [one time], but rather, ‘They made two acts of prostration’ [twice]. For they prostrated themselves both to the sun and to the Temple.”

[B] Said R. Abba bar Kana, “‘For my people have committed two evils: they have forsaken me, the fountain of living waters, and hewed out cisterns for themselves, broken cisterns, that can hold no water’ (Jer. 2:13).

[C] “‘And is it so that [only] two evils did my people commit? And lo, he forgave a thousand.

[D] “‘But [the two evils here are that they] prostrated themselves to the sun and also prostrated themselves to the Temple [at once, that is, with their faces to the sun and their backsides to the Temple].”

5:6

[A] They sound no fewer than twenty-one notes in the Temple, and they do not sound more than forty-eight.

[B] Every day there were there twenty-one blasts on the shofar:

[C] three at the opening of the gates, nine at the offering of the daily whole-offering of the morning, and nine at the offering of the daily whole-offering of the evening —

[D] And on days on which an additional offering is made, they would add nine more.

[E] And on the eve of the Sabbath they would add six more:

[F] three to make people stop working, and three to mark the border between the holy day and the ordinary day.

[G] On the eve of the Sabbath which came during the Festival there were forty-eight in all:

[H] **three for the opening of the gates, three for the upper gate and three for the tower gate, three for the drawing of the water, three for the pouring of the water on the altar, nine for the offering of the daily whole-offering in the morning, nine for the offering of the daily whole-offering of the evening, nine for the additional offerings, three to make the people stop work, and three to mark the border between the holy day and the ordinary day.**

[I:1 A] *It has been taught [as against M. 5:6A]:* There were no fewer than seven and no more than sixteen.

[B] *The Tannaite authority counts the three sounds [long, quavering, and long] as a single note,*

[C] *while the Tannaite authority [responsible for M. 5:6A] counts them individually [one by one].*

[D] [As to the nine for the daily whole-offering, M. 5:6C,] you turn out to have three for each time they bowed their heads [during that rite]
...

[E] R. Judah says, “There are three for each paragraph [of the *psalms* read at that time].”

[F] *And lo, it has been taught:* Nine [better: Three] when they got to the tenth step [M. 5:5C]. *So there are other blasts on the horn [besides those listed here].*

[G] *He who maintains that they sounded the ram’s horn at the altar does not concur that they sounded it at the tenth step,*

[H] *while he who holds that they sounded it at the tenth step does not maintain that they sounded it at the altar.*

[II:1 A] [“With respect to **M. 5:6H, Three for the drawing of the water,**”] said R. Zeirah, “that is to say that they sounded the horn only at the water-libation [but not for the actual drawing of the water for that purpose].

[B] “For if [to the contrary] you wish to maintain that they did so for the drawing of the water as well as for the actual water-libation, then the passage should state, ‘Three for drawing the **water for** the day, and three for drawing the water for the next day,’ [since, as we recall, the water was drawn for the libation on the preceding day]. [Hence there are two water-rites on a given day, one for drawing the water for the next day, the other for the pouring out of the water for the day in question.]”

- [III:1 A] [As to M. 5:6D, nine for the Additional Offering:] *Are these the only ones? You have other [Additional Offerings, on certain occasions, while the Mishnah speaks of only one such offering].*
- [B] [That is,] there should be nine for the Additional Offering of the Sabbath}, and nine for the Additional Offering of the New Moon [that coincides with the Sabbath], and nine for the Additional Offering of the festival offering of the New Year.
- [C] *But does the passage conform to the view of him who said, “[And the sons of Aaron, the priests,] shall blow trumpets. [The trumpets shall be to you for a perpetual statute throughout your generations] (Num. 10:8). [This means that] they sound the trumpet in accord with the number of Additional Offerings”?*
- [D] *Rabbis of Caesarea in the name of R. Jacob bar Aha, “And even in accord with the view of him who said, ‘they shall blow the trumpets’ [means that] they sound the trumpet in accord with the number of Additional Offerings,’ [his meaning is that] they sound the trumpet for Additional Offerings, but they do not add soundings of the trumpet to accord with the number of separate and distinct Additional Offerings.”*
- [III:2 A] R. Hiyya bar Ba said, “The lyre is the same as the lute, except that there are more strings in the one [lyre = *nebel*] than in the other.”
- [B] Said R. Hiyya b. Abba, “Why is it called a lyre (*nebel*)? Because [through the beauty of its sounds] it shames many other kinds of musical instruments [that cannot make such beautiful sounds].”
- [C] R. Hunah in the name of R. Joseph: “Because of hide, that is not worked, and because of its extra strings, it shames any number of other musical instruments.”
- [D] R. Simeon b. Laqish said, “An organ is a water-organ.”
- [E] *Rabban Simeon b. Gamaliel taught, “There was no water-organ in Jerusalem, because it spoils the sweetness [of the singing].”*
- [III:3 A] [What follows is in T.’s version:] **The pipe which was in the sanctuary was made of reed, and it came down from the time of Moses. One time they covered it with gold, and its sound was not so pleasant as it had been. They removed the plate, and its sound again became pleasant as it had been [Y.: It was damaged and they repaired it, but its sound.... They removed the damaged.... and its sound....]**

- [B] A cymbal which was in the sanctuary was made of copper, and it came down from the time of Moses. It was damaged. [Y. lacks:] Sages sent and imported craftsmen from Alexandria, and [Y. resumes:] they played it. But its sound was not so pleasant as it had been [T. Ar. 2:3]. [Y. adds: They removed (the place which had been damaged) and it was restored to its original condition.]
- [C] There was a mortar which was in the sanctuary, made of bronze. And it came from the time of Moses. It was damaged. [Y. lacks:] Sages sent and imported craftsmen from Alexandria, and [Y. resumes:] they repaired it. But it was not as it should be. They removed the place which had been damaged. It was restored to its original condition [T. Ar. 2:4].
- [D] There are two utensils which were damaged in the time of the first Temple and were not repaired, and concerning them, it says, “They were of burnished brass” (1 Kings 7:45), and concerning them it says, “And two vessels of fine, bright brass, [55d] precious as gold” (Ezra 8:27). This teaches that it was twice as lovely as gold [T. Ar. 2:5].

[E] *There are two Amoras. One says, “One of them was twice as lovely as gold.”*

[F] *The other says, “Both of them were twice as lovely as gold.”*

[G] *It has been taught: Rabban Simeon b. Gamaliel says, “Siloam gushed forth water through a hole the size of an issar. They said, ‘Let us make it wider, so that water will gush forth more abundantly from it.’ So they widened it. But its water became sparse. They stopped it up, and it returned to its original condition” [T. Ar. 2:6].*

[H] As to the musical instrument called the *magrepah*:

[I] Rab and Samuel: One said, “It has ten openings. Each one produced a hundred notes.”

[J] The other said, “It had a hundred openings. Each one produced ten notes.”

[K] In the view of both parties, it produced a thousand notes.

[III:4 A] [When the New Moon coincides with the Sabbath,] as to the Additional Offerings of the Sabbath and of the New Moon, which is offered first [and so takes precedence]?

- [B] *R. Jeremiah contemplated ruling, “When the Additional Offerings of the Sabbath and the Additional Offerings of the New Moon coincide, the Additional Offerings of the New Moon take precedence.”*
- [C] *Support for the position of R. Jeremiah derives from the following: When there is the Psalm for the Sabbath and the Psalm for the New Moon, the Psalm for the New Moon takes precedence.*
- [D] Said R. Yosé, “That case is different. For R. Hiyya said in the name of R. Yohanan, ‘It is in order to publicize the matter and to make known that it is the New Moon.
- [E] “‘What should he do? He should slaughter the Additional Offering for the Sabbath and say in that regard the Psalm for the New Moon.’
- [F] “But here, [Yosé said, rejecting V.B-C.] by contrast, where there are the Additional Offerings of the Sabbath and the Additional Offerings of the New Moon [to be dealt with], the Additional Offerings of the Sabbath take precedence.
- [G] “It is on the principle that whatever is more regular than its fellow takes precedence over its fellow.”

5:7

- [A] **On the first festival day of the Festival there were there thirteen bullocks, two rams, and one goat [Num. 29:13, 16J.**
- [B] **There remained fourteen lambs for the eight priestly watches.**
- [C] **On the first day, six offer two each, and the remaining two, one each.**
- [D] **On the second day, five offer two each, and the rest, one each.**
- [E] **On the third day, four offer two each, and the rest, one each.**
- [F] **On the fourth day, three offer two each, and the rest offer one each.**
- [G] **On the fifth day, two offer two each, and the rest offer one each.**
- [H] **On the sixth day, one offers two, and the rest offer one each.**
- [I] **On the seventh, all of them are equal.**
- [J] **On the eighth, they go back to drawing lots, as on the other festivals.**
- [K] **They ruled: Whoever offered a bullock one day should not offer one the next day.**
- [L] **But they offer them in rotation.**
- [I:1 A] *It has been taught: All the priestly courses repeat the offering of a bullock during the seven days of the Festival a second and a third*

time, except for the last two, which repeat but do not do it a third time in the case of the bullocks [cf. M. 5:7K-L] [T. Suk. 4:15A].

[B] R. Eleazar asked, “What is the law as to beginning with them for the next festival?”

[C] *Said R. Yosé, “The Mishnah has made that point: **On the eighth they go back to drawing lots, as on the other festivals [M. 5:7J].”***

[D] *No, it was necessary to raise this question in accord with that which was taught by R. Nathan.*

[E] *For R. Nathan taught, “On the eighth day there was no drawing of lots.”*

[F] *So in accord with the position of R. Nathan, what is the law as to beginning with them for the next festival?*

[G] *Said R. Yohanan, “And so too has it been taught: **Now the last day of the Festival had a drawing of lots unto itself, a time unto itself, a festival unto itself, an offering unto itself, a song unto itself, a blessing unto itself. [Thus each festival is treated as a separate entity, and there is no transfer of rights for the priestly watches from one festival to the next] [T. Suk. 4:17A].”***

[H] As to the festival unto itself [meaning, a blessing framed in terms of that festival in particular, e.g., “...who has kept us in life...”:] this is in line with what R. Abin said in the name of R. Aha, “In the case of all of the seven other [days of Tabernacles, Num. 29:12-34 persistently use the conjunction, *and*, e.g., *And* on the second day,] while in regard to the eighth day, it says only, ‘On the eighth day’ (Num. 29:35). This serves to teach you that the eighth day of Solemn Assembly is a festival unto itself.”

[I] As to the lottery [by itself]:

[J] *Said R. Yosé, “The Mishnah has made that point: **On the eighth they go back to drawing lots, as on the other festivals [M. 5:7J].”***

[K] As to the blessing:

[L] *Said R. Ila, “One has to say, ‘Who has kept us in life and sustained us and brought us to this time.’”*

[N] As to an offering:

[O] It is a bullock and a ram.

5:8

[A] Three times a year all the priestly watches shared equally in the offerings of the feasts and in the division of the Show Bread.

[B] At Pentecost they would say to him, “Here you have unleavened bread, here is leavened bread for you.”

[C] The priestly watch whose time of service is scheduled [for that week] is the one which offers the daily whole-offerings, the offerings brought by reason of vows and freewill offerings, and the other public offerings.

[D] And it offers everything.

[E] On the festival day which comes next to a Sabbath, whether before or after it, all of the priestly watches were equal in the division of the Show Bread.

[F] [If] a day intervened [between a festival day and a Sabbath], the priestly watch which was scheduled for that time took ten loaves, and the one that stayed back [in the Temple] took two.

[G] And on all other days of the year, the entering priestly watch took six, and the one going off duty took six.

[H] R. Judah says, “The one coming on duty takes seven, and the one going off duty takes five.”

[I] The ones going on duty divide at the north, and the ones going off duty divide at the south.

[J] [The priestly watch of] Bilgah always divided it In the south, and their ring was flayed, and their wall-niche was blocked up.

[I:1 A] [Proving that all the priestly watches share equally on the festivals,] it is written, “They shall have portion to portion to eat” (Deut. 18:8).

[B] Is it possible that the same rule applies on all the other days of the year?

[C] Scripture says, “Besides what he receives from the sale of his patrimony” (Deut 18:8).

[D] This is exclusive of what the fathers have sold to the sons, thus: “You have your week, and I have my week.”

[II:1 A] At Pentecost they would say to him, “Here you have unleavened bread, here is leavened bread for you” [M. 5:8B]:

[B] *There is a Tannaite authority who reverses the order and repeats the tradition as follows: “Here is leavened bread for you, here is unleavened bread for you.”*

[C] *He who teaches [first], “Here is unleavened bread for you” [gives it precedence] because it is more desirable.*

[D] *He who teaches [first], “Here is leavened bread for you” [gives it precedence] because it is more regular[ly distributed to the priests than unleavened bread].*

[II:2 A] Said R. Levi, “[At the outset, before the division of the priestly emoluments,] all the watches are located in the south [of the altar, and then the officiating watch goes to the north, so as to distinguish it from the watch whose term of service has ended].”

[B] *Said R. Yosé, “The Mishnah contains the same implication: **If a day intervened between [a festival day and a Sabbath] [M. 5:8F].** [That is, the two watches were located in a single direction vis-a-vis the altar, then one group would be set off from the other and receive its distinct emolument.]”*

[C] *R. Judah b. Titus in the name of R. Aha, “The Scripture supports the view of that Tannaite authority: ‘Now then, what have you in hand? Give me five loaves of bread or whatever is here’ (1 Sam. 21:4). Now Abimelech [who figures in this story] was a member of the outgoing priestly watch.”*

[III:1 A] **The ones going on duty divide at the north, and the ones going off duty divide at the south [M. 5:8/I].**

[B] Said R. Hananiah, son of R. Hillel, “[the ones coming in are given the place of honor, at the north of the altar] so as to pay respect to the ones who are coming on duty.”

[C] *Said R. Yosé b. R. Bun, “It is not for this reason. But it is on account of what we have learned: **All those who alter the Temple mount enter at to the right, go around, and leave at the left [M. Mid. 2:2A]. [If] he goes right, he hits the northern side of the altar corner.**”*

[IV:1 A] **[The priestly watch of] Bilgah always divided it in the south, and their ring was fixed, and their wall-niche was blocked up [M. 5:8].**

[B] **[In T.’s version:] because of Miriam, daughter of Bilgah, who apostatized.**

[C] **She went off and married an officer of the Greek royal house.**

[D] And when the gentiles went into the sanctuary, he came along and stamped on the top of the altar, saying to it, “Wolf, wolf! You have wiped out the fortune of Israel, and you [still] did not then stand up for them in the time of their trouble!”

[E] And some say it was because [the priestly watch of Bilgah] delayed in observing its priestly watch.

[E;] So the watch of Yeshebab went in and served as high priest] in its stead.

[G] Therefore Bilgah always appears to be among the outgoing priestly watches [at the south], and Yeshebab always appear to be among the incoming priestly watches [at the north].

[H] n. omits:] Neighbors of the wicked normally receive no reward,

[I] except for Yeshebab,

[J] neighbor to Bilgah, who receive] a reward [T. Suk. 4:28].

[K] And why not remove the priestly watch of Bilgah entirely?

[L] *You cannot do so, for R. Simeon said in the name of R. Joshua b. Levi, “It is difficult for the Omnipresent totally to uproot a genealogical chain from its rightful place.”*

[M] Then why not make the priestly watches twenty-three [instead of twenty-four, dividing this watch among the others, rather than recognizing it as a watch by itself]?

[N] *You cannot do so, for it is written, “[All these, who were chosen as gatekeepers at the thresholds, were two hundred and twelve. They were enrolled by genealogies in their villages.] David and Samuel the seer established them in their office of trust” (1 Chron. 9:22).*

[O][“David and Samuel the seer established them in their office of trust” (1 Chron. 9:22):] It was an act of skilled work.

[P] Great skill was displayed there, for one watch does not take a second portion in the fields of possession [sold by the original family during the years preceding the Jubilee and not redeemed by them, such fields then falling to the ownership of the priesthood and being divided among the watches], until its fellow watch has taken its share.

[Q] Said R. Abbahu, “[It is as if to say,] ‘I gave thought to them to see that one priestly watch does not take a second share among the fields of possession until its fellow takes one first.’”

[V:1 A] **And their ring was... [M. 5:8]:**

[B] R. Ba in the name of R. Judah: “They made rings for themselves, broad at the top and narrow at the bottom.”

[VI:1 A] **And their wall-tube was blocked up [M. 5:8J]:**

[B] This was so that they would not use the space for their knives.

[C] *It is in line with that which we have learned there:* **It was called the place of the room of the slaughter-knives, for there did they put away the knives [M. Mid. 4:7F].**

CHAPTER SIX

THE STRUCTURE OF YERUSHALMI SUKKAH

Whether or not the Talmud of the Land of Israel is carefully organized in large-scale, recurrent structures and guided by a program that we may call systematic forms the principal question addressed by an academic commentary. The preceding chapters therefore have pointed toward the presentation set forth here. By “structure” I mean, a clearly-articulated pattern that governs the location of fully-spelled out statements. By “system,” I mean, a well-crafted and coherent set of ideas that explain the social order of the community addressed by the writers of a document, a social philosophy, a theory of the way of life, world view, and character of the social entity formed by a given social group. I see a collective, anonymous, and political document, such as the one before us, as a statement to, and about, the way in which people should organize their lives and govern their actions. At issue then in any document such as the remarkable one before us is simple: does this piece of writing present information or a program, facts to whom it may concern, or a philosophically and aesthetically cogent statement about how things should be? The connection between structure and system is plain to see. From the way in which people consistently frame their thoughts, we move to the world that, in saying things in one way rather than in some other, they wish to imagine. Modes of formulating thought adumbrate modes of imagining the world in which people wish to live, to which they address these thoughts.

If the document exhibits structure and sets forth a system, then it is accessible to questions of rationality. We may ask about the statement that its framers or compilers wished to make by putting the document together as they did. But if we discern no structure and perceive no systematic inquiry or governing points of analysis, then all we find here is inert and miscellaneous information, facts but no propositions, arguments, viewpoints. Now as a matter of fact the Talmud of the Land of Israel commonly finds itself represented as lacking organization and exhibiting a certain episodic and notional character. That view moreover characterizes the reading and representation of the document by learned and

experienced scholars, who have devoted their entire lives to Talmud study and exegesis. It must follow that upon the advocate of the contrary view – the one implicit in the representation of the document for academic analysis – rests the burden of proof. I set forth the allegation that the Talmud of the Land of Israel exhibits a structure and follows a system and therefore exhibits a commonly-intelligible rationality. The claim to write an academic commentary explicitly states that proposition. For the tractate before us, I have therefore to adduce evidence and argument.

I maintain that through the normal procedures of reasoned analysis we may discern in the tractate a well-crafted structure. I hold that the structure made manifest, we may further identify the purpose and perspective, the governing system of thought and argument, of those who collected and arranged the tractate's composites and put them together in the way in which we now have them. By "structure" I mean, how is a document organized? and by "system," what do the compilers of the document propose to accomplish in producing this complete, organized piece of writing? The answers to both questions derive from a simple outline of the tractate as a whole, underscoring the types of compositions and composites of which it is comprised. Such an outline tells us what is principal and what subordinate, and how each unit – composition formed into composites, composites formed into a complete statement – holds together and also fits with other units, fore and aft. The purpose of the outline then is to identify the character of each component of the whole, and to specify its purpose or statement. The former information permits us to describe the document's structure, the latter, its system.

While the idea of simply outlining a Talmud-tractate beginning to end may seem obvious, I have never made such an outline before, nor has anyone else. (I have provided complete outlines for the Mishnah and for the Tosefta in relationship to the Mishnah, and, not always in outline form, for the Midrash-compilations of late antiquity as well) Yet, as we shall now see, the character of the outline dictates all further analytical initiatives. Specifically, when we follow the layout of the whole, we readily see the principles of organization that govern. These same guidelines on organizing discourse point also to the character of what is organized: complete units of thought, with a beginning, middle, and end, often made up of smaller, equally complete units of thought. The former we know as composites, the latter as compositions.

Identifying and classifying the components of the tractate – the composites, the compositions of which they are made up – we see clearly how the document coheres: the plan and program worked out from beginning to end. When we define that plan and program, we identify the facts of a pattern that permit us to say in a specific and concrete way precisely what the compilers of the tractate intended to accomplish. The structure realizes the system, the program of analysis and thought that takes the form of the presentation we have before us. From what

people do, meaning, the way in which they formulate their ideas and organized them into cogent statements, we discern what they proposed to do, meaning, the intellectual goals that they set for themselves.

These goals – the received document they wished to examine, the questions that they brought to that document – realized in the layout and construction of their writing, dictate the points of uniformity and persistence that throughout come to the surface. How people lay out their ideas guides us into what they wished to find out and set forth in their writing, and that constitutes the system that defined the work they set out to accomplish. We move from how people speak to the system that the mode of discourse means to express, in the theory that modes of speech or writing convey modes of thought and inquiry.

We move from the act of thought and its written result backward to the theory of thinking, which is, by definition, an act of social consequence. We therefore turn to the matter of intention that provokes reflection and produces a system of inquiry. That statement does not mean to imply I begin with the premise of order, which sustains the thesis of a prior system that defines the order. To the contrary, the possibility of forming a coherent outline out of the data we have examined defines the first test of whether or not the document exhibits a structure and realizes a system. So everything depends upon the possibility of outlining the writing, from which all else flows. If we can see the order and demonstrate that the allegation of order rests on ample evidence, then we may proceed to describe the structure that gives expression to the order, and the system that the structure sustains.

The present work undertakes the exegesis of exegesis, for the Yerushalmi, like its counterpart in the one of Babylonia, is laid out as a commentary to the Mishnah. That obvious fact defined the character of my academic commentary, since we have already faced the reality that our tractate is something other than a commentary, though it surely encompasses one. The problems that captured my attention derived from the deeper question of how people make connections and draw conclusions. To ask about how people make connections means that we identify a problem – otherwise we should not have to ask – and what precipitated the problem here has been how a composition or a composite fits into its context, when the context is defined by the tasks of Mishnah-commentary, and the composition or composite clearly does not comment on the Mishnah-passage that is subjected to comment.

The experience of analyzing the document with the question of cogency and coherence in mind therefore yields a simple recognition. Viewed whole, the tractate contains no gibberish but only completed units of thought, sentences formed into intelligible thought and self-contained in that we require no further information to understand those sentences, beginning to end. The tractate organizes these statements as commentary to the Mishnah. But large tracts of the

writing do not comment on the Mishnah in the way in which other, still larger tracts do. Then how the former fit together with the latter frames the single most urgent question of structure and system that I can identify.

Since we have already examined enormous composites that find their cogency in an other than exegetical program, alongside composites that hold together by appeal to a common, prior, coherent statement – the Mishnah-sentences at hand – what justifies my insistence that an outline of the document, resting on the premise that we deal with a Mishnah-commentary, govern all further description? To begin with, the very possibility of outlining this tractate derives from the simple fact that the framers have given to their document the form of a commentary to the Mishnah. It is in the structure of the Mishnah-tractate that they locate everything together that they wished to compile. We know that is the fact because the Mishnah-tractate defines the order of topics and the sequence of problems.

Relationships to the Mishnah are readily discerned; a paragraph stands at the head of a unit of thought; even without the full citation of the paragraph, we should find our way back to the Mishnah because at the head of numerous compositions, laid out in sequence one to the next, clauses of the Mishnah-paragraph are cited in so many words or alluded to in an unmistakable way. So without printing the entire Mishnah-paragraph at the head, we should know that the received code formed the fundamental structure because so many compositions cite and gloss sentences of the Mishnah-paragraph and are set forth in sequence dictated by the order of sentences of said Mishnah-paragraph. Internal evidence alone suffices, then, to demonstrate that the structure of the tractate rests upon the Mishnah-tractate cited and discussed here. Not only so, but the sentences of the Mishnah-paragraphs of our tractate are discussed in no other place in the entire Talmud of the Land of Israel in the sequence and systematic exegetical framework in which they are set forth here; elsewhere we may find bits or pieces, but only here, the entirety of the tractate.

That statement requires one qualification, and that further leads us to the analytical task of our outline. While the entire Mishnah-tractate of treated here is cited in the Talmud of the Land of Israel, the framers of the Talmud of the Land of Israel by no means find themselves required to say something about every word, every sentence, every paragraph. On the contrary, they discuss only what they choose to discuss, and glide without comment by large stretches of the tractate. A process of selectivity, which requires description and analysis, has told the compilers of the Talmud of the Land of Israel's composites and the authors of its compositions (This statement requires refinement. I do not know that all available compositions have been reproduced, and that the work of authors of compositions of Mishnah-exegesis intended for a talmud is fully exposed in the document as we have it. That is not only something we cannot demonstrate – we do not have compositions that were not used, only the ones that were – but something that we must regard as unlikely on the face of matters. All we may say is positive: the

character of the compositions that address Mishnah-exegesis tells us about the concerns of the writers of those compositions, but we cannot claim to outline all of their concerns, on the one side, or to explain why they chose not to work on other Mishnah-sentences besides the ones treated here. But as to the program of the compositors, that is another matter: from the choices that they made (out of a corpus we cannot begin to imagine or invent for ourselves) we may describe with great accuracy the kinds of materials they wished to include and the shape and structure they set forth out of those materials. We know what they did, and that permits us to investigate why they did what they did. What we cannot know is what they did not do, or why they chose not to do what they did not do. People familiar with the character of speculation and criticism in Talmudic studies will understand why I have to spell out these rather commonplace observations. I lay out an argument based on evidence, not on the silences of evidence, or on the absence of evidence – that alone.) what demands attention, and what does not. Our outline has therefore to signal not only what passage of the Mishnah-tractate is discussed, but also what is not discussed, and we require a general theory to explain the principles of selection (“making connections, drawing conclusions” meaning, to begin with, making selections). For that purpose, in the outline, I reproduce the entirety of a Mishnah-paragraph that stands at the head of a Talmudic composite, and I underscore those sentences that are addressed, so highlighting also those that are not.

It follows that the same evidence that justifies identifying the Mishnah-tractate as the structure (therefore also the foundation of the system) of Yerushalmi-tractate before us also presents puzzles for considerable reflection. The exegesis of Mishnah-exegesis is only one of these. Another concerns the purpose of introducing into the document enormous compositions and composites that clearly hold together around a shared topic or proposition, e.g., my appendix on one theme or another, my elaborate footnote providing information that is not required but merely useful, and the like. My earlier characterization of composites as appendices and footnotes signalled the fact that the framers of the document chose a not-entirely satisfactory way of setting out the materials they wished to include here, for large components of the tractate do not contribute to Mishnah-exegesis in any way at all. If these intrusions of other-than-exegetical compositions were proportionately modest, or of topical composites negligible in size, we might dismiss them as appendages, not structural components that bear much of the weight of the edifice as a whole. Indeed, the language that I chose for identifying and defining these composites – footnotes, appendices, and the like – bore the implication that what is not Mishnah-commentary also is extrinsic to the Talmud of the Land of Israel’s structure and system.

But that language served only for the occasion. In fact, the outline before us will show that the compositions are large and ambitious, the composites formidable and defining. Any description of the tractate’s structure that dismisses as mere accretions or intrusions so large a proportion of the whole misleads. Any notion that “footnotes” and “appendices” impede exposition and disrupt thought, contribute extraneous information or form tacked-on appendages – any such notion begs the question: then why fill up so much space with such purposeless

information? The right way is to ask whether the document's topical composites play a role in the re-presentation of the Mishnah-tractate by the compilers of the Talmud of the Land of Israel. We have therefore to test two hypotheses:

1. the topical composites (“appendices,” “footnotes”) do belong and serve the compilers' purpose

or

2. the topical composites do not participate in the re-presentation of the Mishnah-tractate by Yerushalmi and do not belong because they add nothing and change nothing.

The two hypotheses may be tested against the evidence framed in response to a single question: is this topical composite necessary? The answer to that question lies in our asking, what happens to the reading of the Mishnah-tractate in light of the topical composites that would not happen were we to read the same tractate without them? The outline that follows systematically raises that question, with results specified in due course. It suffices here to state the simple result of our reading of the tractate, start to finish: the question of structure, therefore also that of system, rests upon the position we identify for that massive component of the tractate that comprises not Mishnah-commentary but free-standing compositions and composites of compositions formed for a purpose other than Mishnah-commentary.

The principal rubrics are given in small caps. The outline takes as its principal rubrics two large-scale organizing principles.

The first is the divisions of the Mishnah-tractate to which the Talmud of the Land of Israel-tractate serves as a commentary. That simple fact validates the claim that the tractate exhibits a fully-articulated structure. But the outline must also underscore that the Mishnah-tractate provides both more and less than the paramount outline of the Talmud of the Land of Israel-tractate. It is more because sentences in the Mishnah-tractate are not analyzed at all. These untreated Mishnah-sentences are given in bold face lower case caps, like the rest of the Mishnah, but then are specified by underlining and enclosure in square brackets.

Second, it is less because the structure of the tractate accommodates large composites that address topics not defined by the Mishnah-tractate. That brings us to the second of the two large-scale modes of holding together both sustained analytical exercises and also large sets of compositions formed into cogent composites. These are treated also as major units and are indicated by Roman numerals, alongside the Mishnah-paragraphs themselves; they are also signified in small caps. But the principal rubrics that do not focus on Mishnah-commentary but on free-standing topics or propositions or problems are not given in boldface type. Consequently, for the purposes of a coherent outline we have to identify as

autonomous entries in our outline those important composites that treat themes or topics not contributed by the Mishnah-tractate.

I. YERUSHALMI SUKKAH 1:1

[A] A SUKKAH WHICH IS TALLER THAN TWENTY CUBITS IS INVALID. R. JUDAH DECLARES IT VALID. AND ONE WHICH IS NOT TEN HANDBREADTHS HIGH, ONE WHICH DOES NOT HAVE THREE WALLS:

- 1.** **I:1:** [The following discussion serves M. 1:1A: A sukkah which is taller than twenty cubits is invalid. R. Judah declares it valid, and also M. Er. 1:1A: The entry to an alleyway which is taller than twenty cubits must be lowered. R. Judah says, “It is not necessary to do so; (it is valid to serve as a doorway and so symbolically to link the dwellings within into a single domain for purposes of carrying on the Sabbath).”] R. Yosé stated what follows without specifying the name of an authority; R. Aha in the name of Rab: “Rabbis derive the requisite dimensions from the analogy of the doorway of the Temple building, and R. Judah, from the measurements of the doorway of the Porch (ulam) leading to the interior of the Temple.” If the measurement derives from the doorway of the Porch, then it should be sufficient even if it is forty cubits high. For we have learned there: The entrance to the Porch was forty cubits high. and its breadth was twenty cubits [M. Mid. 3:7A]. R. Hiyya taught: “[It is valid in Judah’s view] even if it is forty or fifty cubits high.” Bar Qappara taught, “[It is valid in Judah’s view] even if it is a hundred cubits high.”
- 2.** **I:2:** [What is the reason that sages declare a *sukkah* taller than twenty cubits to be invalid?] In the case of a house a good bit taller than this, is it possible that it does not require a parapet? [If the *sukkah* is analogous to a house, then if a *sukkah* is invalid at the specified height, do houses also fall from the category of laws governing dwellings at that same height?] Is it not liable to have a *mezuzah* [on the doors]? [The difference is this:] A house is roofed over, and a *sukkah* is not roofed over.
- 3.** **I:3:** [As to the invalidity of a *sukkah* more than twenty cubits high,] R. Ba in the name of Rab: “That applies to a sukkah that will hold only the head and the greater part of the body of a person and also his table. But if it held more than that, it is valid [even at such a height].” [Giving a different reason and qualification,] R. Jacob bar Aha in the name of R. Josiah: “That applies [further] when the walls

do not go all the way up with it [to the top, the roofing] but if the walls go all the way up with it to the roofing, it is valid.”

4. **I:4:** Hoshaiah raised the following question: “[In the case of a *sukkah* twenty cubits tall,] if one brought a plank [suitable for serving as *sukkah roofing*] and placed it [at an angle] on the piece of a column [ten handbreadths high, set in the middle of the *sukkah*], it is obvious that if one should measure from the board [which extends at an angle upward to the roof of the *sukkah*], there is a distance of twenty cubits [or more, as the board projects beyond the *sukkah roofing*]. If, on the other hand, one *measures* from the ground [to the height of the pillar, that is, the point at which the board is located], there is not a distance of twenty cubits. “How do you treat [the *sukkah roofing* that is above the ground but not above the board]? “Is it deemed equivalent to invalid air space, or to invalid *sukkah roofing*? [That is, in line with M. 1:11, *sukkah roofing* may not be four cubits distant from the wall. The board that protrudes above twenty cubits is equivalent to a suspended side of a *sukkah*. In accord with M. 1:10, if a suspended side is three handbreadths above the ground, it is invalid. Now the problem is clear. If we take as definitive the part of the board outside of the upper ceiling of the *sukkah*, then it encompasses contained air space too large to constitute a valid *sukkah*. How much? Three handbreadths is the criterion. If we take account of the part of the board within the *sukkah* but separated from the wall, then if the *sukkah roofing* is four handbreadths or more from the wall, it is invalid.] “If you treat it by the criterion of invalid contained air space, it invalidates at the measure of three handbreadths. “If you treat it by the criterion of invalid *sukkah roofing*, it invalidates only at the *measure* of four cubits.”
5. **I:5:** If a *sukkah* was lower than ten handbreadths, and one hung up in it garlands [of produce, as decorations] which are suitable to serve as *sukkah roofing*, the garlands diminish the height of the *sukkah* to less than what is required [ten handbreadths], so that the *sukkah* is invalid. But if not [that is, if the garlands are not suitable to serve as *sukkah-roofing*], while they diminish the height of the *sukkah*, they do not invalidate it. If a *sukkah* was taller than twenty handbreadths, and one hung up in it garlands [as decorations] which are suitable to serve as *sukkah roofing*, the garlands diminish the height of the *sukkah* to less than its excessive height, so that the *sukkah* is valid. But if not, while they diminish the height of the *sukkah*, they do not validate it. [In the case of C, the garlands suitable to serve as *sukkah roofing* are deemed to do so, with the result that, hanging down as they do, they diminish the height of the ceiling to what is within the required limits.]

6. **I:6:** How do we know that air space ten handbreadths above the ground constitutes a different domain [from the ground]? R. Abbahu in the name of R. Simeon b. Laqish: “‘There I will meet with you, and from above the mercy seat, from between the two cherubim that are upon the ark of the testimony, I will speak with you of all that I will give you in commandment for the people of Israel’ (Ex. 25:22). ‘And it is written, ‘Thus you shall say to the people of Israel: You have seen for yourselves that I have talked with you from heaven’ (Ex. 20:22). ‘Just as ‘speaking’ stated elsewhere refers to a distinct domain [that is, heaven is distinct from earth], so ‘speaking’ stated here refers to a distinct domain.”
7. **I:7:** It has been taught: Rabbi says, “A sukkah must be four cubits by four cubits, even though it does not have four walls” [cf. T. Suk. 2:2F]. R. Simeon says, “It must have four walls, even though it is not four cubits square.” R. Judah says, “It must be four cubits square, or it must have four walls.” And so does R. Judah declare the sukkah liable to have a mezuzah, even though it is not four cubits by four cubits [in area] or does not have four walls.
8. **I:8:** Hiyya in the name of R. Yohanan: “If two walls are four by four handbreadths and the third is even a handbreadth, the *sukkah* is valid.” R. Hoshaiiah raised the following question: “If one placed the wall the size of a handbreadth in between, [but not in contact with, either of the valid walls,] what is the law?” He then reverted and asked, “As to the two walls of four handbreadths which one placed in the middle [not in contact with one another], what is the law?”
9. **I:9:** R. Simeon b. Laqish said in the name of R. Judah b. Haninah, “If one inserted four reeds into the four corners of a vineyard and tied a thread above [the reeds, from one to another], it affords protection as a braid, [that is, it forms a partition with regard to mixed seeds, and it is therefore permitted to sow seed near the vineyard, as if the vineyard were separated from the seed by a wall]. [This braided partition suffices for such a purpose.]” [Such a construction would not serve as a gateway to link an alleyway, however, and hence, rejecting this view,] said R. Yohanan, “As is the rule governing partitions for the purposes of the Sabbath, so is the rule defining a suitable partition in the case of mixed seeds in a vineyard.”
10. **I:10:** [With reference to M. Kil. 4:4: If the space between the reeds of a reed partition was less than three handbreadths, which would suffice for a head to enter, it is deemed a valid partition. If a fence was breached for a space of ten cubits, such may be deemed an entrance. If

it is wider than this, it is forbidden to sow opposite the breach. If many breaches were made in the fence, yet what is yet standing is greater than the area that is broken down, it is permitted to sow opposite the breach; if the broken down part is broader than the standing part, it is forbidden:] You turn out to rule as follows: As to mixed seeds in a vineyard [in which a fence must be erected to keep distinct the patches of a field sown in different seeds], if there is a breach less than three handbreadths, it is as if it were closed up. If the breach were from three to four handbreadths, if the standing part of the fence is greater than the broken down part of the fence, it is permitted [to sow seeds by the breach, as if it were a fully valid fence], and if the breaches were greater than the standing part of the fence, it is forbidden. If the breaches were from four to ten handbreadths, if the standing part of the fence was greater than the broken down part, it is permitted [to sow opposite the breaches]. If the broken down part is greater than the standing part, then opposite the standing part of the fence it is permitted to sow [seeds of a different sort from what is on the other side of the fence], and in the area opposite the breach, it is forbidden. If it is greater than ten handbreadths, even though the standing part of the fence is greater than the broken down part of the fence, while it is permitted to sow opposite the standing part of the fence, it is forbidden to sow opposite the broken down part of the fence. Now as to the matter of the Sabbath [in constructing a partition to permit carrying in a courtyard]: Any case where there is a breach less than three handbreadths, it is as if it were fully closed up. If there is a breach from three to four handbreadths, from four to ten, if the part of the fence that was standing is greater than the part that was breached, it is permitted [to carry in the courtyard]. If the part that was broken down was greater than the part that was standing it is forbidden [to carry]. If the breach was greater than ten handbreadths, even though the standing part of the fence was greater than the broken down part, it is forbidden [to carry in the courtyard].

- 11. I:11:** The tips of lathes [used for the sukkah roofing] that protrude from the *sukkah* are treated as part of the *sukkah*. R. Hunah in the name of rabbis over there: “That is on condition that the lathes protrude across the entire face of the [*sukkah*].” R. Jacob bar Aha, R. Yosé, R. Yohanan in the name of R. Hoshaiah: “And the rule applies even in the area before a valid wall [which is deemed extended].” R. Jacob bar Aha, R. Hiyya, R. Yohanan in the name of R. Hoshaiah: “And that is the case even not in the area before a valid wall. [That is, the protruding lathes are deemed themselves to form a valid wall, as they hang down from the roof.]”

[B] OR ONE, THE LIGHT OF WHICH IS GREATER THAN THE SHADE OF WHICH, IS INVALID.

- 1. II:1:** One the light of which is greater than its shade is invalid [M. 1:1E-F]. Lo, if it is half and half, it is valid. A *sukkah* bearing thin *sukkah* roofing, the shade of which is greater than its light, remains valid. [Thus: “half and half is invalid.”] Here then you claim that where the light is equal to the shade, it is valid, and there [by inference] it is invalid. Rabbis of Caesarea, R. Isaac bar Nahman in the name of R. Hoshaiyah: “[The ruling of C applies to a case in which a *sukkah* was built using a tree as its *sukkah* roofing. The tree was cut down for that purpose. The builder did not spread out the boughs equally over the *sukkah*, hence creating the impression of a *sukkah* with a thin covering.] So the case of the tree is different, for it is usual [in such a case] for one branch to extend in one direction, another in a different direction. [The issue of whether the light is greater than the shade is not pertinent in this case.]”

II. YERUSHALMI SUKKAH 1:2

[A] A SUPERANNATED SUKKAH – THE HOUSE OF SHAMMAI DECLARE IT INVALID. AND THE HOUSE OF HILLEL DECLARE IT VALID. AND WHAT EXACTLY IS A SUPERANNATED SUKKAH? ANY WHICH ONE MADE THIRTY DAYS [OR MORE] BEFORE THE FESTIVAL [OF SUKKOT]. BUT IF ONE MADE IT FOR THE SAKE OF THE FESTIVAL, EVEN AT THE BEGINNING OF THE YEAR, IT IS VALID.

- 1. I:1:** It has been taught: [From the viewpoint of the House of Hillel one nonetheless] must do something new to the *sukkah* [to validate it, if it was built more than thirty days before the Festival Associates said, “It must involve a handbreadth [of the *sukkah* roofing].” R. Yosé says, “It may be any measure at all.”
- 2. I:2:** The same dispute pertains to unleavened bread [for use for Passover]. As to unleavened bread that is old, there is a dispute between the House of Shammai and the House of Hillel. Said R. Yosé, “It represents the view of all parties [that old unleavened bread may not be used on Passover]. [Why not?] “Because the unleavened bread was not prepared for the sake of Passover, it is perfectly obvious that the one who made it did no take pains with it [to keep it from leavening at all].”
- 3. I:3:** [In T.’s version:] The *sukkah* made by shepherds, the *sukkah* made by field-workers in the summer, [or] a *sukkah* which is stolen – is invalid [T. Suk. 1:4A-B].

4. **I:4:** He who makes a *sukkah* for himself – what blessing does he say? “Blessed who has sanctified us by his commandments and commanded us to make a *sukkah*.” If he made one for someone else? “to make a *sukkah* for his Name.” If one went into the *sukkah* to dwell therein, he says, “Blessed who has sanctified us by his commandments and commanded us to dwell in a *sukkah*.” Once he has said that blessing over the *sukkah* on the first nights of the Festival, he does not have to say a blessing over it again thereafter. Hanin bar Ba in the name of Rab: “And as to a blessing for the season, [‘who has kept us in life and brought us to this season’]? Once it has gotten dark, what is the law as to his having to make mention of the season?”

III. YERUSHALMI SUKKAH 1:3

[A] **HE WHO MAKES HIS SUKKAH UNDER A TREE IS AS IF HE MADE IT IN [HIS] HOUSE. A SUKKAH ON TOP OF A SUKKAH – THE ONE ON TOP IS VALID. AND THE ONE ON THE BOTTOM IS INVALID.**

1. **I:1:** In the case of two *sukkah*-roofs, one on top of the other, in which the upper roofing was such that the light was greater than the shade [and hence invalid], while the lower one was such that the light was not greater than the shade on its own, but, together with the other roof, the shade was greater than the light – What is the maximum of space that may be between the two roofs so that they should be deemed joined together [into a single *sukkah* roofing, hence a valid one for the *sukkah* beneath]?

[B] **R. JUDAH SAYS, “IF THERE ARE NO RESIDENTS IN THE TOP ONE, THE BOTTOM ONE IS VALID.”**

1. **I:1:** Is the law that there must actually be residents above [to invalidate the one beneath], or may it merely be suitable for residents [to invalidate the one beneath]?

IV. YERUSHALMI SUKKAH 1:4

[A] **[If] ONE SPREAD A SHEET ON TOP OF [A SUKKAH] ON ACCOUNT OF THE HOT SUN:**

1. **I:1:** It has been taught: If one suspends rugs in the *sukkah*, it remains valid. Said R. Haninah, “That which you have said applies to

suspending them on the sides of the sukkah. But if one suspends them at the top, it is invalid.”

[B] OR UNDERNEATH [THE COVER OF BOUGHS] ON ACCOUNT OF DROPPINGS [OF THE BRANCHES OR LEAVES OF THE BOUGH-COVER], OR [IF] HE SPREAD [A SHEET] OVER A FOUR-POSTER BED [IN A SUKKAH], IT IS INVALID [FOR DWELLING OR SLEEPING AND SO FOR FULFILLING ONE’S OBLIGATION TO DWELL IN THE SUKKAH].

- 1. II:1:** Said R. Yosé, “They have stated only, ‘On account of droppings.’ Lo, if one does so not on account of droppings, it is valid.”

[C] BUT HE SPREADS IT OVER THE FRAME OF A TWO-POSTER BED.

- 1. III:1:** R. Bibi in the name of R. Yohanan: “[This cover forms a kind of covered space, of which we do not take account,] just as one may have created an enclosed space by raising his two hands [within a covering]. [Doing so has no bearing on the validity of the *sukkah*; this does not constitute a roof within the roof.]”

V. YERUSHALMI SUKKAH 1:5

[A] [IF] ONE TRAINED A VINE, GOURD, OR IVY OVER IT AND THEN SPREAD SUKKAH ROOFING ON [ONE OF THESE], IT IS INVALID. BUT IF THE SUKKAH ROOFING EXCEEDED THEM, OR IF HE CUT THEM [THE VINES] DOWN, IT IS VALID.

- 1. I:1:** [As to M. 1:5C,] R. Ba in the name of Rab: “[The trained vines are valid roofing when cut down, if to begin with] the man trained them for that purpose.”

[B] THIS IS THE GENERAL RULE: WHATEVER IS SUSCEPTIBLE TO UNCLEANNESS AND DOES NOT GROW FROM THE GROUND — THEY DO NOT MAKE A SUKKAH ROOFING WITH IT. AND WHATEVER IS NOT SUSCEPTIBLE TO UNCLEANNESS, BUT DOES GROW FROM THE GROUND [AND HAS BEEN CUT OFF] — THEY DO MAKE A SUKKAH ROOFING WITH IT.

- 1. II:1:** [Illustrating M. 1:5F-G:] R. Ba, Hinena bar Shelamayya, R. Jeremiah in the name of Rab: “If one covered a sukkah with wedges, it is invalid.” If he did so with plain arrow shafts, it is valid. If he did so with bored shafts [which serve as a receptacle] it is invalid.” [If] one made a sukkah roofing of stalks of flax, it is valid. [If one made a sukkah roofing of] processed stalks of flax, it is invalid [T. Suk. 1:5]. If one made a sukkah roofing of ropes or with sheaves of grain, it is valid [T. Suk. 1:4C].

2. **II:2:** Said R. Yohanan: “It is written, ‘You shall keep the feast of booths seven days, when you make your ingathering from your threshing floor and your wine press’ (Deut. 16:13).” From the refuse of your threshing floor and your wine press you may make sukkah roofing for yourself.” R. Simeon b. Laqish said, “‘But a mist went up from the earth and watered the whole face of the ground’ (Gen. 2:6). [The analogy of the covering of the *sukkah* is to mist, which arises from the ground and is not susceptible to receive uncleanness.]” Said R. Tanhuma, “This one is consistent with opinions held elsewhere, and that one is consistent with opinions held elsewhere.” R. Yohanan has said, ‘The clouds came from above,’ and so he derives the rule from the reference to ‘your ingathering.’ “R. Simeon b. Laqish said, ‘Clouds come from below,’ so he derives the rule from clouds [of mist].”

VI. YERUSHALMI SUKKAH 1:6

[A] BUNDLES OF STRAW, WOOD, OR BRUSH — THEY DO NOT MAKE A SUKKAH ROOFING WITH THEM. BUT ANY OF THEM WHICH ONE UNTIED IS VALID. AND ALL OF THEM ARE VALID [AS IS] FOR USE FOR THE SIDES [OF THE SUKKAH].

1. **I:1:** [As to M. 1:6A-B,] R. Hiyya in the name of R. Yohanan: “It is because [the sukkah] will look like a storage-house.”
2. **I:2:** Hinena bar Shelemayya in the name of Rab: “If one cut sheaves for use for sukkah roofing, they are not regarded as having ‘handles.’ [That is, what is attached to them does not serve to transmit uncleanness affecting that attachment to the food contained in the sheaves themselves. In the present instance, then, if a source of uncleanness touched the straw, food in the sheaf is unaffected.]” If one cut the sheaves to begin with for the purpose of *sukkah roofing* and then gave thought to them for use for food, the revised intention [for the sheaves] takes effect [so that now, if an attachment of a sheaf is in contact with a source of uncleanness, food in the sheaf is made unclean, that is, the rule of “handles” comes into play]. If one cut the sheaves to begin with for food, and then gave thought to them for use for sukkah roofing, others say, “[The ‘handles’ take effect and transmit uncleanness in contact with them to food in the sheaf] unless the straw is larger in volume than the food in the sheaf and also than the handle [or protrusion]. [If the refuse of the sheaf is more abundant than either the food or the protrusion, the refuse annuls them, and the whole may then be used for *sukkah roofing*.]

3. **I:3:** Yosé in the name of R. Hama bar Haninah: “[And you shall put in it the ark of the testimony,] and you shall screen the ark with the veil’ (Ex. 40:3). “On the basis of the use of the root for *sukkah*, as ‘screen,’ we learn that the side [of the *sukkah* also] is called *sukkah* covering. “On the basis of this verse, further, we learn that they may make the sides of the *sukkah* with something that is susceptible to uncleanness [since the veil is susceptible in that way].”

VII. YERUSHALMI SUKKAH 1:7

[A] “THEY MAKE SUKKAH ROOFING WITH BOARDS,” THE WORDS OF R. JUDAH. AND R. MEIR PROHIBITS DOING SO.

1. **I:1:** R. Jeremiah in the name of Rab: “The dispute applies when the board is four handbreadths broad.” R. Yosé in the name of R. Yohanan: “The dispute applies to boards that have been planed for use in making utensils.”

[B] [IF] ONE PUT ON TOP OF IT A BOARD WHICH IS FOUR HANDBREADTHS BROAD, IT IS VALID, SO LONG AS ONE NOT SLEEP UNDERNEATH [THAT PARTICULAR BOARD].

1. **II:1:** [As to M. 1:7C-D, that it is not permitted to sleep under a board of that size] Samuel said “That which you have said applies to a board of the specified length. But as to one of that breadth it is permitted [to sleep under it]. [If the board is set lengthwise through the *sukkah*, then for its entire length there is no valid *sukkah* roofing at all. But if it was set breadth-wise, one may sleep under it. for there is valid roofing on both sides of the board.]” R. Yohanan and R. Simeon b. Laqish both say, “Whether it is set lengthwise or breadth-wise, it is valid.” [C] R. Zeriqan in the name of R. Hamnuna rules in accord with the view of him who declares sleeping under such a board to be invalid whether it is set lengthwise or breadth-wise. Rabin and R. Bun raised the question before R. Zeirah: ‘How is it possible to interpret what both R. Yohanan and R. Simeon b. Laqish have said [that one may sleep under such a board, since, M. 1:7D says one may not do so]?’

VIII. YERUSHALMI SUKKAH 1:8

[A] A TIMBER ROOFING WHICH HAD NO PLASTERING – R. JUDAH SAYS, “THE HOUSE OF SHAMMAI SAY, ‘ONE LOOSENS IT AND REMOVES ONE [BOARD] BETWEEN EACH TWO.’ “AND THE HOUSE OF HILLEL SAY, ‘ONE EITHER

LOOSENS IT OR REMOVES ONE [BOARD] FROM BETWEEN EACH TWO. “**R. MEIR** SAYS, “**ONE REMOVES ONE FROM BETWEEN EACH TWO, AND DOES NOT LOOSEN [THE OTHERS AT ALL].**”

1. **I:1:** [In the view of R. Meir], if one has loosened a board, he does not have to remove one out of every two.

IX. YERUSHALMI SUKKAH 1:9

[A] **HE WHO MAKES A ROOF FOR HIS SUKKAH OUT OF SPITS OR WITH THE SIDE PIECES OF A BED — IF THERE IS A SPACE BETWEEN THEM EQUIVALENT TO THEIR OWN BREADTH, [THE SUKKAH] IS VALID.**

1. **I:1:** It was taught: [The space between them (M. 1:9B)] must be greater than their own breadth. Associates say, “[the reason for A is] that one handbreadth does not enter another handbreadth[’s area]. [That is, one cannot be precise about the matter, and hence we demand a slight bit more space between them. For one cannot fit exactly something of a handbreadth into precisely that amount of open space.]”

[B] **HE WHO HOLLOWED OUT A SPACE IN A HAYSTACK TO MAKE A SUKKAH THEREIN — IT IS NO SUKKAH.**

1. **II:1:** [As to M. 1:9D-E,] R. Abbahu in the name of R. Yohanan: “The reason is that it appears like a storage-bin.” R. Hiyya taught, “When Scripture says, ‘you will make for yourself...’ (Deut. 16:13), it means to exclude what is already made [not for the purpose of a sukkah, e.g., a hole in a haystack].” What is the practical difference between these two views? A case in which a space already has been hollowed out is at issue between them, [in a case in which, for the sukkah, the man hollows out a bit more]. In the the view of R. Hiyya it is valid (L + V: invalid) [because of the additional labor]. In the view of R. Yohanan it is invalid. (L + V: valid)

X. YERUSHALMI SUKKAH 1:10

[A] **HE WHO SUSPENDS THE SIDES FROM ABOVE TO BELOW — IF THEY ARE THREE [OR MORE] HANDBREADTHS ABOVE THE GROUND, [THE SUKKAH] IS INVALID. [IF HE BUILDS THE SIDES] FROM THE GROUND UPWARD, IF [THEY ARE] TEN HANDBREADTHS ABOVE THE GROUND, [THE SUKKAH] IS VALID. R. YOSÉ SAYS, “JUST AS [THE REQUIRED HEIGHT] FROM BELOW TO ABOVE [WHEN THE WALL**

IS BUILT UP FROM THE GROUND] IS TEN HANDBREADTHS, “SO [THE REQUIRED HEIGHT] FROM ABOVE TO BELOW [WHEN THE WALL IS SUSPENDED FROM ABOVE TOWARD THE GROUND] IS TEN HAIRBREADTHS [EVEN THOUGH THE BOTTOM IS NOT WITHIN THREE HANDBREADTHS OF THE GROUND].” IF ONE SETS THE SUKKAH ROOFING THREE HANDBREADTHS FROM THE WALLS [OF THE SUKKAH], [THE SUKKAH] IS INVALID.

1. **I:1:** Said R. Yohanan, “R. Yosé spoke only in regard to the matter of the sukkah [at M. 1:10G-H]. But as to the matter of [a partition to permit carrying in a courtyard] on the Sabbath, also R. Yosé concurs [that a partition suspended more than three hand-breadths above the ground is invalid].” A statement of R. Hanina indicates that even for the matter of a partition constructed for purposes of carrying on the Sabbath, R. Yosé maintains the same view [that the partition, if of requisite dimensions, is imagined to descend]. For R. Hanina said, “On the Sabbath a ruler came to Sepphoris, and they suspended rugs [in his honor, so connecting columns of a colonnade]. R. Ishmael b. R. Yosé permitted carrying [in the colonnade regarding these as adequate partitions to set off the area into a single domain], in accord with the theory of his father [Yosé].”

XI. YERUSHALMI SUKKAH 1:11

[A] A HOUSE, [THE ROOT OF] WHICH WAS DAMAGED, AND ON [THE GAPS IN THE ROOF OF WHICH] ONE PUT SUKKAH ROOFING — IF THE DISTANCE FROM THE WALL TO THE SUKKAH ROOFING IS FOUR CUBITS, IT IS INVALID [AS A SUKKAH] AND SO TOO, [IS THE RULE FOR] A COURTYARD WHICH IS SURROUNDED BY A PERISTYLE. A LARGE SUKKAH, [THE ROOF OF WHICH] THEY SURROUNDED WITH SOME SORT OF MATERIAL WITH WHICH THEY DO NOT MAKE SUKKAH-ROOFING — IF THERE WAS A SPACE OF FOUR CUBITS BELOW IT, IT IS INVALID [AS A SUKKAH].

1. **I:1:** R. Hiyya taught, “If there is uncovered, hence invalid air space, it invalidates at a measure of three handbreadths. If there is invalid sukkah roofing [as in the unroofed gap at M. 1:11B], it invalidates only at a measure of four cubits.”
2. **I:2:** What is the rule as to sleeping *underneath* it? [That is, if the owner of the *sukkah* slept under inadequately roofed-over space, hence the open air space, does he thereby carry out his obligation to dwell in the *sukkah*?]

XII. YERUSHALMI SUKKAH 1:12

[A] HE WHO MAKES HIS SUKKAH IN THE SHAPE OF A CONE OR WHO LEANED IT UP AGAINST A WALL — R. ELIEZER DECLARES IT INVALID, BECAUSE IT HAS NO ROOF. AND SAGES DECLARE IT VALID.

1. I:1: R. Eliezer concedes [in regard to M. 1:12A-C] that if its roof is a handbreadth in size, or if it was a handbreadth above the ground, it is valid [T. Suk. 1:10B-D].

[B] A LARGE REED-MAT, [IF] ONE MADE IT FOR LYING ON, IS SUSCEPTIBLE TO UNCLEANNESS, AND [SO] THEY DO NOT MAKE SUKKAH ROOFING OUT OF IT. [IF ONE MADE IT] FOR SUKKAH ROOFING, THEY MAKE SUKKAH ROOFING OUT OF IT, AND IT IS NOT SUSCEPTIBLE TO UNCLEANNESS. R. ELIEZER SAYS, “ALL THE SAME ARE A SMALL ONE AND A LARGE ONE: “[IF] ONE MADE IT FOR LYING ON, IT IS SUSCEPTIBLE TO UNCLEANNESS, AND THEY DO NOT MAKE SUKKAH ROOFING OUT OF IT. “[IF ONE MADE IT FOR] SUKKAH ROOFING, THEY DO MAKE SUKKAH ROOFING OUT OF IT, AND IT IS NOT SUSCEPTIBLE TO UNCLEANNESS.”

1. II:1: Abba bar Hana in the name of R. Yohanan: “The teaching [at M. 1:12E-G] concerns mats made in Usha.” R. Eliezer said, “Sages made in Usha without specification as to their purpose are susceptible to uncleanness [for they are routinely used for lying on], unless one actually uses them for tents [for sukkah roofing]. [Then their secondary use is clear.] “Mats made in Tiberias without specification as to their use are insusceptible to uncleanness [for they are routinely used for roofing] unless one actually uses them for lying on.”

XIII. YERUSHALMI SUKKAH 2:1

[A] HE WHO SLEEPS UNDER A BED IN A SUKKAH HAS NOT FULFILLED HIS OBLIGATION. SAID R JUDAH, “WE HAD THE PRACTICE OF SLEEPING UNDER THE BED BEFORE THE ELDERS, AND THEY SAID NOTHING AT ALL TO US.” SAID R. SIMEON, “M’S^H B: TABI, RABBAN GAMALIEL’S SLAVE, SLEPT UNDER THE BED. “AND RABBAN GAMALIEL SAID TO THE ELDERS, ‘DO YOU SEE TABI, MY SLAVE — HE IS A DISCIPLE OF A SAGE, SO HE KNOWS THAT SLAVES ARE EXEMPT FROM KEEPING THE COMMANDMENT OF DWELLING IN THE SUKKAH. THAT IS WHY HE IS SLEEPING UNDER THE BED.’ THUS WE LEARNED THAT HE WHO SLEEPS UNDER BED HAS NOT FULFILLED HIS OBLIGATION.”

1. **I:1:** There we have learned: But he spreads it over the frame of a two-poster bed [M. 1:4E], and here does the law say this [M. 2:1A]!
2. **I:2:** The theories attributed to R. Judah are contradictory. There he has said that a concrete practice of the law takes precedence over a matter of study [at Y. Pes. 3:7], and here he has said this [that when they came to study, they would sleep under the bed, and the elders did not object]! [The supposition is that Judah claims the elders kept silent because they regarded the study as more important and were not interested in whether or not the disciples carried out their religious duties in the proper way.]
3. **I:3:** The theories assigned to Rabban Gamaliel are contradictory. For it has been taught: Tabi, the slave of Rabban Gamaliel, would wear tefillin, and sages did not object to his doing so. Here, by contrast, they objected to his doing so [accounting for Gamaliel's need, M. 2:1D, to explain himself.

XIV. YERUSHALMI SUKKAH 2:2

[A] HE WHO PROPS HIS SUKKAH UP WITH THE LEGS OF A BED — IT IS VALID. R. JUDAH SAYS, “IF IT CANNOT STAND ON ITS OWN, IT IS INVALID.”

1. **I:1:** [“The reason for Judah's view,”] said R. Immi, “is that there is not a distance of ten handbreadths between the bed and the *sukkah roofing*. [The *sukkah roofing* rests on the ends of the bed. The roofing cannot stand on its own.]” Said R. Ba, “The reason is that they do not set up a *sukkah* on something that is susceptible to uncleanness.”

XV. YERUSHALMI SUKKAH 2:3

[A] A SUKKAH [THE ROOFING OF WHICH] IS LOOSELY PUT TOGETHER, BUT THE SHADE OF WHICH IS GREATER THAN THE LIGHT, IS VALID.

1. **I:1:** Rab and Samuel: One said that the word for “loosely put together” is “thin” (DLL), and the other that it is “loosely put together” (DBLL).

[B] THE [SUKKAH] [THE ROOFING OF WHICH] IS TIGHTLY KNIT LIKE THAT OF A HOUSE, EVEN THOUGH THE STARS CANNOT BE SEEN FROM INSIDE IT, IS VALID.

1. **II:1:** [With reference to M. 2:3E,] is that to say that [to begin with] the stars must be visible through the *sukkah roofing*? R. Levi in the name

of R. Hama bar Haninah: “That teaching pertains to the possibility of seeing sun shafts through the sukkah roofing [and not stars by night].”

XVI. YERUSHALMI SUKKAH 2:4

[A] **HE WHO MAKES HIS SUKKAH ON THE TOP OF A WAGON OR A BOAT — IT IS VALID. AND THEY GO UP INTO IT ON THE FESTIVAL DAY. [IF HE MADE IT] AT THE TOP OF A TREE OR ON A CAMEL, IT IS VALID. BUT THEY DO NOT GO UP INTO IT ON THE FESTIVAL DAY. [IF] TWO [SIDES OF A SUKKAH] ARE [FORMED BY] A TREE, AND ONE IS MADE BY MAN, OR TWO ARE MADE BY MAN AND ONE IS [FORMED BY] A TREE, IT IS VALID. BUT THEY DO NOT GO UP INTO IT ON THE FESTIVAL DAY. [IF] THREE ARE MADE BY MAN AND ONE IS [FORMED BY] A TREE, IT IS VALID. AND THEY DO GO UP INTO IT ON THE FESTIVAL DAY. THIS IS THE GOVERNING PRINCIPLE: IN THE CASE OF ANY [SUKKAH] IN WHICH THE TREE MAY BE REMOVED, AND [THE SUKKAH] CAN [STILL] STAND BY ITSELF, IT IS VALID. AND THEY GO UP INTO IT ON THE FESTIVAL DAY.**

- 1. I:1:** [With reference to M. 2:4, making a *sukkah* on a boat,] how shall we interpret the matter? If the boat is beached, then all parties concur that it is permitted to do so. If the boat is en route, there is a dispute between R. Eleazar b. Azariah and R. Aqiba.
- 2. I:2:** Simeon b. Karsena in the name of R. Aha: “R. Meir, R. Yosé, and R. Eleazar all expressed the same principle.” R. Meir in connection with the sideposts [of an alleyway], for we have learned there: An animate creature which is used to cover up the entrance of a tomb imparts uncleanness as a sealing-stone. But R. Meir declares it clean when used for that purpose [M. Er. 1:7D-E]. [Since the beast is not set permanently at that spot, it is in susceptible to uncleanness.] R. Yosé in the matter of spreading uncleanness through overshadowing. For R. Yosé says, “A cabin located on a boat does not have the power of spreading uncleanness to what lies in its shadow when it overshadows a corpse [M. Oh. 8:5]. [Since the boat is not affixed in one place, it does not have the effect of spreading uncleanness as does a Tent.]” R. Eleazar b. Azariah, for it has been taught: There is the case of R. Eleazar b. Azariah and R. Aqiba on a ship. R. Aqiba built a sukkah on the bow of the ship, and the wind came and blew it off. Said to him R. Eleazar b. Azariah, “Aqiba, now where is your sukkah?” [Eleazar maintained that it was not an appropriate place for a sukkah, because the boat was moving and not at rest. Thus all three take the same view of a moving beast or vehicle. It is subject to a different set of laws from what is at rest.]

3. **I:3:** [At issue is M. Er. 3:3A-C:] [If] one put it into a tree – [If] it is above ten handbreadths, his erub is not a valid erub. [If he put it] below ten handbreadths, his erub is a valid erub. [The erub must lie within the control of the person for whom it establishes a Sabbath residence. It also must lie in public domain, so that the person relying upon the erub has access to it (at least in theory). The problem of A-C, therefore, is simple. The area of the tree above ten handbreadths is private domain, that below is neutral domain (karmelit), neither private nor public. If the erub is above ten handbreadths, in the foliage of the tree, then, when sun sets and the erub acquires a place for the man, the man himself has not got access to the erub, which is not in public domain but in private property. So he could not at that moment climb up the tree and get at the token meal. The man must be able to get at the erub and eat it. He cannot do so – so it is no erub.] Lo, this is a valid erub [M. Er. 3:3C] but it is forbidden to carry it about [since he may not climb the tree to get at it]. If it was located three handbreadths from the Found, it is permitted [to carry it about] [T. Er. 2:13]. Now here is the question: If the erub is valid, it should be permitted to carry it about, and if it is not permitted to carry it about, then it should not be a valid erub. [The prohibition against climbing a tree to get at the erub is merely by reason of the general laws on Sabbath rest, which include the one against making use of the tree on that day.] Indeed, it would be appropriate for him to violate the restrictions governing Sabbath rest [and to utilize the tree by climbing it, and so to] eat the erub. If that is the case, then even if the erub is higher than ten handbreadths, it should be valid in all regards.

XVII. YERUSHALMI SUKKAH 2:5

[A] HE WHO MAKES HIS SUKKAH AMONG TREES, AND THE TREES FORM ITS SIDES – IT IS VALID.

1. **I:1:** [As to M. 1. 2:5B:] R. Hunah went to Ein Tab for the sanctification of the New Moon. [He thus was engaged in a religious duty.] As he was going along, he became thirsty while on the road, but he did not agree to taste a thing until he had entered the shade of the *sukkah* of R. Yohanan, the scribe of Gopta.

[B] AGENTS ENGAGED IN A RELIGIOUS DUTY ARE EXEMPT FROM THE REQUIREMENT OF DWELLING IN A SUKKAH. SICK FOLK AND THOSE WHO SERVE THEM ARE EXEMPT FROM THE REQUIREMENT OF DWELLING IN A SUKKAH.

1. **II:1:** [As to M. 2:5C,] said R. Mana, “It is not the end of the matter that those who are so sick as to be dying [and those who serve them] are exempt. But even those who are sick but in no danger are exempt [cf. T. 2:2B-C]. It has been taught [in T.’s version]: Said Rabban Simeon b. Gamaliel, “M’SH W: I had a pain in the eye in Caesarion, and R. Yosé b. Rabbi permitted me to sleep, along with my servant, outside of the sukkah” [T. Suk. 2:2D].
2. **II:2:** It has been taught: [In T.’s version:] City guards by day are exempt from the religious requirement of dwelling in a sukkah by day, but they are liable by night. City guards by night are exempt from the religious requirement of dwelling in a sukkah by night, but they are liable by day. City guards by day and by night are exempt from the religious requirement of dwelling in a sukkah by day and by night [T. Suk. 2:3C-E].
3. **II:3:** M’SH B: R. Ilai went to R. Eliezer in Lud. He said to him, “Now what’s going on, Ilai? Are you not among those who observe the festival? Have they not said that it is not praiseworthy of a person to leave his home on a festival? For it is said, ‘And you will rejoice on your festival’”(Deut. 16:14) [T. Suk. 2:1C].

[C] **PEOPLE EAT AND DRINK IN A RANDOM MANNER OUTSIDE OF A SUKKAH.**

1. **III:1:** [As to M. 2:5D:] Said R. Eleazar, “There is such a thing as a random meal [that may be taken outside of a sukkah], but there is no such thing as random sleep. [All sleeping must be in the sukkah.]”

XVIII. YERUSHALMI SUKKAH 2:6

[A] **M’SH W: THEY BROUGHT RABBAN YOHANAN B. ZAKKAI SOME COOKED FOOD TO TASTE, AND TO RABBAN GAMALIEL TWO DATES AND A DIPPER OF WATER. AND THEY SAID, “BRING THEM UP TO THE SUKKAH.” AND WHEN THEY GAVE TO R. SADOQ FOOD LESS THAN AN EGG’S BULK, HE TOOK IT IN A CLOTH AND ATE IT OUTSIDE OF THE SUKKAH AND SAID NO BLESSING AFTER IT.**

1. **I:1:** With reference to M. 2:6,] they theorized that he did not say a blessing after it [M. 2:6C] means that he did not say the three complete blessings, but lo, he did say an abbreviated version.
2. **I:2:** It has been taught: In the case of any food, after which they say three blessings – before it they say, “Who brings forth bread from the earth.”

In the case of any food after which they do not say three blessings – before it they do not say, “Who brings forth bread from the earth.” They objected, “Lo, there is the case of eating food in less than the volume of an olive’s bulk. They do not say three blessings over such food. Now if that is the case, they also should not say before eating it, ‘Who brings forth bread from the earth.’” R. Jacob bar Aha said, “It was in regard to other kinds of foods that the cited passage is required.”

XIX. YERUSHALMI SUKKAH 2:7

[A] R. ELIEZER SAYS, “FOURTEEN MEALS IS A PERSON OBLIGATED TO EAT IN THE SUKKAH, “ONE BY DAY AND ONE BY NIGHT.” AND SAGES SAY, “THERE IS NO FIXED REQUIREMENT, EXCEPT FOR THE FIRST TWO NIGHTS OF THE FESTIVAL ALONE.”

1. I:1: What is the Scriptural basis for the position of R. Eliezer?

[B] AND FURTHER DID R. ELIEZER SAY, “HE WHO HAS NOT EATEN HIS MEAL IN THE SUKKAH ON THE FIRST NIGHT OF THE FESTIVAL SHOULD MAKE UP FOR IT ON THE LAST NIGHT OF THE FESTIVAL.” AND SAGES SAY, “THERE IS NO WAY OF MAKING IT UP. “CONCERNING SUCH A CASE IT IS SAID, ‘THAT WHICH IS CROOKED CANNOT BE MADE STRAIGHT, AND THAT WHICH IS WANTING CANNOT BE RECKONED’”(QOH. 1:15).

1. II:1: What is the Scriptural basis for the position of R. Eliezer? In reference to the sukkah, it is said, “you will dwell” (Lev. 23:42). And elsewhere it is said, “At the door of the tent of meeting you shall dwell day and night for seven days, performing what the Lord has charged, lest you die; for so I am commanded” (Lev. 8:35). Just as the case of “dwelling” stated there indicates that the nights are equivalent to the days, so dwelling here indicates that the nights are equivalent to the days, [hence the rule of M. 2:7B]. [As to the reason of sages,] R. Yohanan in the name of R. Ishmael: “‘Fifteenth [of the month]’ (Lev. 23:6) is stated with regard to Passover, and ‘Fifteenth [of the month]’ (Lev. 23:34) is stated with regard to the Festival. Just as the fifteenth stated with reference to Passover speaks of the first night as obligatory and the other days as optional [in respect to eating unleavened bread], so the fifteenth stated with regard to the Festival indicates that [sitting in the sukkah] on the first night is obligatory, and on all other days is optional.”

2. **II:2:** The opinions assigned to R. Eliezer are contradictory. There he has said, “Fourteen meals is a person obligated to eat in the sukkah” [M. 2:7A], and here he has said this [that if one did not eat on the first night in the sukkah, he makes it up on the last night]. [But on the last night there is no sukkah any longer. It is no longer obligatory to eat there.]

XX. YERUSHALMI SUKKAH 2:8

[A] **HE WHOSE HEAD AND THE GREATER PART OF WHOSE BODY ARE IN THE SUKKAH, BUT WHOSE TABLE IS IN THE HOUSE — THE HOUSE OF SHAMMAI DECLARE INVALID. AND THE HOUSE OF HILLEL DECLARE VALID. SAID THE HOUSE OF HILLEL TO THE HOUSE OF SHAMMAI, “WAS NOT THE PRECEDENT SO, THAT THE ELDERS OF THE HOUSE OF SHAMMAI AND THE ELDERS OF THE HOUSE OF HILLEL WENT ALONG TO PAY A SICK-CALL ON R. YOHANAN B. HAHORANI, AND THEY FOUND HIM SITTING WITH HIS HEAD AND THE GREATER PART OF HIS BODY IN THE SUKKAH, AND HIS TABLE IN THE HOUSE, AND THEY SAID NOTHING AT ALL TO HIM!” SAID THE HOUSE OF SHAMMAI TO THEM, “IS THERE PROOF FROM THAT STORY? BUT IN POINT OF FACT THEY DID SAY TO HIM, ‘IF THIS IS HOW YOU ACT, YOU HAVE NEVER IN YOUR WHOLE LIFE FULFILLED THE RELIGIOUS REQUIREMENT OF DWELLING IN A SUKKAH!’”**

1. **I:1:** It is not the end of the matter [from the viewpoint of the House Shammai] that the whole table be in the house. Even if only of it is there, [it is invalid].
2. **I:2:** [With reference to M. Ter. 5:4, which follows (in the translation of Alan Peck, Terumot, pp. 170-71): A seah of unclean heave-offering which fell into a hundred seahs of clean heave offering — the House of Shammai declare (the mixture) forbidden (for consumption by a priest), but the House of Hillel permit. Said the House of Hillel to the House of Shammai, “Since clean (heave-offering) is forbidden to non-priests, and unclean (heave-offering) is forbidden to priests, if clean (heave-offering) can be neutralized, so unclean (heave-offering) can be neutralized.” Said to them the House of Shammai, “No! If unconsecrated produce, to which leniency applies and which is permitted to non-priests, neutralizes clean (heave-offering), should heave-offering, to which stringency applies and which is forbidden to non-priests, (have that same power and) neutralize unclean (heave-offering)?” After they had agreed: R. Eliezer says, “Let it be raised up and burned.” But sages say, “It has been lost through its scantiness”: Judah bar Pazzi and R. Aibu bar Nigri were in session, say ‘We have

learned: After they had agreed. “Who agreed with whom? Was it the House of Shammai with the view of the House of Hillel, or the House of Hillel with the position of the House of Shammai?” They said, “Let us go out and learn [what others may know about the matter], and they heard R. Hezekiah, R. Aha in the name of R. Judah b. Levi [state], ‘We have heard that the House of Shammai accepted the view of the House of Hillel only in regard to this matter alone.’”

a. I:3: Why did the House of Hillel have the merit that the law should be decided in accord with their views?

3. I:4: Said R. Zeirah, R. Hunah in the name of Rab: “The law accords with the position of the House of Shammai [at M. 2:8].”

XXI. YERUSHALMI SUKKAH 2:9

[A] WOMEN, SLAVES, AND MINORS ARE EXEMPT FROM THE RELIGIOUS REQUIREMENT OF DWELLING IN A SUKKAH. A MINOR WHO CAN TAKE CARE OF HIMSELF IS LIABLE TO THE RELIGIOUS REQUIREMENT OF DWELLING IN A SUKKAH. M'SHW: SHAMMAI THE ELDER'S DAUGHTER-IN-LAW GAVE BIRTH, AND HE BROKE AWAY SOME OF THE PLASTER AND COVERED THE WHOLE WITH SUKKAH-ROOFING OVER HER BED, ON ACCOUNT OF THE INFANT.

1. I:1: What is the definition of a minor [at M. 2:9B]?

XXII. YERUSHALMI SUKKAH 2:10

[A] ALL SEVEN LAYS A PERSON TREATS HIS SUKKAH AS HIS REGULAR DWELLING AND HIS HOUSE AS HIS SOMETIME-DWELLING.

1. I:1: It is written, “You shall dwell in booths for seven days; all that are native in Israel shall dwell in booths” (Lev. 23::2). And there is no “dwelling” except in the sense of “living permanently.”

[B] [If] IT BEGAN TO RAIN, AT WHAT POINT IS IT PERMITTED TO EMPTY OUT [THE SUKKAH]? FROM THE POINT AT WHICH THE PORRIDGE WILL SPOIL. THEY MADE A PARABLE: TO WHAT IS THE MATTER COMPARABLE? TO A SLAVE WHO CAME TO BRING A CUP OF WINE FOR HIS MASTER, AND HIS MASTER THREW THE FLAGON INTO HIS FACE.

1. II:1: If it began to rain, at what point t is it permitted to empty out the sukkah? From the point at which the porridge will spoil [M. 2:9B-C].

It is not the end of the matter that the porridge must actually spoil. But even if it rained enough so as to spoil porridge [even if it did not actually spoil], [that suffices]. It is not the end of the matter that it is a porridge of grits. But a porridge of anything at all [falls under the same rule].

2. **II:2:** Rabban Gamaliel would go in and out all night long. R. Eliezer would go in and out all night long.

XXIII. YERUSHALMI SUKKAH 3:1

[A] A STOLEN OR DRIED UP PALM BRANCH IS INVALID. AND ONE DERIVING FROM AN ASHERAH:

1. **I:1:** [Explaining why a stolen palm branch is invalid.] R. Hiyya taught: “And you shall take for yourselves [on the first day the fruit of goodly trees. branches of palm trees, and boughs of leafy trees, and willows of the brook]” (Lev. 23:4). The meaning is that they must be yours and not stolen.”

[B] OR AN APOSTATE TOWN IN INVALID. [IF] ITS TIP WAS BROKEN OFF, OR [IF] ITS LEAVES WERE SPLIT. IT IS INVALID. [IF] ITS LEAVES WERE SPREAD APART. IT IS VALID. R. JUDAH SAYS. “LET HIM TIE IT UP AT THE END:”

1. **II:1:** [As to M. 3:1B, One deriving from an apostate town:] A ram’s horn belonging to a Temple of idolatry, or one belonging to an apostate town – R. Eleazar said, “It is valid.” R. Hiyya taught, “It is valid.” R. Hoshaiah taught, “It is invalid.” All concur in the case of a palm branch [deriving from such a source] that it is invalid. What is the difference between a ram’s horn and a palm branch?
2. **II:2:** If one stole a palm branch from one source, myrtle from a second, and a willow from yet a third and then he bound the three together into a bunch, [what is the law]?

[C] OR DRIED UP...:

1. **III:1:** R. Abin in the name of R. Judah bar Pazzi: “A dried up one is invalid, in line with the following verse of Scripture: “The dead do not praise the Lord, nor do any that go down into silence” (Ps. 115:17).
2. **III:2:** They asked before R. Abina, “If the ends of the *lulab* dried up, what is the law?”

3. **III:3:** R. Malokh in the name of R. Joshua b. Levi: “If the central rib of a branch of palm leaves was divided, it is in the status of its leaves being spread apart [and valid, in line with M. 3:1D].”
4. **III:4:** As to palm branches [Lev. 23:10] – R. Tarfon says, “They must be bunches of palms.” R. Aqiba says, “Palm branches as their name implies.” R. Judah says, “If it is separated, he should tie it together.”

[D] THORN-PALMS OF THE IRON MOUNTAIN ARE VALID. ANY PALM BRANCH WHICH IS [ONLY] THREE HANDBREADTHS LONG, SUFFICIENT TO SHAKE. IS VALID.

1. **IV:1:** What are the thorn-palms of the Iron Mountain that are valid [M. 3:1F]?
2. **IV:2:** It has been taught: If a palm branch is dried up, it is invalid. If it merely appears to be dried up, it is valid.
3. **IV:3:** It has been taught: A myrtle and a willow are to be three handbreadths long, and a palm branch, four. It has been taught: “It is measured with a cubit of five handbreadths,” the words of R. Tarfon. [T. Suk. 2:8B-C.] But sages say, “With a cubit of six handbreadths.”
4. **IV:4:** Jonah and R. Simeon b. Laqish in the name of R. Judah the Patriarch: “A palm branch is to be a handbreadth in length.” R. Simeon in the name of R. Joshua b. Levi: “The hyssop must be a handbreadth in length.” R. Zeirah asked, “Will a palm branch be a handbreadth and a hyssop also be a handbreadth?”

XXIV. YERUSHALMI SUKKAH 3:2

[A] A STOLEN OR DRIED UP MYRTLE BRANCH IS INVALID. AND ONE DERIVING FROM AN ASHERAH OR AN APOSTATE TOWN IS INVALID. [IF] ITS TIP WAS BROKEN OFF, [OR IF] ITS LEAVES WERE SPLIT:

1. **I:1:** It is written, “[And you shall take on the first day the fruit of goodly trees, branches of palm trees, and] boughs of leafy trees, [and willows of the brook; and you shall rejoice before the Lord your God seven days]” (Lev. 23:40).

[B] OR IF ITS BERRIES WERE MORE NUMEROUS THAN ITS LEAVES, IT IS INVALID. BUT IF ONE THEN REMOVED SOME OF THEM, IT IS VALID. AND THEY DO NOT REMOVE [SOME OF THEM] ON THE FESTIVAL DAY.

- 1.** **II:1:** Hiyya bar Ada in the name of R. Yohanan: “[As to M. 3:2D, If the berries were more numerous than the leaves, it is invalid,] this has been taught in the case of black ones.” Why should it be invalid? Is it because they are not the same color as the wood [since the wood is green, the berries black]? Or is it because the fruit is ripe [and scripture wants the boughs, not the fruit, to be waved]?

XXV. YERUSHALMI SUKKAH 3:3

[A] **A STOLEN OR DRIED UP WILLOW BRANCH IS INVALID. AND ONE DERIVING FROM AN ASHERAH OR AN APOSTATE TOWN IS INVALID. [IF] ITS TIP WAS BROKEN OFF, [IF] ITS LEAVES SPLIT, OR [IF IT WAS] A MOUNTAIN WILLOW, IT IS INVALID. [IF] IT WAS SHRIVELED, OR [IF] SOME OF THE LEAVES DROPPED OFF, OR [IF IT CAME] FROM A [NATURALLY WATERED] FIELD [AND DID NOT GROW BY A BROOK], IT IS VALID.**

- 1.** **I:1:** It is written, “Willows of the brook” (Lev. 23:40). I know only that I may use willows that grow by a brook. How do I know that I may use willows that grow in a field that is watered by rain or a field in the mountains? Scripture says, “And willows....” Abba Saul says, “[The use of the plural for] willows of the brook indicates that two separate purposes are served by willows. There is a willow to be included in the palm branch [*lulab*], and there is a willow to be used in the Temple.”

XXVI. YERUSHALMI SUKKAH 3:4

[A] **R. ISHMAEL SAYS, “THREE MYRTLE BRANCHES, TWO WILLOW BRANCHES, ONE PALM BRANCH, AND ONE CITRON [ARE REQUIRED], “EVEN IF TWO [OF THE MYRTLE BRANCHES] HAVE THEIR TIPS BROKEN OFF, AND ONLY ONE DOES NOT HAVE ITS TIP BROKEN OFF.” R. TARFON SAYS, “EVEN IF ALL THREE OF THEM HAVE THEIR TIPS BROKEN OFF, [THEY ARE VALID].” R. AQIBA SAYS, “JUST AS ONE PALM BRANCH AND ONE CITRON [ARE REQUIRED], SO ONE MYRTLE BRANCH AND ONE WILLOW BRANCH [ARE REQUIRED].”**

- 1.** **I:1:** [With reference to Lev. 23:40: “And you shall take on the first day the fruit of goodly trees, branches of palm trees, boughs of leafy trees, and willows of the brook,”) R. Ishmael provided the following exegesis [in support of his position at M. 3:4A]: “‘The fruit of goodly trees’ refers to a single piece of fruit. ‘Branches of palm trees’ refers to a single such branch. ‘Boughs of leafy trees’ refers to three boughs of

myrtle. ‘Willows of the brook’ refers to two willows. ‘Two trained [myrtle branches], and one which does not have its tip cut off.’ R. Tarfon says.”Even if all three of them have their tips broken off they are valid” [M. 1:3C].

2. **I:2:** Yosé: When he came here [to the Land of Israel] he saw people choosing the correct myrtle. He said to them, “Why are the people of the West selecting one sort of myrtle [as against some other sort]?” [He was answered:] Now has he not heard that which R. Simon said in the name of R. Joshua b. Levi, “‘And that they should publish and proclaim in all their towns and in Jerusalem, Go out to the hills and bring branches of olive, wild olive, myrtle, palm, and other leafy trees to make booths, as it is written’ (Neh 8:15). [This indicates that there are types of myrtle that are used for the, *Sukkah*, and there are other types that are used in the *lulab*.]”
3. **I:3:** He who prepares a *lulab* for his own use says, “Blessed who has sanctified us by his commandments, and commanded us to make a *lulab*.” If he did so for someone else, he says, “to make a *lulab* for His Name.” When he takes it, what does he say? “Blessed who has sanctified us by his commandments and commanded us concerning taking up the *lulab*.” And he prays over it, saying, “Blessed who has kept us alive and sustained us and brought us to this season.” And he says a blessing over it every time that he takes it up.
4. **I:4:** Hiyya son of Rab said a blessing for each time [one takes the *lulab*]. R. Hunah said a blessing only one time alone.

XXVII. YERUSHALMI SUKKAH 3:5

[A] A STOLEN OR DRIED UP CITRON IS INVALID. AND ONE DERIVING FROM AN ASHERAH OR FROM AN APOSTATE TOWN IS INVALID. [IF IT DERIVED FROM] ORLAH-FRUIT, IT IS INVALID. [IF IT DERIVED FROM] UNCLEAN HEAVE-OFFERING, IT IS INVALID. [IF IT DERIVED FROM] CLEAN HEAVE-OFFERING, ONE SHOULD NOT CARRY IT. BUT IF HE CARRIED IT, IT IS VALID. ONE WHICH IS IN THE STATUS OF DOUBTFULLY TITHED PRODUCE — THE HOUSE OF SHAMMAI DECLARE IN VALID. AND THE HOUSE OF HILLEL DECLARE VALID. AND ONE IN THE STATUS OF SECOND TITHE IN JERUSALEM ONE SHOULD NOT CARRY. BUT IF HE CARRIED IT, IT IS VALID.

1. **I:1:** It is written, “The fruit of a goodly tree” (Lev. 23:40). This refers to a tree the fruit of which is good, and the wood of which also is good. And what sort of tree is that? It is the *etrog*. If you say that it

refers to a pomegranate, its fruit is good but its wood is not good. If you say that it refers to a carob, its wood is good, but its fruit is not good. [What then meets both qualifications?] It is the *etrog*.

- I:2:** Jacob, the Southerner, raised the question [concerning M. Er. 3:2]: “The Mishnah [at M. Er. 3:2] does not accord with the view of the House of Shammai. “For we have learned: As to an *etrog* deriving from doubtfully tithed produce the House of Shammai declare invalid, and the House of Hillel declare valid. And one in the status of second tithe in Jerusalem one should not carry, but if he carried it, it is valid [M. 3:5F-I].”

XXVIII. YERUSHALMI SUKKAH 3:6

[A] [IF] SCARS COVERED THE GREATER PART OF IT:

- I:1:** R. Isaac bar Nahman in the name of Samuel: “All those traits that invalidate do so only on the first day of the Festival alone.”
- I:2:** There they say, “[Even if it is scarred] on the greater part of it only on one side [it is invalid]. [If] its nipple [was scarred, it is as if the greater part of it [was scarred].”

[B] [IF] ITS NIPPLE WAS REMOVED:

- II:1:** There they say, “Its rose.”

[C] [IF] IT WAS PEELED, SPLIT:

- III:1:** But it did not perforate within [through the skin], it remains valid.

[D] HAD A HOLE AND SO LACKED ANY PART WHATSOEVER, IT IS INVALID. [IF] SCARS COVERED THE LESSER PART OF IT, [IF] ITS STALK WAS REMOVED, [IF] IT HAD A HOLE BUT LACKED NO PART WHATSOEVER, IT IS VALID. A DARK-COLORED CITRUS IS INVALID. AND ONE WHICH IS GREEN LIKE A LEEK – R. MEIR DECLARES IT VALID. AND R. JUDAH DECLARES IT INVALID.

- IV:1:** A dark-colored citron is invalid [M. 3:6H]: That which comes from Ethiopia is valid [vis-a-vis M. 3:6H]. One which is green like a leek [M. 3:6/I]: R. Zeira asked before R. Immi, “Is it exactly as green as a leek, or is it merely similar to leek-green?” He said to him, “Exactly as green as a leek.”

XXIX. YERUSHALMI SUKKAH 3:7

[A] THE MEASURE OF THE SMALLEST [ACCEPTABLE] CITRON –

1. I:1: An *etrog* that was half-ripe – R. Aqiba says, “It is not regarded as fruit.” And sages say, “It is fruit.”

[B] R. MEIR SAYS, “THE SIZE OF A NUT.” R. JUDAH SAYS, “THE SIZE OF AN EGG.”

1. II:1: [With regard to M. 3:7B, the size of a nut:] We have learned to repeat the formulation of the Mishnah, “Like a nut.” There is a Tannaite authority who teaches, “Up to the size of a nut.”

[C] AND AS TO THE LARGEST [ACCEPTABLE SIZE] – “IT MUST BE OF SUCH A SIZE THAT ONE CAN HOLD TWO IN ONE HAND,” THE WORDS OF R. JUDAH. R. YOSÉ SAYS, “EVEN ONE IN TWO HANDS.”

1. III:1: [With reference to M. 3:7D-F,] said R. Yosé, “If Scripture had said, ‘And the tops of palm branches,’ it would have been well [for Judah’s view that one can hold two in one hand]. ‘But Scripture has said only, ‘The tops of palm branches.’ ‘That is, even if this one is in one hand, and that one is in the other hand.’”

XXX. YERUSHALMI SUKKAH 3:8

[A] “THEY BIND UP THE LULAB [PALM BRANCH, WILLOW BRANCH, AND MYRTLE BRANCH] ONLY WITH [STRANDS OF] ITS OWN SPECIES,” THE WORDS OF R. JUDAH. R. MEIR SAYS, “EVEN WITH A ROPE FIT IS PERMITTED TO BIND UP THE LULAB.” SAID R. MEIR, “M’SH B: THE TOWNSFOLK OF JERUSALEM BOUND UP THEIR PALM BRANCHES WITH GOLD THREADS.” THEY SAID TO HIM, “BUT UNDERNEATH THEY [IN FACT HAD] TIED IT UP WITH [STRANDS OF] ITS OWN SPECIES.” AND AT WHAT POINT [IN THE HALLEL PSALMS, 113-118] DID THEY SHAKE [THE LULAB]? “AT ‘O GIVE THANKS UNTO THE LORD’ (PS. 118), BEGINNING AND END; AND AT, ‘SAVE NOW, WE BESEECH THEE, O LORD’”(PS. 118:25), THE WORDS OF THE HOUSE OF HILLEL. AND THE HOUSE OF SHAMMAI SAY, “ALSO: AT, ‘O LORD, WE BESEECH THEE, SEND NOW PROSPERITY’”(PS. 118:25). SAID R. AQIBA, “I WAS WATCHING RABBAN GAMALIEL AND R. JOSHUA, FOR ALL THE PEOPLE WAVED THEIR PALM BRANCHES, BUT THEY WAVED THEIR PALM BRANCHES ONLY AT, ‘SAVE NOW, WE BESEECH THEE, O LORD’”(PS. 118:25).

1. **I:1:** [With reference to M. 3:8E-H:] Lo, in “O give thanks to the Lord, for he is good” (Ps. 118:1), do they not [wave the lulab, in line with M. 3:8H]?

[B] HE WHO WAS ON A TRIP AND HAD NO LULAB TO CARRY — WHEN HE REACHES HOME, SHOULD CARRY THE LULAB AT HIS OWN TABLE. [IF] HE DID NOT CARRY HIS LULAB IN THE MORNING, HE SHOULD CARRY IT AT DUSK, FOR THE ENTIRE DAY IS A SUITABLE TIME FOR THE PALM BRANCH.

1. **II:1:** [With reference to M. 3:8/I-L] R. Hiyya bar Ashi in the name of Rab: “This one who gets up very early to go on a trip takes the *lulab* and shakes it, the ram’s horn and sounds it [before he leaves home]. When, later in the day, the time for saying the *Shema* comes, lo, this one recites the *Shema* and says the Prayer.”

2. **II:2:** It has been taught: One has to shake the lulab three times. R. Zeira asked, “Does a shake in one direction count as one, and a shake in another direction count as one, or is it an up and then a down motion in one direction that counts as one shake?”

XXXI. YERUSHALMI SUKKAH 3:9

[A] HE FOR WHOM A SLAVE, WOMAN, OR MINOR READ ANSWERS AFTER THEM BY SAYING WHAT THEY SAY. BUT IT IS A CURSE TO HIM. IF AN ADULT MALE READ FOR HIM, HE ANSWERS AFTER HIM [ONLY] “HALLELUYAH.”

1. **I:1:** It has been taught: But they have said, “A woman says a blessing for her husband, a slave for his master, a child for his father.”

XXXII. YERUSHALMI SUKKAH 3:10

[A] WHERE THEY ARE ACCUSTOMED TO REPEAT [THE LAST NINE VERSES OF Ps. 118], LET ONE REPEAT.

1. **I:1:** Rab and Samuel: One said, “It is Halleluyah [in one word],” and the other said, “It is Hallelu Yah [in two words].” He who says that it is two words maintains that the word may be divided, but it may not be erased [since the word for God, Yah, is consecrated]. He who says that it is Halleluyah [in one word] permits the word to be blotted out [since the Yah is not written as the name of God] but does not allow it to be divided into two.

2. **I:2:** R. Zeira asked before R. Abbahu, “What do we answer after the one who recites the *Hallel* psalms?”

[B] [WHERE IT IS THE CUSTOM] TO SAY THEM ONLY ONCE, LET ONE SAY THEM ONLY ONCE. [WHERE IT IS THE CUSTOM] TO SAY A BLESSING AFTER IT, LET ONE SAY A BLESSING AFTER IT. EVERYTHING FOLLOWS THE CUSTOM OF THE LOCALITY.

1. **II:1:** [With reference to M. 3:10B-C,] they asked before R. Hiyya bar Ba, “How do we know that if one heard the *Hallel* psalms but did not respond, he nonetheless has carried out his obligation?”
2. **II:2:** R. Hoshaiiah taught, “A man answers, ‘Amen,’ [to others who say Grace], even though he did not eat. But he does not say, ‘Blessed is He, of whose food we have eaten,’ if he did not eat.”
3. **II:3:** It has been taught: They do not say an “orphan-Amen,” or a “cut-off Amen.”
4. **II:4:** It has been taught: As to a pagan who said a blessing for the Name – they answer, “Amen,” after him. If he said a blessing using the Name, they do not answer, “Amen,” after him. Said R. Tanhuma, “If an idolater blesses you, answer after him, ‘Amen.’ “For it is written, ‘You shall be blessed above all peoples; there shall not be male or female barren among you, or among your cattle’”(Deut. 7:14).
5. **II:5:** [With reference to M. 3:10A-B,] Rabbi would repeat certain words in it. R. Eleazar b. Parta would augment certain words in it.

[C] HE WHO BUYS A LULAB [PALM BRANCH, MYRTLE BRANCH, WILLOW BRANCH] FROM HIS FELLOW IN THE SEVENTH YEAR – [THE SELLER] GIVES HIM A CITRON AS A GIFT. FOR ONE IS NOT PERMITTED TO BUY [THE CITRON] IN THE SEVENTH YEAR.

1. **III:1:** [With reference to M. 3:10E-F,] said R. Eleazar, “This rule represents the view of the Elders of the Galilee. “For the Elders of the Galilee say, ‘It is forbidden to hand over to someone suspect of not observing the taboos of the Seventh Year [money sufficient for] food for two meals [since he is assumed to use the money to purchase food grown in the Sabbatical Year, and one may not do so].’ [Hence the *etrog* must come as a gift.]” Said R. Mattanaiah, “Interpret the rule to represent the view of all parties. It refers to a time in which *etrogs* were sold at high prices [and proceeds received for the *etrogs* by themselves would be sufficient to purchase two meals]. [Hence under these circumstances all parties maintain the same view.]”

XXXIII. YERUSHALMI SUKKAH 3:11

[A] AT FIRST THE LULAB WAS CARRIED IN THE TEMPLE FOR SEVEN DAYS, AND IN THE PROVINCES, FOR ONE DAY. WHEN THE TEMPLE WAS DESTROYED, RABBAN YOHANAN B. ZAKKAI ORDAINED THAT THE LULAB SHOULD BE CARRIED IN THE PROVINCES SEVEN DAYS, AS A MEMORIAL TO THE TEMPLE; AND THAT THE WHOLE OF THE DAY ON WHICH THE OMER IS WAVED SHOULD BE FORBIDDEN [FOR THE USE OF NEW PRODUCE, WHICH MAY BE USED ONLY FROM THE WAVING OF THE OMER AND THEREAFTER; THIS HAD FORMERLY BEEN OFFERED AT NOON].

1. **I:1:** It is written, “You shall rejoice before the Lord your God seven days” (Lev. 23:40). There is a Tannaite authority who teaches, “It is with regard to the rejoicing with the lulab that Scripture speaks.” There is a Tannaite authority who teaches, “It is with regard to the rejoicing [brought on by eating the meat] of peace-offerings that the Scripture speaks.” He who has said that it is with regard to the rejoicing of the peace-offerings that Scripture speaks maintains that doing so on the first day is based on the authority of the Torah, and doing so on the other days is on the authority of the Torah as well:] He who says that it is with regard to the rejoicing with the lulab that Scripture speaks holds that doing so on the first day is based on the authority of the Torah, and doing so on the other days also is based on the authority of the Torah. Consequently, in making his ordinance [M. 3:11, transferring to the provinces the rite of the Temple of carrying the lulab all seven days, doing in the synagogue what was done in the Temple], R. Yohanan ben Zakkai made his ordinance relying upon the law of the Torah. But he who has said that it is with regard to the rejoicing with the lulab that the Scripture spoke for the first day, as a matter of Torah law, but for the other days as a matter of law based on the authority of the scribes, then Rabban Yohanan ben Zakkai made his decree resting on the authority of the scribes (as well):] But he who says that it is with the rejoicing of the peace-offerings that Scripture speaks maintains that doing so on the first day is a matter of Torah law, but for the other days it is a matter of law based on the authority of the scribes, then Rabban Yohanan ben Zakkai made his decree resting on the authority of scribes [as well]. [Now the carrying of the lulab all seven days in the Temple was an ordinance of scribes, and doing so in the provinces, after the destruction, was an ordinance based on the authority of scribes tacked on to an ordinance based on the authority of scribes.] Now is it possible that there should be one ordinance tacked on to another such ordinance? [This question is not answered.]

[B] [IF] THE FIRST FESTIVAL DAY OF THE FESTIVAL [OF SUKKOT] COINCIDES WITH THE SABBATH, ALL THE PEOPLE BRING THEIR LULABS TO THE SYNAGOGUE [ON THE DAY BEFORE]. ON THE NEXT DAY THEY GET UP AND COME ALONG. EACH ONE FINDS HIS OWN AND TAKES IT. FOR SAGES HAVE SAID, “A PERSON DOES NOT FULFILL HIS OBLIGATION [TO WAVE THE LULAB] ON THE FIRST DAY OF THE FESTIVAL BY USING THE LULAB OF HIS FELLOW. “AND ON ALL OTHER DAYS OF THE FESTIVAL, ONE DOES FULFILL HIS OBLIGATION [TO WAVE THE LULAB] BY USING THE LULAB OF HIS FELLOW.”

- 1. II:1:** [As to the view that taking the *lulab* does not override the restrictions of the Sabbath except when the first day of the Festival coincides with the Sabbath, even in the Temple, which is implied at M. 3:11E and made explicit at M. 4:1] associates asked before R. Jonah, “Just as you say, ‘Seven days you shall present offerings by fire to the Lord; on the eighth day you shall hold a holy convocation and present an offering by fire to the Lord; it is a solemn assembly; you shall do no laborious work’ (Lev. 23:36), and there is no week of seven days without a Sabbath [indicating that one carries out the festivals’ additional-offerings when the Sabbath coincides with a festival], so, along these same lines, ‘And you shall take for yourself on the first day the fruit of goodly trees, branches of palm trees, and boughs of leafy trees, and willows of the brook; and you shall rejoice before the Lord your God seven days’ (Lev. 23:40). Here too it is specified that there are seven days of celebration, and there is no week of seven days without a Sabbath. [Accordingly, even when the first day of the Festival does not coincide with the Sabbath, on the Sabbath taking the *lulab* should be permitted, since the clear implication of Scripture is that that should be done.]”

[C] R. YOSÉ SAYS, “[IF] THE FIRST DAY OF THE FESTIVAL [OF SUKKOT] COINCIDES WITH THE SABBATH, [IF] ONE FORGOT AND BROUGHT HIS LULAB OUT INTO THE PUBLIC DOMAIN, HE IS EXEMPT [FROM THE OBLIGATION TO BRING A SIN-OFFERING], “BECAUSE HE BROUGHT IT OUT [INTENDING TO DO WHAT IS] PERMITTED.”

- 1. III:1:** [With reference to M. 3:11/I-J:] Associates say, “The reason for the position of R. Yosé is that a positive commandment [to carry the *lulab*] overrides the negative commandment [of not carrying an object from private to public domain on the Sabbath].” Said to them R. Yosé, “That is not the consideration important to R. Yosé [of M. 3:11 /I-J]. Rather, it was on the basis of the reason behind what R. Ila said. And so has it been taught there: “This was the custom in Jerusalem. A man would go to the synagogue, with his *lulab* in his hand. He would recite the Shema and say the Prayer with his *lulab* in his hand. [What follows

is in T.'s amplified version: "He would arise to read the translation (of the Scripture) or to take his place before the ark, with his lulab in his hand. "(If) he arose to read in the Torah or to raise his hands (in the priestly benediction of the congregation), he would put it down on the ground. "When he went out of the synagogue, his lulab was in his hand. "When he went in to visit the sick and to comfort mourners, his lulab was in his hand. "But when he entered the study-house, he would give it to his son or his messenger and return it to his house" (T. Suk. 2:10).] [The point is that it was customary to carry the lulab out of devotion to that religious duty.] Once one has put down the lulab [having performed his religious duty with it], it is forbidden to carry it about, [since there is no further religious requirement involved].

XXXIV. YERUSHALMI SUKKAH 3:12

[A] A WOMAN RECEIVES THE LULAB FROM HER SON OR HUSBAND AND PUTS IT BACK INTO WATER ON THE SABBATH. R. JUDAH SAYS, "ON THE SABBATH THEY PUT IT BACK INTO [THE SAME WATER], ON THE FESTIVAL DAY THEY ADD WATER, AND ON THE INTERMEDIATE DAYS OF THE FESTIVAL THEY CHANGE THE WATER." A MINOR WHO KNOWS HOW TO WAVE THE LULAB IS LIABLE TO THE REQUIREMENT OF WAVING THE LULAB.

1. I:1: [If a minor] knows how to wave the *lulab*, he is liable to the requirement of waving the *lulab*. If he knows how to wrap himself up in a cloak, he is liable to put show-fringes on his garment. If he knows how to speak, his father teaches him the language of Torah. If he knows how to watch out for his hands, people may eat food in the status of heave-offering relying on his hands [if he touched it]. [If he knows how to keep] his body, they eat food prepared in conditions of cultic cleanness relying on his person [if the food touched it]. But he does not go before the ark [to lead the congregation in prayer], raise up his hands, or stand on the platform [as a Levitical singer], until his beard has filled out.

XXXV. YERUSHALMI SUKKAH 4:1

[A] [THE RITES OF] THE LULAB AND THE WILLOW BRANCH [CARRIED BY THE PRIESTS AROUND THE ALTAR, M. 4:3] ARE FOR SIX OR SEVEN [DAYS]. THE RECITATION OF THE HALLEL PSALMS AND THE REJOICING ARE FOR EIGHT [DAYS]. [THE REQUIREMENT OF DWELLING IN THE] SUKKAH AND THE WATER LIBATION ARE FOR SEVEN DAYS. AND THE FLUTE PLAYING IS FOR FIVE OR SIX. THE LULAB IS

FOR SEVEN DAYS: **HOW SO? [IF] THE FIRST FESTIVAL DAY OF THE FESTIVAL COINCIDED WITH THE SABBATH, THE LULAB IS FOR SEVEN DAYS. BUT [IF IT COINCIDED] WITH ANY OTHER DAY, IT IS FOR SIX DAYS. THE WILLOW-BRANCH [RITE] IS FOR SEVEN DAYS: HOW SO? [IF] THE SEVENTH DAY OF THE WILLOW BRANCH COINCIDED WITH THE SABBATH, THE WILLOW-BRANCH [RITE] IS FOR SEVEN DAYS. BUT [IF IT COINCIDED] WITH ANY OTHER DAY, IT IS FOR SIX DAYS.**

1. **I:1:** Zeirah, R. Ila, R. Yosé in the name of R. Yohanan: “The willow-branch rite was revealed to Moses at Sinai [orally, not in writing].” That view does not accord with the position of Abba Saul. For Abba Saul says, “The rite of the willow branch derives from the teaching of the Torah. “‘Willows of the brook’ (Lev. 23:40) in the plural speaks of two matters, a willow for the lulab, and a willow for the Temple [rite]” [T. Suk. 3:1/1]. R. Ba, R. Hiyya in the name of R. Yohanan: “The willow and the water libation were revealed to Moses at Sinai [with no basis in the written Torah].”
 - a. **I:2:** [With reference to M. Sheb. 1:6, served by the foregoing, it is permitted to plough a field planted with saplings up to the New Year of the Seventh Year, but forbidden to plough a field planted with old trees beginning in the spring prior to the Seventh Year. This is claimed to represent a law revealed to Moses at Sinai. At M. Sheb. 1:6 it is stated, If ten saplings are spread out over a seah’s space, the whole space may be ploughed for their sake until the New Year.] R. Hiyya bar Ba asked before R. Yohanan, “Why at this time, then, do they plough among old trees?” He said to him, “When the law was revealed, it was given with the stipulation that if they wanted to plough they might do so.” R. Ba bar Zabeda in the name of R. Honayya of Beth Hauran: “The willow-rite, the water-libation, and the rule of ten saplings [of M. Sheb. 1:6] are based on the foundations of the prophets.” Does he differ [from Yohanan, who maintains that it was a law revealed to Moses at Sinai]?
2. **I:3:** R. Yohanan said to R. Hiyya bar Ba, “O Babylonian! Two matters came up in your possession [from the Exile], prostration on a fast day [by spreading out the hands and feet], and the willow rite on the seventh day [M. 4:1A, H-I].” Rabbis of Caesarea say, “Also the matter of blood-letting [indicating the times at which it is, or is not, beneficial].”

XXXVI. YERUSHALMI SUKKAH 4:2

[A] **THE RELIGIOUS REQUIREMENT OF THE LULAB [ON THE SABBATH]: HOW SO? [IF] THE FIRST FESTIVAL DAY OF THE FESTIVAL COINCIDED WITH THE SABBATH, THEY BRING THEIR LULABS TO THE TEMPLE MOUNT. AND THE ATTENDANTS TAKE THEM FROM THEM AND ARRANGE THEM ON THE ROOF OF THE PORTICO. BUT OLD PEOPLE LEAVE THEIRS IN A SPECIAL ROOM. THEY TEACH THEM TO MAKE THE FOLLOWING STATEMENT: “TO WHOMEVER MY LULAB COMES, LO, IT IS GIVEN TO HIM AS A GIFT.” ON THE NEXT DAY THEY GET UP AND COME ALONG. AND THE ATTENDANTS TOSS THEM BEFORE THEM. THEY GRAB AT LULABS AND HIT ONE ANOTHER. NOW WHEN THE COURT SAW THAT THIS WAS LEADING TO A DANGEROUS SITUATION, THEY ORDAINED THAT EACH AND EVERY ONE SHOULD TAKE HIS LULAB IN HIS OWN HOME.**

1. **I:1:** Jacob, the Southerner, raised the question: “The Mishnah passage [M. 4:2E] before us does not conform to the view of R. Dosa. “For R. Dosa said, ‘[In declaring produce available to the poor as ownerless property,] in the morning a person has to declare, “Whatever the poor will collect today among the sheaves as ownerless property, lo, this is ownerless property.” [This must be said in advance.]’ “R. Judah says, ‘This may be said in the evening [even after the property has changed hands].’ “And sages say, ‘What is declared ownerless under duress is not regarded as ownerless, for we are not responsible to attend to the status of deceivers [poor who take what is in fact not due them]’ [cf. T. Pe. 2:5].” [Spelling out a different question,] There you say [along the lines of the sages’ view], that what is declared ownerless property under duress is not regarded as ownerless property, while here you maintain that what is declared ownerless property under duress indeed is regarded as ownerless property.

XXXVII. YERUSHALMI SUKKAH 4:3

[A] **THE RELIGIOUS REQUIREMENT OF THE WILLOW BRANCH: HOW SO? THERE WAS A PLACE BELOW JERUSALEM, CALLED MOSA. [PEOPLE] GO DOWN THERE AND GATHER YOUNG WILLOW BRANCHES. THEY COME AND THROW THEM ALONG THE SIDES OF THE ALTAR, WITH THEIR HEADS BENT OVER THE ALTAR. THEY BLEW ON THE SHOFAR A SUSTAINED, A QUAVERING, AND A SUSTAINED NOTE. EVERY DAY THEY WALK AROUND THE ALTAR ONE TIME AND SAY, “SAVE NOW, WE BESEECH THEE, O LORD! WE BESEECH THEE, O LORD, SEND NOW PROSPERITY”(Ps. 118:25). R. JUDAH SAYS, “[THEY SAY,] ‘ANI WAHO, SAVE US WE PRAY! ANI WAHO, SAVE US WE PRAY!’”**

1. **I:1:** What is the meaning of the name, “Mosa”?

2. **I:2:** [As to the willow branches,] Bar Qappara said, “They were eleven cubits tall.”

[B] AND ON THAT DAY [THE SEVENTH DAY OF THE WILLOW BRANCH] THEY WALK AROUND THE ALTAR SEVEN TIMES.

1. **II:1:** [As to walking around the altar,] it was taught: [Priests who are] maimed [participate in the procession].

[C] WHEN THEY LEAVE, WHAT DO THEY SAY? “**HOMAGE TO YOU, O ALTAR! HOMAGE TO YOU, O ALTAR!**” **R. ELIEZER SAYS, “FOR THE LORD AND FOR YOU, O ALTAR! FOR THE LORD AND FOR YOU, O ALTAR!”**

1. **III:1:** R. Abbahu in the name of R. Yohanán: “This is how the Mishnah is to be read: ‘Ani waho, save us we pray! Ani waho, save us we pray [two times]’ [M. 4:3E].
2. **III:2:** R. Ba Saronegayyah interpreted, “‘And the Lord will give victory to the tents of Judah first, [that the glory of the house of David and the glory of the inhabitants of Jerusalem may not be exalted over that of Judah]’ (Zech. 12:7). It is written, ‘And give victory.’” R. Zakkai interpreted, “‘[Writhe and grown, O daughter of Zion, like a woman in travail;] for now you shall go forth from the city and dwell in the open country; [you shall go to Babylon. There you shall be rescued, there the Lord will redeem you from the hand of your enemies]’ (Micah 4:10), ‘My presence will be in the field.’”

[D] AND ON THAT DAY THEY WALK AROUND THE ALTAR SEVEN TIMES [M. 4:3F]:

1. **IV:1:** Said R. Aha, “This is a memorial to [the victory at] Jericho.”

XXXVIII. YERUSHALMI SUKKAH 4:4

[A] AS THE RITE CONCERNING IT [IS PERFORMED] ON AN ORDINARY DAY, SO THE RITE CONCERNING IT [IS PERFORMED] ON THE SABBATH. BUT THEY WOULD GATHER [THE WILLOW BRANCHES] ON FRIDAY AND LEAVE THEM IN THE GILDED TROUGHS [OF WATER], SO THAT THEY WILL NOT WITHER. **R. YOHANAN B. BEROQAH SAYS, “THEY WOULD BRING PALM TUFTS AND BEAT THEM ON THE GROUND AT THE SIDE OF THE ALTAR, “AND THAT DAY WAS CALLED THE ‘DAY OF BEATING PALM TUFTS.’” FORTHWITH CHILDREN THROW AWAY THEIR LULABS AND EAT THEIR CITRONS.**

1. **I:1:** [M. 4:4E] has said only, “Children.” Lo, adults do not do so. Did not R. Abina say in the name of Rab: “An *etrog* that was invalidated

on the first day of a Festival – it is permitted to eat it”? [It is not set aside for a religious duty. In that case, why can adults not do so?]

XXXIX. YERUSHALMI SUKKAH 4:5

[A] **THE HALLEL PSALMS AND THE REJOICING [PEACE-OFFERINGS OF REJOICING] ARE FOR EIGHT DAYS: HOW SO? THIS RULE TEACHES THAT A PERSON IS OBLIGATED FOR THE HALLEL PSALMS, FOR THE REJOICING [EATING OF PEACE-OFFERINGS], AND FOR THE HONORING OF THE FESTIVAL DAY, ON THE LAST FESTIVAL DAY OF THE FESTIVAL, JUST AS HE IS ON ALL THE OTHER DAYS OF THE FESTIVAL. THE OBLIGATION TO DWELL IN THE SUKKAH FOR SEVEN DAYS:**

- I:1:** It was taught: On eighteen days and one night do they recite the Hallel psalms every year: The eight days of the Festival, the eight days of Hanukkah, the Festival of Pentecost, and the first festival day of Passover and the night preceding it [T. Suk. 3:2A-B].
- I:2:** Zeira, Ulla bar Ishmael in the name of R. Eleazar: “With [an animal designated as] peace-offerings for the festal offering, which one slaughtered on the eve of a festival [that is, prior to the festival day itself], one does not fulfill his obligation [to bring a festal offering] on the festival itself. [The slaughtering of the festal offering must take place at the time of the rejoicing on the festival itself, not prior to that time.]” R. Ba objected, “Lo, it has been taught, ‘With an animal designated as a festal offering which one slaughtered on the fourteenth [of Nisan, that is, the day prior to the first festival day of Passover,] people carry out their obligation on the count of the offering of rejoicing required for Passover. [This festal offering is slaughtered along with the Passover-offering, that is, prior to sundown on the fourteenth of Nisan.]’ Now do they not carry out their obligation with that animal on the count of peace offerings?”

[B] **HOW SO? [IF] ONE HAS FINISHED EATING [THE LAST MEAL OF THE FESTIVAL HE SHOULD NOT UNTIE HIS SUKKAH RIGHT AWAY. BUT HE BRINGS DOWN THE UTENSILS [ONLY] FROM TWILIGHT ONWARD – ON ACCOUNT OF THE HONOR DUE TO THE LAST FESTIVAL DAY OF THE FESTIVAL.**

- II:1:** [As to M. 4:5F,] R. Abba bar Kahana, R. Hiyya bar Ashi in the name of Rab: “A person has to invalidate his *sukkah* while it is still day [on the seventh day of the Festival, if he proposes to eat in it on the Eighth Day of Solemn Assembly, so that he will not appear to be eating in the *sukkah* and so adding to the Festival itself]. [By invalidating the *sukkah*, he indicates that he realizes he is not adding a

day to the Festival but observing a separate festival, the Eighth Day of Solemn Assembly.]” R. Joshua b. Levi said, “[In any event,] he has to say the Sanctification of the day in his house [not in the *sukkah*].” R. Jacob bar Aha in the name of Samuel: “If one said the Sanctification in one house and decided to eat in some other house, he has to say the Sanctification [again].”

XL. YERUSHALMI SUKKAH 4:6

[A] THE WATER LIBATION – FOR SEVEN DAYS: HOW SO? A GOLDEN FLASK, HOLDING THREE LOGS IN VOLUME, DID ONE FILL WITH WATER FROM SILOAM. [WHEN THEY REACHED THE WATER GATE, THEY BLOW A SUSTAINED, A QUAVERING, AND A SUSTAINED BLAST ON THE RAM’S HORN. [THE PRIEST] WENT ON THE RAMP [AT THE SOUTH] AND TURNED TO HIS LEFT [SOUTHWEST]. THERE WERE TWO SILVER BOWLS THERE. R. JUDAH SAYS, “THEY WERE OF PLASTER, BUT THEY HAD DARKENED BECAUSE OF THE WINE.”

- 1. I:1:** [They sound the *shofar*, M. 4:6C,] said R. Yosé b. Haninah, “so as to publicize the matter.” Yosé b. Haninah in the name of Menahem of Jodapata: “[That the water libation was to be three logs in volume] represents the position of R. Aqiba, who maintained that the water libation derives from the authority of the Torah [and, by analogy to the one for wine, must be three logs in volume].” There we learned: R. Eleazar says, “Also: He who pours a water libation on the Festival outside [of the Temple] is liable [on the count of a cultic act outside of the Temple] [M. Zeb. 13:6].” Said R. Yohanan, “The entire theory of R. Eleazar accords with the one of R. Aqiba, his master. “Just as R. Aqiba has said, ‘The water libation derives from the authority of the Torah,’ so R. Eleazar has said, ‘The water libation derives from the authority of the Torah, [and that is why it must be done only in the Temple].””
- 2. I:2:** Yosé bar Asyan in the name of R. Simeon b. Laqish: “The bowls have to be stopped up at the time of the libation.
- 3. I:3:** It has been taught: R. Yosé says, “The cavity of the Pits was perforated down to the abyss. “What is the scriptural basis for this view? “He dug it and cleared it of stones, and planted it with choice vines; he built a watchtower in the midst of it, and hewed out a wine vat in it; and he looked for it to yield grapes, but it yielded wild grapes’ (Is. 5:2). “He built a watchtower in the midst of it’ – this refers to the Temple. “He hewed out a wine vat in it’ – this refers to the altar.

“And also a wine vat...’ – this refers to the cavity” [T. Suk. 3:15C-F].

[B] **THEY WERE PERFORATED WITH HOLES LIKE A NARROW SPOUT, ONE WIDE, ONE NARROW, SO THAT BOTH OF THEM WOULD BE EMPTIED TOGETHER [ONE OF ITS WINE, FLOWING SLOWLY, THE OTHER OF ITS WATER, FLOWING QUICKLY]. THE ONE ON THE WEST WAS FOR WATER, THE ONE ON THE EAST WAS FOR WINE. [IF] HE EMPTIED THE FLASK OF WATER INTO THE BOWL FOR WINE, AND THE FLASK OF WINE INTO THE BOWL FOR WATER, HE HAS NONETHELESS CARRIED OUT THE RITE. R. JUDAH SAYS, “A LOG [OF WATER] WOULD ONE POUR OUT AS THE WATER LIBATION ALL EIGHT DAYS.” AND TO THE ONE WHO POURS OUT THE WATER LIBATION THEY SAY, “LIFT UP YOUR HAND [SO THAT WE CAN SEE THE WATER POURING OUT]!” FOR ONE TIME ONE [PRIEST] POURED OUT THE WATER ON HIS FEET. AND ALL THE PEOPLE STONED HIM WITH THEIR CITRONS.**

1. **II:1:** [As to M. 4:6G-H:] They proposed to state, “The wide one was for water, the narrow one for wine.”
2. **II:2:** Simeon b. Laqish asked before R. Yohanan, “If one carried out the libation-offering before the sacrifice [of the daily whole offering], what is the rule? “If one poured out the water libation by night, what is the rule? “If one did not pour out the water libation on one day, what is the law as to doing so on the next day?”
3. **II:3:** With reference to M. 4:1C, the water libation is for seven days, and Judah says, “It is for eight days”; and M. 4:6L, “There was a water libation of a *log*,” while sages say, “Three logs,” so M. 4:6B, we may then observe, in T.’s formulation:] You turn out to rule, He who wants more water diminishes the number of days, and he who wants more days diminishes the volume of the water [T. Suk. 3:16K].
4. **II:4:** There is he who proposes to state: “[The one who poured the water on his feet, M. 4:6N] is the same priest who misbehaved in connection with the burning of the red cow [at T. Par. 3:8, a Sadducee who rejected the conception of the law], and is also the same one who misbehaved in connection with the rite of the Day of Atonement [at Y. Yoma 1:5, burning the incense outside and bringing it inside the Holy of Holies]. [All three incidents were the work of one Sadducean priest.]”
5. **II:5:** [With reference to M. 4:6N-O,] The courtyard cried out, “Get out of here! Get out of here, sons of Eli! For you have contaminated the house of our God.” On that day [now following T.’s text:] the horn of the altar was damaged, so the sacred service was annulled for that day, until they brought a lump of salt and put it on it, so that the altar should

not appear to be damaged. For any altar lacking a horn, ramp, or foundation is invalid. [Y. lacks:] R. Yosé b. R. Judah says, “Also the rim” [T. Suk. 3:16D-F].

6. **II:6:** [Reverting to the story of that the priest on the Day of Atonement had a footprint of a calf on his forehead, where could it have come from?] they asked before R. Abbahu, “For lo, it is written, ‘There shall be no man in the tent of meeting when he enters to make atonement in the holy place until he comes out’ (Lev. 16:17). ‘That covers even those concerning whom it is written, ‘As for the likeness of their faces, each had the face of a man in front; the four had the face of a lion on the right side, the four had the face of an ox on the left side, and the four had the face of an eagle at the back’ (Ezek. 1:10). Even these should not be in the tent of meeting when he enters to make atonement for the holy.” He said to them, “That [Lev. 16:17] applies when he goes in in the proper manner [but not when he has put incense into his hand before going in].”

XLI. YERUSHALMI SUKKAH 4:7

[A] AS THE RITE CONCERNING IT [WAS CARRIED OUT] ON AN ORDINARY DAY, SO WAS THE RITE [CARRIED OUT] ON THE SABBATH. BUT ON THE EVE OF THE SABBATH ONE WOULD FILL WITH WATER FROM SILOAM A GOLD JUG WHICH WAS NOT SANCTIFIED, AND HE WOULD LEAVE IT IN A CHAMBER [IN THE TEMPLE]. [IF] IT WAS Poured OUT OR LEFT UNCOVERED, ONE WOULD FILL THE JUG FROM THE LAVER [IN THE COURTYARD].

1. **I:1:** What difference does it make to me that the gold jug [M. 4:7B] was not sanctified? Even if it had been sanctified, [it should be acceptable]. [The man may pour the water in with the intent that the water not be regarded as sanctified. The concern of M. 4:7B is that if the water should be sanctified by the jug, then it will be invalidated by being left overnight.] For did not R. Aha, R. Hinena in the name of R. Yosé say, “‘You shall also anoint the altar of burnt offering and all its utensils, and consecrate the altar; and the altar shall be most holy’ (Ex. 40:10)? ‘Just as the altar only effects sanctification through one’s knowledge and intent, also utensils used for the altar will not effect sanctification except with knowledge and intent. [Accordingly, even if water is left in a sanctified vessel, it will not be regarded as sanctified, since the priest’s intention is not that the water be sanctified by the utensil in which it is kept overnight.]” Hezekiah said, “It is so that people should not say, ‘We saw water that was drawn for the

sanctification [washing] of hands and feet rendered invalid by being kept overnight.” Members of the house of R. Yannai say, “It is so that people will not say, ‘We saw water drawn for the Festival[‘s libation-offering] invalidated by being kept overnight [prior to use].” R. Yohanan said, “It is for appearance’s sake.” Now we do not know whether it was [for appearance’s sake] in line with what Hezekiah said, or whether it was [for appearance’s sake] in line with what R. Yannai’s representative said. It represents a judgment based on the opinions of all parties.

2. **I:2:** R. Pedat in the name of R. Hoshaiiah: “Water used for the rite of the accused wife is invalidated if left standing overnight.”

[B] FOR WINE AND WATER WHICH HAVE BEEN LEFT UNCOVERED ARE INVALID FOR THE ALTAR.

1. **II:1:** [As to M. 4:7E, wine and water left uncovered may not be used for the altar,] they proposed to rule, “If one transgressed and brought [such wine or water], it is valid.” R. Joshua, the Southerner, taught before R. Jonah, that water and wine left uncovered are invalid for use on the altar.

XLII. YERUSHALMI SUKKAH 5:1

[A] FLUTE PLAYING IS FOR FIVE OR SIX DAYS: THIS REFERS TO THE FLUTE PLAYING ON BET HASHSHOEBAH, WHICH OVERRIDES THE RESTRICTIONS OF NEITHER THE SABBATH NOR OF A FESTIVAL DAY. THEY SAID: ANYONE WHO HAS NOT SEEN THE REJOICING OF BET HASHSHOEBAH IN HIS LIFE HAS NEVER SEEN REJOICING.

1. **I:1:** Lo, [the flute playing] that accompanies the offering overrides [the prohibitions of the Sabbath, but otherwise, it does not]. The Mishnah therefore has been formulated in accord with the view of R. Yosé b. R. Judah. For it has been taught: “The playing of the flute along with the offering overrides the restrictions of the Sabbath,” the words of R. Yosé b. R. Judah. And sages say, “It does not override the restrictions of either the Sabbath or the festival.” There we have learned: On twelve days in the year the flute was played before the altar: on the occasion of slaughtering the first Passover-offering [on the fifteenth of Nisan], on the occasion of slaughtering the second Passover-offering for the fifteenth of Iyyar], on the first festival day of Passover, on the festival day of Pentecost, and on the eight days of the Feast [Tabernacles] [M. Ar. 2:3]. Now can there be eight days without a Sabbath? [How can there be flute playing on all eight days, as M. Ar.

2:3 has said, as against M. 5:1A-C?] R. Yosé stated the following matter without specifying an authority, while R. Yosé bar Bun said in the name of R. Yohanan, “It represents the view of R. Yosé b. R. Judah.” “Flute playing overrides the restrictions of the Sabbath,” the words of R. Yosé b. R. Judah. And sages say, “It does not override the restrictions even of the festival day” (T. Suk. 4:14A-B).] In the view of those rabbis [who differ from Yosé b. R. Judah], why does the flute playing not override the restrictions of the Sabbath? It is because it is not clear [from the Scripture that there should be such a rite].

2. **I:2:** R. Jonah in the name of R. Ba bar Mamel: “‘You shall have a song as in the night when a holy feast is kept; and gladness of heart, as when one sets out to the sound of the flute to go to the mountain of the Lord, to the Rock of Israel’ (Is. 30:29). So long as the flute playing is practiced, the Hallel psalms are part of the custom as well.”
3. **I:3:** Said R. Joshua b. Levi, “Why is it called *bet hashshoebah* [place of drawing]?”
4. **I:4:** There is the following story: R. Levi and Judah bar Nahman were collecting two *selas* [a week] to gather together a congregation before R. Yohanan. R. Levi entered and preached, “Jonah the son of Amittai came from the tribe of Asher, for it is written, ‘Asher did not drive out the inhabitants of Akko nor the inhabitants of Sidon’ (Judges 1:31). ‘And it is written, ‘Arise, go to Zarephath, which belongs to Sidon, and dwell there. Behold, I have commanded a widow there to feed you’” (1 Kings 17:9). R. Yohanan went up and preached, “Jonah b. Amittai came from the tribe of Zebulun, for it is written, ‘The third lot came up for the tribe of Zebulun, according to its families. And the territory of its inheritance reached as far as Sarid’ (Josh. 19:10). ‘And it is written, ‘Thence it goes to Daberath, then up to Japhia; from there it passes along on the east toward the sunrise to Gath-hepher, to Ethkazin, and going on to Rimmon it bends toward Neah’ (Josh. 19:13). ‘And it is written, ‘He restored the border of Israel from the entrance of Hamath as far as the Sea of the Arabah, according to the word of the Lord, the God of Israel, which he spoke by his servant Jonah the son of Amittai, the prophet, who was from Gath-hepher’” (2 Kings 14:25). On another Sabbath, said R. Levi to Judah bar Nahman, “Take these two *selas* and go, gather the congregation before R. Yohanan.” He went in and said before them, “Correctly did R. Yohanan teach us. His mother came from Asher, while his father came from Zebulun. ‘Zebulun shall dwell at the shore of the sea; he shall become a haven for ships, and his border shall be at Sidon’ (Gen. 49:13). ‘An offshoot that went forth from him was from Sidon. ‘And it is written, ‘He went down to

Joppa”)(Jonah 1:3). Was it not necessary to say, “He went down to Akko”? Said R. Jonah, “Jonah b. Amittai was one of those who came up for the festivals [to Jerusalem], and he came in for the rejoicing of *bet hashshoebah*, and the Holy Spirit rested on him. “This serves to teach you that the Holy Spirit rests only on someone whose heart is happy.

- 5. I:5:** It has been taught [in T.’s version]: Said R. Judah, “Whoever has never seen the double colonnade [the basilica-synagogue] of Alexandria in Egypt has never seen Israel’s glory in his entire life. “It was a kind of large basilica, with one colonnade inside another. “Sometimes there were twice as many people there as those who went forth from Egypt. “Now there were seventy-one [Y.: seventy] golden thrones set up there, one for each of the seventy-one elders, each one worth twenty-five talents of gold, with a wooden platform in the middle. “The minister of the synagogue stands on it, with flags in his hand. When one began to read, the other would wave the flags so the people would answer, ‘Amen,’ for each and every blessing. Then that one would wave the flags, and they would answer, ‘Amen.’ “They did not sit in a jumble, but the goldsmiths sat by themselves, the silversmiths by themselves, the weavers by themselves, the bronze-workers by themselves, and the blacksmiths by themselves. “All this why? So that when a traveller came along, [he could find his fellow craftsmen,] and on that basis he could gain a living” [T. Suk. 4:6].
- 6. I:6:** Simeon b. Yohai taught, “The Israelites were warned at three points not to go back to the Land of Egypt. “For it is said, ‘And Moses said to the people, Fear not, stand firm, and see the salvation of the Lord, which he will work for you today; for the Egyptians whom you see today, you shall never see again’ (Ex. 14:13). “‘Since the Lord has said to you, You shall never return that way again’ (Deut. 17:16). “‘And the Lord will bring you back in ships to Egypt, a journey which I promised that you should never make again; and there you shall offer yourselves for sale to your enemies as male and female slaves, but no man will buy you’ (Deut. 28:68). “In all three instances they did go back, and in those three instances they fell. “Once in the time of Sennacherib, king of Assyria, as it is said, ‘Woe to those who go down to Egypt for help and rely on horses, who trust in chariots because they are many and in horsemen because they are very strong, but do not look to the Holy One of Israel or consult the Lord!’ (Is. 31:1). “What is written thereafter? ‘The Egyptians are men, and not God; and their horses are flesh, and not spirit. When the Lord stretches out his hand, the helper will stumble, and he who is helped will fall, and they will all perish together’ (Is. 31:3). “Once in the time of Yohanan b. Qorah:

‘Then the sword which you fear shall overtake you there in the land of Egypt; and the famine of which you are afraid shall follow hard after you to Egypt; and there you shall die’”(Jer. 42:16).

7. **I:7:** In the time of Tronianus, the evil one, a son was born to him on the ninth of Ab, and [the Israelites] were fasting. His daughter died on Hanukkah, and [the Israelites] lit candles. His wife sent a message to him, saying, “Instead of going out to conquer the barbarians, come and conquer the Jews, who have rebelled against you.” He thought that the trip would take ten days, but he came in five. He came and found the Israelites occupied in study of the Light [Torah], with the following verse: “The Lord will bring a nation against you from afar, from the end of the earth, as swift as the eagle flies, a nation whose language you do not understand” (Deut. 28:49). He said to them, “With what are you occupied?” They said to him, “With thus-and-so.” He said to them, “That man [I] thought that it would take ten days to make the trip, and I arrived in five days.” His legions surrounded them and killed them. He said to the women, “Obey my legions, and I shall not kill you.” They said to him, “What you did to the ones who have fallen do also to us who are yet standing.” He mingled their blood with the blood of their men, until the blood flowed into the ocean as far as Cyprus. At that moment the horn of Israel was cut off, and it is not destined to return to its place until the son of David will come.

XLIII. YERUSHALMI SUKKAH 5:2

[A] AT THE END OF THE FIRST FESTIVAL DAY OF THE FESTIVAL [THE PRIESTS AND LEVITES] WENT DOWN TO THE WOMAN’S COURTYARD.

1. **I:1:** Said R. Joshua b. Hananiah, “In all the days of celebrating Bet hashshoebah, we never saw a moment of sleep. “We would get up in time for the morning daily whole-offering. “From there we would go to the synagogue, from there to the additional offerings [in the Temple], from there to eating and drinking, from there to the study house, from there to the Temple to see the evening’s daily whole-offering, from there to the celebration of the rejoicing of Bet hashshoebah [T. Suk. 4:5A-D]

[B] AND THEY MADE A MAJOR ENACTMENT [BY PUTTING MEN BELOW AND WOMEN ABOVE].

1. **II:1:** What was this enactment that they made there? It was that they set up the men by themselves and the women by themselves. That is in

line with what we have learned there: In the beginning the [women's court] was empty. but they surrounded it with a gallery, so that the women would look on from above, and the men below, so that they should nor mingle together [M. Mid 2:5].

[C] **AND THERE WERE GOLDEN CANDLE-HOLDERS THERE, WITH FOUR GOLD BOWLS ON THEIR TOPS, AND FOUR LADDERS FOR EACH CANDLE STICK. AND FOUR YOUNG PRIESTS**

1. **III:1:** Bar Qappara said, "And they were a hundred cubits high."

[D] **WITH JARS OF OIL CONTAINING A HUNDRED AND TWENTY LOGS, [WOULD CLIMB UP THE LADDERS AND] POUR [THE OIL] INTO EACH BOWL.**

1. **IV:1:** What is the meaning of: With jars of oil [M. 5:2D]? Does it mean that all of them together had a hundred and twenty *logs* of oil, or each one of them individually had a hundred and twenty logs of oil? [This question is not answered.]

XLIV. YERUSHALMI SUKKAH 5:3

[A] **OUT OF THE WORN-OUT UNDERGARMENTS AND GIRDLES OF THE PRIESTS THEY MADE WICKS, AND WITH THEM THEY LIT THE CANDLESTICKS.**

1. **I:1:** It has been taught: Out of the worn-out undergarments of the high priest they kindled the lamps that were inside [the Temple], and out of the worn-out undergarments of the ordinary priests they kindled the lamps that were outside [in the courtyard].

2. **I:2:** Said R. Samuel bar R. Isaac, "It is written, '[And you shall command the people of Israel that they bring to you pure beaten olive oil for the light,] that a lamp may be set up to burn continually' (Ex. 27:20). They determined that you have nothing that produces a good flame except for a wick of linen."

3. **I:3:** What is the meaning of the word for they made wicks [at M. 5:3A]?

[B] **AND THERE WAS NOT A COURTYARD IN JERUSALEM WHICH WAS NOT LIT UP FROM THE LIGHT OF BET HASHSHOEBAH.**

1. **II:1:** It was taught: There was not a courtyard in Jerusalem which was not lit up from the light of bet hashshoebah [M. 5:3C]. It was taught: A woman can sift wheat by the light of the fire [of the Temple pile].

2. **II:2:** There were six sounds that they could hear from Jericho: From Jericho did they hear the sound of the great gate opening. From Jericho did they hear the sound of the shovel. From Jericho did they hear the sound of the wooden device which Ben Qarin made for the layer. From Jericho did they hear the sound of Gabmi, the crier. From Jericho did they hear the sound of the flute. From Jericho did they hear the sound of the cymbal. There are those who say, “Also the voice of the high priest when he made mention of the divine Name on the Day of Atonement.” From Jericho they could smell the scent of the compounding of the incense. Said R. Eleazar b. Diglai, “My father’s house and goats were on the mountain of Mikhwar, and they sneezed from the smell of the compounding of the incense” [M. Tam. 3:8, omitting M. Tam. 3:8G-H. which would have made eight, rather than six sounds].

XLV. YERUSHALMI SUKKAH 5:4

[A] **THE PIOUS MEN AND WONDER-WORKERS WOULD DANCE BEFORE THEM WITH FLAMING TORCHES IN THEIR HAND, AND THEY WOULD SING BEFORE THEM SONGS AND PRAISES. AND THE LEVITES BEYOND COUNTING PLAYED ON HARPS, LYRES, CYMBALS, TRUMPETS, AND OTHER MUSICAL INSTRUMENTS, [STANDING AS THEY PLAYED] ON THE FIFTEEN STEPS WHICH GO DOWN FROM THE ISRAELITES’ COURT TO THE WOMEN’S COURT – CORRESPONDING TO THE FIFTEEN SONGS OF ASCENTS WHICH ARE IN THE BOOK OF PSALMS – ON THESE THE LEVITES STAND WITH THEIR INSTRUMENTS AND SING THEIR SONG.**

1. **I:1:** The pious men and wonder-workers [M. 5:4A]: [In T.’s version:] What did they sing? “Happy is he who has not sinned. But all who have sinned will He forgive.” And some of them say, “Fortunate is my youth, which did not bring my old age into shame” – these [who say this song] are the wonder-workers. And some of them say, “Fortunate are you, O years of my old age, for you will atone for the years of my youth” – these [who say this song] are the penitents [T. Suk. 4:2].
2. **I:2:** Hillel the Elder: When he would see people acting arrogantly, would say to them, “If I am here, who is here?” “Does [God] need their praise? And is it not written, ‘A stream of fire issued and came forth from before him; a thousand thousands served him, and ten thousand times ten thousand stood before him; the court sat in judgement, and the books were opened’”(Dan. 7:10). When he would see people acting modestly, he would say to them, “If we are not here, who is here? For even though [God] has before him any number of

those who praise him, still, precious to him is the praise coming from Israel more than anything else. “What is the scriptural basis for this statement? ‘[Now these are the last words of David: The oracle of David, the son of Jesse, the oracle of the man who was raised on high, the anointed of the God of Jacob,] the sweet-psalmist of Israel’ (2 Sam. 23:1). “‘enthroned on the praises of Israel’”(Ps. 22:4).

3. **I:3:** [As to the dancing,] Ben Yehosedeq was praised because of his jumping about. M'SH B: Rabban Simeon b. Gamaliel danced with eight flaming torches, and not one of them fell to the ground. Now when he would prostrate himself, he would put his finger on the ground, bow low, kiss [the ground], and forthwith straighten up [T. Suk. 4:4].
4. **I:4:** “And David returned to bless his household. But Michal the daughter of Saul came out to meet David, [and said, ‘How the king of Israel honored himself today, uncovering himself today before the eyes of his servants’ maids, as one of the vulgar fellows shamelessly uncovers himself!’]” (2 Sam. 6:20). What is the meaning of “one of the vulgar fellows”? Said R. Abba bar Kahana, “The most vulgar of them all – this is a dancer!” She said to him, “Today the glory of father’s house was revealed.” They said about Saul’s house that [they were so modest] that their heel and their toe never saw [their privy parts]. This is in line with that which is written, “And he came to the sheepfolds [by the way, where there was a cave; and Saul went in to relieve himself]” (1 Sam. 24:3).

XLVI. YERUSHALMI SUKKAH 5:5

- [A] AND TWO PRIESTS STOOD AT THE UPPER GATE WHICH GOES DOWN FROM THE ISRAELITES’ COURT TO THE WOMEN’S COURT, WITH TWO TRUMPETS IN THEIR HANDS. [WHEN] THE COCK CROWED, THEY SOUNDED A SUSTAINED, A QUAVERING, AND A SUSTAINED NOTE ON THE SHOFAR.
1. **I:1:** [As to M. 5:5B, When the cock crowed,] Rab interpreted before the members of the house of R. Shiloh, “The cock crowed,” as “The crier proclaimed.”
- [B] [WHEN] THEY GOT TO THE TENTH STEP, THEY SOUNDED A SUSTAINED, A QUAVERING, AND A SUSTAINED BLAST ON THE SHOFAR. [WHEN] THEY REACHED THE COURTYARD, THEY SOUNDED A SUSTAINED, A QUAVERING, AND A SUSTAINED BLAST ON THE SHOFAR. THEY WENT ON SOUNDING THE SHOFAR IN A SUSTAINED BLAST UNTIL THEY REACHED THE GATE WHICH LEADS OUT TO THE

EAST. [WHEN] THEY REACHED THE GATE WHICH LEADS OUT TO THE EAST, THEY SOUNDED A SUSTAINED, A QUAVERING, AND A SUSTAINED BLAST ON THE SHOFAR. [WHEN] THEY REACHED THE GATE WHICH GOES OUT TOWARD THE EAST, THEY TURNED AROUND TOWARD THE WEST, AND THEY SAID, “OUR FATHERS WHO WERE IN THIS PLACE ‘TURNED WITH THEIR BACKS TOWARD THE TEMPLE OF THE LORD AND THEIR FACES TOWARD THE EAST, AND THEY BOWED DOWN TO THE SUN TOWARD THE EAST’ (EZEK. 8:16). “BUT AS TO US, OUR EYES ARE TO THE LORD.” R. JUDAH SAYS, “THEY SAID IT A SECOND TIME, ‘WE BELONG TO THE LORD, OUR EYES ARE TOWARD THE LORD.’”

1. **II:1:** R. Jeremiah asked, “[With reference to the tenth step, M. 5:5C,] is this the tenth from the top, or the tenth from the bottom?”
2. **II:2:** Said R. Hiyya bar Ba, “It is not written here [at Ezek. 8:16], ‘They made an act of prostration’ [one time], but rather, ‘They made two acts of prostration’ [twice]. For they prostrated themselves both to the sun and to the Temple.”

XLVII. YERUSHALMI SUKKAH 5:6

[A] **THEY SOUND NO FEWER THAN TWENTY-ONE NOTES IN THE TEMPLE, AND THEY DO NOT SOUND MORE THAN FORTY-EIGHT. EVERY DAY THERE WERE THERE TWENTY-ONE BLASTS ON THE SHOFAR: THREE AT THE OPENING OF THE GATES, NINE AT THE OFFERING OF THE DAILY WHOLE-OFFERING OF THE MORNING, AND NINE AT THE OFFERING OF THE DAILY WHOLE-OFFERING OF THE EVENING — AND ON DAYS ON WHICH AN ADDITIONAL OFFERING IS MADE, THEY WOULD ADD NINE MORE. AND ON THE EVE OF THE SABBATH THEY WOULD ADD SIX MORE: THREE TO MAKE PEOPLE STOP WORKING, AND THREE TO MARK THE BORDER BETWEEN THE HOLY DAY AND THE ORDINARY DAY. ON THE EVE OF THE SABBATH WHICH CAME DURING THE FESTIVAL THERE WERE FORTY-EIGHT IN ALL: THREE FOR THE OPENING OF THE GATES, THREE FOR THE UPPER GATE AND THREE FOR THE TOWER GATE:**

1. **I:1:** It has been taught [as against M. 5:6A]: There were no fewer than seven and no more than sixteen. The Tannaite authority counts the three sounds [long, quavering, and long] as a single note, while the Tannaite authority [responsible for M. 5:6A] counts them individually [one by one].

[B] **THREE FOR THE DRAWING OF THE WATER, THREE FOR THE POURING OF THE WATER ON THE ALTAR, NINE FOR THE OFFERING OF THE DAILY WHOLE-OFFERING IN THE MORNING, NINE FOR THE OFFERING OF THE DAILY WHOLE-OFFERING OF THE EVENING:**

- 1.** **II:1:** [“With respect to M. 5:6H, Three for the drawing of the water,”] said R. Zeirah, “that is to say that they sounded the horn only at the water-libation [but not for the actual drawing of the water for that purpose]. For if [to the contrary] you wish to maintain that they did so for the drawing of the water as well as for the actual water-libation, then the passage should state, ‘Three for drawing the water for the day, and three for drawing the water for the next day,’ [since, as we recall, the water was drawn for the libation on the preceding day]. [Hence there are two water-rites on a given day, one for drawing the water for the next day, the other for the pouring out of the water for the day in question.]”

[C] NINE FOR THE ADDITIONAL OFFERINGS, THREE TO MAKE THE PEOPLE STOP WORK, AND THREE TO MARK THE BORDER BETWEEN THE HOLY DAY AND THE ORDINARY DAY.

- 1.** **III:1:** [As to M. 5:6D, nine for the Additional Offering:] Are these the only ones? You have other [Additional Offerings, on certain occasions, while the Mishnah speaks of only one such offering]. [That is,] there should be nine for the Additional Offering of the Sabbath];, and nine for the Additional Offering of the New Moon [that coincides with the Sabbath], and nine for the Additional Offering of the festival offering of the New Year.
- 2.** **III:2:** Hiyya bar Ba said, “The lyre is the same as the lute, except that there are more strings in the one [lyre = *nebel*] than in the other.” Said R. Hiyya b. Abba, “Why is it called a lyre (*nebel*)? Because [through the beauty of its sounds] it shames many other kinds of musical instruments [that cannot make such beautiful sounds].” R. Hunah in the name of R. Joseph: “Because of hide, that is not worked, and because of its extra strings, it shames any number of other musical instruments.” R. Simeon b. Laqish said, “An organ is a water-organ.” Rabban Simeon b. Gamaliel taught, “There was no water-organ in Jerusalem, because it spoils the sweetness [of the singing].”
- 3.** **III:3:** The pipe which was in the sanctuary was made of reed, and it came down from the time of Moses. One time they covered it with gold, and its sound was not so pleasant as it had been. They removed the plate, and its sound again became pleasant as it had been [Y.: It was damaged and they repaired it, but its sound.... They removed the damaged.... and its sound....] A cymbal which was in the sanctuary was made of copper, and it came down from the time of Moses. It was damaged. [Y. lacks:] Sages sent and imported craftsmen from Alexandria, and [Y. resumes:] they played it. But its sound was not so

pleasant as it had been [T. Ar. 2:3]. [Y. adds: They removed (the place which had been damaged) and it was restored to its original condition.] There was a mortar which was in the sanctuary, made of bronze. And it came from the time of Moses. It was damaged. [Y. lacks:] Sages sent and imported craftsmen from Alexandria, and [Y. resumes:] they repaired it. But it was not as it should be. They removed the place which had been damaged. It was restored to its original condition [T. Ar. 2:4]. There are two utensils which were damaged in the time of the first Temple and were not repaired, and concerning them, it says, “They were of burnished brass” (1 Kings 7:45), and concerning them it says, “And two vessels of fine, bright brass, precious as gold” (Ezra 8:27). This teaches that it was twice as lovely as gold [T. Ar. 2:5].

4. **III:4:** [When the New Moon coincides with the Sabbath,] as to the Additional Offerings of the Sabbath and of the New Moon, which is offered first [and so takes precedence]? R. Jeremiah contemplated ruling, “When the Additional Offerings of the Sabbath and the Additional Offerings of the New Moon coincide, the Additional Offerings of the New Moon take precedence.”

XLVIII. YERUSHALMI SUKKAH 5:7

[A] ON THE FIRST FESTIVAL DAY OF THE FESTIVAL THERE WERE THERE THIRTEEN BULLOCKS, TWO RAMS, AND ONE GOAT [NUM. 29:13, 16]. THERE REMAINED FOURTEEN LAMBS FOR THE EIGHT PRIESTLY WATCHES. ON THE FIRST DAY, SIX OFFER TWO EACH, AND THE REMAINING TWO, ONE EACH. ON THE SECOND DAY, FIVE OFFER TWO EACH, AND THE REST, ONE EACH. ON THE THIRD DAY, FOUR OFFER TWO EACH, AND THE REST, ONE EACH. ON THE FOURTH DAY, THREE OFFER TWO EACH, AND THE REST OFFER ONE EACH. ON THE FIFTH DAY, TWO OFFER TWO EACH, AND THE REST OFFER ONE EACH. ON THE SIXTH DAY, ONE OFFERS TWO, AND THE REST OFFER ONE EACH. [1] ON THE SEVENTH, ALL OF THEM ARE EQUAL. ON THE EIGHTH, THEY GO BACK TO DRAWING LOTS, AS ON THE OTHER FESTIVALS. THEY RULED: WHOEVER OFFERED A BULLOCK ONE DAY SHOULD NOT OFFER ONE THE NEXT DAY. BUT THEY OFFER THEM IN ROTATION.

1. **I:1:** It has been taught: All the priestly courses repeat the offering of a bullock during the seven days of the Festival a second and a third time, except for the last two, which repeat but do not do it a third time in the case of the bullocks [cf. M. 5:7K-L] [T. Suk. 4:15A]. Eleazar asked, “What is the law as to beginning with them for the next festival?” Said R. Yosé, “The Mishnah has made that point: On the eighth they go back to drawing lots, as on the other festivals [M. 5:7J].” No, it was

necessary to raise this question in accord with that which was taught by R. Nathan. For R. Nathan taught, “On the eighth day there was no drawing of lots.” So in accord with the position of R. Nathan, what is the law as to beginning with them for the next festival? Said R. Yohanan, And so too has it been taught: Now the last day of the Festival had a drawing of lots unto itself, a time unto itself, a festival unto itself, an offering unto itself, a song unto itself, a blessing unto itself. [Thus each festival is treated as a separate entity, and there is no transfer of rights for the priestly watches from one festival to the next] [T. Suk. 4:17A].

XLX YERUSHALMI SUKKAH 5:8

[A] THREE TIMES A YEAR ALL THE PRIESTLY WATCHES SHARED EQUALLY IN THE OFFERINGS OF THE FEASTS AND IN THE DIVISION OF THE SHOW BREAD.

- 1. I:1:** [Proving that all the priestly watches share equally on the festivals,] it is written, “They shall have portion to portion to eat” (Deut. 18:8).

[B] AT PENTECOST THEY WOULD SAY TO HIM, “HERE YOU HAVE UNLEAVENED BREAD, HERE IS LEAVENED BREAD FOR YOU.” THE PRIESTLY WATCH WHOSE TIME OF SERVICE IS SCHEDULED [FOR THAT WEEK] IS THE ONE WHICH OFFERS THE DAILY WHOLE-OFFERINGS, THE OFFERINGS BROUGHT BY REASON OF VOWS AND FREEWILL OFFERINGS, AND THE OTHER PUBLIC OFFERINGS. AND IT OFFERS EVERYTHING. ON THE FESTIVAL DAY WHICH COMES NEXT TO A SABBATH, WHETHER BEFORE OR AFTER IT, ALL OF THE PRIESTLY WATCHES WERE EQUAL IN THE DIVISION OF THE SHOW BREAD. [IF] A DAY INTERVENED [BETWEEN A FESTIVAL DAY AND A SABBATH], THE PRIESTLY WATCH WHICH WAS SCHEDULED FOR THAT TIME TOOK TEN LOAVES, AND THE ONE THAT STAYED BACK [IN THE TEMPLE] TOOK TWO. AND ON ALL OTHER DAYS OF THE YEAR, THE ENTERING PRIESTLY WATCH TOOK SIX, AND THE ONE GOING OFF DUTY TOOK SIX. R. JUDAH SAYS, “THE ONE COMING ON DUTY TAKES SEVEN, AND THE ONE GOING OFF DUTY TAKES FIVE.”

- 1. II:1:** At Pentecost they would say to him, “Here you have unleavened bread, here is leavened bread for you” [M. 5:8B]: There is a Tannaite authority who reverses the order and repeats the tradition as follows: “Here is leavened bread for you, here is unleavened bread for you.” He who teaches [first], “Here is unleavened bread for you” [gives it precedence] because it is more desirable. He who teaches [first], “Here is leavened bread for you” [gives it precedence] because it is more regular[ly distributed to the priests than unleavened bread].

2. **II:2:** Said R. Levi, “[At the outset, before the division of the priestly emoluments,] all the watches are located in the south [of the altar, and then the officiating watch goes to the north, so as to distinguish it from the watch whose term of service has ended].”

[C] **THE ONES GOING ON DUTY DIVIDE AT THE NORTH, AND THE ONES GOING OFF DUTY DIVIDE AT THE SOUTH.**

1. **III:1:** Said R. Hananiah, son of R. Hillel, “[the ones coming in are given the place of honor, at the north of the altar] so as to pay respect to the ones who are coming on duty.”

[D] **[THE PRIESTLY WATCH OF] BILGAH ALWAYS DIVIDED IT IN THE SOUTH:**

1. **IV:1:** [The priestly watch of] Bilgah always divided it in the south, and their ring was fixed, and their wall-niche was blocked up [M. 5:8]. [In T.’s version:] because of Miriam, daughter of Bilgah, who apostatized. She went off and married an officer of the Greek royal house. And when the gentiles went into the sanctuary, he came along and stamped on the top of the altar, saying to it, “Wolf, wolf! You have wiped out the fortune of Israel, and you [still] did not then stand up for them in the time of their trouble!” And some say it was because [the priestly watch of Bilgah] delayed in observing its priestly watch. So the watch of Yeshebab went in and served as high priest] in its stead. Therefore Bilgah always appears to be among the outgoing priestly watches [at the south], and Yeshebab always appear to be among the incoming priestly watches [at the north]. Neighbors of the wicked normally receive no reward, except for Yeshebab, neighbor to Bilgah, who receive] a reward [T. Suk. 4:28].

[E] **AND THEIR RING WAS FLAYED:**

1. **V:1:** R. Ba in the name of R. Judah: “They made rings for themselves, broad at the top and narrow at the bottom.”

[F] **AND THEIR WALL-NICHE WAS BLOCKED UP.**

1. **VI:1:** This was so that they would not use the space for their knives.

TRACTATE

BESAH

Besah (a.k.a., *Yom Tob*, festival) deals with the preparation of food on the festival day itself. Scripture permits doing so. “On the first day you shall hold a holy assembly, and on the seventh day a holy assembly; no work shall be done on those days; but what everyone must eat, that only may be prepared by you” (Exod 12:16 RSV). What is permitted on the first and seventh days of Passover is also permitted on Pentecost and on the first and seventh days of Tabernacles.

Four central concerns are addressed. First, food intended for use on the festival must be both available and designated for that purpose, whether actually or potentially, prior to the festival. The second concern addressed is whether one may or may not carry on the preparation of food on the festival in exactly the same way in which one does on an ordinary day. The third concern is whether one may or may not prepare what is required for the preparation of food, that is, whether one may perform secondary or tertiary acts of labor, in the same way in which one may on an ordinary day. The fourth and final concern is whether one may or may not do such acts of labor at all.

The Sabbath supplies the governing analogy. The tractate asks about distinguishing the actual preparation of food, which the Torah permits, from the indirect acts of labor required for the preparation of food.

One may prepare food on the festival days of Passover, Pentecost, and Tabernacles. Scripture is explicit on that point. But the halakhah of *Besah* raises searching questions. The single most pervasive principle of halakhah is the insistence on designating before the festival the food intended for use on the festival, on the one hand, and linking the status of the household to the status (i.e., as to location) of his possessions, on the other. The householder must designate in advance what he is going to prepare on the festival for use on the festival. That designation represents an act of particularization: this batch of food for this festival in particular.

This particularization is entirely familiar to us in another context altogether—the designation of the Passover offering from the halakhah of *Pesahim*. The animal to be used for a Passover offering must be designated for that purpose. Once the animal is designated, it cannot then be used for some secular purpose or even for

some other sacred purpose without appropriate rite. An animal designated for use as a sin-offering must be linked to that particular sin. The farmer who presents it must have in mind the inadvertent transgression that the animal expiates. A general statement that the animal expiates generic sin will not serve. The tractate's insistence on that same procedure in connection with the bulk of food and utensils for food preparation used for the festival treats the food for the festival table as comparable to the food for the altar. The same rule governs the identification and particularization of both, each for its respective purpose.

- I.** Preparing food on the festival day
 - A.** Cases and their implications
 - B.** Designating food before the festival for use on the festival
 - C.** Doing actions connected with preparing food on a festival day in a different manner from on ordinary days: other restrictions
 - D.** The status of a person's possessions in respect to the Sabbath limit

YERUSHALMI BESAH

CHAPTER ONE

1:1

[A] An egg which is laid on the festival day –

[B] the House of Shammai says, “It may be eaten [on that day]”

[C] And the House of Hillel says, “It may not be eaten.”

[I:1 A] *What is the reason for the position of the House of Shammai [M. 1:1B]?*

[B] The egg is deemed ready [in advance, for use on the festival day [by the fact that] its mother [was prepared in advance for eating].

[C] *What is the reason for the position of the House of Hillel [M. 1:1C]?*

[D] The egg is treated as equivalent to fruit left out to dry, which indeed has dried up, and about the condition of which the owner was not informed. [The analogy is to figs or grapes that the owner has left out to dry. He did not know that they had actually reached the state of dried figs or raisins. As with the egg, the figs or raisins may not *be* eaten, because the owner did not know that they were available for eating. So, he has not had the intention, in advance, of eating them on the festival. They are forbidden. Likewise, even though the egg is edible, since the owner did not know, in advance, that the egg *would* be available, he did not designate it for eating on the festival, and so it is not available for that purpose.]

[E] Perhaps fruit left out to dry which has dried up and about the condition of which the owner was not informed is not prohibited [to be eaten on the festival]?

[F] *And has it not been taught [in the Tosefta's version]:*

[G] **He who slaughters a chicken and found eggs in it,**

[H] **even though they are fully developed –**

- [I] **lo, they are permitted [T. Y.T. 1:2]? [Why not raise the same question as is spelled out at D with respect to these eggs. Had the man not slaughtered the chicken, the eggs might have been laid anyhow.]**
- [J] Explaining how the Tosefta's case differs from the Mishnah's, R. Hananiah and R. Mana – one of them said, "The taste of eating an egg found in the chicken is different from the taste of eating an egg that is actually laid."
- [K] The other said, "The egg is not completed as a chicken until it is actually laid." [Both then differentiate the case of the Tosefta from that of the Mishnah. The Hillelites may readily concur that if the egg is not laid but found inside the mother. it is permissible on the festival, as part of the mother's body.] "
- [L] What is the law as to eating with milk such eggs [as are found in the mother's body]? [are they meat, as is the mother's flesh?]
- [M] Let us rule: If they were intermixed with veins, they are forbidden [to be eaten with milk, being regarded as chickens], and if not, they are permitted.
- [I:2 A] **All concur in the case of an egg, the greater part of which came forth on the eve of the festival, that it is eaten on the festival [as if the whole of it had been laid prior to the festival] [T. Y.T. 1:3A-B].**
- [B] **Concerning what do they differ?**
- [C] **Concerning an egg, the smaller part of which came forth on the eve of the festival.**
- [D] **The House of Shammai says "It may be eaten."**
- [E] **And the House of Hillel says, "It may not be eaten."**
- [F] **Just as it is forbidden to eat it, so it is forbidden to carry it about [T. Y.T. 1:3F].**
- [G] **[If such an egg as is forbidden for eating on the festival] was mixed up with a hundred eggs [that were permitted for use on that day], or a thousand [such eggs], all of them are forbidden [T. Y.T. 1:3H].**
- [H] *This would then accord with the view of him who said that if there is doubt whether something has been designated in advance [for the festival] it is prohibited.*

[I] *But is it in accord with him who said that if there is a doubt whether something has been designated in advance [for the festival] it is permitted.*]

[J] Such a person [as is represented by D] would concur in the present case that the entire mixture of eggs is forbidden, [as will be spelled out].

[K] [If] it is a matter of doubt whether fruit has fallen from a tree today [that is. on a festival day itself. parallel to the egg laid that day]. or yesterday [in the former case, the fruit is forbidden, in the latter. permitted]. [we would permit the entire mixture]. [The reason is that there is no certainty that any of the produce is prohibited at all.]

[L] But here [in the case of the mixture of permitted and forbidden eggs], there certainly is one egg that is subject to a confirmed prohibition. and it then imparts its status upon the entire mixture of eggs. [That is why a person might permit such a mixture in the one instance and prohibit it in another.]

[I:3 A] **[An egg which is laid on the festival day (M. 1:1A)] – others said in the name of R. Eliezer, “Both it and its dam may be eaten” [T. Y.T. 1:1A-B].**

[B] What is the meaning of the statement.”Both it and its dam may be eaten”?

[C] If the dam was made read to be slaughtered [designated prior to the festival. for slaughter on the festival], [the egg. also] is permitted. and if not, it is forbidden. [The egg is in the status of the dam for all intents and purposes.]

[D] But are not all chickens regarded as being ready for slaughter [at all times]? [Why should we require designation in this case?]

[E] Said R. Ba, “It may be eaten. relying upon the preparations made for the eating of its dam.”

[I:4 A] **A calf which is born on the festival day may be slaughtered on the festival day,**

[B] **because it subjects itself to permission [to be slaughtered, and therefore to be eaten, on that same day] [T. Y.T. 1:1C-D].** [The calf is always ready to be slaughtered and hence also to be eaten. It is not comparable to the egg laid on the festival day.]

- [C] *R. Zeira raised the question, “If so, a wild animal should be permitted [to be eaten on the festival, even if it has not been trapped prior to the festival,] for it subjects itself to permission to be slaughtered, [and therefore to be eaten on that same day].*
- [D] “A deer should be permitted [as above], for it subjects itself to permission to be slaughtered.”
- [E] R. Zeira retracted [from his comparison of the case of the egg to that of the calf], and said, “A calf was already fully formed the day before [it actually was born, and hence it may be slaughtered and eaten on the day it is born, even if that is a festival], while the egg was fully formed only on the day on which it was laid. [So the cases are different. In the case of the calf, the owner thought that it might be born at any time, and hence he designated it in advance, if it should be born, for use on the festival. But he could not have done so for the egg.]”
- [F] *Said R. Ba.”That distinction [between the two cases] accords with the view of him who said that a beast gives birth even in months that are foreshortened [that is. may give birth at any time in the final month of pregnancy], but in accord with the view of him who said that a beast gives birth only when full term has been reached. then you must deal with the fact that [the beast in the womb] reaches completion only at the fulfillment of the time from the original insemination. [Hence from such a viewpoint, the owner will not have expected the beast at any time. but only at the point at term from original insemination, and hence the distinction between the two cases falls away.]”*

- [I:5 A] **A bird which is born on the festival day may be [slaughtered on the festival day,]**
- [B] **because it subjects itself to permission [to be slaughtered, and therefore to be eaten] [T. Y.T. 1:1E-F].**
- [C] *But has it not been taught:* Eggs that had produced birds that had not yet formed down are forbidden on the count of being abominable things, but [if someone ate them], he is not flogged on their account on the grounds of their being carrion?
- [D] And [in this regard] R. Haggai said, “And that is the case, even if one had slaughtered them.”
- [E] *Said R. Abun, “Interpret [the rule presented by Tosefta above] to speak of a bird that went forth with down.”*

- [I:6 A] R. Abbahu in the name of R. Yosé b. R. Haninah asked, “Any creature that has sexual relations by day gives birth by day, and any that has sexual relations by night gives birth by night.”
- [B] *They objected*, “Lo, there is the case of the chicken. Lo, it has sexual relations only by day, and yet it gives birth whether by day or by night.”
- [C] Said R. Abun, “That case is different, for it gives birth without [being inseminated by] a male.”
- [I:7 A] R. Zeira in the name of Giddul: “A calf that is born from a terefah-beast [that is, a beast that may die of itself, and therefore may not be eaten by Israelites] on a festival day is permitted [for Israelites to slaughter and eat on a festival day].
- [B] “It is treated as something that had been ready [in advance] but that [merely] had been concealed in something that was not ready [in advance for use on the festival day].”
- [I:8 A] *There we have learned*: “**An egg from the carrion of a bud is permitted, if an egg of the same sort is sold in the market [that is, if it is fully fashioned. with a hard shell], and otherwise, it is forbidden.**” the words of the House of Shammai.
- [B] **And the House of Hillel forbids [M. Ed. 5:1].**
- [C] *What is the reason behind the position of the House of Shammai?*
- [D] The egg had come to completion prior to the bird’s being made carrion.
- [E] If that is the case, then even if such an egg is not sold in the marketplace, the egg should be permitted [from their viewpoint].
- [F] If you say so, you turn out to permit the ovaries of birds.
- [G] And the view of the House of Shammai accords with the law as given in the first version of the Mishnah, while that of the House of Hillel with the latter version of the .Mishnah.
- [H] For R. Hiyya bar Ba in the name of R. Yohanan: “At first they ruled. ‘They do not curdle [milk] with rennet from carrion [even belonging to an Israelite] or with rennet deriving from gentile [preparation],’ [since it is part of its body]. They reverted to rule, They curdle [milk] with rennet from carrion. but they do not curdle [milk] with rennet deriving from gentile [preparation]. [for the rennet is in the status of the excrement].

[I] R. Yosé b. R. Bun said Samuel bar Abba raised the question: “Is this to exclude the opinion of R. Eliezer, for **R. Eliezer says [M. Hul. 2:7), ‘The intention of a gentile is [invariably] for idolatry’?** [At .M. A. Z. 2:3 we reject Eliezer’s position and here appear to affirm it.]”

[J] R. Yosé in the name of R. Yohanan: “In the beginning they would rule, They do not curdle [milk] with rennet of carrion or with rennet prepared by a gentile.’

[K] **“They reverted to the rule, They curdle [milk] whether with the rennet of carrion or with the rennet produced by a gentile [T. Hul. 8:12B].’** [This answers I: The rule is contrary to Eliezer’s position.]”

[L] *Said R. Yosé ‘The language of the .Mishnah supports the position of R. Hiyya bar Ba [who sees the carrion and the gentile’s item as distinct]: [The milk in the stomach [of a beast slaughtered by] I gentile [which is .carrion] and that [in the stomach] of carrion – lo. this is prohibited [M. Hul. 8:5J. in accord with the first .Mishnah.*

[M] **A valid beast which sucked from a terefah one – the milk in its stomach is prohibited. in accord with the first Mishnah.**

[N] **A terefah beast which sucked from a valid beast – the milk in its stomach is permitted [M. Hul. 8:5C-E],** in accord with the latter version of the Mishnah.

[O] *Even if the House of Shammai concurs with the House of Hillel in regard to the version of the latter Mishnah, still. an egg is grown by the body [of the chicken itself]. while milk in the stomach derives from another source [than the body of the beast].*

[P] And this ruling is in accord with that which R. Yosé b. R. Bun said in the name of R. Yohanan: “There was the case of wolves that tore up more than three hundred sheep belonging to the sons of R. Judah b. Shammua. Now the case came before sages. who permitted the stomachs of the sheep to be used for rennet [even though they were carrion].

[Q] “They said, ‘An egg is grown within the body [of the chicken itself], while milk in the stomach derives from another source [than the body of the beast], [so the cases are different].”

[I:9 A] Tosefta’s version: “**[If] it was born on the Sabbath, it may be eaten on the festival [immediately following].**

[B] **[If it was born] on the festival day, it may be eaten on the Sabbath [immediately following].**

[C] **R. Judah says in the name of R. Eliezer, “Still the dispute is in place” [T. Y.T. 1:3C-E].**

[D] “The House of Shammai says, ‘It may be eaten.’

[E] “And the House of Hillel says, ‘It may not be eaten.’”

[F] R. Haninah gave a decision to Sepphorites in the matter of the aftergrowth of mustard in the Seventh Year [dating from the sixth year] . [M. Sheb. 9:1)] and in the matter of the egg in accord with the view of R. Judah.

[G] *R. Yohanan went in and taught them in accord with the rabbis in this case [that is, at T. Y. T. 1:3A-B], and in accord with the rabbis in that case [involving the aftergrowth of mustard]. [An egg laid on the festival is permitted on the Sabbath and vice versa; the aftergrowth of mustard is forbidden, as at M. Sheb. 9:1.]*

[H] *R. Abba bar Zamina in the name of R. Yosedeq: “On account of the.e two things R. Yohanan went down from Sepphoris to Tiberias. He said, ‘Why do you bring to me the opinions of that elder. for what I permit he prohibits, and what I prohibit. he permits [namely, I permit the egg laid on the festival for use on the Sabbath and vice versa, I prohibit the aftergrowth of mustard in the Seventh Year].”*

[I] *Said R. Ba.”A case came before R. Yosé, and he proposed to rule in accord with the view of R. Yohanan. when he heard that both Rab and R. Haninah differ from him, he abandoned the matter [and refrained from ruling].”*

[J] *For they differ as follows:*

[K] The remnants of a wick, fire, or oil, that were extinguished on the Sabbath – what is the law on kindling them on the adjacent festival day.

[L] Rab and R. Haninah both maintain that it is prohibited to do so.

[M] And R. Yohanan said that it is permitted to do so.

[N] *Said R. Mana before R. Yudan, “On what basis do they create an analogy between a wick and the case of the egg? [The wick was in being on both days.]”*

[O] *He said to him, “It is on the basis of the fact that we see the rabbis comparing the one to the other [that we do so]. [The rabbis are Rab and Haninah, who prohibit the wick as they do the egg. Yohanan likewise makes such a comparison, permitting the wick as much as the egg.]”*

[P] *“That then indicates that the same rule applies to both matters.”*

[I:10 A] In the name of four elders they have ruled, “If a person’s *erub* is eaten up on the first day [of a festival], lo, he is in the status of his fellow townfolk on the second [in which case the two days are treated as separate and distinct from one another and not as single, protracted holy day]. [Hence he would require a separate *erub* for each day. Since he has one only for the first, on the second day his *erub* is no different from that of the townspeople in general.] “

[B] R. Huna in the name of Rab: “The law accords with the view of the four elders.”

[C] *R. Hisda raised the question: “The views assigned to Rab are at variance. There [A] he has treated the festival and Sabbath as not distinct spans of holiness, while here [below] he has treated them as a single, protracted span of holiness.”*

[D] *For they differ as follows:*

[E] The leftovers of a wick, fire, and oil, which went out on the Sabbath – what is the law as to kindling them on the festival day?

[F] Both Rab and R. Haninah say that it is forbidden to do so [since they form a single protracted period of holiness].

[G] And R. Yohanan said, “It is permitted to do so.”

[H] *And R. Mana said before R. Yudan, “On what basis do they create an analogy between a wick and the case of an egg?”*

[I] *He said to him, “It is on the basis of the fact that we see the rabbis comparing the one to the other [that we do so].”*

[J] *“That then indicates that the same rule applies to both matters.”*

- [I:11 A] All parties [that is, the House of Shammai as well] concur in the case of produce that falls from the tree [on the festival] that it is forbidden.
- [B] *R. Bun bar Hiyya asked before R. Zeirah, “What is the difference between fruit that falls from a tree and eggs? As to the fruit which fall from their source, is it possible [60b] that they are not forbidden? As to the eggs that come from their mothers, is it possible that they are not permitted [since they would be permitted if they were found in the chicken, were it slaughtered on that day].*
- [C] [Addressing the position of the House of Hillel,] If that is the case. if an egg was born on the festival, it should not be eaten on the Sabbath, and if an egg was laid on the Sabbath, it should not be eaten on the festival day. [And we know that the law is that it is permitted.]
- [D] He said to him, “Is it so?” [But do you then propose the following:] It is not enough for you that you have imposed a strict rule on the matter. so that if it was laid on the festival, it may not be eaten on the festival. and if it was laid on the Sabbath. it may not be eaten on the Sabbath. [No, that is not enough.]
- [E] Rather, you want to impose yet a stricter rule in the case, that if it is laid on the festival, it may not be eaten on the Sabbath, and if it was laid on the Sabbath. it may not be eaten on the festival.
- [I:12 A] *R. Jeremiah raised the question, “As to wreaths of nuts [and chains of berries] used to decorate a sukkah, what is the law governing them [May they be eaten on the eighth day of the Festival, that is, the Eighth Day of Solemn Assembly, which is not part of the Festival of Tabernacles but is adjacent to it?]”*
- [B] *R. Jeremiah retracted [this question] and said, “For all seven days they are left unused [and prohibited] on the sukkah, [from which they may not be removed and eaten]. From that point on [that is. once the seven days of the festival have ended,] they are deemed to be available [and designated for use].”*
- [C] Said R. Yosé, “For all seven days the sanctity of the sukkah inheres in them. From that point onward, the sanctity of the festival day [the Eighth Day of Solemn Assembly] inheres in them. [For the seven days of the Festival. the nuts are designated for use tor that purpose. For the eighth. they are prohibited for use as well.]

[D] “But if you wish to raise a question. you should address it to the case of a festival day that falls on the eve of the Sabbath in accord with the view of him who maintains that they constitute two separate and distinct spans of holiness ‘ [But the question then is not answered.]

1:2

[A] **The House of Shammai says. ‘[The minimum of leaven in the volume of an olive’s bulk and [a minimum of] what is leavened in the volume of a olive’s bulk [are prohibited on Passover (Ex. 13:7).**

[B] **And the House of Hillel says.”This and that are [prohibited in the volume of] an olive’s bulk.”**

[I:1 A] R. Zeriqan in the name of R. Yosé b. Haninah, “They have taught [the dispute as to the minimum volume of leaven] only in respect to removing [the leaven from the house].

[B] “But as to [the minimum volume prohibited] for eating, it is an olive’s bulk.”

[C] [On the view of the House of Hillel,] R. Abbahu in the name of R. Yohanan: “Whether as to removing the leaven or as to eating it, the minimum volume [prohibited by the law] is an olive’s bulk.”

[D] *R. Mana dealt with R. Hezekiah. He said to him, “From whom did the master [you] hear this teaching?”*

[E] He said to him. ‘From R. Abbahu.’

[F] He said to him.”I too have heard it stated by R. Abbahu in the name of R. Yohanan: ‘Whether as to removing the leaven or as to eating it. the minimum volume [prohibited by the law] is an olive’s bulk.’

[G] “For if that is not the case [and the House of Hillel imposes a stricter rule as to the volume for which one is liable in the case of eating], then there [at M. Ker. 1:11 should be thirty-seven, [not thirty-six grounds for inflicting the penalty of] extirpation in the Torah, [and the additional one will then be the consideration of two separate counts in respect to leaven on Passover, one for eating leaven, *the other for eating* what is leavened, that is, one who eats an olive’s bulk of what is leavened, and one who eats a half olive’s bulk of leaven itself].”

1:3

[A] **He who slaughters a wild beast or fowl on the festival –**

- [B] the House of Shammai say, “He digs with a mattock and covers up the blood (Lev. 17:13).”
- [C] And the House of Hillel say, “He should not slaughter [at all]
- [D] “unless he had dirt ready [for covering of the blood while it was still daylight on the day preceding the festival].”
- [E] But they concur that if he actually did slaughter. he may dig with a mattock and cover up [the blood]
- [F] [and] that the ashes of the oven are deemed to have been made ready [on the preceding day, and they too may be used for covering up the blood].
- [I:1 A] R. Hiyya in the name of R. Yohanan: “He who cooks [meat in the status of] carrion on a festival day is not subjected to a flogging, for [cooking carrion] is permitted under the general principle that [it is permitted to] cook on the festival. [and that covers the carrion too. even though one may not actually eat the carrion meat].”
- [B] R. Simeon b. Laqish says, “He is flogged. for [cooking carrion is] not permitted under the general principle that [it is permitted to] cook on the festival, and that covers cooking only what in fact one is permitted to eat [excluding. then, carrion].”
- [C] *R. Ba bar Mamel objected to the view of R. Yohanan*, “If that is the case. then he who ploughs on the festival day should not be flogged. for it is permitted [to do so] on the general principle that it is permitted to plough on the festival [to get dirt for covering blood]. [For that purpose, one may dig up some dirt with a shovel. Now if we take Yohanan’s principle to its logical conclusion, then along these same lines. the fact that the deed is permitted for one thing allows it to be done for all purposes means that, just as one may cook what he may not eat. so he may plough *not* in connection with the specific purpose for which ploughing is permitted.]”
- [D] [Rejecting this reductio ad absurdum.] R. Yosé in the name of R. Ila: “Ploughing in the normal way has not been permitted [on the festival day anyhow].”
- [E] *R. Shimi said before R. Yosé. R. Aha in the name of R. Ila: ‘The Mishnah [that permits the man to dig with a shovel, if it was ready for that purpose. This follows the view of R. Simeon . For R. Simeon said. ‘[It is prohibited to plough on a festival day] unless one had need for that act of labor itself.’ [That is, one may not plough if he needed to plough the field. But if he did the act of labor for some extraneous purpose – in this case, not in order to dig a hole, but in order to get*

dirt – then that is permitted. This is an act of labor which is not needed for itself, but for some unrelated matter. It then is permitted.]”

- [F] R. Yosé dealt with R. Aha. He said to him, “You have said this matter. But did not R. Yohanan say, ‘In the view of R. Meir, there are twenty-four matters in which the House of Shammai takes up the lenient position and the House of Hillel the strict position, and this is one of them.’ [The reference is to M. 1:3A-B. Clearly, the Shammaites take up the lenient position here.]
- [G] “But should we not say that there are twenty-three? [That is, if you account for the permissive position of the House of Shammai as you have, then the House of Hillel cannot differ in that regard, since R. Simeon is a Hillelite as a disciple of Aqiba. It must follow that all parties concur, and there should be only twenty-three cases in which the Shammaites take a more lenient position and not twenty-four.]”
- [H] [Yosé now asks Aha another question:] “But [even if you say that] R. Meir and R. Simeon hold the same view, [namely, one is exempt from liability for performing an act of labor on a festival that is not necessary for itself but only serves some extraneous purpose]. But did we not maintain earlier that R. Simeon and R. Yosé maintain the same view?
- [I] “[At a discussion on making a wick into a coal on the Sabbath (Y. Shab. 2: 5), Yosé and Simeon maintain that that is not punishable, since one is using the wick for a purpose extraneous to its normal one. In that case, where we said that R. Simeon and R. Yosé concur,] should we not say, R. Meir, R. Yosé, and R. Simeon all maintain the same view?
- [J] “*But are matters which are troublesome to rabbis self-evident [and obvious to you] and matters that are difficult to you self evident to rabbis? [Other rabbis are not so certain that the law accords with Simeon’s view, while you are certain that it does. And vice versa. This will now be spelled out.]*
- [K] “If one cut [herbs] for the sake of [collecting] herbs, is he liable on the count of harvesting [on the Sabbath], but not liable on the count of improving the ground [on the Sabbath]?
- [L] “It is not a problem [to settle the matter] if he did not cut down the grass in order to improve his field. [But] what is the law as to his being liable on the count of harvesting [the grass for herbs] and also on the count of harvesting so as to improve his field? [If he is liable on one count only, it is because the other count is not for a

deed done for its own sake, but rather for an extraneous purpose. Simeon's position is that if one did not intend to do an act of labor for its usual purpose, he is exempt from liability.]

[M] "Are you prepared to say that the law is R. Simeon's, while in the view of rabbis, in any event the man actually has ploughed the field, likewise here, the man actually has harvested! [This is all Yosé's question. People are not sure whether the law follows Simeon's principle or not, and how can you be so sure in the present case that it does follow Simeon's view?]"

[N] *Said R. Mana, "The views of rabbis support the position of R. Yosé [who was Mana's teacher]."*

[O] "For R. Hiyya said in the name of R. Yohanan, 'In the case of a salted fish that one pressed out, if he did so for its own sake [in order to eat it], he is exempt [from liability], but if he did so in order to get the brine out, he is liable. [Now Simeon's view is that if one did it not for its own sake – in this case, to get at the brine is not for its own sake – he should be exempt.]'

[P] "So even if you say that this accords with the view of R. Simeon, [you may make sense of it]. But in accord with the position of rabbis, in any event, lo, the man has pressed out the fish; and in any event he has extracted the brine, [so he should be liable]. [Here then is another case in which we are not entirely sure whether the law follows the view of Simeon or of rabbis, just as above.]"

[II:1 A] [Commenting on M. 1:3F, the ashes are deemed made ready for use in covering the blood, that is, a lenient ruling], R. Abun in the name of rabbis over there: "That is to say that the ashes of the oven are regarded as ready at hand only for the purpose of carrying out the religious duty [of covering the blood, but not for other purposes]."

[B] Said R. Mana, "[That is the case] if the man did not prepare the ashes in advance. But if he had prepared the ashes in advance [for use on the festival day], they may be used to cover anything, including the religious duty of covering the blood, [but not merely that alone]."

[C] *And this view accords with that which R. Shimi said, "R. Aha taught in the name of R. Judah, 'If one prepared the ashes for doing the religious duty of covering up the blood, they may use the ashes for doing that religious duty only. [If he prepared the ashes for covering up] excrement, the ashes are used for covering up excrement [and also for] the religious duty [of covering up ashes].'"*

- [D] *R. Yosé b. R. Bun said, "There was a dispute between R. Zira and R. Abba bar R. Joseph.*
- [E] "One of them said, 'There is the possibility of preparing ashes [so designating them] in advance for covering up excrement.'
- [F] "*The other said, "There is no possibility of designating ashes in advance for covering up excrement, [but one has to leave the excrement in a place set apart for that purpose, and dirt cannot be provided a day in advance for use on the festival]."*
- [G] *The one who maintained that one cannot make such preparations objected to the one who maintained that one may make such preparations, "[In your view, that one may make preparation of ashes for such a purpose,] let him make preparations for covering up the blood of a koy [and in fact one may not slaughter a koy on a festival, because there is no possibility of setting dirt aside for covering up the blood]. [Why should we not be able to do so? If in theory one may set aside dirt for covering up excrement, he may also set aside dirt for covering up the blood of a koy.]"*
- [H] He said to him, "As to a *koy*, people may routinely make an error [because when people see that one is covering up the blood on a festival, they may conclude that it assuredly is in the status of a wild beast and not a domesticated one and will permit its fat, which is in fact prohibited]. doing the religious duty of covering up the blood, they may use the ashes for doing that religious duty only. [If he prepared the ashes for covering up] excrement, the ashes are used for covering up excrement [and also for] the religious duty [of covering up ashes]."
- [I] *R. Yosé b. R. Bun said, "There was a dispute between R. Zira and R. Abba bar R. Joseph.*
- [J] "One of them said, 'There is the possibility of preparing ashes [so designating them] in advance for covering up excrement.'
- [K] "The other said, 'There is no possibility of designating ashes in advance for covering up excrement, [but one has to leave the excrement in a place set apart for that purpose, and dirt cannot be provided a day in advance for use on the festival]."
- [L] The one who maintained that one cannot make such preparations objected to the one who maintained that one may make such preparations, "[In your view, that one may make preparation of ashes for such a purpose,] let him make preparations for covering up the blood of a *koy* [and in fact one

may not slaughter a *koy* on a festival, because there is no possibility of setting dirt aside for covering up the blood]. [Why should we not be able to do so? If in theory one may set aside dirt for covering up excrement, he may also set aside dirt for covering up the blood of a kid.]”

[M] He said to him, “As to a *koy*, people may routinely make an error [because when people see that one is covering up the blood on a festival, they may conclude that it assuredly is in the status of a wild beast and not a domesticated one and will permit its fat, which is in fact prohibited].

[N] “But in the case of excrement, they are not routinely likely to make any mistakes. [So there is a special reason operative in the cited instance, not operative in the matter of setting aside dirt for covering up excrement.]”

[O] He said to him, “If you maintain that view, then one may even dig with a mattock and cover up [excrement and pot have the dirt ready in advance]. [One may think that the dirt to begin with may be dug up and used to cover excrement as much as blood.]”

[P] *Indeed, so it has been taught:*

[Q] [In Tosefta’s version:] **[If] one had dirt in his house, put aside for making mortar for his roof, or lime for whitewashing his house, they cover up the blood with that [T. Y. T. 1:5F].**

[R] *There is a Tannaite authority who teaches,* “They do not cover up blood with that.”

[S] R. Yosé b. R. Bun in the name of R. Hisda: “*He who says,* ‘They may cover up [with that],’ [speaks of a decision] on a case post facto. *He who says,* ‘They do not cover up [with such materials]’ deals with a case in which one raises the question to begin with [but not after the fact].”

[II:2 A] *It has been taught* [in the Tosefta’s version]: **R. Yosé says, “As to a koy, they to not slaughter it on the festival day,**

[B] **“because [precisely what it is] subject to doubt.**

[C] **“But if they have slaughtered it, they do not cover up its blood” [T. Y. T. 1:5G-I].**

- [D] **Said R. Yosé, “Now if in the case of circumcision, which, in a case in which it is certainly required, toes override the prohibitions of the Sabbath, in the case in which it is subject to doubt does not override the prohibitions of the festival,**
- [E] **“covering up the blood, which in a case of certainty toes not override the prohibitions of the Sabbath, surely should not override the prohibitions of the festival day in a case of doubt” [T. Y. T. 1:6].**
- [F] And is it permitted to slaughter on the Sabbath [as implied at E]?
- [G] R. Yosé made the statement without further explication [not insisting that under discussion at E is the Sabbath at all].
- [H] R. Yosé b. R. Bun in the name of R. Yohanan: “[The statement] concerns one who slaughters a beast for a sick person, [and that is permitted on the Sabbath].”
- [I] [Tosefta’s version]: **They said to him [R. Yosé] “Sounding the *shofar* in the provinces will prove the matter.**
- [J] **“For in a case of certainty, it toes not override the prohibitions of the Sabbath, but in a case of doubt, it toes override the prohibitions of the festival.**
- [K] **“This therefore proves the case as to covering up the blood, for even though, in a case of certainty, it toes not override the prohibitions of the Sabbath, in a case of doubt it nonetheless does override the prohibitions of the festival” [T. Y. T. 1:7A-C].**
- [L] What matter of doubt is taken into consideration [at J]? If it is a weekday, the *shofar* may be sounded, and if it is a festival day, it may be sounded.
- [M] R. Haninah in the name of R. Aha: “The case involves an androgyne who sounded [the *shofar*].”
- [N] *And so it has been taught:* An androgyne [in sounding the *shofar*] may carry out the obligation of one of his own kind [to hear the *shofar*], but he may not carry out the obligation of one not of his own kind [to hear the *shofar*]. A person of uncertain sexual traits carries out the obligation [to hear the *shofar*] neither of one of his own kind nor of one who is not of his own kind.
- [O] R. Yosé asked, “If we deal with an androgyne who sounded [the *s*)*shofar*,] in that case it has been taught, there is no answer.”

[P] Said R. Abin, “This is one of the four instances in which R. Hiyya the Elder maintained that there was no suitable answer, but R. Eleazar, son of R. Eliezer Haqqappar gave such an answer. [It now follows.]

[Q] [Tosefta’s version:] **R. Eleazar son of R. Eliezer Haqqappar replied, “What is distinctive about circumcision, which, in a matter of doubt, does not override the prohibitions of the festival, is that in a matter of certainty it still will not override the prohibitions of the festival nights. win you say the same concerning the covering up of the blood, for a matter of certainty concerning it does override the prohibitions of the festival nights?**

[R] **“Since a matter of certainty concerning it overrides the prohibitions of the festival, it surely is reasonable that a matter of doubt concerning it should override the prohibitions of the festival.”**

[S] [Tosefta adds here:] Said R. Abba, “This is one of the rulings concerning which R. Hiyya said, ‘I have no reply,’ and concerning which R. Eleazar found a suitable reply” **LT. Y. T. 1:7D-F**].

[T] *And the question remains moot. Just as it was an issue to the earlier rabbis, and remained a problem in their hands, so it was an issue facing the later rabbis, and remained a problem in their hands.*

[U] *In the view of R. Aha, an androgyne may carry out the obligations of one of his own kind to begin with.*

[V] *In the view of R. Yosé, he may do so only post facto.*

[II:3 A] And they concur that if he actually did slaughter, he may dig with a mattock and cover up the blood and that the ashes of the oven arc deemed to have been made ready on the preceding day, and they too may be used for covering up the blood [M. I:3E-F].

[B] That which you have said applies to the ashes of a stove that was lit on the eve of the festival.

[C] But as ashes of a stove that are kindled on the festival itself, it is not in such a case that the agreement pertains.

- [D] Under what circumstances? In a case in which one has not already slaughtered [the beast].
- [E] But if one has already slaughtered [the beast], it is better that one take ashes from an oven that was kindled on the festival day, rather than digging with a mattock and covering [up the blood with dirt dug up in that way].
- [F] [Differing from that preference,] associates say, “A commandment to do a deed overrides a commandment not to do a deed. [It is a commandment to cover up the blood, and that overrides the negative commandments about not working on the festival.]”
- [G] *In the view of R. Jonah, who has said that a commandment to do a deed overrides a commandment not to do a deed, even though the latter is not stated alongside the former, this poses no problems.*
- [H] [*But*] *in the view of R. Yosé, who has said, “A commandment to do a deed does not override a commandment not to do a deed unless the latter is stated right alongside the former,” [how is this to be explained]?*
- [I] [His answer is this:] “Once one has begun to carry out the religious duty, one tells him to finish doing it” [however he must do so].
- [II:4 A]** *R. Zeirah asked, “As to a dish that an ape formed [on a festival day], what is the law [about using it on the festival day]? [Is it subject to the requirement that it be designated in advance for use on that day?]”*
- [B] *R. Yosé b. R. Bun said, “There was a dispute on this question between R. Zeirah and R. Hamnuna.*
- [C] “[One of them said] that it is forbidden, and the other said that it is permitted.
- [D] “*The one who said that it is prohibited* treats the bowl as in the status of fruit left for drying that actually had dried, while the owner did not know about it, [and hence in advance did not form the intention of making use of that fruit]. [Thus it has not been designated in advance for use on the festival and it may not be used.]
- [E] “*He who said that it is permitted* treats it as food that had not yet been tithed, which someone inadvertently tithed [on the festival].”
- [F] *He who says that it is permitted to use the bowl: What is the law [60C] as to using the place out of which the bowl has been shaped, [that is, the place on which the bowl had stood, which now has been formed into a hole]? [May that hole be used for some constructive purpose?]*

Do we maintain that it is prohibited to make use of [holes in] the ground [on the festival]? [Surely that is not the law. So what question can trouble you?]

1:4

- [A] **The House of Shammai says, “They do not move a ladder from one dovecot to another.**
- [B] **“But one may lean it from one window to another.”**
- [C] **And the House of Hillel permits [moving it].**
- [D] **The House of Shammai says, “One may not take [pigeons for slaughtering on the festival day] unless he [physically touched and] stirred them up while it was still day.”**
- [E] **And the House of Hillel says, “One may stand [at a distance] and say, ‘Thus one and that one I shall take.’”**
- [I:1 A] *Judah bar Hiyya went on a circuit [to the outlying villages]. They asked him, “As to a ladder serving an upper room, what is the law [of moving it about on the festival day]?”*
- [B] *He said to them, “It is permitted.”*
- [C] *When he came back to his father, [Hiyya] asked him, “What case came into your jurisdiction?”*
- [D] *He said to him, “I permitted them on the festival day to move about a ladder serving an upper room.”*
- [E] *[The father] called on a Tannaite authority to appear before him, and the Tannaite authority repeated the following: **“Under what circumstances [does the House of Hillel permit moving a ladder]? In the case of a ladder serving a dovecot. But in the case of a ladder serving an upper room, it is prohibited to move it about [Tosefta adds: even in the upper room itself] [T. Y.T. 1:8 G-H].”***
- [F] *What then is the difference between a ladder serving a dovecot and a ladder serving an upper room?*
- [G] *Said R. Jacob bar Aha, “A ladder serving a dovecot – if on the preceding day someone did an act of labor with it, the steps are weakened [on that account]. As to a ladder serving an upper room [which is sturdier], one may very well on the preceding day perform an act of labor making use of such a ladder. [Hence it can be used for more than the sole permissible purpose, retrieving pigeons.]”*

[H] Said R. Yosé b. R. Bun, “As to a ladder serving a dovecot, can one stand on it and perform an act of labor? As to a ladder serving an upper room, can one not stand on it and perform an act of labor? [The prohibition extends to any ladder on which one may stand to perform an act of labor.]”

[I] [We follow the accepted usage of a ladder. Thus] a ladder serving a dovecot used for going up to the upper room [may be moved about, while] a ladder serving the upper room used for climbing to the dovecot [may not be moved about].

[II:1 A] **The House of Shammai says, “One may not take pigeons for slaughtering on the festival day unless he physically touched and stirred them up while it was still day” [M. 1:4D].**

[B] *The opinions assigned to the House of Shammai are contradictory.*

[C] *For we have learned there [that mere designation, without physical contact, suffices]:* **And further did R. Eliezer say, “A man takes up a position at the storage Jut on the eve of the Sabbath in the seventh year, and he says, ‘From this produce shall I eat tomorrow’” [M. 4:7C].**

[D] Now was R. Eliezer not a member of the House of Shammai?

[E] A stricter rule applies to an animate creature [which must be physically touched, as distinct from the produce in the storage hut].

[III:1 A] **And the House of Hillel says, “One may stand at a distance and say, ‘Thus one and that one I shall take’” [M. 1:4E].**

[B] *The opinions assigned to the House of Hillel [Y.: the rabbis] are contradictory.*

[C] *For we have learned there [that physical contact, not mere designation, is required]:* **And sages say, “He may do so only if he makes a mark and says, ‘From thus place up to that place shall I take produce to eat tomorrow’” [M. 4:7D].**

[D] *And here do they say this?*

[E] *They certainly do maintain that a stricter rule applies in the case of an animate creature. [This is not worked out further.]*

[III:2 A] Said R. Yosé b. R. Bun, “Levi [merely] tops at his dovecot while it is still day and says, ‘Let my dovecot effect acquisition for me for use [of the pigeons] on the morrow’ [and that suffices, without even the designation indicated at M. 1:4E].”

1:5

[A] [If] one designated black ones and found white ones,

[B] white ones and found black ones,

[C] two and found three –

[D] they are prohibited.

[E] [If he designated] three and found two, they are permitted.

[F] [If he designated pigeons] in the nest and found them in front of the nest, they are prohibited.

[G] But if there are only those particular birds there, lo, these are permitted.

[I:1 A] *The Mishnah passage represents the view of Rabbi.*

[B] *For it has been taught [in the Tosefta's version]:*

[C] [With reference to M. M.S. 4:12: One who says to his son, “Coins in the status of second tithe are in this corner,” but the son found coins in a different corner, lo, the coins he finds are deemed unconsecrated. If there was in the corner specified by the father a maneh in the status of second tithe, and he later found there two hundred zuz (two manehs), the extra money is deemed unconsecrated. If there were there two hundred zuz in the status of second tithe, but he found there only one maneh (a hundred zuz), it is all deemed to be in the status of second tithe. In this connection, T. M.S. 5:7 adds, for the case in which the father says] there are two hundred zuz but he found only one maneh: “We assume one maneh was left behind and one maneh was carried off,” the words of Rabbi.

[D] But sages say, “All of the coins are unconsecrated.” [Thus, as at M. 1:5E, if three pigeons were designated but only two were found, we assume that those two were among the three that had been designated, just as we assume one *maneh* was left behind and one was carried off, in Rabbi's view.]

[I:2 A] *There we have learned: One who says to his son, “Coins in the status of second tithe are in this corner,” but the son found coins in a different corner – lo, these coins are deemed unconsecrated. [If there was there in the corner specified by the father a maneh in the status of second tithe, but the son found two hundred zuz, the extra maneh 's worth of coins is deemed unconsecrated [M. M.S. 4:12A-F]. [As above, we proceed to show that Rabbi is the authority for this view.]*

- [B] R. Jacob bar Aha in the name of R. Yosé, “This represents the view of Rabbi.
- [C] *“For it has been taught: ‘We assume one maneh was left behind and one maneh was carried off,’ the words of Rabbi.*
- [D] **“But sages say, ‘All of the coins are unconsecrated;” [T. M.S. 5:7AA-BB].**
- [E] **He retracted and said, “It represents the view of all parties [at M. 1:5].**
- [F] “For the case involving pigeons is different. For it is usual for them to fly about. [So sages may concur at a case such as M. 1:5G, for example, while rejecting Rabbi’s view in the case of the coins.]”
- [G] *And lo, R. Halapta bar Saul taught, “The same rule applies to pigeons as to eggs [that one has designated in advance and found in some location other than the spot at which they been designated].”*
- [H] So it can only represent the view of Rabbi [there being no distinction between animate and inanimate objects, hence no distinction between the two cases].
- [I] Said R. Yosé, “There [at M. M.S. 4:12] it is the father who left the money and the son who found it. [There, sages will maintain, the father may have removed the funds and forgotten about the matter. Hence the money the son found is not consecrated.] But here the one who left the pigeons is the one who found them, [and hence sages may concur with Rabbi’s view].”
- [J] *R. Ba bar Kohen said before R. Yosé in the name of R. Aha, “R. Ba bar Zabeda made a decision in a case involving produce in the status of second tithe in accord with the view of Rabbi.”*
- [II:1 A] [With reference to M. 1:5F, If one designated pigeons in the nest and found them in front of the nest, they are prohibited.] R. Yudan said, “That which you have said [in prohibiting the birds] applies to a case in which there were two [or more] nests of birds. But if there was only a single nest, it is not in such a case [that the pigeons are prohibited, since they can have come only from the nest that the man designated in advance].
- [B] **“For lo, we have learned: But if there are only those particular birds there, these are permitted [M. 1:5] [and this proves the case of Yudan].”**

[C] Said R. Yosé bar Bun, “That rule [M. 1:5F, G] speaks of a case in which there was only a single pigeon [or] a single nest of black pigeons alone.”

1:6

[A] **The House of Shammai says, “They do not take up a pestle to hack meat on it.”**

[B] **And the House of Hillel permits [doing so].**

[C] **The House of Shammai says, “They do not place a hide before the tread [as a doormat],**

[D] **“nor may one lift it up,**

[E] **“unless there is an olive’s bulk of meat on it.”**

[F] **And the House of Hillel permits.**

[G] **The House of Shammai says, “They do not remove shutters on the festival.”**

[H] **And the House of Hillel permits – even putting them back.**

[I:1 A] Samuel said, “He who inserts the shutters [of a shop] on a festival day is liable on the count of building.”

[B] Now this poses a problem. In regard to doing something which, if one did it on the Sabbath, one would be liable for a sin offering, does the House of Hillel [at M. 1:6B-C] permit – even to put them back?

[C] R. Hananiah in the name of R. Yohanan: “They permitted the matter at the end because of the considerations at the outset. For if you tell someone that he may not put them back, then to begin with he will not open them.”

[D] So let him not open them [at all, and what difference does it make]?

[E] [If you maintain that view,] you diminish the pleasure of the festival day.

[F] Said R. Aha, “One may return them, on condition that he not put them back firmly.”

[G] Said R. Yosé b. R. Bun, “That rule applies if there is no opening. But if there is an opening, let the man make use of the way through that opening.”

[II:1 A] [With reference to M. 1:6B, the Hillelites permit taking up a pestle to hack meat on it:] if it is not to hack meat on it, then it is forbidden [to take up a pestle on a festival day].

[B] [With reference to Y. Shab. 17:2: **Any utensil may be moved about in case of need or not in case of need. R. Nehemiah says, “They may be moved about only in case of need”:**] *That is in line with what R. Hinenah bar Shelamiah said in the name of Rab, “Sages concur with the view of R. Nehemiah in the case of a press tub, a beating tub, and a club – the press tub, for it is that in which an object is squeezed; the beating tub, for it is that with which the beating is done; and the club, for it is that with which he crushes.”*

[III:1 A] **The House of Shammai says, “They do not place a hide [M. I: 6C]”:**

[B] They concur that one may not scrape [the hide].

[C] How shall we interpret the dispute [at M. 1:6C- F]?

[D] If the meat is affixed to the hide, it is tantamount to the body of the hide, [and it is self-evident that it is permitted to lift it up].

[E] If the meat is not affixed to the hide [but is resting on the hide itself] that is then in line with what R. Jacob bar Aha, Hinena of b. Carthage in the name of R. Hoshaiiah [said], “A bag with two pouches, in one of which are coins – one puts a loaf of bread on it and carries it about [on account of the bread], despite the money in one of the pouches” [and here the House of Shammai likewise will permit lifting up the hide because of the meat (parallel to the bread) that is resting on it].

[F] *There was a case in which a tripod fell on R. Jeremiah on the Sabbath, and they gave thought to the matter and lifted it up.*

[G] It was not because the law accords with the view of R. Hoshaiiah,

[H] *but it was so that R. Jeremiah’s life would not be endangered.*

[III:2 A] **And they concur that they do not salt hides on the festival day.**

[B] *It has been taught as a Tannaite statement: **But on it one puts salt on meat which is for roasting [T. Y.T. 1:11B-C].***

[C] Associates in the name of Rab: “A man may salt a sizable piece [of meat], even though he can eat only a small part of it.”

[D] R. Aha in the name of Rab: “One may put on a little salt and circumvent the law by [indicating that he wishes to eat only this spot, and then he may change his mind] and again put on salt and circumvent the law [again by means of the artifice] until he salts the entire piece of meat.”

1:7

[A] **The House of Shammai says, “They do not take out into public domain a minor, a lulab, or a scroll of the Torah [on a Festival day].**

[B] **And the House of Hillel permits.**

[I:1 A] [From the viewpoint of the House of Hillel,] lo, it is forbidden [to take] an adult [out into public domain], [since M. 1:7A-B has the Hillelites permitting a minor in particular].

[B] R. Samuel b. R. Yosé b. R. Bun said, “Even in the case of an adult, it is permitted.”

[C] *For what purpose do we then learn that it is permitted to do so with a minor [as the Mishnah makes explicit]?*

[D] [Specifying a minor] comes to tell you the full extent of the position of the House of Shammai, to what degree they are prepared to impose a strict rule. [That is, they do not permit taking out even a minor, let alone an adult.]

[E] *Samuel was carried from one neighborhood to another.*

[F] *Said R. Zeirah before R. Yosé, “But may we say that it was because he was infirm?”*

[G] *Said his son to him, “He was stronger than you and I.”*

[H] *It has been taught: R. Ishmael son of Rabbi says, “The stones on which we sat in our youth make war against us in our old age.”*

[I] *R. Jonah instructed the associates: “Do not sit on the outer benches of the schoolhouse of Bar Ulla, for they are cold.”*

[J] *Rab instructed his disciples, “Do not sit on the outer stone plates of the colonnade of Assi, for they are cold.”*

[K] *R. Abbahu went down to wash in the baths of Tiberias, and he would lean on two Goths as his*

guards. When they started to fall, he helped them up, and that happened twice. They said to him, “What’s going on? [Why do you have to call on us at all?]”

[L] He said to them, “I am saving my strength for my old age, [by leaning on you now].”

[M] *R. Huna did not go down to the meetinghouse [on the festival day, wanting to save his strength, since he did not wish to walk].*

[N] *R. Qattina asked, “And has it not been taught: ‘They may carry infirm folk’?”*

[O] *R. Huna instructed the exilarch to go out in a palanquin [on a festival, if he found the walking tiresome].*

[P] *R. Hisda asked, “And has it not been taught [in the Tosefta’s version]:*

[Q] “They do not go out [on the festival day] in a palanquin —

[R] “all the same are men and women [T. Y.T. 3:17A-B]?”

[S] *And even a disciple of a sage does not err in this matter [assuming that it is permitted when in fact it is forbidden]?*

[T] *So how could R. Huna make an error in this matter?*

[U] *R. Jeremiah instructed Bar Geranti, “A physician may be carried in a litter to go to visit the sick on the Sabbath.”*

[V] *Miasha, son of the son of R. Joshua b. Levi, was carried in a litter to go up to give a talk in public on the Sabbath.*

[W] *Said R. Zeriqan to R. Zeirah, “When you go to the south, ask [whether this matter is permitted].”*

[X] *The question was presented to R. Simon. R. Simon said to them in the name of R.*

Joshua b. Levi, “It is not the end of the matter that it must be a matter of public need [that will permit someone to make use of a litter on the Sabbath, as in the cases just now listed]. But even if there is the possibility that the public will have need [of a person], it is permitted [to make use of a litter].”

[Y] *There was the instance of R. Eliezer and R. Abba Mari and R. Mattenaiah, who gave instruction that it was permitted to bring bread for [the troops of] Ursicinus on the Sabbath, since the community may need it.*

[I:2 A] *It has been taught: A person goes out with a key on his belt to the public domain and need not scruple on that account [T. Y.T. 1:11/I].*

[B] The House of Hillel permits.

[C] And R. Hoshaiah b. R. Isaac said, “*That rule [60d] that you have given applies to a key that opens a cupboard containing food, but as to a key that opens a cupboard containing utensils, it is not in such a case [that the House of Hillel permits].*”

[D] *And lo, R. Abbahu sat and taught [in public] with the key to the commissary in his hand, [and that had nothing to do with food]. There were spices that he had in it, [so it was equivalent to a key to a cupboard containing food].*

1:8

[A] The House of Shammai says, “**They do not bring dough offering and priestly gifts to the priest on the festival day,**

[B] **“whether they were raised up the preceding day or on that same day.”**

[C] **And the House of Hillel permits.**

[D] The House of Shammai said to them, **“It is an argument by way of analogy.**

[E] **“The dough offering and the priestly gifts (Deut. 18:3) are a gift to the priest, and heave offering is a gift to the priest.**

[F] **“Just as [on the festival day] they do not bring heave offering [to a priestly, so they do not bring these other gifts [to a priest].”**

[G] Said to them the House of Hillel, “No. If you have stated that rule in the case of heave offering, which one [on the festival] may not designate to begin with, will you apply that same rule concerning the priestly gifts, which [on the festival] one may designate to begin with?”

[I:1 A] *It has been taught [in Tosefta’s version]:* Said R. Judah, “The House of Shammai and the House of Hillel concur that they bring [to the priest] gifts which were taken up to the day before the festival along with gifts which were taken on the festival [vs. M. 1:8A-C].

[B] “Concerning what did they differ?

[C] “Concerning [bringing to the priest on the festival] gifts which were taken up on the day before the festival by themselves.

[D] “For the House of Shammai prohibits.

[E] “And the House of Hillel permits [T. Y.T. 1:12A-E].”

[I:2 A] Now there is the following question to be addressed to the position of the House of Hillel [who maintain that] one may not designate heave offering on the festival day [M. 1:8G]:

[B] What if one sets a stipulation [concerning produce, that the heave offering to be removed from it is deemed separated on the festival day or Sabbath, with said stipulation made prior to the festival or Sabbath]? [Such a stipulation is valid. Why have the Hillelites then assumed that one may under no circumstances designate heave offering on the festival day?]

[C] They made a decree concerning [bringing to the priest on the festival] that [produce from which heave offering has been removed prior to the festival, by a stipulation] on account of that produce [concerning which no such stipulation had been laid down].

[D] *And why have we learned the rule governing dough offering?* It is on account of the case of dough offering that was removed on the festival.

[I:3 A] *There is the following, as it has been taught: [Tosefta’s version:]* **He who kneads dough on the festival, whether it is unclean or clean, is permitted to handle it and permitted to remove dough offering from it. [The obligation to designate the dough offering comes into effect on the festival day and may be carried out on that day.]**

[B] **But if he kneaded on it on the day before the festival and forgot and did not designate dough offering,**

- [C] **he is prohibited to handle it and prohibited to separate dough offering from it [T. Y.T. 1:14].**
- [D] As to starting the dough, the cited teaching does not say, “If one started dough,” but if one *kneaded* it. But if one started the dough [on the eve of a festival], this prohibition does not apply. [Why should that be the case?]
- [E] Said R. Samuel, brother of R. Berekhiah, “Interpret the rule to speak of a case of unclean dough, the dough offering of which one removes only at the end [when it is fully prepared].”
- [F] Said R. Yosé b. R. Bun, “In strict law, the rule should be that even in the case of dough kept in conditions of cleanness, one should separate the dough offering deriving from it only at the end. It was an ordinance that they made, that one should designate the dough offering at the outset, lest the dough thereafter suffer uncleanness.”
- [G] *The cited teaching deals with the festival day of Passover, but as to Pentecost and Tabernacles, it is permitted [to carry it about].*
- [H] R. Yosé b. R. Bun, R. Huna in the name of R. Aha, “Even on Pentecost and Tabernacles it is forbidden, on the count of the following verse of Scripture: [‘On the first day you shall hold a holy assembly, and on the seventh day a holy assembly]; no work shall be done on those days; [but what every one must eat, that only may be prepared by you]’” (Ex. 12:16).

1:9

- [A] **The House of Shammai says, “Spices are crushed in a wooden crusher,**
- [B] **“and salt in a cruse and with a wooden pot-stirrer.”**
- [C] **And the House of Hillel says, “Spices are crushed in the usual way, in a stone pestle,**
- [D] **“and salt in a wooden pestle.”**
- [I:1 A] And why should one not crush the spices on the preceding day [rather than on the festival day itself]?
- [B] Associates in the name of R. Yohanan: “Because [if they are crushed so long before use,] they taste bitter.”
- [C] R. Zeirah in the name of R. Yohanan: “It is because their taste grows faint.”

- [D] *Samuel crushes spices on the side of the pestle [rather than in the usual way, in the center since he crushes on the festival day itself].*
- [E] Rab said, “Whatever requires crushing is to be crushed in the usual way.”
- [F] R. Hunah, R. Jeremiah, R. Immi in the name of R. Yohanan: “Garlic, pepperwort, and mustard we crushed in the usual way.”
- [G] R. Abbahu in the name of R. Yohanan: “He who prepares aromatic water on the Sabbath is liable on the count of mixing.”
- [H] Lo, on the festival day, is it permitted to do so [in preparing food or drink]?
- [I] R. Hezekiah in the name of R. Jeremiah: “He who prepares aromatic water on the festival day – it is forbidden on the count of mixing.”
- [J] *Isaac Dihba asked R. Yohanan, “What is the law on crushing spices for wine on a festival day?”*
- [K] *He said to him, “It is permitted to do so, and do bring me some, so I can drink it too.”*
- [L] R. Abbahu in the name of R. Joshua b. Levi declared it permitted.
- [M] *R. Zeira asked before R. Abbahu, “Will not he who does it properly crush the spice on the preceding day?”*
- [N] He said to him, “That is so.”
- [O] *The opinions assigned to R. Abbahu are at variance. Here [L] he has said that it is permitted, while there [M-N] he has said that it is forbidden.*
- [P] *But since R. Abbahu knew that R. Zeirah imposed a strict rule, and they [in his locale] in general impose a strict rule, on that account he treated the matter as they do.*
- [Q] *There is he who wishes to state that this is what he said to him, “He who wants to do it properly will not crush the spices on the day before.”*
- [R] *R. Zeirah asked Qallah, the Southerner, the slave of R. Yudan the Patriarch, “Does [your master, Yudan] make a mixture of spices for wine on the festival day?”*
- [S] He said to him, “Yes, and every sort of roots and spices for coloring food in addition.”

[I:2 A] *R. Isaac, R. Eleazar in the name of R. Immi father of R. Abodema of Sepphoris, “Where there is a dispute, [it has to do with crushing salt] for the pot. But as [to crushing it] for roasting, it is permitted to do so [even in the view of the House of Shammai] [The pot require much salt; a small amount is sprinkled on the roast.]”*

[B] *R. Nahum said R. Samuel bar Abba asked, “As to making vermicelli on the festival, if it is for drying them, it is forbidden. If it is for the pot [cooking right away], it is permitted. Where there is a question, it has to do with drying only a small amount [for eating. Here it may appear that one is making it for later use, after the festival.]”*

1:10

[A] **He who picks out pulse on a festival day –**

[B] **the house of Shammai says, “He makes his selection of food and eats it [right away].”**

[C] **And the House of Hillel says, “He makes his selection in his usual way, [putting it down using] his lap, a basket, or a dish;**

[D] **“but not [using] a board, sifter, or sieve [and so preparing a large quantity, for the next day].”**

[E] **Rabban Gamaliel says, “Also: he swills and separates the husks.”**

[I:1 A] *R. Jonah asked, “If one did so on the Sabbath, in the view of the House of Shammai what is the law as to his being liable? [On a festival one selects the food out of the refuse, but not the refuse out of the food. If on the Sabbath one selected the refuse out of the food, will he be liable in the view of the House of Shammai?]”*

[B] *Said to him R. Yosé, “And why not? If he had done so on the Sabbath, in the view of the House of Hillel, would he not be liable? And here likewise he is liable. [If one did on the Sabbath what the House of Shammai says is not to be done on the festival, he surely is liable.]”*

[C] *Said R. Mana, “Well did R. Jonah, my father, say. The question he raised follows only from the position of the House of Shammai. Why? Because, from their position, a form of selection [that is invariably prohibited on the Sabbath] has been permitted on the festival day. But that form of selection [of one thing from some other still] has not been permitted on the Sabbath. [Hence the question raised at the outset remains valid.]”*

[I:2 A] **If one selected one kind of food from some other kinds of food –**

[B] **R. Hezekiah said, “He is liable.”**

- [C] R. Yohanan said, “He is exempt.”
- [D] *The following Tannaitic teaching differs from the view of Hezekiah, [for it has been said]:* “One makes his selection of food and eats it right away or makes his selection of food and leaves it on the table.” [This then indicates that selecting food from among a selection of foods is not the sort of selection that is prohibited on the Sabbath. Leaving it on the table is the key, then, since it clearly is not selection merely in order to eat right away what has been selected.]
- [E] R. Bun bar Hiyya in the name of R. Samuel bar R. Isaac: “Interpret the rule to apply to a case in which there were guests who were eating, one by one. [This is not selection for some later purpose; the guests will eat the food as they come along.]”
- [F] *And has it not been taught:* And this is on condition that one not cull out [select] all of a particular sort [of food]. And if one has done so on the Sabbath, he is liable.
- [G] [How do the disputants deal with this statement? Following the version in Y. Shab. 7:2]:In the view of Hezekiah, [the reason is] that he who selects [food] in the normal way [choosing one sort of food from another sort of food] on the Sabbath is liable, [if he does not eat the selection right away].
- [H] *In the view of R. Yohanan* [the reason is] that he who selects food in the normal way in another location is liable. [If one selects food and puts it somewhere else, not eating any of it, he is liable on the count of selecting.]
- [I] *In the view of Hezekiah*, even if one selects one circle of dried figs from other circles of dried figs, or one pomegranate from other pomegranates, he is liable.
- [J] *If so, then would one be liable for selecting one sort of person from among other people?* [Surely not!]
- [K] *What is the upshot of the matter?*
- [L] All parties concur with the view of R. Immi.
- [M] [For] R. Immi had guests and placed before them lupines with their husks. He said to them, “Pay attention that in eating you leave the chips [the wood-like, bad beans] for the end.” [So the guests must take a handful and select the edibles as they go along, eating what they find right away: This is done even on the Sabbath.]

- [I:3 A] *It was taught:* One does not select [winnow], grind, or sift. He who selects [winnows], grinds, or sifts on the Sabbath is put to death by stoning, and [if he did so] on a festival day, he incurs forty lashes.
- [B] *And lo, we have learned:* **He makes his selection in his usual way, putting it down using his lap, a basket, or a dish; but not using a board, sifter, or sieve [and so preparing a large quantity for the next day] [M. Bes. 1:10A C-D].**
- [C] [As to the contradiction between A and B,] said R. Hanina of Antonia, “The former represents the view of Rabban Gamaliel, who has said, **He swills and separates the husks [M. 1:10E]**, [using the water to separate the kernel from the husks, but does not make a selection in the way outlined above]. [Hence if one made his selection in the usual way, he would be liable].”
- [D] *And lo, we have learned:* **The members of the household of Rabban Gamaliel would crush pepper in a pepper mill on the festival day [T. Y. T. 2:16A, cf. M. 2:8D].**
- [E] [There is no contradiction.] It is permitted to grind but prohibited to make a selection [winnow].
- [F] [Answering this same question, R. Yosé in the name of R. Bun: “It is not permitted to Find in the usual way, [but one may do so in some other way].”
- [G] How do we know that one may not select, grind, or sift [in preparing food on the festival day]?
- [H] R. Aha in the name of R. Simeon b. Laqish: “No work shall be done on those days, but what every one must eat, that only may be prepared by you. And you shall observe the feast of unleavened bread ...” (Ex. 12:16-17).
- [I] R. Yosé raised the question, “Did they not derive [the law that it is not permitted to carry out one’s obligation to eat unleavened bread through] cooked unleavened bread [from the present verse]?”
- [J] [On account of this consideration, that the verse serves to prove a different proposition altogether,] R. Yosé did not state matters in this way.
- [K] Rather, R. Yosé in the name of R. Simeon b. Laqish [said], “... but what every one must eat, that only may be prepared by

you. And you shall observe the feast of unleavened bread ...” (Ex. 12:16-17).

[L] *Differing from the foregoing position, Hezekiah taught: “The language, ‘... but what ...’ serves as exclusionary, meaning that one should not harvest the grain, grind it, or sift it on the festival [thus in line with M. 1:10D, the things the House of Hillel says one must not do].”*

- [I:4 A] R. Zeira, R. Hiyya bar Ashi in the name of Rab: “He who strains wine [to remove the lees] is liable on the count of selection [winnowing].”
- [B] *Said R. Zeira, “It is surely more reasonable that it is on the count of sifting.”*
- [C] *R. Jonah and R. Yosé both say, “At first we were inclined to say that R. Zeira has spoken well. Just as in sifting the chaff falls to the bottom and the grain rises to the top, so with straining wine, the wine goes to the bottom and the lees float to the top. And why did we say nothing at all? Because [straining falls under the category of selection (winnowing)]. For selecting is removed from the general prohibition.*
- [D] “How has selecting been removed from the general prohibition? **He makes his selection in his usual way, putting it down using his lap, a basket, or a dish [M. 1:10C].** And straining wine has been removed from the general prohibition, since on the festival day they may also pour wine into a strainer that has been spread out.
- [E] “But sifting has not been removed [for purposes of cooking on the festival] from the general prohibition under which it is categorized. For R. Hanina b. Yosé in the name of R. Judah said, ‘One may not sift flour a second time on a festival,’ but they sift it on the outer side of the sieve. [Sifting may be done only in an unusual way.] Now if you maintain that straining is comparable to sifting, then it should be prohibited to strain wine on the festival day, [as we see that it is forbidden to sift in the normal way].”
- [F] *Said R. Yosé b. R. Bun, “[As to sifting flour on the outer sides of the sieve,] this is not in accord with the view of R. Judah. For it has been taught in the name of R. Judah, ‘But as to making use of utensils used for preparing food, they have permitted doing so [that is, even without making some change from the practice on ordinary days].’ [Judah then would not require using the outer sides on the sieve at all.]”*

[G] *The following question was raised:* What is the law as to sifting the flour a second time on the outer parts of the sieve, in accord with the view of rabbis [who differ from Judah, F]? [Since this can be done the day before the festival, do the rabbis prohibit doing so altogether, or do they permit doing so in the extraordinary manner permitted, to begin with, by Judah? This question is not answered.]

1:11

[A] **The House of Shammai says, “They send on the festival day only prepared portions of [food].”**

[B] **And the House of Hillel says, “They send domestic beasts, wild beasts, and fowl,**

[C] **“whether alive or already slaughtered.”**

[D] **They send wine, oil, fine flour, and pulse,**

[E] **but not grain.**

[F] **And R. Simeon permits [sending] even grain.**

[I:1 A] *Now there is the following challenge to the position of the House of Shammai:*

[B] A large thigh [of a beast] will it be permitted to send, but a small lamb will it be forbidden to send! [That is, taking their position to its logical conclusion, we reach the stated absurdity. The former is prepared, the latter is not. Even though the former will not be fully eaten, one may send it; even though the latter will be fully consumed, one may not send it.]

[C] Said R. Yudan, “[Interpreting the position of the House of Shammai], it is not reasonable to re-explain that it is forbidden to carry it [since it will appear that it is for sale]? But if one was leading a beast on a leash, what difference does it make whether one is leading it to take it somewhere or leading it to give it some water to drink? [Both sorts of actions are permitted. Hence it will be permitted to send beasts if the process of delivery does not raise questions as to the observance of the festival.]”

[D] R. Hoshaiiah the Elder asked R. Yudan the Patriarch, “Have you heard from your father the law as to whether it is permitted to carry a chicken?”

[E] [He replied,] “How is this a question? If it is prepared in advance for slaughter, it is permitted to carry it about, and if not, it is forbidden.”

[F] “But are not all (61a) chickens regarded as ready for slaughter? It is on that account that it is a question.”

[G] He told it to him in a whisper.

[H] He replied, “Why do you tell it to me in a whisper?”

[I] He answered, “Just as I heard the tradition in a whisper, so I am repeating it to you in a whisper, [that any chicken not designated for laying eggs may be carried about, in the theory that it is always designated as ready for slaughter].”

[I:2 A] *It has been taught [in the Tosefta’s version]: R. Simeon says, “They send grain [M. Bes. 1:11F],*

[B] “because it is food in Assasit,

[C] “[and they send] beans, because it is food in Lud,

[D] “[and they send] barley, because it is suitable for beasts” [T. Y.T. 1:23C-F].

[E] *Has it not been taught in the name of R. Simeon, “‘But what every one must eat ...’ (Ex. 12:16) is inclusive of beasts”?*

[F] The rule of R. Simeon accords with the principle of R. Aqiba, his master.

[G] Just as R. Aqiba has said, “ ‘What every one must eat’ includes even beasts,” so R. Simeon says, ‘What every one must eat’ includes beasts.”

1:12

[A] **They send clothing, whether sewn or not [yet] sewn,**

[B] **And even though there are Diverse Kinds [linen and wool] in them,**

[C] **if they are needed for use on the festival.**

[D] **But [they do not send] a nail-studded sandal or an unsown shoe.**

[E] **R. Judah says, “Also: Not a white shoe,**

[F] **“because it requires a craftsman[’s work, to blacken it].”**

[G] **This is the governing principle: Whatever may be used on the festival day do they send.**

[I:1 A] *This is the meaning of the rule of the Mishnah [at M. 1:12F, requiring the craftsman]: It is because it requires a clod containing silicate of iron [for blacking the leather].*

- [II:1 A] *The Mishnah [at M. 1:12D, regarding the unsown shoe as unfinished,] accords with the view of R. Eliezer, for we have learned there:*
- [B] **A shoe which is on the last – R. Eliezer declares it insusceptible to receive uncleanness [because it is not yet fully manufactured]. And sages declare it susceptible to uncleanness [for no further work is necessary] [M. Kel. 26:4G-I].**
- [C] No, the present passage represents the opinions of all parties. *The case here is different*, for it is as if on the festival day he prepares a utensil for use [which he may not do]. [Hence sages will concur here that one may not send such a shoe.]
- [D] *It has been taught:* They do not remove a sandal from the last on a festival day, but they do remove a sandal from the last on the intermediate days of a festival.
- [II:2 A] What is the law as to curdling milk on a festival day?
- [B] If you say that it may *be* done, then one may milk a cow and curdle in it on a festival day for use on an ordinary day.
- [II:3 A] *R. Halapta b. Saul taught*, “It is forbidden to send ornaments.”
- [B] Said R. Mana, “They have stated only that it is forbidden to send them.
- [C] “Lo, as to wearing them it is permitted.”
- [II:4 A] *It has been taught [in the Tosefta’s version]:* **They move about a horn to give drink to an infant.**
- [B] **They handle a rattle, a notebook, and a mirror to cover utensils with them [cf. M. Shab. 17:21].**
- [C] **And they do not look into a mirror on the Sabbath.**
- [D] **But if it was affixed to the wall, it is permitted [T. Shab. 13:16].**
- [E] *Said R. Abun*, “*The Mishnah has indicated that it is forbidden to wear them, for we have learned: Whatever may be used on the festival day do they send [M. 1:12G].*”
- [F] Now if you say that it is permitted to wear them, it should also be permitted to send them.
- [G] *What is the meaning of that which is taught:* **They move about a horn to give drink to a child. They handle a rattle, a notebook, and a mirror to cover utensils with them.**

[H] This is when they are regarded as a distinctive utensil [capable of doing an act of labor that is permitted].

- [II:5 A] Up to this point we have dealt with golden ornaments. But is the law the same for silver ones?
- [B] They say in the name of R. Jeremiah that it is forbidden.
- [C] And they say in the name of R. Jeremiah that it is permitted.
- [D] *Said R. Hezekiah, "I know the beginning and end of the matter [that Jeremiah sometimes forbade and sometimes permitted the matter].*
- [E] *"There were little girls growing up in the house of R. Jeremiah. He came and asked R. Zeirah [whether on the Sabbath they could wear silver ornaments]. He said to him, 'Do not prohibit them and do not permit them. The law is that they should not do so, but it is better that, if they are going to do so, they do it in their ignorance, rather than deliberately violating the law.]"*

YERUSHALMI BESAḤ

CHAPTER TWO

2:1

- [A] On a festival which coincided with the eve of the Sabbath [Friday] -
[B] a person should not do cooking to begin with on the festival day [Friday] for the purposes of the Sabbath.
[C] But he prepares food for the festival day, and if he leaves something over, he has left it over for use on the Sabbath.
[D] And he prepares a cooked dish on the eve of the festival day [Thursday] and relies on it [to prepare food on Friday] for the Sabbath as well.
[E] The House of Shammai says, “Two dishes.”
[F] And the House of Hillel says, “A single dish.”
[G] But they concur in the case of fish and the egg [cooked] on it, that they constitute two dishes.
[H] [If] one ate [the dish intended for the Sabbath] or it was lost, one should not cook another in its stead in the first instance.
[I] But if he left over any amount at all on it, he relies on it for the Sabbath.

- [I:1 A] It is written, “He said to them, ‘[This is what the Lord has commanded: Tomorrow is a day of solemn rest, a holy Sabbath to the Lord;] bake what you will bake and boil what you will boil, and [all that is left over lay by to be kept until the morning]’” (Ex. 16:23).
[B] [On the basis of this proof-text,] R. Eliezer says, “They bake relying on what is already baked, and they boil relying on what is already boiled.”
[C] R. Joshua says, “They bake or boil relying on what is already boiled.”
[D] *What is the scriptural basis for the position of R. Eliezer?* “Bake what you will bake and boil what you will boil” (Ex. 16:23).

[E] *What is the scriptural basis for the position of R. Joshua?* [It is as if we read:] “Bake or boil what you will boil.”

[F] [Said R. Eliezer, “This accords with the view of him who said that at Marah the law of the Sabbath was given [Ex. 15:25].

[G] “*But in the view of him who said that at Elush the Sabbath was given, do they now stand in Elush and receive a warning there [as to something that they should not do? In fact they should have received prior admonition.]*”

[I:2 A] [Reverting to the issue of I:1, M. 2:1D, that one may prepare a dish on the eve of the festival and, relying on that, continue cooking on the festival itself food which then may be used for the Sabbath as well.] *Now see here!* Is there a matter which is forbidden by the law of the Torah, but rendered permissible by the preparation of a meal of commingling [that is, preparing food prior to the festival for use on the festival and on the Sabbath following]?

[B] Said R. Abbahu, “In strict law people [61c] should be permitted to bake or cook on a festival day food for use on a Sabbath. But if you should say so [and decide the law in that way], then a person will cook also on a festival day food for use on an ordinary day.

[C] [Proving the foregoing statement about the law in theory, we continue:] *For see here*, people make beds on the festival for use on the Sabbath. Should they not [in theory] be permitted to bake or cook on a festival day food for use on the Sabbath?

[D] Said R. Ila, “And why are people allowed to make beds on the festival for use on the Sabbath? For so too do they make beds on the night of the Sabbath for use on the Sabbath.

[E] “Then why should they not also have the right to bake or cook on the festival day for use on the Sabbath? [Because] they do not bake or cook on the night of the Sabbath for use on the Sabbath.”

[I:3 A] [As to preparing a cooked dish on the festival day and leaving something over for use on the Sabbath, M. 2:1C:] R. Kahana b. R. Hiyya bar Ba said, “That is on condition that one not practice deception [by baking or cooking a great deal of food].”

[I:4 A] I [With reference to **M. Hal. 1:8: Dog’s dough, if herdsmen can eat it, is liable to dough offering ... and they make it on a festival day**

(since it is food for man),] *the cited passage of the Mishnah accords with the view of R. Simeon b. Eleazar.*

[B] *That statement is pertinent to the following, which has been taught:*

[C] **They to not bake food on the festival day for use after the festival day.**

[D] **But [on the festival] one may fill a pot with meat, even if he ate only some small amount of it.**

[E] **And one may fill up a kettle with water [and heat it], even if he drank of it only a single glass of water.**

[F] **But he who bakes should bake only what he needs.**

[G] **R. Simeon b. Eleazar says, “A woman may fill up the oven with bread for baking,**

[H] **“for the bread bakes better when the oven is full [T. Y. T. 2:5].**

[I] **“They do not prepare food either for gentiles’ or for dogs’ consumption on the festival day” [T. Y. T. 2:6A].** [Thus Simeon b. Eleazar maintains that if the herdsmen do not eat the dog dough, then people may not prepare it on a festival day, since it is not food for human beings. Simeon’s statement, just now cited, concurs with that view.]

[J] *R. Hunah interpreted [the law] in line with this view of R. Simeon b. Eleazar.*

[K] *R. Yohanan interpreted [the law] for Tiberians in line with this view of R. Simeon b. Eleazar.*

[L] *He taught them the law in this way as a matter of legal theory, but they thought that his intent was to teach the law for practical application.*

[M] *There is he who proposes that it was for practical application that he taught them the law. They came and asked him about it, and he taught them the law as a matter of legal theory, and then he went and taught them the law, and they did not know whether it was as a matter of legal theory or whether it was as a matter of actual practice.*

[N] *Said R. Abba bar Zabedi, “R. Abbahu taught the law in accord with the view of R. Simeon b. Eleazar.”*

- [II:1 A] [With reference to M. 2:1D,] R. Hiyya in the name of R. Yohanán: “One has to declare, ‘It is for me and for anyone else who has not prepared a meal of commingling.’ [Such a person may rely upon the meal of commingling that this person has prepared.]”
- [B] **Lo, if one forgot and did not share in the erub,**
- [C] **but the other [residents of the courtyard] prepared an erub -**
- [D] **they are permitted to prepare [food] for him [T. Y. T. 2:3C-E].**
- [E] R. Zeriqán in the name of R. Zeirah: “That applies in the case in which he assigns to them ownership of what is his. For if not, they will turn out to prepare for him food that is wholly his, [but he has not prepared a meal of commingling]. [Accordingly, he must give over ownership of his dough to those who have prepared that meal, in which case they may then share both what is his and what is theirs.]”
- [F] If he did not prepare a meal of commingling, and others did not do so for him -
- [G] R. Isaac says, “He may roast a little fish for himself.”
- [H] R. Hunah said, “He may warm up some water for himself.”
- [I] Samuel said, “He may light a candle for himself.”
- [J] *R. Hiyya taught:* **[If] he himself forgot and did not prepare an erub, it is permitted to fill a jug of water for him and to light a candle for him [T. Y. T. 2:3F].**
- [K] There was the case of a father who imposed an oath on his son . [that the son may not benefit the father in any way, so that the son would be wholly free] to study Torah.
- [L] The case came before R. Yosé b. Halapta, who permitted the son to fill a jug of water for him and to light a candle for him.
- [II:2 A] *R. Hiyya the Elder came to his home. They said to him, “We forgot to prepare a meal of commingling.”*
- [B] *He said to them, “Are there any lentils prepared yesterday?”*
- [C] *They said to him, “Yes.”*
- [D] *[Since he regarded that single dish as sufficient,] that indicates that even a single dish suffices [in line with M. 2:1F].*

- [E] *No, [that is not the case,] since there were cabbage leaves mixed in.*
- [F] *[Since he regarded chopped up vegetables as sufficient,] is that to say that such a dish is acceptable [for reliance for cooking further, in line with M. 2:1D], even if the dish does not contain an olive's bulk of volume?*
- [G] *No, [that is not so, for there was] in the mixture the standard measure [an olive's bulk in volume].*
- [H] *That is to say, in any event, that it is not necessary to make a stipulation in advance [that one will rely upon the food].*
[Hiyya was satisfied to declare after the fact that he would rely upon the specific cooked dish, to meet the provisions of M. 2:1D, and that is so even though, in advance, he did not stipulate that he would do so.]
- [I] Said R. Hisda, "R. Hiyya the Elder had made such a stipulation."

- [II:3 A]** *It has been taught [in the Tosefta's version]:* **Said R. Simeon b. Eleazar, "The House of Shammai and the House of Hillel concur that they are [to be] two dishes.**
- [B] **"Concerning what did they differ?**
- [C] **"Concerning the case of fish and the egg cooked in it.**
- [D] **"For: The House of Shammai says, 'They are a single dish.'**
- [E] **"And the House of Hillel says, 'Two dishes'" [vs. M. 2:1E-G].**
- [F] **And they concur that if one cooked two different kinds of food in one pot,**
- [G] **or if he beat up an egg on a fish,**
- [H] **or if he shreds a leek under a fish,**
- [I] **that they constitute two dishes [T. Y. T. 2:4].**
- [J] And the law is in accord with the opinion of the disciple [Simeon b. Eleazar vis-[^]-vis the House of Hillel].
- [II:4 A]** Rab said, "I say, '[A meal of commingling] may not be less than an olive's bulk in volume.'"
- [B] *Does this not stand at variance with the view of R. Yohanan, for R. Yohanan said, "[The meal must be introduced by the statement], 'It is*

for me and for anyone who has not prepared a meal of commingling' [and it stands to reason that the symbolic meal will not contain an olive's bulk for anyone who happens to come by]."

[C] *The following Tannaitic teaching supports the view of R. Yohanan: As to a meal of commingling, at the outset and at the end [after the passage of time] it is not subject to a minimum measurement as to its volume [T. Y. T. 2:2F].*

[II:5 A] [On a festival which coincided with the eve of the Sabbath [Friday] [M. 2:1A]:

[B] "they do not prepare an erub either for courtyards or for Sabbath boundaries"--the words of R. Meir.

[C] And sages say, "They prepare an erub for courtyards, but not for Sabbath boundaries" [T. Y. T. 2:1A].

[D] They do prepare an erub for courtyards, for in so doing, you permit a person to do something [i.e., carry about in the courtyards] which is in any event permitted [on the festival].

[E] But they do not prepare a meal of commingling for Sabbath boundaries [that is, to extend one's Sabbath limit in some one direction], for in so doing you permit the man to do something [i.e., go beyond the limit] which is ordinarily prohibited to him [on the festival].

[F] *There are Tannaite authorities who exchange the names of the authorities of the cited passage [giving Meir the view of sages, and vice versa].*

[G] *Said R. Eleazar, "Since they have the authority of Tannaim, and they exchange the attributions, we must take account of both positions [and impose the strict rule]."*

[H] R. Jeremiah in the name of R. Zeirah: "He who wants to do things right will prepare the erub [even for courtyards!] on the preceding day [on the eve of the festival]."

[I] *Said R. Yudan, "That which you have said applies to a case in which the man did not prepare a meal of commingling [for cooking on the festival and on the Sabbath], but if one did prepare a meal of commingling [for that purpose], it is permitted."*

[J] *R. Yosé b. R. Bun* asked, “But does a meal of commingling [for cooking on the festival for the Sabbath] sene also to commingle the boundaries [of ownership of a courtyard, or the boundaries for walking on a Sabbath beyond the normal limits of the village]? [Surely not! The two sorts of meals of commingling are quite different from one another and sene different purposes entirely.]”

2:2

[A] **[If the festival day] coincided with the day after the Sabbath [Sunday],**

[B] **the House of Shammai says, “They immerse everything before the Sabbath.”**

[C] **And the House of Hillel says, “Utensils [are to be immersed] before the Sabbath,**

[D] but man [may immerse] on the Sabbath [itself].”

- [I:1 A] [The Houses of Hillel and Shammai agree that people may not immerse vessels on the Sabbath in order to render them cultically clean. The Yerushalmi asks to what sort of vessels the Houses refer.] *At Mishnah 2:3*, the Houses refer to large vessels, [which are not used to draw water].
- [B] But in the case of small vessels, [which are used to draw water, the Houses agree that the person may draw water in them and, in that way,] circumvent [the law, since by drawing water], he immerses them [against their previous uncleanness].
- [C] [*So taught R. Hoshaiiah*, “[On the Sabbath] a man may fill an unclean vessel [with water] from a well [so as to draw water] and [in that way] may circumvent [the law, since by drawing the water] he immerses the vessel [against its previous uncleanness].”
- [D] *It is taught*: [On the Sabbath, if] his [unclean] bucket fell into a well, he may circumvent [the law by using that opportunity to] immerse them [against their previous uncleanness].
- [E] [The question now is in what level of uncleanness are the vessels which the Houses agree may, through artifice, be immersed on the Sabbath.] [*There are*] *two Amoraic authorities*.
- [F] *One states* [that the Houses refer even to vessels] which were rendered unclean by a Primary Source of Uncleanness.

[G] *But the other states* [that the Houses refer only to vessels] which were rendered unclean by a Secondary Source of Uncleanness.

[H] *The one who claims* [that they refer only to vessels rendered unclean] by a Secondary Source of Uncleanness replied to the one who states [that they refer even to vessels rendered unclean by] a Primary Source of Uncleanness, “[If indeed the reference is to a vessel rendered unclean by a Primary Source of Uncleanness, why should the Houses permit the person to circumvent the law and immerse it on the Sabbath? The fact is that the man anyway will not be able to use such a vessel on the Sabbath since,] even [if it were immersed] on a weekday, [such a vessel] would have to await the setting of the sun, [which marks the conclusion of its process of purification]. [Since the man cannot use the vessel on the Sabbath, he should not be allowed to immerse it on that day. A vessel rendered unclean by a Secondary Source of Uncleanness, by contrast, may be used immediately after it is immersed. The Houses allow the person to immerse it on the Sabbath, so that he may use it on that same day.]”

[I] Said to him [the one who claims that the Houses refer as well to a vessel which was rendered unclean by a Primary Source of Uncleanness], “The case is one in which [the individual] wishes to use [the vessel] for unconsecrated foods prepared in a state of cleanness [but not for heave offering or other Holy Things]. [For such use the vessel rendered unclean by a Primary Source of Uncleanness and then immersed need not await the setting of the sun. It may be used immediately. The Houses have good reason to allow the person to immerse this vessel on the Sabbath, so as to use it on that same day.]”

[I:2 A] All those who are obligated to immerse [to remove uncleanness], immerse in the usual way on the ninth of Ab and on the Day of Atonement [although those days are fast days when bathing is prohibited].

[B] Said R. Hananiah, prefect of the priests, “The [destruction of] the House of God [which is recalled on the ninth of Ab] is serious enough that the priests should forego one immersion on its account.”

[C] R. Levi taught in accord with the view of Hananiah, prefect of the priests.

[II:1 A] A man [may immerse] on the Sabbath [M. 2:2D]: For a man immerses on the Sabbath on account of a seminal emission.

2:3

[A] And they concur that they effect surface contact between water [which is unclean], contained in a stone utensil [which is insusceptible to uncleanness, with the water of an immersion pool] in order to render [the unclean water] clean.

[B] But they do not immerse [unclean water in an unclean utensil which contains it].

[C] And they immerse [utensils] [if they are to be changed] from one use to another use,

[D] or [at Passover] from one association [of people joined to make use of a single Passover lamb to another [such] association.

[I:1 A] I *The rule of the Mishnah does not accord with the view of Rabbi.*

[B] *For it has been taught [in the Tosefta's version]: "They do not immerse a utensil along with the water which it contains on the festival,*

[C] *"and they do not [even] effect surface contact [with the water of an immersion pool] in a stone utensil to clean it on the Sabbath," the words of Rabbi [cf. M. 2:3A].*

[D] And sages say, "They do immerse a utensil with the unclean water which it contains on the festival day, and they do effect surface contact of unclean water with the water of an immersion- pool] in a stone utensil in order to clean it,

[E] "but not to immerse it" [T. Y. T. 2:9 = T. Shab. 16:11].

[F] The reference is only to a stone utensil. Lo, as to a wooden one, one may not do so [in line with D, since it is susceptible to uncleanness].

[II:1 A] How so from use to another use?

[B] He who wants to carry out the pressing of his wine along with the pressing of his olives, or the pressing of his olives alongside the kneading of his dough -

[C] lo, this one immerses on that very day [T. Y. T. 2:7].

[D] How so from one association to another association?

[E] [If] one did not want to prepare [press] his olives along with kneading his fellow's dough, lo this one immerses his utensils [T.Y.T.2:8].

2:4

[A] The House of Shammai says, "[On a festival] they bring peace offerings, but they do not lay hands on them."

[B] "But [they do] not [bring] burnt offerings [at all]."

[C] And the House of Hillel says, "They bring peace offerings

[D] "and burnt offerings,

[E] "and they lay hands on them."

[I:1 A] The House of Shammai says, "Laying on of hands not in the ordinary way has been permitted."

[B] The House of Hillel says, "Laying on of hands not in the ordinary way has not been permitted."

[C] What is laying on of hands not in the ordinary way?

[D] It is doing so on the previous day [so that the laying on of hands is not done on the festival but on the day before the festival].

[E] *Said R. Zeira, "All parties concur in the case of the guilt offering of a mesora, on which the sacrificer laid hands the previous day, that he has not carried out his obligation by doing so.*

[F] "As to peace offerings brought as a thank offering on which one laid hands on the previous day, one has carried out his obligation.

[G] "*Concerning what do they differ?* Concerning peace offerings [brought in fulfillment of the requirement to bring] a festal offering.

[H] "*The House of Shammai treats them as equivalent to peace offerings brought as a thank offering. The House of Hillel treats them as equivalent to the guilt offering of a mesora.*"

[I] Said R. Yosé, "When you say that as to the guilt offering of a *mesora* on which one laid hands on the previous day, he has not fulfilled his obligation, that applies when the beast was brought at its required time [on the eighth day]. [Since

the laying on of hands was not on the eighth day but on the seventh, the *mesora* has not carried out his obligation.] But if the proper time for bringing the beast has passed, it is then treated as equivalent to peace offerings brought as a festal offering.”

- [I:2 A] [Tosefta’s version:] **Said the House of Hillel, “Now if at a time at which you are not permitted to prepare [food] for an ordinary person, you are permitted to prepare [foot] for the Most High [for on the Sabbath, one is not permitted to prepare foot for himself, but one is permitted to offer up daily burnt offerings and additional offerings],**
- [B] **“at a time at which you are permitted to prepare [foot] for an ordinary person [for on the festival day one is permitted to prepare food], should you not be permitted to prepare [food] for the Most High?”**
- [C] **The House of Shammai said to them, “Sacrifices brought in fulfillment of vows and as thank offerings will prove the matter. For you are permitted to prepare [food] for an ordinary person, but you are not permitted to prepare [these, as offerings on a festival day] for the Most High.”**
- [D] **The House of Hillel said to them, “No. U you have stated the rule concerning sacrifices brought in fulfillment of vows and as thank offerings, which are not subject to a fixed time [for their offerings], will you state the same rule concerning the festal offering, the time of which is fixed?”**
- [E] **The House of Shammai said to them, “Also in the case of the festal [appearance] offering, there are occasions at which its time is not fixed.**
- [F] **“For he who did not bring a festal offering on the first day of the festival may bring a festal offering on any other day of the festival including [according to your theory] the last day of the festival” [T. Hag. 2:10E-I].**
- [G] **The House of Hillel said to them, “The festal offering is subject to a fixed time. For if one did not present the festal offering [61b] on the festival itself, he does not have the power to do so after the festival.”**
- [H] **The House of Shammai said to them, “And has it not been writ ten, ‘[On the first day you shall hold a holy assembly; and on the seventh**

day a holy assembly; no work shall be done on those days;] but what every one must eat, that only may be prepared by you” (Ex. 12:16).

[I] The House of Hillel said to them, “Is there any proof from that passage? For you it will not be prepared, but it will be prepared for the Most High.”

[J] [Tosefta’s version:] **Abba Saul would say the tradition in an other language in the name of the House of Hillel, “Now if at the time at which your oven is closet [on the Sabbath], the oven of your Master is open; at a time at which your oven is open [on a festival], should not the oven of your Master be open?**

[K] **“Another matter: Your table should not be full while your Master’s table lies barren” [T. Hag. 2:10/I-K].**

[I:3 A] [Said R. Yosé b. R. Bun, “R. Simeon b. Laqish came by the schoolhouse and heard the voice of the students reciting the following verse of Scripture, ‘And they performed sacrifices to the Lord, and on the next day offered burnt offerings to the Lord, [a thousand bulls] a thousand rams. and a thousand lambs, with their drink offerings, and sacrifices in abundance for all Israel]” (I Chron. 29:21).

[B] *“He said, ‘He who cuts this verse off, [citing only part of it], accords with the view [M- 2:4 A-B] of the House of Shammai. He who reads the whole of it accords with the view [M. 2:4 C-D] of the House of Hillel.’*

[C] *“There is no problem with, ‘burnt offerings to the Lord on the next day,’ and ‘peace offerings on the next day.’*

[D] *“But in the view of the House of Shammai, there should be no peace offerings on the next day.”*

[E] Said R. Yosé b. R. Bun, “David died on Pentecost, and all of Israel was in the status of those who had suffered a bereavement but had not yet buried their deceased, on which account they made the offerings on the next day.”

[I:4 A] [Tosefta’s version:] **M’S H B: Hillel the Elder laid on hands on a burnt offering in the courtyard [cf. M. Hag. 2:3B], and the disciples of Shammai ganged up on him.**

[B] **He said to them, “Go and see it, for it is a female, and I have to prepare it as sacrifices of peace offerings.”**

- [C] He put them off with a bunch of words, and they went their way.
- [D] But the power of the House of Shammai forthwith became strong, and they wanted to decide the law permanently in accord with their opinion.
- [E] Now there was present Baba b. Buta who was one of the disciples of the House of Shammai, but who acknowledged that the law is in accord with the opinions of the House of Hillel in every last detail.
- [F] One time he came to the courtyard and found it desolate. He said, "May the houses of those who desolated the house of our God be made desolate."
- [G] What did he do?
- [H] He went and brought the whole Qedar-flock and set them up right in the courtyard and announced, "Whoever is required to bring whole offerings and peace offerings - let him come and take a beast and lay on hands" [= M. Hag. 2: 3B].
- [I] So [everybody] came along and took a beast and offered up whole offerings, having laid on hands.
- [J] On that very day the law was confirmed in accord with the opinion of the House of Hillel,
- [K] and not a single person griped about it.
- [L] *Said R. Isaac b. Eleazar, "When a cup is disfigured [so that it cannot be used], stop it up with a chip of wood from the cup itself [rather than waiting until later and looking for some other material with which to repair it]."*
- [M] *[The following is a similar analogy]: When coals are not burning completely to begin with, they go out [even if one fans them with air. Both of these, L and M, emphasize the need to react immediately to a problem just as Baba b. Buta did].*
- [N] **SWB M'SH B: Another disciple of the disciples of the House of Hillel laid hands on a burnt offering.**
- [O] One of the disciples of Shammai found him out.
- [P] He said to him, "What's this laying on of bands?!"
- [Q] He said to him, "What's this shutting up?!"

[R] And he shut him with a rebuke [T. Hag. 2:10E-2:12E].

2:5

[A] The House of Shammai says, “A person may not heat water for his feet,

[B] “unless it also is suitable for drinking.”

[C] And the House of Hillel permits.

[D] A man may [to begin with] make a fire and heat himself by it.

[I:1 A] [One may supply two interpretations to the Mishnah]. In the view of the House of Shammai, he has to have drunk some of it.

[B] In the view of the House of Hillel [the rule is that one may heat such water] if it is merely suitable for drinking [moving the Hillelite position to a more stringent view, relative to the movement of the Shammaites].

[II:1 A] A man may [to begin with] make a fire and heat himself by it [M. 2:5D]:

[B] This represents *the* opinion of both parties.

[C] *But it is on the condition that there is a pot [of water heating] by the fire.*

[D] [*The following is another way to explain A: According to the opinion of the Shammaites, [a man may make himself a fire, and heat himself from it] on the condition that there is a pot [of water heating] near the fire.*

[E] *In the opinion of the House of Hillel, even if there is no pot heating by the fire [it still is permitted to make such a fire].*

[II:2 A] As to water that was heated on a festival, and so too, **water that was heated on the eve of the Sabbath for the Sabbath -**

[B] Rab and Samuel - *one of them said, “One may wash one’s face, hands, and feet in such water”* [T. Y. T. 2:10C].

[C] *The other said, “One may wash in such water his entire body, limb by limb.”*

[D] *But we do not know who said this rule and who said that one.*

[E] *Since Samuel taught, “One may wash in that water his face, hands, and feet,”* it follows that Rab is the one who said, “One may wash in it his entire body, limb by limb.”

- [II:3 A] A philosopher asked Bar Qappara, Ablat asked Levi the eunuch, “Is it permitted to drink water, but forbidden to wash?”
- [B] He said to him, “If you should see a eunuch embracing your wife, will it not be upsetting to you?”
- [C] He said to him, “Yes.”
- [D] He said to him, “Yet does it actually do you any harm [since he cannot produce semen]?”
- [E] He said to him, “It is so that she should not become wanton.”
- [F] He said to him, “Here it is also so that they not become wanton [by making a fire needlessly].”
- [G] When he had gone away, his disciples said to him, “Rabbi, this one you drove off with a reed [i.e., without a serious answer]. What are you going to say to us [who deserve a serious response]?”
- [H] He said to them, “And has it not been said, ‘But what every one must eat, that only may be prepared by you’ (Ex. 12:16)?”

2:6

- [A] **In three rulings does Rabban Gamaliel impose the more stringent ruling, in accord with the opinion of the House of Shammai:**
- [B] **They do not cover up hot water on the festival day for use on the Sabbath.**
- [C] **And they do not put together a candlestick on the festival day.**
- [D] **And [on a festival] they do not bake bread into large loaves but only into small ones.**
- [E] **Said Rabban Gamaliel, “Never in my father’s house did they bake bread into large loaves, but only into small ones.”**
- [F] **They said to him, “What shall we make of your father’s house? For they imposed on themselves a strict rule, while imposing a lenient rule for all Israelites,**
- [G] **“so that [Israelites] may bake large loaves and thick cakes.”**
- [I:1 A] [With reference to M. 2:6B,] Abba bar R. Huna said, “That which you have stated [about not covering up hot water on the festival for use on

the Sabbath (M. 2:6B)] applies to a case in which one did not prepare a meal of commingling. But if one prepared a meal of commingling, it is permitted.”

[B] What is the difference between a cooked dish and between hot water?

[C] A cooked dish may be routinely eaten [and hence, on the festival, one is apt to taste it]. Hot water is not routinely drunk, [and hence the water may not have been used on the festival but only on the Sabbath]. [Accordingly, if one prepared food on the festival” one may use that food on the Sabbath following as well. But if one merely boiled water and did not prepare a meal of commingling, as is the case at M. 2:6B, it is entirely possible that the water will not have been touched on the festival, and will serve only the Sabbath.]

[II:1 A] And they do not put together a candlestick on the festival/ day [M. 2:6C].

[B] *That which you have said applies to a collapsible candelabrum [that is made up of parts], but as to a candelabrum that may not be dismantled, it is not in such a case that the ruling pertains.*

[C] *It is in line with the following: The disciples of R. Yosé were in session. The candelabrum [that was made up of parts] fell down before them. Each one of them slipped away and departed, [since it was not permitted to put it back up].*

[III:1 A] [They do not bake bread into large loaves but only into small ones [M. 2:6D].

[B] If you make a person tired [by the process of making a lot of little loaves,] he will bake only what he needs for the festival.

[III:2 A] R. Aha derived from the following verse [the meaning of the word, HRY (M. 2:6G) “Thick bread”]: “lest all the nations would say, “Why has the Lord done thus to this land]? What means the heat of this great [HRY] anger?”” (Deut. 29:23).

[B] *And rabbis derive the meaning of the word from the following: “[When the chief baker saw that the interpretation was favorable, he said to Joseph, ‘I also had a dream:] there were three cake baskets on my head”” (Gen. 40:16).*

2:7

[A] Also: he gave three rulings on the lenient side:

[B] They sweep between the couches [on the festival].

[C] And they put spices on the fire on the festival day.

[D] And they prepare a kid roasted whole in Passover night.

[E] But sages prohibit [in all three instances].

- [I:1 A] I [Tosefta's version:] The members of the household of Rabban Gamaliel would sweep between the couches during the festival [cf. M. 2:7B; T. Shab. 9:13].
- [B] Said R. Eleazar b. R. Sadoq, "Many times did we eat in the house of Rabban Gamaliel, and not once did I ever see them sweeping between the couches [after a meal].
- [C] "But they would spread out sheets on the eve of the festival, and when guests came in, they removed them."
- [D] They said to him, "If so, it is permitted to do the same even on the Sabbath" [T. Y.T. 213].
- [E] The members of the household of Rabban Gamaliel would put spices into the airtight vessel [used for burning them].
- [F] Said R. Eleazar b. R. Sadoq, "Many times did we eat in the house of Rabban Gamaliel, and not once did I ever see them put spices into an airtight vessel.
- [G] "But they make smoke in bowls on the eve of the festival.
- [H] "Then, when guests come, they open them up."
- [I] They said to him, "If so, it is permitted to do the same even on the Sabbath" [T. Y. T. 2:14].
- [II:1 A] And they prepare a kid roasted whole in Passover night: What is a kid roasted whole?
- [B] It is wholly roasted, with its head, legs, and innards.
- [C] If one has boiled any part of it whatsoever,
- [D] seethed any part of it whatsoever,
- [E] this is not a kid roasted whole.

- [F] They prepare a roasted lamb whole on the first festival day of the Festival [of Tabernacles] and on the last festival day of Passover;
- [G] a calf roasted whole on the first festival day of Passover, but not a kid roasted whole [on the first festival day of Passover].
- [II:2 A] *It has been taught on Tannaite authority: Said R. Yosé, “Todos of Rome taught the Romans the custom of buying lambs for the night of Passover and preparing them roasted whole.”*
- [B] Sages were sent and said to him, “Were you not Todos, we would excommunicate you.”
- [C] Why was Todos [so special]?
- [D] Said R. Hananiah, “Because he would send gifts in support of rabbis.”
- [E] They told him, “Now he is nigh unto feeding them Holy Things prepared outside of the courtyard of the Temple [which is prohibited],
- [F] “for the people call these [lambs which they roast], ‘Passover lambs’” [T. Y. T. 2:15].
- [G] For whoever feeds the community Holy Things prepared outside of the courtyard of the Temple has to be placed under a bun of excommunication.

2:8

- [A] In three matters does R. Eleazar B. Azariah permit and do sages prohibit:
- [B] One’s cow goes forth [on the Sabbath] with a strap which is between her horns;
- [C] they curry cattle on a festival day;
- [D] and [on a festival day] they grind pepper in its pepper mill [in the normal manner].
- [E] R. Judah says, “They do not curry cattle on the festival day,
- [F] “because doing so makes a wound.
- [G] “But they may comb them.”
- [H] But sages say, “They do not curry them.
- [I] “Also: they do not comb them.”

- [I:1 A] R. Ba, Rab, and Samuel - the two of them say, “In the view of sages, even [if the strap between the horns, M. 2:8B,] is to lead [the cow], it is forbidden [for the cow to go forth on the Sabbath with such a strap].”
- [B] R. Ba in the name of Samuel: “If the cow’s horns were pierced [so that the strap was integral to them], it is permitted.”
- [C] *R. Yosé raised this question before R. Ba, “And have not we learned: **But with a ring in its nose [M. Shab. 5:1]**?* [This serves to keep watch over the beast. Any further provision is mere ornament and forbidden.]”
- [D] R. Zeira in the name of Samuel: “An ass which behaves in a dangerous way goes forth with its halter.”
- [E] And so were our rabbis in the Exile accustomed to do.
- [F] R. Aha, R. Jacob b. Idi in the name of R. Jonathan, R. Jacob b. Aha in the name of R. Tanhum from the house of R. Hiyya, “An ass which behaves in dangerous way goes forth with its halter.”
- [G] [61d] R. Leyya, R. Judah in the name of Simeon bar Hiyya: “A dog goes forth with its muzzle. But if that is to beat the dog with, it is forbidden. If it is so that the dog will not eat the bit, it is permitted.”
- [I:2 A] **[As to the view of Eleazar b. Azariah that a cow may go out with a strap between the horns, M. 2:8B; Y. Shab. 5:4]** Genibah said, “It is merely a theoretical law that Eleazar came to teach, [but it is not that he actually did so].”
- [B] R. Jonah of Bosrah asked, “If it was merely a theoretical law, is this in line with that which we have learned: [R. Eleazar b. Azariah’s cow used to go out with a strap between its horns.]
- [I:3 A] **Not with the consent of the sages [M. Shab. 5:4]**? [That is, they did not agree with him?]”
- [B] [Differing from this view of the theoretical character of Eleazar’s position,] R. Judah bar Pazzi of Bar Delayyan taught: “They said to him, ‘Either arise from among us [and leave], or remove the strap between the cow’s horns.’”
- [C] R. Yosé b. R. Bun, “He opposed them.”

[D] [Claiming Eleazar did not oppose them, but it happened only one time, and on that account, Eleazar repented and fasted,] said R. Hananiah, “One time the cow went out [with its strap], and Eleazar’s teeth turned black on account of the fasting [that he did in penitence.]”

[E] *Said R. Iddi of Hutreh, “It was his wife [who went out wearing what she should not have. But the story was preserved about his cow, instead, to save him the embarrassment.] How then do we know that one’s wife is called his cow? ‘If you had not ploughed with my heifer, you would not have found out my riddle’” (Judg. 14:18).*

[F] There they say that it was his neighbor.

[G] And is someone punished on account of [what] his neighbor [does]?

[H] Said R. Qiris of Irma, “It is to teach you that whoever has the possibility of opposing [an evil deed of his neighbor, but does not do so] - the neighbor’s downfall is blamed upon him.”

[II:1 A] What is currying? This refers to a comb with small teeth, which make a wound.

[B] What is combing? This refers to a comb with large teeth, which do not make a wound.

[III:1 A] **But sages say, “They do not curry them. Also:they do not comb them”[M. 2:8H-I].**

[B] They do not curry the beast, so as not to cause a wound.

[C] They do not comb the beast, so as not to tear out hair.

[III:2 A] [Tosefta’s version:] **The members of the household of Rabban Gamaliel would crush pepper in a pepper mill [on the festival day] [cf. M. 2:D].**

[Bl Said R. Eleazar b. R. Sadoq, “One time father was reclining before [= eating with] Rabban Gamaliel, and they brought before him wine-lees and vinegar-lees, and on them were crushed peppers, and when he tasted them, father kept his hands off them.

[C] **“They said to him, ‘Don’t be concerned about them. They were crushed on the eve of the festival’” [T. Y. T. 2:16].**

- [D] And why should R. Eleazar b. R. Sadoq not act inadvertently [as if without knowledge] with Rabban Gamaliel and eat the pepper [so as not to cause embarrassment]?
- [E] But it was so as not, by his deed, to permit this sort of labor on the festival in the household of Rabban Gamaliel.

2:9

[A] **A pepper mill is susceptible to uncleanness by reason of constituting three distinct sorts of utensil:**

[B] **because it forms a receptacle,**

[C] **and because it is a metal utensil,**

[D] **and because it constitutes a sieve.**

[I:1 A] The part on the bottom is on the count of forming **a receptacle.**

[B] The part on the top because it is **a metal utensil.**

[C] The part in the middle because it forms **a sieve.**

2:10

[A] **A child's wagon is susceptible to midras-uncleanness**

[B] **and may be handled on the Sabbath,**

[C] **but may be dragged [on the Sabbath] only over other articles [e.g., matting].**

[D] **R. Judah says, "No utensils may be dragged, except for a wagon, because it presses down [the earth, and does not break through the surface]."**

[I:1 A] *It has been taught, A person may drag a bed, chair, stool, and armchair to himself on the Sabbath and, needless to say, on a festival [T. Y. T. 2:18A].*

[B] And R. Simeon permits.

[C] R. Ba in the name of R. Huna, R. Haggai in the name of R. Zeira, R. Yosé in the name of R. Ila: "Sages concur with R. Simeon in the case of a seat, the legs of which are embedded in mud, that it is permitted to move it about and, along these same lines, it is permitted to put it back."

[D] Said R. Yosé, "*So too have we learned: They may be moved on the Sabbath [M. Kil. 1:9].*"

[E] Said R. Yosé b. R. Bun, “This [D] represents the view of R. Simeon.”

[F] *Said R. Yosé, “It is the view of the Mishnah, which has stated, **No utensils may be dragged, except for a wagon, because it presses down the earth and does not break through the surface [M. 2:10D].”***

YERUSHALMI BESAH

CHAPTER THREE

3:1

[A] They do not catch fish in a vivarium on a festival day.

[B] And they do not cast food for them.

[C] But they do catch a wild beast or fowl from a vivarium.

[D] And they do cast food for them.

[E] Rabban Simeon b. Gamaliel says, “Not all vivaria are equivalent.”

[F] This is the operative principle: Whatever lacks some phase of the process of hunting is prohibited [to be caught], but whatever does not lack some phase of the process of hunting is permitted [to be caught].

[I:1 A] [With reference to M. Shab. 13:5: R. Judah says, “He who hunts a bird into a tower-trap, or a deer into a house, is liable.” And sages say, “(He who drives) a bird into a tower- trap, or a deer into a house, [Y: garden] into a courtyard, or into a vivarium.” Rabban Simeon b. Gamaliel says, “Not all vivaria are the same. Thus is the governing principle: (If) it yet lacks further work of hunting, he (who pens it in on the Sabbath) is exempt. (If) it does not lack further work of hunting, he is liable.”] *Said R. Hinena, “The Mishnah [before us] does not accord with the view of R. Judah. For we have learned there: Rabbi Judah says, “He who hunts a bird into a tower-trap or a deer into a house is liable.”*

[B] “Lo, if one should hunt it in a garden or a vivarium, he is exempt. [Yet, as we see, M. Bes. 3:1 says that one may catch a wild beast or fowl from a vivarium. Accordingly, Judah cannot concur.]”

[I:2 A] *The opinions assigned to R. Judah are inconsistent. For we have learned there: They do not catch fish in a vivarium on a festival day. And they do not cast food for them. [But they do catch a wild beast or fowl from a vivarium].* Lo, as to a garden or a vivarium, one

is exempt. [T. Y. T. 3:1 represents the view of R. Judah. The implication is that R. Judah maintains that hunting in a garden on a festival is permitted. If so, that act does not lack some phase of the hunting process. Yet at I.B it is assumed that R. Judah maintains what hunting in a garden on the Sabbath is also permitted, which implies, as stipulated in M. Shab. 23:5, that it does lack some phase of the hunting process.]

[B] *The opinions assigned to rabbis are inconsistent. For we have learned there: **He who drives a bird into a tower-trap or a deer into a house, into a courtyard, or into a vivarium [is liable] [M. Shab. 13:5D].***

[C] *There we have learned, by contrast, **But they do catch a wild beast or fowl from a vivarium, and they do cast food for them [M. Bes. 3:1C-D].*** Lo, with regard to *a* garden or *a* courtyard, *that is* not permitted.

[D] There [M. Shab. 13:5, we deal with] an enclosed courtyard, and here [M. Bes. 3:1 as understood above] we deal with a courtyard that is not enclosed.

[E] *And lo, we have learned that we deal with a garden as well. Can you possibly say that a garden is enclosed?*

[F] But here [M. Bes. 3:1 as understood at above] we deal with a large area [where further hunting must take place], and there [M. Shab. 13:5] we deal with a small area [where the creature is readily accessible without a further act of hunting].

[II:1 A] *R. Ulla said, “They asked before R. Aha, ‘What is the meaning of the following, that we have learned: **Whatever lacks some phase of the process of hunting is prohibited to be caught, but whatever does not lack some phase of the process of hunting is permitted to be caught [M. Bes. 3:1F]?’***

[B] *“He said to them, ‘[The use of the language, prohibited, rather than the language, liable, may be explained as follows:] And are we not dealing with a case in which the beast is locked up in the [courtyard or vivarium? So there is no question of an act of hunting in the normal sense, which would be subject to liability, but rather a matter of what is permitted or prohibited.] Thus: **Whatever lacks some phase of the process of hunting is prohibited ..., but whatever does not lack some phase of the process of hunting is permitted.**”*

[C] Said R. Samuel, brother of R. Berekhiah, “Whatever [62a] must be caught by snares falls into the category of that which lacks some phase of the process of hunting, and whatever does not have to be caught by snares does not fall into the category of that which lacks some phase of the process of hunting.”

[II:2 A] They slaughter animals kept in enclosures, but not those kept in hunting-nets or gins [which may have been caught on the festival day itself] [T. Y. T. 3:1G].

[B] *R. Yosé bar R. Bun in the name of R. Immi, “This refers to a very large trap [which does not hold the beast firmly]. [In such a case there is further work to be done in trapping the beast.]”*

[C] Samuel said, “One may trap fish in a barrel. [That would not constitute doing more work in connection with catching the fish.]”

[D] Rab said, “It is permitted to do so at a fish-dam in the river.”

[E] Said R. Yudan, “[That is so in the case of a dam which closes off the river entirely with] a fine net.”

3:2

[A] Nets for trapping a wild beast, fowl, or fish, which one set on the eve of the festival day –

[B] one should not take [what is caught therein] out of them on the festival day,

[C] unless one knows for sure that [creatures caught in them] were trapped on the eve of the festival day.

[D] M'SH B: A gentile brought fish to Rabban Gamaliel, and he said, “They are permitted. But I do not want to accept them from him.”

[I:1 A] [At issue here is *M. Shab. 1:6* = *Y. Shab. 1:7*, as follows: **The House of Shammai says, “They do not spread out nets for wild beasts, fowl, or fish, unless there is sufficient time for them to be caught while it is still day.” And the House of Hillel permits.** The question now must be asked how one knows when the beast got caught:] What lets [the owner] know [whether or not the beast was caught while it was still day]?

[B] If the trap was in disarray [while it was yet daylight], it is obvious that the beast was caught while it was still day.

[C] If it was not in disarray [in daylight], then it is obvious that nothing was trapped in it while it was still day.

[D] [No.] Even if the trap was in disarray, one takes account of the possibility that a beast was not trapped while it was yet daylight.

[E] Said R. Yosé b. R. Bun, “[We deal with a case in which one spreads a net in the forest [where wild animals are apt to be found. [Since there is yet time that a wild beast can be trapped in the net, we assume that that will take place, since game is so plentiful.]”

[F] “You should know that that is the case. *For lo, we have learned*, fish [are included under the law]. [And when it speaks of fish,] does it not speak of a place in which fish are abundant? [Surely it must.] Along these same lines, here too we speak of a place in which wild beasts and fowl are abundant.”

[II:1 A] [As to M. 3:2D, Gamaliel’s view that fish caught by a gentile are permitted, but he would not accept them:] *R. Zeira in the name of Rab:* “*They considered ruling that* [when he said that they are permitted, he meant] that they are permitted on the next day [but may not be used on the festival” just as M. 3:2A-C maintain].]

[Bl R. Hezekiah and R. Uzziel b. R. Honiah of Beth Hauran: “They are permitted – literally [on the festival day itself].”

[Cl *They contemplated ruling that* in a case of doubt the matter is permitted. [Gamaliel then differs from M. 3:2A-C].

[D] *R. Hananiah and R. Jonathan both maintain*, “Where there is doubt whether something has been designated in advance [for the festival] it is prohibited.”

[E] R. Yohanan said, “Where there is doubt whether something has been designated in advance [for the festival] it is permitted.”

[II:2 A] R. Hiyya the Elder and R. Simeon b. Rabbi – one said, “What comes from a gentile requires preparation [that is, designation for use on the festival day in advance of the festival day just as is the case with an Israelite].”

[B] The other said, “What comes from a gentile does not require preparation [in advance of the festival day, that is, designation for use on the festival day].”

[C] *Now we do not know which authority held this opinion and which one held that opinion.*

[D] *On the basis of the following [the answer will be clear]. Rab tarried in coming before R. Hiyya the Elder. He said to him, “Where were you?”*

[E] *And he said to him, “A caravan came by, and I ate the figs [that they delivered].”*

[F] *It must follow that [Hiyya, who accepted this reply], is the one who held, “What comes from a gentile does not require preparation in advance of the festival day [designation for use on the festival day].”*

[G] *A disciple of R. Simai went to Antioris, and [on a festival] they served him Damascene plums, and he ate them.*

[H] *A disciple of R. Joshua b. Levi went there, and they brought him Damascene plums, and he did not eat them, and he went and reported the matter to his master.*

[I] *He replied, “Now look, he follows the custom in accord with the theory of R. Simai. For [R. Simai said, ‘What comes from a gentile does not require preparation in advance of the festival day.’ [Hence it was all right for Simai’s disciple to eat the plums on the festival day.]’*

[J] *R. Abbahu in the name of R. Joshua b. Levi: “Lumps of drip ping grapes in the vineyard – lo, these are forbidden [since they may have been picked on the festival day itself].”*

[K] *R. Huna in the name of Rab: “Late dates on the palm tree – lo, these are permitted [since they generally fall off the tree on their own].”*

3:3

[A] A beast on the point of death one should not slaughter

[B] unless there is a sufficient interval on the [festival day] to eat of it an olive’s bulk of flesh which has been roasted.

[C] R. Aqiba says, “Even an olive’s bulk of raw meat from the place at which the beast is slaughtered [will suffice].”

[D] [If] one has slaughtered it in the field, he should not bring it in on a pole or barrow.

[E] But he may bring it in by hand, limb by limb.

[I:1 A] *R. Ba in the name of rabbis over there: “If one slaughtered [a beast out in the field] and then wolves ate its innards, it li.e., the beast] is regarded as acceptable, for the assumption concerning the innards is that they are acceptable [even though one can no longer inspect them].”*

[B] And should we not take account of the possibility the the innards were perforated [and the beast not valid]?

[C] The assumption concerning the innards is that they are valid.

[II:1 A] *It has been taught [re M. 3:3D-E]:* But he may bring the beast along with its hide, [even though the hide will not be eaten].

[B] What does he do?

[C] He leaves a limb on the beast and brings the hide along with the limb.

3:4

[A] **A firstling that fell into a pit –**

[B] **R. Judah says, “Let an expert climb down and examine it. If it bears a blemish, let one bring it up and slaughter it [on the festival]. And if not, he should not slaughter it.”**

[C] **R. Simeon says, “Any [firstling] the blemish of which has not been discerned while it is still day [before the festival] – this is not [deemed to be] in the category of that which is ready [for festival use].**

[I:1 A] *The opinions assigned to R. Judah are at variance with one another, for we have learned there:*

[B] **[They may chop up a carcass for dogs.] R. Judah says, “If it was not already dead while it was still day, it is forbidden to do so, since it would not then belong to what was ready in advance for use on the Sabbath [M. Shab. 24:4].” [Judah’s position there is equivalent to Simeon’s position here, M. 3:4C.]**

[C] *And here has he said this?*

[D] *R. Judah is consistent with his position elsewhere, for R. Judah has said, “The requirement that a decision be made by an expert is not of the status of the law of the Torah. [Hence, when the firstling fell into the pit, the man was already wondering whether or not it might be blemished so that he might slaughter and utilize it. He realized prior to the festival that it was blemished. He needed no expert to advise him. Hence the issue of advance designation is not a problem.]”*

[E] *R. Huna in the name of R. Abba, “The passage before us indeed follows the view of R. Judah. For R. Judah treats the examination of a firstling as equivalent to the examination of a terefah beast.*

[F] “*Just as you say there, ‘They examine the marks of terefah on a festival [since involved is whether or not the beast may be slaughtered and eaten that day, in line with M. 3:3], so they examine the firstling on the festival [to see whether or not it has been blemished and so may be eaten]. [This sort of examination is permitted, because it is parallel to the other.]’*”

[G] [*Testing this analogy,*] *R. Yudan raised the question, “The consideration of doubtfully tithed produce derives from the ruling of scribes, and the examination of the terefah marks of a beast derives from the authority of the scribes likewise. Shall we then say: Just as they examine the terefah signs of a beast on a festival day, so along these same lines they separate [the required tithes and offerings] from doubtfully tithed produce on the festival day? [But we know that that is not the case.]”*

[II:1 A] [With reference to **M. 3:4C, A beast the blemish of which was not discerned while it was still day before the festival is not in the category of that which is ready for festival use while it is still day before the festival,**] *R. Abbahu in the name of R. Yosé b. Haninah: “Any beast, the blemish of which indeed has been discerned on the eve of the festival, but which the expert declared permissible for slaughtering only on the festival day itself – this is not regarded as something that is in the category of that which is ready [for festival use while it is still day before the festival].”*

[B] *And lo, it has been taught: A firstborn calf born from a terefah cow on the festival – it is permitted [to slaughter and eat such a beast on that day]. [Now there is no way that such a beast can be considered ready for festival use on the day before the festival.]*

[C] *Said R. Hisda, “Interpret the rule to apply to a case in which an expert happened to go by and examine it. [In such an instance, after the fact, the beast may be slaughtered and eaten.]”*

[D] *A case came before R. Immi, and he considered ruling: “[In a case in which] R. Judah and R. Simeon [differ], the law accords with R. Judah.”*

[E] *R. Hoshaiah produced a Tannaitic teaching in the name of Bar Qapparah from the South, and that teaching was as follows: “And sages say, ‘Any beast, the blemish of which had been discerned prior to the festival, but which a sage permitted [for slaughter] only on the festival day – this does not constitute a beast in the category of that which is ready for festival use while it is still day before the festival.’ [This then would not accord with Judah’s position.]”*

[F] So R. Immi then retracted [from the position he contemplated, D].

[II:2 A] **“A dam and its offspring” (Lev. 22:28) which fell into a pit –**

[B] **R. Eliezer says, “One raises up the first with the plan of slaughtering it and does slaughter it and for the second one provides food while it is in its present location, so that it not die.”**

[C] **R. Joshua says, “One raises up the first one with the plan of slaughtering it but does not slaughter it, and practicing deception, one then raises up the second.**

[D] **“[If] he wanted to slaughter neither one of them, he has the right [to refrain]” [T. Y. T. 3:2].**

[E] *R. Bun bar Hiyya raised the following question: “The opinions assigned to R. Eliezer are at variance. There he has said that it is permitted to practice deception [namely, at M. Pes. 3:3], while here he has said that it is prohibited to practice deception.”*

[F] There [at M. Pes. 3:3] it is because of the prohibitions not to allow leaven to be seen or to be found in one’s home [and on that account, the woman refrains from designating the dough as dough offering until it is baked], *while here, there is no such consideration.*

[G] *The opinions assigned to R. Joshua are also at variance with one another. There [at M. Pes. 3:3] he has said that it is prohibited to practice deception, while here he has said that it is permitted to practice deception.*

[H] R. Idi said, “Here the consideration is merely that of Sabbath rest [which is less important], while there the consideration is liability for a sin offering.”

[I] [Distinguishing the two cases differently,] said R. Yosé b. R. Bun, “Here [Joshua rules in such a way] as to have pity on the property of Israelites, while there there is no such consideration at hand.”

[J] *R. Isaac and R. Josiah – one interpreted the matter in the former way and one in the latter.*

3:5

[A] **A domesticated beast which died – one should not move it from where it is located.**

[B] M'SH W: They asked R. Tarfon about such a case and about a piece of dough offering which had contracted uncleanness. So he went into the study-house and asked. They told him, "One should not move them from where they are located."

[I:1 A] [Since the sages ruled in accord with the position of Judah, that we take account of whether or not the beast had been designated in advance of the festival day, rather than in accord with the view of Simeon, that we do not take that into account,] Samuel said, "The five elders who instructed R. Tarfon in Lud erred, [since in fact the law does not follow Judah]."

[B] [No, it was no error, for] said R. Mattenah, "*The case involved a firstling, [and even Simeon will concede that the firstling should not be moved, since it has to be buried anyhow].*"

[C] [*Concurring with this view,*] said R. Abin, "*The Mishnah has indicated that that is the case: **about such a case and about a piece of dough offering which had contracted uncleanness [M. 3:5B].** [what do these have in common that they should be joined in this way] Just as this is holy, so that is holy.*"

[I:2 A] They asked before Levi, "What is the law on examining signs that a beast is *terefah* in a dark house?"

[B] He told them to take it outside.

[C] R. Immi asked, "*But we have learned: **They do not examine nega-signs in a dark house [M. Neg. 2:3]** [but where] do we learn that they do not examine *terefah* signs in a dark house?"*

[D] Said R. Yosé b. R. Bun, "It was not on the basis of this consideration at all [that he ruled as he did, to take the beast outside]. Rather, [it was on a festival and] he was concerned that the beast might turn out to be *terefah* [hence inedible, and not to be used on the festival], so it would be prohibited [also] to move it about [i = Judah] and hence to remove it from the house, where it would have to lie]."

[E] *Now the view of R. Mattenah accords with the position of Samuel. and that of Lei accords with the position of Rab.* [Mattenah interprets the passage to deal in particular with a firstling. Otherwise he would say it would be permitted to move the beast just as does Simeon. with whom Samuel is in accord. Levi wants the beast moved out. He invokes the consideration of whether or not the beast has been designated in advance for use on the festival. Since that is not the case. it must not be moved. This is Rab's view.]

[F] Said R. Ba. R. Judah in the name of Samuel: The law accords with the view of R. Judah.” [This tradition contradicts the foregoing.]

3:6

[A] **They do not take shares in a beast to begin with on a festival day, [so as to determine the cost of the meat].**

[B] **But they do take shares in it on the eve of the festival so as to slaughter and divide it among themselves [on the festival day itself].**

[C] **R. Judah says, “[On a festival day] one may weigh out meat in the balance against a utensil or against the chopper.”**

[D] **And sages say, “They do not use scales at all.”**

[I:1 A] [With reference to M. 3 6, not taking shares to begin with:] And as to adding [others on the festival to take a share in the animal]. they may add to them [on the festival itself].

[B] If there were originally five, they may add to that number and become ten [on the festival itself]. [It is not necessary to treat it as a financial transaction as the following indicates.]

[C] *It has been taught: One may not [on the festival day] say to [the owner of the beast], Lo I am with you for a sela’s value [of the meat],*

[D] **“Lo, I am with you for two.”**

[E] **But he may say to him, “Lo, I am with you for half,” “for a third,” “for a fourth” [T. Y. T. 3:5A-D].**

[I:2 A] R. Hiyya the Elder and R. Simeon the son of Rabbi: “They may weigh out a *maneh’s* worth of meat against another *maneh’s* worth in the case of a firstling.

[B] “Under what circumstances?”

[C] “On an ordinary day. But as to a festival day. it is forbidden to do so. on this count: They do not use scales at all. [It appears to be on sale. and that is forbidden.]”

[D] R. Abun. R. Judah in the name of Samuel: “It is forbidden even to suspend [meat] in the scale to keep it away from the rats.”

[E] *Said R. Yosé b. R. Bun. It is not for that reason. But it is because we have learned: R. Judah says. one may weigh our meat m the balance with 1 utensil or in the balance with the chopper. And sages say,*

“They do not use scales at all.” [The dispute is limited to these matters.] *Lo. the former authority [Judah] maintains that the issue is paying attention to scales lo as to suspending meat on the scale to keep it away from the rats that is permitted.*

[I:3 A] *It has been taught:* Rabban Simeon b. Gamaliel says, “One may even satisfy himself by using a *litra* measure to find out how much meat he actually has received.”

[B] *There is the following illustrative story: R. Mana bought carobs that had grown in the Sabbatical year [which must not be sold by weight or measure. just as is the case with meat of firstlings and with the present matter]*

[C] *He came and asked R Hezekiah [whether he might measure the carobs at home. in private].*

[D] *He said to him. The custom of the rabbis accords with the view of Rabban Simeon b. Gamaliel.”*

[I:4 A] *It has been taught:.* **But one may weigh out [meat] by hand and put it down.**

[B] And if he was an expert butcher. he may not weigh out [meat even] by hand, for his hand is equivalent to scales.

[C] But he chops off a piece with a tool and gives one to this person [62b] and another piece to that person [T. Y. T. 3:XXF- H].

[I:5 A] *It has been taught:* **They do not remove through the foot [the meat of an animal which has been slaughtered in such a way as not to damage the hide] on the festival.**

[B] And they do not remove [the meat, as above] on an ordinary day in the case of a

[C] Said R. Abun, “It is so that one should not appear to be keeping the beast [in such a way as to be preparing its hide].”

[D] [As to the firstling and the Holy Things that have been invalidated.] *sail R. Justa bar Shunam. They have made a decree in their regard that they should not pasture them in herds [preserving them if possible sell it to someone who requires the complete hide [This may lead to other sorts of infractions. e g.. shearing or performing labor with the beasts]*

[E] *[As to the dispute that follows.] Said R. Mana. Both disputants concur that it is permitted to blow up the hide [so as to preserve the hide for bells for smiths since there is an ample market for that purpose. and*

other sorts of infractions are unlikely to take place: the hide will be disposed of readily].

[F] *Where there is dispute. it is as to] whether it is permitted to beat the hide [and so flatten it out, removing all the meat through one leg].*

[G] R Hiyya the Elder and R. Simeon b. Rabbi – one of them said it prohibited. and the other held that it is permitted.

[H] *Said R. Yosé b. R. Bun, “All parties concur that it is forbidden to flatten it out. Where there is dispute. it is as to whether it is permitted] to blow up the hide.*

[I] R Hillel the Elder and R Simeon the son of Rabbi – one of them held that it is forbidden. And the other said it is permitted.

3:7

[A] They do not whet a knife on the festival day,

[B] but one draws it over another [knife].

[C] A person should not say to a butcher.”Weigh out a denars worth of meat for me.

[D] But he slaughters [the beast]. and then divide it up among themselves.

[I:1 A] They do not whet a knife on the festival day, but one draws it over another [knife].

[B] R. Hiyya said. That view is R. Judah’s.”

[C] But R. Judah said in the name of Samuel, It represents the opinion of all parties. since one does so in order to remove the hilt from the knife.

3:8

[A] A person says to his fellow, “Fill this utensil for me,”

[B] but not with a measure.

[C] R. Judah says, “If it was a utensil of a [specific] measure, he should not fill it up [either].”

[D] M’S H B: Abba Saul b. Botnit would fill up his measuring-cups on the eve of a festival and hand them over to purchasers on the festival itself.

[E] Abba Saul says, “Also on the intermediate days of the festival he would do so,

[F] “because of the clearness of measure.”

- [G] **And sages say, “Also on ordinary [week-]days he would do so, because of the exactness of the measure [not filled in haste].”**
- [I:1 A] R. Huna said, “[When the storekeeper fills the measure] it must be either too little or too much [so that the measure is not filled exactly].”
- [B] *R. Eleazar said to Zeirah bar Hama, “Fill this utensil for me [today], and tomorrow we’ll measure it [after the festival].”*
- [I:2 A] *It has been taught [in the Tosefta’s version]: The story is told concerning R. Eleazar b. R. Sadoq and Abba Saul b. Botnit, who were storekeepers in Jerusalem throughout their entire lives,*
- [B] **that they would fill up their measuring cups on the eve of a festival and hand them over to purchasers on the festival itself [M. 3:8D].**
- [C] **R. Hanina b. Antigonos [Y.: Aqabiah] says, “Also on the intermediate days of the festival they do so,**
- [D] **“on account of [avoiding] the neglect of the House of Study” [cf. M. 3:8E-F], [Y.: because of the exactness of the measures].**
- [E] **And sages say, “Also on a weekday they do so, because of the exactness of the measure [not done in haste]” [M. 3:8G].**
- [F] **Also: he collected three hundred jugs of wine [from the foam of the measures], and his fellow, three hundred jugs of wine from the drops of the measures, and they brought them up to the revenueurs [of the Temple, as a contribution].**
- [G] **They said to them, “You don’t have to do this.”**
- [H] **They said to them, “We don’t want to keep it.”**
- [I] **They said to them, “Since you have imposed upon yourselves a strict rule, regarding them as belonging to the public, let them be used for the public requirements [of the cult]” [T. Y. T. 3:8].**
- [J] **One time he fell ill, and our rabbis came in to visit him.**
- [K] *He said to them, “You see this right hand, which measured out in a truthful way? [Yet I suffer.]”*
- [L] *Said R. Haninah, “He who has said that the All-Merciful is indulgent [Vatran]— may his innards be loosened. Rather, He is long in acts of patience but [if one does not repent] He collects His due.”*
- [M] **Said R. Aha, ““It is written, ‘And it shall be very tempestuous round about him’ (Ps. 50:3) — this teaches that the Holy One,**

blessed be He, is very meticulous about those who are around him, even in matters as light as a single hair [which word uses the same letters as tempestuous].”

[N] Said R. Yosé b. R. Bun, “That proposition derives not from that verse but from the following: ‘God is greatly to be feared in the assembly of the saints and held in reverence by all those who are about him’ (Ps. 89:8) – by those who are near even more than by those who are far away.”

3:9

[A] [On a festival day] a person goes to a storekeeper whom he usually patronizes and says to him, “Give me eggs and nuts by number.”

[B] For this is in any case how the householder counts out [these same things] in his own home.

[I:1 A] *It is taught on Tannaite authority:* One may say to the other, “Give me a measure of spices,” for that is in any case how a householder puts a measure of spice into his soup.

YERUSHALMI BESAH

CHAPTER FOUR

4:1

[A] He who [on a festival] brings jars of wine from one place to another should not bring them in a basket or hamper.

[B] But he brings them on his shoulder or [carries them] before him.

[C] And so too: he who takes straw should not hang the hamper over his back.

[D] But he brings it [carrying it] in his hand.

[E] And they break into a sack of chopped straw but not into wood stacked in the storage hut.

[I:1 A] [With reference to M. 4:1B,] said R. Hanin bar Levi, “The Mishnah speaks of slender jars, two or three of which can be carried in one hand. [These cannot be carried in a basket, that is, in the normal way.]

[B] “But as to one that is large [and not carried by hand], if he carries it before him, that is its usual way; if he carries it behind him, that is his usual way.

[C] “[*Then what should one do?*] Just as you have said [*in connection with a hide out in the field*], that one brings the hide in [along with the meat that is] on it, so here one brings [the large jug] along with small ones, [that is, carrying the large one in a way that is normal for carrying a large jug, along with carrying small jars in a way that is not normal for carrying small jars].

[D] “[Along these same lines:] Just as you have said [M. 3:3 D-E], one brings the limbs in one by one, so in this case. one brings flasks one by one.”

[II:1 A] [With reference to M. 4:1C] *R. Judah raised the following question:* “What is the law as to bringing straw from private domain to public domain?”

[B] [*What is troubling Yudan?*] *Does the Mishnah not treat this subject?*

- [C] **He who rakes straw should not hang the hamper over his back [M. 1:1C].** [Obviously one carries the straw from private to public domain.]
- [D] *The Mishnah is formulated in accord with the view of him who says, “What every one must eat [that only may be prepared by you]” (Ex. 12:16) includes beasts, [and hence it is permitted to take straw into public domain to feed beasts, for that is permitted on the festival day].*
- [E] [*When Yudan*] *raises his question, it is from the viewpoint of him who says that* beasts have not been included [in the Scripture’s remission of the prohibition against labor on the festival day].
- [F] *But from the viewpoint of him who says that* beasts are included in the remission of the prohibition against labor, it is perfectly clear to him [that it is permitted].
- [G] [*Explaining Yudan’s question from yet another angle:*] *The Mishnah speaks of a case in which* he brings out the straw to feed the beast. Where [Yudan] has a question is where the man brings out the straw to kindle a fire [e.g., for cooking].
- [II:2 A] R. Jacob bar Aha in the name of R. Yosé, “Fruit that had attained the condition of being fully dried [only on the festival day itself but was not ready for eating as dried fruit prior to the festival] may not be touched [on the festival].”
- [B] Rabbi said to R. Simeon his son, “Go up and bring us some [dried] figs from the upper room.”
- [C] He said to him.”And is it not prohibited [to do so] on the count of [the figs’ not having been] designated [for use on the festival, since, prior to the festival, they were still in their kegs and not removed, hence they are not ready].”
- [D] He said to him, “Do you still take account of that consideration? You have as prohibited on the count of not having been designated in advance for use on the festival only the matters of [fresh] figs and grapes alone. [One forgets these while they are drying.]”
- [E] Said R. Samuel bar Siseretai, “It is because they can go rotten in the meantime [so unless made ready prior to the day they are actually to be eaten. hence the festival. the user has no idea whether or not they will be ready for use].”
- [F] *R. Zeira raised the following question before R. Yosé: “Is it not reasonable to suppose that the incident involved shriveled*

grapes [that fell in an unripe state and were put in the sun to ripen]?”

[G] [62C] *He said to him, “I too maintain that view.”*

[H] *Came R. Yosé b. R. Bun, R. Isaac bar Bisna in the name of R. Yohanan: “The incident involved shriveled grapes [that fell in an unripe state and were put in the sun to ripen].”*

[I] [Agreeing,] he said to him, “You have as prohibited on the count of not having been designated in advance for use on the festival only the matters of figs and grapes alone.”

[J] *R. Jacob bar Zabedi in the name of R. Abbahu: “That which you have said pertains solely to the Sabbath. But as to the consideration of separating tithes. every sort of produce is subject to the consideration of advance designation of that produce for food. [Once someone has made up his mind to eat a given store of produce, it becomes subject to the separation of tithes. That kind of designation for future use pertains not only to figs and grapes, but to all produce.]”*

[K] *Said R. Yosé, “The .Mishnah has made that same point: **Dried figs are liable to the separation of tithes after they have been stamped down, and if they are to be put into a storage jar, they are liable after they have been pressed into a circle [M. .Uqs.. 1: 8].** [Here we clearly deal with matters other than grapes; the issue is the completion of the processing of the produce, at which point it is regarded as designated for use as food.]”*

4:2

[A] **They do not take pieces of wood from [the roof or walls of] a hut, but [they do take wood] from that which is adjacent to it.**

[B] **They bring pieces of wood –**

[C] **from the field – from [wood] that has been gathered together,**

[D] **and from the outer area [near the town] – even from [wood] that is scattered about.**

[E] **What is the ‘outer area’?**

[F] **“Any area near the town,” the words of R. Judah.**

[G] **R. Yosé says, “Any [enclosed] area into which people enter with a key,**

[H] “and even that which is [far from the town, located just] inside the Sabbath-limit.”

[I:1 A] **The do not take pieces of wood from the roof or walls of a sukkah, but they do from that wood which is near it [M. 1:2].**

[B] Samuel said, “[One may take pieces of wood from that which is near the *sukkah*] when [in putting wood on the *sukkah*] he did not have the intention of covering it more densely [that is, undoing bundles of wood and spreading the wood over the *sukkah* topping]. But if he did so with the intention of covering it more densely, it is forbidden [to take pieces of wood near the *sukkah*]. [His wood now is part of the *sukkah* itself. Taking it off amounts to dismantling the *sukkah*, that is, taking down a tent, which may not be done on the festival.]

[C] “That is further the case [that one may not take such wood if he intended to cover the *sukkah* more densely] if he did not stipulate [to the contrary], but if he stipulated [that he wished to use the wood for some other purpose]. then it is permitted [to take it].”

[D] *R. Nahman bar Jacob asked*, “And does a person stipulate that he is going to destroy a tent [on the festival]? [would such a stipulation make any difference?]”

[E] And there is he who says before Samuel, “[When one may take pieces of wood near the *sukkah*, it is wood] that is not needed for [the *sukkah* at all].”

[F] *And R. Nahman bar Jacob raised a question in regard to this view [as well].*

[I:2 A] *It has been taught [in the Tosefta’s version]:* **Said R. Simeon b. Eleazer, “The House of Shammai did not differ [with the House of Hillel] concerning pieces of wood which were gathered together, which were in the outer area [M. 4:2B-E],**

[B] **“that one may bring it;**

[C] **“or concerning that which was scattered about in the field [M. 4:2C], that one should not bring it.**

[D] **“Concerning what did they differ?**

[E] **“Concerning pieces of wood which are scattered about in the outer area and concerning pieces of wood which are collected together in the field.**

[F] **“For: The House of Shammai says, ‘One should not bring it.’**

- [G] “And the House of Hillel says, ‘One may bring it.’”
- [H] Said R. Nathan, “The House of Shammai and the House of Hillel did not differ concerning pieces of wood which are scattered about in the outer area and concerning pieces of wood which are collected together in the field, that one may bring them [= M. 4:2B-C].
- [I] “Concerning what did they differ?”
- [J] “Concerning pieces of wood which are scattered about in the field.
- [K] “For: The House of Shammai says, ‘One should not bring it.’
- [L] “And the House of Hillel says, ‘One may bring it’” [T. Y. T. 3:10].
- [M] *R. Yosé in the name of R. Jeremiah, R. Haninah produced the matter in the name of Rab:* “The law follows the position of the one who imposes a strict ruling, except in the matter of the wood scattered about in the outer area.”
- [II:1 A] [*With reference to M. 1:2E-F.*] *the views assigned to R. Judah are at variance.*
- [B] *For we have learned there: R. Judah says. ‘Even if there is nothing [in an outer area] except for a cistern or a pit or a cavern. They may carry things in that area [M. Erub. 2:5].* [Judah then differs from the view of Judah b. Baba at the same passage. that one may carry about such an area if it is near the town.]
- [C] *And here has he said this [in .M. 4:2 E-F, an area near a town is subject to the stated rule]?*
- [D] *Said R. .Mana, “[Judah treats the cistern, pit, or cavern] as equivalent to the dwelling [that Judah b. Baba requires for such an area to be treated as permissible for carrying]. [Proximity to the town was never an issue.]”*

4:3

- [A] They do not chop fire-wood either from beams
- [B] or from a beam that broke on a festival day.
- [C] And they do not chop [wood] with an ax, saw, or sickle,
- [D] but [only] with a chopper.
- [E] A hut full of produce, [which was] blocked up,¹⁸ but which was damaged [so that one unexpectedly has access to the produce through the breach] –

[F] one takes [produce] through the breach [on a festival day].

[G] R. Meir says, “Also: One may make a breach to begin with and remove produce.”

[I:1 A] **They do not chop fire-wood either from beams or from a beam that broke on a festival day.**

[B] *That which you have said* applies, then. to a beam which broke on the festival day itself. But as to a beam which broke on the eve of the festival. it is permitted [to chop wood from such a beam].

[C] That is the ease of wood this is not a distinctive utensil. but in the case of wood that constitutes d distinctive utensil. even if it broke on the eve of the festival. it is prohibited [to chop wood from it and use this for a fire].

[I:2 A] *It has been taught [in the Tosefta’s version]:* **Branches of figs, containing figs,**

[B] **brooms of palm trees, containing dates,**

[C] **if one brought them into [the house] for use as wood,**

[D] **one may not eat [the figs or dates] on the festival.**

[E] **[If one brought them into the house] for food for cattle, one may eat [the figs or dates] on the festival [T. Y. T. 4:1]**

[I:3 A] Rab said. ‘They make a fire with [wooden] utensils, and they do not make fire with the splinters.’

[B] *That which you have said applies to* utensils that broke on the festival. But as to utensils that broke on the eve of the festival. it is permitted [to use the splinters].

[C] That is the case when they do not constitute distinctive utensils. But if they constituted distinctive utensils. and even if they broke on the festival itself. it is permitted. [The utensils were set aside for some sort of useful work. so they are ready for use prior to the festival. If the utensils broke before the festival. the owner assumed he would burn them up on the festival, so they too were ready in advance.]

[I:4 A] *R. Hiyya taught,* “They make a fire with wood but not with husks or pits. [Tosefta’s version follows:] **Nuts and almonds which one ate on the eve of the festival day – they kindle a fire with their shells on the festival day. [If] he ate them on the festival day. they do not kindle a fire with their shells on the festival day. With nuts and almonds themselves they do not kindle a fire on the festival day.**

for they do not constitute objects made ready (for that purpose) before the festival day for use on the festival day [T. Y.T. 3:11].

[B] *Rab was in session before R. Hiyya the Elder and he was eating [dates] and tossing the pits. He was seen to toss the pits into the stove and also tossing them before the stove.*"

[C] *Said to him R. Hiyya, "Throw them here only before the stove, but not into it.*

[D] *He said to him "What's the difference between here and there?"*

[E] *He said to him, "Son of high estate! Follow them [who say that one may not use the pits for fuel, if they were not so designated in advance of the festival day.]"*

[II:1 A] Not with an ax [M. 4:3C]:

[B] *Members of the household of R. Yannai say, "They may chop wood with an ax."*

[C] *Hoshaiah taught, "They do chop wood with an ax."*

[D] *Samuel said, "The law accords with the view of him who says, 'They chop wood with an ax.'"*

[E] *It has been taught: R. Yosé bar Keppar said in the name of R. Eleazar b. Shammua, "The House of Shammai prohibits and the House of Hillel permits."*

[III:1 A] And not with a saw [M. 4:3C]:

[B] *There is a Tannaite authority who teaches, "They cut wood with a saw," and there is a Tannaite authority who teaches, "They do not cut wood with a saw."*

[C] *Said R. Hisda, "He who said, 'They do cut wood with a saw' speaks of a hand saw. He who said, 'They do not cut [wood with a saw]," speaks of a saw used in the harvest."*

[D] *There is a Tannaite authority who teaches, "They separate matted hair." And there is a Tannaite authority who teaches, "They do not separate [matted hair]."*

[E] *Said R. Hisda, "He who has said, 'They separate it,' speaks of healthy hair [which will not be pulled out], and he who said, 'They do not separate it,' speaks of fragile hair."*

[F] *There is a Tannaite authority who teaches, “They crush spice-wood,” and there is a Tannaite authority who teaches, “They do not crush [spice-wood].”*

[G] *He who said, “They crush it.” speaks of fresh spice-wood, and he who said, “They do not crush it,” speaks of dried spice- wool .*

[H] *There is a Tannaite authority who teaches, “**They sweeten mustard with a glowing coal**” [T. Y.T. 3:15A], and there is a Tannaite authority who teaches, “They do not sweeten [mustard with a glowing coal].”*

[I] *He who says, “They sweeten it.” refers to a case in which one has put the mustard on the coal. He who says, “They do not sweeten it” speaks of a case in which one put the coal on the mustard .*

[J] *There is a Tannaite authority who teaches, “They cleanse silverware with chalk,” and there is a Tannaite authority who teaches, “They do not cleanse silverware with chalk.”*

[K] *He who says that they may do so speaks of putting on the chalk on the eve of the festival, and he who says that they do not do so, speaks of a case in which they put it on the festival day itself.*

[IV:1 A] **R. Meir says, “Also: one makes a breach to begin with and removes produce” [M. 4:3G]:**

[B] R. Ba, R. Judah in the name of Samuel: “But that is on condition that one takes out produce by the door.”

[C] *And lo, it has been taught [in the Tosefta’s version]: **Sages concur with R. Meir [M. 4:3E -G] in the case of knots which are on the ground, that one may loosen, untie, and unravel them, but they may not cut them.***

[D] **And on the Sabbath they may loosen and untie but may not unravel or cut them.**

[E] **And in the case of utensils on the Sabbath it is permitted,**

[F] **and it goes without saying, on the festival. If a cistern is covered with a cover which is tied down, one may untie the knot. This in the sages’ view is not tantamount to an act of destruction] [T. Y. T. 3:12].**

4:4

[A] **[On a festival day] they do not hollow out [a lump of clay to make] a lamp,**

[B] **because one thereby makes a utensil.**

[C] **And one does not make charcoal [on a festival day].**

[D] **And they do not chop a wick into two.**

[E] **R. Judah says, “One severs it with a flame [between two lamps].”**

[I:1 A] *It has been taught: As to sealed stew-pots, if one made them on the eve of the festival. he should not break; them open on the festival because it is as if on the festival day itself he prepares a utensil for use [T. 3:1 3C].*

[B] *There we have learned: As to Ironian stew pots, they are insusceptible to uncleanness when located in the tent of a corpse, but they are susceptible to uncleanness when carried by a Zab.*

[C] **R. Eleazar bar Sadoq says, “Also, when they are carried by a Zab, they are insusceptible to uncleanness [and remain clean], for the process of manufacturing them is not yet complete until they are cracked open” [M. Ed. 2:5H-L].** [In line with M. 4:4A-B, the still sealed stew pot is not yet a utensil; in Eliezer’s view that is the fact as well. Consequently, we ask:]

[D] *The opinion of an individual here accords with the anonymous [and therefore collective] view there, and the opinion of an individual there [Eleazar’s] accords with the collective opinion here.*

[I:2 A] **R. Ba in the name of R. Judah: “As to a log [that is burning], one puts it near a wall so that it will not be consumed [and it will go out by, itself against the wall].”**

[B] *It has been taught: They do not extinguish a log in order to save it.*

[C] **But if it is so as not to allow the house to fill up with smoke,**

[D] **or so that it will not burn what is cooking in the pot,**

[E] **it is permitted [to do so] [T. Y. T. 3:13].**

[F] *Said R. Hananiah, “That applies when there is no open air. But if there is open air [available], one throws the log out into the air. and that suffices.”*

[G] *Said R. Nisa, “And is that so? Do we rule in that way,? [It is similar to] eye-coloring [which one may not use for coloring the eyes on the*

festival on grounds of healing]. Is it permitted to rub it around the eye and so color the eye with it on the festival? [In that case] the coloring would run down into the eye and serve for a medicine. But one may not do it that way. That is, one may not use the eye color for ornament and allow it to serve, on its own, for a medicine. Along these same lines: one may not toss the log into the open air and hope that the log will go out on its own.]”

[H] Said R. Mana “Here [in the case of the log] it is to keep the log [for some later use, and that is permitted], while there [in the case of the eye coloring] it is for the sake of healing, [which is prohibited] .”

[I:3 A] Three rules were stated with reference to a wick, three on the strict side, and three on the lenient side:

[B] on a festival day they do not make it to begin with, and they do not singe it with fire, and they do not chop it into two [M. 4:4D].

[C] These are the three on the lenient side:

[D] they soak it in oil, rub it by hand, and cut it with fire when it is in two lamps [M. 4:4E] [T. Y.T. 3:21].

[E] Said R. Hinena, “When one needs both of them [that is what is done]” [M. 4:4E].

[F] *R. Judah bar Pazzi of Bar Delayya taught:* “One brings two candles and places [the wick] in both of them, [one end in each], and divides it with a flame between the two lamps.”

[G] R. Jacob bar Aha. Hinena bar Idi in the name of Rab: “They may trim the wick on the festival day.”

4:5

[A] [On a festival day] they do not break a clay utensil or cut a piece of paper

[B] to roast a salt-fish thereon.

[C] And they do not clear out the ashes of an oven or stove.

[D] But they level them down.

[E] And they do not bring two jars together to set a pot on them.

[F] And they do not prop up a pot with a chip,

[G] and so is the rule for a door.

[H] And they do not lead a domestic beast with a staff on a festival day.

[I] And R. Eleazar b. R. Simeon permits [doing so].

- [I:1 A] *That is to say, the sausage-maker is forbidden to work on a festival day, because he cuts the sausage bags apart.*
- [I:2 A] *The daughter of R. Hiyya the Elder came to do baking in the oven [on the festival day].*
- [B] *She found stone in it. She came and asked her father. He said to her, "Go and sweep it out."*
- [C] *She said to him, "I cannot do so." [In fact, it is prohibited to sweep out the oven. in line with M. 4:5C.]*
- [D] *He said to her."Go and level it down [= M. :4:5D]."*
- [E] *In fact she knew the answer but she wanted to hear it from her father.*
- [I:3 A] Rab said, "They save food from burning on the oven by putting it on the stove [to let it simmer], but they do not take food from the stove [60d] and put it into the oven [for that same purpose]."
- [B] R. Abba bar Hannah said."They save food from burning on the oven by putting it on the stove. and the- also save food from burning on the stove by putting it into the oven, but the- do not do so in the even for the purposes of [eating the food] in the morning ."
- [C] R. Abun in the name of Rab: "They save food from burning on the oven by putting it on the stove; the- also save food from burning on the stove by putting it into the oven; and they do so in the evening for use in the morning. But they do not do so on the festival day for use on an ordinary day."
- [II:1 A] **They do not bring out jars together to set a pot on them [e.g., building a fire between the two jars to heat the pot] [M. 4:5E],**
- [B] on the count of building [it is prohibited].
- [II:2 A] ***It has been taught: nor may a blind man go out with his staff,***
- [B] **nor may a shepherd go out with his leather bag [T. Y. T. 3:17C-D].**
- [C] R. Simeon permits doing so.
- [D] And so did R. Simeon say, "Since one is permitted in one matter. let him be permitted for all

4:6

[A] **R. Eliezer says, “A person takes a wood-splinter which may be before him to pick at his teeth.**

[B] **“And he sweeps up what is in the courtyard to make a fire.**

[C] **“For whatever is located in the courtyard is deemed available for use [before the festival begins].”**

[D] **And sages say, “He sweeps up what is before him [in the house] to make a fire.”**

[I:1 A] What is at issue between them [at M. 4:6C-D]?

[B] Whether or not it is permitted to sweep things up into piles is at issue between them.

[C] *In the view of R. Eliezer* it is permitted to sweep things into piles, *and in the opinion of sages* it is prohibited to do so.

4:7

[A] **They do not produce fire [on a festival day] from wood, stones, earth [that is, sulphur], flint or liquid.**

[B] **And they do not heat tiles white hot to roast on them.**

[C] **And further did R. Eliezer say, “A man takes up a position at the storage-hut on the eve of the Sabbath in the seventh year and [in order to designate food for Sabbath use] says, ‘From this [produce] I shall eat tomorrow.’”**

[D] **And sages say, “[His designation is valid only] if he makes a mark and says, ‘From this place up to that place [shall I take produce to eat tomorrow].”**

[I:1 A] **And they do not heat tiles white hot to roast on them:**

[B] *There is a Tannaite authority who teaches:* They do heat [tiles] white hot.

[C] *There is a Tannaite authority who teaches.* They do not heat [tiles] white hot.

[D] *Said R. Hisda, “He who said that they heat [tiles white hot speaks of those] that have been inspected [and are known to retain the heat].*

[E] *“And he who said that they do not heat [tiles white hot speaks of a case] of new tiles [not inspected, where we are not sure that they will serve the purpose]*

[II:1 A] **And further did R. Eliezer say, “A man takes up a position at the storage-hut on the eve of the Sabbath in the seventh year and [in order to designate food for Sabbath use] says, ‘From this [produce] I shall eat tomorrow.’”**

[B] *The opinions assigned to R. Eliezer are contradictory. For there we have learned:*

[C] **The House of Shammai say, “One may not take pigeons unless he physically touched and stirred them while it was still day” [M. 1:4D].**

[D] **And was R. Eliezer not a member of the House of Shammai?**

[E] **But a strict rule applies to an animate creature [which must be physically handled as distinct from the inanimate produce in the storage hut].**

[III:1 A] **And sages say, “[His designation is valid only] if he makes a mark and says, ‘From this place up to that place [shall I take produce to eat tomorrow].’”**

[B] *The opinions assigned to the sages are contradictory.*

[C] *For we have learned there: The House of Hillel says, “One may stand at distance and say: ‘This one and that one shall take [sages opinion is assumed to be in agreement with the House of Hillel]” [M. 4:1E].*

[D] **And where do they say this?**

[E] *They certainly do maintain that a stricter rule applies in the case of an animate creature [this is not worked out further].*

YERUSHALMI BESAH

CHAPTER FIVE

5:1

[A] They let down pieces of produce through a hatchway on the festival,

[B] [but not on the Sabbath].

[C] and they cover up pieces of produce with utensils against dripping rain;

[D] and so [may they cover up] jugs of wine or oil.

[E] and they place a utensil under a spout [to catch] dripping rain, on the Sabbath.

[I:1 A] *[When the rule, M. 5:1A-B. permits letting down pieces of produce through a hatchway on a festival,] the Mishnah speaks of [fruit from] the roof of that house in particular.*

[B] But as to [fruit on] the roof of some other house, it is forbidden.

[C] [This rule applies when the roofs] were not on the same level.

[D] But if the roofs were on the same level [so not much extra labor is involved], it is permitted.

[E] *It has been taught: If there was a window, they let the produce down through the window [T. Y.T. 1:3C: They do not let the produce down through a window, but carry it down on a ladder].*

[I:2 A] R. Jeremiah in the name of Rab: “[On the Sabbath] they spread out mats on shavings which cover bricks.”

[B] Said R. Simeon b. R. Yannai, “I did not hear the teaching from father. [but] my sister reported to me in his name [the following teaching]: ‘As to an egg born on the festival day: They put d utensil near it so that it will not roll about, but they do not put a utensil on top of it [for that purpose].’”

[C] And Samuel said, “They put a utensil over it [for that purpose].”

[D] Said R. Mana.”But that [C] is on condition that the utensil not actually touch the egg itself.”

[E] *R. Hoshaiiah taught: As to a beehive, they may spread a sheet over it in the dry season on account of the heat, and in the rainy season on account of the rain.*”

[F] [Does R. Hoshaiiah] concur with the view of Rab [or with that of Samuel]. Rab permits covering the chips over the bricks, so too the beehive. Samuel does not want the cover to touch the egg born on the festival. which is Hoshaiiah’s view]

[G] He concurs with the view of Samuel. Here [in the case of the beehive he puts the cover] on top [of the object], there [in the case of the egg he puts the egg] under [the utensil].

[H] R. Bisna in the name of R. Yosé b. Haninah: “Borders used for weaving veils – it is forbidden to move them about [on the Sabbath].”

[I] *There were nets spread out in the sun. and they were drying out excessively on that account. They came and asked Rab, “What is the law about moving them?”*

[J] *He said to them.”It is [normally] forbidden to touch them [but] take account of using them as headrests under your heads,” and [on that account] he permitted them to move the nets.*

[I:3 A] *It has been taught: A jug [of liquid] from which tithes have not been removed which broke – one brings a utensil and puts it under it.*

[Bl **Once it is filled up, it is prohibited to carry it [cf. M. 3:6A3, [T. Shab. 3:9C-D].**

[C] Said R. Zeira, “That is to say that they make provision for that which may not be handled on the Sabbath so as to afford protection for it. but that is not done in the usual way.”

[D] *And lo. it has been taught: A basket of grapes and a vat of olives which began to flow –*

[E] **they do not make use of them on the festival,**

[F] **and one need not say, on the Sabbath [T. Shab. 3:9E-G].**

[G] [Resolving the contradiction between these two laws,] R. Hisda said, “Even though this is produce from which tithes have not been

removed, and that also is produce from which tithes have not been removed, [the two are not comparable], for the olives and grapes [of the latter rule] are subject to the prohibition of being utilized on the Sabbath [since to begin with the owner never expected to be able to use them, so he never planned on doing so]. [They are still in the processing stage.] The jug in the former is not [fully] subject to the prohibition of being utilized on the Sabbath [since it is ready for use, and if, after the fact, the owner should designate the portion meant to serve as tithes, it is available for use on the festival or Sabbath.]”

[H] *That is to say that they make provision for that which may not be handled on the Sabbath [not having been designated for that purpose in advance] so as to afford protection for it, but that is not done in the usual way.*

[I] *And lo, it has been taught:* As to a lamp that went out – they save its oil [on the festival or on the Sabbath, by covering the oil so that it will not spill out].

[J] *Said R. Jacob bar Aha, “That represents the view of R. Simeon. For R. Simeon said, ‘If the lamp went out, it is permitted to carry it about.’”* [Reference is made to the following: **R. Meir says, “All sorts of lamps do they carry, except for a lamp which one lit on that very Sabbath.” R. Simeon says, “All sorts of lamps do they carry, except for a lamp which is [actually] burning on the Sabbath [M. Shab. 3:6F-G]. If it went out, it is permitted to carry it. But a cup, a dish, and a lantern which they extinguished – one should not move them from their place” (T. Shab. 3:13B-C).**]

[K] *Said R. Samuel bar R. Isaac, “[Even Meir may concur,] the statement involves only moving it about. Lo, as to saving the oil, it is permitted to save it.”*

[I:4 A] *It has been taught: **A man may place a utensil under a spout [to catch] on the Sabbath [M. Bes. 5:1].***

[B] **When it is filled up, he may pour it out and repeat the process,**

[C] **and he need not scruple [T. Shab. 3:11].**

[D] *Said R. Hananiah, “They have treated this [63a] as equivalent to a stream or spring which began to flow from outside of the Sabbath limit to within the Sabbath limit [on the Sabbath]. [The water may be used. Even though the people did not plan to do so in advance, they are permitted to utilize the water.]”*

[E] *And so it has been taught: Streams and springs which flow out from one Sabbath domain to another – one may draw water from them on the Sabbath and, it is not necessary to say, on the festival day. [Cf. T. Y. T. 1:8C.]*

5:2

- [A] For any act [the performance of] which on the Sabbath renders people culpable 1) on grounds of [transgressing the requirement of] Sabbath rest, 2) on grounds of carrying out an optional [religious rite that could be put off until after the Sabbath], or 3) on grounds of carrying out a mandatory religious duty [that, like the optional one, should be performed after the conclusion of the Sabbath],
- [B] they [also] are culpable in regard to the festival day.
- [C] These are the acts [for which people are culpable] by reason for their transgressing the requirement of Sabbath rest:
- [D] They do not climb a tree, ride a beast, swim in water, clap hands, slap the thigh or stamp the feet.
- [E] And these are the acts [for which people are culpable] by reason of [their being] optional [rites, that should be put off until after the holy day]:
- [F] They do not sit in judgment, effect a betrothal, carry out a rite of halisah or enter into Levirate marriage.
- [G] And these are the acts [for which people are culpable] by virtue of [their being] a religious duty [that should be performed after the conclusion of the Sabbath or festival]:
- [H] They do not declare objects to be sanctified, make a vow of valuation, declare something to be herem, or raise up heave-offering or tithe.
- [I] All these actions on a festival they have declared [to be culpable]; all the more so [when they are done] on the Sabbath.
- [J] The sole difference between the festival and Sabbath is the preparation of food alone, [which is permitted on the festival but forbidden on the Sabbath].
- [I:1 A] [Some of the listed actions are liable on grounds of Sabbath rest. in which category come optional acts, [and some of the listed actions are liable] on grounds of optional acts, which fall into the category of acts of religious duty.
- [B] What are instances of acts prohibited on grounds of Sabbath rest which come under the category of optional acts.]

[C] [These are the acts for which people are liable by reason of Sabbath rest:] they do not climb a tree, ride on a beast, swim in water, clap hands, slap the thigh, or stamp the feet [M. 5:2C-D].

[D] What are instances of acts involving a religious duty in the category of optional acts?

[E] And these are the acts for which people are liable by reason of acts of choice: they do not sit in judgment, effect a betrothal [M. 5:2C-E],

[F] issue a writ of divorce or effect a right of refusal, carry out a rite of halisah or enter into levirate marriage [M. 5:2 E- F] [T. Meg. 4 4/I-K].

[I:2 A] *It has been taught:* They do not climb a tree, whether it is full of sap or dried out.

[B] There is no problem understanding why one may not climb a tree that is full of sap [since one may thereby pull off a branch of a living tree, which is forbidden]. [But a dried up tree does not fall into the category of a tree at all, so] in the case of a dried up tree, do we actually rule that it is prohibited to walk on a vine shoot on the Sabbath? Surely not! Why should it be forbidden to do so?]

[C] But the rule is formulated in accord with the view of R. .Meir [who regards a dried up shoot as still effective], for R. .Meir said, “A vine that dried up [located in a field of grain] is forbidden, but does not sanctify [the field of grain in which it is located, under the rule prohibiting mixed seeds in a vineyard].”

[D] [No, it accords with the view] of all parties, [who] prohibit a dried up tree because of the prohibition extending to a tree that is full of sap.

[E] *R. Hiyya bar Ashi came with a sprig [in his hand] before Rab [on a festival day]. [Rab] said to him, “Whence did you bring what is in your hand]?”*

[F] *He said to him, “From [an area of crooked date palms].”*

[G] *He said to him, “Who permitted you [to climb those dead palms]?”*

[H] [Rab himself would not permit it for] R. .Aha in the name of Rab [said], “It is forbidden to walk on a root on the Sabbath, and all the same are roots of trees and cabbage heads.”

[I] That is so when they grow three [handbreadths above the ground], but if they are not three handbreadths above the ground, they are in the status of the ground itself.

[II:1 A] *On what account have they said, **They do not climb a tree** [M. 5:2D]?*

[B] Is it lest the person forget and pick fruit and eat it, or is it lest the person shake the tree [thus making use of it, which is prohibited]?

[C] *Let us derive the answer from the following:*

[D] If one was riding on a beast [on a festival] one says to him, “Get off.”

[E] *That suggests. then, that* the consideration is lest the person forget and shake [the tree].

[F] On what account have they said.”If one was riding a beast [on a festival], one says to him, ‘Get off’”?

[G] .Associates have said, “It is lest the beast will suck [from its mother, while the man is still riding on it] and it will be as if he takes action to suckle the beast, which may not be done on the festival] .”

[H] Said to them R. Yosé, But if it was an adult camel? [There is no consideration of its sucking from the mother, and hence your rule is inconsistent.]”

[I] *R. Aha bar Pappa taught before R. Zeirah, “The case [of the beast] is different [from that of the tree], for a man is commanded concerning the Sabbath rest of his beast as much as concerning his own. [This is in line with the following verse of Scripture: ‘Six days you shall do your work but on the seventh day you shall rest;] that your ox and your ass may have rest as you do [and the son of your bondmaid. and the alien may be refreshed].”*

[J] *There is a Tannaite authority who repeats: “[On the festival day] they may lean on a beast,” and there is a Tannaite authority who repeats, “On a festival day they may not lean on a beast.”*

[K] *Said R. Hisda. “He who has said, “They may lean’ refers to a healthy [person who does not have to do so, and does so quite unintentionally], and he who has said, “They may not lean,” refers to a weak [person. who must do so. and hence is prohibited from leaning on the beast].”*

[L] *R. Yosé says, “R. Ba bar Mamel and associates differed. One party said, ‘They may lean.’ and the other party said, ‘They may not lean [on a beast].’*

[M] *“He who said, ‘They may lean,’ refers to a case in which one leans only a bit, and one who said, ‘They may not lean.’ refers to a case in which one presses his entire weight against the beast.*

[N] *Now we do not know who said this and who said that. But on the basis of the fact that R. Yosé has spoken in the name of R. Ba bar Mamel, it follows that the one who has said, ‘They lean speaks to the case of a healthy [man], but ‘They do not lean’ applies to one who is weak.”*

[III:1 A] They do not swim in water:

[B] R. Jacob bar Zabedi in the name of R. Abbahu: “That is to say that it is forbidden to float something and lead it away from oneself.

[C] *“And along these same lines, it is forbidden to float something and lead it to oneself.”*

[D] *R. Abba Mari and R. Mattenaiah were sitting. They saw someone skim the water on either side and drink.*

[E] *Said R. Abba Mari to R. Mattenaiah, “Is that the sort of thing to which R. Jacob bar Zabedi in the name of R. Abbahu referred when he said. ‘It is forbidden to float something and lead it away from oneself.”*

[F] *He said to him, “No, that is the wrong analogy. Rather, it is in line with that which we have learned: A man may break a cask to eat dried figs from it. [Here too the man is breaking the surface of the water in order to take a drink and that is remitted. Breaking the water’s surface is surely no more stringent than breaking open the jug.]”*

[IV:1 A] They not clap hands [M. 5:2D]:

[B] This refers to clapping, which a person himself does [in anger].

[C] *It is in line with the following verse of Scripture: “And Balak’s anger was kindled against Balaam. and he struck his hands together” (Num. 24:10).*

[V:1 A] And they do not slap the thigh [M. 5:2D]:

[B] This is slapping that expresses pleasure.

[C] *R. Jonah and associates: one party said, “This sort is permitted, and that sort is prohibited. [That is. clapping the hands together is forbidden clapping the backs of the hands together is permitted.]” And the other said, “Both this sort and that sort are prohibited.”*

[D] *Now we do not know which party held this view and which party held that view.*

[E] *On the basis of that which R. Jonah said, “There are elders in our day who clap with the backs of their hands on the Sabbath” it follows that he is the one who said. ‘ This [with the back of the hands] it is permitted. and that way is prohibited.”*

[F] *Rabbi was marrying off R. Simeon. his son. And on that occasion the people were clapping with the backs of their hands on the Sabbath.*

[G] *R. Meir happened by and heard the noise. He said, “Have our rabbis [= Rabbi] declared [this kind of clapping] permitted on the Sabbath?”*

[H] *Rabbi heard his voice and said, “Who is this who has come to chastise us in our own home?”*

[I] *And there is he who says, “This is what he said: ‘Who is this one who has come to restrict us in our own home?’”*

[J] *R. Meir heard about it and fled. They [participants in the wedding] went out and hastened after him. The wind picked up [Meir’s] turban from around his neck.*

[K] *Rabbi looked out of the window and saw Meir’s [naked] neck from the back. He said, “I have had the merit of learning Torah only because I saw R. Meir’s naked neck from the back.”*

[L] *R. Yohanan and R. Simeon b. Laqish both said, “We have had the merit of learning Torah only because we saw the toes of Rabbi reaching out of his slippers.”*

[VI:1 A] They do nor stamp the feet [M. 5:2D]:

[B] *R. Jeremiah, R. Zeirah in the name of R. Hunah: “Jumping is when one picks up both feet at once. Stamping is when one picks up one foot and puts down the other.”*

[C] *Said R. Eleazar, “Whatever makes a noise is forbidden on the Sabbath.”*

[D] *R. Samuel bar R. Isaac considered knocking at the door of the new synagogue.*

[E] *R. Lei b. R. Elem knocked on a chair [with the back of his hand].*

[F] *R. Ila stayed late at the study session. He went home and found them all asleep. He lay up a ladder, because he did not want to knock on the door on the Sabbath.*

[G] *R. Jeremiah would study with the son of R. Immi. He went and wanted to wake him up at dawn on the Sabbath. He began to knock on the door.*

[H] *The father said to him, “Who gave you permission [to knock on the Sabbath]?”*

[I] *R. Abba bar Kahana asked before R. Yosé, “What is the law as to patting one’s stomach on the Sabbath?”*

[J] *He said to him, “Who permitted you to do it on a weekday?”*

[K] Said R. Samuel bar Abodema “Rabbis are accustomed on a . weekday to do so from the belly button upward, and, if one is wearing his clothes, from the belly button and downward, [it also is permitted to pat one’s stomach, as a way of healing a bellyache] .”

[VII:1 A] They do not sit in judgment [M. 5:5F]:

[B] R. Hezekiah, R. Aha in the name of R. Abbahu: “It is forbidden to undertake a trial for a property case on a Friday.”

[C] *Now the following Mishnah-paragraph is at variance with this statement: **Therefore they do not judge capital cases either on the eve of the Sabbath or on the eve of a festival [M. San. 4:6C].***

[D] Lo. property cases may be tried [on those days]!

[E] *And R. Hiyya [also] taught so: They judge property cases on the eve of the Sabbath, but they do not judge capital cases on the eve of the Sabbath.”*

[F] He [B’s authority] said, “The one rule is for purposes of legal theory. but the other is in accord with Biblical law. [R. Hezekiah’s statement at B is the legal theory. But if a property case is tried on a Friday, it is not retried.]”

[VIII:1 A] They do not effect a betrothal [M. 5:2F]:

- [B] *R. Ba bar Kohen said before R. Yosé, R. Aha in the name of R. Jacob bar Idi: “It is forbidden to betroth a woman on Friday.”*
- [C] *That which you have said indicates that one should not make the banquet in celebration of the betrothal.*
- [D] Lo, as to the actual betrothal, it is permitted.
- [E] Samuel said, “Even on the ninth of Ab, one should betroth a woman [if the occasion arises], so that someone else should not marry her first.”
- [F] *The opinions assigned to Samuel are at variance with one another.*
- [G] *There he has said, “God gives the desolate a home to dwell in; [he leads out the prisoners to prosperity; but the rebellious dwell in a parched land]” (Ps. 68:6).*
- [H] “[Men of low estate are but a breath, men of high estate are a delusion]; in the balances they go up; they are together lighter than a breath” (Ps. 62:9). [Both verses imply that the marriage is arranged by God.]
- [I] *And here he has said this [that one has to take action on his own:] “So that someone else should not get there first”!*
- [J] Rather [Samuel meant that he should marry] lest someone precedes him by praying [for her hand in marriage.]
- [K] Even so. the marriage will not last [if God has not arranged it].

[IX:1 A] And they do not consecrate.

- [B] *R. Jacob bar .Aha in the name of R. Immi: “R. Yohanan and R. Simeon b. Laqish differed.*
- [C] *“One said, ‘They consecrate [in context: a lamb for the Passover] [on the Sabbath or festival].’*
- [D] *“The other said, ‘They do not consecrate [on the Sabbath or festival].’”*
- [E] *Rabbis of Caesarea interpret the dispute [to take account of M. 5:2F]:*
They do not effect a betrothal on the Sabbath or on the festival day]:
- [F] “R. Yohanan said. ‘They consecrate on the festival to begin with.’
- [G] “R. Simeon b. Laqish said, ‘They do not consecrate on the festival to begin with.’”

- [H] *There is a Tannaite authority who teaches: “One may go to a lamb seller [on a Sabbath that falls on the eve of Passover and buys a lamb for use as his Passover offering].”*
- [I] *And there is a Tannaite authority who teaches: “One may go only to a Passover lamb seller [for the stated purpose].” [The man has to designate the lamb for use on the Passover festival. If one may consecrate the lamb for the Passover on a Sabbath, then he may go and get it on that day from a lamb seller. If he may not do so on a Sabbath, then he should go and get it from a Passover lamb seller who already has designated the lamb for that purpose prior to the eve of the festival that coincides with the Sabbath.]*
- [J] *He who has said that one may go to a lamb seller concurs with him who said that they may consecrate [a lamb on the Sabbath, or betroth a woman, since in both instances one undertakes an act of sanctification]*
- [K] *He who has said that one goes to the Passover lamb seller [in particular] concurs with him who said that they may not consecrate [or betroth] a woman on the Sabbath. since the act of designation and sanctification may not take place on that day]*
- [L] *Now if one purchases the lamb from one who is selling lambs designated for the Passover sacrifice in particular. the normal procedure is that the lamb is regarded as deconsecrated through the payment of’ money to the seller. The buyer then goes and reconsecrates it for his own purpose. Since the second authority says one goes to the seller of lambs for the Passover, indicating that he does not permit an act of consecration to take place on the Sabbath. there is d problem as regards the ordinary procedure.] *That [position. that one buys it from the one who already has consecrated the lamb for use for a Passover offering] is to say that the lamb does not go forth to unconsecrated status and then goes and undergoes sanctification again [on the part of the action of the purchaser]. For if you maintain that the lamb does go forth to unconsecrated status and then goes and undergoes sanctification again. such a procedure should be forbidden on the grounds that [on the festival or Sabbath day the purchaser] is sanctifying [the beast and, we know from M.5:2F, that is forbidden] .**
- [M] *For we have learned: **They do not effect a betrothal [that is, a rite of consecration] [M. 5:5F].***

[N] *R. Hananiah and R. Mana: one of them said, “[The prohibition applies] to one who consecrates [a beast] for use on the next day. [But one may consecrate the beast for use on the festival day itself. on which the act of consecration takes place.]”*

[O] *The other said, “It is [prohibited in the case of] consecration for the upkeep of the house [i.e.. the Temple].”*

[P] *Said R. Shimi, “And even if in accord with him who said that they do not consecrate [in general], in the courtyard of the Temple it is permitted to do so, on the count of Sabbath rest, for they have released [the prohibitions pertaining to Sabbath rest] in the Temple itself [where those prohibitions do not apply].”*

[X:1 A] All of these have they declared liable on a festival day, all the more so on the Sabbath. The sole difference between the festival and the Sabbath is in the preparation of food alone [M. Bes. 5:2I-J].

[B] *Is this the only, difference.*

[C] *Lo, there are others.*

[D] The penalty of stoning is imposed for violation of the Sabbath, while the penalty of stoning is not imposed for violating the festival day.

[E] The penalty of extirpation is imposed for violating the Sabbath. and the penalty of extirpation is not imposed for violating the festival day.

[F] The penalty of flogging applies for violating the festival, and the penalty of flogging does not appl- for violating the Sabbath.

[G] *Now if you wish to reply that the reference of that statement is only to matters having to do with food – lo, we have learned: **They may let down produce through a hatchway on a festival day but not on a Sabbath [M. 5:1A].***

[H] *And further, note the following: They grind up spice-wood for the rite of circumcision on a festival day] but not on the Sabbath. R. Yosé said, “And that applies to a case in which the rite already has been carried out.”*

[I] *And further note the following, as has been taught as a Tannaite rule: **Sages concur with R. Meir [M. Bes. 4:3E-G], in the case of knots which are on the ground, that one may loosen, untie, and unravel them, but they may not cut them. And on the Sabbath they may***

loosen and untie, but may not unravel or cut them. And in the case of those on utensils on the Sabbath, it is permitted. And it goes without saying, that is so also on the festival [T. Y. T 3:12].

[X:2 A] The sole difference between the festival and the Sabbath is in the preparation of food:

[B] *It was taught in the name of R. Judah:* “Also they have permitted [on the festival] preparing those things that are required for the preparation of food as well.”

[C] *What is at issue between [the authority of M. Meg. 1:6A = M. Bes. 5:2J] and [Judah]?*

[D] R. Hisda says, “[The practical difference between the two positions] is whether or not it is permitted to sharpen the head of a spit.”

[E] R. Hanina son of R. Abbahu: “Producing heat [for cooking] from wood [Y. Meg. 1:8 has “preheated. stones”] is at issue between them.”

[F] *R. Judah bar Pazzi of Bardelayya taught, “That is the thing.”*

[G] What is the meaning of, “That is the thing”? Is it the matter of sharpening the head of a spit, or is it the matter of producing heat from stones?

[H] *Indeed, you may say only the following: **They do not polish a knife. but one may sharpen it on another knife [Y. Bes. 3:7].***

[I] [In regard to that statement,] R. Hisda said, “That view is R. Judah’s.”

[J] But R. Judah said in the name of Samuel, “It represents the opinion of all parties, [since one does so] in order to remove the fat from the knife.”

[X:3 A] What is the law on kindling a lamp that serves no useful purpose [on the festival day]?

[B] Hezekiah said, “It is forbidden to do so.”

[C] *The following Tannaitic teaching stands at variance with the view of Hezekiah:*

[D] “You shall kindle no fire in all your habitations on the Sabbath day” (Ex. 35:3).

[E] On the Sabbath day you may not kindle a fire, but you may kindle a fire on the festival.

[F] If you say that that rule applies only to matters which involve preparing food, for has it not been written, “[On the first day you shall hold a holy assembly, and on the seventh day a holy assembly; no work shall be done on those days;] but what every one must eat. that only may be prepared by you” (Ex. 12:16)?

[G] They nonetheless maintain that kindling a light not used for a purpose [is permitted].

[H] *Said R. Abonah.* “*And it has been taught there:*

[I] “The House of Shammai prohibits. and the House of Hillel permits.”

[J] *R. Nahum. brother of R. Ila asked about this matter before R. Yohanan.*

[K] *He told him. ‘Do not prohibit it. And do not permit it.’*

5:3

[A] **Domestic cattle and utensils are in the status of their owner [and on the festival or Sabbath are restricted to travel within the same limits as he is].**

[B] **He who hands over his domestic beast to his son or to a shepherd – lo, they are in the status of the owner.**

[C] **Utensils set aside for use of one of the brothers in a household – lo, they are in his same status.**

[D] **And those not set aside [for use of a particular person], lo, they are in the status of [the brothers as a group], and they may go [to the place to which all of the brothers may go].**

[I:1 A] *The Mishnah speaks of a case in which one handed over the beast on the festival day itself.*

[B] But if one handed it over on the eve of the festival, [the beast] is in the status of the shepherd [to whom the beast is entrusted].

[C] It applies, further, when there is another shepherd available [besides the one who is employed for this purpose]. But if there is available only that one shepherd, then [the beast] is in the status of the herd [tended by that shepherd].

[D] *And so has it been taught [in T.’s version]: R. Dosa says, “He who purchases a domestic beast from a shepherd, even though he has not informed the shepherd, lo, it remains in the status of the shepherd” [T. Y.T. 4:6D].*

5:4

- [A] **He who borrows a utensil from his fellow on the eve of the festival – it is in the status of the one who borrows it.**
- [B] **[If he borrows it] on the festival day, it is in the status of the one who lends it.**
- [C] **And so too, a woman who borrowed from her friend spice, water or salt for her dough – lo, they are in the status of the two of them [and go only to a place where both of them may go].**
- [D] **R. Judah declares exempt in the case of water,**
- [E] **for it is of no substance.**

[I:1 A] Said R. Ba, [with respect to M. 5:1C,] in matters affecting the Sabbath boundary, the sages have imposed the strict rule of the law as it affects property . [so that each woman owns a share in the spice, water, or salt, with the result that the consequent dough or bread is subject to the Sabbath limit governing each of the two owners thereof].

[B] *“You may know that that is the case. for they have said there in the name of R. Hisda – and we do now know whether it derives from a tradition, or from reasoning on the Mishnah itself – ‘And even the wood [if it is borrowed, to kindle a fire, imposes the status of the owner of the wood upon the bread that is baked with that wood],’ and we considered ruling that – to the contrary – wood has no substance. [Yet it clearly does.]”*

[II:1 A] **R. Judah declares exempt in the case of water, for it is of no substance [M. 5:1D-E].**

[B] *What is the practical difference between these two positions?*

[C] It is the matter of water.

[D] *He who has said, “It is because it is of no substance” – lo, in the case of water, there is a matter of substance.*

[E] *He who has said, “It is because the water is absorbed into the dough,” lo, it is not absorbed into a cooked dish [and hence would not be taken into account].*

5:5

[A] **A burning coal is in the status of its owners.**

[B] **But the flame [may go] anywhere.**

- [C] A burning coal belonging to the sanctuary is subject to the laws of sacrilege.
- [D] But its flame is neither available for common use nor subject to the laws of sacrilege [if, contrary to the law, it is put to secular use].
- [E] [On the Sabbath] he who takes out a burning coal to the public domain is liable.
- [F] [But if he takes out] a flame, he is exempt.
- [I:1 A] Five rules did they state concerning a burning coal and five concerning a flame:
- [B] A burning coal belonging to the sanctuary is subject to the laws of sacrilege. But a flame is neither available for common use nor subject to the laws of sacrilege [if it is subjected to common use] [M. 5:5C-D].
- [C] A burning coal belonging to an idol [worshipper] is prohibited, but a flame is permitted.
- [D] He who takes out a burning coal to the public domain [on the Sabbath] is liable, [but if he takes out] a flame, he is exempt [M. S: 5E-F].
- [E] He who is prohibited by vow from deriving benefit from his fellow is prohibited from using his burning coal, but permitted to make use of a flame belonging to him.
- [F] And they say a blessing over a flame [on Saturday night in the Habdalah], but they do not say a blessing over a burning coal [T. Y.T. 4:7].
- [G] R. Hiyya bar Ashi in the name of Rab: “If the coals were yet flaming. they do say a blessing over them.”
- [H] R. Yohanan of Qesiyon in the name of R. Nahum b. R. Simai, ‘And that is on condition that [the flame] shoots up [a bit].’

5:6

- [A] A cistern belonging to an individual – [its water] is in the status of that individual.
- [B] But if it belongs to the residents of that town – [its water] is in the status of the residents of that town.
- [C] And one belonging to those who came up from Babylonia is in the status of the person who draws water from it.
- [I:1 A] A spring between the Sabbath limits of two [communities] –

- [B] R. Yohanan said, “They make a partition of iron for it [to keep the water serving one side from intermingling with that serving the other side].”
- [C] R. Yosé b. Haninah said, “Even a partition of reeds [will do], so long as the water [up above] does not flow in both directions.”
- [D] [In requiring a distinction between the water available to one community and that available to the other,] R. Yudan said, They have imposed a stricter requirement than the law of the Torah demands.”
- [E] Said R. Haninah.””[Why should that be the case?] Is this not [along the lines of distinguishing] one species from some other? But they have made a strict ruling in this ruling of theirs just as the Torah does.”
- [II:1 A] [Referring to M. 5:6C,] that is to say. he who takes a utensil out into the public way – lo, the utensil is in the status of the person who takes it out [just as at M. 5:6C with reference to the cistern’s water enjoying the status of the person who draws it].

5:7

- [A] **He whose pieces of produce were located in another town,**
- [B] **and the residents of that town prepared an erub so as to bring him some of his produce –**
- [C] **[nonetheless] they should not bring it to him, [since the produce is in his status].**
- [D] **But if he made the erub [in his own behalf],**
- [E] **his pieces of produce are in his own status [and they may be brought to him].**
- [I:1 A] *Rab and Samuel: One of them said, “[In the case of someone who left a bailment of produce with someone else,] the produce is in the status of the one who left the bailment.”*
- [B] *The other said, “It is in the status of the one with whom the bailment was left.”*
- [C] *The .Mishnah differs from the view of him who said that the produce is in the status of the one with whom the produce was left, for we have learned:*
- [D] **He whose pieces of fruit were located in another town, and the residents of that town prepared an erub so as to bring him some of his produce – they should not bring it to him [M. 5:7A-C].**

[E] *Now if you say that the produce is in the status of the person with whom it was left, then the residents of the other town should be able to bring the produce to him.*

[F] Said R. Yudan, “Interpret the Mishnah to speak of a case in which the key [to the produce’s storage container] was in the possession of the owner, or of a case in which the owner did not give the person with whom the bailment was left domain over it while it was yet daylight [on the day preceding the festival or Sabbath].”

[G] *But whence shall we find the answer to the question? It is from the following:*

[H] He who invited guests to his house – they should not take away portions of food in their hand, unless another had given them possession of their portions on the eve of the festival day [T.Y.T.4:10]

[I] Now here, since the other [the host] has assigned ownership to them for their portions. are not the portions in the status of the person with whom they have been left [as a bailment, rather than in the status of the person who has left them as a bailment, that is, the host]? [They assuredly are in the status of the person with whom They are left as a bailment. and that answers the question .]

5:8

[A] He who invited guests to his house –

[B] they should not take away portions of food in their hand, [since as to location, the food shares in the householder’s status],

[C] unless he had given them possession of their portions on the eve of the festival day, [in which case the food is in their status].

[D] They do not give drink to field-animals or slaughter them [on a festival day, since they are not deemed set aside as food].

[E] But they give drink to and slaughter household-animals, [which are deemed set aside for festival use].

[F] What are household-animals?

[G] Those that spend the night in town.

[H] Field-animals?

[I] Those that spend the night in [distant] pastures.

[I:1 A] What are field animals [M. 5:7H]? Those which go out [to pasture] at Passover and come back in at the rainy season.

- [B] **And what are household animals? Those that spend the night [M. 5:7F-G] within the Sabbath limit.**
- [C] **Rabbi says, “In the case of both these [which remain within the Sabbath limit] and those which go forth outside the Sabbath limit,**
- [D] **“even though they came back within the Sabbath limit only after it got dark,**
- [E] **“it is permitted to slaughter them on the festival.**
- [F] **“What are field animals? Those that pasture in distant pastures at all times” [cf. M. 5:7H-I] [T. Y.T. 4:11].**
- [G] *Said R. Zeirah, “[What Rabbi has said] implies that as to a utensil which comes from outside of the Sabbath limit to within the Sabbath limit once it has gotten dark – it is permitted to carry it about.”*
- [H] R. Simeon bar Karsena in the name of R. Aha: “And that is on condition that it remains in a space of four cubits, [which effectively nullifies the foregoing].”
- [I] *This view is illustrated in the story of Gamaliel Zuga, whom a Saracen honored with a gift of truffles. He came and asked R. Mana, who told him, “Accept them because he is your neighbor, but eat them within the area of four cubits [from the point at which you received them].”*

CHAPTER SIX

THE STRUCTURE OF YERUSHALMI BESAH

Whether or not the Talmud of the Land of Israel is carefully organized in large-scale, recurrent structures and guided by a program that we may call systematic forms the principal question addressed by an academic commentary. The preceding chapters therefore have pointed toward the presentation set forth here. By “structure” I mean, a clearly-articulated pattern that governs the location of fully-spelled out statements. By “system,” I mean, a well-crafted and coherent set of ideas that explain the social order of the community addressed by the writers of a document, a social philosophy, a theory of the way of life, world view, and character of the social entity formed by a given social group. I see a collective, anonymous, and political document, such as the one before us, as a statement to, and about, the way in which people should organize their lives and govern their actions. At issue then in any document such as the remarkable one before us is simple: does this piece of writing present information or a program, facts to whom it may concern, or a philosophically and aesthetically cogent statement about how things should be? The connection between structure and system is plain to see. From the way in which people consistently frame their thoughts, we move to the world that, in saying things in one way rather than in some other, they wish to imagine. Modes of formulating thought adumbrate modes of imagining the world in which people wish to live, to which they address these thoughts.

If the document exhibits structure and sets forth a system, then it is accessible to questions of rationality. We may ask about the statement that its framers or compilers wished to make by putting the document together as they did. But if we discern no structure and perceive no systematic inquiry or governing points of analysis, then all we find here is inert and miscellaneous information, facts but no propositions, arguments, viewpoints. Now as a matter of fact the Talmud of the Land of Israel commonly finds itself represented as lacking organization and exhibiting a certain episodic and notional character. That view moreover characterizes the reading and representation of the document by learned and experienced scholars, who have devoted their entire lives to Talmud study and

exegesis. It must follow that upon the advocate of the contrary view – the one implicit in the representation of the document for academic analysis – rests the burden of proof. I set forth the allegation that the Talmud of the Land of Israel exhibits a structure and follows a system and therefore exhibits a commonly-intelligible rationality. The claim to write an academic commentary explicitly states that proposition. For the tractate before us, I have therefore to adduce evidence and argument.

I maintain that through the normal procedures of reasoned analysis we may discern in the tractate a well-crafted structure. I hold that the structure made manifest, we may further identify the purpose and perspective, the governing system of thought and argument, of those who collected and arranged the tractate's composites and put them together in the way in which we now have them. By "structure" I mean, how is a document organized? and by "system," what do the compilers of the document propose to accomplish in producing this complete, organized piece of writing? The answers to both questions derive from a simple outline of the tractate as a whole, underscoring the types of compositions and composites of which it is comprised. Such an outline tells us what is principal and what subordinate, and how each unit – composition formed into composites, composites formed into a complete statement – holds together and also fits with other units, fore and aft. The purpose of the outline then is to identify the character of each component of the whole, and to specify its purpose or statement. The former information permits us to describe the document's structure, the latter, its system.

While the idea of simply outlining a Talmud-tractate beginning to end may seem obvious, I have never made such an outline before, nor has anyone else. (I have provided complete outlines for the Mishnah and for the Tosefta in relationship to the Mishnah, and, not always in outline form, for the Midrash-compilations of late antiquity as well) Yet, as we shall now see, the character of the outline dictates all further analytical initiatives. Specifically, when we follow the layout of the whole, we readily see the principles of organization that govern. These same guidelines on organizing discourse point also to the character of what is organized: complete units of thought, with a beginning, middle, and end, often made up of smaller, equally complete units of thought. The former we know as composites, the latter as compositions.

Identifying and classifying the components of the tractate – the composites, the compositions of which they are made up – we see clearly how the document coheres: the plan and program worked out from beginning to end. When we define that plan and program, we identify the facts of a pattern that permit us to say in a specific and concrete way precisely what the compilers of the tractate intended to accomplish. The structure realizes the system, the program of analysis and thought that takes the form of the presentation we have before us. From what

people do, meaning, the way in which they formulate their ideas and organized them into cogent statements, we discern what they proposed to do, meaning, the intellectual goals that they set for themselves.

These goals – the received document they wished to examine, the questions that they brought to that document – realized in the layout and construction of their writing, dictate the points of uniformity and persistence that throughout come to the surface. How people lay out their ideas guides us into what they wished to find out and set forth in their writing, and that constitutes the system that defined the work they set out to accomplish. We move from how people speak to the system that the mode of discourse means to express, in the theory that modes of speech or writing convey modes of thought and inquiry.

We move from the act of thought and its written result backward to the theory of thinking, which is, by definition, an act of social consequence. We therefore turn to the matter of intention that provokes reflection and produces a system of inquiry. That statement does not mean to imply I begin with the premise of order, which sustains the thesis of a prior system that defines the order. To the contrary, the possibility of forming a coherent outline out of the data we have examined defines the first test of whether or not the document exhibits a structure and realizes a system. So everything depends upon the possibility of outlining the writing, from which all else flows. If we can see the order and demonstrate that the allegation of order rests on ample evidence, then we may proceed to describe the structure that gives expression to the order, and the system that the structure sustains.

The present work undertakes the exegesis of exegesis, for the Yerushalmi, like its counterpart in the one of Babylonia, is laid out as a commentary to the Mishnah. That obvious fact defined the character of my academic commentary, since we have already faced the reality that our tractate is something other than a commentary, though it surely encompasses one. The problems that captured my attention derived from the deeper question of how people make connections and draw conclusions. To ask about how people make connections means that we identify a problem – otherwise we should not have to ask – and what precipitated the problem here has been how a composition or a composite fits into its context, when the context is defined by the tasks of Mishnah-commentary, and the composition or composite clearly does not comment on the Mishnah-passage that is subjected to comment.

The experience of analyzing the document with the question of cogency and coherence in mind therefore yields a simple recognition. Viewed whole, the tractate contains no gibberish but only completed units of thought, sentences formed into intelligible thought and self-contained in that we require no further information to understand those sentences, beginning to end. The tractate organizes these statements as commentary to the Mishnah. But large tracts of the

writing do not comment on the Mishnah in the way in which other, still larger tracts do. Then how the former fit together with the latter frames the single most urgent question of structure and system that I can identify.

Since we have already examined enormous composites that find their cogency in an other than exegetical program, alongside composites that hold together by appeal to a common, prior, coherent statement – the Mishnah-sentences at hand – what justifies my insistence that an outline of the document, resting on the premise that we deal with a Mishnah-commentary, govern all further description? To begin with, the very possibility of outlining this tractate derives from the simple fact that the framers have given to their document the form of a commentary to the Mishnah. It is in the structure of the Mishnah-tractate that they locate everything together that they wished to compile. We know that is the fact because the Mishnah-tractate defines the order of topics and the sequence of problems.

Relationships to the Mishnah are readily discerned; a paragraph stands at the head of a unit of thought; even without the full citation of the paragraph, we should find our way back to the Mishnah because at the head of numerous compositions, laid out in sequence one to the next, clauses of the Mishnah-paragraph are cited in so many words or alluded to in an unmistakable way. So without printing the entire Mishnah-paragraph at the head, we should know that the received code formed the fundamental structure because so many compositions cite and gloss sentences of the Mishnah-paragraph and are set forth in sequence dictated by the order of sentences of said Mishnah-paragraph. Internal evidence alone suffices, then, to demonstrate that the structure of the tractate rests upon the Mishnah-tractate cited and discussed here. Not only so, but the sentences of the Mishnah-paragraphs of our tractate are discussed in no other place in the entire Talmud of the Land of Israel in the sequence and systematic exegetical framework in which they are set forth here; elsewhere we may find bits or pieces, but only here, the entirety of the tractate.

That statement requires one qualification, and that further leads us to the analytical task of our outline. While the entire Mishnah-tractate of treated here is cited in the Talmud of the Land of Israel, the framers of the Talmud of the Land of Israel by no means find themselves required to say something about every word, every sentence, every paragraph. On the contrary, they discuss only what they choose to discuss, and glide without comment by large stretches of the tractate. A process of selectivity, which requires description and analysis, has told the compilers of the Talmud of the Land of Israel's composites and the authors of its compositions (This statement requires refinement. I do not know that all available compositions have been reproduced, and that the work of authors of compositions of Mishnah-exegesis intended for a talmud is fully exposed in the document as we have it. That is not only something we cannot demonstrate – we do not have

compositions that were not used, only the ones that were – but something that we must regard as unlikely on the face of matters. All we may say is positive: the character of the compositions that address Mishnah-exegesis tells us about the concerns of the writers of those compositions, but we cannot claim to outline all of their concerns, on the one side, or to explain why they chose not to work on other Mishnah-sentences besides the ones treated here. But as to the program of the compositors, that is another matter: from the choices that they made (out of a corpus we cannot begin to imagine or invent for ourselves) we may describe with great accuracy the kinds of materials they wished to include and the shape and structure they set forth out of those materials. We know what they did, and that permits us to investigate why they did what they did. What we cannot know is what they did not do, or why they chose not to do what they did not do. People familiar with the character of speculation and criticism in Talmudic studies will understand why I have to spell out these rather commonplace observations. I lay out an argument based on evidence, not on the silences of evidence, or on the absence of evidence – that alone.) what demands attention, and what does not. Our outline has therefore to signal not only what passage of the Mishnah-tractate is discussed, but also what is not discussed, and we require a general theory to explain the principles of selection (“making connections, drawing conclusions” meaning, to begin with, making selections). For that purpose, in the outline, I reproduce the entirety of a Mishnah-paragraph that stands at the head of a Talmudic composite, and I underscore those sentences that are addressed, so highlighting also those that are not.

It follows that the same evidence that justifies identifying the Mishnah-tractate as the structure (therefore also the foundation of the system) of Yerushalmi-tractate before us also presents puzzles for considerable reflection. The exegesis of Mishnah-exegesis is only one of these. Another concerns the purpose of introducing into the document enormous compositions and composites that clearly hold together around a shared topic or proposition, e.g., my appendix on one theme or another, my elaborate footnote providing information that is not required but merely useful, and the like. My earlier characterization of composites as appendices and footnotes signalled the fact that the framers of the document chose a not-entirely satisfactory way of setting out the materials they wished to include here, for large components of the tractate do not contribute to Mishnah-exegesis in any way at all. If these intrusions of other-than-exegetical compositions were proportionately modest, or of topical composites negligible in size, we might dismiss them as appendages, not structural components that bear much of the weight of the edifice as a whole. Indeed, the language that I chose for identifying and defining these composites – footnotes, appendices, and the like – bore the implication that what is not Mishnah-commentary also is extrinsic to the Talmud of the Land of Israel’s structure and system.

But that language served only for the occasion. In fact, the outline before us will show that the compositions are large and ambitious, the composites formidable and defining. Any description of the tractate's structure that dismisses as mere accretions or intrusions so large a proportion of the whole misleads. Any notion that "footnotes" and "appendices" impede exposition and disrupt thought, contribute extraneous information or form tacked-on appendages – any such notion begs the question: then why fill up so much space with such purposeless information? The right way is to ask whether the document's topical composites play a role in the re-presentation of the Mishnah-tractate by the compilers of the Talmud of the Land of Israel. We have therefore to test two hypotheses:

1. the topical composites ("appendices," "footnotes") do belong and serve the compilers' purpose

or

2. the topical composites do not participate in the re-presentation of the Mishnah-tractate by Yerushalmi and do not belong because they add nothing and change nothing.

The two hypotheses may be tested against the evidence framed in response to a single question: is this topical composite necessary? The answer to that question lies in our asking, what happens to the reading of the Mishnah-tractate in light of the topical composites that would not happen were we to read the same tractate without them? The outline that follows systematically raises that question, with results specified in due course. It suffices here to state the simple result of our reading of the tractate, start to finish: the question of structure, therefore also that of system, rests upon the position we identify for that massive component of the tractate that comprises not Mishnah-commentary but free-standing compositions and composites of compositions formed for a purpose other than Mishnah-commentary.

The principal rubrics are given in small caps. The outline takes as its principal rubrics two large-scale organizing principles.

The first is the divisions of the Mishnah-tractate to which the Talmud of the Land of Israel-tractate serves as a commentary. That simple fact validates the claim that the tractate exhibits a fully-articulated structure. But the outline must also underscore that the Mishnah-tractate provides both more and less than the paramount outline of the Talmud of the Land of Israel-tractate. It is more because sentences in the Mishnah-tractate are not analyzed at all. These untreated Mishnah-sentences are given in bold face lower case caps, like the rest of the Mishnah, but then are specified by underlining and enclosure in square brackets.

Second, it is less because the structure of the tractate accommodates large composites that address topics not defined by the Mishnah-tractate. That brings us

to the second of the two large-scale modes of holding together both sustained analytical exercises and also large sets of compositions formed into cogent composites. These are treated also as major units and are indicated by Roman numerals, alongside the Mishnah-paragraphs themselves; they are also signified in small caps. But the principal rubrics that do not focus on Mishnah-commentary but on free-standing topics or propositions or problems are not given in boldface type. Consequently, for the purposes of a coherent outline we have to identify as autonomous entries in our outline those important composites that treat themes or topics not contributed by the Mishnah-tractate.

I. YERUSHALMI BESAH 1:1

[A] AN EGG WHICH IS LAID ON THE FESTIVAL DAY — THE HOUSE OF SHAMMAI SAYS, “IT MAY BE EATEN [ON THAT DAY]” AND THE HOUSE OF HILLEL SAYS, “IT MAY NOT BE EATEN.”

1. **I:1:** What is the reason for the position of the House of Shammai [M. 1:1B]? The egg is deemed ready [in advance, for use on the festival day [by the fact that] its mother [was prepared in advance for eating]. What is the reason for the position of the House of Hillel [M. 1:1C]? The egg is treated as equivalent to fruit left out to dry, which indeed has dried up, and about the condition of which the owner was not informed. [The analogy is to figs or grapes that the owner has left out to dry. He did not know that they had actually reached the state of dried figs or raisins. As with the egg, the figs or raisins may not *be* eaten, because the owner did not know that they were available for eating. So, he has not had the intention, in advance, of eating them on the festival. They are forbidden. Likewise, even though the egg is edible, since the owner did not know, in advance, that the egg *would* be available, he did not designate it for eating on the festival, and so it is not available for that purpose.]
2. **I:2:** All concur in the case of an egg, the greater part of which came forth on the eve of the festival, that it is eaten on the festival [as if the whole of it had been laid prior to the festival] [T. Y.T. 1:3A-B]. Concerning what do they differ? Concerning an egg, the smaller part of which came forth on the eve of the festival. The House of Shammai says “It may be eaten.” And the House of Hillel says, “It may not be eaten.” Just as it is forbidden to eat it, so it is forbidden to carry it about [T. Y.T. 1:3F]. [If such an egg as is forbidden for eating on the festival] was mixed up with a hundred eggs [that were permitted for

use on that day], or a thousand [such eggs], all of them are forbidden [T. Y.T. 1:3H].

3. **I:3:** [An egg which is laid on the festival day (M. 1:1A)] – others said in the name of R. Eliezer, “Both it and its dam may be eaten” [T. Y.T. 1:1A-B]. What is the meaning of the statement. “Both it and its dam may be eaten”? If the dam was made read to be slaughtered [designated prior to the festival. for slaughter on the festival], [the egg. also] is permitted. and if not, it is forbidden. [The egg is in the status of the dam for all intents and purposes.]
4. **I:4:** A calf which is born on the festival day may be slaughtered on the festival day, because it subjects itself to permission [to be slaughtered, and therefore to be eaten, on that same day] [T. Y.T. 1:1C-D]. [The calf is always ready to be slaughtered and hence also to be eaten. It is not comparable to the egg laid on the festival day.] R. Zeira raised the question, “If so, a wild animal should be permitted [to be eaten on the festival, even if it has not been trapped prior to the festival,] for it subjects itself to permission to be slaughtered, [and therefore to be eaten on that same day]. “A deer should be permitted [as above], for it subjects itself to permission to be slaughtered.”
5. **I:5:** A bird which is born on the festival day may be [slaughtered on the festival day,] because it subjects itself to permission [to be slaughtered, and therefore to be eaten] [T. Y.T. 1:1E-F].
6. **I:6:** Abbahu in the name of R. Yosé b. R. Haninah asked, “Any creature that has sexual relations by day gives birth by day, and any that has sexual relations by night gives birth by night.” They objected, “Lo, there is the case of the chicken. Lo, it has sexual relations only by day, and yet it gives birth whether by day or by night.” Said R. Abun, “That case is different, for it gives birth without [being inseminated by] a male.”
7. **I:7:** R. Zeira in the name of Giddul: “A calf that is born from a terefah-beast [that is, a beast that may die of itself, and therefore may not be eaten by Israelites] on a festival day is permitted [for Israelites to slaughter and eat on a festival day]. It is treated as something that had been ready [in advance] but that [merely] had been concealed in something that was not ready [in advance for use on the festival day].”
8. **I:8:** There we have learned: “An egg from the carrion of a bud is permitted, if an egg of the same sort is sold in the market [that is, if it is fully fashioned. with a hard shell], and otherwise, it is forbidden.” the words of the House of Shammai. And the House of Hillel forbids

[M. Ed. 5:1]. What is the reason behind the position of the House of Shammai? The egg had come to completion prior to the bird's being made carrion. If that is the case, then even if such an egg is not sold in the marketplace, the egg should be permitted [from their viewpoint]. If you say so, you turn out to permit the ovaries of birds. And the view of the House of Shammai accords with the law as given in the first version of the Mishnah, while that of the House of Hillel with the latter version of the Mishnah.

9. **I:9:** “[If] it was born on the Sabbath, it may be eaten on the festival [immediately following]. [If it was born] on the festival day, it may be eaten on the Sabbath [immediately following]. R. Judah says in the name of R. Eliezer, “Still the dispute is in place” [T. Y.T. 1:3C-E]. ‘The House of Shammai says, ‘It may be eaten.’ ‘And the House of Hillel says, ‘It may not be eaten.’” R. Haninah gave a decision to Sepphorites in the matter of the aftergrowth of mustard in the Seventh Year [dating from the sixth year]. [M. Sheb. 9:1] and in the matter of the egg in accord with the view of R. Judah. R. Yohanan went in and taught them in accord with the rabbis in this case [that is, at T. Y. T. 1:3A-B], and in accord with the rabbis in that case [involving the aftergrowth of mustard]. [An egg laid on the festival is permitted on the Sabbath and vice versa; the aftergrowth of mustard is forbidden, as at M. Sheb. 9:1.]
10. **I:10:** In the name of four elders they have ruled, “If a person’s *erub is* eaten up on the first day [of a festival], lo, he is in the status of his fellow townsfolk on the second [in which case the two days are treated as separate and distinct from one another and not as single, protracted holy day]. [Hence he would require a separate erub for each day. Since he has one only for the first, on the second day his *erub is* no different from that of the townspeople in general.]”
11. **I:11:** All parties [that is, the House of Shammai as well] concur in the case of produce that falls from the tree [on the festival] that it is forbidden. R. Bun bar Hiyya asked before R. Zeirah, “What is the difference between fruit that falls from a tree and eggs? As to the fruit which fall from their source, is it possible that they are not forbidden? As to the eggs that come from their mothers, is it possible that they are not permitted [since they would be permitted if they were found in the chicken, were it slaughtered on that day].
12. **I:12:** Jeremiah raised the question, “As to wreaths of nuts [and chains of berries] used to decorate a sukkah, what is the law governing them [May they be eaten on the eighth day of the Festival, that is, the Eighth

Day of Solemn Assembly, which is not part of the Festival of Tabernacles but is adjacent to it?]" R. Jeremiah retracted [this question] and said, "For all seven days they are left unused [and prohibited] on the sukkah, [from which they may not be removed and eaten]. From that point on [that is. once the seven days of the festival have ended,] they are deemed to be available [and designated for use]." Said R. Yosé, "For all seven days the sanctity of the sukkah inheres in them. From that point onward, the sanctity of the festival day [the Eighth Day of Solemn Assembly] inheres in them. [For the seven days of the Festival. the nuts are designated for use for that purpose. For the eighth. they are prohibited for use as well.] 'But if you wish to raise a question. you should address it to the case of a festival day that falls on the eve of the Sabbath in accord with the view of him who maintains that they constitute two separate and distinct spans of holiness' [But the question then is not answered.]

II. YERUSHALMI BESAH 1:2

[A] **THE HOUSE OF SHAMMAI SAYS. '[THE MINIMUM OF LEAVEN IN THE VOLUME OF AN OLIVE'S BULK AND [A MINIMUM OF] WHAT IS LEAVENED IN THE VOLUME OF A OLIVE'S BULK [ARE PROHIBITED ON PASSOVER (EX. 13:7). AND THE HOUSE OF HILLEL SAYS. "THIS AND THAT ARE [PROHIBITED IN THE VOLUME OF] AN OLIVE'S BULK."**

1. **I:1:** R. Zeriqan in the name of R. Yosé b. Haninah, "They have taught [the dispute as to the minimum volume of leaven] only in respect to removing [the leaven from the house]. But as to [the minimum volume prohibited] for eating, it is an olive's bulk." [On the view of the House of Hillel,] R. Abbahu in the name of R. Yohanan: "Whether as to removing the leaven or as to eating it, the minimum volume [prohibited by the law] is an olive's bulk."

III. YERUSHALMI BESAH 1:3

[A] **HE WHO SLAUGHTERS A WILD BEAST OR FOWL ON THE FESTIVAL — THE HOUSE OF SHAMMAI SAYS. 'HE DIGS WITH A MATTOCK AND COVERS UP THE BLOOD (LEV. 17:13).' AND THE HOUSE OF HILLEL SAYS 'HE SHOULD NOT SLAUGHTER [AT ALL] "UNLESS HE HAD DIRT READY [FOR COVERING OF THE BLOOD WHILE IT WAS STILL DAYLIGHT ON THE DA PRECEDING THE FESTIVAL]:**

- I:1:** R. Hiyya in the name of R. Yohanan: “He who cooks [meat in the status of] carrion on a festival day is not subjected to a flogging, for [cooking carrion] is permitted under the general principle that [it is permitted to] cook on the festival. [and that covers the carrion too. even though one may not actually eat the carrion meat].” R. Simeon b. Laqish says, “He is flogged. for [cooking carrion is] not permitted under the general principle that [it is permitted to] cook on the festival, and that covers cooking only what in fact one is permitted to eat [excluding. then, carrion].”

[B] BUT THEY CONCUR THAT IF HE ACTUALLY DID SLAUGHTER. HE MAY DIG WITH A MATTOCK AND COVER UP [THE BLOOD], [AND] THAT THE ASHES OF THE OVEN ARE DEEMED TO HAVE BEEN MADE READY [ON THE PRECEDING DAY, AND THEY TOO MAY BE USED FOR COVERING UP THE BLOOD].

- 1. II:1:** [Commenting on M. 1:3F, the ashes are deemed made ready for use in covering the blood, that is, a lenient ruling], R. Abun in the name of rabbis over there: “That is to say that the ashes of the oven are regarded as ready at hand only for the purpose of carrying out the religious duty [of covering the blood, but not for other purposes].” Said R. Mana, “[That is the case] if the man did not prepare the ashes in advance. But if he had prepared the ashes in advance [for use on the festival day], they may be used to cover anything, including the religious duty of covering the blood, [but not merely that alone].”
- 2. II:2:** It has been taught : R. Yosé says, “As to a koy, they do not slaughter it on the festival day, “because [precisely what it is] is subject to doubt. “But if they have slaughtered it, they do not cover up its blood” [T.Y.T. 1:5G-I]. Said R. Yosé, “Now if in the case of circumcision, which, in a case in which it is certainly required, does override the prohibitions of the Sabbath, in the case in which it is subject to doubt does not override the prohibitions of the festival, “covering up the blood, which in a case of certainty does not override the prohibitions of the Sabbath, surely should not override the prohibitions of the festival day in a case of doubt” [T.Y.T. 1:6]. They said to him [R. Yosé] “Sounding the shofar in the provinces will prove the matter. “For in a case of certainty, it does not override the prohibitions of the Sabbath, but in a case of doubt, it does override the prohibitions of the festival. “This therefore proves the case as to covering up the blood, for even though, in a case of certainty, it does not override the prohibitions of the Sabbath, in a case of doubt it nonetheless does override the prohibitions of the festival” [T. Y. T. 1:7A-C].

3. **II:3:** And they concur that if he actually did slaughter, he may dig with a mattock and cover up the blood and that the ashes of the oven are deemed to have been made ready on the preceding day, and they too may be used for covering up the blood [M. 1:3E-F]. That which you have said applies to the ashes of a stove that was lit on the eve of the festival. But as ashes of a stove that are kindled on the festival itself, it is not in such a case that the agreement pertains. Under what circumstances? In a case in which one has not already slaughtered [the beast]. But if one has already slaughtered [the beast], it is better that one take ashes from an oven that was kindled on the festival day, rather than digging with a mattock and covering [up the blood with dirt dug up in that way].
4. **II:4:** Zeirah asked, “As to a dish that an ape formed [on a festival day], what is the law [about using it on the festival day]? [Is it subject to the requirement that it be designated in advance for use on that day?]” R. Yosé b. R. Bun said, “There was a dispute on this question between R. Zeirah and R. Hamnuna. “[One of them said] that it is forbidden, and the other said that it is permitted. “The one who said that it is prohibited treats the bowl as in the status of fruit left for drying that actually had dried, while the owner did not know about it, [and hence in advance did not form the intention of making use of that fruit]. [Thus it has not been designated in advance for use on the festival and it may not be used.] “He who said that it is permitted treats it as food that had not yet been tithed, which someone inadvertently tithed [on the festival].” He who says that it is permitted to use the bowl: What is the law [60C] as to using the place out of which the bowl has been shaped, [that is, the place on which the bowl had stood, which now has been formed into a hole]? [May that hole be used for some constructive purpose?]”

IV. YERUSHALMI BESAH 1:4

[A] THE HOUSE OF SHAMMAI SAYS, “THEY DO NOT MOVE A LADDER FROM ONE DOVECOT TO ANOTHER. BUT ONE MAY LEAN IT FROM ONE WINDOW TO ANOTHER.” AND THE HOUSE OF HILLEL PERMITS [MOVING IT].

1. **I:1:** Judah bar Hiyya went on a circuit [to the outlying villages]. They asked him, “As to a ladder serving an upper room, what is the law [of moving it about on the festival day]?” He said to them, “It is permitted.” When he came back to his father, [Hiyya] asked him, “What case came into your jurisdiction?” He said to him, “I permitted

them on the festival day to move about a ladder serving an upper room.” [The father] called on a Tannaite authority to appear before him, and the Tannaite authority repeated the following: “Under what circumstances [toes the House of Hillel permit moving a ladder]? In the case of a ladder serving a dovecot. But in the case of a ladder serving an upper room, it is prohibited to move it about [Tosefta adds: even in the upper room itself] [T. Y.T. 1:8 G-H].”

[B] THE HOUSE OF SHAMMAI SAY, “ONE MAY NOT TAKE [PIGEONS FOR SLAUGHTERING ON THE FESTIVAL DAY] UNLESS HE [PHYSICALLY TOUCHED AND] STIRRED THEM UP WHILE IT WAS STILL DAY.”

1. **II:1:** The opinions assigned to the House of Shammai are contradictory. For we have learned there [that mere designation, without physical contact, suffices]: And further did R. Eliezer say, “A man takes up a position at the storage Jut on the eve of the Sabbath in the seventh year, and he says, ‘From this produce shall I eat tomorrow’” [M. 4:7C]. Now was R. Eliezer not a member of the House of Shammai?

[C] AND THE HOUSE OF HILLEL SAY, “ONE MAY STAND [AT A DISTANCE] AND SAY, ‘THUS ONE AND THAT ONE I SHALL TAKE.’”

1. **III:1:** The opinions assigned to the House of Hillel are contradictory. For we have learned there [that physical contact, not mere designation, is required]: And sages say, “He may do so only if he makes a mark and says, ‘From thus place up to that place shall I take produce to eat tomorrow’” [M. 4:7D]. And here do they say this?
2. **III:2:** Said R. Yosé b. R. Bun, “Levi [merely] tops at his dovecot while it is still day and says, ‘Let my dovecot effect acquisition for me for use [of the pigeons] on the morrow’ [and that suffices, without even the designation indicated at M. 1:4E].”

V. YERUSHALMI BESAH 1:5

[A] [If] ONE DESIGNATED BLACK ONES AND FOUND WHITE ONES, WHITE ONES AND FOUND BLACK ONES, TWO AND FOUND THREE — THEY ARE PROHIBITED. [If HE DESIGNATED] THREE AND FOUND TWO, THEY ARE PERMITTED.

1. **I:1:** The Mishnah passage represents the view of Rabbi. For it has been taught [in the Tosefta’s version]: [With reference to M. M.S. 4:12: One who says to his son, “Coins in the status of second tithe are in this corner,” but the son found coins in a different corner, lo, the

coins he finds are deemed unconsecrated. If there was in the corner specified by the father a maneh in the status of second tithe, and he later found there two hundred zuz (two manehs), the extra money is deemed unconsecrated. If there were there two hundred zuz in the status of second tithe, but he found there only one maneh (a hundred zuz), it is all deemed to be in the status of second tithe. In this connection, T.M.S. 5:7 adds, for the case in which the father says] there are two hundred zuz but he found only one maneh: “We assume one maneh was left behind and one maneh was carried off,” the words of Rabbi. But sages say, “All of the coins are unconsecrated.” [Thus, as at M. 1:5E, if three pigeons were designated but only two were found, we assume that those two were among the three that had been designated, just as we assume one maneh was left behind and one was carried off, in Rabbi’s view.]

- 2.** **I:2:** There we have learned: One who says to his son, “Coins in the status of second tithe are in this corner,” but the son found coins in a different corner – lo, these coins are deemed unconsecrated. [If there was there in the corner specified by the father a maneh in the status of second tithe, but the son found two hundred zuz, the extra maneh’s worth of coins is deemed unconsecrated [M. M.S. 4:12A-F]. [As above, we proceed to show that Rabbi is the authority for this view.] R. Jacob bar Aha in the name of R. Yosé, “This represents the view of Rabbi. “For it has been taught: ‘We assume one maneh was left behind and one maneh was carried off,’ the words of Rabbi. “But sages say, ‘All of the coins are unconsecrated;’” [T. M.S. 5:7AA-BB]. He retracted and said, “It represents the view of all parties [at M. 1:5]. “For the case involving pigeons is different. For it is usual for them to fly about. [So sages may concur at a case such as M. 1:5G, for example, while rejecting Rabbi’s view in the case of the coins.]”

[B] [IF HE DESIGNATED PIGEONS] IN THE NEST AND FOUND THEM IN FRONT OF THE NEST, THEY ARE PROHIBITED. BUT IF THERE ARE ONLY THOSE PARTICULAR BIRDS THERE, LO, THESE ARE PERMITTED.

- 1.** **II:1:** [With reference to M. 1:5F, If one designated pigeons in the nest and found them in front of the nest, they are prohibited.] R. Yudan said, “That which you have said [in prohibiting the birds] applies to a case in which there were two [or more] nests of birds. But if there was only a single nest, it is not in such a case [that the pigeons are prohibited, since they can have come only from the nest that the man designated in advance]. For lo, we have learned: But if there are only those particular birds there, these are permitted [M. 1:5] [and this proves the case of Yudan].”

VI. YERUSHALMI BESAH 1:6

[A] THE HOUSE OF SHAMMAI SAYS, “THEY DO NOT TAKE UP A PESTLE TO HACK MEAT ON IT.”

1. **I:1:** Samuel said, “He who inserts the shutters [of a shop] on a festival day is liable on the count of building.” Now this poses a problem. In regard to doing something which, if one did it on the Sabbath, one would be liable for a sin offering, does the House of Hillel [at M. 1:6B-C] permit – even to put them back? R. Hananiah in the name of R. Yohanan: “They permitted the matter at the end because of the considerations at the outset. For if you tell someone that he may not put them back, then to begin with he will not open them.”

[B] AND THE HOUSE OF HILLEL PERMITS [DOING SO].

1. **II:1:** [With reference to M. 1:6B, the Hillelites permit taking up a pestle to hack meat on it:] if it is not to hack meat on it, then it is forbidden [to take up a pestle on a festival day].

[C] THE HOUSE OF SHAMMAI SAYS, “THEY DO NOT PLACE A HIDE BEFORE THE TREAD [AS A DOORMAT], “NOR MAY ONE LIFT IT UP, “UNLESS THERE IS AN OLIVE’S BULK OF MEAT ON IT.” AND THE HOUSE OF HILLEL PERMITS. THE HOUSE OF SHAMMAI SAYS, “THEY DO NOT REMOVE SHUTTERS ON THE FESTIVAL.” AND THE HOUSE OF HILLEL PERMITS – EVEN PUTTING THEM BACK.

1. **III:1:** They concur that one may not scrape [the hide]. How shall we interpret the dispute [at M. 1:6C- F]? If the meat is affixed to the hide, it is tantamount to the body of the hide, [and it is self-evident that it is permitted to lift it up].
2. **III:2:** And they concur that they to not salt hides on the festival day. But on it one puts salt on meat which is for roasting [T. Y.T. 1:11B-C]. Associates in the name of Rab: “A man may salt a sizable piece [of meat], even though he can eat only a small part of it.”

VII. YERUSHALMI BESAH 1:7

[A] THE HOUSE OF SHAMMAI SAYS, “THEY DO NOT TAKE OUT INTO PUBLIC DOMAIN A MINOR, A LULAB, OR A SCROLL OF THE TORAH [ON A FESTIVAL DAY]. AND THE HOUSE OF HILLEL PERMITS.

1. **I:1:** [From the viewpoint of the House of Hillel,] lo, it is forbidden [to take] an adult [out into public domain], [since M. 1:7A-B has the Hillelites permitting a minor in particular]. R. Samuel b. R. Yosé b. R. Bun said, “Even in the case of an adult, it is permitted.” For what purpose do we then learn that it is permitted to do so with a minor [as the Mishnah makes explicit]? [Specifying a minor] comes to tell you the full extent of the position of the House of Shammai, to what degree they are prepared to impose a strict rule. [That is, they do not permit taking out even a minor, let alone an adult.]
2. **I:2:** It has been taught: A person goes out with a key on his belt to the public domain and need not scruple on that account [T. Y.T. 1:11/I]. The House of Hillel permits.

VIII. YERUSHALMI BESAH 1:8’

[A] **THE HOUSE OF SHAMMAI SAYS, “THEY DO NOT BRING DOUGH OFFERING AND PRIESTLY GIFTS TO THE PRIEST ON THE FESTIVAL DAY, “WHETHER THEY WERE RAISED UP THE PRECEDING DAY OR ON THAT SAME DAY.” AND THE HOUSE OF HILLEL PERMITS. THE HOUSE OF SHAMMAI SAID TO THEM, “IT IS AN ARGUMENT BY WAY OF ANALOGY. “THE DOUGH OFFERING AND THE PRIESTLY GIFTS (DEUT. 18:3) ARE A GIFT TO THE PRIEST, AND HEAVE OFFERING IS A GIFT TO THE PRIEST. “JUST AS [ON THE FESTIVAL DAY] THEY DO NOT BRING HEAVE OFFERING [TO A PRIESTLY, SO THEY DO NOT BRING THESE OTHER GIFTS [TO A PRIEST].” SAID TO THEM THE HOUSE OF HILLEL, “NO. IF YOU HAVE STATED THAT RULE IN THE CASE OF HEAVE OFFERING, WHICH ONE [ON THE FESTIVAL] MAY NOT DESIGNATE TO BEGIN WITH, WILL YOU APPLY THAT SAME RULE CONCERNING THE PRIESTLY GIFTS, WHICH [ON THE FESTIVAL] ONE MAY DESIGNATE TO BEGIN WITH?”**

1. **I:1:** It has been taught [in Tosefta’s version]: Said R. Judah, “The House of Shammai and the House of Hillel concur that they bring [to the priest] gifts which were taken up to the day before the festival along with gifts which were taken on the festival [vs. M. 1:8A-C]. “Concerning what did they differ? “Concerning [bringing to the priest on the festival] gifts which were taken up on the day before the festival by themselves. “For the House of Shammai prohibits. “And the House of Hillel permits [T. Y.T. 1:12A-E.]”
 - a. **I:2:** Now there is the following question to be addressed to the position of the House of Hillel [who maintain that] one may not designate heave offering on the festival day [M. 1:8G]: What if one sets a stipulation [concerning produce, that the heave offering to be

removed from it is deemed separated on the festival day or Sabbath, with said stipulation made prior to the festival or Sabbath]? [Such a stipulation is valid. Why have the Hillelites then assumed that one may under no circumstances designate heave offering on the festival day?]

2. **I:3:** There is the following, as it has been taught: [Tosefta's version:] He who kneads dough on the festival, whether it is unclean or clean, is permitted to handle it and permitted to remove tough offering from it. [The obligation to designate the dough offering comes into effect on the festival day and may be carried out on that day.] But if he kneaded on it on the day before the festival and forgot and did not designate dough offering, he is prohibited to handle it and prohibited to separate dough offering from it [T. Y.T. 1:14].

IX. YERUSHALMI BESAH 1:9

[A] **THE HOUSE OF SHAMMAI SAYS, "SPICES ARE CRUSHED IN A WOODEN CRUSHER, "AND SALT IN A CRUSE AND WITH A WOODEN POT-STIRRER." AND THE HOUSE OF HILLEL SAYS, "SPICES ARE CRUSHED IN THE USUAL WAY, IN A STONE PESTLE, AND SALT IN A WOODEN PESTLE."**

1. **I:1:** And why should one not crush the spices on the preceding day [rather than on the festival day itself]? Associates in the name of R. Yohanan: "Because [if they are crushed so long before use,] they taste bitter." R. Zeirah in the name of R. Yohanan: "It is because their taste grows faint." Samuel crushes spices on the side of the pestle [rather than in the usual way, in the center since he crushes on the festival day itself]. Rab said, "Whatever requires crushing is to be crushed in the usual way." R. Hunah, R. Jeremiah, R. Immi in the name of R. Yohanan: "Garlic, pepperwort, and mustard we crushed in the usual way." R. Abbahu in the name of R. Yohanan: "He who prepares aromatic water on the Sabbath is liable on the count of mixing."
2. **I:2:** Isaac, R. Eleazar in the name of R. Immi father of R. Abodema of Sepphoris, "Where there is a dispute, [it has to do with crushing salt] for the pot. But as [to crushing it] for roasting, it is permitted to do so [even in the view of the House of Shammai] [The pot require much salt; a small amount is sprinkled on the roast.]" R. Nahum said R. Samuel bar Abba asked, "As to making vermicelli on the festival, if it is for drying them, it is forbidden. If it is for the pot [cooking right away], it is permitted. Where there is a question, it has to do with

drying only a small amount [for eating. Here it may appear that one is making it for later use, after the festival.]”

X. YERUSHALMI BESAH 1:10

[A] **HE WHO PICKS OUT PULSE ON A FESTIVAL DAY – THE HOUSE OF SHAMMAI SAYS, “HE MAKES HIS SELECTION OF FOOD AND EATS IT [RIGHT AWAY].” AND THE HOUSE OF HILLEL SAYS, “HE MAKES HIS SELECTION IN HIS USUAL WAY, [PUTTING IT DOWN USING] HIS LAP, A BASKET, OR A DISH; “BUT NOT [USING] A BOARD, SIFTER, OR SIEVE [AND SO PREPARING A LARGE QUANTITY, FOR THE NEXT DAY].” RABBAN GAMALIEL SAYS, “ALSO: HE SWILLS AND SEPARATES THE HUSKS.”**

- 1. I:1:** R. Jonah asked, “If one did so on the Sabbath, in the view of the House of Shammai what is the law as to his being liable? [On a festival one selects the food out of the refuse, but not the refuse out of the food. If on the Sabbath one selected the refuse out of the food, will he be liable in the view of the House of Shammai?]” Said to him R. Yosé, “And why not? If he had done so on the Sabbath, in the view of the House of Hillel, would he not be liable? And here likewise he is liable. [If one did on the Sabbath what the House of Shammai says is not to be done on the festival, he surely is liable.]”
- 2. I:2:** If one selected one kind of food from some other kinds of food – R. Hezekiah said, “He is liable.” R. Yohanan said, “He is exempt.” The following Tannaitic teaching differs from the view of Hezekiah, [for it has been said]: “One makes his selection of food and eats it right away or makes his selection of food and leaves it on the table.” [This then indicates that selecting food from among a selection of foods is not the sort of selection that is prohibited on the Sabbath. Leaving it on the table is the key, then, since it clearly is not selection merely in order to eat right away what has been selected.] R. Bun bar Hiyya in the name of R. Samuel bar R. Isaac: “Interpret the rule to apply to a case in which there were guests who were eating, one by one. [This is not selection for some later purpose; the guests will eat the food as they come along.]”
- 3. I:3:** It was taught: One does not select [winnow], grind, or sift. He who selects [winnows], grinds, or sifts on the Sabbath is put to death by stoning, and [if he did so] on a festival day, he incurs forty lashes. And lo, we have learned: He makes his selection in his usual way, putting it down using his lap, a basket, or a dish; but not using a board, sifter, or sieve [and so preparing a large quantity for the next day] [M. Bes.

1:10A C-D]. [As to the contradiction between m.A and m.B.] said R. Hanina of Antonia, “The former represents the view of Rabban Gamaliel, who has said, He swills and separates the husks [M. 1:10E], [using the water to separate the kernel from the husks, but does not make a selection in the way outlined above]. [Hence if one made his selection in the usual way, he would be liable].” And lo, we have learned: The members of the household of Rabban Gamaliel would crush pepper in a pepper mill on the festival day [T. Y. T. 2:16A, cf. M. 2:8D]. [There is no contradiction.] It is permitted to grind but prohibited to make a selection [winnow]. [Answering this same question, R. Yosé in the name of R. Bun: “It is not permitted to find in the usual way, [but one may do so in some other way].”

- 4.** **I:4:** Zeira, R. Hiyya bar Ashi in the name of Rab: “He who strains wine [to remove the lees] is liable on the count of selection [winnowing].” Said R. Zeira, “It is surely more reasonable that it is on the count of sifting.” R. Jonah and R. Yosé both say, “At first we were inclined to say that R. Zeira has spoken well. Just as in sifting the chaff falls to the bottom and the grain rises to the top, so with straining wine, the wine goes to the bottom and the lees float to the top. And why did we say nothing at all? Because [straining falls under the category of selection (winnowing)]. For selecting is removed from the general prohibition. “How has selecting been removed from the general prohibition? He makes his selection in his usual way, putting it down using his lap, a basket, or a dish [M. 1:10C]. And straining wine has been removed from the general prohibition, since on the festival day they may also pour wine into a strainer that has been spread out. “But sifting has not been removed [for purposes of cooking on the festival] from the general prohibition under which it is categorized. For R. Hanina b. Yosé in the name of R. Judah said, ‘One may not sift flour a second time on a festival,’ but they sift it on the outer side of the sieve. [Sifting may be done only in an unusual way.] Now if you maintain that straining is comparable to sifting, then it should be prohibited to strain wine on the festival day, [as we see that it is forbidden to sift in the normal way].”

XI. YERUSHALMI BESAH 1:11

- [A]** **THE HOUSE OF SHAMMAI SAYS, “THEY SEND ON THE FESTIVAL DAY ONLY PREPARED PORTIONS OF [FOOD].” AND THE HOUSE OF HILLEL SAYS, “THEY SEND DOMESTIC BEASTS, WILD BEASTS, AND FOWL, “WHETHER ALIVE OR**

ALREADY SLAUGHTERED.” THEY SEND WINE, OIL, FINE FLOUR, AND PULSE, BUT NOT GRAIN. AND R. SIMEON PERMITS [SENDING] EVEN GRAIN.

1. **I:1:** Now there is the following challenge to the position of the House of Shammai: A large thigh [of a beast] will it be permitted to send, but a small lamb will it be forbidden to send! [That is, taking their position to its logical conclusion, we reach the stated absurdity. The former is prepared, the latter is not. Even though the former will not be fully eaten, one may send it; even though the latter will be fully consumed, one may not send it.] Said R. Yudan, “[Interpreting the position of the House of Shammai], it is not reasonable to re-explain that it is forbidden to carry it [since it will appear that it is for sale]? But if one was leading a beast on a leash, what difference does it make whether one is leading it to take it somewhere or leading it to give it some water to drink? [Both sorts of actions are permitted. Hence it will be permitted to send beasts if the process of delivery does not raise questions as to the observance of the festival.]”
2. **I:2:** It has been taught [in the Tosefta’s version]: R. Simeon says, “They send grain [M. Bes. 1:11F], “because it is food in Assassit, “[and they send] beans, because it is food in Lud, “[and they send] barley, because it is suitable for beasts” [T. Y.T. 1:23C-F].

XII. YERUSHALMI BESAH 1:12

[A] **THEY SEND CLOTHING, WHETHER SEWN OR NOT [YET] SEWN, AND EVEN THOUGH THERE ARE DIVERSE KINDS [LINEN AND WOOL] IN THEM, IF THEY ARE NEEDED FOR USE ON THE FESTIVAL.**

1. **I:1:** This is the meaning of the rule of the Mishnah [at M. 1:12F, requiring the craftsman]: It is because it requires a clod containing silicate of iron [for blacking the leather].

[B] **BUT [THEY DO NOT SEND] A NAIL-STUDED SANDAL OR AN UNSOWN SHOE. R. JUDAH SAYS, “ALSO: NOT A WHITE SHOE, “BECAUSE IT REQUIRES A CRAFTSMAN[’S WORK, TO BLACKEN IT].” THIS IS THE GOVERNING PRINCIPLE: WHATEVER MAY BE USED ON THE FESTIVAL DAY DO THEY SEND.**

1. **II:1:** The Mishnah [at M. 1:12D, regarding the unsown shoe as unfinished,] accords with the view of R. Eliezer, for we have learned there: A shoe which is on the last – R. Eliezer declares it insusceptible to receive uncleanness [because it is not yet fully

manufactured]. And sages declare it susceptible to uncleanness [for no further work is necessary] [M. Kel. 26:4G-I].

2. **II:2:** What is the law as to curdling milk on a festival day?
3. **II:3:** R. Halapta *b.* Saul taught, “It is forbidden to send ornaments.”
4. **II:4:** It has been taught [in the Tosefta’s version]: They move about a horn to give drink to an infant. They handle a rattle, a notebook, and a mirror to cover utensils with them [cf. M. Shab. 17:21. And they do not look into a mirror on the Sabbath. But if it was affixed to the wall, it is permitted [T. Shab. 13:16].
5. **II:5:** Up to this point we have dealt with golden ornaments. But is the law the same for silver ones? They say in the name of R. Jeremiah that it is forbidden. And they say in the name of R. Jeremiah that it is permitted. Said R. Hezekiah, “I know the beginning and end of the matter [that Jeremiah sometimes forbade and sometimes permitted the matter]. “There were little girls growing up in the house of R. Jeremiah. He came and asked R. Zeirah [whether on the Sabbath they could wear silver ornaments]. He said to him, ‘Do not prohibit them and do not permit them. The law is that they should not do so, but it is better that, if they are going to do so, they do it in their ignorance, rather than deliberately violating the law.]”

XIII. YERUSHALMI BESAH 2:1

[A] **ON A FESTIVAL WHICH COINCIDED WITH THE EVE OF THE SABBATH [FRIDAY] – A PERSON SHOULD NOT DO COOKING TO BEGIN WITH ON THE FESTIVAL DAY [FRIDAY] FOR THE PURPOSES OF THE SABBATH. BUT HE PREPARES FOOD FOR THE FESTIVAL DAY, AND IF HE LEAVES SOMETHING OVER, HE HAS LEFT IT OVER FOR USE ON THE SABBATH.**

1. **I:1:** It is written, “He said to them, ‘[This is what the Lord has commanded: Tomorrow is a day of solemn rest, a holy Sabbath to the Lord;] bake what you will bake and boil what you will boil, and [all that is left over lay by to be kept until the morning]’” (Ex. 16:23). [On the basis of this proof-text,] R. Eliezer says, “They bake relying on what is already baked, and they boil relying on what is already boiled.” R. Joshua says, “They bake or boil relying on what is already boiled.”
2. **I:2:** [Reverting to the issue of I:1, M. 2:1D, that one may prepare a dish on the eve of the festival and, relying on that, continue cooking on

the festival itself food which then may be used for the Sabbath as well.] Now see here! Is there a matter which is forbidden by the law of the Torah, but rendered permissible by the preparation of a meal of commingling [that is, preparing food prior to the festival for use on the festival and on the Sabbath following]? Said R. Abbahu, “In strict law people should be permitted to bake or cook on a festival day food for use on a Sabbath. But if you should say so [and decide the law in that way], then a person will cook also on a festival day food for use on an ordinary day. [Proving the foregoing statement about the law in theory, we continue:] For see here, people make beds on the festival for use on the Sabbath. Should they not [in theory] be permitted to bake or cook on a festival day food for use on the Sabbath?”

3. **I:3:** [As to preparing a cooked dish on the festival day and leaving something over for use on the Sabbath, M. 2:1C:] R. Kahana b. R. Hiyya bar Ba said, “That is on condition that one not practice deception [by baking or cooking a great deal of food].”
4. **I:4:** [With reference to M. Hal. 1:8: Dog’s dough, if herdsmen can eat it, is liable to dough offering... and they make it on a festival day (since it is food for man),] the cited passage of the Mishnah accords with the view of R. Simeon b. Eleazar. That statement is pertinent to the following, which has been taught: They to not bake food on the festival day for use after the festival day. But [on the festival] one may fill a pot with meat, even if he ate only some small amount of it. And one may fill up a kettle with water [and heat it], even if he drank of it only a single glass of water. But he who bakes should bake only what he needs. R. Simeon b. Eleazar says, “A woman may fill up the oven with bread for baking, “for the bread bakes better when the oven is full [T. Y. T. 2:5]. “They do not prepare food either for gentiles’ or for dogs’ consumption on the festival day” [T. Y. T. 2:6A]. [Thus Simeon b. Eleazar maintains that if the herdsmen do not eat the dog dough, then people may not prepare it on a festival day, since it is not food for human beings. Simeon’s statement, just now cited, concurs with that view.]

[B] AND HE PREPARES A COOKED DISH ON THE EVE OF THE FESTIVAL DAY [THURSDAY] AND RELIES ON IT [TO PREPARE FOOD ON FRIDAY] FOR THE SABBATH AS WELL. THE HOUSE OF SHAMMAI SAYS, “TWO DISHES.” AND THE HOUSE OF HILLEL SAYS, “A SINGLE DISH.” BUT THEY CONCUR IN THE CASE OF FISH AND THE EGG [COOKED] ON IT, THAT THEY CONSTITUTE TWO DISHES. [IF] ONE ATE [THE DISH INTENDED FOR THE SABBATH] OR IT WAS LOST, ONE SHOULD NOT COOK ANOTHER IN ITS STEAD IN THE FIRST INSTANCE. BUT IF HE LEFT OVER ANY AMOUNT AT ALL ON IT, HE RELIES ON IT FOR THE SABBATH.

1. **II:1:** [With reference to M. 2:1D,] R. Hiyya in the name of R. Yohanan: “One has to declare, ‘It is for me and for anyone else who has not prepared a meal of commingling.’ [Such a person may rely upon the meal of commingling that this person has prepared.]” Lo, if one forgot and did not share in the erub, but the other [residents of the courtyard] prepared an erub – they are permitted to prepare [food] for him [T. Y. T. 2:3C-E].
2. **II:2:** Hiyya the Elder came to his home. They said to him, “We forgot to prepare a meal of commingling.” He said to them, “Are there any lentils prepared yesterday?” They said to him, “Yes.” [Since he regarded that single dish as sufficient,] that indicates that even a single dish suffices [in line with M. 2:1F]. No, [that is not the case,] since there were cabbage leaves mixed in. [Since he regarded chopped up vegetables as sufficient,] is that to say that such a dish is acceptable [for reliance for cooking further, in line with M. 2:1D], even if the dish does not contain an olive’s bulk of volume? No, [that is not so, for there was] in the mixture the standard measure [an olive’s bulk in volume]. That is to say, in any event, that it is not necessary to make a stipulation in advance [that one will rely upon the food]. [Hiyya was satisfied to declare after the fact that he would rely upon the specific cooked dish, to meet the provisions of M. 2:1D, and that is so even though, in advance, he did not stipulate that he would do so.] Said R. Hisda, “R. Hiyya the Elder had made such a stipulation.”
3. **II:3:** It has been taught [in the Tosefta’s version]: Said R. Simeon b. Eleazar, “The House of Shammai and the House of Hillel concur that they are [to be] two dishes. “Concerning what did they differ? “Concerning the case of fish and the egg cooked in it. “For: The House of Shammai says, ‘They are a single dish.’ “And the House of Hillel says, ‘Two dishes’” [vs. M. 2:1E-G]. And they concur that if one cooked two different kinds of food in one pot, or if he beat up an egg on a fish, or if he shreds a leek under a fish, that they constitute two dishes [T. Y. T. 2:4].
4. **II:4:** Rab said, “I say, ‘[A meal of commingling] may not be less than an olive’s bulk in volume.’” Does this not stand at variance with the view of R. Yohanan, for R. Yohanan said, “[The meal must be introduced by the statement], ‘It is for me and for anyone who has not prepared a meal of commingling’ [and it stands to reason that the symbolic meal will not contain an olive’s bulk for anyone who happens to come by].”

5. **II:5:** [On a festival which coincided with the eve of the Sabbath [Friday] [M. 2:1A]: “they do not prepare an erub either for courtyards or for Sabbath boundaries” (the words of R. Meir. And sages say, “They prepare an erub for courtyards, but not for Sabbath boundaries” [T. Y. T. 2:1A]. They do prepare an erub for courtyards, for in so doing, you permit a person to do something [i.e., carry about in the courtyards] which is in any event permitted [on the festival]. But they do not prepare a meal of commingling for Sabbath boundaries [that is, to extend one’s Sabbath limit in some one direction], for in so doing you permit the man to do something [i.e., go beyond the limit] which is ordinarily prohibited to him [on the festival].

XIV. YERUSHALMI BESAH 2:2

- [A] [IF THE FESTIVAL DAY] COINCIDED WITH THE DAY AFTER THE SABBATH [SUNDAY], THE HOUSE OF SHAMMAI SAYS, “THEY IMMERSE EVERYTHING BEFORE THE SABBATH.” AND THE HOUSE OF HILLEL SAYS, “UTENSILS [ARE TO BE IMMERSED] BEFORE THE SABBATH.”
1. **I:1:** [The Houses of Hillel and Shammai agree that people may not immerse vessels on the Sabbath in order to render them cultically clean. The Yerushalmi asks to what sort of vessels the Houses refer. At Mishnah 2:3, the Houses refer] to large vessels, [which are not used to draw water]. But in the case of small vessels, [which are used to draw water, the Houses agree that the person may draw water in them and, in that way,] circumvent [the law, since by drawing water], he immerses them [against their previous uncleanness]. [So] taught R. Hoshaiyah, “[On the Sabbath] a man may fill an unclean vessel [with water] from a well [so as to draw water] and [in that way] may circumvent [the law, since by drawing the water] he immerses the vessel [against its previous uncleanness].” It is taught: [On the Sabbath, if] his [unclean] bucket fell into a well, he may circumvent [the law by using that opportunity to] immerse them [against their previous uncleanness].
2. **I:2:** All those who are obligated to immerse [to remove uncleanness], immerse in the usual way on the ninth of Ab and on the Day of Atonement [although those days are fast days when bathing is prohibited]. Said R. Hananiah, prefect of the priests, “The [destruction of] the House of God [which is recalled on the ninth of Ab] is serious enough that the priests should forego one immersion on its account.”

[B] BUT MAN [MAY IMMERSE] ON THE SABBATH [ITSELF]:

1. **II:1:** For a man immerses on the Sabbath on account of a seminal emission.

XV. YERUSHALMI BESAH 2:3

[A] **AND THEY CONCUR THAT THEY EFFECT SURFACE CONTACT BETWEEN WATER [WHICH IS UNCLEAN], CONTAINED IN A STONE UTENSIL [WHICH IS INSUSCEPTIBLE TO UNCLEANNESS, WITH THE WATER OF AN IMMERSION POOL] IN ORDER TO RENDER [THE UNCLEAN WATER] CLEAN. BUT THEY DO NOT IMMERSER [UNCLEAN WATER IN AN UNCLEAN UTENSIL WHICH CONTAINS IT].**

1. **I:1:** The rule of the Mishnah does not accord with the view of Rabbi. For it has been taught [in the Tosefta's version]: "They do not immerse a utensil along with the water which it contains on the festival, "and they do not [even] effect surface contact [with the water of an immersion pool] in a stone utensil to clean it on the Sabbath," the words of Rabbi [cf. M. 2:3A]. And sages say, "They do immerse a utensil with the unclean water which it contains on the festival day, and they do effect surface contact of unclean water with the water of an immersion- pool] in a stone utensil in order to clean it, "but not to immerse it" [T. Y. T. 2:9 = T. Shab. 16:11].

[B] **AND THEY IMMERSER [UTENSILS] [IF THEY ARE TO BE CHANGED] FROM ONE USE TO ANOTHER USE, OR [AT PASSOVER] FROM ONE ASSOCIATION [OF PEOPLE JOINED TO MAKE USE OF A SINGLE PASSOVER LAMB TO ANOTHER [SUCH] ASSOCIATION.**

1. **II:1:** How so from use to another use? He who wants to carry out the pressing of his wine along with the pressing of his olives, or the pressing of his olives alongside the kneading of his dough – lo, this one immerses on that very day [T.Y.T. 2:7]. How so from one association to another association? [If] one did not want to prepare [press] his olives along with kneading his fellow's dough, lo this one immerses his utensils [T.Y.T. 2:8].

XVI. YERUSHALMI BESAH 2:4

[A] **THE HOUSE OF SHAMMAI SAYS, "[ON A FESTIVAL] THEY BRING PEACE OFFERINGS, BUT THEY DO NOT LAY HANDS ON THEM. BUT [THEY DO] NOT [BRING] BURNT OFFERINGS [AT ALL]." AND THE HOUSE OF HILLEL SAYS, "THEY BRING PEACE OFFERINGS AND BURNT OFFERINGS, AND THEY LAY HANDS ON THEM."**

1. **I:1:** The House of Shammai says, “Laying on of hands not in the ordinary way has been permitted.” The House of Hillel says, “Laying on of hands not in the ordinary way has not been permitted.” What is laying on of hands not in the ordinary way? It is doing so on the previous day [so that the laying on of hands is not done on the festival but on the day before the festival]. Said R. Zeira, “All parties concur in the case of the guilt offering of a *mesora*, on which the sacrificer laid hands the previous day, that he has not carried out his obligation by doing so. “As to peace offerings brought as a thank offering on which one laid hands on the previous day, one has carried out his obligation. “Concerning what do they differ? Concerning peace offerings [brought in fulfillment of the requirement to bring] a festal offering. “The House of Shammai treats them as equivalent to peace offerings brought as a thank offering. The House of Hillel treats them as equivalent to the guilt offering of a *mesora*.”
2. **I:2:** Said the House of Hillel, “Now if at a time at which you are not permitted to prepare [food] for an ordinary person, you are permitted to prepare [foot] for the Most High [for on the Sabbath, one is not permitted to prepare foot for himself, but one is permitted to offer up daily burnt offerings and additional offerings], “at a time at which you are permitted to prepare [foot] for an ordinary person [for on the festival day one is permitted to prepare food], should you not be permitted to prepare [food] for the Most High?” The House of Shammai said to them, “Sacrifices brought in fulfillment of vows and as thank offerings will prove the matter. For you are permitted to prepare [food] for an ordinary person, but you are not permitted to prepare [these, as offerings on a festival day] for the Most High.” The House of Hillel said to them, “No. U you have stated the rule concerning sacrifices brought in fulfillment of vows and as thank offerings, which are not subject to a fixed time [for their offerings], will you state the same rule concerning the festal offering, the time of which is fixed?” The House of Shammai said to them, “Also in the case of the festal [appearance] offering, there are occasions at which its time is not fixed. “For he who did not bring a festal offering on the first day of the festival may bring a festal offering on any other day of the festival including [according to your theory] the last day of the festival” [T. Hag. 2:10E-I]. The House of Hillel said to them, “The festal offering is subject to a fixed time. For if one did not present the festal offering on the festival itself, he does not have the power to do so after the festival.” The House of Shammai said to them, “And has it not been writ ten, [On the first day you shall hold a holy assembly; and on the seventh day a holy assembly; no work shall be done on

those days;] but what every one must eat, that only may be prepared by you” (Ex. 12:16). The House of Hillel said to them, “Is there any proof from that passage? For you it will not be prepared, but it will be prepared for the Most High.” [Tosefta’s version:] Abba Saul would say the tradition in an other language in the name of the House of Hillel, “Now if at the time at which your oven is closet [on the Sabbath], the oven of your Master is open; at a time at which your oven is open [on a festival], should not the oven of your Master be open? “Another matter: Your table should not be full while your Master’s table lies barren” [T. Hag. 2:10/I-K].

- a. I:3: [Said R. Yosé b. R. Bun, “R. Simeon b. Laqish came by the schoolhouse and heard the voice of the students reciting the following verse of Scripture, ‘And they performed sacrifices to the Lord, and on the next day offered burnt offerings to the Lord, [a thousand bulls] a thousand rams. and a thousand lambs, with their drink offerings, and sacrifices in abundance for all Israel)’” (1 Chron. 29:21). “He said, ‘He who cuts this verse off, [citing only part of it], accords with the view [M- 2:4 A-B] of the House of Shammai. He who reads the whole of it accords with the view [M. 2:4 C-D] of the House of Hillel.’ “There is no problem with, ‘burnt offerings to the Lord on the next day,’ and ‘peace offerings on the next day.’ “But in the view of the House of Shammai, there should be no peace offerings on the next day.”

3. I:4: M’SH B: Hillel the Elder laid on hands on a burnt offering in the courtyard [cf. M. Hag. 2:3B], and the disciples of Shammai ganged up on him. He said to them, “Go and see it, for it is a female, and I have to prepare it as sacrifices of peace offerings.” He put them off with a bunch of words, and they went their way. But the power of the House of Shammai forthwith became strong, and they wanted to decide the law permanently in accord with their opinion. Now there was present Baba b. Buta who was one of the disciples of the House of Shammai, but who acknowledged that the law is in accord with the opinions of the House of Hillel in every last detail. One time he came to the courtyard and found it desolate. He said, “May the houses of those who desolated the house of our God be made desolate.” What did he do? He went and brought the whole Qedar-flock and set them up right in the courtyard and announced, “Whoever is required to bring whole offerings and peace offerings – let him come and take a beast and lay on hands” [= M. Hag. 2: 3B]. So [everybody] came along and took a beast and offered up whole offerings, having laid on hands. On that very day the law was confirmed in accord with the opinion of the House of Hillel, and not a single person griped about it. SWB M’SH

B: Another disciple of the disciples of the House of Hillel laid hands on a burnt offering. One of the disciples of Shammai found him out. He said to him, “What’s this laying on of bands?!” He said to him, “What’s this shutting up?!” And he shut him with a rebuke [T. Hag. 2:10E-2:12E].

XVII. YERUSHALMI BESAH 2:5

[A] THE HOUSE OF SHAMMAI SAYS, “A PERSON MAY NOT HEAT WATER FOR HIS FEET, UNLESS IT ALSO IS SUITABLE FOR DRINKING.” AND THE HOUSE OF HILLEL PERMITS.

- 1. I:1:** One may supply two interpretations to the Mishnah]. In the view of the House of Shammai, he has to have drunk some of it. In the view of the House of Hillel [the rule is that one may heat such water] if it is merely suitable for drinking [moving the Hillelite position to a more stringent view, relative to the movement of the Shammaites.

[B] A MAN MAY [TO BEGIN WITH] MAKE A FIRE AND HEAT HIMSELF BY IT.

- 1. II:1:** This represents *the* opinion of both parties. But it is on the condition that there is a pot [of water heating] by the fire.
- 2. II:2:** As to water that was heated on a festival, and so too, water that was heated on the eve of the Sabbath for the Sabbath – Rab and Samuel – one of them said, “One may wash one’s face, hands, and feet in such water” [T. Y. T. 2:10C]. The other said, “One may wash in such water his entire body, limb by limb.” But we do not know who said this rule and who said that one.
- 3. II:3:** A philosopher asked Bar Qappara, Abbat asked Levi the eunuch, “Is it permitted to drink water, but forbidden to wash?” He said to him, “If you should see a eunuch embracing your wife, will it not be upsetting to you?” He said to him, “Yes.” He said to him, “Yet does it actually do you any harm [since he cannot produce semen]?” He said to him, “It is so that she should not become wanton.” He said to him, “Here it is also so that they not become wanton [by making a fire needlessly].” When he had gone away, his disciples said to him, “Rabbi, this one you drove off with a reed [i.e., without a serious answer]. What are you going to say to us [who deserve a serious response]?” He said to them, “And has it not been said, ‘But what every one must eat, that only may be prepared by you’ (Ex. 12:16)?”

XVIII. YERUSHALMI BESAH 2:6

[A] IN THREE RULINGS DOES RABBAN GAMALIEL IMPOSE THE MORE STRINGENT RULING, IN ACCORD WITH THE OPINION OF THE HOUSE OF SHAMMAI: THEY DO NOT COVER UP HOT WATER ON THE FESTIVAL DAY FOR USE ON THE SABBATH.

1. I:1: [With reference to M. 2:6B,] Abba bar R. Huna said, “That which you have stated [about not covering up hot water on the festival for use on the Sabbath (M. 2:6B)] applies to a case in which one did not prepare a meal of commingling. But if one prepared a meal of commingling, it is permitted.”

[B] AND THEY DO NOT PUT TOGETHER A CANDLESTICK ON THE FESTIVAL DAY.

1. II:1: That which you have said applies to a collapsible candelabrum [that is made up of parts], but as to a candelabrum that may not be dismantled, it is not in such a case that the ruling pertains.

[C] AND [ON A FESTIVAL] THEY DO NOT BAKE BREAD INTO LARGE LOAVES BUT ONLY INTO SMALL ONES. SAID RABBAN GAMALIEL, “NEVER IN MY FATHER’S HOUSE DID THEY BAKE BREAD INTO LARGE LOAVES, BUT ONLY INTO SMALL ONES.” THEY SAID TO HIM, “WHAT SHALL WE MAKE OF YOUR FATHER’S HOUSE? FOR THEY IMPOSED ON THEMSELVES A STRICT RULE, WHILE IMPOSING A LENIENT RULE FOR ALL ISRAELITES, SO THAT [ISRAELITES] MAY BAKE LARGE LOAVES AND THICK CAKES.”

1. III:1: If you make a person tired [by the process of making a lot of little loaves,] he will bake only what he needs for the festival.
2. III:2: R. Aha derived from the following verse [the meaning of the word, HRY (M. 2:6G) “Thick bread”]: “lest all the nations would say, “Why has the Lord done thus to this land]? What means the heat of this great [HRY] anger?”” (Deut. 29:23). And rabbis derive the meaning of the word from the following: “[When the chief baker saw that the interpretation was favorable, he said to Joseph, ‘I also had a dream:] there were three cake baskets on my head”” (Gen. 40:16).

XIX. YERUSHALMI BESAH 2:7

[A] ALSO: HE GAVE THREE RULINGS ON THE LENIENT SIDE: THEY SWEEP BETWEEN THE COUCHES [ON THE FESTIVAL]. AND THEY PUT SPICES ON THE FIRE ON THE FESTIVAL DAY.

- I:1:** The members of the household of Rabban Gamaliel would sweep between the couches during the festival [cf. M. 2:7B; T. Shab. 9:13]. Said R. Eleazar b. R. Sadoq, “Many times did we eat in the house of Rabban Gamaliel, and not once did I ever see them sweeping between the couches [after a meal]. “But they would spread out sheets on the eve of the festival, and when guests came in, they removed them.” They said to him, “If so, it is permitted to do the same even on the Sabbath” [T. Y.T. 1:13]. The members of the household of Rabban Gamaliel would put spices into the airtight vessel [used for burning them]. Said R. Eleazar b. R. Sadoq, “Many times did we eat in the house of Rabban Gamaliel, and not once did I ever see them put spices into an airtight vessel. “But they make smoke in bowls on the eve of the festival. “Then, when guests come, they open them up.” They said to him, “If so, it is permitted to do the same even on the Sabbath” [T. Y. T. 2:14].

[B] AND THEY PREPARE A KID ROASTED WHOLE IN PASSOVER NIGHT. BUT SAGES PROHIBIT [IN ALL THREE INSTANCES].

- II:1:** What is a kid roasted whole [M. 2:7D]? It is wholly roasted, with its head, legs, and innards. If one has boiled any part of it whatsoever, seethed any part of it whatsoever, this is not a kid roasted whole. They prepare a roasted lamb whole on the first festival day of the Festival [of Tabernacles] and on the last festival day of Passover; a calf roasted whole on the first festival day of Passover, but not a kid roasted whole [on the first festival day of Passover].
- II:2:** Said R. Yosé, “Todos of Rome taught the Romans the custom of buying lambs for the night of Passover and preparing them roasted whole.” Sages were sent and said to him, “Were you not Todos, we would excommunicate you.” Why was Todos [so special]? Said R. Hananiah, “Because he would send gifts in support of rabbis.” They told him, “Now he is nigh unto feeding them Holy Things prepared outside of the courtyard of the Temple [which is prohibited], “for the people call these [lambs which they roast], ‘Passover lambs”” [T. Y. T. 2:15].

XX. YERUSHALMI BESAH 2:8

[A] IN THREE MATTERS DOES R. ELEAZAR B. AZARIAH PERMIT AND DO SAGES PROHIBIT: ONE’S COW GOES FORTH [ON THE SABBATH] WITH A STRAP WHICH IS BETWEEN HER HORNS.

1. **I:1:** R. Ba, Rab, and Samuel – the two of them say, “In the view of sages, even [if the strap between the horns, M. 2:8B,] is to lead [the cow], it is forbidden [for the cow to go forth on the Sabbath with such a strap].” R. Ba in the name of Samuel: “If the cow’s horns were pierced [so that the strap was integral to them], it is permitted.”
2. **I:2:** Genibah said, “It is merely a theoretical law that Eleazar came to teach, [but it is not that he actually did so].” R. Jonah of Bosrah asked, “If it was merely a theoretical law, is this in line with that which we have learned: [R. Eleazar b. Azariah’s cow used to go out with a strap between its horns.]
3. **I:3:** Not with the consent of the sages [M. Shab. 5:4]? [That is, they did not agree with him?] [Differing from this view of the theoretical character of Eleazar’s position,] R. Judah bar Pazzi of Bar Delayyan taught: “They said to him, ‘Either arise from among us [and leave], or remove the strap between the cow’s horns.’” R. Yosé b. R. Bun, “He opposed them.” [Claiming Eleazar did not oppose them, but it happened only one time, and on that account, Eleazar repented and fasted,] said R. Hananiah, “One time the cow went out [with its strap], and Eleazar’s teeth turned black on account of the fasting [that he did in penitence.]”

[B] THEY CURRY CATTLE ON A FESTIVAL DAY; AND [ON A FESTIVAL DAY] THEY GRIND PEPPER IN ITS PEPPER MILL [IN THE NORMAL MANNER]. R. JUDAH SAYS, “THEY DO NOT CURRY CATTLE ON THE FESTIVAL DAY, BECAUSE DOING SO MAKES A WOUND. BUT THEY MAY COMB THEM.”

1. **II:1:** What is currying? This refers to a comb with small teeth, which make a wound.

[C] BUT SAGES SAY, “THEY DO NOT CURRY THEM. “ALSO: THEY DO NOT COMB THEM.”

1. **III:1:** They do not curry the beast, so as not to cause a wound. They do not comb the beast, so as not to tear out hair.
2. **III:2:** The members of the household of Rabban Gamaliel would crush pepper in a pepper mill [on the festival day] [cf. M. 2:D]. Said R. Eleazar b. R. Sadoq, “One time father was reclining before [= eating with] Rabban Gamaliel, and they brought before him wine-lees and vinegar-lees, and on them were crushed peppers, and when he tasted them, father kept his hands off them. “They said to him, ‘Don’t be concerned about them. They were crushed on the eve of the festival’” [T. Y. T. 2:16].

XXI. YERUSHALMI BESAH 2:9

[A] A PEPPER MILL IS SUSCEPTIBLE TO UNCLEANNESS BY REASON OF CONSTITUTING THREE DISTINCT SORTS OF UTENSIL: BECAUSE IT FORMS A RECEPTACLE, AND BECAUSE IT IS A METAL UTENSIL, AND BECAUSE IT CONSTITUTES A SIEVE.

1. I:1: The part on the bottom is on the count of forming a receptacle. The part on the top because it is a metal utensil. The part in the middle because it forms a sieve.

XXII. YERUSHALMI BESAH 2:10

[A] A CHILD'S WAGON IS SUSCEPTIBLE TO MIDRAS-UNCLEANNESS AND MAY BE HANDLED ON THE SABBATH, BUT MAY BE DRAGGED [ON THE SABBATH] ONLY OVER OTHER ARTICLES [E.G., MATTING]. R. JUDAH SAYS, "NO UTENSILS MAY BE DRAGGED, EXCEPT FOR A WAGON, BECAUSE IT PRESSES DOWN [THE EARTH, AND DOES NOT BREAK THROUGH THE SURFACE]."

1. I:1: It has been taught, A person may drag a bed, chair, stool, and armchair to himself on the Sabbath and, needless to say, on a festival [T. Y. T. 2:18A]. And R. Simeon permits. R. Ba in the name of R. Huna, R. Haggai in the name of R. Zeira, R. Yosé in the name of R. Ila: "Sages concur with R. Simeon in the case of a seat, the legs of which are embedded in mud, that it is permitted to move it about and, along these same lines, it is permitted to put it back." Said R. Yosé, "So too have we learned: They may be moved on the Sabbath [M. Kil. 1:9]." Said R. Yosé b. R. Bun, "This [D] represents the view of R. Simeon." Said R. Yosé, "It is the view of the Mishnah, which has stated, No utensils may be dragged, except for a wagon, because it presses down the earth and does not break through the surface [M. 2:10D]."

XXIII. YERUSHALMI BESAH 3:1

[A] THEY DO NOT CATCH FISH IN A VIVARIUM ON A FESTIVAL DAY. AND THEY DO NOT CAST FOOD FOR THEM. BUT THEY DO CATCH A WILD BEAST OR FOWL FROM A VIVARIUM. AND THEY DO CAST FOOD FOR THEM. RABBAN SIMEON B. GAMALIEL SAYS, "NOT ALL VIVARIA ARE EQUIVALENT."

1. **I:1:** [With reference to M. Shab. 13:5: R. Judah says, “He who hunts a bird into a tower-trap, or a deer into a house, is liable.” And sages say, “(He who drives) a bird into a tower-trap, or a deer into a house, [Y: garden] into a courtyard, or into a vivarium.” Rabban Simeon b. Gamaliel says, “Not all vivaria are the same. Thus is the governing principle: (If) it yet lacks further work of hunting, he (who pens it in on the Sabbath) is exempt. (If) it does not lack further work of hunting, he is liable.”] Said R. Hinena, “The Mishnah [before us] does not accord with the view of R. Judah. For we have learned there: Rabbi Judah says, “He who hunts a bird into a tower-trap or a deer into a house is liable.” “Lo, if one should hunt it in a garden or a vivarium, he is exempt. [Yet, as we see, M. Bes. 3:1 says that one may catch a wild beast or fowl from a vivarium. Accordingly, Judah cannot concur.]”

2. **I:2:** The opinions assigned to R. Judah are inconsistent. For we have learned there: They do not catch fish in a vivarium on a festival day. And they do not cast food for them. [But they do catch a wild beast or fowl from a vivarium]. Lo, as to a garden or a vivarium, one is exempt. [T. Y. T. 3:1 represents the view of R. Judah. The implication is that R. Judah maintains that hunting in a garden on a festival is permitted. If so, that act does not lack some phase of the hunting process. Yet at I.B it is assumed that R. Judah maintains what hunting in a garden on the Sabbath is also permitted, which implies, as stipulated in M. Shab. 23:5, that it does lack some phase of the hunting process.] The opinions assigned to rabbis are inconsistent. For we have learned there [Y: garden]: He who drives a bird into a tower-trap or a deer into a house, into a courtyard, or into a vivarium [is liable] [M. Shab. 13:5D]. There we have learned, by contrast, But they do catch a wild beast or fowl from a vivarium, and they do cast food for them [M. Bes. 3:1C-D]. Lo, with regard to a garden or a courtyard, that is not permitted.

[B] THIS IS THE OPERATIVE PRINCIPLE: WHATEVER LACKS SOME PHASE OF THE PROCESS OF HUNTING IS PROHIBITED [TO BE CAUGHT], BUT WHATEVER DOES NOT LACK SOME PHASE OF THE PROCESS OF HUNTING IS PERMITTED [TO BE CAUGHT].

1. **II:1:** Ulla said, “They asked before R. Aha, ‘What is the meaning of the following, that we have learned: Whatever lacks some phase of the process of hunting is prohibited to be caught, but whatever does not lack some phase of the process of hunting is permitted to be caught [M. Bes. 3:1F]?’ “He said to them, ‘[The use of the language, prohibited, rather than the language, liable, may be explained as follows:] And are we not dealing with a case in which the beast is locked up in the [courtyard or vivarium? So there is no question of an

act of hunting in the normal sense, which would be subject to liability, but rather a matter of what is permitted or prohibited.] Thus: Whatever lacks some phase of the process of hunting is prohibited..., but whatever does not lack some phase of the process of hunting is permitted.”

2. **II:2:** They slaughter animals kept in enclosures, but not those kept in hunting-nets or gins [which may have been caught on the festival day itself] [T. Y. T. 3:1G]. R. Yosé bar R. Bun in the name of R. Immi, “This refers to a very large trap [which does not hold the beast firmly]. [In such a case there is further work to be done in trapping the beast.]”

XXIV. YERUSHALMI BESAH 3:2

[A] **NETS FOR TRAPPING A WILD BEAST, FOWL, OR FISH, WHICH ONE SET ON THE EVE OF THE FESTIVAL DAY – ONE SHOULD NOT TAKE [WHAT IS CAUGHT THEREIN] OUT OF THEM ON THE FESTIVAL DAY, UNLESS ONE KNOWS FOR SURE THAT [CREATURES CAUGHT IN THEM] WERE TRAPPED ON THE EVE OF THE FESTIVAL DAY.**

1. **I:1:** [At issue here is M. Shab. 1:6 = Y. Shab. 1:7, as follows: The House of Shammai says, “They do not spread out nets for wild beasts, fowl, or fish, unless there is sufficient time for them to be caught while it is still day.” And the House of Hillel permits. The question now must be asked how one knows when the beast got caught:] What lets [the owner] know [whether or not the beast was caught while it was still day]? If the trap was in disarray [while it was yet daylight], it is obvious that the beast was caught while it was still day. If it was not in disarray [in daylight], then it is obvious that nothing was trapped in it while it was still day. [No.] Even if the trap was in disarray, one takes account of the possibility that a beast was not trapped while it was yet daylight.

[B] **M'SH B: A GENTILE BROUGHT FISH TO RABBAN GAMALIEL, AND HE SAID, “THEY ARE PERMITTED. BUT I DO NOT WANT TO ACCEPT THEM FROM HIM.”**

1. **II:1:** [As to M. 3:2D, Gamaliel’s view that fish caught by a gentile are permitted, but he would not accept them:] R. Zeira in the name of Rab: “They considered ruling that [when he said that they are permitted, he meant] that they are permitted on the next day [but may not be used on the festival” just as M. 3:2A-C maintain.] [B] R. Hezekiah and R. Uzziel b. R. Honiah of Beth Hauran: “They are permitted – literally [on the festival day itself].” [C] They contemplated ruling that in a

case of doubt the matter is permitted. [Gamaliel then differs from M. 3:2A-C]. R. Hananiah and R. Jonathan both maintain, “Where there is doubt whether something has been designated in advance [for the festival] it is prohibited.” R. Yohanan said, “Where there is doubt whether something has been designated in advance [for the festival] it is permitted.”

2. **II:2:** R. Hiyya the Elder and R. Simeon b. Rabbi – one said, “What comes from a gentile requires preparation [that is, designation for use on the festival day in advance of the festival day just as is the case with an Israelite].” The other said, “What comes from a gentile does not require preparation [in advance of the festival day, that is, designation for use on the festival day].”

XXV. YERUSHALMI BESAH 3:3

[A] **A BEAST ON THE POINT OF DEATH ONE SHOULD NOT SLAUGHTER UNLESS THERE IS A SUFFICIENT INTERVAL ON THE [FESTIVAL DAY] TO EAT OF IT AN OLIVE’S BULK OF FLESH WHICH HAS BEEN ROASTED. R. AQIBA SAYS, “EVEN AN OLIVE’S BULK OF RAW MEAT FROM THE PLACE AT WHICH THE BEAST IS SLAUGHTERED [WILL SUFFICE].”**

1. **I:1:** R. Ba in the name of rabbis over there: “If one slaughtered [a beast out in the field] and then wolves ate its innards, it [i.e., the beast] is regarded as acceptable, for the assumption concerning the innards is that they are acceptable [even though one can no longer inspect them].”

[B] **[IF] ONE HAS SLAUGHTERED IT IN THE FIELD, HE SHOULD NOT BRING IT IN ON A POLE OR BARROW. BUT HE MAY BRING IT IN BY HAND, LIMB BY LIMB.**

1. **II:1:** It has been taught [re M. 3:3D-E]: But he may bring the beast along with its hide, [even though the hide will not be eaten].

XXVI. YERUSHALMI BESAH 3:4

[A] **A FIRSTLING THAT FELL INTO A PIT – R. JUDAH SAYS, “LET AN EXPERT CLIMB DOWN AND EXAMINE IT. IF IT BEARS A BLEMISH, LET ONE BRING IT UP AND SLAUGHTER IT [ON THE FESTIVAL]. AND IF NOT, HE SHOULD NOT SLAUGHTER IT.”**

1. **I:1:** The opinions assigned to R. Judah are at variance with one another, for we have learned there: [They may chop up a carcass for dogs.] R. Judah says, “If it was not already dead while it was still day, it is forbidden to do so, since it would not then belong to what was ready in advance for use on the Sabbath [M. Shab. 24:4].” [Judah’s position there is equivalent to Simeon’s position here, M. 3:4C.] And here has he said this?

[B] R. SIMEON SAYS, “ANY [FIRSTLING] THE BLEMISH OF WHICH HAS NOT BEEN DISCERNED WHILE IT IS STILL DAY [BEFORE THE FESTIVAL] – THIS IS NOT [DEEMED TO BE] IN THE CATEGORY OF THAT WHICH IS READY [FOR FESTIVAL USE].

1. **II:1:** [With reference to M. 3:4C, A beast the blemish of which was not discerned while it was still day before the festival is not in the category of that which is ready for festival use while it is still day before the festival,] R. Abbahu in the name of R. Yosé b. Haninah: “Any beast, the blemish of which indeed has been discerned on the eve of the festival, but which the expert declared permissible for slaughtering only on the festival day itself – this is not regarded as something that is in the category of that which is ready [for festival use while it is still day before the festival].” And lo, it has been taught: A firstborn calf born from a terefah cow on the festival – it is permitted [to slaughter and eat such a beast on that day]. [Now there is no way that such a beast can be considered ready for festival use on the day before the festival.] Said R. Hisda, “Interpret the rule to apply to a case in which an expert happened to go by and examine it. [In such an instance, after the fact, the beast may be slaughtered and eaten.]”
2. **II:2:** “A dam and its offspring” (Lev. 22:28) which fell into a pit – R. Eliezer says, “One raises up the first with the plan of slaughtering it and does slaughter it and for the second one provides food while it is in its present location, so that it not die.” R. Joshua says, “One raises up the first one with the plan of slaughtering it but does not slaughter it, and practicing deception, one then raises up the second. “[If] he wanted to slaughter neither one of them, he has the right [to refrain]” [T. Y. T. 3:2].

XXVII. YERUSHALMI BESAH 3:5

[A] A DOMESTICATED BEAST WHICH DIED – ONE SHOULD NOT MOVE IT FROM WHERE IT IS LOCATED. M’S H W: THEY ASKED R. TARFON ABOUT SUCH A CASE AND ABOUT A PIECE OF DOUGH OFFERING WHICH HAD CONTRACTED UNCLEANNESS.

SO HE WENT INTO THE STUDY-HOUSE AND ASKED. THEY TOLD HIM, “ONE SHOULD NOT MOVE THEM FROM WHERE THEY ARE LOCATED.”

- 1.** **I:1:** [Since the sages ruled in accord with the position of Judah, that we take account of whether or not the beast had been designated in advance of the festival day, rather than in accord with the view of Simeon, that we do not take that into account Samuel said, “The five elders who instructed R. Tarfon in Lud erred, [since in fact the law does not follow Judah].”
- 2.** **I:2:** They asked before Levi, “What is the law on examining signs that a beast is terefah in a dark house.” He told them to take it outside. R. Immi asked, “But we have learned: They do not examine nega-signs in a dark house [] [but where] do we learn that they do not examine terefah signs in a dark house?” Said R. Yosé b. R. Bun, “It was not on the basis of this consideration at all [that he ruled as he did, to take the beast outside]. Rather, [it was on a festival and] he was concerned that the beast might turn out to be terefah [hence inedible, and not to be used on the festival], so it would be prohibited [also] to move it about [i = Judah” and hence to remove it from the house, where it would have to lie].”

XXVIII. YERUSHALMI BESAH 3:6

[A] THEY DO NOT TAKE SHARES IN A BEAST TO BEGIN WITH ON A FESTIVAL DAY, [SO AS TO DETERMINE THE COST OF THE MEAT]. BUT THEY DO TAKE SHARES IN IT ON THE EVE OF THE FESTIVAL SO AS TO SLAUGHTER AND DIVIDE IT AMONG THEMSELVES [ON THE FESTIVAL DAY ITSELF]. R. JUDAH SAYS, “[ON A FESTIVAL DAY] ONE MAY WEIGH OUT MEAT IN THE BALANCE AGAINST A UTENSIL OR AGAINST THE CHOPPER.” AND SAGES SAY, “THEY DO NOT USE SCALES AT ALL.”

- 1.** **I:1:** [With reference to M. 3 6, not taking shares to begin with:] And as to adding [others on the festival to take a share in the animal]. they may add to them [on the festival itself]. [B] If there were originally five, they may add to that number and become ten [on the festival itself]. [It is not necessary to treat it as a financial transaction as the following indicates.] It has been taught: One may not [on the festival day] say to [the owner of the beast], Lo I am with you for a sela’s value [of the meat], “Lo, I am with you for two.” But he may say to him, “Lo, I am with you for half,” “for a third,” “for a fourth” [T. Y. T. 3:5A-D].

2. **I:2:** Hiyya the Elder and R. Simeon the son of Rabbi: “They may weigh out *a maneh*’s worth of meat against another *maneh*’s worth in the case of a firstling. Under what circumstances? On an ordinary day. But as to a festival day. it is forbidden to do so, on this count: They do not use scales at all. [It appears to be on sale. and that is forbidden.]”
3. **I:3:** It has been taught: Rabban Simeon b. Gamaliel says, “One may even satisfy himself by using a litra measure to find out how much meat he actually has received.
4. **I:4:** It has been taught:: But one may weigh out [meat] by hand and put it down. And if he was an expert butcher. he may not weigh out [meat even] by hand, for his hand is equivalent to scales. But he chops off a piece with a tool and gives one to this person and another piece to that person [T. Y. T. 3:XXF- H].
5. **I:5:** It has been taught: They do not remove through the foot [the meat of an animal which has been slaughtered in such a way as not to damage the hide] on the festival. And they do not remove [the meat, as above] on an ordinary day in the case of a Said R. Abun, “It is so that one should not appear to be keeping the beast [in such a way as to be preparing its hide].” [As to the firstling and the Holy Things that have been invalidated.] said R. Justa bar Shunam. They have made a decree in their regard that they should not pasture them in herds [preserving them if possible sell it to someone who requires the complete hide [This may lead to other sorts of infractions. e g.. shearing or performing labor with the beasts].

XXIX. YERUSHALMI BESAH 3:7

[A] THEY DO NOT WHET A KNIFE ON THE FESTIVAL DAY, BUT ONE DRAWS IT OVER ANOTHER [KNIFE]. A PERSON SHOULD NOT SAY TO A BUTCHER. WEIGH OUT A DENARS WORTH OF MEAT FOR ME. BUT HE SLAUGHTERS [THE BEAST]. AND THEN DIVIDE IT UP AMONG THEMSELVES.

1. **I:1:** They do not whet a knife on the festival day, but one draws it over another [knife]. R. Hiyya said. That view is R. Judah’s.” But R. Judah said in the name of Samuel, It represents the opinion of all parties. since one does so in order to remove the hilt from the knife.

XXX. YERUSHALMI BESAH 3:8

[A] A PERSON SAYS TO HIS FELLOW, “FILL THIS UTENSIL FOR ME,” BUT NOT WITH A MEASURE. R. JUDAH SAYS, “IF IT WAS A UTENSIL OF A [SPECIFIC] MEASURE, HE SHOULD NOT FILL IT UP [EITHER].” M’SH B: ABBA SAUL B. BOTNIT WOULD FILL UP HIS MEASURING-CUPS ON THE EVE OF A FESTIVAL AND HAND THEM OVER TO PURCHASERS ON THE FESTIVAL ITSELF. ABBA SAUL SAYS, “ALSO ON THE INTERMEDIATE DAYS OF THE FESTIVAL HE WOULD DO SO, “BECAUSE OF THE CLEARNESS OF MEASURE.” AND SAGES SAY, “ALSO ON ORDINARY [WEEK-]DAYS HE WOULD DO SO, BECAUSE OF THE EXACTNESS OF THE MEASURE [NOT FILLED IN HASTE].”

1. I:1: R. Huna said, “[when the storekeeper fills the measure] it must be either too little or too much [so that the measure is not filled exactly].” R. Eleazar said to Zeirah bar Hama, “Fill this utensil for me [today], and tomorrow we’ll measure it [after the festival].”
2. I:2: It has been taught [in the Tosefta’s version]: The story is told concerning R. Eleazar b. R. Sadoq and Abba Saul b. Botnit, who were storekeepers in Jerusalem throughout their entire lives, that they would fill up their measuring cups on the eve of a festival and hand them over to purchasers on the festival itself [M. 3:8D]. R. Hanina b. Antigonos [Y.: Aqabiah] says, “Also on the intermediate days of the festival they do so, “on account of [avoiding] the neglect of the House of Study” [cf. M. 3:8E-F], [Y.: because of the exactness of the measures]. And sages say, “Also on a weekday they do so, because of the exactness of the measure [not done in haste]” [M. 3:8G]. Also: he collected three hundred jugs of wine [from the foam of the measures], and his fellow, three hundred jugs of wine from the drops of the measures, and they brought them up to the revenueurs [of the Temple, as a contribution]. They said to them, “You don’t have to do this.” They said to them, “We don’t want to keep it.” They said to them, “Since you have imposed upon yourselves a strict rule, regarding them as belonging to the public, let them be used for the public requirements [of the cult]” [T. Y. T. 3:8].

XXXI. YERUSHALMI BESAH 3:9

[A] [ON A FESTIVAL DAY] A PERSON GOES TO A STOREKEEPER WHOM HE USUALLY PATRONIZES AND SAYS TO HIM, “GIVE ME EGGS AND NUTS BY NUMBER.” FOR

THIS IS IN ANY CASE HOW THE HOUSEHOLDER COUNTS OUT [THESE SAME THINGS] IN HIS OWN HOME.

1. **I:1:** It is taught on Tannaite authority: One may say to the other, “Give me a measure of spices,” for that is in any case how a householder puts a measure of spice into his soup.

XXXII. YERUSHALMI BESAH 4:1

[A] **HE WHO [ON A FESTIVAL] BRINGS JARS OF WINE FROM ONE PLACE TO ANOTHER SHOULD NOT BRING THEM IN A BASKET OR HAMPER. BUT HE BRINGS THEM ON HIS SHOULDER [CARRIES THEM] BEFORE HIM.**

1. **I:1:** With reference to M. 4:1B, said R. Hanin bar Levi, “The Mishnah speaks of slender jars, two or three of which can be carried in one hand. [These cannot be carried in a basket, that is, in the normal way.] “But as to one that is large [and not carried by hand], if he carries it before him, that is its usual way; if he carries it behind him, that is his usual way. “[Then what should one do?] Just as you have said [in connection with a hide out in the field], that one brings the hide in [along with the meat that is] on it, so here one brings [the large jug] along with small ones, [that is, carrying the large one in a way that is normal for carrying a large jug, along with carrying small jars in a way that is not normal for carrying small jars].

[B] **AND SO TOO: HE WHO TAKES STRAW SHOULD NOT HANG THE HAMPER OVER HIS BACK. BUT HE BRINGS IT [CARRYING IT] IN HIS HAND. AND THEY BREAK INTO A SACK OF CHOPPED STRAW BUT NOT INTO WOOD STACKED IN THE STORAGE HUT.**

1. **II:1:** With reference to M. 4:1C R. Judah raised the following question: “What is the law as to bringing straw from private domain to public domain?” [What is troubling Yudan?] Does the Mishnah not treat this subject? He who rakes straw should not hang the hamper over his back [M. 1:1C]. [Obviously one carries the straw from private to public domain.] The Mishnah is formulated in accord with the view of him who says, “What every one must eat [that only may be prepared by you]” (Ex. 12:16) includes beasts, [and hence it is permitted to take straw into public domain to feed beasts, for that is permitted on the festival day]. [When Yudan] raises his question, it is from the viewpoint of him who says that beasts have not been included [in the Scripture’s remission of the prohibition against labor on the festival day]. But from the viewpoint of him who says that beasts are included

in the remission of the prohibition against labor, it is perfectly clear to him [that it is permitted]. [Explaining Yudan's question from yet another angle:] The Mishnah speaks of a case in which he brings out the straw to teed the beast. Where [Yudan] has a question is where the man brings out the straw to kindle a fire [e.g., for cooking].

2. **II:2:** Jacob bar Aha in the name of R. Yosé, “Fruit that had attained the condition of being fully dried [only on the festival day itself but was not ready for eating as dried fruit prior to the festival] may not be touched [on the festival].” Rabbi said to R. Simeon his son, “Go up and bring us some [dried] figs from the upper room.” He said to him. “And is it not prohibited [to do so] on the count of [the figs’ not having been] designated [for use on the festival, since, prior to the festival, they were still in their kegs and not removed, hence they are not ready].” He said to him, “Do you still take account of that consideration? You have as prohibited on the count of not having been designated in advance for use on the festival only the matters of [fresh] figs and grapes alone. [One forgets these while they are drying.]”

XXXIII. YERUSHALMI BESAH 4:2

[A] **THEY DO NOT TAKE PIECES OF WOOD FROM [THE ROOF OR WALLS OF] A HUT, BUT [THEY DO TAKE WOOD] FROM THAT WHICH IS ADJACENT TO IT. THEY BRING PIECES OF WOOD — FROM THE FIELD — FROM [WOOD] THAT HAS BEEN GATHERED TOGETHER, AND FROM THE OUTER AREA [NEAR THE TOWN] — EVEN FROM [WOOD] THAT IS SCATTERED ABOUT.**

1. **I:1:** The do not take pieces of wood from the roof or walls of a sukkah, but they do from that wood which is near it [M. 1:2]. Samuel said, “[One may take pieces of wood from that which is near the sukkah] when [in putting wood on the sukkah] he did not have the intention of covering it more densely [that is, undoing bundles of wood and spreading the wood over the sukkah topping]. But if he did so with the intention of covering it more densely, it is forbidden [to take pieces of wood near the sukkah]. [His wood now is part of the sukkah itself. Taking it off amounts to dismantling the sukkah, that is, taking down a tent, which may not be done on the festival.] That is further the case [that one may not take such wood if he intended to cover the sukkah more densely] if he did not stipulate [to the contrary], but if he stipulated [that he wished to use the wood for some other purpose]. then it is permitted [to take it].”

2. **I:2:** Said R. Simeon b. Eleazer, “The House of Shammai did not differ [with the House of Hillel] concerning pieces of wood which were gathered together, which were in the outer area [M. 4:2B-E], “that one may bring it; “or concerning that which was scattered about in the field [M. 4:2C], that one should not bring it. “Concerning what did they differ? “Concerning pieces of wood which are scattered about in the outer area and concerning pieces of wood which are collected together in the field. “For: The House of Shammai says, ‘One should not bring it.’ “And the House of Hillel says, ‘One may bring it.’” Said R. Nathan, “The House of Shammai and the House of Hillel did not differ concerning pieces of wood which are scattered about in the outer area and concerning pieces of wood which are collected together in the field, that one may bring them [= M. 4:2B-C]. “Concerning what did they differ? “Concerning pieces of wood which are scattered about in the field. “For: The House of Shammai says, ‘One should not bring it.’ “And the House of Hillel says, ‘One may bring it’” [T. Y. T. 3:10].

[B] **WHAT IS THE ‘OUTER AREA’? “ANY AREA NEAR THE TOWN,” THE WORDS OF R. JUDAH. R. YOSÉ SAYS, “ANY [ENCLOSED] AREA INTO WHICH PEOPLE ENTER WITH A KEY, “AND EVEN THAT WHICH IS [FAR FROM THE TOWN, LOCATED JUST] INSIDE THE SABBATH-LIMIT.”**

1. **II:1:** [With reference to M. 1:2E-F.] the views assigned to R. Judah are at variance. For we have learned there: R. Judah says. ‘Even if there is nothing [in an outer area] except for a cistern or a pit or a cavern. They may carry things in that area [M. Erub. 2:5]. [Judah then differs from the view of Judah b. Baba at the same passage. that one may carry about such an area if it is near the town.] And here has he said this [in M. 4:2 E-F, an area near a town is subject to the stated rule]?

XXXIV. YERUSHALMI BESAH 4:3

[A] **THEY DO NOT CHOP FIRE-WOOD EITHER FROM BEAMS OR FROM A BEAM THAT BROKE ON A FESTIVAL DAY. AND THEY DO NOT CHOP [WOOD]**

1. **I:1:** They do not chop fire-wood either from beams or from a beam that broke on a festival day. That which you have said applies, then. to a beam which broke on the festival day itself. But as to a beam which broke on the eve of the festival. it is permitted [to chop wood from such a beam].
2. **I:2:** It has been taught [in the Tosefta’s version]: Branches of figs, containing figs, brooms of palm trees, containing dates, if one brought

them into [the house] for use as wood, one may not eat [the figs or dates] on the festival. [If one brought them into the house] for food for cattle, one may eat [the figs or dates] on the festival [T. Y. T. 4:1]

3. **I:3:** Rab said. ‘They make a fire with [wooden] utensils. and they do not make I fire with the splinters. “That which you have said applies To utensils that broke on the festival. But as to utensils that broke on the eve of the festival. it is permitted [to use the splinters].’
1. **I:4:** R. Hiyya taught, “They make a fire with wood but not with husks or pits. [Tosefta’s version follows:] Nuts and almonds which one ate on the eve of the festival day – they kindle a fire with their shells on the festival day. [If] he ate them on the festival day. they do not kindle a fire with their shells on the festival day. With nuts and almonds themselves they do not kindle a fire on the festival day. for they do not constitute objects made ready (for that purpose) before the festival day for use on the festival day [T. Y.T. 3:11].”

[B] WITH AN AX:

1. **II:1:** Members of the household of R. Yannai say, “They may chop wood with an ax.”

[C] SAW, OR SICKLE, BUT [ONLY] WITH A CHOPPER. A HUT FULL OF PRODUCE, [WHICH WAS] BLOCKED UP,¹⁸ BUT WHICH WAS DAMAGED [SO THAT ONE UNEXPECTEDLY HAS ACCESS TO THE PRODUCE THROUGH THE BREACH] – ONE TAKES [PRODUCE] THROUGH THE BREACH [ON A FESTIVAL DAY].

1. **III:1:** There is a Tannaite authority who teaches, “They cut wood with a saw,” and there is a Tannaite authority who teaches, “They do not cut wood with a saw.” Said R. Hisda, “He who said, ‘They do cut wood with a saw’ speaks of a hand saw. He who said. The- do not cut [wood with a saw],’ speaks of a saw used in the harvest.” There is a Tannaite authority who teaches, ‘They separate matted hair.’ ‘And there is a Tannaite authority who teaches,’ They do not separate [matted hair].” Said R. Hisda, “He who has said, ‘They separate it.’ speaks of healthy hair [which will not be pulled out], and he who said, ‘They do not separate it,’ speaks of fragile hair.”

[D] R. MEIR SAYS, “ALSO: ONE MAY MAKE A BREACH TO BEGIN WITH AND REMOVE PRODUCE.”

1. **IV:1:** Ba, R. Judah in the name of Samuel: “But that is on condition that one takes out produce by the door.” And lo, it has been taught [in the Tosefta’s version]: Sages concur with R. Meir [M. 4:3E -G] in the case of knots which are on the ground, that one may loosen, untie, and

unravel them, but they may not cut them. And on the Sabbath they may loosen and untie but may not unravel or cut them. And in the case of utensils on the Sabbath it is permitted, and it goes without saying, on the festival. If a cistern is covered with a cover which is tied down, one may untie the knot. This in the sages' view is not tantamount to an act of destruction] [T. Y. T. 3:12].

XXXV. YERUSHALMI BESAH 4:4

[A] [ON A FESTIVAL DAY] THEY DO NOT HOLLOW OUT [A LUMP OF CLAY TO MAKE] A LAMP, BECAUSE ONE THEREBY MAKES A UTENSIL. AND ONE DOES NOT MAKE CHARCOAL [ON A FESTIVAL DAY]. AND THEY DO NOT CHOP A WICK INTO TWO. R. JUDAH SAYS, "ONE SEVERS IT WITH A FLAME [BETWEEN TWO LAMPS]."

- 1.** **I:1:** It has been taught: As to sealed stew-pots, if one made them on the eve of the festival. he should not break; them open on the festival because it is as if on the festival day itself he prepares a utensil for use [T. 3:1 3C]. There we have learned: As to Ironian stew pots, they are insusceptible to uncleanness when located in the tent of a corpse, but they are susceptible to uncleanness when carried by a Zab. R. Eleazar bar Sadoq says, "Also, when they are carried by a Zab, they are insusceptible to uncleanness [and remain clean], for the process of manufacturing them is not yet complete until they are cracked open" [M. Ed. 2:5H-L]. [In line with M. 4:4A-B, the still sealed stew pot is not yet a utensil; in Eliezer's view that is the fact as well. Consequently, we ask:] The opinion of an individual here accords with the anonymous [and therefore collective] view there, and the opinion of an individual there [Eleazar's] accords with the collective opinion here.
- 2.** **I:2:** Ba in the name of R. Judah: "As to a log [that is burning], one puts it near a wall so that it will not be consumed [and it will go out by, itself against the wall]." It has been taught: They do not extinguish a log in order to save it. But if it is so as not to allow the house to fill up with smoke, or so that it will not burn what is cooking in the pot, it is permitted [to do so] [T. Y. T. 3:13].
- 3.** **I:3:** Three rules were stated with reference to a wick, three on the strict side, and three on the lenient side: on a festival day they do not make it to begin with, and they do not singe it with fire, and they do not chop it into two [M. 4:4D]. These are the three on the lenient side: they soak it in oil, rub it by hand, and cut it with fire when it is in two lamps [M. 4:4E] [T. Y.T. 3:21].

XXXVI. YERUSHALMI BESAH 4:5

- [A] [ON A FESTIVAL DAY] THEY DO NOT BREAK A CLAY UTENSIL OR CUT A PIECE OF PAPER TO ROAST A SALT-FISH THEREON. AND THEY DO NOT CLEAR OUT THE ASHES OF AN OVEN OR STOVE. BUT THEY LEVEL THEM DOWN.
1. **I:1:** That is to say. the sausage-maker is forbidden to work on a festival day because he cuts the sausage bags apart.
 2. **I:2:** The daughter of R. Hiyya the Elder came to do baking in the oven [on the festival day]. She found stone in it. She came and asked her father. He said to her, "Go and sweep it out." She said to him, "I cannot do so." [In fact, it is prohibited to sweep out the oven. in line with M. 4:5C.] He said to her. "Go and level it down [= M. 4:5D]." In fact she knew the answer but she wanted to hear it from her father.
 3. **I:3:** Rab said, "They save food from burning on the oven by putting it on the stove [to let it simmer], but they do not take food from the stove and put it into the oven [for that same purpose]." R. Abba bar Hannah said. "They save food from burning on the oven by putting it on the stove. and then also save food from burning on the stove by putting it into the oven, but then do not do so in the even for the purposes of [eating the food] in the morning." R. Abun in the name of Rab: "They save food from burning on the oven by putting it on the stove; then also save food from burning on the stove by putting it into the oven; and they do so in the evening for use in the morning. But they do not do so on the festival day for use on an ordinary day."
- [B] [AND THEY DO NOT BRING TWO JARS TOGETHER TO SET A POT ON THEM. AND THEY DO NOT PROP UP A POT WITH A CHIP, AND SO IS THE RULE FOR A DOOR. AND THEY DO NOT LEAD A DOMESTIC BEAST WITH A STAFF ON A FESTIVAL DAY. AND R. ELEAZAR B. R. SIMEON PERMITS [DOING SO].
1. **II:1:** on the count of building [it is prohibited].
 2. **II:2:** It has been taught: nor may a blind man go out with his staff, nor may a shepherd go out with his leather bag [T. Y. T. 3:17C-D]. R. Simeon permits doing so.

XXXVII. YERUSHALMI BESAH 4:6

[A] **R. ELIEZER SAYS, “A PERSON TAKES A WOOD-SPLINTER WHICH MAY BE BEFORE HIM TO PICK AT HIS TEETH. “AND HE SWEEPS UP WHAT IS IN THE COURTYARD TO MAKE A FIRE. FOR WHATEVER IS LOCATED IN THE COURTYARD IS DEEMED AVAILABLE FOR USE [BEFORE THE FESTIVAL BEGINS].” AND SAGES SAY, “HE SWEEPS UP WHAT IS BEFORE HIM [IN THE HOUSE] TO MAKE A FIRE.”**

1. **I:1:** What is at issue between them [at M. 4:6C-D]? Whether or not it is permitted to sweep things up into piles is at issue between them. In the view of R. Eliezer it is permitted to sweep things into piles. and in the opinion of sages it is prohibited to do so.

XXXVIII. YERUSHALMI BESAH 4:7

[A] **THEY DO NOT PRODUCE FIRE [ON A FESTIVAL DAY] FROM WOOD, STONES, EARTH [THAT IS, SULPHUR], FLINT OR LIQUID. AND THEY DO NOT HEAT TILES WHITE HOT TO ROAST ON THEM.**

1. **I:1:** And they do not heat tiles white hot to roast on them: There is a Tannaite authority who teaches: They do heat [tiles] white hot. There is a Tannaite authority w who teaches. They do not heat [tiles] white hot. Said R. Hisda. He who said that they heat [tiles white hot speaks of those] that have been inspected [and are known to retain the heat]. “And he who said that they do not heat [tiles white hot speaks of a case] of new tiles [not inspected, where we are not sure that they will serve the purpose]

[B] **AND FURTHER DID R. ELIEZER SAY, “A MAN TAKES UP A POSITION AT THE STORAGE-HUT ON THE EVE OF THE SABBATH IN THE SEVENTH YEAR AND [IN ORDER TO DESIGNATE FOOD FOR SABBATH USE] SAYS, ‘FROM THIS [PRODUCE] I SHALL EAT TOMORROW.’”**

1. **II:1:** The opinions assigned to R. Eliezer are contradictory. For there we have learned: The House of Shammai say, “One may not take pigeons unless he physically touched and stirred them while it was still day” [M. 1:4D]. And was R. Eliezer not a member of the House of Shammai? But a strict rule applies to an animate creature [which must be physically handled as distinct from the inanimate produce in the storage hut].

[C] **AND SAGES SAY, “[HIS DESIGNATION IS VALID ONLY] IF HE MAKES A MARK AND SAYS, ‘FROM THIS PLACE UP TO THAT PLACE [SHALL I TAKE PRODUCE TO EAT TOMORROW].’”**

- 1. III:1:** The opinions assigned to the sages are contradictory. For we have learned there: The House of Hillel says, “One may stand at distance and say: ‘This one and that one shall take [sages opinion is assumed to be in agreement with the House of Hillel]’ [M. 4:1E]. And where do they say this? They certainly do maintain that a stricter rule applies in the case of an animate creature [this is not worked out further].

XXXIX. YERUSHALMI BESAH 5:1

[A] THEY LET DOWN PIECES OF PRODUCE THROUGH A HATCHWAY ON THE FESTIVAL, BUT NOT ON THE SABBATH]. AND THEY COVER UP PIECES OF PRODUCE WITH UTENSILS AGAINST DRIPPING RAIN. AND SO [MAY THEY COVER UP] JUGS OF WINE OR OIL. AND THEY PLACE A UTENSIL UNDER A SPOUT [TO CATCH] DRIPPING RAIN, ON THE SABBATH.

- 1. I:1:** When the rule, M. 5:1A-B. permits letting down pieces of produce through a hatchway on a festival,] the Mishnah speaks of [fruit from] the roof of that house in particular. But as to [fruit on] the roof of some other house, it is forbidden. [This rule applies when the roofs] were not on the same level. But if the roofs were on the same level [so not much extra labor is involved], it is permitted.
- 2. I:2:** Jeremiah in the name of Rab: “[On the Sabbath] they spread out mats on shavings which cover bricks.” Said R. Simeon b. R. Yannai, “I did not hear the teaching from father. [but] my sister reported to me in his name [the following teaching]: As to an egg born on the festival day. They put a utensil near it so that it will not roll about. but They do not put a utensil on top of it [for that purpose].” And Samuel said, “They put a utensil over it [for that purpose].”
- 3. I:3:** It has been taught: A jug [of liquid] from which tithes have not been removed which broke – one brings a utensil and puts it under it. [B] Once it is filled up, it is prohibited to carry it [cf. M. 3:6A3, [T. Shab. 3:9C-D]. Said R. Zeira, “That is to say that they make provision for that which may not be handled on the Sabbath so as to afford protection for it. but that is not done in the usual way.” And lo. it has been taught: A basket of grapes and a vat of olives which began to flow – they do not make use of them on the festival, and one need not say, on the Sabbath [T. Shab. 3:9E-G]. [Resolving the contradiction between these two laws,] R. Hisda said, “Even though this is produce from which tithes have not been removed, and that also is produce from which tithes have not been removed, [the two are not

comparable], for the olives and grapes [of the latter rule] are subject to the prohibition of being utilized on the Sabbath [since to begin with the owner never expected to be able to use them, so he never planned on doing so]. [They are still in the processing stage.] The jug in the former is not [fully] subject to the prohibition of being utilized on the Sabbath [since it is ready for use, and if, after the fact, the owner should designate the portion meant to serve as tithes, it is available for use on the festival or Sabbath.]”

4. **I:4:** It has been taught: A man may place a utensil under a spout [to catch] on the Sabbath [M. Bes. 5:1]. When it is filled up, he may pour it out and repeat the process, and he need not scruple [T. Shab. 3:11].

XL. YERUSHALMI BESAH 5:2

[A] **FOR ANY ACT [THE PERFORMANCE OF] WHICH ON THE SABBATH RENDERS PEOPLE CULPABLE 1) ON GROUNDS OF [TRANSGRESSING THE REQUIREMENT OF] SABBATH REST, 2) ON GROUNDS OF CARRYING OUT AN OPTIONAL [RELIGIOUS RITE THAT COULD BE PUT OFF UNTIL AFTER THE SABBATH], OR 3) ON GROUNDS OF CARRYING OUT A MANDATORY RELIGIOUS DUTY [THAT, LIKE THE OPTIONAL ONE, SHOULD BE PERFORMED AFTER THE CONCLUSION OF THE SABBATH], THEY [ALSO] ARE CULPABLE IN REGARD TO THE FESTIVAL DAY. THESE ARE THE ACTS [FOR WHICH PEOPLE ARE CULPABLE] BY REASON FOR THEIR TRANSGRESSING THE REQUIREMENT OF SABBATH REST:**

1. **I:1:** [Some of the listed actions are liable on grounds of Sabbath rest. in which category come optional acts, [and some of the listed actions are liable] on grounds of optional acts, which fall into the category of acts of religious duty. What are instances of acts prohibited on grounds of Sabbath rest which come under the category of optional acts.] [These are the acts for which people are liable by reason of Sabbath rest:] they do not climb a tree, ride on a beast, swim in water, clap hands, slap the thigh, or stamp the feet [M. 5:2C-D]. What are instances of acts involving a religious duty in the category of optional acts? And these are the acts for which people are liable by reason of acts of choice: they do not sit in judgment, effect a betrothal [M. 5:2C-E], issue a writ of divorce or effect a right of refusal, carry out a rite of halisah or enter into levirate marriage [M. 5:2 E- F] [T. Meg. 4 4/I-K].
2. **I:2:** It has been taught: They do not climb a tree, whether it is full of sap or dried out. There is no problem understanding why one may not climb a tree that is full of sap [since one may thereby pull off a branch of a living tree. which is forbidden]. [But a dried up tree does not fall

into the category of a tree at all, so] in the case of a dried up tree. do we actually rule that it is prohibited to walk on a vine shoot on the Sabbath? Surely not! Why should it be forbidden to do so?] But the rule is formulated in accord with the view of R. Meir [who regards a dried up shoot as still effective], for R. Meir said, “A vine that dried up [located in a field of grain] is forbidden, but does not sanctify [the field of grain in which it is located, under the rule prohibiting mixed seeds in a vineyard].” [No, it accords with the view] of all parties, [who] prohibit a dried up tree because of the prohibition extending to a tree that is full of sap.

[B] THEY DO NOT CLIMB A TREE, RIDE A BEAST:

- 1. II:1:** On what account have they said, They do not climb a tree [M. 5:2D]? Is it lest the person forget and pick fruit and eat it, or is it lest the person shake the tree [thus making use of it, which is prohibited]? Let us derive the answer from the following: If one was riding on a beast [on a festival] one says to him, “Get off.” That suggests. then, that the consideration is lest the person forget and shake [the tree]. On what account have they said. “If one was riding a beast [on a festival], one says to him, Get off””? Associates have said, “It is lest the beast will suck [from its mother, while the man is still riding on it] and it will be as if he takes action to suckle the beast, which may not be done on the festival.” Said to them R. Yosé, But if it was an adult camel? [There is no consideration of its sucking from the mother, and hence your rule is inconsistent.]”

[C] SWIM IN WATER,

- 1. III:1:** R. Jacob bar Zabedi in the name of R. Abbahu: ‘That is to say that it is forbidden to float something and lead it away from oneself. And along these same lines, it is forbidden to float something and lead it to oneself.’”

[D] CLAP HANDS,

- 1. IV:1:** This refers to clapping, which a person himself does [in anger].

[E] SLAP THE THIGH

- 1. V:1:** This is slapping that expresses pleasure.

[F] OR STAMP THE FEET.

- 1. VI:1:** R. Jeremiah, R. Zeirah in the name of R. Hunah: “Jumping is when one picks up both feet at once. Stamping is when one picks up

one foot and puts down the other.” Said R. Eleazar, “Whatever makes a noise is forbidden on the Sabbath.”

- [G]** AND THESE ARE THE ACTS [FOR WHICH PEOPLE ARE CULPABLE] BY REASON OF [THEIR BEING] OPTIONAL [RITES, THAT SHOULD BE PUT OFF UNTIL AFTER THE HOLY DAY]: THEY DO NOT SIT IN JUDGMENT,
- 1.** **VII:1:** R. Hezekiah, R. Aha in the name of R. Abbahu: “It is forbidden to undertake a trial for a property case on a Friday.”
- [H]** EFFECT A BETROTHAL, CARRY OUT A RITE OF HALISAH OR ENTER INTO LEVIRATE MARRIAGE.
- 1.** **VIII:1:** R. Ba bar Kohen said before R. Yosé, R. Aha in the name of R. Jacob bar Idi: “It is forbidden to betroth a woman on Friday.”
- [I]** AND THESE ARE THE ACTS [FOR WHICH PEOPLE ARE CULPABLE] BY VIRTUE OF [THEIR BEING] A RELIGIOUS DUTY [THAT SHOULD BE PERFORMED AFTER THE CONCLUSION OF THE SABBATH OR FESTIVAL]: THEY DO NOT DECLARE OBJECTS TO BE SANCTIFIED, MAKE A VOW OF VALUATION, DECLARE SOMETHING TO BE HEREM, OR RAISE UP HEAVE-OFFERING OR TITHE.
- 1.** **IX:1:** Jacob bar. Aha in the name of R. Immi: “R. Yohanan and R. Simeon b. Laqish differed. “One said, ‘They consecrate [in context: a lamb for the Passover] [on the Sabbath or festival].’ ‘The other said, ‘They do not consecrate [on the Sabbath or festival].’” Rabbis of Caesarea interpret the dispute [to take account of M. 5: 2F]: They do not effect a betrothal on the Sabbath or on the festival day]: “R. Yohanan said. ‘They consecrate on the festival to begin with.’ “R. Simeon b. Laqish said, ‘They do not consecrate on the festival to begin with.’”
- [J]** ALL THESE ACTIONS ON A FESTIVAL THEY HAVE DECLARED [TO BE CULPABLE]; ALL THE MORE SO [WHEN THEY ARE DONE] ON THE SABBATH. THE SOLE DIFFERENCE BETWEEN THE FESTIVAL AND SABBATH IS THE PREPARATION OF FOOD ALONE, [WHICH IS PERMITTED ON THE FESTIVAL BUT FORBIDDEN ON THE SABBATH].
- 1.** **X:1:** Is this the only, difference. Lo, there are others. The penalty of stoning is imposed for violation of the Sabbath, while the penalty of stoning is not imposed for violating the festival day. The penalty of extirpation is imposed for violating the Sabbath. and the penalty of extirpation is not imposed for violating the festival day. The penalty of flogging applies for violating the festival, and the penalty of flogging does not apply for violating the Sabbath.

2. **X:2:** The sole difference between the festival and the Sabbath is in the preparation of food: It was taught in the name of R. Judah: “Also they have permitted [on the festival] preparing those things that are required for the preparation of food as well.” What is at issue between [the authority of M. Meg. 1:6A = M. Bes. 5:2J] and [Judah]? R. Hisda says, “[The practical difference between the two positions] is whether or not it is permitted to sharpen the head of a spit.” R. Hanina son of R. Abbahu: “Producing heat [for cooking] from wood [Y. Meg. 1:8 has preheated. stones] is at issue between them.” R. Judah bar Pazzi of Bardelayya taught, “That is the thing.” What is the meaning of, “That is the thing”? Is it the matter of sharpening the head of a spit, or is it the matter of producing heat from stones? Indeed, you may say only the following: They do not polish a knife. but one may sharpen it on another knife [Y. Bes. 3:7].
3. **X:3:** What is the law on kindling a lamp that serves no useful purpose [on the festival day]? Hezekiah said, “It is forbidden to do so.” The following Tannaitic teaching stands at variance with the view of Hezekiah: “You shall kindle no fire in all your habitations on the Sabbath day” (Ex. 35:3). On the Sabbath day you may not kindle a fire, but you may kindle a fire on the festival. If you say that that rule applies only to matters which involve preparing food, for has it not been written, “[On the first day you shall hold a holy assembly, and on the seventh day a holy assembly; no work shall be done on those days;] but what every one must eat. that only may be prepared by you” (Ex. 12:16)? They nonetheless maintain that kindling a light not used for a purpose [is permitted].

XLI. YERUSHALMI BESAH 5:3

[A] **DOMESTIC CATTLE AND UTENSILS ARE IN THE STATUS OF THEIR OWNER [AND ON THE FESTIVAL OR SABBATH ARE RESTRICTED TO TRAVEL WITHIN THE SAME LIMITS AS HE IS]. HE WHO HANDS OVER HIS DOMESTIC BEAST TO HIS SON OR TO A SHEPHERD — LO, THEY ARE IN THE STATUS OF THE OWNER. UTENSILS SET ASIDE FOR USE OF ONE OF THE BROTHERS IN A HOUSEHOLD — LO, THEY ARE IN HIS SAME STATUS. AND THOSE NOT SET ASIDE [FOR USE OF A PARTICULAR PERSON], LO, THEY ARE IN THE STATUS OF [THE BROTHERS AS A GROUP], AND THEY MAY GO [TO THE PLACE TO WHICH ALL OF THE BROTHERS MAY GO].**

1. **I:1:** The Mishnah speaks of a case in which one handed over the beast on the festival day itself. But if one handed it over on the eve of the

festival, [the beast] is in the status of the shepherd [to whom the beast is entrusted]. It applies, further, when there is another shepherd [V. reads one shepherd available [besides the one who is employed for this purpose]. But if there is available only that one shepherd, then [the beast] is in the status of the herd [tended by that shepherd]. And so has it been taught [in T.'s version]: R. Dosa says, "He who purchases a domestic beast from a shepherd, even though he has not informed the shepherd, lo, it remains in the status of the shepherd" [T. Y.T. 4:6D].

XLII. YERUSHALMI BESAH 5:4

[A] **HE WHO BORROWS A UTENSIL FROM HIS FELLOW ON THE EVE OF THE FESTIVAL – IT IS IN THE STATUS OF THE ONE WHO BORROWS IT. [IF HE BORROWS IT] ON THE FESTIVAL DAY, IT IS IN THE STATUS OF THE ONE WHO LENDS IT. AND SO TOO, A WOMAN WHO BORROWED FROM HER FRIEND SPICE, WATER OR SALT FOR HER DOUGH – LO, THEY ARE IN THE STATUS OF THE TWO OF THEM [AND GO ONLY TO A PLACE WHERE BOTH OF THEM MAY GO].**

1. **I:1:** Said R. Ba, [with respect to M. 5:1C.] in matters affecting the Sabbath boundary, the sages have imposed the strict rule of the law as it affects property. [so that each woman owns a share in the spice, water, or salt, with the result that the consequent dough or bread is subject to the Sabbath limit governing each of the two owners thereof]. You may know that that is the case. for they have said there in the name of R. Hisda – and we do now know whether it derives from a tradition, or from reasoning on the Mishnah itself – 'And even the wood [if it is borrowed, to kindle a fire, imposes the status of the owner of the wood upon the bread that is baked with that wood],' and we considered ruling that – to the contrary – wood has no substance. [Yet it clearly does.]"

[B] **R. JUDAH DECLARES EXEMPT IN THE CASE OF WATER, FOR IT IS OF NO SUBSTANCE.**

1. **II:1:** What is the practical difference between these two positions?

XLIII. YERUSHALMI BESAH 5:5

[A] **A BURNING COAL IS IN THE STATUS OF ITS OWNERS. BUT THE FLAME [MAY GO] ANYWHERE. A BURNING COAL BELONGING TO THE SANCTUARY IS SUBJECT TO THE LAWS OF SACRILEGE. BUT ITS FLAME IS NEITHER AVAILABLE FOR COMMON USE NOR SUBJECT TO THE LAWS OF SACRILEGE [IF, CONTRARY TO THE LAW, IT**

IS PUT TO SECULAR USE]. [ON THE SABBATH] HE WHO TAKES OUT A BURNING COAL TO THE PUBLIC DOMAIN IS LIABLE. [BUT IF HE TAKES OUT] A FLAME, HE IS EXEMPT.

- I:1:** Five rules did they state concerning a burning coal and five concerning a flame: A burning coal belonging to the sanctuary is subject to the laws of sacrilege. But a flame is neither available for common use nor subject to the laws of sacrilege [if it is subjected to common use] [M. 5:5C-D]. A burning coal belonging to an idol [worshipper] is prohibited, but a flame is permitted. He who takes out a burning coal to the public domain [on the Sabbath] is liable, [but if he takes out] a flame, he is exempt [M. S:5E-F]. He who is prohibited by vow from deriving benefit from his fellow is prohibited from using his burning coal, but permitted to make use of a flame belonging to him. And they say a blessing over a flame [on Saturday night in the Habdalah], but they do not say a blessing over a burning coal [T. Y. T. 4:7].

XLIV. YERUSHALMI BESAH 5:6

[A] A CISTERN BELONGING TO AN INDIVIDUAL – [ITS WATER] IS IN THE STATUS OF THAT INDIVIDUAL. BUT IF IT BELONGS TO THE RESIDENTS OF THAT TOWN – [ITS WATER] IS IN THE STATUS OF THE RESIDENTS OF THAT TOWN.

- I:1:** A spring between the Sabbath limits of two [communities] – R. Yohanan said, “They make a partition of iron for it [to keep the water serving one side from intermingling with that serving the other side].” R. Yosé b. Haninah said, “Even a partition of reeds [will do], so long as the water [up above] does not flow in both directions.”

[B] AND ONE BELONGING TO THOSE WHO CAME UP FROM BABYLONIA IS IN THE STATUS OF THE PERSON WHO DRAWS WATER FROM IT.

- II:1:** [Referring to M. 5:6C,] that is to say, he who takes a utensil out into the public way – lo, the utensil is in the status of the person who takes it out [just as at M. 5:6C with reference to the cistern’s water enjoying the status of the person who draws it].

XLV. YERUSHALMI BESAH 5:7

[A] HE WHOSE PIECES OF PRODUCE WERE LOCATED IN ANOTHER TOWN, AND THE RESIDENTS OF THAT TOWN PREPARED AN ERUB SO AS TO BRING HIM SOME OF

HIS PRODUCE — [NONETHELESS] THEY SHOULD NOT BRING IT TO HIM, [SINCE THE PRODUCE IS IN HIS STATUS]. BUT IF HE MADE THE ERUB [IN HIS OWN BEHALF], HIS PIECES OF PRODUCE ARE IN HIS OWN STATUS [AND THEY MAY BE BROUGHT TO HIM].

1. **I:1:** Rab and Samuel: One of them said, “[In the case of someone who left a bailment of produce with someone else,] the produce is in the status of the one who left the bailment.” The other said, “It is in the status of the one with whom the bailment was left.” The Mishnah differs from the view of him who said that the produce is in the status of the one with whom the produce was left, for we have learned: He whose pieces of fruit were located in another town, and the residents of that town prepared an erub so as to bring him some of his produce — they should not bring it to him [M. 5:7A-C]. Now if you say that the produce is in the status of the person with whom it was left, then the residents of the other town should be able to bring the produce to him.

XLVI. YERUSHALMI BESAH 5:8

[A] **HE WHO INVITED GUESTS TO HIS HOUSE — THEY SHOULD NOT TAKE AWAY PORTIONS OF FOOD IN THEIR HAND, [SINCE AS TO LOCATION, THE FOOD SHARES IN THE HOUSEHOLDER’S STATUS], UNLESS HE HAD GIVEN THEM POSSESSION OF THEIR PORTIONS ON THE EVE OF THE FESTIVAL DAY, [IN WHICH CASE THE FOOD IS IN THEIR STATUS]. THEY DO NOT GIVE DRINK TO FIELD-ANIMALS OR SLAUGHTER THEM [ON A FESTIVAL DAY, SINCE THEY ARE NOT DEEMED SET ASIDE AS FOOD]. BUT THEY GIVE DRINK TO AND SLAUGHTER HOUSEHOLD-ANIMALS, [WHICH ARE DEEMED SET ASIDE FOR FESTIVAL USE]. WHAT ARE HOUSEHOLD-ANIMALS? THOSE THAT SPEND THE NIGHT IN TOWN. FIELD-ANIMALS? THOSE THAT SPEND THE NIGHT IN [DISTANT] PASTURES.**

1. **I:1:** What are field animals [M. 5:7H]? Those which go out [to pasture] at Passover and come back in at the rainy season. And what are household animals? Those that spend the night [M. 5:7F-G] within the Sabbath limit. Rabbi says, “In the case of both these [which remain within the Sabbath limit] and those which go forth outside the Sabbath limit, “even though they came back within the Sabbath limit only after it got dark, “it is permitted to slaughter them on the festival. “What are field animals? Those that pasture in distant pastures at all times” [cf. M. 5:7H-I] [T. Y.T. 4:11].

TRACTATE

ROSH HASHANAH

Scripture's presentation of the themes pertinent to the Halakhic category, Rosh Hashanah, the new year generically, commences with the identification of the new moon of Nisan, Exod 12:1–2, 23:16, 34:22. The New Year par excellence, the one marked by the new moon of Tishré, is covered in Lev 23:23–25 and Num 29:1–6. The specification of the offerings for the New Year commencing in Tishré underscores the focus, upon the Temple, of that occasion.

The Four New Years: Time is marked for diverse purposes; the commencement of years meets various requirements. The anniversary of kings is marked from the first of Nisan, and the festival year begins at that same time (thus: Passover, Shabuot, Sukkot). The first of Elul marks the new year for tithing cattle, meaning, cattle born prior to that date are tithed in one group, those after, in another. The first of Tishré is the new year for the reckoning of years, for Sabbatical years, and for Jubilees, for planting trees and vegetables, for the sequences of the months and for the heave-offering of the sheqels. They begin counting for years, Sabbatical years, and Jubilees, only from Tishré. But, the halakhah takes account also of judgment-time. Corresponding to the four points in the lunar year at which a new year is declared for a given purpose are the four seasons of the year at which the world is judged. The world is judged at Passover through grain; at Pentecost through fruit of the tree; at the New Year all who enter the world pass before Him like troops, since it is said, “He who fashions the hearts of them and who considers all their works;” (Ps 33:15); and on the Festival of Tabernacles they are judged through water. That is to say, the result of the judgment is expressed in God's provision of grain, fruit, water, and man's fate.

The New Moon: How It Is Attested and Declared: The new moon is announced through a system of messengers on six occasions through the year:

- (1) at Nisan, because of Passover;
- (2) at Ab, because of the fast;
- (3) at Elul, because of the New Year;
- (4) at Tishré, because of the determination of the set feasts;
- (5) at Kislev, because of Hanukkah; and

(6) at Adar, because of Purim. Visual sightings are reported to the sages' court by the witnesses, coming to Jerusalem for that purpose.

The Shofar, with Special Reference to Rosh Hashanah: The halakhah of the Oral Torah takes for granted that the shofar-rite marks the New Year of Tishré and only casually alludes to its meaning: the linkage of Israel to Moriah, the power of the offerings to atone for sin, the insistence that God remember in Israel's behalf Abraham's readiness to sacrifice Isaac, and Isaac's readiness to be sacrificed.

- I. The designation of the new month through the year
 - A. The four new years
 - B. The new moon: receiving testimony of the appearance of the new moon and announcing the new month
- II. The shofar
 - A. The halakhah of the shofar
 - B. The liturgy of the new year
 - C. Sounding the shofar in the synagogue liturgy

YERUSHALMI ROSH HASHANAH

CHAPTER ONE

1:1

[A] [56a] There are four new years:

[B] (1) the first day of Nisan is the new year for kings and festivals;

[C] (2) the first day of Elul is the new year for tithing cattle.

[D] R. Eleazar and R. Simeon say, “It is on the first day of Tishré.”

[I:1 A] It is written: “This month [Nisan] shall be to you the beginning of months (Ex. 12:2). To you [for kings and festivals]’ it shall be a beginning, but it is not a beginning for the years in general, e.g., Sabbaticals, Jubilees, the young trees, and vegetables.

[B] But might I say that to you it is a beginning, but it is not a beginning for [the reign of] kings or for [the order of] festivals?

[C] R. Jacob bar Aha [and] R. Yosé in the name of R. Yohanan [said], “It is written: ‘and he [Solomon] began to build [the temple] in the second month in the second in the fourth year of his reign’ (2 Chronicles 3:2). It [Scripture] paralleled the fourth year of his reign to the second which refers to months. Just as we do not count the second which refers to the month except from Nisan, likewise we do not count the second which refers to the fourth year of his reign except from Nisan.

[D] “Or perhaps it is not so, but [the second] means the second day in the month.

[E] “Wherever Scripture says second meaning the day of the month, it says so explicitly.

[F] “Or perhaps it is not so, but [the second] means the second day in the week [Monday]?”

[G] “We have not found such dating in Scripture.”

[H] But is it not written and there was evening, “and there was morning, the second day’ (Gen. 1:8)?

[I] We do not derive proof from the account of the Creation of the world.

[I:2 A] *And which second refers to the [order of the] months, and which second refers to the [month of the] year [in the reign of a king]?*

[B] R. Hanina and R. Mana [disagreed]. One said, “and he began to build in the second month – that second refers to [the order of months; in the second – that [the latter use of] second refers to the [second month of the] year [in the reign of a king].

[C] And the other [said], “Even reversing the interpretation would make no difference.”

[E] *R. Simon bar Karsana in the name of R. Aha derived it from this: “this month shall be to you (Ex. 12:2) serves as an exclusion. ‘It shall be the first to you’ likewise serves as an exclusion. An exclusion followed by [another] exclusion [becomes an inclusion]. The upshot is to include [the reign all kings and [the order of] festivals.”*

[F] Then let it [the inclusion] also include the years in general, Sabbaticals, Jubilees, the young trees and vegetables?

[F] *The answer accords with what R. Jacob bar Aha [and] R. Yosé in the name of R. Yohanan said: “and he [Solomon] began to build [the Temple] in the second month in the second in the fourth year of his reign (2 Chronicles 3:2). Scripture paralleled the fourth year of his reign to the second which refers to months. Just as we do not count the second which refers to the month except from Nisan, likewise we do not count the second which refers to the fourth year of his reign except from Nisan.”*

[G] R. Jonah [and] R. Isaac bar Nahman in the name of R. Hiyya bar Joseph: “and he began to build in the second month’ – that second refers to [the order of the] months. ‘In the second’ – that second [repeated] refers to [the month in] the year [in the reign of a king]. And when it continues [with the words] ‘in the fourth year of his reign, Scripture paralleled the fourth year of his reign to the second which refers to [the order of the] months. Just as we do not count the second which refers to the month except from Nisan, likewise we do not count the second which refers to the fourth year of his reign except from Nisan.”

[I:3 A] *Samuel taught, differing [on how to demonstrate that Nisan is the New Year for kings and festivals:] : “In the third month after the Israelites had gone forth out of the land of Egypt’ (Ex. 19:1): from here [we*

learn] that one counts the order of the months beginning with the going forth from Egypt.

- [B] “From this I only know months. Where do I learn the starting point for counting the years? ‘And the Lord spoke to Moses in the wilderness of Sinai, in [the first month of] the second year [after they had come out of the land of Egypt]’ (Num. 9:1).
- [C] “From this I only know that time [of the Ex.]. Where do I learn later times? ‘In the fortieth year after the Israelites had come out of the land of Egypt. [in the fifth month, on the first day of the month]’ (Num. 33:38).
- [D] “From this I only (56b) know temporarily [for that generation]. Where do I learn subsequent generations? .’ And it was in the four hundred and eightieth year after the Israelites had come out of the land of Egypt, [in the fourth year of Solomon’s reign over Israel. in the month Ziv, which is the second month, that he began to build the house of the Lord’ (I Kings 6:1). When the Temple was built, they began to use the era from [the time of] its erection: and it was at the end of twenty ears wherein Solomon had built the two houses. [the house of the Lord and the King’s house]’ (1 Kings 9:10). When they no longer merited to use the era of its erection, they began to count from its destruction: ‘in the twenty-fifth year of our captivity, in the beginning of the year, on the tenth day of the month. etc.’ (Ez. 40:1).
- [E] “When they no longer merited to use the era of their own [events], they began to count according to the reigns of other nations, as it is said, ‘in the second year of Darius [the king, in the sixth month. on the first day of the month Haggai: ‘in the third year of Cyrus king of Persia’ (Daniel 10:1).”
- [F] “But I might say: ‘And he [Solomon] began to build [the Temple] in the second month in the second in the fourth year of his reign’ (2 Chronicles 3:2). It [Scripture] paralleled the fourth year of his reign to the second which refers to months. Just as we do not count the second which refers to the month except from Nisan, likewise we do not count the second which refers to the fourth year of his reign except from Nisan.”

[I:4 A] R. Eleazar in the name of R. Hanina [says]: “Even [for dating of the regnal years of] kings of the gentile nations, one counts only from Nisan. In the second year of Darius, in the sixth month (Haggai 1:15): to the eighth month, in the second year of Darius (Zechariah 1:1). [If these heathen kingdoms begin the year with Tishré, it should have said, ‘in the eighth month, in the third year [of Darius].”

- [B] Hefa said, “In the eighth month (Zechariah 1:1) may have been said first, for there is no necessarily implied chronological sequence in the account of Scripture.”
- [C] Said R. Jonah, “And now, consider from this day onward – before a stone was laid [or before a stone is to be laid] upon a stone in the Temple of the Lord’ (Haggai 2:15). How [do you chronologically order these versus from Haggai and Zechariah]? In the sixth month the foundation was laid; in the eighth month this scriptural passage was said. If you say they had already laid [stone upon stone in the ninth month] what Hefa said is right. But if you say they did not lay [stone upon stone in the ninth month], Hefa said nothing.”
- [D] *R. Isaac objected*, “Does it not say, ‘and it came to pass in the six hundred and first year, in the first month, the first day of the month, [the waters were dried up from off the earth]’ (Gen. 8:13)? And was it not taught on this verse: ‘the year of the flood its not part of the computations [of Noah’s years]’?”
- [E] This could be solved in agreement with R. Eleazar’s opinion, for R. Eleazar has said that the world was created in Tishré.
- [F] But is it not written: “[the words of Nehemiah the son of Hachaliah.] Now it was in the month of Kislev, in they twentieth year (Nehemiah 1:1); ‘and it was in the month Nisan, in the twentieth year [of Artaxerxes the king]’ (Nehemiah 2:1)?
- [G] This could be solved in agreement with R. Eleazar’s opinion, for R. Eleazar has said, “Any year which does not have thirty days should not be classified as a complete year.”
- [H] But is it not written: “And it was the first month in the second year, on they first day of they month, that they tabernacle was reared up” (Ex. 40:17)? If you say that it was [in fact] the third year, [you would argue] but since it did not yet have thirty days, they do not classify it as a complete year.
- [I] But is it not written: “and it was in they second year, in the second month, on the twentieth day of the month, [that the cloud was taken up from over the tabernacle of they testimony] (Num. 10:11)? And behold the year has fifty days and they did not classify it as a complete year?
- [J] *This is one of the challenges raised by R. Isaac that remain difficult.*
- [I:5 A]** What is the [practical] difference between the one who says to count from Nisan and the one who says to count from Tishré?

- [B] Said R. Jonah, “They differ with regard to [the date of] circulating notes. Someone borrowed a loan in Iyyar and wrote in the contract “The second regnal year [of so and so].” Then HE makes a sale [of the property under lien] in Marheshvan and writes in it “the second regnal year [of so and so].”
- [C] “The authority who says we count from Nisan would date the loan prior [to the sale]. The one who says we count from Tishré would make the sale prior [to the loan].”
- [I:6 A] How [exactly do we count the reign] for kings? If he died in Adar and [another] king succeeded him in Adar, the year is attributed to the first and to the second.
- [B] Said R. Jonah, “This is so only if [the second king’s reign extended into Nisan. *For if not, behold this:* ‘Shallum the son of Jabesh reigned in the thirty-ninth year of Uzziah of Judah, and he reigned a month in Samaria’ (2 Kings 15:13). You cannot interpret the years of the kings of Israel except from the years of the kings of Judah, or the years of the kings of Judah except from the years of the kings of Israel.”
- [I:7 A] It is written and the days that David reigned over Israel were forty years, etc. (1 Kings 2:11). But it is also written, “In Hebron he reigned over Judah seven years and six months; and in Jerusalem he reigned [thirty-three years over all Israel and Judah]” (2 Samuel 5:5). In the general statement they show deficit and in the particular statement they show excess?
- [B] R. Isaac bar Kesastah in the name of R. Jonah: “There were [only] thirty-two and a half [years], but in honor of Jerusalem, Scripture rounds them off.”
- [C] Judah Berabbi says that a larger sum absorbs a smaller sum.”
- [D] Said R. Samuel bar Nahman, “‘And when your days be filled’ (2 Samuel 7:12). The Holy One blessed be He said to him: ‘David, I assign to you filled days. I do not assign to you uncompleted days. Will not Solomon your son build the Temple only to offer sacrifices [therein]? Your justice and righteousness are more dear to me than all the sacrifice,’ as it is written: ‘to do righteousness and justice is more acceptable to the Lord than sacrifice’ (Proverbs 21:3).”
- [E] Rab Huna said, “All those six months during which David was fleeing from Absalom his son, he was making atonement offerings with a she-goat, like a commoner.”

[F] Said R. Judah the son of R. Shalom: “It is written, ‘For six months Joab remained there with all Israel, [until he had cut off every male in Edom]’ (1 Kings 11:16). [He explained it:] the Holy One blessed be He said to him, I have said to you, meddle not with them (Deut. 2:5). But you did meddle with them. Therefore, by your life, they [these six months] are not attributed to you.”

[II:1 A] **[The first day of Nisan is the new year festivals:]** *Who is the authority for [the statement concerning] festivals?* It is R. Simon. For R. Simon said, “The three festivals must follow consecutively [for a full year], except that Passover always must be first. You find that he said, sometimes five [festivals constitute the required full year], sometimes four, sometimes three. [If he vows] before the Festival of Weeks – five. Before Tabernacles – four. Before Passover – three.”

[B] R. Eleazar the son of R. Simon said: “Only Passover must be last. Consequently, sometimes three, sometimes two, sometimes one.”

[C] But the Sages say, “The festival which he [first] encounters shall be first, but all [three] festivals of the year always must pass [before he violates the vow].”

[II:2 A] It is written: “Besides the Sabbaths of the Lord, and besides your gifts, etc. (Lev. 23:38). Which you shall give to the Lord (Lev. 23:38). What is Scripture saying?”

[B] You might think that on a festival only the sacrifices of that festival alone may be brought. Whence do you know that the sacrifices offered by individuals and that the congregational sacrifices, whether they be consecrated on the festival or before the festival, may be brought [as an offering] on the festival?

[C] Scripture says, “Besides the Sabbaths of the Lord,” (Lev. 23:38), “which you shall give to the Lord (Lev. 23:38). These refer to the bird- and the meal-offerings – to include all of them that are offered on a festival.

[D] One might think that this refers to optional offerings?

[E] Therefore Scripture says, “these things you shall do for the Lord on your set festivals besides your vows, and your gift offerings” (Num. 29:39).

[F] Besides [this you shall do] establish them as obligatory, that all of them shall be offered on the festival.

- [G] One might think that on whatever festival one wishes?
- [H] Therefore Scripture says, “And you shall come. And you shall bring there your burnt offerings and your sacrifices and your tithes and heave offerings of your hand and your vows and your gift offerings” (Dt. 12:5-6).
- [I] If the purpose of the verse is to set the time, this too is already established by the verse cited above. If so why does Scripture say, “And you shall come there and you shall bring there” (Dt. 12:5-6)? It is to teach that this refers to the first festival of the three you announced after the vow.
- [J] One might think that if one of [the festivals] passes and the offering was not brought, this would constitute transgression of “you shall not delay to pay it”?
- [K] Scripture therefore says, “These things shall you do for the Lord in your set festivals” (Num. 29:39). One does not transgress “you shall not delay” until all the festivals of the year have passed.
- [II:3 A]** R. Simeon says, “The three festivals must follow consecutively. How? If one vows before Passover, [a transgression is not effected] until Passover and the Festival of Weeks and Tabernacles pass.
- [B] “If he vows before the Festival of Weeks, until the Festival of Weeks and Tabernacles and Passover and the Festival of Weeks and Tabernacles pass. If he vows before Tabernacles, until Tabernacles and Passover and the Festival of Weeks and Tabernacles pass.”
- [C] *The question was raised before R. Ila*, “So far we know a positive injunction has been transgressed. Then how do we know also a negative prohibition?”
- D] Scripture says, “And you shall come there, and you shall bring there: (Deut. 12:5-6). *With what are we dealing?* If it be a positive injunction to bring payment by the first festival, it was already said elsewhere. But since it is not a matter of a positive injunction, you must interpret it as a matter of negative prohibition.
- [II:4 A]** The paschal sacrifice, which was set to be sacrificed at the proper time, [if he did not do so] does he transgress?
- [B] *You find that it is taught:* Passover sacrifices [neglected] in their time constitute transgression.’
- [C] *For if it is not so, what are we saying?*

- [D] Said R. Samuel the son of R. Yosé the son of R. Abun: “The cited teaching is so that you will not say that if it [the lamb] is lost and it is found after the owners had their atonement [by another paschal lamb as a substitute], it [the first] will be sacrificed as a peace-offering. Therefore it is still necessary [to pose the original question:] the paschal sacrifice which one set to be sacrificed at the proper time [if he did not do so] do he transgresses.”
- [E] *The question was raised before R. Zeira:* “[If one who has vowed goes to Jerusalem] in the interval between one festival and the other, [if he did not bring his offering] does he transgress?”
- [F] *Replied R. Abba,* “*And has it not been taught:* A Festal Offering that was not sacrificed on the first [festival] should be sacrificed on the second? And would they permit him to transgress [day by day]!”
- [G] .And furthermore it can be derived from this: “you shall do – the positive injunction; you shall observe – the negative prohibition” (Deut. 23:24). But does he transgress a positive injunction and a negative prohibition unless three festivals passed him [since his vow]?
- [H]. R. Abun in the name of the rabbis from there [Babylonia]: “Concerning the one who vows, ‘be a burnt offering obligatory upon me to bring on Monday,’ if .Monday passes and he has not brought it, he transgresses.”
- [I] If its year ends, you assign to him the possibility of fulfilling the vow the last day [prior to its being one year old] and [thereafter] he transgresses for each day.
- [J] If this is so, when three festivals have passed [since one made a vow], you assign to him the possibility of fulfilling the vow at the last festival [of the three] and [thereafter] he transgresses for each festival.
- [K] *R. Abun bar Hiyya asked:* “If its year ends on the Festival of Weeks, is it possible to say that it is not fit [as a gift offering on the festival] and [yet] he transgresses! It follows ‘the fat of my feast shall not remain all night until the morning (Ex. 3:18). But may the sacrificial fats of the weekday be offered on a festival?”
- [L] *Said R. Abbahu,* “*I interpret that opinion for a case when the fourteenth falls on the Sabbath.*”
- [M] *R. Jonah asked,* “But if the fourteenth falls on the Sabbath a Festal Offering does not come with it! Scripture means that they offered it when it was still day, so as not to transgress ‘[the

fat of my feast] shall not remain all night until the morning' (Ex. 23:18). .And here they also offered it when it was still day on the day before the festival so as not to transgress 'you shall not delay [to pay it]' (Dt. 23:22)."

[N] Said R. Hinena, "If he transgressed and brought [the offering on the Festival itself], would it not be fit; since if he would have transgressed and brought [it] it would have been fit. [Therefore, since he did not,] he transgresses."

[II:5 A] It is written: "You shall eat it before the Lord your God year by year" (Deut. 15:20). A year for it, and a year for its substitute; a year for the unblemished, and a year for the blemished; a year for the first-born and a year for sacrifices.

[B] "Year by year" teaches that the first-born is eaten for two days and two years!

[C] *How can this be?* You may slaughter it on the New Year eve and eat it on the New Year eve and on the New Year.

[II:6 A] *R. Ishmael taught*, "If fifteen days from the end of its year it received a blemish, it may be kept alive after the year until the fifteenth day."

[B] Said R. Illa, "It follows that the year of the blemished animal is not clear [from the Torah]."

[C] *Said R. Yosé*, "A Tannaite formulation supports R. Illa. With regard to the firstling at this time, may it not be kept alive even four or five years before yet showing it to an expert? *How do we interpret it?*" If with regard to an unblemished animal, is it not it already said? But since it is not a matter of the unblemished animal, make it a matter of the blemished animal."

[II:7 A] [The rule] both for a firstling and for all consecrated animals is that one transgresses with regard to them from the point where [they have been kept three] festivals [even if] less than a year, or a year [even] without [three] festivals.

[B] There is no problem determining that [three] festivals without a year [are possible]. But how is a year [possible] without [three] festivals?

[C] *There [in Babylonia] they say:* it may be solved that it was deficient in time at Passover.

[D] *But it is said there that the* [animal which is] suitable for a part of the year is suitable for all of it. *Say also here that the animal which is]*

suitable for a part of the Passover is suitable for all of it. Said R. Abba Mari, “It may be solved in the case where the Festival of Weeks falls on the fifth [of Sivan, the animal is born the sixth, [and the following year] the Festival of Weeks falls on the seventh.”

- [E] *R. Abun bar Hiyya asked before R. Zeira*, “It is written, ‘He shall not inquire whether it be good or bad’ (Lev. 27:33) If he violated and did inquire, does he transgress?”
- [F] He said to him, “Every matter [of injunction that is intended to be permissive, one does not transgress. What does it [the injunction] come to permit here? Scripture sanctions to dedicate [i.e. to tithe blemished animals.”
- [G] *There we have learned as a Tannaite statement: on the eighth day he [the leper] brought three beasts: a sin-offering, a guilt-offering, and a burnt-offering; and a poor man brought a sin-offering of a bud and a burnt-offering of a bird [M. Neg. 14:7].* But is not the [poor man’s] sin-offering of a bird deficient in time relative to the guilt offering?
- [H] Said R. Eleazar: “Here Scripture sanctions to dedicate [animals] deficient in time.”
- [I] *R. Abba bar Mammal asked before R. Ammi*, “It is written and on the eighth day he shall bring two turtle doves, or two young pigeons, to they priest] (Num. 6:10). “If he violated and did not bring them, does he transgress?”
- [J] He said to him, “Every matter [injunction] that is intended to be permissive, one does not transgress.”
- [K] What does it [they injunction] come to permit?
- [L] *It is in accord with what R. Eleazar said [with regard to the leper]:* “Here Scripture sanctions to dedicate [animals deficient in time.”
- [M] Said R. Yosé the son of R. Abun: “All [the first] seven [days of the Nazirite], we do not require him to bring [the offerings]; only from this point on [the eighth day] do we require him to bring [the offerings that he owes, which now have fallen due].”
- [N] *A Tannaite formulation contradicts R. Yosé the son of R. Abun:* All of them plan and bring their offerings on the [next] festival.” This is right for the Nazirite, but as to the

leper, is he not wanting [the ceremony of] atonement [for full restoration to cleanness]?

[O] *“For do we not learn, the [recital of the whole] Hallel and the rejoicing [continued for] eight days [M. Suk. 4:1]?”*

[P] Solve it by [saying that it refers to] the Nazirite [only].

[Q] *R. Zechariah, the son-in-law of R. Levi, asked, “The beginning [of the Tannaite teaching you interpret to refer to the Nazirite and the end to the leper]?”*

[R] *Said R. Mattanaiah the son of R. Hillel, “Was [that difficulty] not raised elsewhere, and R. Yosé said that R. Eudemus the Emigrant interpreted as follows: ‘That is stated with regard to the priests and the he-goats’. So also here, reference is made to the priests with he-goats.”*

[II:8 A] *R. Haggai asked before R. Yosé, “It is written and on the eighth day [the flesh of his foreskin] shall be circumcised (Lev. 12:3). [What happens if] he transgressed and did not circumcise?”*

[B] He [Rabbi Yosé] said to him, “‘When you shall vow a vow to they Lord your God, you shall not delay to pay it’ (Deut. 23:22). Reference is made to a matter subject to payments; it exempts this case, which is not subject to payments.”

[II:9 A] *“You shall not delay to pay it,” and not its substitute, in line with that which is taught, “and to the door of the tent of meeting has not brought it’ (Lev. 17:4) – and not its substitute.*

[B] *Said R. Jonah, “Levi ben Sisi interpreted it before R. concerning the one who says ‘I obligate myself to a burnt offering,’ and for whom three festivals pass and who then brings another [a substitute] and offers it immediately, – I would have said that he is exempted from [the obligation of] the first one. Therefore it is necessary to say, ‘You shall not delay to pay it, – and not its substitute.’”*

[C] *Said R. Yosé, “[But if this is] with regard to the one who says ‘I obligate myself,’ [since it is a vow,] he transgresses immediately!”*

[D] *Rather this is the case before us: concerning the one who says, “this shall be a burnt-offering,” and two festivals pass, and he brings another [a substitute] in its stead and he does not offer it immediately, and the third festival passes. Now, in such a case, I would have said that you should count [the original] with a substitute [to total] three festivals.*

[E] Therefore it is necessary to say, “you shall not delay to pay it, – and not its substitute.”

[F] For you surely require that these refer to sin-offerings and guilt-offerings.

[G] “The Lord your God:” this refers to an object dedicated for keeping the Temple in repair.

[H] “Of you:” that is, gleanings, forgotten sheaves, and corners of the field.

[I] “And it will be sin in you:” but not sin in your offering.

[J] *For if it is not so, what do we mean?*

[K] Said R. Samuel the son of R. Yosé the son of R. Abun, “It is so that you will not say, perhaps the sacrifice will be found unfit. Therefore it is necessary to say, ‘and it will be sin in you,’ but not sin in your offering.”

[II:10 A] “That which has gone out of your lips you shall observe and do” (Deut. 23:24).

[B] “You shall observe and do” – to warn the Court that they shall make you [observe and do].

[C] The Rabbis of Caesarea in the name of R. Abuna: from here [we learn that one is subject to offer] a pledge [for fulfillment of a vow].

[D] “According as you have vowed to the Lord your God a gift (Deut. 23:24). And is there a “vow” which is called a “gift”?

[E] “But [this verse comes rather] to make liable [on you shall not delay] for every vow and every gift offering [separately].

[II:11 A] What is [the formula of] that which they designated as a vow?

[B] When one says, “I obligate myself to a burnt-offering.”

[C] And what is [the formula of] that which they designated as a gift?

[D] When one says, “this shall be a burnt-offering.”

[E] *R. Hama, the Fellow of the [Council of] Rabbis* asked, “What if he said “I obligate myself” and repented and said “this shall be”?

[F] *R. Hinena* asked [challenging the question], “This is not logical – if he did not say ‘this shall be’ and repented and said ‘I obligate myself.’”

[G] A more stringent [56d] prohibition takes precedence over a less stringent prohibition; but a less stringent prohibition does not take precedence over a more stringent prohibition.

[H] They [the Rabbis] have added to them the payment of rent and the offering of the shekel.

[I] The payment of rent: said R. Jonah, “Only if [the renter] said, ‘[rent] for this year,’ but if he said, ‘one year,’ he rents it from one point of time to the other.”

[J] And the offering of the shekel: *it is in accord with that which R. Samuel bar Isaac said,*” At [the time of] its beginning, and it came to pass in they first month in the second year, on the first day of the month, that the tabernacle was reared up’ (Ex. 40:17). *And it is taught concerning that statement:* on the day that the tabernacle was reared up, on that very day the offering was taken [from the treasury].”

[II:12 A] R. Tabi [and] R. Josiah in the name of Kahana: “It is written here, ‘the months of the year’ (Num. 28:14) and it is written elsewhere, ‘the months of [the year]’ (Ex. 12:2).

[B] “Just as elsewhere the use of ‘the months of’ is counted only from Nisan, so the months of here is counted only from Nisan.”

[C] Said R. Jonah, “R. Tabi left out the first part [of the Tannaite rule] and cited [only] the end. *But it is not so! It should be taught thus:* ‘this is the burnt-offering of the new moon in its month’ (Num. 28:14). It might be said that he would he obligated to offer heave offering every month? Therefore Scripture says, ‘in its month of the months.’ He offers one heave offering for all the months of the year.

[D] “It might be [that he would offer it] in whatever month he wishes? It is written here ‘the months of [the year]’ (Num. 28:14) and it is written elsewhere, ‘the months of the year’ (Ex. 12:2). Just as elsewhere the use of the months is counted only from Nisan, so the months here are counted only from Nisan.”

[III:1 A] *Elsewhere we have learned:* **R. Meir says, “On the first of Elul it is the New Year for the tithing of cattle.”**

[B] **Ben Azzai says, “Those born in Elul are tithed by themselves” [M. Bekh. 9:5].**

[C] *Rab Huna said, “This is the reasoning of R. Meir:* up to that time [the first of Elul] the latest births of the old year [of those conceived before

the first of Nisan] take place; beyond that time they begin to give birth from the new ones [conceived after the first of Nisan].”

[D] *R. Yosé the son of R. Abun in the name of Rab Huna [said], “The reasoning of R. Eleazar and R. Simeon is as follows: ‘the rams have mounted the sheep’ (Ps. 65:14). Those refer to the early-bearing sheep. ‘The valleys also are covered over with offspring’ (ibid.). Those refer to the sheep which conceive late in the season. ‘They pasture all’ (ibid.). These are born early] and those [born late] enter into they shed to be tithed.”*

[E] Said Ben Azzai: “Since some say thus and others say otherwise, let those [the sheep] born in Elul be tithed by themselves.”

[F] How is this?

[G] If he has five born in Ab, five in Elul, and five in Tishré, they do not combine. But if he has five born in .Ab and five in Tishré, they do combine.

[H] Is that to suggest that Ben Azzai was both a colleague and a disciple to R. Aqiba? And would Ben Azzai arbitrate the views of his disciples?

[I] R. Jeremiah [and] R. Miasha in the name of R. Samuel bar Rab Isaac: “For the fathers of the world differed about it.”

[J] *Who are “the fathers of the world”?*

[K] *R. Jonah in the presence of R. Jeremiah teaches: R. Ishmael and R. .Aqiba*

[L] It follows from this that Ben Azzai was both a pupil and a colleague to R. Aqiba

[M] *For if you say [Rabbi Ahba was only his teacher – is there a person who says to his teacher “since some say thus and others say otherwise”?*

[N] *R. Abbahu in the name of R. Samuel the son of Rab Isaac learned it from this: “Ben Azzai said to him, ‘We already grieve over those things concerning which they differ. Now you have come to bring us dissension over that concerning which they agree.’*

[O] “It follows that Ben Azzai was a colleague and a pupil to R. Aqiba. *For if you say R. Aqiba was his teacher, is*

there a person who says to his teacher: ‘you have come to bring dissension upon us?’”

- [III:2 A] *Elsewhere we learn: [All animals born] from the first of Tishré to the twenty-ninth of Elul combine (for the tithing of cattle). Five born before the New Year and five born after the New Year do not combine. But five born before the period of tithing] and five born after the period of tithing do combine to enter the same shed for tithing [M. Bekh. 9:6].*
- [B] If so why did they speak of three periods for the tithing of cattle? [It is for the purpose of informing us that until the arrival of the [tithing] period it is permitted to sell and slaughter [the animals, but when the period has arrived he must not kill, but if he did, he is exempt.
- [C] Said R. Yosé, “It follows that they did not require the tithing of cattle similar to the time of the formation of fruits nor to [the stage of] one-third [maturity]. For if you say, ‘similar to the time of the formation of fruits,’ *it would have taught* ‘all those conceived from the twenty-ninth of Elul.’ If you say, ‘according to [the stage of] one-third [maturity],’ *it would have taught*, ‘all those born until the twenty-second of it [Elul].”
- [D] R. Shammai in the name of R. Abun bar Hiyya: “They did determine tithing of cattle according to [the stage of] the third [maturity], in accord with the view of R. Simeon. For R. Simeon said, “An animal, though immature can enter the shed to be tithed.””
- [E] *R. Mana rose against R. Shammai. He said to him, “Have you made this statement? Behold we have learned: **Ben Azzai says, those born in Elul are tithed by themselves.**’ Is this not even if the beast was born until the twenty-ninth of Elul? *But then can you then say that Ben Azzai is going over the same ground as R. Simeon”**
- [F] *No, he follows the Rabbis: Just as you say according to the Rabbis: leave them and tithe them next year and they will be tithed with those born in the same year, likewise you would say according to Ben Azzai: leave them for the coming period and they will be tithed with those belonging to Elul.*
- [G] Said Rab Huna, “It follows that the days in which the firstborn is lacking in time [eight days] are included in its year.”
- [H] *Said R. Mana, “R. Jonah my father learned it from the following verse: ‘all the firstling males that are born of your herd and of your flock you shall sanctify unto the Lord your*

God' (Deut. 15:19). How? From the time of its birth you count its year."

1:2

[A] (3) **The first day of Tishré is the new year for the reckoning of years, for Sabbatical years, and for Jubilees,**

[B] **for planting [trees] and for vegetables;**

[C] (4) **the first day of Shebat is the new year for trees, in accord with the opinion of the House of Shammai.**

[D] **The House of Hillel say, "On the fifteenth day of that month [is the new year for trees]."**

[I:1 A] Whence years? One verse says and the feast of ingathering, at the end of the year Ex. 23:16), and another verse says and the feast of ingathering, at the turn of 106 the year (Ex. 34:22). Which month contains a festival and an equinox and an ingathering and the [old] year goes out with it[s beginning]? Which one is this? It is Tishré.

[B] *If you say Tebet, it contains a solstice but it does not contain a festival or an ingathering. If you say Nisan, it contains an equinox and a festival but it does not contain an ingathering. If you say Tammuz, it contains a solstice and an ingathering but it does not contain a festival. And which one is this? It is Tishré.*

[C] *The Fellows [of the Council of Rabbis] said before R. Jonah, "Let it be Tammuz."*

[D] He said to them, "It is written, 'in the seventh month' (Lev. 23:24) *and you say thus!*"

[E] They said to him, "Let it be Tammuz."

[F] He said to them, "Now you are beginning to contend with me concerning the names of the months."

[G] For R. Hanina said, "The names of the months came up with them from Babylonia: 'originally in the month Ethanim' (I Kings 8:2), for in it the patriarchs were born and died, the matriarches were remembered. Originally 'in the month Bul' (I Kings 6:38), for in it the foliage decays and the earth becomes cloddy; for in it they mix fodder for the cattle from what is stored inside. Originally 'in the month Ziv' (I Kings 6:37), for in it is the bloom of the world. The plants become distinguishable and the trees become distinguishable. Subsequently 'and it came to pass in the month Nisan, in the

twentieth year' (Nehemiah 2:1); and 'it came to pass in the month Kislev, in the twentieth year' (Nehemiah 1:1); 'in the tenth month, which is the month Tebet' (Esther 2:16)."

[H] R. Simeon ben Laqish said, "Also the names of the angels came up with them from Babylonia: originally 'then flew unto me one of the seraphim' (Isaiah 6:6); 'above Him stood the seraphim' (Isaiah 6:2). Subsequently 'the man Gabriel' (Daniel 9:21); 'except Michael your prince' (Daniel 10:21).

[II:1 A] Concerning **Sabbatical years**, whence?

[B] At the end of every seven years you shall make a release (Deut. 15:1). Just as years in general [are counted] from Tishré, so Sabbatical years [are counted] from Tishré.

[III:1 A] Concerning **Jubilee years**, whence?

[B] And you shall count seven Sabbaths of years, seven times seven years (Lev. 25:8). Just as years and Sabbaticals [are counted] from Tishré, so Jubilees [are counted] from Tishré.

[C] *They raised an objection:* "But is it not written, 'then shall you make proclamation with the blast of the horn [on the tenth day of the seventh month] (Lev. 25:9)?"

[D] R. Jonah and R. Yosé, both of them [said] in the name of R. Samuel bar Rab Isaac, "It is so that all months of the year will be equal, in that no single month may be divided between two years."

[E] *They raised an objection:* **But behold we learn [in the Mishnah]: On the first of Shebat is the New Year for trees, according to the school of Shammai; the school of Hillel say on the fifteenth.** Behold the months of the year are not equal, and a single month is [in fact divided between two years!"]

[IV:1 A] How for **young trees**?

[B] *It is taught:* the one who plants. and the one who sinks a vine, and the one who grafts [at least] thirty days before the New Year, it is accounted to him is a full year and he is permitted to keep it in the Sabbatical year. If he did so less than thirty days before the New Year, it is not accounted to him as a full year, and he is forbidden to keep them in the Sabbatical year.

[C] But they said: fruits of this young tree are forbidden until the fifteenth of Shebat.

[D] *What is the proof?*

[E] R. Yosé in the name of R. Yohanan: ““And in the fourth year”” (Lev. 19:24).

[F] What do you learn from it?

[G] Said R. Zeira, “Three years it shall be as orlah to you; it shall not be eaten even in the [fourth] year.”

[H] Said R. Abba bar .Mammal in the presence of R. Zeira, “These words appear reasonable when they planted thirty days before the New Year, but if they planted less than thirty days before the New Year. *Come and see*, it is accounted to him as a full year *and you say thus!*”

[I] He said to him, “But if so, even if they planted thirty days before the New Year, it should be forbidden until thirty days before the New Year.”

[J] *What is the upshot?*

[K] Said R. .Mana, “Since it is standing in the year of the tree, it completes its [the tree’s] year.”

[IV:2 A] How for “**vegetables**”?

[B] If an Israelite harvested the eve of the New Year before nightfall, and a gentile after nightfall, tithe from each of the two separately.

[V:1 A] R. Zeira, R. Illa, R. Eleazar in the name of R. Hoshayya – one said, “Most of the rains of the entire year have gone already, and the major part of the cycle has gone.”

[B] And the other said, “Until now they [trees] are sustained by the waters of the previous year; henceforth they are sustained by the waters of the coming year.”

[C] *And they did not know who [of the authorities] said this and who said that.*

[D] *From that which R. Yosé said, R. Ila [said] that R. Eleazar [said] in the name of R. Hoshayya: “Most of the rains of the entire year have gone already, and the major part of the cycle has gone,” it must be R. Zeira who said, “Until now they [trees] are sustained by the waters of the previous year; henceforth they are sustained by the waters of the coming year.”*

- [V:2 A] A story concerning R. Ahba, who plucked an etrog, and subjected it to the stringencies of the school of Shammai and the stringencies of the school of Hillel.
- [B] But why specify an etrog? Why not even any other tree?
- [C] *It is taught:* according to the stringencies of Rabban Gamaliel and according to the stringencies of R. Eleazar.
- [D] Rabban Gamaliel and R. Eleazar follow the school of Hillel!
- [E] Said R. Yosé son of R. Abun, “The solution is that it blossomed before the fifteenth of Shebat of the second [year] and entered the third [year].
- [F] “According to the opinion of Rabban Gamaliel, Poor man s Tithe. According to the opinion of R. Eleazar, Second Tithe.”
- [G] What did he do? He called its name [Second] Tithe and redeemed it and gave it to the poor.

1:3

- [A] **At four seasons of the year the world is judged:**
- [B] **at Passover through grain;**
- [C] **at Pentecost through fruit of the tree;**
- [D] **at the New Year all who enter the world pass before Him like troops,**
- [E] **since it is said [Ps. 33:15]: “He who fashions the hearts of them and who considers all their works;”**
- [F] **and on the Festival [of Tabernacles] they are judged through water.**
- [I:1 A] *Some authorities teach:* all of them are judged on the New Year, and the [divine] sentence of each one is sealed on the New Year.
- [B] *Other authorities teach:* all of them are judged on the New Year, and the [divine] sentence of each one is sealed on Yom Kippur.
- [C] *Other authorities teach:* all of them are judged on the New Year, and the [divine] sentence of each one is sealed at its appointed time.
- [D] *Other authorities teach:* each one is judged at its appointed time, and the [divine] sentence of each one is sealed at its appointed time.
- [E] *The Mishnah is in accord with the one who said,* all of them are judged on the New Year, and the [divine] sentence of each one is sealed at its appointed time, **for we learn: and on Tabernacles judgment is passed with respect to water.**

[I:2 A] *[From] Rab's wording it follows that all them are judged on the New Year the [divine] sentence of every one of them is sealed on the New Year*

[B] *For it is taught in Rab's Shofar Prayers: Today is the day of the beginning of your works, a memorial to the first day [of Creation]. For it is a statute for Israel, an ordinance of the God of Jacob. And on it will be said concerning the nations: which [is destined] for the sword and which for peace; which for famine, and which for plenty. And on it .creatures are passed upon to record them for life or death.*

[C] *But this is not in accord with the view of R. Yosé, for R. Yosé said, "An individual is judged every moment. What is the proof? 'That you should pass judgment upon him every morning, examine him every moment' (Job 7:18). 'That you should pass judgment upon him every morning' – this refers to his daily sustenance. 'Examine him every moment' – this refers to his eating."*

[I:3 A] R. Isaac the Elder in the name of Rabbi: "The king and the public are judged every day."

[B] *What is the proof?* "That He do the judgment of His servant, and the judgment of His people Israel, every day shall require" (I Kings 8:59).

[I:4 A] Said R. Levi: "'And He will judge the world in righteousness. He will minister judgment to the peoples with equity' (Ps. 9:9).

[B] "The Holy, One blessed be He judges Israel by day at the time when they are occupied with divine commandments; and the nations by night. It the time when they have abstained from transgressions."

[C] Samuel said: "After He judges Israel, He judges the nations."

[D] How does Samuel interpret, "He will minister judgment to the peoples with equity"? Judge them according to their worthies. He remembers for them the deeds of Jethro, he remembers for them the deeds of Rahab the harlot.

[I:5 A] *R. Hiyya bar Abba asked, "As to produce blasted [by a hot wind] on the eve of Passover, by virtue of which judgment was it smitten? If you say 'the coming year,' it hasn't yet come! If you say the departing year, Thus it was waiting the entire year to smite now?"*

[B] "Those who die between the New Year and Yom Kippur, by virtue of which judgment do they die? If you say the coming year, it

hasn't yet come! If you say the departing year, thus they were waiting the entire year to die now?"

- [C] And he did not hear what R. Qerispa in the name of R. Yohanan said, "There are three account books [before the Lord]: one for the fully righteous, one for the fully wicked, and one for the intermediates.
- [D] "With regard to that of the fully righteous. they have received verdicts of life by the New Year.
- [E] "With regard to that of the fully wicked, they have received their verdicts by the New Year.
- [F] "With regard to that of the intermediates, the ten days of repentance between the New Year to Yom Kippur were given to them. If they repent, they are inscribed with the righteous; and if not, they are inscribed with the wicked."
- [G] What is the proof? "Let them be blotted out of the book" (PS. 69:29) – these are the wicked. "Of the living" – these are the righteous. "And not be written with the righteous" – these are the intermediates.
- [H] *R. Hananiah, the Fellow of the [Council of] Rabbis, asked,* "But does not the Holy One blessed be He know the future?"
- [I] And he did not hear what R. Simon in the name of R. Joshua ben Levi said, "The Holy One blessed be He does not judge man except for [what he has done in] the time so far."
- [J] *What is the proof?* "Fear not. for God has heard the voice of the lad where he is now" (Gen. 21:17).
- [K] R. Levi said, "It is written, 'The boasters shall not stand judgment in your sight.' Why? 'Because you hate all doers of iniquity' (Ps. 5:6)."
- [L] Expounded R. Issachar of Kefar .Mandi: "'For He knows base men; but when He sees iniquity, will he not then consider it? (Job 11:11)."
- [M] Said R. Joshua ben Levi, "'If you were pure and upright' is not written here, but 'if you are pure and upright' (Job 8:6)."
- [N] Said R. Hiyya bar Abba, "'The greyhound, the he-goat also, and the king alkum are with him' (Prov. 30:31).

Ordinarily one seeks for his animal to win a race, and another does the same. But that is not how the Holy One blessed be he is. Rather, ‘and the king alkum is with him,’ meaning, ‘he does not want a race against him,’ because ‘he will not contend for victory[(Ps. 103:9). *He does not contend to prevail.*”

[O] Said R. Eleazar, “[Given in Hebrew letters for the Greek: *para basileus o nomos agraphos*:] ‘For the king the law is not written.’ Ordinarily when a mortal king issues a decree, if he wants, he keeps it, if he wants, others have to. But that is not how the Holy One, blessed be he, is[rather, he issues a decree and is the first to keep it. *On what basis* ‘They shall keep my precepts..I am the Lord’ (Lev. 22:9) – I am he who kept the precepts of the Torah first of all.”

[P] R. Simeon said, “‘You shall rise up before the hoary head, and honor the face of the old man, and you shall fear your God, I am the Lord’ (Lev. 19:32) – I am he who first fulfilled the divine commandment of standing before the elder.”

[Q] R. Simeon said, “‘For what great nation is there that has a god so near to it, as the Lord our God is to us whenever we call upon him? And what great nation is there that has statutes and ordinances so righteous’ (Dt. 4:7-8).”

[R] R. Hama b. R. Hanina and R. Hoshayya – one said, “Is there a nation like this nation? Ordinarily someone who knows he is on trial wears black and wraps himself in black and lets his beard grow, since he does not know how his trial will turn out. But that is not how it is with Israel. Rather, on the day of their trial they wear white and wrap themselves in white and shave their beards and eat, drink, and rejoice, for they know that the Holy One blessed be he does miracles for them.”

[S] The other said, “Is there a nation like this nation? Ordinarily the ruler says, ‘The trial is today,’ and the robber says, ‘The trial is tomorrow’ – so to whom do they listen? Is it not to the ruler? But that is not how it is with the Holy One, blessed be he. The court says, ‘Today is the New Year.’ The Holy One, blessed be he, then says to the ministering angels, ‘Set up the

platform, let the defenders rise and let the prosecutors rise, for my children have announced, 'Today is the New Year.' If the court determined to declare the month of Elul full thirty days, so that the New Year falls on the next day, then the Holy One, blessed be he, says to the ministering angels, 'Now remove the platform, remove the defense attorneys, remove the prosecutors, for my children have determined to declare Elul a full month. What is the proof? 'For it is a statute for Israel, an ordinance of the God of Jacob' (Ps. 81:5). If it is not a statute for Israel, then, as it were, it also is no ordinance of the God of Jacob."

[T] R. Qerispa in the name of R. Yohanan said, "In the past 'these are the appointed seasons of the Lord.' Subsequently: 'which you shall proclaim' (Lev. 23:4)."

[U] Said R. Illa, "If you designate them, 'my appointed seasons' (Lev. 23:2), then they are my appointed seasons, and if not they are not my appointed seasons."

[V] Said R. Simon, "'Many things have you done, O Lord my God, even your wondrous works and your thoughts toward us' (Ps. 40:6) – in the past many things have you done. Then: your works and your thoughts toward us."

[W] Said R. Levi, "It may be compared to a king who had a clock. When his son grew up, he handed it over to him."

[X] Said R. Yosé bar Hanina, "This may be compared to a king who had a bracelet. When his son grew up, he handed it over to him."

[Y] Said R. Aha, "This may be compared to a king who had a signet ring. When his son grew up, he handed it over to him."

[Z] Said R. Hiyya bar Abba, "This may be compared to a carpenter who had a set of tools. When his son grew up, he handed it over to him."

[AA] Said R. Isaac, “This may be compared to a king who had a storehouses. When his son grew up, he handed it over to him.”

[BB] And rabbis said, “This may be compared to a physician who had a medicine chest. When his son grew up, he handed it over to him.”

[II:1 A] At the New Year all who enter the world pass before Him like troops, since it is said [Ps. 33:15], “He who fashions the hearts of them and who considers all their works:”

[B] Said R. Aha, “They are like those that pass through the tithing sheds.”

[C] And rabbis said, “Like those of Beth Numin.”

[D] What is the relevant verse of Scripture?

[E] “He who fashions the hearts of them all, who considers all their doings” (Ps. 33:115).

[F] Said R. Levi, “He who fashions the hearts of them all had considered all their doings.”

[G] Said R. Eleazar, “Ordinarily, which is easier for the potter? To make one hundred utensils or to look at them? Surely it is to look at them.”

[H] Said R. Berakhiah, “Their creators wants their hearts to be directly solely to him.”

[I] Said R. Abun, “He who is unique in his world has considered all their doings.”

[III:1 A] And on the Festival [of Tabernacles] they are judged through water.

[B] This formulation of the Mishnah derives from R. Aqiba, for *R. Aqiba has said, “The water libation derives from the authority of the Torah. On the second day of Tabernacles, ‘and their drink offerings’ (Num. 29:19). On the sixth day, ‘and his drink offering’ (Num. 29:31). ‘On the seventh day, ‘after the ordinance’ (Num. 29:33). Now the variation in the wording of these clauses yields extraneous letters that spell out the word for water.”*

[C] The Torah states, “Bring the first barley at Passover,” that the produce may be blessed for you, bring the first wheat at the Festival of Weeks, that the fruits of the tree may be blessed for you. It follows that the

water libation on Tabernacles is presented so that the waters may be blessed for you.

- [III:2 A] Taught R. Simeon bar Yohai, *“Behold, if Israel was worthy on the New Year, so that plentiful rain was decreed for them, and then they sinned, then, to diminish the rain is not possible, for the decree has already been issued. So what does the Holy One, blessed be he, do? He scatters the rain to the sea, desert, and river, so that the land will not benefit from it. What is the proof? ‘To cause it to rain on a land where no man is, on the wilderness in which there is no man’ (Job 38:26).*
- [B] “Behold, if Israel was not worthy on the New Year, so that diminished rain was decreed for them, but in the end they repented, well, to add to the rain is not possible, for the decree was already issued. So what does the Holy One, blessed be he, do for them? He brings them as much as is needed for the land and calls down dew and wind so that the land will benefit from the rain. What is the proof? “Watering her ridges abundantly, settling down the furrows thereof, you make her soft with showers, you bless the growth thereof” (Ps. 65:11).”
- [C] “Drought and heat consume the snow waters, so does the nether world those who have sinned” (Job 25:19) – because of transgressions done by Israel in the summer, they are deprived of the snow waters.
- [D] “The eyes of thee Lord your God are always upon the land, from the beginning of the year to the end” (Dt. 11:12) – Kahana said, “From the poverty of it is what is written.”
- [E] “And to the end of the year:” he afflicts it in its beginning and he gives it a good end at the close.”

1:4

- [A] **On the occasion of six new moons messengers go forth:**
- [B] **(1) at Nisan, because of Passover; (2) at Ab, because of the fast; (3) at Elul, because of the New Year; (4) at Tishré, because of the determination of the set feasts; (5) at Kislev, because of Hanukkah; and (6) at Adar, because of Purim.**
- [C] **And when the Temple stood, they go forth also at Iyyar, because of the lesser Passover [observed by those unclean for the first Passover].**
- [I:1 A] Why not send messengers also for the Festival of Weeks?

- [B] The time of the Festival of Weeks is fixed [in relationship to Passover].
- [C] Hence you are saying that sometimes the festival of Weeks falls on the fifth of Sivan, sometimes on the sixth, sometimes on the seventh. When the months are full, it is on the fifth; in their order, on the sixth; defective, on the seven.

[I:2 A] But did not messengers go out in Elul?

- [B] It was only to declare that the month was sanctified [that they went to announce Tishré].
- [C] Said R. Joshua b. Levi, “I promise those messengers who go to Nimrin that none of them will die on route.”
- [D] There they are troubled for the Great Fast of Yom Kippur for two days. Said to them R. Hisda, “Why get yourself into such trouble? We assume that the court is never remiss with regard to that occasion.”
- [E] *The father of R. Samuel bar Isaac was bothered about the problem and so he fasted for two days. But his bowels stopped working and he died.*

1:5

- [A] [In order to present testimony] of the [beginning] of two months they profane the Sabbath [by traveling beyond the Sabbath limit in order to notify the court of the appearance of the new moon]:**
- [B] for Nisan and for Tishré.**
- [C] For on these occasions the messengers go forth to Syria.**
- [D] And on them they determine the set feasts.**
- [E] And when the Temple stood, they profane the Sabbath [by traveling beyond the Sabbath limit in order to notify the court of the appearance of the new moon] on the occasion of all of the [months],**
- [F] because of the [need] to determine [the correct day for] the offering [marking the beginning of the new month].**
- [G] Whether [the new moon] appeared clearly or did not appear clearly,**
- [H] they violate the [prohibitions of] the Sabbath on its account.**
- [I] R. Yosé says, “If it appeared clearly, they do not violate the prohibitions of the Sabbath on its account.”**
- [J] M’S H S: More than forty pairs [of witnesses] passed [on their way to Jerusalem].**

[K] **But R. Aqiba kept them back at Lud.**

[L] **Rabban Gamaliel sent to him [saying], “If you keep back the people, you will turn out to make them err in the future.”**

[I:1 A] *What is the meaning of the language, Whether [the new moon] appeared clearly or did not appear clearly?*

[B] It means, “exposed,” as in the usage, “as purified silver is exposed to the earth, refined seven times” (Ps. 12:7).

[II:1 A] **M’S H S: More than forty pairs [of witnesses] passed [on their way to Jerusalem]. But R. Aqiba kept them back at Lud,** because they were more than forty pair.

[B] But if it were a single pair, he would not have held them back.

[C] **Rabban Gamaliel sent to him [saying], “If you keep back the people, you will turn out to make them err in the future.**

[D] “Then you will keep many from performing a religious duty , and one who keeps many from doing a religious duty is subject to a ban.”

[E] Said R. Judah the baker, “God forbid, R. Aqiba was not put under a ban. It was Zekher, the head of Geder, and Gamaliel sent and removed him from office.”

1:6

[A] **A father and his son who saw the new moon should go [to give testimony].**

[B] **It is not that they join together with one another [to provide adequate testimony],**

[C] **but so that, if one of them should turn out to be invalid [as a witness], the other may join with someone else [to make up the requisite number of witnesses].**

[D] **R. Simeon says, “A father and his son, and all relatives, are valid to give testimony about the new moon.”**

[E] **Said R. Yosé, “M’S H B: Tobiah, the physician, saw the new moon in Jerusalem – he, his son, and his freed slave.**

[F] **“And the priests accepted him and his son [as witnesses to the new moon], but they invalidated the testimony of his slave.**

[G] **“But when they came before the court, they accepted his [testimony] and that of his slave, but they invalidated that of his son.”**

[I:1 A] *What is the evidence in behalf of the position of R. Simeon?*

[B] ““It is as at the beginning, ‘And God said to Moses and to Aaron, ‘This new moon is to you the beginning of months’” (Ex. 12:1).

[II:1 A] Tobiah, the physician, saw the new moon in Jerusalem– he, his son, and his freed slave:

[B] The priests accepted him and his son, but disqualified his slave as unfit. But when they came before the court, they accepted him and his slave but disqualified his son, because he is a relative.

1:7

[A] These are the ones who are invalid [to testify about the appearance of the new moon]:

[B] (1) he who plays with dice, (2) they who lend on interest, (3) they who race pigeons, (4) they who trade in produce of the Seventh Year, (5) and slaves.

[C] This is the governing principle: Any evidence that a woman is not valid [to offer], also they are not valid [to offer].

[I:1 A] Who is one who plays with dice?

[B] All the same are those who play with dice, plays with nut shells or with pomegranates.

[C] When can they accept him [who gambles with dice] back? After he breaks the dice and is examined and is found to have completely repented.

[II:1 A] they who lend on interest:

[B] As to one who lends on interest, when can they accept him back? After he tears up his documents and is examined and it turns out that he has completely repented.

[III:1 A] they who race pigeons:

[B] As to one who races pigeons, that is whether he races pigeons or races other animals, a beast of chase or a bird.

[C] From what time may they accept him back?

[D] After he breaks his snares and is examined and turns out to have repented completely.

[IV:1 A] they who trade in produce of the Seventh Year:

[B] That is a specialist in trading in the Seventh Year. Who is such a one? It is he who sits idle through the whole cycle, but when the Sabbatical

Year comes, he begins to get involved and deal in produce that is subject to sin.

[C] From what time may they accept him back?

[D] After the next Sabbatical Year arrives and he is examined and turns out to have repented wholly and completely.

[E] *It has been taught:* R. Yosé says, “Two Sabbatical cycles.”

[F] *It has been taught in the name of R. Nehemiah,* “It must be repentance of a concrete, monetary restitution, not just in words. And he should say, ‘I give to you two hundred zuz, give to the poor what I have profited of fruits subject to sin.’”

[IV:2 A] They added to the list shepherds and extortionists and robbers and all those who are suspect of appropriating what belongs to others; their testimony is invalid.

[B] Said R. Abbahu, “That is the case only of those who tend small cattle.”

[IV:3 A] *Said R. Huna, “Who is the authority behind the rule concerning racing pigeons? It is R. Eliezer, for we have learned in the Mishnah: **Two teachings in the name of R. Eliezer: “A woman may go out on the Sabbath wearing a golden tiara, and those who race pigeons are disqualified to give testimony.”***

[B] *Said R. Mana in the presence of R. Yosé, “Is the entire set of ruling in tractate Sanhedrin, [at Mishnah 3:3, given anonymously,] in fact in accord with the position of R. Eliezer alone and not unanimous, as just now shown here?”*

[C] He said to him, “It is a unanimous position.”

[D] What is the meaning of the claim that it is a unanimous position?

[E] This is what R. Yosé said, “We know that the pigeon racer is disqualified from testimony in monetary matters.”

[F] Then what is the point of the presentation in Mishnah-tractate Eduyyot?

[G] Just as he is disqualified from testifying in monetary matters, so he is disqualified from testifying in capital cases.

[H] *And are witnesses to the appearance of the new moon equivalent to witnesses in capital cases? But behold, it teaches: **This is the governing principle: Any evidence that a woman is not valid [to offer], also they are not valid [to offer].***

[I] *Who is responsible for this formulation? Can it be rabbis? Then could the consensus of the rabbis concur with R. Eliezer and also differ from his position?*

[J] *R. Jonah in the name of R. Huna: “All of them represent the position of R. Eliezer. The differences in this case are based on the same principles as are in the following case, which has been taught: “A false witness is disqualified for all testimony in the Torah,” the words of R. Meir. Said R. Yosé, “Under what circumstances? When he is found perjured in a capital case. But if he was perjured in a monetary case, then it is only in monetary cases that he is suspect and disqualified.”*

[K] *Now the position of R. Yosé is equivalent to the consensus of sages here, and that of R. Meir is equivalent to that of R. Eliezer.*

1:8

- [A] **He who saw the new moon but cannot go [on his own to testify]— they bring him along on an ass, even in a palanquin.**
- [B] **And if there is an ambush set up against them, they take staves in hand.**
- [C] **And if it was a long trip, they take food in hand.**
- [D] **For: On account of a journey [requiring travel] for a night and a day they violate [the prohibitions of] the Sabbath and go forth to give testimony about the new moon, since it is said [Lev. 23:4]: “These are the set feasts of the Lord, even holy convocations, which you shall proclaim in their appointed season.”**
- [I:1 A] Said R. Isaac, “The Torah speaks in imprecise idioms of various kinds, for example: ‘And the man wondered at her’ (Gen.24:2); **any jar holding two seahs [M. Ter. 10:8], And if there is an ambush set up against them, they take staves in hand.**”
- [I:2 A] Might one think that just as they may profane the Sabbath to give testimony concerning these particular new moons, so they may profane the Sabbath to announce the the dates of the New Month have been set?
- [B] Scripture states, “which you shall proclaim” (Lev. 23A:4) – concerning the proclamation only you may profane the Sabbath, but you may not profane the Sabbath to announce that they have been designated.

- [I:3 A] *R. Simeon b. Laqish asked, “As to cutting the first sheaf of barley, does it override the Sabbath during the day [if the sixteenth of Nisan coincides with the Sabbath? It is to be cut by night, but if the first day of the festival is Friday, the cutting is done Friday night, and that will override the Sabbath; is it also valid to do so during the day?]”*
- [B] *Answered R. Abbaye, “Behold we have learned that the religious duty involved is to reap it by night, but if it was reaped by day, it is valid; and it overrides the Sabbath.”*
- [C] But he did not accept that ruling.
- [D] Said R. Aha, “R. Simeon b. Laqish retracted his objection *because of this formulation* [at M. Men. 6:3]: **How did they do it? Agents of the court go forth on the eve of the afternoon before the festival of Passover. And they make it into sheaves while it is still attached to the ground, so that it will be easy to reap. And all the villagers nearby gather together there on the night after the first day of Passover, so that it will be reaped with great pomp. Once it gets dark on the night of the sixteenth of Nisan, he says to them, “Has the sun set?” They say, “Yes.” “Has the sun set?” They say, “Yes.” “With this sickle?” They say, “Yes.” “With this sickle?” They say, “Yes.” “With this basket?” They say, “Yes.” “With this basket?” They say, “Yes.” On the Sabbath, he says to them, “Shall I reap on this Sabbath?” They say, “Yes.” “Shall I reap on this Sabbath?” They say, “Yes.” “Shall I reap?” They say, “Reap.” “Shall I reap?” They say, “Reap” three times for each and every matter. And they say to him, “Yes, yes, yes.” All of this pomp for what purpose? Because of the Boethusians, for they maintain, “The reaping of the barley for the offering of the first sheaf of barley is not done at the conclusion of the festival.”**
- [E] “Now what is under discussion here? If it is reaping on the Sabbath at night, the author of the Mishnah has already made reference to that. But if it is not a matter of night, interpret it to pertain to reaping on the Sabbath by day.
- [F] “Anything that overrides the restrictions of the Sabbath during the day – do acts required in that same connection override the restrictions of the Sabbath on the preceding night?”
- [G] *Lo, we have learned: “They placed the makers of the cakes to prepare their cake [M. Tam. 3:1].*
- [H] Interpret the passage to speak of a weekday.

- [I] *Taught R. Hiyya bar Ada*, “This is the order of the Daily Whole Offering for the service of the house of our God, whether on a weekday or on a Sabbath.
- [J] *But behold, we have learned [at M. Men. 10:4, speaking of the night of the sixteenth of Nisan,]:* **They reaped it, and they put it into baskets, They brought it to the court of the Temple. “They did parch it in fire, so as to carry out the requirement that it be parched with fire,” the words of R. Meir. And sages say, “With reeds and with stems of plants do they first beat it to thresh it, so that it not be crushed. And they put it into a tube. And the tube was perforated, so that the fire affect all of it.” They spread it out in the court, and the breeze blows over it. They put it into a grist mill and took out therefrom a tenth ephah, which is sifted through thirteen sieves [M. Men. 6:4].**
- [K] *Replied R. Judah of Cappadocia before R. Yosé*, “But maybe it came from the attic. Since he did not commence the commandment of parching, they do not say to him, ‘Well, finish it up.’”
- [L] *Objected R. Jacob bar Susi*, “*But lo, we have learned, On account of a journey [requiring travel] for a night and a day they violate [the prohibitions of] the Sabbath and go forth to give testimony about the new moon.*
- [M] He said to him, “Since the day requires the night and the night the day, it is as if it were wholly day.”
- [N] Said R. Yosé b. R. Abun, “And is it not sanctified retroactively? Since it is sanctified retroactively, the day and the night are one.”

YERUSHALMI ROSH HASHANAH

CHAPTER TWO

2:1

[A] If they [in Jerusalem] are not going to recognize him, they [in his own town] send another with him to give evidence about him.

[B] At first they would accept testimony concerning the new moon from everybody.

[C] Once the minim had spoiled matters, they made the rule that they should accept testimony only from those who are recognized.

[D] At first they would kindle flares.

[E] Once the Samaritans had spoiled matters, they made the rule that messengers would go forth.

[I:1 A] *Said R. Jonah, "It should have been necessary to frame matters in the following way, [reversing the clauses' order]: At first they would accept testimony concerning the new moon from everybody. If they [in Jerusalem] are not going to recognize him, they [in his own town] send another with him to give evidence about him."*

[B] *Said R. Yosé, "Even in accordance with [the order of] our Mishnah the formulation is acceptable: **If they [in Jerusalem] are not going to recognize him, they [in his own town] send another with him to give evidence about him.** Why so? Because **At first they would accept testimony concerning the new moon from everybody. Once the minim had spoiled matters, they made the rule that messengers would go forth.***

[I:2 A] And is the statement of one witness sufficient?

[B] "From your own, it is given to you:" since legally witnesses are not necessary, and they said that witnesses are necessary, they said that the statement of one witness is sufficient.

[C] Can one witness be relied upon as are two?

[D] *What would constitute a suitable case?*

- [E] If there was one who knows his own handwriting and the handwriting of his fellow, and one whom no one except his fellow knows, is his fellow combined with one from the street to testify of him?
- [F] R. Zeira [in the name of] Rab Huna in the name of Rab: “He and another are not combined [to testify] concerning the signature of the second witness.”
- [G] *We need not inquire about a case in which* there were two [witnesses], of the handwriting of one of which everyone knows and of the handwriting of the other of which no one except his fellow knows. Is his fellow treated as is one from the street to testify of him? For, if so, the result would be that the entire testimony is established by one witness! [So that is no problem.]
- [H] R. Judah said, “And it is right. Behold, if two went out from a certain city where the majority are non-Jews, like this Susita, and in the case of one everyone knows that he is an Israelite, and in the case of the other, no one knows him but his fellow, – should his fellow be treated like one from the street to testify of him? If you say yes, is not the result that the entire testimony is established by one witness? So here also the result would be that the entire testimony is established by one witness?”
- [I] *We learned There: The officer said to them, go and see if the time for slaughtering has come. If it has come, the one who perceives it says “it is daylight”* [M. Yoma 3:1].
- [J] What is daylight?
- [K] The morning star.
- [L] There they say, “the morning star shines,” [which means in Palestinian Aramaic] “the morning star shines.”
- [M] And is [the statement of] one witness sufficient?
- [N] *It is a different case here*, for you are able to verify it.
- [O] But should one not take account of the possibility that while another witness goes up to check, and comes back down, the light has come?
- [P] It is easy enough to recognize deceit in such a case [for if he is telling the truth, it should be getting lighter].

[Q] If one witness said, “So and so was born on the Sabbath,” they circumcise him on his testimony [overriding the restrictions of the Sabbath].

[R] [If what he said was, “The child was born at] nightfall at the end of the Sabbath,” they move him on his testimony.

[S] *R. Immi moved [the infant] based upon the testimony of the midwives.*

[T] *R. Mattaniah moved [the infant] based upon the light of the moon.*

[U] *R. Immi circumcised based upon the testimony of women who said that it was still light over Susita.*

[I:3 A] Do those who know the witnesses to the appearance of the moon profane the Sabbath on their behalf?

[B] *Let us derive the answer from the following case:*

[C] Said R. Nehorai bar Shanyah, “It happened that I went down to testify of a certain witness in Usha, and they did not need me. But I sought a pretext to make it possible on the Sabbath for me to visit my fellows.”

[II:1 A] *And how did they spoil matters?*

[B] That they used to say, “The Festival of Weeks [always] follows the Sabbath,” and they used to go out on it while it was still evening with the presumption that it would be sanctified.

[C] *Then concerning [the New .Moon of] Nisan we won’t accept their testimony, but concerning the rest of the months we should accept them their testimony.*

[D] *Said R. Yosé the son of R. Abun, “The essential disordering began with Adar.”*

[E] *Then when there is agreement with them, we should not accept them; but if there is not agreement with them, we may accept them!*

[F] The Mishnah states the rule covering the one case on account of the rule covering the other [to preserve consistency in all matters].

[II:2 A] It happened that the Boethusians hired two false witnesses to testify concerning the moon that it had been sanctified.

[B] The one came. gave his testimony and went on his way.

- [C] The other came and said, “I was going up the ascent of Adumim and I saw it crouching between two rocks, its head like [that of] a calf, its ears like [those of] a kid, and I saw it, became frightened, and sprang back. And behold two hundred zuzim are tied up in my purse.”
- [D] They said to him, “Behold two hundred zuzim are given to you [58a] as a gift, and those who sent you shall come to be lashed. But as for you, why did you place yourself in such danger?”
- [E] He said to them, “I saw them seeking to mislead the Sages. I said [to myself], ‘Better that I should go and make it known to the Sages.’”

[III:1 A] *What disorder occurred there?*

- [B] That these were lighting beacons on this day. and these were lighting beacons the next day. and they used to think that the Court had changed their mind to intercalate, and they became disordered.
- [C] Who discontinued the beacon fires?
- [D] Rabbi discontinued the beacon fires, and he permitted the murderer [to testify concerning the new moon], and he permitted hearsay testimony in the same matter, and he permitted them to go out on at twilight at the end of the twenty-ninth day of the lunar month or the night that marks the commencement of the thirtieth day while it was still evening, in the assumption that the new month would be sanctified the next day.
- [E] R. Abbahu said, “Even though you say that they discontinued the beacon fires, they did not discontinue those from the Sea of Tiberias.”
- [F] *R. Zeira asked before R. Abbahu, “Regarding those that we see at Safed. why do they light beacons?”*
- [G] He said to him, “Rabbi discontinued the beacon fires. So with regard to Safed, why does it light beacons?”
- [H] “It is only for the sake of declaring the matter, to make sure that they. know.”
- [I] They do not raise up [beacons to signal] the night of its proper time [the thirtieth day of the lunar month], but rather [to signal] the night of its intercalation.
- [J] They do not raise up [beacons to signal] the night of its proper time because of the Festival day, but they raise them up the night of its intercalation.

[K] They do not raise up [beacons] except for the new moons which are established in their proper time, because of the Festival that happens to fall on the Eve of the Sabbath. [Goldman: in this way no confusion would develop when the fire was seen on the Saturday night following a New Year that began on Thursday night. Potentially, the same confusion might otherwise also develop in any case where a defective month would end on Thursday evening. In such cases the beacons were lit on the night that began the thirty-second day.]

[L] They do not raise up [beacons] the night of its proper time because of festival day. They do not raise up [beacons] the night of its intercalation because of honoring the Sabbath.

[M] Now if you say to raise them up whether for the New Moons which are established in their proper time, or whether for intercalated months which are not established in their proper time, if you say thus, they would think perhaps the Court had ruled to intercalate and they become disordered.

2:2

[A] How did they kindle flares?

[G] They bring long cedar wood sticks, reeds, oleaster wood and flax tow.

[H] And one binds them together with a rope.

[I] And he goes up to the top of the hill and lights them.

[J] And he waves them to and fro and up and down, until he sees his fellow, doing the same on the next hilltop, and so with the third hilltop [and beyond].

[K] And beginning at what place did they kindle flares?

[L] From the Mount of Olives [they gave the signal] to Sarteba, from Sarteba to Agrippina, from Agrippina to Hauran, from Hauran to Bet Baltin.

[M] But they did not move from Bet Baltin.

[N] Rather [from that vantage point] one waves them to and fro, up and down, until he would see the whole Exile before him lit up like a bonfire.

[I:1 A] What is ‘the kind of wood under discussion here? It is pinewood.

- [II:1 A] *R. Jonah said, “The torches were moved in the manner of the runner (in zigzag).”*
- [B] *R. Zeira said, “So that they not be thinking it is a star.”*
- [C] *R. Yosé said, “We have seen a star go up and down; we have seen a star go and come.”*
- [III:1 A] *It was taught: On the mountains of .Mikhvar and Gedor.*
- [B] *R. Huna said: when we went up to here, we ascended to the top of Bet Baltin, and we saw the Babylonian plains as if they were locusts.”*

2:3

- [A] **There was a large courtyard in Jerusalem, called Bet Ya’azeq, to which all the witnesses gather.**
- [B] **And there the court examines them.**
- [C] **Now they prepare big meals for them, so that they should make it a habit to come.**
- [D] **At first, [having come on the Sabbath] and therefore having no permitted area of Sabbath travel, they did not move from there the whole day.**
- [E] **Rabban Gamaliel the elder ordained that they may move about for two thousand cubits in every direction.**
- [F] **And [this rule applies] not only to these, but also (1) a midwife who comes to assist, and (2) one who comes to help out in the case of a fire, (3) in the case of a siege, (4) to save someone from drowning in a river, (5) or from the debris of a house—**
- [G] **lo, [having completed their task], these are in the status of the townfolk, and they have the right to move about for two thousand cubits in all directions.**
- [H] **He ordained that they may move about for two thousand cubits in every direction.**
- [I:1 A] What is the meaning of Bet Ya’azeq?
- [B] That there they were cultivating the law, as it is written, “and he levelled it, and cleared it of stones” (Is. 5:2).
- [II:1 A] **At first, [having come on the Sabbath] and therefore having no permitted area of Sabbath travel, they did not move from there the whole day:**

[B] They later came to consider them like vessels which came from outside the Sabbath limit after dark, which can be moved within a range of four cubits.

[C] They later came to consider them like vessels which rested in the courtyard, which can be moved within the courtyard.

[D] Then Rabban Gamaliel the Elder came and decreed **that they may move about for two thousand cubits in every direction.**

[II:2 A] *It was taught:* [the same limit of two thousand cubits applies] even if one came from beyond the Sabbath boundaries to circumcise an infant.

[B] *This Mishnah is according to R. Eleazar. For we learned there: R. Eleazar said moreover, they may cut wood [on the Sabbath] to make charcoal in order to forge an iron implement [M. Shab. 19:1].*

2:4

[A] How do they examine the witnesses?

[B] The pair which makes its appearance first do they examine first.

[C] They bring in the elder of them and say to him, “Tell us. How did you see the moon? Was it facing the sun or turned away from it? Was it to the north or to the south? How high was it, and in which direction was it leaning? And how broad was it?”

[D] If he said, “It was facing the sun,” he has said nothing at all.

[E] Afterwards they would bring in the second party and examine him.

[F] If their testimony coincided, their testimony was confirmed.

[G] And [in the case of] all the other pairs of witnesses, they ask the main points,

[H] not because they needed their [evidence], but so that they should not go out disappointed,

[I] so that they would make it a habit of coming in the future.

[I:1 A] R. Yohanan said, “Even the one who is mistaken the most of all does not err in this matter, ‘**in front of the sun or behind the sun?**’ *It ought not to read otherwise than concavity [of the moon] in front of the sun, concavity [of the moon] behind the sun.*”

[B] *Bar Qappara taught both of them [in his Mishnah]: in front of the sun [or] behind the sun; concavity in front of the sun, concavity behind the sun.*

[C] R. Yohanan said, “It is written, Hamshel and Pahad are with Him, He makes peace in His high places (Job 25:2). The sun never saw the concavity of the moon.”

[D] *R. Simon ben Yohai taught:* Since the firmament is of water and the stars are of fire and they dwell together and do not harm each other, therefore “He makes peace in His high places.”

[E] R. Abun said, “The angel himself is half water and half fire, and he has five [incongruous] features: ‘and his body was like Tarshish, and his face as the appearance of lightning, and his eyes like torches of fire, and his arms and his feet, like the color of polished copper, and the sound of his words was like the noise of a multitude’ (Daniel 10:6).”

[F] *R. Levi said, “No planet ever sees the one which precedes it, but all of them ascend like those who ascend a ladder backward.”*

[G] The Holy One, blessed be He, created windows that the world might use them: in the east. and in the west, and one in the center of the firmament. from which it came north at the beginning of the Creation.

[H] The distance the sun covers in thirty days, the moon covers in two and a half days. What the sun covers in two months, the moon covers in five days. What the sun covers in three months, the moon covers in seven and a half days. What the sun covers in six months, the moon covers in fifteen days. What the sun covers in twelve months. the moon covers in thirty [days].

[I] *R. Jonah said, “There is not here an [exact] measure, but rather a little less.”*

[I:2 A] *It was taught:* if the reflection of the moon was seen in a reflecting glass or in water, they may not testify concerning it.

[B] R. Hiyya bar Abba said, “If they saw it exit from one cloud and enter into another cloud, they may testify concerning it.”

[C] *Here is a concrete case: R. Hanina went to En-Tab to the blessing of the new moon, and the weather was cloudy.*

[D] *He said, “Now they will say: how heavy is the weather of this old man!”*

[E] So the Holy One Blessed be He punctured it for him like a sieve, and it appeared through it.

[F] R.Hiyya the Elder walked in the light of the old moon for four miles.

[G] *R. Abun cast stones at it and he said, "Do not embarrass the sons of your master. This evening [according to our calculations] we must see you [new] at such and such a place; and you are seen now in this place!"*

[H] Immediately, [by a miracle] the moon disappeared.

[II:1 A] To the north of it, to the south of it:

[B] *Some authorities teach:* [If he says] to the north of it, his statement is confirmed.

[C] *Other authorities teach:* [If he says] to the south of it, his statement is confirmed.

[D] *With regard to the one who says, "to the north of it,"* his statement is confirmed," [he speaks of the months] from Tevet until Tammuz.

[E] *With regard to the one who says, "to the south of it,"* his statement is confirmed," [he speaks of the months] from Tammuz until Tevet.

[III:1 A] How high was it, and in which direction was it leaning? And how broad was it?"

[B] What was its height [above the horizon]?

[C] This one says, "A distance equal to one ox-prod."

[D] And this one says, "A distance equal to two ox-prods."

[E] *Some authorities teach* their statements are confirmed.

[F] *And other authorities teach:* their statements are not confirmed.

[G] *With regard to the one who says, "their statements are confirmed," this is in the case of such witnesses as had been standing [at the time of observation] one above and one below.*

[H] *With regard to the one who says, "their statements are not confirmed," this is in the case of such witnesses as had been standing on the same level.*

[I] **What was its width** [of crescent]?

[J] Like a barley grain or more.

[K] And if he said, “in front of the sun,” he has not said anything.

2:5

[A] **The head of the court says, “It is sanctified.”**

[B] **And the whole crowd answers him, “It is sanctified. It is sanctified.”**

[C] **Whether it appears in the expected time or does not appear in the expected time, they sanctify it.**

[D] **R. Eleazar b. R. Sadoq says, “If it did not appear in its expected time, they do not sanctify it, for Heaven has already declared it sanctified.”**

[I:1 A] *It is taught:* R. Simon ben Yohai says, “‘And you shall sanctify the fiftieth year’ (Lev. 25:10) – one sanctifies years and not months.”

[B] *But are we not taught, The head of the Court says: “It is sanctified”?*

[C] What is the meaning of “it is sanctified?” Affirmed.

[I:2 A] *It is taught:* For the purpose of sanctifying the moon, they begin [to take votes] from the leader.

[B] *Said R. Hiyya bar Adda, “The Mishnah makes that point when it says, the head of the Court says ‘it is sanctified.’”*

[I:3 A] *It is taught:* For the purpose of intercalating the year, they begin [to take votes] from the side [bench].

[B] Said R. Zebida, “But with respect to that house down there, they do not do it in that way.”

[C] *But has he not heard what R. Hiyya bar Madya, R. Jonah, R. Abba, R. Hiyya bar Abba in the name of R. Yohanan, said, “For the purpose of sanctifying the moon, they begin to vote from the head; for the purpose of intercalating the year, they begin to vote from the side.”*

[D] There was the case in which R. Yohanan came in, and he was the youngest among them, so they said to him, “Say the formula, ‘Behold the year is sanctified through its intercalation.’” He said, “Behold, the year is sanctified through intercalation.”

[E] Said R. Jonathan, “Note the formulation of matters that the son of the smith [Yohanan] has taught us: If he had said, ‘through its

intercalation,' I would have said that these refer to the eleven days by which the solar year exceeds the lunar year from year to year; but since he said, 'through intercalation,' it means that the sages added thirty days to the year and so intercalated it."

- [I:4 A] R. Jacob Bar Aha in the name of R. Yosé in the name of R. Yohanan: "To proclaim an intercalation, we follow the order of the dates of ordination [of the members of the court], for the purposes of the study house we go by the ordinary order [the regularity of attendance], in the assumption that everyone speaks in his place."
- [B] *For example, R. Hanina opens discussion, R. Yohanan and R. Simeon b. Laqish close it; R. Abba bar Zebida opens, R. Hiyya and R. Yosé and R. Immi close. R. Haggai opens, R. Jonah and R. Yosé close.*
- [C] *Kahana was ordained prior to R. Jacob bar Aha. R. Jacob bar Aha entered before him for the intercalation [of the year]. He said, "So the author of the rule does not stand by his teaching!"*
- [D] *R. Hiyya bar Abba was standing in prayer. R. Kahana entered and stood in prayer behind him. When R. Hiyya bar Abba finished his prayers, he sat down, so as not to pass before R. Kahana, [who was extending his prayers].*
- [E] *When R. Kahana finished, he said to him, "Is that your custom, to annoy your superiors?"*
- [F] *He said to him, "My lord, I am of the house of Eli, and it is written concerning the house of Eli: 'that the iniquity of Eli's house shall not be purged with sacrifice nor offering forever (I Samuel 3:14). 'With sacrifice and with offering' atonement is not achieved, but it is with prayer."*
- [G] *So he prayed concerning him, and he had the good fortune to grow old until his fingernails became red like a baby.*
- [H] *It happened concerning R. Simeon ben Laqish that they let an old man go before him for the purpose of intercalation [of the year], and they brought him in from their gate.*
- [I] Said [Simeon], "Such may be their reward!"
- [J] But he did not hear what R. Qerispa said in the name of R. Yohanan, "It happened that three cowherds intercalated the year. *One of them said, 'The early and the late seeds bloom simultaneously in Adar.'* And another said, 'When an East wind is in Adar, blow up your cheek and expel to meet it.'

And another said, 'An ox in Adar in its pen will die, and in the shade of a fig tree it scratches its hide.' We saw a year without any of them, and the year was intercalated on their say-so."

[K] R. Helbo said, "And the Court agreed with them."

[L] But did not R. Zeira say, "That is provided that all of them decide from one [and the same] reason"?

[M] *Since these agree with these, and these agree with these, it is as if all of them decide from one reason.*

[N] *And Rabban Simeon ben Laqish became angry concerning this matter. He was troubled because of what R. Eleazar said, for R. Eleazar said, "'And my hand shall be against the prophets that see falsehood, and that divine lies; they shall not be in the secret council of my people, [and they shall not be written in the register of the house of Israel. and they shall not come to the land of Israel (Ezekiel 13:9). '[They shall not be in the secret council of my people]' – that refers to the 'secret of intercalation.' 'And they shall not be written in the register of the house of Israel' – that refers to ordination. 'And they shall not come into the land of Israel' – that refers to the land of Israel.'*

[O]. *And R. Eleazar said, "When I went up to here, I said, 'Here it is' with regard to one; when I was ordained, I said. "Here it is" with regard to two; and when I went up for intercalation [to be on the council], I said, 'here it is' with regard to three."*

[II:1 A] R. .Abba bar Zebida in the name of Rab, "The reasoning of R. Eleazar the son of R. Sadoq is that since the heavenly Court sees that the earthly Court is not sanctifying it. they sanctify it."

2:6

[A] **A picture of the shapes of the moon did Rabban Gamaliel have on a tablet and on the wall of his upper room, which he would show ordinary folk, saying, "Did you see it like this or like that?"**

[B] **M'SH S: Two witnesses came and said, "We saw it at dawn [on the morning of the twenty-ninth] in the east and at eve in the west."**

[C] **Said R. Yohanan b. Nuri, "They are false witnesses."**

[D] Now when they came to Yabneh, Rabban Gamaliel accepted their testimony [assuming they erred at dawn].

[E] And furthermore two came along and said, “We saw it at its proper time, but on the night of the added day it did not appear [to the court].”

[F] Then Rabban Gamaliel accepted their testimony.

[G] Said R. Dosa b. Harkinas, “They are false witnesses.

[H] “How can they testify that a woman has given birth, when, on the very next day, her stomach is still up there between her teeth [for there was no new moon!].”

[I] Said to him R. Joshua, “I can see your position.”

[I:1 A] R. Simlai said, “*The reasoning of R. Yohanan ben Nuri is that concerning any new moon born before six hours, there is not the power in the eye to see the old moon.*”

[B] *And it is taught thus:* If the old moon appears in the morning, the new moon does not appear in the evening; if the new moon appears in the evening, the old moon could not have appeared in the morning.

[C] Said R. Hiyya bar Abba, “So why did Rabban Gamaliel accept them? For thus was a tradition he had from his fathers: sometimes it goes by the short route, sometimes by the long route.”

2:7

[A] Said to him Rabban Gamaliel, “I decree that you come to me with your staff and purse on the Day of Atonement which is determined in accord with your reckoning.”

[B] R. Aqiba went and found him troubled.

[C] He said to him, “I can provide grounds for showing that everything that Rabban Gamaliel has done is validly done, since it says, ‘These are the set feasts of the Lord, even holy convocations, which you shall proclaim’ (Lev. 23:4). Whether they are in their proper time or not in their proper time, I have no set feasts but these [which you shall proclaim] [vs. M. 2:7D].”

[I:1 A] To whom did he send?

[B] *From that which is taught:* Said R. Joshua, “It would have been better for me to lie [dead] on the bed than that Rabban Gamaliel should have sent this thing” – *this indicates that* it was sent to R. Joshua.

[C] With whom was it sent?

[D] *From that which is taught in these words:* he said to him, “you have comforted me, Aqiba,” – *this indicates that* it was sent at the hand of R. Aqiba.

[E] What did he [Aqiba] have to teach?

[F] Said R. Yosé said, “We knew that if they sanctified it without witnesses, it is still sanctified.”

[G] So what did he come to attest?

[H] That if they sanctified it and afterwards the witnesses were found to be lying, behold this is a valid act of sanctification.”

[I] *But behold have we not been taught:* “Once more than forty pairs [of witnesses] were passing [through], and R. Aqiba detained them in Lod.”

[J] That is because there were forty pairs, but if it had been one pair, he would not have detained it.

2:8

[A] **He came along to R. Dosa b. Harkinas.**

[B] **He [Dosa] said to him, “Now if we’re going to take issue with the court of Rabban Gamaliel, we have to take issue with every single court which has come into being from the time of Moses to the present day, since it says, ‘Then went up Moses and Aaron, Nadab and Abihu, and seventy of the elders of Israel’ (Ex. 24:9). Now why have the names of the elders not been given? To teach that every group of three [elders] who came into being as a court of Israel– lo, they are equivalent to the court of Moses himself.”**

[C] **[Joshua] took his staff with his purse in his hand and went along to Yabneh, to Rabban Gamaliel, on the Day of Atonement that had been determined in accord with [Gamaliel’s] reckoning.**

[D] **Rabban Gamaliel stood up and kissed him on his head and said to him, “Come in peace, my master and my disciple – My master in wisdom, and my disciple in accepting my rulings.”**

[I:1 A] It is written, “and Samuel said to the people, “It is the Lord who advanced Moses and Aaron and brought your fathers up out of the land of Egypt” (1 Samuel 12:6). “And the Lord sent Jerubbaal and Bedan and Jephthah and Samuel and delivered you out of the hand of your enemies on every side and you dwelt in safety” (1 Sam. 12:6) – Jerubbaal is Gideon, Bedan is Samson, Jephthah is Jephthah the Gileadi.

[B] The Torah has thus compared these three lightweights of the world, Jerubbaal, Bedan, and Jephthah, to the three mighty ones of the world [Moses, .Aaron, and Samuel] to teach you that the courts of Gideon and of Jephthah and of Samson were equal to those of .Moses, Aaron, and Samuel.

[C] And not only this, but it juxtaposes the great men from either side, and the lesser ones in the middle.

[I:2 A] **Rabban Gamaliel stood up and kissed him on his head and said to him, “Come in peace, my master and my disciple – My master in wisdom, and my disciple in accepting my rulings.”**

[B] “My teacher” in wisdom “and my disciple” in that all that I decree upon him, he fulfills.”

[I:3 A] It is written: “Whose oxen are well laden with no breach, and no going forth, and no complaining in the streets” (Ps. 144:14).

[B] R. Yohanan and R. Simeon b. Laqish: R. Yohanan said, “‘laden oxen’ is not written here, but our [laden] teachers in Torah. ‘Laden’ meaning: when the great bear the small, ‘there is no breach, nor going forth; there is no complaining in the streets.’”

[C] *R. Simeon b. Laqish interprets this verse just in a reverse way [to R. Yohanan’s interpretation]: “‘laden oxen’ is it not written here, but our teachers are borne with, meaning: when the small bear the great, ‘then there is no breach, nor going forth; there is no complaining in the streets.’”*

[D] R. Shila of the village of Temarta in the name of R. Yohanan: “‘He appointed the moon for seasons; the sun knows its coming’ (Ps. 104:19). From the sun “one knows its coming,” He appointed the moon for festivals (Ps. 104:19).”

[E] Said R. Berekhiah, “It is written: ‘and they departed from Rameses in the first month, [on the fifteenth day of the first month; on the morrow after the passover the children of Israel went up out of Egypt] (Num. 33:3). *When it sets on the night of the festival, fourteen sunsets are in it; hence from the setting of the sun, you count for the moon.*”

[F] Said R. Simon, “‘And let them be [for signs, and for seasons, and for years, and for days] (Gen. 1:14) – by means of that [sun] and by means of that [moon].”

[G] R. Yohanan said, ““And it was evening, and it was morning, one day’ (Gen. 1:5).”

[H] R. Simeon b. Laqish said, ““This month [shall be to you the beginning of months’ (Ex. 12:2) – when all of it [the day] will be from the new [month].”

[I] *You must say, therefore, that what R. Yohanan said is necessary for R. Simeon b. Laqish, and what R. Simeon b. Laqish said is necessary for R. Yohanan. If R. Yohanan made his statement, but R. Simeon b. Laqish did not make his statement, we would have to admit that it did not even say all of it [the day] must be from the new month.” This proves that there is a need for what R. Simeon ben Laqish said.*

[J] *Or if R. Simeon b. Laqish made his statement, but R. Yohanan did not make his statement, we would have to admit that it only said day,’ but not night. This proves that there is a need for what R. Yohanan said, and a need for what R. Simeon b. Laqish said.*

YERUSHALMI ROSH HASHANAH

CHAPTER THREE

3:1

[A] [If] the court and all the [people of] Israel saw [the new moon on the thirtieth day], and the witnesses were examined, but they had no chance to say, “It is sanctified,” before it [actually] got dark,

[B] lo, this [month coming to an end] is an intercalated month.

[C] [If] the court alone saw it, let two of them get up and give testimony before the rest of them,

[D] and then they should say, “It is sanctified, it is sanctified.”

[E] [If] three of them saw it, and they comprise the [entire] court, let two of them arise, and let them seat some of their colleagues with the remaining judge, and give testimony before them, so they may say, “It is sanctified, it is sanctified.”

[F] For an individual is not regarded as trustworthy by himself [to pronounce the sanctification of the month].

[I:1 A] *So is the .Mishnah to be read,* “either the Court or all Israel.”

[I:2 A] R. Zeira [in the name of] R. Imma in the name of R. Joshua ben Levi, “We may disregard the sighted [New .Moon] to intercalate; we may not proclaim the first day of the new month when the New Moon has not been seen.”

[B] R. Abba [in the name of] R. Hiyya in the name of R. Joshua ben Levi, “We may proclaim the first day of the new month when the New Moon has not been seen; but we may not disregard the sighted [New Moon] to intercalate.”

[C] *A Tannaite formulation differs from R. Zeira:* If the Court and all Israel had seen it, if the witnesses had been examined, but there was no time to say “it is sanctified” before it grew dark, behold this is an intercalated month – thus, specifically because it grew dark. But if it did not grow dark, that is not the rule.

[D] *This proves that* we may not disregard the sighted [New Moon] to intercalate.

[E] *A Tannaite formulation differs from R. Abba:* One might think that if it is necessary to add two days, they add two days? Scripture says “day” – one day only.

[F] This proves that we may disregard the sighted [New Moon] to intercalate.

[G] *A Tannaite formulation differs from R. Abba:* One might think that just as they intercalate the year out of necessity, so likewise they sanctify the New Moon out of necessity.

[H] Scripture says, “The New Moon” (Ex. 12:2) – they decide based upon the New Moon.

[I] *This proves that* we may not proclaim the first day of the new month when the New Moon has not been seen.

[J] *A Tannaite formulation differs from R. Zeira:* One might think that if the moon did not appear for two days, thus they would announce the new month after two days?

[K] Scripture says, “Speak unto the children of Israel, and say unto them: the appointed seasons of the Eternal which you shall proclaim] them – [Scripture goes on to emphasize] “these are they [My appointed seasons” (Lev. 23:2) and not “these are my appointed seasons.” This is because it did not appear. But if it appeared, that is not the rule.

[L] *This proves that* we may not disregard the sighted [New Moon] to intercalate.

[M] *They [the members of the academy] were able to say, “And there is no contradiction; what R. Zeira said concerns the rest of the months; what R. Abba said concerns Nisan and Tishré.”*

[I:3 A] Rabbi says, “Nisan was never intercalated.”

[B] *But are we not taught: If the New Moon came in due time [M. Sheq. 4:5]?*

[C] Thus if it came.

[D] So [in fact] it did not come [at any time either than its due time].

[E] Rab said, “Tishré was never intercalated.

[F] *But are we not taught [in a Mishnah]: “If the month [of Tishré] was intercalated [M. Sheq. 4:5].*

[G] If it was – but [in fact] it was not.

[H] Now when they sanctified the year in Usha, on the first day R. Ishmael the son of R. Yohanan ben Beroqah passed [before the ark and said it in accord with the view of R. Yohanan ben Nuri.

[I] Said Rabban Simon ben Gamaliel, “That was not the custom which we followed in Yavneh.”

[J] So on the second day R. Hanina the son of R. Yosé the Galilean passed [before the ark] and said it in accordance with the opinion of R. Aqiba.

[K] Then said Rabban Simon ben Gamaliel, “Now that was the custom which we followed in Yavneh.”

[L] *But lo, have we not been taught that they sanctified it on the first and the second?*

[M] R. Zeira said in the name of R. Hisda, “That year was disarranged.”

[N] What does “on the first “ mean? What does “on the second” mean?

[O] Abba in the name of Rab, “The first year and the second year.”

[P] *But have we not been taught: On the first day” and “on the second day” [T. R.H. 4:5]?*

- [I:4 A] If they declared it sanctified before its proper time, or one day after its intercalation; one might think that it ought to be deemed sanctified.
- [B] Scripture says, “[These are the appointed seasons of the Eternal which you shall proclaim] them [in their appointed season]” (Lev. 23:4). “Speak unto the children of Israel, and say unto them: the appointed seasons of the Eternal which you shall proclaim” –
- [C] [Scripture goes on to emphasize, “these are they – My appointed seasons” (Lev. 23:2) and not “these are My appointed seasons.
- [D] “Before its proper time” – the twenty-ninth day; “after its intercalation” – the thirty-second day.

- [E] How do we know scripturally that they intercalate the year because of exiles who ascended [towards Jerusalem] but have not yet arrived?
- [F] Scripture says, “[Speak to] the children of Israel [and say to them, concerning the appointed seasons of the Eternal, you shall proclaim them to be holy convocations; these are my appointed seasons” (Lev. 23: 2). Fix the appointed seasons so that all Israel may observe them.
- [G] Said R. Samuel bar Nahman, “And behold this is the case when they have reached as far as the Euphrates River.”
- [H] R. Jacob Bar Aha, R. Imma in the name of R. Judah bar Pazzi: “If they sanctified it and afterwards the witnesses were found to be lying, behold this is a valid act of sanctification.”
- [I] *R. Yosé dealt with R. Judah bar Pazzi. He said to him, “Did you hear this thing from your father?”*
- [J] He said to him, “This is what my Father said in the name of R. Yohanan, “They do not minutely examine testimony with regard to the New Moon.”
- [II:1 A]** The court that saw the killer [commit murder], said, “If we see him, we do not recognize him!”
- [B] They [nonetheless] did not perform the ceremony, as it is written, “Our eyes have not seen” – in any case, and behold they had seen.
- [C] And with regard to a court which saw the killer [murder],
- [D] (58d) *one Tannaite authority teaches:* “Let two arise and testify before them.”
- [E] *Another Tannaite authority teaches,* “Let all of them arise and testify in another place.”
- [F] R. Judah bar Pazzi in the name of R. Zeira, “Just as they differ here, so likewise they differ over testimony concerning the New Moon.
- [G].”*Let one arise and let one be seated, then let one arise and let one be seated?”*
- [H] It is different, for the witness does not become judge.
- [I] *It is like this case: Rab Huna knew evidence concerning a certain man. He went to be judged before him, but he denied him.*

[J] *R. Samuel bar Rab Isaac said to him, “Knowing that Rab Huna is a great man, you denied him?! What if he would go and testify concerning you before another court?”*

[K] *Rab Huna said to him, “And do they do thus and so?”*

[L] *He said to him, “Yes.”*

[M] *So Rab Huna withdrew from that case, and went to testify concerning him before another court.*

[II:2 A] If objection was raised against the signatures of the witnesses, against the signatures of the judges –

[B] R. Abba in the name of Rab Judah: “If one wanted to attest by the signatures of the witnesses, one attests; by the signatures of the judges, one attests. And I say, ‘even by one witness, even by one judge, one attests.’”

[C] *During the days of R. Abbahu, they came required to say “go’alenu” (Isaiah 47:4) and they said “geulatenu” and he accepted them.*

[D] *During the days of R. Berekhiah it happened that they became mute.*

[E] *He said to them, “Did you hear that the New Moon was sanctified?”*

[F] *They nodded their heads, and he accepted them.*

3:2

[A] **All shofars are valid, except for that of a cow,**

[B] **because it is a horn.**

[C] **Said R. Yosé, “But are not all shofars called horns,**

[D] **“as it is said [Josh. 6:5], ‘And when they make a long blast with the ram’s horn, [as soon as you hear the sound of the shofar, then all the people shall shout with a great shout]?’” [We see in this verse that the term “horn” is equated with the term “shofar.”]**

[I:1 A] *Some wanted to say, “And they do not differ.”*

[B] *You find a Tannaite formulation that teaches: R. Yosé permits that of a cow, and the sages forbid.*

[C] *What is the reason of R. Yosé?*

[D] “And it shall come to pass, that when they make a long blast with the ram’s horn (Joshua 6:5).

[E] *What is the reason of the Rabbis?*

[F] “And it shall please the Lord better than a bullock that has horns and hoofs” (Ps. 69:32), and what is written is, “more than a horn.”

[G] *And the Rabbis?*

[H] All shofars are called “karen” (horn) and ‘shofar,’ except for that of a cow, which is called “karen” but is not called “shofar.”

[I] *They raised an objection*, “Behold that of a wild goat is called neither ‘karen’ nor ‘shofar’!”

[J] How is it now?

[K] It is like that which R. Levi said, “It is different, for the prosecutor is not made the advocate.”

3:3

[A] The shofar for the New Year derives from an antelope.

[B] It is straight,

[C] and its mouth is overlaid with gold.

[D] And at the sides [of the one who blew the shofar] are two [who blow] trumpets.

[E] The shofar [is sounded] for a long note, and the trumpets [are sounded] for a short note,

[F] for the [religious] obligation of the day applies to the shofar.

[I:1 A] Said R. Jonah, “That is in order that they should straighten their heart in repentance.

[B] “**Its mouthpiece overlaid with gold:**” if they overlaid gold inside, it is invalid. If it is outside, it is valid.

[C] If they overlaid the spot where the mouth is placed, or if its sound is thick because of the overlay, it is invalid.

[D] Said R. Yosé, “This proves that one who partially hears the plain note of one who blows for practice has not fulfilled his responsibility.”

[E] *And what passage of the Mishnah says this?*

[F] [If] one sounded the first sustained blast and then sounded the second sustained blast for twice as long, he has credit only for

one [set]. [The lengthened blast does not count as well as the beginning of the next set.] [M. R.H. 4:10].

[G] Abba bar Zamina in the name of R. Zeira: “Even one blast is not reckoned to him. Why? The beginning is joined to the end, and the end is joined to the beginning. The beginning has no end, and the end has no beginning.”

3:4

[A] And [those used] on fast days are rams’ horns.

[B] They are curved

[C] and their mouth is overlaid with silver.

[D] And in the middle [of those who blew the shofar] are two [who sound] the trumpets.

[E] The shofar [is sounded] for a short note, and the trumpets [are sounded] for a long note,

[F] for the [religious] obligation of that day applies to the trumpets.

[I:1 A] Said R. Jonah, “In order that they should bend their heart in prayer.”

[I:2 A] *They sounded the shofar before R. Joshua ben Levi on the Fast Day.*

[B] *R. Yosé asked, “And should they not [also] sound the trumpet before him? And he did not recall that which was taught: trumpets in the Temple, no trumpets outside of Jerusalem.”*

[C] [With reference to M. Ta. 2:6: **And he says before them twenty-four blessings: the eighteen said every day, and he adds six more to them. And these are they: (1) Remembrance verses, (2) Shofar verses, (3) In my distress I cried to the Lord and he answered me (Ps. 120), (4) and, I will lift up my eyes to the hills (Ps. 121), (5) and, Out of the depths I have cried to you, O Lord (Ps. 130), (6) and, A prayer of the afflicted when he is overwhelmed (Ps. 102),]** And let them pray before him twenty-four [before Joshua b. Levi on the fast day]?

[D] *It is like this: R. Yohanan prayed twenty-four on the ninth of Ab; and he commanded his students not to learn from this case. For it was doubtful to him whether it is a mourning [day], or whether it is a public fast.*

[E] R. Yosé in the name of R. Joshua ben Levi, “It is not a public fast.”

[F] R. Jonah [in they name of] R. Isaac bar Nahman in the name of R. Joshua ben Levi, “It is a mourning [day], it is not a public fast.”

[G] R. Zeira stated this view of R. Yohanan that the individual prays four on the ninth of Ab. Only twenty-four is stated, not four.

3:5

- [A] **The [proclamation of the] year of Jubilee is equivalent to the New Year in regard to the sounding of the shofar and to the blessings.**
- [B] **R. Judah says, “On the New Year they sound the rams’ horn, and at the Jubilee Year they sound antelopes’ horns.”**
- [I:1 A] “I am the Lord your God (Lev. 23: 22) – this indicates the recitation of the kingship-verses.
- [B] “A memorial proclaimed with the blast of horns” (Lev. 23:24) – this indicates the remembrance-verses .
- [C] “The blast of the horn” (Lev. 25:9) – this indicates they shofar-verses.
- [D] Up to here Scripture refers to the New Year.
- [E] As to the Jubilee?
- [F] “Then you shall make proclamation with the blast of the born on the tenth day in the seventh month, on the Day of Atonement” (Lev. 25:9).
- [G] For Scriptures do not have to say “in the seventh month.”
- [H] What do Scriptures mean by “in the seventh month”?
- [I] Whatever you do on the New Year, you do on the tenth of the month.
- [J] Just as in the former case there are kingship-verses, remembrance-verses, and shofar-verses, so in the latter case there are kingship-verses, remembrance-verses, and shofar-verses.
- [K] How do we know scripturally that there is a plain note before it?
- [L] Because Scriptures say, “Then you shall make proclamation with a shofar [of teruah].”
- [M] How do we know scripturally that there is a plain note after it?
- [N] Because Scriptures say, “Then you shall make proclamation with the shofar.”
- [O] Up to here refers to the Jubilee.
- [P] As to the New Year?

- [Q] “Then you shall make proclamation with the blast of the horn...on the tenth day, on the Day of Atonement” (Lev. 25: 9).
- [R] For Scriptures do not have to say “in the seventh month.”
- [S] What do Scriptures mean by “in the seventh month”?
- [T] Whatever you do in the seventh month is tantamount to what is done on the tenth of the month.
- [U] Just as in the former case there is a plain note and a tremolo and a plain note, so in the latter case there is a plain note and a tremolo and a plain note.
- [V] How do we know scripturally that the proper way of blowing the shofar is to sound three sets of three each?
- [M] Scripture says, “It is a day of teruah” (Num. 29:1), “a memorial proclaimed with teruah” (Lev. 23:24), “the shofar of teruah” (Lev. 25:9).
- [X] Up to here the presentation is in accord with the principles of R. Aqiba.
- [Y] How about the presentation of R. Ishmael?
- [Z] *R. Ishmael taught:* ““And you shall blow a teruah’ (Num. 10:5), ‘and you shall blow a teruah’ a second time (Num. 10:6), ‘they shall blow a teruah for their journeys’ (Num. 10:6).”
- [AA] If you would argue that the teqiah and the teruah are one, is it not written, “but when the assembly is to be gathered together, you shall blow a teqiah,” – but not a teruah (Num. 10:7).
- [BB] “‘Jubilee’ – even though they did not come under the law of limitation of the Sabbatical year; even though they did not blow the shofar.
- [CC] “Or perhaps even though they did not release slaves?
- [DD] “Scripture says, ‘It is a Jubilee’” (Lev. 25:10),” the words of R. Judah.
- [EE] R. Yosé said: “‘Jubilee’ – even though they did not come under the law of limitation of the Sabbatical year; even though they did not release slaves.
- [FF] “Or perhaps even though they did not blow the shofar?
- [GG] “Scripture says, ‘It is a Jubilee’ (Lev. 25:10).”

[HH] Said R. Yosé, “Since Scripture makes it dependent upon the blowing of the shofar, and another verse makes it dependent upon releasing slaves, why do I say that there can be a Jubilee without releasing slaves?”

[II] “Because it is possible that there be a Jubilee without releasing slaves, but it is not possible that there be a Jubilee without blowing of the shofar.”

[JJ] .Another interpretation: the blowing of the shofar is dependent upon the Court, but the releasing of slaves is dependent upon each individual.

[KK] *And it is in accordance with the opinion of R. Samuel bar Rab Isaac:* ““and the Lord spoke to Moses and Aaron and gave them a charge unto the children of Israel (Ex. 6:13). Concerning what did He command them? Concerning the Torah portion on releasing slaves.”

[LL] *And it is in accordance with the opinion of R. Illa,* “Israel was only punished because of the Torah portion on releasing slaves: Scripture says, ‘at the end of seven years you shall let go every man his brother that is a Hebrew,’ (Jeremiah 3:5).”

[MM] *It was taught in the name of R. Nehemiah:* “She is like the merchants’ ships, and she brings her food from afar” (Proverbs 31:11). The words of Scripture are poor in their place, and rich in another place.

[NN]. Said R. Yohanan, “These are the words of R. Judah and R. Yosé; but according to the Sages, sanctification by the Court, blowing of the shofar, and cancelling of debts cause one to come under the law of limitation of the Sabbatical year.”

[OO] Granted sanctification by the Court and blowing of the shofar; but regarding cancellation of debts are they not cancelled at the end?

[PP] (59a) *R. Zeira learned it from this:* “Then he said to me, fear not, Daniel. for from the first day that you set your heart to

understand and to chasten yourself before your God your words were heard (Daniel 10: 12) – your words had already been heard.”

[QQ] *Said R. Yohanan: the reasoning of R. Judah* is to use the accessible for the frequent and the inaccessible for the infrequent .

3:6

[A] **A shofar which cracked and which they stuck together is invalid.**

[B] **[If] one stuck together the shreds of shofars, [the shofar constructed in that way] is invalid.**

[C] **[If] it was perforated and one filled up the hole–**

[D] if [the filled hole] affects the sound of the shofar, it is invalid.

[E] But if not, it is valid.

[I:1 A] For whom was it necessary to state this rule? For R. Nathan.

[II:1 A] **If one stuck back together pieces of shofars, it is invalid.**

[B] Also this is for R. Nathan.

[III:1 A] **If it was perforated and one plugged the hole:**

[B] R. Hiyya in the name of R. Yohanan said, “That it is the view of R. Nathan.

[C] “*For it is taught:* if it was perforated and one plugged the hole, whether with the same substance or a different substance, if [the plugged hole] affects the blowing, it is invalid; and if not, it is valid.

[D] “R. Nathan says, ‘If it is with the same substance, it is valid; if it is with a different substance, it is invalid.’”

[E] R. Hiyya in the name of R. Yohanan: “*So is the Mishnah to be read,* if it [the perforation] interfered with the blowing [before it was plugged] it is invalid [after it was plugged]; and if not, valid.”

[F] R. Abba bar Zamina in the name of R. Zeira: “[The above understanding of the Mishnah applies] provided that one plugged the hole, but if one did not plug it, it is valid, for all of the sounds are valid on a shofar.”

[G] R. Jacob bar Aha said, “Abba bar Abba asked Rabbi, ‘what is the situation with regard to a pierced shofar?’

[H] “He said to him, ‘They blew one like that in Yavneh.’”

[I] Abba asked before Rab, “What is the situation with regard to a pierced shofar?”

[J] He said to him, “They blew one like that in Ein Tav.”

3:7

[A] He who sounds the shofar into a cistern, cellar, or large jar –

[B] if he heard the sound of the shofar, he has fulfilled his obligation.

[C] But he heard the sound of the echo, he has not fulfilled his obligation.

[D] And so too: He who was going along behind a synagogue,

[E] or whose house was near a synagogue,

[F] and who heard the sound of the shofar

[G] or the sound of [the reading of] the Scroll of Esther –

[H] if he directed his heart [thereby intending to carry out his obligation], he has fulfilled his obligation.

[I] But if not, he has not fulfilled his obligation.

[J] Even though this one heard and that one [also] heard, [only one of them has fulfilled his obligation, for] this one directed his heart, and that one did not direct his heart [to what he heard].

[I:1 A] Said R. Yosé ben Hanina, “It only said ‘and so too regarding one who was passing.’ But if he stood still the assumption is that he paid attention.”

[B] If one placed one shofar within another and blew, if one heard the sound of the inner one, he has fulfilled his obligation, if one heard the sound of the outer one, he has not fulfilled his obligation [T. R.H. 2:4].

[C] *R. Abbina asked*, “What is the situation if one reversed it?”

[D] *We learn from this*: if one shaved it down, whether inside or outside it is valid.

[E] It only said “shaved it down.” But if one reversed it, it is invalid.

[F] What is the relationship of the one to the other?

[G] That negates its cavity, and that does not negate its cavity.

3:8

[A] “Now it happened that when Moses held up his hand, Israel prevailed, [and when he let his hand fall, Amalek prevailed;” (Ex. 17:11).

[B] Now do Moses’ hands make war or break it off?

[C] [They do not.] Rather, [the point of the verse is] to say this to you:

[D] So long as the Israelites would set their eyes upward and submit their hearts to their Father in heaven, they would grow stronger. And if not, they fell.

[I:1 A] R. Joshua ben Levi said, “Amalek was a believer in sorcery. What did he do? He would cause men to come forth [for battle] on their birthdays. thinking that a man would not fall readily on his birthday.

[B] What did Moses do? He confounded the order of the planets, as it is written, “The sun and the moon stood still in their habitation” (Habbakuk 3:1). And it is written, “The deep uttered his voice, and lifted up his hands on high” (Habbakuk 3:10). From on high he lifted his hands, the deep uttered his voice.

[C] Samuel cited the verse: “The host will be set [upon Israel] because of transgression against that which is [to be studied] continually,” (Daniel 8:12) – that is, transgression against the Torah. “And it cast truth to the ground:” When Israel cast words of Torah to the ground, this evil kingdom enacts decrees and succeeds.

[D] What is the proof?

[E] “And it cast truth to the ground; and it practiced and prospered” (Daniel 8:12). And “truth” means only Torah, as it is written, “Buy the truth and sell it not, wisdom and instruction and understanding” (Proverbs 23:23).

[F] Said R. Judah bar Pazzi: “‘Israel has cast off that which is good, the enemy will pursue him’ (Hosea 8:3). And “good” means only Torah. As it is written, ‘For a good doctrine have I given unto you, my Torah, do not forsake it’ (Proverbs 4:2).”

3:9

[A] Similarly, you may say [the following, citing Num. 21:8]: “Make yourself a fiery serpent and set it on a standard, and it shall come to pass that every one who is bitten, when he sees it, shall live.”

[B] Now does that serpent [on the standard] kill or give life?

[C] [It does not.] Rather: So long as the Israelites would set their eyes upward and submit to their Father in heaven, they would be healed. And if not, they decayed [from the bites].

[I:1 A] Said R. Yosé, “In four places ‘make for yourself’ is said. In three it is explained, ‘and in one it is not., ‘Make for yourself an ark of gopher wood’ (Gen. 6:14), ‘make for yourself two silver trumpets’ (Num. 10:2), ‘make for yourself knives of flint’ (Joshua 5:2), but ‘make for yourself a fiery serpent’ (Num. 21:8) is not explained.”

[B] Said Moses, “Is not its real name nahash? Therefore: “And Moses made a brass [nehoshet] serpent [nahash].”

[C] Along these same lines, R. Meir used to expound names: “*The name of one man was Kidor:*”

[D] R. Meir said to them, “*Hide yourself from him; he is a wicked man* ‘for a generation [ki dor] very froward are they’ (Deut. 32:20).”

[E] R. Levi in the name of R. Hama bar Hanina: ““And it shall come to pass that one who is bitten’ is not written here; rather, ‘everyone who is bitten’ (Num. 21:8), whether the bite of a dog or a snake.”

[F] *But they are not alike.* With regard to the bite of a dog Scripture says, “[Everyone who is bitten, when he sees [it, shall live];’ with regard to the bite of a snake Scripture says, “If a serpent had bitten any man, when he beheld [the serpent of brass, he lived” (Num. 21:9).

[G] R. Judah Gozrayah said in the name of R. Aha, “With regard to the bite of a dog, which is not of its species, Scripture says, ‘when he sees;’ with regard to the bite of a snake, which is of its species, Scripture says, ‘when he beheld.”

[H] .And the Rabbis said, “With regard to the bite of a dog, which does not penetrate. Scripture says, ‘When he sees; with regard to the bite of a snake, which does penetrate, ‘when he beheld.”

3:10

[A] [The shofar blasts of] a deaf-mute, idiot, and minor do not fulfill the obligation of the community.

[B] This is the governing principle: Whoever is not obligated to carry out a particular deed cannot effect the obligation of the community either

[I:1 A] *It is taught:* But they said, “A woman recite Grace for her husband, a slave for his master, a minor for his father.

[B] *Granted* that a woman may recite Grace for her husband, a slave for his master, but a minor for his father?

[C] Did not R. Aha in the name of R. Yosé the son of R. Nehorai say the following: “All that they said with regard to the minor was merely intended in order to initiate him [into religious practices]”?

[D] The difficulty may be solved by repeating after them.

[E] *It is like that which we have been taught there:* If a slave, a woman, or a minor recited the Hallel to him, he must repeat after them what they say, and let it be a curse unto him.

[F] And they said further]: “Let a curse come upon a man of twenty who is dependent upon a boy of ten.

YERUSHALMI ROSH HASHANAH

CHAPTER FOUR

4:1

[A] The festival day of the New Year which coincided with the Sabbath

–

[B] in the Temple they would sound the shofar.

[C] But not in the provinces.

[D] When the Temple was destroyed, Rabban Yohanan b. Zakkai ordained that they should sound the shofar in every locale in which there was a court.

[E] Said R. Eleazar, “Rabban Yohanan b. Zakkai ordained only for the case of Yabneh alone.”

[F] They said to him, “All the same are Yabneh and every locale in which there is a court.”

[I:1 A] *R. Abba bar Pappa said, R. Yohanan and R. Simeon ben Laqish were once in session, raising a problem. They said, “We are taught in the Mishnah: The festival day of the New Year which coincided with the Sabbath – in the Temple they would sound the shofar, but not in the provinces.*

[B] “But if sounding the shofar is according to the law of the Torah, it should supersede [the observance of] the Sabbath in the provinces also, if it is not according to the Torah, it should not supersede [the observance of] the Sabbath even in the Temple.”

[C] *Kahana passed by. They said, “Here is a major authority. Let us ask him.”*

[D] They went and asked him. He said to them, “One scriptural verse says, ‘it is a day of sounding the shofar’ (Num. 9:11), and one scriptural verse says, ‘a memorial of the sounding of the shofar (Lev. 23:2). How can this be? When the New Year happens to fall on a weekday, it is ‘a day of sounding the shofar;’ when it happens to fall on the Sabbath, ‘a

memorial of the sounding of the shofar' – we call to memory the act of blowing the shofar, but we do not actually sound the shofar.”

- [I:2 A] *R. Zeira instructed the associate to go to listen to R. Levi expounding the Torah, “for it is impossible that he would end his weekly scriptural lesson without some instructive observation.”*
- [B] *He [Levi] entered and said before them, “One scriptural verse says, ‘it is a day of sounding the shofar,’ and another scriptural verse says, ‘a memorial of the sounding of the shofar.’ How can this be? When the New Year happens to fall on a weekday, it is ‘a day of sounding the shofar;’ when it happens to fall on the Sabbath, ‘a memorial of the sounding of the shofar’ – we call to memory the act of blowing the shofar, but we do not actually sound the shofar.”*
- [C] If this were so, then [the sounding of the shofar] even in the Temple should not supersede [the observance of the Sabbath]?
- [D] A Tannaite statement: “[and in the seventh month,] on the first day of the month, [you shall have a holy convocation; you shall do no servile work; it is a day of sounding the shofar]” (Num. 29:1).
- [E] If this were so, then wherever they know that it is the first day of the month it [the sounding of the shofar] should supersede the Sabbath.
- [F] *R. Simeon ben Yohai taught: ““it is a day of sounding the shofar unto you where you make a burnt offering (Num. 29:1-2) – which means in [the Temple], that place where the offerings were brought.”*
- [G] *The colleagues said before R. Jonah: “But is it not written in the Torah, ‘then you shall cause the shofar of the Jubilee to sound in the seventh month [on the tenth day of the month; on the day of Atonement you shall make the shofar sound throughout your land]’? (Lev. 25:9).”*
- [H] *He said to them, “This you cause to sound throughout your land, but none other.”*
- [I] *They said to him, “Or perhaps it means, ‘this you cause to sound throughout your land, but the other both in and outside the land.’”*
- [J] *Said R. Jonah, “If it were written in the Torah, ‘you shall cause the shofar to sound throughout your land,’ I would say that here is a limitation and in the other place an expansion; but since it*

says, ‘throughout all of your land,’ here is an expansion and in the other place a limitation.”

4:2

[A] And in this regard also was Jerusalem ahead of Yabneh:

[B] in every town which is within sight and sound [of Jerusalem], and nearby and [the residents of which are] able to come up to Jerusalem, they sound the shofar.

[C] But as to Yabneh, they sound the shofar only in the court alone.

[I:1 A] This rule applies provided that all of these features [enumerated in the Mishnah] pertain – then excluding every town] which is within sight but not range of sound,

[B] for example where Jerusalem is above and a town below;

[C] or within range of sound but not sight, because a hill intervenes;

[D] or within sight and range of sound but [with folk] not able to come [up to Jerusalem] because they are outside of the Sabbath limit;

[E] or within sight and range of sound and sufficiently close but [with folk] not able to come [up to Jerusalem] because a river intervenes.

[F] *R. Jonah asked*, “What if the town has folk] able to come [to Jerusalem] by means of establishing fictive Sabbath boundaries?”

[I:2 A] *As you say concerning* Jerusalem that in every town which is within sight and range of sound, near, and [with folk] able to come [up to Jerusalem], they sound the shofar,

[B] So say thus with regard to Yavneh: Jerusalem is scripturally prescribed, and the towns near it are scripturally prescribed, whereas Yavneh is a rabbinical ordinance, and the towns near it are rabbinical ordinance.

[C] And can Rabban Yohanan ben Zakkai introduce a measure extending a rabbinical ordinance? Is there such a thing as a rabbinical ordinance upon rabbinical ordinance?

[D] *R. Simon in the name of R. Joshua ben Levi*: “When the Court left its [normal] location for another, they did not sound the shofar.”

[E] *R. Yosé asked before R. Simon*, “Even from house to house, even from the reception room to the sleeping room?:

[F] He said to him, “My master, I learned up to here [and have no further traditions in hand].”

4:3

[A] In olden times the lulab was taken up in the Temple for seven days, and in the provinces, for one day.

[B] When the Temple was destroyed, Rabban Yohanan b. Zakkai made the rule that in the provinces the lulab should be taken up for seven days, as a memorial to the Temple;

[C] and that the day [the sixteenth of Nisan] on which the omer is waved should be wholly prohibited [in regard to the eating of new produce; M. Suk. 3:12].

[I:1 A] It is written: “and you shall rejoice before the Lord your God seven days” (Lev. 23:40).

[B] *Some authorities teach:* Scripture is speaking about the rejoicing of Peace Offerings [additional offerings, beyond the festal offering, that provide substantial portions of meat for the sacrificer and his family].

[C] *Other authorities teach:* Scripture is speaking about the rejoicing of lulab.

[D] *In accord with the view of the one who said that* Scripture is speaking about the rejoicing of lulab, the first day is scripturally prescribed and the remaining days are scripturally prescribed, and Rabban Yohanan ben Zakkai introduced a measure extending a biblical law.

[E] *In accord with the view of the one who said that* Scripture is speaking about the rejoicing of Peace Offerings, the first day is scripturally prescribed and the remaining days are rabbinically prescribed, and Rabban Yohanan ben Zakkai introduced a measure extending a rabbinical ordinance?

[F] Is there rabbinical ordinance upon rabbinical ordinance?

[I:2 A] *The colleagues asked R. Jonah,* “It is written there, ‘and you shall offer an offering made by fire unto the Lord seven days’ (Lev. 23:8) – there is no seven exclusive of the Sabbath. And likewise, ‘and you shall rejoice before the Lord your God seven days’ (Lev. 23:40) – there is no seven exclusive of the Sabbath?”

[B] *He said to them,* “It is different, for it is written, ‘and you shall take for yourselves on the first day (Lev. 23:40) – the first is separated off from them.”

[C] 'In that case, in the Temple it should supersede [the Sabbath], but in the provinces it should not supersede?'

[E] Said R. Jonah, "If it were written scripturally, 'and you shall take before the Lord your God,' I would have said that here is a limitation, and in the other place an extension; but [since it says] 'and you shall take for yourselves,' [this means] in any place;' 'and you shall rejoice before the Lord your God seven days,' [this means] in Jerusalem."

4:4

[A] **At first they would receive testimony about the new moon all day long.**

[B] **One time the witnesses came late, and the Levites consequently were mixed up as to [what] Ps. [they should sing].**

[C] **They made the rule that they should receive testimony [about the new moon] only up to the afternoon offering.**

[D] **Then, if witnesses came after the afternoon offering, they would treat that entire day as holy and the next day as holy [too].**

[E] **When the Temple was destroyed, Rabban Yohanan b. Zakkai made the rule that they should [once more] receive testimony about the new moon all day long.**

[I:1 A] Said R. Samuel bar Nahman, "Because of an event that took place.

[B] "Once an alarm spread in town, and the Saracens came and took them, and the Levites became disordered in their singing."

[C] *Said R. Aha bar Pappa before R. Zeira, "The colleagues asked before R. Samuel b. Nahman, 'In the name of whom did Rabbi say it?'"*

[D] *He said to them, "Am I like you who have many teachers? I said it in the name of R. Joshua ben Levi."*

[E] *And R. Illa presents this basis of the law: For it is taught in a Tannaite formulation: "on the fifth day they sung, sing aloud unto God our strength (Ps. 81:2); and on the New Year they sang, 'I removed his shoulder from the burden' (Ps. 81:7).*

[F] "If the holy day fell on the fifth day, in the morning they sang, 'Sing aloud unto God our strength,' and in the afternoon they sang, 'Removed his shoulder from the burden.' If they came before Minhah, they sang, 'I removed his shoulder from the burden.' If they came after Minhah, they sang, 'Sing aloud unto God our strength.'"

[G] But does this not result in singing a song and then repeating it?

[H] R. Ada of Caesarea in the name of R. Yohanan, “Most of the day had already passed in holiness.”

[HI] *Said R. Hiyya bar Abba, “R. Yohanan commanded those of the synagogue of Kufra to be careful to take [the food for the feast of intercalation and to come in while it is yet daytime, and they came reciting its due time and its intercalated time.”*

4:5

[A] **Said R. Joshua b. Qorha, “This rule too did Rabban Yohanan b. Zakkai make:**

[B] **“Even if the head of the court is located somewhere else, the witnesses should come only to the location of the council [to give testimony, and not to the location of the head of the court].”**

[I:1 A] *So is the Mishnah to be read: to the meeting place for declaring the New Moon.*

4:6

[A] **The order of the blessings [of the New Year additional service is as follows]:**

[B] **“One says the Patriarchs, Powers the Sanctification of the Name and includes the Sovereignty verses with them but does not sound the shofar;**

[C] **“[then] the sanctification of the day, and one [now] sounds the shofar, the Remembrance verses, and one sounds the shofar, the Shofar verses, and one sounds the shofar;**

[D] **“then one says the blessing of the sacrificial service, the thanksgiving, and the priestly blessing” – the words of R. Yohanan b. Nuri.**

[I:1 A] *In Judah they followed the custom of R. Aqiba, and in the Galilee that of R. Yohanan ben Nuri. If one transgressed and did in Judah like the Galilee, or in the Galilee like Judah, he has fulfilled his responsibilities.*

[B] *Now when they sanctified the year in Usha on the first day R. Ishmael the son of R. Yohanan ben Beroqah passed [before the ark] and said it in accord with the view of R. Yohanan ben Nuri. Said Rabban Simeon ben Gamaliel: “That was not the custom which we followed in Yavneh.”*

- [C] So on the second day R. Hananiah, son of R. Yosé the Galilean, passed [before the ark] and said it in accord with the view of R. Yohanan ben Nuri. Said Rabban Simon ben Gamaliel: “That was that was the custom which we followed in Yavneh.”
- [D] R. Abbahu said in the name of R. Eleazar, “In every instance where one transgressed and mentioned ‘The Mighty One of Rulership,’ he has not fulfilled his obligation except for ‘The Holy God’ of the New Year, and that is the case only in the Additional Service.”
- [E] *And this is in accord with the opinion of R. Yohanan ben Nuri.*
- [F] Rabban Simeon ben Gamaliel says, “One says the Sanctification of the Day with the Remembrance Verses.”
- [G] *And this is in accord with the opinion of R. Aqiba.*
- [H] Said Rabban Simon ben Gamaliel, “Just as we find that in every case one says it in the middle, so likewise here one should say it in the middle.”
- [I] Rabbi says, “Just as we find that in every case one says it fourth, so likewise here one should say it fourth.”
- [J] R. Jacob bar Aha [in the name of] R. Zeira [in the name of] Rab Hanin bar Abba in the name of Rab: “One must say ‘the Holy God.’”
- [K] R. Abba in the name of Abba bar Rab Huna said, “One must say, ‘the Holy God, Who does abundantly forgive.’”
- [L] R. Abba in the name of Abba bar Jeremiah: “In the [daily] Prayer of Eighteen Benedictions one says, ‘God of David and Builder of Jerusalem;’ in the benediction of the Prophetic lection one says, ‘the God of David, who causes salvation to spring forth.’”
- [M] When the Holiday of the New Year fell on a Sabbath,
- [N] *some authorities teach*, “One begins with the holiday [formula], and seals with [he Sabbath [formula].”
- [O] *Other authorities teach*, “One begins with the Sabbath [formula] and seals with the holiday [formula].”
- [P] Rabbi says, “One begins with the Sabbath [formula], and seals with the Sabbath [formula], placing the holiday between them.”

[Q] Judah bar Pazzi said in the name of R. Joshua ben Levi, “The law is according to Rabbi.”

4:7

- [A] Said to him R. Aqiba, “If he does not sound the shofar in connection with the Sovereignty verses, why does he make mention [of them at all]?”
- [B] “But: one says the Fathers, the Powers, the Sanctification of the Name, and includes the Sovereignty verses with the Sanctification of the Day, and then sounds the shofar;
- [C] “the Remembrance verses and sounds the shofar; the Shofar verses and sounds the shofar,
- [D] “then the blessing of the sacrificial service, the thanksgiving, and the priestly blessing.”
- [E] They do not say fewer than ten Sovereignty verses, ten Remembrance verses, ten Shofar verses.
- [F] R. Yohanan b. Nuri says, “If one has said three of each set, he has fulfilled his obligation.”
- [G] They do not make mention of verses of Remembrance, Sovereignty, or Shofar, which speak of punishment.
- [H] One begins with verses deriving from the Pentateuch and completes the matter with verses deriving from prophetic writings.
- [I] R. Yosé says, “If one completed the matter with verses deriving from the Pentateuch, he has fulfilled his obligation.”
- [I:1 A] They may not recite fewer than ten Sovereignty Verses, corresponding to the ten expressions of praise that David uttered: “Halleluyah. Praise God in His sanctuary; Praise Him in the firmament of His power, etc., until Let every thing that has breath praise the Lord. Halleluyah” (Ps. 150).
- [B] They may not recite fewer than ten Remembrance Verses, corresponding to the ten expressions of confession that Is. uttered: “Wash you, make you clean, put away [the evil of your doings from before my eyes; Learn to do well; seek justice.”
- [C] What is written after it? “Come now, and let us reason together. saith the Lord” (Is. 1:16-18).
- [D] [They may not recite fewer than ten Shofar Verses, corresponding to the seven lambs, the bullock, the ram, and the goat.

- [I:2 A] “Biblical verses containing the word El, Elohim, and the like, are accounted to him for the purpose of Sovereignty Verses,” the words of R. Yosé.
- [B] R. Judah says, “They are not accounted to him.”
- [C] “Biblical verses containing the word El, Elohim, and the like, as well as that mention Sovereignty are accounted to him for the purpose of two [verses],” the words of R. Yosé.
- [D] R. Judah says, “They are not accounted to him.”
- [E] “‘Sing praises to God, sing praises; sing praises to our King, sing praises’ – that is accounted to him for the purpose of two [verses],” the words of R. Yosé.
- [F] Judah says, “They are not accounted to him.”
- [G] *R. Zeira asked, “Is it with regard to it and that which follows it that they differ, or is it with regard to it itself that they differ?”*
- [H] *[We learn the answer] from that which is taught in a Tannaite formulation: Everyone acknowledges with regard to the verse, “God reigns over the nations, [God sits upon the throne of His holiness],” (Ps. 47:9), that this is [accounted as] one. So this proves that it is with regard to it and that which follows it that they differ.*
- [I] [Thus:] “Lift up your heads, O you gates, and be lifted up, you everlasting doors, that the king of glory may come in. Who is the king of glory? The Lord strong and mighty, the Lord mighty in battle” (Ps. 24:7-8). “Lift up your heads O you gates, yes, lift them up, you everlasting doors, that the king of glory may come in. Who is the king of glory? The Lord of hosts, he is the king of glory, sela” (Ps. 24:9-19). Now the first is for the purpose of one, and the second for the purpose of two,” the words of R. Judah.
- [J] R. Yosé says, “The first is for the purpose of two, the second for the purpose of three.”

[II:1 A] **R. Yohanan ben Nuri said, “If one recited three he has fulfilled his obligation.”**

- [B] *We used to think to say: three from each one [of the three categories]. But it was found to be taught [in a Tannaite formulation]: if even three from all of them [together], he has fulfilled his obligation.*

- [C] They may not mention Remembrance, Sovereignty, or Shofar Verses that deal with divine retribution.
- [D] Remembrance as it is written, “Did not the Lord remember them?” (Jeremiah 41:21).
- [E] Sovereignty, as it is written, “As I live, says the Lord God, surely with a mighty hand, and with an outstretched arm, and with fury poured out, will I rule over you” (Ezekiel 20:33).
- [F]. Shofar, as it is written, “Because you have heard, O my soul, the sound of the shofar, the alarm of war” (Jeremiah 4:19).

[III:1 A] One begins with [verses from] the Pentateuch, and concludes with [verses from] the Prophets:

- [B] R. Yosé says, “If one concludes with verses from the Pentateuch, he has fulfilled his obligation.”
- [C] What? Ex post facto? But ab initio no?
- [D] Said R. Yohanan, “*So is the Mishnah to be read: R. Yosé says, ‘It is necessary to conclude with [verses from] the Pentateuch.’*”

4:8

- [A] **He who goes before the ark on the festival day of the New Year—**
- [B] **the second [who leads the additional prayer orders the] blowing of the shofar.**
- [C] **And at a time of saying the Hallel, the first one [who says the morning service] proclaims the Hallel Psalms.**

- [I:1 A] R. Jacob bar Aha [said] in the name of R. Yohanan, “It is because of an event that took place.
- [B] “Once they sounded the shofar during the initial [morning prayers], but their enemies assumed that they were marching against them, so they arose against them and killed them.
- [C] *Because they see them reading the Shema, reciting the Prayer, reading the Pentateuch, praying [the Additional Service], and sounding the shofar, they say: “They are engaged in their religious observances.”*
- [D] And say that the same is the case with the Hallel!
- [E] *All the people are not there.*
- [F] And say that even with regard to the sounding of the shofar?

[G] *Likewise all the people are not there.*

- [I:2 A] Said R. Jonah, “It is written, ‘Yet they seek me daily’ (Is. 58:2) – this refers to the sounding of the shofar and the willow branch.”
- [B] *R. Joshua ben Levi in the name of R. Alexandri learned it from this: “Hear the right, O Lord” (Ps. 17) that refers to the Shema. “Attend unto my cry” – that refers to the chanting of [the section from] the Pentateuch. ‘Give ear unto my prayer’ – that refers to the Prayer. “From lips without deceit” – that refers to the Additional Service. What is written after it? “Let my judgment come forth from Thy presence.”*
- [C] *Said R. Aha bar Pappa before R. Zeira, “It is different, for the religious duty of the day is in the Additional Service.”*
- [D] *Said R. Tahalifa of Caesarea, “A scriptural verse established this: ‘it is a day of sounding the shofar and you shall make [a burnt offering]’ (Num. 29:1-2).”*
- [E] *R. Eleazar the son of R. Yosé in the name of R. Yosé the son of a laundress: “With regard to all of the other offerings it is written: ‘and you shall offer [a burnt offering], but here it is written, ‘and you shall make [a burnt offering].’ God said to them, ‘Since you entered into judgment before me on the Holiday of the New Year, and you departed in peace, I attribute it to you as if you were made as a new creature.’”*
- [F] *R. Mesharsheya in the name of R. Idi: “With regard to all of the [other] offerings it is written ‘sin,’ but with regard to the Feast of Weeks it is not written ‘sin.’ God said to them, ‘Since you accepted upon yourselves the yoke of the Torah, I attribute it to you as if you had not sinned all of your days.’”*

4:9

- [A] **[On account of making provision for] the shofar to be used at the New Year:**
- [B] **(1) they do not cross the [Sabbath] boundary;**
- [C] **(2) and they do not dig up debris [which has fallen on it];**
- [D] **(3) they do not climb a tree [to get it];**
- [E] **(4) and they do not ride on a beast;**
- [F] **(5) and they do not swim on the water;**

[G] (6) and they do not cut it either in a way which transgresses the rules of the Sabbath rest or in a way that transgresses a negative commandment of the Torah.

[H] But if one wanted to put water or wine in it, he may do so.

[I] They do not keep children from sounding the shofar.

[J] But they practice with them until they learn [how to do it].

[K] And one who is practicing has not fulfilled his obligation [to sound the shofar, by doing so].

[L] And the one who hears the shofar sounded by the person who is practicing [also] has not fulfilled his obligation.

[I:1 A] *So is the Mishnah to be read:* not with an implement they use of which is prohibited because of the law of Sabbath rest and not with an implement the use of which is prohibited because of an explicit biblical prohibition.

[II:1 A] *Said R. Eleazar, “Our Mishnah is dealing with an adult on the Holiday of the New Year which happened to fall on the Sabbath.”*

[B] *And it is taught as follows:* they practice [even] on the Sabbath in order to learn to sound the shofar; **They do not keep children from sounding the shofar** – on the festival day.

4:10

[A] The order of blowing the shofar is [to sound] three sets of three each. [A set is sounded with each of the three special sections of the Musaf worship: the Sovereignty, Remembrance, and Shofar verses.]

[B] The length of the sustained blast is [equal to] three the quavering blasts.

[C] The length of the quavering blast is [equal to] three alarm blasts.

[D] [If] one sounded the first sustained blast and then sounded the second sustained blast for twice as long, he has credit only for one [set]. [The lengthened blast does not count as well as the beginning of the next set.]

[E] He who said the blessings [of the Musaf worship] and afterward was assigned a shofar should sound a sustained note, a quavering note, and a sustained note, three times, [once each for the Sovereignty, Remembrance, and Shofar verses].

[F] Just as the congregation’s agent is liable [to sound the shofar], so each individual is liable.

[G] **Rabban Gamaliel says, “The agent of the community carries out the obligation on behalf of the community [and therefore individuals do not have to sound the shofar themselves].”**

[1:1 A] If he did them in one breath?

[B] *It is found that it was taught in a Tannaite formulation:* if he did them in one breath, he has fulfilled his obligation.

[C] *But are we not taught in our Mishnah: **the manner of shofar soundings is three series of three blasts each?*** [This means that there should not be less.]

[D] R. Zeira [in the name of] R. Abba bar Ilai in the name of Rab, “It is necessary to sound a quivering note immediately after a sustained note.”

[E] Abba in the name of Abba bar Rab Huna, “It is not necessary to sound a quivering note immediately after a sustained note.”

[II:1 A] What is the definition of a quivering note?

[B] R. Hananiah and R. Mana [disagreed]:

[C] One said, “Like the trimeter [short, long, short].”

[D] And the other said, “Three short notes.”

[E] *Hananiah was took account of that definition of R. Mana as well as his own.*

[II:2 A] [Goldman: what is the basis for the position that one has not fulfilled his obligation until he has heard the entire blast from beginning to end, cf. Y. R.H. 3:3:] *And what [Mishnah] says this: **[If] one sounded the first sustained blast and then sounded the second sustained blast for twice as long, he has credit only for one [set].***

[B] Abba bar Zamina in the name of R. Zeira: “Even one blast is not reckoned to him. Why? The beginning is joined to the end, and the end is joined to the beginning. The beginning has no end, and the end has no beginning.”

[II:3 A] If they are sounding the shofar in one place and reciting the benedictions in another,

[B] *some authorities teach:* he should betake himself to the one who is sounding the shofar.

[C] *Other authorities teach:* [he should betake himself] to the one who is reciting the benedictions.

- [D] *Regarding the one who says that he should betake himself to the one who is sounding the shofar, this applies if there would not otherwise be enough time for the sounding of the shofar.*
- [E] *Regarding the one who says that he should betake himself to the one who is reciting the benedictions, this applies if there would be enough time in the day for the sounding of the shofar.*
- [F] *We learn it from that which R. Jacob bar Idi said in the name of R. Joshua ben Levi: “If they are sounding the shofar in one place, and reciting the benedictions in another, he should betake himself to the one who is sounding the shofar, and he should not betake himself to the one who is reciting the benedictions.”*
- [G] *And what authority teaches this [second Tannaite position, C]?*
- [H] *When the holiday of the New Year happened to fall on a Sabbath, and they were sounding the shofar in one place, and reciting the benedictions in another, he should betake himself to the one who is reciting the benedictions, and he should not betake himself to the one who is sounding the shofar.*
- [I] *Why? Because everyone knows how to sound the shofar, but not everyone knows how to recite the benedictions.*
- [J] *Another interpretation: an individual can act effectively on behalf of his fellow with regard to the sounding of the shofar, but an individual cannot act effectively on behalf of his fellow with regard to the benedictions.*
- [K] *“When the holiday of the New Year happened to fall on a Sabbath ...” – is this not like the one for whom there would not otherwise be enough time for the sounding of the shofar, and yet you say he should betake himself to the one who is reciting the benedictions?*
- [L] *This proves that the Tannaite authorities did in fact disagree.*
- [M] *Rabban Gamaliel says, “The reader of the congregation fulfills the obligation of the community.”*
- [N] *R. Huna the Elder of Sepphoris in the name of R. Yohanan: “The decided law accords with the position of Rabban Gamaliel in respect to those prayers on the New Year that are encompassed within the sounding of the shofar.”*
- [O] *R. Zeira and Rab Hisda were in session, during the prayers interspersed with the blowing of the shofar.*

- [P] *When they had finished their prayers, Rab Hisda arose wanting to pray.*
- [Q] *R. Zeira said to him, “Did we not already pray?”*
- [R] *He said to him, “I pray and then pray again. For some individuals had come down from the west, and they said there in the name of R. Yohanan: ‘The Law is according to Rabban Gamaliel with regard to those prayers on the New Year interspersed with blowing the shofar.’ But I did not have proper devotional attention. If I had achieved proper devotional attention, I would have fulfilled my religious obligation.”*
- [S] *Said R. Zeira, “And it is right. For whereas all of the Tannaite authorities teach it in the name of Rabban Gamaliel, R. Hoshayya teaches it in the name of the Sages.”*
- [T] *Why? Because everyone knows how to sound the shofar, but not everyone knows how to recite the benedictions.*
- [U] *R. Ada of Caesarea said in the name of R. Yohanan, “That is so assuming that he was there from the beginning of the service.”*
- [V] *Said R. Tanhum in the name of R. Jeremiah, “Our Mishnah itself teaches this. **The order of the Benedictions [for the the New Year Musaf: one says the Patriarchs, the Powers, and the Sanctification of God’s name.]**”*

CHAPTER FIVE

THE STRUCTURE OF YERUSHALMI ROSH HASHANAH

Whether or not the Talmud of the Land of Israel is carefully organized in large-scale, recurrent structures and guided by a program that we may call systematic forms the principal question addressed by an academic commentary. The preceding chapters therefore have pointed toward the presentation set forth here. By “structure” I mean, a clearly-articulated pattern that governs the location of fully-spelled out statements. By “system,” I mean, a well-crafted and coherent set of ideas that explain the social order of the community addressed by the writers of a document, a social philosophy, a theory of the way of life, world view, and character of the social entity formed by a given social group. I see a collective, anonymous, and political document, such as the one before us, as a statement to, and about, the way in which people should organize their lives and govern their actions. At issue then in any document such as the remarkable one before us is simple: does this piece of writing present information or a program, facts to whom it may concern, or a philosophically and aesthetically cogent statement about how things should be? The connection between structure and system is plain to see. From the way in which people consistently frame their thoughts, we move to the world that, in saying things in one way rather than in some other, they wish to imagine. Modes of formulating thought adumbrate modes of imagining the world in which people wish to live, to which they address these thoughts.

If the document exhibits structure and sets forth a system, then it is accessible to questions of rationality. We may ask about the statement that its framers or compilers wished to make by putting the document together as they did. But if we discern no structure and perceive no systematic inquiry or governing points of analysis, then all we find here is inert and miscellaneous information, facts but no propositions, arguments, viewpoints. Now as a matter of fact the Talmud of the Land of Israel commonly finds itself represented as lacking organization and exhibiting a certain episodic and notional character. That view moreover characterizes the reading and representation of the document by learned and experienced scholars, who have devoted their entire lives to Talmud study and exegesis. It must follow that upon the advocate of the contrary view – the one implicit in the representation of the document for academic analysis – rests the

burden of proof. I set forth the allegation that the Talmud of the Land of Israel exhibits a structure and follows a system and therefore exhibits a commonly-intelligible rationality. The claim to write an academic commentary explicitly states that proposition. For the tractate before us, I have therefore to adduce evidence and argument.

I maintain that through the normal procedures of reasoned analysis we may discern in the tractate a well-crafted structure. I hold that the structure made manifest, we may further identify the purpose and perspective, the governing system of thought and argument, of those who collected and arranged the tractate's composites and put them together in the way in which we now have them. By "structure" I mean, how is a document organized? and by "system," what do the compilers of the document propose to accomplish in producing this complete, organized piece of writing? The answers to both questions derive from a simple outline of the tractate as a whole, underscoring the types of compositions and composites of which it is comprised. Such an outline tells us what is principal and what subordinate, and how each unit – composition formed into composites, composites formed into a complete statement – holds together and also fits with other units, fore and aft. The purpose of the outline then is to identify the character of each component of the whole, and to specify its purpose or statement. The former information permits us to describe the document's structure, the latter, its system.

While the idea of simply outlining a Talmud-tractate beginning to end may seem obvious, I have never made such an outline before, nor has anyone else. (I have provided complete outlines for the Mishnah and for the Tosefta in relationship to the Mishnah, and, not always in outline form, for the Midrash-compilations of late antiquity as well) Yet, as we shall now see, the character of the outline dictates all further analytical initiatives. Specifically, when we follow the layout of the whole, we readily see the principles of organization that govern. These same guidelines on organizing discourse point also to the character of what is organized: complete units of thought, with a beginning, middle, and end, often made up of smaller, equally complete units of thought. The former we know as composites, the latter as compositions.

Identifying and classifying the components of the tractate – the composites, the compositions of which they are made up – we see clearly how the document coheres: the plan and program worked out from beginning to end. When we define that plan and program, we identify the facts of a pattern that permit us to say in a specific and concrete way precisely what the compilers of the tractate intended to accomplish. The structure realizes the system, the program of analysis and thought that takes the form of the presentation we have before us. From what people do, meaning, the way in which they formulate their ideas and organized

them into cogent statements, we discern what they proposed to do, meaning, the intellectual goals that they set for themselves.

These goals – the received document they wished to examine, the questions that they brought to that document – realized in the layout and construction of their writing, dictate the points of uniformity and persistence that throughout come to the surface. How people lay out their ideas guides us into what they wished to find out and set forth in their writing, and that constitutes the system that defined the work they set out to accomplish. We move from how people speak to the system that the mode of discourse means to express, in the theory that modes of speech or writing convey modes of thought and inquiry.

We move from the act of thought and its written result backward to the theory of thinking, which is, by definition, an act of social consequence. We therefore turn to the matter of intention that provokes reflection and produces a system of inquiry. That statement does not mean to imply I begin with the premise of order, which sustains the thesis of a prior system that defines the order. To the contrary, the possibility of forming a coherent outline out of the data we have examined defines the first test of whether or not the document exhibits a structure and realizes a system. So everything depends upon the possibility of outlining the writing, from which all else flows. If we can see the order and demonstrate that the allegation of order rests on ample evidence, then we may proceed to describe the structure that gives expression to the order, and the system that the structure sustains.

The present work undertakes the exegesis of exegesis, for the Yerushalmi, like its counterpart in the one of Babylonia, is laid out as a commentary to the Mishnah. That obvious fact defined the character of my academic commentary, since we have already faced the reality that our tractate is something other than a commentary, though it surely encompasses one. The problems that captured my attention derived from the deeper question of how people make connections and draw conclusions. To ask about how people make connections means that we identify a problem – otherwise we should not have to ask – and what precipitated the problem here has been how a composition or a composite fits into its context, when the context is defined by the tasks of Mishnah-commentary, and the composition or composite clearly does not comment on the Mishnah-passage that is subjected to comment.

The experience of analyzing the document with the question of cogency and coherence in mind therefore yields a simple recognition. Viewed whole, the tractate contains no gibberish but only completed units of thought, sentences formed into intelligible thought and self-contained in that we require no further information to understand those sentences, beginning to end. The tractate organizes these statements as commentary to the Mishnah. But large tracts of the writing do not comment on the Mishnah in the way in which other, still larger

tracts do. Then how the former fit together with the latter frames the single most urgent question of structure and system that I can identify.

Since we have already examined enormous composites that find their cogency in an other than exegetical program, alongside composites that hold together by appeal to a common, prior, coherent statement – the Mishnah-sentences at hand – what justifies my insistence that an outline of the document, resting on the premise that we deal with a Mishnah-commentary, govern all further description? To begin with, the very possibility of outlining this tractate derives from the simple fact that the framers have given to their document the form of a commentary to the Mishnah. It is in the structure of the Mishnah-tractate that they locate everything together that they wished to compile. We know that is the fact because the Mishnah-tractate defines the order of topics and the sequence of problems.

Relationships to the Mishnah are readily discerned; a paragraph stands at the head of a unit of thought; even without the full citation of the paragraph, we should find our way back to the Mishnah because at the head of numerous compositions, laid out in sequence one to the next, clauses of the Mishnah-paragraph are cited in so many words or alluded to in an unmistakable way. So without printing the entire Mishnah-paragraph at the head, we should know that the received code formed the fundamental structure because so many compositions cite and gloss sentences of the Mishnah-paragraph and are set forth in sequence dictated by the order of sentences of said Mishnah-paragraph. Internal evidence alone suffices, then, to demonstrate that the structure of the tractate rests upon the Mishnah-tractate cited and discussed here. Not only so, but the sentences of the Mishnah-paragraphs of our tractate are discussed in no other place in the entire Talmud of the Land of Israel in the sequence and systematic exegetical framework in which they are set forth here; elsewhere we may find bits or pieces, but only here, the entirety of the tractate.

That statement requires one qualification, and that further leads us to the analytical task of our outline. While the entire Mishnah-tractate of treated here is cited in the Talmud of the Land of Israel, the framers of the Talmud of the Land of Israel by no means find themselves required to say something about every word, every sentence, every paragraph. On the contrary, they discuss only what they choose to discuss, and glide without comment by large stretches of the tractate. A process of selectivity, which requires description and analysis, has told the compilers of the Talmud of the Land of Israel's composites and the authors of its compositions (This statement requires refinement. I do not know that all available compositions have been reproduced, and that the work of authors of compositions of Mishnah-exegesis intended for a talmud is fully exposed in the document as we have it. That is not only something we cannot demonstrate – we do not have compositions that were not used, only the ones that were – but something that

we must regard as unlikely on the face of matters. All we may say is positive: the character of the compositions that address Mishnah-exegesis tells us about the concerns of the writers of those compositions, but we cannot claim to outline all of their concerns, on the one side, or to explain why they chose not to work on other Mishnah-sentences besides the ones treated here. But as to the program of the compositors, that is another matter: from the choices that they made (out of a corpus we cannot begin to imagine or invent for ourselves) we may describe with great accuracy the kinds of materials they wished to include and the shape and structure they set forth out of those materials. We know what they did, and that permits us to investigate why they did what they did. What we cannot know is what they did not do, or why they chose not to do what they did not do. People familiar with the character of speculation and criticism in Talmudic studies will understand why I have to spell out these rather commonplace observations. I lay out an argument based on evidence, not on the silences of evidence, or on the absence of evidence – that alone.) what demands attention, and what does not. Our outline has therefore to signal not only what passage of the Mishnah-tractate is discussed, but also what is not discussed, and we require a general theory to explain the principles of selection (“making connections, drawing conclusions” meaning, to begin with, making selections). For that purpose, in the outline, I reproduce the entirety of a Mishnah-paragraph that stands at the head of a Talmudic composite, and I underscore those sentences that are addressed, so highlighting also those that are not.

It follows that the same evidence that justifies identifying the Mishnah-tractate as the structure (therefore also the foundation of the system) of Yerushalmi-tractate before us also presents puzzles for considerable reflection. The exegesis of Mishnah-exegesis is only one of these. Another concerns the purpose of introducing into the document enormous compositions and composites that clearly hold together around a shared topic or proposition, e.g., my appendix on one theme or another, my elaborate footnote providing information that is not required but merely useful, and the like. My earlier characterization of composites as appendices and footnotes signalled the fact that the framers of the document chose a not-entirely satisfactory way of setting out the materials they wished to include here, for large components of the tractate do not contribute to Mishnah-exegesis in any way at all. If these intrusions of other-than-exegetical compositions were proportionately modest, or of topical composites negligible in size, we might dismiss them as appendages, not structural components that bear much of the weight of the edifice as a whole. Indeed, the language that I chose for identifying and defining these composites – footnotes, appendices, and the like – bore the implication that what is not Mishnah-commentary also is extrinsic to the Talmud of the Land of Israel’s structure and system.

But that language served only for the occasion. In fact, the outline before us will show that the compositions are large and ambitious, the composites formidable

and defining. Any description of the tractate's structure that dismisses as mere accretions or intrusions so large a proportion of the whole misleads. Any notion that "footnotes" and "appendices" impede exposition and disrupt thought, contribute extraneous information or form tacked-on appendages – any such notion begs the question: then why fill up so much space with such purposeless information? The right way is to ask whether the document's topical composites play a role in the re-presentation of the Mishnah-tractate by the compilers of the Talmud of the Land of Israel. We have therefore to test two hypotheses:

1. the topical composites ("appendices," "footnotes") do belong and serve the compilers' purpose

or

2. the topical composites do not participate in the re-presentation of the Mishnah-tractate by Yerushalmi and do not belong because they add nothing and change nothing.

The two hypotheses may be tested against the evidence framed in response to a single question: is this topical composite necessary? The answer to that question lies in our asking, what happens to the reading of the Mishnah-tractate in light of the topical composites that would not happen were we to read the same tractate without them? The outline that follows systematically raises that question, with results specified in due course. It suffices here to state the simple result of our reading of the tractate, start to finish: the question of structure, therefore also that of system, rests upon the position we identify for that massive component of the tractate that comprises not Mishnah-commentary but free-standing compositions and composites of compositions formed for a purpose other than Mishnah-commentary.

The principal rubrics are given in small caps. The outline takes as its principal rubrics two large-scale organizing principles.

The first is the divisions of the Mishnah-tractate to which the Talmud of the Land of Israel-tractate serves as a commentary. That simple fact validates the claim that the tractate exhibits a fully-articulated structure. But the outline must also underscore that the Mishnah-tractate provides both more and less than the paramount outline of the Talmud of the Land of Israel-tractate. It is more because sentences in the Mishnah-tractate are not analyzed at all. These untreated Mishnah-sentences are given in bold face lower case caps, like the rest of the Mishnah, but then are specified by underlining and enclosure in square brackets.

Second, it is less because the structure of the tractate accommodates large composites that address topics not defined by the Mishnah-tractate. That brings us to the second of the two large-scale modes of holding together both sustained analytical exercises and also large sets of compositions formed into cogent

composites. These are treated also as major units and are indicated by Roman numerals, alongside the Mishnah-paragraphs themselves; they are also signified in small caps. But the principal rubrics that do not focus on Mishnah-commentary but on free-standing topics or propositions or problems are not given in boldface type. Consequently, for the purposes of a coherent outline we have to identify as autonomous entries in our outline those important composites that treat themes or topics not contributed by the Mishnah-tractate.

I. YERUSHALMI ROSH HASHANAH 1:1

[A] **THERE ARE FOUR NEW YEARS: THE FIRST DAY OF NISAN IS THE NEW YEAR FOR KINGS:**

1. **I:1:** It is written: “This month [Nisan] shall be to you the beginning of months (Exodus 12:2). To you [for kings and festivals]’ it shall be a beginning, but it is not a beginning for the years in general, e.g., Sabbaticals, Jubilees, the young trees, and vegetables. But might I say that to you it is a beginning, but it is not a beginning for [the reign of] kings or for [the order of] festivals? R. Jacob bar Aha [and] R. Yosé in the name of R. Yohanan [said], “It is written: ‘and he [Solomon] began to build [the temple] in the second month in the second in the fourth year of his reign’ (2 Chronicles 3:2). It [Scripture] paralleled the fourth year of his reign to the second which refers to months. Just as we do not count the second which refers to the month except from Nisan, likewise we do not count the second which refers to the fourth year of his reign except from Nisan. “Or perhaps it is not so, but [the second] means the second day in the month. “Wherever Scripture says second meaning the day of the month, it says so explicitly. “Or perhaps it is not so, but [the second] means the second day in the week [Monday]? “We have not found such dating in Scripture.”
 - a. **I:2:** And which second refers to the [order of the] months, and which second refers to the [month of the] year [in the reign of a king]?
2. **I:3:** Samuel taught, differing [on how to demonstrate that Nisan is the New Year for kings and festivals:] : “In the third month after the Israelites had gone forth out of the land of Egypt’ (Exodus 19:1): from here [we learn] that one counts the order of the months beginning with the going forth from Egypt. “From this I only know months. Where do I learn the starting point for counting the years? ‘And the Lord spoke to Moses in the wilderness of Sinai, in [the first month of] the second year [after they had come out of the land of Egypt]’ (Numbers 9:1).

“From this I only know that time [of the Exodus]. Where do I learn later times? ‘In the fortieth year after the Israelites had come out of the land of Egypt. [in the fifth month, on the first day of the month]’ (Numbers 33:38). ‘From this I only know temporarily [for that generation]. Where do I learn subsequent generations?.’ And it was in the four hundred and eightieth year after the Israelites had come out of the land of Egypt, [in the fourth year of Solomon’s reign over Israel. in the month Ziv, which is the second month, that he began to build the house of the Lord’ (1 Kings 6:1). When the Temple was built, they began to use the era from [the time of] its erection: and it was at the end of twenty ears wherein Solomon had built the two houses. [the house of the Lord and the King’s house]’ (1 Kings 9:10). When they no longer merited to use the era of its erection, they began to count from its destruction: in the twenty-fifth year of our captivity, in the beginning of the year, on the tenth day of the month. etc.’ (Ez. 40:1). When they no longer merited to use the era of their own [events], they began to count according to the reigns of other nations, “as it is said, ‘in the second year of Darius [the king, in the sixth month. on the first day of the month Haggai: ‘in the third year of Cyrus king of Persia’ (Daniel 10:1).”

3. **I:4:** R. Eleazar in the name of R. Hanina [says]: “Even [for dating of the regnal years of] kings of the gentile nations, one counts only from Nisan. In the second year of Darius, in the sixth month (Haggai 1:15): to the eighth month, in the second year of Darius (Zechariah 1:1). [If these heathen kingdoms begin the year with Tishré], it should have said, ‘in the eighth month, in the third year [of Darius].” Hefa said, “‘In the eighth month (Zechariah 1:1) may have been said first, for there is no necessarily implied chronological sequence in the account of Scripture.” R. Jonah said, “And now, consider from this day onward – before a stone was laid [or before a stone is to be laid] upon a stone in the Temple of the Lord (Haggai 2:15)? How [do you chronologically order these versus from Haggai and Zechariah]? In the sixth month the foundation was laid; in the eighth month this scriptural passage was said. If you say they had already laid [stone upon stone in the ninth month] what Hefa said is right. But if you say they did not lay [stone upon stone in the ninth month], Hefa said nothing.”
4. **I:5:** What is the [practical] difference between the one who says to count from Nisan and the one who says to count from Tishré?
5. **I:6:** How [exactly do we count the reign] for kings? If he died in Adar and [another] king succeeded him in Adar, the year is attributed to the first and to the second. Said R. Jonah, “This is so only if [the second

king's reign extended into Nisan. For if not, behold this: 'Shallum the son of Jabesh reigned in the thirty-ninth year of Uzziah of Judah, and he reigned a month in Samaria' (2 Kings 15:13). You cannot interpret the years of the kings of Israel except from the years of the kings of Judah, or the years of the kings of Judah except from the years of the kings of Israel."

6. **I:7:** It is written and the days that David reigned over Israel were forty years, etc. (1 Kings 2: 11). But it is also written, "In Hebron he reigned over Judah seven years and six months; and in Jerusalem he reigned [thirty-three years over all Israel and Judah]" (2 Samuel 5:5). In the general statement they show deficit and in the particular statement they show excess?

[B] AND FESTIVALS:

1. **II:1:** [The first day of Nisan is the new year festivals:] Who is the authority for [the statement concerning] festivals? It is R. Simon. For R. Simon said, "The three festivals must follow consecutively [for a full year], except that Passover always must be first. You find that he said, sometimes five [festivals constitute the required full year], sometimes four, sometimes three. [If he vows] before the Festival of Weeks – five. Before Tabernacles – four. Before Passover – three."
2. **II:2:** It is written: "Besides the Sabbaths of the Lord, and besides your gifts, etc. (Lev. 23: 38). Which you shall give to the Lord (Lev. 23:38). What is Scripture saying? You might think that on a festival only the sacrifices of that festival alone may be brought. Whence do you know that the sacrifices offered by individuals and that the congregational sacrifices, whether they be consecrated on the festival or before the festival, may be brought [as an offering] on the festival? Scripture says, "Besides the Sabbaths of the Lord..." (Lev. 23: 38), "which you shall give to the Lord (Lev. 23: 38). These refer to the bird- and the meal-offerings – to include all of them that are offered on a festival. One might think that this refers to optional offerings? Therefore Scripture says, "these things you shall do for the Lord on your set festivals besides your vows, and your gift offerings" (Numbers 29:39). Besides [this you shall do] establish them as obligatory, that all of them shall be offered on the festival. One might think that on whatever festival one wishes? Therefore Scripture says, "And you shall come. And you shall bring there your burnt offerings and your sacrifices and your tithes and heave offerings of your hand and your vows and your gift offerings" (Dt. 12:5-6). If the purpose of the verse is to set the

time, this too is already established by the verse cited above. If so why does Scripture say, “And you shall come there and you shall bring there” (Dt. 12:5-6)? It is to teach that this refers to the first festival of the three you encounter after the vow.

3. **II:3:** R. Simeon says, “The three festivals must follow consecutively. How? If one vows before Passover, [a transgression is not effected] until Passover and the Festival of Weeks and Tabernacles pass. If he vows before the Festival of Weeks, until the Festival of Weeks and Tabernacles and Passover and the Festival of Weeks and Tabernacles pass. If he vows before Tabernacles, until Tabernacles and Passover and the Festival of Weeks and Tabernacles pass.”
4. **II:4:** The paschal sacrifice, which was set to be sacrificed at the proper time, [if he did not do so] does he transgress? You find that it is taught: Passover sacrifices [neglected] in their time constitute transgression.’ For if it is not so, what are we saying? Said R. Samuel the son of R. Yosé the son of R. Abun: “The cited teaching is so that you will not say that if it [the lamb] is lost and it is found after the owners had their atonement [by another paschal lamb as a substitute], it [the first] will be sacrificed as a peace-offering. Therefore it is still necessary [to pose the original question:] the paschal sacrifice which one set to be sacrificed at the proper time [if he did not do so] do he transgresses.”
5. **II:5:** It is written: “You shall eat it before the Lord your God year by year” (Deut. 15:20). A year for it, and a year for its substitute; a year for the unblemished, and a year for the blemished; a year for the first-born and a year for sacrifices.
6. **II:6:** R. Ishmael taught, “If fifteen days from the end of its year it received a blemish, it may be kept alive after the year until the fifteenth day.”
7. **II:7:** [The rule] both for a firstling and for all consecrated animals is that one transgresses with regard to them from the point where [they have been kept three] festivals [even if] less than a year, or a year [even] without [three] festivals. There is no problem determining that [three] festivals without a year [are possible]. But how is a year [possible] without [three] festivals? There [in Babylonia] they say: it may be solved that it was deficient in time at Passover.
8. **II:8:** R. Haggai asked before R. Yosé, “It is written and on the eighth day [the flesh of his foreskin] shall be circumcised (Lev. 12:3). [What happens if] he transgressed and did not circumcise?”

9. **II:9:** You shall not delay to pay it,” and not its substitute, as it is taught, “and to the door of the tent of meeting has not brought it’ (Lev. 17: 4) – and not its substitute. Said R. Jonah, “Levi ben Sisi interpreted it before R. concerning the one who says ‘I obligate myself to a burnt offering,’ and three festivals pass and he brings another [a substitute] and offers it immediately, – I would have said that he is exempted from [the obligation of] the first one. Therefore it is necessary to say, ‘You shall not delay to pay it, and not its substitute.’”
10. **II:10:** “That which has gone out of your lips you shall observe and do” (Deut. 23: 24). “You shall observe and do” – to warn the Court that they shall make you [observe and do]. The Rabbis of Caesarea in the name of R. Abuna: from here [we learn that one is subject to offer] a pledge [for fulfillment of a vow]. “According as you have vowed to the Lord your God a gift (Deut. 23:24). And is there a “vow” which is called a “gift”? “But [this verse comes rather] to make liable [on you shall not delay] for every vow and every gift offering [separately].
11. **II:11:** What is [the formula of] that which they designated as a vow? When one says, “I obligate myself to a burnt-offering.” And what is [the formula of] that which they designated as a gift? When one says, “this shall be a burnt-offering.” R. Hama, the Fellow of the [Council of] Rabbis] asked, “What if he said “I obligate myself” and repented and said “this shall be”? R. Hinena asked [challenging the question]: “This is not logical if he did not say ‘this shall be’ and repented and said ‘I obligate myself.’”
12. **II:12:** R. Tabi [and] R. Josiah in the name of Kahana: “It is written here, ‘the months of the year’ (Num. 28:14) and it is written elsewhere, ‘the months of [the year]’ (Exodus 12: 2). Just as elsewhere the use of ‘the months of’ is counted only from Nisan, so the months of here is counted only from Nisan.”

[C] **THE FIRST DAY OF ELUL IS THE NEW YEAR FOR TITHING CATTLE. R. ELEAZAR AND R. SIMEON SAY, “IT IS ON THE FIRST DAY OF TISHRÉ.”**

1. **III:1:** Elsewhere we have learned: R. Meir says, “On the first of Elul it is the New Year for the tithe of cattle.” Ben Azzai says, “Those born in Elul are tithed by themselves” [M. Bekh. 9:5]. Rab Huna said, “This is the reasoning of R. Meir: up to that time [the first of Elul] the latest births of the old year [of those conceived before the first of Nisan] take place; beyond that time they begin to give birth from the new ones [conceived after the first of Nisan].” R. Yosé the son of R. Abun in the name of Rab Huna [said], “The reasoning of R. Eleazar and R.

Simeon is as follows: ‘the rams have mounted the sheep’ (Ps. 65:14). Those refer to the early-bearing sheep. ‘The valleys also are covered over with offspring’ (ibid.). Those refer to the sheep which conceive late in the season. ‘They pasture all’ (ibid.). These are born early] and those [born late] enter into they shed to be tithed.”

2. **III:2:** Elsewhere we learn: [All animals born] from the first of Tishré to the twenty-ninth of Elul combine (for the tithing of cattle). Five born before the New Year and five born after the New Year do not combine. But five born before the period of tithing] and five born after the period of tithing do combine to enter the same shed for tithing [M. Bekh. 9:6]. If so why did they speak of three periods for the tithing of cattle? [It is for the purpose of informing us that until the arrival of the [tithing] period it is permitted to sell and slaughter [the animals, but when the period has arrived he must not kill, but if he did, he is exempt. Said R. Yosé, “It follows that they did not require the tithing of cattle similar to the time of the formation of fruits nor to [the stage of] one-third [maturity]. For if you say, ‘similar to the time of the formation of fruits,’ it would have taught ‘all those conceived from the twenty-ninth of Elul.’ If you say, ‘according to [the stage of] one-third [maturity],’ it would have taught, ‘all those born until the twenty-second of it [Elul].”

II. YERUSHALMI ROSH HASHANAH 1:2

[A] **THE FIRST DAY OF TISHRÉ IS THE NEW YEAR FOR THE RECKONING OF YEARS”**

1. **I:1:** Whence years? One verse says and the feast of ingathering, at the end of the year Exodus 23:16), and another verse says and the feast of ingathering, at the turn of 106 the year (Exodus 34:22). Which month contains a festival and an equinox and an ingathering and the [old] year goes out with it[s beginning]? Which one is this? It is Tishré. If you say Tevet, it contains a solstice but it does not contain a festival or an ingathering. If you say Nisan, it contains an equinox and a festival but it does not contain an ingathering. If you say Tammuz, it contains a solstice and an ingathering but it does not contain a festival. And which one is this? It is Tishré.

[B] **FOR SABBATICAL YEARS**

1. **II:1:** Concerning Sabbatical years, whence?

[C] **AND FOR JUBILEES:**

1. **III:1:** Concerning Jubilee years, whence?

[D] **FOR PLANTING [TREES] AND FOR VEGETABLES”**

1. **IV:1:** How for young trees? It is taught: the one who plants, and the one who sinks a vine, and the one who grafts [at least] thirty days before the New Year, it is accounted to him as a full year and he is permitted to keep it in the Sabbatical year. Less than thirty days before the New Year, it is not accounted to him as a full year, and he is forbidden to keep them in the Sabbatical year.

2. **IV:2:** How for “vegetables”?

[E] **THE FIRST DAY OF SHEBAT IS THE NEW YEAR FOR TREES, IN ACCORD WITH THE OPINION OF THE HOUSE OF SHAMMAI. THE HOUSE OF HILLEL SAY, “ON THE FIFTEENTH DAY OF THAT MONTH [IS THE NEW YEAR FOR TREES].”**

1. **V:1:** R. Zeira, R. Illa, R. Eleazar in the name of R. Hoshayya – one said, “Most of the rains of the entire year have gone already, and the major part of the cycle has gone.” And the other said, “Until now they [trees] are sustained by the waters of the previous year; henceforth they are sustained by the waters of the coming year.”

2. **V:2:** A story concerning R. Ahba, who plucked an etrog, and subjected it to the stringencies of the school of Shammai and the stringencies of the school of Hillel. It is taught: according to the stringencies of Rabban Gamaliel and according to the stringencies of R. Eleazar. Said R. Yosé son of R. Abun, “The solution is that it blossomed before the fifteenth of Shebat of the second [year] and entered the third [year]. According to the opinion of Rabban Gamaliel, Poor man’s Tithe. According to the opinion of R. Eleazar, Second Tithe.” What did he do? He called its name [Second] Tithe and redeemed it and gave it to the poor.

III. YERUSHALMI ROSH HASHANAH 1:3

[A] **AT FOUR SEASONS OF THE YEAR THE WORLD IS JUDGED: AT PASSOVER THROUGH GRAIN; AT PENTECOST THROUGH FRUIT OF THE TREE:**

1. **I:1:** Some authorities teach: all of them are judged on the New Year, and the [divine] sentence of each one is sealed on the New Year. Other authorities teach: all of them are judged on the New Year, and the [divine] sentence of each one is sealed on Yom Kippur. Other authorities teach: all of them are judged on the New Year, and the

[divine] sentence of each one is sealed at its appointed time. Other authorities teach: each one is judged at its appointed time, and the [divine] sentence of each one is sealed at its appointed time.

- a. I:2: [From] Rab s wording it follows that all them are judged on the New Year the [divine] sentence of every one of them is sealed on the New Year.
- b. I:3: R. Isaac Rabbah in the name of Rabbi: “The king and the public are judged every day.”
- c. I:4: Said R. Levi: “‘And He will judge the world in righteousness. He will minister judgment to the peoples with equity’ (Ps. 9:9). ‘The Holy, One blessed be He judges Israel by day at the time when they are occupied with divine commandments; and the nations by night. It the time when they have abstained from transgressions.’ Samuel said: ‘After He judges Israel, He judges the nations.’”

2. **I:5:** Hiyya bar Abba asked, “As to produce blasted [by a hot wind] on the eve of Passover, by virtue of which judgment was it smitten? If you say ‘the coming year,’ it hasn’t yet come! If you say the departing year, Thus it was waiting the entire year to smite now?” “Those who die between the New Year and Yom Kippur, by virtue of which judgment do they die? If you say the coming year, it hasn’t yet come! If you say the departing year thus they were waiting the entire year to die now?”

[B] AT THE NEW YEAR ALL WHO ENTER THE WORLD PASS BEFORE HIM LIKE TROOPS, SINCE IT IS SAID [Ps. 33:15]: “HE WHO FASHIONS THE HEARTS OF THEM AND WHO CONSIDERS ALL THEIR WORKS:”

1. **II:1:** Said R. Aha, “They are like those that pass through the tithing sheds.” And rabbis said, “Like those of Beth Numin.”

[C] AND ON THE FESTIVAL [OF TABERNACLES] THEY ARE JUDGED THROUGH WATER.

1. **III:1:** This formulation of the Mishnah derives from R. Aqiba, for R. Aqiba has said, “The water libation derives from the authority of the Torah. On the second day of Tabernacles, ‘and their drink offerings’ (Num. 29:19). On the sixth day, ‘and his drink offering’ (Num. 29:31). ‘On the seventh day, ‘after the ordinance’ (Num. 29:33). Now the variation in the wording of these clauses yields extraneous letters that spell out the word for water.”
2. **III:2:** Taught R. Simeon bar Yohai, “Behold, if Israel was worthy on the New Year, so that plentiful rain was decreed for them, and then

they sinned, then, to diminish the rain is not possible, for the decree has already been issued. So what does the Holy One, blessed be he, do? He scatters the rain to the sea, desert, and river, so that the land will not benefit from it. What is the proof? ‘To cause it to rain on a land where no man is, on the wilderness in which there is no man’ (Job 38:26). Behold, if Israel was not worthy on the New Year, so that diminished rain was decreed for them, but in the end they repented, well, to add to the rain is not possible, for the decree was already issued. So what does the Holy One, blessed be he, do for them? He brings them as much as is needed for the land and calls down dew and wind so that the land will benefit from the rain. What is the proof? “Watering her ridges abundantly, settling down the furrows thereof, you make her soft with showers, you bless the growth thereof” (Ps. 65:11).”

IV. YERUSHALMI ROSH HASHANAH 1:4

[A] ON THE OCCASION OF SIX NEW MOONS MESSENGERS GO FORTH: (1) AT NISAN, BECAUSE OF PASSOVER; (2) AT AB, BECAUSE OF THE FAST; (3) AT ELUL, BECAUSE OF THE NEW YEAR; (4) AT TISHRÉ, BECAUSE OF THE DETERMINATION OF THE SET FEASTS; (5) AT KISLEV, BECAUSE OF HANUKKAH; AND (6) AT ADAR, BECAUSE OF PURIM. AND WHEN THE TEMPLE STOOD, THEY GO FORTH ALSO AT IYYAR, BECAUSE OF THE LESSER PASSOVER [OBSERVED BY THOSE UNCLEAN FOR THE FIRST PASSOVER].

- 1. I:1:** Why not send messengers also for the Festival of Week?
- 2. I:2:** But did not messengers go out in Elul?

V. YERUSHALMI ROSH HASHANAH 1:5

[A] [IN ORDER TO PRESENT TESTIMONY] OF THE [BEGINNING] OF TWO MONTHS THEY PROFANE THE SABBATH [BY TRAVELING BEYOND THE SABBATH LIMIT IN ORDER TO NOTIFY THE COURT OF THE APPEARANCE OF THE NEW MOON]: FOR NISAN AND FOR TISHRÉ. FOR ON THESE OCCASIONS THE MESSENGERS GO FORTH TO SYRIA. AND ON THEM THEY DETERMINE THE SET FEASTS. AND WHEN THE TEMPLE STOOD, THEY PROFANE THE SABBATH [BY TRAVELING BEYOND THE SABBATH LIMIT IN ORDER TO NOTIFY THE COURT OF THE APPEARANCE OF THE NEW MOON] ON THE OCCASION OF ALL OF THE [MONTHS], BECAUSE OF THE [NEED] TO DETERMINE [THE CORRECT DAY FOR] THE OFFERING [MARKING THE BEGINNING OF THE NEW MONTH]. WHETHER [THE NEW MOON] APPEARED

CLEARLY OR DID NOT APPEAR CLEARLY, THEY VIOLATE THE [PROHIBITIONS OF] THE SABBATH ON ITS ACCOUNT. **R. YOSÉ SAYS, “IF IT APPEARED CLEARLY, THEY DO NOT VIOLATE THE PROHIBITIONS OF THE SABBATH ON ITS ACCOUNT.”**

- I:1:** What is the meaning of the language, Whether [the new moon] appeared clearly or did not appear clearly? It means, “exposed,” as in the usage, “as purified silver is exposed to the earth, refined seven times” (Ps. 12:7).

[B] **M’SH S: MORE THAN FORTY PAIRS [OF WITNESSES] PASSED [ON THEIR WAY TO JERUSALEM]. BUT R. AQIBA KEPT THEM BACK AT LUD. RABBAN GAMALIEL SENT TO HIM [SAYING], “IF YOU KEEP BACK THE PEOPLE, YOU WILL TURN OUT TO MAKE THEM ERR IN THE FUTURE.”**

- II:1:** M’SH S: More than forty pairs [of witnesses] passed [on their way to Jerusalem]. But R. Aqiba kept them back at Lud, because they were more than forty pair. But if it were a single pair, he would not have held them back. Rabban Gamaliel sent to him [saying], “If you keep back the people, you will turn out to make them err in the future. “Then you will keep many from performing a religious duty, and one who keeps many from doing a religious duty is subject to a ban.”

VI. YERUSHALMI ROSH HASHANAH 1:6

[A] **A FATHER AND HIS SON WHO SAW THE NEW MOON SHOULD GO [TO GIVE TESTIMONY]. IT IS NOT THAT THEY JOIN TOGETHER WITH ONE ANOTHER [TO PROVIDE ADEQUATE TESTIMONY], BUT SO THAT, IF ONE OF THEM SHOULD TURN OUT TO BE INVALID [AS A WITNESS], THE OTHER MAY JOIN WITH SOMEONE ELSE [TO MAKE UP THE REQUISITE NUMBER OF WITNESSES]. R. SIMEON SAYS, “A FATHER AND HIS SON, AND ALL RELATIVES, ARE VALID TO GIVE TESTIMONY ABOUT THE NEW MOON.”**

- I:1:** What is the evidence in behalf of the position of R. Simeon?

[B] **SAID R. YOSÉ, “M’SH B: TOBIAH, THE PHYSICIAN, SAW THE NEW MOON IN JERUSALEM— HE, HIS SON, AND HIS FREED SLAVE. “AND THE PRIESTS ACCEPTED HIM AND HIS SON [AS WITNESSES TO THE NEW MOON], BUT THEY INVALIDATED THE TESTIMONY OF HIS SLAVE. “BUT WHEN THEY CAME BEFORE THE COURT, THEY ACCEPTED HIS [TESTIMONY] AND THAT OF HIS SLAVE, BUT THEY INVALIDATED THAT OF HIS SON.”**

- II:1:** The priests accepted him and his son, but disqualified his slave as unfit. But when they came before the court, they accepted him and his slave but disqualified his son, because he is a relative.

VII. YERUSHALMI ROSH HASHANAH 1:7

- [A] **THESE ARE THE ONES WHO ARE INVALID [TO TESTIFY ABOUT THE APPEARANCE OF THE NEW MOON]: (1) HE WHO PLAYS WITH DICE:**
- I:1:** Who is one who plays with dice? All the same are those who play with dice, plays with nut shells or with pomegranates. When can they accept him [who gambles with dice] back? After he breaks the dice and is examined and is found to have completely repented.
- [B] **(2) THEY WHO LEND ON INTEREST:**
- II:1:** As to one who lends on interest, when can they accept him back? After he tears up his documents and is examined and it turns out that he has completely repented.
- [C] **(3) THEY WHO RACE PIGEONS:**
- III:1:** As to one who races pigeons, that is whether he races pigeons or races other animals, a beast of chase or a bird. From what time may they accept him back? After he breaks his snares and is examined and turns out to have repented completely.
- [D] **(4) THEY WHO TRADE IN PRODUCE OF THE SEVENTH YEAR; (5) AND SLAVES. THIS IS THE GOVERNING PRINCIPLE: ANY EVIDENCE THAT A WOMAN IS NOT VALID [TO OFFER], ALSO THEY ARE NOT VALID [TO OFFER].**
- IV:1:** That is a specialist in trading in the Seventh Year. Who is such a one? It is he who sits idle through the whole cycle, but when the Sabbatical Year comes, he begins to get involved and deal in produce that is subject to sin. From what time may they accept him back? After the next Sabbatical Year arrives and he is examined and turns out to have repented wholly and completely.
 - IV:2:** They added to the list shepherds and extortionists and robbers and all those who are suspect of appropriating what belongs to others; their testimony is invalid.
 - IV:3:** Said R. Huna, “Who is the authority behind the rule concerning racing pigeons? It is R. Eliezer, for we have learned in the Mishnah: Two teachings in the name of R. Eliezer: “A woman may go out on the Sabbath wearing a golden tiara, and those who race pigeons are disqualified to give testimony.” Said R. Mana in the presence of R. Yosé, “Is the entire set of ruling in tractate Sanhedrin, [at Mishnah 3:3,

given anonymously,] in fact in accord with the position of R. Eliezer alone and not unanimous, as just now shown here]?” He said to him, “It is a unanimous position.”

VIII. YERUSHALMI ROSH HASHANAH 1:8

[A] **HE WHO SAW THE NEW MOON BUT CANNOT GO [ON HIS OWN TO TESTIFY]— THEY BRING HIM ALONG ON AN ASS, EVEN IN A PALANQUIN. AND IF THERE IS AN AMBUSH SET UP AGAINST THEM, THEY TAKE STAVES IN HAND. AND IF IT WAS A LONG TRIP, THEY TAKE FOOD IN HAND. FOR: ON ACCOUNT OF A JOURNEY [REQUIRING TRAVEL] FOR A NIGHT AND A DAY THEY VIOLATE [THE PROHIBITIONS OF] THE SABBATH AND GO FORTH TO GIVE TESTIMONY ABOUT THE NEW MOON, SINCE IT IS SAID [LEV. 23:4]: “THESE ARE THE SET FEASTS OF THE LORD, EVEN HOLY CONVOCATIONS, WHICH YOU SHALL PROCLAIM IN THEIR APPOINTED SEASON.”**

- 1.** **I:1:** Said R. Isaac, “The Torah speaks in imprecise idioms of various kinds, for example: ‘And the man wondered at her’ (Gen. 24:2); any jar holding two seahs [M. Ter. 10:8], And if there is an ambush set up against them, they take staves in hand.”
- 2.** **I:2:** Might one think that just as they may profane the Sabbath to give testimony concerning these particular new moons, so they may profane the Sabbath to announce the dates of the New Month have been set? Scripture states, “which you shall proclaim” (Lev. 23:4) – concerning the proclamation only you may profane the Sabbath, but you may not profane the Sabbath to announce that they have been designated.
- 3.** **I:3:** R. Simeon b. Laqish asked, “As to cutting the first sheaf of barley, does it override the Sabbath during the day [if the sixteenth of Nisan coincides with the Sabbath? It is to be cut by night, but if the first day of the festival is Friday, the cutting is done Friday night, and that will override the Sabbath; is it also valid to do so during the day?]” Answered R. Abbaye, “Behold we have learned that the religious duty involved is to reap it by night, but if it was reaped by day, it is valid; and it overrides the Sabbath.”

IX. YERUSHALMI ROSH HASHANAH 2:1

[A] IF THEY [IN JERUSALEM] ARE NOT GOING TO RECOGNIZE HIM, THEY [IN HIS OWN TOWN] SEND ANOTHER WITH HIM TO GIVE EVIDENCE ABOUT HIM. AT FIRST THEY WOULD ACCEPT TESTIMONY CONCERNING THE NEW MOON FROM EVERYBODY.

1. **I:1:** Said R. Jonah, “It should have been necessary to frame matters in the following way, [reversing the clauses’ order]: At first they would accept testimony concerning the new moon from everybody. If they [in Jerusalem] are not going to recognize him, they [in his own town] send another with him to give evidence about him.” Said R. Yosé, “Even in accordance with [the order of] our Mishnah the formulation is acceptable: If they [in Jerusalem] are not going to recognize him, they [in his own town] send another with him to give evidence about him. Why so? Because At first they would accept testimony concerning the new moon from everybody. Once the minim had spoiled matters, they made the rule that messengers would go forth.
2. **I:2:** And is the statement of one witness sufficient? “From your own, it is given to you:” since legally witnesses are not necessary, and they said that witnesses are necessary, they said that the statement of one witness is sufficient. Can one witness be relied upon like two? How can this be? If there was one who knows his own handwriting and the handwriting of his fellow, and one whom no one except his fellow knows, is his fellow combined with one from the street to testify of him? Zeira [in the name of] Rab Huna in the name of Rab: “He and another are not combined [to testify] concerning the signature of the second witness.”
3. **I:3:** Do those who know the witnesses to the appearance of the moon profane the Sabbath on their behalf?

[B] ONCE THE MINIM HAD SPOILED MATTERS, THEY MADE THE RULE THAT THEY SHOULD ACCEPT TESTIMONY ONLY FROM THOSE WHO ARE RECOGNIZED. AT FIRST THEY WOULD KINDLE FLARES.

1. **II:1:** And how did they spoil matters? That they used to say, “The Festival of Weeks [always] follows the Sabbath,” and they used to go out on it while it was still evening with the presumption that it would be sanctified.

2. **II:2:** It happened that the Boethusians hired two false witnesses to testify concerning the moon that it had been sanctified. The one came. gave his testimony, and went on his way. The other came and said, “I was going up the ascent of Adumim and I saw it crouching between two rocks, its head like [that of] a calf, its ears like [those of] a kid, and I saw it, became frightened, and sprang back. And behold two hundred zuzim are tied up in my purse.” They said to him, “Behold two hundred zuzim are given to you as a gift, and those who sent you shall come to be lashed. But as for you, why did you place yourself in such danger?” He said to them, “I saw them seeking to mislead the Sages. I said [to myself], ‘Better that I should go and make it known to the Sages.’”

[C] **ONCE THE SAMARITANS HAD SPOILED MATTERS, THEY MADE THE RULE THAT MESSENGERS WOULD GO FORTH.**

1. **III:1:** And how did they spoil matters? That these were lighting beacons on this day. and these were lighting beacons the next day. and they used to think that the Court had changed their mind to intercalate, and they became disordered.

X. YERUSHALMI ROSH HASHANAH 2:2

[A] **HOW DID THEY KINDLE FLARES? THEY BRING LONG CEDAR WOOD STICKS, REEDS, OLEASTER WOOD AND FLAX TOW. AND ONE BINDS THEM TOGETHER WITH A ROPE.**

1. **I:1:** What is ‘the kind of wood under discussion here? It is pinewood.

[B] **AND HE GOES UP TO THE TOP OF THE HILL AND LIGHTS THEM. AND HE WAVES THEM TO AND FRO AND UP AND DOWN, UNTIL HE SEES HIS FELLOW, DOING THE SAME ON THE NEXT HILLTOP, AND SO WITH THE THIRD HILLTOP [AND BEYOND]. AND BEGINNING AT WHAT PLACE DID THEY KINDLE FLARES? FROM THE MOUNT OF OLIVES:**

1. **II:1:** R. Jonah said, “The torches were moved in the manner of the runner (in zigzag).”

[C] **[THEY GAVE THE SIGNAL] TO SARTEBA, FROM SARTEBA TO AGRIPPINA, FROM AGRIPPINA TO HAURAN, FROM HAURAN TO BET BALTIN. BUT THEY DID NOT MOVE FROM BET BALTIN. RATHER [FROM THAT VANTAGE POINT] ONE WAVES THEM TO AND FRO, UP AND DOWN, UNTIL HE WOULD SEE THE WHOLE EXILE BEFORE HIM LIT UP LIKE A BONFIRE.**

1. **III:1:** It was taught: On the mountains of Mikhvar and Gedor.

XI. YERUSHALMI ROSH HASHANAH 2:3

[A] **THERE WAS A LARGE COURTYARD IN JERUSALEM, CALLED BET YA'AZEQ, TO WHICH ALL THE WITNESSES GATHER. AND THERE THE COURT EXAMINES THEM. NOW THEY PREPARE BIG MEALS FOR THEM, SO THAT THEY SHOULD MAKE IT A HABIT TO COME.**

1. **I:1:** What is the meaning of Bet Ya'azeq?

[B] **AT FIRST, [HAVING COME ON THE SABBATH] AND THEREFORE HAVING NO PERMITTED AREA OF SABBATH TRAVEL], THEY DID NOT MOVE FROM THERE THE WHOLE DAY. RABBAN GAMALIEL THE ELDER AND [THIS RULE APPLIES] NOT ONLY TO THESE, BUT ALSO (1) A MIDWIFE WHO COMES TO ASSIST, AND (2) ONE WHO COMES TO HELP OUT IN THE CASE OF A FIRE, (3) IN THE CASE OF A SIEGE, (4) TO SAVE SOMEONE FROM DROWNING IN A RIVER, (5) OR FROM THE DEBRIS OF A HOUSE— LO, [HAVING COMPLETED THEIR TASK], THESE ARE IN THE STATUS OF THE TOWNSFOLK, AND THEY HAVE THE RIGHT TO MOVE ABOUT FOR TWO THOUSAND CUBITS IN ALL DIRECTIONS. ORDAINED THAT THEY MAY MOVE ABOUT FOR TWO THOUSAND CUBITS IN EVERY DIRECTION.**

1. **II:1:** At first, [having come on the Sabbath] and therefore having no permitted area of Sabbath travel], they did not move from there the whole day: They later came to consider them like vessels which came from outside the Sabbath limit after dark, which can be moved within a range of four cubits. They later came to consider them like vessels which rested in the courtyard. which can be moved within the courtyard. Then Rabban Gamaliel the Elder came and decreed *that* they may move about for two thousand cubits in every direction.
2. **II:2:** It was taught: [the same limit of two thousand cubits applies] even if one came from beyond the Sabbath boundaries to circumcise an infant.

XII. YERUSHALMI ROSH HASHANAH 2:4

[A] **HOW DO THEY EXAMINE THE WITNESSES? THE PAIR WHICH MAKES ITS APPEARANCE FIRST DO THEY EXAMINE FIRST. THEY BRING IN THE ELDER OF THEM AND SAY TO HIM, "TELL US. HOW DID YOU SEE THE MOON? WAS IT FACING THE SUN OR TURNED AWAY FROM IT?"**

1. **I:1:** R. Yohanan said, “Even the one who is mistaken the most of all does not err in this matter, ‘in front of the sun or behind the sun?’ It ought not to read otherwise than concavity [of the moon] in front of the sun, concavity [of the moon] behind the sun.” Bar Qappara taught both of them [in his Mishnah]: in front of the sun [or] behind the sun; concavity in front of the sun, concavity behind the sun.
2. **I:2:** It was taught: if the reflection of the moon was seen in a reflecting glass or in water, they may not testify concerning it. R. Hiyya bar Abba said, “If they saw it exit from one cloud and enter into another cloud, they may testify concerning it.”

[B] WAS IT TO THE NORTH OR TO THE SOUTH?

1. **II:1:** Some authorities teach: [if he says] to the north of it, his statement is confirmed. Other authorities teach: [if he says] to the south of it, his statement is confirmed.

[C] HOW HIGH WAS IT, AND IN WHICH DIRECTION WAS IT LEANING? AND HOW BROAD WAS IT?” IF HE SAID, “IT WAS FACING THE SUN,” HE HAS SAID NOTHING AT ALL. AFTERWARDS THEY WOULD BRING IN THE SECOND PARTY AND EXAMINE HIM. IF THEIR TESTIMONY COINCIDED, THEIR TESTIMONY WAS CONFIRMED. AND [IN THE CASE OF] ALL THE OTHER PAIRS OF WITNESSES, THEY ASK THE MAIN POINTS, NOT BECAUSE THEY NEEDED THEIR [EVIDENCE], BUT SO THAT THEY SHOULD NOT GO OUT DISAPPOINTED, SO THAT THEY WOULD MAKE IT A HABIT OF COMING IN THE FUTURE.

1. **III:1:** What was its height [above the horizon]? This one says, “A distance equal to one ox-prod.” And this one says, “A distance equal to two ox-prods.” Some authorities teach their statements are confirmed. And other authorities teach: their statements are not confirmed. With regard to the one who says “their statements are confirmed,” this is in the case of such witnesses as had been standing [at the time of observation] one above and one below. With regard to the one who says “their statements are not confirmed,” this is in the case of such witnesses as had been standing on the same level. What was its width [of crescent]? Like a barley grain or more. And if he said, “in front of the sun,” he has not said anything.

XIII. YERUSHALMI ROSH HASHANAH 2:5

[A] THE HEAD OF THE COURT SAYS, “IT IS SANCTIFIED.” AND THE WHOLE CROWD ANSWERS HIM, “IT IS SANCTIFIED. IT IS SANCTIFIED.” WHETHER IT APPEARS

IN THE EXPECTED TIME OR DOES NOT APPEAR IN THE EXPECTED TIME, THEY SANCTIFY IT.

1. **I:1:** It is taught: R. Simon ben Yohai says, “‘And you shall sanctify the fiftieth year’ (Lev. 25:10) – one sanctifies years and not months.” But are we not taught, The head of the Court says: “It is sanctified”? What is the meaning of “it is sanctified?” Affirmed.
2. **I:2:** It is taught: For the purpose of sanctifying the moon, they begin [to take votes] from the leader.
3. **I:3:** It is taught: For the purpose of intercalating the year, they begin [to take votes] from the side [bench].
4. **I:4:** R. Jacob Bar Aha in the name of R. Yosé in the name of R. Yohanan: “To proclaim an intercalation, we follow the order of the dates of ordination [of the members of the court], for the purposes of the study house we go by the ordinary order [the regularity of attendance], in the assumption that everyone speaks in his place.”

[B] **R. ELEAZAR B. R. SADOQ SAYS, “IF IT DID NOT APPEAR IN ITS EXPECTED TIME, THEY DO NOT SANCTIFY IT, FOR HEAVEN HAS ALREADY DECLARED IT SANCTIFIED.”**

1. **II:1:** R. Abba bar Zebida in the name of Rab, “The reasoning of R. Eleazar the son of R. Sadoq is that since the heavenly Court sees that the earthly Court is not sanctifying it. they sanctify it.”

XIV. YERUSHALMI ROSH HASHANAH 2:6

[A] **A PICTURE OF THE SHAPES OF THE MOON DID RABBAN GAMALIEL HAVE ON A TABLET AND ON THE WALL OF HIS UPPER ROOM, WHICH HE WOULD SHOW ORDINARY FOLK, SAYING, “DID YOU SEE IT LIKE THIS OR LIKE THAT?” M’SH S: TWO WITNESSES CAME AND SAID, “WE SAW IT AT DAWN [ON THE MORNING OF THE TWENTY-NINTH] IN THE EAST AND AT EVE IN THE WEST.” SAID R. YOHANAN B. NURI, “THEY ARE FALSE WITNESSES.” NOW WHEN THEY CAME TO YABNEH, RABBAN GAMALIEL ACCEPTED THEIR TESTIMONY [ASSUMING THEY ERRED AT DAWN]. AND FURTHERMORE TWO CAME ALONG AND SAID, “WE SAW IT AT ITS PROPER TIME, BUT ON THE NIGHT OF THE ADDED DAY IT DID NOT APPEAR [TO THE COURT].” THEN RABBAN GAMALIEL ACCEPTED THEIR TESTIMONY. SAID R. DOSA B. HARKINAS, “THEY ARE FALSE WITNESSES. “HOW CAN THEY TESTIFY THAT A WOMAN HAS GIVEN BIRTH, WHEN, ON THE VERY NEXT DAY, HER STOMACH IS STILL UP THERE BETWEEN**

HER TEETH [FOR THERE WAS NO NEW MOON!]" SAID TO HIM R. JOSHUA, "I CAN SEE YOUR POSITION."

1. **I:1:** R. Simlai said, "The reasoning of R. Yohanan ben Nuri is that concerning any new moon born before six hours, there is not the power in the eye to see the old moon." And it is taught thus: If the old moon appears in the morning, the new moon does not appear in the evening; if the new moon appears in the evening, the old moon could not have appeared in the morning.

XV. YERUSHALMI ROSH HASHANAH 2:7

[A] SAID TO HIM RABBAN GAMALIEL, "I DECREE THAT YOU COME TO ME WITH YOUR STAFF AND PURSE ON THE DAY OF ATONEMENT WHICH IS DETERMINED IN ACCORD WITH YOUR RECKONING." R. AQIBA WENT AND FOUND HIM TROUBLED. HE SAID TO HIM, "I CAN PROVIDE GROUNDS FOR SHOWING THAT EVERYTHING THAT RABBAN GAMALIEL HAS DONE IS VALIDLY DONE, SINCE IT SAYS, THESE ARE THE SET FEASTS OF THE LORD, EVEN HOLY CONVOCATIONS, WHICH YOU SHALL PROCLAIM (LEV. 23:4). WHETHER THEY ARE IN THEIR PROPER TIME OR NOT IN THEIR PROPER TIME, I HAVE NO SET FEASTS BUT THESE [WHICH YOU SHALL PROCLAIM] [vs. M. 2:7D]."

1. **I:1:** To whom did he send? From that which is taught: R. Joshua said, "It would have been better for me to lie [dead] on the bed, Rabban Gamaliel not having sent this thing" – This indicates that it was sent to R. Joshua. With whom was it sent? From that which is taught in these words: he said to him, you have comforted me, Aqiba, – this indicates that it was sent at the hand of R. Aqiba.

XVI. YERUSHALMI ROSH HASHANAH 2:8

[A] HE CAME ALONG TO R. DOSA B. HARKINAS. HE [DOSA] SAID TO HIM, "NOW IF WE'RE GOING TO TAKE ISSUE WITH THE COURT OF RABBAN GAMALIEL, WE HAVE TO TAKE ISSUE WITH EVERY SINGLE COURT WHICH HAS COME INTO BEING FROM THE TIME OF MOSES TO THE PRESENT DAY, SINCE IT SAYS, THEN WENT UP MOSES AND AARON, NADAB AND ABIHU, AND SEVENTY OF THE ELDERS OF ISRAEL (EX. 24:9). NOW WHY HAVE THE NAMES OF THE ELDERS NOT BEEN GIVEN? TO TEACH THAT EVERY GROUP OF THREE [ELDERS] WHO CAME INTO BEING AS A COURT OF ISRAEL— LO, THEY ARE EQUIVALENT TO THE COURT OF MOSES HIMSELF." [JOSHUA] TOOK HIS STAFF WITH HIS PURSE IN HIS HAND AND WENT ALONG TO YABNEH, TO RABBAN GAMALIEL, ON THE DAY OF

ATONEMENT WHICH IS DETERMINED IN ACCORD WITH HIS [GAMALIEL'S] RECKONING. RABBAN GAMALIEL STOOD UP AND KISSED HIM ON HIS HEAD AND SAID TO HIM, COME IN PEACE, MY MASTER AND MY DISCIPLE – MY MASTER IN WISDOM, AND MY DISCIPLE IN ACCEPTING MY RULINGS.”

1. **I:1:** It is written, “and Samuel said to the people, “It is the Lord who advanced Moses and Aaron and brought your fathers up out of the land of Egypt” (1 Sam. 12:6). “And the Lord sent Jerubbaal and Bedan and Jephthah and Samuel and delivered you out of the hand of your enemies on every side and you dwelt in safety” (1 Sam. 12:6) – Jerubbaal is Gideon, Bedan is Samson, Jephthah is Jephthah the Gileadi. The Torah has thus compared these three lightweights of the world, Jerubbaal, Bedan, and Jephthah, to the three mighty ones of the world [Moses, Aaron, and Samuel] to teach you that the courts of Gideon and of Jephthah and of Samson were equal to those of Moses, Aaron, and Samuel.
2. **I:2:** Rabban Gamaliel stood up and kissed him on his head and said to him, “Come in peace, my master and my disciple – My master in wisdom, and my disciple in accepting my rulings.” “My teacher” in wisdom “and my disciple” in that all that I decree upon him, he fulfills.”
3. **I:3:** It is written: “Whose oxen are well laden with no breach, and no going forth, and no complaining in the streets” (Ps. 144:14). R. Yohanan and R. Simeon b. Laqish: R. Yohanan said, “‘laden oxen’ is not written here, but our [laden] teachers in Torah. ‘Laden’ meaning: when the great bear the small, ‘there is no breach, nor going forth; there is no complaining in the streets.’” R. Simeon b. Laqish interprets this verse just in a reverse way [to R. Yohanan’s interpretation]: “‘laden oxen’ is it not written here, but our teachers are borne with, meaning: when the small bear the great, ‘then there is no breach, nor going forth; there is no complaining in the streets.’”

XVII. YERUSHALMI ROSH HASHANAH 3:1

[A] [If] THE COURT AND ALL THE [PEOPLE OF] ISRAEL SAW [THE NEW MOON ON THE THIRTIETH DAY], AND THE WITNESSES WERE EXAMINED, BUT THEY HAD NO CHANCE TO SAY, “IT IS SANCTIFIED,” BEFORE IT [ACTUALLY] GOT DARK, LO, THIS [MONTH COMING TO AN END] IS AN INTERCALATED MONTH.

1. **I:1:** So is the Mishnah to be read, “either the Court or all Israel.”

2. **I:2:** R. Zeira [in the name of] R. Immi in the name of R. Joshua ben Levi, “We may disregard the sighted [New.Moon] to intercalate; we may not proclaim the first day of the new month when the New Moon has not been seen.” R. Abba [in the name of] R. Hiyya in the name of R. Joshua ben Levi, “We may proclaim the first day of the new month when the New Moon has not been seen; but we may not disregard the sighted [New Moon] to intercalate.”
3. **I:3:** Rabbi says, “Nisan was never intercalated.” But are we not taught: If the New Moon came in due time [M. Sheq. 4:5]? Thus if it came. So [in fact] it did not come [at any time either than its due time]. Rab said, “Tishré was never intercalated. But are we not taught [in a.Mishnah]: “If the month [of Tishré] was intercalated [M. Sheq. 4:5]. If it was: but [in fact] it was not.
4. **I:4:** If they declared it sanctified before its proper time, or one day after its intercalation; one might think that it ought to be deemed sanctified. Scripture says, “[These are the appointed seasons of the Eternal which you shall proclaim] them [in their appointed season] (Lev. 23:4). “Speak unto the children of Israel, and say unto them: the appointed seasons of the Eternal which you shall proclaim” – [Scripture goes on to emphasize, “these are they – My appointed seasons” (Lev. 23:2) and not “these are My appointed seasons. “Before its proper time – the twenty-ninth day; after its intercalation – the thirty-second day.

[B] **[If]** THE COURT ALONE SAW IT, LET TWO OF THEM GET UP AND GIVE TESTIMONY BEFORE THE REST OF THEM, AND THEN THEY SHOULD SAY, “**IT IS SANCTIFIED, IT IS SANCTIFIED.**” **[If]** THREE OF THEM SAW IT, AND THEY COMPRISE THE **[ENTIRE]** COURT, LET TWO OF THEM ARISE, AND LET THEM SEAT SOME OF THEIR COLLEAGUES WITH THE REMAINING JUDGE, AND GIVE TESTIMONY BEFORE THEM, SO THEY MAY SAY, “**IT IS SANCTIFIED, IT IS SANCTIFIED.**” **FOR AN INDIVIDUAL IS NOT REGARDED AS TRUSTWORTHY BY HIMSELF [TO PRONOUNCE THE SANCTIFICATION OF THE MONTH].**

1. **II:1:** The court that saw the killer [commit murder], said, “If we see him, we do not recognize him!” They [nonetheless] did not perform the ceremony, as it is written, “Our eyes have not seen” – in any case, and behold they had seen. And with regard to a court which saw the killer [murder], one Tannaite authority teaches: “Let two arise and testify before them.” Another Tannaite authority teaches, “Let all of them arise and testify in another place.” R. Judah bar Pazzi in the name of R. Zeira, “Just as they differ here, so likewise they differ over testimony concerning the New Moon..”Let one arise and let one be

seated, then let one arise and let one be seated?” It is different, for the witness does not become judge.

2. **II:2:** If objection was raised against the signatures of the witnesses, against the signatures of the judges – R. Abba in the name of Rab Judah: “If one wanted to attest by the signatures of the witnesses, one attests; by the signatures of the judges, one attests. And I say, ‘even by one witness, even by one judge, one attests.’”

XVIII. YERUSHALMI ROSH HASHANAH 3:2

[A] **ALL SHOFARS ARE VALID, EXCEPT FOR THAT OF A COW, BECAUSE IT IS A HORN. SAID R. YOSÉ, “BUT ARE NOT ALL SHOFARS CALLED HORNS, “AS IT IS SAID [JOSH. 6:5], ‘AND WHEN THEY MAKE A LONG BLAST WITH THE RAM’S HORN, [AS SOON AS YOU HEAR THE SOUND OF THE SHOFAR, THEN ALL THE PEOPLE SHALL SHOUT WITH A GREAT SHOUT]’?” [WE SEE IN THIS VERSE THAT THE TERM “HORN” IS EQUATED WITH THE TERM “SHOFAR.”]**

1. **I:1:** Some wanted to say, “And they do not differ.’ You find a Tannaite formulation that teaches: R. Yosé permits that of a cow, and the sages forbid. What is the reason of R. Yosé? “And it shall come to pass, that when they make a long blast with the ram’s horn. (Joshua 6:5). What is the reason of the Rabbis? “And it shall please the Lord better than a bullock that has horns and hoofs” (Ps. 69:32), and what is written is, “more than a horn.”

XIX. YERUSHALMI ROSH HASHANAH 3:3

[A] **THE SHOFAR FOR THE NEW YEAR DERIVES FROM AN ANTELOPE. IT IS STRAIGHT AND ITS MOUTH IS OVERLAID WITH GOLD. AND AT THE SIDES [OF THE ONE WHO BLEW THE SHOFAR] ARE TWO [WHO BLOW] TRUMPETS. THE SHOFAR [IS SOUNDED] FOR A LONG NOTE, AND THE TRUMPETS [ARE SOUNDED] FOR A SHORT NOTE, FOR THE [RELIGIOUS] OBLIGATION OF THE DAY APPLIES TO THE SHOFAR.**

1. **I:1:** Said R. Jonah, “That is in order that they should straighten their heart in repentance. “Its mouthpiece overlaid with gold:” if they overlaid gold inside, it is invalid. If it is outside, it is valid. If they overlaid the spot where the mouth is placed, or if its sound is thick because of the overlay, it is invalid. Said R. Yosé, “This proves that

one who partially hears the plain note of one who blows for practice has not fulfilled his responsibility.”

XX. YERUSHALMI ROSH HASHANAH 3:4

[A] AND [THOSE USED] ON FAST DAYS ARE RAMS’ HORNS. THEY ARE CURVED AND THEIR MOUTH IS OVERLAID WITH SILVER. AND IN THE MIDDLE [OF THOSE WHO BLEW THE SHOFAR] ARE TWO [WHO SOUND] THE TRUMPETS. THE SHOFAR [IS SOUNDED] FOR A SHORT NOTE, AND THE TRUMPETS [ARE SOUNDED] FOR A LONG NOTE, FOR THE [RELIGIOUS] OBLIGATION OF THAT DAY APPLIES TO THE TRUMPETS.

- 1. I:1:** Said R. Jonah, “In order that they should bend their heart in prayer.”
- 2. I:2:** They sounded the shofar before R. Joshua ben Levi on the Fast Day. R. Yosé asked, “And should they not [also] sound the trumpet before him? And he did not recall that which was taught: trumpets in the Temple, no trumpets outside of Jerusalem.” [With reference to M. Ta. 2:6: And he says before them twenty-four blessings: the eighteen said every day, and he adds six more to them. And these are they: (1) Remembrance verses, (2) Shofar verses, (3) In my distress I cried to the Lord and he answered me (Ps. 120), (4) and, I will lift up my eyes to the hills (Ps. 121), (5) and, Out of the depths I have cried to you, O Lord (Ps. 130), (6) and, A prayer of the afflicted when he is overwhelmed (Ps. 102),] And let them pray before him twenty-four [before Joshua b. Levi on the fast day]?

XXI. YERUSHALMI ROSH HASHANAH 3:5

[A] THE [PROCLAMATION OF THE] YEAR OF JUBILEE IS EQUIVALENT TO THE NEW YEAR IN REGARD TO THE SOUNDING OF THE SHOFAR AND TO THE BLESSINGS. R. JUDAH SAYS, “ON THE NEW YEAR THEY SOUND THE RAMS’ HORN, AND AT THE JUBILEE YEAR THEY SOUND ANTELOPES’ HORNS.”

- 1. I:1:** “I am the Lord your God (Lev. 23: 22) – this indicates the recitation of the kingship-verses. “A memorial proclaimed with the blast of horns” (Lev. 23:24) – this indicates the remembrance-verses. “The blast of the horn” (Lev. 25:9) – this indicates they shofar-verses. Up to here Scripture refers to the New Year. As to the Jubilee? “Then you shall make proclamation with the blast of the born on the

tenth day in the seventh month, on the Day of Atonement” (Lev. 25: 9). For Scriptures do not have to say “in the seventh month.” What do Scriptures mean by “in the seventh month”? Whatever you do on the New Year, you do on the tenth of the month. Just as in the former case there are kingship-verses, remembrance-verses, and shofar-verses, so in the latter case there are kingship-verses, remembrance-verses, and shofar-verses. How do we know scripturally that there is a plain note before it? Because Scriptures say, “Then you shall make proclamation with a shofar [of teruah].” How do we know scripturally that there is a plain note after it? Because Scriptures say: “Then you shall make proclamation with the shofar.” Up to here refers to the Jubilee. As to the New Year? “Then you shall make proclamation with the bast of the horn...on the tenth day, on the Day of Atonement” (Lev. 25: 9). For Scriptures do not have to say “in the seventh month.” What do Scriptures mean by “in the seventh month”? Whatever you do in the seventh month is tantamount to what is done on the tenth of the month. Just as in the former case there is a plain note and a tremolo and a plain note, so in they latter case there is a plain note and a tremolo and a plain note. How do we know scripturally that they proper way of blowing the shofar is to sound three sets of three each? Scripture says, “It is a day of teruah” (Numbers 29:1), “a memorial proclaimed with teruah” (Lev. 23: 24), “the shofar of teruah” (Lev. 25: 9). Up to here is the presentation is in accord with the principles of R. Aqiba.

XXII. YERUSHALMI ROSH HASHANAH 3:6

- [A] A SHOFAR WHICH CRACKED AND WHICH THEY STUCK TOGETHER IS INVALID.**
- 1. I:1:** For whom was it necessary to state this rule? For R. Nathan.
- [B] [IF] ONE STUCK TOGETHER THE SHREDS OF SHOFARS, [THE SHOFAR CONSTRUCTED IN THAT WAY] IS INVALID.**
- 1. II:1:** Also this is for R. Nathan.
- [C] [IF] IT WAS PERFORATED AND ONE FILLED UP THE HOLE— IF [THE FILLED HOLE] AFFECTS THE SOUND OF THE SHOFAR, IT IS INVALID. BUT IF NOT, IT IS VALID.**
- 1. III:1:** Hiyya in the name of R. Yohanan said that it is the view of R. Nathan. For it is taught: if it was perforated and one plugged the hole, whether with the same substance or a different substance, if [the plugged hole] affects the blowing, it is invalid; and if not, it is valid. R.

Nathan says, “If it is with the same substance, it is valid; if it is with a different substance, it is invalid.”

XXIII. YERUSHALMI ROSH HASHANAH 3:7

[A] **HE WHO SOUNDS THE SHOFAR INTO A CISTERN, CELLAR, OR LARGE JAR— IF HE HEARD THE SOUND OF THE SHOFAR, HE HAS FULFILLED HIS OBLIGATION. BUT HE HEARD THE SOUND OF THE ECHO, HE HAS NOT FULFILLED HIS OBLIGATION. AND SO TOO: HE WHO WAS GOING ALONG BEHIND A SYNAGOGUE, OR WHOSE HOUSE WAS NEAR A SYNAGOGUE, AND WHO HEARD THE SOUND OF THE SHOFAR OR THE SOUND OF [THE READING OF] THE SCROLL OF ESTHER— IF HE DIRECTED HIS HEART [THEREBY INTENDING TO CARRY OUT HIS OBLIGATION], HE HAS FULFILLED HIS OBLIGATION. BUT IF NOT, HE HAS NOT FULFILLED HIS OBLIGATION. EVEN THOUGH THIS ONE HEARD AND THAT ONE [ALSO] HEARD, [ONLY ONE OF THEM HAS FULFILLED HIS OBLIGATION, FOR] THIS ONE DIRECTED HIS HEART, AND THAT ONE DID NOT DIRECT HIS HEART [TO WHAT HE HEARD].**

1. **I:1:** Said R. Yosé ben Hanina, “It only said ‘and so too regarding one who was passing.’ But if he stood still the assumption is that he paid attention.” If one placed one shofar within another and blew, if one heard the sound of the inner one, he has fulfilled his obligation, if one heard the sound of the outer one, he has not fulfilled his obligation [T. R.H. 2:4].

XXIV. YERUSHALMI ROSH HASHANAH 3:8

[A] **“NOW IT HAPPENED THAT WHEN MOSES HELD UP HIS HAND, ISRAEL PREVAILED, [AND WHEN HE LET HIS HAND FALL, AMALEK PREVAILED;” (Ex. 17:11). NOW DO MOSES’ HANDS MAKE WAR OR BREAK IT OFF? [THEY DO NOT.] RATHER, [THE POINT OF THE VERSE IS] TO SAY THIS TO YOU: SO LONG AS THE ISRAELITES WOULD SET THEIR EYES UPWARD AND SUBMIT THEIR HEARTS TO THEIR FATHER IN HEAVEN, THEY WOULD GROW STRONGER. AND IF NOT, THEY FELL.**

1. **I:1:** R. Joshua ben Levi said, “Amalek was a believer in sorcery. What did he do? He would cause men to come forth [for battle] on their birthdays. thinking that a man would not fall readily on his birthday. What did Moses do? He confounded the order of the planets, as it is written, “The sun and the moon stood still in their habitation” (Habbakuk 3:1). And it is written, “The deep uttered his voice, and lifted up his hands on high” (Habbakuk 3:10). From on high

he lifted his hands, the deep uttered his voice. Samuel cited the verse: “The host will be set [upon Israel] because of transgression against that which is [to be studied] continually,” (Daniel 8:12) – that is, transgression against the Torah. “And it cast truth to the ground:” When Israel cast words of Torah to the ground, this evil kingdom enacts decrees and succeeds.

XXV. YERUSHALMI ROSH HASHANAH 3:9

[A] SIMILARLY, YOU MAY SAY [THE FOLLOWING, CITING NUM. 21:8]: “MAKE YOURSELF A FIERY SERPENT AND SET IT ON A STANDARD, AND IT SHALL COME TO PASS THAT EVERY ONE WHO IS BITTEN, WHEN HE SEES IT, SHALL LIVE.” NOW DOES THAT SERPENT [ON THE STANDARD] KILL OR GIVE LIFE? [IT DOES NOT.] RATHER: SO LONG AS THE ISRAELITES WOULD SET THEIR EYES UPWARD AND SUBMIT TO THEIR FATHER IN HEAVEN, THEY WOULD BE HEALED. AND IF NOT, THEY DECAYED [FROM THE BITES].

1. **I:1:** Said R. Yosé, “In four places ‘make for yourself’ is said. In three it is explained, ‘and in one it is not. Make for yourself an ark of gopher wood’ (Genesis 6:14), ‘make for yourself two silver trumpets’ (Numbers 10:2), ‘make for yourself knives of flint’ (Joshua 5:2), but ‘make for yourself a fiery serpent’ (Numbers 21:8) is not explained.”

XXVI. YERUSHALMI ROSH HASHANAH 3:10

[A] [THE SHOFAR BLASTS OF] A DEAF-MUTE, IDIOT, AND MINOR DO NOT FULFILL THE OBLIGATION OF THE COMMUNITY. THIS IS THE GOVERNING PRINCIPLE: WHOEVER IS NOT OBLIGATED TO CARRY OUT A PARTICULAR DEED CANNOT EFFECT THE OBLIGATION OF THE COMMUNITY EITHER:

1. **I:1:** It is taught: But they said, “A woman recite Grace for her husband, a slave for his master, a minor for his father.

XXVII. YERUSHALMI ROSH HASHANAH 4:1

[A] THE FESTIVAL DAY OF THE NEW YEAR WHICH COINCIDED WITH THE SABBATH— IN THE TEMPLE THEY WOULD SOUND THE SHOFAR. BUT NOT IN THE PROVINCES. WHEN THE TEMPLE WAS DESTROYED, RABBAN YOHANAN B.

ZAKKAI ORDAINED THAT THEY SHOULD SOUND THE SHOFAR IN EVERY LOCALE IN WHICH THERE WAS A COURT. SAID R. ELEAZAR, “RABBAN YOHANAN B. ZAKKAI ORDAINED ONLY FOR THE CASE OF YABNEH ALONE.” THEY SAID TO HIM, “ALL THE SAME ARE YABNEH AND EVERY LOCALE IN WHICH THERE IS A COURT.”

- 1. I:1:** R. Abba bar Pappa said, R. Yohanan and R. Simeon ben Laqish were once in session, raising a problem. They said, “We are taught in the Mishnah: The festival day of the New Year which coincided with the Sabbath – in the Temple they would sound the shofar, but not in the provinces. But if sounding the shofar is according to the law of the Torah, it should supersede [the observance of] the Sabbath in the provinces also, if it is not according to the Torah, it should not supersede [the observance of] the Sabbath even in the Temple.”
- 2. I:2:** Zeira instructed the associate to go to listen to R. Levi expounding the Torah, “for it is impossible that he would end his weekly scriptural lesson without some instructive observation.” He [Levi] entered and said before them, “One scriptural verse says, ‘it is a day of sounding the shofar,’ and another scriptural verse says, ‘a memorial of the sounding of the shofar.’ How can this be? When the New Year happens to fall on a weekday, it is ‘a day of sounding the shofar;’ when it happens to fall on the Sabbath, ‘a memorial of the sounding of the shofar’ – we call to memory the act of blowing the shofar, but we do not actually sound the shofar.” If this were so, then [the sounding of the shofar] even in the Temple should not supersede [the observance of the Sabbath]? A Tannaite statement: “[and in the seventh month,] on the first day of the month, [you shall have a holy convocation; you shall do no servile work; it is a day of sounding the shofar]” (Numbers 29:1). If this were so, then wherever they know that it is the first day of the month it [the sounding of the shofar] should supersede the Sabbath.

XXVIII. YERUSHALMI ROSH HASHANAH 4:2

[A] AND IN THIS REGARD ALSO WAS JERUSALEM AHEAD OF YABNEH: IN EVERY TOWN WHICH IS WITHIN SIGHT AND SOUND [OF JERUSALEM], AND NEARBY AND [THE RESIDENTS OF WHICH ARE] ABLE TO COME UP TO JERUSALEM, THEY SOUND THE SHOFAR. BUT AS TO YABNEH, THEY SOUND THE SHOFAR ONLY IN THE COURT ALONE.

- 1. I:1:** This rule applies provided that all of these features [enumerated in the Mishnah] pertain – then excluding every town] which is within sight but not range of sound, for example where Jerusalem is above

and a town below; or within range of sound but not sight, because a hill intervenes; or within sight and range of sound but [with folk] not able to come [up to Jerusalem] because they are outside of the Sabbath limit; or within sight and range of sound and sufficiently close but [with folk] not able to come [up to Jerusalem] because a river intervenes.

- I:2:** As you say concerning Jerusalem that in every town which is within sight and range of sound, near, and [with folk] able to come [up to Jerusalem], they sound the shofar, So say thus with regard to Yavneh: Jerusalem is scripturally prescribed, and the towns near it are scripturally prescribed, whereas Yavneh is a rabbinical ordinance, and the towns near it are rabbinical ordinance. And can Rabban Yohanan ben Zakkai introduce a measure extending a rabbinical ordinance? Is there such a thing as a rabbinical ordinance upon rabbinical ordinance?

XXIX. YERUSHALMI ROSH HASHANAH 4:3

[A] IN OLDEN TIMES THE LULAB WAS TAKEN UP IN THE TEMPLE FOR SEVEN DAYS, AND IN THE PROVINCES, FOR ONE DAY. WHEN THE TEMPLE WAS DESTROYED, RABBAN YOCHANAN B. ZAKKAI MADE THE RULE THAT IN THE PROVINCES THE LULAB SHOULD BE TAKEN UP FOR SEVEN DAYS, AS A MEMORIAL TO THE TEMPLE; AND THAT THE DAY [THE SIXTEENTH OF NISAN] ON WHICH THE OMER IS WAVED SHOULD BE WHOLLY PROHIBITED [IN REGARD TO THE EATING OF NEW PRODUCE].

- I:1:** It is written: “and you shall rejoice before the Lord your God seven days” (Lev. 23:40). Some authorities teach: Scripture is speaking about the rejoicing of Peace Offerings [additional offerings, beyond the festal offering, that provide substantial portions of meat for the sacrificer and his family]. Other authorities teach: Scripture is speaking about the rejoicing of lulab. In accord with the view of the one who said that Scripture is speaking about the rejoicing of lulab, the first day is scripturally prescribed and the remaining days are scripturally prescribed, and Rabban Yohanan ben Zakkai introduced a measure extending a biblical law. In accord with the view of the one who said that Scripture is speaking about the rejoicing of Peace Offerings, the first day is scripturally prescribed and the remaining days are rabbinically prescribed, and Rabban Yohanan ben Zakkai introduced a measure extending a rabbinical ordinance?
- I:2:** The colleagues asked R. Jonah, “It is written there, ‘and you shall offer an offering made by fire unto the Lord seven days’ (Lev. 23: 8)

– there is no seven exclusive of the Sabbath. And likewise, ‘and you shall rejoice before the Lord your God seven days’ (Lev. 23:40) – there is no seven exclusive of the Sabbath? He said to them, “It is different, for it is written, ‘and you shall take for yourselves on the first day (Lev. 23:40) – the first is separated off from them.” ‘In that case, in the Temple it should supersede [the Sabbath], but in the provinces it should not supersede?’ Said R. Jonah, “If it were written scripturally, ‘and you shall take before the Lord your God,’ I would have said that here is a limitation, and in the other place an extension; but [since it says] ‘and you shall take for yourselves,’ [this means] in any place; ‘and you shall rejoice before the Lord your God seven days,’ [this means] in Jerusalem.”

XXX. YERUSHALMI ROSH HASHANAH 4:4

[A] AT FIRST THEY WOULD RECEIVE TESTIMONY ABOUT THE NEW MOON ALL DAY LONG. ONE TIME THE WITNESSES CAME LATE, AND THE LEVITES CONSEQUENTLY WERE MIXED UP AS TO [WHAT] PSALM [THEY SHOULD SING]. THEY MADE THE RULE THAT THEY SHOULD RECEIVE TESTIMONY [ABOUT THE NEW MOON] ONLY UP TO THE AFTERNOON OFFERING. THEN, IF WITNESSES CAME AFTER THE AFTERNOON OFFERING, THEY WOULD TREAT THAT ENTIRE DAY AS HOLY AND THE NEXT DAY AS HOLY [TOO]. WHEN THE TEMPLE WAS DESTROYED, RABBAN YOHANAN B. ZAKKAI MADE THE RULE THAT THEY SHOULD [ONCE MORE] RECEIVE TESTIMONY ABOUT THE NEW MOON ALL DAY LONG.

1. I:1: Said R. Samuel bar Nahman, “Because of an event that took place. Once an alarm spread in town, and the Saracens came and took them, and the Levites became disordered in their singing.”

XXXI. YERUSHALMI ROSH HASHANAH 4:5

[A] SAID R. JOSHUA B. QORHA, “THIS RULE TOO DID RABBAN YOHANAN B. ZAKKAI MAKE: EVEN IF THE HEAD OF THE COURT IS LOCATED SOMEWHERE ELSE, THE WITNESSES SHOULD COME ONLY TO THE LOCATION OF THE COUNCIL [TO GIVE TESTIMONY, AND NOT TO THE LOCATION OF THE HEAD OF THE COURT].”

1. I:1: So is the Mishnah to be read: to the meeting place for declaring the New Moon.

XXXII. YERUSHALMI ROSH HASHANAH 4:6

[A] THE ORDER OF THE BLESSINGS [OF THE NEW YEAR ADDITIONAL SERVICE IS AS FOLLOWS]: “ONE SAYS THE PATRIARCHS, POWERS THE SANCTIFICATION OF THE NAME AND INCLUDES THE SOVEREIGNTY VERSES WITH THEM BUT DOES NOT SOUND THE SHOFAR; “[THEN] THE SANCTIFICATION OF THE DAY, AND ONE [NOW] SOUNDS THE SHOFAR, THE REMEMBRANCE VERSES, AND ONE SOUNDS THE SHOFAR, THE SHOFAR VERSES, AND ONE SOUNDS THE SHOFAR; “THEN ONE SAYS THE BLESSING OF THE SACRIFICIAL SERVICE, THE THANKSGIVING, AND THE PRIESTLY BLESSING” – THE WORDS OF R. YOHANAN B. NURI.

1. **I:1:** In Judah they followed the custom of R. Aqiba, and in the Galilee that of R. Yohanan ben Nuri. If one transgressed and did in Judah like the Galilee, or in the Galilee like Judah,” he has fulfilled his responsibilities. Now when they sanctified the year in Usha on the first day R. Ishmael the son of R. Yohanan ben Beroqah passed [before the ark] and said it in accord with the view of R. Yohanan ben Nuri. Said Rabban Simeon ben Gamaliel: “That was not the custom which we followed in Yavneh.” So on the second day R. Hananiah, son of R. Yosé the Galilean, passed [before the ark] and said it in accord with the view of R. Yohanan ben Nuri. Said Rabban Simon ben Gamaliel: “That was that was the custom which we followed in Yavneh.” R. Abbahu said in the name of R. Eleazar, “In every instance where one transgressed and mentioned ‘The Mighty One of Rulership,’ he has not fulfilled his obligation except for ‘The Holy God’ of the New Year, and that is the case only in the Additional Service.” And this is in accord with the opinion of R. Yohanan ben Nuri. Rabban Simeon ben Gamaliel says, “One says the Sanctification of the Day with the Remembrance Verses.” And this is in accord with the opinion of R. Aqiba.

XXXIII. YERUSHALMI ROSH HASHANAH 4:7

[A] SAID TO HIM R. AQIBA, “IF HE DOES NOT SOUND THE SHOFAR IN CONNECTION WITH THE SOVEREIGNTY VERSES, WHY DOES HE MAKE MENTION [OF THEM AT ALL]? “BUT: ONE SAYS THE FATHERS, THE POWERS, THE SANCTIFICATION OF THE NAME, AND INCLUDES THE SOVEREIGNTY VERSES WITH THE SANCTIFICATION OF THE DAY, AND THEN SOUNDS THE SHOFAR; “THE REMEMBRANCE VERSES AND SOUNDS THE SHOFAR; THE SHOFAR VERSES AND SOUNDS THE SHOFAR, “THEN THE BLESSING OF THE SACRIFICIAL SERVICE, THE

THANKSGIVING, AND THE PRIESTLY BLESSING.” THEY DO NOT SAY FEWER THAN TEN SOVEREIGNTY VERSES, TEN REMEMBRANCE VERSES, TEN SHOFAR VERSES.

1. **I:1:** They may not recite fewer than ten Sovereignty Verses, corresponding to the ten expressions of praise that David uttered: “Halleluyah. Praise God in His sanctuary; Praise Him in the firmament of His power, etc., until Let every thing that has breath praise the Lord. Halleluyah” (Ps. 150). They may not recite fewer than ten Remembrance Verses, corresponding to the ten expressions of confession that Isaiah uttered: “Wash you, make you clean, put away [the evil of your doings from before my eyes; Learn to do well; seek justice.” What is written after it? “Come now, and let us reason together. saith the Lord” (Is. 1:16-18). [They may not recite fewer than ten Shofar Verses, corresponding to the seven lambs, the bullock, the ram, and the goat.
2. **I:2:** “Biblical verses containing the word El, Elohim, and the like, are accounted to him for the purpose of Sovereignty Verses,” the words of R. Yosé. R. Judah says, “They are not accounted to him.” “Biblical verses containing the word El, Elohim, and the like, as well as that mention Sovereignty are accounted to him for the purpose of two [verses],” the words of R. Yosé. Judah says, “They are not accounted to him.” ““Sing praises to God, sing praises; sing praises to our King, sing praises’ – that is accounted to him for the purpose of two [verses],” the words of R. Yosé. Judah says, “They are not accounted to him.”

[B] **R. YOHANAN B. NURI SAYS, “IF ONE HAS SAID THREE OF EACH SET, HE HAS FULFILLED HIS OBLIGATION.” THEY DO NOT MAKE MENTION OF VERSES OF REMEMBRANCE, SOVEREIGNTY, OR SHOFAR, WHICH SPEAK OF PUNISHMENT.**

1. **II:1:** We used to think to say: three from each one [of the three categories]. But it was found to be taught [in a Tannaite formulation]: if even three from all of them [together], he has fulfilled his obligation. They may not mention Remembrance, Sovereignty, or Shofar Verses that deal with divine retribution. Remembrance as it is written, “Did not the Lord remember them?” (Jeremiah 41:21). Sovereignty, as it is written, “As I live, says the Lord God, surely with a mighty hand, and with an outstretched arm, and with fury poured out, will I rule over you” (Ezekiel 20:33). Shofar, as it is written, “Because you have heard, O my soul, the sound of the shofar, the alarm of war” (Jeremiah 4:19).

[C] **ONE BEGINS WITH VERSES DERIVING FROM THE PENTATEUCH AND COMPLETES THE MATTER WITH VERSES DERIVING FROM PROPHETIC WRITINGS. R. YOSÉ SAYS,**

“IF ONE COMPLETED THE MATTER WITH VERSES DERIVING FROM THE PENTATEUCH, HE HAS FULFILLED HIS OBLIGATION.”

- 1. III:1:** R. Yosé says, “If one concludes with verses from the Pentateuch, he has fulfilled his obligation.” What? Ex post facto? But ab initio no? Said R. Yohanan, “So is the Mishnah to be read: R. Yosé says, ‘It is necessary to conclude with [verses from] the Pentateuch.’”

XXXIV. YERUSHALMI ROSH HASHANAH 4:8

[A] HE WHO GOES BEFORE THE ARK ON THE FESTIVAL DAY OF THE NEW YEAR— THE SECOND [WHO LEADS THE ADDITIONAL PRAYER ORDERS THE] BLOWING OF THE SHOFAR. AND AT A TIME OF SAYING THE HALLEL, THE FIRST ONE [WHO SAYS THE MORNING SERVICE] PROCLAIMS THE HALLEL PSALMS.

- 1. I:1:** R. Jacob bar Aha [said] in the name of R. Yohanan, “It is because of an event that took place. Once they sounded the shofar during the initial [morning prayers], but their enemies assumed that they were marching against them, so they arose against them and killed them. Because they see them reading the Shema, reciting the Prayer, reading the Pentateuch, praying [the Additional Service], and sounding the shofar, they say: “They are engaged in their religious observances.”
- 2. I:2:** Said R. Jonah, “It is written, ‘Yet they seek me daily’ (Is. 58:2) – this refers to the sounding of the shofar and the willow branch.” R. Joshua ben Levi in the name of R. Alexandri learned it from this: “Hear the right, O Lord” (Ps. 17) that refers to the Shema. “Attend unto my cry” – that refers to the chanting of [the section from] the Pentateuch.’ Give ear unto my prayer” – that refers to the Prayer. “From lips without deceit” – that refers to the Additional Service. What is written after it? “Let my judgment come forth from Thy presence.”

XXXV. YERUSHALMI ROSH HASHANAH 4:9

[A] [ON ACCOUNT OF MAKING PROVISION FOR] THE SHOFAR TO BE USED AT THE NEW YEAR: (1) THEY DO NOT CROSS THE [SABBATH] BOUNDARY; (2) AND THEY DO NOT DIG UP DEBRIS [WHICH HAS FALLEN ON IT]; (3) THEY DO NOT CLIMB A TREE [TO GET IT]; (4) AND THEY DO NOT RIDE ON A BEAST; (5) AND THEY DO NOT SWIM ON THE WATER; (6) AND THEY DO NOT CUT IT EITHER IN A WAY WHICH TRANSGRESSES THE RULES OF THE SABBATH REST OR IN A WAY THAT

TRANSGRESSES A NEGATIVE COMMANDMENT OF THE TORAH. BUT IF ONE WANTED TO PUT WATER OR WINE IN IT, HE MAY DO SO.

1. **I:1:** So is the Mishnah to be read: not with an implement they use of which is prohibited because of the law of Sabbath rest and not with an implement the use of which is prohibited because of an explicit biblical prohibition.

[B] THEY DO NOT KEEP CHILDREN FROM SOUNDING THE SHOFAR. BUT THEY PRACTICE WITH THEM UNTIL THEY LEARN [HOW TO DO IT]. AND ONE WHO IS PRACTICING HAS NOT FULFILLED HIS OBLIGATION [TO SOUND THE SHOFAR, BY DOING SO]. AND THE ONE WHO HEARS THE SHOFAR SOUNDED BY THE PERSON WHO IS PRACTICING [ALSO] HAS NOT FULFILLED HIS OBLIGATION.

1. **II:1:** Said R. Eleazar, “Our Mishnah is dealing with an adult on the Holiday of the New Year which happened to fall on the Sabbath.” And it is taught as follows: they practice [even] on the Sabbath in order to learn to sound the shofar; They do not keep children from sounding the shofar – on the festival day.

XXXVI. YERUSHALMI ROSH HASHANAH 4:10

[A] THE ORDER OF BLOWING THE SHOFAR IS [TO SOUND] THREE SETS OF THREE EACH. [A SET IS SOUNDED WITH EACH OF THE THREE SPECIAL SECTIONS OF THE ADDITIONAL SERVICE WORSHIP: THE SOVEREIGNTY, REMEMBRANCE, AND SHOFAR VERSES.] THE LENGTH OF THE SUSTAINED BLAST IS [EQUAL TO] THREE THE QUAVERING BLASTS.

1. **I:1:** If he did them in one breath? It is found that it was taught in a Tannaite formulation: if he did them in one breath, he has fulfilled his obligation. But are we not taught in our Mishnah: the manner of shofar soundings is three series of three blasts each? [This means that there should not be less.] R. Zeira [in the name of] R. Abba bar Ilai in the name of Rab, “It is necessary to sound a quivering note immediately after a sustained note.” Abba in the name of Abba bar Rab Huna, “It is not necessary to sound a quivering note immediately after a sustained note.”

[B] THE LENGTH OF THE QUAVERING BLAST IS [EQUAL TO] THREE ALARM BLASTS. [IF] ONE SOUNDED THE FIRST SUSTAINED BLAST AND THEN SOUNDED THE SECOND SUSTAINED BLAST FOR TWICE AS LONG, HE HAS CREDIT ONLY FOR ONE [SET]. [THE LENGTHENED BLAST DOES NOT COUNT AS WELL AS THE BEGINNING OF THE NEXT SET.] HE WHO SAID THE BLESSINGS [OF THE ADDITIONAL SERVICE WORSHIP] AND AFTERWARD WAS ASSIGNED A SHOFAR SHOULD SOUND A

SUSTAINED NOTE, A QUAVERING NOTE, AND A SUSTAINED NOTE, THREE TIMES, [ONCE EACH FOR THE SOVEREIGNTY, REMEMBRANCE, AND SHOFAR VERSES]. JUST AS THE CONGREGATION'S AGENT IS LIABLE [TO SOUND THE SHOFAR], SO EACH INDIVIDUAL IS LIABLE. RABBAN GAMALIEL SAYS, "THE AGENT OF THE COMMUNITY CARRIES OUT THE OBLIGATION ON BEHALF OF THE COMMUNITY [AND THEREFORE INDIVIDUALS DO NOT HAVE TO SOUND THE SHOFAR THEMSELVES]:"

1. **II:1:** What is the definition of a quivering note? R. Hananiah and R. Mana [disagreed]: One said, "Like the trimeter [short, long, short]." And the other said, "Three short notes."
2. **II:2:** [If] one sounded the first sustained blast and then sounded the second sustained blast for twice as long, he has credit only for one [set]." Abba bar Zamina in the name of R. Zeira: "Even one blast is not reckoned to him. Why? The beginning is joined to the end, and the end is joined to the beginning. The beginning has no end, and the end has no beginning."
 3. **II:3:** If they are sounding the shofar in one place and reciting the benedictions in another, some authorities teach: he should betake himself to the one who is sounding the shofar. Other authorities teach: [he should betake himself] to the one who is reciting the benedictions. Regarding the one who says that he should betake himself to the one who is sounding the shofar, this applies if there would not otherwise be enough time for the sounding of the shofar. Regarding the one who says that he should betake himself to the one who is reciting the benedictions, this applies if there would be enough time in the day for the sounding of the shofar.

TRACTATE

TA'ANIT

Israel's relationship with God takes place not only every day but also in emergencies. Drought, famine, and war signal God's displeasure with Israel and they become the occasion for acts of repentance and atonement. These take the form of public fasting and prayer. In times of crisis Israel jointly and severally relates to God through acts of supplication joined to penitence for sin. Among critical events that provoke a response of penitence, drought takes the first place, and the halakhah prescribes rules governing the occasion and its rite. A counterpart for ordinary times is presented by the participation in the cult of a priestly family of a given locale. A delegation of Levites and lay-Israelites would accompany the priests, twenty-four of them through the year, while at home, then, the entirety of the community, the non-priests, would participate through the recitation and study of verses of Scripture.

Fasting and Prayer in Time of Drought: Prayers for rain are offered from the Festival of Tabernacles forward; that is, when the rainy season ordinarily commences. If the rains do not commence two weeks after the Festival, from the beginning of the following lunar month, Marheshvan, then a series of fasts gets underway. These begin as private fasts, but quickly become public and communal. What is the difference between a public and a private fast? On a public fast they eat and drink while it is still day but not after dark on the eve of the fast, which is not the case for the fast of an individual. On a public fast it is prohibited to do work, to bathe, to anoint, to put on a sandal, or to have sexual relations, which is not the case for an individual's fast.

The Shofar: The shofar is sounded as an alarm in times of crisis, the blast arousing God to recall the generative event in the formation of Israel, the faithful obedience of Abraham and Isaac. That is in line with the narrative of Gen 22; the sounding of the shofar calls to mind Abraham's binding of Isaac on the altar and is meant to win God's sympathetic concern for Abraham's children.

The Delegation: The presence of the delegation of Israelites serves to establish Israel's representation when the offerings are presented, thus the early prophets made the rule of twenty-four watches, and for each watch there was a delegation (*ma'amad*) in Jerusalem made up of priests, Levites, and Israelites. The delegations corresponded to the twenty-four priestly and Levitical watches, since

it says, “Command the children of Israel, and say to them, ‘My obligation, my food for my offerings made of fire, of a sweet savor to me, shall you observe to offer me in their due season’” (Num 28:2).

- I.** Fasts called in order to bring rain
 - A.** The sequence of fasts for rain
 - B.** The liturgy of the community for a fast day
 - C.** Other rules about public fasts
 - D.** Other uses of the shofar as an alarm

- II.** The delegation [*ma’amad*]: Israelite participation in the cult and various special occasions
 - A.** The delegation
 - B.** Mourning days for public calamity

YERUSHALMI TAANIT

CHAPTER ONE

1:1

[A] When do they include the mention of “the powers of rain” [in the Prayer]?

[B] R. Eliezer says, “On the first day of the Festival [of Tabernacles].”

[C] R. Joshua says, “On the last day of the Festival.”

[D] Said to him R. Joshua, “Since rain is only a sign of a curse when it comes on the Festival itself, why should one mention it?”

[E] Said to him R. Eliezer, “I too have said so not for the purpose of asking [for rain], but only of mentioning ‘restoring the wind and bringing down the rain,’ [that is,] in its due season.”

[F] He said to him, “If so, one should always make mention of it.”

[I:1 A] *The reason [for the position] of R. Eliezer is that, since the few species [of the Festival of Tabernacles] grow beside water, they are brought as harbingers of water.*

[B] Another consideration: When the slave serves his master to the fullest [that is, at the Festival] that is when he seeks his reward from him.

[C] Said to him R. Joshua, “And is it not when the slave has served his master to the fullest, and the master is pleased with him, that the slave seeks his reward from him, [and that comes at the end, not the beginning, of the Festival]?”

[D] “Another consideration: A slave asks for his reward only near the time of his reward [i.e., when it becomes due].

[E] *It has been taught:* R. Eliezer says, “At the time of the taking up of the palm branch [for the Festival, that is, at the beginning].”

[F] R. Joshua says, “At the time of putting it down.”

[G] *In the view of this last [argument imputed to Eliezer], it is the same as the picture of R. Eliezer’s opinion given at the outset [at*

A, that is, the four species be taken up and the saying of the cited prayer begins].

- [H] *But in the view of this last [argument imputed to Eliezer], the further consideration [B, above] is a different view of R. Eliezer [from the present one].*
- [I] *[In any event, along these same lines,] the views imputed to R. Joshua are at variance with one another. There he has said that it is from the last festival day [that is, the Eighth Day of Solemn Assembly, at the end of Tabernacles], and here he has said that it is at the time of putting down the palm branch [which is on the day prior, that is, the final festival day of Sukkot itself.*
- [J] *Said R. Mana, “It is because the entire [last day of the festival of Tabernacles itself, that is, the seventh day] is valid for taking up the palm branch [inclusive of the prayers at dusk, just prior to the Eighth Day of Solemn Assembly].”*
- [K] *And [if so,] why should one not make mention of [the power of rain in the Prayer, if that is the case (J)], in the evening [that is, at the final prayers on the seventh day, which also serve as the opening prayers on the eighth day]?*
- [L] *Not everyone is present at that time.*
- [M] *Then should one make mention [of the powers of rain] in the Morning Prayer [on the opening of the Eighth Day of Solemn Assembly, rather than in the Additional Prayer of that day]?*
- [N] *Someone will suppose that the people might have made mention of it the preceding night and he will be reminded [to do likewise in the future. Since the morning and the preceding evening prayers correspond, a year later he will do it the preceding evening].*
- [O] *[Accordingly,] since one sees the people not making mention of the powers of rain in the first Prayer [that of the Morning] and they do make mention of it in the second Prayer [the Additional one], he will know that they did not make mention of it in the evening either. [That is why it is added, in Joshua’s theory, only in the Additional Prayer on the Eighth Day of Solemn Assembly.]*
- [P] *Said R. Hiyya bar Marayya to [R. Mana], “What you have said is precisely what R. Jonah, your father, had to say about this matter.”*

[Q] R. Haggai in the name of R. Pedat: “It is forbidden for an individual to make mention [of the powers of rain] until the agent of the community [in repeating the prayer in the Additional service] makes mention of the matter.”

[R] R. Simon in the name of R. Joshua b. Levi: “The matter depends upon the agent of the community [who repeats the prayer and not on the individual.]”

[S] *Said R. Mana before R. Haggai, “Do they disagree?”*

[T] He said to him, “No. *As to that which you have said, ‘The matter depends on the agent of the community,’ the meaning is that, as to the individual, if he wants to make mention, he does so – that is, where the prayer for dew is concerned. And as to that which you have said, ‘It is forbidden for an individual to make mention until the agent of the community makes mention of the matter. This refers to the prayer for rain [which the individual is obliged to say].’*”

[U] *When the people arise for the Prayer, it is as if the agent of the community has made mention of the matter.*

[I:2 A] [The prayer for rain is included in the paragraph of the Prayer dealing with the resurrection of the dead, because] just as the resurrection of the dead means life for the world, so the coming of rain means life for the world.

[B] *R. Hiyya bar Ba derived the lesson from the following: “After two days he will revive us; on the third day he will raise us up, that we may live before him. Let us know, let us press on to know the Lord; his going forth is sure as the dawn” (Hos. 6:2-3). [The end of Hos. 6:3 links resurrection to rain: “He will come to us as the showers, as the spring rains that water the earth.”]*

[C] It is written, “Now Elijah the Tishbite, of Tishbi in Gilead, said to Ahab, ‘As the Lord the God of Israel lives, before whom I stand, there shall be neither dew nor rain these years, except by my word’” (1 Kings 17:1).

- [D] R. Berekhiah said, “R. Yosé and rabbis: *One said* that he was listened to both as to dew and as to rain. *The other said*, ‘As to rain, he was listened to, but as to dew, he was not listened to.’”
- [E] *He who said*, “As to rain he was listened to, and as to dew, he was not listened to,” derives support from the following verse: “[After many days the word of the Lord came to Elijah, in the third year, saying], ‘Go, show yourself to Ahab; and I will send rain upon the earth’” (1 Kings 18:1).
- [F] *As to the view of him who said*, “Both as to rain and as to dew, he was listened to,” then where was his vow against dew released?
- [G] Said R. Tanhum of Adrayya [62d], “*The ones who hold that view maintain that* a vow, part of which has been released, is wholly nullified.”
- [H] *There is he who proposes that* it was in connection with the son of Zarephath: “And he cried out to the Lord, ‘O Lord, my God, hast thou brought calamity even upon the widow with whom I sojourn, by slaying her son (1 Kings 17:20)?”
- [I] Said R. Judah bar Pazzi, “[This may be compared] to someone who stole a doctor’s medicine kit. When he had gone out, his son was hurt. He came back to the physician and said to him, ‘My Lord, physician, heal my son.’ He said to him, ‘Go and return with my kit, for all sorts of medicines are in it. Then I shall heal your son.’
- [J] “So the Holy One, blessed be he, said to Elijah, ‘Go and release your vow against the coming of dew, for the dead will rise up only through dew, and then I shall resurrect the son of Zarephath.’”
- [K] And how do we know that the dead will live only through dew?
- [L] For it is said, “The dead shall live, their bodies shall rise. O dwellers in the dust, awake and sing for joy! For thy dew is a dew of light, and on the land of the shades thou wilt ret it fall” (Is. 26:19).
- [M] What is the meaning of, “The land of the shades thou wilt let it fall”?
- [N] Said R. Tanhum of Adrayya, “[This refers to the dead, and the land is] the land in which they are kept, [and in that land] you will let it fall.”

[O] R. Jacob of Kepar Hanan in the name of R. Simeon B. Laqish: “[God said,] ‘When their ancestor, Abraham, carried out my will, I took an oath to him that I shall not remove dew from his children forever.’”

[P] “*What is the scriptural passage relevant to that statement?* ‘The Lord has sworn and will not change his mind, ‘You are a priest for ever [after the order of Melchizedek]’ (Ps. 110:4).”

[Q] “And there it is written, ‘[Your people will offer themselves freely on the day you lead your day of battle. In holy adornments, from the womb of the morning] yours is the dew of your youth’” (Ps. 110:3).

[R] Said R. Judah bar Pazzi, “I handed it over to their ancestor in a testament: ‘May God give you the dew of the heaven, [and of the fatness of the earth, and plenty of grain and wine]’” Gen. 27:28).

[S] Said R. Samuel bar Nahman, “When Israel carries out transgressions and does bad deeds, the rain is held back. They then bring an elder in their own behalf, of the order of R. Yosé the Galilean, and he intercedes for them, and forthwith, the rain falls. But dew does not come down on account of [the intercession of] a mere mortal creature.

[T] “What is the scriptural basis for that view? ‘... like dew from the Lord, like showers upon the grass, which tarry not for men nor wait for the sons of men’” (Mic. 5:6).

[I:3 A] R. Zeirah in the name of R. Haninah: “[If] someone arose [to repeat the prayer for the community] on the occasion of saying the Prayer for rain and instead said the prayer for dew, they do not make him go back. If [he arose for the same purpose and was to say the prayer for] dew, but instead he said the prayer for rain, they do make him go back.”

[B] *But lo, it has been taught:* In the case of dew and of bringing the winds, the sages have not imposed the obligation to make mention of these. If one wanted to make mention of them, he may do so. [Why then do we make the man go back if he prayed for rain instead of dew?]

- [C] *[If one mentioned the prayer for rain at an inappropriate time, it is a sign of a curse. If one mentioned neither dew nor rain, there is no curse, so no reason to make him go back. Accordingly,] a case in which one has brought a curse is not parallel to a case in which one has not said a prayer but also has not brought a curse.*
- [D] In the case of the prayer for rain, if he mentioned the matter of dew instead, they do not make him go back.
- [E] *But lo, it has been taught: **If one did not make mention of the powers of rain in the prayer for the resurrection of the dead or did not ask for rains in the blessing for the years, they make him go back and repeat [T. Ber. 3:9].***
- [F] *[No, that is no problem, since that rule refers to a case in which] he did not make mention either of dew or of rain. [Therefore they make him go back. Here, by contrast, he mentioned dew, but not rain, and they do not make him go back.]*
- [G] R. Zeirah in the name of R. Hunah: “If one did not ask [for dew] in the blessing of the years, he may say it in the prayer that ends, ‘... who hears prayer.’ *And along these same lines*, if one did not make mention of the powers of rain in the prayer for the resurrection of the dead, may one say it in the prayer that ends, ‘... who hears prayer’?”
- [H] [This is no problem. Of course one may do so. For] if in the case of a petition, which is brought out of need, one may say such a petition in the prayer that ends, “... who hears a prayer,” making mention of the powers of rain, which is an expression of satisfaction, is it not an argument a fortiori that one may do so?
- [I] *And lo, it has been taught: **If one did not make mention of the powers [for dew] in vain in the prayer for the resurrection of the dead or did not ask for rains in the blessing for the years, they make him go back and repeat [as at E].** Accordingly, why should he not just add the omitted prayers at the end, in, “... who hears a prayer”?*].
- [J] Said R. Abba Mari, brother of R. Yosé, “[The cited passage deals with a case] in which the man did not say that prayer in, ‘... who hears prayer.’ [Then he must go back and repeat.]”
- [K] To what point does he go back?
- [L] *The answer accords with that which R. Simeon bar Ba said in the name of R. Yohanan: “In leading the Prayer on the New*

Month, if one moved his feet [prior to completing the necessary statements], he must [in adding the necessary prayers] go back to the beginning, and if not, he goes back to the prayer for the restoration of the Temple liturgy [at which point he inserts the required statements]. And here too, if he moved his feet [thus interrupting the prayer] he goes back to the beginning and, if not, he goes back to, ‘... who hears prayer.’”

[M] *In Nineveh after Passover they had to declare a fast. They came and asked Rabbi [about the required liturgy]. Rabbi said to them, “Go and carry it out, on condition that you not vary from the established form of the Prayer.”*

[N] And [what does M mean?] Where does one insert [the prayer for rain, under the conditions prevailing after Passover]?

[O] *R. Jeremiah considered ruling, “One includes [the prayer for rain] in, ‘... who hears prayer.’”*

[P] Said to him R. Yosé, “Did not R. Zeirah say in the name of R. Hunah, ‘If one did not ask in the blessing of the years, or did not make mention of the power of rain in the prayer for the resurrection of the dead, he makes mention of it in the prayer that ends, ‘... who hears prayer’? [Now this is only after the fact, while Rabbi told them that, to begin with, they should include the prayer for rain in, ‘... who hears prayer.’] For Rabbi said to them, ‘Go and carry it out, on condition that you not vary from the established form of the Prayer’ [which leaves only, ‘... who hears prayer,’ as the location for the required prayers for rain].”

[Q] *In the view of R. Yosé [P] then, where does one say it?*

[R] In the six [blessings] that the community adds [to public prayers on the occasion of a public fast].

[S] Up to this point we have dealt with the community, which adds six additional blessings to the Prayer on the occasion of a public fast.

[T] But as to the individual, who does not have these six additional. blessings, [where does he add the prayer for rain]?

[U] Said R. Hinena, “Did not R. Zeira say in the name of R. Hunah: ‘An individual beseeches [God to

provide] the things that he needs in the prayer ending, ‘... who hears prayer.’ And these [namely, the rains] are things that the individual needs too.”

- [I:4 A] *It has been taught:* If one prayed and does not know what he mentioned [that is, he prayed in the dry or rainy season and does not know whether he mentioned or omitted rain, as the required rule may be] –
- [B] Said R. Yohanan, “In the first thirty days [after the change in the season, from dry to rainy or back], we assume that he has mentioned what he is in the habit of mentioning.
- [C] “From that point onward, we assume that he has mentioned what he is supposed to mention. [In the first thirty days of the new season, we assume he has mentioned the prayer applying to the former season. From that time forth, we assume he has mentioned what belongs in the present season.]”
- [I:5 A] [With regard to M. 1:2:] R. Ba in the name of R. Huna: “As to the two festival days observed in the exile, [in which we are not sure whether it is the Eighth Day of Solemn assembly, on which it is necessary to mention rain, or the seventh day of Tabernacles on which it is not, and so for Passover, in reverse],
- [B] “[in the case of Passover] in the morning prayer one mentions rain, but he does not mention rain in the additional service or in the twilight service; the morning service [on the next day], the afternoon service, or the additional service.”
- [I:6 A] Said R. Hananiah, son of the brother of R. Joshua, “In the Exile they are not accustomed to do things in this way [as indicated at M. 1:3].
- [B] “Rather, on the sixtieth day after the Tishré cycle [the autumnal equinox, hence, sixty days after September 21] they begin to pray for rain.”
- [C] Samuel said, “The law is in accord with the view of Hananiah, son of the brother of R. Joshua.”
- [D] *And so it has been taught:* That is the law abroad. But as to the law for the land of Israel, everything follows the season, everything follows the course of events.
- [E] *That which you have said applies* to rain. But as to prayers for dew, if one wants to mention the matter of dew every day of the year, he may do so.

- [II:1 A] **Said R. Joshua, “Since rain is not a sign of a blessing when it comes on the Festival itself, why should one mention it?”**
- [B] **Said to him R. Eliezer, “I too have said so only [for mentioning] restoring the wind and bringing down the rain,” [that is,] in its due season [M. 1:1D-E].**
- [C] “When rain comes in its due season, it is as beloved as the resurrection of the dead.”
- [D] *Said R. Yosé, “I am astonished that rabbis can compare the coming of rain to the resurrection of the dead. For they are in no way comparable. A man prays for the resurrection of the dead at all times, but he does not pray for the coming of rain at all times.”*
- [E] **He said to him, “If so, one should always make mention of it” [M. 1:1F].**
- [F] *The opinions assigned to R. Eliezer are at variance with one another, and the opinions assigned to R. Joshua are at variance with one another.*
- [G] *For they have the following dispute [in which this will be shown]:*
- [H] R. Eliezer says, “If the Israelites do not repent, they will not be redeemed forever, since it is said, ‘[For thus said the Lord God, the Holy One of Israel], ‘in returning and rest you shall be saved; in quietness and in trust shall be your strength.’ And you would not” (Is. 30:15).
- [I] Said to him R. Joshua, “And is it so that if Israel should stand and not repent, they will not be redeemed forever?”
- [J] Said to him R. Eliezer, “The Holy One, blessed be He, will appoint over them a king as harsh as Haman, and forthwith they will repent and so will be redeemed.”
- [K] What is the scriptural basis for this view?
- [L] “Alas! that day is so great there is none like it; it is a time of distress for Jacob; yet he shall be saved out of it” (Jer. 30:7).
- [M] Said to him R. Joshua, “And lo, it is written, ‘[For thus says the Lord]: You were sold for nothing, and you shall be redeemed without money’ (Is. 52:3). [Redemption is without preconditions.]”
- [N] How does R. Eliezer deal with the cited verse?

- [O] It [presupposes] repentance, as Scripture has said, “He took a bag of money with him” (Prov. 7:20).
- [P] Said to him R. Joshua, “And lo, it is written, ‘[The smallest shall become a thousand and the least a mighty nation;] I am the lord; in its time I will hasten it’” (Is. 60:22).
- [Q] How does R. Eliezer deal with this verse?
- [R] It speaks of repentance, as it says, “And now, Israel, what does the Lord your God require of you, but to fear [the Lord your God, to walk in all his ways, to love him, to serve the Lord your God with all your heart and with all your soul]” (Deut. 10:12).
- [S] R. Aha in the name of R. Joshua b. Levi: “If you have merit, I shall hasten it, and if not, it will come only in its time.”
- [T] Once R. Joshua cited to R. Eliezer the verse that follows, R. Eliezer left the fray: “[The man clothed in linen, who was above the waters of the stream], raised his right hand and his left hand toward heaven; and I heard him swear by Him who lives forever that it would be for a time; and that when the shattering of the power of the holy people comes to an end all these things would be accomplished” (Dan. 12:7).
- [II:2 A]** On account of five matters were the Israelites redeemed from Egypt: Because the end had come, because of oppression, because of their outcry, because of the merit of the fathers, and because of repentance.
- [B] Because the end had come, as it is said, “In the course of those many days the king of Egypt died. And the people of Israel groaned under their bondage, and cried out for help, [and their cry under bondage came up to God. And God heard their groaning, and God remembered his covenant with Abraham, Isaac, and Jacob. And God saw the people of Israel, and God knew their condition]” (Ex. 2:23-25).
- [C] Because of the oppression: “And God heard their groaning” (Ex. 2:24).
- [D] Because of their outcry: “And God remembered his covenant” (Ex. 2:24).
- [E] Because of the merit of the fathers: “And God saw [64a] the people of Israel (Ex. 2:25)”.
- [F] Because of penitence: “And God knew their condition (Ex. 2:25).”

[G] Because the end had come: And so Scripture says, “When you are in tribulation, and all these things come upon you in the latter days, [you will return to the Lord your God and obey his voice]” (Deut. 4:30).

[H] “You will return to the Lord” (Deut. 4:30)– because of repentance.

[I] “For the Lord your God is a merciful God (Dt. 4:31)”– because of mercy.

[J] “He will not fail you or destroy you or forget the covenant with your fathers” (Deut. 4:31)– because of the merit of the fathers.

[K] And so it says: “Nevertheless he regarded their distress” (Ps. 106:44)– because of oppression.

[L] “When he heard their cry” (Ps. 106:44)– because of their outcry.

[M] “He remembered for their sake his covenant” (Ps. 106:45)– because of the merit of the fathers.

[N] “And relented according to the abundance of his steadfast love” (Ps. 106:45)– because of repentance.

[O] “And he caused them to be pitied” (Ps. 106:46)– because of mercy.

[II:3 A] *A certain man would sin with his tongue [as a rumor monger]. He came before R. Yohanan, who sent him to R. Haninah. He said to him, “Go, repent, and study the learning of Torah, for it is written, ‘A gentle tongue is a tree of life [but perverseness in it breaks the spirit]’” (Prov. 15:4).*

[II:4 A] Said R. Haninah son of R. Abbahu, “In the book of R. Meir they found that it was written, “The oracle concerning Dumah, [that is,] the oracle concerning Rome. One is calling to me from Seir [Watchman, what of the night? Watchman, what of the night?]” (Is. 21:11).

[B] Said R. Yohanan, “One is calling to me because of Seir.”

[C] Said R. Simeon b. Laqish, “‘To me.’ From whence will there be a match for me? ‘From Seir.’”

[D] Said R. Joshua b. Levi, “If someone should say to you, ‘Where is your God,’ say to him, ‘He is in a great city in Edom [V.: in Rome].’ What

is the scriptural basis for this view? ‘One is calling to me from Seir’” (Is. 21:11).

- [II:5 A] *It has been taught by R. Simeon b. Yohai*, “To every place to which the Israelites went into exile, the presence of God went with them into exile.
- [B] “They were sent into exile to Egypt, and the presence of God went into exile with them. What is the scriptural basis for this claim? ‘[And there came a man of God to Eli, and said to him, Thus the Lord has said], I revealed myself to the house of your father when they were in Egypt subject to the house of Pharaoh’ (I Sam. 2:27).
- [C] “They were sent into exile to Babylonia, and the presence of God went into exile with them. What is the scriptural basis for this claim? ‘[Thus says the Lord, your Redeemer, the Holy One of Israel]: For your sake I will send to Babylon [and break down all the bars, and the shouting of the Chaldeans will be turned to lamentations]’ (Is. 43:14).
- [D] “They were sent into exile into Media, and the presence of God went into exile with them. What is the scriptural basis for this claim? ‘And I will set my throne in Elam [and destroy their king and princes, says the Lord]’ (Jer. 49:38). And Elam means only Media, as it is said, ‘[And I saw in the vision; and when I saw], I was in Susa the capital, which is in the province of Elam; [and I saw in the vision, and I was at the river Ulai]’ (Dan. 8:2).
- [E] “They went into exile to Greece, and the presence of God went into exile with them. What is the scriptural basis for this claim? ‘[For I have bent Judah as my bow; I have made Ephraim its arrow]. I will brandish your sons, O Zion, over your sons, O Greece, [and wield you like a warrior’s sword]’ (Zech. 9:13).
- [F] “They went into exile to Rome, and the presence of God went into exile with them. What is the scriptural basis for this claim? ‘[The oracle concerning Dumah]. One is calling to me from Seir, “Watchman, what of the night? Watchman, what of the night?” Is. 21:11).’”
- [G] The Israelites said to Isaiah, “O our Rabbi, Isaiah, What will come for us out of this night?”
- [H] He said to them, “Wait for me, until I can present the question.”
- [I] Once he had asked the question, he came back to them.

- [J] They said to him, “Watchman, what of the night? What did the Guardian of the ages say [a play on ‘of the night’ and ‘say’]?”
- [K] He said to them, “The watchman says: ‘Morning comes; and also the night. [If you will inquire, inquire; come back again]’” (Is. 21:12).
- [L] They said to him, “Also the night?”
- [M] He said to them, “It is not what you are thinking. But there will be morning for the righteous, and night for the wicked, morning for Israel, and night for idolaters.”
- [N] They said to him, “When?”
- [O] *He said to them, “Whenever you want, He too wants [it to be] – if you want it, he wants it.”*
- [P] They said to him, “What is standing in the way?”
- [Q] He said to them, “Repentance: ‘come back again’” (Is. 21:12).
- [R] R. Aha in the name of R. Tanhum b. R. Hiyya, “If Israel repents for one day, forthwith the son of David will come.
- [S] “What is the scriptural basis? ‘O that today you would hearken to his voice!’” (Ps. 95:7).
- [T] Said R. Levi, “If Israel would keep a single Sabbath in the proper way, forthwith the son of David will come.
- [U] “What is the scriptural basis for this view? ‘Moses said, Eat it today, for today is a Sabbath to the Lord; [today you will not find it in the field]’ (Ex. 16:25).
- [V] “And it says, ‘[For thus said the Lord God, the Holy One of Israel], ‘In returning and rest you shall be saved; [in quietness and in trust shall be your strength.’ And you would not]’” (Is. 30:15). By means of returning and [Sabbath] rest you will be redeemed.

1:2

[A] They ask for rain only near [the time of rain.

[B] R. Judah says, “He who goes before the ark on the last day of the Festival [of Tabernacles] –

- [C] “the latter person [at the Additional Service] makes mention [of rain]” the former one [at the Morning Service] does not make mention [of rain].
- [D] “On the first day of Passover, the former person makes mention of rain, the latter person does not make mention of rain.”
- [E] Up to what time do they ask for rain?
- [F] R. Judah says, “Until Passover is passed.”
- [G] R. Meir says, “Until the end of Nisan,
- [H] “since it says, ‘And he causes to come down for you the rain, the former rain and the latter rain in the first [month]’” (Joel 2:23).
- [I:1 A] Said R. Yohanan, “The law is in accord with the opinion of R. Judah, which he expressed in the name of R. Judah b. Batera.” [M. 1:2B- D is attributed to Judah b. Batera.]
- [B] *R. Abun in the name of R. Yohanan: “The reason for the position of R. Judah [at M. 1:2C- D] is so that the festival season may go forth with a prayer for dew, for dew is a good omen for the world.”*
- [C] *The opinions assigned to R. Judah are at variance with one another. There he has said, “He who does before the ark [to lead the congregation in prayer] on the last of the Festival – the latter person [at the Additional Service] makes mention of rain, the former one [at the Morning Service] does not make mention of rain [M. 1:ZB-C].*
- [D] *“And here he has said this [that until Passover has passed, they continue to ask for rain]!”*
- [E] *One opinion is given in his own name, and the other in the name of R. Judah b. Betera.”*
- [F] It is unclear which statement he gave in his own name and which he gave in the name of R. Judah b. Betera.]
- [G] *From that which R. Yohanan has said, “The law is in accord with the opinion of R. Judah, which he expressed in the name of R. Judah b. Betera.”*
- [H] And, further, R. Abun in the name of R. Yohanan: “The reason for the position of R. Judah is so that the festival season may go forth with a prayer for dew. For dew is a good omen for the world.”

- [I] *“It follows that, at all events, he has said the former statement [M. 1:2C- D] in his own name and the latter [M. 1:2F] in the name of R. Judah b. Betera.”*
- [J] *They said before him, “Or perhaps may we say, the one instruction pertains to making mention of the matter [of rain], the other actually to asking for it?”*
- [K] He said to them, “The law is that at the point at which they make mention of the matter, they also ask for it.”
- [L] *Said R. Yosé to R. Hananiah, brother of Hoshaiah, “Do you remember when we were standing before the shop of R. Hoshaiah, your beloved [uncle], that R. Zeirah came by, and we asked him, and he said, ‘I am still in doubt about that matter [of whether one can separate making mention of the matter from actually asking for it]’?”*
- [M] *“Then R. Yosé came by, and we asked him, and he said, ‘I am still in doubt about that matter.’*
- [N] *“But finally you pressed him to give an opinion, and he said, ‘There is no difference. The law is that in a setting in which they make mention of the matter, they also ask for it.’”*
- [O] R. Hiyya bar Ba came from Tyre, and he said in the name of R. Yohanan, “The law is that in a setting in which they make mention of the matter, they also ask for it.”
- [P] *R. Aha taught in the study house, R. Jeremiah taught in the council meeting, “The law is that in a setting in which they make mention of the matter, they also ask for it.”*
- [Q] *And lo, we have learned: **On the third of Marheshvan they ask for rain [M. 1:3A].** [How then can you maintain that in a setting in which they make mention of rain they ask for it? Up to the third of Marheshvan they do not ask for rain, but they do make mention of it.]*
- [R] Said R. Tanhum bar Hiyya, “In the time of the Temple the rule was different.”

[I:2 A] *It has been taught:* Said R. Judah, “Since in this world, grain comes to ripen in six months, and trees produce fruit in twelve months, therefore in the world to come, grain will ripen in one month, and a fruit tree will produce fruit in two months.”

[B] What is the scriptural basis for this view?

[C] “They [the trees] will bear fresh fruit by the months” (Ezek. 47:12). [R. Judah understands the plural “months” to mean at least two.]

[D] R. Yosé, says, “Since in this world grain comes to ripen in six months, and the fruit trees produce fruit in twelve months, therefore in the world to come, grain will come to ripen in fifteen days, and a fruit tree will produce fruit in one month.

[E] “For so we find that the grain in the times of Joel came to ripen in fifteen days, and the first sheaf [omer] was offered from it.”

[F] What is the scriptural proof for this statement?

[G] “Be glad, O sons of Zion, and rejoice in the Lord, your God; for He has given the early rain in justice, he has poured down for you abundant rain, the early and the latter rain, in the first [month].” (Joel 2:3). [The omer is offered on the sixteenth of the first month or Nisan.]

[H] *How does R. Yosé interpret the verse cited by R. Judah, “They will bear fresh fruit by the months” (Ezek. 47:12)?*

[I] In each and every month [the tree] will bear fruit.

1:3

[A] On the third of Marheshvan they pray for rain.

[B] Rabban Gamaliel says, “On the seventh day of that month, the fifteenth day after the Festival,

[C] “so that the last Israelite [returning home] may reach the Euphrates river.”

[I:1 A] *The Mishnah passage before us is framed in terms of the view of R. Meir.*

[B] *For it has been taught: What is the former rainfall [cf. M. 1:2H)?*

[C] **R. Meir says, “The first of it falls on the third [of Marheshvan] [= M. 1:3A], the intermediate on the seventh, and the last on the seventeenth.”**

- [D] **R. Judah says, “The first of it falls on the seventh, the intermediate on the seventeenth, and the last on the twenty- third.”**
- [E] **R. Yosé says, “The first of it falls on the seventeenth, the intermediate on the twenty-third, and the last on the thirtieth [= the new moon of Kislev].”**
- [F] **And so did R. Yosé say, “Individuals do not begin to fast be fore the new moon [of Kislev]” [cf. M. 1:4A] [T. Ta. 1:3].**
- [G] Said R. Abba Mari, brother of R. Yosé, “All concur regarding the seventeenth that it is the time for the setting of the star, Kimah.
- [H] “For that’s the date of the descent of Kimah [when the Lord took two stars away from the Constellation, and the flood came down onto the world.
- [I] “*What is the Scriptural evidence for that statement?*”
- [J] “[In the six hundredth year of Noah’s life, in the second month, on the seventeenth day of the month], on that day all the fountains of the great deep burst forth, [and the windows of the heavens were opened]” (Gen. 7:11).
- [K] R. Abba bar Zamina, R. Eleazar in the name of R. Hoshaiiah: “The law accords with the view of him who says, On the third of Marheshvan they pray for rain [M. 1:3A].”
- [L] And why did he not say, “In accord with R. Meir”?
- [M] *Because there are Tannaite authorities who, in repeating the tradition, will [become confused and give the wrong name, while if the decided law is stated in language referring to its substance, no one can become confused].*
- [I:2 A] How much rain must descend for a person to be liable to say a blessing?
- [B] R. Hiyya in the name of R. [64b] Yohanan: “At the outset, enough to fructify the earth. At the end, enough to wash off the surface of roof tiles.”
- [C] R. Yannai b. R. Ishmael in the name of R. Simeon b. Laqish: “At the outset, enough to fructify the earth, and at the end, enough to dissolve the sealing clay [used to stop a cask].”
- [D] But does sealing clay dissolve?
- [E] Rather they regard it as if it were soaked.

- [F] R. Yosé in the name of R. Judah, R. Jonah, R. Judah in the name of Samuel: “In the beginning, enough to fructify the earth. At the end, even any small amount at all [suffices].”
- [G] “[The aforelisted statements of volume of rain serve,]” R. Yosé in the name of R. Zeirah [said,] “to indicate when it is proper to end a fast [undertaken to bring rain].”
- [H] *R. Hezekiah, R. Nahum, R. Ada bar Ekoma were in session. Said R. Nahum to R. Ada bar Ekoma, “Is it not reasonable to suppose that these measures were stated to indicate when it is necessary to say a blessing?”*
- [I] He said to him, “Yes.”
- [J] [Following Y. Ber. 9:2]: Said R. Hezekiah to R. Ada bar Abimi, “Is it not reasonable to suppose that these measurements serve to indicate when one may interrupt a fast?”
- [K] He said to him, “Yes.”
- [L] He said to him, “And why, then, did you agree with what he said?”
- [M] *He said to him, “that he holds according to the theory of his master.”*
- [N] *Said R. Mana to R. Hezekiah, “Who is his master?”*
- [O] He said to him, “R. Zeira.”
- [P] He said to him, “Then we shall say the matter as follows: R. Yosé in the name of R. Zeira: [‘The measurements were stated] to indicate when it is proper to end a fast [undertaken for rain, if it should rain on that day].”
- [I:3 A]** R. Judah bar Ezekiel said, “This is how my father, Ezekiel, would say a blessing when it rained: ‘May your name, O our king, be magnified, sanctified, blessed, and exalted, for each and every drop of rain that you bring down for us. For you keep them apart from one another, as it is said, ‘For he draweth away the drops of water, which distil rain from his mist [which the skies pour down, and drop upon the multitude]’ (Job 36:27, 28).
- [B] “[The word for ‘drawing away’ is used in the sense of ‘keeping apart’] as indicated in the following verse: ‘And an abatement shall be made from thy valuation’” (Lev. 27:18).

[C] Said R. Yudan, father of R. Mattenah, “And not only so, but he brings down the rain in full measure, as it is said, ‘... and meted out the waters by measure’” (Job 28:25).

[D] *R. Yosé bar Jacob went to visit R. Yudan of Magdela [who was ill]. While he was there, rain came. He heard [the sick man] saying, “A thousand times a thousand are we liable to praise your name, O our king, for each and every drop that you bring down to us, for you do good to the unworthy.”*

[E] *He said to him, “Where did you hear that [blessing]?”*

[F] He said to him, “This is how R. Simeon, my master, would say a blessing when rain came.”

[I:4 A] How much rain must fall to contain the first rainfall?

[B] **“Enough to fill a utensil three handbreadths in height,” the words of R. Meir.**

[C] **R. Judah says, “The first is a handbreadth, the second, two handbreadths, and the final one, three handbreadths.”**

[D] **Said R. Simeon b. Eleazar, “You do not get a handbreadth of rain which falls from above of which the earth does not discharge two handbreadths on its account,**

[E] **“and so it says, ‘Deep calls unto deep at the thunder of thy cataracts’” (Ps. 42:7) [T. Ta. 1:4G-K].**

[I:5 A] Said R. Levi, “The upper water is male, and the lower water is female.

[B] **“What is the scriptural basis for this view? ‘Let the sky pour down salvation, let the earth open’ (Is. 45:8).**

[C] **“Let the earth open like a woman who opens before the male.**

[D] **“‘Let the sky pour down salvation’ (Is. 45:8)— this refers to procreation.**

[E] **“‘And let it cause righteousness to spring up also’ (Is. 45:8)— this refers to rain.**

[F] **“‘I the Lord have created it’ (Is. 45:8)— for this purpose did I create it, for the good order and settlement of the world.”**

[G] ***R. Aha, and there is he who repeats the tradition in the name of R. Simeon b. Gamaliel, “And why is it called rebiah [procreative rain]? Because it fructifies the earth” [T. Ta. 1:4L].***

[H] R. Haninah bar Yaka in the name of R. Judah: “The roots of wheat extend into the earth by fifty cubits; the roots of a young fig extend into a rock.”

[I] If so, what should the roots of a carob or a sycamore do?

[J] Said R. Haninah, “Once every thirty days the great deep rises up and waters them.”

[K] What is the scriptural proof for that statement? “I the Lord am its keeper; every moment I water it” (Is. 27:3).

[L] *It was taught:* R. Simeon b. Eleazar says, “This verse teaches that the earth drinks [the rains] only as far as its upper layer goes.”

[I:6 A] *It has been taught:* “**If the year was lacking [not intercalated], they assign it that which it lacks, and if not, they follow the proper order [of the months],**” the words of Rabbi [Y.: Rabban Simeon b. Gamaliel].

[B] **Rabban Simeon b. Gamaliel [Y.: Rabbi] says, “Under all circumstances they follow the proper order [of the months].**

[C] “**If the year was intercalated, they assign it its intercalated month**” [T. Ta. 1:2C- E].

[D] *The views assigned to Rabbi are at variance with one another. There [at M. Ar. 9:3, where Rabbi says, “He is allowed a year and its intercalated days (by which the solar year exceeds the lunar year)], he has said that they follow the proper order [at all times allowing the days of the solar calendar], and here he has said [that if the year was intercalated], they assign it its intercalated month [but otherwise we do not].*

[E] R. Zeira, R. Yosé, R. Samuel bar R. Isaac, and there is he who presents the following statement in the name of R. Yohanan: “In the last analysis that indeed represents a question.”

1:4

[A] [If] the seventeenth day of Marheshvan came and rain did not fall, individuals began to fast a sequence of three fasts [Monday, Thursday, Monday].

[B] They eat and drink once it gets dark.

[C] And they are permitted to work, bathe, anoint, put on sandals, and have sexual relations.

- [I:1 A]** What is the definition of the individual [of M. 1:4A]?
- [B] These are the ones who have been appointed community officials.
- [C] [Is it the claim, then, that] merely because one has been appointed a community official, he will pray and have his prayer answered?
- [D] [No.] But since one has been appointed a community official & been found trustworthy, he is worthy of praying and having his prayers answered.
- [E] *There was a man who would separate tithes in the proper way. Said to him R. Mana, "Arise [at prayers in behalf of the community], and say, '[Then you shall say before the Lord your God], have removed the sacred portion out of my house, [and more over I have given it to the Levite, the sojourner, the fatherless, and the widow, according to all thy commandments which thou hast commanded me; I have not transgressed any of thy commandments, neither have I forgotten them]' (Deut. 26:13)"*
- [I:2 A]** *A certain man came before one of the relatives of R. Yannai. He said to him, "Rabbi, attain merit through me [by giving me charity]."*
- [B] *He said to him, "And didn't your father leave you money?"*
- [C] *He said to him, "No."*
- [D] *He said to him, "Go and collect what your father left in deposit with others."*
- [E] *He said to him, "I have heard concerning property my father deposited with others that it was gained unlawfully [so I don't want it]."*
- [F] *He said to him, "You are worthy of praying and having your prayers answered."*
- [G] *A certain ass-driver appeared before the rabbis [in a dream] and prayed, and rain came. The rabbis sent and brought him and said to him, "What is your trade?"*
- [H] *He said to them, "I am an ass-driver."*
- [I] *They said to him, "What good deed have you done?"*
- [J] *He said to them, "One time I rented my ass to a certain woman, and she was weeping on the way, and I said to her, 'What troubles you?' She said to me, 'The husband of that woman [me] is in prison [for debt], and I wanted to see what I can do to free him.' So I sold my ass and I gave her the proceeds, and I said to her,*

‘Here is your money, free your husband, but do not sin [by becoming a prostitute to raise the necessary funds].’

[K] *They said to him, “You are worthy of praying and having your prayers answered.”*

[I:3 A] *In a dream that appeared to R. Abbahu Mr. Pentakaka [“Five sins”] prayed that rain would come, and it rained. R. Abbahu summoned him. He said to him, “What is your trade?”*

[B] *He said to him, “Five sins does that man [I] do every day, hiring whores, cleaning up the theater, bringing home their garments for washing, dancing, and banging cymbals before them.”*

[C] *He said to him, “And what good deed have you done?”*

[D] *He said to him, “One day that man [I] was cleaning the theater, and a woman came and stood behind a pillar and cried. I said to her, ‘What troubles you?’ And she said to me, ‘That woman’s [my] husband is in prison, and I wanted to see what I can do to free him,’ so I sold my bed and cover, and I gave the proceeds to her. I said to her, ‘Here is your money, free your husband, but do not sin.’”*

[E] *He said to him, “You are worthy of praying and having your prayers answered.”*

[F] *A pious man from Kepar Immi appeared [in a dream] to the rabbis. He prayed for rain and it rained. The rabbis went up to him. His householders told them that he was sitting on a hill. They went out to him, saying to him, “Greetings,” but he did not answer them.*

[G] *He was sitting and eating, and he did not say to them, “You break bread too.”*

[H] *When he went back home, he made a bundle of faggots and put his cloak on top of the bundle [instead of on his shoulder].*

[I] *When he came in, he said to his household [wife], “These rabbis are here [because] they want me to pray for rain. If I pray and It rains, it is a disgrace for them, and if not, it is a profanation of the name of heaven. But come, you and I will go up [to the roof] and pray. If it rains, we shall tell them, ‘Heaven has done a miracle [for you],’ and if not, we shall tell them, ‘We are not worthy to pray and have our prayers answered.’”*

[J] *They went up and prayed and it rained.*

- [K] *They came down to them [and asked], “Why have the rabbis troubled themselves to come here today?”*
- [L] *They said to him, “We want you to pray so that it would rain.”*
- [M] *He said to them, “Now do you really need my prayers? Heaven already has done its miracle.”*
- [N] *They said to him, “Why, when you were on the hill, did we say hello to you, and you did not reply?”*
- [O] *He said to them, “I was then doing my job. Should I then interrupt [64c] my concentration [on my work]?”*
- [P] *They said to him, “And why, when you sat down to eat, did you not say to us, ‘You break bread too’?”*
- [Q] *He said to them, “Because I had only my small ration [of food]. Why should I have invited you to eat by way of mere flattery [when I knew I could not give you anything at all]?”*
- [R] *They said to him, “And why when you came to leave, did you put your cloak on top of the bundle?”*
- [S] *He said to them, “Because the cloak was not mine. It was borrowed for use at prayer. I did not want to tear it.”*
- [T] *They said to him, “And why, when you were on the hill, did your wife wear dirty clothes, but when you came down from the mountain, did she put on clean clothes?”*
- [U] *He said to them, “When I was on the hill, she put on dirty clothes, so that no one would gaze at her. But when I came home from the hill, she put on clean clothes, so that I would not gaze at any other woman.”*
- [V] *They said to him, “It is well that you pray and have your prayers answered.”*

[I:4 A] *It has been taught [in the Tosefta’s version]: In all instances in which they have said, They eat and drink after it gets dark) and they are permitted to work, bathe, anoint, put on a sandal, and have sexual relations [M. I:4B-C],*

[B] **“they continue to eat and drink until the east is lit up,” the words of Rabbi.**

[C] **Rabban Simeon ben Eleazar [Y.: Rabban Simeon ben Gamaliel] says, “Until the cock crows.”**

[D] **What is the meaning of, “Until the cock crows”?**

[E] **[If] one fell asleep and then got up, he is prohibited forthwith [upon rising] [T. Ta. 1:6A-C].**

[F] That is the case if one did not stipulate in advance [to the contrary].

[G] But if he stipulated in advance to the contrary, it is permitted.

1:5

[A] **[Once] the new moon of Kislev has come and rain has not fallen, the court decrees a sequence of three fasts for the community.**

[B] **They eat and drink once it gets dark.**

[C] **And they are permitted to work, bathe, anoint, put on sandals, and have sexual relations.**

[I:1 A] Said R. Yohanan, “In the case of any fast that a court decrees, which is of the kind of fast that may be interrupted [e.g., should it rain, people may then eat and drink on such a day,] pregnant and nursing mothers do not fast at all.”

[B] Said R. Samuel bar R. Isaac, “It would appear that that is the case when the court had already made a decree not to suspend the fast. [In that case, the pregnant and nursing mothers need not fast.] But if the court made a decree to suspend the fast forthwith, on such an occasion pregnant and nursing mothers do fast.”

[C] *And so it has been taught:* **Pregnant and nursing mothers fast on the ninth of Ab, the Day of Atonement, and the [Y.: first and] second sequence of the three public fasts.**

[D] **But on all other fasts they do not fast. [Y.: But on the final seven fasts they do not fast.]**

[E] **It is not that they should treat themselves to dainties, but that they should eat and drink enough for the benefit of the off spring [T. Ta. 2:14A-C].**

[F] Does this [D] not speak of a case in which the court has already made a decree not to interrupt [the observance of the fast day]? [That is, the final sequence of public fasts [M. 1:7A, below] is not observed. The pregnant women do fast on the first and second sequences of fasts. This would then pose a problem to Yohanan’s view. It would further support the opinion of Samuel bar R. Isaac.]

[G] Came R. Ba bar Zabeda, R. Isaac bar Tabelai in the name of R. Yohanan: “And even if the court made such a decree to interrupt the fast forthwith, pregnant and nursing mothers do not fast on such days.”

1:6

[A] **Once these [fasts] have gone by and they have not been answered, the court decrees a sequence of three more fasts for the community.**

[B] **They eat and drink [only] while it is still day [on the day prior to the fast].**

[C] **And they are forbidden [on the fast] to work, bathe, anoint, put on sandals, and have sexual relations.**

[D] **And they lock the bathhouses.**

[I:1 A] R. Zeirah in the name of R. Jeremiah: “He who performs an act of labor on a community fast is as if he did an act of labor on the Day of Atonement.

[B] “What is the scriptural basis for this view?

[C] “‘Sanctify a fast, call a solemn assembly. [Gather the elders and all the inhabitants of the land to the house of the Lord your God; and cry to the Lord]’” (Joel 1:14).

[D] *And lo, it has been taught:* [As to a fast day] at night it is permitted, and in the day time it is forbidden [to labor]? [On the Day of Atonement, both night and day are times in which labor is not permitted.]

[E] Said R. Zeirah, “Abba bar Jeremiah interpreted the matter as follows: ‘Gather the people (Joel 2:16).’ The prohibition applies from the time of the assembly of the people, [and so it is in the daytime that work is prohibited].”

[I:2 A] *Women who are accustomed not to work on the night following the Sabbath – that is no custom.*

[B] *[But as to the custom not to work until] the end of the order of prayer [at the end of the Sabbath] – that is a valid custom.*

[C] *[As to the custom of not working] on Monday and Thursday of any week – that is not a valid custom.*

[D] *[As to not working until] the end of a fast – that is a valid custom.*

[E] *[As to not working] on Friday (the eve of the Sabbath), that is not a valid custom.*

[F] *[As to not working on Friday from] the afternoon prayer on ward, that is a valid custom.*

[G] *[As to not working] on the New Moon, that is a valid custom.*

[H] *Said R. Zeirah, “As to women who are accustomed not to weave from the time that the month of Ab begins – that is a valid custom, for at that time the foundation stone of the world ended.*

[I] “What is the scriptural basis for that custom?”

[J] ““When the foundations are destroyed, [what can the righteous do]?””(Ps.11:3).

[K] Said R. Hinena, “All matters are a matter of custom.”

[L] *There were acacia trees in Magdela Suba’aya [which had been used in the construction of the ark, so were treated as forbidden by the inhabitants]. They came and asked R. Hanina, associate of the rabbis, whether they might work with that wood.*

[M] He said to them, “Since your forefathers have been accustomed to treat them as forbidden [for that purpose], do not change the custom of your deceased forefathers.”

[N] R. Eleazar in the name of R. Abun: “As to any matter which is permitted, and one errs by treating the matter as prohibited – if such a matter is brought for inquiry, [rabbis] declare it permitted to him.

[O] “And in regard to any matter which one knows to be permitted, and which one treats as prohibited – if such a matter is brought for inquiry, rabbis do not declare it permitted to him. [If the man treated the thing as prohibited and did not know that it was permitted, so that if he had known that it was not prohibited he would not have refrained from that matter, if he asks sages, they can declare it permitted to him. But if he knew that it was permitted but imposed upon himself a more stringent ruling, they cannot permit him.]”

[II:1 A] [They are forbidden] to bathe [M. 1:6C]:

[B] Zeirah bar Hama, Yosé b. R. Joshua b. Levi in the name of R. Joshua b. Levi: “On the occasion of a public fast, one may wash his hands, his face, and feet in the usual way.

[C] “On the ninth of Ab, one washes his hands and then wipes them across his face.

[D] “On the Day of Atonement, one washes his hands, then dries them on a towel, and wipes the towel across his face.”

[E] *R. Jonah would soak a rag and put it under the jug [to be pressed out and then would use the rag on the Day of Atonement to wipe off his face].*

[F] *And lo, it has been taught:* There is no difference between the ninth of Ab and a public fast except for the prohibition of labor in a place in which it is the custom [not to work on the ninth of Ab]. [This contradicts B-C.]

[G] If one was making a trip to his master or to his daughter and passed through the sea or a river, he does not have to scruple [that he has violated the prohibition of washing].

[H] If his feet got muddy, he may rinse them in water and need not scruple [on the same count].

[I] R. Ba gave a decision in accord with the authority [behind G- H].

[J] R. Aha gave a decision in the case of someone who came from the road and whose feet were troubling him, that it is permitted to wash them in water.

[III:1 A] *It has been taught as a Tannaite rule:* [As to putting on a sandal:] A mourner and one who had been excommunicated who were going from one town to another on the road are permitted to put on a sandal. When they come to a town, they must take them off.

[B] The same rule applies to the ninth of Ab and to a public fast.

[IV:1 A] As to **anointing**, *that is in line with the following, which has been taught:*

[B] On the Sabbath, anointing which is for the sake of pleasure and anointing which is not for the sake of pleasure are permitted.

[C] On the Day of Atonement, anointing which is for the sake of pleasure and anointing which is not for the sake of pleasure is forbidden.

[D] On the ninth of Ab and on the occasion of a public fast, anointing which is for the sake of pleasure is prohibited, but that which is not for the sake of pleasure is permitted.

[E] *And lo, it has been taught:* Anointing is equivalent to drinking so far as being subject to a prohibition is concerned, and [in the case of produce in the status of second tithe] so far as having to make up the loss is concerned, but not so far as to punishment is concerned. [If a person who has no right to the produce should anoint himself with oil in the status of second tithe to which he has no right, he has to pay for it with an added fifth, as if he had drunk that produce. But as to the penalty, there is no issue of flogging [cf. Y. M.S. 2:1].

[F] As to the Day of Atonement, [they are equivalent] so far as prohibition is concerned, but not so far as the punishment is concerned .

[G] *And lo, it has been taught:* “[Tell Aaron and his sons to separate themselves from the sacred things that they consecrate to Me], So that they may not profane [My holy name I am the Lord]’ (Lev. 22:2)– this serves to encompass [under the rule protecting consecrated produce and the punishment inflicted for violating its law] one who anoints or who drinks [what is not available to him for that purpose].” [This indicates that there is a penalty for anointing as against the claim, E-F, that there is no such punishment.]

[H] *Said R. Yohanan,* “*In the cited teaching there is no reference to anointing, [and that should be removed from G].*”

[I] *Said R. Abba Mari,* “*In the cited teaching, if there is no reference to anointing, there also is no reference to drinking. [Both of them have to be encompassed by the exegesis of the verse cited at G.] If that is not the case, [and if ‘So that they may not profane ...’ serves only to encompass improperly drinking consecrated produce but not using it as an ointment, then it follows that drinking is not under the category of eating, for if it were, why would this verse be required to deal with drinking as a separate item]?’*”

[J] “Will a matter that derives from two separate prohibitions be regarded as joining together [in the way in which eating and drinking are deemed to join together]? [If one ate part of the requisite volume to be liable, and one drank the other part of the same substance, the two acts are regarded as a single act, so that the requisite volume has been reached, and one is liable. Now we know that eating and drinking do join together. Yet] do they then derive from two distinct [prohibitions]? [Surely not, if they are regarded as essentially the same action. Hence

the entire tradition cited at G is unreliable and not to be followed.]”

[K] How do we know that not anointing with produce in the status of second tithe is covered by a positive commandment? [L-M now answer.]

[L] Said R. Eleazar in the name of R. Simai, “‘Nor have I offered any of [the tithe] to the dead’ (Deut. 26:14). *How shall we interpret this matter?* If it is for the purpose of [selling produce in the status of second tithe in order to purchase for the deceased] a bier or shrouds, it is forbidden to do such a thing even for a living person. [Since the produce must be eaten in Jerusalem, that would prohibit making a purchase with proceeds received from selling it.] All the more so is it prohibited to do so for a corpse!

[M] “What then is a matter that is permitted for the living and prohibited for the dead [so that with proceeds of produce in the status of second tithe one may do the deed for a living person but not for a deceased person]? One must say, That is anointing. [One may anoint with produce in the status of second tithe if one is alive, but may not use for a corpse an unguent deriving from such produce.”

[IV:2 A] *As to putting on a sandal, it has been taught:*

[B] In all those cases where they have said that they are forbidden to put on sandals, when a person goes out onto the road, he puts on his sandal. When he reaches a city, he takes them off.

[C] The same rule applies to a mourner or to a person who has been excommunicated.

[D] *There is a Tannaite authority who teaches,* “They may go out in felt shoes on the Day of Atonement.”

[E] *There is a Tannaite authority who teaches,* “They may not go out [in felt shoes on the Day of Atonement].”

[F] *Said R. Hisda,* “*He who says that one may go out in felt shoes speaks of those made of cloth, and he who says that one may not go out in felt shoes speaks of those made out of leather.*”

[G] *R. Isaac bar Nahman went up to R. Joshua b. Levi on the night of the Great Fast [i.e., Day of Atonement]. He went out to him wearing his slippers.*

[H] *He said to him, "How about this?"*

[I] *He said to him, "I am frail [and must wear such a thing on my feet]."*

[J] *R. Joshua [Y. Yoma 8:1: Samuel] bar Nahman went to R. Joshua b. Levi on the night of a public fast. He went out to him wearing his slippers.*

[K] *He said to him, "How about this?"*

[L] *He said to him, "I am frail."*

[M] *R Simai Hamonah went out on the night of a fast wearing his slippers.*

[N] *A disciple of R. Mana instructed one of the relatives of the patriarch to wear his slippers [on a fast].*

[O] *He said to him, "It is in accord with R. Joshua ben Levi."*

[P] *For R. Joshua b Levi said, "I am frail [and am not an example for healthy people, who may not wear slippers]."*

[V:1 A] **Sexual relations:** *Now look here!* If someone is forbidden to bathe, is it not an argument *a fortiori* that it is forbidden to have sexual relations? [Why does the framer of the Mishnah find it necessary to specify this item?]

[B] Interpret the matter to speak of a place where they do not immerse [after having a seminal emission, in which case even though one may not bathe, sexual relations will still be lawful].

[C] Or apply the rule to the period before Ezra ordained that those who have a seminal emission have to immerse [with the same result as at B].

[D] R. Jacob bar Aha, R. Immi in the name of R. Joshua b. Levi: "Uncleanness on account of a seminal emission comes only as a result of sexual relations."

[E] R. Huna said, "Even if one saw himself in a pleasurable setting in a dream, [the consequent emission is a source of uncleanness]."

[F] *They wanted to rule, "And that is on condition that the emission is on account of a woman [about whom the man dreamed]."*

[G] Both R. Jonah and R. Yosé said, “Even on some other count [than dreaming about a woman].”

[H] *And lo, we have learned there* [at M. Yoma 8:1]: **On the Day of Atonement it is forbidden to eat, drink, bathe, anoint, put on a sandal, or have sexual relations,**

[I] *and in this connection it has been taught:* Those who have had a seminal emission immerse in the usual way, in private, on the Day of Atonement.

[J] *Does this not stand at variance with the view of R. Joshua b. Levi,* [for R. Joshua b. Levi has said, “A seminal emission is only on account of sexual relations”? If it is forbidden to have sexual relations, then why would there be a person who might immerse on the Day of Atonement? It must follow that the uncleanness by reason of a seminal emission may derive from some other cause than sexual relations.]

[K] Interpret the law to speak of a case in which one had sexual relations while it was still day [prior to the night of the Day of Atonement]. The man forgot and did not immerse. [The next day he remembered. He then may immerse even on the Day of Atonement.]

[L] *And lo, it has been taught:* There was the case involving R. Yosé bar Halapta whom they saw immersing in private on the Day of Atonement.

[M] Can you possibly say that that holy body was subject to forgetting [in this way]?

[V:2 A] R. Judah bar Pazzi, R. Hanin in the name of R. Samuel bar R. Isaac: “When Noah entered the ark, he was forbidden to have sexual relations.”

[B] What is the scriptural basis for that statement?

[C] “You shall come into the ark, you, your sons, your wife, and your sons’ wives with you” (Gen. 6:18). [The men and women were kept apart.]

[D] And when he went out of the ark, sexual relations were once more permitted.

[E] What is the scriptural proof?

[F] “Go forth from the ark, you and your wife, and your sons and your sons’ wives with you” (Gen. 8:16).

- [G] Said R. Hiyya bar Ba, “They went out of the ark by their families (Gen. 8:19). Because they had preserved their family lineage, they had the merit of being saved from the ark.”
- [H] You may know that that is the case, *for we have learned*: Ham, the dog, and the raven misbehaved [by having sexual relations in the ark].
- [I] Ham went forth blackened.
- [J] The dog went forth dissolute in his sexual conduct.
- [K] The raven went forth different from all other creatures.
- [L] Said R. Abun, “It is written, ‘Through want and hard hunger they gnaw the dry and desolate ground’ (Job 30: 3). When you see that want comes into the world, treat your wife as desolate [and do not have sexual relations].”
- [M] Said R. Levi, “It is written, ‘[Before the year of famine came,] Joseph had two sons, [whom Asenath, the daughter of Potiphera, priest of On, bore to him]’ (Gen. 41:50). When did this take place? It was ‘before the year of famine came.’”
- [N] *It was taught in the name of R. Judah*: “Those who want to have children have sexual relations, [but not otherwise].”
- [O] Said R. Yosé, “And that is on condition that it be on the day on which the wife immersed [after her period].”

1:7

- [A] **If these [further fasts] have passed and they have not been answered, the court decrees a sequence of seven more fasts for them,**
- [B] **which then add up to thirteen fasts for the community.**
- [C] **Lo, these [further fasts] are still more stringent than the first ones,**
- [D] **for on these they sound the shofar, and they lock up the stores.**
- [E] **On Mondays they partially open [the stores] after dark.**
- [F] **And on Thursday they are permitted [to open them all day long] because of the honor owing to the Sabbath.**
- [I:1 A] R. Yudan son of R. Hama of Keper Tahamin: “[The thirteen fasts, each involving three days] are equivalent to the forty days that Moses spent on the Mountain.”

[B] ["The reason they did not decree more fasts than these,"] said R. Yosé, "is so that they do not place too great a burden on the community."

[C] Said R. Hiyya bar Ba, "But if there were two matters, for example, the holding back of rain and a plague of locusts, they sound the shofar on their account."

[D] *And why with these two matters in particular [no rain, locusts]?*

[E] *Said R. Yosé b. R. Bun, "In [the confluence of] these two matters in particular is a vast calamity."*

[II:1 A] On Mondays they partially open the stores after dark [M. 1:7E].

[B] One opens one [door], closes [another], [in a shop with two entries].

[III:1 A] And on Thursday they are permitted [to open them all day long] because of the honor owing to the Sabbath [M. 1:7F]:

[B] What is the meaning? Is it that one opens one door and closes the other?

[C] Or is it that one opens both of them [on Thursday]? [This question is not answered.]

1:8

[A] [If] these two have passed and they have not been answered, they cut down on commerce, building, planting, the making of betrothals and marriages, and on greeting one another,

[B] like people subject to divine displeasure.

[C] Individuals go back and fast until the end of Nisan.

[D] [Once] Nisan has ended, if it then rains, it is a sign of a curse,

[E] since it says, "Is it not wheat harvest today? [I will call unto the Lord, that he send thunder and rain, and you shall know and see that great is your wickedness which you have done in the sight of God to ask a king for yourself]" (I Sam. 12:17).

[I:1 A] *[As regards cutting down on building,] said R. Joshua b. Levi, "That which you have said applies to building for purposes of pleasure [e.g., a house for one's son, who is getting married], but if one's wall was infirm, one may tear it down and rebuild it."*

[B] *Samuel said, "That refers specifically to a wall of a house in which one sleeps."*

- [I:2 A] R. Ba bar Kohen said before R. Yosé, R. Aha in the name of R. Jacob bar Idi: “It is forbidden to betroth a woman on Friday.”
- [B] *That which you have said indicates that one should not make the banquet in celebration of the betrothal.*
- [C] But lo, as to the actual betrothal, it is permitted.
- [D] Samuel said, “Even on the ninth of Ab one should betroth a woman [if the occasion arises], so that someone else will not [marry her] first.”
- [E] *The opinions assigned to Samuel are at variance with one another.*
- [F] *There he has said, “God gives the desolate a home to dwell in” (Ps. 68:6).*
- [G] And “In the balances they go up; they are together lighter than a breath” (Ps. 62:9). [Both verses imply that the marriage is a ranged by God.]
- [H] *And here he has said this [that one has to take action on his own: “So that someone else should not get there first”!]*
- [I] Rather [Samuel meant that he should marry], lest someone precede him by praying [for her hand in marriage].
- [J] Even so, the marriage will not last [if God has not arranged it].
- [I:3 A] [Since M. 1:8A says they cut down on greeting one another, in fact there should be no greeting at all.] *For has it not been taught as follows: **There is to be no greeting of one’s close associates on the ninth of Ab.***
- [B] **And as to ordinary folk, one [answers their greeting] in a low voice [T. Ta. 3:12].**
- [C] The law is required for the days between one fast and another [though on the fast days themselves there is to be no greeting].
- [II:1 A] **Once Nisan has ended, if it then rains, it is a sign of a curse [M. 1:8D].**
- [B] Said R. Yosé b. R. Bun, “That refers specifically to the season of Nisan [thirty days after the vernal equinox, hence, April 21].
- [C] Said R. Samuel b. R. Isaac, “That which you have said applies to a case in which it has not already rained at all. But if it already has rained, it is a sign of blessing.”

[B] Samuel said, “That refers specifically to a wall of a house in which one sleeps.”

YERUSHALMI TAANIT

CHAPTER TWO

2:1

- [A] **The manner of fasting: how [was it done]?**
- [B] **They bring forth the ark into the street of the town and put wood ashes on the ark, on the head of the patriarch, and on the head of the head of the court.**
- [C] **And each person puts rashes] on his head.**
- [D] **The eldest among them makes a speech of admonition: “Our brothers, concerning the people of Nineveh it is not said, ‘And God saw their sackcloth and their fasting,’ but, ‘And God saw their deeds, for they repented from their evil way’ (Jonah 3:10).**
- [E] **“And in prophetic tradition it is said, ‘Rend your heart and not your garments’” (Joel 2:13).**
- [I:1 A] Said R. Hiyya bar Ba “And why do they go out into the street of the town?
- [B] “It is as if to say: ‘Consider us as if we are exiles before you.’”
- [C] Said R. Joshua b. Levi, “It is because they prayed in private and were not answered. Therefore they go out and make the matter public.”
- [D] Said R. Hiyya bar Ba, “And why do they bring the ark out into the street?
- [E] “It is as if to say: ‘This one precious object that we had— our sins have caused it to be disgraced.’”
- [F] R. Hunah the Elder, of Sepphoris, said, “Our forefathers covered it with gold, and we covered it with dirt.”
- [G] Said R. Jacob, the Southerner, “And why do they sound the horns?
- [H] “It is as if to say: ‘Consider us as if we cry like a beast before you.’”

[I] Said R. Levi, “And why do they go forth among the graves? It is as if to say: ‘Consider us as if we are dying before you.’”

[J] Said R. Tanhuma, “And in the case of all of them: ‘If we are liable for the death penalty, lo, we are dying. If we are liable to exile, lo, we are exiled. If it is to famine, lo, we starving [from the fasting].’”

[II:1 A] And they put wood ashes on the ark [M. 2:1B]:

[B] It is in line with this verse: “[When he calls to Me, I will answer him]; I will be with him in trouble, [I will rescue him and honor him]” (Ps. 91:15).

[C] *Said R. Zeira, “Whenever I see them doing this, my body trembles.”*

[D] *In the days of R. Ila they would leave the ark out and go into [their houses]. Said to them R. Zeirah, “And has it not been taught:*

[E] “And they did not change guards for it. One person sits and watches it all day long” [T. Ta. 1:8C].

[II:2 A] R. Yudan b. R. Manasseh and R. Samuel bar Nahman: *One said, “[They put on ashes] in order to call to mind the merit of Abraham.”*

[B] *The other said, “[They do so] in order to call to mind the merit of Isaac [at the binding of Isaac].”*

[C] *He who holds that it is to call to mind the merit of Abraham says that it may be either dirt or wood ash, in line with the verse, “I who am but dust and ashes” (Gen. 18:27).*

[D] *He who said it was so as to call to mind the merit of Isaac says that it must be ashes alone. They envision the ashes of Isaac as if they were piled up on the altar.*

[II:3 A] *When R. Judah bar Pazzi would go forth to a fast, he would say before them, “O our brethren! To whomever the beadle [of the synagogue] has not come, let him take dust and put it on his head.”*

[III:1 A] And on the head of the patriarch [M. 2:1B]:

[B] Said R. Tahalipa of Caesarea, “It is so as to make the matter known.

[C] “One who degrades himself is not the same as one who is degraded by others.”

- [III:2 A] It is written, “Let the bridegroom leave his room, and the bride her chamber” (Joel 2:16).
- [B] “The bridegroom leave his room”– this refers to the ark.
- [C] “And the bride her chamber”– this refers to the Torah.
- [D] Another interpretation: “The bridegroom leave his room”– this refers to the patriarch.
- [E] “And the bride her chamber”– this refers to the head of the court.
- [F] *R. Helbo said to R. Yudan the Patriarch, “Come out with us, and what is painful to you will pass. [If the patriarch comes out with us to a public fast, the prayers will be answered. Otherwise we cannot properly carry out the rite.]”*
- [G] *Said R. Yosé, “That is to say that these fasts that we carry out – they are not really fasts. Why not? Because the patriarch is not with us [so we cannot carry out the rite in the proper way].”*
- [III:3 A] One verse of Scripture says [with regard to the bullock of the congregation], “[And the priest shall dip his finger in the blood and sprinkle it seven times before the Lord] in front of the veil” (Lev. 4:17).
- [B] And another verse of Scripture [with regard to the bullock of the anointed priest] says, “[And the priest shall dip his finger in the blood and sprinkle part of the blood seven times before the Lord] in front of the veil of the sanctuary” (Lev. 4:6).
- [C] [Why then does the latter specify the sanctuary and the former not?] *R. Aha said, “R. Abbahu and rabbis differed on this matter. One of them said, ‘If the patriarch [the anointed priest] sins, greatness remains in its place. If the community sins, greatness does not remain in its place.’*
- [D] *“And the other said, ‘Since both the one taught and the teacher have sinned, therefore let them go out and make the matter public.’*
- [E] “This is in line with the following: ‘And he shall carry forth the bull outside the camp [it is the sin offering of the congregation (Lev. 4: 21)].”
- [F] *Hezekiah taught, “It is a hint that in every place in which the anointed [priest, patriarch] is present, the ark is to be present, and in any setting in which the anointed is not present, the ark is not to be present.”*

[G] [Cf. M. Mak. 2:6T, treating priests consecrated in different ways as equivalent:] And this is in accord with that which R. Samuel b. Yannai said in the name of R. Aha: “Five things of the First Temple were lacking in the last Temple.

[H] “And these are they:

[I] “Fire, ark, Urim and Thummim, anointing oil, and Holy Spirit.

[J] “As it is written, ‘[Go up to the hills and bring wood and build the house], that I may take pleasure in it and that I may appear in my glory, [says the Lord]’ (Hag. 1:8).

[K] “‘And that I may appear in my glory’ is written without the expected *he* [Hebrew letter representing the numeral five] which refers to the five things of the First Temple which were lacking in the last Temple.”

[III:4 A] *There is the following story.* R. Ba bar Zabeda and R. Tanhum bar Ilai and R. Josiah went out to a fast. R. Ba bar Zabeda preached as follows: “‘Let us lift up our hearts and hands to God in heaven’ (Lam. 3:41).

[B] “Now is it possible for a mortal to take his heart and put it into his hands? But what is the meaning of ‘let us lift up’? Let us exalt our hearts, making them [as clean as] the palms of our hands. And then, turn to God in heaven.”

[C] **Now if there was a dead creeping thing in someone’s hand, even if he immersed himself in Siloam [a fountain] or in all of the waters of creation, he will never, ever be clean. [But if] he tossed the dead creeping thing from his hand, then he gains the benefit of immersion in [only] forty seahs of water [T. Ta. 1:8H].**

[D] R. Tanhum bar Ilai preached as follows: “‘Then the officers of Israel and King humbled themselves and declared [65b] ‘the Lord is righteous.’ When the Lord saw that they humbled them selves, the word of the Lord came to Shemaiah: [‘They have humbled themselves; I will not destroy them ...]’ (2 Chron. 12:6-7).

[E] “‘They fasted’ is not written here, but rather, ‘They have humbled themselves.’ [Therefore,] ‘I will not destroy them.’”

[F] R. Josiah preached, “‘Come together (*hitgosheshu*) and hold assembly [*vaqoshu*], [*O* shameless nation]’ (Zeph. 2:1).

[G] “Let us correct ourselves [*nitqoshesh*] before we correct [*neqoshesh*] others.

[H] *“Since there are people here who told tales against me to R. Yohanan, let everyone come to judgment.”*

[I] *They say that present at this speech were R. Hiyya, R. Isi, and R. Immi, and they got up and walked out.*

[III:5 A] Said R. Eleazar, “Three acts nullify the harsh decree, and these are they: prayer, charity, and repentance.”

[B] And all three of them are to be derived from a single verse of Scripture:

[C] “If my people who are called by my name humble themselves, [pray and seek my face, and turn from their wicked ways, then I will hear from heaven and will forgive their sin and heal their land]” (2 Chron. 7:14).

[D] “Pray”— this refers to prayer.

[E] “And seek my face”— this refers to charity,

[F] as you say, “As for me, I shall behold thy face in righteousness; when I awake, I shall be satisfied with beholding thy form”] (Ps. 17:15).

[G] “And turn from their wicked ways”— this refers to repentance.

[H] Now if they do these things, what is written concerning them there?

[I] “Then I will hear from heaven and will forgive their sin and heal their land.”

[J] R. Haggai preached this lesson of R. Eleazar every time there was a fast.

[K] *Said R. Eleazar, “What happens at the end of the year is in accord with what has been done during the year.*

[L] *“Take some dirt from the summer for the winter.*

[M] *“When the north wind blows, look to the bricks of your house.”*

[N] “Any year in which they do not sound the *shofar* [for fasting] at the beginning will end up having the *shofar* sounded at the conclusion.

[O] “Whoever does not take care for the produce of her fellow in the end will lose her own produce.”

[P] *Said R. Aha, “And most wine turns to vinegar [if it is not watched].”*

[Q] *There were elders in Sepphoris, who, when the first rain came, could smell the dirt and tell the people how much water would come that year.*

- [III:6 A] Said R. Eleazar, “‘Is such the fast that I choose, a day for a man to humble himself? [Is it to bow down his head like a rush, and to spread sackcloth and ashes under him? Will you call this a fast and a day acceptable to the Lord?]’ (Is. 58:5). This is not the [kind of] fast that I desire.”
- [B] What kind of fast do I desire? “‘Is not this the fast that I choose: to loose the bonds of wickedness, to undo the thongs of the yoke, to let the oppressed go free, and to break every yoke? Is it not to share your bread with the hungry and bring the homeless poor into your house; [when you see the naked, to cover him, and not to hide yourself from your own flesh (Is. 58:6- 7)]?’”
- [C] “‘What is written thereafter?”
- [D] “‘That when you call, the Lord will answer; when you cry, He will say: Here I am ... (Is. 58:8).’”
- [E] Said R. Simeon b. Laqish, “‘It is written, ‘But a mist went up from the earth and watered the whole face of the ground’ (Gen. 2:6).
- [F] “‘When there will be breaking down below, forthwith rain will come.’”
- [G] Said R. Berekhiah, “‘It is written, ‘May my teaching drop as the rain, [my speech distil as the dew, as the gentle rain upon the tender grass, and as the showers upon the herb]’ (Deut. 32:2).
- [H] “‘This means, let men break their stubbornness through repentance, and it will rain forthwith.’”
- [I] *R. Berekhiah fasted for thirteen fast days, and it did not rain. In the end, locusts came. He went in and preached before the community, “Our brethren! See what we have done. Is this not that which the prophet rebukes us with:*
- [J] “‘Their hands are upon what is evil, to do it diligently; [the prince asks and the judge is ready to ask for a bribe, and the great man utters the evil desire of his soul; thus they weave it together]’ (Mic. 7:3).

- [K] “‘Their hands are upon what is evil’– *They harm each other with their hands and then ask for a favor.*
- [L] “‘The prince asks’– *Where can he receive his bribe?*
- [M] “‘And the judge is ready for a bribe’– [He says] ‘Pay me and I will pay you.’
- [N] “‘And the great man utters the evil desire of his soul; thus they weave it together’– *They make their speech a cover, they make it a screen for their sins. And who will undo it [the screen]?*
- [O] “‘The best of them is like a brier, [the most upright of them worse than a thorn hedge. The day of your watchmen, of your punishment has come; now their confusion is at hand.]’ (Mic. 7:4)– *The best of them are like these thorns.*
- [P] “‘The most upright of them worse than a thorn hedge’– *The upright of them are like these thorns.*
- [Q] “‘The day of their watchman, of their punishment, has come.’ *The day which you have looked forward to is your downfall. The day which we have hoped for to bring us relief has come to us with locusts.*
- [R] “‘Now their confusion is at hand.’ *Because they are agitated and cry, rain falls.*”
- [S] Said R. Simeon b. Laqish, “The repentance that the men of Nineveh carried out was deceitful.”
- [T] What did they do?
- [U] R. Hunah in the name of R. Simeon b. Halaputa: “They set up calves inside, with the mothers outside, lambs inside, with the mothers outside, *and these bellowed from here, and those bellowed from there.*
- [V] “They said, ‘If we are not shown mercy, we shall not have mercy on them.’
- [W] “This is in line with that which is written: ‘How the beasts groan! The herds of cattle are perplexed because there is no pasture for them; even the flocks of sheep are dismayed’” (Joel 1:18).
- [X] Said R. Aha, “*In Arabia that is how they act [toward their beasts, treating them cruelly].*”

[Y] “But let man and beast be covered with sackcloth, and let them cry mightily to God; [yes, let everyone turn from his evil way and from the violence which is in his hands]” (Jonah 3: 8).

[Z] What is the meaning of “mightily”?

[AA] Said R. Simeon b. Halaputa, “Perseverance in prayer conquers [even] the worthy man, all the more so the Good One of the world.”

[BB] “... let everyone turn from his evil way and from the violence which is in his hands” (Jonah 3:8).

[CC] Said R. Yohanán [completing the thought begun at S], “What they had in their hands they gave back, but what they had hidden in chests, boxes, and cupboards, they did not give back.”

[III:7 A] It is written, “Rend your hearts and not your garments. Return to the Lord, your God, for he is gracious and merciful, [slow to anger and abounding in steadfast love, and repents of evil]” (Joel 2:13).

[B] Said R. Joshua b. Levi, “If you tear your hearts in repentance, you will not tear your garments as a sign of mourning either for your sons or for your daughters.”

[C] But: “[Return] to the Lord your God.”

[D] Why? “For he is gracious and merciful, slow to anger [‘long in acts of patience’] and abounding in steadfast love, and repents of evil” (Joel 2:13).

[E] R. Samuel bar Nahman in the name of R. Jonathan: “‘Long acts of patience’ [in the singular] is not written here, but rather, ‘Long in acts of patience,’ [in the plural], thus indicating that he is patient with the righteous, and he also is patient with the wicked.”

[F] R. Aha, R. Tanhum b. R. Hiyya in the name of R. Yohanán: “‘Long in an act of patience’ is not written here, but rather, ‘Long in acts of patience.’ [It means] he is patient before he begins to collect [imposing punishment on the sinner], and even when he has begun to collect [the penalty for doing evil], he is patient when he collects.”

[G] Said R. Haninah, “*He who has said that the All-Merciful is indulgent— may his innards be loosened. Rather, He is long in acts of patience but [if one does not repent] He collects His due.*”

[H] Said R. Levi, “What is the meaning of, ‘slow to anger’? It means, ‘Distant from wrath.’

[I] “It may be compared to a king who had two tough legions. The king said, ‘If they dwell here with me in the metropolis, if the city-folk anger me now, they will put them down [with force]. But lo, I shall send them a long way away, so that if the city-folk anger me, while I am yet summoning the legions, the people will appease me, and I shall accept their plea.’

[J] “Likewise the Holy One, blessed be He, said, ‘Anger and wrath are angels of destruction. Lo, I shall send them a long way away, so that if Israel angers me, while I am summoning and bringing them to me, Israel will repent, and I shall accept their repentance.’”

[K] That is in line with the following verse of Scripture:

[L] “They come from a distant land, from the end of the heavens, the Lord and the weapons of his indignation, to destroy the whole earth” (Is. 13:5).

[M] Said R. Isaac, “And not only so, but He locks [the gate] before them.”

[N] That is in line with what is written: “The Lord has opened his armory and brought out the weapons of his wrath” (Jer. 50:25).

[O] “While he is yet opening [the armory], while he is yet occupied, his mercy draws near.”

[III:8 A] *It has been taught in the name of R. Meir:*

[B] “‘For behold, the Lord is coming forth out of his place [to punish the inhabitants of the earth for their iniquity, and the earth will disclose the blood shed upon her and will no more cover her slain]’ (Is. 26:21).

[C] “He goes forth from one attribute to another. He leaves the attribute of justice for the attribute of having mercy for Israel.”

[D] It is written, “God is not man, that he should lie, [or a son of man, that he should repent. Has he said, and will he not do it? Or has he spoken and will he not fulfil it?]” (Num. 23:19).

[E] R. Samuel bar Nahman and rabbis: R. Samuel bar Nahman said, “When the Holy One, blessed be He, plans to do good, ‘God is not man, that he should lie.’

[F] “If he plans to do evil, in that case Scripture has said, ‘Has He said, and will he not do it? Or has He spoken, and will He not fulfil it?’”

[G] Rabbis say, “‘He is not man,’ that he should treat the words of God as if they were not.”

[H] “O Lord, why does thy wrath burn hot against thy people” (Ex. 32:11).

[I] “Or a son of man, that he should repent” (Num. 23:19).

[J] Did not the son of Amram make God repent?

[K] “And the Lord repented of the evil which he had thought to do to his people” (Ex. 32:14).

[L] Said R. Abbahu, “If a man should tell you, ‘I am God,’ he is lying.

[M] “If he says, ‘I am the son of man,’ in the end he will regret it.

[N] “‘For I shall go up to heaven’– ‘Has he said, and will he not do it?’” (Num. 23:19).

[O] R. Aha in the name of Rab: “There is no fasting at this time.”

[P] *Said R. Yosé, “That is to say, that these fasts that we carry out– they are not really fasts.”*

[Q] He said to them, “This is what Rab said, ‘Any feast that is not carried out properly’– and in that regard Scripture says, ‘[My heritage has become to me like a lion in the forest], she has lifted up her voice against me; therefore I hate her’” (Jer. 12:8).

2:2

[A] They arise for prayer.

[B] They bring down before the ark an experienced elder, who has children, and whose cupboard [house] is empty, so that his heart should be wholly in the prayer.

[C] And he says before them twenty-four blessings:

[D] the eighteen said every day, and he adds six more to them.

[E] And these are they:

[F] Remembrance verses, Shofar verses,

[G] “In my distress I cried to the Lord and he answered me...” (Ps. 120),

[H] and, “I will lift up my eyes to the hills...” (Ps. 121),

[I] and, “Out of the depths I have cried to you, O Lord...” (Ps. 130),

[J] and “A prayer of the afflicted when he is overwhelmed” (Ps. 102).

- [I:1 A] [As to the experienced elder,] *it has been taught*: [He should be] modest and kind to youth, experienced in wisdom, experienced in lore, and he must have a house and a field.
- [B] *We have learned*, **Whose house is empty** [65c], and you say this [that he has to own a house and also a field]?
- [C] Now in fact he should have sons and daughters [and the Mishnah does not mention daughters, and the same goes for the field].
- [D] If they do not have someone who meets these qualifications, they lead before the ark [to present the prayers of the community] anyone whom they want.
- [I:2 A] And why are there eighteen [benedictions said every day]?
- [B] Said R. Joshua b. Levi, “These are for the eighteen psalms that are written from the beginning of the Psalms up to: ‘The Lord answers you in the day of trouble’ (Ps. 20:1).
- [C] “If someone should say to you that there are nineteen Psalms, say to him, ‘Why do the nations conspire’ (Ps. 2:1) is not counted among them (because Psalms 1 and 2 are counted together as one).”
- [D] [Referring to Ps. 20:1,] on the basis of this verse they have said, “He who prays and is not answered has to fast.”
- [E] Said R. Mana, “It [referring to Ps. 20:1] is a hint about [how] a disciple of a sage [should act], for such a man has to say to his master [at the end of prayers], ‘May your prayer be heard.’”
- [F] R. Simon in the name of R. Joshua b. Levi, “[The eighteen benedictions are] for the eighteen vertebrae in the backbone.
- [G] “For when a man stands and prays, he has to bend down with all of them.”
- [H] What is the scriptural, basis for this view?
- [I] “All my bones shall say, ‘O Lord, who is like thee, [thou who deliverest the weak from him who is too strong for him, the weak and needy from him who despoils him]?’” (Ps. 35:10).
- [J] R. Levi said, “The eighteen benedictions are for the eighteen times the Lord’s name is mentioned in, ‘Ascribe to the Lord, O heavenly beings, ascribe to the Lord glory and strength’” (Ps. 29:1).

[K] Said R. Huna, “If someone should say to you that they are only seventeen blessings, reply to him, ‘the blessing [curse] against the apostates has already been ordained by sages in Yavneh.’”

[L] *R. Eleazar b. R. Yosé objected before R. Yosé*, “And lo, it is written, ‘[The voice of the Lord is upon the waters]; the God of glory thunders, [the Lord, upon many waters]’” (Ps. 29:3). [Doesn’t the mention of God here bring the total number of references to nineteen, making the addition of another benediction necessary?]

[M] He said to him, “*And has it not been taught*: ‘One includes the blessing against the apostates and against the transgressors in the blessing, ‘Who humbles the proud.’ The blessing for the elders and for proselytes is included in the blessing, ‘... for the righteous.’ The blessing for David in, ‘... Who Builds Jerusalem.’ [Since there was some doubt as to whether the name of God mentioned in the cited verse (L) should be counted, they eventually decided to treat each of them [the blessing for David and ‘Who builds Jerusalem’] as separate [ending up with nineteen in all].”

[N] R. Hananiah in the name of R. Phineas: “They are for the eighteen times in which the fathers are written in the Torah as ‘Abraham, Isaac, Jacob.’

[O] “If someone should say to you that there are nineteen, say to him, ‘And behold, the Lord stood above it and said, I am the Lord, the God of Abraham your father and the God of Isaac; the land on which you lie I will give to you and to your descendants’ (Gen. 28:13). *That does not count among them [so there are only eighteen]*.”

[P] “And if someone should say to you that there are only seventeen, say to him, ‘And in them let my name [Jacob’s] be perpetuated, and the name of my fathers Abraham and Isaac’ (Gen. 48:16) counts as one of them.”

[Q] R. Samuel bar Nahman in the name of R. Jonathan: “They are for the eighteen commandments that are written in the pericope of the second tabernacle.”

[R] Said R. Hiyya bar Ada, “Provided that [they are counted] from, ‘And with him was Oholiab the son

of Ahisamach, of the tribe of Dan, [a craftsman and designer and embroiderer in blue and purple and scarlet stuff and fine twined linen]' (Ex. 38:23) to the end of the book [excluding 30:22].

[I:3 A] What is the origin of the seven blessings to be said in the Prayer on the Sabbath?

[B] Said R. Isaac, "They are for the seven 'voices' in the passage [that begins]: 'ascribe to the Lord, O heavenly being, [ascribe to the Lord glory and strength. Ascribe to the Lord the glory of his name;] worship the Lord in holy array. 'The voice of the Lord is upon the waters; the God of glory thunders, the Lord, upon many waters. The voice of the Lord is powerful, the voice of the Lord is full of majesty ... (Ps. 29:3-4)].'"

[C] Said R. Yudan of Antondarayya, "They are for the seven times the Name of God is mentioned in the passage [that begins]: 'A psalm, a song; for the Sabbath day. It is good to give thanks to the Lord, to sing praises to thy name, O Most High ... (Ps. 92:1-19)].'"

[I:4 A] What is the origin of the nine blessings that are to be said in the Prayer on the New Year?

[B] Said R. Ba Qartegena, "They are for the nine times the Name of God is written in the pericope of Hannah.

[C] "And it is written at the end of that passage, '[The adversaries of the Lord shall be broken to pieces; against them he will thunder in heaven]. The Lord will judge the ends of the earth; [he will give strength to this king and exalt the power of his appointed]' (1 Sam. 2:10). [The New Year is the day of judgment.]"

[I:5 A] What is the origin of the twenty-four blessings that are to be said in the Prayer on a fast day?

[B] R. Helbo and R. Samuel b. Nahman both say, "They are for the twenty-four times that it is written in the pericope of Solomon (I Kings 8), 'Joy, prayer, supplication.'"

[I:6 A] R. Zeira in the name of R. Jeremiah, "An individual [praying by himself, prior to the reader's repetition] at the time of a public fast has to make mention of the incident [which has caused the fast].

[B] "And where does he mention it?

[C] "Between, '... who redeems Israel,' and '... who heals the sick.'"

[D] “And what does he say?”

[E] ““Answer me, O Lord, answer me at this time and in this sea son, for we are in great distress, and do not hide your face from us, and do not ignore our supplications, for you are the Lord, a loving and merciful God, who answers in a time of trouble, re deems and saves at all times of anguish.

[F] ““Then they cried to the Lord in their trouble, and he delivered them from the distress’ (Ps. 107:28).

[G] ““Blessed are you, who answers in a time of trouble.””

[H] R. Yannai b. R. Ishmael in the name of R. Simeon b. Laqish: “Even an individual who decreed a fast upon himself has to make mention of the substance of the incident that has caused the fast.”

[I] And where does he say it?

[J] R. Zeirah in the name of R. Hunah: “He says it [in the fourth blessing] on the night of the Sabbath and on the Sabbath day.”

[K] *Said R. Mana, “And I, who had not investigated whether the law accords with the view of R. Jeremiah [C] or with the view of R. Yannai b. R. Ishmael [H], went into the session. I heard R. Hunah in the name of Rab [state], ‘Even an individual who decreed a fast for himself has to mention the incident [that has caused the fast].’”*

[L] *R. Yosé answered, “And lo, the following Tannaitic teaching differs: Every day a person must say eighteen blessings, and on the night following the Sabbath and on the night following the Day of Atonement and on the night following a public fast.” Now on the basis of what R. Yosé has said, with regard to the fact that the Tannaitic tradition is at variance, it must follow that the passage is to be inserted between, ‘... who redeems Israel,’ and ‘... Who heals the sick’ [= C].*

[M] R. Aha bar Isaac in the name of R. Huna the Elder of Sepphoris: “An individual [praying by himself, prior to the reader’s repetition] on the ninth of Ab has to make mention of the incident [which has caused the fast, that is, the destruction of the temple].”

[N] What does he say [in his prayer]?

[O] “Have mercy, O Lord, our God, in your multitude of merciful deeds and your faithful acts of steadfastness, upon us and upon Israel your people, upon Jerusalem your city, upon Zion, the tabernacle of your glory, and upon that city, in mourning, destroyed, desolate, held by foreigners, trampled by the arrogant, for legions have swallowed her up, and idolaters have profaned her. But it was to Israel, your people, that you gave her, with love, as an inheritance and handed her over to the seed of Jeshurun as a heritage. For in fire you have destroyed her, but with fire you are destined to rebuild her.

[P] “*That is in accord with the following verse of Scripture: ‘For I will be to her a wall of fire round about, says the Lord, and I will be the glory within her.’*” (Zech. 2:9).

[Q] *R. Abodema of Sepphoris asked before R. Mana, “Where [in the prayer] does he insert [this statement]?”*

[R] *He said to him, “Are you still perplexed about this matter?”*

[S] “This is what R. Jeremiah said in the name of Rab: ‘Every matter which pertains to the future one inserts into the prayer for the restoration of the cult. And every matter that pertains to what already has happened one inserts into the Thanksgiving blessing.’”

[T] *The Mishnah [Ber. 9:4] has made the same point: **One offers thanks for what pertains to the past and cries out concerning what pertains to the future.***

[I:7 A] What is the prayer of seven sticks that serves to summarize the eighteen blessings [of the Prayer]?

[B] Rab said, “It is the [statement at] the end of each blessing.”

[C] Samuel said, “It is [the statement at] the beginning of each blessing.”

[D] *There is a Tannaite authority who teaches: “It is to be seven, summarizing the eighteen [blessings].”*

- [E] *And there is a Tannaite authority who teaches: “It is to be eighteen, summarizing the eighteen.”*
- [F] *He who says that it is to be seven, summarizing the eighteen, supports the view of Samuel.*
- [G] *He who says that it is to be eighteen, summarizing the eighteen, supports the view of Rab.*
- [H] *R. Zeirah sent to R. Nahum, through R. Yannai b. R. Ishmael, saying to him, “What is the statement of seven elements summarizing the eighteen, in accord with Samuel’s position?”*
- [I] He said to him, “Give us understanding. Accept our repentance. Forgive us. Redeem us. Heal our illness. Bless our years.”
- [J] Said R. Haggai, “If it was the rainy season, one says, ‘... of blessing. ‘ If it was the season of dew, one says, ‘... dew blessing.’”
- [K] [Continuing I:] “For those who are scattered you bring together, and those who err [look] to you for judgment. Against the evil raise your hand. May all those who trust you rejoice in the rebuilding of your city and the renewal of your holy house, For before we cry out, may you answer.’
- [L] “This is in line with what is said in Scripture: ‘Before they call, I will answer, while they are yet speaking, I will hear’ (Is. 65:24).
- [M] “Blessed are you, O Lord, our God, who hears prayer.’
- [N] “And [inserting this in between,] one says the first and the final three blessings [just as they are usually said].”

2:3

- [A] **R. Judah says, “He did not have to say Remembrance verses and Shofar verses.**
- [B] **“But in their stead he says, ‘If there be in the land famine, if there be pestilence’ (1 Kings 8:37ff.).**
- [C] **“And, ‘The word of the Lord which came to Jeremiah concerning the drought’ (Jer. 14:1ff.).**
- [D] **“And he concludes each of them with its appropriate ending.”**

- [I:1 A] [Clarifying M. 2:3D, concluding with an appropriate ending:] Each blessing must accord with its appropriate ending.
- [B] And one does not cite a verse of Scripture after saying a concluding blessing.
- [C] *R. Isaac bar Eleazar objected before R. Yosé, “Since he already has said [that one must conclude] with the appropriate ending, can one then say a verse of Scripture afterward? [Obviously not. So what is the force of B?]”*
- [D] *Is this young man [who has raised the question] a sage? He has raised a question in accord with his own theory.*
- [E] *For he reasons as follows:* What is the meaning of concluding each of them with its appropriate ending?
- [F] It means that if one was standing and saying the morning prayer, but then said the blessing appropriate for the equivalent place in the liturgy at the evening service, he goes back and states as the final blessing the one appropriate for the morning service, and, in doing so, he has carried out his obligation.
- [G] Said R. Aha, “All blessings should be summarized in their concluding statement [which should make reference, therefore, to what has gone before].”
- [H] *But those who [at the end of the prophetic lection, include in the blessing, the following verse], do not violate the rule about citing a verse of Scripture after a blessing [because in this instance it is a mere addition, not confused with the blessing after the lection at all:] “Shout and sing for joy, O inhabitant of Zion, for great in your midst is the Holy One of Israel” (Is. 12:6).*

2:4

- [A] **For the first [ending] he says, “He who answered Abraham on Mount Moriah will answer you and hear the sound of your cry this day. Blessed are you, O Lord, redeemer of Israel.”**
- [I:1 A] And was not Isaac [also] redeemed on Mount Moriah)?
- [B] Since Isaac was redeemed, it was as if all Israel was redeemed
- [C] R. Bibi, Abba in the name of R. Yohanan: “Said Abraham be fore the Holy One, blessed be he, ‘Lord of the ages! It is self-evident to you that when you told me to offer up Isaac, my SOI I had a good answer

to give you: Yesterday you said to me, “[E not displeased because of the lad and because of your slave woman; whatever Sarah says to you, do as she tells you,] for through Isaac shall your descendants be named” (Gen. 21:12)

[D] “And now you tell me: “[Take your son, your only son Isaac, whom you love, and go to the land of Moriah] and offer him there as a burnt offering [upon one of the mountains of which I shall tell you]” (Gen. 2:22).

[E] “But I, God forbid, I did not [give you that answer], but I overcame my impulse and did what you wanted. Now may it be pleasing to you, O Lord my God, that when the children of Isaac, my son, come to a time of trouble and will have no one to speak in their behalf, you will speak in their behalf.’

[F] “[And Abraham said], ‘God will see [to the sheep for his burnt offering, my son. So they went both of them together (Gen. 22:8).’ You remember in their behalf the binding of Isaac, their father, and have mercy upon them.”

[G] What is written thereafter?

[H] “And Abraham lifted up his eyes and looked behind, and behold, there was a ram [caught in a thicket by his horns; and Abraham went and took the ram and offered it up as a burnt offering instead of his son]” (Gen. 22:13).

[I] What is the meaning of “behind [‘after’]?”

[J] Said R. Judah b. R. Simon, “After all generations your children are going to be caught up in sins and entrapped in troubles. But in the end they will be redeemed by the horn of this ram.

[K] “This is in line with what is said: ‘[Then the Lord will appear over them, and his arrow will go forth like lightning;] the Lord God will sound the ram’s horn, and march forth in the whirlwinds of the south’” (Zech. 9:14).

[L] R. Hunah in the name of R. Hinenah bar Isaac: “For that entire day Abraham saw now the ram would get caught in one tree and free itself and go forth, then it got caught in a bush and freed itself and went forth, and then it got caught in a thicket and freed itself and went forth.

[M] “Said to him the Holy One, blessed be he, ‘Abraham, this is how your children in the future will be caught by their sins and

trapped by the kingdoms, from Babylonia to Media, from Media to Greece, from Greece to Edom [Rome].’

[N] “He said to him, ‘Lord of the ages! Is that how it will be forever?’

[O] “He said to him, ‘In the end they will be redeemed by the horn of this ram.

[P] “‘[Then the Lord will appear over them, and his arrow will go forth like lightning;] the Lord God will sound the trumpet, and march forth in the whirlwinds of the south’” (Zech. 9: 14).

2:5

[A] For the second he says, “He who answered our fathers at the Red Sea will answer you and hear the sound of your cry this day. Blessed are you, O Lord, who remembers forgotten things.”

[I:1 A] At the sea our fathers were divided into four parties.

[B] One of them said, “Let us throw ourselves into the sea.”

[C] One of them said, “Let us go back to Egypt.”

[D] One of them said, “Let us fight against them.”

[E] And one of them said, “Let us cry out against them.”

[F] To this one which said, “Let us fall into the sea,” Moses said, “Fear not, stand firm, and see the salvation of the Lord, [which he will work for you today; for the Egyptians whom you see today, you shall never see again]” (Ex. 14:13).

[G] To the one which said, “Let us go back to Egypt,” Moses said, “[Fear not, stand firm, and see the salvation of the Lord, which he will work for you today]; for the Egyptians whom you see today, [you shall never see again]” (Ex. 14:13).

[H] To the one which said, “Let us fight against them,” Moses said, “The Lord will fight for you [and you have only to be still]” (Ex. 14:14).

[I] To the one which said, “Let us cry out against them,” Moses said, “And you have only to be still” (Ex. 14:14).

2:6

[A] **For the third he says, “He who answered Joshua at Gilgal will answer you and hear the sound of your cry thus day. Blessed are you, O Lord who hears the sound of the shofar.”**

[I:1 A] Rabban Simeon b. Laqish in the name of R. Yannai: “The Holy One, blessed be he, joined his great name to that of Israel. This may be compared to a king whose commissary key was little. Said the king, ‘If I leave it as is, it will get lost. Lo, I shall make a chain for it, so that if the key falls out of sight, the chain will tell us where it is.’

[B] “So said the Holy One, blessed be he: ‘If I leave Israel as is, they will be swallowed up among the nations. Lo, I shall join my great name to them, so that they may live.’”

[C] *What is the scriptural basis for this view?*

[D] “For the Canaanites and all the inhabitants will hear of it, and will surround us, and cut off our name from the earth; and what wilt thou do for thy great name?” (Josh. 7:9)— for it is joined to ours.

[E] Forthwith: “The Lord said to Joshua, ‘Arise, [why have you thus fallen upon your face]’” (Josh. 7:10). He whom you have called to mind has arisen in your behalf.

[F] R. Yannai, Zeira in the name of his father: “Whoever, is not so worthy as Joshua, so that, if he should fall on his face, the Holy One, blessed be he, will say to him, ‘Arise,’ should not to begin with fall on his face.

[G] “And that, in particular refers to the individual in the community of others.”

2:7

[A] **For the fourth he says, “He who answered Samuel at Mizpeh will answer you and hear the sound of your cry this day. Blessed are you, O Lord, who hears a cry.”**

[I:1 A] It is written, “So they gathered at Mizpah, and drew water and poured it out before the Lord [and fasted on that day]” (1 Sam. 7:6).

[B] And did they pour out water?

[C] But it teaches that they poured out their hearts like water.

[D] “And Samuel said, ‘We have sinned against the Lord’” (1 Sam. 7:6). Said R. Samuel bar R. Isaac, “Samuel put on the shirt of all Israel, and

he said before him, ‘Lord of the ages! Is it not so that you judge a person only if he should say before you, ‘I have not sinned’?

[E] “Behold I will bring you to judgment for saying, ‘I have not sinned’” (Jer. 2:35).

[F] “And they [i.e., Israel, at least] admit to you, ‘We have sinned.’”

2:8

[A] For the fifth he says, “He who answered Elijah at Mount Carmel will answer you and hear the sound of your cry this day. Blessed are you, O Lord, who hears prayer.”

[I:1 A] It is written, “And at the time of the offering of the oblation [at evening], Elijah the prophet came near and said, ‘O Lord, God of Abraham, Isaac, and Israel, let it be known [this day that thou art God in Israel]’” (1 Kings 18:36).

[B] And did Elijah make an offering at the time at which the high places were forbidden [for that purpose]?

[C] Said R. Simlai, “It was the word [of God] that told him to do i ‘And that I have done all these things at thy word’” (1 Kings 18:36).

[D] “Answer me, O Lord, answer me” (1 Kings 18:37): “Answer me” on account of my merit.” Answer me” on account of the merit of my disciples.

2:9

[A] For the sixth he says, “He who answered Jonah in the belly of the fish will answer you and hear the sound of your cry this day. Blessed are you, O Lord, who answers prayer in a time of trouble.”

[B] For the seventh he says, “He who answered David and Solomon, his son, in Jerusalem, will answer you and hear the sound of your cry this day. Blessed are you, O Lord, who has mercy on the land.”

[I:1 A] It is written, “I called to the Lord, out of my distress, and he answered me” (Jonah 2:2).

[I:2 A] Was it not appropriate to list David and Solomon, and only afterward, Elijah and Jonah [who came after their time]?

[B] It was to conclude the entire prayer with, “... who has mercy on the land.”

[I:3 A] **For the seventh –**

- [B] **Sumkhos says, “... he who humbles the proud” [T. Ta. 1:10A-B].**
- [I:4 A] *There is no problem as to Solomon* [who said a prayer concerning Jerusalem], for it is written, “I have built thee an exalted house, a place for thee to dwell in forever” (I Kings 8:13).
- [B] But why David? Because he sought to conduct a census [but, in the end, stayed the plague that ensued by entreating in behalf of the land (2 Sam. 24:25)].
- [C] Said R. Abbahu, “It is written, ‘Answer me when I call, O God of my right! Thou has given me room when I was in distress’ (Ps. 4:1)
- [D] “Said David before the Holy One, blessed be he, ‘Lord of the ages! Whenever I came into a tight spot you broadened it for me. I got into a tight spot with Bathsheba, and you gave me Solomon. I got into a tight spot in [counting] Israel, and you gave me the holy house.’”

2:10

- [A] **M'SH B: In the time of R. Halapta and R. Hananiah b. Teradion someone passed before the ark and completed the entire blessing, and they did [Y. lacks: not] answer after him, “Amen.”**
- [B] **“Sound the sustained sound on the shofar, O priests! Sound the sustained sound on the shofar!**
- [C] **“He who answered Abraham our father at Mount Moriah will answer you and hear the sound of your cry this day.**
- [D] **“Sound the quavering sound on the shofar, sons of Aaron! Sound the quavering sound on the shofar!”**
- [E] **“He who answered our fathers at the Red Sea will answer you and hear the sound of your cry this day.”**
- [F] **And when the matter came before sages, they ruled, “We practiced that custom only at the Eastern Gate [Y. lacks: and on the Temple Mount].”**
- [I:1 A] *It has been taught [in the Tosefta's version]: In the Temple what do they say?*
- [B] **“Blessed be the Lord, the God of Israel, from everlasting to everlasting” (Ps. 106:48).**
- [C] **But they do not answer, “Amen,” in the Temple.**
- [D] **How do we know that they do not answer, “Amen,” in the Temple?**

- [E] Since it says, “Stand up and bless the Lord your God from everlasting to everlasting. [Blessed be thy glorious name which is exalted above all blessing and praise]” (Neh. 9:5).
- [F] And how do we know that for every blessing and for every praise [they do not say, “Amen”]?
- [G] Since it says, “[Blessed be thy glorious name,] which is exalted above all blessing and praise” (Neh. 9:5) [T. Ta. 1:11].

2:11

- [A] “On the first set of three fast days the members of the priestly watch [on duty that week] fast but do not complete the entire day [in fasting], and the members of the father’s house [on duty that particular day] did not fast at all.
- [B] “On the second set of three fast days the members of the priestly watch fast and complete the day in fasting, and the members of the father’s house [on duty that day] fast but do not complete the day in fasting.
- [C] “On the seven last fast days, these and those fast and complete the fast day, “ the words of R. Joshua.
- [D] And sages say, “On the first three fast days these and those did not fast at all.
- [E] “On the second set of three fast days the members of the priestly watch fast but do not complete the day in fasting, and the members of the father’s house [on duty that day] did not fast at all.
- [F] “On the last seven fast days, the members of the priestly watch fast and complete the fast days. and the members of the father’s house fast and do not complete the fast day. ‘
- [G j] The members of the priestly watch are permitted to drink wine by night but not by day,
- [H] and the members of the father’s house [are] not [permitted to drink wine] either by day or by night.
- [I] Members of the priestly watch and members of the public delegation are prohibited to get a haircut and to wash their clothes.
- [J] But on Thursday they are permitted to do so,
- [K] because of the honor owing to the Sabbath.
- [I:1 A] On what account are men of a given priestly watch permitted to drink wine by night but not by day [M. 2:11 G]?

- [B] It is because if the labor [of making the offerings] should get too difficult for the men of a given father's house, they should be able to rely on them [T. Ta. 2:2Q].
- [C] The members of the father's house [are] not [permitted to drink wine] either by day or by night [during the time of their service] [M. 2:11H],
- [D] because they are perpetually engaged in the sacrificial service [T. Ta. 2:3].
- [E] Members of the priestly watch and members of the public delegation are prohibited to get a haircut and to wash their clothes. But on Thursday they are permitted to do so, because of the honor owing to the Sabbath [M. 2:1I/I-K].
- [F] Lo, on all other days they are forbidden.
- [G] R. Yosé, R. Abbahu in the name of R. Yohanan, R. Abun, R. Yosé in the name of Hezekiah: "They made this decree in their regard so that they should not enter the Sabbath in a disgraceful state."
- [I:2 A] *There we have learned: These are the ones who may get a haircut on the intermediate days of a festival: He who comes home from overseas or from captivity, and he who goes forth from prison, and he who had been excommunicated but at that time had been released from the ban by sages* [M. M. Q. 3:1J].
- [B] Lo. all other persons [apart from those listed at M. 3:1] are forbidden to get haircuts.
- [C] Said R. Simon, "They made such a decree for them so that they should not enter the festal season in an unkempt appearance."
- [I:3 A] *It has been taught [in the Tosefta's version]: Whoever knows for sure his priestly watch and his father's house, and who belongs to a father's house which has a fixed day, is prohibited [to drink wine, M. 2:11H] only on that day.*
- [B] Whoever knows priestly watch but does not know his father's house and who belongs to a father's house on a fixed day, is prohibited for the entire week [in which his father's house's serving].
- [C] Whoever does not know either his priestly watch or his father's house, and who belongs to a father's house which serves on a fixed day, is prohibited for an entire month.

- [D] **Rabbi says, “I say that this one should be prohibited for all time.**
- [E] **“But his remedy is his problem” [T. Ta. 2:21L-P],**
- [F] for he is permitted to undertake mourning for the dead [that is, since the Temple is destroyed, he is permitted to mourn in general].
- [G] [66a] *If you were to say that his problem is his remedy and he is prohibited to undertake mourning [on the day, if he knows the day for sure, that his clan undertakes the Temple service],*
- [H] *along these same lines, his problem is his remedy, for [on that day], he also is forbidden to undertake labor, [since he may have to serve in the Temple, if it is suddenly restored that day].*

2:12

- [A] **As to any [day concerning which] in the fasting scroll [Megillat Taanit] it is written [in Aramaic:] “not to mourn ‘–**
- [B] **on the day before, it is prohibited to mourn.**
- [C] **On the day after. it is permitted to mourn.**
- [D] **R. Yosé says, “On the day before it and also on the day after, it is prohibited to mourn.”**
- [E] **[On those days concerning which in the fasting scroll it is written] “not to fast,”**
- [F] **on the day before and on the day after, it is permitted to fast.**
- [G] **R. Yosé says, “On the day before it, it is prohibited, on the day after, it is permitted.”**
- [I:1 A] *The Mishnah represents the view of R. Meir.*
- [B] For R. Meir has said, “If it is written, ‘*not to mourn,*’ it is forbidden also to fast. If it is written, ‘*Not to fast,*’ it is permitted to mourn.”
- [C] If it is written, “*Not to ...,*” *without further specification, the meaning is not to fast.*
- [D] *Said R. Jonah, “These are the days on which it is prohibited to fast, and on some of [‘on’] which it is [also] prohibited to mourn.”*
- [E] Said Rabban Simeon b. Gamaliel, “Why does the text say, ‘on which ...,’ two times? The meaning is that at night it is permitted to do so, but in the daytime it is forbidden.”
- [F] *There is the following teaching: This applies to a man who had assumed a prohibition on himself through an act of prayer.*

[G] Said R. Yosé b. R. Bun, “[A personal fast applies only when the prohibition is adopted on the preceding evening,] for such a man has to make mention in his prayer [of the pledge to fast] on the evening prior to the fast.”

[H] *Now this accords with that which R. Zeira said in the name of Huna:* “[If one wishes to adopt a fast for himself and has to make mention in his prayer of the occasion of the fast, where in the prayers does he do so?” He says it on the night of the Sabbath and on the day [in the fourth blessing of the Prayer. [This indicates that it must be included on the prior night.]”

[I:2 A] [With reference to M. Meg. 1:4F-G: **Even though they have said they push it up and they do not postpone the reading of the Scroll of Esther, on the days on which they read the Scroll of Esther they are permitted to hold a lamentation for the dead, to call fasts, and to give gifts to the poor:**] [When the Mishnah states that it is permitted to mourn and to fast, this passage of] the Mishnah speaks either of the eleventh of Adar, in accord with the view of R. Yosé, or of the twelfth of Adar, in accord with the view of R. Meir. [The thirteenth is Nicanor’s day, and one may not fast. One also may not do so on the day before that day, the twelfth. Hence one pushes up the reading of the Megillah and does it on the eleventh. so Yosé has said. Or in Meir’s view since one may fast on a day prior to a day on which one may not fast, it is permitted to read the Megillah on the twelfth.]

[B] Now there is a problem addressed to the position of R. Meir – [that one may fast and mourn on the twelfth of Adar]– for has it not been taught: On the twelfth of that month [of Adar] is Tirion’s day? [That day on which the decrees of Trajan were annulled is a holiday and it is forbidden to fast on that day, contrary to Meir’s view of acceptable behavior on the twelfth of Adar.]

[C] And R. Jacob bar Aha said, “Tirion’s day has been annulled, for it is the day on which Lulianos and Pappos were killed.”

[D] The thirteenth of that month [of Adar] is Nicanor’s Day.

[E] What is Nicanor’s Day? The ruler of the Kingdom of Greece was passing by [the land of Israel] en route to Alexandria. He saw Jerusalem and broke out into cursing, execration and insult, saying, “When I come back whole, I shall break down that tower.” One of the members of the Hasmonaean household went forth and did battle with his troops and killed them until they came to those nearest the king. When they reached the troops nearest the king, they cut off the hand [of the king] and chopped off his head and

stuck them on a pole, and wrote underneath them: [Here is] the mouth that spoke shamefully and the hand that stretched out arrogantly.” These he set up on a pike in sight of Jerusalem.

- [F] *[Reverting to the positions of the two authorities, we note that Meir holds it is permitted to fast on the day before or the day after a day on which it is prohibited to do so.] Hence in the view of R. Meir. there is no problem, for the purpose in listing Nicanor’s day is to prohibit the day before the fourteenth. [That is, the thirteenth of Adar, Nicanor’s day, is prohibited as to tasting. But it is permitted to fast on the twelfth.]*
- [G] *But so far as R. Yosé is concerned, what is the day [that the specification of Nicanor’s day, namely, the thirteenth of Adar,] has come to prohibit [as to fasting]? If we deal with the day prior to the fourteenth of Adar. that is not possible, for it itself is forbidden as to fasting because of the fourteenth of Adar [that is Purim]*
- [H] The purpose of that specification of Nicanor’s day is to inform you that it is forbidden to mourn, [and the reference has nothing to do with fasting].
- [I] *And even in the view of R. Meir this poses no problem. For has it not been taught, “On the twelfth of that month [of Adar] is Tirion’s day.”*
- [J] And R. Jacob bar Aha said, “Tirion’s day has been annulled, for it is the day on which Lulianos and Pappos were killed.”
- [K] *[Now Meir maintains that on the day after the thirteenth it is permitted, even on days on which one may not mourn. That poses no problem. For we have the following:] On the fourteenth and on the fifteenth of Adar is Purim, on which it is prohibited to mourn. On the sixteenth of Adar they began to build the wall of Jerusalem, so one may not mourn.*
- [L] *Now in the view of R. Meir, that poses no problems. The specification of the day comes to prohibit [fasting] on the day before it [as at F].*
- [M] *But in the view of R. Yosé, what day does the specification of the prohibition of fasting come to prohibit [as at G]?*
- [N] As to prohibiting the day prior, that is not possible, for that day also is forbidden because of the fifteenth [Purim]. it comes to tell you [in Yosé’s view] that it is forbidden for mourning.
- [O] *Even in the view of R. Meir there is no problem, for has it not been taught: On the twelfth of that month [of Adar] is Tirion’s day? And R.*

Jacob bar Aha said, “Tirion’s day has been annulled, for it is the day on which Lulianos and Pappos were killed.”

[P] *On the seventh day of [the month of Adar] the peoples rose up against the remnant of the scribes in the town of Chalkis and in Bet Zibdin but they were saved.*

[Q] *In the view of R. Meir, this poses no problem. This statement comes to prohibit [fasting] on that day itself.*

[R] *In the opinion of R. Yosé, what is the purpose of such a prohibition? The day before already is forbidden.*

[S] *Said R. Yosé, “All of these cited passages neither support nor contradict either the opinion of R. Meir or the opinion of R. Yosé. The purpose of these statements [in the fasting scroll] is only to specify days on which miracles were done for Israel.*

[T] *“You should know that that is the case, for we have learned: The first day of the month of Nisan [is not for mourning], for on that day the daily whole offering was set up [against the views of the Sadducees]. On that day one may not mourn.*

[U] *“Now even if that statement had not been made, is it not forbidden [to mourn and fast] on that day, because it is the New Moon?”*

[I:3 A] But as to Sabbaths and festival days, one may fast both on the day before them and on the day after them.

[B] Why do you impose a lenient rule on these [Sabbaths and festivals] and a strict rule on those [the days listed in the fasting scroll]? [Why is there a prohibition of fasting or mourning not only on the day but also on the day before and afterward where the dates mentioned in the fasting scroll are concerned?]

[C] The answer is that these days [Sabbaths and festivals] derive from the teachings of the Torah, and the teachings of the Torah do not require reinforcement.

[D] But these others [that is, the days on which it is prohibited to fast or mourn by the decree of the fasting scroll] derive from the authority only of scribes, and the teachings of the scribes do require reinforcement.

[E] That which you have said applies to the time before the fasting scroll was nullified. But after the fasting scroll was nullified, all of these rules have likewise been abandoned, [so now it is permitted to fast or

mourn on days listed in the fasting scroll, since the Temple has been destroyed].

- [I:4 A] Both R. Haninah and R. Jonathan say, “The rules of the fasting scroll have been annulled.”
- [B] Both R. Ba and R. Simon say, “The rules of the fasting scroll have been annulled.”
- [C] R. Joshua b. Levi said, “The rules of the fasting scroll have been annulled.”
- [D] Said R. Yohanan, “Last night I was repeating the following:
- [E] **“There was a case in which they decreed a fast on Hanukkah in Lud, and they said concerning R. Eliezer that on that day he got a haircut [which is not to be done on a fast day].**
- [F] **“And concerning R. Joshua that he took a bath [also prohibited on a fast day]. [Thus Eliezer and Joshua maintain that it is forbidden to fast on Hanukkah, just as the fasting scroll says, and so the laws remain valid.]**
- [G] **“Said to them R. Joshua, ‘Go and carry out a fast, because you fasted on this day [Hanukkah, when it is forbidden]’” [T. Ta. 2:5].**
- [H] “Now can you really say, therefore, that the laws of the fasting scroll have been annulled?”
- [I] Said R. Ba, “And even if you maintain that the laws of the fasting scroll have been annulled, you cannot possibly say that the observance of Hanukkah and Purim has been annulled!”
- [J] *The deeds of the rabbis indicate that the fasting scroll has been annulled. [How so?]*
- [K] *R. Jonathan fasted on the eve of every New Year.*
- [L] *R. Abun fasted for an entire Friday.*
- [M] *R. Zeirah fasted three hundred fasts, and there are those who say, nine hundred fasts, and he did not scruple as to the days listed in the fasting scroll.*
- [N] *R. Jacob bar Aha instructed the scholars, “If a woman comes to you and asks you, tell her, ‘On all days it is permitted to fast, except for Sabbaths and festival days, New Moons and the intermediate days of a festival, Hanukkah and Purim.’”*

2:13

- [A] **They do not decree a fast for the community in the first instance for a Thursday,**
- [B] **so as not to disturb market prices.**
- [C] **But the first three fasts are on Monday, Thursday, and Monday.**
- [D] **And the second set of three fast days are on Thursday, Monday, and Thursday.**
- [E] **R. Yosé says, “Just as the first ones do not begin on a Thursday, so also the second set and the final set [do not begin on a Thursday] “**
- [I:1 A] *Simeon bar Ba said, “A case came before R. Yohanan, and he decided it in accord with the view of R. Yosé.”*
- [B] *Now R. Eleazar was distressed at this, and he said, “Do they then abandon the statement of the law given anonymously [hence in the name of the sages in general] and favor the statement of the law made by an individual [hence a minority]?”*
- [C] *Then a teaching turned up that R. Hiyya had taught the matter in the name of R. Meir.*
- [D] *When he heard that R. Hiyya had taught it in the name of R. Meir, he said, “That is all right then. The elder [Yohanan] knows his lessons very well [for he realized that even though the passage was given without named authorities, in fact it represented the view of one named authority].”*
- [E] *R. Mana raised the question before R. Yudan: “Did not R. Hezekiah, R. Abbahu in the name of R. Eleazar [state]: ‘In any case in which Rabbi presented the law as subject to dispute, and then afterward he presented it without a named authority, the law follows the version given without a named authority’?”*
- [F] *He said to him, “It is not Rabbi [who taught it without a named authority] but someone else. If Rabbi presented the law as subject to dispute and then afterward he presented it without a named authority, the law follows the version not bearing the name of an individual authority.*
- [G] *“But in the case in which Rabbi, for his part, did not repeat the tradition as a dispute, but others presented it as a dispute, and Rabbi taught the matter without naming an authority, is it not an argument a fortiori that the law should follow the view of the anonymous version of the law?”*

[H] Came R. Hezekiah, R. Jacob bar Aha, R. Simeon bar Abba in the name of R. Eleazar: “And even if others taught the tradition as subject to dispute, while Rabbi taught it without a named authority, the law accords with the version lacking a named authority.”

[I] In that case, why did he [Yohanan at A] teach the law as it was given in the name of a single individual [rather than in accord with the anonymous version]?

[J] *R. Samuel bar Yannai in the name of R. Aha: “That which you have said applies to a case in which there is no dispute alongside the anonymous version of the law. But if there is a dispute alongside the anonymous version of the law, it is not in such a case that the law follows the anonymous version of the law.”*

[K] *R. Yosé b. R. Bun in the name of R. Aha: “That which you have said applies to the case in which there is a dispute of one individual with another individual. But in a case in which there is an individual as against sages, it is not in such a case that the law follows the opinion presented without the name of an individual authority but rather anonymously.”*

2:14

[A] **They do not decree a fast for the community to take place on the New Moon, Hanukkah, or Purim.**

[B] **“But if they had begun [a sequence of fasts], they do not break off, “the words of Rabban Gamaliel.**

[C] **Said R. Meir.” Even though Rabban Gamaliel said that they do not break off, he would concede that they also do not complete [fasting for the whole day].”**

[D] **And so is the rule for the Ninth of Ab which coincides with a Friday.**

[I:1 A] [As to M. 2:14B, **If they had begun ...**] how many fasts constitute” a beginning” [in line with the view of Gamaliel]?

[B] R. Ba said, “One.”

[C] R. Yosé said, “Two.”

[D] *And so a case was decided in accord with the view of R. Ba.*

[I:2 A] And what do they read [on a fast that coincides with the New Moon]?

[B] R. Yosé said, “The blessings and the curses [as on other fast days].”

[C] *Said R. Mana, “Is this to let the people know that there is a fast that day? They fall to the ground on their bellies [in the prayer] and do they not know that it is a fast day?”*

[D] He said to him, “It is to let you know that they read the blessings and the curses [even when the fast coincides with the New Moon]. [The lection of the fast day overrides the Torah readings of the New Moon.]”

[E] R. Yudan of Cappadocia said before R. Yosé in the name of R. Judah bar Pazzi, “They read [in the Torah] on the New Moon [the regular lections assigned to that day].”

[F] *R. Yosé dealt with the tradition of R. Judah bar Pazzi. He said to him, “Have you heard something from your father on this subject?”*

[G] *He said to him, “Father did not [66b] say so except with regard to the people of Ein Tav. Since they know [exactly] when the New Moon falls out, they read [the regular lections in] the Torah [that are appropriate to be read regularly on] the New Moon. [The count of Ein Tav declared the New Moon.]*

[H] “But in all other places they read the blessings and the curses.”

[I:3 A] *It has been taught [in the Tosefta’s version]: “**The ninth of Ab which coincided with the eve of the Sabbath [Friday] [M. 2:14D], a person eats food in the volume of an egg and drinks liquid even in the volume of an egg,***

[B] *“so that this person should not enter [the Sabbath] when he is subject to pain,” the words of R. Judah.*

[C] *R. Yosé says, “Lo, this person should fast and complete the fast day” [T. Ta. 2:7A-C].*

[D] R. Zeirah in the name of R. Judah, R. Ba, R. Immi bar Ezekiel in the name of Rab, “The law is in accord with him who says, ‘This person should fast and complete the fast day.’”

[E] Why did he not simply say, “The law accords with R. Yosé”?

[F] *There may be a Tannaite authority who will get confused and say, “It accords with the statement of sages.”*

[G] R. Zeirah in the name of R. Hunah: “And even in the case of an individual who took a fast upon himself on the eve of the Sabbath, he should fast and complete the fast [until the onset of the Sabbath].”

[H] *This is in line with the following: R. Bibi was in session before R. Yosé. He wanted to learn from him the law in this matter [since he was fasting on a Friday].*

[I] *He said to him, "Wait until we get to your house."*

[J] *He said to him, "It's already evening."*

[K] *He said to him, "It is necessary to continue fasting."*

[L] *He said to him, "I have lupines at home [that you can eat when you get there]."*

[M] *He said to him, "They complete the fast, in accord with the view of R. Yosé."*

YERUSHALMI TAANIT

CHAPTER THREE

3:1

[A] The conduct of these fast days which have been described applies in the case of the first rainfall.

[B] But: In the case of crops which exhibit a change [from their normal character]–

[C] they sound the shofar on their account forthwith.

[D] And so: [if] the rain ceased between one rainstorm and the next for a period of forty days,

[E] they sound the shofar on that account forthwith,

[F] for it represents the blow of famine.

[I:1 A] What is the definition of “forthwith” applying to their [proclamation of fasts]?

[B] Rab said, “Monday, Thursday [T. Ta. 2:8E-F] [Once the crops are seen to turn, they sound the *shofar* on Monday and on Thursday]”

[C] If the crops turned on Monday, what is the law as to sounding the *shofar* on the following Thursday [cf. M. 2:13A]?

[D] *R. Zeirah derived the answer to that question from the following verse: ‘Then he said to me, ‘Fear not. Daniel, for from the first day that you set your mind to understand and humbled yourself before your God, your words have been heard, [and I have come because of your words]’ (Dan. 10:12).*

[E] That is to say, “Your words already have been heard.”

[F] And in this case, once the court has been prepared to suffer, it is as if the deed has been carried out [and, consequently, they sound the shofar on Thursday].

[I:2 A] *It has been taught: Just as they sound the shofar for rain in the six years of the septennial cycle, so they sound the shofar on its account in the seventh year,*

[B] **for the support of others [T. Ta. 2:8A-B].**

[C] What is the meaning of, “for the support of others”?

[D] Associates say, “It is because of the support of the gentiles [in the land, who need the rain for the raising of their crops].”

[E] R. Zeirah said, “It is because of the support of [Israelites] suspected [of not observing the prohibitions of the Sabbatical Year].”

[F] *The view of R. Zeirah accords with the position of Rabbi and of associates in accord with the view of R. Phineas b. Yair.*

[G] *That of R. Zeirah accords with the view of Rabbi: A certain teacher was suspect concerning the produce of the year of release [66c]. They brought him to Rabbi. [Rabbi] said to them, “And what will this wretch do? It was to keep himself alive [that he used the produce improperly].”*

[H] *And associates accord with R. Phineas b. Yair: Rabbi wanted to release the prohibitions of the Sabbatical Year [= F].*

[I] *R. Phineas b. Yair came to him. He [Rabbi] said to him, “What sort of crop is coming up?”*

[J] *He said to him, “Endives of good quality.”*

[K] [Again,] “What sort of crop is coming up?”

[L] “Endives of good quality.”

[M] *Thereupon Rabbi realized that he did not concur with his view.*

[N] [Rabbi] said to him.” *Would the Rabbi [Phineas] not care to eat a little bite with us today?”*

[O] *He said to him, “Yes.”*

[P] *When he went down [to eat], he saw the vast herd of mules be longing to Rabbi standing around, [even though it is forbidden to keep herds of dangerous beasts in the land].*

He said, "Do Jews feed all of these? It is not possible that he [Rabbi] will ever see my face again."

[Q] *[He went on home. Members of the household of Rabbi] heard the report [of what Phineas had said]. They went and told Rabbi. He sent [messengers] to appease R. Phineas.*

[R] *[The messengers] came to the town [of Phineas]. [Phineas] said, "The townspeople of my town will stand up for me."*

[S] *The townspeople went out and encircled [Phineas, so that he would not be seen by the messengers of Rabbi]. The messengers said to them, "Rabbi wants to appease him." So they allowed them to pass, and [the townsfolk] went their way.*

[T] *[Phineas] said, "My sons will stand up for me."*

[U] *A fire descended from heaven and encircled him.*

[V] *They went back and informed Rabbi. He said, "Since we did not have the merit of seeing him [again] in this world, we shall have the merit of hearing from him in the world to come."*

3:2

[A] **If the rain fell sufficient for crops but not for trees,**

[B] **for trees but not for crops,**

[C] **for this and that, but not for [filling up] cisterns, pits, or caverns,**

[D] **they sound the shofar on their account forthwith.**

[I:1 A] **If the rain fell sufficient for crops but not for trees: Little by little.**

[B] **For trees but not for crops: In vast quantity.**

[C] **For this and that, but not for filling up cisterns, pits, or caverns, they sound the shofar on their account forthwith.**

[D] *It has been taught: They sound the shofar for the need of trees half a month before Passover, and for cisterns, ditches, and caves, half a month before Pentecost [T.: Tabernacles] [T. Ta. 2:8C].*

[E] *If so, [why not sound the shofar] even later than that time [that is, after Pentecost]?*

[F] If it is later than that time, it is a matter of a miracle, and they do not sound the *shofar* on account of [needing] miracles.

[I:2 A] R. Berekhiah , R. Helbo, Pappa in the name of R. Eleazar: “There are times that rain comes on account of the merit of a single man, a single vegetation, a single field.

[B] “All of them may be proved by reference to a single verse of Scripture: ‘[Ask rain from the Lord in the season of the spring rain, from the Lord who makes the storm clouds], who gives a man showers of rain, to every one the vegetation in the field’ (Zech. 10:1).

[C] “‘A man’– not men.

[D] “‘Vegetation’– not many sorts of vegetation.

[E] “‘Field’– not fields.”

3:3

[A] **And so too: A town on which rain did not fall,**

[B] **as it is said, “And I caused it to rain upon one city and caused it not to rain upon another city, one piece was rained upon and the piece on which it rained not did wither” (Amos 4:7)**

[C] **that town declares a fast day and sounds the shofar. .**

[D] **And all its neighbors fast but do not sound the shofar.**

[E] **R. Aqiba says, “They sound the shofar but do not fast.”**

[I:1 A] Said R. Simeon, “It is written, ‘And I caused it to rain upon one city, and caused it not to rain upon another city, one piece was rained upon, and the piece on which it rained not did wither’ (Amos 4:7): *the merit associated with a particular field is what did it.*”

[I:2 A] It is for four reasons that rain comes from above [rather than depending on water rising up from the nethermost water, or having people rely upon irrigation from wells]:

[B] It is because of high-handed men [who would divert the current of irrigation ditches and invade others’ riparian rights].

[C] It is because of noxious mist.

[D] It is so that the one above will drink water as does the one below.

[E] And it is so that all will look to heaven.

[I:3 A] It is because of the merit of three parties that rain falls:

[B] It is because of the merit of the land, the merit of steadfast loyalty, and the merit of suffering.

[C] And all three derive from a single verse of Scripture: “Whether for correction, or for his land, or for love [‘kindness’], he causes it to happen” (Job 37:13).

[I:4 A] On account of four sorts of sin are rains withheld: because of the sins of idolatry, fornication, and murder, and because of people who pledge charity in public but do not hand over the money.

[B] How do we know that it is because of the sin of idolatry? “Take heed lest your heart be deceived, and you turn aside and serve other gods and worship them” (Deut. 11:16).

[C] What is written thereafter?

[D] “And the anger of the Lord be kindled against you, and he shut up the heavens, so that there be no rain, [and the land yield no fruit, and you perish quickly off the good land which the Lord gives you]” (Deut. 11:17).

[E] How do we know that it is because of the sin of fornication? “[Lift up your eyes to the bare heights, and see! Where have you not been lain with? By the waysides you have sat awaiting lovers like an Arab in the wilderness.] You have polluted the land with your vile harlotry” (Jer. 3:2).

[F] What is the punishment for this matter? “Therefore the showers have been withheld, and the spring has not come” I Jer. 3:3).

[G] How do we know that it is because of the sin of murder? “[You shall not thus pollute the land in which you live] for blood pollutes the land, [and no expiation can be made for the land, for the blood that is shed in it, except by the blood of him who shed it” (Num. 35:33)].

[H] Because bloodshed directs the anger of the Lord toward the ground [hence He withholds rain].

[I] How do we know that it is because of the people who pledge charity in public but do not hand over the money? “Like clouds and wind without rain is a man who boasts of a gift he does not give” (Prov. 25:14).

[I:5 A] Mist is called by five names: thick, destruction, meek, prince, and storm.

- [B] Whence do we know that it is called “mist?” “But a mist went up from the earth and watered the whole face of the ground” (Gen. 2:6).
- [C] “Thick”– because it thickens [and darkens the sky:] “[And the Lord said to Moses], ‘Lo, I am coming to you in a thick cloud, [that the people may hear when I speak with you and may also believe you forever.’ Then Moses told the words of the people to the Lord]” (Ex. 19:9).
- [D] “Meek”– because it makes people meek toward one another [when they fast].
- [E] “Prince”– because it makes householders into princes: “He it is who makes the clouds [the Hebrew word for clouds can also mean ‘princes’] rise at the end of the earth, who makes lightnings for the rain and brings forth the wind from his store houses” (Ps. 135:7).
- [F] “Storm” – because it turns the firmament into storm clouds: “[Ask rain from the Lord in the season of the spring rain], from the Lord who makes the storm clouds, [who gives men showers of rain, to every one the vegetation in the field]” (Zech. 10:1).

[II:1 A] And all its neighbors fast but do not sound the shofar [M. 3:3D]:
 For so we find that on the Day of Atonement, they fast but do not sound the *shofar*.

[B] R. Aqiba says.” They sound the shofar but do not fast” [M. 3:3E]:

[C] For so we find that on the New Year they sound the shofar but do not fast.

3:4

[A] And so too: A town which is afflicted with pestilence or ruination [of houses] –

[B] that town declares a fast day and sounds the shofar.

[C] And all its neighbors fast but do not sound the shofar.

[D] R. Aqiba says, “They sound the shofar but do not fast.”

[I:1 A] *There was a pestilence in Sepphoris, but it did not come into the neighborhood in which R. Haninah was living. And the Sepphoreans said, “How is it possible that that elder lives among you, he and his entire neighborhood, in peace, while the town goes to ruin?”*

[B] [Haninah] went in and said before them, “There was only a single Zimri in his generation, but on his account, 24,000 people died. And in

our time, how many Zimris are there in our generation? And yet you are raising a clamor!”

- [C] *One time they had to call a fast, but it did not rain. R. Joshua carried out a fast in the South, and it rained. The Sepphoreans said, “R. Joshua b. Levi brings down rain for the people in the South, but R. Haninah holds back rain for us in Sepphoris.”*
- [D] *They found it necessary to declare a second time of fasting and sent and summoned R. Joshua b. Levi. [Haninah] said to him, “Let my lord go forth with us to fast.” The two of them went out to fast, but it did not rain.*
- [E] *He went in and preached to them as follows: “It was not R. Joshua b. Levi who brought down rain for the people of the south, nor was it R. Haninah who held back rain from the people of Sepphoris. But as to the southerners, their hearts are open, and when they listen to a teaching of Torah they submit [to accept it], while as to the Sepphoreans, their hearts are hard, and when they hear a teaching of Torah, they do not submit [or accept it].”*
- [F] *When he went in, he looked up and saw that the [cloudless] air was pure. He said, “Is this how it still is? [Is there no change in the weather?]” Forthwith, it rained. He took a vow for himself that he would never do the same thing again. He said, “How shall I say to the creditor [God] not to collect what is owing to him.”*
- [I:2 A]** R. Zeirah in the name of R. Haninah: “What will the truly great men of the generation do? For the community is judged only by what the majority does.
- [B] “For we find that all those thirty-eight years that the Israelites [in the wilderness] were as if they were excommunicated, [God] would not communicate with Moses.
- [C] “*This is in line with that which is said, ‘So when all the men of war had perished and were dead from among the people’ (Deut. 2:16).*
- [D] “What is written thereafter? ‘The Lord said to me’” (Deut. 2:17).
- [E] R. Jacob bar Idi in the name of R. Joshua b. Levi: “What will the truly great men of the generation do? For the community is judged only by what the majority does.
- [F] “For so we find that if the people of Israel on Mount Carmel had not said, ‘The Lord, he is God, the Lord, he is God’ (1 Kings 18:39), the

fire would not have come down from heaven and burned up the offerings.”

- [I:3 A] R. Joshua ben Yair in the name of R. Phineas b. Yair: “There were three that the Holy One, blessed be he, created and regretted that he had created them, and these are they: The Chaldeans, the Ishmaelites, and the impulse to do evil.
- [B] “The Chaldeans: ‘Behold the land of the Chaldeans! This is the people that was not. [Assyria, which founded it for ships, which erected their siege towers, has turned it into a ruin]’ (Is. 23:13). Oh that they were not!
- [C] “The Ishmaelites: ‘The tents of robbers are at peace, and those who provoke God are secure, who bring their god in their hand’
- [D] The impulse to do evil: ‘In that day, says the Lord, I will assemble the lame and gather those who have been driven away, and those whom I have afflicted” (Mic. 4:6).
- [E] R. Berekhiah, R. Abba bar Kahana, R. Joshua b. Yair in the name of R. Phineas b. Yair: “Lo, it is as if I have afflicted [them, that is, it is as if God himself gave them the evil impulse].”
- [I:4 A] *R. Eleazar [66d] called a fast, but it did not rain.*
- [B] *R. Aqiba called a fast, and it rained.*
- [C] *[Aqiba] went in and preached before them: “I shall give you a simile. To what may the matter be likened? To the case of a king who had two daughters, one of them haughty, the other proper. When the haughty one wanted something, she went before him, and he said, ‘Let them give her whatever she wants and send her away.’ Whenever the proper daughter [wanted something], she would come before him, and he would spend time with her and enjoy hearing her requests.”*
- [D] *And is it possible to say so?*
- [E] But [he said this] so as not to profane the name of heaven through R. Eleazar.
- [I:5 A] *R. Aha carried out thirteen fasts, and it did not rain. When he went out, a Samaritan met him. [The Samaritan] said to him [to make fun of him], “Rabbi, take off your cloak, because it is going to rain.”*
- [B] *He said to him, “By the life of that man [you]! Heaven will do a miracle, and this year will prosper, but that man will not live [to see it].”*

[C] *Heaven did a miracle, and the year prospered, and that Samaritan died.*

[D] *And everybody said, “Come and see the fruit [of the] sun.”*

[II:1 A] And all its neighbors fast but do not sound the shofar [M. 3:4C]:

[B] For so we find that on the Day of Atonement they fast but do not sound the *shofar*.

[C] **R. Aqiba says.” They sound the shofar but do not fast” [M. 3:4D].**

[D] For so we find that on the New Year they sound the *shofar* but do not fast.

3:5

[A] What is the meaning of “pestilence”?

[B] **A town which has a population of five hundred soldiers which produces three corpses In three successive days— lo, this is [a sign of the presence of] pestilence.**

[C] **[If the death rate] is less than this, it is not [the sign of the presence of] pestilence.**

[I:1 A] Said R. Levi, “It is written, ‘The Lord will make the pestilence cleave to you [until he has consumed you off the land which you are entering to take possession of it]’ (Deut. 28:21).”

[B] “This is comparable to a woman who sticks three loaves of bread together.”

[C] [With reference to M. 3:5B,] lo, i
n the case of a city that is bigger, does one require a different criterion?

[D] *Let us derive the answer from the following:*

[E] Even in the case of such a great city as Antioch, if three corpses were produced on three successive days, [that is a sign of pestilence] .

[F] *That then implies that* if the city is larger than the one specified [at M. 3:5B], it does not require a separate criterion.

[I:2 A] [As to the reference at M. 3:4A to the collapse of houses:] The houses of which they have spoken must to begin with be solid ones. But we do not take account of the collapse of dilapidated ones.

[B] *And along these same lines, the [death rate referred to at M. 3:B] is counted among youngsters, but not among old people.*

[I:3 A] *It has been taught: **As to croup, if there are any deaths at all on its account, they sound the shofar on its account.***

[B] **If not, they do not sound the shofar on its account [T. Ta. 2:9].**

[C] What if two die from pestilence and one from croup?

[D] *Now see here!* Since it has been said that **if there are any deaths at all on account of croup, they sound the shofar on its account, can you ask such a question as this?**

[E] No, there is a need to raise this question, for instance, if they sounded the *shofar* on account of the appearance of croup, but it went away, and afterward two others died of pestilence, and one [thereafter] of croup. [It is to such a situation that the question of C is addressed.]

3:6

[A] **On account of the appearance of these do they sound the shofar in every locale:**

[B] **“blasting or mildew, locust or caterpillar” (1 Kgs. 8:37), “wild beasts, and the sword” [Lev. 26:6].**

[C] **[Everywhere] do they sound the shofar on their account, because it is an affliction which spreads.**

[I:1 A] R. Hama bar Uqba in the name of R. Yosé b. Haninah: “They sound the *shofar* when the flax in the field is threatened with ruin through sprouting.

[B] “What is the scriptural verse pertinent to this matter? ‘An ap palling and horrible thing has happened in the land’” (Jer. 5:30).

[C] R. Samuel bar Nahman in the name of R. Jonathan: “They sound the *shofar* on account of dry heat.

[D] “What is the scriptural verse pertinent to this matter? ‘I go about blackened, but not by the sun; I stand up in the assembly and cry for help’” (Job 30:28).

[E] Said R. Eleazar, “‘Honor your physician before you need him. [Pray when you do not need to.]

[F] “What is the scriptural verse pertinent to this matter? ‘Will your wealth avail to keep you from distress, or all the force of your .strength’” Job 36:19).

[G] R. Yohanan and R. Simeon b. Laqish: R. Yohanan said, “If you have laid out your prayers properly, you will not have those who look askance at you from above, but all will try to reenforce your strength, as it is said, ‘All the force of your strength’” (Job 36:19).

[H] And R. Simeon b. Laqish said, “If you have laid out your prayers properly, you will not have difficulty in expressing yourself in prayer but ease in expressing yourself, and so I shall fill [your desires].”

[II:1 A] [With reference to the catalogue of M. 3:5B:] Locusts are not the end of the matter. But even [if one finds] a wing [of a locust].

[B] Why is it called a caterpillar [HSYL]? Because it finishes up [HSL] everything.

[C] And why is it called locust [GWBYY]? *Because it collects [GBY] in judgment in behalf of its master.*

[D] A wild beast is not the end of the matter. But even destructive domesticated animals [will be a suitable occasion for sounding the *shofar*].

[E] There already have been years in the land of Israel in which an ass took a bite and killed someone, an ox took a bite and killed someone.

[F] Nor is the sword [an army] in time of war the end of the matter. But even the sword in time of peace [would be a suitable pretext] .

[G] For such as that already made its mark in the time of Josiah [when an army passed by in peace, as did the Egyptians and the Assyrians in the time of Josiah]. [An army in peace is still a threat.]

3:7

[A] M'SH S: Elders went down from Jerusalem to their towns and decreed a fast because in Askelon there had appeared blight to the extent of [the area of] an oven's mouth .

[B] And a further fast on the next day did they decree because wolves had eaten two children in Trans-Jordan.

[C] R. Yosé says, “Not because they had eaten anyone, but merely because they had appeared.”

[I:1 A] *That which you have said applies to a case in which [blight], M. 3:7A) appeared in a concentrated area. But if it was spread out [in a number of areas, not in a single field], then even a smaller extent [of blight than the extent of the area of an oven’s mouth is adequate cause for calling a fast].*

[I:2 A] Said R. Mana, “The wolves [M. 3:7C] appeared running after people.”

[B] R. Yosé b. R. Bun: “[If] wolves appeared in an unusual place, [they decree a fast].”

3:8

[A] On account of these do they sound the shofar [even] on the Sabbath.

[B] On account of a town which gentiles have besieged, or a river,

[C] and because of a ship which is foundering in the sea.

[D] R. Yosé says.”They sound the shofar on the Sabbath] for help, not for supplication.”

[E] Simeon the Temanite says.” Also on account of pestilence.”

[F] But sages did not concur with him.

[I:1 A] [“The prayer for raising an alarm on the Sabbath”] said Rab, “Thus please answer me, O Lord. answer me’ [= a supplication].”

[B] *The .Mishnah’s statement differs from the view of Rab: R. Yosé says.”They sound the shofar on the Sabbath] for help, not for supplication.”*

[C] *But lo. the earlier Tannaite authority [in the same passage concurs with the view of Rab and holds that one may] express even supplications.*

[II:1 A] As to Levi ben Sisi: troops came to his town. He took a scroll of the Torah and went up to the roof and said, “*Lord of the ages! If I have neglected a single word of this scroll of the Torah, let them come up against us, and if not. Let them go their way.*”

[B] *Forthwith people went looking for the troops but did not find them, [because they had gone their way].*

- [C] *A disciple of his did the same thing, and his hand withered, but the troops went their way.*
- [D] *A disciple of his disciple did the same thing. His hand did not wither. but they also did not go their way.*
- [E] *This illustrates the following apothegm: fool cannot be insulted, and the skin of the dead does not feel the scalpel.*

3:9

[A] **On account of every sort of public trouble – may it not happen – do they sound the shofar,**

[B] **except for an excess of rain.**

[C] **M'SH S: They said to Honi. the circle drawer, Pray for rain."**

[D] **He said to them, "Go and take in the clay ovens used for Passover, so that they not soften [in the rain which is coming]."**

[E] **He prayed, but it did not rain.**

[F] **What did he do?**

[G] **He drew a circle and stood in the middle of it and said before Him, "Lord of the world! Your children have turned to me, for before you, I am like a member of the family. I swear by your great name– I'm simply not moving from here until you take pity on your children!"**

[H] **It began to rain drop by drop.**

[I] **He said, "This is not what I wanted, but rain for filling up cisterns, pits, and caverns."**

[J] **It began to rain violently.**

[K] **He said, "This is not what I wanted, but rain of good will, blessing, and graciousness."**

[L] **Now it rained the right way, until the Israelites had to flee from Jerusalem up to the Temple Mount because of the rain.**

[M] **Now they came and said to him, "Just as you prayed for it to rain, now pray for it to go away."**

[N] **He said to them, "Go, see whether the stone of the lost has disappeared."**

[I:1 A] R. Jonah, Simeon bar Ba in the name of R. Yohanan [with reference to Mal. 3:10: "Bring the whole tithe into the storehouse. And try Me now herewith, says the Lord of hosts, if I will not open for you the windows of heaven, and pour out for you a blessing that there shall be more than

sufficiency,” on the meaning of the final words of the verse,] “A matter for which it is impossible for you to say, ‘Enough,’— that is a blessing. [If, however, you can say, ‘Enough,’ that is no real blessing.]”

[B] R. Berekhiah, R. Helbo, R. Abba bar Ilai in the name of Rab: “[More than sufficiency] means, ‘until your lips get tired of saying, ‘Enough blessing for us! Enough blessing for us!’”

**[II:1 A] [He said to them, “Go and take in the clay ovens used for
Passover, so that they not soften [in the rain which is coming:]
That is to say, it was the eve of Passover.**

[B] *But that is stated explicitly by the Tannaite rule: on the twentieth day [of Adar] the people fasted for rain and it rained for them.*

[III:1 A] And he prayed, but it did not rain [M. 3:9E]:

[B] [Why did the rain not come properly?] Said R. Yosé b. R. Bun, “Because he did not come before God with humility.”

[III:2 A] Said R. Yudan Giria, “This is Honi the circle drawer [of M. 3:9], the grandson of Honi the circle drawer. *Near the time of the destruction of the Temple, he went out to a mountain to his workers. Before he got there, it rained. He went into a cave. Once he sat down there, he became tired and fell asleep.*

[B] *“He remained sound asleep for seventy years, until the Temple was destroyed and it was rebuilt a second time.*

[C] *“At the end of the seventy years he awoke from his sleep. He went out of the cave, and he saw a world completely changed. An area that had been planted with vineyards now produced olives, and an area planted in olives now produced grain.*

[D] *“He asked the people of the district, ‘What do you hear in the world?’*

[E] *“They said to him, ‘And don’t you know what the news is?’*

[F] *“He said to them, ‘No.’*

[G] *“They said to him, ‘Who are you?’*

[H] *“He said to them, ‘Honi, the circle drawer.’*

[I] *“They said to him, ‘We heard that when he would go into the Temple courtyard, it would be illuminated.’*

[J] *“He went in and illuminated the place and recited concerning himself the following verse of Scripture: ‘When the Lord restored the fortune of Zion, we were like those who dream’”* (Ps. 126:1).

[IV:1 A] It began to rain drop by drop [M. 3:9H].

[B] They said to him, This rain has come only to release you from your vow [M. 3:9G].”

[V:1 A] He said, “This is not what I wanted, but rain for filling up cisterns, pits, and caverns. It began to rain violently.”

[B] *Samuel taught*, “[It poured out] as if from a wineskin.”

[VI:1 A] He said, “This is not what I wanted, but rain of good will, blessing, and graciousness” [M. 3:9K].

[B] **Now it rained the right way, until the Israelites had to flee from Jerusalem up to the Temple Mount because of the rain [M. 3:9L].**

[C] *That implies that* the Temple Mount was roofed over.

[D] *And so has it been taught:* There was a colonnade within the Temple portico.

[VII:1 A] Now they came and said to him, “Just as you prayed for it to rain, now pray for it to go away.” He said to them, “Go see whether the stone of the lost has disappeared” [M. 3:9M-N].

[B] *What purpose did this stone of the lost serve?*

[C] *Whoever lost something would go and find it there, and whoever found something would bring it there.*

[VII:2 A] He said, “Just as it is not possible for this stone to be blotted out of the world, so it is not possible to pray that rain will go away.

[B] “But [67A] go and bring me a bullock for a thank offering.”

[C] They went and brought him a bullock for a thank offering.

[D] He put his two hands on it and said, “Lord [of the ages]! You have brought evil upon your children, and they could not endure it. You brought good upon your children, and they could not endure it.

[E] “But may it be pleasing to you to bring relief.”

[F] Forthwith the wind blew, the clouds were scattered, the sun shone, and the earth dried out.

[G] They went out and found the wilderness full of truffles.

[VII:3 A] They asked R. Eleazar, “When do they pray that rain should go away “ He said to them, “If a man is standing on Qeren Ofel [a high rock] and splashes his foot in the Qidron brook. [Then] we shall pray that the rain will stop.”

[B] “Truly it is certain that the Omnipresent will never again bring a flood to the world,

[C] “for it is said, ‘There will never again be a flood’ (Gen. 9:11).

[D] “And it says, ‘For this is like the days of Noah to me: as I swore that the waters of Noah should no more go over the earth, so I have sworn that I will not be angry with you and will not rebuke you’” (Is. 54:9) [T. Ta. 2:13D-G].

3:10

[A] Simeon b. Shatah said to him, “If you were not Honi, I should decree a ban of excommunication against you. But what am I going to do to you? For you importune before the Omnipresent, so he does what you want, like a son who importunes his father, so he does what he wants.

[B] “Concerning you Scripture says, ‘Let you father and you mother be glad, and let her that bore you rejoice’” (Prov. 23:25).

[I:1 A] [Spelling out M. 3:10A, “In demanding rain as you did, you improperly importuned.] For if a punitive decree had been issued, as was the case in the time of Elijah, would you not have turned out to cause a public profanation of the Name?

[B] “And all who cause a public profanation of the Name are subject to excommunication.”

[C] *There we have learned as a Tannaite teaching:* Rabban [Simeon b.] Gamaliel [better: Simeon b. Shatah] sent to him, “If you place an obstacle before the public, you will turn out to bring a good to the world.”

[D] [That is to say,] “Will you not turn out to place an obstacle in the way of the public’s doing a religious duty? And whoever places an obstacle in the way of the public’s doing a religious duty is subject to excommunication.”

[E] And [Honi] said to [Simeon], “Does not the Holy One, blessed he he. annul his punitive decree on account of the contrary decree of I righteous man?”

[F] [Simeon] said to [Honi] ““Does. the Holy One, blessed be he, annul his punitive decree on account of the contrary decree of a righteous man.

[G] But he does not annul the decree of one righteous man on account of the contrary decree of another righteous man. who is his equal? [Surely not.]”

[II:1 A] But what am I going to do to you? For you importune before the Omnipresent, so he does what you want, like a son who importunes his father, so he does what he wants.

[B] R. Berekhiah, R. .Abba bar Kahana, R. Zeirah in the name of R. Judah; and there are those who state the matter in the name of R. Hisda; and there are those who state the matter in the name of R. .Mattenah: “You will decide on a matter and it will be established for you’ (Job 22:2). What is the meaning of, ‘For you’? *Even if he said this while you said that, what you say will he carried out and what I say will not be carried out.*”

[C] “And light will shine on your ways” Job 22:28): Said R. Hiyya bar Ba, “This refers to rain.” [The following illustrates this:]

[D] He loads the thick cloud with moisture, the clouds scatter his lightning” (Job 37:11).

[E] [Continuing B:] “For when they were abased, you said, ‘Proud’” (Job 22:29): [thus:] “I planned to abase them [by not sending rain], but you wanted to make them proud. *Your plan was carried out, and mine was annulled.*

[F] ““But he saves the lowly’ (Job 22:29): ‘I planned to bring them low through an evil [decree], while you planned to save them. Your plan was carried out. and mine was annulled.

[G] “I said, ‘Will he deliver the man who is not innocent (Job 22:30). But you said, ‘He will be delivered, even though he is not innocent, *your plan was carried out, and mine was annulled.*”

[H] What is the meaning of the following: “You will be delivered through the cleanness of your hands” (Job 22:30)?

[I] Through the innocence of your hands,” that is. through the merit of the religious lives [you have carried out] and the good deeds that were in your hands from your beginnings

[III:1 A] “Concerning you Scripture says, ‘Let you father and you mother be glad, and let her that bore you rejoice’” (Prov. 23:25).

- [B] Why does Scripture refer [after speaking of the mother] to “her that bore you”?
- [C] R. Mana said, “Your nation.”
- [D] R. Yosé b. R. Bun said, “Your time [that is. the hour at which you were born].”
- [E] *Rabbis say*, “Just as [an evil son] brings a double curse on [the mother]. so he brings troubled rejoicing to her [when he does good] .
- [F] Whence in Scripture do we derive evidence that he brings a double curse on her? As it is said, “A foolish son is a grief to his t;father and bitterness to her who bore him” (Prov. 17:25).
- [G] “A wise son makes a glad father, but a foolish son is a sorrow to his mother” (Prov. 10:1).
- [H] What is the meaning of “I sorrow to his mother”?
- [I] Said R. Judah, “In cited writing, the word stands for, ‘Dust in the eyes of his mother.’”
- [J] And how do we know that [when he does good] he makes her rejoice in double measure?
- [K] “Let your father and your mother be glad and let her that bore you rejoice” (Prov. 23:25).

3:11

- [A] **If they were fasting. and it rained for them before sunrise, they should not complete the fast.**
- [B] **[If it rained] after sunrise, they should complete the day in fasting.**
- [C] **R. Eliezer says, “[If it rained] before noon. they should not complete the day in fasting. [If it rained] after noon, they should complete the day in fasting.”**
- [D] **W’SH S: They decreed a fast in Lud. It rained before noon. R. Tarfon said to them, “Go, eat and drank and celebrate a festival.” So they arose and ate and drank and celebrated a festival day. Then they assembled it twilight and proclaimed the Great Hallel [that is. Ps. 136].**
- [I:1 A] **If they were fasting and it rained for them before sunrise. they should not complete the fast.**
- [B] This is indicated in the following statement of Scripture:

[C] “Before they call I will answer, while they are yet speaking I will hear” (Is. 65:24).

[D] **If it rained alter sunrise, they should complete the day in fasting:**

[E] “while they are yet speaking I will hear” (Is. 65:24).

[F] Or the opposite may be the case [I shall answer their supplications] so that I do not have to listen to their outcry, but they still have to fast].

[G] Said R. Tanhuma, “*And so it has been taught*: “The response [to prayer] comes only close to the outcry [of the prayer], and the outcry comes only close to the response.”

[I:2 A] *In the time of R. Yudan they decreed a fast. and rain fell in the evening. R. Mana went up to see him. He said to him, “Since I am now thirsty, what is the law on my being permitted to drink?”*

[B] He said to him, “Wait, for the people may decide to complete the fast [through the coming day and an individual must then observe it too].”

[I:3 A] R. Aha, R. Abbahu in the name of R. Yosé b. Haninah: “It is forbidden to a person to fast on the Sabbath beyond six hours [noon].”

[B] *Said R. Yosé b. R. Bun, “The .Mishnah itself has made the same statement: **If they were fasting, and it rained for them before noon, they should not complete the fast [M. Ta. 3:11C] to that point it is still morning.***

[C] “[**If it rained**] after noon, they should complete the day in fasting [M. Ta. 3:10C]. For the greater part of the day already has passed in a status of sanctification. [It follows that once they have fasted until noon the day is deemed to have been a day observed in tasting. Hence one may, not fast up to the midpoint of the day on the Sabbath.]”

[I:4 A] *Rabban Yohanan b. Zakkai: when he wanted it to rain, he would say to his barber, “Get up and go to the Temple, [and say,] ‘Now my master wants to get a haircut, and he does not have the power to accept suffering [through a fast].’” Forthwith it would rain.*

[B] R. Adda bar Ahvah: When he wanted it to rain, he would merely take off his sandal [as a mark of the fast, and it would rain]. If he took off both of them. the world would overflow.

[C] *There was a house that was about to collapse over there, and Rab set one of his disciples to work in the house until he had cleared*

out everything from the house. When the disciple left the house, the house collapsed.

[D] *And there are those who say that it was R. Adda bar Ahvah.*

[E] Sages were sent and said to him, ‘What sort of good deeds are to your credit [that you have that much merit]?’

[F] He said to them, “In my whole life no man ever got to the synagogue in the morning before I did. I never left anybody there when I went out. I never walked four cubits without [speaking words of] Torah. Never did I mention teachings of Torah in an inappropriate setting. I never got out a bed and slept for a regular period of time. I never took great strides among the associates. I never called my fellow by a nickname. I never rejoiced in the embarrassment of my fellow. My fellow’s curse never came to bed with me [He would forgive his fellow immediately.] I never walked over in the marketplace to someone who owed me money.

[G] “In my entire life I never lost my temper in my household.”

[H] This was meant to carry out that which is stated as follows: “[I will give heed to the way that is blameless. On when wilt thou come to me?] I will walk with integrity of heart within my house” (Ps. 101:2).

[II:1 A] What is the great Hallel [M. 3:11D]?

[B] **“Praise the God of gods, praise the Lord of lords” [Ps. 136] [T. Ta. 2:17].** [Y.: R. Parnakh in the name of R. Haninah: “O give thanks to the God of gods, for he is good, for his steadfast love endures for ever. O give thanks to the Lord of lords for his steadfast love endures forever (Ps. 136:1-2).”

[C] Said R. Yohanan, “And that is on condition [that the great Hallel includes the psalm: ‘They are standing in the house of the Lord’ [= Ps. 135].”

[D] *Why these two passages [Psalms 135, 136]?*

[E] R. Zeirah, R. Abbahu in the name of R. Samuel bar Nahman: “Because the matter of rain is encompassed in them.”

[F] *Against the view of R. Yohanan one may raise no objections, for it is written, “He it is who makes the clouds rise at the end of the earth” \Ps. 135:7).*

- [G] But as to the view of R. Haninah [who includes only Psalm 136], what is there to be said?
- [H] Since it is written, “He who gives food to all flesh, for his steadfast love endures forever” (Ps. 136:25), [that encompasses the matter of rain].
- [I] *Both R. Ba and R. Simeon say, “That [the Great Hallel] is ours [that is, the one we say on festivals].”*
- [J] *R. Joshua b. Levi said, “That is ours.”*
- [K] *R. Bar Qappara said, “That is ours.”*
- [L] *Bar Qappara is consistent with his views held elsewhere, for we have learned there: **R. Judah says, in all the days of the third group they never reached the verse, I love the Lord. because he has heard my voice’ (Ps. 116:1), because the third group’s numbers were small” [M. Pes. 5:7E-H].***
- [M] *In this connection Bar Qappara taught, “This [the Psalms which include Ps. 116] is the Great Hallel.”*
- [N] *Bar Abayye passed before the ark [to lead the prayers after it had rained on a fast day]. He said to [the congregation], “Respond to me [after I say a verse] by repeating what I say.”*
- [O] *Does that then indicate that [the Hallel] is not the one that we [say on the New Moon and festivals]? [For if it were, would the people not have known what to do and not have required his instructions?]*
- [P] *Said R. Mana, “It was the same as ours. There had been a great miracle. On that account, he said to them, ‘Respond to me by repeating what I say,’ [for there were many people there who were not familiar with the liturgy, having come only because of the miracle of the day].”*

YERUSHALMI TAANIT

CHAPTER FOUR

4:1

- [A] [67B] On three occasions in the year priests raise up their hands [in the priestly benediction] four times a day:
- [B] at the morning prayer, the additional prayer, the afternoon prayer, and the closing of the gates;
- [C] on the occasion of fasts, on the occasions of [prayers of members of the] delegation [ma'amad], and on the Day of Atonement.
- [I:1 A] [*On the basis of the statement of the Mishnah*], you may infer three points:
- [B] You may infer that they fast on the occasion of prayers of members of the delegation [M. 4:1C],
- [C] that they pray four times [M. 4:1B],
- [D] and that they raise their hands not at night but only by day [since M. 4:1A speaks of day, not night].
- [I:2 A] And why should a priest not raise his hands [in a priestly benediction] not on an occasion of prayer [as against M. 4:1B's specification of the priestly benediction for times of prayer alone]?
- [B] We can find a case of the Prayer without the raising of hands [in the priestly benediction], but we do not find the case of the raising of hands without [the recitation of] the Prayer.
- [I:3 A] *It has been taught*, "This represents the view of R. Meir." [He holds that the priestly benediction is included in the afternoon prayer and also on a fast.]
- [B] R. Zeirah in the name of R. Yohanan: "With regard to [the laws] of intermingling boundaries [to form a single domain for purposes of carrying on the Sabbath and the laws of] a public fast, everyone is accustomed to follow the view of R. Meir."

[C] R. Jacob bar Aha in the name of R. Yohanan: “Also with regard to [the rules governing the reading of] the scroll of Esther, all are accustomed to follow the view of R. Meir.”

[I:4 A] R. Zeirah, R. Hiyya, R. Joshua b. Levi in the name of Bar Pedaiah: “On what account did the Scripture link the pericope of the Nazirite [Num. 6:1-21] to that of the raising of hands [in the priestly benediction, Num. 6:22-27]?”

[B] “It was meant to teach you that just as the Nazir is prohibited to drink wine, so [for the priest who] raises his hands it is prohibited to drink wine.”

[C] May one then argue: just as the Nazir is forbidden to eat grape-seeds and skins (Num. 6:4), so [the priest who] raises his hands is prohibited to eat grape seeds and skins?

[D] *R. Jonah said, “Jeshua bar Gazorah and R. Zeirah disputed about this matter. One derived the rule by analogy to the Nazir, and the other derived it by analogy to the Temple service [in which case the priest may not drink wine].*

[E] *“But I do not know which one derived it from the rule governing the Nazir and which one derived it from the rule governing the Temple service.*

[F] *“[The argument of] the one who derived the rule from the case of the Nazir [deals with this question]: [Do we say,] ‘just as the Nazir is forbidden to eat grape seeds and skins, so [a priest who] raises his hands is forbidden to eat grape seeds and skins’?*

[G] *“[The argument of] the one who derived the rule from the case of the Temple service [will have to deal with the following question]: [Do we say,] ‘just as service in the Temple is forbidden to blemished priests, so the raising of hands is forbidden to blemished priests’?”*

[H] *Has it not been taught: **But if he was well known in his town, lo, he is permitted [to bless the congregation, despite his blemishes]** [T. Meg. 3:29D]?*

[I] *That is in line with the following: R. Naphtali had crooked fingers. He came and asked R. Mana. He said to him, “Since you are well known in your town, it is permitted.”*

[J] *R. Huna would remove someone with a downy beard [from pronouncing the priestly benediction].*

[K] *And lo, it has been taught: **But if he was well known in his town, it is permitted.***

[L] *Said R. Mana, “[There was ample basis for removing someone with a downy beard as at J]. It was a festival [so R. Huna removed him] so that people should not say, ‘We saw a minor raising his hands [and giving the priestly benediction].’”*

[M] *Said R. Yosé, “That indicates that it is forbidden to look at the priests when they are saying a blessing [for Israel].”*

[N] *Said R. Haggai, “Did they not say that they do not look at the priests because of thereby distracting oneself [from receiving the blessing]? By Moses! I can look at the priests and not be distracted!”*

- [I:5 A] What is the scriptural basis for the raising of hands [the priestly benediction]?
- [B] “Say to Aaron and his sons, “Thus you shall bless the people of Israel: you shall say to them” (Num. 6:23).
- [C] That passage indicates that it takes place in the morning.
- [D] As to the additional services [including the priestly benediction]?
- [E] “[67c] Then Aaron lifted up his hands toward the people [and blessed them; and he came down from offering the sin offering and the burnt offering and the peace offerings (Lev. 9:22)].”
- [F] This verse is out of order. Was it not necessary to say only, “And he came down from offering the sin offering, the burnt offering, and the peace offerings,” and then: “Aaron lifted up his hands [toward the people and blessed them]”?
- [G] But this indicates that, when he came down to the altar, he would raise his hands and bless the people.
- [H] “And [he] blessed them”– while standing.
- [I] Is it possible that one may do so not standing up?
- [J] Scripture states, “[And the priests, the sons of Levi, shall come forward], for the Lord your God has chosen them to minister to

him and to bless in the name of the Lord, [and by their word every dispute and every assault shall be settled]” (Deut. 21:5).

[K] The Scripture thereby links the matter of blessing the people to the matter of the Temple service.

[L] Just as the ministry takes place [when the priest is] standing up, so the blessing requires [that the priest be] standing up.

[M] And so it says, “Then the priests and the Levites arose and blessed the people, [and their voice was heard, and their prayer came to his holy habitation in heaven]” (2 Chron. 30:27).

[N] Now it is concerning the generation of Hezekiah, in which the people labored in Torah, to which Scripture refers. But as to other generations, in which they served idols, what does Scripture say?

[O] “When you spread forth your hands, I will hide my eyes from you; [even though you make many prayers, I will not listen; your hands are full of blood]” (Is. 1:15).

[P] “And he blessed them” (Lev. 9:22). The blessing at issue has not been spelled out. For we did not hear what it was to be, until the Scripture came and spelled it out:

[Q] “The Lord bless you and keep you: The Lord make his face to shine upon you, and be gracious to you: the Lord lift up his countenance upon you, and give you peace” (Num. 6:24-26).

[I:6 A] And what is the scriptural basis for [saying an additional] prayer [on the Day of Atonement, that is, the prayer] of the closing of the gates [M. 4:1B)?

[B] Said R. Levi, “[When you spread your hands, I will hide my eyes from you]; even though you make many prayers, I will not listen; [your hands are full of blood]’ (Is. 1:15). On the basis of the cited verse we learn that whoever prays abundantly is answered.”

[C] *The opinions assigned to R. Levi are at variance with one another.*

[D] There said R. Abba b. R. Pappi, R. Joshua of Sikhnin in the name of R. Levi, “In all toil there is profit, but mere talk tends only to want’,(Prov. 14:23).

[E] ‘Hannah because she prayed abundantly. cut short the days of Samuel.

[F] ‘For she said, ‘Éthat he may abide there forever’ I Sam. I:22).

[G] “And is it not the case that ‘forever’ for the Levite is only fifty years, for it is written, ‘And from the age of fifty years they shall withdraw from the work of the service and serve no more’ (Num. 8:25)?

[H] “And [Samuel] lived for fifty-two years [even though a Levite lives only for fifty].

[I] “[But the two years do not count,]” R. Yosé b. R. Bun said, “The two years were prior to the point at which Samuel was weaned.”

[J] “And here [at B] he has said this [that praying a lot is a good thing]!”

[K] Here [where it is not a good thing] we deal with an individual, but there [where it is a good thing] we deal with the community at large.

[L] R. Hiyya in the name of R. Yohanan, R. Simeon b. Halputah in the name of R. Meir: “‘And it happened, as she abundantly prayer’ (2 Sam. 1:12). On the basis of this verse we learn that whoever prays abundantly is answered.”

[I:7 A] To what does “the closing of the gates” [correspond that is, why is this the name of the service] [M. 4:1B]?

[B] *Rabbis of Caesarea say, “There was a dispute between Rab and R. Yohanan.*

[C] “Rab said, ‘To the closing of the gates of Heaven [at night].’

[D] “R. Yohanan said, ‘To the closing of the gates of the Temple [before sunset].’”

[E] *Said R. Yudan of Antondaria, “The Mishnah itself supports the view of R. Yohanan: ‘**On three occasions in the year priests raise up their hands in the priestly benediction four times a day: at the morning prayer, the additional prayer, the afternoon prayer, and the closing of the gates**’ [M. 4:1A-B].*

[F] “*Now can you say that there is a closing of the gates of heaven by day [Surely not!]”*

[G] *The brother of the mother of Rab Ada was keeping the cloak of Rab on the Day of Atonement. [Rab] said to him, “When you see the sun at the top of the palm tree, give me my cloak, so that I may*

[*put it on and*] say the prayer of the closing of the gates.” [This indicates that the prayer is said by day and not by night.]

[H] *The opinions assigned to Rab are confused. There [C] he has said that the prayer of the closing of the gates corresponds to the closing of the gates of heaven [which takes place by night], and here [G] he has indicated that it corresponds to the closing of the gates of the Temple [which takes place by day].*

[I] *Said R. Mattenaiah, “Since he took a long time saying his prayer, he would come close to the time of the closing of the gates of heaven.”*

[I:8 A] As to the prayer of the closing of the gates, what is the law on its releasing [one from the obligation of saying] the prayer of the evening?

[B] Said R. Ba to R. Hunah, “[But if one does not say the evening prayer,] at what point would one make mention of the prayer marking the separation [of the holy day that has passed from the ordinary day that has begun which is said during the evening Prayer]?”

[C] [Along this same line of argument,] said R. Jonah to R. Ba, “And how will seven blessings [said in the service of the closing of the gates] fulfill the obligation of saying the eighteen benedictions [of the evening prayer]?”

[D] *He said to him, “And did I not already present an objection [to this proposition, B]?”*

[E] [Jonah] said to him, “Because you have presented an objection, should we then nullify [the view of A, that one need not say the evening prayer]? [Perhaps there will be a suitable answer to your objection, but none to mine.]”

[F] *Said R. Yosé, “The question that R. Ba raised [B] was a good question. The question that R. Jonah raised [C] was not a good question.*

[G] “[For in regard to the latter, C, we may say,] ‘It was a lenient rule that the sages have imposed in this case, on account of the [heavy] fast. Hence saying the seven blessings indeed does fulfill the obligation of saying the eighteen benedictions of the evening prayer [so that the people may drink and eat that much more promptly].”

[H] *R. Ba bar Mamel said, to associates, “My lords, from all of you I have heard that the service of closing of the gates does*

not release us from the obligation of saying the evening prayers.”

[I] R. Simon in the name of R. Levi: “The service of closing of the gates does not release us from the obligation of saying the evening prayers.”

[J] *Said R. Yosé b. R. Bun, “But R. Hiyya has taught: ‘Every day a man must say eighteen blessings; [that rule applies] at the end of the Sabbath, at the end of the Day of Atonement, and at the end of a public fast.’”*

[I:9 A] R. Isaac bar Nahman in the name of R. Joshua b. Levi: “On the Day of Atonement which coincides with the Sabbath, even though there is no service of the closing of the gates on the Sabbath, one makes mention of the Sabbath in the service of the closing of the gates.”

[B] R. Simon in the name of R. Joshua b. Levi: “On a Sabbath that coincides with Hanukkah, even though there is no additional service on Hanukkah, one makes mention of Hanukkah in the additional service [of that day].”

[C] They add to this same matter: As to a New Month that coincides with a fast day, even though there is no service of closing of the gates on the New Moon, one mentions the New Moon in the service of the closing of the gates.

[D] In the case of a New Month and a fast day [that coincide,] at what point does one make mention of the New Moon [in the service of the closing of the gates]?

[E] R. Zeirah said, “In the prayer of thanksgiving.”

[F] R. Ba bar Mamel said, “In the prayer for the Temple service.”

[G] R. Abinah: “One says it in the fourth blessing.”

[H] Said R. Ba.” Just as we find that in every other setting one says it in the fourth blessing, so here one says it in the fourth blessing.”

[I] *And the practical decision in this matter went forth in accord with this view of R. Ba.*

[I:10 A] [On the occasion of the New Moon that coincides with a fast day,] what [passage of the Torah] do they read [in the synagogue]?

[B] R. Yosé said.” The blessings and the curses [as on other fast days].”

- [C] *Said R. Mana, “Is this to let the people know that there is a fast that day? They fall to the ground on their bellies [in the prayer], and do they not know that it is a fast day?”*
- [D] He said to him, “It is to let you know that they read the blessings and the curses, [even when the fast coincides with the New Moon]. [The lection of the fast day overrides the Torah readings of the New Moon.]”
- [E] *R. Yudan of Cappadocia said before R. Yosé in the name of R. Judah bar Pazzi, “They read [in the Torah] on the New Moon [the regular lections assigned to that day].”*
- [F] *R. Yosé dealt with the tradition of R. Judah bar Pazzi. He said to him “Have you heard something from your father on this subject.”*
- [G] He said to him, “Father did not say so, except with regard to the people of Ein Tav. *Since they know [exactly] when the New Moon appears they read [the regular lections in] the Torah [that are appropriate to be read regularly on] the New Moon [The court of Ein Tav declared the New Moon].*
- [H] “But in all other places they read the blessings and the curses.”
- [I:11 A] *Jeremiah, the scribe, asked R. Jeremiah, “On the occasion of a New Moon that coincided with the Sabbath, what passage do they read?”*
- [B] He said to him, “They read the passage serving the New Moon
- [C] *Said R. Helbo before R. Immi, The Mishnah has made the same point: **At all times they suspend the set order of the reading of the Torah: for New Moons, Hanukkah. Purim, fasts [M. Meg. 3:5E].”***
- [D] Isaac the merchant asked R. Isaac, ‘On the occasion of a New Moon that coincided with Hanukkah, what passage do they read?’
- [E] He said to him.” They read three [passages] for the New Moon and one for Hanukkah.”
- [F] *R. Phineas, R. Simon, R. Abba bar Zamina produced it in the name of R. Abodemi of Haifa: “They read three passages for Hanukkah and one for the New Moon to indicate to you that the fourth passage is read only on account of the New Moon.”*
- [G] Bar Shelamayya, the scribe asked R. Mana, “But what if the New Month of Hanukkah [Tabeth, after Kislev] coincided with a Sabbath? Are not seven people called to the Torah? *Then can you*

say that the fourth [passage] comes only on account of the New Moon on such an occasion?"

[H] He said to him, "That is a puerile question [a forced question]."

[I:12 A] *Rab instructed Abedan, his spokesman, "Announce before them: 'He who wants to say the evening prayer may do so while it is still day.'"*

[B] *R. Hiyya bar Ba instructed his spokesman, "Announce before them: 'He who wants to say the evening prayer may do so while it is still day.'"*

[C] Said R. Haninah, "R. Ishmael b. R. Yosé drew me to a certain stall and told me, 'Here did father pray the prayer for the night of the Sabbath while it was yet Friday [that is, before sunset on Friday evening].'"

[D] *Said R. Immi, "R. Yohanan differed."*

[E] *But he should not have differed. Why? For they surely may add time from an ordinary day to a holy day.*

[F] *And further [67d]: the ass drivers came up from the village of Arabs to Sepphoris and reported, "R. Hanina b. Dosa already has sanctified the Sabbath in his town [while it was yet daylight on Friday]."*

[G] *Now as to what [statement did Yohanan differ]? [It was concerning that which] R. Haninah said, "R. Ishmael b. R. Yosé drew me to a certain stall and told me. 'Here did father pray the prayer for the conclusion of the Sabbath while it was still the Sabbath.'"*

[H] *Yet even in this instance there was no need to differ.*

[I] *For Rabbi gave instructions to Abedan, his spokesman, "Announce before them. 'He who wants to say the evening prayer may do so while it is still day.'"*

[J] *R. Hiyya bar Ba instructed his spokesman, "Announce before them: 'He who wants to say the evening prayer may do so while it is still day.'"*

[K] Members of the household of R. Yannai said, "[If] a man [said the evening prayers and then] went to bed, they do not disturb him to get out [and say the prayers after sunset]."

[L] *Said R. Zeirah, "Every time that I did so, I was afraid that night."*

[M] *But you have only [the following, as precedents for proper action:]*

[N] *Rabbi instructed Abedan, his spokesman, “Announce before them: ‘He who wants to say the evening prayer may do so while it is still day.’”*

[O] *R. Hiyya bar Ba instructed his spokesman, “Announce before them: ‘He who wants to say the evening prayer may do so while it is still day.’”*

[I:13 A] Said R. Jacob bar Aha, *“It has been taught there: As to the evening prayer, what is its status?*

[B] *“Rabban Gamaliel says, ‘It is obligatory.’*

[C] *“R. Joshua says, ‘It is optional.’”*

[D] *Said R. Hinena, “Their dispute in this regard accords with the following dispute [that is parallel]:*

[E] *“He who has said it is obligatory maintains that saying the prayer of the closing of the gates does not exempt one from the obligation to say the evening prayer.*

[F] *“He who has said that it is optional maintains that saying the prayer of the closing of the gates does exempt one from the obligation to say the evening prayer.”*

[I:14 A] WM'SH B: A certain student came and asked R. Joshua, “What is the law about the evening prayer?” He said to him, “Optional.”

[B] [The student] came and asked Rabban Gamaliel, “What is the law about the evening prayer?” He said to him, Compulsory.”

[C] [The student] said to him, “But R. Joshua said ‘Optional!’” [Rabban Gamaliel] said to him, “Tomorrow, when I come into the meetinghouse, get up and ask about this law.”

[D] The next day that same student got up and asked Rabban Gamaliel, “What is the law about the evening prayer?” He said to him, “Compulsory.” He said, “But R. Joshua said, “Optional.””

[E] Rabban Gamaliel said to R. Joshua, “Is it you who says ‘Optional?’” He said, “No.”

[F] [Rabban Gamaliel] said to him, “Stand on your feet, and let them bear witness against you.” And Rabban Gamaliel sat and expounded, and R. Joshua remained standing, until all the people shouted at him and said to R. Huspit, the Meturgeman, “Dismiss the assembly!”

[G] They said to R. Zenun the Hazzan, “Say....” They began to speak. All the people stood on their feet and said to him [Gamaliel], ““For upon whom has not come your unceasing evil?”” (Neh. 3:19)?

[H] Immediately they went and appointed R. Eleazar b. Azariah to the Academy.

[I] He was sixteen years old, and all his hair turned gray.

[J] R. Aqiba was sitting sorrowfully and saying, “Not that he is more learned than he, but he is of more illustrious parentage than he. Happy the man whose fathers have gained him merit! Happy the man who has a peg [upon whom] to hang!”

[K] And what was R. Eleazar b. Azariah’s peg? He was the tenth [generation] in descent from Ezra.

[L] And how many benches were there? R. Jacob b. Sisi said, “There were eighty benches there, of students, besides those standing behind the fence.” R. Yosé b. R. Abun said, “There were 300 besides those standing behind the fence.”

[M] [*This is the reference of*] what we learn elsewhere:
“On the day they seated R. Eleazar b. Azariah in the Academy” [M. Zeb. 1:3, M. Yad. 3:5;4:2].

[N] *We learn elsewhere*: “This is an exegesis of Scripture which R. Eleazar b. Azariah expounded before the Sages at the Vineyard in Yabneh” [M. Ket. 4:6]. But was there a vineyard there? Rather, these are the students who were arranged in rows, as in a vineyard.

[O] Rabban Gamaliel immediately went to the home of each person to appease him.

[P] *He came to R. Joshua; he found him [sitting] making needles. He said to him, “Are these how you make your living?” He said, “And are you just now trying to find out? Woe to the generation of which you are the steward.”*

[Q] Rabban Gamaliel said to him, “I submit to you.”

[R] *And they sent a certain laundry worker to R. Eleazar b. Azariah.*

[S] *But some say it was R. Aqiba.*

[T] [The messenger] said to him, “The sprinkler, [son of a sprinkler] should sprinkle; shall he that is neither a sprinkler nor the son a sprinkler say to the sprinkler, son of a sprinkler, ‘Your water comes from a cave and your ashes from roasting’?”

[U] [R. Eleazar b. Azariah] said to them, “Are you satisfied? You and I shall wait at R. Gamaliel’s door.”

[V] Nonetheless, they did not depose [R. Eleazar b. Azariah] from his high dignity, but rather appointed him Chief Justice [Ab Bet Din].

4:2

[A] **What were the delegations [maamadot]?**

[B] [It is said,] “**Command the children of Israel and say to them, ‘My obligation. my food [for my offerings made of fire, of a sweet savor to me, shall you observe to offer me in their due season]’**” (Num. 28:2) –

[C] **now how can a person’s offering be made while he is not standing by its side?**

[D] **The early prophets made the rule of twenty-four watches, and for each watch there was a delegation [ma’amad] in Jerusalem made up of priests, Levites, and Israelites.**

[E] **When the time came for a watch to go up to Jerusalem, its priests and Levites go up with it to Jerusalem.**

[F] **And Israelites who belong to that watch gather together in their towns and study the story of the works of creation.**

[I:1 A] *Would it not have been more appropriate to express the Mishnah by saying, **What is the delegation?ÉThey gather in their towns and study the story of the works of creation [M. 4:2A, F]?** [Why insert the cited verse at B?]*

[B] The intention was to start at the beginning of the matter [that is so as to provide the rationale for the delegation].

[I:2 A] Said R. Jonah, “The daily whole offering represents the offering of all Israelites.”

- [B] Should it not be the case, then, that all Israelites should come up to Jerusalem?
- [C] It is written only as follows: “Three times a year all your males shall appear before the Lord your God at the place which he will choose: [at the feast of unleavened bread, at the feast of weeks, and at the feast of booths. They shall not appear before the Lord empty-handed]” (Deut. 16:16;).
- [D] Further, if all Israelites were to sit idle [since the one who makes an offering may not work on that day,] –
- [E] lo, it is written, “[He will give the rain for your land in its season, the early rain and the later rain], that you may gather in your grain [and your wine and your oil]” (Deut. 11:14).
- [F] Now who will go and gather in the grain?
- [II:1 A] Rather, the early prophets made the rule of twenty-four watches, and for each watch there was a delegation in Jerusalem made up of priests, Levites, and Israelites [M. 4:2D].**
- [B] *It has been taught:* There were 24,000 in the delegation from Jerusalem, and half of a delegation from Jericho.
- [C] Jericho too could have produced a complete delegation, but it was so as to assign greater glory to Jerusalem that Jericho produced only half of a delegation.
- [II:2 A] The priests go to participate in the Temple labor, and the Levites to the platform [on which they would sing Psalms],**
- [B] and the Israelites take upon themselves to serve as the messengers of all Israel.
- [II:3 A] *It has been taught:* R. Simeon b. Eleazar says, “Priests, Levites, musical instruments, and the people as well are indispensable to the cult” [T. Ta. 3:3D].**
- [B] R. Abun in the name of R. Eleazar: “The scriptural basis for the view of R. Simeon is as follows: ‘The whole assembly worshiped, [and the singers sang, and the trumpeters sounded; all this continued until the burnt offering was finished]’ (2 Chron. 29:28).
- [C] “‘The whole assembly worshiped’ – this refers to the Israelites.
- [D] “‘And the singers sang’ – this refers to the Levites.
- [E] “‘And the trumpeters sounded’ – this refers to the priests.

[F] “All this continued until the burnt offering was finished’ – all of this is indispensable to the cult.”

[G] *R. Tanhuma in the name of R. Eleazar derived the same proposition from the following:* “And I have given the Levites as a gift to Aaron and his sons from among the people of Israel [to lo the service for the people of Israel at the tent of meeting and to make atonement for the people of Israel, that there may be no plague among the people of Israel in case the people of Israel should come near the sanctuary]” (Num. 8:19).

[H] “‘And I have given the Levites as a gift to Aaron and his sons from among the people of Israel’ – this refers to the Levites.

[I] “‘To do the service for the people of Israel’ – this refers to the priests.

[J] “‘To make atonement for the people of Israel’ – this refers to the song.

[K] “‘That there may be no plague among the people of Israel in case the people of Israel should come near the sanctuary’ – this refers to Israel.”

[L] How do we know that the song [in the Temple] is called a form of atonement?

[M] *Hinena*, father of *Bar Netah*, in the name of *R. Benaiah*: “‘To make atonement for the people of Israel’ – this refers to the song.

[N] How do we know that the song is indispensable [to the cult]?

[O] *R. Jacob bar Aha*, *R. Bulatah* in the name of *R. Hinena*: “‘To make atonement for the people of Israel’ – this refers to the song.”

[II:4 A] *R. Jacob bar Aha*, *R. Hiyya* in the name of *R. Yohanan* [in the *Tosefta*’s version]: “**Eight priestly watches did Moses set up for the priesthood, and eight for the Levites, [Y.: four from Eleazar, four from Itamar.**

[B] “When David and Samuel, the seer, arose, they divided the priesthood into twenty-four watches, and the Levites into twenty-four watches. [Y.: Until David and Samuel, the seers arose and they added eight; four from Eleazar, four from Itamar. They

wanted to add eight more, for twenty-four, and they found some from Eleazar, but not from Itamar] [T. Ta. 3:2A-B].”

[C] *That is in line with that which is said:* “Since more chieftains were found among the sons of Eleazar than among the sons of Itamar, [they organized them under sixteen heads of fathers’ houses of the sons of Eleazar, and eight of the sons of Itamar]” (1 Chron. 24:4).

[D] R. Jacob bar Aha, R. Huna [68a] the Elder of Sepphoris in the name of R. Yohanan: “One father’s house was taken by Eleazar, to whom were added other fathers houses, and as to what was taken by Itamar, what he held he held.”

[E] [As to 1 Chron. 24:5: “They organized them by lot, all alike, for there were officers of the sanctuary and officers of God among both the sons of Eleazar and the sons of Itamar”:] R. Zeirah in the name of R. Hunah:”[With regard to 1 Chron. 24:15], ‘The seventeenth to Hezir,’ and at that point the lot returned to Eleazar.”

[F] To produce twenty-three delegations is something that you cannot do, for it is written, “[All these, who were chosen as gatekeepers at the thresholds, were 212. They were enrolled by genealogies in their villages]. David and Samuel the seer established them in their office of trust” (I Chron. 9:22) .

[G] “In their office of trust”– there was a considerable expression of trust there. For one delegation does not take its share and then repeat the process in the case of seizing inherited fields, [which do not return to the owner at the time of the Jubilee, but revert to the priests,] until its fellow takes its share.

[H] Said R. Abbahu, “I gave thought to them [and found] that one delegation would not take a share and then repeat the process in the case of a field of inheritance [as above] until its fellow took its share.”

[II:5 A] Four priestly watches came up from the Exile: Jediah, Harim, Pashhur, and Immer [Ezra 2:36 - 39].

[B] The prophets who were in Jerusalem went and divided them into twenty-four watches, mixed up [lots], and placed them in an urn.

[C] Jediah came and took five, in addition to himself, so, lo, there are six here.

[D] Harim came along and took five, in addition to himself, so, lo, there are six.

- [E] Pashhur came along and took five, in addition to himself, so, lo, there are six.
- [F] Immer came along and took five, in addition to himself, so, lo, there are six.
- [G] And so the prophets stipulated with them, that even if Jehoiarib should come up from exile, not one of them would be removed on his account, but he would be made subordinate to him.
- [H] Then the heads of the priestly watches stood up and divided themselves into fathers' houses [T. Ta. 2:1].
- [I] Each priestly watch which is divided into four, five, six, seven, eight, or nine fathers' houses] –
- [J] A priestly watch which contains four – three offer up sacrifices for two sequences of two days, and one of them offers up sacrifices for one day.
- [K] A priestly watch which contains five – three offer up the sacrifices for two sequences of two days, and two offer up for one day only.
- [L] A priestly watch which contains six – five offer up the sacrifices for five days, and one offers up for two days.
- [M] A priestly watch which contains seven – each one offers up the sacrifices for one day.
- [N] A priestly watch which contains eight – six offer up the sacrifices for six [successive] days, and two offer up sacrifices for one day.
- [O] A priestly watch which contains nine – five offer up the sacrifices for five days, four offer up the sacrifices for two days.
- [P] Some of them established a particular day for all time:
- [Q] that one which comes on the Sabbath comes on the Sabbath for all time;
- [R] that one which comes after the Sabbath comes after the Sabbath for all time.
- [S] There are some which increase in size once a month [as other priests join them], some which increase in size once a year, some of them increase in size once in a septennate, and some of them increase in size for every watch [T. Ta. 2:2A-K].

- [II:6 A] *Rabbi would make two appointments [to his administration, at one time]. If they proved worthy, they were confirmed. If not, they were removed.*
- [B] *When he was dying he instructed his son [Gamaliel], “Don’t do it that way. Rather, appoint them all at one time.*
- [C] *“And appoint R. Hami bar Haninah at the head [of the group].*
- [D] *And why had Rabbi not appointed him? Said R. Derosa, “It was because the people of Sepphoris cried out against him in Sepphoris.”*
- [E] *And merely because people raise a cry do they do things they want?*
- [F] *Said R. Eleazar b. R. Yosé, “It was because [Haninah] publicly answered [what Rabbi had said].”*
- [G] *Rabbi was in session. He cited the following verse: “Then those of you who escape will remember me [among the nations where they are carried captive when I have broken their wanton heart which has departed from me, and blinded their eyes which turn wantonly after their idols; and they will be loathsome in their own sight for the evils which they have committed, for all their abominations]” (Ezek. 6:9).*
- [H] *“[And if any survivors escape], they will be on the mountains, like doves of the valleys, all of them moaning, [every one over his iniquity]” (Ezek. 7:16).*
- [I] *[Haninah] said to him, “We read the verse as, ‘roar.’”*
- [J] *[Rabbi] said to him, “Where did you study Scripture?”*
- [K] *He said to him, “Before R. Hamnuna of Babylonia.”*
- [L] *He said to him, “When you go down there. tell him to appoint you a sage.” [Haninah] realized that he would not be appointed [a sage in Rabbi’s administration] for the rest of his life.*
- [M] *After he had died, his son [Gamaliel] wanted to appoint him a sage, but [Haninah] did not accept the appointment. He said to him.” I shall not accept appointment until you have appointed R Pas the Southerner. before me.”*
- [N] *Now there was a certain elder there. who said, “If Haninah is [appointed] before me, then I shall be second, and if R. Pas the Southerner. is appointed before me. then I shall be second.”*

[O] *R Hanina agreed to be appointed third in line.*

[P] *Said R. Hanina, “I have had the merit of living a long life. I do not know whether it was because of that incident, or because when I would come up from Tiberias to Sepphoris, I would take the long way about to go and greet R. Simeon b. Halputa in Ein Tinah.”*

[II:7 A] *Samuel and members of the household of Shila would greet the patriarch every day. The members of the house of Shila went in first and sat down first.*

[B] *They paid honor to Samuel and sat him down in front.*

[C] *Then Rab came there, and Samuel paid him honor and sat him down before [himself].*

[D] *The members of the house of Shila said, “We have always been second.”*

[E] *Samuel agreed to be seated third in line.*

[II:8 A] Three scrolls did they find in the Temple courtyard.

[B] These were the *Maon*-scroll [“Dwelling”], the *Zaatuti* -scroll [“Little ones”], and the *He*- scroll.

[C] In one of these scrolls they found it written, “The eternal God is your dwelling place (*maon*)” (Deut. 33:27: “The eternal God is your dwelling place, and underneath are the everlasting arms. And he thrust out the enemy before you, and said, ‘Destroy’”).

[D] And in two of the scrolls it was written, “The eternal God is your dwelling place” (*meonah*).

[E] They confirmed the reading found in the two and abrogated the other.

[F] In one of them they found written, “They sent the little ones of the people of Israel” (Ex. 24:5: “And he sent young men of the people of Israel, who offered burnt offerings and sacrificed peace offerings of oxen to the Lord”).

[G] .And in the two it was written, “They sent young men....”

[H] They confirmed the two and abrogated the other.

[I] In one of them they found written, “He [he written in the feminine spelling] nine times, and in two, they found it written that way eleven times.”

- [J] They confirmed the reading found in the two and abrogated the other.
- [II:9 A] Said R. Levi, “A scroll listing genealogies they found in Jerusalem, and in it were written the following:
- [B] “‘Hillel derives from David; Ben Jeseq from Assaf; Ben Sisit Hakkeset from Abner; Ben Qobisin from Ahab; Ben Kalba Sabua from Caleb;
- [C] “‘R. Yannai from Eli; Ben Yehud from Sepphoris; R. Hiyya the Elder from the children of Shephatiah son of Abital [2 Sam. 3:4]; R. Yosé b. R. Halapta from the children of Jonadab b. Rechab; R. Nehemiah from Nehemiah the Tirshathite.’”
- [II:10 A] *It has been taught: What is the proper order of reclining at a meal? When there are two couches, the eldest among them goes up and reclines at the head of the upper couch, the second to him below him, [and so on].*
- [B] **When there are three couches, the oldest of them goes up and reclines at the head of the middle couch, the one second to him above, the one third, below.**
- [C] **And so they arrange themselves further [T. Ber. 5:5].**
- [D] Said R. Samuel bar R. Isaac, “The patriarchs [Abraham, Isaac, and Jacob] are buried in the order in which they would recline at a banquet [with Abraham in the middle, Isaac on one side, Jacob on the other].”
- [II:11 A] R. Jacob bar Aha in the name of R. Yosé: “Under no circumstances does the world endure, except on the basis of the offerings.”
- [B] *There we have learned: Simeon the Righteous was one of the remnants of the Great Assembly. He would say, “On three things the world stands: Torah, sacrificial cult, and deeds of loving kindness “ [M. Abot I:3].*
- [C] “And the three of them derive from a single verse of Scripture [Is. 51:16]: ‘I have placed my words in your mouth’ – this refers to the [study of] Torah. ‘And in the shadow of my hands I have covered you’ – this refers to doing deeds of loving kindness.
- [D] “This serves to teach you that whoever keeps himself busy in studying Torah and in doing deeds of loving kindness merits sitting in the shadow of the Holy One, blessed be he.”
- [E] *This is in line with that which is written: “How precious is thy steadfast love, O God! The children of men take refuge in the shadow of thy wings” (Ps. 36:7).*

[F] “[And I have put my words in your mouth and hid you in the shadow of my hand], stretching out the heavens and laying the foundations of the earth [and saying to Zion, ‘You are my people]’” (Is. 51:16).

[G] This refers to the sacrificial offerings.

[H] “Saying to Zion, ‘You are my people,’”— this refers to Israel.

[I] Said R. Hinena bar Pappa, “We have reviewed the entire Scriptures, and we have not found any place in which Israel is called Zion except for this passage: “Saying to Zion, ‘You are my people’” (Is. 51:16).

[J] *There we have learned: Rabban Simeon b. Gamaliel says, “On three things the world stands: On justice, truth, and peace” [M. Abot 1:18].*

[K] And the three of them are really one thing. If justice is carried out, truth is realized. [If truth is realized], peace is made.

[L] Said R. Mana, “All three of them derive from a single verse of Scripture: ‘[Speak the truth to one another], render in your gates judgments that are true and make for peace’” (Zech. 8:16).

4:3

[A] [68b] **The members of a delegation would fast four days a week. from Monday to Thursday.**

[B] **But they did not fast on the eve of the Sabbath,**

[C] **because of the honor owing to the Sabbath,**

[D] **nor on Sunday so as not to go forth from resting and enjoyment to travail and fasting, and so perish.**

[E] **On the first day [they read] from, “In the beginning” to “Let there be a firmament” (Gen. 1:1-8);**

[F] **on the second day, from “Let there be a firmament” to “Let the waters be gathered together” (Gen. 1:6-13);**

[G] **on the third day, from “Let the waters be gathered together” to “Let there be light” (Gen. 1:9-19);**

[H] **on the fourth day, from “Let there be light” to “Let the water bring forth abundantly” (Gen. 1:14-23);**

- [I] and on the fifth day, from “Let the waters bring forth abundantly” to “Let the earth bring forth” (Gen. 1:20-31);
- [J] and on the sixth day, from “Let the earth bring forth” to “And the heaven and the earth were finished” (Gen. 1:24-31, 2:1-3).
- [K] In the case of a long pericope, they read it by two, and in the case of a brief one, by one person.
- [L] At the morning service, at the additional service, and at the afternoon service they come together and recite it by heart, just as they recite the Shema.
- [M] On the eve of the Sabbath at the afternoon prayer they did not come together,
- [O] because of the honor owing to the Sabbath.
- [P] “On any day on which the Hallel is said, there is no delegation [gathering for the study of the works of creation] at dawn;
- [Q] “[if there is] an additional offering, there is no delegation at the closing of the gates;
- [R] “[if there is] an offering of wood, there is no delegation at the afternoon service, “ the words of R. Aqiba.
- [S] Said to him Ben Azzai, “This was the way in which R. Joshua taught the rule:
- [T] “[If there is] an additional offering, there is no [delegation at] the afternoon prayer;
- [U] “[if there is] a wood offering, there is no [delegation at] the closing of the gates.” ‘
- [V] R. Aqiba reverted and repeated the tradition in the formulation of Ben Azzai.
- [I:1 A] R. Huna said, “The three who are called up to the Torah should not read less than ten verses of Scripture.”
- [B] Hezekiah said, “This is to match the Ten Commandments.”
- [C] *And lo, we have learned, On the first day they read from, “In the beginning” (Gen. 1:1) to, “Let there be a firmament” (Gen. 1:8) [M. Ta. 4:3E].* Now are there only eight verses in that set?
- [D] *R. Idi says, “Kahana and Assi differed.*
- [E] “*One said, ‘He goes back [and repeats a verse].’*
- [F] “*The other said, ‘He cuts one into two.’”*

[G] *He who said* he goes back maintains that one goes back and repeats two verses.

[H] *He who said* that one cuts a verse into two holds that, “And there was evening, and there was morning (Gen. 1:5, 8),” constitutes a verse by itself.

[I] *And lo, we have learned: On the second day, from “Let there be a firmament, “to “Let the waters be gathered together” [M. Ta. 4:3F].* [Now, are there only seven verses in that set?]

[J] *One said*, “He goes back [and repeats a verse].”

[K] *The other said*, “He cuts one into two.”

[L] *He who said*, “He goes back,” maintains that one repeats two verses [bringing the total to ten as prescribed at A and as resolved at B.

[M] *And he who said that* one cuts up a verse into two, in this case, even if one cuts it [Gen. 1:8] into two, there is no adequate number [since then there are only nine verses].

[N] *R. Phillippa bar Peritah objected before R. Zeira*, “Lo, there is the pericope of Amalek [which contains only nine verses].”

[O] He said to him, “That case is different, for it is part of the order of the day.”

[P] *R. Eleazar bar Merom objected before R. Judah*, “*And lo, it is taught*: He who completes the Torah reading with the prophetic lection should read no less than twenty-one verses [three verses for each of the seven who have been called to the Torah].” [Y. Meg. 4:2 adds:] [And if you maintain that] each three have to read ten verses [as Huna does], then, with the [additional] three assigned to the seventh reader there will be twenty-three [altogether. Yet we have learned that the prophetic lection contains no less than twenty-one verses, so Huna’s view is problematic .]

[I:2 A] *It has been taught: The [Israelite] men of the priestly watch would fast every day [M. 4:3A]:*

[B] On Monday they would fast for those who were going on an ocean voyage:

- [C] [And they would say in prayer,] “And God said, ‘Let there be a firmament in the midst of the waters, and let it separate the waters from the waters’” (Gen. 1:6).
- [D] On Tuesday they would fast for those who make land voyages:
- [E] [And they would say in prayer,] “And God said, ‘Let the waters under the heavens be gathered together in one place, and let the dry land appear’” (Gen. 1:9).
- [F] On Wednesday they would fast so that children would not get croup.
- [G] And they would say in prayer,] “And God said, ‘Let there be lights in the firmament of the heavens to separate the from the night; and let them be for signs and for seasons and for days and years’” Gen. 1:14).
- [H] Instead of “lights,] curses” is written.
- [I] On Thursday they would fast for pregnant women that they not miscarry, and for nursing mothers, that their children not die:
- [J] [And they would say in prayer,] ““And God said. Let the waters bring forth swarms of living creatures, and let birds fly above the earth across the firmament of the heavens’” (Gen. 1:20).
- [K] *It has been taught:* They did not fast on Friday or on Sunday, because of the honor owing to the Sabbath.
- [L] *It has been taught:* The Great Sanhedrin would fast along with them.
- [M] But can the Sanhedrin stand a fast every day?
- [N] They would divide themselves up according to the houses of the fathers.
- [O] And they do not fast on account of two separate matters.
- [P] *That proposition derives from the following verse of Scripture:* “So we tasted and besought our God for this, and he listened to our entreaty)” (Ezra 8:23).
- [Q] *Said R. Tanhuma, ‘It does not derive from that verse, but from this one:* ‘and told them to seek the mercy of the God of heaven concerning this mystery, [so that Daniel and his companions might not perish with the rest of the wise men of Babylon]’” (Dan. 2:18).

[R] R. Haggai in the name of R. Zeirah: “But if there were two matters such as an absence of rain and a plague of locusts, they sound the insofar on account of [both of] them.’

[S] *R. Haggai: When he would go forth to fast, he would say before them, “Our brethren, even though we have in our hearts many pains it is only for this one thing that we have some together.”*

[II:1 A] *The .Mishnah accords with the view of R. .Meir [in ruling that the delegation reads the Torah every time it prays. that is [M. 4:3L].*

[B] For R. .Meir said, “They pray and read in the Torah pray and read in the Torah. ‘

[C] *But in accord with the view of sages they pray and read in the Torah, pray and then go forth [that is, they read the Torah only within a single service. but not. e.g., in the additional Service].*

[D] [As to the teaching that **if there is an Additional Prayer, there is no delegation reading on the occasion of the service of the closing of the gates, [M. 4:3Q]** lo, in the case of the Additional Service, then is there [a rite of the delegation, with a reading from the Torah]?

[E] *The Mishnah accords with the view of R. Meir. For R. Meir has said, “They say the Prayer and read in the Torah [on all occasions].”*

[F] *There is a Tannaite authority who reverses [the attributions of these sayings, giving Meir that of rabbis and vice versa].*

[G] *R. Aha in the name of R. Yosé accords with [the version cited in] our Mishnah.*

[III:1 A] [As to the view of M. 1:3R, that there is no delegation rite at the closing of the gates on the occasion of a wood offering,] *R. Simon said, “Is it too much trouble to carry the burden of a little wood? [Why cancel the delegation?]”*

[B] Said R. Mana, “It was because of the meals to be prepared for the New Month [cf. M. 4:4A-B; L-M].”

[C] R. Eleazar: “It was because of the principle that whatever is done more regularly than its fellow takes precedence over its fellow.”

[D] *The following verses of Scripture support the view of R. Yohanan:*

[E] “But on the second day, the morrow after the new moon, [David’s place was empty]” (1 Sam. 20:27) .

[F] *Now if you wish to maintain that we deal with two new moons, lo, it is written,* “And Saul said to Jonathan his son, ‘Why has not the son of Jesse come to the meal, either yesterday or to day?’” (1 Sam. 20:27).

[G] *Said R. Hiyya bar Ba, “R. Yohanan gave instructions to the synagogue of Kupra, ‘Elders, come in while it is still day and go and announce the time of the month and [do so on] the additional day thereof. [That is, on the thirtieth of the month while it is still day, you may say the prayers appropriate for the new month, and on the thirty-first day of the outgoing month, one does the same .]”*

4:4

- [A] **The time of the wood offering of priests and people [comes on] nine [occasions in the year]:**
- [B] **on the first of Nisan [is the offering of] the family of Arah b. Judah [Ezra 2:5, Neh. 2:10];**
- [C] **on the twentieth of Tammuz [is the offering of] the family of David b. Judah;**
- [D] **on the fifth of Ab [is the offering of] the family of Parosh b. Judah [Ezra 2:3, Neh. 2:8];**
- [E] **on the seventh of that month [is the offering of] the family of Yonadab b. Rekhab [Jer. 35:1ff.];**
- [F] **on the tenth of that month [is the offering of] the family of Senaah b. Benjamin [Ezra 2:35, Neh. 7:381];**
- [G] **on the fifteenth of that month [is the offering of] the family of Zattu b. Judah [Ezra 2:8, Neh. 7:13];**
- [H] **and with them [comes the offering of] priests, Levites, and whoever is uncertain as to his tribe, and the families of the pestle smugglers and fig pressers.**
- [I] **On the twentieth of that same month [is the offering of] the family of Pahat Moab b. Judah [Ezra 2:6, Neh. 7:11].**
- [J] **On the twentieth of Elul [is the offering of] the family of Adin b. Judah [Ezra 2:15, Neh. 7:20].**
- [K] **On the first of Tebet the family of Parosh returned a second time [with another wood offering].**

- [L] On the first of Tebet [Hanukkah] there was no delegation,
[M] for there was Hallel on that day, as well as an additional offering and a wood offering.
- [I:1 A] Why did they set aside [special times for] the wood offering of priests and people [M. Ta. 4:4]?
- [B] For when the exiles came up, they found no wood in the wood chamber.
- [C] These in particular went and contributed wood of their own, handing it over to the community.
- [D] On that account prophets stipulated with them, that even if the wood-chamber should be loaded with wood, even with wood belonging to the community, these should have the privilege of contributing wood at this time and at any occasion on which they wanted [T. Taaniyot 3:5A-D].
- [E] *Said R. Aha, “This [view that wood for the public offering may derive from the contribution of an individual] represents the position of R. Yosé. For R. Yosé has said,*
- [F] **“Also he who wishes may volunteer as an unpaid bailee’ [for the Temple, M. Sheq. 4:1].”**
- [G] R. Yosé in the name of R. Ila: “It represents the view of all parties. *Where there is a dispute, it concerns the corpus of the offering itself [the animal]. But as to things used for the preparation of the offering [e.g., wood for the fire], all parties concur that an offering originally designated for an individual may be shifted and used for the community as a whole.”*
- [H] *It has been taught: A woman was permitted to make a coat for her son, [who was a priest, for use in his priestly labors] provided that she handed it over to the community [T. Yoma 1:23] .*
- [I] *Said R. Aha, “This represents the position of R. Yosé. For R. Yosé has said, ‘Also he who wishes may volunteer as an unpaid bailee [for the Temple].”*
- [J] R. Yosé in the name of R. Ila: “It represents the view of all parties.
- [K] *“Where there is a dispute, it concerns the corpus of the offering itself.*

[L] “But as to things used for the preparation of the offering [e.g., - the garments of the priests], all parties concur that an offering originally designated for an individual may be shifted and used for the community as a whole.”

[M] *The following Tannaitic teaching contradicts the view of R. Yosé [in the name of R. Ila, that all parties concur]:*
“Those days [on which it is prohibited to mourn and fast] apply both when there are offerings and when there are no offerings.” [T. 3:6: On those days it is prohibited to mourn and to fast – this applies both from the time of the destruction of the Temple and before the destruction of the Temple.]

[N] R. Yosé says, “The prohibition of fasting on those days applies only when there is an offering.” [T.: R. Yosé says, Since the destruction of the Temple they are permitted [to mourn and fast on those days] because it [the destruction] was a sorrowful event for them.]

[O] *There is a further relevant statement, as it has been taught:*

[P] [T.’s version:] Said R. Eleazar b. R. Sadoq, [Y. reads, “b. R. Yosé”] “I was among the descendants of Sanaah [M. Ta. 4:4F, Ezra 2:35] of the tribe of Benjamin. One time the ninth of Ab coincided with the Sabbath, and we postponed the fast until after the Sabbath [i.e., Sunday the tenth of Ab, when it was prohibited to fast since it was a wood offering day, (see M. 4:4F)] and we fasted but did not complete it [T. Taaniyot 3:6].”

[I:2 A] [In Tosefta’s version:] **What was the matter having to do with the families of the pestle smugglers and the fig pressers [M. 4:4H]?**

[B] **Now when the Greek kings set up border presidios on the roads, so that people should not go up to Jerusalem, just as Jeroboam the son of Nebat did, then, whoever was a suitable person and sin-fearing of that generation – what did he do? [V. lacks ‘Now when Jerusalem’ and begins: ‘When Jeroboam the son of Nebat set up border presidios.’]**

[C] **He would take up his first fruits and make a kind of basket and cover them with dried figs,**

[D] **and take the basket with the first fruits and cover them with a kind of dried figs,**

- [E] and he would put them in a basket and take the basket and a pestle on his shoulder and go up. [Y. has: Whoever was suitable and sin-fearing of that generation would bring his first fruits and put them in a basket and cover them with dried figs, and take the pestle and put the basket on his shoulder and the pestle in his hand.]
- [F] Now when he would come to that guard, [the guard] would say to him, “Where are you going?”
- [G] He said to him, “To make these two rings of dried figs into cakes of pressed figs, in that press over there, with this pestle which is on my shoulder [Y.: in my hand].”
- [H] Once he got by that guard, he would prepare a wreath from them and bring them up to Jerusalem [T. Ta. 3:7].
- [I] What is the matter having to do with the family of Salmai the Netophathites [cf. I Chron. 2:54: “The sons of Salma: Bethlehem, the Netophathites ...”]?
- [J] Now when the Greek kings set up guards on the road so that the people should not go up to Jerusalem, just as Jeroboam the son of Nebat did. [Y. lacks reference to ‘Greek kings’ at B and reads: Whoever contributed wood and logs for the pile on the altar would bring wood and make steps of a sort and make a kind of ladderÉ],
- [K] then whoever was a suitable and sin-fearing person of that generation would take two pieces of wood and make them into a kind of ladder and put it on his shoulder and go up.
- [L] When he came to that guard, [the guard] said to him, “Where are you going?”
- [M] “To fetch two pigeons from that dovecot over there, with this ladder which is on my shoulder.”
- [N] Once he got by that guard, he would dismantle [the pieces of wood of the ladder] and bring them up to Jerusalem.
- [O] Now because they were prepared to give up their lives for the Torah and for the commandments, therefore they found for themselves a good name and a good memorial forever.
- [P] And concerning them Scripture says, “The memory of a righteous person is for a blessing” (Prov. 10:7).

[Q] [Y. lacks:] But concerning Jeroboam son of Nebat and his allies, Scripture says, “But the name of the wicked will rot” (Prov. 10:7) [T. Ta. 3:8].

4:5

[A] Five events occurred to our fathers on the seventeenth of Tammuz, and five on the ninth of Ab.

[B] On the seventeenth of Tammuz the tablets [of the Torah] were broken, the daily whole offering was canceled, the city [wall] was breached, Apostemos burned the Torah, and he set up an idol in the Temple.

[C] On the ninth of Ab the decree was made against our forefathers that they should not enter the land, the first Temple and the second [Temple] were destroyed, Betar was taken, and the city was ploughed up [after the war of Hadrian].

[I:1 A] It is written, “The glory of the Lord settled on Mount Sinai, *and* the cloud covered it six *days*; *and* on the seventh *day* he called to Moses out of the midst of the cloud” (Ex. 2:16). [And it also says] “and Moses went up (Ex. 2:15).”

[B] This was the seventh day after the declaration of the Ten Commandments, and the beginning of the forty [days that Moses spent on the mountain]. [On the sixth of Sivan the Torah was given, and on the next day began the forty days that Moses spent on the mountain.]

[C] Said Moses to the people, “*I am going to spend forty days on the mountain.*”

[D] When the fortieth day came, and he did not come down, then: “When the people saw that Moses delayed to come down from the mountain, [the people gathered themselves together to Aaron and said to him, ‘Up, make us gods who shall go before us’]” (Ex. 32:1).

[E] When the sixth hour had passed, and he did not come down, thereupon: “The people gathered themselves together to Aaron and said to him. ‘Up, make us gods who will go before us’” (Ex. 32:1)

[F] “And the Lord said [68c] to .Moses, ‘Go down, for your people, [whom you brought up out of the land of Egypt], have corrupted themselves’” (Ex. 32:7).

[G] “When Joshua heard the noise of the people in their wickedness, he said to Moses, ‘There is a noise of war in the camp’” (Ex. 32:17).

- [H] Said Moses, “Here is a man who is destined to govern 600,000 people, yet he does not know the difference between one sort of noise and another!”
- [I] “He said, ‘It is not the sound of shouting for victory or the sound of the cry of defeat, but the sound of singing that I hear’” (Ex. 32:18).
- [J] Said R. Yosé, “‘It is the sound of praise of idols that I hear.’”
- [K] Said R. Yudan in the name of R. Yosé, “There is not a generation in which a particular of the sin of the worship of the calf is not [to be atoned for through suffering].”
- [L] “And as soon as he came near the camp and saw the calf and the dancing” (Ex. 32:19).
- [M] R. Hilqiah in the name of R. Aha: “It is on the basis of this story [in which Moses does not break the tablets until he actually sees what is going on, despite the good guess on the basis of the sounds he hears], that we learn that one should not reach a judgment on the basis of guesswork.”
- [N] Moses made the following interpretation on the basis of an argument a fortiori: “Now if in the case of the Passover lamb, which is a single religious duty, it is stated, ‘[And when a stranger shall sojourn with you and would keep the passover to the Lord, let all his males be circumcised, then he may come near and keep it; he shall be as a native of the land.] But no uncircumcised person shall eat of it’ (Ex. 12:8).
- [O] “as to the Torah, in which all the religious duties are contained – is it not an argument a *fortiori* [that these people are unworthy to receive it]?”
- [P] “[And as soon as he came near the camp and saw the calf and the dancing], Moses’ anger burned hot, and he threw the tables out of his hands and broke them at the foot of the mountain” (Ex. 32:19).
- [Q] R. Ishmael taught, “The Holy One, blessed be he, told him to break them, for it is said, ‘And I will write on the tables the words that were on the first tables which you broke, and you shall put them in the ark’” (Deut. 10:2).
- [R] He said to him, “You did the right thing in breaking them.”
- [S] R. Samuel bar Nahman in the name of R. Jonathan: “The tablets were six handbreadths long and three broad. Moses was holding on to two handbreadths, and the Holy One,

blessed be he, was holding on to two of them, and there was a space of two hand(breadths in the middle.

[T] “When the Israelites did their deed. the Holy One, blessed be he, wanted to grab them out of the hand of .Moses. But the hand of Moses was stronger and he seized them from him.

[U] “That is in line with what Scripture says in praising Moses at the end, saying, ‘And for all the mighty power [the Hebrew word for power also means hand] [and all the great and terrible deeds which Moses wrought in the sight of all Israel]’ (Deut. 34:12).

[V] “[*It is as if God then says,*] ‘*Let there be peace unto the hand that was stronger than mine.*’”

[W] R. Yohanan in the name of R. Yosé bar Abbayye said to him, “The tablets wanted to fly, but Moses was holding on to them, as it is written, ‘So I took hold of the two tables, [and cast them out of my two hands, and broke them before your eyes]’” (Deut . 9:17) .

[X] *It was taught in the name of R. Nehemiah,* “The writing itself flew off [the tablets].”

[Y] R. Ezra in the name of R. Judah b. R. Simon: “The tablets were a burden weighing forty *seahs*, and the writing was holding them up. When the writing flew off, the tablets became heavy on the hands of .Moses, and the tablets fell and were broken.”

[II:1 A] And the daily whole offering was canceled [M. 4:5B]:

[B] R. Simon in the name of R. Joshua b. Levi: “In the days of the Greek empire [when Jerusalem was besieged], they would let down two baskets containing gold, and the besiegers would send up two sheep [for the daily whole offering].

[C] “One time they let down to them two baskets of gold, and they sent up to them two kid goats [which are not suitable for a daily offering].

[D] “At that moment the Holy One, blessed be he, opened their eyes, and they found two lambs in the chamber of the lambs [which were suitable]

[E] “It was in regard to that moment that **R. Judah b. Abba gave testimony concerning the daily whole offering brought in the morning, that it was offered at the fourth hour [M. Ed. 6:1].**”

[F] Said R. Levi, “Also in the time of this evil kingdom [presently ruling] they would let down to them two baskets of gold, and they would send up to them two kid goats. Finally they let down to them two baskets of gold, and they sent up to them two pigs.

[G] “The basket had not gotten half way up the wall, before the pig pressed [its nails] against the wall and kept forty *parasangs* out of the land of Israel.

[H] “At that moment the sins [of Israel] brought it about that the daily whole offering was canceled, and the house [of the Temple] was laid to waste.”

[III:1 A] The city [wall] was breached [M. 4:5B]:

[B] It is written, “[In the eleventh year of Zedekiah, in the fourth month, on the ninth day of the month], a breach was made in the city” (Jer. 39:2).

[C] *And yet you say this?*

[D] Said R. Tanhum bar Hanilai, “There is an error in calculation here.”

[E] That is in line with what is written: “In the eleventh year, on the first day of the month, the word of the Lord came to me” (Ezek. 26:1).

[F] “Son of man, because Tyre said concerning Jerusalem, ‘Aha, [the gate of the people is broken, it has swung open to me, I shall be replenished now that she is laid to waste].’”

[G] What is the meaning of “Aha?” [The cited verse indicates that Tyre rejoiced on the first day of the month.]

[H] If you say that it was on the first of Ab, the city had not yet been burned.

[I] If you say it was on the first of Elul, could a courier [who carries letters] go in a day and a night [i.e., in just a short time] from Jerusalem to Tyre?

[J] R. Yohanan and R. Simeon b. Laqish: R. Yohanan said, “It may be compared to a king who was sitting and making calculations. They came and told him, ‘Your son has been taken captive,’ and he erred in his calculations. He said. Let this day stand at the beginning of calculations.”

[K] R. Simeon b. Laqish said, “It may be compared to a king who was sitting and making calculations. They came and told him, ‘Your son has been taken captive and prostituted.’ He said, ‘Let this day stand at the beginning of calculations.’”

[L] *R. Mana asked, “There is no problem as to why the calculations on what has happened should be thrown off [by the sorrow]. [That accounts for error.] But is that the case for what was going to happen [that Ezekiel, writing before the first destruction, should have been guilty of this error in his calculations]?”*

[M] *Whether according to the view of the one who said that it was on the ninth of the month or whether according to the one who said that it was on the seventeenth, what is the practical difference?*

[N] The twenty-one days between the day on which the city was breached and the day on which the Temple was actually destroyed.

[O] *Said R. Abonah, “There is a mnemonic: ‘and the word of the Lord came to me, saying, “Jeremiah, what do you see?” And I said, ‘I see a rod of almond”’ (Jer. 1:5).*

[P] “Just as the rod, from the time that it produces a bud until it completes the ripening of the fruit, takes twenty-one days, so from the day on which the city was breached until the day that the Temple was destroyed was a period of twenty-one days.”

[Q] *He who maintains that it was on the ninth of the month holds that on the first of Ab the Temple was destroyed.*

[R] *He who maintains that it was on the seventeenth of the month maintains that on the ninth of Ab the Temple was destroyed.*

[III:2 A] *R. Simeon b. Yohai taught, “R. Aqiba. my master, interpreted as follows:*

[B] “Thus says the Lord of hosts: “The fast of the fourth month, and the fast of the fifth. and the fast of the seventh, and the fast of the tenth, shall be to the house of Judah seasons of joy and gladness, and cheerful feasts; therefore love truth and peace” (Zech . 8:19).

- [C] “‘The fast of the fourth month’ refers to **the seventeenth of Tammuz, on which the tablets of the Torah were broken, the daily whole offering was canceled, the city wall was breached, Apostemos burned the Torah, and he set up an idol in the Temple [M. 4:5B]**
- [D] “‘The fast of the fifth month’ refers to **the ninth of Ab, on which the first and second Temples were destroyed [M. 4:5C].**
- [E] “‘The fast of the seventh month’ refers to the third of Tishré, the day on which Gedaliah b. Ahikam was killed.
- [F] “‘The fast of the tenth month’ refers to the tenth of Tebet, on which the king of Babylonia came near Jerusalem.’
- [G] “This is in line with that which is said, ‘In the ninth year, in the tenth month, on the tenth day of the month, the word of the Lord came to me’ (Ezek. 24:1).
- [H] “‘Son of man, write down the name of this day, this very day. The king of Babylon has laid siege to Jerusalem this very day’ (Ezek. 24:2).
- [I] “But I [Simeon b. Yohai] say, ‘The fast of the tenth month’ refers to the fifth of Tebet, the day on which the news came to the Exile.
- [J] “This is in line with that which is written, ‘In the twelfth year of our exile, in the tenth month, on the fifth day of the month, a man who had escaped from Jerusalem came to me and said, “The city has fallen”’ [Ezek. 33:21].
- [K] “But in the land of Judea they fast on account of the actual fact, while in the communities of the Exile, they fast on the occasion of hearing the news.
- [L] “R. Aqiba interprets the first last and the last first, and I interpret the first first and the last last, and I prefer my view to the view of R. Aqiba.”

[IV:1 A] Apostemos burned the Torah [M. 4:5B]:

- [B] Where did he burn it?
- [C] *R. Aha said, “At the ford at Lud.”*
- [D] *And rabbis say, “At the ford at Tarlosa.”*

[V:1 A] And he set up an idol [68d] in the Temple [M. 4:5B]:

- [B] *There is a Tannaite authority who teaches, “An idol was set up.”*
- [C] *He who said, “An idol was set up” refers to a statue of Manasseh.*

- [D] *He who said*, “He set up an idol” refers to a statue of Apostemos [which he himself set up].
- [V:2 A] [As to the seventeenth of Tammuz ,] who did they not designate it as a fast day [like the ninth Ab, i.e., a night and day fast]?
- [B] Hinena, Abbayye of Bar Yantah in the name of R. Benaiah: “Because the greater part of the community [during the First Exile] did not accept it.”
- [C] Said R. Joshua b. Levi, “Whatever happened on the one day [namely, the destruction of the first Temple on the ninth of Ab] was repeated again, while whatever happened on the other day [the seventeenth of Tammuz] did not then happen a second time [so the former was made a more difficult fast day.”
- [D] Said R. Levi, “It is written, ‘[You shall therefore keep my statutes and my ordinances,] by doing which a man shall live: [I am the Lord]’ (Lev. 18:5).
- [E] “[Now in the aftermath of a fast one’s sight is impaired,] and the sight [after such impairment] does not fully return for forty days. [Hence there cannot be a second major fast after the first, and since there are only three weeks between the seventeenth of Tammuz and the ninth of Ab, only one major fast is possible, hence, the latter.]”
- [VI:1 A] [As to the decree against the forefathers about not entering the land [M. 4:5C]: that is in line with the following verses of Scripture: “In the second year, in the second month, on the twentieth day of the month, [the cloud was taken up from over the tabernacle of the testimony]” (Num. 10:11).
- [B] And it is written, “So they set out from the mount of the Lord three days’ journey” (Num. 10:33).
- [C] *R. Zekhariah, son-in-law of R. Levi, [compared the matter to] children who run away from school and go out to the villages. [So the Israelites fled from the mountain of the Lord.]*
- [D] On that day they formed a great desire [cf. Num. 11:4]: “But a whole month, until it comes out at your nostrils [and becomes loathsome to you, because you have rejected the Lord who is among you and have wept before him, saying, ‘Why did we come forth out of Egypt?]” (Num. 11:20).
- [E] Now there were then the seven days on which Miriam was shut up: “So .Miriam was shut up outside the camp seven days; [and the people

did not set out on the march till Miriam was brought in again]” (Num. 12:15)

[F] In the forty days of the spies at the end of forty days they returned from spying out the land” (Num. 13:25). [The entire period outlined in A-F ended on the ninth of Ab when it was decreed that the forefathers would not enter the land.]

[F] “And they came to Moses and .Aaron” (Num. 13:26): *They came and found them busy studying the laws concerning the dough offering and the status of produce prohibited in the first three years of growth of the tree [These laws apply only in the land] [The spies] then said to them.*” Now you in fact are not going to enter the land, and yet you are occupied with the laws of dough offering and prohibited produce!

[G] Forthwith: “Then all the congregation raised a loud cry; and the people wept that night” (Num. 13:26).

[H] He said to them, “You have wept before me tears of vanity. Then you are destined to weep tears that mean something: ‘She weeps bitterly in the night. [tears on her cheeks; among all her lovers she has none to comfort her. they have become her enemies]’” (Lam. 1:2).

[I] *R. Simeon b. Yohai taught:* “It is written, ‘and Moses heard the people weeping throughout their families’ (Num. 11:10):

[J] “It was on account of the six incestuous relationships into which Moses had prohibited them to enter.

[K] “*He said to them, ‘Even so, what did you see?’*

[L] “They said to him, ‘The land, through which we have gone, [to spy it out, is] a land that .devours its inhabitants; [and all the people that we saw in it were men of great stature] (Num. 13:32) – [In] every city we entered there, we found corpses.’

[M] “Said to them the Holy One, blessed be he, ‘In response to the good that I did for you – you have said.’ It is a land that devours its inhabitants.’”

[N] “*In every city they entered, the most important man in the city died. So while the people were bus- burying him, they could reconnoiter the town and come out again. and no one even knew they had been there [thus. it was merely by chance that they always encountered a funeral procession.*

[O] [God continues, “And not only so, but as to your saying ‘[and there we saw the Nephilim the sons of Anak. who come from Nephilim, and we seemed to ourselves like grasshoppers, and so we seemed to them’ (Num. 13:33), *how in the world did you know how you appeared in their view anyhow!*”

[P] Said R. Simeon b. Laqish, “[Implicitly] they criticized heaven by saying, ‘For they are stronger than we’ Num. 13:31). It was as if they were saying that [not they but God] could not overcome them.”

[Q] R. Levi in the name of R. Levi in the name of R. Hama bar Haninah: “‘But with the roar of a great tempest – but with the roar of the great tempest which you spoke – he will set fire to it, and its branches will be consumed’ (Jer. 11:16).”

- [VI:2 A] *It has been taught [in the Tosefta’s version: R. Yosé says, “They assign a meritorious matter to day that merits it and a disadvantageous matter to a bad day.*
- [B] **“When the Temple was destroyed the first time, it was the day after the Sabbath and the year after the Sabbatical year.**
- [C] **“And it was the watch of Jehoiarib, and it was the ninth of Ab.**
- [D] **“And so in the case of the destruction of the Second Temple.**
- [E] **“And the Levites were standing on their platform and singing, ‘And he has brought upon them their own iniquity, and he will cut them off in their own evil’ (Ps. 94:23).**
- [F] **“Now tomorrow, when the Temple house will be rebuilt, what will they sing?**
- [G] **“‘Blessed be the Lord, the God of Israel, from everlasting to everlasting’ (1 Chron. 16:36 and Ps. 106:48).**
- [H] **“‘[Blessed be the Lord, the God of Israel] who alone does wondrous things. Blessed be his glorious name [forever; may his glory fill the whole earth! Amen and Amen!]’” (Ps. 72:18-19) [T. Ta. 3:9].**
- [I] *R. Simeon b. Laqish asked before R. Yohanan, “What is the law as to saying a Psalm without the pouring out of libation offerings.”*
- [J] *He said to him. ‘Let us derive the answer from the following: **And so in the case of the destruction of the Second Temple. And the***

Levites were standing on their platform and singing, ‘And he has brought upon them their own iniquity’ (Ps. 94:23). [At this moment there were no libation offerings, consequently it is permitted to sing a Psalm without them.]”

[K] *R. Abbahu said, “There was a dispute between R. Yohanan and R. Simeon b. Laqish.*

[L] “R. Yohanan said, ‘They say a Psalm without the pouring out of libation offerings.’

[M] “R. Simeon b. Laqish said, ‘They do not say a Psalm without the pouring out of libation offerings.’”

[N] *R. Yohanan objected to R. Simeon b. Laqish, “And has it not been taught: **And so in the case of the destruction of the Second Temple. And the Levites were standing on their platform and singing, ‘And he has brought upon them their own iniquity’ (Ps. 94:23).**”*

[O] *Said R. Simeon b. Laqish to him, “What do you infer from that matter.”*

[P] He said to him, “If there had been a libation offering [that day], then it was time for the Psalm in any event.”

[Q] R. Yohanan said, “It was the Psalm assigned to that day.”

[R] R. Simeon b. Laqish said, ‘It was the Psalm assigned to the preceding day.’

[S] *Said R. Levi, “Jehoiarib is a [name of a] man.*

[T] “*Meron is a city.*

[U] “*Mesarbai: He [God] handed over the house [i.e., Temple] to the enemy.”*

[V] Said R. Berekhiah. “[Jehoiarib]: The Lord quarreled with his sons, because they rebelled and defiled him.

[W] “Jedaiah; .Amoq. Sepphoris: [With reference to Neh. 12:7: ‘Sallu, Amoq, Hiliah, Jedaia’] the Lord knew the deep conspiracy that was in their heart and he exiled them to Sepphoris.”

[VII:1 A] **Betar was taken [M. 4:5C]:**

- [B] Rabbi would derive by exegesis twenty-four [tragic] events from the verse: “The Lord has destroyed without mercy [all the habitations of Jacob; in his wrath he has broken down the strong- holds of the daughter of Judah; he has brought down to the ground in dishonor the kingdom and its rulers]” (Lam. 2:2).
- [C] R. Yohanan derived sixty [from the same verse].
- [D] Did R. Yohanan then find more than did Rabbi in the same verse?
- [E] *But because Rabbi lived nearer to the destruction of the Temple, there were [in the audience] old men who remembered what had happened, and when he gave his exegesis, they would weep and fall silent and get up and leave.*
- [F] *It has been taught:* Said R. Judah b. R. Ilai, “Barukh, my master would interpret as follows: ‘[So Jacob went near to Isaac his father, who felt him and said], “The voice is Jacob’s voice, but the hands are the hands of Esau” (Gen. 27:22).’ The voice of Jacob cries out on account of what the hands of Esau did to him at Betar.””
- [G] *R. Simeon b. Yohai taught,* “Aqiba, my master, would interpret the following verse: ‘A star (kokhab) shall come forth out of Jacob’ (Num. 24:17) – ‘A disappointment (*Kozeba*) shall come forth out of Jacob.””
- [H] *R. Aqiba: When he saw Bar Kozeba, he said, “This is the King Messiah.”*
- [I] Said to him R. Yohanan ben Toreta, “Aqiba! Grass will grow on your cheeks, and the Messiah will not yet have come!”
- [J] Said R. Yohanan, “Upon orders [‘voice’] of Caesar Hadrian in Betar they killed 80,000 myriads.”
- [K] Said R. Yohanan, “There were 80,000 pairs of trumpeters that surrounded Betar. Each one was in charge of a number of troops. Ben Kozebah was there, and he had 200,000 troops who, [as a sign of loyalty, had cut off their little finger.
- [L] “Sages sent word to him, ‘How long are you going to turn Israel into a maimed people?’
- [M] “He said to them, ‘How otherwise is it possible to test them?’

- [N] “They replied to him, ‘Whoever cannot uproot a cedar of Lebanon while riding on his horse will not be registered in your army.’”
- [O] “So there were 200,000 who qualified in one way, and another 200,000 who qualified in the other way.”
- [P] *When he would go forth to battle, he would say, “Lord of the world! Do not help and do not hinder us! ‘Hast thou not rejected us, O God? Thou dost not go forth, O God, with our armies’” (Ps . 60:10).*
- [Q] Three and a half years did Hadrian besiege Betar.
- [R] R. Eleazar of Modiin would sit on sack cloth and ashes and pray every day, saying “Lord of the worlds! Do not sit in judgment today! Do not sit in judgment today!”
- [S] *Hadrian wanted to go to him. A Samaritan said to him, “Do not go to him until I see what he is doing, and so hand over the city [of Betar] to you. [‘.Make peaceÉfor you.’]”*
- [T] *He got into the city through a drain pipe. He went and found R. Eleazar of .Modiin standing and praying. He pretended to whisper something into his ear.*
- [U] *The townspeople saw him do this and brought him to Ben Kozeba. They told him, “We saw this man having dealings with your uncle.”*
- [V] *He said to him, ‘What did you say to him, and what did he say to you?’*
- [W] *He said to him, “If I tell you, then the king will kill me, and if I do not tell you, then you will kill me. It is better that the king kill me and not you.”*
- [X] *He said to him, “‘He said to me, ‘I shall hand over my city.’ [‘I shall make peace’]”*
- [Y] *He went to R. Eleazar of .Modiin. He said to him, “What did this Samaritan say to you?”*
- [Z] *He replied, “Nothing.”*
- [AA] *He said to him, “What did you say to him?”*
- [BB] *He said to him, “Nothing.”*

[CC] *[Ben Kozeba] gave [Eleazar] one good kick and killed him.*

[DD] Forthwith an echo came forth and proclaimed the following verse:

[EE] “Woe to my worthless shepherd, who deserts the flock! May the sword smite his arm and his right eye! Let his arm [69a] be wholly withered, his right eye utterly blinded!” (Zech 11:17).

[FF] “You have murdered Eleazar of Modiin, the arm of all Israel and their right eye. Therefore may the right arm of that man wither, may his right eye be utterly blinded!”

[GG] Forthwith Betar was taken, and Ben Kozebah was killed.

[HH] *They came and brought his head to Hadrian. He said, “Who killed this man?”*

[II] *A Samaritan said, “I killed him.”*

[JJ] *He said to him, “Show me his corpse.”*

[KK] *He showed him his corpse.*

[LL] *He found a large snake wrapped around him. He said, “If it were not God who had killed him, who could have killed him?”*

[MM] And concerning him he cited the following verse: “[How should one chase a thousand, and two put ten thousand to flight], unless their Rock had sold them, and the Lord had given them up?” (Deut. 32:30).

[NN] Now they kept slaughtering [the Jews] until a horse sunk into blood up to his nose, and the blood would roll boulders weighing forty *seahs* until the blood flowed four *mils* into the sea.

[OO] Now if you might want to suppose that Betar was near the sea, in fact it was forty *mils* from the sea.

[PP] They said: “They found three hundred babies’ skulls on a single rock, and they found three baskets of boxes for *tefillin*, each weighing nine *seahs*. And

there are those who say, ‘They found nine, each weighing three *seahs*.’”

[QQ] *It has been taught:* Rabban Simeon b. Gamaliel says, “There were 500 schoolhouses in Betar. The smallest of them had no fewer than 500 children.

[RR] “They said, ‘If the enemy comes against us, with these quills we shall go forth against them and put their eyes out.’”

[SS] “On account of the sins [that caused the tragedy], they wrapped each one [of the children] in his scroll and burned him, and out of them all. I alone have survived.”

[TT] He cited in his own regard the following verse of Scripture: “My eyes cause me grief at the fate of all the maidens of my city” (Lam. 3:51).

[UU] The evil Hadrian had a large vineyard, eighteen *mil* by eighteen *mil*. It was of the dimension of the distance from Tiberias to Sepphoris. They surrounded it by a wall made of [the bones of] those who were slain in Betar, as tall as the height of a man, and as broad as the extent of the breadth of the hands.

[VV] And he did not decree that the bones may be buried until another king came along and decreed that they might be buried.

[WW] Said R. Hunah, “When those who were slain in Betar were given over for burial. the blessing, ‘Éwho is good and who does good ...’ was framed [in the Grace after meals].

[XX] “‘Who is goodÉ’ for the bodies did not rot.

[YY] “‘Who does goodÉ’ for the bodies were handed over for burial.”

[VII:2 A] *It has been taught:* R. Yosé says, “Betar lasted for fifty- two years after the destruction of the Temple. And why was it destroyed? Because they lit candles after the destruction of the Temple.

[B] “And why did they light candles? Because the councillors of Jerusalem were in session in the middle of the city.”

[C] *Now when they would see someone going up to Jerusalem, they would say to him, “Now we have heard about you that you want to be appointed magistrate and councillor.”*

[D] *He would say to them, “That is not in my mind at all.”*

[E] *“Now we have heard about you that you want to sell your estate.”*

[F] *He would say to them, “That is not in my mind at all.”*

[G] *His fellow would then say to him, “Then write down what you want to do, and I shall sign the document.” He would write, and the fellow would sign. They would then send the [forged] deed of sale to the [man’s steward, and say to him, “If Mr. So-and-so should come to take over his estate, do not let him do so, because it was sold to us.” [So they stole peoples’ estates.]*

[H] *When he heard this from them, he would say, “Would that the leg of that man [me] be broken, but he [I] will not go to Jerusalem!”*

[I] *This is in line with the following verse of Scripture:*

[J] *“Men dogged our steps so that we could not walk in our streets; our end drew near; our days were numbered; for our end had come” (Lam. 4:18).*

[K] *“Men dogged our steps” – the path to that house [the Temple] was desolate.*

[L] *“Our end drew near” – the end of that house had come.*

[M] *“Our days were numbered”– the days of that house were numbered.*

[N] *And also the men [of Betar] did not have a good end.*

[O] *“[He who mocks the poor insults his Maker]; he who is glad at calamity will not go unpunished” (Prov. 17:5).*

[VII:3 A] *There were two brothers in Kefar Haroba. The Romans at tacked [the village] and killed the people. They said, “To end the matter, let us bring a crown for their heads.”*

[B] *They said, "Let us try one more time." They went forth [to attack the Romans again].*

[C] *An old man met them and said to them, "May your Creator be your help!"*

[D] [One of the brothers] said to him, "May he not help nor support us: 'Has thou not rejected us, O God! [Thou dost not go forth, O God, with our armies]'" (Ps. 60:10).

[VII:4 A] There were two cedars on the Mount of Olives. Under one of them there were four stalls, selling food preserved in a condition of cultic cleanness [to be eaten in Jerusalem].

[B] And from one they would produce forty *seahs*' weight of pigeons a month, and from these they would provide bird offerings for all of Israel.

[C] *[From] Simeon's Gate they would put forth 300 barrels of thin cakes among the poor every Sabbath eve.*

[D] Then why was it destroyed?

[E] There is he who says, "It was because of fornication."

[F] There is he who says, "It was because they would play ball [waste their time, instead of studying Torah]."

[G] There were ten thousand villages in the Royal Mountains.

[H] R. Eleazar b. Harsom owned a thousand of them all, and, for them, a thousand ships in the sea. And all of them were destroyed.

[I] For three villages the census covering them had to be brought up to Jerusalem in a wagon. These were Kabul, Shihin, and Migdol Sebayya.

[J] All three of them were destroyed.

[K] Kabul, because of contention .

[L] Shihin, because of witchcraft.

[M] Migdol Sebayya, because of fornication.

[N] *There were three villages, each one of them twice as populous as those who went forth from Egypt: Kepar Bish, Kepar Shihelayya, and Kepar Dikhraya.*

[O] *Why was it called Kepar Bish [evil]? Because they did not receive wayfarers.*

[P] *Why was it called Kepar Shihelayva [cress]? Because they reared their children as carefully as cress is cultivated.*

[Q] *And why did they call it Kepar Dikhraya [male]? Because the women produced only male children. [As long as] the women did not leave there, they did not give birth to daughters.*

[R] Said R. Yohanan, “Eighty pairs of brothers, who were priests, married eighty pairs of sisters, who were daughters of priests, on a single night in the town of Gophna, exclusive of brothers who were without sisters, sisters who were without brothers, exclusive of Levites, exclusive of Israelites.”

[S] Said R. Yohanan, “There were eighty stalls of those who weave material for traveling cloaks in Migdol Sebayya [‘Weavers’ Tower].”

[T] Said R. Hiyya bar Ba, “There were eighty stores selling food preserved in the condition of cultic cleanness in Kepar Imra [Lambtown].”

[U] R. Jeremiah in the name of R. Hiyya bar Ba: “There were eighty jewel chests in Shihin.”

[V] Said R. Yannai, “There is no such a chest [as this] in our time.”

[W] R. Zeirah in the name of R. Huna says, “That was the smallest of the priestly watches, and it would bring forth 85,000 apprentice priests.”

[VII:5 A] Said R. Yohanan, “Eighty thousand apprentice priests were killed because of the shedding of the blood of Zechariah.”

[B] R. Yudan asked R. Aha, “Where did they kill Zechariah, in the Women’s Court or in the Israelites’ Court?”

[C] He said to him, “It was neither in the Women’s Court nor in the Israelites’ Court, but in the courtyard reserved for the priests.”

[D] And they did not treat his blood either as one does with the blood of a ram or as one does with the blood of a deer.

- [E] There it is written, “[Any man also of the people of Israel, or of the strangers that sojourn among them, who takes in hunting any beast or bird that may be eaten] shall pour out its blood and cover it with dust” (Lev. 17:13).
- [F] But here it is written, “For the blood she has shed is still in the midst of her; she put it on the bare rock, [she did not pour it upon the ground to cover it with dust]” (Ezek. 24:7).
- [G] And why? “To rouse my wrath, to take vengeance, I have set on the bare rock the blood she has shed, that it may not be covered” (Ezek. 24:8).
- [H] Seven sins did the Israelites commit on that day.
- [I] They killed priest, prophet, and judge.
- [J] They spilled innocent blood.
- [K] They contaminated the courtyard.
- [L] And it was a Sabbath that coincided with the Day of Atonement as well.
- [M] Now when Nebuzaradan came here, he saw the blood bubbling up. He said to them, “What is this?”
- [N] They said to him, “It is the blood of the bullocks, sheep, And rams that we offer on the altar.”
- [O] Forthwith he brought bullocks, rams [69b], and sheep and slaughtered them on it, and still the blood was bubbling up.
- [P] Since they did not confess to him. he [ordered them] suspended on the gallows [for torture].
- [Q] They said, “It appears that the Holy One, blessed be he, wants to escape from our hand vengeance for his blood.”
- [R] They said to him.” It is the blood of a priest, prophet, and judge, who prophesied against us concerning everything that you are now doing to us, and we rose up against him and killed him.”
- [S] Forthwith he brought 80,000 appearance priests and slaughtered them on it, and still the blood bubbled up.

[T] *At that moment he grew angry [at the blood], saying to it, “What to you want? Should we destroy your entire nation on your account?”*

[U] *Forthwith the Holy One, blessed be he, was filled with mercy, and he said, “How if this one, who is a mere mortal and cruel, is filled with mercy for my children, concerning whom is written, ‘For the Lord your God is a merciful God; he will not fail you or destroy you or forget the covenant with your fathers [which he swore to them]’ (Deut. 1:31)*

[V] *“How much the more so [should I have mercy on them]!”*

[W] *Forthwith he gave a sign to the blood, and it was swallowed up where it was.*

[VII:6 A] *Said R. Yohanan, “Eighty thousand apprentice priests fled to the stoves of the Temple, and they were burned up.*

[B] *“And of them all there survived only Joshua b. Yehosedeq, the high priest.*

[C] *‘ This is in line with that which is said. ‘[And the Lord said to Satan, “The Lord rebuke you, O Satan! The Lord who has chosen Jerusalem rebuke you! ‘ Is not this a brand plucked from the fire?’” (Zech. 3:2).*

[D] *Said R. Yohanan, “Eighty thousand apprentice priests fled to the army of Nebuchadnezzar and they [went] to the Ishmaelites.*

[E] *“They said to them. Give us something to drink, because we are thirsty.’*

[F] *“They brought them salty things and skins that were blown up with air.*

[G] *“They said to them, ‘Eat and drink.’*

[H] *“When one of them opened a skin and put it to his mouth, the air that was in it burst forth and choked him.*

[I] *“That is in line with what is written, ‘The oracle concerning Arabia. In the thickets in Arabia you will lodge, O caravans of Dedanites. To the thirsty bring water, meet the fugitive with bread, O inhabitants of the land of Tema’” (Is. 21:13-14).*

[J] *“The oracle concerning Arabia – ‘A great burden is on Arabia.’*

[K] *“In the thickets of Lebanon”– those who were located in the “forest of Lebanon” [the Temple] now are in ‘the thickets of Arabia.’”*

[L] “Caravans of Dedanites”— *is this the way for cousins to act? For when Ishmael was thirsty was, ‘To the thirsty bring water’ not the case?*

[M] [For so it says]: “Then God opened her eyes, and she saw a well of water; [and she went, and filled the skin with water, and gave the lad a drink]” (Gen. 21:19).

[N] *It was not because of your goodness that they came to you, “For they have fled from the swords (Is. 21:15).”*

[O] “From the drawn sword” (Is. 21:15) – since they did not want to keep the years of release.

[P] *That is in line with the verse that follows:*

[Q] “But the seventh year you shall let it rest and lie fallow, [that the poor of your people may eat; and what they leave the wild beasts may eat. You shall do likewise with your vineyard and with your olive orchard]” (Ex. 23:11).

[R] “From the bent bow” (Is. 21:15) – For they did not want to observe the Sabbaths.

[S] *That is in line with what is written:*

[T] “In those days I saw in Judah men treading wine presses on the Sabbath [and bringing in heaps of grain and loading them on asses; and also wine, grapes, figs and all kinds of burdens, which they brought into Jerusalem on the Sabbath day; and I warned them on the day when they sold food]” (Neh. 13:15).

[U] “And from the press of battle” (Is. 21:15) – It was because of the weight of the war, for they had not wanted to engage in the struggles of the Torah.

[V] That is in Line with what is written:

[W] “Wherefore it is said in the Book of the Wars of the Lord, ‘Waheb in Suphah, and the valleys of the Amon]’” (Num. 21:14).

[VII:7 A] Said R. Yohanan, “Between Gabbath and Antipatris there were sixty myriads of townships. The smallest among them was Beth Shemesh.

[B] “As it is written: ‘And he slew some of the men of Bethshemesh, because they looked into the ark of the Lord; [he slew seventy men of them, and the people mourned because the Lord had made a great slaughter among the people]’ (I Sam. 6:19).

[C] “And these were in only one direction. And now if you tried to stick sixty myriads of reeds there, it would not hold them.”

[D] Said R. Haninah, “[The reason is that] the land of Israel has shrunk.”

[VII:8 A] Said R. Zeirah, “Come and take note of how the land of Israel is impudent, that it continues to produce crops [even though so much of the land has been destroyed through fire and brimstone].”

[B] How does the land produce as it does?

[C] *Two Amoras: One said*, “It is because they fertilize it.”

[D] *The other said*, “It is because they turn over the dirt.”

[E] There was the case of someone who was planting seed in the valley of Arbel. He pushed in his hand and drew out burning soil, which had burned up the seed.

[VII:9 A] *It was taught:* R. Yosé says, “For fifty-two years no bird appeared in flight in the land of Israel.”

[B] “What is the scriptural proof for this view?”

[C] “Both the birds of the air and the beasts have fled and are gone” (Jer. 9:10).

[VII:10 A] Said R. Hanina, “Forty years before the Israelites went into exile to Babylonia, they planted date palms in Babylonia, since they wanted to have something sweet, for that prepares the tongue to study Torah.

[B] Said R. Hanina, son of R. Abbahu, “Seven hundred species of clean fish, eight hundred species of clean locusts, and fowl without number, all went into exile with the Israelites to Babylonia.

[C] “And when they came back, all of them came back with them, except for the fish called, ‘*Shibuta*.’”

[D] And how in the world did fish go into exile?

[E] R. Hunah bar Joseph said, “They went into exile through the great deep [in the waters under the earth], and through the great deep they returned.”

[F] Said R. Yohanan, “Fortunate is he who sees the fall of Palmyra, for she was a partner in the destruction of the first Temple and in the destruction of the second Temple.

[G] “In the destruction of the first Temple she provided eight thousand bowmen.

[H] “In the destruction of the second Temple she provided eighty thousand bowmen.”

[VIII:1 A] The city was ploughed up [M. 4:5C]:

[B] Rufus – may his bones be crushed!– ploughed the Temple building.

4:6

[A] When Ab comes, rejoicing diminishes.

[B] In the week in which the ninth of Ab occurs it is prohibited to get a haircut and to wash one’s clothes.

[C] But on Thursday of that week these are permitted,

[D] because of the honor owing to the Sabbath.

[E] On the eve of the ninth of Ab d person should not eat two prepared dishes, nor should one eat meat or drink wine.

[F] Rabban Simeon b. Gamaliel says. He should make some change from ordinary procedures.”

[G] R. Judah declares people liable to turn over beds.

[H] But sages did not concur with him.

[I:1 A] [As regards cutting down on building (M. 1:8),] *said R. Joshua b. Levi, “That which you have said applies to building for purposes of pleasure [e.g., a house for one’s son, who is getting married], but if one’s wall was infirm, one may tear it down and rebuild it.”*

[B] *Samuel said, “That refers specifically to a wall of a house in which one sleeps.”*

[I:2 A] *R. Ba bar Kohen said before R. Yosé, R. Aha in the name of R. Jacob bar Idi: “It is forbidden to betroth a woman on Friday.”*

[B] That which you have said indicates that one should not make the banquet in celebration of the betrothal.

[C] But lo, as to the actual betrothal, it is permitted.

[D] Samuel said, “Even on the ninth of Ab one should betroth a woman [if the occasion arises], so that someone else will not [marry her] first.”

[E] *The opinions assigned to Samuel are at variance with one another.*

[F] *There he has said*, “God gives the desolate a home to dwell in” (Ps. 68:6).

[G] And, “In the balances they go up; they are together lighter than a breath [both verses imply that the marriage is arranged by God”] (Ps. 62:9).

[H] *And here he has said this [that one has to take action on his own “so that someone else should not get there first”]*.

[I] Rather [Samuel meant that he should marry] lest someone precede him by praying [for her hand in marriage].

[J] Even so, the marriage will not last [if God has not arranged it].

[I:3 A] *Said R. Jonah*, “*That which you have said* [that it is prohibited to wash clothing] applies to laundering in order to wear the garment immediately]. But it is permitted to launder in order to repair it [for use after the ninth of Ab].”

[B] [After all] do we say that the fuller is forbidden to carry out his work? [How will he make his living?]

[C] *The Mishnah’s law differs from the view of R. Jonah: In the week in which the ninth of Ab occurs it is prohibited to get a haircut and to wash one’s clothes. But on Thursday of that week these are permitted, because of the honor owing to the Sabbath [M. 4:6B-C].* [According] to Jonah it should be permitted to launder the clothing in order to repair it for use after the ninth of Ab, [even on days other than Thursday].

[D] R. Jonah in the name of R. Hamnuna: “The cited teaching applies to getting a haircut [which may done only on Thursday]. [But laundering is not limited by that qualifying phrase.]”

[II:1 A] [As to the rule of M. 4:6B,] *R. Ba bar Kohen said before R. Yosé, R. Aha in the name of R. Abbahu*: “In the case of the ninth of Ab which coincides with the Sabbath, both weeks [before and after] are released [from the restrictions of M. 4:6B].”

[B] [In the case of an ordinary situation, in which the week prior to the ninth of Ab is subjected to these restrictions,] what is the law on the week afterward?

[C] R. Yohanan said, “The week afterward is subject to these restrictions as well.”

- [D] R. Simeon b. Laqish said, “The week afterward is released from these restrictions.”
- [E] *R. Hiyya bar Ba instructed the people of Sepphoris [that the week afterward is not subject to the restrictions of M. 4:6B], but they declined to accept his ruling.*
- [F] Said R. Immi to R. Yosé, “And did not the son of the brother of R. Hiyya the Elder [that is, Rab], differ from [Hiyya bar Ba, in this ruling]?”
- [G] *He said to him, “There is an explicit statement of a disagreement in the matter.”*
- [H] R. Yohanan said, “The week afterward is subject to the same prohibitions.”
- [I] R. Simeon b. Laqish said, “The week afterward is released from these prohibitions.”
- [J] *How does R. Simeon b. Laqish deal with [the fact that Rab concurs with Yohanan’s view]?*
- [K] He applies that view to the case of the ninth of Ab which coincides with the Sabbath, [and he does not accept the view of R. Abba, above, E,] and he derives no implications [as far as the case at B is concerned] from that fact.
- [L] *R. Isaac b. Eleazar, “When the ninth of Ab had ended, he made an announcement. and they opened the barber shops, and whoever wanted went and got a haircut.”*
- [M] It is written: “And I will put an end to all her mirth, her feasts, her new moons, her Sabbaths, and all her appointed feasts” (Hos. 2:11).
- [N] *The Southerners applied the prohibitions [of M. 4:6B] from the new moon of Ab onward.*
- [O] *The Sepphoreans applied them for the entire month of Ab.*
- [P] *The Tiberians applied them for the week [in which the ninth of Ab occurred].*
- [Q] *The rabbis of Tiberias reverted and applied them as did the rabbis of Sepphoris.*

- [II:2 A] R. Jeremiah in the name of R. Hiyya bar Ba: “According to strict law they should fast on the tenth of that month [of Ab], on which day the Temple was burned. And why is it that the fast is on the ninth? For it was on that day that the punishment [of Israel] got underway.”
- [B] *And so it has been taught:* On the seventh [69c] of Ab they entered it. On the eighth they battered it down, on the ninth they set fire to it, and on the tenth it burned down.
- [C] R. Joshua b. Levi fasted on the ninth and on the tenth.
- [D] R. Abun fasted on the ninth and on the tenth.
- [E] R. Levi fasted on the ninth and on the night prior to the tenth.
- [F] R. Ba bar Zabeda in the name of R. Haninah: “Rabbi sought to uproot the ninth of Ab but others did not permit him.”
- [G] *Said to him R. Eleazar, “I was with you and that is not what was said. Rather: Rabbi sought to uproot the ninth of Ab when it coincided with the Sabbath [and not celebrate it at all], but they did not permit him.’ He said, ‘Since it has been postponed, let it be postponed [this year. and not observed at all].’ They said to him, ‘Let it be postponed until the next day [and observed on Sunday].”*
- [H] *Now the opposite of this event happened elsewhere [when it was Ba who reminded Eleazar of the actual tradition, contrary to Eleazar’s picture of it], as follows.*
- [I] **We have learned there: [The man is commanded regarding procreation, but not the woman.] R. Yohanan ben Beroqah says, Concerning both of them [the husband and the wife] Scripture says. God blessed them and God said to them be fruitful and multiply Gen. 1:28] [M. Yeb. 6:6].**
- [J] R. Eleazar in the name of R. Haninah: “The law accords with the view of R. Yohanan b. Beroqah.”
- [K] Said to him R. Ba bar Zabeda. ‘I was with you. and that is not what was said. Rather: If she was seeking to be married [and the husband postponed it]. the law is on her side.’ And the following verse applies to them: Two are better than one” (Qoh. 4:9).
- [III:1 A] What is the meaning of [M. 4:6F: **Rabban Simeon b. Gamaliel says,] “He should make some change from ordinary procedures”?**

[B] *He should revise [the way he does things].*

[C] *If he was accustomed to eat a litra of meat. Let him eat a half.*

[D] *It he was accustomed to drink a xestes of wine let him drink half that volume.*

[E] Said R. Yohanan, “But that applies in particular to the [last] meal that he eats prior to the ninth of Ab.”

[F] Said R. Hoshaiiah, “And that applies in particular to any meal that he eats from the sixth hour [noon] onward [on the eve of the ninth of .Ab].”

[G] Said R. Yosé, “The intent of both is to apply the rule leniently.”

[H] As to the meal that one eats on the eve of the ninth of Ab, prior to the sixth hour. even if on one’s table should be served a meal like the meal of Solomon. he may eat it.

[I] ‘If one eats from the sixth hour onward on the eve of the ninth of Ab, even if on his table should be served a meal like one of Solomon in his day, it is permitted to eat it.’

[J] *It has been taught: **On the ninth of Ab that coincides with a Friday, and so too on the eve of the ninth of Ab that coincides with the Sabbath, even if on one’s table should be served a meal like one of Solomon in his day, it is permitted [to eat it] [T. Ta. 3:13].***

[K] *Rab: Once he ate all that he needed, he would dip his piece of bread in the dirt and say, “This is the principal meal prior to the ninth of Ab. ‘*

[L] He did so in order to carry out the following verse: “He has made my teeth grind on gravel and made me cower in ashes” Qoh. 4:9

[IV:1 A] [As to M. 4:6G-H:] R. Judah ruled quite properly.

[B] *What is the reason for the view of Rabbis?*

[C] They treat the ease as they do a person whose dead lies [as vet unburied] before him.

[D] He neither overturns his bed nor sleeps on a bed that has been overturned [at all].

4:7

- [A] Said Rabban Simeon ben Gamaliel, “There were no days better for Israelites than the fifteenth of Ab and the Day of Atonement.”
- [B] For on these days Jerusalemite girls go out in borrowed white dresses – so as not to shame those who owned none.
- [C] All the dresses had to be immersed.
- [D] And the Jerusalemite girls go out to dance in the vineyards.
- [E] What did they say?
- [F] ‘Fellow look around and see – choose what you want.
- [G] “Don’t look for beauty. look for family:
- [H] ““Charm is deceitful and beauty is vain, but a woman who fears the Lord will be praised”” (Prov. 31:30).
- [I] And it says, “Give her of the fruit of her hands and let her works praise her in the gates” (Prov. 31:31).
- [J] And so it says, “Go forth, you daughters of Zion, and behold King Solomon with the crown with which his mother crowned him in the day of his espousals and in the day of the gladness of his heart” (Song of Songs 3:11).
- [K] “The day of his espousals – this refers to the day on which the Torah was given.
- [L] “The day of the gladness of his heart” – this refers to the building of the Temple –
- [M] “may it be rebuilt quickly in our days.
- [I:1 A] *There is no difficulty* understanding the joy of the Day of Atonement, for it serves as atonement for Israel.
- [B] But why the fifteenth of Ab?
- [C] R. Jacob bar Aha in the name of R. Yosé: “For it is a good time for cutting wood [for the altar].
- [D] ‘For any wood cut that day does not produce maggots.’
- [E] *That is in line with what we have learned there: A piece of wood in which a worm is found is invalid for use on the altar* [M. Mid.:5].
- [F] R. Hiyya bar .Ashi in the name of Rab: “It was on that day that Hosea b. Elah removed the presidios that Jeroboam ben Nabat had set up on the roads [to Jerusalem].”

- [G] *Kahana asked Rab, ‘He did all this good, and yet it is written concerning him, ‘Against him came up Shalmaneser king of Assyria [and Hoshea became his vassal and paid him tribute]’” (2 Kings 17:3).*
- [H] He said to him. “It was because he took the chain from around his own neck and put it around the neck of the community. “
- [I] *He did not say, “Everybody go up [to Jerusalem for the festival].” But rather, “whoever wants to go up may go up.”*
- [J] R. Samuel bar R. Isaac, and some say it in the name of R. Samuel bar Nahman: “It was on that day that the tribes were permitted to intermarry.”
- [K] *That is in line with the following verse of Scripture: “The inheritance of the people of Israel shall not be transferred from one tribe to another; for every one of the people of Israel shall cleave to the inheritance of the tribe of his fathers” (Num. 36:7).*
- [L] .And it is written.”And every daughter who possesses an inheritance in any tribe of the people of Israel shall be wife to one of the family of the tribe of her father, so that every one of the people of Israel may possess the inheritance of his fathers” (Num. 36:8).
- [M] How is it possible for a daughter to inherit land in the territory of two different tribes?
- [N] Interpret the case to apply to a woman whose father came from one tribe and whose mother came from a different tribe.
- [O] *And rabbis say, “On [the fifteenth of Ab] the tribe of Benjamin was permitted to enter the community.”*
- [P] This is in line with that which is written: “[Yet we cannot give them wives of our daughters. For the people of Israel had sworn], Cursed be he who gives a wife to Benjamin” (Jud. 21:18).
- [Q] They read a verse of Scripture and drew Benjamin near; they read a verse of Scripture, and they put Benjamin away.
- [R] They read a verse of Scripture and drew Benjamin near: “[And now your two sons, who were born to you in the land of Egypt before I came to you in Egypt, are mine];

Ephraim and .Manasseh shall be mine. as Reuben and Simeon are” (Gen. 8:5).

[S] They read a verse of Scripture and put Benjamin away:
[And God said to him. I am God Almighty: be fruitful and multiply]; a nation and a company of nations shall come from you and kings shall spring from you” (Gen. 35:11).

[T] [You note that when that was written, Benjamin had not yet been born. [He knew that he had been excluded from the company of nations.]

[U] R. .Abun say, “It was on that day that the grave digging [for the generation of the wilderness] came to an end.”

[V] R. Levi said, “On the eve of each ninth of Ab [in the wilderness. Moses would put out an announcement through the entire camp, saying, Go out for the grave digging. Go out for the grave digging.’

[W] “They could go out and dig graves for themselves and go to sleep. In the morning they would get up and find themselves 15,000 fewer. But in the last year they did so and arose and found themselves whole, [for none had died].

[X] “They said, ‘*Is it possible that we have made an error in counting?*’

[Y] “So they did the same on the tenth, eleventh, twelfth, thirteenth. fourteenth, and fifteenth of Ab.

[Z] “*When the full moon came*, they said, ‘It would appear that the Holy One, blessed be he, has annulled that evil decree for us.’

[AA] “They arose and declared a holiday.”

[II:1 A] All the dresses have to be immersed, and the Jerusalemite girls go out and dance in the vineyards [M. 4:7C-D].

[Bl R. Yannai b. R. Ishmael said, “Even those that are placed in a chest [must be immersed].”

[C] If they are put away in a chest, how can you say this?

[D] If you have things done this way, she will [feel free to] lend them [to her friends.

- [III:1 A] And what did they say? “Fellow, look around and see – choose what you want! Don’t look for beauty. Look for family [M. 4:7E-G]:**
- [B] The daughter of the king would borrow from the daughter of the high priest.**
- [C] The daughter of the high priest would borrow from the daughter of the king.**
- [D] The ugly ones would say, “Don’t look for beauty.”**
- [E] And the pretty ones would say, “Look for family.”**
- [F] And so it says, “Go forth, you daughters of Zion and behold King Solomon with the crown with which his mother crowned him in the day of his espousals and in the day of the gladness of his heart Song.”**
- [G] This refers of the building of the Temple, may it be rebuilt quickly, in our days, Amen [M. Ta. 4:7J, L-M].**

CHAPTER FIVE

THE STRUCTURE OF YERUSHALMI TAANIT

Whether or not the Talmud of the Land of Israel is carefully organized in large-scale, recurrent structures and guided by a program that we may call systematic forms the principal question addressed by an academic commentary. The preceding chapters therefore have pointed toward the presentation set forth here. By “structure” I mean, a clearly-articulated pattern that governs the location of fully-spelled out statements. By “system,” I mean, a well-crafted and coherent set of ideas that explain the social order of the community addressed by the writers of a document, a social philosophy, a theory of the way of life, world view, and character of the social entity formed by a given social group. I see a collective, anonymous, and political document, such as the one before us, as a statement to, and about, the way in which people should organize their lives and govern their actions. At issue then in any document such as the remarkable one before us is simple: does this piece of writing present information or a program, facts to whom it may concern, or a philosophically and aesthetically cogent statement about how things should be? The connection between structure and system is plain to see. From the way in which people consistently frame their thoughts, we move to the world that, in saying things in one way rather than in some other, they wish to imagine. Modes of formulating thought adumbrate modes of imagining the world in which people wish to live, to which they address these thoughts.

If the document exhibits structure and sets forth a system, then it is accessible to questions of rationality. We may ask about the statement that its framers or compilers wished to make by putting the document together as they did. But if we discern no structure and perceive no systematic inquiry or governing points of analysis, then all we find here is inert and miscellaneous information, facts but no propositions, arguments, viewpoints. Now as a matter of fact the Talmud of the Land of Israel commonly finds itself represented as lacking organization and exhibiting a certain episodic and notional character. That view moreover characterizes the reading and representation of the document by learned and experienced scholars, who have devoted their entire lives to Talmud study and

exegesis. It must follow that upon the advocate of the contrary view – the one implicit in the representation of the document for academic analysis – rests the burden of proof. I set forth the allegation that the Talmud of the Land of Israel exhibits a structure and follows a system and therefore exhibits a commonly-intelligible rationality. The claim to write an academic commentary explicitly states that proposition. For the tractate before us, I have therefore to adduce evidence and argument.

I maintain that through the normal procedures of reasoned analysis we may discern in the tractate a well-crafted structure. I hold that the structure made manifest, we may further identify the purpose and perspective, the governing system of thought and argument, of those who collected and arranged the tractate's composites and put them together in the way in which we now have them. By "structure" I mean, how is a document organized? and by "system," what do the compilers of the document propose to accomplish in producing this complete, organized piece of writing? The answers to both questions derive from a simple outline of the tractate as a whole, underscoring the types of compositions and composites of which it is comprised. Such an outline tells us what is principal and what subordinate, and how each unit – composition formed into composites, composites formed into a complete statement – holds together and also fits with other units, fore and aft. The purpose of the outline then is to identify the character of each component of the whole, and to specify its purpose or statement. The former information permits us to describe the document's structure, the latter, its system.

While the idea of simply outlining a Talmud-tractate beginning to end may seem obvious, I have never made such an outline before, nor has anyone else. (I have provided complete outlines for the Mishnah and for the Tosefta in relationship to the Mishnah, and, not always in outline form, for the Midrash-compilations of late antiquity as well) Yet, as we shall now see, the character of the outline dictates all further analytical initiatives. Specifically, when we follow the layout of the whole, we readily see the principles of organization that govern. These same guidelines on organizing discourse point also to the character of what is organized: complete units of thought, with a beginning, middle, and end, often made up of smaller, equally complete units of thought. The former we know as composites, the latter as compositions.

Identifying and classifying the components of the tractate – the composites, the compositions of which they are made up – we see clearly how the document coheres: the plan and program worked out from beginning to end. When we define that plan and program, we identify the facts of a pattern that permit us to say in a specific and concrete way precisely what the compilers of the tractate intended to accomplish. The structure realizes the system, the program of analysis and thought that takes the form of the presentation we have before us. From what

people do, meaning, the way in which they formulate their ideas and organized them into cogent statements, we discern what they proposed to do, meaning, the intellectual goals that they set for themselves.

These goals – the received document they wished to examine, the questions that they brought to that document – realized in the layout and construction of their writing, dictate the points of uniformity and persistence that throughout come to the surface. How people lay out their ideas guides us into what they wished to find out and set forth in their writing, and that constitutes the system that defined the work they set out to accomplish. We move from how people speak to the system that the mode of discourse means to express, in the theory that modes of speech or writing convey modes of thought and inquiry.

We move from the act of thought and its written result backward to the theory of thinking, which is, by definition, an act of social consequence. We therefore turn to the matter of intention that provokes reflection and produces a system of inquiry. That statement does not mean to imply I begin with the premise of order, which sustains the thesis of a prior system that defines the order. To the contrary, the possibility of forming a coherent outline out of the data we have examined defines the first test of whether or not the document exhibits a structure and realizes a system. So everything depends upon the possibility of outlining the writing, from which all else flows. If we can see the order and demonstrate that the allegation of order rests on ample evidence, then we may proceed to describe the structure that gives expression to the order, and the system that the structure sustains.

The present work undertakes the exegesis of exegesis, for the Yerushalmi, like its counterpart in the one of Babylonia, is laid out as a commentary to the Mishnah. That obvious fact defined the character of my academic commentary, since we have already faced the reality that our tractate is something other than a commentary, though it surely encompasses one. The problems that captured my attention derived from the deeper question of how people make connections and draw conclusions. To ask about how people make connections means that we identify a problem – otherwise we should not have to ask – and what precipitated the problem here has been how a composition or a composite fits into its context, when the context is defined by the tasks of Mishnah-commentary, and the composition or composite clearly does not comment on the Mishnah-passage that is subjected to comment.

The experience of analyzing the document with the question of cogency and coherence in mind therefore yields a simple recognition. Viewed whole, the tractate contains no gibberish but only completed units of thought, sentences formed into intelligible thought and self-contained in that we require no further information to understand those sentences, beginning to end. The tractate organizes these statements as commentary to the Mishnah. But large tracts of the

writing do not comment on the Mishnah in the way in which other, still larger tracts do. Then how the former fit together with the latter frames the single most urgent question of structure and system that I can identify.

Since we have already examined enormous composites that find their cogency in an other than exegetical program, alongside composites that hold together by appeal to a common, prior, coherent statement – the Mishnah-sentences at hand – what justifies my insistence that an outline of the document, resting on the premise that we deal with a Mishnah-commentary, govern all further description? To begin with, the very possibility of outlining this tractate derives from the simple fact that the framers have given to their document the form of a commentary to the Mishnah. It is in the structure of the Mishnah-tractate that they locate everything together that they wished to compile. We know that is the fact because the Mishnah-tractate defines the order of topics and the sequence of problems.

Relationships to the Mishnah are readily discerned; a paragraph stands at the head of a unit of thought; even without the full citation of the paragraph, we should find our way back to the Mishnah because at the head of numerous compositions, laid out in sequence one to the next, clauses of the Mishnah-paragraph are cited in so many words or alluded to in an unmistakable way. So without printing the entire Mishnah-paragraph at the head, we should know that the received code formed the fundamental structure because so many compositions cite and gloss sentences of the Mishnah-paragraph and are set forth in sequence dictated by the order of sentences of said Mishnah-paragraph. Internal evidence alone suffices, then, to demonstrate that the structure of the tractate rests upon the Mishnah-tractate cited and discussed here. Not only so, but the sentences of the Mishnah-paragraphs of our tractate are discussed in no other place in the entire Talmud of the Land of Israel in the sequence and systematic exegetical framework in which they are set forth here; elsewhere we may find bits or pieces, but only here, the entirety of the tractate.

That statement requires one qualification, and that further leads us to the analytical task of our outline. While the entire Mishnah-tractate of treated here is cited in the Talmud of the Land of Israel, the framers of the Talmud of the Land of Israel by no means find themselves required to say something about every word, every sentence, every paragraph. On the contrary, they discuss only what they choose to discuss, and glide without comment by large stretches of the tractate. A process of selectivity, which requires description and analysis, has told the compilers of the Talmud of the Land of Israel's composites and the authors of its compositions (This statement requires refinement. I do not know that all available compositions have been reproduced, and that the work of authors of compositions of Mishnah-exegesis intended for a talmud is fully exposed in the document as we have it. That is not only something we cannot demonstrate – we do not have

compositions that were not used, only the ones that were – but something that we must regard as unlikely on the face of matters. All we may say is positive: the character of the compositions that address Mishnah-exegesis tells us about the concerns of the writers of those compositions, but we cannot claim to outline all of their concerns, on the one side, or to explain why they chose not to work on other Mishnah-sentences besides the ones treated here. But as to the program of the compositors, that is another matter: from the choices that they made (out of a corpus we cannot begin to imagine or invent for ourselves) we may describe with great accuracy the kinds of materials they wished to include and the shape and structure they set forth out of those materials. We know what they did, and that permits us to investigate why they did what they did. What we cannot know is what they did not do, or why they chose not to do what they did not do. People familiar with the character of speculation and criticism in Talmudic studies will understand why I have to spell out these rather commonplace observations. I lay out an argument based on evidence, not on the silences of evidence, or on the absence of evidence – that alone.) what demands attention, and what does not. Our outline has therefore to signal not only what passage of the Mishnah-tractate is discussed, but also what is not discussed, and we require a general theory to explain the principles of selection (“making connections, drawing conclusions” meaning, to begin with, making selections). For that purpose, in the outline, I reproduce the entirety of a Mishnah-paragraph that stands at the head of a Talmudic composite, and I underscore those sentences that are addressed, so highlighting also those that are not.

It follows that the same evidence that justifies identifying the Mishnah-tractate as the structure (therefore also the foundation of the system) of Yerushalmi-tractate before us also presents puzzles for considerable reflection. The exegesis of Mishnah-exegesis is only one of these. Another concerns the purpose of introducing into the document enormous compositions and composites that clearly hold together around a shared topic or proposition, e.g., my appendix on one theme or another, my elaborate footnote providing information that is not required but merely useful, and the like. My earlier characterization of composites as appendices and footnotes signalled the fact that the framers of the document chose a not-entirely satisfactory way of setting out the materials they wished to include here, for large components of the tractate do not contribute to Mishnah-exegesis in any way at all. If these intrusions of other-than-exegetical compositions were proportionately modest, or of topical composites negligible in size, we might dismiss them as appendages, not structural components that bear much of the weight of the edifice as a whole. Indeed, the language that I chose for identifying and defining these composites – footnotes, appendices, and the like – bore the implication that what is not Mishnah-commentary also is extrinsic to the Talmud of the Land of Israel’s structure and system.

But that language served only for the occasion. In fact, the outline before us will show that the compositions are large and ambitious, the composites formidable and defining. Any description of the tractate's structure that dismisses as mere accretions or intrusions so large a proportion of the whole misleads. Any notion that "footnotes" and "appendices" impede exposition and disrupt thought, contribute extraneous information or form tacked-on appendages – any such notion begs the question: then why fill up so much space with such purposeless information? The right way is to ask whether the document's topical composites play a role in the re-presentation of the Mishnah-tractate by the compilers of the Talmud of the Land of Israel. We have therefore to test two hypotheses:

1. the topical composites ("appendices," "footnotes") do belong and serve the compilers' purpose

or

2. the topical composites do not participate in the re-presentation of the Mishnah-tractate by Yerushalmi and do not belong because they add nothing and change nothing.

The two hypotheses may be tested against the evidence framed in response to a single question: is this topical composite necessary? The answer to that question lies in our asking, what happens to the reading of the Mishnah-tractate in light of the topical composites that would not happen were we to read the same tractate without them? The outline that follows systematically raises that question, with results specified in due course. It suffices here to state the simple result of our reading of the tractate, start to finish: the question of structure, therefore also that of system, rests upon the position we identify for that massive component of the tractate that comprises not Mishnah-commentary but free-standing compositions and composites of compositions formed for a purpose other than Mishnah-commentary.

The principal rubrics are given in small caps. The outline takes as its principal rubrics two large-scale organizing principles.

The first is the divisions of the Mishnah-tractate to which the Talmud of the Land of Israel-tractate serves as a commentary. That simple fact validates the claim that the tractate exhibits a fully-articulated structure. But the outline must also underscore that the Mishnah-tractate provides both more and less than the paramount outline of the Talmud of the Land of Israel-tractate. It is more because sentences in the Mishnah-tractate are not analyzed at all. These untreated Mishnah-sentences are given in bold face lower case caps, like the rest of the Mishnah, but then are specified by underlining and enclosure in square brackets.

Second, it is less because the structure of the tractate accommodates large composites that address topics not defined by the Mishnah-tractate. That brings us

to the second of the two large-scale modes of holding together both sustained analytical exercises and also large sets of compositions formed into cogent composites. These are treated also as major units and are indicated by Roman numerals, alongside the Mishnah-paragraphs themselves; they are also signified in small caps. But the principal rubrics that do not focus on Mishnah-commentary but on free-standing topics or propositions or problems are not given in boldface type. Consequently, for the purposes of a coherent outline we have to identify as autonomous entries in our outline those important composites that treat themes or topics not contributed by the Mishnah-tractate.

I. YERUSHALMI TAANIT 1:1

[A] WHEN DO THEY INCLUDE THE MENTION OF “THE POWERS OF RAIN” [IN THE PRAYER]? R. ELIEZER SAYS, “ON THE FIRST DAY OF THE FESTIVAL [OF TABERNACLES].” R. JOSHUA SAYS, “ON THE LAST DAY OF THE FESTIVAL.”

1. **I:1:** The reason [for the position] of R. Eliezer is that, since the few species [of the Festival of Tabernacles] grow beside water, they are brought as harbingers of water. Another consideration: When the slave serves his master to the fullest [that is, at the Festival] that is when he seeks his reward from him. Said to him R. Joshua, “And is it not when the slave has served his master to the fullest, and the master is pleased with him, that the slave seeks his reward from him, [and that comes at the end, not the beginning, of the Festival]?” “Another consideration: A slave asks for his reward only near the time of his reward [i.e., when it becomes due].
2. **I:2:** [The prayer for rain is included in the paragraph of the Prayer dealing with the resurrection of the dead, because] just as the resurrection of the dead means life for the world, so the coming of rain means life for the world. R. Hiyya bar Ba derived the lesson from the following: “After two days he will revive us; on the third day he will raise us up, that we may live before him. Let us know, let us press on to know the Lord; his going forth is sure as the dawn” (Hos. 6:2-3). [The end of Hos. 6:3 links resurrection to rain: “He will come to us as the showers, as the spring rains that water the earth.”] It is written, “Now Elijah the Tishbite, of Tishbi in Gilead, said to Ahab, ‘As the Lord the God of Israel lives, before whom I stand, there shall be neither dew nor rain these years, except by my word’” (1 Kings 17:1). R. Berekhiah said, “R. Yosé and rabbis: One said that he was listened to both as to dew and as to rain. The other said, ‘As to rain, he was listened to, but as to dew, he was not listened to.’” He who said, “As to

rain he was listened to, and as to dew, he was not listened to,” derives support from the following verse: “[After many days the word of the Lord came to Elijah, in the third year, saying], ‘Go, show yourself to Ahab; and I will send rain upon the earth’” (1 Kings 18:1). As to the view of him who said, “Both as to rain and as to dew, he was listened to,” then where was his vow against dew released?

3. **I:3:** Zeirah in the name of R. Haninah: “[If] someone arose [to repeat the prayer for the community] on the occasion of saying the Prayer for rain and instead said the prayer for dew, they do not make him go back. If [he arose for the same purpose and was to say the prayer for] dew, but instead he said the prayer for rain, they do make him go back.” But lo, it has been taught: In the case of dew and of bringing the winds, the sages have not imposed the obligation to make mention of these. If one wanted to make mention of them, he may do so. [Why then do we make the man go back if he prayed for rain instead of dew?] [If one mentioned the prayer for rain at an inappropriate time, it is a sign of a curse. If one mentioned neither dew nor rain, there is no curse, so no reason to make him go back. Accordingly,] a case in which one has brought a curse is not parallel to a case in which one has not said a prayer but also has not brought a curse. In the case of the prayer for rain, if he mentioned the matter of dew instead, they do not make him go back.
4. **I:4:** It has been taught: If one prayed and does not know what he mentioned [that is, he prayed in the dry or rainy season and does not know whether he mentioned or omitted rain, as the required rule may be] – Said R. Yohanán, “In the first thirty days [after the change in the season, from dry to rainy or back], we assume that he has mentioned what he is in the habit of mentioning. “From that point onward, we assume that he has mentioned what he is supposed to mention. [In the first thirty days of the new season, we assume he has mentioned the prayer applying to the former season. From that time forth, we assume he has mentioned what belongs in the present season.]”
5. **I:5:** [With regard to M. 1:2:] R. Ba in the name of R. Huna: “As to the two festival days observed in the exile, [in which we are not sure whether it is the Eighth Day of Solemn assembly, on which it is necessary to mention rain, or the seventh day of Tabernacles on which it is not, and so for Passover, in reverse],

[B] “[IN THE CASE OF PASSOVER] IN THE MORNING PRAYER ONE MENTIONS RAIN, BUT HE DOES NOT MENTION RAIN IN THE ADDITIONAL SERVICE OR IN THE TWILIGHT

SERVICE; THE MORNING SERVICE [ON THE NEXT DAY], THE AFTERNOON SERVICE, OR THE ADDITIONAL SERVICE.”

6. **I:6:** Said R. Hananiah, son of the brother of R. Joshua, “In the Exile they are not accustomed to do things in this way [as indicated at M. 1:3]. Rather, on the sixtieth day after the Tishré cycle [the autumnal equinox, hence, sixty days after September 21] they begin to pray for rain.”

[C] SAID TO HIM **R. JOSHUA**, “SINCE RAIN IS ONLY A SIGN OF A CURSE WHEN IT COMES ON THE FESTIVAL ITSELF, WHY SHOULD ONE MENTION IT?” SAID TO HIM **R. ELIEZER**, “I TOO HAVE SAID SO NOT FOR THE PURPOSE OF ASKING [FOR RAIN], BUT ONLY OF MENTIONING ‘RESTORING THE WIND AND BRINGING DOWN THE RAIN,’ [THAT IS,] IN ITS DUE SEASON.” HE SAID TO HIM, “IF SO, ONE SHOULD ALWAYS MAKE MENTION OF IT.”

1. **II:1:** Said R. Joshua, “Since rain is not a sign of a blessing when it comes on the Festival itself, why should one mention it?” Said to him R. Eliezer, “I too have said so only [for mentioning] restoring the wind and bringing down the rain,” [that is,] in its due season [M. 1:1D-E]. “When rain comes in its due season, it is as beloved as the resurrection of the dead.” Said R. Yosé, “I am astonished that rabbis can compare the coming of rain to the resurrection of the dead. For they are in no way comparable. A man prays for the resurrection of the dead at all times, but he does not pray for the coming of rain at all times.” He said to him, “If so, one should always make mention of it” [M. 1:1F].
2. **II:2:** On account of five matters were the Israelites redeemed from Egypt: Because the end had come, because of oppression, because of their outcry, because of the merit of the fathers, and because of repentance.
3. **II:3:** A certain man would sin with his tongue [as a rumor monger]. He came before R. Yohanan, who sent him to R. Haninah. He said to him, “Go, repent, and study the learning of Torah, for it is written, ‘A gentle tongue is a tree of life [but perverseness in it breaks the spirit]’” (Prov. 15:4).
4. **II:4:** Said R. Haninah son of R. Abbahu, “In the book of R. Meir they found that it was written, ‘The oracle concerning Dumah, [that is,] the oracle concerning Rome. One is calling to me from Seir [Watchman, what of the night? Watchman, what of the night?]’” (Is. 21:11). Said R. Yohanan, “One is calling to me because of Seir.” Said R. Simeon b. Laqish, “‘To me.’ From whence will there be a match for me? ‘From Seir.’” Said R. Joshua b. Levi, “If someone should say to you, ‘Where

is your God,' say to him, 'He is in a great city in Edom [V.: in Rome].'
What is the scriptural basis for this view? 'One is calling to me from Seir'" (Is. 21:11).

- 5. II:5:** It has been taught by R. Simeon b. Yohai, "To every place to which the Israelites went into exile, the presence of God went with them into exile. "They were sent into exile to Egypt, and the presence of God went into exile with them. What is the scriptural basis for this claim? '[And there came a man of God to Eli, and said to him, Thus the Lord has said], I revealed myself to the house of your father when they were in Egypt subject to the house of Pharaoh' (I Sam. 2:27). "They were sent into exile to Babylonia, and the presence of God went into exile with them. What is the scriptural basis for this claim? '[Thus says the Lord, your Redeemer, the Holy One of Israel]: For your sake I will send to Babylon [and break down all the bars, and the shouting of the Chaldeans will be turned to lamentations]' (Is. 43:14). "They were sent into exile into Media, and the presence of God went into exile with them. What is the scriptural basis for this claim? 'And I will set my throne in Elam [and destroy their king and princes, says the Lord]' (Jer. 49:38). And Elam means only Media, as it is said, '[And I saw in the vision; and when I saw], I was in Susa the capital, which is in the province of Elam; [and I saw in the vision, and I was at the river Ulai]' (Dan. 8:2). "They went into exile to Greece, and the presence of God went into exile with them. What is the scriptural basis for this claim? '[For I have bent Judah as my bow; I have made Ephraim its arrow]. I will brandish your sons, O Zion, over your sons, O Greece, [and wield you like a warrior's sword]' (Zech. 9:13). "They went into exile to Rome, and the presence of God went into exile with them. What is the scriptural basis for this claim? '[The oracle concerning Dumah]. One is calling to me from Seir, "Watchman, what of the night? Watchman, what of the night?" (Is. 21:11).'"

II. YERUSHALMI TAANIT 1:2

- [A] THEY ASK FOR RAIN ONLY NEAR [THE TIME OF RAIN. R. JUDAH SAYS, "HE WHO GOES BEFORE THE ARK ON THE LAST DAY OF THE FESTIVAL [OF TABERNACLES] – "THE LATTER PERSON [AT THE ADDITIONAL SERVICE] MAKES MENTION [OF RAIN]" THE FORMER ONE [AT THE MORNING SERVICE] DOES NOT MAKE MENTION [OF RAIN]. "ON THE FIRST DAY OF PASSOVER, THE FORMER PERSON MAKES MENTION OF RAIN, THE LATTER PERSON DOES NOT MAKE MENTION OF RAIN." UP TO WHAT TIME DO THEY ASK FOR RAIN? R. JUDAH SAYS, "UNTIL PASSOVER IS PASSED." R. MEIR SAYS, "UNTIL THE END

OF NISAN, “SINCE IT SAYS, ‘AND HE CAUSES TO COME DOWN FOR YOU THE RAIN, THE FORMER RAIN AND THE LATTER RAIN IN THE FIRST [MONTH]’” (JOEL 2:23).

1. **I:1:** Said R. Yohanan, “The law is in accord with the opinion of R. Judah, which he expressed in the name of R. Judah b. Batera.” [M. 1:2B- D is attributed to Judah b. Batera.] R. Abun in the name of R. Yohanan: “The reason for the position of R. Judah [at M. 1:2C- D] is so that the festival season may go forth with a prayer for dew, for dew is a good omen for the world.” The opinions assigned to R. Judah are at variance with one another. There he has said, “He who does before the ark [to lead the congregation in prayer] on the last of the Festival – the latter person [at the Additional Service] makes mention of rain, the former one [at the Morning Service] does not make mention of rain [M. 1:2B-C]. “And here he has said this [that until Passover has passed, they continue to ask for rain]!”
2. **I:2:** It has been taught: Said R. Judah, “Since in this world, grain comes to ripen in six months, and trees produce fruit in twelve months, therefore in the world to come, grain will ripen in one month, and a fruit tree will produce fruit in two months.” What is the scriptural basis for this view? “They [the trees] will bear fresh fruit by the months” (Ezek. 47:12). [R. Judah understands the plural “months” to mean at least two.] R. Yosé, says, “Since in this world grain comes to ripen in six months, and the fruit trees produce fruit in twelve months, therefore in the world to come, grain will come to ripen in fifteen days, and a fruit tree will produce fruit in one month. “For so we find that the grain in the times of Joel came to ripen in fifteen days, and the first sheaf [omer] was offered from it.”

III. YERUSHALMI TAANT 1:3

[A] ON THE THIRD OF MARHESHVAN THEY PRAY FOR RAIN. RABBAN GAMALIEL SAYS, “ON THE SEVENTH DAY OF THAT MONTH, THE FIFTEENTH DAY AFTER THE FESTIVAL, SO THAT THE LAST ISRAELITE [RETURNING HOME] MAY REACH THE EUPHRATES RIVER.”

1. **I:1:** The Mishnah passage before us is framed in terms of the view of R. Meir. For it has been taught: What is the former rainfall [cf. M. 1:2H]? R. Meir says, “The first of it falls on the third [of Marheshvan] [= M. 1:3A], the intermediate on the seventh, and the last on the seventeenth.” R. Judah says, “The first of it falls on the seventh, the intermediate on the seventeenth, and the last on the twenty- third.” R.

Yosé says, “The first of it falls on the seventeenth, the intermediate on the twenty-third, and the last on the thirtieth [= the new moon of Kislev].” And so did R. Yosé say, “Individuals do not begin to fast before the new moon [of Kislev]” [cf. M. 1:4A] [T. Ta. 1:3].

2. **I:2:** How much rain must descend for a person to be liable to say a blessing? R. Hiyya in the name of R. Yohanan: “At the outset, enough to fructify the earth. At the end, enough to wash off the surface of roof tiles.” R. Yannai b. R. Ishmael in the name of R. Simeon b. Laqish: “At the outset, enough to fructify the earth, and at the end, enough to dissolve the sealing clay [used to stop a cask].” R. Yosé in the name of R. Judah, R. Jonah, R. Judah in the name of Samuel: “In the beginning, enough to fructify the earth. At the end, even any small amount at all [suffices].”
3. **I:3:** R. Judah bar Ezekiel said, “This is how my father, Ezekiel, would say a blessing when it rained: ‘May your name, O our king, be magnified, sanctified, blessed, and exalted, for each and every drop of rain that you bring down for us. For you keep them apart from one another, as it is said, ‘For he draweth away the drops of water, which distil rain from his mist [which the skies pour down, and drop upon the multitude]’ (Job 36:27, 28). [The word for ‘drawing away’ is used in the sense of ‘keeping apart’] as indicated in the following verse: ‘And an abatement shall be made from thy valuation’” (Lev. 27:18).
4. **I:4:** How much rain must fall to contain the first rainfall? “Enough to fill a utensil three handbreadths in height,” the words of R. Meir. R. Judah says, “The first is a handbreadth, the second, two handbreadths, and the final one, three handbreadths.” Said R. Simeon b. Eleazar, “You do not get a handbreadth of rain which falls from above of which the earth does not discharge two handbreadths on its account, “and so it says, ‘Deep calls unto deep at the thunder of thy cataracts’” (Ps. 42:7) [T. Ta. 1:4G-K].
5. **I:5:** Said R. Levi, “The upper water is male, and the lower water is female. “What is the scriptural basis for this view? ‘Let the sky pour down salvation, let the earth open’ (Is. 45:8). “Let the earth open like a woman who opens before the male. “‘Let the sky pour down salvation’ (Is. 45:8)— this refers to procreation. “‘And let it cause righteousness to spring up also’ (Is. 45:8)— this refers to rain. “‘I the Lord have created it’ (Is. 45:8)— for this purpose did I create it, for the good order and settlement of the world.” R. Aha, and there is he who repeats the tradition in the name of R. Simeon b. Gamaliel, “And why is it

called rebiah [procreative rain]? Because it fructifies the earth” [T. Ta. 1:4L].

6. **I:6:** It has been taught: “If the year was lacking [not intercalated], they assign it that which it lacks, and if not, they follow the proper order [of the months],” the words of Rabbi [Y.: Rabban Simeon b. Gamaliel]. Rabban Simeon b. Gamaliel [Y.: Rabbi] says, “Under all circumstances they follow the proper order [of the months]. “If the year was intercalated, they assign it its intercalated month” [T. Ta. 1:2C- E].

IV. YERUSHALMI TAANIT 1:4

[A] [IF] THE SEVENTEENTH DAY OF MARHESHVAN CAME AND RAIN DID NOT FALL, INDIVIDUALS BEGAN TO FAST A SEQUENCE OF THREE FASTS [MONDAY, THURSDAY, MONDAY]. THEY EAT AND DRINK ONCE IT GETS DARK. AND THEY ARE PERMITTED TO WORK, BATHE, ANOINT, PUT ON SANDALS, AND HAVE SEXUAL RELATIONS.

1. **I:1:** What is the definition of the individual [of M. 1:4A]? These are the ones who have been appointed community officials. [Is it the claim, then, that] merely because one has been appointed a community official, he will pray and have his prayer answered? [No.] But since one has been appointed a community official has been found trustworthy, he is worthy of praying and having hi prayers answered.
2. **I:2:** A certain man came before one of the relatives of R. Yannai. He said to him, “Rabbi, attain merit through me [by giving me charity].” He said to him, “And didn’t your father leave you money?” He said to him, “No.” He said to him, “Go and collect what your father left in deposit with others.” He said to him, “I have heard concerning property my father deposited with others that it was gained unlawfully [so I don’t want it].” He said to him, “You are worthy of praying and having your prayers answered.” A certain ass-driver appeared before the rabbis [in a dream] and prayed, and rain came. The rabbis sent and brought him and said to him, “What is your trade?” He said to them, “I am an ass-driver.” They said to him, “What good deed have you done?” He said to them, “One time I rented my ass to a certain woman, and she was weeping on the way, and I said to her, ‘What troubles you?’ She said to me, ‘The husband of that woman [me] is in prison [for debt], and I wanted to see what I can do to free him.’ So I sold my ass and I gave her the proceeds, and I said to her, ‘Here is your money, free your husband, but do not sin [by becoming a prostitute to raise the

necessary funds].” They said to him, “You are worthy of praying and having your prayers answered.”

3. **I:3:** In a dream that appeared to R. Abbahu Mr. Pentakaka [“Five sins”] prayed that rain would come, and it rained. R. Abbahu summoned him. He said to him, “What is your trade?” He said to him, “Five sins does that man [I] do every day, hiring whores, cleaning up the theater, bringing home their garments for washing, dancing, and banging cymbals before them.” He said to him, “And what good deed have you done?” He said to him, “One day that man [I] was cleaning the theater, and a woman came and stood behind a pillar and cried. I said to her, ‘What troubles you?’ And she said to me, ‘That woman’s [my] husband is in prison, and I wanted to see what I can do to free him,’ so I sold my bed and cover, and I gave the proceeds to her. I said to her, ‘Here is your money, free your husband, but do not sin.’” He said to him, “You are worthy of praying and having your prayers answered.”
4. **I:4:** It has been taught [in the Tosefta’s version]: In all instances in which they have said, (They eat and drink after it gets dark) and they are permitted to work, bathe, anoint, put on a sandal, and have sexual relations [M. 1:4B-C], “they continue to eat and drink until the east is lit up,” the words of Rabbi. Rabban Simeon ben Eleazar [Y.: Rabban Simeon ben Gamaliel] says, “Until the cock crows.” What is the meaning of, “Until the cock crows”? [If] one fell asleep and then got up, he is prohibited forthwith [upon rising] [T. Ta. 1:6A-C].

V. YERUSHALMI TAANIT 1:5

[A] [ONCE] THE NEW MOON OF KISLEV HAS COME AND RAIN HAS NOT FALLEN, THE COURT DECREES A SEQUENCE OF THREE FASTS FOR THE COMMUNITY. THEY EAT AND DRINK ONCE IT GETS DARK. AND THEY ARE PERMITTED TO WORK, BATHE, ANOINT, PUT ON SANDALS, AND HAVE SEXUAL RELATIONS.

1. **I:1:** Said R. Yohanan, “In the case of any fast that a court decrees, which is of the kind of fast that may be interrupted [e.g., should it rain, people may then eat and drink on such a day,] pregnant and nursing mothers do not fast at all.” Said R. Samuel bar R. Isaac, “It would appear that that is the case when the court had already made a decree not to suspend the fast. [In that case, the pregnant and nursing mothers need not fast.] But if the court made a decree to suspend the fast forthwith, on such an occasion pregnant and nursing mothers do fast.”

VI. YERUSHALMI TAANIT 1:6

[A] ONCE THESE [FASTS] HAVE GONE BY AND THEY HAVE NOT BEEN ANSWERED, THE COURT DECREES A SEQUENCE OF THREE MORE FASTS FOR THE COMMUNITY. THEY EAT AND DRINK [ONLY] WHILE IT IS STILL DAY [ON THE DAY PRIOR TO THE FAST]. AND THEY ARE FORBIDDEN [ON THE FAST] TO WORK:

1. **I:1:** R. Zeirah in the name of R. Jeremiah: “He who performs an act of labor on a community fast is as if he did an act of labor on the Day of Atonement. What is the scriptural basis for this view? ‘Sanctify a fast, call a solemn assembly. [Gather the elders and all the inhabitants of the land to the house of the Lord your God; and cry to the Lord]’” (Joel 1:14).
2. **I:2:** Women who are accustomed not to work on the night following the Sabbath – that is no custom. [But as to the custom not to work until] the end of the order of prayer [at the end of the Sabbath] – that is a valid custom. [As to the custom of not working] on Monday and Thursday of any week – that is not a valid custom. [As to not working until] the end of a fast – that is a valid custom. [As to not working] on Friday (the eve of the Sabbath), that is not a valid custom. [As to not working on Friday from] the afternoon prayer on ward, that is a valid custom. [As to not working] on the New Moon, that is a valid custom.

[B] BATHE:

1. **II:1:** They are forbidden] to bathe [M. 1:6C]: Zeirah bar Hama, Yosé b. R. Joshua b. Levi in the name of R. Joshua b. Levi: “On the occasion of a public fast, one may wash his hands, his face, and feet in the usual way. On the ninth of Ab, one washes his hands and then wipes them across his face. On the Day of Atonement, one washes his hands, then dries them on a towel, and wipes the towel across his face.”

[C] PUT ON SANDALS:

1. **III:1:** It has been taught as a Tannaite rule: [As to putting on a sandal:] A mourner and one who had been excommunicated who were going from one town to another on the road are permitted to put on a sandal. When they come to a town, they must take them off. The same rule applies to the ninth of Ab and to a public fast.

[D] ANOINT

1. **IV:1:** As to anointing, that is in line with the following, which has been taught: On the Sabbath, anointing which is for the sake of pleasure and anointing which is not for the sake of pleasure are permitted. On the Day of Atonement, anointing which is for the sake of pleasure and anointing which is not for the sake of pleasure are forbidden. On the ninth of Ab and on the occasion of a public fast, anointing which is for the sake of pleasure is prohibited, but that which is not for the sake of pleasure is permitted.
2. **IV:2:** As to putting on a sandal, it has been taught: In all those cases where they have said that they are forbidden to put on sandals, when a person goes out onto the road, he puts on his sandal. When he reaches a city, he takes them off. The same rule applies to a mourner or to a person who has been excommunicated. There is a Tannaite authority who teaches, “They may go out in felt shoes on the Day of Atonement.” There is a Tannaite authority who teaches, “They may not go out [in felt shoes on the Day of Atonement].” Said R. Hisda, “He who says that one may go out in felt shoes speaks of those made of cloth, and he who says that one may not go out in felt shoes speaks of those made out of leather.”

[E] AND HAVE SEXUAL RELATIONS. AND THEY LOCK THE BATHHOUSES.

1. **V:1:** Sexual relations: Now look here! If someone is forbidden to bathe, is it not an argument a fortiori that it is forbidden to have sexual relations? [Why does the framer of the Mishnah find it necessary to specify this item?] Interpret the matter to speak of a place where they do not immerse [after having a seminal emission, in which case even though one may not bathe, sexual relations will still be lawful]. Or apply the rule to the period before Ezra ordained that those who have a seminal emission have to immerse [with the same result as at B].
2. **V:2:** Judah bar Pazzi, R. Hanin in the name of R. Samuel bar R. Isaac: “When Noah entered the ark, he was forbidden to have sexual relations.” What is the scriptural basis for that statement? “You shall come into the ark, you, your sons, your wife, and your sons’ wives with you” (Gen. 6:18). [The men and women were kept apart.] And when he went out of the ark, sexual relations were once more permitted. What is the scriptural proof? “Go forth from the ark, you and your wife, and your sons and your sons’ wives with you” (Gen. 8:16). Said R. Hiyya bar Ba, “They went out of the ark by their families (Gen. 8:19). Because they had preserved their family lineage, they had the merit of being saved from the ark.”

VII. YERUSHALMI TAANIT 1:7

[A] IF THESE [FURTHER FASTS] HAVE PASSED AND THEY HAVE NOT BEEN ANSWERED, THE COURT DECREES A SEQUENCE OF SEVEN MORE FASTS FOR THEM, WHICH THEN ADD UP TO THIRTEEN FASTS FOR THE COMMUNITY. LO, THESE [FURTHER FASTS] ARE STILL MORE STRINGENT THAN THE FIRST ONES, FOR ON THESE THEY SOUND THE SHOFAR, AND THEY LOCK UP THE STORES.

1. I:1: R. Yudan son of R. Hama of Kepar Tahamin: “[The thirteen fasts, each involving three days] are equivalent to the forty days that Moses spent on the Mountain. The reason they did not decree more fasts than these,”] said R. Yosé, “is so that they do not place too great a burden on the community.”

[B] ON MONDAYS THEY PARTIALLY OPEN [THE STORES] AFTER DARK.

1. II:1: One opens one [door], closes [another], [in a shop with two entries].

[C] AND ON THURSDAY THEY ARE PERMITTED [TO OPEN THEM ALL DAY LONG] BECAUSE OF THE HONOR OWING TO THE SABBATH.

1. III:1: What is the meaning? Is it that one opens one door and closes the other?

VIII. YERUSHALMI TAANIT 1:8

[A] [IF] THESE TWO HAVE PASSED AND THEY HAVE NOT BEEN ANSWERED, THEY CUT DOWN ON COMMERCE, BUILDING, PLANTING, THE MAKING OF BETROTHALS AND MARRIAGES, AND ON GREETING ONE ANOTHER, LIKE PEOPLE SUBJECT TO DIVINE DISPLEASURE. INDIVIDUALS GO BACK AND FAST UNTIL THE END OF NISAN.

1. I:1: [As regards cutting down on building,] said R. Joshua b. Levi, “That which you have said applies to building for purposes of pleasure [e.g., a house for one’s son, who is getting married], but if one’s wall was infirm, one may tear it down and rebuild it.”
2. I:2: R. Ba bar Kohen said before R. Yosé, R. Aha in the name of R. Jacob bar Idi: “It is forbidden to betroth a woman on Friday.” That which you have said indicates that one should not make the banquet in

celebration of the betrothal. But lo, as to the actual betrothal, it is permitted.

- 3.** **I:3:** Since M. 1:8A says they cut down on greeting one another, in fact there should be no greeting at all.] For has it not been taught as follows: There is to be no greeting of one's close associates on the ninth of Ab. And as to ordinary folk, one [answers their greeting] in a low voice [T. Ta. 3:12].

[B] **[ONCE] NISAN HAS ENDED, IF IT THEN RAINS, IT IS A SIGN OF A CURSE, SINCE IT SAYS, "IS IT NOT WHEAT HARVEST TODAY? [I WILL CALL UNTO THE LORD, THAT HE SEND THUNDER AND RAIN, AND YOU SHALL KNOW AND SEE THAT GREAT IS YOUR WICKEDNESS WHICH YOU HAVE DONE IN THE SIGHT OF GOD TO ASK A KING FOR YOURSELF]" (1 SAM. 12:17).**

- 1.** **II:1:** Once Nisan has ended, if it then rains, it is a sign of a curse [M. 1:8D]. Said R. Yosé b. R. Bun, "That refers specifically to the season of Nisan [thirty days after the vernal equinox, hence, April 21].

IX. YERUSHALMI TAANIT 2:1

[A] **THE MANNER OF FASTING: HOW [WAS IT DONE]? THEY BRING FORTH THE ARK INTO THE STREET OF THE TOWN:**

- 1.** **I:1:** Said R. Hiyya bar Ba "And why do they go out into the street of the town? "It is as if to say: 'Consider us as if we are exiles before you.'" Said R. Joshua b. Levi, "It is because they prayed in private and were not answered. Therefore they go out and make the matter public." Said R. Hiyya bar Ba, "And why do they bring the ark out into the street? "It is as if to say: 'This one precious object that we had— our sins have caused it to be disgraced.'"

[B] **AND PUT WOOD ASHES ON THE ARK:**

- 1.** **II:1:** And they put wood ashes on the ark [M. 2:1B]: It is in line with this verse: "[When he calls to Me, I will answer him]; I will be with him in trouble, [I will rescue him and honor him]" (Ps.91:15).
- 2.** **II:2:** R. Yudan b. R. Manasseh and R. Samuel bar Nahman: One said, "[They put on ashes] in order to call to mind the merit of Abraham." The other said, "[They do so] in order to call to mind the merit of Isaac [at the binding of Isaac]."

3. **II:3:** When R. Judah bar Pazzi would go forth to a fast, he would say before them, “O our brethren! To whomever the beadle [of the synagogue] has not come, let him take dust and put it on his head.”

[C] ON THE HEAD OF THE PATRIARCH, AND ON THE HEAD OF THE HEAD OF THE COURT. AND EACH PERSON PUTS RASHES] ON HIS HEAD. THE ELDEST AMONG THEM MAKES A SPEECH OF ADMONITION: “OUR BROTHERS, CONCERNING THE PEOPLE OF NINEVEH IT IS NOT SAID, ‘AND GOD SAW THEIR SACKCLOTH AND THEIR FASTING,’ BUT, ‘AND GOD SAW THEIR DEEDS, FOR THEY REPENTED FROM THEIR EVIL WAY’ (JONAH 3:10). “AND IN PROPHETIC TRADITION IT IS SAID, ‘REND YOUR HEART AND NOT YOUR GARMENTS’” (JOEL 2:13).

1. **III:1:** And on the head of the patriarch [M. 2:1B]: Said R. Tahalipa of Caesarea, “It is so as to make the matter known. One who degrades himself is not the same as one who is de graded by others.”
2. **III:2:** It is written, “Let the bridegroom leave his room, and the bride her chamber” (Joel 2:16). “The bridegroom leave his room”— this refers to the ark. “And the bride her chamber”— this refers to the Torah. Another interpretation: “The bridegroom leave his room”— this refers to the patriarch. “And the bride her chamber”— this refers to the head of the court.
3. **III:3:** One verse of Scripture says [with regard to the bullock of the congregation], “[And the priest shall dip his finger in the blood and sprinkle it seven times before the Lord] in front of the veil” (Lev. 4:17). And another verse of Scripture [with regard to the bullock of the anointed priest] says, “[And the priest shall dip his finger in the blood and sprinkle part of the blood seven times before the Lord] in front of the veil of the sanctuary” (Lev. 4:6). [Why then does the latter specify the sanctuary and the former not?] R. Aha said, “R. Abbahu and rabbis differed on this matter. One of them said, ‘If the patriarch [the anointed priest] sins, greatness remains in its place. If the community sins, greatness does not remain in its place.’ “And the other said, ‘Since both the one taught and the teacher have sinned, therefore let them go out and make the matter public.’ “This is in line with the following: ‘And he shall carry forth the bull outside the camp [it is the sin offering of the congregation (Lev. 4: 21)].”
4. **III:4:** There is the following story. R. Ba bar Zabeda and R. Tanhum bar Ilai and R. Josiah went out to a fast. R. Ba bar Zabeda preached as follows: “‘Let us lift up our hearts and hands to God in heaven’ (Lam. 3:41). “Now is it possible for a mortal to take his heart and put it into his hands? But what is the meaning of ‘let us lift up’? Let us exalt our

hearts, making them [as clean as] the palms of our hands. And then, turn to God in heaven.” Now if there was a dead creeping thing in someone’s hand, even if he immersed himself in Siloam [a fountain] or in all of the waters of creation, he will never, ever be clean. [But if] he tossed the dead creeping thing from his hand, then he gains the benefit of immersion in [only] forty seahs of water [T. Ta. 1:8H].

5. **III:5:** Said R. Eleazar, “Three acts nullify the harsh decree, and these are they: prayer, charity, and repentance.” And all three of them are to be derived from a single verse of Scripture: “If my people who are called by my name humble themselves, [pray and seek my face, and turn from their wicked ways, then I will hear from heaven and will forgive their sin and heal their land]” (2 Chron. 7:14). “Pray”— this refers to prayer. “And seek my face”— this refers to charity, as you say, “As for me, I shall behold thy face in righteousness; when I awake, I shall be satisfied with beholding thy form”] (Ps. 17:15). “And turn from their wicked ways”— this refers to repentance.
6. **III:6:** Said R. Eleazar, “Is such the fast that I choose, a day for a man to humble himself? [Is it to bow down his head like a rush, and to spread sackcloth and ashes under him? Will you call this a fast and a day acceptable to the Lord?]” (Is. 58:5). This is not the [kind of] fast that I desire.” What kind of fast do I desire? “Is not this the fast that I choose: to loose the bonds of wickedness, to undo the thongs of the yoke, to let the oppressed go free, and to break every yoke? Is it not to share your bread with the hungry and bring the homeless poor into your house; [when you see the naked, to cover him, and not to hide yourself from your own flesh (Is. 58:6- 7)]?” “What is written thereafter? “That when you call, the Lord will answer; when you cry, He will say: Here I am... (Is. 58:8).”
7. **III:7:** It is written, “Rend your hearts and not your garments. Return to the Lord, your God, for he is gracious and merciful, [slow to anger and abounding in steadfast love, and repents of evil]” (Joel 2:13). Said R. Joshua b. Levi, “If you tear your hearts in repentance, you will not tear your garments as a sign of mourning either for your sons or for your daughters.” But: “[Return] to the Lord your God.” Why? “For he is gracious and merciful, slow to anger [‘long in acts of patience’] and abounding in steadfast love, and repents of evil” (Joel 2:13).
8. **III:8:** It has been taught in the name of R. Meir: “For behold, the Lord is coming forth out of his place [to punish the inhabitants of the earth for their iniquity, and the earth will disclose the blood shed upon her and will no more cover her slain]” (Is. 26:21). “He goes forth from

one attribute to another. He leaves the attribute of justice for the attribute of having mercy for Israel.” It is written, “God is not man, that he should lie, [or a son of man, that he should repent. Has he said, and will he not do it? Or has he spoken and will he not fulfil it?]]” (Num. 23:19). Samuel bar Nahman and rabbis: R. Samuel bar Nahman said, “When the Holy One, blessed be He, plans to do good, ‘God is not man, that he should lie.’ ‘If he plans to do evil, in that case Scripture has said, ‘Has He said, and will he not do it? Or has He spoken, and will He not fulfil it?’” Rabbis say, “‘He is not man,’ that he should treat the words of God as if they were not.” “O Lord, why does thy wrath burn hot against thy people” (Ex. 32:11). “Or a son of man, that he should repent” (Num. 23:19).

X. YERUSHALMI TAANIT 2:2

[A] THEY ARISE FOR PRAYER. THEY BRING DOWN BEFORE THE ARK AN EXPERIENCED ELDER, WHO HAS CHILDREN, AND WHOSE CUPBOARD [HOUSE] IS EMPTY, SO THAT HIS HEART SHOULD BE WHOLLY IN THE PRAYER. AND HE SAYS BEFORE THEM TWENTY-FOUR BLESSINGS: THE EIGHTEEN SAID EVERY DAY, AND HE ADDS SIX MORE TO THEM. AND THESE ARE THEY: REMEMBRANCE VERSES, SHOFAR VERSES, “IN MY DISTRESS I CRIED TO THE LORD AND HE ANSWERED ME...” (PS. 120), AND, “I WILL LIFT UP MY EYES TO THE HILLS...” (PS. 121), AND, “OUT OF THE DEPTHS I HAVE CRIED TO YOU, O LORD...” (PS. 130), AND “A PRAYER OF THE AFFLICTED WHEN HE IS OVERWHELMED” (PS. 102).

- 1.** **I:1:** [As to the experienced elder,] it has been taught: [He should be] modest and kind to youth, experienced in wisdom, experienced in lore, and he must have a house and a field. We have learned, Whose house is empty, and you say this [that he has to own a house and also a field]? Now in fact he should have sons and daughters [and the Mishnah does not mention daughters, and the same goes for the field].
- 2.** **I:2:** And why are there eighteen [benedictions said every day]? Said R. Joshua b. Levi, “These are for the eighteen psalms that are written from the beginning of the Psalms up to: ‘The Lord answers you in the day of trouble’ (Ps. 20:1). If someone should say to you that there are nineteen Psalms, say to him, ‘Why do the nations conspire’ (Ps. 2:1) is not counted among them (because Psalms 1 and 2 are counted together as one).” Simon in the name of R. Joshua b. Levi, “[The eighteen benedictions are] for the eighteen vertebrae in the backbone. “For when a man stands and prays, he has to bend down with all of them.”

What is the scriptural, basis for this view? “All my bones shall say, ‘O Lord, who is like thee, [thou who deliverest the weak from him who is too strong for him, the weak and needy from him who despoils him]?’” (Ps. 35:10). R. Levi said, “The eighteen benedictions are for the eighteen times the Lord’s name is mentioned in, ‘Ascribe to the Lord, O heavenly beings, ascribe to the Lord glory and strength’” (Ps. 29:1).

- 3. I:3:** What is the origin of the seven blessings to be said in the Prayer on the Sabbath? Said R. Isaac, “They are for the seven ‘voices’ in the passage [that begins]: ‘ascribe to the Lord, O heavenly being, [ascribe to the Lord glory and strength. Ascribe to the Lord the glory of his name;]’ worship the Lord in holy array. ‘The voice of the Lord is upon the waters; the God of glory thunders, the Lord, upon many waters. The voice of the Lord is powerful, the voice of the Lord is full of majesty... (Ps. 29:3-4).’” Said R. Yudan of Antondaria, “They are for the seven times the Name of God is mentioned in the passage [that begins]: ‘A psalm, a song; for the Sabbath day. It is good to give thanks to the Lord, to sing praises to thy name, O Most High... [Ps. 92:1-19].’”
- 4. I:4:** What is the origin of the nine blessings that are to be said in the Prayer on the New Year? Said R. Ba Qartegena, “They are for the nine times the Name of God is written in the pericope of Hannah. “And it is written at the end of that passage, ‘[The adversaries of the Lord shall be broken to pieces; against them he will thunder in heaven]. The Lord will judge the ends of the earth; [he will give strength to this king and exalt the power of his appointed]’ (1 Sam. 2:10). [The New Year is the day of judgment.]”
- 5. I:5:** What is the origin of the twenty-four blessings that are to be said in the Prayer on a fast day? R. Helbo and R. Samuel b. Nahman both say, “They are for the twenty-four times that it is written in the pericope of Solomon [1 Kings 8], ‘Joy, prayer, supplication.’”
- 6. I:6:** Zeira in the name of R. Jeremiah, “An individual [praying by himself, prior to the reader’s repetition] at the time of a public fast has to make mention of the incident [which has caused the fast]. “And where does he mention it? “Between, ‘... who redeems Israel,’ and ‘... who heals the sick.’ “And what does he say? ““Answer me, O Lord, answer me at this time and in this sea son, for we are in great distress, and do not hide your face from us, and do not ignore our supplications, for you are the Lord, a loving and merciful God, who answers in a time of trouble, re deems and saves at all times of anguish. ““Then they cried to the Lord in their trouble, and he delivered them from the

distress' (Ps. 107:28). "Blessed are you, who answers in a time of trouble." R. Yannai b. R. Ishmael in the name of R. Simeon b. Laqish: "Even an individual who decreed a fast upon himself has to make mention of the substance of the incident that has caused the fast."

7. **I:7:** What is the prayer of seven sticks that serves to summarize the eighteen blessings [of the Prayer]? Rab said, "It is the [statement at] the end of each blessing." Samuel said, "It is [the statement at] the beginning of each blessing." There is a Tannaite authority who teaches: "It is to be seven, summarizing the eighteen [blessings]." And there is a Tannaite authority who teaches: "It is to be eighteen, summarizing the eighteen." He who says that it is to be seven, summarizing the eighteen, supports the view of Samuel. He who says that it is to be eighteen, summarizing the eighteen, supports the view of Rab.

XI. YERUSHALMI TAANIT 2:3

- [A] **R. JUDAH SAYS, "HE DID NOT HAVE TO SAY REMEMBRANCE VERSES AND SHOFAR VERSES. "BUT IN THEIR STEAD HE SAYS, 'IF THERE BE IN THE LAND FAMINE, IF THERE BE PESTILENCE' (1 KINGS 8:37FF.). "AND, 'THE WORD OF THE LORD WHICH CAME TO JEREMIAH CONCERNING THE DROUGHT' (JER. 14:1FF.). "AND HE CONCLUDES EACH OF THEM WITH ITS APPROPRIATE ENDING."**
1. **I:1:** [Clarifying M. 2:3D, concluding with an appropriate ending:] Each blessing must accord with its appropriate ending. And one does not cite a verse of Scripture after saying a concluding blessing. R. Isaac bar Eleazar objected before R. Yosé, "Since he already has said [that one must conclude] with the appropriate ending, can one then say a verse of Scripture afterward? [Obviously not. So what is the force of B?]"

XII. YERUSHALMI TAANIT 2:4

- [A] **FOR THE FIRST [ENDING] HE SAYS, "HE WHO ANSWERED ABRAHAM ON MOUNT MORIAH WILL ANSWER YOU AND HEAR THE SOUND OF YOUR CRY THIS DAY. BLESSED ARE YOU, O LORD, REDEEMER OF ISRAEL."**
1. **I:1:** And was not Isaac [also] redeemed on Mount Moriah]? Since Isaac was redeemed, it was as if all Israel was redeemed R. Bibi, Abba in the name of R. Yohanan: "Said Abraham be fore the Holy One,

blessed be he, ‘Lord of the ages! It is self-evident to you that when you told me to offer up Isaac, my son, I had a good answer to give you: Yesterday you said to me, “[E not displeased because of the lad and because of your slave woman; whatever Sarah says to you, do as she tells you,] for through Isaac shall your descendants be named” (Gen. 21:12) “‘And now you tell me: “[Take your son, your only son Isaac, whom you love, and go to the land of Moriah] and offer him there as a burnt offering [upon one of the mountains of which I shall tell you]” (Gen. 2:22). “‘But I, God forbid, I did not [give you that answer], but I overcame my impulse and did what you wanted. Now may it be pleasing to you, O Lord my God, that when the children of Isaac, my son, come to a time of trouble and will have no one to speak in their behalf, you will speak in their behalf.’ “[And Abraham said], ‘God will see [to the sheep for his burnt offering, my son. So they went both of them together (Gen. 22:8).’ You remember in their behalf the binding of Isaac, their father, and have mercy upon them.” What is written thereafter? “And Abraham lifted up his eyes and looked behind, and behold, there was a ram [caught in a thicket by his horns; and Abraham went and took the ram and offered it up as a burnt offering instead of his son]” (Gen. 22:13).

XIII. YERUSHALMI TAANIT 2:5

[A] FOR THE SECOND HE SAYS, “HE WHO ANSWERED OUR FATHERS AT THE RED SEA WILL ANSWER YOU AND HEAR THE SOUND OF YOUR CRY THIS DAY. BLESSED ARE YOU, O LORD, WHO REMEMBERS FORGOTTEN THINGS.”

- 1. I:1:** At the sea our fathers were divided into four parties. One of them said, “Let us throw ourselves into the sea.” One of them said, “Let us go back to Egypt.” One of them said, “Let us fight against them.” And one of them said, “Let us cry out against them.” To this one which said, “Let us fall into the sea,” Moses said, “Fear not, stand firm, and see the salvation of the Lord, [which he will work for you today; for the Egyptians whom you see today, you shall never see again]” (Ex. 14:13). To the one which said, “Let us go back to Egypt,” Moses said, “[Fear not, stand firm, and see the salvation of the Lord, which he will work for you today]; for the Egyptians whom you see today, [you shall never see again]” (Ex. 14:13). To the one which said, “Let us fight against them,” Moses said, “The Lord will fight for you [and you have only to be still]” (Ex. 14:14). To the one which said, “Let us cry out against them,” Moses said, “And you have only to be still” (Ex. 14:14).

XIV. YERUSHALMI TAANIT 2:6

[A] FOR THE THIRD HE SAYS, “HE WHO ANSWERED JOSHUA AT GILGAL WILL ANSWER YOU AND HEAR THE SOUND OF YOUR CRY THIS DAY. BLESSED ARE YOU, O LORD WHO HEARS THE SOUND OF THE SHOFAR.”

1. I:1: Rabban Simeon b. Laqish in the name of R. Yannai: “The Holy One, blessed be he, joined his great name to that of Israel. This may be compared to a king whose commissary key was little. Said the king, ‘If I leave it as is, it will get lost. Lo, I shall make a chain for it, so that if the key falls out of sight, the chain will tell us where it is.’ So said the Holy One, blessed be he: ‘If I leave Israel as is, they will be swallowed up among the nations. Lo, I shall join my great name to them, so that they may live.’”

XV. YERUSHALMI TAANIT 2:7

[A] FOR THE FOURTH HE SAYS, “HE WHO ANSWERED SAMUEL AT MISPEH WILL ANSWER YOU AND HEAR THE SOUND OF YOUR CRY THIS DAY. BLESSED ARE YOU, O LORD, WHO HEARS A CRY.”

1. I:1: It is written, “So they gathered at Mispeh, and drew water and poured it out before the Lord [and fasted on that day]” (1 Sam. 7:6). And did they pour out water? But it teaches that they poured out their hearts like water. “And Samuel said, ‘We have sinned against the Lord’” (1 Sam. 7:6). Said R. Samuel bar R. Isaac, “Samuel put on the shirt of all Israel, and he said before him, ‘Lord of the ages! Is it not so that you judge a person only if he should say before you, ‘I have not sinned’? “Behold I will bring you to judgment for saying, ‘I have not sinned’” (Jer. 2:35). “And they [i.e., Israel, at least] admit to you, ‘We have sinned.’”

XVI. YERUSHALMI TAANIT 2:8

[A] FOR THE FIFTH HE SAYS, “HE WHO ANSWERED ELIJAH AT MOUNT CARMEL WILL ANSWER YOU AND HEAR THE SOUND OF YOUR CRY THIS DAY. BLESSED ARE YOU, O LORD, WHO HEARS PRAYER.”

- I:1:** It is written, “And at the time of the offering of the oblation [at evening], Elijah the prophet came near and said, ‘O Lord, God of Abraham, Isaac, and Israel, let it be known [this day that thou art God in Israel]’” (1 Kings 18:36). And did Elijah make an offering at the time at which the high places were forbidden [for that purpose]? Said R. Simlai, “It was the word [of God] that told him to do.” ‘And that I have done all these things at thy word’” (1 Kings 18:36). “Answer me, O Lord, answer me” (1 Kings 18:37): “Answer me” on account of my merit.” Answer me” on account of the merit of my disciples.

XVII. YERUSHALMI TAANIT 2:9

[A] FOR THE SIXTH HE SAYS, “HE WHO ANSWERED JONAH IN THE BELLY OF THE FISH WILL ANSWER YOU AND HEAR THE SOUND OF YOUR CRY THIS DAY. BLESSED ARE YOU, O LORD, WHO ANSWERS PRAYER IN A TIME OF TROUBLE.” FOR THE SEVENTH HE SAYS, “HE WHO ANSWERED DAVID AND SOLOMON, HIS SON, IN JERUSALEM, WILL ANSWER YOU AND HEAR THE SOUND OF YOUR CRY THIS DAY. BLESSED ARE YOU, O LORD, WHO HAS MERCY ON THE LAND.”

- I:1:** It is written, “I called to the Lord, out of my distress, and he answered me” (Jonah 2:2).
- I:2:** Was it not appropriate to list David and Solomon, and only afterward, Elijah and Jonah [who came after their time]?
- I:3:** For the seventh – Sumkhos says, “... he who humbles the proud” [T. Ta. 1:10A-B].
- I:4:** There is no problem as to Solomon [who said a prayer concerning Jerusalem], for it is written, “I have built thee an exalted house, a place for thee to dwell in forever” (1 Kings 8:13). But why David? Because he sought to conduct a census [but, in the end, stayed the plague that ensued by entreating in behalf of the land (2 Sam. 24:25)]. Said R. Abbahu, “It is written, ‘Answer me when I call, O God of my right! Thou has given me room when I was in distress’ (Ps. 4:1) “Said David before the Holy One, blessed be he, ‘Lord of the ages! Whenever I came into a tight spot you broadened it for me. I got into a tight spot with Bathsheba, and you gave me Solomon. I got into a tight spot in [counting] Israel, and you gave me the holy house.’”

XVIII. YERUSHALMI TAANIT 2:10

[A] M ‘SH B: IN THE TIME OF R. HALAPTA AND R. HANANIAH B. TERADION SOMEONE PASSED BEFORE THE ARK AND COMPLETED THE ENTIRE BLESSING, AND THEY DID [Y. LACKS: NOT] ANSWER AFTER HIM, “AMEN.” “SOUND THE SUSTAINED SOUND ON THE SHOFAR, O PRIESTS! SOUND THE SUSTAINED SOUND ON THE SHOFAR! “HE WHO ANSWERED ABRAHAM OUR FATHER AT MOUNT MORIAH WILL ANSWER YOU AND HEAR THE SOUND OF YOUR CRY THIS DAY. “SOUND THE QUAVERING SOUND ON THE SHOFAR, SONS OF AARON! SOUND THE QUAVERING SOUND ON THE SHOFAR!” “HE WHO ANSWERED OUR FATHERS AT THE RED SEA WILL ANSWER YOU AND HEAR THE SOUND OF YOUR CRY THIS DAY.” AND WHEN THE MATTER CAME BEFORE SAGES, THEY RULED, “WE PRACTICED THAT CUSTOM ONLY AT THE EASTERN GATE [Y. LACKS: AND ON THE TEMPLE MOUNT].”

1. I:1: It has been taught [in the Tosefta’s version]: In the Temple what do they say? “Blessed be the Lord, the God of Israel, from everlasting to everlasting” (Ps. 106:48). But they do not answer, “Amen,” in the Temple. How do we know that they do not answer, “Amen,” in the Temple? Since it says, “Stand up and bless the Lord your God from everlasting to everlasting. [Blessed be thy glorious name which is exalted above all blessing and praise]” (Neh. 9:5). And how do we know that for every blessing and for every praise [they do not say, “Amen”]? Since it says, “[Blessed be thy glorious name,] which is exalted above all blessing and praise” (Neh. 9:5) [T. Ta. 1:11].

XIX. YERUSHALMI TAANIT 2:11

[A] “ON THE FIRST SET OF THREE FAST DAYS THE MEMBERS OF THE PRIESTLY WATCH [ON DUTY THAT WEEK] FAST BUT DO NOT COMPLETE THE ENTIRE DAY [IN FASTING], AND THE MEMBERS OF THE FATHER’S HOUSE [ON DUTY THAT PARTICULAR DAY] DID NOT FAST AT ALL. “ON THE SECOND SET OF THREE FAST DAYS THE MEMBERS OF THE PRIESTLY WATCH FAST AND COMPLETE THE DAY IN FASTING, AND THE MEMBERS OF THE FATHER’S HOUSE [ON DUTY THAT DAY] FAST BUT DO NOT COMPLETE THE DAY IN FASTING. “ON THE SEVEN LAST FAST DAYS, THESE AND THOSE FAST AND COMPLETE THE FAST DAY, “THE WORDS OF R. JOSHUA. AND SAGES SAY, “ON THE FIRST THREE FAST DAYS THESE AND THOSE DID NOT FAST AT ALL. “ON THE SECOND SET OF THREE FAST DAYS THE MEMBERS OF THE PRIESTLY WATCH FAST BUT DO NOT COMPLETE THE DAY IN FASTING, AND THE MEMBERS OF THE FATHER’S HOUSE [ON DUTY THAT DAY]

DID NOT FAST AT ALL. “ON THE LAST SEVEN FAST DAYS, THE MEMBERS OF THE PRIESTLY WATCH FAST AND COMPLETE THE FAST DAYS. AND THE MEMBERS OF THE FATHER’S HOUSE FAST AND DO NOT COMPLETE THE FAST DAY. ‘ THE MEMBERS OF THE PRIESTLY WATCH ARE PERMITTED TO DRINK WINE BY NIGHT BUT NOT BY DAY, AND THE MEMBERS OF THE FATHER’S HOUSE [ARE] NOT [PERMITTED TO DRINK WINE] EITHER BY DAY OR BY NIGHT. MEMBERS OF THE PRIESTLY WATCH AND MEMBERS OF THE PUBLIC DELEGATION ARE PROHIBITED TO GET A HAIRCUT AND TO WASH THEIR CLOTHES. BUT ON THURSDAY THEY ARE PERMITTED TO DO SO, BECAUSE OF THE HONOR OWING TO THE SABBATH.

1. **I:1:** On what account are men of a given priestly watch permitted to drink wine by night but not by day [M. 2:11 G]? It is because if the labor [of making the offerings] should get too difficult for the men of a given father’s house, they should be able to rely on them [T. Ta. 2:2Q]. The members of the father’s house [are] not [permitted to drink wine] either by day or by night [during the time of their service] [M. 2:11H], because they are perpetually engaged in the sacrificial service [T.Ta. 2:3].
2. **I:2:** There we have learned: These are the ones who may get a haircut on the intermediate days of a festival: He who comes home from overseas or from captivity, and he who goes forth from prison, and he who had been excommunicated but at that time had been released from the ban by sages [M. M. Q. 3:1]. Lo. all other persons [apart from those listed at M. 3:1] are forbidden to get haircuts. Said R. Simon, “They made such a decree for them so that they should not enter the festal season in an unkempt appearance.”
3. **I:3:** It has been taught [in the Tosefta’s version]: Whoever knows for sure his priestly watch and his father’s house, and who belongs to a father’s house which has a fixed day, is prohibited [to drink wine, M. 2:11H] only on that day. Whoever knows priestly watch but does not know his father’s house and who belongs to a father’s house on a fixed day, is prohibited for the entire week [in which his father’s house’s serving]. Whoever does not know either his priestly watch or his father’s house, and who belongs to a father’s house which serves on a fixed day, is prohibited for an entire month. Rabbi says, “I say that this one should be prohibited for all time. “But his remedy is his problem” [T. Ta. 2:21L-P], for he is permitted to undertake mourning for the dead [that is, since the Temple is destroyed, he is permitted to mourn in general].

XX. YERUSHALMI TAANIT 2:12

[A] AS TO ANY [DAY CONCERNING WHICH] IN THE FASTING SCROLL [MEGILLAT TAANIT] IT IS WRITTEN [ARAMAIC:] “NOT TO MOURN ‘— ON THE DAY BEFORE, IT IS PROHIBITED TO MOURN. ON THE DAY AFTER. IT IS PERMITTED TO MOURN. R. YOSÉ SAYS, “ON THE DAY BEFORE IT AND ALSO ON THE DAY AFTER, IT IS PROHIBITED TO MOURN.” [ON THOSE DAYS CONCERNING WHICH IN THE FASTING SCROLL IT IS WRITTEN] “NOT TO FAST,” ON THE DAY BEFORE AND ON THE DAY AFTER, IT IS PERMITTED TO FAST. R. YOSÉ SAYS, “ON THE DAY BEFORE IT, IT IS PROHIBITED, ON THE DAY AFTER, IT IS PERMITTED.”

1. **I:1:** The Mishnah represents the view of R. Meir. For R. Meir has said, “If it is written, ‘not to mourn,’ it is forbidden also to fast. If it is written, ‘Not to fast,’ it is permitted to mourn.” If it is written, “Not to...,” without further specification, the meaning is not to fast. Said R. Jonah, “These are the days on which it is prohibited to fast, and on some of [‘on’] which it is [also] prohibited to mourn.” Said Rabban Simeon b. Gamaliel, “Why does the text say, ‘on which...,’ two times? The meaning is that at night it is permitted to do so, but in the daytime it is forbidden.”
2. **I:2:** [With reference to M. Meg. 1:4F-G: Even though they have said they push it up and they do not postpone the reading of the Scroll of Esther, on the days on which they read the Scroll of Esther they are permitted to hold a lamentation for the dead, to call fasts, and to give gifts to the poor:] [When the Mishnah states that it is permitted to mourn and to fast, this passage of] the Mishnah speaks either of the eleventh of Adar, in accord with the view of R. Yosé, or of the twelfth of Adar, in accord with the view of R. Meir. [The thirteenth is Nicanor’s day, and one may not fast. One also may not do so on the day before that day, the twelfth. Hence one pushes up the reading of the Megillah and does it on the eleventh. so Yosé has said. Or in Meir’s view since one may fast on a day prior to a day on which one may not fast, it is permitted to read the Megillah on the twelfth.] Now there is a problem addressed to the position of R. Meir – [that one may fast and mourn on the twelfth of Adar]– for has it not been taught: On the twelfth of that month [of Adar] is Tirion’s day? [That day on which the decrees of Trajan were annulled is a holiday and it is forbidden to fast on that day, contrary to Meir’s view of acceptable behavior on the twelfth of Adar.] And R. Jacob bar Aha said, “Tirion’s day has been annulled, for it is the day on which Lulianos and Pappos were killed.” [Reverting to the positions of the two authorities, we note

that Meir holds it is permitted to fast on the day before or the day after a day on which it is prohibited to do so.] Hence in the view of R. Meir. there IS no problem, for the purpose in listing Nicanor's day is to prohibit the day before the fourteenth. [That is, the thirteenth of Adar, Nicanor's day, is prohibited as to tasting. But it is permitted to fast on the twelfth.] But so far as R. Yosé is concerned, what is the day [that the specification of Nicanor's day, namely, the thirteenth of Adar,] has come to prohibit [as to fasting]? If we deal with the day prior to the fourteenth of Adar. that is not possible, for it itself is forbidden as to fasting because of the fourteenth of Adar [that is Purim]

3. **I:3:** But as to Sabbaths and festival days, one may fast both on the day before them and on the day after them. Why do you impose a lenient rule on these [Sabbaths and festivals] and a strict rule on those [the days listed in the fasting scroll]? [Why is there a prohibition of fasting or mourning not only on the day but also on the day before and afterward where the dates mentioned in the fasting scroll are concerned?] The answer is that these days [Sabbaths and festivals] derive from the teachings of the Torah, and the teachings of the Torah do not require reenforcement.
4. **I:4:** Both R. Haninah and R. Jonathan say, "The rules of the fasting scroll have been annulled." Both R. Ba and R. Simon say, "The rules of the fasting scroll have been annulled." R. Joshua b. Levi said, "The rules of the fasting scroll have been annulled." Said R. Yohanan, "Last night I was repeating the following: "There was a case in which they decreed a fast on Hanukkah in Lud, and they said concerning R. Eliezer that on that day he got a haircut [which is not to be done on a fast day]. "And concerning R. Joshua that he took a bath [also prohibited on a fast day]. [Thus Eliezer and Joshua maintain that it is forbidden to fast on Hanukkah, just as the fasting scroll says, and so the laws remain valid.] "Said to them R. Joshua, 'Go and carry out a fast, because you fasted on this day [Hanukkah, when it is forbidden]'" [T. Ta. 2:5]. "Now can you really say, therefore, that the laws of the fasting scroll have been annulled?" Said R. Ba, "And even if you maintain that the laws of the fasting scroll have been annulled, you cannot possibly say that the observance of Hanukkah and Purim has been annulled!"

XXI. YERUSHALMI TAANIT 2:13

[A] THEY DO NOT DECREE A FAST FOR THE COMMUNITY IN THE FIRST INSTANCE FOR A THURSDAY, SO AS NOT TO DISTURB MARKET PRICES. BUT THE FIRST THREE FASTS ARE ON MONDAY, THURSDAY, AND MONDAY. AND THE SECOND SET OF THREE FAST DAYS ARE ON THURSDAY, MONDAY, AND THURSDAY. R. YOSÉ SAYS, “JUST AS THE FIRST ONES DO NOT BEGIN ON A THURSDAY, SO ALSO THE SECOND SET AND THE FINAL SET [DO NOT BEGIN ON A THURSDAY] “

1. I:1: Simeon bar Ba said, “A case came before R. Yohanan, and he decided it in accord with the view of R. Yosé.” Now R. Eleazar was distressed at this, and he said, “Do they then abandon the statement of the law given anonymously [hence in the name of the sages in general] and favor the statement of the law made by an individual [hence a minority]?” Then a teaching turned up that R. Hiyya had taught the matter in the name of R. Meir. When he heard that R. Hiyya had taught it in the name of R. Meir, he said, “That is all right then. The elder [Yohanan] knows his lessons very well [for he realized that even though the passage was given without named authorities, in fact it represented the view of one named authority].”

XXII. YERUSHALMI TAANIT 2:14

[A] THEY DO NOT DECREE A FAST FOR THE COMMUNITY TO TAKE PLACE ON THE NEW MOON, HANUKKAH, OR PURIM. “BUT IF THEY HAD BEGUN [A SEQUENCE OF FASTS], THEY DO NOT BREAK OFF, “ THE WORDS OF RABBAN GAMALIEL. SAID R. MEIR.” EVEN THOUGH RABBAN GAMALIEL SAID THAT THEY DO NOT BREAK OFF, HE WOULD CONCEDE THAT THEY ALSO DO NOT COMPLETE [FASTING FOR THE WHOLE DAY].” AND SO IS THE RULE FOR THE NINTH OF AB WHICH COINCIDES WITH A FRIDAY.

1. I:1: [As to M. 2:14B, If they had begun...,] how many fasts constitute a beginning [in line with the view of Gamaliel]? R. Ba said, “One.” R. Yosé said, “Two.”
2. I:2: And what do they read [on a fast that coincides with the New Moon]? R. Yosé said, “The blessings and the curses [as on other fast days].” Said R. Mana, “Is this to let the people know that there is a fast that day? They fall to the ground on their bellies [in the prayer] and do they not know that it is a fast day?” He said to him, “It is to let you know that they read the blessings and the curses [even when the fast

coincides with the New Moon]. [The lection of the fast day overrides the Torah readings of the New Moon.]”

3. **I:3:** It has been taught [in the Tosefta’s version]: “The ninth of Ab which coincided with the eve of the Sabbath [Friday] [M. 2:14D], a person eats food in the volume of an egg and drinks liquid even in the volume of an egg, “so that this person should not enter [the Sabbath] when he is subject to pain,” the words of R. Judah. R. Yosé says, “Lo, this person should fast and complete the fast day” [T. Ta. 2:7A-C].

XXIII. YERUSHALMI TAANT 3:1

[A] **THE CONDUCT OF THESE FAST DAYS WHICH HAVE BEEN DESCRIBED APPLIES IN THE EASE OF THE FIRST RAINFALL. BUT: IN THE CASE OF CROPS WHICH EXHIBIT A CHANGE [FROM THEIR NORMAL CHARACTER]— THEY SOUND THE SHOFAR ON THEIR ACCOUNT FORTHWITH. AND SO: [IF] THE RAIN CEASED BETWEEN ONE RAINSTORM AND THE NEXT FOR A PERIOD OF FORTY DAYS, THEY SOUND THE SHOFAR ON THAT ACCOUNT FORTHWITH, FOR IT REPRESENTS THE BLOW OF FAMINE.**

1. **I:1:** What is the definition of “forthwith” applying to their [proclamation of fasts]? Rab said, “Monday, Thursday [T. Ta. 2:8E-F] [Once the crops are seen to turn, they sound the *shofar* on Monday and on Thursday]” If the crops turned on Monday, what is the law as to sounding the *shofar* on the following Thursday [cf. M. 2:13A]? R. Zeirah derived the answer to that question from the following verse: ‘Then he said to me, ‘Fear not. Daniel, for from the first day that you set your mind to understand and humbled yourself before your God, your words have been heard, [and I have come because of your words]’ (Dan. 10:12). That is to say, ‘Your words already have been heard.’”
2. **I:2:** It has been taught: Just as they sound the shofar for rain in the six years of the septennial cycle, so they sound the shofar on its account in the seventh year, for the support of others [T. Ta. 2:8A-B].

XXIV. YERUSHALMI TAANT 3:2

[A] **IF THE RAIN FELL SUFFICIENT FOR CROPS BUT NOT FOR TREES, FOR TREES BUT NOT FOR CROPS, FOR THIS AND THAT, BUT NOT FOR [FILLING UP] CISTERNS, PITS, OR CAVERNS, THEY SOUND THE SHOFAR ON THEIR ACCOUNT FORTHWITH.**

1. **I:1:** If the rain fell sufficient for crops but not for trees: Little by little. For trees but not for crops: In vast quantity. For this and that, but not for filling up cisterns, pits, or caverns, they sound the shofar on their account forthwith. It has been taught: They sound the shofar for the need of trees half a month before Passover, and for cisterns, ditches, and caves, half a month before Pentecost [T.: Tabernacles] [T. Ta. 2:8C].
2. **I:2:** Berekhiah, R. Helbo, Pappa in the name of R. Eleazar: “There are times that rain comes on account of the merit of a single man, a single vegetation, a single field. “All of them may be proved by reference to a single verse of Scripture: ‘[Ask rain from the Lord in the season of the spring rain, from the Lord who makes the storm clouds], who gives a man showers of rain, to every one the vegetation in the field’ (Zech. 10:1). “‘A man’– not men. “‘Vegetation’– not many sorts of vegetation. “‘Field’– not fields.”

XXV. YERUSHALMI TAANIT 3:3

[A] **AND SO TOO: A TOWN ON WHICH RAIN DID NOT FALL, (AS IT IS SAID, “AND I CAUSED IT TO RAIN UPON ONE CITY AND CAUSED IT NOT TO RAIN UPON ANOTHER CITY, ONE PIECE WAS RAINED UPON AND THE PIECE ON WHICH IT RAINED NOT DID WITHER” (AMOS 4:7) THAT TOWN DECLARES A FAST DAY AND SOUNDS THE SHOFAR:**

1. **I:1:** Said R. Simeon, “It is written, ‘And I caused it to rain upon one city, and caused it not to rain upon another city, one piece was rained upon, and the piece on which it rained not did wither’ (Amos 4:7):the merit associated with a particular field is what did it.”
2. **I:2:** It is for four reasons that rain comes from above [rather than depending on water rising up from the nethermost water, or having people rely upon irrigation from wells]: It is because of high-handed men [who would divert the current of irrigation ditches and invade others’ riparian rights]. It is because of noxious mist. It is so that the one above will drink water as does the one below. And it is so that all will look to heaven.
3. **I:3:** It is because of the merit of three parties that rain falls: It is because of the merit of the land, the merit of steadfast loyalty, and the merit of suffering. And all three derive from a single verse of Scripture: “Whether for correction, or for his land, or for love [‘kindness’], he causes it to happen” (Job 37:13).

4. I:4: On account of four sorts of sin are rains withheld: Because of the sins of idolatry, fornication, and murder, and because of people who pledge charity in public but do not hand over the money. How do we know that it is because of the sin of idolatry? “Take heed lest your heart be deceived, and you turn aside and serve other gods and worship them” (Deut. 11:16). What is written thereafter? “And the anger of the Lord be kindled against you, and he shut up the heavens, so that there be no rain, [and the land yield no fruit, and you perish quickly off the good land which the Lord gives you]” (Deut. 11:17). How do we know that it is because of the sin of fornication? “[Lift up your eyes to the bare heights, and see! Where have you not been lain with? By the waysides you have sat awaiting lovers like an Arab in the wilderness.] You have polluted the land with your vile harlotry” (Jer. 3:2).

5. I:5: Mist is called by five names: thick, destruction, meek, prince, and storm. Whence do we know that it is called “mist?” “But a mist went up from the earth and watered the whole face of the ground” (Gen. 2:6). “Thick”– because it thickens [and darkens the sky:] “[And the Lord said to Moses], ‘Lo, I am coming to you in a thick cloud, [that the people may hear when I speak with you and may also believe you forever.’ Then Moses told the words of the people to the Lord]” (Ex. 19:9). “Meek”– because it makes people meek toward one another [when they fast]. “Prince”– because it makes householders into princes: “He it is who makes the clouds [the Hebrew word for clouds can also mean ‘princes’] rise at the end of the earth, who makes lightnings for the rain and brings forth the wind from his store houses” (Ps. 135:7). “Storm” – because it turns the firmament into storm clouds: “[Ask rain from the Lord in the season of the spring rain], from the Lord who makes the storm clouds, [who gives men showers of rain, to every one the vegetation in the field]” (Zech. 10:1).

[B] AND ALL ITS NEIGHBORS FAST BUT DO NOT SOUND THE SHOFAR. R. AQIBA SAYS, “THEY SOUND THE SHOFAR BUT DO NOT FAST.”

1. II:1: And all its neighbors fast but do not sound the shofar [M. 3:3D]: For so we find that on the Day of Atonement, they fast but do not sound the shofar. R. Aqiba says.” They sound the shofar but do not fast” [M. 3:3E]: For so we find that on the New Year they sound the shofar but do not fast.

XXVI. YERUSHALMI TAANIT 3:4

[A] AND SO TOO: A TOWN WHICH IS AFFLICTED WITH PESTILENCE OR RUINATION [OF HOUSES] – THAT TOWN DECLARES A FAST DAY AND SOUNDS THE SHOFAR.

- 1.** **I:1:** There was a pestilence in Sepphoris, but it did not come into the neighborhood in which R. Haninah was living. And the Sepphoreans said, “How is it possible that that elder lives among you, he and his entire neighborhood, in peace, while the town goes to ruin?” [Haninah] went in and said before them, “There was only a single Zimri in his generation, but on his account, 24,000 people died. And in our time, how many Zimris are there in our generation? And yet you are raising a clamor!” One time they had to call a fast, but it did not rain. R. Joshua carried out a fast in the South, and it rained. The Sepphoreans said, “R. Joshua b. Levi brings down rain for the people in the South, but R. Haninah holds back rain for us in Sepphoris.” They found it necessary to declare a second time of fasting and sent and summoned R. Joshua b. Levi. [Haninah] said to him, “Let my lord go forth with us to fast.” The two of them went out to fast, but it did not rain. He went in and preached to them as follows: “It was not R. Joshua b. Levi who brought down rain for the people of the south, nor was it R. Haninah who held back rain from the people of Sepphoris. But as to the southerners, their hearts are open, and when they listen to a teaching of Torah they submit [to accept it], while as to the Sepphoreans, their hearts are hard, and when they hear a teaching of Torah, they do not submit [or accept it].” When he went in, he looked up and saw that the [cloudless] air was pure. He said, “Is this how it still is? [Is there no change in the weather?]” Forthwith, it rained. He took a vow for himself that he would never do the same thing again. He said, “How shall I say to the creditor [God] not to collect what is owing to him.”
- 2.** **I:2:** Zeirah in the name of R. Haninah: “What will the truly great men of the generation do? For the community is judged only by what the majority does. “For we find that all those thirty-eight years that the Israelites [in the wilderness] were as if they were excommunicated, [God] would not communicate with Moses. “This is in line with that which is said, ‘So when all the men of war had perished and were dead from among the people’ (Deut. 2:16). “What is written thereafter? ‘The Lord said to me’” (Deut. 2:17). R. Jacob bar Idi in the name of R. Joshua b. Levi: “What will the truly great men of the generation do? For the community is judged only by what the majority does. “For so we find that if the people of Israel on Mount Carmel had not said, ‘The

Lord, he is God, the Lord, he is God' (1 Kings 18:39), the fire would not have come down from heaven and burned up the offerings.”

3. **I:3:** Joshua ben Yair in the name of R. Phineas b. Yair: “There were three that the Holy One, blessed be he, created and regretted that he had created them, and these are they: The Chaldeans, the Ishmaelites, and the impulse to do evil. “The Chaldeans: ‘Behold the land of the Chaldeans! This is the people that was not. [Assyria, which founded it for ships, which erected their siege towers, has turned it into a ruin]’ (Is. 23:13). Oh that they were not! “The Ishmaelites: ‘The tents of robbers are at peace, and those who provoke God are secure, who bring their god in their hand’ The impulse to do evil: ‘In that day, says the Lord, I will assemble the lame and gather those who have been driven away, and those whom I have afflicted” (Mic. 4:6).
4. **I:4:** Eleazar called a fast, but it did not rain. R. Aqiba called a fast, and it rained. [Aqiba] went in and preached before them: “I shall give you a simile. To what may the matter be likened? To the case of a king who had two daughters, one of them haughty, the other proper. When the haughty one wanted something, she went before him, and he said, ‘Let them give her whatever she wants and send her away.’ “Whenever the proper daughter [wanted something], she would come before him, and he would spend time with her and enjoy hearing her requests.”
5. **I:5:** Aha carried out thirteen fasts, and it did not rain. When he went out, a Samaritan met him. [The Samaritan] said to him [to make fun of him], “Rabbi, take off your cloak, because it is going to rain.” He said to him, “By the life of that man [you]! Heaven will do a miracle, and this year will prosper, but that man will not live [to see it].” Heaven did a miracle, and the year prospered, and that Samaritan died. And everybody said, “Come and see the fruit [of the] sun.”

[B] AND ALL ITS NEIGHBORS FAST BUT DO NOT SOUND THE SHOFAR. **R. AQIBA SAYS,** “THEY SOUND THE SHOFAR BUT DO NOT FAST.”

1. **II:1:** And all its neighbors fast but do not sound the shofar [M. 3:4C]: For so we find that on the Day of Atonement they fast but do not sound the *shofar*. R. Aqiba says.” They sound the shofar but do not fast” [M. 3:4D]. For so we find that on the New Year they sound the *shofar* but do not fast.

XXVII. YERUSHALMI TAANIT 3:5

[A] WHAT IS THE MEANING OF “PESTILENCE”? A TOWN WHICH HAS A POPULATION OF FIVE HUNDRED SOLDIERS WHICH PRODUCES THREE CORPSES IN THREE SUCCESSIVE DAYS— LO, THIS IS [A SIGN OF THE PRESENCE OF] PESTILENCE. [IF THE DEATH RATE] IS LESS THAN THIS, IT IS NOT [THE SIGN OF THE PRESENCE OF] PESTILENCE.

1. **I:1:** Said R. Levi, “It is written, ‘The Lord will make the pestilence cleave to you [until he has consumed you off the land which you are entering to take possession of it]’ (Deut. 28:21). “This is comparable to a woman who sticks three loaves of bread together.” [With reference to M. 3:5B,] lo, in the case of a city that is bigger, does one require a different criterion? Let us derive the answer from the following: Even in the case of such a great city as Antioch, if three corpses were produced on three successive days, [that is a sign of pestilence]
2. **I:2:** [As to the reference at M. 3:4A to the collapse of houses:] The houses of which they have spoken must to begin with be solid ones. But we do not take account of the collapse of dilapidated ones.
3. **I:3:** It has been taught: As to croup, if there are any deaths at all on its account, they sound the shofar on its account. If not, they do not sound the shofar on its account [T. Ta. 2:9].

XXVIII. YERUSHALMI TAANIT 3:6

[A] ON ACCOUNT OF THE APPEARANCE OF THESE DO THEY SOUND THE SHOFAR IN EVERY LOCALE :

1. **I:1:** Hama bar Uqba in the name of R. Yosé b. Haninah: “They sound the *shofar* when the flax in the field is threatened with ruin through sprouting. “What is the scriptural verse pertinent to this matter? ‘An appalling and horrible thing has happened in the land’” (Jer. 5:30). R. Samuel bar Nahman in the name of R. Jonathan: “They sound the *shofar* on account of dry heat. “What is the scriptural verse pertinent to this matter? ‘I go about blackened, but not by the sun; I stand up in the assembly and cry for help’” (Job 30:28).

[B] “BLASTING OR MILDEW, LOCUST OR CATERPILLAR” (1 KGS. 8:37), “WILD BEASTS, AND THE SWORD” (LEV. 26:6). [EVERYWHERE] DO THEY SOUND THE SHOFAR ON THEIR ACCOUNT, BECAUSE IT IS AN AFFLICTION WHICH SPREADS.

1. **II:1:** [With reference to the catalogue of M. 3:5B:] Locusts are not the end of the matter. But even [if one finds] a wing [of a locust].

XXIX. YERUSHALMI TAANIT 3:7

[A] M'SH S: ELDERS WENT DOWN FROM JERUSALEM TO THEIR TOWNS AND DECREED A FAST BECAUSE IN ASKELON THERE HAD APPEARED BLIGHT TO THE EXTENT OF [THE AREA OF] AN OVEN'S MOUTH. AND A FURTHER FAST ON THE NEXT DAY DID THEY DECREE BECAUSE WOLVES HAD EATEN TWO CHILDREN IN TRANS-JORDAN. R. YOSÉ SAYS, "NOT BECAUSE THEY HAD EATEN ANYONE, BUT MERELY BECAUSE THEY HAD APPEARED."

1. **I:1:** That which you have said applies to a case in which [blight], M. 3:7A] appeared in a concentrated area. But if it was spread out [in a number of areas, not in a single field], then even a smaller extent [of blight than the extent of the area of an oven's mouth is adequate cause for calling a fast].
2. **I:2:** Said R. Mana, "The wolves [M. 3:7C] appeared running after people."

XXX. YERUSHALMI TAANIT 3:8

[A] ON ACCOUNT OF THESE DO THEY SOUND THE SHOFAR [EVEN] ON THE SABBATH.

1. **I:1:** ["The prayer for raising an alarm on the Sabbath"] said Rab, "Thus please answer me, O Lord. answer me' [= a supplication]." The Mishnah's statement differs from the view of Rab: R. Yosé says. "They sound the shofar on the Sabbath] for help, not for supplication." But lo, the earlier Tannaite authority [in the same passage concurs with the view of Rab and holds that one may] express even supplications.

[B] ON ACCOUNT OF A TOWN WHICH GENTILES HAVE BESIEGED, OR A RIVER, AND BECAUSE OF A SHIP WHICH IS FOUNDERING IN THE SEA. R. YOSÉ SAYS. "THEY SOUND THE SHOFAR ON THE SABBATH] FOR HELP, NOT FOR SUPPLICATION." SIMEON THE TEMANITE SAYS." ALSO ON ACCOUNT OF PESTILENCE." BUT SAGES DID NOT CONCUR WITH HIM.

1. **II:1:** As to Levi ben Sisi: troops came to his town. He took a scroll of the Torah and went up to the roof and said, "Lord of the ages! If I have neglected a single word of this scroll of the Torah, let them come up against us, and if not. Let them go their way." Forthwith people went

looking for the troops but did not find them, [because they had gone their way]. A disciple of his did the same thing, and his hand withered, but the troops went their way. “A disciple of his disciple did the same thing. His hand did not whither. but they also did not go their way.

XXXI. YERUSHALMI TAANT 3:9

[A] ON ACCOUNT OF EVERY SORT OF PUBLIC TROUBLE — MAY IT NOT HAPPEN — DO THEY SOUND THE SHOFAR, EXCEPT FOR AN EXCESS OF RAIN. M'SH S: THEY SAID TO HONI. THE CIRCLE DRAWER, PRAY FOR RAIN.” HE SAID TO THEM. GO AND TAKE IN THE CLAY OVENS USED FOR PASSOVER, SO THAT THEY NOT SOFTEN [IN THE RAIN WHICH IS COMING].”

- 1. I:1:** R. Jonah, Simeon bar Ba in the name of R. Yohanan [with reference to Mal. 3:10: “Bring the whole tithe into the storehouse... And try Me now herewith, says the Lord of hosts, if I will not open for you the windows of heaven, and pour out for you a blessing that there shall be more than sufficiency,” on the meaning of the final words of the verse,] “A matter for which it is impossible for you m say, ‘Enough,’— that is a blessing. [If, however, you can say, ‘Enough,’ that is no real blessing.]”

[B] HE SAID TO THEM, “GO AND TAKE IN THE CLAY OVENS USED FOR PASSOVER, SO THAT THEY NOT SOFTEN [IN THE RAIN WHICH IS COMING :

- 1. II:1:** That is to say, it was the eve of Passover. But that is stated explicitly by the Tannaite rule: on the twentieth day [of Adar] the people fasted for rain and it rained for them.

[C] HE PRAYED, BUT IT DID NOT RAIN. WHAT DID HE DO? HE DREW A CIRCLE AND STOOD IN THE MIDDLE OF IT AND SAID BEFORE HIM, “LORD OF THE WORLD! YOUR CHILDREN HAVE TURNED TO ME, FOR BEFORE YOU, I AM LIKE A MEMBER OF THE FAMILY. I SWEAR BY YOUR GREAT NAME — I’M SIMPLY NOT MOVING FROM HERE UNTIL YOU TAKE PITY ON YOUR CHILDREN!”

- 1. III:1:** [Why did the rain not come properly?] Said R. Yosé b. R. Bun, “Because he did not come before God with humility.”
- 2. III:2:** Said R. Yudan Gira, “This is Honi the circle drawer [of M. 3:9], the grandson of Honi the circle drawer. Near the time of the destruction of the Temple, he went out to a mountain to his workers. Before he got there, it rained. He went into a cave. Once he sat down there, he became tired and fell asleep. “He remained sound asleep for seventy years, until the Temple was destroyed and it was rebuilt a

second time. At the end of the seventy years he awoke from his sleep. He went out of the cave, and he saw a world completely changed. An area that had been planted with vineyards now produced olives, and an area planted in olives now produced grain. “He asked the people of the district, ‘What do you hear in the world?’ “They said to him, ‘And don’t you know what the news is?’ “He said to them, ‘No.’ “They said to him, ‘Who are you?’ “He said to them, ‘Honi, the circle drawer.’ “They said to him, ‘We heard that when he would go into the Temple courtyard, it would be illuminated.’ “He went in and illuminated the place and recited concerning himself the following verse of Scripture: ‘When the Lord restored the fortune of Zion, we were like those who dream’” (Ps. 126:1).

[D] IT BEGAN TO RAIN DROP BY DROP.

- 1. IV:1:** They said to him, This rain has come only to release you from your vow [M. 3:9G].”

[E] HE SAID, “THIS IS NOT WHAT I WANTED, BUT RAIN FOR FILLING UP CISTERNS, PITS, AND CAVERNS.” IT BEGAN TO RAIN VIOLENTLY.

- 1. V:1:** Samuel taught, “[It poured out] as if from a wineskin.”

[F] HE SAID, “THIS IS NOT WHAT I WANTED, BUT RAIN OF GOOD WILL, BLESSING, AND GRACIOUSNESS.” NOW IT RAINED THE RIGHT WAY, UNTIL THE ISRAELITES HAD TO FLEE FROM JERUSALEM UP TO THE TEMPLE MOUNT BECAUSE OF THE RAIN.

- 1. VI:1:** He said, “This is not what I wanted, but rain of good will, blessing, and graciousness” [M. 3:9K]. Now it rained the right way, until the Israelites had to flee from Jerusalem up to the Temple Mount because of the rain [M. 3:9L]. That implies that the Temple Mount was roofed over. And so has it been taught: There was a colonnade within the Temple portico.

[G] NOW THEY CAME AND SAID TO HIM, “JUST AS YOU PRAYED FOR IT TO RAIN, NOW PRAY FOR IT TO GO AWAY.” HE SAID TO THEM, “GO, SEE WHETHER THE STONE OF THE LOST HAS DISAPPEARED “

- 1. VII:1:** What purpose did this stone of the lost serve? Whoever lost something would go and find it there, and whoever found something would bring it there. He said, “Just as it is not possible for this stone to be blotted out of the world, so it is not possible to pray that rain will go away. “But go and bring me a bullock for a thank offering.” They went and brought him a bullock for a thank offering. He put his two hands on it and said, “Lord [of the ages]! You have brought evil upon your children. and they could not endure it. You brought good upon your

children, and they could not endure it. “But may it be pleasing to you to bring relief.” Forthwith the wind blew, the clouds were scattered, the sun shone, and the earth dried out. They went out and found the wilderness full of truffles.

2. **VII:2:** He said, “Just as it is not possible for this stone to be blotted out of the world, so it is not possible to pray that rain will go away. “But go and bring me a bullock for a thank offering.” They went and brought him a bullock for a thank offering. He put his two hands on it and said, “Lord [of the ages]! You have brought evil upon your children. and they could not endure it. You brought good upon your children, and they could not endure it. “But may it be pleasing to you to bring relief.” Forthwith the wind blew, the clouds were scattered, the sun shone, and the earth dried out. They went out and found the wilderness full of truffles.
3. **VII:3:** They asked R. Eleazar, “When do they pray that rain should go away “ He said to them, “If a man is standing on Qeren Ofel [a high rock] and splashes his foot in the Qidron brook. [Then] we shall pray that the rain will stop.” “Truly it is certain that the Omnipresent will never again bring a flood to the world, “for it is said, ‘There will never again be a flood’ (Gen. 9:11). “And it says, ‘For this is like the days of Noah to me: as I swore that the waters of Noah should no more go over the earth, so I have sworn that I will not be angry with you and will not rebuke you’” (Is. 54:9) [T. Ta. 2:13D-G].

XXXII. YERUSHALMI TAANIT 3:10

[A] **SIMEON B. SHATAH SAID TO HIM, “IF YOU WERE NOT HONI, I SHOULD DECREE A BAN OF EXCOMMUNICATION AGAINST YOU.**

1. **I:1:** [Spelling out M. 3:10A, “In demanding rain as you did, you improperly importuned.] For if a punitive decree had been issued, as was the case in the time of Elijah, would you not have turned out to cause a public profanation of the Name? “And all who cause a public profanation of the Name are subject to excommunication.” Rabban [Simeon b.] Gamaliel [better: Simeon b. Shatah] sent to him, “If you place an obstacle before the public, you will turn out to bring a good to the world.” [That is to say,] “Will you not turn out to place an obstacle in the way of the public’s doing a religious duty? And whoever places an obstacle in the way of the public’s doing a religious duty is subject to excommunication.” And [Honi] said to [Simeon], “Does not the Holy One, blessed he he. annul his punitive decree on account of the

contrary decree of I righteous man?— [Simeon] said to [Honi] ““Does. the Holy One, blessed be he, annul his punitive decree on account of the contrary decree of a righteous man. But he does not annul the decree of one righteous man on account of the contrary decree of another righteous man. who is his equal? [Surely not.]”

[B] BUT WHAT AM I GOING TO DO TO YOU? FOR YOU IMPORTUNE BEFORE THE OMNIPRESENT, SO HE DOES WHAT YOU WANT, LIKE A SON WHO IMPORTUNES HIS FATHER, SO HE DOES WHAT HE WANTS.

- 1. II:1:** R. Berekhiah, R. Abba bar Kahana, R. Zeirah in the name of R. Judah; and there are those who state the matter in the name of R. Hisda; and there are those who state the matter in the name of R. Mattenah:” You will decide on a matter and it will be established for you’ (Job 22:2). What is the meaning of, ‘For you’? Even if he said this while you said that, what you say will be carried out and what I say will not be carried out.” For when they were abased, you said, ‘Proud” Job 22:29): “I planned to abase them [by not sending rain], but you wanted to make them proud. Your plan was carried out, and mine was annulled. ““But he saves the lowly’ (Job 22:29): ‘I planned to bring them low through an evil [decree], while you planned to save them. Your plan was carried out. and mine was annulled. “I said, ‘Will he deliver the man who is not innocent (Job 22:30). But you said, ‘He will be delivered, even though he is not innocent your plan was carried out, and mine was annulled.””

[C] CONCERNING YOU SCRIPTURE SAYS, ‘LET YOU FATHER AND YOU MOTHER BE GLAD, AND LET HER THAT BORE YOU REJOICE’” (PROV. 23:25).

- 1. III:1:** Why does Scripture refer [after speaking of the mother] to “her that bore you”? R. Mana said, “Your nation.” R. Yosé b. R. Bun said, “Your time [that is. the hour at which you were born].” Rabbis say, “Just as [an evil son] brings a double curse on [the mother]. so he brings troubled rejoicing to her [when he does good].

XXXIII. YERUSHALMI TAANIT 3:11

[A] IF THEY WERE FASTING. AND IT RAINED FOR THEM BEFORE SUNRISE, THEY SHOULD NOT COMPLETE THE FAST. [IF IT RAINED] AFTER SUNRISE, THEY SHOULD COMPLETE THE DAY IN FASTING. R. ELIEZER SAYS.” [IF IT RAINED] BEFORE NOON. THEY SHOULD NOT COMPLETE THE DAY IN FASTING. [IF IT RAINED] AFTER NOON, THEY SHOULD COMPLETE THE DAY IN FASTING. W’SH S: THEY DECREED A FAST IN LUD. IT RAINED BEFORE NOON. R. TARFON SAID TO

THEM, “GO, EAT AND DRANK AND CELEBRATE A FESTIVAL.” SO THEY AROSE AND ATE AND DRANK AND CELEBRATED A FESTIVAL DAY.

1. **I:1:** If they were fasting and it rained for them before sunrise. they should not complete the fast. This is indicated in the following statement of Scripture: “Before they call I will answer, while they are yet speaking I will hear” (Is. 65:24). If it rained after sunrise, they should complete the day in fasting: “while they are yet speaking I will hear” (Is. 65:24). Or the opposite may be the case [I shall answer their supplications] so that I do not have to listen to their outcry, but they still have to fast].
2. **I:2:** In the time of R. Yudan they decreed a fast. and rain fell in the evening. R. Mana went up to see him. He said to him, “Since I am now thirsty, what is the law on my being permitted to drink?” He said to him, “Wait, for the people may decide to complete the fast [through the coming day and an individual must then observe it too].”
3. **I:3:** R. Aha, R. Abbahu in the name of R. Yosé b. Haninah: “It is forbidden to a person to fast on the Sabbath beyond six hours [noon].”
4. **I:4:** Rabban Yohanan b. Zakkai: when he wanted it to rain, he would say to his barber, “Get up and go to the Temple, [and say,] ‘Now my master wants to get a haircut, and he does not have the power to accept suffering [through a fast].’” Forthwith it would rain. R. Adda bar Ahvah: When he wanted it to rain, he would merely take off his sandal [as a mark of the fast, and it would rain]. If he took off both of them. the world would overflow. There was a house that was about to collapse over there, and Rab set one of his disciples to work in the house until he had cleared out everything from the house. When the disciple left the house, the house collapsed. And there are those who say that it was R. Adda bar Ahvah.

[B] THEN THEY ASSEMBLED AT TWILIGHT AND PROCLAIMED THE GREAT HALLEL [THAT IS. PS. 136].

1. **II:1:** What is the great Hallel [M. 3:11D]? “Praise the God of gods, praise the Lord of lords” [= Ps. 136] [T. Ta. 2:17]. [Y.: R. Parnakh in the name of R. Haninah: “O give thanks to the God of gods, for he is good, for his steadfast love endures for ever. O give thanks to the Lord of lords for his steadfast love endures forever (Ps. 136:1-2).” Said R. Yohanan, “And that is on condition [that the great Hallel includes the psalm: ‘They are standing in the house of the Lord’ [= Ps. 135].”

XXXIV. YERUSHALMI TAANIT 4:1

[A] ON THREE OCCASIONS IN THE YEAR PRIESTS RAISE UP THEIR HANDS [IN THE PRIESTLY BENEDICTION] FOUR TIMES A DAY: AT THE MORNING PRAYER, THE ADDITIONAL PRAYER, THE AFTERNOON PRAYER, AND THE CLOSING OF THE GATES; ON THE OCCASION OF FASTS, ON THE OCCASIONS OF [PRAYERS OF MEMBERS OF THE] DELEGATION [MA'AMAD], AND ON THE DAY OF ATONEMENT.

1. **I:1:** On the basis of the statement of the Mishnah], you may infer three points. You may infer that they fast on the occasion of prayers of members of the delegation [M. 4:1C], that they pray four times [M. 4:1B], and that they raise their hands not at night but only by day [since M. 4:1A speaks of day, not night].
 - a. I:2: And why should a priest not raise his hands [in a priestly benediction] not on an occasion of prayer [as against M. 4:1B's specification of the priestly benediction for times of prayer alone]? We can find a case of the Prayer without the raising of hands [in the priestly benediction], but we do not find the case of the raising of hands without [the recitation of] the Prayer.
 - b. I:3: It has been taught, "This represents the view of R. Meir." [He holds that the priestly benediction is included in the afternoon prayer and also on a fast.]
 - c. I:4: Zeirah, R. Hiyya, R. Joshua b. Levi in the name of Bar Pedaiyah: "On what account did the Scripture link the pericope of the Nazirite [Num. 6:1-21] to that of the raising of hands [in the priestly benediction, Num. 6:22-27]? "It was meant to teach you that just as the Nazir is prohibited to drink wine, so [for the priest who] raises his hands it is prohibited to drink wine."
 - d. I:5: What is the scriptural basis for the raising of hands [the priestly benediction]? "Say to Aaron and his sons, 'Thus you shall bless the people of Israel: you shall say to them'" (Num. 6:23). That passage indicates that it takes place in the morning. As to the additional services [including the priestly benediction]? Then Aaron lifted up his hands toward the people [and blessed them; and he came down from offering the sin offering and the burnt offering and the peace offerings (Lev. 9:22)]." This verse is out of order. Was it not necessary to say only, "And he came down from offering the sin offering, the burnt offering, and the peace offerings," and then:

“Aaron lifted up his hands [toward the people and blessed them]”? But this indicates that, when he came down to the altar, he would raise his hands and bless the people.

2. **I:6:** And what is the scriptural basis for [saying an additional] prayer [on the Day of Atonement, that is, the prayer] of the closing of the gates [M. 4:1B]? Said R. Levi, “[When you spread your hands, I will hide my eyes from you]; even though you make many prayers, I will not listen; [your hands are full of blood]’ (Is. 11:15). On the basis of the cited verse we learn that whoever prays abundantly is answered.”
3. **I:7:** To what does “the closing of the gates” [correspond that is, why is this the name of the service] [M. 4:1B]? Rabbis of Caesarea say, “There was a dispute between Rab and R. Yohanan. “Rab said, ‘To the closing of the gates of Heaven [at night].’ “R. Yohanan said, ‘To the closing of the gates of the Temple [before sunset].”” Said R. Yudan of Antondaria, “The Mishnah itself supports the view of R. Yohanan: ‘On three occasions in the year priests raise up their hands in the priestly benediction four times a day: at the morning prayer, the additional prayer, the afternoon prayer, and the closing of the gates’ [M. 4:1A-B]. “Now can you say that there is a closing of the gates of heaven by day [Surely not!]”
4. **I:8:** As to the prayer of the closing of the gates, what is the law on its releasing [one from the obligation of saying] the prayer of the evening? Said R. Ba to R. Hunah, “[But if one does not say the evening prayer,] at what point would one make mention of the prayer marking the separation [of the holy day that has passed from the ordinary day that has begun which is said during the evening Prayer]?”
5. **I:9:** Isaac bar Nahman in the name of R. Joshua b. Levi: “On the Day of Atonement which coincides with the Sabbath, even though there is no service of the closing of the gates on the Sabbath, one makes mention of the Sabbath in the service of the closing of the gates.” R. Simon in the name of R. Joshua b. Levi: “On a Sabbath that coincides with Hanukkah, even though there is no additional service on Hanukkah, one makes mention of Hanukkah in the additional service [of that day].” They add to this same matter: As to a New Month that coincides with a fast day, even though there is no service of closing of the gates on the New Moon, one mentions the New Moon in the service of the closing of the gates.
6. **I:10:** [On the occasion of the New Moon that coincides with a fast day,] what [passage of the Torah] do they read [in the synagogue]? R.

Yosé said.” The blessings and the curses [as on other fast days].” Said R. ‘Mana, “Is this to let the people know that there is a fast that day? They fall to the ground on their bellies [in the prayer], and do they not know that it is a fast day?” He said to him, “It is to let you know that they read the blessings and the curses, [even when the fast coincides with the New Moon]. [The lection of the fast day overrides the Torah readings of the New Moon.]”

7. **I:11:** Jeremiah, the scribe, asked R. Jeremiah, ‘On the occasion of a New Moon that coincided with the Sabbath, what passage do they read?’ He said to him, “They read the passage serving the New Moon Said R. Helbo before R. Immi, The Mishnah has made the same point: At all times they suspend the set order of the reading of the Torah: for New Moons, Hanukkah. Purim, fasts [M. Meg. 3:5E].” Isaac the Elder asked R. Isaac, ‘On the occasion of a New Moon that coincided with Hanukkah, what passage do they read?’ He said to him.” They read three [passages] for the New Moon and one for Hanukkah.”
8. **I:12:** Rab instructed Abedan, his spokesman, “Announce before them: ‘He who wants to say the evening prayer may do so while it is still day.’” R. Hiyya bar Ba instructed his spokesman, “Announce before them: ‘He who wants to say the evening prayer may do so while it is still day.’” Said R. Haninah, “R. Ishmael b. R. Yosé drew me to a certain stall and told me, ‘Here did father pray the prayer for the night of the Sabbath while it was yet Friday [that is, before sunset on Friday evening].”
9. **I:13:** Said R. Jacob bar Aha, “It has been taught there: As to the evening prayer, what is its status? “Rabban Gamaliel says, ‘It is obligatory.’ “R. Joshua says, ‘It is optional.’” Said R. Hinena, “Their dispute in this regard accords with the following dispute [that is parallel]: “He who has said it is obligatory maintains that saying the prayer of the closing of the gates does not exempt one from the obligation to say the evening prayer. “He who has said that it is optional maintains that saying the prayer of the closing of the gates does exempt one from the obligation to say the evening prayer.”
 - a. **I:14: WM’SH B:** A certain student came and asked R. Joshua, “What is the law about the evening prayer?” He said to him, “Optional.” [The student] came and asked Rabban Gamaliel, “What is the law about the evening prayer?” He said to him, Compulsory.” [The student] said to him, “But R. Joshua said ‘Optional!’” [Rabban Gamaliel] said to him, ‘Tomorrow, when I come into the meetinghouse, get up and ask about this law.’” The

next day that same student got up and asked Rabban Gamaliel, “What is the law about the evening prayer?” He said to him, “Compulsory.’ He said, ‘But R. Joshua said, “Optional.”’” Rabban Gamaliel said to R. Joshua, “Is it you who says ‘Optional’?” He said, “No.” Rabban Gamaliel] said to him, “Stand on your feet, and let them bear witness against you.” And Rabban Gamaliel sat and expounded, and R. Joshua remained standing, until all the people shouted at him and said to R. Huspit, the Meturgeman, “Dismiss the assembly!” They said to R. Zenun the Hazzan, “Say....” They began to speak. All the people stood on their feet and said to him [Gamaliel], “‘For upon whom has not come your unceasing evil?’” (Neh. 3:19)? Immediately they went and appointed R. Eleazar b. Azariah to the Academy.

XXXV. YERUSHALMI TAANIT 4:2

[A] WHAT WERE THE DELEGATIONS [MA’AMADOT]? [IT IS SAID,] “COMMAND THE CHILDREN OF ISRAEL AND SAY TO THEM, ‘MY OBLIGATION. MY FOOD [FOR MY OFFERINGS MADE OF FIRE, OF A SWEET SAVOR TO ME, SHALL YOU OBSERVE TO OFFER ME IN THEIR DUE SEASON]’” (NUM. 28: 2)

1. **I:1:** Would it not have been more appropriate to express the Mishnah by saying, What is the delegation?ÉThey gather in their towns and study the story of the works of creation [M. 4:2A, F]? [Why insert the cited verse at B?] The intention was to start at the beginning of the matter [that is so as to provide the rationale for the delegation].
2. **I:2:** Said R. Jonah, “The daily whole offering represents the offering of all Israelites.” Should it not be the case, then, that all Israelites should come up to Jerusalem? It is written only as follows: “Three times a year all your males shall appear before the Lord your God at the place which he will choose: [at the feast of unleavened bread, at the feast of weeks, and at the feast of booths. They shall not appear before the Lord empty-handed]” (Deut. 16:16). Further, if all Israelites were to sit idle [since the one who makes an offering may not work on that day,] – lo, it is written, “[He will give the rain for your land in its season, the early rain and the later rain], that you may gather in your grain [and your wine and your oil]” (Deut. 11:14). Now who will go and gather in the grain?

[B] NOW HOW CAN A PERSON’S OFFERING BE MADE WHILE HE IS NOT STANDING BY ITS SIDE? THE EARLY PROPHETS MADE THE RULE OF TWENTY-FOUR WATCHES, AND FOR EACH WATCH THERE WAS A DELEGATION [MA’AMAD] IN JERUSALEM MADE

UP OF PRIESTS, LEVITES, AND ISRAELITES. WHEN THE TIME CAME FOR A WATCH TO GO UP TO JERUSALEM, ITS PRIESTS AND LEVITES GO UP WITH IT TO JERUSALEM. AND ISRAELITES WHO BELONG TO THAT WATCH GATHER TOGETHER IN THEIR TOWNS AND STUDY THE STORY OF THE WORKS OF CREATION.

1. **II:1:** Rather, the early prophets made the rule of twenty-four watches, and for each watch there was a delegation in Jerusalem made up of priests, Levites, and Israelites [M. 4:2D]. It has been taught: There were 24,000 in the delegation from Jerusalem, and half of a delegation from Jericho. Jericho too could have produced a complete delegation, but it was so as to assign greater glory to Jerusalem that Jericho produced only half of a delegation.
2. **II:2:** The priests go to participate in the Temple labor, and the Levites to the platform [on which they] would sing Psalms], and the Israelites take upon themselves to serve as the messengers of all Israel.
3. **II:3:** It has been taught: R. Simeon b. Eleazar says, “Priests, Levites, musical instruments, and the people as well are indispensable to the cult” [T. Ta. 3:3D]. R. Abun in the name of R. Eleazar: “The scriptural basis for the view of R. Simeon is as follows: ‘The whole assembly worshiped, [and the singers sang, and the trumpeters sounded; all this continued until the burnt offering was finished]’ (2 Chron. 29:28). “‘The whole assembly worshiped’ – this refers to the Israelites. “‘And the singers sang’ – this refers to the Levites. “‘And the trumpeters sounded’ – this refers to the priests. “All this continued until the burnt offering was finished’ – all of this is indispensable to the cult.”
4. **II:4:** R. Jacob bar Aha, R. Hiyya in the name of R. Yohanan [in the Tosefta’s version]: “Eight priestly watches did Moses set up for the priesthood, and eight for the Levites, [Y.: four from Eleazar, four from Itamar. When David and Samuel, the seer, arose, they divided the priesthood into twenty-four watches, and the Levites into twenty-four watches. [Y.: Until David and Samuel, the seers arose and they added eight; four from Eleazar, four from Itamar. They wanted to add eight more, for twenty-four, and they found some from Eleazar, but not from Itamar] [T. Ta. 3:2A-B].”
5. **II:5:** Four priestly watches came up from the Exile: Jediah, Harim, Pashhur, and Immer [Ezra 2:36 - 39]. The prophets who were in Jerusalem went and divided them into twenty-four watches, mixed up [lots], and placed them in an urn. Jediah came and took five, in

addition to himself, so, lo, there are six here. Harim came along and took five, in addition to himself, so, lo, there are six. Pashhur came along and took five, in addition to himself, so, lo, there are six. Immer came along and took five, in addition to himself, so, lo, there are six. And so the prophets stipulated with them, that even if Jehoiarib should come up from exile, not one of them would be removed on his account, but he would be made subordinate to him. Then the heads of the priestly watches stood up and divided themselves into fathers' houses [T. Ta. 2:1]. Each priestly watch which is divided into four, five, six, seven, eight, or nine fathers' houses] – A priestly watch which contains four – three offer up sacrifices for two sequences of two days, and one of them offers up sacrifices for one day. A priestly watch which contains five – three offer up the sacrifices for two sequences of two days, and two offer up for one day only. A priestly watch which contains six – five offer up the sacrifices for five days, and one offers up for two days. A priestly watch which contains seven – each one offers up the sacrifices for one day. A priestly watch which contains eight – six offer up the sacrifices for six [successive] days, and two offer up sacrifices for one day. A priestly watch which contains nine – five offer up the sacrifices for five days, four offer up the sacrifices for two days. Some of them established a particular day for all time: that one which comes on the Sabbath comes on the Sabbath for all time; that one which comes after the Sabbath comes after the Sabbath for all time. There are some which increase in size once a month [as other priests join them], some which increase in size once a year, some of them increase in size once in a septennate, and some of them increase in size for every watch [T. Ta. 2:2A-K].

- 6.** **II:6:** Rabbi would make two appointments [to his administration, at one time]. If they proved worthy, they were confirmed. If not, they were removed. When he was dying he instructed his son [Gamaliel], “Don’t do it that way. Rather, appoint them all at one time. “And appoint R. Hami bar Haninah at the head [of the group]. And why had Rabbi not appointed him? Said R. Derosa, ‘It was because the people of Sepphoris cried out against him in Sepphoris.’” And merely because people raise a cry do they do things they want? Said R. Eleazar b. R. Yosé, “It was because [Haninah] publicly answered [what Rabbi had said].”
- a.** **II:7:** Samuel and members of the household of Shila would greet the patriarch every day. The members of the house of Shila went in first and sat down first. They paid honor to Samuel and sat him down in front. Then Rab came there, and Samuel paid him honor and sat him down before [himself]. The members of the house of

Shila said, “We have always been second.” Samuel agreed to be seated third in line.

7. **II:8:** Three scrolls did they find in the Temple courtyard. These were the *Maon* scroll [“Dwelling”], the *Zaatuti* scroll [“Little ones”], and the *He-* scroll. In one of these scrolls they found it written, “The eternal God is your dwelling place (*maon*)” (Deut. 33:27: “The eternal God is your dwelling place, and underneath are the everlasting arms. And he thrust out the enemy before you, and said, ‘Destroy’”). And in two of the scrolls it was written, “The eternal God is your dwelling place” (*meonah*). They confirmed the reading found in the two and abrogated the other. In one of them they found written, “They sent the little ones of the people of Israel” (Ex. 24:5: “And he sent young men of the people of Israel, who offered burnt offerings and sacrificed peace offerings of oxen to the Lord”). And in the two it was written, “They sent young men....” They confirmed the two and abrogated the other. In one of them they found written, “He [he written in the feminine spelling] nine times, and in two, they found it written that way eleven times.” They confirmed the reading found in the two and abrogated the other.
8. **II:9:** Said R. Levi, “A scroll listing genealogies they found in Jerusalem, and in it were written the following: “Hillel derives from David; Ben Jeseq from Assaf; Ben Sisit Hakkeset from Abner; Ben Qobisin from Ahab; Ben Kalba Sabua from Caleb; “R. Yannai from Eli; Ben Yehud from Sepphoris; R. Hiyya the Elder from the children of Shephatiah son of Abital [2 Sam. 3:4]; R. Yosé b. R. Halapta from the children of Jonadab b. Rechab; R. Nehemiah from Nehemiah the Tirshathite.”
9. **II:10:** It has been taught: What is the proper order of reclining at a meal? When there are two couches, the eldest among them goes up and reclines at the head of the upper couch, the second to him below him, [and so on]. When there are three couches, the oldest of them goes up and reclines at the head of the middle couch, the one second to him above, the one third, below. And so they arrange themselves further [T. Ber. 5:5].
10. **II:11:** Jacob bar Aha in the name of R. Yosé: “Under no circumstances does the world endure, except on the basis of the offerings.” There we have learned: Simeon the Righteous was one of the remnants of the Great Assembly. He would say, “On three things the world stands: Torah, sacrificial cult, and deeds of loving kindness” [M. Abot I:3]. “And the three of them derive from a single verse of Scripture [Is.

51:16]: ‘I have placed my words in your mouth’ – this refers to the [study of] Torah. ‘And in the shadow of my hands I have covered you’ – this refers to doing deeds of loving kindness. “This serves to teach you that whoever keeps himself busy in studying Torah and in doing deeds of loving kindness merits sitting in the shadow of the Holy One, blessed be he.”

XXXVI. YERUSHALMI TAANIT 4:3

[A] THE MEMBERS OF A DELEGATION WOULD FAST FOUR DAYS A WEEK. FROM MONDAY TO THURSDAY. BUT THEY DID NOT FAST ON THE EVE OF THE SABBATH, BECAUSE OF THE HONOR OWING TO THE SABBATH, NOR ON SUNDAY SO AS NOT TO GO FORTH FROM RESTING AND ENJOYMENT TO TRAVAIL AND FASTING, AND SO PERISH. ON THE FIRST DAY [THEY READ] FROM, “IN THE BEGINNING” TO “LET THERE BE A FIRMAMENT” (GEN. 1:1-8); ON THE SECOND DAY, FROM “LET THERE BE A FIRMAMENT” TO “LET THE WATERS BE GATHERED TOGETHER” (GEN. 1: 6-13); ON THE THIRD DAY, FROM “LET THE WATERS BE GATHERED TOGETHER” TO “LET THERE BE LIGHT” (GEN. 1:9-19); ON THE FOURTH DAY, FROM “LET THERE BE LIGHT” TO “LET THE WATER BRING FORTH ABUNDANTLY” (GEN. 1:14-23); AND ON THE FIFTH DAY, FROM “LET THE WATERS BRING FORTH ABUNDANTLY” TO “LET THE EARTH BRING FORTH” (GEN. 1:20-31); AND ON THE SIXTH DAY, FROM “LET THE EARTH BRING FORTH” TO “AND THE HEAVEN AND THE EARTH WERE FINISHED” (GEN. 1:24-31, 2:1- 3). IN THE CASE OF A LONG PERICOPE, THEY READ IT BY TWO, AND IN THE CASE OF A BRIEF ONE. BY ONE PERSON.

- 1. I:1:** Huna said, “The three who are called up to the Torah should not read less than ten verses of Scripture.” Hezekiah said, “This is to match the Ten Commandments.” And lo, we have learned, On the first day they read from, “In the beginning” (Gen. 1:1) to, “Let there be a firmament” (Gen. 1:8) [M. Ta. 4:3E]. Now are there only eight verses in that set? R. Idi says, “Kahana and Assi differed. “One said, ‘He goes back [and repeats a verse].’ “The other said, ‘He cuts one into two.’” He who said he goes back maintains that one goes back and repeats two verses. He who said that one cuts a verse into two holds that, “And there was evening, and there was morning (Gen. 1:5, 8),” constitutes a verse by itself. And lo, we have learned: On the second day, from “Let there be a firmament, “to “Let the waters be gathered together” [M. Ta. 4:3F]. [Now, are there only seven verses in that set?] One said, ‘He goes back [and repeats a verse].’ The other said, ‘He cuts one into two. He who said He goes back, maintains that one repeats two verses [bringing the total to ten as prescribed at A and as resolved at B. And

he who said that one cuts up a verse into two, in this case, even if one cuts it [Gen. 1:8] into two, there is no adequate number [since then there are only nine verses].

2. **I:2:** It has been taught: The [Israelite] men of the priestly watch would fast every day [M. 4:3A]: On Monday they would fast for those who were going on an ocean voyage: [And they would say in prayer,] “And God said, ‘Let there be a firmament in the midst of the waters, and let it separate the waters from the waters’” (Gen. 1:6). On Tuesday they would fast for those who make land voyages: [And they would say in prayer,] “And God said, ‘Let the waters under the heavens be gathered together in one place, and let the dry land appear’” (Gen. 1:9). On Wednesday they would fast so that children would not get croup. And they would say in prayer,] “And God said, ‘Let there be lights in the firmament of the heavens to separate the from the night; and let them be for signs and for seasons and for days and years’” (Gen. 1:14). Instead of “lights,]” curses” is written. On Thursday they would fast for pregnant women that they not miscarry, and for nursing mothers, that their children not die: [And they would say in prayer,] ““And God said. Let the waters bring forth swarms of living creatures, and let birds fly above the earth across the firmament of the heavens’” (Gen. 1:20).

[B] **AT THE MORNING SERVICE, AT THE ADDITIONAL SERVICE, AND AT THE AFTERNOON SERVICE THEY COME TOGETHER AND RECITE IT BY HEART, JUST AS THEY RECITE THE SHEMA. ON THE EVE OF THE SABBATH AT THE AFTERNOON PRAYER THEY DID NOT COME TOGETHER, BECAUSE OF THE HONOR OWING TO THE SABBATH.**

1. **II:1:** The Mishnah accords with the view of R. Meir [in ruling that the delegation reads the Torah every time it prays. that is [M. 4:3L]. For R. Meir said, “They pray and read in the Torah pray and read in the Torah.” But in accord with the view of sages they pray and read in the Torah, pray and then go forth [that is, they read the Torah only within a single service. but not. e.g., in the additional Service].

[C] **“ON ANY DAY ON WHICH THE HALLEL IS SAID, THERE IS NO DELEGATION [GATHERING FOR THE STUDY OF THE WORKS OF CREATION] AT DAWN; “[IF THERE IS] AN ADDITIONAL OFFERING, THERE IS NO DELEGATION AT THE CLOSING OF THE GATES; “[IF THERE IS] AN OFFERING OF WOOD, THERE IS NO DELEGATION AT THE AFTERNOON SERVICE,” THE WORDS OF R. AQIBA. SAID TO HIM BEN AZZAI, “THIS WAS THE WAY IN WHICH R. JOSHUA TAUGHT THE RULE: “[IF THERE IS] AN ADDITIONAL OFFERING, THERE IS NO [DELEGATION AT] THE AFTERNOON PRAYER; “[IF THERE IS] A WOOD OFFERING, THERE IS NO**

[DELEGATION AT] THE CLOSING OF THE GATES.” R. AQIBA REVERTED AND REPEATED THE TRADITION IN THE FORMULATION OF BEN AZZAI.

1. **III:1:** [As to the view of M. 1:3R, that there is no delegation rite at the closing of the gates on the occasion of a wood offering.] R. Simon said, “Is it too much trouble to carry the burden of a little wood? [Why cancel the delegation?]” Said R. Mana, “It was because of the meals to be prepared for the New Month [cf. M. 4:4A-B; L-M].” R. Eleazar: “It was because of the principle that whatever is done more regularly than its fellow takes precedence over its fellow.”

XXXVII. YERUSHALMI TAANIT 4:4

[A] **THE TIME OF THE WOOD OFFERING OF PRIESTS AND PEOPLE [COMES ON] NINE [OCCASIONS IN THE YEAR]: ON THE FIRST OF NISAN [IS THE OFFERING OF] THE FAMILY OF ARAH B. JUDAH [EZRA 2:5, NEH. 2:10]; ON THE TWENTIETH OF TAMMUZ [IS THE OFFERING OF] THE FAMILY OF DAVID B. JUDAH; ON THE FIFTH OF AB [IS THE OFFERING OF] THE FAMILY OF PAROSH B. JUDAH [EZRA 2:3, NEH. 2:8]; ON THE SEVENTH OF THAT MONTH [IS THE OFFERING OF] THE FAMILY OF YONADAB B. REKHAB [JER. 35:1FF.]; ON THE TENTH OF THAT MONTH [IS THE OFFERING OF] THE FAMILY OF SENAAH B. BENJAMIN [EZRA 2:35, NEH. 7:38]; ON THE FIFTEENTH OF THAT MONTH [IS THE OFFERING OF] THE FAMILY OF ZATTU B. JUDAH [EZRA 2:8, NEH. 7:13]; AND WITH THEM [COMES THE OFFERING OF] PRIESTS, LEVITES, AND WHOEVER IS UNCERTAIN AS TO HIS TRIBE, AND THE FAMILIES OF THE PESTLE SMUGGLERS AND FIG PRESSERS. ON THE TWENTIETH OF THAT SAME MONTH [IS THE OFFERING OF] THE FAMILY OF PAHAT MOAB B. JUDAH [EZRA 2:6, NEH. 7:11]. ON THE TWENTIETH OF ELUL [IS THE OFFERING OF] THE FAMILY OF ADIN B. JUDAH [EZRA 2:15, NEH. 7:20]. ON THE FIRST OF TEBET THE FAMILY OF PAROSH RETURNED A SECOND TIME [WITH ANOTHER WOOD OFFERING]. ON THE FIRST OF TEBET [HANUKKAH] THERE WAS NO DELEGATION, FOR THERE WAS HALLEL ON THAT DAY, AS WELL AS AN ADDITIONAL OFFERING AND A WOOD OFFERING.**

1. **I:1:** Why did they set aside [special times for] the wood offering of priests and people [M. Ta. 4:4]? For when the exiles came up, they found no wood in the wood chamber. These in particular went and contributed wood of their own, handing it over to the community. On that account prophets stipulated with them, that even if the wood-chamber should be loaded with wood, even with wood belonging to the community, these should have the privilege of contributing wood at this time and at any occasion on which they wanted [T. Taaniyot 3:5A-D].

2.

I:2: What was the matter having to do with the families of the pestle smugglers and the fig pressers [M. 4:4H]? Now when the Greek kings set up border presidios on the roads, so that people should not go up to Jerusalem, just as Jeroboam the son of Nebat did, then, whoever was a suitable person and sin-fearing of that generation – what did he do? [V. lacks ‘Now whenÉJerusalem’ and begins: ‘When Jeroboam the son of Nebat set up border presidios.’] He would take up his first fruits and make a kind of basket and cover them with dried figs, and take the basket with the first fruits and cover them with a kind of dried figs, and he would put them in a basket and take the basket and a pestle on his shoulder and go up. [Y. has: Whoever was suitable and sin-fearing of that generation would bring his first fruits and put them in a basket and cover them with dried figs, and take the pestle and put the basket on his shoulder and the pestle in his hand.] Now when he would come to that guard, [the guard] would say to him, “Where are you going?” He said to him, “To make these two rings of dried figs into cakes of pressed figs, in that press over there, with this pestle which is on my shoulder [Y.: in my hand].” Once he got by that guard, he would prepare a wreath from them and bring them up to Jerusalem [T. Ta. 3:7]. What is the matter having to do with the family of Salmai the Netophathites [cf. 1 Chron. 2:54: “The sons of Salma: Bethlehem, the Netophathites...”]? Now when the Greek kings set up guards on the road so that the people should not go up to Jerusalem, just as Jeroboam the son of Nebat did. [Y. lacks reference to ‘Greek kings’ at B and reads: Whoever contributed wood and logs for the pile on the altar would bring wood and make steps of a sort and make a kind of ladderÉ], then whoever was a suitable and sin-fearing person of that generation would take two pieces of wood and make them into a kind of ladder and put it on his shoulder and go up. When he came to that guard, [the guard] said to him, “Where are you going?” “To fetch two pigeons from that dovecot over there, with this ladder which is on my shoulder.” Once he got by that guard, he would dismantle [the pieces of wood of the ladder] and bring them up to Jerusalem. Now because they were prepared to give up their lives for the Torah and for the commandments, therefore they found for themselves a good name and a good memorial forever. And concerning them Scripture says, “The memory of a righteous person is for a blessing” (Prov. 10:7). [Y. lacks:] But concerning Jeroboam son of Nebat and his allies, Scripture says, “But the name of the wicked will rot” (Prov. 10:7) [T. Ta. 3:8].

XXXVIII. YERUSHALMI TAANIT 4:5

[A] FIVE EVENTS OCCURRED TO OUR FATHERS ON THE SEVENTEENTH OF TAMMUZ, AND FIVE ON THE NINTH OF AB. ON THE SEVENTEENTH OF TAMMUZ THE TABLETS [OF THE TORAH] WERE BROKEN:

1. **I:1:** It is written, “The glory of the Lord settled on Mount Sinai, *and* the cloud covered it six *days*; *and* on the seventh *day* he called to Moses out of the midst of the cloud” (Ex. 2:16). [And it also says] “and Moses went up” (Ex. 2:15).” This was the seventh day after the declaration of the Ten Commandments, and the beginning of the forty [days that Moses spent on the mountain]. [On the sixth of Sivan the Torah was given, and on the next day began the forty days that Moses spent on the mountain.] Moses said to the people, “I am going to spend forty days on the mountain.” When the fortieth day came, and he did not come down, then: “When the people saw that Moses delayed to come down from the mountain, [the people gathered themselves together to Aaron and said to him, ‘Up, make us gods who shall go before us’]” (Ex. 32:1). When the sixth hour had passed, and he did not come down, thereupon: “The people gathered themselves together to Aaron and said to him. ‘Up, make us gods who will go before us’” (Ex. 32:1) ‘And the Lord said to Moses. Go down, for your people, [whom you brought up out of the land of Egypt], have corrupted themselves” (Ex. 32:7). When Joshua heard the noise of the people in their wickedness, he said to Moses, ‘There is a noise of war in the camp’” (Ex. 32:17). Said Moses, “Here is a man who is destined to govern 600,000 people, yet he does not know the difference between one sort of noise and another!” “He said, ‘It is not the sound of shouting for victory or the sound of the cry of defeat, but the sound of singing that I hear’” (Ex. 32:18). Said R. Yosé, “It is the sound of praise of idols that I hear.”

[B] THE DAILY WHOLE OFFERING WAS CANCELED:

1. **II:1:** Simon in the name of R. Joshua b. Levi: “In the days of the Greek empire [when Jerusalem was besieged], they would let down two baskets containing gold, and the besiegers would send up two sheep [for the daily whole offering]. “One time they let down to them two baskets of gold, and they sent up to them two kid goats [which are not suitable for a daily offering]. “At that moment the Holy One, blessed be he, opened their eyes, and they found two lambs in the chamber of the lambs [which were suitable] “It was in regard to that moment that R. Judah b. Abba gave testimony concerning the daily

whole offering brought in the morning, that it was offered at the fourth hour [M. Ed. 6:1].”

[C] THE CITY [WALL] WAS BREACHED:

1. **III:1:** It is written, “[In the eleventh year of Zedekiah, in the fourth month, on the ninth day of the month], a breach was made in the city” (Jer. 39:2). And yet you say this? Said R. Tanhum bar Hanilai, “There is an error in calculation here.” That is in line with what is written: “In the eleventh year, on the first day of the month, the word of the Lord came to me” (Ezek. 26:1). “Son of man, because Tyre said concerning Jerusalem, ‘Aha, [the gate of the people is broken, it has swung open to me, I shall be replenished now that she is laid to waste].””
2. **III:2:** Simeon b. Yohai taught, “R. Aqiba. my master, interpreted as follows: “Thus says the Lord of hosts: The fast of the fourth month, and the fast of the fifth. and the fast of the seventh, and the fast of the tenth, shall be to the house of Judah seasons of joy and gladness, and cheerful feasts; therefore love truth and peace’ (Zech. 8:19?). “‘The fast of the fourth month’ refers to the seventeenth of Tammuz. on which the tablets of the Torah were broken, the daily whole offering was canceled, the city wall was breached, Apostemos burned the Torah, and he set up an idol in the Temple [M. 4:5B] “‘The fast of the fifth month’ refers to the ninth of Ab, on which the first and second Temples were destroyed [M. 4:5C]. “‘The fast of the seventh month’ refers to the third of Tishré, the day on which Gedaliah b. Ahikam was killed. “‘The fast of the tenth month’ refers to the tenth of Tebet, on which the king of Babylonia came near Jerusalem.’ “This is in line with that which is said, ‘In the ninth year, in the tenth month, on the tenth day of the month, the word of the Lord came to me’ (Ezek. 24:1). “‘Son of man, write down the name of this day, this very day. The king of Babylon has laid siege to Jerusalem this very day’ (Ezek. 24:2). “But I [Simeon b. Yohai] say, ‘The fast of the tenth month’ refers to the fifth of Tebet, the day on which the news came to the Exile. “This is in line with that which is written, ‘In the twelfth year of our exile, in the tenth month, on the fifth day of the month, a man who had escaped from Jerusalem came to me and said, “The city has fallen”” [Ezek. 33:21]. “But in the land of Judea they fast on account of the actual fact, while in the communities of the Exile, they fast on the occasion of hearing the news. “R. Aqiba interprets the first last and the last first, and I interpret the first first and the last last, and I prefer my view to the view of R. Aqiba.”

[D] APOSTEMOS BURNED THE TORAH:

1. IV:1: Where did he burn it?

[E] AND HE SET UP AN IDOL IN THE TEMPLE :

- 1. V:1:** There is a Tannaite authority who teaches, “An idol was set up.” He who said, “An idol was set up” refers to a statue of Manasseh. He who said, “He set up an idol” refers to a statue of Apostemos [which he himself set up].
- 2. V:2:** [As to the seventeenth of Tammuz,] who did they not designate it as a fast day [QH: like the ninth Ab, i.e., a night and day fast]? Hinena, Abbayye of Bar Yantah in the name of R. Benaiah: “Because the greater part of the community [during the First Exile] did not accept it.” Said R. Joshua b. Levi, “Whatever happened on the one day [namely, the destruction of the first Temple on the ninth of Ab] was repeated again, while whatever happened on the other day [the seventeenth of Tammuz] did not then happen a second time [so the former was made a more difficult fast day.]”

[F] ON THE NINTH OF AB THE DECREE WAS MADE AGAINST OUR FOREFATHERS THAT THEY SHOULD NOT ENTER THE LAND, THE FIRST TEMPLE AND THE SECOND [TEMPLE] WERE DESTROYED :

- 1. VI:1:** [As to the decree against the forefathers about not entering the land [M. 4:5C]: that is in line with the following verses of Scripture: “In the second year, in the second month, on the twentieth day of the month, [the cloud was taken up from over the tabernacle of the testimony]” (Num. 10:11). And it is written, “So they set out from the mount of the Lord three days’ journey” (Num. 10:33). R. Zekhariah, son-in-law of R. Levi, [compared the matter to] children who run away from school and go out to the villages. [So the Israelites fled from the mountain of the Lord.] On that day they formed a great desire [cf. Num. 11:4]: “But a whole month, until it comes out at your nostrils [and becomes loathsome to you, because you have rejected the Lord who is among you and have wept before him, saying, ‘Why did we come forth out of Egypt?’]” (Num. 11:20). Now there were then the seven days on which Miriam was shut up: “So Miriam was shut up outside the camp seven days; [and the people did not set out on the march till Miriam was brought m again]” (Num. 12:15) In the forty days of the spies at the end of forty days they returned from spying out the land” (Num. 13:25). [The entire period outlined in A-F ended on the ninth of Ab when it was decreed that the forefathers would not enter the land.] “And they came to Moses and Aaron” (Num. 13:26): They came and found them busy studying the laws concerning the dough offering and the status of produce prohibited in the first three

years of growth of the tree [These laws apply only in the land] [The spies] then said to them.” Now you in fact are not going to enter the land, and yet you are occupied with the laws of dough offering and prohibited produce! Forthwith: Then all the congregation raised a loud cry; and the people wept that night” (Num. 13:26). He said to them, “You have wept before me tears of vanity. Then you are destined to weep tears that mean something: ‘She weeps bitterly in the night. [tears on her cheeks; among all her lovers she has none to comfort her. they have become her enemies]’” (Lam. 1:2).

2. **VI:2:** It has been taught [in the Tosefta’s version: R. Yosé says, “They assign a meritorious matter to day that merits it and a disadvantageous matter to a bad day. “When the Temple was destroyed the first time, it was the day after the Sabbath and the year after the Sabbatical year. “And it was the watch of Jehoiarib, and it was the ninth of Ab. “And so in the case of the destruction of the Second Temple. “And the Levites were standing on their platform and singing, ‘And he has brought upon them their own iniquity, and he will cut them off in their own evil’ (Ps. 94:23). “Now tomorrow, when the Temple house will be rebuilt, what will they sing? “Blessed be the Lord, the God of Israel, from everlasting to everlasting’ (1 Chron. 16:36 and Ps. 106:48). “[Blessed be the Lord, the God of Israel] who alone does wondrous things. Blessed be his glorious name [forever; may his glory fill the whole earth! Amen and Amen!]” (Ps. 72:18-19) [T. Ta. 3:9].

[G] **BETAR WAS TAKEN:**

1. **VII:1:** Rabbi would derive by exegesis twenty-four [tragic] events from the verse: “The Lord has destroyed without mercy [all the habitations of Jacob; in his wrath he has broken down the strong-holds of the daughter of Judah; he has brought down to the ground in dishonor the kingdom and its rulers]” (Lam. 2:2). R. Yohanan derived sixty [from the same verse]. Did R. Yohanan then find more than did Rabbi in the same verse? But because Rabbi lived nearer to the destruction of the Temple, there were [in the audience] old men who remembered what had happened, and when he gave his exegesis, they would weep and fall silent and get up and leave. It has been taught: Said R. Judah b. R. Ilai, “Barukh, my master would interpret as follows: ‘[So Jacob went near to Isaac his father, who felt him and said], “The voice is Jacob’s voice, but the hands are the hands of Esau” (Gen. 27:22).’ The voice of Jacob cries out on account of what the hands of Esau did to him at Betar.” “R. Simeon b. Yohai taught, “Aqiba, my master, would interpret the following verse: ‘A star (kokhab) shall come forth out of Jacob’ (Num. 24:17) – ‘A

disappointment (*Kozeba*) shall come forth out of Jacob.” R. Aqiba: When he saw Bar Kozeba, he said, “This is the King Messiah.” Said to him R. Yohanan ben Toreta, “Aqiba! Grass will grow on your cheeks, and the Messiah will not yet have come!” Said R. Yohanan, “Upon orders [‘voice’] of Caesar Hadrian in Betar they killed 80,000 myriads.” Said R. Yohanan, “There were 80,000 pairs of trumpeters that surrounded Betar. Each one was in charge of a number of troops. Ben Kozabah was there, and he had 200,000 troops who, [as a sign of loyalty, had cut off their little finger. “Sages sent word to him, ‘How long are you going to turn Israel into a maimed people?’ “He said to them, ‘How otherwise is it possible to test them?’ “They replied to him, ‘Whoever cannot uproot a cedar of Lebanon while riding on his horse will not be registered in your army.’ “So there were 200,000 who qualified in one way, and another 200,000 who qualified in another way.”

2. **VII:2:** It has been taught: R. Yosé says, “Betar lasted for fifty-two years after the destruction of the Temple. And why was it destroyed? Because they lit candles after the destruction of the Temple. “And why did they light candles? Because the councillors of Jerusalem were in session in the middle of the city.” Now when they would see someone going up to Jerusalem, they would say to him, “Now we have heard about you that you want to be appointed magistrate and councillor.” He would say to them, “That is not in my mind at all.” “Now we have heard about you that you want to sell your estate.” He would say to them, “That is not in my mind at all.” His fellow would then say to him.” Then write down what you want to do, and I shall sign the document.” He would write, and the fellow would sign. They would then send the (forged) deed of sale to the [man’s steward, and say to him, “If Mr. So-and-so should come to take over his estate. do not let him do so, because it was sold to us.” [So they stole peoples’ estates.] When he heard this from them, he would say.” Would that the leg of that man [me] be broken, but he [I] will not go to Jerusalem!”
3. **VII:3:** There were two brothers in Kefar Haroba. The Romans attacked [the village] and killed the people. They said, “To end the matter, let us bring a crown for their heads.” They said, “Let us try one more time.” They went forth [to attack the Romans again]. An old man met them and said to them, “May your Creator be your help!” [One of the brothers] said to him, “May he not help nor support us: ‘Has thou not rejected us, O God! [Thou dost not go forth, O God, with our armies]’” (Ps. 60:10).

4. **VII:4:** There were two cedars on the Mount of Olives. Under one of them there were four stalls, selling food preserved in a condition of cultic cleanness [to be eaten in Jerusalem]. And from one they would produce forty *seahs*' weight of pigeons a month, and from these they would provide bird offerings for all of Israel. [From] Simeon's Gate they would put forth 300 barrels of thin cakes among the poor every Sabbath eve. Then why was it destroyed? There is he who says, "It was because of fornication." There is he who says, "It was because they would play ball [waste their time, instead of studying Torah]."
5. **VII:5:** Said R. Yohanan, "Eighty thousand apprentice priests were killed because of the shedding of the blood of Zechariah." R. Yudan asked R. Aha, "Where did they kill Zechariah, in the Women's Court or in the Israelites' Court?" He said to him, "It was neither in the Women's Court nor in the Israelites' Court, but in the courtyard reserved for the priests." And they did not treat his blood either as one does with the blood of a ram or as one does with the blood of a deer. There it is written, "[Any man also of the people of Israel, or of the strangers that sojourn among them, who takes in hunting any beast or bird that may be eaten] shall pour out its blood and cover it with dust" (Lev. 17:13). But here it is written, "For the blood she has shed is still in the midst of her; she put it on the bare rock, [she did not pour it upon the ground to cover it with dust]" (Ezek. 24:7). And why? "To rouse my wrath, to take vengeance, I have set on the bare rock the blood she has shed, that it may not be covered" (Ezek. 24:8). Seven sins did the Israelites commit on that day. They killed priest, prophet, and judge. They spilled innocent blood. They contaminated the courtyard. And it was a Sabbath that coincided with the Day of Atonement as well. Now when Nebuzaradan came here, he saw the blood bubbling up. He said to them, "What is this?" They said to him, "It is the blood of the bullocks, sheep, And rams that we offer on the altar." Forthwith he brought bullocks, rams, and sheep and slaughtered them on it, and still the blood was bubbling up. Since they did not confess to him, he [ordered them] suspended on the gallows [for torture]. They said, "It appears that the Holy One, blessed be he, wants to escape from our hand vengeance for his blood." They said to him, "It is the blood of a priest, prophet, and judge, who prophesied against us concerning everything that you are now doing to us, and we rose up against him and killed him." Forthwith he brought 80,000 appearance priests and slaughtered them on it, and still the blood bubbled up. At that moment he grew angry [at the blood], saying to it, "What to you want? Should we destroy your entire nation on your account?"

- 6.** **VII:6:** Said R. Yohanan, “Eighty thousand apprentice priests fled to the stoves of the Temple, and they were burned up. “And of them all there survived only Joshua b. Yehosedeq, the high priest.” This is in line with that which is said. ‘[And the Lord said to Satan, “The Lord rebuke you, O Satan! The Lord who has chosen Jerusalem rebuke you!’ Is not this a brand plucked from the fire?’” (Zech. 3:2). Said R. Yohanan, “Eighty thousand apprentice priests fled to the army of Nebuchadnezzar and they [went] to the Ishmaelites. “They said to them. Give us something to drink, because we are thirsty.” “They brought them salty things and skins that were blown up with air. “They said to them, ‘Eat and drink.’ “When one of them opened a skin and put it to his mouth, the air that was in it burst forth and choked him, “That is in line with what is written, ‘The oracle concerning Arabia. In the thickets in Arabia you will lodge, O caravans of Dedanites. To the thirsty bring water, meet the fugitive with bread, O inhabitants of the land of Tema’” (Is. 21:13-14). “The oracle concerning Arabia – ‘A great burden is on Arabia.’ “In the thickets of Lebanon”– those who were located in the “forest of Lebanon” [the Temple] now are in ‘the thickets of Arabia.’” “Caravans of Dedanites”– is this the way for cousins to act? For when Ishmael was thirsty was, ‘To the thirsty bring water’ not the case? [For so it says]: “Then God opened her eyes, and she saw a well of water; [and she went, and filled the skin with water, and gave the lad a drink]” (Gen. 21:19). It was not because of your goodness that they came to you.” For they have fled from the swords (Is. 21:15).” “From the drawn sword” (Is. 21:15) – since they did not want to keep the years of release.
- 7.** **VII:7:** Said R. Yohanan, “Between Gabbath and Antipatris there were sixty myriads of townships. The smallest among them was Beth Shemesh. As it is written: ‘And he slew some of the men of Bethshemesh, because they looked into the ark of the Lord; [he slew seventy men of them, and the people mourned because the Lord had made a great slaughter among the people]’ (1 Sam. 6:19). And these were in only one direction. And now if you tried to stick sixty myriads of reeds there, it would not hold them.”
- 8.** **VII:8:** Said R. Zeirah, “Come and take note of how the land of Israel is impudent, that it continues to produce crops [even though so much of the land has been destroyed through fire and brimstone].”
- 9.** **VII:9:** It was taught: R. Yosé says, “For fifty-two years no bird appeared in flight in the land of Israel.”

- 10. VII:10:** Said R. Hanina, “Forty years before the Israelites went into exile to Babylonia, they planted date palms in Babylonia, since they wanted to have something sweet, for that prepares the tongue to study Torah. [B] Said R. Hanina, son of R. Abbahu, “Seven hundred species of clean fish, eight hundred species of clean locusts, and fowl without number, all went into exile with the Israelites to Babylonia. “And when they came back, all of them came back with them, except for the fish called, ‘Shibuta.’”

[H] AND THE CITY WAS PLOUGHED UP [AFTER THE WAR OF HADRIAN].

- 1. VIII:1:** Rufus – may his bones be crushed!– ploughed the Temple building.

XXXIX. YERUSHALMI TAANT 4:6

[A] WHEN AB COMES, REJOICING DIMINISHES.

- 1. I:1:** [As regards cutting down on building (M. 1:8),] said R. Joshua b. Levi, “That which you have said applies to building for purposes of pleasure [e.g., a house for one’s son, who is getting married], but if one’s wall was infirm, one may tear it down and rebuild it.”
- 2. I:2:** R. Ba bar Kohen said before R. Yosé, R. Aha in the name of R. Jacob bar Idi: “It is forbidden to betroth a woman on Friday.”
- 3. I:3:** Said R. Jonah, “That which you have said [that it is prohibited to wash clothing] applies to laundering in order to wear the garment immediately]. But it is permitted to launder in order to repair it [for use after the ninth of Ab].”

[B] IN THE WEEK IN WHICH THE NINTH OF AB OCCURS IT IS PROHIBITED TO GET A HAIRCUT AND TO WASH ONE’S CLOTHES. BUT ON THURSDAY OF THAT WEEK THESE ARE PERMITTED, BECAUSE OF THE HONOR OWING TO THE SABBATH. ON THE EVE OF THE NINTH OF AB A PERSON SHOULD NOT EAT TWO PREPARED DISHES, NOR SHOULD ONE EAT MEAT OR DRINK WINE.

- 1. II:1:** [As to the rule of M. 4:6B,] R. Ba bar Kohen said before R. Yosé, R. Aha in the name of R. Abbahu: “In the case of the ninth of Ab which coincides with the Sabbath, both weeks [before and after] are released [from the restrictions of M. 4:6B].” [In the case of an ordinary situation, in which the week prior to the ninth of Ab is subjected to these restrictions,] what is the law on the week afterward? R. Yohanan said, “The week afterward is subject to these restrictions

as well.” R. Simeon b. Laqish said, “The week afterward is released from these restrictions.”

2. **II:2:** R. Jeremiah in the name of R. Hiyya bar Ba: “According to strict law they should fast on the tenth of that month [of Ab], on which day the Temple was burned. And why is it that the fast is on the ninth? For it was on that day that the punishment [of Israel] got underway.”

[C] **RABBAN SIMEON B. GAMALIEL SAYS, “HE SHOULD MAKE SOME CHANGE FROM ORDINARY PROCEDURES.”**

1. **III:1:** What is the meaning of [M. 4:6F: Rabban Simeon b. Gamaliel says,] “He should make some change from ordinary procedures”? He should revise [the way he does things]. If he was accustomed to eat a litra of meat. Let him eat a half. If he was accustomed to drink a xestes of wine let him drink half that volume.

[D] **R. JUDAH DECLARES PEOPLE LIABLE TO TURN OVER BEDS. BUT SAGES DID NOT CONCUR WITH HIM.**

1. **IV:1:** [As to M. 4:6G-H:] R. Judah ruled quite properly.

XL. YERUSHALMI TAANIT 4:7

[A] **SAID RABBAN SIMEON BEN GAMALIEL, “THERE WERE NO DAYS BETTER FOR ISRAELITES THAN THE FIFTEENTH OF AB AND THE DAY OF ATONEMENT.” FOR ON THESE DAYS JERUSALEMITE GIRLS GO OUT IN BORROWED WHITE DRESSES — SO AS NOT TO SHAME THOSE WHO OWNED NONE..**

1. **I:1:** There is no difficulty understanding the joy of the Day of Atonement, for it serves as atonement for Israel. But why the fifteenth of Ab? R. Jacob bar Aha in the name of R. Yosé: “For it is a good time for cutting wood [for the altar]. ‘For any wood cut that day does not produce maggots.’ That is in line with what we have learned there: A piece of wood in which a worm is found is invalid for use on the altar [M. Mid.:5]. R. Hiyya bar.Ashi in the name of Rab: “It was on that day that Hosea b. Elah removed the presidios that Jeroboam ben Nabat had set up on the roads [to Jerusalem].”

[B] **ALL THE DRESSES HAD TO BE IMMersed.**

1. **II:1:** R. Yannai b. R. Ishmael said, “Even those that are placed in a chest [must be immersed].”

[C] AND THE JERUSALEMITE GIRLS GO OUT TO DANCE IN THE VINEYARDS. WHAT DID THEY SAY? ‘FELLOW LOOK AROUND AND SEE – CHOOSE WHAT YOU WANT. “DON’T LOOK FOR BEAUTY. LOOK FOR FAMILY: ““CHARM IS DECEITFUL AND BEAUTY IS VAIN, BUT A WOMAN WHO FEARS THE LORD WILL BE PRAISED”” (PROV. 31: 30). AND IT SAYS, “GIVE HER OF THE FRUIT OF HER HANDS AND LET HER WORKS PRAISE HER IN THE GATES ‘(PROV. 31:31). AND SO IT SAYS.” GO FORTH, YOU DAUGHTERS OF ZION, AND BEHOLD KING SOLOMON WITH THE CROWN WITH WHICH HIS MOTHER CROWNED HIM IN THE DAY OF HIS ESPOUSALS AND IN THE DAY OF THE GLADNESS OF HIS HEART” (SONG OF SONGS 3: 11). “THE DAY OF HIS ESPOUSALS – THIS REFERS TO THE DAY ON WHICH THE TORAH WAS GIVEN. “THE DAY OF THE GLADNESS OF HIS HEART”– THIS REFERS TO THE BUILDING OF THE TEMPLE – “MAY IT BE REBUILT QUICKLY. IN OUR DAYS.

1. III:1: And what did they say? “Fellow, look around and see – choose what you want! Don’t look for beauty. Look for family [M. 4:7E-G]: The daughter of the king would borrow from the daughter of the high priest. The daughter of the high priest would borrow from the daughter of the king. The ugly ones would say, “Don’t look for beauty.” And the pretty ones would say, “Look for family.” And so it says, ‘Go forth, you daughters of Zion and behold King Solomon with the crown with which his mother crowned him in the day of his espousals and in the day of the gladness of his heart Song.” This refers of the building of the Temple, may it be rebuilt quickly, in our days, Amen [M. Ta. 4:7J, L-M].

TRACTATE

MEGILLAH

In tractate *Megillah* the halakhah combines rules for declaiming the Megillah, the scroll of Esther that must be recited at Purim, with rules for declaiming other obligatory passages of Scripture. The one point at which Israel finds God in the synagogue in particular (not in the Temple nor in the streets or marketplaces) is in the declamation of the Torah. In reference to the synagogue the halakhah provides its category-formation accommodating the rules for declaiming the Torah and in that context the halakhah further specifies *other* rules that govern the sanctity of the synagogue.

What then defines the synagogue? It is not contained space of a particular character and location but the presence of the quorum of male Israelites assembled for the conduct of certain specific activities. Strictly speaking, were the halakhah to describe how things ought to be and not how sages wished them to be, archaeology should identify remarkably few contained spaces, that is, buildings of a distinctive character, as synagogues. The halakhah, after all, does not specify the traits that a building must exhibit to qualify for use as a synagogue, though it does recognize that a building certainly may be consecrated for synagogue-activities alone. But the halakhah does indicate what is necessary for the conduct of the activities particular to a synagogue in terms of the presence of holy Israel, embodied in ten males. Thus the synagogue finds its definition in its function. It is not a place to which Israelites go to meet God, as the Temple is. Rather, it is utopian in the simplest sense: it is any place where ten Israelite males conduct a specified activity, that is, where the function of the synagogue is carried out. The function may be carried out without regard to the location of the Israelites or the character of the space, if any, that contains them. Now, as a matter of fact, that is explicitly not the case when we define the two other venues where Israel and God meet, the Temple and the “enlandised” household, extending to the village, that is, to the household in the Land of Israel possessing a plot of land in the Land. To state matters negatively, the Temple cannot be defined as the place where ten Israelites come together to kill a cow. In similar vein, the “enlandised” household cannot be set forth as a location where ten Israelites produce crops, but rather a plot of ground owned by an Israelite in the Land of Israel that produces crops.

Why choose Purim and the recitation of the Megillah for the occasion to present the halakhah of the synagogue and the activities therein that make the synagogue important? It is because the occasion that is chosen in no way intersects with the activities of the Temple altar: no offerings at the altar are required for that occasion for the obvious reason that within the framework of the narrative, there was no altar at that time. And, furthermore, it is because sages find in the halakhah of Purim as laid out in the Written Torah the requirement that a particular lection of the Torah be declaimed in the community of Israel.

- I.** The laws of declaiming the scroll of Esther
- II.** The laws of synagogue property and liturgy
 - A.** The disposition of synagogue property
 - B.** Rules for reading Scriptures in synagogue worship
 - C.** The lections

YERUSHALMI MEGILLAH

CHAPTER ONE

1:1

[A] **The Scroll [of Esther] is read on the eleventh, twelfth, thirteenth, fourteenth, [or] fifteenth [of Adar],**

[B] **no earlier, no later.**

[C] **Cities surrounded by a wall from the time of Joshua bin Nun read [the Scroll of Esther] on the fifteenth.**

[D] **Villages and large towns read it on the fourteenth.**

[E] **But villages may advance it to a day of assembly [Monday or Thursday].**

[I:1 A] R. Ila, Simeon bar Ba in the name of R. Yohanan: “It is written, ‘That those days of Purim should be observed at their times, [as Mordecai the Jew and Queen Esther enjoined upon the Jews, and as they had laid down for themselves and for their descendants, with regards to their fasts and their lamenting]’” (Est. 9:31).

[B] Why does Scripture say, “At their times”?

[C] R. Jonah, R. Yosé: R. Jonah said, “To assign them other times [if the occasion requires it, as M. indicates].”

[D] R. Yosé said, “[It refers to] the times that the sages have assigned to them, and they are these: **the eleventh, twelfth, thirteenth, fourteenth, [or] fifteenth [of Adar].**”

[E] Or perhaps this refers to the sixteenth and the seventeenth?

[F] R. Abbahu in the name of R. Eleazar: “‘And it shall not pass’ (Est. 9:27) [means]: It shall not pass [the fifteenth day].”

[G] [Answering this same question,] R. Isaac bar Nahman in the name of Samuel: “‘And it shall not pass’ (Est. 9:27) [means]: It shall not pass [the fifteenth day].”

[H] Or perhaps that refers to the ninth and tenth [of Adar]?

[I] Samuel bar Nahman in the name of R. Jonathan: “[With reference to Est. 9:22, ‘Like the days wherein the Jews had rest from their enemies’] It is not written, ‘days,’ but rather, ‘Like the days.’ Set up [additional] ‘days’ corresponding to the [stipulated] ‘days’: the eleventh and twelfth against the fourteenth and fifteenth.”

[J] Or perhaps it is the twelfth and the thirteenth corresponding to the fourteenth and fifteenth?

[K] Said R. Helbo, “The thirteenth was a day of fighting. It then testifies as to its own character, that there is no rest on that day [for reading the Megillah].”

[L] If so, then if they do not read the Megillah on that day, should they read on the days before it or after it?

[M] And on it [the thirteenth] do they not read the Megillah? [Surely they do. Accordingly, the argument built on, “Like the days,” is null.]

[N] “Like the days” [means] days that are adjacent to “the days,” [i.e., “like the days” serves to exclude reading the Megillah on the ninth and tenth days, for they are not “as the days,” that is, days adjacent to those days on which they read the Megillah].

[O] But if [we refer to] days adjacent to those days [on which they read the Megillah], this must mean the sixteenth and seventh [of Adar].

[P] *Impossible* [70a]. For R. Abbahu said in the name of R. Eleazar: “‘And it shall not pass’ (Est. 9:27) [means]: It shall not pass [the fifteenth day].”

[Q] [Dealing with this same matter,] R. Isaac bar Nahman in the name of Samuel: “‘And it shall not pass’ (Est. 9:27) [means]: It shall not pass [the fifteenth day].”

[I:2 A] *It has been taught in the name of R. Nathan, “The entire month of Adar is valid for the reading of the Megillah.”*

[B] *What is the scriptural basis for this view?*

- [C] “[Like the days on which the Jews got relief from their enemies, and] as the month that had been turned for them from sorrow into gladness [and from mourning into a holiday; that they should make them days of feasting and gladness, days for sending choice portions to one another and gifts to the poor]” (Est. 9:22).
- [D] Said R. Helbo, “But that is [on the stipulation that the Megillah is read] by the fifteenth day.”
- [E] That accords with [that which was said by] R. Abbahu in the name of R. Eleazar, “‘And it shall not pass’ (Est. 9:27) [means]: It shall not pass [the fifteenth day].”
- [F] [Maintaining the same view,] R. Isaac bar Nahman in the name of Samuel: “‘And it shall not pass’ (Est. 9:27) [means] It shall not pass [the fifteenth day].”
- [G] That which you have said applies to the reading of the Megillah. But as to making a banquet, they do so only on the fourteenth or fifteenth,
- [H] and they distribute gifts to the poor only on the fourteenth or fifteenth,
- [I] [for] the poor expect gifts only on the fourteenth or fifteenth day [of Adar].
- [J] Then perhaps these days should serve for the reading of the Megillah and those for the banqueting?
- [K] R. Helbo, R. Huna in the name of Rab: “‘That these days should be remembered and kept [throughout every generation, in every family, province, and city and that these days of Purim should never fall into disuse among the Jews, nor should the commemoration of these days cease among their descendants]’ (Est. 9:28) ‘remembered’ through the reading of the Megillah, ‘and they are kept’ through banqueting.”
- [L] [Since Rab has interpreted the verse in this way,] is that to say that the Scroll of Esther is available for exegesis [of that kind]?
- [M] R. Helbo, R. Yosé in the name of R. Eleazar: “Here it is stated, ‘[Letters were sent to all the Jews, to the 127 provinces of the kingdom of Ahasuerus,] with words of peace and truth’ (Est. 9:30). And elsewhere it is stated,

‘Buy truth, and do not sell it; [buy wisdom, instruction, and understanding]’ (Prov. 23:23). Lo, this is like the truth of the Torah. Just as this [the Torah scroll] requires lines [in the hide, to keep the written lines straight], so this [the Scroll of Esther] requires lines. Just as this is available for exegesis [that is, one may interpret the language of the Torah], so that [the Scroll of Esther] is equally available for the close reading of exegesis.”

[N] R. Jeremiah in the name of R. Samuel bar R. Isaac: “The scroll that Samuel gave over to David is available for exegesis. *What is the scriptural basis for this view?* ‘All this is in writing from the Lord, which he made me understand’ (1 Chron. 28:19)].

[O] “‘All this in writing’ refers to the tradition; ‘from the Lord’ refers to the Holy Spirit; ‘which he made me understand’ proves that it is available for exegesis.”

[P] *R. Jeremiah asked, “And why do we not interpret ‘And the plan of all that he had by the spirit [BRWH]’ (1 Chron. 28:12) [that the plan was revealed by the Holy Spirit?]”*

[Q] [“Because,”] said R. Mana, “what is the meaning of ‘by the spirit (BRWH)? It means ‘in the breath of his mouth’ (BRWH PYW).”

[II:1 A] Cities surrounded by a wall from the time of Joshua bin Nun read the Scroll of Esther on the fifteenth [M. 1:1C].

[B] [Since the analogy was to Shushan, the capital, which had a wall in the time of Ahasueros and which celebrated the occasion on the fifteenth, why does the Mishnah not refer to cities which had a wall at that same time, namely, in the time of Ahasueros? Why refer, rather, to walled cities in the Holy Land and then in an earlier era, namely, the time of Joshua?] R. Simon in the name of R. Joshua b. Levi: “They paid respect to the Land of Israel, which lay in ruins in those days. [There were few walled cities in the Holy Land in the time of Ahasueros. Therefore,] associated it [the law] with the time of R. Joshua b. Nun.”

[C] And why should not everyone read the Megillah on [that same date of] the fifteenth?

[D] R. Abbahu provided the following interpretation: “[With reference to Est. 9:19:] Therefore the Jews of the villages, who live in the

open towns, hold the fourteenth day of the month of Adar as a day for gladness' and to Josh. 13:16: 'All those who live in the hill country from Lebanon'] in both verses of Scripture, there is reference to living ['who live in the open towns,' 'those who live in the hill country.']. Just as 'living' stated there [Josh. 13:6] refers to the time of Joshua b. Nun, so 'living' here refers to the time of Joshua b. Nun. [They alone read on the fifteenth.]"

[E] And why should not everyone read the Megillah on the fourteenth of Adar?

[F] R. Judah bar Pazzi gave the following interpretation of the use of the word, "open," [as in open, unwalled towns]:

[G] "Here it is stated, '[Therefore the Jews of the villages, who live in] the open towns, [celebrate the fourteenth day of the month of Adar as a day for gladness, feasting, and holiday-making and a day on which they send choice portions to one another]' (Est. 9:19).

[H] "And elsewhere it is stated, 'Besides very many unwalled towns' (Deut. 3:5).

[I] "Just as the use of the word, 'unwalled,' in this latter context refers to the time of Joshua b. Nun, so the use of the word, 'unwalled,' in the former context [of the Scroll of Esther] refers to the time of Joshua b. Nun."

[II:2 A] [As to M. 1:1C,] *it has been taught [in the Tosefta's version]:*

[B] **R. Joshua b. Qorha says, "[If they were surrounded by a wall] from the time of Ahasueros [they read the Scroll of Esther on the fifteenth of Adar]."**

[C] **Said R. Yosé b. Judah, "Where do we find evidence concerning Shushan, the capital, that it was surrounded by a wall from the time of Joshua b. Nun?" [Tosefta continues: "But: "(that these days should be remembered and kept throughout every generation,) in every family, province, ant city"" (Est. 9:28). Those which are near a city and are part of its landscape – lo, they are in its status] [T. Meg. 1:1].**

[D] If you derive the law from the case of Shushan, the capital, then in Shushan the capital they should not read the Megillah [on the fourteenth day of Adar] but everywhere else they should read it on that day.

- [E] *Lo, [it appears that] there are three Tannaite authorities in this matter: the first of the three maintains that cities with a wall from the time of Joshua b. Nun read the Scroll of Esther on the fifteenth [M. 1:1C].*
- [F] *The second Tannaite authority holds that those surrounded by a wall from the time of Ahasueros read the Scroll of Esther on the fifteenth of Adar.*
- [G] *And the last Tannaite authority maintains that any city [reads it on the fifteenth].*
- [H] [Since Joshua b. Qorha stands behind (F) and Yosé b. Judah behind (G), it follows that] both R. Joshua b. Qorha and R. Yosé b. Judah say the same thing [for the latter’s view can conform to the former’s]. [Any city surrounded by a wall in the time of Ahasueros will read the Megillah on the fifteenth of Adar.]
- [I] It turns out that this one derives his view from one verse of Scripture and that one derives his view from a different verse of Scripture.
- [J] *And so it has been taught: **Those that are near a city and are part of its landscape – lo, they are in its status [T. Meg. 1:1E].***
- [K] R. Aibu bar Nigri in the name of R. Hiyya bar Ba: “For instance, Hammata?” [That is, would all towns part of the landscape fall into the category of the town of Hammata? That would then encompass Tiberias, which is nearby.]
- [L] No, one may refer to Hammata because that town itself was surrounded by a wall in the time of Joshua b. Nun.
- [M] *That is in line with the following verse: “The fortified cities are Ziddim, Zer, Hammath, Rakkath, Chinnereth,” (Josh. 19:35).*
- [N] Ziddim is Kepar Hittaya. Zer is near it. Hammath is Hammata. Rakkath is Tiberias. Chinnereth is Gennosar.
- [O] *R. Levi objected, “Lo, it is written, ‘And the Arabah to the Sea of Chinneroth [eastward, and in the direction of Beth-jeshimoth, to the sea of the Arabah, the Salt Sea, southward to the foot of the slopes of Pisgah]’ (Josh. 12: 3).*

- [P] “If you interpret the former verse as you have, then there will be two cities named Gennosar.”
- [Q] No, that is not the case. They were two independent jurisdictions, for example, Bet Yerah and Sinbarai, which produce shrubby trees (Jastrow, p. 651).
- [R] If a city was destroyed and became a gentile city [do the nearby villages read on the fourteenth or the fifteenth]?
- [S] *Take note*, if in the [now-ruined] city they do not read the Megillah at all, will they read it outside of the city [on the fifteenth]? [Not very likely. The towns on the outskirts will read on the fourteenth].
- [T] *Hezekiah had the Megillah read [in Tiberias] on the fourteenth and on the fifteenth.*
- [U] *For he took account of that which R. Simon b. Yohai taught: “If a man sells a dwelling house in a walled city, [he may re deem it within a whole year after its sale; for a full year he shall have the right of redemption’ (Lev. 25:29). This excludes Tiberias, for the Sea [of Galilee] serves it as a wall.”*
- [V] *R. Yohanan had the Megillah read in the synagogue of Kipra [on the fifteenth of Adar], for he said, “It is the principal location of the original Tiberias.”*
- [W] *Now does he not take account of that which R. Simeon b. Yohai taught? “This is a lenient rule which they have made with reference to the reading of the Megillah.”*
- [X] *For we have learned there: **Whatever is inside the wall, lo, it is deemed in the status of a dwelling house in a walled city (Lev. 25:29), except for the fields. R. Meir says, “Also the fields” [M. Ar. 9:5A-C].***
- [Y] *And so has it been taught: **Those which are near a city and are part of its landscape — lo, they are in its status [T. Meg. 1:1E].***

[II:3 A] Said R. Yohanan, “Between Gabbath and Antipatris there were sixty myriads of villages, and the smallest among them was Beth Shemesh.

What is written concerning that town? ‘And he slew some of the men of Beth Shemesh, because they looked into the ark of the Lord; [he slew seventy men of them, and the people mourned because the Lord had made a great slaughter among the people’] (I Sam. 6:19). And these were only in one direction. And now if you tried to stick in sixty myriads of reeds there it would not hold them!”

[B] Said R. Haninah, “The land of Israel has shrunk.”

[C] All the cities that Joshua counted do not add up to a hundred.

[D] R. Simeon b. Levi said, “He only counted the ones surrounded by a wall.”

[E] R. Yosé bar Haninah said, “He only counted the ones along the border.”

[F] *A verse of Scripture supports the view of R. Yosé b. Haninah:*
“And its boundary ran from Heleph, [from the oak in Zaananim, and Adaminekeb, and Jabneel, as far as Lakkum; and it ended at the Jordan”] (Josh. 19:33).

[G] “And Rattath, Nahalal, Shimron, Idalah, and Bethlehem” (Josh. 19:15).

[H] “From Heleph” means Heleph; “from the oak” means Ailon; “In Zaananim” this is Aganyya in Qadesh; and Adami-Nekeb is Saidatah” (Josh. 19:33).

[I] “And Adami-Nekeb and Yabneel, as far as Lakkum” (Josh. 19:33). This is Saidatah. [Yabneel] is Kepar Yama.”To Lakkum” – this is Loqim.”And Kathath,” that is, Qatinith.”Nahalalel, Shimron, Idalaah, and Bethlehem” – that is Simonaiah.”And Yarelah and Horaiah.” “Bethlehem” is Bethlehem. There are two of them.

[J] R. Aha, R. Judah b. Levi, R. Joshua b. Levi in the name of Rabbi: “Lud and Gai Haharashim were surrounded by a wall in the time of Joshua b. Nun.”

[K] *And why was Ono not also mentioned in this connection?* Was it not written, “Ono and Lod with its towns” (I Chron. 8:12)?

[L] *But because we have learned the following: Surrounded by a wall from the time of Joshua ben Nun, such as the old castle of Sepphoris; the fortress of Gush Halab; old*

Yodpat; Gamala Gadwad; Hadid; Ono; Jerusalem; and the like [M. Ar. 9:6F].

[M] And is it not written, “The sons of Elpaal: Eber, Misham, and Shemed, who built Ono and Lod with its towns” (1 Chron. 8:12)?

[N] Said R. Eliezer b. R. Yosé, “In the time of the concubine of Gibeah the town was destroyed, and Elpaal arose and rebuilt it, as it is written: [‘And the men of Israel turned back against the Benjaminites and smote them with the edge of the sword, men and beasts and all that they found.] And all the towns which they found they set on fire” (Judg. 20:48).

[O] R. Hananiah in the name of R. Phineas: “Lod and Ono are the same as Gai Haharashim.”

- [II:4 A] R. Helbo, R. Huna in the name of R. Hiyya the Elder: “All towns carry out their obligation to read the Megillah if they do so on the fourteenth of Adar, which is the proper time for reading it. [The rule that cities surrounded by a wall from the time of Joshua read it on the fifteenth] comes to teach you only that the commandments pertaining to the reading of the Megillah apply to the second month of Adar [should the year be intercalated and a second Adar added, then the Megillah is read in the second, not in the first, Adar].”
- [B] *R. Yosé and R. Aha were in session. Said R. Yosé to R. Aha, “[The statement that all towns carry out their obligation if they do so on the fourteenth] reasonably applies post facto. But [70b] so far as the proper way of doing it, [it is to be on the fifteenth, as M. Meg. 1:1C specifies].”*
- [C] *And lo, it has been taught:* In a place in which they are accustomed to read it on two days, they do read it on two days [e.g., because of a doubt as to the status of the town]. [Now, if after the fact it is acceptable on the fourteenth, why should such towns read the Megillah on two successive days?]
- [D] *He said to him, “I too maintain that view [that in such a place, the Megillah is read on two days, and the people do not carry out their obligation if they read the Megillah only on the fourteenth of Adar].”*
- [E] Said R. Mana, “And that is quite so. If someone read it on the fourteenth and then went and read it on the fifteenth, is it possible that they do not allow him to do so? [They certainly allow him to do so.] If

you maintain that view, do you not turn out to set aside the time for reading the Megillah assigned to the villages by your own action? [If you say that everyone fulfills the obligation by reading on the fourteenth, you turn out to set aside the ordinance of sages, who assigned to the walled towns the date of the fifteenth, as at M. Sheq. 1:1C.]”

[II:5 A] Nahman son of R. Samuel bar Nahman: “[Therefore the Jews of the villages, who live in the open towns, celebrate the fourteenth day of the month of Adar as a day for] gladness and feasting [and holiday-making, and a day on which they send choice portions to one another’] (Est. 9:19).

[B] “[With reference to ‘gladness’:] On this basis we learn that it is forbidden to mourn [on that day].

[C] “[‘Feasting’:] On this basis we learn that it is forbidden to fast on that day.

[D] “[‘And holiday-making’:] On this basis we learn that it is forbidden to do labor on that day.”

[E] *Said R. Helbo, “Many times I sat in session before R. Samuel bar Nahman and I never heard this teaching from him.”*

[F] *He said to him, “Are you saying that everything that my father said you heard?”*

[G] *There is a story about Rabbi that shows he differs.* For Rabbi would display his deeds in public on two days of the year, on the seventeenth of Tammuz he would go to the public bath, and on Purim he would plant a tree [to indicate that it is permitted to do labor on that day].

[H] *R. Habibah in the name of rabbis over there:* “In every passage in which ‘holiday’ is written, ‘celebrate’ is not written, and in every passage in which ‘celebrate’ is written, ‘holiday’ is not written. But here are written both ‘holiday’ and ‘celebrate.’”

[I] R. Simon in the name of R. Samuel bar Nahman, “[‘That these days should be remembered and kept throughout every generation, in every family, province, and city’ (Est. 9:28).] ‘Family’ refers to the villages, ‘province’ refers to the towns, ‘city’ refers to the villages.”

- [III:1 A]** *Samuel taught, “On what account may [the villages] advance it to a day of assembly [M. 1:1C]? So that they may provide water and food for their brethren in the towns.”*
- [B] *R. Philippa bar Perutah said before R. Jonah, “Has it not been said that it is forbidden to do work on that day?”*
- [C] *He said to him, “Yes, but there is nothing to be inferred from that statement. Lo, on the intermediate day of a festival, lo, is it not forbidden to do labor? Yet on those days the villagers provide food for their brethren in the towns.*
- [D] *“You may conclude only that the law accords with the view of Rabbi. For Rabbi would display his deeds in public on two days in the year [in a way calculated to demonstrate the law]. On the seventeenth of Tammuz he would wash in the public bath, and on Purim he would plant a tree.”*
- [III:2 A]** *R. Yosta b. R. Shunam asked before R. Mana, “And did not Ezra [later on] ordain that they should read in the Torah on Monday and on Thursday and on the Sabbath at the afternoon service, and did Mordecai and Esther make such a decree in respect to that which Ezra was going to make in the future?”*
- [B] *He said to him, “He who arranged the Mishnah relied on what Scripture said; ‘family, province, and city’ [in the following verse: ‘That these days should be remembered and kept throughout every generation, in every family, province, and city, and that these days of Purim should never fall into disuse among the Jews, nor should the commemoration of these days cease among their descendants’] (Est. 9:28)].*

1:2

- [A] How so?**
- [B] [If The fourteenth] coincided with a Monday, both villages and large towns read it on that day.**
- [C] And those surrounded by a wall read it the next day [the fifteenth].**
- [D] [If the fourteenth of Adar] coincided with a Tuesday or a Wednesday, villages advance it to a day of assembly [Monday, the thirteenth or the twelfth].**
- [E] But large towns read it on that very day [the fourteenth].**
- [F] And those surrounded by a wall read it the next day [the fifteenth].**

[I:1 A] *In each case in which we learn, **If it coincided with**, the meaning is, If the fourteenth coincided with [as indicated in my translation of the Mishnah].*

[B] *Said R. Yosé, “The formulation of the Mishnah indicates that as well, for it says, **Those surrounded by a wall read it the next day [which can only be the fifteenth of Adar].”***

[C] *Said R. Yosé, “The reading of the Mishnah does not make reference to the fourteenth of Adar coinciding with a Monday, nor does it make reference to its coinciding with the Sabbath. For if the fourteenth of Adar should fall on a Monday, then the great fast [of Day of Atonement] will fall on a Sunday. If the fourteenth of Adar comes on a Saturday, the great fast will come on a Friday [and neither is feasible]. [For the Sabbath and the Day of Atonement may not come back to back, either Friday-Saturday, or Saturday-Sunday.]”*

1:3

[A] **[If the fourteenth of Adar] coincided with a Thursday, villages and large towns read it on that same day.**

[B] **And those surrounded by a wall read it the next day [the fifteenth].**

[C] **[If the fourteenth] coincided with a Friday, villages advance it to a day of assembly [the thirteenth].**

[D] **And large towns and those surrounded by a wall read it on that same day [the fourteenth].**

[E] **[If the fourteenth of Adar] coincided with a Sabbath, villages and large towns advance it and read it on a day of assembly [the twelfth].**

[F] **And those surrounded by a wall read it the next day [the fifteenth].**

[G] **[If the fourteenth of Adar] coincided with the day after the Sabbath [Sunday],**

[H] **villages advance it to a day of assembly [the eleventh of Adar].**

[I] **And large towns read it on that day [the fourteenth].**

[J] **And those surrounded by a wall read it the next day [Monday, the fifteenth].**

[I:1 A] *They asked before R. Zeira, “Take note: If the fourteenth of Adar so happened that, for the villages, the reading of the Megillah would fall on the Sabbath [that is, the fourteenth was on Friday], they read the Megillah on Friday. If it so happened that the day of reading the Megillah for the towns would coincide with the Sabbath, they push it*

up to a day of assembly. [That is, we do not maintain that they should read it on Friday, as we do with the small villages when their day coincides with the Sabbath. At M. 1:3K, we tell them to read it on Thursday instead. It follows that when the day is switched from its expected time by reason of the Sabbath, we move the reading of the Megillah to a day of assembly. Why not say the same for the small towns?]

- [B] Said R. La, “It is because of the honor owing to the cities, so that people should not say, ‘We saw cities and towns reading the Megillah at the same time.’ [The reading of the towns is moved to a day of assembly, Thursday, so as to give a mark of distinction to the cities over the towns.]”
- [C] If so, they should not push up the reading [for the towns] to the day of assembly, so that people should not say, “We saw people in villages and towns reading the Megillah at the same time. [The same reason can serve a contrary purpose.]”
- [D] If so [furthermore], if the fourteenth of Adar coincides with Monday, Thursday, or on the Sabbath [both the villages and the towns read on that same day (as at M. 1:3A, or on the day of assembly, so M. 1:3E)].
- [E] *A teaching is available as follows:* Villages and towns and cities [all] read at the same time [if the fifteenth coincides with the Sabbath].
- [F] *The Tannaite authority who stands behind that teaching does not concur with any other. [For what reason does he maintain that all should read the Megillah at the same time?] He maintains that the cities should not read the Megillah before the towns do [so the cities should read on the preceding Thursday, and the towns on the fourteenth, Friday, and that is not feasible], for he holds that any reading which is moved from its normal time is moved to a day of assembly. [So all parties must read on the day of assembly.]*
- [G] Rabbi says, “All of them should be moved to a day of assembly.” *For he maintains that the reading of the Megillah in cities should not come before that of the towns, and he further maintains that in any case in which the reading is moved from its normal place, it should be moved to a day of assembly.*
- [H] *In a practical case how do they apply the law?*
- [I] *Said R. Yosé, “In accord with the ruling of the Mishnah.”*
- [J] *They asked before R. Zeirah, “Just as you say, if the fourteenth of Adar for the cities fell on a Sabbath, they read the Megillah*

on Friday, so if it fell for the towns on the Sabbath, they too should read it on Friday. [Why are they to read it on the day of assembly, Thursday, instead?]"

[K] *But the Mishnah contains the opinions of two different Tannaitic authorities.*

[L] *The first of the two Tannaite authorities represented in the Mishnah maintains the view that in any case in which the reading of the Megillah is moved from its normal place, the reading is not to be moved to the day of assembly.*

[M] *And the other Tannaite authority maintains that in any case in which the reading of the Megillah is moved from its normal place, it is to be moved to a day of assembly.*

[N] *He said to them, "This is what Rab said. The Mishnah represents the view of a single Tannaitic authority. On what account, then, did they say that if the fourteenth of Adar fell for the cities on the Sabbath, they read the Megillah on Friday [rather than on Thursday, the day of assembly]?"*

[O] "It is in line with that which R. Helbo, R. Huna, Rab in the name of R. Hiyya the Elder said, 'All carry out their obligation to read the Megillah on the fourteenth of Adar, for that is the proper time for reading it.'

[P] "*And along these same lines, if the time to read the Megillah for the towns coincided with the Sabbath, it is in line with what R. Helbo said: 'The thirteenth was a day of fighting, and it gives evidence for itself that there is no rest on such a day for the reading of the Megillah [on which account the reading is pushed up by two days, to the twelfth].'"*

[Q] *There is a teaching available as follows: Villages read the Megillah on Friday, large towns advance it to the day of assembly, and those surrounded by a wall do so after the Sabbath [on Sunday].*

[R] *What in fact is the accepted practice?*

[S] Said R. Yosé, "It is not possible [at this time for the fourteenth to coincide with the Sabbath at all].

[T] "But if it were possible [for that to be the case], then the law is in accord with the Mishnah."

- [I:2 A]** R. Ba in the name of R. Judah: “In any case in which they have said that the reading is moved from its proper place, [that is the case,] on condition that there be ten people present for the reading.”
- [B] *Now we see that the rabbis maintain that it may be done. even by an individual.*
- [C] R. Abina in the name of R. Assi: “In any case in which they have said that the reading is moved from its proper place, [that is the case,] on condition that there be ten people present for the reading.”
- [D] *R. Hananiah said, “R. Huna and R. Judah differed. One of them said, ‘And that is on condition that there be ten people present for the reading.’ The other said, ‘It may be read even by an individual.’”*
- [E] *The one who held that it must be read in a quorum of ten objected to the one who said it may be read even by an individual, “If that is the case, let the individual read the Megillah in his place [and why should one move the reading to some other date, if it is for only one person]?”*
- [F] *Said Rabbi, “If so [that an individual may read the Megillah not at the proper time, do you want to] remove from the Mishnah the provision of reading on the eleventh, twelfth, thirteenth, fourteenth, and fifteenth days?”*

1:4

- [A] What is a large town?**
- [B] Any in which there are ten men available at all times [to form a quorum].**
- [C] [If there are] fewer than this number, lo, this is a village.**
- [D] Of these [times, as specified,] have they said that they advance it and do not postpone it.**
- [E] But the time of the priests’ wood-offering, the ninth of Ab, the festal-offering [Deut. 16:16-17], and the great assembling [Deut. 31:10-13] they postpone but do not advance.**
- [F] Even though they have said, They advance and they do not postpone [the reading of the Scroll of Esther],**
- [G] [on the days on which they read the Scroll of Esther] they are permitted to hold a lamentation for the dead, to call fasts, and to give gifts to the poor.**
- [H] Said R. Judah, “Under what circumstances? In a place in which people gather on Mondays and Thursdays.**

[I] **“But in a place in which people do not gather on Mondays and on Thursdays, they read it only at its proper time.”**

[I:1 A] *It has been taught: Ten men available* to leave their work for the synagogue.

[B] R. Judah said, “We, for example, do not have to make a living from our learning [but have a living from some other source].”

[C] *It has been taught:* A town in which there are not ten [available men] – its advantage comes from its point of weakness. [The fact that it does not have ten men is an advantage, for] it is treated as a town [and reads the Megillah on the fourteenth of Adar].

[II:1 A] **Of these have they said that they advance it and do not postpone it [M. 1:4D]:** namely, reading the Megillah and taking up the heave-offering of the *sheqel offering* [in the Temple, for use in maintaining the cult in the coming year].

[B] They advance and do not postpone the meal in celebration of the new moon.

[C] But the banquet of Purim [that coincides with the Sabbath] they postpone but do not push up.

[D] *R. Zeirah asked before R. Abbahu,* “And [why] should they [not] celebrate those meals on the Sabbath?”

[E] He said to him, “[‘But the Jews who were in Susa gathered on the thirteenth day and on the fourteenth, and rested on the fifteenth day,] making that a day of feasting and gladness’ (Est. 9:18). This refers to celebration of a day, the rejoicing of which depends upon a decision of the court, excluding this day [namely, the Sabbath], the rejoicing of which depends upon Heaven. [It was a decision of the Jews’ own court that made Purim a festival, and Heaven concurred. But the rejoicing on the Sabbath was a decree of Heaven.]”

[II:2 A] As to funds collected for the poor for celebration of Purim, these funds are to be used for Purim.

[B] Said R. Eleazar, “And that is on condition that a poor man should not use them for some other purpose than celebrating Purim, for example, buying a thong for his sandal.”

[C] **They do not enforce the religious requirements [giving to the poor] on Purim in a meticulous way [T. Meg. 1:5C],** but whoever puts out

his hand to take money given for the support of the poor – they give him [what he wants].

- [D] They do not use coins set aside for celebrating Purim for some other purpose.
- [E] Lo, in the case of funds set aside for all other purposes, do they put such funds to a different use?
- [F] Rather, as to funds designated for any purpose, so long as they have not yet been handed over to the treasurers, you are permitted to use them for some other purpose. Once they have been handed over to the treasurers, you are not permitted [70c] to use them for some other purpose.

[III:1 A] But the time of the priests' wood-offering [M. 1:4E]:

- [B] Why did they set aside [special times for] the wood-offering of priests and people [M. Ta. 4:5]?**
- [C] For when the exiles came up, they found no wood in the wood chamber.**
- [D] These in particular went and contributed wood of their own, handing it over to the community.**
- [E] On that account prophets stipulated with them that even if the wood-chamber should be loaded with wood, even with wood belonging to the community, these should have the privilege of contributing wood at this time, and at any occasion on which they wanted [T. Taaniyot 3:5A-D].**

[F] Said R. Aha, “This [view that wood for the public offering may derive from the contribution of an individual] represents the position of R. Yosé. For R. Yosé has said, ‘Also he who wish may volunteer as an unpaid bailee [for the Temple.]’”

[G] *R. Yosé in the name of R. Ila: “It represents the view of all parties. Where there is a dispute, it concerns the corpus of the offering itself [the animal]. But as to things used for the presentation of the offering, [e.g., wood for the fire,] all parties concur that an offering originally designated for an individual may be shifted and used for the community as a whole.”*

[H] *It has been taught:* A woman who made a coat for her son, [who was a priest, for use in his priestly labors,] has to hand over the coat to the community.

[I] Said R. Aha, “This represents the position of R. Yosé. For R. Yosé has said, ‘Also he who wishes may volunteer as an unpaid bailee [for the Temple].’”

[J] R. Yosé in the name of R. Ila: “It represents the view of all parties. *Where there is a dispute, it concerns* the corpus of the offering itself. But as to things used for the preparation of the offering, [e.g., the garments of the priests,] all parties concur that an offering originally designated for an individual may be shifted and used for the community as a whole.”

[K] *The following Tannaitic teaching opposes the view of R. Yosé [in the name of R. Ila, that all parties concur]: Those days [on which it is prohibited to fast] apply both when there are offerings and when there are no offerings.*

[L] R. Yosé says, “The prohibition of fasting on those days apply only when there is an offering.”

[M] *There is a further relevant statement, as it has been taught:*

[N] **Said R. Eleazar b. R. Sadoq, “I was among the descendants of Sanaah [M. Ta. 4:5F; Ezra 2:35] of the tribe of Benjamin. One time the ninth of Ab coincided with the day after the Sabbath, and we observed the fast but did not complete it” [T. Taaniyot 3:7D].**

[IV:1 A] **The ninth of Ab [M. 1:4E]:** R. Jeremiah in the name of R. Hiyya bar Ba: “It is reasonable that one should fast on the tenth of that month [of Ab], because on that day the Temple was burned. And why is it that the fast is on the ninth? For it was on that day that the punishment [of Israel] got underway.”

[B] *And so it has been taught:* On the seventh [of Ab] they entered [the Temple]. On the eighth they battered it down, on the ninth they set fire to it, and on the tenth it burned down.

[C] R. Joshua b. Levi fasted on the ninth and on the tenth.

[D] R. Levi fasted on the ninth and on the night prior to the tenth.

[E] R. Ba bar Zabeda in the name of R. Haninah: “Rabbi sought to uproot the ninth of Ab, but others did not concur with him.”

[F] R. Eleazar said to him “I was with you, *and that is not how the saying was laid down.* Rather: Rabbi sought to uproot the ninth

of Ab that coincided with the Sabbath [and not celebrate it at all], but they did not concur with him. He said, ‘Since it has been postponed, let it be canceled [this year, and not observed at all].’ They said to him, ‘Let it be postponed until the next day [and observed on Sunday].’”

[G] *Now the opposite of this event happened elsewhere [when it was Eleazar who reminded Ba of the actual tradition, contrary to Ba’s picture of it,] as follows.*

[H] *We have learned there: R. Yohanan ben Beroqah says, “Concerning both of them [the first man and woman] Scripture says, ‘God blessed them and God said to them, Be fruitful and multiply’ (Gen. 1:28) [M. Yeb. 6:6].”*

[I] R. Eleazar in the name of R. Haninah: “The law accords with the view of R. Yohanan b. Beroqah.”

[J] Said to him R. Ba bar Zabeda, “I was with you, *and that is not how the matter was stated.* Rather: If she was seeking to be married [and the husband postponed it], the law is on her side. And in her regard he recited the following verse: ‘Two are better than one’” (Qoh. 4:9).

[V:1 A] **The festal-offering [M. 1:4E]:** One verse of Scripture says, “You shall keep the feast of harvest, of the first fruits of your labor, [of what you sow in the field. You shall keep the feast of in gathering at the end of the year, when you gather in from the field the fruit of your labor”] (Ex. 23.16).

[B] And another verse of Scripture states, “[And you shall make proclamation on the same day; you shall hold a holy convocation;] you shall do no laborious work; [it is a statute for ever in all your dwellings throughout your generations”] (Lev. 23:21).

[C] Said R. Haninah, “Lo, how are these two verses of Scripture to be carried out? When the festival falls on a weekday, you prepare a festal-offering and enjoy rest. When the festival falls on the Sabbath, on the next day you prepare the festal-offering and the harvest [grain].”

[D] Said R. Yosé b. R. Bun, “But that is on condition that one kneads what he harvests into dough eaten on that day.”

[E] *That is in line with the following: He who owes wood or firstfruits [is forbidden to mourn on the day on which the offering is brought to the Temple], and he who says, “Lo, incumbent on me is an offering of*

wood for the altar and twigs for the fire” is forbidden to mourn or fast or to do work on that day.

[VI:1 A] [As to M. I:4E, the great assembling:] R. Ba son of R. Hiyya bar Ba said, “It is because of the sounding of the Shofar [which takes place on that occasion].”

[B] R. Isaac b. R. Hiyya said, “It is because [they have to build a platform.]”

[C] And let them build it on the day before [if the day coincides with the Sabbath]?

[D] It is so as not to crowd the Temple courtyard [with such a platform, on a busy day].

[E] Said R. Mattanaiah, “It is in line with the following verse of Scripture: ‘You shall not plant any tree [i.e., erect any wooden platform before needed] as an Asherah beside the altar’” (Deut. 16:21).

[VI:2 A] [With reference to Y. Ta. 2:12 (M. Tan. 2:8): **Any day concerning which it is written in the Scroll of Fasting that “None may mourn,” it also is forbidden to mourn on the day before, but it is permitted on the following day. Where it is written, “None may fast,” it is permitted to fast both the day before and on the following day:**] This statement of the Mishnah represents the view of R. Meir.

[B] For R. Meir has said, “If it is written, ‘not to mourn,’ it is forbidden also to fast. If it is written, ‘not to fast,’ it is permitted to mourn.

[C] “If it does not specify, the meaning is not to fast.”

[D] *Said R. Jonah, “These are days on which it is prohibited to fast, and on some of which it is prohibited to mourn.”*

[E] Said Rabban Simeon b. Gamaliel, “Why does the text say, ‘on which,’ two times? The meaning is that at night it is permitted to do so, but in the daytime it is forbidden.”

[F] *There is the following teaching: This applies to a man who had assumed a prohibition on himself through an act of prayer.*

[G] Said R. Yosé b. R. Bun, “[A personal fast applies only when the prohibition is adopted on the preceding evening,] for such a man has to make mention in his prayer of the pledge to fast on the evening prior to the fast.”

[H] *Now this accords with that which R. Zeira said in the name of R. Huna:* “[If one wishes to adopt a fast for himself and has to make mention in his prayer of the occasion of the fast, where in the prayers does he do so?] He says it on the night of the Sabbath and on the day [in the fourth blessing of the Prayer]. [This indicates that it must be included on the prior night.]”

[VII:1 A] [With reference to **M. Meg. 1:4F-G: Even though they have said, “They advance it and they do not postpone the reading of the Scroll of Esther,” on the days on which they read the Scroll of Esther they are permitted to hold a lamentation for the dead, to call fasts, and to give gifts to the poor:** When the Mishnah states that it is permitted to mourn and to fast,] this passage of the Mishnah speaks either of the eleventh of Adar, in accord with the view of R. Yosé, or of the twelfth of Adar, in accord with the view of R. Meir. [The thirteenth is Nicanor’s day, and one may not fast. In Yosé’s view one also may not do so on the day before that day, the twelfth. Hence one advances the reading of the Megillah, reading it on the eleventh. In Meir’s view, since one *may* fast on a day prior to a day on which one may *not* fast, it is permitted to read the Megillah on the twelfth.]

[B] *Now there is a problem to the position of R. Meir [that one may fast and mourn on the twelfth of Adar], for has it not been taught:* On the twelfth of that month [of Adar] is Tirion’s day? [That day on which the decrees of Trajan were annulled is a holiday, and it is forbidden to fast on that day, contrary to Meir’s view of acceptable behavior on the twelfth of Adar, in line with M. Meg. 1:4G.]

[C] And R. Jacob bar Aha said, “Tirion’s day has been annulled, for it is the day on which Lulianos and Pappos were killed.” [So there is no problem for Meir.]

[D] The thirteenth of that month [of Adar] is Nicanor’s Day.

[E] What is Nicanor’s Day? The ruler of the Kingdom of Greece was passing by [the land of Israel] on route to Alexandria. He saw Jerusalem and broke out into cursing and execration, saying, “When I come back in peace, I shall break down that tower.” One member of the Hasmonaean household went forth and did battle with his troops and killed them until they came to the king’s carriage. When they reached the king’s carriage, they cut off the hand [of the king] and chopped off his head and stuck them on a pole, and wrote underneath them, “Here is the mouth that spoke shamefully and the hand that stretched out arrogantly.” These he set up on a pike in sight of Jerusalem.

- [F] [Reverting to the positions of the two authorities, we note that Meir holds it is permitted to fast on the day before or the day after a day on which it is prohibited to do so.] *Hence in the view of R. Meir, there is no problem, for the purpose in listing Nicanor's day is to prohibit the day before it. [That is, the day before the fourteenth of Adar is prohibited as to fasting, namely, the thirteenth of Adar, Nicanor's day. But it is permitted to fast on the twelfth or the fourteenth.]*
- [G] But so far as R. Yosé is concerned, what is the day that the specification of Nicanor's day, namely, the thirteenth of Adar, has come to prohibit as to fasting? If we deal with the day prior to the fourteenth of Adar, that is not possible, for it itself is forbidden as to fasting because of the fourteenth of Adar [that is Purim].
- [H] The purpose of that specification of Nicanor's day is to inform you that it is forbidden to mourn [and the reference has nothing to do with fasting].
- [I] *And even in the view of R. Meir this poses no problem. For has it not been taught, "On the twelfth of that month [of Adar] is Tirion's day." And R. Jacob bar Aha said, "Tirion's day has been annulled, for it is the day on which Lulianos and Pappos were killed."*
- [J] [Now Meir maintains that on the day after the thirteenth it is permitted, even on days on which one may not mourn. *That poses no problem. For we have the following:)] *On the fourteenth and on the fifteenth of Adar is Purim, on which it is prohibited to mourn. On the sixteenth of Adar they began to build the wall of Jerusalem, so one may not mourn.**
- [K] *Now in the view of R. Meir, that poses no problem.* The specification of the day comes to prohibit [fasting] on the day before it.
- [L] *But in the view of R. Yosé, what day does the specification of the prohibition of fasting come to prohibit?*
- [M] As to prohibiting the day prior, *that is not possible*, for that day also is forbidden as to mourning.
- [N] *Even in the view of R. Meir there is no problem, for has it not been taught: On the twelfth of that month [of Adar] is Tirion's day." And R. Jacob bar Aha said, "Tirion's day has been annulled, for it is the day on which Lulianos and Pappos were killed."*

- [O] *On the seventeenth day of that month [of Adar] the peoples rose up against the remnant of the scribes in the town of Chalcis and in Bet Zibdin but they were saved.*
- [P] *Said R. Yosé, “All of these cited passages neither support nor contradict either the opinion of R. Meir or the opinion of R. Yosé. The purpose of these statements is only to specify days on which miracles were done for Israel. You should know that that is the case, for we have learned: ‘The first day of the month of Nisan [is not for fasting], for on that day the daily whole offering was set up [against the views of the Sadducees]. On that day one may not fast.’ Now even if that statement had not been made, is it not forbidden to fast on that day, because it is the new moon?”*
- [Q] But as to Sabbaths and festival days, one may fast both on the day before them and on the day after them.
- [R] Why do you impose a lenient rule on these [Sabbaths and festivals] and a strict rule on those [the days listed in the fasting scroll, in which case one may not fast on a prior day as well as on a day listed in the fasting scroll]? [Why is there a prohibition of fasting or mourning not only on the day but also on the day before and afterwards?]
- [S] The answer is that these days – Sabbaths and festivals – derive from the teachings of the Torah, and the teachings of the Torah do not require reenforcement. But these others [70d] [that is, the days on which it is prohibited to mourn by the decree of the fasting scroll] derive from the authority only of scribes, and the teachings of the scribes do require reenforcement.
- [T] *That which you have said applies to the time before the fasting scroll was nullified. But after the fasting scroll was nullified, all of these rules have likewise been abandoned, [so now it is permitted to fast or mourn on days listed in the fasting scroll, since the Temple has been destroyed].*
- [U] R. Haninah and R. Jonathan both say, “The rules of the fasting scroll have been annulled.”
- [V] R. Ba and R. Simon both say, “The rules of the fasting scroll have been annulled.”

[W] R. Joshua b. Levi said, “The rules of the fasting scroll have been annulled.”

[X] Said R. Yohanan, “Last night I was in session, repeating the following: There was a case in which they decreed a fast on Hanukkah in Lud, and they said concerning R. Eliezer that on that day he got a haircut [which is not to be done on a fast day], and concerning R. Joshua that he took a bath [also prohibited on a fast day]. [Thus Eliezer and Joshua maintain that it is forbidden to fast on Hanukkah, just as the fasting scroll says, and so the laws remain valid.]

[Y] “Said to them R. Joshua, ‘Go and carry out a fast, because you fasted on this day [Hanukkah, when it is forbidden].’ Now can you really say, therefore, that the laws of the fasting scroll have been annulled?”

[Z] Said R. Ba, “And even if you maintain that the laws of the fasting scroll have been annulled, you cannot possibly say that the observance of Hanukkah and Purim has been annulled!”

[AA] *The deeds of the rabbis indicate that the fasting scroll has been annulled. [How so?]*

[BB] *R. Yohanan fasted [every year on] the day prior to the New Year.*

[CC] *R. Abun fasted [every week on] Friday.*

[DD] *R. Zeirah fasted three hundred fasts, and there are those who say, “nine hundred fasts,” and he did not scruple as to the days listed in the fasting scroll.*

[EE] *R. Jacob bar Aha instructed the scribes, “If a woman comes to you and asks you, tell her, ‘On all days it is permitted to fast, except for Sabbaths and festival days, new moons and the intermediate days of a festival, Hanukkah and Purim.’”*

[VII:2 A] *Simeon bar Ba said, “A case came before R. Yohanan, and he decided it in accord with the view of R. Yosé.”*

- [B] *Now R. Eleazar was distressed at this, and he said, “Do they then abandon the statement of the law given anonymously [hence in the name of the sages in general] and favor the statement of the law made by an individual [hence a minority]?”*
- [C] *Then a teaching turned up that R. Hiyya had taught the matter in the name of R. Meir.*
- [D] *When he heard that R. Hiyya had taught it in the name of R. Meir, he said, “That is all right then. The elder [Yohanan] knows his lessons very well [for he realized that even though the pas sage was given without named authorities, in fact it represented the view of one named authority].”*
- [E] *R. Mana raised the question before R. Yudan: “Did not R. Hezekiah, R. Abbahu in the name of R. Eleazar [state]: ‘In any case in which Rabbi presented the law as subject to dispute, and then afterward he presented it anonymously, the law follows the version given anonymously?’”*
- [F] *He said to him, “It is not Rabbi [who taught it without a named authority]. But here we have a different situation. If Rabbi presented a dispute and then he taught the matter anonymously, the law follows the version not bearing the name of an individual authority. But in a case in which Rabbi, for his part, did not repeat the tradition as a dispute, but others presented it as a dispute, and Rabbi taught the matter anonymously, is it not an argument a fortiori that the law should follow the view of the anonymous version of the law?”*
- [G] *Came R. Hezekiah, R. Jacob bar Aha, R. Simeon bar Abba in the name of R. Eleazar: “And even if others taught the tradition as subject to dispute, while Rabbi taught it anonymously, the law accords with the version lacking a named authority.”*
- [H] *In that case, why did [Yohanan] teach the law as it was given in the name of a single individual [rather than in accord with the anonymous version]?*
- [I] *R. Samuel bar Jonah in the name of R. Aha: “That which you have said applies to a case in which there is no dispute alongside the anonymous version of the law. But if there is a dispute alongside the anonymous version of the law, in such a case the law does not follow the anonymous version of the law.”*

[VIII:1 A] *[As to M. 1:4G-I, giving gifts:] R. Yudan the Patriarch sent to R. Hoshaiyah a piece of meat and a flask of wine.*

[B] He replied saying to him, “In us have you carried out the following verse of Scripture: ‘[As the days on which the Jews got relief from their enemies, and as the month that had been turned for them from sorrow into gladness and from mourning into a holiday; that they should make them days of feasting and gladness, days for sending choice portions to one another and] gifts to the poor’” (Est. 9:22).

[C] He went and sent him a calf and a barrel of wine. He sent back to him, “Through us you have carried out the following verse of Scripture: ‘[As the days on which the Jews got relief from their enemies, and as the month that had been turned for them from sorrow into gladness and from mourning into a holiday; that they should make them days of feasting and gladness, days for] sending choice portions to one another [and gifts to the poor]’” (Est. 9:22).

[VIII:2 A] *It has been taught:* In a place in which people suffer danger [when they come together], they read the Megillah on the fourteenth of Adar.

[B] R. Yosé asked, “If it is a place to which people [come together only by] suffering danger, they should not read the Megillah in such a place at all.”

1:5

[A] **If they read the scroll in the first Adar, and [only] then the year was intercalated, they read it [again] in the second Adar.**

[B] **There is no difference between [the fourteenth or fifteenth of J the first Adar and [the same dates in] the second Adar except for the reading of the scroll and giving gifts to the poor [which must be done in the second Adar].**

[I:1 A] The Mishnah speaks of a case in which they intercalated the year [by adding a second Adar], and afterward they read it. But if they read the Megillah and afterward they intercalated the year, *it is not in such a case [that we invoke M. 1:5A].*

[B] *The Mishnah does not so state matters but rather: **If they read the scroll in the first Adar, and then the year was intercalated, they read it again in the second Adar [M. 1:5A].***

[C] R. Simon in the name of R. Joshua b. Levi: “It is written, ‘[Then Queen Esther, the daughter of Abigail, and Mordecai the Jew gave full written authority,] confirming this second letter about Purim’ (Est. 9:29). Why does Scripture state, ‘Second’? But it is on the basis of that fact [that we draw the following conclusion]: **If**

they read the scroll in the first Adar, and then the year was intercalated, they read it again in the second Adar [M. 1:5A].”

- [I:2 A] R. Jeremiah in the name of R. Samuel bar R. Isaac: “What did Mordecai and Esther do? They wrote a letter and sent it to our rabbis, in which they said to them, ‘Do you accept for your selves these two days for observance every year?’ They replied to them, ‘Not enough for us are these troubles that have come upon us, but you want to add to our troubles the one of Haman!’
- [B] “They went and wrote them a second letter. That is the pertinence of the statement, ‘Confirming this second letter about Purim’ (Est. 9:29).
- [C] “What was in this second letter? They said to [our rabbis], ‘If you are afraid about this matter, [what good does it do you?] Lo, it is written down and filed in the archives. [“And all the acts of his power and might, and the full account of the high honor of Mordecai, to which the king advanced him,] are they not written in the Book of the Chronicles of the kings of Media and Persia?”’ (Est. 10:2).
- [I:3 A] R. Samuel bar Nahman in the name of R. Jonathan: “Eighty five elders, and among them some thirty-odd prophets, were troubled about this matter. They said, ‘It is written, “These are the commandments which the Lord commanded Moses for the people of Israel on Mount Sinai’ (Lev. 27:34). These then are the commandments which we have received from the mouth of Moses.
- [B] “And thus did Moses say to us, ‘No other prophet is going to make anything new for you. Now here are Mordecai and Esther, who want to make something new for us.’
- [C] “They did not move from that place, debating the matter, until the Holy One, blessed be he, enlightened their eyes, so they found support for the proposition written in the Torah, Prophets, and Writings.”
- [D] *It is in line with that which is written*, “And the Lord said to Moses, ‘Write this as a memorial in a book [and recite it in the ears of Joshua, that I will utterly blot out the remembrance of Amalek from under heaven”] (Ex. 17:14).
- [E] “This” refers to the Torah, as it is written, “And this is the Torah that Moses placed before the Israelites (Deut. 4:44).
- [F] “Memorial” refers to the prophets: [“Then those who feared the Lord spoke with one another; the Lord heeded and heard them,] and a book of remembrance was written before him of those who feared the Lord and thought on his name” (Mal. 3:16).

- [G] “In a book” refers to the writings: “The command of Queen Esther fixed these practices of Purim, and it was recorded in a book” (Est. 9:32).
- [H] Rab, R. Haninah, R. Jonathan, Bar Qappara, R. Joshua b. Levi said, “This scroll was stated to Moses at Sinai, for there are no considerations of chronology [or anachronism] in the Torah.”
- [I:4 A]** R. Yohanan and R. Simeon b. Laqish: R. Yohanan said, “The prophets and the writings are destined to be annulled, but the Five Books of the Torah are not destined to be annulled.”
- [B] *What is the scriptural basis for this view?* “with a loud voice, and he added no more” (Deut. 5:22).
- [C] R. Simeon b. Laqish said, “Also the Scroll of Esther and the laws are not destined to be annulled.”
- [D] Here it is stated, “with a loud voice, and he added no more” (Deut. 5:22). And there it states, [“That these days should be remembered and kept throughout every generation, in every family, province, and city, and that these days of Purim should never fall into disuse among the Jews,] nor should the commemoration of these days cease among their descendants” (Est. 9:28).
- [E] As to the laws [ways]: “[He stood and measured the earth; he looked and shook the nations; then the eternal mountains were scattered, the everlasting hills sank low.] His ways were as of old” (Hab. 3:6).
- [I:5 A]** R. Levi in the name of R. Simeon b. Laqish: “The Holy One, blessed be he, foresaw that the evil Haman was destined to weigh out his money against Israel. He said, ‘It is better that the money of my children should come before the money of that evil man.’ Therefore they push matters up and read the biblical pericope about collecting the *sheqels* [prior to the celebration of Purim].”
- [I:6 A]** [With reference to Est. 9:27, “In each and every year.”] R. Abbahu in the name of R. Eleazar: “The reference to ‘each and every year’ serves to draw an analogy from a year which is intercalated to one which is not intercalated, with the result that we come to the following conclusion:
- [B] “Just as in a year which is not intercalated Adar [in which Purim is celebrated] is next to Nisan, so in a year which is intercalated Adar [in which Purim is celebrated] is next to Nisan.”

[C] Said R. Helbo, “It is so as to link up one redemption [the one of Purim] with another redemption [the one of the Exodus from Egypt].”

[D] R. Levi in the name of R. Hama bar Haninah: “That year was intercalated.”

[E] *What is the scriptural basis for that view?* [“In the first month, which is the month of Nisan, in the twelfth year of King Ahasuerus, they cast Pur, that is the lot, before Haman from day to day; and from month to month [until it fell on] the twelfth month, which is the month of Adar” (Est. 3:7).

[I:7 A] Is the first of the two Adars the additional month, or is the second of the two Adars the additional month?

[B] *What is the practical difference between these two positions?*

[C] R. Samuel bar R. Isaac said, “The two rams for Pentecost will be at issue. [They must be within their first year when offered up at Pentecost.] Now if they were born on the fifteenth of Adar in a year that was not intercalated and then grew up in [the following] year, which was intercalated – if you maintain that the first Adar is the extra one, then it adds up to a protracted year, [and the rams will be valid for an offering] [71a]. If you say that the second Adar is the additional one, then [the ram is useful] only up to the fifteenth of the first Adar [of that year]. [Beyond that point, it enters the second year of its life.]”

[D] *Said R. Aibu bar Nigri, “The Mishnah itself has made the point that the first Adar is the extra one.*

[E] *“For we have learned there: **They testified that a year may be intercalated any time during Adar, for it had been taught, “Only until Purim.” They testified that the year may be intercalated conditionally [M. Ed. 7:7].***

[F] “That statement indicates that the first Adar is regarded as the additional one. [That is, at that point the original year is still at hand.] For if you say that the second Adar is the additional one, [so the year is over in twelve months that now have passed], then how is it possible to intercalate a year, when one is no longer within that year?”

[G] *Mar Uqba found two letters. In one of them it was written, “And it is good in my view and in the view of my colleagues to add to this year thirty days,” and in the other it was written, “It*

is good in our view and in the view of the associates to add to this year a month of days.”

[H] *He who referred to “thirty days” maintains that the first Adar is the extra one, and he who used the language of “a month of days” maintains that the second Adar is the extra one.*

[I] *No, there is no evidence to be inferred from that statement. For R. Jacob bar Aha, R. Yudan Gazori, R. Simon in the name of R. Joshua b. Levi: “Under all circumstances two months are intercalated. If one intercalated the first and did not intercalate the second, what he has done is valid. Under all circumstances the Adar nearest Nisan is lacking [that is, is not a full thirty days]. [It must follow that if one intercalated the second and not the first, what he has done also is valid. Hence there is no proof to be drawn from the different language cited above.]”*

[I:8 A] *It has been taught [in the Tosefta’s version]: **Rabban Simeon b. Gamaliel says in the name of R. Yosé, “They have to read it in the second Adar,***

[B] **“for every religious duty which applies in the second Adar does not apply to the first Adar,**

[C] **“except for lamentations and fasting, which apply in this [Adar] and in that [Adar]” [cf. M. 1:3G] [T. Meg. 1:6E-G].**

[D] *R. Ba, R. Jeremiah in the name of Rab, R. Simon in the name of R. Joshua b. Levi: “The law accords with the view of Rabban Simeon b. Gamaliel.”*

[E] *R. Huna the Elder, of Sepphoris, said, “R. Haninah of Sepphoris applied the custom in accord with this statement of Rabban Simeon b. Gamaliel.”*

[F] *He has stated only, “He applied the custom.” Lo, he did not say that that was in order to establish the law in this way.*

[G] **As to documents in this month and in that, [for the first] they write simply, Adar, and for the second one, *the second*.**

[H] **R. Judah says, “For the second Adar, [only] the letter Tav is written” [T. Meg. 1:6H- I].**

[I:9 A] *There we have learned: **There is no difference between [the fourteenth or fifteenth of 1 the first Adar and [the same dates in] the second Adar except for the reading of the scroll and giving gifts to the poor [M. 1:5B].***

[B] R. Simon in the name of R. Joshua b. Levi: “Also there are the matters of proclaiming the obligation to give the *sheqel* tax for the Temple and to inspect the fields for violation of the law of mixed seeds as points of difference between the two months. [These are done only in the second Adar].”

[C] R. Helbo, R. Huna, Rab in the name of R. Hiyya the Elder: “All carry out their obligation to read the Megillah on the fourteenth, which is the proper time for reading it.”

[D] Said R. Yosé, “And that is so. Have they not stated that they make an announcement about the obligation to give the sheqel only so that the Israelites will bring their *sheqel* tax at the right time? Now if you say that these are done in the first Adar, *then there will be yet sixty days before Nisan.*”

[E] “Have they not stated that they go forth to inspect the fields against the appearance of the violation of mixed seeds, only so that the sprouts may be visible? If you say that that is done in the first Adar, *up to that point they will be too thin to be seen.*”

1:6

[A] **There is no difference between a festival day and the Sabbath day except for preparing food alone [M. Bes. 5:2].**

[B] **There is no difference between the Sabbath and the Day of Atonement except that deliberately violating this one is punishable at the hands of an earthly court, while deliberately violating that one is punishable through extirpation.**

[I:1 A] *It was taught in the name of R. Judah, “Also they have permitted [on the festival] doing those things that are required for the preparation of food as well.”*

[B] What is at issue between [the authority of M. 1:6A] and Judah?

[C] R. Hisdai says, “The practical difference between the two positions is whether or not it is permitted to sharpen the heat of a spit.”

[D] R. Hanina son of R. Abbahu: “Producing heat [for cooking] from [preheated] stones is at issue between them.”

[E] *R. Judah bar Pazzi Bardelayya taught, “That is the thing.”*

[F]] What is the meaning of, “That is the thing”? Is it the matter of sharpening the head of a spit, or is it the matter of producing fire from stones?

[G] *Indeed, you may say only the following:* One may not grind a knife, but one may sharpen it on another knife M. Bes. 3:7].

[H] [In regard to that statement,] R. Hisda said, “That view is R. Judah’s.”

[I] But R. Judah said in the name of Samuel, “It represents the opinion of all parties, [since one does so] in order to remove the fat from the knife”

[I:2 A] **All these have they declared liable on a festival day, all the more so on the Sabbath. There is no difference between a festival day and the Sabbath day except for preparing food alone [M. Bes. 5:2].**

[B] *Are these the only differences? Lo, there others.*

[C] The penalty of stoning is imposed for violation of the Sabbath, while the penalty of stoning is not imposed for violating the festival day.

[D] The penalty of extirpation is imposed for violating the Sabbath, and the penalty of extirpation is not imposed for violating the festival day.

[E] The penalty of flogging applies for violating the festival, and the penalty of flogging does not apply for violating the Sabbath.

[F] Now if you wish to reply that the reference of that statement is only to matters having to do with food, *lo, we have learned: They may let down produce through a hatchway on a festival day but not on a Sabbath [M. Bes. 5:1A].*

[G] And further: They grind up spice-wood for the rite of circumcision on a festival day but not on the Sabbath. R. Yosé said, “And that applies to a case in which the rite already has been carried out.”

[H] And further: **Sages concur with R. Meir [M. Bes. 4:3E-G] in the case of knots which are on the ground, that one may loosen, unravel, and untie them, but they may not cut them.**

[I] **And on the Sabbath they may loosen and untie but may not unravel or cut them.**

[J] **And in the case of those on utensils on the Sabbath it is permitted,**

[K] **and, it goes without saying, on the festival [T. Yom Tob 3:12].**

[II:1 A] **There is no difference between the Sabbath and the Day of Atonement except that deliberately violating this one is punishable at the hands of an earthly court, while deliberately violating that one is punishable through extirpation [M. 1:6B].**

- [B] Lo, with respect to paying financial penalties, both of them are equivalent.
- [C] *The Mishnah accords with the view of R. Nehuniah b. Haqqaneh.*
- [D] *For it has been taught: R. Nehuniah b. Haqqaneh says, “The Day of Atonement is equivalent to the Sabbath as to paying monetary penalties” [T. Ket. 3:5E].*
- [E] R. Simeon b. Menassia says, “Those who are liable to extirpation are equivalent to those who are liable to the death penalty at the hands of an earthly court.”

[F] *What is the practical difference between these two positions?*

[G] R. Aha in the name of R. Abona: “[The penalty inflicted on one who raped] a girl who was in her menstrual period is at issue between them, [whether or not a monetary penalty is paid on the count of her being a girl is at issue, since the death penalty for having sexual relations is imposed in any event. Nehuniah compares the Day of Atonement to the Sabbath and holds that while there is no monetary penalty on that score, in the present case, different from the one of the two holy days, there will be a monetary penalty.]”

[H] R. Mana said “Also the case of having sexual relations with the sister of his wife is at issue between them.”

[I] *In the view of R. Nehuniah b. Haqqaneh*, just as the Sabbath is never subject to the remission of its prohibitions once these have come into play, so the Day of Atonement is never subject to the remission of its prohibitions. But these cases then are excluded [from the rule that the death penalty and monetary penalty cannot apply in the same case], since they are subject to remission of the prohibitions after the prohibitions have come into play [since the menstrual period ends or the wife may die, leaving her sister free to marry the man].

[J] *In the view of R. Simeon b. Menassia*, just as [violation of] the Sabbath produces the penalty of extirpation, so violation of the Day of Atonement produces the penalty of extirpation. Now these cases also, since they produce the penalty of extirpation, a violator will not pay a financial penalty in addition.

[K] R. Judah bar Pazzi said, “As to imposing the penalty of flogging where there is the penalty of extirpation, *what do these authorities say in such a case?*”

[L] *Said R. Yosé, “That was a question that troubled the rabbis.”*

[M] *R. Jonah asked, “And why so? Has not the following teaching of R. Simeon b. Yohai been handed on? For R. Simeon b. Yohai taught: R. Tarfon says, ‘The penalty of extirpation is stated with regard to violating the Sabbath, and the penalty of extirpation is stated with regard to violating the Day of Atonement. Just as the penalty of extirpation stated with regard to the Sabbath indicates that a flogging is not imposed when extirpation applies, so extirpation stated with regard to the Day of Atonement means that no flogging applies where there is extirpation.’”*

[N] *Said R. Mana before R. Yosé, “When there was a problem, it was in accord with the view of R. Simeon b. Laqish, but so far as R. Yohanan was concerned, [it was no issue. For his view is as follows:] ‘If the penalty of flogging may be imposed when the death penalty applies, is it not an argument a fortiori that the penalty of flogging applies when extirpation is imposed?’”*

[O] *[Mana referred to the following,] concerning which there is a dispute:*

[P] *He who slaughters a dam and its offspring for the sake of idolatry –*

[Q] *R. Yohanan said, “If [others] gave warning to the man on the count of not slaughtering a dam and its offspring on the same day, he is given a flogging. If they gave warning on the count of idolatry, he is stoned to death [and not flogged].”*

[R] *R. Simeon b. Laqish said, “Even if [others] should give him warning on the count of not slaughtering the dam and offspring on the same day, he is not given a flogging, since, if they warned him on the count of idolatry, he would be stoned to death.” [The point relevant here is that even though there might be a death penalty, there is a flogging, so Q, because the death penalty does not apply. Simeon b. Laqish rejects this view; since in theory the death penalty may apply, there will be no flogging even when the death penalty does not apply.]*

[S] *He said to him, “Even within the view of R. Yohanan, it is still a problem. For there we speak of a case in which there*

are two distinct matters at issue, while here we deal with a single matter at issue [that is, a single negative commandment]. [Yohanan may also hold that just as one cannot impose both flogging and a monetary penalty for the violation of a single negative commandment, so here the same may be said as to flogging and extirpation.]

[T] What follows is pertinent only at the locus classicus, Y. Ket. 3:1:] In the view of R. Simeon b. Laqish, what is the difference between the opinion of these Tannaite authorities and those rabbis?

[U] It concerns violation of negative commandments when there is no consideration of extirpation.

[V] R. Yudan said, “He who has sexual relations with a mamzer-girl is at issue between them.”

[W] R. Hanina said, “Also he who kindles the standing crop of his fellow on a festival day is at issue between them.”

[X] In the view of these Tannaite authorities, since there is no penalty of extirpation, the felon has to pay monetary compensation.

[Y] In the opinion of those rabbis since there is a flogging, he does not pay monetary compensation.

[Z] If that is the case, then the law, **these are girls through whom a fine is incurred [M. Ker. 3:1A]** *cannot accord with the view of rabbis.*

[AA] Said R. Mattanaiah, “Interpret the teaching to accord with the opinion of all parties. The Mishnah speaks of a mamzer-boy who had sexual relations with a mamzer-girl.”

[BB] And as to the sister of his brother but not his levirate wife?

[CC] Said R. Mattanaiah, “Interpret the law to speak of a case in which his brother had children, and he betrothed a woman and died, and his surviving brother came along and raped her.”

1:7

- [A] **There is no difference between one who is prohibited by vow from deriving [general] benefit from his fellow and one who is prohibited by vow from deriving food from his fellow, except for setting foot in his house and using utensils of his which are not for preparing food [prohibited in the former case].**
- [B] **There is no difference between vows and freewill offering, except that one is obligated to replace animals designated in fulfillment of vows if they die or are stolen, while one is not obligated to replace animals set aside in fulfillment of freewill offerings (if they die or are stolen).**
- [I:1 A] Lo, something in which food is prepared is forbidden [in line with M. 1:7]. [Why should this be the case?] Did he not take a vow [only not to eat] food?
- [B] *Said R. Simeon b. Laqish, “Thus is the meaning of the Mishnah rule: **There is no difference between him who is forbidden by vow from enjoying any benefit from his fellow and him who is forbidden by vow from deriving [71b] benefit from food from him [which includes things used in the preparation of food].”***
- [C] *So too did a member of the house of Rabbi state: **He who is forbidden by vow from deriving food from his fellow – the fellow should not lend him a sifter, sieve, millstone, or oven [M. Ned. 4:1C].***
- [D] *It was taught:* But he may lend him cups, plates, and dishes, for they do not enhance the food but merely hold it.
- [E] Frying pans and pots are prohibited.
- [F] Milling or pressing is forbidden.
- [G] As to reaping, there is a question.
- [H] As to cutting olives, there is a question.
- [I] As to gaining benefit which is needed in preparing food, what is the law? [E.g., may one lend him an ax to cut down wood for making a fire for cooking?]
- [J] *It was taught:* But he may lend him an ax.
- [K] *We contemplated ruling:* That is an ax for cutting wood. [No, that is not the case.] Interpret the teaching to apply only to an ax used for hoeing. *And no further inferences are to be drawn from that fact.*

[L] *R. Abona said R. Jeremiah proposed: “As to a sifter, since its meshes are wide and one may sift flour with it, it is forbidden to lend it to him.”*

- [I:2 A] What is [an animal pledged] by a vow concerning which they have spoken? “Lo, I pledge myself to bring a burnt offering.”
- [B] What is [an animal pledged] as a freewill offering, concerning which they have spoken? “Lo, this beast is a freewill offering.”
- [C] *R. Hama, associate of the rabbis, asked, “If one said, ‘Lo, I pledge myself’ and then he retracted and said, ‘Lo, this is,’ [what is the law?]*”
- [D] *R. Hinena asked, “The formulation of the question in that way is not reasonable. But this is how it must be phrased: If one said, ‘Lo, this is,’ and then he went and said, ‘Lo, I pledge myself,’ then we have a strict prohibition that may apply in place of a lenient prohibition. But a lenient prohibition [that is, a freewill offering] cannot apply in place of a strict prohibition [that is, a vow].”*

1:8

- [A] **There is no difference between a Zab who suffers two appearances of flux and one who suffers three except for the requirement of an offering [for the latter].**
- [B] **There is no difference between a mesora who is shut up and one who has been certified unclean except for the requirement to mess up the hair and tear the clothing**
- [C] **There is no difference between [a mesora] declared clean having been shut up and one declared clean having been certified [unclean] except for the requirement of shaving and of bringing a bird offering.**
- [I:1 A] [Reference is to M. Zab. 2:2: **If he saw the first flow of flux, they examine him. In the case of the second they examine him (to find out whether the flux was natural or accidental; in the former instance he imparts uncleanness to things on which he sits or lies.) In the case of a third flux they do not examine him. R. Eleazar says, “Even in the third instance they do examine him, on account of the question of whether or not he has to bring a sacrifice.”**] *Said R. Judah bar Pazzi, “[The formulation of the Mishnah before us, at M. 1:8A] accords with the view of R. Eleazar. For R. Eleazar said, ‘Even in the third instance they do examine him, on account of the question of whether or not he has to bring a sacrifice.’*

- [B] *“But in the view of rabbis, if the second flux should be accidental, the man remains clean. And if the third flux should be accidental, the man is unclean. [In the former instance there is no reason to declare him unclean, in the latter, clean.]”*
- [C] *Said R. Yosé, “If it does not accord with rabbis, it also does not accord with R. Eleazar.*
- [D] *“For it has been taught: Said R. Eleazar, ‘Not in regard to rendering void all previous counting did I say this, but in regard to a sacrifice did I say this.’ [That is, when Eleazar said the man must be examined on the third flux, it was not because, if the flux should prove accidental, the man may then wipe off the slate the preceding, natural flux and so be regarded as clean. That was not his intent at all. Eleazar concurs that he is unclean even if the third appearance of the flux was accidental. His statement only was that the man need not bring an offering if the third appearance of flux was accidental. Now at issue at M. 1:8A is then a second point of difference between the second and third appearances of flux, and the Mishnah should state that there is a difference, in that flux on the second appearance does not impart uncleanness if it is accidental, while flux a third time around does impart uncleanness if it is accidental.]”*
- [E] [Further spelling out Eleazar’s statement,] *“I did not say that [on the occasion of the third appearance of flux] he wipes off the slate the preceding appearances of flux, but only that [if the third appearance of flux is accidental and not natural], he need not bring an offering.”*
- [F] [Reverting to Judah b. Pazzi, whose position has been rejected at C-E,] *is that to say that the Mishnah represents the opinion of all parties? [Not very likely.] For if you maintain that it accords with R. Eleazar, then [M. 1:8A should state,] the second flux is subject to being removed from the slate altogether [if it is accidental and not natural], while the third is [not] subject to being wiped off the slate [if it is accidental] and it [does not] remain subject to an offering.*
- [G] In the view of R. Eleazar, if the man saw two rounds [not accidental] of flux in abundance, and one [more] in sparse volume [accidental], he wipes out that third occurrence [as null], and he need not bring an offering. [The third appearance does not confirm the character of the first two, since it was so different from them, and hence is treated as null.]
- [II:1 A]** *Said R. Yudan, “The Mishnah [at M. 1:8B] speaks of two separate men [one shut up, the other certified unclean]. [One of the men is shut up, the other already certified unclean. This is now spelled out.]”*

[B] *Said R. Haninah, “The Mishnah has made that point clear: **There is no difference between a mesora who is shut up and one who has been certified.unclean except for messing up the hair and clothes; [for the purification rite] the requirement of shaving, and of bringing a bird offering** [following Y.’s version]. [The latter must do these things, the former need not do them. As we see, M. 1:8B, C are elided.]*

[C] *“That indicates that we deal with two individuals [one in the one status, one in the other]. If you say that we deal with a single person, then [the Mishnah should further] teach: There is no difference between a large bright spot and a small bright spot.... [That is, a large bright spot is one which has spread over the entire body of a man. Now if he was at that time in the status of uncleanness, he is marked by the outbreak over the entire body as clean. If he was at that time in the status of cleanness, he is marked as unclean. A small bright spot is simply one in which there is no indication of uncleanness. Now if you say that we deal with a single man, who was shut up and then certified unclean, then in such a case we should include the difference represented by the great bright spot, which has overtaken a man who was certified unclean after his original diseased spot has spread, and a small bright spot, affecting one who is merely shut up.]”*

[III:1 A] [With reference to M. I:8C, the *mesora* declared clean after merely being shut up and one declared clean after certification as unclean, that too speaks of two individuals,] *for just as you say there [at M. 1:8B,] we deal with two individuals, so here [at M. 1:8C] we have two individuals.*

[B] If the disease spread over the entire body of the man in a time in which he was shut up [to determine whether or not he is unclean, what is the law?] [He now is clean, since the disease has covered the entire body. But do we regard him as being marked as clean after having been certified as unclean, in which case, in line with M. 1:8C, he has to bring a bird offering? Or do we regard him as being marked as clean after having been merely shut up, in which case he does not have to bring a bird offering?]

[C] R. Yohanan said, “He has to bring a bird offering.”

[D] R. Eleazar said, “He does not have to bring a bird offering.”

[E] *Said R. Ba bar Mamel, “The following Tannaitic teaching [at Sifra Parashat Mesora Parashah I:6-8] supports the position of R. Yohanan:*

[F] **“From the leper’ (Lev. 14:3) – to include the one over whom it has broken forth over all of him, that he [too] requires birds [= must bring a bird offering].**

[G] **“Is it not logical?**

[H] **“If one who has been declared clean, and tokens do not render unclean in his case, requires birds, he who has been declared clean and signs do [still] render unclean in his case – is it not logical that he should be required to offer the birds?**

[I] **“Lo, if it remained on him for two weeks – [this] is a case which will prove the matter, for he has been declared clean and tokens [of uncleanness] will render unclean in his case, and he does not require birds.**

[J] **“But you [accordingly] should not be surprised, concerning the case of one over whom it broke forth throughout, that even though he has been declared clean and tokens [may still] render him unclean, he should not require birds.**

[K] **“Scripture says, ‘From the leper’ (Lev. 14:3) – to include the one over whom it broke forth over his entire body, that he requires birds.”**

[L] [Reverting to Yohanan’s position, F, above,] Now if you maintain that one who is declared clean when he has been merely shut up for further inspection should not have to bring birds [as is the position of M. 1:8C], [there is a problem,] for people will object [at the argument from Sifra, just now presented:] Would it not have been better to produce an answer from the case of the spreading of the bright spot over the entire body from cases of spreading of the bright spot over the entire body rather than producing an argument from the remaining of the mark for two weeks in regard to a case of the spreading of the bright spot over the entire body? [That is, a better answer could have been constructed at L, had the facts been as you state.]

[M] *R. Hananiah, associate of the rabbis, said, “The cited Tannaitic passage [from Sifra] supports the view of R. Yohanan, For so does the Tannaite authority reply to his fellow [with reference to the argument above]: No, if you have stated the rule in the case of this one [who has been certified unclean and so has to bring birds as part of his purification rite], who no longer has to be certified as unclean, will you apply the same rule to this one [who has merely been shut up], who yet has to be certified as unclean? Since he has to be certified as unclean, he should have to bring a bird offering.”*

[N] *Said R. Jacob bar Aha, “The end of the Mishnah passage supports the view of R. Eleazar: ‘[There is no difference between one] declared clean having been shut up [and one declared clean] having been certified, since the former is exempt from the requirement of messing up the hair, tearing the clothes, getting a shave, and the bird-offering.’”*

[O] [In reply to Jacob’s statement, we ask:] *Now does the Mishnah deal only with cases involving the breaking forth of bright spots over the entire body? [Surely we need not read the Mishnah to address that case at all.]*

[P] *Said R. Samuel bar Abodema, “Where they differ, it has to do with bringing birds, but as to bringing an [animal] offering, all parties concur that he need not bring an animal offering. [That is, Eleazar and Yohanan concur that the one certified as clean having been shut up and having suffered a blossoming forth of the bright spot over the entire body need not bring the animal offerings required for the eighth day of the purification process described at Lev. 14:10.]*

[Q] *“For it has been taught: ‘On the seventh day he shaves, and on the eighth day he brings an animal offering. He who has to be shaved also brings an animal offering. He who does not have to be shaved also does not bring an animal offering.’ [Since, M. 1:8C, he need not be shaved, he also need not bring an animal offering, who has been declared clean after merely being shut up for further inspection.]”*

[R] *R. Hama bar Uqba in the name of R. Yosé bar Haninah: “‘He shall remain unclean as long as he has the disease; he is unclean; he shall dwell alone in a habitation outside the camp’ (Lev. 13:46). This applies to him on whom the mark of uncleanness depends upon the mark of disease. It then excludes this one, whose uncleanness depends merely upon his counting the necessary day.”*

[S] *Up to this point we have dealt with mussing up the hair and clothing.*

[T] *But as to the shaving and the birds, how do we know [that the one under discussion is exempt from these rites of purification as well]?*

[U] *R. Eleazar, the Southerner, in the name of R. Shimi: “‘This shall be the law of the leper for the day [of his cleansing]’*

(Lev. 14:2). He who becomes unclean or is declared clean on a single day [is subject to these rites]. Excluded then is he who is not declared unclean and clean on a single day [but has to be shut up for seven days prior to a second inspection as to whether or not the marks of uncleanness have come into his diseased spot].”

1:9

- [A] **There is no difference between sacred scrolls and tefillin and mezuzot except that sacred scrolls may be written in any alphabet [“language”] letters while tefillin and mezuzot may be written only in Assyrian [script].**
- [B] **Rabban Simeon b. Gamaliel says, “Even sacred scrolls, they have permitted only that they be written in Greek.”**
- [I:1 A] It is written, “Now the whole earth had one language and a few words” (Gen. 11:1).
- [B] R. Eleazar and R. Yohanan: One of them said, “For they were speaking seventy languages.”
- [C] The other said, “For they were speaking the language of the Unique One of the World, the language of God.”
- [D] *Bar Qappara taught*, “God enlarge Japheth, and let him dwell in the tents of Shem; [and let Canaan be his slave] (Gen. 9:27) means that they will speak the language of Japheth in the tents of Shem.
- [E] “The sons of Japheth: Gomer, Magog, Madai, Javan, Tuba” Meshech, and Tiras” (Gen 10:2). Gomer is Garmamia; Magog is Gitayya; Madai is as is stated here [Medea]; Javan is Issus; Tubal is Vitanayya; Meshech is Misiyya.
- [F] As to Tiras: R. Simon said, “It is Persia.” And rabbis say, “It is Tarqa.”
- [G] “The sons of Gomer: Ashkenaz, Riphath, and Togarmah’ (Gen. 10:3). These are Asia, Adiabene, and Germanica.”
- [H] “And the sons of Javan: Elishah, Tarshish, Kithim, and Dodanim” (Gen. 10:4). These are Hellas and Taras, Abiah and Dardanayyah.

[I] [“Canaan was the father of the Arvadites, the Zemarites, and the Hamathites” (1 Chron. 1:16).] The Arvadites are Rhodes, the Zemarites are Hamas, the Hamathites are Hamath.

[J] “As far as Lasha” (Gen. 10:19): R. Eleazar said, “To the warm springs [Callirrhoe].”

[K] R. Yudan bar Yudan bar Shalom said, “It is on this basis that the Aramaic translation of the word, Lesha, is as indicated.”

[I:2 A] Said R. Jonathan of Bet Gubrin, “Four languages are appropriately used in the world, and these are: everyday speech [Greek], for song; Latin, for war; Sursi [Aramaic], for wailing; Hebrew, for clear speech.”

[B] And there are those who say, “Also Assyrian, for writing.”

[C] Assyrian is a mode of writing, but it is not a mode of speech.

[D] Hebrew is a mode of speech, but it is not a mode of writing.

[E] They selected for themselves Assyrian writing and Hebrew speech.

[F] And why is it called Assyrian (‘SWRY)?

[G] For it is particularly felicitous [M’WSR) in its mode of writing.

[H] Said R. Levi, “It is because they brought it with them from Assyria.”

[I:3 A] *It has been taught:* R. Yosé says, “Em was worthy to have the Torah given through him, but the generation of Moses came first.

[B] “Even though the Torah was not given through him, through him was given the accepted form of writing and of speech.”

[C] [“And in the days of Artaxerxes, Bishlam and Mithredath and Tabeel and the rest of their associates wrote to Artaxerxes king of Persia;] the letter was written in Aramaic and translated” (Ezra 4:7).

[D] [“‘Then all the king’s wise men came in,] but they could not read the writing [or make known to the king the interpretation’] (Dan. 5:8).

[E] “This teaches that on that very day this form of writing was handed down.”

[F] R. Nathan says, “The Torah was given in Ra’as characters.” *Now this accords with the statement of R. Yosé.*

[G] Rabbi says, “The Torah was given in Assyrian characters, and when they signed, it was turned into Raas characters for them. But when, in the time of Ezra, they attained merit, it was turned into Assyrian characters for them.”

[H] [“Return to your stronghold, O prisoners of hope;] today I declare that I will restore to you double” (Zech. 9:12).

[I] “And when he sits on the throne of his kingdom, he shall write for himself in a book a copy of this law, [from that which is in charge of the Levitical priests]” (Deut. 17:18). This will be in a form of writing [71c] which can be changed.

[J] *It has been taught:* R. Simeon b. Eleazar says in the name of R. Eleazar ben Parta, who said it in the name of R. Eleazar the Modite, “The Torah was given in Assyrian writing.”

[K] And what is the scriptural basis for this view? “The hooks [*wawim*] of the pillars” (Ex. 27:). This means that the *waws* of the Torah should look like pillars.

[L] Said R. Levi, “*He who said that the Torah was given in Raas letters holds that the ayin was formed miraculously. He who maintains that the Torah was written in Assyrian letters holds that the samekh was formed miraculously.*”

[M] R. Jeremiah, in the name of R. Hiyya bar Ba, and R. Simon both maintain, “The Torah to begin with did not have a *he* or a *mem* written fully closed. Lo, the *samekh* was written fully closed.”

[II:1 A] *It has been taught: Rabban Simeon b. Gamaliel says, “Even in the case of the sacred Scriptures, they have permitted only that they be written in Greek” (M. 1:9B).* They investigated and found that the Torah can be properly translated only into Greek.

[B] A resident of a station house made up for them a false Aramaic [variants: Latin] translation from the Greek.

[II:2 A] R. Jeremiah in the name of R. Hiyya bar Ba: “Aqilas the proselyte translated the Torah before R. Eliezer and R. Joshua, and they praised him.”

[B] They said to him, “Gird your sword upon your thigh, O mighty one, in your glory and majesty!” (Ps. 45:3).

- [II:3 A] *R. Judah bar Pazzi said R. Joshua b. Levi asked, “And why [at M. 1:9A,] do we not say, ‘There is a rule regarding sacred scrolls which does not apply to tefillin and mezuzot’? For scrolls are written on two sheets of parchment, while tefillin and mezuzot are written only on one sheet.”*
- [B] *Replied R. Isaac son of R. Hiyya the scribe, “More than this: scrolls are written on two hides, while tefillin and mezuzot are written on only one hide.”*
- [C] *Associates said before R. Mana, “To the contrary, we may say that a single sheet of parchment is not a more serious objection than the matter of two hides.”*
- [D] He said to them, “For the fact is that even scrolls are not written in that way.”
- [E] One may insert a word between the lines in scrolls, but may not insert a word in that manner either in tefillin or in mezuzot.
- [F] Scrolls which one wrote in the manner of writing tefillin and mezuzot – one may not insert a word between the lines in them.
- [G] Tefillin and mezuzot which one wrote in the manner of scrolls – one may suspend a word between the lines in them.
- [II:4 A] R. Zeirah in the name of R. Immi: “If one was writing a line [it must be long enough to contain nine letters, such as] ‘LH, ‘M ‘M ‘M. If that is how the passage was to be done, it is valid; and if not, it is invalid.”
- [B] R. Zeirah in the name of R. Immi bar Hinena: “As is the manner of writing in serous, so is the manner of writing in tefillin and mezuzot.”
- [C] R. Zeirah in the name of Rab: “If there is a perforation in the [right] side of the *he*, if one should erase it and there will remain a small foot [at the right side] it is valid, and if not, it is invalid.”
- [D] R. Zeirah in the name of R. Hisda, “If the *gimel* came at the end of the parchment, if one erased part of it and a small leg remained, it is valid, and if not, it is invalid.”
- [E] R. Zeirah in the name of Asiyan bar Nidbah: “If there was a perforation in the middle of a *bet*, if the parchment surrounded it on all sides, it is valid, and if not, it is invalid.”
- [F] *Said R. Zeirah, “The view of R. Hisda accords with the view of Rab, and both of them differ from the theory of Asiyan bar Nidbah.”*

[G] *Associates say, “The view of Asiyan bar Nidbah accords with the opinion of R. Yohanan.”*

[H] *For it has been taught: If the letters were mixed [so that there is insufficient space between words and the letters cannot be distinguished], there is a Tannaite authority who teaches that the scroll is nonetheless valid, and there is a Tannaite authority who teaches that it is invalid.*

[I] *R. Ada bar Simeon in the name of R. Yohanan: “He who maintains that the writing is valid sees the joining at the top, and he who says that they are invalid sees the joining at the bottom, for example, the word for, ‘our land,’ ‘our glory.’ [In these instances the letters are joined at the bottom but separated at the top, so the letter is wholly on the parchment. The one who says that they are invalid sees them joined at the top, as Asiyan has said above, since he wants sufficient parchment to spread around the entire space of the letter.]”*

[J] *The word for [your land] is a question, so too the word for “your glory.” [The issue is, if the s touches the k in the middle.]*

[II:5 A] *R. Ada b. R. Simeon in the name of R. Yohanan: “A man should not stand to pray in an elevated place.”*

[B] *What is the scriptural basis for this view?*

[C] *Said R. Ba in the name of R. Pappa, ““Out of the depths I cry to thee, O Lord!”” (Ps. 130:1).*

[D] *R. Ada bar Simeon in the name of R. Yohanan: “A man should not stand to pray prior to heeding a call to name.”*

[E] *What is the scriptural basis for this view?*

[F] *“[Therefore thus I will do to you, O Israel; because I will do this to you,] prepare to meet your God, O Israel!” (Amos 4:12).*

[G] *Said R. Simon, “[Reading the word, ‘prepare,’ as ‘pay heed to’:] Form the appropriate intention to ‘meet your God, O Israel.’”*

[H] *Said R. Alexandri, ““Guard your feet when you go to the house of God’ (Qoh. 5:1). Guard yourself with regard to the things that come forth between your feet.”*

[I] That which you have said applies to the lesser matters [one must urinate], but as to the more sizable matters, if one can endure, let him endure [until after the prayer].

[J] R. Jacob bar Abiah in the name of R. Aha: “‘Guard your feet when you go to the house of God’ (Qoh. 5:1). Guard yourself when you are called to the house of God, that you be pure and clean.”

[K] Said R. Ab, “‘Let your fountain be blessed, [and rejoice in the wife of your youth’] (Prov. 5:18). Let your rendezvous with the grave be blessed [and without sin].”

[L] Said R. Berekhiah, “‘A time to be born, and a time to die’ (Qoh. 3:2). Happy is the man whose hour of death is like the hour of his birth. Just as at the hour of his birth he was clean, so at the hour of his death may he be clean.”

[II:6 A] R. Ba in the name of R. Judah: “‘[If a *mezuzah*’s] writing was in the shape of half a necklace [of three or more strings, in decreasing lines] if the topmost line was followed by a line [in the middle] containing two words, it [the topmost] must have three words, with the middle line containing two words, and the bottom-most line may consist merely of, ‘on the earth’ (Deut. 11:21) [the last in the *mezuzah*’s parchment].”

[B] R. Zeirah in the name of R. Hisda, “‘If the writing was shaped like an hourglass, the top line, below which are two words, must contain three words, and the bottom-most line [toward the narrow part of the arrangement of words] must contain two words, and as to the line in the middle, I do not know how long it must be.”

[C] R. Jeremiah said it; said R. Zeirah in the name of R. Hisda, R. Jonah and R. Yosé both say, R. Zeirah in the name of Asiyan bar Nidbah, the associates said R. Zeirah said it in the name of R. Hananel, “‘If the ink exuded from between the perforations, it is invalid.

[D] “‘What should one do? He should lick off [the excess] with his tongue, and the remainder will gel [dry in place].”

[E] If one erred and omitted the Divine Name, *there is a Tannaite authority who teaches*, “‘He inserts the Divine Name [between the lines], *and there is a Tannaite authority who teaches*, “‘He erases

the non-divine words and writes in the Divine Name and writes the non-divine words between the lines.”

[F] R. Zeirah, R. Hananel in the name of Rab: “The law is in accord with him who says, ‘He erases the non-divine word and writes in the Divine Name and writes in the non-divine words between the lines.’”

[G] R. Hananel in the name of Rab: “And if [the setting] was, for example, ‘I am the Lord your God,’ it is permitted.”

[H] Why is it permitted? It is because they are three words running [in which case either the last or the next to the last word must be suspended, and it makes no difference in appearance], or is it because among the three words are non-divine words [“Your God” contains both divine and non-divine elements, with the result that it can be suspended]?

[I] The practical difference between these reasons is as follows: If the words involved were, the Almighty, *God*, the *Lord*.

[J] If you say that the operative reason is that they are three words, lo, here are three words.

[K] If you say that the operative reason is because there are secular words involved, [which may be set between the lines,] lo, in this case there is no secular word.

[L] [If the word involved is,] “to the Lord,” or “against the Lord,” then there is a question [since the secular part is only a letter, not a whole word].

[M] R. Joshua son of R. Hananel said, “One must write that he below the elbow of the *lamed*, in ‘Do you thus requite the Lord?’ (Deut. 32:6), implying, ‘Alas! Do you requite the Lord?’”

[II:7 A] As to a *Mezuzah*, there is a *Tannaite authority who teaches*, “[The space between the sections is to be left] open. [The second passage of the document is started on a fresh line, leaving part of the final line of the first paragraph blank.]

[B] *There is a Tannaite authority who teaches*, “It is left closed [so that the second paragraph begins on the same line as that on which the first paragraph ends].”

[C] Samuel bar Shilat in the name of Rab: “The law accords with him who says, ‘It is left open,’ for this [closing line of the preceding paragraph]

is not its appropriate place [in the Torah]. [That is, the right place for the opening sentence of the second paragraph of the parchment in the Torah is not immediately following the *Shema*. It is in a different location. The difference then is preserved here.]”

[D] [Explaining the references to open and closed above:] If [the second paragraph] is open at the start [but on the same line as the last words of the *Shema*,] this is regarded as closed.

[E] If it is open at the end [in that a new line is started at the top, but the only open space on a Line then occurs at the end of the paragraph,] this is regarded as open.

[F] If it is open both at the start and at the end [in that the scribe left only a little space between the *Shema* and the next paragraph but began the second paragraph on the same Line, and so too at the end of the second paragraph and beginning of the third], that is regarded as closed.

[II:8 A] [If, in writing a Torah scroll,] one erred and omitted a verse of Scripture, if two or three Lines are involved, one repairs it and uses the scroll for public reading. If there are four, one does not use the scroll for public reading.

[B] R. Zeirah in the name of R. Hananel, “Also in the case of a tear the rule is the same. [If there is a tear through three Lines, one may repair the tear and use the scroll.]”

[C] *It has been taught:* A Torah scroll in which there are two or three errors in every column of words – one repairs it and uses it for public reading. If there are four, one may not use it for public reading.

[D] *And has it not been taught:* A scroll of the Torah in which there are as many as eighty-five errors, as in the pericope that follows, one repairs the errors and reads in the scroll in public. The pericope is this: “And whenever the ark set out, Moses said, ‘Arise, O Lord, and let thy energies be scattered; and let them that hate thee flee before thee’ (Num. 10:35).”

[E] Said R. Shimi, “The latter ruling speaks of a large scroll, and the former, a small one. [The large consists of the entire Pentateuch, the small, a single book of the Pentateuch.]”

[F] R. Zeirah in the name of R. Hananel: “If one found in a scroll a complete column which is whole, it affords protection for the entire scroll [which then may be corrected and used].”

[G] What is the meaning of, “whole”?

[H] One in which there are no errors at all.

[I] Or “whole” means one in which there are not four [errors].

[J] Hagra, brother of R. Ba bar Binah, gave a Torah to R. Hananel, and he read in it. He said to him, “This Torah needs something to save it.” At the end he found a column of words that was whole, and it afforded protection for the entire scroll.

[K] [71d] [Reverting to the earlier matter:] What is the meaning of, “whole”? Is it that there are no errors, or is it whole in that there are not four errors [in a given column of words]? [This question is not answered.]

[II:9 A] R. Zeirah, R. Hananel in the name of Rab: “The manner of sewing the columns together is a law revealed to Moses at Sinai.”

[B] R. Jeremiah in the name of R. Samuel bar R. Isaac: “The manner of tying *tefillin* is a law revealed to Moses at Sinai.”

[C] *The strap of the tefillin of R. Jeremiah broke. He asked R. Ba bar Mammel what he should do. He said to him, “‘And you shall bind them,’ (Deut. 6:8), meaning, even the binding must be perfect.”*

[D] *The partition of one of the straps of the tefillin of R. Zeira broke. He asked R. Huna and R. Qatina, and they permitted him [to repair it]. It broke a second time, and they permitted him again, for they had not received the teaching [indicated at C].*

[E] R. Ba b. R. Hiyya bar Ba, R. Hiyya in the name of R. Yohanan: “It is a law [deriving from Moses at Sinai] that when one sews [the columns of a scroll of the Torah], he has to leave space stitched above and below so that it should not be torn, [since there has to be some give in the scroll].”

[F] Now they raised this question: If it is a law revealed to Moses at Sinai [that one has to sew the columns together], why should one have to take care that the scroll not tear, and if one must see that the scroll not tear, why is the sewing a law revealed to Moses at Sinai?

[G] It is a law revealed to Moses at Sinai that they should write [scrolls] on hides, write them with ink, trace lines on hides with a reed, bind with hair, repair them with a cloth [should there be a hole] which then is glued in, and sew them with sinews.

- [H] And when one sews them together, one sews in a certain manner of sewing.
- [I] And one has to leave the space of a line between the two lines of writings, and space occupied by a letter between each word, any small amount of space whatever between each letter, and between columns the space occupied by the width of a thumb.
- [J] If he made [the space at] the end of the column equal to its beginning, the scroll is invalid.
- [K] One has to leave a space in the scroll at the top of two fingers in breadth, and at the bottom of three.
- [L] Rabbi says, “In the case of a Torah scroll, one has to leave at the top three fingers’ breadth, and at the bottom, a handbreadth [four fingers].”
- [M] And one has to leave between one book and the next [of a Pentateuch, all written in a single scroll] the breadth of four lines of writing,
- [N] and in the case of a book of one of the twelve prophets, a space of three lines.
- [O] And one has to complete a book in the middle of a column of words and begin another in the middle of a column.
- [P] And in the case of a prophet, one may complete the book at the end of a column and begin one at the beginning of a column,
- [Q] but in a prophet among the twelve, it is forbidden to do so.
- [R] One should not use a sheet of parchment that contains less than three columns for writing or more than eight.
- [S] That rule applies at the beginning [of the book]. But at the end, even one [piece] of any size at all is acceptable.
- [T] And as to hides, the sages have given no minimum standard.

[U] And when one uses a parchment, one has to write on the rough side, and if one uses a hide, one has to write on the smooth side of the skin. If one did otherwise, the scroll is invalid.

[V] One may not write half of a scroll on hide and half on split parchment, but one may write half of it on the hide of a clean domesticated beast and half of it on the hide of a clean wild beast [e.g., a deer].

[W] One should write a scroll of the Torah only on the hide of a clean domesticated beast.

[X] What is the scriptural basis for that view?

[Y] “[And it shall be to you as a sign on your hand and as a memorial between your eyes,] that the law of the Lord may be in your mouth; [for with a strong hand the Lord has brought you out of Egypt]” (Ex. 13:9).

[Z] The Torah must be written on something that you may put in your mouth.

[AA] And lo, it has been taught: One may write a scroll of the Torah on the hide of carrion beasts or beasts that are *terefah*.

[BB] [This means] the species that you may put in your mouth.

[CC] And they provide a roller for a scroll at the end and, for the Torah, at each side.

[DD] Therefore one may roll the scroll [other than a Torah scroll] toward the head, but in the case of a Torah scroll, at the middle.

[EE] R. Samuel, R. Zeirah in the name of R. Hiyya bar Joseph: “Even a scroll of two sheets.”

[FF] R. Zeirah, Samuel bar Shilat in the name of Kahana, “And that is on condition that one rolls the scroll to the place at which it is sewn [so that if it tears, it will tear at the margin].”

[GG] R. Aha in the name of R. Samuel bar Nahman: “A scroll which is not covered by a cloth – one turns it over toward the side containing the writing, so that that side containing the writing will not be exposed.”

- [II:10 A] In the case of the double letters of the alphabet, one writes the first ones at the beginning and middle of a word, and the second [final forms] at the end.
- [B] If one did otherwise, the scroll is invalid.
- [C] In the name of R. Mattenaiah b. Heresh they have said, “Those letters – M, N, S, P, K [that appear in two forms] – were revealed as a law to Moses at Sinai.”
- [D] What are the meaning of these letters?
- [E] R. Jeremiah in the name of R. Samuel, R. Isaac, ““What the seers have prepared for you.””
- [F] *Who are these seers?*
- [G] *There is the following story: On a cloudy day, on which sages did not come to the meetinghouse, the children came in and said, “Let us hold a session, so that the study time will not be lost.”*
- [H] *They said, “What is that which is written: [Two kinds of] M, N, S, P, K? It means, “From saying [of the Lord] to saying, from Faithful to the faithful, from the Righteous One to the righteous, from the Mouth to the mouth, from the Palm of the hand of the Holy One, blessed be he, to the palm of the hand of Moses.”*
- [I] The sages made note of them, and all of them grew up to be great.
- [J] *They say that R. Eliezer and R Joshua were among them.*
- [K] R. Jeremiah in the name of R. Hiyya bu Ba and R. Simon both say, “As to the Torah as it was written in former generations, the *He* as they wrote it and the *Mem* as they wrote it were not closed. Lo, the *Samekh* as they wrote it was closed.”
- [L] R. Simon and R. Samuel bar Nahman both say, “The men of Jerusalem would write ‘Jerusalem’ as ‘to Jerusalem’ and [sages] did not scruple in this regard.”
- [M] “*Along these same lines, ‘north’ was written ‘to the north,’ and ‘south’ was written ‘to the south.’*”

- [II:11 A]** Thirteen matters did sages change for Talmi [Ptolemy] the king. They wrote as follows to him:
- [B] “God created in the beginning [the heavens and the earth]” (Gen. 1:1).
- [C] “Let me make man in an image, in a likeness” (Gen. 1:26).
- [D] “Male with his apertures he created them” (Gen. 1:27).
- [E] “And on the sixth day God finished [his work which he had done] and he rested on the seventh day [from all his work which he had done]” (Gen. 2:2).
- [F] “Come, I shall go down, [and there confuse their language, that they may not understand one another’s speech]” (Gen. 11:7).
- [G] “So Sarah laughed to her relatives, saying [‘After I have grown old, and my husband is old, shall I have pleasure?’]” (Gen. 18:12).
- [H] “For in their anger they slew an ox, and in their wantonness they destroyed a stall” (Gen. 49:6).
- [I] “So Moses took his wife and his sons and set them on bearers [and went back to the land of Egypt; and in his hand Moses took the rod of God]” (Ex. 4:20).
- [J] “The time that the people of Israel dwelt in Egypt and in all [other] lands was four hundred and thirty years” (Ex. 12:40).
- [K] “The hue” (Lev. 11:6) [was] “the short-legged” because Ptolemy’s mother was named “Hue.”
- [L] “I have not taken one valuable of theirs” (Num. 16:15).
- [M] “Which the Lord your God distributed to give light to all the peoples under all the heavens” (Deut. 4:19).
- [N] “[And he went and served other gods,] which I did not command the nations to worship” (Deut. 17:3).
- [II:12 A]** All letters written with the Divine Name but before it – lo, they are regarded as non-divine, and may be erased, for instance, “To the Lord,” “Against the Lord,” “Like the Lord,” “For the Lord.”
- [B] For so we find in connection with the priestly frontlet, that [the Name] is separated from it. “Holy to” is written below, and the Divine Name is above.

- [C] All letters written with the Divine Name but after it, – lo, these are holy and they may not be erased, for example, “Our God,” “Your God.”
- [D] These are names that may not be erased: He who writes the Divine Name as four letters, with a Y and an H, with an A and a D, El [the Almighty], God, your God, my God, our God, your God, the Almighty, the Lord of Hosts, I am that I am.
- [E] If one wrote A D from the word Adonai, A H from “I am,” Sh D from “the Almighty,” B from “Hosts” – lo, these may be erased.
- [F] One may erase what is added to them. In the case of “to God,” one may erase the “to.” If one wrote “to YY,” one may erase the “to.” If one wrote the Y H of the four-lettered name of God, or A L from the word for God, one may not erase those letters.
- [G] The general principle is this: if this combination of letters elsewhere exists as a name of God, it may not be erased.
- [H] *It has been taught:* R. Yosé says, “Members of the house of Hagirah were expert scribes in Jerusalem. They would erase the word, ‘Hosts,’ for in fact it is a non-divine name under other circumstances: ‘Then the heads of hosts shall be appointed as the head of the people’” (Deut. 20:9).
- [I] All the potential names of God written in connection with our father, Abraham, are holy, except for one of them, which is not: “And when idols caused me to wander from my father’s house, [I said to her, ‘This is the kindness you must do me: at every place to which we come, say of me, He is my brother’] (Gen. 20:13).”
- [J] And there are those who say that even that one is holy, for “if it were not for God, they would have misled me.”
- [K] All the names of God written in connection with Micah [are non-divine]. R. Yosé says, “[Those] written with the Y H form are holy, those with A L, non-divine, except for [one of them, which is holy: ‘So they set up Micah’s graven image which he made,] as long as the house of God was at Shiloh (Judg. 18:31). [Text here follows Soferim 4:12.]
- [L] All the names of God written in connection with Naboth, even though they are written with the A L form, lo, they are holy: “[And the two base fellows came in and sat opposite him; and the base fellows brought a charge against Naboth, in the presence of the people saying,] ‘Naboth cursed God and the king.’ [So they took

him outside the city and stoned him to death with stones]” (1 Kings 21:13).

[M] But the following names are secular and not holy: Full of grace, Merciful, Long-suffering, Full of mercy, King [72a] of Kings, Most High, Great, Awesome, Elevated, Powerful, Righteous, Upright, Pious, Perfect, Powerful – lo, these are non-divine.

[II:13 A] The following names are not to be divided: Amiel, Amishadai, Suriel, Surishadai, Gamaliel, Padahsur, and Padahel.

[B] These are names that are divided: Beth El, Beth On; [also] Ha rah Api [e.g. Deut. 7:4] [e.g. Deut. 31:17], Poti, Fera, Saphenat Puneah.

[II:14 A] As to the word Halleluyah, Rab and Samuel – one of them said, “It is two words, Hallel Yah,” and the other said, “It is one word, Halleluyah.”

[B] *The one who said that it is two words maintains that it may be divided, but it may not be erased.*

[C] *The one who said that it is one word holds that it may be erased, and it may not be divided [lest the Yah stand alone as the Divine Name].*

[D] *But we do not know who has said this view and who has expressed that one.*

[E] *On the basis of the following statement of Rab [we may draw the appropriate conclusion]. For Rab said, “I heard from my beloved uncle [Hiyya]: ‘If someone should give me a book of Psalms written by R. Meir, I should remove every appearance of the word ‘Halleluyah’ in it, for he did not have the intention of consecrating [the yah put of the word, as God’s name].’ [That is, he knew that the yah is not God’s name in this context.]”*

[F] *Consequently, it follows that Rab is the one who held that it is one word [and so may be erased].*

[G] *A statement by rabbis differs [with Rab’s view]. For R. Simon in the name of R. Joshua b. Levi said, “With ten synonyms of praise was the book of Psalms stated: with ‘fortune,’ ‘victory,’ ‘melody,’ ‘maskil,’ ‘psalm,’ ‘song,’ ‘joy,’ ‘thanksgiving,’ ‘prayer,’ and ‘blessing.’ The greatest of all is the word ‘Halleluyah,’ because both*

the Divine Name and Praise are encompassed in that one word.”

[II:15 A] *R. Zeirah asked before R. Abbahu, “What do we answer [after one who reads the Hallel]?”*

[B] *Said to him R. Abba of Kipah before R. Jonah, “One answers thus and so [in accord with the language of Scripture].”*

[C] *R. Eliezer answered thus and so, for it has been taught: If one has heard but not responded, he has fulfilled his obligation. If he responded but has not heard, he has not fulfilled his obligation.*

[D] *Rab in the name of R. Abba bar Hana in the name of Rab and there are those who say, R. Abba bar Hannah in the name of Rab: “And that is the case when one answers at the end of each section.”*

[E] *R. Zeirah asked, “What are these stopping points?”*

[F] “Praise the Lord! Praise, O servants of the Lord, praise the name of the Lord!” (Ps. 113:1).

[G] *They asked before R. Hiyya bar Ba, “How do we know that if one has heard the Hallel but not responded, he has carried out his obligation?”*

[H] *He replied to them, “On the basis of what we see the great rabbis do. They stand in the congregation and these say, ‘Blessed be he who comes,’ and the others reply, ‘In the name of the Lord,’ and both these and those fulfill their obligation [to say the sentence].”*

[I] *R. Hoshaiah taught, “A man replies, ‘Amen,’ even though he has not eaten [if he says the Grace after meals], but he does not say, ‘Blessed be he whose food we have eaten’ unless he has actually eaten.”*

[II:16 A] *It has been taught: They do not answer an “Amen” which is an orphan or an “Amen” which is cut off.*

[B] *Ben Azzai says, “He who answers an Amen which is an orphan – his children will be orphans. He who answers an Amen which is cut off – his soul will be cut off.*

[C] *“If he says a protracted Amen, his days will be lengthened in goodness.”*

[D] *What is an orphaned Amen?*

[E] Said R. Huna, “It is one in which someone says a blessing, and he replies but does not know to what he replies ‘Amen.’”

[F] *It has been taught:* A pagan who blessed the Divine Name – they answer “Amen” after him.

[G] If he said a blessing, using the Divine Name, they do not answer “Amen,” after him.

[H] Said R. Tanhuma, “If a pagan said a blessing over you, answer Amen after him, for it is written, ‘You shall be blessed above all peoples; [there shall not be male or female barren among you, or among your cattle.]’” (Deut. 7:14).

[I] A pagan met R. Ishmael and blessed him.

[J] He said to him, “What is to be said to you has already been said.”

[K] Another one met him and cursed him.

[L] He said to him, “What is to be said to you has already been said.”

[M] *His disciples said to him, “Rabbi, how is it that you have said the same thing to this one and to that one?”*

[N] He replied to them, “Cursed be every one who curses you, and blessed be every one who blesses you!” (Gen. 27:29).

1:10

[A] **There is no difference between a priest who is anointed with anointing oil and one who wears many garments except in the bullock which is offered for unwitting transgression of any of the commandments [required only of the former].**

[B] **There is no difference between a [high] priest presently in service and a [high] priest [who served] in times past except for the bullock which is offered on the Day of Atonement and the tenth of the ephah [cf. M. Hor. 3:4].**

[I:1 A] *It has been taught:* An anointed priest [who sins] brings a bullock, and one who is dedicated by wearing many garments does not bring a bullock [= M. 1:10A].

- [B] *That statement does not accord with the view of R. Meir. For R. Meir says, “A priest who wears many garments brings a bullock [in the case of an unwitting transgression].”*
- [C] *What is the scriptural basis for R. Meir’s position? Scripture stated, “[If it is the] anointed [priest who sins]” (Lev. 4:3). Now why [in addition to anointed] does Scripture also state, “priest”? It is to include the priest [who is not anointed but dedicated by] many garments.*
- [D] *What is the scriptural basis for the position of the rabbis [who hold that the law applies only to an anointed priest]? Scripture states, “Anointed.” Is it possible that the law applies to the king [who also is anointed]? [To prevent that false conclusion, Scripture must state,] “Priest,” as well.*
- [E] Is it possible that the law applies to the priest dedicated by many garments?
- [F] Scripture says, “Anointed.”
- [G] Is it possible that I should include the priest anointed for war?
- [H] Scripture says, “Anointed,” meaning one over whom there is no other anointed [priest].
- [I] *The thesis assigned to rabbis contains inner contradictions. Here it is written, “Anointed,” and there it is written, “Anointed.” [The references are as follows: “If it is the anointed priest who sins, thus bringing guilt on the people, then let him offer for the sin which he has committed a young bull without blemish to the Lord for a sin offering” (Lev. 4:3).] And the anointed priest shall take some of the blood of the bull and bring it to the tent of meeting” (Lev. 4:5).]*
- [J] *Now here they [who hold the position of the rabbis] interpret the passage to exclude the priest dedicated by many garments, but there they interpret the passage to include the priest dedicated by many garments [who must bring the tenth ephah of fine flour specified at Lev. 6:10].*
- [K] Said R. Illa, “Each interpretation fits its context [and is therefore required and in order].
- [L] “There the entire passage speaks of Aaron. For what purpose is ‘priest’ stated? To include the one who wears many garments.
- [M] “But here the entire passage does not speak of Aaron.

[N] “Now if ‘anointed’ had been stated, but ‘priest’ had not been stated, I should have concluded that on account of an inadvertent, erroneous ruling he brings a bullock, but on account of an inadvertent deed [of sin] he brings a he-goat. So there was need to make an explicit reference to the priest.

[O] “And if it had said, ‘priest,’ but had not said, ‘anointed,’ I should have reached the false conclusion that this passage refers to the king.

[P] “If you should state, ‘But the pericope concerning the king indeed has been spelled out [at Lev. 4:22-26],’ I should then say to you, it was necessary to refer explicitly to the priest.

[Q] “Now if it had referred to ‘priest’ but not to ‘anointed,’ I should have concluded, for an erroneous instruction he brings a bullock, but for an erroneous deed [of sin] he brings a he-goat. Thus there was need to refer explicitly to anointed, and there was need to refer explicitly to priest.”

[I:2 A] Said R. Yohanan, “**[If an anointed priest] left office and then brought the tenth of an ephah of fine flour which he was owing, it is valid**” [M. Hor. 3:2I-J].

[B] **They arrange another priest to take his place lest a cause of invalidation [of the high priest who is to officiate on the Day of Atonement] should occur** [M. Yoma 1:1B-C].

[C] *Now do they designate another priest along with him?*

[D] *Said R. Haggai, “By Moses! If they designate another priest alongside, he may kill him.”*

[E] “[This is the offering which Aaron and his sons shall offer to the Lord on the day when he is anointed: A tenth of an *ephah* of fine flour as a regular cereal offering.... The priest from among Aaron’s sons who is anointed to succeed] him [shall offer it to the Lord]” (Lev. 6:19-22) – one do they anoint, and they do not anoint two, [so the substitute is not anointed at all].

[F] R. Yohanan said, “On account of hatred did this one pass from office, and that one served in his place.

[G] “As to the former, all of the responsibilities of the high priesthood pertain to him. The second [substitute] in no way is valid either to serve as high priest or to serve as an ordinary priest.”

- [H] Said R. Yohanan, “If he [the first] passed from office and [nonetheless] performed an act of sacrificial service [on the Day of Atonement], his act of sacrificial service is valid.”
- [I] The act of sacrificial service of which one [is under discussion by Yohanan]?
- [J] *Let us infer the answer to that question from the following:*
- [K] M’SH B: Ben Elem of Sepphoris: The high priest was affected by a seminal emission on the Day of Atonement [which rendered him invalid for service], and Ben Elem entered and served in his place.
- [L] He came out and said to the king, “The bullock and ram which are offered this day – of whose animals are they offered, mine or the [deposed] high priest’s?”
- [M] Now the king knew full well what he was really asking [which was to stay in office and provide the animals himself]. He said to him, “Ben Elem, it is not enough for you that you served for one moment before Him who spoke and brought the world into being.”
- [N] Then Ben Elem understood that he had been separated from the high priesthood.
- [O] M’SH B: Simeon b. Qimhit went out to take a walk with the king on the eve of the Day of Atonement at twilight, and a spurt of spit [from the king’s mouth] splattered on [the priest’s] garment and so rendered him unclean. Judah, his brother, went in and served in his stead. On that day, their mother [Qimhit] had the pleasure of seeing two sons in the office of the high priest.
- [P] Seven sons did Qimhit have, and all of them served in the high priesthood. They sent and said to Qimhit, “Now what kinds of good deeds [did you do to merit such glory]?”
- [Q] She replied to them, “May [a terrible thing] happen to me, if [even] the beams of my house ever once gazed upon the hair of my head or the thread of my chemise in my entire life [because of my modesty].”
- [R] They said, “All meal is fine, but the meal of Qimhit is the finest of fine flour.”
- [S] They recited in her regard the following verse: “The princess is decked in her chamber with gold-woven robes” (Ps. 45:13).

- [I:3 A] Is it possible that the priest anointed for war brings the tenth of an *ephah* from his own property?
- [B] Scripture says, “[The priest who is appointed from among Aaron’s] sons, who is anointed to succeed him, [shall offer it to the Lord]” (Lev. 6:22).
- [C] The one who has a son ready to succeed him shall bring the tenth of an *ephah*, and the one who has no son ready to succeed him does not bring a tenth of an *ephah*. This excludes the priest anointed for war, whose son does not succeed him.
- [D] And how do we know in regard to the anointed for war that his son does not serve after him?
- [E] Scripture says, “The son who is priest in his place shall wear them seven days when he comes into the tent of meeting to minister in the holy place” (Ex. 29:30) – as to the one who comes into the tent of meeting for service in the holy place, his son serves in his place, and as to the one who does not come into the tent of meeting for service in the sanctuary, his son does not serve in his place.
- [F] And how do we know that [a priest anointed for war] may be designated for service as high priest?
- [G] “And Phineas son of Eleazar was the ruler over them in time past; the Lord was with him” (1 Chron. 9:20) [and he served as both anointed for war and high priest].
- [H] (*When R. Yosé wanted to speak critically to R. Eleazar b. R. Yosé, he would say to him, “‘He used to be with him.’ In the time of Zimri he opposed [evil], and in the time of the concubine of Gibeah, he did not oppose [evil].”*)
- [I] And how do we know that [the anointed for war] receives inquiries while wearing the eight garments [e.g., before the battle]?
- [J] R. Ba bar Hiyya in the name of R. Yohanan: “‘The holy garments [72b] of Aaron shall be for his sons after him, to be anointed in them and ordained in them’ (Ex. 29:29). What does Scripture mean in saying, ‘After him’? They shall follow him in order of high position.”
- [K] And how do you know that [the anointed for war] would serve in eight garments?

- [L] R. Immi in the name of R. Yohanan: “‘The holy garments of Aaron shall be for his sons after him.’ Why does Scripture say, ‘After him’? In succession to sanctification which is after him.”
- [M] Said to him R. Jonah, “I was with you. He did not say, ‘Serve,’ but, ‘receive inquiries’: ‘How do we know that the anointed for war receives inquiries while wearing the eight garments?’”
- [N] [Supply, following Y. Hor. 3:2:] And how many garments does he wear when he performs an act of sacrificial service?
- [O] *R. Hoshaiah introduced the Mishnah tradition of Bar Qappara of the South and taught the following Tannaitic tradition: Sages say, “He is not valid [to serve] in the four garments of an ordinary priest or in the eight of a high priest.”*
- [P] Said R. Ba, “In logic the law should have been that he performs his act of service wearing four garments. And why does he not serve [in four]? So that people should not say, ‘You know, we saw an ordinary priest who sometimes served in the eight garments of the high priest!’”
- [Q] Said R. Jonah, “But does he not carry out the act of service at the inner altar [where people will not see him anyhow]?”
- [R] But does he not receive inquiries outside [where people will see him]?
- [S] So people will [not] err by assuming that what he wore outside he also wore inside.
- [T] For did not R. Tarfon, the father of all Israel, err in mistaking the shofar-sounding of the community for the shofar-sounding on the occasion of an offering?
- [U] For it is written, “And the sons of Aaron, the priests, shall blow the trumpets” (Num. 10:8) —
- [V] “when they are unblemished and not if they bear blemishes,” the words of R. Aqiba.

[W] Said to him R. Tarfon, “May I bury my sons, if I personally did not see Simeon, my mother’s brother, who was lame in one of his legs, and yet he was standing in the courtyard with his trumpet in his hand, and he was sounding it!”

[X] Said to him R. Aqiba, “Now is it possible that you saw him only at the time of the communal gathering (cf. Deut. 31:12)?

[Y] “But I was stating the rule as it applies in the time of an offering [at which point the priests who blow the trumpet must be unblemished].”

[Z] Said to him R. Tarfon, “May I bury my sons if you have erred, either to the right hand or to the left. I was the one who saw the act but could not explain it. But you explained the tradition and made it match the tradition [of what was actually done]. Lo, whoever leaves you leaves his own life.”

[I:4 A] “And the priest who is anointed [and consecrated as priest in his father’s place] shall make atonement [wearing the holy linen garments]” (Lev. 16:32).

[B] Why does Scripture say so?

[C] For the entire pericope is stated with regard to Aaron.

[D] And how do I know that the law applies to another who may be appointed [who was not the son of the preceding high priest]?

[E] Scripture states, “And the priest shall make atonement.”

[F] I know only that the Scripture thus speaks of a priest anointed with anointing oil. How do I know that the priest dedicated by many garments [also carries on the same rite]?

[G] Scripture for that reason finds it necessary to specify, “consecrated as priest in his father’s place....”

[H] How do I know that I should include a priest who is appointed?

[I] Scripture says, “And the priest shall atone....”

[J] With what is he [who was not the son] appointed?

[K] The rabbis of Caesarea in the name of R. Hiyya bar Joseph, “By a word of mouth [with no other rite but verbal appointment].”

[L] *Said R. Zeira, “Thus does the tradition state, that they appoint elders by word of mouth.”*

[M] *Said R. Hiyya bar Ada, “The Mishnah tradition itself has made the same point, when [at M. Ed. 2:7 sages say to Aqabiah b. Mehallel,] ‘Retract [merely verbally] four teachings of yours, and we shall [verbally] make you head of the court of Israel.’”*

1:11

[A] **There is no difference between a major high place and a minor high place except for Passover offerings.**

[B] **This is the governing principle: Whatever is offered in fulfillment of a vow or as a freewill offering may be offered on a high place.**

[C] **And whatever is not offered in fulfillment of a vow or as a freewill offering may not be offered on a high place.**

[I:1 A] *R. Yohanan spent three and a half years without going to the meetinghouse [of the sages] because of his anguish [at the death of Simeon b. Laqish]. Finally R. Eleazar saw in his dream, “Tomorrow Sinai will come down and teach you something new.”*

[B] [Yohanan] went in and said before [the disciples], “How may we verify the following fact, that the Temple service is to be carried out by the firstborn [instead of by priests]? *It is from the following verse of Scripture: ‘For all the firstborn among the people of Israel are mine, both of man and of beast; on the day that I slew all the firstborn in the land of Egypt I consecrated them for myself’ (Num. 8:17). And it is written, [‘For I will pass through the land of Egypt that night, and I will smite all the firstborn in the land of Egypt, both man and beast;] and on all the gods of Egypt I will execute judgments: I am the Lord’ (Ex. 12:12). [The Israelite firstborn were sanctified at that time.]”*

[C] What did they do before that time?

[D] “Then Rebekah took the best garments of Esau her older son, which were with her in the house, and put them on Jacob her younger son” (Gen. 27:15).

[E] What is the meaning of “the best garments”?

[F] [They were priestly garments,] for he would serve as high priest.

[G] Said R. Levi, “‘The Lord has broken the staff of the wicked, the scepter of rulers’ (Is. 14:5). This refers to the firstborn who made offerings to the golden calf at the head of the people.”

[I:2 A] Everything may be offered up on a high place: cattle, beasts, and fowl, large and small, male and female, unblemished but not blemished, clean, but not unclean.

[B] Everything was offered up as a burnt offering.

[C] [The burnt offerings thus] did not require flaying and chopping up.

[D] And a gentile at this time is permitted to do so it. Zeb. 13:1C-E].

[E] As to male and female, how do we know that fact from Scripture?

[F] R. Abbahu in the name of R. Yosé bar Haninah: “They offered up the cows as a burnt offering to the Lord” (1 Sam. 6:14).

[G] Unblemished but not blemished?

[H] *Said R. Yosé, “R. Eleazar explained to the associates: ‘And every beast according to its kind’ (Gen. 7:14). This means that they must be perfect in their limbs.”*

[I] As to excluding birds with defective wings:

[J] R. Eleazar explained: “‘Every bird, with a whole wing’ (Gen. 7:14) – excluding birds with defective wings.”

[K] Clean, but not unclean – whence do we know it?

[L] R. Abba b. R. Pappi, R. Joshua of Sikhnin in the name of R. Levi: “Noah through reflection derived a lesson of Torah from another lesson of Torah. He said, ‘It has been said to me, “And as I gave you the green plants, I give you everything” (Gen. 9:3). For what purpose has the Scripture used that inclusive phrase? It serves to indicate that clean animals are for offerings.”

[M] And a gentile at this time is permitted to do so:

[N] R. Ba in the name of R. Judah: “An Israelite is prohibited from helping him and prohibited from being appointed by him as an agent.”

[I:3 A] Antoninus asked Rabbi, “What is the law as to building an altar?”

[B] He said to him, “Build it but hide away its stones.”

- [C] He said to him, “What is the law as to preparing incense [such as was used in the Temple]?”
- [D] He said to him, “One of its herbs is lacking. *Has it not been taught*, ‘And the incense which you shall make according to its composition, you shall not make for yourselves; it shall be for you holy to the Lord’ (Ex. 30:37)? ‘For yourselves you shall not make it,’ but others may make it for you.”
- [E] *Said R. Hananiah, “It was because of R. Romanos. For Rabbi sent him instructions to make it for him.”*
- [F] *There are some things that indicate that Antoninus was converted, and there are some things that indicate that Antoninus was not converted.*
- [G] They saw him going out on the Day of Atonement wearing a broken sandal [indicating he was converted].
- [H] *What do you infer from that story?* For even God-fearers [not full converts] do so [and that would not prove he had converted].
- [I] *Antoninus asked Rabbi: “Will you give me food of leviathan in the world that is coming?”*
- [J] *He said to him, “Yes.”*
- [K] *He said to him, “Now you are not willing to give me food from a Passover lamb, and yet are you going to give me food from leviathan?”*
- [L] *He said to him, “What can we do for you? With regard to the Passover lamb, it is written, [‘And when a stranger shall sojourn with you and would keep the passover to the Lord, let all his males be circumcised, then he may come now and keep it; he shall be as a native of the land.] But no uncircumcised person shall eat of it” (Ex. 12:48).*
- [M] *When he heard this, he went and circumcised himself. He came to him.*
- [N] *He said to him, “Rabbi, look at my circumcision!”*
- [O] *He said to him, “I have never looked at mine in my whole life. Should I now look at yours?”*
- [P] And why was he called, “Our Holy Rabbi”? Because he never laid eyes upon the mark of his circumcision in his entire life.

[Q] And why was Nahum called, “the Most Holy”? Because he never gazed upon the face of a coin in his entire life [to avoid seeing the idol inscribed thereon].

[R] *That indicates that Antoninus did convert.*

[S] *There are statements of rabbis that indicate that Antoninus converted.*

[T] For R. Hezekiah, R. Abbahu in the name of R. Eleazar: “If full proselytes come to be accepted in the world to come, [that is, if proselytes are accepted at all,] Antoninus will come at the head of them.”

- [I:4 A] R. Eleazar and R. Yosé b. Haninah: R. Eleazar said, “Peace offerings did the children of Noah offer up.”
- [B] R. Yosé b. Haninah said, “Burnt offerings did the children of Noah offer up.”
- [C] *R. Eleazar objected to R. Yosé b. Haninah, “And has it not been written, ‘And Abel brought of the firstlings of his flock and of their fat portions. [And the Lord had regard for Abel and his offering]’ (Gen. 4:4)? [This indicates that the animals were offered as peace offerings, of which the fat portions are offered, not the whole beast.]”*
- [D] *How does R. Yosé b. Haninah interpret this verse?* He offered up their fat parts [along with the whole beast].
- [E] *R. Eleazar objected to R. Yosé b. Haninah, “And lo, it is written, ‘And he sent young men of the people of Israel, who offered burnt offerings and sacrificed peace offerings of oxen to the Lord’ (Ex. 24:5). [This verse explicitly refers to peace offerings.]”*
- [F] *How does R. Yosé b. Haninah interpret this verse?* They were whole in their body [reading the word for peace offerings as “whole”], meaning that they were not flayed or chopped up.
- [G] *R. Eleazar objected to R. Yosé b. Haninah, “And lo, it is written, ‘And Jethro, Moses’ father-in-law, offered a burnt offering and sacrifices to God, [and Aaron came with all the elders of Israel to eat bread with Moses’ father-in-law before God]’ (Ex. 18:12). [This indicates that there were peace offerings as well as burnt offerings.]”*
- [H] *How does R. Yosé b. Haninah deal with this?* He concurs with him who says that it was only after the giving of the Torah that Jethro came [to convert].

- [I] *R. Huna said, “Judah b. Rabbi and R. Yannai differed. One said, ‘It was before the giving of the Torah that Jethro came.’ The other said, ‘It was after the giving of the Torah that Jethro came [for conversion].’”*
- [J] *Now we do not know who held this opinion and who held that one.*
- [K] *Let us derive the answer from the following: “Jethro, the priest of Midian, Moses’ father-in-law, heard [of all that God had done]” (Ex. 18:1).*
- [L] What did he hear?
- [M] Hezekiah said, “He heard about the splitting of the Sea of Reeds.”
- [N] R. Joshua said, “He heard about the splitting of the Sea of Reeds.”
- [O] R. Levi said, “He heard about the war against Amalek.”
- [P] Judah b. Rabbi said, “He heard about the giving of the Torah.”
- [Q] It follows that [Judah b. Rabbi] is the one who said that Jethro came after the giving of the Torah.
- [R] R. Ba and R. Hiyya in the name of R. Yohanan: “The following supports the position of R. Yosé b. [72c] Haninah: ‘Awake, O north wind, and come, O south wind! [Blow upon my garden, let its fragrance be wafted abroad. Let my beloved come to his garden, and eat its choicest fruits]’ (Song 4:16).
- [S] “‘Awake, O north wind,’ refers to the burnt offering, which is slaughtered at the north side of the altar.
- [T] “What is the meaning of, ‘Awake’? It means that this is some thing that was sleeping [prior to the coming of Israel] and was then awakened [at the building of the Israelite cult].”
- [U] “And come, O south wind” refers to peace offerings, which are slaughtered at the south side of the altar. What is the meaning of, “Come”? It speaks of something that was an innovation. [This then refutes Yosé’s view after all.]
- [V] *How does R. Yosé b. Haninah deal with this?* It refers to the time at which the exiles, who are located in the north, will awaken and come and build the Temple, which is located in the south.
- [W] *R. Abba b. R. Pappi, R. Joshua of Sikhnin in the name of R. Levi: “Also this verse of Scripture supports the view of R. Yosé*

b. Haninah: ‘This is the law of the burnt offering’ (Lev. 6:9), which the children of Noah had been offering. Now when he came to peace offerings, he said, ‘And this is the law of the sacrifice of peace offerings [which one may offer to the Lord]’ (Lev. 7:11).

[X] “‘Which one offered,’ is not written here, but rather, ‘which one may offer.’ The meaning then is, from now on. [That supports Yosef’s view that in olden times peace offerings were not offered.]”

- [I:5 A] As to bullocks that were burned up and goats that were burned up, were they burned up? [The supposition is that they were offered on a high place, as obligatory offerings not dependent upon a particular time or season. In regard to these offerings in the tent of meeting in the wilderness, they were burned outside of the camp, in a clean place.]
- [B] They were burned [even] on top of a grave [in an unclean place].
- [C] [*How do we know that they were offered on a high place?*] *It is on the basis of that which we have learned: **There is no difference between a major high place and a minor high place except for Passover offerings [M. 1:11A].***
- [D] *Now this is the meaning of the Mishnah:* There is no difference between a major high place and a minor one except for Passover offerings alone [which are not offered in a minor high place]. [It follows that all other sacrifices, inclusive of obligatory ones, whether dependent upon a particular time or not, whether public or private, were offered in both kinds of high places. Accordingly, those under discussion likewise were offered, as claimed above.]
- [E] *Now this [M. 1:11A] is not in accord with the view of R. Judah. For R. Judah said, “A sin offering and a Passover offering of an individual were offered on a major high place. A sin offering and a Passover offering of an individual were not offering on a minor high place.” [Judah cannot concur with the Mishnah’s specification of a single difference, since he sees two differences.]*
- [I:6 A] *It has been taught [in the Tosefta’s version]: **Said R. Judah, “Anything which the community offers up in the tent of meeting which is in the wilderness do they offer up in the tent of meeting which is in Gilgal.***
- [B] “**The only difference between the situation prevailing at the time of the tent of meeting which was in the wilderness and that at the**

time of the tent of meeting which was in Gilgal is that in the wilderness there was no permission for high places [elsewhere], while in Gilgal there was permission for high places [elsewhere].

[C] “[In the case of one who has] his high place on the top of his roof, the individual offers thereon only a burnt offering and peace offerings alone.”

[D] And sages say, “Anything which the community and the individual offer in the tent of meeting which was in the wilderness do they offer in the tent of meeting which is in Giddal.”

[E] “In both cases the individual offers on it only a burnt offering and peace offerings alone” [T. Zeb. 13:13C-13:15C].

[F] *What is the scriptural basis for the position of R. Judah?*

[G] “You shall not do” in Gilgal “according to all that we are doing here this day, every man doing whatever is right in his own eyes” (Deut. 12:8). [This excludes the individual, who cannot offer obligatory offering in Gilgal.]

[H] What should you do there? Something which brings one to righteousness, and what is that? It is a burnt offering and peace offerings [brought by vow or as thank offering].

[I] *What is the scriptural basis for the view of Rabbis?*

[J] In a place in which “every man is doing whatever is right in his own eyes,” [namely, when high places are permitted,] one should not do “according to all that we are doing here this day.”

[K] What should you do there? Something which brings a man to righteousness. And what is that? It is a burnt offering and peace offerings.

[L] Rabbis say [= D-E, above], “The individual was subject to warning, and the individual was given remission. He was subject to warning, as to his high place on the roof of his house, and he was given remission, so permitted to offer burnt offerings and peace offerings.

[M] And R. Judah says [= A, above], “Also the community and the individual together were warned. The community was granted remission from the general warning. But the individual remained subject to the prohibition affecting him.” [That is to say, in rabbis’ view, the individual was warned against building a high place in the wilderness but permitted to do so at the time

of the high place in Gilgal. At that time he was permitted to build a high place on his roof. When the tent of meeting stood in the wilderness, by contrast, the individual and the community could offer even obligatory offerings. When altars on roofs were permitted, it was as to burnt offerings and peace offerings pledged by vow or as thank offering. But as to obligatory offering, these could not be done on a high place. Judah concurs that at the time of the tent of meeting, both community and individual were admonished not to build a high place. At the time of the high place in Gilgal, the community was permitted to offer on a high place, but the individual remained subject to the original prohibition. The individual was not permitted to offer obligatory offerings in the tent of meeting, on the one side, or in the high place in Gilgal, on the other. In Judah's view, then, the individual may offer only a burnt offering or peace offering alone.]

[N] *It has been taught in the name of R. Simeon [Tosefta: Judah], “Also the community offered in the tent of meeting which was in the wilderness only that which was assigned to it by the Torah alone” [T. Zeb. 13:1SD].*

[O] *R. Simeon is of the view that once what Scripture had laid down as an obligation was established, the obligation no longer was interrupted thereafter. [Once obligatory offering were in place, such as the daily whole offering and the additional offering of Sabbaths and festivals, they continued to be offered in the tent of meeting. That applies to obligatory offerings subject to a specific time, e.g., daily or Sabbath. But obligatory offering not subject to a particular time were not offered even in the tent of meeting.]*

[P] *What is at issue between them?*

[Q] *R. Ba bar Mamel said, “A bullock brought for an inadvertent sin is at issue between them. [It is obligatory, but not at a particular time.]”*

[R] *R. Yosé says, “A freewill offering of the community is at issue between them.”*

[I:7 A] *It has been taught: All the same are men and women. [All are fit to sacrifice on a high place (cf. T. Zeb. 13:11A-B).]*

- [B] Said R. Yohanan, “*A woman has no place here* [in this setting, only men may sacrifice].
- [C] “The relevant passage of Scripture [Deut. 12:8] speaks only of men.”
- [D] [*With reference to M. 1:10B, it has further*] *been taught*: Also sacrifices of Nazirs [are offered on a high place].
- [E] Said R. Yohanan, “*Sacrifices of Nazirs have no place here*. Sacrifices of Nazirs come in fulfillment of an obligation [so run contrary to the Mishnah’s specification].”
- [F] *It has been taught*: Also drink offerings [may be offered on a high place].
- [G] Said R. Yosé b. R. Bun, “*Who taught that drink offerings may be offered there? It is not in accord with Rabbi.*”
- [H] *For it has been taught*: Rabbi says, “I say, even after the Israelites entered the Land, drink offerings are offered only within [the tent of meeting or Temple court, and not at high places].”
- [I] *What is the scriptural basis for this view?*
- [J] “Its drink offering shall be a fourth of a him for each lamb; in the holy place you shall pour out a drink offering of strong drink to the Lord” (Num. 28:7).

[I:8 A] The Scripture refers to a negative commandment in this regard only within the tent of meeting [the Temple].

- [B] How do we know that [when high places are forbidden] one is forbidden to offer sacrifices outside of the Temple?
- [C] *Let us derive the answer from the following*:
- [D] How do we know that he who slaughters an animal for a Passover offering, or for an individual, or for the high place of an individual, or for the high place of the community, when the high places are forbidden – that such a person violates a negative commandment?
- [E] Scripture says, “You may not offer the Passover sacrifice within any of your towns which the Lord your God gives you” (Deut. 16:5).
- [F] But such a person is liable to the penalty of extirpation, and you ask such a question [as to mere violation of a negative

commandment]! [What is the need for the exegesis, just now given, of Deut. 16:5?]

[G] R. Simeon b. Laqish said, “The Scripture speaks of one who slaughters the animal from six hours [on the fourteenth of Nisan] and onward, not for the sake of the Passover. [That is the proper time for killing the Passover sacrifice. But the man did not do it for the proper purpose.] This was at the time that the high places were permitted.”

[H] And why does it say [at D] that it is at a time at which the high places are forbidden? It is at a time at which one’s private high place is forbidden.

[I] And why does it say [at G] that it was not for its own sake? [That is, the beast was designated as a Passover offering but was slaughtered for some other purpose.]

[J] It is so that you may not say that the beast was sacrificed as peace offerings, which are valid.

[K] *And there is further the following:*

[L] Is it possible to say that if one slaughtered a beast from six hours and onward, it should be valid?

[M] May you then say that if it was earlier than six hours, it should be invalid?

[N] No, it was not for its proper designation.

[O] Said R. Yosé, “That is to say, peace offerings that are brought on account of Passover are valid when offered on a high place.”

[I:9 A] A burnt offering that comes on account of a guilt offering – *in the view of R. Eleazar* what is the law as to its being valid if offered on a high place? [Such an offering is obligatory.]

[B] *Let us derive the answer from the following:*

[C] **This is the governing principle: Whatever is offered in fulfillment of a vow or as a freewill offering may be offered on a high place. And whatever is not offered in fulfillment of a vow or as a freewill offering may not be offered on a high place [M. 1:11B-C]. [Thus an obligatory offering is excluded.]**

[I:10 A] Said R. Yosé b. Haninah, “A domesticated beast is permitted [for sacrifice] only at the word of a prophet.”

[B] What is the scriptural basis for that view?

[C] “Take heed that you do not offer your burnt offerings at every place that you see” (Deut. 12:13).

[D] And did Elijah make an offering on a high place at the time that the high places were forbidden?

[E] Said R. Simlai, “The divine word had said to him that it was all right to do so, in line with the following *verse*:

[F] “[And at *the* time of the offering of the oblation,] Elijah the prophet came near and said, ‘[O Lord, God of Abraham, Isaac, and Israel, let it be known this day that thou art God in Israel, and that I am thy servant, and that] I have done all these things at thy word’ (I Kings 18:36).

[G] ““It was on account of your word that I have done so.””

1:12

[A] **There is no difference between Shilo and Jerusalem except that in Shilo they eat Lesser Holy Things and second tithe in any place within sight [of the place], while in Jerusalem [they eat those things only] within the wall.**

[B] **And in both places Most Holy Things are eaten [only] within the area encompassed by the veils.**

[C] **After the sanctification of Shilo it was permitted [to set up high places elsewhere], but after the sanctification of Jerusalem it was not permitted [to set up high places elsewhere] [M. Zeb. 14:4- 8].**

[I:1 A] [What follows is continuous with the foregoing and belongs as 1:11/I: 11: R. Yosé b. R. Hanina said, “Sacrifice on the high places (once it had been prohibited) was permitted only by a prophet.” Then:] *R. Yohanan b. R. Mareh derived that proposition from the following:* “Then Joshua built an altar in Mount Ebal to the Lord, the God of Israel, [as Moses, the servant of the Lord, had commanded the people of Israel]” (Josh. 8:30).

[B] I know that that is the case [that the high place was built at the word of a prophet] of Mount Ebal. How do we know that the same is so of Shiloh?

[C] “So Samuel took a suckling lamb and offered it as a whole burnt offering to the Lord; [and Samuel cried to the Lord for Israel, and the Lord answered him]” (1 Sam. 7:9).

- [I:2 A] Said R. Abba bar Kahana, “Three transgressions were permitted through the lamb offered by Samuel: It and its hide [were offered up, without flaying]; it was yet too young; and Samuel was a Levite [not a priest].”
- [B] *Said R. Yonah, “As to that matter, there is nothing to be derived from the case.*
- [C] “For R. Abba bar Kahana said, ‘Seven transgressions were permitted through the bullock offered by Gideon: the stones on which it was offered were invalid; the wood came from an Asherah; the beast had been designated for idolatry; it had been worshipped; it was at night; it was done by a man who wasn’t a priest; and it was at the time at which high places were prohibited.’”
- [D] *He who wants to derive lessons from Scripture in the right way had best derive them from the following, which [was said by] R. Samuel bar Nahman: “Then he would come back to Ramah, for his home was there, and there also he administered justice to Israel. And he built there an altar to the Lord” (1 Sam. 7:17).*
- [E] And it is written, “So the cook took up the leg and the upper portion and set them before Saul; [and Samuel said, ‘See, what was kept is set before you. Eat; because it was kept for you until the hour appointed, that you might eat with the guests.’ So Saul ate with Samuel that day]” (1 Sam. 9:24).
- [F] R. Samuel bar Nahman said, “It was the thigh and the cap of the hip bone.”
- [G] R. Yohanan said, “It was the thigh and the fat tail.”
- [H] R. Eleazar said, “It was the breast and the thigh.”
- [I] For R. Eleazar said, “The breast and the thigh belong to the priests in the case of a major high place and to the owner [of the beast] in the case of a minor high place.”
- [J] R. Zeira in the name of R. Eleazar: “The hide of a burn-offering belongs to the priest in the case of a major high place and to the owner in the case of a minor high place.”
- [K] R. Zeira in the name of R. Jeremiah: “What is raised up from a thank offering goes to the priests in a major high place and to the owner in a minor high place.”

[L] R. Yohanan asked, “As to the night, what is the law omits being valid as a time for sacrifice in the case of a high place?”

[M] R. Eleazar replied, “And is it not written, ‘And Saul said, Disperse yourselves among the people, and say to them, “Let every man bring his ox [or his sheep, and slay them here, and eat; and do not sin against the Lord by eating with the blood.” So every one of the people brought his ox with him that night, and slew them there]’ (I Sam. 14:34)? [This indicates that it was all right to sacrifice the oxen by night.]”

[N] “But it is written, ‘Then they told Saul, “Behold, the people are sinning against the Lord”’ (I Sam. 14:33). [So it was not permitted to do so.]”

[O] “How so? The night is for killing non-consecrated beasts and the daytime for killing consecrated beasts. [Consequently, it is not permitted to sacrifice beasts at a high place by night.]”

[P] When R. Yohanan heard this, he said, “Well has R. Eleazar taught us.”

- [I:3 A] R. Phineas in the name of R. Yosé b. R. Ilai, “One verse of Scripture says, ‘He forsook his dwelling at Shiloh, [the tent where he dwelt among men]’ (Ps. 78:60). And yet another verse of Scripture says, [‘And when we had weaned him, she took him up with her, along with a three-year-old bull, an *ephah* of flour, and a skin of wine;] and she brought him to the house of the Lord at Shiloh; and the child was young’ (I Sam. 1:24). [One verse speaks of a tent, the other of a house.]
- [B] “How so? There was a house made of stones below, and there was an area marked off by veils above.
- [C] “[With reference to Deut. 12:9: ‘For you have not come as yet to the rest and to the inheritance,’ Shilo] is the rest. [They were not moving from place to place, so there was a house made of stones below.]”
- [D] Said R. Zeirah, “But that is on condition that there were ten handbreadths at the foundation, as the house [in Jerusalem] was built.”
- [E] And lo, [is it not so that] just as the tent of meeting was spread out, so the tent at Shilo was spread out, [so there was no permanent building at all]?

[F] Said R. Yosé b. R. Bun, “‘its hooks, its frames, its bars, its pillars, and its bases’ (Ex. 39:33). And its hooks were visible from the inside, like stars in the firmament, [and that is what the tent of meeting and the tent of Shilo had in common].”

[I:4 A] R. Hiyya the Elder said to R. Simeon, son of Rabbi, “I heard From your father that all of the places at which the [Presence of God] came to rest were solely in [72d] the portion of Benjamin.”

[B] *What is the scriptural basis for this view?*

[C] “He dwells between his shoulders” (Deut. 33:12, which speaks of Benjamin).

[D] And lo, it is written, “He rejected the tent of Joseph, he did not choose the tribe of Ephraim, but he chose the tribe of Judah, Mount Zion, which he loves” (Ps. 78:67-68). [This excludes Shilo.]

[E] Did he choose Judah? [The Temple was in Benjamin’s district.]

[F] But there is an analogy to be drawn among the places at which the word, “choosing,” appears.

[G] Just as “choosing” stated elsewhere is inclusive of Benjamin, so “choosing” stated here is inclusive of Benjamin.

[H] R. Jonah, R. Abbahu in the name of R. Yosé b. Haninah: “‘And the favor of him that dwelt in the bush’ (Deut. 33:16). Those things that bring [divine] favor are eaten in the portion of Joseph.” [The word for “bush” uses the consonants for the word, “hate”; and Joseph was hated.]

[I] Said R. Abodemah of Sepphoris, “His property entered that of Joseph in that it was land in the shape of an oxen head. Thus the share of Joseph entered the share of Benjamin. And the altar was set upon that piece of property [surrounded by Benjamin’s land].”

[J] What is the scriptural basis for this view? “Then [the territory of the Ephraimites]; on the east the boundary turns around toward Taanath-shiloh and passes along beyond it on the east to Janoah” (Josh. 16:6). It goes up to the threshold of Shilo.

[K] R. Jonah, R. Abbahu in the name of R. Yosé b. Haninah, “‘And the favor of him that dwelt in the bush’ (Deut. 33:16) – for the Presence of God dwelt upon those who had hated Joseph [his brothers].”

[I:5 A] R. Eleazar in the name of R. Hoshaiyah: “On the basis of the fact that in Shilo they eat Lesser Holy Things and second tithe in any place within sight, the one who shaped this tradition did not have to give an admonition concerning their eating, but rather concerning their going up there. [The issue is not the eating but seeing the town. Speaking of eating is not congruent.]”

[B] *What is the scriptural basis for this view?*

[C] “Take heed that you do not offer your burnt offerings at every place that you see” (Deut. 12:13) – lest you offer up your offerings [but the eating of them is permitted, as at B].

[I:6 A] *R. Simeon b. Miasha asked before R. Eleazar:* “Is the law that one must see the town of Shilo, or must he see both Shilo and the tabernacle of Shilo?”

[B] He said to him, “Shilo and the tabernacle of Shilo.”

[C] It is as in the case of the sanctuary. But in this case [Jerusalem], there may be an intervening object, and in that case [Shilo], there may be none.

[I:7 A] R. Yosé in the name of R. Yohanan: “This is the indication. So long as the ark was inside [within the tent, in its proper place], the high places were forbidden.

[B] “When it went forth [from the tent, its proper place,] the high places were permitted.”

[C] *R. Zeira asked before R. Yosé,* “Is that the case even for a brief time, for instance, in the time of Eli?”

[D] R. Abbahu in the name of R. Yohanan: “[But at the place which the Lord will choose in one of your tribes,] there [you shall offer your burnt offerings, and there you shall do all that I am commanding you]’ (Deut. 12:14). ‘[But at the place which the Lord your God will choose, to make his name dwell in it,] there [you shall offer the Passover sacrifice, in the evening at the going down of the sun, at the time you came out of Egypt]’ (Deut. 16:6).

[E] “Just as ‘there’ [= place at which] stated elsewhere refers to a time at which the high places were forbidden, so ‘there’ stated here refers to a time at which the high places were forbidden.”

[F] *R. Simeon b. Laqish asked before R. Yohanan,* “If so, if there is no ark [if the ark is not in its proper place], there should be no

Passover offering [in line with Deut. 16:6]. [In the Second Temple there was no ark.]”

[G] Said R. Yosé b. R. Ba, “The word ‘remembering’ occurs in two places [Deut. 16:3, Deut. 14:23]. Just as ‘memorial’ stated elsewhere indicates that the high places were forbidden [when Jerusalem’s altar had been ordained], so ‘memorial’ stated here means that the high places were forbidden.”

[I:8 A] And so did R. Judah and R. Simeon say, “Second tithe was eaten at the high places of Nob and of Gibeon.”

[B] [Speaking of M. 1:11C:] *That poses no problem to the view of R. Judah, for* R. Judah said, “A sin offering and a Passover offering are prepared for an individual in the case of a major high place, and a sin offering and a Passover offering for an individual are not prepared in the case of a minor high place.” [Even obligatory offerings of an individual are offered, so too second tithe is eaten.]

[C] In accord with the view of R. Simeon [there is a problem, however,] for R. Simeon said, “Also the community only brings what the Scripture itself has imposed on the community.” [M. 1:11C excludes such obligatory offerings. How can individuals eat second tithe in Nob?]

[D] R. Simeon maintains that once the obligation to bring second tithe was established [in Shilo], it never again was interrupted [but remained in place].

[I:9 A] How do we know that priests on Passover fulfill their obligation [to eat unleavened bread] with unleavened bread that is a dough offering or heave offering, and an Israelite may do so with unleavened bread in the status of second tithe?

[B] Scripture says, “[In the first month, on the fourteenth day of the month at evening,] you shall eat unleavened bread, [and so until the twenty-first day of the month at evening]” (Ex. 12:18). This serves to encompass [bread in consecrated status].

[C] This means it is possible that one may fulfill his obligation with unleavened bread in the status of first fruits,

[D] [but] scripture says, “In all of your dwelling places you shall eat unleavened bread” (Ex. 12:20).

- [E] The reference then is to unleavened bread that may be eaten in any dwelling place, excluding first fruits, which are not eaten in any dwelling place [but only in Jerusalem].
- [F] They objected, “Lo, there is the case of second tithe. Lo, may it be eaten in any dwelling?”
- [G] “[Indeed so,] for it is suitable to be redeemed and to be eaten in any dwelling place.”
- [H] *R. Bun bar Hiyya asked*, “If so, food purchased in Jerusalem for money deriving from the sale of second tithe, which became unclean in accord with the view of R. Judah, what is the law? [Judah holds it cannot be eaten.]”
- [I] Since it is not suitable to be redeemed and to be eaten in any dwelling place [but only in Jerusalem], they should not be able to carry out their obligation [to eat unleavened bread] with it.
- [J] *R. Simeon b. Laqish asked*, “If so, dough offering taken from dough in the status of second tithe in Jerusalem, since it is not suitable to be redeemed and to be eaten in any dwelling place, they should not be able through it to carry out their obligation [to eat unleavened bread].”
- [I:10 A]** Is it possible to suppose that people may carry out their obligation with unleavened bread which derives from the loaves that accompany a thank offering or with the cakes baked for the offering of a Nazir?
- [B] Scripture states, “Seven days you shall eat unleavened bread; on the first day you shall put away leaven out of your houses, for if any one eats what is leavened, from the first day until the seventh day, that person shall be cut off from Israel” (Ex. 12:1S).
- [C] This then refers to unleavened bread that is eaten for all seven days. It serves to exclude loaves of bread that accompany a thank offering and cakes baked for a Nazir, which may not be eaten all seven days.
- [D] R. Jonah in the name of R. Simeon b. Laqish: “Since loaves of bread accompanying a thank offering and cakes baked for a Nazir are eaten in all of the cities of Israel [= Nob and Gibeon], the one who taught that tradition did not have to exclude them from consideration on the basis of the issue of their being eaten in any dwelling place [at Ex. 12:20].”
- [E] R. Yosé in the name of R. Simeon b. Laqish, “That is to say that the loaves of bread accompanying a thank offering and the cakes baked for

a Nazir are eaten in all of the cities of Israel. Then the one who presented this teaching did not have to exclude them by reference to the matter of their being available to be eaten in any dwelling.”

[F] Now there is no problem as to cakes of bread accompanying a thank offering. [They are in line with M. 1:11C, fulfilling a vow, etc.]

[G] But cakes for a Nazir are not subject to that rule, [for they are obligatory].

[H] R. Yohanan said, “There is no consideration of the offerings of a Nazirite, for the offerings of a Nazir come in fulfillment of an obligation.”

[I] Said R. Bun bar Kahana, “Interpret the case to be one in which the [obligatory] sin offering was offered in Shilo, the [votive] burnt offering and peace offerings in Nob and in Gibeon.”

[J] *R. Ezra asked before R. Mana*, “Did not Rabbi say in the name of R. Yosé, ‘Peace offerings that accompany festal offerings which are offered on a high place are valid but they have not carried out the obligation of the owner [to bring such offerings]’? [So these are obligatory, contrary to I.]”

[K] But there is a problem in accord with R. Judah, for R. Judah has said, “A sin offering and a Passover are offered for an individual on a great high place, and a sin offering and a Passover of an individual are not offered on a lesser high place.” [Therefore the peace offerings remain a problem.]

[L] *It accords only with R. Simeon*. For R. Simeon said, “Since one of the drops of blood has been tossed in the Nazir’s behalf, the Nazir is permitted to drink wine and to contract corpse uncleanness. [So he is no longer subject to the obligations of the vow. The rest of the offerings are purely votive.]”

[I:11 A] *There is a Tannaite authority who teaches: “The rest” (Deut. 12:9) – this refers to Shilo.*

[B] **“And the inheritance” – this refers to Jerusalem [T. Zeb. 13:20A-D].**

[C] *There is a Tannaite authority who says, “The Rest” refers to Jerusalem, and the “Inheritance” refers to Shilo [T. Zeb. 13:20H-I].*

- [D] *He who said*, “The rest” refers to Shilo, cites the following verse: “For you have not as yet come to the rest and to the inheritance which the Lord your God gives you” (Deut. 12:9).
- [E] “The inheritance” refers to Jerusalem [as in the following verse:] “Is my heritage to me like a speckled bird of prey? [Are the birds of prey against her round about? Go, assemble all the wild beasts; bring them to devour”] (Jer. 12:9).
- [F] *He who says*, “The inheritance” refers to Shilo [cites the following]: “My heritage has become to me like a lion in the forest, [she has lifted up her voice against me; therefore I hate her”] (Jer. 12:8).
- [G] “The rest” is Jerusalem [is in line with the following verse]: “This is my resting place for ever; here I will dwell, for I have desired it” (Ps. 132:14).
- [H] This is comparable to someone who made himself a bundle in which to move his possessions.
- [I] So when [the ark was] in the tent of meeting, the high places were forbidden.
- [J] When it was in Gilgal the high places were permitted.
- [K] When it was in Shilo the high places were forbidden.
- [L] When it was in Nob and Gibeon the high places were permitted.
- [M] When it was in Jerusalem the high places were forbidden.
- [N] This is comparable to a king who said to his servant, “Do not drink wine either from Tiberias or from Caesarea or from Sepphoris. Lo, the wine from places in between is permitted.”
- [O] So with the tent of meeting: it spent forty years less one in Gilgal. In Gilgal it spent fourteen years, seven when they were conquering the land and seven when they were dividing it.
- [P] In Shilo it spent 369 years.
- [Q] In Nob and Gibeon it spent fifty-seven years, thirteen in Nob and forty-four in Gibeon.
- [R] In Jerusalem in the time of the first building it was there for 410 years.
- [S] In the time of the second building it was 420 years. This was meant to fulfill the statement of Scripture: “The latter splendor of this

house shall be greater than the former, says the Lord of hosts; and in this place I will give prosperity, says the Lord of hosts” (Hag. 2:9).

YERUSHALMI MEGILLAH

CHAPTER TWO

2:1

[A] He who reads the scroll backwards has not fulfilled his obligation.

[B] [If] he read it by heart,

[C] If he read it translated into any language,

[D] he has not fulfilled his obligation.

[E] But they do read it to those who speak a foreign language in a foreign language.

[F] Still, one who speaks a foreign language who heard it in Assyrian [Hebrew], has fulfilled his obligation.

[I:1 A] [73a] [The rule of M. 2:1A about not reading the scroll backwards] is in line with that which is written: “[And an edict was written to every province in its own script and to every people in its own language, and also to the Jews] in their script [and their language]” (Est. 8:9).

[B] If one read it by heart, he has not fulfilled his obligation [M. 2:1B, D],

[C] in line with that which is written, “in their script” [i.e., in writing] (Est. 8:9).

[D] If one read it in Aramaic translation, he has not fulfilled his obligation [M. 2:10C, D],

[E] in line with that which is written, “in their language...” (Est. 8:9).

[F] If he read it in any other language, he has not fulfilled his obligation [M. 2:1C, D],

[G] in line with that which is written, “in their script and in their language” (Est. 8:9).

[I:2 A] *R. Jonah said, Nahman bar Ada taught, R. Yosé said, Nahman the Elder taught, “[And these words which I command you this day] shall*

be [upon your heart]' (Deut. 6:6) – they shall be in accord with their 'being' [namely, in Hebrew].”

[B] *And it has been taught:* The same rule applies to Hallel, to the recitation of the *Shema*, and to the reading of the Scroll of Esther.

[C] *That poses no problems as to the reading of the Megillah, for it is written, “according to what was written”* (Est. 9:27).

[D] But as to the Hallel [what is the reason]?

[E] Since it is written, “From the rising of the sun to its setting the name of the Lord is to be praised!” (Ps. 113:3). What do you derive from that verse of Scripture? [The Hallel must be read in proper order.]

[F] Said R. Abin, “The matter of reading the Hallel in proper order involves the right order of the various sections thereof, thus:

[G] ““When Israel went forth from Egypt, [the house of Jacob from a people of strange language]’ (Ps. 114 – this refers to times past.

[H] ““Not to us, O Lord, not to us, but to thy name give glory, [for the sake of thy steadfast love and thy faithfulness!]’ (Ps. 115:1) – this refers to the present generations.

[I] ““I love the Lord, because he has heard my voice and my supplications’ (Ps. 116) – this refers to the days of the Messiah.

[J] ““[The Lord is God, and he has given us light.] Bind the festal offering with cords [up to the horns of the altar!]’ (Ps. 118:27) – this refers to the days of Gog and Magog.

[K] ““Thou art my God, and I will give thanks to thee; [thou art my God, I will extol thee]’ (Ps. 118:28) – this refers to the age to come.”

[I:3 A] R. Yosé in the name of R. Aha, R. Zeirah in the name of R. Eleazar: “[As to the rule at M. 2:1E,] that applies when the scroll itself is written in that foreign language.”

[B] *How shall we interpret the matter?*

[C] If we deal with a case in which the scroll was written in Assyrian [Hebrew] and one translated it into a foreign language, that is the case concerning which we have learned, or in any other language [M. 2:1C] [and that is forbidden].

[D] If it is a case in which it was written in a foreign language, and one translated it into Assyrian [Hebrew], *that is a case in which we have learned:*

[E] What is the difference between scrolls in general and the Scroll of Esther in particular? But scrolls in general may be written in any language, while the Scroll of Esther may be written only in Assyrian. [So such a version is not going to be found.]

[F] Said R. Samuel bar Siseretai, “Interpret the case to be one in which it was written partially in Assyrian and partially in a foreign language.

[I:4 A] *Samuel taught*, “If one erred and one left out a verse, but the translator translated, the listener has carried out his obligation.”

[B] We maintain that if one read it in any language other than Hebrew, one has not carried out his obligation [= M. 2:1C-D], and you say this?

[C] *Samuel is consistent with his view, for R. Samuel has said*, “If it was written in accord with the law in a foreign language, one may carry out his obligation by reading it in that foreign language.”

[I:5 A] And R. Abbahu in the name of R. Eleazar: “If one knows Assyrian and knows a foreign language, one may carry out his obligation only in Assyrian.”

[B] If he knows Assyrian and a foreign language, what is the law as to his carrying out the obligation of others, through his reading of the scroll, in a foreign language?

[C] *The answer derives from the following:* Anyone who is not liable to carry out a given deed also cannot fulfill the obligation of others in carrying out that deed [since he is obliged to carry out his obligation in Hebrew rather than in that foreign language].

2:2

[A] [If] one read it piecemeal,

[B] or drowsily,

[C] he has carried out his obligation.

[D] [If] one was writing it, explaining it, or correcting it, if he paid attention [so that in doing so, he would carry out his obligation to read the scroll], he has fulfilled his obligation.

[E] And if not, he has not fulfilled his obligation.

[F] If it was written in caustic, red dye, gum, or copperas,

[G] or on paper or unprepared leather,

[H] he has not fulfilled his obligation –

[I] unless it is written in square [“Assyrian”] letters on parchment and with ink.

[I:1 A] *It has been taught: [If one read the Scroll of Esther] piecemeal, he has carried out his obligation [M. 2:2A, C].*

[B] If he read it out of order, he has not carried out his obligation.

[I:2 A] If he read it piecemeal in sections, if he read one verse, skipped a verse, [read the third, then came back to the second]

[B] As to the words in Hebrew for “piecemeal” (serugim) and for purslane (halaglagot), the rabbis were in doubt as to their meaning.

[C] Said R. Haggai, “The associates were wondering about the meaning of the cited words and also about whether one who is greater in wisdom or one who is greater in years should take precedence.

[D] *“They said, ‘Let us go and ask at the house of Rabbi.’ They went up to ask. A servant girl of Rabbi’s household came out, and she said to them, ‘Go in in order of years.’*

[E] *“They said, ‘Let so-and-so go in first, let so-and-so go in first.’ They began to go in piecemeal [one by one].*

[F] *“She said to them, ‘Why are you going in serugim [piecemeal]?’*

[G] *“One of the rabbis was carrying portulaks. They fell from him. She said to him, ‘Rabbi, your halaglagot [portulaks] have fallen.’*

[H] *“She said to her co-worker, ‘Bring a broom,’ and she brought a bundle of shoots. [This served to explain the language of Is. 14:23.]”*

[I:3 A] R. Mana said in the name of R. Judah, who said it in the name of R. Yosé the Galilean, “If when reciting the *Shema*, one interrupted it [at an appropriate break, in order to Feet someone] for sufficient time to recite the entire *Shema*, he has not carried out his obligation [and must start back at the beginning; cf. Y. Ber.2:1].”

[B] R. Ba, R. Jeremiah in the name of Rab: “The law accords with R. Mana, who said in the name of R. Judah who said in the name of R. Yosé the Galilean, ‘If one interrupted....’”

[C] R. Yohanan in the name of R. Simeon b. Yosedeq, “The rule with regard to Hallel and reading the Megillah is also the same. [If one

interrupted the reading long enough to complete the entire thing, he must go back to the start.]"

[D] *Abba bar Huna and R. Hisda were in session. They said, "Is the rule also the same with regard to the sounds of the shofar?"*

[E] *They went up to the [school]-house, and [they heard], "R. Simeon, R. Huna in the name of Rab: 'Even if one heard them until the ninth hour, he has carried out his obligation.' [That is, even if one heard the nine soundings of the shofar at the rate of one an hour, it suffices.]"*

[F] *Said R. Zeirah, "When I was over there, I had the same question, "When I came up here, I heard what R. Yosé said in the name of R. Yohanan, 'Even if one heard them over an entire day, he has carried out his obligation. But that is on condition that one heard them in proper order.'"*

[G] *R. Yosé asked, "If this one required [hearing] the very first sound of the shofar, and that one required hearing the last sound, does a single blast on the shofar fulfill the obligations of both of them?" [This question is not answered.]*

[H] *[When we said above that if one interrupted saying the Shema for a long time, he must go back and start it all over again,] R. Bun bar Hiyya asked, "Does this mean one must say the Shema as well as the blessings, or does it mean one says the Shema but not the accompanying blessings, or does it mean one says the blessings but not the Shema itself?"*

[I] *If one stopped reading for a sufficient time to say a third of the whole, and again one went and interrupted the Shema for a long enough time to say a third of the whole [do the interruptions add up or not]? [This question also is not answered.]*

[J] *Do they measure [the interruptions] according to the speed with which the one who is saying the Shema reads it, or do they measure it in accord with the average person?*

[K] *Said R. Mattanaiah, "Is it not reasonable to suppose that it is in accord with the pace at which the person doing the reading normally reads [rather than the average person, in general]?"*

[L] *Manasseh was in session before R. Zeirah, and he became drowsy [while saying the Shema]. He said to him, "Go back and say it again, because you did not pay proper attention the first time."*

[II:1 A] **If one was writing it [M. 2:2D-E]:** [This indicates that one may have been writing out the scroll of Esther on Purim.] Is that to say that it is permitted to do work on Purim?

[B] We may say that the Mishnah speaks of the fourteenth of Adar in the cities [since the scroll will be read on the fifteenth].

[II:2 A] **Or explaining it [the scroll] (M. 2:2D):** so long as one does not then proceed to other matters [than those of the scroll of Esther itself].

[B] **Or correcting it [M. 2:2D]** *It has been taught:* They do not pay attention to errors in a scroll of Esther.

[B] *R. Isaac bar Abba bar Mehasiah and R. Hananel were in session before Rab.*

[C] One of them pronounced "Jews" (YHWDYM) [the regular Biblical spelling]; the other pronounced "Jews" (YHWDYYM) [the regular spelling in the Book of Esther, e.g. 8:1]. Neither one of them retracted his reading.

[D] R. Yohanan pronounced every case of "Jews" as YHWDYM.

[E] R. Helbo, R. Jeremiah in the name of Rab: "One verse of Scripture [calls the Book of Esther 'a book' (Est. 9:32), and another verse of Scripture refers to a 'letter' (Est. 9:29).

[F] "How so? They applied a lenient rule to the sewing of the document. If one sewed only two or three stitches, it is valid, [as would be the case with a letter, but in fact it should be a scroll]."

2:3

[A] **A townsman [who reads the scroll on the fourteenth of Adar] who went to a city [where it is read on the fifteenth], or a city-dweller who went to a town,**

[B] **if he is going to return to his place, reads in accord with the rite in his own place.**

[C] **But if he is not going to return home, he reads with them [among whom he is staying].**

- [I:1 A] *There is no problem in understanding the rule for the city-dweller who went to a town, since the time that applies to him is later. [Hence we know that, if he is going to go home, he will read on the fifteenth, when he gets home.]*
- [B] But in the case of a townsman who went to a city, in which case the time that applies to him is earlier, [how can you explain matters]? [What difference does it make that he is going to go home, since the time will have passed for reading the scroll of his town?]
- [C] *Said R. Yudan, “There is no place [in this Mishnah passage] for the clause, **a townsman who went [73b] to a city.**”*
- [D] *And so the household of Rabbi taught the passage: **A city-dweller who went to a town** [but not the reverse].*
- [E] Said R. Yosé, “Even here [we may deal with a townsman who went to a city]. We deal with one who was planning to settle with them [in the city, on which account he reads on the fifteenth, along with the others in the city]. [That is the case even if he plans to go home briefly to get his family.]”
- [F] Said R. Yosé, “And that rule [that the townsman in the city reads with the city] applies if he left [the town] prior to the light in the east [dawn]. But if he left [the town] after the light in the east, he has already been exempt [and he relies upon the practice of the town].”
- [G] [Since F maintains that the matter depends solely on the morning light, so that if one is not liable to read the scroll at the morning light, he is exempt entirely,] if so, a proselyte who was circumcised after the eastern light [on the day of Purim] already should be exempt [from the obligation to read the scroll of Esther].
- [H] *R. Bun bar Hiyya raised the question, “A townsman who moved his house on the night of the fifteenth of Adar became obligated here [in the town, on the fourteenth of Adar]. Will a city-dweller who moved his house on the night of the fourteenth be exempt on both fronts? [At that time, he was not liable in the city, and he also has missed the point at which he would be liable in the town, which would be at sunrise of the fourteenth.]”*
- [I:2 A] As to a townsman, what is the law on his serving to [read the scroll of Esther and so] fulfill the obligation for a city-dweller?

- [B] *The answer may derive from the following:* Whoever is not liable for a matter cannot fulfill the obligation to carry out that matter as the agent of the community. [Since the date of liability is different, the one cannot serve as the agent for the other to carry out his obligation for him.]
- [C] As to a city-dweller, what is the law on his serving to [read the scroll of Esther and so] fulfill the obligation of a townsman?
- [D] *Let the answer derive from the following:* Whoever is not liable for a matter cannot fulfill the obligation to carry out that matter as the agent of the community.
- [E] *Or perhaps the answer rests upon a different fact, for R. Helbo said, R. Huna in the name of R. Hiyya the Elder: “All may carry out their obligation on the fourteenth of Adar [even a city-dweller], for that is the proper time for reading the Megillah. [Accordingly, both sorts can carry out the obligation for the other.”*
- [I:3 A] *R. Yudan raised the question, “A townsman who decided to move his household on the night of the fifteenth of Adar [and to move to the city: Do we regard him as already moved since he has decided to do so?]”*
- [B] *Is this not clear in the Mishnah: **A townsman who [actually] went to a city** [but not merely decided to go, is subject to the law before us]?*
- [C] *The Mishnah speaks of a case in which he already was in the city. The point of the question is, is the law applicable when he is still in the town?*
- [I:4 A] **Those who embark on a caravan or set sail read the Scroll of Esther] on the fourteenth of Adar [T. Meg. 1:2A].**
- [B] Said R. Mana, “That applies when the traveler is going to return to his home.” [That is, even city-dwellers not at home read on the fourteenth.]
- [C] Said R. Phineas, “‘Therefore the Jews of the villages, who live in the open towns, hold the fourteenth day of the month of Adar as a day for gladness’ (Est. 9:19). They were in the open towns at that time.”

2:4

- [A] **From what point does a person read the Scroll and thereby carry out his obligation?**

[B] R. Meir says, “The whole thing.”

[C] R. Judah says, “From, ‘There was a certain Jew’” (Est. 2:5).

[D] R. Yosé says, “From, ‘After these things’” (Est. 3:1).

- [I:1 A] R. Abbahu in the name of R. Eleazar: “*He who says* [one reads the whole of it [cites the following verse in support of his position]: ‘And therefore, because of all that was written in this letter’ (Est. 9:26).
- [B] “*He who says it is from*, ‘There was a certain Jew’ (Est. 2:5) cites, ‘And of what they had faced in this matter’ (Est. 9:26).
- [C] “*He who says it is from*, ‘After these things,’ cites, ‘and of what had befallen them’” (Est. 9:16).
- [D] [Citing a different verse in this regard, namely, Est. 10:2:”And all the acts of his power and might, and the full account of the high honor of Mordecai, to which the king advanced him,”) R. Simon in the name of R. Joshua b. Levi: “He who said, ‘The whole of it’ [cites the part of the verse,] ‘And a,l the acts of his power and might.’
- [E] “He who said, ‘There was a certain Jew,’ cites, ‘And the full account of the high honor of Mordecai.’
- [F] “He who said, ‘After these things,’ cites, ‘to which the ,king advanced him.’”
- [G] [With reference to Est. 9:29: “Then Esther, the Queen (+ accusative particle) full authority,” R. Yosé b. R. Bun in the name of R. Joshua b. Levi: “[The verse uses three words, authority, full authority, and accusative particle-full- authority.] ‘Authority’ refers to the authority of Haman. ‘Full authority’ refers to the authority of Mordecai. ‘Accusative particle+full+ authority’ refers to the authority of Ahasuerus.”
- [H] *It has been taught: R. Simeon b. Yohai says, “One begins from ‘On that night’ (Est. 6:1). That is, from the point at which the fall of Haman begins, from that same point is where the greatness of Mordecai commences.” [Cf. T. Meg. 2:9D.]*

[I:2 A] R. Ba, R. Jeremiah in the name of Rab: “The law accords with the view of R. Meir, who holds that one must read the whole of it [the scroll of Esther].”

[B] R. Zeirah in the name of R. Yohanan: “With regard to the laws of intermingling boundaries to form a single domain for purposes of

carrying on the Sabbath and the laws of a public fast, one is accustomed to follow the view of R. Meir.”

[C] R. Jacob bar Aha in the name of R. Yohanan: “Also with regard to the rules governing the reading of the scroll of Esther, all are accustomed to follow the view of R. Meir.”

[D] R. Helbo, R. Mattenah, Yosé bar Menasia in the name of Rab: “Whether in accord with the view of him who says, ‘The whole thing’ or of him who says, ‘From, There was a certain Jew,’ or of him who says, ‘From, After these things,’ it is on condition that the person read from a complete scroll” [cf. T. Meg. 2:9E].

[E] R. Helbo, R. Mattenah, Yosé bar Menasia in the name of Rab: “If [the scroll of Esther] was written as are Pentateuchs [in that the five scrolls were in a single scroll], they do not read [from such a scroll] in public.”

[F] Said R. Tanhuma, “It is because of the ordinary fellow [who will not realize that this is not merely another prophetic lection].”

[G] Ullah Biriayyah, R. Eleazar in the name of R. Haninah: “It is necessary to read the scroll at night and to repeat by day.”

[H] [Since G uses the language of “repeat,]” they assumed that the meaning was to repeat the Mishnah concerning the scroll [hence: read the Scroll at night and repeat the Mishnah-tractate dealing with the scroll of Esther the next day].

[I] Said R. Abba Mari, the Babylonian, “The meaning is to repeat the reading of the scroll the next day.”

[I:3 A] R. Berekhiah, R. Helbo, Ulla Biriayyah, R. Eleazar in the name of R. Haninah: “In time to come the Holy One, blessed be he, will be made into the head of the dance of the righteous in time to come.”

[B] *What is the scriptural basis for this view?*

[C] “Consider well her ramparts” (HYLH) – “Her dance” is what is written.

[D] And the righteous will point to him in a gesture of respect with their finger and say, “That this is God, our God for ever and ever. He will be our guide for ever” (Ps. 48:14).

[E] “He is our guide *almuth*” – with youthfulness, with liveliness.

[F] Aqila translated [the word *almut*] as *athanasia*, that is, immortality: a world in which there is no death.

[G] And the righteous will point to him in a gesture of respect with their finger and say, “‘That this is our God, our God for ever and ever. He will be our guide for ever’ (Ps. 48:14).

[H] “He will be our guide in this world, he will be our guide in the world to come.”

[I:4 A] R. Helbo, R. Hama bar Guria in the name of R. Hama bar Uqba in the name of R. Yosé b. Haninah, “‘Family by family,’ [with reference to the following verse: ‘That these days should be remembered and kept throughout every generation, in every family, province, and city, and that these days of Purim should never fall into disuse among the Jews, nor should commemoration of these days cease among their descendants’ (Est. 9:28).

[B] “On the basis of this statement we derive the law that the watches of the priesthood and the Levites are to refrain from labor. [In the week in which their work at the Temple in Jerusalem is to carry out the sacrifices and song, on the day the scroll of Esther is read, they should refrain from their work and listen to the scroll.]”

[C] Said R. Helbo, “On the basis of this statement we derive the law that the members of the council should refrain from labor [in Torah and should listen to the reading of the scroll of EsthÇ].”

[D] Simeon bar Ba in the name of R. Yohanan: “‘Nor should the commemoration of these days cease among their descendants’ (Est. 9:28): It is on the basis of this statement that sages have established support [for the preceding statements about refraining from labor and listening to the scroll of Esther].”

2:5

[A] **All are valid to read the scroll, except for a deaf-mute, an idiot, and a minor.**

[B] **R. Judah declares valid in the case of a minor.**

[C] **They do not read the scroll, perform a rite of circumcision, immerse, sprinkle purification-water,**

[D] **and so too, a woman awaiting day against day should not immerse,**

[E] **until sunrise.**

[F] **But in any case in which one did so after the dawn has risen, it is valid.**

- [I:1 A] Said R. Mattenah, “This represents the view of R. Yosé [in excluding the deaf-mute, in the theory that the reader must hear what he is saying.]”
- [B] *Said R. Yosé, “We considered ruling that where R. Yosé and rabbis differ, it is with regard to reciting the Shema, for in that regard, scripture stated, ‘Hear [O Israel,]’ indicating that the person must hear what he is saying]. But with regard to other religious duties, that is not the case.*
- [C] *“On the basis of what R. Mattenah has said, ‘It is the view of R. Yosé,’ that is to say that the same rule applies [in his view] to the Shema and to other commandments.”*
- [D] *What is the scriptural basis for the position of R. Yosé?*
- [E] “[Saying, ‘If you will diligently hearken to the voice of the Lord your God, and do that which is right in his eyes,] and give heed to his commandments, [and keep all his statutes, I will put none of the diseases upon you which I put upon the Egyptians; for I am the Lord, your healer’]” (Ex. 15:26).
- [F] Your ear should hear what your mouth expresses.
- [G] *Said R. Hisda, “[The list of categories of individuals who may not read the Scroll of Esther, M. Meg. 2:4,] does not include the deaf person.*
- [H] “[The deaf person is listed in] that teaching through a slip of the tongue [i.e., since the word deaf person normally occurs with imbeciles and minors, it was added in M. Meg. 2:4]. [This is an error.]” [Hisda disagrees with Yosé, the Amora, who holds that M. Meg. 2:4 is the teaching of the Tannaite authority Yosé alone. Hisda therefore rejects the conclusion based on this claim, J, that Yosé holds that a person who does not hear cannot fulfill any commandment involving recitation. Hisda, rather, holds that the dispute between Yosé and sages is specific to the case of the recitation of the Shema, contrary to the conclusion Yosé the Amora reached at J.]
- [I] [In reaction to Hisda’s statement] said R. Yosé [the Amora], “It is reasonable [to assume] that [even] R. Hisda will concede that the law of heave-offering [which states that since a deaf person does not hear the blessing, he may not separate heave-offering, M. 1:2A,] is [the opinion] of R. Yosé [but not of sages]. [If this is so we must conclude that in general Yosé holds that a blessing must be heard to be valid, but that sages hold that it need not be.]”

[J] Said R. Yosé b. R. Bun, “[We may indeed assume that even Hisda will agree because, as I will now prove,] you have no [logical] choice other than to say that this rule [M. 1:2A] is [the opinion exclusively] of R. Yosé.

[K] “*For we learned [at M. 1:1] the rule for the first five [sorts of people, who may not separate heave-offering], and [a deaf person] was not listed with them. And is this not because that which they separate is not valid heave-offering? [Yes, what they separate is not valid heave-offering, while what the deaf person separates is valid heave-offering. Therefore the deaf person was not listed at M. 1:1.]*

[L] “But, lo, [at M. 1:6] a different five sorts of individuals are listed [who may not separate heave-offering]. Now [the deaf person] is not listed with them [even though, like them, heave offering which he separates is valid, *post facto*].

[M] “Thus the conclusion you must reach is that this rule [which states that *de jure* a deaf person should not separate heave-offering] is [the opinion] of R. Yosé. [It was taught separately from the list of comparable individuals at M. 1:6, because it is the view of Yosé alone. As in the case of the *Shema*, Yosé holds that the person must hear the blessing he recites for that blessing to be valid. Sages disagree and hold, as they do for the *Shema*, that the person need not hear. They therefore would hold that a deaf person may separate heave-offering *de jure*.]”

[II:1 A] R. Judah declares valid in the case of a minor [M. 2:4B].

[B] Said R. Judah, “I was a minor, and I read it before R. Tarfon in Lud, and he accepted me” [cf. M. 2:4B].

[C] They said to him, “You were a minor, who cannot testify.”

[D] Said Rabbi, “I was a minor, and I read it before R. Judah in Usha, and elders were there, and not a single one of them said a thing.”

[E] They said to him, “They cannot bring evidence of the law from the position of the one who permits [the matter to be done = Judah at M. 2:4B].”

[F] From that point onward, they had the custom that a minor may read the Scroll of Esther in public [T. Meg. 2:8A-D].

[II:2 A] Bar Qappara said, “It is necessary to read it before women and children, for even they were in doubt [as to their lives].”

[B] *R. Joshua b. Levi did so, gathering his children and dependents and reading it before them.*

[III:1 A] **They do not read the Megillah before the sunrise [M. 2:4C],** *in line with that which is written,* “[Now in the twelfth month, which is the month of Adar, on the thirteenth day of the same, when the king’s command and edict were about to be executed,] on the very day when the enemies of the Jews hoped to get the mastery over them, [but which had been changed to a day when the Jews should get the mastery over their foes]” (Est. 9:1).

[B] **Nor do they perform a rite of circumcision [M. 2:4C]:** “And on the eighth day the flesh of his foreskin shall be circumcised” (Lev. 12:3).

[C] **Nor do they immerse [M. 2:4C]:** “[And Eleazar the priest] shall dip [some of her blood with his finger,] and sprinkle [some of her blood toward the front of the tent of meeting seven times” (Num. 19:4). Just as sprinkling is by day, so dipping is by day.

[D] How do we know that sprinkling is by day? As it is written: “And the clean person shall sprinkle upon the unclean on the third day and on the seventh day; thus on the seventh day he shall cleanse him, and he shall wash his clothes and bathe himself in water, and at evening he shall be clean” (Num. 19:19).

[III:2 A] All those who are liable to immerse do so under ordinary circumstances by day, except for the menstruating woman and the woman after childbirth, who immerse only by night.

[B] A menstruating woman whose time had passed may immerse whether by day or by night [on the eighth or successive days, after the onset of her period].

[C] R. Hiyya bar Ba explained the matter to the Tyrians: “A menstruating woman whose time had passed may immerse whether by day or by night.”

[D] *There they say:* Even if her time had passed, [she immerses only by night,] on account of her mother-in-law and daughter-in-law. [That is, the menstruating woman must wait until nightfall, so that the seven unclean days will have been completed. The night is the beginning of the eighth day, hence the first clean day. Now if the menstruating woman does it by day, her mother-in-law or daughter-in-law will follow her lead. They may not realize that it is her eighth day, not the seventh, and the relatives may immerse in the daytime on their seventh day.]

- [E] A woman member of the household of Our Rabbi did they see immersing in the usual way by day.
- [F] It was said that her usual time had passed [so this was the eighth day].
- [G] A menstruating woman who had an accident and who was thereby immersed [e.g., she fell off a bridge into the water]:
- [H] R. Shimi in the name of Rab: “She is clean so far as having sexual relations is concerned, but unclean so far as working with food to be prepared in conditions of cleanness is concerned [since the immersion was not with the intent of attaining cultic cleanness].”
- [I] R. Eleazar in the name of R. Haninah: “She is unclean both [73c] so far as sexual relations and so far as preparing food requiring conditions of cleanness are concerned.”
- [J] What is the scriptural basis for this position?
- [K] “Then it shall be washed a second time and be clean” (Lev. 13:58). Just as the first washing must be with full knowledge and intent, so the second must be likewise.
- [L] And how do we know that the first washing must be with full knowledge and consent?
- [M] “Then the priest shall command that they wash the thing in which is the disease, and he shall shut it up seven days more” (Lev. 13:54).
- [N] This must be with full knowledge and consent.

[III:3 A] [*With regard to M. 2:4C-E,*] *now lo, we see that the rabbis advance the time of intercalating the year, doing so prior to sunrise.*

- [B] R. Nahman in the name of R. Mana, “It is a religious duty to advance matters so as to be conscientious about carrying out religious duties.”

2:6

- [A] **The entire day is valid for the reading of the scroll of Esther, the recitation of the Hallel, the sounding of the shofar, taking the lulab, the saying of the additional prayer, offering the additional offerings,**
- [B] **confession at the offering of the bullocks, the confession concerning tithe, the confession on the Day of Atonement,**

[C] for the laying on of hands, slaughtering, waving, bringing near [a sacrificial animal], taking the handful, offering it up, breaking the neck [of a bird offering], receiving the blood, sprinkling -the blood, making an accused wife drink the bitter water, breaking the neck of a heifer, and purifying a mesora.

[I:1 A] The entire day is valid for the reading of the scroll of Esther, as it is written: “[Now in the twelfth month, which is the month of Adar, on the thirteenth day of the same, when the king’s command and edict were about to be executed,] on the very day when the enemies of the Jews hoped to get the mastery over them, [but which had been changed to a day when the Jews should get the mastery over their foes]” (Est. 9:1).

[B] For the reading of Hallel, as it is written, “This is the day which the Lord has made; la us rejoice and be glad in it” (Ps. 118:24).

[C] For sounding the shofar, as it is written, “[On the first day of the seventh month you shall have a holy convocation; you shall do no laborious work.] It is a day for you to blow the trumpets” (Num. 29:1).

[D] For taking the lulab, as it is written, “And you shall take on the first day [the fruit of goodly trees, branches of palm trees, ant boughs of leafy trees, and willows of the brook; and you shall rejoice before the Lord your God seven days]” (Lev. 23:40).

[E] For the saying of the additional prayer and for the additional offerings, as it is written, “[which the Lord commanded Moses on Mount Sinai,] on the day that he commanded the people of Israel [to bring their offerings to the Lord, in the wilderness of Sinai]” (Lev. 7:38).

[F] For the laying on of hands, for slaughtering, waving, bringing near, taking the handful, offering it up, breaking the neck of the bird offering, receiving the blood, sprinkling the blood, as it is written, “On the day that he commanded the people of Israel [to bring their offerings to the Lord]” (Lev. 7:38).

2:7

[A] The entire night is valid for cutting the wheat for the omer and for offering up the fats and the sacrificial parts.

[B] This is the governing principle: Any act whose religious requirement applies by day is valid when done at any time of the day, and a matter whose religious requirement applies by night is valid when done at any time of the night.

[I:1 A] The entire night is valid for counting the *omer*.

[B] Said R. Yohanan, “That is the view of R. Eleazar b. R. Simeon, for R. Eleazar b. R. Simeon said, ‘From the point at which one begins to reap the grain for the *omer*, one begins to count [the *omer*, based on]: ‘From the time the sickle is first put to the standing grain you shall begin to number’” (Deut. 16:9).

[C] If that is the case, then once one has gone beyond the Sabbath limit, as soon as it got dark, one must *begin* to reap [the grain and count the *omer*]. [The whole night should not be suitable; rather, the cutting and, *consequently*, the counting, should *be* done just at the start of the night, contrary to M. 2:7A.]

[D] Is it really possible to cut matters that close? [The entire night is acceptable both for cutting the grain and for counting the *omer*.]

[E] Therefore **the entire night is valid for cutting the wheat for the omer.**

[I:2 A] “If one was offering the meal-offering of the omer, and it became unclean in his hand, [if another is available,] one tells him, and they bring another in its place, but if not, one says to him, ‘Be wise and keep silent,’” the words of Rabbi.

[B] R. Eleazar b. R. Simeon says, “One way or the other, he is told, ‘Be wise and keep silent,’ for the omer that was reaped not in accord with the law applying to it is invalid. [It cannot be reaped by day. It is better to offer the first omer, which is unclean, than another which to begin with is invalid. The priest’s frontlet will effect atonement for the uncleanness of the omer, so that is a lesser consideration.]

[C] R. Eleazar b. R. Simeon maintains that the omer does not come from what already is in storage [but must *be* cut fresh from the field, at night]. [Hence what is in hand, freshly cut, must be used.]

[D] *Said R. Rabbah b. b. Hanah in the name of R. . Yohanan, “The view of R. Eleazar b. R. Simeon accords with the theory of R. Aqiba, the teacher of his father.”*

[E] *For we have learned there: R. Aqiba stated the governing principle: “Any act of labor that can be carried out on the eve of the Sabbath does not override the Sabbath, and any act of labor that cannot be done on the eve of the Sabbath does override the prohibitions of the Sabbath” [M. Shab. 19:1].* [The cutting of grain for the omer does override the Sabbath. If it is cut by day, the omer is invalid. If, then, it is cut by day, it is

invalid, not having been cut in accord with its religious requirement.]

[F] *Yet, lo, we have learned: There is the precedent that there were forty pairs of witnesses to the appearance of the New Moon, and [on the Sabbath] R. Aqiba held them back at Lud [and did not permit them to make a journey beyond the Sabbath but to testify, since their testimony was not needed] [M. R.H. 1:5].* [Now this was something they could not have done prior to the Sabbath, so why did Aqiba hold them up?]

[G] The fact is that there were forty pairs. But had there been only a single pair of witnesses, he would not have held it back.

[I:3 A] [If grain for the omer should be] harvested by day, *how is the matter treated?* Is it treated [*post facto*] as equivalent to grain cut by night [and hence valid], or is it treated as in the status of wheat that comes out of storage [hence not valid]?

[B] *If you say that it is equivalent to wheat cut by night, then we turn out to go over the ground of the dispute between R. Eleazar b. R. Simeon and rabbis.*

[C] For rabbis say, “Grain cut for the omer by day is equivalent to that cut by night.”

[D] And R. Eleazar b. R. Simeon says, “Grain cut for the omer by day is not equivalent to grain cut by night.”

[E] *If you say that it is equivalent to that which comes from storage, then it turns out that there are two disputes between R. Eleazar b. R. Simeon and rabbis.*

[F] For rabbis say, “Grain cut by day is equivalent to grain cut by night.”

[G] And R. Eleazar b. R. Simeon says, “Grain cut by day is not equivalent to grain cut by night.”

[H] Rabbis say, “That which comes from storage is valid.”

[I] And R. Eleazar b. R. Simeon says, “That which comes from storage is invalid.”

[I:4 A] *R. Simeon b. Levi raised the following question: “As to cutting the grain for the omer, what is the law on its overriding the prohibitions of the Sabbath when it is cut by day [that is, at the wrong time]?”*

- [B] *R. Abbaye objected, “And have we not learned: **The religious requirement [of cutting grain for the omer] is to cut it by night. If it is cut by day, it is valid and it overrides the restrictions of the Sabbath [M. Men. 10:9]!”***
- [C] But [Simeon] did not accept that answer.
- [D] *Said R. Aha, “R. Simeon b. Laqish retracted from his view [and held it does override the Sabbath], on the basis of the following: **When it got dark, he asked, ‘Has the sun set?’ And they answered, ‘Yes.’ ‘Has the sun set?’ And they answered, ‘Yes’ (M. Men. 10:3).** [The cited passage makes it clear that it is the Sabbath.]*
- [E] *“Now how shall we interpret this matter? If it is already night, then it has already been stated.”*
- [F] *“But if it is not a matter pertaining to the night, apply it to the day. [Then cutting the grain by day does override the restrictions of the Sabbath.]”*
- [G] In regard to a matter which overrides the Sabbath by day, do things that make that possible override the Sabbath on the preceding night? [That is, if one is going to cut the grain by day, may he bring the sickle by night?]
- [H] *And lo, we have learned: **They appointed him that made the griddle cakes to make the griddle cakes [M. Tam. 1:3].** [The cakes are offered on the Sabbath. One may make preparations on that day too.]*
- [I] Interpret that rule to speak of an ordinary day [not the Sabbath]. [So the cited passage, H, does not prove G.]
- [J] *R. Hiyya b. R. Ada taught: “This is the proper liturgy for the house of our God, whether for a weekday or for the Sabbath.”*
- [K] *And lo, we have learned: “**They reaped it, put it into baskets, and brought it to the Temple court. They would parch it with fire to carry out the commandment that it be ‘parched with fire’ (Lev. 2:14),” the words of R. Meir [M. Men. 10:4].** [This is done on the Sabbath, thus answering G.]*
- [L] *Said R. Yosé, “Once one has begun to carry out the religious duty, they tell him to complete it.” [So that case is different from the one at G.]*
- [M] *R. Yudan of Cappadocia objected before R. Yosé, “Now if the grain came from storage, since one did not begin the religious*

duty [by harvesting it], do they then not say to him to complete it? [Hence the refutation, L, of the use of K to answer the question at G in the affirmative must be rejected!]"

[N] *R. Jacob bar Sosi objected before R. Yosé, "And lo, we have learned: **For on account of a journey of a day and a night they violate the restrictions of the Sabbath and go forth [beyond the Sabbath limit] to give testimony on the appearance of the New Moon [M. R.H. 1:9].*** [So what makes possible doing a duty that overrides the Sabbath also overrides the Sabbath. The testimony is needed only by day, yet one may travel on the Sabbath by night as well.]

[O] He said to him, "Since the day needs the night and the night needs the day, it is as if it were entirely a day. [The testimony by day depends on making the trip the preceding night.]"

[P] Said R. Judah b. R. Bun, "And is it not sanctified retroactively? Since it is sanctified retroactively, the day is the same as the night."

YERUSHALMI MEGILLAH

CHAPTER THREE

3:1

[A] Townsfolk who sold a street of a town may buy with its proceeds a synagogue.

[B] [If they sold] a synagogue, they may buy an ark.

[C] [If they sold] an ark, they may buy wrappings.

[D] [If they sold] wrappings, they may buy scrolls [of the prophets or writings].

[E] [If they sold] scrolls, they may buy a Torah scroll.

[F] But if they sold a Torah scroll, they should not buy scrolls.

[G] [If they sold] scrolls, they should not buy wrappings.

[H] [If they sold] wrappings, they should not buy an ark.

[I] [If they sold] an ark, they should not buy a synagogue.

[J] [If they sold] a synagogue, they should not buy a street.

[K] And so with the surplus [of the proceeds of any of] these.

[I:1 A] [73d] Said R. Yohanan, “[The rule of M. 3:1A] represents the view of R. Menahem b. R. Yosé. For R. Menahem b. R. Yosé said, ‘The street of a town is subject to sanctification. For they take a scroll of the Torah out into the street and read it publicly there.’”

[B] “But rabbis merely assign to the street the rule of ‘four cubits’ [explained presently].”

[C] R. Jeremiah, R. Samuel bar Halap in the name of R. Ada bar Ahva: “He who prays should not spit until he walks four cubits [away from the spot at which he has spit].”

[D] “And so, ‘He who spits should not say a prayer until he walks four cubits from that spot.’”

[E] *It has been taught*: He who prays should not piss until he walks four cubits away from that spot, and so too, he who pisses should not pray until he walks four cubits away from that spot.

[F] Said R. Jacob bar Aha, “It is not the end of the matter that he should not do so until he walks four cubits away. But even if he has remained for an interval of time sufficient to walk four cubits, [that suffices].

[G] “If [further] you maintain that the issue is only that one is prohibited unless he walks four cubits [from a place in which one has urinated], then if someone else came along and urinated there, [the prohibition also should apply, in which case the entire area is apt to be prohibited for prayer. Hence it is a matter of timing.]”

[II:1 A] People from Beisan asked R. Immi, “What is the law on buying stones from one synagogue for building another synagogue?”

[B] He said, “It is forbidden.”

[C] Said R. Helbo, “R. Immi declared that it is forbidden, only because of the anguish [that will affect the people of the former synagogue, when it is torn down].”

[D] R. Gurion said, “The people of Magdela asked R. Simeon b. Laqish, “What is the law on purchasing stones from one town to build up another town?”

[E] “He said to them, ‘It is forbidden.’”

[F] R. Immi gave instructions, “Even [purchasing stones from] the eastern [part of a town for building up] the western [part of the town] is forbidden, because of the destruction [thereby inflicted] on that place [from which the building materials are purchased].”

[II:2 A] What is the law concerning the sale of a synagogue for the purchase of a schoolhouse [cf. M. 3:1B]?

[B] *A statement of R. Joshua b. Levi implies that it is permitted to do so.*

[C] For R. Joshua b. Levi said, “‘And he burned the house of the Lord, and the king’s house and all the houses of Jerusalem every great house he burned down’ (2 Kings 25:9).

[D] “‘The house of the Lord’ refers to the Temple. ‘And the king’s house’ refers to the palace of Zedekiah. ‘And all the houses of Jerusalem’ refers to the 480 synagogues that were in Jerusalem.”

[E] For R. Phineas in the name of R. Hoshaiyah: “There were 480 synagogues in Jerusalem and every one of them had a schoolhouse and a house for learning, a schoolhouse for Scripture and a house of learning for Mishnah.

[F] “And all of them did Vespasian [attack].

[G] “‘And every great house he burned down’ (2 Kings 25:9) refers to the schoolhouse of Yohanan b. Zakkai, in which they recounted the great deeds of the Holy One, blessed be he, for example, ‘Tell me the great things that Elisha has done’” (2 Kings 8:4).

[II:3 A] [As to M. 3:1B,] R. Samuel bar Nahman in the name of R. Jonathan: “That which you have said applies to a synagogue belonging to an individual. But as to a synagogue belonging to the public, it is forbidden [to sell a synagogue and purchase an ark].

[B] “I say, ‘Someone somewhere in the world has a share of ownership in this synagogue, [of which I cannot dispose].’”

[C] *And lo, it has been taught [in the Tosefta’s version]:* **Said R. Judah, “M’S H B: R. Eleazar b. R. Sadoq purchased the synagogue of the Alexandrians which was located in Jerusalem, and he did exactly as he wanted with it.”**

[D] **“They prohibited [using such a building for secular purposes] only if the original name still applies to it” [T. Meg. 2:17A- B].**

[E] The Alexandrians had made it on their own, [but it was not a communal property at all].

[II:4 A] Up to this point we have dealt with a building that had been built for the purpose of a synagogue.

[B] If one built it for a courtyard and consecrated it [later on, for a synagogue,] what is the law?

[C] *Let us derive the answer from the following:* **[If one said,] “Qonam be this building if I enter it,” and the building was turned into a synagogue [and he said, “Had I known that it would be made into a synagogue, I should not have taken such a vow,” R. Eliezer declares the vow not binding and sages declare it binding [M. Ned.**

9:2. [It follows that the building now is regarded as a synagogue and subject to the consecration affecting a synagogue.]

[D] That then implies that if one built the building for a courtyard and then consecrated it, it indeed is deemed consecrated.

[E] At what point does the consecration take effect? Is it forthwith, or only once it has been used for consecrated purposes?

[F] *Let us derive the answer from the following:*

[G] **He who makes an ark for a scroll and covering for a [hob] scroll,**

[H] **before [for the Most High] one has made use of them, an ordinary person is permitted to make use of them.**

[I] **Once for the Most High one has made use of them, an ordinary person is no longer permitted to make use of them for an ordinary purpose [T. Meg. 2:13A-C].**

[J] Now if these, which were made for the sake of a holy scroll, are not regarded as consecrated until the time that they are used for their consecrated purpose, this building, which one built for use as a courtyard – is it not an argument a fortiori?

[K] As to these [namely, the ark for a scroll or coverings for a scroll] – if one had made them to begin with for secular purposes, and then went and consecrated them, what is the law governing them?

[L] *It is in accord with that which you say there, “If one built it for a courtyard and declared it consecrated, it is regarded as holy.”*

[M] Here if he made them for a secular purpose and then consecrated them, they are deemed consecrated.

[II:5 A] As to utensils of service [in the cult], at what point do they enter the status of sanctification? Are they consecrated forthwith? Or is it only at the point at which they enter into use?

[B] If you say that it is forthwith, there are no problems.

[C] If you say that it is only at the point at which they are used, then are they simultaneously sanctified and also able to confer sanctity [upon things deposited in them]?

- [D] Furthermore, there is no problem with regard to utensils of service made for Moses, which were consecrated with the anointing oil [available at that time] and with blood.
- [E] But in the case of utensils prepared for Solomon, can you say that they simultaneously gained the power to confer sanctification and also were themselves sanctified?
- [F] When they entered the land, they emptied out the [already consecrated contents] of utensils belonging to Moses into utensils belonging to Solomon.
- [G] If, then, a utensil belonging to Moses was not available [once more we must ask] whether simultaneously they both confer sanctity [on what is deposited in the utensils] and also enter a state of sanctification?
- [H] When they came up from the Exile, they emptied the contents of utensils belonging to Solomon into their own utensils.
- [I] If there had not been available a utensil belonging to Solomon they simultaneously would have conferred sanctity on what is put into them and also enter the state of sanctification.

[II:6 A] Stones that one hewed out for the sake of someone already dead may not be used for the benefit of someone then alive.

- [B] But for the sake of someone [else] who is dead, they are permitted to be used.
- [C] He who tosses a utensil before the bier of a corpse – if the utensil lands within four cubits of the bier, it is forbidden to be used for any benefit.
- [D] If it landed outside of four cubits, it is permitted to be used for advantage.

[II:7 A] And any sort of utensil belonging to a synagogue has the status of the synagogue: e.g., a bench, a teacher's litter are in the status of the synagogue [to which they belong].

[B] *A curtain which is on an ark has the status of the ark.*

[C] *In the view of R. Abbahu, if one placed a prayer-cloak under a curtain [it too is subject to the consecration of the curtain itself].*

[D] R. Judah in the name of Samuel: “The platform and the planks that make it up are not subject to the sanctity inherent in the ark. But they are subject to the sanctity inherent in the synagogue.

[E] “The reading desk is not subject to the sanctity affecting the ark. It is subject to the sanctity affecting the synagogue.”

[F] *R. Jeremiah went to Gavlanah. He saw the people putting a knocker [used for giving signals during worship] into the ark [along with the Torah].*

[G] He came and asked R. Immi, who said to him, “I maintain that they stipulated concerning that object to begin with [that it was to be kept in the holy place, and hence it is proper to do so].”

[H] *R. Jonah made a cupboard, and he stipulated concerning it that the upper shelves would be used for scrolls, and the lower ones for [other] objects.*

[III:1 A] If they sold wrappings, they buy scrolls [M. 3:1D]:

[B] Even wrapping used for the Torah and the Pentateuchal books [do they sell and with the proceeds thereof they buy scrolls containing the books of the prophets and the writings].

[C] But if one sold scroll, they should not buy wrappings [M. 3:1G]:

[D] Even scrolls containing books of the prophets and the writings may he not buy with the proceeds, for the Torah or books of the Pentateuch.

[E] They wrap the Torah with wrappings for a Torah.

[F] They wrap books of the Pentateuch with wrappings used for books of the Pentateuch.

[G] They wrap books of the prophets with wrappings so designated.

[H] They wrap the Torah or books of the Pentateuch with wrappings used for books of the prophets and writings.

[I] But they do not wrap books of the prophets and writings with Yosé wrappings used originally for the Torah or for books of the Pentateuch.

[J] They put a Torah on top of a Torah, and [scrolls containing books of the] Pentateuch on top of Pentateuchs,

[K] Pentateuchs on top of scrolls of the prophets,

[L] but not scrolls of the prophets on top of the Torah or on top of Pentateuchs [T. Meg. 3:20].

[M] *R. Jeremiah in the name of R. Zeirah: “The Tannaite authority responsible for the foregoing teaching walked away from it [without explaining the relationship of the sanctity of] a scroll of the Torah and of books of the Pentateuch.”*

[N] “They write a Torah and prophetic books in the same scroll,” the words of R. Meir.

[O] And sages say, [74a] “They do not write out the Torah and prophetic books in the same scroll, but they may write out prophetic books and books of the writings in the same scroll.”

[P] R. Jeremiah in the name of R. Samuel bar R. Isaac: “The Torah and the various Pentateuchal books are subject to the same level of sanctification.

[Q] “They do not turn a complete Torah into Pentateuchal books, but they do turn Pentateuchal books into a complete Torah.”

[R] Said R. Yosé, “That is to say that a Torah that one has turned into Pentateuchal books remains in its original status of sanctification.”

[III:2 A] R. Samuel bar Nahman in the name of R. Jonathan: “If a Torah is lacking [part of what should be there], one may not read it in public.”

[B] And lo, it has been taught: “If a scroll contains the materials from ‘In the beginning’ up to the flood, and, in Leviticus, up to, ‘And it came to pass on the eighth day,’ and, in Numbers, up to, ‘And it came to pass when the ark was carried,’ it is permitted to read in such a scroll in public.”

[C] *As to [the Torah that has been turned by] Ursicinus, a certain man from Sanberai, who honored the Torah, [saved part of it]. They came and asked R. Jonah and R. Yosé whether or not it was permitted to read in that scroll in public.*

[D] He said to them, “It is forbidden.”

[E] *It is not that it is actually forbidden, [but he thought], since they will be distressed [at remembering the cause of the damage], they will go out and buy another one for themselves.*

[IV:1 A] **And so with the surplus of the proceeds of any of these [M. 3:1K]:**

[B] That applies to what the charity collectors collected and left over [those funds also may be used only for the purpose for which they were designated].

[C] *This accords with the following: R. Hiyya bar Ba came to Hamas, and they gave him money to divide among orphans and widows. He went and handed them out to rabbis.*

[D] What is the law as to his having to designate other funds of his own place of these and to give them to orphans and widows?

[E] R. Zeirah said, “He has to designate other funds in place of these.”

[F] R. Ila said, “He does not have to designate other funds in place of these.”

[G] R. Yosé in the name of R. Eleazar says, “He does not have to designate other funds in place of these.”

[H] R. Jacob bar Aha, R. Yosé, R. Eleazar in the name of R. Haninah: “As to whatever is set aside [e.g., in fulfillment of a vow or as a freewill offering], before they have been handed over to the Temple treasurers, you are permitted to use them for some other purpose. Once they have been given over to the Temple treasurers, you are not permitted to use them for some other purposes .”

3:2

[A] **“They do not sell that which belongs to the public to a private person,**

[B] **“because they thereby diminish its level of sanctity, “ the words of R. Meir.**

[C] **They said to him, “If so, [they should] not [sell] from a large town to a small one.”**

[I:1 A] Three members of a synagogue [who made an agreement in be half of the synagogue] are tantamount to the synagogue as a whole.

[B] And seven townsmen are tantamount to the town as a whole [to act in behalf of the synagogue or the town, respectively].

[C] *How shall we interpret this rule?* If we deal with a case in which the others agreed [to have the three or seven represent them], then even one would suffice [for the same purpose].

[D] If we deal with a case in which the others did not agree, then any number [would not suffice].

[E] *But thus must we interpret the matter:* [A, B speak of] a matter left without further explication.

- [I:2 A] A townsman who gave to charity in another town – he may give with [those who live in that other town].
- [B] A group of townspeople who gave to charity in a different town – they must give [the funds back to the poor] in their own town.
- [C] *R. Hiyya in the name of R. Yohanan: “It is, for example, those who gather [for business] around the bench in Meonayya [who give money to the poor of that town, even though they come from other towns].”*
- [D] *There is the following instance: R. Helbo was interpreting [Torah] in Sepphoris. He gave to charity there. He came and wanted to give here as well [in his own town]. Said to him R. Immi, “You are an individual, [and permitted to give in a town other than your own (= II.A)].”*
- [I:3 A] **He who makes a candelabrum or a lamp for a synagogue –**
- [B] **before the name of the owner [who has donated it] is forgotten from these objects, one is not permitted to use them for some other purpose.**
- [C] **Once the name of the owner [who donated them] is forgotten from them, one is permitted to make use of them for some other purpose [T. Meg. 2:14].**
- [D] R. Hiyya in the name of R. Yohanan: “If the name of the owner was incised on the object, it is as if the name of the owner [who has donated it] will never be forgotten from the object.”
- [E] *It is illustrated by the following: Antoninus made a candelabrum for the synagogue.*
- [F] Rabbi heard about it and said, “Blessed be God, who moved him to make a candelabrum for the synagogue.”
- [G] R. Samuel bar R. Isaac asked, “Why did Rabbi say, ‘Blessed be God’? Should he not say, ‘Blessed be our God’? If he said, ‘Blessed be God,’ it indicates that Antoninus never in fact converted to Judaism. If he said, ‘Blessed be our God,’ it indicates that Antoninus in fact converted to Judaism.”
- [H] *There are some things that indicate that Antoninus was converted, and there are some things that indicate that Antoninus was not converted.*

- [I] They saw him going out on the Day of Atonement wearing a broken sandal [indicating he was converted].
- [J] *What do you infer from that story?* For even God-fearers do so [and that would not prove a final conversion had taken place].
- [K] *Antoninus asked Rabbi, “Will you give me food of leviathan in the world that is coming?”*
- [L] *He said to him, “Yes.”*
- [M] *He said to him, “Now you are not willing to give me food from a Passover lamb, and yet are you going to give me food from leviathan?”*
- [N] *He said to him, “What can we do for you? With regard to the Passover lamb, it is written, ‘And when a stranger shall sojourn with you and would keep the Passover to the Lord, let all his males be circumcised.... But no uncircumcised person shall eat of it’” (Ex. 12:48).*
- [O] *When he heard this, he went and got himself circumcised. He came to him. He said to him, “Rabbi, look at my circumcision!”*
- [P] *He said to him, “I have never looked at mine in my whole life. Should I now look at yours?”*
- [Q] And why was he called, “Our Holy Rabbi”?
Because he never laid eyes upon the mark of his circumcision in his entire life.
- [R] And why was he called “Nahum, the Most Holy”?
Because he never gazed upon the face of a coin in his entire life [to avoid seeing the idol inscribed thereon].
- [S] *That indicates that Antoninus did convert.*
- [T] *There are statements of rabbis that indicate that Antoninus converted.*
- [U] For Hezekiah, R. Abbahu in the name of R. Eleazar: “If full proselytes come to be accepted in the world to come, Antoninus will come at the head of them.”

- [I:4 A] *What is the law as to writing two or three words of a verse of Scripture [in a letter]? [Generally, to do so one must incise a line for that purpose. Is it necessary to observe the same restrictions in a letter?]*
- [B] *Mar Uqba sent a letter to the exilarch, who would lie down to sleep and get up in the morning to the sound of singing [in his palace]: “Rejoice not, O Israel! Exult not like the peoples; [for you have played the harlot, forsaking your God. You have loved a harlot’s hire upon all threshing floors]” (Hos. 9:1). [The verse was cited with slight changes, so that it was not written in the letter precisely as it is written in Scripture.]*
- [C] R. Aha wrote, “The memory of the righteous is a blessing, [but the name of the wicked will rot]” (Prov. 10:7). [This verse was written precisely as it appears in Scripture, for Aha differs from Mar Uqba’s view.]
- [D] R. Zeirah wrote, “Thus Joash the king did not remember [the kindness which Jehoiada, Zechariah’s father, had shown him, but killed his son]” (2 Chron. 24:22).
- [E] *R. Jeremiah sent a letter to R. Yudan the Patriarch: “To hate those who love you and love those who hate you” (2 Sam. 19:6). [Scripture reverses these clauses, “To love those who hate you and hate those who love you.”]*
- [F] *R. Hiyya, R. Yosé, R. Immi were engaged in judging [the case of a woman named] Tamar. She went and complained against them to Antiputa [governor] of Caesarea. The [rabbis] sent and wrote [about it] to R. Abbahu [who lived in Caesarea].*
- [G] R. Abbahu sent and wrote to them, “We have already won over three advocates, Tob Yeled [Good child], Tob Lamed [Well learned], and Tarsus [known by their Greek equivalents as] Ebdocus, Eumus, and Talassios. But Tamar [‘bitter’] is bitterness. She abides in her bitterness, and we tried to sweeten her [by a bribe] but ‘in vain has the smelter smelted’ (Jer. 6:29) [for gold could not buy her].”
- [H] *R. Mana sent a letter to R. Hoshaiah b. R. Shimi: ““And though your beginning was small, your latter days will be very great’ (Job 8:7). But may your destiny be great.”*

3:3

[A] They sell a synagogue only with the stipulation that if they want, they may take it back, “the words of R. Meir.

[B] And sages say, “They sell it for all time,

[C] “except for [use for] four purposes: a bathhouse, a tannery, an immersion pool, or a urinal.”

[D] R. Judah says, “They sell it as a courtyard, and as to the purchaser – whatever he wants, he does with it.”

[E] And further did R. Judah state, “A synagogue which was destroyed – they do not carry out a lamentation for the dead in it.

[F] “And they do not twist ropes in it,

[G] “and they do not spread out nets [to dry] in it,

[H] “and they do not spread out produce to dry on its roof,

[I] “and they do not make it into a public shortcut.

[J] “For it is written, ‘I will bring your sanctuaries to desolation’ (Lev. 26:31) –

[K] “they remain sanctified even when they are desolated.

[L] “If grass grew up in it, one should not cut it, because of grief.”

[I:1 A] *Said R. Yohanan, “We do not know how to interpret this law. If it is in accord with R. Meir, then they may sell a synagogue only with a stipulation, [and that applies even to a sale from one community to another community]. [Then at M. 3:2A, why should the rule specify a sale from the community to an individual, since a synagogue may not be sold even by one community to another community? If the consideration is as specified at M. 3:2A, moreover, that we not reduce the sanctity of the synagogue, then why is there a reduction in sanctity if one community buys the synagogue from another one?]*

[B] “If the law accords with rabbis, then they may sell it for all time, except for the four specified purposes. [Now what difference does that make vis-a-vis M. 3:2C?]

[C] R. Hiyya in the name of R. Yohanan: “One must interpret [M. 3:2 to speak about] a scroll of the Torah. [At M. 3:2 we do not speak of the sale of a synagogue at all.]”

[II:1 A] *That which you have said [at M. 3:3E-L] applies to a synagogue belonging to an individual [which was destroyed]. But as to a synagogue belonging to the community, even if it is built [and not destroyed] it is forbidden to do these things.*

- [B] *Said R. Hiyya bar Ba, “R. Yohanan cursed the women who spread out their clothing [to dry] over the airspace of a schoolhouse.”*
- [III:1 A] [With reference to M. 3:3/I,] Samuel said, “If one entered a synagogue not in order to use it as a shortcut, it is permitted to use it as a shortcut.”
- [III:2 A] *It has been taught [in the Tosefta’s version]: **Synagogues – they do not behave with them frivolously.***
- [B] **One should not go into them on a hot day on account of the heat, or on a cold because of the cold, or on a rainy day because of the rain.**
- [C] **They to not eat or drink in them, nor to they sleep in them, nor do they take a stroll in them, nor to they derive benefit from them.**
- [D] **But they read [Scripture] in them, repeat [Mishnah-traditions] in them, and expound [biblical lessons] in them [T. Meg. 2:18A-D].**
- [III:3 A] R. Joshua b. Levi said, “Synagogues and schoolhouses belong to sages and their disciples.”
- [B] *R. Hiyya bar Yosé received [guests] in the synagogue [and lodged them there].*
- [C] *R. Immi instructed the scribes, “If someone comes to you with some slight contact with Torah-learning, receive him, his asses, and his belongings.”*
- [D] *R. Berekhiah went to the synagogue in Beisan. He saw someone rinsing his hands and his feet in a fountain [in the courtyard of the synagogue]. He said to him, “It is forbidden to you [to do this].”*
- [E] *The next day the man saw [Berekhiah] washing his hands and feet in the fountain.*
- [F] He said to him, “Rabbi, is it permitted to you, and forbidden to me?”
- [G] He said to him, “Yes.”
- [H] He said to him, “Why?”
- [I] He said to him, “Because this is what R. Joshua b. Levi said: ‘Synagogues and schoolhouses belong to sages and their disciples.’”

[III:4 A] *As to a vestibule [built at the entrance of the synagogue], what is the law about walking through it [in line with M. 3:3/I]?*

[B] R. Abbahu went through the vestibule.

[C] *Does this indicate that it is permitted?*

[D] *Said R. Zechariah, son-in-law of R. Levi, “There was a teacher sitting with [children], and if R. Abbahu did not go through, he would not let the children go out, [so it was] because of [the needs of] the children.”*

3:4

[A] The new moon of Adar that fell on a Sabbath –

[B] they read the pericope of sheqels (Ex. 30:16).

[C] [If the new moon] fell during the week, they push [the reading] back to [the Sabbath which comes] before, and on the next Sabbath suspend [reading the four pericopae of Adar]. [Doing this makes certain that the second of the four pericopae of Adar, on Amalek, will immediately precede Purim, which celebrates the fall of Amalek’s descendant, Haman.]

[I:1 A] R. Levi in the name of R. Simeon b. Laqish: “The Holy One, blessed be he, foresaw that the evil Haman was destined to weigh out his money against Israel. He said, ‘It is better that the money of my children [in support of the Temple] should come before the money of that evil man.’ Therefore they push matters up and read the biblical pericope about collecting the *sheqels* [prior to the advent of Adar, when the calendar calls for it].”

[I:2 A] If the new moon of Adar comes on Friday, on what Sabbath do they read [the pericope of the sheqels]? [Is it on the preceding Sabbath or on the Sabbath after the new moon?]

[B] R. Zeirah said, “They read it on the preceding Sabbath.”

[C] R. Ila, R. Abbahu in the name of R. Yohanan: “They read [74b] it on the Sabbath that follows.”

[D] Now R. Zeirah was looking at him [in amazement]. [The other] said to him, “Why are you staring at me? I say what I say on the basis of a tradition that I have heard, and you say what you say on the basis of analysis, and yet you are staring at me?!” [Tradition outweighs mere analytical reasoning.]

[E] *There is a Tannaitic passage that supports this one, and there is a Tannaite passage that supports that one.*

[F] *The following Tannaitic passage supports the view of R. Zeirah:*

[G] What is the first week [of the sequence]? It is any in which the new moon of Adar happens to fall,

[H] even if it comes on Friday [T. Meg. 3:1].

[I] *Samuel presented a Tannaitic tradition in support of the view of R. Ila:*

[J] What is the second week [just now referred to]?

[K] Any in which Purim happens to fall,

[L] even if it comes on Friday [T. Meg. 3:2].

- [I:3 A]** R. Nahman bar Jacob raised the following question: “What if the fifteenth of Adar falls on the Sabbath? To read the scroll of Esther you are not able, for they read in the Hagiographa only from the afternoon prayers and onward. Should they then read the pericope, “Remember [Amalek]? [But the people in the towns will already have read the scroll of Esther on the fourteenth of Adar, that is, on the Friday before. Surely they cannot now read ‘Remember.’]”
- [B] He said to him, “This is what Rab said, ‘That these days should be remembered and kept [throughout every generation, in every family, province, and city, and that these days of Purim should never fall into disuse among the Jews, nor should the commemoration of these days cease among their descendants]’ (Est. 9:28).
- [C] “‘This means that remembering them should come before carrying them out [hence ‘Remembrance’ must come prior to the observance of the holiday of Purim].”
- [D] *R. Abba b. R. Pappi asked, “What if the fourteenth of Adar falls on the Sabbath? Lo, remembering [what happened] comes before carrying out [the festival]? [The people in the cities surrounded by a wall read the next day, so there is no problem for them.]”*
- [E] *He said to him, “But has it not already been indicated that that is not possible [for the fourteenth of Adar may never coincide with a Sabbath]? But even if it were possible, they would have to push back the reading in the towns, [and the passage of Remembrance would be read on the preceding week].”*

3:5

- [A] On the second Sabbath [they read], “Remember” (Deut.. 25:17-19).
[B] On the third [they read] the pericope of the Red Cow [Num. 19:1ff].
[C] On the fourth they read, “This month shall be unto you” (Ex. 12:1-20).
[D] On the fifth they go back to the set order.
[E] At all times they suspend [interrupt the set order of the reading of the Torah]: for new moons, Hanukkah, Purim, fasts, set delegations [ma’amads], and for the Day of Atonement.

- [I:1 A] R. Ba in the name of R. Hiyya bar Ashi: “One may not interrupt between Purim and the pericope of the red cow [but that passage is read immediately after Purim].”
- [B] R. Levi in the name of R. Hiyya bar Haninah: “One may not interrupt between the pericope of the red cow and the one on the month [announcing Passover in Nisan, M. 3:5C].”
- [C] *Said R. Levi, “The mnemonic serving these passages is along the lines of the one serving the four cups of Passover: ‘If one wanted to drink between the cups he may do so. But between the third and fourth cups [drunk at the Passover meal] one may not do so.’ [Along these same lines, between the passage on the red cow and the one on the month of Nisan, one may not allow an interruption, but one reads the two passages on two successive Sabbaths.]”*
- [D] R. Levi in the name of R. Hama bar Haninah: “It would have been logical for the passage on the month [of Nisan] to precede that on the red cow. For on the first day of Nisan the tabernacle was raised up, and on the second the red cow was burned [to provide purification water].
- [E] “Now why is the passage on the red cow read first? Because it secures the purification of all Israel.”
- [I:2 A] Jeremiah, the scribe, asked R. Jeremiah, “A new moon that coincided with the Sabbath – what passage do they read?”
- [B] He said to him, “They read the passage serving the new moon.”
- [C] *Said R. Helbo before R. Immi, “The Mishnah has made the same point: At all times they suspend the set order of the reading of the Torah: for new moons, Hanukkah, Purim, fasts [M. 3:5E].”*

[D] Isaac, the trader, asked R. Isaac, “The new moon that falls on Hanukkah – what passage do they read?”

[E] He said to him, “They read three [sections] for the new moon, and one for Hanukkah.”

[F] R. Phineas, R. Simon, and R. Abba bar Zamina produced it in the name of R. Abodemi of Haifa: “They read three passages for Hanukkah and one for the new moon, to indicate to you that the fourth passage is read only on account of the new month.”

[G] Bar Shilemayya, the scribe, asked R. Mana, “But what if the new moon that occurs during Hanukkah [Tebeth, after Kislev] falls on a Sabbath? Are not seven people called to the Torah? Then can you say that the fourth [passage] comes only on account of the new moon on such an occasion?”

[H] *He said to him, “That is a puerile question.”*

3:6

[A] **At Passover they read the section, “The set feasts” [Lev. 23:4ff.], in the Torah of the Priests [Leviticus].**

[B] **At Pentecost, they read, “Seven weeks” [Deut. 16:9ff.].**

[C] **At the New Year they read, “In the seventh month, on the first day of the month “ [Lev. 23:23ff.].**

[D] **On the Day of Atonement they read, “After the death “ [Lev. 16:1ff.].**

[E] **On the first festival day of the Festival [of Tabernacles] they read the section, “The set feasts” [Lev. 23:33], in the Torah of the Priests.**

[F] **And on the other days of the Festival they read about the offerings of the Festival [Num.. 29:17ff.].**

[I:1 A] [In the Tosefta’s version:] **On Pentecost they read, “Seven Weeks” (Deut. 16:9) 1M. 3:5B].**

[B] **And some say [that on Pentecost they read] “In the third month” (Ex. 19:1) [T. Meg. 3:5H-I].**

[C] **On the New Year [they read], “Say to the people of Israel, ‘In the seventh month, on the first day of the month, you shall observe a day of solemn rest’” (Lev. 23:24).**

[D] **And some say, “And the Lord remembered Sarah” (Gen. 21:1) [T. Meg. 3:y.**

- [E] **On the Day of Atonement, they read, “After the death” (Lev. 16:1).**
- [F] [Yerushalmi omits:] **And for the final lection they read, “On the tenth” (Num. 27:7), which is in the Book of Numbers [T. Meg. 3:7].**
- [G] **On the first festival day of the Festival [of Tabernacles] they read the section, “The set feasts” [Lev. 23:33ff.] in the Torah of the Priests. And on the other days of the Festival they read about the offerings of the Festival [M. 3:6E-F].**
- [H] R. Jacob bar Aha in the name of R. Yosé, “This is to teach you that the world stands only on the foundations of the sacrificial offerings.”
- [I:2 A] ***There we have learned: Simeon the Righteous was one of the remnants of the Great Assembly. He would say, “On three things the world stands: Torah, sacrificial cult, and deeds of loving kindness” [M. Abot 1:3].***
- [B] And the three of them derive from a single verse of Scripture (Is. 51:16): “I have placed my words in your mouth” – this refers to the study of Torah.”And in the shadow of my hands I have covered you” – this refers to doing deeds of loving kindness.
- [C] This serves to teach you that whoever keeps himself busy in studying Torah and in doing deeds of loving kindness merits sitting in the shadow of the Holy One, blessed be he.
- [D] This is in line with that which is written, “How precious is thy steadfast love, O God! The children of men take refuge in the shadow of thy wings” (Ps. 36:7).
- [E] “[And I have put my words in your mouth and hid you in the shadow of my hand,] stretching out the heavens and laying the foundations of the earth, and saying to Zion, ‘You are my people’” (Is. 51:16). This refers to the sacrificial offerings.
- [F] “Saying to Zion, ‘You are my people’”: Said R. Hinena bar Pappa, “We have reviewed the entire Scriptures, and we have not found any place in which Israel is called Zion, except for this passage.”
- [G] “Saying to Zion, ‘You are my people’” (Is. 51:16).

[H] *There we have learned: Rabban Simeon b. Gamaliel says, “On three things the world stands: On justice, truth, and peace” [M. Abot 1:18].*

[H] And the three of them are really one thing. If justice is carried out, truth is realized. If truth is realized, peace is made.

[I] Said R. Mana, “All three of them derive from a single verse of Scripture: ‘[Speak the truth to one another,] render in your gates judgments that are true and make for peace’” (Zech. 1:16).

3:7

[A] At Hanukkah [they read,] “The princes” [Num. 7:1ff.].

[B] At Purim [they read,] “And Amalek came” [Ex. 17:8ff.].

[C] On the new moons they read, “And on the first days of your months” [Num. 28:11].

[D] At the set ma’amads they read the story of Creation [Gen. 1:1ff.].

[E] At fasts they read the blessings and curses [Lev. 26, Deut. 28].

[F] They do not interrupt the reading of the curses, but one person reads all of them.

[G] On Monday and Thursday and the Sabbath at the afternoon prayer they read according to the set order.

[H] And these are not taken into account [in the reading of the regular Sabbaths],

[I] since it says, “And Moses declared to the children of Israel the set feasts of the Lord” (Lev. 23:44).

[J] Their religious requirement is that they should be read, each one in its time.

[I:1 A] **They do not interrupt [the reading of] the curses [M. 3:7E].**

[B] Said R. Hiyya bar Gameda, “[My son,] do not cut up the Lord’s curses [or be weary of his reproof]’ (Prov. 3:11).

[C] “[The meaning is,] ‘Do not break them up into small segments [but read them all at once].’”

[D] Said R. Levi, “Said the Holy One, blessed be he, ‘It is not right that my children should be cursed, while I am blessed [in the blessing before and after the reading of the Torah].’ [Hence the entire passages are read without interruption.]”

- [E] Said R. Yosé b. R. Bun, “It is not for this reason [that the curses are not interrupted]. Rather, this one who stands up to read in the Torah has to begin with a good message and conclude with a good message, [and so he cannot stop in the middle of the curses].”
- [F] *R. Levi bar Paseti asked R. Huna, “As to the curses, what is the law on having one person read them and say the blessing before and after them?”*
- [G] He said to him, “You have no pericope in the entire Torah in which there must be a blessing before and afterward except the pericopae of the curses in the Torah of the Priests [Leviticus] and the curses in the Repetition of the Torah [Deuteronomy]. [These require a blessing fore and after.]”
- [H] *R. Jonathan, scribe of Guptah, came down here. He saw Bar Abuna, the scribe, reading the Song at the Well [Num. 21:17ff.] and saying a blessing before it and after it. He said to him, “And do they do it that way?”*
- [I] He said to him, “Are you still in doubt in this matter? All songs [in the Pentateuch] require saying a blessing before and after them.”
- [J] When the question was addressed to R. Simon, R. Simon said to him in the name of R. Joshua b. Levi, “You have no passage that requires the saying of a blessing before and afterwards except for the Song at the Sea, the Ten Commandments, the curses that are in Leviticus, and the curses that are in Deuteronomy.”
- [K] Said R. Abbahu, “I have not heard that tradition. But it appears to me proper that the Ten Commandments [should receive a blessing].”
- [L] R. Yosé R. Bun [said], “The last eight verses in the Book of Deuteronomy require the saying of a blessing before and after them.”
- [M] If that is not the case, the one who begins and completes the reading of the entire Torah will not say a blessing before and after it [cf. M. 4:1-3].
- [N] It is necessary to raise the question to deal with a new moon that coincided with the Sabbath.

- [I:2 A] Said R. Yosé b. R. Bun, “For the song of the Levites [Deut. 32:1-43] no fewer than six persons are called up to the Torah. The mnemonic is HZYWLK.”
- [I:3 A] R. Zeirah, R. Jeremiah in the name of R. Rab: “The Song at the Sea and the Song of Deborah are written in the manner of setting bricks, that is, two halves of a brick over a whole brick, and a whole brick over half-bricks. The names of the ten sons of Haman and the kings of Canaan are written with a half-brick over a half-brick and a whole brick over a whole brick, *for no building could stand if built that way.*”
- [B] *What is the point of that ruling?* Is it merely to describe the proper doing of the religious duty? Or is it to indicate that, if it is not done that way, the scroll is unsuitable?
- [C] *Said Rab to R. Hananiah, son of the brother of R. Hoshaiiah, “Do you recall that when we were standing by the stall of R. Hoshaiiah, your uncle, R. Ba bar Zabeda came by, and we asked him, and he said [delete: in the name of Rab], ‘The rule serves as a requirement [to invalidate a scroll not written in this way].’”*
- [D] R. Hiyya son of R. Ada of Jaffa, R. Jeremiah in the name of R. Zeira: “One has to say them on a single breath, and the ten sons of Haman along with them.”
- [E] Said R. Yosé b. R. Bun, “When they [the names of Haman’s sons are written down, the word, ‘man’ (Est. 9:6) must be at the top of the column, and each accusative particle [which occurs ten times, each one preceding the name of one of the ten sons] at the end of the line, a total, then, of eleven lines, *for so do they fall into oblivion, like a heavy lead weight.*”
- [F] Rab said, “It is necessary to say, ‘Cursed be Haman, cursed are his sons.’”
- [G] Said R. Phineas, “It is necessary to say, ‘Harbona, may he be remembered for good.’ [He was one of the king’s eunuchs.]”
- [I:4 A] *R. Berekhiah, R. Jeremiah, R. Hiyya in the name of R. Yohanan, R. Jonathan, when he would [74c] reach this verse, ‘Who had been carried away from Jerusalem among the captives carried away with Jeconiah king of Judah, whom Nebuchadnezzar king of Babylon had carried away’ (Est. 2:6), he would say, ‘Nebuchadnezzar – may his bones rot.’*
- [B] “For every time the name, Nebuchadnezzar, is written in the book of Jeremiah, he was yet alive. But here he was then dead.”

[II:1 A] And these are not taken into account [in the reading of the regular Sabbaths] [M. 3:7H]:

[B] *There is a Tannaite authority who teaches,* “They are taken into account.”

[C] R. Zeira, Abba bar Jeremiah, R. Mattenah in the name of Samuel: “The law is in accord with him who says, ‘They are not taken into account.’”

[D] *This is in accord with our version of the Mishnah.*

[II:2 A] *There is a Tannaite authority who teaches,* “One opens the scroll, looks into it, rolls it up and then says the blessing [so that it will not appear that he is reading the blessing from the Torah scroll itself].”

[B] *There is a Tannaite authority who teaches:* “One opens the scroll, looks into it, and says the blessing.”

[C] R. Zeira, Abba bar Jeremiah, R. Mattenah in the name of Samuel: “The law is in accord with him who says, ‘One opens, looks into the Torah, and says a blessing.’”

[D] *What is the scriptural basis for this view?*

[E] “[And Ezra opened the book in the sight of all the people, for he was above all the people;] and when he opened it all the people stood.”

[F] And what is written thereafter?

[G] “And Ezra blessed the Lord, the great God; and all the people answered, ‘Amen, Amen,’ [lifting up their hands; and they bowed their heads and worshiped the Lord with their faces to the ground]” (Neh. 8:5-6).

[H] How did he proclaim God’s greatness?

[I] R. Giddal said, “By pronouncing the ineffable name.”

[J] R. Mattenah said, “With a blessing he declared his greatness.”

[K] R. Simon in the name of R. Joshua b. Levi: “Why are they called, ‘The men of the Great Assembly’? Because they restored greatness to its place.”

[L] Said R. Phineas, “Moses ordained the formula of the Prayer: ‘For the Lord your God is God of gods and Lord

of lords, the great, the mighty, and the terrible God, who is not partial and takes no bribe' (Deut. 10:17).

[M] "Jeremiah said, 'Great and mighty God' (Jer. 32:18), but he did not say, 'terrible.'

[N] "Why? He is , and it surely was appropriate for him to be called mighty. But because he foresaw the destruction of his house, should he then remain silent?

[O] "And why did he not say, 'terrible'? Because 'terrible' applies only to the sanctuary, as it is written, 'Terrible is God in his sanctuary' (Ps. 68:3S).

[P] "Daniel said, '[I prayed to the Lord my God and made confession, saying, 'O Lord,] the Feat and terrible God, [who keepeth covenant and steadfast love with those who love him and keep his commandments]' (Dan. 9:4).

[Q] And why did he not say, 'Mighty'?

[R] "His sons are placed in chains, so where is his might?

[S] "And why did he say, 'terrible'?

[T] "Such a one is appropriately called 'terrible,' because of the terrible things that he did with us in the fiery furnace.

[U] "And when the men of the Great Assembly arose, they restored the greatness to its place.

[V] "Now therefore, our God, the great and mighty and terrible God, who keepeth covenant and steadfast love, let not all the hardship seem little to thee that has come upon us, upon our kings, our princes, our priests, our prophets, our fathers, and all thy people, since the time of the kings of Assyria until this day" (Neh. 9:32).

[W] And may mortal men [such as Jeremiah and Daniel] cut these [titles of praise] out of the prayer to God?

[X] Said R. Isaac bar Eleazar, “The prophets knew full well that their God is honest, and they were not going to flatter him.”

YERUSHALMI MEGILLAH

CHAPTER FOUR

4:1

- [A] He who reads the scroll may stand or sit.
- [B] [If] one reads it, [or if] two read it [together], they have fulfilled their obligation.
- [C] In a place in which they are accustomed to say a blessing, one says a blessing.
- [D] [In a place in which they are accustomed] not to say a blessing, one does not say a blessing.
- [E] On Monday, Thursday, and the Sabbath at the afternoon service, three read [in the Torah].
- [F] They do not assign fewer, and they do not assign more, to their number.
- [G] And [on those days and occasions] they do not conclude with a prophetic lection.
- [H] He who begins the reading of the Torah and he who completes the reading of the Torah says a blessing before and afterward.
- [I:1 A] [With reference to M. 4:1A, standing or sitting,] is the rule that [sitting is all right] after the fact, but to begin with, it is not?
- [B] *And lo, it has been taught:*
- [C] Said R. Simeon b. Eleazar, “M’S^H B: R. Meir read the Scroll of Esther] in the synagogue in Tibeon while sitting down, and the members of the synagogue were sitting town.
- [D] “When he completed reading it, he gave it to another person, and [the other] said a blessing over it” [T. Meg. 2:5H-I].
- [E] [74d] *This is the meaning of the rule of the Mishnah:* It is permitted to read it standing up, and it is permitted to read it sitting down.

[F] What is the meaning of, **He gave it to another person, and the other said a blessing over it?**

[G] It is that this one reads, and the other says the blessing.

[H] R. Huna in the name of R. Jeremiah: “On this basis [it is shown that] the one who hears [the Megillah read] is in the status of him who reads it.”

[I] It is written, “All the words of the book which the king of Judah has read” (2 Kings 22:16). But did not Shaphan read the book to the king?

[J] This then indicates that one who hears [the Megillah read] is in the status of him who reads it.

[I:2 A] What is the law as to standing before a scroll of the Torah?

[B] R. Hilqiah, R. Simon in the name of R. Eleazar: “Before her child [a disciple of a sage] one stands up, is it not an argument a fortiori that one stands up before the Torah itself?”

[C] He who stands up to read in the Torah – on what count does he stand? Is it because of the honor owing to the Torah or because of the honor owing to the community?

[D] If you say that it is because of the honor owing to the Torah, then even when one is by himself with the Torah scroll, [he must stand up to read in it].

[E] If you say that it is because of the honor owing to the community still, when he is by himself with the Torah, he still should stand up on account of the honor owing to the Torah.

[F] If you say so, then even when he is not engaged and not reading in the Torah [he still should stand up before the Torah]. [Accordingly, one stands up only when reading in public.]

[G] *R. Samuel bar R. Isaac went to a synagogue. He saw someone standing and serving as translator, leaning on a post. He said to him, “It is forbidden to you [to lean while standing]. For just as the Torah was given, originally, in fear and trembling, so we have to treat it with fear and trembling.”*

[H] *R. Haggai said R. Samuel bar R. Isaac went to a synagogue. He saw Hunah standing and serving as translator and he had not set up anyone else in his stead [so he was both reading and translating himself]. He said to him, “It is forbidden to you, for just*

as it was given through an intermediary [namely, Moses] so we have to follow the custom of having an intermediary [so that the same person may not both read from the Torah and translate].”

- [I] *R. Judah bar Pazzi went in and treated the matter as a question:* “The Lord spoke with you face to face at the mountain while I stood between the Lord and you at that time, to declare to you the word of the Lord” (Deut. 5:4- 5).
- [J] *R. Haggai said R. Samuel bar R. Isaac went into a synagogue. He saw a teacher [reading from] a translation spread out, presenting the materials from the book. He said to him, “It is for bidden to do it that way. Things which were stated orally must be presented orally. Things which were stated in writing must be presented in writing.”*
- [K] R. Haggai in the name of R. Samuel bar Nahman: “Some teachings were stated orally, and some teachings were stated in writing, and we do not know which of the two is more precious.
- [L] “But on the basis of that which is written, ‘And the Lord said to Moses, “Write these words; in accordance with these words I have made a covenant with you and with Israel”’ (Ex. 34:27), *that is to say that the ones which are handed on orally are more precious.*”
- [M] R. Yohanan and R. Judah b. R. Simeon – *one said*, “[The meaning of the verse is this:] ‘If you have kept what is handed on orally and if you have kept what is handed on in writing, then I shall make a covenant with you, and if not, I shall not make a covenant with you.’”
- [N] *The other one said*, “If you have kept what is handed on orally, and if you have kept what is handed on in writing, then you will receive a reward, and if not, you will not receive a reward.”
- [O] [With reference to the following verse: “And the Lord gave me the two tablets of stone written with the finger of God; and on them were all the words which the Lord had spoken with you on the mountain, out of the midst of the fire on the day of the assembly’ (Deut. 9:10),] said R. Joshua b. Levi, “[It is written,] ‘on them,’ ‘and on them,’ ‘words,’ ‘the words,’ ‘all,’ ‘with all.’ [These additional usages serve what purpose?]

[P] “The reference is to Scripture, Mishnah, Talmud, and lore – and even what an experienced disciple is destined to teach in the future before his master already has been stated to Moses at Sinai.”

[Q] That is in line with the following verse of Scripture: “Is there a thing of which it is said, ‘SC, this is new’? He and his fellow will reply to him, ‘It has been already in the ages before us’” (Qoh. 1:10).

[I:3 A] *It has been taught: Two people should not read while one translates [T. Meg. 3:20G].*

[B] Said R. Zeirah, “It is because of the need [which two individuals cannot fulfill] to say a blessing.”

[C] *And lo, it is taught: And two should not translate while one reads in the Torah [T. Meg. 3:20G].*

[D] *Can you say here too that it is because of the need to say a blessing?*

[E] But it is because two different voices cannot reach the ear at once.

[F] *It has been taught: Two may read in the Torah, but two may not read in the prophetic lection [cf. T. Meg. 3:20H].*

[G] Said R. Ulla, “There is an obligation to hear the reading of the Torah [so people will make the effort to hear even two voices reading together], but there is no obligation to hear the reading of the prophetic lection.”

[H] *It has been taught: One person reads in the Torah and one translates [into Aramaic].*

[I] **One person should not read while two translate, nor should two read while one translates, nor should two read while two translate.**

[J] **One person reads in the prophetic lection and one translates, one reads and two translate, but two should not read while one translates, nor should two read while two translate.**

[K] **One reads in the Scroll of Esther while one translates,**

[L] **one reads while two translate,**

[M] **two read while one translates,**

[N] two read while two translate [cf. M. Meg. 4:41 [T. Meg. 3:20F-L].

[O] Does the translation form part of the indispensable requirement in the reading]?

[P] *Said R. Yosé, “On the basis of what we see, namely, rabbis going forth to a fast and reading [Scripture] but not translating it, it is to be inferred that translation does not form part of the indispensable requirement.”*

[Q] *Said R. Jonah, “Even though you [properly] maintain that the translation does not form part of the indispensable requirement [in reading the Torah], still, if the translator made a mistake, they make him go back and correct it.” [This will now be illustrated.]*

[R] [With reference to the proper translation of Deut. 26:2, bringing the first fruits of the land “in a basket,” there is a dispute as to whether, if a translator erred in dealing with that verse, one makes him go back and correct the error. R. Jonah and R. Jeremiah – one of them has the translator go back and correct himself on account of the use of the word in Aramaic, utensil [for the word basket].

[S] The other had the translator go back on account of the use of the Aramaic word for unleavened bread with various herbs [at Ex. 12:8]. [That is, in the former case, the translator used the word, “utensil,” instead of the Aramaic word for basket, and in the latter, one translator translated Ex. 12:8, unleavened bread with herbs, instead of unleavened bread and bitter herbs.] He had him say, “Unleavened bread with bitter herbs.”

[T] *Now we do not know which one said this and which one said that.*

[U] *On the basis of that which R. Jonah said, “What is the law about bringing the first fruits in baskets made of silver?” it would follow that he is the one who had the translator correct himself if he used the word “utensil.” [To him the type of object in which the first fruits were to be brought clearly was a matter of meticulous concern. Accordingly,] he had the translator say the Aramaic word for basket, in particular.*

[V] *R. Phineas had the translator go back and correct himself if he said, “Fatlings and young doves,” to take it back and correct it to read, “Doves and young doves.”*

- [I:4 A] How do we know from Scripture that there is to be a translation of the biblical readings for the congregation?
- [B] R. Zeirah in the name of R. Hanan: “[‘And they read from the book, from the law of God, clearly; and they gave the sense, so that the people understood the reading’ (Neh. 8:8).] ‘And they read from the book, from the law of God’ – this refers to the Scripture.
- [C] “‘Clearly’ – this refers to the translation thereof.
- [D] “‘And they gave the sense’ – this refers to the proper articulation.
- [E] “‘So that the people understood the reading’ – this refers to the tradition [on the meaning].”
- [F] *And there are those who say*, “This means the grammatical constructions.”
- [G] *And there are those who say*, “This means the first words of the successive verses.”
- [H] R. Zeira in the name of R. Hananel: “Even one who is experienced in reading the Torah as was Ezra should not recite it from memory.
- [I] “This is shown from that which is said in the case of Baruch: ‘Baruch answered them, “He dictated all these words to me, while I wrote them with ink on the scroll”’ (Jer. 36:18).
- [J] *And lo, it has been taught*:
- [K] **Said R. Simeon b. Eleazar, “M’SH B: R. Meir went to Assya to intercalate the year, and he did not find there a Scroll of Esther written in Hebrew.**
- [L] **“So he wrote one out from memory, and then he went and read [the Scroll of Esther] from it” [T. Meg. 2:5B-C].**
- [M] They do not derive a precedent from what is done in a time of stress.
- [N] And there are those who say that he wrote out two of them. He wrote out the first from memory. Then he wrote the second by copying out the first, and then he hid away the first one and read out of the second.
- [O] *R. Ishmael b. R. Yosé says, “I am able to write out the entire Scripture from memory.”*

[P] *R. Hiyya the Elder said, "I can write it out for two hundred copper coins."*

[Q] *What did he do? He went and bought flax seed worth two hundred copper coins. He sowed it, reaped it, made it into ropes, caught a deer, and wrote the entire Torah on the deer hide.*

[R] Rabbi heard and said, "Blessed is the generation of which you are a part."

[I:5 A] What is the blessing that one says over [the Scroll of Esther]?

[B] Zakkai, the butcher, in the name of R. Yohanan: "who has taken up your quarrel, exacted vengeance for you, who has redeemed you and saved you from the hand of your oppressors."

[C] To this point the blessing cited applies after the reading. What about the blessing prior to the reading?

[D] Lo, it is like the blessing that applies to all other religious duties of the Torah.

[E] Just as all of the other religious duties require a blessing [before being done] so this one requires such a blessing.

[F] [How we say a blessing] before [reading in the Torah] is written in the Torah, but how we say a blessing after [reading in the Torah] is not written in the Torah.

[G] It is written in the Torah what is said in advance: "When I will proclaim the name of the Lord. Ascribe greatness to our God!" (Deut. 32:3).

[H] And in connection with a meal what is to be said as a blessing after the meal is written in the Torah, but what is said as a blessing before the meal is not written in the Torah.

[I] What is written in the Torah in connection with a blessing after the meal?

[J] "And you shall eat and be full, and you shall bless the Lord your God for the good land he has given you" (Deut. 8:10).

[K] Now how do we know that that which is stated in this regard applies also in that regard, and that that which is stated in that regard also applies in this regard?

- [L] R. Samuel bar Nahman in the name of R. Jonathan: “The Divine Name is used in both regards, serving to establish grounds for drawing an analogy.
- [M] “Just as the Name is stated in connection with the Torah, requiring a blessing prior to reading the Torah, [that is Deut. 32:3,] so the Name used with reference to a meal means that there is to be a blessing prior to the meal as well as after it.
- [N] “And just as the Name, used in connection with the meal, means that there is a blessing after it, so the Name, stated in connection with the Torah, indicates that there is to be a blessing after it.”
- [O] Up to this point the matter has been proved in accord with the exegetical principles of R. Aqiba. What about proving the same matter on the basis of the principles of R. Ishmael?
- [P] R. Yohanan in the name of R. Ishmael: “It is an argument a fortiori. Now if the eating of food, which does not require a blessing beforehand, requires a blessing afterward, reading the Torah, which does require a blessing beforehand – is it not a matter of logic that it should require a blessing afterward?”
- [Q] Up to this point the matter of Torah has been proved. How about food?
- [R] “Now if [75a] reading the Torah, which does not require a blessing afterward, does require the saying of a blessing beforehand, a meal, which does require saying a blessing afterward – is it not a matter of logic that it should require the saying of a blessing beforehand?”
- [S] R. Isaac and R. Nathan – R. Isaac said, “[As soon as you enter the city, you will find him, before he goes up to the high place to eat; for the people will not eat till he comes,] since he must bless the sacrifice; afterward those who are invited eat. [Now go up, for you will meet him immediately]” (1 Sam. 9:13).
- [T] R. Nathan says, “‘You shall serve the Lord your God, and I will bless your bread and your water,’ (Ex. 23:25).
- [U] “When is it called, ‘your bread’? Before you have eaten it? [It is when you have served the Lord.]”

[V] Rabbi says, “Now if when one has eaten and been satisfied, you say that he has to say a blessing. When he is yet hungry and eager to eat, is it not an argument a fortiori [that he must say a blessing]?”

[W] Up to this point, we have proved the case for a meal. How about the blessings before and after reading the Torah?

[X] Now if eating a meal, which serves only to support this transitory life, requires the saying of a blessing beforehand and afterward, the reading of the Torah, which serves for life eternal, all the more so [must there be a blessing beforehand and afterward] !

[Y] *R. Zeirah raised the following question: “As to the three who are called up to read the Torah, how do you treat them? Are they equivalent to three who have eaten land so say a blessing] at the same time, or are they treated as equivalent to three who have eaten each by himself?*

[Z] “If you treat them as equivalent to three who have eaten simultaneously, the first one called to the Torah says the first blessing, and the last one called to the Torah says the last blessing, and the one in the middle does not say any blessing at all.

[AA] “If you treat them as equivalent to three who have eaten individually, even the one in the middle says a blessing both before and after the reading of the Torah.”

[BB] Said R. Samuel bar Abodema, “They have derived the law for saying a blessing over the Torah from the law for saying a blessing for a meal only for the purpose of reading the Torah in public.”

[CC] If they have derived the law only in connection with an event in public, then even if one does it by himself, he should not say any blessing at all.

[DD] Said R. Abba Mari, brother of R. Yosé, “They have treated it as equivalent to all of the other religious duties laid down in the Torah. Just as all of the other religious duties laid down in the Torah

require blessings, so this act also requires a blessing.”

[EE] *Said R. Samuel bar Nahman, “R. Jonathan went by a synagogue, and he heard the reading of the Torah, but no blessings said afterward. He said to them, ‘How long will you treat the Torah as cut up into patches [left barren, without a blessing]?’”*

- [I:6 A] Moses ordained that Israel should read in the Torah on Sabbaths, festivals, new moons, and intermediate days of the festival, as it is written, “Thus Moses declared to the people of Israel the appointed feasts of the Lord” (Lev. 23:44).
- [B] Ezra ordained that Israel should read in the Torah on Monday and Thursday and on the Sabbath afternoon.
- [C] He ordained immersion for men who had suffered an emission.
- [D] He ordained that courts should be in session in the towns on Monday and on Thursday.
- [E] He ordained that peddlers should circulate among the towns for the honor owing to Israelite women [who might thereby purchase ornaments].
- [F] He ordained that they should do laundry on Thursday, for the sake of the honor owing to the Sabbath.
- [G] He ordained that they should bake bread on Fridays, so that a loaf should be available for the poor.
- [H] He ordained that people should eat garlic on Sabbath nights, for it serves as an aphrodisiac and also satisfies desire [at one and the same time].
- [I] He ordained that women may converse with one another in synagogue.
- [J] He ordained that a woman must wear a petticoat, both in front and in back, as a matter of chastity.
- [K] Said R. Tanhum bar Hiyya, “It was because of an actual event. There was a case in which a woman was subjected to sexual relations by an ape, both through the vagina and through the rectum.”
- [L] He ordained that a woman should shampoo her hair and put on makeup [even] three days before entering her time of cleanness.

[M] R. Yosé in the name of the house of R. Yannai, R. Ba bar Kohen in the name of R. Huna, “This is a span of time sufficient to take account of the Sabbath as well as the two days of festival observed in the Exile.”

[N] R. Zeirah in the name of R. Judah, “And that law applies only if the time for her to immerse [at the end of her period] had arrived in the meantime.”

[O] R. Ba in the name of R. Judah: “And even if her time to immerse came at the end [of that period].”

[P] And R. Zeirah stared at him in astonishment.

[Q] He said to him, “Why are you staring at me? ‘What do you know that we do not know? What do you understand that is not clear to us?’” (Job 15:9).

[R] R. Aha in the name of R. Tanhum b. R. Hiyya came and stated the reason, “And even if her time for immersion came at the end, perhaps the time of her flow may come a long time later, [and if you say that she may not rely on her shampooing earlier, that is, prior to the Sabbath, and she does not immerse at the end,] she may then tarry and postpone immersing until afterward, and she will not be clean. [So this lenient ruling has been made to encourage some sort of immersion.]”

4:2

[A] On new moons and on the intermediate days of festivals four read [in the Torah].

[B] They do not assign fewer, and they do not assign more, to their number.

[C] And they do not conclude with a prophetic lection.

[D] He who begins the reading of the Torah and he who completes the reading of the Torah says a blessing before and afterward.

[I:1 A] [With reference to M. 4:1E,] R. Huna said, “The three who are called up to the Torah [on Monday and Thursday] should not read less than ten verses of Scripture.”

[B] Hezekiah said, “This is to match the Ten Commandments.”

[C] *And lo, we have learned in the Mishnah, On the first day they read from, “In the beginning” (Gen. 1:1) to, “Let there be a*

firmament” (Gen. 1:9) [M. Ta. 4:3]. *Now there are only eight verses in that set?*

[D] *R. Idi says, “Kahana and Assi differed.*

[E] *“One said, ‘He goes back [and repeats].’*

[F] *“The other one said, ‘He cuts one into two.’”*

[G] *He who said he goes back indicates that one goes back and repeats two verses.*

[H] *He who said that one cuts a verse into two holds that, “And there was evening, and there was morning” constitutes [two verses], each a verse by itself.*

[I] *And lo, we have learned in the Mishnah: **On the second day, from, “Let there be a firmament” to, “Let the waters be gathered together” [M. Ta. 4:3].** [There are only seven verses.]*

[J] *He who says, “Let him repeat what he has already read,” maintains that he repeats two verses.*

[K] *But he who said, “He cuts up [the last] verse into two,” in this case, even if one cuts it into two, there is no [adequate number, since there are only nine verses anyhow].*

[L] *[To Huna’s statement, A,] Phillippi bar Perutah objected before R. Jonah, “Lo, there is the pericope of Amalek [which contains only nine verses].”*

[M] *He said to him, “That case is different, for it is part of the order of the day [a pericope unto itself].”*

[N] *R. Eleazar bar Merom objected: “And lo, it is taught: ‘He who completes the Torah reading with the prophetic lection should read no less than twenty-one verses [three verses for each of the seven who have been called to the Torah].’ [Now if Huna’s position is adopted,] there should be twenty-three. [Twenty for the first six called to the Torah, three for the seventh one, twenty three in all, rather than twenty-one.]”*

4:3

[A] **This is the governing principle:**

- [B] **On any day on which there is an addition offering, and which is not a festival day, four read.**
- [C] **On a festival, five [read].**
- [D] **On the Day of Atonement, six [read].**
- [E] **On the Sabbath seven [read].**
- [F] **[On that day] they do not assign fewer, but they do assign more, to their number.**
- [G] **And they do conclude with a reading of a prophetic lection.**
- [H] **And he who begins the reading of the Torah and he who completes the reading of the Torah says a blessing before and afterward.**
- [I:1 A] **And on the Day of Atonement, six [read] [M. 4:3D].**
- [B] *There is a Tannaite authority who teaches, “Seven [read].”*
- [C] *The one who says that it is six holds that view because of the [protracted] prayer[s of the day, which run on and leave no time].*
- [D] *The one who says that it is seven does so because of the following, as it has been taught:*
- [E] *On the Sabbath they make haste to come [early] and they make haste to leave [early]. On the festival they tarry in coming and make haste to leave. On the Day of Atonement they make haste to come, and they tarry in leaving.*
- [I:2 A] **Those who speak foreign languages are not accustomed to do so [that is, to divide up the reading].**
- [B] **But one reads the entire passage.**
- [C] **If one person knew the entire passage, he reads the entire thing.**
- [D] **If seven know three verses, all of them read [three each].**
- [E] **If one knows three verses, he reads and goes and reads again.**
- [I:3 A] **R. Zeirah in the name of R. Jeremiah: “A slave counts in the quorum of seven.**
- [B] **“The words, ‘And he spoke’ count among the three required verses.”**
- [C] **Did not R. Hama bar Uqba say in the name of R. Yosé b. R. Haninah, “It is forbidden to teach one’s slave Torah”?**
- [D] **Interpret the statement [that a slave may read] to apply to one who studied on his own, or whose master taught him, as in the case of Tabi [Gamaliel’s famous slave].**

- [II:1 A]** [As to the seven of M. 4:3E:] R. Helbo, R. Mattenah, Samuel bar Shilat in the name of Rab: “The seven is exclusive of the one who reads the prophetic lection.”
- [B] *R. Hananiah b. Pazzi objected, “And lo, we have learned: He who reads the prophetic lection should not read fewer than twenty-one verses [that is, three for each of the seven who have read the Torah]. [If the one who reads the prophetic lection then is the eighth, there should be twenty-four, not twenty-one verses.]”*
- [C] [Rab] made the statement and he supplied the reason: “That is when there is no translator. But if there is a translator in addition, they read only three verses of a prophet [and that suffices, since it otherwise becomes burdensome for the congregation]. [Accordingly, the issue of reading twenty-one verses is not important, and there is no provision made for the lector of the prophetic passage.]”
- [D] *Said R. Helbo before R. Abbahu, “Before R. Yohanan they read only three [verses of a prophet].”*
- [E] He said to him, “And should not R. Yohanan be regarded as equivalent to a translator?”

4:4

- [A] [Rites performed only with a quorum present:] They do not recite the Shema [with the blessings before and after],**
- [B] they do not pass before the ark [to lead prayers],**
- [C] [the priests] do not raise up their hands,**
- [D] they do not read in the Torah,**
- [E] they do not conclude with a prophetic lection,**
- [F] they do not observe the stations [when burying the dead], bless mourners, express consolation to mourners,**
- [G] [or give] a blessing of a wedding couple,**
- [H] and they do not invoke the name of God in the Grace,**
- [I] [when there are] less than ten.**
- [J] And in the case of [assessing the redemption value of dedicated] immovable property, [the assessment is made by] nine and a priest.**
- [K] And in the case of [the Valuation-vow] of man, the law is the same.**
- [I:1 A]** *Since we have learned, They do not recite the Shema when there are less than ten, for what purpose do we additionally learn, They do*

not pass before the ark [to lead prayers when there are less than ten, M. 4:4A, B]?

- [B] It is necessary to take account of a case in which they began with ten, and then some of them left, [so it is as ill he completes [what he began]. [But that is not the case.] **They do not pass before the ark when there are less than ten**, [no matter the situation at the outset of the prayers, when the *Shema* was said].
- [C] If they began with ten, and some of them left, [does one] complete [the matter with the priestly benediction]? [No, that is not the case:] **They do not raise up their hands when there are less than ten [M. 4:4C].**
- [D] If they began with ten and some of them left, [does one] complete [the matter with the reading of the Torah]? [No, that is not the case.] **They do not read in the Torah when there are less than ten [M. 4:4D].**
- [E] If they began with ten and some of them left, [does one] complete [the prophetic lection]? [No, that is not the case.] **They do not conclude with a prophetic lection when they are less than ten [M. 4:4E].**
- [F] If they began with ten, and some of them left, [does one] complete [the rite]?
- [G] In connection with all of them Scripture says, “[But rebels and sinner shall be destroyed together,] and those who forsake the Lord shall be consumed” (Is. 1:28).

[II:1 A] They do not observe the stations [when burying the dead] [M. 4:4F]:

- [B] [The reason is that they say, “Stand, beloved,” “Sit, beloved,” seven times, [and that is not done when there are less than ten].

[III:1 A] They do not bless mourners or give a blessing of a wedding couple [M. 4:4F, G]:

- [B] And do they not give a blessing of a wedding couple [in the Grace after Meals] all seven days after the marriage?
- [C] *R. Jeremiah theorized that they take the bride out all seven days [to the marriage-canopy].*
- [D] [75b] *Said to him R. Yosé, “And lo, R. Hiyya taught: The blessing of mourners is for all seven days [after the burial]. Can you say that the occasion is that they display the corpse all seven-days [that the same should apply to the blessing of the marriage couple]?”*

[E] *What is the upshot of the matter?*

[F] Just as in the one case, one rejoices with the couple, so in the other case, one seeks comfort with the mourner.

[G] Just as in the one case, one makes mention of the occasion [in the Grace after Meals], so in the other case, one makes mention of the occasion.

[III:2 A] *There is a Tannaite authority who teaches, “Mourners do not count toward a quorum.”*

[B] *There is a Tannaite authority who teaches, “Mourners do count toward a quorum.”*

[C] *[Harmonizing these two rules,] said R. Abonah, “He who maintains that mourners do not count toward a quorum speaks of mourners of that particular deceased. He who maintains that mourners do count toward a quorum speaks of mourners of some deceased other than the one at hand.”*

[D] *[But do we find that a mourner may go forth to comfort another mourner, that there would be a case in which a mourner would count toward a quorum in the case other than his own deceased?] For has it not been taught: [A mourner] goes forth to receive comfort, but not to comfort [others]?*

[III:3 A] *Samuel taught, “The declaration of the sanctification of the new moon takes place only with a quorum of ten.”*

[III:4 A] R. Ba, R. Yasa in the name of R. Yohanan: “Here it is stated, ‘Congregation’ (Num. 35:24, 25), and there it is stated, ‘How long shall I bear with this evil congregation’ (Num. 14:27).

[B] “Just as ‘congregation’ referred to at the latter point is made up of ten individuals, so ‘congregation’ referred to at the former likewise is made up of ten individuals.”

[C] Said R. Simon, “Here it is written, ‘within,’ [‘And I shall be sanctified within the people of Israel’ (Lev. 22:32),] and there it is written, ‘within,’ [‘Thus the sons of Israel came to buy within the others who came’ (Gen. 42:5)].

[D] “Just as ‘within’ stated in the latter context refers to ten, so ‘within’ stated in the former refers to ten.”

[E] Said to him R. Yasa b. R. Bun, “If from the usage of ‘within’ you wish to derive the matter, then there are many usages of ‘within’ which refer to more than ten.

[F] “But here [Lev. 22:32], ‘sons of Israel’ is mentioned, and elsewhere, ‘sons of Israel’ is mentioned. Just as ‘sons of Israel’ stated there, ‘And the sons of Israel came to buy’ (Gen. 42:5), refers to ten, so here the same language refers to ten.”

[IV:1 A] [With reference to Assessment of the value for purposes of redemption of things which have been consecrated is done before three judges (M. San. 1:2K). Property pledged as security for vows of valuation, in the case of movables, is evaluated by three judges. And in the case of real estate it is done by nine and a priest (M. San. 1:2L-N):] And in the case of assessing the value for redemption of dedicated immovable property, the assessment is made by nine and a priest; in the case of the valuation-vow of man, the law is the same [M. 4:4J-K]:

[B] The requirement of ten is for the ten priests mentioned in the passage dealing with sanctification [Lev. 27; that is, three times for personal valuations, Lev. 27:8; three for valuation of animals, Lev. 27:13; four in connection with the sanctification of property, Lev. 27:14,18, 23].

[C] If so should all of them be priests?

[D] What we have is an encompassing clause following another such clause, which then serves to exclude.

[E] If so, let them all be Israelites?

[F] The transaction cannot be completed without the presence of a priest.

[G] This rule [that we require for immovable property nine and a priest] applies when one has consecrated his field itself.

[H] But if one has said, “The value of my field is incumbent upon me,” what is the law? [Do we invoke the analogy of the law covering valuations of movables, on the basis of his dedicating funds? Or do we deem the language to encumber actual real estate?]

[I] *Let us derive the law from the following: [Property pledged as security for] vows of valuation, the case of movables, is evaluated by three judges [M. San. 1:2L].*

[J] Now, by definition, is there such a thing as valuation-vows which do not cover movables? [Obviously not, since those vows, by definition, cover persons or movables. So the stated language covers a statement such as, “The value of my field is incumbent upon me.”]

[K] R. Jacob bar Aha, R. Simeon bar Abba in the name of R. Haninah: “He who says, ‘My valuation is incumbent upon me,’ and one came to arrange for his [payment]: If [the payment is] from real estate – they assess the value in a court of ten. But if the valuation is to be paid from movables, it is with a court of three.”

[L] [From the foregoing statement, we draw the following inference:] He who says, “My valuation is incumbent on me” is not in the status of him who says, “The valuation of my field is incumbent on me.”

[M] But if he said, “Lo, incumbent on me is a hundred manehs for the sanctuary,” they assess [whatever he presents in payment] in a court of three.

[N] But if he should get rich, they assess him for all he can pay.

[IV:2 A] *It was taught:* Slaves, bonds, and movables are not subject to a deed of inspection [issued by a court announcing the sale of these items in order to attract bidders and so discover an exact market value for such items]. [Such a deed is issued to provide advance notice of the forthcoming auction, thirty days for property accruing to orphans, sixty days for property accruing to the sanctuary. But no such deed is announced in the stated types of property.]

[B] What is a deed of inspection?

[C] R. Judah b. Pazzi said, “It is an announcement.”

[D] [The reason that these three items are not publicly advertised prior to auction,] Ulla bar Ishmael said, “is this: In the case of slaves, so that they not flee; in the cases of bonds and movables, so that they not be stolen [under the pretext of advance inspection].”

[E] *R. Ba bar Kahana raised the question before R. Yosé:* “Does this rule not imply that slaves are to be redeemed by the assessment of three judges [for slaves are in the status of movables in general, so that slaves will not hear they are to be sold, and so flee]?”

[F] He said to him, “Yes.”

[G] [He said to him,] “*And yet we have learned: **Immovable property is assessed by nine and a priest, and in the case of man, the law is the same** [M 4 4J-K]. [So ten, not three, are required.]”*

[H] He said to him, “But here the reference is to a free man [who is subject to valuation and not to a slave. A slave will be evaluated by three].”

[I] [With reference to **M. Ket. 11:5A-B, If the estimate of the value made by judges was a sixth too little or a sixth too much, their act of sale is void. Rabban Simeon b. Gamaliel says, “Their act of sale is confirmed...,”**] *Hinenah bar Shelameh said in the name of Rab, “A case came before Rabbi, and he considered applying the law in accord with the position of rabbis.*

[J] “Said to him R. Eleazar b. Parta, son of the son of R. Eleazar b. Parta, ‘Rabbi! Did you not teach us in the name of your forefathers, But if they issued a deed of inspection, [the sale is valid]? [That is, Rabbi’s forefather, Simeon b. Gamaliel, took the position that whether or not there is a deed of inspection, the sale is valid. Rabbis’ position, then, is as stated.]’

[K] “He said to him, ‘Yes.’

[L] “And he retracted and decided the case in accord with the position of R. [Simeon b.] Gamaliel.”

4:5

[A] **He who reads in the Torah should read no fewer than three verses.**

[B] **He may not read to the translator more than a single verse [at a time, so the translator will not err],**

[C] **and, in the case of the prophetic lection, three.**

[D] **[If] the three constitute three distinct pericopae, they read them one by one.**

[E] **They skip [from place to place] in the prophetic lections but not in the Torah lections.**

[F] **And how far may one skip?**

[G] [Only] so much that the translator will not have stopped [during the rolling of the scroll].

- [I:1 A]** R. Ba b. R. Hiyya bar Ba, R. Hiyya in the name of R. Yohanan: “If one was reading in the Torah and was struck dumb, the one who follows him should begin [to read] at the place at which the former [reader] had begun.
- [B] “If you maintain that he begins at the place at which the other stopped, then the first verses [read by the one struck dumb] have been given a blessing before they were read, but they have not been given a blessing after they were read, while the latter verses [read by the replacement] will be given a blessing after they are read, but they will not be given a blessing before they were read.
- [C] “And it is written: ‘The Torah of the Lord is perfect’ (Ps. 19:7) – that the whole of it be perfect.”
- [I:2 A]** [With reference to M. 4:5A, reading no fewer than three verses,] if the pericope assigned to a reader consisted of five verses, he should read the whole of it.
- [B] If he did not do so, but read only three verses, the one who follows him has to read those last two verses and three from the next pericope.
- [C] If one did not do so – what is the law as to that fact’s invalidating the reading?
- [D] *R. Jonah and R. Yosé went up to visit the brother of Judah bar Tammuzah, relative of R. Yosé b. Haninah, in the synagogue of Sokhenayya. R. Jeremiah was there, and he declared [that not doing so] had invalidated the reading. Said R. Jonah to R. Yosé, “And do they force [him to go back and read the passage again]?”*
- [E] He said to him, “Lo, your master declares [the reading to be] invalidated, [so they assuredly do go back and reread the passage].”
- [F] R. Simeon Sarah, R. Hinena bar Andrai in the name of R. Zakkai of Kabbul: “If one erred between one word and the next, they make the reader go back and repeat the words correctly.”
- [G] Said R. Jeremiah to R. Zeirah, “And do they really do it that way?”
- [H] He said to him, “Are you still in doubt in this matter? Even if he erred on such a matter as, if, as against, and if, they make him go back and repeat it correctly.”

- [I:3 A] *To R. Simeon, teacher of Trachonitis, the townspeople said, “Cut your reading short, so that our children may learn to read [by following it slowly].”*
- [B] *He came and asked R. Haninah. He said to him, “Even if they cut off your head do not listen to them.” So he did not listen to them, and they fired him from his job as teacher.*
- [C] *After a while he came down here [to Babylonia, where the story was told]. R. Simon b. Yusinah dealt with him. He said to him, “What did you do in that town?” And he told him the story.*
- [D] *He said to him, “Why did you not listen to them, [and do what they wanted]?”*
- [E] *He said to him, “And do they do it that way?”*
- [F] *He said to him, “And do we not cut a verse in parts in the study session [so as to translate it bit by bit and learn it that way]?”*
- [G] *He said to him, “But do we not then go back and say the whole thing as one piece?”*
- [H] *Said R. Zeira, “If that teacher were alive in my time, I should appoint him as a sage.”*
- [II:1 A] [For an example of a prophetic lection in which there are three verses constituting three distinct pericopae, M. 4:5D:] Said Rab, “For example, ‘Woe to him who strives with his Maker; [an earthen vessel with the potter! Does the clay say to him who fashions it, ‘What are you making?’ or ‘Your work has no handles?]’” (Is. 45:9).
- [III:1 A] **They skip verses in the prophetic lections but not in the Torah lections [M. 4:5E].**
- [B] **And they do not skip from one prophet to another prophet.**
- [C] **But in one of the prophets of the Twelve [minor prophets] they do skip around,**
- [D] **on condition that one not skip from the end of a scroll to the beginning of that same one [M. Meg. 3:19].**
- [E] **They do not skip verses in the Torah lections [M. 4:5E].**
- [F] R. Jeremiah in the name of R. Simeon b. Laqish: “It is because they do not roll the scroll of the Torah in public.”

- [G] *R. Yosé asked, “But what if it was only a small passage [that one wanted to skip]?”*
- [H] He said to him, “The reason is that Israel should hear the Torah in the proper order.”
- [I] And lo, we have learned: The high priest reads in public, ‘After the death’(Lev. 16:1) and, “How be it on the tenth” (Lev. 23:27) [M. Yoma 7:1], [and these are far apart].
- [J] That case is different, because the passages belong to the order of the day.
- [K] You should note that R. Simeon b. Laqish said, “[The case of the High Priest on the Day of Atonement is certainly different, for] on all other occasions one does not read the Torah from memory [but only in the written text], while here he recites from memory.”
- [L] *R. Yosé gave instructions to Bar Ulla, the reader of the synagogue of the Babylonians [in Sepphoris], “When there is only one scroll of the Torah available, you should roll in front of a curtain.*
- [M] *“But when you have two, you bring one of them back to the ark and then take one out.”*
- [N] To what extent [may one skip in the Prophets]?
- [O] Said R. Aha, “For example the passage of Jehoiada the priest [2 Kings 12:1-4, which consists of only four verses].”

4:6

- [A] He who concludes with the prophetic lection is the one who recites the Shema [with its blessings fore and aft],**
- [B] and passes before the ark,**
- [C] and raises his hands [in the priestly benediction].**
- [D] But if he was a minor, his father or his teacher pass [before the ark] in his behalf.**
- [I:1 A]** *It was necessary to include the Mishnah’s rule only to indicate that the one who recites the Shema is the one who passes before the ark, and he is the one who raises his hands [since these are all part of the liturgy].*

[B] R. Yosé b. Haninah said, “It was so as to give encouragement [to the one who did all these things, assigning them all as a form of recognition to him].”

[II:1 A] **But if he was a minor, his father or his teacher pass before the ark in his behalf [M. 4:6D].**

[B] *And lo, we have learned: A minor does not recite the Shema [M. 4:7B].*

[C] Said R. Yudan, “In this case [in which he may do so] it is when he has produced two pubic hairs, and in that case, in which he may not do so, he has not yet produced two pubic hairs.”

4:7

[A] **A minor reads in the Torah and translates.**

[B] **But he does not recite the Shema, pass before the ark, or raise his hands [in the priestly benediction].**

[C] **He who is wearing ragged clothing recites the Shema and translates, but he does not read in the Torah, pass before the ark, or raise his hands.**

[D] **A blind man recites the Shema and translates.**[E] **R. Judah says, “Whoever in his entire life has never seen light does not recite the Shema.”**

[I:1 A] *There we have learned, “A blind person does not go into exile [to cities of refuge], “ the words of R. Judah. R. Meir says, “He does go into exile” [M. Mak. 2:5].*

[B] And both of them interpret the same verse.

[C] “Or if he used a stone, by which a man may die, and] without seeing him [cast it upon him so that he died]” (Num. 35:23) –

[D] R. Meir says, “The reference to ‘not seeing him’ is meant to encompass a blind person.”

[E] R. Judah says, “It is meant to exclude a blind person.”

[F] *R. Haggai asked before R. Yosé, “The opinions assigned to R. Judah are reversed.*

[G] *“There he has said that it serves as an exclusion [at M. 2:5G], and here [at M. Meg. 4:6] he states that it serves to encompass [one who once had sight and lost it]. Excluded is he who in his*

entire life has never seen light [M. 4:7E]. Lo, if he has seen it, he does recite the *Shema*.”

[H] *Said R. Haninah son of R. Hillel, “The Mishnah speaks of a case in which one is sitting in a house wholly without light, [and has nothing to do with blindness].”*

[I] Thus does the law state, “He who is sitting in a house without light should not recite the Shema”?! [Obviously not!]

[J] But here, the phrase “without seeing” serves to encompass the blind person [as stated].

[K] [Y. Mak. 2:5 adds:] How do rabbis [= Judah] interpret the language, “without seeing”?

[L] It is to encompass him who smites someone by night.

4:8

[A] A priest who has blemishes on his hands should not raise his hands in the priestly benediction.

[B] R. Judah says, “Also, he whose hands are dyed with woad or madder should not raise his hands,

[C] “because the people stare at him.”

[I:1 A] *It has been taught:* [If the priest has blemishes also] on his face [he should not raise his hands in the priestly benediction.]

[I:2 A] *It has been taught:* **But if he was well known in his town, lo, he is permitted [to bless the congregation, despite his blemishes] [T. Meg. 3:29D].**

[B] *R. Naftali had crooked fingers. He came and asked R. Mana. He said to him, “[75c] Since you are well known in your town, it is permitted.”*

[C] *R. Huna would remove someone with a downy beard [from pronouncing the priestly benediction].*

[D] *And lo, it has been taught:* **But if he was well known in his town, it is permitted.**

[E] *Said R. Muna, “There was ample basis. It was so that people should not say, ‘We saw a minor raising his hands [and giving the priestly benediction].”*

[F] Said R. Yosé, “That indicates that it is forbidden to look at the priests when they are saying a blessing for Israel.”

[G] Said R. Haggai, “Did they not say that they do not look at the priests because of thereby distracting oneself [from receiving the blessing]? By Moses! I can look at the priests and not be distracted!”

4:9

[A] He who says, “I am not going to pass before the ark wearing colored clothes” also in white ones should not pass before the ark.

[B] “In a sandal I am not going to pass before the ark” – also wearing shoes he should not pass before the ark.

[C] He who makes his tefillin round – it is a source of danger and [still] does not fulfill a religious requirement.

[D] [If] he put it on his forehead or on the palm of his hand, this is the way of heresy.

[E] [If] one covered them with gold or put it on his sleeve, this is the way of outsiders.

[I:1 A] *R. Yosé b. Bibai taught*, “That tefillin should be square and black is a law revealed to Moses at Sinai.”

4:10

[A] He who says, “May the good ones bless you,” lo, this is the way of heresy.

[B] [He who says the following rhyme:] “Even to a bird’s nest do your mercies extend, May your name be remembered for good, “ [or]

[C] “We give thanks, we give thanks” – they silence him.

[D] He who changes the pronouns [when reading] the pericope of the prohibited relationships [Lev. 18] – they silence him.

[E] He who says, “And you shall not give any of your seed to make them pass through fire to Molech ‘ (Lev. 18:11) means, ‘And you shall not give of your seed to impregnate an Aramaean” – [that is, one must not have sexual relations with an Aramaean woman] – they silence him with a rebuke.

[I:1 A] He who says, “May the good ones bless you “ [M. 4:10A]:[This indicates belief in] two dominions [one made up of good, the other made up of evil].

[B] R. Phineas in the name of R. Simon, “It is as if he lays a reproach against the measures of the Holy One, blessed be he.”

[II:1 A] He who says, “Even to a bird’s nest do your mercies extend” [M. 4:10B]:

[C] “But to me your mercies do not extend.” [This is a reproach; God cares for small things but not for the one who makes the statement.]

[D] R. Yosé in the name of R. Simon, “It is as if he places a limit on the measures [of justice] of the Holy One, blessed be he.”

[II:2 A] Even to a bird’s nest do your mercies extend [M. 4:10B]:

[B] *There is a Tannaite authority who teaches that the Mishnah is read, Even upon...*

[C] *There is a Tannaite authority who teaches that the Mishnah is read, Upon.... [That is, **Upon a bird’s nest do your mercies rest.**]*

[D] *He who says that it reads, “Upon,” supports the view of R. Phineas.*

[E] *He who says it reads, “Even to,” supports the view of R. Yosé.*

[F] Said R. Yosé b. R. Bun, “They do not do well, for they treat the measures of the Holy One, blessed be he, as acts only of mercy, [when in fact they are decrees].”

[G] *Those who translate [Lev. 22:28] “My people, children of Israel, just as we are merciful in Heaven, so you must be merciful on earth; whether the mother is a cow or a ewe, you shall not kill both her and her young both in one day,” – those translators do not do well, for they treat the decrees of the Holy One, blessed be he, [merely] as acts of mercy.*

[III:1 A] “We give thanks, we give thanks” – they silence him [M. 4:10D]:

[B] Said R. Samuel b. R. Isaac: “For the mouths of liars will be stopped” (Ps. 63:11).

[C] *That is the case in public prayer. But in private, it represents supplications.*

[D] *Along these same lines, [If someone said,] “Amen, Amen,” or “Hear, Hear.”*

[III:2 A] An announcer who stands before [and serves] a sage does not have the right to shorten [what the sage says] or to add to what he says

or to change [what he says], unless the [announcer] was his [the sage's] father or his master [T. Meg. 3:4].

[B] *R. Pedat was the Amora [repeating his words in a loud voice] for R. Yosé.*

[C] *If R. Yosé said something that he had heard from the father of R. Pedat, he would say, "Thus did my master [Yosé] say in the name of my father."*

[D] *As to things which R. Yosé had not heard from [Pedat's] father [but from R. Eleazar], he would say, "Thus did Rabbi say in the name of R. Eleazar."*

[E] *Bar Yashita was the Amora for R. Abbahu. When the latter said things that he had heard from his father, he would say, "So did the Rabbi say in the name of father."*

[F] *As to things that he had not heard from his father, he said, "This did the Rabbi say in the name of R. Hinenah."*

[G] *When R. Mana taught among the associates things that he had heard from his father [Jonah] at home, he would say, "Thus did the Rabbi say in the name of R. Jonah."*

[H] *When he would say things which he had heard from his father in the meetinghouse, he would say, "Thus did R. Jonah say."*

[IV:1 A] He who changes the pronouns [when reading] the pericope of the prohibited relationships [M. 4:10E]:

[B] Saying, "The nakedness of his father," "The nakedness of his mother."

[V:1 A] He who says, "And you shall not give any of your seed to make them pass through fire to Molech" means, "And you shall not give of your seed to impregnate an Aramaean woman"[M. 4:10F]:

[B] R. Ishmael taught: "This is one who marries an Aramaic woman and produces children from her. He sets up enemies of the Omnipresent."

4:11

[A] The act of Reuben [Gen. 35:22] is read but not translated.

[B] The act of Tamar [Gen. 38:1ff.] is read and translated.

[C] The first act of the calf [Ex. 32:1-20] is read and translated.

[D] The second one [Ex. 32:21ff.] is read but not translated.

[E] The blessing of the priests [Num. 6:24-26], the story of David [2 Sam. 11:2ff.] and of Amnon [2 Sam. 13:1ff.], are not read and not translated.

[I:1 A] It is written, “What wise men have told and their fathers have not hidden” (Job 15:18).

[B] What reward did they receive for this?

[C] “To whom alone the land was given, and no stranger passed among them” (Job 15:19).

[I:2 A] What is the second tale of the calf?

[B] R. Simon in the name of R. Joshua b. Levi: “It derives from the reply which Moses gave to Aaron [Ex. 32:21] to, ‘for Aaron had let them break loose to their shame among their enemies’” (Ex. 32:25).

[C] Hananiah bar Shelamiah in the name of Rab: “It is from the answer that Aaron gave to Moses, up to, ‘for Aaron had let them break loose, to their shame among their enemies’” (Ex. 32:25).

[D] R. Aha in the name of R. Ba, “And the Lord sent a plague upon the people because they made the calf which Aaron made” (Ex. 32:35) [cf. T. Meg. 3:36].

[E] R. Mar Uqban in the name of rabbis over there: “The disgrace of an individual, stated in public, is not the same as the disgrace of the community, stated in public [and the latter verse, assigning the calf to the manufacture of the community, not only to Aaron, is greater disgrace].”

[II:1 A] [As to M. 4:1 IE, The blessing of the priest:] *Now this accords with what* R. Helbo said in the name of Rab Hunah: “The priestly blessings are read but not translated.”

[B] *R. Ba bar Kohen asked before R. Yosé*, “What is the scriptural basis for this view?”

[C] He said to him, “‘Thus shall you bless’ (Num. 6:23), [meaning, these very words] have been given over for a blessing, and are not to be translated.”

4:12

[A] They do not use as the prophetic lection the selection of the chariot [Ezek. 1:1ff.].

[B] R. Judah permits.

- [C] **R. Eliezer says, “They do not use as the prophetic lection, ‘Cause Jerusalem to blow” [Ezek. 16:1ff].**
- [I:1 A] **They do not use as the prophetic lection the selection of the chariot. R. Judah permits. R. Eliezer says, “They do not use as the prophetic lecture, ‘Cause Jerusalem to know” [M. 4:12].**
- [B] **M’S H B: A certain party was reading the prophetic lection before R. Eliezer, “Make known to Jerusalem her abominations.”**
- [C] **He said to him, “Go out and proclaim your own mother’s abominations” [T. Meg. 3:34B-C].**
- [D] They investigated the man’s background and found out that he was a *mamzer*.

FREE-STANDING COMPOSITE ON THE MEZUZAH

- [II:1 A] *As to the mezuzah, where do they set it?*
- [B] R. Zeirah, R. Judah in the name of Samuel: “They divide the doorpost into thirds and place it at the bottom of the upper third.”
- [C] R. Helbo in the name of R. Huna: “One divides the doorpost in half, and one divides the upper half into thirds and puts it at the top of the bottom third.”
- [D] What is at issue between them [since according to both the mezuzah is one third the distance from the top of the doorpost]?
- [E] The location occupied by the mezuzah itself is at issue.
- [F] Bar Taberi asked R. Isaac, “But what if the gateway was very high?”
- [G] He said to him, “One sets it at the height of his shoulders.”
- [H] *The schoolhouse of R. Haninah did it that way.*
- [I] R. Jeremiah in the name of R. Samuel bar R. Isaac, “The mezuzah of the house of Rabbi was set like an upright bolt [reaching the top of the door].”
- [J] **He who suspends his mezuzah in his doorway – it is a danger [when it is prohibited by law], and it does not partake of doing a religious duty.**
- [K] **[If] he put it on a staff and suspended it in an inappropriate place, it is a danger, and it does not partake of doing a religious duty [T. Meg. 2:30B-C].**

- [L] R. Ba in the name of R. Judah, “And is that the case, [that it is invalid] even if he did not nail it in?”
- [M] “*And lo, it has been taught, ‘That is the case if he nailed it in [at an inappropriate place]’ [but not otherwise].*”
- [N] Said R. Yosé, “And that is the case [in the instance of a mezuzah in a staff] when one has designated a place for it.
- [O] “Members of the house of Milion would do so when they went off to battle [fastening the staff containing the mezuzah to whatever house they occupied for the night].”
- [P] Samuel said, “If one placed a mezuzah deeper than a handbreadth [in the doorpost], it is invalid.”
- [Q] R. Zeira in the name of Samuel: “It is necessary that the Shema in the mezuzah face the doorway.”
- [R] *R. Jeremiah in the name of R. Zeira: “That is the meaning of the following Tannaitic teaching, ‘A double door hinged in the middle – one may set the mezuzah on whichever one he wants.’*
- [S] “That is the meaning of the statement that the Shema contained within the mezuzah must face the doorway.”
- [T] A house that has two doors – one places the mezuzah on the door which he usually uses.
- [U] If there were two that he usually used, he places the mezuzah on the rough door [more used than the other].
- [V] If both of them were rough, he places it on the one that he prefers.
- [W] “As to a door that opens to the roof or to the garden, lo, it is equivalent to a door to the rampart,” the words of R. Yosé b. R. Judah.
- [X] And sages say, “It is equivalent to a gate that opens to the market.”
- [Y] He who dwells abroad, and he who dwells in an inn in the land of Israel for thirty days, does not have to put a mezuzah on his door.
- [Z] He who dwells in a station-house for thirty days has to put a mezuzah on his door.

[AA] He who hires a house from an Israelite has to put a mezuzah on his door.

[BB] He who hires a house from a gentile has to put a mezuzah on the door, and when he leaves the house, he takes it with him.

[CC] But in the case of an Israelite's house, it is forbidden to do so.

[DD] R. Jacob bar Aha in the name of R. Josiah, "It is because of an incident that took place. There was the case of one who removed the mezuzah [when he left the house he had rented], and he would bury his children."

[EE] He who dwells in an inn in a foreign country for thirty days does not have to put a mezuzah on the door of his house, but if he did so, he may not remove it when he leaves.

[FF] R. Jacob bar Aha in the name of R. Josiah, "It is because of an incident that took place. There was the case of one who took the mezuzah away with him, and he buried his children."

[GG] The mule driver's gate is liable to have a mezuzah.

[HH] The window four by four cubits in which the slaves sit and fan their masters is liable to have a mezuzah.

[II] Hen coops on top of one another are liable to have a mezuzah, because they are near the threshold at the ground [and so form a single dwelling].

[JJ] *R. Yosé was distressed that he did not see the coop that R. Ilai had made in accord with the opinions of all the rabbis.*

[II:2 A] As to tefillin and mezuzah, which takes precedence?

[B] Samuel said, "The mezuzah takes precedence."

[C] R. Huna says, "A tefillah [one of two] takes precedence."

- [D] *What is the reason for the view of Samuel?* It is because [the mezuzah] applies [is kept on the door] on festivals and Sabbaths [which is not the case of tefillin, for they are removed on those days].”
- [E] *What is the reason of R. Huna?* For [the tefillin apply among those who set sail or depart for the wastelands [while the mezuzah does not].
- [F] *There is the following Tannaitic teaching that supports the view of Samuel:*
- [G] If tefillah wore out, one makes it into a mezuzah. If a mezuzah wore out, one does not make it into a tefillah.
- [H] Why? Because they raise an object to a higher level of sanctity, and they do not lower an object to a lower level of sanctity.

CHAPTER FIVE

THE STRUCTURE OF YERUSHALMI MEGILLAH

Whether or not the Talmud of the Land of Israel is carefully organized in large-scale, recurrent structures and guided by a program that we may call systematic forms the principal question addressed by an academic commentary. The preceding chapters therefore have pointed toward the presentation set forth here. By “structure” I mean, a clearly-articulated pattern that governs the location of fully-spelled out statements. By “system,” I mean, a well-crafted and coherent set of ideas that explain the social order of the community addressed by the writers of a document, a social philosophy, a theory of the way of life, world view, and character of the social entity formed by a given social group. I see a collective, anonymous, and political document, such as the one before us, as a statement to, and about, the way in which people should organize their lives and govern their actions. At issue then in any document such as the remarkable one before us is simple: does this piece of writing present information or a program, facts to whom it may concern, or a philosophically and aesthetically cogent statement about how things should be? The connection between structure and system is plain to see. From the way in which people consistently frame their thoughts, we move to the world that, in saying things in one way rather than in some other, they wish to imagine. Modes of formulating thought adumbrate modes of imagining the world in which people wish to live, to which they address these thoughts.

If the document exhibits structure and sets forth a system, then it is accessible to questions of rationality. We may ask about the statement that its framers or compilers wished to make by putting the document together as they did. But if we discern no structure and perceive no systematic inquiry or governing points of analysis, then all we find here is inert and miscellaneous information, facts but no propositions, arguments, viewpoints. Now as a matter of fact the Talmud of the Land of Israel commonly finds itself represented as lacking organization and exhibiting a certain episodic and notional character. That view moreover characterizes the reading and representation of the document by learned and experienced scholars, who have devoted their entire lives to Talmud study and

exegesis. It must follow that upon the advocate of the contrary view – the one implicit in the representation of the document for academic analysis – rests the burden of proof. I set forth the allegation that the Talmud of the Land of Israel exhibits a structure and follows a system and therefore exhibits a commonly-intelligible rationality. The claim to write an academic commentary explicitly states that proposition. For the tractate before us, I have therefore to adduce evidence and argument.

I maintain that through the normal procedures of reasoned analysis we may discern in the tractate a well-crafted structure. I hold that the structure made manifest, we may further identify the purpose and perspective, the governing system of thought and argument, of those who collected and arranged the tractate's composites and put them together in the way in which we now have them. By "structure" I mean, how is a document organized? and by "system," what do the compilers of the document propose to accomplish in producing this complete, organized piece of writing? The answers to both questions derive from a simple outline of the tractate as a whole, underscoring the types of compositions and composites of which it is comprised. Such an outline tells us what is principal and what subordinate, and how each unit – composition formed into composites, composites formed into a complete statement – holds together and also fits with other units, fore and aft. The purpose of the outline then is to identify the character of each component of the whole, and to specify its purpose or statement. The former information permits us to describe the document's structure, the latter, its system.

While the idea of simply outlining a Talmud-tractate beginning to end may seem obvious, I have never made such an outline before, nor has anyone else. (I have provided complete outlines for the Mishnah and for the Tosefta in relationship to the Mishnah, and, not always in outline form, for the Midrash-compilations of late antiquity as well) Yet, as we shall now see, the character of the outline dictates all further analytical initiatives. Specifically, when we follow the layout of the whole, we readily see the principles of organization that govern. These same guidelines on organizing discourse point also to the character of what is organized: complete units of thought, with a beginning, middle, and end, often made up of smaller, equally complete units of thought. The former we know as composites, the latter as compositions.

Identifying and classifying the components of the tractate – the composites, the compositions of which they are made up – we see clearly how the document coheres: the plan and program worked out from beginning to end. When we define that plan and program, we identify the facts of a pattern that permit us to say in a specific and concrete way precisely what the compilers of the tractate intended to accomplish. The structure realizes the system, the program of analysis and thought that takes the form of the presentation we have before us. From what people do, meaning, the way in which they formulate their ideas and organized

them into cogent statements, we discern what they proposed to do, meaning, the intellectual goals that they set for themselves.

These goals – the received document they wished to examine, the questions that they brought to that document – realized in the layout and construction of their writing, dictate the points of uniformity and persistence that throughout come to the surface. How people lay out their ideas guides us into what they wished to find out and set forth in their writing, and that constitutes the system that defined the work they set out to accomplish. We move from how people speak to the system that the mode of discourse means to express, in the theory that modes of speech or writing convey modes of thought and inquiry.

We move from the act of thought and its written result backward to the theory of thinking, which is, by definition, an act of social consequence. We therefore turn to the matter of intention that provokes reflection and produces a system of inquiry. That statement does not mean to imply I begin with the premise of order, which sustains the thesis of a prior system that defines the order. To the contrary, the possibility of forming a coherent outline out of the data we have examined defines the first test of whether or not the document exhibits a structure and realizes a system. So everything depends upon the possibility of outlining the writing, from which all else flows. If we can see the order and demonstrate that the allegation of order rests on ample evidence, then we may proceed to describe the structure that gives expression to the order, and the system that the structure sustains.

The present work undertakes the exegesis of exegesis, for the Yerushalmi, like its counterpart in the one of Babylonia, is laid out as a commentary to the Mishnah. That obvious fact defined the character of my academic commentary, since we have already faced the reality that our tractate is something other than a commentary, though it surely encompasses one. The problems that captured my attention derived from the deeper question of how people make connections and draw conclusions. To ask about how people make connections means that we identify a problem – otherwise we should not have to ask – and what precipitated the problem here has been how a composition or a composite fits into its context, when the context is defined by the tasks of Mishnah-commentary, and the composition or composite clearly does not comment on the Mishnah-passage that is subjected to comment.

The experience of analyzing the document with the question of cogency and coherence in mind therefore yields a simple recognition. Viewed whole, the tractate contains no gibberish but only completed units of thought, sentences formed into intelligible thought and self-contained in that we require no further information to understand those sentences, beginning to end. The tractate organizes these statements as commentary to the Mishnah. But large tracts of the writing do not comment on the Mishnah in the way in which other, still larger

tracts do. Then how the former fit together with the latter frames the single most urgent question of structure and system that I can identify.

Since we have already examined enormous composites that find their cogency in an other than exegetical program, alongside composites that hold together by appeal to a common, prior, coherent statement – the Mishnah-sentences at hand – what justifies my insistence that an outline of the document, resting on the premise that we deal with a Mishnah-commentary, govern all further description? To begin with, the very possibility of outlining this tractate derives from the simple fact that the framers have given to their document the form of a commentary to the Mishnah. It is in the structure of the Mishnah-tractate that they locate everything together that they wished to compile. We know that is the fact because the Mishnah-tractate defines the order of topics and the sequence of problems.

Relationships to the Mishnah are readily discerned; a paragraph stands at the head of a unit of thought; even without the full citation of the paragraph, we should find our way back to the Mishnah because at the head of numerous compositions, laid out in sequence one to the next, clauses of the Mishnah-paragraph are cited in so many words or alluded to in an unmistakable way. So without printing the entire Mishnah-paragraph at the head, we should know that the received code formed the fundamental structure because so many compositions cite and gloss sentences of the Mishnah-paragraph and are set forth in sequence dictated by the order of sentences of said Mishnah-paragraph. Internal evidence alone suffices, then, to demonstrate that the structure of the tractate rests upon the Mishnah-tractate cited and discussed here. Not only so, but the sentences of the Mishnah-paragraphs of our tractate are discussed in no other place in the entire Talmud of the Land of Israel in the sequence and systematic exegetical framework in which they are set forth here; elsewhere we may find bits or pieces, but only here, the entirety of the tractate.

That statement requires one qualification, and that further leads us to the analytical task of our outline. While the entire Mishnah-tractate of treated here is cited in the Talmud of the Land of Israel, the framers of the Talmud of the Land of Israel by no means find themselves required to say something about every word, every sentence, every paragraph. On the contrary, they discuss only what they choose to discuss, and glide without comment by large stretches of the tractate. A process of selectivity, which requires description and analysis, has told the compilers of the Talmud of the Land of Israel's composites and the authors of its compositions (This statement requires refinement. I do not know that all available compositions have been reproduced, and that the work of authors of compositions of Mishnah-exegesis intended for a talmud is fully exposed in the document as we have it. That is not only something we cannot demonstrate – we do not have compositions that were not used, only the ones that were – but something that we must regard as unlikely on the face of matters. All we may say is positive: the character of the compositions that address Mishnah-exegesis tells us about

the concerns of the writers of those compositions, but we cannot claim to outline all of their concerns, on the one side, or to explain why they chose not to work on other Mishnah-sentences besides the ones treated here. But as to the program of the compositors, that is another matter: from the choices that they made (out of a corpus we cannot begin to imagine or invent for ourselves) we may describe with great accuracy the kinds of materials they wished to include and the shape and structure they set forth out of those materials. We know what they did, and that permits us to investigate why they did what they did. What we cannot know is what they did not do, or why they chose not to do what they did not do. People familiar with the character of speculation and criticism in Talmudic studies will understand why I have to spell out these rather commonplace observations. I lay out an argument based on evidence, not on the silences of evidence, or on the absence of evidence – that alone.) what demands attention, and what does not. Our outline has therefore to signal not only what passage of the Mishnah-tractate is discussed, but also what is not discussed, and we require a general theory to explain the principles of selection (“making connections, drawing conclusions” meaning, to begin with, making selections). For that purpose, in the outline, I reproduce the entirety of a Mishnah-paragraph that stands at the head of a Talmudic composite, and I underscore those sentences that are addressed, so highlighting also those that are not.

It follows that the same evidence that justifies identifying the Mishnah-tractate as the structure (therefore also the foundation of the system) of Yerushalmi-tractate before us also presents puzzles for considerable reflection. The exegesis of Mishnah-exegesis is only one of these. Another concerns the purpose of introducing into the document enormous compositions and composites that clearly hold together around a shared topic or proposition, e.g., my appendix on one theme or another, my elaborate footnote providing information that is not required but merely useful, and the like. My earlier characterization of composites as appendices and footnotes signalled the fact that the framers of the document chose a not-entirely satisfactory way of setting out the materials they wished to include here, for large components of the tractate do not contribute to Mishnah-exegesis in any way at all. If these intrusions of other-than-exegetical compositions were proportionately modest, or of topical composites negligible in size, we might dismiss them as appendages, not structural components that bear much of the weight of the edifice as a whole. Indeed, the language that I chose for identifying and defining these composites – footnotes, appendices, and the like – bore the implication that what is not Mishnah-commentary also is extrinsic to the Talmud of the Land of Israel’s structure and system.

But that language served only for the occasion. In fact, the outline before us will show that the compositions are large and ambitious, the composites formidable and defining. Any description of the tractate’s structure that dismisses as mere accretions or intrusions so large a proportion of the whole misleads. Any notion that “footnotes” and “appendices” impede exposition and disrupt thought, contribute extraneous information or form tacked-on appendages – any such notion begs the question: then why fill up so much space with such purposeless information? The right way is to ask whether the document’s topical composites

play a role in the re-presentation of the Mishnah-tractate by the compilers of the Talmud of the Land of Israel. We have therefore to test two hypotheses:

1. the topical composites (“appendices,” “footnotes”) do belong and serve the compilers’ purpose

or

2. the topical composites do not participate in the re-presentation of the Mishnah-tractate by Yerushalmi and do not belong because they add nothing and change nothing.

The two hypotheses may be tested against the evidence framed in response to a single question: is this topical composite necessary? The answer to that question lies in our asking, what happens to the reading of the Mishnah-tractate in light of the topical composites that would not happen were we to read the same tractate without them? The outline that follows systematically raises that question, with results specified in due course. It suffices here to state the simple result of our reading of the tractate, start to finish: the question of structure, therefore also that of system, rests upon the position we identify for that massive component of the tractate that comprises not Mishnah-commentary but free-standing compositions and composites of compositions formed for a purpose other than Mishnah-commentary.

The principal rubrics are given in small caps. The outline takes as its principal rubrics two large-scale organizing principles.

The first is the divisions of the Mishnah-tractate to which the Talmud of the Land of Israel-tractate serves as a commentary. That simple fact validates the claim that the tractate exhibits a fully-articulated structure. But the outline must also underscore that the Mishnah-tractate provides both more and less than the paramount outline of the Talmud of the Land of Israel-tractate. It is more because sentences in the Mishnah-tractate are not analyzed at all. These untreated Mishnah-sentences are given in bold face lower case caps, like the rest of the Mishnah, but then are specified by underlining and enclosure in square brackets.

Second, it is less because the structure of the tractate accommodates large composites that address topics not defined by the Mishnah-tractate. That brings us to the second of the two large-scale modes of holding together both sustained analytical exercises and also large sets of compositions formed into cogent composites. These are treated also as major units and are indicated by Roman numerals, alongside the Mishnah-paragraphs themselves; they are also signified in small caps. But the principal rubrics that do not focus on Mishnah-commentary but on free-standing topics or propositions or problems are not given in boldface type. Consequently, for the purposes of a coherent outline we have to identify as

autonomous entries in our outline those important composites that treat themes or topics not contributed by the Mishnah-tractate.

I. YERUSHALMI MEGILLAH 1:1

[A] THE SCROLL [OF ESTHER] IS READ ON THE ELEVENTH, TWELFTH, THIRTEENTH, FOURTEENTH, [OR] FIFTEENTH [OF ADAR], NO EARLIER, NO LATER.

1. **I:1:** Ila, Simeon bar Ba in the name of R. Yohanan: “It is written, ‘That those days of Purim should be observed at their times, [as Mordecai the Jew and Queen Esther enjoined upon the Jews, and as they had laid down for themselves and for their descendants, with regards to their fasts and their lamenting]’” (Est. 9:31). Why does Scripture say, “At their times”? R. Jonah, R. Yosé: R. Jonah said, “To assign them other times [if the occasion requires it, as M. indicates].” R. Yosé said, “[It refers to] the times that the sages have assigned to them, and they are these: the eleventh, twelfth, thirteenth, fourteenth, [or] fifteenth [of Adar].”
2. **I:2:** It has been taught in the name of R. Nathan, “The entire month of Adar is valid for the reading of the Megillah.” What is the scriptural basis for this view? “[Like the days on which the Jews got relief from their enemies, and] as the month that had been turned for them from sorrow into gladness [and from mourning into a holiday; that they should make them days of feasting and gladness, days for sending choice portions to one another and gifts to the poor]” (Est. 9:22). Said R. Helbo, “But that is [on the stipulation that the Megillah is read] by the fifteenth day.” That accords with [that which was said by] R. Abbahu in the name of R. Eleazar, “‘And it shall not pass’ (Est. 9:27) [means]: It shall not pass [the fifteenth day].”

[B] CITIES SURROUNDED BY A WALL FROM THE TIME OF JOSHUA BIN NUN READ [THE SCROLL OF ESTHER] ON THE FIFTEENTH. VILLAGES AND LARGE TOWNS READ IT ON THE FOURTEENTH.

1. **II:1:** [Since the analogy was to Shushan, the capital, which had a wall in the time of Ahasueros and which celebrated the occasion on the fifteenth, why does the Mishnah not refer to cities which had a wall at that same time, namely, in the time of Ahasueros? Why refer, rather, to walled cities in the Holy Land and then in an earlier era, namely, the time of Joshua?] R. Simon in the name of R. Joshua b. Levi: “They paid respect to the Land of Israel, which lay in ruins in those days. [There were few walled cities in the Holy Land in the time of

Ahasueros. Therefore,] associated it [the law] with the time of R. Joshua b. Nun.” And why should not everyone read the Megillah on [that same date of] the fifteenth?

2. **II:2:** It has been taught [in the Tosefta’s version]: R. Joshua b. Qorha says, “[If they were surrounded by a wall] from the time of Ahasueros [they read the Scroll of Esther on the fifteenth of Adar].” Said R. Yosé b. Judah, “Where do we find evidence concerning Shushan, the capital, that it was surrounded by a wall from the time of Joshua b. Nun?” [Tosefta continues: “But: ‘(that these days should be remembered and kept throughout every generation,) in every family, province, ant city’” (Est. 9:28). Those which are near a city and are part of its landscape – lo, they are in its status] [T. Meg. 1:1].
3. **II:3:** Said R. Yohanan, “Between Gabbath and Antipatris there were sixty myriads of villages, and the smallest among them was Beth Shemesh. What is written concerning that town? ‘And he slew some of the men of Beth Shemesh, because they looked into the ark of the Lord; [he slew seventy men of them, and the people mourned because the Lord had made a great slaughter among the people’] (1 Sam. 6:19). And these were only in one direction. And now if you tried to stick in sixty myriads of reeds there it would not hold them!” Said R. Haninah, “The land of Israel has shrunk.” All the cities that Joshua counted do not add up to a hundred. R. Simeon b. Levi said, “He only counted the ones surrounded by a wall.” R. Yosé bar Haninah said, “He only counted the ones along the border.”
4. **II:4:** R. Helbo, R. Huna in the name of R. Hiyya the Elder: “All towns carry out their obligation to read the Megillah if they do so on the fourteenth of Adar, which is the proper time for reading it. [The rule that cities surrounded by a wall from the time of Joshua read it on the fifteenth] comes to teach you only that the commandments pertaining to the reading of the Megillah apply to the second month of Adar [should the year be intercalated and a second Adar added, then the Megillah is read in the second, not in the first, Adar].”
5. **II:5:** Nahman son of R. Samuel bar Nahman: “‘[Therefore the Jews of the villages, who live in the open towns, celebrate the fourteenth day of the month of Adar as a day for] gladness and feasting [and holiday-making, and a day on which they send choice portions to one another’] (Est. 9:19). [With reference to ‘gladness’:] On this basis we learn that it is forbidden to mourn [on that day]. ‘Feasting’: On this basis we learn that it is forbidden to fast on that day. ‘And holiday-making’: On this basis we learn that it is forbidden to do labor on that day.”

[C] BUT VILLAGES MAY ADVANCE IT TO A DAY OF ASSEMBLY [MONDAY OR THURSDAY].

- 1. III:1:** Samuel taught, “On what account may [the villages] advance it to a day of assembly [M. 1:1C]? So that they may provide water and food for their brethren in the towns.”
- 2. III:2:** R. Yosta b. R. Shunam asked before R. Mana, “And did not Ezra [later on] ordain that they should read in the Torah on Monday and on Thursday and on the Sabbath at the afternoon service, and did Mordecai and Esther make such a decree in respect to that which Ezra was going to make in the future?” He said to him, “He who arranged the Mishnah relied on what Scripture said; ‘family, province, and city’ [in the following verse: ‘That these days should be remembered and kept throughout every generation, in every family, province, and city, and that these days of Purim should never fall into disuse among the Jews, nor should the commemoration of these days cease among their descendants’]” (Est. 9:28).

II. YERUSHALMI MEGILLAH 1:2

[A] HOW SO? [IF THE FOURTEENTH] COINCIDED WITH A MONDAY, BOTH VILLAGES AND LARGE TOWNS READ IT ON THAT DAY. AND THOSE SURROUNDED BY A WALL READ IT THE NEXT DAY [THE FIFTEENTH]. [IF THE FOURTEENTH OF ADAR] COINCIDED WITH A TUESDAY OR A WEDNESDAY, VILLAGES ADVANCE IT TO A DAY OF ASSEMBLY [MONDAY, THE THIRTEENTH OR THE TWELFTH]. BUT LARGE TOWNS READ IT ON THAT VERY DAY [THE FOURTEENTH]. AND THOSE SURROUNDED BY A WALL READ IT THE NEXT DAY [THE FIFTEENTH].

- 1. I:1:** In each case in which we learn, If it coincided with, the meaning is, If the fourteenth coincided with [as indicated in my translation of the Mishnah].

III. YERUSHALMI MEGILLAH 1:3

[A] [IF THE FOURTEENTH OF ADAR] COINCIDED WITH A THURSDAY, VILLAGES AND LARGE TOWNS READ IT ON THAT SAME DAY. AND THOSE SURROUNDED BY A WALL READ IT THE NEXT DAY [THE FIFTEENTH]. [IF THE FOURTEENTH] COINCIDED WITH A FRIDAY, VILLAGES ADVANCE IT TO A DAY OF ASSEMBLY [THE THIRTEENTH]. AND LARGE TOWNS AND THOSE SURROUNDED BY A WALL READ IT ON THAT SAME DAY [THE FOURTEENTH]. [IF THE FOURTEENTH OF

ADAR] COINCIDED WITH A SABBATH, VILLAGES AND LARGE TOWNS ADVANCE IT AND READ IT ON A DAY OF ASSEMBLY [THE TWELFTH]. AND THOSE SURROUNDED BY A WALL READ IT THE NEXT DAY [THE FIFTEENTH]. [IF THE FOURTEENTH OF ADAR] COINCIDED WITH THE DAY AFTER THE SABBATH [SUNDAY], VILLAGES ADVANCE IT TO A DAY OF ASSEMBLY [THE ELEVENTH OF ADAR]. AND LARGE TOWNS READ IT ON THAT DAY [THE FOURTEENTH]. AND THOSE SURROUNDED BY A WALL READ IT THE NEXT DAY [MONDAY, THE FIFTEENTH].

1. **I:1:** They asked before R. Zeira, “Take note: If the fourteenth of Adar so happened that, for the villages, the reading of the Megillah would fall on the Sabbath [that is, the fourteenth was on Friday], they read the Megillah on Friday. If it so happened that the day of reading the Megillah for the towns would coincide with the Sabbath, they push it up to a day of assembly. [That is, we do not maintain that they should read it on Friday, as we do with the small villages when their day coincides with the Sabbath. At M. 1:3K, we tell them to read it on Thursday instead. It follows that when the day is switched from its expected time by reason of the Sabbath, we move the reading of the Megillah to a day of assembly. Why not say the same for the small towns?]” Said R. La, “It is because of the honor owing to the cities, so that people should not say, ‘We saw cities and towns reading the Megillah at the same time.’ [The reading of the towns is moved to a day of assembly, Thursday, so as to give a mark of distinction to the cities over the towns.]” If so, they should not push up the reading [for the towns] to the day of assembly, so that people should not say, “We saw people in villages and towns reading the Megillah at the same time. [The same reason can serve a contrary purpose.]” If so [furthermore], if the fourteenth of Adar coincides with Monday, Thursday, or on the Sabbath [both the villages and the towns read on that same day (as at M. 1:3A, or on the day of assembly, so M. 1:3E)].
2. **I:2:** Ba in the name of R. Judah: “In any case in which they have said that the reading is moved from its proper place, [that is the case,] on condition that there be ten people present for the reading.” Now we see that the rabbis maintain that it may be done. even by an individual. R. Abina in the name of R. Assi: “In any case in which they have said that the reading is moved from its proper place, [that is the case,] on condition that there be ten people present for the reading.”

IV. YERUSHALMI MEGILLAH 1:4

[A] **WHAT IS A LARGE TOWN? ANY IN WHICH THERE ARE TEN MEN AVAILABLE AT ALL TIMES [TO FORM A QUORUM]. [IF THERE ARE] FEWER THAN THIS NUMBER, LO, THIS IS A VILLAGE.**

1. **I:1:** It has been taught: Ten men available to leave their work for the synagogue. R. Judah said, “We, for example, do not have to make a living from our learning [but have a living from some other source].”

[B] **OF THESE [TIMES, AS SPECIFIED,] HAVE THEY SAID THAT THEY ADVANCE IT AND DO NOT POSTPONE IT.**

1. **II:1:** Of these have they said that they advance it and do not postpone it [M. 1:4D]: namely, reading the Megillah and taking up the heave-offering of the sheqel offering [in the Temple, for use in maintaining the cult in the coming year]. They advance and do not postpone the meal in celebration of the new moon. But the banquet of Purim [that coincides with the Sabbath] they postpone but do not push up.
2. **II:2:** As to funds collected for the poor for celebration of Purim, these funds are to be used for Purim. Said R. Eleazar, “And that is on condition that a poor man should not use them for some other purpose than celebrating Purim, for example, buying a thong for his sandal.” They do not enforce the religious requirements [giving to the poor] on Purim in a meticulous way [T. Meg. 1:5C], but whoever puts out his hand to take money given for the support of the poor – they give him [what he wants]. They do not use coins set aside for celebrating Purim for some other purpose.

[C] **BUT THE TIME OF THE PRIESTS’ WOOD-OFFERING:**

1. **III:1:** But the time of the priests’ wood-offering [M. 1:4E]: Why did they set aside [special times for] the wood-offering of priests and people [M. Ta. 4:5]? For when the exiles came up, they found no wood in the wood chamber. These in particular went and contributed wood of their own, handing it over to the community. On that account prophets stipulated with them, that even if the wood-chamber should be loaded with wood, even with wood belonging to the community, these should have the privilege of contributing wood at this time, and at any occasion on which they wanted [T. Taaniyot 3:5A-D].

[D] **THE NINTH OF AB:**

- 1.** **IV:1:** The ninth of Ab [M. 1:4E]: R. Jeremiah in the name of R. Hiyya bar Ba: "It is reasonable that one should fast on the tenth of that month [of Ab], because on that day the Temple was burned. And why is it that the fast is on the ninth? For it was on that day that the punishment [of Israel] got underway." And so it has been taught: On the seventh [of Ab] they entered [the Temple]. On the eighth they battered it down, on the ninth they set fire to it, and on the tenth it burned down.

[E] THE FESTAL-OFFERING [DEUT. 16:16-17]:

- 1.** **V:1:** One verse of Scripture says, "You shall keep the feast of harvest, of the first fruits of your labor, [of what you sow in the field. You shall keep the feast of in gathering at the end of the year, when you gather in from the field the fruit of your labor]" (Ex. 23:16). And another verse of Scripture states, "[And you shall make proclamation on the same day; you shall hold a holy convocation;] you shall do no laborious work; [it is a statute for ever in all your dwellings throughout your generations]" (Lev. 23:21). Said R. Haninah, "Lo, how are these two verses of Scripture to be carried out? When the festival falls on a weekday, you prepare a festal-offering and enjoy rest. When the festival falls on the Sabbath, on the next day you prepare the festal-offering and the harvest [grain]."

[F] AND THE GREAT ASSEMBLING [DEUT. 31:10-13]

- 1.** **VI:1:** [As to M. I:4E, the great assembling:] R. Ba son of R. Hiyya bar Ba said, "It is because of the sounding of the Shofar [which takes place on that occasion]." R. Isaac b. R. Hiyya said, "It is because [they have to build a platform.]"
- 2.** **VI:2:** [With reference to Y. Ta. 2:12 (M. Tan. 2:8): Any day concerning which it is written in the Scroll of Fasting that "None may mourn," it also is forbidden to mourn on the day before, but it is permitted on the following day. Where it is written, "None may fast," it is permitted to fast both the day before and on the following day:] This statement of the Mishnah represents the view of R. Meir. For R. Meir has said, "If it is written, 'not to mourn,' it is forbidden also to fast. If it is written, 'not to fast,' it is permitted to mourn. "If it does not specify, the meaning is not to fast."

[G] THEY POSTPONE BUT DO NOT ADVANCE. EVEN THOUGH THEY HAVE SAID, THEY ADVANCE AND THEY DO NOT POSTPONE [THE READING OF THE SCROLL OF ESTHER], [ON THE DAYS ON WHICH THEY READ THE SCROLL OF ESTHER] THEY ARE PERMITTED TO HOLD A LAMENTATION FOR THE DEAD, TO CALL FASTS:

1. **VII:1:** [With reference to M. Meg. 1:4F-G: Even though they have said, “They advance it and they do not postpone the reading of the Scroll of Esther,” on the days on which they read the Scroll of Esther they are permitted to hold a lamentation for the dead, to call fasts, and to give gifts to the poor: When the Mishnah states that it is permitted to mourn and to fast,] this passage of the Mishnah speaks either of the eleventh of Adar, in accord with the view of R. Yosé, or of the twelfth of Adar, in accord with the view of R. Meir. [The thirteenth is Nicanor’s day, and one may not fast. In Yosé’s view one also may not do so on the day before that day, the twelfth. Hence one advances the reading of the Megillah, reading it on the eleventh. In Meir’s view, since one *may* fast on a day prior to a day on which one may *not* fast, it is permitted to read the Megillah on the twelfth.] Now there is a problem to the position of R. Meir [that one may fast and mourn on the twelfth of Adar], for has it not been taught: On the twelfth of that month [of Adar] is Tirion’s day? [That day on which the decrees of Trajan were annulled is a holiday, and it is forbidden to fast on that day, contrary to Meir’s view of acceptable behavior on the twelfth of Adar, in line with M. Meg. 1:4G.] And R. Jacob bar Aha said, “Tirion’s day has been annulled, for it is the day on which Lulianos and Pappos were killed.” [So there is no problem for Meir.] The thirteenth of that month [of Adar] is Nicanor’s Day.

2. **VII:2:** Simeon bar Ba said, “A case came before R. Yohanan, and he decided it in accord with the view of R. Yosé.” Now R. Eleazar was distressed at this, and he said, “Do they then abandon the statement of the law given anonymously [hence in the name of the sages in general] and favor the statement of the law made by an individual [hence a minority]?” Then a teaching turned up that R. Hiyya had taught the matter in the name of R. Meir. When he heard that R. Hiyya had taught it in the name of R. Meir, he said, “That is all right then. The elder [Yohanan] knows his lessons very well [for he realized that even though the pas sage was given without named authorities, in fact it represented the view of one named authority].”

[H] AND TO GIVE GIFTS TO THE POOR. SAID R. JUDAH, “UNDER WHAT CIRCUMSTANCES? IN A PLACE IN WHICH PEOPLE GATHER ON MONDAYS AND THURSDAYS. “BUT IN A PLACE IN WHICH PEOPLE DO NOT GATHER ON MONDAYS AND ON THURSDAYS, THEY READ IT ONLY AT ITS PROPER TIME.”

1. **VIII:1:** [As to M. 1:4G-I, giving gifts:] R. Yudan the Patriarch sent to R. Hoshaiiah a piece of meat and a flask of wine. He replied saying to him, “In us have you carried out the following verse of Scripture: ‘[As the days on which the Jews got relief from their enemies, and as the

month that had been turned for them from sorrow into gladness and from mourning into a holiday; that they should make them days of feasting and gladness, days for sending choice portions to one another and] gifts to the poor” (Est. 9:22). He went and sent him a calf and a barrel of wine. He sent back to him, “Through us you have carried out the following verse of Scripture: ‘[As the days on which the Jews got relief from their enemies, and as the month that had been turned for them from sorrow into gladness and from mourning into a holiday; that they should make them days of feasting and gladness, days for] sending choice portions to one another [and gifts to the poor]’” (Est. 9:22).

2. **VIII:2:** It has been taught: In a place in which people suffer danger [when they come together], they read the Megillah on the fourteenth of Adar. R. Yosé asked, “If it is a place to which people [come together only by] suffering danger, they should not read the Megillah in such a place at all.”

V. YERUSHALMI MEGILLAH 1:5

[A] IF THEY READ THE SCROLL IN THE FIRST ADAR, AND THEN THE YEAR WAS INTERCALATED, THEY READ IT [AGAIN] IN THE SECOND ADAR. THERE IS NO DIFFERENCE BETWEEN [THE FOURTEENTH OR FIFTEENTH OF J THE FIRST ADAR AND [THE SAME DATES IN] THE SECOND ADAR EXCEPT FOR THE READING OF THE SCROLL AND GIVING GIFTS TO THE POOR [WHICH MUST BE DONE IN THE SECOND ADAR].

1. **I:1:** The Mishnah speaks of a case in which they intercalated the year [by adding a second Adar], and afterward they read it. But if they read the Megillah and afterward they intercalated the year, it is not in such a case [that we invoke M. 1:5A].
2. **I:2:** Jeremiah in the name of R. Samuel bar R. Isaac: “What did Mordecai and Esther do? They wrote a letter and sent it to our rabbis, in which they said to them, ‘Do you accept for your selves these two days for observance every year?’ They replied to them, ‘Not enough for us are these troubles that have come upon us, but you want to add to our troubles the one of Haman!’ “They went and wrote them a second letter. That is the pertinence of the statement, ‘Confirming this second letter about Purim’ (Est. 9:29). “What was in this second letter? They said to [our rabbis], ‘If you are afraid about this matter, [what good does it do you?] Lo, it is written down and filed in the archives. [“And all the acts of his power and might, and the full account of the

high honor of Mordecai, to which the king advanced him,] are they not written in the Book of the Chronicles of the kings of Media and Persia?” (Est. 10:2).

- 3.** **I:3:** Samuel bar Nahman in the name of R. Jonathan: “Eighty five elders, and among them some thirty-odd prophets, were troubled about this matter. They said, ‘It is written, “These are the commandments which the Lord commanded Moses for the people of Israel on Mount Sinai”’ (Lev. 27:34). These then are the commandments which we have received from the mouth of Moses. And thus did Moses say to us, ‘No other prophet is going to make anything new for you. Now here are Mordecai and Esther, who want to make something new for us.’ They did not move from that place, debating the matter, until the Holy One, blessed be he, enlightened their eyes, so they found support for the proposition written in the Torah, Prophets, and Writings.”
- 4.** **I:4:** R. Yohanan and R. Simeon b. Laqish: R. Yohanan said, “The prophets and the writings are destined to be annulled, but the Five Books of the Torah are not destined to be annulled.” What is the scriptural basis for this view? “with a loud voice, and he added no more” (Deut. 5:22). R. Simeon b. Laqish said, “Also the Scroll of Esther and the laws are not destined to be annulled.”
- 5.** **I:5:** R. Levi in the name of R. Simeon b. Laqish: “The Holy One, blessed be he, foresaw that the evil Haman was destined to weigh out his money against Israel. He said, ‘It is better that the money of my children should come before the money of that evil man.’ Therefore they push matters up and read the biblical pericope about collecting the sheqels [prior to the celebration of Purim].”
- 6.** **I:6:** [With reference to Est. 9:27, “In each and every year.”] R. Abbahu in the name of R. Eleazar: “The reference to ‘each and every year’ serves to draw an analogy from a year which is intercalated to one which is not intercalated, with the result that we come to the following conclusion: Just as in a year which is not intercalated Adar [in which Purim is celebrated] is next to Nisan, so in a year which is intercalated Adar [in which Purim is celebrated] is next to Nisan.” Said R. Helbo, “It is so as to link up one redemption [the one of Purim] with another redemption [the one of the Exodus from Egypt].”
- 7.** **I:7:** Is the first of the two Adars the additional month, or is the second of the two Adars the additional month? What is the practical difference between these two positions? R. Samuel bar R. Isaac said, “The two rams for Pentecost will be at issue. [They must be within their first

year when offered up at Pentecost.] Now if they were born on the fifteenth of Adar in a year that was not intercalated and then grew up in [the following] year, which was intercalated, if you maintain that the first Adar is the extra one, then it adds up to a protracted year, [and the rams will be valid for an offering]. If you say that the second Adar is the additional one, then [the ram is useful] only up to the fifteenth of the first Adar [of that year]. [Beyond that point, it enters the second year of its life.]”

- 8.** **I:8:** It has been taught [in the Tosefta’s version]: Rabban Simeon b. Gamaliel says in the name of R. Yosé, “They have to read it in the second Adar, “for every religious duty which applies in the second Adar does not apply to the first Adar, “except for lamentations and fasting, which apply in this [Adar] and in that [Adar]” [cf. M. 1:3G] [T. Meg. 1:6E-G]. As to documents in this month and in that, [for the first] they write simply, Adar, and for the second one, the second. R. Judah says, “For the second Adar, [only] the letter Tav is written” [T. Meg. 1:6H- I].
- 9.** **I:9:** There we have learned: There is no difference between [the fourteenth or fifteenth of 1 the first Adar and [the same dates in] the second Adar except for the reading of the scroll and giving gifts to the poor [M. 1:5B]. R. Simon in the name of R. Joshua b. Levi: “Also there are the matters of proclaiming the obligation to give the sheqel tax for the Temple and to inspect the fields for violation of the law of mixed seeds as points of difference between the two months. [These are done only in the second Adar].” R. Helbo, R. Huna, Rab in the name of R. Hiyya the Elder: “All carry out their obligation to read the Megillah on the fourteenth, which is the proper time for reading it.” Said R. Yosé, “And that is so. Have they not stated that they make an announcement about the obligation to give the sheqel only so that the Israelites will bring their sheqel tax at the right time? Now if you say that these are done in the first Adar, then there will be yet sixty days before Nisan. “Have they not stated that they go forth to inspect the fields against the appearance of the violation of mixed seeds, only so that the sprouts may be visible? If you say that that is done in the first Adar, up to that point they will be too thin to be seen.”

VI. YERUSHALMI MEGILLAH 1:6

- [A]** **THERE IS NO DIFFERENCE BETWEEN A FESTIVAL DAY AND THE SABBATH DAY EXCEPT FOR PREPARING FOOD ALONE [M. BES. 5:2].**

1. **I:1:** It was taught in the name of R. Judah, “Also they have permitted [on the festival] doing those things that are required for the preparation of food as well.” What is at issue between [the authority of M. 1:6A] and Judah? R. Hisdai says, “The practical difference between the two positions is whether or not it is permitted to sharpen the heat of a spit.” R. Hanina son of R. Abbahu: “Producing heat [for cooking] from [preheated] stones is at issue between them.”

2. **I:2:** All these have they declared liable on a festival day, all the more so on the Sabbath. There is no difference between a festival day and the Sabbath day except for preparing food alone [M. Bes. 5:2]. Are these the only differences? Lo, there others. The penalty of stoning is imposed for violation of the Sabbath, while the penalty of stoning is not imposed for violating the festival day. The penalty of extirpation is imposed for violating the Sabbath, and the penalty of extirpation is not imposed for violating the festival day. The penalty of flogging applies for violating the festival, and the penalty of flogging does not apply for violating the Sabbath. Now if you wish to reply that the reference of that statement is only to matters having to do with food, lo, we have learned: They may let down produce through a hatchway on a festival day but not on a Sabbath [M. Bes. 5:1A]. And further: They grind up spice-wood for the rite of circumcision on a festival day but not on the Sabbath. R. Yosé said, “And that applies to a case in which the rite already has been carried out.” And further: Sages concur with R. Meir [M. Bes. 4:3E-G] in the case of knots which are on the ground, that one may loosen, unravel, and untie them, but they may not cut them. And on the Sabbath they may loosen and untie but may not unravel or cut them. And in the case of those on utensils on the Sabbath it is permitted, and, it goes without saying, on the festival [T. Yom Tob 3:12].

[B] THERE IS NO DIFFERENCE BETWEEN THE SABBATH AND THE DAY OF ATONEMENT EXCEPT THAT DELIBERATELY VIOLATING THIS ONE IS PUNISHABLE AT THE HANDS OF AN EARTHLY COURT, WHILE DELIBERATELY VIOLATING THAT ONE IS PUNISHABLE THROUGH EXTIRPATION.

1. **II:1:** Lo, with respect to paying financial penalties, both of them are equivalent. The Mishnah accords with the view of R. Nehuniah b. Haqqaneh. For it has been taught: R. Nehuniah b. Haqqaneh says, “The Day of Atonement is equivalent to the Sabbath as to paying monetary penalties” [T. Ket. 3:5E]. R. Simeon b. Menassia says, “Those who are liable to extirpation are equivalent to those who are liable to the death penalty at the hands of an earthly court.”

VII. YERUSHALMI MEGILLAH 1:7

[A] THERE IS NO DIFFERENCE BETWEEN ONE WHO IS PROHIBITED BY VOW FROM DERIVING [GENERAL] BENEFIT FROM HIS FELLOW AND ONE WHO IS PROHIBITED BY VOW FROM DERIVING FOOD FROM HIS FELLOW, EXCEPT FOR SETTING FOOT IN HIS HOUSE AND USING UTENSILS OF HIS WHICH ARE NOT FOR PREPARING FOOD [PROHIBITED IN THE FORMER CASE]. THERE IS NO DIFFERENCE BETWEEN VOWS AND FREEWILL OFFERING, EXCEPT THAT ONE IS OBLIGATED TO REPLACE ANIMALS DESIGNATED IN FULFILLMENT OF VOWS IF THEY DIE OR ARE STOLEN, WHILE ONE IS NOT OBLIGATED TO REPLACE ANIMALS SET ASIDE IN FULFILLMENT OF FREEWILL OFFERINGS (IF THEY DIE OR ARE STOLEN).

1. **I:1:** Lo, something in which food is prepared is forbidden [in line with M. 1:7]. [Why should this be the case?] Did he not take a vow [only not to eat] food? Said R. Simeon b. Laqish, “Thus is the meaning of the Mishnah rule: There is no difference between him who is forbidden by vow from enjoying any benefit from his fellow and him who is forbidden by vow from deriving benefit from food from him [which includes things used in the preparation of food].” So too did a member of the house of Rabbi state: He who is forbidden by vow from deriving food from his fellow – the fellow should not lend him a sifter, sieve, millstone, or oven [M. Ned. 4:1C].
2. **I:2:** What is [an animal pledged] by a vow concerning which they have spoken? “Lo, I pledge myself to bring a burnt offering.” What is [an animal pledged] as a freewill offering, concerning which they have spoken? “Lo, this beast is a freewill offering.”

VIII. YERUSHALMI MEGILLAH 1:8

[A] THERE IS NO DIFFERENCE BETWEEN A ZAB WHO SUFFERS TWO APPEARANCES OF FLUX AND ONE WHO SUFFERS THREE EXCEPT FOR THE REQUIREMENT OF AN OFFERING [FOR THE LATTER].

1. **I:1:** [Reference is to M. Zab. 2:2: If he saw the first flow of flux, they examine him. In the case of the second they examine him (to find out whether the flux was natural or accidental; in the former instance he imparts uncleanness to things on which he sits or lies.) In the case of a third flux they do not examine him. R. Eleazar says, “Even in the third instance they do examine him, on account of the question of whether or not he has to bring a sacrifice.”] Said R. Judah bar Pazzi, “[The

formulation of the Mishnah before us, at M. 1:8A] accords with the view of R. Eleazar. For R. Eleazar said, ‘Even in the third instance they do examine him, on account of the question of whether or not he has to bring a sacrifice. ‘ “But in the view of rabbis, if the second flux should be accidental, the man remains clean. And if the third flux should be accidental, the man is unclean. [In the former instance there is no reason to declare him unclean, in the latter, clean.]” Said R. Yosé, “If it does not accord with rabbis, it also does not accord with R. Eleazar. “For it has been taught: Said R. Eleazar, ‘Not in regard to rendering void all previous counting did I say this, but in regard to a sacrifice did I say this.’ [That is, when Eleazar said the man must be examined on the third flux, it was not because, if the flux should prove accidental, the man may then wipe off the slate the preceding, natural flux and so be regarded as clean. That was not his intent at all. Eleazar concurs that he is unclean even if the third appearance of the flux was accidental. His statement only was that the man need not bring an offering if the third appearance of flux was accidental. Now at issue at M. 1:8A is then a second point of difference between the second and third appearances of flux, and the Mishnah should state that there is a difference, in that flux on the second appearance does not impart uncleanness if it is accidental, while flux a third time around does impart uncleanness if it is accidental.]”

[B] THERE IS NO DIFFERENCE BETWEEN A MESORA WHO IS SHUT UP AND ONE WHO HAS BEEN CERTIFIED UNCLEAN EXCEPT FOR THE REQUIREMENT TO MESS UP THE HAIR AND TEAR THE CLOTHING:

1. **II:1:** Said R. Yudan, “The Mishnah [at M. 1:8B] speaks of two separate men [one shut up, the other certified unclean]. [One of the men is shut up, the other already certified unclean. This is now spelled out.]” Said R. Haninah, “The Mishnah has made that point clear. There is no difference between a mesora who is shut up and one who has been certified unclean except for messing up the hair and clothes; [for the purification rite] the requirement of shaving, and of bringing a bird offering [following Y.’s version]. [The latter must do these things, the former need not do them. As we see, M. 1:8B, C are elided.] That indicates that we deal with two individuals [one in the one status, one in the other]. If you say that we deal with a single person, then [the Mishnah should further] teach: There is no difference between a large bright spot and a small bright spot.... [That is, a large bright spot is one which has spread over the entire body of a man. Now if he was at that time in the status of uncleanness, he is marked by the outbreak over the entire body as clean. If he was at that time in the status of cleanness, he.s marked as unclean. A small bright spot is simply one in which

there is no indication of uncleanness. Now if you say that we deal with a single man, who was shut up and then certified unclean, then in such a case we should include the difference represented by the great bright spot, which has overtaken a man who was certified unclean after his original diseased spot has spread, and a small bright spot, affecting one who is merely shut up.]”

[C] THERE IS NO DIFFERENCE BETWEEN [A MESORA] DECLARED CLEAN HAVING BEEN SHUT UP AND ONE DECLARED CLEAN HAVING BEEN CERTIFIED [UNCLEAN] EXCEPT FOR THE REQUIREMENT OF SHAVING AND OF BRINGING A BIRD OFFERING:

- 1. III:1:** [With reference to M. 1:8C, the mesora declared clean after merely being shut up and one declared clean after certification as unclean, that too speaks of two individuals,] for just as you say there [at M. 1:8B,] we deal with two individuals, so here [at M. 1:8C] we have two individuals. If the disease spread over the entire body of the man in a time in which he was shut up [to determine whether or not he is unclean, what is the law?] [He now is clean, since the disease has covered the entire body. But do we regard him as being marked as clean after having been certified as unclean, in which case, in line with M. 1:8C, he has to bring a bird offering? Or do we regard him as being marked as clean after having been merely shut up, in which case he does not have to bring a bird offering?] R. Yohanan said, “He has to bring a bird offering.” R. Eleazar said, “He does not have to bring a bird offering.”

IX. YERUSHALMI MEGILLAH 1:9

[A] THERE IS NO DIFFERENCE BETWEEN SACRED SCROLLS AND TEFILLIN AND MEZUZOT EXCEPT THAT SACRED SCROLLS MAY BE WRITTEN IN ANY ALPHABET [“LANGUAGE”] LETTERS WHILE TEFILLIN AND MEZUZOT MAY BE WRITTEN ONLY IN ASSYRIAN [SCRIPT].

- 1. I:1:** It is written, “Now the whole earth had one language and a few words” (Gen. 11:1). R. Eleazar and R. Yohanan: One of them said, “For they were speaking seventy languages.” The other said, “For they were speaking the language of the Unique One of the World, the language of God.”
- 2. I:2:** Said R. Jonathan of Bet Gubrin, “Four languages are appropriately used in the world, and these are: everyday speech [Greek], for song;

Latin, for war; Sursi [Aramaic], for wailing; Hebrew, for clear speech.”

3. **I:3:** It has been taught: R. Yosé says, “Em was worthy to have the Torah given through him, but the generation of Moses came first. “Even though the Torah was not given through him, through him was given the accepted form of writing and of speech.” [“And in the days of Artaxerxes, Bishlam and Mithredath and Tabeel and the rest of their associates wrote to Artaxerxes king of Persia;] the letter was written in Aramaic and translated” (Ezra 4:7). [“Then all the king’s wise men came in,] but they could not read the writing [or make known to the king the interpretation’] (Dan. 5:8). “This teaches that on that very day this form of writing was handed down.”

[B] RABBAN SIMEON B. GAMALIEL SAYS, “EVEN SACRED SCROLLS, THEY HAVE PERMITTED ONLY THAT THEY BE WRITTEN IN GREEK. “

1. **II:1:** It has been taught: Rabban Simeon b. Gamaliel says, “Even sacred Serous, they have permitted only that they be written in Greek” (M. 1:9B). They investigated and found that the Torah can be properly translated only into Greek.
2. **II:2:** R. Jeremiah in the name of R. Hiyya bar Ba: “Aqilas the proselyte translated the Torah before R. Eliezer and R. Joshua, and they praised him.”
3. **II:3:** Judah bar Pazzi said R. Joshua b. Levi asked, “And why [at M. 1:9A,] do we not say, ‘There is a rule regarding sacred scrolls which does not apply to tefillin and mezuzot’? For scrolls are written on two sheets of parchment, while tefillin and mezuzot are written only on one sheet.” R. Isaac son of R. Hiyya the scribe [said], “More than this: scrolls are written on two hides, while tefillin and mezuzot are written on only one hide.” Associates said before R. Mana, “To the contrary, we may say that a single sheet of parchment is not a more serious objection than the matter of two hides.” He said to them, “For the fact is that even scrolls are not written in that way.”
4. **II:4:** Zeirah in the name of R. Immi: “If one was writing a line [it must be long enough to contain nine letters, such as] ‘LH, ‘M ‘M ‘M. If that is how the passage was to be done, it is valid; and if not, it is invalid.” R. Zeirah in the name of R. Immi bar Hinena: “As is the manner of writing in serous, so is the manner of writing in tefillin and mezuzot.” R. Zeirah in the name of Rab: “If there is a perforation in the [right] side of the he, if one should erase it and there will remain a small foot [at the right side] it is valid, and if not, it is invalid.” R. Zeirah in the

name of R. Hisda, “If the gimel came at the end of the parchment, if one erased part of it and a small leg remained, it is valid, and if not, it is invalid.” R. Zeirah in the name of Asiyan bar Nidbah: “If there was a perforation in the middle of a bet, if the parchment surrounded it on all sides, it is valid, and if not, it is invalid.”

5. **II:5:** R. Ada b. R. Simeon in the name of R. Yohanan: “A man should not stand to pray in an elevated place.”
6. **II:6:** Ba in the name of R. Judah: “[If a mezuzah’s] writing was in the shape of half a necklace [of three or more strings, in decreasing lines] if the topmost line was followed by a line [in the middle] containing two words, it [the topmost] must have three words, with the middle line containing two words, and the bottom-most line may consist merely of, ‘on the earth’ (Deut. 11:21) [the last in the mezuzah’s parchment].” R. Zeirah in the name of R. Hisda, “If the writing was shaped like an hourglass, the top line, below which are two words, must contain three words, and the bottom-most line [toward the narrow part of the arrangement of words] must contain two words, and as to the line in the middle, I do not know how long it must be.” Said R. Zeirah in the name of R. Hisda, R. Jonah and R. Yosé both say, R. Zeirah in the name of Asiyan bar Nidbah, the associates said R. Zeirah said it in the name of R. Hananel, “If the ink exuded from between the perforations, it is invalid. “What should one do? He should lick off [the excess] with his tongue, and the remainder will gel [dry in place].”
7. **II:7:** As to a Mezuzah, there is a Tannaite authority who teaches, “[The space between the sections is to be left] open. [The second passage of the document is started on a fresh line, leaving part of the final line of the first paragraph blank.] There is a Tannaite authority who teaches, “It is left closed [so that the second paragraph begins on the same line as that on which the first paragraph ends].”
8. **II:8:** [If, in writing a Torah scroll,] one erred and omitted a verse of Scripture, if two or three Lines are involved, one repairs it and uses the scroll for public reading. If there are four, one does not use the scroll for public reading. R. Zeirah in the name of R. Hananel, “Also in the case of a tear the rule is the same. [If there is a tear through three Lines, one may repair the tear and use the scroll.]”
9. **II:9:** R. Zeirah, R. Hananel in the name of Rab: “The manner of sewing the columns together is a law revealed to Moses at Sinai.” R. Jeremiah in the name of R. Samuel bar R. Isaac: “The manner of tying tefillin is a law revealed to Moses at Sinai.”

- 10. II:10:** In the case of the double letters of the alphabet, one writes the first ones at the beginning and middle of a word, and the second [final forms] at the end. If one did otherwise, the scroll is invalid. In the name of R. Mattanaiah b. Heresh they have said, “Those letters – M, N, S, P, K [that appear in two forms] – were revealed as a law to Moses at Sinai.” What are the meaning of these letters? R. Jeremiah in the name of R. Samuel, R. Isaac, ““What the seers have prepared for you.””
- 11. II:11:** Thirteen matters did sages change for Talmi [Ptolemy] the king. They wrote as follows to him: “God created in the beginning [the heavens and the earth]” (Gen. 1:1). “Let me make man in an image, in a likeness” (Gen. 1:26). “Male with his apertures he created them” (Gen. 1:27). “And on the sixth day God finished [his work which he had done] and he rested on the seventh day [from all his work which he had done]” (Gen. 2:2). “Come, I shall go down, [and there confuse their language, that they may not understand one another’s speech]” (Gen. 11:7). “So Sarah laughed to her relatives, saying [‘After I have grown old, and my husband is old, shall I have pleasure?’]” (Gen. 18:12). “For in their anger they slew an ox, and in their wantonness they destroyed a stall” (Gen. 49:6). “So Moses took his wife and his sons and set them on bearers [and went back to the land of Egypt; and in his hand Moses took the rod of God]” (Ex. 4:20). “The time that the people of Israel dwelt in Egypt and in all [other] lands was four hundred and thirty years” (Ex. 12:40). “The hue” (Lev. 11:6) [was] “the short-legged” because Ptolemy’s mother was named “Hue.” “I have not taken one valuable of theirs” (Num. 16:15). “Which the Lord your God distributed to give light to all the peoples under all the heavens” (Deut. 4:19). “[And he went and served other gods,] which I did not command the nations to worship” (Deut. 17:3).
- 12. II:12:** All letters written with the Divine Name but before it – lo, they are regarded as non-divine, and may be erased, for instance, “To the Lord,” “Against the Lord,” “Like the Lord,” “For the Lord.” For so we find in connection with the priestly frontlet, that [the Name] is separated from it. “Holy to” is written below, and the Divine Name is above. All letters written with the Divine Name but after it, – lo, these are holy and they may not be erased, for example, “Our God,” “Your God.”
- 13. II:13:** The following names are not to be divided: Amiel, Amishadai, Suriel, Surishadai, Gamaliel, Padahsur, and Padahel. These are names that are divided: Beth El, Beth On; [also] Ha rah Api [e.g. Deut. 7:4] [e.g. Deut. 31:17], Poti, Fera, Saphenat Puneah.

- 14. II:14:** As to the word Halleluyah, Rab and Samuel – one of them said, “It is two words, Hallel Yah,” and the other said, “It is one word, Halleluyah.” The one who said that it is two words maintains that it may be divided, but it may not be erased. The one who said that it is one word holds that it may be erased, and it may not be divided [lest the Yah stand alone as the Divine Name].
- 15. II:15:** R. Zeirah asked before R. Abbahu, “What do we answer [after one who reads the Hallel]?” Said to him R. Abba of Kipah before R. Jonah, “One answers thus and so [in accord with the language of Scripture].”
- 16. II:16:** It has been taught: They do not answer an “Amen” which is an orphan or an “Amen” which is cut off. Ben Azzai says, “He who answers an Amen which is an orphan – his children will be orphans. He who answers an Amen which is cut off – his soul will be cut off. “If he says a protracted Amen, his days will be lengthened in goodness.”

X. YERUSHALMI MEGILLAH 1:10

- [A] THERE IS NO DIFFERENCE BETWEEN A PRIEST WHO IS ANOINTED WITH ANOINTING OIL AND ONE WHO WEARS MANY GARMENTS EXCEPT IN THE BULLOCK WHICH IS OFFERED FOR UNWITTING TRANSGRESSION OF ANY OF THE COMMANDMENTS [REQUIRED ONLY OF THE FORMER]. THERE IS NO DIFFERENCE BETWEEN A [HIGH] PRIEST PRESENTLY IN SERVICE AND A [HIGH] PRIEST [WHO SERVED] IN TIMES PAST EXCEPT FOR THE BULLOCK WHICH IS OFFERED ON THE DAY OF ATONEMENT AND THE TENTH OF THE EPDAH [CF. M. HOR. 3:4].**
- 1. I:1:** It has been taught: An anointed priest [who sins] brings a bullock, and one who is dedicated by wearing many garments does not bring a bullock [= M. 1:10A]. That statement does not accord with the view of R. Meir. For R. Meir says, “A priest who wears many garments brings a bullock [in the case of an unwitting transgression].”
- 2. I:2:** Said R. Yohanan, “[If an anointed priest] left office and then brought the tenth of an ephah of fine flour which he was owing, it is valid” [M. Hor. 3:2I-J]. They arrange another priest to take his place lest a cause of invalidation [of the high priest who is to officiate on the Day of Atonement] should occur [M. Yoma 1:1B-C].
- 3. I:3:** Is it possible that the priest anointed for war brings the tenth of an *ephah* from his own property? Scripture says, “[The priest who is

appointed from among Aaron's] sons, who is anointed to succeed him, [shall offer it to the Lord]" (Lev. 6:22). The one who has a son ready to succeed him shall bring the tenth of an *ephah*, and the one who has no son ready to succeed him does not bring a tenth of an *ephah*. This excludes the priest anointed for war, whose son does not succeed him. And how do we know in regard to the anointed for war that his son does not serve after him? Scripture says, "The son who is priest in his place shall wear them seven days when he comes into the tent of meeting to minister in the holy place" (Ex. 29:30) – as to the one who comes into the tent of meeting for service in the holy place, his son serves in his place, and as to the one who does not come into the tent of meeting for service in the sanctuary, his son does not serve in his place. And how do we know that [a priest anointed for war] may be designated for service as high priest? "And Phineas son of Eleazar was the ruler over them in time past; the Lord was with him" (1 Chron. 9:20) [and he served as both anointed for war and high priest].

4. **I:4:** "And the priest who is anointed [and consecrated as priest in his father's place] shall make atonement [wearing the holy linen garments]" (Lev. 16:32). Why does Scripture say so? For the entire pericope is stated with regard to Aaron. And how do I know that the law applies to another who may be appointed [who was not the son of the preceding high priest]? Scripture states, "And the priest shall make atonement." I know only that the Scripture thus speaks of a priest anointed with anointing oil. How do I know that the priest dedicated by many garments [also carries on the same rite]? Scripture for that reason finds it necessary to specify, "consecrated as priest in his father's place...." How do I know that I should include a priest who is appointed? Scripture says, "And the priest shall atone...." With what is he [who was not the son] appointed?

XI. YERUSHALMI MEGILLAH 1:11

[A] THERE IS NO DIFFERENCE BETWEEN A MAJOR HIGH PLACE AND A MINOR HIGH PLACE EXCEPT FOR PASSOVER OFFERINGS. THIS IS THE GOVERNING PRINCIPLE: WHATEVER IS OFFERED IN FULFILLMENT OF A VOW OR AS A FREEWILL OFFERING MAY BE OFFERED ON A HIGH PLACE. AND WHATEVER IS NOT OFFERED IN FULFILLMENT OF A VOW OR AS A FREEWILL OFFERING MAY NOT BE OFFERED ON A HIGH PLACE.

1. **I:1:** Yohanan spent three and a half years without going to the meetinghouse [of the sages] because of his anguish [at the death of

Simeon b. Laqish]. Finally R. Eleazar saw in his dream, “Tomorrow Sinai will come down and teach you something new.” [Yohanan] went in and said before [the disciples], “How may we verify the following fact, that the Temple service is to be carried out by the firstborn [instead of by priests]? It is from the following verse of Scripture: ‘For all the firstborn among the people of Israel are mine, both of man and of beast; on the day that I slew all the firstborn in the land of Egypt I consecrated them for myself’ (Num. 8:17). And it is written, [‘For I will pass through the land of Egypt that night, and I will smite all the firstborn in the land of Egypt, both man and beast;] and on all the gods of Egypt I will execute judgments: I am the Lord’ (Ex. 12:12). [The Israelite firstborn were sanctified at that time.]” What did they do before that time? “Then Rebekkah took the best garments of Esau her older son, which were with her in the house, and put them on Jacob her younger son” (Gen. 27:15). What is the meaning of “the best garments”? [They were priestly garments,] for he would serve as high priest. Said R. Levi, “‘The Lord has broken the staff of the wicked, the scepter of rulers’ (Is. 14:5). This refers to the firstborn who made offerings to the golden calf at the head of the people.”

2. **I:2:** Everything may be offered up on a high place: cattle, beasts, and fowl, large and small, male and female, unblemished but not blemished, clean, but not unclean. Everything was offered up as a burnt offering. [The burnt offerings thus] did not require flaying and chopping up. And a gentile at this time is permitted to do so it. Zeb. 13:1C-E].
 - a. **I:3:** Antoninus asked Rabbi, “What is the law as to building an altar?” He said to him, “Build it but hide away its stones.” He said to him, “What is the law as to preparing incense [such as was used in the Temple]?” He said to him, “One of its herbs is lacking. Has it not been written, ‘And the incense which you shall make according to its composition, you shall not make for yourselves; it shall be for you holy to the Lord’ (Ex. 30:37)? ‘For yourselves you shall not make it,’ but others may make it for you.”
3. **I:4:** R. Eleazar and R. Yosé b. Haninah: R. Eleazar said, “Peace offerings did the children of Noah offer up.” R. Yosé b. Haninah said, “Burnt offerings did the children of Noah offer up.”
4. **I:5:** As to bullocks that were burned up and goats that were burned up, were they burned up? [The supposition is that they were offered on a high place, as obligatory offerings not dependent upon a particular time or season. In regard to these offerings in the tent of meeting in the

wilderness, they were burned outside of the camp, in a clean place.] They were burned [even] on top of a grave [in an unclean place]. [How do we know that they were offered on a high place?] It is on the basis of that which we have learned: There is no difference between a major high place and a minor high place except for Passover offerings [M. 1:11A].

5. **I:6:** It has been taught [in the Tosefta's version]: R. Judah says, "Anything which the community offers up in the tent of meeting which is in the wilderness do they offer up in the tent of meeting which is in Gilgal. "The only difference between the situation prevailing at the time of the tent of meeting which was in the wilderness and that at the time of the tent of meeting which was in Gilgal is that in the wilderness there was no permission for high places [elsewhere], while in Gilgal there was permission for high places [elsewhere]. "[In the case of one who has] his high place on the top of his roof, the individual offers thereon only a burnt offering and peace offerings alone." And sages say, "Anything which the community and the individual offer in the tent of meeting which was in the wilderness do they offer in the tent of meeting which is in Giddal." "In both cases the individual offers on it only a burnt offering and peace offerings alone" [T. Zeb. 13:13C-13:15C].
6. **I:7:** It has been taught: All the same are men and women. [All are fit to sacrifice on a high place (cf. T. Zeb. 13:11A-B).]
7. **I:8:** The Scripture refers to a negative commandment in this regard only within the tent of meeting [the Temple]. How do we know that [when high places are forbidden] one is forbidden to offer sacrifices outside of the Temple?
8. **I:9:** A burnt offering that comes on account of a guilt offering – in the view of R. Eleazar what is the law as to its being valid if offered on a high place? [Such an offering is obligatory.] Let us derive the answer from the following: This is the governing principle: Whatever is offered in fulfillment of a vow or as a freewill offering may be offered on a high place. And whatever is not offered in fulfillment of a vow or as a freewill offering may not be offered on a high place [M. 1:11B-C]. [Thus an obligatory offering is excluded.]
9. **I:10:** Said R. Yosé b. Haninah, "A domesticated beast is permitted [for sacrifice] only at the word of a prophet."

XII. YERUSHALMI MEGILLAH 1:12

[A] THERE IS NO DIFFERENCE BETWEEN SHILO AND JERUSALEM EXCEPT THAT IN SHILO THEY EAT LESSER HOLY THINGS AND SECOND TITHE IN ANY PLACE WITHIN SIGHT [OF THE PLACE], WHILE IN JERUSALEM [THEY EAT THOSE THINGS ONLY] WITHIN THE WALL. AND IN BOTH PLACES MOST HOLY THINGS ARE EATEN [ONLY] WITHIN THE AREA ENCOMPASSED BY THE VEILS. AFTER THE SANCTIFICATION OF SHILO IT WAS PERMITTED [TO SET UP HIGH PLACES ELSEWHERE], BUT AFTER THE SANCTIFICATION OF JERUSALEM IT WAS NOT PERMITTED [TO SET UP HIGH PLACES ELSEWHERE] [M. ZEB. 14:4- 8].

1. **I:1:** [What follows is continuous with the foregoing and belongs as 1:11/I:11: R. Yosé b. R. Hanina said, “Sacrifice on the high places (once it had been prohibited) was permitted only by a prophet.” Then:] R. Yohanan b. R. Mareh derived that proposition from the following: “Then Joshua built an altar in Mount Ebal to the Lord, the God of Israel, [as Moses, the servant of the Lord, had commanded the people of Israel]” (Josh. 8:30). I know that that is the case [that the high place was built at the word of a prophet] of Mount Ebal. How do we know that the same is so of Shiloh? “So Samuel took a suckling lamb and offered it as a whole burnt offering to the Lord; [and Samuel cried to the Lord for Israel, and the Lord answered him]” (1 Sam. 7:9).
2. **I:2:** Said R. Abba bar Kahana, “Three transgressions were permitted through the lamb offered by Samuel: It and its hide [were offered up, without flaying]; it was yet too young; and Samuel was a Levite [not a priest].”
3. **I:3:** Phineas in the name of R. Yosé b. R. Ilai, “One verse of Scripture says, ‘He forsook his dwelling at Shiloh, [the tent where he dwelt among men]’ (Ps. 78:60). And yet another verse of Scripture says, [‘And when we had weaned him, she took him up with her, along with a three-year-old bull, an *ephah* of flour, and a skin of wine;] and she brought him to the house of the Lord at Shiloh; and the child was young’ (1 Sam. 1:24). [One verse speaks of a tent, the other of a house.] “How so? There was a house made of stones below, and there was an area marked off by veils above. “[With reference to Deut. 12:9: ‘For you have not come as yet to the rest and to the inheritance,’ Shiloh is the rest. [They were not moving from place to place, so there was a house made of stones below.]”

4. **I:4:** Hiyya the Elder said to R. Simeon, son of Rabbi, “I heard From your father that all of the places at which the [Presence of God] came to rest were solely in the portion of Benjamin.” What is the scriptural basis for this view? “He dwells between his shoulders” (Deut. 33:12, which speaks of Benjamin). And lo, it is written, “He rejected the tent of Joseph, he did not choose the tribe of Ephraim, but he chose the tribe of Judah, Mount Zion, which he loves” (Ps. 78:67-68). [This excludes Shilo.] Did he choose Judah? [The Temple was in Benjamin’s district.] But there is an analogy to be drawn among the places at which the word, “choosing,” appears. Just as “choosing” stated elsewhere is inclusive of Benjamin, so “choosing” stated here is inclusive of Benjamin.
5. **I:5:** R. Eleazar in the name of R. Hoshaiiah: “On the basis of the fact that in Shilo they eat Lesser Holy Things and second tithe in any place within sight, the one who shaped this tradition did not have to give an admonition concerning their eating, but rather concerning their going up there. [The issue is not the eating but seeing the town. Speaking of eating is not congruent.]”
6. **I:6:** R. Simeon b. Miasha asked before R. Eleazar: “Is the law that one must see the town of Shilo, or must he see both Shilo and the tabernacle of Shilo?”
7. **I:7:** Yosé in the name of R. Yohanan: “This is the indication. So long as the ark was inside [within the tent, in its proper place], the high places were forbidden. “When it went forth [from the tent, its proper place,] the high places were permitted.” R. Zeira asked before R. Yosé, “Is that the case even for a brief time, for instance, in the time of Eli?”
8. **I:8:** And so did R. Judah and R. Simeon say, “Second tithe was eaten at the high places of Nob and of Gibeon.” [Speaking of M. 1:11C:] That poses no problem to the view of R. Judah, for R. Judah said, “A sin offering and a Passover offering are prepared for an individual in the case of a major high place, and a sin offering and a Passover offering for an individual are not prepared in the case of a minor high place.” [Even obligatory offerings of an individual are offered, so too second tithe is eaten.] In accord with the view of R. Simeon [there is a problem, however,] for R. Simeon said, “Also the community only brings what the Scripture itself has imposed on the community.” [M. 1:11C excludes such obligatory offerings. How can individuals eat second tithe in Nob?]

- 9. I:9:** How do we know that priests on Passover fulfill their obligation [to eat unleavened bread] with unleavened bread that is a dough offering or heave offering, and an Israelite may do so with unleavened bread in the status of second tithe? Scripture says, “[In the first month, on the fourteenth day of the month at evening,] you shall eat unleavened bread, [and so until the twenty-first day of the month at evening]” (Ex. 12:18). This serves to encompass [bread in consecrated status]. This means it is possible that one may fulfill his obligation with unleavened bread in the status of first fruits, [but] scripture says, “In all of your dwelling places you shall eat unleavened bread” (Ex. 12:20). The reference then is to unleavened bread that may be eaten in any dwelling place, excluding first fruits, which are not eaten in any dwelling place [but only in Jerusalem].
- 10. I:10:** Is it possible to suppose that people may carry out their obligation with unleavened bread which derives from the loaves that accompany a thank offering or with the cakes baked for the offering of a Nazir? Scripture states, “Seven days you shall eat unleavened bread; on the first day you shall put away leaven out of your houses, for if any one eats what is leavened, from the first day until the seventh day, that person shall be cut off from Israel” (Ex. 12:15). This then refers to unleavened bread that is eaten for all seven days. It serves to exclude loaves of bread that accompany a thank offering and cakes baked for a Nazir, which may not be eaten all seven days. R. Jonah in the name of R. Simeon b. Laqish: “Since loaves of bread accompanying a thank offering and cakes baked for a Nazir are eaten in all of the cities of Israel [= Nob and Gibeon], the one who taught that tradition did not have to exclude them from consideration on the basis of the issue of their being eaten in any dwelling place [at Ex. 12:20].” R. Yosé in the name of R. Simeon b. Laqish, “That is to say that the loaves of bread accompanying a thank offering and the cakes baked for a Nazir are eaten in all of the cities of Israel. Then the one who presented this teaching did not have to exclude them by reference to the matter of their being available to be eaten in any dwelling.”
- 11. I:11:** There is a Tannaite authority who teaches: “The rest” (Deut. 12:9) – this refers to Shilo. “And the inheritance” – this refers to Jerusalem [T. Zeb. 13:20A-D]. There is a Tannaite authority who says, “The Rest” refers to Jerusalem, and the “Inheritance” refers to Shilo [T. Zeb. 13:20H-I]. He who said, “The rest” refers to Shilo, cites the following verse: “For you have not as yet come to the rest and to the inheritance which the Lord your God gives you” (Deut. 12:9). “The inheritance” refers to Jerusalem [as in the following verse:] “Is my heritage to me like a speckled bird of prey? [Are the birds of prey

against her round about? Go, assemble all the wild beasts; bring them to devour”] (Jer. 12:9). He who says, “The inheritance” refers to Shilo [cites the following]: “My heritage has become to me like a lion in the forest, [she has lifted up her voice against me; therefore I hate her”] (Jer. 12:8). “The rest” is Jerusalem [is in line with the following verse]: “This is my resting place for ever; here I will dwell, for I have desired it” (Ps. 132:14).

XIII. YERUSHALMI MEGILLAH 2:1

[A] HE WHO READS THE SCROLL BACKWARDS HAS NOT FULFILLED HIS OBLIGATION. [IF] HE READ IT BY HEART, M HE READ IT TRANSLATED INTO ANY LANGUAGE, HE HAS NOT FULFILLED HIS OBLIGATION. BUT THEY DO READ IT TO THOSE WHO SPEAK A FOREIGN LANGUAGE IN A FOREIGN LANGUAGE. STILL, ONE WHO SPEAKS A FOREIGN LANGUAGE WHO HEARD IT IN ASSYRIAN [HEBREW], HAS FULFILLED HIS OBLIGATION.

- 1. I:1:** [The rule of M. 2:1A about not reading the scroll backwards] is in line with that which is written: “[And an edict was written to every province in its own script and to every people in its own language, and also to the Jews] in their script [and their language]” (Est. 8:9). If one read it by heart, he has not fulfilled his obligation [M. 2:1B, D], in line with that which is written, “in their script” [i.e., in writing] (Est. 8:9). If one read it in Aramaic translation, he has not fulfilled his obligation [M. 2:10C, D], in line with that which is written, “in their language...” (Est. 8:9). If he read it in any other language, he has not fulfilled his obligation [M. 2:1C, D], in line with that which is written, “in their script and in their language” (Est. 8:9).
- 2. I:2:** Jonah said, Nahman bar Ada taught, R. Yosé said, Nahman the Elder taught, “[And these words which I command you this day] shall be [upon your heart]’ (Deut. 6:6) – they shall be in accord with their ‘being’ [namely, in Hebrew].” And it has been taught: The same rule applies to *Hallel*, to the recitation of the *Shema*, and to the reading of the Scroll of Esther. That poses no problems as to the reading of the Megillah, for it is written, “according to what was written” (Est. 9:27). But as to the *Hallel* [what is the reason]? Since it is written, “From the rising of the sun to its setting the name of the Lord is to be praised!” (Ps. 113:3). What do you derive from that verse of Scripture? [The *Hallel* must be read in proper order.]

3. **I:3:** R. Yosé in the name of R. Aha, R. Zeirah in the name of R. Eleazar: “[As to the rule at M. 2:1E,] that applies when the scroll itself is written in that foreign language.”
4. **I:4:** Samuel taught, “If one erred and one left out a verse, but the translator translated, the listener has carried out his obligation.”
5. **I:5:** And R. Abbahu in the name of R. Eleazar: “If one knows Assyrian and knows a foreign language, one may carry out his obligation only in Assyrian.” If he knows Assyrian and a foreign language, what is the law as to his carrying out the obligation of others, through his reading of the scroll, in a foreign language? The answer derives from the following: Anyone who is not liable to carry out a given deed also cannot fulfill the obligation of others in carrying out that deed [since he is obliged to carry out his obligation in Hebrew rather than in that foreign language].

XIV. YERUSHALMI MEGILLAH 2:2

[A] [If] ONE READ IT PIECEMEAL, OR DROWSILY, HE HAS CARRIED OUT HIS OBLIGATION.

1. **I:1:** It has been taught: [If one read the Scroll of Esther] piecemeal, he has carried out his obligation [M. 2:2A, C].
2. **I:2:** If he read it piecemeal in sections, if he read one verse, skipped a verse, [read the third, then came back to the second] As to the words in Hebrew for “piecemeal” (serugim) and for purslane (halaglagot), the rabbis were in doubt as to their meaning. Said R. Haggai, “The associates were wondering about the meaning of the cited words and also about whether one who is greater in wisdom or one who is greater in years should take precedence. “They said, ‘Let us go and ask at the house of Rabbi.’ They went up to ask. A servant girl of Rabbi’s household came out, and she said to them, ‘Go in in order of years.’ “They said, ‘Let so-and-so go in first, let so-and-so go in first.’ They began to go in piecemeal [one by one]. “She said to them, ‘Why are you going in serugim [piecemeal]?’ “One of the rabbis was carrying portulaks. They fell from him. She said to him, ‘Rabbi, your halaglagot [portulaks] have fallen.’ “She said to her co-worker, ‘Bring a broom,’ and she brought a bundle of shoots. [This served to explain the language of Is. 14:23.]”

3. **I:3:** R. Mana said in the name of R. Judah, who said it in the name of R. Yosé the Galilean, “If when reciting the Shema, one interrupted it [at an appropriate break, in order to Feet someone] for sufficient time to recite the entire Shema, he has not carried out his obligation [and must start back at the beginning; cf. Y. Ber.2:1].”

[B] [IF] ONE WAS WRITING IT, EXPLAINING IT, OR CORRECTING IT, IF HE PAID ATTENTION [SO THAT IN DOING SO, HE WOULD CARRY OUT HIS OBLIGATION TO READ THE SCROLL], HE HAS FULFILLED HIS OBLIGATION. AND IF NOT, HE HAS NOT FULFILLED HIS OBLIGATION. M IT WAS WRITTEN IN CAUSTIC, RED DYE, GUM, OR COPPERAS, OR ON PAPER OR UNPREPARED LEATHER, HE HAS NOT FULFILLED HIS OBLIGATION — UNLESS IT IS WRITTEN IN SQUARE [“ASSYRIAN”] LETTERS ON PARCHMENT AND WITH INK.

1. **II:1:** If one was writing it [M. 2:2D-E]: [This indicates that one may have been writing out the scroll of Esther on Purim.] Is that to say that it is permitted to do work on Purim? We may say that the Mishnah speaks of the fourteenth of Adar in the cities [since the scroll will be read on the fifteenth]. Or explaining it [the scroll] (M. 2:2D): so long as one does not then proceed to other matters [than those of the scroll of Esther itself].
2. **II:2:** Or explaining it [the scroll] (M. 2:2D): so long as one does not then proceed to other matters [than those of the scroll of Esther itself]. Or correcting it [M. 2:2D] It has been taught: They do not pay attention to errors in a scroll of Esther.

XV. YERUSHALMI MEGILLAH 2:3

[A] A TOWNSMAN [WHO READS THE SCROLL ON THE FOURTEENTH OF ADAR] WHO WENT TO A CITY [WHERE IT IS READ ON THE FIFTEENTH], OR A CITY-DWELLER WHO WENT TO A TOWN, IF HE IS GOING TO RETURN TO HIS PLACE, READS IN ACCORD WITH THE RITE IN HIS OWN PLACE. BUT IF HE IS NOT GOING TO RETURN HOME, HE READS WITH THEM [AMONG WHOM HE IS STAYING].

1. **I:1:** There is no problem in understanding the rule for the city-dweller who went to a town, since the time that applies to him is later. [Hence we know that, if he is going to go home, he will read on the fifteenth, when he gets home.] But in the case of a townsman who went to a city, in which case the time that applies to him is earlier, [how can you explain matters]? [What difference does it make that he is going to go home, since the time will have passed for reading the scroll of his town?] Said R. Yudan, “There is no place [in this Mishnah passage]

for the clause, a townsman who went to a city.” And so the household of Rabbi taught the passage: A city-dweller who went to a town [but not the reverse].

2. **I:2:** As to a townsman, what is the law on his serving to [read the scroll of Esther and so] fulfill the obligation for a city-dweller? The answer may derive from the following: Whoever is not liable for a matter cannot fulfill the obligation to carry out that matter as the agent of the community. [Since the date of liability is different, the one cannot serve as the agent for the other to carry out his obligation for him.] As to a city-dweller, what is the law on his serving to [read the scroll of Esther and so] fulfill the obligation of a townsman? Let the answer derive from the following: Whoever is not liable for a matter cannot fulfill the obligation to carry out that matter as the agent of the community.
3. **I:3:** R. Yudan raised the question, “A townsman who decided to move his household on the night of the fifteenth of Adar [and to move to the city: Do we regard him as already moved since he has decided to do so?]”
4. **I:4:** Those who embark on a caravan or set sail read the Scroll of Esther] on the fourteenth of Adar [T. Meg. 1:2A].

XVI. YERUSHALMI MEGILLAH 2:4

- [A] **FROM WHAT POINT DOES A PERSON READ THE SCROLL AND THEREBY CARRY OUT HIS OBLIGATION? R. MEIR SAYS, “THE WHOLE THING.” R. JUDAH SAYS, “FROM, ‘THERE WAS A CERTAIN JEW’” (EST. 2:5). R. YOSÉ SAYS, “FROM, ‘AFTER THESE THINGS’” (EST. 3:1).**
1. **I:1:** Abbahu in the name of R. Eleazar: “He who says [one reads the whole of it [cites the following verse in support of his position]: ‘And therefore, because of all that was written in this letter’ (Est. 9:26). “He who says it is from, ‘There was a certain Jew’ (Est. 2:5) cites, ‘And of what they had faced in this matter’ (Est. 9:26). “He who says it is from, ‘After these things,’ cites, ‘and of what had befallen them’” (Est. 9:16).
 2. **I:2:** Ba, R. Jeremiah in the name of Rab: “The law accords with the view of R. Meir, who holds that one must read the whole of it [the scroll of Esther].” R. Zeirah in the name of R. Yohanán: “With regard to the laws of intermingling boundaries to form a single domain for

purposes of carrying on the Sabbath and the laws of a public fast, one is accustomed to follow the view of R. Meir.” R. Jacob bar Aha in the name of R. Yohanan: “Also with regard to the rules governing the reading of the scroll of Esther, all are accustomed to follow the view of R. Meir.”

3. **I:3:** R. Berekhiah, R. Helbo, Ulla Biriayyah, R. Eleazar in the name of R. Haninah: “In time to come the Holy One, blessed be he, will be made into the head of the dance of the righteous in time to come.”
4. **I:4:** R. Helbo, R. Hama bar Guria in the name of R. Hama bar Uqba in the name of R. Yosé b. Haninah, “‘Family by family,’ [with reference to the following verse: ‘That these days should be remembered and kept throughout every generation, in every family, province, and city, and that these days of Purim should never fall into disuse among the Jews, nor should commemoration of these days cease among their descendants’ (Est. 9:28). On the basis of this statement we derive the law that the watches of the priesthood and the Levites are to refrain from labor. [In the week in which their work at the Temple in Jerusalem is to carry out the sacrifices and song, on the day the scroll of Esther is read, they should refrain from their work and listen to the scroll.]”

XVII. YERUSHALMI MEGILLAH 2:5

[A] ALL ARE VALID TO READ THE SCROLL, EXCEPT FOR A DEAF-MUTE, AN IDIOT, AND A MINOR.

1. **I:1:** Said R. Mattenah, “This represents the view of R. Yosé [in excluding the deaf-mute, in the theory that the reader must hear what he is saying.” Said R. Yosé, “We considered ruling that where R. Yosé and rabbis differ, it is with regard to reciting the Shema, for in that regard, scripture stated, ‘Hear [O Israel],’ indicating that the person must hear what he is saying]. But with regard to other religious duties, that is not the case. “On the basis of what R. Mattenah has said, ‘It is the view of R. Yosé,’ that is to say that the same rule applies [in his view] to the Shema and to other commandments.”

[B] R. JUDAH DECLARES VALID IN THE CASE OF A MINOR.

1. **II:1:** Judah declares valid in the case of a minor [M. 2:4B]. Said R. Judah, “I was a minor, and I read it before R. Tarfon in Lud, and he accepted me” [cf. M. 2:4B]. They said to him, “You were a minor,

who cannot testify.” Said Rabbi, “I was a minor, and I read it before R. Judah in Usha, and elders were there, and not a single one of them said a thing.” They said to him, “They cannot bring evidence of the law from the position of the one who permits [the matter to be done = Judah at M. 2:4B].” From that point onward, they had the custom that a minor may read the Scroll of Esther in public [T. Meg. 2:8A-D].

2. **II:2:** Bar Qappara said, “It is necessary to read it before women and children, for even they were in doubt [as to their lives].

[C] **THEY DO NOT READ THE SCROLL, PERFORM A RITE OF CIRCUMCISION, IMMERSE, SPRINKLE PURIFICATION-WATER, AND SO TOO, A WOMAN AWAITING DAY AGAINST DAY SHOULD NOT IMMERSE, UNTIL SUNRISE. BUT IN ANY CASE IN WHICH ONE DID SO AFTER THE DAWN HAS RISEN, IT IS VALID.**

1. **III:1:** They do not read the Megillah before the sunrise [M. 2:4C], in line with that which is written, “[Now in the twelfth month, which is the month of Adar, on the thirteenth day of the same, when the king’s command and edict were about to be executed,] on the very day when the enemies of the Jews hoped to get the mastery over them, [but which had been changed to a day when the Jews should get the mastery over their foes]” (Est. 9:1). Nor do they perform a rite of circumcision [M. 2:4C]:”And on the eighth day the flesh of his foreskin shall be circumcised” (Lev. 12:3). Nor do they immerse [M. 2:4C]: “[And Eleazar the priest] shall dip [some of her blood with his finger,] and sprinkle [some of her blood toward the front of the tent of meeting seven times” (Num. 19:4). Just as sprinkling is by day, so dipping is by day.
2. **III:2:** All those who are liable to immerse do so under ordinary circumstances by day, except for the menstruating woman and the woman after childbirth, who immerse only by night. A menstruating woman whose time had passed may immerse whether by day or by night [on the eighth or successive days, after the onset of her period].
3. **III:3:** With regard to M. 2:4C-E,] now lo, we see that the rabbis advance the time of intercalating the year, doing so prior to sunrise.

XVIII. YERUSHALMI MEGILLAH 2:6

[A] **THE ENTIRE DAY IS VALID FOR THE READING OF THE SCROLL OF ESTHER, THE RECITATION OF THE HALLEL, THE SOUNDING OF THE SHOFAR, TAKING THE LULAB, THE SAYING OF THE ADDITIONAL PRAYER, OFFERING THE ADDITIONAL**

OFFERINGS, CONFESSION AT THE OFFERING OF THE BULLOCKS, THE CONFESSION CONCERNING TITHE, THE CONFESSION ON THE DAY OF ATONEMENT, FOR THE LAYING ON OF HANDS, SLAUGHTERING, WAVING, BRINGING NEAR [A SACRIFICIAL ANIMAL], TAKING THE HANDFUL, OFFERING IT UP, BREAKING THE NECK [OF A BIRD OFFERING], RECEIVING THE BLOOD, SPRINKLING -THE BLOOD, MAKING AN ACCUSED WIFE DRINK THE BITTER WATER, BREAKING THE NECK OF A HEIFER, AND PURIFYING A MESORA.

- 1.** **I:1:** The entire day is valid for the reading of the scroll of Esther, as it is written: “[Now in the twelfth month, which is the month of Adar, on the thirteenth day of the same, when the king’s command and edict were about to be executed,] on the very day when the enemies of the Jews hoped to get the mastery over them, [but which had been changed to a day when the Jews should get the mastery over their foes]” (Est. 9:1). For the reading of Hallel, as it is written, “This is the day which the Lord has made; la us rejoice and be glad in it” (Ps. 118:24). For sounding the shofar, as it is written, “[On the first day of the seventh month you shall have a holy convocation; you shall do no laborious work.] It is a day for you to blow the trumpets” (Num. 29:1). For taking the lulab, as it is written, “And you shall take on the first day [the fruit of goodly trees, branches of palm trees, ant boughs of leafy trees, and willows of the brook; and you shall rejoice before the Lord your God seven days]” (Lev. 23:40). For the saying of the additional prayer and for the additional offerings, as it is written, “[which the Lord commanded Moses on Mount Sinai,] on the day that he commanded the people of Israel [to bring their offerings to the Lord, in the wilderness of Sinai]” (Lev. 7:38). For the laying on of hands, for slaughtering, waving, bringing near, taking the handful, offering it up, breaking the neck of the bird offering, receiving the blood, sprinkling the blood, as it is written, “On the day that he commanded the people of Israel [to bring their offerings to the Lord]” (Lev. 7:38).

XIX. YERUSHALMI MEGILLAH 2:7

[A] THE ENTIRE NIGHT IS VALID FOR CUTTING THE WHEAT FOR THE OMER AND FOR OFFERING UP THE FATS AND THE SACRIFICIAL PARTS. THIS IS THE GOVERNING PRINCIPLE: ANY ACT WHOSE RELIGIOUS REQUIREMENT APPLIES BY DAY IS VALID WHEN DONE AT ANY TIME OF THE DAY, AND A MATTER WHOSE RELIGIOUS REQUIREMENT APPLIES BY NIGHT IS VALID WHEN DONE AT ANY TIME OF THE NIGHT.

- 1.** **I:1:** The entire night is valid for counting the *omer*.

2. **I:2:** “If one was offering the meal-offering of the omer, and it became unclean in his hand, [if another is available,] one tells him, and they bring another in its place, but if not, one says to him, ‘Be wise and keep silent,’” the words of Rabbi. R. Eleazar b. R. Simeon says, “One way or the other, he is told, ‘Be wise and keep silent,’ for the omer that was reaped not in accord with the law applying to it is invalid. [It cannot be reaped by day. It is better to offer the first omer, which is unclean, than another which to begin with is invalid. The priest’s frontlet will effect atonement for the uncleanness of the omer, so that is a lesser consideration.]
3. **I:3:** [If grain for the omer should be] harvested by day, how is the matter treated? Is it treated [post facto] as equivalent to grain cut by night [and hence valid], or is it treated as in the status of wheat that comes out of storage [hence not valid]?
4. **I:4:** R. Simeon b. Levi raised the following question: “As to cutting the grain for the omer, what is the law on its overriding the prohibitions of the Sabbath when it is cut by day [that is, at the wrong time]?” R. Abayye objected, “And have we not learned: The religious requirement [of cutting grain for the omer] is to cut it by night. If it is cut by day, it is valid and it overrides the restrictions of the Sabbath [M. Men. 10:9]!” But [Simeon] did not accept that answer.

XX. YERUSHALMI MEGILLAH 3:1

[A] TOWNSFOLK WHO SOLD A STREET OF A TOWN MAY BUY WITH ITS PROCEEDS A SYNAGOGUE.

1. **I:1:** Said R. Yohanan, “[The rule of M. 3:1A] represents the view of R. Menahem b. R. Yosé. For R. Menahem b. R. Yosé said, ‘The street of a town is subject to sanctification. For they take a scroll of the Torah out into the street and read it publicly there.’ “But rabbis merely assign to the street the rule of ‘four cubits’. [explained presently].” R. Jeremiah, R. Samuel bar Halap in the name of R. Ada bar Ahva: “He who prays should not spit until he walks four cubits [away from the spot at which he has prayed].” “And so, ‘He who spits should not say a prayer until he walks four cubits from that spot.’”

[B] [IF THEY SOLD] A SYNAGOGUE, THEY MAY BUY AN ARK. [IF THEY SOLD] AN ARK, THEY MAY BUY WRAPPINGS.

1. **II:1:** People from Beisan asked R. Immi, “What is the law on buying stones from one synagogue for building another synagogue?” He said, “It is forbidden.” Said R. Helbo, “R. Immi declared that it is forbidden, only because of the anguish [that will affect the people of the former synagogue, when it is torn down].” R. Gurion said, “The people of Magdela asked R. Simeon b. Laqish, “What is the law on purchasing stones from one town to build up another town?” “He said to them, ‘It is forbidden.’” R. Immi gave instructions, “Even [purchasing stones from] the eastern [part of a town for building up] the western [part of the town] is forbidden, because of the destruction [thereby inflicted] on that place [from which the building materials are purchased].”
2. **II:2:** What is the law concerning the sale of a synagogue for the purchase of a schoolhouse [cf. M. 3:1B]? A statement of R. Joshua b. Levi implies that it is permitted to do so. For R. Joshua b. Levi said, “‘And he burned the house of the Lord, and the king’s house and all the houses of Jerusalem every great house he burned down’ (2 Kings 25:9). “‘The house of the Lord’ refers to the Temple. ‘And the king’s house’ refers to the palace of Zedekiah. ‘And all the houses of Jerusalem’ refers to the 480 synagogues that were in Jerusalem.” For R. Phineas in the name of R. Hoshaiiah: “There were 480 synagogues in Jerusalem and every one of them had a schoolhouse and a house for learning, a schoolhouse for Scripture and a house of learning for Mishnah. “And all of them did Vespasian [attack]. “‘And every great house he burned down’ (2 Kings 25:9) refers to the schoolhouse of Yohanan b. Zakkai, in which they repeated the great deeds of the Holy One, blessed be he, “for example, “Tell me the great things that Elisha has done” (2 Kings 8:4).
3. **II:3:** [As to M. 3:1B,] R. Samuel bar Nahman in the name of R. Jonathan: “That which you have said applies to a synagogue belonging to an individual. But as to a synagogue belonging to the public, it is forbidden [to sell a synagogue and purchase an ark].”
4. **II:4:** Up to this point we have dealt with a building that had been built for the purpose of a synagogue. If one built it for a courtyard and consecrated it [later on, for a synagogue,] what is the law? Let us derive the answer from the following: [If one said,] “Qonam be this building if I enter it, “ and the building was turned into a synagogue [and he said, “Had I known that it would be made into a synagogue, I should not have taken such a vow,” R. Eliezer declares the vow not binding and sages declare it binding [M. Ned. 9:2]. [It follows that the building now is regarded as a synagogue and subject to the consecration affecting a synagogue.]

5. **II:5:** As to utensils of service [in the cult], at what point do they enter the status of sanctification? Are they consecrated forthwith? Or is it only at the point at which they enter into use? If you say that it is forthwith, there are no problems. If you say that it is only at the point at which they are used, then are they simultaneously sanctified and also able to confer sanctity [upon things deposited in them]? Furthermore, there is no problem with regard to utensils of service made for Moses, which were consecrated with the anointing oil [available at that time] and with blood. But in the case of utensils prepared for Solomon, can you say that they simultaneously gained the power to confer sanctification and also were themselves sanctified?
6. **II:6:** Stones that one hewed out for the sake of someone already dead may not be used for the benefit of someone then alive. But for the sake of someone [else] who is dead, they are permitted to be used.
7. **II:7:** And any sort of utensil belonging to a synagogue has the status of the synagogue: e.g., a bench, a teacher's litter are in the status of the synagogue [to which they belong].

[C] [IF THEY SOLD] WRAPPINGS, THEY MAY BUY SCROLLS [OF THE PROPHETS OR WRITINGS]. [IF THEY SOLD] SCROLLS, THEY MAY BUY A TORAH SCROLL. BUT IF THEY SOLD A TORAH SCROLL, THEY SHOULD NOT BUY SCROLLS. [IF THEY SOLD] SCROLLS, THEY SHOULD NOT BUY WRAPPINGS. [IF THEY SOLD] WRAPPINGS, THEY SHOULD NOT BUY AN ARK. [IF THEY SOLD] AN ARK, THEY SHOULD NOT BUY A SYNAGOGUE. [IF THEY SOLD] A SYNAGOGUE, THEY SHOULD NOT BUY A STREET.

1. **III:1:** If they sold wrappings, they buy scrolls [M. 3:1D]: Even wrapping used for the Torah and the Pentateuchal books [do they sell and with the proceeds thereof they buy scrolls containing the books of the prophets and the writings]. But if one sold scroll, they should not buy wrappings [M. 3:1G]: Even scrolls containing books of the prophets and the writings may he not buy with the proceeds, for the Torah or books of the Pentateuch. They wrap the Torah with wrappings for a Torah. They wrap books of the Pentateuch with wrappings used for books of the Pentateuch. They wrap books of the prophets with wrappings so designated. They wrap the Torah or books of the Pentateuch with wrappings used for books of the prophets and writings. But they do not wrap books of the prophets and writings with Yosé wrappings used originally for the Torah or for books of the Pentateuch. They put a Torah on top of a Torah, and [scrolls containing books of the] Pentateuch on top of Pentateuchs,

Pentateuchs on top of scrolls of the prophets, but not scrolls of the prophets on top of the Torah or on top of Pentateuchs [T. Meg. 3:20].

2. **III:2:** R. Samuel bar Nahman in the name of R. Jonathan: “If a Torah is lacking [part of what should be there], one may not read it in public.”

[D] **AND SO WITH THE SURPLUS [OF THE PROCEEDS OF ANY OF] THESE.**

1. **IV:1:** That applies to what the charity collectors collected and left over [those funds also may be used only for the purpose for which they were designated].

XXI. YERUSHALMI MEGILLAH 3:2

[A] **“THEY DO NOT SELL THAT WHICH BELONGS TO THE PUBLIC ~O A PRIVATE PERSON, BECAUSE THEY THEREBY DIMINISH ITS LEVEL OF SANCTITY, “ THE WORDS OF R. MEIR. THEY SAID TO HIM, “IF SO, [THEY SHOULD] NOT [SELL] FROM A LARGE TOWN TO A SMALL ONE.”**

1. **I:1:** Three members of a synagogue [who made an agreement in behalf of the synagogue] are tantamount to the synagogue as a whole. And seven townsmen are tantamount to the town as a whole [to act in behalf of the synagogue or the town, respectively].
2. **I:2:** A townsman who gave to charity in another town – he may give with [those who live in that other town]. A group of townspeople who gave to charity in a different town – they must give [the funds back to the poor] in their own town.
3. **I:3:** He who makes a candelabrum or a lamp for a synagogue – before the name of the owner [who has donated it] is forgotten from these objects, one is not permitted to use them for some other purpose. Once the name of the owner [who donated them] is forgotten from them, one is permitted to make use of them for some other purpose [T. Meg. 2:14].
4. **I:4:** What is the law as to writing two or three words of a verse of Scripture [in a letter]? [Generally, to do so one must incise a line for that purpose. Is it necessary to observe the same restrictions in a letter?]

XXII. YERUSHALMI MEGILLAH 3:3

[A] **THEY SELL A SYNAGOGUE ONLY WITH THE STIPULATION THAT IF THEY WANT, THEY MAY TAKE IT BACK, “THE WORDS OF R. MEIR. AND SAGES SAY, “THEY SELL IT FOR ALL TIME, EXCEPT FOR [USE FOR] FOUR PURPOSES: A BATHHOUSE, A TANNERY, AN IMMERSION POOL, OR A URINAL.” R. JUDAH SAYS, “THEY SELL IT AS A COURTYARD, AND AS TO THE PURCHASER – WHATEVER HE WANTS, HE DOES WITH IT.”**

- I:1:** Said R. Yohanán, “We do not know how to interpret this law. If it is in accord with R. Meir, then they may sell a synagogue only with a stipulation, [and that applies even to a sale from one community to another community]. [Then at M. 3:2A, why should the rule specify a sale from the community to an individual, since a synagogue may not be sold even by one community to another community? If the consideration is as specified at M. 3:2A, moreover, that we not reduce the sanctity of the synagogue, then why is there a reduction in sanctity if one community buys the synagogue from another one?] “If the law accords with rabbis, then they may sell it for all time, except for the four specified purposes. [Now what difference does that make vis-a-vis M. 3:2C?]” R. Hiyya in the name of R. Yohanán: “One must interpret [M. 3:2 to speak about] a scroll of the Torah. [At M. 3:2 we do not speak of the sale of a synagogue at all.]”

[B] **AND FURTHER DID R. JUDAH STATE, “A SYNAGOGUE WHICH WAS DESTROYED – THEY DO NOT CARRY OUT A LAMENTATION FOR THE DEAD IN IT. AND THEY DO NOT TWIST ROPES IN IT, AND THEY DO NOT SPREAD OUT NETS [TO DRY] IN IT, AND THEY DO NOT SPREAD OUT PRODUCE TO DRY ON ITS ROOF:**

- II:1:** That which you have said [at M. 3:3E-L] applies to a synagogue belonging to an individual [which was destroyed]. But as to a synagogue belonging to the community, even if it is built [and not destroyed] it is forbidden to do these things.

[C] **“AND THEY DO NOT MAKE IT INTO A PUBLIC SHORTCUT. FOR IT IS WRITTEN, ‘I WILL BRING YOUR SANCTUARIES TO DESOLATION’ (LEV. 26:31) – THEY REMAIN SANCTIFIED EVEN WHEN THEY ARE DESOLATED. IF GRASS GREW UP IN IT, ONE SHOULD NOT CUT IT, BECAUSE OF GRIEF.”**

- III:1:** [With reference to M. 3:3/I,] Samuel said, “If one entered a synagogue not in order to use it as a shortcut, it is permitted to use it as a shortcut.”

2. **III:2:** It has been taught [in the Tosefta’s version]: Synagogues – they do not behave with them frivolously. One should not go into them on a hot day on account of the heat, or on a cold because of the cold, or on a rainy day because of the rain. They do not eat or drink in them, nor do they sleep in them, nor do they take a stroll in them, nor do they derive benefit from them. But they read [Scripture] in them, repeat [Mishnah-traditions] in them, and expound [biblical lessons] in them [T. Meg. 2:18A-D].
3. **III:3:** Joshua b. Levi said, “Synagogues and schoolhouses belong to sages and their disciples.” R. Hiyya bar Yosé received [guests] in the synagogue [and lodged them there]. R. Immi instructed the scribes, “If someone comes to you with some slight contact with Torah-learning, receive him, his asses, and his belongings.”
4. **III:4:** As to a vestibule [built at the entrance of the synagogue], what is the law about walking through it [in line with M. 3:3/I]? R. Abbahu went through the vestibule.

XXIII. YERUSHALMI MEGILLAH 3:4

[A] **THE NEW MOON OF ADAR THAT FELL ON A SABBATH – THEY READ THE PERICOPE OF SHEQELS (EX. 30:16). [IF THE NEW MOON] FELL DURING THE WEEK, THEY PUSH [THE READING] BACK TO [THE SABBATH WHICH COMES] BEFORE, AND ON THE NEXT SABBATH SUSPEND [READING THE FOUR PERICOPAE OF ADAR]. [DOING THIS MAKES CERTAIN THAT THE SECOND OF THE FOUR PERICOPAE OF ADAR, ON AMALEK, WILL IMMEDIATELY PRECEDE PURIM, WHICH CELEBRATES THE FALL OF AMALEK’S DESCENDANT, HAMAN.]**

1. **I:1:** R. Levi in the name of R. Simeon b. Laqish: “The Holy One, blessed be he, saw that the evil Haman was destined to weigh out his money against Israel. He said, ‘It is better that the money of my children [in support of the Temple] should come before the money of that evil man.’ Therefore they push matters up and read the biblical pericope about collecting the *sheqels* [prior to the advent of Adar, when the calendar calls for it].”
2. **I:2:** If the new moon of Adar comes on Friday, on what Sabbath do they read [the pericope of the sheqels]? [Is it on the preceding Sabbath or on the Sabbath after the new moon?] R. Zeirah said, “They read it on the preceding Sabbath.” R. Ila, R. Abbahu in the name of R. Yohanan: “They read it on the Sabbath that follows.”

3. **I:3:** R. Nahman bar Jacob raised the following question: “What if the fifteenth of Adar falls on the Sabbath? To read the scroll of Esther you are not able, for they read in the Hagiographa only from the afternoon prayers and onward. Should they then read the pericope, “Remember [Amalek]? [But the people in the towns will already have read the scroll of Esther on the fourteenth of Adar, that is, on the Friday before. Surely they cannot now read ‘Remember.’]”

XXIV. YERUSHALMI MEGILLAH 3:5

[A] **ON THE SECOND SABBATH [THEY READ], “REMEMBER” (DEUT.. 25:17-19). ON THE THIRD [THEY READ] THE PERICOPE OF THE RED COW [NUM. 19:1FF.]. ON THE FOURTH THEY READ, “THIS MONTH SHALL BE UNTO YOU” (EX. 12:1-20). ON THE FIFTH THEY GO BACK TO THE SET ORDER. AT ALL TIMES THEY SUSPEND [INTERRUPT THE SET ORDER OF THE READING OF THE TORAH]: FOR NEW MOONS, HANUKKAH, PURIM, FASTS, SET DELEGATIONS [MA’AMADS], AND FOR THE DAY OF ATONEMENT.**

1. **I:1:** Ba in the name of R. Hiyya bar Ashi: “One may not interrupt between Purim and the pericope of the red cow [but that passage is read immediately after Purim].” R. Levi in the name of R. Hiyya bar Haninah: “One may not interrupt between the pericope of the red cow and the one on the month [announcing Passover in Nisan, M. 3:5C].” Said R. Levi, “The mnemonic serving these passages is along the lines of the one serving the four cups of Passover: ‘If one wanted to drink between the cups he may do so. But between the third and fourth cups [drunk at the Passover meal] one may not do so.’ [Along these same lines, between the passage on the red cow and the one on the month of Nisan, one may not allow an interruption, but one reads the two passages on two successive Sabbaths.]”
2. **I:2:** Jeremiah, the scribe, asked R. Jeremiah, “A new moon that coincided with the Sabbath – what passage do they read?”

XXV. YERUSHALMI MEGILLAH 3:6

[A] **AT PASSOVER THEY READ THE SECTION, “THE SET FEASTS” ~LEV. 23:4FF.], IN THE TORAH OF THE PRIESTS [LEVITICUS]. AT PENTECOST, THEY READ, “SEVEN WEEKS” [DEUT. 16:9FF.]. AT THE NEW YEAR THEY READ, “IN THE SEVENTH MONTH, ON THE FIRST DAY OF THE MONTH” [LEV. 23:23FF.]. ON THE DAY OF ATONEMENT THEY READ, “AFTER THE DEATH” [LEV. 16:1FF.].**

ON THE FIRST FESTIVAL DAY OF THE FESTIVAL [OF TABERNACLES] THEY READ THE SECTION, “THE SET FEASTS” [LEV. 23:33], IN THE TORAH OF THE PRIESTS. AND ON THE OTHER DAYS OF THE FESTIVAL THEY READ ABOUT THE OFFERINGS OF THE FESTIVAL [NUM.. 29:17FF.].

- 1. I:1:** [In the Tosefta’s version:] On Pentecost they read, “Seven Weeks” (Deut. 16:9) 1M. 3:5B]. Ant some say [that on Pentecost they read] “In the third month” (Ex. 19:1) [T. Meg. 3:5H-I]. On the New Year [they read], “Say to the people of Israel, ‘In the seventh month, on the first day of the month, you shall observe a day of solemn rest’” (Lev. 23:24). And some say, “And the Lord remembered Sarah” (Gen. 21:1) [T. Meg. 3:y. On the Day of Atonement, they read, “After the death” (Lev. 16:1). [Yerushalmi omits:] And for the final lection they read, “On the tenth” (Num. 27:7), which is in the Book of Numbers [T. Meg. 3:7]. On the first festival day of the Festival [of Tabernacles] they read the section, “The set feasts” [Lev. 23:33ff.] in the Torah of the Priests. And on the other days of the Festival they read about the offerings of the Festival [M. 3:6E-F].

- a. I:2:** There we have learned: Simeon the Righteous was one of the remnants of the Great Assembly. He would say, “On three things the world stands: Torah, sacrificial cult, and deeds of loving kindness” [M. Abot 1:3]. And the three of them derive from a single verse of Scripture (Is. 51:16): “I have placed my words in your mouth” – this refers to the study of Torah.” And in the shadow of my hands I have covered you” – this refers to doing deeds of loving kindness. This serves to teach you that whoever keeps himself busy in studying Torah and in doing deeds of loving kindness merits sitting in the shadow of the Holy One, blessed be he.

XXVI. YERUSHALMI MEGILLAH 3:7

[A] AT HANUKKAH [THEY READ,] “THE PRINCES” [NUM. 7:1FF.]. AT PURIM [THEY READ,] “AND AMALEK CAME” [EX. 17:8FF.]. ON THE NEW MOONS THEY READ, “AND ON THE FIRST DAYS OF YOUR MONTHS”[NUM. 28:11]. AT THE SET MA’AMADS THEY READ THE STORY OF CREATION [GEN. 1:1FF.]. AT FASTS THEY READ THE BLESSINGS AND CURSES [LEV. 26, DEUT. 28]. THEY DO NOT INTERRUPT THE READING OF THE CURSES, BUT ONE PERSON READS ALL OF THEM. ON MONDAY AND THURSDAY AND THE SABBATH AT THE AFTERNOON PRAYER THEY READ ACCORDING TO THE SET ORDER.

1. **I:1:** They do not interrupt [the reading of] the curses [M. 3:7E]. Said R. Hiyya bar Gameda, “[My son,] do not cut up the Lord’s curses [or be weary of his reproof]’ (Prov. 3:11). “[The meaning is,] ‘Do not break them up into small segments [but read them all at once].” Said R. Levi, “Said the Holy One, blessed be he, ‘It is not right that my children should be cursed, while I am blessed [in the blessing before and after the reading of the Torah].’ [Hence the entire passages are read without interruption.]”
2. **I:2:** Said R. Yosé b. R. Bun, “For the song of the Levites [Deut. 32:1-43] no fewer than six persons are called up to the Torah. The mnemonic is HZYWLK.”
3. **I:3:** R. Zeirah, R. Jeremiah in the name of R. Rab: “The Song at the Sea and the Song of Deborah are written in the manner of setting bricks, that is, two halves of a brick over a whole brick, and a whole brick over half-bricks. The names of the ten sons of Haman and the kings of Canaan are written with a half-brick over a half-brick and a whole brick over a whole brick, for no building could stand if built that way.”
4. **I:4:** R. Berekhiah, R. Jeremiah, R. Hiyya in the name of R. Yohanan, R. Jonathan, when he would reach this verse, ‘Who had been carried away from Jerusalem among the captives carried away with Jeconiah king of Judah, whom Nebuchadnezzar king of Babylon had carried away’ (Est. 2:6), he would say, ‘Nebuchadnezzar – may his bones rot.’”

[B] AND THESE ARE NOT TAKEN INTO ACCOUNT [IN THE READING OF THE REGULAR SABBATHS], SINCE IT SAYS, “AND MOSES DECLARED TO THE CHILDREN OF ISRAEL THE SET FEASTS OF THE LORD” (LEV. 23:44). THEIR RELIGIOUS REQUIREMENT IS THAT THEY SHOULD BE READ, EACH ONE IN ITS TIME.

1. **II:1:** And these are not taken into account [in the reading of the regular Sabbaths] [M. 3:7H]: There is a Tannaite authority who teaches, “They are taken into account.” Zeira, Abba bar Jeremiah, R. Mattenah in the name of Samuel: “The law is in accord with him who says, ‘They are not taken into account.’” This is in accord with our version of the Mishnah.
2. **II:2:** There is a Tannaite authority who teaches, “One opens the scroll, looks into it, rolls it up and then says the blessing [so that it will not appear that he is reading the blessing from the Torah scroll itself].” There is a Tannaite authority who teaches: “One opens the scroll, looks into it, and says the blessing.” R. Zeira, Abba bar Jeremiah, R.

Mattenah in the name of Samuel: “The law is in accord with him who says, ‘One opens, looks into the Torah, and says a blessing.’”

XXVII. YERUSHALMI MEGILLAH 4:1

[A] **HE WHO READS THE SCROLL MAY STAND OR SIT. [IF] ONE READS IT, [OR IF 1 TWO READ IT [TOGETHER], THEY HAVE FULFILLED THEIR OBLIGATION. IN A PLACE IN WHICH THEY ARE ACCUSTOMED TO SAY A BLESSING, ONE SAYS A BLESSING. [IN A PLACE IN WHICH THEY ARE ACCUSTOMED] NOT TO SAY A BLESSING, ONE DOES NOT SAY A BLESSING. ON MONDAY, THURSDAY, AND THE SABBATH AT THE AFTERNOON SERVICE, THREE READ [IN THE TORAH]. THEY DO NOT ASSIGN FEWER, AND THEY DO NOT ASSIGN MORE, TO THEIR NUMBER. AND [ON THOSE DAYS AND OCCASIONS] THEY DO NOT CONCLUDE WITH A PROPHETIC LECTON. HE WHO BEGINS THE READING OF THE TORAH AND HE WHO COMPLETES THE READING OF THE TORAH SAYS A BLESSING BEFORE AND AFTERWARD.**

- 1.** **I:1:** [With reference to M. 4:1A, standing or sitting,] is the rule that [sitting is all right] after the fact, but to begin with, it is not? And lo, it has been taught: Said R. Simeon b. Eleazar, “M’SH B: R. Meir read the Scroll of Esther] in the synagogue in Tibeon while sitting down, and the members of the synagogue were sitting town. When he completed reading it, he gave it to another person, and [the other] said a blessing over it” [T. Meg. 2:5H-I]. This is the meaning of the rule of the Mishnah: It is permitted to read it standing up, and it is permitted to read it sitting down.
- 2.** **I:2:** What is the law as to standing before a scroll of the Torah? R. Hilqiah, R. Simon in the name of R. Eleazar: “Before her child [a disciple of a sage] one stands up, is it not an argument a fortiori that one stands up before the Torah itself?” He who stands up to read in the Torah – on what count does he stand? Is it because of the honor owing to the Torah or because of the honor owing to the community? If you say that it is because of the honor owing to the Torah, then even when one is by himself with the Torah scroll, [he must stand up to read in it]. If you say that it is because of the honor owing to the community still, when he is by himself with the Torah, he still should stand up on account of the honor owing to the Torah. If you say so, then even when he is not engaged and not reading in the Torah [he still should stand up before the Torah]. [Accordingly, one stands up only when reading in public.]

3. **I:3:** It has been taught: Two people should not read while one translates [T. Meg. 3:20G]. Said R. Zeirah, “It is because of the need [which two individuals cannot fulfill] to say a blessing.” And lo, it is taught: And two should not translate while one reads in the Torah [T. Meg. 3:20G]. Can you say here too that it is because of the need to say a blessing? But it is because two different voices cannot reach the ear at once.
4. **I:4:** How do we know from Scripture that there is to be a translation of the biblical readings for the congregation? R. Zeirah in the name of R. Hanan: “[‘And they read from the book, from the law of God, clearly; and they gave the sense, so that the people understood the reading’ (Neh. 8:8).] ‘And they read from the book, from the law of God’ – this refers to the Scripture. “‘Clearly’ – this refers to the translation thereof. “‘And they gave the sense’ – this refers to the proper articulation. “‘So that the people understood the reading’ – this refers to the tradition [on the meaning].” And there are those who say, “This means the grammatical constructions.” And there are those who say, “This means the first words of the successive verses.”
5. **I:5:** What is the blessing that one says over [the Scroll of Esther]?
6. **I:6:** Moses ordained that Israel should read in the Torah on Sabbaths, festivals, new moons, and intermediate days of the festival, as it is written, “Thus Moses declared to the people of Israel the appointed feasts of the Lord” (Lev. 23:44). Ezra ordained that Israel should read in the Torah on Monday and Thursday and on the Sabbath afternoon. He ordained immersion for men who had suffered an emission. He ordained that courts should be in session in the towns on Monday and on Thursday. He ordained that peddlers should circulate among the towns for the honor owing to Israelite women [who might thereby purchase ornaments]. He ordained that they should do laundry on Thursday, for the sake of the honor owing to the Sabbath. He ordained that they should bake bread on Fridays, so that a loaf should be available for the poor. He ordained that people should eat garlic on Sabbath nights, for it serves as an aphrodisiac and also satisfies desire [at one and the same time]. He ordained that women may converse with one another in synagogue. He ordained that a woman must wear a petticoat, both in front and in back, as a matter of chastity.

XXVIII. YERUSHALMI MEGILLAH 4:2

[A] **ON NEW MOONS AND ON THE INTERMEDIATE DAYS OF FESTIVALS FOUR READ [IN THE TORAH]. THEY DO NOT ASSIGN FEWER, AND THEY DO NOT ASSIGN MORE,**

TO THEIR NUMBER. AND THEY DO NOT CONCLUDE WITH A PROPHETIC LECTON. HE WHO BEGINS THE READING OF THE TORAH AND HE WHO COMPLETES THE READING OF THE TORAH SAYS A BLESSING BEFORE AND AFTERWARD.

1. **I:1:** [With reference to M. 4:1E,] R. Huna said, “The three who are called up to the Torah [on Monday and Thursday] should not read less than ten verses of Scripture.” Hezekiah said, “This is to match the Ten Commandments.” And lo, we have learned, On the first day they read from, “In the beginning” (Gen. 1:1) to, “Let there be a firmament” (Gen. 1:9) [M. Ta. 4:3]. Now there are only eight verses in that set? R. Idi says, “Kahana and Assi differed. “One said, ‘He goes back [and repeats].’ “The other one said, ‘He cuts one into two.’” He who said he goes back indicates that one goes back and repeats two verses. He who said that one cuts a verse into two holds that, “And there was evening, and there was morning” constitutes [two verses], each a verse by itself.

XXIX. YERUSHALMI MEGILLAH 4:3

[A] **THIS IS THE GOVERNING PRINCIPLE: ON ANY DAY ON WHICH THERE IS AN ADDITION OFFERING, AND WHICH IS NOT A FESTIVAL DAY, FOUR READ. ON A FESTIVAL, FIVE [READ]. ON THE DAY OF ATONEMENT, SIX [READ].**

1. **I:1:** And on the Day of Atonement, six [read] [M. 4:3D]. There is a Tannaite authority who teaches, “Seven [read].” The one who says that it is six holds that view because of the [protracted] prayer[s of the day, which run on and leave no time]. The one who says that it is seven does so because of the following, as it has been taught: On the Sabbath they make haste to come [early] and they make haste to leave [early]. On the festival they tarry in coming and make haste to leave. On the Day of Atonement they make haste to come, and they tarry in leaving.
2. **I:2:** Those who speak foreign languages are not accustomed to do so [that is, to divide up the reading]. But one reads the entire passage. If one person knew the entire passage, he reads the entire thing. If seven know three verses, all of them read [three each]. If one knows three verses, he reads and goes and reads again.
3. **I:3:** R. Zeirah in the name of R. Jeremiah: “A slave counts in the quorum of seven. The words, ‘And he spoke’ count among the three required verses.”

[B] ON THE SABBATH SEVEN [READ]. [ON THAT DAY] THEY DO NOT ASSIGN FEWER, BUT THEY DO ASSIGN MORE, TO THEIR NUMBER. AND THEY DO CONCLUDE WITH A READING OF A PROPHETIC LECTON. AND HE WHO BEGINS THE READING OF THE TORAH AND HE WHO COMPLETES THE READING OF THE TORAH SAYS A BLESSING BEFORE AND AFTERWARD.

1. II:1: [As to the seven of M. 4:3E:] R. Helbo, R. Mattenah, Samuel bar Shilat in the name of Rab: “The seven is exclusive of the one who reads the prophetic lection.” R. Hananiah b. Pazzi objected, “And lo, we have learned: He who reads the prophetic lection should not read fewer than twenty-one verses [that is, three for each of the seven who have read the Torah]. [If the one who reads the prophetic lection then is the eighth, there should be twenty-four, not twenty-one verses.]”

XXX. YERUSHALMI MEGILLAH 4:4

[A] THEY DO NOT RECITE THE SHEMA [WITH THE BLESSINGS BEFORE AND AFTER], THEY DO NOT PASS BEFORE THE ARK [TO LEAD PRAYERS], [THE PRIESTS] DO NOT RAISE UP THEIR HANDS, THEY DO NOT READ IN THE TORAH, THEY DO NOT CONCLUDE WITH A PROPHETIC LECTON,

1. I:1: Since we have learned, They do not recite the Shema when there are less than ten, for what purpose do we additionally learn, They do not pass before the ark [to lead prayers when there are less than ten, M. 4:4A, B]? It is necessary to take account of a case in which they began with ten, and then some of them left, [so it is as ill he completes [what he began]. [But that is not the case.] They do not pass before the ark when there are less than ten, [no matter the situation at the outset of the prayers, when the *Shema* was said]. If they began with ten, and some of them left, [does one] complete [the matter with the priestly benediction]? [No, that is not the case:] They do not raise up their hands when there are less than ten [M. 4:4C]. If they began with ten and some of them left, [does one] complete [the matter with the reading of the Torah]? [No, that is not the case.] They do not read in the Torah when there are less than ten [M. 4:4D]. If they began with ten and some of them left, [does one] complete [the prophetic lection]? [No, that is not the case.] They do not conclude with a prophetic lection when they are less than ten [M. 4:4E].

[B] THEY DO NOT OBSERVE THE STATIONS [WHEN BURYING THE DEAD]:

1. II:1: [The reason is that they say, “Stand, beloved,” “Sit, beloved,” seven times, [and that is not done when there are less than ten].

[C] BLESS MOURNERS, EXPRESS CONSOLATION TO MOURNERS, [OR GIVE] A BLESSING OF A WEDDING COUPLE, AND THEY DO NOT INVOKE THE NAME OF GOD IN THE GRACE, [WHEN THERE ARE] LESS THAN TEN.

- 1. III:1:** And do they not give a blessing of a wedding couple [in the Grace after Meals] all seven days after the marriage?
- 2. III:2:** There is a Tannaite authority who teaches, “Mourners do not count toward a quorum.” There is a Tannaite authority who teaches, “Mourners do count toward a quorum.” [Harmonizing these two rules,] said R. Abonah, “He who maintains that mourners do not count toward a quorum speaks of mourners of that particular deceased. He who maintains that mourners do count toward a quorum speaks of mourners of some deceased other than the one at hand.”
- 3. III:3:** Samuel taught, “The declaration of the sanctification of the new moon takes place only with a quorum of ten.”
- 4. III:4:** Ba, R. Yasa in the name of R. Yohanan: “Here it is stated, ‘Congregation’ (Num. 35:24, 25), and there it is stated, ‘How long shall I bear with this evil congregation’ (Num. 14:27). “Just as ‘congregation’ referred to at the latter point is made up of ten individuals, so ‘congregation’ referred to at the former likewise is made up of ten individuals.” Said R. Simon, “Here it is written, ‘within,’ [‘And I shall be sanctified within the people of Israel’ (Lev. 22:32),] and there it is written, ‘within,’ [‘Thus the sons of Israel came to buy within the others who came’ (Gen. 42:5)]. “Just as ‘within’ stated in the latter context refers to ten, so ‘within’ stated in the former refers to ten.”

[D] AND IN THE CASE OF [ASSESSING THE REDEMPTION VALUE OF DEDICATED] IMMOVABLE PROPERTY, [THE ASSESSMENT IS MADE BY] NINE AND A PRIEST. AND IN THE CASE OF [THE VALUATION-VOW] OF MAN, THE LAW IS THE SAME.

- 1. IV:1:** With reference to Assessment of the value for purposes of redemption of things which have been consecrated is done before three judges (M. San. 1:2K). Property pledged as security for vows of valuation, in the case of movables, is evaluated by three judges. And in the case of real estate it is done by nine and a priest (M. San. 1:2L-N):] And in the case of assessing the value for redemption of dedicated immovable property, the assessment is made by nine and a priest; in the case of the valuation-vow of man, the law is the same [M. 4:4J-K]: The requirement of ten is for the ten priests mentioned in the passage dealing with sanctification [Lev. 27; that is, three times for personal

valuations, Lev. 27:8; three for valuation of animals, Lev. 27:13; four in connection with the sanctification of property, Lev. 27:14,18, 23].

2. **IV:2:** It was taught: Slaves, bonds, and movables are not subject to a deed of inspection [issued by a court announcing the sale of these items in order to attract bidders and so discover an exact market value for such items]. [Such a deed is issued to provide advance notice of the forthcoming auction, thirty days for property accruing to orphans, sixty days for property accruing to the sanctuary. But no such deed is announced in the stated types of property.] What is a deed of inspection? R. Judah b. Pazzi said, “It is an announcement.” [The reason that these three items are not publicly advertised prior to auction,] Ulla bar Ishmael said, “is this: In the case of slaves, so that they not flee; in the cases of bonds and movables, so that they not be stolen [under the pretext of advance inspection].” R. Ba bar Kahana raised the question before R. Yosé: “Does this rule not imply that slaves are to be redeemed by the assessment of three judges [for slaves are in the status of movables in general, so that slaves will not hear they are to be sold, and so flee]?”

XXXI. YERUSHALMI MEGILLAH 4:5

[A] HE WHO READS IN THE TORAH SHOULD READ NO FEWER THAN THREE VERSES. HE MAY NOT READ TO THE TRANSLATOR MORE THAN A SINGLE VERSE [AT A TIME, SO THE TRANSLATOR WILL NOT ERR]:

1. **I:1:** Ba b. R. Hiyya bar Ba, R. Hiyya in the name of R. Yohanan: “If one was reading in the Torah and was struck dumb, the one who follows him should begin [to read] at the place at which the former [reader] had begun. “If you maintain that he begins at the place at which the other stopped, then the first verses [read by the one struck dumb] have been given a blessing before they were read, but they have not been given a blessing after they were read, while the latter verses [read by the replacement] will be given a blessing after they are read, but they will not be given a blessing before they were read. “And it is written: ‘The Torah of the Lord is perfect’ (Ps. 19:7) – that the whole of it be perfect.”
2. **I:2:** [With reference to M. 4:5A, reading no fewer than three verses,] if the pericope assigned to a reader consisted of five verses, he should read the whole of it. If he did not do so, but read only three verses, the one who follows him has to read those last two verses and three from

the next pericope. If one did not do so – what is the law as to that fact’s invalidating the reading?

3. **I:3:** To R. Simeon, teacher of Trachonitis, the townspeople said, “Cut your reading short, so that our children may learn to read [by following it slowly].” He came and asked R. Haninah. He said to him, “Even if they cut off your head do not listen to them.” So he did not listen to them, and they fired him from his job as teacher. After a while he came down here [to Babylonia, where the story was told]. R Simon b. Yusinah dealt with him. He said to him, “What did you do in that town?” And he told him the story. He said to him, “Why did you not listen to them, [and do what they wanted]?” He said to him, “And do they do it that way?” He said to him, “And do we not cut a verse in parts in the study session [so as to translate it bit by bit and learn it that way]?” He said to him, “But do we not then go back and say the whole thing as one piece?” Said R. Zeira, “If that teacher were alive in my time, I should appoint him as a sage.”

[B] AND, IN THE CASE OF THE PROPHETIC LECTION, THREE. [IF] THE THREE CONSTITUTE THREE DISTINCT PERICOPAE, THEY READ THEM ONE BY ONE.

1. **II:1:** [For an example of a prophetic lection in which there are three verses constituting three distinct pericopae, M. 4:5D:] Said Rab, “For example, ‘Woe to him who strives with his Maker; [an earthen vessel with the potter! Does the clay say to him who fashions it, ‘What are you making?’ or ‘Your work has no handles?]’” (Is. 45:9).

[C] THEY SKIP [FROM PLACE TO PLACE] IN THE PROPHETIC LECTIONS BUT NOT IN THE TORAH LECTIONS. AND HOW FAR MAY ONE SKIP? [ONLY] SO MUCH THAT THE TRANSLATOR WILL NOT HAVE STOPPED [DURING THE ROLLING OF THE SCROLL].

1. **III:1:** They skip verses in the prophetic lections but not in the Torah lections [M. 4:5E]. And they do not skip from one prophet to another prophet. But in one of the prophets of the Twelve [minor prophets] they do skip around, on condition that one not skip from the end of a scroll to the beginning of that same one [M. Meg. 3:19]. They do not skip verses in the Torah lections [M. 4:5E]. R. Jeremiah in the name of R. Simeon b. Laqish: “It is because they do not roll the scroll of the Torah in public.” R. Yosé asked, “But what if it was only a small passage [that one wanted to skip]?” He said to him, “The reason is that Israel should hear the Torah in the proper order.” And lo, we have learned: The high priest reads in public, ‘After the death’ (Lev. 16:1) and, “How be it on the tenth” (Lev. 23:27)[M. Yoma 7:1], [and these are far apart]. That case is different, because the passages belong to the order of the day.

XXXII. YERUSHALMI MEGILLAH 4:6

- [A] **HE WHO CONCLUDES WITH THE PROPHETIC LECTION IS THE ONE WHO RECITES THE SHEMA [WITH ITS BLESSINGS FORE AND AFT], AND PASSES BEFORE THE ARK, AND RAISES HIS HANDS [IN THE PRIESTLY BENEDICTION].**
1. **I:1:** It was necessary to include the Mishnah's rule only to indicate that the one who recites the Shema is the one who passes before
- [B] **BUT IF HE WAS A MINOR, HIS FATHER OR HIS TEACHER PASS [BEFORE THE ARK] IN HIS BEHALF.**
1. **II:1:** And lo, we have learned: A minor does not recite the Shema [M. 4:7B]. Said R. Yudan, "In this case [in which he may do so] it is when he has produced two pubic hairs, and in that case, in which he may not do so, he has not yet produced two pubic hairs."

XXXIII. YERUSHALMI MEGILLAH 4:7

- [A] **A MINOR READS IN THE TORAH AND TRANSLATES. BUT HE DOES NOT RECITE THE SHEMA, PASS BEFORE THE ARK, OR RAISE HIS HANDS [IN THE PRIESTLY BENEDICTION]. HE WHO IS WEARING RAGGED CLOTHING RECITES THE SHEMA AND TRANSLATES, BUT HE DOES NOT READ IN THE TORAH, PASS BEFORE THE ARK, OR RAISE HIS HANDS. A BLIND MAN RECITES THE SHEMA AND TRANSLATES.[E] R. JUDAH SAYS, "WHOEVER IN HIS ENTIRE LIFE HAS NEVER SEEN LIGHT DOES NOT RECITE THE SHEMA."**
1. **I:1:** There we have learned, "A blind person does not go into exile [to cities of refuge], " the words of R. Judah. R. Meir says, "He does go into exile" [M. Mak. 2:5]. And both of them interpret the same verse. "Or if he used a stone, by which a man may die, and] without seeing him [cast it upon him so that he died]" (Num. 35:23) – R. Meir says, "The reference to 'not seeing him' is meant to encompass a blind person." R. Judah says, "It is meant to exclude a blind person."

XXXIV. YERUSHALMI MEGILLAH 4:8

- [A] **A PRIEST WHO HAS BLEMISHES ON HIS HANDS SHOULD NOT RAISE HIS HANDS IN THE PRIESTLY BENEDICTION. R. JUDAH SAYS, "ALSO, HE WHOSE HANDS ARE DYED WITH WOAD OR MADDER SHOULD NOT RAISE HIS HANDS, BECAUSE THE PEOPLE STARE AT HIM. "**

1. **I:1:** It has been taught:[If the priest has blemishes also] on his face [he should not raise his hands in the priestly benediction.]
2. **I:2:** It has been taught: But if he was well known in his town, lo, he is permitted [to bless the congregation, despite his blemishes] [T. Meg. 3:29D].

XXXV. YERUSHALMI MEGILLAH 4:9

[A] **HE WHO SAYS, “I AM NOT GOING TO PASS BEFORE THE ARK WEARING COLORED CLOTHES” ALSO IN WHITE ONES SHOULD NOT PASS BEFORE THE ARK. “IN A SANDAL I AM NOT GOING TO PASS BEFORE THE ARK” – ALSO WEARING SHOES HE SHOULD NOT PASS BEFORE THE ARK. HE WHO MAKES HIS TEFILLIN ROUND – IT IS A SOURCE OF DANGER AND [STILL] DOES NOT FULFILL A RELIGIOUS REQUIREMENT. [IF] HE PUT IT ON HIS FOREHEAD OR ON THE PALM OF HIS HAND, THIS IS THE WAY OF HERESY. [IF] ONE COVERED THEM WITH GOLD OR PUT IT ON HIS SLEEVE, THIS IS THE WAY OF OUTSIDERS.**

1. **I:1:** R. Yosé b. Bibai taught, “That *tefillin* should be square and black is a law revealed to Moses at Sinai.”

XXXVI. YERUSHALMI MEGILLAH 4:10

[A] **HE WHO SAYS, “MAY THE GOOD ONES BLESS YOU,” LO, THIS IS THE WAY OF HERESY.**

1. **I:1:** He who says, “May the good ones bless you “ [M. 4:10A]:[This indicates belief in] two dominions [one made up of good, the other made up of evil].

[B] [**HE WHO SAYS THE FOLLOWING RHYME: “EVEN TO A BIRD’S NEST DO YOUR MERCIES EXTEND, MAY YOUR NAME BE REMEMBERED FOR GOOD,”**

1. **II:1:** “But to me your mercies do not extend.” [This is a reproach; God cares for small things but not for the one who makes the statement.]
2. **II:2:** There is a Tannaite authority who teaches that the Mishnah is read, Even upon... There is a Tannaite authority who teaches that the Mishnah is read, Upon.... [That is, Upon a bird’s nest do your mercies rest.] He who says that it reads, “Upon,” supports the view of R. Phineas.

[C] [**OR “WE GIVE THANKS, WE GIVE THANKS” – THEY SILENCE HIM.**

1. **III:1:** “We give thanks, we give thanks” – they silence him [M. 4:10D]: Said R. Samuel b. R. Isaac: “For the mouths of liars will be stopped” (Ps. 63:11).
2. **III:2:** An announcer who stands before [and serves] a sage does not have the right to shorten [what the sage says] or to add to what he says or to change [what he says], unless the [announcer] was his [the sage’s] father or his master [T. Meg. 3:4].

[D] HE WHO CHANGES THE PRONOUNS [WHEN READING] THE PERICOPE OF THE PROHIBITED RELATIONSHIPS [LEV. 18] – THEY SILENCE HIM.

1. **IV:1:** Saying, “The nakedness of his father,” “The nakedness of his mother.”

[E] HE WHO SAYS, “AND YOU SHALL NOT GIVE ANY OF YOUR SEED TO MAKE THEM PASS THROUGH FIRE TO MOLECH ‘ (LEV. 18:11) MEANS, ‘AND YOU SHALL NOT GIVE OF YOUR SEED TO IMPREGNATE AN ARAMAEAN’” – [THAT IS, ONE MUST NOT HAVE SEXUAL RELATIONS WITH AN ARAMAEAN WOMAN] – THEY SILENCE HIM WITH A REBUKE.

1. **V:1:** R. Ishmael taught: “This is one who marries an Aramaic woman and produces children from her. He sets up enemies of the Omnipresent.”

XXXVII. YERUSHALMI MEGILLAH 4:11

[A] THE ACT OF REUBEN [GEN. 35:22] IS READ BUT NOT TRANSLATED. THE ACT OF TAMAR [GEN. 38:1FF.] IS READ AND TRANSLATED. THE FIRST ACT OF THE CALF [EX. 32:1-20] IS READ AND TRANSLATED. THE SECOND ONE [EX. 32:21FF.] IS READ BUT NOT TRANSLATED.

1. **I:1:** It is written, “What wise men have told and their fathers have not hidden” (Job 15:18).
2. **I:2:** What is the second tale of the calf?

[B] THE BLESSING OF THE PRIESTS [NUM. 6:24-26], THE STORY OF DAVID [2 SAM. 11:2FF.] AND OF AMNON [2 SAM. 13:1FF.], ARE NOT READ AND NOT TRANSLATED.

1. **II:1:** As to M. 4:1 IE, The blessing of the priest:] Now this accords with what R. Helbo said in the name of Rab Hunah: “The priestly blessings are read but not translated.” R. Ba bar Kohen asked before R. Yosé, “What is the scriptural basis for this view?” He said to him,

“‘Thus shall you bless’ (Num. 6:23), [meaning, these very words] have been given over for a blessing, and are not to be translated.”

XXXVIII. YERUSHALMI MEGILLAH 4:12

- [A] **THEY DO NOT USE AS THE PROPHETIC LECTON THE SELECTION OF THE CHARIOT [EZEK. 1:1FF.]. R. JUDAH PERMITS. R. ELIEZER SAYS, “THEY DO NOT USE AS THE PROPHETIC LECTON, ‘CAUSE JERUSALEM TO BLOW” [EZEK. 16:1FF.].**
- I:1:** They do not use as the prophetic lection the selection of the chariot. R. Judah permits. R. Eliezer says, “They do not use as the prophetic lecture, ‘Cause Jerusalem to know” [M. 4:12]. M’S^HB: A certain party was reading the prophetic lection before R. Eliezer, “Make known to Jerusalem her abominations.” He said to him, “Go out and proclaim your own mother’s abominations” [T. Meg. 3:34B-C].
- [B] **FREE-STANDING COMPOSITE ON THE MEZUZAH**
- II:1:** As to the mezuzah, where do they set it?
 - II:2:** As to tefillin and mezuzah, which takes precedence?

TRACTATE

MO'ED QATAN

Tractate *Mo'ed Qatan* deals with actions that are permitted or prohibited on the intermediate days of Passover and of the Festival of Tabernacles, the days of lesser sanctity between the full festival days that mark the beginning and the end of Passover and Tabernacles. The law makes special reference to farming and commerce, and then special problems involving burial of the dead on those days. The governing principles are (1) one may carry out an act of labor that prevents substantial loss, but only if the act is not onerous; and (2) that work that ought to have been done prior to the festival may not be left over to be done on the intermediate days. These may not be treated as ordinary work days, even though they also are not observed as festival days are, with the complete cessation of all labor except for cooking (as we shall see in the next chapter). Scripture knows prohibitions of labor for the opening and closing days of the specified festivals (Exod 12:16, Lev 23:7–8, Num 28:18, 25, 29:12–35).

It follows that the intermediate days are observed in the Temple. The intermediate days require sacrifices designated for that occasion, so are differentiated from days that require merely everyday offerings in the Temple. But no explicit restrictions govern conduct on the intermediate days. The premise of the halakhah, that the intermediate days of the Festivals of Passover and Tabernacles are subjected to restrictions comparable to, though of lesser severity than, those for the opening and concluding Festival days themselves, requires explanation.

The further premise that the Temple-rules pertain to conduct in the household is nowhere stated but everywhere forms the foundation of the halakhah. The Temple supplies the generative analogy for the household, its rules of sanctification and conditions of sanctity pertaining throughout the tents of Israel as much as, but in different relationship to, the conditions of consecration that define God's abode in the Temple. The message of the halakhah is that God abides in Israel, meaning, within the walls of the household, as God abides in Israel's Temple in Jerusalem.

I. Labor on the intermediate days of the Festival

A. In the fields

B. Miscellanies

C. Cases of emergency and loss

II. Commerce

III. Burial of the dead, mourning on the intermediate days of a Festival

YERUSHALMI MOED QATAN

CHAPTER ONE

1:1

- [A] [80a] They water an irrigated field on the intermediate days of a festival and in the Seventh Year,
- [B] whether from a spring that first flows at that time, or from a spring that does not first flow at that time.
- [C] But they do not water [an irrigated field] with collected rain water, or water from a swape well.
- [D] And they do not dig channels around vines.
- [I:1 A] *There is no difficulty understanding why one may utilize a spring that does not first flow at that time. But in the case of a spring that first flows at that time, is this not a considerable amount of work [for the intermediate days of the festival]?*
- [B] *The law accords with the view of R. Meir. For R. Meir has said, “From a spring that first flows on the intermediate days of a festival they irrigate [even] a field that depends upon the rain [and does not need this water]” [T. Moed 1:1 A].*
- [C] Said R. Yosé, “In the opinion of all parties, if the spring had a single flow and it divided into two, or if the water was spare and became abundant[, they may make use of such a spring on the festival]. [It does not fall into the category of a spring that first flows at that time.]”
- [D] *And so it has been taught:*
- [E] “[From] a spring that first flows [on the intermediate days of a festival], they irrigate a field that depends upon the rain,” the words of R. Meir.
- [F] And sages say, “They irrigate from it only a field that depends upon irrigation, [the spring of which] has gone dry” [T. Moed 1:1 A-B].

[G] *In the view of R. Meir* they may draw water from it for a crop that will not perish [if not watered on the intermediate days of the festival], and they may draw water from it even if it is much work.

[H] *In the view of rabbis*, they may draw water from it only for a crop that otherwise will perish, and that is on condition that it is not much work.

[I] In the case of a crop that will perish, but in which much labor is involved for drawing water, *what is the law in the view of rabbis?*

[J] *Let us derive the answer from the following:*

[K] Any field that progressively dries up – this falls into the category of an irrigated field [which may be watered on the intermediate days of a festival].

[L] If the field stopped deteriorating, this field is in the category of a field that depends upon the rain, subject to the dispute of R. Meir and sages. [So the principal consideration, in answer to I, is the loss of the crop in the field rather than the amount of labor involved.]

[M] How long does the deterioration of the field go on for it to be considered an irrigated field? For two [or] three days prior to the festival.

[N] *Let us consider the following case:*

[O] *A field belonging to associates deteriorated for lack of water for three days before the festival, and the water flow came back on the festival. The case came before R. Huna [for a decision on whether it was permitted to water the field on the festival]. He ruled, “For those fields that had deteriorated, they may draw water. For those fields that had not deteriorated, they may not draw water.”*

[P] *R. Jonah and R. Yosé gave a decision in the case of a shaded field, planted in barley, that they might have the crop cut so that it would not sprout and go to ruin.*

[II:1 A] [whether from a spring that first flows at that time, or from a spring that does not first flow at that time. But they do not water [an irrigated field] with collected rain water, or water from a swape well.]: It is not difficult to understand why they may not water

the irrigated field with water from a swape well [since it is laborious to get it]. But why not use collected rain water [M. 1:1C]?

[B] Said R. Yohanan, “They issued a decree concerning rain water because it is in the category of water of a swape well.”

[C] R. Bisna in the name of R. La: “They have referred specifically to the intermediate days of a festival. Lo, with regard to the Sabbatical Year it is permitted [to use such water].”

[D] What is the difference between the Sabbatical Year and the intermediate days of a festival?

[E] In the case of the Sabbatical Year, since it is permitted to work, sages have permitted labor, whether it is burdensome or not burdensome. But as to the intermediate days of a festival, since it is not permitted to work, sages have permitted only labor in connection with what will perish, and that is on condition that it is not burdensome labor.

[F] *There is he who proposes to derive the difference on the basis of the following consideration:*

[G] In the Sabbatical Year, since it goes on for a long time, they have permitted the matter. In the intermediate days of a festival, since it is for only a brief time, they have forbidden [heavy labor].

[H] *As to those last seven days of the Sabbatical Year, is it not reasonable to treat them as equivalent to the seven days of a festival and to forbid [onerous labor on them] (cf. M. 1:3)?*

[II:2 A] R. Jeremiah asked, “As to water of rain-drippings [80b] which has not ceased to flow from the hills, into what category does it fall?”

[B] *Let us derive the answer from the following:*

[C] **And what are rain-drippings? So long as the rains fall and the mountains trickle with water, lo, they are like the water of a spring. If they ceased to trickle, lo, they are like the water of pools [T. Miq. 1:13H-L].** [Y. continues:] **If they ceased to trickle, lo, they are like water in pools.** [So long as the flow continues, therefore, the water is not in the category of that in a swape well and may be used on the intermediate days of the festival.]

[D] To what extent [do we maintain that the rain has not ceased]?

[E] Hiyya bar Bun in the name of R. Yohanan, “Until the groves bloom [and are covered with vegetation]”

[F] R. Eleazar b. R. Yosé in the name of R. Tanhum b. R. Hiyya: “Until [the rain drops splash] like duck feet.”

[G] *R. Jeremiah asked*, “If the groves bloom and the rain has not ceased, is the flow of water treated as a spring retroactively or henceforward?”

[H] *For what purpose would such a ruling be required?*

[I] In the case of immersing needles and hooks [in such water, in line with the passage of the Tosefta cited above]. If you rule that the water retroactively is in the category of spring water, then the needles and hooks are clean. If you rule that it is so only henceforward, then they have not been made clean.

[II:3 A] *R. Eleazar b. R. Yosé asked*, “As to cascades of water, how do you treat them?”

[B] “Are they in the status of swape-well water or not? [No answer is given.]

[C] “As to a pool that was filled with spring water, the flow of which then ceased, what is the law as to watering a field from [such a pool]?”

[D] *Let us derive the answer from the following: **But they do not water [an irrigated field] with collected rainwater or water from a swape well [M. 1:1 C].***

[E] *Now how shall we interpret that rule? If we deal with a time in which the rain is falling, then [why should there be such a prohibition]? Is it not like irrigating the Great Sea? But we must interpret the passage to speak of the time in which the rain has ceased.*

[F] If, then, it is a time that the rain has ceased, then is it not tantamount to a pool that has been filled by a spring, which has stopped flowing? And you rule that they do not irrigate a field from such water. That then indicates that in the case of a pool that had been filled from a spring, which had ceased to flow, they likewise do not water a field from such a pool. A pool that had been filled by water from a swape well, and into which a spring began to flow – what is the law concerning watering a field from such a pool [on the intermediate days of a festival]?

[G] *Let us derive the answer from the following:* An irrigated field into which trickled water from another irrigated field – they irrigate [yet another field] from it.

[H] Said R. Jeremiah, “But that is the case when water is yet trickling into it.”

[I] And is it because of the trickling water that it may be irrigated? Is it not on its own account, that it is filled with water? And yet you say that they may irrigate another field with its water.

[J] *That then indicates that* a field that had been filled by water from a swape well, and a spring began to flow into it – they irrigate with its water.

[K] *So did Samuel teach:* “The water channels and the pool that one filled prior to the festival – one may not irrigate with water from them on the festival [lest the water run out and cause much work]. But if there was a water ditch passing among them, one may irrigate with their water and need not refrain from doing so.”

[III:1 A] And they [do not] dig channels around trees [M. 1:1D].

[B] What are the channels dug around a tree?

[C] These are the ditches dug around the roots of trees [T. Moed 1:2B-C].

[D] *This is in line with that which we have learned there:* The shaft of a spade is four handbreadths [M. Kel. 29:7].

1:2

[A] R. Eleazar b. Azariah says, “They do not make a new water channel on the intermediate days of a festival or in the Seventh Year”

[B] And sages say, “They make a new water channel in the Seventh Year,

[C] “and they repair damaged ones on the intermediate days of a festival.”

[D] They repair damaged waterways in the public domain and dig them out.

[E] They repair roads, streets, and water pools.

[F] And they do all public needs, mark off graves, and go forth [to give warning] against Diverse Kinds [= M. Sheq. 1:1].

- [I:1 A] *There we have learned: [One may pile up all his dung together. R. Meir forbids, unless it is heaped in a special place, three handbreadths above or below ground level. If he had only a little, he may go ahead and pile it on the field.] R. Eleazar b. Azariah forbids, unless it is heaped in a special place three handbreadths above or below ground level [so that it not appear to be manuring the field], or it is laid on rocky ground [M. Sheb. 3:3].*
- [B] *One may interpret this matter in two ways:*
- [C] In one, it is a case in which the farmer had a small amount of manure stored at home on the eve of the Seventh Year. He wants to take it out into his field in the Seventh Year. Lo, he may continue adding to this manure once those who carry on ordinary labor have ceased [so that he cannot be thought to be cultivating his field during the Seventh Year].
- [D] **R. Eleazar b. Azariah declares it forbidden.**
- [E] *What is the reason for the view of R. Eleazar b. Azariah?*
- [F] Perhaps he will not find sufficient manure [to make piles of appropriate size, which indicates that the manure is stored, not used for fertilizing the field], and he will turn out to be merely manuring that spot [on which he is storing the manure].
[Accordingly, Eleazar requires the manure to be stored in such a way that it cannot possibly fertilize the spot on which it is located.]
- [G] *The view of R. Eleazar b. Azariah accords with the opinion of R. Yosé. Just as R. Yosé has said, “Manure is not readily available,” so R. Eleazar b. Azariah has said, “Manure is not readily available.”*
- [H] *There is yet a second possible explanation for the cited passage.*
- [I] It is a case in which he had a small amount of manure stored at home on the eve of the Seventh Year, and he wants to take it out into his field during the Seventh Year. Lo, he may continue adding to this manure, once those who perform labor in the fields have ceased to do so.
- [J] **R. Eleazar b. Azariah prohibits.**
- [K] *What is the reason of R. Eleazar b. Azariah?*
- [L] Perhaps he will not find sufficient manure [as above], so that he will turn out to be manuring that spot.

[M] But is that spot not going to be manured in the time prior to the beginning of the Seventh Year?

[N] R. Jeremiah, R. Bun bar Hiyya in the name of R. Ba bar Mamel: “It is for appearance’ sake. [He will look as if he is manuring the field] unless he brings out ten baskets of manure at one time.”

[O] *Do not rabbis invoke the principle of appearance’ sake?*

[P] Said R. Iddi of Hutra, “The farmer’s basket and pitchfork testify that he is making a manure heap [and not manuring the field, and that is why sages have no compunction in the matter].”

[Q] *R. Yosé b. R. Bun said, “These traditions here [at Y. Sheb. 3:2] run along the lines of those that we have learned there:*

[R] R. Eleazar b. Azariah says, “They do not make a new water channel on the intermediate days of a festival or in the Seventh Year [M. 1:2A].”

[S] Said R. Jeremiah, “It is because he prepares the sides of the water channel for sowing.”

[T] R. Jeremiah, R. Bun bar Hiyya in the name of R. Ba bar Mamel: “It is for appearance’ sake.”

[U] *They proposed to rule as follows:* He who has said there [at M. M.Q. 1:2] that the reason is because of appearance’ sake will maintain here [at Y. Sheb. 3:2] that the reason is for appearance’ sake. *He who has said there that the reason is because he prepares the sides of the channel for sowing – what do you have to say in the present case [of the prohibition pertaining to the Seventh Year]?*

[V] *You can only reply for the present case,* “He may not find sufficient manure to add to the heap [to bring it to a level at which it is meant for the storage of manure], and the man will turn out to be manuring that place on which he is storing his manure.”

[W] *What is the practical difference between these two reasons?*

[X] If one dug out a ditch, making a water channel with built-up sides [formed of twigs and stones].

[Y] *This is what they proposed to say: “He who holds there that the operative reason is on account of appearance’ sake will prohibit doing so here because of appearance’ sake. He who has said there that the prohibition is because he prepares the sides of the channel for sowing – lo, in this case he does not prepare the sides of the channel for sowing.”*

[Z] All concur that if he had available stones, pebbles, mortar, or gypsum, it is permitted [to build the water channel in the Seventh Year].
[No one will suppose the digging is in order to engage in agriculture.]

[II:1 A] And they repair damaged ones on the intermediate days of a festival [M. 1:2C].

[B] That is the case for one that is necessary for the festival.

[C] But in the case of one that is not necessary for use on the festival, it is prohibited to do so.

[D] That is the case in the instance of a channel belonging to an individual. But in the case of a channel available for public use, even in the instance of one that is not for use on the festival, it is permitted.

[E] *This is in line with the following: The bathhouse of Sakkota fell down on the intermediate days of the festival, and R. Abbahu permitted them to rebuild it on the festival.*

[F] *Now this was a considerable labor, and they had intended [to postpone the matter, so it would fall down on the festival, and they would rebuild it at that time].*

[G] *Do they not concur with the statement: **So long as one had not had the intention to do work on it on the intermediate days of the festival [M. 1:1 OF]?***

[H] *They replied, “If it was not rebuilt in this way, it would not be rebuilt again.”*

[I] *The water duct of Sepphoris was damaged during the intermediate days of the festival.*

[J] *Associates reasoned that it should be permitted to repair it, on the basis of this statement: **And they repair damaged ones on the intermediate days of a festival** [M. 1:2C].*

[K] Said R. Phineas, “R. Jeremiah prohibited [doing so in a case such as this] solely because of the law of the hammer [at M. M.S. 5:15].”

[L] *The mausoleum belonging to Bar Miqtayya was damaged on the intermediate day of a festival.*

[M] *R. Huna considered ruling that it was permitted to repair it, on the basis of the following: **And they do all public needs** [M. 1:2F].*

[N] *Said to him R. Mana, “And did not Samuel teach that it is permitted only to fill up cracks [but not to rebuild]?”*

[III:1 A] **They dig them out** [M. 1:2D]. They dig them out, *in line with that which we have learned there: He who cleans out a spout removing pebbles that have collected therein.*

[IV:1 A] **And they do all public needs** [M. 1:2F]:

[B] **What are public needs?**

[C] **They judge capital cases, property cases, and cases involving fines** [cf. M. M.Q. 3:3].

[D] **And they burn a red cow.**

[E] **And they break the neck of a heifer** [in the case of a derelict corpse].

[F] **And they pierce the ear of a Hebrew slave** [who wishes to remain with his master].

[G] **And they effect redemption for pledges of personal valuation, for things declared *herem*, for things declared consecrated, and for second tithe** [through coins to be taken up to Jerusalem].

[H] **And they untie a shoe from the last,**

[I] **so long as one does not put it back** [T. Moed 2:11/I-O].

[V:1 A] **They mark off graves** [M. I:2F]: Were they not marked off in Adar?

[B] Interpret the passage [to speak] of a case in which there were heavy rains, which washed away the marking.

[VI:1 A] And they go forth to give warning against Diverse Kinds [M. 1:2F]:

[B] And was this not done in Adar?

[C] Interpret the law [to speak] of a case in which it was such a year in which even the sprouts [in Adar] were not discerned.

[VI:2 A] And how do we know that graves must be marked off?

[B] R. Berekhiah, R. Jacob, son of the daughter of Jacob, in the name of R. Honaiah of Beth Hauran, R. Yosé said in the name of R. Jacob bar Aha in the name of R. Honaiah of Beth Hauran, R. Hezekiah, R. Uzziel son of R. Honaiah of Beth Hauran: “‘The leper ... shall cry, ‘Unclean, unclean’ (Lev. 13:45). That is so uncleanness [80c] will cry out with its own mouth and say, ‘Keep away.’”

[C] R. La in the name of R. Samuel bar Nahman: “‘And when these pass through the land and any one sees a man’s bone, then he shall set up a sign by it’ (Ezek. 39:15). It is on the strength of that verse that people mark off places in which bones of a human being are found.

[D] “[‘A man’s bone’] – on this basis we prove that they mark off a place in which the backbone or skull are found.

[E] “‘And he shall set’ – on this basis we learn that they mark off such a place on bedrock.

[F] “‘If you say that it is located on a rock, which is turned over, then it may wash away and impart uncleanness to some other place.

[G] “‘By it’ – in a place of cleanness. [That is, the marker is not set upright at the corpse-matter, but beside it.]

[H] “‘A sign’ – On this basis that they set up a sign.”

[I] If one found a rock that was marked off (even though they do not do things that way [since the uncleanness is marked off at its side, not on top of the bone itself], he who overshadows it is unclean.

[J] I say, the corpse was buried sitting up, and it is located underneath it.

[K] If there were two markers, he who overshadows the markers is clean, but he who overshadows the ground between them is unclean.

[L] But if the ground between them was ploughed up, lo, they are treated as individual markers. He who overshadows the ground

between them is clean. He who overshadows the ground round about them is unclean.

[M] *It has been taught:* They do not place a marker at a spot at which flesh was found, for the flesh may putrefy.

[N] *R. Yusta bar Shunam asked before R. Mana, “Will it not retroactively turn out to impart uncleanness to foods kept in a state of cleanness?”*

[O] He said to him, “It is better that people be put in disarray by it for a short time and not be put in disarray by it for all time.”

1:3

[A] **R. Eliezer b. Jacob says, “They lead water from one tree to another,**

[B] **“on condition that one not water the entire field.**

[C] **“Seeds that have not been watered before the festival one should not water on the intermediate days of the festival.”**

[D] **And sages permit in this case and in that.**

[I:1 A] R. Mana stated the following without specifying an authority, while R. Abin in the name of Samuel [said], “[As to **M. Sheb. 2:10: ‘They may water the while soil (= ground between trees) (= ground not planted with trees),’ the words of R. Simeon. R. Eliezer b. Jacob prohibits,**] the dispute [at M. 1:3A-B] pertains to an average situation [in which the trees are not planted very closely together or very far apart].

[B] *“For how [otherwise] may be interpret the dispute about leading water from one tree to another, either in the Seventh Year or in the intermediate days of the festival?*

[C] *“If we deal with a field in which the trees are far apart, then in the view of all parties it will be prohibited. If we deal with a field in which the trees are close together, all parties will concur that it will be permitted.*

[D] *“Accordingly, we must deal with an average situation, in which trees are planted at the rate of ten per seah’s space of ground. R. Eliezer b. Jacob treats such a case as if the trees were far apart, and rabbis treat such a case as if the trees were planted close together.”*

[E] Lo, rabbis rule that when they are far apart, it is forbidden to water the entire field. What then is the rule as to channeling the water from tree to tree?

- [F] *Let us derive the position of rabbis from the view of R. Eliezer b. Jacob.*
- [G] Just as R. Eliezer b. Jacob has said, “When the trees are far apart, it is forbidden to water the field but permitted to lead water from one tree to another” [M. 1:3A], *so rabbis maintain that* when the trees are far apart, it is forbidden to water the field but permitted to lead water from one tree to another.
- [H] *But have we not reasoned that* in the case in which the trees are far apart, all parties concur that it is forbidden? And since we deal with white soil [on which there are no trees], is this not a case in which the trees are far apart?
- [I] But a better answer is to make a distinction between the rule prevailing in the case of the Sabbatical Year [in which case the work will be permitted], and that prevailing in the case of the intermediate days of the festival [in which case it will be forbidden].
- [J] What is the difference between the Sabbatical Year and the intermediate days of a festival?
- [K] In the case of the Sabbatical Year, since it is permitted to work, sages have permitted labor, whether it is burdensome or it is not burdensome. But as to the intermediate days of a festival, since it is not permitted to work, sages have permitted only labor in connection with what will perish, and that is on condition that it is not burdensome labor.
- [L] *There is he who proposed to derive the difference on the basis of the following consideration:*
- [M] In the Sabbatical Year, since it goes on for a long time, they have permitted the matter. In the intermediate days of a festival, since it is for only a brief time, they have forbidden [heavy labor].
- [N] As to those last seven days of the Sabbatical Year, is it not reasonable to treat them as equivalent to the seven days of a festival and to forbid [onerous labor on them]?
- [O] *There is the following teaching [in support of the distinction proposed above]:* They water white soil in the Seventh Year but not in the intermediate days of the festival.

[II:1 A] And sages permit in this case and in that [M. 1:3D]:

[B] What is the meaning of “in this case and in that”?

[C] [Could the meaning be,] whether they were watered before the festival and whether they were not watered before the festival? [Surely not! There will be no loss if there was no watering before the festival. The seeds cannot require water on the festival if the process of growth has not been initiated by a watering prior to the festival.]

[D] But here we deal with a tree [in which case it is permitted to water, so as to prevent loss], while there we deal with seeds [in which case there will not be much of a loss if there is no watering, unless the seeds have been constantly irrigated up to now].

1:4

[A] They hunt moles and mice in a tree-planted field and in a field of grain,

[B] [not] in the usual manner,

[C] on the intermediate days of a festival and in the Seventh Year.

[D] And R. Judah says, “They do so in a tree-planted field in the normal manner,

[E] “and in a grain field not in the normal manner.”

[F] They block up a breach in the intermediate days of a festival.

[G] And in the seventh year, one builds it in the normal way.

[I:1 A] “A mole” is a weasel. Even though there is no proof for that proposition, there is at least a hint about it, in the following verse of Scripture:

[B] “Let them be like the snail that dissolves into slime, like the untimely birth that never sees the sun” (Ps. 58:8).

[C] There is no difficulty understanding why it should be permitted in a tree-planted field [M. 1:4A] [since there will be substantial loss], but why should it be permitted in a field of grain?

[D] It is near a tree-planted field [cf. T. Moed 1:4C- D].

[II:1 A] In the usual manner [M. 1:4B]:

[B] This is hunting with a trap.

[C] **Not in the usual manner?**

[D] **He drives a stake [into the spot] or strikes it with a pick and flattens out the soil underneath [T. Moed 1:4B].**

[II:2 A] *It has been taught: They destroy ants' holes on the intermediate days of a festival.*

[B] **How do they execute the destruction?**

[C] **Rabban Simeon b. Gamaliel says, "One takes dirt from one hole and puts it into another, and they strangle one another" [T. Moed 1:5].**

[D] And that is so when there is a channel of water flowing between them.

[III:1 A] **They block up a breach in the intermediate days of a festival [M. 1:4F]:** Stone on stone, pebble on pebble.

[IV:1 A] **And in the seventh year one builds it in the normal way [M. 1:4G]:** stone on pebble and pebble on stone.

[B] [Where it is permitted to build up a wall in the normal way in the Seventh Year,] that is the case of a breach [in a wall] which does not support the ground [behind it from seeping through]. But in the case of a breach [in a wall] which does keep the earth behind it from falling through, it is forbidden to repair such a breach in the Seventh Year. [It will appear that the repair is for maintaining the soil, and that may not be done in the Sabbatical Year.]

[C] *And so too has it been taught:* In the case of any breach in which the wall holds up the dirt behind it from coming through, it is forbidden to repair such a breach in the Seventh Year. And in the case of one that does not hold up the dirt from falling through, it is permitted to repair such a breach in the Seventh Year.

[D] [It is forbidden to repair such a breach] if it does not endanger the public. But if it endangers the public, even though it holds back dirt from coming through, it is permitted to repair such a breach in the Seventh Year.

[E] That is in line with the following:

[F] [In the case of a wall in a courtyard,] if one's wall was crumbling, one may tear it down and rebuild it.

[G] But why should he not simply tear it down and not rebuild it [until after the festival]?

[H] R. Hananiah in the name of R. Yohanan: “They permitted completing the work because of the need to begin it. For if you say to him that he may not rebuild it, he will not even tear it down, and it will turn out that people will be at risk.”

1:5

[A] **R. Meir says, “They examine negas [the skin ailments described at Lev. 13-14] [to begin with] to provide a lenient ruling, but not to provide a strict ruling.”**

[B] **And sages say, “Neither to provide a lenient ruling nor to provide a strict ruling”**

[C] **And further did R. Meir say, “A man may go out and gather the bones of his father and his mother,**

[D] **“because it is a time of rejoicing for him.”**

[E] **R. Yosé says, “It is a time of mourning for him.”**

[F] **A person may not call for mourning for his deceased,**

[G] **or make a lamentation for him thirty days before a festival.**

[I:1 A] *There we have learned: A bright spot the size of a split bean –*

[B] **and it spread to the extent of a split bean –**

[C] **and there appeared in the spreading quick flesh or white hair –**

[D] **but the primary sign disappeared –**

[E] **R. Aqiba declares unclean.**

[F] **And sages say, “Let it be inspected anew” [M. Neg. 4:10].** [A bright spot of requisite size has spread to the extent of a split bean. The spreading then develops quick flesh or white hair. But the primary sign has disappeared. Aqiba declares the man unclean because he regards the two signs as joined together. The spreading takes the place of the original sign. We have, therefore, sufficient evidence of uncleanness. The sages’ position is that we have a new sign, for the first spot has disappeared.]

[G] **Lo, R. Aqiba declares [the man] unclean and certifies his uncleanness, while rabbis says, “Let it be inspected anew”;** they too [are prepared to] certify [that he is unclean, if the inspection warrants it when the inspection takes place a week later].

[H] *What is the difference, then, between the two positions just now outlined?*

- [I] R. Yohanan said, “[An inspection] on the eve of a festival is what is at issue between them.
- [J] “R. Aqiba says, ‘This [situation, in which the primary sign has disappeared] is tantamount to the original diseased spot, and you are not required to examine him, either to make a lenient ruling or to make a stringent ruling’ [= sages, M. 1:5B].
- [K] “Sages say that this [spot] is another, new one, and you thereby declare him exempt from uncleanness on the count of the original spot.
- [L] “And as to the position not to provide a strict ruling, you are not obligated to examine the second spot either to present a lenient or to give a strict ruling. [The sage does not examine this second spot, prior to the festival, so as to avoid having to give a strict ruling, which would ruin the festival for the man. Hence the matter is postponed (= M. 1:5A).]”
- [M] [We now line up the authorities of M. 1:5 against those of M. Neg. 4:10. Sages before us want neither a strict nor a lenient ruling, just as Aqiba has said, while Meir permits a lenient, but not a strict, ruling, in line with sages of M. Neg. 4:10. We must therefore determine the decided law, by finding out the true position of sages.] *R. Yosé in the name of R. Aha: “Does the view of the individual here [at M. Neg. 4:10] accord with the anonymous [therefore authoritative] position there [at M. 1:5], and does the opinion of a named individual here accord with the anonymous position here? For the individual opinion here accords with the anonymous view there, in that R. Aqiba says, ‘It is the original sign, and one is not obligated to make a ruling on it, either to provide a lenient ruling or to provide a strict ruling.’ And the individual opinion there accords with the anonymous opinion here, in that rabbis say, ‘It is a new spot, and you may declare him exempt from the contaminating effects of the original sign.’ And we have here: **R. Meir says, ‘They examine negas to begin with to provide a lenient ruling [= “It is a new spot”] but not to provide a strict ruling”** [M. 1:5A].*
- [N] [At issue is a different matter, not Aha’s at all.] *R. Yosé b. R. Bun in the name of R. Aha, “Both the individual here and the rabbis here concur [at M. Neg. 4:10] with rabbis there that one gives neither a lenient ruling nor a strict one. [One does not inspect negas on the intermediate days of a festival under any circumstances.] There we deal with a case in which the primary sign has disappeared, while here we deal with a case in which the signs of uncleanness have*

disappeared while primary sign remains. [In this latter case all parties concur that no inspection is carried out.]”

[I:2 A] **Said Rabbi, “The opinion of R. Meir [M. 1:5A] makes more sense in the case of one who is [merely] shut up for inspection [the second time], and the opinion of R. Yosé [= sages, M. 1:5B] makes more sense to me in the case of one certified [as unclean]” [T. Hag. 1:8].** [Rabbi sees no disadvantage for the one who may, after all, be declared clean. But there is nothing to warrant pronouncing the decision for the one who is subject to certification. Even if he is declared clean, he has to count seven days and cannot have intercourse in that period.]

[I:3 A] [Reverting to the problem of unit I:1] R. Zeira said, “They dispute a case involving the intermediate days of a festival [in the case of one who is subject to a second inspection]. R. Aqiba says, ‘It is the original sign, [and if the man is declared clean] he may not enter the Temple courtyard as wholly clean. Sages say it is a new sign, and he may enter the Temple courtyard [since we must wait a week to see whether or not he is clean].”

[B] Lo, R. Aqiba declares the man unclean and certifies him so, and rabbis say “Let it be inspected as at the outset,” and they too certify him.

[C] What then is at issue between [Yohanan and Zeira]??

[D] Samuel said, “[As to entering the courtyard, all parties concur that he is unclean and may not do so. At issue] is blossoming forth. [If the man turns completely white, and has been certified unclean, he then is regarded as clean. If he had been deemed clean, he then is regarded as unclean; see M. Meg. 8:1.] R. Aqiba says, ‘It is the original mark. Hence we deal with a case in which the blossoming forth is from an unclean person, so he is clean.’ Sages say, ‘It is a new mark of uncleanness. Hence it is a blossoming forth from a clean person, and he is unclean.’”

[E] And there are those who say in Samuel’s name: “A case of blossoming forth and a dripping boil is at issue between them [see M. Meg. 10:5]. R. Aqiba says, ‘It is the original mark. Hence we deal with a case in which the blossoming forth is from an unclean person, so he is clean.’ Sages say, ‘It is a new mark of uncleanness. Hence it is a blossoming forth from a clean person, and he is unclean.’”

[F] *Since it is a new mark of uncleanness, he is unclean. Lo, if it had not been so, he would have been clean. Then this accords with the view of R. Simeon b. Laqish.*

[G] *For there was the following dispute: If it blossomed forth in the case of one who had a dripping boil,*

[H] R. Yohanan said, “He is clean [having been unclean].”

[I] R. Simeon b. Laqish said, “He is unclean [having been clean], since the boil is not a mark of uncleanness (= F).”

[II:1 A] And further did R. Meir say, “A man may go out and gather the bones of his father and his mother, because it is a time of rejoicing for him” [M. I:5C-D].

[B] At first they would collect the bones and bury them in mounds. When the flesh had putrefied, they would collect the bones and bury them in cedar chests.

[C] On that day the mourner would engage in the rite of mourning. The next day he would rejoice, saying [80d] that his ancestors would free him from the rigors of judgment.

[II:2 A] *It was taught:* He who moves a bier from place to place is not subject to [the rite of mourning required when] one gathers bones [of an ancestor for secondary burial]. [Merely moving the bier is not part of the reburial process. So new fresh rites of mourning are not required, e.g., for that day only.]

[B] *Said R. Aha, “That statement which you have laid down applies to a bier made of marble. But as to one made of wood [in which case there will have been putrefaction of the bier itself], the person is subject to [carry out rites of mourning involved when] one gathers bones [of an ancestor for secondary burial].”*

[C] Said R. Yosé, “Even in the case of a bier made of wood, [there is no consideration of the rite of mourning required when one] gathers bones [of an ancestor for secondary burial].”

[D] What constitutes the act of gathering bones [for secondary burial]?

[E] They carry the skeleton, wrapped in sheets, from one place to another.

[F] *And so it has been taught:* Gathering up the bones means that one collects the bones once the flesh has putrefied.

- [G] Haggai in the name of R. Zeira: “Secondary collection and burial of the bones of an ancestor do involve the rites of mourning applicable on the day on which one hears of the death.”
- [H] *It was taught:* Merely hearing about the secondary collection and burial of the bones of an ancestor do not impose [upon a relative] the obligation of mourning on that day.
- [I] Said R. Haggai, “That is so if one heard a day later. But if one heard on the same day that the bones were collected, then merely hearing about the collection of the bones of an ancestor does impose the obligation to carry out the rites of mourning on that day.”
- [J] Is there a lower limit to the number of bones? *Nichomachi taught before R. Zeira*, “There is no lower limit [to the number of bones that must be collected in a case of] the gathering of bones [for secondary burial, so that even if only a few bones have been collected, the rites of mourning are invoked].”
- [K] *That is in line with the following:* R. Mani instructed R. Hillel of Kapra to make a tear in his garments and to go into mourning, in line with the view of R. Aha [above, B],
- [L] but not to undergo cultic uncleanness [if he was a priest, that is, he is not to become unclean to collect his father’s bones], in accord with the view of R. Yosé [above, C].
- [M] *It was taught:* As to a case of gathering of the bones, one does not say in that connection lamentations of obsequies, nor does one state the blessing due to mourners, nor does one express the consolation due to mourners.
- [N] What is the blessing due to mourners?
- [O] It is that said in the synagogue.
- [P] What is the consolation due to mourners?
- [Q] It is that which is said when passing in line before the mourners.
- [R] *It was taught:* A mourner says something to them.
- [S] What does one say?
- [T] Rabbis of Caesarea say, “One expresses praises [of the deceased].”

[III:1 A] A person may not call for mourning for his deceased [M. 1:5F]:

[B] What is a call for mourning for the deceased?

[C] He speaks of him among the deceased [in general, but not speaking of him in particular].

[IV:1 A] Nor make a lamentation for him [M. 1:5G]: What is a lamentation?

[B] When one speaks of the deceased in particular [and not merely mentions his name among the deceased in general].

[C] *That which you have said* applies to a death some time ago, but in the case of a recent death, it is permitted.

[D] What is the definition of one that is recent, and one that is some time ago?

[E] A recent death is one that has taken place in the past thirty days. One that has taken place some time ago is one prior to the span of thirty days [cf. M. 1:5G].

[F] *It has been taught*: A woman should not arouse herself to mourning on an intermediate day of the festival.

[G] R. Nahman in the name of R. Mana said, “This ‘arousing of oneself’ is in line with that which you say in the following verse of Scripture: ‘Let those curse it who curse the day, who are skilled to rouse up Leviathan’” (Job 3:8).

[H] *It has been taught*: A man should not marry a wife who has children, even if they are already in the grave.

[I] Said R. Yosé, “That is because of an actual case.”

1:6

[A] They do not hew out a tomb-niche or tombs on the intermediate days of a festival.

[B] But they refashion tomb-niches on the intermediate days of a festival.

[C] They dig a grave on the intermediate days of a festival,

[D] and make a coffin,

[E] while the corpse is in the same courtyard.

[F] R. Judah prohibits, unless there were boards [already sawn and made ready in advance].

[I:1 A] What is the meaning of refashioning a grave [M. 1:6B]?

- [B] R. Yosé bar Nehorai said, “One plasters it with plaster.”
- [C] R. Hisda said, “If it was too long, one may shorten it.”
- [D] R. Joshua b. Levi said, “One may lengthen it on one side and broaden it on the other.”

[E] *R. Hiyya taught [in T.’s version]: What is the meaning of “refashioning tomb-niches” [M. 1:6B].*

[F] **One makes it broader or longer.**

[G] **This applies to a grave and a burial niche [M. 1:6C] [T. Moed 1:9].**

[II:1 A] One may dig a grave on the intermediate days of a festival [M. 1:6C]:

- [B] This is breaking through the ground in any measure at all.
- [C] A place for sitting is called such a resting place.

[III:1 A] And make a coffin while the corpse is in the same courtyard [M. 1:6D-E]:

- [B] That which you have said applies to a deceased person who was not well known. But in the case of a deceased person who was well known, one may make a coffin even in the marketplace.
- [C] *When R. Hananiah, associate of the rabbis, died, they made him a coffin in the marketplace.*
- [D] All parties concur that one should not cut down cedars for that purpose and, *along these same lines*, that one should not hew out stones.
- [E] *If they were already hewn out, we come to the dispute of R. Judah and rabbis [at M. 1:6F].*

1:7

- [A] **They do not take wives on the intermediate days of a festival,**
- [B] **whether virgins or widows.**
- [C] **Nor do they enter into levirate marriage,**
- [D] **for it is an occasion of rejoicing.**
- [E] **But one may remarry his divorced wife.**
- [F] **And a woman may prepare her wedding adornments on the intermediate days of a festival.**

[G] R. Judah says, “She could not use lime, since this makes her ugly.”

- [I:1 A] [With reference to M. 1:7A-D:] Simeon bar Abba in the name of R. Yohanan, “It is because [people will hold up weddings until the festival, and so have one meal for the two events, the festival and the wedding]. [Consequently, they will postpone marriages and so] nullify the act of procreation [for the interval].”
- [B] *They asked before R. Yosé*, “As to a slave, what is the law about his marrying a woman on the festival[‘s intermediate days]?”
- [C] *He said to him*, “Let us derive the answer from the following: **Shall he refrain? But was not the world made only for procreation [M. Git. 4:5E-F]?** [Consequently, he too must not postpone his wedding until the intermediate days of a festival.]”
- [D] And Simeon bar Abba said in the name of R. Yohanan, “[Anyone who is subject to] the religious duty of procreation [is prohibited from marrying a wife on the intermediate days of a festival].”
- [E] That is to say that a slave is subject to the religious duty of procreation, and whoever is subject to the religious duty of procreation is prohibited from marrying on the intermediate days of a festival.
- [F] R. Ila, R. Eleazar in the name of R. Hananiah: “It is because people must not confuse one cause of rejoicing with some other.”
- [G] R. La derived that lesson from the following verse of Scripture: “[And on the eighth day they held a solemn assembly;] for they had kept the dedication of the altar seven days and the feast seven days” (2 Chron. 7:9).
- [H] R. Jacob bar Aha derived the rule from the following: “Complete the week of this one, and we will give you the other also in return for serving me another seven years” (Gen. 29:27).
- [I] R. Abbahu in the name of R. Eleazar: “The prohibition is on account of the excessive work [involved in preparing for the wedding].”
- [J] *It has been taught*: But one may decide to get married on the eve of the festival.
- [K] *That lenient ruling, moreover, does not stand at variance with the view of R. Eleazar, R. Yohanan, or even R. Haninah.*
- [L] *Said R. Ba*, “When the bride enters [the marriage canopy], the work is gone and done.”

[II:1 A] But one may remarry his divorced wife [M. 1:7E]:

[B] It is because it is no particular joy for him.

[C] *That which you have said* applies to remarrying a woman whom one has divorced out of a fully consummated marriage. But as to remarrying one whom he has divorced at the stage of betrothal, that is forbidden.

[III:1 A] And a woman may prepare her wedding adornments on the intermediate days of a festival [M. 1:7F]:

[B] What are these adornments? Fixing her hair, parting her hair, cutting her hair and fingernails, and rubbing her face with a clay utensil [to heighten her skin color].

[C] *Said R. Yudan, father of R. Mattenaiah, "The Tannaite teaching just now cited speaks in euphemisms."*

[IV:1 A] R. Judah says, "She should not use lime, since this makes her ugly" [M. 1:7G], [and this prohibition applies on the festival itself even though later on the woman will be beautified,] for it is disfiguring. [So, on the occasion of the festival we do not take account of later advantage.]

[B] *Two Amoraic authorities, R. Haninah and R. Mana – one said, "Concerning lime that the woman removes on the festival itself do the sages dispute, but concerning lime that she removes after the festival [there is no dispute], for it is forbidden [on the festival to make use of lime which imparts its benefit only afterward]."*

[C] *The other said, "Concerning lime that the woman removes after the festival itself do the sages dispute, but concerning lime that she removes on the festival [there is no dispute], for it is permitted."*

[D] *Now we do not know which one said this, and which one said that.*

[E] *Now [let us infer the position of each] from that which R. Haninah, R. Yosé in the name of R. Yohanan said, "R. Judah is consistent with his established position, as R. Judah has said in that case, 'Disfiguring for a moment is disfiguring [and is prohibited], so did he say in the present case that what is painful for a moment is painful [at the moment, even though he will be happy about it later, thus M. A.Z. 1:1 E-F]."*

[F] [In the light of R. Haninah's observation about the position of R. Judah, then, we may infer] that it is he who said, "Concerning lime that the woman removes on the festival itself

do the sages dispute, but concerning lime that she removes after the festival [there is no dispute], for it is forbidden.” [For Judah will prohibit the lime removed during the festival, since it is disfiguring at *that* time, and this is without regard to the fact that later on – even on the festival itself – the woman will be glad she had put the lime on her skin.]

1:8

[A] **An unskilled person sews in the usual way.**

[B] **But an expert craftsman sews with irregular stitches.**

[C] **They weave the ropes for beds.**

[D] **R. Yosé says, “They [only] tighten them.”**

[I:1 A] The House of Yannai said, “Sewing in the normal way means drawing a needful [of stitches in one sweep]. Sewing with irregular stitches means doing it one by one.”

[B] R. Yohanan said, “Doing so in the usual way means doing it one by one. Irregular stitching means skipping.”

[C] *The following Tannaite teaching supports the view of R. Yohanan:*
Leather workers on the intermediate days of a festival sew with irregular stitches.

[D] *If you say that they do so one at a time, that is the normal procedure of their craft.*

[E] *But we must interpret the matter to mean that they skip a stitch.*

[I:2 A] What is the definition of an unskilled person, and what is the definition of an expert craftsman?

[B] Said R. Yosé b. Haninah, “Any who [cannot] sew an even hem [on his garment] – such a one is unskilled.”

[C] *Said R. Yosé, “The Mishnah speaks of a case of one who sews pockets [of a garment]. [This is not work for an expert.]”*

[II:1 A] **They weave the ropes for beds [M. 1:8C]:**

[B] *R. Yosé said, “There is a dispute on this matter between Hezekiah and R. Yohanan.*

[C] “Hezekiah said, ‘Weaving means one weaves warp and woof. Tightening means either the warp or the woof.’”

- [D] “R. Yohanan said, ‘Weaving means either the warp or the woof. Tightening means that it was loose and one tightens it.’”
- [E] Said R. Hiyya bar Ba, “All concur with regard to weaving that it involves warp and woof. Concerning what do they differ? It is with regard to tightening the rope bed.
- [F] “Hezekiah said, ‘It is either warp or woof.’
- [G] “R. Yohanan said, ‘If it was loose, one tightens it.’”
- [H] R. Yosé instructed Samuel bar Haninah, “Weaving is warp and woof.”
- [I] *But we do not know whether he referred to the statement of Hezekiah or to that of R. Hiyya bar Ba in the name of all parties.*
- [J] *Said R. Bun bar Hiyya before R. Zeira, “The Mishnah has indicated that weaving involves warp and woof.*
- [K] **“For we have learned there: As to the rope, at what point is it deemed connected to the bed? It is when one will have woven three stitches with it [M. Kel. 19:1].**
- [L] *Can you then say we deal with the warp and not the woof, or the woof and not the warp? [Surely not!] What would be the result of making the woof and weaving? [Null. Hence we must refer to both warp and woof.]*

1:9

- [A] **They set up an oven or double stove or a hand-mill on the intermediate days of a festival.**
- [B] **R. Judah says, “They do not rough the millstones for the first time.”**
- [I:1 A] *R. Halapta bar Saul taught, “But [M. 1:9A’s] rule is on the stipulation that one not set up an oven [81a] to begin with.”*
- [B] *It has been taught: As to a new oven or double stove, they do not grease them, rub them with a rag, or seal them with cold water so that they will be sealed. But if it is to pour out a pot on them, it is permitted.*
- [C] *And so has it been taught: A new oven or double stove – lo, they are in the category of all other utensils that are carried about in a courtyard.*

[D] R. Yudan b. R. Ishmael gave instructions that if it is absolutely necessary, it is permitted to bring a new oven from the craftsman's workshop to set a spit for a pot on the oven to begin with on the festival day [if the householder had no other way of cooking].

1:10

**[A] They make a parapet for a roof or a porch in an unskilled manner,
[B] but not in the manner of a skilled craftsman.**

[C] They plaster cracks and smooth them down with a roller, by hand, or by foot, but not with a trowel.

[D] A hinge, socket, roof beam, lock, or key [any of] which broke

[E] do they repair on the intermediate days of the festival,

[F] so long as one had not had the intention to do work on it on the intermediate days of the festival.

[G] And all pickled foods that a man can eat during the intermediate days of a festival he also may pickle.

[I:1 A] A parapet for a roof may be made up to three handbreadths high, and one for a porch [more commonly used] may be built up to ten handbreadths high on the festival.

[II:1 A] **They plaster cracks [M. 1:10C]:** *R. Hiyya taught:* He who plasters does so by foot, and he who smooths down does so by hand.

[B] *The Mishnah speaks of a small roller, and R. Hiyya's teaching speaks of a large roller.*

[III:1 A] **A hinge, socket, roof beam, lock, or key, which broke, do they repair on the intermediate days of the festival, so long as one had not had the intention to do the work on it on the intermediate days of the festival [postponing the work from some earlier time] [M. 1:10D-F].**

[B] *This is in line with the following: The trundle of a ladder belonging to R. Mana broke. He asked R. Jonah, his father, who permitted him to repair it.*

[C] *And even so, he said to him, "Go see how a certain elder behaves, and rely upon his decision." He went out and found R. Bun bar Kahana, and asked him, and he permitted him to repair it.*

[IV:1 A] **And all pickled foods that a man can eat during the intermediate days of a festival he also may pickle [M. 1:10G].**

- [B] Lo, as to pickled foods that he cannot eat on the festival, he may not [pickle] them.
- [C] *Said R. Ba, “That which you have said applies to things that are not perishable. But as to things that are perishable, it is permitted [to pickle them].”*
- [D] *It has been taught:* One should not go out and collect herbs and sell them in the market, for it is not usual to eat them on the festival.
- [E] Said R. Hoshaiiah, “If you say [otherwise], you will turn out to permit one’s carrying out his ordinary craft on the festival.”
- [F] *Did not R. Ba say, “That which you have said applies to things that are not perishable. But as to things that are perishable, it is permitted to pickle them”?*
- [G] *The Tannaite [passage above, D,] speaks of a case in which one collected them on the festival, while what R. Ba has said applies to a case in which one has collected them on the eve of the festival.*
- [IV:2 A] R. Hoshaiiah had wheat. Nonetheless on the intermediate days of the festival he ground wheat.
- [B] R. Zeira said to R. Jonah, “Go, buy us black wheat for grinding [on the festival].”
- [C] He said to him, “We have a portion adequate for the festival.”
- [D] And he was angry with him [since that is no consideration].

YERUSHALMI MOED QATAN

CHAPTER TWO

2:1

- [A] He who [prior to the festival] had turned his olives, and then an occasion for mourning or some accident befell him,
- [B] or workers proved unreliable [so that he could not complete the processing prior to the festival],
- [C] “[during the intermediate days of the festival] applies the pressing beam [to the olives] for the first time, but [then] leaves it until after the festival,” the words of R. Judah.
- [D] R. Yosé says, “He squeezes out the oil entirely and seals it in jar. in the usual way.”
- [I:1 A] *We have learned: He who had turned his olives [one time].*
- [B] *And R. Hiyya taught: “He who had his olives turned over once and yet a second time....”*
- [C] *The law of the Mishnah requires the clarification of the saying of R. Hiyya, and the saying of R. Hiyya requires the clarification of the law of the Mishnah.*
- [D] *If we had learned what the Mishnah had to say, and not that which R. Hiyya taught, we should have ruled that the dispute applies only if someone had turned over his olives one time alone. But if he had done so once and again a second time, all parties concur that it is permitted [but now we see that the dispute of M. applies to this case as well].*
- [E] *So it was necessary to learn the teaching of R. Hiyya.*
- [F] *If, further, we had in hand what R. Hiyya taught but had not learned what the Mishnah says, we should have ruled that the dispute applies only in the case of one who had turned over the olives once and then done so a second time. But if one had done so only one time, then in the opinion of all parties, it is forbidden [to do so on the festival].*

[G] *Accordingly, there was need to provide that which the Mishnah has stated as well as that which R. Hiyya has taught.*

[H] *Said R. Phineas b. R. Zakkai, "The Mishnah speaks of packed olives, and R. Hiyya has taught a rule concerning a case of loose berries."*

[I] *Rabbis of Caesarea say, "The Mishnah is in accord with the view of R. Judah [M. 2:1C], and what R. Hiyya has taught is in accord with the view of R. Yosé [= M. 2:1D]."*

[J] *"R. Judah says, 'Let the farmer lose some small volume, but let him not lose a large volume [of olive oil].'*

[K] *"R. Yosé says, 'Let him not lose anything at all.'"*

[I:2 A] R. Judah bar Pazzi in the name of R. Yohanan: "Just as they differ here, so they differ with respect to the laws governing the mourner."

[B] *For it has been taught: "These are the things that they do for a mourner during the period of his mourning [in the intermediate days of a festival]"*

[C] *"They press his olive-mass, empty out his wine, and seal it in jars. As to his olives, if they have turned over once and then a second time, they press them in the usual way. And they irrigate his field that requires it when its turn has come to receive water. And they sow his furrow with flax at the rains," the words of R. Judah.*

[D] They said to him, "If it is not sown with flax, it may be sown with another species. If it is not sown this week, it may be sown in some other week [and hence, that may not be done for him]."

[E] *Now who was it who said this to him? It was R. Yosé.*

[F] *The opinions assigned to R. Judah are at variance with one another. There he has said that he may lose some small volume, but he should not have to lose a large volume [of oil], while he here has said this [that to avoid any loss at all, others may in his behalf press olives in the usual way].*

[G] There is a difference between the two cases. There it is usual to practice deception [and that is why, on the festival, he has not permitted pressing the grapes in the usual way, while, with regard to the mourner, it is permitted to do so].

[H] All the more so are the opinions assigned to R. Judah reversed. Now if there [with respect to the festival] it is usual to practice

deception, and yet you say that it is permitted [to apply the pressing beam], here, where it is not usual to practice deception, is it not an argument a fortiori [that we should permit the work to be done in the usual way]?

- [I] Said R. Hinenah, “Who are they who said to him what they said? They are sages who concur with the thesis of R. Judah in respect to the intermediate days of the festival.”

2:2

- [A] **And so: He who had his wine in the cistern, and then an occasion for mourning or some accident befell him,**
- [B] **or workers proved unreliable,**
- [C] **“empties out the wine completely and seals it in jars in the usual way,”** the words of R. Yosé.
- [D] **R. Judah says, “He [only] makes a cover for it of shingles, so that it not turn sour.”**
- [I:1 A] Said R. Zeira, “The text states only, ‘**And so: He who had his wine in the cistern**’ [M. 2:2A] [already]. [That is, the farmer had begun the vintage prior to the festival.] Lo, to begin with it is forbidden [on the festival itself, if the work had not been begun already, to carry out the procedures specified by M. 2:2C or D].
- [B] *“For how shall we [81b] interpret the case before us? If we deal with a situation in which the time came to cut the grapes and he did not do so, then the farmer has injured himself [and has caused the loss himself].*
- [C] *“If we deal with a case in which the time for cutting the grapes had not yet come, he could have left the grapes in place.*
- [D] *“But we must deal with a case in which the time came to cut the grapes. He thought that he could leave the grapes in place [not hastening the grape-cutting], and he found that he could not do so. [Nonetheless, he bears the responsibility for his own loss, and that is M.’s point.]”*
- [I:2 A] *R. Simeon b. R. Yannai had his vineyard cut on the intermediate days of the festival. Everyone noticed this, and the general population cut their grapes as well.*
- [B] *A year later he left his grapes on the vines, and the vineyard dried up.*

[C] *[As to the people,] they learned from him the lesson of how not to do things, but they did not learn from him the lesson of how to do things properly.*

[I:3 A] *R. Hiyya bar Ashi in the name of Rab: “It is permitted to make a basket-trap on the intermediate days of a festival to catch fish in it on the intermediate days of a festival.”*

[B] *R. Judah gave instructions concerning sieves that it is permitted to make them on the festival for the needs of the festival.*

[C] *R. Ammi gave instructions concerning grating tools that it is permitted to make them on the festival for use on the festival.*

[D] *Rabbis of Caesarea say, “They heat up [temper] pans and pots for the needs of the festival.”*

[E] *Samuel said, “They may coat a jug with pitch, but they may not coat a cask. They may coat a jug, for pitch used for it is fine, and they may not coat a cask, for pitch used for it is thick.”*

[F] *There are those who reverse the ruling: They may coat a cask with pitch, and they may not coat a barrel. They coat a cask, because the coating is for a time only, and they do not coat a barrel, for the coating lasts.*

2:3

[A] **A person brings his produce into [the house] on account of thieves.**

[B] **And he takes his flax out of the soak, so that it not go to waste,**

[C] **so long as [to begin with] he not plan to do the work on the intermediate days of the festival.**

[D] **And in all cases in which people have [actually] planned [in advance] to do their work on the festival, it must be left to perish.**

[I:1 A] [M. 2:3A] does not accord with the view of R. Judah, for R. Judah said, “One may sit out in the field and guard his crop.”

[I:2 A] *R. Jacob bar Aha in the name of Rabbis: “Since produce up for sale goes to waste, it is permitted to move it about on the intermediate days of a festival [to keep it fresh].”*

[B] *R. Jacob bar Aha in the name of R. Yosé: “In the case of a caravan it is permitted to buy produce from them on the intermediate days of the festival. For people know that a caravan is coming, and so the prices go down [as a consequence of the increased supply of produce that is expected].”*

[C] *Said R. Mana, "If someone knows that if he does not purchase produce from the caravan, his profit will go down, he may purchase from it. If not, he may not do so."*

[D] *Said R. Yosé b. R. Bun, "Profit and principal are one and the same. If he knows that if he does not purchase the produce, he will lose his working capital, he may purchase produce on the intermediate days of the festival, and if not, he may not purchase it at that time."*

[E] *R. Jonah and R. Yosé gave instructions as to a woman's market [where feminine items are for sale], that it is permitted to purchase items there on the festival for use on the festival itself.*

[F] *R. Isaac b. R. Eleazar instructed R. Hoshaiiah b. R. Shimi, who was departing on a trip, "If you know that you can sell and the ship will wait on you so that you can come back to us [during the festival], do so, and if not, do not do so."*

[G] *R. Jonah of Bosrah had scrolls for sale. He asked R. Huna whether it was permitted to sell them in the festival week. He said to him, "Since you can enjoy the use of the proceeds and thereby drink spiced wine[, you may do so]."*

[I:3 A] R. Hiyya associate of rabbis said, "In the case of business dealings [of the deceased, left in the possession] of an estate of minors, [in which partners wished to collect what was owing to them,] the [capital] may be retrieved [by the partners, since otherwise this would lead to considerable loss, were the partners required to wait until the orphans reached maturity]."

[B] *They proposed to rule that that applies when there are witnesses to the original transaction.*

[C] Lo, if there are no witnesses who know about it, may it not be done?

[D] *Rabbis of Caesarea in the name of R. La: "It is necessary to rule that when there are witnesses who know about the transaction[,the funds may be collected]. Lo, if there are no witnesses to support the claim of the partners, then the capital is treated as a bailment [left with the deceased, and may be collected in the proper manner]. Do we wish to maintain that such a bailment cannot be collected from the estate to which minors are heirs? [Surely not!]"*

[E] What is the difference between a bailment and a debt [which cannot be collected from an estate to which minors are heirs]?

[F] A loan is handed over in order to be spent [so the funds are no longer in being, subject to the identification and transfer to the creditor], while a bailment is not handed over in order to be spent [and hence the bailment is in being and may be identified and retrieved].

[G] Said R. Ba bar Mamel, “If there were someone who would be appointed with me for the stated purpose, I should permit the meat deriving from a firstling to be weighed out in an ordinary measure [by weight], and I should permit people to do work on the intermediate days of a festival.

[H] “Have they not prohibited the meat of a firstling to be weighed in an ordinary way only so that it might be sold cheaply, but people practice deception in its regard and sell it for high prices.

[I] “Have they not prohibited doing work on the intermediate days of a festival only so that people will eat and drink and labor in the Torah? But they eat and drink and squander their leisure.”

[I:4 A] Said R. Yohanan, “If your name is mentioned for service on the council, let the Jordan be your border.”

[B] Said R. Yohanan, “People appeal [on the intermediate days of the festival] to the government to be rid of the duty of serving on the council.”

[C] Said R. Yohanan, “People [on the intermediate days of the festival] may lend on interest to an association formed for a religious duty and for sanctifying the New Moon.”

[D] *R. Yohanan would go up to the synagogue in the morning, and he would gather crumbs and eat them, and he said, “Let my lot be with him who eats here evenings [because they have such a fine meal when they bring testimony about the New Moon].”*

2:4

[A] They buy houses, slaves, cattle, and stones only for the needs of the festival or for the needs of a seller who has nothing to eat.

[B] They do not move [their property] from one house to another.

[C] **But a man may move his goods out into his courtyard [Y. adds: because it is a joy to him].**

[D] **They do not bring utensils from the workshop of a craftsman.**

[E] **But if he is concerned about them, he may move them into a different courtyard.**

[I:1 A] It is easy [to understand the purpose houses, slaves, and cattle may serve for the festival (M. 2:4A). But what about] stones?

[B] *It is in line with the following:*

[C] [In the case of a wall in a courtyard,] if one's wall was crumbling, one may tear it down and rebuild it.

[D] But why should he not simply tear it down and not rebuild it?

[E] R. Hananiah in the name of R. Yohanan, "They permitted completing the work because of the need to begin it. For if you say to him that he may not rebuild it, he will not even tear it down, and it will turn out that people will be at risk."

[I:2 A] R. Joshua b. Levi asked R. Simeon b. Laqish, "What is the law on buying houses from gentiles?"

[B] He said to him, "If the question of Rabbi applied to the Sabbath, *it has been taught:* [Even] on the Sabbath it is permitted to do so."

[C] How does one do it?

[D] One shows the gentile packets of money, and the gentile signs the bill of sale and brings it to the archives.

[E] For lo, we have found that Jericho was conquered only on the Sabbath.

[F] For it has been written: "You shall march around the city, all the men of war going around the city once. Thus shall you do for six days" (Josh. 6:3). And it is written, "And on the seventh day you shall march around the city seven times" (Josh. 6:4).

[G] And it is written, "[Only the trees that you know are not trees for food you may destroy and cut down that you may build siege-works against the city that makes war with you,] until it falls" (Deut. 20:20) – even on the Sabbath.

[I:3 A] **Lo, if someone does not have wheat to eat, he may cut wheat, tie it into sheaves, and thresh it, on condition that he not thresh with a cow [T. M. Q. 1:11G-H].**

- [B] That is the case in supplying food for an individual. But in the case of supplying food for the community, one may thresh even with a cow.
- [I:4 A]** They may not move from one mansion to another mansion, or from one hovel to another hovel, or from a hovel to a mansion, and, it need not be said, from a mansion to a hovel [M. 2:4B].
- [B] And as to moving within one's own property, even if it is from a mansion to a hovel [it is permitted], for it is a joy to a man when he lives in his own property.
- [C] They do not move a corpse or bones from a handsome grave to another handsome grave, nor from one disgraceful burial place to another disgraceful burial place, nor from a disgraceful burial place to a handsome grave, and it need not be said, from a handsome grave to a disgraceful burial place.
- [D] But as to one's own property, even if it is from a handsome grave to a disgraceful burial place, it is permitted, for it is a pleasure for a man to rest alongside his fathers.
- [II:1 A] They do not bring utensils from the workshop of a craftsman. [But if he is concerned about them, he may move them into a different courtyard] [M. 2:4D-E].**
- [B] That is to say, in the case of property that could be lost, it is permitted to move such property about on the intermediate days of a festival.

2:5

- [A] They cover up fig cakes [left to dry] with straw.**
- [B] R. Judah says, "They also pile them up in heaps."**
- [C] Those who sell produce, clothing, and utensils sell them discretely, for the purposes of the festival.**
- [D] Hunters, groats makers, and grist-millers do their work discretely, for the purposes of the festival.**
- [E] R. Yosé says, "They have adopted a strict ruling for themselves."**
- [I:1 A]** *The [meaning of the] Mishnah's word choice [at M. 2:5A] cover up* is to bring the figs close together so as to form a pile.
- [B] R. Judah says, "One may lose some small quantity of produce, but he need not lose a large quantity of produce."
- [C] R. Yosé says, "A person need not lose anything at all."

- [I:2 A]** *Kahana said, “There are rules concerning the intermediate days of a festival that are more difficult than the rules governing the transfer of uncleanness through overshadowing, and the rules governing negas. [Here is an example.]*
- [B] “There R. Jeremiah said in the name of Rab, ‘[If it should rain,] they spread mats on top of shavings that cover the bricks on the Sabbath.’ *And here the law has said this* [that one may not make use of something to cover the figs if it is a source of much work to utilize it].”
- [C] Rabbis of Caesarea in the name of R. Jacob bar Aha: “At issue among the conflicting sayings [about hard work being permitted for protecting bricks from rain and, in M., about covering fig cakes only in the most convenient way], is whether or not one may pull straw from the ground.
- [D] “Rabbis maintain that one may cut the straw and make a covering with it.
- [E] “R. Judah says, ‘One may not cut it, but one may make a covering with it.’”
- [II:1 A]** [Illustrating M. 2:5E:] “The fish trappers of Tiberias, the goat makers of Acre, and the grist-millers of Sepphoris undertook not to perform acts of labor on the intermediate days of a festival.
- [B] There is no difficulty understanding the decision of the grist-millers of Sepphoris and the goat makers of Acre. But as to the fish trappers of Tiberias, will they not then diminish the joy of the festival [by lowering the availability of fish]?
- [C] One may nonetheless catch fish with a hook or with nets.
- [D] Even so, do they not diminish the pleasure of the festival?
- [E] R. Ammi ridiculed them for diminishing the joy of the festival [by their self-indulgence].

YERUSHALMI MOED QATAN

CHAPTER THREE

3:1

[A] [81c] These cut their hair on the intermediate days of a festival:

[B] he who comes from overseas or from captivity;

[C] and he who goes forth from prison;

[D] and he whose excommunication has been lifted by sages.

[E] And so too: he who sought absolution from a sage [for release from a vow not to get a haircut] and was released;

[F] and the Nazirite [Num. 6:5] or mesora [Lev. 14:8-9] who emerges from his state of uncleanness to his state of cleanness.

[I:1 A] Lo, all other persons [apart from those listed at M. 3:1] are forbidden to get haircuts.

[B] Said R. Simon, “They made such a decree for them so that people should not enter the festal season in an unkempt appearance.”

[C] *There we have learned: The members of the priestly course and the members of their counterpart [the ma’amad] are forbidden to get a haircut and to wash their clothing. On Thursday they are permitted to do so, because of the honor owing to the Sabbath [M. Ta. 2:7].*

[D] Lo, on all other days they are prohibited to get a haircut and to wash their clothes.

[E] R. Yosé, R. Abbahu in the name of R. Yohanan, R. Abun in the name of Hezekiah: “They made such a decree for them so that they should not enter upon the Sabbath in an unkempt appearance.”

[I:2 A] *It has been taught in the name of R. Judah: “Those who come home from overseas are forbidden to get a haircut and to wash their clothing” [vs. M. 3:1B].*

[B] *R. Judah is consistent in his opinions, for R. Judah said, "It is forbidden to take a journey on the Great Sea."*

[C] If so, then if a priest goes abroad, since he has gone forth from the Land not with the approval of sages, he should be forbidden to get a haircut [when he comes home].

[D] *A priest came to R. Hanina. He said to him, "What is the law as to going to Tyre to carry out a religious duty, namely, to perform the rite of halisah or to enter into levirate marriage?"*

[E] He said to him, "Your brother went abroad. Blessed is the Omnipresent, who has smitten him. And now you want to do the same thing?"

[F] *There is he who wishes to say that this is what he said to him, "Your brother left the bosom of his mother and embraced the bosom of a gentile woman, and blessed is he who smote him! And now you wish to do the same thing?"*

[G] *Simeon bar Ba came to R. Hanina. He said to me, "Write a letter of recommendation for me, since I am going abroad to make a living.*

[H] He said to him, "Tomorrow I'm going to your ancestors, and they are going to say to me, 'That single precious planting that we had in the Land of Israel have you permitted to go forth from the Land!'"

[II:1 A] He who goes forth from prison [M. 3:1C]: *We proposed to rule:* That is the case when he was imprisoned by gentiles.

[B] But if he was imprisoned by Israelites, that is not the rule.

[C] *The statement of the Mishnah comes to tell you that even if he was imprisoned by Israelites, it still is not pleasant to someone to get a haircut in prison [and so he may do so when he gets out, even on the intermediate days of the festival].*

[III:1 A] And he whose excommunication has been lifted by sages [M. 3:1D]:

[B] *How shall we interpret this rule.* If we deal with a case in which they released him from the decree of excommunication prior to the festival, let him get his haircut before the festival.

[C] *If we speak of a case in which they did not release him prior to the festival, let him not get a haircut.*

[D] *But this is how we must interpret the case:* We deal with one whom they released prior to the festival, and the thirtieth day [of whose excommunication] coincided with the festival day, for a decree of excommunication is not for less than thirty days.

[E] A decree of sages' displeasure is not for less than seven days.

[F] A decree of excommunication is not for less than thirty days: "But a whole month, until it comes out at your nostrils and becomes loathsome to you, because you have rejected the Lord who is among you, and have wept before him, saying, 'Why did we come forth out of Egypt?'" (Num. 11:20).

[G] A decree of sages' displeasure is not for less than seven days: "But the Lord said to Moses, 'If her father had but spit in her face, should she not be shamed seven days? Let her be shut up outside the camp seven days, and after that she may be brought in again'" (Num. 12:14).

[H] *Rabbi had high regard for Bar Eleasha [his son-in-law]. Bar Qappara said to him, "Everyone brings questions to Rabbi, and you do not bring questions to him."*

[I] *He said to him, "What should I ask him?"*

[J] He said to him, "Ask: 'It looks down from heaven, it searches the corners of the house. All the winged creatures fear.' 'The young men saw me and withdrew, the aged rose and stood; ... and laid their hand on their mouth' (Job 29:8-9). Lo, they say, 'Wonderful, wonderful.' He who is taken is taken in his sin.'"

[K] *[Upon hearing this riddle,] Rabbi turned and saw [Bar Qappara] laughing. Rabbi said, "I do not recognize you [as a] sage."*

[L] *And [Bar Qappara] realized that he would not be appointed as an official of Rabbi's court for the rest of his days [and it served him right].*

[III:2 A] They sought to excommunicate R. Meir. He said to them, "I shall not listen to you unless you tell me who are those who declare the excommunication, on what basis they declare me to be excommunicated, and for how many causes they excommunicate me."

[III:3 A] They sought to excommunicate R. Eliezer.

[B] *They said, "Who will go and inform him?"*

- [C] *R. Aqiba said, “I shall go and inform him.”*
- [D] *He came to him.*
- [E] He said to him, “My lord, my lord, your colleagues are excommunicating you.”
- [F] *[Eliezer] took him and went outside. [81d] He said, “O carob, carob, if the law accords with their view, uproot yourself,” and it did not uproot itself.*
- [G] *“If the law is according to my view, uproot yourself,” and it uprooted itself.*
- [H] *“If the law is like their view, return [to your place],” and it did not return.*
- [I] *“If the law accords with my view, return to your place,” and it returned.*
- [J] *All such praise and the law is not according to R. Eliezer?*
- [K] Said R. Hanina, “Once it has been given, it has been given only on condition that one follows the majority, even in error.”
- [L] *And does R. Eliezer not accept the principle that one follows the majority even in error?*
- [M] He paid no attention until in his very presence they burned the things he had declared clean.
- [N] *There we have learned: **If he broke it into rings and put sand between the rings –***
- [O] **R. Eliezer declares clean [insusceptible to uncleanness].**
- [P] **And sages declare unclean.**
- [Q] **This is the oven of Hakhinai [M. Kel. 5:10].**
- [R] R. Jeremiah said, “A great tribulation took place on that day. Wherever R. Eliezer’s eye looked, it was burned, and not only so, but even one grain of wheat – the half [that he looked at] was burned, and [the other] half not burned.”
- [S] And the columns of the assembly house were shaking.
- [T] R. Joshua said to them, “If the associates are contending, what business is it of yours?”

[U] And an echo came forth and said, “The law follows Eliezer, my son.”

[V] R. Joshua said, “*It is not in heaven.*”

[W] R. Qerispai, R. Yohanan in the name of Rabbi, “If a man should say to me, ‘Thus did R. Eliezer teach,’ I should teach according to his words, *but the Tannaite authorities confuse matters.* [The teachings of Eliezer are not attributed to him accurately.]”

[X] *One time he was going through the market and he saw one woman cleaning her house, and she threw out [the dirt], and it fell on his head.*

[Y] He said, “It would seem that today my colleagues will bring me near, as it is written, ‘From the dung heap he will raise up the poor’ (Ps. 113:7).”

[III:4 A] *R. Joshua b. Levi summoned a man to his court three times, and the man did not come. He sent him the message, “If it were not the case that in my entire life I have never declared a man to be subject to a herem, I should have declared you to be in herem.”*

[B] For twenty-four reasons they excommunicated a person, and this is one of them.

[C] “And that if anyone did not come within three days, by order of the officials and the elders all his property should be forfeited, and he himself banned from the congregation of the exiles” (Ezra 10:8).

[D] *Said R. Isaac b. R. Eleazar, “There are many more than those twenty-four cases scattered throughout the Mishnah.”*

[III:5 A] *There we have learned* [cf. M. Ta. 3:6]: Simeon b. Shatah sent the following message to him [Honi the Rainmaker]: “You should be excommunicated. For if a decree had been issued along the lines of the decree in the time of Elijah [that there be no rain], would you not have turned out to bring the public to the profanation of the Divine Name?”

[B] “And whoever brings the public to profane the Divine Name is to be excommunicated.”

[C] *There we have learned* [Y. R.H. 1:5]: Rabban Gamaliel sent the following message to him: “You hold the community back and turn out to make them stumble in the future. Will you not turn out to hold the community back from carrying out a religious duty?”

[D] “For whoever holds the community back from carrying out a religious duty is to be excommunicated.”

[E] *It was taught:* Said R. Yosé, “Todos of Rome taught the people of Rome to eat lambs roasted helmet-style on the night of Passover. Sages said to him, “If you were not Todos, should we not excommunicate you [for this improper instruction]?”

[F] *(And what was so special about Todos?*

[G] *Said R. Hanania, “He would send gifts in support of rabbis.”)*

[H] “For do you not turn out to cause the community to eat Holy Things outside [of the Temple]? And whoever causes the community to eat Holy Things outside of the Temple is supposed to be excommunicated.”

[III:6 A] *There we have learned: Whom did they excommunicate? It was Eleazar b. Hanoh, who cast doubt on the sages’ ruling about the cleanness of hands [M. Ed. 5:6P].*

[B] *That is to say,* he who casts doubt on a ruling, even if it derives from the rulings of scribes, is to be excommunicated.

[C] *There we have learned: He said to them, “They administered [the bitter water given to a suspected adulteress] to make her into an example” [M. Ed. 5:6L].*

[D] What is the meaning of “to make her into an example”? To provide an instance.

[E] **They excommunicated him, and he died while he was subject to the excommunication, so the court stoned his bier [M. Ed. 5:6M].**

[F] **This is to teach you that whoever dies while subject to a ban of excommunication – they placed a stone on his bier [M. Ed. 5:6M].**

[G] *That is to say,* he who humiliates a sage, even after his death, is to be excommunicated.

[H] *In the days of R. Zeira they would put people out and bring them back.*

[I] *He said to them, “Rabbi, now they put out, and forthwith do they bring back?”*

[J] Said R. Yosé, “They went and voted: as soon as he retracts they bring him back [and relieve him of the writ of excommunication].”

- [III:7 A] He who is excommunicated by a master is excommunicated for the latter’s disciple. He who is excommunicated for the disciple is not deemed excommunicated so far as the master is concerned.
- [B] He who is excommunicated for the chief of the court is excommunicated for a sage [who is a member of the court].
- [C] He who is excommunicated for a sage, is not excommunicated for the head of the court.
- [D] He who is excommunicated for a patriarch is excommunicated for everyone.
- [E] Up to this point we deal with a sage who declared someone to be excommunicated. But is the law the same even if it is [merely] an associate who issued the writ of excommunication?
- [F] *Let us derive the answer from the following:*
- [G] *A serving woman who worked for Bar Pata was passing by a synagogue, and she saw the teacher hit a child more than was necessary. She said to him, “That man [you] should be in excommunication.” He came and asked R. Aha [how to deal with what she had said]. He said to him, “You must take account of yourself [in the light of what she said].”*
- [H] *That is to say, he who does something that is improper is to be excommunicated [even by the serving woman of a sage’s household].*
- [I] *R. Simeon b. Laqish was guarding figs in a garden. Thieves came and stole them by night. In the end he found out who they were. He said to them, “Let them be excommunicated.” They said to him, “Let that man [you] be subject to a decree of excommunication.”*
- [J] *He paid attention to what they had said. He said, “They owe me money, but did they owe me their life [that I put them into excommunication]? [Surely not. What I did was wrong.]”*
- [K] *He went and ran after them. He said to them, “Release me [from the decree of excommunication].”*
- [L] *They said to him, “Release us, and we shall release you.”*

[M] *That is to say*, he who excommunicates him who should not be subjected to excommunication – his act of excommunication still is valid.

[III:8 A] Who releases the decree [at M. 3:1D]?

[B] *Has it not been taught*: “If one of those who decreed excommunication against a man died, they do not release him from the decree”?

[C] *Said R. Joshua b. Levi*, “*That which you have stated applies* when no patriarch is available. But if the patriarch is available, the patriarch releases the decree of excommunication.”

[D] R. Jacob bar Aha in the name of R. Ba bar Mamel: “There was the case of one [who had been subjected to a writ of communication], and one of those who had done so died, and they did not release him.”

[E] And did not R. Joshua b. Levi state, “*That which you have said applies* when no patriarch is available. But if the patriarch is available, the patriarch releases the decree of excommunication”?

[F] But you may interpret that which R. Jacob bar Aha said in the name of R. Ba bar Mamel to a case in which the one subjected to the decree did not repent.

[G] R. Jacob bar Abayye in the name of R. Sheshet: “They voted in Usha not to decree a decree of excommunication against an elder.”

[H] *This accords with that which* R. Samuel said in the name of R. Abbahu, “As to an elder to whom some bad thing happened, they do not bring him down from his position of greatness, but they say to him, [You have indeed smitten Edom, and your heart has lifted you up.] Be content with your glory, and stay at home[; for why should you provoke trouble so that you fall, you and Judah with you?]” (2 Kings 14:10).

[I] R. Jacob bar Abayye in the name of R. Aha: “An elder who forgot his learning because of some accident that happened to him [lit., unwillingly] – they treat him with the sanctity owing to an ark [of the Torah].”

[J] R. Aha, R. Tanhum, R. Hiyya in the name of R. Yohanan: “An elder who issued a decree of excommunication for his own convenience – even if it is in accord with the law, his decree of excommunication is null.”

[K] *In the time of R. Jeremiah trouble came upon Tiberias*
[which had to come up with a ransom to the

government]. *He sent and sought a silver candelabrum from R. Jacob b. R. Bun. He sent back to him, saying, "Jeremiah still has not repented his evil." [Jeremiah] wanted to excommunicate him.*

[L] *R. Hiyya the son of R. Isaac of Attush was in session there. He said to him, "I have heard that they excommunicate an elder only if he has behaved like Jeroboam son of Nabat and his fellows."*

[M] He said to him, **"It was as an example that they imposed the ordeal of drinking the bitter water on her" [M. Ed. 5:6].** And he indeed behaved as did Jeroboam b. Nabat and his fellows."

[N] *So this group [of sages] declared the other group to be excommunicated, and this group took account of the decree of the other, and this group had to release the other [from its decree].*

[IV:1 A] And so too: he who sought absolution from a sage [for release from a vow to get a haircut] and was released:

[B] *How shall we interpret this case?*

[C] If he addressed the question prior to the festival, he should not get a haircut.

[D] If he did not address the question to the sage prior to the festival, he [also] should not get a haircut.

[E] *But this is the case with which we deal:* He addressed the question to the sage prior to the festival, but he did not find grounds for releasing his vow until the festival had come.

[F] *The following case illustrates [how a sage may not find grounds for releasing a vow right away, but may find such grounds later on]:*

[G] R. Simeon did not find grounds for releasing his vow, until one of the sages of Galilee came to him. *(There are those who say it was R. Simeon b. Eleazar.) He took him from here and put him there, took him from [82a] here and put him there, until he put him into the sun to examine his garments.*

[H] *They said to him, "If you had known that the elder would do this to you, would you have taken such a vow?"*

[I] *He said to him, “No.” Then he released the vow.*

[J] *They said to the elder, “How did you know to do things this way?”*

[K] He said to them, “Many years ago, I served R. Meir.” And there are those who say, “The staff of R. Meir was in his hand, and it teaches me knowledge.”

[IV:2 A] [In T.’s version:] *It has been taught: All those for whom they have ruled that they cut their hair on the intermediate days of a festival [M. 3:1] –*

[B] **it is permitted [for people in these same categories] to get a haircut within thirty days of the occurrence of a bereavement [T. Moed. 2:1A-B].**

[C] *There is a Tannaite authority who teaches that it is forbidden, and there is a Tannaite authority who teaches that it is permitted.*

[D] Said R. Hisda, “[There is no contradiction between these two versions of the law.] He who has said that it is permitted maintains that view when there is a festival [at hand]. He who has said that it is forbidden maintains that view when there is no festival [following his time of mourning].”

[E] *The following Tannaite teaching stands at variance with the view of R. Hisda [whose position contains the implication that if there were several occasions for mourning one after the other, it is permitted to get a haircut]:*

[F] Lo, if occasions for mourning befell a person one after the other, lo, this one may lighten his hair with a knife or razor, but not with scissors.

[G] [Now, within the theory of Hisda,] why should he not treat the second occasion for mourning alongside the first, as if it were an unavoidable occurrence, and so exercise the right to cut his hair? [That would run parallel to Hisda’s theory at D.]

[H] *It must follow that the statement [permitting haircutting] was made solely with reference to the honor owing to the festival [and not to a sequence of bereavements].*

[I] *R. Samuel bar R. Isaac raised the question, “There is no problem as to the incidence of a second bereavement during the seven days of mourning. [There surely is reason to prohibit haircutting at that time.] But during the thirty-day period [of diminished mourning*

thereafter, why should the occasion of a second bereavement not provide the occasion for permitting the cutting of hair[?]”

[J] *R. Hananiah, associate of rabbis, objected [to H], “And lo, it is taught: ‘These are the things that a mourner is prohibited to do all seven days [of his bereavement].’ Now he is prohibited for all thirty days, so is it not an argument a fortiori that he should be forbidden the first seven days?”*

[K] Accordingly, the law was stated only in regard to a case in which successive bereavements befell a person. *That is to say that* he is permitted [to cut his hair in the thirty days in which several bereavements came one after the other]. [This is a problem for him who maintains that it is forbidden to do so.]

[L] [With reference to C,] R. Mattanaiah said, “He who has said it is forbidden to do so means that it is forbidden to do it in the normal way, with scissors.”

[IV:3 A] As to trimming the moustache and cutting the nails, *there is a Tannaite authority who teaches that* on the festival it is permitted to do so, but in a time of bereavement it is forbidden.

[B] *And there is a Tannaite authority who teaches that* on a festival it is forbidden to do so, but on the occasion of a bereavement it is permitted.

[C] *He who has said that* on the festival it is permitted to do so speaks of a time at which there is a festival, and in a time of bereavement it is forbidden to do so – at a time at which there is no festival.

[D] *He who has said that* on the festival it is forbidden to do so, deals with a case in which there is deception [when the person really plans to cut his hair entirely, not merely to trim the moustache], and in the case of mourning it is permitted, when there is no intent to practice deception.

[E] R. Hiyya bar Ashi in the name of Rab: “The law accords with the view of him who imposes a lenient ruling in this case and in that.”

[F] R. Simeon bar Abba in the name of R. Joshua b. Levi: “The law accords with the view of him who imposes a lenient ruling in the laws of mourning.”

[G] Rab said, “The law covering cutting the moustache is the same as that covering cutting the nails for all purposes.”

[H] Said R. Jeremiah, “But that is on condition that the hair is already drooping [over the mouth, that is, the moustache makes it difficult to eat].”

[I] R. Isaac bar Nahman in the name of R. Hanina: “A pair of cases came before Rabbi regarding a moustache and cutting the nails, and Rabbi permitted them [to cut both].”

[J] R. Simon in the name of R. Haninah: “There were two pairs, one came from Ametan, and one from Yedad, one involving cutting the moustache and the other involving cutting the nails, and Rabbi permitted them [to do both].”

[K] *There was the case of R. Samuel bar Abba, whose sister died. He was sitting and cutting his nails. R. Eleazar came in to see him, and he did not cover up his nails [thus indicating that he did not regard what he was doing as violating the law of mourning].*

[L] *R. Nathan bar Abba came in to visit him, and he covered up his nails.*

[M] *He said to him, “From before R. Eleazar you did not cover them up, while from before me you did cover them up?”*

[N] *He said to him, “What in the world are you thinking, that you are as beloved to me as is R. Eleazar? [He knows that it is permitted to cut the nails during a period of mourning, so there was no reason to hide it from him. But you are an ignoramus.]”*

3:2

[A] And these may wash their clothes on the intermediate days of a festival:

[B] he who comes from overseas or from captivity;

[C] and he who goes forth from prison;

[D] and he whose excommunication has been lifted by sages.

[E] And so too: he who sought absolution from a sage [for release from a vow not to wash clothes] and was released.

[F] Hand towels, barber’s towels, and bath towels [may be washed].

[G] Male and female Zabs, women in their menstrual period, women after childbirth, and all who go up from a state of uncleanness to cleanness – lo, these are permitted [to wash their clothes].

[H] But all other people are prohibited.

- [I:1 A] *It has been taught:* As to women's bathing clothes, it is permitted to launder them on the intermediate days of a festival.
- [B] The same law applies to men's and to women's bathing clothes.
- [C] What are the bathing clothes of women?
- [D] *Rabbis of Caesarea say, "Blankets used at the bath."*
- [I:2 A] R. Abbahu in the name of R. Yohanan: "He who has only a single garment is permitted to launder it on the festival."
- [B] *Said R. Yosé b. R. Bun, "And that is on condition that he have two, this one he sends out, and that one he wears."*
- [C] *They asked before R. Yosé, "As to children's clothing, what is the law pertaining to them?"*
- [D] He said to them, "They are in the category of one who has only a single garment."
- [E] *They asked before [Yosé], "We have learned: **They do not tear their clothing, bare the shoulder, or provide food for mourners, except the near relatives of the deceased [M. 3:7A].** [This meal further is not laid out in the street, but only in the house.]*
- [F] *"If the abode is small, and the relatives want to go in to him, what is the law as to having half of them sit outside and half of them sit inside?"*
- [G] *He said to him, "Let half of them come in this day, and the other half the next day."*
- [H] *Said R. Mana, "In a matter in which we had expected that he would give a lenient ruling, he gives a strict ruling."*
- [I:3 A] *It has been taught:* As to the wrappings for scrolls, they do not launder them in urine, but they launder them in carbonate of soda or in some other sort of soap, on account of the honor owing to them.

3:3

[A] And these do they write on the intermediate days of a festival:

[B] **writs of betrothal for women, writs of divorce, receipts [for payment of the marriage settlement], testaments, deeds of gift, prozbols, deeds of valuation, deeds of alimony, writs of halisah and of the exercise of the rite of refusal, deeds of arbitration, court decrees, and official decrees.**

[I:1 A] But does not the writ of divorce cause anguish [and therefore not belong on the intermediate days of the festival]?

[B] Said R. Zeira, "Since the husband decided to divorce the wife, the delivery of the writ of divorce itself is not a source of anguish."

[II:1 A] **And receipts:** these are discharges [for what is owing].

[B] [They further write] **deeds of valuation**, deeds of valuation for the property of an estate of which orphans are beneficiaries; **deeds of alimony**, for example, alimony for a widow;

[III:1 A] **writs of halisah:**

[B] What are writs of *halisah*?

[C] *There it is said, "she has come before us and removed his shoe from off his right foot and spit before him spit which was visible on the ground, and she said, 'Thus may it be done to a man who will not rebuild the house of his brother'" (Deut. 25:9).*

[IV:1 A] **And writs of the right of refusal:**

[B] What are writs indicating that the right of refusal has been exercised?

[C] *A document stating as follows: "I do not want him and I will not have him, and I do not wish to be married to him."*

[V:1 A] **And deeds of arbitration:**

[B] R. Judah said, "They indicate a compromise. This one chooses one judge for himself, and that one chooses one for himself."

[C] **Court decrees:** these are decrees of the judges.

[D] **And official decrees:** this refers to a greeting.

3:4

[A] **They do not write bonds of indebtedness on the intermediate days of a festival.**

[B] **But if one does not trust him,**

[C] **or if he had nothing to eat,**

- [D] lo, this one should write [a bond of indebtedness].
- [E] They do not write scrolls, tefillin, or mezuzot on the intermediate days of a festival.
- [F] And they do not correct a single letter, even in the Torah of the Temple court.
- [G] R. Judah says, “A man may write out tefillin and mezuzahs for his own use.
- [H] “And he may spin on his thigh the purple thread for his fringes.”
- [I:1 A] [In T.’s version:] **They do not prepare deeds for sharecropping land or receipts on the intermediate days of a festival.**
- [B] **R. Judah permits, for someone else might get there first [T. Moed 2:3].**
- [C] **A person writes out his accounts on the intermediate days of a festival.**
- [D] **And a person reckons up his expenses on the intermediate days of a festival [T. Moed 2:4].**
- [E] **They undertake contracts on the intermediate days of a festival [for work to be done] after the festival [Y.: but not for work to be done on the festival],**
- [F] **on condition that one not count up, weigh, or measure, as one does on ordinary days [T. Moed 2:5].**
- [II:1 A] Said R. Jeremiah, “**But if one does not trust him:** this refers to the borrower.
- [B] “**Or if he had nothing to eat:** this refers to the scribe [who needs the fee].”
- [C] Said to him R. Yosé, “If you say so, you turn out to allow someone to practice his craft on the intermediate day of a festival.
- [D] “But: **If one does not trust him** refers to the lender, who had lent him funds in the past.
- [E] “**Or if he had nothing to eat:** this refers to the borrower, who wishes to borrow funds for use in the future.”
- [II:2 A] *Someone lost his tefillin on the intermediate days of a festival. He came to R. Hananel [who was a scribe and who would prepare a new set for him]. He sent him to R. Abba bar Nathan. He said to him, “Give him your tefillin and go, write a new set for yourself.”*

[B] *Said to him Rab, “[It is permitted to] go and write them for him [without practicing deception].”*

[C] *The Mishnah stands at variance with the view of Rab: **A man may write out tefillin and mezuzahs for his own use [M. 3:4G].***

[D] Lo, for someone else he may not do so.

[E] Interpret the passage to speak of not doing so merely by writing them out and leaving them [for future sale].

[III:1 A] And he may spin on his thigh the purple thread for his fringes [M. 3:4H]:

[B] R. Judah in the name of Samuel, R. Abbahu in the name of R. Yohanan: “One may spin, and even with a spindle.”

[C] Rab said, “One may spin with a spindle, whether it is for his own use or for someone else’s.”

[D] *The Mishnah stands at variance with the view of Rab: “**And he may spin on his thigh the purple thread for his fringes.**”*

[E] Lo, for someone else he may not do so.

[F] Interpret the passage to speak of doing so merely by spinning them and leaving them [for future sale].

3:5

[A] **He who buries his dead three days before the festival – the requirement of the seven days of mourning is nullified for him.**

[B] **[He who buries his dead] eight days [before the festival] – the requirement of the thirty days of mourning is nullified for him.**

[C] **For they have said, “The Sabbath counts [in the days of mourning] but does not interrupt [the period of mourning], [while] the festivals interrupt [the period of mourning] and do not count [in the days of mourning].”**

[I:1 A] The requirement of the seven days of mourning covers use of sandals and having a haircut.

[B] The requirement of the thirty days of mourning encompasses stitching the rent in garments of mourning, laundering clothing, and getting a haircut [none of which may be done in the period of thirty days from death].

[C] What is the meaning of laundering clothing?

[D] This applies to woolen garments when they are new, and to white linen garments when they are laundered.

[I:2 A] R. Helbo, R. Huna in the name of Rab: “If the eighth day [after burial] coincided with the Sabbath, one gets a haircut on the eve of the Sabbath.”

[B] *How is such a thing possible?* [Was the deceased buried on the Sabbath? Surely not.]

[C] Interpret the passage to speak of a case in which a wild beast dragged a man off, and [it was on the Sabbath that] they despaired of finding him [in which case that is the point at which the counting of the days begins].

[D] *And so it has been taught:* Lo, he whom a wild beast dragged off – at what time do they begin to count [the days of bereavement, from burial]?

[E] It is once they have given up hope of finding him.

[F] If they found him limb by limb, they begin counting for him from the day on which his head and the greater part of his body are found.

[G] R. Judah says, “The backbone and the skull constitute the greater part.”

[H] Said R. Abun, “Interpret [the earlier statement, A, to deal with a case in which] the grave was sealed on the eve of the Sabbath at sunset.”

[I] *How is such a thing possible?*

[J] Said R. Aha, “Interpret the case to speak of a burial in which gentiles sealed the grave.”

[K] *There is he who wished to propose:* we deal with a case [A] in which the news of a bereavement reached one on the Sabbath.

[I:3 A] R. Immi [82b] had a case in which he ruled that someone may cut his hair on the thirtieth day. Rab had a case in which he ruled that someone may cut his hair on the thirty-first day.

[B] Said R. Zeriqan, “It is from the following passage of the Mishnah that R. Immi derived his [confused] view of the law, for we have learned there:

[C] **He who took a Nazirite vow for two spells cuts his hair for the first on the thirty-first day, and for the second on the sixty-first day [M.**

Naz. 3:2A] [and, Immi maintained, if he wanted to cut it on the thirtieth day, he may do so].

[D] *Said R. Yosé, “[That proves nothing.] There we deal with a case in which the ruling is post facto. But here do we deal with a ruling that is de novo?”*

[E] *R. Jeremiah instructed R. Isaac Atoshayya, and some say he instructed R. Hiyya bar R. Isaac Atoshayya to have the haircut on the thirtieth day, on the basis of the following passage of the Mishnah:*

[F] [He who buries his dead three days before the festival – the requirement of the seven days of mourning is nullified for him. He who buries his dead] eight days before the festival – the requirement of the thirty days of mourning is nullified for him, [for they have said, “The Sabbath counts in the days of mourning, but one does not interrupt the period of mourning, while the festivals interrupt the period of mourning and do not count in the days of mourning”] [M. 3:5].

[G] The eighth day is [equivalent to] the thirtieth day. [That is, part of the day is deemed equivalent to the whole of it, and likewise here.]

[H] *Said R. Yosé, “[No, it is not for that reason at all.] The case there is different; it is on account of the honor owing to the festival. [So M. M.Q. 3:5 supplies no relevant evidence on the disposition of part of the final day.]*

[I] “You should know that that is so, for R. Helbo bar Huna said in the name of R. Yohanan, ‘If the eighth day of the mourning should come out on the Sabbath, he may get a haircut on the eve of the Sabbath.’

[J] “Now if you say that it is not because of the honor owing to the festival, would they have permitted doing so in that wise?”

[K] “If that is the case, then even if the Nazir’s thirtieth day should coincide with the Sabbath, he should be able to cut his hair on the eve of the Sabbath.

[L] “*And further evidence [that part of the day is not equivalent to the whole of it] derives from the following which has been taught: ‘On account of all of one’s deceased he makes a tear after seven days, and he mends it after thirty days.’”*

[M] And let him make a tear on the seventh day and mend it on the thirtieth day?

[N] *Said R. Haggai, "That is his tradition on the matter [of disposing of part of a day], while we have our [different] tradition [on the same matter]."*

[I:4 A] [With reference to the view that part of a day is treated as equivalent to the whole of it,] *it has been taught*, "This is the opinion of Abba Saul."

[B] R. Judah in the name of Samuel, R. Abbahu in the name of R. Yohanan: "The law is in accord with Abba Saul."

[C] *And so it has been taught*: The law is in accord with his view.

[D] R. Ba in the name of Rab: "In the view of Abba Saul, both the restrictions [the formal observances of mourning] and the days of mourning are nullified [by the advent of the festival, M.

[E] But in the view of sages, while the observance of the days of mourning is nullified, the restrictions are not nullified.

[F] *What is at issue between them?*

[G] R. Huna said, "The status of the eve of the festival *is at issue between them*.

[H] "If one has gotten a haircut on the eve of the festival, he may get a haircut after the festival.

[I] "If he did not get a haircut on the eve of the festival, let him not get a haircut after the festival [since he is still subject to the restrictions of the thirty days]."

[J] R. Yohanan said, "Even though he did not get a haircut on the eve of the festival, he may get a haircut after the festival."

[K] R. Eleazar gave a decision to R. Simeon bar Ba that he might get a haircut after the festival. *But we do not know whether this was in accord with the view of Abba Saul or whether it was in accord with the view of rabbis, representing the opinion of all parties.*

[L] R. Eleazar instructed Simeon bar Ba, "The days of the festival count in the total of thirty [required for mourning]."

[M] *Said R. Yosé, "It turns out that the thirty days take precedence over the seven days of mourning?"*

[I:5 A] **He who buries his dead three days before a festival – the requirement of the seven days of mourning is nullified for him [M. 3:5A].**

[B] The law has stated only that that is so if it is three days before. Lo, if it is only two, that is not the case.

[C] *That which you have stated applies to matters pertaining to him personally. But the community does not deal with him [as a mourner during the festival].*

[D] *And so it has been taught [in T.'s version:] [If he buries his dead] with three days left of the festival week itself, he counts seven [days of mourning] after the festival.*

[E] **For the first four, the public takes care of him. For the other three, the public does not take care of him.**

[F] **For they have said that the days of mourning that took place on the festival go to his credit so that the public must take care of him.**

[G] **And his work is done by others.**

[H] **His male slaves and female slaves work in private for other people [T. Moed 2:7].**

[I] What is the law as to visiting him [without undertaking the rite of comforting him, on the specified days on which the public does not take care of him]?

[J] R. Jacob bar Idi in the name of R. Haninah: “And have they not ruled, ‘There is no mourning on the Sabbath’? On what account did they give that ruling? Was it to visit him? Was it not on account of paying all due respect? Here too [they visit him] in order to pay all due respect.”

[K] *And along these same lines, if the burial was one day prior to the festival, the restrictions of two days are removed from him.*

[I:6 A] [M. Ber. 3:1: **He whose dead still lies before him (unburied) is free of the obligation of saying the Shema and of tefillin:**] “A mourner on the first day does not put on *tefillin*. On the second day he does put on *tefillin*. But if new faces [comforters] come, he removes them, for all seven days” – the words of R. Eliezer.

[B] R. Joshua says, “On the first and on the second day, he does not put on *tefillin*. On the third day, he does put on *tefillin*, but if new faces come, he does not remove them.”

[C] If on the third day after death, the mourner does not put on *tefillin*, is it necessary to say that he whose dead lies unburied [does not put on *tefillin*]? [That is self-evident.]

[D] *But since the teacher of the passage wished to refer to this [the Shema], he referred also to that [the putting on of tefillin].*

[E] R. Zeira, Mar Uqban in the name of Samuel –

[F] R. Zeira, R. Jeremiah in the name of Rab [stated], “The law follows R. Eliezer as to putting on [*tefillin*] and R. Joshua as to removing them.”

[G] *R. Zeira raised the following question:* “If a mourner put on *tefillin* on the second day, in conformity with the view of R. Eliezer, how does the law accord the position of R. Eliezer with the view of R. Joshua as to taking them off? [That is, Eliezer says one puts them on on the second day, but takes them off if new comforters appear. Joshua says that he does not put them on on the second day. But on the days on which he does put them on, if new comforters arrive, he also does not remove them. So the area of puzzlement is putting them on, in accord with Eliezer, and not removing them, in accord with Joshua.]”

[H] *Said R. Yosé b. R. Bun,* “*And that in fact is the case:* If he put them on on the second day in accord with R. Eliezer, the law, done in accord with R. Eliezer, then follows the view of R. Joshua that one does not take them off. [Accordingly, on the second day, in accord with Eliezer, one puts them on. But if new mourners arrive, one nonetheless does not take the *tefillin* off.]”

[I] *If that were the case, then we should say,* “The law accords with R. Eliezer.” [What need is there to mention Joshua at all? If in fact even on the second day one does not remove the *tefillin*, then there is no need to speak of Joshua’s views as to the later days.]

[I:7 A] If the mourner had nothing to eat, on the first day and on the second day he does not perform an act of labor in that regard. On the third day he does so discretely.

[B] But they have said, “May a curse come upon his neighbors that made it necessary for him to do so.”

[C] Bar Qappara said, “Even on the third day he should not do any act of labor.”

[D] *Bar Qappara is consistent with his other views, for Bar Qappara has said, “Mourning retains its power over the mourner for only three days.”*

[E] *R. Abba son of R. Pappi, R. Joshua of Sikhnin in the name of R. Levi: “For the first three days after death, the soul flutters over the body, thinking that she will return to it. When she sees that the appearance of the corpse deteriorates, she leaves the body and goes her way.”*

[F] After three days the belly explodes over the face and says to the deceased, “Here is what you have stolen and seized and given to me.”

[G] *R. Haggai in the name of R. Josiah proves that proposition from the following verse of Scripture: “[Behold, I will rebuke your offspring, and] spread dung upon your faces, the dung of your offerings [and I will put you out of my presence]” (Mal. 2:3).*

[H] At that moment: “He feels only the pain of his own body, and he mourns only for himself” (Job 14:22).

[I:8 A] The sharecroppers of the land [of the mourner], those who rent land for a fixed proportion of the crop and those who contract [to work for the mourner], do labor [during the memorial period since they work for themselves, not for him]. Those who do day labor for him, those who lead his camels and his barges do not work [since they are his employees].

[B] R. Joshua b. Levi said, “If he had a cow rented by others in the town for its milk – lo, this one continues to do work.”

[C] *Said to him R. Yosé, “That which you have said applies in the case of one who already was obligated to him. Lo, so far as making such arrangements at the outset, it is forbidden.”*

[I:9 A] In the case of two brothers, two partners, two butchers, two shopkeepers, to one of whom a misfortune happened – lo, these both must lock their shop.

[B] One’s sharecroppers and workers labor in a discrete way in some other location.

- [I:10 A] With regard to a mourner, so long as his deceased is lying [unburied] before him, he eats with a fellow.
- [B] If he has no fellow, he eats in some other house.
- [C] If he has no other house, he sets up a partition and eats.
- [D] If he cannot set up a partition, he turns away and faces the wall and eats.
- [E] In any event he does not recline and eat, nor does he eat to satiety, nor does he drink to satiety,
- [F] nor does he eat meat or drink wine.
- [G] They do not include him in a quorum for grace after meals.
- [H] If he said a blessing, they do not say after him, “Amen.”
- [I] And as to others who said a blessing, he does not say after them, “Amen.”
- [J] Under what circumstances do these rules apply?
- [K] In the case of an ordinary day.
- [L] But on the Sabbath he reclines and eats, he eats to satiety, he drinks to satiety, he eats meat and drinks wine, they include him in a quorum for saying grace, and if he said a blessing, they answer, “Amen,” after him. If others said a blessing, he answers after them, “Amen.”
- [M] Said R. Simeon b. Gamaliel, “Since you have permitted him to do all these things, why not declare him obligated to carry out all the other commandments of the Torah?”
- [N] “Matters affecting life of the moment have you permitted to him. As to matters affecting eternal life – is it not an argument a fortiori [that you should permit him]?”
- [O] R. Judah bar Pazzi in the name of R. Joshua b. Levi: “The law is in accord with the view of Rabban Simeon b. Gamaliel.”
- [P] If the deceased was handed over to the community [for burial], [the mourner] may then eat meat and drink wine.
- [Q] Once the deceased has been handed over to the pallbearers, it is as if he has been handed over to the community [for burial].
- [R] On the first Sabbath [after burial] the mourner does not go to the synagogue. On the second Sabbath he goes to the synagogue but does

not sit in his usual place. On the third Sabbath he sits in his usual place, but does not speak with others. On the fourth he is equivalent to everyone else.

[S] R. Judah says, “It surely is not possible to speak of the first Sabbath in any event, since the community takes care of him.

[T] “But the second Sabbath in fact is the first [in the synagogue], the third is the second, the fourth is the third.”

[U] R. Simeon [82c] says, “On the first Sabbath [after burial of the deceased] the mourner goes to the synagogue, but he does not sit in his usual place. On the second, he sits in his usual place, but does not talk. On the third, he is equivalent to all others.”

[V] R. Joshua b. Levi said, “The law accords with the view of him who adds days [to the period at which the mourner is equivalent to all others, that is, Simeon.”

[I:11 A] Lo, if one came home and found mourning in his house, if this is on the second and on the third days, he completes the week of mourning with the others. If it is on the fourth day [after the mourning week has begun for the others], he counts [days of mourning] for himself.

[B] R. Simeon says, “Even if it is on the fourth day, he completes [the week of mourning] with them.”

[C] R. Joshua b. Levi said, “The law accords with the view of R. Simeon.”

[D] This is in the case that the one who has come home is not the eldest in the family. But if he was the eldest of the family, he counts [the entire mourning week] for himself.

[E] *That is in line with the following: R. Mana instructed R. Armenayya*, “Since you are the eldest in your family, you should count [the days of mourning] for yourself.”

[F] [When we say that if one came after three days, he counts for himself,] that applies when the majority of those who will come to comfort the mourners have yet to make their appearance. But if the majority of those who will come to comfort the mourners already have made their appearance, [if he comes even on the seventh day, with the week over,] he still may go and take a bath [since the week is now over for all concerned, including the latecomer].

[G] *That is in line with the following: R. Huna instructed the brother of R. Judah bar Zabedi that* since the majority of those who would

come to comfort the mourners had made their appearance, he might go off and take a bath.

- [I:12 A] Lo, if they were bringing the deceased from one place to another –
- [B] *for instance, those whom they bury in Beth Sharaii –*
- [C] *there is a Tannaite authority who teaches:* Those who are here count the days of mourning from the time at which the deceased has gone forth, and those who are there count the days of mourning from the time that the stone has been rolled over onto the grave.
- [D] *There is a Tannaite authority who teaches:* Both these and those begin to count the days of mourning from the moment at which the stone is rolled over onto the grave.
- [E] R. Simon in the name of R. Joshua b. Levi: “All follows the status of the eldest in the family. [When he counts, they begin.]”
- [F] R. Jacob bar Aha in the name of R. Assi: “This is to impose the strict rule.”
- [G] What is the meaning of that statement?
- [H] If the eldest in the family were here, those who are here count the days of mourning from the time at which the deceased went forth, and those who are there count the days from the time at which the stone was rolled over onto the grave.
- [I] If the eldest of the family were there, these and those begin to count the days of mourning from the time at which the stone was rolled over the grave.
- [J] *This is in line with the following: The sister of Gamaliel Zugga was smitten. Hillel, his brother, went up with him [later on]. Said to him [Hillel] R. Mana, “Since you are the eldest of your family, when you go out to your brother, remove your shoe [as a sign of mourning]. [That is the point at which the mourning week begins for all concerned.]”*
- [K] Lo, if they were moving the deceased from one grave to another:
- [L] *There is a Tannaite authority who teaches:* Once the stone is rolled over onto the first grave[, the mourning rites begin].
- [M] *There is a Tannaite authority who teaches:* Once the stone is rolled over the second grave[, the mourning rites begin].

[N] *R. Jonah had a case. He asked R. Hananiah, associate of the rabbis, who said to him, “It is once the stone has rolled over the first grave [that the mourning begins].”*

[O] *Jeremiah had a case. He asked R. Zeira [and] R. Ammi. He said to him, “Once the stone has been rolled over the second grave [the rites of mourning commence].”*

[P] *He came to him. He said to him, “He gave you a strict rule.”*

[Q] *[As to this problem of moving the deceased and the rites of mourning,] R. Jonah and R. Yosé both maintain, “That which you have said applies during the seven days of mourning [after the original burial], but after those seven days, the period of mourning already has passed.*

[R] *“[It further applies] when they had decided [at the outset] to move the body. But if [at the time of burial] he had not decided at the outset to move the body, the mourning rites begin after the first grave has been sealed.”*

[S] *This is in line with the following: Gamaliel of Quntiah was buried by the people of Kursai in their place. After three days they reconsidered the matter [and wished to bury him in his own town]. They came and asked R. Simeon.*

[T] *R. Simeon said to them in the name of R. Joshua b. Levi, “Since you did not give thought to moving him once the burial had taken place, the rites of mourning are counted from the time at which the original grave was sealed.”*

[U] *Jeshua, brother of Dorai, had a case. He came and asked R. Abbahu. He said to him, “The rites of mourning commence once the second grave has been sealed.”*

[V] *Said to him R. Jacob bar Aha, “I was with you when you asked that question to R. Abodemi of Haifa, who said, ‘It is when the first grave has been sealed.’”*

[W] *He said to him, “Well, now, for my part, I never heard that teaching. If you heard it, go and teach it.”*

[I:13 A] Whence in the Torah do we derive the rites of mourning?

[B] As to the observance of seven days: “And he made a mourning for his father seven days” (Gen. 50:10).

- [C] Do they derive a law from evidence pertaining to the period prior to the giving of the Torah?
- [D] *R. Jacob bar Aha in the name of R. Zeira: “Derive the rule from the following: ‘At the door of the tent of meeting you shall remain day and night for seven days, performing what the Lord has charged, lest you die’ (Lev. 8:35).*
- [E] “Just as the Holy One, blessed be he, kept watch over his world for seven days, so you must keep watch for your brothers for seven days.”
- [F] And how do we know that the Holy One, blessed be he, kept watch over his world for seven days?
- [G] “And after seven days the waters of the flood came upon the earth” (Gen. 7:10).
- [H] But do they mourn prior to the death of the deceased [before the flood]?
- [I] But the answer is simple: In the case of mortal man, who does not know what is going to happen, one undertakes the rites of mourning only after the person has died.
- [J] But in the case of the Holy One, blessed be he, who knows what is going to happen, he kept watch over his world from the very beginning [even before the world perished in the flood].
- [K] *There is he who proposes to state:* This refers to the seven days of mourning for Methuselah, the righteous.
- [L] Said R. Hoshaiah, “[And do not go out from the door of the tent of meeting, lest you die;] for the anointing oil of the Lord is upon you. [And they did according to the word of Moses]’ (Lev. 10:7). Just as you have been anointed with the anointing oil for seven days, so you must keep watch for your [deceased] brethren for seven days.”
- [M] R. Abbahu in the name of R. Yohanan: ““Let her not be as one dead[, of whom the flesh is half consumed when he comes out of his mother’s womb. And Moses cried to the Lord, Heal her, O God, I beseech thee]’ (Num. 12:12-13). Let her be shut up. Just as the days of mourning for the deceased are seven, so the days of shutting up [for the inspection of leprosy signs] are to be seven.”
- [N] *A disciple repeated this statement of R. Yohanan before R. Simeon b. Laqish, who did not accept it. He said, “Here*

you deal with a case of shutting up, while there you deal with a case of certifying that a person is unclean.”

[O] For R. Yohanan in the name of R. Yannai: “‘Let her not be as one dead’ (Num. 12:12). Just as the seven days of mourning for the deceased do not count [toward the days of observing the Nazirite vow], so the days of being certified unclean do not count [toward the thirty days of observance of the Nazirite vow].”

[P] R. Jeremiah and R. Hiyya in the name of R. Simeon b. Laqish, R. Abbahu, R. Yosé b. Haninah in the name of R. Simeon b. Laqish: “‘And the people of Israel wept for Moses in the plains of Moab thirty days; then the days of weeping and mourning for Moses were ended’ (Deut. 34:8). ‘The days’ refers to the seven days of mourning. ‘Weeping’ is two. ‘Mourning’ is thirty.”

[Q] *And there are those who revise the matter as follows:* “‘Days’ is two, “weeping” is seven, and “mourning” is thirty.

[R] R. Yosé, R. Hiyya in the name of R. Simeon b. Laqish, R. Jonah and R. Hiyya and R. Simeon b. Laqish in the name of R. Yudan the Patriarch: “‘I will turn your feasts into mourning [and all your songs into lamentation; I will bring sackcloth upon all loins and baldness on every head; I will make it like the mourning for an only son, and the end of it like a bitter day]’ (Amos 8:10). Just as the days of the Festival [of Tabernacles] are seven, so the days of mourning are seven.”

[S] Said R. Ammi to R. Hiyya bar Ba, “Perhaps we may say, ‘Just as the days of the Festival [of Tabernacles] are eight, so the days of mourning are eight’?”

[T] He said to him, “The eighth day is a festival day unto itself [and not part of the Festival of Tabernacles].”

[U] “Then may we argue, ‘Just as the Eighth Day of Assembly is a single day, so mourning should be a single day’?”

[V] He said to him, “It is from that argument that we derive a rule concerning conduct when news of a death arrives from a distant place.”

[W] *And so has it been taught:* When news of a death arrives from a nearby place, the death is subject to a period of seven days of mourning and a further thirty days of observance. But when it comes from a distant place, it is not subject to either seven or thirty days of mourning.

[X] *There is a Tannaite authority who teaches:* News of a death arriving from a nearby place is defined as that which comes during thirty days after the death. That from a distant place is defined as that which comes thirty days after the death of the deceased.

[Y] *There is a Tannaite authority who teaches:* News of a death falls into the category of that which comes from nearby if it is during twelve months after the death of the deceased, and it is deemed to fall into the category of a distant place if it comes twelve months after the death.

[Z] R. Abbahu in the name of R. Yohanan: “The law is in accord with the view of him who says, ‘News of a death coming from nearby is that which comes during thirty days after death, and from a distant place is what comes after thirty days.’”

[I:14 A] Lo, if on a festival one heard that he had suffered a bereavement, but the days of the festival did not end before the thirty days [from the death of the deceased] were completed,

[B] associates say, “Since he heard the news during the thirty days [following the death of the deceased], he counts seven days [of mourning even] after the thirty days have passed.”

[C] Said to them R. Yosé, “Since he heard the news at a time at which he was not able to undertake the rites of mourning, he is like one who heard the news thirty days after the death itself, and he is subject to engage in the rites of mourning only for a single day.”

[D] R. Iddi of Caesarea in the name of R. Yohanan: “If the news came from a nearby place on the Sabbath, he makes a tear in his garment on the next day and goes into a period of mourning.”

[E] Said R. Hananel, “He does not undertake rites of mourning.”

[F] Said to him [E] R. Mana, “Is there the possibility of tearing the garments as a sign of mourning, without actually undertaking the rites of mourning thereafter?”

[G] [Yes, there is such a case,] for if he should hear news of the death of his father or his mother, even on the next day he is liable to make a tear in his garment [although the news may be so late that he is not liable to mourn in other ways].

[I:15 A] R. Abbahu in the name of R. Yohanan: “Even one who is secondary to the one involved in the bereavement is forbidden to get a haircut. [For instance, if one’s grandson died and he is assisting the son in the burial, he is subject to the rules.]”

[B] *It is pertinent to the following: R. Mana was in Caesarea. He heard that the son of his son had died, and he went and got a haircut. They said to him, “And did our master not teach us: ‘Even one who is secondary to the one involved in the bereavement is forbidden to get a haircut’?”*

[C] *He said to them, “That applies to those who are with the bereaved. But we are not actually with the bereaved.”*

[D] [82d] R. Abodemi bar Tobi in the name of R. Abbahu: “And even one who is secondary to the one involved in the bereavement is liable to tear his clothing as a sign of mourning.”

[I:16 A] There is that which R. Abbahu said: “‘Sigh, but not aloud; [make no mourning for the dead]. [Bind on your turban, and put your shoes on your feet; do not cover your lips, nor eat the bread of mourners]’” (Ezek. 27:17). On the strength of this verse [we learn] that a mourner is supposed to express his sorrow out loud [in crying aloud].

[B] “‘Make no mourning for the dead – on the strength of this verse [we learn] that one has to undertake the rites of mourning.’”

[C] “‘Bind on your turban’”: *There is he who wishes to say, “This refers to the tefillin.” There is he who wishes to say, “This refers to laundering a linen garment.”*

[D] *He who said*, “This refers to the *tefillin*” [then deals with the following inference]: Just as *tefillin* [are not put on by the mourner] for two days, so mourning lasts for only two days.

[E] *He who said*, “This refers to laundering a linen garment” [then deals with the following inference]: Just as the prohibition against laundering a linen garment is for thirty days, so the rites of mourning apply for thirty days.

[F] “Put your shoes on your feet” – on the strength of this verse [we learn] that a mourner is forbidden to put on a sandal.

[G] “Do not cover your lips” – on the strength of this verse [we learn] that the mourner has to cover up his mouth.

[H] And let him cover it up below [but not the entire mouth]?

[I] *Said R. Hisda*, “It is so that people will not say, ‘He has a pain in his mouth’ [and that is why he covers it up].”

[J] “Nor eat the bread of mourners” – on the strength of this verse [we learn] that the less important people go to the more important people [to provide food on the occasion of mourning].

[K] And on the basis of what verse of Scripture do we learn that the more important people go to the less important ones [as well]?

[L] *Said R. Samuel bar R. Isaac*, “It is written ‘For thus says the Lord: Do not enter the house of mourning, or go to lament, or bemoan them; for I have taken away my peace from this people, says the Lord, my steadfast love and mercy’” (Jer. 16:5).

[I:17 A] *It has been taught*: These are the things that are forbidden for a mourner all seven days [after the burial of the deceased: washing, anointing, putting on sandals, having sexual relations, getting a haircut, laundering clothing, reading in the Torah, speaking about the exegesis of Scriptures, laws, and lore, greeting someone, and doing work.

[B] *Who taught that* a mourner is forbidden to wash all seven days?

[C] It is R. Nathan.

[D] *R. Ammi had a case. He asked R. Hiyya. He came and instructed him*, “It is for all seven days, in accord with the view of R. Nathan.”

[E] *R. Yosé had a case. He sent to R. Ba bar Kohen. He said to him*, “And did my lord not teach us?”

- [F] *R. Ammi had a case. He sent to R. Ba bar Kohen. He said to him, "And did not my lord teach us?"*
- [G] *R. Ammi had a case. He asked R. Simeon b. Laqish, who instructed him, "The prohibition continues for seven days, in accord with the view of R. Nathan."*
- [H] *He said to him, "And were there two cases?"*
- [I] *He said to him, "We state the matter in line with the case involving R. Hiyya bar Abba [D], and you state it in accord with R. Simeon b. Laqish [G]."*
- [J] *And there is further: R. Hama, father of R. Hoshaiiah, had a case. He asked rabbis, and they prohibited [washing during the mourning week].*
- [K] *R. Yosé asked, "Which rabbis? Rabbis from here or rabbis from the south? If you say we refer to the rabbis from here, there are no problems. If you say it was the rabbis from the south, there are great authorities here [in the north], and are you going to ask the minor authorities [of the south]?!"*
- [L] *"If, further, you say that they were the rabbis from here, there is no problem. But if you say they were the rabbis from the south, you [here] declare it permitted, while do they declare it forbidden?"*
- [M] *For it has been taught: In a place in which they are accustomed to wash after [returning from] the bier, they wash. And in the south, they wash.*
- [N] *Said R. Yosé b. R. Bun, "He who permits washing treats it as equivalent to eating and drinking."*
- [O] *That which you say [regarding washing as prohibited] applies to washing merely for pleasure. But as to washing not for pleasure, it is in any event permitted.*
- [P] *Ulcers came up on Samuel bar Abba. They came and asked R. Yosé, "What is the law on his washing?"*
- [Q] *He said to them, "If he does not wash, he will die."*
- [R] *If so, even on the ninth of Ab, and even on the Day of Atonement [it will be permitted in an equivalent circumstance].*
- [S] *R. Yosé b. Haninah: "If people saw the mourner washing, and if it was on account of [purifying himself*

from] his seminal emission [from before the bereavement], whether it was to cool off his body [they do not know], for washing in cold water is not regarded as washing.”

[T] *R. Ba bar Kohen taught in accord with this latter opinion [that washing in cold water is permitted].*

[U] *R. Aha taught concerning him who comes in from a trip, with his feet aching, that it is permitted to wash them in water.*

[I:18 A] *It has been taught:* A mourner and one who has been excommunicated who are going on a trip are permitted to wear shoes. When they reach a town, they then take them off.

[B] So is the rule on the ninth of Ab, and so is the rule in connection with a public fast.

[I:19 A] *It has been taught:* In a place in which it is the custom to greet mourners on the Sabbath, they greet them. And in the south they greet them.

[B] *R. Hoshaiiah the Elder went to a certain place. He saw mourners on the Sabbath and greeted them. He said to them, “I do not know the custom in this place of yours, but I greet you with a greeting of peace in accord with the custom of our place.”*

[C] *R. Meir praised R. Yosé b. R. Halapta before the people of Sepphoris: “A great man, a holy man, a modest man.”*

[D] *One time [Yosé] saw mourners on the Sabbath and greeted them. The people said to [Meir], “Rabbi, is this the one whom you were praising to us?”*

[E] *He said to them, “What has he done?”*

[F] *They said to him, “He saw mourners on the Sabbath and greeted them.”*

[G] *He said to them, “He wanted you to know the full extent of his authority. He came to inform us that the laws of mourning do not apply on the Sabbath, in line with that which is written, ‘The blessing of the Lord makes rich, and he adds no sorrow with it’ (Prov. 10:22).*

[H] “‘The blessing of the Lord’ refers to the blessing of the Sabbath. ‘And he adds no sorrow with it’ refers to mourning, in line with

that which you recite in Scripture: ‘So the victory that day was turned into mourning for all the people; for the people heard that day, the king is grieving for his son’ (2 Sam. 19:2).”

- [I:20 A] Samuel said, “[With regard to the Sabbath, a mourner’s] uncovering the head, turning of the tear of the garment, and setting the bed right-side up are obligatory, while putting on sandals, having sexual relations, and washing of hands are optional.”
- [B] *A disciple of Samuel had sexual relations [on the Sabbath during a bereavement]. Samuel heard about it and was angry at him, and he died.*
- [C] [Explaining his attitude and its consequences,] Samuel] said, “That statement [that sexual relations are optional and may then be carried out on the Sabbath, while on the weekdays a mourner is prohibited from doing so] was stated for the purposes of legal theory, but surely not for the purposes of actual practice!”
- [D] Rab said, “[On the Sabbath] turning of the tear of the garment and setting the bed right-side up are obligatory, while uncovering the head and putting on sandals are optional.”
- [E] *The two sons of Rab went out [on the Sabbath during bereavement], one with his head uncovered but without sandals, and one with his head covered but wearing sandals.*
- [F] *R. Jonah went up to R. Gurion. He went out to him wearing sandals. He said to him, “What are you thinking? That we shall derive a precedent from your behavior? A precedent surely does not derive from the action of such an unimportant person.”*
- [I:21 A] As to the prohibition of reading in the Torah during mourning:
- [B] Said R. Yohanan, “‘And they sat with him on the ground seven days and seven nights, and no one spoke a word to him, for they saw that his suffering was very great’ (Job 2:13). And no one speaking a word to him means, even a word of Torah.”
- [C] *Said to him R. Simeon b. Laqish, “The very essence of the matter demands this conclusion: Had he repeated [Mishnah traditions] he would not have died!”*
- [D] *What is the upshot of the matter?*
- [E] *It is in accord with that which R. Judah bar Pazzi said in the name of R. Yohanan, “That [prohibition (at Job 2:13) of speaking]*

applied, for they did not know how to open the discourse with him, whether with regard to his person, his property, or the life of his sons and daughters.”

[F] *[Proving that while one is studying Torah, the angel of death cannot touch a person, the following is told:] A disciple of R. Hisda fell sick. R. Hisda sent two disciples to him, so that they would repeat Mishnah traditions with him. [The angel of death] turned himself before them into the figure of a snake, and they stopped repeating traditions, and [the sick man] died.*

[G] *A disciple of Bar Pedaiah fell ill. He sent to him two disciples to repeat Mishnah traditions with him. [The angel of death] turned himself before them into a kind of star, and they stopped repeating Mishnah traditions, and he died.*

[H] *It was taught: A mourner repeats traditions in a passage with which he is not familiar.*

[I] *That would be illustrated by the following: R. Yosé had [a bereavement]. R. Yohanan sent him two disciples to repeat Mishnah traditions with him. We do not know whether that is because it is permitted to do so, or because they repeated traditions for him in a passage with which he is not familiar.*

[J] *And is R. Yosé not familiar [with the whole of the Torah]?*

[K] *But [they repeated traditions], for example, concerning those statements of a rabbi in which a man would have to investigate deeply, and these would be passages in which one is not familiar.*

[L] *R. Yosé bar Petros, father-in-law of R. Joshua b. Levi by reason of [Joshua's] first wife, had a bereavement. Bar Qappara sent him two disciples to repeat Mishnah traditions with him.*

[M] *We do not know whether he did so because it is permitted to do so or because [the mourner] yearned after Torah.*

[N] *And so we have learned: If the mourner thirsted after the Torah, it is permitted [to him to study Torah during his bereavement].*

- [I:22 A]** On account of every relationship stated in the Torah for which a priest contracts uncleanness [in burying the corpse], an Israelite undertakes the rites of mourning.
- [B] [For both priest and Israelite] they added: his brother and sister on his mother's side, his sister who is married.
- [C] [In these instances both] undertake the rites of mourning and enter the status of one who has suffered a bereavement but whose dead is not yet buried, but [a priest] does not contract uncleanness for them.
- [D] As to a woman whom one has betrothed [but not yet married], one does not undertake rites of mourning, or enter the status of one who has suffered a bereavement but who has not yet buried his dead, nor does a priest contract corpse-uncleanness.
- [E] *It has been taught:* In the case of all those who undertake rites of mourning for a person, these same people undertake the rites of mourning along with that same person. [That is, if one would be obligated to mourn *for* a person, he is obligated to mourn with that person, if the latter suffers a bereavement.]
- [F] *When Rab's sister was smitten, he instructed Hiyya, his son, saying to him, "When you come to me, take off your sandal."*
- [G] *The sons of R. Haninah, brother of R. Mana, died. They came [83a] and asked R. Yosé, "What is the law [as to Mana's having] to overturn the bed."*
- [H] He said to them, "It is not necessary."
- [I] "What is the law as to his having to sleep on an overturned bed?"
- [J] He said to them, "It is not necessary."
- [K] "What is the law as to his reciting the *Shema* and saying the Prayer?"
- [L] *He said to them, "Let us derive the answer from the following: 'Lo, if someone was busy with a corpse in a grave, and the time for saying the Shema came, he should go up to a clean place and put on his tefillin and recite the Shema and say the Prayer.' [So he must do so.]"*

[I:23 A] At what time do they overturn the beds [as a sign of mourning]?

- [B] "When the corpse is taken out the door of the courtyard," the opinion of R. Eliezer.

- [C] And R. Joshua says, “When the stone is rolled over onto the grave.”
- [D] Now when Rabban Gamaliel died, when the corpse had been taken out of the gate of the courtyard, R. Eliezer said to his disciples, “Turn over the beds [in the house].”
- [E] When the stone was rolled over the mouth of the grave, said R. Joshua to the disciples, “Turn over the beds.”
- [F] They said to him, “They already have turned them over, on the instructions of the elder.”
- [G] On the eve of the Sabbath one sets his beds aright. At the end of the Sabbath, he turns them over again.
- [H] *It has been taught:* A footstool is set upright and not turned over.
- [I] R. Simeon b. Eleazar says, “One removes its frame, and that suffices.”
- [J] R. Yosé in the name of R. Joshua b. Levi: “The law follows the view of R. Simeon b. Eleazar.”
- [K] R. Jacob bar Aha in the name of R. Yosé, “As to a bed, the poles of which are put together and taken apart with it – one removes them, and that suffices.”
- [L] What is a bed and what is a footstool?
- [M] Said R. Jeremiah, “Any on the outside of the frame of which one stretches the net is a bed, and any on the outside of which one does not spread the net is a footstool.”
- [N] *Lo, we have learned: A bed and a cot [become susceptible to uncleanness as completely manufactured and ready for use] when one will have rubbed them with fish skin [M. Kel. 16:1D].*
- [O] Now if one weaves the webbing for the bed on the outside of its frame, for what purpose will one rub on the fish skin [since the wood, covered with ropes, cannot be sandpapered anyhow]?
- [P] *Said R. Eleazar, “Interpret the passage to speak of cribs that come from Caesarea, which have holes [through which the thongs for the webbing are inserted,*

and hence have an outer surface that requires smoothing].”

- [I:24 A] How do we know from Scripture that it is required to turn over the beds as a sign of mourning?
- [B] R. Qerispai in the name of R. Yohanan: “‘And they sat with him at the ground [seven days and seven nights, and no one spoke a word to him, for they saw that his suffering was very great]’ (Job 2:13).
- [C] “‘On the ground’ is not written here, but rather, ‘at the ground.’ That means something that is near the ground. On that basis we learn that they slept on beds that had been turned over.”
- [D] Bar Qappara said, “‘I had one good likeness of myself [God] in your house, and you made me turn it over [and bury it, namely, your children], so you turn over your bed.’”
- [E] *And there are those who derive the meaning of the expression from the following:* “Let the agent [of sin] be overpowered [by mourning ceremonies]”
- [F] Both R. Jonah and R. Yosé, both of them citing R. Simeon b. Laqish [explain the matter].
- [G] *One said,* “On what account does a mourner sleep on a bed that has been turned upside down? It is so he will wake up during the night and be reminded that he is a mourner.”
- [H] *The other said,* “Since he is sleeping on a bed turned upside down, he will wake up by night and be reminded that he is a mourner.”
- [I] If one said, “I am not going to turn the bed upside down. Lo, I shall sleep on a stool instead” – they do not listen to him, for he has said, “I am not going to turn the bed upside down.”
- [J] But if he said, “Lo, I shall turn the bed upside down,” they do listen to him[, and he may sleep on the stool anyhow].
- [I:25 A] *Now has not the Mishnah made this point? [With reference to M. San. 2:2F-G:]* **And when they provide him with the funeral meal, [all the people sit on the ground, while he sits on a stool] –**
- [B] that refers to the high priest.
- [C] Lo, with regard to an ordinary priest, that is not the case.
- [D] *And the Mishnah speaks of a public meal. Lo, when the high priest eats by himself, he does not [sit on a stool].*

[E] *And in any event they do not do things this way.*

[I:26 A] As to turning over the beds, there are occasions on which one does it six days, five, four, or three.

[B] [If the bereavement is] on Friday, one does it six days.

[C] If it is on Friday at sunset, one does it five.

[D] If it is on a festival day that comes after the Sabbath, one does it four days.

[E] If it is on the two days of the New Year, one does it three days.

[F] *A disciple of R. Mana instructed one of the relatives of the patriarch that, when he had set the bed upright again [for the Sabbath], he need not overturn it again.*

[G] How many days of mourning had he already observed prior to the Sabbath?

[H] R. Jacob bar Aha in the name of R. Yosé, “He had already observed two days prior to the Sabbath.”

[I] R. Ba, R. Ammi, R. Jacob bar Zabedi in the name of R. Isaac: “Three days.”

[J] R. Hinenah bar Pappi gave instructions to turn it over even for one day [if there was only a single day lacking, then, even after the Sabbath, the mourner had to turn the bed over. The following verse appeared to him in a dream]’:

[K] “And he cried to the man of God who came from Judah, ‘Thus says the Lord, Because you have disobeyed the word of the Lord, and have not kept the commandment which the Lord your God commanded you’” (1 Kings 13:21).

[I:27 A] *It has been taught:* He who dwells in a shop – they do not require him to turn his bed over,

[B] so that people should not say that he is a wizard.

[I:28 A] Lo, if one’s father-in-law or mother-in-law or any of the relatives of his wife died, he does not have the right to require his wife to make up her eyes or do her hair as usual.

[B] But he behaves with her just as she behaves [in observing the rites of mourning].

- [C] And so a woman whose father-in-law or mother-in-law or other relatives of her husband died, she does not make up her eyes or do her hair, but she behaves with him just as he behaves.
- [D] Said Samuel, “That teaching has been applied only in the case of one’s father-in-law or mother-in-law. But as to one of the other relatives, it does not apply at all.”
- [E] R. Ba bar Kohen said before R. Yosé, R. Judah bar Pazzi in the name of R. Yohanan: “It applies when [the relative] is living with him.”
- [F] *R. Yosé dealt with R. Judah bar Pazzi, and he said to him, “Have you heard this teaching from your father?”*
- [G] *He said to him, “Father did not explicitly say so. But the brother of the wife of Bar Nehemiah died. They came and asked him, ‘What is the law as to turning the bed over?’ He said to them, ‘It is not necessary.’*
- [H] “What is the law as to reciting the *Shema* and saying the Prayer?”
- [I] “*He said, ‘Let us derive the answer from the following: If one was occupied with a corpse in the grave, and the time for reciting the Shema came, lo, this one goes off to a clean place and puts on his tefillin and recites the Shema and says the Prayer.’*”
- [II:1 A] For they have said, “The Sabbath counts in the days of mourning, but does not interrupt the period of mourning, while the festivals interrupt the period of mourning, and do not count in the days of mourning” [M. 3:5C].**
- [B] “[The festivals do not count,]” R. Simon in the name of R. Yohanan [explained], “Because one is permitted on them to have sexual relations.”
- [C] *R. Jeremiah dealt with R. Judah b. R. Simon, saying to him, “Do all the disciples of R. Yohanan report this tradition? Not one person has ever heard this tradition from him, except for your father!”*
- [D] *Said to him R. Jacob, “If it was said, it was said only by those who say, ‘Thus and so is the matter’ [without knowing what they are talking about]!*
- [E] “For R. Joshua b. Levi said, ‘Lo, [on the festival] it is forbidden [for a mourner] to have sexual relations.’”

[F] For R. Simon said in the name of R. Joshua b. Levi, “Have they not said, ‘A mourning does not apply on a festival, but people observe mourning discretely’?”

[G] What is the context for this discretion? It has to do with sexual relations [which are not to be performed on the festival by a mourner].

[H] [Reverting to the discussion broken off at B:] *They objected*, “Lo, in the case of the festival, lo, the mourner is prohibited from having sexual relations, and yet it does not count [toward the days of mourning]. Also in regard to the Sabbath, since a mourner is forbidden to have sexual relations, the Sabbath should not count [among the days of mourning, and yet it does, so the reason proposed at B is not likely].”

[I] Said R. Ba, “It is possible that seven days can pass without a festival, but it is not possible that seven days can pass without a Sabbath[, and if the Sabbath does not suspend the rites of mourning, there will be eight days of mourning, and not seven].”

3:6

[A] **R. Eliezer says, “After the Temple was destroyed, Pentecost has been deemed equivalent to the Sabbath.”**

[B] **Rabban Gamaliel says, “The New Year and the Day of Atonement have been deemed equivalent to festivals.”**

[C] **And sages say, “The rule is in accord with the opinion neither of this one nor of that one.**

[D] **“But Pentecost is deemed equivalent to a festival, and the New Year and the Day of Atonement are deemed equivalent to the Sabbath.”**

[I:1 A] *Members of the household of R. Yannai say*, “Pentecost counts toward the observance of the seven days of mourning like festivals. [If one observed three days of mourning prior to Pentecost, the remainder of the seven days are nullified, as is the case of festivals in general, contrary to the view of Eleazer (M. 3:6A).]”

[B] *They asked before R. Yosé* [as to the disposition of the thirty days of mourning]: “Do we say that the three days before Pentecost with Pentecost itself cover seven days of mourning? Lo, then there are ten days [already in hand, and one has to observe the other twenty]?”

[C] “Rather, three days before Pentecost are treated as seven, and Pentecost is treated as equivalent to seven, so fourteen days [go to the mourner’s credit, with sixteen left to observe].”

[D] Said R. Yosé b. Rabbi, “And thus one day prior to Pentecost [if observed for mourning, plus Pentecost itself] leaves the mourner to count five [more days of bereavement of the seven] after Pentecost. [If prior there were] two, he counts four more days of mourning [afterward]. [If prior it is] three days, the requirement to observe the seven days is now nullified.”

[I:2 A] *It has been taught:* They do not make an appearance [to comfort the mourner] either on the New Year or on the Day of Atonement.

[B] Said R. Samuel bar R. Isaac, “On the Day of Atonement that coincides with the Sabbath, they do make an appearance.”

[C] *That is in line with the following precedent: R. Hezekiah had a bereavement. Rabbis came to see him on the Great Fast. He said to them, “Have they not ruled, ‘They do not make an appearance either on the New Year or on the Day of Atonement’? Is it not because of the prayers [said on those days, which are lengthy, and people do not have time to visit the mourner then]?*

[D] “Is the case of the Day of Atonement that coincides with the Sabbath any different?”

[E] “Is the case of the Day of Atonement on an ordinary day any different? [Surely not!]”

3:7

[A] **They do not tear their clothing, bare the shoulder, or provide food for mourners, except the near relatives of the deceased.**

[B] **And they do not provide mourners food except on an upright couch.**

[C] **They do not bring [food] to a house of mourning on a tray, salver, or flat basket, but in plain baskets.**

[D] **And they do not [in Grace after meals] say the blessing for mourners during the intermediate days of the festival.**

[E] **But [the mourners] do stand in a line and offer consolation and dismiss those that have gathered together.**

[I:1 A] Said R. Jeremiah, “[As to M. 3:7A,] that is on condition that they are relatives who are appropriate to undertake the rites of mourning.”

[B] [83b] *There is that which is taught:* A sage who died – all are regarded as his near relatives, and that applies even to relatives who [otherwise] are not suitable to undertake the rites of mourning on his account.

[C] *There is the following: R. Abun died on the intermediate day of the festival, and R. Mana did not then pay his respects to him. The Sepphoreans were saying, "This hatred surpasses even death."*

[D] *After the festival he paid him all due respect. He went up and said before them, "'As to a sage who has died, all are regarded as his near relatives.' That applies to those who are with him. But we were not with him."*

[I:2 A] He who makes a tear in his clothing at a part that was hemmed together, basted, or at the edges picked up by cross-stitch or ladder stitch – this is not regarded as a valid tear in the clothing. If it is a part that had been rejoined [in a seam], lo, this is regarded as a valid tear.

[B] What is the meaning of "a part that had been rejoined"?

[C] Said R. Aha, "Any, the place of which is not visible [is regarded as a seam that has been stitched together]."

[I:3 A] Ten occasions of making a tear are forbidden in respect to tearing a part that had been rejoined in a seam [for this would be insufficient]: He who tears on account of the death of his father, mother, master who has taught him wisdom, the patriarch, head of the court, bad news, hearing the Name of God cursed, the burning of a Torah, for Jerusalem, and for the sanctuary.

[B] How do we know that that is the case on account of his father, mother, and master who taught him wisdom?

[C] "And Elisha saw it and he cried, 'My father, my father! The chariots of Israel and its horsemen!' And he saw him no more" (2 Kings 2:12).

[D] *R. Matun asked before R. Yohanan, "Do we derive a lesson of Torah from the case of Elisha [for Elijah did not die]?"*

[E] He said to him, "Matun, Matun, just as in the case of the deceased, once it is taken away, one does not see it any more, so in the case of this one, once he was removed, people did not see him any longer. [That is, even though Elijah did not die, the mourning procedures are adequate precedent as if he had.]"

[I:4 A] Just as they make a tear for sages, so they make a tear for their disciples.

[B] What is the definition of a disciple of a sage?

[C] Hezekiah said, “It is any one who has learned laws and [their basis in the law of Torah] in addition.”

[D] *Said to him R. Yosé, “That which you have said applies in the beginning. But as to nowadays, even if one has learned only laws [, it suffices to apply to such a person the title of a disciple of a sage].”*

[E] R. Abbahu in the name of R. Yohanan: “It is any who sets aside his worldly affairs on account of his learning of Mishnah.”

[F] *It was taught:* It is anyone of whom they ask a question and who can answer it.

[G] *Said R. Hoshaiah, “Take us, for example, for our masters inspect our learning, and we are able to answer them.”*

[H] Said R. Ba bar Mamel, “It is anyone who knows how to explain what he has learned in the Mishnah. *But as to us, even our masters do not know how to explain the Mishnah that we have learned.*”

[I:5 A] [In T.’s version:] **Who is one’s master?**

[B] [Y. omits:] **“It is the one who has taught him wisdom [and not the master who has taught him a trade].**

[C] **“It is anyone who started him off first,”** the words of R. Meir [Y.: Eliezer].

[D] **R. Judah says, “It is anyone from whom he has gained the greater part of his learning.”**

[E] **R. Yosé says, “It is anyone who has enlightened his eyes in his repetition of traditions” [T. Hor. 2:5C-H],** even in one thing only.

[F] R. Abbahu in the name of R. Yohanan: “The law is in accord with the position of the one who says, ‘It is anyone from whom he has gained the greater part of his learning.’”

[G] Now why did he not simply interpret the Mishnah pericope by saying, “The law is in accord with R. Judah”?

[H] [*Because there are*] *repeaters of traditions who will become confused and switch [matters about].*

[I] R. Eliezer would make a tear in mourning on the demise of someone who had simply opened his education at the outset [but was not his principal teacher (C)].

[J] Samuel removed his phylacteries on the news of the demise of one who had enlightened his eyes in his learning of the Mishnah [E].

[K] And what is the case of one's "enlightening his eyes in his learning of the Mishnah"?

[L] It is one who taught merely so brief a passage as the following: [**The two keys**] – **one goes down into the lock as far as its armpit, and one opens the door forthwith [M. Tam. 3:6E].**

[M] (Now what is the meaning of, **One goes down into the lock as far as its armpit?** That it would go down for a cubit before it would open the door.)

- [I:6 A] On account of the patriarch, head of the court, and bad news: How do we know [from the Torah] that one tears his garment on these occasions?
- [B] It is from the following verse: "Then David took hold of his clothes and tore them; and so did all the men who were with him; and they mourned and wept and fasted until evening for Saul and for Jonathan his son" (2 Sam. 1:12).
- [C] "For Saul" – this represents the patriarch.
- [D] "And for Jonathan his son" – this represents the head of the court.
- [E] "And for the people of the Lord and for the house of Israel, because they had fallen by the sword" (2 Sam. 1:12) – this refers to bad news.
- [F] And how do we know that one tears his garment when hearing a curse of the Name of God?
- [G] "When King Hezekiah heard it, he rent his clothes, and covered himself with sackcloth, and went into the house of the Lord" (2 Kings 19:1).
- [I:7 A] What is the law as to tearing one's garment because he has heard the Name of God cursed by a gentile?
- [B] Let us derive the law from the following:
- [C] "When King Hezekiah heard the words of Rabshakeh, he tore his clothes and covered himself with sackcloth" (2 Kings 19:1).
- [D] What is the law as to tearing one's clothes on hearing the curse of an idolater [of the Name of God]?

[E] *He who says that Rabshakeh was an idolater, holds that they do tear their clothes at the blasphemy of an idolater.*

[F] *One who said that he was a Jew holds that they do not tear their clothes when an idolater curses God.*

[G] *R. Hoshaiyah taught: "All the same is the law for one who hears the cursing of the divine name on the part of an Israelite and one who hears the cursing of the divine name on the part of an idolater: one is liable to tear one's clothes."*

[H] *What is the scriptural basis for that statement?*

[I] *"The word of the Lord came to Jeremiah: 'Behold, I am the Lord, the God of all flesh; is anything too hard for me?'" (Jer. 32: 27).*

[I:8 A] *What is the law as to tearing one's garments in this time?*

[B] *R. Yosé, R. Jeremiah in the name of R. Hiyya bar Ba, R. Hezekiah, R. Jeremiah in the name of R. Yohanan: "Once blasphemers became many, they have ceased from tearing their garments upon hearing blasphemy."*

[C] *What is the law as to tearing one's garments at this time upon hearing God cursed through euphemisms?*

[D] *Let us derive the answer to that question from the following:*

[E] *R. Simeon b. Laqish was riding along on the road. A Samaritan crossed his path, and was cursing, and [Simeon] tore his clothes, and again the Samaritan cursed, and again [Simeon] tore his clothes.*

[F] *[Simeon] got off his ass and gave the Samaritan a punch in the chest.*

[G] *He said to him, "Evil one! Does your mother have enough new clothes to give me [for your causing me to tear mine]?"*

[H] *From this story it is clear that they do tear their clothing when they hear God cursed through euphemisms, and they also do tear their clothing at this time [after the destruction of the Temple].*

[I:9 A] *And how do we know that they tear clothing in mourning on account of the burning of the Torah?*

[B] *"As Jehudi read three or four columns, the king would cut them off with a penknife and throw them into the fire in the brazier, until the*

entire scroll was consumed in the fire that was in the brazier” (Jer. 36:23).

[C] What is the meaning of “three or four columns”?

[D] Three or four verses.

[E] When he came to the fifth verse: “Her foes have become the head, her enemies prosper, because the Lord has made her suffer for the multitude of her transgressions; her children have gone away, captives before the foe” (Lam. 1:5).

[F] Forthwith: “The king would cut them off with a penknife” (Jer. 36:23).

[G] “Now after the king had burned the scroll with the words that Baruch wrote at Jeremiah’s dictation, the word of the Lord came to Jeremiah” (Jer. 36:27).

[I:10 A] He who sees a disciple of a sage who has died is as if he sees a scroll of the Torah that has been burned.

[B] Said R. Abbahu, “May a bad thing happen to me, if I tasted any food all that day [on which I saw a deceased disciple of a sage].”

[C] *R. Jonah was in Tyre when he heard that the son of R. Abbahu had died. Even though he had eaten cheese and drunk water, he undertook a fast for the rest of the day.*

[D] *R. Ba and R. Huna bar Hiyya were in session. An ostrich came along and snatched the tefillin of R. Huna bar Hiyya. R. Ba trapped the bird and strangled it. Said to him R. Huna bar Hiyya, “Had matters gone a bit further, we should have been in a situation in which the Torah would have been burned [and we should have had to mourn for it].”*

[E] He said to him, “Do you still maintain [so strict a view]? Thus did R. Jeremiah say in the name of Rab, “They do not make a tear as an act of mourning except in the case of a scroll of the Torah which an Israelite king burned by force, for example, Jehoiakim, the son of Josiah, king of Judah, and his associates.””

[F] Ulla Biria, R. Eleazar in the name of R. Haninah: “He who sees a scroll of the Torah that has been burned is liable to make a tear for the parchment by itself and for the writing by itself.

[G] “*What is the scriptural basis for that view?* ‘Now after the king had burned the scroll with the words that Baruch wrote at Jeremiah’s dictation, the word of the Lord came to Jeremiah’ (Jer. 36:27).”

[H] “‘The scroll’ refers to the parchment, and ‘with the words’ refers to the writing.”

[I:11 A] R. Berekhiah, R. Helbo, Ulla Biria, R. Eleazar in the name of R. Hanina: “In the future, the Holy One, blessed be he, is going to be made the chief dancer among the righteous in the age to come.

[B] “*What is the scriptural basis for this view?* ‘Consider well her ramparts’ (Ps. 48:13). It is written, ‘Her dance.’”

[C] “And the righteous will point to him with their finger [so saluting him], and say, ‘That this is God, our God for ever and ever. He will be our guide forever’” (Ps. 48:14).

[D] [Since the word ‘forever’ is written ‘LMWT, we consider the following meanings of that word:] It means “strength,” “quickness,” and “like those maidens.”

[E] Aquilas Athena Sira translated: “A world in which is no death.”

[F] And the righteous will point to him with their fingers and say, “That this is God, our God for ever and ever. He will be our guide forever” (Ps. 48:14).

[G] He will lead us in this world, and he will lead us in the world to come.

[I:12 A] And for Jerusalem and for the Temple: “Eighty men arrived from Shechem and Shiloh and Samaria, with their beards shaved and their clothes torn, and their bodies gashed, bringing cereal offerings and incense to present at the temple of the Lord” (Jer. 41:5).

[B] All the same are he who has heard that Jerusalem has been destroyed and he who sees Jerusalem in her ruin. Both are liable to make a tear in mourning.

[C] He who sees Jerusalem from Mount Scopus is liable to make a tear.

[I:13 A] *There is a Tannaite authority who teaches:* One adds to the tear.

[B] *There is a Tannaite authority who teaches:* A tear to begin with is a handbreadth, and an addition to it is any length of further tear at all.

[C] *There is, further, a Tannaite authority who teaches:* The tear to begin with is a handbreadth, and an addition to it is three fingers in breadth.

[D] R. Yosé, R. Jeremiah in the name of R. Hiyya bar Ba, R. Hezekiah, R. Jeremiah in the name of R. Yohanan: “The law accords with the view of him who said that a tear to begin with is a handbreadth, and an addition to it is any length at all.”

[E] What is the law as to separating the hem [and so regarding that as a tear]?

[F] [83c] R. Jeremiah, R. Hiyya in the name of R. Simeon b. Laqish: “‘Then David took hold of his clothes and rent them; and so did all the men who were with him’ (2 Sam. 1:11). There is no ‘taking hold’ less than a handbreadth.”

[G] “And rent them” – R. Simon in the name of R. Joshua b. Levi: “On the basis of that statement we learn that it is necessary to separate the hem.”

[I:14 A] If one suffered a bereavement, he makes a tear. If he suffered yet another bereavement, even if he heard that it was his father, mother, or teacher who had taught him wisdom, he suffices with a single tear for all of them.

[B] R. Judah b. Tema says, “He makes a tear on account of this one by himself, and on account of that one by himself.”

[C] And that is on condition that he not treat the one for his father or for his mother as merely a supplement to the others.

[D] *But that statement does not pertain to what has gone before.*

[E] Rather: It is that he not add to the tear for his father or the one for his mother.

[F] R. Helbo and R. Mattena, Yosé bar Menassia in the name of Rab: “The law accords with the view of R. Judah b. Tema.”

[G] If one suffered a bereavement, he makes a tear. If he suffered yet another bereavement, he adds to the tear he originally made, thereby making a tear [for the other bereavement].

[H] To what extent?

[I] Said R. Haninah, “Until he reaches the belly button.”

[J] *An elder taught before R. Zeira*, “Even if he had set aside a different garment for each day of the seven days of mourning, he is liable to make a tear in each one.”

[K] *Said to him R. Zeira, "That which you say applies to the case of other relatives. But if he heard the news of his father's or mother's death, even after a long time, he is liable to make a tear."*

[L] If one suffered a bereavement, he makes a tear. If he suffered yet another bereavement, he makes a tear three fingerbreadths away from the first.

[M] If the front part of the garment is fully torn, he begins a tear on the other side. If the top part of the garment is fully torn, he begins at the bottom.

[N] If these and those are fully torn –

[O] R. Hiyya son of R. Ada of Jaffa said, "He is treated as one who is fully exposed [in ragged garments, and no further tearing is possible]."

[I:15 A] *R. Hinenah bar Pappi went up to R. Tanhum bar Hiyya. He came out to him dressed in his upper garments [street dress, though he was in mourning].*

[B] *(What was this "upper garment"? It is a garment without a tear.)*

[C] *He said to him, "How do you know [that it is permitted to wear such a garment during a bereavement]?"*

[D] *He said to him, "This is what R. Simon, my teacher, did."*

[E] He said to him, "Pray for us."

[F] He said to him, "May your breach go away [that is, the loss you have suffered]."

[G] For during the entire year [in which a bereavement is suffered by a family], the attribute of justice points toward the family [that has suffered a loss].

[H] For R. Yohanan has said, "For the entire period of seven days of mourning, a sword is unsheathed. For the first thirty days it spins about. After twelve months it goes back to its sheath.

[I] "To what is the matter compared? To a pile of stones. When one of them falls loose, all of them spill out."

[J] And R. Eleazar said, "If a male child is born to that family, the entire family is healed."

- [I:16 A]** How do we know that a mourner is liable to make a tear [as a sign of mourning] while standing up?
- [B] It is written, “Then Job arose, and rent his robe, and shaved his head[, and fell upon the ground, and worshiped]” (Job 1:20).
- [C] R. Judah bar Pazzi in the name of R. Yohanan: “On the strength of that passage it is clear that a mourner is liable to make a tear [as a sign of mourning] while standing up.”
- [I:17 A]** Said R. Yohanan, “R. Yosé gave instructions to baste the rent on the next day.”
- [B] *When R. Yosé died, R. Hiyya bar Ba gave instructions to close the tear on the same day.*
- [C] *Said R. Zeira, “And they do not differ. He who said one should baste the tear on the next day will agree to close it up on the next day. And he who said to close it up on the same day will concur that it may be basted on the same day.”*
- [I:18 A]** If people said to someone, “Reuben has died,” and he made a tear, and afterward they said to him, “Simeon has died,” lo, he already has carried out his obligation to make a tear in mourning.
- [B] If they told him, “Reuben has died,” and he made a tear, and afterward they said to him, “At that time he was alive, but he now has died –
- [C] *there is a Tannaite authority who teaches that he has carried out his obligation to make a tear in mourning.*
- [D] *And there is a Tannaite authority who teaches that he has not.*
- [E] *He who maintains that he has already carried out his obligation to make a tear points out that he indeed has already made a tear.*
- [F] *He who maintains that he has not carried out his obligation to make a tear notes that, lo, he has made a tear [only] for a living person.*
- [G] *There is a further relevant passage:*
- [H] If one made a tear, and the person began to breathe again, [and then died,] if this was forthwith, the mourner does not have to make another tear. If it was after a while, he does have to make another tear.
- [I] How long an interval is regarded as “forthwith”? Sufficient time for an exchange of speech.

- [J] And how long is “sufficient time for speech”? R. Simon in the name of R. Joshua b. Levi: “Sufficient time for one person to greet another.”
- [K] Abba bar bar Hannah in the name of R. Yohanan: “Sufficient time for a master and a disciple to greet one another, and for the disciple to say to the master, ‘Peace be to you, my lord.’”
- [I:19 A] *R. Yohanan was leaning on R. Jacob bar Iddi, and R. Eleazar [a Babylonian] saw him and avoided him. [Yohanan] said, “Lo, now there are two things that that Babylonian has done to me! One is that he did not even bother to greet me, and the other is that he did not cite a tradition of mine in my name.”*
- [B] *[Jacob] said to him, “That is the custom over there, that the lesser party does not greet the more important authority. For they carry out the following verse of Scripture: ‘The young men saw me and withdrew, and the aged rose and stood’” (Job 29:8).*
- [C] *As they were going along, they saw a certain schoolhouse.*
- [D] *[Jacob] said to him, “Here is where R. Meir used to go into session and expound the law. And he stated traditions in the name of R. Ishmael, but he did not state traditions in the name of R. Aqiba.”*
- [E] *[Yohanan] said to him, “Everybody knows that R. Meir was the disciple of R. Aqiba [so he did not have to cite him].”*
- [F] *[Jacob] said to him, “Everybody knows that R. Eleazar is the disciple of R. Yohanan.”*
- [G] *As they were going along, [they passed by a procession in which an idol was carried, and Jacob asked Yohanan,] “What is the law as to passing a procession in which an idol is being carried?”*
- [H] *He said to him, “And do you pay respect to the idol? Go before it and blind its eyes.”*

[I] *[Jacob] said to him, “Well did R. Eleazar do to you, for he did not pass by you [since that would have required an inappropriate gesture].”*

[J] *[Yohanan] said to him, “Jacob bar Iddi, you know very well how to make peace [between quarreling people].”*

[K] R. Yohanan wanted traditions to be stated in his name, for David too prayed for mercy [for the same purpose], saying, “Let me dwell in thy tent forever! Oh to be safe under the shelter of thy wings!” (Ps. 61:4).

[I:20 A] R. Phineas, R. Jeremiah in the name of R. Yohanan: “And did it enter David’s mind that he would live forever? But this is what he said: ‘May I have the merit of having my words repeated in synagogues and schools.’”

[B] *And what made this important to him?* Bar Tira said, “He who says a tradition in the name of the person who originally said it – [the latter’s] lips move in the grave.”

[C] What is the scriptural foundation for this statement? “And your kisses like the best wine that goes down smoothly, gliding over lips and teeth” (Song 7:9).

[D] *R. Hinenah bar Pappi and R. Simon — one said, “It is comparable to one who drinks spiced wine,” and the other said, “It is comparable to one who drinks old wine.”*

[E] *That is, even though [in the one case or the other] he has drunk the wine, the taste lingers in his mouth.*

[F] Now there is not a generation in which there are no scoffers What did the arrogant of that generation do? They went under David’s windows and cried out, “When will the Temple be built? When shall we go up to the house of our Lord?”

[G] And he would say, “Even though they are trying [83d] to make me mad, may a curse

come on me if I am not happy in my heart: ‘I was glad when they said to me, “Let us go to the house of the Lord!”’” (Ps. 122:1).

[H] “When your days are fulfilled to go to be with your fathers, I will raise up your offspring after you” (1 Chron. 17:11).

[I] Said R. Samuel bar Nahman, “Said the Holy One, blessed be he, to David, ‘David, I shall count out for you a full complement of days. I shall not give you less than the full number. Will Solomon, your son, not build the Temple in order to offer sacrifices in it? But more precious to me are the just and righteous deeds that you do than the offerings [that will be made in the Temple].’”

[J] What is the relevant verse of Scripture?

[K] “To do righteousness and justice is more acceptable to the Lord than sacrifice” (Prov. 21:3).

3:8

[A] They do not set the bier down in the street,

[B] so as not to give occasion for a lamentation.

[C] And under no circumstances do they set down in the street the bier of a woman, on account of respect.

[D] Women on the intermediate days of a festival wail, but do not clap their hands.

[E] R. Ishmael says, “Those who are near the bier clap their hands.”

[I:1 A] For all other dead he should hasten the burial and not make the funeral elaborate. In the case of his father and mother, he should make an elaborate funeral and not hasten the burial, for whosoever takes pains with his father and mother is praise-worthy. In an emergency, however, or on Sabbath Eve, or if rain is coming down on the bier, he should hasten the burial and not prolong the funeral.

[I:2 A] “For all other bereavements, one does not undo the hem binding of his garment, except for his father and his mother,” the view of R. Meir.

[B] R. Judah says, “Any tear in mourning in which one does not undo the hem binding – lo, this is a tear that is worthless.”

[I:3 A] *R. Yohanan differs from R. Yudan in two matters.* [First, that he maintains one has to tear the garment as a sign of mourning for any master who has died, not merely for the one from whom one learned most; second, that one does the tear above the binding.]

[B] *R. Yohanan heard that R. Hanina was ailing, so he went up to visit him. When he was yet on the road, he heard that he had died. He sent word and said to send to him his best Sabbath garments, and he went and tore them [on account of this news]. [Thus he holds that one tears a garment at the demise of someone who is not a close relative.]*

[C] *For we have learned: A high priest tears his garment [on the death of a close relative] below [at the bottom hem], and an ordinary one, above [at the hem of his garment nearest his shoulder] [M. Hor. 3:3A].*

[D] [The reference to tearing at M. Hor. 3:3A is at issue.] R. Eleazar in the name of Kahana: “‘Above’ means above the binding, and ‘below’ means below the binding.”

[E] R. Yohanan said, “‘Below’ means what it says, literally [near the ground].”

[F] The teaching of R. Eleazar in the name of Kahana is in accord with R. Judah [who does not distinguish among relationships to the deceased].

[G] And if he is in accord with R. Judah, [the high priest] should not perform the act of tearing at all except for his father and his mother.

[H] [*Following the text of Y. Hor. 3:3:*] *It is in accord with the view of R. Meir, for it has been taught in a Tannaite teaching:*

[I] “For no dead one undoes the binding, except for his father and his mother,” the words of R. Meir.

[J] R. Judah says, “Any tear that does not separate the binding, lo, this is a worthless act of tearing.”

[K] What is the rule [for the high priest]?

[L] It is a more strict ruling in the case of the high priest, that he should not undo the binding[, but he rips through the fabric].

- [I:4 A] For all other bereavements one may baste the tear after seven days and after thirty days sew it so it no longer appears.
- [B] But for his father and his mother, one never sews up the tear so that it is not visible.
- [C] *It was taught in the name of R. Nathan*, “A woman bastes the tear right away, and sews it up completely after thirty days. But for her father and mother she does not sew it up completely ever.”
- [D] What is the act of stitching the seam together? It is weaving [an invisible seam].
- [E] The borders formed by chain stitches or by plaiting are no hindrance [for the rending of the garment in mourning] [Jastrow,
- [I:5 A] For all other bereavements one tears only the outer garment alone. For one’s father and mother, even if there are ten garments one on top of the other, they tear them all.
- [B] An undershirt does not hinder [carrying out the tearing, and need not be torn].
- [C] A woman tears only the outer garment alone.
- [D] *It has been taught*: R. Simeon b. Eleazar says, “A woman tears the innermost garment and turns it around, and then she goes and turns the rest.”
- [I:6 A] On account of all other bereavements one is forbidden to wash clothing in a fine way [through calendering] for thirty days. On account of one’s father and mother, it is forbidden to do so for twelve months.
- [B] What is the process? It applies to woolen garments when they are new, and to white linen garments when they are laundered.
- [I:7 A] On account of all other bereavements one is forbidden to get a haircut for thirty days. For one’s father and mother, one is forbidden until one produces wild hair or until one’s friends rebuke one.
- [B] *The mother of R. Samuel bar Abodemi died eight days before a festival. He came and asked R. Mana. He replied to him*, “As regards any matter having to do with the observance of the seven and thirty days of mourning, the festival suspends such restrictions.

But in this case, [one may not get a haircut] until he produces wild hair or until his friends rebuke him.”

[I:8 A] “On account of all other bereavements one does not bear his chest, except for his father and his mother,” the opinion of R. Meir.

[B] R. Samuel in the name of R. Abodemi bar Tanhum, “It is because the religious duty of preserving dignity now has been removed from this person.”

[I:9 A] On account of all other dead, one is forbidden to transact business for thirty days. In regard to his father’s and mother’s deaths, he is forbidden until his friends rebuke him and tell him, “Come with us.”

[I:10 A] For all other bereavements one is forbidden to go to a banquet for thirty days. For one’s father’s and mother’s deaths, the prohibition is for twelve months.

[B] If, however, it was the banquet of an association formed for the purpose of carrying out a religious duty, or if it was a banquet to sanctify the new month, he is permitted to do so.

[C] Lo, if one changed clothes every day of the seven days of mourning he is liable to make a tear on each one.

[D] *Both R. Hiyya the Elder and R. Hama, father of R. Hoshaiyah, say, “All of them are prohibited so far as fine laundering is concerned.”*

[E] Bar Qappara said, “The only one that is forbidden for fine laundering is the one worn on the first day alone.”

[F] *Said R. Huna, “There is another dispute between them.*

[G] *“He who said, ‘All of them are forbidden to be laundered in the fine way’ treats the other days as equivalent to the first day, and so, even if he has any number of garments on him, he is liable to tear all of them.*

[H] *“He who said, ‘Only the garment worn on the first day is forbidden to be laundered in the fine way,’ treats the other days as a mere supplement, and even if he is wearing any number of garments, he is liable to tear only the one on top alone.”*

3:9

[A] On the New Moon, Hanukkah, and Purim, they wail and clap their hands.

[B] On none of them do they sing a dirge.

[C] Once the deceased has been buried, they do not wail or clap their hands.

[D] What is a wail?

[E] When all sing together.

[F] What is a dirge?

[G] When one starts, and then all join in with her,

[H] as it is said, “Teach your daughters wailing, and everyone her neighbor a dirge” (Jer. 9:19).

[I] But in the time that is coming, it says, “He has swallowed up death for ever, and the Lord God will wipe away tears from of all faces, and the reproach of his people he shall take away from off all the whole earth, for the Lord has spoken it” (Isa. 25:8).

[I:1 A] *R. Tanhum b. R. Ilai died on Hanukkah.*

[B] *R. Dosa died on the New Moon of Nisan.*

[C] *They made a funeral meal for him [out of doors]. The people thought that they did so in accord with the opinion of the rabbis, and they looked into the matter and found out that it was not in accord with the opinion of the rabbis.*

[D] *R. Qerispai died on the intermediate day of a festival, and they made a funeral meal for him. The people thought that this was in accord with the view of R. Ammi. They looked into the matter and found out that it was not in accord with the opinion of R. Ammi at all.*

[I:2 A] [With reference to M. 3:8A, not setting the bier down,] R. Helbo, R. Ba bar Zabeda in the name of Rab: “[It is forbidden to set the bier down in the street] even for a moment.”

[B] *That is in line with the following verse of Scripture: “And Miriam died there, and was buried there” (Num. 20:1).*

[C] *And yet we see that rabbis keep the bier outside on the festival.*

[D] Said R. Jeremiah, “The associates are conscientious and will not end up giving a lamentation [in the street].”

[I:3 A] ***It is taught: They do not bring wailing pipes to the house of mourning, but to the banquet house,***

[B] *and to the house of rejoicing, in the place in which that was the custom [T. Moed 2:17H-I].*

CHAPTER FOUR

THE STRUCTURE OF YERUSHALMI MOED QATAN

Whether or not the Talmud of the Land of Israel is carefully organized in large-scale, recurrent structures and guided by a program that we may call systematic forms the principal question addressed by an academic commentary. The preceding chapters therefore have pointed toward the presentation set forth here. By “structure” I mean, a clearly-articulated pattern that governs the location of fully-spelled out statements. By “system,” I mean, a well-crafted and coherent set of ideas that explain the social order of the community addressed by the writers of a document, a social philosophy, a theory of the way of life, world view, and character of the social entity formed by a given social group. I see a collective, anonymous, and political document, such as the one before us, as a statement to, and about, the way in which people should organize their lives and govern their actions. At issue then in any document such as the remarkable one before us is simple: does this piece of writing present information or a program, facts to whom it may concern, or a philosophically and aesthetically cogent statement about how things should be? The connection between structure and system is plain to see. From the way in which people consistently frame their thoughts, we move to the world that, in saying things in one way rather than in some other, they wish to imagine. Modes of formulating thought adumbrate modes of imagining the world in which people wish to live, to which they address these thoughts.

If the document exhibits structure and sets forth a system, then it is accessible to questions of rationality. We may ask about the statement that its framers or compilers wished to make by putting the document together as they did. But if we discern no structure and perceive no systematic inquiry or governing points of analysis, then all we find here is inert and miscellaneous information, facts but no propositions, arguments, viewpoints. Now as a matter of fact the Talmud of the Land of Israel commonly finds itself represented as lacking organization and exhibiting a certain episodic and notional character. That view moreover characterizes the reading and representation of the document by learned and experienced scholars, who have devoted their entire lives to Talmud study and

exegesis. It must follow that upon the advocate of the contrary view – the one implicit in the representation of the document for academic analysis – rests the burden of proof. I set forth the allegation that the Talmud of the Land of Israel exhibits a structure and follows a system and therefore exhibits a commonly-intelligible rationality. The claim to write an academic commentary explicitly states that proposition. For the tractate before us, I have therefore to adduce evidence and argument.

I maintain that through the normal procedures of reasoned analysis we may discern in the tractate a well-crafted structure. I hold that the structure made manifest, we may further identify the purpose and perspective, the governing system of thought and argument, of those who collected and arranged the tractate's composites and put them together in the way in which we now have them. By "structure" I mean, how is a document organized? and by "system," what do the compilers of the document propose to accomplish in producing this complete, organized piece of writing? The answers to both questions derive from a simple outline of the tractate as a whole, underscoring the types of compositions and composites of which it is comprised. Such an outline tells us what is principal and what subordinate, and how each unit – composition formed into composites, composites formed into a complete statement – holds together and also fits with other units, fore and aft. The purpose of the outline then is to identify the character of each component of the whole, and to specify its purpose or statement. The former information permits us to describe the document's structure, the latter, its system.

While the idea of simply outlining a Talmud-tractate beginning to end may seem obvious, I have never made such an outline before, nor has anyone else. (I have provided complete outlines for the Mishnah and for the Tosefta in relationship to the Mishnah, and, not always in outline form, for the Midrash-compilations of late antiquity as well) Yet, as we shall now see, the character of the outline dictates all further analytical initiatives. Specifically, when we follow the layout of the whole, we readily see the principles of organization that govern. These same guidelines on organizing discourse point also to the character of what is organized: complete units of thought, with a beginning, middle, and end, often made up of smaller, equally complete units of thought. The former we know as composites, the latter as compositions.

Identifying and classifying the components of the tractate – the composites, the compositions of which they are made up – we see clearly how the document coheres: the plan and program worked out from beginning to end. When we define that plan and program, we identify the facts of a pattern that permit us to say in a specific and concrete way precisely what the compilers of the tractate intended to accomplish. The structure realizes the system, the program of analysis and thought that takes the form of the presentation we have before us. From what

people do, meaning, the way in which they formulate their ideas and organized them into cogent statements, we discern what they proposed to do, meaning, the intellectual goals that they set for themselves.

These goals – the received document they wished to examine, the questions that they brought to that document – realized in the layout and construction of their writing, dictate the points of uniformity and persistence that throughout come to the surface. How people lay out their ideas guides us into what they wished to find out and set forth in their writing, and that constitutes the system that defined the work they set out to accomplish. We move from how people speak to the system that the mode of discourse means to express, in the theory that modes of speech or writing convey modes of thought and inquiry.

We move from the act of thought and its written result backward to the theory of thinking, which is, by definition, an act of social consequence. We therefore turn to the matter of intention that provokes reflection and produces a system of inquiry. That statement does not mean to imply I begin with the premise of order, which sustains the thesis of a prior system that defines the order. To the contrary, the possibility of forming a coherent outline out of the data we have examined defines the first test of whether or not the document exhibits a structure and realizes a system. So everything depends upon the possibility of outlining the writing, from which all else flows. If we can see the order and demonstrate that the allegation of order rests on ample evidence, then we may proceed to describe the structure that gives expression to the order, and the system that the structure sustains.

The present work undertakes the exegesis of exegesis, for the Yerushalmi, like its counterpart in the one of Babylonia, is laid out as a commentary to the Mishnah. That obvious fact defined the character of my academic commentary, since we have already faced the reality that our tractate is something other than a commentary, though it surely encompasses one. The problems that captured my attention derived from the deeper question of how people make connections and draw conclusions. To ask about how people make connections means that we identify a problem – otherwise we should not have to ask – and what precipitated the problem here has been how a composition or a composite fits into its context, when the context is defined by the tasks of Mishnah-commentary, and the composition or composite clearly does not comment on the Mishnah-passage that is subjected to comment.

The experience of analyzing the document with the question of cogency and coherence in mind therefore yields a simple recognition. Viewed whole, the tractate contains no gibberish but only completed units of thought, sentences formed into intelligible thought and self-contained in that we require no further information to understand those sentences, beginning to end. The tractate organizes these statements as commentary to the Mishnah. But large tracts of the

writing do not comment on the Mishnah in the way in which other, still larger tracts do. Then how the former fit together with the latter frames the single most urgent question of structure and system that I can identify.

Since we have already examined enormous composites that find their cogency in an other than exegetical program, alongside composites that hold together by appeal to a common, prior, coherent statement – the Mishnah-sentences at hand – what justifies my insistence that an outline of the document, resting on the premise that we deal with a Mishnah-commentary, govern all further description? To begin with, the very possibility of outlining this tractate derives from the simple fact that the framers have given to their document the form of a commentary to the Mishnah. It is in the structure of the Mishnah-tractate that they locate everything together that they wished to compile. We know that is the fact because the Mishnah-tractate defines the order of topics and the sequence of problems.

Relationships to the Mishnah are readily discerned; a paragraph stands at the head of a unit of thought; even without the full citation of the paragraph, we should find our way back to the Mishnah because at the head of numerous compositions, laid out in sequence one to the next, clauses of the Mishnah-paragraph are cited in so many words or alluded to in an unmistakable way. So without printing the entire Mishnah-paragraph at the head, we should know that the received code formed the fundamental structure because so many compositions cite and gloss sentences of the Mishnah-paragraph and are set forth in sequence dictated by the order of sentences of said Mishnah-paragraph. Internal evidence alone suffices, then, to demonstrate that the structure of the tractate rests upon the Mishnah-tractate cited and discussed here. Not only so, but the sentences of the Mishnah-paragraphs of our tractate are discussed in no other place in the entire Talmud of the Land of Israel in the sequence and systematic exegetical framework in which they are set forth here; elsewhere we may find bits or pieces, but only here, the entirety of the tractate.

That statement requires one qualification, and that further leads us to the analytical task of our outline. While the entire Mishnah-tractate of treated here is cited in the Talmud of the Land of Israel, the framers of the Talmud of the Land of Israel by no means find themselves required to say something about every word, every sentence, every paragraph. On the contrary, they discuss only what they choose to discuss, and glide without comment by large stretches of the tractate. A process of selectivity, which requires description and analysis, has told the compilers of the Talmud of the Land of Israel's composites and the authors of its compositions (This statement requires refinement. I do not know that all available compositions have been reproduced, and that the work of authors of compositions of Mishnah-exegesis intended for a talmud is fully exposed in the document as we have it. That is not only something we cannot demonstrate – we do not have

compositions that were not used, only the ones that were – but something that we must regard as unlikely on the face of matters. All we may say is positive: the character of the compositions that address Mishnah-exegesis tells us about the concerns of the writers of those compositions, but we cannot claim to outline all of their concerns, on the one side, or to explain why they chose not to work on other Mishnah-sentences besides the ones treated here. But as to the program of the compositors, that is another matter: from the choices that they made (out of a corpus we cannot begin to imagine or invent for ourselves) we may describe with great accuracy the kinds of materials they wished to include and the shape and structure they set forth out of those materials. We know what they did, and that permits us to investigate why they did what they did. What we cannot know is what they did not do, or why they chose not to do what they did not do. People familiar with the character of speculation and criticism in Talmudic studies will understand why I have to spell out these rather commonplace observations. I lay out an argument based on evidence, not on the silences of evidence, or on the absence of evidence – that alone.) what demands attention, and what does not. Our outline has therefore to signal not only what passage of the Mishnah-tractate is discussed, but also what is not discussed, and we require a general theory to explain the principles of selection (“making connections, drawing conclusions” meaning, to begin with, making selections). For that purpose, in the outline, I reproduce the entirety of a Mishnah-paragraph that stands at the head of a Talmudic composite, and I underscore those sentences that are addressed, so highlighting also those that are not.

It follows that the same evidence that justifies identifying the Mishnah-tractate as the structure (therefore also the foundation of the system) of Yerushalmi-tractate before us also presents puzzles for considerable reflection. The exegesis of Mishnah-exegesis is only one of these. Another concerns the purpose of introducing into the document enormous compositions and composites that clearly hold together around a shared topic or proposition, e.g., my appendix on one theme or another, my elaborate footnote providing information that is not required but merely useful, and the like. My earlier characterization of composites as appendices and footnotes signalled the fact that the framers of the document chose a not-entirely satisfactory way of setting out the materials they wished to include here, for large components of the tractate do not contribute to Mishnah-exegesis in any way at all. If these intrusions of other-than-exegetical compositions were proportionately modest, or of topical composites negligible in size, we might dismiss them as appendages, not structural components that bear much of the weight of the edifice as a whole. Indeed, the language that I chose for identifying and defining these composites – footnotes, appendices, and the like – bore the implication that what is not Mishnah-commentary also is extrinsic to the Talmud of the Land of Israel’s structure and system.

But that language served only for the occasion. In fact, the outline before us will show that the compositions are large and ambitious, the composites formidable and defining. Any description of the tractate's structure that dismisses as mere accretions or intrusions so large a proportion of the whole misleads. Any notion that "footnotes" and "appendices" impede exposition and disrupt thought, contribute extraneous information or form tacked-on appendages – any such notion begs the question: then why fill up so much space with such purposeless information? The right way is to ask whether the document's topical composites play a role in the re-presentation of the Mishnah-tractate by the compilers of the Talmud of the Land of Israel. We have therefore to test two hypotheses:

1. the topical composites ("appendices," "footnotes") do belong and serve the compilers' purpose

or

2. the topical composites do not participate in the re-presentation of the Mishnah-tractate by Yerushalmi and do not belong because they add nothing and change nothing.

The two hypotheses may be tested against the evidence framed in response to a single question: is this topical composite necessary? The answer to that question lies in our asking, what happens to the reading of the Mishnah-tractate in light of the topical composites that would not happen were we to read the same tractate without them? The outline that follows systematically raises that question, with results specified in due course. It suffices here to state the simple result of our reading of the tractate, start to finish: the question of structure, therefore also that of system, rests upon the position we identify for that massive component of the tractate that comprises not Mishnah-commentary but free-standing compositions and composites of compositions formed for a purpose other than Mishnah-commentary.

The principal rubrics are given in small caps. The outline takes as its principal rubrics two large-scale organizing principles.

The first is the divisions of the Mishnah-tractate to which the Talmud of the Land of Israel-tractate serves as a commentary. That simple fact validates the claim that the tractate exhibits a fully-articulated structure. But the outline must also underscore that the Mishnah-tractate provides both more and less than the paramount outline of the Talmud of the Land of Israel-tractate. It is more because sentences in the Mishnah-tractate are not analyzed at all. These untreated Mishnah-sentences are given in bold face lower case caps, like the rest of the Mishnah, but then are specified by underlining and enclosure in square brackets.

Second, it is less because the structure of the tractate accommodates large composites that address topics not defined by the Mishnah-tractate. That brings us

to the second of the two large-scale modes of holding together both sustained analytical exercises and also large sets of compositions formed into cogent composites. These are treated also as major units and are indicated by Roman numerals, alongside the Mishnah-paragraphs themselves; they are also signified in small caps. But the principal rubrics that do not focus on Mishnah-commentary but on free-standing topics or propositions or problems are not given in boldface type. Consequently, for the purposes of a coherent outline we have to identify as autonomous entries in our outline those important composites that treat themes or topics not contributed by the Mishnah-tractate.

I. YERUSHALMI MOED QATAN 1:1

[A] **THEY WATER AN IRRIGATED FIELD ON THE INTERMEDIATE DAYS OF A FESTIVAL AND IN THE SEVENTH YEAR**

1. **I:1:** There is no difficulty understanding why one may utilize a spring that does not first flow at that time. But in the case of a spring that first flows at that time, is this not a considerable amount of work [for the intermediate days of the festival]? The law accords with the view of R. Meir. For R. Meir has said, “From a spring that first flows on the intermediate days of a festival they irrigate [even] a field that depends upon the rain [and does not need this water]” [T. Moed 1:1A].

[B] **WHETHER FROM A SPRING THAT FIRST FLOWS AT THAT TIME, OR FROM A SPRING THAT DOES NOT FIRST FLOW AT THAT TIME. BUT THEY DO NOT WATER [AN IRRIGATED FIELD] WITH COLLECTED RAIN WATER, OR WATER FROM A SWAPE WELL.**

1. **II:1:** It is not difficult to understand why they may not water the irrigated field with water from a swape well [since it is laborious to get it]. But why not use collected rain water [M. 1:1C]? Said R. Yohanan, “They issued a decree concerning rain water because it is in the category of water of a swape well.”
2. **II:2:** R. Jeremiah asked, “As to water of rain-drippings which has not ceased to flow from the hills, into what category does it fall?”
3. **II:3:** Eleazar b. R. Yosé asked, “As to cascades of water, how do you treat them? “Are they in the status of swape-well water or not? [No answer is given.] “As to a pool that was filled with spring water, the flow of which then ceased, what is the law as to watering a field from [such a pool]?” Let us derive the answer from the following: But they do not water [an irrigated field] with collected rainwater or water from

a swape well [M. 1:1 C]. Now how shall we interpret that rule? If we deal with a time in which the rain is falling, then [why should there be such a prohibition]? Is it not like irrigating the Great Sea? But we must interpret the passage to speak of the time in which the rain has ceased. If, then, it is a time that the rain has ceased, then is it not tantamount to a pool that has been filled by a spring, which has stopped flowing? And you rule that they do not irrigate a field from such water. That then indicates that in the case of a pool that had been filled from a spring, which had ceased to flow, they likewise do not water a field from such a pool.

[C] **AND THEY DO NOT DIG CHANNELS AROUND VINES.**

1. **III:1:** And they dig channels around trees [M. 1:1 D]. What are the channels dug around a tree? These are the ditches dug around the roots of trees [T. Moed 1:2B-C].

II. YERUSHALMI MOED QATAN 1:2

[A] **R. ELEAZAR B. AZARIAH SAYS, “THEY DO NOT MAKE A NEW WATER CHANNEL ON THE INTERMEDIATE DAYS OF A FESTIVAL OR IN THE SEVENTH YEAR “ AND SAGES SAY, “THEY MAKE A NEW WATER CHANNEL IN THE SEVENTH YEAR, “AND THEY REPAIR DAMAGED ONES ON THE INTERMEDIATE DAYS OF A FESTIVAL.”**

1. **I:1:** There we have learned: [One may pile up all his dung together. R. Meir forbids, unless it is heaped in a special place, three handbreadths above or below ground level. If he had only a little, he may go ahead and pile it on the field.] R. Eleazar b. Azariah forbids, unless it is heaped in a special place three handbreadths above or below ground level [so that it not appear to be manuring the field], or it is laid on rocky ground [M. Sheb. 3:3]. One may interpret this matter in two ways: In one, it is a case in which the farmer had a small amount of manure stored at home on the eve of the Seventh Year. He wants to take it out into his field in the Seventh Year. Lo, he may continue adding to this manure once those who carry on ordinary labor have ceased [so that he cannot be thought to be cultivating his field during the Seventh Year]. R. Eleazar b. Azariah declares it forbidden. What is the reason for the view of R. Eleazar b. Azariah? Perhaps he will not find sufficient manure [to make piles of appropriate size, which indicates that the manure is stored, not used for fertilizing the field], and he will turn out to be merely manuring that spot [on which he is storing the manure]. [Accordingly, Eleazar requires the manure to be

stored in such a way that it cannot possibly fertilize the spot on which it is located.]

[B] THEY REPAIR DAMAGED WATERWAYS IN THE PUBLIC DOMAIN:

- 1. II:1:** That is the case for one that is necessary for the festival. But in the case of one that is not necessary for use on the festival, it is prohibited to do so. That is the case in the instance of a channel belonging to an individual. But in the case of a channel available for public use, even in the instance of one that is not for use on the festival, it is permitted.

[C] AND DIG THEM OUT. THEY REPAIR ROADS, STREETS, AND WATER POOLS.

- 1. III:1:** They dig them out [M. 1:2D]. They dig them out, in line with that which we have learned there: He who cleans out a spout removing pebbles that have collected therein.

[D] AND THEY DO ALL PUBLIC NEEDS:

- 1. IV:1:** What are public needs? They judge capital cases, property cases, and cases involving fines [cf. M. M.Q. 3:3]. And they burn a red cow (cf. Num. chap. 19). And they break the neck of a heifer [in the case of a derelict corpse]. And they pierce the ear of a Hebrew slave [who wishes to remain with his master]. And they effect redemption for pledges of personal valuation, for things declared *herem*, for things declared consecrated, and for second tithe [through coins to be taken up to Jerusalem]. And they untie a shoe from the last, so long as one does not put it back [T. Moed 2:11/I-O].

[E] MARK OFF GRAVES:

- 1. V:1:** Interpret the passage [to speak] of a case in which there were heavy rains, which washed away the marking.

[F] AND GO FORTH [TO GIVE WARNING] AGAINST DIVERSE KINDS.

- 1. VI:1:** And was this not done in Adar? Interpret the law [to speak] of a case in which it was such a year in which even the sprouts [in Adar] were not discerned.
- 2. VI:2:** And how do we know that graves must be marked off? R. Berekhiah, R. Jacob, son of the daughter of Jacob, in the name of R. Honaiah of Beth Hauran, R. Yosé said in the name of R. Jacob bar Aha in the name of R. Honaiah of Beth Hauran, R. Hezekiah, R. Uzziel son of R. Honaiah of Beth Hauran: “‘The leper... shall cry, ‘Unclean, unclean’ (Lev. 13:45). That is so uncleanness [80 c] will cry out with

its own mouth and say, 'Keep away.'" R. La in the name of R. Samuel bar Nahman: "'And when these pass through the land and any one sees a man's bone, then he shall set up a sign by it' (Ezek. 39:15). It is on the strength of that verse that people mark off places in which bones of a human being are found. "[A man's bone]' – on this basis we prove that they mark off a place in which the backbone or skull are found. "'And he shall set' – on this basis we learn that they mark off such a place on bedrock. "If you say that it is located on a rock, which is turned over, then it may wash away and impart uncleanness to some other place. "'By it' – in a place of cleanness. [That is, the marker is not set upright at the corpse-matter, but beside it.] "'A sign' – On this basis that they set up a sign."

III. YERUSHALMI MOED QATAN 1:3

[A] **R. ELIEZER B. JACOB SAYS, "THEY LEAD WATER FROM ONE TREE TO ANOTHER, "ON CONDITION THAT ONE NOT WATER THE ENTIRE FIELD. "SEEDS THAT HAVE NOT BEEN WATERED BEFORE THE FESTIVAL ONE SHOULD NOT WATER ON THE INTERMEDIATE DAYS OF THE FESTIVAL."**

1. **I:1:** Mana stated the following without specifying an authority, while R. Abin in the name of Samuel [said], "[As to M. Sheb. 2:10: 'They may water the while soil (= ground between trees) (= ground not planted with trees),' the words of R. Simeon. R. Eliezer b. Jacob prohibits,] the dispute [at M. 1:3A-B] pertains to an average situation [in which the trees are not planted very closely together or very far apart]. "For how [otherwise] may be interpret the dispute about leading water from one tree to another, either in the Seventh Year or in the intermediate days of the festival? "If we deal with a field in which the trees are far apart, then in the view of all parties it will be prohibited. If we deal with a field in which the trees are close together, all parties will concur that it will be permitted. "Accordingly, we must deal with an average situation, in which trees are planted at the rate of ten per *seah*'s space of ground. R. Eliezer b. Jacob treats such a case as if the trees were far apart, and rabbis treat such a case as if the trees were planted close together."

[B] **AND SAGES PERMIT IN THIS CASE AND IN THAT.**

1. **II:1:** What is the meaning of "in this case and in that"? [Could the meaning be,] whether they were watered before the festival and whether they were not watered before the festival? [Surely not! There will be no loss if there was no watering before the festival. The seeds

cannot require water on the festival if the process of growth has not been initiated by a watering prior to the festival.] But here we deal with a tree [in which case it is permitted to water, so as to prevent loss], while there we deal with seeds [in which case there will not be much of a loss if there is no watering, unless the seeds have been constantly irrigated up to now].

IV. YERUSHALMI MOED QATAN 1:4

[A] **THEY HUNT MOLES AND MICE IN A TREE-PLANTED FIELD AND IN A FIELD OF GRAIN:**

1. **I:1:** “A mole” is a weasel. Even though there is no proof for that proposition, there is at least a hint about it, in the following verse of Scripture: Let them be like the snail that dissolves into slime, like the untimely birth that never sees the sun” (Ps. 58:8).

[B] **IN THE USUAL MANNER, ON THE INTERMEDIATE DAYS OF A FESTIVAL AND IN THE SEVENTH YEAR. AND R. JUDAH SAYS, “THEY DO SO IN A TREE-PLANTED FIELD IN THE NORMAL MANNER, “AND IN A GRAIN FIELD NOT IN THE NORMAL MANNER.”**

1. **II:1:** In the usual manner [M. 1:4B]: This is hunting with a trap. Not in the usual manner? He drives a stake [into the spot] or strikes it with a pick and flattens out the soil underneath [T. Moed 1:4B].
2. **II:2:** It has been taught: They destroy ants’ holes on the intermediate days of a festival. How do they execute the destruction? Rabban Simeon b. Gamaliel says, “One takes dirt from one hole and puts it into another, and they strangle one another” [T. Moed 1:5].

[C] **THEY BLOCK UP A BREACH IN THE INTERMEDIATE DAYS OF A FESTIVAL.**

1. **III:1:** Stone on stone, pebble on pebble.

[D] **AND IN THE SEVENTH YEAR, ONE BUILDS IT IN THE NORMAL WAY.**

1. **IV:1:** stone on pebble and pebble on stone.

V. YERUSHALMI MOED QATAN 1:5

[A] **R. MEIR SAYS, “THEY EXAMINE NEGAS [TO BEGIN WITH] TO PROVIDE A LENIENT RULING, BUT NOT TO PROVIDE A STRICT RULING.” AND SAGES SAY, “NEITHER TO PROVIDE A LENIENT RULING NOR TO PROVIDE A STRICT RULING “**

1. **I:1:** There we have learned: A bright spot the size of a split bean – and it spread to the extent of a split bean – and there appeared in the spreading quick flesh or white hair – but the primary sign disappeared – R. Aqiba declares unclean. And sages say, “Let it be inspected anew” [M. Neg. 4:10]. [A bright spot of requisite size has spread to the extent of a split bean. The spreading then develops quick flesh or white hair. But the primary sign has disappeared. Aqiba declares the man unclean because he regards the two signs as joined together. The spreading takes the place of the original sign. We have, therefore, sufficient evidence of uncleanness. The sages’ position is that we have a new sign, for the first spot has disappeared.]
2. **I:2:** Said Rabbi, “The opinion of R. Meir [M. 1:5A] makes more sense in the case of one who is [merely] shut up for inspection [the second time], and the opinion of R. Yosé [= sages, M. 1:5B] makes more sense to me in the case of one certified [as unclean]” [T. Hag. 1:8]. [Rabbi sees no disadvantage for the one who may, after all, be declared clean. But there is nothing to warrant pronouncing the decision for the one who is subject to certification. Even if he is declared clean, he has to count seven days and cannot have intercourse in that period.]
3. **I:3:** [Reverting to the problem of I:1] R. Zeira said, “They dispute a case involving the intermediate days of a festival [in the case of one who is subject to a second inspection]. R. Aqiba says, ‘It is the original sign, [and if the man is declared clean] he may not enter the Temple courtyard as wholly clean. Sages say it is a new sign, and he may enter the Temple courtyard [since we must wait a week to see whether or not he is clean].’” Lo, R. Aqiba declares the man unclean and certifies him so, and rabbis say “Let it be inspected as at the outset,” and they too certify him. What then is at issue between them?

[B] AND FURTHER DID R. MEIR SAY, “A MAN MAY GO OUT AND GATHER THE BONES OF HIS FATHER AND HIS MOTHER, “BECAUSE IT IS A TIME OF REJOICING FOR HIM.” R. YOSÉ SAYS, “IT IS A TIME OF MOURNING FOR HIM.”

1. **II:1:** At first they would collect the bones and bury them in mounds. When the flesh had putrefied, they would collect the bones and bury them in cedar chests. On that day the mourner would engage in the rite of mourning. The next day he would rejoice, saying that his ancestors would free him from the rigors of judgment.
2. **II:2:** It was taught: He who moves a bier from place to place is not subject to [the rite of mourning required when] one gathers bones [of an ancestor for secondary burial]. [Merely moving the bier is not part

of the reburial process. So new fresh rites of mourning are not required, e.g., for that day only.] Said R. Aha, “That statement which you have laid down applies to a bier made of marble. But as to one made of wood [in which case there will have been putrefaction of the bier itself], the person is subject to [carry out rites of mourning involved when] one gathers bones [of an ancestor for secondary burial].” Said R. Yosé, “Even in the case of a bier made of wood, [there is no consideration of the rite of mourning required when one] gathers bones [of an ancestor for secondary burial].”

[C] **A PERSON MAY NOT CALL FOR MOURNING FOR HIS DECEASED:**

1. **III:1:** What is a call for mourning for the deceased? He speaks of him among the deceased [in general, but not speaking of him in particular].

[D] **OR MAKE A LAMENTATION FOR HIM THIRTY DAYS BEFORE A FESTIVAL.**

1. **IV:1:** When one speaks of the deceased in particular [and not merely mentions his name among the deceased in general]. That which you have said applies to a death some time ago, but in the case of a recent death, it is permitted.

VI. YERUSHALMI MOED QATAN 1:6

[A] **THEY DO NOT HEW OUT A TOMB-NICHE OR TOMBS ON THE INTERMEDIATE DAYS OF A FESTIVAL. BUT THEY REFASHION TOMB-NICHES ON THE INTERMEDIATE DAYS OF A FESTIVAL.**

1. **I:1:** What is the meaning of refashioning a grave [M. 1:6B]? R. Yosé bar Nehorai said, “One plasters it with plaster.” R. Hisda said, “If it was too long, one may shorten it.” R. Joshua b. Levi said, “One may lengthen it on one side and broaden it on the other.”

[B] **THEY DIG A GRAVE ON THE INTERMEDIATE DAYS OF A FESTIVAL,**

1. **II:1:** This is breaking through the ground in any measure at all.

[C] **AND MAKE A COFFIN, WHILE THE CORPSE IS IN THE SAME COURTYARD. R. JUDAH PROHIBITS, UNLESS THERE WERE BOARDS [ALREADY SAWN AND MADE READY IN ADVANCE].**

1. **III:1:** That which you have said applies to a deceased person who was not well known. But in the case of a deceased person who was well known, one may make a coffin even in the marketplace.

VII. YERUSHALMI MOED QATAN 1:7

[A] **THEY DO NOT TAKE WIVES ON THE INTERMEDIATE DAYS OF A FESTIVAL, WHETHER VIRGINS OR WIDOWS. NOR DO THEY ENTER INTO LEVIRATE MARRIAGE, FOR IT IS AN OCCASION OF REJOICING.**

1. **I:1:** [With reference to M. 1:7A-D:] Simeon bar Abba in the name of R. Yohanan, “It is because [people will hold up weddings until the festival, and so have one meal for the two events, the festival and the wedding]. [Consequently, they will postpone marriages and so] nullify the act of procreation [for the interval].” R. Ila, R. Eleazar in the name of R. Hananiah: “It is because people must not confuse one cause of rejoicing with some other.” R. Abbahu in the name of R. Eleazar: “The prohibition is on account of the excessive work [involved in preparing for the wedding].”

[B] **BUT ONE MAY REMARRY HIS DIVORCED WIFE.**

1. **II:1:** It is because it is no particular joy for him.

[C] **AND A WOMAN MAY PREPARE HER WEDDING ADORNMENTS ON THE INTERMEDIATE DAYS OF A FESTIVAL.**

1. **III:1:** What are these adornments? Fixing her hair, parting her hair, cutting her hair and fingernails, and rubbing her face with a clay utensil [to heighten her skin color].

[D] **R. JUDAH SAYS, “SHE COULD NOT USE LIME, SINCE THIS MAKES HER UGLY.”**

1. **IV:1:** [and this prohibition applies on the festival itself even though later on the woman will be beautified,] for it is disfiguring. [So, on the occasion of the festival we do not take account of later advantage.]

VIII. YERUSHALMI MOED QATAN 1:8

[A] **AN UNSKILLED PERSON SEWS IN THE USUAL WAY. BUT AN EXPERT CRAFTSMAN SEWS WITH IRREGULAR STITCHES.**

1. **I:1:** The House of Yannai said, “Sewing in the normal way means drawing a needful [of stitches in one sweep]. Sewing with irregular stitches means doing it one by one.” R. Yohanan said, “Doing so in the usual way means doing it one by one. Irregular stitching means skipping.”

2. **I:2:** What is the definition of an unskilled person, and what is the definition of an expert craftsman?

[B] **THEY WEAVE THE ROPES FOR BEDS. R. YOSÉ SAYS, “THEY [ONLY] TIGHTEN THEM.”**

1. **II:1:** Yosé said, “There is a dispute on this matter between Hezekiah and R. Yohanan. “Hezekiah said, ‘Weaving means one weaves warp and woof. Tightening means either the warp or the woof.’ R. Yohanan said, ‘Weaving means either the warp or the woof. Tightening means that it was loose and one tightens it.’”

IX. YERUSHALMI MOED QATAN 1:9

[A] **THEY SET UP AN OVEN OR DOUBLE STOVE OR A HAND-MILL ON THE INTERMEDIATE DAYS OF A FESTIVAL. R. JUDAH SAYS, “THEY DO NOT ROUGH THE MILLSTONES FOR THE FIRST TIME.”**

1. **I:1:** Halapta bar Saul taught, “But [M. 1:9A’s] rule is on the stipulation that one not set up an oven to begin with.” It has been taught: As to a new oven or double stove, they do not grease them, rub them with a rag, or seal them with cold water so that they will be sealed. But if it is to pour out a pot on them, it is permitted. And so has it been taught: A new oven or double stove – lo, they are in the category of all other utensils that are carried about in a courtyard.

X. YERUSHALMI MOED QATAN 1:10

[A] **THEY MAKE A PARAPET FOR A ROOF OR A PORCH IN AN UNSKILLED MANNER, BUT NOT IN THE MANNER OF A SKILLED CRAFTSMAN.**

1. **I:1:** A parapet for a roof may be made up to three handbreadths high, and one for a porch [more commonly used] may be built up to ten handbreadths high on the festival.

[B] **THEY PLASTER CRACKS AND SMOOTH THEM DOWN WITH A ROLLER, BY HAND, OR BY FOOT, BUT NOT WITH A TROWEL.**

1. **II:1:** They plaster cracks [M. 1:10C]: R. Hiyya taught: He who plasters does so by foot, and he who smooths down does so by hand.

[C] **A HINGE, SOCKET, ROOF BEAM, LOCK, OR KEY [ANY OF] WHICH BROKE DO THEY REPAIR ON THE INTERMEDIATE DAYS OF THE FESTIVAL, SO LONG AS ONE HAD NOT HAD THE INTENTION TO DO WORK ON IT ON THE INTERMEDIATE DAYS OF THE FESTIVAL.**

1. **III:1:** This is in line with the following: The trundle of a ladder belonging to R. Mana broke. He asked R. Jonah, his father, who permitted him to repair it. And even so, he said to him, “Go see how a certain elder behaves, and rely upon his decision.” He went out and found R. Bun bar Kahana, and asked him, and he permitted him to repair it.

[D] **AND ALL PICKLED FOODS THAT A MAN CAN EAT DURING THE INTERMEDIATE DAYS OF A FESTIVAL HE ALSO MAY PICKLE.**

1. **IV:1:** Lo, as to pickled foods that he cannot eat on the festival, he may not [pickle] them. Said R. Ba, “That which you have said applies to things that are not perishable. But as to things that are perishable, it is permitted [to pickle them].”
2. **IV:2:** Hoshaiah had wheat. Nonetheless on the intermediate days of the festival he ground wheat. R. Zeira said to R. Jonah, “Go, buy us black wheat for grinding [on the festival].” He said to him, “We have a portion adequate for the festival.” And he was angry with him [since that is no consideration].

XI. YERUSHALMI MOED QATAN 2:1

[A] **HE WHO [PRIOR TO THE FESTIVAL] HAD TURNED HIS OLIVES, AND THEN AN OCCASION FOR MOURNING OR SOME ACCIDENT BEFELL HIM, OR WORKERS PROVED UNRELIABLE [SO THAT HE COULD NOT COMPLETE THE PROCESSING PRIOR TO THE FESTIVAL], “[DURING THE INTERMEDIATE DAYS OF THE FESTIVAL] APPLIES THE PRESSING BEAM [TO THE OLIVES] FOR THE FIRST TIME, BUT [THEN] LEAVES IT UNTIL AFTER THE FESTIVAL,” THE WORDS OF R. JUDAH. R. YOSÉ SAYS, “HE SQUEEZES OUT THE OIL ENTIRELY AND SEALS IT IN JAR. IN THE USUAL WAY.”**

1. **I:1:** We have learned: He who had turned his olives [one time]. And R. Hiyya taught: “He who had his olives turned over once and yet a second time....” The law of the Mishnah requires the clarification of the saying of R. Hiyya, and the saying of R. Hiyya requires the clarification of the law of the Mishnah. If we had learned what the Mishnah had to say, and not that which R. Hiyya taught, we should

have ruled that the dispute applies only if someone had turned over his olives one time alone. But if he had done so once and again a second time, all parties concur that it is permitted [but now we see that the dispute of M. applies to this case as well]. So it was necessary to learn the teaching of R. Hiyya. If, further, we had in hand what R. Hiyya taught but had not learned what the Mishnah says, we should have ruled that the dispute applies only in the case of one who had turned over the olives once and then done so a second time. But if one had done so only one time, then in the opinion of all parties, it is forbidden [to do so on the festival]. Accordingly, there was need to provide that which the Mishnah has stated as well as that which R. Hiyya has taught.

2. **I:2:** Judah bar Pazzi in the name of R. Yohanan: “Just as they differ here, so they differ with respect to the laws governing the mourner.” For it has been taught: “These are the things that they do for a mourner during the period of his mourning [in the intermediate days of a festival]” “They press his olive-mass, empty out his wine, and seal it in jars. As to his olives, if they have turned over once and then a second time, they press them in the usual way. And they irrigate his field that requires it when its turn has come to receive water. And they sow his furrow with flax at the rains,” the words of R. Judah. They said to him, “If it is not sown with flax, it may be sown with another species. If it is not sown this week, it may be sown in some other week [and hence, that may not be done for him].” Now who was it who said this to him? It was R. Yosé.

XII. YERUSHALMI MOED QATAN 2:2

[A] **AND SO: HE WHO HAD HIS WINE IN THE CISTERN, AND THEN AN OCCASION FOR MOURNING OR SOME ACCIDENT BEFELL HIM, OR WORKERS PROVED UNRELIABLE, “EMPTIES OUT THE WINE COMPLETELY AND SEALS IT IN JARS IN THE USUAL WAY,” THE WORDS OF R. YOSÉ. R. JUDAH SAYS, “HE [ONLY] MAKES A COVER FOR IT OF SHINGLES, SO THAT IT NOT TURN SOUR.”**

1. **I:1:** Said R. Zeira, “The text states only, ‘And so: He who had his wine in the cistern’ [M. 2:2A] [already]. [That is, the farmer had begun the vintage prior to the festival.] Lo, to begin with it is forbidden [on the festival itself, if the work had not been begun already, to carry out the procedures specified by M. 2:2C or D]. “For how shall we interpret the case before us? If we deal with a situation in which the time came to cut the grapes and he did not do so, then the farmer has injured himself

[and has caused the loss himself]. “If we deal with a case in which the time for cutting the grapes had not yet come, he could have left the grapes in place. “But we must deal with a case in which the time came to cut the grapes. He thought that he could leave the grapes in place [not hastening the grape-cutting], and he found that he could not do so. [Nonetheless, he bears the responsibility for his own loss, and that is M.’s point.]”

2. **I:2:** Simeon b. R. Yannai had his vineyard cut on the intermediate days of the festival. Everyone noticed this, and the general population cut their grapes as well. A year later he left his grapes on the vines, and the vineyard dried up. [As to the people,] they learned from him the lesson of how not to do things, but they did not learn from him the lesson of how to do things properly.
3. **I:3:** Hiyya bar Ashi in the name of Rab: “It is permitted to make a basket-trap on the intermediate days of a festival to catch fish in it on the intermediate days of a festival.” Judah gave instructions concerning sieves that it is permitted to make them on the festival for the needs of the festival. Ammi gave instructions concerning grating tools that it is permitted to make them on the festival for use on the festival. Rabbis of Caesarea say, “They heat up [temper] pans and pots for the needs of the festival.” Samuel said, “They may coat a jug with pitch, but they may not coat a cask. They may coat a jug, for pitch used for it is fine, and they may not coat a cask, for pitch used for it is thick.”

XIII. YERUSHALMI MOED QATAN 2:3

[A] **A PERSON BRINGS HIS PRODUCE INTO [THE HOUSE] ON ACCOUNT OF THIEVES. AND HE TAKES HIS FLAX OUT OF THE SOAK, SO THAT IT NOT GO TO WASTE, SO LONG AS [TO BEGIN WITH] HE NOT PLAN TO DO THE WORK ON THE INTERMEDIATE DAYS OF THE FESTIVAL. AND IN ALL CASES IN WHICH PEOPLE HAVE [ACTUALLY] PLANNED [IN ADVANCE] TO DO THEIR WORK ON THE FESTIVAL, IT MUST BE LEFT TO PERISH.**

1. **I:1:** [M. 2:3A] does not accord with the view of R. Judah, for R. Judah said, “One may sit out in the field and guard his crop.”
2. **I:2:** R. Jacob bar Aha in the name of Rabbis: “Since produce up for sale goes to waste, it is permitted to move it about on the intermediate days of a festival [to keep it fresh].” R. Jacob bar Aha in the name of R. Yosé: “In the case of a caravan it is permitted to buy produce from them on the intermediate days of the festival. For people know that a

caravan is coming, and so the prices go down [as a consequence of the increased supply of produce that is expected].”

3. **I:3:** R. Hiyya associate of rabbis said, “In the case of business dealings [of the deceased, left in the possession] of an estate of minors, [in which partners wished to collect what was owing to them,] the [capital] may be retrieved [by the partners, since otherwise this would lead to considerable loss, were the partners required to wait until the orphans reached maturity].”
4. **I:4:** Said R. Yohanan, “If your name is mentioned for service on the council, let the Jordan be your border.” Said R. Yohanan, “People appeal to the government to be rid of the duty of serving on the council.” Said R. Yohanan, “People may lend on interest to an association formed for a religious duty and for sanctifying the New Moon.”

XIV. YERUSHALMI MOED QATAN 2:4

[A] THEY BUY HOUSES, SLAVES, CATTLE, AND STONES ONLY FOR THE NEEDS OF THE FESTIVAL OR FOR THE NEEDS OF A SELLER WHO HAS NOTHING TO EAT. THEY DO NOT MOVE [THEIR PROPERTY] FROM ONE HOUSE TO ANOTHER. BUT A MAN MAY MOVE HIS GOODS OUT INTO HIS COURTYARD BECAUSE IT IS A JOY TO HIM.

1. **I:1:** It is easy [to understand the purpose houses, slaves, and cattle may serve for the festival (M. 2:4A). But what about] stones?
2. **I:2:** Joshua b. Levi asked R. Simeon b. Laqish, “What is the law on buying houses from gentiles?” He said to him, “If the question of Rabbi applied to the Sabbath, it has been taught: [Even] on the Sabbath it is permitted to do so.” How does one do it? One shows the gentile packets of money, and the gentile signs the bill of sale and brings it to the archives.
3. **I:3:** Lo, if someone does not have wheat to eat, he may cut wheat, tie it into sheaves, and thresh it, on condition that he not thresh with a cow [T. M. Q. 1:11G-H].
4. **I:4:** They may not move from one mansion to another mansion, or from one hovel to another hovel, or from a hovel to a mansion, and, it need not be said, from a mansion to a hovel [M. 2:4B]. And as to moving within one’s own property, even if it is from a mansion to a hovel [it is permitted], for it is a joy to a man when he lives in his own

property. They do not move a corpse or bones from a handsome grave to another handsome grave, nor from one disgraceful burial place to another disgraceful burial place, nor from a disgraceful burial place to a handsome grave, and it need not be said, from a handsome grave to a disgraceful burial place. But as to one's own property, even if it is from a handsome grave to a disgraceful burial place, it is permitted, for it is a pleasure for a man to rest alongside his fathers.

[B] THEY DO NOT BRING UTENSILS FROM THE WORKSHOP OF A CRAFTSMAN. BUT IF HE IS CONCERNED ABOUT THEM, HE MAY MOVE THEM INTO A DIFFERENT COURTYARD.

- 1. II:1:** That is to say, in the case of property that could be lost, it is permitted to move such property about on the intermediate days of a festival.

XV. YERUSHALMI MOED QATAN 2:5

[A] THEY COVER UP FIG CAKES [LEFT TO DRY] WITH STRAW. R. JUDAH SAYS, "THEY ALSO PILE THEM UP IN HEAPS." THOSE WHO SELL PRODUCE, CLOTHING, AND UTENSILS SELL THEM DISCRETELY, FOR THE PURPOSES OF THE FESTIVAL. HUNTERS, GROATS MAKERS, AND GRIST-MILLERS DO THEIR WORK DISCRETELY, FOR THE PURPOSES OF THE FESTIVAL.

- 1. I:1:** The [meaning of the] Mishnah's word choice [at M. 2:5A] cover up] is to bring the figs close together so as to form a pile.
- 2. I:2:** Kahana said, "There are rules concerning the intermediate days of a festival which are more difficult than the rules governing the transfer of uncleanness through overshadowing, and the rules governing *negas*. [Here is an example.] "There R. Jeremiah said in the name of Rab, '[If it should rain,] they spread mats on top of shavings that cover the bricks on the Sabbath.' And here the law has said this [that one may not make use of something to cover the figs if it is a source of much work to utilize it]." Rabbis of Caesarea in the name of R. Jacob bar Aha: "At issue among the conflicting sayings [about hard work being permitted for protecting bricks from rain and, in M., about covering fig cakes only in the most convenient way], is whether or not one may pull straw from the ground. "Rabbis maintain that one may cut the straw and make a covering with it. "R. Judah says, 'One may not cut it, but one may make a covering with it.'"

[B] R. YOSÉ SAYS, "THEY HAVE ADOPTED A STRICT RULING FOR THEMSELVES."

1. **II:1:** [Illustrating M. 2:5E:] “The fish trappers of Tiberias, the goat makers of Acre, and the grist-millers of Sepphoris undertook not to perform acts of labor on the intermediate days of a festival.

XVI. YERUSHALMI MOED QATAN 3:1

[A] THESE CUT THEIR HAIR ON THE INTERMEDIATE DAYS OF A FESTIVAL: HE WHO COMES FROM OVERSEAS OR FROM CAPTIVITY:

1. **I:1:** Lo, all other persons [apart from those listed at M. 3:1] are forbidden to get haircuts. Said R. Simon, “They made such a decree for them so that people should not enter the festal season in an unkempt appearance.”
2. **I:2:** It has been taught in the name of R. Judah: “Those who come home from overseas are forbidden to get a haircut and to wash their clothing” [vs. M. 3:1B].

[B] AND HE WHO GOES FORTH FROM PRISON:

1. **II:1:** He who goes forth from prison [M. 3:1C]: They proposed to rule: That is the case when he was imprisoned by gentiles. But if he was imprisoned by Israelites, that is not the rule.

[C] AND HE WHOSE EXCOMMUNICATION HAS BEEN LIFTED BY SAGES.

1. **III:1:** How shall we interpret this rule. If we deal with a case in which they released him from the decree of excommunication prior to the festival, let him get his haircut before the festival. If we speak of a case in which they did not release him prior to the festival, let him not get a haircut. But this is how we must interpret the case: We deal with one whom they released prior to the festival, and the thirtieth day [of whose excommunication] coincided with the festival day, for a decree of excommunication is not for less than thirty days. A decree of sages’ displeasure is not for less than seven days.
2. **III:2:** They sought to excommunicate R. Meir. He said to them, “I shall not listen to you unless you tell me who are those who declare the excommunication, on what basis they declare me to be excommunicated, and for how many causes they excommunicate me.”
3. **III:3:** They sought to excommunicate R. Eliezer. They said, “Who will go and inform him?” R. Aqiba said, “I shall go and inform him.” He came to him. He said to him, “Rabbi, Rabbi, your colleagues are

excommunicating you.” [Eliezer] took him and went outside. He said, “O carob, carob, if the law accords with their view, uproot yourself,” and it did not uproot itself. “If the law is according to my view, uproot yourself,” and it uprooted itself. “If the law is like their view, return [to your place],” and it did not return. “If the law accords with my view, return to your place,” and it returned.

4. **III:4:** Joshua b. Levi summoned a man to his court three times, and the man did not come. He sent him the message, “If it were not the case that in my entire life I have never declared a man to be subject to a herem, I should have declared you to be in herem.” For twenty-four reasons they excommunicated a person, and this is one of them. “And that if anyone did not come within three days, by order of the officials and the elders all his property should be forfeited, and he himself banned from the congregation of the exiles” (Ezra 10:8). Said R. Isaac b. R. Eleazar, “There are many more than those twenty-four cases scattered throughout the Mishnah.”
5. **III:5:** There we have learned [cf. M. Ta. 3:6]: Simeon b. Shatah sent the following message to him [Honi the Rainmaker]: “You should be excommunicated. For if a decree had been issued along the lines of the decree in the time of Elijah [that there be no rain], would you not have turned out to bring the public to the profanation of the Divine Name? “And whoever brings the public to profane the Divine Name is to be excommunicated.” There we have learned [Y. R.H. 1:5]: Rabban Gamaliel sent the following message to him: “You hold the community back and turn out to make them stumble in the future. Will you not turn out to hold the community back from carrying out a religious duty? “For whoever holds the community back from carrying out a religious duty is to be excommunicated.”
6. **III:6:** There we have learned: Whom did they excommunicate? It was Eleazar b. Hanoh, who cast doubt on the sages’ ruling about the cleanness of hands [M. Ed. 5:6P]. That is to say, he who casts doubt on a ruling, even if it derives from the rulings of scribes, is to be excommunicated. There we have learned: He said to them, “They administered [the bitter water given to a suspected adulteress] to make her into an example” [M. Ed. 5:6L].
7. **III:7:** He who is excommunicated by a master is excommunicated for the latter’s disciple. He who is excommunicated for the disciple is not deemed excommunicated so far as the master is concerned. He who is excommunicated for the chief of the court is excommunicated for a sage [who is a member of the court]. He who is excommunicated for a

sage, is not excommunicated for the head of the court. He who is excommunicated for a patriarch is excommunicated for everyone.

- 8. III:8:** Who releases the decree [at M. 3:1D]? Has it not been taught: “If one of those who decreed excommunication against a man died, they do not release him from the decree”? Said R. Joshua b. Levi, “That which you have stated applies when no patriarch is available. But if the patriarch is available, the patriarch releases the decree of excommunication.” R. Jacob bar Aha in the name of R. Ba bar Mamel: “There was the case of one [who had been subjected to a writ of communication], and one of those who had done so died, and they did not release him.” And did not R. Joshua b. Levi state, “That which you have said applies when no patriarch is available. But if the patriarch is available, the patriarch releases the decree of excommunication”? But you may interpret that which R. Jacob bar Aha said in the name of R. Ba bar Mamel to a case in which the one subjected to the decree did not repent. R. Jacob bar Abayye in the name of R. Sheshet: “They voted in Usha not to decree a decree of excommunication against an elder.”

[D] AND SO TOO: HE WHO SOUGHT ABSOLUTION FROM A SAGE [FOR RELEASE FROM A VOW NOT TO GET A HAIRCUT] AND WAS RELEASED, AND THE NAZIRITE [NUM. 6:5] OR MESORA [LEV. 14:8-9] WHO EMERGES FROM HIS STATE OF UNCLEANNESS TO HIS STATE OF CLEANNES.

- 1. IV:1:** And so too: he who sought absolution from a sage [for release from a vow to get a haircut] and was released: How shall we interpret this case? If he addressed the question prior to the festival, he should not get a haircut. If he did not address the question to the sage prior to the festival, he [also] should not get a haircut. But this is the case with which we deal: He addressed the question to the sage prior to the festival, but he did not find grounds for releasing his vow until the festival had come.
- 2. IV:2:** All those for whom they have ruled that they cut their hair on the intermediate days of a festival [M. 3:1] it is permitted [for people in these same categories] to get a haircut within thirty days of the occurrence of a bereavement [T. Moed. 2:1A-B].
- 3. IV:3:** As to trimming the moustache and cutting the nails, there is a Tannaite authority who teaches that on the festival it is permitted to do so, but in a time of bereavement it is forbidden. And there is a Tannaite authority who teaches that on a festival it is forbidden to do so, but on the occasion of a bereavement it is permitted. He who has said that on the festival it is permitted to do so speaks of a time at

which there is a festival, and in a time of bereavement it is forbidden to do so – at a time at which there is no festival. He who has said that on the festival it is forbidden to do so, deals with a case in which there is deception [when the person really plans to cut his hair entirely, not merely to trim the moustache], and in the case of mourning it is permitted, when there is no intent to practice deception.

XVII. YERUSHALMI MOED QATAN 3:2

[A] AND THESE MAY WASH THEIR CLOTHES ON THE INTERMEDIATE DAYS OF A FESTIVAL: HE WHO COMES FROM OVERSEAS OR FROM CAPTIVITY; AND HE WHO GOES FORTH FROM PRISON; AND HE WHOSE EXCOMMUNICATION HAS BEEN LIFTED BY SAGES. AND SO TOO: HE WHO SOUGHT ABSOLUTION FROM A SAGE [FOR RELEASE FROM A VOW NOT TO WASH CLOTHES] AND WAS RELEASED. HAND TOWELS, BARBER'S TOWELS, AND BATH TOWELS [MAY BE WASHED]. MALE AND FEMALE ZABS, WOMEN IN THEIR MENSTRUAL PERIOD, WOMEN AFTER CHILDBIRTH, AND ALL WHO GO UP FROM A STATE OF UNCLEANNESSTO CLEANNESSTO – LO, THESE ARE PERMITTED [TO WASH THEIR CLOTHES]. BUT ALL OTHER PEOPLE ARE PROHIBITED.

- 1. I:1:** It has been taught: As to women's bathing clothes, it is permitted to launder them on the intermediate days of a festival. The same law applies to men's and to women's bathing clothes.
- 2. I:2:** R. Abbahu in the name of R. Yohanan: "He who has only a single garment is permitted to launder it on the festival." Said R. Yosé b. R. Bun, "And that is on condition that he have two, this one he sends out, and that one he wears."
- 3. I:3:** It has been taught: As to the wrappings for scrolls, they do not launder them in urine, but they launder them in carbonate of soda or in some other sort of soap, on account of the honor owing to them.

XVIII. YERUSHALMI MOED QATAN 3:3

[A] AND THESE DO THEY WRITE ON THE INTERMEDIATE DAYS OF A FESTIVAL: WRITS OF BETROTHAL FOR WOMEN, WRITS OF DIVORCE:

- 1. I:1:** But does not the writ of divorce cause anguish [and therefore not belong on the intermediate days of the festival]?

[B] RECEIPTS [FOR PAYMENT OF THE MARRIAGE SETTLEMENT], TESTAMENTS, DEEDS OF GIFT, PROZBOLS, DEEDS OF VALUATION, DEEDS OF ALIMONY:

- 1. II:1:** And receipts: these are discharges [for what is owing]. [They further write] deeds of valuation, deeds of valuation for the property of an estate of which orphans are beneficiaries; deeds of alimony, for example, alimony for a widow.

[C] WRITS OF HALISAH:

- 1. III:1:** What are writs of *halisah*?

[D] AND OF THE EXERCISE OF THE RITE OF REFUSAL:

- 1. IV:1:** What are writs indicating that the right of refusal has been exercised?

[E] DEEDS OF ARBITRATION, COURT DECREES, AND OFFICIAL DECREES:

- 1. V:1:** Judah said, “They indicate a compromise. This one chooses one judge for himself, and that one chooses one for himself.” Court decrees: these are decrees of the judges. And official decrees: this refers to a greeting.

XIX. YERUSHALMI MOED QATAN 3:4

[A] THEY DO NOT WRITE BONDS OF INDEBTEDNESS ON THE INTERMEDIATE DAYS OF A FESTIVAL.

- 1. I:1:** [In T.’s version:] They do not prepare deeds for sharecropping land or receipts on the intermediate days of a festival. R. Judah permits, for someone else might get there first [T. Moed 2:3]. A person writes out his accounts on the intermediate days of a festival. And a person reckons up his expenses on the intermediate days of a festival [T. Moed 2:4]. They undertake contracts on the intermediate days of a festival [for work to be done] after the festival [Y.: but not for work to be done on the festival], on condition that one not count up, weigh, or measure, as one does on ordinary days [T. Moed 2:5].

[B] BUT IF ONE DOES NOT TRUST HIM, OR IF HE HAD NOTHING TO EAT, LO, THIS ONE SHOULD WRITE [A BOND OF INDEBTEDNESS]. THEY DO NOT WRITE SCROLLS, TEFILLIN, OR MEZUZOT ON THE INTERMEDIATE DAYS OF A FESTIVAL. AND THEY DO NOT CORRECT A SINGLE LETTER, EVEN IN THE TORAH OF THE TEMPLE COURT. R. JUDAH SAYS, “A MAN MAY WRITE OUT TEFILLIN AND MEZUZAHS FOR HIS OWN USE.

1. **II:1:** Said R. Jeremiah, “But if one does not trust him: this refers to the borrower. “ Or if he had nothing to eat: this refers to the scribe [who needs the fee].” Said to him R. Yosé, “If you say so, you turn out to allow someone to practice his craft on the intermediate day of a festival. “But: If one does not trust him refers to the lender, who had lent him funds in the past. “ Or if he had nothing to eat: this refers to the borrower, who wishes to borrow funds for use in the future.”
2. **II:2:** Someone lost his *tefillin* on the intermediate days of a festival. He came to R. Hananel [who was a scribe and who would prepare a new set for him]. He sent him to R. Abba bar Nathan. He said to him, “Give him your *tefillin* and go, write a new set for yourself.” Said to him Rab, “[It is permitted to] go and write them for him [without practicing deception].”

[C] “AND HE MAY SPIN ON HIS THIGH THE PURPLE THREAD FOR HIS FRINGES.”

1. **III:1:** R. Judah in the name of Samuel, R. Abbahu in the name of R. Yohanan: “One may spin, and even with a spindle.” Rab said, “One may spin with a spindle, whether it is for his own use or for someone else’s.”

XX. YERUSHALMI MOED QATAN 3:5

- [A] **HE WHO BURIES HIS DEAD THREE DAYS BEFORE THE FESTIVAL — THE REQUIREMENT OF THE SEVEN DAYS OF MOURNING IS NULLIFIED FOR HIM. [HE WHO BURIES HIS DEAD] EIGHT DAYS [BEFORE THE FESTIVAL] — THE REQUIREMENT OF THE THIRTY DAYS OF MOURNING IS NULLIFIED FOR HIM.**
1. **I:1:** The requirement of the seven days of mourning covers use of a sandal and having a haircut. The requirement of the thirty days of mourning encompasses stitching the rent in garments of mourning, laundering clothing, and getting a haircut [none of which may be done in the period of thirty days from death].
 2. **I:2:** R. Helbo, R. Huna in the name of Rab: “If the eighth day [after burial] coincided with the Sabbath, one gets a haircut on the eve of the Sabbath.”
 3. **I:3:** Immi had a case in which he ruled that someone may cut his hair on the thirtieth day. Rab had a case in which he ruled that someone may cut his hair on the thirty-first day. Said R. Zeriqa, “It is from the following passage of the Mishnah that R. Immi derived his [confused]

view of the law, for we have learned there: He who took a Nazirite vow for two spells cuts his hair for the first on the thirty-first day, and for the second on the sixty-first day [M. Naz. 3:2A] [and, Immi maintained, if he wanted to cut it on the thirtieth day, he may do so]. Said R. Yosé, “[That proves nothing.] There we deal with a case in which the ruling is post facto. But here do we deal with a ruling that is de novo?”

4. **I:4:** [With reference to the view that part of a day is treated as equivalent to the whole of it,] it has been taught, “This is the opinion of Abba Saul.” R. Judah in the name of Samuel, R. Abbahu in the name of R. Yohanan: “The law is in accord with Abba Saul.”
5. **I:5:** He who buries his dead three days before a festival – the requirement of the seven days of mourning is nullified for him [M. 3:5A]. The law has stated only that that is so if it is three days before. Lo, if it is only two, that is not the case. That which you have stated applies to matters pertaining to him personally. But the community does not deal with him [as a mourner during the festival]. And so it has been taught [in T.’s version:] [If he buries his dead] with three days left of the festival week itself, he counts seven [days of mourning] after the festival. For the first four, the public takes care of him. For the other three, the public does not take care of him. For they have said that the days of mourning that took place on the festival go to his credit so that the public must take care of him. And his work is done by others. His male slaves and female slaves work in private for other people [T. Moed 2:7].
6. **I:6:** Ber. 3:1: He whose dead still lies before him (unburied) is free of the obligation of saying the Shema and of tefillin.] “A mourner on the first day does not put on tefillin. On the second day he does put on tefillin. But if new faces [comforters] come, he removes them, for all seven days” – the words of R. Eliezer. R. Joshua says, “On the first and on the second day, he does not put on tefillin. On the third day, he does put on tefillin, but if new faces come, he does not remove them.” If on the third day after death, the mourner does not put on tefillin, is it necessary to say that he whose dead lies unburied [does not put on tefillin]? [That is self-evident.] But since the teacher of the passage wished to refer to this [the Shema], he referred also to that [the putting on of tefillin].
7. **I:7:** If the mourner had nothing to eat, on the first day and on the second day he does not perform an act of labor in that regard. On the third day he does so discretely. But they have said, “May a curse come

upon his neighbors, who made it necessary for him to do so.” Bar Qappara said, “Even on the third day he should not do any act of labor.”

- 8. I:8:** The sharecroppers of the land [of the mourner], those who rent land for a fixed proportion of the crop and those who contract [to work for the mourner], do labor [during the memorial period since they work for themselves, not for him]. Those who do day labor for him, those who lead his camels and his barges do not work [since they are his employees].
- 9. I:9:** In the case of two brothers, two partners, two butchers, two shopkeepers, to one of whom a misfortune happened – lo, these both must lock their shop.
- 10. I:10:** With regard to a mourner, so long as his deceased is lying [unburied] before him, he eats with a fellow. If he has no fellow, he eats in some other house. If he has no other house, he sets up a partition and eats. If he cannot set up a partition, he turns away and faces the wall and eats. In any event he does not recline and eat, nor does he eat to satiety, nor does he drink to satiety, nor does he eat meat or drink wine. They do not include him in a quorum for grace after meals. If he said a blessing, they do not say after him, “Amen.” And as to others who said a blessing, he does not say after them, “Amen.” Under what circumstances do these rules apply? In the case of an ordinary day. But on the Sabbath he reclines and eats, he eats to satiety, he drinks to satiety, he eats meat and drinks wine, they include him in a quorum for saying grace, and if he said a blessing, they answer, “Amen,” after him. If others said a blessing, he answers after them, “Amen.” Said R. Simeon b. Gamaliel, “Since you have permitted him to do all these things, why not declare him obligated to carry out all the other commandments of the Torah? “Matters affecting life of the moment have you permitted to him. As to matters affecting eternal life – is it not an argument a fortiori [that you should permit him]?”
- 11. I:11:** Lo, if one came home and found mourning in his house, if this is on the second and on the third days, he completes the week of mourning with the others. If it is on the fourth day [after the mourning week has begun for the others], he counts [days of mourning] for himself. R. Simeon says, “Even if it is on the fourth day, he completes [the week of mourning] with them.”

- 12. I:12:** Lo, if they were bringing the deceased from one place to another – for instance, those whom they bury in Beth Sharaii – there is a Tannaite authority who teaches: Those who are here count the days of mourning from the time at which the deceased has gone forth, and those who are there count the days of mourning from the time that the stone has been rolled over onto the grave. There is a Tannaite authority who teaches: Both these and those begin to count the days of mourning from the moment at which the stone is rolled over onto the grave.
- 13. I:13:** Whence in the Torah do we derive the rites of mourning? As to the observance of seven days: “And he made a mourning for his father seven days” (Gen. 50:10). Do they derive a law from evidence pertaining to the period prior to the giving of the Torah? R. Jacob bar Aha in the name of R. Zeira: “Derive the rule from the following: ‘At the door of the tent of meeting you shall remain day and night for seven days, performing what the Lord has charged, lest you die’ (Lev. 8:35). “Just as the Holy One, blessed be he, kept watch over his world for seven days, so you must keep watch for your brothers for seven days.” And how do we know that the Holy One, blessed be he, kept watch over his world for seven days? “And after seven days the waters of the flood came upon the earth” (Gen. 7:10). But do they mourn prior to the death of the deceased [before the flood]? But the answer is simple: In the case of mortal man, who does not know what is going to happen, one undertakes the rites of mourning only after the person has died. But in the case of the Holy One, blessed be he, who knows what is going to happen, he kept watch over his world from the very beginning [even before the world perished in the flood]. There is he who proposes to state: This refers to the seven days of mourning for Methuselah, the righteous.
- 14. I:14:** Lo, if on a festival one heard that he had suffered a bereavement but the days of the festival did not end before the thirty days [from the death of the deceased] were completed, associates say, “Since he heard the news during the thirty days [following the death of the deceased], he counts seven days [of mourning even] after the thirty days have passed.” Said to them R. Yosé, “Since he heard the news at a time at which he was not able to undertake the rites of mourning, he is like one who heard the news thirty days after the death itself, and he is subject to engage in the rites of mourning only for a single day.”
- 15. I:15:** R. Abbahu in the name of R. Yohanan: “Even one who is secondary to the one involved in the bereavement is forbidden to get a haircut. [For instance, if one’s grandson died and he is assisting the son in the burial, he is subject to the rules.]”

- 16. I:16:** There is that which R. Abbahu said: “‘Sigh, but not aloud; [make no mourning for the dead]. [Bind on your turban, and put your shoes on your feet; do not cover your lips, nor eat the bread of mourners]’” (Ezek. 27:17). On the strength of this verse [we learn] that a mourner is supposed to express his sorrow out loud [in crying aloud]. “‘Make no mourning for the dead – on the strength of this verse [we learn] that one has to undertake the rites of mourning.’” “Bind on your turban”: There is he who wishes to say, “This refers to the *tefillin*.” There is he who wishes to say, “This refers to laundering a linen garment.” He who said, “This refers to the *tefillin*” [then deals with the following inference]: Just as *tefillin* [are not put on by the mourner] for two days, so mourning lasts for only two days. He who said, “This refers to laundering a linen garment” [then deals with the following inference]: Just as the prohibition against laundering a linen garment is for thirty days, so the rites of mourning apply for thirty days. “Put your shoes on your feet” – on the strength of this verse [we learn] that a mourner is forbidden to put on a sandal. “Do not cover your lips” – on the strength of this verse [we learn] that the mourner has to cover up his mouth. And let him cover it up below [but not the entire mouth]? Said R. Hisda, “It is so that people will not say, ‘He has a pain in his mouth’ [and that is why he covers it up].” “Nor eat the bread of mourners” – on the strength of this verse [we learn] that the less important people go to the more important people [to provide food on the occasion of mourning].
- 17. I:17:** It has been taught: These are the things that are forbidden for a mourner all seven days [after the burial of the deceased: washing, anointing, putting on sandals, having sexual relations, getting a haircut, laundering clothing, reading in the Torah, speaking about the exegesis of Scriptures, laws, and lore, greeting someone, and doing work.
- 18. I:18:** It has been taught: A mourner and one who has been excommunicated who are going on a trip are permitted to wear shoes. When they reach a town, they then take them off.
- 19. I:19:** It has been taught: In a place in which it is the custom to greet mourners on the Sabbath, they greet them. And in the south they greet them.
- 20. I:20:** Samuel said, “[With regard to the Sabbath, a mourner’s] uncovering the head, turning of the tear of the garment, and setting the bed right-side up are obligatory, while putting on sandals, having sexual relations, and washing of hands are optional.”

- 21. I:21:** As to the prohibition of reading in the Torah during mourning: said R. Yohanan, “‘And they sat with him on the ground seven days and seven nights, and no one spoke a word to him, for they saw that his suffering was very great’ (Job 2:13). And no one speaking a word to him means, even a word of Torah.” Said to him R. Simeon b. Laqish, “The very essence of the matter demands this conclusion: Had he repeated [Mishnah traditions] he would not have died!”
- 22. I:22:** On account of every relationship stated in the Torah for which a priest contracts uncleanness [in burying the corpse], an Israelite undertakes the rites of mourning. [For both priest and Israelite] they added: his brother and sister on his mother’s side, his sister who is married. [In these instances both] undertake the rites of mourning and enter the status of one who has suffered a bereavement but whose dead is not yet buried, but [a priest] does not contract uncleanness for them. As to a woman whom one has betrothed [but not yet married], one does not undertake rites of mourning, or enter the status of one who has suffered a bereavement but who has not yet buried his dead, nor does a priest contract corpse-uncleanness.
- 23. I:23:** At what time do they overturn the beds [as a sign of mourning]? “When the corpse is taken out the door of the courtyard,” the opinion of R. Eliezer. And R. Joshua says, “When the stone is rolled over onto the grave.”
- 24. I:24:** How do we know from Scripture that it is required to turn over the beds as a sign of mourning? R. Qerispai in the name of R. Yohanan: “‘And they sat with him at the ground [seven days and seven nights, and no one spoke a word to him, for they saw that his suffering was very great]’ (Job 2:13). ‘‘On the ground’ is not written here, but rather, ‘at the ground.’ That means something that is near the ground. On that basis we learn that they slept on beds that had been turned over.”
- 25. I:25:** Now has not the Mishnah made this point? [With reference to M. San. 2:2F-G:] And when they provide him with the funeral meal, [all the people sit on the ground, while he sits on a stool] – that refers to the high priest. Lo, with regard to an ordinary priest, that is not the case. And the Mishnah speaks of a public meal. Lo, when the high priest eats by himself, he does not [sit on a stool]. And in any event they do not do things this way.
- 26. I:26:** As to turning over the beds, there are occasions on which one does it six days, five, four, or three. [If the bereavement is] on Friday,

one does it six days. If it is on Friday at sunset, one does it five. If it is on a festival day that comes after the Sabbath, one does it four days. If it is on the two days of the New Year, one does it three days.

- 27.** **I:27:** It has been taught: He who dwells in a shop – they do not require him to turn his bed over, so that people should not say that he is a wizard.
- 28.** **I:28:** Lo, if one’s father-in-law or mother-in-law or any of the relatives of his wife died, he does not have the right to require his wife to make up her eyes or do her hair as usual. But he behaves with her just as she behaves [in observing the rites of mourning]. And so a woman whose father-in-law or mother-in-law or other relatives of her husband died, she does not make up her eyes or do her hair, but she behaves with him just as he behaves.

[B] **FOR THEY HAVE SAID, “THE SABBATH COUNTS [IN THE DAYS OF MOURNING] BUT DOES NOT INTERRUPT [THE PERIOD OF MOURNING], [WHILE] THE FESTIVALS INTERRUPT [THE PERIOD OF MOURNING] AND DO NOT COUNT [IN THE DAYS OF MOURNING].”**

- 1.** **II:1:** “[The festivals do not count,]” R. Simon in the name of R. Yohanan [explained], “Because one is permitted on them to have sexual relations.”

XXI. YERUSHALMI MOED QATAN 3:6

[A] **R. ELIEZER SAYS, “AFTER THE TEMPLE WAS DESTROYED, PENTECOST HAS BEEN DEEMED EQUIVALENT TO THE SABBATH.” RABBAN GAMALIEL SAYS, “THE NEW YEAR AND THE DAY OF ATONEMENT HAVE BEEN DEEMED EQUIVALENT TO FESTIVALS.” AND SAGES SAY, “THE RULE IS IN ACCORD WITH THE OPINION NEITHER OF THIS ONE NOR OF THAT ONE. “BUT PENTECOST IS DEEMED EQUIVALENT TO A FESTIVAL, AND THE NEW YEAR AND THE DAY OF ATONEMENT ARE DEEMED EQUIVALENT TO THE SABBATH.”**

- 1.I:1:** Members of the household of R. Yannai say, “Pentecost counts toward the observance of the seven days of mourning like festivals. [If one observed three days of mourning prior to Pentecost, the remainder of the seven days are nullified, as is the case of festivals in general, contrary to the view of Eleazer (M. 3:6A).]” They asked before R. Yosé [as to the disposition of the thirty days of mourning]: “Do we say that the three days before Pentecost with Pentecost itself cover seven days of mourning? Lo, then there are ten days [already in hand, and

one has to observe the other twenty]? “Rather, three days before Pentecost are treated as seven, and Pentecost is treated as equivalent to seven, so fourteen days [go to the mourner’s credit, with sixteen left to observe].”

2. **I:2:** It has been taught: They do not make an appearance [to comfort the mourner] either on the New Year or on the Day of Atonement.

XXII. YERUSHALMI MOED QATAN 3:7

[A] THEY DO NOT TEAR THEIR CLOTHING, BARE THE SHOULDER, OR PROVIDE FOOD FOR MOURNERS, EXCEPT THE NEAR RELATIVES OF THE DECEASED. AND THEY DO NOT PROVIDE MOURNERS FOOD EXCEPT ON AN UPRIGHT COUCH. THEY DO NOT BRING [FOOD] TO A HOUSE OF MOURNING ON A TRAY, SALVER, OR FLAT BASKET, BUT IN PLAIN BASKETS. AND THEY DO NOT [IN GRACE AFTER MEALS] SAY THE BLESSING FOR MOURNERS DURING THE INTERMEDIATE DAYS OF THE FESTIVAL. BUT [THE MOURNERS] DO STAND IN A LINE AND OFFER CONSOLATION AND DISMISS THOSE THAT HAVE GATHERED TOGETHER.

1. **I:1:** Said R. Jeremiah, “[As to M. 3:7A,] that is on condition that they are relatives who are appropriate to undertake the rites of mourning.” There is that which is taught: A sage who died – all are regarded as his near relatives, and that applies even to relatives who [otherwise] are not suitable to undertake the rites of mourning on his account.
2. **I:2:** He who makes a tear in his clothing at a part that was hemmed together, basted, or at the edges picked up by cross-stitch or ladder stitch – this is not regarded as a valid tear in the clothing. If it is a part that had been rejoined [in a seam], lo, this is regarded as a valid tear.
3. **I:3:** Ten occasions of making a tear are forbidden in respect to tearing a part that had been rejoined in a seam [for this would be insufficient]: He who tears on account of the death of his father, mother, master who has taught him wisdom, the patriarch, head of the court, bad news, hearing the Name of God cursed, the burning of a Torah, for Jerusalem, and for the sanctuary.
4. **I:4:** Just as they make a tear for sages, so they make a tear for their disciples. What is the definition of a disciple of a sage? Hezekiah said, “It is any one who has learned laws and [their basis in the law of Torah] in addition.” R. Abbahu in the name of R. Yohanan: “It is any who sets aside his worldly affairs on account of his learning of

Mishnah.” It was taught: It is anyone of whom they ask a question and who can answer it.

5. **I:5:** Who is one’s master? [Y. omits:] “It is the one who has taught him wisdom [and not the master who has taught him a trade]. “It is anyone who started him off first,” the words of R. Meir [Y.: Eliezer]. R. Judah says, “It is anyone from whom he has gained the greater part of his learning.” R. Yosé says, “It is anyone who has enlightened his eyes in his repetition of traditions” [T. Hor. 2:5C-H], even in one thing only.
6. **I:6:** On account of the patriarch, head of the court, and bad news: How do we know [from the Torah] that one tears his garment on these occasions?
7. **I:7:** What is the law as to tearing one’s garment because he has heard the Name of God cursed by a gentile? What is the law as to tearing one’s clothes on hearing the curse of an idolater [of the Name of God]?
8. **I:8:** What is the law as to tearing one’s garments in this time? What is the law as to tearing one’s garments at this time upon hearing God cursed through euphemisms?
9. **I:9:** And how do we know that they tear clothing in mourning on account of the burning of the Torah?
10. **I:10:** He who sees a disciple of a sage who has died is as if he sees a scroll of the Torah that has been burned.
11. **I:11:** Berekhiah, R. Helbo, Ulla Biria, R. Eleazar in the name of R. Hanina: “In the future, the Holy One, blessed be he, is going to be made the chief dancer among the righteous in the age to come. “What is the scriptural basis for this view? ‘Consider well her ramparts’ (Ps. 48:13). It is written, ‘Her dance.’” “And the righteous will point to him with their finger [so saluting him], and say, ‘That this is God, our God for ever and ever. He will be our guide forever’” (Ps. 48:14). [Since the word ‘forever’ is written ‘LMWT, we consider the following meanings of that word:] It means “strength,” “quickness,” and “like those maidens.” Aqilas Athena Sira translated: “A world in which is no death.” And the righteous will point to him with their fingers and say, “That this is God, our God for ever and ever. He will be our guide forever” (Ps. 48:14). He will lead us in this world, and he will lead us in the world to come.

- 12. I:12:** And for Jerusalem and for the Temple: “Eighty men arrived from Shechem and Shiloh and Samaria, with their beards shaved and their clothes torn, and their bodies gashed, bringing cereal offerings and incense to present at the temple of the Lord” (Jer. 41:5). All the same are he who has heard that Jerusalem has been destroyed and he who sees Jerusalem in her ruin. Both are liable to make a tear in mourning. He who sees Jerusalem from Mount Scopus is liable to make a tear.
- 13. I:13:** There is a Tannaite authority who teaches: One adds to the tear. There is a Tannaite authority who teaches: A tear to begin with is a handbreadth, and an addition to it is any length of further tear at all. There is, further, a Tannaite authority who teaches: The tear to begin with is a handbreadth, and an addition to it is three fingers in breadth.
- 14. I:14:** If one suffered a bereavement, he makes a tear. If he suffered yet another bereavement, even if he heard that it was his father, mother, or teacher who had taught him wisdom, he suffices with a single tear for all of them. R. Judah b. Tema says, “He makes a tear on account of this one by himself, and on account of that one by himself.” If one suffered a bereavement, he makes a tear. If he suffered yet another bereavement, he adds to the tear he originally made, thereby making a tear [for the other bereavement].
- 15. I:15:** Hinenah bar Pappi went up to R. Tanhum bar Hiyya. He came out to him dressed in his upper garments [street dress, though he was in mourning]. (What was this “upper garment”? It is a garment without a tear.) He said to him, “How do you know [that it is permitted to wear such a garment during a bereavement]?” He said to him, “This is what R. Simon, my teacher, did.” He said to him, “Pray for us.” He said to him, “May your breach go away [that is, the loss you have suffered].” For during the entire year [in which a bereavement is suffered by a family], the attribute of justice points toward the family [that has suffered a loss].
- 16. I:16:** How do we know that a mourner is liable to make a tear [as a sign of mourning] while standing up?
- 17. I:17:** Said R. Yohanan, “R. Yosé gave instructions to baste the rent on the next day. When R. Yosé died, R. Hiyya bar Ba gave instructions to close the tear on the same day. Said R. Zeira, “And they do not differ. He who said one should baste the tear on the next day will agree to close it up on the next day. And he who said to close it up on the same day will concur that it may be basted on the same day.”

18. I:18: If people said to someone, “Reuben has died,” and he made a tear, and afterward they said to him, “Simeon has died,” lo, he already has carried out his obligation to make a tear in mourning. If they told him, “Reuben has died,” and he made a tear, and afterward they said to him, “At that time he was alive, but he now has died.”

a. I:19: Yohanan was leaning on R. Jacob bar Iddi, and R. Eleazar [a Babylonian] saw him and avoided him. [Yohanan] said, “Lo, now there are two things that that Babylonian has done to me! One is that he did not even bother to greet me, and the other is that he did not cite a tradition of mine in my name.” [Jacob] said to him, “That is the custom over there, that the lesser party does not greet the more important authority. For they carry out the following verse of Scripture: ‘The young men saw me and withdrew, and the aged rose and stood’” (Job 29:8). As they were going along, they saw a certain schoolhouse. [Jacob] said to him, “Here is where R. Meir used to go into session and expound the law. And he stated traditions in the name of R. Ishmael, but he did not state traditions in the name of R. Aqiba.” [Yohanan] said to him, “Everybody knows that R. Meir was the disciple of R. Aqiba [so he did not have to cite him].” [Jacob] said to him, “Everybody knows that R. Eleazar is the disciple of R. Yohanan.” As they were going along, [they passed by a procession in which an idol was carried, and Jacob asked Yohanan,] “What is the law as to passing a procession in which an idol is being carried?” He said to him, “And do you pay respect to the idol? Go before it and blind its eyes.” [Jacob] said to him, “Well did R. Eleazar do to you, for he did not pass by you [since that would have required an inappropriate gesture].” [Yohanan] said to him, “Jacob bar Iddi, you know very well how to make peace [between quarreling people].” R. Yohanan wanted traditions to be stated in his name, for David too prayed for mercy [for the same purpose], saying, “Let me dwell in thy tent forever! Oh to be safe under the shelter of thy wings!” (Ps. 61:4).

i. I:20: R. Phineas, R. Jeremiah in the name of R. Yohanan: “And did it enter David’s mind that he would live forever? But this is what he said: ‘May I have the merit of having my words repeated in synagogues and schools.’”

XXIII. YERUSHALMI MOED QATAN 3:8

[A] **THEY DO NOT SET THE BIER DOWN IN THE STREET, SO AS NOT TO GIVE OCCASION FOR A LAMENTATION. AND UNDER NO CIRCUMSTANCES DO THEY SET DOWN IN THE STREET THE BIER OF A WOMAN, ON ACCOUNT OF RESPECT. WOMEN IN THE INTERMEDIATE DAYS OF A FESTIVAL WAIL, BUT DO NOT CLAP THEIR HANDS. R. ISHMAEL SAYS, “THOSE WHO ARE NEAR THE BIER CLAP THEIR HANDS.”**

1. **I:1:** For all other dead he should hasten the burial and not make the funeral elaborate. In the case of his father and mother, he should make an elaborate funeral and not hasten the burial, for whosoever takes pains with his father and mother is praise-worthy. In an emergency, however, or on Sabbath Eve, or if rain is coming down on the bier, he should hasten the burial and not prolong the funeral.
2. **I:2:** “For all other bereavements, one does not undo the hem binding of his garment, except for his father and his mother,” the view of R. Meir. R. Judah says, “Any tear in mourning in which one does not undo the hem binding – lo, this is a tear that is worthless.”
 - a. **I:3:** Yohanan differs from R. Yudan in two matters. [First, that he maintains one has to tear the garment as a sign of mourning for any master who has died, not merely for the one from whom one learned most; second, that one does the tear above the binding.] R. Yohanan heard that R. Hanina was ailing, so he went up to visit him. When he was yet on the road, he heard that he had died. He sent word and said to send to him his best Sabbath garments, and he went and tore them [on account of this news]. [Thus he holds that one tears a garment at the demise of someone who is not a close relative.]
3. **I:4:** For all other bereavements one may baste the tear after seven days and after thirty days sew it so it no longer appears. But for his father and his mother, one never sews up the tear so that it is not visible. It was taught in the name of R. Nathan, “A woman bastes the tear right away, and sews it up completely after thirty days. But for her father and mother she does not sew it up completely ever.”
4. **I:5:** For all other bereavements one tears only the outer garment alone. For one’s father and mother, even if there are ten garments one on top of the other, they tear them all. An undershirt does not hinder [carrying out the tearing, and need not be torn]. A woman tears only the outer garment alone.

5. **I:6:** On account of all other bereavements one is forbidden to wash clothing in a fine way [through calendering] for thirty days. On account of one's father and mother, it is forbidden to do so for twelve months.
6. **I:7:** On account of all other bereavements one is forbidden to get a haircut for thirty days. For one's father and mother, one is forbidden until one produces wild hair or until one's friends rebuke one.
7. **I:8:** "On account of all other bereavements one does not bear his chest, except for his father and his mother," the opinion of R. Meir. R. Samuel in the name of R. Abodemi bar Tanhum, "It is because the religious duty of preserving dignity now has been removed from this person."
8. **I:9:** On account of all other dead, one is forbidden to transact business for thirty days. In regard to his father's and mother's deaths, he is forbidden until his friends rebuke him and tell him, "Come with us."
9. **I:10:** For all other bereavements one is forbidden to go to a banquet for thirty days. For one's father's and mother's deaths, the prohibition is for twelve months. If, however, it was the banquet of an association formed for the purpose of carrying out a religious duty, or if it was a banquet to sanctify the new month, he is permitted to do so. Lo, if one changed clothes every day of the seven days of mourning he is liable to make a tear on each one.

XXIV. YERUSHALMI MOED QATAN 3:9

[A] ON THE NEW MOON, HANUKKAH, AND PURIM, THEY WAIL AND CLAP THEIR HANDS. ON NONE OF THEM DO THEY SING A DIRGE. ONCE THE DECEASED HAS BEEN BURIED, THEY DO NOT WAIL OR CLAP THEIR HANDS. WHAT IS A WAIL? WHEN ALL SING TOGETHER. WHAT IS A DIRGE? WHEN ONE STARTS, AND THEN ALL JOIN IN WITH HER, AS IT IS SAID, "TEACH YOUR DAUGHTERS WAILING, AND EVERYONE HER NEIGHBOR A DIRGE" (JER. 9:19). BUT IN THE TIME THAT IS COMING, IT SAYS, "HE HAS SWALLOWED UP DEATH FOR EVER, AND THE LORD GOD WILL WIPE AWAY TEARS FROM OF ALL FACES, AND THE REPROACH OF HIS PEOPLE HE SHALL TAKE AWAY FROM OFF ALL THE WHOLE EARTH, FOR THE LORD HAS SPOKEN IT" (ISA. 25:8).

1. **I:1:** Tanhum b. R. Ilai died on Hanukkah. R. Dosa died on the New Moon of Nisan. They made a funeral meal for him [out of doors]. The people thought that they did so in accord with the opinion of the

rabbis, and they looked into the matter and found out that it was not in accord with the opinion of the rabbis. R. Qerispai died on the intermediate day of a festival, and they made a funeral meal for him. The people thought that this was in accord with the view of R. Ammi. They looked into the matter and found out that it was not in accord with the opinion of R. Ammi at all.

2. **I:2:** With reference to M. 3:8A, not setting the bier down,] R. Helbo, R. Ba bar Zabeda in the name of Rab: “[It is forbidden to set the bier down in the street] even for a moment.”
3. **I:3:** It is taught: They do not bring wailing pipes to the house of mourning, but to the banquet house, and to the house of rejoicing, in the place in which that was the custom [T. Moed 2:17H-I].

TRACTATE

HAGIGAH

The encounter with God takes place, in particular, at the pilgrim festivals, Passover, Tabernacles, and Pentecost, when Israelites are called to Jerusalem to be seen by, and rejoice before, the Lord. Now the engagement entails not repentance and atonement, but celebration, with each of the festivals devoted to the enjoyment of creation and Israel's own formation. And the act of rejoicing encompasses the eating of meat. The three requirements—appearing before God, keeping a feast to the Lord, and rejoicing—are made explicit in Scripture (Exod. 23:17; Deut 16:15; and Deut 16:14) respectively. These then form the concrete occasion for Israel's most immediate and tangible encounter with God. Israel, encompassing all of its genealogical strata, meets God exactly when and where and how God wishes to be met. Israel is seen by God, or, in accord with the writing out of the Hebrew letters for the same passage, in the holiness of the Temple, in the savor of its offerings to heaven, and in its music and song and bloody rites in celebration of life, sees God.

The halakhah takes up the pilgrims' complementary obligations of sacrifice and cultic purity. The Israelite is to be seen in the Temple court on the feast with a whole-offering (birds or cattle) and that is obligatory: "None shall appear before me empty" (Exod 23:15 *RSV*). Keeping the feast furthermore means presenting a peace-offering when one makes his appearance on the first festival day of the feast. The duty of rejoicing involves a peace-offering in addition to the festal peace offering: "the peace-offering of rejoicing in the feast," in line with Deut 27:7 (*RSV*): "And you shall sacrifice peace offerings, and shall eat there; and you shall rejoice before the LORD your God."

The halakhah of Hagigah accordingly deals with two closely related topics on a single theme, the occasions on which common folk come to the Temple, that is, on the pilgrim festivals. That halakhah is devoted to two matters: the festival-offerings and the conditions of cultic cleanness that pertain and govern the right to consume part of the meat of those offerings. Three pilgrim festivals, then, draw to the Temple the ordinary people, not just the priests, Levites, and Israelites organized in their *ma'amadot* (as we have seen at the halakhah of *Ta'anit*). There are three pilgrims' offerings called for by the pilgrimage: an appearance-offering involve a burnt offering, which yields no food for the sacrificer or sacrificer; a

festal offering (*hagigah*), which falls under the rules of peace-offerings and does yield meat for the sacrificer; and peace-offerings of rejoicing, subject to the same law as the festal-offering. Since the ordinary folk are going to eat sacrificial meat, they have to make themselves ready to consume food in the status of Holy Things. The halakhah then encompasses not only the pertinent offerings but the rules of cleanness that govern on the occasion of the festivals.

As to the offerings themselves, on Passover, Pentecost, and Tabernacles, families present the appearance offering and the festal offering, an obligatory burnt offering and peace-offerings, respectively. The obligatory appearance-offering is located by sages in Deut 16:14–17.

- I.** The appearance-offering, festal-offering, and peace-offering of rejoicing
 - A.** Liability, cost
 - B.** The festal offering and the Sabbath

- II.** The rules of cultic uncleanness as they affect ordinary folk and holy things
 - A.** Gradations of strictness of rules of uncleanness
 - B.** Holy things and the Festival

YERUSHALMI HAGIGAH

CHAPTER ONE

1:1

- [A] [75d] All are liable [to put in] “an appearance [in the Temple]” [alternatively: to bring an appearance offering] (Exod. 23:14, Deut. 16:16).
- [B] except for a deaf-mute, an idiot, a minor,
- [C] one without pronounced sexual characteristics, an androgyne [who exhibits the sexual traits of both sexes],
- [D] women, slaves who have not been altogether freed,
- [E] the lame, the blind, the sick, the old,
- [F] and one who cannot go up on foot.
- [G] What is the definition of a minor?
- [H] “Anyone who cannot ride on his father’s shoulder to ascend the Temple mount from Jerusalem,” the words of the House of Shammai.
- [I] And the House of Hillel say, “Any who cannot hold his father’s hand to go up from Jerusalem to the Temple mount,
- [J] “as it is written, ‘Three pilgrim-festivals’” (Exod. 23:14).
- [I:1 A] [*When*] *the Mishnah* [*refers to a minor’s being exempt*], it is in regard to the appearance-offering. But as to making personal appearance on the Temple mount, even a minor is obligated.
- [B] [The requirement of making a personal appearance] in line with the following verse of Scripture: “Assemble the people, men, women and little ones” (Deut. 31:12).
- [C] Now is not a minor older than a “little one” [hence obviously subject to the law]?
- [D] *For it has been taught: M’S H B: R. Yohanan b. Beroqah and R. Eleazar Hisma came from Yabneh to Lud and they greeted R. Joshua in Peqi’in.*

- [E] Said to them R. Joshua: “What was new in the schoolhouse today?”
- [F] They said to him, “We are your disciples and we drink your wisdom (lit., water).
- [G] He said to them, “It is hardly possible that there should be nothing new in the schoolhouse today. Who presided this week?”
- [H] They said to him, “It was the week of R. Eleazar b. Azariah.”
- [I] He said to them, “And from what [text] was the narration?”
- [J] “Assemble the people, men, women, and children, and the sojourner within your towns, that they may hear and learn to fear the Lord your God.” (Deut. 31:12).
- [K] He said to them, “And what did he explain in this connection?”
- [L] They said to him, “Rabbi, thus did he explain in its connection: ‘Now if the men came along to study, the women came along to listen, why did the children come along? To provide a reward to the people who brought them’” [T. Sot. 7:9].
- [M] He said to him, “The generation in which R. Eleazar flourishes is not orphaned” [T. Sot. 7:12D].
- [N] *The view of R. Eleazar b. Azariah is not in accord with the opinion of Ben Azzai.*
- [O] *For we have learned there: On this basis said Ben Azzai, “A man is liable to teach his daughter Torah, so that if she should have to drink the waters that bring the curse [Num. 5:1ff.], and if the water does not produce the effects described in Scripture], she will know that it is because of [ancestral] merit that the effects of the water have been suspended for her” [M. Sot. 3:4F-G].*

- [II:1 A] **A deaf-mute:** *Associates in the name of R. Eleazar:* “So that they may hear and learn to fear the Lord” (Deut. 31:12).
- [B] Up to this point reference has been made to one who speaks but does not hear.
- [C] A deaf-mute who hears but cannot speak – R. Ila in the name of R. Eleazar, “[He is included under,] ‘In order that they may learn’ [which may be read,] ‘In order that they may teach.’”

- [D] *Said R. Jonah, “That indicates that the general rules of Rabbi are not all-encompassing, for we have learned there:*
- [E] **“A deaf-mute who speaks and does not have the power of hearing should not separate heave-offering [M. Ter. 1:1].**
- [F] *“Now we proposed to say, ‘One who speaks but cannot hear is a deaf-mute. One who hears and cannot speak is not a deaf-mute.’”*
- [G] *And we have learned: **A deaf-mute who participated in the rite of halisah, and a deaf-mute woman who performed the rite of halisah, and he who performs the rite of halisah with a minor – her act of halisah is invalid [M. Yeb. 12:4].***
- [H] *Said R. Yohanan, “This refers to a case in which they cannot participate by saying the required formulas [specified at Deut. 25:5ff].*
- [I] *We have learned [at M. Ter. 1:1]: **The deaf-mute of whom sages have spoken in all places is one who does not have the power of hearing or of speech.***
- [J] *That then supports the view of R. Jonah, for R. Jonah has said, “That indicates that the general rules of Rabbi are not all-encompassing.”*
- [K] *R. Yohanan raised the question, “If one was deaf in one ear, what is the law?”*
- [L] *Said R. Yosé b. R. Bun, “It is subject to a dispute between R. Yosé and rabbis, for it has been taught:*
- [M] *“‘And for Aaron’s sons you shall make coats’ (Exod. 28:40).*
- [N] *“Rabbis say, ‘Two coats for each one.’*
- [O] *“R. Yosé said, ‘Even one coat [76a] for each one.’”*
- [P] *What is the basis for the view of rabbis?*
- [Q] *“For the sons of Aaron you shall make coats” [hence, in the plural].*
- [R] *What is the basis for the view of R. Yosé?*
- [S] *“For a hundred sons of Aaron you shall make coats,” meaning, one for each [but two should not use one coat].*
- [T] *And here it says, “You shall read this law before all Israel in their ears” (Deut. 31:11).*

[U] Rabbis say, “Two ears for each.”

[V] R. Yosé says, “Even one [usable] ear for each.”

[III:1 A] An idiot:

[B] Said R. Eleazar, “‘It was clearly demonstrated to you’ (Deut. 4:35) [thus excluding those to whom the knowledge is inaccessible].”

[IV:1 A] A minor: R. Jeremiah, and R. Aibu bar Nigri were studying together. They said, “We have learned: **What is the definition of a minor? It is any who cannot ride on the shoulder of his father [M. 1:1H].**

[B] “Now can such a minor speak or listen [that he should be included]?”

[C] *They retracted [their opinion] and stated,* “[When Scripture says, ‘Three times a year] all your males [shall appear before the Lord’ (Deut. 16:16)] – [with the word ‘all’] serving to include a minor.”

[D] And may one say, “‘Every male’ serves to include a deaf-mute?”

[E] “So that they may hear” (Deut. 31:12) serves to exclude a deaf-mute.

[F] “So that they may learn [teach] serves likewise to exclude a deaf-mute.”

[G] And may one say, “‘So that they may hear and learn’ serves to exclude a minor?”

[H] Said R. Yosé, “Since one verse of Scripture [‘all your males’] serves to include and another verse of Scripture [‘in order that they may hear’] serves to exclude, I shall include the minor, who will be liable to make a personal appearance [as a fully qualified person] in time to come, and I shall exclude the deaf-mute, who never will be liable to participate in time to come.”

[I] *Samuel bar Abba raised the following question before R. Zeira:* “As to a minor who is a deaf-mute, what is the law on his being liable [to make an appearance on a pilgrim-festival]?”

[J] *He said to him,* “Now look here! Do we have a native-born [Israelite] on earth, and a proselyte in the height of the heavens?! If an adult, who is a deaf-mute, is exempt, a minor, who is a deaf-mute, all the more so [will be exempt]!”

[K] Said R. Jeremiah, “In strict law, a minor who is not a deaf-mute should be exempt. It is a decree of Scripture [that he is liable, for it is said], ‘Every male’ serves to include a minor. [To the contrary] I should have proposed the following argument: Even an adult deaf-mute should be liable, so as not to make distinctions among those subject to the laws spun out of the reference to ‘Every male.’”

[L] *Accordingly there is need to cite that which R. Yosé has said*, “Since one verse of Scripture [‘all your males’] serves to include, and another verse of Scripture [‘in order that they may hear’] serves to exclude, I shall include the minor, who will be liable to make a personal appearance [as a fully qualified person] in time to come, and I shall exclude the deaf-mute, who never will be liable to participate in time to come.”

- [V:1 A] **One without pronounced sexual characteristics:** All concur in the case of one without pronounced sexual characteristics who was cut open and turned out to be a male on the first day of the festival, that he is liable [to make an appearance, even though, prior to the festival, he was not subject to liability].
- [B] *Concerning what case do they differ?*
- [C] Concerning a case in which he was cut open on other days [of the festival].
- [D] Hezekiah said, “When Scripture says, ‘Every male shall appear’ (Deut. 16:16), it means this: He who is obligated to make an appearance on the first day [of the festival] is liable to do so on the second. He who is not liable on the first day is not liable on the second [and this one is not liable on the first, so is not liable on the second].”
- [E] Said R. Yohanan, “All seven days [of the festival] serve to fulfill the obligation incurred on the first day. [When he turns out to be male, upon the exposure of his genitals, on the second or a later day of the festival, the obligation of appearance applies retroactively. This is now explained in what follows.]”
- [F] Said R. Ila, “It is from the case of the Second Passover that R. Yohanan has derived this view.
- [G] “Just as R. Yohanan has said there, ‘Celebrating the second Passover serves to fulfill the obligation incurred to keep the first,’

so he has said here, ‘All seven days of the festival serve to complete the obligation, incurred on the first day.’ [If someone cannot keep the first Passover, in Nisan, he keeps the second one, a month later, in Iyyar. So here too if someone does not observe the opening day of the festival, he may make it up later on during the remainder of the festival.]”

[H] R. Hoshaiah said, “All seven days constitute an obligation [to be observed equally]. [If one did not make his appearance on the first day, he does on a later day. Thus he concurs with Yohanan’s view.]”

[I] *What is the practical difference among the views just now expressed?*

[J] The case of a proselyte who converted to Judaism on the later days of a festival.

[K] *In the opinion of Hezekiah* he is exempt [from the obligation of a Temple].

[L] *In the opinion of R. Yohanan and of R. Hoshaiah*, he is liable [to make a Temple appearance].

[M] So too in the case of someone who became unclean [on the latter day of the festival], the matter goes along these same lines.

[N] If someone became unclean on the later days of the festival,

[O] *in the view of Hezekiah*, he is exempt.

[P] *In the view of R. Yohanan and R. Hoshaiah*, he is liable.

[Q] Said R. Yosé, “There he had been suitable [to make an appearance]. It was simply the fact that he was torn upon which caused [that fact of his suitability to become known].

[R] “But here [in the case of] the unclean person, he himself was not suitable [to observe the festival].”

[VI:1 A] **An androgyne:** “Every male” (Deut. 16:16) – serving to exclude an androgyne.

[B] *There we have learned:* [As to a newborn infant about whom there exists a] doubt [regarding his viability and] an

androgyne, they do not violate the Sabbath in his behalf [to circumcise him]. R. Judah permits doing so [M. Shab. 19:3].

- [C] *In regard to the androgyne in the present context, how does R. Judah rule?*
- [D] *Let us derive the answer from the following: Yohanan b. Dahabai in the name of R. Judah: “Also the blind man” is exempt from making an appearance [T. Hag. 1:1F].*
- [E] *And a man does not say, “Also,” unless he concurs with what has gone before.*
- [F] *In that case the theories imputed to R. Judah are at variance with one another.*
- [G] *There he has said that the intent of Scripture is to exclude the androgyne, and here he has said that it is to include him.*
- [H] *R. Judah and rabbis interpret a single verse of Scripture, “Any circumcised male, who is not circumcised in the flesh”*
- [I] *Rabbis interpret the reference to uncircumcised. Why does Scripture refer to an uncircumcised male? The meaning is to encompass only one who is wholly male [excluding the androgyne].*
- [J] *R. Judah interprets the word “male.” Why does Scripture then add the word “uncircumcised”? To encompass [in the concept of male] one of whom even part is uncircumcised.*
- [K] *But here, when Scripture says, “Every male,” its intent is to exclude the androgyne.*

[VII:1 A] Women: “Every male” (Deut. 16:16) serves to exclude women.

[VIII:1 A] Slaves: *Let us derive scriptural proof from the following: “Three times a year all your males shall appear before the Lord your God” (Deut. 16:16). This refers to him who has no lord except for the Holy One, blessed be he.*

[B] *It then excludes a slave, who has another lord.*

[C] *Said R. Joshua b. Levi, “How do we know that whoever carries out the religious duty of making an appearance [in line with Deut.*

16:16] is as if he receives the presence of the In-dwelling Presence of God?

[D] “It is on the basis of the following: ‘Three times a year all your males shall appear before the Lord your God’” (Deut. 16:16).

[IX:1 A] **The lame:** Since it is written, “pilgrim-festivals” [using the word RGL, foot].

[X:1 A] **The sick:** Since it is written, “And you will rejoice” (Deut. 16:14).

[XI:1 A] **The old:** Since it is written, “pilgrim-festivals” [and the aged cannot come by foot].

[B] *Said R. Yosé, “The intent of both exclusions is to impose a lenient ruling. If one can rejoice [being in good health] but he cannot walk, I cite in his regard the reference of Scripture to ‘pilgrim-festivals.’ If he can walk but cannot rejoice [being sick], I cite concerning him the reference of Scripture to ‘rejoicing.’ [Both then need not make the trip.]”*

[XII:1 A] Said R. Yohanan in the name of R. Yannai, “The House of Shammai and the House of Hillel interpret a single verse [in their dispute at M. 1:1H-J].

[B] “The House of Shammai say, ‘One verse of Scripture refers to ‘All your males,’ and one verse of Scripture refers to ‘pilgrim-festivals.’ Take an intermediate category [who will be subject to the requirement], namely, one who can ride on the shoulder of his father.’”

[C] Would this include even a minor, who can ride on his father’s shoulder and go out?

[D] Rather [we speak of] one who can see his father’s shoulder as he follows after him.

[E] “The House of Hillel interpret a single verse of Scripture as well: ‘One verse of Scripture states, ‘All your males,’ and another verse of Scripture says, ‘pilgrim-festivals.’ Take an intermediate category, namely, one who can hold his father’s hand to go up.’”

[F] Now with regard to matters of cultic cleanness, you rule [as follows]: As to one who can hold his father’s hand, a case of doubt is treated as is one pertaining to a person of sound senses [and the ruling is ‘clean’ in accord with M. Toh. 3:6].

[G] In the case of one whose father holds his hand, a matter of doubt is treated as is one involving a deaf-mute [and the ruling is ‘unclean’ in accord with M. Toh. 3:6].

[H] But here, one way or the other, he is liable [to make an appearance, in the view of the House of Hillel].

[XII:2 A] *R. Bun bar Hiyya raised the question before R. Zeira, “Where did they make their appearance-offering? Was it on the Temple Mount or in the courtyards?”*

[B] *He said to him, “Let us derive the answer from the following: An unclean person is exempt from the requirement of making an appearance, for it is written, ‘[But you shall seek the place which the Lord your God will choose;] thither shall you go, and thither shall you bring [your burnt-offerings and your sacrifices]’ (Deut. 12:5-6). Now may not an unclean person enter the Temple Mount? [Surely he may.] That indicates, then, that it is in the courtyard [to which he may not go] that they would make their appearance-offering.”*

[C] [When M. 1:1/I refers to **From Jerusalem to the Temple Mount,**] from what point in Jerusalem do they take the measurement, from the walls or from the houses?

[D] *Samuel taught, “From Siloam. And Siloam was in the middle of town.”*

[XII:3 A] *R. Bun bar Hiyya asked before R. Zeira, “What is the law as to sending one’s festal-offering with a third party?”*

[B] *He said to him, “Let us derive the answer from the following: Men afflicted with blisters or with a polypus are exempt from making an appearance, as it is said, ‘Thither shall you go, and thither shall you bring’ (Deut. 12:6).*

[C] *“An unclean person is exempt from having to bring an appearance-offering, for it is written, ‘When all Israel comes to appear before the Lord’ (Deut. 31:11).*

[D] *“He who is worthy to make an appearance with all Israel brings an appearance-offering, and he who is not worthy to make an appearance with all Israel does not bring an appearance-offering.”*

[E] *And may he send his festal-offering with a third party?*

[F] *Said R. Yosé, “That cited passage indicates that one may not send a festal-offering through a third party.”*

[G] R. Shimi asked, “Perhaps matters are reversed.

[H] “Men afflicted with blisters or with a polypus are exempt from making an appearance, as it is said, ‘When all Israel comes to appear before the Lord’ (Deut. 31:).”

[I] “An unclean person is exempt from having to bring an appearance-offering, for it is written, ‘Thither shall you go, and thither shall you bring’” (Deut. 12:6).

[J] R. Shimi retracted and said, “Men afflicted with blisters or with a polypus even though they are not suitable to come with all Israel are suitable to come all by themselves. An unclean person is suitable to come neither by himself nor with all Israel.”

[XII:4 A] If one designated an animal for use as a festal-offering and then died, as to his heirs, what is the law on their bringing it?

[B] R. Ila said, “The words ‘make an appearance’ are written two times [at Deut. 16:16]. He who is worthy to come brings an offering, and he who is not worthy to come does not bring an offering. [The deceased cannot bring the offering, and the heirs are exempt from bringing it for him.]”

[C] Said R. Zeira, “It is in accord with what both R. Yohanan and R. Jonathan say, ‘All the first-born of your sons you shall redeem’ (Exod. 34:20). This is even after death.

[D] “And here, ‘They shall not appear before the Lord empty-handed’ (Deut. 16:16) – even after death.”

[XII:5 A] Said R. Ba bar Mamel, “There is a dispute between Samuel and R. Yohanan. *For we have learned there: As to a woman who brought her sin-offering and died, her heirs should bring her burnt-offering. [If she brought] her burnt-offering but died [before it could be offered up] the heirs should not bring her sin-offering* [M. Qin. 2:5].

[B] “Samuel said, ‘That statement applies to a case in which the beast had been designated as a burnt-offering but not offered up in time.’

[C] “R. Yohanan said, ‘[Even if] it had not been designated [it still is offered up].’

[D] *How shall we interpret this dispute?* If it is a case in which the heirs have inherited real estate from the woman, *why in such a case does Samuel say*, “It involves a beast that the woman has designated [in her

lifetime]”? [The heirs take over her estate, and even after she has died they are responsible for her debts.]

[E] If we deal with a case in which the heirs inherited only movables, *why in such a case does R. Yohanan say*, “Even if it had not been designated [in her lifetime]?” [Why should the heirs be responsible, since they have not inherited real estate and so are not responsible for her debts at all!]

[F] *But what is at issue between [Samuel and Yohanan]?*

[G] A case in which the heirs inherited real estate.

[H] *In the view of Samuel* [speaking of the Temple treasurers who come to claim their due], as to laying claim to the property of the estate, they do not [have to bother to] lay claim, and as to seizing as a pledge property of the estate, they do not do that either. [The treasurers do not have to go to that trouble; if the beast had been designated, they just take it. Otherwise, the heirs owe nothing.]

[I] [76b] *As to the view of R. Yohanan*, with regard to seizing a pledge, they do seize property of the estate as a pledge [for what is owing to the Temple].

[J] If the heirs inherited movables only, *as to the view of R. Yohanan*, in regard to laying claim, they do lay claim against the estate. In regard to seizing a pledge, they do not seize a pledge.

[K] *In the view of Samuel*, even as regard to laying claim, they do not lay claim.

1:2

[A] **The House of Shammai say, “The appearance-offering must be worth at least two pieces of silver, and the festal-offering at least one maah of silver.”**

[B] **And the House of Hillel say, “The appearance-offering must be at least one maah of silver, and the festal-offering must be worth at least two pieces of silver.”**

[I:1 A] The appearance-offering is presented under the rules governing burnt-offerings, and the festal-offering is presented under the rules governing peace-offerings.

[B] The House of Shammai say, “They spend more on burnt-offerings and less on peace-offerings.”

- [C] The House of Hillel say, “They spend less on burnt-offerings and more on peace-offerings.”
- [D] R. Tanhum bar Ilai in the name of R. Yosé b. Haninah: “The House of Shammai derive their view from the analogy of offerings brought for Pentecost [Lev. 23:17-18]. The House of Hillel derive their view from the analogy of offerings brought by the princes [Num. 7:1-83].”
- [E] Said the House of Hillel to the House of Shammai, “Is it not better to derive the law governing the offering of an individual from the law governing the offering of an individual [prince], and not to derive the law governing the offering of an individual from the law governing the offering of the community as a whole?”
- [F] Said the House of Shammai to them, “It is better to derive the law governing an offering that is in force for generations from the law governing an offering that is in force from generations, and not to derive the law from the offerings brought by the princes, which is a kind of offering not in force for generations [but only occurred on one occasion].”
- [I:2 A]** *It has been taught:* There is a rule applying to the appearance-offering which does not apply to the festal-offering, and a rule applying to the festal-offering which does not apply to an appearance-offering.
- [B] For as to the appearance-offering, the whole of it is for the Most High, which is not the case for the festal-offering [which produces meat for the sacrificer].
- [C] [There is a rule applying to the festal-offering], for the festal-offering was given before Revelation and afterward, which is not the case for the appearance-offering.
- [D] The festal-offering applies before the Revelation, for the language word “festal-offering” is used before Revelation [as at Exod. 5:1]: “Let my people go, that they may prepare a festal-offering to me in the wilderness.”
- [E] There is a rule applying to the rejoicing [peace-offerings] which does not apply to the other two [appearance-offering, festal-offering].
- [F] For the rejoicing-offering applies both to that which belongs to the person who owns it as well as to someone else [in that the man provides for his wife from his own offering, which she does not own], and it applies both for him who usually [derives pleasure from] that sort of thing [namely, meat] and for him who does not usually [derive

pleasure from] it, that is, he too rejects thorough the meat of the peace-offerings].

[G] while in the case of these two others, the offering applies only to that which belongs to the sacrificer alone, and only in a matter [from] which the sacrificer usually [derives pleasure].

[H] *R. Yosé asked, “And why do we not learn the rule as follows: ‘Whoever is liable to bring an appearance-offering is liable to bring a rejoicing-offering [peace-offerings]? But there is one who is liable to bring a rejoicing-offering and is not liable to bring an appearance-offering. Specifically: Women are liable to bring a rejoicing-offering, but are not liable [M. 1:1] to bring an appearance-offering.’”*

[I] *R. Joshua b. Levi said, “‘And you will rejoice’ (Deut. 12:12). Even if you have to buy your meat in the market [not sacrificing a beast of your own]. [That is, one must eat meat, whatever its source.]”*

[J] *Said R. Eleazar, “Rejoicing is mentioned here [at Deut. 12:12], and rejoicing is stated elsewhere [at Deut. 12:6-7]. Just as rejoicing stated elsewhere refers to peace-offerings, so rejoicing referred to here refers to peace-offerings.”*

[K] *R. Huna ate a single share every day of the festival.*

[I:3 A] *Said R. Yohanan, “The specification of a *maah* of silver or two pieces of silver derives from the laws of the Torah.”*

[B] *R. Yosé taught before R. Yohanan, “An appearance-offering may be of any value whatsoever. It is the sages who ruled that it must be worth a *maah* of silver or two pieces of silver.”*

[C] *He said to him, “And is such a thing possible [that sages could impose a fixed value where the Torah specified none]?”*

[D] *Said R. Jonah, “And is it not so that as to all fixed measurements of the law, it is the sages who set those measurements: an olive’s bulk being the minimum volume of corpse-matter that imposes corpse-uncleanness, an olive’s bulk of carrion, a lentil’s bulk of a dead creeping-thing, [and the like]?”*

[E] *“The purpose of the question had only to do with that which R. Hoshaiiah has taught:*

[F] *“For R. Hoshaiiah taught: ‘They shall not appear before the Lord empty-handed’ (Deut. 16:16) – but even any volume at all [suffices]. It is the sages who rule that it must be worth a *maah* of silver or two pieces of silver.’”*

[G] “*Now the question is, ‘Where did sages derive support in the Torah for ruling that the offering must be worth a *maah* of silver or two pieces of silver?’*”

[H] *Said R. Yosé b. R. Bun, “R. Yohanan is consistent with his principles and R. Hoshaiiah is consistent with his.*

[I] “*R. Yohanan is consistent with his principles, for it is R. Yohanan who has said, ‘All fixed measurements were revealed as a law to Moses at Sinai. That is why he maintains that the requirement that the animals be worth a *maah* of silver or two pieces of silver is based on the authority of the Torah.’*”

[J] “*R. Hoshaiiah is consistent with his principles, for it is R. Hoshaiiah who has said, ‘He who eats forbidden food at this time has to make a record for himself of the volume that he has eaten. It is possible that another court will come along and change the measurements of the volume subject to liability. Then he will have a record of how much he has eaten. [Since he takes account of the possibility that the measurements change, he assumes the court, not the Torah, prescribes them.]’ Accordingly, he has said, ‘The value of an appearance-offering may be any amount of money at all, but it is sages who have ruled that it must be a *maah* of silver or two pieces of silver.’”*

[K] *They say that R. Yohanan retracted.*

[L] Both R. Jonah and R. Jonathan maintain that he did not retract.

[M] *There further is the following [evidence that R. Yohanan did not retract]:*

[N] *Said R. La in the name of R. Immi, “Hezekiah and R. Yohanan disputed as follows:*

[O] “*Hezekiah said, ‘A man may split up his obligation [for a festal-offering, which should be worth two pieces of silver] among two separate beasts [each of them worth a single piece of silver].’*”

[P] “*R. Yohanan said, ‘A man may not divide up his obligation among two beasts [each worth half of the required sum], but he has to provide two pieces of silver for each beast.’”*

[Q] *And R. Simeon b. Laqish said, in the name of Hezekiah, “A man may add unconsecrated beasts to the beast he uses for his festal-offering [so as to provide what is needed for all those*

whom he must feed], but a man may not add coins to the coins designated for the purchase of the festal-offering.”

[R] R. Yohanan said, “A man may add coins to the money he has designated, but a man may not add additional, unconsecrated beasts to the beast [through which he meets his obligation for a festal-offering].”

[S] *What would be a practical case [to illustrate what is at issue in this matter]?*

[T] If a man had designated ten animals [for his festal-offering], if he then offered up five [of them] on the first day of the festival – as to the surplus, what is the law on his putting them off to [and offering them on] the last day of the festival? [Even though thank-offerings and freewill offerings are not offered on a festival, these *were* set aside as offerings. They may be offered. Or, alternatively, whatever is not offered on the first day of the festival is not deemed a festal-offering at all and is not postponed to the final day of the festival.]

[U] *R. Qerispai said, “There is a dispute on this subject between R. Yohanan and R. Simeon b. Laqish.*

[V] “One of them said, ‘One postpones [sacrificing the animals to the last festival day].’

[W] “And the other said, ‘One does not postpone them.’

[X] “*But we do not know which one has said this, and which one has said that.*”

[Y] *Said R. Zeira, “Let us derive the opinions of the two rabbis from the statements [they have made elsewhere].*

[Z] “For R. Yohanan, who said, ‘A man may add money to money already designated for a festal-offering, but a man may not add unconsecrated beasts to the beast he has consecrated for that purpose,’ is [thus] the one who has said, ‘One may postpone offering them [and sacrifice them on the last day of the festival since these beasts have been purchased by money designated for use for the festal-offering, and so they are fit for use on the festival].’

[AA] “R. Simeon b. Laqish, who said, ‘A man may add [unconsecrated] beasts to the beast [he has set aside for the festal-offering], but a man may not add [unconsecrated] coins to the money [he has set aside],’ is [thus] the one who has said, ‘One may put off the animals [for offering at the end of the festival so the leftover animals are not subject to the sanctification for the festal-offering at all]. [Hence they are nothing more than animals for use in fulfilling a vow or for a thank-offering, and these may not be offered on the last festival day.]’”

[BB] Simeon bar Ba in the name of R. Yohanan: “A man may continue adding [to the beasts for his festal offering, and all of them] may then be put off to the last day of the festival, until he says, ‘I no longer have it in mind to add any more animals.’ [At that point he cannot designate any more animals as sacrifices for the festival.]”

1:3

[A] Burnt-offerings [for appearance-offerings] for the intermediate days of a festival derive from [beasts bought with] unconsecrated money.

[B] But peace-offerings [for festal-offerings] may come from money in the status of second tithe.

[C] On the first festival day,

[D] the House of Shammai say, “[The offering must derive] from unconsecrated-money.”

[E] And the House of Hillel say, “[It may derive] from money in the status of second tithe.”

[I:1 A] R. Tanhum bar Ilai in the name of R. Yosé b. R. Haninah: “Thus do the House of Shammai reply to the House of Hillel, ‘[Can then] an offering brought by reason of an obligation derive from funds in the status of second tithe?’ [That is contrary to the rule governing the source of funds for the purchase of an animal brought by reason of an obligation.]

[B] “‘They said to them, ‘[When the sacrificer is in Jerusalem and has not got enough money in unconsecrated funds for the purchase of sufficient food, he is permitted to purchase with unconsecrated funds one offering, and then to add to that offering a beast purchased with

funds in the status of second tithe, and then he eats the two together. Accordingly,] is it not so that on an unconsecrated occasion [not a festival] may one not bring one [animal purchased] with unconsecrated funds, and add to [it another purchased with] funds in the status of second tithe? Here too he brings one [animal deriving] from unconsecrated funds, and adds to [it another animal purchased] from funds designated as second tithe.”

- [C] And how do we know [that on an unconsecrated occasion] one may add funds to money designated as second tithe?
- [D] R. Yosé b. Hanina said, “Here it is stated, ‘[Then you shall keep the feast of weeks to the Lord your God with] the tribute [of a freewill offering from your hand, which you shall give as the Lord your God blesses you]’ (Deut. 16:10).
- [E] “And there it is stated, ‘[And if the way is too long for you,] so that you are not able to bring the tithe[, when the Lord your God blesses you, because the place is too far from you, which the Lord your God chooses, to set his name there]’ (Deut. 14:24).
- [F] “Just as ‘bringing’ in the latter verse speaks of second tithe, so ‘tribute’ in the present one speaks of second tithe.”
- [G] Said R. Eleazar, “[Here in the context of the festival] ‘rejoicing’ is mentioned, and there [in the context of the verse on second tithe], ‘rejoicing’ is mentioned. Just as ‘rejoicing’ [stated] further on [refers to] second tithe, so here ‘rejoicing’ [invokes the rule governing] second tithe.”
- [H] Then [by the reasoning of the House of Hillel, who have limited the matter merely to adding funds in second tithe to what is needed,] why should he not bring [the animals] entirely from [funds in the status of] second tithe?
- [I] Ulla bar Ishmael said, “Here it is stated, ‘[Then you shall keep the feast of weeks to the Lord your God with] the tribute [of a freewill offering from your hand, which you shall give as the Lord your God blesses you]’ (Deut. 16:10). And there it is stated, ‘[Portions were taken to them from Joseph’s table,] but Benjamin’s portion was five times as much as any of theirs. [So they drank and were merry with him] ‘ (Gen. 43:34). Just as the reference to ‘portions’ elsewhere indicates that one portion was principal, and the rest were secondary and additional, so the reference to ‘portions’ here indicates that one of them is principal, and the rest secondary.”

[J] Said R. Yosé b. R. Bun, “And are not freewill peace-offerings equivalent in status to festal peace-offerings? And why does Scripture treat the former as secondary to the latter [in that Scripture discusses the latter and ignores the former]? It is to indicate that they override the restrictions of the festival day [even though other offerings in fulfillment of vows or in expression of thanks, which are private, are not offered on the festival day]?”

1:4

[A] Israelites [but not priests] fulfill their obligation [in the case of peace-offerings of rejoicing] through offerings brought in fulfillment of vows and as thank-offerings,

[B] and through tithes of cattle [Lev. 27:32].

[C] And priests [do so] through sin-offerings, guilt-offerings [Num. 18:9], firstlings, and through the breast and shoulder,

[D] but not through fowl or meal-offerings.

[I:1 A] R. Zeira, Ulla bar Ishmael in the name of R. Eleazar: “With [an animal designated as] peace-offerings for the festal-offering, which one slaughtered on the eve of a festival [that is, prior to the festival day itself], one does not fulfill one’s obligation [to bring a festal-offering] on the festival itself. [The slaughtering of the festal-offering must take place at the time of the rejoicing on the festival itself, not prior to that time.]”

[B] *R. Ba objected*, “*Lo, it has been taught*, ‘With an animal designated as a festal-offering which one slaughtered on the fourteenth [of Nisan, that is, the day prior to the first festival day of Passover], people carry out their obligation on the count of the festal-offering required for Passover. [This festal-offering is slaughtered along with the Passover-offering, that is, prior to sundown on the fourteenth of Nisan.]’ Now do they not carry out their obligation with that animal on the count of peace-offerings?”

[C] Said R. Zeira, “Interpret that statement to speak of a case in which [one postponed] slaughtering the animal until the festival day itself.”

[D] [But, since the time of slaughtering it has passed, the beast falls into the category of peace-offerings,] R. Ba said to him, “If they slaughtered it on the festival, this no longer serves as a festal-offering on the fourteenth [of Nisan, accompanying the Passover, such as is required].”

- [E] *What is the upshot of the matter? [Do people carry out their obligation on the count of bringing peace-offerings as a festal-offering?]*
- [F] *Said R. Zeira, “When I was [still] there [in Babylonia], I heard Ulla bar Ishmael teach the following in the name of R. Eleazar, while when I came up here, I heard the teaching taught by R. Hiyya in the name of R. Eleazar: ‘[For seven days you shall keep the feast to the Lord your God at the place that the Lord will choose; because the Lord your God will bless you in all your produce and in all the work of your hands,] so that you will be altogether joyful’ (Deut. 16:15). The use of the word ‘altogether’ serves to encompass the night of the last day of the festival, [including that night within the season of] rejoicing. [At that time the festal-offering may be slaughtered to fulfill one’s obligation for the festival.]”*
- [G] Or is it possible to maintain [that “altogether”] also [serves the purpose of including] the first night of the festival?
- [H] Scripture has said, “Altogether,” serving to differentiate.[i.e., to exclude the first night].
- [I] R. Hiyya in the name of R. Eleazar, “‘And you shall rejoice in your feast’ (Deut. 16:14). Since you are liable for an offering of rejoicing, you are liable for festal-offering. [One is not liable on the first night of a festival for a festal-offering, therefore one is not liable to slaughter at that time an offering of rejoicing.]”
- [J] *They objected, “Lo, we have learned that **the [recitation of the] Hallel-psalms and the rejoicing [-offering go on for] eight days [M. Suk. 4:5].** Now what if the first day of the festival should coincide with the Sabbath? [The festal-offering cannot be slaughtered that day.] As to slaughtering the festal-offering on the eve of the festival [that is, on Friday], one is not permitted to do so either.*
- [K] “For R. Zeira has said Ulla bar Ishmael in the name of R. Eleazar stated, ‘With peace-offerings [76c] brought as a festal-offering which one slaughtered on the eve of the festival one cannot carry out his obligation for a festal-offering for the festival itself.’ As to slaughtering the animal on the festival, that too you cannot do, for we have learned that a festal-offering does not override the prohibitions of the Sabbath. So under what circumstances have they stated that the [recitation of the] Hallel-psalms and the rejoicing [-offering go on for] eight days?”

[L] *Said R. Yosé, “R. Abodemi, the Traveller [to and from Babylonia], interpreted the passage to speak of priests [who may offer a rejoicing-offering eight days], who could offer a goat [offered on the festival day, through which they would carry out their obligation to eat a rejoicing-offering (= M. Hag. 1:4C)].”*

[II:1 A] But not through fowl or meal-offerings [M. 1:4D]:

[B] For in this connection, Scripture speaks of a sacrifice [and these are not sacrifices].

1:5

[A] **He who has many who eat [with him] and limited property brings many peace-offerings but few whole-offerings.**

[Bl] **[If he has] abundant property and few who eat [with him], he brings abundant whole-offerings and only a few peace-offerings.**

[C] **If both this and that are limited, concerning such a person it is said, “One maah of silver and two pieces of silver [are to be the value of the offering]” [M. 1:2B].**

[D] **[If] he has an abundance of both, concerning this one it is said, “Every man shall give as he is able, according to the blessing of the Lord thy God which he has given you” (Deut. 16:17).**

[I:1 A] [If a man is] poor but generous, concerning him I cite the verse, “Every man shall give as he is able” (Deut. 16:17).

[B] [If a man is] rich and stingy, concerning him I cite the verse, “According to the blessing of the Lord thy God which he has given you.”

[C] [If a man is] poor and stingy, in his regard it is said, **“One may not [offer a beast worth] less than two pieces of silver” [M. 1:2B].**

[D] [When the passage refers to] “man,” [the intent is] to exclude reference to a minor.

[I:2 A] *R. Jeremiah raised the question, “[If a man] said, ‘Lo, I pledge myself to bring a festal-offering worth five selas,’ and he brought one worth two, has he carried out his obligation [to bring a festal-offering], or do we maintain that the obligation to bring one worth five has been established?”*

[B] Said to him R. Yosé, “And why [should the obligation to bring one worth five] not [have been established, and that is what he must

bring]? If someone had said, ‘Lo, I am obligated to bring a guilt-offering worth five *selas* even though the requirement is that it cost two *selas*], has the obligation to bring one worth five not been established [by his vow]? [It certainly has.] And here too that obligation is established.”

1:6

[A] He who did not make a festal-offering on the first festival day of a festival may make festal-offerings throughout the entire festival, including the last festival day of the Festival [of Tabernacles].

[B] [But if] the festival had passed and he did not make a festal-offering, he is not liable to make it good.

[C] Of such a person it is said, “That which is crooked cannot be made straight, and that which is wanting cannot be reckoned” (Qoh. 1:15).

[I:1 A] R. Yohanan in the name of R. Ishmael: “‘Fifteen’ is stated with reference to Passover [which starts on the fifteenth of Nisan], and ‘fifteen’ is stated with reference to Tabernacles [which starts on the fifteenth of Tishré]. Just as, in the case of Passover, with reference to which fifteenth is stated, offerings brought on the final day of the festival may make up what has been left out on the first [as at M. 1:6A], so in the case of Tabernacles, with reference to which fifteenth is stated, offerings brought on the final day of the festival may make up what has been lacking on the first.”

[B] Judah bar Safra in the name of R. Josiah: “‘And you shall keep it as a feast [bringing a festal-offering] unto the Lord seven days in the year’ (Lev. 23:41). And are they seven days? Are they not eight days [of the festival, inclusive of the Eighth Day of Gathering]?”

[C] “‘But [this indicates that] the Sabbath is excluded from [the number of days], leaving seven [on which the festal-offering may be brought].”

[D] Said R. Yosé, “And is it from this passage that we learn that the festal-offering does not override [the restrictions of] the Sabbath? Is it not from another passage entirely? [For a festal-offering need not be brought at a specific time, so there is no need to offer it on the Sabbath. One may make up the requisite offering on any other day of the festival.]”

[E] *Objecting [to B’s statement], R. Judah brother of R. Safra [stated], “Lo, with regard to the Passover the same requirement is stated [that*

there be seven festal-offerings]. If that [argument given at B] is the case, then one should deduct the Sabbath and that would leave six.

[F] “If [furthermore] the first and the final festival days both should coincide with the Sabbath, you have to deduct two festival days, and the requirement will be only six!”

[G] R. Hananiah, Judah bar Safra in the name of R. Hoshaiyah: “‘You shall keep it as a feast to the Lord seven days in the year; [it is a statute for ever throughout your generations; you shall keep it in the seventh month]’ (Lev. 23:41). And are they seven days? [Are they not eight days? But this indicates that the Sabbath is excluded from the number of days, leaving seven [on which the festal-offering may be brought], for we already have learned that the festal-offering does not override [the prohibitions of] the Sabbath.

[H] “Why then does Scripture say, ‘You shall keep it as a feast [offer a festal-offering]’? But this indicates that the eighth day of the festival may serve to make up what has been omitted from the first day [onward, as M. 1:6A indicates].”

[I:2 A] *Said R. Yohanan, “And so has it been taught:*

[B] “The eighth day of the Tabernacles is a festival day on its own. [There is a casting of] lots [for that day] on its own [by the priests]; there is a blessing [‘who has kept us in life’] on its own, it is an occasion for an offering on its own.”

[C] “It is a festival day on its own.”

[D] For said R. Abun said in the name of R. Aha, “In regard to all [of the festivals], the language ‘and on the day’ is written. And in regard to the eighth day [of Tabernacles] likewise, ‘and on the day’ is written. This serves to teach you that it is regarded as a festival on its own.

[E] “There is a casting of lots [by the priests for that day].”

[F] *R. Yosé said, “A Tannaite teaching has made the same point: **On the eighth day they once again cast lots as at the other festivals [M. Suk. 5:6].”***

[G] [As to a] blessing: Said R. La, “[The blessing ‘who has kept us in life’] is said on any occasion on which there is an offering of a cow and a ram.”

1:7

[A] **R. Simeon b. Menasia** says, “What is ‘that which is crooked which cannot be made straight’ [Qoh. 1:15]?”

[B] “This is one who has sexual relations with a woman in a forbidden relationship and produces a mamzer from her.

[C] “If you should claim [that it applies] to a thief or a robber, he can make restitution and ‘be made straight.’”

[D] **R. Simeon b. Menasia** says, “They call that which is crooked only one who was straight to begin with and who became crooked. What is such a person? It is a disciple of a sage who took his leave of the Torah.”

[I:1 A] *R. Simeon b. Yohai taught: “If you see towns that have been uprooted from their location in the Land of Israel, you should know that the inhabitants did not faithfully pay the fee of the scribes and teachers [who worked there].”*

[B] *What is the scriptural basis for that statement?*

[C] “Why is the land ruined and laid waste like a wilderness, so that no one passes through? And the Lord says, ‘Because they have forsaken my law which I set before them’” (Jer. 9:12-13).

[I:2 A] *R. Yudan the Patriarch sent R. Hiyya, R. Assi, and R. Ammi to travel among the towns of the Land of Israel to provide for them scribes and teachers. They came to one place and found neither a scribe nor a teacher. They said to the people, “Bring us the guardians of the town.” The people brought them the citizens of senatorial class in the town.*

[B] *They said to them: “Do you think these are the guardians of the town? They are nothing other than the destroyers of the town.”*

[C] *They said to them, “And who are the guardians of the town?”*

[D] *They said to them, “The scribes and teachers.”*

[E] *That is in line with what is written: “Unless the Lord builds the house[, those who build it labor in vain. Unless the Lord watches over the city, the watchman stays awake in vain]” (Ps. 127:1).*

[I:3 A] **R. Huna, R. Jeremiah** in the name of **R. Samuel bar R. Isaac**: “We find that the Holy One, blessed be he, forgave Israel for idolatry, fornication, and murder. [But] for their rejection of the Torah he never forgave them.”

[B] *What is the scriptural basis for that view?*

[C] It is not written, “Because they practiced idolatry, fornication, and murder,” but rather, “And the Lord said, ‘Because they have forsaken my Torah.’”

[D] Said R. Hiyya bar Ba, “If they were to forsake me, I should forgive them, for they may yet keep my Torah. For if they should forsake me but keep my Torah, the leaven that is in [the Torah] will bring them closer to me.”

[E] R. Huna said, “Study Torah [even if it is] not for its own sake, for, out of [doing so] not for its own sake, you will come [to study it] for its own sake.”

[I:4 A] When R. Judah would see a deceased person or a bride being praised, he would set his eyes on the disciples and say, “Deeds come before learning. [The students should go after the crowd to praise the dead or the bride, for doing so is a religious duty.]”

[B] They voted in the upper room of the house of Aris: “Learning comes before deeds.”

[C] *R. Abbahu was in Caesarea. He sent R. Haninah, his son, to study Torah in Tiberias. They sent and told him, “He is doing deeds of kindness [burying the dead] there [and not studying].”*

[D] He sent and wrote to him, “Is it because there are no graves in Caesarea that I sent you to Tiberias [to go around burying people]? And they have in fact taken a vote in the upper room of the house of Aris in Lud: ‘Studying Torah takes precedence over deeds.’”

[E] *Rabbis of Caesarea say, “That which you say [applies to a case] in which there is someone else who can do [the deeds that are required]. But if there is no one else [available] to do the [required] deeds, then [doing] the religious deed takes precedence over study of Torah.”*

[F] *Once R. Hiyya, R. Yosé, R. Ammi were late in coming to see R. Eleazar. He said to them, “Where were you today?”*

[G] *They said to him, “We had to do a deed of kindness.”*

[H] *He said to them, “And were there no others [available to do it]?”*

[I] *They said to him, “He was an alien in the country [and had no one else to bury him, his relatives being overseas].”*

1:8

[A] The release of vows hovers in the air, for it has nothing [in the Torah] upon which to depend.

[B] The laws of the Sabbath, festal-offerings, and sacrilege – lo, they are like mountains hanging by a hair,

[C] for they have little Scripture for many laws.

[D] Laws concerning civil litigations, the sacrificial cult, things to be kept cultically clean, sources of cultic uncleanness, and prohibited consanguineous marriages have much on which to depend.

[E] And both these and those [equally] are the essentials of the Torah.

[I:1 A] *[With reference to M. 1:8A,] it has been taught:* R. Eliezer says, “[The release of vows] does have that upon which to depend, ‘I have sworn an oath and will fulfill it [to observe thy righteous ordinances]’ (Ps. 119:106). [That indicates that] there are occasions on which [an oath] is not fulfilled.”

[B] R. Joshua says, “[The release of vows] does have that upon which to depend: ‘Therefore I swore in my anger [that they should not enter my rest]’ (Ps. 95:11). I swore in my anger, but I retract.”

[I:2 A] *There we have learned: Four [kinds of] vow have sages allowed [to be released] [M. Ned. 3:1A].*

[B] Now is it not the case that sages are the ones to allow [the release of] all sorts of vows?

[C] It is written, “Moses said to the heads of the tribes of the people of Israel[, ‘This is what the Lord has commanded’]” (Num. 30:1).

[D] The entire passage [dealing with vows] is addressed to the heads of the tribes, [indicating that] they are the ones who are allowed [to release vows].

[E] R. Judah in the name of Samuel: “It is written, ‘[When a man vows a vow of the Lord, or swears an oath to bind himself by a pledge,] he shall not break his word; [he shall do according to all that proceeds out of his mouth]’ (Num. 30:2). He shall not break his word, [but] another may break his word by making it no longer consecrated, and who is this? It is a sage who releases his vow for him.”

[F] R. Zeira, R. Judah, Jeremiah bar Abba in the name of Samuel: “Three who are expert in finding proper grounds for the release of vows may do so just as does an elder.”

- [G] *They proposed to rule that that is the case in a place in which there is no elder.*
- [H] Rabbis of Caesarea said, “That is the case even in a place in which an elder is available.”
- [I] *They said before R. Yosé, R. Huna: “‘Heads of the tribes’ [Must one be head of a tribe to release a vow as an individual?].”*
- [J] *He said to them, “Yes. If R. Huna is not in [the class] of heads of tribes, who is in that class? R. Huna is the head of the heads of tribes.”*
- [I:3 A]** What is [the law] as to appointing elders [to serve] for specific purposes [only]?
- [B] *Let us derive the answer from the following:*
- [C] *Rabbi appointed Rab to release vows and to examine women’s menstrual stains. After he had died, Rab requested permission of his son [to examine] blemishes of firstlings.*
- [D] The son said to him, “I am not going to add to what Father assigned to you.”
- [E] *Said R. Yosé b. R. Bun, “[Rabbi] had permitted him [all rabbinic functions], to judge cases all by himself, to release vows, to examine external blemishes. When Rabbi died, Rab asked his son for permission to assess blemishes that are in hidden parts of the body.*
- [F] He said to him: ‘I am not going to add to what Father assigned to you.’”
- [G] Even though you have said that they do appoint elders to serve for specific purposes only, that is the case only if the one appointed is suitable to carry out all sorts of tasks.
- [H] *It is in line with the following: R. Joshua b. Levi appointed all his disciples [to carry out official duties], but he was distressed in regard to one of them, who had weak eyes, and he could not appoint him. He did assign him to carry out some tasks.*
- [I] *That implies that one who is suitable for all tasks is suitable to carry out only one task, but one who is not*

[76d] suitable for all tasks is not suitable even for one task.

[J] What is the law as to appointing elders for a limited period of time?

[K] *Let us derive the answer from the following:*

[L] *R. Hiyya bar Ba came to R. Eleazar, saying to him, "Recommend me to R. Yudan the Patriarch, so that he will write a letter of recommendation for me as I go abroad to make my living." He recommended him, and [the patriarch] wrote the following letter for him: "Lo, we send you a great man. He is our messenger and stands in our stead until he comes back to us."*

[M] *R. Hezekiah, R. Dosetai, R. Abba bar Zamina — and some present the same saying in the name of R. Dosai the Elder: "Thus did he write for him: 'Lo, we send you a great man. And what is the greatness that is his? That he is not ashamed to say, 'I have not heard [the law].'"*

[I:4 A] What is the law as to releasing vows while wrapped in a traveling cloak [instead of a rabbinical cloak]?

[B] R. Abbahu in the name of R. Yohanan: "They release vows while garbed in a traveling cloak."

[C] Rabbi released vows while garbed in a traveling cloak.

[D] R. Joshua b. Levi released vows while garbed in a traveling cloak.

[E] R. Huna in the name of R. Jeremiah: "That is the case when one does not have a rabbinical cloak [*tallit*]."

[F] Said R. Yosé b. R. Bun, "It is in the case of more lenient vows [that a more lenient ruling applies]."

[II:1 A] **The laws of the Sabbath [M. 1:8B]:** *R. Jonah said R. Hama bar Uqba raised the question [in reference to M. 1:8B's omission of laws of purity in the category of Scripture], "And lo, it is only written, 'Nevertheless a spring or a cistern holding water shall be clean; [but whatever touches their carcass shall be unclean]' (Lev. 11:36). And from this verse you drive many laws. [So how can M. 1:8B omit laws of purity?]"*

[B] R. Zeira in the name of R. Yohanan: “If a law comes to hand and you do not know its nature, do not reinterpret it [as applying] to another matter, for lo, many laws were stated to Moses at Sinai, and all of them have been imbedded in the Mishnah.”

[C] Said R. Abun, “And that is so. Lo, there is the law about two kinds of wheat. Now had Nahum not come and explained the matter to us, should we have known its meaning [cf. M. Pe. 2:4].”

[II:2 A] R. Zeira in the name of R. Eleazar: “‘Were I to write for him most of my laws, would they not be regarded as a strange thing?’ (Hos. 8:12). Now is the greater part of the Torah written down? [Surely not. The oral part is much greater.] But more abundant are the matters that are derived by exegesis from the written Torah than those derived by exegesis from the oral Torah.”

[B] *And is that so?*

[C] But more cherished are those matters that rest upon the written Torah and those that rest upon the oral Torah.

[D] Said R. Judah bar Pazzi, “‘Were I to write for him most of my laws’ – this refers to the admonitions.”

[E] “Even so, would they not be regarded as a strange thing?”

[F] Said R. Abun, “‘Were I to write for him most of my laws, would they not be regarded as a strange thing?’ What is the difference between them and [the sages of] the nations? These produce their books, and those produce theirs. These produce their documents, and those produce theirs.” [Thus, the oral Torah serves to distinguish between Israel and the nations.]

[II:3 A] R. Haggai in the name of R. Samuel bar Nahman, “Some teachings were handed on orally, and some things were handed on in writing, and we do not know which of them is the more precious. But on the basis of that which is written, ‘And the Lord said to Moses, Write these words; in accordance with [lit., the mouth of] these words I have made a covenant with you and with Israel’ (Exod. 34:27), that is to say that the ones that are handed on orally are the more precious.”

[B] R. Yohanan and R. Yudan b. R. Simeon – One said, “If you have kept what is preserved orally and also kept what is in writing, I shall make a covenant with you, and if not, I shall not make a covenant with you.”

[C] The other said, “If you have kept what is preserved orally and you have kept what is preserved in writing, you shall receive a reward, and if not, you shall not receive a reward.”

[D] [With reference to Deut. 9:10:”And on them was written according to all the words that the Lord spoke with you in the mount,”] said R. Joshua b. Levi, “[He could have written] ‘On them,’ [but wrote] ‘And on them.’ [He could have written] ‘All,’ [but wrote] ‘According to all.’ [He could have written] ‘Words,’ [but wrote] ‘The words.’ [These then serve as three including clauses, serving to include] Scripture, Mishnah, Talmud, laws, and lore. Every [decision] that an experienced student in the future will render before his master already has been stated to Moses at Sinai.”

[E] *What is the scriptural basis for this view?*

[F] “There is no remembrance of former things, nor will there be any remembrance of later things yet to happen among those who come after” (Qoh. 1:11).

[G] If someone says, “See, this is a new thing,” his fellow will answer him, saying to him, “This has been around before us for a long time.”

[II:4 A] R. Zeira in the name of Samuel: “One does not make a decision on the basis of laws [revealed to Moses at Sinai] or lore, or Tosefta-teachings, but only on the basis of Talmud.”

[B] *But did not R. Halapta bar Saul teach,* “The law [in M. Pe. 2:6] governing two types of wheat is the same as the law governing two types of barley” [and this conclusion was reached only on the basis of reasoning, not on the basis of laws revealed to Moses at Sinai].

[C] R. Zeira said,]”That was precisely how they had received the law, but they had forgotten it: The same law applies to two types of wheat and to two types of barley.

[D] *And lo, we have learned: If he uprooted fresh onions for the market and left others to remain and dry for the storage chamber, he must give peah for these by themselves and for those by themselves [M. Pe. 3:3].* [Now this law runs parallel to M. Pe. 2:6’s rule, confirmed by Nahum the Scribe, that if one sowed his field in two kinds of wheat and threshed them together, he gives one *peah*, but if he threshed them separately, he gives two distinct *peahs*.]

[E] Now can you say that the matter of the marketplace and the threshing floor constituted laws that they had had in hand but forgot [and not laws that they had derived through a process of analogy, that is, the rule on the onions from the rule on the wheat]? [Surely not!]

[II:5 A] R. Hananiah in the name of Samuel: “They do not derive rules of law from instructions [handed down in particular situations].”

[B] All concur that they do not derive rules of law from [the decisions rendered] in particular situations [without further confirmation].

[C] *Said to him R. Mana, “That which you have said applies to a case in which one did not give a reason for his ruling. But in a case in which one gave a reason for his ruling, one may apply the law likewise.”*

[D] *He said to him, “Whether one gave a reason for his ruling or did not give a reason for his ruling, it applies in a case in which there is contrary opinion. But in a case in which there is no contrary opinion, whether one has given a reason for his ruling or not, one may apply the law in accord with the stated view.”*

[II:6 A] R. Abbahu in the name of R. Yohanan: “In the case of all matters subject to prohibition by the laws of the Torah [involving mixtures], if one nullified such a prohibition by inadvertently adding [permitted substances], the matter is permitted, but if he did so deliberately, the matter is prohibited.”

[B] *Now is this not [the clear message of] the Mishnah: [If one seah of food designated for the priest fell into less than a hundred of common produce, and other common produce afterward fell therein,] if this was inadvertent, the whole is permitted, but if it was deliberate, it is forbidden [M. Ter. 5:9]?*

[C] *The Mishnah speaks of priestly food, which is subject to strict rules. The purpose of [Yohanan’s statement] is to tell you that even in regard to other matters[, which are subject to less strict provisions, the law is the same].*

[II:7 A] R. Aha in the name of R. Jonathan: “Just as it is a religious duty to speak out in a case in which what one says will be obeyed, so it is a religious duty not to speak out in a case in which what one says will not be obeyed.”

[B] Said R. Eleazar, “Just as it is prohibited to declare what is unclean to be clean, so it is prohibited to declare what is clean to be unclean.”

- [C] R. Aha bar Jacob in the name of R. Yohanan, “If a case of law comes to hand in which you do not know whether [to declare something unclean and so to order it to be] burned, or whether to hold the item in suspense, you ought under all circumstances to prefer [the alternative of] burning rather than [that of] holding the matter in suspense.
- [D] “For there is no offering in the Torah more beloved than the offering of bullocks which are to be burned and goats which are to be burned, and [they are, indeed, disposed of] by burning up.”
- [E] *R. Yosé raised the question*, “Do they learn the rule governing a matter the religious duty of which is not in so doing, from a matter of religious duty of which indeed is in so doing? [That is, the religious duty concerning the bullocks and goats is to burn them up. But no religious duty attends upon burning up what is not definitely unclean.]”

YERUSHALMI HAGIGAH

CHAPTER TWO

2:1

[A] [77a] They do not expound upon the laws of prohibited relationships [Lev. 18] before three persons, the Works of Creation [Gen. 1] before two, or the Chariot [Ezek. 1] before one,

[B] unless he was a sage and understands of his own knowledge.

[C] Whoever reflects upon four things would have been better off had he not been born:

[D] what is above, what is below, what is before, and what is beyond.

[E] And whoever has no concern for the glory of his maker would have been better off had he not been born.

[I:1 A] **The forbidden degrees are not expounded to three.** *R. [Ab]ba [said] in the name of R. Judah, “This [halakhah] comes from R. Aqiba” [in whose view one participating actively and passively in a prohibited sexual encounter violates one prohibition, based on his exposition of a particular verse].*

[B] *But [not] according to R. Ishmael, who taught, “Explicit warnings [must be given] about the matter [before the transgressor becomes liable to punishment],” based on his exposition of the verses; the subtle distinction may easily be lost by the inattention stemming from by-play [between two of the three students].*

[C] *Is this the law?*

[D] *R. Ammi sat teaching, “[One gives a warning to] both the active partner and to the passive one”*

[E] *This tells [us] that the law is according to R. Ishmael.*

[II:1 A] **Nor the Work of Creation to two.** *R. [Ab]ba in the name of R. Judah: “This [halakhah] comes from R. Aqiba.”*

- [B] But they expound [the Work of Creation before two], as R. Ishmael holds.
- [C] *One deduces that the law is according to R. Ishmael from the following:*
- [D] *R. Judah bar Pazzi sat teaching, “In the beginning the world consisted of water upon water.”*
- [E] R. Judah bar Pazzi expounded, “In the beginning the world consisted of water [heaped] on water.” *That indicates that the law accords with the view of R. Ishmael.*
- [F] *What is the proof?* “And the Spirit/Wind of God moved over the face of the waters” (Gen. 1:2).
- [G] Then he made the snow – “He casts forth his ice like morsels” (Ps. 147:17).
- [H] Then he made the earth – “For to the snow he says, ‘Become earth’” (Job 37:6).
- [I] And the earth stands on the waters: “To him who spread out the earth on the waters” (Ps. 136:6).
- [J] And the waters stand on the mountains: “The waters stood over the mountains” (Ps. 104: 6).
- [K] And the mountains stand on the wind: “For behold, he forms the mountains and creates the wind” (Amos 4:13).
- [L] And the air depends on the storm-wind: “The storm-wind fulfills his command” (Ps. 148:8).
- [M] The Holy One, blessed be he, made the storm-wind like a sort of amulet suspended from his arm, as it is said, “And underneath are the arms of the world” (Deut. 33:27).
- [N] “For behold, he forms the mountains” – this is one of the six biblical passages over which Rabbi wept while reading them: “Seek the Lord, all you humble of the earth” (Zeph. 2:3), “Hate evil, and love good” (Amos 5:15), “Let him put his mouth in the dust” (Lam. 3:29), “For God will bring every evil deed into judgment” (Eccles. 12:14), “And Samuel said to Saul, ‘Why have you provoked me?’” (1 Sam. 28:15).
- [O] [As to the last of these, the relevance of which is shown in a moment,] Samuel said to him, “You have succeeded only in provoking your creator against me. You have made me your idol.

Do you not know that just as they punish him who serves [an idol], so they punish him who is worshipped? But even more, I thought that it was the Day of Judgment, and I was afraid.”

[P] Are not the words an argument *a minori ad maius*: just as Samuel, the chief of the prophets, about whom it is written, “And all Israel from Beersheba to Dan knew” (1 Sam. 3:20), was afraid of the Day of Judgment, how much more should we fear it!

[Q] The argument is supported by [the following verse: “He forms the hills and creates the wind” (Amos 4:13). Even matters that are not sinful are inscribed against a man upon his [heavenly] tablet.

[R] And who tells man? The breath from his mouth.

[S] R. Haggai in the name of R. Yabes: ““He forms the hills and creates the wind/breath” (Amos 4:13)

[T] *R. Haggai also in the name of R. Yabes: “These men of Sepphoris [say that the word tohu] means ‘darkness’ and ‘a gloomy place.’”*

[U] R. Judah bar Pazzi in the name of R. Yosé b. R. Judah: “*Hadrian asked the proselyte Aqila, ‘Is it true that you [Jews] say that the world is suspended on air?’ ‘Yes,’ said Aqila.*

[V] “*Hadrian said to him, ‘How will you prove it to me?’*

[W] “*Aqila said to him, ‘Bring me young camels.’ He brought him young camels. He loaded and raised them up. He made them sink down, took them and strangled them.*

[X] “*He said to Hadrian, ‘See your camels, raise them up!’*

[Y] “*Hadrian said, ‘After you have strangled them!’*

[Z] “*He said to him, ‘What do they lack except the air that has gone out of them?’”*

[III:1 A] Nor the Chariot before one: Is this also according to R. Aqiba?

[B] [No!] It is the opinion of all [the sages], in order that a man might know that he should have consideration for the glory of his Creator.

[C] Has not Rab said, “A man is not permitted to speak on [this] subject in the presence of his master unless he has approved or unless he has served [his apprenticeship]”?

[D] How does one proceed?

[E] First his master summarizes for him the chief points of the chapters, then he approves [to the disciple expounding the rest].

[F] R. Hiyya in the name of R. Yohanan: “Rabbi had a distinguished disciple, and he expounded one chapter in the Work of the Chariot without Rabbi’s permission. He was smitten by a skin disease.”

[G] This teaching is like two paths, one of fire and one of snow. If one inclines to this side, one dies by fire; to that side, and one dies by snow. What should one do? Walk in the middle.

[III:2 A] Once Rabban Yohanan ben Zakkai was going on the road, riding on an ass, and R. Eleazar ben Arakh was walking behind him. [Eleazar] said to Yohanan, “Master, teach me a chapter in the Work of the Chariot.”

[B] [R. Yohanan] said to him, “Have not the sages taught thus: **Nor the Chariot unless he is a sage and understands of his own knowledge?**”

[C] [R. Eleazar] said to him, “Master, give me permission to speak about the subject in your presence.” He said to him, “Speak!”

[D] As soon as R. Eleazar ben Arakh opened [his discourse] on the Work of the Chariot, Rabban Yohanan ben Zakkai got off the ass, saying, “It is not right that I should be hearing about the glory of my Creator while still seated on an ass!” They went and sat down under a tree.

[E] Then fire fell from heaven and surrounded them, and the ministering angels skipped before them like wedding guests rejoicing before the bridegroom. An angel answered from the midst of the fire and said, “According to your words, Eleazar ben Arakh, is the Work of the Chariot.”

[F] Immediately all the trees opened their mouths and sang, “Then shall all the trees of the wood sing for joy” (Ps. 96:12).

[G] When R. Eleazar ben Arakh finished [expounding] the Work of the Chariot, Rabban Yohanan ben Zakkai stood up and kissed him upon his head and said, “Blessed be the Lord, God of Abraham, Isaac, and Jacob, who has given to Abraham our father a wise son who knows how to expound on the glory of our father who is in heaven. Some

expound well, but do not fulfill well; some fulfill well, but do not expound well. Eleazar ben Arakh expounds well and fulfills well. Happy are you, Abraham our father, that Eleazar ben Arakh has come forth from your loins.”

[H] When R. Yosé the Priest and R. Simeon ben Nathanel heard [about it], they also began [a discourse] on the Work of the Chariot. They said: it was a day in the summer season, and the earth shook and a rainbow appeared in the cloud. And a [heavenly] echo came forth and said to them, “Behold, the place is vacant for you and the dining couches laid out for you. You and your disciples are destined for the third stage of heaven.”

[I] *This corresponds to that which is said:* “In your presence there is fulness of joy” (Ps. 16:11). There are seven classes of righteous in the time to come.

[III:3 A] Another time, R. Joshua was walking on a road and Ben Zoma came up opposite him. Joshua greeted him, but he did not reply to him. He said to him, “Whence and where, Ben Zoma?”

[B] Ben Zoma said to him, “I have been speculating on the Work of [77b] Creation. Between the upper and the lower waters there is nothing but a hand’s breadth. It is said here, ‘hovering,’ and it is said there: ‘As an eagle stirs up its nest [and] hovers over its young’ (Deut. 32:11). Just as the ‘hovering’ which is spoken of there [implies] almost touching but not quite, so the ‘hovering’ spoken of here is ‘almost touching but not quite.’”

[C] R. Joshua said to his disciples, “See, Ben Zoma is outside.”

[D] It was only a few days before Ben Zoma died.

[III:4 A] R. Judah bar Pazzi in the name of R. Yosé b. R. Judah: “Three put forward their teaching [on this subject] before their master, R. Joshua before Rabban Yohanan ben Zakkai, Rabbi Aqiba before R. Joshua, Hananiah ben Hakinai before R. Aqiba. After that time their knowledge becomes unclear [i.e., the oral tradition of the Merkabah is no longer reliable].”

[III:5 A] Four entered the Garden [or Paradise]. One cast a look and died. One cast a look and was stricken [or went mad]. One cast a look and cut among the shoots. One entered safely and departed safely.

[B] Ben Azzai cast a look and was stricken. Of him Scripture says: “If you have found honey, eat only enough for you” (Prov. 25:16).

[C] Ben Zoma cast a look and died. Of him Scripture says: “Precious in the sight of the Lord is the death of his saints” (Ps. 116:15).

[D] Aher cast a look and cut among the shoots.

[III:6 A] *Who is Aher?* Elisha ben Abbuyah, who slew the young scholars of the Torah.

[B] *They say: He used to kill every disciple he saw mastering the Torah. Moreover, he used to enter the schoolhouse, and when he saw the pupils in the presence of the teacher he would say, “What are these doing here? This one should be a mason; this one should be a carpenter; this one should be a fisherman; this one should be a tailor.”*

[C] *When they heard this they would leave [the teacher] and go [and become workmen].*

[D] Of him Scripture says: “Let not your mouth lead you into sin” (Eccles. 5:5).

[E] For he ruined his own [good] deeds. *Also at the time of the persecution they [the Romans] made [the Jews] carry burdens [on the Sabbath], and the Jews arranged it so that two people should share one load, because of the rule that two people doing one piece of work [are not liable in regard to a Sabbath violation].*

[F] *Elisha said, “Make them carry the loads by themselves.”*

[G] *They went and made them carry them by themselves, but they arranged to unload in a karmelit [an area that cannot be classified either as private ground or as public ground], so that they might not bring them out from private to public ground [which is forbidden].*

[H] *Elisha said, “Make them carry bottles” [which would get broken if left lying].*

[I] R. Aqiba entered safely, and departed safely. Of him Scripture says: “Draw me after you, let us run” (Song of Songs 1:4).

[III:7 A] *Rabbi Meir was sitting teaching in the schoolhouse of Tiberias. Elisha, his master, passed by, riding on a horse on the Sabbath day. They came and said to him, “Look, your master is outside.” He stopped his teaching and went out to him.*

[B] *He said to him, “What were you expounding today?”*

- [C] [Meir] said to him, “And the Lord blessed the latter days of Job more than his beginning” (Job 42:12).
- [D] Elisha said to him, “With what [verse] did you begin to expound it?”
- [E] He said to him, “And the Lord gave Job twice as much as he had before” (Job 42:10), for he doubled for him all his wealth.
- [F] *Elisha said, “Alas for the things that are lost and not found [masters of Torah]. Aqiba, your master, did not explain it thus, but, ‘And the Lord blessed the latter days of Job from [i.e., because of] his beginning’ on account of the merit of the commandments and good deeds that he possessed in his former state.”*
- [G] *[Elisha] said to him, “And what else have you been expounding?”*
- [H] He said to him, “Better is the end of a thing than its beginning” (Eccles. 7:8).
- [I] He said to him, “How did you begin to expound it?”
- [J] He said to him, “[By comparing it] with a man who begot children in his youth and they died, then in his old age he started again. The end of the matter was better than its beginning. [Also by comparing it] with a man who did business in his youth and lost money, while in his old age he made a profit. The end of the matter was better than its beginning. [Also by comparing it] with a man who learned Torah in his youth and forgot it, while in his old age he learned and remembered it [lit., kept it alive]. The end of the matter was better than its beginning.”
- [K] *[Elisha] said, “Alas for the things that are lost and not found! Aqiba, your master, did not explain it thus, but, ‘The end of a thing is better than its beginning’ so long as it is good from its beginning.*
- [L] “And so it happened to me. My father, Abbuyah, was one of the important people in Jerusalem. When the day of my circumcision came, he invited all the important people of Jerusalem and sat them down in one room, with R. Eliezer and R. Joshua in another room.
- [M] *“When they had eaten and drunk they began stamping their feet and dancing.*
- [N] *“R. Eliezer said to R. Joshua, “While they are occupying themselves in their way we will occupy ourselves in our way.’ So they sat down and engaged in the study of the Torah, from the Pentateuch to the Prophets, and from the Prophets to the Writings. And fire fell from heaven and surrounded them.*

- [O] “Abbuyah said to them, ‘My masters, have you come to burn my house down around me?’
- [P] “They said, ‘God forbid! But we were sitting searching around in the words of the Torah from the Pentateuch to the Prophets, and from the Prophets to the Writings, and the words were as alive as when they were given from Mt. Sinai. And the fire shone around us as it shone from Mt. Sinai.’
- [Q] “And the essential attribute of their being handed over at Sinai? They were given only by fire: ‘And the mountain burned with fire to the heart of heaven’ (Deut. 4:11).
- [R] “Abbuyah, my father, said to them, ‘My masters, if this is the power of the Torah, if this son of mine lives I will dedicate this son of mine to Torah.’ Because his [original] intention was not pure [lit., for the sake of heaven], therefore it was not realized in the case of this man [Elisha, speaking of himself in the third person].”
- [S] He said to him, “And what else have you been expounding?”
- [T] He said to him, “Gold and glass cannot equal it” (Job 28:17).
- [U] He said to him, “How did you begin to expound it?”
- [V] He said to him, “The words of Torah are hard to acquire like vessels of gold but easy to lose like vessels of glass. Just as vessels of gold and glass, when they are broken, can be repaired and become as they [originally] were, so a scholar who forgets his learning can go and learn it [again] as at the beginning.”
- [W] He said to him, “[You have gone] far enough, Meir. Here is the Sabbath limit.”
- [X] *He said to him, “How do you know it?”*
- [Y] *He said to him, “From the steps [lit., hooves] of my horse which I am counting; he has gone two thousand cubits.”*
- [Z] *He said to him, “You have all this wisdom, yet you do not repent!”*
- [AA] “I cannot,” he said.
- [BB] “Why not?” R. Meir said to him.
- [CC] Elisha said, “Once I was passing before the Holy of Holies riding upon my horse on the Day of Atonement which happened to fall upon a Sabbath, and I heard an echo coming out of the Holy of Holies saying, ‘Repent, children, except for Elisha ben Abbuyah,

for he knew my power yet rebelled against me!” [allusion to Jer. 3:22].

[DD] *Why did all this happen to him?*

[EE] Once Elisha was sitting and studying in the plain of Gennesaret, and he saw a man climb to the top of a palm tree, take a mother bird with her young, and descend safely. The following day he saw another man climbing to the top of the palm tree; he took the young birds but released the mother. When he descended a snake bit him and he died.

[FF] Elisha thought, “It is written, ‘[If you chance to come upon a bird’s nest, in any tree or on the ground, with young ones or eggs, you shall not take the mother with the young;] you shall let the mother go, but the young shall you take to yourself; that it may go well with you, and that you may live long’ (Deut. 22:6f.). Where is the welfare of this man, and where his length of days?”

[GG] He did not know that R. Jacob had explained it before him: “That it may go well with you” in the World to Come which is wholly good, “And that you may live long,” in the time which is wholly long.

[HH] Some say [he defected] because he saw the tongue of Rabbi Judah the Baker, dripping blood, in the mouth of a dog. He said, “This is the Torah, and this its reward! This is the tongue that was bringing forth the words of the Torah as befits them. This is the tongue that labored in the Torah all its days. This is the Torah, and this its reward! It seems as though there is no reward [for righteousness] and no resurrection of the dead.”

[II] But some say that when his mother was pregnant with him, she passed by some heathen temples and smelled their particular kind of incense. And that odor pierced her body like the poison of a snake.

[III:8 A] Sometime later Elisha fell sick. *They came and told R. Meir, “Behold, your master is ill.” He went, intending to visit him, and he found him ill. [77c] He said to him, “Will you not repent?”*

[B] *He said, “If sinners repent, are they accepted?”*

[C] [Meir] replied, “Is it not written thus: ‘You cause a man to repent up to the point when he becomes dust’ (Ps. 90:3)? Up to the time when life is crushed are repentant sinners received.”

[D] At that moment, Elisha wept, then he departed [this life] and died. And R. Meir rejoiced in his heart, thinking, “My master died in repentance.”

[E] *When they buried him, fire came down from heaven and consumed his grave. They came and told R. Meir, “Behold, your master’s grave has been set on fire.”*

[F] *He went, intending to visit it, and found it burning.*

[G] *What did he do? He took his long prayer cloak and spread it over the corpse saying, “‘Pass the night,’ (Ruth 3:13). Stay in this world which is like the night. ‘And it shall be in the morning’ (Ruth 3:13). This is the world to come which is all morning. ‘If he will redeem you, well and good; let him redeem you’ (Ruth 3:13) – this is the Holy One, blessed be he, of whom it is written: ‘The Lord is good to all, and his compassion is over all that he has made’ (Ps. 145:9). ‘And if it does not please him to redeem you, then, as the Lord lives, I will redeem you’” (Ruth 3:13).*

[H] *Then the fire was extinguished.*

[I] *They said to R. Meir, “If they ask you in that world [to come, after death], ‘Whom do you intend to visit [first], your father or your master’ [what will you do]?”*

[J] *He said to them, “I will visit my master first, and after that, my father.”*

[K] *They said to him, “Will they hearken to your plea [for Elisha]?”*

[L] *He said to them, “Have we not been taught thus: **They may save the casing of the scroll together with the scroll [and] the casing of the phylacteries together with the phylacteries [M. Shab. 16:1]? Elisha Aher will be saved through the merit of his [study of the] Torah.**”*

[III:9 A] Some time later, Elisha’s daughters went to receive alms from Rabbi. Rabbi decreed saying, “Let there be none to extend kindness to him, nor any to pity his fatherless children” (Ps. 109:12).

[B] They said to him, “Rabbi, do not look upon his deeds but on his Torah.”

[C] At that moment Rabbi wept and decreed that they should be provided for. He said, “If these are [the children] raised by this man who labored in the Torah for the wrong motives, how much more would be achieved by one who labors in it for the right motives [lit., for the sake of heaven]!”

[III:10 A] R. Eleazar said in the name of Ben Sirah, ““Why attempt to find out what is hidden from you? Why search out what is deeper than Sheol? Reflect [only] on what is permitted to you. Hidden things are no concern of yours”” (Qoh. 3:20-21).

[B] Rab said, ““Let the lying lips be dumb’ (Ps. 31:19). Let them be confounded, crushed, silenced. Let them be confounded – as you say:’ And the Lord said to him, “Who has made man’s mouth? Who makes him dumb, or deaf, or seeing, or blind?”” (Exod. 4:11). Let them be crushed, as you say: ‘Behold we were binding sheaves’ (Gen. 37:7). Let them be silenced, according to the literal meaning: ‘Which speak arrogantly against the righteous’ (Ps. 31:19), who speak concerning the Righteous One of the World words that he has withheld from his creatures.

[C] ““In pride and contempt’ (Ps. 31:19) – this refers to the one who boasts, saying, ‘I will expound the Work of Creation,’ thinking that he is like one who exalts [his Creator], while in reality he is only like one who despises him.”

[III:11 A] R. Yosé ben Hanina said, “He who exalts himself at the cost of his fellow’s humiliation has no share in the World to Come. How much more he who exalts himself against the Life of the Worlds! *What is written after it?* ‘How abundant is your goodness, which you have laid up for those who fear you’ (Ps. 31:20). Let him have no [share] in your abundant goodness.”

[III:12 A] R. Levi said, ““It is the glory of God to conceal a thing’ (Prov. 25:2). It is the glory of God to conceal a thing before the world was created. ‘It is the glory of kings to search a thing out’ (Prov. 25:2) – after the world was created.”

[B] R. Levi said, ““Do you know this from of old?” [i.e., before creation,] but you [can have knowledge] ‘since man was placed on the earth”” (Job 20:4).

[III:13 A] R. Jonah said in the name of R. Abba, “It is written, ‘For ask now about the former days which were before you’ (Deut. 4:32). One might conclude that [one may inquire what happened] before the Work of Creation. [But] Scripture says: ‘Since the day when God created man upon the earth’ (Deut. 4:32).

[B] “May one suppose that this means from the sixth day [of Creation] onward?”

[C] “Scripture says, ‘First.’ After Scripture includes [by referring to “former days”] it excludes [by referring to “the day”]. So we learn [that one may inquire] from the sixth day. Just as the sixth day is specially designated, being one of the six days of creation – so you may include [in your exposition] only that which like the sixth day [is specially designated, i.e., the Six Days of Creation]

[D] “May one [seek] to know what is above the heaven or below the abyss?”

[E] “Scripture says, ‘And from one end of the heaven to the other’ (Deut. 4:32). If you are investigating [what happened] before the world was created, keep it to yourself [lit., your heart contemplates]. If you go on [to investigate what happened] after the world was created, then your voice may go from one end of the world to the other.”

[F] *Bar Qappara taught* [that one may investigate] from the [First] Day [of Creation onward].

[G] *R. Judah bar Pazzi agrees with Bar Qappara.*

[H] *R. Hiyya agrees with R. [Ab]ba.*

[III:14 A] R. Jonah said in the name of R. Levi, “The world was created by the letter B.” As B [in Hebrew] is closed on all sides except one, so you have no right to investigate what is above, what below, what went before or shall happen afterward, only what has happened since the world [and its inhabitants were created].

[B] “If the letter B was asked, ‘Who created you?’ it would point with its upper stroke and say, ‘He above.’

[C] “[If asked,] ‘What is his name?’ it would point with its lower projection to the right [toward the letter *aleph*] and say, ‘YHWH is his name, ADON is his name.’”

[D] Another interpretation: Why [was the world created] by the letter B? Because it is in the word “blessing.”

[E] [And why] not by the letter A? Because it is in the word “cursing.” The Holy One, blessed be he, said, “I created my world only by the letter *B* lest its inhabitants say, ‘How can a world created by the word “cursing” endure?’ But, behold, I create it by the letter *B* in the word ‘blessing,’ and perhaps it will endure.”

[F] R. Abbahu in the name of R. Yohanan: “By two letters were the two worlds [this world and the world to come] created. One [was created] by *H* and the other by *Y*. What is the reason? ‘Trust in the Lord forever, for the Lord God is an everlasting rock’ (Isa. 26:4). [‘Rock’ (*sur*) is here read as *sar*, ‘to fashion.’] We do not know which was created by *H* and which by *Y*, except from that which is written: ‘These are the generations of the heavens and the earth when they were created, [in the day that the Lord God made the earth and the heavens]’ (Gen. 2:4).

[G] “By *H* he created them. This world was created by *H* and the next by *Y*. As *H* is open beneath, this indicates that all the inhabitants of the world shall go down to Sheol. As *H* has an upward projection, after they have gone down [to Sheol] they shall go up [to heaven]. As *H* is open on every side, so a door is open to all who repent. As *Y* is bent, so all the inhabitants of the world shall be bent: ‘[Ask now, and see, can a man bear a child? Why then do I see every man with his hands on his loins like a woman in labor?] Why has every face turned pale?’ (Jer. 30:6)” [referring to the Day of Judgment].

[H] “When David realized [lit., saw] this, he began to praise with the two letters: ‘Praise, O servants of the Lord, praise the name of the Lord’” (Ps. 113:1).

[I] R. Yudan Nesia asked R. Samuel bar Nahman, “Why is it written, ‘By means of his name [YAH] lift up a song to him who rides on the clouds, and exult before him’ (Ps. 68:4)?”

[J] He said to him, “There is no place that has not an officer [supervising] its entrance. And who is the officer [supervising] the entry of all? The Holy One, blessed be he; for YAH is his name.”

[K] He said to him, “R. Eleazar, your master, did not interpret it thus, but [he compared it] to a king who built a palace in a place of pipes, dunghills, and garbage heaps. Whoever comes and says, ‘This palace is in a place of pipes, dunghills, and garbage heaps,’ does he not make it seem contemptible? So whoever says, ‘In the beginning the world was water upon water,’ makes it seem contemptible. [He also compared it] to a king’s garden with an upper room built over it. One may look at it, but not touch it.”

[III:15 A] The House of Shammai say, “Heaven was created first, the earth afterward.”

[B] The House of Hillel say, “The earth was created first, and heaven afterward.”

[C] They both adduce supporting reasons for their opinions.

[D] *What is the reasoning of the House of Shammai?*

[E] “In the beginning God created the heaven and the earth.” [This is to be compared] to a king who made a throne; after he had made it, he made its footstool: “Heaven is my throne and earth my footstool” (Isa. 66:1).

[F] *What is the reasoning of the House of Hillel?*

[G] “In the day when God made the earth and the heaven” (Gen. 2:4). [This is to be compared] to a king who built a palace. After he had built the lower stories he built the upper stories.

[H] “My hand established the earth and [77d] my right hand spread out the heaven” (Isa. 48:13).

[I] *R. Judah bar Pazzi says, “This supports the House of Hillel, ‘Of old you laid the foundation of the earth, and the heaven is the work of your hands’” (Ps. 102:26).*

[J] R. Hanina said, “From the [very] place from which the House of Shammai adduce support for their opinion, the House of Hillel refute [lit., remove] them. What is the support for the House of Shammai? ‘In the beginning God created the heaven and the earth.’ From there the House of Hillel refute them: ‘And the earth was’ (Gen. 1:2) – already *was* [i.e., Gen. 1:2 refers to the state of the earth before creation].”

[K] R. Yohanan [said] in the name of the sages, “As regards creation, heaven was first; as regards completion, earth was first. As regards creation, heaven was first: ‘In the beginning God created.’ As regards completion, earth was first: ‘In the day when God made the earth and the heaven.’”

[L] According to the House of Shammai he made heaven on the first [day]. There was an interval of three days, then it produced offspring – first, second, third. On the fourth, “Let there be lights.”

- [M] According to the House of Shammai he made the sea on the second [day]. There was an interval of three days, then it produced offspring – second, third, fourth; on the fifth, “Let the seas swarm.”
- [N] According to the House of Shammai he made the earth on the third [day]. There was an interval of three days, then it produced offspring – third, fourth, fifth; on the sixth, “Let the earth bring forth” (Gen. 1:24).
- [O] According to the House of Hillel he made the earth on the first [day]. There was an interval of two days, then it produced offspring – first, second; on the third, “Let the earth put forth vegetation” (Gen. 1:11).
- [P] According to the House of Hillel he made heaven on the second [day]. There was an interval of two days, then it produced offspring – second, third; on the fourth, “Let there be lights.”
- [Q] According to the House of Hillel he made the sea on the third [day]. There was an interval of two days, then it produced offspring – third, fourth; on the fifth, “Let the seas swarm.”
- [R] R. Simeon ben Yohai said, “I am amazed that the Fathers of the World were split on the question of the creation of the world, for I say, heaven and earth were created only like this pot and its lid [viz., in one act].”
- [S] What is the support [for this view]? “My hand established the earth and my right hand spread out the heavens” (Isa. 48:13).
- [T] R. Eleazar b. R. Simeon said, “According to this opinion of my father, sometimes heaven precedes earth, sometimes earth precedes heaven. But [the verses] teach [us] that they are both equal.”

2:2

[A] Yosé b. Yoezer says not to lay on hands. Yosé b. Yohanan says to lay on hands.

[B] **B. Joshua b. Perahyah says not to lay on hands. Nittai the Arbelite says to lay on hands.**

[C] **Judah b. Tabbai says not to lay on hands. Simeon b. Shatah says to lay on hands.**

[D] **Shemayah says to lay on hands. Abtalyon says not to lay on hands.**

[E] **Hillel and Menahem did not differ.**

[F] **Menahem departed, Shammai entered.**

[G] **Shammai says not to lay on hands. Hillel says to lay on hands.**

[H] **The first-named were patriarchs, and the second to them were heads of the court.**

[I:1 A] In the beginning there was no contention in Israel except concerning laying on hands alone.

[B] Shammai and Hillel [at M. Ed. 1:1] went and made them into four disputes.

[C] When the disciples of the House of Shammai and the House of Hillel who had not sufficiently served [and learned the Torah of] their masters became numerous, contention became great in Israel, and they became two parties.

[D] These declare unclean what those declare clean.

[E] And the Torah is not going to be restored to its place until the son of David [i.e., the Messiah] comes.

[I:2 A] R. Hiyya in the name of R. Yohanan: “Let not the issue of Sabbath rest [such as laying hands on the beast on the Sabbath with all one’s might] be light in your sight, for lo, the matter of laying on of hands is only an issue of what is permissible, and yet the Fathers of the World differed about it.”

[B] Said R. Yosé, “That is to say that a man has to lay on hands with full force, for if that were not the case, then shall we say that it is prohibited merely to touch a beast on the festival day? [The dispute of M. 2: 2 has to do with laying on full weight on the Sabbath.]”

[II:1 A] **Hillel and Menahem did not differ. Menahem departed, Shammai entered.**

[B] Where did he go?

[C] There are those who say, “He went away from one set of principles and adopted another set.”

[D] And there is he who says, “He followed his nose, he and eighty pairs of disciples of sages, clad in golden embroidered silk garments, with faces glowering like the sides of a pot.

[E] “For they had said to them, ‘Write on the horn of an ox that you have no share in the God of Israel.’”

[III:1 A] We have learned:

[B] Judah b. Tabbai was *nasi*. Simeon b. Shatah was head of the court.
Some teach it vice versa.

[C] *He who says Judah b. Tabbai was nasi finds support in the incident of Alexandria.*

[D] *The men of Jerusalem wanted to appoint Judah b. Tabbai as patriarch in Jerusalem. He fled and went to Alexandria. The men of Jerusalem would write, “From Jerusalem, the great, to Alexandria, the small: How long will my betrothed dwell with you, while I am sorrowful on his account?”*

[E] *He departed and arrived in a boat.*

[F] *He said, “Do you remember what Deborah, the mistress of the house who received us, lacked?”*

[G] *One of his disciples said to him, “Rabbi, her eye was blinking.”*

[H] *He said to him, “Lo, two [sins] are against you: one that you suspected me [of looking at her], and one that you looked at her. Did I say that her appearance was handsome of sight? I only said [handsome] in [her] deed[s].”*

[I] *He was angry with him, and he went away.*

[J] *He who says Simeon b. Shatah was patriarch finds support in the following incident about Ashqelon.*

[K] *There were two holy men in Ashqelon, who would eat together, drink together, and study Torah together. One of them died, and he was not properly mourned.*

[L] *But when Bar Maayan, the village tax collector, died, the whole town took time off to mourn him.*

[M] *The surviving holy man began to weep saying, “Woe, for the enemies of Israel [a euphemism for Israel itself] will have no merit.”*

[N] *[The deceased holy man] appeared to him in a dream, and said to him, “Do not despise the sons of your Lord. This one did one sin, and the other one did one good deed, and it went well for [the latter on earth, so while on earth I was punished for my one sin, he was rewarded for his one good deed].”*

[O] *Now what was the culpable act that the holy man had done?*

[P] *Heaven forfend! He committed no culpable act in his entire life. But one time he put on the phylactery of the head before that of the hand [which was an error].*

[Q] *Now what was the meritorious deed that Bar Maayan, the village tax collector, had done?*

[R] *Heaven forefend! He never did a meritorious deed in his life. But one time he made a banquet for the councillors of his town, but they did not come. He said, “Let the poor come and eat the food, so that it not go to waste.”*

[S] *There are those who say that he was traveling along the road with a loaf of bread under his arm, and it fell. A poor man went and took it, and the tax collector said nothing to him so as not to embarrass him.*

[T] *After a few days the holy man saw his fellow [in a dream] walking among gardens, orchards, and fountains of water. He saw Bar Maayan the village tax collector with his tongue hanging out, by a river. He wanted to reach the river but could not reach it.*

[U] *R. Eliezer bar Yosé said that he saw Miriam, the daughter of ‘LY BSLYM [Jastrow – the leek-like sprouts of onions], hanging by the nipples of her breasts. R. Yosé b. Hanina said, “The pin of the gate of Gehenna was fastened to her ear.”*

[V] *He said to him, “Why are things this way?”*

[M] *He said to him, “Because she fasted and told people about it.”*

[X] *And some say that she fasted one day and had blood drawn on two.*

[Y] *He said to him, “And how long will it be this way for her?”*

[Z] *They said to him, “Until Simeon b. Shatah will come, and we shall remove it from her ear and set it in his ear!”*

[AA] *He said to him, “And what is his crime?”*

- [BB] *They said to him, "Because he vowed, 'If I am made patriarch, I shall kill off all the witches,' and lo, he has been made patriarch, but he has not killed off the witches. Lo, there are eighty witches in a cave of Ashqelon, doing destruction to the world, so go and tell him."*
- [CC] *He said to them, "I am afraid, for he is the patriarch, and he will not believe me."*
- [DD] *He said to him, "If he will believe you, good. Now if he does not believe you, do this as your sign before him: Put your hand in your eye and remove [your eye], and hold it in your hand." He took out his eye and put it in his hand. They said to put it back, and he put it back.*
- [EE] *He went and reported the incident to him. He wanted to do the sign for him, but he would not allow him to do so.*
- [FF] [Simeon] *said to him, "I know you are a holy man. Furthermore, I did not say publicly [that I would uproot witchcraft], but I only thought about it [so I know that your knowledge comes from Heaven]." Forthwith Simeon b. Shatah arose.*
- [GG] *Now that day it was raining. Simeon b. Shatah took with him eighty young men and dressed them in eighty clean cloaks. He took with them eighty new pots, with covers. He said to them, "When I whistle once, put on your garments. When I whistle a second time, all of you come out at once. When each one of you comes out, lift up one of the [witches], and hold her off the ground, because the witchcraft [of those women] does not work if their feet are not touching the ground."*
- [HH] *When he went and came to the mouth of the cave, he said, "Hello, hello! Open up for me. I am one of yours."*
- [II] *They said to him, "How did you come on such a rainy day?"*
- [JJ] *He replied, "I ran between the rain drops."*
- [KK] *They said to him, "And what did you come here to do?"*
- [LL] *He said to them, "To learn and to teach."*
- [MM] *When he came in, one of them said something and produced bread. One of them said something and produced meat. One of them said something and produced cooked food. One of them said something and produced wine. They said to him, "And what can you do?"*
- [NN] *He said to them, "I can whistle twice and produce eighty handsome young men, dressed in clean clothes, who will have pleasure with you and give you pleasure too."*

[OO] *They said to him, “We want them! We want them!”*

[PP] *He whistled once, and they put on their clean clothes. He whistled a second time, and they all came out at once. He signaled to them, “Each one of you pick a partner and lift her up off the ground.”*

[QQ] *At that point what the witches [78a] could do would not work. He said to the one who produced bread, “Bring forth bread,” but she produced none. He said “Take her and crucify her.”*

[RR] *“Bring forth cooked food,” but she could not produce, and he said, “Take her and crucify her.”*

[SS] *“Bring forth wine,” and she could not do it, and he said, “Take her and crucify her.”*

[TT] *And so did he do to all of them.*

[UU] *This is [the background of] that which we have learned: **Eighty women did Simeon b. Shatah hang in Ashqelon. They do not judge two capital cases on the same day [M. San. 6:6]**, but the times required it.*

[III:2 A] *It has been taught: Said R. Eliezer b. Jacob, “I have heard that the courts may inflict punishment not in accord with the law and not in accord with the Torah [when the times require it].”*

[B] *To what extent?*

[C] *Even to the extent of ignoring the possibility of perjured testimony.*

[D] *[Disagreeing with this view,] said R. Yosé, “[No, that is not so in the case of] testimony, but [only in respect of the] need to admonish [the felon].”*

[E] *There was the case of one who went out in the way riding on his horse on the Sabbath. The court took him and stoned him.*

[F] *Now was this not merely a violation of the requirement of Sabbath rest? [Surely it was not punishable by death.]*

[G] *But the times required it.*

[H] *There was another case of someone who went out in the way, with his wife with him, and he went behind a fence and had his will with her, and the court took him and flogged him.*

[I] *Now was she not his wife? [Why was this against the law?]*

[J] But he behaved contemptibly.

2:3

[A] **The House of Shammai say, “They bring peace-offerings [on a festival day] but do not lay hands on them. But [they do] not [bring] whole-offerings [at all].”**

[B] **And the House of Hillel say, “They bring [both] peace-offerings and whole-offerings, and they lay hands on them.”**

[I:1 A] The House of Shammai say, “Laying on of hands not in the ordinary way has been permitted.”

[B] The House of Hillel say, “Laying on of hands not in the ordinary way has not been permitted.”

[C] What is laying on of hands not in the ordinary way?

[D] It is doing so on the previous day [so that the laying on of hands is not done on the festival, but on the day before the festival].

[I:2 A] *Said R. Zeira, “All parties concur in the case of the guilt-offering of a mesora, on which [the sacrificer] laid hands the previous day, that he has not carried out his obligation by doing so.*

[B] “As to freewill peace-offerings on which one laid hands on the previous day, one has carried out his obligation.

[C] “*Concerning what do they differ?* Concerning peace-offerings brought in fulfillment of the festal-offering.

[D] “*The House of Shammai treat them as freewill peace-offerings. The House of Hillel treat them as equivalent to the guilt-offering of a mesora.*”

[E] Said R. Yosé, “When you say that as to the guilt-offering of a *mesora* on which one laid hands on the previous day, he has not fulfilled his obligation, that applies when the beast was brought at its required time [on the eighth day]. [Since the laying on of hands was not on the eighth day but on the seventh, the *mesora* has not carried out his obligation.] But if the proper time for bringing the beast had passed, it is then treated as equivalent to peace-offerings brought as a festal-offering.”

[I:3 A] [In T.’s version:] **Said the House of Hillel, “Now if at a time [the Sabbath] at which I am not permitted to prepare [food] for an ordinary person, I am permitted to prepare [food] for the Most High [for on the Sabbath, one is not permitted to prepare food for**

himself, but one is permitted to offer up daily whole-offerings and additional offerings],

- [B] “at a time [a festival day] at which I am permitted to prepare [food] for an ordinary person [for on the festival day one is permitted to prepare food], should I [as an individual], not be permitted to prepare [food – a whole-offering] for the Most High?”
- [C] Said the House of Shammai to them, “Sacrifices brought in fulfillment of vows and as thank-offerings will prove the matter. For [on a festival] you are permitted to prepare [food] for an ordinary person, but you are not permitted to prepare [these, as offerings on a festival day for the Most High]. [Since these offerings are not made on a festival, they may not be prepared on that day.]”
- [D] Said to them the House of Hillel, “No. If you have stated [the rule concerning] sacrifices brought in fulfillment of vows and as thank-offerings, which are not subject to a fixed time [for their offerings], will you state [the same rule concerning] the festal-offering, the time of which is fixed?”
- [E] Said to them the House of Shammai, “Also in the case of the festal [appearance-]offering, there are occasions at which its time is not fixed.
- [F] “For he who did not bring a festal-offering on the first day of the festival may bring a festal-offering on any other day of the festival inclusive [according to your theory] of the last festival day of the festival.”
- [G] Said the House of Hillel to them, “The festal-offering also is subject to a fixed time. For if one did not offer the festal-offering on the festival itself, he cannot do so after the festival.”
- [H] Said the House of Shammai to them, “And has it not been stated, ‘On the first day you shall hold a holy assembly, and on the seventh day a holy assembly; no work shall be done on those days; but what everyone must eat, that only may be prepared by you’” (Exod. 12:16).
- [I] Said the House of Hillel to them, “Is there proof from that verse? For you it may not be prepared, but it may be prepared for the Most High.”

- [J] **Abba Saul would present another version of the statement of the House of Hillel: “No. If at the time at which your oven is closed, the oven of your Master is open, at a time at which your oven is open, should not the oven of your Master be open?”**
- [K] **“Another matter: Your table should not be loaded while your Master’s table lies barren” [T. Hag. 2:10].**
- [I:4 A] *Said R. Yosé b. R. Bun, “R. Simeon b. Laqish was passing by the school and heard voices reciting the following verse of Scripture: ‘And they performed sacrifices to the Lord, and on the next day [offered burnt-offerings to the Lord, a thousand bulls, a thousand rams, and a thousand lambs, with their drink offerings, and sacrifices in abundance for all Israel]’ (1 Chron. 29:21).*
- [B] *“He stated with reference to this verse, ‘He who interrupts the recitation of this verse [at its middle] concurs with the House of Shammai. He who completes its recitation to the end concurs with the view of the House of Hillel.’*
- [C] **“There is no difficulty in making sense of their offering burnt-offerings on the next day. But as to peace-offerings on the next day, in the view of the House of Shammai, peace-offerings cannot be brought on the next day.”**
- [D] **Said R. Yosé b. R. Bun, “David died on Pentecost, and all of Israel were in the status of mourners who had not yet buried their dead, yet so they offered up their offering for the festival on the next day.”**
- [I:5 A] **[In T.’s version:] M’S H B: Hillel the Elder laid on hands on a burnt-offering in the Courtyard [cf. M. 2:3B], and the disciples of Shammai ganged up on him.**
- [B] **He said to them, “Go and see it, for it is a female, and I have to prepare it as sacrifices of peace-offerings [which I shall eat].”**
- [C] **He put them off with a bunch of words, and they went their way.**
- [D] **But the power of the House of Shammai forthwith became mighty, and they wanted to decide the law permanently in accord with their opinion.**
- [E] **Now there was present Baba b. Buta, who was one of the disciples of the House of Shammai, but who acknowledged that the law is in accord with the opinions of the House of Hillel in every last detail.**
- [F] **One time he went and brought the whole Qedar-flock and set them up right in the courtyard and announced, “Whoever is required to**

bring burnt-offerings and peace-offerings – let him come and take a beast and lay on hands” [= M. 2:3B].

- [G] **So [everybody] came along and took a beast and offered up whole-offerings, having laid on hands.**
- [H] **On that very day the law was confirmed in accord with the opinion of the House of Hillel,**
- [I] **and not a single person griped about it [T. Hag. 2:11].**
- [J] *Said R. Isaac b. R. Eleazar, “That is to say [that he did well by establishing the law right away and not delaying]. A cup for good news must be full. The worm of the wood comes out of itself. Any twig that does not burn when it is supposed to will never burn at all.”*
- [K] **SWB M’S H B: Another disciple of the disciples of the House of Hillel laid hands on a whole-offering.**
- [L] **One of the disciples of Shammai found him out.**
- [M] **He said to him, “What’s this laying on of hands?!”**
- [N] **He said to him, “What’s this shutting [of your trap]?!”**
- [O] **And he shut him up by force [T. Hag. 2:12].**

2:4

- [A] **Pentecost that coincided with a Friday –**
- [B] **The House of Shammai say, “The [separate, non-festival] day of slaughtering [the burnt offering brought in fulfillment of the requirement of appearing before the Lord] is on the day after the Sabbath.”**
- [C] **And the House of Hillel say, “There is no [separate] day of slaughtering [the burnt offering] since slaughtering burnt-offerings is permitted on the festival.”**
- [D] **But they concur that if it coincided with the Sabbath, the day of slaughtering [the burnt-offering] is after the Sabbath.**
- [E] **And the high priest does not put on his [festival] garments [on the day of slaughtering].**
- [F] **And [on that Sunday] they are permitted to conduct a lamentation or to hold a fast,**
- [G] **so as not to affirm the opinion of those [i.e., the Sadducees] who say, “The date of Pentecost [must always fall] after the Sabbath [on Sunday].”**

[I:1 A] **Pentecost that coincided with a Friday –**

[B] **The House of Shammai say, “The day of slaughter of its [whole offering] is on the day after the Sabbath.”**

[C] The House of Hillel say, “It has no ‘day of slaughtering,’ but the day of the festival is the day on which it is slaughtered.”

[D] Now the House of Shammai say, “The day of slaughter of its [burnt-offering] is the day after the Sabbath,” and **the high priest does not put on his garments** [for the festival], on the basis of the following argument, a fortiori:

[E] Now if when there are peace-offerings and burnt-offerings, in accord with the view of the House of Hillel the high priest does not put on his garments [that is, reading M. 2:4] to qualify M. 2:4D, on which the House of Hillel concur], when there are no peace-offerings or burnt-offerings, in the view of the House of Shammai is it not an argument a fortiori [that the high priest should not put on his garments]?

[I:2 A] One verse of Scripture says, “[You shall keep] the feast of harvest, of all the first fruits of your labor, [of what you sow in the field. You shall keep the feast of ingathering at the end of the year, when you gather in from the field the fruit of your labor]” (Exod. 23:16). [The verse implies that one may harvest one’s field on the festival itself.]

[B] And another verse of Scripture says, “[And you shall make proclamation on the same day; you shall hold a holy convocation;] you shall do no laborious work [it is a statute for ever in all your dwelling throughout your generations” (Lev. 23:21). [Clearly, one may not work on the festival day.]

[C] Said R. Hananiah, “How are these two verses to be carried out? When Pentecost coincides with a weekday, you offer the festal-offering and celebrate the festival rest [as well], while when it coincides with the Sabbath, it is only on the next day that you offer the festal sacrifice and harvest [the first fruits].”

[D] Said R. Yosé b. R. Bun, “But that is only on condition that the sheaves [serve] for one’s dough [to be eaten on that same day]. [The labor cannot serve the needs of some day other than the festival itself.]”

[E] *This accords with the following, which he taught to the [students]: “If a man had vowed wood and first fruits – for example, he who says, ‘Lo, incumbent on me is wood for the altar and chips for the fire’ – he is forbidden on that day to lament the dead, to fast, and to work on that day. [That day is a festival for him.]”*

- [II:1 A]** But they concur that if it coincided with the Sabbath, the day of slaughtering [the burnt-offering] is after the Sabbath [M. 2:4D].
- [B] The House of Hillel say that the day of slaughtering is after the Sabbath.
- [C] As to the hides, to which watch do they belong? [That is, do they belong to the watch on duty on the Sabbath, which happens to have missed out on them, or to the watch coming in on the next day?]
- [D] *R. Tabi in the name [78b] of R. Josiah: “R. Yohanan and R. Simeon b. Laqish differed on this matter.*
- [E] “R. Yohanan said, ‘They belong to all of the priestly watches [as do the hides of offerings on any other festival].’
- [F] “R. Simeon b. Laqish said, ‘They belong to that watch [in particular].’”
- [G] And do you say, “On a festival day which falls after the Sabbath, to whom do the hides belong? *Is there a dispute between R. Yohanan and R. Simeon b. Laqish?*” [Surely even R. Simeon would agree that, as products of the festival-offerings, they belong to all the priestly watches!]
- [II:2 A]** Said R. Yohanan, “As to Pentecost, it is possible to make up an offering [one has failed to make] all seven days [thereafter].”
- [B] *R. Hoshaiah objected, “And lo, it has been taught: ‘Just as the celebration of the New Moon belongs to its class of days, by which it is determined [by counting units of days], so Pentecost belongs to its class by which it is determined,’ that is, for one day. [Just as the offerings for the celebration of the New Moon are brought on one day, so the ones of Pentecost are brought on one day only.]”*
- [C] Said R. La, “[The meaning is that] if one has failed to present a festal-offering on the first day, he may offer a festal-offering any one of the seven following days.”
- [II:3 A]** R. Yosé b. R. Bun in the name of R. Joshua b. Levi: “Everyday the high priest puts on his [priestly] garments and comes and offers the daily whole-offering. If there are, in addition, offerings in fulfillment of vows or thank-offerings, he offers them [as well]. He eats at home. Then he comes and offers the twilight burnt-offering. He then goes along and spends the night in the Chamber of the Counselors.”
- [B] R. Uqbah in the name of Joshua b. Levi: “He did it this way only on Sabbaths and festival days.”

[II:4 A] *There is a Tannaite authority who teaches*, “The priestly frontlet effects expiation [only when it is affixed] to his forehead.”

[B] *There is a Tannaite authority who teaches*, “[The priestly frontlet effects expiation even] when it is lying in the corner.”

[C] *He who maintains* [that the priestly frontlet effects expiation only when it is affixed] to his forehead cites the following verse: “[It shall be upon Aaron’s forehead, and Aaron shall take upon himself any guilt incurred in the holy offering which the people of Israel hallow as their holy gifts;] it shall always be upon his forehead [that they may be accepted before the Lord]” (Exod. 28:38).

[D] *He who maintains* [that the priestly frontlet effects expiation] even [when it is lying] in the corner derives evidence from the practice on the Day of Atonement [on which occasion the high priest did not put it on].

[E] *He who maintains* that the priestly frontlet effects expiation only when it is affixed to his forehead supports the view of R. Yosé b. R. Bun.

[F] *He who maintains that* the priestly frontlet effects expiation even when it is lying in the corner supports the view of R. Uqbah.

2:5

[A] **They [merely] wash the hands for eating unconsecrated food, tithe, and heave-offering;**

[B] **for eating food in the status of Holy Things they [wholly] immerse;**

[C] **and as to [the preparation of] purification-water [through the burning of the red cow], if one’s hands are made unclean, his entire body is deemed to be unclean as well.**

[I:1 A] Now does [the consideration of cleanness of] hands pertain to unconsecrated food [at all]?

[B] But [the rule of M. 2:5A] accords with the view of R. Simeon b. Eleazar, since R. Simeon b. Eleazar says, “The [consideration of cleanness of] hands pertains [even] to unconsecrated food [so that one must clean the hands prior to eating unconsecrated food, as M. indicates].”

[C] [No, in fact the passage represents] the view of all parties. It is so that [an ordinary person] will keep away from food in the status of heave-

offering [which does require cleanness of hands]. [If when the person eats unconsecrated food, he washes hands, he will surely be careful not to impart uncleanness to food in the status of heave-offering.]

- [D] *R. Simeon b. Eleazar taught in the name of R. Meir*, “Hands are in the first remove of uncleanness so far as unconsecrated food [is concerned], and in the second remove of uncleanness so far as food in the status of heave-offering [is concerned]. [In both instances, unwashed hands then have the power to invalidate unconsecrated food and heave-offering food for use by people who are cultically clean.]”
- [E] Shall we then say that R. Simeon b. Eleazar concurs with the view [only] of R. Aqiba?
- [F] *For we have learned there: He who pokes his hands into a house afflicted with nega [a Father of uncleanness] – “His hands are in the first remove of uncleanness, “ the words of R. Aqiba. And sages say, “His hands are in the second remove of uncleanness” [M. Yad. 2:1A-C].* [Aqiba maintains that if contaminated by something that is a Father of uncleanness, the hands become unclean in the first remove. Sages do not concur that the hands enter the first remove.]
- [G] [*The Mishnah*] concurs with rabbis [not with Aqiba] there. What is their reason here [for maintaining, as they do, that the hands are not unclean in the first remove and so do not affect unconsecrated food at all]? If you merely tell a person that his hands are in the second remove so far as uncleanness is concerned [in which case the hands affect heave-offering but not unconsecrated food], he will nonetheless keep away from food in the status of heave-offering.
- [H] [But did sages not decree uncleanness on hands] because of the consideration of uncleanness affecting liquids? [Liquids may also become unclean by reason of contact with something unclean in the second remove. The hands, once made unclean, impart uncleanness to liquid, and the liquid thereby becomes unclean in the first remove. For that reason, sages decreed uncleanness affecting the hands, so that they will not affect liquids.]
- [I] But should the hands be deemed in the first remove of uncleanness?
- [J] [There is an] argument a fortiori [to prove the opposite, namely, that the hands are unclean in the second remove, not in the first remove; so far as heave-offering is concerned, they invalidate it, but they do not invalidate unconsecrated food at all.

[K] Now if one who has immersed on the self-same day and awaits sunset to complete the process of purification, whose status derives from the law of the Torah, merely invalidates [heave-offering, should he touch it before sunset], the hands, which are unclean merely by a decree of the sages, all the more so [should be in the second remove of uncleanness and invalidate heave-offering, but have no affect upon unconsecrated food].

[L] Another consideration: Was the decree of uncleanness] of hands not [merely] so that a person [with unclean hands] will keep away from heave-offering? But since you tell him that his hands are unclean in the second remove [at which stage, the hands will invalidate food in the status of heave-offering], in any event he will keep his hands away from food in the status of heave-offering.

[I:2 A] *There we have learned:* **[As to food in the status of] heave-offering and first fruits, people are liable on their account [for violating their sanctity] to the death penalty or to paying the added fifth. Such produce is prohibited to non-priests. They constitute the property of a priest. They may be nullified in a mixture of a hundred and one. They require the washing of hands and [in the case of one who has immersed for a major uncleanness], waiting for sunset. Lo, these rules apply to food in the status of heave-offering and first fruits, which is not the case [with regard to the] tithe [M. Bik. 2:1].**

[B] There you have said that tithe does not require the washing of hands, and here you have said that tithe does require the washing of hands. [That is, M. Bik. 2:1 states explicitly that one does not have to wash hands prior to eating tithe, while M. Hag. 2:5A is explicit that one does.]

[C] That which you say, “Tithe requires washing of hands,” is according to the sages; that which you say, “Tithe does not require washing of hands,” is according to R. Meir.

[D] *For we have learned there:* **Whatever requires immersion in water according to the rules of the scribes renders holy things unclean and spoils heave-offering but is permitted in respect to unconsecrated food and tithe, “ the words of R. Meir. And sages prohibit in the case of tithe [and so require washing of hands prior to eating food in the status of tithe] [M. Par. 11:5F-H].**

[E] [*But it is possible to assign the whole matter to the view of sages,] for has that which R. Samuel said in the name of R. Zeira not been accepted. “What is the meaning of, **And sages prohibit in the***

case of tithing? One's body has been rendered invalid for eating food in the status of tithing [but one may touch it with one's hand, which is a separate category]."

[F] *Now how [are you going to leave matters]? Are you going to maintain that when you say, "Tithing requires washing of hands," you deal with one who wants to eat such food, and when you say, "Tithing does not require washing of hands," you speak of one who merely wishes to touch it? Are not wanting to eat it and wanting to touch it going to be subject to one and the same law?*

[G] [But the hand washing is required in order to make] the washing of hands a habit, [so that when one eats heave-offering, he will have washed his hands automatically].

[H] *And have we not learned that it is heave-offering [that is under discussion]? And in the case of heave-offering, is the issue of making the washing of hands a habit relevant?*

[I] [But what we deal with is] unconsecrated food that has been prepared in accord with the rules of cleanness governing Holy Things. [We deal with a person who eats all of his food as if it were in the status of Holy Things, and that is the case even with totally unconsecrated food.]

[J] Now is not unconsecrated food prepared according to the rules governing Holy Things still in fact unconsecrated food?

[K] Interpret the matter in accord with one of the following: Either R. Simeon b. Eleazar, or R. Eleazar b. R. Sadoq.

[L] *Either in accord with R. Simeon b. Eleazar, for it has been taught: R. Simeon b. Eleazar says in the name of R. Meir, "Hands are held to be in the first remove as to unconsecrated food, and in the second remove as to heave-offering."*

[M] *Or in accord with R. Eleazar b. R. Sadoq, for we have learned there: **Unconsecrated food that is prepared in accord with the rules pertaining to Holy Things – lo, this is like unconsecrated food. R. Eleazar b. R. Sadoq says, "Lo, it is in the status of heave-offering conveying uncleanness at two removes and rendering [heave-offering] unfit at one further remove"** [M. Toh. 2:8B-D].*

[II:1 A] **And for eating food in the status of Holy Things, they wholly immerse [the entire body] [M. 2:5B]:**

- [B] *In any context in which we have learned that they must immerse, it must be in forty seahs of water.*
- [C] *But, have we not learned: **He who washes his hands for unconsecrated food prepared in accord with cleanness required for Holy Things must pour out a quarter log of water [T. Yad. 1:5A]?***
- [D] Said R. Eleazar, “Here [where we require forty *seahs*], it is in the case of hands that are cultically unclean.
- [E] “There [where a quarter *log* suffices], we deal with hands that are cultically clean.”
- [F] Said R. Hanina b. R. Hillel, “Even if you say that in both cases we deal with hands that are cultically clean, or in both places we deal with hands that are cultically unclean[, there is another distinction to be made]: In one case we deal with Holy Things of the Temple itself, which are sanctified, and in the other case we deal with unconsecrated food that has been prepared in accord with the rules governing food in the status of Holy Things.”

[III:1 A] of the red cow, if one’s hands are made unclean, one’s entire body is deemed to be unclean as well [M. 2:5C]:

- [B] Said R. Hananiah, “It is not that sages have innovated by creating a level of uncleanness affecting only the matter of purification of water, but they have maintained that [in that setting], he who becomes unclean by reason of a very minor source of uncleanness is deemed as if he had been made unclean by a very major source of uncleanness.”
- [C] R. Jacob bar Aha in the name of R. Eleazar: “‘And a man who is clean [shall gather up the ashes of the heifer, and deposit them outside the camp in a clean place; and they shall be kept for the congregation of the people of Israel for the water for impurity, for the removal of sin]’ (Num. 19:9). [Scripture could have sufficed to say, ‘a man.’]”
- [D] “Why does Scripture specify, ‘Who is clean’? [Everything must be done in a state of cleanness.] But it is to indicate that even if one collects the ashes of the cow in a ladle, the Torah has said that it remains clean. [That is, the person remains clean until the work is done, at which point the status of uncleanness is imposed.]”
- [E] Now what sort of a ladle can be under discussion? If it is a ladle made of metal, then is it not [the rule that] metal utensils that are flat are automatically unclean?

[F] If it is a ladle made of wood, is it not then [in the status] of that which is in readiness for a use that causes uncleanness?

[G] Said R. Hoshaiiah, “Interpret [the passage to speak of the case of] gathering the ashes with a wooden plank [that is flat and unsusceptible].”

[H] But is it possible that [the ashes] will not be carried on [such a plank]?

[I] Said R. Yudan, father of R. Mattenaiah, “Interpret [the passage to speak of a case of] gathering the ashes with a thick main-beam.”

[III:2 A] *R. Ba bar Mamel asked before R. Ammi*, “What is the difference between a man who is clean for the purpose of preparing purification-water and an empty utensil that is clean for the purpose of use in preparing purification-water?”

[B] He said to him, “‘And a man who is clean shall gather.’ Why does Scripture refer to ‘man’? But it is to place the man in the highest status of cleanness, to treat him as if he himself were the purification-water and the purification-ash.”

[C] R. Yosé in the name of R. Simeon b. Laqish, “[In the case of] uncleanness transferred through merely shifting [without touching or bearing the weight of, a source of uncleanness], which I have declared clean for you in the case of a [dead] creeping-thing [so that one who merely shifts the position of a dead creeping thing is not regarded as unclean], I have declared unclean for you in this case [so that for the purposes of preparing purification-water, merely shifting the position of such a minor source of uncleanness is sufficient to impart uncleanness to the person who does the shifting].”

2:6

[A] He who immerses for the eating of unconsecrated food and is [thereby] confirmed as suitable for eating unconsecrated food is prohibited from eating tithe.

[B] [If] he immersed for eating tithe and is [thereby] confirmed as suitable for eating tithe, he is prohibited from eating heave-offering

[C] [If] he immersed for eating heave-offering and is [thereby] confirmed as suitable for eating heave-offering, he is prohibited from eating food in the status of Holy Things.

- [D] [If] he immersed for eating food in the status of Holy Things and is thereby confirmed as suitable for eating food in the status of Holy Things, he is prohibited from [engaging in the preparation of] purification-water.
- [E] [If, however,] one immersed for [the matter requiring] the more stringent rule, he is permitted [to engage in the matter requiring] the less stringent rule.
- [F] [If] he immersed but was not confirmed, it is as though he did not immerse.
- [I:1 A] And does immersion for the sake of eating unconsecrated food require intent [that the immersion serve for such a purpose]?
- [B] [*The Mishnah at M. 2:6A*] comes to tell you an additional point, which is this: **Even if one immersed for the eating of unconsecrated food and is [thereby] confirmed as suitable for eating unconsecrated food, he is prohibited from eating tithe [M. 2:6A].**
- [I:2 A] Did not R. Eleazar state, “As we count removes of uncleanness in the case of unconsecrated food, so we count removes of uncleanness in the case of tithe”? [Why is there a strict rule here at M. 2:6A in connection with tithe?]
- [B] In the one case [where we impose a strict rule], it is for the purpose of actually eating [such food], while in the other case [where we impose a lenient rule], it is merely to be able to touch [such food].
- [I:3 A] He who immerses, without specification [as to his purpose], is permitted food in all levels.
- [B] Said R. Yohanan, “That rule applies in a case in which one is confirmed for the purpose of eating all of them.”
- [C] [T.’s version:] **What is the case of confirmation [M. 2:6]?**
- [D] **At any point at which one has taken his feet out of the water [of the immersion pool, which he has entered for the purposes of becoming clean for a given purpose, he is confirmed clean for that purpose].**
- [E] **[But] if one’s feet are still in the water, [if] he immersed for the most minor kind of uncleanness, but he then became confirmed for the most stringent kind of uncleanness, what he has done is done [and is valid] [T. Hag. 3:1].**
- [I:4 A] *There we have learned: A stick that is wholly covered by unclean liquids – “Once one has stuck it into the pool [prior to total*

immersion], it is clean. [The water on the stick forms a slope and is regarded as wholly connected,]” the words of R. Joshua. And sages say, “[It is not clean] until one immerses the whole thing”[M. Toh. 8:9A-C].

- [B] *R. Simeon b. Laqish says, “Where they dispute it is in respect to uncleanness deriving from a minor source of uncleanness, but in the case of uncleanness deriving from a major source of uncleanness, R. Joshua will concur with the view of sages [that a “slope” does not constitute a connection to the immersion pool, and the man or object immersed remains unclean until wholly immersed].”*
- [C] R. Yohanan said, “Also [in the case of] uncleanness [deriving] from a major source, *they differ as well.*”
- [D] *The following Tannaite teaching differs from [the theory of] R. Simeon b. Laqish:*
- [E] **If one’s feet are still in the water, if he immersed for the most minor kind of uncleanness, but he then became confirmed for the most stringent kind of uncleanness, what he has done is done and is valid [T. Hag. 3:1C].** [Here “slope” does constitute a connection for purposes of immersion.]
- [F] Interpret that passage to speak of one who ate food in the state of uncleanness or who drank liquid in the state of uncleanness [in the position of Joshua; the uncleanness is minor in status, being of rabbinical origin].
- [G] Did not R. Jacob bar Zabedi, R. Abbahu in the name of R. Simeon b. Laqish [say]: “He who eats unclean food or drinks unclean liquids – his body remains in the state of cleanness [even if he immersed] without the intent [of becoming clean from these minor sorts of uncleanness to which he has been exposed]?”
- [H] “Once one has set his mind on achieving a level of uncleanness higher than that, he does not require intent [for these minor things].”
- [I] *The following passage of the Mishnah [also] stands at variance [78c] with the view of R. Simeon b. Laqish:*
- [J] **An immersion pool that contains exactly forty seahs – two people went down and immersed in it – both are clean. If they immersed one after the other – the first is clean, and the second is unclean. R. Judah says, “If the feet of the first**

one were touching the water as the second immersed, even the second person is clean” [M. Miq. 7:6A-D].

[K] This is a further instance in which one has eaten unclean food or drunk unclean liquid[, and the uncleanness is minor].

[L] *The following passage of the Mishnah stands at variance with the view of R. Simeon b. Laqish:*

[M] A radish that is in cave water – a menstruant rinses it off, and it is no longer unclean. If she brought it out of the water in any measure at all, [having been made susceptible to uncleanness in the water,]it is unclean [M. Makh. 4:6F-H].

[N] *In this regard it has been taught:* R. Judah declares it clean in the name of R. Joshua.

[O] Now is not a menstruating woman a most severe source of uncleanness?

[P] *This then differs from the interpretation offered by R. Simeon b. Laqish, and his view cannot be sustained.*

2:7

[A] The clothing of ordinary folk is in the status of pressure uncleanness [imparted by a Zab, etc., Lev. 15:1ff.] for abstainers [who eat unconsecrated food in a state of cultic cleanness].

[B] The clothing of abstainers is in the status of midras-uncleanness for those who eat heave-offering [priests].

[C] The clothing of those who eat heave-offering is in the status of midras-uncleanness for those who eat Holy Things [officiating priests].

[D] The clothing of those who eat Holy Things is in the status of midras-uncleanness for those engaged in the preparation of purification-water.

[E] Yosef b. Yoezer was the most pious man in the priesthood, but his handkerchief was in the status of midras-uncleanness so far as eating Holy Things was concerned.

[F] For his whole life Yohanan b. Gudegedah ate his food in accord with the requirements of cleanness applying to Holy Things, but his handkerchief was in the status of midras-uncleanness so far as those engaged in the preparation of purification-water were concerned.

- [I:1 A] R. Yosé in the name of R. Yohanan: “It is with respect to actual contact [with such garments] that they have taught [the law of M. 2:7A-D]. [If one has touched the garments, he is made unclean as if he had touched something made unclean by the pressure of a *Zab*.]”
- [B] *R. Zeira raised the [following] question before R. Yosé, “Whence has this garment of M. 2:7A] been made unclean with midras-uncleanness?”*
- [C] He said to him, “Interpret it [to speak of a case] in which the wife of an *am haares* sat in the nude on his garment [thus by reason of her menstrual period imparting uncleanness to the husband’s garment].”
- [I:2 A] *Samuel bar Abba raised the [following] question before R. Zeira, “Just as you have said there, ‘Merely by moving a source of uncleanness [without actual contact, uncleanness is not transferred to] unconsecrated food, but [through a source of uncleanness] moving unconsecrated food with actual contact with the food [uncleanness is transmitted to the food],’*
- [B] *“along these same lines, [do we say that] transfer of uncleanness through carrying [the source of uncleanness] does not apply to unconsecrated food, but transfer of uncleanness through carrying [the source of uncleanness] will apply to unconsecrated food if there is actual contact with the source of uncleanness?”*
- [C] *R. Samuel, brother of R. Hoshaiah, said R. Jeremiah raised the question, “If a menstruating woman sat on a chair and touched it, what choice do you have [as to the transfer of uncleanness]? If it is a question of transferring the uncleanness through the chair’s bearing her weight, lo, [the chair has] carried [the weight of the menstruating woman]. If the consideration is touching the chair, lo, there is touching of the chair. [So what question can you wish to raise?]*
- [D] *“[The question is as follows:] Just as you say with regard to transferring uncleanness through carrying the weight of uncleanness, that the transfer takes place only if [that which bears the weight] bears the greater part [of the weight of the source of uncleanness], so, along these same lines [do you maintain that], in the case of contact, the transfer of uncleanness takes place only if the greater part [of the source of uncleanness] has been in contact [with that which is affected by the uncleanness]?” [This question is not answered.]*
- [II:1 A] [As to] the body of an abstainer, does it function as does a *Zab* with respect to imparting uncleanness to food in the status of heave-offering? [M. 2:7B has referred to the clothing of abstainers, but not to

the body. Is the body subject to the same decree as affects the garment?]

- [B] *R. Yohanan objected [to this possibility], “And lo, we have learned: He who leaves an am haares in his house to guard it – when [the owner] sees those that enter and leave, the food, drink, and open clay utensils [in the house] are unclean. But couches, seats, and clay utensils sealed with a tight seal are clean [M. Toh. 7:5A -D].*
- [C] “Now if you maintain that they have treated the body [of the *am ha’ares*] as equivalent to that of the *Zab* so far as heave-offering is concerned, then even the clay utensils sealed with a tight seal should be regarded as unclean. [He can have sat on them.]”
- [D] Said R. Judah bar Pazzi, “Interpret the passage to speak of an *am haares* with regard to an abstainer and derive no law from that case at all. [That is, we asked about the abstainer vis-a-vis heave-offering, not an *am haares* vis-a-vis an abstainer.]”
- [E] *Said R. Mana, “So did R. Yosé, my master, say, ‘So far as we are able to interpret these cases here to speak of heave-offering, we should do so. You should know that that is the case, for lo, we have learned there that even food and even clothing – everything is unclean [M. Toh. 7:5]. Have they said that everything is unclean not by reason of moving [the object on the part of an unclean person]? [An am haares does not impart uncleanness merely by shifting an object he has not touched or carried; uncleanness has not been assigned to his person as a Zab, and the same is the fact for the abstainer. His person is not unclean, merely his touch or carrying.]”*
- [F] [Along these same lines,] has not R. Yohanan stated, “There is no [consideration of] interposition, nor of shifting, nor of [resolving doubt in a strict way by reason of its appearing] in private domain, nor of an *am haares* as far as heave-offering is concerned.”

[II:2 A] As to the substance of the heave-offering itself, what is the law as to its being treated [under the rules] governing the *Zab*, as far as Holy Things [are concerned]?

[B] *Let us derive [the answer] from the following:*

[C] He who cuts off a reed [to store Holy Things therein] – he who cuts the reed and he who immerses it must undergo immersion. [So a strict rule applies, and implies that that same greater strictness pertains to what is in the status of heave-offering.]

- [D] *Now there is no difficulty* [understanding why the one] who cuts it off must immerse [before doing so. But as to] the one who immerses it, why can he not wrap it in bast and immerse it?
- [E] But interpret the rule [to apply to the case of] one who cuts it off with the stipulation that he will immerse it.
- [II:3 A]** As to the substance of that which is in the status of Holy Things, what is the law on its functioning as does a *Zab* as far as the purification-rite [is concerned]?
- [B] *Let us derive [the answer] from the following:* Two flagons, one clean [for use] for Holy Things, and one clean [for use] for heave-offering, which touched one another – both of them are deemed clean.
- [C] *And lo, a Tannaite teaching differs:* They have treated one who was clean for the purification-rite [who went and] moved the pit or semen of one who was clean for [the purposes] of heave-offering as unclean.
- [D] The same law applies to one who was clean for heave-offering and one who was clean for Holy Things [so far as the purification rite *is* concerned].

YERUSHALMI HAGIGAH

CHAPTER THREE

3:1

[A] [78d] A more strict rule applies to Holy Things than applies to heave offering,

[B] for: They immerse utensils inside of [other] utensils for purification for use with [food in the status of] heave offering, but not [for purification for food in the status of] Holy Things.

[C] [They make distinctions among] outer parts, inside, and holding place in the case of use for heave offering, but not [in the case of use] for Holy Things.

[D] He who carries something affected by midras-uncleanness [may also] carry heave offering, but [he may] not [also carry food in the status of] Holy Things.

[E] The clothing of those who are so clean as to be able to eat heave offering

[F] is deemed unclean in the status of midras-uncleanness for the purposes of Holy Things.

[G] The rule for Holy Things is not like the rule for heave offering.

[H] For in the case of [immersion for use of] Holy Things one unties a knot and immerses and afterward ties it up again.

[I] And in the case of heave offering one ties it and then one immerses.

[I:1 A] R. Hiyya in the name of R. Yohanan: “[The reason that a more strict rule applies to Holy Things than to heave offering is that] those who eat food in the status of heave offering [= priests] are conscientious, and those who eat food in the status of Holy Things [lay persons too] are not [necessarily equivalently] conscientious. [Only priests eat food in the status of heave offering, while non-priests, who own the offering, receive a share therein and are subjected to a more strict requirement.]”

[B] *Said R. Hananiah before R. Mana, “But is this [provision, such as M. 3:1 lists], indeed a gradation? If we dealt with a trait equivalent for this one and for that one, in which what was deemed unclean in the one case was deemed clean in the other, I should regard it as a point of gradation. [In that case we should have a higher degree of strictness for Holy Things than for heave offering. But if the reason is merely that the people who eat the one are more conscientious than those who eat the other, it is then not a consideration of gradation that operates here at all.]”*

[C] He said to him, “Interpret the passage to speak of one who is certified to eat food in the status of Holy Things. [Such a person may be deemed conscientious both for heave offering and for Holy Things. He will refrain for example, from immersing utensils inside of other utensils when said utensils are for use for Holy Things. By imposing the requirement that he do just that, we in any event require a higher grade of conscientiousness for Holy Things than for heave offering than, in general, we should have to do for such a person.]”

[II:1 A] As to M. 3:1B, not immersing one utensil inside another,] R. La in the name of R. Yohanan: “If the unclean object was as heavy as a liter, they do not immerse it [inside of another one, since it will weigh down on the container and so interpose between the container and the immersion pool’s water].”

[B] Abba Saul says, “Also in the case of utensils used for the preparation of food in the status of heave offering, they immerse [one such vessel inside of another] only in the case of a wicker basket [in which other utensils may be placed]. [But other utensils may not serve as containers for immersion.]”

[C] Said R. Yohanan, “Abba Saul and R. Simeon have both said the same thing.

[D] **“For we have learned there: He who kept hold on a man or on utensils and immersed them – they are unclean [since the water has not touched the place by which he holds on to them]. If he rinsed his hand in the water, they are clean. R. Simeon says, ‘He should loose his hold on them so that the water may come into them’”**[M. Miq. 8:5D-F].

[E] Said R. Yohanan, “It is reasonable to suppose that R. Simeon will concur with the view of Abba Saul. But Abba Saul will not concur with R. Simeon. [Simeon will be concerned with the weight of the utensil. Abba Saul will not concur with Simeon

that rinsing off prior to immersion will not suffice. Abba Saul will accept rinsing off prior to immersion.]”

[F] Rabbis of Caesarea in the name of R. Yohanan: “The decided law follows the view of Abba Saul.”

[G] *And so it has been taught:* “The law accords with his view.”

[H] *Said R. Jonah, “The Mishnah [which regards M. 3:1B, immersion of one utensil inside another as valid for heave offering but not Holy Things as a gradation that treats Holy Things as superior to heave offering] follows the view of R. Meir.*

[I] “But in the view of sages they may do so [in the case of a large wicker basket] even for food in the status of Holy Things.”

[III:1 A] [With reference to M. 3:1C on the holding place, the reason is that we do not distinguish the holding place,] not regarding the holding place as part of the inner part of the utensil. In the case of utensils used for Holy Things, all the parts are deemed comprehended as inside the utensil. [If any of the designated parts is made unclean, the whole of the utensil has been made unclean on the inside. Even if the outer surface alone is unclean, the whole of the utensil is unclean.] [This resumes at III:3, below.]

[III:2 A] R. Jonah in the name of R. Hiyya bar Ba: “There is the story that seven elders came together to intercalate the year, meeting in the Valley of Rimon. Who were they? R. Meir, R. Judah, R. Yosé, R. Simeon [b. Yohai], R. Nehemiah, R. Eliezer b. Jacob, and R. Yohanan, the sandal maker.

[B] “They said, ‘How many gradations [of rulings] apply to Holy Things and to heave offering [such as are listed at M. 3:1]?’

[C] “R. Meir says, ‘Thirteen.’

[D] “R. Yosé says, ‘Twelve.’

[E] “Said R. Meir, ‘Thus did I hear from R. Aqiba: “Thirteen.”’

[F] “Said R. Yohanan, the sandal maker, ‘I served R. Aqiba standing up, while you served him only sitting down [so I know his traditions better than you do, having invested more energy in acquiring them].’”

[G] They said, “R. Yohanan, the sandal maker, really is an Alexandrian.”

[H] [Resuming the narrative:] “And they arose from their meeting with a kiss.”

[I] *And whoever in the group did not have a cloak – his fellow cut his cloak in half and gave it to him.*

[J] *And why did they do so? Because each one of them interpreted the following verse in seven different ways [and each had to dress appropriately for the presentation of his exegesis]: “Let me sing for my beloved a love song concerning his vineyard; my beloved had a vineyard on a very fertile hill” (Isa. 5:1).*

[K] *And they praised [the exegesis] of the last of them, because he had found a fine aspect of the verse. They say it was R. Simeon b. Yohai.*

[L] *And why were they forced [to meet in the valley of Rimmon, rather than in a settled place]?*

[M] *For they interpreted the verse as follows: “You shall make for yourself no molten gods” (Exod. 34:7).*

[N] *And what is written immediately thereafter? “The feast of unleavened bread you shall keep. Seven days you shall eat unleavened bread, as I commanded you, at the time appointed in the month Abib; for in the month Abib you came out from Egypt” (Exod. 34:8).*

[O] They held, “Whoever has sufficient grounds for doubt to expect that it is necessary to intercalate the year and does not do so is as if he worships idols.”

[P] *When they were ready to leave, they said, “Come and let us leave a memorial to what we have done,” and they saw a marble stone, and each one of them took a nail and hammered it in, and the nail went into the stone as into a piece of dough, and up to the present time it is called, “The marble with the nails.”*

[III:3 A] [Resuming III:1:] Said R. Yohanan, “As to the holding place of which they have spoken [at M. 3:1C], whether it is on the inside or the outside of the utensil, it is in accord with the way in which fastidious people hold [the utensil].”

- [B] Said R. Zeira, “It is not possible to speak in this connection of a dry utensil, for the hands will not impart uncleanness to a dry one.
- [C] “But it [also] is not possible to state the rule in connection with one that is full of liquid. For if the hands have touched [such liquid], they have rendered liquid unclean.
- [D] “*But we must interpret the rule to speak of the case of a holding place on a utensil used for containing Holy Things, in which the hand or the holding place is soiled with liquid. [In such a case we take account of the condition of the holding place.]*”
- [E] R. Yohanan in the name of R. Benaiah: “They have treated liquid located in the holding place as equivalent to liquid in the [Temple] slaughterhouse. *Just as you say there, ‘The liquid in the [Temple] slaughterhouse is clean [M. Ed. 8:1] when located in its original place, but unclean when in any other place,’* so the liquid that is located in the holding place is held to be clean when in that place, but unclean in any other place. [That accounts for the distinction made at M.]”
- [F] R. Simon in the name of R. Joshua b. Levi: “[If] liquid of the [Temple] slaughterhouse should go out [of the courtyard], it is deemed to have been made unclean.”
- [G] *And lo, we have learned*, “If liquid of the Temple slaughterhouse went out [of the Temple courtyard], it remains in its status of sanctification”?
- [H] *Said R. Yosé, “R. Simeon interpreted the statement, [and so too did] R. Hinena, R. Simon in the name of R. Joshua b. Levi: ‘When the liquid went out and then came back.’”*
- [I] If the liquid at the top [of the utensil] was made unclean and it dripped down outside [the Temple courtyard], [as to this case, in which some of the liquid dropped outside of the courtyard, while the rest remained inside:] R. Ba and R. Bun bar Hiyya –
- [J] one said, “That which remains in its place [in the courtyard] is clean, and that which drips down and outside the courtyard is unclean.”
- [K] The other said, “Since that which drips outside derives from a source that remains clean, it too is clean [insusceptible to uncleanness].”

[L] *R. Aha in the name of R. Zeira, “That which you have said [that liquids of the Temple courtyard are insusceptible to uncleanness] applies to liquid made unclean through unclean food [which is only a rabbinic ordinance]; but as to liquid made unclean by a dead creeping thing, it is indeed unclean, [since it is of biblical origin].”*

[III:4 A] *There we have learned: All utensils have outer parts and an inner part, and they further have a part by which they are held. [These are regarded as distinct, and if one is made unclean, another part remains clean.] R. Tarfon says, “This distinction in the outer parts applies only to a large wooden trough.” R. Aqiba says, “To cups.” R. Meir says, “To unclean and clean hands.” R. Yosé said, “They have spoken only concerning clean hands alone.” [If clean hands touched one part of a utensil and another part was unclean, the hands are not made unclean. It is for this case that provision is made for distinguishing an outer part and a holding part] [M. Kel. 25:7].*

- [B] Now in accord with the view of R. Meir, if one’s hands were unclean and the outer sides of a cup were clean, if there is liquid on the outer part of the cup, and one took the cup with its holding place, *it is self-evident that the liquid has not been made unclean by the hand so as to impart uncleanness to the cup.*
- [C] [But is it the case that] just as the liquid does not receive uncleanness from the hand to impart uncleanness to the cup, also the liquid does not receive uncleanness from the hand to impart uncleanness to a loaf of bread located in some other place?
- [D] *Let us derive the answer from the following [in T.’s version]: **Clean liquids that were put at the holding place of a cup and that an unclean loaf of bread touched – the liquids are made unclean [T. Kel. B.B. 3:1].*** In what regard has it made the liquid unclean? Is it not so that the liquid may impart uncleanness to a loaf located in some other place?
- [E] It is because the liquid is on the ground. Lo, if the liquid had been on the cup, it would not impart uncleanness.
- [F] But if there is liquid located on the hand, and one took the cup by the holding place, even in such a case, is the liquid [on the hand] not made unclean by the cup so as to impart uncleanness to the hand?

[G] *Let us derive the answer from the following:*

[H] If there was unclean liquid on the ground, and a clean loaf of bread touched it, it is made unclean.

[I] The law has spoken only of a loaf of bread. Lo, if it was a hand [that touched the liquid, it is] not [made unclean].

[J] And in the view of R. Yosé, if the hands were clean and the outer part of the cup was unclean, with liquid located on the hand, and one held the cup by its holding place, *it is self-evident* that the liquid on the hand is not made unclean by the cup so as to impart uncleanness to the hand.

[K] And just as the liquid is not made unclean by the cup to impart uncleanness to the hand, so is the liquid not made unclean by the cup to impart uncleanness to a loaf of bread in some other place?

[L] *Let us derive the answer from the following:*

[M] Unclean liquid located on the ground – if a clean loaf of bread touched it, it is made unclean.

[N] For what purpose is it made unclean? Is it not made unclean to impart uncleanness to a loaf of bread located in another place?

[O] Now it is because the liquid is on the ground. Lo, if it were on the hand, that would not be the case.

[P] But if there is liquid located on the cup, and one held the cup with its holding place, even in such a case is the liquid not made unclean by the hand to impart uncleanness to the cup?

[Q] *Let us derive the answer from the following:*

[R] If there is unclean liquid located on the holding place of a cup, and a cup the outer sides of which are clean touched it at its holding place, it is made unclean.

[IV:1 A] He who carries something affected by midras-uncleanness may also carry heave offering, but he may not also carry food in the status of Holy Things [M. 3:1D]:

[B] R. Ba in the name of R. Judah: “It is because of a case that took place.

[C] “There was a case of one whose jar was perforated, and he stuffed it up with the thong of his sandal. [The thong fell into the jar, and the wine in the jar was made unclean thereby.]”

[D] R. Zeira, R. Yosé in the name of R. Eleazar: “If one violated the law and did carry [something unclean with midras-uncleanness as well as food in the status of Holy Things, the latter remains] clean.”

[E] *That view is in line with what R. Eleazar said*, “Now there are some who have said, ‘He should not carry, but if he transgressed the law and did carry, the food [in the status of Holy Things] is unclean.’ There are others who have said, ‘One should not carry, and if he transgressed the law and did carry, the food remains clean.’”

[F] *Said R. Zeira before R. Mana*, “Now does this not answer the question we raised above [at Y. 2:7 as to the body of an abstainer, what is the law on its functioning as does a person afflicted with flux-uncleanness [Zab, cf. Lev. 15] with respect to food in the status of heave offering and Holy Things], that the sages have not treated his body as equivalent to that of a person afflicted with flux-uncleanness [Zab, cf. Lev. 15] so far as Holy Things are concerned? For if you say that they did treat his body as equivalent to that of a person afflicted with flux-uncleanness [Zab, cf. Lev. 15] so far as Holy Things are concerned, then even if one had transgressed the law and carried [what was unclean in midras-uncleanness], it should be regarded as unclean.”

[G] He said to him, “[That is not necessarily so, for] you may interpret the ruling [on this subject] to apply to one who was confirmed as clean for purposes of handling food in the status of Holy Things.”

[V:1 A] For the rule for [79a] Holy Things is not like the rule for heave offering [M. 3:1G]:

[B] For in the case of Holy Things one unlooses the knots and dries off the holes and then ties up [the thongs again], while for immersion for the sake of heave offering, one simply ties the knots [of the thongs, e.g., of a basket,] and then immerses the utensil.

[C] Those who eat heave offering are conscientious, and they open [the knots]. Those who eat Holy Things are not conscientious and do not open the knots [on which account they are required to untie them prior to immersion].

3:2

- [A] Utensils that are completely processed in a state of insusceptibility to uncleanness [and so when completed are clean nonetheless], require immersion for use in connection with Holy Things,
- [B] but not for use in connection with heave offering.
- [C] A utensil unites everything contained therein for the purposes of Holy Things,
- [D] but not for the purposes of heave offering.
- [E] [That which is made unclean in] the fourth remove from the original source of uncleanness in the case of Holy Things is invalid,
- [F] but only [that which is made unclean in] the third in the case of heave offering
- [G] And in the case of heave offering, if one of one's hands is made unclean, the other is clean.
- [H] But in the case of Holy Things one has to immerse both of them.
- [I] For one hand imparts uncleanness to the other for the purposes of Holy Things,
- [J] but not for the purposes of heave offering

- [I:1 A] *It has been taught [in T.'s version]:* There was the case of a woman who was weaving cloth in a state of insusceptibility to uncleanness. She came to R. Ishmael for inspection. She said to him, "Rabbi, I know that the cloth was not made unclean, but I did not have the intention to guard it [from receiving uncleanness]." In the course of the questions that R. Ishmael asked her, she said to him, "Rabbi, I know that a menstruating woman came and pulled on the rope with me."
- [B] Said R. Ishmael, "How great are the words of sages, who have laid down the rule, 'If one did not intend to guard [the cleanness of an object], it is unclean.'" [Y.: Who have said that utensils that are completely processed in a state of cleanness (nonetheless) require immersion for use in connection with Holy Things but not for use in connection with heave offering (M. 3:2A-B).]
- [C] There was the further case of a woman who was weaving a covering in a state of cleanness [as above, and she came before R. Ishmael, who inspected her about it. She said to him, "Rabbi, I know that the covering was not made unclean, but I did not have the intention to guard it [from receiving uncleanness]." In the course of the questions that R. Ishmael asked her, she said to him,

“Rabbi, I know that one thread was broken, and I tied it with my mouth.”

[D] **Said R. Ishmael, “How great are the words of sages, who have laid down the rule, ‘If one did not intend to guard [the cleanness of an object], it is unclean” [T. Kel. B.B. 1:2-3]. [Y: Utensils that are completely processed in a state of insusceptibility to uncleanness require immersion for use in connection with Holy Things, but not for use in connection with heave offering (M. 3:2A).]**

[I:2 A] He who cuts off a reed for use with Holy Things – he who cuts the reed and he who immerses it must undergo immersion.

[B] *Now there is no difficulty understanding why* the one who cuts it off must immerse before doing so. But as to the one who immerses it, why can he not wrap it in bast and immerse it?

[C] Said R. Ila, “Interpret the rule to apply to the case of one who cut it off with the stipulation that he will immerse it.”

[I:3 A] Said R. Joshua b. Levi, “Up to this point [the strict rules of which M. informs us] pertain to Most Holy Things of the sanctuary.

[B] “From this point onward [the rules of which M. informs us] pertain to unconsecrated food that is prepared in accord with the rules of cleanness governing Holy Things.”

[II:1 A] [As to **M. 3:2C, A utensil unites everything contained therein,**] *said R. Yohanan, “This rule is one of the testimonies of R. Aqiba, for we have learned there:*

[B] **“Added R. Aqiba, ‘Fine flour, incense, frankincense, and coals [lying even on a flat tray], part of which one who had immersed on that selfsame day has touched – he has invalidated the whole quantity of them” [M. Ed. 8:1 D-E].**

[C] Said R. Simeon b. Laqish, “They knew perfectly well that a utensil of [Temple] service joins together [its contents, so what affects part of what is in the utensil affects all of what is in it]. Now what was it that Aqiba came to add by his testimony? It concerned residue of meal-offerings, which are deemed to be joined together among themselves [so that what affects part of the residue affects the whole of it].”

[D] R. Yosé b. R. Zaminah in the name of R. Yohanan: “On what account have they stated that residues of heave offerings are deemed to be joined together among themselves? Because they all were supposed to

be put in a single utensil [from which the handful would be taken, M. 3:2C]. [Accordingly, they are deemed a single quantity of meal.]”

- [E] R. Aha, R. Ila in the name of R. Yosé, “They knew full well that a utensil of [Temple] service joins them together into a single quantity [in the case of meal-offering], and what did R. Aqiba come to contribute through his testimony? It was the rule governing fine flour, incense, frankincense, and coals.”
- [F] *There is no problem in understanding why that should be the case for fine flour, incense, frankincense. But what is the point of the coals [which are not susceptible to uncleanness anyhow]?*
- [G] Said R. Bun bar Kahana, “Interpret the rule to speak of coals for the Day of Atonement, for on that day as much [cinders] as he scoops out, he brings in [M. Yoma 4:4]. But as to the coals of all other days, the rule is not the same, *for we have learned there: **There were spilled from it about a qab of cinders, which he swept away into the water channel. On the Sabbath he turned a psykter over on them [M. Tam. 5:5].*** [On the Day of Atonement there is a surplus of coals.]”
- [H] [Rejecting this view that we speak about ashes on the Day of Atonement and maintaining it has to do with those of ordinary days,] said R. Mattenaiah, “And with respect to fine flour, incense, frankincense, and coals, is there a fixed measure in this regard? Is it not because [in the case of all of them] they are supposed to be put into a single utensil? And here likewise it is because they all are supposed to be put into a single utensil.”
- [I] *R. Bun bar Hiyya raised the question: “He who takes a handful of meal-offering – what is the law as to his [taking it out of a single utensil and] offering it up in two utensils?”*
- [J] *R. Hanin objected, “And lo, we have learned: **The utensil unites everything [contained therein for purposes of Holy Things] [M. 3:2C].** Now if you say that he who offers up the handful of meal offering offers it up in two utensils, *then for what purpose have we learned, **A utensil unites?***”*
- [K] Said R. Eleazar the Southerner, “Did not R. Yosé b. R. Zamina say in the name of R. Yohanan, ‘On what account have they stated that residue of heave offerings are deemed to be joined together among themselves? Because they all were supposed to be put in a single utensil.’ Here too they are supposed to be put into a single utensil.”

[L] Said R. Mattanaiah, “And is it not the case that fine flour, incense, frankincense, and coals are offered in a number of utensils [and not all together in one utensil]? And you say, ‘**A utensil unites everything**’ and here a utensil unites them as well.

[II:2 A] *Kahana asked rabbis from over there*, “A meal-offering that is put into a plate [and divided up] – if this part is made unclean, is that part made unclean? [Does the plate join the parts?]”

[B] They said to him, “If this is made unclean, then that is made unclean.”

[C] “And does the uncleanness jump [from one part of the dish to the other]?”

[D] They said to him, “And the uncleanness does jump [across the dish].”

[E] “Even if there is something else between them?”

[F] They said to them, “Even if there is something else between them.”

[G] “Does someone take a handful of meal-offering from this part to cover what is [required to be taken from] that part as well?”

[H] They said to him, “We have heard no tradition on the matter. *But we have learned a Tannaite teaching in line with that which we have learned there:*

[I] **“If there are two meal-offerings from which a handful had not been taken, and they were mixed up with one another, if one can take a handful from this one by itself [from a part that was not mixed with the other], and from that by itself, they are valid. And if not they are invalid [M. Men. 3:3A-D].**

[J] “And the residues of this one do not enter into those of that one.”

[K] R. Jacob bar Aha, R. Yosé in the name of R. Yohanan: “One takes a handful from this one for that one.

[L] “If this one was made unclean, that one was made unclean. But what was in the middle was not made unclean.”

[M] *Has it not been taught* [vs. K]: “A single spoon so functions as to unite what is in it”?

[N] Said R. Hinenah, “A utensil joins together only what is joined to it.”

- [II:3 A] *R. Simeon b. Laqish raised the question, “As to the dry portion of meal-offerings – what is the law on its being subject to the counting of removes of uncleanness?”*
- [B] *R. Eleazar objected, “And is it not written: ‘Any food in which it may be eaten, upon which water may come, shall be unclean; and all drink that may be drunk from every such vessel shall be unclean’ (Lev. 11:34)? That which is rendered susceptible to uncleanness by reason of water produces the counting of removes of uncleanness, and the susceptibility of which to uncleanness does not depend upon water does not produce counting of re*
- [C] *Objected R. Yohanan, “Lo, there is the matter of the carrion of clean fowl. Lo, it imparts uncleanness as does unclean food, without being rendered susceptible to uncleanness and without being made unclean [M. Toh. 1:1].”*
- [D] It is because in the end it will impart a most severe form of uncleanness.
- [E] *What is the upshot of the matter?*
- [F] “Any food in which it may be eaten” (Lev. 11:34) – that which is subject to uncleanness as food produces a counting of removes of uncleanness, and that which does not produce uncleanness as food does not produce the counting of removes of uncleanness.
- [II:4 A] *R. Jonathan in the name of Rabbi: “He who eats food in the third remove of uncleanness in the matter of heave offering – his body is made invalid for the eating of food in the status of heave offering.”*
- [B] *R. Samuel bar R. Isaac raised the question, “Does Rabbi then concur with R. Eliezer [in particular, as against the consensus of sages]?” For we have learned there:*
- [C] **“R. Eliezer says, ‘He who eats food unclean in the first remove is unclean in the first remove; in the second remove, is unclean in the second remove; in the third remove is unclean in the third remove [and unfit to eat heave offering]’” [M. Toh. 2:2A].**
- [D] No, what has been said represents the views of all parties. It is so that one will avoid [handling] heave offering [and rendering it unclean].
- [E] *And along these same lines, he who eats food unclean in the second remove in the case of tithes – is his body rendered invalid for the eating of tithes?*
- [F] *Let us derive the answer from the following:*

[G] And sages prohibit in the case of tithe [and so require washing of hands prior to eating food in the status of tithe] [M. Par. 11:5F-H].

[H] *For has that which Samuel said in the name of R. Zeira not been heard: “What is the meaning of **And sages prohibit in the case of tithe?**” His body has been rendered invalid for eating food in the status of tithe.*

[I] *And along these same lines: He who eats food in the fourth remove of uncleanness in the case of Holy Things – has his body been rendered invalid for eating food in the status of Holy Things?*

[J] *Let us derive the answer from the following, which R. Jeremiah stated in the name of R. Ba bar Mamel, “They have treated him as in the status of one who eats food in the fourth remove from the original source of uncleanness in the case of Holy Things.”*

[K] *That is to say that he who eats food in the fourth remove from the original source of uncleanness in the case of Holy Things – his body has been rendered invalid for eating food in the status of Holy Things.*

[L] *Up to this point we have dealt with Most Holy Things of the sanctuary. But is the rule the same even for unconsecrated food that is treated in accord with the rules of cleanness pertaining to Holy Things?*

[M] *Let us derive the answer to that question from the following, which we have learned there:*

[N] He who slaughters a beast, a wild animal, or fowl, from which blood did not exude – they are valid. And they are eaten with dirty hands, because they have not been made susceptible to uncleanness by the application of blood. R. Simeon says, “They are rendered susceptible to uncleanness by the act of slaughter itself” [M. Hul. 2:5].

[O] *R. Eleazar in the name of R. Hoshaiah: “The cited Mishnah passage speaks of unconsecrated food that is prepared in accord with the rules governing Holy Things.”*

[P] [Reverting to the question from the perspective of Joshua at M. Toh. 2:2:] *R. Zeira, R. Yosé, R. Yohanan, R. Yannai in the name of Rabbi: “He who eats food in the third remove of uncleanness in the case of heave offering – his body*

has been rendered invalid for the eating of food in the status of heave offering.”

- [Q] *Now is this not an explicit statement of the Mishnah: **That which is in the third remove functions as does that which is unclean in the second remove so far as Holy Things are concerned** [M. Toh. 2:2]?*
- [R] *The Mishnah speaks of Most Holy Things of the sanctuary. The passage proposes to tell you a further new point: **And it is forbidden in the case of unconsecrated food which is prepared in accord with the rules governing Most Holy Things** [M. Toh. 2:2]. 2:2].*
- [S] *Said R. Bun bar Hiyya before R. Zeira, “The Mishnah has made that same point: **Loaves of Holy Things [touching one another] in the hollows [79b] of which is water preserved in cleanness fitting for Holy Things [if one of them was made unclean by a creeping thing, they all are unclean]** [M. Toh. I:9A-B].*
- [T] *Is it so bad in your view that it comes to tell you, “Treat the liquid of his mouth as the liquid of Most Holy Things”?*
- [U] *Said R. Zeira, “Just as you have said there, ‘Treat one who is clean for the purposes of preparing the purification-water as if he is equivalent to purification-water and purification-ash,’ so here, treat the liquid of his mouth as the liquid of Most Holy Things.”*
- [V] *R. Zeira, R. Yosé, R. Yohanan, R. Yannai, and they do not know whether, further, the tradition comes in the name of R. Mattenaiah: “From that very passage from which you derive support, you derive disproof of your view.*
- [W] *“From that passage derives support: **That which is unclean in the third remove is unclean in the second remove so far as Holy Things are concerned, but is not unclean in the second remove so far as heave offering is concerned in the case of unconsecrated food that is prepared in conditions of cleanness appropriate to heave offering** [M. Toh. 2:2B-D].*
- [X] *“But if it was prepared under conditions of cleanness required for Most Holy Things, his body is deemed to*

be in the second remove of uncleanness so far as Holy Things are concerned.

[Y] *“The contrary proof for your position derives from the same passage:*

[Z] **“He who eats food in the third remove of uncleanness is unclean if the second remove so far as Holy Things are concerned, and is not unclean if the second remove so far as heave offering is concerned, ii) the case of that which is prepared in accord with the rules of cleanness governing Holy Things.**

[AA] **“But if it was prepared in accord with the rules of cleanness governing heave offering, his body is indeed regarded as in the second remove of uncleanness so far as heave offering is concerned, and all the more so with regard to Holy Things.”**

[II:5 A] *It was taught:* Said R. Yosé, **“How do we know that that which is unclean by a source of uncleanness in the fourth remove from the original source of uncleanness] in the case of Holy Things is invalid [= M. 3:2E-F]?”**

[B] **“And it is derived a fortiori.**

[C] **“Now if one who has not completed his atonement rites [by bringing the required offering, e.g., a person afflicted with flux-uncleanness, a Zab, cf. Lev. 15, or a woman after childbirth, Lev. 12] is not invalid in the case of heave offering but is invalid in the case of Holy Things,**

[D] **“that which is made unclean by a source of uncleanness in the fourth remove, which is invalid in the case of heave offering – is it not reasonable that it should invalidate [that which touches it] in the case of Holy Things?”**

[E] **“We have learned in Scripture [cf. M. Sot. 5:2] that that which is unclean in the third remove from the original source of uncleanness invalidates, and in connection with that which is unclean in the fourth remove [we thus derive the same lesson] by an argument a fortiori [T. Hag. 3:18].**

[F] *Objected R. Yohanan:* **“Food that has been touched by a Tebul Yom [unclean in the second remove] will prove the contrary.**

- [G] “For it is invalid so far as being designated heave offering is concerned [in line with Lev. 11:33],
- [H] “but it has no invalidating affect upon Holy Things [in the fourth remove]. [That is: Just as the Tebul Yom invalidates in the case of heave offering, so he invalidates in the case of Holy Things. But he does not render the Holy Things unclean in such wise that the Holy Things will then go and impart uncleanness. In this case, then, the argument a fortiori of Yosé will not serve, as it does above, and so it is shown to be invalid.]”
- [I] [Providing a second attack on Yosé’s reasoning,] *R. Hananiah in the name of R. Yohanan*: “*The view of R. Yosé is in line with the theory of R. Aqiba, his teacher.*”
- [J] “Just as R. Aqiba said, ‘will be unclean’ [Lev. 11:33, referring to food] means ‘will impart uncleanness’ [in the third remove, as at M. Sot. 5:2A], as a matter of the law of the Torah,
- [K] “so R. Yosé said, ‘will be unclean’ [Lev. 11:34, with reference to liquid] means ‘will impart uncleanness’ as a matter of the law of the Torah. [In this case why not construct the same argument a fortiori to prove that we take account of a fourth remove in regard to food in the status of heave offering, and deem such food to be invalid? Now if a Tebul Yom, who is permitted to touch unconsecrated food, is invalid so far as heave offering is concerned, food in the third remove, which is invalid so far as unconsecrated food is concerned (in line with the position of Aqiba at M. Sot. 5:2A, unconsecrated food in the third remove is invalid and may not be designated heave offering), all the more so should be deemed to invalidate food in the fourth remove for heave offering. This then is a further argument against the reasoning of Yosé at A-E.]”
- [L] *R. Abbahu in the name of R. Yosé bar Haninah*: “*R. Yosé has no need for the argument a fortiori [to prove that that which is in the fourth remove from the original source of uncleanness in the case of Holy Things is invalid].*”
- [M] “R. Yosé is perfectly able to prove the same thing on the basis of the exegesis of the following verse of Scripture:
- [N] “[‘Flesh that touches any unclean thing shall not be eaten’ (Lev. 7:19).] ‘Flesh that touches’ – this refers to meat in the second remove of uncleanness which touched that which is unclean in the first remove of uncleanness.

[O] “‘Any unclean thing’ – this refers to meat in the third remove of uncleanness which touched that which was unclean in the second remove of uncleanness [as is clear in the sequence of the verse].

[P] “‘Shall not be eaten’ – that which is made unclean at the end is not to be eaten. [That is to say, what touches this meat in the third remove, which itself is in the fourth remove, is not to be eaten. That proves the besought proposition.]”

[II:6 A] Up to this point we have dealt with food made unclean in the airspace of a clay utensil contaminated by a dead creeping – thing (Lev. 11:33). [That is, Aqiba’s proof at M. Sot. 5:2, based on Lev. 11:33, shows that food made unclean in the contained airspace of a clay utensil into which a dead creeping-thing has fallen has the capacity to impart uncleanness to food that touches it.]

[B] How do we know that food itself, which has been made unclean by a dead creeping-thing, has the power to impart uncleanness to other food?

[C] Now it is derived a fortiori.

[D] If utensils that do not receive uncleanness when they are located in the contained airspace of a clay utensil that has been rendered unclean by a dead creeping-thing – lo, such utensils impart uncleanness as does a dead creeping-thing so that food that touches them will be unclean,

[E] food that is rendered unclean by a dead creeping-thing, is it not a matter of logic that it should have the capacity to impart uncleanness as does a dead creeping-thing to [other] food [with which it comes into contact]? [Surely that is obvious.]

[F] Up to this point we have dealt with the matter in line with the theory of R. Aqiba [who regards the uncleanness imparted in the third remove as a matter of the law of the Torah].

[G] But as to R. Ishmael [how does he prove that there is a third remove in regard to food that has been in contact with that which has been made unclean]?

[H] *It is taught by R. Ishmael:* “‘Flesh that touches any unclean thing shall not be eaten.’

[I] “[This refers to] food in the first remove, ‘which touched any unclean thing.’

[J] “‘It shall not be eaten’ is meant to encompass that which is in the second remove.

- [K] “And as to the third remove, how do we prove that that is taken into account?
- [L] “It is a matter of logical inference.
- [M] “Now if a Tebul Yom, who does not invalidate in the case of unconsecrated food, lo, he has the power to invalidate in the case of heave offering [which he touches, so that said heave offering is deemed unclean and may not be eaten,]
- [N] “food unclean in the second remove, which indeed is invalid in the case of unconsecrated food [as at M. Toh. 2:3ff.] – is it not logical that it should have the power to invalidate in the case of heave offering?
- [O] “And as to a fourth remove in the case of Holy Things, how do we prove that proposition?
- [P] “Now it is a matter of logic.
- [Q] “If one who has not yet brought his offerings to complete the process of atonement, who is not invalid for eating heave offering, lo, he is invalid so far as Holy Things are concerned [Lev. 12 and 15 indicate that until the offerings are brought to complete the process of atonement, the woman after childbirth and the person afflicted with flux-uncleanness [Zab, cf. Lev. 15] and a woman in that status are not permitted to eat Holy Things],
- [R] “that which is in the third remove from the original source of uncleanness, which indeed is invalid so far as heave offering is concerned – is it not logical that it should have the power to invalidate in the case of Holy Things [with which it comes into contact, hence, the fourth remove]?
- [S] “Lo, we have learned from Scripture the law governing the uncleanness of invalidity of that which is in the first remove and the second remove from the original source of uncleanness, and from a logical process we have derived the same rule for that which is in the third remove, and as to that which is in the fourth remove, we have derived the same proposition from an argument a fortiori.
- [T] “[After we have] reasoned one law from the other [deriving the rule governing the third remove in the case of heave offering from the second remove in the case of the Tebul Yom, we derive yet another rule by means of an argument for that which is in the

fourth remove, that it is invalid in the case of food in the status of Holy Things], so that all should be governed by the law,

[U] “thus with the result that heave offering in the third remove, and Holy Things in the fourth remove, should be deemed invalid.”

[III:1 A] **In the case of heave offering, if one of one’s hands is made unclean, the other is clean [M. 3:2G].**

[B] “As to Holy Things [M. 3:2H], if one hand is unclean, the other imparts uncleanness to Holy Things,” the words of Rabbi.

[C] R. Yosé b. R. Judah says, “It renders Holy Things invalid [but not unclean].”

[D] Does Rabbi then concur with R. Joshua?

[E] *For we have learned there:* “**Whatever imparts unfitness to heave offering imparts uncleanness to hands, putting them into the second remove of uncleanness. One hand imparts uncleanness to [he second,] the words of R. Joshua. And sages say, “That which is unclean in the second remove does not put something else into a state of uncleanness at the second remove” [M. Yad. 3:2A-C].**

[F] The view of R. Joshua is more strict than that of Rabbi. What Rabbi has said with regard [merely] to Holy Things is what R. Joshua has said with regard to heave offering.

[III:2 A] R. Simeon b. Laqish said, “They have referred only to the other hand. Lo, as to someone else’s hand, that is not the case.”

[B] R. Yohanan said, “Even [if the unclean hand touched] another’s hand, it is the case.”

[C] R. Jeremiah, R. Ammi in the name of R. Yohanan: “Even in the case of [the hand’s touching] a loaf of bread.”

[D] R. Yohanan retracted from this statement [C].

[E] *What had he said in this regard prior to his retraction?*

[F] He had said only that it imparts uncleanness to a loaf of bread on the principle that **whatever invalidates heave offering imparts uncleanness to the hands to put them into the second remove.**

[G] Lo, as to imparting uncleanness to a loaf of bread – all parties concur that it does not impart uncleanness on the principle that that which is unclean in the second remove does not put anything else

into that same second remove of uncleanness [= Joshua, M. Toh. 2:2].

3:3

[A] **With dirty hands they eat food that has not been wet down [and therefore is not susceptible to uncleanness] in the case of heave offering,**

[B] **but not in the case of Holy Things.**

[C] **He who [prior to interment of the deceased] mourns his near of kin [even without having contracted corpse-uncleanness] and one whose atonement rite is not complete [because an offering is yet required] require immersion for the purposes of Holy Things,**

[D] **but not for the purposes of heave offering**

[I:1 A] Said R. Hanina b. Antigonus, “And does the rule that dry food [is not susceptible to uncleanness] apply in the case of Holy Things at all?

[B] “One spears a piece of dry food with a spindle or a wood chip and eats an olive’s bulk of meat with it,

[C] “in the case of heave offering, but not in the case of Holy Things.”

[I:2 A] *There we have learned: If one was eating a fig with dirty hands and poked his hand into his mouth to remove the pit – R. Meir declares the fig unclean. R. Judah declares the fig clean. R. Yosé says, “If he turned over the fig in his mouth, the fig is unclean If not, it is clean” [M. Kel. 8:10F-J].* [The fig is in the status heave offering. It may be made unfit by what is unclean in the second remove. Dirty hands are by definition unclean in the second remove. In Meir’s view the spit in the mouth renders the food susceptible to uncleanness, and the hand renders it unclean. Judah does not see the spit as capable of imparting susceptibility uncleanness. Yosé says if the man turns the fig over in his mouth. so detaching some spit from the sides of the mouth, the spit imparts susceptibility, and the rest follows.]

[B] Hezekiah said, “This rule has been taught only with regard to a fig in the case in which the man wants the liquid which is on his finger. [In that case, he puts his finger into his mouth with liquid. on it, so touching the fig is done with liquid which has the capacity to impart susceptibility to uncleanness, in line with M. Makh. 1:1]. But for all other things that is not so.”

[C] R. Yohanan said, “There is no difference between a fig and anything else. [Spit by itself imparts susceptibility to uncleanness, not merely liquid on the man’s finger, introduced from outside the mouth to soften the fig.]”

[D] *The cited passage of the Mishnah stands at variance with Hezekiah’s view: As to one unclean because of having touched a corpse, who had in his mouth foods and liquids – if he poked his head into the airspace of a clean oven, the liquids have made it unclean. As to a clean person who had food and liquid in his mouth and poked his head into the airspace of an unclean oven, the liquids have been made unclean [M. Kel. 8:10A-E].* [The oven is unclean in the first instance because of the liquids, which are unclean in the first remove. The liquid is made unclean in the second case by being in the contained airspace of the unclean oven.]

[E] *Now there is no problem as to the rule governing the liquid’s being made unclean. But as to the food, how has the food been rendered susceptible to uncleanness? Is it not from the liquid in the man’s mouth? [Hezekiah says the liquid in the mouth, that is, spit, does not have the power to impart susceptibility to uncleanness. Here it clearly does.]*

[F] Interpret the passage as follows: Either in the case of the fig, we speak of a very fat one, or in the case of the food, we speak of a food that has been rendered susceptible to uncleanness while it was outside [of the mouth].

[G] *The following passage of the Mishnah stands at variance with the view of Yohanan [on the power of spit to impart susceptibility to uncleanness]:*

[H] **With dirty hands they eat food that has not been wet down in the case of heave offering, but not in the case of Holy Things [M. 3:3A-B].** [If the spit has rendered the food susceptible to uncleanness, then why may he eat it with dirty hands in the case of heave offering?]

[I] Interpret the passage to speak of a case in which he tosses the food down his throat [without having it touch his spit].

[J] If that is the case, that we deal with tossing the food into the gullet, then he should be permitted to do so even in the case of food in the status of Holy Things.

[K] [But he may not do so,] lest he forget and allow it to touch the spit.

[L] If the consideration is that he must not be allowed to do so lest he forget and it touch the spit, then that should be the rule even in the case of food in the status of heave offering, so that even here he should be forbidden to do so.

[M] *What is the upshot of the matter?*

[N] Those who eat food in the status of heave offering are conscientious, and will not forget their obligations, while those who eat food in the status of Holy Things are not conscientious and are likely to forget.

[II:1 A] [As to the status of one who has suffered a bereavement and not yet buried the deceased, M. 3:3C-D,] *there we have learned: A priest who has suffered a bereavement but not yet buried his next of kin may touch Holy Things but does not offer and does not share in Holy Things to eat them in the evening [M. Zeb. 12:1B].*

[B] *There* you have said that it is permitted for him to touch Holy Things, *and here* you have said that it is forbidden for him to touch them.

[C] Said R. Yannai, “Here [where he is prohibited to touch them] it is a case in which he ceased to pay attention [to the status of the food and hence may have become unclean], while there [where he is permitted to touch them] it is where he has not ceased to pay attention.”

[D] R. Yosé raised the question, “If we deal with a case in which he has ceased to pay attention [to the matter], then even in the case of food in the status of heave offering, he should be forbidden [to touch such food without having immersed, contrary to M. 3:3D].”

[E] *What is the upshot of the matter?*

[F] It is in accord with that which R. Jeremiah said in the name of R. Ba bar Mamel, “[In reference to Holy Things] they have treated that food as food in the fourth remove in uncleanness [and so imposed a strict ruling, by raising to a fourth remove the possibilities for contamination in the case of Holy Things]. [There is no such consideration for heave offering.]”

[G] *That is to say*, as to one who is in the fourth remove’s eating food in the status of Holy Things, he is forbidden to eat such food but he is permitted to touch it.

such food and permitted to touch it.

- [II:2 A] *There we have learned:* [With reference to a woman who is sitting out the blood of purifying, in line with Lev. 12:1ff., after having given birth, M. Nid. 10:7 proceeds:] **The House of Shammai say, “She requires immersion at the end.”**
- [B] **And the House of Hillel say, “She does not require immersion at the end.”** [The Houses regard the woman as in the status of one who has immersed on the selfsame day and requires waiting until sunset before her rite of purification is complete. What is under dispute is whether immersion at the end of the forty or eighty days of uncleanness is required. The woman immerses at the end of seven or fourteen days of uncleanness after childbirth. Then there are thirty-three or sixty-six days of purifying. The Shammaites find this first immersion insufficient. Another immersion at the end of thirty-three or sixty-six days is required. The Hillelites differ.]
- [C] *Now how shall we interpret what is at issue here?*
- [D] If at issue is [immersion for] eating food in the status of heave offering, *there is a problem for the view of the House of Shammai.* For is she not in the status of one who has immersed on the selfsame day, and does not one who has immersed on the selfsame day allow the sun to set and then eat food in the status of heave offering? [The sun set after her first immersion, on the seventh or fourteenth day, so why is she not clean?]
- [E] If the dispute has to do with the eating of food in the status of Holy Things, *there is a problem for the House of Hillel.*
- [F] For is she not one whose atonement rite is not complete, and does not **one whose atonement rite is not complete require immersion for the purposes of Holy Things** [in line with M. 3:3C]?
- [G] *Now if you say that the dispute there [at M. Nid. 10:7] has to do with food in the status of heave offering, and the passage that we learn here represents the view of all parties at the outset and a dispute at the end [that is, all parties concur on Holy Things at M. 3:3C but differ as to heave offering at M. 3:3D], [then you have one possible solution].*
- [H] *If you say that it is with regard to heave offering that we deal here and that the Mishnah we learn there involves concurrence of all parties at the outset and a dispute at the end [then we have another sort of solution].*
- [I] *Said R. Samuel bar Abodemi before R. Mana, “We deal there with food in the status of heave offering.*

[J] “*The reason of the House of Shammai* there is so that ordinary people will not say, ‘We saw a woman issuing blood and eating food in the status of heave offering.’ [Accordingly, the position of the House of Shammai there is only on account of appearance’s sake, and were it not for that, the House of Shammai also would not require immersion at the end of the forty or eighty days.]”

3:4

[A] **A more strict rule applies to heave offering [than to Holy Things]:**

[B] **For: In Judea people are deemed trustworthy in regard to the preservation of the cleanness of wine and oil [for use in the altar – that is, food in the status of Holy Things] throughout the year.**

[C] **But [only] in the time of pressing the wine and crushing the olives also for the purposes of heave offering [are they deemed trustworthy].**

[D] **After the time of pressing the wine and crushing the olives has passed, [if] one brought to [a priest] a jug of wine in the status of heave offering, he should not accept it from him.**

[E] **But he simply leaves it for the next season of pressing the wine.**

[F] **But if he said to him, “I set apart in this jug of wine a quarter log which is in the status of Holy Things,” then he is deemed trustworthy [and the jug is accepted = A].**

[G] **As to jugs of wine and oil in which wine or oil in the status of heave offering has been mixed, [common people] are deemed trustworthy in their regard at the time of pressing the wine and crushing the olives,**

[H] **and for seventy days before the pressing of the wine as well.**

[I:1 A] **In Judea people are deemed trustworthy in regard to the preservation of the cleanness of wine and oil [for use in the altar – that is, food in the status of Holy Things] throughout the year [M. 3:4A-B]:** And in Galilee that is not the case.

[B] [79c] R. Simon, R. Joshua b. Levi in the name of R. Pedaiyah: “It is because a strip of land belonging to the Samaritans intervenes [between Judea and Galilee]. [This land is unclean.]”

[C] *And lo, we have learned: Second to it [in the excellence of its produce] is Rebeb, which is in Trans-Jordan [M. Men. 8:3].* Now [that is a distant place], and even though a strip of land belonging to the Samaritans intervenes[, still, produce from such a distant place is acceptable for the altar]. [So why should that not be the case for Galilean produce?]

[D] Said R. Shimi, “Interpret the passage [on the town in TransJordan] to speak of bringing baskets of olives [from there to Judea] and crushing them there [in Judea, in which case there is no possibility of their being made unclean in their passage through the land of the gentiles].” And in Judea they are believed as to the character of the wine, but not as to the character of the jars, while in Galilee they are believed neither as to the character of the wine nor as to the character of the jars.

[E] R. Simon in the name of R. Joshua b. Levi: “In the case of a Southerner [in the southern part of Galilee, regarded as part of Judea] who said, ‘I brought it from Galilee,’ he is believed. [That oil may not be used for the altar.] In the case of a Galilean who said, ‘I brought it from the south,’ he is not believed. [That oil also may not be used for the altar.]”

[F] [As to M. 3:4C,] *R. Jeremiah considered ruling that that rule pertains to heave offering prepared in accord with the rules governing Holy Things. Lo, in the case of heave offering prepared in accord with its own rules, that is not the case. [Common people are believed in the former case, as M. has specified, only in the case of heave offering prepared in accord with the strict rules pertaining to the altar.]*

[G] Said R. Yosé, “And even if it was prepared in accord with its own rules [and not those governing Holy Things], the rule is the same.”

[H] *Now the Mishnah before us differs from the view of R. Yosé, for we have learned:*

[I] **[Olive workers and grape gatherers – “once one has brought them to the domain of the cavern (containing the immersion pool) – “that suffices (without witnessing the immersion),” the words of R. Meir.] R. Yosé says, “One must stand over them until they immerse, [since they do not know the rules about immersion and interpositlon]” [M. Toh. 10:3].** [Now the view of Yosé at M. 10:3D differs from the view of Yosé cited above, for the present Yosé maintains that even if the wine or oil is prepared in accord with the rules of heave offering, common folk are assumed to know those rules. If that is the case, why must the householder supervise their immersion?]

[J] Interpret the cited passage of the Mishnah to speak of a time other than that of crushing of the olives [M. 3:4D].

[K] *Can you say that* the reference is to a time other than that of pressing the wine? [Olives may not be crushed right away, since they are left in baskets to soften, but grapes are going to be crushed right away.]

[L] Said R. Isaac b. R. Eleazar, “[The immersion of which M. Toh 10:3 speaks takes place] either beforehand, that is, when three men have not yet cut their olives. [The landowner then wishes to place his workers in a state of cleanness prior to the pressing season.]”

[II:1 A] **[As to M. 3:4C: Only in the time of pressing the wine and crushing the grapes are people deemed trustworthy,** we may say,] “If substances that are cultically clean touched something during the time of the grape- or olive-pressing, the things that are subject to the rules of cleanness remain clean. But if the time for pressing grapes and crushing olives had passed, then things that are prepared under conditions of cleanness now are deemed to be unclean.”

[B] [Accordingly, we must ask,] “Can a clay utensil be regarded as insusceptible to uncleanness [at one point] and then go and become susceptible to uncleanness? [If the utensil was regarded as clean at one point, when did it become unclean?]”

[C] *Matters cannot be this way. But this is the rule:* If matters requiring preparation in conditions of cleanness touched it prior to the season of grape-pressing or olive-crushing, the things that are clean remain clean.

[D] And is there a clay utensil that is susceptible to uncleanness and that then goes and becomes insusceptible to uncleanness?

[E] *Matters cannot be this way, but this is the rule:* If things requiring preparation in conditions of cleanness touched it when the utensil is full, the things requiring preparation in conditions of cleanness remain clean. But if one then emptied the jar, the things subject to the rules of cleanness are regarded as unclean.

[F] And is clay utensil that has been deemed insusceptible to uncleanness going to go and become unclean?

[G] *Matters cannot be this way, but this is the rule:* If matters requiring preparation in conditions of cleanness touched it when it is empty, the things requiring preparation in conditions of cleanness are regarded as unclean. If one filled it with matter subject to the rules of cleanness, they are regarded as clean.

[H] And is there a clay utensil that is regarded at one point as subject to uncleanness and at another unsusceptible?

[I] *Matters cannot be this way.*

[II:2 A] Said R. Yohanan, “Costus, a gourd, an alleyway, a proselyte, and an ordinary person are subject to a strict rule.”

[B] *Costus, as we learn in the following: “Costus, amomum, the principal spices, crowfoot, asafetida, black pepper, and lozenges of safflower, are purchased with money of second tithe, but do not receive uncleanness as food,” the words of R. Aqiba.*

[C] **Said to him R. Yohanan b. Nuri, “If they are purchased with money of second tithe, then why do they not receive uncleanness as food? If they do not receive uncleanness as food, then they also should not be purchased with money of second tithe [M. Uqs. 3:5].”**

[D] R. Yohanan said, “It is subject to the following strict rule: It receives uncleanness as food, and may not be purchased with money of second tithe.”

[E] **Gourd:** *We have learned there:*

[F] **A gourd that they immersed in water that is not suitable for mixing – they mix with it before it is made unclean.**

[G] **[If however] it is made unclean, they do not mix with it.**

[H] **R. Joshua says, “If he mixes with it in the first place [before it is unclean], even at the end [after it is unclean] does he mix with it.**

[I] **“If he does not mix with it at the end, even in the first place he should not mix with it.”**

[J] **One way or the other he should not collect in it water that has been mixed [with ashes] [M. Par. 5:3].**

[K] R. Yohanan said, “It is subject to the following strict rule: They do not mix with it either in the first place or at the end.”

[L] *As to an alleyway, we have learned there:*

[M] **An alleyway, the beams or sideposts of which have been removed –**

- [N] **“they are permitted on that Sabbath, but prohibited in time to come,”** the words of R. Judah.
- [O] R. Yosé says, **“If they are permitted on that Sabbath, they are permitted in time to come.**
- [P] **“And if they are prohibited in time to come, they are prohibited on that Sabbath”** [M. Erub. 9:3].
- [Q] R. Yohanan said, “It is subject to the following strict rule: It is prohibited both on that Sabbath and on the Sabbaths in time to come.
- [R] *The case of the proselyte, for it has been taught:*
- [S] **A gentile who converted and who had wine and who said, “It is perfectly clear to me that it has not been made unclean” –**
- [T] **when others were engaged therewith, it is prohibited to him and prohibited to everyone else.**
- [U] **If the man himself [were engaged therewith], it is permitted to him and prohibited to everyone else.**
- [V] R. Aqiba says, **“If it is permitted to him, it is permitted to everyone else. If it is prohibited to him, it is prohibited to everyone else”** [T. Toh. 9:7].
- [W] R. Yohanan said, “He is subject to the following strict rule: The kegs of wine are regarded as prohibited both to him and to everyone else.”
- [X] *The ordinary person [am ha'ares], as it has been taught:*
- [Y] **An am ha'ares who took on himself [the obligations of the haber], and who had clean foods, and who said, “It is perfectly clear to me that they have not been made unclean” –**
- [Z] **when others had been engaged therewith, they are prohibited to him and prohibited to everyone else.**
- [AA] **[If] only he himself [was engaged therewith], they are permitted to him and prohibited to everyone else.**
- [BB] R. Aqiba says, **“[If] they are permitted to him, they are permitted to everyone else; [if] prohibited to him, they are prohibited to everyone else”** [T. Toh. 9:6].

[CC] R. Yohanan said, “He is subject to the following strict rule: The foods are regarded as prohibited both to him and to everyone else.”

[II:3 A] Said R. Yannai, “The younger disciples would say: ‘This rule applies to heave offering that has been prepared in accord with the rules pertaining to Holy Things. Lo, if it was prepared in accord with rules governing itself [as heave offering], [M.’s rule] does not apply.’

[B] “But I say, ‘Even if the food were prepared in accord with its own rules as heave offering[, the law of Mishnah applies].’”

[C] *That which R. Yosé has said accords with R. Yannai, and that which R. Jeremiah has said accords with the younger disciples.*

[III:1 A] **But if he said to him, “I set apart in this jug of wine a quarter log which is in the status of Holy Things, he is deemed trustworthy [and the jug is accepted] [M. 3:4F].**

[B] Since he is deemed trustworthy with regard to Holy Things, he is deemed trustworthy in this case with regard to the produce in the status of heave offering.

[C] **As to jugs of wine and oil in which wine or oil in the status of heave offering had been mixed, common people are deemed trustworthy in their regard [M. 3:4G]:**

[D] Said R. Yosé b. R. Bun, “These are jars in which people have poured produce with which produce in the status of heave offering has been mixed.”

3:5

[A] **From Modi’in and inward [toward Jerusalem, people] are deemed trustworthy in regard to the status of clay utensils.**

[B] **From Modi’in and outward, they are not deemed trustworthy.**

[C] **How so?**

[D] **A potter who sells pots –**

[E] **[if] there came within the border of Modi’in [toward Jerusalem that potter, those pots, and those purchasers] –**

[F] **he is deemed trustworthy.**

[G] **[If] he went beyond the limit, he is not deemed trustworthy.**

[I:1 A] *The Mishnah passage speaks of small clay utensils.*

[B] *The Mishnah passage itself has made that clear: **That potter, those pots, and those purchasers [M. 3:5E]**, and does not the word “pots” refer to small ones?*

[I:2 A] If food preserved in a state of cultic cleanness touched [a pot], if it is from Modi'in and inward [toward Jerusalem], liquid imparts uncleanness to the utensil [for the pedlar is believed as to the condition only of the pot, not of its contents]. [If the liquid is assumed unclean, it is going to impart uncleanness to the pot.]

[I:3 A] If the pot was filled with water –

[B] R. Simeon b. Laqish said, “[An *am ha'ares* is] deemed trustworthy with regard to the status of the pot, but he is not deemed trustworthy with regard to the status of the liquid.”

[C] R. Yohanan said, “He is deemed trustworthy with regard to both this and that.”

[D] *The Mishnah stands at variance with the view of R. Simeon b. Laqish: **But if he said to him, “I set apart in this jug of wine a quarter log that is in the status of Holy Things,” then he is deemed trustworthy [M. 3:4F].***

[E] Said R. Zeira, “Interpret the passage to speak of one who says, ‘When I was an associate, I set apart [the jug of wine in the status of Holy Things].’”

[F] Rabbis of Caesarea in the name of R. Bun bar Hiyya: “The reason for the view of R. Simeon b. Laqish [B] is that the pledge of preserving cleanness of foods is not taken vis-a-vis water.”

3:6

[A] **Tax collectors who went into a house,**

[B] **and so too thieves who returned objects [they had stolen],**

[C] **are deemed trustworthy to state, “We did not touch them [and make them unclean].”**

[D] **And in Jerusalem they are deemed trustworthy in matters concerning Holy Things,**

[E] **and at the time of the festivals, also concerning matters touching on heave offering.**

[I:1 A] **Tax collectors who entered a house – it is unclean.**

[B] **If [79d] there is a gentile with them, they are deemed trustworthy to testify, “We went in, but we did not touch anything” [cf. M.Toh. 7:6; T.Toh.8:5].**

[C] [At M. 3:6A, the collectors are believed whether or not there is a gentile on hand; while at the cited passage, B, they are believed only if a gentile is with them.] *There are two interpretations to be offered.*

[D] They are believed to say, “We went in but we did not touch anything,” when there are witnesses who know that they went in [in which case, if a gentile was with them, they are believed, since he will have supervised them]. [But if not, they are not believed, for their own testimony now is not necessary in the present situation. Witnesses already have indicated that they went in. Accordingly, only if there is corroborating testimony are they believed, as at A-B.]

[E] Along these same lines, in Jerusalem they are believed concerning Holy Things even if there are witnesses who know [that they have gone into the house, because of M. 3:6D]. [That is, the testimony of the am *ha'ares* in Jerusalem is acceptable because he will be as concerned as the associate to preserve the cleanness of Holy Things. Hence the fact that there are witnesses does not nullify the effect of the testimony of the tax collectors.]

[F] *There is a further interpretation to be offered.*

[G] They are deemed trustworthy to state, “We went in but we did not touch anything,” and therefore it is necessary to specify that there are witnesses to that fact [to indicate that, if a gentile is present, the tax collectors are believed, even though otherwise their testimony would not be accepted because of the presence of the witnesses to the fact of their entry].

[H] And in Jerusalem they are held to be trustworthy even concerning Holy Things, even though there are witnesses who know that they have gone into the house.

[I:2 A] Said R. Joshua b. Levi, “‘Jerusalem, built as a city that is associated firmly together, to which the tribes go up’ (Ps. 122:3-4). It is a city that turns all Israel into associates [who preserve the laws of cleanness].”

[B] If that is the case, then even through the rest of the year [and not only at the time of the festivals, M. 3:6E, the rule should be the same].

[C] Said R. Zeira, “But that is on condition that it is then that ‘the tribes go up’ [which is at the time of the festivals only].”

3:7

[A] He who opens up a jug of wine or broke into dough [to sell them] for the needs of a festival –

[B] R. Judah says, “He finishes [selling the contents after the festival].”

[C] And sages say, “He does not finish [selling the contents after the festival].”

[D] After the festival was over, they undertook the purification of the Temple court.

[E] [If] the festival ended before a Friday, they did not undertake the purification,

[F] because of the honor owing to the Sabbath.

[G] R. Judah says, “Also not before Thursday, for the priests are not free.”

[I:1 A] [As to the reason for Judah’s position, M. 3:7B,] R. Hananiah in the name of R. Yohanan: “They permitted selling the wine at the end on account of doing so at the outset. That is, if one tells him not to finish [the jug], to begin with he will not open it. And if he does not open it, he will lessen the joy owing to the festival.”

[B] *R. Samuel bar Nahman in the name of R. Jonathan: “When they differ it is as to a jug of wine; but as to a jug of oil, all parties concur that he may not finish it.”*

[C] [In line with the view of sages,] what should he do?

[D] *R. Hiyya taught, “He pours out the wine.”*

[E] *Bar Qapparah taught, “He breaks the jug.”*

[F] *And lo, R. Halapta bar Saul taught [to the contrary], “He leaves it over for the next festival. [At that point the jug and the wine return to the status of being regarded as cultically clean.]”*

[I:2 A] R. Simon in the name of R. Joshua b. Levi: “In the case of the final day of a festival that coincides with a Friday, the food for use on the following Sabbath is subject to the rules of the festival just ended [so that what is deemed on the festival remains in that status for the Sabbath which is adjacent to the festival].”

[B] Said R. Zeira, “*A Tannaite teaching has made the same point: The eve of Passover is in the status of Passover, and the day of slaughtering [the festal sacrifice, prior to Pentecost] is in the status of Pentecost.”*

[C] *Said R. Hananiah, “We have learned an even more extreme view [in that we add even more to the days in the status of the festival], for R. Judah says, ‘Also not before Thursday, for the priests are not free’ [M. 3:7G].”*

3:8

- [A] **How do they undertake the purification of the Temple court? They immerse the utensils that were in the Sanctuary and say to (the people), “Be careful not to touch the table and render it unclean”].**
- [B] **All utensils that were in the Temple have duplicates and triplicates, so if the originals are made unclean, they may bring the duplicates in their place.**
- [C] **All utensils that were in the Temple require immersion,**
- [D] **except for the golden altar and the copper altar,**
- [E] **“for they are in the status of the ground [and insusceptible to uncleanness to begin with],” the words of R. Eliezer.**
- [F] **And sages say, “Because they are plated [with metal, gold, or copper].”**
- [I:1 A] **And do the utensils require immersion? [Why so?]**
- [B] **Said R. Ba, “I say, ‘Perhaps there is among the utensils one that had not been sprinkled [with purification-water, when it was originally completed, and this one became susceptible to uncleanness].”**
- [C] **If that is the case, then we should scruple about all of them [immersing even the table].**
- [D] **Said R. Bun bar Hiyya, “I say that one of the priests went out to chat with a woman about the matter of a bird-offering [owing after she had given birth to a child], and the spit of her mouth spurted onto his clothing and so made him unclean. [Since he then touched a utensil, it should be immersed.]”**
- [E] **If that is the case, then we should scruple about all of them [including the table, and not merely what can be immersed].**
- [F] **Interpret the case to be one in which there is a matter of doubt as to uncleanness with regard to liquids.**
- [G] ***We have learned there: A doubt concerning liquids, in respect to contracting uncleanness – it is unclean.***
- [H] **[A doubt concerning liquids, in respect to] conveying uncleanness – it is clean [M. Toh. 4:7D-E]. [Now here we**

have a doubt as to whether liquid has imparted uncleanness, and we should then assume that no uncleanness has been conveyed.] And yet we have proposed that the doubt is resolved in a strict way.

[I] There we speak of heave offering [at M. Toh. 4:7], and here we speak of Holy Things. A more strict rule applies in the case of Holy Things.

[I:2 A] *It has been taught: “A table [used for the show-bread of the Temple] which is made unclean – they immerse it at its proper time [when they remove the show-bread from it], even on the Sabbath [cf. M. 3:8A] [T. Hag. 3:35], the words of R. Meir.*

[B] **And sages say, “They immerse it immediately [and do not wait until the time for removing the show-bread].”**

[C] *It turns out that the principal consideration for R. Meir is that the two loaves of bread may be made unclean. [You do not remove the bread until its proper time for removal. The bread is unclean; it is left until the Sabbath. Then it is removed, and new loaves are put out on the table. If you immerse the table forthwith and then put the bread on it, the bread will go and make the table unclean. When the new bread is put on the table, the table, made unclean by the old, unclean bread, will impart uncleanness to the new bread. So two sets of bread are made unclean. Accordingly, we have to hold off immersing the table until the Sabbath, when the old, unclean bread is removed. Then the table is immersed. The clean new bread is put on the now-clean table, so the new bread will remain clean. That is why Meir holds the view he does.]*

[D] *In the view of rabbis, only one set of loaves of bread alone is made unclean, [in any event,] since if the table is immersed right away, we also will not put on the unclean loaves again. We leave the now-clean table bare until the new loaves are put on.*

[E] *Said R. Jacob bar Sisi before R. Yosé, “And even in the view of R. Meir, only one set of loaves of bread is made unclean. If the table is made unclean by reason of doubt affecting liquids, then, the doubt is resolved as clean [and the rest follows].”*

[I:3 A] **One time they immersed the candelabrum on the festival day. The Sadducees went around saying, “Come and see bow the Pharisees immerse [something which in fact is as clean as] the light of the moon” [T. Hag. 3:35F].**

- [I:4 A] *There we have learned: They went into the office for utensils and brought out from there ninety-three silver and gold utensils [T. Tam. 3:4A].*
- [B] Said R. Samuel bar Nahman in the name of R. Jonathan: “This is for the ninety-three places in the prophetic books of Haggai, Zechariah, and Malachi in which the name of God is mentioned.”
- [C] Said R. Hunah, “I counted them, and they are only eighty-three, for the eighty-three times in the book of Ezra in which a seal is mentioned, each such seal containing a distinctive version of the name of the Holy One blessed be he.”
- [D] *There is he who proposed to state, “There were thirty utensils, as on the day on which the offerings of the community were the most numerous of the entire year, corresponding to the thirteen bulls and fourteen sheep, two rams and one goat of the first day of the Festival of Tabernacles.”*
- [II:1 A] *R. Shilah of Kepar Tameratah in the name of R. Yohanan: “The scriptural basis for the position of R. Eliezer [M. 3:8E] is as follows: ‘And you shall overlay it with pure gold’ (Exod. 30:3). The Torah has referred to this altar’s overlay as being on the ground.*
- [B] “To this point we have indicated that the golden altar is regarded as part of the ground [and so unsusceptible to uncleanness].
- [C] “How do we know that that is also the case for the altar on which the burnt-offerings are prepared?
- [D] “It is a matter of logic. Now if the golden altar, which is only a cubit by a cubit by a cubit, is regarded as part of the ground, the altar for the burnt-offerings, which is five by five [so much larger] – is it not an argument a fortiori?”
- [E] *There is he who proposes that the same proof [=C-D] be derived from the recurrence of the squared measurements [of the altar]. Just as here there is an altar of squared measurements, which is deemed attached to the ground, so there the same rule applies.*
- [F] *Said R. Hela, “The scriptural basis for the view of rabbis is as follows: ‘An altar of wood, three cubits high, two cubits long, and two cubits broad’ (Ezek. 41:22). The Torah has referred to it as movable. [So the reason it is unsusceptible must be as given at M. 3:8F.]*

- [G] “To this point we have dealt with the altar for the burnt offering. How do we know that the same is so for the altar of gold?”
- [H] “It is a matter of logic. Now if in the case of the altar for the burnt-offering, which is five cubits by five, you have held that it is movable, the golden altar, which is only one cubit by one, all the more so should be regarded as movable.”
- [I] *There is he who wished to argue [= H] that in both cases we have squared measurements, and just as in the one case it is movable, so in the other it is movable.*
- [J] **And sages say, “Because they are plated [with metal]” [M. 3:8F].**
- [K] It is not plated in such a way that it stands up on its own. [The plating is slight. Why should it prevent uncleanness?]
- [L] Did not R. Simeon b. Levi say in the name of R. Hoshaiyah, “It is of the thickness of a Gordian *denar*”?
- [M] Said R. La, “For the purpose that it carries out, does it not stand on its account?”
- [N] *What he has said accords with that which R. Simeon b. Levi has said, “‘And you will make an altar for burning incense’ (Exod. 30:1). It is written only, ‘Making the incense burn.’ The meaning is that the altar itself made the incense burn.”*
- [O] And let it be regarded as is a tray that is so constructed as to be moved about and put down.
- [P] Did not R. Ammi say in the name of R. Simeon b. Laqish, “As to the table, why was it susceptible to uncleanness? Is it not because they take it out and show it to the pilgrims for the festivals? And as to this one, does it not stay in its place?”
- [Q] This too serves as a utensil for the sanctuary.
- [R] Then it should be insusceptible to uncleanness, and why is it susceptible?
- [S] *Said R. Mana, “It is in accord with that which we have learned there: **There are three kinds of baskets: the one for dung is susceptible to midras-uncleanness. The one for straw is susceptible to corpse-uncleanness. The rope bag for camels is insusceptible to uncleanness [M. Kel. 24:9].** [The one for dung is used for sitting. The one for straw serves as a basket for carrying. The rope bag cannot be used for sitting, and the holes*

are too big to form a receptacle, so it is not susceptible to uncleanness.]”

[T] Said R. Zeira, “The one for dung is susceptible because they use it along with its ropes, and here too they use it along with its ropes. [Here, by analogy, they use the wood along with the gold plating, so the wood is equivalent to the gold plating and exempt.]”

CHAPTER FOUR

THE STRUCTURE OF YERUSHALMI HAGIGAH

Whether or not the Talmud of the Land of Israel is carefully organized in large-scale, recurrent structures and guided by a program that we may call systematic forms the principal question addressed by an academic commentary. The preceding chapters therefore have pointed toward the presentation set forth here. By “structure” I mean, a clearly-articulated pattern that governs the location of fully-spelled out statements. By “system,” I mean, a well-crafted and coherent set of ideas that explain the social order of the community addressed by the writers of a document, a social philosophy, a theory of the way of life, world view, and character of the social entity formed by a given social group. I see a collective, anonymous, and political document, such as the one before us, as a statement to, and about, the way in which people should organize their lives and govern their actions. At issue then in any document such as the remarkable one before us is simple: does this piece of writing present information or a program, facts to whom it may concern, or a philosophically and aesthetically cogent statement about how things should be? The connection between structure and system is plain to see. From the way in which people consistently frame their thoughts, we move to the world that, in saying things in one way rather than in some other, they wish to imagine. Modes of formulating thought adumbrate modes of imagining the world in which people wish to live, to which they address these thoughts.

If the document exhibits structure and sets forth a system, then it is accessible to questions of rationality. We may ask about the statement that its framers or compilers wished to make by putting the document together as they did. But if we discern no structure and perceive no systematic inquiry or governing points of analysis, then all we find here is inert and miscellaneous information, facts but no propositions, arguments, viewpoints. Now as a matter of fact the Talmud of the Land of Israel commonly finds itself represented as lacking organization and exhibiting a certain episodic and notional character. That view moreover characterizes the reading and representation of the document by learned and

experienced scholars, who have devoted their entire lives to Talmud study and exegesis. It must follow that upon the advocate of the contrary view - the one implicit in the representation of the document for academic analysis - rests the burden of proof. I set forth the allegation that the Talmud of the Land of Israel exhibits a structure and follows a system and therefore exhibits a commonly-intelligible rationality. The claim to write an academic commentary explicitly states that proposition. For the tractate before us, I have therefore to adduce evidence and argument.

I maintain that through the normal procedures of reasoned analysis we may discern in the tractate a well-crafted structure. I hold that the structure made manifest, we may further identify the purpose and perspective, the governing system of thought and argument, of those who collected and arranged the tractate's composites and put them together in the way in which we now have them. By "structure" I mean, how is a document organized? and by "system," what do the compilers of the document propose to accomplish in producing this complete, organized piece of writing? The answers to both questions derive from a simple outline of the tractate as a whole, underscoring the types of compositions and composites of which it is comprised. Such an outline tells us what is principal and what subordinate, and how each unit - composition formed into composites, composites formed into a complete statement - holds together and also fits with other units, fore and aft. The purpose of the outline then is to identify the character of each component of the whole, and to specify its purpose or statement. The former information permits us to describe the document's structure, the latter, its system.

While the idea of simply outlining a Talmud-tractate beginning to end may seem obvious, I have never made such an outline before, nor has anyone else. (I have provided complete outlines for the Mishnah and for the Tosefta in relationship to the Mishnah, and, not always in outline form, for the Midrash-compilations of late antiquity as well) Yet, as we shall now see, the character of the outline dictates all further analytical initiatives. Specifically, when we follow the layout of the whole, we readily see the principles of organization that govern. These same guidelines on organizing discourse point also to the character of what is organized: complete units of thought, with a beginning, middle, and end, often made up of smaller, equally complete units of thought. The former we know as composites, the latter as compositions.

Identifying and classifying the components of the tractate - the composites, the compositions of which they are made up - we see clearly how the document coheres: the plan and program worked out from beginning to end. When we define that plan and program, we identify the facts of a pattern that permit us to say in a specific and concrete way precisely what the compilers of the tractate

intended to accomplish. The structure realizes the system, the program of analysis and thought that takes the form of the presentation we have before us. From what people do, meaning, the way in which they formulate their ideas and organized them into cogent statements, we discern what they proposed to do, meaning, the intellectual goals that they set for themselves.

These goals - the received document they wished to examine, the questions that they brought to that document - realized in the layout and construction of their writing, dictate the points of uniformity and persistence that throughout come to the surface. How people lay out their ideas guides us into what they wished to find out and set forth in their writing, and that constitutes the system that defined the work they set out to accomplish. We move from how people speak to the system that the mode of discourse means to express, in the theory that modes of speech or writing convey modes of thought and inquiry.

We move from the act of thought and its written result backward to the theory of thinking, which is, by definition, an act of social consequence. We therefore turn to the matter of intention that provokes reflection and produces a system of inquiry. That statement does not mean to imply I begin with the premise of order, which sustains the thesis of a prior system that defines the order. To the contrary, the possibility of forming a coherent outline out of the data we have examined defines the first test of whether or not the document exhibits a structure and realizes a system. So everything depends upon the possibility of outlining the writing, from which all else flows. If we can see the order and demonstrate that the allegation of order rests on ample evidence, then we may proceed to describe the structure that gives expression to the order, and the system that the structure sustains.

The present work undertakes the exegesis of exegesis, for the Yerushalmi, like its counterpart in the one of Babylonia, is laid out as a commentary to the Mishnah. That obvious fact defined the character of my academic commentary, since we have already faced the reality that our tractate is something other than a commentary, though it surely encompasses one. The problems that captured my attention derived from the deeper question of how people make connections and draw conclusions. To ask about how people make connections means that we identify a problem - otherwise we should not have to ask - and what precipitated the problem here has been how a composition or a composite fits into its context, when the context is defined by the tasks of Mishnah-commentary, and the composition or composite clearly does not comment on the Mishnah-passage that is subjected to comment.

The experience of analyzing the document with the question of cogency and coherence in mind therefore yields a simple recognition. Viewed whole, the

tractate contains no gibberish but only completed units of thought, sentences formed into intelligible thought and self-contained in that we require no further information to understand those sentences, beginning to end. The tractate organizes these statements as commentary to the Mishnah. But large tracts of the writing do not comment on the Mishnah in the way in which other, still larger tracts do. Then how the former fit together with the latter frames the single most urgent question of structure and system that I can identify.

Since we have already examined enormous composites that find their cogency in an other than exegetical program, alongside composites that hold together by appeal to a common, prior, coherent statement - the Mishnah-sentences at hand - what justifies my insistence that an outline of the document, resting on the premise that we deal with a Mishnah-commentary, govern all further description? To begin with, the very possibility of outlining this tractate derives from the simple fact that the framers have given to their document the form of a commentary to the Mishnah. It is in the structure of the Mishnah-tractate that they locate everything together that they wished to compile. We know that is the fact because the Mishnah-tractate defines the order of topics and the sequence of problems.

Relationships to the Mishnah are readily discerned; a paragraph stands at the head of a unit of thought; even without the full citation of the paragraph, we should find our way back to the Mishnah because at the head of numerous compositions, laid out in sequence one to the next, clauses of the Mishnah-paragraph are cited in so many words or alluded to in an unmistakable way. So without printing the entire Mishnah-paragraph at the head, we should know that the received code formed the fundamental structure because so many compositions cite and gloss sentences of the Mishnah-paragraph and are set forth in sequence dictated by the order of sentences of said Mishnah-paragraph. Internal evidence alone suffices, then, to demonstrate that the structure of the tractate rests upon the Mishnah-tractate cited and discussed here. Not only so, but the sentences of the Mishnah-paragraphs of our tractate are discussed in no other place in the entire Talmud of the Land of Israel in the sequence and systematic exegetical framework in which they are set forth here; elsewhere we may find bits or pieces, but only here, the entirety of the tractate.

That statement requires one qualification, and that further leads us to the analytical task of our outline. While the entire Mishnah-tractate of treated here is cited in the Talmud of the Land of Israel, the framers of the Talmud of the Land of Israel by no means find themselves required to say something about every word, every sentence, every paragraph. On the contrary, they discuss only what they choose to discuss, and glide without comment by large stretches of the tractate. A process of selectivity, which requires description and analysis, has told the

compilers of the Talmud of the Land of Israel's composites and the authors of its compositions (This statement requires refinement. I do not know that all available compositions have been reproduced, and that the work of authors of compositions of Mishnah-exegesis intended for a talmud is fully exposed in the document as we have it. That is not only something we cannot demonstrate - we do not have compositions that were not used, only the ones that were - but something that we must regard as unlikely on the face of matters. All we may say is positive: the character of the compositions that address Mishnah-exegesis tells us about the concerns of the writers of those compositions, but we cannot claim to outline all of their concerns, on the one side, or to explain why they chose not to work on other Mishnah-sentences besides the ones treated here. But as to the program of the compositors, that is another matter: from the choices that they made (out of a corpus we cannot begin to imagine or invent for ourselves) we may describe with great accuracy the kinds of materials they wished to include and the shape and structure they set forth out of those materials. We know what they did, and that permits us to investigate why they did what they did. What we cannot know is what they did not do, or why they chose not to do what they did not do. People familiar with the character of speculation and criticism in Talmudic studies will understand why I have to spell out these rather commonplace observations. I lay out an argument based on evidence, not on the silences of evidence, or on the absence of evidence - that alone.) what demands attention, and what does not. Our outline has therefore to signal not only what passage of the Mishnah-tractate is discussed, but also what is not discussed, and we require a general theory to explain the principles of selection ("making connections, drawing conclusions" meaning, to begin with, making selections). For that purpose, in the outline, I reproduce the entirety of a Mishnah-paragraph that stands at the head of a Talmudic composite, and I underscore those sentences that are addressed, so highlighting also those that are not.

It follows that the same evidence that justifies identifying the Mishnah-tractate as the structure (therefore also the foundation of the system) of Yerushalmi-tractate before us also presents puzzles for considerable reflection. The exegesis of Mishnah-exegesis is only one of these. Another concerns the purpose of introducing into the document enormous compositions and composites that clearly hold together around a shared topic or proposition, e.g., my appendix on one theme or another, my elaborate footnote providing information that is not required but merely useful, and the like. My earlier characterization of composites as appendices and footnotes signalled the fact that the framers of the document chose a not-entirely satisfactory way of setting out the materials they wished to include here, for large components of the tractate do not contribute to Mishnah-exegesis in any way at all. If these intrusions of other-than-exegetical compositions were proportionately modest, or of topical composites negligible in size, we might

dismiss them as appendages, not structural components that bear much of the weight of the edifice as a whole. Indeed, the language that I chose for identifying and defining these composites - footnotes, appendices, and the like - bore the implication that what is not Mishnah-commentary also is extrinsic to the Talmud of the Land of Israel's structure and system.

But that language served only for the occasion. In fact, the outline before us will show that the compositions are large and ambitious, the composites formidable and defining. Any description of the tractate's structure that dismisses as mere accretions or intrusions so large a proportion of the whole misleads. Any notion that "footnotes" and "appendices" impede exposition and disrupt thought, contribute extraneous information or form tacked-on appendages - any such notion begs the question: then why fill up so much space with such purposeless information? The right way is to ask whether the document's topical composites play a role in the re-presentation of the Mishnah-tractate by the compilers of the Talmud of the Land of Israel. We have therefore to test two hypotheses:

1. the topical composites ("appendices," "footnotes") do belong and serve the compilers' purpose

or

2. the topical composites do not participate in the re-presentation of the Mishnah-tractate by Yerushalmi and do not belong because they add nothing and change nothing.

The two hypotheses may be tested against the evidence framed in response to a single question: is this topical composite necessary? The answer to that question lies in our asking, what happens to the reading of the Mishnah-tractate in light of the topical composites that would not happen were we to read the same tractate without them? The outline that follows systematically raises that question, with results specified in due course. It suffices here to state the simple result of our reading of the tractate, start to finish: the question of structure, therefore also that of system, rests upon the position we identify for that massive component of the tractate that comprises not Mishnah-commentary but free-standing compositions and composites of compositions formed for a purpose other than Mishnah-commentary.

The principal rubrics are given in small caps. The outline takes as its principal rubrics two large-scale organizing principles.

The first is the divisions of the Mishnah-tractate to which the Talmud of the Land of Israel-tractate serves as a commentary. That simple fact validates the claim that the tractate exhibits a fully-articulated structure. But the outline must also underscore that the Mishnah-tractate provides both more and less than the

paramount outline of the Talmud of the Land of Israel-tractate. It is more because sentences in the Mishnah-tractate are not analyzed at all. These untreated Mishnah-sentences are given in bold face lower case caps, like the rest of the Mishnah, but then are specified by underlining and enclosure in square brackets.

Second, it is less because the structure of the tractate accommodates large composites that address topics not defined by the Mishnah-tractate. That brings us to the second of the two large-scale modes of holding together both sustained analytical exercises and also large sets of compositions formed into cogent composites. These are treated also as major units and are indicated by Roman numerals, alongside the Mishnah-paragraphs themselves; they are also signified in small caps. But the principal rubrics that do not focus on Mishnah-commentary but on free-standing topics or propositions or problems are not given in boldface type. Consequently, for the purposes of a coherent outline we have to identify as autonomous entries in our outline those important composites that treat themes or topics not contributed by the Mishnah-tractate.

I. YERUSHALMI HAGIGAH 1:1

[A] ALL ARE LIABLE TO BRING AN APPEARANCE OFFERING] (EXOD. 23:14, DEUT. 16:16):

1. **I:1:** [When] the Mishnah [refers to a minor's being exempt], it is in regard to the appearance-offering. But as to making personal appearance on the Temple mount, even a minor is obligated. [The requirement of making a personal appearance] in line with the following verse of Scripture: "Assemble the people, men, women and little ones" (Deut. 31:12). Now is not a minor older than a "little one" [hence obviously subject to the law]? For it has been taught: M'SH B: R. Yohanan b. Beroqah and R. Eleazar Hisma came from Yabneh to Lud and they greeted R. Joshua in Peqi'in. Said to them R. Joshua: "What was new in the schoolhouse today?" They said to him, "We are your disciples and we drink your wisdom (lit., water). He said to them, "It is hardly possible that there should be nothing new in the schoolhouse today. Who presided this week?" They said to him, "It was the week of R. Eleazar b. Azariah." He said to them, "And from what [text] was the narration?" "Assemble the people, men, women, and children, and the sojourner within your towns, that they may hear and learn to fear the Lord your God." (Deut. 31:12). He said to them, "And what did he explain in this connection?" They said to him, "Rabbi, thus did he explain in its connection: 'Now if the men came

along to study, the women came along to listen, why did the children come along? To provide a reward to the people who brought them” [T. Sot. 7: 9]. He said to him, “The generation in which R. Eleazar flourishes is not orphaned” [T. Sot. 7:12D].

[B] EXCEPT FOR A DEAF-MUTE:

- 1. II:1:** A deaf-mute: Associates in the name of R. Eleazar: ““So that they may hear and learn to fear the Lord”” (Deut. 31:12). Up to this point reference has been made to one who speaks but does not hear. A deaf-mute who hears but cannot speak – R. Ila in the name of R. Eleazar, “[He is included under,] ‘In order that they may learn’ [which may be read,] ‘In order that they may teach.’”

[C] AN IDIOT:

- 1. III:1:** Said R. Eleazar, ““It was clearly demonstrated to you’ (Deut. 4:35) [thus excluding those to whom the knowledge is inaccessible].”

[D] A MINOR:

- 1. IV:1:** A minor: R. Jeremiah, and R. Aibu bar Nigri were studying together. They said, “We have learned: What is the definition of a minor? It is any who cannot ride on the shoulder of his father [M. 1:1H]. “Now can such a minor speak or listen [that he should be included]?” They retracted [their opinion] and stated, “[When Scripture says, ‘Three times a year] all your males [shall appear before the Lord’ (Deut. 16:16)] – [with the word ‘all’] serving to include a minor.”

[E] ONE WITHOUT PRONOUNCED SEXUAL CHARACTERISTICS:

- 1. V:1:** One without pronounced sexual characteristics: All concur in the case of one without pronounced sexual characteristics who was cut open and turned out to be a male on the first day of the festival, that he is liable [to make an appearance, even though, prior to the festival, he was not subject to liability]. Concerning what case do they differ? Concerning a case in which he was cut open on other days [of the festival]. Hezekiah said, “When Scripture says, ‘Every male shall appear’ (Deut. 16:16), it means this: He who is obligated to make an appearance on the first day [of the festival] is liable to do so on the second. He who is not liable on the first day is not liable on the second [and this one is not liable on the first, so is not liable on the second].” Said R. Yohanan, “All seven days [of the festival] serve to fulfill the

obligation incurred on the first day. [When he turns out to be male, upon the exposure of his genitals, on the second or a later day of the festival, the obligation of appearance applies retroactively. This is now explained in what follows.]”

[F] AN ANDROGYNE [WHO EXHIBITS THE SEXUAL TRAITS OF BOTH SEXES]:

- 1. VI:1:** An androgyne: “Every male” (Deut. 16:16) – serving to exclude an androgyne. There we have learned: [As to a newborn infant about whom there exists a] doubt [regarding his viability and] an androgyne, they do not violate the Sabbath in his behalf [to circumcise him]. R. Judah permits doing so [M. Shab. 19:3]. In regard to the androgyne in the present context, how does R. Judah rule? Let us derive the answer from the following: Yohanan b. Dahabai in the name of R. Judah: “Also the blind man” is exempt from making an appearance [T. Hag. 1:1F]. And a man does not say, “Also,” unless he concurs with what has gone before.

[G] WOMEN:

- 1. VII:1:** Women: “Every male” (Deut. 16:16) serves to exclude women.

[H] SLAVES WHO HAVE NOT BEEN ALTOGETHER FREED:

- 1. VIII:1:** Slaves: Let us derive scriptural proof from the following: “Three times a year all your males shall appear before the Lord your God” (Deut. 16:16). This refers to him who has no lord except for the Holy One, blessed be he. It then excludes a slave, who has another lord.

[I] THE LAME, THE BLIND:

- 1. IX:1:** The lame: Since it is written, “pilgrim-festivals” [using the word RGL, foot].

[J] THE SICK:

- 1. X:1:** The sick: Since it is written, “And you will rejoice” (Deut. 16:14).

[K] THE OLD,

- 1. XI:1:** The old: Since it is written, “pilgrim-festivals” [and the aged cannot come by foot].

[L] AND ONE WHO CANNOT GO UP ON FOOT. WHAT IS THE DEFINITION OF A MINOR?
“ANYONE WHO CANNOT RIDE ON HIS FATHER’S SHOULDER TO ASCEND THE
TEMPLE MOUNT FROM JERUSALEM, “ THE WORDS OF THE HOUSE OF
SHAMMAI. AND THE HOUSE OF HILLEL SAY, “ANY WHO CANNOT HOLD HIS
FATHER’S HAND TO GO UP FROM JERUSALEM TO THE TEMPLE MOUNT, AS IT IS
WRITTEN, “THREE PILGRIM-FESTIVALS”” (EXOD. 23:14).

1. **XII:1:** Said R. Yohanan in the name of R. Yannai, “The House of Shammai and the House of Hillel interpret a single verse [in their dispute at M. 1:1H-J]. The House of Shammai say, ‘One verse of Scripture refers to ‘All your males,’ and one verse of Scripture refers to ‘pilgrim-festivals.’ Take an intermediate category [who will be subject to the requirement], namely, one who can ride on the shoulder of his father.”
2. **XII:2:** R. Bun bar Hiyya raised the question before R. Zeira, “Where did they make their appearance-offering? Was it on the Temple Mount or in the courtyards?” He said to him, “Let us derive the answer from the following: An unclean person is exempt from the requirement of making an appearance, for it is written, ‘[But you shall seek the place which the Lord your God will choose;] thither shall you go, and thither shall you bring [your burnt-offerings and your sacrifices]’ (Deut. 12:5-6). Now may not an unclean person enter the Temple Mount? [Surely he may.] That indicates, then, that it is in the courtyard [to which he may not go] that they would make their appearance-offering.”
3. **XII:3:** Bun bar Hiyya asked before R. Zeira, “What is the law as to sending one’s festal-offering with a third party?” He said to him, “Let us derive the answer from the following: Men afflicted with blisters or with a polypus are exempt from making an appearance, as it is said, ‘Thither shall you go and thither shall you bring’ (Deut. 12:6). “An unclean person is exempt from having to bring an appearance-offering, for it is written, ‘When all Israel comes to appear before the Lord’ (Deut. 31:11). “He who is worthy to make an appearance with all Israel brings an appearance-offering, and he who is not worthy to make an appearance with all Israel does not bring an appearance-offering.” And may he send his festal-offering with a third party? Said R. Yosé, “That cited passage indicates that one may not send a festal-offering through a third party.”
4. **XII:4:** If one designated an animal for use as a festal-offering and then died, as to his heirs, what is the law on their bringing it? R. Ila said,

“The words ‘make an appearance’ are written two times [at Deut. 16:16]. He who is worthy to come brings an offering, and he who is not worthy to;come does not bring an offering. [The deceased cannot bring the offering, and the heirs are exempt from bringing it for him.]”

5. **XII:5:** Said R. Ba bar Mamel, “There is a dispute between Samuel and R. Yohanan. For we have learned there: As to a woman who brought her sin-offering and died, her heirs should bring her burnt-offering. [If she brought] her burnt-offering but died [before it could be offered up] the heirs should not bring her sin-offering] [M. Qin. 2:5]. “Samuel said, ‘That statement applies to a case in which the beast had been designated as a burnt-offering but not offered up in time.’ “R. Yohanan said, ‘[Even if] it had not been designated [it still is offered up].’ How shall we interpret this dispute? If it is a case in which the heirs have inherited real estate from the woman, why in such a case does Samuel say, “It involves a beast that the woman has designated [in her lifetime]”? [The heirs take over her estate, and even after she has died they are responsible for her debts.] If we deal with a case in which the heirs inherited only movables, why in such a case does R. Yohanan say, “Even if it had not been designated [in her lifetime]”? [Why should the heirs be responsible, since they have not inherited real estate and so are not responsible for her debts at all!] But what is at issue between [Samuel and Yohanan]? A case in which the heirs inherited real estate. In the view of Samuel [speaking of the Temple treasurers who come to claim their due], as to laying claim to the property of the estate, they do not [have to bother to] lay claim, and as to seizing as a pledge property of the estate, they do not do that either. [The treasurers do not have to go to that trouble; if the beast had been designated, they just take it. Otherwise, the heirs owe nothing.] As to the view of R. Yohanan, with regard to seizing a pledge, they do seize property of the estate as a pledge [for what is owing to the Temple]. If the heirs inherited movables only, as to the view of R. Yohanan, in regard to laying claim, they do lay claim against the estate. In regard to seizing a pledge, they do not seize a pledge. In the view of Samuel, even as regard to laying claim, they do not lay claim.

II. YERUSHALMI HAGIGAH 1:2

- [A] **THE HOUSE OF SHAMMAI SAY, “THE APPEARANCE-OFFERING MUST BE WORTH AT LEAST TWO PIECES OF SILVER, AND THE FESTAL-OFFERING AT LEAST ONE MAAH OF SILVER.” AND THE HOUSE OF HILLEL SAY, “THE APPEARANCE-OFFERING**

MUST BE AT LEAST ONE MAAH OF SILVER, AND THE FESTAL-OFFERING MUST BE WORTH AT LEAST TWO PIECES OF SILVER.

1. **I:1:** The appearance-offering is presented under the rules governing burnt-offerings, and the festal-offering is presented under the rules governing peace-offerings. The House of Shammai say, “They spend more on burnt-offerings and less on peace-offerings.” The House of Hillel say, “They spend less on burnt-offerings and more on peace-offerings.”
2. **I:2:** It has been taught: There is a rule applying to the appearance-offering which does not apply to the festal-offering, and a rule applying to the festal-offering which does not apply to an appearance-offering. For as to the appearance-offering, the whole of it is for the Most High, which is not the case for the festal-offering [which produces meat for the sacrificer]. [There is a rule applying to the festal-offering], for the festal-offering was given before Revelation and afterward, which is not the case for the appearance-offering. The festal-offering applies before the Revelation, for the language word “festal-offering” is used before Revelation [as at Exod. 5:1]: “Let my people go, that they may prepare a festal-offering to me in the wilderness.” There is a rule applying to the rejoicing [peace-offerings] which does not apply to the other two [appearance-offering, festal-offering]. For the rejoicing-offering applies both to that which belongs to the person who owns it as well as to someone else [in that the man provides for his wife from his own offering, which she does not own], and it applies both for him who usually [derives pleasure from] that sort of thing [namely, meat] and for him who does not usually [derive pleasure from] it, that is, he too rejects thorough the meat of the peace-offerings],. while in the case of these two others, the offering applies only to that which belongs to the sacrificer alone, and only in a matter [from] which the sacrificer usually [derives pleasure].
3. **I:3:** Said R. Yohanan, “The specification of a maah of silver or two pieces of silver derives from the laws of the Torah.” R. Yosé taught before R. Yohanan, “An appearance-offering may be of any value whatsoever. It is the sages who ruled that it must be worth a maah of silver or two pieces of silver.” He said to him, “And is such a thing possible [that sages could impose a fixed value where the Torah specified none]?” Said R. Jonah, “And is it not so that as to all fixed measurements of the law, it is the sages who set those measurements: an olive’s bulk being the minimum volume of corpse-matter that

imposes corpse-uncleanness, an olive's bulk of carrion, a lentil's bulk of a dead creeping-thing, [and the like]? "The purpose of the question had only to do with that which R. Hoshaiiah has taught." For R. Hoshaiiah taught: "They shall not appear before the Lord empty-handed" (Deut. 16:16) – but even any volume at all [suffices]. It is the sages who rule that it must be worth a maah of silver or two pieces of silver. Now the question is, Where did sages derive support in the Torah for ruling that the offering must be worth a maah of silver or two pieces of silver?

III. YERUSHALMI HAGIGAH 1:3

[A] **BURNT-OFFERINGS [FOR APPEARANCE-OFFERINGS] FOR THE INTERMEDIATE DAYS OF A FESTIVAL DERIVE FROM [BEASTS BOUGHT WITH] UNCONSECRATED MONEY. BUT PEACE-OFFERINGS [FOR FESTAL-OFFERINGS] MAY COME FROM MONEY IN THE STATUS OF SECOND TITHE. ON THE FIRST FESTIVAL DAY, THE HOUSE OF SHAMMAI SAY, "[THE OFFERING MUST DERIVE] FROM UNCONSECRATED-MONEY." AND THE HOUSE OF HILLEL SAY, "[IT MAY DERIVE] FROM MONEY IN THE STATUS OF SECOND TITHE."**

- 1.** **I:1:** R. Tanhum bar Ilai in the name of R. Yosé b. R. Haninah: "Thus do the House of Shammai reply to the House of Hillel, '[Can then] an offering brought by reason of an obligation derive from funds in the status of second tithe?' [That is contrary to the rule governing the source of funds for the purchase of an animal brought by reason of an obligation.] 'They said to them, '[When the sacrificer is in Jerusalem and has not got enough money in unconsecrated funds for the purchase of sufficient food, he is permitted to purchase with unconsecrated funds one offering, and then to add to that offering a beast purchased with funds in the status of second tithe, and then he eats the two together. Accordingly,] is it not so that on an unconsecrated occasion [not a festival] may one not bring one [animal purchased] with unconsecrated funds, and add to [it another purchased with] funds in the status of second tithe? Here too he brings one [animal deriving] from unconsecrated funds, and adds to [it another animal purchased] from funds designated as second tithe.'"

IV. YERUSHALMI HAGIGAH 1:4

[A] ISRAELITES [BUT NOT PRIESTS] FULFILL THEIR OBLIGATION [IN THE CASE OF PEACE-OFFERINGS OF REJOICING] THROUGH OFFERINGS BROUGHT IN FULFILLMENT OF VOWS AND AS THANK-OFFERINGS, AND THROUGH TITHE OF CATTLE [LEV. 27:32]. AND PRIESTS [DO SO] THROUGH SIN-OFFERINGS, GUILT-OFFERINGS [NUM. 18:9], FIRSTLINGS, AND THROUGH THE BREAST AND SHOULDER:

1. **I:1:** R. Zeira, Ulla bar Ishmael in the name of R. Eleazar: “With [an animal designated as] peace-offerings for the festal-offering, which one slaughtered on the eve of a festival [that is, prior to the festival day itself], one does not fulfill one’s obligation [to bring a festal-offering] on the festival itself. [The slaughtering of the festal-offering must take place at the time of the rejoicing on the festival itself, not prior to that time.]” R. Ba objected, “Lo, it has been taught, ‘With an animal designated as a festal-offering which one slaughtered on the fourteenth [of Nisan, that is, the day prior to the first festival day of Passover], people carry out their obligation on the count of the festal-offering required for Passover. [This festal-offering is slaughtered along with the Passover-offering, that is, prior to sundown on the fourteenth of Nisan.]’ Now do they not carry out their obligation with that animal on the count of peace-offerings?”

[B] BUT NOT THROUGH FOWL OR MEAL-OFFERINGS:

1. **II:1:** For in this connection, Scripture speaks of a sacrifice [and these are not sacrifices].

V. YERUSHALMI HAGIGAH 1:5

[A] HE WHO HAS MANY WHO EAT [WITH HIM] AND LIMITED PROPERTY BRINGS MANY PEACE-OFFERINGS BUT FEW WHOLE-OFFERINGS. [IF HE HAS] ABUNDANT PROPERTY AND FEW WHO EAT [WITH HIM], HE BRINGS ABUNDANT WHOLE-OFFERINGS AND ONLY A FEW PEACE-OFFERINGS. IF BOTH THIS AND THAT ARE LIMITED, CONCERNING SUCH A PERSON IT IS SAID, “ONE MAAH OF SILVER AND TWO PIECES OF SILVER [ARE TO BE THE VALUE OF THE OFFERING]” [M. 1:2B]. [IF] HE HAS AN ABUNDANCE OF BOTH, CONCERNING THIS ONE IT IS

SAID, “EVERY MAN SHALL GIVE AS HE IS ABLE, ACCORDING TO THE BLESSING OF THE LORD THY GOD WHICH HE HAS GIVEN YOU” (DEUT. 16:17).

1. **I:1:** [If a man is] poor but generous, concerning him I cite the verse, “Every man shall give as he is able” (Deut. 16:17). [If a man is] rich and stingy, concerning him I cite the verse, “According to the blessing of the Lord thy God which he has given you.” [If a man is] poor and stingy, in his regard it is said, “One may not [offer a beast worth] less than two pieces of silver” [M. 1:2B].
2. **I:2:** R. Jeremiah raised the question, “[If a man] said, ‘Lo, I pledge myself to bring a festal-offering worth five *selas*,’ and he brought one worth two, has he carried out his obligation [to bring a festal-offering], or do we maintain that the obligation to bring one worth five has been established?” Said to him R. Yosé, “And why [should the obligation to bring one worth five] not [have been established, and that is what he must bring]? If someone had said, ‘Lo, I am obligated to bring a guilt-offering worth five *selas* even though the requirement is that it cost two *selas*], has the obligation to bring one worth five not been established [by his vow]? [It certainly has.] And here too that obligation is established.”

VI. YERUSHALMI HAGIGAH 1:6

[A] **HE WHO DID NOT MAKE A FESTAL-OFFERING ON THE FIRST FESTIVAL DAY OF A FESTIVAL MAY MAKE FESTAL-OFFERINGS THROUGHOUT THE ENTIRE FESTIVAL, INCLUDING THE LAST FESTIVAL DAY OF THE FESTIVAL [OF TABERNACLES]. [BUT IF] THE FESTIVAL HAD PASSED AND HE DID NOT MAKE A FESTAL-OFFERING, HE IS NOT LIABLE TO MAKE IT GOOD. OF SUCH A PERSON IT IS SAID, “THAT WHICH IS CROOKED CANNOT BE MADE STRAIGHT, AND THAT WHICH IS WANTING CANNOT BE RECKONED” (QOH. 1:15).**

1. **I:1:** R. Yohanan in the name of R. Ishmael: “‘Fifteen’ is stated with reference to Passover [which starts on the fifteenth of Nisan], and ‘fifteen’ is stated with reference to Tabernacles [which starts on the fifteenth of Tishré]. Just as, in the case of Passover, with reference to which fifteenth is stated, offerings brought on the final day of the festival may make up what has been left out on the first [as at M. 1:6A], so in the case of Tabernacles, with reference to which fifteenth is stated, offerings brought on the final day of the festival may make up what has been lacking on the first.” Judah bar Safra in the name of R.

Josiah: “‘And you shall keep it as a feast [bringing a festal-offering] unto the Lord seven days in the year’ (Lev. 23:41). And are they seven days? Are they not eight days [of the festival, inclusive of the Eighth Day of Gathering]? But [this indicates that] the Sabbath is excluded from [the number of days], leaving seven [on which the festal-offering may be brought].”

2. **I:2:** Said R. Yohanan, “And so has it been taught: “The eighth day of the Tabernacles is a festival day on its own. [There is a casting of] lots [for that day] on its own [by the priests]; there is a blessing [‘who has kept us in life’] on its own, it is an occasion for an offering on its own.” “It is a festival day on its own.” R. Abun said in the name of R. Aha, “In regard to all [of the festivals], the language ‘and on the day’ is written. And in regard to the eighth day [of Tabernacles] likewise, ‘and on the day’ is written. This serves to teach you that it is regarded as a festival on its own. “There is a casting of lots [by the priests for that day].” R. Yosé said, “A Tannaite teaching has made the same point: On the eighth day they once again cast lots as at the other festivals [M. Suk. 5:6].”

VII. YERUSHALMI HAGIGAH 1:7

[A] R. SIMEON B. MENASIA SAYS, “WHAT IS ‘THAT WHICH IS CROOKED WHICH CANNOT BE MADE STRAIGHT’ [QOH. 1:15]? THIS IS ONE WHO HAS SEXUAL RELATIONS WITH A WOMAN IN A FORBIDDEN RELATIONSHIP AND PRODUCES A MAMZER FROM HER. IF YOU SHOULD CLAIM [THAT IT APPLIES] TO A THIEF OR A ROBBER, HE CAN MAKE RESTITUTION AND ‘BE MADE STRAIGHT.’” R. SIMEON B. MENASIA SAYS, “THEY CALL THAT WHICH IS CROOKED ONLY ONE WHO WAS STRAIGHT TO BEGIN WITH AND WHO BECAME CROOKED. WHAT IS SUCH A PERSON? IT IS A DISCIPLE OF A SAGE WHO TOOK HIS LEAVE OF THE TORAH.”

1. **I:1:** R. Simeon b. Yohai taught: “If you see towns that have been uprooted from their location in the Land of Israel, you should know that the inhabitants did not faithfully pay the fee of the scribes and teachers [who worked there].”
2. **I:2:** Yudan the Patriarch sent R. Hiyya, R. Assi, and R. Ammi to travel among the towns of the Land of Israel to provide for them scribes and teachers. They came to one place and found neither a scribe nor a teacher. They said to the people, “Bring us the guardians of the town.” The people brought them the citizens of senatorial class in the town.

They said to them: “Do you think these are the guardians of the town? They are nothing other than the destroyers of the town.” They said to them, “And who are the guardians of the town?” They said to them, “The scribes and teachers.”

3. **I:3:** R. Huna, R. Jeremiah in the name of R. Samuel bar R. Isaac: “We find that the Holy One, blessed be he, forgave Israel for idolatry, fornication, and murder. [But] for their rejection of the Torah he never forgave them.” Said R. Hiyya bar Ba, “If they were to forsake me, I should forgive them, for they may yet keep my Torah. For if they should forsake me but keep my Torah, the leaven that is in [the Torah] will bring them closer to me.”
4. **I:4:** When R. Judah would see a deceased person or a bride being praised, he would set his eyes on the disciples and say, “Deeds come before learning. [The students should go after the crowd to praise the dead or the bride, for doing so is a religious duty.]” They voted in the upper room of the house of Aris: “Learning comes before deeds.”

VIII. YERUSHALMI HAGIGAH 1:8

[A] THE RELEASE OF VOWS HOVERS IN THE AIR, FOR IT HAS NOTHING [IN THE TORAH] UPON WHICH TO DEPEND:

1. **I:1:** [With reference to M. 1:8A,] it has been taught: R. Eliezer says, “[The release of vows] does have that upon which to depend, ‘I have sworn an oath and will fulfill it [to observe thy righteous ordinances]’ (Ps. 119:106). [That indicates that] there are occasions on which [an oath] is not fulfilled.” R. Joshua says, “[The release of vows] does have that upon which to depend: ‘Therefore I swore in my anger [that they should not enter my rest]’ (Ps. 95:11). I swore in my anger, but I retract.”
2. **I:2:** There we have learned: Four [kinds of] vow have sages allowed [to be released] [M. Ned. 3:1A]. Now is it not the case that sages are the ones to allow [the release of] all sorts of vows? It is written, “Moses said to the heads of the tribes of the people of Israel[, ‘This is what the Lord has commanded’]” (Num. 30:1). The entire passage [dealing with vows] is addressed to the heads of the tribes, [indicating that] they are the ones who are allowed [to release vows].

- a. I:3: What is [the law] as to appointing elders [to serve] for specific purposes [only]? Let us derive the answer from the following: Rabbi appointed Rab to release vows and to examine women's menstrual stains. After he had died, Rab requested permission of his son [to examine] blemishes of firstlings. The son said to him, "I am not going to add to what Father assigned to you." Said R. Yose b. R. Bun, "[Rabbi] had permitted him [all rabbinic functions], to judge cases all by himself, to release vows, to examine external blemishes. When Rabbi died, Rab asked his son for permission to assess blemishes that are in hidden parts of the body. He said to him: 'I am not going to add to what Father assigned to you.'" Even though you have said that they do appoint elders to serve for specific purposes only, that is the case only if the one appointed is suitable to carry out all sorts of tasks. It is in line with the following: R. Joshua b. Levi appointed all his disciples [to carry out official duties], but he was distressed in regard to one of them, who had weak eyes, and he could not appoint him. He did assign him to carry out some tasks. That implies that one who is suitable for all tasks is suitable to carry out only one task, but one who is not suitable for all tasks is not suitable even for one task.

3. I:4: What is the law as to releasing vows while wrapped in a traveling cloak [instead of a rabbinical cloak]?

[B] THE LAWS OF THE SABBATH, FESTAL-OFFERINGS, AND SACRILEGE — LO, THEY ARE LIKE MOUNTAINS HANGING BY A HAIR, FOR THEY HAVE LITTLE SCRIPTURE FOR MANY LAWS. LAWS CONCERNING CIVIL LITIGATIONS, THE SACRIFICIAL CULT, THINGS TO BE KEPT CULTICALLY CLEAN, SOURCES OF CULTIC UNCLEANNESS, AND PROHIBITED CONSANGUINEOUS MARRIAGES HAVE MUCH ON WHICH TO DEPEND. AND BOTH THESE AND THOSE [EQUALLY] ARE THE ESSENTIALS OF THE TORAH.

1. II:1: The laws of the Sabbath [M. 1:8B]: R. Jonah said R. Hama bar Uqba raised the question [in reference to M. 1:8B's omission of laws of purity in the category of Scripture], "And lo, it is only written, 'Nevertheless a spring or a cistern holding water shall be clean; [but whatever touches their carcass shall be unclean]' (Lev. 11:36). And from this verse you derive many laws. [So how can M. 1:8B omit laws of purity?]" R. Zeira in the name of R. Yohanan: "If a law comes to hand and you do not know its nature, do not reinterpret it [as applying] to another matter, for lo, many laws were stated to Moses at Sinai, and all of them have been imbedded in the Mishnah." Said R. Abun, "And that is so. Lo, there is the law about two kinds of wheat. Now had

Nahum not come and explained the matter to us, should we have known its meaning [cf. M. Pe. 2:4].”

2. **II:2:** R. Zeira in the name of R. Eleazar: “‘Were I to write for him most of my laws, would they not be regarded as a strange thing?’ (Hos. 8:12). Now is the greater part of the Torah written down? [Surely not. The oral part is much greater.] But more abundant are the matters that are derived by exegesis from the written Torah than those derived by exegesis from the oral Torah.”
3. **II:3:** R. Haggai in the name of R. Samuel bar Nahman, “Some teachings were handed on orally, and some things were handed on in writing, and we do not know which of them is the more precious. But on the basis of that which is written, ‘And the Lord said to Moses, Write these words; in accordance with [lit., the mouth of] these words I have made a covenant with you and with Israel’ (Exod. 34:27), that is to say that the ones that are handed on orally are the more precious.”
4. **II:4:** R. Zeira in the name of Samuel: “One does not make a decision on the basis of laws [revealed to Moses at Sinai] or lore, or Tosefta-teachings, but only on the basis of Talmud.”
5. **II:5:** Hananiah in the name of Samuel: “They do not derive rules of law from instructions [handed down in particular situations].” All concur that they do not derive rules of law from [the decisions rendered] in particular situations [without further confirmation]. Said to him R. Mana, “That which you have said applies to a case in which one did not give a reason for his ruling. But in a case in which one gave a reason for his ruling, one may apply the law likewise.” He said to him, “Whether one gave a reason for his ruling or did not give a reason for his ruling, it applies in a case in which there is contrary opinion. But in a case in which there is no contrary opinion, whether one has given a reason for his ruling or not, one may apply the law in accord with the stated view.”
6. **II:6:** R. Abbahu in the name of R. Yohanan: “In the case of all matters subject to prohibition by the laws of the Torah [involving mixtures], if one nullified such a prohibition by inadvertently adding [permitted substances], the matter is permitted, but if he did so deliberately, the matter is prohibited.”
7. **II:7:** Aha in the name of R. Jonathan: “Just as it is a religious duty to speak out in a case in which what one says will be obeyed, so it is a

religious duty not to speak out in a case in which what one says will not be obeyed.” Said R. Eleazar, “Just as it is prohibited to declare what is unclean to be clean, so it is prohibited to declare what is clean to be unclean.” R. Aha bar Jacob in the name of R. Yohanan, “If a case of law comes to hand in which you do not know whether [to declare something unclean and so to order it to be] burned, or whether to hold the item in suspense, you ought under all circumstances to prefer [the alternative of] burning rather than [that of] holding the matter in suspense. “For there is no offering in the Torah more beloved than the offering of bullocks which are to be burned and goats which are to be burned, and [they are, indeed, disposed of] by burning up.”

IX. YERUSHALMI HAGIGAH 2:1

[A] THEY DO NOT EXPOUND UPON THE LAWS OF PROHIBITED RELATIONSHIPS [LEV. 18] BEFORE THREE PERSONS:

1. **I:1:** The forbidden degrees are not expounded to three. R. [Ab]ba [said] in the name of R. Judah, “This [*halakhah*] comes from R. Aqiba” [in whose view one participating actively and passively in a prohibited sexual encounter violates one prohibition, based on his exposition of a particular verse]. But [not] according to R. Ishmael, who taught, “Explicit warnings [must be given] about the matter [before the transgressor becomes liable to punishment],” based on his exposition of the verses; the subtle distinction may easily be lost by the inattention stemming from by-play [between two of the three students].

[B] THE WORKS OF CREATION BEFORE TWO:

1. **II:1:** Nor the Work of Creation to two. R. [Ab]ba in the name of R. Judah: “This [*halakhah*] comes from R. Aqiba.” But they expound [the Work of Creation before two], as R. Ishmael holds. One deduces that the law is according to R. Ishmael from the following: R. Judah bar Pazzi sat teaching, “In the beginning the world consisted of water upon water.” R. Judah bar Pazzi expounded, “In the beginning the world consisted of water [heaped] on water.” What is the proof? “And the Spirit/Wind of God moved over the face of the waters” (Gen. 1:2). Then he made the snow – “He casts forth his ice like morsels” (Ps. 147:17). Then he made the earth – “For to the snow he says, ‘Become earth’” (Job 37:6). And the earth stands on the waters: “To him who spread out the earth on the waters” (Ps. 136:6). And the

waters stand on the mountains: “The waters stood over the mountains” (Ps. 104: 6). And the mountains stand on the wind: “For behold, he forms the mountains and creates the wind” (Amos 4:13). And the air depends on the storm-wind: “The storm-wind fulfills his command” (Ps. 148:8). The Holy One, blessed be he, made the storm-wind like a sort of amulet suspended from his arm, as it is said, “And underneath are the arms of the world” (Deut. 33:27).

[C] **OR THE CHARIOT BEFORE ONE, UNLESS HE WAS A SAGE AND UNDERSTANDS OF HIS OWN KNOWLEDGE. WHOEVER REFLECTS UPON FOUR THINGS WOULD HAVE BEEN BETTER OFF HAD HE NOT BEEN BORN: WHAT IS ABOVE, WHAT IS BELOW, WHAT IS BEFORE, AND WHAT IS BEYOND. AND WHOEVER HAS NO CONCERN FOR THE GLORY OF HIS MAKER WOULD HAVE BEEN BETTER OFF HAD HE NOT BEEN BORN.**

1. **III:1:** Nor the Chariot before one: Is this also according to R. Aqiba? [No!] It is the opinion of all [the sages], in order that a man might know that he should have consideration for the glory of his Creator. Has not Rab said, “A man is not permitted to speak on [this] subject in the presence of his master unless he has approved or unless he has served [his apprenticeship]”? How does one proceed?
2. **III:2:** Once Rabban Yohanan ben Zakkai was going on the road, riding on an ass, and R. Eleazar ben Arakh was walking behind him. [Eleazar] said to Yohanan, “Master, teach me a chapter in the Work of the Chariot.” [R. Yohanan] said to him, “Have not the sages taught thus: Nor the Chariot unless he is a sage and understands of his own knowledge?” [R. Eleazar] said to him, “Master, give me permission to speak about the subject in your presence.” He said to him, “Speak!” As soon as R. Eleazar ben Arakh opened [his discourse] on the Work of the Chariot, Rabban Yohanan ben Zakkai got off the ass, saying, “It is not right that I should be hearing about the glory of my Creator while still seated on an ass!” They went and sat down under a tree. Then fire fell from heaven and surrounded them, and the ministering angels skipped before them like wedding guests rejoicing before the bridegroom. An angel answered from the midst of the fire and said, “According to your words, Eleazar ben Arakh, is the Work of the Chariot.”
3. **III:3:** Another time, R. Joshua was walking on a road and Ben Zoma came up opposite him. Joshua greeted him, but he did not reply to him. He said to him, “Whence and where, Ben Zoma?” Ben Zoma said to him, “I have been speculating on the Work of Creation. Between the

upper and the lower waters there is nothing but a hand's breadth. It is said here, 'hovering,' and it is said there: 'As an eagle stirs up its nest [and] hovers over its young' (Deut. 32:11). Just as the 'hovering' which is spoken of there [implies] almost touching but not quite, so the 'hovering' spoken of here is 'almost touching but not quite.'" R. Joshua said to his disciples, "See, Ben Zoma is outside." It was only a few days before Ben Zoma died.

4. **III:4:** R. Judah bar Pazzi in the name of R. Yosé b. R. Judah: "Three put forward their teaching [on this subject] before their master, R. Joshua before Rabban Yohanan ben Zakkai, Rabbi Aqiba before R. Joshua, Hananiah ben Hakinai before R. Aqiba. After that time their knowledge becomes unclear [i.e., the oral tradition of the Merkabah is no longer reliable]."
5. **III:5:** Four entered the Garden [or Paradise]. One cast a look and died. One cast a look and was stricken [or went mad]. One cast a look and cut among the shoots. One entered safely and departed safely. Ben Azzai cast a look and was stricken. Of him Scripture says: "If you have found honey, eat only enough for you" (Prov. 25:16). Ben Zoma cast a look and died. Of him Scripture says: "Precious in the sight of the Lord is the death of his saints" (Ps. 116:15). Aher cast a look and cut among the shoots. R. Aqiba entered safely, and departed safely. Of him Scripture says: "Draw me after you, let us run" (Song of Songs 1:4).
 - a. **III:6:** Who is Aher? Elisha ben Abbuyah, who slew the young scholars of the Torah. They say: He used to kill every disciple he saw mastering the Torah. Moreover, he used to enter the schoolhouse, and when he saw the pupils in the presence of the teacher he would say, "What are these doing here? This one should be a mason; this one should be a carpenter; this one should be a fisherman; this one should be a tailor." When they heard this they would leave [the teacher] and go [and become workmen]. Of him Scripture says: "Let not your mouth lead you into sin" (Eccles. 5:5).
 - b. **III:7:** Rabbi Meir was sitting teaching in the schoolhouse of Tiberias. Elisha, his master, passed by, riding on a horse on the Sabbath day. They came and said to him, "Look, your master is outside." He stopped his teaching and went out to him. He said to him, "What were you expounding today?" [Meir] said to him, "And the Lord blessed the latter days of Job more than his beginning" (Job 42:12). Elisha said to him, "With what [verse] did

you begin to expound it?” He said to him, “And the Lord gave Job twice as much as he had before” (Job 42:10), for he doubled for him all his wealth. Elisha said, “Alas for the things that are lost and not found [masters of Torah]. Aqiba, your master, did not explain it thus, but, ‘And the Lord blessed the latter days of Job from [i.e., because of] his beginning’ on account of the merit of the commandments and good deeds that he possessed in his former state.”

- c. III:8: Sometime later Elisha fell sick. They came and told R. Meir, “Behold, your master is ill.” He went, intending to visit him, and he found him ill. He said to him, “Will you not repent?” He said, “If sinners repent, are they accepted?” [Meir] replied, “Is it not written thus: ‘You cause a man to repent up to the point when he becomes dust’ (Ps. 90:3)? Up to the time when life is crushed are repentant sinners received.” At that moment, Elisha wept, then he departed [this life] and died. And R. Meir rejoiced in his heart, thinking, “My master died in repentance.”
- d. III:9: Some time later, Elisha’s daughters went to receive alms from Rabbi. Rabbi decreed saying, “‘Let there be none to extend kindness to him, nor any to pity his fatherless children’” (Ps. 109:12). They said to him, “Rabbi, do not look upon his deeds but on his Torah.” At that moment Rabbi wept and decreed that they should be provided for. He said, “If these are [the children] raised by this man who labored in the Torah for the wrong motives, how much more would be achieved by one who labors in it for the right motives [lit., for the sake of heaven]!”

6. **III:10:** [D] R. Eleazar said in the name of Ben Sirah, “‘Why attempt to find out what is hidden from you? Why search out what is deeper than Sheol? Reflect [only] on what is permitted to you. Hidden things are no concern of yours’” (Qoh. 3:20-21). Rab said, “‘Let the lying lips be dumb’ (Ps. 31:19). Let them be confounded, crushed, silenced. Let them be confounded – as you say: ‘And the Lord said to him, “Who has made man’s mouth? Who makes him dumb, or deaf, or seeing, or blind?”’ (Exod. 4:11). Let them be crushed, as you say: ‘Behold we were binding sheaves’ (Gen. 37:7). Let them be silenced, according to the literal meaning: ‘Which speak arrogantly against the righteous’ (Ps. 31:19), who speak concerning the Righteous One of the World words that he has withheld from his creatures. ‘In pride and contempt’ (Ps. 31:19) – this refers to the one who boasts, saying, ‘I will expound the

Work of Creation,' thinking that he is like one who exalts [his Creator], while in reality he is only like one who despises him."

7. **III:11:** R. Yosé ben Hanina said, "He who exalts himself at the cost of his fellow's humiliation has no share in the World to Come. How much more he who exalts himself against the Life of the Worlds! What is written after it? 'How abundant is your goodness, which you have laid up for those who fear you' (Ps. 31:20). Let him have no [share] in your abundant goodness."
8. **III:12:** R. Levi said, "'It is the glory of God to conceal a thing' (Prov. 25:2). It is the glory of God to conceal a thing before the world was created. 'It is the glory of kings to search a thing out' (Prov. 25:2) – after the world was created."
9. **III:13:** R. Jonah said in the name of R. Abba, "It is written, 'For ask now about the former days which were before you' (Deut. 4:32). One might conclude that [one may inquire what happened] before the Work of Creation. [But] Scripture says: 'Since the day when God created man upon the earth'" (Deut. 4:32).
10. **III:14:** Jonah said in the name of R. Levi, "The world was created by the letter B." As B [in Hebrew] is closed on all sides except one, so you have no right to investigate what is above, what below, what went before or shall happen afterward, only what has happened since the world [and its inhabitants were created]. "If the letter B was asked, 'Who created you?' it would point with its upper stroke and say, 'He above.' "[If asked,] 'What is his name?' it would point with its lower projection to the right [toward the letter aleph] and say, 'YHWH is his name, ADON is his name.'" R. Abbahu in the name of R. Yohanan: "By two letters were the two worlds [this world and the world to come] created. One [was created] by H and the other by Y. What is the reason? 'Trust in the Lord forever, for the Lord God is an everlasting rock' (Isa. 26:4). ['Rock' (sur) is here read as sar, 'to fashion.'] We do not know which was created by H and which by Y, except from that which is written: 'These are the generations of the heavens and the earth when they were created, [in the day that the Lord God made the earth and the heavens]' (Gen. 2:4). "By H he created them. This world was created by H and the next by Y. As H is open beneath, this indicates that all the inhabitants of the world shall go down to Sheol. As H has an upward projection, after they have gone down [to Sheol] they shall go up [to heaven]. As H is open on every side, so a door is open to all who repent. As Y is bent, so all the inhabitants of the world

shall be bent: ‘[Ask now, and see, can a man bear a child? Why then do I see every man with his hands on his loins like a woman in labor?] Why has every face turned pale?’ (Jer. 30:6)” [referring to the Day of Judgment]. When David realized [lit., saw] this, he began to praise with the two letters: “Praise, O servants of the Lord, praise the name of the Lord” (Ps. 113:1).

11. **III:15:** The House of Shammai say, “Heaven was created first, the earth afterward.” The House of Hillel say, “The earth was created first, and heaven afterward.”

X. YERUSHALMI HAGIGAH 2:2

[A] YOSÉ B. YOEZER SAYS NOT TO LAY ON HANDS. YOSÉ B. YOHANAN SAYS TO LAY ON HANDS. B. JOSHUA B. PERAHYAH SAYS NOT TO LAY ON HANDS. NITTAI THE ARBELITE SAYS TO LAY ON HANDS. JUDAH B. TABBAI SAYS NOT TO LAY ON HANDS. SIMEON B. SHATAH SAYS TO LAY ON HANDS. SHEMAYAH SAYS TO LAY ON HANDS. ABTALYON SAYS NOT TO LAY ON HANDS.

1. **I:1:** In the beginning there was no contention in Israel except concerning laying on hands alone. Shammai and Hillel [at M. Ed. 1:1] went and made them into four disputes. When the disciples of the House of Shammai and the House of Hillel who had not sufficiently served [and learned the Torah of] their masters became numerous, contention became great in Israel, and they became two parties. These declare unclean what those declare clean. And the Torah is not going to be restored to its place until the son of David [i.e., the Messiah] comes.
2. **I:2:** R. Hiyya in the name of R. Yohanan: “Let not the issue of Sabbath rest [such as laying hands on the beast on the Sabbath with all one’s might] be light in your sight, for lo, the matter of laying on of hands is only an issue of what is permissible, and yet the Fathers of the World differed about it.”

[B] HILLEL AND MENAHEM DID NOT DIFFER. MENAHEM DEPARTED, SHAMMAI ENTERED. SHAMMAI SAYS NOT TO LAY ON HANDS. HILLEL SAYS TO LAY ON HANDS.

1. **II:1:** Where did he go? There are those who say, “He went away from one set of principles and adopted another set.” And there is he who says, “He followed his nose, he and eighty pairs of disciples of sages,

clad in golden embroidered silk garments, with faces glowering like the sides of a pot. “For they had said to them, ‘Write on the horn of an ox that you have no share in the God of Israel.’”

[C] **THE FIRST-NAMED WERE PATRIARCHS, AND THE SECOND TO THEM WERE HEADS OF THE COURT.**

1. **III:1:** We have learned: Judah b. Tabbai was nasi. Simeon b. Shatah was head of the court. Some teach it vice versa. He who says Judah b. Tabbai was nasi finds support in the incident of Alexandria. He who says Simeon b. Shatah was patriarch finds support in the following incident about Ashqelon.
 - a. **III:2:** It has been taught: Said R. Eliezer b. Jacob, “I have heard that the courts may inflict punishment not in accord with the law and not in accord with the Torah [when the times require it].”

XI. YERUSHALMI HAGIGAH 2:3

[A] **THE HOUSE OF SHAMMAI SAY, “THEY BRING PEACE-OFFERINGS [ON A FESTIVAL DAY] BUT DO NOT LAY HANDS ON THEM. BUT [THEY DO] NOT [BRING] WHOLE-OFFERINGS [AT ALL].” AND THE HOUSE OF HILLEL SAY, “THEY BRING [BOTH] PEACE-OFFERINGS AND WHOLE-OFFERINGS, AND THEY LAY HANDS ON THEM.”**

1. **I:1:** The House of Shammai say, “Laying on of hands not in the ordinary way has been permitted.” The House of Hillel say, “Laying on of hands not in the ordinary way has not been permitted.”
2. **I:2:** Said R. Zeira, “All parties concur in the case of the guilt-offering of a *mesora*, on which [the sacrificer] laid hands the previous day, that he has not carried out his obligation by doing so. “As to freewill peace-offerings on which one laid hands on the previous day, one has carried out his obligation. “Concerning what do they differ? Concerning peace-offerings brought in fulfillment of the festal-offering. “The House of Shammai treat them as freewill peace-offerings. The House of Hillel treat them as equivalent to the guilt-offering of a *mesora*.”
3. **I:3:** Said the House of Hillel, “Now if at a time [the Sabbath] at which I am not permitted to prepare [food] for an ordinary person, I am permitted to prepare [food] for the Most High [for on the Sabbath, one is not permitted to prepare food for himself, but one is permitted to

offer up daily whole-offerings and additional offerings], “at a time [a festival day] at which I am permitted to prepare [food] for an ordinary person [for on the festival day one is permitted to prepare food], should I [as an individual], not be permitted to prepare [food – a whole-offering] for the Most High?” Said the House of Shammai to them, “Sacrifices brought in fulfillment of vows and as thank-offerings will prove the matter. For [on a festival] you are permitted to prepare [food] for an ordinary person, but you are not permitted to prepare [these, as offerings on a festival day for the Most High]. [Since these offerings are not made on a festival, they may not be prepared on that day.]” Said to them the House of Hillel, “No. If you have stated [the rule concerning] sacrifices brought in fulfillment of vows and as thank-offerings, which are not subject to a fixed time [for their offerings], will you state [the same rule concerning] the festal-offering, the time of which is fixed?” Said to them the House of Shammai, “Also in the case of the festal [appearance-]offering, there are occasions at which its time is not fixed. “For he who did not bring a festal-offering on the first day of the festival may bring a festal-offering on any other day of the festival inclusive [according to your theory] of the last festival day of the festival.” Said the House of Hillel to them, “The festal-offering also is subject to a fixed time. For if one did not offer the festal-offering on the festival itself, he cannot do so after the festival.” Said the House of Shammai to them, “And has it not been stated, ‘On the first day you shall hold a holy assembly, and on the seventh day a holy assembly; no work shall be done on those days; but what everyone must eat, that only may be prepared by you’” (Exod. 12:16). Said the House of Hillel to them, “Is there proof from that verse? For you it may not be prepared, but it may be prepared for the Most High.” Abba Saul would present another version of the statement of the House of Hillel: “No. If at the time at which your oven is closed, the oven of your Master is open, at a time at which your oven is open, should not the oven of your Master be open? “Another matter: Your table should not be loaded while your Master’s table lies barren” [T. Hag. 2:10].

4. **I:4:** Said R. Yosé b. R. Bun, “R. Simeon b. Laqish was passing by the school and heard voices reciting the following verse of Scripture: ‘And they performed sacrifices to the Lord, and on the next day [offered burnt-offerings to the Lord, a thousand bulls, a thousand rams, and a thousand lambs, with their drink offerings, and sacrifices in abundance for all Israel]’ (1 Chron. 29:21). “He stated with reference to this verse, ‘He who interrupts the recitation of this verse [at its middle] concurs with the House of Shammai. He who completes its recitation to the

end concurs with the view of the House of Hillel.’ “There is no difficulty in making sense of their offering burnt-offerings on the next day. But as to peace-offerings on the next day, in the view of the House of Shammai, peace-offerings cannot be brought on the next day.”

- 5.** **I:5:** M’SH B: Hillel the Elder laid on hands on a burnt-offering in the Courtyard [cf. M. 2:3B], and the disciples of Shammai ganged up on him. He said to them, “Go and see it, for it is a female, and I have to prepare it as sacrifices of peace-offerings [which I shall eat].” He put them off with a bunch of words, and they went their way. But the power of the House of Shammai forthwith became mighty, and they wanted to decide the law permanently in accord with their opinion. Now there was present Baba b. Buta, who was one of the disciples of the House of Shammai, but who acknowledged that the law is in accord with the opinions of the House of Hillel in every last detail. One time he went and brought the whole Qedar-flock and set them up right in the courtyard and announced, “Whoever is required to bring burnt-offerings and peace-offerings – let him come and take a beast and lay on hands” [= M. 2:3B]. So [everybody] came along and took a beast and offered up whole-offerings, having laid on hands. On that very day the law was confirmed in accord with the opinion of the House of Hillel, and not a single person griped about it [T. Hag. 2:11]. SWB M’SH B: Another disciple of the disciples of the House of Hillel laid hands on a whole-offering. One of the disciples of Shammai found him out. He said to him, “What’s this laying on of hands?!” He said to him, “What’s this shutting [your trap]?!” And he shut him up by force [T. Hag. 2:12].

XII. YERUSHALMI HAGIGAH 2:4

[A] **PENTECOST THAT COINCIDED WITH A FRIDAY – THE HOUSE OF SHAMMAI SAY, “THE [SEPARATE, NON-FESTIVAL] DAY OF SLAUGHTERING [THE BURNT OFFERING BROUGHT IN FULFILLMENT OF THE REQUIREMENT OF APPEARING BEFORE THE LORD] IS ON THE DAY AFTER THE SABBATH.” AND THE HOUSE OF HILLEL SAY, “THERE IS NO [SEPARATE] DAY OF SLAUGHTERING [THE BURNT OFFERING] SINCE SLAUGHTERING BURNT-OFFERINGS IS PERMITTED ON THE FESTIVAL].”**

- 1.** **I:1:** Pentecost that coincided with a Friday – The House of Shammai say, “The day of slaughter of its [whole offering] is on the day after the

Sabbath.” The House of Hillel say, “It has no ‘day of slaughtering,’ but the day of the festival is the day on which it is slaughtered.” Now the House of Shammai say, “The day of slaughter of its [burnt-offering] is the day after the Sabbath,” and the high priest does not put on his garments [for the festival], on the basis of the following argument, a fortiori: Now if when there are peace-offerings and burnt-offerings, in accord with the view of the House of Hillel the high priest does not put on his garments [that is, reading M. 2:4] to qualify M. 2:4D, on which the House of Hillel concur], when there are no peace-offerings or burnt-offerings, in the view of the House of Shammai is it not an argument a fortiori [that the high priest should not put on his garments]?

2. **I:2:** One verse of Scripture says, “[You shall keep] the feast of harvest, of all the first fruits of your labor, [of what you sow in the field. You shall keep the feast of ingathering at the end of the year, when you gather in from the field the fruit of your labor]” (Exod. 23:16). [The verse implies that one may harvest one’s field on the festival itself.] And another verse of Scripture says, “[And you shall make proclamation on the same day; you shall hold a holy convocation;] you shall do no laborious work [it is a statute for ever in all your dwelling throughout your generations]” (Lev. 23:21). [Clearly, one may not work on the festival day.] Said R. Hananiah, “How are these two verses to be carried out? When Pentecost coincides with a weekday, you offer the festal-offering and celebrate the festival rest [as well], while when it coincides with the Sabbath, it is only on the next day that you offer the festal sacrifice and harvest [the first fruits].”

[B] BUT THEY CONCUR THAT IF IT COINCIDED WITH THE SABBATH, THE DAY OF SLAUGHTERING [THE BURNT-OFFERING] IS AFTER THE SABBATH. AND THE HIGH PRIEST DOES NOT PUT ON HIS [FESTIVAL] GARMENTS [ON THE DAY OF SLAUGHTERING]. AND [ON THAT SUNDAY] THEY ARE PERMITTED TO CONDUCT A LAMENTATION OR TO HOLD A FAST, SO AS NOT TO AFFIRM THE OPINION OF THOSE [I.E., THE SADDUCEES] WHO SAY, “THE DATE OF PENTECOST [MUST ALWAYS FALL] AFTER THE SABBATH [ON SUNDAY].”

1. **II:1:** The House of Hillel say that the day of slaughtering is after the Sabbath. As to the hides, to which watch do they belong? [That is, do they belong to the watch on duty on the Sabbath, which happens to have missed out on them, or to the watch coming in on the next day?] R. Tabi in the name of R. Josiah: “R. Yohanan and R. Simeon b. Laqish differed on this matter. “R. Yohanan said, ‘They belong to all of the priestly watches [as do the hides of offerings on any other

festival].’ “R. Simeon b. Laqish said, ‘They belong to that watch [in particular].’”

2. **II:2:** Said R. Yohanan, “As to Pentecost, it is possible to make up an offering [one has failed to make] all seven days [thereafter].” R. Hoshaiiah objected, “‘Just as the celebration of the New Moon belongs to its class of days, by which it is determined [by counting units of days], so Pentecost belongs to its class by which it is determined,’ that is, for one day. [Just as the offerings for the celebration of the New Moon are brought on one day, so the ones of Pentecost are brought on one day only.]”
3. **II:3:** R. Yosé b. R. Bun in the name of R. Joshua b. Levi: “Everyday the high priest puts on his [priestly] garments and comes and offers the daily whole-offering. If there are, in addition, offerings in fulfillment of vows or thank-offerings, he offers them [as well]. He eats at home. Then he comes and offers the twilight burnt-offering. He then goes along and spends the night in the Chamber of the Counselors.”
 - a. **II:4:** There is a Tannaite authority who teaches, “The priestly frontlet effects expiation [only when it is affixed] to his forehead.” There is a Tannaite authority who teaches, “[The priestly frontlet effects expiation even] when it is lying in the corner.”

XIII. YERUSHALMI HAGIGAH 2:5

[A] THEY [MERELY] WASH THE HANDS FOR EATING UNCONSECRATED FOOD, TITHE, AND HEAVE-OFFERING:

1. **I:1:** Now does [the consideration of cleanness of] hands pertain to unconsecrated food [at all]? But [the rule of M. 2:5A] accords with the view of R. Simeon b. Eleazar, since R. Simeon b. Eleazar says, “The [consideration of cleanness of] hands pertains [even] to unconsecrated food [so that one must clean the hands prior to eating unconsecrated food, as M. indicates].” [No, in fact the passage represents] the view of all parties. It is so that [an ordinary person] will keep away from food in the status of heave-offering [which does require cleanness of hands]. [If when the person eats unconsecrated food, he washes hands, he will surely be careful not to impart uncleanness to food in the status of heave-offering.]

2. **I:2:** There we have learned: [As to food in the status of] heave-offering and first fruits, people are liable on their account [for violating their sanctity] to the death penalty or to paying the added fifth. Such produce is prohibited to non-priests. They constitute the property of a priest. They may be nullified in a mixture of a hundred and one. They require the washing of hands and [in the case of one who has immersed for a major uncleanness], waiting for sunset. Lo, these rules apply to food in the status of heave-offering and first fruits, which is not the case [with regard to the] tithe [M. Bik. 2:1]. There you have said that tithe does not require the washing of hands, and here you have said that tithe does require the washing of hands. [That is, M. Bik. 2:1 states explicitly that one does not have to wash hands prior to eating tithe, while M. Hag. 2:5A is explicit that one does.]

[B] FOR EATING FOOD IN THE STATUS OF HOLY THINGS THEY [WHOLLY] IMMERSE:

1. **II:1:** In any context in which we have learned that they must immerse, it must be in forty seahs of water. But, have we not learned: He who washes his hands for unconsecrated food prepared in accord with cleanness required for Holy Things must pour out a quarter log of water [T. Yad. 1:5A]? Said R. Eleazar, “Here [where we require forty seahs], it is in the case of hands that are cultically unclean. “There [where a quarter log suffices], we deal with hands that are cultically clean.”

[C] AND AS TO [THE PREPARATION OF] PURIFICATION-WATER [THROUGH THE BURNING OF THE RED COW], IF ONE’S HANDS ARE MADE UNCLEAR, HIS ENTIRE BODY IS DEEMED TO BE UNCLEAR AS WELL.

1. **III:1:** Said R. Hananiah, “It is not that sages have innovated by creating a level of uncleanness affecting only the matter of purification of water, but they have maintained that [in that setting], he who becomes unclean by reason of a very minor source of uncleanness is deemed as if he had been made unclean by a very major source of uncleanness.”
2. **III:2:** R. Ba bar Mamel asked before R. Ammi, “What is the difference between a man who is clean for the purpose of preparing purification-water and an empty utensil that is clean for the purpose of use in preparing purification-water?”

XIV. YERUSHALMI HAGIGAH 2:6

[A] **HE WHO IMMERSSES FOR THE EATING OF UNCONSECRATED FOOD AND IS [THEREBY] CONFIRMED AS SUITABLE FOR EATING UNCONSECRATED FOOD IS PROHIBITED FROM EATING TITHE. [IF] HE IMMERSSED FOR EATING TITHE AND IS [THEREBY] CONFIRMED AS SUITABLE FOR EATING TITHE, HE IS PROHIBITED FROM EATING HEAVE-OFFERING [IF] HE IMMERSSED FOR EATING HEAVE-OFFERING AND IS [THEREBY] CONFIRMED AS SUITABLE FOR EATING HEAVE-OFFERING, HE IS PROHIBITED FROM EATING FOOD IN THE STATUS OF HOLY THINGS. [IF] HE IMMERSSED FOR EATING FOOD IN THE STATUS OF HOLY THINGS AND IS THEREBY CONFIRMED AS SUITABLE FOR EATING FOOD IN THE STATUS OF HOLY THINGS, HE IS PROHIBITED FROM [ENGAGING IN THE PREPARATION OF] PURIFICATION-WATER. [IF, HOWEVER,] ONE IMMERSSED FOR [THE MATTER REQUIRING] THE MORE STRINGENT RULE, HE IS PERMITTED [TO ENGAGE IN THE MATTER REQUIRING] THE LESS STRINGENT RULE. [IF] HE IMMERSSED BUT WAS NOT CONFIRMED, IT IS AS THOUGH HE DID NOT IMMERSSE.**

- 1.** **I:1:** And does immersion for the sake of eating unconsecrated food require intent [that the immersion serve for such a purpose]? [The Mishnah at M. 2:6A] comes to tell you an additional point, which is this: Even if one immersed for the eating of unconsecrated food and is [thereby] confirmed as suitable for eating unconsecrated food, he is prohibited from eating tithe [M. 2:6A].
- 2.** **I:2:** Did not R. Eleazar state, “As we count removes of uncleanness in the case of unconsecrated food, so we count removes of uncleanness in the case of tithe”? [Why is there a strict rule here at M. 2:6A in connection with tithe?] In the one case [where we impose a strict rule], it is for the purpose of actually eating [such food], while in the other case [where we impose a lenient rule], it is merely to be able to touch [such food].
- 3.** **I:3:** He who immerses, without specification [as to his purpose], is permitted food in all levels. Said R. Yohanan, “That rule applies in a case in which one is confirmed for the purpose of eating all of them.” [T.’s version:] What is the case of confirmation [M. 2:6]? At any point at which one has taken his feet out of the water [of the immersion pool, which he has entered for the purposes of becoming clean for a given purpose, he is confirmed clean for that purpose]. [But] if one’s feet are still in the water, [if] he immersed for the most minor kind of uncleanness, but he then became confirmed for the most

stringent kind of uncleanness, what he has done is done [and is valid] [T. Hag. 3:1].

- 4. I:4:** There we have learned: A stick that is wholly covered by unclean liquids – “Once one has stuck it into the pool [prior to total immersion], it is clean. [The water on the stick forms a slope and is regarded as wholly connected,]” the words of R. Joshua. And sages say, “[It is not clean] until one immerses the whole thing” [M. Toh. 8:9A-C]. R. Simeon b. Laqish says, “Where they dispute it is in respect to uncleanness deriving from a minor source of uncleanness, but in the case of uncleanness deriving from a major source of uncleanness, R. Joshua will concur with the view of sages [that a “slope” does not constitute a connection to the immersion pool, and the man or object immersed remains unclean until wholly immersed].” R. Yohanan said, “Also [in the case of] uncleanness [deriving] from a major source, they differ as well.”

XV. YERUSHALMI HAGIGAH 2:7

[A] THE CLOTHING OF ORDINARY FOLK IS IN THE STATUS OF PRESSURE UNCLEANNESS [IMPARTED BY A ZAB, ETC., LEV. 15:1FF.] FOR ABSTAINERS [WHO EAT UNCONSECRATED FOOD IN A STATE OF CULTIC CLEANNESS].

- 1. I:1:** R. Yosé in the name of R. Yohanan: “It is with respect to actual contact [with such garments] that they have taught [the law of M. 2:7A-D]. [If one has touched the garments, he is made unclean as if he had touched something made unclean by the pressure of a *Zab*.]”
- 2. I:2:** Samuel bar Abba raised the [following] question before R. Zeira, “Just as you have said there, ‘Merely by moving a source of uncleanness [without actual contact, uncleanness is not transferred to] unconsecrated food, but [through a source of uncleanness] moving unconsecrated food with actual contact with the food [uncleanness is transmitted to the food],’ along these same lines, [do we say that] transfer of uncleanness through carrying [the source of uncleanness] does not apply to unconsecrated food, but transfer of uncleanness through carrying [the source of uncleanness] will apply to unconsecrated food if there is actual contact with the source of uncleanness?”

[B] THE CLOTHING OF ABSTAINERS IS IN THE STATUS OF MIDRAS-UNCLEANNESS FOR THOSE WHO EAT HEAVE-OFFERING [PRIESTS]. THE CLOTHING OF THOSE WHO

EAT HEAVE-OFFERING IS IN THE STATUS OF MIDRAS-UNCLEANNES FOR THOSE WHO EAT **HOLY THINGS** [OFFICIATING PRIESTS]. THE CLOTHING OF THOSE WHO EAT **HOLY THINGS** IS IN THE STATUS OF MIDRAS-UNCLEANNES FOR THOSE ENGAGED IN THE PREPARATION OF PURIFICATION-WATER. **YOSEF B. YOEZER** WAS THE MOST PIOUS MAN IN THE PRIESTHOOD, BUT HIS HANDKERCHIEF WAS IN THE STATUS OF MIDRAS-UNCLEANNES SO FAR AS EATING **HOLY THINGS** WAS CONCERNED. FOR HIS WHOLE LIFE **YOHANAN B. GUDEGEDAH** ATE HIS FOOD IN ACCORD WITH THE REQUIREMENTS OF CLEANNESS APPLYING TO **HOLY THINGS**, BUT HIS HANDKERCHIEF WAS IN THE STATUS OF MIDRAS-UNCLEANNES SO FAR AS THOSE ENGAGED IN THE PREPARATION OF PURIFICATION-WATER WERE CONCERNED.

1. **II:1:** [As to] the body of an abstainer, does it function as does a *Zab* with respect to imparting uncleanness to food in the status of heave-offering? [M. 2:7B has referred to the clothing of abstainers, but not to the body. Is the body subject to the same decree as affects the garment?] R. Yohanán objected [to this possibility], “And lo, we have learned: He who leaves an *am ha'ares* in his house to guard it – when [the owner] sees those that enter and leave, the food, drink, and open clay utensils [in the house] are unclean. But couches, seats, and clay utensils sealed with a tight seal are clean [M. Toh. 7:5A -D]. “Now if you maintain that they have treated the body [of the *am ha'ares*] as equivalent to that of the *Zab* so far as heave-offering is concerned, then even the clay utensils sealed with a tight seal should be regarded as unclean. [He can have sat on them.]”
2. **II:2:** As to the substance of the heave-offering itself, what is the law as to its being treated [under the rules] governing the *Zab*, as far as Holy Things [are concerned]?
3. **II:3:** As to the substance of that which is in the status of Holy Things, what is the law on its functioning as does a *Zab* as far as the purification-rite [is concerned]?

XVI. YERUSHALMI HAGIGAH 3:1

[A] A MORE STRICT RULE APPLIES TO **HOLY THINGS** THAN APPLIES TO HEAVE OFFERING:

1. **I:1:** R. Hiyya in the name of R. Yohanán: “[The reason that a more strict rule applies to Holy Things than to heave offering is that] those

who eat food in the status of heave offering [= priests] are conscientious, and those who eat food in the status of Holy Things [lay persons too] are not conscientious. [Only priests eat food in the status of heave offering, while non-priests, who own the offering, receive a share therein and are subjected to a more strict requirement.]”

[B] FOR: THEY IMMERSE UTENSILS INSIDE OF [OTHER] UTENSILS FOR PURIFICATION FOR USE WITH [FOOD IN THE STATUS OF] HEAVE OFFERING, BUT NOT [FOR PURIFICATION FOR FOOD IN THE STATUS OF] HOLY THINGS.

- 1. II:1:** As to M. 3:1B, not immersing one utensil inside another,] R. La in the name of R. Yohanan: “If the unclean object was as heavy as a liter, they do not immerse it [inside of another one, since it will weigh down on the container and so interpose between the container and the immersion pool’s water].” Abba Saul says, “Also in the case of utensils used for the preparation of food in the status of heave offering, they immerse [one such vessel inside of another] only in the case of a wicker basket [in which other utensils may be placed]. [But other utensils may not serve as containers for immersion.]”

[C] [THEY MAKE DISTINCTIONS AMONG] OUTER PARTS, INSIDE, AND HOLDING PLACE IN THE CASE OF USE FOR HEAVE OFFERING, BUT NOT [IN THE CASE OF USE] FOR HOLY THINGS.

- 1. III:1:** [With reference to M. 3:1C on the holding place, the reason is that we do not distinguish the holding place,] not regarding the holding place as part of the inner part of the utensil. In the case of utensils used for Holy Things, all the parts are deemed comprehended as inside the utensil. [If any of the designated parts is made unclean, the whole of the utensil has been made unclean on the inside. Even if the outer surface alone is unclean, the whole of the utensil is unclean.] [This resumes at III:3, below.]
- 2. III:2:** Jonah in the name of R. Hiyya bar Ba: “There is the story that seven elders came together to intercalate the year, meeting in the Valley of Rimon. Who were they? R. Meir, R. Judah, R. Yosé, R. Simeon [b. Yohai], R. Nehemiah, R. Eliezer b. Jacob, and R. Yohanan, the sandal maker. “They said, ‘How many gradations [of rulings] apply to Holy Things and to heave offering [such as are listed at M. 3:1]?’ “R. Meir says, ‘Thirteen.’ “R. Yosé says, ‘Twelve.’ “Said R. Meir, ‘Thus did I hear from R. Aqiba: “Thirteen.”’ “Said R. Yohanan, the sandal maker, ‘I served R. Aqiba standing up, while you served him only sitting down [so I know his traditions better than you do, having

invested more energy in acquiring them].’ “They said, ‘R. Yohanan, the sandal maker, really is an Alexandrian.’ “And they arose from their meeting with a kiss.” And whoever in the group did not have a cloak – his fellow cut his cloak in half and gave it to him. And why did they do so? Because each one of them interpreted the following verse in seven different ways [and each had to dress appropriately for the presentation of his exegesis]: “Let me sing for my beloved a love song concerning his vineyard; my beloved had a vineyard on a very fertile hill” (Isa. 5:1). And they praised [the exegesis] of the last of them, because he had found a fine aspect of the verse. They say it was R. Simeon b. Yohai. And why were they forced [to meet in the valley of Rimon, rather than in a settled place]? For they interpreted the verse as follows: “You shall make for yourself no molten gods” (Exod. 34:7). And what is written immediately thereafter? “The feast of unleavened bread you shall keep. Seven days you shall eat unleavened bread, as I commanded you, at the time appointed in the month Abib; for in the month Abib you came out from Egypt” (Exod. 34:8). They held, “Whoever has sufficient grounds for doubt to expect that it is necessary to intercalate the year and does not do so is as if he worships idols.” When they were ready to leave, they said, “Come and let us leave a memorial to what we have done,” and they saw a marble stone, and each one of them took a nail and hammered it in, and the nail went into the stone as into a piece of dough, and up to the present time it is called, “The marble with the nails.”

3. **III:3:** Said R. Yohanan, “As to the holding place of which they have spoken [at M. 3:1C], whether it is on the inside or the outside of the utensil, it is in accord with the way in which fastidious people hold [the utensil].” Said R. Zeira, “It is not possible to speak in this connection of a dry utensil, for the hands will not impart uncleanness to a dry one. “But it [also] is not possible to state the rule in connection with one that is full of liquid. For if the hands have touched [such liquid], they have rendered liquid unclean. “But we must interpret the rule to speak of the case of a holding place on a utensil used for containing Holy Things, in which the hand or the holding place is soiled with liquid. [In such a case we take account of the condition of the holding place.]”
4. **III:4:** There we have learned: All utensils have outer parts and an inner part, and they further have a part by which they are held. [These are regarded as distinct, and if one is made unclean, another part remains clean.] R. Tarfon says, “This distinction in the outer parts

applies only to a large wooden trough.” R. Aqiba says, “To cups.” R. Meir says, “To unclean and clean hands.” R. Yosé said, “They have spoken only concerning clean hands alone.” [If clean hands touched one part of a utensil and another part was unclean, the hands are not made unclean. It is for this case that provision is made for distinguishing an outer part and a holding part] [M. Kel. 25:7]. Now in accord with the view of R. Meir, if one’s hands were unclean and the outer sides of a cup were clean, if there is liquid on the outer part of the cup, and one took the cup with its holding place, it is self-evident that the liquid has not been made unclean by the hand so as to impart uncleanness to the cup. [But is it the case that] just as the liquid does not receive uncleanness from the hand to impart uncleanness to the cup, also the liquid does not receive uncleanness from the hand to impart uncleanness to a loaf of bread located in some other place? Let us derive the answer from the following [in T.’s version]: Clean liquids that were put at the holding place of a cup and that an unclean loaf of bread touched – the liquids are made unclean [T. Kel. B.B. 3:1]. In what regard has it made the liquid unclean? Is it not so that the liquid may impart uncleanness to a loaf located in some other place? It is because the liquid is on the ground. Lo, if the liquid had been on the cup, it would not impart uncleanness.

[D] HE WHO CARRIES SOMETHING AFFECTED BY MIDRAS-UNCLEANNES [MAY ALSO] CARRY HEAVE OFFERING, BUT [HE MAY] NOT [ALSO CARRY FOOD IN THE STATUS OF] HOLY THINGS. THE CLOTHING OF THOSE WHO ARE SO CLEAN AS TO BE ABLE TO EAT HEAVE OFFERING IS DEEMED UNCLEAN IN THE STATUS OF MIDRAS-UNCLEANNES FOR THE PURPOSES OF HOLY THINGS.

- 1. IV:1:** He who carries something affected by midras-uncleanness may also carry heave offering, but he may not also carry food in the status of Holy Things [M.3:1D]: R. Ba in the name of R. Judah: “It is because of a case that took place. “There was a case of one whose jar was perforated, and he stuffed it up with the thong of his sandal. [The thong fell into the jar, and the wine in the jar was made unclean thereby.]” R. Zeira, R. Yosé in the name of R. Eleazar: “If one violated the law and did carry [something unclean with midras-uncleanness as well as food in the status of Holy Things, the latter remains] clean.”

[E] THE RULE FOR HOLY THINGS IS NOT LIKE THE RULE FOR HEAVE OFFERING. FOR IN THE CASE OF [IMMERSION FOR USE OF] HOLY THINGS ONE UNTIES A KNOT AND IMMERSSES AND AFTERWARD TIES IT UP AGAIN. AND IN THE CASE OF HEAVE OFFERING ONE TIES IT AND THEN ONE IMMERSSES.

- V:1:** For the rule for Holy Things is not like the rule for heave offering [M. 3:1G]: For in the case of Holy Things one unlooses the knots and dries off the holes and then ties up [the thongs again], while for immersion for the sake of heave offering, one simply ties the knots [of the thongs, e.g., of a basket,] and then immerses the utensil. Those who eat heave offering are conscientious, and they open [the knots]. Those who eat Holy Things are not conscientious and do not open the knots [on which account they are required to untie them prior to immersion].

XVII. YERUSHALMI HAGIGAH 3:2

[A] UTENSILS THAT ARE COMPLETELY PROCESSED IN A STATE OF INSUSCEPTIBILITY TO UNCLEANNESS [AND SO WHEN COMPLETED ARE CLEAN NONETHELESS], REQUIRE IMMERSION FOR USE IN CONNECTION WITH HOLY THINGS, BUT NOT FOR USE IN CONNECTION WITH HEAVE OFFERING.

- I:1:** It has been taught [in T.'s version]: There was the case of a woman who was weaving cloth in a state of insusceptibility to uncleanness. She came to R. Ishmael for inspection. She said to him, "Rabbi, I know that the cloth was not made unclean, but I did not have the intention to guard it [from receiving uncleanness]." In the course of the questions that R. Ishmael asked her, she said to him, "Rabbi, I know that a menstruating woman came and pulled on the rope with me." Said R. Ishmael, "How great are the words of sages, who have laid down the rule, 'If one did not intend to guard [the cleanness of an object], it is unclean.'" [Y.: Who have said that utensils that are completely processed in a state of cleanness (nonetheless) require immersion for use in connection with Holy Things but not for use in connection with heave offering (M. 3:2A-B).] There was the further case of a woman who was weaving a covering in a state of cleanness [as above, and she came before R. Ishmael, who inspected her about it. She said to him, "Rabbi, I know that the covering was not made unclean, but I did not have the intention to guard it [from receiving uncleanness]." In the course of the questions that R. Ishmael asked her, she said to him, "Rabbi, I know that one thread was broken, and I tied it with my mouth." Said R. Ishmael, "How great are the words of sages, who have laid down the rule, 'If one did not intend to guard [the cleanness of an object], it is unclean'" [T. Kel. B.B. 1:2-3]. [Utensils that are completely processed in a state of insusceptibility to

uncleanness require immersion for use in connection with Holy Things, but not for use in connection with heave offering (M. 3:2A).]

2. **I:2:** He who cuts off a reed for use with Holy Things – he who cuts the reed and he who immerses it must undergo immersion. Now there is no difficulty understanding why the one who cuts it off must immerse before doing so. But as to the one who immerses it, why can he not wrap it in bast and immerse it?
3. **I:3:** Said R. Joshua b. Levi, “Up to this point [the strict rules of which M. informs us] pertain to Most Holy Things of the sanctuary. From this point onward [the rules of which M. informs us] pertain to unconsecrated food that is prepared in accord with the rules of cleanness governing Holy Things.”

[B] **A UTENSIL UNITES EVERYTHING CONTAINED THEREIN FOR THE PURPOSES OF HOLY THINGS, BUT NOT FOR THE PURPOSES OF HEAVE OFFERING. [THAT WHICH IS MADE UNCLEAN IN] THE FOURTH REMOVE FROM THE ORIGINAL SOURCE OF UNCLEANNESS IN THE CASE OF HOLY THINGS IS INVALID, BUT ONLY [THAT WHICH IS MADE UNCLEAN IN] THE THIRD IN THE CASE OF HEAVE OFFERING**

1. **II:1:** [As to M. 3:2C, A utensil unites everything contained therein,] said R. Yohanan, “This rule is one of the testimonies of R. Aqiba, for we have learned there: “Added R. Aqiba, ‘Fine flour, incense, frankincense, and coals [lying even on a flat tray], part of which one who had immersed on that selfsame day has touched – he has invalidated the whole quantity of them ““ [M. Ed. 8:1 D-E]. Said R. Simeon b. Laqish, “They knew perfectly well that a utensil of [Temple] service joins together [its contents, so what affects part of what is in the utensil affects all of what is in it]. Now what was it that Aqiba came to add by his testimony? It concerned residue of meal-offerings, which are deemed to be joined together among themselves [so that what affects part of the residue affects the whole of it].” R. Yosé b. R. Zaminah in the name of R. Yohanan: “On what account have they stated that residues of heave offerings are deemed to be joined together among themselves? Because they all were supposed to be put in a single utensil [from which the handful would be taken, M. 3:2C]. [Accordingly, they are deemed a single quantity of meal.]”
2. **II:2:** Kahana asked rabbis from over there, “A meal-offering that is put into a plate [and divided up] – if this part is made unclean, is that part made unclean? [Does the plate join the parts?] They said to him, “If this is made unclean, then that is made unclean.” “And does the

uncleanness jump [from one part of the dish to the other]?” They said to him, “And the uncleanness does jump [across the dish].” “Even if there is something else between them?” They said to them, “Even if there is something else between them.” “Does someone take a handful of meal-offering from this part to cover what is [required to be taken from] that part as well?” They said to him, “We have heard no tradition on the matter. But we have learned a Tannaite teaching in line with that which we have learned there: “If there are two meal-offerings from which a handful had not been taken, and they were mixed up with one another, if one can take a handful from this one by itself [from a part that was not mixed with the other], and from that by itself, they are valid. And if not they are invalid [M. Men. 3:3A-D]. “And the residues of this one do not enter into those of that one.”

3. **II:3:** Simeon b. Laqish raised the question, “As to the dry portion of meal-offerings – what is the law on its being subject to the counting of removes of uncleanness?” R. Eleazar objected, “And is it not written: ‘Any food in which it may be eaten, upon which water may come, shall be unclean; and all drink that may be drunk from every such vessel shall be unclean’ (Lev. 11:34)? That which is rendered susceptible to uncleanness by reason of water produces the counting of removes of uncleanness, and the susceptibility of which to uncleanness does not depend upon water does not produce counting of re Objected R. Yohanan, “Lo, there is the matter of the carrion of clean fowl. Lo, it imparts uncleanness as does unclean food, without being rendered susceptible to uncleanness and without being made unclean [M. Toh. 1:1].” It is because in the end it will impart a most severe form of uncleanness.
4. **II:4:** R. Jonathan in the name of Rabbi: “He who eats food in the third remove of uncleanness in the matter of heave offering – his body is made invalid for the eating of food in the status of heave offering.”
5. **II:5:** It was taught: Said R. Yosé, “How do we know that that which is unclean by a source of uncleanness in the fourth remove from the original source of uncleanness] in the case of Holy Things is invalid [= M. 3:2E-F]? “And it is derived a fortiori. “Now if one who has not completed his atonement rites [by bringing the required offering, e.g., a person afflicted with flux-uncleanness, a Zab, cf. Lev. 15, or a woman after childbirth, Lev. 12] is not invalid in the case of heave offering but is invalid in the case of Holy Things, “that which is made unclean by a source of uncleanness in the fourth remove, which is

invalid in the case of heave offering – is it not reasonable that it should invalidate [that which touches it] in the case of Holy Things? “We have learned in Scripture [cf. M. Sot. 5:2] that that which is unclean in the third remove from the original source of uncleanness invalidates, and in connection with that which is unclean in the fourth remove [we thus derive the same lesson] by an argument a fortiori [T. Hag. 3:18].

- 6. II:6:** Up to this point we have dealt with food made unclean in the airspace of a clay utensil contaminated by a dead creeping – thing (Lev. 11:33). [That is, Aqiba’s proof at M. Sot. 5:2, based on Lev. 11:33, shows that food made unclean in the contained airspace of a clay utensil into which a dead creeping-thing has fallen has the capacity to impart uncleanness to food that touches it.] How do we know that food itself, which has been made unclean by a dead creeping-thing, has the power to impart uncleanness to other food? Now it is derived a fortiori. If utensils that do not receive uncleanness when they are located in the contained airspace of a clay utensil that has been rendered unclean by a dead creeping-thing – lo, such utensils impart uncleanness as does a dead creeping-thing so that food that touches them will be unclean, food that is rendered unclean by a dead creeping-thing, is it not a matter of logic that it should have the capacity to impart uncleanness as does a dead creeping-thing to [other] food [with which it comes into contact]? [Surely that is obvious.]

[C] **AND IN THE CASE OF HEAVE OFFERING, IF ONE OF ONE’S HANDS IS MADE UNCLEAN, THE OTHER IS CLEAN. BUT IN THE CASE OF HOLY THINGS ONE HAS TO IMMERSE BOTH OF THEM. FOR ONE HAND IMPARTS UNCLEANNESS TO THE OTHER FOR THE PURPOSES OF HOLY THINGS, BUT NOT FOR THE PURPOSES OF HEAVE OFFERING**

- 1. III:1:** In the case of heave offering, if one of one’s hands is made unclean, the other is clean [M. 3:2G]. “As to Holy Things [M. 3:2H], if one hand is unclean, the other imparts uncleanness to Holy Things,” the words of Rabbi. R. Yosé b. R. Judah says, “It renders Holy Things invalid [but not unclean].” Does Rabbi then concur with R. Joshua? For we have learned there: “Whatever imparts unfitness to heave offering imparts uncleanness to hands, putting them into the second remove of uncleanness. One hand imparts uncleanness to [the second,” the words of R. Joshua. And sages say, “That which is unclean in the second remove does not put something else into a state of uncleanness at the second remove” [M. Yad. 3:2A-C].

2. **III:2:** Simeon b. Laqish said, “They have referred only to the other hand. Lo, as to someone else’s hand, that is not the case.” R. Yohanan said, “Even [if the unclean hand touched] another’s hand, it is the case.” R. Jeremiah, R. Ammi in the name of R. Yohanan: “Even in the case of [the hand’s touching] a loaf of bread.”

XVIII. YERUSHALMI HAGIGAH 3:3

[A] WITH DIRTY HANDS THEY EAT FOOD THAT HAS NOT BEEN WET DOWN IN THE CASE OF HEAVE OFFERING, BUT NOT IN THE CASE OF HOLY THINGS.

1. **I:1:** Said R. Hanina b. Antigonus, “And does the rule that dry food [is not susceptible to uncleanness] apply in the case of Holy Things at all? “One spears a piece of dry food with a spindle or a wood chip and eats an olive’s bulk of meat with it, “in the case of heave offering, but not in the case of Holy Things.”
2. **I:2:** There we have learned: If one was eating a fig with dirty hands and poked his hand into his mouth to remove the pit – R. Meir declares the fig unclean. R. Judah declares the fig clean. R. Yosé says, “If he turned over the fig in his mouth, the fig is unclean If not, it is clean” [M. Kel. 8:10F-J]. [The fig is in the status heave offering. It may be made unfit by what is unclean in the second remove. Dirty hands are by definition unclean in the second remove. In Meir’s view the spit in the mouth renders the food susceptible to uncleanness, and the hand renders it unclean. Judah does not see the spit as capable of imparting susceptibility to uncleanness. Yosé says if the man turns the fig over in his mouth. so detaching some spit from the sides of the mouth, the spit imparts susceptibility, and the rest follows.] Hezekiah said, “This rule has been taught only with regard to a fig in the case in which the man wants the liquid which is on his finger. [In that case, he puts his finger into his mouth with liquid. on it, so touching the fig is done with liquid which has the capacity to impart susceptibility to uncleanness, in line with M. Makh. 1:1.] But for all other things that is not so.” R. Yohanan said, “There is no difference between a fig and anything else. [Spit by itself imparts susceptibility to uncleanness, not merely liquid on the man’s finger, introduced from outside the mouth to soften the fig.]”

[B] HE WHO [PRIOR TO INTERMENT OF THE DECEASED] MOURNS HIS NEAR OF KIN [EVEN WITHOUT HAVING CONTRACTED CORPSE-UNCLEANNES] AND ONE WHOSE

ATONEMENT RITE IS NOT COMPLETE [BECAUSE AN OFFERING IS YET REQUIRED]
REQUIRE IMMERSION FOR THE PURPOSES OF HOLY THINGS, BUT NOT FOR THE
PURPOSES OF HEAVE OFFERING

1. **II:1:** [As to the status of one who has suffered a bereavement and not yet buried the deceased, M. 3:3C-D,] there we have learned: A priest who has suffered a bereavement but not yet buried his next of kin may touch Holy Things but does not offer and does not share in Holy Things to eat them in the evening [M. Zeb. 12:1B]. There you have said that it is permitted for him to touch Holy Things, and here you have said that it is forbidden for him to touch them. Said R. Yannai, “Here [where he is prohibited to touch them] it is a case in which he ceased to pay attention [to the status of the food and hence may have become unclean], while there [where he is permitted to touch them] it is where he has not ceased to pay attention.”

2. **II:2:** There we have learned: [With reference to a woman who is sitting out the blood of purifying, in line with Lev. 12:1ff., after having given birth, M. Nid. 10:7 proceeds:] The House of Shammai say, “She requires immersion at the end.” And the House of Hillel say, “She does not require immersion at the end.” [The Houses regard the woman as in the status of one who has immersed on the selfsame day and requires waiting until sunset before her rite of purification is complete. What is under dispute is whether immersion at the end of the forty or eighty days of uncleanness is required. The woman immerses at the end of seven or fourteen days of uncleanness after childbirth. Then there are thirty-three or sixty-six days of purifying. The Shammaites find this first immersion insufficient. Another immersion at the end of thirty-three or sixty-six days is required. The Hillelites differ.] Now how shall we interpret what is at issue here? If at issue is [immersion for] eating food in the status of heave offering, there is a problem for the view of the House of Shammai. For is she not in the status of one who has immersed on the selfsame day, and does not one who has immersed on the selfsame day allow the sun to set and then eat food in the status of heave offering? [The sun set after her first immersion, on the seventh or fourteenth day, so why is she not clean?] If the dispute has to do with the eating of food in the status of Holy Things, there is a problem for the House of Hillel. For is she not one whose atonement rite is not complete, and does not one whose atonement rite is not complete require immersion for the purposes of Holy Things [in line with M. 3:3C]?

XIX. YERUSHALMI HAGIGAH 3:4

- [A] A MORE STRICT RULE APPLIES TO HEAVE OFFERING [THAN TO HOLY THINGS]:
FOR IN JUDEA PEOPLE ARE DEEMED TRUSTWORTHY IN REGARD TO THE
PRESERVATION OF THE CLEANNES OF WINE AND OIL [FOR USE IN THE ALTAR
– THAT IS, FOOD IN THE STATUS OF HOLY THINGS] THROUGHOUT THE YEAR.**
- 1. I:1:** A more strict rule applies to heave offering, for in Judea [M. 3:4A-B]: And in Galilee that is not the case. [79c] R. Simon, R. Joshua b. Levi in the name of R. Pedaiiah: “It is because a strip of land belonging to the Samaritans intervenes [between Judea and Galilee]. [This land is unclean.]” And lo, we have learned: Second to it [in the excellence of its produce] is Rebeb, which is in Trans-Jordan [M. Men. 8:3]. Now [that is a distant place], and even though a strip of land belonging to the Samaritans intervenes[, still, produce from such a distant place is acceptable for the altar]. [So why should that not be the case for Galilean produce?] Said R. Shimi, “Interpret the passage [on the town in TransJordan] to speak of bringing baskets of olives [from there to Judea] and crushing them there [in Judea, in which case there is no possibility of their being made unclean in their passage through the land of the gentiles].” And in Judea they are believed as to the character of the wine, but not as to the character of the jars, while in Galilee they are believed neither as to the character of the wine nor as to the character of the jars.
- [B] BUT [ONLY] IN THE TIME OF PRESSING THE WINE AND CRUSHING THE OLIVES ALSO
FOR THE PURPOSES OF HEAVE OFFERING [ARE THEY DEEMED TRUSTWORTHY].
AFTER THE TIME OF PRESSING THE WINE AND CRUSHING THE OLIVES HAS
PASSED, [IF] ONE BROUGHT TO [A PRIEST] A JUG OF WINE IN THE STATUS OF
HEAVE OFFERING, HE SHOULD NOT ACCEPT IT FROM HIM. BUT HE SIMPLY
LEAVES IT FOR THE NEXT SEASON OF PRESSING THE WINE.**
- 1. II:1:** [As to M. 3:4C: Only in the time of pressing the wine and crushing the grapes are people deemed trustworthy, we may say,] “If substances that are cultically clean touched something during the time of the grape- or olive-pressing, the things that are subject to the rules of cleanness remain clean. But if the time for pressing grapes and crushing olives had passed, then things that are prepared under conditions of cleanness now are deemed to be unclean.” [Accordingly, we must ask,] “Can a clay utensil be regarded as insusceptible to uncleanness [at one point] and then go and become susceptible to

uncleanness? [If the utensil was regarded as clean at one point, when did it become unclean?]" Matters cannot be this way. But this is the rule: If matters requiring preparation in conditions of cleanness touched it prior to the season of grape-pressing or olive-crushing, the things that are clean remain clean. And is there a clay utensil that is susceptible to uncleanness and that then goes and becomes insusceptible to uncleanness? Matters cannot be this way, but this is the rule: If things requiring preparation in conditions of cleanness touched it when the utensil is full, the things requiring preparation in conditions of cleanness remain clean. But if one then emptied the jar, the things subject to the rules of cleanness are regarded as unclean. And is clay utensil that has been deemed insusceptible to uncleanness going to go and become unclean? Matters cannot be this way, but this is the rule: If matters requiring preparation in conditions of cleanness touched it when it is empty, the things requiring preparation in conditions of cleanness are regarded as unclean. If one filled it with matter subject to the rules of cleanness, they are regarded as clean. And is there a clay utensil that is regarded at one point as subject to uncleanness and at another insusceptible? Matters cannot be this way.

2. **II:2:** Said R. Yohanan, "Costus, a gourd, an alleyway, a proselyte, and an ordinary person are subject to a strict rule."
3. **II:3:** Said R. Yannai, "The younger disciples would say: 'This rule applies to heave offering that has been prepared in accord with the rules pertaining to Holy Things. Lo, if it was prepared in accord with rules governing itself [as heave offering], [M.'s rule] does not apply.' But I say, 'Even if the food were prepared in accord with its own rules as heave offering[, the law of Mishnah applies].'"

[C] **BUT IF HE SAID TO HIM, "I SET APART IN THIS JUG OF WINE A QUARTER LOG WHICH IS IN THE STATUS OF HOLY THINGS, " THEN HE IS DEEMED TRUSTWORTHY [AND THE JUG IS ACCEPTED]. AS TO JUGS OF WINE AND OIL IN WHICH WINE OR OIL IN THE STATUS OF HEAVE OFFERING HAS BEEN MIXED, [COMMON PEOPLE] ARE DEEMED TRUSTWORTHY IN THEIR REGARD AT THE TIME OF PRESSING THE WINE AND CRUSHING THE OLIVES, AND FOR SEVENTY DAYS BEFORE THE PRESSING OF THE WINE AS WELL.**

1. **III:1:** But if he said to him, "I set apart in this jug of wine a quarter log which is in the status of Holy Things, he is deemed trustworthy [and the jug is accepted] [M. 3:4F]. Since he is deemed trustworthy with regard to Holy Things, he is deemed trustworthy in this case with regard to the produce in the status of heave offering. As to jugs of wine

and oil in which wine or oil in the status of heave offering had been mixed, common people are deemed trustworthy in their regard [M. 3: 4G]: Said R. Yosé b. R. Bun, “These are jars in which people have poured produce with which produce in the status of heave offering has been mixed.”

XX. YERUSHALMI HAGIGAH 3:5

[A] FROM MODI'IN AND INWARD [TOWARD JERUSALEM, PEOPLE] ARE DEEMED TRUSTWORTHY IN REGARD TO THE STATUS OF CLAY UTENSILS. FROM MODI'IN AND OUTWARD, THEY ARE NOT DEEMED TRUSTWORTHY. HOW SO? A POTTER WHO SELLS POTS – [IF] THERE CAME WITHIN THE BORDER OF MODI'IN [TOWARD JERUSALEM THAT POTTER, THOSE POTS, AND THOSE PURCHASERS] – HE IS DEEMED TRUSTWORTHY. [IF] HE WENT BEYOND THE LIMIT, HE IS NOT DEEMED TRUSTWORTHY.

1. **I:1:** The Mishnah passage speaks of small clay utensils.
2. **I:2:** If food preserved in a state of cultic cleanness touched [a pot], if it is from Modiin and inward [toward Jerusalem], liquid imparts uncleanness to the utensil [for the pedlar is believed as to the condition only of the pot, not of its contents]. [If the liquid is assumed unclean, it is going to impart uncleanness to the pot.]
3. **I:3:** If the pot was filled with water – R. Simeon b. Laqish said, “[An *am haares* is] deemed trustworthy with regard to the status of the pot, but he is not deemed trustworthy with regard to the status of the liquid.” R. Yohanan said, “He is deemed trustworthy with regard to both this and that.”

XXI. YERUSHALMI HAGIGAH 3:6

[A] TAX COLLECTORS WHO WENT INTO A HOUSE, AND SO TOO THIEVES WHO RETURNED OBJECTS [THEY HAD STOLEN], ARE DEEMED TRUSTWORTHY TO STATE, “WE DID NOT TOUCH THEM [AND MAKE THEM UNCLEAR].” AND IN JERUSALEM THEY ARE DEEMED TRUSTWORTHY IN MATTERS CONCERNING HOLY THINGS, AND AT THE TIME OF THE FESTIVALS, ALSO CONCERNING MATTERS TOUCHING ON HEAVE OFFERING.

1. **I:1:** Tax collectors who entered a house – it is unclean. If there is a gentile with them, they are deemed trustworthy to testify, “We went in, but we did not touch anything” [cf. M.Toh.7:6; T.Toh.8:5].
2. **I:2:** Said R. Joshua b. Levi, “‘Jerusalem, built as a city that is associated firmly together, to which the tribes go up’ (Ps. 122:3-4). It is a city that turns all Israel into associates [who preserve the laws of cleanness].” If that is the case, then even through the rest of the year [and not only at the time of the festivals, M. 3:6E, the rule should be the same]. Said R. Zeira, “But that is on condition that it is then that ‘the tribes go up’ [which is at the time of the festivals only].”

XXII. YERUSHALMI HAGIGAH 3:7

[A] HE WHO OPENS UP A JUG OF WINE OR BROKE INTO DOUGH [TO SELL THEM] FOR THE NEEDS OF A FESTIVAL – R. JUDAH SAYS, “HE FINISHES [SELLING THE CONTENTS AFTER THE FESTIVAL]. “ AND SAGES SAY, “HE DOES NOT FINISH [SELLING THE CONTENTS AFTER THE FESTIVAL].” AFTER THE FESTIVAL WAS OVER, THEY UNDERTOOK THE PURIFICATION OF THE TEMPLE COURT. [IF] THE FESTIVAL ENDED BEFORE A FRIDAY, THEY DID NOT UNDERTAKE THE PURIFICATION, BECAUSE OF THE HONOR OWING TO THE SABBATH. R. JUDAH SAYS, “ALSO NOT BEFORE THURSDAY, FOR THE PRIESTS ARE NOT FREE.”

1. **I:1:** [As to the reason for Judah’s position, M. 3:7B,] R. Hananiah in the name of R. Yohanan: “They permitted selling the wine at the end on account of doing so at the outset. That is, if one tells him not to finish [the jug], to begin with he will not open it. And if he does not open it, he will lessen the joy owing to the festival.” R. Samuel bar Nahman in the name of R. Jonathan: “When they differ it is as to a jug of wine; but as to a jug of oil, all parties concur that he may not finish it.”
2. **I:2:** R. Simon in the name of R. Joshua b. Levi: “In the case of the final day of a festival that coincides with a Friday, the food for use on the following Sabbath is subject to the rules of the festival just ended [so that what is deemed on the festival remains in that status for the Sabbath which is adjacent to the festival].”

XXIII. YERUSHALMI HAGIGAH 3:8

[A] **HOW DO THEY UNDERTAKE THE PURIFICATION OF THE TEMPLE COURT? THEY IMMERSER THE UTENSILS THAT WERE IN THE SANCTUARY AND SAY TO (THE PEOPLE), “BE CAREFUL NOT TO TOUCH THE TABLE AND RENDER IT UNCLEAN”]. ALL UTENSILS THAT WERE IN THE TEMPLE HAVE DUPLICATES AND TRIPLICATES, SO IF THE ORIGINALS ARE MADE UNCLEAN, THEY MAY BRING THE DUPLICATES IN THEIR PLACE.**

- 1. I:1:** And do the utensils require immersion? [Why so?] Said R. Ba, “I say, ‘Perhaps there is among the utensils one that had not been sprinkled [with purification-water, when it was originally completed, and this one became susceptible to uncleanness].’” If that is the case, then we should scruple about all of them [immersing even the table]. Said R. Bun bar Hiyya, “I say that one of the priests went out to chat with a woman about the matter of a bird-offering [owing after she had given birth to a child], and the spit of her mouth spurted onto his clothing and so made him unclean. [Since he then touched a utensil, it should be immersed.]” If that is the case, then we should scruple about all of them [including the table, and not merely what can be immersed]. Interpret the case to be one in which there is a matter of doubt as to uncleanness with regard to liquids.
- 2. I:2:** It has been taught: “A table [used for the show-bread of the Temple] which is made unclean – they immerse it at its proper time [when they remove the show-bread from it], even on the Sabbath [cf. M. 3:8A] [T. Hag. 3:35], the words of R. Meir. And sages say, “They immerse it immediately [and do not wait until the time for removing the show-bread].”
- 3. I:3:** One time they immersed the candelabrum on the festival day. The Sadducees went around saying, “Come and see bow the Pharisees immerse [something which in fact is as clean as] the light of the moon” [T. Hag. 3:35F].
- 4. I:4:** There we have learned: They went into the office for utensils and brought out from there ninety-three silver and gold utensils [T. Tam. 3:4A]. Said R. Samuel bar Nahman in the name of R. Jonathan: “This is for the ninety-three places in the prophetic books of Haggai, Zechariah, and Malachi in which the name of God is mentioned.”

[B] ALL UTENSILS THAT WERE IN THE TEMPLE REQUIRE IMMERSION, EXCEPT FOR THE GOLDEN ALTAR AND THE COPPER ALTAR, “FOR THEY ARE IN THE STATUS OF THE GROUND [AND INSUSCEPTIBLE TO UNCLEANNESS TO BEGIN WITH],” THE WORDS OF R. ELIEZER. AND SAGES SAY, “BECAUSE THEY ARE PLATED [WITH METAL, GOLD, OR COPPER].”

- 1.** **II:1:** Shilah of Kepar Tameratah in the name of R. Yohanan: “The scriptural basis for the position of R. Eliezer [M. 3:8E] is as follows: ‘And you shall overlay it with pure gold’ (Exod. 30:3). The Torah has referred to this altar’s overlay as being on the ground. “To this point we have indicated that the golden altar is regarded as part of the ground [and so insusceptible to uncleanness]. “How do we know that that is also the case for the altar on which the burnt-offerings are prepared? “It is a matter of logic. Now if the golden altar, which is only a cubit by a cubit by a cubit, is regarded as part of the ground, the altar for the burnt-offerings, which is five by five [so much larger] – is it not an argument a fortiori?”

TRACTATE

YEBAMOT

The law of levirate marriage—marriage of the widow to a brother of the childless deceased husband for purpose of procreation—aims at bringing about the realization of the original act of consecration, engendering offspring. That is the explicit view of the Torah, which frames matters in terms of maintaining the deceased’s “name” in Israel. That means the deceased’s widow is to produce a child with a surviving brother, so carrying forward the purpose of the original union, even if not as originally contemplated (Deut 25:5–10). Scripture deems the widow’s role in realizing the initial intentionality, to which she has acceded, to be active; she is the one who demands the realization of the original transaction. The surviving brother forms a mere instrumentality in the fulfillment of the deceased husband’s and now-widowed wife’s original agreement. The surviving brother(s) may then prevent the transaction, in which case the woman is freed of her status of sanctification, with *halisah*, the rite of removing the shoe, then forming the counterpart to the presentation of a writ of divorce. But there is this obvious difference: now the unwilling brother takes the passive role, the outraged widow, the active one. It is the embodiment and fulfillment of the initial rite of sanctification that she has willingly accepted for herself that the surviving brother has refused to assist. She bears as heavy a stake in the transaction as the now-deceased husband; her brother-in-law has failed in his Heavenly task.

I. When the levirate connection does not pertain

A. Women who are near of kin to their deceased, childless husband’s brother but cannot enter into levirate marriage with the deceased childless husband’s brother

B. Surviving brothers eligible for levirate marriage: when the levirate connection is null. Cases of confusion

II. The interstitial case: the flawed levirate connection and the rite of removing the shoe

A. Brothers married to sisters

B. When the levirate connection is subject to doubt; flawed betrothal or divorce.

C. When a brother bespeaks the levirate widow but dies before consummating the relationship.

- D. When the brothers act in error.
- E. When the levirate connection is effected in error.

III. The consequence of the levirate marriage

- A. Property relationships
- B. Personal relationships
- C. Inheritance
- D. Further marriages
- E. Sequences of levirate transactions
- F. Sexual relations in the levirate marriage

IV. Marriages that violate the restrictions of the Torah. The consequences for the priesthood as to the consumption of priestly rations

- A. A widow to a high priest, a divorcee to an ordinary priest
- B. Other considerations involved in consuming priestly rations. Uncleanness
- C. Prohibited marriages
- D. Consequences of violating the prohibitions against marriage

V. Marriages that are subject to doubt by reason of the status of the parties thereto

- A. The marital bond of a boy nine years and one day old
- B. Special cases: the rapist, the convert
- C. The confusion of offspring

VI. The rite of removing the shoe

VII. Exercising the right of refusal. The minor and levirate marriage

- A. The rite of refusal
- B. The minor and levirate marriage

VIII. The marriage of the deaf-mute and the person of sound senses

IX. Ascertaining whether the husband has actually died

- A. When the husband is missing
- B. Testimony that the husband has died

YERUSHALMI YEBAMOT

CHAPTER ONE

1:1

- [A] [2a] Fifteen women [who are near of kin to their deceased, childless husband's brother] exempt their co-wives, and the co-wives of their co-wives, from halisah or levirate marriage, without limit.
- [B] And these are they:
- [C] (1) His daughter, and (2) the daughter of his daughter, and (3) the daughter of his son;
- [D] (4) the daughter [by a former marriage] of his wife, and (5) the daughter of her son [by a former marriage], and (6) the daughter of her daughter [by a former marriage];
- [E] (7) his mother-in-law, and (8) the mother of his mother-in-law, and (9) the mother of his father-in-law [married to his brother by the same father];
- [F] (10) his sister by the same mother, and (11) the sister of his mother, and (12) the sister of his wife;
- [G] (13) and the wife of his brother by the same mother, and (14) the wife of his brother who was not [alive] at the same time as he [but who died before he was born, in which case the surviving brother has no claim];
- [H] and (15) his [former] daughter-in-law [who then married his brother].
- [I:1 A] It is written [concerning the meal-offering], "It shall be eaten unleavened" (Lev. 6:9).
- [B] Since eating the meal-offering to begin with was treated as permitted, and it then was subjected to a prohibition, is it possible to suppose that

in the end it was once more treated as permitted just as it had been at first? [The issue is who eats the meal-offering. Lev. 6:16 assigns it to Aaron and his sons. Does this mean only the officiating priest may eat the residue of the meal-offering? The statement of Lev. 6:16, “Every male among the children of Aaron may eat of it,” removes that implication. Any priest may do so. Now here is the point. Prior to its sanctification, anyone might eat the meal-offering. Once it was sanctified, only the officiating priest might do so. Now that it has been treated once more as permitted, it is not to say that, once more, anyone may eat it. Only a priest may do so – if not the officiating priest alone. That is the point of the sequence with which we began. Scripture says, “It shall be eaten unleavened.” [The use of the same letters for ‘unleavened’ and ‘religious duty’ means,] it is a religious duty.]

- [C] Along these lines [we shall now deal with the case of a woman who, prior to marriage, is permitted to anyone, then, when married, is permitted only to her husband. Once the husband died, she is once more permitted to another man – not to any man at all, only to the levir. This is now proved in the following discourse].
- [D] “Her husband’s brother shall go in to her and take her as his wife” (Deut. 25:5). This is a religious duty.
- [E] Since she had been generally permitted, and then had been forbidden [to all men but her husband], and how has reverted and once more been permitted, is it possible to suppose that she should revert to her original status of being totally permitted [to any Israelite]?
- [F] Scripture says, “Her husband’s brother shall go in to her” – this is a religious duty.
- [G] [Reverting to A-B, above] *R. Yosé interprets the passage somewhat differently*: “It shall be eaten unleavened” (Lev. 6:9). This is the religious duty. For the meal-offering had been treated as wholly permitted. Prior to its having been consecrated as a meal-offering, if some one wanted to eat it, he ate it; if he did not want to eat it, he did not eat it. Once he declared it consecrated, however, it was prohibited [for anyone to eat]. After a handful of it had been offered, the residue reverted and was permitted [for eating]. Is it possible to suppose that the meal-offering then reverted to its original condition of being wholly permitted, so that, if one wanted to eat it, he might eat it, and if he did not want to eat it, he did not eat it? Scripture states, “It shall be eaten unleavened (massot).” It is a religious duty (*miswah*).

[H] Along these same lines: “Her husband’s brother shall go in to her and take her as his wife” (Deut. 25:5). This is a religious duty. Since she had been generally permitted before she had been married to his brother, so that, even if the [levir] wanted to marry her, he did not *have* to marry her, and once she had married his brother, she was forbidden [to all men but her husband], and then his brother died without children – she has now reverted and been returned to her original status of being permitted. Now is it possible to suppose that she should revert to her original status [of being totally permitted to any Israelite] so that if he [the levir] wants to marry her, he may marry her and if he does not want to marry her, he does not have to? Scripture says, “Her husband’s brother shall go in to her.” This is a religious duty [and consequently, levirate marriage takes precedence over the rite of *halisah* in dealing with the levirate connection].

[I] *R. Huna interpreted the passage as follows:* “It shall be eaten unleavened” (Lev. 6:16). It is a religious duty. This is because, to begin with, the meal was totally permitted, prior to its being consecrated [as a meal-offering]. Accordingly, if the owner wanted, he might eat it leavened, and if he wanted, he might eat it unleavened. Once he had consecrated it, it was subjected to a total prohibition against eating. Then, when a handful of it was offered up, it was once more permitted to be eaten. Now is it possible to suppose that it should return to its original state of being permitted for all purposes and in all conditions, so that if [the priest] wanted, he might eat it leavened, Scripture states, “It shall be eaten unleavened.” It is a religious duty.

[J] [2b] Along these same lines:”Her husband’s brother shall go in to her and take her as his wife” (Deut. 25:5). This is a religious duty. Now she had been generally permitted before she had been married to his brother, so that, if he wanted to marry her because of her beauty, he might do so, and if he wanted to marry her because of her money, he might do so. Once she had been married to his brother, she had been forbidden to him. When his brother died without children, she reverted to being permitted to him. Is it possible to suppose that she should return to her original state of being permitted for all purposes and conditions, so that if the brother wanted, he might marry her because of her beauty, and if he wanted, he might marry her because of her money? Scripture says, “Her husband’s brother shall go in to her and take her as his wife” (Deut. 25:5). This is a religious duty [not to be performed except for religious motivations].

[K] *This view of R. Huna accords with that of Abba Saul, for it has been taught:* Abba Saul says, “He who enters into levirate marriage

with his sister-in-law because she is beautiful or for any other ulterior motive – lo, this is an act of sheer fornication, and it is such that the offspring of such a union is nigh unto being regarded as a mamzer.”

[L] Does Abba Saul then concur with R. Aqiba, for R. Aqiba has said that a mamzer may be produced if there is a violation of the laws of levirate marriage?

[M] [No, that is not the case.] For that which R. Aqiba has said applies to a sister-in-law who has fornicated.

[N] Does that which Abba Saul said regarding one [who is obligated to perform levirate marriage] with his sister-in-law accord with R. Yosé b. Halapta? For R. Yosé b. Halapta entered into levirate marriage with his sister-in-law. He ploughed five times and planted five plantings, and he had sexual relations through a sheet [so as to preserve the chaste character of his action], and these are the [results of his sexual relations]: R. Ishmael b. R. Yosé, R. Eleazar b. R. Yosé, R. Menahem b. R. Yosé, R. Halapta b. R. Yosé, and R. Abedemos b. R. Yosé. [The question is to be answered affirmatively. A proper motive is required in entering into levirate marriage.]

[I:2 A] It is written, “You shall not uncover the nakedness of your brother’s wife; she is your brother’s nakedness” (Lev. 18:16). The implication of this statement is that the prohibition applies, whether it is the wife of his brother from the same father [but not the same mother], or the wife of his brother from the same mother but not the same father], the wife of his brother who was alive at the same time and the wife of his brother who was not alive at the same time [but died before he was born, whether the brother was yet alive or whether the brother had already died, whether the brother had had children or whether the brother did not have children.

[B] [Is it then possible to suppose that] any woman in any of these categories] then has been removed from this categorical prohibition on account of levirate marriage?

[C] [For brothers from the same mother only:] Here it is written, “If brothers dwell together, and one of them dies and has no son ...” (Deut. 25:5). And elsewhere it is written, “We are twelve brothers, sons of our father” (Gen. 42:32).

[D] Just as “brothers” used in this latter context refers to brothers from the same father [but from different mothers], so “brothers” stated here

[with respect to the levirate connection] means that they are brothers from the same father.

- [E] [For contemporaries only:] “Together” indicates that we exclude reference to the wife of his brother who was not a contemporary.
- [F] “And one of them dies” – that is, if the brother was yet alive, so that even if the brother divorced a wife and then died, this one [whom he had divorced] is exempt [from having to enter into levirate marriage. She had to be married to the deceased at the moment of death].
- [G] “And has no son” – lo, if he should have an offspring, she is exempt.
- [I:3 A]** It is written, “For whoever shall do any of these abominations shall be cut off from among their people” (Lev. 18:29). Now was the wife of his brother not included in the general category of those prohibited by reason of consanguinity? Yet she was released from that category because of the levirate connection.
- [B] Is it possible that all of the others listed in the category of those prohibited by reason of consanguinity should be released through the levirate connection?
- [C] R. Zeira in the name of R. Yosé b. Haninah: “The word ‘unto her’ is used in two contexts.” [“You shall not take a woman as a rival wife to her sister, to uncover her nakedness unto her while her sister is yet alive” (Lev. 18:18), and “Her husband’s brother shall go in unto her” (Deut. 25:5).] “Just as, ‘Her husband’s brother shall go in unto her’ means that we deal with a brother from the same father when Scripture speaks as it does, so ‘unto her’ used by Scripture speaks of a brother from the same father.”
- [D] *R. Benjamin bar Giddal and R. Aha were in session. R. Aha reported that which R. Yosé b. Haninah had said [above, C].*
- [E] Said to him R. Benjamin bar Giddal, “[There also is Deut. 22:17, which uses ‘unto her’ in the following way: ‘And lo, he has made shameful charges against her, saying, “I did not find in your daughter the tokens of virginity.”’ Along these same lines,] perhaps ‘unto her’ used in this context speaks of a case in which she is not a sister-in-law, so ‘unto her’ used here may mean that Scripture refers to one who is not a sister-in-law [so that the wife’s sister (Lev. 18:18) is prohibited only when there is no levirate connection at all?]”
- [F] Said to him R. Aha, “The Torah has said that the prohibition is released in the case of a sister-in-law [so that the marriage is permitted], and you say that it is when she is not a sister-in-law? [We

already have derived the proof from Deut. 25:5, and how then is Deut. 22:17 relevant?]"

[G] [Turning this around], R. Benjamin bar Giddal said to him, "The Torah has spoken of a case in which she is not a sister-in-law, and will you say that it is a sister-in-law!"

[H] *R. Aha lost patience with him.*

[I] *Said R. Yosé, "It is not that R. Aha really differs. But he is punctilious about the language that he has heard from his master."*

[J] *What is this tradition that he had heard from his master?*

[K] "Her husband's brother shall go in unto her" (Deut. 25:5). Just as "unto her" used elsewhere means in a case in which it is not a sister-in-law [that is, Deut. 22:17 does not permit charges to be brought in the case of a levirate marriage], so may "unto her" stated here mean that it may be even in the case of [the deceased's brother's levirate wife]?

[L] The Torah has said, "You shall not take a woman as a rival wife to her own sister, to uncover her nakedness unto her while her sister is yet alive" (Lev. 18:18).

[M] I know only that this applies to her. How do I know that it applies to her co-wife? Scripture says, "To take her as a rival wife" – meaning, neither her rival wife, nor the rival wife of her rival wife.

[N] I know only that the law applies to the sister of his wife. How do I know that the same law applies to all other women deemed consanguineous [that is, that the rule that there is no levirate marriage pertains in all of these cases, if one of the co-wives is prohibited to the levir]?

[O] R. Zeira in the name of R. Yosé bar Haninah, "It is an argument a fortiori. Now in the case of the sister of his wife, which is marked as distinctive in that this is a consanguineous relationship in which marriage is permitted after it is forbidden [for once the wife dies, he may marry her sister], and lo, [the sister of his wife] is forbidden to enter levirate marriage, all other forms of consanguineous relationship, in which case there never is a permitted marriage under any circumstances once the man is forbidden to marry them – is it not an argument a fortiori [that all women standing in these other consanguineous relationships likewise should be prohibited to enter into

levirate marriage, and, it follows, their co-wives likewise should be prohibited to enter into levirate marriage as well]?

[P] “Just as in this case, one who is in a consanguineous relationship frees her co-wife [from levirate connection], likewise all of the other women who stand in consanguineous relationship will exempt their co-wives.”

[Q] *Up to this point we have dealt with the viewpoint of R. Aqiba.*

[R] *As to R. Ishmael, R. Ishmael taught, “It is an argument a fortiori. Just as the sister of his wife is distinctive in that she is in a consanguineous relationship on account of which [should the husband marry her] deliberately [knowing who she is], he is liable to extirpation, and should it be done inadvertently [not knowing who she is], he is liable to a sin-offering, lo, she is prohibited to enter into levirate marriage with him, And in any consanguineous relationship deliberate violation of which one is liable to extirpation, and on account of inadvertent violation of which one is liable to a sin-offering, should be prohibited to enter into levirate marriage [with the surviving brother-in-law].”*

[S] *What is the practical difference [2c] between these two modes of proving the same proposition?*

[T] It is the-case of a widow married to a high priest. *The one who invokes the argument concerning a woman in a consanguineous relationship who may be permitted to marry a given man after she is prohibited to marry him will see this as a case in which, since she is never going to be permitted to marry him after she is forbidden to marry him, lo, she is forbidden to enter into levirate marriage with his surviving brother. He who invokes the argument concerning a woman in a consanguineous relationship, on account of deliberate commission of which one is liable to extirpation, and on account of inadvertent commission of which one is liable to a sin-offering, so that lo, such a one is forbidden to enter into a levirate marriage, in the present case, [will argue that] since on account of marrying her [a high priest who] deliberately does so is not liable to extirpation, and one who inadvertently does so is not liable to a sin-offering,*

she will be permitted to enter into levirate marriage with his surviving brother.

- [I:4 A] R. Aibu bar Negri Qerispi in the name of R. Simeon b. Laqish: “The wife of the dead shall not be married outside the family to a stranger’ (Deut. 25:5). This refers to a woman who is a stranger to him. The Torah has said that such a woman should not be his wife, even as a matter of religious duty. [This proves that women designated as strange to him, that is, whom he may not marry, also may not enter into levirate marriage with the surviving brother.]”
- [B] If that is the case, then perhaps such a woman also should not require a rite of halisah [to sever the relationship]?
- [C] Said R. Jeremiah, “By referring to the word, ‘his sister-in-law’ two times, the Torah has encompassed such women within the requirement that there be a rite of halisah [even though they may not enter into levirate marriage with him].”
- [D] If the repeated reference to “sister-in-law” means that the Torah has encompassed the sister-in-law, perhaps the intent is to permit such women even to enter into levirate marriage?
- [E] *R. Ishmael taught*, “My husband’s brother refuses to perpetuate his brother’s name in Israel; he will not perform the duty of a husband’s brother to me’ (Deut. 25:7). [In this way Scripture indicates the one who is to enter into the rite of halisah. Who then is subject to that rite?] It is this one, in which case the levir has refused to enter into levirate marriage and so undergoes the rite of halisah, and not those who have been declared ineligible to begin with by the action of Heaven.”
- [F] If that is the case, then perhaps such women also should not have to enter into the rite of halisah?
- [G] *On this account there is need for that which R. Jeremiah has said*, “By referring to the word ‘his sister-in-law’ two times, the Torah has encompassed such women within the requirement that there be a rite of halisah.”
- [I:5 A] *R. Bun bar Hiyya raised the following question before R. Zeorah*: “In the case of a widow [who should have entered levirate marriage] to a high priest, what is the law as to her having to perform the rite of halisah [with her deceased husband’s brother, should her husband have died childless]?”

- [B] He said to him, “It is entirely possible to rule that a betrothal takes effect [between a high priest and a widow], and, consequently can you maintain that she should not have to perform the rite of halisah? [Surely she must do so, since there is a possibility that the marriage is in effect.]”
- [C] He said to him, “Lo, there is the case of the barren woman, in which there is no doubt at all that the betrothal does take effect [so she is married beyond a doubt], and yet you rule that she not perform the rite of halisah [should her husband die childless]. [Consequently, the criterion adduced at B is hardly decisive.]”
- [D] He said to him, “Lo, in the case of the barren woman, it is because of a quite separate consideration that she is removed [from the obligation of performing the rite of halisah]. [The relevant verse states,] ‘And the first son whom she bears ... ‘ (Deut. 25.7). That statement excludes the barren woman, who will not bear a child at all.”
- [E] Rather than comparing all other women who stand in a consanguineous relationship to the husband of the sister of his wife, hence prohibiting them from entering into levirate relationship to the brother-in-law, why not compare all of them to the wife of the brother, so permitting them to enter into levirate relationship to the brother-in-law? [That is the very point of the law, that the deceased’s widow does marry his surviving brother!]
- [F] Said R. Mana, “They derive laws covering two matters subject to prohibition from two other matters subject to prohibition [that is, the prohibition of entering into a consanguineous relationship and the prohibition against marrying the brother’s wife, on the one side, and, on the other side, the prohibition against marrying the sister of his wife and the prohibition of marrying the wife of his brother]. But they do not derive laws covering two matters subject to prohibition from a single matter subject to prohibition [that is, solely the prohibition against marrying his brother’s wife].”
- [G] [Providing a different answer to the same question,] R. Eleazar in the name of R. Abun: “In the case of any matter [involving a prohibition] deriving from a single cause, if that cause is nullified, the prohibition is annulled. [If the woman is prohibited to the husband’s brother solely on the count of his being her husband’s brother, then when the husband dies, she may marry the brother, that is, as his levirate wife.] In the case of any matter [involving a prohibition] not deriving from a single cause, if one cause is nullified, the prohibition remains

in effect. [If the woman is prohibited on grounds of consanguinity, the death of the husband leaves her still subject to that prohibition.]”

[H] *And what do you have [as an example of the latter]?*

[I] Said R. Yosé b. R. Bun, “For instance, **the fifteen women** [listed at M. Yeb. 1:1]. Take his daughter. Before she was married to his brother, she was forbidden to enter into marriage with him. Now that she has married his brother [and the brother died], one should not think that she is permitted to marry him. [That is not the case. The prohibition remains intact, and there is no levirate marriage.]”

- [I:6 A] *Levi bar Sisi raised the question before Rabbi:* “Should we not repeat the tradition as, sixteen *women*, inclusive of the following: ‘his mother, who had been raped by his father [and so produced him as an offspring, and then been married to his brother on his father’s side’? [She is permitted to marry his brother, and, if his brother died childless, she then would come to him as the levirate wife].”
- [B] He said to him, “It is perfectly obvious that that man [who has asked such a question] has no brain in his skull.”
- [C] *And why did he say this to him? It is because of R. Judah, for R. Judah prohibits a marriage between a woman whom his father has raped or seduced and another son [by a legitimate marriage] of that same woman. [Since Rabbi wished to list only those items that were not subject to dispute, he omitted this one from his list, for Judah maintains a divergent opinion on the possibility of such a marriage.]*
- [D] But does R. Judah not concur that if the brother [of the son produced in consequence of rape] did marry the mother, the betrothal is valid? [Surely he does concur post facto.] *But rather, since we have learned [at M. Yeb. 1:5]: **Six forbidden degrees are subject to a more strict rule than these [of M. 1:1], for they are validly married only to outsiders, not to one’s paternal brother, and so their co-wives are permitted [to remarry without levirate rites]: his mother, and the wife of his father, [etc.].*** [This latter woman is understood to be a woman the father has raped.]
- [F] *And R. Hiyya has taught:* If they are permitted to be married to the deceased’s brother without committing a transgression, their co-wives are exempt from having to perform the rite of halisah or from entering

into levirate marriage, [the levirate connection being totally null, since they are sisters of the surviving brother's wife].

[G] Now among all of them [listed at M. 1:5] you have only his mother who has been raped by his father and then married to his brother from the same father [who exempts her co-wife from the levirate connection entirely].

[H] *Now why has this item not been included in the Mishnah's version of the law? Is it because R. Hiyya included it in his? Then should we not all the more so include it in the Mishnah's list?*

[I] *But it is because we have learned: **In the case of her sister who is also her sister-in-law, she may either perform halisah or enter into levirate marriage [M. 2:3]** [That is, we have two sisters married to two brothers, so one is forbidden to the levir as a prohibited degree, and in such a case the sister of that one enters into levirate marriage]. Now you find in the case of all of the women listed in M. 1:1 that if you have a sister who is also a sister-in-law [widow of the childless brother], she enters levirate marriage, except for the case of his mother who had been raped or seduced by his father and then been married to his brother from the same father.*

[I:7 A] *Isaac bar Istiah said R. Simeon b. Laqish raised the question, "Why not teach the tradition as follows: In the case of sixteen women, the rite of halisah exempts her co-wife from levirate responsibilities? [If the surviving brother performed the rite of halisah with his later brother's widow, then went and betrothed her, then died childless, that woman may not marry any of the surviving brothers, since she is in the status of one who has performed the rite of halisah with one of them, and that status is equivalent to a divorcée. So as a woman in the status of the brother's divorcée, she may not enter into marriage with any of the other brothers. Her co-wife also should be exempt, in line with the basic theory of the rule of M. 1:1.]"*

[B] *Said R. Jacob the Southerner before R. Yosé, "And why has it not been taught in such wise? Is it because of the view of R. Aqiba? For R. Aqiba has said, 'A woman who has performed the rite of halisah produces a mamzer should she marry a brother of her late husband.' [Hence there is no valid betrothal in such a case.]*

[C] *But formulate the tradition in accord with the view of rabbis, who maintain the opposite of Aqiba's view!'"*

- [D] *The intent was to formulate the tradition only in accord with opinions to which all parties concur.*
- [E] *The view of R. Isaac bar Istiah, [that the brothers are liable to extirpation should they marry the woman who has performed the rite of halisah with one of them] accords with the view of R. Ammi in the following discussion:*
- [F] *R. Yosé said, R. Yohanan and R. Simeon b. Laqish differed. R. Yohanan said, ‘He who performs the rite of halisah with the sister-in-law, if he should later on marry her, is not liable on account of her to the penalty of extirpation, but his brothers are liable on her account. But both he and the other brothers are liable should they marry one of the co-wives of that woman.’ R. Simeon b. Laqish said, ‘Both he and his brothers are not liable either if they should marry the sister-in-law with whom he performed the rite of halisah or if they should marry any one of her co-wives.’”*
- [G] *Now R. Ammi exchanged the traditions, assigning the view of the one to the authority of the other.*
- [H] *Said R. Zeira before R. Yosé, “Now lo, R. Ammi exchanges the traditions assigning the view of the one to the other. But there are, after all, various traditions concerning the views of R. Yohanan.”*
- [I] *Granted that there are various views assigned to R. Yohanan, are the various traditions available also of the opinions of R. Simeon b. Laqish too?*
- [J] *The statement of Isaac bar Istiah supports the view of R. Ammi, [for Isaac has said that Simeon b. Laqish wanted to include the teaching that a woman with whom the rite of halisah has been performed exempts her co-wives. Therefore Simeon b. Laqish holds that brothers are liable to extirpation should any of them marry the woman who has performed the rite of halisah with one of them. This supports R. Ammi’s tradition.]*
- [K] *The statement of rabbis in what follows supports the view of R. Yosé. For R. Jeremiah, R. Ba, both speaking in the name of R. Hiyya bar Ba: “All concur in the case of the co-wife, that one who marries her among the affected brothers is liable. Concerning what do the authorities differ? It is concerning the woman who has performed the rite of*

halisah. R. Yohanan has said, ‘He who performed the rite with her is not liable should he later marry the woman with whom he performed the rite, but the brothers are liable should they marry the woman with whom the rite of halisah has been performed.’”

[L] *Now, in the view of those rabbis who distinguish the woman who has performed the rite of halisah from the other co-wives, if one of the brothers marries the woman who has performed the rite of halisah, he is exempt from extirpation. [This is now explained:]*

[M] *Simeon bar Ba raised the question before R. Yohanan, “What is the difference between the status of one who performs the rite of halisah with his childless brother’s widow and one who divorces a woman? In the former instance, if someone marries such a woman and dies, the woman performs the rite of halisah with a surviving brother, but does not enter into levirate marriage. In the case of one who divorces his wife, and whose brother marries that wife’s sister, then that brother dies childless, the widow – that is, the sister of the woman whom the surviving brother has divorced – does not even perform the rite of halisah, let alone enter levirate marriage. We now ask about the difference between the status of these two women.]”*

[N] He said to him, “Do you imagine that the rite of halisah constitutes an act of acquisition [so that the wife becomes acquired to the brother who has performed that rite, in which case she may not marry any of the surviving brothers; if she does so, the brother is liable to extirpation, and if the husband dies childless, her co-wife is exempt from the levirate connection]? [That is not the case. Rather] it is only an exemption [from levirate marriage alone. Should one of the surviving brothers marry her], such a brother will be liable on her account not because he has married the wife of the one who has performed the rite of halisah [for she is not in the status of his wife at all]. Rather, he would be liable on her account only for having married the wife of the deceased. [That is, prior to the rite of halisah, marrying her would leave the brother subject to the penalty of

extirpation. Once the rite has been performed, he is subject to a much less severe prohibition.]”

[O] *R. Yudan asked*, “[As to those rabbis who make the distinction outlined above], either he [who performed the rite of halisah] or any of the brothers will not be liable should they later on marry the woman who has performed the rite of halisah, but they will be liable should they marry her co-wife – *now this view poses no problems in the one case, namely: the levir, who performed halisah, is not liable for marrying the woman with whom the rite of halisah has been performed, for, through that rite, he already has been exempted in her regard, but he will be liable for marrying her co-wife, since on no count has he been exempted in her regard. But as to any one of the brothers, what is the difference between the status of the woman with whom the rite of halisah has been performed and the co-wife? [For at no point has the exemption pertaining to that woman been lifted from them? They never performed the rite of halisah with the brother’s widow; they stand in a totally prohibited relationship to her co-wives.]”*

[P] Then he went and retracted, saying, “Do you not realize on what count you declare him liable? Is it on the count of the woman’s being the wife of the one who has performed the rite of halisah with her? [That is impossible!] Or is it on the count of her being the wife of the deceased? [Surely it is the latter.]”

[Q] *Said R. Yosé*, “*Do you imagine that the rite of halisah constitutes an act of acquisition [as above]? [That is not the case, Rather] it is only an exemption [from levirate marriage alone. Should one of the surviving brothers marry her], such a brother will be liable on her account not because he has married the wife of the one who has performed the rite of halisah. Rather, he would be liable on her account only for having married the wife of the deceased.*”

[R] *R. Yudan raised the question: “In accord with the one who said that all parties concur in the*

case of the co-wife that [a surviving brother who married her] is liable [but in the case of the sister-in-law who has performed the rite of halisah, the brother who marries her is liable to extirpation], if an outsider betrothed one of the surviving wives, and the levir came and performed the rite of halisah with her, and then the outsider had sexual relations with her [so consummating the marriage], in fact the connection of betrothal was nullified in that woman's regard [since she was betrothed at a point at which she was not free to enter into a betrothal]. If the levir then went and performed the rite of halisah with her co-wife, [with the result that this first woman enters the status of one who is the co-wife of a woman with whom the levir has performed the rite of halisah, so that she is not eligible to marry him,] and [the third party] [again] had sexual relations with this woman, do we maintain that the original act of betrothal retroactively is validated? [For at this point, the woman is not in the status of one with whom the levir may deal in any event.]”

[S] [Rejecting Judah's question as impossible] said R. Shimi, “Did not R. Yannai say, Thirty-and-some-odd sages voted: ‘How do we know that the relationship of consecration of a wife to one husband cannot take effect at all in the case of a levirate widow?’ Scripture states, ‘The wife of the deceased shall not be married outside of the family to a stranger; her husband's brother will go in to her and take her as his wife’ (Deut. 25:5). [The meaning is that she will not stand in a complete relationship with another that is, be deemed completely wed to another; there is no consideration of consecration to any man at all prior to halisah].”

[T] *Said to him R. Yohanan, “And has not the Mishnah itself made this matter perfectly plain: after your levir will perform the rite of removing the shoe – she is not betrothed [M. Qid. 3:5D-E]?”*

[U] R. Yannai praised him, citing the following verses: “Those who lavish gold from the purse ...” (Is. 46:6). “My son, keep sound wisdom and discretion; let them not escape from your sight” (Prov. 3:21). “Be wise, my son, and make my heart glad, that I may answer him who reproaches me” (Prov. 27:11). “Give instruction to a wise man, and he will be wiser still” (Prov. 9:9). “The wise man also may hear and increase in learning” (Prov. 1:5).

[V] *Said R. Simeon b. Laqish, “After all these words of praise, I still can interpret the passage [M. Qid. 3:5D-E] in line with the view of R. Aqiba. For R. Aqiba says, ‘An illegitimate child can come from a childless brother’s widow [for there is no possibility of betrothing the widow, just as the Mishnah has said].’*

[W] “[Reverting to the case before us,] but there we deal with a single surviving sister-in-law [in which case there can be no question of betrothal to anyone, prior to the rite of *halisah*, let alone levirate marriage]. But here [where the question is raised], we deal with a case in which there are two surviving sisters-in-law. There is a difference between the case in which there is a prohibition of a single surviving sister-in-law, and one in which there is a prohibition involving two surviving sisters-in-law.”

[X] *R. Yudan raised the question: “In accord with the view of the one who said that [the levir] is not liable [should he later on marry] the woman with whom he performed the rite of halisah, but he is liable if he should marry a co-wife, for the reason that the rite of halisah acts to render the woman exempt from punishment if she remarries [but does not effect acquisition for the brother-in-law who performs the rite with her, so that the rite of halisah exempts him from punishment, even if the woman is prohibited from marrying any of the brothers at any*

time,] does his act of sexual relations with her have the same effect of prohibiting her from marrying the brothers at any time in the future?" [If that is the case], *then along these same lines*, just as you maintain that if he performed the rite of halisah with her, she is prohibited from marrying any of the other brothers, similarly if he had sexual relations with her, she is prohibited from marrying any of the brothers." *Now R. Hiyya has taught*, 'If the first brother died childless, the second brother should enter into levirate marriage. If the second brother died childless, the third brother should enter into levirate marriage. [Why should that be the case? Once she has had sexual relations with the first brother, she should be prohibited from having sexual relations with the others at any time in the future, just as the case is if she had performed the rite of halisah.]'

[Y] *Said R. Yosé*, "Now do you imagine that the rite of halisah is of the same status as [2d] the act of sexual relations? [That is not the case.] Once the levir has performed the rite of halisah, the tie to the deceased is fully uprooted retroactively. Consequently, the prohibition against marrying her retroactively applies to the surviving brothers. But if the levir had sexual relations with her, she enters the status of being his wife for all intents and purposes. *That is why R. Hiyya has taught*, 'If the first brother died childless, the second should enter into levirate marriage. If the second brother died childless, the third brother should enter into levirate marriage.'"

[II:1 A] **His sister from the same mother [M. 1:1F10] married to his brother on his father's side.**

[B] **His mother's sister [M. 1:1FII]: A man and his son marry two sisters.**

- [C] **The sister of his wife [M. 1:1F12]:** *Two brothers married to two sisters.*
- [D] **And the wife of his brother by the same mother [M. 1:IG13]:** In the present context [of levirate marriage, the consideration of] brotherhood is introduced. And elsewhere this is defined as deriving solely from the same father: “We are twelve brothers, [sons of our father; one is no more, and the youngest is this day with our father in the land of Canaan]” (Gen. 42:32). Just as brothers referred to by Scripture in that context means brothers from the same father, so brothers stated here means brothers from the same father.
- [E] [Proving the same proposition in a different way.] said R. Jonathan, “Here dwelling is noted, and elsewhere, dwelling is noted: ‘When you come to the land which the Lord your God gives you, and you possess it and dwell in it’ (Deut. 17:14). Just as, when dwelling is mentioned below, it refers to dwelling involving inheritance [of the land in which the dwelling takes place], so when dwelling is mentioned here, it refers to dwelling involving inheritance. [This excludes brothers from the same mother, who do not share a common inheritance.]”
- [F] [Offering yet another proof:] R. Abun bar Bisna in the name of R. Jonathan of Bet Gubrin: “‘They shall dwell ...’ (Deut. 25:5). The reference is to those who dwell in one household, excluding only brothers from the same mother, for in that case, this one goes to the house of his father, and that one goes to the house of his father.”
- [G] “‘Together ...,’ (Deut. 25:5). This excludes **the wife of his brother who was not a contemporary [M. 1:IG14]** [with whom the surviving brother, born after the death of the deceased, childless brother, does not enter into levirate marriage].”
- [H] *R. Bun bar Hiyya said R. Ba bar Mamel raised the question, “The barren woman and the wife of his brother who was not a contemporary were included in the same pericope. [Both then were excluded from the list of those whose co-wives are exempt from the levirate connection, and this on the basis of the reasoning just now given.] For on what grounds do you maintain that the co-wife of a barren woman is permitted to enter into levirate marriage with a surviving brother, while the co-wife of the wife of his brother who was not a contemporary is prohibited?”*
- [I] He said to him, “The barren woman has been excluded on a different basis altogether, namely, ‘The first son whom she bears ...’ (Deut. 26:6). This then excludes a barren woman, who will not give birth. It is not enough for you that she does not enter levirate marriage, but do

you also want to prohibit her co-wife from doing so? By contrast, the wife of his brother who was not a contemporary is prohibited on grounds of consanguinity, and in the case of consanguinity, the co-wife is exempt from levirate marriage.”

[J] [Maintaining a different view of the status of the barren woman], Assi said, “The co-wife of the barren woman is prohibited to enter into levirate marriage [and should then belong on the list at M. 1:1].”

[K] *[The Mishnah stands at variance with this view of Assi: And in the case of all of them, if they died before the husband, or exercised the right of refusal, were divorced by the childless husband, or turned out to be barren – their co-wives are permitted to enter into levirate marriage, since they are now not deemed co-wives any longer [M. 1:2B-C].*

[L] *R. Bun bar Hiyya in the name of R. Ba bar Mamel: “That which Assi said accords with the view of R. Meir, for R. Meir said, ‘In any case in which you do not enter into levirate marriage with me, you also may not enter into levirate marriage with my co-wife.’”*

[M] **And his daughter-in-law [M. 1:1H]:** Said R. Yosé, “That is to say that it is permitted for a man to marry the wife of his brother’s son [after the latter’s demise].”

1:2

[A] **Lo, these exempt their co-wives and the co-wives of their co-wives, from halisah and from levirate marriage, without limit.**

[B] **And in the case of all of them, if they died [before the husband died], or exercised the right of refusal, were divorced [by the childless husband], or turned out to be barren –**

[C] **their co-wives are permitted [to enter into levirate marriage, since they are no longer deemed co-wives].**

[D] **But you cannot rule in the case of his mother-in-law and in the case of the mother of his mother-in-law, or in the case of the mother of his father-in-law who turned out to be barren, or who exercised the right of refusal.**

[I:1 A] R. Yohanan said, “[In the case of a minor married off by her mother or brothers to the deceased – such a girl may carry out her right of refusal [even] against the levir [her assigned husband having died childless], in such wise as to uproot [from her own person] all affect of the deceased, with the effect of permitted her co-wives to marry her

father [as if she herself had never been married at all], and a daughter-in-law to marry her father-in-law. [Thus the right of refusal extends even to the levir, after the death of the husband, so that it is as if the original marriage had never taken place.]

- [B] *Both Rab and R. Simeon b. Laqish say, “She does not carry out her right of refusal against the levir in such wise as to uproot all affect upon her own person of the deceased, with the effect of permitting her co-wife to marry her father, and a daughter-in-law to marry her father-in-law.”*
- [C] Do Rab and R. Simeon b. Laqish then concur with the position of the House of Shammai, who maintain that the right of refusal is exercised only against the husband but not against the levir?
- [D] [*No, all parties concur with the position of the House of Hillel.*] *How shall we interpret the present dispute?* If it is a case in which the girl says, “I want no part of marriage with you or marriage with your brother,” all parties concur that she has the effect of uprooting the marriage as if it had never been [with the consequence outlined at A]. *But we deal with a case in which she says, “I want no part of marriage” [without further explication of her wishes]. R. Yohanan said, “It is interpreted to mean that she says, ‘I want no part of marriage either with you or with your brother.’” Both Rab and R. Simeon b. Laqish say, “It is as if she says, ‘I want no part of marriage with you, but I want to be married to your brother.’”*
- [E] *The following passage of the Mishnah stands at variance with what R. Yohanan has said: **And in the case of all of them, if they died [before the husband died], exercised the right of refusal, were divorced [by the childless husband before he died], or turned out to be barren, their co-wives are permitted [to enter into levirate marriage since they are no longer deemed co-wives] [M. 1:2B-C].***
- [F] *If they were divorced – and is it not by him [the husband, not the levir? Likewise the context means we deal with the girl’s exercising the right of refusal against the husband, while he is yet alive, and not against the levir, after the husband has died]. So along these same lines: **If they exercised the right of refusal – against him [the husband, not the levir].***
- [H] *Along these same lines R. Hiyya taught the law as well: **If they exercised the right of refusal or were divorced in the lifetime of the husband, [and if the husband died childless], their co-wives are permitted [to marry formerly consanguineous relations].***

But if this took place after the death of the husband, the co-wives perform the rite of halisah and do not enter into levirate marriage. [Cf. T. Yeb. 1:1, which phrases the matter slightly differently.]

[I] Said R. Yudan, father of Rabbi, “Interpret the Mishnah to speak of a case in which they died and did not exercise the right of refusal. For the Mishnah has maintained that whoever has the power to exercise the right of refusal and has not done so – her co-wife performs the right of halisah with the levir and does not enter into levirate marriage with him. So is the meaning of the Mishnah here [which then does not contradict Yohanan’s view at all, for it speaks of precisely such a case, involving] any woman who has the power to exercise the right of refusal and has not done so and who died – her co-wife performs the rite of halisah with the levir and does not enter into levirate marriage with him.”

[J] Said R. Abba Mari, “You may even say that the Mishnah speaks of a case in which the girl is yet alive. But what you have is a case in which the only available levir is the girl’s father. [The co-wife then cannot enter into levirate marriage, since at the moment that she came before the levir, she was the co-wife of the daughter of the levir.]”

[II:1 A] [But you cannot rule in the case of ...who exercised the right of refusal:] R. Jonah said, “But that is on condition that it is at the stage of betrothal [not a fully consummated marriage. If the woman is deemed barren while she is yet betrothed to the man, the rule pertains. If then the husband died prior to the consummation of the marriage, we treat the marriage as if it has not taken place for the purpose of the present law. The co-wife may marry a formerly consanguineous relation. But if the marriage was consummated, we maintain that the husband knew what he was getting into and accepted it.]”

[B] R. Yosé said, “Even at the stage of a fully consummated marriage, the stated law applies.”

[C] *In a further revision of his teaching, R. Yosé retracted [accepting Jonah’s view]. Said to him R. Phineas, “Did not the master teach us, ‘It is also valid at the stage of a fully consummated marriage?’”*

[D] *He said to him, “And is that version so fixed with you that it is firm as a nail? [Can’t I change my mind?]”*

[E] *Said R. Zeirah before R. Mana, “Did R. Yosé state the law correctly prior to his retraction anyhow? Now if the co-wife of his daughter, at*

the stage of a fully consummated marriage, without her being deemed a barren woman, is forbidden, if to the status of the daughter is added the further consideration of her being a barren woman, should the co-wife then be permitted? [Not very likely.]”

[F] He said to him, “The barren woman is deemed as if she were not present at all. For if you have the case of two sisters-in-law whose husband has died childless, one of them barren and one not barren, and the levir went and performed the rite of halisah with the barren one or had sexual relations with her and so consummated the levirate marriage – has her co-wife been released from the obligation of the levirate connection at all? [No, she has not, because the action of the barren woman is null.] Thus we must conclude that the barren woman is treated as if she were not present at all.”

[III:1 A] His daughter:

[B] Now will the man’s daughter have the right to refuse her husband when she reaches maturity [as is assumed in the continuation of M. 1:1. M. 1:2? Does that consideration apply at all, if the bather has married off the daughter?]

[C] But is the daughter not married off under the law of the Torah: “I have given my daughter to this man” (Dt. 22:16)?

[D] Huna in the name of R. Simeon b. Laqish: “Interpret the Mishnah to speak of a case of a minor whose father married her off and who was divorced; she is now in the status of an orphan while her father is yet alive [in that he may not validly marry her off a second time.]”

[III:2 A] But you cannot rule in the case of his mother-in-law: R. Aha, R. Hanina in the name of R. Simeon b. Laqish: “That is to say that a minor girl is assumed not to be able to give birth. For if that is not the case, let her wait until she reaches maturity and then exercise the right of refusal against her husband and so permit her co-wife to marry her father-in-law. [That is, she should exercise the right of refusal as a minor, then at maturity confirm the action. In other words, if the minor were to be assumed to be able to give birth, so to be subject to the levirate relationship in a way in which the barren woman is not, then let the minor exercise the right of refusal against the deceased husband and so uproot the marriage, as though it had never been. Then the co-wife may marry the son-in-law of the deceased, since the co-wife has never had a consanguineous relationship to him, the original marriage having been nullified. If, by contrast, the girl were able to produce children, this procedure would not be possible.]

[B] R. Ishmael's daughter-in-law exercised the right of refusal with her offspring on her shoulder, [which proves that Ishmael differs from the supposition proposed above. So far as he is concerned, the right of refusal remains valid, even if the girl has produced a child.]

[III:3 A] *R. Hezekiah in the name of R. Abbahu, R. Judah, R. Simeon, and R. Ishmael all said a single thing [specified below].*

[B] *It has been taught: “Up to what point may a girl exercise the right of refusal? Until she produces two pubic hairs, “ the words of R. Meir.*

[C] **R. Judah says, “Until the black hair is abundant.”**

[D] **R. Simeon says, “Until the crest of the genitals begins to flatten” [T. Nid. 6:5].**

[E] R. Zeorah, R. Hiyya in the name of R. Simeon b. Laqish: “Until the crest of the genitals begins to flatten, and until the black hair is abundant.”

[F] R. Abbahu, R. Leazar in the name of R. Hoshiah: “The law accords with the view of R. Judah.”

[G] R. Joshua b. Levi said, “The law is in accord with the view of R. Judah.”

[H] *A case came before R. Yosé. He said, “Go to R. Abbahu, be cause he has a tradition that the law is in accord with R. Judah. But we do not have a tradition that the law is in accord with R. Judah.”*

[I] R. Haninah said, “The law is in accord with R. Judah.”

[J] *R. Yohanan said to the people of Sepphoris, “You say in the name of R. Haninah, ‘The law is in accord with R. Judah.’ But that is not the case.”*

[K] *Then what is the upshot?*

[L] *Associates in the name of R. Haninah: “R. Judah concurs that if the girl had sexual relations after she had produced two pubic hairs, she no longer has the power to exercise the right of refusal.”*

[M] R. Zeorah in the name of R. Haninah: “R. Judah concurs that the girl was betrothed after she had produced two pubic hairs, she no longer has the power to exercise the right of refusal.”

[N] *In view of R. Zeorah, who has said that if the girl was betrothed after she had produced two pubic hairs, [she no*

longer can exercise the right of refusal,] lo, if she as betrothed before she produced two pubic hairs but had sexual relations after she had produced two pubic hairs, she still may exercise the right of refusal. *There is no problem. But in the view of associates, who maintain that if she had sexual relations after she had produced two pubic hairs [she may not exercise the right], lo, if she had had sexual relations with the husband before she had produced two pubic hairs, she still has the power to exercise the right of refusal. Now as to this one, when did she become pregnant and give birth? Was it not before she had produced two pubic hairs? And yet will she live? Have not R. Redipah, R. Jonah in the name of R. Huna stated, "If a woman became pregnant and gave birth before she produced two pubic hairs, she [3a] and her infant will die. If it was after she produced two pubic hairs, she and her infant will live. If she became pregnant before, and gave birth after, she reached puberty, she will survive, but the baby will die"?*

[O] *What is the upshot of the matter?*

[P] R. Ishmael, R. Judah [in saying that she may exercise the right of refusal] before the black hairs become abundant [concur with R. Simeon]. That is, she may yet exercise the right of refusal at that point, because] when the husband had sexual relations, it was assuming the validity of the original act of betrothal [which in fact depends upon her later confirming it. She did not confirm it. Accordingly, the relationship is null.]

[Q] *Now so far as R. Meir and R. Judah are concerned, who maintain that the matter depends upon her producing the appropriate symptoms of maturity [after which point she may not exercise the right of refusal], there is no problem [in permitting her to exercise the right of refusal until the signs of maturity are fully revealed]. But so far as concerns R. Simeon, who maintains that up to the point at which the husband will enforce his domain over the woman once she has matured, even if she had reached maturity [she still should be able to exercise the right of refusal. [Simeon's position, above, is that even when the girl is fully mature, she may still exercise the right of refusal.]*

[R] Said R. Isaac, "That is indeed the case. [That is, the law is as Simeon maintains. But sages have limited the right of refusal to the point at which the girl reaches maturity] so that Israelite girls will not practice fornication."

[S] *A case came before R. Yosé. He ruled, “Let her breasts be examined.”*

[T] Does this then accord with R. Judah, for R. Judah said, “Until the black hair is more abundant” [and since it was a matter of doubt, a further examination was instituted]?

[U] And this is in line with that which R. Joshua b. Levi said, “The span of time between the days of girlhood and the time of full maturity is only six months.”

[V] And R. Abbahu in the name of R. Yohanan said, “They do not apply the law in a practical case [in accord with the view of R. Judah. Rather, only when the girl has produced two pubic hairs is she deemed fully mature, and from that point on she may not exercise the right of refusal].”

[W] That which you have said applies during the span of six months, but if it is afterward, they do apply the law accordingly.

[X] But here there was a doubt as to whether the black was more abundant or not. Hence [to take account of the doubt], I should require the husband to issue a writ of divorce in case the girl had passed maturity, since, in any event, she herself has refused to remain married to him and possibly has the right to make that refusal stick].

[Y] If the black hair was no more abundant, however, there is no issue of a writ of divorce at all [but the marriage is confirmed. Her exercise of the right of refusal was null, since she had passed maturity.]

1:3

[A] How do they exempt their co-wives [from the requirement of halisah and from levirate marriage [M. 1:2A]?

[B] [If] his daughter or any one of all those forbidden degrees was married to his brother, and he [the brother] had another wife, and he [the brother] died [without children],

[C] just as his daughter is exempt [from levirate marriage or halisah], so her co-wife is exempt.

[D] [If] the co-wife of the daughter went and married another of his brothers [“his second brother”], and he [the other brother] had another co-wife, and he [the other brother] died,

[E] just as the co-wife of his daughter [C] is exempt, so the co-wife of her co-wife is exempt, even if they are a hundred.

1:4

[A] How [do we define a case in which] if their co-wives died, they are permitted [M. 1:2B]?

[B] [If] his daughter or any one of all those forbidden degrees was married to his brother, and he [the brother] had another wife and his daughter died or was divorced, and afterward his brother died [without children] –

[C] her co-wife [now no longer a co-wife of his daughter] is permitted [to enter levirate marriage with him].

[D] And any [young girl] who can exercise the right of refusal and has not exercised the right of refusal – her co-wife performs the rite of halisah and does not enter into levirate marriage.

[I:1 A] The law of the Mishnah [M. 1:4D] is this: In the case of any girl who has the power to exercise the right of refusal and does not do so, and then she died, her co-wife performs the rite of halisah and may not enter into levirate marriage.

1:5

[A] Six forbidden degrees are subject to a more strict rule than these [the fifteen women referred to in M. 1:1],

[B] for they are [validly] married [only] to outsiders, [not to one’s paternal brother], [and so] their co-wives are permitted:

[C] (1) his mother, and (2) the wife of his father, and (3) the sister of his father, and (4) his sister from the same father, and (5) the wife of his father’s brother, and (6) the wife of his brother from the same father.

[I:1 A] In what [way are these subject to a more strict rule than the women listed at M. 1:1]?

[B] In the one case, the penalty of extirpation applies, and in the other case the penalty of extirpation applies.

[C] In the one case the offspring of such a union would be a mamzer, and in the other case the offspring of the union would be a mamzer

[D] What then is the meaning of the claim that a more strict rule applies? It is that they cannot be married to brothers without committing a transgression. [Hence if they should marry in transgression of the law, their co-wives may enter into levirate marriage with survivors, since the marriage was null, and hence, there is no issue of a consanguineous relationship.]

[E] *And so did R. Hiyya teach: In the case of all of them, if they married brothers not in violation of the law, their co-wives are exempt from halisah or from levirate marriage [T. Yeb. 1:7D].*

[F] *R. Hiyya taught: A co-wife [will be permitted] only in a case in which she is married to a brother.*

[G] *Said R. Yosé, “The Mishnah contains the same implications: For they are validly married only to outsiders, and so their co-wives are permitted” [M. 1:5B].*

[H] *R. Jeremiah raised the question, “And why should she not be prohibited as would a co-wife deriving from the marketplace [that is, not merely one who stands in levirate relationship]? [That is, if a man has two wives, and one of them is forbidden to marry some other man on grounds of a prohibited degree, let the co-wife be forbidden to him, on grounds that she is a co-wife of one who is in a consanguineous degree. Why should it be only in the present instance?]”*

[I] *Said R. Yosé, “And did not R. Jeremiah hear that which R. Hiyya has taught, let alone that which the Mishnah has stated: For they are validly married only to outsiders, and so their co wives are permitted [M. 1:5B]?”*

[J] *[Yosé] reverted and stated, “Surely he heard these teachings, but he is like someone who has heard a statement and is raising a question concerning it.”*

[I:2 A] *R. Jeremiah raised the question, “He who has sexual relations with a co-wife [who had been married to a brother, and the brother died childless, and she then married a second brother, who also died childless, so that she came to him as a sister-in-law] – what is the law? Is she yet subject to the original prohibition, on account of her having been the wife of the first brother?”*

[B] *R. Yosé said, “If it were possible to have a co-wife who was not the wife of his brother, that would be well and good. Is it possible for the*

wife of a brother not to be a co-wife? It is not possible for a co-wife not to be a brother's wife."

[I:3 A] [With reference to M. 1:5C6:] And is not the wife of his brother the levirate wife by definition?

[B] Said R. Yosé b. R. Bun, "Interpret the passage to speak of a case in which she had children from the brothers. [There is no levirate requirement, and if she should marry afterward to someone else, her co-wife will be permitted to marry one of the brothers.]"

1:6

[A] The House of Shammai declare the co-wives permitted [to enter into levirate marriage with] the brothers.

[B] And the House of Hillel declare [them] prohibited.

[C] [If] they have performed the rite of halisah,

[D] the House of Shammai declare [them] invalid [for marriage with] the priesthood.

[E] And the House of Hillel declare [them] valid.

[F] [If] they have entered into levirate marriage,

[G] the House of Shammai declare them valid [for marriage with the priesthood].

[H] And the House of Hillel declare them invalid.

[I] Even though these declare prohibited and those permit, these declare invalid and those declare valid, the House of Shammai did not refrain from taking wives from the women of the House of Hillel, nor [did] the House of Hillel [refrain from taking wives from the women] of the House of Shammai.

[J] [And despite] all those decisions regarding matters of cleanness or uncleanness in which these did declare clean and those unclean,

[K] they did not refrain from preparing in dependence on one another. things requiring preparation in a state of cleanness

[I:1 A] R. Simon in the name of R. Yosé in the name of Nehorai: "The scriptural basis for the position of the House of Shammai is this: 'The wife of the dead shall not be married outside the family to a stranger' (Dt. 25:5). The woman who to begin with is outside of a consanguineous relationship should not marry an outsider."

[B] *[In interpreting 'outside' to refer to the woman's status,] the view of the House of Shammai accords with the opinion of those Samaritans who enter into Levirate marriage with those who have been betrothed [to*

deceased childless brothers] but who divorce those who have been in a fully consummated marriage. For they interpret “outside” to mean, “an outsider.” [Consequently, they regard the woman married to a brother as no longer an outside, and they simply release her from a further Levirate connection, regarding it as pertinent only to a woman who is betrothed to one of the brothers.]

[C] *How do the Samaritans interpret the statement, “and has no son” (Dt. 25:5)?*

[D] *Said R. Jacob, the Southerner, in the presence of R. Yosé, “He has no son from the woman to whom he is married. [She does not enter into levirate marriage.] The one who is an outsider, namely, the one who is merely betrothed, should not marry an outsider.”*

[E] *He said to him, “Be careful. that people not suspect you of being a Samaritan, because you explain their interpretations of Scripture!”*

[F] *Simeon b. Eleazar taught, “I remarked to Samaritan scribes: ‘Who made you err? It was that you do not interpret Scripture as does R. Nehemiah. For it has been taught in the name of R. Nehemiah, “Any passage that requires a lamed [to] at the beginning of the word, but to which such a letter has not been supplied, gets a heh [=ward] at the end of the word. This would be example in the contrast between “to outside” and “outside-ward,” “to Seir” and “seir-ward,” “to Sukkot” and “Sukkot-ward.”’ Along these same lines, the Samaritans did not realize that ‘outside ward’ meant, “to an outsider.]”*

[G] *They objected to R. Nehemiah, “And lo, it is written, ‘The wicked will return to Sheol-ward’ (Ps. 9:17)!”*

[H] *Said Raba bar Zabeda, “It means, to the lowest story of Sheol.”*

[I:2 A] **Said R. Yohanan b. Nuri, “Come and observe how this [version of the] law is prevalent among the Israelites: to act indeed in accord with the opinion of the House of Shammai [so entering into levirate marriage], [but to treat the offspring as] a mamzer in accord with the opinion of the House of Hillel. If it is to act indeed in accord with the opinion of the House of Hillel, the offspring is blemished in accord with the opinion of the House of Shammai. But come and let us impose the ordinance that the co-wives should perform the rite of halisah and not enter into levirate marriage.”**

[B] **But they did not have a moment in which to complete the matter before the times prevented it [T. Yeb. 1:9D-G].**

- [C] **Said Rabban Simeon b. Gamaliel, “What shall we do with the former co-wives [who in fact married, in accord with the Hillelites]?”**
- [D] **Said R. Eleazar, “Even though the House of Shammai disputed with the House of Hillel regarding the co-wives, they concur that [if the co-wives remarry] the offspring is not a mamzer.**
- [E] **“For the status of a mamzer is imposed only on the offspring of a woman who has entered into a marriage prohibited on account of licentiousness [one of those listed at Lev. 18], and on account of which they [who enter into such a marriage] are liable to the penalty of extirpation” [T. Yeb. 1:10A, G, H].**
- [F] **Said R. Tarfon, “I crave that the co-wife of the daughter should come my way, and I should so rule as to marry her into the priesthood” [T. Yeb. 1:10F].**
- [G] **They asked R. Joshua, “What is the status of the children of the co-wives?”**
- [H] **He said to them, “On what account do you push my head between two high mountains, between the House of Shammai and the House of Hillel, who can remove my head!**
- [I] **“But: I hereby give testimony concerning the family of the House of Alubai of Bet Sebaim and concerning the family of the house of Qipai from Bet Meqoshesh, that they are children of co-wives [who remarried in accord with M. 1:1A], and some of them have been chosen high priests, and they did offer up sacrifices on the Temple altar” [T. Yeb. 1:10B-E].**
- [I:3 A] **R. Jacob bar Idi in the name of R. Joshua b. Levi: “There is the following case. The elders came to R. Dosa b. Harkinas to ask him about the status of the co-wife of the daughter.**
- [B] **“They said to him, ‘Are you the one who permits the co-wives [to enter into levirate marriage, as the House of Shammai**
- [C] **“He said to them, ‘Did you hear the name, associated with this view, of Dosa ben Harkinas?’**
- [D] **“They said to him, ‘We heard the name, Ben Harkinas.’**
- [E] **“He said to them, ‘It is Jonathan, my brother. He was the first-born of Satan. He was a disciple of the House of Shammai. Be careful in dealing with him. He has three hundred clever answers concerning matter of the co-wife of the daughter.’**

- [F] *“They went to him. He sent and wrote to him, ‘Be careful, for the sages of Israel are coming to you.’*
- [G] *“They came and he sat down in their presence. He argued with them, but they did not accept his reasoning, and he continued arguing with them, but they did not accept his reasoning. They began to doze off. He said to them, ‘Why are you falling asleep?’ He began to throw stones at them. Some say that they came in through one door and ran out in haste through three doors.*
- [H] *“He sent to his brother and said to him, ‘Now how could you send these men to me? These are men who have yet to learn and you called them, “sages of Israel”!’*
- [I] *“They came to him and said, ‘How could you have said what you said. He said to the sages, ‘On this very pestle sat Haggai the prophet, and he gave testimony concerning three matters: [1] the co-wife of the daughter may be married into the priesthood [M. 1:6E]; [2] Jewish residents of Ammon and Moab set aside poor man’s tithe in the seventh year [since their crops are exempt from the laws of the seventh year but liable to tithing; [3] converts from Palmyra are valid to enter into the congregation of Israel.’*
- [J] *“He said, ‘Open my two eyes, so that they may be able to see the sages of Israel.’*
- [K] *“He recognized R. Joshua and recited in his regard the following verse: ‘Whom will he teach knowledge, and to whom will he explain the message? Those who are weaned from the milk, those taken from the breast’ (Is. 28:9). I remember that his mother would bring his cradle to the synagogue, so that his ears should cleave to the teachings of Torah.*
- [L] *“He saw R. Aqiba and recited in his regard the following verse ‘The young lions suffer want and hunger, but those who seek the Lord lack no good thing’ (Ps. 34:10). I know of him that he is a heroic man in the learning of Torah.*
- [M] *“He saw R. Eleazar b. Azariah and recited in his regard the following verse: ‘I have been young and now am old, yet I have not seen the righteous forsaken, or his children begging bread. He is ever giving liberally and lending, and his children become a blessing’ (Ps 37:25 -26). I know him to be in the*

tenth generation of his family from Ezra. His eyes are like [3b] those of Ezra.”

[N] *Said R. Haninah of Sepphoris, “Also R. Tarfon was with them, and he recited concerning him the verse that he recited concerning R. Eleazar b. Azariah.”*

[O] R. Nahman bar Jacob said, “They accept converts from the Gordueneans and from the Tadmoreans [Palmyrenes].”

[P] *R. Abbahu in the name of R. Yohanan, “The Mishnah passage has also said that converts from Palmyra are valid, for we have learned there: **All bloodstained cloths that come from Reqem are clean [of suspicion of menstrual uncleanness, since valid folk hide away the unclean ones] [M. Nid. 7:2].** That indicates that converts from Palmyra are valid.”*

[Q] *R. Jacob bar Aha said, “It is a tradition: R. Haninah and R. Joshua b. Levi – one declares them valid and one declares that one receives them [as proselytes]*

[R] “One who says that they are valid also will receive them, but the one who receives them will not declare them valid.”

[S] R. Yosé b. R. Bun in the name of R. Nahman:
“Babylonia, for the purposes of genealogy, extends to the Yazzoq canal.”

[T] R. Yosé b. R. Bun said, “Rab and Samuel: One said, ‘to the Yazzoq canal,’ and the other said, ‘to the Yoanni canal.’”

[U] Said R. Judah, “Mesopotamia is equivalent to the Exile [Babylonia] for purposes of genealogy.”

[V] Said R. Haninah b. Beroqah in the name of R. Judah:
“As to the Mesenians, they had no scruple concerning them except by reason of the possibility that there were impaired priests among them.

[W] “The priests that are over there were not scrupulous about not marrying divorced women.”

[X] *There they say: “Mesene is dead [as to genealogy]; Medea is sick. Elam and Gabuene are dying. The Province by the Sea is the blue thread [the finest area]*

of Babylonia, and Shenayya, Gebabayya, and Sererayya are the blue thread of the Province by the Sea.”

- [II:1 A] **Even though the House of Shammai and the House of Hillel disputed concerning the co-wives, concerning sisters, concerning the married woman, concerning a superannuated writ of divorce, concerning the one who betroths a woman with something of the value of a perutah, and concerning the one who divorces his wife and spends a night with her in an inn,**
- [B] **the House of Shammai did not refrain from taking wives among the women of the House of Hillel, and the House of Hillel from the House of Shammai [T. Yeb. 1:10I-J].**
- [C] **But they behaved toward one another truthfully, and there was peace between them, since it is said, “They loved truth and peace” (Zech. 8:19) [T. Yeb. 1:10].**
- [D] *There is the matter of the genealogically illegitimate status of children between them, and yet you say this? [Incredible!]*
- [E] *What would be a practical case [illustrating the effects of the dispute at M. Qid. 1:1]?*
- [F] If one man betrothed a girl with what is worth a *perutah*, and a second betrothed her with what is worth a denar, in the opinion of the House of Shammai, she is betrothed to the second man, and any offspring she has by the first are deemed illegitimate. In the opinion of the House of Hillel, she is betrothed to the first man, and any offspring she has by the second are deemed illegitimate.
- [G] R. Jacob bar Aha in the name of R. Yohanan: “The House of Shammai and the House of Hillel concur as to the stringent side to things.”
- [H] On the strength of that concurrence, the House of Shammai may marry women from the House of Hillel, for [the latter] concede [the position of the former]. *But the House of Hillel should not marry women from the House of Shammai, for [the latter indeed still] do not concede [their position].*
- [I] Hela in the name of R. Yohanan: “Both these and these behaved in accord with the law. [That is why they could intermarry.]”
- [J] If they behaved in accord with the law, *then note the following:*
[Said R. Judah b. Betera, “M’SH B: A trough of Jehu was in Jerusalem, and it was perforated with a hole as large as the spout of a water-skin. And everything that required

preparation in conditions of cleanness in Jerusalem was prepared depending upon it for immersion.] And the House of Shammai sent and broke it down. For the House of Shammai say, ‘Until the greater part of the object is broken down, it still is regarded as a utensil’” [M. Miq. 4:5P-S].

[K] [The story, cited to indicate that the House of Hillel did not indeed adopt the stringent position of the House of Shammai in the conduct of the law, does not prove its point. For] R. Yosé b. R. Bun said, “Before the case came to the House of Hillel, the House of Shammai [had reason to] object [to the condition of the trough]. Once the case came to the House of Hillel, the House of Shammai had no [further reason to] object. [That is, once the matter was brought to the attention of the House which took the less stringent position, it changed its ways.]”

[L] Said R. Abba Meri, “And that is so. *Do we learn that* they declared unclean all the clean things prepared relying on the purification power of the trough in the past? No. It is only what took place from that time onward, [since the House of Hillel thereafter adopted the strict position of the House of Shammai].”

[M] R. Yosé b. R. Bun said, “Rab and Samuel differed. One of them said, ‘These and those conducted themselves in accord with the law,’ and the other one said, ‘These conducted themselves in accord with their view of the law, and those conducted themselves in accord with their view of the law.’”

[N] [As to this latter view,] there is the matter of the genealogically illegitimate status of children between them, and yet you say this [that they both intermarried and also followed diverse views of the law]? [Incredible!]

[O] The Omnipresent watched out for them, and a practical case [involving illegitimacy] never actually took place.

[II:2 A] *It has been taught:* [Under all circumstances the law is in accord with the House of Hillel.]

[B] To be sure, he who wants to impose a more strict rule on himself, to follow the law in accord with the opinion of the House of Shammai and in accord with the House of Hillel – concerning such a one, Scripture says, “The fool walks in darkness” (Qoh. 2:14).

[C] He who holds by the lenient rulings of the House of Shammai and the lenient rulings of the House of Hillel is out-and-out evil.

[D] But if it is to be in accord with the teachings of the House of Shammai, then let it be in accord with both their lenient rulings and their strict rulings.

[E] And if it is to be in accord with the teachings of the House of Hillel, then let it be in accord with both their lenient rulings and their strict rulings [T. Suk. 2:3K-O].

[F] *That which you have stated [about following the opinions of both Houses one way or the other] applies* before the echo went forth [and declared the law to accord with the House of Hillel]. Once the echo had gone forth, [saying,] “Under all circumstances the law accords with the position of the House of Hillel, and whoever violates the position of the House of Hillel is liable to the death penalty,” [that statement no longer applied].

[G] *It was taught:* The echo went forth and declared, “These and those are both the words of God. But the law always accords with the position of the House of Hillel.”

[H] Where did the echo go forth?

[I] R. Bibi in the name of R. Yohanan: “In Yavneh did the echo go forth.”

YERUSHALMI YEBAMOT

CHAPTER TWO

2:1

[A] [3c] How [is it so that] the wife of his brother who was not a contemporary [exempts her co-wife from the requirement of levirate marriage or halisah (M. 1:1)]?

[B] Two brothers,

[C] and one of them died,

[D] and a [further] brother was born to them,

[E] and afterward the second [brother] entered into levirate marriage with the wife of his [deceased childless first] brother, and [then] he [the second brother too] died – the first [wife, who already had one time entered into levirate marriage to the second brother], goes forth on the count of being the wife of his brother who was not a contemporary.

[G] And the second [wife, the one married to the second brother, goes forth without levirate marriage to the third, surviving brother or halisah] on the count of being her [the first brother's wife's] co-wife.

[H] [If] he [the second brother] had bespoken her [= made a statement of intention, that is, he did not enter into levirate marriage with the sister-in-law, but betrothed her by money or a declaration of intent ["bespeaking," which is not a total completion of levirate marriage], and then he [the second brother] died,

[I] the second executes the rite of halisah but does not enter into levirate marriage.

[I:1 A] “[If brothers dwell] together ...” (Deut. 25:5) – excluding the case of the wife of a brother who was not a contemporary with the deceased.

- [B] *If, then, we do not rule in this way, then what shall we say?* If a man died without children, must his wife remain prohibited to his father produce another son [later], she is subject for levirate marriage?
- [C] If so, then even if his mother should die, his wife should be forbidden to remarry, for his father may go and marry another woman and produce a son, and the wife then would be subject to levirate marriage with him!
- [D] And let Scripture say, “And he has no son or father” – [this would exclude the stated possibilities. Why is it necessary at all to specify “together?”]
- [E] *But this is the case with which the Scripture comes to deal*, [on which account it is necessary to include the detail cited at M. 2:1I]: If a man died and left his wife pregnant, it is so that you should not rule, if he died and left his wife pregnant, perhaps she need not wait to find out whether or not it is a viable foetus? [Of course she must wait, until it is clear that there is no offspring, in which case the levirate marriage takes place].
- [F] Also here might one say: Let her wait and find out whether it is a viable foetus, and if it is not a viable foetus, [then she may marry outside of the family, but not before]?
- [G] *Therefore it was necessary to say “together,”* excluding the wife of a brother who was not a contemporary.
- [I:2 A] “Her husband’s brother shall go in to her” (Deut. 25:5) – this refers to an act of sexual relations.
- [B] “And he shall take her as his wife” (Deut. 25: 5) – this refers to the act of bespeaking [declaring his intent to enter into levirate marriage, with the appropriate token of betrothal].
- [C] Is it possible to suppose that just as the act of sexual relations completes [the act of acquiring her as the surviving brother’s wife], so the bespeaking should complete [the acquisition of the sister-in-law as the levir’s wife]?
- [D] Scripture states, “and perform the duty of the husband’s brother to her” (Deut. 25: 5).
- [E] The whole section has been proclaimed for the purpose of levirate marriage: The act of sexual relations completes the acquisition of the sister-in-law as the wife of the levir, and the act of bespeaking does not do so.

[F] If that is the case, then what use is the act of bespeaking? It serves to prohibit the sister-in-law to the other surviving brothers.

[II:1 A] R. Simeon says, “Bespeaking either does effect acquisition or does not effect acquisition” [cf. M. 2:2J].

[B] What is the Scriptural basis for the position of R. Simeon?

[C] “Her husband’s brother shall go into her” (Deut. 25:5) – this refers to an act of sexual relations.

[D] “And take her as his wife” (Deut. 25:5) – this refers to bespeaking.

[E] Just as the act of sexual relations completes his acquisition of the sister-in-law, so bespeaking does the same.

[F] Or [may we maintain]: “Her husband’s brother shall go into her” – and lo, she is acquired by him, so that the bespeaking has no consequences whatsoever? [This accounts for A.]

[G] [Taking a wholly different position on the matter,] R. Eleazar b. Arakh says, “Bespeaking effects complete acquisition of the sister-in-law.”

[H] What is the scriptural basis for the position of R. Eleazar b. Arakh?

[I] “And take her as his wife” (Deut. 25:5) – lo, it is equivalent to an act of betrothal of a woman [other than a sister-in-law]. Just as the betrothal of an ordinary woman effects complete acquisition, so bespeaking effects complete acquisition in the case of the sister-in-law.”

[II:2 A] What is an act of bespeaking in the case of a sister-in-law?

[B] “Lo, you are consecrated to me by money or by what is worth money.”

[II:3 A] [As to M. 2:1H: **If the second brother had bespoken her and then died, the second wife executes the rite of halisah but does not enter into levirate marriage:**] *both rabbis and R. Simeon concur [in this statement, and this is now explained, since each has a separate theory of the effect of bespeaking.]*

[B] As to the view of rabbis: The aspect of the woman acquired through bespeaking – its counterpart is prohibited for the cowife. The aspect that bespeaking did not acquire – its

counterpart is permitted in the co-wife. [That is, since the act of bespeaking leaves an ambiguous situation, we do not know whether the co-wife is fully available for levirate marriage or fully free to marry anyone outside of the brothers. Consequently, she performs the rite of *halisah*, to remove the matter of doubt.]

[C] As to R. Simeon, [If] bespeaking [wholly] effected acquisition, then both of them are prohibited, and if bespeaking did not, then the first wife is forbidden [to any but the levir], and the second wife is permitted. In a case of doubt one performs the rite of *halisah* and does not enter into levirate marriage.

[D] *What is the practical difference between these two wives of the case?*

[E] If [after bespeaking the first wife] he had sexual relations with the second wife. [The second is the co-wife of the first. To rabbis, bespeaking has effected acquisition in some part (B). So] *in the view of rabbis*, this is an act of sexual relations with a woman who is prohibited under the prohibition of consanguinity.

[F] That is because he has bespoken [the first wife, that is, her co-wife]. Lo, if he had not bespoken her, [then the second wife] would enter into levirate marriage [cf. M. 2:1H-I].

[G] But he has no claim on her! [She is the co-wife of the wife of a brother who was not a contemporary.]

[H] Said R. Haggai, “Interpret the passage in line with that which R. Jacob bar Aha said in the name of R. Eleazar, ‘A woman awaiting levirate marriage who died – the levir is permitted to marry her mother. ‘ [The deceased sister-in-law is not held to have been betrothed to him merely because in time she would enter into levirate marriage with him.] To be sure, [the sister-in-law] had a connection with him [that, had she lived, would have made it impossible for him to have married her mother. But since she has died, her connection with him is annulled [so that the levir is deemed never to have been related to her at all, hence he may marry her mother]. Here too since he has died, his connection to her is nullified.”

- [A] Two brothers,
 [B] and one of them died,
 [C] and the second entered into levirate marriage with the wife of his brother,
 [D] and afterward a brother was born to them,
 [E] and he [the second brother, who entered into levirate marriage with the widow of the first brother died –
 [F] the first [brother's wife] goes forth on the count of being the wife of his brother who was not a contemporary,
 [G] and the second on the count of being her co-wife.
 [H] [If] he [the second brother] had bespoken her and then died,
 [I] the wife of the second brother executes the rite of halisah but does not enter into levirate marriage [with the third brother].
 [J] R. Simeon says, "He [D-F] enters into levirate marriage with whichever one of them he chooses, or he executes the rite of halisah with whichever one of them he chooses."

[I:1 A] [Assuming that Simeon at J refers to H,] R Simeon says, "Bespeaking either effects acquisition of the widow or does not effect acquisition," *and you say this?* [How can Simeon rule that the levir enters into levirate marriage with whichever one of them he chooses? That is subject to doubt.]" Do they then enter levirate marriage with the woman who has been bespoken [in a case such as this one]? And should one not take account of the position that bespeaking has acquired the woman, in which case this levir will be liable on her account as the wife of his brother who was not a contemporary? Or, [continuing this question], do they perform the rite of halisah with a woman who has been bespoken? And should one not take account of the position that bespeaking has not acquired the woman, in which case this second wife will be subject to the levir?

[B] One must conclude, then, that what R. Simeon has said pertains to the opening case [D-F].

[I:2 A] Said R. Yohanan, "R Simeon concurs in the first case [that at M. 2:1, in which, after the death of a brother, a further brother was born, and then the second brother entered into levirate marriage with the wife of the deceased childless first brother, and then the second brother died too. In the case before us, the second brother entered into levirate

marriage, and then the new brother was born. Here alone is the point at which Simeon differs.”

- [B] *The teaching is available in which it is taught*, “The matter is still subject to dispute [in both the first case, M. 2:1, and the second, M. 2:2. Simeon differs both when the second brother entered into levirate marriage and then the brother was born, and also when the second brother entered into levirate marriage before the brother was born].”
- [C] [So far as Yohanan is concerned,] what is the difference between the former case [M. 2:1] and the latter case [M. 2:2]?
- [D] In the first case, the third brother came along and found the [first brother’s wife, now wed to the second brother,] subject to a prohibition. [The affect of the first marriage was null before the third brother was born, since the second brother had entered into levirate marriage before the third brother born.] In the second case, the third brother came along and [at the point at which he was born], he found [the widow of the first brother] permitted [that is, she had entered into levirate marriage with the second brother. It is then not a case in which he was not a contemporary with the sister-in-law’s husband, since in this case, he certainly was a contemporary with her *present* then the present husband the second b h awn between Simeon and sages in a is not drawn at M. 2:1].
- [E] *R. Yohanan asked*, “As to the wife of his father, whom he found [when he was born] married to an outsider – how does R. Simeon rule in such a case? [His father was married to two wives and died. One of them was then pregnant. Before she produced this son, the co-wife married someone else. When this child was born, that other wife, married to an outsider, was in no way subject to a prohibition. She was not his father’s wife at the time at which he was born.] Because he found her [when he was born] permitted [to marry him, should her present husband die], is she permitted to marry him?”
- [F] R. Simeon made his ruling only in a case in which we deal with brothers from the same father. [If at the point of birth the woman was permitted to marry a brother from the same father, that is the point at which Simeon rules as he does, but not in any other context.]
- [G] *R. Jacob bar Aha said R. Simeon b. Laqish asked*, “As to the wife of his brother from the same mother, whom he found married to someone outside of the family [at the moment at which he was born] – what does R. Simeon rule in such a

case? Does he hold that, because he found her [when he was born] permitted [to marry him, should her present husband die,] she is permitted to marry him?"

[H] R. Simeon made his ruling only in a case in which we deal with brothers from the same father.

[I] *R. Yudan raised the question*, "As to the co-wife of the sister of his mother, whom he found [when he was born] married to an outsider – [what does R. Simeon rule in such a case? Does he hold that,] because [when he was born], he found her permitted [to marry him, should her present husband die,] she is permitted to marry him?" [This question is not answered.]

[J] *R. Abin raised the question*, "As to a woman who was originally a divorcée, but then became a widow [may she marry an ordinary priest? Since she now is merely a widow, is she permitted to that priest?" This question is not answered].

[I:3 A] Now you have maintained that that which R. Simeon has said applies to the earlier case [of M. 2:2D-F]. How does R. Simeon rule in the case of the woman who had been bespoken [listed at M. 2:2H-I]? [If the surviving, third brother had sexual relations with the widow, or if he performed the rite of *halisah*, how do we dispose of the case?] [If the second brother bespoken the first brother's widow, then the third brother was born, and then the second died without consummating the marriage, how does Simeon rule?]

[B] *Let us derive the answer from the following*: R. Simeon says, "Sexual relations or the rite of *halisah* on the part of one of the widows exempts her co-wife."

[C] Now if he performed the rite of *halisah* with the widow who had been bespoken, then also the second woman would require a rite of *halisah*. Yet you say that the act of sexual relations or the rite of *halisah* of one of them exempts the co-wife?

[D] Accordingly, how do you want to decide? If the act of bespeaking has acquired possession of both of his wives, then she is freed of further obligation through the rite of *halisah* of her co-wife.

[E] If the act of bespeaking did not acquire [the first brother's widow], then the first woman does not have to undertake the rite of *halisah*.

- [F] And if the surviving brother performed the rite of refusal with the widow who had been acquired through bespeaking, then the second wife also has to undertake the rite of *halisah*, to take account of the possibility that the bespeaking did not effect acquisition.
- [G] *In that case she was unaffected by* the rite of *halisah* or the levirate marriage, for the bespeaking might have effected acquisition [of the co-wife] in which she was freed [of further levirate connection] by the rite of *halisah* of her co-wife.
- [I:4 A] *What would be a practical case illustrating the difference between [rabbis and Simeon]?*
- [B] A case in which the surviving brother performed the rite of *halisah* with the first woman, that is, the one who had been be spoken, and had sexual relations with the second woman.
- [C] *In the view of rabbis* the sexual relations have violated the prohibitions against consanguineous marriage [because this is the wife of his brother who was not a contemporary, and he has no right to marry her].
- [D] *In the view of R. Simeon* this is not a case of violating the prohibition against consanguineous marriage [except as a matter of doubt, since we do not know whether or not the bespeaking has effected acquisition for the just-now-deceased second brother].
- [E] If the third brother had sexual relations with the first woman [widow of his brother who died before he was born, after the second brother had bespoken that widow and died], and had sexual relations with the second woman [that is, the widow of his just-now-deceased brother],
- [F] *in the view of rabbis* the relations with the first woman were in violation of the rule against consanguineous marriage. And the second woman requires both a writ of divorce and a rite of *halisah* [because she is a co-wife of a woman whom the surviving brother may not marry, on the one side, but who has had sexual relations with the surviving brother, on the other.]
- [G] *In the view of R. Simeon* both women require a writ of divorce. The first woman requires a writ of divorce, since the bespeaking of the just-now-deceased second brother may have effected acquisition, and the second one requires a writ of divorce, lest the levir have acquired her and lest the bespeaking acquired her, [but in any case] she is exempt [from having to

perform the rite of *halisah*] by the act of sexual relations of her co-wife.

[H] *R. Zeorah in the name of R. Sheshet: "There it is taught, 'In the view of R. Simeon, both of them are prohibited.' Now this is a problem. If the bespeaking effected acquisition, both of them [3d] should be permitted. If the bespeaking did not effect acquisition, then there is only the connection [to the co-wife, who is forbidden under the law against consanguinity]. [So it is a problem either way we read it.] Now there is a further problem. If the fact that there is a levirate connection at all means that acquisition has been effected, then both of them should be permitted. And if that is not the case, then the first wife should be prohibited, and the second permitted.*

[I] Perhaps [in the cited teaching, the theory is that] so far as R. Simeon is concerned, the effect of the levirate connection [in which the woman may be subject to the levir] is equivalent to the status of a woman, in the view of rabbis, when the woman has been bespoken.

[J] Just as the rabbis maintain that the act of bespeaking effects acquisition, yet leaves an aspect of the woman's status yet unresolved, so in the view of R. Simeon, the mere presence of a levirate connection effects acquisition but leaves part of the woman's status yet unresolved.

[K] *Now there is a further problem. As to the aspect of the woman that the levirate connection has acquired, its counterpart is prohibited in the co-wife. As to the aspect of the woman that the levirate connection has not acquired – its counterpart is permitted in the co-wife.*

[L] Shimi said, "And do we invoke the rule of alternatives in cases involving consanguineous relationships? [Surely not.]"

[M] *What is the upshot of the matter?*

[N] *It accords with that which R. Aha said in the name of R. Bun bar Hiyya: "In the case of any sister-in-law in which the whole of that woman does not lie within the range of a permitted relationship to the levir, that aspect of the woman that is deemed [not] to fall within the possession of the levir is held to constitute a*

consanguineous side to that woman. [If she is not wholly permitted to the levir, then any part of her relationship to the levir in which she is not permitted is treated as decisive, so that, as in general, so here], if there is a consanguineous relationship in one of the co-wives, that co-wife exempts her other co-wife [from marriage with the levir].”

2:3

[A] A general rule did they lay down in regard to the levirate woman [woman of a childless brother:

[B] (1) Any [sister-in-law] who is prohibited as one of the forbidden degrees [of Lev. 18] neither executes the rite of halisah nor is taken in levirate marriage [and exempts her co-wife (M. 1:1A)].

[C] (2) [If] she is prohibited [to her brother-in-law] by reason of a prohibition on account of a commandment or a prohibition on account of sanctity, she executes the rite of halisah but is not taken in levirate marriage [nor does her co-wife (M. 1:1A)].

[D] (3) [If] her sister is [also] her sister-in-law [widow of her childless brother-in-law], she either executes the rite of halisah or is taken into levirate marriage.

[I:1 A] *Said R. Zeira, “When we were over there [in Babylonia], we excluded fourteen [of the fifteen women listed at M. 1:1] who fall under the rule, If her sister is also her sister-in-law, she ... enters into levirate marriage, omitting only the daughter [of the levir]. [That is, we could construct a scenario to explain how the various women listed at M. 1:1 would fall under the rule of M. 2:3D, excluding only the case of the daughter. It is not possible for the daughters of two brothers to be sisters from the same mother, since if the wife of one brother produced a daughter, after which she was divorced, she could not then marry that man’s brother.]*

[B] *“Now when we came up here [to the land of Israel], we learned here that which R. Hiyya taught. For R. Hiyya taught: ‘In the case of one’s daughter, born of a woman he has raped, who [then legitimately] married his brother on his father’s side, and that brother has a sister on his mother’s side, born of a union between his mother and a third party, and that sister is married to yet another [third] brother, who died without offspring – lo, this man is prohibited from entering into levirate marriage with his daughter [produced when the other raped his mother], but he is permitted to marry her sister.’ Here then is a case*

[vs. A] *in which* her sister, who is her sister-in-law may enter into levirate marriage.”

- [I:2 A] *The following matter is self-evident:* If in the case of a sister-in-law who is prohibited to her brother-in-law by reason of a prohibition on account of a commandment or on account of sanctity, if the levir performed the rite of *halisah* with such a woman, her co-wife is exempted from all further connection.
- [B] But if the levir [instead of performing *halisah* had sexual relations with that woman –
- [C] R. Yosé said, “There is a dispute between R. Eleazar and R. Yohanan.
- [D] “R. Yohanan said, ‘Her co-wife is not thereby freed of all levirate connection.’
- [E] “R. Eleazar said, ‘Her co-wife is thereby freed of all levirate connection.’”
- [F] *R. Shimi maintains that the attributed opinions are to be reversed [so Eleazar holds that the co-wife is not freed of the levirate connection].*
- [G] *It is reasonable to suppose that R. Shimi’s reasoning is this: Since in all places R. Eleazar is associated with R. Hiyya the Elder [and differs from Hiyya’s opinions], hence since R. Hiyya has taught, “A woman subject to prohibition by reason of a commandment or by reason of sanctity performs the rite of halisah. [If, instead, the levir] had sexual relations with her, her co-wife is exempt from further levirate connection.” [If that is Hiyya’s view, then Eleazar’s will be that she is not exempt.]*

2:4

- [A] **A prohibition on account of a commandment: a secondary grade [of forbidden degrees] on account of the rulings of scribes.**
- [B] **A prohibition on account of sanctity [of the levir]: (1) a widow [married] to a high priest (Lev. 21:14), (2) a divorcée, or (3) a woman who has executed the rite of *halisah* to an ordinary priest (Lev. 21:7), (4) a mamzeret, (5) a netinah to an Israelite, a daughter of an Israelite, (6) to a netin, or (7) to a mamzer.**
- [I:1 A] “A prohibition on account of a commandment” means forbidden degrees ordained by the scribes:
- [B] It is a religious duty enjoined by the Torah to obey the teachings of the scribes.

[I:2 A] **A prohibition on account of sanctity: A widow married to a high priest, a divorcée or a woman who has executed the rite of halisah married to an ordinary priest:** “You shall consecrate him, for he offers the bread of your God” (Lev. 21:8).

[B] *And there are those who revise [the category into which] the widow married to a high priest, the divorcée, and the woman who has executed the rite of halisah married to an ordinary priest, fall [and assign to them the status of being a prohibition on account of a commandment].*

[I:3 A] “These are the commandments [which the Lord commanded Moses for the people of Israel on Mount Sinai]” (Lev. 27:34). All are subject to a single commandment.

[B] And a prohibition on account of sanctity falls into the category of secondary grades of forbidden degrees on account of the rulings of scribes.

[C] Said R. Judah b. Pazzi, “And why has Scripture juxtaposed the pericope dealing with the forbidden consanguineous relationships (Lev. 18) to the pericope on sanctification (Lev. 19)? It is to teach you that whoever keeps himself far from consanguineous relations is called holy.

[D] For so does the Shunamit say to her husband: [And she said to her husband,] “Behold now, I perceive that this is a holy man of God, [who is continually passing our way]” (2 Kings 4:9).

[E] Said R. Judah, “He is holy, but his disciple is not holy.”

[F] R. Abin said, “It is because he never looked at her.”

[G] And rabbis say, “It is because he never produced a nocturnal emission in his life.”

[H] *The slave-girl of R. Samuel bar R. Isaac said, “In my life I never saw a bad thing on the garments of my master.”*

[I] It is written, “[And when she came to the mountain to the man of God, she caught hold of his feet]. And Gehazi came to thrust her away. [But the man of God said, “Let her alone, for she is in bitter distress; and the Lord has hidden it from me, and has not told me”] (2 Kings 4:27).

[J] What is the meaning of, “to drive her away”?

[K] Said R. Yosé b. Haninah, “He put his hand on the cleavage between her breasts.”

[I:4 A] Whence in Scripture do we learn that secondary degrees of relationship are prohibited?

[B] R. Huna said, [For all] these [abominations the men of the land did, who were before you, so that the land became defiled] (Lev. 18:27). These are hard. On this basis it is to be inferred that there are others, less severe than these.”

[I:5 A] **The secondary grade of forbidden degrees, on account of rulings of scribes [M. Yeb. 2:4A], [includes the following]:**

[B] **(1) the mother of his mother, (2) the mother of his father, (3) the wife of his father’s father, and (4) the wife of his father’s mother, (5) the wife of his mother’s brother by the same father, and (6) the wife of his father’s brother by the same mother, and (7) the wife of the son of his son, and (8) the wife of the son of his daughter [T. Yeb. 3:1A].**

[C] *It has been taught:* R. Hanin says, “And in all of these instances, there is no cut-off point [but the descendants remain prohibited, without limit] except in the instance of the wife of the father of his mother.”

[D] Bar Qappara said, “In the case of all of them there is a cut- off point [after which the ancestors are permitted].”

[E] For Bar Qappara added to the list the mother of the father of his mother and the mother of the father of his father. [After these there is no prohibition.]

[F] Rab said, “As to the daughter-in-law of his son, there is a cut-off point.”

[G] *In what way is this case different?* It involves the case in which the daughter-in-law of his son derives from another source [not from the man himself].”

[H] Rab said, “Seed deriving from him [his own property] is prohibited [without a cut-off point. That is, the offspring of his son or daughter remain prohibited, onward indefinitely. But the daughter-in-law of his son does not derive from him.]”

[I] Said R. Yosé b. R. Bun, “The reasoning of Rab is that Abraham would remain prohibited to marry any of the women of Israel, and Sarah would remain prohibited to marry any of the menfolk of Israel.”

[J] Rab said, “In the case of any man in which by the law of the Torah a female would be forbidden to marry him, along these same lines the rule extends to the male, so that the male’s wife is forbidden. If the sister of his father is forbidden on the female side, then the wife of the father’s brother on the male side is forbidden. If the sister of his mother is forbidden on the female side, then the wife of the brother of the brother of his mother is forbidden on the male side. If the daughter of his son is forbidden on the female side, then the wife of the son of his son is forbidden on the male side. If the daughter of his daughter is forbidden on the female side, then the wife of the son of his daughter is forbidden on the male side.”

[K] *Said R. Jacob the Southerner before R. Yosé*, “*You have another two items.* His mother [is prohibited by the laws of] the Torah. The mother of his mother then is a secondary accretion along that line. They forbade the mother of his father by analogy to the mother of his mother. The wife of his son [is prohibited by the laws of] the Torah. The wife of the son of his son is a secondary addition to that line. They prohibited the wife of the son of his daughter by analogy to the wife of the son of his son.”

[L] *Said R. Mattenaiah*, “*You have yet two more:* The wife of his father [is prohibited by the laws of] the Torah. The wife of the father of his father is secondary to her. They then prohibited the wife of the father of his mother by analogy to the wife of the father of his father. The wife of the brother of his father on his father’s side is [prohibited by the laws of the] Torah. The wife of the brother of his father on his mother’s side is secondary to her. They then prohibited the wife of the brother of his mother on his mother’s side by analogy to the wife of the brother of his father on his mother’s side.”

[M] *R. Huna derived all of them from the following verse of Scripture:* “You shall not uncover the nakedness of a woman and her daughter, and you shall not take her son’s daughter or her daughter’s daughter [to uncover her nakedness; they are your near kinsmen, it is fornication] (Lev. 18:17). The repeated reference to fornication serves to establish an interpretation through analogy. Just as three generations of descendants are prohibited, so three generations of ancestors are prohibited [his mother-in-law, her mother-in-law, and

the mother of his father-in-law]. Just as, for the descendants there is a negative commandment, so for the ancestors there is a negative commandment. Just as for ancestors it is by way of marriage [that the law is violated], so for descendants it is by way of marriage. [The mother-in-law is by marriage. Likewise the mates of his descendants are prohibited.] Just as a violation of the law in regard to ancestors is punished through execution by burning, so violating the law with regard to descendants is punished through execution by burning. Just as with regard to descendants, the law has treated the daughter of a male as equivalent to the daughter of a female so with regard to ancestors the law has treated the mother of the male as equivalent to the mother of a female. Why do you have to rule regarding the mother of his father-in-law and the mother of his mother-in-law? Should not the mother of his father be equivalent to the mother of his father-in-law? Should not the mother of his mother be equivalent to the mother of his mother-in-law? And regarding them it says: They prohibited the wife of the father of his father by the analogy of the mother of his father. They prohibited the wife of the father of his mother by analogy to the mother of his mother. In the same way should not the wife of the son of his son be equivalent to the daughter of the son of his wife? Should not the wife of the son of his daughter be equivalent to the daughter of the daughter of his wife?"

[N] *R. Haggai responded before R. Yosé, "And lo, a tradition is at variance with the view of Rab: a man is permitted to marry the wife of his stepson and is prohibited to marry his daughter. But as to his stepdaughter, is it possible that he is not forbidden to marry her? [She is his wife's daughter!] Lo, in the case of his stepson, his wife is permitted to marry him."*

[I:6 A] R. Zeriqan in the name of R. Haninah, "The wife of his father-in-law is forbidden for appearances' sake."

[B] *Do you not say that it is prohibited by the law of the Torah?* Lo, there is the case of David, who married Rispah, daughter of Ayyah, as it is said, "And I gave you your master's house and your master's wives

into your bosom, and gave you the house of Israel and the house of Judah, and if this were too little, I would add to you as much more” (2 Sam. 12:8).

[C] R. Jeremiah in the name of R. Eleazar: “Two step-children who grew up in one household are prohibited to marry for appearances’ sake.”

[D] *A case came before R. Haninah, son of R. Abbahu. He ruled, “Let them get married in a place in which they are not known.”*

[I:7 A] *There we have learned in the Mishnah: **And he who has intercourse with his daughter’s daughter is liable on her account because of violating the prohibition against having intercourse with (1) his daughter’s daughter, and (2) his daughter-in-law, and (3) his wife’s sister, and (4) his brother’s wife, and (5) his brother’s father’s wife, and (6) a married woman, and (7) a menstruating woman. R. Yosé says, “If the grandfather transgressed and married her, he is liable on her account because of the prohibition of having sexual relations with his father’s wife” [M. Ker. 3:5C-D].*** What law did he transgress?

[B] He transgressed the rulings deriving from the authority of scribes. [The daughter of the daughter of his son.]

[C] R. Yosé in the name of R. Abbahu asked R. Yohanan, “Is that to say that in the case of secondary prohibited relationships, there is no cut-off point [among ancestors or descendants]?”

[D] *He said to him, “And have we learned, ‘Secondary degrees to secondary degrees’? Surely not. These are secondary expansions to the laws of the Torah, and all of them derive on analogy [that is, as at M. Ker.] to the daughter-in-law of his son [whom the father may not marry. The issue is not the daughter of his son’s daughter at all].”*

[E] R. Hezekiah in the name of R. Jonah: “R. Abbahu did not say so [D].”

[F] R Eleazar asked R. Yohanan, “We have secondary relationships and lo, they are nine [at M. Ker. 3:5]!”

[G] [He replied,] “All of them are on the count of the daughter-in-law of his son.”

2:5

- [A] He who has a brother of any sort – [that brother] imposes upon the wife of his [deceased childless] brother the obligation of levirate marriage,
[B] And [he is] his brother in every regard,
[C] except for him who has [a brother] from a female slave or from a Gentile.

2:6

- [A] He who has a son of any sort – he [the son] exempts the wife of his father from the obligation of levirate marriage,
[B] and he [the son] is liable for hutting him [the father] or for cursing him.
[C] And [he is] his son in every regard –
[D] except for him who has a son from a female slave or from a Gentile.

- [I:1 A] *R. Abin raised the question, “And he is his son in every regard: [even if he is born in a marriage involving a transgression] is it even so far as his having fulfilled his obligation to procreate [despite] a secondary prohibited connection?”*
- [I:2 A] A Gentile man who had sexual relations with an Israelite woman who gave birth,
[B] an Israelite man who had sexual relations with a Gentile girl after [4a] she had become an Israelite, and then she gave birth –
[C] the offspring is a firstborn as to inheritance [receiving a double portion], but he is not a firstborn as to the priesthood [and the father does not have to pay the priest a redemption fee].
- [I:3 A] A Gentile who had sexual relations with a Gentile woman, who gave birth [and who then converted, with his wife, and produced another offspring – is this latter a firstborn as to inheritance or not]?
[B] R. Yohanan said, “Gentiles are subject to genealogical ties [that is, they enjoy full recognition of paternity, and hence the offspring born after the conversion is not the firstborn].”

- [C] R. Simeon b. Laqish said, “Gentiles are not subject to genealogical ties, [and there is no recognition of paternity of the offspring born prior to conversion].”
- [D] And lo, it is written, At that time Merodach-baladan the son of Baladan, king of Babylon, sent envoys with letters and a present to Hezekiah; for he heard that Hezekiah had been sick (2 Kings 20:12). [This indicates that the sonship of Merodach-baladan is recognized.]
- [E] It is [merely] because he paid respect to our ancestor that he had the merit of having his paternity recognized.
- [F] And lo, it is written, [Then Asa took all the silver and the gold that were left in the treasury of the house of the Lord and the treasures of the king’s house, and gave them into the hands of his servants;] and King Asa sent them to Ben Hadad the son of Tabrimmin, the son of Hezion, king of Syria, who dwelt in Damascus (1 Kings 15:18).
- [G] He was a destroyer, son of a destroyer [wicked by heredity].
- [H] This is in line with that which you read, [For Haman the son of Hammedatha, [the Agagite, the enemy of the Jews, planned to destroy the Jews] (Esther 9:24).
- [I] Now was he actually son of Hammedatha? But he was an enemy, son of an enemy, and here likewise, he was a destroyer, son of a destroyer.
- [J] Said R. Tanhuma, “So did R. Simeon b. Laqish reply to R. Yohanan: ‘It is written, [And you and your sons and your servants shall till the land for him, and shall bring in the produce, that your master’s son shall have bread to eat; but Mephibosheth your master’s son shall always eat at my table]. Now Ziba had fifteen sons and twenty servants (2 Sam. 9:10). Do slaves enjoy recognition of paternity? But they were like relatives who served Mephibosheth.’”
- [K] As to a slave-girl: [If his master gives him a wife and she bears him sons or daughters,] the wife and her children shall be her master’s [and he shall go out alone] (Ex. 21:4).
- [L] As to a Gentile: R. Yohanan said in the name of R. Simeon b. Yohai, “It is written, ‘You shall not make marriages with them, [giving your daughters to their sons or taking their daughters for your sons]’ (Deut. 7:3). And it is written, ‘For they would turn your sons from following me, [to serve other gods; then the anger of the Lord would be kindled against you, and he would destroy you quickly]’ (Deut. 7:4). The meaning is that your son from an

Israelite is called your son, but your son from a Gentile is not called your son, but rather, 'son.'”

[M] *Jacob of Kephart Naborayya went to Tyre. They came and asked him, “What is the law as to circumcising the son of an Aramaean woman on the Sabbath?”*

[N] *He considered permitting them, on the basis of the following verse: “[And on the first day of the second month, they assembled the whole congregation together] who registered themselves by families, by father’s houses, [according to the number or names from twenty years old and upward, head by head]” (Num. 1:18). [Hence the child follows the status of the father.]*

[O] *R. Haggai heard and said, “Go and bring him to me, so that he may be flogged.”*

[P] He said to him, “On what basis do you flog me?”

[Q] *He said to him, “It is on the basis of the following verse of Scripture: “Therefore let us make a covenant with our God [to put away all these wives and their children, according to the counsel of my lord and of those who tremble at the commandment of our God; and let it be done according to the law]” (Ezra 10:3).*

[R] He said to him, “On the basis of a mere tradition [and not of a verse of the Torah itself] are you going to have me flogged?”

[S] He said to him, ““And let it be done according to the law”” (Ezra 10:3).

[T] He said to him, “And on the basis of what verse of Scripture?”

[U] He said to him, “It is in line with that which R. Yohanan said in the name of R. Simeon b. Yohai, ‘It is written, “You shall not make marriages with them, [giving& your daughters to their sons or taking their daughters for your sons]” (Deut. 7:3). And it is written, “For they would turn away your sons from following me, [to serve other gods; then the anger of the Lord would be kindled against you, and he would destroy you quickly]” (Deut. 7:4). Your son from an Israelite is called your son, and your son from a Gentile is not called your son, but her son.’”

[V] He said to him, “Lay on your flogging, for it will be good to receive [since I have it coming].”

2:7

- [A] **He who betrothed one of two sisters and does not know which of them he betrothed gives a writ of divorce to this one and a writ of divorce to that one.**
- [B] [If] he died, and he had one brother, he [the brother] effects a rite of halisah with both of them.
- [C] [If] he [who died childless] had two [brothers], one of them effects a rite of halisah and one of them enters into levirate marriage.
- [D] [If] they went ahead and married [the two women], they [the court] do not remove [the women] from their domain.
- [I:1 A] **He who betrothed one of two sisters and does not know which of them he betrothed gives a writ of divorce to this one and a writ of divorce to that one. [If] he died, and he had one brother, he [the brother] effects a rite of halisah with both of them:** Now in every other context you maintain that a valid rite of halisah cannot be performed after a prior rite of halisah, *and yet here do you rule in this way? [How can the brother perform two successive rites of halisah]!*
- [B] There [where there cannot be two successive rites], we deal with a case of certainty, while here [where there are two valid rites in succession] you deal with a matter of doubt.
- [II:1 A] [If] he [who died childless] had two [brothers], one of them effects a rite of halisah and one of them enters into levirate marriage: Now in every other context you maintain that in a place in which they tell him to enter into levirate marriage, they do not instruct him to perform the rite of halisah, *while here do you say this?*
- [B] There [where there cannot be both modes of dealing with the levirate connection] we have a case of certainty, while here [where both modes are put into effect] you deal with a matter of doubt.
- [C] **If they went ahead and married the two women, they do not remove them from their domain [M. 2:7D].**

2:8

- [A] **Two [unrelated men] who betrothed two sisters,**
- [B] **this one does not know which of them he betrothed, and that one does not know which of them he betrothed –**

[C] **this one gives two writs of divorce, and that one gives two writs of divorce.**

[D] **[If] they died,**

[E] **[if] this one has a brother and that one has a brother,**

[F] **this one effects the rite of halisah with both of them, and that one effects the rite of halisah with both of them.**

[G] **[If] this one had one [brother] and that one had two,**

[H] **the one [the sole brother of one of the deceased] effects a rite of halisah with both of them.**

[I] **And [as to] the two [brothers of the other deceased] – one effects a rite of halisah with one of them, and [then] one enters into levirate marriage with one of them.**

[J] **[If] they went ahead and married [the two widows out of betrothal], they do not remove them from their possession.**

[I:1 A] *It has been taught:* The same rule applies to Israelites and to priests in this manner. [While a priest cannot marry a divorcée or a woman who has performed the rite of *halisah*, in this case he may do so, *because* the entire procedure is necessitated only by reason of doubt.]

[I:2 A] *That which you have said [at M. 2:6I-J, one performs the rite of halisah and the other enters into levirate marriage] applies to a case in which one of them performed the rite of halisah, and afterward the other entered into levirate marriage.*

[B] But if one of the brothers entered into levirate marriage at the outset [of the transaction], it is prohibited. [The reason is that] it is possible that his brother may die, so he may turn out to have had sexual relations with the sister of his deceased childless brother's widow, [for now his own wife is no longer his levirate bride, but rather the sister of his levirate bride, who is subject to marriage with him].

[C] *Said R. Hisda, "This is to say, he who has sexual relations with the sister of a woman who is subject to levirate marriage with him has not invalidated that sister from marriage into the priesthood [since we do not regard the marriage as valid, for the reason given at B]."*

[D] *Said R. Yosé bar R. Ba, "R. Hiyya taught: 'He who had sexual relations with the sister of a woman with whom he had performed the rite of halisah has not invalidated that sister from marriage into the priesthood. [She is not regarded as having been legitimately married by him, since she is not eligible for marriage to him, and,*

should she then leave him, she is not deemed to be a divorcée on his account.]”

[II:1 A] If they died, if this one has a brother and that one has a brother, this one effects the rite of halisah with both of them, and that one effects the rite of halisah with both of them [M. 2:8D-F].

[B] Now in every other context you maintain that a valid rite of *halisah* cannot be performed after a prior rite of halisah, *and yet here do you rule in this way?*

[C] There [where there cannot be two successive rites], we deal with a matter of certainty, while here [where there are two valid rites in succession], you deal with a matter of doubt.

[III:1 A] If this one had one brother and that one had two, the one who is the sole brother of the deceased effects a rite of halisah with both of them, and as to the two brothers of the other deceased – one effects a rite of halisah with one of them, and then one enters into levirate marriage with one of them [M. 2:8E].

[E] Now in every other context you maintain that in a place in which you tell him to enter *into levirate* marriage, they do not instruct him to perform the rite of halisah, *while here do you say this?*

[F] There [where there cannot be both modes of dealing with the levirate connection], we have a case of certainty, while here [where both modes are put into effect], you deal with a matter of doubt.

[G] If they went ahead and married the two widows, they do not remove them from their possession [M. 2 8].

2:9

[A] [If] this one had two and that one had two [brothers],

[B] a brother of this one effects a rite of halisah with one of them, and a brother of that one effects a rite of halisah with one of them.

[C] A brother of this one enters into levirate marriage with the woman with whom the other party’s brother had effected a rite of halisah, and a brother of that one enters into levirate marriage with the woman with whom the other party’s brother has effected a rite of halisah.

[D] [If] the two went ahead and performed a rite of halisah then the [other] two should not enter into levirate marriage.

[E] **But rather one performs the rite of halisah and one enters into levirate marriage.**

[F] **If they went ahead and married them, they do not remove them from their possession.**

[I:1 A] *That rule which you have given [at M. 2:9F] applies to an Israelite, but as to priests, it is forbidden [for now the rite of halisah was necessary and fully applicable].*

2:10

[A] **It is a religious duty for the oldest [surviving brother] to enter into levirate marriage [with the childless brother's widow].**

[B] **But if the youngest went ahead [and married her], he has acquired [the sister-in-law].**

[C] **He who is suspected [of having intercourse] with a slave-woman, who is subsequently set free, or with a Gentile woman, who subsequently converts,**

[D] **lo, this one should not marry [her].**

[E] **But if he married her, they do not remove her from his possession.**

[F] **He who is suspected [of having intercourse] with a married woman, and they [the court] dissolved the marriage with her husband,**

[G] **even though he [the suspect] married [the woman],**

[H] **he must put her out.**

[I:1 A] **It is a religious duty for the oldest surviving brother to enter into levirate marriage [M. 2:10A],** since it is said, “And the first son whom she bears” (Deut. 25:5), [and the reference to first son is to the levir].

[B] *For how [otherwise] shall we interpret the passage?* If it refers to the offspring, then Scripture should state [not “And the first son whom she bears shall succeed to the name of his brother who is dead” but rather] “shall succeed to the name of the brother of his father, who is dead.”

[C] Now if you maintain that the offspring must be the firstborn [to the mother], then one might argue that even if the deceased had many sons and they died and afterward he died, his wife should not be subject to levirate marriage.

[D] In that case, Scripture should have said, “And he had no sons” [in the plural].

[E] But if the reference here to “firstborn” cannot apply to the offspring then it must be referred to the levir.

[II:1 A] He who is suspected of having intercourse with a slave-woman who is subsequently set free, or with a Gentile woman who subsequently converts – lo, this one should not marry her [M. 2:10C-D].

[B] If he betrothed her, it is as if he had married her.

[C] If the court had said not to marry her and he married her, they remove her from his domain.

[D] If he divorced her, what is the law as to his then remarrying her?

[E] If you say that he may not do so, will you not turn out to cast suspicion on the paternity of her children?

[III:1 A] He who is suspected of having intercourse with a married woman [M. 2:10F]:

[B] Rab said, “We speak of one who is suspected on the basis of the testimony of witnesses.”

[C] *R. Yosé asked*, “If we deal with a case of one who is suspected on the basis of the testimony of witnesses, then is it in such a case that it has been taught that they remove her from his domain? [That would imply, then, that she may marry someone else, and then marry her original lover after the third party has divorced her. But that is not the law. If there are witnesses, then she may never marry the man accused of being her lover. So it should not be the case that] if he married her after she had left the domain of a third party, he may confirm the marriage. For if he was suspect on the basis of the evidence of witnesses, then even if she leaves the domain of a third party and he married her, he should have to divorce her. Accordingly we must interpret the passage to speak of a case in which he was not suspect on the basis of evidence of witnesses. Then if she was divorced by a second party, and the original lover should marry her, he may confirm the marriage.”

2:11

[A] He who delivers a writ of divorce from overseas and staves, “In my presence was it written and in my presence was it sealed “ [and who thereby validates the writ] may not [then] marry his [the man ‘s] wife [to whom he brought the writ of divorce].

[B] [If he testified,] “He [the husband] had died, “ “I hued him, “ “They killed him, “ he may not then marry his [the deceased ‘s] wife.

[C] R. Judah says, “[If he stated,] ‘I have killed him, ‘ then his wife may not remarry.

[D] “[But if he stated,] ‘They have killed him, ‘ then his wife may remarry.”

[I:1 A] [With reference to M. Qid. 3:7: “**I have betrothed my daughter, but I don’t know to whom I have betrothed her,**” and someone came along and said, “**I have betrothed her**” – he is believed. [If] this one said, “**I betrothed her,** “ and [at the same time], that one said, “**I betrothed her,**” both of them give her a writ of divorce. But if they wanted, one of them gives her a writ of divorce and one of them consummates the marriage]. What is the meaning of, “He is believed”?

[B] Samuel said, “He is believed so far as his having to issue a writ of divorce is concerned.”

[C] Assi said, “He is believed and so has the right to consummate the marriage.”

[D] R. Huna in the name of Rab said, “He is believed and so has the right to consummate the marriage.”

[E] R. Yohanan said, “While he is believed so as to have the right to consummate the marriage, they do not derive from that case the rule for another.”

[F] What is the meaning of, “They do not derive from that case the rule for another”?

[G] “One of my fields have I sold, and I do not know to whom I have sold it,”

[H] one party came and said, “I have purchased it” –

[I] he has not got the power to say so.

[J] So too in betrothals:

[K] “**I have betrothed one of my daughters, and I do not know to whom I have betrothed her,**”

[L] **and someone came along and said, “I have betrothed her”**

–

[M] he has not got the power [to do so].

[N] *The following Mishnah-passage stands at variance with the view of Rab: **He who brings a writ of divorce from overseas and states, “In my presence it was written, and in my presence it was signed, “ he may not marry his wife [whose divorce he brought] [M. 2:11].***

[O] There the woman is confirmed as a man's wife before all parties. But here she is not confirmed as a man's wife except before two people.

[P] When the two come and say, “This is the one [not the claimant] who has betrothed her,” [then he may not consummate the marriage. But otherwise he is believed.]

[Q] *The Mishnah stands at variance with the view of Samuel:*

[R] If this one said, “I betrothed her,” and at the same time that one said, “I betrothed her,” both of them give her a writ of divorce . But if they wanted, one of them gives her a writ of divorce, and one of them consummates the marriage [M. Qid. 3:7D- E].

[S] [The passage surely does not mean that the only effect is to have the duty of issuing a writ of divorce.] Interpret the stated case to apply when the father says, “To one of these two did I betroth her, but I do not know to which one of them.”

[I:2 A] R. Zeira, R. Yosé in the name of R. Yohanan, “If one of them [at M. Qid. 3:7E] went ahead and consummated the marriage, they do not remove the woman from his power.”

[B] *That rule that you have stated applies in a case in which one party says, “I betrothed her,” and another party says, “I be trothed her,” and one of them went ahead and consummated the marriage [before the other issued a writ of divorce]. But if he had said, “I betrothed her,” and consummated the marriage, and another party came and said, “I betrothed her,” the latter has not got the power now to remove her from the domain of the former.*

[C] *And so it has been taught: **If after he has consummated the marriage, another party came and said, “I betrothed her,” he has not got the power [to upset the existing marriage] [T. Qid. 4:10D-E].***

- [II:1 A] R. Judah says, “If he stated, ‘I have killed him,’ [then his wife may not remarry]” [M. 2:1C].**
- [B] For what are the alternatives? If he really did kill him, then he who is suspect in a matter may not serve as a judge or give testimony.
- [C] If he did not kill him, then the man is still alive.
- [D] [But if he stated,] ‘They have killed him,’ [then his wife may remarry] [M. 2:1D]. Then if he did kill him, the wife may marry others, but not him.
- [E] **They said to him, “(M’SH B) A certain thug was caught at Qapotqia [4b] and was being taken out to be executed. He said, ‘Go tell the wife of Simeon b. Kahana. I murdered him when he came into Lud.’**
- [F] **“And the case came to sages, who permitted his wife to remarry”**
- [G] **He said to them, “Is there proof from such a case? But in that case, the doomed man said only, ‘We murdered him’” [T. Ket. 4:5E-G].**

2:12

- [A] **A sage who forbade a woman to her husband by reason of [her] vow, lo, this [sage] may not marry her.**
- [B] **[If] she exercised the right of refusal or performed the rite of halisah in his presence, he may marry her,**
- [C] **because [in these latter instances,] he [is serving as a member of a court.**
- [D] **And in the case of all of them [M. 2:11A-D, 2:12A-C] who had wives (and) [the wives of] whom [thereafter] died – the [other] women may be married to them [who secured the right to remarry]. [E] And in the case of all of them who were married to other men and were divorced or widowed, they [then] are permitted to be married to them.**
- [E] **And all of them are permitted to [marry] their sons or their brothers [of the aforementioned messengers, witnesses, or sages].**
- [I:1 A] A sage who forbade a woman to her husband by reason of her vow – lo, this sage may not marry her [M. 2:12A].**
- [B] I may maintain that it was to that end that he made his decision to begin with.

- [C] **If she exercised the right of refusal or performed the rite of halisah in his presence, he may marry her, because, in these latter instances, he is serving as a member of a court [M. 2:12B-C],**
- [D] for two people will not likely commit a sin on account of the wishes of a third party.
- [I:2 A] *There we have learned: He who deposits produce with his fellow, even if it is going to waste – the bailee should not touch it. Rabban Simeon b. Gamaliel says, “He sells the produce at the instance of a court, for he is in the position of one who thereby restores what is lost to its rightful owner” [M. B.M. 3:4].*
- [B] Said R. Abba bar Jacob in the name of R. Yohanan, “The law is in accord with the view of Rabban Simeon b. Gamaliel.”
- [C] How should the proceeds be disposed of?
- [D] R. Judah said, “It is a dispute between R. Aqiba and R. Tarfon.”
- [E] *It has been taught: The court should not purchase the produce [when it is sold].*
- [F] *R. Hiyya b. R. Shabbetai asked, “Here [at M. 2:12B-C] you say, **If she exercised the right of refusal or performed the rite of halisah in his presence, he may marry her, because he is serving as a member of a court, and yet you say this [that the court may not purchase the produce]?”***
- [G] Said R. Yosé, “There the [fraudulent] purchase may well be split up among the three parties, *while here*, two people will not likely commit a sin on account of the wishes of a third party.”
- [II:1 A] **And in the case of all of them who had wives, the wives of whom thereafter died – the other women may be married to them [M. 2:12D].**
- [B] The rule states that that is the case solely if they die. Lo, if they were divorced, the judges may not marry these women.
- [C] **And in the case of all of them who were married to other men and were divorced or widowed, they then are permitted to be married to them [M. 2:12E].**
- [D] For a man is not likely to sin [on the basis of what may happen] long afterward.
- [E] **And all of them are permitted to marry their sons or their brothers [M. 2:12F].**

[F] For a man is not likely to commit a sin
on behalf either of his son or his brother.

YERUSHALMI YEBAMOT

CHAPTER THREE

3:1

[A] [4c] Four brothers,

[B] two of them married to two sisters,

[C] and those who are married to the sisters died –

[D] lo, these [surviving childless widows] perform a rite of halisah and do not enter into levirate marriage [with the other two brothers].

[E] And if they [the other two brothers] went ahead and married [the two sisters], they must put them away.

[F] R. Eliezer says, “The House of Shammai say, ‘They may remain wed.’

[G] “And the House of Hillel say, ‘They must put them away.’”

- [I:1 A] If there were four brothers, two of them married to two women unrelated to one another, is it possible that the women would not enter into levirate marriage? [Surely not. There is no reason that the widows should not marry the surviving brothers. Why then do the sisters not do the same?]
- [B] The case of the two sisters is different, because in this case there is the prohibition applying to the two sisters. [Each widow is subject to levirate marriage to the levir; the levir cannot marry a woman whose sister he cannot marry, and here we have a case in which, since the two sisters both are subject to the levirate connection to him, both of them are unavailable to him.]
- [C] If that is the case, then they should not require the rite of halisah either.
- [D] R. Mattenaiah said, “It is because of the consideration that each sister is subject to the levirate connection to the same man, but there is no clear violation of the prohibition of a consanguineous relationship by

reason of their being sisters. [What we have is not a consanguineous marriage, but merely the possibility thereof. The prohibition is not so severe as to nullify the levirate tie automatically, as in the case of M. 1:1.]”

- [I:2 A] *There we have learned: A woman awaiting marriage with a levir, the brother of whom betrothed her sister – in the name of R. Judah b. Betera did they say, “They instruct him: ‘Wait until your older brother does a deed.’” If [one of] his brothers underwent a rite of halisah with the woman awaiting levirate marriage or married her, he may then marry his wife. If the childless brother’s widow died, he may marry his wife. If the levir died, let him put away the betrothed wife with a writ of divorce, and the wife of his brother with a rite of halisah [M. 4:10].* [If the brother who has betrothed the sister should marry her, he cannot marry the widow as well. And if he does marry her and the older brother dies, then he will have married the sister of a woman subject to his levirate connection, which, as is clear in the present setting, is not legal. So he waits until the levirate marriage takes place or the rite of halisah is performed. If the widow dies, nothing stops the marriage. If the levir dies, then the man cannot marry the betrothed but has to divorce her. He may not marry the widow, since she is the sister of a woman whom he has divorced. So he severs that connection too.]
- [B] The rule is only that if the widow should die, then he may be permitted to his [betrothed] wife. It follows that if his wife should die, he remains prohibited to his sister-in-law.
- [C] Said R. Yohanan, “This represents the view of R. Eleazar. But in the opinion of sages, if his sister-in-law should die, he will be permitted to his wife. If his wife should die, he will be permitted to his sister-in-law. In the view of sages in any matter in which a ruling is because of a particular causative factor, if that factor is removed, the prohibition then is annulled. In the view of R. Eleazar, even if the causative factor is removed, the prohibition remains firm.”
- [D] *R. Yosé b. R. Haninah raised the question before R. Yohanan: “Here you say that if his sister-in-law died, he is permitted to marry his betrothed wife, and if his wife died, he is permitted to marry his sister-in-law, and there [at M. 3:1] you say this [that the sisters may not enter into levirate marriage! Why not have one of them perform the rite of halisah to both of the brothers, and the other sister may then be deemed a sister-in-law who has been prohibited but then permitted to marriage, by analogy to the present case, in the view of sages.]”*

- [E] He said to him, “I do not know the reason for the rule of the sisters [of M. 3:1].”
- [F] Said R. Zeorah, said R. Hiyya in the name of R. Yohanan, “I do not know the reason for the rule of the sisters.”
- [G] R. Ba, R. Hiyya in the name of R. Yohanan, “I do not know the reason for the ruling about the sisters who are levirate candidates.”
- [H] [Concurring with Ba,] R. Hela, R. Yosa in the name of R. Yohanan: “The prohibition pertaining to sisters who are childless brother’s widows is not the same as the prohibition applying to sisters who are not childless brother’s widows. [The sisters who are candidates for levirate marriage are subject to the levirate connection of one another, so may not marry a levir. Yohanan has said that he does not know why there should be such a prohibition, since it derives only because of the sisters’ being subject to a rabbinical decree as to their potential levirate connection. By contrast, where the prohibition derives because a woman is a sister of the man’s wife, such a prohibition is specified in the Torah.]”
- [I] Said R. Jeremiah, “[The reason that the women do not enter into levirate marriage, and we do not say that the levir should perform the rite of halisah with the second woman is that] we may interpret the Mishnah to speak of a case in which the house fell on both of the men at one time. [We do not then know which was the first widow, which the second.]”
- [J] *R. Yosé raised the question*, “If we deal with a case in which the house fell on both brothers simultaneously, *in such a case has R. Yohanan stated* I do not know the reason [for the rule governing the case of] the sisters who are surviving widows of a childless man and so subject to a single levir? [There is no possibility in such a case that the women may be permitted, so why should Yohanan have wondered about it?] Rather, it is only in a case in which the brothers died one after the other [that Yohanan will have expressed his difficulty in explaining the law].”
- [K] [*The students*] wanted to propose the following: “What was the difficulty troubling R. Yohanan [that there can be no levirate marriage for these women]? It is the case in which the second wife died. Why is the levir not permitted to marry the first widow [as his levirate wife]? [The first widow could have married the levir at the point at which her husband died childless. It was only the fact that her sister’s husband also died which made her unavailable for marriage to the levir. But once the sister dies, why cannot the first

widow revert to the status she had originally enjoyed, so being permitted once again to the levir?]) But if the first widow died, the prohibition would continue to apply to the second widow [since at no point has this woman ever been permitted to enter into levirate marriage with the surviving brother-in-law.]”

[L] *Said R. Judah, “It was both matters that troubled [R. Yohanan]. For the fact that the woman was subject to the levirate connection is of no weight [so as to impose upon her the prohibition of marrying the levir, merely because she was the sister of a woman also subject, earlier, to the levirate connection with him. That is why Yohanan is troubled in this matter].”*

[I:3 A] There is a case of three brothers, two from the same father but not from the same mother, two from the same mother but not the same father [Reuben and Simeon share the same father but not the same mother, and Simeon and Levi share the same mother but not the same father, so Reuben and Levi in fact have a brother in common but are not themselves brothers].

[B] The son of the father died first [i.e., Reuben], and the surviving son, the second one [i.e., Simeon] did not suffice to perform the rite of *halisah* or to enter into levirate marriage before he too died.

[C] The widow then falls before the brother from the same mother [that is, Levi].

[D] Is it possible that she might not be permitted to him? [Surely she cannot be prohibited to him. She is unrelated to him, and is not prohibited on the count of having been subject to a levirate connection to Simeon, his brother from the same mother].

[E] The fact that she has been subject to levirate marriage is not equivalent to her having been bespoken [so that she is not regarded as having been made the wife of his brother on his mother’s side, on which account there would be no levirate connection at all. She then would be prohibited as the wife of his brother, not in the status of a levirate widow. There is no such prohibition here. The mere fact that she was subject to the levirate connection does not have that effect.]

[F] Should she not be prohibited to him on the ground that she is the wife of his brother on his mother’s side?

[I:4 A] [As to the sisters at M. 3:1, who are prohibited on the count of sisters subject to levirate connection with the same levir:] what is the law

pertaining to the co-wife [of one of these sisters? Is she too exempted from the levirate connection on the ground of being the co-wife of the sister of a woman who is subjected to a levirate connection to the levir]?

[B] R. Hela in the name of R. Abina, “It is an argument a fortiori. Now if in the case of the sister of a woman with whom one has performed the rite of halisah, in which instance, when the status derives only from the decree of sages, the sages have applied the law to her co-wife [exempting her as well], in the present case, in which the prohibition that applies derives from the consanguinity of sisters, is it not an argument a fortiori?”

[C] As to his daughter [if one of the co-wives was daughter of the levir] *it is obvious to you* that the law [exempting] the co- wife [should apply].

[II:1 A] R. Bun bar Hiyya in the name of R. Abina, “*It has been taught there*: If the co-wives performed the rite of halisah, the sisters are exempt [from the levirate connection]. If the sisters performed the rite of halisah, the co-wives have not been exempted. *Now just as you say*, If the co-wives performed the rite of halisah, the sisters themselves are exempt from the levirate connection, *along these same lines*, even if the sisters performed the rite of halisah, the co-wives [for their part] should be exempt as well. [Why should the sisters be subject to the rite of halisah of the co-wives at all?]”

[B] *But the matter accords with that which R. Yohanan b. Nuri said*. For R. Yohanan b. Nuri says, “Come and let us ordain that the co-wives should perform the rite of halisah and not enter into levirate marriage [in the case of the co-wives of M. 1:1. In this case, the act of halisah of the co-wives is effective].”

[C] But did they make such an ordinance? *Has it not been taught*: “They did not suffice to make such an ordinance before the time was no longer suitable.”

[D] Rather, interpret the matter in accord with the view of the House of Shammai, for the House of Shammai permit the co-wives to marry the brothers [and do not exempt them from the levirate connection in the situation outlined at M. 1:1. So there is no difference between the sisters and their co-wives, which answers the question of C: If the sisters performed the rite of halisah, the co-wives remain subject to the requirement of levirate marriage. They are not subject to the conditions affecting the sisters at all, so far as the House of Shammai is concerned].

[E] [But this cuts both ways, for], *said R. Phineas before R. Yosé*, “If the law before us is stated by the House of Shammai, then even if the co-wives had performed the rite of halisah, the sisters, for their part, should not be regarded as having been freed from the levirate connection. [There is no relationship between the one and the other, as just now explained.]”

[F] *And we have learned, R. Eleazar said* “**In the name of the House of Shammai they say, ‘They may remain wed.’ And the House of Hillel say, ‘They must put them away’**” [M. 3:1F-G]. [The House of Shammai do not regard the sister of a woman who has been subject to a levirate connection with a man as equivalent to the sister of his wife. Therefore they allow the marriage to remain valid. For the reason that this view stands in contradiction to the view of the House of Shammai spelled out at G-H, cf. Pené Moshe.]

[G] *What we have is two Tannaitic authorities for the views of the House of Shammai.*

[H] *One of them said*, “If the co-wives performed the rite of halisah, the sisters are exempt from the levirate connection.” *And the other said*, “If the co-wives performed the rite of halisah, the sisters are not exempt from the levirate connection.”

[II:2 A] *It was taught: Abba Saul says*, “The House of Hillel took the lenient position in this matter [rejecting M. 3:1G and reversing the opinions].”

[B] Was it his intent to criticize the House of Hillel?

[C] It was to praise the House of Hillel: [For people] were saying disrespectfully: What prohibition do we have here [at M. 3:1G, that we should require a divorce at all? The consideration of not marrying the sister of a woman who has been subject to a levirate connection to the man is null].

[D] *The teaching is given in the name of R. Simeon*: “If they went ahead and married the two sisters, then they may confirm the marriage.” And that rule applies when the two brothers went and had sexual relations with the two sisters at the same time [since other wise the one who did it first has had sexual relations with the sister of a woman who is subject to a levirate connection with him, for reasons we know full well].

- [E] *In the view of Abba Saul* [who does not impose the condition specified at E], it is permitted to have sexual relations to begin with [since the consideration stand at E is null].
- [F] *In the view of R. Simeon*, we deal with a case in which he has already transgressed the law and had sexual relations [but should not have done so].
- [G] If the first brother married one of the sisters and had sexual relations with her, he says to the second brother to do the same [with the other sister]. [Now, following Simeon's theory, the levirate connection will be wholly removed.]
- [H] If the second brother did not have sexual relations, it is forbidden to the first brother to have sexual relations a second time, lest one of the brothers die, and he turn out to have sexual relations with the sister of his levirate wife [for now he will have to marry the widow of his brother, and this he cannot do].
- [I] *It has been taught*: If the second brother did die, the first brother must put away his wife with a writ of divorce, and the wife of his brother [his levirate sister-in-law] with a rite of *halisah*.
- [J] Even if the second brother should die? [Should she not go forth on the count of being the sister of his wife?]
- [K] No, the rule follows the position of R. Simeon. For R. Simeon exempts the second wife from the requirement either of the rite of *halisah* or levirate marriage [for reasons we shall see below, Y. 3:3].
- [L] *Said R. Zeorah*, "I may interpret [the passage to conform even with the view of Simeon. His reason is that] any sister-in-law who appropriately goes forth with a rite of *halisah* is not permitted to marry except if she undergoes a rite of *halisah*. [That is, since the second wife should have a rite of *halisah*, it is required, even from Simeon's perspective.]"

[II:3 A] [As to the view that if the levir had performed the rite of *halisah* with one of the sisters, he has exempted her co-wife], if the first wife had a co-wife, if the levir had performed the rite of *halisah* with her, her co-wife is exempt. If then, after the rite of *halisah*, he had sexual relations with her, this is a prohibited act of sexual relations, and her co-wife has not been exempted. [This will now be explained.] If he performed the rite of *halisah* with the sister and then had sexual relations with her, what choice do we have? If she was subject to the rite of *halisah*, [then

the co-wife] should be permitted. If she was subject to a valid act of sexual relations, her cowife also should be permitted! [So why is the co-wife not exempted from the levirate connection?

- [B] [*The reason is now given, in that which*] R. Yudan said, “*Interpret the case along the lines of the following*: He who marries his levirate sister-in-law and she turns out to be pregnant, *just as you say there*, her co-wife should not remarry until she knows on what basis she is freed – whether it is because of the offspring or because of the act of sexual relations between the levir and the sister-in-law – *so here* her co-wife should not remarry until she knows on what basis she is permitted to do so, whether it is because of the rite of halisah [of the sister] or the act of sexual relations.”
- [C] If the second sister had a co-wife, he may marry the co-wife and keep his wife, but he remains forbidden to marry the second sister. [The co-wife is not forbidden, since she comes from a different family. But he cannot marry the sister; the co-wife of the sister frees the sister from the levirate connection anyhow.]
- [D] *This is in line with the following*: A man is permitted to marry the sister of the co-wife of a woman with whom he has performed the rite of halisah. [He has performed the rite of halisah with the second sister. Then the first sister is the sister of a co-wife of a woman with whom he has performed the rite of halisah.]
- [E] But he should be prohibited to marry the co-wife. [The law is that he is forbidden to marry] the co-wife of a female relation of a woman with whom he has performed the rite of halisah. [So how can he marry the co-wife when he has performed the rite of halisah with the first? The co-wife of the second sister is the cowife of a sister of a woman with whom he has performed the rite of halisah – by definition!]
- [F] Said R. Yudan, “If he had wanted to have sexual relations with the co-wife before he had performed the rite of halisah, would he not have been permitted to do so? Do you then maintain that at the outset he is permitted but at the end he is forbidden? [Surely not.] If you hold that position, you turn out to apply the law of the co-wife after the man had died, and one cannot declare a woman to be a co-wife after the man has died. [That is, a co-wife is not declared to be forbidden once she has been permitted. She had been permitted prior to the point at which the brother married the first sister. We cannot invoke the law prohibiting the co-wife of the

sister of a woman with whom he has performed the rite of *halisah*; it is not appropriate here.] “

- [II:4 A] There were five brothers, three of them married to three sisters. These three brothers died.
- [B] Rab said, “This surviving brother performs the rite of *halisah* with one of them, and that one does the same with another, and the third wife performs the rite of *halisah* with whichever one of the brothers wishes.”
- [C] Samuel said, “This one performs the rite of *halisah* with one of the wives, and that one does the same with another, and as to the third, she performs the rite of *halisah* with both of them. [In the case of the third wife we deal with the sister of a woman with whom each man has performed the rite of *halisah*. She now has to engage in the rite of *halisah* with each one of them.]
- [D] Rab said, “The rite of *halisah* constitutes an act of acquisition [of the woman. That is why the sister of a woman with whom one has performed the rite of *halisah* is tantamount to the sister of his wife, and that explains why the third one is forbidden to both brothers and has to perform the rite with each.” This explains Samuel’s position at C, or we must reverse the opinions attributed at B and C, respectively, as does Pené Moshe. The substance of the matter is the same.]
- [E] Samuel said, “*Halisah* serves to free [the wife, and does not constitute an act of acquisition of her on the-part of the levir.]” [As above, D, this explains the opinion now assigned to Rab, B.]
- [F] R. Zeira said, “The rite of *halisah* constitutes an act of acquisition.”
- [G] R. Hela said, “*Halisah* serves to free the wife.”
- [H] *From the statements of the rabbis that follow, it is indicated that they hold that halisah serves to free the sister- in-law:*
- [I] *Simeon bar Ba raised the question before R. Yohanan, “What is the difference between the status of one who performs the rite of halisah [with his brother’s childless widow] and one who divorces [a woman]? [In the former instance if someone marries such a woman and dies, the woman performs the rite of halisah with a surviving brother, but does not enter into levirate marriage. In the case of one who divorces his wife, and whose brother marries that wife’s sister, then the brother dies childless, the widow – that is, the sister of the woman whom the surviving brother has divorced – does not even perform the rite of halisah, let alone enter*

levirate marriage. We now ask, What is the difference between the status of these two women?]"

[J] *He said to him, "Do you imagine that the rite of halisah constitutes an act of [4d] acquisition [so that the wife becomes acquired to the brother who has performed that rite, in which case she may not marry any of the surviving brothers, and if she does so, the brother is liable to extirpation; and if the husband dies childless, her co-wife is exempt from the levirate connection]? [That is not the case. Rather] she is in the status only of being exempt [from levirate marriage alone. Should a surviving brother marry her], such a brother will be liable on her account not because he has married the wife of the one who has performed the rite of halisah [for she is not in the status of his wife at all]. Rather, he would be liable on her account only for having married the wife of the deceased. [That is, prior to the rite of halisah, marrying her would leave the brother subject to the penalty of extirpation. Once the rite has been performed, she is subject to a much less severe prohibition.]"*

[K] Levi said, "It bears the impact of an act of acquisition, and each one of the surviving wives has to perform the rite of halisah with both of the surviving brothers."

[L] *The Mishnah-passage that follows stands at variance with the view of Samuel: He who undergoes a rite of halisah with his childless brother's widow is prohibited from marrying her relatives and she is prohibited from marrying his relatives [M. 4:7F-G]. [This would indicate that an act of acquisition has taken place.]*

[M] *The case here is different, because we have two brothers, so each one is prohibited on grounds of not marrying the sister of a woman who has been subjected to a levirate connection with him, and the function of the rite of halisah is] to free [the sisters from the levirate connection, so there is no possibility of acquisition of the woman. But in the case cited just now, Samuel will concur].*

[N] *The following passage of the Mishnah stands at variance with the view of Rab: **He who undergoes a rite of halisah with his childless brother's widow, and then his brother married her sister, and this brother died – she performs a rite of halisah and is not taken in levirate marriage [M. 4:91.** [The function of halisah is to free the widow, as we shall now argue.]*

[O] *Now this supports the view of the one who said that the rite of halisah serves to free [not to acquire] the acquire the widow. For here, in accord with the view of the one who said that halisah has the result of effecting acquisition, does a man deliberately acquire two sisters simultaneously? [That is, when we say that the surviving brother performs the rite of halisah, how can he do so if the effect is to acquire the widow? He already is married to her sister. Accordingly, in this case the effect of halisah cannot possibly be to acquire the widow.]*

[P] Interpret the law to speak of the case after the death [of the man's wife].

[Q] If it is a case of the situation prevailing after death, then let the man enter into levirate marriage with the widow?

[R] Interpret the case to accord with the view of R. Eleazar, for R. Eleazar has said, "Even though the cause of the prohibition is no longer in effect, the prohibition remains in effect."

[S] *The following passage of the Mishnah differs from the view of Rab: **Three brothers, two of them married to two sisters and one [the third] of them is unmarried, one of the husbands of the sisters died, and this one who was unmarried bespoke her [the surviving sister], and afterward his other brother died – the House of Shammai say, "His wife [the bespoken woman] remains with him, and that other sister goes forth on the grounds of being the sister of his wife." And the House of Hillel say, "He divorces his wife with a writ of divorce and with the rite of halisah, and the wife of his brother with a rite of halisah. [This is the sort of case concerning which they have stated, 'Woe is he because of his wife, and woe is he because of the wife of his brother.]'"** [M. 3:4].*

[T] *Now this supports the view of the one who said that the rite of halisah serves to free the widow. But here, in accord with the view of the one who said that halisah has the result of effecting acquisition, does a man deliberately acquire two sisters simultaneously? [If halisah effects acquisition, then why does he have to perform the rite of halisah and so acquire the other wife, whom he cannot have?]*

[U] Interpret the law to speak of the case after the death [of the man's wife].

[V] If it is a case of the situation prevailing after death, then let the man enter into levirate marriage with the widow?

[W] Interpret the case to accord with the view of R. Eleazar, for R. Eleazar has said, "Even though the cause of the prohibition is no longer in effect, the prohibition remains in effect."

[X] *The following passage of the Mishnah stands at variance with the view of Rab: A woman awaiting marriage with a levir, the brother of whom betrothed her sister – in the name of R. Judah b. Betera did they say, "They instruct him: 'Wait until your older brother does a deed.'" If his brother underwent a rite of halisah with the woman awaiting levirate marriage or married her, he may then marry his [betrothed] wife. If the childless brother's widow died, he may marry his wife. If the levir died, let him put away the betrothed wife with a writ of divorce, and the wife of his brother with a rite of halisah [M. 4:10]. Now this supports the view of the one who said that the rite of halisah serves to free the widow. But here, in accord with the view of the one who said that halisah has the result of effecting acquisition, does a man deliberately acquire two sisters simultaneously?*

[Y] Interpret the case to accord with the view of R. Eleazar, for R. Eleazar has said, "Even though the cause of the prohibition is no longer in effect, the prohibition remains in effect."

[Z] *The following passage of the Mishnah stands at variance with the view of Rab: A high priest who died – his brother performs the rite of halisah and does not enter into levirate marriage [with the widow] [M. 6:4] [since his brother, the high priest who is now in succession to him is prohibited from marrying a widow].*

[AA] *Now this supports the view of the one who said that the result of halisah is to free the woman. But in the view of the one who said that the result of*

halisah is to effect acquisition of the woman, does one instruct the high priest to transgress the teachings of the Torah? [That would be the result of the rite of halisah, as interpreted by Rab.]

[BB] *R. Hama, associate of the rabbis, objected, "And lo, there is yet another passage of the Mishnah that differs from Rab's view: **Three brothers, two of them married to two sisters, or to a woman and her daughter, or to a woman and the daughter of her daughter – lo, these women perform the rite of halisah and do not enter into levirate marriage [M. 3:3].** Now how can this case be differentiated, since the prohibition concerning the woman and her daughter applies both in life and after death? [So how can this case be squared with the view that the effect of *halisah* is to acquire the woman, when in this case a man cannot possibly acquire a woman and her daughter, and yet that is precisely what the Mishnah tells him to do?]"*

[CC] *These two last cases do differ from Rab, and there is no way of interpreting them in harmony with Rab's theory.*

3:2

- [A] [If] one of them [the sisters] was prohibited to one of the men by reason of being a forbidden degree [M. 2:3-4],
- [B] he is prohibited from marrying her. But he is permitted [to enter into levirate marriage] with her sister.
- [C] And the second [brother] is prohibited [from entering into levirate marriage] with either of them.
- [D] [If one of them was prohibited] by reason of being prohibited as a commandment or prohibited by reason of sanctity [M. 2:3-4], [the sister] performs the rite of halisah but does not enter into levirate marriage.
- [E] [If] one [of the sisters] was prohibited to one of the brothers by reason of being a forbidden degree, and the second was prohibited to another [of the brothers] by reason of being a forbidden degree,
- [F] the one who is prohibited to this one is permitted to the other, and the one who is prohibited to the other one is permitted to this one.

[G] This is a case in which they have stated [M. 2:3]: [In a case in which] her sister also is her sister-in-law by marriage, she either performs the rite of halisah or enters into levirate marriage [there being no prohibition in such a case by reason of a woman's being the sister of one who is subject to levirate marriage with the surviving brother].

[I:1 A] [Illustrating the case of M. 3:2A:] If one raped a woman, who produced a daughter, and [the daughter] went and married his brother [on his father's side] and [this same daughter] has a sister on her mother's side, born of a different father, who is married to [the rapist's] other brother, [and this brother] died without children – lo this man [the rapist] is [of course] forbidden to marry his daughter, but he is permitted to marry her sister.

[B] Here is a case [in line with M. 2:3] in which there is a man's daughter and her sister, with the latter his levirate sister-in-law, and with whom he may enter into levirate marriage [= M. 3:2A].

[I:2 A] [Illustrating the case of M. 3:2Eff.]: If one of the sisters was prohibited to one of the brothers: If one raped a woman, who produced a daughter, and his brother came and raped her, and she produced a daughter, and the two daughters went and married the two brothers who were from the same father but not from the same mother –

[B] this one is forbidden to marry his daughter, but permitted to marry her sister, and that one is forbidden to marry his daughter but permitted to marry her sister.

[C] **This is a case in which one may be prohibited to one of the brothers but permitted to the other, and the one who is prohibited to the other one is permitted to this one [M. 3:2F].**

3:3

[A] Three brothers,

[B] two of them married to two sisters,

[C] or to a woman and her daughter,

[D] or to a woman and the daughter of her daughter or to a woman and the daughter of her son –

[E] lo, these women perform the rite of halisah and do not enter into levirate marriage.

[F] And R. Simeon declares exempt [from halisah].

[G] [If] one of them was prohibited to him by reason of being a forbidden degree, he is prohibited to that one but permitted to [marry] her sister.

[H] [If the prohibition was] a prohibition deriving from a commandment or a prohibition of sanctity, the sisters perform the rite of *halisah* but do not enter into levirate marriage.

[I] And R. Simeon declares exempt.

[I:1 A] Ulla bar Ishmael said, “Thus did R. Hoshaiah, father of the Mishnah, interpret the matter [of M. 3:3F]: **R. Simeon declares the second sister exempt both from the rite of *halisah* and from levirate marriage.** [Simeon’s theory is that if a woman is subject to the levirate connection, it is as if she has been taken into levirate marriage.]”

[B] R. Yohanan said, “The association [of sages] produced the following question: Surely it did not enter anyone’s mind that a man would acquire two sisters at once! [Accordingly, both sisters are exempt.]”

[C] Said R. Hanina before R. Mana, in disagreement: “And why does R. Simeon declare the second sister exempt both from the rite of *halisah* and from levirate marriage?”

[D] He said to him, “Surely it did not enter anyone’s mind that a man would acquire two sisters at once!”

[I:2 A] [Further interpreting Simeon’s position,] *there they say* [that Simeon’s theory is that] the status of being subject to levirate marriage does not apply in a situation where that status already has applied. [That is, if a woman is subject to the levirate connection, it is as if she is fully married, in which case her sister is completely exempt from *halisah* and from levirate marriage, as the sister of his wife].

[B] [Explicating the circumstances in which Simeon’s principle applies,] R. Ba in the name of R. Eleazar: “And that is the case when one has transgressed the law and actually had sexual relations with the first sister.”

[C] *What is the practical decision applying to the following case: If an outsider betrothed the second sister?*

[D] *In the rabbis’ [view of Simeon’s position, that is, unconditional freedom,] the betrothal is fully valid.*

[E] *In R. Eleazar[‘s conception of Simeon’s opinion], the status of the act of betrothal is kept in suspense. When the brother has sexual relations with the first sister, the outsider’s act of betrothal becomes effective for the second sister.*

[F] If the brother had sexual relations with the second sister, *in the opinion of rabbis* [*interpreting Simeon's view*], this represents an act of sexual relations in violation of the law against consanguinity.

[G] *In R. Eleazar* [*'s view of Simeon's position*], this does not represent an act of sexual relations in contravention of the law of consanguinity.

[H] If the first sister died, in the opinion of rabbis the brother is permitted to marry the second sister. [The levirate connection to which she had been subjected is severed by death of the sister (Pené Moshe)].

[I:3 A] If the first sister had a co-wife, if the levir performed the rite of *halisah* with her, her co-wife is freed. If the second sister had a co-wife, the levir may marry the co-wife and preserve his marriage with his wife, but [of course] he is prohibited from marrying the second sister. [The co-wife is not forbidden, since she comes from a different family. He cannot marry the sister; the co-wife of the sister frees the sister from the levirate connection anyhow.]

[B] *This is in line with the following:* A man is permitted to marry the sister of the co-wife of a woman with whom he has performed the rite of *halisah*. [He has performed the rite of *halisah* with the second sister. Then the first sister is the co-wife of a woman with whom he has performed the rite of *halisah*.]

[C] But he should be prohibited from marrying the co-wife. [The law is that he is forbidden to marry] the co-wife of a female relation of a woman with whom he has performed the rite of *halisah*. [So how can he marry the co-wife when he has performed the rite of *halisah* with the first sister? The co-wife of the second sister is the co-wife of a sister of a woman with whom he has performed the rite of *halisah* – by definition!]

[D] Said R. Yudan, “If he had wanted to have sexual relations with the co-wife before he had performed the rite of *halisah* would he not have been permitted to do so? Do you maintain that at the outset he is permitted, but at-the end he is forbidden? [Surely not.] If you hold that position, you turn out to apply the law of the co-wife after the man had died, and one cannot declare a woman to be a co-wife after the man has died. [That is, a co-wife is not declared to be forbidden once she has been permitted. She had been permitted prior to the point at which the brother married the first sister. We cannot invoke the law

prohibiting the cowife of the sister of a woman with whom he has performed the rite of *halisah*; it is not appropriate here.]”

- [I:4 A] *The opinions assigned to R. Simeon are confused. There he has said [at M. 3:10: **Three brothers married to three unrelated women, and one of the men died, and the second brother bespoken the widow of his brother, and then he too died – lo, these perform the rite of halisah and do not enter into levirate marriage (with the surviving brother-in-law). R. Simeon says, “The surviving brother takes in levirate marriage whichever one he wants, and performs the rite of halisah with the second woman.”**]* [The issue is why the rite of *halisah* with the second woman. Should she not be freed by the action of the first? The reason is that it may be that the fact that the woman is subject to the levirate connection does not necessarily mean that she is as if she were married to the levir. (The reason for that fact will be clear below, at M. 3:10.)] *And here he has said this [that Simeon is certain that the fact that the woman is subject to the levirate connection necessarily means she is as if she were married to the levir]!*
- [B] *Said R. Zeira, “When we were there, I heard the reason [for the difference between the two cases]. In that other case you have the connection to the widow deriving from two levirs. This is not deemed an effective connection for levirate purposes, so in that case, you may have one case in which the woman is subject to the levirate connection following another such case. [The former may or may not have been valid.] Here, by contrast, we deal with the widow’s being subject to the levirate connection from a single levir only, and there can be no possibility of a case in which a woman will be subject to the levirate connection following another such case.”*
- [C] *Said R. Mattanaiah, “[In fact the two cases are totally unrelated and pose no problem. For] what difference does a case make to us involving sisters when we have a case involving unrelated women? [In the case of the sisters, when a woman is subject to the levirate connection, her sister is in the status of the sister of a wife, and hence the second sister is exempt.] But if you want to raise an interesting question as to the views of R. Simeon, raise it with regard to that which R. Zeira said in the name of R. Sheshet [Y. 2:2 III.P]: ‘There it is taught, In the view of R. Simeon, both of them are prohibited.’ [As explained above, the upshot is the thesis (Y. 2:2) that in Simeon’s view, the mere presence of a levirate connection affecting a woman effects acquisition in part but leaves part of the woman’s status yet unresolved, and that is contrary to the view assigned to him here.] So*

there he has said that both of the women are forbidden [as indicated above], while here you say that both of them are permitted.’ [Here then is a case in which what is assigned to Simeon contradicts other views associated with his name.]” [This contradiction is left unresolved.]

3:4

- [A] Three brothers,
[B] two of them married to two sisters,
[C] and one [the third] of them is unmarried,
[D] one of the husbands of the sisters died, and this one who was unmarried
bespoke her [the surviving sister],
[E] and afterward his other brother died –
[F] the House of Shammai say, “His wife [the bespoken woman] remains with
him . And that other [sister] goes forth on the grounds of being the
sister of his wife.”
[G] And the House of Hillel say, “He divorces his wife with a writ of divorce
and with the rite of halisah, and the wife of his brother with a rite of
halisah.
[H] “This is the sort of case concerning which they have stated, ‘Woe is him
because of his wife, and woe is him because of the wife of his
brother!’”
- [I:1 A]** The House of Shammai rule in accord with the position of R. Eleazar
b. Arakh, for R. Eleazar b. Arakh has said, “Bespeaking effects a
complete acquisition in the case of a sister-in-law. [That is why the
second widow is to go forth without further ceremony, as sister of his
wife.]”
- [B] If they rule in accord with R. Eleazar b. Arakh, then if the surviving
brother divorced the woman he has bespoken, she should not require a
rite of halisah. Yet R. Hela has said in the name of R. Eleazar, “The
House of Shammai concur that if the surviving brother divorced the be
spoken woman, she requires a rite of halisah with him [thus taking
account of her as-yet-not-fully-married status].” But the House of
Shammai concur with the view of R. Simeon, for R. Simeon has said,
“The act of bespeaking either does effect acquisition or does not effect
acquisition.”
- [C] If the House of Shammai accord with the principle of R. Simeon,
then we have the following result: What are the two possibilities?
If bespeaking has effected acquisition, then nothing follows it. If
bespeaking does not effect acquisition, then how may I maintain

the position that follows: **His wife remains with him, and that other sister goes forth on the grounds of being the sister of his wife**”?

- [D] Perhaps the effect of bespeaking in the view of the House of Shammai is equivalent to the status of being subject to the levirate connection *in the view of R. Simeon. Just as rabbis there [at M. 2:1H-I] maintain that bespeaking effects acquisition, but leaves an aspect of the woman’s status in doubt, so R. Simeon says [being subject to levirate marriage] effects acquisition but leaves an aspect in doubt.*
- [E] R. Simeon says, “The fact of a levirate connection has no affect upon a woman in a case in which a levirate connection has already been present.”
- [F] So the House of Shammai say here, “The fact of a levirate connection plays no role in a case in which there already has been an act of bespeaking.” [The House of Shammai thus invoke the joined positions of Simeon and rabbis.]
- [G] *R. Yudan raised the question:* “If one betrothed a woman stipulating that it is of the present date, [5a] to take effect in thirty days, and during that period of thirty days during which the betrothal was not yet in effect, her sister fell to him as a levirate wife, even so [do we rule] that his wife remains with him, while this other sister goes forth without *halisah* as the sister of his wife?”
- [H] *They replied,* “The House of Shammai made their ruling only in a case in which there had been either a prior levirate connection to which the woman had been subject or an act of bespeaking.”
- [I] *That is in line with what R. Abbahu said in the name of R. Yohanan,* “Even the acts of betrothal of a hundred successive men take effect in this woman [subjected to the stipulated betrothal].”
- [J] *And that view does not accord with the position of the House of Shammai.* [For criticism of the printed text, which is translated here, cf. Pené Moshe.]

3:5

[A] **Three brothers,**

- [B] two of them married to two sisters,
 [C] and one of them [the third] married to an unrelated woman,
 [D] one of the husbands of the sisters died, and the brother married to the unrelated woman married his [the childless brother's] widow,
 [E] and [then] he [the brother who was married to the unrelated woman and also to the widow of his childless brother went and] died –
 [F] the first woman goes forth [without halisah or levirate marriage] as the sister of his wife, and the second on the grounds of being her co-wife [neither one therefore entering into levirate marriage or requiring a rite of halisah with the surviving brother].
 [G] [If] he bespoke her [D] and died,
 [H] the unrelated woman performs the rite of halisah but does not enter into levirate marriage.
- [I:1 A] [As to M. 2:1H-I: If the second brother had bespoken her and then died, the second wife executed the rite of halisah but does not enter into levirate marriage:] both rabbis and R. Simeon concur [in this statement, and this is now explained, since each has a separate theory of the effect of bespeaking].

- [B] As to the view of rabbis, the aspect of the woman acquired through bespeaking, its counterpart is prohibited for the cowife; and the aspect that bespeaking did not acquire, its counterpart is permitted in the co-wife. [That is, since the act of be speaking leaves an ambiguous situation, we do not know whether the co-wife is fully available for levirate marriage or fully free to marry anyone outside of the brothers.] Consequently, she performs the rite of halisah [to remove the matter of doubt], but does not enter into levirate marriage.
- [C] As to R. Simeon, [If] bespeaking effected acquisition, then both of them are prohibited, and if bespeaking did not, then the first wife is forbidden [to any but the levir], and the second wife is permitted. In a case of doubt one performs the rite of halisah and does not enter into levirate marriage.

3:6

- [A] Three brothers,
 [B] two of them married to two sisters,
 [C] and one of them married to an unrelated woman,
 [D] the one married to the unrelated woman died,
 [E] and one of the brothers married to the sisters married his wife,

[F] then he too died –

[G] the first woman goes forth on grounds of being the sister of his wife,
and the second on grounds of being the co-wife.

[H] [If] he bespoke her and then died,

[I] the unrelated woman performs the rite of halisah, and does not enter
into levirate marriage.

[I:1 A] [As to M. 3:6H] both rabbis and R. Simeon concur in this case.

3:7

[A] Three brothers,

[B] two of them married to two sisters,

[C] and one of them married to an unrelated woman,

[D] one of the husbands of the sisters died, and the one married to an
unrelated woman married his widow,

[E] and then the wife of the second brother died,

[F] and afterward the brother married to the unrelated woman died –

[G] lo, this [surviving sister] is prohibited to him for all time,

[H] since she had been prohibited to him for one moment [when her
husband died, she was forbidden to his brother, then married to
her sister, as his wife's sister].

[I:1 A] *Said R. Abina, "This is in line with that which R. Yosé said in the
name of R. Yohanan [M. 3:1], 'A case involving a prohibition of
sisters who were sisters-in-law, survivors of childless husbands, is not
similar to a case involving a prohibition of sisters who were not
sisters-in-law, survivors of childless husbands.'"*

3:8

[A] Three brothers,

[B] two of them married to two sisters,

[C] and one of them married to an unrelated woman,

[D] one of the husbands of the sisters divorced his wife,

[E] and the brother married to the unrelated woman died,

[F] and the one who divorced his wife married [the unrelated woman],
and he too died –

[G] **this is the sort of case concerning which they have stated, “And in the case of all of them who died or were divorced, their co-wives are permitted” [M. 1:1D], [for the unrelated woman taken in levirate marriage never was the co-wife of the sister of the wife of the surviving brother. The sister had been divorced before the levirate marriage to the unrelated man ever took place].**

[I:1 A] **[One of the husbands of the sisters] divorced [his wife] [M. 3:8D]:**

[B] R. Haggai in the name of R. Zeira: “It is not the end of the matter that the rule applies to a case in which he divorced his wife and afterward married [the unrelated woman, M. 3:8F]. But even if he had married her and afterward divorced his wife, [the same rule would apply. That is, if one of the men married to sisters married the woman who was an outsider and then divorced his first wife and then died, the third brother may enter into levirate marriage with the woman who is not an outsider].”

[C] *This is in line with that which we have learned: **And in the case of all of them, if they died [before the husband died, or were divorced [by the childless husband], their co- wives are permitted] [M. 1:2B].***

[I:2 A] Said R. Yudan, “Even R. Eleazar [who said that if the cause of a prohibition is removed, the prohibition remains in effect] will concur here. [When the man died, she was not a co- wife.]”

[B] Said R. Yosé, “And that is quite so. In the case of someone who had children who died, and afterward he himself died – is it possible to suppose that his wife is not subject to the levirate connection? [Surely she is. Just as in this case, the operative criterion is the situation prevailing at the moment of death, so in the present one, the same criterion applies. Accordingly,] there the rule applies [that the wife is exempt from the levirate connection] if he had children at the moment at which he died, and here [the prohibition hardly applies] if she was a co-wife only after the man’s death. [That is, at the moment at which he died, she was not a co-wife.]”

3:9

[A] **And in every case [of M. 1:1] in which the betrothal or divorce [of the deceased brother] is subject to doubt,**

[B] **lo, these co-wives perform the rite of halisah but [of course] do not enter into levirate marriage.**

[C] **What is a case of doubt concerning betrothal?**

[D] [If] he threw her a token of betrothal,

[E] it is a matter of doubt whether it landed nearer to him or nearer to her –

[F] this is a case in which there is doubt concerning betrothal.

[G] And a case of doubt concerning a writ of divorce?

[H] [If] one wrote the writ of divorce in his own hand, but there are no witnesses to attest the document,

[I] [if] there are witnesses to attest the document, but it is not dated,

[J] [if] it is dated, but it [contains the attestation of] only a single witness

–

[K] this is a case in which the divorce is subject to doubt.

[I:1 A] We do not have here a case of a writ of divorce of doubtful validity, but a fully valid writ of divorce! [We shall now have a case of a writ of doubtful validity.]

[B] What would be a matter of doubt concerning betrothal? **If he threw her a token of betrothal – it is a matter of doubt whether it landed nearer to him or nearer to her – this is a case in which there is doubt concerning betrothal [M. 3:9F].**

[C] [Along these same lines,] If he threw her a writ of divorce – it is a matter of doubt whether it landed nearer to her or nearer to him – this would be a case in which there is doubt concerning a writ of divorce.

[D] R. Yohanan in the name of R. Halapta of Hawah, “And in all cases [listed at M. Git. 9:3D-F], if she remarried on the strength of the writ, she should not go forth, so as not to call into question the genealogical status of her children [by the second marriage].”

[E] [If one’s daughter was married to his brother, and the brother issued a writ of divorce under the conditions listed at M. Git. 9:3D-F, and if] his daughter [the brother’s wife] remarried [anyone in the] market with such a writ of divorce, she should not go forth. This produces the result that her co-wife remains subject to levirate marriage with her father [should the brother, her husband, have died childless]. [Since at the time of the brother’s death, the man’s daughter no longer was married to the brother, the co-wife may now enter into levirate marriage with the father.]

[F] If her co-wife [in the conditions specified at E] remarries on the strength of such a writ of divorce [given to the other wife, that is, the husband’s niece], she should go forth. [That is, if the deceased, who was uncle of his wife, has issued such a writ of divorce to the

wife who was his niece, hence daughter of the levir, and her co-wife remarried, assuming that such a writ of divorce was not valid and therefore that she was free to marry anyone else, since her co-wife was prohibited to marry the levir, the co-wife's father, in line with M. Yeb. 1:1, then the co-wife should go forth. Why? Her co-wife, daughter of the levir, in fact had been properly divorced. Consequently, she herself is subject to marriage with the levir. This simply states a second time what E has already said.]

[G] If his daughter married his brother on the strength of a writ of divorce of such a character, she [too] should go forth. [Now we refer to yet another brother, who has entered into levirate marriage with the daughter. In fact this girl was one whom his brother had properly divorced. Consequently he may not marry her. She goes forth.]

[H] If her co-wife married his brother on the strength of such a writ of divorce, even if it was to her father, she should not go forth. [The reason is the same as already established. There is yet another brother. He has entered into levirate marriage with the cowife. We do not maintain that, since the daughter married the second brother, this woman was not subject to levirate marriage. On the contrary, the writ of divorce issued to the daughter was valid. This co-wife then is subject to levirate marriage. The marriage is valid.]

[II:1 A] **[If one wrote the writ of divorce in his own hand, but there are no witnesses to attest the document, [if] there are witnesses to attest the document, but it is not dated, [if] it is dated, but it [contains the attestation of] only a single witness – this is a case in which the divorce is subject to doubt:]** *It was taught:* On the strength of these three sorts of writs [H-J], one may collect [funds owed, e.g., in settlement of a marriage contract] from unindentured property, but one may not collect from indentured property [as would be the case if the writ were wholly valid].

[B] *Said R. Ba, “That which you have stated applies in a case in which the deed was not confirmed as is in the hand of the creditor. [That is, the debtor does not confirm that it is a valid deed.] But if the deed was confirmed as is in the hand of the creditor, [so that the debtor agrees that the debt is valid], one may collect [from indentured property].”*

[C] *R. Yosé raised the question, “If the deed was not confirmed as is in the hand of the creditor, then the creditor should not collect even from unindentured property. But we must interpret the rule to apply to a case in which the deed was confirmed as is in the hand of the creditor.”*

[D] In that case, why may collection not be effected [from indentured property]?

[E] Said R. Bisna, “It is on account of possible conspiracy [in which the debtor will sell his property to a third party, and then the creditor will take it back from the party]. [Consequently, the third party will have been defrauded.]”

[F] Said R. Abun, “It is because, in fact, it is an invalid writ. Up to this point we have dealt with a case in which the elder borrowed money, and the elder also indentured his property. But if the elder had borrowed money, while the son and heir indentured the property, do you have the possibility to maintain that collection cannot be effected because of a possible conspiracy? No. It is because the writ in fact is invalid. And here too it is because the writ in fact is invalid.”

[G] Said R. Abun, “And lo, *it has been taught*: ‘Also with regard to the writs of divorce issued to women the law is the same.’ *Under such circumstances can you say that* it is because of a possible conspiracy? No. It is because the writ itself is invalid. Here too the writ itself is invalid.”

3:10

[A] Three brothers married to three unrelated women,

[B] and one of the men died,

[C] and the second brother bespoke her [the widow of his brother],

[D] and then he too died –

[E] lo, these perform the rite of halisah and do not enter into levirate marriage,

[F] since it is said, “And one of them diesÉher brother-in-law will come unto her” (Deut. 25:5),

[G] [referring to] the one who is subject to the levirate power of a single brother-in-law, and nor the one who is subject to the levirate power of two brothers-in-law.

[H] R. Simeon says, “The surviving brother takes in levirate marriage whichever one he wants and performs the rite of halisah with the second woman.”

[I:1 A] Now a woman awaiting levirate marriage who came before any number of levirs – is it possible that she does not enter into levirate marriage? [Surely not. So what is the point here?]

- [I:2 A] *R. Hiyya taught*, “The wife of one [deceased childless brother] enters into levirate marriage, and the wife of two deceased [childless brothers] does not [enter into levirate marriage].” *There is no difficulty in understanding why* one performs the rite of *halisah* with the woman who had been bespoken, [for] the one who is subject to the levirate power of a single brother-in-law enters into levirate marriage, and not the one who is subject to the levirate power of two brothers-in-law. But as to the second wife [who is subject to levirate marriage only by reason of her deceased childless spouse alone, and not because of a prior marriage or levirate relationship] – why should she not enter into levirate marriage?
- [B] Said R. Eleazar, “The rule here follows the theory of R. Meir. For R. Meir said, ‘Any woman whom you do not take into levirate marriage – you also do not enter into levirate marriage with her co-wife.’”
- [C] Said R. Yohanan, “If R. Eleazar made that statement, it was from me that he heard it and cited it.”
- [D] *Said R. Yosé*, “*The Mishnah itself has made the same point: A boy nine years and one day old who had sexual relations with his childless brother’s widow, and when he grew up, he married another wife, and then died – if he did not have sexual relations with the first from the time that he reached maturity, the first performs the rite of halisah and does not enter into levirate marriage. The second either performs the rite of halisah or enters into levirate marriage [M. 10:8].* [The act of sexual relations of a minor is equivalent in effect to an act of bespeaking. The sister-in-law taken by the boy prior to maturity then is subject to two levirs, the now-deceased boy, and the surviving brother as well. She therefore performs the rite of *halisah* and does not enter into levirate marriage, just as is the case here.]”
- [E] [Now once we bring these two cases, M. 10:8 and M. 3:10, into the relationship, we immediately notice this difference:] Here you say that the second wife performs the rite of *halisah* only [at M. 3:10E] and there you say that she may enter into levirate marriage [at M. 10:9].
- [F] Here, where you say that the second wife performs the rite of *halisah* only, it is R. Meir and R. Simeon in dispute, [with Meir the authority behind the anonymous rule], while there [at M. 10:9, where, in fact, Simeon is cited], when we maintain that the second wife may enter into levirate marriage, it is rabbis vis-[^]-vis R.

Simeon [who are in dispute, and Meir is not at hand at all in that statement].

[G] R. Abun, R. Bisna in the name of R. Aha: “And [when rabbis vis-[^]-vis Meir permit the second wife to enter into levirate marriage], it is only in a case in which the levir enters into levirate marriage [with the one he chooses], and only then performs the rite of *halisah* with the other. But if he should perform the rite of *halisah* first, it is forbidden then to enter into levirate marriage, lest the bespeaking have had the effect of actually making acquisition of the woman, in which case her co-wife is exempted from the requirement of levirate marriage by the rite of *halisah* of the first woman, [and any further union is forbidden].”

3:11

[A] Two brothers married to two sisters,

[B] and one of them died,

[C] and afterward the wife of the second died –

[D] lo, this one [surviving sister] is prohibited to him for all time, since she was prohibited to him for a single moment [as his wife's sister].

[I:1 A] Said R. Abina, “This is in line with that which R. Hela, R. Yosa in the name of R. Yohanan [said], ‘A prohibition of two sisters who are levirate widows is not the same as the prohibition affecting two sisters who are not levirate widows.’”

3:12

[A] Two men who betrothed two women,

[B] and at the time of their entry into the marriage canopy, the two women [inadvertently] were exchanged for one another –

[C] lo, these men are liable for (1) having sexual relations with a married woman [namely, the betrothed of the other].

[D] [If in addition] they were brothers, they are liable (2) on the count of having sexual relations with the wife of the brother.

[E] And if the women [in addition] were sisters, they are liable for (3) having sexual relations with a woman and her sister.

[F] And if [at the time of sexual relations] they [in addition] were in their menstrual period, the men are liable for (4) having sexual relations with a menstruating woman.

[G] And they set them apart for three months,

[H] lest they be pregnant.

[I] And if they were minors not yet fit to give birth, they are forthwith restored [to their proper husbands].

[J] And if they were daughters of priests, they are invalid for eating heave-offering.

[I:1 A] If one of the brothers had sexual relations with the second woman as well, he is liable on two counts, first, on the count of her *being* the wife of his brother, and second, on the count of having relations with both a woman and her sister.

[I:2 A] [With reference to M. 3:12A-F] *R. Hiyya taught [in the Tosefta's version]:*

[B] lo, these [four parties in all] are liable for sixteen sin-offerings:

[C] (1) on the count of being brothers, and (2) on the count of being sisters, and (3) on the count of having intercourse with menstruating women, and (4) on account of intercourse with a married woman.

[D] If they are not brothers [C.1], they are liable for twelve sin-offerings.

[E] If they are not sisters [C.2], they are liable for eight.

[F] If they are not menstruating [C.3], they are liable for four.

[G] [If] the men were adult and the girls were minor, they are liable only for two.

[H] [If] the women were adult and the males minors, the women are liable for two [the women alone are liable..

[I] If the father had married them off, they are liable for eight [T. Yeb. 5:9].

[J] [If] one of them was adult and the other male was a minor, the one who is subject to sexual relations with the minor is liable, for she is the wife of the adult.

[K] But the one who has sexual relations with the adult is exempt, for she is the wife of the minor [T. Yeb. 5:10].

[II:1 A] [With reference to M. 3:10G], R. Ba in the name of R. Jeremiah: "A woman who has been raped does not have to wait for three months."

[B] *And lo, we have learned: **And they set them apart for three months, lest they be pregnant. If they were not yet fit to give birth, they are forthwith restored to their proper husbands [M. 3:10I].***

[C] *The case here is different, because of the well-being of the offspring.*

[III:1 A] **If they were daughters of priests, they are invalid for eating heave-offering [M. 3:10J:]**

[B] R. Yosé said, “That is to say that being raped invalidates a girl from marrying a member of the priestly caste as much as [adultery in the case of] a married woman [requires separation from her husband].”

YERUSHALMI YEBAMOT

CHAPTER FOUR

4:1

[A] [5b] He who undergoes the rite of halisah with his childless brother's widow,

[B] and it turns out that she is pregnant, and she gives birth –

[C] when the offspring is timely [and not premature],

[D] [the levir] is permitted to marry her relatives, and she is permitted to marry his relatives,

[E] and he has not invalidated her from marrying into the priesthood.

[F] [If] the offspring is not timely,

[G] he is prohibited from marrying her relatives, and she is prohibited from marrying his relatives,

[H] and he has invalidated her from marrying into the priesthood.

[I:1 A] [Since M. 4:1B states, **It turns out that she is pregnant**, we draw the clear conclusion that] the rule applies after the fact. But to begin with [if it is known that the widow is pregnant,] it is not [permitted to perform the rite of *halisah*, until it is known that the rite is required].

[B] *This view accords with the following statement of the Mishnah: A childless brother's widow should not perform the rite of halisah or enter into levirate marriage until three months have gone by [after the childless husband's death] [M. 4:10A].*

[C] But why should the widow not perform the rite of halisah forthwith? For what difference does it make? If the foetus is viable, then the rite of halisah has not affected the woman. If the foetus is not viable, then lo, the woman's rite of halisah is already within her domain, [and she should not be required to obtain the rite after delay].

[D] [Since, we recall, a woman who has performed a valid rite of halisah, like a divorcée, is not permitted to marry into the priesthood], R. Zeira, R. Hiyya in the name of R. Bun in the name of R. Yohanan [said,] “It is so that the woman will not require a court’s] declaration [that she is valid for marriage into the priesthood, if the offspring is viable and so has nullified the effect of the rite of halisah].”

[E] R. Ba, R. Jacob bar Idi in the name of R. Hoshaiiah: “It is so that the woman will not require a [court’s] declaration [that she is valid for marriage into the priesthood].”

[F] [*Providing a different reason*] *it has been taught by R. Hoshaiiah,* “‘My husband’s brother refuses to perpetuate his brother’s name in Israel’ (Deut. 25:7) – To the one to whom they say, ‘Let him enter into levirate marriage,’ they may also say, ‘Perform the rite of halisah,’ and to the one to whom they do not say, ‘Let him enter into levirate marriage,’ they do not say, ‘Perform the rite of halisah. ‘ [Any woman who cannot enter into levirate marriage also is not permitted to perform the rite of halisah, and, in line with the current theory, the widow surely cannot enter into levirate marriage without knowing that her husband indeed has died childless.]”

[G] *What is the practical difference between these two reasons [for the widow’s waiting for three months after the husband’s death]?*

[H] It would be the case of a woman who had been valid for marriage into the priesthood but had become profaned [and so unfit to marry a priest], for example, a widow married to a high priest or a divorcée or a woman who had performed the rite of halisah married to an ordinary priest.

[I] *He who said that the reason is that* the woman should not be made to require a [court’s] declaration [that she is valid for marriage into the priesthood will say that] [Sc] since, in this case, in any event this woman is unfit for marriage into the priesthood, she may perform the rite of halisah forthwith.

[J] *He who said that the reason is that* it is only to the one to whom the court may say, “Let him enter into levirate marriage,” that the court says, “Let him perform the rite of halisah,” [in any event will prohibit the rite of halisah prior to the established time even in the present case].

[I:2 A] If a widow performed the rite of halisah during the three-month period after her husband’s death, what is the law as to her having to do so once again after the three months have gone by?

[B] *Let us derive the answer from the following: A minor girl who performed the rite of halisah should perform the rite of halisah again when she grows up. If she did not perform the rite of halisah later on, however, her original performance of halisah is valid [M. Yeb. 12:SE-F].*

[C] *R. Mana stated this tradition without further specification [of the name of the authority behind it].*

[D] *R. Isaac b. R. Hiyya passed on the statement in the name of R. Yohanan: "It represents the opinion of R. Meir. For R. Meir said, 'They do not perform the rite of halisah or permit the formation of a levirate marriage with a minor girl, lest she turn out to be barren [so the entire process will have been null].'"*

[E] *[Answering the question of A:] Just as you say there, even though she has performed the rite of halisah as a minor, she must perform the rite again once she reaches maturity, so you say here, even though the woman has performed the rite of halisah [during the three-month waiting period], she must perform the rite of halisah once again [afterward]. [But after the fact the original act stands.]*

[I:3 A] *R. Yudan raised the question: "If the levir has performed the rite of halisah with the widow when she was pregnant, and then she suffered a miscarriage [so that it is clear that the rite will have been required], [what is the law as to her having to repeat the rite again]?"*

[B] *Let us derive the answer from the following: Lo, if the husband died and left his wife pregnant, is it possible to suppose that she should be subject to the levir? Scripture says, "So that his name may not be blotted out of Israel" (Deut. 25:6). He whose name may be blotted out [is specified, so] excluding this one, whose name has not been blotted out.*

[C] *Is it possible [on the other hand] to suppose that the wife may remarry forthwith? Scripture says, "To perpetuate his brother's name in Israel" (Deut. 25:6), [thus requiring that the woman wait] until you know whether or not the foetus is viable.*

[D] *Is it possible to suppose that even the wife of a eunuch should have to enter into levirate marriage?*

[E] *Scripture says, "So that his name may not be blotted out of Israel" (Deut. 25:6), thus excluding this one, whose name is blotted out [anyhow].*

- [F] Is it possible to maintain that her co-wife should be permitted to remarry forthwith?
- [G] **He who enters into levirate marriage with his childless brother's widow and it turns out that she is pregnant [M. 4:2A-B]** – Just as you have said that her co-wife should not remarry before she knows on what grounds she is permitted to do so, whether it is on grounds that the other widow is pregnant or on grounds that she has had sexual relations with the levir, so here too in the case of the rite of halisah the rule is the same. The rite of halisah leaves the co-wife exempt, and sexual relations [by the levir with the other widow] does the same. Just as you rule in regard to the latter, so you must rule in regard to the former.
- [I:4 A] Samuel said, “They acquire title on behalf of a foetus.”
- [B] R. Eleazar said, “They do not acquire title on behalf of a foetus.”
- [C] Said R. Yosé, “Even though Samuel has said that they acquire title on behalf of a foetus, he concurs that that is the case only when the head and the greater part of the body of the foetus have emerged alive.”
- [D] *That is in line with the following passage of the Mishnah: **He who undergoes the rite of halisah with his childless brother's widow, and it turns out that she is pregnant and she gives birth [M. 4:1A-B]:** Just as you have said here that retroactively the rite of halisah has not affected the levirate widow [so that she is permitted to marry the relative of the levir], so here too retroactively the foetus effects acquisition [of that the possession of which had been effected on his behalf].”*
- [E] *There we have learned: **He who says, “If my wife bears a male, he will get a maneh,” if she bore a male, he gets a maneh. If he said, “If she bears a female, she will get two hundred zuz,” if she bore a female, she gets two hundred zuz [M. B.B. 9:2D-G].***
- [F] R. Eleazar said, “The law has stated only with reference to his son. Lo, in the case of any other party, it is not the same. [One may not effect possession on behalf of a foetus other than that of his own wife.]”
- [G] R. Yosé said, “Even another [foetus may be given ownership of property].”
- [H] *In the view of R. Eleazar this is permitted only in the case of a dying man [who may effect possession on behalf of his foetus],*

but in the case of a healthy man, that is not the case; and it further applies solely to movables, but not to real estate.

[I] *The following Tannaitic teaching is at variance with the opinion of R. Eleazar: A proselyte who died, and the property of whom Israelites plundered [on the assumption that he had no legal heir], and it became known that he had a son overseas, or that his wife was pregnant – all of them are liable to return the property. [Accordingly, they impute possession to a foetus.]*

[J] *How does R. Eleazar interpret this case?*

[K] *This case is different, for it is his son.*

[L] *The latter part of the cited teaching stands at variance with the position of Samuel as interpreted by R. Yosé: If they returned the property, and afterward the son died or the wife aborted, he who holds the property at the last has gained the rightful ownership of it. Lo, at the outset [the one who took the property at the outset has] not [acquired ownership of it]. Now even if he took the property at the outset, he should acquire ownership of it, for has not R. Yosé said, “Even though Samuel has said, ‘They acquire title on behalf of a foetus,’ he concurs that that is the case only if the head and greater part of the body have come forth alive. But here the foetus [of the proselyte] was not viable [and yet ownership was imputed to him at the outset].”*

[M] Said R. Isaac bar Eleazar, “It is because of despair [that the original grabber lost the right of keeping the property. The one who held the property at the outset took for granted that he would not then get to keep it because of the foetus, so he despaired and thus gave up his right to it].”

[N] Rabbis of Caesarea, R. Hiyya bar Va in the name of R. Abba bar Nathan: “R. Eleazar retracted his ruling [when he said that only the father may acquire title on behalf of the foetus, but not a third party]. *It was on the basis of the statement of the Mishnah: **If she bears a male, he will get a maneh. If she bears a female, she will get two hundred zuz.** Now can a female collect? [She does not inherit anything from the father’s estate.] Hence she is to be regarded as having received this gift from a third party [not from the father, who, vis-^{^-}vis the female, is a third party].”*

[O] *Bar Qappara taught*, “As to a child one day old, they acquire title on his behalf.”

4:2

[A] **He who marries [enters into levirate marriage with] his childless brother’s widow,**

[B] **and if turns out that she is pregnant, and she gives birth –**

[C] **when the offspring is timely,**

[D] **he must put her away, and they [both man and woman] are liable for a sacrifice.**

[E] **[If] the offspring is not timely,**

[F] **he may confirm [the marriage].**

[G] **[If] it is a matter of doubt whether the offspring is born at nine months, therefore assigned to the first husband, or born at seven months, therefore assigned to the second,**

[H] **he must put her away.**

[I] **But the offspring is valid.**

[J] **And both of them are liable for a suspensive guilt-offering.**

[I:1 A] Said R. Yosé, “In any case in which it is possible for you to ascertain what certainly has happened, they are not liable on account of doubt to bring a suspensive guilt-offering. [Rather, one waits until it is possible to clarify precisely what has happened, and if one is actually guilty, *he* brings a sin-offering. The alternative may be to bring unconsecrated beasts to the courtyard of the Temple, for if no sin has been committed, then these beasts in fact do not serve a sacred purpose and are unconsecrated.]”

[B] *What would be a practical case illustrative of this view?*

[C] If there were before a man two olive’s bulks of fat, one of prohibited fat and the other of permitted fat, and one ate one of them and the other was left in a box, then he may say, “Since if I find the key to the box, I shall be able to ascertain the facts of the matter, [I shall wait and find the key, and not bring a suspensive guilt-offering].”

[D] What is the law as to bringing a suspensive guilt-offering on account of the doubt affecting him?

[E] *Let us derive the answer from the following:* **He who marries his childless brother’s widow and she turns out to be pregnant [M. 4:2A-B]:** Now before it is known whether or not it is a viable

foetus, one should be able to bring a suspensive guilt-offering. [But the Mishnah does not specify that alternative.] That indicates that one may not bring a suspensive guilt-offering [but rather must wait until the matter clarifies itself].

[F] Rab said, “In any case in which it is possible for one to ascertain what certainly has happened, [people] must bring a suspensive guilt-offering on account of doubt [which prevails in the interim] [otherwise they do not bring that offering].”

[G] *What would be a practical case illustrative of this view?*

[H] If there were before a man two pieces of fat of the bulk of an olive, one of forbidden fat and the other permitted, and one ate one of them, and then a raven came and snatched up and ate the second, since, in this case, one certainly cannot ascertain what actually has happened, one is not liable to a suspensive guilt-offering on account of the doubt in such a case. But if a raven first ate one piece of fat, and then the man ate the other, since he can ascertain what actually has happened, in such a case they are liable to bring a suspensive guilt-offering on account of the doubt.

[I] Did not Rab state, “And that is the case when before the man there actually is clear evidence of the character of the fat. [That is, there must be evidence of the character of both pieces of fat. But if there is only a single piece of fat, and we do not know its character, it is not possible to ascertain what actually has happened.]”

[J] *Even though Rab has said*, “And that is the case when before the man will be clear evidence of the character of the fat,” here he concedes that one most certainly can ascertain the facts of the matter [for when he ate the fat, it was one or the other of the two pieces of fat].

[K] *The following Tannaitic teaching stands at variance with Rab’s view* [because in what follows it is not possible to ascertain the facts of the matter, that is, whether the animal under discussion is a domesticated beast or falls into the taxon of a wild beast, and yet, if one has eaten its fat, he will be liable to a suspensive guilt-offering]: As to a *koy* – R. Eleazar says, “They are liable for eating its fat to bring a suspensive guilt-offering [for the reason stated at M].”

[L] *How does Rab deal with this matter?*

[M] He interprets it as a case in which others differ from the opinion of R. Eleazar [and he concurs with the others].

[N] *The following passage of the Mishnah stands at variance with the stated theory of Rab: A piece of meat of unconsecrated status, and a piece of meat consisting of Holy Things – if one are one of them, and it is not known which of them he ate, he brings a suspensive guilt-offering. If he ate the second, he brings a sin-offering and an unconditional guilt-offering. If he ate the first, and s(someone else came along and ate the second, this one brings a suspensive guilt-offering and that one brings a suspensive guilt-offering [M. Ker. 5:6A-F]. Now there is no problem as to understanding why the first one should bring a suspensive guilt-offering. But why should the second have to do so? [Within Rab's theory there is no possibility of ascertaining what actually has happened.]*

[O] Said R. Yosé, “Interpret the rule to speak of a case in which the piece was large, and the second party ate half of it and left half of it [and so it is possible to clarify its character].”

[P] *The following passage differs from the position of Rab: If it is a matter of doubt whether the offspring is born at nine months, therefore assigned to the first husband, or born at seven months, therefore assigned to the second, he must put her away. But the offspring is valid. And both of them are liable for a suspensive guilt-offering [M. 4:2H].* Lo, here in this case is it possible for you to ascertain the facts of the matter? [Surely not.] And yet they are liable on account of a case of doubt to a suspensive guilt-offering!

[Q] Said R. Yosé, “R. Zeira answered this question before R. Hiyya bar Va. R. Hezekiah, R. Hiyya bar Ba interpreted it before R. Zeorah in our presence. [One or the other of the foregoing authorities gave the following explanation:] Since the levir may [effect acquisition of the woman merely by] beginning the act of sexual relations and then performing coitus interruptus, hence it is possible to know whether the foetus is from him or

from someone else, so it is in some measure a case in which it is possible to ascertain the facts of the matter.”

- [II:1 A] [As to M. 4:2H: **If it is a matter of doubt whether the offspring is born at nine months, therefore assigned to the first husband, or born at seven months, therefore assigned to the second, he must put her away. But the offspring is valid. And both of them are liable for a suspensive guilt-offering**], *how shall we interpret the case?* If we deal with a case in which the levir had sexual relations with the widow right after the death of the husband, and the pregnancy came into evidence after two months, then the Mishnah should be formulated to read: Whether it is born at nine months, therefore is assigned to this one, or at nine months, therefore is assigned to that one, or whether it is born at seven months, therefore is assigned to this one, or at seven months, therefore is assigned to that one.
- [B] *But thus must we interpret the case:* It involves a levir who had sexual relations two months after the death of the husband, and the pregnancy became evident at three months [after the act of sexual relations, but we still are not certain as to the paternity].
- [C] *In that case, the Mishnah should teach that* the levirate widow should not perform the rite of *halisah* or enter into levirate marriage until five months have passed.
- [D] *But thus must we interpret the case:* We deal with a levir who has had sexual relations forty days after the death of the his band, and the pregnancy became evident fifty days later [which thus constitute not quite two months after the sexual relationship with the levir, but three months after the sexual relationship with the now deceased husband]. In such a case we have three complete months for the first husband, and three truncated months for the second. [Within the fifty days may be thirty of the middle month, ten of the first, ten of the third.]
- [E] *That would imply that* a woman may give birth in truncated months.
- [F] *You may further derive the fact that* there are two points of formation of the foetus: [the first, the formation of the offspring in the collection of sperm, within three days, and the second, the completion of the formation of the offspring at the end of forty days].
- [G] *You may further derive that* a woman does not become pregnant and go and become pregnant again [prior to delivering the first foetus].

[H] *You may further derive that a woman cannot become pregnant from two different men simultaneously.*

[I] *Now this view differs from that of rabbis of the field of biblical lore, for rabbis of the field of biblical lore say, “Behold the champion, the Philistine of Gath, Goliath by name, came up out of the ranks of the Philistines’ (1 Sam. 17:23). [The written form of the word “ranks” adds up in numerical values of its letters to one hundred, and this is understood to mean that the strength of Goliath derived from the fact that] he was the son of a hundred different fathers, who had had sexual relations with his mother.”*

[J] *Said R. Mattenaiah, “They do not in fact differ. Before the semen [5d] putrefies, a woman may become pregnant from two men simultaneously. But once the semen putrefies, a woman cannot become pregnant from two men simultaneously.”*

[K] *How do we know that there are two points of formation for a foetus?*

[L] *R. Zeira in the name of R. Huna: “Then the Lord God formed man of dust’ (Gen. 2:7). [The word ‘formed’ is spelled with two yods, indicating that there are two different points at which the foetus is formed,] one formation at seven, the other at nine.”*

[M] *If the formation takes place at seven, and birth at eight, the offspring will live, and all the more so if it is born at nine.*

[N] *If it is formed at nine and born at eight, it will not live.*

[O] *If it is formed at nine and born at seven, one may argue as follows: If it is born at eight and does not live, all the more so at seven [will it not live].*

[P] *They asked before R. Abbahu, “How do we know that the child born at seven months will live?”*

[Q] *He said to them, “I shall answer you by referring to your own usage. You say, ‘At seven he will live, at eight he will die.’”*

[II:2 A] *If the child subject to doubt [of M. 4:2H] comes to collect his share in the estate of his father, they say to him, “That one [the levir] is your father.” If the levir comes to take a share in the estate of his brother, they say to him, “This is the son [who may or may not be the son of the*

deceased. You have no claim on this estate, which passes to the son.]”
Then what do they do? They make a compromise among themselves and divide up the estate of the deceased.

- [B] Consequently, peace among the brothers [a compromise between the levir and the son who may be his deceased brother’s son] is a loss to the brother [and the succeeding sons, who will inherit only one half of the estate].
- [C] If there is contention among the brothers, it is a benefit to the brothers [who will succeed later on].

[II:3 A] If the father of the deceased childless brother died, and the levir and the child whose status is subject to doubt come to share in the estate [with the latter claiming to be the heir of the deceased childless son of the deceased grandfather], then there are among the sons those who are certainly heirs [namely, the surviving brothers, sons of the deceased father] and the son whose status is subject to doubt, [and this latter one cannot collect, since he cannot show for sure that he is the son and heir of the deceased son, for he may be the son of the levir].

- [B] If the child subject to doubt died, [and the heirs of the child on his father’s side and those on his mother’s side wish to participate in the division of his estate, since we do not know for sure which one is his father, the heirs on his mother’s side wish to take the estate] – in this case, there is the claim of the son[s] of the brother of his father whose claim is one of certainty [inheriting either if he is son of the levir, so he is their brother, or if he is son of the deceased, so he is the son of the brother of their father], while the heirs of the mother lay a claim which is subject to doubt.
- [C] If one of the brothers died, lo, we have the claim of a brother, which is a status beyond doubt, and that of the son of a brother, which claim is subject to doubt.
- [D] If the mother of the child subject to doubt died, lo, there is the claim of her son, which is beyond doubt, and her husband, which is subject to doubt, [since we do not know whether or not the levir was legally her husband, while we know that the child was certainly hers, so he inherits her property].
- [E] If the child subject to doubt died, and afterward his mother died, lo, we have here the claim of the son of the brother of his mother, which is beyond doubt, and the claim of the husband, which is subject to doubt. [The mother’s property is retained in her family, there being no

conduit to the family of her husband, the levir, since the levir's son has died before she did.]

[F] If the levir died, and the child subject to doubt came to claim his share in the estate of his father, if the first party to die [the original father, who may or may not have had this son as his own,] was poor, they say to him, "He was your father."

[G] If he was rich, they say to him, "All of us are brothers, sons of brothers. Come and let us inherit the share of our father and the share of the brother of our father."

[II:4 A] *It has been taught: The first of two such offspring is suitable to be made high priest, but the second is deemed a mamzer by reason of doubt. R. Eliezer b. Jacob says, "The second is not a mamzer by reason of doubt" [T. Yeb. 6:2-J].*

[B] R. Eliezer b. Jacob concurs in the case of a child who may or may not be a Samaritan, or who may or may not be of impaired priestly stock; [these are treated as equivalent to others in doubt].

[C] *This is in line with that which we have learned there: Ten castes came up from Babylonia [M. Qid. 4:1A] [including silenced ones, foundlings, and mamzers as separate castes].*

[D] *In the opinion of R. Eliezer b. Jacob, they are eight [treating those three as one]. In the opinion of Rabban Gamaliel and R. Eliezer they are nine [since the silenced ones are not in their view a separate caste]. In the opinion of rabbis they are ten [= M. Qid. 4:1A].*

4:3

[A] **A woman awaiting levirate marriage who received property –**

[B] **the House of Shammai and the House of Hillel concur that she sells or gives away the property [that she has received], and the transaction is confirmed.**

[C] **[If] she died, what do they do with her marriage contract and with the property that comes in and goes out with her [i.e., melog property]?**

[D] **The House of Shammai say, "The heirs of the [levirate] husband and the heirs of [the woman's] father divide it."**

[E] **And the House of Hillel say, "The property remains in the possession of those who have a presumptive claim to it:**

- [F] **“The marriage contract is subject to the presumptive claim of the heirs of the husband.**
- [G] **“The property that comes in and goes out with her is subject to the presumptive claim of the heirs of the father.”**
- [I:1 A] *Here [at M. 4:3A] you say that she sells or gives away her property, and the transaction is valid.*
- [B] If she died, how should they dispose of her marriage contract? *And here you say, “Let the heirs of the husband divide it up with the heirs of the father [of the woman].”* [So far as the House of Shammai is concerned, what is the difference in this latter case, that the property does not remain fully in the domain of the woman or her heirs, as in the former instance?]
- [C] Said R. Yosé b. Haninah, “[There is a distinction to be made.] *In the case in which you have said, ‘She sells or gives away her property, and the transaction is valid,’ it involves property that came to her before she entered the status of a woman awaiting levirate marriage. And here, where you say, ‘Let the heirs of the husband divide it up with the heirs of the father of the woman,’ we deal with property that came to her after she had entered the status of a woman awaiting levirate marriage.”*
- [I:2 A] If the property came to her before she entered the status of a woman awaiting levirate marriage, and the property produced usufruct after she had entered the status of a woman awaiting levirate marriage – it is treated as if it had come to her after she had entered that status. [We follow the criterion of the point at which the produce came into existence.]
- [I:3 A] *Said R. Zeira, “As to the levir of the present case, it is a problem for the House of Shammai, since they are not certain whether or not he is regarded as equivalent to the husband or not equivalent to the husband. If he is in the status of the husband, he inherits the whole estate. If he is not in the status of the husband, he should inherit nothing. On account of this doubt, let the heirs of the husband divide it up with the heirs of the father of the woman.*
- [B] “To the House of Hillel it is self-evident that he is in the status of the husband and inherits everything.”
- [C] [As to the property that comes into the marriage with her and goes out of the marriage with her, that remains in the domain of the heirs of the father], because even the levir’s brother would have no right to such property beyond the [mere] usufruct alone.

- [I:4 A] *R. Hoshaiiah taught: “The heirs [of the woman] who inherit her marriage settlement are liable to bury her when she dies. [This applies to the levir, who inherits her marriage settlement.]”*
- [B] *Said R. Yosé, “If R. Hoshaiiah had not taught that law, it would have been a problem for us. Since she has no marriage contract, she also should have no rights of burial [from the levir or his heirs].”*
- [C] *But here is a problem: If a woman has not got a marriage settlement, is it possible that she has no rights of burial? [The cost of burying her is an obligation even though she has no other rights.]*
- [D] A woman, even though she has no marriage settlement, most certainly does enjoy rights of burial.
- [E] But in the present case, if she has a marriage settlement, she enjoys rights of burial, and if she does not have a marriage settlement, she does not enjoy rights of burial. [The case of the levir is special, since he may claim that he inherits the marriage settlement from the brother, not from the levirate wife, and, consequently, he does not bear responsibility for burying her.]

4:4

- [A] **[If] he married her, lo, she is deemed to be in the status of his wife for every purpose,**
- [B] **but in this matter only: [the charge of] her marriage contract [falls] onto the property of her first husband.**
- [I:1 A] **[He who died and left his wife awaiting marriage with her deceased childless husband’s brother, even if he left an estate worth a hundred manehs and the charge of her marriage contract is only a maneh, the heirs cannot sell his estate, for an of his property is encumbered for the payment of her marriage contract (cf. M. Ket. 8:8)]. What should the heirs do?**
- [B] **He should consummate the marriage, then divorce her, and she gives him a quittance for her marriage contract [T. Ket. 9:1A-F].**
- [C] *Said R. Yosé, “The Tannaitic teaching is to be interpreted as dealing with two separate cases: Either he consummates the marriage and divorces her, or she gives him a quittance for her marriage contract.”*
- [I:2 A] **R. Zeira in the name of R. Hamnuna, “If he married her and divorced her and then remarried her, if he prepared a new marriage contract for her, then the settlement of that marriage contract falls**

upon his property. But if not, her marriage contract remains incumbent on the estate of her first husband.”

[B] [*Maintaining that this point is not new,*] R. Yosé said in the name of R. Hisda, “*The Mishnah has made that same point: He who divorces his wife and then remarries her – on the strength of the original marriage contract does he remarry her [M. Ket. 9:9N-O].* At the end: He should consummate the marriage, then divorce her and remarry her:

[C] [*Zeira*] *intended to present us with a more substantial point than that, namely,* even if he married her, divorced her, and then remarried her, if he prepared a new marriage contract for her, then the settlement of that marriage contract falls upon his property. But if not, her marriage contract remains incumbent on the estate of her first husband.

[D] R. Zeorah in the name of R. Hamnuna said, “A betrothed woman who died has no claim on a marriage settlement [e.g., for burial costs, against the husband]. [For this is not similar to a case in which she was divorced, for in this case] she has not been permitted to remarry in the marketplace. The rule is stated so that you should not say that it is a case parallel to one in which she was divorced, so that she should have a right to a marriage contract. On that account it is necessary to say, “She has no claim on a marriage contract.”

4:5

[A] **It is the duty of the oldest surviving brother to enter into levirate marriage.**

[B] **[If] he did not want to do so, they pass in turn to all the other brothers.**

[C] **[If] they [all] did not want to do so, they go back to the oldest and say to him, “Yours is the duty! Either undergo the rite of halisah or enter into levirate marriage.”**

4:6

[A] **[If the levir proposed to] suspend [his decision, waiting] for a youngster to grow up, or for an adult to come from overseas, or for a deaf-mute or an idiot [to recover sound or sense],**

[B] they do not listen to him.

[C] But they say to him: “Yours is the duty. Either undergo the rite of halisah or enter into levirate marriage.”

4:7

[A] He who undergoes a rite of halisah with his childless brother’s widow, lo, he is deemed as one with the brothers for inheritance [of the deceased brother’s estate].

[B] And if there is a father [of the deceased brother] there [to share in the inheritance],

[C] the property reverts to the father.

[D] He who marries his childless brother’s widow acquires the estate of his brother.

[E] R. Judah says, “One way or the other: ‘If the father is there, the property reverts to the father.’”

[I:1 A] [It is obvious that, as at M. 4:7A, the brother who has performed merely the rite of *halisah* in no way is differentiated from the other brothers. The reason the Mishnah states this fact is] so that you should not say, Just as the result of the rite of halisah is to free [the widow and her co-wives from further levirate ties] and the result of the levirate marriage likewise is to free [the co-wives from further levirate ties], therefore, just as you rule that he who marries his levirate sister-in-law acquires the estate of his brother, *so, along these same lines*, he who performs the rite of halisah with his levirate sister-in-law also has acquired the estate of his brother. *So as to avoid such a false conclusion, it was necessary to state, Lo, he is deemed as one with the brothers for inheritance of the deceased brother’s estate [M. 4:7A].*

[I:2 A] R. Judah in the name of Samuel said, “He who bespeaks his levirate sister-in-law has not acquired the estate of his brother.”

[B] And also the House of Shammai will concur.

[C] And also R. Simeon will concur.

[D] But this does not accord with the view of R. Eleazar b. Arakh, for R. Eleazar b. Arakh says, “Bespeaking effects a complete and total acquisition of the levirate sister-in-law.”

[I:3 A] If there were two levirate sisters-in-law, if the levir bespoke one of them and had sexual relations [consummating the levirate marriage] with the other one, [he surely should acquire the brother’s estate, for, after all,] what are the possibilities? If it was by bespeaking, then he

should acquire the estate, and if it was through sexual relations, he should acquire the estate.

[B] Said R. Yosé, “Since he cannot keep one of the wives, he thereby has not acquired the estate of his brother.”

[II:1 A] [R. Judah says, “**One way or the other: If the father is there, the property reverts to the father:**”] *R. Isaac bar Tabelai in the name of R. Eleazar*, “*The reason of R. Judah [is this:] ‘And the first son whom she bears shall succeed’ (Deut. 25:6). Scripture thereby compares the levir to a firstborn.*

[B] “Just as the firstborn does not inherit [the father’s estate] during the lifetime of the father, so this one should not inherit the father’s estate while the father is yet alive.”

[C] If then, you wish to proceed, just as the firstborn does inherit after the death of the father, so this one should inherit [the deceased brother’s estate] after the death of the father –

[D] Said R. Zeorah, “From the same argument, the opposite is to be proved. Just as the firstborn does not inherit the father [except] so far as the estate is in hand at the time of the father’s death [and we do not treat what is going to accrue to the father thereafter as if it has already entered his estate and so give the firstborn a double share in, e.g., the estate of the grandfather, which has not yet been received by the father at the time of the father’s death, so providing the firstborn with a double share only of what is actually in the father’s estate at the time that the father dies], so this one does not inherit during the lifetime of the father [what *will* accrue to the father, as if it had already accrued to him. That is, the levirate husband takes only what is in hand at the moment at which the childless brother dies. The deceased brother’s estate belonged to the father at the moment at which the father died. The brothers share this estate equally, and the levir cannot claim that the deceased brother’s estate passes out of the father’s estate and directly to him].”

[II:2 A] R. Abba bar Kahana, R. Hiyya bar Ashi in the name of Rab: “The law accords with the view of R. Judah.”

[B] R. Joshua b. Levi said, “The law accords with the view of R. Judah.”

[C] R. Abbahu, R. Eleazar in the name of R. Hoshaiiah: “The law accords with R. Judah.”

[D] *Said R. Yohanan, “Many times did I sit before R. Hoshaiiah, and I never heard this statement from him.”*

[E] *He said to him, “And is there never a case in which someone heard something that his fellow did not hear?”*

4:8

[A] **He who undergoes a rite of halisah with his childless brother’s widow**

—

[B] **he is prohibited from marrying her relatives, and she is prohibited from marrying his relatives.**

[C] **He is prohibited from marrying her mother, her mother’s mother, her father’s mother, her daughter, the daughter of her daughter, the daughter of her son, and her sister while she is yet alive.**

[D] **But [his] brothers are permitted [to marry any of the aforementioned].**

[E] **And she is prohibited from marrying his father, the father of his father, his son, the son of his son, his brother, and the son of his brother.**

[F] **A man is permitted to marry the kinswoman of the co-wife of a woman with whom he has performed the rite of halisah,**

[G] **but is prohibited from marrying the co-wife of the kinswoman of a woman with whom he has performed the rite of halisah.**

[I:1 A] The reason [that he is prohibited, M. 4:8A-C] is that he has performed the rite of halisah with her. Lo, if he had not performed the rite of halisah with her and she died, he is permitted to marry her mother. [The fact that there had been a levirate connection is null.]

[B] *Said R. Abina, “This is in line with that which R. Jacob bar Aha said in the name of R. Eleazar, ‘A woman awaiting levirate marriage who died – [the levir] is permitted to marry her mother.’ Yet she had been subject to levirate marriage with him! Since she died, the effects of the levirate connection are totally [6a] nullified. Here too, since he died, the effects of the levirate connection are totally nullified.”*

[C] *R. Abun proved this same proposition from the latter part of the Mishnah-law before us [rather than from the former part]: “**And her sister when she is yet alive, but his brothers are permitted [to marry any of the aforementioned] [M. 4:8C-D].** And is her sister, so far as the brothers are concerned, not as if she were dead? [That is, the sister is no longer subject to the levirate connection with any of the brothers anyhow, as soon as the levirate wife has performed the rite of halisah with one of the other brothers. Accordingly, the effects of the levirate connection are totally nullified, just as we wished to prove above.]”*

[II:1 A] She is prohibited from marrying his father, the father of his father, his son, the son of his son, his brother, and the son of his brother [M. 4:8E].

[B] *That is to say that secondary consanguineous connections are subject to the sages' decree [and may not marry a woman] with whom the rite of halisah has been performed [by a relative].*

[C] And from which of the items on the list do you derive that conclusion? It is from **his son, the son of his son, his brother, and the son of his brother.** [The halisah has taken place with the wife of the father of the father of the son of his son. That is, she may not marry the grandson of the man with whom she performed the rite of halisah,] and this constitutes a secondary consanguineous relationship.

[II:2 A] So does the Mishnah state: A man is permitted to marry the kinswoman of the co-wife of a woman with whom he has performed the rite of halisah but he is prohibited from marrying the co-wife of the kinswoman of a woman with whom he has performed the rite of halisah.

[B] *This supports that which R. Hela said in the name of R. Abina [in answer to the question, As to the sisters at M. 3:1, who are prohibited on the count of sisters subject to levirate connection with the same levir, what is the law pertaining to the co-wife of one of these sisters? Is she too exempted from the levirate connection on the ground of being the co-wife of the sister of a woman who is subject to a levirate connection to the levir? In answer to this question, Hela in Abina's name made the following statement:] It is an argument a fortiori. Now if in the case of the sister of a woman with whom one has performed the rite of halisah, in which instance, when the status derives only from the decree of sages, the sages have applied the law to her co-wife [exempting her as well], in the present case, in which the prohibition that applies derives from the consanguinity of sisters, is it not an argument a fortiori?"*

4:9

[A] He who undergoes a rite of halisah with his childless brother's widow,

[B] and his brother married her sister,

[C] and [this brother died –

[D] she performs a rite of halisah and is not taken in levirate marriage.

[E] And so: He who divorces his wife, and his brother married her sister,

[F] and [his brother] died –

[G] lo, this one is exempt from the rite of halisah and from levirate marriage.

[I:1 A] *Simeon bar Ba raised the question before R. Yohanan, “What is the difference between the status of one who performs the rite of halisah [with his brother’s childless widow] and one who divorces [a woman]? [In the former instance if someone marries such a woman and dies, the woman performs the rite of halisah with a surviving brother, but does not enter into levirate marriage. In the case of one who divorces his wife, and whose brother marries that wife’s sister, then the brother dies childless, the widow – that is, the sister of the woman whom the surviving brother has divorced – does not even perform the rite of halisah, let alone entering levirate marriage. We now ask, What is the difference between the status of these two women?]”*

[B] *He said to him, “Do you imagine that the rite of halisah constitutes an act of acquisition [so that the wife becomes acquired to the brother who has performed that rite, in which case she may not marry any of the surviving brothers, and if she does so, the brother is liable to extirpation, and if the husband dies childless, her co-wife is exempt from the levirate connection]? [That is not the case. Rather] it constitutes only an exemption [from levirate marriage alone. Should a surviving brother marry her], such a brother will be liable on her account not because he has married the wife of the one who has performed the rite of halisah [for she is not in the status of his wife at all]. Rather, he would be liable on her account only for having married the wife of the deceased. [That is, prior to the rite of halisah, marrying her would leave the brother subject to the penalty of extirpation. Once the rite has been performed, she is subject to a much less severe prohibition.]”*

4:10

[A] A woman awaiting marriage with a levir, the brother of whom betrothed her sister –

[B] in the name of R. Judah b. Betera did they say, “They instruct him: ‘Wait until your older brother does a deed.’”

[C] [If] his brother underwent a rite of halisah with her [the woman awaiting levirate marriage] or married her,

[D] he [B] may [then] marry his wife.

[E] [If] the childless brother’s widow died, he may marry his wife.

[F] [If] the levir died,

[G] let him [of A] put away his [betrothed] wife with a writ of divorce and the wife of his brother with a rite of halisah.

[I:1 A] The rule is only that if the widow should die, then he may be permitted to his [betrothed] wife. It follows that if his wife should die, he remains prohibited to his sister-in-law.

[B] Said R. Yohanan, “This represents the view of R. Eleazar. But in the opinion of sages, if his sister-in-law should die, he will be permitted to his wife. If his wife should die, he will be permitted to his sister-in-law. In the view of sages in any matter in which a ruling is because of a particular causative factor, if that factor is removed, the prohibition then is annulled. In the view of R. Eleazar, even if the causative factor is removed, the prohibition remains firm.”

4:11

[A] A childless brother’s widow should not perform the rite of halisah or enter into levirate marriage until three months have gone by.

[B] And so in the case of all other women: they should not become betrothed or enter marriage until three months have gone by [after the conclusion of a former marriage].

[C] All the same are virgins and women who have had sexual relations,

[D] all the same are women who have been divorced and widows,

[E] all the same are women who have been married and women who have been betrothed.

[F] R. Judah says, “Those who have been married [and whose his bands have died may be betrothed, and those who are betrothed [and whose husbands died] may be married,

[G] “except for those who have been betrothed in the province of Judea.

[H] “[For there], the [bridegroom] is shameless for her.”

[I] R. Yosé says, “All women may be betrothed,

[J] “except for a widow,

[K] “on account of mourning [for a period of thirty days].”

[I:1 A] At what point is the presence of the foetus recognized?

[B] Sumkhos says in the name of R. Meir, “In three months,

[C] “Even though there is no clear proof of that proposition, there is at least an indication of it: ‘And it came to pass at the end of three months’” (Gen. 38:24) [T. Nid. 1:7A-C].

- [D] **Said R. Yudan, “And even if she is pregnant only with air: ‘We were with child, we writhed, we have as it were brought forth wind’ (Is. 26:18) [cf. T. Nid. 1:7E].**
- [E] “‘You conceive chaff, you bring forth stubble’ (Is. 33:11).”
- [I:2 A] R. Zeira, R. Ba bar Zutra, R. Haninah in the name of R. Hiyya the Great: “Even if [the foetus is discernible] in the greater part of the first month, and for the greater part of the last month [if] the middle [month] is complete, [we deem the three months’ rule to apply – that is, after only sixty-two days].”
- [B] R. Assi says, “Ninety days, complete.”
- [C] And Samuel says, “They and their intercalated days [that is, three months, whether they are ninety days or even more than ninety days, by reason of adding additional days through late sightings of the moon].”
- [D] *A case [of paternity] came before the rabbis over there [in the east], and they did not know whether [the conception of the child had taken place] within the thirteen days assigned to the first month, or the seventeen days assigned to the second one, or seventeen of the first and thirteen of the latter, with five complete [months] in the middle. [In this paternity case, the woman lost her husband and remarried soon thereafter. In this case, the woman gave birth in six complete solar months, but seven lunar months, after the death of the first husband and the remarriage. There were then five complete months, and the status of days in the first and last month – that is, seven in all – is unclear, with the possibility of thirteen days of the first month and seventeen of the final one, or vice versa, contributing to the six full months.]*
- [E] They considered imputing genealogical invalidity to the foetus, by reason of mamzerut [genealogical illegitimacy]. [That is, the mother’s status was not such that she was free to remarry when she did, so the child may have been born of a married woman and a man other than the husband.]
- [F] *Said to them R. Nahman bar Jacob, “A similar case came before Abba bar Ba, and he declared the foetus to be valid” [thus deeming the greater part of a month tantamount to a whole month, as at A].*
- [G] *Now did Abba bar Ba take issue with Samuel, who was his son [who wants complete months, C]?*

[H] Said R. Ba, “There is a distinction to be drawn between perceiving the presence of the foetus and the actual birth. Recognizing the presence of the foetus is a matter of complete months [as Samuel has said]. But [when we consider assigning the paternity of the child, once it is] born, we deal with abbreviated months.”

[I] *There we have learned: How long is protracted labor, [for a woman in protracted labor who produces a drop of blood is deemed to be a menstruant and nor a Zabah]? R. Meir says, “Even forty or fifty days.” R. Judah says, “Sufficient for her is her ninth month.” R. Yosé and R. Simeon say, “Hard labor continues no longer than for two weeks” [M. Nid. 4:5].*

[J] R. Yosé in the name of R. Ba: “That is to say that a woman counts [reaching of term to give] birth in abbreviated months, *for has it not been taught* ‘thirty days’ [and not a whole month, inclusive of the intercalated days]?”

[K] R. Yosé b. R. Bun in the name of Samuel: “That is to say that a woman [counts the giving of birth in] complete months, *as we have learned*, ‘Sufficient for her is her [complete] month [inclusive of the intercalated days].’”

[L] *R. Yudan inquired*, “In the end, does [the rule apply] only if she actually gives birth?”

[M] No, even if she aborted [the rule applies].

[N] *Said R. Mana, “I heard in the name of Samuel*, ‘There is no difference [in the manner of counting the months of the time required] for recognizing the presence of the foetus and for [completing term and] giving birth.’ But I do not know from whom I heard that teaching.”

[O] *Said R. Ba, son of Kohen, before R. Yosé*, “R. Jeremiah stated that tradition.”

[P] Said R. Hezekiah to him, “R. Jeremiah did not state that teaching.”

[Q] *Now R. Yosé scrupled about accepting [what Mana had said]. He said*, “If Joshua, who was so close to Moses, would not have said thus, but do you [lit.: he] say this [in a case in which the source of the teaching in Samuel’s name is not certain] !”

[R] *He retracted and said, "To be sure, he may have said it, but it was said like someone who has heard a ruling but is having difficulties with it."*

[S] *And Abba bar Ba [indeed] did differ from Samuel his son.*

[T] R. Berekhiah in the name of Samuel: "A woman gives birth only on the 271st, 272d, 273d, or 274th day of her pregnancy [thus requiring nine complete months]."

[U] *Said to him R. Mana, "Whence did my master hear this saying?"*

[V] *He said to him, "From R. Ba."*

[W] *There is then confusion in the attributed opinions of R. Ba. There he said, "There is a distinction between [measuring months for] recognizing the presence of the foetus and [reaching term for actually] giving birth. But here he said this."*

[X] R. Ba bar Zutra in the name of Samuel: "Whatever is subject to HRBH (= 212),¹⁰ it is subject to RBH (208) [that is, seven months]."

[I:3 A] *R. Hiyya bar Ashi was in session before Rab. He observed that he was preoccupied.*

[B] *He said to him, "Why so?"*

[C] *He said to him, "My ass is pregnant and is coming to term, and I wanted to cover her so that she should not be chilled."*

[D] *He said to him, "When did the male mount her?"*

[E] *He said to him, "On such and such a day, and I reckoned from there."*

[F] *He calculated [and] said to him, "If so, she will require [waiting a few more days]."*

[G] *And so is it taught in a Tannaitic teaching: [The ass] who gives birth in less than term does not give birth in less than the days of the moon [354 days], and the one who gives birth beyond term does not give birth in more than the days of the sun [365 days].*

[H] *A teaching of R. Joshua is at issue with this saying [of Rab's, that there is little variation in term], for R. Joshua b. Levi said, "Cows belonging to Antoninus were to be impregnated.*

[I] "And the servants of the court of Rabbi had oxen mount. Some of them gave birth now, and some of them gave birth later on [so there was much variation]."

[J] Here we speak of the case of an unclean beast and there [H-I] we speak of the case of a clean beast [which produces variation in the term of pregnancy].

[K] And is it not written, "Do you know when the mountain goats bring forth? Do you observe the calving of the hinds? Can you number the months that they fulfill? And do you know the time when they bring forth, when they crouch, bring forth their offspring, and are delivered of their young?" (Job 39:1-3) [This indicates that there is a fixed term even for clean beasts.]

[L] He said to him, "A clean wild beast is just like an unclean domesticated beast [in giving birth between 354 and 365 days after impregnation] ."

[II:1 A] [All the same are virgins and women who have had sexual relations, all the same are women who have been divorced and widows, all the same are women who have been married and women who have been betrothed. R. Judah says, "Those who have been married [and whose husbands have died] may be betrothed, and those who are betrothed [and whose husbands died] may be married, except for those who have been betrothed in the province of Judea. [For there], the [bridegroom] is shameless for her." R. Yosé says, "All women may be betrothed, except for a widow, on account of mourning [for a period of thirty days]:"[Explaining the dispute among M. 4:11A-E, F-H, and I-K, and assuming that the first of the three passages represents the view of Meir,] R. Meir scruples as to writs of divorce, [since he is concerned that, if the woman turns out to be pregnant, the husband who divorced her may claim that, had he known she was pregnant, he would not have divorced her, and in that way he may nullify the writ of divorce he has issued. That is why Meir requires a waiting period, to ascertain that the divorcée is not pregnant. The other categories then are required to wait so that a single law will apply to all].

[B] R. Judah scruples as to the offspring [and permits immediate remarriage by those who were betrothed, since that is not a consideration] .

[C] R. Yosé scruples both as to writs of divorce and as to the offspring [and so excludes only the widow from betrothal; but no one may be married without a waiting period].

[D] *If you say that R. Yosé does not scruple as to writs of divorce, we have learned: **Those who are betrothed may be married forthwith [in the view of Yosé].***

[E] R. Zeorah in the name of R. Gedolah: “A girl who exercises the right of refusal need not wait for three months. A woman who goes forth with a writ of divorce has to wait for three months.”

[F] *This supports the view of R. Meir, for R. Meir scruples as to writs of divorce [M. 4:1 1A-E].*

[H] R. Ba in the name of R. Abba bar Jeremiah: “A woman who has been raped does not have to wait for three months.”

[I] *This supports the view of R. Yosé, for R. Yosé scruples as to writs of divorce and as to the offspring. [These considerations do not apply to the woman who has been raped.]*

[II:2 A] *It has been taught: “A convert, a captive woman, and a slave-girl, who were redeemed, converted, or freed, respectively, have to wait for three months,” the words of R. Judah.*

[B] R. Yosé says, “They do not have to wait.”

[C] And as to the status of their blood,

[D] R. Judah says, “It imparts uncleanness [from when the blood first appears, to objects the woman has touched] during the preceding twenty-four hours.”

[E] R. Yosé says, “It is sufficient [for the woman to impart uncleanness only to those objects she has touched] from the moment at which she [has discovered the blood. There is no retroactive period of contamination, because the woman is assumed to have a fixed period and to know when her menstrual cycle will begin].”

[F] Said Rabbi, “The opinion of R. Judah appears to me preferable as to blood [so that we assign a period of retroactive contamination of twenty-four hours], and that of R. Yosé as to the offspring [that the woman need not wait for three months before entering into a new marriage, since we do not assume that she is pregnant].”

- [G] *Said R. Haninah son of R. Abbahu, “Father had a case, and he sent and asked R. Hiyya, R. Yosé, and R. Ammi, and they instructed him that the law follows R. Yosé as to the offspring.”*
- [H] *[But surely that is obvious!] For if that is not the case, what shall we say? When there is a dispute between R. Judah and R. Yosé, the law does not follow R. Yosé? [But it is well known that in such a case, the law does follow Yosé.]*
- [I] *But because Rabbi said, “It appears to me ... ,” [there remained doubt about the matter, for] did not R. Ba say in the name of R. Zeorah: “In any setting in which Rabbi taught, ‘It appears to me ...,’ the matter under dispute remains moot, except in the case involving the circle of pressed figs, in which case this party agreed with that, and that party with this [cf. M. Ter. 4:8-11].”*
- [J] *Said R. Yosé, “I asked before R. Haninah son of R. Abbahu, ‘Even if it is perfectly clear that they had indeed had sexual relations? [Even in such a case do they not have to wait three months?]”*
- [K] [6b] He said to him, “And is it not so that Gentile women are routinely assumed to have had sexual relations? [That indeed is the case, and yet, in the case of the convert, she need not wait three months.]”
- [II:3 A] *Simeon bar Ba said, “A case came before R. Yohanan, and he decided the case in accord with the view of R. Yosé.”*
- [B] *R. Eleazar was troubled at this and said, “Do they abandon the decided law stated anonymously [at M. 4:1 1B] and practice the law in accord with the opinion of an individual?”*
- [C] *A version of the law taught by R. Hiyya is given in the name of R. Meir. Now when he heard that a version of the law taught by R. Hiyya is given in the name of R. Meir, [Eleazar] said, “The sage [Yohanan] knows the laws of divorces very well indeed [and, as we noted above, the position of Meir at M. 4:1 1A-E is to scruple as to writs of divorce].”*
- [D] R. Mana raised the question before R. Yudan: “There R. Hezekiah, R. Abbahu in the name of R. Eleazar said, ‘In every setting in which Rabbi [taught] the law in the form of a] dispute, and then went and repeated it

without assigning it to a named authority, the law is in accord with the version not in the name of a specific authority. And yet do you say this [that here, the law follows Yosé?] [This question repeats that raised above.]

[E] He said to him, “It is not Rabbi. Perhaps it was another authority who stated matters as a dispute in this way?”

[F] [He replied,] “Now, would this not produce an argument a fortiori? If it is a fact that, when Rabbi formulated the Mishnah as a dispute and then went and reformulated it in accord with a single, anonymous authority, the law follows the single anonymous authority, if to begin with Rabbi did not formulate the passage as a dispute, but others formulated it as a dispute, but Rabbi for his part formulated the Mishnah anonymously [without naming an authority], is it not an argument a fortiori that the law should accord with the view of the anonymous law?”

[G] R. Hezekiah, R. Jacob bar Aha, R. Simeon bar Abba in the name of R. Eleazar [said], “And even if others formulated the tradition as a dispute, while Rabbi formulated it without named authorities [anonymously, unanimously,] the law accords with the version given anonymously.”

[H] *In that case why did [Yohanan] decide the case in accord with a single individual’s opinion [rather than in accord with the anonymous version of the law]?*

[I] *R. Samuel bar Inayya in the name of R. Aha: “That which you have said applies when there is no dispute along with the anonymous opinion. But if [as with M. 4:11] there are disputing opinions along with the anonymous one, it is not in such a case that the law follows the view of the anonymous authority.”*

[J] *R. Yosé b. R. Bun in the name of R. Aha: “That which you say applies in the case in which two individuals dispute. But if you have an individual disputing with sages, it is not in such a case that the*

authority who is unnamed determines the decided law.”

[K] Said R. Yohanan, “Any passage that Rabbi taught without naming an authority represents the Mishnah-teaching of rabbis [in general], unless one’s rabbi explicitly states otherwise.”

[L] R. Simeon b. Laqish says, “Any passage taught without the name of an authority represents the Mishnah-teaching of R. Meir unless one’s rabbi explicitly states otherwise.” Said R. Zeira before R. Yosé, “It is not that R. Simeon b. Laqish differs [from Yohanan], but he maintains that the majority of anonymous pericopes in the Mishnah accord with the view of R. Meir.”

[M] *R. Zeira raised the question before R. Mana, “Which authority is the greater [and therefore to be relied upon], that of the teachings [that is, external versions of the same matter] or that of one’s master’s instruction?”*

[N] *Is this not what R. Eleazar said [above], that the authority of the teachings is greater [than that of one’s master’s instruction]? For when he heard that which R. Hiyya taught in the name of R. Meir, he said, “The sage knows the laws of writs of divorce very well indeed.”*

[O] *[That does not necessarily follow. For] we may say that he accepted the teaching [taught in the name of R. Meir, above,] from his master who taught him the [external] teachings when he heard that which R. Hiyya taught in the name of R. Meir.*

[II:4 A] [As to reckoning the period of three months between ending one marriage and beginning another:] A woman who performs the rite of *halisah* counts [the ninety days] from the time at which her husband had died [earlier than the rite].

[B] A woman who goes forth from a marriage through a writ of divorce counts from the time of the handing over of her writ of divorce.

[C] R. Haninah said, “It is from the time of the handing over of her writ of divorce.”

[D] R. Yohanan said, “It is from the time at which the writ is written [even prior to its being handed to her].”

[E] As to the views of Rab and Samuel, Rab accords with the opinion of R. Haninah, and Samuel agrees with the view of R. Yohanan.

[F] *Samuel objected to Rab*, “In your opinion, in maintaining that it is from the time at which the writ is actually handed over, on what count do you scruple? If it is on account that the couple may be alone together [and have sexual relations] in the interim [between the writing and the handing over of the writ], then we should scruple still further, as to a superannuated writ [that is, a writ prepared for the couple, after which the couple engages in sexual relations, and such a writ is invalid].”

[G] *R. Haninah objected to R. Yohanan*, “Now in your view, in which you maintain that it is from the time of the writing of the writ of divorce, if there were two writs of divorce, one written now and one written later on, and both of them are handed over on the same day, you turn out to prohibit this one while permitting that one! [That is, a man divorced both his wives. The second writ was prepared three months after the first. Both were delivered on the same day, that is, when the second writ was prepared. You then prohibit the one whose writ was prepared on that day on which the writ was delivered, while permitting the one whose writ was prepared three months earlier. That will cause confusion.]”

[H] *What R. Yohanan objected to R. Haninah is what Samuel objected to Rab.*

[I] The law is that she counts with regard to the writ of divorce from the time at which the writ was written if the husband was not alone with her thereafter.

[III:1 A] [R. Yosé says, “All women may be betrothed,] except for a widow, on account of mourning” [M. 4:11K].

[B] How long is the period of mourning? Thirty days.

[C] *That which you say* applies to women.

[D] But as to men, they should not remarry until three festivals have gone by [a full year].

- [E] That rule applies in a case in which the man has children.
- [F] But if he has no children, he may remarry forthwith.
- [G] That rule further applies [that he must wait a year] if he has someone to take care of him.
- [H] But if he has no one to take care of him, he may remarry forthwith.
- [I] That rule further applies when his children are not minors. But if his children are minors, he may remarry forthwith.
- [J] *That is in line with the following case:* The wife of R. Tarfon died. While he was yet in the graveyard, he said to her sister, “Marry me and raise your sister’s children.”
- [K] Nonetheless, while he married her, he did not have sexual relations with her before thirty days had gone by.

4:12

- [A] **Four brothers married to four women, and they died [leaving yet more surviving brothers] –**
- [B] **if the oldest [surviving] brother among them wants to enter into levirate marriage with all of them [the surviving, childless widows], he has the right to do so.**
- [C] **He who was married to two women and who died –**
- [D] **the act of sexual relations [in levirate marriage or the rite of halisah with one of them exempts her co-wife [from the requirement to do the same].**
- [E] **[If] one of them was valid and one of them was invalid [for marriage into the priesthood],**
- [F] **if he then performs the rite of halisah, let him perform the rite of halisah with the one invalid [for marriage into the priesthood].**
- [G] **And if he was going to enter into levirate marriage, let him enter into levirate marriage with the one who is valid [for marriage into the priesthood].**
- [I:1 A] Four of the brothers, etc. [That is, there were more than four brothers.]
- [I:2 A] *There was a case of thirteen brothers, twelve of whom died childless. The surviving levirate widows came and brought their case before Rabbi. Rabbi said to the last brother, “Go and enter into levirate marriage with them.”*
- [B] *He said to him, “I don’t have the resources to support them.”*

[C] *They replied, “Each one of us will provide maintenance for a month.”*

[D] *He said, “And who will provide for the intercalated month?”*

[E] *Said Rabbi, “I shall provide for the intercalated month.”*

[F] *He prayed for them, and they went their way. Three years later they came, accompanied by thirty-six children. They came and set themselves up before the house of Rabbi. They went up and told Rabbi, “There’s a whole town of children down there, who want to greet you.”*

[G] *Rabbi looked out the window and saw them. He said to them, “What is your business with me?”*

[H] *They said to him, “We want you to provide maintenance for us for the intercalated month.”*

[I] *He provided food for them for the intercalated month.*

[I:3 A] It is written, “And the ark of the Lord remained in the house of Obedom the Gittite three months; and the Lord blessed Obedom and all his household” (2 Sam. 6:11).

[B] With what did he bless him? It was with children.

[C] *That is in line with what is written elsewhere: “All these were of the sons of Obedom with their sons and brethren, able men qualified for the service; sixty-two of Obedom” (I Chr. 26:8).*

[D] *For [in that three month period] each one of the wives of his eight sons produced two sons every month.*

[E] How so? A wife would be unclean for seven days, clean for seven, and during that period she gave birth, then unclean for seven, clean for seven, and again she gave birth, *sixteen a month for three months, thus forty-eight, and he produced six children in that same period of three months, so there were fifty-four, and there were his eight sons themselves, so sixty-two in all.*

[F] That is in line with what is written: “Sixty-two of Obedom.”

[I:4 A] Said R. Ba bar Zabeda, “It is written, ‘And the name of his house shall be called in Israel, ‘The house of him that had his sandal pulled off’ (Deut. 25:10). It is a house that has been undone by a single rite of halisah, [but this allows the co-wife to remarry, in line with M. 4:12D].”

[B] So too is the case through an act of sexual relations: The rite of halisah frees the co-wife from any further levirate connection, and the act of sexual relations does the same.

[C] Just as you have said that that is the case with halisah, so is it the case with an act of sexual relations.

[II:1 A] [In respect to M. 4:12E-G, **If one of them was valid and one of them was invalid [for marriage into the priesthood], if he then performs the rite of halisah, let him perform the rite of halisah with the one invalid [for marriage into the priesthood]. And if he was going to enter into levirate marriage, la him enter into levirate marriage with the one who is valid [for marriage into the priesthood,] what is the law as to deceiving [the levir, so as to have him perform the rite of halisah with the one invalid for marriage into the priesthood, even against his original intent]?**

[B] And did not R. Tarfon, the father of all Israel, deceive? He betrothed three hundred women in a time of famine, so as to allow them to eat food in the status of heave-offering [for betrothal to him, as a priest, would permit the Israelite woman to eat that available produce, to which otherwise they had no right].

[C] Now in that case, each one of the women was not suitable to eat heave-offering [unless he betrothed her], while here, each one of them is suitable to enter into levirate marriage. [So the law is different in this case.]

[D] *R. Yudan b. R. Ishmael practiced the law in that way [that is, he did deceive a levir].*

4:13

[A] He who remarries a woman whom he has divorced [after she had wed someone else and was divorced or widowed], he who marries a woman with whom he has performed the rite of halisah, and he who marries the kinswoman of a woman with whom he has performed the rite of halisah

[B] must put her away.

[C] “And the offspring [of such a union] is a mamzer, “ the words of R. Aqiba.

[D] And sages say, “The offspring is not a mamzer.”

[E] But they concede in the case of one who marries the kinswoman of a woman whom he has divorced that the offspring is a mamzer.

- [I:1 A]** R. Hiyya in the name of R. Yohanan: “He who remarries a woman whom he has divorced once she married someone else has invalidated her from marriage into the priesthood.”
- [B] Even if that were not the case, would she not be invalid for marriage into the priesthood [since a priest cannot marry a divorcée anyhow]?
- [C] But he has invalidated her from having the right to eat food in the status of heave-offering.
- [I:2 A]** R. Zeira, R. Hiyya in the name of R. Yohanan: “He who remarries a woman whom he has divorced once she married someone else – her daughter [with him] is valid for marriage into the priesthood.”
- [B] What is the scriptural basis for that statement?
- [C] “She is an abomination” (Deut. 24:4). She is an abomination, but the offspring of such a union is not an abomination.

4:14

- [A] What is the definition of a mamzer?**
- [B] “[The offspring of] any [marriage of] near of kin that is forbidden under the rubric, ‘He shall not come into the congregation of the Lord’ (Deut. 23:3),” the words of R. Aqiba.**
- [C] Simeon of Teman says, “[The offspring of 1 any [marriage] for which the participants are liable to extirpation by Heaven.”**
- [D] And the law follows his opinion.**
- [E] R. Joshua says, “[The offspring of] any [marriage] for which the participants are liable to be put to death by a court.”**

4:15

- [A] Said R. Simeon b. Azzai, “I discovered a family register in Jerusalem, in which was written: ‘Mr. So-and-so is a mamzer, [having been born of an illicit union] of a married woman [and someone other than her husband” –**
- [B] so supporting the opinion of R. Joshua.**
- [I:1 A]** R. Yosé b. Haninah says, “And all of them derived their positions from the case of the father’s wife: ‘A man shall not take his father’s wife, and he shall not uncover her who is his father’s’ (Deut. 23:1). [Immediately thereafter: ‘No mamzer shall enter the assembly of the Lord’ (Deut. 23:3).]”

- [B] “R. Aqiba interprets the matter as follows: ‘Just as the father’s wife is distinctive in that she is subject to a prohibition from having sexual relations with the son, and the offspring of such a union is a mamzer, in the case of all women who are so subject to a negative prohibition, the offspring is a mamzer.’”
- [C] *They objected*, “Lo, there is the case of a widow married to a high priest [subject to a negative commandment, and yet the offspring of such a union is not a mamzer].”
- [D] [Aqiba may reply,] “That case is different, because Scripture was explicit in that matter that the offspring is profaned [priestly seed].”
- [E] [Yosé b. Haninah continues:] “Simeon of Teman interpreted the same matter: ‘Just as the father’s wife is distinctive in that, on her account law-violators are liable to extirpation at the hands of Heaven and the offspring is a mamzer, so in the case of any union on account of which law-violators are liable to extirpation at the hands of Heaven, the offspring is a mamzer.’”
- [F] *They objected*, “Lo, there is the case of the menstrually impure woman [with whom sexual relations are punishable at the hands of Heaven by extirpation, and yet, in such a case, the offspring is not a mamzer].”
- [G] [Simeon may reply,] “That case is different, because the consideration of consanguinity is not stated in that regard.”
- [H] [Yosé b. Haninah continues,] “R. Joshua interpreted the matter as follows: ‘Just as the [6c] father’s wife is distinctive, in that law-violators are liable on her account to death at the hands of an earthly court, and the offspring is a mamzer, so in any case of a marriage on account of which the law-violators are liable to death at the hands of an earthly court, the offspring is a mamzer.’”
- [I:2 A] Even though R. Joshua said, “He who has sexual relations with his sister – the offspring is valid,” he concedes that if the offspring was a female, she is invalid to marry into the priesthood.
- [B] Even though R. Simeon b. Judah said in the name of R. Simeon b. Yohai, “A gentile or a slave who had sexual relations with an Israelite girl – the offspring is valid,” he concedes that if it was a daughter, she is invalid to marry a priest.
- [C] *Someone came to Rab. He said to him, “What is the law if his mother conceived him with an Aramaean?”*
- [D] He said to him, “He is valid.”

[E] *Said to him R. Hama bar Guria, “Pick up your feet and get out before Samuel comes and declares you invalid!”*

[F] Even though Rab said, “A Gentile or a slave who had sexual relations with an Israelite girl – the offspring is valid,” he concedes that if she was a daughter, she is invalid from marrying into the priesthood.

[I:3 A] And why did they state that the law follows R. Simeon of Teman [so accepting his reading of the verse]?

[B] Said R. Yosé b. R. Hanina, “In a setting in which all forms of consanguineous marriage were treated within a single general rule, subjecting all of them to extirpation, the wife of the father was singled out. This was to teach you that from such a marriage a mamzer is produced.”

[C] *The opinions assigned to R. Yosé b. R. Hanina are at variance with one another since in the case that we have considered [B] he derives the rule from what is stated as a prevailing principle, while in what follows he derives the general rule from what is stated concerning a detail.*

[D] *For it has been taught:*

[E] “[If any one sins unwittingly in any of] the things that the Lord has commanded [not to be done]” (Lev. 4:2) –

[F] I might have said, Also those who eat abominations and creeping things are included in consideration [so that even if a court gave instruction concerning one of the commandments, the deliberate commission of which is not punishable by extirpation, the court would be liable for the bullock].

[G] Lo, you may reason as follows: here [“and the thing is hidden] from the eyes [of the assembly” (Lev. 4:2)] is stated, and [with regard to idolatry (Num. 15: 24)] later on, “from the eyes” is stated. Just as “from the eyes” stated later refers to a matter, the deliberate commission of which is punishable by extirpation, and the inadvertent commission of which is punishable by a sin offering, so the reference to “from the eyes” in the present context means to refer to a matter, the deliberate commission of which is punishable by extirpation, and the inadvertent commission of which is punishable by a sin-offering.

[H] Or perhaps just as “from the eyes” mentioned later refers to a matter that is subject to the death penalty inflicted by the court [if there are

witnesses and admonition], so “from the eyes” stated here refers to a matter that is subject to the death penalty administered by the court?

- [I] [In what follows, Num. 15:24ff., assumed to deal with idolatry, it is clear that the penalty is the sacrifice of the bullock. The penalty of death is specified for idolatry, but not in this context. That is the meaning of the following statement:] Said R. Yosé b. R. Hanina, “In the context in which idolatry is discussed, dealing with those who are liable to extirpation, the sole penalty therein specified concerns extirpation. The matter of the death penalty derives from another place [in Scripture].”
- [J] *Accordingly, as we stated above, the opinions assigned to R. Yosé b. R. Hanina are at variance with one another, since in the one place, he derives the rule from what is stated as a prevailing principle, while in the other he derives the general rule from what is stated concerning a detail.*
- [K] There all forms of consanguineous relationships are treated together, to require violators to bring an offering.
- [L] The matter of idolatry was singled out to teach you the law concerning those liable to an offering [specifically, liable to an offering are only those who are subject to extirpation]. *But here do you have the possibility of saying that all the forms of consanguineous marriage have been subjected to a single generalization, as to the status of the offspring of them all as a mamzer? It is the wife of the father who has been singled out to teach you the rule concerning the status of a mamzer.*

4:16

- [A] (1) **His wife who died –**
[B] **he is permitted to marry her sister.**
- [C] (2) [If] **he divorced her and afterward she died,**
[D] **he is permitted to marry her sister.**
- [E] (3) [If] **she was married to someone else and died,**
[F] **he is permitted to marry her sister.**
- [G] (4) **His childless brother’s widow who died –**
[H] **he is permitted to marry her sister.**
- [I] (5) [If] **he performed the rite of halisah with her and she died,**
[J] **he is permitted to marry her sister.**

- [I:1 A] [Since M. 4:16G specifies that if the levirate widow died, he may marry her sister, it follows that], lo, [the implication then is that] with respect to her mother, he is forbidden. [He cannot marry her mother.]
- [B] [But why should that be the case? There is no consideration of the prohibition of the mother deriving from the levirate widow's having been subject to the levir, once the levirate widow has died.] For did not R. Jacob bar Aha say in the name of R. Eleazar, "A woman awaiting levirate marriage who died – the levir is permitted to marry her mother"?
- [C] *But since we learn, **If he performed the rite of halisah with her and she died, he is permitted to marry her sister [M. 4:16I-J], but lo, as to her mother, he remains prohibited.** In this case [M. 4:16G-H] the Tannaite authority referred to the sister [in the preceding formulation, even though, in that case, it was not necessary to specify the sister, since even the mother is permitted.*

YERUSHALMI YEBAMOT

CHAPTER FIVE

5:1

- [A] Rabban Gamaliel says, “There is no writ of divorce [that is valid] after [another] writ of divorce,
- [B] “and no bespeaking [a statement of betrothal in a case of a levirate connection] after another bespeaking,
- [C] “and no coition [consuming a levirate marriage] after another coition,
- [D] “and no rite of halisah [that is valid] after another rite of halisah.”
- [E] And sages say, “There is a writ of divorce [that is valid] after [another] writ of divorce,
- [F] “and there is bespeaking after bespeaking,
- [G] “but there is nothing [validly done] after coition or after a rite of halisah.”
- [I:1 A] “Her husband’s brother shall go in to her” (Deut. 25:5) – this refers to an act of sexual relations.
- [B] “And he shall take her as his wife” (Deut. 25:5) – this refers to the act of bespeaking [declaring his intent to enter into levirate marriage, with the appropriate token of betrothal].
- [C] Is it possible to suppose that just as the act of sexual relations completes [the act of acquiring her as the surviving brother’s wife], so the bespeaking [should complete acquisition of the sister-in-law as the levir’s wife]?
- [D] Scripture states, “And perform the duty of the husband’s brother to her” (Deut. 25:5).
- [E] The whole section has been proclaimed for the purpose of levirate marriage: The act of sexual relations completes the acquisition of the sister-in-law as the wife of the levir, and the act of bespeaking does not do so.

- [F] If that is the case, then what use is the act of bespeaking? It serves to prohibit the sister-in-law to the other surviving brothers.
- [I:2 A] R. Simeon says, “Bespeaking either does effect acquisition or does not effect acquisition” [cf. M. 2:2J].
- [B] *What is the scriptural basis for the position of R. Simeon?*
- [C] “Her husband’s brother shall go in to her” (Deut. 25:5) – this refers to an act of sexual relations.
- [D] “And take her as his wife” (Deut. 25:5) – this refers to bespeaking.
- [E] Just as the act of sexual relations completes his acquisition of the sister-in-law, so bespeaking does the same.
- [F] Or [may we maintain]: “Her husband’s brother shall go in to her – and lo, she is acquired by him, so that the bespeaking has no consequences whatsoever”? [This accounts for A. So both positions have to be taken into account].
- [G] [Taking a wholly different position on the matter,] R. Eleazar b. Arakh says, “Bespeaking effects complete acquisition of the sister-in-law.”
- [H] *What is the scriptural basis for the position of R. Eleazar b. Arakh?*
- [I] “And take her as his wife” (Deut. 25:5) – lo, it is equivalent to an act of betrothal of a woman [other than a sister-in-law]. Just as the betrothal of an ordinary woman effects complete acquisition, so bespeaking effects complete acquisition in the case of the sister-in-law.
- [I:3 A] *What is an act of bespeaking in the case of a sister-in-law?*
- [B] “Lo, you are consecrated to me by money or by what is worth money.”
- [I:4 A] *Just as rabbis maintain that bespeaking effects acquisition, while leaving part [of the levirate widow not yet fully acquired,] so they [6d] maintain that a writ of divorce frees the woman but leaves [part of her not yet fully released in the case of the levirate widow. That is, a writ of divorce is not equivalent to halisah, which would fully release the widow. But it does have some affect upon her].*
- [B] And the writ of divorce given to a levirate widow by a levir should release her fully, on the basis of an argument a fortiori:

- [C] If an ordinary woman, who is not freed by a rite of *halisah*, is freed by a writ of divorce, a levirate widow, who is freed by *halisah* – is it not an argument a fortiori that a writ of divorce should fully free her?
- [D] Scripture says, “And she will remove the shoe” (Deut. 25:9) – it is through the rite of *halisah* that the levirate widow is released, and she is not released through an ordinary writ of divorce.
- [E] In that case the writ of divorce should not free the levirate widow in any aspect whatsoever! [She should not be affected by it and so prohibited from marrying him or any of the other brothers, once it is issued.]
- [F] It is written, “The wife of the dead shall not be married outside of the family to a stranger” (Deut. 25:5). *Now how shall we interpret this verse?* If it deals with a case in which the levir has had sexual relations with the widow, then she is his wife.
- [G] If we deal with a case in which he has performed the rite of *halisah* with her, then she may certainly go and marry a stranger [to the family].
- [H] *But we must interpret the passage to speak of a case in which he gave the widow a writ of divorce, [in which case she is not wholly freed from relationship to the family of her late husband].*
- [I] *And Hezekiah taught the same proposition:* “How do we know that if the levir gives a writ of divorce to his levirate sister-in-law, she is forbidden [to marry] him or any of his brothers?”
- [J] “In his regard I apply the statement, ‘[Then her former husband,] who sent her away, [may not take her again to be his wife]’ (Deut. 24:4). In regard to the brothers, I apply the same statement [which contains an additional letter, indicating the inclusion of yet further ineligible].”
- [K] And a rite of *halisah* should serve to release an ordinary woman [not a levirate widow] on grounds of the following argument a fortiori:
- [L] If a levirate widow, whom a writ of divorce does not serve to release, is released by a rite of *halisah*, an ordinary woman, whom a writ of divorce does serve to release – is it not an argument a fortiori that a rite of *halisah* should serve to release her?

[M] Scripture therefore states, “And he shall write her a writ of divorce” (Deut. 24:1).

[N] She is released by a writ of divorce, and she is not released by a rite of *halisah*.

[O] And let the rite of *halisah*, in the case of an ordinary woman, serve to release her in some measure but to leave some measure of her status yet unreleased [from her husband]? [Why should there be no affect at all upon her?]

[P] There it is written, “She shall not be married outside of the family, to a stranger” (Deut. 25:5), [which speaks only of the levirate widow]. But in the case of the ordinary woman, what proof do you have?

- [I:5 A] As to the view of R. Simeon, just as he says, “Bespeaking either wholly acquires the widow or wholly fails to acquire her, [leaving no ambiguity],” does he also maintain that a writ of divorce either wholly releases her or in no way releases her [in the case of the use of a writ of divorce in place of a rite of *halisah*]?
- [B] *Let us derive the answer to that question from the following:* R. Simeon says, “An act of sexual relations, when it is prior [to any other transaction with the levirate widow] is not followed by any other valid [Transaction with her].” [If the levir after wedding one widow bespoken a second widow of his brother or had sexual relations with her, her status is unaffected by them.]
- [C] Lo, if it comes after some other act, then it may be followed by yet another valid transaction with the levirate widow. [If he gave a writ of divorce to one widow and had sexual relations with the second, the second woman is still subject to the levirate connection in some measure, and when the levir puts her away, she requires a rite of *halisah*; a writ of divorce is insufficient.]
- [D] And that involves sexual relations that follow a writ of divorce. But as to sexual relations that follow bespeaking, what choice do you have? If the act of bespeaking has effected acquisition, then nothing validly may follow it. If the act of bespeaking has not effected acquisition, then the act of sexual relations should effect acquisition, [in which case there can be no further, valid transaction with the levirate widow thereafter].
- [E] *That is why we must interpret the case to involve* sexual relations that follow the giving of the writ of divorce [to another of the widows].

- [F] That then implies that a writ of divorce in this case releases the woman and yet leaves in place [some measure of relationship to the levirate connection].
- [I:6 A] Rabban Gamaliel accords with the view of R. Simeon in saying, “Bespeaking either fully acquires the widow or in no way acquires her.” Now here, does he accord with R. Simeon in maintaining that a writ of divorce either fully releases the woman or does not release the woman at all?
- [B] *Let us derive the answer from the following:* Rabban Gamaliel concurs with sages that there may be a writ of divorce validly given after [another widow has been subject to] bespeaking, or bespeaking after [another widow has received] a writ of divorce, a writ of divorce after sexual relations consequent upon bespeaking, and bespeaking after sexual relations consequent upon a writ of divorce [as will be explained].
- [C] A writ of divorce after sexual relations consequent upon bespeaking: *What would be a practical illustration?*
- [D] If there were three levirate widows, and a levir bespoke one of them, had sexual relations with the second, and gave a writ of divorce to the third.
- [E] Now that indicates that bespeaking effects acquisition yet leaves [an aspect of the widow’s status not wholly resolved, but yet subject to the actions of the other levirs].
- [F] For if you maintain that an act of bespeaking either wholly effects acquisition or in no way effects acquisition, then how can you make sense of the sequence of actions just now outlined?
- [G] If bespeaking has effected acquisition, then no valid transaction should have followed it [in the case of the three widows, so the second and third should be unaffected and so be free to marry]. If bespeaking has not effected acquisition, then the act of sexual relations should have done so, and there should be no transaction of validity thereafter [affecting the third widow].
- [H] That then indicates that bespeaking [in Gamaliel’s mind] effects acquisition, yet not wholly so [contrary to Simeon’s position].
- [I] Now when we deal with bespeaking after sexual relations consequent upon a writ of divorce, *what sort of case do we have in mind?*

[J] There were three levirate widows. One of the levirs gave a writ of divorce to this one, had sexual relations with the next, and bespoken the third.

[K] *This case would indicate that [in Gamaliel's mind] giving the writ of divorce releases the levirate widow, yet not wholly so.*

[L] Now if you maintain [as Simeon does] that a writ of divorce either wholly releases the levirate widow or in no way releases her [but does not produce that ambiguous status imputed to be speaking by Gamaliel], then how shall you deal with this case?

[M] If the writ of divorce has fully freed the widow, then no valid transaction can take place after it [so the sexual relations with the second and the bespeaking of the third are null].

[N] If the writ of divorce in no way has freed the widow, then the act of sexual relations [with the second] should serve to release [the third], and no valid transaction should take place after that act. [That is, the original writ of divorce, to the first woman, can have had no effect at all, in which case the sexual relations with the second are wholly and unambiguously valid in defining her, and the third widow's, status.]

[O] That therefore implies that a writ of divorce both serves to release the widow but also leaves [her subject to the levirate connection].

[I:7 A] [The result of this inquiry is that Gamaliel does not concur with Simeon. Simeon holds that a writ of divorce either fully releases the woman or in no way releases her. Gamaliel clearly does not share that view but maintains that a writ of divorce releases the woman and yet leaves an aspect of her status unresolved. Yet, at M. 5:1B, he maintains what is in fact Simeon's view of the effect of bespeaking. It is now necessary to ask whether he concurs with Simeon at M. 5:1B, and so we ask:] Does not Rabban Gamaliel concur with R. Simeon when he maintains that no bespeaking validly follows another bespeaking in the case of a levirate widow [M. 5:1B]? [How so? If the first levir has effected acquisition, the second has not, and if the first levir has not effected acquisition, the second also has not. There is no way to view bespeaking as both effecting acquisition and also leaving some part of the widow's status not wholly resolved for the second levir to acquire.]

[B] *[It is then necessary to distinguish Gamaliel's position from Simeon's.] But the reasoning of this party in one case is not the same as his reasoning in the other.*

[C] *The reasoning of this party, namely, of Rabban Gamaliel, in this case is that* whatever the bespeaking of the second party is destined to acquire already has been acquired by the first party. [Even though the bespeaking leaves something over, that ambiguous status is treated as null.] Whatever the writ of divorce of the second levir is going to release already has been released by the writ of divorce of the first levir.

[D] *The reasoning of R. Simeon is that* if the first party has effected acquisition through bespeaking, the second party has not effected acquisition, [since there is nothing left to acquire, contrary to Gamaliel's view], and if the first party has not effected acquisition [since, in this latter possibility, bespeaking is of no effect whatsoever], the second party likewise does not effect acquisition.

[E] If the first party has released the woman through a writ of divorce, the second party also has done so, and if the first party has not released her, the second party does not release her either.

[I:8 A] *In the view of Rabban Gamaliel,* [who has concurred that a writ of divorce is valid after bespeaking, so if one bespoke one widow and gave a writ of divorce to another widow, he has rendered the first invalid and is prohibited to marry the female relatives of either one of them; so too with bespeaking after a writ of divorce, in which case the widow subject to the bespeaking requires a writ of divorce. Now we have reasoned that Gamaliel maintains that, in both cases, the status of the woman has been left subject to a measure of uncertainty. For the bespeaking does not wholly effect acquisition, and the writ does not wholly let her go free. We have now to ask a secondary question:] What is the law as to there being a valid writ of divorce after a writ of divorce consequent upon bespeaking, or bespeaking after a writ of divorce consequent upon bespeaking? [Does the writ of divorce free the woman and nullify any aspect of acquisition effected by the prior bespeaking of that same woman? We now examine cases illustrative of this question.]

[B] As to a writ of divorce following a writ of divorce consequent upon bespeaking, *what is a practical case?*

[C] There were two levirate widows. The levir bespoke this one and gave her a writ of divorce, and also gave a writ of divorce to the second one.

[D] If you maintain that the writ releases whatever the bespeaking has acquired in the first widow, then we have here a writ of divorce, and we conclude that a writ of divorce cannot be effective after the writ of divorce following the bespeaking of the first widow, [in which case the

second widow is unaffected and may marry the male relatives of the levir].

[E] If you maintain that the writ of divorce does not release whatever the bespeaking has acquired in the first widow, then we have a case in which there is no valid writ of divorce, and we do have a valid writ of divorce [for the second widow] after the writ of divorce following the bespeaking of the first widow. [The second widow then has been validly divorced, so the levir cannot marry her female relatives, for, after all, Gamaliel concurs that a writ of divorce may validly follow bespeaking, and this is then a case in which there is a valid writ of divorce following a writ of divorce consequent upon bespeaking.]

[F] [We now turn to illustrate the second question above,] bespeaking after a writ of divorce consequent upon bespeaking: *What is a practical case?*

[G] There were two levirate widows. The levir bespoke this one and then gave her a writ of divorce, and then bespoke the other one. [We first revert to the choices outlined above, in response to the original case, since the route we take in the one case defines the alternatives in the second one.]

[H] Now if you maintain that the writ of divorce [given to the first wife] has released more than the original bespeaking acquired for the levir, then in the case of the first of the two widows, it is as if there was no bespeaking. So we conclude that there can be bespeaking [of the second widow] following the writ of divorce [given to the first widow, who had been] bespoken.

[I] But if you say that the writ of divorce does not release more than the bespeaking has acquired [for the levir, in the first of the two widows], then in the case of the first widow it is as if there is the effect of bespeaking, and consequently, so far as the second widow is concerned, there is no valid bespeaking after the writ of divorce following the bespeaking [of the first widow].

[I:9 A] *In the opinion of Rabban Gamaliel, what is the law as to there being an invalid act of sexual relations after a prior act of invalid sexual relations? [At issue is that in Gamaliel's view a valid bespeaking may take place after an invalid act of sexual relations, as we note from the case above. That is, in the case of the three levirate widows, in which the levir gave a writ of divorce to one, had sexual relations with the second, and bespoke the third, the act of bespeaking is effective, even after the act of sexual relations in the middle. The sexual relations were invalid, following the writ of divorce. Now do we maintain that*

just as there is a valid act of bespeaking after an invalid act of sexual relations, so there may be a valid act of sexual relations after an invalid such act? Then we may maintain that, in Gamaliel's view, the act of sexual relations is less effective than bespeaking. How so? In the case of bespeaking after a writ of divorce, the bespeaking acquires that aspect of the widow left untouched by the writ of divorce. That is why a further act of bespeaking thereafter is null. Thus there can be no bespeaking after a prior act of bespeaking in the case of the levirate widow to whom a writ of divorce has been given. In the case of sexual relations after a writ of divorce has been given, by contrast, the act of sexual relations does not effect acquisition of whatever part of the woman has been unaffected by the writ of divorce. That is why bespeaking remains valid thereafter. So just as the invalid act of sexual relations has left an aspect of the woman unaffected, bespeaking therefore may take effect. Now we ask, does a valid act of sexual relations take effect in the same way as the bespeaking does in such a case? Or do we maintain the view of Gamaliel's position that invalid sexual relations function no less effectively than bespeaking. In that case there can be no valid act of sexual relations after an invalid one, even if that is followed by bespeaking. (All of the foregoing: Pené Moshe.)]

- [B] [A further question is now advanced:] The coition of a nine year old boy after the coition of a nine year old boy, [which is not valid for legal purposes to effect levirate marriage but does have the standing of bespeaking],
- [C] invalid coition after the coition of a boy nine years old,
- [D] the coition of a boy nine years old after an invalid coition –
- [E] can we say that sages concur [in these cases] with the view of Rabban Gamaliel that there can be no valid bespeaking after another bespeaking in the case of a single levirate widow [and a single levir] [vis-a-vis M. 5:IF]?
- [F] *What would be a practical case?*
- [G] If the levir bespoken his levirate widow, and then gave her a writ of divorce, then bespoken her [again],
- [H] if you maintain that in such a case there is bespeaking after bespeaking, then the levirate widow was in no way released by that writ of divorce. [That is, if the second bespeaking was null, then the widow was released by the writ of divorce, in which case, the only thing the widow must do now is perform the rite of *halisah*.]

[I] If you maintain that there is no bespeaking after another act of bespeaking, then the woman has been wholly released by that writ of divorce. [These various questions are not answered.]

[I:10 A] *R. Yudan raised the question*, “If one has betrothed a woman from the present day, to take effect after thirty days, and her sister happened to come to him as his levirate bride during the thirty-day period – [thus a case in which there is a betrothal, and yet the betrothed woman is not fully betrothed during the thirty-day period] –

[B] “[since betrothal and bespeaking are equivalent to one another,] do we say that even here there is no bespeaking after bespeaking [M. 5:IB]? [The sister who has come during the thirty days to the man as his levirate wife in no way is subject to him, since the betrothal of her sister already is in effect, even though not wholly so.]

[C] “As to that which *R. Abbahu* stated in the name of *R. Yohanan*, ‘[During the thirty-day period] the act of betrothal of even a hundred men may take effect [for this woman,]’ now does this statement conflict with the view of *Rabban Gamaliel*?”

[D] [No, that is not the case.] *Rabban Gamaliel* made his statement only with regard to a writ of divorce or bespeaking [when he said what he said; it was that there can be no writ of divorce after another such writ, or no bespeaking after another act of bespeaking. In such a case *Gamaliel* maintains that the acts of a second levir are null. But as to the case of betrothal before us, *Gamaliel* will concur that during the thirty-day period the advent of the levirate widow, sister of the woman who will be betrothed to him after thirty days have passed, is consequential, and that levirate widow serves to prohibit him from becoming fully betrothed to her sister, with whom he has had the prior arrangement, since the betrothal is not fully in place].

5:2

[A] **How so?**

[B] **[If a levir] bespoke his childless brother’s widow and [then] gave her a writ of divorce,**

[C] **she [nonetheless] requires a rite of halisah from him.**

[D] **[If] he bespoke her and then performed a rite of halisah,**

[E] **she [nonetheless] requires a writ of divorce from him.**

[F] **[If] he bespoke her and then had sexual relations, lo, this has been done in accord with its requirement.**

- [I:1 A] [Referring to M. 5:2B-C, we note that the relationship is sufficiently severed by a writ of divorce so that levirate marriage is no longer an option. Since M. 5:2C requires a rite of halisah and does not permit levirate marriage,] *that is to say that* a writ of divorce releases more of the woman than the bespeaking has acquired for the levir.
- [B] A levir cannot say, “Let my writ of divorce release only what my act of bespeaking has acquired for me,” [so that he may be permitted to take her in marriage]. [Following Pené Moshe.]
- [C] And [he also may not say] even what my bespeaking has acquired for me, my writ of divorce has not released, because this is not the cutting off to which Scripture refers [at Deut. 24:2- 4]. [It follows that a writ of divorce has the effect of releasing more of the woman than the bespeaking acquired for the levir to begin with.]
- [II:1 A] [As to M. 5:2D-E, bespeaking, followed by a rite of halisah,] an invalid rite of halisah [such as is referred to here, since it does not accomplish the complete cutting of the tie to the levirate sister-in-law] nonetheless releases.
- [B] *For what purpose?*
- [C] So that if someone else should come along and betroth her co wife, the co-wife is deemed to be subject to the betrothal. [Once halisah has taken place with the one wife, the other is no longer bound.]
- [D] If someone came along and betrothed [the woman with whom halisah had been performed, but who yet requires a writ of divorce], [do we say that] since the connection to the deceased has been removed, the betrothal takes effect [although, still, the writ of divorce is required]?
- [E] Or perhaps since she yet requires a writ of divorce to free her from the bespeaking, the betrothal does not take effect?
- [III:1 A] [Referring to M. 5:2F,] said R. Ba bar Memel, “*That is to say that* one’s religious duty first is to betroth [parallel to bespeaking] and then to have sexual relations [consuming the marriage].
- [B] “This is on the basis of the following argument a fortiori:
- [C] “Now if [as stated at M. 5:2F] in the case of a woman concerning whom betrothal has not been stated by Scripture, you rule as you do, saying, **Lo, it has been done in accord with its requirement**, then in the case of a woman concerning whom betrothal is required by Scripture, is it not an argument a fortiori [that this is the proper way of doing things]?”

5:3

- [A] **[If] one gave a writ of divorce and [then] bespoke [the childless brother's widow], she requires a writ of divorce and a rite of halisah.**
- [B] **[If] he gave a writ of divorce and then had sexual relations, she requires a writ of divorce and a rite of halisah.**
- [C] **[If] he gave a writ of divorce and performed the rite of halisah, nothing whatsoever follows the rite of halisah [= M. 5:1G].**
- [I:1 A] [As to M. 5:3A, she requires] a writ of divorce on account of his bespeaking, and halisah because of the levirate connection to him to which she is subject.
- [B] [As to M. 5:3B, sexual relations, followed by a writ of divorce and a rite of halisah:] *that is to say* an invalid act of sexual relations does not release the woman [on which account she requires halisah. He could not keep the marriage going once he had given a writ of divorce, hence the sexual relations were out of order].
- [C] *Now see here:* A rite of halisah that is invalid nonetheless releases her, while an act of sexual relations that is invalid does not release her! [M. 5:3C states that nothing follows the rite of halisah – even if it is invalid. Yet invalid coition does not have the equivalent effect.]
- [D] As to halisah, because its very purpose is to render her invalid to the levir, it releases her. As to coition, since its very purpose ordinarily is not to render her invalid to the levir, it does not release her.
- [E] Then let it not serve to release her for lenient purposes, but let it release her for stringent purposes [as will now be explained].
- [F] *For what purpose?*
- [G] If someone else should come along and betroth the co-wife, the act of betrothal takes effect [so that, for the present purpose, the invalid act of sexual relations does release the wife's co-wife].
- [H] *Said R. Yudan, "In so stating you apply the general rule: Any levirate widow who is not wholly outside [of her late husband's family ties] remains wholly within [those family ties] for all purposes, until she goes forth from them [completely].*

5:4

[A] [7a] (1) [If] he performed the rite of halisah and [then] bespoke [the childless brother's widow], [or] (2) gave a writ of divorce, or had sexual relations [with her],

[B] or [if] he (1) had sexual relations, [then] bespoke [the woman], [or] (2) gave a writ of divorce or performed the rite of halisah,

[C] nothing whatsoever follows the rite of halisah.

[D] All the same are the cases of a single childless brother's widow with a single levir, and two childless brothers' widows with a single levir.

[I:1 A] Even though they have said that a valid act of halisah does not follow a prior valid act of halisah, nonetheless, an act of sexual relations that takes place after the rite of halisah still has the effect of invalidating the widow from marriage into the priesthood.

[B] Even without such a complication is she not invalid for marriage into the priesthood [because halisah is equivalent to divorce, and she is in the status of a divorcée, whom a priest may not marry]?

[C] But she is invalid for eating food in the status of heave-offering.

[D] [Do you then wish to say] that he who has sexual relations with a woman with whom he has performed the rite of halisah has invalidated her from eating food in the status of heave-offering?! [She is invalid anyhow, and the conclusion just now proposed is hardly necessary.]

[E] But [the point of A is that] when the brothers of the levir had sexual relations with her [they invalidated her from eating food in the status of heave-offering].

[F] *That view poses no problem to him who said that a brother who had sexual relations with a woman with whom he had performed the rite of halisah is not liable [to extirpation], while his brothers are liable on that same count. But in accord with the view of the one who said, whether it is the levir or his brothers, they are not liable for having sexual relations with a woman with whom the levir has performed the rite of halisah, [there is still a problem in interpreting what has been said].*

[G] Rather, we deal with a case in which he had had sexual relations with the co-wife [after he had performed the rite of halisah with one of the widows].

[H] *That poses no problem to the view of the one who said, "All concur in the case of the co-wife that he [who, after performing the*

rite of halisah, has sexual relations with her] is liable.” *But in accord with the view of the one who said*, “He is not liable either on account of the woman with whom he has performed the rite of *halisah* or on account of the co-wife,” [the problem remains].

[I] Rather, we deal with a case in which the brothers had sexual relations with her.

[J] *This poses no problem to the view of the one who said*, “Neither he nor his brother is liable either on account of the woman with whom he has performed the rite of *halisah*, but they are liable on account of her co-wife.” But in accord with the view of the one who said, “Neither he nor his brothers are liable on account of the woman with whom he has performed *halisah*, but not on account of her co-wife,” [there still is a problem].

[K] *But it accords with the view of R. Aqiba, for R. Aqiba says*, “A *mamzer* is the product of an illicit union with a woman with whom one has performed the rite of *halisah*.” [That is, a negative commandment has been violated in this union, and, in Aqiba’s theory, that produces a *mamzer*.]

[L] R. Yosé said, “Interpret the rule to speak of a case in which the levirate widow was of the priestly caste, and because he had sexual relations with her, she was profaned from the priestly caste [and so cannot eat food in the status of heave-offering any longer].”

[II:1 A] If he gave a writ of divorce or performed the rite of halisah, nothing whatsoever follows the rite of halisah [M. 5:4B- C].

[B] *And have we not learned that same rule: Nothing whatsoever follows the rite of halisah [M. 5:1G, M. 5:3C]?*

[C] *It is because of that which we learn at the end of this passage: All the same are the cases of a single childless brother’s widow with a single levir, and two childless brothers’ widows with a single levir [M. 5:4D].*

[II:2 A] [As to the statement of M. 5:4A, He performed the rite of halisah and then bespoke the levirate widow,] if one were to betroth a woman with whom he had performed the rite of halisah, is it possible that his act of betrothal takes effect? [Surely not. Nothing follows the valid rite of halisah. So why should the issue of bespeaking, parallel to betrothing, require specification?]

[B] Interpret the passage to accord with the view of rabbis vis- a-vis Rabbi, and the act of bespeaking to have taken place not with the full knowledge and consent of the woman. [Rabbi will maintain that the bespeaking takes effect even without the woman’s full knowledge and consent, but rabbis hold that that is not the case and the bespeaking is null.]

[C] Or interpret it to represent the view of all parties, and to deal with a situation in which he intended to acquire her by means of bespeaking, [in which instance, this bespeaking is null, because she is prohibited to him as a woman with whom he has performed the rite of halisah].

[D] She is in the status of his levirate wife and not in that status.

[E] Said R. Ba, “*And so has it been taught: ‘Bespeaking effects acquisition, whether with or without the woman’s knowledge and consent,’* the words of Rabbi.

[F] “And sages say, ‘Acquisition of a woman is effected only with her full knowledge and consent.’”

[G] Rabbi concedes in the case of an ordinary betrothal that it takes place only with the woman’s knowledge and consent. [Since the levirate widow has no choice about the matter, he rules differently in the matter of bespeaking, as we shall see.]

[H] *And what is the reasoning of Rabbi?*

[I] In the case of the levirate widow, an act of sexual relations effects acquisition, and bespeaking effects acquisition. Just as the act of sexual relations effects acquisition whether or not it is with the woman’s full knowledge and consent, so bespeaking should effect acquisition whether or not it is with the woman’s full knowledge and consent.

[J] And just as Rabbi says that bespeaking effects acquisition whether or not it is with the woman’s full knowledge and consent, so he maintains that a writ of divorce releases the woman whether or not it is with her knowledge and consent.

[K] And why does Rabbi maintain that bespeaking effects acquisition whether or not it is with the woman’s full knowledge and consent?

[L] For in the case of an adult male an act of sexual relations effects acquisition whether or not it is with the woman's full knowledge and consent.

[M] But whereas the writ of divorce releases the woman without her full knowledge and consent, the rite of halisah releases her only with her full knowledge and consent.

5:5

[A] How so?

[B] [If] he bespoke this one and bespoke that one, [they require] two writs of divorce and [one] rite of halisah.

[C] [If] he bespoke this one and [gave] a writ of divorce to that one, she [the bespoken widow] requires a writ of divorce and the rite of halisah.

[D] [If] he bespoke this one and had sexual relations with that one, they require two writs of divorce and [one] rite of halisah.

[E] [If] he bespoke this one and performed the rite of halisah with that one,

[F] the first one requires a writ of divorce.

5:6

[A] [If he gave a] writ of divorce to this one and a writ of divorce to that one, they require from him a rite of halisah.

[B] [If he gave] a writ of divorce to this one and had sexual relations with that one,

[C] [the latter] requires a writ of divorce and a rite of halisah.

[D] [If he gave] a writ of divorce to this one and bespoke that one, [the latter] requires a writ of divorce and a rite of halisah.

[E] [If he gave] a writ of divorce to this one and performed halisah with that one,

[F] nothing whatsoever follows the rite of halisah.

[I:1 A] *In the view of Rabbi*, [who maintains that bespeaking effects acquisition without the knowledge and consent of the woman], what is the law as to the effect of bespeaking by a boy nine years and one day old.

- [B] The act of sexual relations of an adult completely acquires the woman, while his bespeaking acquires her, leaving over some measure of the levirate widow unaffected.
- [C] [But] does the act of sexual relations of a minor completely effect acquisition, so that his bespeaking likewise should effect acquisition while leaving over some measure of the woman unaffected? [Surely not!]
- [D] [If you say, moreover, that his bespeaking is valid, then] what is the difference, then, between his act of sexual relations and his bespeaking [of a levirate widow]? [For his act of sexual relations produces the same effect as an adult male's act of bespeaking.]
- [E] *There are those who wish to phrase the question as follows: What is the difference between the bespeaking of an adult male and the bespeaking of a minor? [That is, if you maintain that his bespeaking is valid, then how does this differ from the bespeaking of an adult?]*

[I:2 A] Samuel said, "In the view of R. Meir, they have treated the act of sexual relations of a boy nine years and one day old as equivalent to the act of bespeaking of an adult."

- [B] *Now just as you maintain that they have treated the act of sexual relations of a boy nine years and one day old as equivalent to the act of bespeaking of an adult, along these same lines is the act of halisah of a boy nine years and one day old tantamount to a writ of divorce issued by an adult?*
- [C] *Rabbis say, "The rite of halisah of a boy nine years and one day old is null and of no effect."*
- [D] Then why have they treated the act of sexual relations of a boy nine years and one day old as equivalent to an act of bespeaking by an adult male?
- [E] Because an act of sexual relations on the part of an adult effects acquisition whether or not with the knowledge and consent of the levirate widow.
- [F] But shall we treat the act of halisah of a boy nine years and one day old as equivalent to a writ of divorce issued by an adult, when the rite of halisah of an adult releases the woman only with her knowledge and consent? [This question is not answered.]

5:7

- [A] [If] he performed the rite of halisah [with this one] and performed the rite of halisah [with that one],
- [B] or if he performed the rite of halisah with this one and bespoke that one,
- [C] or if he gave a writ of divorce to this one and had sexual relations with that one,
- [D] if he had sexual relations with this one and had sexual relations with that one,
- [E] or if he had sexual relations with this one and bespoke that one,
- [F] or if he gave a writ of divorce to this one and performed the rite of halisah with that one,
- [G] nothing whatsoever follows the rite of halisah.
- [H] [And this is the rule] whether in the case of a single levir and two childless brother's widows, or two levirs and a single childless brother's widow.

5:8

- [A] [If] he performed a rite of halisah with one and bespoke one,
- [B] gave a writ of divorce to one and had sexual relations with one,
- [C] or had sexual relations and bespoke, and gave a writ of divorce and performed halisah,
- [D] nothing whatsoever follows the rite of halisah
- [E] whether this comes at the outset, or in the middle, or at the end.
- [F] As to sexual relations: when this is at the outset, nothing whatsoever follows it.
- [G] If this comes in the middle or at the end, there is something that follows it.
- [H] R. Nehemiah says, "All the same are sexual relations and the rite of halisah, whether at the beginning or at the middle or at the end:
- [I] "nothing whatsoever follows either of them."

[I:1 A] *There they say*, "[The reason for] the view of R. Nehemiah is that an act of sexual relations that is invalid nonetheless releases the levirate widow. [If there is an act of sexual relations with a widow after another widow has received a writ of divorce or been bespoken, it nullifies whatever has gone before and takes effect. Whatever takes place after that act of sexual relations likewise is null.]"

[B] *In the opinion of rabbis over there* [in Babylonia, explaining Nehemiah's position,] an act of sexual relations, whether it takes place after bespeaking or after a writ of divorce, releases the levirate widow.

[C] *In the opinion of rabbis here* [in the land of Israel, also explaining Nehemiah's position,] an act of sexual relations that takes place after bespeaking releases the levirate widow; [that is, the levirate connection of the other widows now is null]. That which takes place after a writ of divorce [has been given to one of the other widows] does not release [the other widows].

[D] Now did not the rabbis over there hear that which R. Hela in the name of R. Yohanan said, "R. Nehemiah, R. Simeon, and R. Ishmael [better: Gamaliel] all said the same thing." [Gamaliel and Simeon: A valid act of bespeaking cannot take place after another, prior act of bespeaking.]

[E] *For it has been taught:*

[F] Three childless brother's widows and one levir –

[G] [if] he bespoke this one and had sexual relations with the other one and went and bespoke the third –

[H] R. Nehemiah says, "The first requires a writ of divorce. But after the act of sexual relations there is no valid effective procedure.

[I] "[This is so] by an argument a fortiori: Now if performing a rite of halisah invalidates a woman for marriage into the priesthood [even] in the case of a rite of halisah that takes place after an act of sexual relations, [and after sexual relations] there is no effective procedure whatsoever,

[J] "then an act of sexual relations, which does not invalidate the woman from marrying into the priesthood,

[K] "in the case of sexual relations after a rite of halisah,

[L] "is it not logical that there should be nothing valid after it [an act of sexual relations]?" [T. Yeb. 7:SD-J].

[M] *In the view of rabbis*, he may not marry the female relatives of any one of the three, and all three require three writs of divorce, plus the rite of *halisah* with one of them.

YERUSHALMI YEBAMOT

CHAPTER SIX

6:1

- [A] [7b] He who has sexual relations with his childless brother's widow –
[B] whether inadvertently or deliberately,
[C] whether under constraint or willingly,
[D] even if he does so inadvertently and she deliberately,
[E] he deliberately and she inadvertently,
[F] he under constraint and she not under constraint,
[G] she under constraint and he not under constraint,
[H] all the same being the one who merely partially opens [uncovers the
vagina] and the one who completes [entry therein] –
[I] has acquired [his sister-in-law as his levirate wife].
[J] And there is no distinction between one sort of sexual act and some
other.

- [I:1 A] *We have learned:* Even if he does so inadvertently and she
deliberately, he deliberately and she inadvertently [M. 6:1D-E].
- [B] *R. Hiyya taught:* “Even if both of them did it inadvertently [not
intending to consummate the levirate tie], or both of them did it
deliberately.”
- [C] *They proposed to rule:* “That applies to one of sound senses, who
is capable of intelligent decision, who effects acquisition whether
knowingly or not knowingly.
- [D] “But a deaf-mute, who is not capable of intelligent decision,
should effect acquisition only knowingly.”
- [E] [*To the contrary,*] *R. Hiyya taught:* All the same are a deaf mute,
an idiot, [and a minor] who have had sexual relations – they
have effected an act of acquisition in the case of the levirate

widow, and they have freed the co-wives from the obligation of levirate marriage [T. Yeb. 11:11I-J].

- [I:2 A] “Her husband’s brother shall go in to her” (Deut. 25:5) – with his full knowledge.
- [B] “And he shall take her as a wife” (Deut. 25:5) – [even] without his full knowledge.
- [C] “And he shall perform the duty of a husband’s brother to her” (Deut. 25:5) – even over her objections.
- [D] “Her husband’s brother shall go in to her” (Deut. 25:5) – with her full knowledge.
- [E] “And he shall take her as a wife” (Deut. 25:5) – without her full knowledge.
- [F] “And he shall perform the duty of a husband’s brother to her” (Deut. 25:5) – even over her objections.
- [G] “Her husband’s brother shall go in to her” (Deut. 25:5) – in the normal way.
- [H] “And he shall take her as a wife” (Deut. 25:5) – not in the normal way.
- [I] “And he shall perform the duty of a husband’s brother to her” (Deut. 25:5) – even from the side.
- [J] “Her husband’s brother shall go in to her” (Deut. 25:5) – in a completed act of coition.
- [K] “And he shall take her as a wife” (Deut. 25:5) – in an incomplete act of coition.
- [L] “And he shall perform the duty of a husband’s brother to her” (Deut. 25:5) – even by merely uncovering the sexual parts.

[I:3 A] What is the definition of uncovering the sexual parts?

- [B] R. Judah in the name of R. Samuel: “When the finger appears [merely] between the lips [i.e., the penis does not fully enter the vagina].”
- [C] R. Yohanan said, “Until the crown of the penis enters the vagina.”
- [D] R. Ba bar Hiyya in the name of R. Yohanan: “When the crown of the penis enters, this is the completion of sexual relations.”

[E] *Now how shall we interpret [this statement of Yohanan's]? [To what case does it refer?]* If it refers to sexual relations among all other prohibited consanguineous marriages, the law has treated the one who merely begins the act [uncovers the sexual parts] as equivalent to the one who completes it. If he speaks of a betrothed slave-girl, liability is incurred only when there will be an emission of semen. And R. Jeremiah, R. Ba bar Mammel said in the name of Rab: “The definition of semen is that there must be an actual seminal emission.” *But we must interpret his statement to deal with* sexual relations of a widow with a high priest.

[F] And in this regard R. Ba bar Mammel has said, “If one has merely begun the act of sexual relations with her, he is liable for having profaned her [and has made her no longer suitable for marriage to a priest]. If the crown of the penis enters, he is liable on the count of having sexual relations with her. If he completed the coition, he is liable on the count: ‘He may not profane his seed among his people’” (Lev. 21:15).

[I:4 A] *There we have learned: All women impart uncleanness by reason of blood in the outer house [the vagina, even though the blood is still attached to the walls of the womb] [M. Nid. 5:1E].*

[B] What is the outer house?

[C] R. Yohanan said, “It is up to that place that is visible when little girls squat down to urinate.”

[D] Said to him R. Simeon b. Laqish, “Is it not so that that place regarded as exposed in respect to contact with a dead creeping thing is as far as the glands [of the vagina? That is, if a dead creeping thing touched that place, it is regarded as an internal organ and unaffected].”

[E] R. Zakkai taught, “It is up to the glans [of the vagina], and inward from the glands.”

[F] R. Yosé bar R. Bun in the name of Samuel: “The entire vagina is called ‘the outer house.’”

[II:1 A] He has acquired [his sister-in-law] [M. 6:1I]: Now if he did not distinguish between one sort of sexual act and some other, what has he acquired?

[B] Samuel said, “He has acquired only those matters that are stated in the passage, that is, inheriting the estate of the deceased brother and

prohibiting her from connection with his other brothers and permitting her co-wife to marry anyone else.”

- [C] R. Yohanan said, “He has acquired her for all intents and purposes [including having her eat food in the status of heave offering, if he is a priest].”
- [D] *Said R. Isaac bar Eleazar, “Where they differ is in the case of his merely beginning the act of sexual relations with her. But if he completed the coition, all parties concur that he has acquired her for all intents and purposes.”*
- [E] *Said R. Mattenaiah, “When they differ, it concerns his having sexual relations with her while she is in her father’s house. But if he had sexual relations with her while she is still in her husband’s house, all parties concur that he has acquired her for all - intents and purposes.”*
- [II:2 A] Said R. Yosé, “*A Tannaitic teaching has stated, ‘If he had sexual relations with her, lo, she is his wife for all purposes.’ What is the law as to her eating food in the status of heave-offering [if he is a priest]?’*”
- [B] R. Ba in the name of Samuel: “It seems to me that if she was eating food in the status of heave-offering while her husband was alive, she should continue to do so now, and if not, she should not do so [that is, if the husband died while the couple was only betrothed, during which period she did not yet have the right to eat food in the status of heave-offering, she may not do so merely on the basis of an act of sexual relations of an inferior order].”
- [C] R. Yohanan said, “Even if she had not been eating that food, she may now do so.”
- [D] R. Yosé says, “Even if she was worthy to begin eating food in that status [e.g., the time for the marriage had arrived, and she was not yet married, at which point she has the right to begin to eat food in the status of heave-offering, she may now do so].”
- [E] *A Tannaitic teaching supports the view of this one, and a Tannaitic teaching supports the view of that one.*
- [F] *A Tannaitic teaching supports the view of Samuel: “An Israelite girl of sound senses who was married to a priest who was a deaf-mute may not eat food in the status of heave-offering. If he died and she came before the levir, if she was of sound senses [and had been married to a priest of sound senses], she now may eat food in the status of heave-offering. If she was a deaf-mute, she may not.*

[If she was eating heave-offering in her husband's lifetime, she may continue to do so, but she may not now start.]”

[G] *A Tannaitic teaching supports the view of R. Yohanan: “An Israelite girl of sound senses who was betrothed to a priest of sound senses – he did not suffice to consummate the marriage before he became a deaf-mute, or before she became a deaf mute – she may not eat food in the status of heave-offering. If he died and she fell before a levir, even if he was a deaf-mute, she may eat food in the status of heave-offering. In this case the power of the levir is greater than the power of the husband, for the levir who is a deaf-mute has the power to allow her to eat food in the status of heave-offering, while the husband who was a deaf-mute does not have that power. [In consequence, even if she had not been eating food in the status of heave-offering, she may now do so.]”*

6:2

[A] **And so:**

[B] **he who has sexual relations with any one of all the forbidden degrees that are listed in the Torah, or with any of those invalid [for sexual relations with him] –**

[C] **[for example] a widow to a high priest, a divorcée or a woman who has performed the rite of halisah with an ordinary priest, a mamzeret or a netinah with an Israelite, and Israelite woman with a mamzer or a netin –**

[D] **has rendered her invalid [to marry a priest or, if she is a priest's daughter, to eat heave-offering].**

[E] **And there is no distinction between one sort of sexual act and some other.**

[I:1 A] “A widow he shall not marry” (Lev. 21:14) – is it possible to suppose that [if] he [merely] raped her [but did not actually marry her], [she should not be deemed to have been invalidated for marriage into the priesthood]?

[B] Scripture says, “He may not profane his seed among his people” (Lev. 21:15).

[C] Is it possible to suppose that if he began the act of sexual relations [but did not complete it], [she should not be deemed to have been invalidated]?

- [D] Scripture says, “He may not profane” [the word being written in such wise as to indicate] one who, even through rape, and even through merely commencing the act of sexual relations.
- [E] *Up to this point we deal with the position of R. Aqiba. As to R. Ishmael – R. Ishmael taught as a Tannaite statement, “Here we find a reference to ‘taking,’ and further we find the same with respect to consanguineous relationships [at Lev. 21:14ff.]. Just as when the word ‘taking’ is used here it makes reference to all other consanguineous relationships, in such wise as to treat merely commencing the act of sexual relations as equivalent to completing it, so when the word ‘take’ is used here, it bears the same meaning, namely, treating merely commencing the act of sexual relations as equivalent to completing it.”*
- [F] *R. Haggai raised the question, “May we then argue: if the word ‘taking’ used with respect to all other consanguineous relations, treating the at of commencing sexual relations as equivalent to the act of completing it, with the result that the offspring is a mamzer, is it the fact that here too [with reference to the high priest], the mere beginning of the sexual act is equivalent in its legal effects to the completion of the act, and the offspring is a mamzer?”*
- [F] *Said R. Yosé, “[If that is the case,] then for what purpose did Scripture find it necessary to state, ‘profane [his seed],’ [if the offspring is a mamzer]? Is not the mamzer subject to a greater prohibition than that of impaired priestly seed? [The meaning of Scripture then is that in this case, while he produces impaired priestly seed, he does not produce mamzers.]”*
- [G] *R. Bun bar Bisna in the name of R. Ba bar Mammel came [and said]: “Here there is a reference to ‘taking,’ and later on, ‘taking’ is used with regard to the levirate widow. Just as when ‘taking’ is used with reference to the levirate widow, the law has treated beginning sexual relations as equivalent to completing the act, while the offspring remains valid, so ‘taking’ stated here means that the law treats beginning sexual relations as equivalent to completing it, and the offspring is valid.”*
- [H] For R. Ba bar Mammel has said, “If [a high priest] has [merely] begun the act of sexual relations [with a widow], he is liable on account of profaning her. If the crown of the penis entered the vagina, he is liable on account of having sexual relations with her. If he completed the act of sexual relations, he is liable on the count of profaning his seed.”

6:3

- [A] [If it is a marriage between] a widow and a high priest, [between] a divorcée or a woman who has performed the rite of halisah and an ordinary priest –
- [B] from the time of the betrothal, they should not eat heave-offering.
- [C] R. Eleazar and R. Simeon declare [her] valid [to continue to do so until the marriage is consummated].
- [D] [If] they were widowed or divorced –
- [E] [if this is a severance of] the marriage, they remain invalid [for eating heave-offering].
- [F] [If this is a severance of] betrothal, they are valid [once more to eat heave-offering or to marry a priest].

- [I:1 A] *What is the scriptural basis for the view of those rabbis [who stand behind M. 6:3A-B]?*
- [B] Here [with reference to the priest], the language of “being” is used [“He shall *be* holy to you” (Lev. 21:8)], and there, with reference to betrothal, the language of “being” is used [“If there be a betrothed virgin” (Deut. 22:23)].
- [C] Just as the language of “being” used at that later point refers to the stage of betrothal, so the language of “being” used with regard to the priest’s marriage applies to the stage of betrothal [and not necessarily to a consummated marriage].
- [D] *What is the scriptural basis for the view of R. Eleazar .and R. Simeon?*
- [E] The language of “being” is used here, and the language of being is used elsewhere: “If a priest’s daughter will be married to an outside man, she shall not eat of the offering of the Holy Things” (Lev. 22:12).
- [F] Just as “being” referred to at that latter passage speaks of a fully consummated marriage [but not betrothal], so here the reference is to a fully consummated marriage.
- [G] *Said R. Yosé, “Now how do R. Eleazar and R. Simeon know that a priest’s daughter, once she is betrothed to an Israelite, is not permitted to eat food in the status of heave-offering? Do they not derive it from that very verse to which they have made reference: ‘If a priest’s daughter will be married to an outside man, she shall not eat of the offering of the Holy Things?’”*

- [H] Here they interpret the verse to treat the stage of betrothal, [7c] and there will they interpret the verse to refer to the stage of *marriage*?
- [I] [How do we know that a widow wedded to a high priest or a divorcée wedded to an ordinary priest may not eat food in the status of heave-offering, so far as] rabbis are concerned?
- [J] “To a man” [is needless, since merely referring to “an outsider” will have sufficed to make the point. Hence] it is to a man who has the power to confer the right to eat such food, [thus a high priest or a priest. Marriage in violation of the law invokes Lev. 22:12.] Now is it not an argument a fortiori: If in the case of an Israelite, with whom sexual relations do not invalidate the woman from marriage into the priesthood, sexual relations with him invalidate her from eating heave-offering. in the case of a high priest, whose act of sexual relations will invalidate [a widow] from marriage into the priesthood – is it not an argument a fortiori that an act of sexual relations with him should invalidate her from eating food in the status of heave-offering?
- [K] No, if you have made that statement in the case of an Israelite, who has not got the power to confer upon other women [the right to eat food in the status of heave-offering], do you mean to say that [it applies also in the case of the high priest who does have the power to permit other women whom he may marry, who are suitable to marry him, to eat food in the status of heave-offering]? Since he has the power to permit other women [whom he may marry to eat food in the status of heave-offering], sexual relations with him should not invalidate such a woman from having the right to eat food in the status of heave-offering.
- [L] It follows that the argument a fortiori has failed, and you have to return to Scripture.
- [M] *On this account it is necessary to say, “to a man,” that is, to a man who has the power to confer the right to eat such food.*
- [N] *What is the scriptural basis for the view of R. Eleazar and R. Simeon that only a consummated marriage invalidates her from having the right to eat food in the status of heave-offering? How do R. Simeon and R. Eleazar interpret the cited verse? Is it on the count of his having the right to eat such food, or on the count of his having the right to confer upon a woman the right to eat such food?*
- [O] *Let us derive the answer from the following: **If he did not have sexual relations with her from the time that his penis was***

mutilated or cut off, lo, these retain the right to eat food in the status of heave-offering [M. 8:1].

[P] Said R. Eleazar, “This represents the view of R. Eleazar and R. Simeon.”

[Q] *Now may you say, “This [M. 8:1] is on the count that he is able to bestow upon the woman the right to eat such food? [He cannot marry] but here it must be because he himself is suitable to eat it?”*

[I:2 A] Said R. Yosé b. R. Bun, “It is not the end of the matter that it is once they have been married [that the law takes effect].

[B] “If they had merely had sexual relations [with the unsuitable women], whether this was at the stage of betrothal or at the stage of marriage, they are unfit to eat the food.

[C] “If they had not had sexual relations, whether at the stage of betrothal or at the stage of marriage, they retain the right to eat it.”

6:4

[A] **A high priest should not marry a widow, whether this is a woman widowed out of betrothal or widowed out of marriage.**

[B] **And he should not marry an adolescent.**

[C] **R. Eleazar and R. Simeon declare [it] valid for him to marry an adolescent.**

[D] **He should not marry a girl who has lost her virginity by reason of a blow from a piece of wood.**

[E] **[If] he betrothed a widow and then was appointed high priest, he may consummate the marriage.**

[F] **M'SH B: Joshua b. Gamla betrothed Martha, daughter of Baythos. Then the king appointed him high priest. He married her.**

[G] **A woman awaiting marriage with her levirate brother-in-law who came [for that purpose] before an ordinary priest, and then he [the eligible brother-in-law] was appointed high priest –**

[H] **even though he has bespoken her, lo, this one should not consummate the marriage.**

[I] **A high priest whose brother died performs the rite of halisah and does not enter into levirate marriage [with the surviving sister-in-law].**

[I:1 A] “A widow ... he shall not marry” (Lev. 21:14) – whether out of betrothal or out of marriage.

[B] “A divorcée ... he shall not marry” (Lev. 21:14) – whether out of betrothal or out of marriage.

[II:1 A] He should not marry an adolescent. R. Eleazar and R. Simeon declare valid [M. 6:4B-C] in the case of an adolescent.

[B] They concur that **he should not marry a girl who has lost her virginity by reason of a blow from a piece of wood [M. 6:4D].**

[C] What is the difference between the adolescent and the girl who has lost her virginity by reason of a blow from a piece of wood?

[D] In the case of an adolescent, the signs of virginity disappear into her own belly, while in the case of a girl who has lost her virginity by reason of a blow from a piece of wood, her signs of virginity have flowed out.

[E] *There are those who reverse the tradition of the law, as follows:*

[F] He should not marry a girl who has lost her virginity by reason of a blow from a piece of wood.

[G] R. Eleazar and R. Simeon declare valid in the case of a girl who has lost her virginity by reason of a blow from a piece of wood.

[H] They concur that he may not marry an adolescent.

[I] What is the difference between an adolescent and a girl who has lost her virginity by a blow from a piece of wood?

[J] In the case of an adolescent, the time of her youth has passed. In the case of a girl injured by a piece of wood, the days of her youth have not passed.

[K] In the case of a priest’s sister who has lost her virginity by reason of a blow from a piece of wood [and has died],

[L] R. Meir and R. Simeon say, “A priest should not contract uncleanness in order to bury her.”

[M] And sages say, “A priest should contract uncleanness for that purpose.”

[N] [Since the law is that the priest buries his sister only if she is a virgin, and in the first version, above, Eleazar and Simeon concur that a girl is not deemed a virgin who has lost her virginity by the blow of a piece of wood,] what is attributed to Meir and Simeon is in line

with the authorities [who have phrased matters as they have].

[O] *But as to the view of rabbis, what is assigned to them is confused. There they have said, “[A high priest marries] a girl, not an adolescent, a virgin, not a girl who has lost her virginity by the blow of a piece of wood,” and here they say this [that such a girl is in the status of a virgin].*

[P] Said R. Hela, “For each item, the exegesis of Scripture provides an appropriate foundation.

[Q] “There [with regard to a priest’s connecting uncleanness for burying relatives, it says,] ‘His virgin sister who is near to him because she has had no husband; for her he may defile himself’ (Lev. 21:2). This excludes one who has been raped or seduced.

[R] “Or is it not possible that the intent of Scripture is to exclude a girl who has lost her virginity to the blow of a piece of wood [and not to a man, that is, that the priest should not bury such a sister]?”

[S] “Scripture says, ‘Because she has had no husband’ – thus excluding the one who has been wed to a man, and including one who has lost her virginity to some other cause.”

[T] “[His virgin sister,] who is near to him” (Lev. 21:2) – to encompass one who has been betrothed [but not yet married. The priest buries her as well, in Meir’s and Simeon’s view].

[U] “[His virgin sister, who is near] to him” (Lev. 21:2) – to encompass the adolescent sister as well.”

[V] *The opinions assigned to rabbis are at variance with one another. There they maintain, “A girl, not an adolescent, a virgin, not one who has lost her virginity through a blow of a piece of wood, one who is near ‘to him,’ not one who has been betrothed, and not one who has been divorced.”*

[W] *And here they say this [that a betrothed girl remains in the status of a relation whom he does bury].*

[X] Said R. Hela, “For each item the exegesis of Scripture provides an appropriate foundation.

[Y] “‘His sister’ (Lev. 21:2) – she remains wholly within [the family] until she goes forth.

[Z] “‘His betrothed wife remains wholly outside [of the family, and he will not bury her,] until she enters within [the family through marriage].”

[II:2 A] As to a woman he has raped or seduced, he should not marry such a woman [thereafter], but if he did marry her, they do not remove her from his domain.

[B] As to the woman whom another man has raped or seduced, he should not marry that woman, and if he did marry her, they remove her from his domain.

[C] He may not marry a minor-girl, but he may marry a girl who has exercised the right of refusal [against a husband assigned to her as a minor by her mother or brothers].

[D] But is a girl who has exercised the right of refusal not [still] a minor?

[E] They wait for such a girl until she reaches maturity.

[III:1 A] **If he betrothed a widow and then was appointed high priest, he may consummate the marriage [M. 6:4E].**

[B] And along these same lines, if he betrothed a minor and then was appointed high priest, may he marry her?

[C] In her regard, I cite the verse, “woman” (Lev. 21:13) – not a minor.

[D] [We take up the matter of his marrying a minor. How did this take place] He practiced deception. He asked her to enter the marriage canopy with him, and she considered the matter and agreed. [We follow the status of the girl when she entered the marriage canopy, and at that time he was yet an ordinary priest. Accordingly, he may remain married to her. Even though, prior to his appointment as high priest, sexual relations had not yet taken place, the marriage is regarded as in effect.]

[E] [That is in line with the following,] *which has been taught: If word goes around town, “She is betrothed” – lo, she is deemed betrothed [M. Git. 9:9A].* [Along these same lines, since the priest was reputed to have married this girl, we confirm the marriage, even

though it had not yet been consummated, when the priest became high priest.]

[IV:1 A] **[As to M. 6:4H, Even though he has bespoken her, he should not consummate the marriage:]** Even the House of Shammai, [who deem bespeaking fully to acquire the levirate widow in marriage], will concur in this case, and even R. Simeon, [who maintains the same view], will concur in this case. [We do not have so total an act of acquisition as to permit the marriage to be confirmed under these circumstances.]

[B] But this will not accord with the view of R. Eleazar b. Arakh, for R. Eleazar b. Arakh says, “Bespeaking effects total. and complete acquisition of the levirate sister-in-law.”

[V:1 A] **A high priest whose brother died performs the rite of halisah and does not enter into levirate marriage [M. 6:4I]:**

[B] This supports the view of him who says that the rite of halisah releases the widow. But in accord with the one who says that the rite of halisah effects acquisition, does one instruct the high priest, “Transgress the teachings of the Torah”? [Surely not. There should be no levirate connection at all, not even halisah.]

6:5

[A] **An ordinary priest should not marry a sterile woman, unless he already has a wife and children.**

[B] **R. Judah says, “Even though he has a wife and children, he should not marry a sterile woman,**

[C] **“because she is the whore (Lev. 21:7) referred to in the Torah.”**

[D] **And sages say, “The category of whore applies only to the woman who has converted or to the woman who has been freed from slavery [because of their prior status], and to the woman who has undergone licentious sexual relations.”**

[I:1 A] Lo, is an Israelite who does not have a wife and children permitted to marry a sterile woman?

[B] No, he too is prohibited from marrying her.

[C] *But since we have learned there,* **The category of whore applies only to the woman who has converted or to the woman who has been freed from slavery and to the woman who has undergone licentious sexual relations [M. 6:5D],** and all of these have been referred to without respect to a priest[‘s not marrying them,] *on that*

account, [in context] it has not been taught [that an Israelite may not do so in the case of M. 6:5A. But the law in fact is that he may not].

- [I:2 A] Said R. Judah b. Pazzi, “It is written, ‘Among the olive rows of the wicked they make oil’ (Job 24:11). ‘No treader turns toward their vineyards’ (Job 24:18). It is because their act of sexual relations was not in order to procreate.”
- [B] Said R. Simon, “It is written, ‘They shall eat but not be satisfied, they shall play the harlot, but not multiply’ (Hos. 4:10), because their act of sexual relations was not in order to procreate.”
- [C] It is written, “And Lamech took two wives, the name of one was Adah, and the name of the other Zillah” (Gen. 4:19), Adah, because he took pleasure in her body, and Zillah, because she sat in the shade of her children.
- [II:1 A] [As to M. 6:5B, **R. Judah says, “Even though he has a wife and children, he should not marry a sterile woman, because she is the whore (Lev. 21:7) referred to in the Torah”**], they objected to R. Judah, “But if she was a woman who became barren [after marriage or was not going to produce offspring or got old, [is this too a whore]?”
- [II:2 A] *It has been taught:* R. Eleazar says, “Also an unattached male who had sexual relations with an unattached female not for the sake of effecting a marital union – lo, this falls into the category of fornication. [But she is not then a whore.]”
- [B] Said R. Ba bar Mammel, “This is to say, A high priest who effected a betrothal with a woman through having sexual relations with her – it is not a case tantamount to his having sexual relations with a non-virgin.

6:6

- [A] **A man should not give up fulfilling the commandment to be fruitful and multiply unless he has children.**
- [B] **The House of Shammai say, “Two boys.”**
- [C] **And the House of Hillel say, “A boy and a girl,**
- [D] **“since it is said, ‘Male and female he created them’ (Gen. 5:2).”**
- [E] **[If] a man married a woman and lived with her for ten years and she did not give birth, he has no right to desist from having sexual relations with her.**
- [F] **[If] he divorced her, she is permitted to marry someone else.**

- [G] **The second husband is allowed to live with her for ten years.**
- [H] **And if she miscarried, she counts the ten years from the time that she miscarried.**
- [I] **The man is required to be fruitful and multiply but not the woman.**
- [J] **R. Yohanan b. Beroqah says, “Concerning both of them does Scripture say, ‘And God blessed them and said to them, Be fruitful and multiply’” (Gen. 1:28).**
- [I:1 A] **The House of Shammai say, “Two boys, as it is said with references to Moses, ‘Gershom and Eliezer’” (1 Chr. 23:15).**
- [B] **And the House of Hillel say, “A male and a female, on the model of the creation of the world, for it is said, ‘Male and female he made them’” (Gen. 1:27).**
- [C] Said R. Bun, “It should be phrased [at M. 6:6C], ‘Even male or female,’ *for if that is not the case, then this Mishnah-passage should be listed among the lenient rulings of the House of Shammai and the strict rulings of the House of Hillel.*”
- [I:2 A] **The children of sons are equivalent to one’s own children. The children of daughters are not equivalent to one’s own children [cf. T. 8:4B].**
- [B] The son of a son and the daughter of a daughter count.
- [C] The daughter of a son and the son of a daughter do not count.
- [D] A barren woman and a eunuch who cannot produce offspring do not count.
- [II:1 A] *R. Ammi in the name of R. Simeon b. Laqish: “The scriptural basis for this teaching [at M. 6:6E, living with the woman for ten years,] is as follows: ‘[Now, Sarai, Abram’s wife, bore him no children. She had an Egyptian maid, whose name was Hagar]. So after Abram had dwelt ten years in the land of Canaan, Sarai, Abram’s wife, took Hagar the Egyptian, her maid, and gave her to Abram her husband as a wife’ (Gen. 16:1-3). Deduct the years that he spent outside of the land.”*
- [C] *And so it has been taught [that the failure to produce children is attributed to every possible cause before we invoke M. 6:6E]:*
- [D] **A woman whose husband was old or sick, or who herself was sick, or whose husband was imprisoned, or whose husband went abroad –**

[E] [the years with such husbands] do not count for her. [T. Yeb. 8:6A-B].

- [II:2 A]** If a woman was married to one husband and did not produce offspring, she nonetheless collects her marriage settlement.
- [B] The same is so in the second marriage, and so for the third, as to the fourth and fifth marriages, she no longer may collect a marriage settlement.
- [C] R. Haninah bar Iggul in the name of R. Hezekiah: “In the case of the third marriage itself, she no longer has a claim on a marriage settlement.”
- [D] If she is married a fourth and a fifth time and did not produce offspring, what is the law as to the former husbands’ coming back to her to collect the settlements they had already paid out?
- [E] She has the right to claim, “It is just now that the woman has [I have] become barren.”
- [F] *If she was married a fifth time and did produce an offspring, what is the law as to her going back to her fourth husband [to collect a marriage settlement]?*
- [G] *They say to her, “Your silence is better for you than your speech,” [since the fourth husband may claim that had he known she could produce a child, he would not have issued a writ of divorce, and so he may nullify her writ of divorce, with the result that the offspring is a mamzer].*
- [H] If she had sexual relations and produced blood, and so a second time –
- [I] *there are Tannaim who teach:* “In the second instance, she may have sexual relations, but in the third, she may not.”
- [J] *And there are Tannaim who teach,* “In the third instance she may have sexual relations, in the fourth she may not.”
- [K] *They proposed to state:* “The one who has said, ‘In the second instance she may have sexual relations, and in the third, [7d] she may not,’ accords with the view of the one who said, ‘In the third childless marriage, she has no claim of a marriage settlement.’
- [L] “But the view of the one who said, ‘In the third instance she may have sexual relations, in the fourth she may not,’ accords with the

view of the one who said, 'In the third marriage she has a claim of a marriage settlement.'"

[M] If she produced male babies, and they were circumcised and then died,

[N] *there are Tannaim who teach*, "The second baby should be circumcised, but third should not be circumcised at all."

[O] *And there are Tannaim who teach*, "The third should be circumcised, and the fourth should not."

[P] *They proposed to state*, "The one who said, 'The second may be circumcised and the third not,' accords with the one who said, 'In the case of the third marriage, she does not receive a marriage settlement.'"

[Q] "The view of the one who said, 'The third male may be circumcised, but the fourth may not be circumcised,' accords with the one who said, 'In the third marriage she has a claim on a marriage settlement.'"

[R] [*No, that is not so.*] *Even he who says, "In the third marriage she may collect a marriage settlement," will concur here that the third baby should not be circumcised, because of the possibility of endangering the child's life.*

[S] *It has been taught: Said R. Nathan, "When I was in Caesarea Mazaca in Cappodocia there was one woman there who produced male children who were circumcised and died. He circumcised the first and he died, the second and he died. The third she did bring before me. I examined him and saw that he was jaundiced. I looked at him and I did not find even a drop of blood of circumcision. They said to me, 'Now what is the rule as to circumcising him?' I said to them, 'Wait on him until blood enters into him.' They waited on him and circumcised him and he lived, and they called him 'Nathan the Babylonian,' in my name"* [T. Shab. 15:8E].

[T] [With reference to M. 6:6H.] If she had children and they died, they count from the time at which they died.

[U] She has the right to claim, “That same evil spirit that suffocated the children of that woman [me] also rendered her [me] barren.”

[III:1 A] [*With reference to M. 6:6I.*] R. Eleazar in the name of R. Yosé bar Zimra, “The scriptural basis for the position of that Tannaite authority is as follows: ‘Be fruitful and multiply, and fill the earth and subdue it’ (Gen. 1:28). Subdue it’ is written as if in the singular, thus addressed to only one of the two. Now who is the one who would be expected to subdue? It is the man, not the woman.”

[III:2 A] R. Jeremiah, R. Abbahu, R. Isaac bar Merion in the name of R. Haninah: “The law accords with the view of R. Yohanan b. Beroqah.”

[B] R. Jacob bar Aha and R. Jacob bar Idi, R. Isaac bar Haqolah in the name of R. Yudan the Patriarch, “If the woman lays claim to be married, the law supports her position.”

[C] R. Eleazar in the name of R. Haninah, “The law accords with the view of R. Yohanan b. Beroqah.”

[D] *Said to him R. Ba bar Zabeda, “I was with you. The statement that was made was only, ‘If she laid claim to be married, the law supports her position.”*

[E] *This [dispute about what someone said in the name of R. Haninah] is in line with that which we have learned there:*

[F] **In the week in which the ninth of Ab occurs, it is forbidden to get a hair cut and to bath or do laundry. But on the fifth day of that week, it is permitted to do so, because of the honor owing to the Sabbath [M. Ta. 4:9].**

[G] R. Ba bar Zabeda in the name of R. Haninah: “Rabbi sought to uproot the observance of the ninth of Ab, but they did not permit him to do so.”

[H] Said to him R. Eleazar, “I was with you, and what was stated was only, ‘Rabbi sought to uproot the observance of the ninth of Ab that coincided with the Sabbath, and they did not permit him to do so.’ [Rabbi’s argument was,] ‘Since because of the Sabbath it has been postponed, let it be postponed [and not observed at all].’

[I] “They said to him, ‘Let it be postponed to the next day.’

[J] “And concerning them he recited the verse, ‘Two are better than one’ [Qoh. 4:9].”

YERUSHALMI YEBAMOT

CHAPTER SEVEN

7:1

- [A] A widow wed to a high priest,
[B] a divorcée or a woman who has performed the rite of halisah [and who is] wed to an ordinary priest –
[C] [if] she brought in to him [as part of her dowry melog-slaves and iron-flock slaves,
[D] the melog-slaves do not eat heave-offering.
[E] The iron-flock slaves eat.
[F] What are melog-slaves?
[G] [If] they died, the loss is hers, and if they increase in value, the increase is hers.
[H] Even though he [the husband] is liable to maintain them, lo, these do not eat heave-offering.
[I] And what are iron-flock slaves?
[J] [If] they die, the loss is his, and if they increase in value, the increase is his.
[K] Since he is responsible to replace them if they are lost, lo, these eat heave-offering.
- [I:1 A] How do we know of a priest who married a woman and acquired slaves that [the slaves and woman] eat food in the status of heave-offering?
- [B] [As to a slave:] Scripture says, “But if a priest buys a slave as his property for money, the slave may eat of it; and those that are born in his house may eat of his food” (Lev. 22:11).
- [C] How do we know that if his wife purchased slaves, [8a] and her slaves bought slaves, they eat food in the status of heave-offering?

- [D] Scripture says, “But if a priest buys a slave as his property for money” – also his property [that is, his wife] that has acquired property may eat such food.
- [I:2 A] R. Jacob bar Aha, R. Hela in the name of R. Eleazar: “They eat such food, and they bestow on others the right to eat it.
- [B] “[When the Mishnah allows the slaves to eat heave-offering,] it speaks of a slave who acquired slaves on condition that his master may have domain over them, [and hence, since they belong to the master, they may eat his food as a priest].
- [C] “But in the case of a slave who purchased slaves on condition that his master will not have domain over him, [such slaves may not eat food in the status of heave-offering, for here we cannot say that] he is his [the priestly master’s] possession.”
- [D] R. Jacob bar Aha, R. Hela in the name of R. Eleazar: “In the case of a slave who bought slaves on condition that his master have no domain over them, and who then died – whoever seizes such slaves first acquires ownership over them.”
- [II:1 A] And here [at M. 7:1D, melog-slaves] is not the slave deemed the acquisition of his [master]?
- [B] R. Hela in the name of R. Eleazar: “They eat and they bestow the right to eat. He who is suitable to eat such food bestows the right to eat it, and he who is not suitable to eat such food does not bestow the right to eat it. [The woman who has performed the right of *halisah* is not suitable to eat such food, so cannot bestow the right to eat it either. The priest, who has the right, bestows it on what belongs to him.]”
- [C] R. Yohanan said, “The reason [for the rule at M. 7:1D] is on account of legal penalty [imposed by rabbis].”
- [D] *What is the practical difference between these two reasons?*
- [E] An uncircumcised slave who purchased slaves. [He himself may not eat food in the status of heave-offering, any more than an uncircumcised priest may do so.]
- [E] *If you say that the operative reason is a penalty imposed by sages, there is no consideration of such a penalty here.*
- [G] *If you say that the operative reason is that he who is suitable to eat food in the status of heave-offering confers that right on others, since this one is not suitable to eat food in the status of heave-offering, he does not confer that right on others.*

[II:2 A] R. Jacob bar Aha said, “The cited authorities differ as to iron-flock slaves.”

[B] R. Yohanan said, “If the husband sold them, they are not deemed sold.”

[C] Said to him R. Eleazar, “They have the right to eat food in the status of heave-offering on the strength of their being owned by the husband, *and yet you say this!*”

[D] He said to him, “Lo, there is the matter of melog-slaves, and lo, they eat food in the status of heave-offering on the strength of their being owned by the husband, and yet you [surely] say that if the husband sold them, they are not held to be sold.

[E] “As to iron-flock slaves, they have given you what is yours. [How so?] In strict logic, such a slave should not eat food in the status of heave-offering, and yet they have said that such a slave may eat it. But they also have held that if the husband sold them, they are not sold.”

[F] *R. Jacob bar Aha in the name of R. Josiah: “There is a Tannaitic teaching that supports the view of this party, and there is a Tannaitic teaching that supports the view of that party.”*

[G] *The Tannaitic teaching that supports the view of R. Eleazar is as follows:*

[H] Melog-slaves go forth at the loss of a tooth or eye caused by the wife, but not by the husband, while iron-flock slaves go forth at the loss of a tooth or an eye caused by the husband, but not by the wife. [Hence iron-flock slaves belong in the domain of the husband, as Eleazar has said.]

[I] *How does R. Yohanan interpret this passage?*

[J] It is a more lenient rule that applies in the case of emancipating slaves, *for it has been taught:*

[K] A slave whom his master made over as security for a debt and whom then [the creditor] sold is not sold. If [the creditor] freed him, he is deemed free. [This indicates that the law takes a lenient position with regard to the emancipation of slaves, in which the creditor, not only the owner-debtor, has the power to free the slave supplied as security for a loan, even

though, in fact, the creditor takes over ownership of the pledge – the slave – only when the debt falls due.]

[L] *The following Tannaitic teaching supports the view of R. Yohanan:*

[M] All the same are melog-slaves and iron-flock slaves: They are not subject to the law [of Ex. 21:21:”But if the slave survives] a day or two, [he is not to be punished; for the slave is his money,”] nor does such a slave go forth through the loss of a tooth or eye [Ex. 21:26-27] whether the loss is caused by the husband or the wife.

[N] *[As to the dispute of R. Yohanan and Eleazar about the right of the husband to sell the slaves,] concerning what is this dispute? Does it deal with a case in which the husband sold the slaves permanently, or does it deal with a case in which he [merely] sold them for an interval?*

[O] *If you say that the dispute concerns a case in which he sold them permanently and did not sell them for a brief spell of time, then all parties concur that they are in fact sold. If you say that the dispute concerns a case in which he sold them for a brief spell of time and he did not sell them permanently, then all parties concur that they are in fact not sold.*

[P] *Let us derive the answer [as to the frame of reference of the dispute] from the following:*

[Q] He who makes over his field to his wife as a guarantee for the payment of her marriage settlement, or to his creditor against his debt, [if the woman or the creditor] sold the field, lo, it is sold [for the time being].

[R] The purchaser must scruple as to his own claim on the field, [for if the man divorces the wife, she will seize the field to collect her marriage contract, and if he died, the creditor will seize the field for the collection of the debt. Accordingly, the extent of the sale is for that span of time that the seller is alive and has not

divorced his wife. The sale is only for a short time.]

[S] Rabban Simeon b. Gamaliel says, “If it was subordinated to the woman for payment of her marriage settlement, it is not deemed sold [even for a brief time],

[T] “for it never entered anyone’s mind that a woman should have to resort to court action [to retrieve what is hers].

[U] They have said, “The position of R. Eleazar accords with the view of rabbis before us, and that of R. Yohanan is in accord with the view of Rabban Simeon b. Gamaliel.”

[V] *Accordingly, we deal with a case in which the husband sold the slaves for a brief interval, [and that is what is subject to dispute]. But if he had sold the slaves permanently, all parties concur that they are not sold.*

[III:1 A] The offspring of a *melog-beast* belongs to the husband. The offspring of a *melog-slave* girl belongs to the wife.

[B] Hananiah, son of the brother of Joshua, said, “The offspring of a *melog-slave* girl is in the same status as the offspring of a *melog-beast*.”

[C] *R. Eleazar said to associates, “You should know that R. Yohanan concurs with the view of Hananiah, son of the brother of Joshua.”*

[D] Rab and Samuel: Rab accords with rabbis, and Samuel agrees with Hananiah, the son of the brother of Joshua.

[E] *Samuel objected to Rab, “In your view, in which you say that the offspring of a *melog-slave* girl belongs to the woman, then the firstborn should not take a double share.” [Samuel imputes the opinion: “The offspring in Rab’s view is simple increase, not produce.”]*

[F] *[Rab] answered: “If they are simple increase in capital, then] take note: if she brought them into the marriage when they were minors, and they grew up, lo, they belong to the wife. And you agree with me that the firstborn takes a double share.”*

[III:2 A] *It has been taught: If they come in as boys, they are taken out as young men [T. Yeb. 9:1H] [in the case of iron-flock slaves].*

[B] If she brought into the marriage two utensils, one of them worth the value of her marriage settlement, she takes it in settlement of her marriage contract.

[C] If one of them was worth one and a half times the value of her marriage settlement –

[D] R. Huna and R. Nahman bar Jacob: One of them said, “He pays off the whole value of the other utensil and takes it,” and the other said, “She pays off the value of the half of the utensil [that is not coming to her] and takes it.”

[E] *R. Abba bar Kahana said before R. Ammi, R. Jacob bar Aha in the name of R. Yosa: “Even if it was worth one and a half times the value of her marriage contract, she pays off the value of the second object and takes it, for it never entered anyone’s mind that other people should make use of her utensils.”*

[F] *R. Jacob bar Aha in the name of R. Zeira: “The Tannaitic teaching has made that same point: If she brought them into the marriage subject to a monetary evaluation, she takes them out in accord with a monetary evaluation.”*

[III:3 A] *R. Hiyya bar Ada raised the question before R. Mana, “What are melog-slaves?”*

[B] *He said to him, “It is in line with that which you say: ‘Pluck, pluck.’” [The husband gets only the usufruct.]*

[III:4 A] *There we have learned: He who contracts to raise a flock and share in the profits from a Gentile on iron terms – the offspring are exempt from the law of the firstling. The offspring of the offspring are liable [M. Bekh. 2:4A-B].*

[B] *R. Jeremiah raised the question: “There you have said that the offspring belong to the first party [the Gentile], and here you say that the offspring belong to the second [the husband].”*

[C] Said R. Yosé, “There, because the mother of the beast belongs to the first party, the offspring belongs to the first party. But here because the mother of the beast belongs to the second party [since the wife has no domain over the beast until divorce], the offspring belongs to the second party [the husband].”

7:2

[A] An Israelite girl who married a priest and brought him slaves [as part of her dowry] whether these are melog-slaves or iron-flock slaves

–

[B] lo, these eat heave-offering.

[C] And a priest's daughter who married an Israelite and brought him [as part of her dowry] either melog-slaves or iron-flock slaves,

[D] lo, these do not eat heave-offering.

7:3

[A] “An Israelite daughter who was married to a priest, who died and left her pregnant –

[B] “her [iron-flock] slaves do not eat heave-offering on account of the portion [of the slaves] that belongs to the foetus.

[C] “For the foetus invalidates [a woman from eating heave-offering (Lev. 22:13)] but does not validate [her doing so], “the words of R. Yosé.

[D] They said to him, “Since you have given us testimony about the daughter of an Israelite married to a priest,

[E] “even the daughter of a priest married to a priest, who died and left her pregnant –

[F] “her slaves should not eat heave-offering on account of the portion that belongs to the foetus.”

[I:1 A] Said R. Eleazar, “The Mishnah should be read in this way: Slaves belonging to her do eat food in the status of heave-offering, but those belonging to the deceased priest do not.

[B] “*For if you do not read matters in this way, then it will turn out that she may continue to eat such food, while her servants no longer may eat it. [The melog-slaves belong to her; the foetus has no share in them. They continue to eat heave-offering. The iron-flock slaves belong to the deceased. Since he is dead, they no longer eat heave-offering produce by virtue of the caste of their owner.] But if she has the right to eat the caste-rations, her servants have that right.*”

[C] R. Josiah in the name of R. Yohanan: “If that is the operative consideration, then even she should no longer eat produce in the status of heave-offering. [That is, that indeed is the fact, for the foetus invalidates her right to eat such food.]”

[D] *Said R. Haggai before R. Yosé, “It is not that R. Yohanan differs. He has said only, ‘If that is the case, then even she should not eat such food.’ [But that indeed is not the case!]”*

[E] *A case came before R. Joshua b. Levi. He said, “Go out and see how the community generally does things.”*

[F] R. Abun in the name of R. Joshua b. Levi: “And that is not the rule for this aspect of the law alone. But in the case of any legal ruling concerning which the court is in doubt, and the character of which you do not know, go and see how the community generally does things, and that is how to settle the matter.”

[G] *Now we know that the community in general does not supply food in the status of heave-offering to the slaves of a woman who is left pregnant as a widow of a priest.*

[H] *Said R. Yosé, “[Since the woman continues to eat food in the status of heave-offering,] it means that the foetus does not invalidate the right to eat heave-offering of someone who has that right, nor does it bestow upon someone who does not have the right to eat heave-offering the right to do so. [If the widow has other children from the priest, the foetus has no affect on her status; if the foetus is the only offspring of the priest, it has no power to give her the right to eat such food.]”*

[I:2 A] *R. Ishmael bar Joseph taught in the name of Abbayye [= Abun], “If there was a daughter [of the priest, along with the foetus and other sons, the daughter] confers the right to eat such food upon the slaves. [If the deceased had a small estate and left a son and a daughter, as well as a foetus, the surviving daughter has every right to derive support from the estate – inclusive of the priestly rations – while the sons go begging. In this case the slaves eat the priestly food. The foetus has no affect upon this situation. If the foetus is male, it is no better than the other males. If it is a female, it has no rations until it is actually born anyhow.]”*

[B] R. Immi in the name of R. Yudan: “[Answering the question of why the text discusses the case in which there is a daughter as well as a son, and so explaining why, if he left only a son plus the foetus, the slaves should not have the right to eat priestly rations, we have the following to say:] For the daughter was in a position to seize the slaves in settlement of her claim for support, [so the slaves are tantamount to belonging to her].”

- [C] And cannot the wife seize them in settlement for her claim for support? [So why cannot the wife confer upon the slaves the right to eat food in the status of heave-offering? Her claim against the deceased priests estate is as strong as that of the daughter.]
- [D] To be sure, the wife may lay claim upon the slaves for payment for her marriage-contract. But in so doing, she loses claim for support. [When she claims slaves as part of her marriage settlement, she no longer has a right to support from the estate.]
- [E] *Now this result poses a problem.* The provision of a marriage settlement derives from the law of the Torah. The provision of food for daughters of the deceased out of the estate derives from the authority of scribes. [Accordingly, when we provide the wife with the right to have her slaves eat food in the status of heave-offering, that provision is based upon the law of the Torah. The right of the daughters to support from the estate derives from a decree of scribes.] Now will a provision based upon a decree of the scribes serve to uproot a decree of the Torah? [That is, because of the claim of the daughters for support we say that they also have the right to allow slaves to eat food in the status of heave-offering, which is a provision of the Torah. By the laws of the Torah slaves have no such right in the present circumstances. But because of a provision of scribes, we now give them that right. By the laws of the Torah the male heirs own the entire estate. The foetus, if male, should inherit a share in the estate. By the law of the Torah the foetus cannot confer the right to eat food in the status of heave-offering. Accordingly, there is a problem.]
- [F] [*Making reference to what is to follow:*] *The rule accords with the opinion of the one who said that they accepted upon themselves on their own volition the obligation to separate tithes.* [Accordingly, in the matter of heave-offering under discussion, this too is not based upon the law of the Torah, but rather upon a decree of sages. So there is no problem. This will now be spelled out.]
- [G] *R. Ishmael b. R. Yosé's statement differs from the view of R. Abun [= Abbaye].*
- [H] For R. Simon said in the name of Hilpai, "Rabbi, R. Ishmael b. R. Yosé, and Bar Haqqappar took a vote with reference to the position of R. Yosé [Ishmael's father] as to the status of Ashkelon. [Is it unclean, as part of the land of the peoples, or is it clean, as part of the land of Israel], and they declared it clean [as part of the land of Israel]."

- [I] This was on the basis of that which R. Phineas b. Yair said, “We used to go down to the market of Ashkelon and buy wheat and go back to our towns and immerse and eat the grain along with our food in the status of heave-offering [assuming the grain from Ashkelon to be cultically clean].”
- [J] [Rejecting this testimony and maintaining that Ashkelon is part of the land of the peoples. produce of which is not subject to the separation of tithes] the next day they wanted to vote in this matter and to declare produce from Ashkelon to be exempt from tithes.
- [K] R. Ishmael b. R. Yosé withdrew his hand. for he had been leaning on Ben Haqqappar. [The disciple said nothing to him. He said to him, “My son, why did you not say to me, ‘On what account did you remove your hand from me?’ I would have told you, ‘Yesterday I declared what had been unclean to be clean. Now shall I tell you that what has been subjected to the law of the Torah [as to the separation of tithes, which the Torah has required] – how shall I now declare that area exempt from a pro vision of the law of the Torah?’” [Accordingly, Ishmael has the view that the obligation to give tithes derives from the law of the Torah. Others, then, differ from his view and deem the obligation to be on the basis of decrees of the scribes.]
- [L] *The teaching is available in the name of Abbayye:* “On their own initiative they took upon themselves the obligation to separate tithes. [It does not derive from the law of the Torah.]”
- [M] And he said, “Accordingly, there is no problem. The obligation to separate tithes [including heave-offering] derives only from the authority of sages, and the obligation to provide food for daughters out of the father’s estate likewise derives only from the authority of sages, on which account one teaching on the authority of sages may well uproot some other teaching on their authority.”

- [I:3 A]** If along with the foetus there were male heirs, [8b] they confer the right to eat food in the status of heave-offering. If there were females, they do not confer that right.
- [B] If there were males, they confer that right, for there are two matters of doubt associated with the foetus, first, whether or not it is a male or a female, second, whether or not it will prove viable. In such a case involving doubt vis-[^]-vis the rulings of scribes, they impose a lenient ruling [following the reading of Pené Moshe].

- [C] If there were females, they do not confer that right, for there is only one matter of doubt associated with the foetus now, and that is whether or not it will prove to be viable. In the case of a matter of doubt as against a rule deriving from the law of the Torah, they impose a strict ruling.
- [D] [Now that is not the case. There is only one matter of doubt, not two.] For what is your choice? If it is a male, then the whole of the estate belongs to him. If it is a female, when she gets married, she too claims a share in the estate. [So in terms of dividing the estate there really is no difference between male and female, and the only point in doubt in either case has to do with whether or not the foetus is viable.]

7:4

- [A] **The foetus, the levir, betrothal, a deaf-mute, a boy nine years and one day old**
- [B] **invalidate [a woman from eating heave-offering] but do not validate [her to do so].**
- [C] **[If] it is a matter of doubt whether or not the boy is nine years and one day old**
- [D] **[or if] it is a matter of doubt whether or not he has produced two pubic hairs ...**
- [E] **[If] a house collapsed on him and on the daughter of his brother [his wife] and it is not known which of them died first,**
- [F] **her co-wife performs halisah and does not enter into levirate marriage.**
- [I:1 A] **Said R. Simeon, “In this law the rule of justice is smitten.**
- [B] **“For if a fact [the presence of the foetus] serves to invalidate, that fact should also serve to validate. If a fact does not serve to validate, that fact also should not serve to invalidate” [T. Yeb. 9:3B-C].**
- [C] Has R. Simeon made a valid statement? *What is the scriptural basis for the view of rabbis?*
- [D] “[Those that are born of his house] may eat of his food” (Lev. 22:1) they shall confer the right to eat [upon others].
- [E] He who is suited to eat such food confers the right to eat it, and he who is not suitable to eat such food does not confer the right to eat it.

- [F] *They objected*, “Lo, there is the mamzer. Lo, he is not suitable to eat food in the status of heave-offering [should his father be a priest], yet he confers the right to eat such food [upon his mother].”
- [G] *That case is different, for it is written*, “And those that are born in his house [may eat of his food]” (Lev. 22:11).
- [H] [If that is the operative consideration,] then one born in his house should confer the right to eat such food, and one not born in his house should not confer that right.
- [I] *That case is different, for it is written*, “[But if a priest’s daughter is a widow or divorced and has no child,] and returns to her father’s house, as in her youth, she may eat of her father’s food (Lev. 22:13) .
- [J] This excludes a levirate widow awaiting marriage with the levir.
- [K] “In her youth” – excludes one who is pregnant [by a non- priest].
- [L] Said R. Yosé, “That is to say, [the Torah law teaches:] as to a foetus, they have treated it as a substantive matter so far as invalidating [the mother’s right to return to the father’s house and eat priestly rations], but they did not treat it as a substantive matter so far as bestowing the right to eat heave- offering [on the mother, should the father be a priest and the mother an ordinary Israelite] .”
- [M] *[The view that the foetus invalidates the mother by reason of the law of the Torah, as the foregoing exegesis claims,] is rejected by implication in statements of rabbis.*
- [N] For R. Zeira said, “It was taught there: An Israelite woman betrothed to a priest, an Israelite woman awaiting levirate marriage to a priest, and a woman pregnant by a priest [who has died] [have no right to eat food in the status of heave-offering, and if they do so, in line with the provision of Lev. 22:14 about making up what has been eaten plus a penalty of an added fifth,] they must pay back the principal but do not have to pay the added fifth.”
- [O] *Now how shall we interpret this statement?* If we deal with a priest’s daughter who married an Israelite, then even if she should produce offspring from him, she is no stranger [so far as heave- offering is concerned and does not have to pay the added fifth]. But we deal with the daughter of an Israelite who is married to a priest.

[P] Now if you say that as to the foetus, they have treated it as a substantive matter so far as invalidating the mother is concerned, but they have not treated it as substantive so far as conferring on her the right to eat heave-offering, why should they have to pay back the principal but not the added fifth? They should have to pay the principal and the added fifth. [Accordingly, the statement taught by Zeira differs from Yosef's view.]

[II:1 A] **[M. 7:4A: A deaf-mute ... invalidates:]** Does a deaf-mute invalidate? *Has R. Hiyya not taught as follows:* “The wife of a deaf-mute and of a person lacking sound senses immerses following sexual relations with her husband and then eats food in the status of heave-offering. [Consequently, marriage to the deaf-mute does not invalidate the woman's right to eat such food.]”

[B] *R. Abba Mari and R. Mattanaiah – One of them said,* “[It is not any deaf-mute that is under discussion, but rather,] a deaf- mute [who has the power of] invalidation.” *The other said,* “At issue is a deaf-mute [brother of an invalid party] who is to enter into levirate marriage with a widowed sister-in-law.”

[III:1 A] **If it is a matter of doubt whether or not the boy is nine years and one day old [M. 7:4C] –** he is deemed to invalidate [the woman from eating heave-offering]. [We resolve the doubt in a strict way.]

[IV:1 A] **If it is a matter of doubt whether or not he has produced two pubic hairs [M. 7:4D],** it is as if he has produced two pubic hairs – to bestow the right to eat food in the status of heave- offering.

[V:1 A] **If a house collapsed on him and on the daughter of his brother [his wife], and it is not known which of them died first, her cowife performs halisah and does not enter into levirate marriage [M. 7:4E-F].**

[B] Is it the intention of the person who framed this passage of the Mishnah to deal with co-wives [that that subject is now introduced]?

[C] [No,] but because it was the intent of the framer of the passage to deal with matters of doubt, he has introduced a matter of doubt having to do with co-wives [following Pené Moshe's reading].

7:5

[A] **The rapist and the seducer and the idiot**

[B] do not invalidate [women with whom they have sexual relations] from eating heave-offering and do not validate [them for eating heave-offering].

[C] But if they are not suitable to enter [into the congregation of] Israel (Deut. 22:2-4), lo, [through an act of sexual relations] they do invalidate her from eating heave-offering.

[D] How so?

[E] An Israelite who had sexual relations with a priest's daughter – she [continues to] eat heave-offering.

[F] [If] she turned out to be pregnant, she does not eat heave offering.

[G] [If] the foetus was removed from her womb, she eats heave offering.

[H] A priest who had sexual relations with an Israelite girl –

[I] she does not eat heave-offering.

[J] [If] she turned out to be pregnant, she [still] does not eat heave-offering.

[K] If she gave birth [to a viable offspring], she does eat heave-offering.

[L] It turns out that the power of the child is greater than that of the father [since the child validates or invalidates the mother for eating heave-offering, which his father could not accomplish].

[I:1 A] *[Since the rapist does not invalidate the woman with whom he has had sexual relations,] that is to say that a rapist [unfit for marriage into the priesthood] does not invalidate a woman from marrying into the priesthood, if she is otherwise unattached.*

[II:1 A] *[Since M. 7:5F specifies that when the wife is pregnant she no longer eats heave-offering, it must follow that if we are not sure that she is pregnant, she may continue to do so. Accordingly,] that supports the teaching that R. Hiyya taught: “The wife of a deaf-mute or an idiot immerses after the [sexual] embrace of her husband and [having attained cultic cleanness following sexual relations,] she may eat food in the status of heave-offering. [That is, if she is the daughter of a priest and her husband is an Israelite, so long as she is not pregnant, she may continue to eat food in the status of heave-offering, since this marriage is not effective as a completely normal one would be. We do not know that she is not pregnant. We permit her to eat priestly rations.]”*

[B] *This then does not accord with the view of R. Eleazar, for R. Eleazar says, “Also an unattached male who had sexual relations with an unattached female not for the purpose of establishing a marital tie –*

lo, this is an act of fornication [and she is regarded as a prostitute, unfit for marriage into the priesthood].”

[C] R. Ba in the name of R. Abba bar Jeremiah: “A woman who has been raped does not have to wait three months [before she marries].”

[D] *Said R. Jonah before R. Yosé, saying to him*, “Do not accept this teaching from him. There is a more lenient rule applicable to the right to eat food in the status of heave-offering. [But in the matter of genealogy, the rule is strict, and such a woman does have to wait three months before she marries.] In the case of a priest’s daughter married to an Israelite, whose husband has gone overseas, and who heard that he had died, does she not eat heave-food in the status of heave-offering right away? [She certainly does, even though she may have been left pregnant by him.] But as to the matter of the foetus, [that is, as to whether or not she has been left pregnant, and, because of such a doubt, as to whether she has to wait for three months to determine the paternity of the foetus,] she does have to wait for three months.”

[III:1 A] And if they are not suitable to enter into the congregation of Israel, lo, they do invalidate her [from eating heave-offering] [M. 7:5C].

[B] And who are they?

[C] A nine-year-and-one-day-old boy, a proselyte, Ammonite, Moabite, Egyptian, [Edomite origin,] a slave, [a netin], or mamzer [of that age or older], or one of impaired priestly stock, Samaritan, or Gentile, who had sexual relations with the daughter of a priest, Levite, or Israelite has rendered her invalid for marrying into the priesthood.

[D] R. Yosé says, “Anyone whose seed is valid – she is valid [for marrying into the priesthood]. And any whose seed is invalid – she is invalid, [thus delisting the Egyptian].”

[E] Rabban Simeon b. Gamaliel says, “Any whose daughter you are permitted to marry – you are permitted to marry his widow; and any whose daughter you are not permitted to marry – you are not permitted to marry his widow. [Thus Ammonites and Moabites are delisted]” [T. Yeb. 8:1].

[F] *What is at issue between them [Yosé and Simeon]?*

- [G] R. Yohanan said, “It is an Ammonite and Moabite proselyte about whom they differ.
- [H] “*He [Yosé] who said, ‘Any one whose seed is invalid, his act of sexual relations invalidates a woman for marriage into the priesthood’ – in the case of this one, since his seed [son] is in valid, his act of sexual relations invalidates a woman’s marrying into the priesthood.*
- [I] “*He who said, ‘Any whose daughter you are permitted to marry, you are permitted to marry his widow’ – in the case of this one, since you are permitted to marry his daughter, you are permitted to marry his widow.’*”
- [J] *Both sages [and] R. Jeremiah in the name of R. Ba said, “An Ammonite or Moabite proselyte, and the daughter of the second generation of Egyptian origin, even though you are permitted to marry his daughter, you are prohibited from marrying his widow.*
- [K] *R. Zakkai, R. Alexandria sent and asked, “As to the daughter of a proselyte of Ammonite origin or the daughter of the second generation of Egyptian origin – [since an Israelite may marry women in such a status, may he marry the widow of such a person]?”*
- [L] *Said to him R. Yosé, “Have you not heard that which both R. Jeremiah said in the name of rabbis, and R. Ba said, ‘An Ammonite or Moabite proselyte and the daughter of the second generation Egyptian origin, even though you are permitted to marry his daughter, you are prohibited from marrying his widow’?*
- [M] “And anyone whose seed is invalid – an act of sexual relations on his part invalidates a woman from entering the congregation. [That would be a second reason to prohibit such a marriage.]
- [N] “No, it is necessary to rule on the original grounds, specifically in a case in which the mother was an Israelite. It is so that you will not maintain that just as her mother was rendered invalid for marriage into the priesthood, so her daughter has been invalidated for marriage into the priesthood.”

[O] *There is, furthermore, the following statement that R. Jacob bar Aha made: “R. Yohanan and R. Simeon b.*

Laqish differed as to the daughter of an Ammonite proselyte and the daughter of someone in the second generation from Egyptian origin. [The mother surely is an Israelite.]

[P] “R. Yohanan said, ‘The daughter is valid [for marriage with priests].’

[Q] “R. Simeon b. Laqish said, ‘She is invalid for marriage with priests.’”

[R] R. Yosé b. R. Bun said, “They differ as to the elders, [the mothers, not the daughters,] [on whether or not they are valid to marry into the priesthood, since the daughter is valid for such a marriage].

[S] “R. Yohanan said, ‘They are valid.’

[T] “R. Simeon b. Laqish said, ‘They are invalid.’”

7:6

[A] A slave invalidates by reason of having sexual relations, but not by reason of offspring.

[B] How so?

[C] An Israelite girl married to a priest, or a priestly girl married to an Israelite,

[D] and she gave birth to a son with him,

[E] and the son went and trifled with a slave-girl, and she produced a son from him –

[F] lo, this boy is a slave.

[G] [If] the mother of his [the slave’s] father was an Israelite girl married to a priest, [if the father and son die], she does not eat heave-offering [by reason of the grandson]. [If] she was a priest’s daughter married to an Israelite, [despite the grandson] she does eat heave-offering.

[I:1 A] As to a slave, how do we know that he invalidates a woman by having sexual relations with her [so that she cannot eat priestly rations]?

[B] R. Yohanan said in the name of R. Ishmael, “‘But if a priest’s daughter is a widow or divorced and has no child and returns to her father’s house, as in her youth, she may eat of her father’s food’ (Lev. 22:13). The man from whom a woman may derive the status of a widow or receive a writ of divorce – such a woman returns to her father’s

house. The man from whom a woman does not derive the status of a widow or receive a writ of divorce – she does not return to her father’s house.”

- [C] *R. Jeremiah objected*, “Lo, [a priest’s daughter who was] a widow, who committed fornication – lo, she does not enjoy the status of a widow or receive a writ of divorce, yet she returns to her father’s house.”
- [D] [Addressing the same problem,] R. Yosé did not rule in this way. *But [he raised a question as to opinions attributed to Yohanan, holding that] the opinions assigned to R. Yohanan are in a state of confusion.* In tractate Gittin [Y. Git. 1:5] it is said, “As to Samaritans, on what account are they invalid?” R. Yohanan in the name of R. Ishmael: “It is because if a Gentile or a slave had intercourse with an Israelite girl, the offspring is a mamzer. [Samaritans are in the status of other Gentiles who married Israelite girls. The offspring is a mamzer.]” In tractate Qiddushin [Y. Qid. 4:14] it states, “Both R. Yohanan and R. Simeon b. Laqish said, ‘The offspring is a mamzer. *And here, in his own name he has said the same thing. And here he has said in the name of R. Ishmael that, in the view of sages, the offspring is a mamzer.*’”
- [E] R. Hezekiah did not state the matter in this way. *But the opinions assigned to R. Yohanan are at variance with one another.* In tractate Gittin it is said, “As to Samaritans, on what account are they invalid?” R. Yohanan in the name of R. Ishmael: “It is because a Gentile or a slave who had sexual relations with an Israelite girl – the offspring is a mamzer.” In tractate Qiddushin [Y. Qid. 4:14], it states: “R. Yohanan and R. Simeon b. Laqish both say, ‘The offspring is an mamzer.’” And here has he said, “The one from whom a woman may derive the status of a widow or receive a writ of divorce – such a woman returns to her father’s house. The one from whom a woman does not derive the status of a widow or receive a writ of divorce – she does not return to her father’s house? [If the offspring is a mamzer, why do we need to prove the mother’s status?]”
- [F] *Said R. Mattenaiah*, “I went up to the market, and I heard R. Yohanan in the name of R. Ishmael: ‘But if a priest’s daughter is a widow or divorced and has no child and returns to her father’s house, as in her youth, she may eat of her father’s food’ (Lev. 22:13). The one from whom a woman may derive the status of a widow or receive a writ of divorce – such a woman returns to her father’s house. The one [8c] from whom a woman does not derive the status of a widow or receive a writ of divorce – she does not return to her father’s house.’ And I said, ‘Is that so? A mamzer, by the definition of R. Joshua [better:

Aqiba], is not produced in such a union, for a mamzer derives only from a woman who is prohibited to the man with whom she has sexual relations by reason of a prohibited degree [of Lev. 18] and on account of which union both parties are subject to extirpation.”

7:7

[A] A mamzer invalidates and validates for eating.

[B] How so?

[C] An Israelite girl married to a priest, a priestly girl married to an Israelite,

[D] and she produced a daughter with him, [E] and the daughter went and married a slave or a Gentile and produced a son from him –

[F] lo, this son is a mamzer.

[G] [If] the mother of her mother was an Israelite girl married to a priest, [because of the mamzer grandson, the grandmother] eats heave-offering.

[H] [If she was] the daughter of a priest married to an Israelite, [because of the grandson, the grandmother] may not eat heave-offering.

[I:1 A] *Does this statement not differ from Rab, for Rab has said, “A Gentile or a slave who had sexual relations with an Israelite girl – the offspring is valid”?*

[B] Interpret the law to speak of a Gentile who is unfit [on other grounds] or a slave who is unfit [and so produces a mamzer].

7:8

[A] A high priest –

[B] sometimes he invalidates [a woman from eating heave-offering].

[C] How so?

[D] A priestly girl married to an Israelite, and she produced a daughter by him, and the daughter went and married a priest and produced a son by him –

[E] lo, this [son] is worthy to be high priest standing and serving at the altar,

[F] and he validates his mother for eating heave-offering, and [if his mother died] he invalidates his mother’s mother.

[G] This lady then says, ‘net there] not [be many] like my [grand]son, the high priest, who [because he is yet alive] invalidates me from eating food in the status of heave-offering.”

- [I:1 A] *[Indicating that one may make reference not only to a high priest but to others,] Bar Qappara taught: “An infant one day old may either invalidate or bestow the right to eat [priestly rations, as the case may be]. [A priest’s daughter married to an Israelite, if she has a son a day old, may not eat priestly rations. An Israelite girl married to a deceased priest may eat such food if she has an infant a day old.]”*
- [II:1 A] *The meaning of the Mishnah, [when it has the lady say, “**Let there not be many like my [grand]son” (M. 7:8G)**], is, “**Not like the son [of his daughter], the high priest, who invalidates me from eating food in the status of heave-offering.**”*
- [B] How so?
- [C] A priest’s daughter who is married to an Israelite, and who had a daughter with him,
- [D] And an Israelite girl married to a priest, who produced a son with him,
- [E] and the two of them married and produced a son –
- [F] lo, this [son] is suitable to serve as high priest, standing and laboring at the altar.
- [G] He bestows upon his mother the right to eat food in the status of heave-offering [if his father dies], but he also invalidates the right of the mother of his mother from doing so.
- [H] This is the meaning of, “**Let there not be many like my grandson, the high priest, who because he is yet alive invalidates me from eating food in the status of heave-offering” [M. 7:8G].**

YERUSHALMI YEBAMOT

CHAPTER EIGHT

8:1

- [A] **An uncircumcised [priest] and all unclean [priests] do not eat heave-offering (Lev. 22:4-6).**
- [B] **Their wives and slaves do eat heave-offering.**
- [C] **One with crushed testicles or whose penis is cut off (Deut. 23:2) –**
- [D] **they and their slaves do eat heave-offering.**
- [E] **Their wives do not eat heave-offering.**
- [F] **And if he did not have intercourse with her from the time that his testicles were crushed or his penis was cut off, lo, these [women] do eat heave-offering.**
- [I:1 A] “No man of the line of Aaron who is a leper or suffers a discharge may eat of the Holy Things until he is clean” (Lev. 22:4).
- [B] [Since the Hebrew makes use of the word “man” two times,] it serves to encompass the uncircumcised priest [who may also not eat Holy Things].
- [C] Or perhaps the repeated use of “man” serves to encompass the priest in mourning, prior to the burial of his deceased?
- [D] Said R. Yosé b. Haninah, “It is written, ‘No outsider shall eat of a Holy Thing’ (Lev. 22:10). On account of one’s being an outsider have I prohibited the eating of Holy Things, but I have not prohibited doing so on account of one’s being in mourning.”
- [E] *R. Tayopa, a dyer of red colors, asked the following question of R. Yosé, “Or perhaps we should interpret the matter as follows: ‘On account of one s being an outsider have I prohibited the eating of Holy Things, but I have not prohibited doing so on account of one s being uncircumcised or unclean’?”*

- [F] He said to him, “Since the word is written [two times], one serves to encompass within the law, and the other serves to exclude from the frame of the law [a category of man, thus:] I encompass the uncircumcised priest, considering that he is lacking in an aspect of his person, but I exclude from the law’s prohibition a mourner, who is in no way lacking in an aspect of his person.”
- [G] *Up to this point the matter has been interpreted in the way in which R. Aqiba reads Scripture. What about the proof in accord with R. Ishmael’s exegetical techniques?*
- [H] *R. Ishmael has taught*, “In regard to the paschal sacrifice, the language of ‘sojourner or hired hand is used [“No sojourner or hired hand may eat of it” (Ex. 12:45)], and with reference to heave-offering, the language of ‘sojourner or hired hand’ is used [“A sojourner of the priest’s or a hired hand shall not eat of a Holy Thing” (Lev. 22:10)]. Just as the language of ‘sojourner or hired hand’ serves to invalidate an uncircumcised person in the case of the paschal sacrifice, so use of that same language with reference to heave offering likewise invalidates an uncircumcised person.”
- [I] *R. Haggai raised the question*: “May we then ask, just as the use of ‘sojourner and hired hand’ stated with reference to the paschal sacrifice also serves to invalidate the mourner [from participating], so the language of ‘sojourner and hired hand’ stated with reference to heave-offering should serve to invalidate a mourner?”
- [J] Said R. Hela, “No. The derivation of lessons from the recurrent use of the language of ‘sojourner’ serves solely to link matters explicitly specified in the passage.”
- [K] [That the] person bearing indistinct sexual traits and the one who bears the traits of both male and female do not participate in the paschal sacrifice derived from another passage, and the matter of the mourner derives from the law of second tithe.
- [L] *R. Abun raised the question*, “And let the matter of heave offering’s being prohibited to a mourner derive from an argument a fortiori: Now if it is [second] tithe, which is permitted to non-priests, lo it is prohibited to a mourner, with respect to heave-offering that is forbidden to non-priests – is it not logical that it should be prohibited to a mourner?”

[M] No. If you have stated that proposition with regard to second tithe, which must [be eaten within the] wall [of Jerusalem], will you say the same of heave-offering, which need not be [eaten within the] wall [of Jerusalem]?

[N] Lo, since there is a trait applying to this category, which does not apply to that one, and a trait applying to that category that does not apply to this one, it is not possible for us to derive the rule governing the one from the rule governing the other.

[O] As [to the other forms of] Holy Things, what is the [basis for the rule that] they are prohibited to an uncircumcised priest?

[P] To derive the prohibition from the laws governing the paschal sacrifice is not possible, for with respect to other Holy Things, the provision against breaking the bone of the sacrificial animal does not apply; nor can you derive the matter from the rules governing heave-offering, for, in that case, you will be deriving a law that itself derives from another [namely, the paschal sacrifice, with the same consequence as just now indicated].

[Q] Accordingly, at the end you must state the matter [8d] based on the repeated use of the word “from it” [with regard to the paschal sacrifice: “Do not eat any of it raw or boiled with water” (Ex. 12:9); with regard to Holy Things: “And he shall offer of it one cake from each offering” (Lev. 7:14)].

[R] Thus, just as the word “of it” stated with respect to the paschal sacrifice means that the uncircumcised priest is invalid, so “from it” stated with regard to Holy Things means that an uncircumcised priest is unfit.

[I:2 A] As to Holy Things, what is the law as to their being prohibited to a priest in mourning?

[B] There is the repeated use of the word “of it.” Just as the word “of it,” stated with regard to second tithe, means that the mourner is prohibited [“I have not eaten of the tithe while I was mourning or removed any of it while I was unclean” (Deut. 26:14)], so the use of the word “of it” stated with regard to the paschal sacrifice means that a mourner is prohibited to participate.

- [C] But is the word “sojourner and hired hand” available for this purpose? And is not an exegetical exercise already constructed upon the basis of the use of those words?
- [D] *This is in line with that which is taught:* When Scripture uses the word “sojourner,” it refers to a slave that is purchased in perpetuity. When it refers to a “hired hand,” it refers to a slave that is purchased for a specified number of years.
- [E] If then Scripture had said only, “sojourner,” why did it find it necessary to use the word also, “hired hand”? The result would have been the false proposition that the slave purchased in perpetuity does not eat of the paschal sacrifice, but the slave purchased for a limited number of years may do so.
- [F] If that were the case, I should have said that the sojourner is the one that is purchased for a limited number of years. And when Scripture says, “hired hand,” the use of the word “hired hand” comes to impart the meaning to the word “sojourner” that that is a slave purchased in perpetuity.
- [G] Said R. Matiah, “Since it is written, ‘But no uncircumcised person may eat of it’ (Ex. 12:48), the reference to the sojourner and hired hand in the laws of paschal sacrifice is hardly necessary on its own account. The effect is to leave the passage open for some other exegetical purpose.”

[I:3 A] *In the view of R. Aqiba*, [who derives the law prohibiting an uncircumcised person from the repeated use of the word “man,”] for what purpose does he utilize the language “sojourner and hired hand” when that language is used with regard to heave offering?

[B] *In his view the language is used in accord with that which R. Hela said in the name of R. Yosa*, “He who purchases uncircumcised slaves from a Gentile on the stipulation that he will circumcise them” – [this is not completed.]

[I:4 A] R. Yosa in the name of R. Yohanan, Simeon bar Ba in the name of R. Yohanan: “He who purchases uncircumcised slaves from a Gentile on the stipulation that he will circumcise them, even if he circumcised them – they may not eat food in the status of heave-offering [until they have immersed in an immersion pool].”

[B] R. Yosé in the name of R. Yohanan, Simeon bar Ba in the name of R. Yohanan.”He who purchases slaves from a Gentile on the stipulation that he will circumcise them, and the slaves retracted [from their

agreement on that matter] argues with them for a year. If they agreed, lo, that is well and good, and if not, he is permitted to sell them back to a Gentile.”

[C] R. Isaac bar Nahman in the name of R. Joshua b. Levi: “There was the case of someone who purchased a city of uncircumcised slaves from a Gentile on the stipulation that he would circumcise them, and the slaves retracted their agreement [to the operation]. He came and asked rabbis. They said to him, ‘Argue with them for a twelve-month period. If they agree, lo, that is well and good, and if not, all follows local custom.’”

[D] And R. Isaac bar Nahman, “R. Joshua b. Levi was in Laodicea, *and R. Yudan as there the Patriarch. He wanted to depart early in the morning. He said to him, ‘Wait while we immerse this female convert tomorrow.’*”

[E] R. Zira asked R. Isaac bar Nahman, “Why? Was it because of the honor owing to the elder, or was it because they do not immerse a female convert by night.”

[F] He said to him, “It was because they do not immerse a female convert by night.”

[G] *A case came from R. Yosé: “What is the law as to immersing proselytes by night?”* And they did not give a decision.

[H] A slave [who refused to be circumcised] is in the status of a permanent sojourner.

[I] A proselyte and sojourner [who refused to be circumcised] – lo, he is in the status of a Gentile for all intents and purposes.

[J] R. Samuel bar Hiyya bar Judah in the name of R. Haninah: “A proselyte and sojourner [who refused to be circumcised] – they argue with them for twelve months. If they retracted, well and good. And if not, lo, such a one is in the status of a Gentile for all intents and purposes.”

[I:5 A] R. Samuel bar Hiyya bar Judah, R. Haninah in the name of Rabbi: “A proselyte-sojourner has to accept upon himself the stipulation [that the sole precept he will transgress is] to eat carrion.”

[B] Said R. Hela, “Let them state the matters in accord with the manner in which they are written down in Scripture.”

[C] What is the meaning of, “Let them state matters in accord with the manner in which they are written down in Scripture”?

- [D] Said R. Yosé bu Haninah, “You may not eat anything that dies of itself; you may give it to the alien who is within your towns, that he may eat it, or you may sell it to a foreigner” (Deut. 14:21).
- [E] *There is a Tannaite authority who teaches:* A resident [= partial] proselyte – they do not accept him unless he accepts upon himself the obligation to carry out all of the commandments that are written in the Torah.
- [F] *There is a Tannaite authority who teaches:* A resident proselyte – they do not accept him unless he repudiates his own idol.
- [G] R. Ba in the name of R. Hiyya bar Ashi: “A resident proselyte – they do not accept him unless he repudiates his idol as a Gentile.”
- [H] Said R. Zeira, “On the basis of what all of them have said, [the condition applies that he is accepted only if he will] repudiate his idol as a Gentile.
- [I] “*For if we do not maintain that position, then shall we say, Since he is subject to a commandment concerning idolatry, should he not nullify it?*”
- [J] But are not Gentiles subject to a commandment concerning idolatry, and they nullify their idols? [So what is the point in this statement?]
- [K] Said R. Yosé, “It is so that you should not say, since he is equivalent to an Israelite in three matters, viz., being subject to the commandment not to hold back the salary of a hired worker, not to exact interest, and to go into exile [in the case of involuntary homicide,] like an Israelite, he may not annul an idol [any more than an Israelite’s action is of consequence]. *Accordingly, it was necessary to state that he annuls an idol as does a Gentile.*”
- [L] *Who taught that he is subject to not holding back a worker’s salary?*
- [M] *It is R. Yosé b. R., Judah, for it has been taught:*
- [N] “A resident convert – lo, he is subject to the commandment not to hold back the salary of a hired worker,” the words of R. Yosé b. R. Judah.
- [O] R. Judah says, “A resident convert on the Sabbath is subject to the law of the festival as it affects other

Israelites. Just as an Israelite on the Sabbath may bake or cook but is prohibited to do any acts of labor, so a resident convert on the Sabbath does likewise.”

[P] R. Yosé says, “A resident convert on the Sabbath is subject to the law of the intermediate days of a festival as they affect Israelites. Just as Israelites on the intermediate days of a festival are permitted to collect [produce] from the field [so that it will not spoil, if it has fallen from the plant], but are forbidden to do all other acts of labor in the field, so a resident convert on the Sabbath is subject to the same rule.”

[Q] R. Simeon says, “A resident convert on the Sabbath is in the status of an Israelite on all other days of the year. Just as an Israelite on any ordinary day of the year ploughs, sows, and reaps, so a resident convert on the Sabbath may do the same.”

[R] R. Adda, R. Hamnuna, R. Adda bar Ahva in the name of Rab: “The law accords with the view of R. Simeon.”

- [I:6 A] It is written, “But every slave of a man that is bought for money may eat of it after you have circumcised him” (Ex. 12:44).
- [B] Is it the case, then, that if it is the slave of a man, you circumcise him against his will?
- [C] But the son of an ordinary person you do not circumcise against his will.
- [D] *R. Yohanan raised the question*, “Lo, in the case of a minor son, do you circumcise him even against his will, even such as the son of Urkhanes?”
- [E] *R. Hezekiah in the name of Rab*, “Lo, that is indeed the case. **If one found in [a town in which Israelites and Gentiles dwell together an abandoned child, if the majority is Israelite, it is deemed an Israelite. Half and half – it is deemed an Israelite. R. Judah says, “They follow the status of the majority of those who abandon babies [who are assumed to be Gentile]” [M. Makh. 2:7]. [In this regard it is taught:] If they immersed him as a slave, you circumcise him as a slave. If they immersed him as a free man, you circumcise him as a free man.**”

[F] *R. Yohanan raised the question, “If it was for the sake of a slave, lo, is he deemed equivalent to a slave – even in the case of the son of Urkhanes?”*

[I:7 A] [As to the exegesis of Ex. 12:44 above], R. Abbahu and R. Eleazar did not state matters in that way. Rather: “‘But every slave of a man that is bought for money may eat of it after you have circumcised him’ (Ex. 12 ~ If it is your slave, you circumcise him against his will. If it is your son [that is, a proselyte who comes along with his adult male children,] you do not circumcise him against his will.”

[B] *This is in line with that which R. Hela said in the name of R. Yosa, “He who purchases uncircumcised slaves from Gentiles on the stipulation of circumcising them.” Now what is your choice? If he is in the status of the slave of a man, you may then circumcise him against his will. If it was on the stipulation not to circumcise him, then he is like the son of a man, and you may not circumcise him against his will.*

[I:8 A] One whose mark of circumcision is covered up, one who was born circumcised, and one who was circumcised before he had converted to Judaism may not eat food in the status of heave offering.

[B] R. Zeriqan, R. Yannai b. R. Ishmael in the name of R. Yohanan, “This is to be simply on the count of a penalty [in the case of the one who covered up the mark of his circumcision].”

[C] R. Jeremiah, R. Samuel bar R. Isaac in the name of Rab: “It is a decree that they have issued.”

[D] *What is the practical difference between these two explanations?*

[E] If someone else covered up the mark of his circumcision, or if it was covered up on its own [and not by the man’s action] –

[F] *if you say that* the prohibition against his eating food in the status of heave-offering is on account of a penalty, there is no consideration of a penalty here.

[G] *If you say that* the prohibition is by reason of a decree [so that it will not appear that uncircumcised priests are eating heave-offering], then even in such a case, a decree applies.

[I:9 A] “Circumcising, he shall be circumcised” (Gen. 17:13) – The repetition of the same word represents a decree that there should be two aspects to the act of circumcision, one that serves for the

circumcision, the other that serves for uncovering the crown, one for circumcision and one for trimming the shreds of flesh.

- [B] *Up to this point the matter has been interpreted in accord with the principle of R. Aqiba, who has said that when a word is repeated, it is for the purpose of encompassing yet a second matter.*
- [C] *But in accord with R. Ishmael, who has said that where words are repeated, it is merely because the Torah is speaking in its usual way [and not to supply the occasion for an exegesis to encompass an otherwise omitted consideration],*
- [D] as, for example, “And now you have gone away because you longed greatly [for your father’s house, but why did you steal my gods]?” (Gen. 31:30); “For I was indeed stolen [out of the land of the Hebrews; and here also I have done nothing that they should put me into the dungeon]” (Gen. 40:15) –
- [E] how do we know [that these same parts of the rite of circumcision must be properly done]?
- [F] Said R. Judah bar Pazzi, “[So he let him alone.] Then it was that she said, “Surely you are a bridegroom of blood,” because of the circumcision [literally, circumcisions]’ (Ex. 4:26). On this basis we know that there are two acts of circumcision, one for circumcision, the other that serves for uncovering the crown, one for circumcision and one for trimming the shreds of flesh.”
- [I:10 A] Rab said, “‘Circumcising, he shall be circumcised’ (Gen. 17:23) – on the basis of this verse, we know that one who is born circumcised has to undergo the drawing of a single drop of blood to mark the covenant.
- [B] “‘Circumcising, he shall be circumcised’ – on the basis of this verse, we know that an uncircumcised Israelite may not perform the rite of circumcision unless he will first circumcise himself, and, it is hardly necessary to say, the same applies to an uncircumcised Gentile.”
- [C] R. Levi said to him, “It is written [And God said to Abraham,] ‘As for you, you shall keep my covenant. [you and your descendants after you throughout their generations]’ (Gen. 17:9). The meaning is to encompass you and all who are like you.”
- [D] *It has been taught:* “An Israelite may circumcise a Samaritan, [9a] but a Samaritan may not circumcise an Israelite, because the Samaritan is circumcised for the sake of the Mountain of Gerizim,” the words of R. Judah.

[E] Said to him R. Yosé, “And where in the entire Torah do we find that the one who performs the rite of circumcision has to do so with the right attitude? But let the Samaritan continue to perform the rite of circumcision until he drops dead.”

[F] “The one whose mark of circumcision has been covered over should not [again] be circumcised, so as not to come into danger,” the words of R. Judah.

[G] Said to him R. Yosé, “Now there were many whose mark of circumcision was covered over in the time of Ben Kozeba, and all of them afterward were circumcised, and they lived and fathered sons and daughters.”

[I:11 A] He whose mark of circumcision was covered over, and one who was born circumcised, and one who had been circumcised prior to conversion – in all instances, it is necessary to produce a drop of blood from him as a mark of the covenant.

[B] R. Simeon b. Eleazar taught, “The House of Shammai and the House of Hillel did not dispute concerning the case of one who was born circumcised, that one indeed must draw a drop of blood as a mark of the covenant because in this case, the foreskin has been pressed back.

[C] “Concerning what did they dispute? Concerning a proselyte who converted while already circumcised, for the House of Shammai say, ‘It is necessary to draw from him a drop of blood to mark the covenant,’ and the House of Hillel say, ‘It is not necessary to draw from him a drop of blood to mark the covenant.’”

[D] R. Isaac bar Nahman in the name of R. Hoshaiyah: “The law accords with the opinion of the disciple [that is, R. Simeon b. Eleazar].”

[E] *A case came before Rab, and he ruled, “On the basis of that which is taught, ‘Because it is a foreskin that has been pressed back,’ that is to say that it most certainly is a foreskin, and on that account they set aside the restrictions of the Sabbath [and perform the rite of circumcision on that day].*

[F] R. Abbahu said, “They do not override the restrictions of the Sabbath on that account, and one has to draw a drop of blood to mark the covenant from him.”

[G] *R. Adda bar Ahva had a son who was born in this way, [that is,] with his penis mashed, and he died.*

[H] Said R. Abin, “[That is not what happened. Rather], in the rite of circumcision he had his testicles crushed, and [his father] prayed concerning him that he die [since he could then not enter into the community].”

[I] *The rabbis of Caesarea say*, “In the rite of circumcision he had his penis clipped off, and his father prayed for him that he might die.”

[I:12 A] “[And on the eighth day the flesh] of his foreskin [shall be circumcised]” (Lev. 12:3).

[B] In the case of certainty, the rite of circumcision overrides the restrictions of the Sabbath, but in the case of doubt, it does not override the restrictions of the Sabbath.

[C] “His foreskin” – when it is certain that it is a foreskin, the rite of circumcision overrides the restrictions of the Sabbath.

[D] But the circumcision of a child with both male and female traits does not override the Sabbath.

[E] But R. Judah would say, “The circumcision of a child with both male and female sexual traits overrides the restrictions of the Sabbath, and they are liable on his account to extirpation.”

[F] “His foreskin” – when it certainly is a foreskin the rite of circumcision overrides the Sabbath. But if the child is born at dusk [when we do not know whether or not it is day or night and hence we are not certain if the eighth day actually falls on the Sabbath], such a child’s circumcision does not override the restrictions of the Sabbath.

[G] “His foreskin” – when it certainly is a foreskin, the rite of circumcision overrides the Sabbath. But the rite of circumcision of a child born circumcised does not override the Sabbath.

[H] For the House of Shammai say, “It is necessary to draw from him a drop of blood to mark the covenant.”

[I:13 A] *There we have learned: All are liable for an appearance-offering (Ex. 23:14; Deut. 16:16), except for a deaf-mute, idiot, minor, one without pronounced sexual characteristics, one who exhibits the sexual traits of both sexes [M. Hag. 1:IA-C].*

[B] [Now, since Judah treats the person with sexual traits of both sexes as subject to the requirement of circumcision, hence as a male, we ask:] How does R. Judah deal with this issue?

[C] *Let us derive the answer from the following:* R. Yohanan b. Dahabai said in the name of R. Judah: “Also the blind person.

[D] Now a person does not say “also” unless he concurs with that which has gone before. [Hence he would concur that, in the matter of the appearance-offering, the person who exhibits the sexual traits of both sexes is treated as a non-male.]

[E] *It follows that the opinions assigned to R. Judah are at variance with one another. There he has treated Scripture’s reference to males to exclude the person with the sexual traits of both sexes, while here he has interpreted it as inclusive of the same category.*

[F] R. Judah and rabbis interpret the same verse.

[G] Rabbis interpret the following verse: “Any circumcised [male who is not circumcised in the flesh of his foreskin shall be cut off from his people; he has broken my covenant]” (Gen. 17:14). Why does Scripture find it necessary to say “male,” [which surely is extraneous]? It is to indicate that the whole of the per

[H] R. Judah interprets the word “male” in a different way. Why does Scripture say “uncircumcised?” It is to encompass someone who is only partially uncircumcised [within the law].

[I] But here he understands the following verse in a different way: “[Three times in the year shall] all your males [appear before the Lord your God]” (Ex. 23:17). This excludes the person with the sexual traits of both male and female.

[I:14 A] *There we have learned: An infant who is sick – they do not circumcise him until he gets better [Y. Shab. 19:5].*

[B] Samuel said, “Even if he caught a fever for one moment, they wait on him for thirty days.”

[C] As to that thirty-day period, what is the law on giving him nourishment deriving from produce in the status of heave-offering? [Is he uncircumcised such that he may not eat such produce? Or does the fact that the untimely circumcision is not due to his failure mitigate the law?]

[D] What is the law as to anointing him with oil in the status of heave-offering?

[E] *Let us derive the answer to that question from the following: **An uncircumcised priest and all unclean priests do not eat heave-offering. Their wives and slaves do eat heave-offering [M. 8:1A-B].*** [Accordingly, the infant may not eat food in the status of heave-offering until he is circumcised.]

[F] R. Aha in the name of R. Tanhum b. R. Hiyya:—"The status of uncircumcision applies only from the eighth day and onward."

[G] *[Along these same lines] it has been taught [as above]:* For the entire thirty-day period it is forbidden to feed [the infant described earlier] nourishment in the status of heave-offering and it is forbidden to anoint him with oil in the status of heave-offering.

[H] As to the night prior to the eighth day, how do you deal with it? [Is this regarded as part of the period during which the uncircumcised infant falls into the category of uncircumcision? Or since the rite could not be *performed* by night in any event, does the night of the eighth day fall into the period of time during which the rite is not yet required?]

[I] *On the basis of the following teaching [the answer to that question is clear:]* On the night of the eighth day it enters the fold to be tithed. [That is, an animal is not suitable to sacrifice prior to the age of eight days, likewise such a premature animal is not subject to tithing. If tithing takes place on the night of the eighth day, and it will be eight days old the next day, it does enter the fold for tithing. Accordingly, the trait of being premature does not pertain to the night.]

[J] That is to say, the night prior to the eighth day is equivalent to the eighth day.

[K] *And so it has been taught:* For the entire span of seven days it is permitted to feed [the infant not circumcised] nourishment in the status of heave-offering, and it is permitted to anoint him with oil in the status of heave-offering.

[I:15 A] *There we have learned: These are the shreds that invalidate circumcision: Flesh that covers the greater part of the corona [M. Shab. 19:6].*

[B] R. Abina in the name of R. Jeremiah: "That is the flesh that covers the greater part of the height of the corona."

[C] R. Yosé b. Yosé said, “It means flesh that covers the greater part of the very top of the corona.”

[D] [And if he is fleshy, so that he looks uncircumcised, he must repair it for appearances' sake (M Shab 19:6)]: R. Tabi in the name of Samuel: “They examine the penis when it is erect. [If he appears to be circumcised, that suffices.]”

[E] If he circumcised but did not uncover the crown, it is as if he did not circumcise at all.

[F] [The membrum must be trimmed, with shreds that invalidate the circumcision removed]. If one did not trim it, he is subject to punishment by extirpation.

[G] *R. Aha in the name of R. Abbahu: “That which you have said applies in a case in which there is not sufficient time left in the day [for circumcision is done only by day] to trim the flesh. But if there is sufficient time in the day to do so, one trims it and need not scruple. [That is, a second party may complete the job.]”*

[I:16 A] *It has been taught [in regard to completing the trimming:]* So long as the person performing the rite is yet doing the work, he may return to incomplete aspects of it, whether to remnants that would invalidate the circumcision or to remnants that, if left, would not invalidate the rite of circumcision. Once he has left off the work, he may resume the work only as to cutting off the shreds of flesh that if left would invalidate the rite of circumcision.

[B] Said R. Yohanan, “In the view of R. Yosé, even if he has left off the work, he may resume it so as to cut off the shreds of flesh that if left would not invalidate the rite of circumcision.”

[C] *To which R. Yosé [does Yohanan refer]?*

[D] *It is the one represented the following, which we have learned there:*

[E] R. Yosé says, “If the first day of the festival of Sukkot coincides with the Sabbath, if one

forgot and brought his lulab out into the public domain, he is exempt from the obligation to bring a sin-offering, because he brought it out intending to do what is permitted” [M. Suk. 3:14]. [Yosé thus is lenient in allowing someone to complete a religious duty, even in contravention to the strict requirements of the law.]

[F] Is the rule the same for carrying the knife for use for circumcision and in respect to unleavened bread [for the paschal sacrifice]?

[G] *[We answer] on the basis of what R. Yohanan said, “In the view of R. Yosé, even if he has left off the work, he may resume it so as to cut off the shreds of flesh that if left would not invalidate the rite of circumcision.”*

[H] *That is to say that the same rule applies to carrying the knife for use for circumcision and in respect to unleavened bread [for the paschal sacrifice].*

[II:1 A] If he did not have intercourse with her from the time that his testicles were crushed or his penis was cut off, lo, these do eat food in the status of heave-offering [M. 8:1F].

[B] Said R. Eleazar, “This represents the view of R. Eleazar and R. Simeon [at M. 6:3].”

[C] Said R. Yohanan, “It represents the view of all parties [inclusive of Meir]. *The case here is different*, because in this instance the mutilated husband [by not having a further act of sexual relations] has not done a thing to increase his domain in her case after he had been made unfit to have sexual relations with her.”

[D] *Now this dispute accords with the one that they have in the following case, for they conducted the following dispute:*

[E] A levirate widow who was of the priestly caste, awaiting levirate marriage with one of two brothers-in-law, also priests,

[F] if one of them bespoke her but did not suffice to consummate the marriage before his testicles were crushed or his penis was cut off

[G] Said R. Simeon b. Laqish, “Since she has been subject to having sexual relations of an invalid character, she is invalid [for marriage with the other priest].”

[H] R. Yohanan said, “That is the case only if the invalid priest actually had sexual relations with her, [and Meir will concur at this point, since the marital tie was established by her original husband and was valid. The invalid levir has done nothing to increase his domain over the widow, prior to an act of sexual union] .”

[I] If one of them was valid and one invalid, also R. Yohanan will concur [that she is now invalid to the other, since the invalid one has bespoken her and so has indeed added to his dominion over her].

[J] *R. Hiyya bar Adda raised the following question before R. Mana:* “If the valid priest bespoken her [what is the law]?”

[K] He said to him, “This is subject to dispute of R. Yohanan and R. Simeon b. Laqish [in the interpretation of the position of Meir].”

8:2

[A] Who is he who has crushed testicles?

[B] Any one whose testicles are crushed, and even one of them.

[C] And one whose penis is cut off?

[D] Any whose sexual organ is cut off.

[E] But if so much as a hair-thread of the crown remained, he is valid [to eat heave-offering].

[F] Those whose testicles are crushed o whose penis is cut off are permitted to have sexual relations with a female convert and a freed slave-girl.

[G] They are prohibited only from coming into the congregation,

[H] since it is written, “He whose testicles are crushed and whose penis is cut off shall not enter the congregation of the Lord” (Deut. 23:2).

[I:1 A] [Had Scripture said only,] “Crushed,” I might have concluded that if his eye were crushed, the same rule would apply.

[B] Scripture says, “The spout,” [so intending to specify the organ subject to crushing].

[C] The meaning is that there is a mutilation beside a canal.

- [D] If we deal with a mutilation beside a canal, then [why not include the eye, for] his eye is beside his nose.
- [E] Scripture states, “Crushed.”
- [F] [This refers to that] which falls down between one’s heels.
- [G] *Said R. Haggai before R. Yosé*, “You have no lower part of a man when he sits down than his testicles alone.”
- [H] Said R. Yosé b. R. Bun, “That is so. You should know that that is the case, for in all other [categories of those forbidden to come into the congregation,] the matter of coming generations is specified, except for this one, who cannot procreate anyhow.”
- [I:2 A] **And it is not the end of the matter that if the testicles are crushed, he may not enter the congregation, but even if the testicles were pierced, or dried up, or if one was lacking [the same rule applies] [T. Yeb. 10:3C].**
- [B] *It has been taught: Said R. Ishmael b. R. Yohanan b. Beroqah*, “**I heard at the Vineyard at Yabneh: He who has only one testicle, he cannot procreate, and lo, such a one is a eunuch by nature**” [T. Yeb. 10:3D].
- [C] Said R. Yosé, “I have heard that the law accords with R. Ishmael, son of R. Yohanan b. Beroqah, *but I do not know from whom I heard that statement.*”
- [D] *Said R. Immi*, “*R. Yosé did not hear that statement from an unimportant person.*”
- [E] Samuel said, “If a man with a single testicle should come before me for a ruling, I should declare him valid [to enter the congregation].”
- [F] *R. Huna said*, “*It is because he accords with the view of R. Ishmael b. R. Yohanan [b. Beroqah].*”
- [G] Said R. Yudan bar Hanin, [9b] “But that is on condition that he has the right testicle intact.”
- [H] *A case came before R. Immi. He said to the woman [who wished to marry such a man]*, “*You are permitted to marry him, my daughter, but you should know that he cannot procreate.*”
- [I] *R. Zeira praised this decision, because he laid the matter out clearly [by hinting that while permitted, she should not marry him].*

- [I:3 A] As to one with crushed testicles, *there is a Tannaite authority who teaches that* if it was done by man, such a person is invalid, but if it was done naturally, he is valid.
- [B] *There is a Tannaite authority who teaches,* whether it was done by man or naturally, he is invalid.
- [C] *The one who has said that* if it was done by man he is invalid, but if it was done naturally, he is valid, derives the rule from the case of the mamzer, linked as it is to this one by common language: “A mamzer should not enter” (Deut. 23:2), “He whose testicles are crushed shall not enter” (Deut. 23:1).
- [D] Just as the status of mamzer derives from what human beings do, so the status of one with a crushed testicle derives from what human beings do.
- [E] *As to the one who holds that* whether or not it is done by man or done naturally, the man is invalid – whence does he derive this position?
- [F] *Said R. Mana, “It is from this statement: ‘He whose testicles are crushed ... shall not enter’ – under any circumstances.”*
- [G] *Said R. Yosé b. R. Bun, “He may derive the same rule from the statement, ‘A mamzer shall not enter.’ That is, just as a mamzer shall not enter, so one with a crushed testicle shall not enter.*
- [H] “Now just as a mamzer is the result of natural causes [and so is forbidden to enter the community], likewise one who has a crushed testicle because of natural causes should not enter the congregation.”
- [I] But is a mamzer the result of natural causes?
- [J] Indeed so: The formation of the offspring is through natural causes.
- [K] *They proposed to rule: He who has said that* if the testicle is crushed by man, he is invalid, but if it is due to natural causes, he is valid, is R. Ishmael, son of R. Yohanan b. Beroqah. *He who said that* whether the testicle was crushed by a man or by natural causes he is invalid is in accord with the view of rabbis.
- [L] *Said R. Aha b. Pappi before R. Zeira, “The entire matter is in accord with the teaching of rabbis. [Rabbis will concur*

that even if it is because of natural causes, he is invalid. The condition now will be specified to which rabbis will concur.] Lo, if sores come up on the testicles, when the testicles are cut off or removed, lo, this is done by man, yet it is as if it was because of natural causes.”

[II:1 A] And one whose penis is cut off? Any whose sexual organ is cut off. But if so much as a hair-thread of the crown remained, he is valid to eat heave-offering [M. 8:2C-E].

- [B] R. Yosé in the name of R. Haninah, “The reference is to the upper part of the crown.”
- [C] R. Hiyya in the name of R. Haninah, “[Even] the lower part of the crown.”
- [D] R. Joshua b. Levi said, “The lower part of the crown.”
- [E] *There they have stated*, “If the mutilated penis has the shape of a spout, he is valid.”
- [F] R. Hela in the name of R. Yohanan: “If it is cut like a quill, lo, this one is valid.
- [G] “If it is cut like a quill upside down, lo, this one is invalid.”
- [H] If there is a perforation in it on the inside, he is invalid. If it is perforated on the outside, he is valid.
- [I] R. Ba in the name of R. Judah: “If it is inside, from the crown and inward; if it is outside, from the crown and outward.”
- [J] If it is perforated, lo, this one is invalid.
- [K] If it is closed up again, lo, this one is valid.

[L] [If] it is perforated at the bottom, he is invalid, because it [the semen] pours out.

[M] [If] the hole is closed up, he is valid, because he can impregnate.

[M] That is one who is invalid and who once more returned to his state of validity [T. Yeb. 10:4E-G].

[II:2 A] *It has been taught:* The sole difference between one whose testicle is crushed and one whose penis is removed is in the laws of medicine alone. For the crushed testicle may be restored to health, while the penis that has been cut off will not grow back.

[B] What does one do [to shut up the perforation]?

[C] R. Jacob bar Aha in the name of R. Judah: “He gets ants and makes them bite the open wound and cuts their bodies off, and so the gap is filled” (=Jastrow, p. 940).

[D] R. Hilqiah, R. Simeon in the name of R. Joshua b. Levi: “That law [that he may marry a female proselyte] has been taught only in connection with an Israelite with a crushed testicle. But with respect to a priest with a crushed testicle, it is not in such a case that [he may marry a female proselyte].”

[II:3 A] *There we have learned: All those who are forbidden from entering into the congregation are permitted to marry one another, R. Judah prohibits. R. Eliezer says, “Those who are of certain status are permitted to intermarry with others who are of certain status. Those who are of certain status and those who are of doubtful status, those who are of doubtful status and those who are of certain status, those who ~ of doubtful status and those who are of doubtful status – it is prohibited.” And who are those who are of doubtful status~ The “silenced:ct one,” the foundling, and the Samaritan [M. Qid. 4:3] [The reference to Deut. 23:1, “He whose testicles are crushed or whose male member is cut off shall not enter the assembly of the Lord,” R. Jeremiah said, “[All who are subject to] the general rule [of being prohibited to enter the congregation, whether the invalidation derives from the condition of their birth or from genealogy, are permitted to marry one another.?? an Israelite whose male member has been cut off is permitted to marry a mamzer-girl.”*

[B] Said R. Yosé, “And on condition that, in any event, he is invalid by reason of genealogy.

[C] “If he is merely invalid by reason of the condition of his body, *it is not in such a case that* he may marry a mamzer-girl.”

[D] *Support for the position of R. Yosé is found in the following, which R. Hilqiah, R. Simon in the name of R. Joshua b. Levi stated: “They taught this rule only in the case of an Israelite suffering from crushed testicles. But as to a priest suffering from crushed testicles, he may not [marry a mamzer girl].”*

[E] *This is in line with that which you say there:* If he is certainly a priest, he is invalid from marrying a convert.

[F] Here too, if he is certainly an Israelite, he is forbidden to marry a mamzer-girl.

[II:4 A] *In the opinion of R. Judah* [M. Qid. 4:3], may a mamzer not marry [even] a mamzer-girl?

[B] *Let us derive the answer from that which R. Immi stated. R. Jacob Gabelayya taught before R. Yohanan, R. Isaac bar Tabelai in the name of R. Simeon b. Laqish, “In the opinion of R. Judah, a mamzer may not marry a mamzer-girl, so that mamzers should cease to exist in the world.”*

[C] *Along these same lines*, may an Ammonite [convert] not marry an Ammonite woman?

[D] *Said R. Yosé b. R. Bun, “Only in the opinion of rabbis is it necessary to raise that question [since they do not regard proselytes as a congregation, so if he does not marry an Ammonite, he may marry a proselyte].*

[E] *“For, as to R. Judah, he maintains that proselytes are invalid to enter the congregation of the Lord.”*

[F] [Reverting to C:] He cannot marry an Ammonite girl, since he is in the status, as to her, of one who belongs to the congregation of the Lord.

[G] He cannot marry an Egyptian girl, since in respect to her he is in the status of a member of the congregation of the Lord.

[H] Said R. Mattanaiah, “They free a slave-girl for him.”

[I] *And along these same lines*, should an Egyptian not marry an Egyptian woman?

[J] *Let us derive the answer from the following:*

[K] *R. Abbahu taught before R. Yohanan: [In the Tosefta’s version:] “**An Egyptian man who married an Egyptian woman, an Edomite man who married an Edomite woman – the first generation and the second are prohibited from entering the congregation, but the third is permitted.**”*

[L] Said R. Judah, “Benjamin, an Egyptian proselyte, was among the disciples of R. Aqiba.

[M] “He said, ‘I am an Egyptian proselyte, and I married a woman who was an Egyptian proselyte. Lo, I am planning to arrange a marriage for my son with a woman who is the

daughter of an Egyptian proselyte woman, so that the son of my son will be permitted to enter the congregation,

[N] ““since it is said, “[You shall not abhor an Edomite, for he is ~our brother; you shall not abhor an Egyptian, because you were a sojourner in his land.] The children of the third generation that are born to them may enter the congregation of the Lord”” (Deut. 23:7-8)

[O] “Said to him R. Aqiba, ‘Benjamin, you have erred in this law. After Sennacherib came up and made a mixture of all the nations, the Ammonites and Moabites no longer are found in their original location, and the Egyptians and the Edomites are no longer found in their original location.

[P] ““But an Ammonite man marries an Egyptian woman, and so Egyptian man marries an Ammonite woman, and one of all them marries any one of all the families of the earth, and one of the families of all the earth marries any one of these”” [T. Qid. 5:4].

[Q] Judah in the name of Rab: “The law is in accord with R. Eliezer according to the sages.”

[R] R. Jeremiah in the name of R. Samuel bar R. Isaac, “It is written, ‘No mamzer shall enter the assembly of the Lord’ (Deut. 23:2).

[S] “**He does not enter into that in which status is certain, but he does come into a congregation whose status is subject to doubt**” [= M. Qid. 4:3D-E].

[II:5 A] *There we have learned:* **[He who enters into levirate marriage with his childless brother’s widow, and it turns out that she is pregnant and she gave birth, when the offspring is timely, he must put her away, and both man and woman are liable for a sacrifice. If the off-spring is not timely, he may confirm the marriage.] If it is a matter of doubt whether the off-spring is born at nine months, therefore assigned to the first husband, or born at seven months, therefore assigned to the second, he must put her away. But the offspring is valid. And both of them are liable for a suspensive guilt-offering [M. Yeb. 4:2].**

[B] *It has been taught:* **The first of two such offspring is suitable to be made high priest, but the second is deemed a mamzer by reason of**

doubt. R. Eliezer b. Jacob says, “The second is not a mamzer by reason of doubt” [T. Yeb. 6:21-1].

[C] R. Eliezer b. Jacob concurs in the case of a child that may or may not be a Samaritan, or that may or may not be of impaired priestly stock; [these are treated as equivalent to others in doubt].

[D] *This is in line with that which we have learned there: **Ten castes came up from Babylonia [M. Qid. 4:1] [including silenced ones, foundlings, and mamzers as separate castes].***

[E] In the opinion of R. Eliezer b. Jacob, they are eight [treating those three as one].

[F] In the opinion of Rabban Gamaliel and R. Eliezer, they are nine [since the silenced ones are not in their view a separate caste].

[G] In the opinion of rabbis they are ten.

[III:1 A] *Said R. Haninah, “The Mishnah [M. 4:1D] is not in accord with what R. Judah has said [since he does not permit proselytes to marry mamzer-girls], because R. Judah has said that they form four congregations: the congregation of priests, the congregation of Levites, the congregation of Israelites, and the congregation of proselytes.”*

[B] *They objected to R. Judah, “And lo, it is written, ‘He whose testicles are crushed or whose male member is cut off shall not enter the assembly of the Lord’” (Deut. 23:1).*

[C] They are invalid by reason of the condition of their body, [not genealogy].

[D] And has it not been written, “The children that are born to them [an Edomite or an Egyptian] may enter the assembly of the Lord” (Deut. 23:8)?

[E] *They are subject to an affirmative commandment.*

[F] *And rabbis say, “They are three congregations: the Congregation of priests, the congregation of Levites, the congregation of Israelites.”*

[G] This derives from the three times in which the language, “He shall not come,” is utilized.

[III:2 A] *R. Hoshaiiah the Elder and R. Judah the Patriarch were in session. R. Yohanan ran in and whispered into the ear of R. Hoshaiiah the Elder: “A priest with crushed testicles (Deut. 23) – what is the law as to his marrying the daughter of proselytes?”*

- [B] [Judah the Patriarch] said to him, “What did he say to you?”
- [C] *He said to him, “Something to which the carpenter son of carpenters [a learned descendant of learned men] would not be able to answer.*
- [D] “He did not speak to me about a proselyte-woman, who in respect to a priest has the status of a prostitute, nor did he ask me about the daughter of an Israelite, who would be in the status of an impaired priestly woman [if she were to be married to him]. He has asked me only about the daughter of proselytes!”
- [E] But is not the daughter of proselytes like any other Israelite [and prohibited to such a priest, since by his act of intercourse, he impairs her for the priestly caste, and hence he may not confirm such a marriage either]?
- [F] Interpret the question in accord with the position of R. Judah, for R. Judah says, “**The daughter of a male proselyte is equivalent to the daughter of a male of impaired priestly stock**” [M. Qid . 4:6D]. [Such a woman then is not equivalent to an Israelite.]”

[III:3 A] A priest who had sexual relations with a divorcée, and produced a daughter, [who then is in the status of an impaired priest-girl], and the daughter [with a valid Israelite] then produced a daughter – what is [the status of the granddaughter? May she marry a priest]?

- [B] R. Hinnena and R. Mana – one of them said, “She is valid [for marrying into the priesthood].”
- [C] And the other said, “She is invalid.”
- [D] *The one who ruled that she is valid objected to the one who ruled that she is invalid, “[In line with M. Qid. 4:6A-B,] the daughter of an impaired male priest is not able to marry into the priesthood.” But is this one not born of an Israelite? What then invalidates her in line with M. Qid. 4:6B]?*

[III:4 A] R. Jacob bar Idi in the name of R. Joshua b. Levi: “There was the case of a family in the Rhodes, about which there were suspicions [as to its status in the priestly genealogy]. Rabbi sent R. Romanos to examine it. He examined [the family] and discovered that its grandmother had converted to Judaism at an age of less than three years and one day, so he declared the family fit for the priesthood.”

- [B] R. Hoshaiah said, “They declared it fit in accord with the view of R. Simeon.”

[C] Said R. Zeira, “In the present case it is in accord with the opinion of all parties.”

[D] For R. Zeira in the name of R. Ada bar [9c] Aha said, R. Yudan presented it in the name of Rab, R. Abbahu in the name of R. Yohanan: “The offspring of an adult woman [with a high priest] is valid [on the basis of the following interpretation of Scripture].

[E] “It is a negative commandment that emerges from a positive one:

[F] “‘And he shall take a wife in her virginity’ (Lev. 21:13) – not a mature woman [who is no longer a virgin].

[G] “Any negative commandment that emerges from a positive one is deemed a positive commandment, [and an impaired child derives only from those who have violated a negative commandment, not those who have violated a positive one]. [Consequently, the daughter is valid to marry a priest.]”

[H] *And along these same lines:*

[I] “[A high priest] shall take a wife in her virginity” (Lev. 21:13) – not a convert to Judaism.

[J] Any negative commandment that emerges from a positive one is deemed a positive commandment.

[K] *R. Hoshaiiah objected*, “Lo, there is the case of the second generation of an Egyptian family [of proselytes] (Deut. 23:7) – it is subject to a negative commandment that emerges from a positive one and is deemed a positive commandment, [and yet, in this case, if a priest should marry an Egyptian proselyte of the second generation, nonetheless the offspring are in the status of impaired priests].”

[L] R. Hoshaiiah reconsidered and said, “A positive commandment concerning an Israelite is not equivalent to a positive commandment addressed to priests. A positive commandment involving an Israelite yields a prohibition applicable to all. A positive commandment involving priests yields a prohibition for priests but a case permitted to Levites and Israelites.”

8:3

[A] **The male Ammonite and Moabite are prohibited [from entering the congregation of the Lord (Deut. 23:4)], and the prohibition concerning them is forever.**

[B] But their women are permitted forthwith.

[C] The Egyptian and the Edomite are prohibited only for three generations,

[D] all the same being males and females.

[E] R. Simeon permits the females forthwith.

[F] Said R. Simeon, "It is an argument a fortiori:

[G] "Now if in the case in which Scripture has prohibited the males forever, it has permitted the females forthwith, in a case in which Scripture has prohibited the males only for three generations, is it not logical that we should permit the females forthwith?"

[H] They said to him, "If you state the rule as a matter of law, we shall accept it. But if you state it as a proposed logical argument, there is an answer."

[I] He said to them, "Not so! I state a rule of law."

[I] Mamzerim and netinim are prohibited, and the prohibition concerning them is forever,

[K] all the same being males and females.

[I:1 A] [Proving from Scripture the proposition of M. 8:3B:] Scripture refers to the male Ammonite (Deut. 23:4), not the female one, the male Moabite, not the female one.

[B] *Along these same lines shall we add, A male Edomite, not a female one, a male Egyptian, not a female one?*

[C] Scripture states, "Because they [i.e., the Ammonites and Moabites] did not meet you with bread and with water on the way, [when you came forth out of Egypt, and because they hired against you Balaam the son of Beor from Pethor of Mesopotamia, to curse you]" (Deut. 23:4).

[D] The women should have met them [with bread and water, so they are subject to the same prohibition].

[E] It is written, "[Because they (i.e., the Ammonites and Moabites) did not meet you with bread and with water on the way, when you came forth out of Egypt,] and because they hired against you [Balaam the son of Beor from Pethor of Mesopotamia, to curse you]" (Deut. 23:4).

[F] Who usually goes out and hires? It is the man, not the woman.

[G] Who usually conspires? The man, not the woman.

[H] It is written, "And Shaharaim had sons in the country of Moab after he had sent away Hushim and Baara his wives" (I Chr. 8:8).

[I] Shaharaim is the same as Boaz, who was freed from sins.

[J] He procreated in the field of Moab, since he married Ruth the Moabite.

[K] “After he had sent away” – he sent them away because he was of the tribe of Judah, concerning whom it is written, “He sent Judah before him to Joseph, to appear before him in Goshen; and they came into the land of Goshen” (Gen. 46:28).

[L] “Hushim and Baara, his wives” – Now is there such a thing as a man who fathers his own wives? But he was as quick (hash) as a panther and besought (be’er) the law [with diligence].

[M] “And he had sons by Hodesh, his wife” (1 Chr. 8:9) – *It was necessary to state only that he had sons by Hushim and Baara, his wives. But it was because a law was newly formulated in her regard: “A male Ammonite, not a female one, a male Moabite, not a female one” [= A].*

[I:2 A] One verse of Scripture states, “Now Absalom had set Amasa over the army instead of Joab. Amasa was the son of a man] named Ithra the Israelite, [who had married Abigail the daughter of Nahash, sister of Zeruah, Joab’s mother]” (2 Sam. 17:25).

[B] And yet another verse of Scripture states, “[Abigail bore Amasa, and the father of Amasa was] Jether the Ishmaelite” (1 Chr. 2:17).

[C] R. Samuel bar Nahman says, “He was an Ishmaelite, and you say he was an Israelite?”

[D] “But when he came into the court house of Jesse, he found him in session and expounding the following verse: ‘Turn to me and be saved, all the ends of the earth!’ (Is. 45:22). He converted to Judaism, and Jesse gave him his daughter.”

[E] Rabbis say, “He was an Israelite, and you say he was an Ishmaelite? But he girded his loins like an Ishmaelite and thrust his sword into the court house: ‘Either kill or be killed, or we shall carry out the teaching of my master. Whoever violates this law with this sword I shall kill him: A male Ammonite, not a female one, a male Moabite, not a female one.’”

[F] Said R. Samuel bar Nahman, “I know that this is the case only by derivation from a Mishnah-teaching [coming from Moses at Sinai].”

[G] “So Naomi returned, and Ruth the Moabitess her daughter-in-law with her, who returned from the country of Moab. [And they came to Bethlehem at the beginning of barley harvest]” (Ruth 1:22).

[H] This is the one [Ruth] who was the first [female Moabite] to return from the country of Moab [to the Israelite fold, after the law was made to accept females].

[I] There is further proof, in his saying to her: “[But Boaz answered her, ‘All that you have done for your mother-in-law since the death of your husband has been fully told to me,] and how you left your father and mother [and your native land and came to a people that you did not know a few days ago]” (Ruth 2:11).

[I] He said to her, “Had you come to us a few days ago, we should not have accepted you [as a convert, but now we are able to do so, because of the law that the prohibition applies only to the male Moabite, not to the female one].”

[I:3 A] *R. Zakkai taught before R. Yohanan*, “The daughter of a male Ammonite proselyte to Judaism is valid [for marriage into the priesthood]. The daughter of a female Ammonite proselyte is invalid.”

[B] *R. Yohanan said to him*, “*O Babylonian, you crossed three rivers but have perished!* Rather, the same law applies to the daughter of a male Ammonite proselyte and a female Ammonite proselyte. Both are valid.”

[C] *R. Yosé in the name of R. Yohanan*: “It was not necessary [to state that the daughter of a male Ammonite proselyte is valid,] except in the case in which the mother was an Israelite. It was so that you should not conclude, Just as her mother had been profaned [and by marrying the proselyte, rendered invalid from marrying at some later time into the priesthood,] so her daughter likewise is in the same position of being profaned from marriage into the priesthood.”

[D] *R. Abbahu in the name of R. Yohanan*: “She is valid even for marriage to the high priest.”

[E] *What is the scriptural basis for this statement?*

[F] “[A widow, or one divorced, or a woman who has been defiled, or a harlot, these he shall not marry; but he shall take to wife a virgin] of his own people” (Lev. 21:14).

- [G] [Since “his own people” is in the plural, the meaning is,] the people that constitutes two peoples, that is, a people in which the males are prohibited while the females are permitted.
- [H] R. Haggai in the name of R. Pedat: “R. Simeon b. Laqish did not state matters in this way. Rather: The daughter of a male Ammonite proselyte is prohibited [to marry a priest] for she derives from an invalid drop of semen.”
- [I] *Said R. Yohanan, “And so it has been taught, ‘As to the marriage of two such peoples [e.g., Ammonites and Egyptians,] prior to conversion to Judaism, the males are permanently forbidden [from entering the Israelite congregation], and the females are permitted forthwith.*
- [J] “If they converted [and intermarried thereafter], the males of the union remain prohibited permanently, while the females are permitted after three generations [of further marriage with Israelites].”
- [K] *R. Hezekiah in the name of Aha: “A Tannaitic teaching has held the same view:*
- [L] “How do you know that if a male of any of the families of the earth had sexual relations with a Canaanite woman, and she produced a son by him, it is permitted to purchase the son as a slave? Scripture states, ‘You may also [buy] from among the strangers who sojourn with you [and their families that are with you, who have been born in your land; and they may be your property]’ (Lev. 25:45).
- [M] “Is it possible to suppose that the same rule applies even if a Canaanite male had intercourse with a female of any of the families of the earth?
- [N] “Scripture states, ‘Who have been born in your land’ (Lev. 25:45) – and not among the proselytes who are in the land.”
- [O] *Samuel bar Abba raised the following question: “As to slaves, what is the law on counting marriage to them among the generations [required to move from Egyptian or Edomite origin to full Israelite status]?*
- [P] “*What would illustrate such a case?*
- [Q] “If an Ammonite slave who converted to Judaism married a female convert, a slave of Egyptian origin, and then they

effected a proper conversion to Judaism after three generations –

[R] “*if you say that* the generation of slaves counts among the three generations, then they are forthwith permitted [in the third generation] to enter the Israelite congregation.

[S] “*But if you say that* the generation of slaves did not count among the three, then the males are permanently excluded, while the females enter after three generations.”

[II:1 A] **They said to him, “If you state the rule as a matter of law, we shall accept it. But if you state it as a proposed logical argument, there is an answer”**[M. 8:3H].

[B] What was the answer they had in mind?

[C] R. Abbahu in the name of R. Yosé b. R. Haninah: “Lo, the daughter of his son, and the daughter of his daughter – lo, they are forbidden for three generations, whether male or female.”

[D] *R. Abbahu said R. Simeon b. Laqish raised the question, “Do they present an answer involving someone who is a mamzer in a case involving someone who is not a mamzer?”*

[E] *R. Haggai said R. Abbahu raised the question.*”Do they give an answer involving extirpation in a matter in which extirpation is not involved?”

[F] **He said to them, “Not so. I state a rule of law [M. 8:3I].** And there is a verse of Scripture that supports my view: ‘The sons [of the third generation that are born to them may enter the assembly of the Lord]’ (Deut. 23:8) – and not the daughters.”

[II:2 A] R. Jacob bar Aha in the name of R. Josiah: “The eleventh generation in the family of a mamzer, in accord with R. Simeon, is valid.

[B] “For he does not interpret the language ‘tenth’ as tenth. [That is, Deut. 23:2 does not say ‘forever,’ while Deut. 23:3 does. The former stops with the tenth generation.]”

[C] *It was taught:* R. Eleazar b. R. Simeon says, “As to the eleventh generation produced from a mamzer, the males still are forbidden, but the females are valid. Just as elsewhere, the males are prohibited while the females are valid, so here the same rule applies.”

[D] *R. Samuel b. R. Yosé b. R. Bun declared, “That which R. Eleazar b. R. Simeon has said accords with the view of R. Meir.*

- [E] “For just R. Meir has said, ‘It is an analogy in which all of the elements apply. [That is, the rule for the Mamzer follows that of the Ammonite and Moabite in all regards.]’
- [F] “So did R. Eleazar b. R. Simeon say, ‘It is an analogy in which all of the elements apply.
- [G] “‘Just as below [with the Ammonites and Moabites], the males are forbidden and the females permitted, so here the males are forbidden and the females are permitted.’”
- [H] If that is so, then perhaps even forthwith [will they be permitted]?
- [I] No, that applies only from the tenth generation and thereafter.
- [J] They asked R. Eliezer, “As to the eleventh generation of a mamzer, what is the law?”
- [K] He said to them, “Bring me the third generation and I shall declare it clean.”
- [L] *What is the basis of R. Eliezer’s position? It is because the mamzer does not live a long life and produce children.*
- [M] *And that which R. Eliezer has said accords with the view of R. Haninah, for R. Haninah has said, “Once every sixty or seventy years the Holy One, blessed be he, brings a pestilence into the world and wipes out all the mamzers, but it takes with them valid people, so as not to publicize the sins [of the sinners].”*
- [N] *And that accords with what R. Levi said in the name of R. Simeon b. Laqish: “‘In the place where the burnt offering is killed shall the sin-offering be killed before the Lord’ (Lev. 6:25).*
- [O] “This is so as not to publicize the transgressions.”
- [P] “And yet he is wise and brings disaster; [he does not call back his words]” (Is. 31:2).
- [Q] Is it not reasonable to say, “And also he is wise and brings good?”
- [R] But it is phrased as it is to teach you that even the misfortune that the Holy One, blessed be he, brings to the world, in wisdom does he bring it.
- [S] “[And yet he is wise and brings disaster;] ‘he does not call back his words, but will arise against the house of the

evildoers, and against the helpers of those who work iniquity' (Isa. 31:2).”

[T] R. Huna said, “A mamzer does not live more than thirty days.”

[U] *When R. Zeira came up here, he heard people saying, “mamzer boy,” and “mamzer-girl.” He said to them, “Why is this? Lo, note that which R. Huna stated, for R. Huna said, ‘A mamzer does not live more than thirty [9d] days.’”*

[V] *Said R. Uqba bar Aha, “I was [also] with you when R. Ba, R. Huna in the name of Rab stated, ‘A mamzer does not live more than thirty days. [And he added:] Under what circumstances? When the matter is not known. But if the matter is known, he may live a good long life.’”*

[II:3 A] R. Yosa in the name of R. Yohanan: “Also in the age to come, the Holy One, blessed be he, will have to deal only with the tribe of Levi.”

[B] *What is the scriptural basis for that statement?*

[C] “He will sit as a refiner and purifier of silver, and he will purify the sons of Levi and refine them like silver and gold, [till they present right offerings to the Lord]” (Mal. 3:3).

[D] Said R. Zeira, “It is like a man who drinks from a clean cup. [The other tribes will be left with their impurities.]”

[E] *Said R. Hoshaiah, “Since we are Levites, shall we lose out?”*

[F] Said R. Hanina son of R. Abbahu, “Also in the age to come the Holy One, blessed be he, will do justice with them.”

[G] *What is the scriptural basis for that statement?*

[H] “[He will sit as a refiner and purifier of silver, and he will purify the sons of Levi and refine them like silver and gold,] till they present right offerings to the Lord” (Mal. 3:3).

[II:4 A] Said R. Yohanan, “As to any family in which some invalidity has been submerged, they do not check too carefully about it.”

[B] *Said R. Simeon b. Laqish, “The Mishnah itself has made the same point: **The family of Beth Seripa was in the land beyond Jordan, and Ben Zion removed it afar by force, and yet another family was there, and Ben Zion brought it near by force [M. Ed. 8:7].***

- [C] “But sages did not seek to reveal who they were.
- [D] “But sages hand over the information to their sons and disciples two times every seven years.”
- [E] Said R. Yohanan, “By the Temple service! I know who they are, but what should we do? For the great men of the generation are mixed up with them.”
- [F] Said R. Joshua b. Levi, “Pashhur ben Immer had five thousand slaves and all of them were mixed up with the high priesthood, and they account for the arrogant among the priesthood.”
- [G] Said R. Eliezer, “The principal designation of the priests’ usurpation is indicated in the following verse: ‘[Yet let no one contend, and let none accuse,] for with you is my contention, O priest’ (Hos. 4:4).”
- [H] Said R. Abbahu, “Thirteen towns were mixed up among the Samaritans in the time of the Persecution.”
- [I] They said that one of them was Eden Ramashaah.

8:4

- [A] Said R. Joshua, “I have heard that
- [B] “the eunuch performs the rite of halisah, and they perform the rite of halisah with his wife.
- [C] “And: “The eunuch does not perform the rite of halisah, and they do not perform the rite of halisah with his wife.
- [D] “And I cannot explain [the conflict between the two sayings.]”
- [E] Said R. Aqiba, “I shall explain [the conflict between the two sayings].
- [F] “A eunuch castrated by man performs the rite of halisah, and they perform the rite of halisah with his wife,
- [G] “because there was a time in which he was valid [as a husband].
- [H] “A eunuch by nature does not perform the rite of halisah, and they do not perform the rite of halisah with his wife,
- [I] “because there was never a time in which he was valid.”
- [J] R. Eliezer says, “Not so, but:
- [K] “A eunuch by nature performs the rite of halisah, and they perform the rite of halisah with his wife,
- [L] “because he may be healed.

[M] “A eunuch castrated by man does not perform the rite of halisah, and they do not perform the rite of halisah with his wife,

[N] “because he may never be healed.”

[O] Testified R. Joshua b. Betera concerning Ben Megusat, who was in Jerusalem, a eunuch castrated by man, and they subjected his wife to levirate marriage –

[P] thus confirming the opinion of R. Aqiba.

8:5

[A] A eunuch does not perform the rite of halisah and does not enter into levirate marriage.

[B] And so: a sterile woman does not perform the rite of halisah and is not taken in levirate marriage.

[C] The eunuch who performed the rite of halisah with his childless brother’s widow has not rendered her invalid [for marriage into the priesthood].

[D] [If] he had sexual relations with her, he has rendered her invalid [for marriage into the priesthood],

[E] for it is an act of sexual relations of the character of fornication.

[F] And so: a sterile woman with whom the brothers have performed the rite of halisah –

[G] they have not rendered her invalid [for marriage into the priesthood].

[H] [If] they had sexual relations with her, they have rendered her invalid [for marriage into the priesthood],

[I] for it is an act of sexual relations of the character of fornication.

[I:1 A] What is the definition of a eunuch by nature?

[B] R. Hiyya in the name of R. Yohanan: “It is any whom the sun has not seen in a state of validity for even a single moment.”

[C] If one put out his hand and made him a eunuch inside [of his mother’s womb], all parties concur that he is forbidden to enter the congregation and neither performs the rite of *halisah* nor enters into levirate marriage.

[D] They assign to him the strict rulings applicable to a eunuch castrated by man and those applicable to a eunuch by nature as laid out in the antecedent dispute [of M. 8:3].

[II:1 A] *The opinions assigned to R. Eliezer are confused. There he has said, Not so, but a eunuch by nature F, performs the rite of halisah and*

they perform the rite of halisah with his wife [M. 8:4J-K], and here you say this? [Eliezer, at M. Nid. 5: 9I says the law follows the House of Hillel's view that, in the case of a eunuch by nature, he is subject neither to *halisah* nor to levirate marriage. That judgment directly contradicts this statement at M. 8:4.]

[B] Said R. Inya, "R. Eliezer has made his statement only with reference to judicial penalties. [The eunuch to age twenty under discussion at M. Nid. 5:9 is deemed a minor, so far as inflicting punishment for misdeed is concerned. It is in that aspect that Eliezer declares the law to follow the view of the House of Hillel.]"

[II:2 A] R. Hiyya in the name of R. Yohanan, "[What is before us represents the] views of R. Eliezer, R. Joshua, and R. Aqiba. But as to the view of sages, the same law applies both to the eunuch by human action and the eunuch by nature: He neither performs the rite of *halisah* nor do they perform the rite of *halisah* with his wife. He neither enters into levirate marriage nor do they enter levirate marriage with his wife."

[B] *This is in line with the following Tannaitic teaching: A eunuch who performed the rite of halisah with his childless brother's widow has not rendered her invalid for marriage into the priesthood. If he had sexual relations with her, he has rendered her invalid for marriage into the priesthood, for it is an act of sexual relations of the character of fornication [M. 8:6C-E].*

[C] A person bearing the traits of both sexes who performed the rite of *halisah* with his levirate widow has not rendered her invalid for marriage into the priesthood.

[D] If he had sexual relations with her, he has rendered her invalid, for it is an act of sexual relations of the character of fornication.

8:6

[A] **A priest, a eunuch by nature, who married an Israelite girl, bestows upon her the right to eat heave-offering.**

[B] **R. Yosé and R. Simeon say, "A priest who bore sexual traits of both sexes who married an Israelite girl bestows upon her the right to eat heave-offering."**

[C] **R. Judah says, "A person lacking revealed sexual traits who was torn and turned out to be a male should not perform the rite of halisah, for he is deemed equivalent to a eunuch."**

[D] **A person bearing traits of both sexes marries but is not taken in marriage.**

- [E] **R. Eliezer says, “[Those who have sexual relations with] a person bearing traits of both sexes are liable on his account for stoning as is he who has sexual relations with a male” (Lev. 20:13).**
- [I:1 A] *[As to M. 8:6B] it has been taught:* He bestows on her the right to eat [the priestly gifts consisting of the] breast and thigh [of certain sacrificial animals].
- [B] R. Yohanan says, “She has the right to eat food in the status of heave-offering, but she does not have the right to eat the breast and thigh.”
- [C] R. Simeon b. Laqish said, “There are arguments a fortiori in this matter.”
- [D] *R. Yosé b. R. Haninah asked before R. Simeon b. Laqish,* “What is the meaning of the statement that there are arguments a fortiori in this matter?”
- [E] He said to him, “Open your mouth and receive it.”
- [F] *Said R. Mana, “Was he making fun of him [in saying that]?”*
- [G] *Said R. Abun, “He was saying something to him.* Now if food in the status of heave-offering, which under no circumstances has ever been suitable for an Israelite, lo, she has the right to eat such food, the breast and thigh, which under all circumstances [at one time] have been suitable for an Israelite, is it not an argument a fortiori that she should have the right to eat such food?
- [H] “They were suitable for Israelites, and when they became guilty [of sin], the rights to eat them were removed from Israelites and handed over solely to priests.”
- [I] Is it possible to argue, Just as they became guilty and the rights to eat the breast and thigh were taken from them and given to the priests, so if they should achieve merit, the right to eat them will be restored to Israelites?
- [J] Scripture states, [“For the breast that is waved and the thigh that is offered I have taken from the people of Israel, out of the sacrifices of their peace offerings,] and have given them to Aaron the priest and to his sons, as a perpetual due from the people of Israel” (Lev. 7:34).
- [K] Just as a gift does not return to the donor, so these do not return [to the domain of the Israelites].

- [L] *R. Jacob bar Aha said, “This tradition [of R. Yohanan was stated] concerning any Israelite girl married to a priest [and not to the wife of a eunuch-priest].”*
- [M] *R. Yohanan said, “She has the right to eat food in the status of heave-offering, but not to eat the breast and thigh of sacrificial beasts.”*
- [N] *R. Simeon b. Laqish said, “There are arguments a fortiori in this matter.”*
- [O] *R. Yosé b. R. Haninah asked before R. Simeon b. Laqish, “What is the meaning of the statement that there are arguments a fortiori in this matter?”*
- [P] *He said to him, “Open your mouth and receive it.”*
- [Q] *Said R. Mana, “Was he making fun of him [in saying that].”*
- [R] *Said R. Abun, “He was saying something to him. Now if food in the status of heave-offering, which under no circumstances has ever been suitable for an Israelite, lo, she has the right to eat such food, the breast and thigh, which under all circumstances [at one time] have been suitable for an Israelite, is it not an argument a fortiori that she should have the right to eat such food?”*
- [S] *“They were suitable for Israelites, and when they became guilty [of sin], the rights to eat them were removed from Israelites and handed over solely to priests.”*
- [T] *Is it possible to argue, just as they became guilty, and the rights to eat the breast and thigh were taken from them and given to the priests, so if they should achieve merit, the right to eat them will be restored to Israelites?*
- [U] *Scripture states, “For the breast that is waved and the thigh that is offered I have taken from the people of Israel, out of the sacrifices of their peace offerings, and have given them to Aaron the priest and to his sons, as a perpetual due from the people of Israel” (Lev. 7:34).*
- [V] *Just as a gift does not return to the donor, so these do not return [to the domain of the Israelites].*
- [II:1 A]** *[With reference to M. 8:6C]: And do [sages] not differ from R. Judah [in treating a person lacking revealed sexual traits who turned out to be a male to be equivalent to a eunuch]?”*

[B] *On the basis of that which R. Yosé said in the name of R. Hela, “They take his wife in levirate marriage [treating him as a eunuch made by man in accord with the ruling of Aqiba], it follows that they do differ from R. Judah “*

[II:2 A] If a person exhibiting traits of both sexes [androgyne] should betroth a woman, they do not scruple as to his act of betrothal.

[B] If he is taken in betrothal, they do scruple about his being betrothed.

[C] If he had sexual relations [with an invalid person] as a woman, he has been invalidated from eating heave-offering as are women

[D] R. Niha, son of R. Saba, R. Jonah in the name of R. Hamnuna: “Even if it was with one of his own sexual, traits [another with both sexual traits], in any measure at all [he has been invalidated].”

[E] *Now this poses a problem.* If he is in fact a male, a male does not invalidate another male from eating heave-offering. If he was a female, a female does not invalidate another female.

[F] The aspect of this one that is male invalidates the aspect of that one that is female.

[G] [A person bearing sexual, traits of both sexes who had sexual relations with another such person and was invalidated from eating heave-offering] bestows the right to eat heave-offering upon his wives, but does not bestow that right upon his slaves. [He bestows the right to eat heave-offering upon his wives,] on the strength of the part of him that is male. He does not bestow that right upon his slaves on the strength of this one and that one. [A female priest who has had sexual relations with a person with whom he cannot legally do so and so been profaned from the priesthood may not feed food in the status of heave-offering to her slaves.] [For] the aspect of him that is female has been profaned.

[III:1 A] [As to M. 8:6E, Eliezer’s statement,] R. Jacob bar Zabedi in the name of R. Abbahu in the name of R. Yohanan, **“But that is on condition that the sexual relations have taken place in the androgyne’s male organ” [T. Yeb. 10:2P].**

[B] R. Simon in the name of R. Joshua b. Levi: “Even if it was in his female organ.”

[C] *R. Jacob bar Zabedi in the name of R. Abbahu: “R Joshua b. Levi retracts, on the basis of the following verse: ‘You shall not lie with a male in acts of sexual relations as with a woman’ (Lev. 18:22).*

[D] “[Since the verse uses the plural,] the intent is to speak of one who has two sexual organs [with whom one has sexual relations] as with a woman, and who is this? It is an androgyne.”

- [III:2 A] Said Rabbi, “I looked but I did not find teachings of [Eleazar] Ben Shammua = M. 8:6E] with regard to the androgyne [other than this one].”
- [B] For [Ben Shammua’s] disciples had ganged up on him [and did not let him study further traditions on this subject with them].
- [C] Why not? Was it so as not to diminish [Ben Shammua’s] authority? Or was it because [Rabbi] was unworthy?
- [D] *What is the difference between these two explanations?*
- [E] If he ordinarily would reveal [what he heard, and not keep the matter in confidence].
- [F] *If you say that* it was so that he would not reveal the teachings, lo, he clearly has revealed [one such teaching].
- [G] *So the reason is surely that* he was not worthy [to learn more than this one thing from him].
- [H] What further teachings were there to reveal [for Eleazar]?
- [I] [The androgyne] inherits as a male, he gives testimony as a male, his meal offering is offered as a male, and they count him in a quorum for grace after meals as a male.

YERUSHALMI YEBAMOT

CHAPTER NINE

9:1

[A] [10a] There are women permitted to their husbands and prohibited to their levirs,

[B] permitted to their levirs and prohibited to their husbands,

[C] permitted to these and to those.

[E] And these are women permitted to their husbands and prohibited to their levirs:

[F] An ordinary priest who married a widow, and who has a brother who is high priest;

[G] a man of impaired priestly stock who married a valid woman, and who has a brother who is valid [as a priest]:

[H] an Israelite who married an Israelite girl and who has a brother who is a mamzer;

[I] a male mamzer who married a female mamzer, and who has a brother who is a valid Israelite – [these] are permitted to their husbands and prohibited to their levirs.

[I:1 A] *R. Niha bar Saba asked before R. Jonah, “Why does the Mishnah [M. 9:1F] use the word ‘marry’? Even if it were a betrothal [the same rule would apply].*

[B] “Why further [at M. 9:1F] do we speak of a widow? Even if it were a virgin [that is, betrothed, not married, she could not enter into levirate marriage with the high priest, since she would also be a widow]?”

[C] *These were listed as they were because of the cases of the co-wives [at M. 9:2].*

[I:2 A] *I have others to add to the list, for example, the co-wife of a wayward wife is permitted to the husband but prohibited to the levir [because*

her co-wife, the wayward one, is prohibited to the husband, hence also to the levir] [= M. 1:1].

[B] In the case of his brother who had sexual relations with the sister of a woman with whom [the surviving brother] had performed the rite of halisah, the deceased's wife was permitted to her husband, but is prohibited to the levir.

[C] [*The fact that there are these, and other, possibilities*] supports the view of R. Jonah, for R. Jonah said, "The generalizations of Rabbi [in the Mishnah] are not all-inclusive."

[I:3 A] A valid man who married a valid woman, and who has a brother of impaired priestly stock – she is permitted to the husband, but is forbidden to enter into levirate marriage with the surviving brother-in-law.

[B] In this regard, did not R. Yosé b. R. Bun in the name of Rab say, "A proselyte and a freed slave and an impaired priest are permitted to marry a priest-girl."

[C] *What is the reason for this view?*

[D] Men who are valid are admonished against marrying women who are invalid, and men who are invalid are admonished against marrying women who are valid, but women who are not valid are not admonished against marrying men who are valid, nor are women who are valid against marrying men who are invalid.

[E] *And has it not been taught:* "They should not marry" [stated two times] (Lev. 21:7), meaning, even a woman is admonished in regard to a man [= A].

[F] *That is to say,* not that valid women are warned against marrying invalid men, but rather, invalid women are warned against marrying valid men. [Cf. Pené Moshe, ad loc.]

9:2

[A] And these are permitted to their levirs and prohibited to their husbands:

[B] A high priest who betrothed a widow, and who has a brother who is an ordinary priest;

[C] a valid [priest] who married a woman of impaired priestly stock and who has a brother of impaired priestly stock;

[D] an Israelite who married a female mamzer and who has a brother who is a mamzer;

[E] a mamzer who married an Israelite girl and who has a brother who is a valid Israelite –

[F] they are permitted to their levirs and prohibited to their husbands.

[I:1 A] [The language of the Mishnah is] only “betrothed.” Lo, If he had had sexual relations with her [at M. 9:2B], she would have been invalidated by the act of sexual relations [from marrying a priest, his surviving brother].

[B] *That is in line with what we learn below: Prohibited to these and to those [M. 9:3A].*

[II:1 A] *And are these the entire set of possibilities? Lo, you have others [in which the widow is permitted to the levir, while she had been prohibited to remain wed to her husband, for instance:] He who remarries a woman whom he had first divorced and who then had wed another man (Deut. 24:1ff.) – she is prohibited to her husband but permitted to her levir.*

[B] He who had sexual relations with the sister of a woman with whom he had performed the rite of halisah – she is prohibited to her husband but permitted to the levir.

[C] A man with crushed testicles who married a valid woman, and who has a brother who is valid – she is prohibited to her husband but permitted to her levir.

[D] *The fact that [there are these and other possibilities] supports the view of R. Jonah, for R. Jonah said, “The generalizations of Rabbi [in the Mishnah] are not all-inclusive.”*

9:3

[A] Prohibited to these and to those:

[B] A high priest married to a widow [who thus is impaired], who has a brother who is a high priest or [who is] an ordinary priest;

[C] a valid [priest] who married a woman of impaired priestly stock, and who has a brother who is a valid priest;

[D] an Israelite who married a female mamzer, and who has a brother who is an Israelite;

[E] a mamzer who married an Israelite girl, and who has a brother who is a mamzer –

[F] these are prohibited to these and to those.

[G] And all other women are permitted to their husbands and to their levirs.

[I:1 A] *And are these the entire set of possibilities? Lo, you have others [in which the widow is permitted to the levir, while she had been prohibited to remain wed to her husband, for instance:] a woman accused of infidelity is forbidden to this one and to that one;*

[B] a woman with whom one has performed the rite of halisah is forbidden to this one and to that one.

[C] He who had sexual relations with the sister of a woman with whom he had performed the rite of halisah – she is prohibited to her husband but permitted to the levir.

[D] A man with crushed testicles who married a valid woman, and who has a brother who is valid – she is prohibited to her husband but permitted to her levir.

[E] *The fact that [there are these and other possibilities] supports the view of R. Jonah, for R. Jonah said, “The generalizations of Rabbi [in the Mishnah] are not all-inclusive.”*

9:4

[A] In what concerns the secondary grade [of forbidden degrees (M. 2:4)] by reason of scribal rulings:

[B] a woman within a secondary grade of kinship to the husband and not in a secondary grade of kinship to the levir is prohibited to her husband and permitted to her levir.

[C] [If] she is in a secondary grade of kinship to the levir and not in a secondary grade of kinship to the husband, she is prohibited to the levir and permitted to the husband.

[D] [If] she is in a secondary grade of kinship to this one and to that one, she is prohibited to this one and to that one.

[E] She has no rights to a marriage contract, or to the usufruct [of her melog-property], or to alimony, or to worn-clothes] [indemnity, for clothes that have completely worn out,] [for loss on melog-property].

[F] But an offspring of such a marriage is valid [for the priesthood]

[G] And they force him to put her away.

[H] In the case of a widow wed to a high priest, a divorcée or a woman who has performed the rite of halisah to an ordinary priest, a female mamzer or a female netin to an Israelite, or an Israelite girl to a netin or a mamzer, she has a right to her ketubah.

[I:1 A] In what concerns the secondary grade of forbidden degrees by reason of scribal rulings: a woman within a secondary grade of kinship to the husband and not in a secondary grade of kinship to the levir is prohibited to her husband and permitted to her levir [M. 9:4A-B].

[B] What is the law as to her receiving a marriage settlement from the levir?

[C] Since she is permitted to be married to him, does she have a claim on a marriage settlement from him?

[D] Or since her claim of a marriage settlement is against the estate of her first husband, to whom she is forbidden, should she have no marriage settlement?

[II:1 A] If she is in a secondary grade of kinship to the levir and not in a secondary grade of kinship to the husband, she is prohibited to the levir and permitted to the husband [M. 9:4C].

[B] What is the law as to her receiving a marriage settlement from the levir?

[C] Since she is prohibited to [the levir], should she have no claim of a marriage-settlement against him?

[D] Or since the claim for settlement of her marriage contract falls upon the estate of her first husband, to whom she had been permitted, does she have a claim for settlement of her marriage contract?

[III:1 A] Nor on the usufruct [on melog-property] [M. Ket. 11:7B; M. Yeb. 9:4E]:

[B] Said R. Jeremiah, “He is not subject to the law of enjoyment of the usufruct in general, for he has a claim on her only for usufruct alone. [But the other considerations associated with that right do not apply in such a marriage as this.]”

[C] *R. Yosé of Sidon taught before R. Jeremiah, differing from R. Jeremiah, “But [he does enjoy] the husband’s right to keep what ever the woman finds, to keep the fruit of her labor, and to abrogate her vows.” [So Yosé differs from Jeremiah’s position.]*

- [D] What then is the meaning of, **Nor on the usufruct**? That she has not got the right to collect from him the usufruct [of the *melog-property*] that he has already enjoyed.
- [E] Said R. Yosé, “Every hour R. Ila would say to me, ‘*Repeat as your Mishnah-passage*: He inherits her estate and he contracts uncleanness [if he is a priest, in burying her, despite the general obligation not to do so except in the case of close relatives].”
- [F] *And has it not been taught this way*: “A [priest] contracts uncleanness in burying his wife if she is a valid wife for him, and he does not do so if she is not a valid wife for him”?
- [G] *R. Abun raised the question before R. Mana*, “Slaves belonging to women who are in a secondary grade of prohibited relationship to their husbands – what is the law as to their eating food in the status of heave-offering [if the woman is married to a priest? While the valid wives of priests may eat such food, and their servants likewise may do so, do we regard this marriage as sufficiently valid to allow the same privilege]?”
- [H] He said to him, “Be quiet, and it will be good for you: She has the right to eat food in the status of heave-offering, [10b] and yet do her slaves not have that right?”

[IV:1 A] *There we have learned*: **A writ of divorce imposed by a court in the case of an Israelite court, it is valid. And in the case of a Gentile court, it is invalid [M. Git. 9:9A-C].**

- [B] Samuel said, “The writ imposed by a Gentile court is invalid, but it renders the woman invalid to marry into the priesthood [as a divorcée].”
- [C] And Samuel said, “Announce this law in your locales:
- [D] “‘It is invalid but invalidates for the priesthood.’”
- [E] Samuel said, “They force the issuance of a writ of divorce only in the case of those whose marriage is invalid.”
- [F] Samuel said, “They force the issuance of a writ of divorce only in the case such as that in which a widow is married to a high priest, a divorcée or a woman who has performed the rite of removing the shoe has married an ordinary priest.”
- [G] *And have we not learned [at M. Yeb. 9:4G]*: In what concerns the secondary grade of forbidden relations, **they force the husband to divorce the wife?**

[H] *It was not in that regard that Samuel made his statement.*

[I] *And have we not learned [at M. Ned. 7:1]: **He who imposes a vow upon his wife not to derive benefit from him – for thirty days, he may appoint someone to support her. From that point, he must divorce her and pay off her marriage settlement?***

[J] Thus we learn that he must divorce her. But have we learned from that statement that they force him to do so? [Surely not !]

[V:1 A] What is the difference between these, [listed at M. Ket. 11:7A = M. 9:4A-G, who lose all property rights] and those, [listed at M. Ket. 11:7D = M. 9:4H, who retain all property rights]

[B] Now the reason is simple. Those [at M. Ket. 11:7D = M. 9:4H] are subject to the laws of the Torah, and the laws of the Torah require no reinforcement [through further penalties, if they should be violated]. Accordingly, they receive a marriage settlement.

[C] On the other hand, these [at M. Ket. 11:7A = M. 9:4A-G] are subject to the laws made by scribes, and the laws made by scribes most certainly do require reinforcement [through further penalties]. Accordingly, they receive no marriage settlement.

[D] *There are, further, those who wish to explain the difference as follows:*

[E] In the case of these [the widow married to a high priest, and so on] since the law has penalized both them and their offspring [in that they are invalidated for marriage into the priesthood], they have not imposed further penalties against them, and therefore they do receive a marriage settlement.

[F] On the other hand, those [e.g., an orphan girl and the like] who suffer no personal penalties whatsoever, and whose offspring likewise suffer no penalties, do suffer a penalty in another way, and hence they do not receive a marriage settlement.

[G] *What is the practical difference between the two reasons just now given?*

[H] He who remarries a woman he has divorced who had in the interim married a third party.

[I] *He who says, “These, because they have violated the law of the Torah, [do receive a marriage-settlement, since the laws of the Torah require no reinforcement],” this woman, since hers is a violation of the law of the Torah, therefore may receive a marriage settlement.*

[J] *And the one who says, “These, since the law has penalized both them and their offspring,” will maintain that, in this instance, since there is no penalty exacted against her and her offspring, she therefore receives no marriage settlement.*

[V:2 A] *R. Jacob bar Aha; R. Zeirah, and R. Hilea, both say that they differ as to providing for maintenance [in the case of a widow married to a high priest].*

[B] R. Yohanan said, “She does have a right to maintenance.”

[C] Said to him R. Eleazar, “The law requires him to divorce her, *and you maintain this?*”

[D] *They proposed to rule:* Also with regard to the further clauses of the marriage settlement [over and above the basic payment] do they dispute.

[E] *All parties concur that she has no claim on maintenance. How so? The sages have imposed a penalty on her heirs [who lose out on all the property she brought into the marriage with her] Is it not an argument a fortiori that they imposed a penalty on her?*

[F] *Now he who maintains that they dispute concerning maintenance [argues], “Lo, with respect to the additional provisions of the marriage contract, there is no penalty. How so? The penalty was imposed on her, but no penalty has been imposed on her heirs.”*

9:5

[A] **An Israelite girl betrothed to a priest, pregnant by a priest, awaiting levirate marriage with a priest,**

[B] **and so too a priestly girl married to an Israelite,**

[C] **does not eat heave-offering.**

[D] **An Israelite girl betrothed to a Levite, pregnant by a Levite, awaiting levirate marriage with a Levite,**

[E] **and so too a Levite girl married to an Israelite,**

[F] **does not eat tithe.**

[G] **A Levite girl betrothed to a priest, pregnant by a priest, awaiting levirate marriage with a priest,**

[H] **and so too a priestly girl married to a Levite,**

[I] **eats neither heave-offering nor tithe.**

[I:1 A] **An Israelite girl betrothed to a priest:** “[This also is yours, the offering of their gift, all the wave offerings of the people of Israel; I

have given them to you, and to your sons and daughters with you, as a perpetual due;] every one who is clean in your house may eat of it” (Num. 18:11).

[B] *Now she is not considered “in this house.”*

[C] In the case of a priest: “[But if a priest buys a slave as his property for money, the slave may eat of it; and] those that are born in his house [may eat of his food]” (Lev. 22:11).

[D] *Now this one is not part of his house.*

[II:1 A] An Israelite girl awaiting levirate marriage with a priest: “[But if a priest buys a slave as his property for money, the slave may eat of it; and] those that are born in his house [may eat of his food]” (Lev. 22:11).

[B] *Now she is not considered “in his house.”*

[III:1 A] And so too a priest’s daughter in the case of an Israelite: “If a priest’s daughter is married to an outsider [she shall not eat of the offering of the Holy Things]” (Lev. 22:12).

[III:2 A] Betrothed to an Israelite, awaiting levirate marriage with an Israelite: “[But if a priest’s daughter is a widow or divorced, and has no child,] and returns to her father’s house, as in her youth, [she may eat of her father’s food; yet no outsider shall eat of it]” (Lev 22:13).

[B] “Returns to her father’s house” excludes a priest’s daughter awaiting levirate marriage.

[C] “As in her youth” excludes one who is pregnant.

[IV:1 A] An Israelite girl betrothed to a Levite: “[And you may eat it in any place,] you and your households; [for it is your reward in return for your service in the tent of meeting]” (Num. 18:31).

[B] *Now this is one not considered “in his house.”*

[V:1 A] Made pregnant by a Levite: “Those that are born in his house~ (Lev. 22:11). *And this one is not born of his house.*

[B] Said R. Yosé, “Now is the reference to ‘born of his house’ not to a priest?”

[C] *It is just as you say there:* The one born of his house bestows the right to eat such food, and the one not born of his house does not do so. *Here too* [with reference to the Levite], the one born of his house

bestows the right to eat food set aside for him, and the one not born of his house does not do so.

[VI:1 A] Awaiting levirate marriage with a Levite: “You and your household” (Num. 18:31).

[B] *And she is not in his house.*

[VII:1 A] And so too a Levite girl [betrothed to a priest] or a priestly girl married to a Levite [M. 9:5G, H]:”If a priest’s daughter is married to an outsider, she shall not eat of the offering of the Holy Things” (Lev. 22:12).

[B] But does not Scripture here refer [only] to the daughter of a priest?

[C] Said R. Yosé, “When it says ‘daughter,’ it means that the same rule applies both to the daughter of a priest and the daughter of a Levite.”

[D] The daughter of a priest who had married an Israelite [and had no children, when the husband died] goes back and eats food in the status of heave-offering.

[E] The daughter of an Israelite who married a priest [and had no children] goes back to her father’s house and no longer eats food in the status of heave-offering.

[F] As to [the daughter of a priest] made pregnant by an Israelite or awaiting levirate marriage with an Israelite: “And returns to her father’s house” (Lev. 22:13) – excluding one awaiting levirate marriage.

[G] “As in her youth” (Lev. 22:13) – excluding one who was made pregnant.

[VIII:1 A] The daughter of a Levite betrothed to a priest: “[This also is yours, the offering of their gift, all the wave offerings of the people of Israel; I have given them to you, and to your sons and daughters with you, as a perpetual due;] every one who is clean in your house may eat of it” (Num. 18:11).

[B] *And she is not in his house.*

[VIII:2 A] Pregnant by a priest: “That are born in his house” (Lev. 22:11).

[B] *And here we do not have someone born in his house.*

[IX:1 A] Awaiting levirate marriage with a priest: “[This also is yours, the offering of their gift, all the wave offerings of the people of Israel; I

have given them to you, and to your sons and daughters with you, as a perpetual due;] every one who is clean in your house may eat of it” (Num. 18:11).

[B] *And she is not [yet] in his house.*

[X:1 A] And so too a priestly girl married to a Levite eats neither heave-offering nor tithe [M. 9:5H-I] [She is no longer fully in the caste of the priesthood and not yet in the caste of the Levites:]

[B] *It is not difficult to understand why she should not eat food in the status of heave-offering.*

[C] But as to tithe [given to Levites], what are your alternatives?

[D] If she is in the priestly caste, she has a right to eat it, and if she is in the caste of the Levites, she has the right to eat it.

[E] *R. Hela in the name of R. Yohanan: “[M. 9:4G-I] accords with the view of the one who said, ‘They do not give tithes to the priestly caste.’ It follows that [Yohanan himself holds the view] that they do so.”*

9:6

[A] An Israelite girl who married a priest eats heave-offering.

[B] [If] he died and she had a child from him, she eats heave offering.

[C] [If] she married a Levite, she eats tithe.

[D] [If] he died and she had a child from him, she eats tithe.

[E] [If] she married an Israelite, she eats neither heave-offering nor tithe.

[F] [If] he died, and she had a child from him, she eats neither heave-offering nor tithe.

9:7

[A] [If] her son by an Israelite died, she eats tithe.

[B] [If] her son by a Levite died, she eats heave-offering.

[C] [If] her son by a priest died, she eats neither heave-offering nor tithe.

9:8

[A] A priestly daughter who married an Israelite does not eat heave-offering.

[B] [If] he died and she had a child from him, she does not eat heave-offering.

[C] [If] she married a Levite, she eats tithe.

[D] [If] he died and she had a child from him, she eats tithe.

[E] [If] she married a priest, she eats heave-offering.

[F] [If] he died and she had a child from him, she eats heave offering

[G] [If] her child from the priest died, she does not eat heave offering.

[H] [If] her child from the Levite died, she does not eat tithe.

[I] [If] her child from the Israelite died, she goes back to her father's house.

[J] Concerning such a one it is said, "And she shall return to her father's house, as in her girlhood. The food of her father she will eat" (Lev. 22:13).

[I:1 A] *R. Liunti asked before R. Jonah, "There is no problem to understand why the daughter of a priest who is married to an Israelite [who dies leaving her childless] goes back and eats food in the status of heave-offering [since Scripture states that fact]. But as to the daughter of an Israelite who married a priest [and had a son with him, and the priest died, and she married an Israelite], since [in virtue of the son from the priest] she was suitable to eat food in the status of heave-offering, why [now, that she has married an Israelite], does she not have the right to eat food in the status of heave-offering [M . 9:6E]?"*

[B] *He said to him, "So did R. Zeira, R. Annan in the name of Rab state, 'What is the meaning of 'the daughter of a priest'? It is a woman who has learned from a priest [how to preserve the cleanness of food in the status of heave-offering]."*

[C] *This is in line with that which you say, "O daughters of Babylonia, who are devastated" (Ps 137:8). Now was she really a daughter of Babylonia [since the verse refers to Edom]? But through her own deeds she was treated as a daughter of Babylonia, because she did the deeds of Babylonia.*

[D] *[Answering A differently,] R. Yosé b. R. Bun in the name of Rab: "There are two references to daughters in the relevant passage (Lev. 22:12-13), one who returns and eats food in the status of heave-offering, and one who returns and does not eat such food.*

[E] *"The daughter of a priest who marries an Israelite returns and eats such food. The daughter of an Israelite who is married to a priest returns but does not eat such food.*

[F] *"On this basis: If she was married to a valid husband, she returns and eats food in the status of heave-offering. If she was married to an invalid husband, she returns but does not eat such food."*

- [I:2 A] Rab said, “The law is that she eats food in the status of heave-offering but she does not eat the breast or the thigh [of Holy Things given to the priest].”
- [B] R. Yohanan said, “She eats the breast and the thigh as well.”
- [C] *A teaching of R. Hiyya supports the view of Rab:* ““She may eat of her father’s food’ (Lev. 22:13) – ‘of the food’ and not all of it.”
- [D] *A teaching of R. Simeon b. Yohai supports the view of R. Yohanan:* ““Of her father’s food she may eat’ – encompassing even the loaves accompanying a thank-offering and the wafers accompanying the offering of a Nazirite.”

YERUSHALMI YEBAMOT

CHAPTER TEN

10:1

- [A] [10c] The woman whose husband went overseas,
[B] and whom they came and told, “Your husband has died,”
[C] and who remarried,
[D] and whose husband afterward returned,
[E] goes forth from this one [the second husband] and from that one [the first].
- [F] And she requires a writ of divorce from this one and from that.
- [G] And she has no claim of [payment of her] marriage contract, of usufruct, of alimony, or of indemnification, either on this one or on that.
- [H] If she had collected anything [of G] from this one or from that, she must return it.
- [I] And the offspring is deemed a mamzer, whether born of the one marriage or the other.
- [J] And neither one of them [if he is a priest] becomes unclean for her [if she should die and require burial].
- [K] And neither one of them has the right either to what she finds or to the fruit of her labor, or to annul her vows.
- [L] [If] she was an Israelite girl, she is rendered invalid for marriage into the priesthood; a Levite, from eating tithes; and a priest-girl, from eating heave-offering.
- [M] And the heirs of either one of the husbands do not inherit her ketubah.
- [N] And if they died, a brother of this one and a brother of that perform the rite of halisah but do not enter into levirate marriage.

[I:1 A] *Just as you say there, [at Y. 3:12], **And they set them apart for three months, lest they be pregnant. And if they were minors not yet fit to give birth, they are forthwith restored to their proper husbands** [M. 3:12G-I] [so that, despite the error, the women may return to their husbands], why not say [that the woman is allowed to return to her husband] here?*

[B] The case there is different, for others caused them to err [when the question of which man had betrothed each came up].

[C] But here did not others cause the woman to err?

[D] It is a penalty that sages have imposed upon her, so that [prior to remarriage] women will carefully investigate [witnesses who carry rumors as to their husbands' death].

[E] Then let them impose a penalty in her regard vis-[^]-vis the second husband, but not impose a penalty with regard to the first?

[F] Said R. Yohanan, "In order to avoid even the appearance of fornication, they penalized her [even with the first]."

[G] If that is the case, then she should not require a writ of divorce from him.

[H] That is different, since when she was married to him, it was under the proper circumstances.

[I:2 A] [Answering the question of I:1G] Samuel said, "I maintain that we take account of the possibility that the first husband had sent her a writ of divorce from overseas [in which case she was legally married to the second party. Accordingly, a writ of divorce is required from both parties]."

[B] *R. Haggai objected before R. Zeira, "And have we not learned: **If they told her, "Your husband died," and she became betrothed, and afterward her husband came home, she is permitted to return to him** [M. 10:5D-E]? Now if you maintain that we take account of the possibility that the husband had sent her a writ of divorce from abroad, she should be prohibited from returning to him [since the betrothal may have been valid]."*

[C] But the rule follows the view of R. Yosé b. Kepar, for R. Yosé b. Kepar said, "It is permitted to remarry one's wife [whom he has divorced] even after she has been betrothed to another party."

[D] *But does R. Yosé b. Kepar not concur that if the latter party has given the woman a writ of divorce, he has invalidated her from*

marriage into the priesthood, [so the writ indeed was a valid one]?

[E] *And have we not learned: Even though the second man gave her a writ of divorce, he has not rendered her invalid from marrying into the priesthood [M. 10:5F]?* [From this it follows that the writ of divorce was totally null.]

[F] *Rabbis of Caesarea in the name of R. Hela:* “[The reason she requires a writ of divorce from the second husband] is so as to clarify the prohibition affecting the first husband [that is, to establish the point at which she is put away by the second husband, so that if the first husband remarried her prior to that time, an offspring from the marriage will be regarded as a mamzer].”

[I:3 A] *Up to this point we have dealt with a case in which the woman knew that she was actually married, [on which account she is subject to the specified penalties]. But if she did not know that she was a married woman [what is the law, e.g., if her father betrothed her, and she did not know it and entered into a betrothal on her own]?*

[B] *Let us derive the answer from the following:* A minor-girl whose father married her off, and [not knowing that fact,] she married herself off – [does she require a writ of divorce from the husband whom she took for herself]?

[C] *And said R. Hela, “There it is taught:* In the case of marriages in violation of all the prohibited relationships, the wife does not require a writ of divorce [from a man she should not have married], except in the case of the married woman alone, [who must receive a writ of divorce from a man whom she married, even in violation of the law]. R. Aqiba says, ‘That is the case also for the sister of his wife and the wife of his brother. [His brother betrothed a woman, and his brother went away, and the man heard that the brother had died, and he entered into levirate marriage with her, and then his brother returned; the same is the case if the brother betrothed the sister of his wife.]’ [Now is that case different from one in which the woman knew that she was married? No such difference is expressed. The wife requires a writ of divorce from both the brother and from the husband.] Does that case recognize a difference between the rule prevailing when the woman knows, and when she does not know that she has been married, while in our case there is no difference between whether she knows or does not know that she has been married? [Surely not.]

[II:1 A] Usufruct [M. 10:1G]: And R. Abina said, “She has not got the right to recover from him the usufruct that he has enjoyed [of her melog-property].”

[B] *That which you have said applies* if he enjoyed the usufruct prior to the return of the first husband. But if the second husband has enjoyed the usufruct after the first husband returned, she does retrieve compensation from him, [since at this point the second husband surely had no right to the usufruct].

[III:1 A] And if she had collected anything from this one or from that, she must return it [M. 10:IH].

[B] *That which you have said applies* to anything she has collected once the first husband came back.

[C] *But if she collected anything prior to the return of the first husband, just as she may not recover from him, so he may not recover from her.*

[IV:1 A] And the offspring is deemed a mamzer, whether born of the one marriage or the other [M. 10:II].

[B] *Now there is no difficulty understanding* why the offspring from *the* second should be a mamzer. But why should the offspring of the first marriage be deemed a mamzer?

[C] *R. Ba in the name of R. Zeira said, “The Mishnah-passage before us follows the view of R. Aqiba. For R. Aqiba said, ‘He who has sexual relations with his wife once she has been convicted of being unfaithful – the offspring is a mamzer. He who remarries his wife after he divorced her and after she had married someone else – the offspring is a mamzer.’”*

[D] *R. Yosé in the name of R. Hela, “The Mishnah represents the view of all parties. [From the viewpoint of the Torah,] the off-spring is valid. [It has been deemed invalid solely by decree of sages.] Just as they have required a writ of divorce [from the second husband, as a penalty], so they have declared the off spring [of the first marriage] to be a mamzer.”*

[E] *What is the practical difference between [the views of these two authorities on the foundations of the Mishnah’s rule]?*

[F] If the second husband gave a writ of divorce and afterward the first husband had sexual relations with the wife –

[G] *in the view of R. Ba in the name of R. Zeira, “The offspring is a mamzer, in accord with the view of R. Aqiba.”*

[H] *in the view of R. [10d] Yosé in the name of R. Hela*, “It represents the view of all parties, that the offspring in fact is valid.”

[V:1 A] **And neither one of them [if priests] becomes unclean for her [if she should die] [M 10:1J:]**

[B] *This is in line with that which R. Hiyya taught*: “A man [who is a priest] contracts corpse-uncleanness to bury his wife only if she is a valid one, but he does not contract uncleanness to bury his wife if she was invalid.”

[V:2 A] *There is a Tannaite authority who teaches*, “She goes forth and is subject to thirteen penalties [as are listed at M. 10:IE-L, inclusive of J]. *And there is a Tannaite authority who teaches*, “She goes forth and is subject to fourteen penalties.”

[B] *He who teaches*, “She goes forth and is subject to thirteen penalties,” treats [M. 10:1K] the right to what she finds and to the fruit of her labor as a single item, *and the one who teaches*, “She goes forth and is subject to fourteen penalties,” treats the two as separate items and counts both of them.

[V:3 A] Said R. Jeremiah, “A woman of the Levitical caste who fornicated retains the right to eat tithe.”

[B] *And so it has been taught*: **A girl of the Levitical caste who was taken captive [and who, it is suspected, may have been raped], or who had sexual relations with any man invalid for her – he does not have the power to invalidate her [from eating tithe] [cf. T. Yeb. 8:2C].**

[C] **Levites who became unfit from the priesthood by their mothers – sages did not scruple concerning them on the count of their being unfit [T. Yeb. 8:2B].**

[D] *And have we not learned*: **[If] she was a Levite, [she is invalidated from eating] tithe [M. 10:IL]?**

[E] Said R. Yosé, “Interpret the passage to speak of a case in which an Israelite had sexual relations with her and she produced a son from him.”

[F] R. Bisa in the name of R. Joshua b. Levi: “A priest-woman who fornicated retains the right to eat food in the status of [Levitical] tithe.”

[G] *Is this not a clear-cut statement of the Mishnah itself*: **If she was a priest-girl, [she is invalidated] from eating heave-offering [but**

thus not tithed] [M. 10:1L]. Lo, she retains the right to eat food in the status of tithed.

[H] *The Mishnah is formulated in accord with the view of the one who said, “They do not give tithed to the priestly caste at all.”* [Hence there would be no need to specify that item.]

[I] *Said R. Nisa, “The statements of the following rabbis are at variance [with F, since the offspring at I is deemed profaned]:*

[J] “For R. Hila said, R. Simeon b. Yosina in the name of Hoshaiyah: ‘A priest who had sexual relations with a divorced woman and fathered a son with her and then the father died during the first thirty days of the son’s life – the son has to pay redemption money to the priest in his own behalf. If the father died after the son was thirty days old, it is assumed that the father had redeemed him. If the father would have redeemed others, all the more so do we assume by would have redeemed his son. [Thus the son is not in the priestly caste (Pené Moshe).]’”

[VI:1 A] [With reference to M. 10:1M, that the heirs of the husbands do not inherit her marriage settlement,] *have we not in fact already learned: **She has no claim of payment of her marriage contract [M. 10:IG]?*** [Why then was it necessary to make the statement of M. 10:1M?]

[B] Said R. Yosé b. Jacob, “It is so that you should not say, ‘The sages have imposed a penalty upon her, but have not imposed a penalty upon her heirs.’”

[C] “*Consequently it was necessary to state explicitly, ‘She has no claim of payment of her marriage contract,’* [even so far as the clause covering the right of her male heirs to inherit her property is concerned].”

[VI:2 A] As to the accused wife, **just as she is prohibited from returning to her husband [M. Sot. 1:2E], so she is prohibited from marrying her lover.**

[B] **Just as she is prohibited from marrying the brother of her husband, so she is forbidden from marrying the brother of her lover [M. Sot. 1:2F].**

[C] Is it then possible to argue: just as the co-wife of the accused wife is forbidden to marry the brother of her husband, so [if the lover marries her and dies childless] she would be forbidden to marry the brother of her lover?

- [D] *Let us derive the answer to that question from the following rule:*
- [E] **The woman whose husband went overseas, and whom they came and told, “Your husband died,”**
- [F] **and he had a brother, who entered into levirate marriage with her, and the levir died,**
- [G] **and afterward her husband returned home –**
- [H] **the husband is prohibited from marrying her [in line with M. Yeb. 10:1], but permitted to marry her co-wife;**
- [I] **he is prohibited from marrying her, but permitted to marry the wife of his brother [T. Yeb. 14:3A- F].**
- [J] Now is not the wife of his brother equivalent to the co-wife of an accused wife [since the hapless woman is equivalent to an adulteress]? That then implies that the co-wife of a woman accused of adultery is permitted to marry the brother of [the accused woman’s suspected] lover.
- [K] [*This is no proof, for the authority for this rule is null. For,*] said R. Yudan, “*The laws follows the view of rabbis of that place [Babylonia].* For R. Hila said, ‘They teach there: All those women who are prohibited to marry a man and have sexual relations do not require a writ of divorce from him, except in the case of a married woman alone.’ [There is no parallel, then, between the co-wife of the brother and the co-wife of the accused wife.] R. Aqiba says, ‘Also in the case of the sister of his wife and the sister of his brother [a writ of divorce is required]. [That is, if he thought the prohibited party had died and married his wife’s sister or his brother’s sister, and then learned that the wife or brother was yet alive, he must issue a writ of divorce. Now if Aqiba requires a writ of divorce in the case of the brother’s wife then the brother’s wife should also be forbidden, and, in line with J, the wife of the brother is equivalent to the co-wife of an accused wife, so there too, the co-wife of a woman accused of adultery should be forbidden to marry the brother of the lover.]’ But in accord with the view of the rabbis of our locale [the land of Israel, as we shall see now in Yohanan’s name, who can concur that a writ of divorce is required. So it is not Aqiba alone. Hence the problem is to determine who will concur with the law.]”
- [L] R. Ahayya said in the name of R. Yohanan: “All concur in the case of the wife of his brother [married in error, as explained,] that she requires a writ of divorce from him, because, in accord with the laws governing a man’s wife, he has acquired her [as his wife 1 . [That is,

when he married her, it was assumed to be a legal marriage. She is treated as his legal wife, and hence requires a writ of divorce.] [If she is deemed validly married so as to require a writ of divorce,] she is a prohibited connection. [Accordingly, it is as if his brother has married a woman who is prohibited to him.] And a woman who is prohibited for marriage serves to exempt her co-wife [from the requirement of levirate marriage]. [Thus the rabbis of the Holy Land cannot concur.]”

[M] *Said R. Hananiah, “Even in accord with the rabbis of our locale, the passage is in full accord. They have imposed an extra-legal penalty on her, [the accused wife], and they did not impose that penalty on her heirs [in the present context: the wife of his brother so far as the levirate requirement is concerned].”*

[N] *Said R. Hananiah, son of R. Hillel, “If the ruling accords with the rabbis of that other place, then he should be permitted to marry her. [Since they hold that she requires no writ of divorce either, he should be permitted to marry her as well, for she is deemed to have acted under constraint. Hence the cited passage surely conforms to the theory of the authorities of the Holy Land.]”*

[VI:3 A] R. Zeira in the name of R. Yohanan: “The co-wife of an accused wife is forbidden [to enter into a levirate marriage],

[B] “and the co-wife of a divorcée [whom the husband remarried] is permitted [to enter levirate marriage].”

[C] R. Jacob in the name of R. Yohanan: “All co-wives are permitted [to enter levirate marriage] except for the co-wife of an accused wife.”

[D] Samuel said, “The divorced wife herself is permitted to enter levirate marriage [Pené Moshe].”

[E] *Does he dispute [with A-C]?*

[F] *[No, he does not differ.] Since the discussion concerned co wives, they did not mention divorced wives.*

[G] As to the co-wife of an accused wife, why is she forbidden [to enter levirate marriage if the cuckold-husband dies without children]?

[H] R. Yohanan said, “In order to avoid even the appearance of fornication, they penalized her.”

[I] Rab said, “It is because in her regard uncleanness is written in the list of prohibited connections.”

10:2

[A] R. Yosé says, “Her marriage contract is [a lien] on the property of her first husband.”

[B] R. Eleazar says, “The first husband has a right to what she finds and to the fruit of her labor and to annul her vows.”

[C] R. Simeon says, “Having sexual relations with her or performing a rite of halisah with her on the part of the brother of the first husband exempts her co-wife [from levirate connection].

[D] “And offspring from him is not a mamzer.”

[E] But if she should remarry without permission, [since the remarriage was an inadvertent transgression and null], she is permitted to return to him.

[F] [If] she was remarried at the instruction of a court,

[G] she is to go forth,

[H] but she is exempt from the requirement of bringing an offering [I] [If] she did not remarry at the instruction of a court, she goes forth,

[J] and she is liable to the requirement of bringing an offering.

[K] The authority of the court is strong enough to exempt her from the requirement of bringing a sacrifice.

[L] [If] the court instructed her to remarry, and she went and entered an unsuitable union,

[M] she is liable for the requirement of bringing an offering.

[N] For the court permitted her only to marry [properly].

[I:1 A] *R. Ba, R. Hamnuna and R. Zeira – both say, “[With reference to M. 10:6I, R. Yosé says, ‘Anyone who invalidates his wife for marriage with others invalidates her for marriage for himself, and whoever does not invalidate his wife for marriage with others does not invalidate her for himself’:] This [reasoning] applies also at the start of the chapter [and explains Yosé’s reasoning at M. 10:2A].”*

[B] What does R. Yosé rule concerning the other penalties [listed at M. 10:1, apart from the marriage contract, about which he differs from M. 10:1]?

[C] *Let us derive the answer from the following: R. Yosé says, “Anyone who invalidates his wife for marriage with others invalidates her for marriage for himself, and whoever does not invalidate her marriage with others does not invalidate her for himself” [M. 10:6I].*

- [D] *In this connection, R. Ba: R. Hamnuna and R. Zeira – both say, “This reasoning applies also at the start of the chapter. [Since the second husband invalidates her for marriage with others, the first also invalidates her for marriage with himself, and she has to leave both husbands.]”*
- [E] That is to say, R. Yosé does not differ in respect to the other matters [listed at M. 10:1, but only with regard to the marriage contract].
- [I:2 A]** What is the position of R. Eleazar with regard to the marriage contract?
- [B] Now if with regard to matters, [what she finds, the fruit of her labor], that come to the husband after he is prohibited to remain wed to the wife, you say, “He has the right to such things,” with regard to the marriage contract, which comes to the husband while she is yet permitted to him – is it not an argument a fortiori? [He will agree with Yosé.]
- [C] *It stands to reason that R. Eleazar will concur with the position of R. Yosé. But R. Yosé will not concur with R. Eleazar [since he will see the disposition of the things she finds and the fruit of her labor as different, since they come to the husband after the wife is prohibited to remain wed to him].*
- [II:1 A]** *R. Yosé and R. Eleazar will concur with R. Simeon [M. 10:2C], but R. Simeon will not concur with R. Yosé and R. Eleazar. [They will concur with him since, if there is no penalty imposed vis-a-vis the first husband’s sexual relations in the husband’s lifetime, all the more so after death there will be none. But the penalties remitted by Yosé and Eleazar will remain in effect, since they apply while the first husband is yet alive.]*
- [B] *That is to say that in the view of R. Simeon an invalid act of sexual relations exempts [a co-wife from having to enter into levirate marriage. If the first husband died and his brother had sexual relations, it is invalid, since she is in fact a wayward wife and should not enter into levirate marriage. But if she has done so, the co-wife is exempt].*
- [III:1 A]** *[With reference to M. 10:2E, if she married without permission, she is permitted to return to him:] Is not the contrary more reasonable, that if she remarried with permission of the court, she is permitted to return to her first husband, but if she did so without permission, she is prohibited from doing so?*

- [B] Said R. Yohanan, “In the view of R. Simeon, they have treated the instruction of a court as equivalent to a deliberate violation of the law by a man and a [married] woman. On the other hand, if they were married without the permission of the court [but merely because of the testimony of witnesses to the husband’s death], it is like an inadvertent violation of the law by a man and woman.
- [IV:1 A] [With reference to M. 10:2H: She goes forth from both husbands, but she is exempt from having to bring an offering,] *said R. Yohanan*, “*She is not exempt here*, but rather she is obligated.” [Simeon maintains that this was a deliberate deed, hence there is no possibility of expiating it through a sin-offering. Yohanan differs from that theory and holds that, even if the court gave instructions and permitted the remarriage, it still was inadvertent, and hence an offering will expiate the sin.]
- [B] *R. Haggai objected before R. Yosé*, “And will the law be the same when a court has given instruction that it is permitted for a man to have sexual relations with the wife of another man? Is this not a case of the court’s uprooting the fundamental principle of the law! [If a court gave such instruction, it would be tantamount to uprooting what the Torah has taught, and so of no effect whatsoever. A person would then be responsible on his own for obeying such a false decision of the court. The court is not liable, the individual is liable, under such circumstances.]”
- [C] [What sort of a case is before us?] We deal with a decision of a court that the woman is prohibited from remarrying for five years, and from that point on, she is permitted to remarry.
- [D] If that is the case, then the same rule should apply if she entered an unsuitable union [M. 10:2L].
- [E] This unsuitable arrangement on her part is equivalent to the court’s teaching that it is permitted to eat forbidden fat or blood, [which no court can permit a person to do. Here too the court could not have given permission to do such a thing].

10:3

- [A] **The woman whose husband and son went overseas,**
 [B] **and whom they came and told, “Your husband died, and then your son died,”**
 [C] **and who remarried,**
 [D] **and whom they afterward told, “Matters were reversed” –**

[E] goes forth [from the second marriage].

[F] And earlier and later offspring are in the status of mamzer.

- [I:1 A]** *[Since we have two witnesses at M. 10:3B and two more at M. 10:3D,] to what do you compare this testimony? Is it equivalent to witnesses as to the death of the husband, or witnesses as to a writ of divorce[‘s having been issued]?*
- [B]** If you treat these witnesses as equivalent to the witnesses to the death of the husband, then there is a difference of opinion with the rabbis from over there [in Babylonia]. [That is, two witnesses say the husband has died, and two say he has not died.]
- [C]** *If you treat these witnesses as equivalent to the witnesses to the writ of divorce, then there is a difference of opinion with the rabbis from over here [in Palestine] as well as with the rabbis from over there. [Two witnesses say that she has been divorced, and two say she has not been divorced.]*
- [D]** *[We shall now find out the opinions of the rabbis from over here and the rabbis from over there.] Said R. Yohanan, “And so it has been taught: If two say [the husband has died,] and two say, ‘He has not died,’ she may not remarry. But if she did remarry, she should not go forth. If two say, ‘She was divorced,’ and two say, ‘She was not divorced,’ she should not remarry, but if she remarried, she should go forth from the second husband.”*
- [E]** *Over there [in Babylonia] they say there is no difference between testimony about the death of the husband and about the issuance of a writ of divorce: She should not remarry, but if she remarried, she should not go forth.*
- [F]** *In the view of rabbis from over there, there is no problem, since the same rule applies to a case of death and of divorce.*
- [G]** *But in the view of rabbis over here, what is the difference between a case of death and one of divorce?*
- [H]** R. Zeira stated what is to follow without further specification as to its authority, while R. Hiyya in the name of R. Yohanan [said], “It is reasonable to believe witnesses as to death, because if the husband should come [and appear alive after all], he may effectively contradict their testimony, [but if he should deny having issued a writ of divorce, that would not have the same effect].”
- [I]** *Said R. Hezekiah, “Rabbis from over there concur with us. Just as the rabbis over there hold, from the time that the testimony*

clearly came forth, the field left [Reuben's possession], *so rabbis over here say*, 'From the time that she remarried, it was on the basis of clear-cut testimony that she remarried [since the witnesses to the divorce testified prior to her remarriage].'"

[J] *Said R. Yosé*, "Is it not reasonable to suppose that the opinions assigned to the rabbis over there are at variance. Do rabbis over there not concur that to begin with when two say, 'His father died while in possession of the field,' and two say, 'His father did not die while in possession of the field,' the field remains in the presumptive ownership of Reuben? But if two say, 'She was divorced,' and she remarried, and then two say, 'She was not divorced,' she should not go forth."

[K] That is so.

[L] *The following teaching assigned to Tannaitic authority differs from the position of R. Yohanan*: "If two say, 'She was betrothed,' and two say, 'She was not betrothed,' she should not remarry, but if she remarried, she need not go forth." [But Yohanan has the divorcée go forth from the second marriage.]

[M] R. Hoshaiah said, "R. Yohanan interprets the rule to apply to a case in which two said, 'She was betrothed and then divorced,' and two said, 'She was not divorced.' In such a case she should not remarry, but if she remarried, she should not go forth."

[N] *What is the difference between this case and the prior one?*

[O] In the prior one the woman was presumed to be a married woman on the basis of universal knowledge, while here she was not presumed to be a married woman except before the two witnesses alone.

[P] When the two will come and say, "This is the one who betrothed her," [they will be believed].

[Q] *The following Tannaitic teaching [cf. T. Ket. 2:2] differs from the view of R. Yohanan*:

[R] **Two say, "She was taken captive but she is clean [not raped]," and two [11a] say, "She was taken captive, but she is unclean." She may not remarry, and if she remarried, she need not go**

forth. [Why is this different from testimony about divorce (K)?]

[S] Said R. Yosé, “Since these say, ‘She is clean,’ and those say, ‘She is unclean,’ it is as if these say, ‘She was taken captive,’ and those say, ‘She was not taken captive.’ [So the two sets contradict each other.] And we rely on her evidence [in addition].”

[I:2 A] [As to a case in which] two say, “She was betrothed,” and two say, “She was not betrothed” –

[B] *R. Jonah compares the case to that involving prohibited fat: “Two say, ‘So and so ate forbidden fat,’ and two say, ‘He did not eat forbidden fat’ — is it possible that he is not required to bring a suspensive guilt-offering by reason of doubt? And in this case the husband must issue a writ of divorce by reason of doubt.”*

[C] Said to him R. Yosé, “Do not compare the case to the one involving forbidden fat, for even in such a matter should he say merely, ‘My heart moves me [to fear I ate forbidden fat],’ he must bring a suspensive guilt-offering.”

[D] *The following Tannaitic teaching differs from R. Yosé:*

[E] If two say, “She was betrothed,” and two say, “She was not betrothed,” she may not remarry [without a writ of divorce from the betrothal].

[F] *And the end of the same teaching differs from the view of R. Jonah:*

[G] If she should remarry, she goes forth.

[H] Said R. Mana, “It is not that R. Yosé says, ‘She may remarry,’ nor that R. Jonah says, ‘If she should remarry she should not go forth.

[I] “He has stated only that one should not compare the case to that of forbidden fat, for

even in such a matter should he say merely, 'My heart moves me [to fear I ate forbidden fat],' he must bring a suspensive guilt-offering."

10:4

[A] [If] they told her, "Your son died and afterward your husband died," and she entered into levirate marriage, and afterward they told her, "Matters were reversed,"

[B] she goes forth [from the levirate marriage].

[C] And the earlier and later offspring are in the status of mamzer.

[I:1 A] [The childless brother's widow] should not have gotten married [to another party] but should rather have entered into levirate marriage [with a surviving brother].

[B] [We deal with] a levirate widow who remarried without under going a rite of removing the shoe.

[I:2 A] R. Jeremiah says, "This one [the levir] performs the rite of removing the shoe, and that one [the husband, that is, the man she has married] preserves the marriage [as is]."

[D] R. Judah bar Pazzi in the name of R. Yohanan, "She must go forth."

[E] R. Yosé in the name of R. Hila, "She must go forth."

[F] R. Yosé asked R. Phineas, "What is the view of Rabbi?"

[G] He said to him, "It is in accord with R. Jeremiah."

[H] He said to him, "Retract. If you do not do so, I shall decree concerning you that you are a rebellious elder."

[I] *Said R. Zebida, "The following Tannaitic teaching supports the view of R. Yohanan: 'She goes forth from this one and from that one, and the thirteen penalties apply to her,' the words of R. Meir, which he stated in the name of R. Aqiba [T. Git. 6:6].* But sages say, 'A mamzer does not derive from a levirate widow [who has violated the law].' Thus: They have said only that a mamzer does not derive. But as to going forth, she indeed goes forth [from the second marriage].

[J] *For have we not learned: "She goes forth"?*

[K] R. Yohanan said, "She goes forth."

10:5

[A] [If] they told her, “Your husband died, “ and she married, and afterward they told her, “He was alive, but then he died, “

[B] she goes forth [from the second marriage].

[C] And the earlier offspring is a mamzer, but the later is not a mamzer.

[D] [If] they told her, “Your husband died, “ and she became be trothed, and afterward her husband came home,

[E] she is permitted to return to him. [F] Even though the second man gave her a writ of divorce, he has not rendered her invalid from marrying into the priesthood.

[G] This did R. Eleazar b. Matya expound, “And a woman divorced from her husband (Lev. 21:7) – and not from a man who is not her husband.”

[I:1 A] [The reason that she may remain valid for marriage to a priest is that the writ of divorce from the second man, never in fact her husband, is null (M. 10:5F), for] R. Yohanan in the name of R. Yannai: “She is affected merely by a social disqualification for the priesthood, but the court cannot declare her disqualified for that purpose.”

[I:2 A] [In the case of the second sets of witnesses throughout, e.g., at M. 10:5D] how do you interpret these cases? Do we have one witness or two witnesses?

[B] *If you interpret the passage to speak of a single witness, you turn out to rule that a single witness’s testimony permits the woman to marry the levir [at M. 10:4].*

[C] *If you interpret the passage to speak of two witnesses, then there is a dispute with the view of Rab.*

[D] For R. Nahman in the name of R. Jacob in the name of Rab: “If a woman remarried on the testimony of two witnesses [that her husband has died], even if the husband himself comes before the court, she may say to him. ‘I do not know you.’”

[I:3 A] [As to the view at M. 10:5 that the betrothal is null,] how do we know that another man’s betrothal does not take hold in the case of a married woman?

[B] R. Immi in the name of R. Yannai: “‘And if she goes and be comes another man’s wife’ (Deut. 24:2). When she goes forth from his house, there must be the possibility of her becoming another man’s wife.”

[C] And how do we know that betrothal does not take effect between any partners prohibited by reason of prohibited degrees (Lev. 18)?

[D] R. Tanhuma in the name of R. Huna: “‘And if she goes and becomes another man’s wife’ (Deut. 24:2): Why does Scripture specify ‘another’? It is to exclude the possibility of betrothal among prohibited degrees.”

10:6

[A] He whose wife went overseas, and whom they came and told, “Your wife has died, “

[B] and who married her sister,

[C] and whose wife thereafter came back –

[D] she is permitted to come back to him.

[E] He is permitted to marry the kinswomen of the second, and the second woman is permitted to marry his kinsmen.

[F] And if the first died, he is permitted to marry the second woman.

[G] [If] they said to him, “Your wife has died, “ and he married her sister, and afterward they said to him, “She was alive but then she died”

–

[H] the former offspring is a mamzer [born before the witness died], and the latter is not a mamzer.

[I] R. Yosé says, “Anyone who invalidates [his wife] for marriage] with others invalidates her for marriage for himself, and whoever does not invalidate his wife for marriage with others does not invalidate her for himself.”

[J] [If] they said to him, “Your wife has died,”

[K] and he married her sister by the same father,

[L] [and they reported that] she died and he married her sister from the same mother,

[M] [and they reported that] she died and he married her sister from the same father,

[N] [and they reported that] she died, and he married her sister from the same mother,

[O] and it turns out that all of them are alive –

[P] he is permitted [to continue in marriage] with the first, the third, and the fifth,

[Q] and they exempt their co-wives.

[R] But he is prohibited [from continuing in marriage] with the second and the fourth,

[S] and sexual relations [of the levir] with one of them does not exempt her co-wife.

[T] And if he had intercourse with the second after the [actual] death of the first, he is permitted [to remain married to] the second and the fourth,

[U] and they exempt their co-wives.

[V] And he is prohibited [from remaining married to] the third and the fifth.

[W] And sexual relations with one of them does not exempt her co wife.

[I:1 A] It is written, “If a man lies with her carnally” (Num. 5:13) – her [the wife’s] act of sexual relations renders her prohibited and the act of sexual relations of another woman [her sister] does not render her forbidden. [That is the reason behind M. 10:6D].

[B] And, further, it says here, “[And if you have not turned aside to uncleanness] while you were under your husband’s authority” (Num. 5:19) – thus excluding cases of action under constraint. [Why then do we invoke the penalties indicated above when the husband goes away and the wife remarries, while we invoke no such penalties in the present case, when Scripture makes possible an equivalently lenient ruling for the hapless wife?]

[C] Said R. Mattenaiah, “Scribes made a decree concerning some thing that is commonplace [the husband’s going overseas], but they did not issue a decree concerning something that is not commonplace. It is usual for the husband to go overseas, and it is not usual for the wife to go overseas.”

[I:2 A] *It has been taught:* Said R. Judah, “The House of Shammai and the House of Hillel concur in the case of one who has sexual relations with his mother-in-law, that he has invalidated his wife [from remaining wed to him].

[B] “Concerning what case did they differ? Concerning that of a man who had sexual relations with the sister of his wife.

[C] “For the House of Shammai say, ‘He thereby has invalidated his wife, [who cannot remain wed to him, contrary to I:1A, above].

[D] “And the House of Hillel say, ‘He has not invalidated her.’”

[E] *Associates in the name of R. Yohanan: “The scriptural basis for the statement of R. Judah [that if he had relations with his mother-in-law, he has invalidated his wife] is this: ‘[If a man takes a wife and her mother also, it is wickedness;] they shall be burned with fire, both he and they, [that there may be no wickedness among you]’ (Lev. 20:14). Now how shall we interpret this reference [to, ‘they shall be burned,’ since his wife is not put to death, having done no sin]? Only one of them is burned. But if it is not a reference to burning, apply it to the matter of prohibiting [the wife, so that once he has had sexual relations with the mother, the wife can no longer remain wed to him].”*

[F] *Up to this point we have dealt with the matter within the exegetical frame of R. Aqiba. How shall we interpret the verse in the view of R. Ishmael?*

[G] *R. Ishmael has taught: “‘They shall be burned with fire, both he and they ...’ He and the second woman. [That is, even if his wife had died, he is liable on the count of his mother-in-law.]”*

[H] *Now the House of Shammai presented the following argument [in behalf of their view that he has invalidated his wife if he had sexual relations with her sister (B, C)]:*

[I] *“Now in a case in which he who was subject to a lesser prohibition had sexual relations with a married woman, who is subject to a lesser prohibition, he has prohibited her from remaining wed to the one who subjects her to prohibition [namely, her husband]. If he, subject to a more severe prohibition, had sexual relations with her, subject to a more severe prohibition, is it not reasonable that the one who rendered him subject to prohibition [the wife] should be subjected to a prohibition? [His wife subjects him to the prohibition against sexual relations with her sister. His wife then should be prohibited to him.]”*

[J] *What is the meaning of “a lesser prohibition”?*

[K] *Said R. Yohanan, “What we learned at the beginning of this chapter, [that the married woman who in error marries again is subject to severe penalties], raises the question of whether we may call a married woman a person subject to a lesser prohibition at all! Such a prohibition is only of the most severe order.”*

[L] *The case there is different, since the woman married her second husband assuming that it was permitted to do so.*

[M] *R. Hoshaiiah the Elder said, “The Mishnah speaks of a case of one who marries a woman whom he has divorced after she had in the interim married a third party. [This would be an instance of a lesser prohibition involving a married woman. In such a marriage the second husband cannot again marry the woman either, hence the remarriage with the first husband imposes a prohibition on the second husband, who had originally subjected the couple to the prohibition against their remarriage. This then would illustrate the case to which I addresses itself.]”*

[N] [If that is the argument,] then why should I interpret the case to speak of remarriage after she had been married to someone else? Even if this took place after she had been betrothed, [the same prohibition would surely apply].

[O] *This is in line with what R. Yosé b. Kepar said, for R. Yosé b. Kepar said, “If the woman was divorced, and then [merely] be trothed to another and divorced by him, it is permitted for the first husband to remarry her.”*

[P] *R. Eleazar says, “The passage speaks of a levirate widow who came before two levirs. One of them bespoke her. Then the other had sexual relations with her. [The first has prohibited her to the second, the second, through sexual relations, has prohibited her to the first.]”*

[Q] [If that is the argument,] then why do I specify that the first bespoke the widow? Even if he had not bespoken her [but had sexual relations with her, the same result would be reached, namely, an illustration of I].

[R] And why do I have to specify that the second had sexual relations with her? Even if [the second brother] did not have sexual relations with her, [but bespoke her, the same result would be reached].

[S] *It is because of the views of the House of Shammai and R. Simeon [that matters are phrased as they are]. [The House of Shammai say bespeaking effects acquisition; Simeon concurs with Gamaliel that there can be only one valid act of bespeaking.]*

[I:3 A] *For it has been taught:* R. Simeon said, “The House of Shammai and the House of Hillel did not dispute about the case in which one had sexual relations with the sister of his wife, that he has not

invalidated his wife [from remaining wed to him]. Concerning what did they dispute? Concerning a case in which he had sexual relations with his mother-in-law. For in such a case:

[B] “The House of Shammai say, ‘He has invalidated [his wife, who cannot remain wed to him].’

[C] “And the House of Hillel say, ‘He has not invalidated her.’

[D] “Now the House of Hillel proposed the following argument:

[E] “A man is permitted to all women, and a woman is permitted to all men. Once he has betrothed her, he has prohibited her [to all men], and she has prohibited him [to her sister, mother, and so on].

[F] “But greater is the prohibition to which he has subjected her than the prohibition to which she has subjected him. For he has prohibited her from going and being wed to any other man, while she has prohibited him only to her close relatives alone.

[G] “Now this yields an argument a fortiori: Now if in her case, in which she is subject to a weighty prohibition, should she err with regard to the prohibition affecting her [and have sexual relations with another man, without realizing that it was a violation of her status], she is not prohibited to the one who is permitted to her, [for she may remain wed to her husband in the case of such inadvertent violation of the law],

[H] “in his case, in which he was subject to a less weighty prohibition, should he inadvertently violate the prohibition affecting him [by having sexual relations with her sister], is it not a matter of logic that he should not be prohibited to the one who had been permitted to him [namely, his wife]?”

[I] Now this argument deals with a case of inadvertence. How may we prove the same facts for a case of deliberate violation of the law?

[J] Scripture says, “If a man lies with her carnally” – her act of sexual relations renders her prohibited [to her husband], and the act of sexual relations of another woman [her sister] does not render her forbidden.

[K] Immi, father of Samuel bar Immi, in the name of R. Judah: “The law is in accord with the view of R. Simeon.”

[L] *A case came before R. Mana, and he removed the wife from marriage with her husband.*

[M] *Was it because he concurred with the view of R. Judah?*

[N] No, it was because the mother-in-law used to hang around the husband.

- [II:1 A] *R. Ba, R. Hamnuna and R. Zeira – both say, “[With reference to M. 10:6I,] “This [reasoning] applies also at the start of the chapter [and explains Yosé’s reasoning at M. 10:2A].”*
- [B] What does R. Yosé rule concerning the other penalties [listed at M. 10:1, apart from the marriage contract, about which he differs from M. 10:1]?
- [C] *Let us derive the answer from the following:* R. Yosé says, “Anyone who invalidates his wife for marriage with others invalidates her for marriage for himself, and whoever does not invalidate her marriage [11b] with others does not invalidate her for himself”[M. 10:6I].
- [D] *In this connection, R. Ba: R. Hamnuna and R. Zeira – both say, “This reasoning applies also at the start of the chapter. [Since the second husband invalidates her for marriage with others, the first also invalidates her for marriage with himself, and she has to leave both husbands.]”*
- [E] [That is to say that R. Yosé does not differ in respect to the other matters listed at M. 10:1, but only with regard to the marriage-contract. Explaining the opinion of Yosé,] R. Hela in the name of

R. Simeon b. Laqish: “As to the sister of his wife who was married, [if he should inadvertently marry her, she must receive a writ of divorce from him. In that case, he can not remain wed to his wife, since she is the sister of a woman whom he has divorced. Accordingly, in such a case] since he invalidates [his wife] for marriage with others, he invalidates her for marriage with himself. In the case of the sister of his wife who was not married. [he does not have to issue a writ of divorce to her. Accordingly, in such a case] he does not invalidate [his wife] for marriage with others, and also does not invalidate her for marriage with himself.”

[F] For R. Hela said in the name of R. Simeon b. Laqish, “She [the sister of his wife who was married] does require a writ of divorce from him..”

[III:1 A] *What would be a practical case [illustrative of M. 10:6I-W]?*

[B] *A man [Reuben] has a daughter, [Rachel], and a stepdaughter. [That is, his wife has a daughter from her first husband, whom we shall call Leah. These are sisters from a single mother.] And there is another woman, [Sarah], who has a daughter [Bilhah] and a stepdaughter [Zilpah, and these are sisters from the same father]. Now these two wed [Reuben and Sarah]. They produce a daughter, Dinah. Dinah and Rachel are sisters from the same father, but she has no relationship to Leah; Dinah and Bilhah are sisters from the same mother, but Dinah is unrelated to Zilpah. Now in this case,] the beginning was from the stepsister of a woman. [That is, he first married Zilpah. He was told she had died. He married Bilhah, her sister on her father’s side, then he married Dinah, her sister on her mother’s side, who was unrelated to Zilpah. Then he married Rachel and finally Leah, as M. 10:6J-W explain.]*

10:7

[A] A boy nine years and one day old

[B] invalidates [his childless brother’s widow] for the other brothers,

[C] and the other brothers invalidate her for him.

[D] But [while] he invalidates her at the outset,

[E] the brothers invalidate her at the outset and at the end.

[F] How so?

[G] A boy nine years and one day old who had sexual relations with his childless brother’s widow has invalidated her for the [other] brothers.

[H] [If one of the brothers had sexual relations with her, bespoke her gave her a writ of divorce, performed the rite of halisah

[I] he has invalidated her for him.

- [I:1 A]** How is it so that he does not invalidate her at the end [M. 10:7D]? invalidates her only at the outset alone] if he has bespoken the woman.
- [C]** But if it is after he has had sexual relations with her, he invalidates her even at the end
- [D]** But [the main point is that] he may invalidate her for the brothers in only one way, while they may invalidate her for him in four different ways. [That is, at the outset or the end he may invalidate the sister-in-law for marriage with the other brothers in only one way, that is, with sexual relations, but not by giving a Writ of divorce, a rite of halisah, or bespeaking. These he may do only at the outset, but not at the end, after the brothers have done something else with the sister-in-law.]
- [E] How so: A boy nine years and one day old...**
- [I:2 A]** “If he designates her for his son, [he shall deal with her as a daughter]” (Ex. 21:9).
- [B]** He designates her for his son, but he does not designate her for his brother.
- [C]** And let him be free to designate her for his brother, on the basis of the following argument a fortiori:
- [D]** Now if in the case of the son, who does not stand in his stead for purposes of the rite of removing the shoe or for levirate marriage, lo, he designates her for him,
- [E]** in the case of his brother, who does stand in his stead for purposes of the rite of removing the shoe and for levirate marriage – is it not logical that he should be free to designate her for him?
- [F]** No. If you have stated the rule in regard to the son, who stands in his stead in regard to a field received as an inheritance, will you say the same of his brother, who does not stand in his stead in regard to a field received as an inheritance?
- [G]** Since he does not stand in his stead in that regard, is it not logical that he should be free to designate her for him?
- [H]** Scripture states, “And if he designates her for his son,” meaning, for his son he designates her, and he may not designate her for his brother.

[I] “And if he designates her for his son” – and he may not designate her for his son’s son.

[J] *Samuel bar Abba raised the question before R. Zeira: “In the law dealing with inheritances you treat the son of the son as equivalent to the son. But here you do not treat the son of the son as equivalent to the son.”*

[K] *R. Zeira said, “To whoever can explain this matter to me, I shall give a glass of spiced wine!”*

[L] *R. Nahum answered, “Lo, in connection with inheritances, you treat the brother as equivalent to the son, and all other relatives as equivalent to the son, and so, likewise, you treat the son of the son as equivalent to the son.*

[M] “But here, in a case in which you have not treated the brother as equivalent to the son, and all other relatives as equivalent to the son, there is hardly much reason to treat the son of the son as equivalent to the son.”

[N] *The rabbis of Caesarea objected: “Lo, in the matter of the priest’s becoming unclean for a deceased relative, you have treated a brother as equivalent to the son, and all other relatives [listed for whom the priest may become unclean with corpse-uncleanness required in burying the deceased] likewise are treated as equivalent to the son. But you do not treat the son of the son as equivalent to the son. [And that is why there is ample precedent here not to treat all other relatives as equivalent to the son.]”*

[O] *They said, “There goes the cup of spiced wine,” [since Zeira now did not owe it to Nahum].*

[I:3 A] “If he designates her for his son” (Ex. 21:9) –

[B] it must be with the son’s knowledge and consent.

[C] Said R. Yohanan, “There is no requirement here for the son’s knowledge and consent.”

[D] *Said R. Jacob bar Aha, “There is indeed a requirement here for the son’s knowledge and consent, along the lines of the position of R. Yosé b. R. Judah. [The money the father got at the outset was for selling the girl, not for purposes of betrothing her. It follows that if there is to be a betrothal, it comes later on, hence with the girl’s agreement. Likewise,*

if the father wishes to betroth her to his son, it must be with the son's agreement.]"

[E] *Said R. Samuel bar Abedoma, "Even if you say that this is in accord with the view of R. Yosé b. R. Judah, there is no need for advance knowledge and consent, for the son is [in this case] a minor [for whom the father has every right to act]. [The girl must give permission, but the boy need not do so.]"*

[I:4 A] "If he designates her for his son" (Ex. 21:9) – it must be with the son's knowledge and consent.

[B] R. Yohanan said, "He designates her, whether for his adult son or his minor son, whether with his knowledge and consent or without his knowledge and consent."

[C] R. Simeon b. Laqish said, "He designates her only for his adult son, and that is on condition that it is with the son's knowledge and consent."

[D] [Both views will be tested against the following:] A son who is nine years and one day old [who is married to a woman and dies] turns [that woman] into a widow [so far as her being prohibited to marry] a high priest; or [if he divorces his wife or performs the rite of removing the shoe with his sister-in-law], he turns [that woman] into a divorcée or a woman who has removed the shoe, [so far as her being prohibited to marry] an ordinary priest [is concerned]. [Consequently, he is deemed for the present purposes to be a husband.]

[E] *Now so far as R. Yohanan is concerned, who interprets that statement to apply to a case in which the father has designated a slave-girl as the betrothed for his wife, there is no problem.*

[F] We deal here with an act of designation in which the son has a right of acquisition in the woman. Consequently, under the stated conditions, on his account the woman may be deemed a widow so far as marriage to a high priest is concerned, or a woman who has carried out the rite of the shoe so far as marriage to an ordinary priest is concerned.

[G] *As to the view of R. Simeon b. Laqish, will he interpret the matter to speak of a case in which the son was married [in an ordinary way]? Then the woman should be exempt from the status of a woman who has performed the rite of removing the shoe and from the requirement of levirate marriage, for have we not learned the following: If a nine year old married a woman and died [without children], lo, this woman is exempt [from levirate marriage, since the marriage of a nine year old*

is null So Yohanan can interpret the cited passage, but in the view of Simeon b. Laqish, who maintains that there is no possibility of designating the slave-girl as the wife of a minor, how is the passage to be interpreted]?

[H] *Said R. Abin, "The view of R. Simeon b. Laqish accords with the position of R. Yosé b. R. Judah [in the following dispute]:*

[I] *"For so it has been taught:*

[J] *"A son nine years and one day old up to twelve years and one day old who produced two pubic hairs, lo, this [set of hairs] is deemed nothing but a mole [and he is not regarded as mature].*

[K] *"R. Yosé b. R. Judah says, 'Lo, these are regarded as valid signs of puberty, [and he is deemed an adult].'"*

[L] *R. Jacob b. R. Bun in the name of R. Yosé b. Haninah [explaining Yosé's position]: "And that applies when the signs appeared at a time appropriate for producing signs of puberty [in the twelfth year]."*

[M] *R. Yosé raised the question: "If the signs of puberty appeared during such a period, is he deemed an adult retroactively or only from now on?"*

[N] *R. Abun: "It is obvious that it is retroactively that he is treated as an adult, all the more so from now on."*

[O] *[The reason that this was obvious to Abun is] that he interpreted this statement of R. Simeon b. Laqish in accord with the position of R. Yosé b. R. Judah. [That is, Simeon b. Laqish agrees with Yosé b. R. Judah and maintains that a boy nine years and one day old who dies turns his wife into a widow so far as marriage to a high priest is concerned. We have then a case in Which the signs of puberty appeared later on; retroactively he is deemed to be an adult. Accordingly, it is obvious that Simeon b. Laqish and Yosé will regard the puberty signs as retroactively effective. As to explaining D, Simeon b. Laqish does so in this wise.]*

[P] *And why does R. Yosé not interpret the matter of R. Simeon b. Laqish in accord with the position of R. Yosé b. R. Judah?*

[Q] *Said R. Mana, "Because he was troubled by this problem. R. Yosé wanted to know whether, if the*

puberty signs appeared at the right time, retroactively he is deemed to be an adult, or only from now on. *Now in this case, it poses no problem as to his turning his wife into a widow or a divorcée [under the stated circumstances].* One may interpret the case to be one in which he had sexual relations with her after he reached maturity, and gave her a writ of divorce thereafter.

[R] “In the case of her becoming a widow who has removed the shoe on his account, interpret the case in which he had sexual relations with his wife, then died, and his brother performed the rite of removing the shoe with his widow. So on account of his brother, she entered the status of a woman with whom the rite of removing the shoe had been performed.”

[S] If that is the case, then why not invoke the same rule in the case of a boy less than nine years old [who later had intercourse and divorced his wife]?”

[T] *Said R. Samuel b. Abodema, “And that is indeed correct. [It does apply.] But since the Tannaite authority wished to phrase the entire set of statements to concern a nine year old, he treated this particular case also in terms of a nine year old.”*

[U] R. Judah bar Pazzi in the name of R. Joshua b. Levi, “R. Yosé b. R. Judah derived the facts from Ahaz, for it has been taught: Ahaz fathered a son at the age of nine; Haran at the age of six; Caleb at the age of ten.”

[V] And this is in accord with the one who maintains that Caleb the son of Hesron is the same as Caleb the son of Yefuneh.

10:8

[A] A boy nine years and one day old who had sexual relations with his childless brother’s widow,

[B] and afterward his brother, who was nine years and one day old, had sexual relations with her,

[C] he [the latter] has invalidated her for marriage with him [the former].

- [D] R. Simeon says, “He has not invalidated [her for marriage with the first brother].”
- [E] A boy nine years and one day old who had sexual relations with his childless brother’s widow,
- [F] and afterward he had sexual relations with her co-wife,
- [G] has invalidated her for himself.
- [H] R. Simeon says, “He has not invalidated her for himself.”
- [I] A boy nine years and one day old who had sexual relations with his childless brother’s widow and then died –
- [J] she performs the rite of halisah but does not enter into levirate marriage [with a levir].
- [K] [If] he married a woman and died, lo, this one is exempt [from the levirate connection entirely].
- [L] A boy nine years and one day old who had sexual relations with his childless brother’s widow,
- [M] and when he grew up, he married another wife, and then died_
- [N] if he did not have sexual relations with the first from the time that he reached maturity,
- [O] the first performs the rite of halisah but does not enter into levirate marriage.
- [P] And the second either performs the rite of halisah or enters into levirate marriage.
- [Q] R. Simeon says, “He [the surviving levir] enters into levirate marriage with whichever one he wants, but he also performs the rite of halisah with the second woman.”
- [R] All the same are a boy nine years and one day old and one twenty years old who has not produced two pubic hairs.
- [I:1 A] Samuel said, “In the view of R. Meir, they have treated the act of sexual relations of a boy nine years and one day old as equivalent to the act of bespeaking of an adult.”
- [B] *Now just as you maintain that* they have treated the act of sexual relations of a boy nine years and one day old as equivalent to the act of bespeaking of an adult, along these same lines is the act of halisah of a boy nine years and one day old tantamount to a writ of divorce issued by an adult?
- [C] Rabbis say, “The rite of halisah of a boy nine years and one day old is null and of no effect.”

- [D] Then why have they treated the act of sexual relations of a boy nine years and one day old as equivalent to an act of bespeaking by an adult male?
- [E] Because an act of sexual relations on the part of an adult effects acquisition whether or not with the knowledge and consent of the levirate widow. But shall we treat the act of halisah of a boy nine years and one day old as equivalent to a writ of divorce issued by an adult, when the rite of halisah of an adult releases the woman only with her knowledge and consent?
- [I:2 A] Now a woman awaiting levirate marriage who came before any number of levirs – is it possible that she does not enter into levirate marriage? [Surely not.]
- [B] *R. Hiyya taught*, “The wife of one [deceased childless brother] enters into levirate marriage, and the wife of two deceased [childless brothers] does not enter into levirate marriage.”
- [C] *There is no difficulty in understanding* why one performs the rite of halisah with the woman who had been bespoken, [for] the one who is subject to the levirate power of a single brother-in-law enters into levirate marriage, and not the one who is subject to the levirate power of two brothers-in-law. But as to the second wife, [who is subject to levirate marriage only by reason of her deceased childless spouse alone, and not because of a prior marriage or levirate relationship] – why should she not enter into levirate marriage?
- [D] *Said R. Eleazar*, “*The rule here follows the theory of R. Meir. For R. Meir said*, ‘Any woman whom you do not take into levirate marriage – you also do not enter into levirate marriage with her co-wife.’”
- [E] Said R. Yohanan, “If R. Eleazar made that statement, it was from me that he heard it and cited it.”
- [F] *Said R. Yosé*, “*The Mishnah itself has made the same point: A boy nine years and one day old who had sexual relations with his childless brother’s widow, and when he grew up, he married an other wife, and then died – if he did not have sexual relations with the first from the time that he reached maturity, the first performs the rite of halisah and does not enter into levirate marriage. The second either performs the rite of halisah or enters into levirate marriage [M. 10:8L-P].* [The act of sexual relations of a minor is equivalent in effect to an act of bespeaking. The sister-in-law taken by the boy prior to maturity then is subject to two levirs, the now-deceased boy, and the surviving brother as well. She therefore

performs the rite of *halisah* and does not enter into levirate marriage, just as is the case here.]”

[G] [*Now once we bring these two cases, M. 10:8 and M. 3:10, into relationship, we immediately notice this difference:*] *Here you say that the second wife performs the rite of halisah only [at M. 3:10E] and there you say that she may enter into levirate marriage [at M. 10:8].*

[H] *Here, where you say that the second wife performs the rite of halisah only, it is R. Meir and R. Simeon in dispute, [with Meir the authority behind the anonymous rule], while there [at M. 10:8, where, in fact, Simeon is cited], when we maintain that the second wife may enter into levirate marriage, it is rabbis vis-[^]-vis [11c] R. Simeon [who are in dispute, and Meir is not at hand at all in that statement].*

[I] [Supply from Y. Yeb. 3:10:] R. Abun, R. Bisna in the name of R. Aha: “And [when rabbis vis-a-vis Meir permit the second wife to enter into levirate marriage], it is a case in which the levir enters into levirate marriage [with the one he chooses], and only then performs the rite of *halisah* with the other. But if he should perform the rite of *halisah* first, it is forbidden then to enter into levirate marriage, lest the bespeaking have had the effect of actually making acquisition of the woman, in which case her co-wife is exempted from the requirement of levirate marriage by the rite of *halisah* of the first woman, [and any further union is forbidden].”

[II:1 A] [With reference to M. 10:8R,] it is obvious that if a boy younger than twenty years produced two pubic hairs, retroactively he is deemed a man [back to the age of thirteen].

[B] In the case of a man more than twenty years of age who finally produced two pubic hairs, from that point onward he is regarded as a man.

[C] *Where there is a dispute*, it concerns someone twenty years of age [who produced two pubic hairs at that point].

[D] Samuel said, “Retroactively [to the age of thirteen] he is treated as a man.”

[E] Rab said, “From this point forward he is treated as a man.”

[F] *A Tannaitic teaching stands at variance both with the view of this one and with the view of that one.*

[G] A eunuch is not subject to the law of the rebellious and incorrigible son, because he does not produce a full crown of pubic hair.

[H] But let witnesses admonish him [that he is violating the law and subject to its penalties], in case he will produce two pubic hairs during the following three months [when he is at risk].

[I] *The law is formulated in accord with the view of the one who said that admonition is not given in a matter of doubt.*

[J] *Now this Mishnah-teaching stands at variance with the view of Samuel: **All the same are a boy nine years and one day old and one twenty years old who has not produced two pubic hairs [M. 10:8R].***

[K] *Is the law in accord with what you have said, that a boy nine years and one day old up to the age of twelve years and one day old, who produced two pubic hairs, retroactively is treated as a man? [Surely not. The law, G-H make clear, applies only from that point onward, contrary to Samuel's view.]*

[L] *And along these same lines, a man twenty years old who did not produce two pubic hairs – from that point onward he should be treated as a man, [contrary to what Samuel has said].*

[M] *How does Samuel deal with this matter?*

[N] He holds that it speaks of a case in which the pubic hair appeared when the man was close to twenty [and he speaks only of the status of the man in his twentieth year].

YERUSHALMI YEBAMOT

CHAPTER ELEVEN

11:1

[A] They marry the kinswomen of a woman whom one has raped or seduced.

[B] He who rapes or seduces the kinswoman of his wife is liable.

[C] A man marries the woman raped by his father or seduced by his father, raped by his son or seduced by his son.

[D] R. Judah prohibits the case of the one raped by his father or seduced by his father.

[I:1 A] *This is the meaning of the Mishnah-pericope:* They may later marry one related to one whom one has raped or seduced.

[B] [Thus, if] one has raped a woman, he is permitted to marry her mother.

[C] [If] one has seduced a woman, he is permitted to marry her daughter.

[II:1 A] **He who rapes or seduces the kinswoman of his wife is liable [M. 11:1B].**

[B] Said R. Yohanan, “The law taught here applies via marriage.

[C] “[That is to say], if one married a woman and afterward raped her mother, he is liable.

[D] “If he married a woman and afterward seduced her daughter [by another marriage], he is liable.”

[II:2 A] **If he slaughtered a beast and its granddaughter and afterward slaughtered its daughter, he incurs forty stripes. Sumkhos says in the name of R. Meir, “He incurs eighty stripes” [M. Hul. 5:3/O-P].**

[B] Said R. Eleazar, “Sumkhos and R. Yohanan b. Nuri said the same thing.

- [C] **“There we have learned: R. Yohanan b. Nuri says, ‘He who has sexual relations with his mother-in-law is liable on her account because of the prohibition against having sexual relations with (1) his mother-in-law, and (2) the mother of his mother-in-law, and (3) the mother of his father-in-law.’ They said to him, ‘All three in fact fall into a single prohibition’ [M. Ker. 4: 6C-D] [In Sumkhos’s view, a single warning and a single negative commandment suffice to impose liability on two counts. In Yohanan b. Nuri’s, under the stated condition, in which the woman stands in multiple relationships to the man, the man is culpable on all counts of all relationships. So both say the same thing, that is, that for a single deed, one may bear multiple liabilities.]”**
- [D] R. Judah bar Pazzi in the name of R. Yohanan:”Sumkhos agrees in the first instance [in which it is stated: If one slaughtered a cow and afterward its two offspring, he incurs eighty stripes. If he slaughtered the two offspring and then slaughtered it, he incurs forty (M. Hul. 5:3M)]. [In that case the violation is on a single count. Now why does Sumkhos not differ in the first case?]
- [E] *In fact, there is a teaching that states, “The matter indeed is still subject to dispute.” [So he does differ on both counts.]*
- [F] *What is the reasoning behind the position of R. Yohanan b. Nuri [cited above]? [For in the case of the mother-in-law, we have a woman in the following situation: the man had been married to his mother-in-law’s daughter’s daughter and her son’s daughter, so she is his mother-in-law’s mother and his father-in-law’s mother. But all of these relationships are in a single person, so why should he maintain that there are multiple counts of liability?]*
- [G] Just as a woman and her daughter and the daughter of her daughter are subject to two distinct negative commandments, so a woman, the daughter of her son, and the daughter of her daughter are subject to two negative commandments.
- [H] *What is the reasoning behind the position of rabbis [who maintain that all are under a single count]?*
- [I] Just as the daughter of her son and the daughter of her daughter [l Id] are covered by a single negative commandment, so a woman, the daughter of her daughter, and the daughter of her son are all covered by a single negative commandment.
- [II:3 A] It is written, “You shall not uncover the nakedness of a woman and of her daughter, and you shall not take her son’s daughter or her

daughter's daughter to uncover her nakedness; they are your near kinswomen; it is wickedness" (Lev. 18:17). ["Taking" is understood to refer to marrying.]

- [B] And it is written, "If a man takes a wife and her mother also, it is wickedness; they shall be burned with fire, both he and they, that there may be no wickedness among you" (Lev. 20:14).
- [C] *Now in the rest of these passages, "lying with" is written, while here, "taking" is the language that is used.*
- [D] This is to teach you that he is not liable for the latter until the former is taken by him, [so only if he is married to the one is there liability for the other].
- [E] Or perhaps it is that he is not liable on her account unless it is through an actual marriage [and not merely through rape or seduction without actual marriage]. [That is, that he must be married to them both for liability to be incurred on account of either one.]
- [F] This latter possibility is null, for we have learned that the sanctification effected by marriage does not apply in the case of prohibited consanguineous unions.
- [G] Has it not been written, "A man shall not take his father's wife, nor shall he uncover her who is his father's" (Deut. 22:30)? [This would indicate that the prohibition applies only to marriage, but that one who merely seduces or rapes his father's wife should not be culpable, since the language, "take," suggests marriage.]
- [H] The Scripture comes to inform you that the son was permitted with regard to this woman as long as she was not married to his father. [If the father merely had seduced her, the son could have married her.]
- [I] And is it not written, "The man who lies with his brother's wife, it is impurity; he has uncovered his brother's nakedness" (Lev. 20:21)?
- [J] What does this verse come to inform you?
- [K] It is that he was at one point permitted to marry this woman, as long as she was not [actually] married to his brother [as at H].
- [L] And know that this is so, for lo, in levirate marriage she becomes permitted to him, [which indicates that only so long as the woman is taken as a wife by the brother is he prohibited to marry her].

- [M] And is it not written, “And you shall not take a woman as a rival wife to her sister, uncovering her nakedness while her sister is yet alive” (Lev. 18:18)?
- [N] This verse in Scripture comes to inform you that he was permitted to marry her as long as he had not married her sister.
- [O] And you should know that that is so, for after the death of her sister [he may marry her].
- [P] And is it not written, “If a man takes his sister, a daughter of his father or a daughter of his mother, and sees her nakedness, and she sees his nakedness, it is a shameful thing, and they shall be cut off in the sight of the children of their people; he has uncovered his sister’s nakedness, he shall bear his iniquity” (Lev. 20:17)? [Does this apply solely to marriage? But that implies rape would then not be subject to the present prohibition?]
- [Q] Said R. Abin, “[The purpose of the reference to “taking” in the sense of marriage is for the purpose of a lesson to be learned, namely,] so that you should not say that Cain married his sister, Abel married his sister, [so marrying sisters is all right]. Thus I have done a kindness with the early generations, through whom the world would be built up, [but that does not apply later on].”
- [R] “I have said, The world will be built up on the basis of mercy” (Ps. 89:3).
- [S] And is it not written, “A widow, or one divorced, or a woman who has been defiled, or a harlot, these he shall not marry” (Lev. 21:14)? [Here too shall we say that rape or seduction are not culpable within the present count?]
- [T] The cited verse comes to teach you that if a priest sanctified such a woman as his wife, the act of sanctification is effective.
- [II:4 A]** [Y. Yeb. 11:1 places this unit after unit II:5:] *Rab Huna said, “Up to this point we have dealt with the daughter of his daughter as to marriage.*
- [B] “What about the daughter of his daughter as to betrothal? [That is, we have shown that there is liability for marrying a woman and her daughter. But what about betrothing the woman and her daughter?]
- [C] It is written, “You shall not uncover the nakedness of your son’s daughter or of your daughter’s daughter, for their nakedness is your own nakedness” (Lev. 18:10).

- [D] *Now how shall we interpret that statement?*
- [E] If it makes reference to [prohibiting] marriage, lo, that matter already has been stated [in the prohibition against marrying a woman and her daughter (Lev. 18:17)].
- [F] So if it does not apply to marriage, treat the statement as referring to betrothal.
- [G] *Up to this point we have dealt with the scriptural derivation of the admonition. How on the basis of Scripture do we know the penalty that pertains?*
- [H] Said R. Samuel bar R. Isaac, “We derive the sense of ‘they’ used here from the sense of the same word used below, and the sense of the word ‘unseemly’ used here from the sense of the same word used below.”
- [I] *Up to this point we have dealt with the matter in accord with the exegetical principles of R. Aqiba. What about the matter in accord with R. Ishmael?*
- [J] *Ishmael taught, “‘They...,’ means, ‘from among them.’”*
- [K] Up to now we have dealt with the daughter of his daughter.
- [L] How shall we demonstrate that the same law applies to his daughter?
- [M] Rab said, “If a man is warned against marrying the daughter of his daughter, is it not an argument a fortiori to apply the same rule to his own daughter?”
- [N] “If on account of marrying the daughter of his daughter, he will suffer the penalty of extirpation, is it not an argument a fortiori that that penalty should apply if he marries his daughter?”
- [O] *They asked before R. Abbahu, “So much for the daughter of his daughter at the stage of a fully consummated marriage. As to the daughter of his daughter at the stage of a betrothal?”*
- [P] He said to them, “Any that comes into the category of daughter falls under the same rule.”
- [Q] And from the viewpoint of R. Ishmael, who says that we derive a warning from an argument a fortiori, but we do not derive [Scriptural warrant for] a punishment

applicable to a felon from an argument a fortiori, how do we prove this same proposition?

[R] It is according to that which Hezekiah taught, “‘And the daughter of a priestly man, if she profanes herself by playing the harlot, profanes her father; she shall be burned with fire’ (Lev. 21:9).

[S] “Why does Scripture say, ‘A priestly man’?

[T] “It is to encompass one who has sexual relations with his daughter, even in a case of rape in which he had raped her mother to indicate that he is subject to the death penalty through burning.”

[II:5 A] *R. Huna derived all of them, [mother’s mother, father’s mother], from the following verse: “You shall not uncover the nakedness of a woman and of her daughter, ... they are your near kinswomen; it is wickedness” (Lev. 18:17).*

[B] And it is written, “If a man takes a wife and her mother also, it is wickedness; they shall be burned with fire, both he and they, that there may be no wickedness among you” (Lev. 20:14).

[C] “Wickedness” is stated in both verses, so establishing grounds for an exegesis by analogy.

[D] Just as three generations below [grandchildren] are encompassed, so three generations above [grandparents] are encompassed.

[E] Just as below [in the case of a man and daughter], there is the violation of a negative commandment, so above [in the case of a man with the mother], there is the violation of a negative commandment.

[F] Just as below [in the case of the generations following], the prohibited relationship is via marriage, so above [in the prior generations], what is prohibited is via marriage.

[G] Just as below [in the case of the coming generations], the penalty is execution by burning, so above [in the case of marriage with the prior generations], the form of execution is burning.

[H] Just as below [in the case of the later generations], the law treats the daughter of the male as equivalent to the daughter of the female, so above [in the prior generations], the law treats the mother of the male as the mother of the female.

[I] *And [how about interpreting the matter] in accord with R. Meir?*
For R. Meir said, “An analogy [serves only to apply the law] to the place from which [the analogy to begin with] derives,” so how do we know that the third generation later, [that is, the daughter’s daughter], is prohibited by a negative commandment?

[J] *And in accord with the rabbis, who hold that an analogy is in accord with that which is stated therein, the third generation above, [that is, the mother’s mother], how do we know that the man is put to death by burning?*

[K] *And whether from the viewpoint of rabbis or from that of R. Meir, as to the third generation below, how do we know that it is subject to a negative commandment?*

[L] Said R. Yosé, “Since it is written, ‘Wickedness ... wickedness,’ it is as if all of them are now present [subject to a single rule].”

[II:6 A] [Reverting to II:4N,] said R. Yosé b. R. Bun, “We do not derive a warning from a logical argument either. Rather, there is a verse of Scripture that supplies a warning, as follows: ‘Do not profane your daughter by making her a harlot’ (Lev. 19:29).”

[II:7 A] *They raised the question before R. Abbahu, “He who had sexual relations with a woman, and she produced a daughter, and he went and had sexual relations with her and she produced a daughter, and he went and had sexual relations with her, [that is, his granddaughter, in sequence] – [in this third case, that is, of relations with the granddaughter,] is he liable on her account on these counts: having sexual relations with a woman, her daughter, and her granddaughter? [In the sexual relations with the granddaughter, is he liable for having relations with a woman and her daughter, and also on the count of the granddaughter?]”*

[B] He said to them, “‘They are your near kinswomen; it is wickedness’ (Lev. 18:17). All of them render him liable on the count of wickedness. [So he is liable on a single count, that of wickedness, and not on several distinct counts.]”

[C] [Following Pené Moshe, we now introduce the materials moved from above:] *R. Haggai asked before R. Yosé, “Why do I require this verse? Do we read, ‘Your daughter you should not uncover,’ ‘The daughter of your daughter you should not uncover?’ [Scripture does not specify these as distinct counts. No other is needed.]”*

[D] He said to him, “And let Scripture state, ‘The nakedness of a woman and the daughter of her daughter you should not uncover,’ and then we should argue, ‘Your daughter you should not uncover, your daughter’s daughter you should not uncover,’ [so, therefore, he is liable on only one count].” R. Abbahu, R. Eleazar, in the name of R. Oshaiyya: “In this case we have two rules in a negative formulation covered by a single statement that the penalty is extirpation, and the two negatively formulated rules divide by the penalty of extirpation.” [Hence, he is liable on multiple counts.]

[E] What is the scriptural basis for this position?

[F] “This shall be my holy anointing oil throughout your generations. It shall not be poured upon the bodies of ordinary men, and you shall make no other like it in composition; it is holy. Whoever compounds any like it or whoever puts any of it on an outsider shall be cut off from his people” (Ex. 30:31-33).

[G] Thus you have two negatively formulated rules, with a single statement of extirpation.

[H] The two negative rules share the stated penalty of extirpation, [which then applies to both of them hence he is liable on both counts]. [Cf. Y. San. 7:5.]

[II:8 A] Referring back to M. Yeb. 11:1: **They marry the kinswomen of a woman whom one has raped or seduced. R. Judah prohibits in the case of one raped by his father or seduced by his father.** So that prohibition applies not only when the father has actually married or betrothed the woman. We now ask why Judah rejects the proof-texts adduced above for the contrary view.] What is the scriptural basis for the position of R. Judah?

[B] “A man shall not take the wife of his father and shall not uncover the garment of his father” (Deut. 22:30).

[C] This [“garment”] refers to a woman whom his father has raped.

[D] How do rabbis interpret the reference to “the garment of his father”?

[E] *There [in Babylonia] they say* [that “garment” of the Scripture accords with the position of rabbis, but] we do not know to whom to attribute this tradition.

[F] [The stated tradition is as follows:] “Garment” – this refers to a woman who is subject to the father [in a levirate connection], [and the

meaning is that one may not have sexual relations with a woman who is awaiting levirate marriage with his father].

- [G] But that is not so: Is one not liable on her account on the count of her being his father's wife? [The stated passage need not indicate that that liability is by reason of her being the father's wife, for in any event it is established that a candidate for levirate marriage is forbidden as is the father's wife. So why does it make reference to "garment"?)
- [H] Said R. Hela, "It is for the purpose of effecting a warning, namely, if they warned him on the count of her being his father's wife, he is flogged, and if it was on the count of 'garment' he also is flogged."
- [I] [Judah's position is not what it appeared to be.] [In fact,] R. Judah concurs in the matter of flogging. R. Judah concurs in the matter of an offering. [He holds that one indeed is prohibited from marrying a woman the father has raped. But if he did so inadvertently, he does not bring an offering.]
- [J] R. Judah concurs in the case of all other women who have been raped, that in such a case the man will be exempt [from punishment if he marries such a woman].
- [L] R. Judah concurs that if he has betrothed such a woman, the betrothal is valid. [That is, if one has betrothed a woman whom his father has raped, the betrothal is valid.]
- [M] *R. Haggai raised the question before R. Yosé*, "Is the offspring of such a marriage deemed a mamzer in the view of R. Judah?" [This question is raised in ignorance of the antecedent concessions of Judah.]
- [N] He said to him, "'He whose testicles are crushed or whose male member is cut off shall not enter the assembly of the Lord' (Deut. 23:1). Immediately following Deut 22:30: 'A man shall not take his father's wife nor shall he uncover her who is his father's,' comes Deut. 23:2: 'No mamzer shall enter the assembly of the Lord.' Thus the discourse is deliberately cut off [to indicate that if he marries a woman raped by his father, the offspring of such a marriage is not a mamzer]."
- [O] [He replied,] "If so, let the construction of the verses serve to cut off the matter in regard to the father's wife [and so indicate that if he marries his father's wife and produces offspring, they too are not deemed mamzers]."

[P] “That is not possible, for the matter of the father’s wife is part of the general prohibition against all consanguineous marriages, and it was singled out from the general rule to indicate that violation of the prohibition in the case of all forms of consanguineous marriage produces a mamzer.”

[Q] “By the same argument, let the one raped by the father be treated as a special case in order to provide the rule governing all matters of rape [and to indicate that one may not marry the woman raped by his brother and various male relatives, besides the father].”

[R] “The matter of the wife of the father was part of the generality of the prohibition of consanguineous marriages, and it was singled out from the generality to teach the rule that in the case of violating any of the prohibitions against consanguineous marriage, the offspring will be a mamzer.

[S] “*But do you have the possibility in the present matter, dealing with the woman raped by the father, to maintain that such a woman was part of the generality but was singled out to teach concerning all women raped by a male relative, that they are prohibited?*”

[T] “Then let the wife of the father be treated as a special case to teach concerning a woman that was raped by the father [that she indeed is prohibited, even though the father has not married her].”

[U] He said to him, “Now if she is the wife of the father, she cannot be deemed a woman raped by the father, and if she was merely raped by the father, she cannot be deemed a wife of the father, [so that argument is simply not possible].”

11:2

[A] The convert whose sons converted with her – the sons neither perform the rite of halisah nor enter into levirate marriage,

[B] even if the conception of the first was not in a state of sanctity and the birth was in a state of sanctity, and the second was conceived and born in a state of sanctity.

[C] And so is the law in the case of a slave-girl whose sons converted with her.

[I:1 A] [In the context of a discussion of liability for cursing mother and father, it is pointed out:] Is not a proselyte liable [for cursing] his mother but not liable for cursing his father, in accord with the view of R. Yosé the Galilean?

[B] R. Aqiba says, “[Scripture states, ‘For every one who curses his father or his mother shall be put to death;] he has cursed his father or his mother, [his blood is upon him]’ (Lev. 20:9). He who is liable for cursing his father is liable for cursing his mother. He who is not liable for cursing his father is not liable for cursing his mother.”

[C] R. Aqiba concedes in the case of a silenced one [that is, one whose father’s identity is not known] that he is liable for cursing his mother, even though he is not liable for cursing his father, [since we do not know who his father is].

[D] *R. Jacob bar Aha, R. Yosa in the name of R. Yohanan: “When they differ, it is in the case of a proselyte whose conception was not in a state of sanctity but whose birth was in a state of sanctity. But in the case of a proselyte whose conception and birth were both in a state of sanctity, also R. Yosé the Galilean concurs [that there is no distinction, and the man is liable for cursing either the father or the mother].”*

[E] *R. Yosé went to Hamas. They came and asked him, “With regard to the members of the house of Bar Ashtin, who are proselytes, what is the law as to their entering into levirate marriage [where conditions call for it]?”*

[F] He said to them, “So did R. Yohanan state, ‘It is forbidden.’”

[G] *The disciples proposed to state, “That ruling applies in the case of a woman who already has children. But in the case of a woman who is widowed without children, [it is permitted to do so. After all,] what is the choice before you? If she is regarded as the wife of his brother [as a valid genealogical relation], then let him enter into levirate marriage with her. If she is regarded not as the wife of his brother [since proselytes are not regarded as having paternity], then let him marry her as if she were a woman who was totally unrelated to him.”*

[H] *R. Jacob bar Aha came [and said] in the name of R. Isaac bar Nahman, “Even so, it is prohibited, so that people should not say, ‘We saw the religious duty of levirate marriage carried out by proselytes.’”*

[I:2 A] Under what circumstances? When [his brother] [12a] had had sexual relations with her after she had converted. But if [his brother] had not had sexual relations with her after she had converted, all parties concur that it is as if the surviving brother is marrying a woman totally unrelated to him.

- [B] A proselyte who was converted to Judaism and was married to a woman and her daughter, or to a woman and her sister, marries one of them and divorces one.
- [C] Under what circumstances? When he had not had sexual relations with one of them after he had converted. But if he had had sexual relations with one of them after he converted, the one with whom he had had sexual relations is his wife.
- [D] But if he had had sexual relations with both of them, if he had such relations, he had them [and he may remain married to both of them].
- [I:3 A] “If a proselyte [is married to] his sister, whether on his father’s side or on his mother’s side, he must divorce her,” the words of R. Meir.
- [B] R. Judah says, “If it is his sister on his mother’s side, he must divorce her. If it was on his father’s side, he may remain wed to her.”
- [C] “If it was the sister of his mother, he must divorce her. If it was the sister of his father, he may confirm the marriage,” the words of R. Meir.
- [D] R. Judah says, “If it was the sister of his mother on her mother’s side, he must divorce her. If it was the sister of his mother on her father’s side, he may remain wed to her.”
- [E] As to all other relationships in prohibited degree, if he had consummated the marriage, they do not remove the wife from his domain.
- [F] The rule thus states only that that is the case if he had consummated the marriage. Lo, to begin with, it is forbidden.
- [G] “As to a Gentile married to his sister, whether on his father’s side or on his mother’s side, he must divorce her,” the words of R. Meir.
- [H] R. Judah says, “If it was his sister on his mother’s side, he must divorce her. If it was his sister on his father’s side, he may remain wed to her.”
- [I] “If it is the sister of his mother, he must divorce her. If it was the sister of his father, he may remain wed to her,” the words of R. Meir.
- [J] R. Judah says, “If it was the sister of his mother on her mother’s side, he must divorce her. If it was the sister of his mother on her father’s side, he may confirm the marriage.”
- [K] *Said R. Hanin, “It is clear to us that the following verse stands behind the position of R. Meir: ‘Therefore a man leaves his father*

and his mother [and cleaves to his wife, and they become one flesh]' (Gen. 2:24). [The use of the accusative particle in the Hebrew serves] to encompass the relation who is related to him on his father's side or who is related to him on his mother's side."

[L] R. Bibi: "If that is the case, then his father's sister should be forbidden to him, since she is a relation on his father's side, and his mother's sister should be forbidden to him, because she is related to him on his mother's side."

[M] *R. Simeon son of R. Aibu objected*, "And is it not written, 'Amram took to wife Yochebed his aunt [and she bore him Aaron and Moses, the years of the life of Amram being one hundred and thirty-seven years]' (Ex. 6:20)? [Since the children of Noah are prohibited from marrying the sister of the father, how did Amram marry Yochebed his aunt, the sister of his father?] If that is the case, then the Israelites were not accustomed to observe even those prohibitions applicable to the children of Noah!"

[N] Said R. Hela, "It is a prohibition because a female related to him on his father's side or on his mother's side is prohibited."

[O] *They objected to R. Meir*, "And lo, it is written, 'Besides she is indeed my sister, the daughter of my father but not the daughter of my mother; [and she became my wife]' (Gen. 20:12). [This indicates that one may marry his paternal sister, but not his maternal sister, contrary to Meir's view.]"

[P] Said to them R. Meir, "Is there proof from that verse? Is it not the case that 'she became my wife'? [cf. Pené Moshe]."

[Q] *What is the upshot of the matter?*

[R] Said R. Yosé, "In respect to any prohibited consanguineous relationship on account of which an Israelite court will impose the death penalty, Noahides are admonished, and in respect to any prohibited consanguineous relationship on account of which an Israelite court will not impose the death penalty, Noahides are not admonished."

[S] *They objected*, "Lo, there is the case of his sister [on his mother's side]. Lo, an Israelite court will not inflict the death penalty [on account of marriage of brother and a sister], and yet Noahides are admonished in regard to her."

[T] R. Hela in the name of R. Simeon b. Laqish: "[For whoever does these things is an abomination to the Lord;] and because of these

abominable practices the Lord your God is driving them out before you' (Deut. 18:12). This teaches that the Holy One, blessed be he, inflicts punishment only if he has given prior warning [that a sin is being committed].”

- [II:1 A] **[And so is the law in the case of a slave-girl whose sons converted with her.]** *R. Idi said before R. Yosé in the name of R. Hisda, “A slave is permitted to marry his sister.”*
- [B] He said to him, “Have you heard that that is so even if it is the sister from the same mother?”
- [C] He said to him, “Yes.”
- [D] *He said to him, “And have we not learned: **And so is the law in the case of a slave-girl whose sons converted with her [M. 11:2C].”***
- [E] This is with regard to *halisah* and levirate marriage. [Then we do recognize the fraternal relationship, contrary to A-B, but only for a limited purpose.]
- [II:2 A] R. Phineas said before R. Yosé in the name of R. Yosé: “A slave who had sexual relations with his mother – is he liable to a sin-offering?”
- [B] [This is based on an exegesis of the following verse:] “[Speak to the people of Israel,] and say to them, ‘When any man of you brings an offering to the Lord, you shall bring your offering of cattle from the herd or from the flock’”] (Lev. 1:2). [The use of *and* serves] to encompass slaves. Or shall we say that that verse is stated with regard to prohibited fat [indicating that a slave may not eat such fat, but not that he is subject to the laws of Lev. 18]?
- [C] Just as we find in regard to the side of the mother that the law has treated the part of the mother that has converted [after conversion] as equivalent to the part that has not converted [prior to conversion], [so he is prohibited to marry his mother], so in regard to the slave-girl [M. 11:2C] let us treat the part of the slave-girl that has been freed as equivalent to the part that has not been freed. [The prohibition is therefore rabbinic and he is not liable to bring a sin-offering.]

11:3

- [A] **Five women, [each of whom already has a son and then produced another], whose [other] offspring became confused with one another,**
- [B] **they grew up in this state of confusion,**

- [C] and married wives and died –
- [D] four [of the surviving brothers, whose mothers are known] perform the rite of halisah with one widow, and one of them [the fifth] enters levirate marriage with her.
- [E] He and three [of the brothers] enter into the rite of halisah with another, and one [other] enters into levirate marriage with her [and so on].
- [F] It turns out that there are four rites of halisah and one levirate marriage for each of the surviving widows.
- [I:1 A] In every other setting you maintain that a valid act of halisah cannot follow a [prior valid] act of halisah [in the case of one widow], *and here you say this?*
- [B] In the former case you deal with a situation of certainty, in the present with a situation of doubt.
- [C] In every other context you maintain, “In every case in which you say, ‘Enter into levirate marriage,’ you do not say, ‘Perform the rite of halisah,’” *while here you say this?*]
- [D] In other cases we deal with certainty, while here we deal with a case of doubt.

11:4

- [A] The woman whose offspring was confused with the offspring of her daughter-in-law,
- [B] they grew up in a state of confusion,
- [C] and married wives and died,
- [D] the sons of the daughter-in-law perform the rite of halisah and do not enter into levirate marriage,
- [E] for it is a matter of doubt concerning whether it is the wife of his brother or the wife of the brother of his father.
- [F] And the sons of the old lady either perform the rite of halisah or enter into levirate marriage,
- [G] for it is a matter of doubt concerning whether it is the wife of his brother or the wife of the son of his brother.
- [H] [If] the valid [= those not subject to confusion] ones died,
- [I] the sons who were confused perform the rite of halisah and do not enter into levirate marriage with the [widows of the childless] sons of the old lady,

[J] for it is a matter of doubt concerning whether it is the wife of his brother or the wife of his father's brother.

[K] And the sons of the daughter-in-law – one of them performs the rite of halisah and one enters into levirate marriage [with the widow].

[I:1 A] Said R. Yohanan, “This is the meaning of the Mishnah [at M. 11:4I]: To the wives of the sons of the bride, to the wives of the sons of the old lady.”

[B] Said R. Haggai, “That [M. 11:4F-G] is to say that it is permitted for a man to marry the wife of the son of his brother.”

11:5

[A] A priest-girl whose offspring was confused with the offspring of her slave-girl –

[B] lo, these [men] eat heave-offering.

[C] And they [take and] divide a single share at the threshing floor.

[D] And they do not become unclean by contact with corpses.

[E] And they do not marry wives,

[F] whether valid or invalid [for marriage into the priesthood].

[I:1 A] **Lo, these men eat heave-offering [M. 11:5B] –** for the slaves of priests eat food in the status of heave-offering.

[II:1 A] **And they [take and] divide a single share at the threshing floor [M. 11:5C].**

[B] *This is in line with that which R. Hiyya has taught:* Women and slaves do not take a share at the threshing floor, but at the house they hand over to them the gifts owing to the priesthood and Levitical caste.

[III:1 A] **And they do not marry wives, whether valid or invalid [for marriage into the priesthood] [M. 11:5E-F].**

[B] Not valid women, because of the invalid one [among the two], nor invalid women, because of the valid one.

[III:2 A] [In line with M. 11:6N,] what is the law as to their bringing a single meal-offering and having it completely offered up [as is done with a priest's meal-offering]?

[B] *It has been taught:* They bring a single meal-offering, and they stipulate concerning it [that it belongs to the ones among them who really are the priests], and then it is offered up completely.

[III:3 A] What is the law as to their bringing two meal-offerings, one completely offered up, and one from which the handful is removed, with the remainder being eaten?

[B] *It has been taught:* They [also may] bring two meal-offerings, one of them being completely offered up, and one of them from which the handful is removed with the remainder being eaten.

[III:4 A] What is the law as to their giving testimony as a single group [a slave cannot testify], so that it goes to their credit as a single act of testimony?

[B] Or let the answer derive from that which R. Zeira said R. Isaac in the name of R. Assi [stated], “Since if they turned out to be conspiring witnesses, they cannot both be put to death, so that the slayer cannot be put to death,” also here the law is the same. [Hence they cannot testify jointly as if they are a single person.]

11:6

[A] [If] the children who had been confused with one another grew up and freed one another,

[B] they marry wives suitable for marriage into the priesthood.

[C] And they do not become unclean by contact with corpses.

[D] But if they become unclean, they do not incur forty stripes.

[E] And they do not eat heave-offering.

[F] But if they ate it, they do not pay back principal and an added

[G] And they do not take a portion at the threshing floor.

[H] But they sell heave-offering

[I] And the proceeds are theirs.

[J] And they do not take a share in the Holy Things of the sanctuary.

[K] And they do not give them Holy Things, but they do not take [their Holy Things] back from them from the obligation to give the should h and maw [to a priest.

[M] And their firstling [animal] should be put out to pasture until it suffers a blemish.

[N] And they apply to them the strict rules of the priesthood and the strict rules pertaining to ordinary Israelites.

[I:1 A] That [M. 11:6A] is true after the fact. Lo, to begin with, is it not permitted [to emancipate a slave]?

- [B] *Thus is the meaning of the Mishnah:* It is permitted to emancipate a slave to begin with.
- [C] Even R. Yosé the Galilean who has said, “It is forbidden to emancipate a slave,” concurs here that it is permitted, for the sake of the good order of the offspring.
- [II:1 A] What is the meaning of **wives suitable for marriage into the priesthood [M. 11:6B]**? Not invalid ones.
- [III:1 A] How do we know that a priest has the right to offer his offerings during any priestly watch that he chooses?
- [B] Scripture says, “And he may come when he desires ... and he may minister” (Deut. 18:6).
- [III:2 A] If he was old or sick, he gives his offering to any watch he chooses, and the hide and flesh of his offering remain his property.
- [B] If he was unclean or blemished, he gives his offerings to the members of the officiating watch, and the hide and meat go to them.
- [C] As to the children who are confused – how do you treat them?
- [D] Do you deal with them in accord with the rule governing an old or sick priest, or in accord with the rule governing an unclean priest or a blemished one?
- [E] *It is reasonable to suppose that you deal with them as you would an unclean priest or a blemished one. But the Mishnah treats them as under the rubric of the old or sick priest, for we have learned: They do not take Holy Things back from them [M. 11:6K].*

11:7

- [A] **She who did not delay three months after her husband [divorced her or died] and remarried and gave birth,**
- [B] **and it is not known whether the offspring is nine months old, belonging to the former husband, or seven months old, belonging to the latter –**
- [C] **[if] she had sons by the first and sons by the second,**
- [D] **they perform the rite of halisah [with B’s widow] and do not enter into levirate marriage.**
- [E] **And so too he [the son, B,] performs the rite of halisah.**

- [F] [If] he had brothers by the first marriage and brothers by the second, but not from the same mother –
- [G] he performs the rite of halisah or enters into levirate marriage.
- [H] But as to them, one of them [from one marriage~ performs the rite of halisah, and one of them [from the other marriage] enters into levirate marriage.
- [I] [If] one of them [the husbands of A-B] was an Israelite and one a priest,
- [J] he [of M. 11:6B] marries a woman appropriate for marriage into the priesthood.
- [K] He does not become unclean by contact with corpses.
- [L] And if he was made unclean, he does not incur forty stripes.
- [M] And he does not eat heave-offering.
- [N] If he ate it, he does not pay back the principal and added fifth.
- [O] And he does not take a share at the threshing floor.
- [P] But he sells [his own] heave-offering, and the proceeds are his.
- [Q] He does not take a share in the Holy Things of the sanctuary.
- [R] And they do not give him Holy Things.
- [S] But they do not remove his [Holy Things] from his own possession.
- [T] And he is exempt from the requirement to give the pries~ the shoulder, cheeks, and maw.
- [U] And a firstling belonging to him should be put out to pasture until it is blemished.
- [V] And they apply to him the strict rules applicable to the priesthood and the strict rules applicable to Israelites.
- [W] If both of them were priests, he performs the rites of mourning for them, and they perform the rites of mourning for him.
- [X] He does not become unclean for them, and they do not become unclean for him.
- [Y] He does not inherit them, but they do inherit him.
- [Z] And he is exempt for the transgression of smiting or cursing this one or that one [A-B, I, W].
- [AA] And he goes up to the Temple for the priestly watch of this one and of that one.
- [BB] But he does not take a share in the priestly dues of either watch.

- [CC] **If both of them belonged to a single priestly watch, then he does take a single portion [in the share of that watch].**
- [I:1 A] *With what sort of case do we deal [at M. 11:7A-B]?*
- [B] [Did she get married] after the death of the first husband?
- [C] *You cannot take that position, for we have learned: **He performs the rites of mourning for them, and they perform the rites of mourning for him [M. 11:7W].*** [This indicates that both husbands are alive at his birth.]
- [D] *But we deal with a case in which the first husband divorced her [and she remarried without waiting the proper time].*
- [E] *Now if that is the case, then there is no difficulty understanding why he should not contract uncleanness in burying the second father [M. 11:7X]. For I say that he may well have been the son of the first father. But as to the first of the two fathers, why should he not contract corpse-uncleanness in burying him? For what are the possibilities? Either he is the son of the first man, in which case it is his obligation to contract corpse-uncleanness in burying him, or he is not the son of the first man, in which case he is of impaired priestly stock [as the son of a divorcée married to a priest, and there is nothing stopping him from contracting corpse-uncleanness in any case]. Then we must deal with a case in which [the first of the two] raped the woman, [and she married too soon].*
- [F] [But if that is the case, then] did not R. Ba state in the name of Abba bar Jeremiah, “A woman who has been raped does not have to wait three months [thereafter, prior to marrying]”?
- [G] *Now the authority behind this Mishnah-passage] has formulated it in accord with rabbis [vis-a-vis Ba, who maintains that one does have to wait three months after a rape]. And here the matter is framed in accord with R. Yosé.*
- [II:1 A] *R. Hiyya taught, “Priests responsible to undertake the rites of mourning do contract uncleanness even in a case [in which the relationship of the priest to the deceased is] subject to doubt.”*
- [B] *Said R. Yosé, “The Mishnah has made that same point: **He performs the rites of mourning for them, and they perform the rites of mourning for him [M. 11:7W].**”*
- [C] *R. Asian bar Yequm had a case. He asked R. Yosa [about how to decide concerning a priest’s mourning the death of a child who was*

subject to doubt]. He said to him, “You do not have [to undertake the rites of mourning in such a case].”

- [D] He said to him, “And have we not learned, R. Hiyya said, ‘Priests responsible to undertake the rites of mourning do contract uncleanness even in a case of doubt’?”
- [E] [The statement of R. Hiyya applies to a case] in which there were discernible marks [indicating the age and viability of the child at birth].
- [F] *Did not associates state in the name of R. Yohanan*, “On the basis of the marks that a child is born after eight months of gestation, they do not decide a practical case.”
- [G] There was a sign in this case, for the husband had sexual relations and then separated [and had no further sexual relations, in which case there is a reliable indication on the age of the foetus].

[II:2 A] An infant born after eight months of pregnancy, lo, it is tantamount to a stone.

[B] And they do not move him about [on the Sabbath].

[C] But his mother bends over him and gives him suck [T. Shab. 15:5D-F].

[D] *R. Yosé raised the question*, “As to infants subject to doubt [as to whether they were born at eight or at nine months], what is the law on violating the laws of the Sabbath on their account [in order to perform the rite of circumcision?”

[E] Said R. Yosé b. R. Bun, “Quite so, for after all, what is your choice? If it is nine months old, it is to be circumcised at the proper time. If it was born at only eight months, one will turn out to be cutting the child’s flesh [on the Sabbath] not [12b] in a case of need [and that is not culpable].”

[F] *Rabbis of Caesarea say*, “*R. Jacob bar Disai asked*, ‘Who has said it is permitted to cut meat if it is not in a case of need?’”

[II:3 A] *It has been taught*: Rabban Simeon b. Gamaliel said, “In the case of a human being, any offspring that survives for thirty days does not fall into the category of a miscarriage: ‘At a month old you shall redeem them’ (Num. 18:16).

[B] “In the case of a domestic animal, if it lives for eight days, it is not in the category of a miscarriage: ‘And from the eighth day on it shall be acceptable as an offering by fire to the Lord’ (Lev. 22:27).”

[C] *There they say in the name of Samuel*, “The law accords with the view of Rabban Simeon b. Gamaliel.”

[D] Said R. Ba, “Where they differ, it is in the case in which the foetus was not born at term. But if it was born at term, also Rabban Samuel b. Gamaliel concurs.”

[III:1 A] If the offspring hit this [father], and then went and hit the other, cursed this one and then went and cursed that one, he is exempt [M. 11:7Z].

[B] *R. Hanania raised the question, “Does this statement not differ with the view of R. Yohanan. For there is a dispute:*

[C] “In regard to the two festival days observed in the exilic communities,

[D] “R. Yohanan said, ‘They receive admonition [not to violate the sanctity of the day] in a situation of doubt [as to whether or not it is in fact the festival day].’

[E] “R. Simeon b. Laqish said, ‘They do not receive admonition in a case of doubt.’”

[F] *Said R. Haninah, said Rabbi, “There is no point of dispute. There it is possible for you to clarify the matter [of which day coincides with the festival], but here it is not possible for you to clarify the matter [so even Yohanan will concur here].”*

[III:2 A] If he hit both of them simultaneously, or cursed both of them simultaneously, he is liable.

[B] R. Judah declares him exempt.

[C] *R. Yohanan raised the question, “The opinions assigned to R. Judah are at variance with one another. For there we have learned: **If he ate an olive’s bulk of the sinew of this one and an olive’s bulk of the sinew of that one, he incurs eighty stripes. R. Judah says, “He incurs only forty stripes [for we do not know that the commandment applies to both hip-sinews]” [M. Hul. 7:3C-D].”***

[D] Said R. Qerispai, “There is no confusion as to his views. There the very principle of the negative commandment that has been violated is subject to doubt. [Whether or not the prohibition applies to both hips

or to one alone is not fully clear.] But here the paternity had been certain at one point but then became subject to doubt.”

[E] *R. Judah raised the question*, “If so, in the case of carrion that was mixed up with and nullified by properly slaughtered meat, [if one ate of both], since it was originally subject to a prohibition beyond doubt but then became subject to doubt, if one ate of it, should he be exempt [from any sort of penalty]? [He certainly ate the carrion!]”

[F] Said R. Yosé, “R. Judah concurs in the case of all other matters subject to doubt that he would be liable. But here there is a verse of Scripture that R. Judah interprets to indicate why he is exempt: ‘For everyone who curses his father ...’ (Lev. 20:9). That is, one who is certainly his father, not one who may or may not be his father. ‘His mother’ – one who is certainly his mother, not one who may or may not be his mother.”

[IV:1 A] And he goes up to the Temple for the priestly watch of this one and of that one, but he does not take a share in the priestly dues of either watch [M. 11:7M-BB]

[B] In that case, perhaps he ought not go up at all?

[C] R. Aha, R. Hinena in the name of R. Yosé, “It is because of the shame that will accrue to his family if he does not go up.”

[D] *It has been taught*: “And that law applies to a case in which both of the possible fathers belong to a single priestly watch.”

YERUSHALMI YEBAMOT

CHAPTER TWELVE

12:1

[A] The proper way to carry out the rite of halisah is before three judges,

[B] and even though the three of them are laymen [it is valid].

[C] [If the woman] performed the rite of halisah with a slipper, her performance of halisah is valid.

[D] [If she did it] with a felt sock, her performance of halisah is invalid.

[E] [If she did it] with a sandal that has a heel, it is valid.

[F] [If she did it] with a sandal that does not have a heel, it is invalid.

[G] [If the straps of the sandal were fastened] below the knee, her performance of halisah is valid.

[H] [If the straps of the sandal were fastened] above the knee, it is invalid.

[I:1 A] Scripture states, [“Then his brother’s wife shall go up to the gate to the] elders” (Deut. 25:7), and you say [that the three may even be] laymen?

[B] The religious duty is best carried out with elders, [but laymen are acceptable].

[C] And how do we know that laymen are acceptable?

[D] Scripture says, “Whose sandal has been pulled off his foot” (Deut. 25:10) – under any circumstances.

[I:2 A] *There is a Tannaite authority who teaches, “A rite of halisah performed by proselytes is valid,” and there is a Tannaite authority who teaches, “A rite of halisah performed by proselytes is invalid.”*

[B] *The one who said, “A rite of halisah performed by proselytes is valid,” accords with the one who said, “In Israel” (Deut. 25:10) serves to encompass proselytes.”*

- [C] *He who said, “A rite of halisah performed by proselytes is invalid,” accords with the one who said, “In Israel” serves to exclude proselytes.”*
- [D] *Here you say that [the cited language means that] proselytes are excluded, and there you say that the same language serves to encompass proselytes?*
- [E] *There, “All that are native [in Israel shall dwell in booths]” (Lev. 23:42) serves to exclude proselytes; “In Israel” likewise serves to exclude proselytes.*
- [F] *We therefore have one exclusionary clause following another, and the upshot of such an arrangement of words is to encompass proselytes. But here, by contrast [where there is no such exegetical possibility], “in Israel” serves only to exclude proselytes.*
- [G] *[With reference to the requirement of three judges,] there is a Tannaite authority who teaches that if the rite of halisah is performed before two judges, it is invalid. There is also a Tannaite authority who teaches that if the rite of halisah is performed before two judges, it is valid.*
- [H] *He who has said that a rite of halisah before two judges is invalid concurs with the one who said that halisah by proselytes is invalid.*
- [I] *He who said that halisah before two judges is valid accords with the one who said that halisah performed by proselytes is valid.*
- [J] *Even he who says, “Halisah performed by proselytes is valid,” will concur that if it is done with two [12c] judges, it is invalid.*
- [K] *For lo, monetary cases are valid when tried by proselytes, but invalid when tried before only two judges.*
- [L] *There is a Tannaite authority who teaches, “Halisah done by night is valid.” There is a Tannaite authority who teaches, “Halisah done by night is invalid.”*
- [M] *He who said, “Halisah done by night is valid,” accords with the one who said, “Halisah done by proselytes is valid.”*
- [N] *He who said, “Halisah done by night is invalid,” accords with the one who said, “Halisah done by proselytes is invalid.”*

[O] *Even he who says, “Halisah done by proselytes is valid,” will concur that if it is done by night, it is invalid. For lo, monetary cases are valid when judged by proselytes, but invalid when judged by night.*

[P] *There is a Tannaite authority who teaches, “And that is the case if the judges know how to read [the verses of Deut. 25:5, to the participants].” There is a Tannaite authority who teaches, “Even if the judges do not know how to read, [their act is valid].”*

[Q] *He who said, “And that is so if the judges know how to read,” held that view before they found in Scripture support for the contrary view.*

[R] *The one who said, “Even if the judges do not know how to read,” holds that view even after they found support for the contrary rule in Scripture.*

[S] “And she shall answer and say” (Deut. 25:9) – there is no answering, unless it is in response to what someone else has said.

[T] Said R. Yosé, “And that is on condition that it is an answer to what the judge has said.”

[U] But they do not do it that way.

[II:1 A] If she performed the rite of halisah with a slipper, her performance of halisah is valid [M. 12:1C]:

[B] *From whose viewpoint was it necessary to specify that it is valid after the fact?*

[C] It is necessary from the viewpoint of R. Meir.

[D] For R. Meir said, “They do not perform the rite of halisah with a slipper.”

[E] *It has been taught [in the Tosefta’s version]: Said R. Simeon, “I came across a certain elder from Nisibis. I remarked to him, ‘Was R. Judah b. Betera an authority for you?’*

[F] “He said to me, ‘And he was constantly at my money-changing stall.’

[G] “I said to him, ‘Did you ever see him perform the rite of halisah?’

[H] “He said to me, ‘Yes.’

[I] “I said to him, ‘With what did you see him do it, with a slipper or with a sandal?’

[J] “He said to me, ‘And do they perform the rite of halisah with a slipper?’

[K] “I said to him, ‘If so, on what account did R. Meir rule that they do not perform the rite of halisah with a slipper?’” [T. Yeb. 12:11B-H].

[II:2 A] R. Ba R. Judah in the name of Rab: “If Elijah should come and say that they perform the rite of halisah with a slipper, you may listen to him. If he should say that they do not perform the rite of halisah with a sandal, you do not listen to him. For lo, the community is accustomed to perform the rite of halisah with a slipper, and the accepted practice nullifies any contrary law.”

[B] R. Zeira, R. Jeremiah in the name of Rab: “If Elijah should come and say that they perform the rite of halisah with a slipper, you should listen to him. If he should say that they do not do so, you should not listen to him. For lo, the community is accustomed to perform the rite of halisah with a slipper, and the accepted practice nullifies any contrary law.”

[C] *R. Zeira showed R. Ba bar Isaac how to do so with a bent shoe.*

[D] *He said to him, “Do they do it this way?”*

[E] *He said to him, “Indeed they do.”*

[F] He said to him, “Lo, our master [did it with a bent shoe].”

[G] *R. Zeira showed R. Ba bar Isaac how he does it. He ties it on the foot so that one can walk in it on his own [without the sandal’s falling off his foot].*

[H] How does he do it?

[I] Said R. Hananiah b. R. Hillel: “He fastens it with a loop in such a way that he can undo it with one hand.”

[J] How does she do it?

[K] She releases it with the right hand and holds his foot in her left hand and removes his heel with

her right hand and draws the sandal with her right hand, so that the removal of the sandal and the release of it should both be done by the right hand.

- [II:3 A] Rab said, “The principal action involved in the rite of halisah is the loosing of the straps of the sandal.”
- [B] *Now did not R. Ba in the name of R. Judah state, and so did R. Zeriqan present the same teaching in the name of Rab:* “In the opinion of sages, if the levirate sister-in-law removed the sandal but did not spit, spit but did not remove the sandal, her rite of halisah is not valid – unless she both removes the sandal and also spits? [So the aforementioned statement contradicts the present view that the principal action is not alone the removing of the shoe].”
- [C] Even though Rab has said that the rite is not valid unless she both removes the sandal and also spits, nonetheless Rab concurs that the principal action involved in the rite of halisah is the loosing of the straps of the sandal.
- [D] Rab said, “The principal action effecting ownership through usucaption is harvesting the produce. [That is, the testimony of Witnesses must be that they have seen the squatter harvest the produce of the field.]”
- [E] And did Rab not say, “And that is so if they saw him weed and hoe, [which also constitute valid acts of usucaption]?”
- [F] Even though Rab has said, “And that is so if they saw him weed and hoe, nonetheless, Rab concurs that the principal action effecting ownership through usucaption is harvesting the produce.
- [II:4 A] Said R. Yannai, “If the brother-in-law removed the shoe and she unloosed it or if she removed it and he unloosed it, her rite of halisah is invalid [She must both unloose the slipper and also
- [B] “If he wanted to retract [and go through the levirate marriage], he may retract. “
- [C] Why? Is it because both of the deeds were not done by her? Or is it because they were not done in proper order?
- [D] *What is the practical difference between these two reasons?*
- [E] It would be a case in which she went and released the sandal.

[F] *If you say that the reason is that she had not done both of the deeds, in this case she now has done both of the deeds; but therefore the reason can only be that the deeds were not done in proper order.*

[II:5 A] Said R. Eleazar, “There are those who have said, ‘Her act of halisah is invalid, and if the levir wanted to retract, he may retract.’

[B] “And there are those who have said, ‘Her act of halisah is invalid, but if he wants to retract, he may not retract.’”

[II:6 A] And she who performs the rite of halisah with a minor – her rite of halisah is invalid. And if he wanted to retract, he has not got the right to retract.

[B] [If she performed halisah] with a felt sock, or if she performed halisah with a minor, her halisah is invalid, but if he wants to retract, he may not retract.

[III:1 A] **If she did it with a felt sock, her performance of halisah is invalid [M. 12:1D].**

[B] If she performed the rite of halisah with a felt sock [cf. M. 12:1D]:

[C] *There is a Tannaite authority who teaches, “Her act of halisah is valid.” There is a Tannaite authority who teaches, “Her rite of halisah is invalid.”*

[D] *He who has said her rite of halisah is valid maintains that we speak of a sock made of leather.*

[E] *He who has said her act of halisah is invalid maintains that we deal with a sock made of cloth.*

[F] With a sandal and a sock:

[G] *There is a Tannaite authority who teaches, “Her act of halisah is valid,” and there is a Tannaite authority who teaches, “Her act of halisah is invalid.”*

[H] *He who has said her act of halisah is valid maintains that that is so when the sock is of cloth, but the sandal of leather.*

[I] *He who has said her act of halisah is invalid maintains that is the case when the sock is of leather and the sandal of leather.*

[J] *There is a Tannaite authority who teaches, “They may go out into the public domain with a sock on the Day of Atonement.”*

[K] *There is a Tannaite authority who teaches, “They may not go out into the public domain on the Day of Atonement in a sock.”*

[L] *R. Hisda said, “He who has said that they do go out speaks of a sock made of cloth. And he who has said that they do not do so speaks of a sock made of leather.”*

[IV:1 A] If she did it with a sandal which has a heel, it is valid [M. 12:1E]:

[B] *There they say, “For instance, heeled sandals,”*

[C] *and rabbis here say, “For example, the sandals we wear.”*

[IV:2 A] Said Rab, “If I had not seen R. Hiyya the Elder, my beloved friend, perform the rite of halisah with a shoe with plaited straps, our heart would not allow us to do it that way.”

[B] *The brother of the mother of R. Kahana performed the rite of halisah by night, with a single judge, on the Sabbath night, with a sandal made of cork, and standing up.*

[C] *Said R. Zeriqan, “And the woman did not spit.”*

[D] *Rab heard and said, “Who could have done it this way, if not for the brother of the mother of R. Kahana.”*

[V:1 A] [If the straps of the sandal were fastened below the knee, her performance of halisah is valid. If it was above the knee, it is invalid (M. 12:I G-H)]. *The meaning of the Mishnah is that if it is tied from the knee and downward, it is valid [for use in the rite of halisah], and if it is from the knee and upward, it is invalid.*

[B] *It is written, “With it Aaron and his sons shall wash their hands and their feet” (Ex. 30:19).*

[C] *In this regard it was taught: As to the hand, [one washes] up to the knuckles. As to the foot, [one washes] up to the calf.*

[D] *And here you say this?*

[E] *It is different here, for it is written in this regard: “From his foot” (Deut. 25:9).*

[F] *If that is the case, then even if the straps were fastened above the knee, it should be valid.*

[G] *It is different here, for it is written in this regard, “From his foot” (Deut. 25:9). The meaning is, “From his foot,” and not from above his foot.*

[H] *Kahana objected*, “And lo, it is written, “Her afterbirth that comes out from between her feet” (Deut. 28:57). And does it really mean, between her feet? But it appears to be there.”

[I] *This is in line with that which is taught here: It was between the porch and the altar [M. Mid. 3:6A]*. And was it actually between the porch and the altar? But it appeared as if it were between the porch and the altar.

12:2

[A] [If] she performed the rite of halisah with a sandal that does not belong to him, or with a sandal made of wood, or with the sandal, it is valid.

[B] [If] she performed the rite of halisah with a sandal too large in which [nonetheless] he is able to walk about, or with one too small that [nonetheless] covers the larger part of his foot, her performance of halisah is valid.

[C] [If she performed] the rite of halisah by night, her performance is valid.

[D] R. Eliezer invalidates it.

[E] [If she did it] with the left [shoe], her performance of halisah is invalid.

[F] R. Eliezer validates it.

[I:1 A] [[If] she performed the rite of halisah with a sandal that does not belong to him:] A ram’s horn used for the purposes of idolatry and one deriving from an apostate city – R. Eleazar says, “They are valid.”

[B] *R. Hiyya taught*: “Such a ram’s horn is valid.”

[C] *R. Hoshaiah taught*, Such a ram’s horn is invalid.”

[D] All concur in the case of a palm branch [used for the festival of Tabernacles] that it is invalid.

[E] What, then is the difference between a ram’s horn and a palm branch?

[F] Said R. Yosé, “In connection with a palm branch, it is written, ‘And you shall take for yourself [on the first day the fruit of goodly trees, branches of palm trees, and boughs of leafy trees, and willows of the brook; and you shall rejoice before the Lord seven days]’ (Lev. 23:40). Since it says, ‘For yourself,’ it means, it must belong to you, and it cannot derive from that which is subject to a prohibition as to all

benefit. But here [with regard to the ram's horn], it is written, '[On the first day of the seventh month you shall have a holy convocation; you shall do no laborious work;] it is a day for you to blow the trumpets' (Num. 29:1). [The meaning is,] without regard to [the origin of the ram's horn]."

[G] [Offering a different reason for the same distinction], said R. Eleazar, "*There* [with regard to the palm branch], it is with the object itself that one carries out his obligation. *But here* it is merely with [the horn's] sound that one carries out his obligation. Now can a [mere] sound be subject to a prohibition as to deriving benefit? [Obviously not.]"

[H] All concur in the case of a sandal deriving from an apostate city that it is valid [for use in the halisah-rite] since it is written, "[He shall be known in Israel as] the house of the one whose shoe was removed" (Deut. 25:10). The meaning is, without regard [to the origin of the shoe].

[I] *Said R. Mana*, "*Just as you say there*, 'It is a day for you to blow the trumpets' (Num. 29:1), without regard [to the origin of the trumpet, *so you say here*, 'The house of the one whose shoe was removed' (Deut. 25:10), without regard [to the origin of the shoe]."

[II:1 A] A sandal made of wood [M. 1:2A]: Associates in the name of Rab:
"That is on condition that the thongs are made of wood."

[B] R. Ba in the name of Rab: "And that is on condition that the main body of the shoe is made of wood."

[C] [12d] *There they say in the name of Rab*: "And that is on condition that the straps are made of wood."

[D] R. Hela in the name of R. Yohanan, "Even if they are made out of wood, it is valid."

[E] *The following Tannaitic teaching supports the view of R. Yohanan*:

[F] A sandal made of straw –

[G] R. Aqiba declares it susceptible to midras-uncleanness, and a woman may perform the rite of halisah with it, and they go out wearing it on the Sabbath. And sages did not agree with him as to its being susceptible to midras-uncleanness.

[H] A sandal, whose two straps were broken, or whose strappings were torn, or from which even one sole separated, is insusceptible to uncleanness. If one of its ears tore off, or one of

its strappings, or if the larger part of one sole was separated from it, it is susceptible to uncleanness [as a useful article].

[I] R. Judah says, “If it is the inner one, it is susceptible to uncleanness” [T Kel B.B. 4 5].

[J] R. Jacob bar Aha, R. Tabelai, Hanina bar Ba in the name of Rab: “The law accords with the view of R. Judah in the matter of the Sabbath [if the outer strap is broken, it is forbidden to go out in it on the Sabbath.]”

[K] *R Samuel bar R. Isaac had a case. [The outer thong had broken] and he sent R. Jacob bar Aha to ask R. Hiyya bar Ba. He said to him, “Just as they differ as to uncleanness, so they differ as to the Sabbath.” And he gave him a decision in accord with the position of rabbis.*

[L] *R. Samuel bar R. Isaac asked, “But has it not been heard to be said: ‘The law accords with the view of R. Judah,’ and yet he gave him a decision in accord with the position of rabbis!”*

[M] *R. Aha bar Isaac had a case, and he sent and asked R. Zeira who asked R. Immi. He said to him, “If the law follows the view of the one who said that it is susceptible to uncleanness, it is permitted to go out wearing it into the public domain on the Sabbath. If the law is in accord with the view of him who maintains that it is not susceptible to uncleanness, then it is forbidden to go out in it on the Sabbath.”*

[N] *But he did not derive any useful information from him.*

[II:2 A] *It was taught:* But one may walk about in [a loose sandal] until he reaches the door of his courtyard.

[B] *R. Aha and R. Zeira were walking about in the piazza. The sandal of R. Aha loosened. [Zeira noticed, Aha did not.] When they reached his gateway, R. Zeira said to him, “Here is the door of your courtyard.”*

[C] *[When his sandal broke while he was walking about], R. Aha would fold a palm branch around it. R. Abbahu would tie it up with a binding of soft gum [conjectural]. R. Abbahu had the theory that a binding of soft gum is ready for that purpose [prior to the Sabbath].*

[D] *R. Jonah pitched it into a confectioner's shop, indicating that even a small quantity of it is valuable.*

[E] *The valuable example of R. Eleazar was to remove it.*

[F] *R. Jeremiah raised the question before R. Zeira, "What is the law as to changing [the left sandal for the right one, if the strap should break]?"*

[G] He said to him, "It is permitted." *Nonetheless, he said to him, "Go and see how a sage does it, and rely on his example."*

[H] He went out and found R. Ba bar Memel, and he asked him, and he permitted it.

[I] *Said R. Yosé, "The Mishnah has treated it as a kind of clothing, for we have learned: **With the sandal for the left foot on the right foot, it is valid [M. 12:2A].**"*

[J] [As to M. 12:2, **A sandal too small which nonetheless covers the larger part of his foot (M. 12:2B)**]: That which you say applies to the breadth of the foot, but as to the length, it must cover the larger part of the foot.

[III:1 A] [As to M. 12:2, **halisah by night is invalid in Eliezer's view**]: What is the scriptural basis for the view of R. Eliezer?

[B] "[Then his brother's wife shall go up to him] in the presence of the elders, [and pull his sandal off his foot, and spit in his face; and shall answer and say, 'So shall it be done to the man who does not build up his brother's house']" (Deut. 25:9). [Presence: "before the eyes of"].

[C] *How do the rabbis interpret this same usage?*

[D] They say that it is meant to exclude a court made up of blind men.

[IV:1 A] *R. Yohanan raised the question, "The opinions assigned to R. Eliezer are at variance. There he said that the use of the right hand is absolutely essential [in the rite of purifying the leper (M. Neg. 14:9)], while here [M. 12:2E-F] he does not regard the use of the right foot as essential."*

[B] *Said R. Yosé, "There it is written, '[The priest shall take some of the blood of the guilt-offering, and the priest shall put it on the tip of the right ear of the one that is to be cleansed, and on the thumb of his] right [hand, and on the big toe of his right foot]' (Lev. 14:14). Accordingly, use of the right finger and toe is essential. But here, in*

which no verse of Scripture refers to the right foot, the use of the right foot is not essential.”

- [IV:2 A] *R. Yosé of Sidon taught before R. Jeremiah*, “[Then his master shall bring him to God, and he shall bring him to the door or the doorpost, and his master shall bore] his ear [through with an awl]’ (Ex. 21:6).
- [B] “Just as the reference to ‘ear’ in that other passage [in regard to purifying the leper] refers to the right ear, so the reference to the ear here means the right ear.”
- [C] And it says, “[The priest shall take some of the blood of the guilt-offering, and the priest shall put it on the tip of the right ear of the one that is to be cleansed, and on the thumb of his] right [hand, and on the big toe of his right foot]” (Lev. 14:14). “[Then his brother’s wife shall go up to him] in the presence of the elders, [and pull his sandal off his foot, and spit in his face; and she shall answer and say, ‘So shall it be done to the man who does not build up his brother’s house]’” (Deut. 25:9). *Will he who maintains that the two references to ‘ear’ mean that the same, right ear is required in both instances not hold that the two references to ‘his foot’ mean that the same, right foot is required?*
- [D] “And lo, it has been taught in the name of R. Eliezer, ‘his foot his foot.’ [So he would insist that the right foot be used.]”
- [E] *There are then two Tannaitic traditions in regard to the opinion of R. Eliezer.*
- [F] *He who says we derive a lesson from the repeated use of the word ‘his ear,’ in both instances indicating that it must be the right ear, also will maintain that the two references to “his foot” mean that his right foot must be used.*
- [G] *And he who does not derive a lesson from the two references to “his ear” will not derive a lesson from the two references to “his foot.”*
- [H] *And this Mishnah [regarding R. Eliezer (12:2F)] does not derive a lesson from the two uses either of “his ear” or “his foot.”*

12:3

- [A] [If] she removed the shoe and spit but did not pronounce the prescribed words, her performance of halisah is valid.
- [B] [If] she pronounced the prescribed words and spit but did not remove the shoe, her performance of halisah is invalid.

[C] [If] she removed the shoe and pronounced the prescribed words but did not spit –

[D] R. Eliezer says, “Her performance of halisah is invalid.”

[E] R. Aqiba says, “Her performance of halisah is valid.”

[F] R. Eliezer says, “‘This will be done’ (Deut. 25:9) – anything that is an actual deed is essential [to the performance of the rite].”

[G] Said to him R. Aqiba, “Is there proof from that Scripture? ‘Thus will be done to the man’ – anything that is a deed done in regard to the man [is essential].”

[I:1 A] Samuel said, “If she removed the shoe but did not spit, let her spit.”

[B] *His view accords with the opinion of R. Eliezer, [who is held to maintain that pronouncing the prescribed words is not essential to the rite].*

[C] R. Hela in the name of R. Eliezer: “If she removed the shoe but did not pronounce the prescribed words or spit, her rite of halisah is invalid.”

[D] *This further is the view of R. Eliezer, [who maintains that pronouncing the prescribed words is essential to the rite].*

[E] As to the view of sages, R. Ba in the name of R. Judah, Zeriqan presented the teaching in the name of Rab: “[If] she removed the shoe but did not spit, spit but did not remove the shoe, she has done nothing whatsoever – until she removes the shoe and spits.”

[I:2 A] R. Ba raised the question before R. Immi: “If she spit before she removed the shoe, [what is the law]?”

[B] He said to him, “It is as if they were done in the proper order.”

[C] [He further asked,] “[If one] mixed [ashes of a red cow in purification-water contained] in the body of a sponge, [for which purpose a utensil holding the water is supposed to be used, what is the law]?”

[D] He said to him, “With water left in the waterspout he mixes the ashes [but not with water in the sponge].”

[E] [He further asked,] “What is the law as to opening up a lattice window [a peephole] into a courtyard shared by partners, at a height of more than four cubits?”

[F] *He said to him, “Do we rule in this way, that the other partner has the right to shut off the air supply from his nostril? [Surely the man has a right to open up an air vent.]”*

[G] *So did R. Nisa say, “If somebody wanted to make his house like a dovecot [with many small apertures], do they not listen to him [and permit him to do so]?”*

12:4

[A] **A deaf-mute boy with whom the rite of halisah was carried out,**

[B] **a deaf-mute girl who performed the rite of halisah,**

[C] **she who performs the rite of halisah with a minor –**

[D] **her performance of halisah is invalid.**

[E] **A minor-girl who performed the rite of halisah should perform the rite of halisah again when she grows up.**

[F] **If she did not perform the rite of halisah [later on], her performance of halisah is valid.**

[I:1 A] Said R. Yohanan, “[The reason behind M. 12:4A-B] is that those participants are unable to state the required formula, ‘He will say’ (Deut. 25:7), and ‘She will say’ (Deut. 25:9).”

[B] But does recitation of the required formula stand in the way of the valid performance of the rite?

[C] R. Samuel bar R. Isaac said, “In the case of one who is able to recite the required formula, not reciting it does not invalidate the rite. And in the case of one who is not able to recite the required formula, not reciting it does invalidate the rite.”

[I:2 A] *There we have learned: All are liable to bring an appearance-offering, except for a deaf-mute, an idiot, and a minor [M. Hag. 1:1].*

[B] *Associates in the name of R. Eleazar [cite the following verse in that regard: “When all Israel comes to appear before the Lord] that they may hear and learn to fear the Lord your God’ (Deut. 31:12). [This excludes the deaf-mute.]”*

[C] *Up to this point we have dealt with one who speaks but does not have the capacity to hear. As to one who can hear but cannot speak?*

[D] R. Hela in the name of R. Eleazar [offers the following proof, based on the same text:] “‘So that they may learn’ – so that they may teach [as well, to others, hence involving only those who can speak].”

[E] *Said R. Jonah, “That then indicates that the general rules given by Rabbi [in the Mishnah] are not encompassing.” [The following explains Jonah’s statement.]*

[F] “*For we have learned there: A deaf-mute who can speak but cannot hear may not separate produce as heave-offering* [M. Ter. 1:2]. Now in that connection we proposed the rule: If someone can speak but cannot hear, he falls into the category of a deaf-mute. If he hears but cannot speak, he likewise falls into the category of a deaf-mute.”

[G] *And we have learned: A deaf-mute boy with whom the rite of halisah was carried out, a deaf-mute girl who performed the rite of halisah, she who performs the rite of halisah with a minor – her performance of halisah is invalid* [M. 12:4A -D].

[H] And R. Yohanan said, “[The reason behind M. 12:4A-B] is that these participants are unable to state the required formula, ‘He will say’ (Deut. 25:7), and ‘She will say’ (Deut. 25:9).”

[I] *And we have learned: A deaf-mute concerning whom sages have spoken in all contexts is one who neither can hear nor can speak* [M. Ter. 1:1].

[J] *That supports the view of R. Jonah, for R. Jonah has said, “That then indicates that the general rules given by Rabbi [in the Mishnah] are not encompassing.”*

[I:3 A] *R. Ishmael b. R. Yosé asked before Rabbi, “What is the difference between a minor-boy and a minor-girl [in that the latter’s act of halisah is valid post facto]?”*

[B] He said to him, “In the relevant passage, reference is made to ‘man’ (Deut. 25:7). But here [with reference to the female participant], it is written, ‘Then his brother’s wife shall go up to him’ (Deut. 25:9). That is, without differentiation [as to her age].”

[C] *R. Mana stated the matter without assigning it to an authority, R. Isaac b. R. Hiyya introduced it in the name of R. Jonah: “[The Mishnah that says that, to begin with, a minor girl should not perform the rite] represents the view of R. Meir, who has said, ‘They do not perform the rite of halisah or enter into levirate marriage with a minor, lest she turn out to be barren.’ [But sages permit the rite to be done even at the outset, not merely validating it post facto.]”*

12:5

[A] [If] she performed the rite of halisah before two judges.

[B] or before three, one of whom turned out to be a relative or otherwise invalid,

[C] her performance of halisah is invalid.

[D] R. Simeon and R. Yohanan Hassandlar validate it.

[E] WM'SH B: A certain man performed halisah with his childless brother's widow by themselves in prison.

[F] And when the case came before R. Aqiba, he validated the rite.

[I:1 A] The case [M. 12:5F] took place [when R. Aqiba was] in prison. And the case came to prison.

[B] *R. Yohanan Hassandlar pretended to be a pedlar. One day he chanced to come by the prison in which R. Aqiba was kept, and he shouted out saying, "Who needs needles? Who needs pins? If a girl performed the rite of halisah just with the levir alone [without judges present], what is the law?"*

[C] *R. Aqiba looked out of the window and said to him, "Do you have spindles? Do you have it is valid!"*

12:6

[A] The proper way to carry out the rite of halisah [is as follows]:

[B] He and his childless brother's widow come to court.

[C] And they offer him such advice as is appropriate for him,

[D] since it says, "Then the elders of the city shall call him and speak to him" (Deut. 25:8).

[E] And she shall say, "My husband's brother refuses to raise up for his brother a name in Israel. He will not perform the duty of a husband's brother to me" (Deut. 25:7).

[F] And he says, "I do not want to take her" (Deut. 25:7).

[G] And [all of this] was said in the Holy Language.

[H] "Then his brother's wife comes to him in the presence of the elders and removes his shoe from his foot and spits in his face" (Deut. 25:9) – spit that is visible to the judges,

[I] And she answers and says, "So shall it be done to the man who does not build up his brother's house."

[J] Thus far did they pronounce [the words of Scripture].

[K] And when R. Hyrcanus pronounced [the words of Scripture] under the terebinth-tree in Kefar Etam and completed the reading of the entire pericope, they became accustomed to complete the entire pericope.

- [L] **“And his name shall be called in Israel: The house of him who has had his shoe removed” (Deut. 25:9) – it is the duty of the judges, and not the duty of the disciples [so to name him].**
- [M] **R. Judah says, “It is the duty of all bystanders to say, ‘The man whose shoe has been removed! The man whose shoe has been removed! The man whose shoe has been removed!’”**
- [I:2 A] **And they offer him such advice as is appropriate for him [M. 12:6C]:** What is the sort of advice appropriate to him?
- [B] *If he was an old man, one says to her, “What do you need that old man for?”*
- [C] *If she was an old lady, one says to him, “What do you need that old lady for?”*
- [D] *If she was young and he was old, they say to him, “She is young, and will belittle you.”*
- [E] *If he was young and she was old, they say to her, “He is young, and he will belittle you.”*
- [F] If he wants and she does not want [the marriage], they listen to her wishes.
- [G] If she wants and he does not want, they listen to his wishes.
- [H] The basic principle: To whomever stands in the way of the levirate marriage do they listen.
- [I] If both of them wanted to enter into levirate marriage [but were of widely disparate ages] – *a case came before R. Yosé. He ruled, “Put her away [with halisah, and do not enter into levirate marriage].”*
- [J] *R. Yohanan asked, “In the case of a levirate widow, who pursues whom?”*
- [K] *R. Eleazar replied, “And is it not written, [13a] ‘Then his brother’s wife shall go up to the gate’ (Deut. 25:7)?”*
- [L] When R. Yohanan heard this, he said, “Well did R. Eleazar teach us.”
- [I:2 A] Does recitation of the required formula stand in the way of the valid performance of the rite?
- [B] R. Samuel bar R. Isaac said, “In the case of one who is able to recite the required formula, not reciting it does not invalidate the rite. And in

the case of one who is not able to recite the required formula, not reciting it does invalidate the rite.”

- [C] *Said R. Mana, “Even though R. Samuel bar R. Isaac has said, ‘Recitation of the required formula does not invalidate the rite,’ he concurs that if one did come to make the required recitation, one must say the statements in the proper order.”*
- [D] But that is on condition that one not say, “My husband’s brother refuses. He will not perform the duty of a husband’s brother to me” (Deut. 25:7).”I do not want to take her” (Deut. 25:7).
- [E] Rather he says, “My husband’s brother refuses to raise up for his brother a name in Israel. He will not perform the duty of a his-band’s brother to me.” “I do not want to take her.”
- [I:3 A] *There [in Babylonia, where they prepare a writ of halisah], they state in the writ, “She appeared before us and removed his shoe from his right foot and spit before us with spittle that could be seen on the ground [M. 12:6H], and she stated, ‘So shall it be done to the man who does not build up his brother’s house.”*
- [I:4 A] Said R. Abbahu, “Once the spit has come out of her mouth, even if the wind picked it and carried it away, the rite is valid.”
- [B] If she spit blood –
- [C] R. Ba in the name of R. Judah, R. Zeriqan introduced the statement [in the name of] R. Jeremiah in the name of Abba bar Abba, R. Zeira introduced the matter in the name of Samuel: “If there is any remnant of spit [in it], it is valid.”
- [D] A woman without hands – how does she remove the shoe? With her teeth.
- [E] *The people of Simonia came before Rabbi. They said to him, “We want you to give us a man to serve as preacher, judge, reader [of Scripture], teacher [of tradition], and to do all the things we need.” He gave them Levi bar Sisi.*
- [F] They set up a great stage and seated him on it. *They came and asked him, “A woman without arms – with what does she remove the shoe?” And he did not answer.*
- [G] If she spit blood?
- [H] *And he did not answer.*

- [I] *They said, “Perhaps he is not a master of the law. Let us ask him something about lore.”*
- [J] *They came and asked him, “What is the meaning of the following verse, as it is written, ‘But I will tell you what is inscribed in the book, in truth’ (Dan. 10:21). If it is truth, why is it described as inscribed? And if it is inscribed, why is it described as truth?”*
- [K] *He did not answer them.*
- [L] *They came back to Rabbi and said to him, “Is this a mason of your mason’s guild [a pupil of your school]?”*
- [M] *He said to them, “By your lives! I gave you someone who is as good as I am.”*
- [N] *He sent and summoned him and asked him. He said to him, “If the woman spit blood, what is the law?”*
- [O] *He answered him, “If there is a drop of spit in it, it is valid.”*
- [P] *“A woman without arms – how does she remove the shoe?”*
- [Q] *He said to him, “She removes the shoe with her teeth.”*
- [R] *He said to him, “What is the meaning of the following verse, as it is written, ‘But I will tell you what is inscribed in the book, in truth’ (Dan. 10:21). If it is truth, why is it described as inscribed, and if it is inscribed, why is it described as truth?”*
- [S] *He said to him, “Before a decree is sealed, it is described as inscribed. Once it is sealed, it is described as truth.”*
- [T] *He said to him, “And why did you not answer the people when they asked you these same questions?”*
- [U] *He said to him, “They made a great stage and seated me on it, and my spirit became exalted.”*
- [V] *He recited concerning him the following verse of Scripture: “‘If you have been foolish, exalting yourself, or if you have been devising evil, put your hand on your mouth’ (Prov. 30:32).*
- [W] *“What caused you to make a fool of yourself in regard to teachings of Torah? It was because you exalted yourself through them.”*

[I:5 A] It has been taught: A rite of halisah done under false pretenses is valid.

[B] What is the definition of a rite of halisah done under false pretenses?

[C] Said R. Simeon b. Laqish, “It is any in which they say to the levir ‘Perform the rite of halisah, and she will be permitted to you later on.’”

[D] Said R. Yohanan, “Last night I was sitting and teaching as follows: ‘If he has the right attitude toward the rite, and she does not, or if she has the right attitude and he does not, it is in either case an invalid rite of halisah – unless both of them have the right attitude [and want the rite to be carried out].’”

[E] Rather, what is a rite of halisah that is done under false pretenses?

[F] In the view of R. Yohanan, it is any in which they say to him, “Perform the rite of halisah and she will give you a hundred manehs.”

[G] Said R. Mana, “If he said, ‘I do so on that stipulation,’ she must pay.”

[H] *A case came before R. Huna, and he ruled in accord with the view of R. Simeon b. Laqish. When R. Yohanan heard, he expressed a different opinion. So the other retracted and compelled him to perform the rite of halisah with her a second time.*

[I] *A case came before R. Hiyya bar Ba, and he said to him, “My son, this woman does not want to be married to you through a levirate marriage, but perform the rite of halisah with her, and so remove your connection from her, and then she will be married to you through a normal marriage.”*

[J] *After he had performed the rite of halisah for her, he said to him, “If Moses and Samuel should come, she will not be permitted to you.”*

[K] *Concerning [Hiyya, the man] recited this verse, “They are skilled in doing evil, but how to do good they know not” (Jer. 4:22).*

[I:6 A] *There is a Tannaite authority who teaches, “The rite of halisah is not praiseworthy.” There is a Tannaite authority who teaches, “The rite of halisah is praiseworthy.”*

[B] *Said R. Hisda, “He who has said, ‘The rite of halisah is not praiseworthy,’ accords with the earlier version of the Mishnah. [The reference is to **M. Bekh. 1:7F-I: The requirement of levirate marriage takes precedence over the ceremony of halisah. At first, when they would consummate the levirate marriage for the sake of***

fulfilling a commandment, [that was the case]. But now, that they do not consummate the levirate marriage for the sake of fulfilling a commandment, they have ruled: The requirement of halisah takes precedence over the requirement of levirate marriage.] *The one who said that the rite of halisah is praiseworthy accords with the later version of the Mishnah [just now cited].*

[C] *Said R. Yosé, “You may even say that both statements accord with the former version of the Mishnah, or both versions accord with the later version of the Mishnah. He who said that the rite of halisah is not praiseworthy holds that position because, by carrying out that rite, the levir blemishes a teaching of the Torah. So let him come and accept his own blemish: ‘And his name will be called in Israel, “The house of him who has had his shoe removed”” (Deut. 25:9). And he who has said that the rite of halisah is praiseworthy: Here ‘calling’ is referred to, and there ‘calling’ is referred to: ‘And in them let my name be called, and the name of my fathers Abraham and Isaac’ (Gen. 48:16). Just as ‘calling’ referred to here is praiseworthy, so ‘calling’ [referred to at Deut. 25:9 with regard to the rite of halisah is meant to be] praiseworthy.”*

YERUSHALMI YEBAMOT

CHAPTER THIRTEEN

13:1

[A] [13b] The House of Shammai say, “Only girls who are [merely] betrothed exercise the right of refusal.”

[B] And the House of Hillel say, “Those who are betrothed and those who are married.”

[C] The House of Shammai say, “[The right of refusal is exercised] against the husband, but not against the levir.”

[D] And the House of Hillel say, “Against the husband and against the levir.”

[E] The House of Shammai say, “[It must be exercised] in his presence.”

[F] And the House of Hillel say, “In his presence and not in his presence.”

[G] The House of Shammai say, “[It must be exercised] in a court.”

[H] And the House of Hillel say, “In a court and not in a court.”

[I] Said the House of Hillel to the House of Shammai, “She may exercise the right of refusal while she is a minor, even four or five times.”

[J] Replied to them the House of Shammai, “Israelite girls are not ownerless property.

[K] “But: She exercises the right of refusal and waits until she reaches maturity, or she exercises the right of refusal and remarries [forthwith].”

[I:1 A] *There we have learned: R. Judah b. Baba gave testimony concerning five matters: that they instruct women married while minors to exercise the right of refusal [M. Ed. 6:1A-B].*

[B] Now concerning a matter on which testimony has been given [in tractate Eduyyot] do the Houses dispute [at M. 13:1A-B]?

[C] They differ as to the essential meaning of the testimony cited above.

[I:2 A] This was the essential meaning of the testimony [of Judah b. Baba]:

[B] **The House of Shammai say, “Only the girls who are merely betrothed exercise the right of refusal.”**

[C] **And the House of Hillel say, “Those who are betrothed and those who are married [may exercise the right of refusal]” [M. 13:IA -B].**

[D] *Now there is the following difficulty with the position of the House of Hillel: The consummated marriage has permitted this girl [to the husband]. He has a right to keep things she finds and to the usufruct of her labor, as well as to abrogate her vows, so that she is in the status of his wife for all purposes. And yet you say this?*

[E] [The position of the House of Hillel is that, in permitting the marriage, sages have stepped outside the law, and so, in revoking it, they merely revoked] what they have given you to begin with. By strict law the consummation of the marriage is null, but the sages have said that the consummation of the marriage is valid, and they are the ones who also have said that she has the right to exercise the right of refusal against him and to leave that marriage.

[F] *What is the reason for the position of the House of Shammai?*

[G] If you take the contrary position, you turn out to treat all of the acts of sexual relations that have taken place while the couple was wed as fornication.

[H] *Said R. Abin, “The position of the House of Shammai accords with the view of R. Eleazar, for it has been taught: R. Eleazar said, ‘Even if a man who is unmarried had sexual relations with a woman who is unmarried, if it was not for the purposes of consummating a marriage, lo, this constitutes fornication.’”*

[I] *That is to say that if the girl transgressed and exercised the right of refusal at the stage of a fully consummated marriage, in the view of the House of Shammai, the act of refusing the marriage is null [and she remains wed].*

[J] If she enters the marriage canopy but did not have sexual relations, *how do you treat her?* Is this deemed to be at the stage of betrothal or at the stage of a fully consummated marriage?

[K] A betrothed girl in Judah, for whom the husband is shameless [and who commonly has sexual relations before the stage of marriage has been reached] – *how do you treat her?* Is she deemed in the stage of betrothal or in the

stage of marriage? [These questions to the position of the House of Shammai are not answered.]

[L] [We now address a question to the House of Hillel's view:] If she appeared not to refuse the marriage, [that is, if her father married her off and she was divorced, and then she married herself off, can she then exercise the right of refusal in such a marriage]? May she then go and exercise the right of refusal?

[M] *Let us derive the answer from the following:* If a girl was married off by her father and then divorced, and went and married herself off, even so she has the right to go and exercise the right of refusal.

[II:1 A] [In regard to the distinction of M. 13:1C:] *What is the reason for the view of the House of Shammai?*

[B] In the case of her husband, to whom she is married in accord with her wishes, she may exercise the right of refusal.

[C] In the case of her levirate husband, to whom she is married [not in accord with her wishes but] against her will, she may not exercise the right of refusal.

[D] *What is the reason for the view of the House of Hillel?*

[E] If she has the right of refusal against the principal [husband], is it not an argument a fortiori that she has the right of refusal of the levir [who takes the place of the original husband]?

[III:1 A] [Applying the Hillelite view (M. 13:1D),] R. Yohanan said, “[In the case of a minor-girl married off by her mother or brothers to the deceased,] such a girl may carry out her right of refusal [even] against the levir, [her assigned husband who died childless], in such wise as to uproot [from her own person] all affect of the deceased, with the effect of permitting her co-wife to marry her father as if she herself had never been married at all], and a daughter-in-law to marry her father-in-law. [Thus the right of refusal extends even to the levir, after the death of the husband, so that it is as if the original marriage had never taken place.]”

[B] *Both Rab and R. Simeon b. Laqish say,* “She does not carry out her right of refusal against the levir in such wise as to uproot all affect [upon her own person] of the deceased, with the effect of permitting her co-wife to marry her father, and a daughter-in law to marry her father-in-law.”

- [C] Do Rab and R. Simeon b. Laqish then concur with the position of the House of Shammai, who maintain that the right of refusal is exercised [only] against the husband [but not against the levir] [M. 13:1C]?
- [D] [No, all parties concur with the position of the House of Hillel.] *How shall we interpret the present dispute?* If it is a case in which the girl says, “I want no part of marriage with you or marriage with your brother, all parties concur that she has the effect of uprooting the marriage as if it had never been [with the consequence outlined at A].
- [E] *But we deal with a case in which she says, “I want no part of marriage”* [without further explication of her wishes].
- [F] *R. Yohanan said, “It is interpreted to mean that she says, ‘I want no part of marriage either with you or with your brother.’”*
- [G] *Both Rab and R. Simeon b. Laqish say, “It is as if she says, ‘I want no part of marriage with you, but I want to be married to your brother.’”*
- [H] *The following passage of the Mishnah stands at variance with what R. Yohanan has said: **And in the case of all of them, if they died [before the husband died], exercised the right of refusal, were divorced [by the childless husband before he died], [13c] or turned out to be barren, their co-wives are permitted [to enter into levirate marriage since they are no longer deemed co-wives] [M. 1:2B-C].***
- [I] **If they were divorced** – and *is it* not by him [the husband, not the levir? Likewise the context means we deal with the girl’s exercising the right of refusal against the husband, while he is yet alive, and not against the levir, after the husband has died].
- [J] So along these same lines: **If they exercised the right of refusal** against him [the husband, not the levir].
- [K] *Along these same lines R. Hezekiah taught the law as well: **If they exercised the right of refusal or were divorced in the life time of the husband, [and if the husband died childless], their co-wives are permitted [to marry formerly consanguineous relations]. But if this took place after the death of the husband, the co-wives perform the rite of halisah and do not enter into levirate marriage.** [Cf. T. Yeb. 1:1, which phrases the matter slightly differently.]*
- [L] Said R. Yudan, father of R. Mattanaiah, “Interpret the Mishnah to speak of a case in which they died and did not exercise the right of refusal. *For the Mishnah has maintained that* whoever has the

power to exercise the right of refusal and has not done so – her co-wife performs the rite of *halisah* with the levir and does not enter into levirate marriage with him.”

[M] *So the meaning of the Mishnah here*, [which then does not contradict Yohanan’s view at all, for it speaks of precisely such a case, includes] any woman who has the power to exercise the right of refusal and does not enter into levirate marriage with him.

[N] Said R. Abodimi, “You may even say that the Mishnah speaks of a case in which the girl is yet alive. But what you have is a case in which the only available levir is the girl’s father. [The co-wife then cannot enter into levirate marriage, since at the moment that she came before-the levir, she was the co-wife of the daughter of the levir.]”

[III:2 A] [As to the barren woman (M. 1:2D)] R. Jonah said, “But that is on condition that it is at the stage of betrothal [not fully consummated marriage]. [That is, if the woman is deemed barren while she was yet betrothed to the man. If then the husband died prior to the consummation of the marriage, we treat the marriage as if it has not taken place for the purposes of the present law. The co-wife may marry a formerly consanguineous relation. But if the marriage was consummated, we maintain that the husband knew what he was getting into and accepted it.]”

[B] R. Yosé said, “Even at the stage of a fully consummated marriage [the stated law applies].”

[C] In a further revision of his teaching, R. Yosé retracted [and accepted the view of Jonah].

[D] *Said to him R. Phineas*, “*Did not Rabbi [you] teach us*, ‘It is also valid at the stage of a fully consummated marriage?’”

[E] *He said to him*, “*And is that version so fixed with you that it is as firm as a nail? [Can’t I change my mind?]*”

[F] Said R. Zeirah before R. Mana, “Did R. Yosé state the law correctly prior to his retraction? Now if the co-wife of his daughter, at the stage of a fully consummated marriage, without her being deemed a barren woman, is forbidden, merely because to the status of the daughter is added the further consideration of her being a barren

woman, should the co-wife then be permitted” [Not very likely.]”

[G] He said to him, “The barren woman is deemed as if she were not present at all. For if you have the case of two co-wives [whose husband has died childless], one of them barren and one not barren, and the levir went and performed the rite of *halisah* with [the barren one] or had sexual relations with her and so consummated the levirate marriage – has her co-wife been released from the obligation of the levirate connection at all? [No, she has not, because the action of the barren woman is null.] Thus we must conclude that the barren woman is treated as if she is not present at all.”

[III:3 A] His daughter [at M. 1:1]: Now will the man’s daughter have the right to refuse [her husband, when she reaches maturity, as is assumed in the continuation of M. 1:1 at M. 1:2? Does that consideration apply at all, if the father has married off the daughter]?

[B] And is she not married off by the law of the Torah: “I have given my daughter to this man” (Deut. 22:16).

[C] R. Huna in the name of R. Simeon b. Laqish: “Interpret the Mishnah to speak of a case of a minor whose father married her off, and who was divorced. She is in the status of an orphan while her father is yet alive [in that he may not validly marry her off a second time].”

[III:4 A] [As to M. 1:2D: You cannot rule in the case of his mother-in-law:] R. Aha bar Hinena in the name of R. Simeon b. Laqish: “That is to say that a minor-girl is assumed not to be able to give birth. For if that is not the case, let her wait until she reaches maturity and then exercise the right of refusal against her husband and so permit her co-wife to marry her father-in-law. [That is, she should exercise the right of refusal as a minor, then at maturity confirm the action. In other words, if the minor were to be assumed to be able to give birth, and so to be subject to the levirate relationship in a way in which the barren woman is not, let the minor exercise the right of refusal against the deceased husband and so

uproot the marriage as though it had never been. Then the co-wife may marry the son-in-law of the deceased, since the co-wife has never had a consanguineous relationship to him, the original marriage having been nullified. If, by contrast, the girl were able to produce children, this procedure would not be possible.]”

[B] R. Ishmael’s daughter-in-law exercised the right of refusal with her offspring on her shoulder, [which proves that Ishmael differs from the supposition proposed above. So far as he is concerned, the right of refusal remains valid, even if the girl has produced a child].

[III:5 A] R. Hamnuna in the name of Assi: “[At M. 13:1D, we have a case of a girl] who exercises the right of refusal in a case in which there are two levirs. [She may remarry anyone of her choice at that point. Her refusal is effective against both equally.] In this case one of the two has bespoken her. She may then exercise the right of refusal against his act of bespeaking and marry anyone of her choice.”

[B] Then let her exercise the right of refusal of his bespeaking and marry his brother?

[C] Interpret the passage to speak of a case in which she has said, “I do not want you.” [That statement is not rejection only of the bespeaking, but it removes from her all connection to the two levirs.]

[D] R. Hela in the name of R. Simeon b. Yosina in the name of R. Hoshaiyah: “[At M. 13:1D] we speak of a case of a girl who exercises the right of refusal in a case in which there are two levirs. In this case one of the two has bespoken her. She may then exercise the right of refusal of his bespeaking and marry his brother.”

[E] Then let her exercise the right of refusal of his bespeaking and marry anyone of her choice?

[F] Interpret the passage to speak of a case in which her father has married her off [to the deceased], so the marriage is valid by the law of the Torah. [Therefore she cannot fully uproot the affect of her marriage to the deceased merely by the right of refusal.]

[IV:1 A] [As to M. 13:1E-F, whether or not the husband must be present when the right of refusal is exercised:] Said the House of Hillel to the House of Shammai, “There was the case of the wife of Pishon, the camel

driver, in behalf of whose wife sages exercised the right of refusal not in his presence.”

[B] Said the House of Shammai to them, “Is there any proof from that case? It was because he was ‘measuring with his finger on the scale’ [wasting her melog-property]. Therefore the sages ‘measured him with their finger on the scale’ [worked outside of the law to penalize him].”

[C] *Now this poses a problem:* if someone does things improperly, do they on that account release a woman who is wed to him [allowing her to go and marry someone else]?

[D] *Said R. Hisda, “That is to say that* if someone transgressed and performed the right of refusal even at the level of a fully consummated marriage, in the view of the House of Shammai [who do not approve the exercise of the right of refusal at that stage of the marriage], the exercise of the right of refusal is valid.”

[IV:2 A] R. Ba in the name of R. Hiyya bar Ashi, “There was the case of a girl who went down to the river to do laundry. They said to her, ‘Lo, there is your betrothed husband going by.’ She said, ‘Let mother go and marry him.’ The case came before sages. They ruled, ‘There is no exercise of the right of refusal greater than that.’”

[B] Said R. Haninah, “There was the case of a girl who went to buy flax from the flax dealer. They said to her, ‘Lo, there is your betrothed going by.’ She said, ‘Let mother go and marry him.’ The case came before sages, who ruled, ‘There is no exercise of the right of refusal greater than that.’”

[C] *It has been taught in the name of R. Judah, “Even if she went to buy something and said to him [the storekeeper], ‘I do not care for this man, So-and-so, my husband,’ there is no statement of refusal more powerful than that statement” [T. Yeb. 13:1J].*

[IV:3 A] [With reference to M. 13:IG-H, exercise of the right of refusal in a court:] Does a court go into session for the exercise of the right of refusal? *Has it not been taught:* Avoid three and seek three: Seek cases involving *halisah*, abrogation of vows, and peacemaking. Avoid exercising the right of refusal, avoid being a pledge, and avoid serving as a bailee for a bailment.

[B] Said R. Simeon bar Ba, “For it is called not bailment (*piqadon*) but ‘avoid it’ (*poq don*).”

[C] Said R. Berekhiah, “My son, if you have become surety for your neighbor ... you have been trapped by the words of your mouth” (Prov. 6:1f.).

[D] Does a court go into session for the exercise of the right of refusal?

[E] Interpret the statement to apply to a situation in which the court was involved with other matters [and then turned to this matter as well], when a case came before them [involving the right of refusal].

[V:1 A] [As to M. 13:1K:] Does the statement of the Mishnah mean that [since] **she exercises the right of refusal and remarries forthwith**, she should not become betrothed?

[B] That is to say, if she transgressed and indeed exercised the right of refusal at the stage of a fully consummated marriage, in the view of the House of Shammai, her exercise of the right of refusal is valid.

[C] R. Aha in the name of R. Tanhum bar Hiyya, “Word of her marriage gets around, but word of her betrothal does not get around, [which is why it is better for her to remarry forthwith].

[D] “A woman can conceal her status and say, ‘I have not been betrothed,’ but she cannot conceal her status and say, ‘I have not been married.’”

13:2

[A] **Who is the sort of girl who must exercise the right of refusal?**

[B] **Any girl whose mother or brothers have married her off with her knowledge and consent.**

[C] **[If] they married her off without her knowledge and consent,**

[D] **she does not have to exercise the right of refusal [but simply leaves the man].**

[E] **R. Hanina b. Antigonos says, “Any child who cannot keep watch over her betrothal-gift does not have to exercise the right of refusal.”**

[F] **R. Eliezer says, “The deed of a minor is null. But she is deemed like one who has been seduced.**

[G] **“[If it is] an Israelite girl with a priest, she does not eat heave-offering.**

[H] **“[If it is] a priest-girl with an Israelite, she [continues to] eat heave-offering.”**

[I:1 A] What is the definition of their marrying **her off with her knowledge and consent [M. 13:2B]**?

[B] If [the family] prepared a marriage canopy for her and dressed her in fine garments and named the man [who was to be her husband, that is a case in which she knew what was going on. But if they failed to do so, then it is a marriage not with her full knowledge and consent].

[II:1 A] [Is there] a disagreement with the view of R. Hanina b. Antigonus [at M. 13:2E]?

[B] *On the basis of that which R. Yohanan [has said, it would appear that there is a disagreement with Hanina's definition].* What is the definition of a minor who receives a writ of divorce [and does not go forth merely by exercising her established right of refusal, once she comes of age]?

[C] Said R. Yohanan, "It is any girl who, if you give her a writ of divorce and something else, can produce it [the writ of divorce] later on. [She has sufficient maturity to *keep* charge of her own possessions and so is given a writ of divorce.]" [The implication is that a girl who cannot do so nonetheless has to exercise the right of refusal, and Hanina's view is that a girl who cannot keep watch over her possessions does not have to do so.] *That implies that there is a disagreement with the view of R. Hananiah b. Antigonus.*

[III:1 A] **R. Eliezer says, "The deed of a minor is null [M. 13:2F].**

[B] "The husband [in the case of the marriage of a minor] has no right to keep the things she finds, nor to the usufruct of her labor, nor does he abrogate her vows. It is as if she is not his wife for any purpose, whatsoever, except that she has to exercise the right of refusal."

[C] R. Joshua says, "He does have the right to keep what she finds and to the usufruct of her labor, and he does abrogate her vows. It is as if she is his wife for all purposes, except that she may go forth from him through exercising the right of refusal."

[D] Said R. Ishmael, "I have reviewed all of the teachings of sages, and I have found no man whose teachings are entirely consistent with respect to a minor, except for the teachings of R. Eliezer. But [in this instance, he is not consistent], for he has said that she has to exercise the right of refusal [to leave him]."

[E] Said R. Abbahu, "There is a story that the mother of R. Eliezer was nagging him to marry the daughter of his sister, and he would say to the girl, 'My daughter, go get married, my daughter, go get

married,’ until she replied to him, ‘Lo, I am your slave-girl, to wash the feet of the slaves of my Lord. ‘ Even though he married her, he did not have sexual relations with her until she had produced two pubic hairs, [since he did not recognize the validity of the marriage of a minor-girl].”

[F] *In the view of R. Eliezer*, what is the law as to her exercising the right of refusal and collecting a monetary penalty from him [for his having seduced her]?

[G] *In the view of R. Joshua*, what is the law as to her exercising the right of refusal and collecting a monetary penalty from a third party? [If she remained a virgin, and if someone should seduce or rape her after she has exercised the right of refusal, does she have the right to collect from him the penalty assigned by Scripture in such a case?]

[III:2 A] What is the law as to her exercising the right of refusal against him and having the act uproot the effects of a writ of divorce [that he has given her, so that she now is deemed not to have been divorced by him, and so, even if she should in the interval have married a third party, she may remarry him, never having received a divorce from him]?

[B] And as to a girl of profaned priestly stock or a girl in the status of mamzer? [If a priest married a girl of impaired priestly stock, which he should not do, or if an Israelite married a mamzer-girl, which he should not do, and then she exercises the right of refusal, does that serve to uproot the marriage, as if it had never happened, and so to spare him the flogging coming to him for this improper marriage?]

[C] *R. Isaac raised the question*, “What is the law as to her exercising the right of refusal against him and returning to the food provided by her father’s estate? [Does her father’s estate have to provide for her after this form of marriage?]

[D] *It is obvious that* [if her husband died], she does not go and gain support from her husband’s estate, for thus does he write to her in her marriage contract, “*And you will dwell in my house and be supported by my estate*,” [and in this case, having exercised the right of refusal, she has left his domain entirely], so she is not in his household at all.

[E] *No, the question is different*: What is the law as to her exercising the right of refusal against him and returning to be supported by her father’s estate? [These questions are not answered.]

[III:3 A] [Translated by Alan J. Peck:] *There it has been taught: A minor who has not produced two [pubic] hairs –*

[B] R. Judah says, “That which he separates is [valid] heave offering.” [R. Yosé says, “If [he separated heave-offering] before he reached the age of vows [= majority], that which he has separated is not [valid] heave-offering. But [if he separated heave-offering] after he reached the age of vows, that which he has separated is [valid] heave-offering” (M. Ter. 1:3)].

[C] *It has been taught in the name of R. Meir, “Under no circumstance is heave-offering separated by [a minor deemed valid] heave-offering, unless [this person, who chronologically is a minor], has produced two pubic hairs, [the sign of majority].”*

[D] R. Abin Kahana in the name of R. Hela [suggested the reason for Meir’s view, that heave-offering separated by a minor who has not produced two pubic hairs is not valid], “[Num. 18:32 states concerning agricultural offerings,] ‘Bear no sin by reason of it.’ [This means that] a *person* who [is subject to the laws of the Torah, such that he] bears *sin*, may separate heave-offering. [A minor who has not produced two pubic hairs and] who [therefore is not subject to the laws of the Torah] does not bear sin [and, concomitantly], may not separate heave-offering.”

[E] [To indicate why D’s reasoning is unacceptable] they replied, “Lo, a Gentile [is not subject to the law and so] does not bear sin, yet he may separate heave-offering” [(see M. Ter. 3:9). It thus is clear that whether or not a person is subject to the laws of the Torah is not a factor in determining if heave-offering he separates is valid, contrary to the claim of D].”

[F] R. Yosé in the name of R. Hela [suggested a different reason for Meir’s view, that one who has not produced two pubic hairs may not separate heave-offering], “[The reason is that Num. 18:27 states], ‘And your offering shall be reckoned (*nhsb*) to you.’ [and immediately before (Num. 18:26) it states]: ‘You shall separate.’ [This means that] a person concerning whom the power of intention (*mhsbh*) is mentioned [i.e., who has such power] may separate heave-offering. [A person such as a minor who has not produced two pubic hairs] concerning whom the power of intention is not mentioned may not separate heave-offering.”

[G] [*Indicating why this reasoning is unacceptable*] they replied, “Lo, concerning a Gentile the power of intention is not mentioned, yet [a Gentile] may separate heave-offering [(M. Ter. 3:9). It thus is clear that

lack of power of intention is not the reason that a minor who has not produced two pubic hairs may not separate heave-offering].

- [H] “[The following statement proves that Gentiles do not have the power of intention:] *For so taught* [13d] R. Hoshaya, ‘Gentiles do not have the power of intention, [neither] there [in the case of M. Makh.] to impart [to foodstuffs] susceptibility to uncleanness [by intentionally wetting them down], [nor] here, to separate heave-offering.’”
- [I] R. Aha [and] R. Hinena in the name of R. Kahana [say], “In the opinion of one [such as Yosé (M. Terumot 1:3C),] who states that [a minor] may not separate heave-offering, [a minor also] may not dedicate [produce to the Temple].”
- [J] But why not say [the converse,] that in the opinion of one who holds that [a minor] may separate heave-offering, [a minor also may dedicate [produce to the Temple]?]
- [K] This is because R. Judah [could not agree to that claim], for [contrary to what is proposed at B,] R. Judah says, “[A minor] may separate heave-offering [see M. 1:3B], but may not dedicate [produce to the Temple].” [No reason for Judah’s view is given.]
- [L] Now [in disagreement that one who holds that a minor may not separate heave-offering also holds that he may not dedicate produce to the Temple,] R. Yohanan said, “Even [in the opinion] of one who holds that [a minor] may not separate heave offering, [a minor] may dedicate [produce to the Temple].”
- [M] And what may [a minor] dedicate [to the Temple]? A burnt offering or peace-offering [both of which may be brought voluntarily, by anyone].
- [N] [A minor] may not bring a sin-offering of the fat parts, for he is not subject to the sin-offering of the fat parts, [which is brought only by one who has sinned. A minor is not culpable under the law, and therefore has no sin].
- [O] [A minor] may not bring a sin-offering of blood, for he is not subject to the sin-offering of blood [just as at F].
- [P] What is the law [regarding whether or not a minor who has suffered a flux or sign of leprosy] may bring the offering [required for the purification] of one who has suffered a flux (*ybh*) or sign of leprosy?
- [Q] [Is it the case that] since [either of these] is an obligatory offering [to which minors normally are not liable] that he may not bring it?

[R] Or [is it the case that] since [a minor] may become unclean through [a flux (M. Zab. 2:1) or sign of leprosy (M. Neg. 3:1)] that he may bring [these offerings]?

[S] It is obvious that he may bring [these offerings, since, as J states, he is subject to them].

[T] What is the rule [regarding whether or not a minor] may be designated the agent [of another for the bringing of these offerings]?

[U] [Is it the case that] since [the minor himself] may become unclean through [a flux or leprosy, such that he is subject to the offerings,] that he [also] may be designated an agent [to bring] these [offerings for others]?

[V] Or [is it the case that] since in general [a minor] may not be designated an agent, that he may not be designated an agent [to bring] these [offerings on the behalf of another]?

[W] [In answer to the question] replied R. Yudan, “Lo, in accordance with the Torah, produce [owned by a minor] is subject to the separation of tithes. [Yet even so] in accordance with the Torah [~ minor may not separate heave-offering and tithes and thereby] exempt the produce [from these offerings].

[X] “[Analogously] here [in the case of his bringing offerings for others], even though he is made unclean through [a flux or sign of leprosy, and may bring his own offerings], he may not be designated an agent [to bring these offerings for others].” [Yudan’s point is that the simple fact that a minor is subject to some obligation does not signify that he may carry out all responsibilities related to that obligation.]

[Y] What is the rule [regarding whether or not] a minor may bring first fruits [to the priests in the Temple]?

[Z] [If the rule is] in accordance with [the opinion of] R. Judah, who says, “They deemed [first fruits] to be equivalent to Holy Things of the provinces, [which are consumed outside of-the Temple in Jerusalem, and which a minor may not bring (see M. Bik. 3:12 and M. Hal. 4:9)],” [then, a minor] may not bring [first fruits] .

[AA] [But if the rule is] in accordance with [the opinion of rabbis] [M. Bik. 3:12 and M. Hal. 4:9], who say, “They deemed [first fruits] equivalent to Holy Things of the sanctuary,” [which, as we saw, a minor may bring, then, a minor] may bring [first fruits]. [No choice is made between the two possibilities. We turn to a new question.]

- [BB] What is the rule [regarding whether or not a minor] may bring the festal-offering [brought by visitors to the Temple on the occasion of a pilgrimage festival]?
- [CC] [Is it the case that] since this is an obligatory offering [for which minors are not liable] that he may not bring it?
- [DD] Or [is it the case that] since he may change its [i.e., the offering's] designation to that of a peace-offering [(M. Hag. 1:4), which a minor may bring, as above], that he may bring [the offering]? [Again, no answer is given. We turn to a new question.]
- [EE] What is the rule [regarding whether or not a minor] may bring a paschal lamb [to be sacrificed in the Temple on Passover]?
- [FF] [Is it the case that] since this is an obligatory offering, [a minor] may not bring it?
- [GG] Or [is it the case that] since, as R. Simeon b. Laqish in the name of R. Yudan the Patriarch said, "A person may bring a paschal lamb on every day of the year other than [Passover] and change its designation to that of a peace-offering," [which a minor may bring, that in this same way, a minor] may bring [a paschal lamb on Passover]? [No answer is given. We turn to a new question.]
- [HH] What is the rule [regarding whether or not a minor] may set aside the tithes of cattle (Lev. 27:32)?
- [II] Now, if one explains it as does R. Meir, for R. Meir says, "[Num. 18:29, which reads], 'From all your tithes,' [means that] they have deemed all tithes to be equivalent one to another," just as [a minor] may not set aside the tithes of grain [i.e., heave-offering and agricultural tithes], so he may not set aside the tithes of cattle.
- [JJ] What is the rule [regarding whether or not a minor validly] designates a substitute [by declaring that one animal set aside as an offering is to be replaced by a different animal (Lev. 27:10)]? [If the declaration is valid, both the original offering and the replacement are deemed sanctified.]
- [KK] If one reasons [as does] R. Meir, who says, "They deemed all tithes to be equivalent one to another," just as [a minor] may not set aside the tithes of grain, so he may set aside the tithes of cattle, so he may not designate a substitute [for the tithes of cattle. The point is that neither rule applies to the minor].

[LL] Or [to take logic one step further,] one may reason as does R. Simeon, for R. Simeon said, “[The rule that a minor may not designate a substitute for the tithing of cattle teaches the rule for whether or not a minor may designate] a substitute for any other Holy Thing.

[MM] “Thus just as [a minor] may not set aside tithing of grain, and just as he may not set aside tithing of cattle, so he may not designate a substitute [for the tithing of cattle]. And just as he may not designate a substitute for it [i.e., the tithing of cattle], so he may not designate a substitute for any other Holy Thing.”

[NN] What is the rule [regarding whether or not priests who sacrifice] a Holy Thing [dedicated by a minor] are culpable [for doing so] outside [of the boundaries of the Temple]?

[OO] Kahana says, “They are not culpable for [sacrificing] his Holy Things outside [of the boundaries of the Temple].”

[PP] R. Yohanan and R. Simeon b. Laqish say, “They are culpable for [sacrificing] his Holy Things outside [of the boundaries of the Temple].”

[QQ] Now this [opinion] of Kahana, is contrary to the view of R. Judah [M. Ter. 1:3B], for R. Judah [states that in accordance with the laws of~ the Torah, [a minor] may [separate heave-offering and agricultural tithes and thereby] exempt his produce from [further obligation to] the separation of tithes. [In light of Judah’s claim, that the minor’s designation of heave-offering is valid], how can you [Kahana], say this [that offerings he brings to the Temple are not really valid, such that priests are not culpable for sacrificing them improperly]!

[III:4 A] *It is in accord with the one who said*, “On their own they took upon themselves tithes [and therefore, they are only a rabbinic obligation in Second Temple times].” Now the view of R. Yohanan, [who maintains that an act of consecration of a minor is valid, and who regards a vow of a minor as in effect on the authority of the law of the Torah,] presents a problem to the view of R. Joshua [expressed above, that the husband has the right to keep what his minor-wife finds and to abrogate

her vows]. After all, the marriage of the minor is merely on the authority of rabbis, while the right to abrogate her vows derives from the authority of the Torah. And yet you say this, [that the husband, married on the authority of the rabbis, has the power to abrogate vows that have standing under the higher authority of the Torah]?

[B] Said R. Zeira, “On the basis of what R. Yohanan has said, we must remove from the statement of R. Joshua the reference to abrogating her vows.”

[C] R. Nisa asked, “And should the rule be the same with regard to prohibitions [that a person applies to himself?]”

[D] R. Yohanan has said, “People are not flogged on account of prohibitions [taken upon themselves by a verbal declaration.” Along these same lines, vows are not a major consideration – by the law of the Torah – at all. He need not differ from Joshua at all].

[E] *Rather, it is in line with that which we have learned there: Before this time, [eleven for a girl, twelve for a boy], even though they have said, “We know before Whom we have vowed, for Whose sanctity we have sanctified” – their vows are not vows, and that which they have sanctified is deemed not sanctified. After this time, even though they said, “We do not know before Whom we have vowed, for Whose sanctity we have sanctified” – their vow is a vow, and that which they have sanctified is deemed sanctified [M. Nid. 5:6G-H].*

[F] Now as to *the* Mishnah-passage just cited, in accord with whose principle is it formulated? Is it in accord with *the* theory of Kahana or is it in accord with the view of R. Yohanan and R. Simeon b. Laqish? It stands for the views of all authorities.

13:3

[A] R. Eliezer b. Jacob says, “Any hindrance [in the marriage] that derives from the man – it is as if she is his wife.

[B] “And any hindrance [in the marriage] that does not derive from the man – it is as if she is not his wife.”

[I:1 A] It has been taught: **R. Eliezer b. Jacob** says, “**Any hindrance in the marriage that derives from the man – it is as if she is his wife,** [and she goes forth] with a writ of divorce.

[B] “And any hindrance in the marriage that does not derive from the man – it is as if she is not his wife, [and she goes forth] through exercising the right of refusal.”

13:4

[A] She who exercises the right of refusal against a man –

[B] he is permitted to marry her kinswomen, and she is permitted to marry his kinsmen.

[C] And he has not invalidated her for marriage into the priesthood.

[D] [If] he gave her a writ of divorce,

[E] he is prohibited from marrying her kinswomen, and she is prohibited from marrying his kinsmen.

[F] And he has invalidated her for marriage into the priesthood.

[G] [If] he (1) gave her a writ of divorce and (2) then took her back,

[H] then she (3) exercised the right of refusal against him and (4) married someone else, and (5) was widowed or divorced –

[I] she is permitted to go back to him.

[J] [If] she (3) exercised the right of refusal and (2) he took her back,

[K] [if] he [then] gave (1) her a writ of divorce and she (4) married someone else and (5) was widowed or divorced,

[L] she is prohibited from going back to him.

[M] This is the general rule: In a case of a writ of divorce following the exercise of the right of refusal, she is prohibited from returning to him.

[N] In a case of exercise of the right of refusal after a writ of divorce, she is permitted to go back to him.

[I:1 A] R. Yohanan in the name of R. Yannai: “[Since the exercise of the right of refusal is in no way parallel to a divorce,] there is no aspect in which the girl is rendered sullied for marriage into the priesthood, and a court will not declare her sullied [for marriage into the priesthood].”

13:5

- [A] She who exercises the right of refusal against a man (I) and was remarried to another, who divorced her (2),
- [B] [and who went and was assigned to yet] a third man, and she exercised the right of refusal against him,
- [C] [and who went and was assigned to yet] a fourth, who divorced her,
- [D] [and who went and was assigned to yet] a fifth, and she exercised the right of refusal against him –
- [E] any of the men from whom she went forth with a writ of divorce [A.2, C] – she is prohibited from going back to him.
- [F] [And any of the men from whom she went forth] by exercising the right of refusal [A. 1, B, D] – she is permitted to go back to him.
- [I:1 A] R. Yohanan in the name of R. Yannai: “There is no aspect in which the girl is rendered sullied for marriage into the priest hood, and a court will not declare her sullied [for marriage into the priesthood].”
- [B] Said R. Yosé b. R. Bun, “And that is the case if the writ of divorce comes at the end [cf. Pené Moshe].”

13:6

- [A] He who divorces his wife and took her back – [if he dies child less] she is permitted to a levir.
- [B] And R. Eliezer prohibits [her from entering levirate marriage with her deceased childless husband’s brother],
- [C] And so: He who divorces an orphan and took her back – she is permitted to the levir.
- [D] And R. Eliezer prohibits.
- [E] A minor whose father married her off and who was divorced is deemed an orphan while her father is yet alive.
- [F] [If] he took her back, the opinion of all parties is that she is prohibited to the levir.
- [I:1 A] *What is the reason for the position of R. Eliezer [M. 13:6A-B]?*
- [B] It is because the wife was prohibited to him for a single moment [and consequently remains so. When she was divorced, she could not marry the levir, since she was in the status of a woman whom the levir’s brother had divorced. The prohibition is indelible].

[I:2 A] [In the Tosefta's version:] **Sages concede to R. Eliezer in the case of a minor whose father married her off, and whose husband divorced her, then took her back, and died [M. 13:6E-F], that she performs the rite of halisah and does not enter into levirate marriage,**

[B] for she has been prohibited to him for a single moment.

[C] [The reason is] that the act of divorce is completely valid, but the act of remarriage is not completely valid [M. 13:6E-F] [T. Yeb. 13:5E-G].

[I:3 A] As to her co-wife, what is the law? [That is, may the co-wife of an orphan in her father's lifetime, such as is described above, be permitted to enter into levirate marriage, on the grounds that the orphan in her father's lifetime was not fully wed to the deceased?]

[E] Rab said, "Her co-wife is forbidden."

[F] R. Yohanan said, "Her co-wife is forbidden."

[G] R. Simeon b. Laqish said, "Her co-wife is permitted."

[H] *Said R. Eleazar, "I searched among the rabbis here [in the land of Israel] as well as the rabbis there [in Babylonia], and found no one who concurred with me except for R. Simeon b. Laqish, who has said, 'Her co-wife is permitted.'"*

[I:4 A] *R. Hamnuna was in session before R. Ada bar Ahva. He said, "As to her co-wife, what is the law?"*

[B] He said to him, "She is permitted."

[C] He said, "[If she herself was] divorced?"

[D] He said, "She is forbidden."

[E] [Following Pené Moshe, the Leiden MS, and *editio princeps*, delete: He went and asked again (why that is so, since, if she is forbidden, her co-wife is the co-wife of someone in a prohibited consanguineous relationship).]

[F] *Said Raba bar Mamel, "It is reasonable to suppose that the law is in accord with the one who said that her co-wife is permitted. But in the view of the one who said that her co-wife is forbidden, [there is a problem]. What is your choice? As to the aspect of the wife that the deceased has acquired in remarrying her, he has permitted its counterpart in her co-wife.*

[G] “And as to the aspect of the wife that he did not acquire in her, he has permitted its counterpart in the co-wife. [The minor is both acquired and not acquired by the husband, hence the levir. The aspect of her that is acquired by the husband is such that she is his wife; when he remarries her, the remarriage is entirely in accord with the law of the Torah. Her co-wife, along these same lines, would be equally permitted to the levir. As to that aspect in which she was not acquired, she is forbidden, but her co-wife remains permitted, because, in this aspect, the co-wife is not the co-wife of a woman in a prohibited degree at all.]”

[H] Said R. Shimi, “And do we invoke the rule of alternatives [as above] in cases involving consanguineous relationships? [Surely not!]”

[I] *What is the upshot of the matter?*

[J] [Supply from Y. 2:2 m.Y: It accords with that which R. Aha said in the name of R. Bun bar Hiyya:] “In the case of any sister-in-law in which the whole of that woman does not lie within the range of a permitted relationship to the levir, that aspect of the woman deemed [not] to fall within the possession of the levir is held to constitute a consanguineous side to that woman. [If she is not wholly permitted to the levir, then any part of her relationship to the levir in which she is not permitted is deemed to be decisive, so that, as in general, likewise here], if there is a consanguineous relationship in one of the co-wives, that co-wife exempts her other co-wife [from marriage with the levir].”

[K] *R. Yudan raised the question, “Just as you say there [at M. 13:8, below] that the levir should perform the rite of halisah in respect to the aspect of the one wife that is fully within the domain of the deceased, so freeing her co-wife, why not invoke the same principle here? That is, let the levir perform the rite of halisah with regard to that aspect of the minor-wife that is fully acquired in marriage to the deceased, and then enter into levirate marriage with her co-wife?”*

[L] *Instead of asking such a question of the position of rabbis, address it to the position of R. Eliezer. [The question of Yudan is phrased from the perspective of rabbis, who maintain that the co-wife of an orphan in the lifetime of her father is forbidden. But Eliezer holds that a minor-girl in general is forbidden, if she is divorced and remarried, so M. 13:6C- D, in which case her co-wife also is forbidden.]*

[M] *It is not possible to phrase the question to the position of R. Eliezer, for R. Eliezer was as Shammaite, and the House of Shammai maintain that the right of refusal is extended only at the stage of betrothal [and not marriage, and here we clearly deal with a fully consummated marriage].*

13:7

[A] **Two brothers married to two sisters [who are] minor orphans,**

[B] **and the husband of one of them died –**

[C] **she [the widow] goes forth [without levirate rites] on the count of being the sister of [his] wife.**

[D] **And so two deaf-mutes.**

[E] **An adult and a minor,**

[F] **the husband of the minor died –**

[G] **the minor goes forth on grounds of being the sister of his wife.**

[H] **[If] the husband of the adult died,**

[I] **R. Eliezer says, “They instruct the minor to exercise the right of refusal against him [the surviving brother, her husband].”**

[J] **[Rabban Gamaliel says, “If she exercises the right of refusal, she exercises the right of refusal [without instruction, and it is acceptable.**

[K] **“But if not, let her wait until she reaches maturity. Then the other one goes forth on grounds of being the sister of [his] wife.”**

[L] **R. Joshua says, “Woe to the man on account of his wife, and woe to the man on account of the wife of his brother!**

[M] **“He puts away his wife with a writ of divorce, and the wife of his brother with a rite of halisah.”**

[I:1 A] [The reason for the rule at M. 13:7A-C] is that, as is the mode by which the one is acquired by her husband, so is the mode by which the other is acquired by hers. [Each is the wife, equally, of her husband. So at the death of one husband, the widow is equivalently subject to the levir, who is married to her sister.]

[B] [*But*] *we have learned that [the rule is different when there is] a minor-girl wed to one brother, and a deaf-mute girl married to the other brother, for R. Hiyya has taught:*

[C] **In the case of a minor sister [married to one brother] and a deaf-mute sister [married to the other],**

[D] **the husband of the minor dies –**

[E] **the deaf-mute goes forth through a writ of divorce.**

[F] **And the minor waits until she grows up and then she performs the rite of halisah [T. Yeb. 13:6D-G].**

[G] And why should the minor not perform the rite of *halisah* right away?

[H] *That is not possible, because of what R. Meir has stated.*

[I] **For R. Meir said, “They do not permit the rite of *halisah* nor arrange a levirate marriage in the case of a minor-girl, lest she turn out to be barren [and the original marriage to have been null].**

[J] **[If] the husband of the deaf-mute dies, the minor goes forth through a writ of divorce.**

[K] **And the deaf-mute is prohibited [from entering into levirate marriage].**

[L] **But if he [the levir] had sexual relations with her, she goes forth with a writ of divorce and is permitted [T. Yeb. 13:6H-J].** [We have sisters, a minor and a deaf-mute. If the husband of the minor dies, the deaf-mute has to be divorced by her husband. Why? Because he cannot remain married to his wife, lest the marital bond of the minor be stronger than that of the deaf-mute. If so, the claim of the levirate marriage is stronger than the marital bond between himself and the sister who is a deaf-mute. It would follow that, if he remained wed, he would have sexual relations with the sister of a woman subject to levirate bond. Therefore he must divorce his wife, an act that does not require her articulated consent. The minor ultimately performs the rite of *halisah* but obviously cannot marry him, for the same reason her sister had to be divorced in the first place. If the contrary situation prevails (H), the procedure is the same, so far as divorcing the minor. The deaf-mute cannot enter into levirate marriage, since she is the sister of his wife. She of course cannot perform the rite of *halisah*. The levir cannot acquire the deaf-mute. If he has sexual relations, thus entering levirate marriage, the deaf-mute nonetheless is deemed to be divorced and permitted to remarry.]

[M] *This latter provision accords with the view of R. Hela, [that if the levir had sexual relations with her, he has to divorce her with a writ of divorce], so as to regularize her situation.*

[II:1 A] [With reference to M. 13:7K:] **Let her wait until she reaches maturity**, and when she reaches maturity, let her wed [the levir, and at

that point, the adult goes forth on grounds of being the sister of his wife].

[B] *Said R. Eleazar, “There is no question of a [required] marriage here, but [14a] let her merely be betrothed. [The act of a betrothal by a minor may have effect, sufficient to be confirmed by the girl when she reaches maturity. Hence the consummation of the marriage is not required; the original betrothal is confirmed when the girl reaches maturity, with the same effect as above.]”*

[C] *Said R. Yohanan, “This represents the view of Rabban Gamaliel, for he maintains the following: He who betroths the sister of his childless brother’s widow – the widow is exempt both from the rite of *halisah* and levirate marriage [as the sister of his wife]. [That is the case even though the levirate relationship was prior to the act of betrothal. In the case of the Mishnah’s minor, Gamaliel maintains the same position. But the marital tie is possible only through sexual relations.]”*

[D] *It follows that the teaching now to be cited does not accord with the view of Rabban Gamaliel: .A woman awaiting levirate marriage, the brother of whose levir betrothed her sister – [they instruct him to wait until the levir completes the transaction. Now this cannot accord with Gamaliel’s view; the connection to the levir is not strong enough to require the brother to postpone his marriage. The marriage will automatically nullify the levirate connection.]*

[III:1 A] *R. Haggai said before R. Zeira, Menahem in the name of R. Yohanan: “The law accords with the view of R. Eliezer: ‘If she exercises the right of refusal, she exercises the right of refusal.’”*

[B] [But that is not what Eliezer has said. Rather, assigned to him is the following:] **R. Eliezer says, “They instruct the minor to exercise the right of refusal against him” [M. 13:7I].** And you say this!

[C] *R. Zeira, R. Hiyya in the name of R. Yohanan: “The law is in accord with the view of R. Joshua: ‘If she exercises the right of refusal, she exercises the right of refusal.’”*

[D] **R. Joshua says, “Woe to the man on account of his wife, and woe to the man on account of the wife of his brother!” [M. 13:7L].** *And you say this!*

[E] *R. Hela, R. Yosé in the name of R. Yohanan: “The law is in accord with the opinion of Rabban Gamaliel.”*

[F] R. Joshua concurs with Rabban Gamaliel that **if she has exercised the right of refusal, she has exercised the right of refusal, but if not, let her wait until she reaches maturity.**

[G] If not, [that is, if she does not wait until maturity, there is a third choice:] **let him divorce his wife with a writ of divorce, and the wife of his brother with a rite of halisah.**

13:8

[A] **He who was married to two minor orphans and who died –**

[B] **the act of sexual relations or the performance of the rite of halisah on the part of one of them exempts her co-wife.**

[C] **And so two deaf-mutes.**

[D] **A minor and a deaf-mute –**

[E] **the act of sexual relations on the part of one of them does not exempt her co-wife.**

[I:1 A] [The reason for the rule at M. 13:8A-B, C] is that, as is the mode by which the one is acquired by her husband, so is the mode by which the other is acquired by hers. [Each is equally the wife of her husband. So at the death of one husband, the widow is equivalently subject to the levir, who is married to her sister.]

[II:1 A] [At M. 13:8D-E,] what does one do? [The deaf-mute is not a candidate for the rite of halisah, which she cannot perform. Sexual relations with the deaf-mute will not exempt the minor from the requirement of the rite of halisah. The minor cannot perform the rite of halisah either.]

[B] R. Hiyya bar Ashi in the name of Rab: “He marries the deaf mute and divorces her with a writ of divorce, and the minor waits until she reaches maturity and then performs the rite of halisah.”

[C] And why should she not perform the rite of halisah right away?

[D] *She cannot do so, in line with that which R. Meir has said. For R. Meir said, “They do not perform the rite of halisah nor arrange a levirate marriage in the case of a minor, lest she turn out to be barren.”*

[E] But if he had sexual relations with the minor, then he puts her away with a writ of divorce, and, as to the deaf-mute, she is subject to a prohibition [vis-[^]-vis the levirate obligation, not fulfilled] for all time.

[F] If he transgressed and had sexual relations with the deaf-mute [after divorcing the minor], he puts her away with a writ of divorce, and she is permitted [to marry anyone else].

[G] Said R. Hela, “This is in order to regularize her position.”

[H] *R. Bun bar Hiyya asked before R. Hela*, “What is the meaning of this statement: ‘This is in order to regularize her position’? [There is another possibility.] Just as you say there [with reference to a case of two minor orphans], ‘Let him perform the rite of halisah in regard to the aspect of the girl that is within his domain, and so exempt her co-wife,’ so here, let him perform the rite of halisah vis-[^]-vis the aspect of the minor that falls within his domain, and then marry the deaf-mute.”

[I] He said to him, “So did R. Simeon b. Laqish state, ‘We do not find in a case of two levirate widows that one of them performs the rite of halisah and the other enters into levirate marriage. [Either one or the other, but not both, deals with the levirate connection.] But do we find two levirate widows, in which one of them performs the rite of halisah, while the other one goes forth with a writ of divorce?’”

[J] *He said to him*, “*This is in line with that which we have learned there*: ‘If he bespoke one of them and performed the rite of halisah with the second, the first of the two women requires a writ of divorce from him.’”

13:9

[A] **A woman of sound senses and a deaf-mute –**

[B] **the act of sexual relations of the woman of sound senses exempts the deaf-mute.**

[C] **But the act of sexual relations of the deaf-mute does not exempt the woman of sound senses.**

[I:1 A] **A woman of sound senses and a deaf-mute – the act of sexual relations of the woman of sound senses exempts the deaf-mute. But the act of sexual relations of the deaf-mute does not exempt the woman of sound senses –**

[B] **but it invalidates the woman of sound senses [who cannot marry the levir].**

13:10

[A] **An adult and a minor –**

[B] **the act of sexual relations of the adult exempts the minor.**

[C] **But the act of sexual relations of the minor does not exempt the adult.**

[I:1 A] **An adult and a minor – the act of sexual relations of the adult exempts the minor, but the act of sexual relations of the minor does not exempt the adult –**

[B] but it invalidates the adult, [who may not marry the levir].

13:11

[A] **He who was married to two [unrelated] minor orphans and who died**
–

[B] **the levir came and had sexual relations with the first, and then he came and had sexual relations with the second,**

[C] **or another brother came and had sexual relations with the second –**

[D] **he has not invalidated the first [from marriage with him].**

[E] **And so in the case of two deaf-mutes.**

[F] **A minor and a deaf-mute –**

[G] **the levir came and had sexual relations with the minor, and then he came and had sexual relations with the deaf-mute,**

[H] **or another brother came and had sexual relations with the deaf-mute**
–

[I] **he has not invalidated the minor.**

[J] **[If] the levir came and had sexual relations with the deaf- mute, and then went and had sexual relations with the minor,**

[K] **or another brother came and had sexual relations with the minor –**

[L] **he has invalidated the deaf-mute.**

[I:1 A] Even if he did not have sexual relations with the minor, he invalidates the deaf-mute [for marriage with the levir, for the status of the minor by itself is what matters. The connection of the minor to the levir invalidates the deaf-mute. If the minor was fully within the domain of the deceased, then her connection to the levir invalidates the deaf-mute, whose relation to the deceased was not so strong].

[B] But if the levir did not have sexual relations with the minor-girl, and she had died, he would have been permitted to enter into levirate marriage with the deaf-mute.

[C] Now that he has had sexual relations with her, even if she then died, he invalidates the deaf-mute. [The levir has the right to one of the widows, but not to both of them. The act of sexual relations sufficed to complete the transaction. The deaf-mute is not available to him.]

13:12

[A] **A woman of sound senses and a deaf-mute –**

[B] **the levir came and had sexual relations with the woman of sound senses, then went and had sexual relations with the deaf- mute,**

[C] **or another brother came and had sexual relations with the deaf-mute**
–

[D] **he has not invalidated the woman of sound senses.**

[E] **[If] the levir came and had sexual relations with the deaf- mute, and then went and had sexual relations with the woman of sound senses,**

[F] **or another brother came and had sexual relations with the deaf-mute**
–

[G] **he has invalidated the deaf-mute.**

[I:1 A] Even if he did not have sexual relations with the woman of sound senses, he invalidates the deaf-mute [for marriage with the levir]. [The connection of the woman of sound senses to the levir invalidates the deaf-mute. Since she was fully within the domain of the deceased, her connection to the levir invalidates the deaf-mute, whose relation to the deceased was not so strong.]

[B] If the levir did not have sexual relations with the woman of sound senses, and she had died, he would have been permitted to enter into levirate marriage with the deaf-mute.

[C] Now that he has had sexual relations with her, if she then died, she invalidates the deaf-mute [from marrying the levir]. [The levir has the right to one of the widows, but not to both of them. The act of sexual relations sufficed ~o complete the transaction. The deaf-mute is not available to him.]

13:13

[A] **An adult and a minor –**

[B] **the levir came and had sexual relations with the adult, and then went and had sexual relations with the minor,**

[C] **or another brother came and had sexual relations with the minor –**

[D] he has not invalidated the adult.

[E] [If] the levir came and had sexual relations with the minor, and then came and had sexual relations with the adult,

[F] or another brother came and had sexual relations with the adult –

[G] he has invalidated the minor.

[H] R. Eleazar says, “They instruct the minor to exercise the right of refusal against him.”

[I:1 A] Even if he did not have sexual relations with the adult, he invalidates the deaf-mute [for marriage with him].

[B] But if the levir did not have sexual relations with the adult and she died, he would have been permitted to enter into levirate marriage with the minor.

[C] Now that he has had sexual relations with [the adult], if she then died, he invalidates the minor [from marrying him. The levirate responsibility has now been carried out].

[II:1 A] R. Eleazar says, “They instruct the minor to exercise the right of refusal against him” [M. 13:13H].

[B] That is the case after the fact [if the levir has had sexual relations with the minor]. But to begin with, she need not do so.

[C] *R. Mana stated the following without specifying the authority behind it; R. Isaac b. R. Hiyya wrote it in the name of R. Yohanan, “This represents the view of R. Meir.*

[D] “For R. Meir has said, ‘They do not arrange the rite of *halisah* or set up a levirate marriage with a minor, lest she turn out to be barren.’”

13:14

[A] A minor levir who had sexual relations with a minor widow [of a childless brother] –

[B] they should grow up with one another.

[C] [If a minor levir] had sexual relations with an adult widow, she should raise him.

[D] The childless brother’s widow who claimed within thirty days, “I have not yet had sexual relations [with my levir]” –

[E] they force the levir to perform the rite of *halisah* with her.

[F] [If she so claimed] after the thirty days,

[G] they request he perform the rite of halisah for her.

[H] So long as he admits [her claim] even after twelve months, they force him to perform the rite of halisah for her.

[I] She who vows against deriving benefit from her levir –

[J] [if she does so] while her husband is yet alive,

[K] they force him, [the levir, after the husband dies without offspring] to perform the rite of halisah with her.

[L] [If she so vows] after her husband's death, they request from him that he perform the rite of halisah for her.

[M] And if that was her very intention, even [if she took the vow] while her husband was yet alive,

[N] they request him to perform the rite of halisah for her.

[I:1 A] “A claim against a woman's virginity [indicating that she should be deprived of her marriage settlement] must be made within thirty days of the marriage,” the words of R. Meir.

[B] And sages say, “It must be made forthwith.”

[C] *How shall we interpret this dispute?* If we deal with a case in which we know that the husband had sexual relations, then he *must* bring the claim right away. If we deal with a case in which he did not have sexual relations, then even after much time, [there can be no claim, there being no evidence].

[D] *But we must interpret the dispute to deal with* a case lacking further specification, [so we do not know for sure whether sexual relations have taken place].

[E] R. Meir says, “We may assume that a *man may hold back* for thirty days [but no longer].”

[F] Rabbis say, “Even for a single day a man will not hold back [but will have sexual relations as soon as he can do so].”

[I:2 A] *R. Jeremiah raised the question*, “Along the lines of R. Meir's theory, what is the law as to the husband's being permitted to say, ‘I held myself back for thirty days’ [and did not have sexual relations during that time, so that if a child is born seven months from the date of the marriage], the offspring will be given the status of one whose paternity is not known? [The husband thus claims that during that period he did not have sexual relations, so that the child born in seven months cannot be his. Does Meir's

principle hold for monetary cases only, or also for paternity suits?]"

[B] *Let us derive the answer from the following: In the case of a levirate wife who said, "During the first thirty days of marriage I have not had sexual relations with my levir" – they force him to free her through a rite of removing the shoe.*

[C] **If she said after thirty days that that was the case, they request him to perform the rite of halisah with her [M. 13:14D- G].**

[D] In this case, R. Eleazar said, "It represents the view of R. Meir."

[E] And R. Eleazar stated, "They stated that rule only with reference to the levirate wife herself. Lo, with regard to her co-wife [who went off and got married, assuming that the marriage of the wife to the levir freed her from further restrictions,] that is not the case, [and such a claim is not accepted to interfere with the status of the co-wife]."

[F] Now just as you say there, she does not have the power to impose a disability on her co-wife, so you must say here, he does not have the right to impose a disability on his son. [The answer to Jeremiah's question then is that the husband's claim is not accepted.]

[II:1 A] [With regard to M. 13:14D-G:] [If, after thirty days,] he says, "I had sexual relations with her," and she says, "I have not had sexual relations with him,"

[B] even though he retracted and claimed, "I did not have sexual relations with her,"

[C] he has not got the power to make such a claim, for in the first place he claimed, "I did have sexual relations with her."

[D] But if at the outset he said, "I did not have sexual relations with her," both of them have the power to uproot the prevailing assumption [by reason of their agreement].

[III:1 A] [With reference to M. 13:14H, that they force the levir to perform the rite of halisah with her, but not to consummate the levirate marriage,] *associates raised the following question: "How shall we interpret this passage? [In line with M. Bekh. 1:7F-I: The requirement of levirate*

marriage takes precedence over the ceremony of halisah. At first, when they would consummate the levirate marriage for the sake of fulfilling a commandment, that was the case. But now that they do not consummate the levirate marriage for the sake of fulfilling a commandment, they have ruled: The requirement of halisah takes precedence over the requirement of levirate marriage,] if we deal with the first version of the Mishnah, we have learned that it is permitted to enter into levirate marriage. If we follow the latter version of the Mishnah, we have learned that it is permitted to perform the rite of halisah. But have we learned that they force [the levir to perform the rite of halisah and not to enter into levirate marriage]?”

[B] R. Huna in the name of Rab: “That rule applies in a case in which a writ of divorce is passing from his hand to hers. [He claims he has had sexual relations with her. She says he has not.] Accordingly, he says, ‘It is a writ of divorce, given to a wife.’ And she says, ‘It is a writ of divorce, given to a levirate widow [and null].’

[C] “If this is within thirty days, we assume that he has not had sexual relations. Accordingly, we force him to perform the rite of halisah with her.

[D] “If it is after thirty days, they request him to perform the rite of halisah with her.”

[E] R. Yosé asked the following question: “If it is after thirty days, we assume that he has had sexual relations with her, and you say that we force him to perform the rite of halisah?”

[F] *But this is what R. Huna said in the name of Rab:* “That rule applies in a case in which a writ of divorce is passing from his hand to hers. He says, ‘It is a writ of divorce, given to a wife.’ And she says, ‘It is a writ of divorce, given to a levirate widow.’

[G] “If this is within thirty days, we assume that he has not had sexual relations. Accordingly, we force him to perform the rite of halisah with her.

[H] “If this is after thirty days, they request him to perform the rite of *halisah* with her.”

[III:2 A] If he said,] “I have had sexual relations with her,” and she said, “I have not had sexual relations with him,” it is obvious that he has to provide her with food. It is obvious that he does not inherit her estate. The point requiring attention is whether he inherits the estate of his deceased childless brother.

[B] If she says, "I have had sexual relations with him," and he says, "I did not have sexual relations with her," it is self-evident that he does not have to provide food for her. It is obvious that he does not inherit the estate of his brother. What requires attention is whether he inherits her estate [should she die].

YERUSHALMI YEBAMOT

CHAPTER FOURTEEN

14:1

- [A] [14b] A deaf-mute who married a woman of sound senses,
[B] or a man of sound senses who married a deaf-mute –
[C] if he wanted he puts her away.
[D] And if he wanted, he confirms the marriage.
[E] Just as he marries her by means of sign language, so he puts her away
by means of sign language.
[F] A man of sound senses who married a woman of sound senses, and the
woman became a deaf-mute –
[G] if he wanted, he puts her away.
[H] And if he wanted, he confirms the marriage.
[I] [If] she became an idiot, he may not put her away.
[J] [If] he was made a deaf-mute or became an idiot, he may never put
her away.

[I:1 A] How does he put her away with sign language?

[B] He makes a sign and then gives to her her writ of divorce [M.
14:1E] [T. Yeb. 13:7FF-GG].

[C] Just as he makes a sign, so he receives a sign.

[II:1 A] *The statement of the Mishnah* [M. 14:1E: **Just as he marries her by means of sign language, so he puts her away by means of sign language**] applies to a case in which he betrothed her by a money payment.

[B] But if he betrothed her through an act of sexual relations, then his betrothal was through a deed, while his divorce is not based on a deed [and is insufficient to nullify the betrothal].

- [II:2 A] *R. Eleazar asked R. Yohanan, “[He who has sexual relations with] a woman who married a deaf-mute or an idiot – [what is the law? Is the marital tie sufficiently strong that one is punished on this account]?”*
- [B] He said to him, “Even a suspensive guilt-offering [to cover the possibility that she may be legally wed] is not required in her case.”
- [C] R. Jacob bar Aha in the name of R. Yohanan, R. Hela in the name of R. Eleazar, “Even a suspensive guilt-offering is not required in her case.”
- [D] Since you maintain that even a suspensive guilt-offering is not required in her case, if another party should come along and betroth her, his act of betrothal takes effect in her. [If] he divorced her, she is permitted to be married to the first man [her original husband].
- [E] *This is in line with that which R. Hiyya has taught:* The wife of a deaf-mute whom the deaf-mute divorced, who went and married a deaf-mute or a person of sound senses –
- [F] in her regard I cite the provision of Scripture, “Her first husband who divorced her will not be able again to marry her” (Deut. 24:2) [because the second marriage was valid].
- [G] The wife of a person of sound senses, who was divorced and went and married a deaf-mute –
- [H] in her regard I do not cite the provision of Scripture, “Her first husband who divorced her will not be able again to marry her” (Deut. 24:2) [for the opposite of the reason given above].
- [I] As to the wife of a deaf-mute whose husband went abroad, and whom they came and told, “Your husband has died,” and who went and married a deaf-mute or a man of sound senses, and afterward her husband came home – she must go forth from this one and from that one.
- [J] As to the wife of a man of sound senses, whose husband went overseas, and whom they came and told, “Your husband has died,” and who went and married a deaf-mute, and afterward her original husband, the man of sound senses, returned –
- [K] *we proposed to rule,* “Let the deaf-mute put her away, and the man of sound senses confirm [the original] marriage. [The marriage to the deaf-mute is infirm and does not invoke the penalties.]”

[L] *But upon further consideration, [we ruled that] she is subject to the established penalties.*

[III:1 A] If she became an idiot, he may not put her away [M. 14:1I]:

- [B] *Members of the house of R. Yannai said, “It is because of [her ready] involvement [with many men].”*
- [C] *Both R. Zeira and R. Ila said, “It is because she cannot keep her writ of divorce [so does not fall under Deut. 24:1].”*
- [D] *R. Nehemiah bar Mar Uqban son of R. Yosé said, “There are three [points of difference between these two explanations for the law].*
- [E] *“If the husband transgressed and issued a writ of divorce –*
- [F] *“he who has said, ‘It is because of her ready involvement with many men,’ regards her as validly divorced.*
- [G] *“He who has said, ‘It is because she cannot keep her writ of divorce,’ regards her as prohibited [and not divorced].*
- [H] *“If she had a son, a father, and a brother, he who said, ‘It is because of her ready involvement with many men,’ regards her as prohibited [and not divorced].*
- [I] *“He who said, ‘It is because she cannot keep her writ of divorce,’ will maintain that since she has a father, she can [with his help receive and] keep her writ of divorce.*
- [J] *“If she sometimes is crazy and sometimes sane, he who said, ‘It is because of her ready involvement with many men,’ will regard her as prohibited [and not divorced, since the reason continues valid].*
- [K] *“He who said, ‘It is because she cannot keep her writ of divorce,’ will hold that she has times [of lucidity] and at such a point can [receive and] keep her writ of divorce.”*

14:2

- [A] **Said R. Yohanan b. Nuri, “On what account does a woman who became a deaf-mute go forth, but a man who became a deaf-mute does not put away [his wife by a writ of divorce]?”**
- [B] **They said to him [to Yohanan b. Nuri], “The man who divorces his wife is not equivalent to a woman who receives a divorce.**
- [C] **“For a woman goes forth willingly or unwillingly.**
- [D] **“But a man puts his wife away only willingly.”**

[E] **R. Yohanan b. Gudgeda testified concerning a deaf-mute whose father married her off,**

[F] **that she goes forth with a writ of divorce.**

[G] **They said to him [to Yohanan b. Nuri], “This too follows the same rule.”**

[I:1 A] *R. Haninah raised the question before R. Hila, “The stated rule [of Yohanan b. Gudgedah] makes sense with regard to a woman of sound senses, [for she is married with her own will and con sent, without the intervention of a third party, and in the case of divorce, likewise, a writ is received by her alone,] so that she goes forth whether willingly or unwillingly.*

[B] “But a deaf-mute, who [cannot express her] will, should go forth only [willingly]. [She was married only at their father’s instance. She should be divorced only with her father’s knowledge and consent. Why is the normal procedure of the writ of divorce applied here?]”

[C] [But what sort of a question is this!] Is this rule [of Yohanan] not a matter of testimony [that he has given, that is, outside the framework of normal logic]?

[D] [But the Mishnah adds,] **Thus too follows the same rule.**

[E] Do they add to testimony? [That is, we deal in Yohanan’s testimony with a deaf-mute for life. But what about a woman of sound senses who became a deaf-mute? How do we know that she goes forth with a writ of divorce?]

[F] *For R. Hananiah proposed to state that the testimony was with regard to a woman of sound senses whose father married her off, and who became a deaf-mute.*

[G] *R. Yosé proposed to state [that the testimony was] with regard to a minor whose father married her off, and who was divorced.*

14:3

[A] **Two deaf-mute brothers married to two deaf-mute sisters,**

[B] **or to two sisters of sound senses,**

[C] **or to two sisters, one a deaf-mute and the other of sound senses,**

[D] **or two deaf-mute sisters married to two brothers of sound senses,**

[E] **or to two deaf-mute brothers,**

[F] **or to two brothers, one a deaf-mute and one of sound senses –**

[G] lo, these women are exempt from the rite of halisah and levirate marriage.

[H] But if they were unrelated to one another,

[I] they enter into marriage.

[J] And if they [the men in the several cases] wanted to put them away, they do put them away [M. 14:1E].

[K] Two brothers,

[L] one deaf-mute and the other of sound senses [M. 14:3F],

[M] married to two sisters of sound senses,

[N] the deaf-mute, husband of a sister of sound senses, died –

[O] what should the husband of sound senses who is married to the sister of sound senses do?

[P] She [the childless brother's widow] should go forth on the grounds of being the sister of his wife.

[Q] [If] the husband of sound senses of a sister of sound

[R] senses died,

[S] what should the deaf-mute who is husband of the sister of sound senses do?

[T] He should put away his wife with a writ of divorce, and the wife of his brother is prohibited [for marriage to anybody at all] for all time.

[I:1 A] [Transferred from M. 14:2:] *R. Yohanan said, "[This statement that the women are exempt from the rite of halisah and levirate marriage] does not apply to the opening case [M. 14:3F], but it does apply to the closing case [M. 14:3K-M].*

[B] "What should have been taught at the outset?"

[C] "When the man of sound senses was married to the woman of sound senses [then there would be no rite of halisah or levirate marriage, since there is a completely valid marriage, in which case the widow cannot enter into levirate marriage with her sister's husband].

[D] "But if the deaf-mute man was married to the woman of sound senses, or the man of sound senses was married to the deaf-mute woman, in such a case, we apply the final rule of the lot, [that is, M.14:3S]."

[II:1 A] As to her co-wife [at M. 14:3N], what is the law?

[B] *Let us derive the answer from the following:*

[C] If his daughter, who was of sound senses, was married to his brother, who was a deaf-mute, her co-wife is exempt from the rite of halisah

and from having to enter into levirate marriage. [The marriage is valid.]

14:4

- [A] **Two brothers of sound senses married to two sisters, one of them a deaf-mute and one of them of sound senses [M. 14:3C],**
- [B] **the husband of sound senses married to the deaf-mute died, –**
- [C] **what should the husband of sound senses married to the wife of sound senses do?**
- [D] **She [the widow] should go forth on grounds of being the sister of his wife.**
- [E] **If the husband of sound senses married to the wife of sound senses should die, what should the husband of sound senses married to the deaf-mute do?**
- [F] **He puts away his wife with a writ of divorce, and the wife of his brother with a rite of halisah.**
- [I:1 A] As to her co-wife, what is the law?
- [B] *Let us derive the answer from the following:*
- [C] If his daughter, who was a deaf-mute, was married to his brother, who was of sound senses,
- [D] her co-wife performs the rite of *halisah* and does not enter into levirate marriage.

14:5

- [A] **Two brothers, one of them a deaf-mute and one of sound senses [M. 13:4F], married to two sisters, one of them a deaf-mute and one of sound senses [M. 14:3C] –**
- [B] **M the deaf-mute husband married to the deaf-mute wife should die, what should the husband of sound senses married to the sister of sound senses do?**
- [C] **She [the widow] should go forth because of being the sister of his wife.**
- [D] **[If] the husband of sound senses married to the wife of sound senses should die, what should the deaf-mute husband married to the deaf-mute sister do?**
- [E] **He puts away his wife with a writ of divorce, and the wife of his brother is prohibited [to remarry] for all time.**
- [I:1 A] As to her co-wife, what is the law?

- [B] *Let us derive the answer from the following:*
- [C] If his daughter, who was a deaf-mute, was married to his brother, who was a deaf-mute,
- [D] her co-wife is exempt from [14c] the rite of *halisah* and from having to enter into levirate marriage.

14:6

- [A] **Two brothers, one a deaf-mute and one of sound senses [M. 14:3F], married to two women of sound senses not related to one another [M. 14:3H] –**
- [B] **M the deaf-mute husband of the woman of sound senses should die, what should the husband of sound senses married to the woman of sound senses do?**
- [C] **He either performs the rite of halisah or takes the widow in levirate marriage.**
- [D] **If the husband of sound senses of the woman of sound senses should die, what should the deaf-mute husband of the woman of sound senses do?**
- [E] **He married [the widow] and does not put her away for all time.**

[I:1 A] What is the law as to her [the woman of sound senses married to the man of sound senses who comes to a levir who is a deaf-mute] eating food in the status of heave-offering?

- [B] *Let us derive the answer from the following:*
- [C] An Israelite girl of sound senses, married to a priest who was a deaf-mute, does not eat food in the status of heave-offering.
- [D] If he died and she came before the levir,
- [E] if he was of sound senses, she eats such food.
- [F] If he was a deaf-mute, she does not eat such food.

14:7

- [A] **Two brothers of sound senses married to two women unrelated to one another, one of sound senses and one a deaf-mute [M 14:3C ~ H] –**
- [B] **[if] the husband of sound senses married to the deaf-mute dies what should the husband of sound senses married to the woman of sound senses do?**

- [C] He should marry her, and if he wants to put her away, he puts her away.
- [D] [If] the husband of sound senses married to the Woman of sound senses should die, what should the husband of sound senses married to the deaf-mute woman do?
- [E] He either performs the rite of halisah or enters into levirate marriage.
- [F] Two brothers, one a deaf-mute and of [M. 14:3F], married to two women unrelated to one another, one a deaf-mute and one of sound senses [M 14:3C].
- [G] [if] the deaf-mute married to the deaf-mute woman should die, what should the husband of sound senses married to the woman of impaired senses do?
- [H] He should marry the widow, but if he wants to put her away, he puts her away.
- [I] If the husband of sound senses married to the woman of sound senses should die, what should the deaf-mute man married to the deaf-mute woman do?
- [J] He marries her. And he cannot put her away for all time.
- [I:1 A] What is the law as to her, [the deaf-mute married to a man of sound senses, who came before a levir], eating food in the status of heave-offering?
- [B] *Let us derive the answer from the following:*
- [C] An Israelite girl of sound senses, who was betrothed to a priest who was of sound senses,
- [D] [if] he did not suffice to consummate the marriage in the marriage canopy before he was struck dumb, or before she was struck dumb –
- [E] she does not eat food in the status of heave-offering.
- [F] If he died and she came before the levir –
- [G] even if he was a deaf-mute, she eats food in the status of heave-offering.
- [H] In this regard the power of the levir is greater than the power of the husband.
- [I] For the levir who is a deaf-mute bestows upon her the right to eat food in the status of heave-offering, while a husband who was a deaf-mute does not bestow that right.

YERUSHALMI YEBAMOT

CHAPTER FIFTEEN

15:1

- [A] The woman who went, she and her husband, overseas,
[B] there was peace between her and him, and the world was at peace,
[C] and she came and said, “My husband died” –
[D] she may remarry.
[E] “My husband died” –
[F] she may enter into levirate marriage.
[G] [If] there was peace between her and him, but war in the world,
[H] strife between him and her, but the world was at peace,
[I] and she came and said, “My husband died” –
[J] she is not believed.
[K] R. Judah says, “Under no circumstances is she believed unless she came in tears, with her garments torn [as a sign of mourning].”
[L] They said to him, “All the same [are one who cries, wearing torn garments, and one who does not cry, wearing neat garments] – she may remarry [under the stated circumstances].”
- [I:1 A] [We invoke a parallel problem at M. Ket. 2:5A-D: **The woman who said, “I was married and I am now divorced,” is believed. For the mouth that prohibited is the mouth that permitted. But if there are witnesses that she was married, and she says, “I am divorced,” she is not believed.**] *Now just as you say there, “If there are witnesses that she was married, and she says, I am divorced, she is not believed, so should we say the same here [that she should not be believed? For everyone knows she was a married woman].*
- [B] The case here is different, when it involves witnesses to the death of the man. Since, should the husband come, he will forth with invalidate her testimony, [there is no reason to lie, since she has to fear that, if she

claims he is dead and he is not, he will appear and prove her false. In the other case, by contrast, if he should say, "I never divorced you," she can readily claim that he had indeed divorced her].

[C] And should she be believed to say, "My levir has died"?

[D] *You cannot maintain that view, for we have learned there:* [14d] **A woman is not believed to testify, "My levirate brother-in-law has died," so that she may remarry. Nor is she believed to testify, "My sister has died," so that she may enter into his [her brother-in-law's] house [M. Yeb. 15:10R-S].**

[E] [Explaining the difference between the two rules,] said R. Ba, "In the case of her husband, to whom she was willingly wed, she is believed. In the case of her levir, to whom she came despite her will, she is not believed."

[F] *R. Hoshaiah asked*, "But what if she was married to her husband despite her wishes? In such a case should she not be believed?"

[G] [What follows refers to M. Yeb. 16:7I:**They confirmed the practice of permitting the wife to remarry on the evidence of a single witness that her husband had died. This is referred to as the latter version of the Mishnah. The former version of the law is stated as follows: I have heard that ... they do not permit a wife in the land of Israel to remarry on the evidence of a single witness to her husband's death (M. Yeb. 16:7A).**] [The case involving testimony of the husband's death is different.] For it is not the end of the matter in accord with the latter version of the Mishnah, that a single witness [to the husband's death] permits her [to remarry]. But even in accord with the former version of the Mishnah, that a single witness to her husband's death *does* not permit her to remarry, she herself nonetheless has the power to permit herself [to remarry by testifying that her husband has died, even though a single witness other than herself has not got that power.

[H] How is she different from a single witness in that regard?

[I] A single witness is suspect of having the intent of disrupting her status, but she herself is not suspect of wishing to disrupt her status.

[II:1 A] What is the law as to a single witness's being believed in time of war?

[B] *Let us derive the answer from the following: There was a man in the time of Rabbi, whom they asked, "Where is So-and-so?" He said to them, "He's dead." "Where is So-and-so?" "He too is dead." He said to him, "Are they all dead?" He said to them, "If they were alive, would they not have come back?"*

[C] *R. Jeremiah in the name of R. Haninah, "The case came before Rabbi, and he ruled, 'She who has remarried [on the strength of such testimony] has remarried [and need not go forth], but she who has not remarried should not remarry.'*"

[D] *R. Aibu bar Nigri: "This was a decision in time of war," and it follows that in time of war, the testimony of a single witness is accepted.*

[II:2 A] What is the difference [M. 15:1G] between the time at which there is peace in the world and the time at which there is war?

[B] In a time of war she may suppose that he is dead, and he did not die.
[Hence she is not believed.]

[C] *Up to this point we have assumed that the fighting was in the north, and the woman came from the north, or in the south, and she came from the south. But if the fighting was in the north, and she came from the south and said, "I came from the north," but I say, "You came from the south," and she says, "I came from the north, thinking that I should be able to release myself from that marriage" –*

[D] She says, "He died on his bed," but I say, "He went off to war," she says, "He died on his own bed, but I thought that I should release myself from the marriage" – [in these cases, we assume she is telling the truth. She has embellished the story so as to make her tale more credible. But it is basically honest].

[III:1 A] [With reference to M. 15:1H, **strife between him and her:**] What is the definition of "strife"?

[B] *R. Ba in the name of R. Hiyya bar Ashi, "[If she claimed,] 'You did not betroth me and you did not divorce me, and I have never been your wife,' this is not a definition of strife.*

[C] *"'You betrothed me and you divorced me, but you did not pay off my marriage settlement' – lo, that is a definition of strife."*

[D] *Said R. Ba before R. Hiyya bar Abba, "No, my son, but even if she now lays claim to be divorced, [that is a sign of strife, and she may well be lying]."*

[IV:1 A] R. Judah says, “Under no circumstances is she believed unless she came in tears, with her garments torn” [M. 15:1K].

[B] *They objected to R. Judah, “Now what if one of them came in tears, and one did not come in tears. Are you going to prohibit one and release the other?”*

[C] *R. Hananiah, associate of the rabbis, replied, “What if her son went overseas and died there. I may claim [that if she is crying], it is because she remembers him and weeps on his account.”*

15:2

[A] The House of Hillel say, “We have heard [that the woman’s testimony concerning the death of her husband is accepted] only in a case in which she comes back from the grain harvest and is in the same territory.”

[B] **Said to them the House of Shammai, “All the same are one who comes home from the grain harvest, and the one who comes home from harvesting olives, and one who comes from cutting grapes, and one who comes home from one province to another.**

[C] **“Sages spoke about the grain harvest only because that is commonplace.”**

[D] The House of Hillel reverted and taught the law in accord with the opinion of the House of Shammai.

[I:1 A] Said the House of Shammai to them, “And is not the entire year harvest time? How so? When the barley harvest is over, the wheat harvest comes, when the wheat harvest is over, the time of picking grapes comes, when the time of picking grapes is over, the time of cutting olives comes. It turns out that the whole year is harvest-time.”

[B] In that way they proved their case [M. 15:2D].

[C] And why the harvest in particular?

[D] *Said R. Mana, “Because accidents are common then, for people get sunstroke only at harvest-time, as it is said, ‘When the child had grown, he went out one day to his father among the reapers. And he said to his father, “Oh, my head, my head!” The father said to his servant, “Carry him to his mother.” And when he had lifted him, and brought him to his mother, the child sat on her lap till noon, and died”’ (2 Kings 4:18-20).*

[E] And rabbis say, “It is because snakebite is frequent then.”

[F] Said R. Yosé b. R. Bun, “‘Thou hast covered my head in the day of battle’ (Ps. 140:8). It is on the day on which the summer meets the winter [that accidents are common].”

[G] Another interpretation: “On the day of battle” – this is the battle of Gog.

[H] Another interpretation: “On the day on which two worlds kiss – this world goes forth, the world to come begins.”

15:3

[A] **The House of Shammai say, “She [who testifies that her husband has died] remarries and collects her marriage contract [in the case of M. 15:1A-F].”**

[B] **And the House of Hillel say, “She remarries but does not collect her marriage contract.”**

[C] **The House of Shammai said to them, “You have permitted [her to remarry], that is [releasing], the strict prohibition concerning sexual relations. Will you not permit [her to collect her marriage contract], that is [involving] the lenient rule concerning money?”**

[D] **The House of Hillel said to them, “We find [in the law] that brothers in any event do not inherit the estate on the basis of her testimony [since two witnesses are required (Deut. 19:15)].”**

[E] **The House of Shammai said to them, “But shall we not learn from the document of her marriage contract, which he writes over to her: ‘If you are married to someone else, you [also] may collect what is herein promised in writing for you ‘?’”**

[F] **The House of Hillel reverted and taught the law in accord with the opinion of the House of Shammai.**

[I:1 A] As to the daughter, what is the law on their deriving support from the estate of the allegedly deceased father on the strength of the woman’s testimony that he has died?

[B] The House of Shammai interpret the language [of the marriage contract]:

[C] **The House of Shammai answered, “Shall we not learn from her marriage contract, which he writes over to her: ‘If you be married to someone else, you may collect what here is promised in writing to you’?”**

[D] **The House of Hillel reverted to teach according to the opinion of the House of Shammai [M. Yeb. 15:3].**

- [I:2 A]** *Members of the House of Hillel made an exegesis of the ordinary language of the marriage settlement.*
- [B]** Hillel the Elder made an exegesis of the ordinary language [of legal documents and not merely of the text of the Torah].
- [C]** So did they write [the marriage contract] in Alexandria.
- [D]** When the Alexandrians would betroth a woman, afterward someone else would come along and grab her right out of the market.
- [E]** An incident of this sort came before sages, and they contemplated declaring their children to be mamzers.
- [F]** Hillel the Elder said to them, “Show me the marriage contract of your mothers.”
- [G]** They showed them to him, and written in it was the following language:
- [H]** “When you will enter my house, you will be my wife in accord with the law of Moses and the Jews,” [not before that time, on the strength of which he decided that they were not [mamzers] [T. Ket. 4:9].
- [I:3 A]** R. Eleazar b. Azariah made an exegesis of the language of the marriage settlement. Thus did R. Eleazar b. Azariah interpret it: “The sons will inherit the estate, and the daughters will be maintained by it.
- [B]** “Just as the sons inherit the estate only after the death of their father, so too the daughters are supported only after the death of their father” [M. Ket. 4:8C].
- [I:4 A]** R. Meir expounded, [Yerushalmi: the language of a contract], “He who receives a field as a sharecropper from his fellow, and, once he had acquired possession of it, he neglected it –
- [B]** “they make an estimate of how much it is suitable to produce and he pays that sum to him.
- [C]** “For thus does he write to him, ‘If I neglect and I do not work it, I shall pay you from the best produce’” [T. Ket. 4:10].
- [I:5 A]** R. Judah expounded [Yerushalmi: the language of the marriage contract]: “A man brings in behalf of his wife all the offerings that she owes,
- [B]** “even if she ate prohibited fat, or even if she desecrated the Sabbath.

[C] **“For thus does he write for her [in her marriage contract], ‘And obligations that you owe will be mine from before up to now.’**

[D] **“[If] she gave him a quittance for part of her marriage contract, she gave him a quittance for the whole.**

[E] **“For thus does she write for him [in the quittance], ‘Obligations that you owe will be mine from before up to now’” [T. Ket. 4:11].**

[I:6 A] **R. Yosé expounded the language of the marriage contract. R. Yosé [Yerushalmi drops: the Galilean] expounded, “In a place in which they collect the marriage contract as a loan, they collect it as a loan, and they do not collect the [full amount] of the marriage contract.**

[B] **“In a place in which they double the sum of the marriage contract, they collect only half” [T. Ket. 4:13]**

[I:7 A] **R. Eleazar Haqqappar expounded the language of the marriage contract.**

[B] **R. Eleazar Haqqappar expounded, “A man has not got the right to purchase a domesticated beast, a wild beast, or a bird, unless he has provided food for them.”**

[I:8 A] **R. Joshua b. Qorha expounded the language of the marriage contract [in the Tosefta’s version]: R. Joshua b. Qorha expounded “He who lends money to his fellow should not exact a pledge greater than his debt.**

[B] **“For thus does he [the borrower] write to him [in the document of loan],**

[C] **““You will be paid from my property, from property that I acquire from beforehand up to now” [T. Ket. 4:12].**

[I:9 A] **R. Huna expounded the language of the marriage contract.**

[B] **So did R. Huna expound: “The sons will inherit the estate and the daughters will be supported by it.**

[C] **“Just as the sons inherit movables, so the daughters are supported by the sale of movables.”**

[D] **Samuel said, “The daughters are not supported by the sale of movables.”**

[E] ***The Mishnah’s law supports the view of Samuel: “Female children that you will have from me will dwell in my house and derive support from my property until they will be married to husbands” [M.***

Ket. 4:11A], and in this regard it has been said, “From real estate, or from movables.”

[F] *Said R. Ba bar Zabeda, “The view of R. Huna accords with the opinion of Rabbi, and that of Samuel accords with the view of R. Simeon b. Eleazar.”*

[G] *For it has been taught:*

[H] **“All the same are landed property and movable property: They are seized for the support of the wife and daughters,”** the words of Rabbi.

[I] **R. Eleazar b. R. Simeon [Yerushalmi: Simeon b. Eleazar] says, “Landed property – sons remove from the possession of sons, and daughters from daughters, and daughters from sons, but not sons from daughters.**

[J] **“Movable property – sons remove from the possession of sons, and daughters from daughters, and sons from daughters, but not daughters from sons.”**

[K] [Yerushalmi omits:] **Whether the father indentured the property while he was alive, or whether the heirs did so after the death of the father, they are not seized for the matter of the marriage contract.**

[L] **But for maintenance they do collect from that property] [(T. Ket. 4:18A-D).** The entire property is available for the support of wife and daughters, so Rabbi. Eleazar wishes to distinguish. If older sons or daughters have taken the property in place of younger sons or daughters at the time of inheritance, when the estate is too small to satisfy all claims, the court exacts sufficient funds to support the widow and daughters by selling land held by the sons. The court then gives the necessary funds to the daughters. But sons do not take land away from the daughters; once the daughters take possession of the land, it is theirs.]

[M] They say that R. Huna retracted.

[N] They say, “That is just as well. The marriage settlement derives from the requirements of the law of the Torah, while supporting the daughters derives from the decree of scribes. Now will their decree uproot a requirement of the law of the Torah?”

[O] But the dispute has to do with the funds to pay off the marriage settlement of their mother.

[P] Even if you say that the dispute concerns the funds to be used for paying off the marriage settlement of their mother. Now is that money not tantamount to real estate?

[I:10 A] He who enters his wife's estate and contemplates divorcing her,

[B] if he went ahead [15a] and plucked up produce from the ground in any measure at all,

[C] lo, this one is rewarded for his promptness [M. Ket. 8:4].

[D] He who enters into an expropriated estate and heard a report that they [assumed to have died and left the estate] are returning –

[E] if he went ahead and plucked up produce from the ground in any measure at all,

[F] lo, this one is rewarded for his promptness.

[G] What is meant by the expropriated estate?

[H] Any whose father or brothers or one of those who leave him an inheritance went overseas and he heard that they had died, and he entered into his inheritance.

[I] What is an abandoned estate?

[J] It is any estate, the death of the owner of which has not been reported, but into which one nonetheless has entered for purpose of inheritance.

[K] R. Simeon b. Gamaliel says, "I have heard that an expropriated estate is equivalent to an abandoned estate.

[L] "He who takes over an abandoned estate – they retrieve it from his possession.

[M] "And in the case of all of them, they estimate their value [for restoring what is misappropriated] as if he is a tenant- farmer."

[N] What is abandoned property?

[O] Any of which the location of the owner is not known [T. Ket. 8:2-3].

[P] Samuel said, "An expropriated estate is one, the owner of which went away without the knowledge [of the heir], for if he had gone forth with his knowledge, he would have left instructions."

[Q] Abandoned property – this is property of one who went forth with full knowledge. You must know that he was looking for an excuse to take over the other’s property.

[R] Lo, he went forth with the other’s knowledge and he did not leave any instructions on the matter.

[S] R. Aha, R. Ba, R. Judah in the name of Samuel: “As to movables, they are not subject to the law governing abandoned property.”

[T] R. Jacob bar Aha in the name of R. Judah: “Grain that is ready for harvest and vines that are ready to be plucked fall into the category of movables.”

[U] *R. Sheshet asked*, “As to Babylonian palms, which do not require further grafting – is it not reasonable that we should treat them as grain that is ready for harvest and vines that are ready to be plucked?”

15:4

[A] All are believed to testify in her behalf that her husband has died], except for her mother-in-law, the daughter of her mother in-law, her co-wife, her sister-in-law [who will enter levirate marriage in case the husband has died childless], and the daughter of her husband [by another marriage].

[B] What is the difference between evidence for [severing a marital relationship] through a writ of divorce and [evidence for doing so] through death?

[C] The written document [of divorce] proves the matter.

[D] [If] one witness says, “He died,” and she remarried, and then another witness comes and says, “He did not die,” lo, this woman does not go forth [from the second marriage].

[E] [If] one witness says, “He died,” and two witnesses say, “He did not die,” then even though she has remarried, she goes forth.

[F] Two witnesses say, “He died,” and one witness says, “He did not die,” even though she has not remarried, she may remarry.

[I:1 A] *It has been taught*: Just as they, [listed at M. 15:4A], are not believed to testify in her regard, so she is not believed to testify in their regard.

[B] The son of her mother-in-law is in the status of the daughter of her mother-in-law. The son of her husband is in the status of the daughter of her husband.

[C] [In the case of] her co-wife: Even if she already has remarried.

[D] Her sister-in-law: Even if she is her sister [and cannot marry the levir anyhow].

[E] Said R. Yosé, “*The Mishnah has made the contrary point [vs. B], that they do not treat the males as equivalent to the females. For we have learned there [at M. 15:10R-S]: A woman is not believed to testify, ‘My levirate brother-in-law has died,’ so that she may remarry. Nor is she believed to testify, ‘My sister has died,’ so that she may enter into his [her brother- in-law’s] house.*’ This is because she has no children, [in which case she is not believed to free herself from being subject to the levir]. But if she has children, she is believed [vs. B]. [Now we speak here of her levirate brother-in-law who is the son of her mother-in-law, for the levir was the brother of her husband on the father’s side and on the mother’s side.]”

[II:1 A] [As to M. 15:4B-C:] **And the written document of divorce proves the matter.**

[B] And do they not believe what she says [at all, but do they rely only on the writ? She has to testify, “In my presence it was written and signed,” and] if she does not make that statement, she cannot be released to remarry. [Accordingly, her testimony is taken into account, and not only the evidence of the document itself.]

[C] Said R. Yosé b. R. Bun, “*It accords with that which R. Bun has said, ‘The husband is not suspect of ruining the wife’s situation in regard to a matter involving Heaven. But in regard to a matter involving court action, he is suspect of ruining her situation.’*”

[D] “For he knows that if he should come and raise a complaint against the writ he has handed over, his complaint will be null. So even he will see to it that it is signed by valid witnesses. [Here too we do not scruple that she may lie, since what is written (= M. Ket. 2:7C-D), not merely what she says (= M. Ket. 2:7E-F), validates the writ.]

[E] “*Here too* since she knows that they have not treated her statements as valid with regard to her co-wife, she will only tell the truth, [since she has no motive to lie].”

[III:1 A] **If one witness says, “He died,” and she remarried, and then another witness comes and says, “He did not die,” lo, this woman does nor go forth from the second marriage [M. 15:4D]:**

[B] It is because he made his statement after she had remarried that she does not go forth,

[C] Lo, if he had made his statement prior to her remarriage, and then she remarried, she must go forth.

[D] Said R. Yohanan, “This represents the view of R. Menahem b. R. Yosé.

[E] “But in the view of sages, whether the witness had given his testimony after she had remarried, or whether he gave it before she remarried, she should not remarry.

[F] “But if she remarried, she should not go forth.”

[IV:1 A] R. Nahman bar Jacob in the name of Rab: “If she was married on the basis of the testimony of two witnesses [M. 15:4F] [that the husband had died], even if the husband then should come, *they say to her, ‘He is not with us. [We do not recognize you.]’*”

[B] R. Samuel bar R. Isaac asked, “What if he was a well-known man, such as Immi?”

[C] Said R. Yosé b. R. Bun, “And is there no one who [looks] like R. Immi?”

[D] A case came before rabbis over there. They said to him, “He is not with us [and we do not recognize him].”

[E] Abba bar Ba got up and whispered in his ear, “By your life! Give her a writ of divorce by reason of the doubt [as to whether or not it was the original husband, thus protecting her].”

[F] The disciples of Rab got up and hit him.

[G] He said, “The strap for flogging is heated up, and the stool for the subject of the flogging is ready.”

[H] Samuel said, “I was there, and it is not so that the strap for flogging was heated up, and the stool for the subject of the flogging was ready. But it was my father [Abba bar Ba] who was flogged and went his way.”

[I] A case came before R. Immi. He said to [the second husband], after the first had come back, “Yes, it is true that she is permitted to you. But you should know that the sons by that man [you] will be mamzers in the sight of Heaven.”

[J] And R. Zeira praised him for laying out the matters with full clarity as to the results.

15:5

[A] [If] one woman [co-wife] says, “He died, and one [co-wife] says, “He did not die,” this one who says, “He died,” may remarry and collect her marriage contract, and that one who says, “He did not die,” may not remarry and may not collect her marriage contract.

[B] [If] one woman says, “He died,” and one says, “He was killed” –

[C] R. Meir says, “Since they contradict one another [in details of their testimony], lo, these women may not remarry.”

[D] R. Judah and R. Simeon say, “Since this one and that one are in agreement that he is not alive, they may remarry.”

[I:1 A] R. Jacob bar Aha in the name of R. Yohanan, R. Hela in the name of R. Eleazar: “R. Meir concurs in regard to the former [in which one wife says he died and the other that he did not die, that the woman may remarry].”

[B] *It has been found taught [to the contrary] as follows:* The matter is subject to dispute [between Meir and sages] both in regard to the former matter and in regard to the latter one.

[C] *What is the difference between the two cases [in Yohanan’s view, A]?*

[D] In the first case, they have not treated the statement of one as having any weight at all in respect to the status of the other [and hence, all parties concur that the one who says the husband has died may remarry].

[I:2 A] Said R. Eleazar, “R. Judah and R. Simeon concur in regard to witnesses. [That is, if one says he has died and one says he has not died, there is a contradiction in the testimony of the two witnesses, and the testimony is null.]”

[B] What is the difference between the status of the testimony of witnesses and that of a co-wife?

[C] In the case of the co-wife, they have not treated the statement of one as having any weight at all in respect to the status of the other. [It is as if she has said nothing at all.]

[D] Said R. Yohanan, “If R. Eleazar made that statement, it was from me that he heard it, on and on my authority that he made it.”

[I:3 A] *There we have learned:*

[B] **He concerning whom two groups of witnesses gave testimony –**

[C] these testify that he took a vow to be a Nazir for two spells,

[D] and those testify that he took a vow to be a Nazir for five spells –

[E] The House of Shammai say, “The testimony is at variance, and no Naziriteship applies here at all.”

[F] And the House of Hillel say, “In the sum of five are two spells, so let him serve out two spells of Naziriteship” [M. Naz. 3:7].

[G] Rab said, “As to a general number [the Houses] are in disagreement, [that is, as to whether he has taken the Nazirite vow at all.. But as to a specific number, all parties agree that (the testimony is at variance). [Following the versions of Y. Yeb. 5:5, M. Naz. 3:7: The sum of five includes two, as at M. 5:2F.]”

[H] R. Yohanan said, “As to spelling out the number of vows there is a difference of opinion, but as to a general number, all parties concur that (within the general principle of five spells of Naziriteship there are two upon which all parties concur). [Following the parallels: the testimony is at variance.]”

[I] What is meant by the “general number,” and what is meant by “counting out the number of specific vows” [the man is supposed to have taken]? [Examples of each are as follows:]

[J] The general number – one party has said, “Two,” and one party has said, “Five.”

[K] Counting out the number of vows one by one is when one said, “One, two,” and the other said, “Three, four.”

[L] Rab said, “If the essence of the testimony is contradicted, the testimony is not null.”

[M] And R. Yohanan said, “If the essence of the testimony is contradicted, the testimony has been nullified.”

[N] All parties concede, however, [that] if testimony has been contradicted in its non-essentials, the testimony [of the first set of witnesses] is not nullified.

[O] R. Yohanan is consistent with his ruling in other cases.

[P] For R. Ba bar Hiyya in the name of R. Yohanan: “The assumption [that a loan has taken place is] confirmed [by testimony] that one has counted out [coins].

- [Q] “If this witness says, ‘From the pocket did he count out the money,’ and that one says, ‘From the pouch did he count out the money,’
- [R] “We have a case in which a testimony is contradicted in its essentials [within the same pair of witnesses, who thus do not agree]. [This is null.]”
- [S] Here even Rab concedes that the testimony is null.
- [T] *Concerning what do they differ?*
- [U] Concerning a case in which there were two groups of witnesses.
- [V] One states, “From the pocket did he count out the money,” and the other says, “From the pouch did he count out the money.”
- [W] Here we have a case in which testimony is contradicted in its essentials. The effect of the testimony [in Yohanan’s view] is null.
- [X] But in the view of Rab, the effect of the testimony is not null.
- [Y] If one witness says, “Into his vest did he count out the money,” and the other says, “Into his wallet,”
- [Z] in the opinion of all parties, the testimony is contradicted in its nonessentials and therefore the testimony is not nullified. [This testimony is not about the essence of the case.]
- [AA] If one party says, “With a sword did he kill him,” and the other party says, “With a staff did he kill him,” we have a case in which testimony has been contradicted in its essentials [just as in a property case, so in a capital one], and, therefore, the testimony is null.
- [BB] Even Rab concedes that the effect of the entire testimony is null.
- [CC] *In what regard did they differ?*
- [DD] In a case in which there were two sets of two witnesses:

[EE] One group says, “With a sword,” and the other says, “With a staff.”

[FF] Here we have a case in which the testimony has been contradicted in its essentials, and the effect of the testimony is null.

[GG] But in the view of Rab, the effect of the testimony is not null.

[HH] One group says, “[The murderer] turned toward the north [to flee],” and the other group says, “He turned toward the south,” in the opinion of all parties, the testimony [of one group] has been contradicted in its nonessentials and the testimony has not been nullified.

[II] *The full force of Rab’s opinion is indicated in the following, which we have learned there:*

[JJ] [If one woman says, “He died,” and one says, “He was killed,” R. Meir says, “Since they contradict one another [in details of their testimony], lo, these women may not remarry.” R. Judah and R. Simeon say, “Since this one and that one are in agreement that he is not alive, they may remarry”[M. Yeb. 15:5B-D].

[KK] Now did he not hear that which R. Eleazar said, “R. Judah and R. Simeon concur in the matter of witnesses [that where they contradict one another in essentials, their testimony is null]”?

[LL] If so, what is the difference between such contradiction when it comes from witnesses and the same when it comes from co- wives?

[MM] They did not treat the statement of a co-wife concerning her fellow-wife as of any consequence whatsoever.

[NN] Said R. Yohanan, “If R. Eleazar made such a statement, he heard it from me and said it.”

[OO] *The Mishnah-pericope is at variance with the position of Rab: All the same are*

interrogation and examination in the following regard: When the witnesses contradict [15b] one another, their testimony is null [M. San. 5:2F]. [Rab does not deem it invariably null, as we have seen.]

[PP] *Now how does Rab interpret that passage, [which contradicts his position]?*

[QQ] *Said R. Mana, “Rab interprets the Mishnah-rule to speak of a case in which one witness contradicts another [but not in which a set of witnesses contradicts another such set in some minor detail].”*

[RR] *Said R. Abin, “Even if you interpret the passage to speak of contradictions between one set of witnesses and another, still Rab will be able to deal with the matter. For a capital case is subject to a different rule, since it is said, ‘Justice, and only justice, will you pursue’” (Deut. 16:20). [Thus capital trials are subject to a different set of rules of evidence from those applicable in other cases.]*

15:6

[A] [If] one witness says, “He has died,” and one witness says, “He has not died,”

[B] [or] a woman says, “He has died,” and a woman says, “he has not died” –

[C] lo, this woman may not remarry.

[I:1 A] Giddul bar Minyamin in the name of Rab: “In any case in which [sages] have declared the testimony of a woman to be as valid as - that of a man, the testimony of a man serves to discredit that of a woman, and the testimony of a woman serves to discredit that of a man.”

[B] [*If that is so, then let the Tannaite authority of M. Sot. 6:4A teach [the law as follows]:*] “[If] one [male] witness said, ‘She has been made unclean,’ and a woman said, ‘She has not been made unclean,’

[C] “[or] a woman said, ‘She has been made unclean,’ and a [male] witness said, ‘She has not been made unclean,’ [that would have indicated the point made by Rab at A].

[D] *Along these same lines did the house of Rabbi [teach the law].*

[I:2 A] *It was taught in the name of R. Nehemiah, “They follow the majority of the [available] testimony.”*

[B] *What would be a practical illustration of that proposition?*

[C] In the case in which two women testify [in one wise], and one woman [testifies in another], they have treated such a case as one in which there are two witnesses against one witness.

[D] *That rule you have stated applies to a case in which there was one woman against two women.*

[E] But if they were a hundred women and a single male witness, all the women are deemed equivalent to a single male witness.

15:7

[A] A woman who went, she and her husband, overseas,

[B] and came and said, “My husband has died,”

[C] remarries and collects her marriage contract [M. 15:3].

[D] And her co-wife is prohibited [from remarrying, for a woman is not believed concerning the death of her husband so as to free her co-wife from the marital tie, as at M. 15:4].

[E] [If] she [the co-wife] was an Israelite girl married to a priest,

[F] “she continues to eat heave-offering,” the words of R. Tarfon.

[G] R. Aqiba says, “Thus is not the way to remove her from the toils of transgression, unless she is both prohibited from remarrying and prohibited from eating heave-offering.”

[I:1 A] [Explaining M. 15:7D], she is suspect of ruining her own situation in order to ruin that of her co-wife.

[B] If so, then she should not be believed even about her own status.

[C] Since she knows that what she says is treated as null with regard to her co-wife, in her own regard she is assumed to tell the truth.

[D] If that is the case, then even as to the status of her co-wife she should be believed.

[E] Said R. Hela, “We return to the original consideration of a woman’s ruining her status. She is suspect of being willing to ruin her own situation-in order to ruin that of her co-wife.”

15:8

[A] [If] she said “My husband died and afterward my father-in-law died,” she may remarry and collect her marriage contract.

[B] But her mother-in-law is prohibited [from doing so].

[C] [If] she [the mother-in-law] was a priest-girl married to an Israelite, or an Israelite girl married to a priest, “she continues to eat heave-offering,” the words of R. Tarfon.

[D] R. Aqiba says, “This is not the way to remove her from the toils of transgression, unless she is both prohibited from remarrying and prohibited from eating heave-offering”

[I:1 A] And let her be believed to testify, “My father-in-law died” [vs. M. 15:8B].

[B] *Have we not reasoned as follows: Just as they are not believed to testify in her regard, so she is not believed to testify in theirs? [But now she is no longer her daughter-in-law!]*

[C] Said R. Haninah, “Interpret the case to speak of one in which her father-in-law was present and knew her.”

15:9

[A] [If] a man betrothed one of five girls and it is not known which one of them he betrothed,

[B] [and] each one of them says, “Me did he betroth” –

[C] he gives a writ of divorce to each one of them.

[D] “But he leaves the marriage contract among them, and takes his leave,” the words of R. Tarfon.

[E] R. Aqiba says, “Thus is not the way to remove hum from the toils of transgression, “unless he gives a writ of divorce and pays off the marriage contract to each and every one of them.”

[F] [If] one stole from one of five men and does not know from which one of them he stole,

[G] [and] each one of them says, “From me did he steal,”

[H] “he leaves that which he stole among them and takes his leave,” the words of R. Tarfon.

[I] R. Aqiba says, “This is not the way to remove him from the toils of transgression, unless he pays the value of that which was stolen to each and every one of them.”

[I:1 A] *Said R. Assi, “The following Tannaitic teaching expresses the view of R. Aqiba and not of R. Tarfon, for we have learned there:*

[B] “I stole from one of you a maneh, but it is not known from which one of you I stole it,”

[C] or: “The father of one of you deposited a maneh with me, and it is not known to me the father of which one of you it was,”

[D] he gives a maneh to this one and a maneh to that one, for he himself confessed the matter on his own [T. Yeb. 14:2G-I].

[E] R. Jacob bar Aha in the name of R. Yohanan: “It represents the opinion of all parties. One instructs him to carry out his obligation to Heaven [and so make sure that no one loses].”

[F] [Maintaining the same view but for a different reason,] R. Ba in the name of R. Judah: “Here we have a case in which witnesses know about the matter, and there we have a case in which witnesses know about the matter. [In one case we know about the theft but not about the person to whom the object belongs. In such a case Tarfon will concede that he must provide the object to each claimant or possible victim. At M. Yeb. 15:7 the situation is the opposite.]”

[G] R. Hela in the name of R. Eleazar: “Here we deal with a case in which they are silent [making no claim], and there we deal with a case in which they speak up.”

[H] R. Jeremiah in the name of Rab: “Here we have a case in which he has taken an oath, there we have a case in which he has not taken an oath.” Where the man has taken an oath and then confessed (M. 3:3D), Tarfon will concur that he must pay off each possible victim, as at the present pericope. But where he has taken no oath (M. Yeb. 15:7), Tarfon will not assign compensation to all possible victims.]”

[I] R. Yohanan said, “If it is a case in which he took an oath, he should have appointed an agent of the court [to whom he will hand over the stolen object]. [The agent then will dispose of it as he sees fit. By handing over the maneh, he has carried out his obligation, and he surely need not pay back more than he stole and confessed to have stolen.]”

[J] *R. Yohanan conceived that [the law permitting this procedure involves] an agent of the court whom the thief appointed [to dispose of the stolen object].*

[K] Rab said that it is an agent of the court whom the victim of the theft appointed, and not an agent of the court whom the thief appointed. [This would then differ from Yohanan, since his objection is based on the possibility that the thief may appoint the agent to dispose of the stolen property.]

[L] *The extent of the position taken by Rab is seen in the following, which R. Simeon b. Eleazar said, “It is a court that was appointed by the victim of the theft, and not a court whom the thief appointed.”*

[M] *R. Jeremiah raised the question, “If it is a case in which he has taken an oath, then he should have shut up.”*

[N] [In asking this question,] R. Jeremiah conceived that he should have shut up and not confessed. [Even if he had taken no oath, the net result would be the same. The entire matter rests upon his confession, not upon the oath, as at M. B.M. 3:3D.]

[O] *R. Yosa conceived that he should have shut up and not taken an oath at all. [That is, what Jeremiah meant to ask is not what N has said was in his mind, but rather what Yosa has said he was thinking. At the present pericope we have a case in which there was no claimant; the man confessed on his own. So what sort of oath is called for?]*

[P] Said R. Yudan, “[As to the proposed distinction above, between remaining silent and speaking up,] even if you maintain the position of those who say that there is one rule in the case of remaining silent and another in the case of speaking up in the case of a theft, they concur in the case of a bailment that one who remains silent makes a profit, and the one who speaks up loses out.

[Q] “The point that the one who remains silent profits is seen in the following:

[R] “Two who left a bailment with one person, this one a bailment worth a maneh, and the other, of two hundred zuz –

[S] “this one says, ‘The object worth two hundred zuz is mine,’ and that one says, ‘The item worth two hundred zuz is mine’ – he gives this one a maneh and that one a maneh, and the rest remains until Elijah comes.

[T] “The point that the one who speaks up loses out is illustrated in the following:

[U] “If he said, ‘I stole from one of you, and I do not know from which of you I stole,’ etc. [as above. In this case, the man spoke up and has to pay off].”

15:10

[A] The woman who went, she and her husband, overseas,

[B] and her son was with them –

[C] and she came and said, “My husband died, and afterward my son died”

[D] is believed.

[E] [If she said], “My son died, and afterward my husband died,” she is not believed,

[F] But they scruple on account of her testimony, so that she performs the rite of halisah, but she does not enter into levirate marriage.

[G] “A son was given unto me overseas,” and, she said, “My son died, and then my husband died” –

[H] she is believed.

[I] “My husband died, and afterward my son died” – she is not believed.

[J] But they scruple on account of her testimony, so that she performs the rite of halisah, but she does not enter into levirate marriage.

[K] “A levirate brother-in-law was given unto me overseas,” and, she said, “My husband died, and afterward my levirate brother-in-law died,”

[L] “My levirate brother-in-law died and afterward my husband

[M] she is believed.

[N] [If] she went, she and her husband and her levirate brother-in-law, overseas,

[O] and she said, “My husband died and afterward my levirate brother-in-law died,”

[P] “My levirate brother-in-law died and afterward my husband died” –

[Q] she is not believed.

[R] For a woman is not believed to testify, “My levirate brother-in-law has died,” so that she may remarry.

[S] Nor is she believed to testify, “My sister has died,” so that she may enter into his [her brother-in-law’s] house.

[T] **And a man is not believed to say, “My brother has died,” so that he may enter into levirate marriage with his [the brother’s] wife.**

[U] [Nor is he believed to testify,] **“My wife died,” so that he may marry her sister.**

[I:1 A] *R. Hananiah raised the following question before R. Ila: “Who is the Tannaite authority who has taught, **They scruple on account of her testimony, so that she performs the rite of halisah [M. 15:10F]?** The authority behind that statement surely is R. Tarfon, and not R. Aqiba. [At M. 15:8, Tarfon says that we pay no attention whatsoever to the statement of the co-wife, on which account the Israelite-girl married to a priest continues to eat *heave-offering*. Aqiba does take some account of what *the* co-wife has said, on which count he rules the woman may no longer eat such food.]”*

[B] He said to him, “In the present instance we have the opinion of both authorities. *Here even R. Aqiba will concur* [that we pay no heed to what the co-wife has said. When he holds otherwise, it is because of the strict rules for the protection of food in the status of *heave-offering*].”

[II:1 A] [With reference to the contrast between M. 15:10C-D and E – that she is believed when she says the husband died first, then the son, but not, the son died first, then the husband, on the one side – and M. 15:10M. At 15:10G-I, she is believed when she said the son died, then the husband, but not, the husband died, then the son] – *what is the difference between this latter case and the former one?*

[B] [For why is it that] here you rule that she is not believed, and there you say, she is believed?

[C] When she leaves the status of being permitted to the levir [at M. 15:10A-D], [you simply confirm the status that had prevailed when she left home with her husband and son].

[D] When you say that she is not believed, it is when she does not leave the status of being permitted to the levir, [and if this contradicts the status prevailing at the outset, it is not confirmed. Thus the contrast between M. 15:10G-H, when she remains in her established status, and I, when she reverses it].

[E] *Said R. Yosé, “The Mishnah has made the same point, that they do not treat the males as equivalent to the females, for we have learned there: **A woman is not believed to testify, ‘My levirate brother-in-law has died,’ so that she may remarry, nor is she believed to testify, ‘My***

sister has died,' so that she may enter into his [her brother-in-law's] house.' [M. 15:10R].

[F] This is because she has no children. Lo, if she has children, she is believed.”

YERUSHALMI YEBAMOT

CHAPTER SIXTEEN

16:1

[A] [15c] A woman whose husband and co-wife went overseas and they came and said to her, “Your husband has died,” should not remarry [without halisah] or enter into levirate marriage,

[B] until she ascertains whether her co-wife is pregnant.

[C] [If] she had a mother-in-law, [however] she does not have to scruple concerning her [the mother-in-law’s possible pregnancy, which may bring forth a levir, on whom she then would have to wait].

[D] [And if] she [the mother-in-law] went away full [of child], she must scruple [concerning her].

[E] R. Joshua says, “She does not have to scruple [concerning her].”

[I:1 A] *Rab asked R. Hiyya the Elder, “Why should she wait for three months? Let her perform the rite of halisah forthwith. For what difference does it make? If the foetus is viable, then the rite of halisah will not have affected the woman. If the foetus is not viable, then the woman’s rite of halisah is already within her domain, [and she should not be required to obtain the rite after a long delay].”*

[B] He said to him, “The requirement concerning three months applies only with regard to the woman herself [to ascertain that she is not pregnant. It is not on account of the co-wife].”

[C] Lo, so far as the co-wife is concerned, how long should she wait? For nine months [to ascertain whether or not she is pregnant, and, if she is, to see whether the offspring is viable].

[D] And let her perform the rite of halisah forthwith? For what difference does it make. If the foetus is viable, then the rite of halisah will not have affected the woman. If the foetus is not viable, then the woman’s rite of halisah is already within her domain, [and she should not be required to wait so long].

[E] R. Judah in the name of R. Eleazar in the name of R. Hiyya the Elder: “It is so that she should not require the declaration of a court that she is suitable for marriage into the priesthood.”

[II:1 A] [As to M. 16:1C-D,] *associates in the name of R. Yohanan*: “*The reason for the position of rabbis* [that she does not have to wait on the news of her mother-in-law’s possible pregnancy] is that Scripture says, ‘When brothers will dwell together’ (Deut. 25:5) – under conditions of certainty, not in a case of doubt.”

[B] If she went away full of child, she must scruple concerning her [M. 16:1D]:

[C] This is a case in which there is only one matter of doubt, whether or not it is male or female, and in such a case, so far as the law of the Torah is concerned, one applies the law strictly.

[D] R. Joshua says, “She does not have to scruple” [M. 16:1E]:

[E] This is a case in which, in fact, there are two matters of doubt. First it is a matter of doubt whether it is a male or female, second, it is a matter of doubt whether the foetus is viable or not viable. In a case in which there are two matters of doubt, so far as the law of Torah is concerned, one applies the law leniently.

16:2

[A] Two sisters-in-law [wives of two brothers] –

[B] this one says, “My husband died,”

[C] and that one says, “My husband died” –

[D] This one is prohibited on account of the husband of that one [to whom she is bound in a levirate connection], and that one is prohibited on account of the husband of this one.

[E] [If] this one has witnesses [who testify independently that the husband has died], and that one does not have witnesses –

[F] the one who has witnesses is prohibited.

[G] And the one who does not have witnesses is permitted.

[H] [If] this one [of A] has children and that one does not have children, the one who has children is permitted, and the one who does not have children is prohibited.

[I] [If] they entered into levirate marriage and the levirs died,

[J] they are prohibited from remarrying.

[K] R. Eleazar says, “Since they were permitted to marry the levirs [who then died], they are permitted to marry anyone [hereafter].”

[I:1 A] [The Tosefta’s version:] Two women – this one has witnesses [to the effect that her husband has died] and children, and that one has no witnesses and no children [M. 16:2E-H] –

[B] both of them are permitted [to remarry]. [If one has witnesses that her husband has died and also has children, she obviously may remarry. The other is believed that her husband has died. And because the co-wife has witnesses, the other also has no levir available and may remarry. This is entirely obvious] [T. Yeb. 14:3Q-R].

[II:1 A] *What is the reason for the view of R. Eleazar [M. 16:2K]?*

[B] Is it because he holds that a woman is not suspect of wishing to ruin the situation of her co-wife in any way? [In that case he would hold that a co-wife may give testimony as to the status of her fellow wife. Or does he hold that a woman will not so testify as to ruin her own situation?]

[C] *Let us derive the answer from the following: A woman who went, she and her husband, overseas, and came and said, “My husband has died,” remarries and collects her marriage contract. And her co-wife is prohibited from remarrying* [M. 15:7A -D].

[D] *Now we considered ruling, She is suspect of ruining her own situation in order to ruin that of her co-wife, [on which account she is not believed about the co-wife].*

[E] *In that connection R. Eleazar does not express disagreement.*

[F] It follows that his reason can only be that a woman is not suspect of ruining her own situation, and it is not that she is not suspect of ruining her co-wife’s situation in any way whatsoever.

[G] And should one not take account of the possibility that the husband may have sent her a writ of divorce from overseas? [That is, perhaps the one who gives testimony about her own situation in fact has been divorced, and when she says the husband has died, having concealed the divorce, it is so as to ruin the situation of the co-wife anyhow.]

[H] But what if [the second husband] was a priest? [That is, if this woman who had claimed to have been divorced then married a priest, and the first husband comes back and revealed that he had divorced her, she then is not eligible for marriage to the priest, being a divorcée. Her children will be of tainted priestly stock. Surely she will not do such a thing to herself.]

[I] Said R. Ba bar Zimna, “A woman is suspect of being willing to produce any number of children of tainted priestly stock, merely in order to make the children of her co-wife into mamzers, [since the co-wife will remarry, assuming the husband has died, and it will turn out that he is yet alive].”

16:3

[A] They derive testimony [concerning the identity of a corpse] only from the appearance of the whole face with the nose,

[B] even though there are signs of the corpse’s identity on his body or garments.

[C] They derive testimony [that a man has died] only after he has actually died and has been seen dead,

[D] and even if they [the witnesses] saw him mortally wounded, crucified, or being eaten by a wild beast.

[E] They give testimony [about the identity of a corpse] only during the period of three days [after death].

[F] R. Judah b. Baba says, “[Decay in corpses] is not alike for all men, all places, and all times.”

[I:1 A] [With reference to M. 16:3A,] R. Judah said, “The nose with the cheeks.”

[B] [*The statement that the nose is critical in recognizing a person*] accords with that which R. Jeremiah said in the name of Rab: “‘The point of recognition of their faces witnesses against them’ (Is. 3:9, RSV: “Their partiality ...”). This refers to the nose.”

[C] Said R. Hiyya bar Ba, “Whoever wants not to be recognized should put a rag over his nose, and he will not be recognized.”

[D] *This is in line with what happened in the times of Arseqines, the king. The residents of Sepphoris were summoned [by the government]. So they put rags over their noses so as not to be recognized. In the end they were informed against, and they were all captured forthwith.*

[I:2 A] It is written, “Abijah and his people slew them with a great slaughter; [so there fell slain of Israel five hundred thousand picked men]” (2 Chr. 13:17).

[B] Said R. Aba b. Kahana, “He removed the Israelite’s noses.”

- [C] That is in line with what is written, “The point of recognition of their faces witnesses against them” (Is. 3:9).
- [D] This refers to the nose.
- [E] R. Ammi said, “He set up guards over them for three days [so that they could not be buried], until their faces were disfigured.”
- [F] *That is in line with what is written*, “I have made their widows more in number than the sand of the seas; [I have brought against the mothers of young men a destroyer a noonday; I have made anguish and terror fall upon them suddenly]” (Jer. 15:8).
- [G] *And so it has been taught: They derive testimony concerning the identity of a corpse only from the appearance of the whole face with the nose [M. 16:3A].*
- [H] It is written, “Jeroboam did not recover his power in the days of Abijah; and the Lord smote him and he died” (2 Chr. 13:20).
- [I] Said R. Samuel, “You think that this refers to Jeroboam? It refers only to Abijah.”
- [J] And why was he smitten?
- [K] Because he humiliated Jeroboam in public. *This is in line with that which is written*, “[And now you think to withstand the kingdom of the Lord in the hand of the sons of David,] because you are a great multitude and have with you the golden calves which Jeroboam made you for gods” (2 Chr. 13:8).
- [L] R. Simeon b. Laqish said, “It was because he despised Ahijah the Shilonite.”
- [M] *That is in line with what is written*, “And certain worthless scoundrels gathered about him [and defiled Rehoboam the son of Solomon, when Rehoboam was young and irresolute and could not withstand them]” (2 Chr. 13:7). It was because he cried out against Abijah the Shilonite.
- [N] Rabbis say, “It was because idolatry came about through his deed, and he did not wipe it out.”
- [O] *That is in line with what is written*, “And Abijah pursued Jeroboam, and took cities from him, Bethel

with its villages [and Jeshanah with its villages and Ephron with its villages]” (2 Chr. 13:19).

[P] It is written, “And he set one in Bethel, and the other he put in Dan” (1 Kings 12:29).

[II:1 A] Even though there are signs of the corpse’s identity on his body or garments [M. 16:3B]:

[B] *Has it not been taught:* How do you know that if your brother has lost his way, you restore him?

[C] [Scripture says, “And so shall you do with any lost thing of your brother’s, which he loses and you find; you may not withhold your help” (Deut. 22:3).] This applies both to his person and to his clothing. [It follows that one does take account of identifying marks on garments.]

[D] [Why then do we not take account of identifying marks on garments here?] The case here is different, for as to identifying marks on garments, they generally change with time.

[E] *This is in line with what the Mishnah has said:* **They give testimony about the identity of a corpse only during a period of three days after death [M. 16:3E].**

[F] *R. Berei and R. Pappi, R. Joshua of Sikhnin in the name of R. Levi: “For the first three days after death the soul floats above the body, thinking that it will return to the body. When the soul sees the body, that the appearance of the face has changed, it leaves the body and goes its way.”*

[G] *And when three days have passed, the stomach swells up over the face and says to it, “Here is what you have stolen and seized by violence.”*

[H] *R. Haggai in the name of R. Josiah proves the case from this verse of Scripture: “Behold, I spread dung upon your faces, and even the dung of your offerings” (Mal. 2:3). At that moment: ‘He feels only the pain of his own body, and he mourns only for himself’ (Job 14:22).”*

[III:1 A] And even if the witnesses saw him mortally wounded, crucified, or being eaten by a wild beast [M. 16:3D].

[B] [In the case of the wounding,] I say that he was smitten with a white-hot sword, and he survived.

[C] In the case of one who was being crucified on the cross: I say that a Roman matron passed by and redeemed him.

[D] A wild beast eating him: I say that they had mercy on him from heaven, [and he survived].

[E] **If he fell into a lion's pit, they do not give testimony concerning him [T. Yeb. 14:4A]:** I say, "A miracle was done for him, as for Daniel."

[F] **If he fell into a furnace of fire, they do not give testimony concerning him [T. Yeb. 14:4B]:** I say, "A miracle was done for him as for Hananel, Mishael, and Azariah."

[G] [If] he fell into a pit full of snakes or scorpions, they give testimony concerning him that he has died.

[H] R. Judah b. Beterah says, [15d] "They scruple, lest he be a wizard."

[I] he fell into an oil-vat or one of wine, they give testimony concerning him.

[J] R. Aha says, "[If] it is one of oil, they give testimony concerning him. [If it is] one of wine, they do not give testimony concerning him."

[IV:1 A] [As to the view of] R. Judah b. Baba [M. 16:3F], R. Zeira, R. Hananel in the name of Rab: "The law accords with the view of R. Judah b. Baba."

[B] *The statements of rabbis indicate that they differ, for* R. Jeremiah said, "There was the cause of someone who fell into the Jordan, and he came up seventeen days later, and they recognized him, because his face had been chilled [in the water and had not become disfigured], and on that basis they permitted his wife to remarry."

16:4

[A] **[If] he fell into a body of water, whether within sight of shore or not within sight of shore –**

[B] **his wife is prohibited [until the corpse turns up].**

[C] **Said R. Meir, M'SH B: "A certain person fell into a large cistern, and came up [alive] after three days."**

[D] **Said R. Yosé, M'SH B: "A blind man went down to immerse in a cave, and his guide went down after him, and they stayed [in the water] long enough to drown,**

[E] **"and they [the sages] permitted their wives to marry."**

[F] **SWB M'SHB: "A certain man in Asya was let down by a rope into the sea, and they drew back up only his leg.**

- [G] “Sages said, ‘If [the recovered part included] from the knee and above, [his wife] may remarry. [If] the recovered part included only from the knee and below, she may not remarry.’”
- [I:1 A] [If] he fell into a body of water, whether within sight of shore or not within sight of shore, his wife is prohibited,” the words of R. Meir [M. Yeb. 16:4A-B].
- [B] And sages say, “[If it is] within sight of shore, she is permitted [to remarry]. [If it is] not within sight of shore, his wife is prohibited [from marrying]. For a wave may have picked him up and thrown him back onto dry land.”
- [C] Said R. Meir, M’S H B: “A certain man fell into a large cistern and came up after thirty days” [M. Yeb. 16:4C].
- [D] They said to him, “They do not adduce a miracle story in evidence.” [T. Yeb. 14:6].
- [E] Said Rabbi, M’S H B: “Two men were fishing with traps in the Jordan. And one of them went into an underwater cave of fish. He tried to leave but could not find the exit of the cave. His fellow waited for him long enough for him to have died through drowning, and then reported the matter in his home.
- [F] “At dawn the sun came up, and the man [trapped in the cave] saw the way out of the cave, and came home, and found a mourning party in his house.”
- [G] Said R. Aqiba, “When I was traveling on the sea, I saw a ship struggling in the waves, and I was saddened for the fate of a disciple of sages who was on board. And when I came to Caesarea-Mazaca in Cappodocia, I saw him in session and asking questions of law before me.’
- [H] “I said to him, ‘My son, how did you escape from the ocean?’ He said to me, ‘One wave tossed me to the next, and the next to the next, until I came up on dry land.’
- [I] “I said, ‘How great are the words of sages. For they have said, If it is within sight of shore, his wife is permitted to remarry. If it is not within sight of shore, his wife is prohibited’” [M. Yeb. 16:4A-B] [T. Yeb. 14:5].
- [K] [With reference to a body of water,] said R. Abbahu, “If there were shores round about, and one looked in all four directions and saw that there was no one there, they permit his wife to remarry.”

[II:1 A] SWB M'SH B:A certain man in Asya was let down by a rope into the sea, and they drew back up only his leg [M. 16:4F].

[B] They wanted to harvest sponges [and when they came to sell them], they came and found him working as a moneychanger in Acre.

[II:2 A] R. Haggai asked before R. Yosé, “[As to finding that the recovered part, M. 16:4G, included from the knee and above, in which case it is assumed that the man cannot have lived], is it not reasonable that they assign to him an interval [of waiting for probable death, which is up to twelve months]?”

[B] He said to him, “I too maintain that view.”

16:5

[A] Even if one heard the women saying, “So-and-so has died,” it is sufficient [for him to go and testify in court that so-and-so has died].

[B] R. Judah says, “Even if he heard children saying, ‘Lo, we’re on our way to lament and bury Mr. So-and-so,’ [that suffices],

[C] “whether one intended or did not intend [to give testimony].”

[D] R. Judah b. Baba says, “In the case of an Israelite, this is valid only if he intended to give testimony.

[E] “And in the case of a Gentile, if he intended to give testimony, his testimony is not valid.”

[I:1 A] Even if one heard the sound of professional mourners, mentioning his name among the deceased –

[B] there is no more solid evidence than that.

[C] [If] one heard an Israelite court declare, “So-and-so, son of so-and-so, is dead,” or “Éhas been killed,” his wife may remarry.

[D] [If] one heard royal bureaucrats saying, “So-and-so, son of so-and-so, is dead,” or “Éhas been slain,” his wife should not remarry [T. Yeb. 14:7A-D].

[E] [If one heard such language as the following:] “Mr. So-and-so has been lost,” “Mr. So-and-so has been killed,” “He is not in the world,” “Mr. So-and-so has been lost,” “I say your master is no longer in the world,” “Mr. So-and-so has departed,” “I say Mr. So-and-so has given up food” [conjectural], “Mr. So-and-so is not in the world,” “His soul has gone out,” [none of these formulas represents adequate evidence that the man has died].

[F] [If one heard that] his ship was sunk in the sea [is this testimony that he has died]?

[G] *The law accords with the following, which Raba bar Zabeda said in the name of Rab: There was the case involving Abba Simi, whose ship sunk at sea. He was not in it. The rule here is the same, namely, [mere evidence that the man's ship has sunk does not prove that the man has died].*

[II:1 A] [Whether one intended or did not intend to give testimony] [M. 16:5C]: What is the meaning of intending to give testimony?

[B] R. Yohanan says, "It is any case in which the wife is mentioned [to the one who is to give testimony, so that by saying the husband has died he may intend to permit her to remarry]."

[C] R. Simeon b. Laqish said, "It is any case in which they commence the proceeding by asking him what has happened, and he replies."

[D] Said R. Haggai to R. Joshua b. Levi, "I recall that there was a court of three judges and a number of other elders, all of whom were arrayed against R. Hoshaiah, *so that he would forthwith act in accord with this opinion of R. Simeon b. Laqish*, but he would not concur [in Simeon's view]."

[E] R. Judah in the name of Rab: "The law does not follow the view of R. Judah b. Baba in the case of an Israelite."

[F] *Statements of rabbis indicate that that is the case, for R. Samuel, R. Abbahu, R. Aqiba bar Aha in the name of R. Yosa: "They do not cross-examine witnesses in matters concerning a wife's remarrying by reason of the death of her husband."*

[II:2 A] [The Tosefta's version:] They do not cross-examine witnesses in matters concerning a wife's [remarrying by reason of her husband's death].

[B] R. Tarfon and R. Aqiba say, "They do cross-examine witnesses in matters concerning wives."

[C] M'SH B: A certain man came before R. Tarfon to give testimony concerning a woman [that her husband had died so] she may remarry.

[D] He said to him, "My son, how do you know testimony for this woman?"

- [E] He said to him, “Rabbi, [the husband] was with us on a caravan, and a gang fell on us, and he grabbed the branch of a fig tree and tore it off. And he drove the gang back.
- [F] “And I said to him, ‘I congratulate you, Lion!’
- [G] “He said to me, ‘That’s just what I’m called in my village, Yohanan b. Yonatan, the lion of the town of Shahara.’”
- [H] He [Tarfon] said to him, “Well said, my son, Yonatan b. Yohanan, the lion of the town of Shabara.”
- [I] He said to him, “No, Rabbi. It was Yohanan b. Yonatan, the lion of the town of Shahara.”
- [J] He said to him, “But did you not just say, ‘Yonatan b. Yohanan, of the town of Shabara, a lion?’”
- [K] He said to him, “But his name was Yohanan b. Yonatan, of the town of Shahara.”
- [L] After some days he fell ill and died, and R. Tarfon examined his testimony and permitted his wife to remarry.
- [M] Now we may say that there is nothing in that story, [and Tarfon holds that they do not cross-examine].
- [N] There is the following Tannaitic teaching:
- [O] They do not cross-examine witnesses in matters concerning a wife’s remarrying by reason of her husband’s death.
- [P] This does not accord with the view of R. Tarfon.
- [Q] For R. Tarfon says, “They do cross-examine witnesses in matters concerning a wife’s remarrying by reason of her husband’s death.”

16:6

- [A] They give testimony [about the identity of a corpse that they have seen] by the light of a candle or by the light of the moon.
- [B] And they permit a woman to remarry on the evidence of an echo [that is heard to say that her husband has died].
- [C] M’SH B: A certain person stood on top of a mountain and said, “Mr. So-and-so, the son of so-and-so, of such-and-such a place, has died.”
- [D] And they went but did not find anyone there.

[E] **And they [nonetheless] permitted his wife to remarry.**

[F] **SWB M'SH B: In Salmon, a certain person said, "I am Mr. So and-so, the son of Mr. so-and-so. A snake has bitten me, and lo, I am dying."**

[G] **And they went, and while they did not recognize him, they permitted his wife to remarry.**

[I:1 A] And R. Hanina said, "R. Jonathan taught us, 'And those rules apply in a case in which people saw the shadow of a man.'"

[B] R. Aha bar Haninah in the name of R. Haninah, "That which you have said applies to a case in a field. But as to what happens in a town, even though people did not see the shadow of a man, [the evidence is acceptable]."

[C] *And have we not learned: He who had been cast into a pit and said, "Whoever hears my voice, let him write a writ of divorce for my wife" – lo, these should write and deliver it to her [M. Git. 6:6A-B]?*

[D] And R. Jonathan said, "And that rule applies in a case in which people have seen the shadow of a man [and it is assumed that the pit is in a town]."

[E] Said R. Abin, "Demons were as commonplace in pits as they were in fields."

[I:2 A] *There we have learned, "The inciter, this refers to an ordinary fellow: the incited, this refers to an ordinary fellow."* [When M. San. 7:1 2A refers to an ordinary fellow, does it mean to say,] "Lo, a sage is not [subject to the law]?"

[B] [The meaning is this:] Since the person incites someone to idolatry, this is no sage.

[C] Since one is incited to idolatry, this is no sage.

[I:3 A] **How do they get testimony against him?**

[B] **They conceal against him two witnesses [Tosefta: disciples of sages], [who are put] in an inside room, and he sits in an out side room.**

[C] **And they light a candle near him, so that they can see him.**

[D] **And they listen to what he says.**

[E] **And so did they do to Ben Stada [Sutra] in Lydda.**

[F] **They appointed against him two disciples of sages, and [in consequence of what they heard and saw], they stoned him [T. San. 10:11].**

[I:4 A] [In the light of M.Yeb. 16:6B: **They permit a woman to marry again on the evidence of an echo that her husband has died,**] *do you say this* [that it is necessary to light a lamp so that the witnesses should see him while they hear him]. [It should be sufficient merely to hear him.]

[B] *It is different in the present case [of M. Yeb. 16:6], because he has said, "I."* [That is, the man is heard to speak of himself, so it is not necessary to identify him further.]

[C] And if he said, also here, "I"? That is, let the inciter also identify himself.

[D] It is so that he will not practice deception [and flee].

[E] And let him practice deception and flee]?

[F] It is so that he will not go and entice himself and entice others with him.

[G] *There we have learned: **He who is bringing a writ of divorce and [if] he found it on the spot, it is valid. And if not, it is invalid [M. Git. 3:3A-C].***

[H] What is the meaning of "on the spot" [M. 3:3B]?

[I] R. Yohanan said, "Any case in which no one else went by there."

[J] R. Jacob bar Idi, R. Simeon bar Aba in the name of R. Joshua b. Levi: "It is any case in which three people did not go by."

[K] What is the law if a Gentile went by [who is unlikely to be carrying a writ of divorce]?

[L] *Let us derive the answer from the following: Abba bar Hana was bringing a writ of divorce and lost it. A Saracen found it. The case came before R. Yohanan, and he declared it valid.*

[M] That then implies that if a Gentile passed by, it is valid.

[N] Perhaps we may say [that the reason Yohanan validated it] is that it bore a distinguishing mark?

[O] *But has it not been taught*, “The consideration of a distinguishing mark does not apply to writs of divorce”?

[P] *That rule applies when one has given as a distinguishing mark the fact that the writ is written out in two or three lines, [which can characterize any number of writs of divorce]. But here the distinguishing mark was that the letter “He” that is written in it was marked with dots at the top.*

[Q] *R. Ezra raised the question before R. Mana*, “In this case why should it ever be invalid?”

[R] “I say, there was someone else in the vicinity, and his name was the same as that written in the writ.”

[S] “But take note of this case: What if they searched that entire locale and did not find a single person who bore the same name as that in the lost and now found writ?”

[T] It is because of the generally strict rules that apply to forbidden connections [e.g., freeing a married woman to enter into a marriage with someone other than the man to whom she is presently wed].

[U] *And lo, we have learned*: **[They may give evidence even if they have seen the corpse only by the light of a lamp or of the moon, and they permit a woman to remarry solely on the evidence of an echo. Once a man stood on a hilltop and cried out, “Such-and-such, son of So-and-so, from such-and-such a place, is dead,” and although when they went they found no one there, they permitted his wife to remarry. [Moreover: At Salmon some one called out, “A snake has bitten me, Such-and-such, the son of So-and-so, and I am dying,” and] although when they went there, they did not recognize him, they permitted**

his wife to remarry [M. Yeb. 16:6]. [Thus they do provide for lenient rulings!]

[V] [16a] Said to him R. Mana, “Thus did R. Samuel b. Aha say, ‘As to this man, he had two writs of divorce in hand, one valid, and one invalid. He has lost the valid one and thrown away the invalid one. When he found it, I say that it was the invalid one that he had found.’”

16:7

[A] Said R. Aqiba, “When I went down to Nehardea to intercalate the year, Nehemiah of Bet Deli came upon me. He said to me, ‘I heard that only R. Judah b. Baba permits a wife in the land of Israel to remarry on the evidence of a single witness [to her husband’s death].’

[B] “I shouted to him, ‘That is indeed so.’

[C] “He said to me, ‘Tell them in my name –

[D] “you know that the country is alive with ravaging bands –

[E] “I have a tradition from Rabban Gamaliel the Elder that:

[F] ““They permit a wife to remarry on the testimony of a single witness [to her husband’s death].’

[G] “And when I came and laid the matters out before Rabban Gamaliel, he was overjoyed at my report and said, ‘We now have found a pair for R. Judah b. Baba.’

[H] “And in the same discourse Rabban Gamaliel recalled that men were slain at Tel Arza, and Rabban Gamaliel the Elder permitted their wives to remarry on the evidence of a single witness.”

[I] And they confirmed the practice of permitting [the wife to] remarry on the evidence of a single witness, on the evidence of a slave, on the evidence of a woman, on the evidence of a slave-girl.

[I:1 A] If one found written in a writ, “So-and-so has died,” “So- and-so has been put to death,”

[B] R. Jeremiah said, “[This is adequate testimony that he has died, so] they permit his wife to remarry.”

[C] R. Bun bar Kahana said, “They do not permit his wife to remarry.”

[D] *There is a Tannaitic teaching that supports the view of this one, and there is a Tannaitic teaching that supports the view of that one.*

[E] *The Tannaitic teaching that supports the view of R. Jeremiah is as follows: “On the evidence of witnesses,” not on the evidence of what they have written down, nor on the basis of what a translator says, nor on the basis of hearsay evidence.”*

[F] And now do they not permit a wife to remarry on the basis of hearsay evidence? [Indeed they do.]

[G] *And along these same lines, on the basis of the testimony of what is written, on the basis of what a translator says, they do permit the wife to remarry.*

[H] *And the following Tannaitic statement supports the position of R. Bun bar Kahana: “Stronger is the power of witnesses than the power of a writ, and the power of a writ than the power of witnesses. For witnesses who said, ‘Mr. So-and-so has died,’ ‘Mr. So-and-so has been killed’ – they permit his wife to remarry.*

[I] “If, however, they found written in a writ, ‘Mr. So-and-so has died,’ ‘Mr. So-and-so has been killed’ – they do not permit his wife to remarry.

[I] “Stronger is the power of a writ than the power of witnesses, for he who lends money to his fellow on the basis of witnesses [but not a written bond] [16b] collects only from unindentured property, while he who does so with a writ [a bond] collects also from indentured property [that the debtor may have sold to third parties].”

16:8

[A] **R. Eliezer and R. Joshua say, “They do not permit a woman to remarry on the evidence of a single witness.”**

[B] **R. Aqiba says, “Not on the evidence of a woman, not on the evidence of a slave, nor on the evidence of a slave-girl, nor on the evidence of relatives.”**

[I:1 A] *We have learned: They confirmed the practice of permitting the wife to remarry on the evidence of hearsay evidence, on the basis of the evidence of a woman, on the basis of a woman’s hearsay evidence, on the basis of the testimony of a slave, on the basis of the testimony of a slave-girl, on the basis of the testimony of relatives [vs. M. 16:8B]. And do you say this [M. 16:8B]?*

[B] *The Mishnah before us* conforms to the former version of the Mishnah, [that is, the state of the question before the action of Gamaliel the Elder (M. 16:7I)].

16:9

[A] They said to him, MS'H B: "The Levites went to Soar, the date-town, and one of them got sick on the road, and they left him in an inn.

[B] "And upon their return, they said to the inn-hostess, 'Where is our friend?'

[C] "She said to them, 'He died, and I buried him. '

[D] "And they permitted his wife to remarry [on the strength of her evidence."

[E] They said to him, "And should not a priest-girl be equivalent to an inn-hostess?')

[F] He said to them, "When she [the priest-girl] will be an inn hostess, she will be believed.

[G] "The inn-hostess had produced for them his staff, his sandal, pouch, and the Torah-scroll that he had had in hand."

[I:1 A] The inn-hostess had produced for them his staff, his sandal, pouch, and his scroll of the Torah that he had had in hand.

[B] R. Aha in the name of R. Hanina: "They treated her as equivalent to a midwife, who is believed if she gives testimony on the *spot*."

[C] Said R. Samuel bar Soserta, "They treated her as equivalent to a Gentile who speaks in all innocence."

[D] A councilor asked before R. Mana, "Does this passage of the Mishnah not differ from R. Simeon b. Laqish's view? For R. Simeon b. Laqish said, 'It is anyone whom they ask, and who answers.' [This is surely not speaking in all innocence.] [The view of R. Simeon b. Laqish] is not in accord with that which R. Samuel bar Soserta has stated in explaining our passage of the Mishnah."

[F] [Simeon b. Laqish] concurs with that which R. Hanina said, "They have treated her as equivalent to a midwife, who is believed if she gives testimony on the spot."

CHAPTER SEVENTEEN

THE STRUCTURE OF YERUSHALMI YEBAMOT

Whether or not the Talmud of the Land of Israel is carefully organized in large-scale, recurrent structures and guided by a program that we may call systematic forms the principal question addressed by an academic commentary. The preceding chapters therefore have pointed toward the presentation set forth here. By “structure” I mean, a clearly-articulated pattern that governs the location of fully-spelled out statements. By “system,” I mean, a well-crafted and coherent set of ideas that explain the social order of the community addressed by the writers of a document, a social philosophy, a theory of the way of life, world view, and character of the social entity formed by a given social group. I see a collective, anonymous, and political document, such as the one before us, as a statement to, and about, the way in which people should organize their lives and govern their actions. At issue then in any document such as the remarkable one before us is simple: does this piece of writing present information or a program, facts to whom it may concern, or a philosophically and aesthetically cogent statement about how things should be? The connection between structure and system is plain to see. From the way in which people consistently frame their thoughts, we move to the world that, in saying things in one way rather than in some other, they wish to imagine. Modes of formulating thought adumbrate modes of imagining the world in which people wish to live, to which they address these thoughts.

If the document exhibits structure and sets forth a system, then it is accessible to questions of rationality. We may ask about the statement that its framers or compilers wished to make by putting the document together as they did. But if we discern no structure and perceive no systematic inquiry or governing points of analysis, then all we find here is inert and miscellaneous information, facts but no propositions, arguments, viewpoints. Now as a matter of fact the Talmud of the Land of Israel commonly finds itself represented as lacking organization and exhibiting a certain episodic and notional character. That view moreover characterizes the reading and representation of the document by learned and experienced scholars, who have devoted their entire lives to Talmud study and exegesis. It must follow that upon the advocate of the contrary view – the one

implicit in the representation of the document for academic analysis – rests the burden of proof. I set forth the allegation that the Talmud of the Land of Israel exhibits a structure and follows a system and therefore exhibits a commonly-intelligible rationality. The claim to write an academic commentary explicitly states that proposition. For the tractate before us, I have therefore to adduce evidence and argument.

I maintain that through the normal procedures of reasoned analysis we may discern in the tractate a well-crafted structure. I hold that the structure made manifest, we may further identify the purpose and perspective, the governing system of thought and argument, of those who collected and arranged the tractate's composites and put them together in the way in which we now have them. By "structure" I mean, how is a document organized? and by "system," what do the compilers of the document propose to accomplish in producing this complete, organized piece of writing? The answers to both questions derive from a simple outline of the tractate as a whole, underscoring the types of compositions and composites of which it is comprised. Such an outline tells us what is principal and what subordinate, and how each unit – composition formed into composites, composites formed into a complete statement – holds together and also fits with other units, fore and aft. The purpose of the outline then is to identify the character of each component of the whole, and to specify its purpose or statement. The former information permits us to describe the document's structure, the latter, its system.

While the idea of simply outlining a Talmud-tractate beginning to end may seem obvious, I have never made such an outline before, nor has anyone else. (I have provided complete outlines for the Mishnah and for the Tosefta in relationship to the Mishnah, and, not always in outline form, for the Midrash-compilations of late antiquity as well) Yet, as we shall now see, the character of the outline dictates all further analytical initiatives. Specifically, when we follow the layout of the whole, we readily see the principles of organization that govern. These same guidelines on organizing discourse point also to the character of what is organized: complete units of thought, with a beginning, middle, and end, often made up of smaller, equally complete units of thought. The former we know as composites, the latter as compositions.

Identifying and classifying the components of the tractate – the composites, the compositions of which they are made up – we see clearly how the document coheres: the plan and program worked out from beginning to end. When we define that plan and program, we identify the facts of a pattern that permit us to say in a specific and concrete way precisely what the compilers of the tractate intended to accomplish. The structure realizes the system, the program of analysis and thought that takes the form of the presentation we have before us. From what people do, meaning, the way in which they formulate their ideas and organized

them into cogent statements, we discern what they proposed to do, meaning, the intellectual goals that they set for themselves.

These goals – the received document they wished to examine, the questions that they brought to that document – realized in the layout and construction of their writing, dictate the points of uniformity and persistence that throughout come to the surface. How people lay out their ideas guides us into what they wished to find out and set forth in their writing, and that constitutes the system that defined the work they set out to accomplish. We move from how people speak to the system that the mode of discourse means to express, in the theory that modes of speech or writing convey modes of thought and inquiry.

We move from the act of thought and its written result backward to the theory of thinking, which is, by definition, an act of social consequence. We therefore turn to the matter of intention that provokes reflection and produces a system of inquiry. That statement does not mean to imply I begin with the premise of order, which sustains the thesis of a prior system that defines the order. To the contrary, the possibility of forming a coherent outline out of the data we have examined defines the first test of whether or not the document exhibits a structure and realizes a system. So everything depends upon the possibility of outlining the writing, from which all else flows. If we can see the order and demonstrate that the allegation of order rests on ample evidence, then we may proceed to describe the structure that gives expression to the order, and the system that the structure sustains.

The present work undertakes the exegesis of exegesis, for the Yerushalmi, like its counterpart in the one of Babylonia, is laid out as a commentary to the Mishnah. That obvious fact defined the character of my academic commentary, since we have already faced the reality that our tractate is something other than a commentary, though it surely encompasses one. The problems that captured my attention derived from the deeper question of how people make connections and draw conclusions. To ask about how people make connections means that we identify a problem – otherwise we should not have to ask – and what precipitated the problem here has been how a composition or a composite fits into its context, when the context is defined by the tasks of Mishnah-commentary, and the composition or composite clearly does not comment on the Mishnah-passage that is subjected to comment.

The experience of analyzing the document with the question of cogency and coherence in mind therefore yields a simple recognition. Viewed whole, the tractate contains no gibberish but only completed units of thought, sentences formed into intelligible thought and self-contained in that we require no further information to understand those sentences, beginning to end. The tractate organizes these statements as commentary to the Mishnah. But large tracts of the writing do not comment on the Mishnah in the way in which other, still larger

tracts do. Then how the former fit together with the latter frames the single most urgent question of structure and system that I can identify.

Since we have already examined enormous composites that find their cogency in an other than exegetical program, alongside composites that hold together by appeal to a common, prior, coherent statement – the Mishnah-sentences at hand – what justifies my insistence that an outline of the document, resting on the premise that we deal with a Mishnah-commentary, govern all further description? To begin with, the very possibility of outlining this tractate derives from the simple fact that the framers have given to their document the form of a commentary to the Mishnah. It is in the structure of the Mishnah-tractate that they locate everything together that they wished to compile. We know that is the fact because the Mishnah-tractate defines the order of topics and the sequence of problems.

Relationships to the Mishnah are readily discerned; a paragraph stands at the head of a unit of thought; even without the full citation of the paragraph, we should find our way back to the Mishnah because at the head of numerous compositions, laid out in sequence one to the next, clauses of the Mishnah-paragraph are cited in so many words or alluded to in an unmistakable way. So without printing the entire Mishnah-paragraph at the head, we should know that the received code formed the fundamental structure because so many compositions cite and gloss sentences of the Mishnah-paragraph and are set forth in sequence dictated by the order of sentences of said Mishnah-paragraph. Internal evidence alone suffices, then, to demonstrate that the structure of the tractate rests upon the Mishnah-tractate cited and discussed here. Not only so, but the sentences of the Mishnah-paragraphs of our tractate are discussed in no other place in the entire Talmud of the Land of Israel in the sequence and systematic exegetical framework in which they are set forth here; elsewhere we may find bits or pieces, but only here, the entirety of the tractate.

That statement requires one qualification, and that further leads us to the analytical task of our outline. While the entire Mishnah-tractate of treated here is cited in the Talmud of the Land of Israel, the framers of the Talmud of the Land of Israel by no means find themselves required to say something about every word, every sentence, every paragraph. On the contrary, they discuss only what they choose to discuss, and glide without comment by large stretches of the tractate. A process of selectivity, which requires description and analysis, has told the compilers of the Talmud of the Land of Israel's composites and the authors of its compositions (This statement requires refinement. I do not know that all available compositions have been reproduced, and that the work of authors of compositions of Mishnah-exegesis intended for a talmud is fully exposed in the document as we have it. That is not only something we cannot demonstrate – we do not have compositions that were not used, only the ones that were – but something that

we must regard as unlikely on the face of matters. All we may say is positive: the character of the compositions that address Mishnah-exegesis tells us about the concerns of the writers of those compositions, but we cannot claim to outline all of their concerns, on the one side, or to explain why they chose not to work on other Mishnah-sentences besides the ones treated here. But as to the program of the compositors, that is another matter: from the choices that they made (out of a corpus we cannot begin to imagine or invent for ourselves) we may describe with great accuracy the kinds of materials they wished to include and the shape and structure they set forth out of those materials. We know what they did, and that permits us to investigate why they did what they did. What we cannot know is what they did not do, or why they chose not to do what they did not do. People familiar with the character of speculation and criticism in Talmudic studies will understand why I have to spell out these rather commonplace observations. I lay out an argument based on evidence, not on the silences of evidence, or on the absence of evidence – that alone.) what demands attention, and what does not. Our outline has therefore to signal not only what passage of the Mishnah-tractate is discussed, but also what is not discussed, and we require a general theory to explain the principles of selection (“making connections, drawing conclusions” meaning, to begin with, making selections). For that purpose, in the outline, I reproduce the entirety of a Mishnah-paragraph that stands at the head of a Talmudic composite, and I underscore those sentences that are addressed, so highlighting also those that are not.

It follows that the same evidence that justifies identifying the Mishnah-tractate as the structure (therefore also the foundation of the system) of Yerushalmi-tractate before us also presents puzzles for considerable reflection. The exegesis of Mishnah-exegesis is only one of these. Another concerns the purpose of introducing into the document enormous compositions and composites that clearly hold together around a shared topic or proposition, e.g., my appendix on one theme or another, my elaborate footnote providing information that is not required but merely useful, and the like. My earlier characterization of composites as appendices and footnotes signalled the fact that the framers of the document chose a not-entirely satisfactory way of setting out the materials they wished to include here, for large components of the tractate do not contribute to Mishnah-exegesis in any way at all. If these intrusions of other-than-exegetical compositions were proportionately modest, or of topical composites negligible in size, we might dismiss them as appendages, not structural components that bear much of the weight of the edifice as a whole. Indeed, the language that I chose for identifying and defining these composites – footnotes, appendices, and the like – bore the implication that what is not Mishnah-commentary also is extrinsic to the Talmud of the Land of Israel’s structure and system.

But that language served only for the occasion. In fact, the outline before us will show that the compositions are large and ambitious, the composites formidable

and defining. Any description of the tractate's structure that dismisses as mere accretions or intrusions so large a proportion of the whole misleads. Any notion that "footnotes" and "appendices" impede exposition and disrupt thought, contribute extraneous information or form tacked-on appendages – any such notion begs the question: then why fill up so much space with such purposeless information? The right way is to ask whether the document's topical composites play a role in the re-presentation of the Mishnah-tractate by the compilers of the Talmud of the Land of Israel. We have therefore to test two hypotheses:

1. the topical composites ("appendices," "footnotes") do belong and serve the compilers' purpose

or

2. the topical composites do not participate in the re-presentation of the Mishnah-tractate by Yerushalmi and do not belong because they add nothing and change nothing.

The two hypotheses may be tested against the evidence framed in response to a single question: is this topical composite necessary? The answer to that question lies in our asking, what happens to the reading of the Mishnah-tractate in light of the topical composites that would not happen were we to read the same tractate without them? The outline that follows systematically raises that question, with results specified in due course. It suffices here to state the simple result of our reading of the tractate, start to finish: the question of structure, therefore also that of system, rests upon the position we identify for that massive component of the tractate that comprises not Mishnah-commentary but free-standing compositions and composites of compositions formed for a purpose other than Mishnah-commentary.

The principal rubrics are given in small caps. The outline takes as its principal rubrics two large-scale organizing principles.

The first is the divisions of the Mishnah-tractate to which the Talmud of the Land of Israel-tractate serves as a commentary. That simple fact validates the claim that the tractate exhibits a fully-articulated structure. But the outline must also underscore that the Mishnah-tractate provides both more and less than the paramount outline of the Talmud of the Land of Israel-tractate. It is more because sentences in the Mishnah-tractate are not analyzed at all. These untreated Mishnah-sentences are given in bold face lower case caps, like the rest of the Mishnah, but then are specified by underlining and enclosure in square brackets.

Second, it is less because the structure of the tractate accommodates large composites that address topics not defined by the Mishnah-tractate. That brings us to the second of the two large-scale modes of holding together both sustained analytical exercises and also large sets of compositions formed into cogent

composites. These are treated also as major units and are indicated by Roman numerals, alongside the Mishnah-paragraphs themselves; they are also signified in small caps. But the principal rubrics that do not focus on Mishnah-commentary but on free-standing topics or propositions or problems are not given in boldface type. Consequently, for the purposes of a coherent outline we have to identify as autonomous entries in our outline those important composites that treat themes or topics not contributed by the Mishnah-tractate.

I. YERUSHALMI YEBAMOT 1:1

[A] FIFTEEN WOMEN [WHO ARE NEAR OF KIN TO THEIR DECEASED, CHILDLESS HUSBAND'S BROTHER] EXEMPT THEIR CO-WIVES, AND THE CO-WIVES OF THEIR CO-WIVES, FROM HALISAH OR LEVIRATE MARRIAGE, WITHOUT LIMIT. AND THESE ARE THEY: (1) HIS DAUGHTER, AND (2) THE DAUGHTER OF HIS DAUGHTER, AND (3) THE DAUGHTER OF HIS SON; (4) THE DAUGHTER [BY A FORMER MARRIAGE] OF HIS WIFE, AND (5) THE DAUGHTER OF HER SON [BY A FORMER MARRIAGE], AND (6) THE DAUGHTER OF HER DAUGHTER [BY A FORMER MARRIAGE]; (7) HIS MOTHER-IN-LAW, AND (8) THE MOTHER OF HIS MOTHER-IN-LAW, AND (9) THE MOTHER OF HIS FATHER-IN-LAW [MARRIED TO HIS BROTHER BY THE SAME FATHER];

1. **I:1:** “Her husband’s brother shall go in to her and take her as his wife” (Deut. 25:5). This is a religious duty. Since she had been generally permitted, and then had been forbidden [to all men but her husband], and how has reverted and once more been permitted, is it possible to suppose that she should revert to her original status of being totally permitted [to any Israelite]? Scripture says, “Her husband’s brother shall go in to her” – this is a religious duty.
2. **I:2:** It is written, “You shall not uncover the nakedness of your brother’s wife; she is your brother’s nakedness” (Lev. 18:16). The implication of this statement is that the prohibition applies, whether it is the wife of his brother from the same father [but not the same mother], or the wife of his brother from the same mother but not the same father], the wife of his brother who was alive at the same time and the wife of his brother who was not alive at the same time [but died before he was born, whether the brother was yet alive or whether the brother had already died, whether the brother had had children or whether the brother did not have children.
3. **I:3:** It is written, “For whoever shall do any of these abominations shall be cut off from among their people” (Lev. 18:29). Now was the wife of his brother not included in the general category of those

prohibited by reason of consanguinity? Yet she was released from that category because of the levirate connection. Is it possible that all of the others listed in the category of those prohibited by reason of consanguinity should be released through the levirate connection?

4. **I:4:** R. Aibu bar Negri Qerispi in the name of R. Simeon b. Laqish: “The wife of the dead shall not be married outside the family to a stranger’ (Deut. 25:5). This refers to a woman who is a stranger to him. The Torah has said that such a woman should not be his wife, even as a matter of religious duty. [This proves that women designated as strange to him, that is, whom he may not marry, also may not enter into levirate marriage with the surviving brother.]”
5. **I:5:** R. Bun bar Hiyya raised the following question before R. Zeorah: “In the case of a widow [who should have entered levirate marriage] to a high priest, what is the law as to her having to perform the rite of halisah [with her deceased husband’s brother, should her husband have died childless]?”
6. **I:6:** Levi bar Sisi raised the question before Rabbi: “Should we not repeat the tradition as, sixteen women, inclusive of the following: ‘his mother, who had been raped by his father [and so produced him as an offspring, and then been married to his brother on his father’s side’? [She is permitted to marry his brother, and, if his brother died childless, she then would come to him as the levirate wife].”
 - a. **I:7:** Isaac bar Istiah said R. Simeon b. Laqish raised the question, “Why not teach the tradition as follows: In the case of sixteen women, the rite of halisah exempts her co-wife from levirate responsibilities? [If the surviving brother performed the rite of halisah with his later brother’s widow, then went and betrothed her, then died childless, that woman may not marry any of the surviving brothers, since she is in the status of one who has performed the rite of halisah with one of them, and that status is equivalent to a divorcée. So as a woman in the status of the brother’s divorcée, she may not enter into marriage with any of the other brothers. Her co-wife also should be exempt, in line with the basic theory of the rule of M. 1:1.]”

[B] (10) HIS SISTER BY THE SAME MOTHER, AND (11) THE SISTER OF HIS MOTHER, AND (12) THE SISTER OF HIS WIFE; (13) AND THE WIFE OF HIS BROTHER BY THE SAME MOTHER, AND (14) THE WIFE OF HIS BROTHER WHO WAS NOT [ALIVE] AT THE SAME TIME AS HE [BUT WHO DIED BEFORE HE WAS BORN, IN WHICH CASE THE SURVIVING BROTHER HAS NO CLAIM]; AND (15) HIS [FORMER] DAUGHTER-IN-LAW [WHO THEN MARRIED HIS BROTHER].

- 1. II:1:** His sister from the same mother [M. 1:1F10] married to his brother on his father's side. His mother's sister [M. 1:1F11]: A man and his son marry two sisters. The sister of his wife [M. 1:1F12]: Two brothers married to two sisters. And the wife of his brother by the same mother [M. 1:1G13]: In the present context [of levirate marriage, the consideration of] brotherhood is introduced. And elsewhere this is defined as deriving solely from the same father: "We are twelve brothers, [sons of our father; one is no more, and the youngest is this day with our father in the land of Canaan]" (Gen. 42:32). Just as brothers referred to by Scripture in that context means brothers from the same father, so brothers stated here means brothers from the same father.

II. YERUSHALMI YEBAMOT 1:2

[A] LO, THESE EXEMPT THEIR CO-WIVES AND THE CO-WIVES OF THEIR CO-WIVES, FROM HALISAH AND FROM LEVIRATE MARRIAGE, WITHOUT LIMIT.. AND IN THE CASE OF ALL OF THEM, IF THEY DIED [BEFORE THE HUSBAND LIED], OR EXERCISED THE RIGHT OF REFUSAL, WERE DIVORCED [BY THE CHILDLESS HUSBAND], OR TURNED OUT TO BE BARREN — THEIR CO-WIVES ARE PERMITTED [TO ENTER INTO LEVIRATE MARRIAGE, SINCE THEY ARE NO LONGER DEEMED CO-WIVES].

- 1. I:1:** R. Yohanan said, "[In the case of a minor married off by her mother or brothers to the deceased — such a girl may carry out her right of refusal [even] against the levir [her assigned husband having died childless], in such wise as to uproot [from her own person] all affect of the deceased, with the effect of permitted her co-wives to marry her father [as if she herself had never been married at all], and a daughter-in-law to marry her father-in-law. [Thus the right of refusal extends even to the levir, after the death of the husband, so that it is as if the original marriage had never taken place.] Both Rab and R. Simeon b. Laqish say, "She does not carry out her right of refusal against the levir in such wise as to uproot all affect upon her own person of the deceased, with the effect of permitting her co-wife to marry her father, and a daughter-in-law to marry her father-in-law."

[B] BUT YOU CANNOT RULE IN THE CASE OF HIS MOTHER-IN-LAW AND IN THE CASE OF THE MOTHER OF HIS MOTHER-IN-LAW, OR IN THE CASE OF THE MOTHER OF HIS FATHER-IN-LAW WHO TURNED OUT TO BE BARREN, OR WHO EXERCISED THE RIGHT OF REFUSAL.

- 1.** **II:1:** R. Jonah said, “But that is on condition that it is at the stage of betrothal [not a fully consummated marriage. If the woman is deemed barren while she is yet betrothed to the man, the rule pertains. If then the husband died prior to the consummation of the marriage, we treat the marriage as if it has not taken place for the purpose of the present law. The co-wife may marry a formerly consanguineous relation. But if the marriage was consummated, we maintain that the husband knew what he was getting into and accepted it.]” R. Yosé said, “Even at the stage of a fully consummated marriage, the stated law applies.”

[C] [BUT YOU CANNOT RULE IN THE CASE OF...WHO EXERCISED THE RIGHT OF REFUSAL:]

- 1.** **III:1:** R. Jonah said, “But that is on condition that it is at the stage of betrothal [not a fully consummated marriage. If the woman is deemed barren while she is yet betrothed to the man, the rule pertains. If then the husband died prior to the consummation of the marriage, we treat the marriage as if it has not taken place for the purpose of the present law. The co-wife may marry a formerly consanguineous relation. But if the marriage was consummated, we maintain that the husband knew what he was getting into and accepted it.]”
- 2.** **III:2:** R. Aha, R. Hanina in the name of R. Simeon b. Laqish: “That is to say that a minor girl is assumed not to be able to give birth. For if that is not the case, let her wait until she reaches maturity and then exercise the right of refusal against her husband and so permit her co-wife to marry her father-in-law. [That is, she should exercise the right of refusal as a minor, then at maturity confirm the action. In other words, if the minor were to be assumed to be able to give birth, so to be subject to the levirate relationship in a way in which the barren woman is not, then let the minor exercise the right of refusal against the deceased husband and so uproot the marriage, as though it had never been. Then the co-wife may marry the son-in-law of the deceased, since the co-wife has never had a consanguineous relationship to him, the original marriage having been nullified. If, by contrast, the girl were able to produce children, this procedure would not be possible.]”
- 3.** **III:3:** R. Hezekiah in the name of R. Abbahu, R. Judah, R. Simeon, and R. Ishmael all said a single thing [specified below]. It has been taught: “Up to what point may a girl exercise the right of refusal? Until she produces two pubic hairs,” the words of R. Meir. R. Judah says, “Until the black hair is abundant.” R. Simeon says, “Until the crest of the genitals begins to flatten” [T. Nid. 6:5]. R. Zeorah, R. Hiyya in the

name of R. Simeon b. Laqish: “Until the crest of the genitals begins to flatten, and until the black hair is abundant.” R. Abbahu, R. Eleazar in the name of R. Hoshaiah: “The law accords with the view of R. Judah.” R. Joshua b. Levi said, “The law is in accord with the view of R. Judah.”

III. YERUSHALMI YEBAMOT 1:3

[A] **HOW DO THEY EXEMPT THEIR CO-WIVES [FROM THE REQUIREMENT OF HALISAH AND FROM LEVIRATE MARRIAGE [M. 1:2A]? [IF] HIS DAUGHTER OR ANY ONE OF ALL THOSE FORBIDDEN DEGREES WAS MARRIED TO HIS BROTHER, AND HE [THE BROTHER] HAD ANOTHER WIFE, AND HE [THE BROTHER] DIED [WITHOUT CHILDREN], JUST AS HIS DAUGHTER IS EXEMPT [FROM LEVIRATE MARRIAGE OR HALISAH], SO HER CO-WIFE IS EXEMPT. [IF] THE CO-WIFE OF THE DAUGHTER WENT AND MARRIED ANOTHER OF HIS BROTHERS [“HIS SECOND BROTHER”], AND HE [THE OTHER BROTHER] HAD ANOTHER CO-WIFE, AND HE [THE OTHER BROTHER] DIED, JUST AS THE CO-WIFE OF HIS DAUGHTER [C] IS EXEMPT, SO THE CO-WIFE OF HER CO-WIFE IS EXEMPT, EVEN IF THEY ARE A HUNDRED.**

IV. YERUSHALMI YEBAMOT 1:4

[A] **HOW [DO WE DEFINE A CASE IN WHICH] IF THEIR CO-WIVES DIED, THEY ARE PERMITTED [M. 1:2B]? [IF] HIS DAUGHTER OR ANY ONE OF ALL THOSE FORBIDDEN DEGREES WAS MARRIED TO HIS BROTHER, AND HE [THE BROTHER] HAD ANOTHER WIFE AND HIS DAUGHTER DIED OR WAS DIVORCED, AND AFTERWARD HIS BROTHER DIED [WITHOUT CHILDREN] — HER CO-WIFE [NOW NO LONGER A CO-WIFE OF HIS DAUGHTER] IS PERMITTED [TO ENTER LEVIRATE MARRIAGE WITH HIM]. AND ANY [YOUNG GIRL] WHO CAN EXERCISE THE RIGHT OF REFUSAL AND HAS NOT EXERCISED THE RIGHT OF REFUSAL — HER CO-WIFE PERFORMS THE RITE OF HALISAH AND DOES NOT ENTER INTO LEVIRATE MARRIAGE.**

- 1. I:1:** The law of the Mishnah [M. 1:4D] is this: In the case of any girl who has the power to exercise the right of refusal and does not do so, and then she died, her co-wife performs the rite of halisah and may not enter into levirate marriage.

V. YERUSHALMI YEBAMOT 1:5

[A] SIX FORBIDDEN DEGREES ARE SUBJECT TO A MORE STRICT RULE THAN THESE [THE FIFTEEN WOMEN REFERRED TO IN M. 1:1], FOR THEY ARE [VALIDLY] MARRIED [ONLY] TO OUTSIDERS, [NOT TO ONE'S PATERNAL BROTHER], [AND SO] THEIR CO-WIVES ARE PERMITTED: (1) HIS MOTHER, AND (2) THE WIFE OF HIS FATHER, AND (3) THE SISTER OF HIS FATHER, AND (4) HIS SISTER FROM THE SAME FATHER, AND (5) THE WIFE OF HIS FATHER'S BROTHER, AND (6) THE WIFE OF HIS BROTHER FROM THE SAME FATHER.

1. **I:1:** In what [way are these subject to a more strict rule than the women listed at M. 1:1]? In the one case, the penalty of extirpation applies, and in the other case the penalty of extirpation applies. In the one case the offspring of such a union would be a mamzer, and in the other case the offspring of the union would be a mamzer. What then is the meaning of the claim that a more strict rule applies? It is that they cannot be married to brothers without committing a transgression. [Hence if they should marry in transgression of the law, their co-wives may enter into levirate marriage with survivors, since the marriage was null, and hence, there is no issue of a consanguineous relationship.]
2. **I:2:** *R. Jeremiah raised the question*, "He who has sexual relations with a co-wife [who had been married to a brother, and the brother died childless, and she then married a second brother, who also died childless, so that she came to him as a sister-in-law] – what is the law? Is she yet subject to the original prohibition, on account of her having been the wife of the first brother?"
3. **I:3:** [With reference to M. 1:5C6:] And is not the wife of his brother the levirate wife by definition?

VI. YERUSHALMI YEBAMOT 1:6

[A] THE HOUSE OF SHAMMAI DECLARE THE CO-WIVES PERMITTED [TO ENTER INTO LEVIRATE MARRIAGE WITH] THE BROTHERS. AND THE HOUSE OF HILLEL DECLARE [THEM] PROHIBITED. [IF] THEY HAVE PERFORMED THE RITE OF HALISAH, THE HOUSE OF SHAMMAI DECLARE [THEM] INVALID [FOR MARRIAGE WITH] THE PRIESTHOOD. AND THE HOUSE OF HILLEL DECLARE [THEM] VALID. [IF] THEY HAVE ENTERED INTO LEVIRATE MARRIAGE, THE HOUSE OF SHAMMAI DECLARE THEM VALID [FOR MARRIAGE WITH THE PRIESTHOOD]. AND THE HOUSE OF HILLEL DECLARE THEM INVALID.

1. **I:1:** R. Simon in the name of R. Yosé in the name of Nehorai: “The scriptural basis for the position of the House of Shammai is this: ‘The wife of the dead shall not be married outside the family to a stranger’ (Dt. 25:5). The woman who to begin with is outside of a consanguineous relationship should not marry an outsider.”
2. **I:2:** Said R. Yohanan b. Nuri, “Come and observe how this [version of the] law is prevalent among the Israelites: to act indeed in accord with the opinion of the House of Shammai [so entering into levirate marriage], [but to treat the offspring as] a mamzer in accord with the opinion of the House of Hillel. If it is to act indeed in accord with the opinion of the House of Hillel, the offspring is blemished in accord with the opinion of the House of Shammai. But come and let us impose the ordinance that the co-wives should perform the rite of halisah and not enter into levirate marriage.” But they did not have a moment in which to complete the matter before the times prevented it [T. Yeb. 1:9D-G]
3. **I:3:** R. Jacob bar Idi in the name of R. Joshua b. Levi: “There is the following case. The elders came to R. Dosa b. Harkinas to ask him about the status of the co-wife of the daughter. They said to him, ‘Are you the one who permits the co-wives [to enter into levirate marriage, as the House of Shammai] He said to them, ‘Did you hear the name, associated with this view, of Dosa ben Harkinas?’ They said to him, ‘We heard the name, Ben Harkinas.’ He said to them, ‘It is Jonathan, my brother. He was the first-born of Satan. He was a disciple of the House of Shammai. Be careful in dealing with him. He has three hundred clever and the matter of the co-wife of the daughter...’”

[B] EVEN THOUGH THESE DECLARE PROHIBITED AND THOSE PERMIT, THESE DECLARE INVALID AND THOSE DECLARE VALID, THE HOUSE OF SHAMMAI DID NOT REFRAIN FROM TAKING WIVES FROM THE WOMEN OF THE HOUSE OF HILLEL, NOR [DID] THE HOUSE OF HILLEL [REFRAIN FROM TAKING WIVES FROM THE WOMEN] OF THE HOUSE OF SHAMMAI. [AND DESPITE] ALL THOSE DECISIONS REGARDING MATTERS OF CLEANNES OR UNCLEANNES IN WHICH THESE DID DECLARE CLEAN AND THOSE UNCLEAN, THEY DID NOT REFRAIN FROM PREPARING IN DEPENDENCE ON ONE ANOTHER. THINGS REQUIRING PREPARATION IN A STATE OF CLEANNES

1. **II:1:** Even though the House of Shammai and the House of Hillel disputed concerning the co-wives, concerning sisters, concerning the married woman, concerning a superannuated writ of divorce, concerning the one who betroths a woman with something of the value of a perutah, and concerning the one who divorces his wife and spends

a night with her in an inn, the House of Shammai did not refrain from taking wives among the women of the House of Hillel, and the House of Hillel from the House of Shammai [T. Yeb. 1:10I-J]. But they behaved toward one another truthfully, and there was peace between them, since it is said, “They loved truth and peace” (Zech. 8:19) [T. Yeb. 1:10].

2. **II:2:** It has been taught: [Under all circumstances the law is in accord with the House of Hillel.] To be sure, he who wants to impose a more strict rule on himself, to follow the law in accord with the opinion of the House of Shammai and in accord with the House of Hillel – concerning such a one, Scripture says, “The fool walks in darkness” (Qoh. 2:14). He who holds by the lenient rulings of the House of Shammai and the lenient rulings of the House of Hillel is out-and-out evil. But if it is to be in accord with the teachings of the House of Shammai, then let it be in accord with both their lenient rulings and their strict rulings. And if it is to be in accord with the teachings of the House of Hillel, then let it be in accord with both their lenient rulings and their strict rulings [T. Suk. 2:3K-O].

VII. YERUSHALMI YEBAMOT 2:1

[A] **HOW [IS IT SO THAT] THE WIFE OF HIS BROTHER WHO WAS NOT A CONTEMPORARY EXEMPTS HER CO-WIFE FROM THE REQUIREMENT OF LEVIRATE MARRIAGE OR HALISAH? TWO BROTHERS, AND ONE OF THEM DIED, AND A [FURTHER] BROTHER WAS BORN TO THEM, AND AFTERWARD THE SECOND [BROTHER] ENTERED INTO LEVIRATE MARRIAGE WITH THE WIFE OF HIS [DECEASED CHILDLESS FIRST] BROTHER, AND [THEN] HE [THE SECOND BROTHER TOO] DIED – THE FIRST [WIFE, WHO ALREADY HAD ONE TIME ENTERED INTO LEVIRATE MARRIAGE TO THE SECOND BROTHER], GOES FORTH ON THE COUNT OF BEING THE WIFE OF HIS BROTHER WHO WAS NOT A CONTEMPORARY. AND THE SECOND [WIFE, THE ONE MARRIED TO THE SECOND BROTHER, GOES FORTH WITHOUT LEVIRATE MARRIAGE TO THE THIRD, SURVIVING BROTHER OR HALISAH] ON THE COUNT OF BEING HER [THE FIRST BROTHER’S WIFE’S] CO-WIFE:**

1. **I:1:** “[If brothers dwell] together...” (Deut. 25:5) – excluding the case of the wife of a brother who was not a contemporary with the deceased.
2. **I:2:** “Her husband’s brother shall go in to her” (Deut. 25:5) – this refers to an act of sexual relations. “And he shall take her as his wife” (Deut. 25:5) – this refers to the act of bespeaking [declaring his

intent to enter into levirate marriage, with the appropriate token of betrothal]. Is it possible to suppose that just as the act of sexual relations completes [the act of acquiring her as the surviving brother's wife], so the bespeaking should complete [the acquisition of the sister-in-law as the levir's wife]? Scripture states, "and perform the duty of the husband's brother to her" (Deut. 25:5).

[B] [If] HE [THE SECOND BROTHER] HAD BESPOKEN HER [MADE A STATEMENT OF INTENTION, THAT IS, HE DID NOT ENTER INTO LEVIRATE MARRIAGE WITH THE SISTER-IN-LAW, BUT BETROTHED HER BY MONEY OR BESPEAKING [WHICH IS NOT A TOTAL COMPLETION OF LEVIRATE MARRIAGE], AND THEN HE [THE SECOND BROTHER] DIED, THE SECOND EXECUTES THE RITE OF HALISAH BUT DOES NOT ENTER INTO LEVIRATE MARRIAGE

1. II:1: R. Simeon says, "Bespeaking either does effect acquisition or does not effect acquisition" [cf. M. 2:2J]. What is the Scriptural basis for the position of R. Simeon? "Her husband's brother shall go into her" (Deut. 25:5) – this refers to an act of sexual relations. "And take her as his wife" (Deut. 25:5) – this refers to bespeaking. Just as the act of sexual relations completes his acquisition of the sister-in-law, so bespeaking does the same.

a. II:2: What is an act of bespeaking in the case of a sister-in-law?

b. II:3: [As to M. 2:1H: If the second brother had bespoken her and then died, the second wife executes the rite of halisah but does not enter into levirate marriage:] both rabbis and R. Simeon concur [in this statement, and this is now explained, since each has a separate theory of the effect of bespeaking.]

VIII. YERUSHALMI YEBAMOT 2:2

[A] TWO BROTHERS, AND ONE OF THEM DIED, AND THE SECOND ENTERED INTO LEVIRATE MARRIAGE WITH THE WIFE OF HIS BROTHER, AND AFTERWARD A BROTHER WAS BORN TO THEM, AND HE [THE SECOND BROTHER, WHO ENTERED INTO LEVIRATE MARRIAGE WITH THE WIDOW OF THE FIRST BROTHER DIED – THE FIRST [BROTHER'S WIFE] GOES FORTH ON THE COUNT OF BEING THE WIFE OF HIS BROTHER WHO WAS NOT A CONTEMPORARY, AND THE SECOND ON THE COUNT OF BEING HER CO-WIFE. [If THE SECOND BROTHER] HAD BESPOKEN HER AND THEN DIED, THE WIFE OF THE SECOND BROTHER EXECUTES THE RITE OF HALISAH BUT DOES NOT ENTER INTO LEVIRATE MARRIAGE [WITH THE THIRD BROTHER]. R. SIMEON SAYS, "HE ENTERS INTO LEVIRATE MARRIAGE WITH

WHICHEVER ONE OF THEM HE CHOOSES, OR HE EXECUTES THE RITE OF HALISAH WITH WHICHEVER ONE OF THEM HE CHOOSES.”

1. **I:1:** R Simeon says, “Bespeaking either effects acquisition of the widow or does not effect acquisition,” and you say this? [How can Simeon rule that the levir enters into levirate marriage with whichever one of them he chooses? That is subject to doubt.]” Do they then enter levirate marriage with the woman who has been bespoken [in a case such as this one]?
 - a. **I:2:** Said R. Yohanan, “R Simeon concurs in the first case [that at M. 2:1, in which, after the death of a brother, a further brother was born, and then the second brother entered into levirate marriage with the wife of the deceased childless first brother, and then the second brother died too. In the case before us, the second brother entered into levirate marriage, and then the new brother was born. Here alone is the point at which Simeon differs.”
 - b. **I:3:** Now you have maintained that that which R. Simeon has said applies to the earlier case [of M. 2:2D-F]. How does R. Simeon rule in the case of the woman who had been bespoken [listed at M. 2:2H-I]? [If the surviving, third brother had sexual relations with the widow, or if he performed the rite of halisah, how do we dispose of the case?] [If the second brother bespoken the first brother’s widow, then the third brother was born, and then the second died without consummating the marriage, how does Simeon rule?]
 - i. **I:4:** What would be a practical case illustrating the difference between [rabbis and Simeon]? A case in which the surviving brother performed the rite of halisah with the first woman, that is, the one who had been bespoken, and had sexual relations with the second woman. In the view of rabbis the sexual relations have violated the prohibitions against consanguineous marriage [because this is the wife of his brother who was not a contemporary, and he has no right to marry her]. In the view of R. Simeon this is not a case of violating the prohibition against consanguineous marriage [except as a matter of doubt, since we do not know whether or not the bespeaking has effected acquisition for the just-now-deceased second brother].

IX. YERUSHALMI YEBAMOT 2:3

[A] A GENERAL RULE DID THEY LAY DOWN IN REGARD TO THE LEVIRATE WOMAN [WOMAN OF A CHILDLESS BROTHER: (1) ANY [SISTER-IN-LAW] WHO IS PROHIBITED AS ONE OF THE FORBIDDEN DEGREES [OF LEV. 18] NEITHER EXECUTES THE RITE OF HALISAH NOR IS TAKEN IN LEVIRATE MARRIAGE [AND EXEMPTS HER CO-WIFE; (2) [IF] SHE IS PROHIBITED [TO HER BROTHER-IN-LAW] BY REASON OF A PROHIBITION ON ACCOUNT OF A COMMANDMENT OR A PROHIBITION ON ACCOUNT OF SANCTITY, SHE EXECUTES THE RITE OF HALISAH BUT IS NOT TAKEN IN LEVIRATE MARRIAGE [NOR DOES HER CO-WIFE].(3) [IF] HER SISTER IS [ALSO] HER SISTER-IN-LAW [WIDOW OF HER CHILDLESS BROTHER-IN-LAW], SHE EITHER EXECUTES THE RITE OF HALISAH OR IS TAKEN INTO LEVIRATE MARRIAGE.

1. **I:1:** Said R. Zeira, “When we were over there [in Babylonia], we excluded fourteen [of the fifteen women listed at M. 1:1] who fall under the rule, If her sister is also her sister-in-law, she... enters into levirate marriage, omitting only the daughter [of the levir]. [That is, we could construct a scenario to explain how the various women listed at M. 1:1 would fall under the rule of M. 2:3D, excluding only the case of the daughter. It is not possible for the daughters of two brothers to be sisters from the same mother, since if the wife of one brother produced a daughter, after which she was divorced, she could not then marry that man’s brother.]
2. **I:2:** The following matter is self-evident: If in the case of a sister-in-law who is prohibited to her brother-in-law by reason of a prohibition on account of a commandment or on account of sanctity, if the levir performed the rite of halisah with such a woman, her co-wife is exempted from all further connection. But if the levir [instead of performing halisah had sexual relations with that woman – R. Yosé said, “There is a dispute between R. Eleazar and R. Yohanan. R. Yohanan said, ‘Her co-wife is not thereby freed of all levirate connection.’ R. Eleazar said, ‘Her co-wife is thereby freed of all levirate connection.’”

X. YERUSHALMI YEBAMOT 2:4

[A] A PROHIBITION ON ACCOUNT OF A COMMANDMENT: A SECONDARY GRADE [OF FORBIDDEN DEGREES] ON ACCOUNT OF THE RULINGS OF SCRIBES. A

PROHIBITION ON ACCOUNT OF SANCTITY [OF THE LEVIR]: (1) A WIDOW [MARRIED] TO A HIGH PRIEST (LEV. 21:14), (2) A DIVORCÉE, OR (3) A WOMAN WHO HAS EXECUTED THE RITE OF HALISAH TO AN ORDINARY PRIEST (LEV. 21:7), (4) A MAMZERET, (5) A NETINAH TO AN ISRAELITE, A DAUGHTER OF AN ISRAELITE, (6) TO A NETIN, OR (7) TO A MAMZER:

1. **I:1:** “A prohibition on account of a commandment” means forbidden degrees ordained by the scribes: It is a religious duty enjoined by the Torah to obey the teachings of the scribes.
2. **I:2:** A prohibition on account of sanctity: A widow married to a high priest, a divorcée or a woman who has executed the rite of halisah married to an ordinary priest: “You shall consecrate him, for he offers the bread of your God” (Lev. 21:8).
3. **I:3:** “These are the commandments [which the Lord commanded Moses for the people of Israel on Mount Sinai]” (Lev. 27:34). All are subject to a single commandment. And a prohibition on account of sanctity falls into the category of secondary grades of forbidden degrees on account of the rulings of scribes.
4. **I:4:** Whence in Scripture do we learn that secondary degrees of relationship are prohibited?
5. **I:5:** The secondary grade of forbidden degrees, on account of rulings of scribes [M. Yeb. 2:4A], [includes the following]: (1) the mother of his mother, (2) the mother of his father, (3) the wife of his father’s father, and (4) the wife of his father’s mother, (5) the wife of his mother’s brother by the same father, and (6) the wife of his father’s brother by the same mother, and (7) the wife of the son of his son, and (8) the wife of the son of his daughter [T. Yeb. 3:1A].
6. **I:6:** R. Zeriqan in the name of R. Haninah, “The wife of his father-in-law is forbidden for appearances’ sake.” Do you not say that it is prohibited by the law of the Torah? Lo, there is the case of David.
7. **I:7:** There we have learned in the Mishnah: And he who has intercourse with his daughter’s daughter is liable on her account because of violating the prohibition against having intercourse with (1) his daughter’s daughter, and (2) his daughter-in-law, and (3) his wife’s sister, and (4) his brother’s wife, and (5) his brother’s father’s wife, and (6) a married woman, and (7) a menstruating woman. R. Yosé says, “If the grandfather transgressed and married her, he is liable on her account because of the prohibition of having sexual relations with his father’s wife” [M. Ker. 3:5C-D]. What law did he transgress?

XI. YERUSHALMI YEBAMOT 2:5

[A] HE WHO HAS A BROTHER OF ANY SORT – [THAT BROTHER] IMPOSES UPON THE WIFE OF HIS [DECEASED CHILDLESS] BROTHER THE OBLIGATION OF LEVIRATE MARRIAGE, AND [HE IS] HIS BROTHER IN EVERY REGARD, EXCEPT FOR HIM WHO HAS [A BROTHER] FROM A FEMALE SLAVE OR FROM A GENTILE.

XII. YERUSHALMI YEBAMOT 2:6

[A] HE WHO HAS A SON OF ANY SORT – HE [THE SON] EXEMPTS THE WIFE OF HIS FATHER FROM THE OBLIGATION OF LEVIRATE MARRIAGE, AND HE [THE SON] IS LIABLE FOR HUTTING HIM [THE FATHER] OR FOR CURSING HIM. AND [HE IS] HIS SON IN EVERY REGARD – EXCEPT FOR HIM WHO HAS A SON FROM A FEMALE SLAVE OR FROM A GENTILE.

1. **I:1:** R. Abin raised the question, “And he is his son in every regard: [even if he is born in a marriage involving a transgression] is it even so far as his having fulfilled his obligation to procreate [despite] a secondary prohibited connection?”
2. **I:2:** A Gentile man who had sexual relations with an Israelite woman who gave birth, an Israelite man who had sexual relations with a Gentile girl after she had become an Israelite, and then she gave birth – the offspring is a firstborn as to inheritance [receiving a double portion], but he is not a firstborn as to the priesthood [and the father does not have to pay the priest a redemption fee].
3. **I:3:** A Gentile who had sexual relations with a Gentile woman, who gave birth [and who then converted, with his wife, and produced another offspring – is this latter a firstborn as to inheritance or not]? R. Yohanan said, “Gentiles are subject to genealogical ties [that is, they enjoy full recognition of paternity, and hence the offspring born after the conversion is not the firstborn].” R. Simeon b. Laqish said, “Gentiles are not subject to genealogical ties, [and there is no recognition of paternity of the offspring born prior to conversion].”

XIII. YERUSHALMI YEBAMOT 2:7

[A] HE WHO BETROTHED ONE OF TWO SISTERS AND DOES NOT KNOW WHICH OF THEM HE BETROTHED GIVES A WRIT OF DIVORCE TO THIS ONE AND A WRIT OF DIVORCE TO THAT ONE. [IF] HE DIED, AND HE HAD ONE BROTHER, HE [THE BROTHER] EFFECTS A RITE OF HALISAH WITH BOTH OF THEM.

1. **I:1:** He who betrothed one of two sisters and does not know which of them he betrothed gives a writ of divorce to this one and a writ of divorce to that one. [If] he died, and he had one brother, he [the brother] effects a rite of halisah with both of them: Now in every other context you maintain that a valid rite of halisah cannot be performed after a prior rite of halisah, and yet here do you rule in this way? [How can the brother perform two successive rites of halisah]!

[B] [IF] HE [WHO DIED CHILDLESS] HAD TWO [BROTHERS], ONE OF THEM EFFECTS A RITE OF HALISAH AND ONE OF THEM ENTERS INTO LEVIRATE MARRIAGE. [IF] THEY WENT AHEAD AND MARRIED [THE TWO WOMEN], THEY [THE COURT] DO NOT REMOVE [THE WOMEN] FROM THEIR DOMAIN.

1. **II:1:** [If] he [who died childless] had two [brothers], one of them effects a rite of halisah and one of them enters into levirate marriage: Now in every other context you maintain that in a place in which they tell him to enter into levirate marriage, they do not instruct him to perform the rite of halisah, while here do you say this?

XIV. YERUSHALMI YEBAMOT 2:8

[A] TWO [UNRELATED MEN] WHO BETROTHED TWO SISTERS, THIS ONE DOES NOT KNOW WHICH OF THEM HE BETROTHED, AND THAT ONE DOES NOT KNOW WHICH OF THEM HE BETROTHED — THIS ONE GIVES TWO WRITS OF DIVORCE, AND THAT ONE GIVES TWO WRITS OF DIVORCE.

1. **I:1:** It has been taught: The same rule applies to Israelites and to priests in this manner. [While a priest cannot marry a divorcée or a woman who has performed the rite of halisah, in this case he may do so, because the entire procedure is necessitated only by reason of doubt.]
2. **I:2:** That which you have said [at M. 2:6I-J, one performs the rite of halisah and the other enters into levirate marriage] applies to a case in

which one of them performed the rite of halisah, and afterward the other entered into levirate marriage. But if one of the brothers entered into levirate marriage at the outset [of the transaction], it is prohibited. [The reason is that] it is possible that his brother may die, so he may turn out to have had sexual relations with the sister of his deceased childless brother's widow, [for now his own wife is no longer his levirate bride, but rather the sister of his levirate bride, who is subject to marriage with him].

[B] [IF] THEY DIED, [IF] THIS ONE HAS A BROTHER AND THAT ONE HAS A BROTHER, THIS ONE EFFECTS THE RITE OF HALISAH WITH BOTH OF THEM, AND THAT ONE EFFECTS THE RITE OF HALISAH WITH BOTH OF THEM.

- 1. II:1:** Now in every other context you maintain that a valid rite of halisah cannot be performed after a prior rite of halisah, and yet here do you rule in this way?

[C] [IF] THIS ONE HAD ONE [BROTHER] AND THAT ONE HAD TWO, THE ONE [THE SOLE BROTHER OF ONE OF THE DECEASED] EFFECTS A RITE OF HALISAH WITH BOTH OF THEM. AND [AS TO] THE TWO [BROTHERS OF THE OTHER DECEASED] – ONE EFFECTS A RITE OF HALISAH WITH ONE OF THEM, AND [THEN] ONE ENTERS INTO LEVIRATE MARRIAGE WITH ONE OF THEM. [IF] THEY WENT AHEAD AND MARRIED [THE TWO WIDOWS OUT OF BETROTHAL], THEY DO NOT REMOVE THEM FROM THEIR POSSESSION.

- 1. III:1:** Now in every other context you maintain that in a place in which you tell him to enter into levirate marriage, they do not instruct him to perform the rite of halisah, while here do you say this?

XV. YERUSHALMI YEBAMOT 2:9

[A] [IF] THIS ONE HAD TWO AND THAT ONE HAD TWO [BROTHERS], A BROTHER OF THIS ONE EFFECTS A RITE OF HALISAH WITH ONE OF THEM, AND A BROTHER OF THAT ONE EFFECTS A RITE OF HALISAH WITH ONE OF THEM. A BROTHER OF THIS ONE ENTERS INTO LEVIRATE MARRIAGE WITH THE WOMAN WITH WHOM THE OTHER PARTY'S BROTHER HAD EFFECTED A RITE OF HALISAH, AND A BROTHER OF THAT ONE ENTERS INTO LEVIRATE MARRIAGE WITH THE WOMAN WITH WHOM THE OTHER PARTY'S BROTHER HAS EFFECTED A RITE OF HALISAH. [IF] THE TWO WENT AHEAD AND PERFORMED A RITE OF HALISAH THEN THE [OTHER] TWO SHOULD NOT ENTER INTO LEVIRATE MARRIAGE. BUT RATHER ONE PERFORMS THE RITE OF HALISAH AND ONE ENTERS INTO LEVIRATE MARRIAGE. IF THEY WENT AHEAD AND MARRIED THEM, THEY DO NOT REMOVE THEM FROM THEIR POSSESSION.

- I:1:** That rule which you have given [at M. 2:9F] applies to an Israelite, but as to priests, it is forbidden [for now the rite of halisah was necessary and fully applicable].

XVI. YERUSHALMI YEBAMOT 2:10

- [A] IT IS A RELIGIOUS DUTY FOR THE OLDEST [SURVIVING BROTHER] TO ENTER INTO LEVIRATE MARRIAGE [WITH THE CHILDLESS BROTHER'S WIDOW]. BUT IF THE YOUNGEST WENT AHEAD [AND MARRIED HER], HE HAS ACQUIRED [THE SISTER-IN-LAW].**
- I:1:** It is a religious duty for the oldest surviving brother to enter into levirate marriage [M. 2:10A], since it is said, "And the first son whom she bears" (Deut. 25:5), [and the reference to first son is to the levir]. For how [otherwise] shall we interpret the passage? If it refers to the offspring, then Scripture should state [not "And the first son whom she bears shall succeed to the name of his brother who is dead" but rather] "shall succeed to the name of the brother of his father, who is dead." Now if you maintain that the offspring must be the firstborn [to the mother], then one might argue that even if the deceased had many sons and they died and afterward he died, his wife should not be subject to levirate marriage. In that case, Scripture should have said, "And he had no sons" [in the plural]. But if the reference here to "firstborn" cannot apply to the offspring then it must be referred to the levir.
- [B] HE WHO IS SUSPECTED [OF HAVING INTERCOURSE] WITH A SLAVE-WOMAN WHO IS SUBSEQUENTLY SET FREE, OR WITH A GENTILE WOMAN WHO SUBSEQUENTLY CONVERTS, LO, THIS ONE SHOULD NOT MARRY [HER]. BUT IF HE MARRIED HER, THEY DO NOT REMOVE HER FROM HIS POSSESSION:**
- II:1:** If he betrothed her, it is as if he had married her. If the court had said not to marry her and he married her, they remove her from his domain. If he divorced her, what is the law as to his then remarrying her? If you say that he may not do so, will you not turn out to cast suspicion on the paternity of her children?
- [C] HE WHO IS SUSPECTED [OF HAVING INTERCOURSE] WITH A MARRIED WOMAN, AND THEY [THE COURT] DISSOLVED THE MARRIAGE WITH HER HUSBAND, EVEN THOUGH HE [THE SUSPECT] MARRIED [THE WOMAN], HE MUST PUT HER OUT.**
- III:1:** Rab said, "We speak of one who is suspected on the basis of the testimony of witnesses." R. Yosé asked, "If we deal with a case of one who is suspected on the basis of the testimony of witnesses, then is it

in such a case that it has been taught that they remove her from his domain? [That would imply, then, that she may marry someone else, and then marry her original lover after the third party has divorced her.

XVII. YERUSHALMI YEBAMOT 2:11

[A] HE WHO DELIVERS A WRIT OF DIVORCE FROM OVERSEAS AND STATES, “IN MY PRESENCE WAS IT WRITTEN AND IN MY PRESENCE WAS IT SEALED” [AND WHO THEREBY VALIDATES THE WRIT] MAY NOT [THEN] MARRY HIS [THE MAN’S] WIFE [TO WHOM HE BROUGHT THE WRIT OF DIVORCE]. [IF HE TESTIFIED,] “HE [THE HUSBAND] HAD DIED,” “I HUED HIM,” “THEY KILLED HIM,” HE MAY NOT THEN MARRY HIS [THE DECEASED’S] WIFE.

- 1. I:1:** [With reference to M. Qid. 3:7: “I have betrothed my daughter, but I don’t know to whom I have betrothed her,” and someone came along and said, “I have betrothed her” – he is believed. [If] this one said, “I betrothed her,” and [at the same time], that one said, “I betrothed her,” both of them give her a writ of divorce. But if they wanted, one of them gives her a writ of divorce and one of them consummates the marriage]. What is the meaning of, “He is believed”? Samuel said, “He is believed so far as his having to issue a writ of divorce is concerned.” Assi said, “He is believed and so has the right to consummate the marriage.” R. Huna in the name of Rab said, “He is believed and so has the right to consummate the marriage.” R. Yohanan said, “While he is believed so as to have the right to consummate the marriage, they do not derive from that case the rule for another.”

- 2. I:2:** R. Zeira, R. Yosé in the name of R. Yohanan, “If one of them [at M. Qid. 3:7E] went ahead and consummated the marriage, they do not remove the woman from his power.”

[B] R. JUDAH SAYS, “[IF HE STATED,] ‘I HAVE KILLED HIM, ‘ THEN HIS WIFE MAY NOT REMARRY. [BUT IF HE STATED,] ‘THEY HAVE KILLED HIM, ‘ THEN HIS WIFE MAY REMARRY.”

- 1. II:1:** For what are the alternatives? If he really did kill him, then he who is suspect in a matter may not serve as a judge or give testimony. If he did not kill him, then the man is still alive. [But if he stated,] ‘They have killed him,’ [then his wife may remarry] [M. 2:1D]. Then if he did kill him, the wife may marry others, but not him.

XVIII. YERUSHALMI YEBAMOT 2:12

- [A] A SAGE WHO FORBADE A WOMAN TO HER HUSBAND BY REASON OF [HER] VOW, LO, THIS [SAGE] MAY NOT MARRY HER. [IF] SHE EXERCISED THE RIGHT OF REFUSAL OR PERFORMED THE RITE OF HALISAH IN HIS PRESENCE, HE MAY MARRY HER, BECAUSE [IN THESE LATTER INSTANCES,] HE [IS SERVING AS A MEMBER OF A COURT. AND IN THE CASE OF ALL OF THEM [M. 2:11A-D, 2:12A-C] WHO HAD WIVES (AND) [THE WIVES OF] WHOM [THEREAFTER] DIED – THE [OTHER] WOMEN MAY BE MARRIED TO THEM [WHO SECURED THE RIGHT TO REMARRY].
1. I:1: A sage who forbade a woman to her husband by reason of her vow – lo, this sage may not marry her [M. 2:12A]. I may maintain that it was to that end that he made his decision to begin with. If she exercised the right of refusal or performed the rite of halisah in his presence, he may marry her, because, in these latter instances, he is serving as a member of a court [M. 2:12B-C], for two people will not likely commit a sin on account of the wishes of a third party.
 - a. I:2: There we have learned: He who deposits produce with his fellow, even if it is going to waste – the bailee should not touch it. Rabban Simeon b. Gamaliel says, “He sells the produce at the instance of a court, for he is in the position of one who thereby restores what is lost to its rightful owner” [M. B.M. 3:4]. Said R. Abba bar Jacob in the name of R. Yohanan, “The law is in accord with the view of Rabban Simeon b. Gamaliel.” How should the proceeds be disposed of?
- [B] AND IN THE CASE OF ALL OF THEM WHO WERE MARRIED TO OTHER MEN AND WERE DIVORCED OR WIDOWED, THEY [THEN] ARE PERMITTED TO BE MARRIED TO THEM. AND ALL OF THEM ARE PERMITTED TO [MARRY] THEIR SONS OR THEIR BROTHERS [OF THE AFOREMENTIONED MESSENGERS, WITNESSES, OR SAGES].
1. II:1: And in the case of all of them who had wives, the wives of whom thereafter died – the other women may be married to them [M. 2:12D]. The rule states that that is the case solely if they die. Lo, if they were divorced, the judges may not marry these women. And in the case of all of them who were married to other men and were divorced or widowed, they then are permitted to be married to them [M. 2:12E]. For a man is not likely to sin [on the basis of what may happen] long afterward. And all of them are permitted to marry their sons or their brothers [M. 2:12F]. For a man is not likely to commit a sin on behalf either of his son or his brother.

XIX. YERUSHALMI YEBAMOT 3:1

[A] FOUR BROTHERS, TWO OF THEM MARRIED TO TWO SISTERS, AND THOSE WHO ARE MARRIED TO THE SISTERS DIED — LO, THESE [SURVIVING CHILDLESS WIDOWS] PERFORM A RITE OF HALISAH AND DO NOT ENTER INTO LEVIRATE MARRIAGE [WITH THE OTHER TWO BROTHERS]. AND IF THEY [THE OTHER TWO BROTHERS] WENT AHEAD AND MARRIED [THE TWO SISTERS], THEY MUST PUT THEM AWAY.

- 1.** **I:1:** If there were four brothers, two of them married to two women unrelated to one another, is it possible that the women would not enter into levirate marriage? [Surely not. There is no reason that the widows should not marry the surviving brothers. Why then do the sisters not do the same?] The case of the two sisters is different, because in this case there is the prohibition applying to the two sisters. [Each widow is subject to levirate marriage to the levir; the levir cannot marry a woman whose sister he cannot marry, and here we have a case in which, since the two sisters both are subject to the levirate connection to him, both of them are unavailable to him.]
- 2.** **I:2:** There we have learned: A woman awaiting marriage with a levir, the brother of whom betrothed her sister — in the name of R. Judah b. Betera did they say, “They instruct him: ‘Wait until your older brother does a deed.’” If his brother underwent a rite of halisah with the woman awaiting levirate marriage or married her, he may then marry his wife. If the childless brother’s widow died, he may marry his wife. If the levir died, let him put away the betrothed wife with a writ of divorce, and the wife of his brother with a rite of halisah [M. 4:10]. [If the brother who has betrothed the sister should marry her, he cannot marry the widow as well. And if he does marry her and the older brother dies, then he will have married the sister of a woman subject to his levirate connection, which, as is clear in the present setting, is not legal. So he waits until the levirate marriage takes place or the rite of halisah is performed. If the widow dies, nothing stops the marriage. If the levir dies, then the man cannot marry the betrothed but has to divorce her. He may not marry the widow, since she is the sister of a woman whom he has divorced. So he severs that connection too.] The rule is only that if the widow should die, then he may be permitted to his [betrothed] wife. It follows that if his wife should die, he remains prohibited to his sister-in-law.
- 3.** **I:3:** There is a case of three brothers, two from the same father but not from the same mother, two from the same mother but not the same

father [Reuben and Simeon share the same father but not the same mother, and Simeon and Levi share the same mother but not the same father, so Reuben and Levi in fact have a brother in common but are not themselves brothers]. The son of the father died first [i.e., Reuben], and the surviving son, the second one [i.e., Simeon] did not suffice to perform the rite of *halisah* or to enter into levirate marriage before he too died. The widow then falls before the brother from the same mother [that is, Levi]. Is it possible that she might not be permitted to him? [Surely she cannot be prohibited to him. She is unrelated to him, and is not prohibited on the count of having been subject to a levirate connection to Simeon, his brother from the same mother].

- 4.** **I:4:** [As to the sisters at M. 3:1, who are prohibited on the count of sisters subject to levirate connection with the same levir:] what is the law pertaining to the co-wife [of one of these sisters? Is she too exempted from the levirate connection on the ground of being the co-wife of the sister of a woman who is subjected to a levirate connection to the levir?]

**[B] R. ELIEZER SAYS, “THE HOUSE OF SHAMMAI SAY, ‘THEY MAY REMAIN WED.’
“AND THE HOUSE OF HILLEL SAY, ‘THEY MUST PUT THEM AWAY.’”**

- 1.** **II:1:** R. Bun bar Hiyya in the name of R. Abina, “It has been taught there: If the co-wives performed the rite of *halisah*, the sisters are exempt [from the levirate connection]. If the sisters performed the rite of *halisah*, the co-wives have not been exempted. Now just as you say, If the co-wives performed the rite of *halisah*, the sisters themselves are exempt from the levirate connection, along these same lines, even if the sisters performed the rite of *halisah*, the co-wives [for their part] should be exempt as well. [Why should the sisters be subject to the rite of *halisah* of the co-wives at all?]
- 2.** **II:2:** It was taught: Abba Saul says, “The House of Hillel took the lenient position in this matter [rejecting M. 3:IG and reversing the opinions].”
- 3.** **II:3:** [As to the view that if the levir had performed the rite of *halisah* with one of the sisters, he has exempted her co-wife], if the first wife had a co-wife, if the levir had performed the rite of *halisah* with her, her co-wife is exempt. If then, after the rite of *halisah*, he had sexual relations with her, this is a prohibited act of sexual relations, and her co-wife has not been exempted. [This will now be explained.] If he performed the rite of *halisah* with the sister and then had sexual relations with her, what choice do we have? If she was subject to the rite of *halisah*, [then the co-wife] should be permitted. If she was

subject to a valid act of sexual relations, her cowife also should be permitted! [So why is the co-wife not exempted from the levirate connection?

4. **II:4:** There were five brothers, three of them married to three sisters. These three brothers died. Rab said, “This surviving brother performs the rite of halisah with one of them, and that one does the same with another, and the third wife performs the rite of halisah with whichever one of the brothers wishes.” Samuel said, “This one performs the rite of halisah with one of the wives, and that one does the same with another, and as to the third, she performs the rite of halisah with both of them. [In the case of the third wife we deal with the sister of a woman with whom each man has performed the rite of halisah. She now has to engage in the rite of halisah with each one of them.] Rab said, “The rite of halisah constitutes an act of acquisition [of the woman. That is why the sister of a woman with whom one has performed the rite of halisah is tantamount to the sister of his wife, and that explains why the third one is forbidden to both brothers and has to perform the rite with each.” Samuel said, “Halisah serves to free [the wife, and does not constitute an act of acquisition of her on the-part of the levir].” [As above, D, this explains the opinion now assigned to Rab.]

XX. YERUSHALMI YEBAMOT 3:2

- [A] [If] ONE OF THEM [THE SISTERS] WAS PROHIBITED TO ONE OF THE MEN BY REASON OF BEING A FORBIDDEN DEGREE [M. 2:3-4], HE IS PROHIBITED FROM MARRYING HER. BUT HE IS PERMITTED [TO ENTER INTO LEVIRATE MARRIAGE] WITH HER SISTER. AND THE SECOND [BROTHER] IS PROHIBITED [FROM ENTERING INTO LEVIRATE MARRIAGE] WITH EITHER OF THEM. [If ONE OF THEM WAS PROHIBITED] BY REASON OF BEING PROHIBITED AS A COMMANDMENT OR PROHIBITED BY REASON OF SANCTITY [M. 2:3-4], [THE SISTER] PERFORMS THE RITE OF HALISAH BUT DOES NOT ENTER INTO LEVIRATE MARRIAGE. [If] ONE [OF THE SISTERS] WAS PROHIBITED TO ONE OF THE BROTHERS BY REASON OF BEING A FORBIDDEN DEGREE, AND THE SECOND WAS PROHIBITED TO ANOTHER [OF THE BROTHERS] BY REASON OF BEING A FORBIDDEN DEGREE, THE ONE WHO IS PROHIBITED TO THIS ONE IS PERMITTED TO THE OTHER, AND THE ONE WHO IS PROHIBITED TO THE OTHER ONE IS PERMITTED TO THIS ONE. THIS IS A CASE IN WHICH THEY HAVE STATED [M. 2:3]: [IN A CASE IN WHICH] HER SISTER ALSO IS HER SISTER-IN-LAW BY MARRIAGE, SHE EITHER PERFORMS THE RITE OF HALISAH OR ENTERS INTO LEVIRATE MARRIAGE [THERE BEING NO PROHIBITION IN SUCH A CASE BY

REASON OF A WOMAN'S BEING THE SISTER OF ONE WHO IS SUBJECT TO LEVIRATE MARRIAGE WITH THE SURVIVING BROTHER].

- 1.** **I:1:** [Illustrating the case of M. 3:2A:] If one raped a woman, who produced a daughter, and [the daughter] went and married his brother [on his father's side] and [this same daughter] has a sister on her mother's side, born of a different father, who is married to [the rapist's] other brother, [and this brother] died without children – lo this man [the rapist] is [of course] forbidden to marry his daughter, but he is permitted to marry her sister.
- 2.** **I:2:** [Illustrating the case of M. 3:2E]: If one of the sisters was prohibited to one of the brothers: If one raped a woman, who produced a daughter, and his brother came and raped her, and she produced a daughter, and the two daughters went and married the two brothers who were from the same father but not from the same mother – this one is forbidden to marry his daughter, but permitted to marry her sister, and that one is forbidden to marry his daughter but permitted to marry her sister. This is a case in which one may be prohibited to one of the brothers but permitted to the other, and the one who is prohibited to the other one is permitted to this one [M. 3:2F].

XXI. YERUSHALMI YEBAMOT 3:3

[A] **THREE BROTHERS, TWO OF THEM MARRIED TO TWO SISTERS, OR TO A WOMAN AND HER DAUGHTER, OR TO A WOMAN AND THE DAUGHTER OF HER DAUGHTER OR TO A WOMAN AND THE DAUGHTER OF HER SON – LO, THESE WOMEN PERFORM THE RITE OF HALISAH AND DO NOT ENTER INTO LEVIRATE MARRIAGE. AND R. SIMEON DECLARES EXEMPT [FROM HALISAH]. [IF] ONE OF THEM WAS PROHIBITED TO HIM BY REASON OF BEING A FORBIDDEN DEGREE, HE IS PROHIBITED TO THAT ONE BUT PERMITTED TO [MARRY] HER SISTER. [IF THE PROHIBITION WAS] A PROHIBITION DERIVING FROM A COMMANDMENT OR A PROHIBITION OF SANCTITY, THE SISTERS PERFORM THE RITE OF HALISAH BUT DO NOT ENTER INTO LEVIRATE MARRIAGE. AND R. SIMEON DECLARES EXEMPT.**

- 1.** **I:1:** Ulla bar Ishmael said, “Thus did R. Hoshaiiah, father of the Mishnah, interpret the matter [of M. 3:3F]: R. Simeon declares the second sister exempt both from the rite of halisah and from levirate marriage. [Simeon's theory is that if a woman is subject to the levirate connection, it is as if she has been taken into levirate marriage.]”

2. **I:2:** [Further interpreting Simeon's position,] there they say [that Simeon's theory is that] the status of being subject to levirate marriage does not apply in a situation where that status already has applied. [That is, if a woman is subject to the levirate connection, it is as if she is fully married, in which case her sister is completely exempt from halisah and from levirate marriage, as the sister of his wife].
3. **I:3:** If the first sister had a co-wife, if the levir performed the rite of halisah with her, her co-wife is freed. If the second sister had a co-wife, the levir may marry the co-wife and preserve his marriage with his wife, but [of course] he is prohibited from marrying the second sister. [The co-wife is not forbidden, since she comes from a different family. He cannot marry the sister; the co-wife of the sister frees the sister from the levirate connection anyhow.]
4. **I:4:** The opinions assigned to R. Simeon are confused. There he has said [at M. 3:10: Three brothers married to three unrelated women, and one of the men died, and the second brother bespoken the widow of his brother, and then he too died – lo, these perform the rite of halisah and do not enter into levirate marriage (with the surviving brother-in-law). R. Simeon says, "The surviving brother takes in levirate marriage whichever one he wants, and performs the rite of halisah with the second woman." [The issue is why the rite of halisah with the second woman. Should she not be freed by the action of the first? The reason is that it may be that the fact that the woman is subject to the levirate connection does not necessarily mean that she is as if she were married to the levir. (The reason for that fact will be clear below, at M. 3:10.)] And here have you said this [that Simeon is certain that the fact that the woman is subject to the levirate connection necessarily means she is as if she were married to the levir]?

XXII. YERUSHALMI YEBAMOT 3:4

- [A] **THREE BROTHERS, TWO OF THEM MARRIED TO TWO SISTERS, AND ONE [THE THIRD] OF THEM IS UNMARRIED, ONE OF THE HUSBANDS OF THE SISTERS DIED, AND THIS ONE WHO WAS UNMARRIED BESPOKE HER [THE SURVIVING SISTER], AND AFTERWARD HIS OTHER BROTHER DIED – THE HOUSE OF SHAMMAI SAY, "HIS WIFE [THE BESPOKEN WOMAN] REMAINS WITH HIM. AND THAT OTHER [SISTER] GOES FORTH ON THE GROUNDS OF BEING THE SISTER OF HIS WIFE." AND THE HOUSE OF HILLEL SAY, "HE DIVORCES HIS WIFE WITH A WRIT OF DIVORCE AND WITH THE RITE OF HALISAH, AND THE WIFE OF HIS BROTHER WITH A RITE OF HALISAH. "THIS IS THE SORT OF CASE CONCERNING WHICH**

THEY HAVE STATED, ‘WOE IS HIM BECAUSE OF HIS WIFE, AND WOE IS HIM BECAUSE OF THE WIFE OF HIS BROTHER!’”

- 1. I:1:** The House of Shammai rule in accord with the position of R. Eleazar b. Arakh, for R. Eleazar b. Arakh has said, “Bespeaking effects a complete acquisition in the case of a sister-in-law. [That is why the second widow is to go forth without further ceremony, as sister of his wife.]” If they rule in accord with R. Eleazar b. Arakh, then if the surviving brother divorced the woman he has bespoken, she should not require a rite of halisah. Yet R. Hela has said in the name of R. Eleazar, “The House of Shammai concur that if the surviving brother divorced the be spoken woman, she requires a rite of halisah with him [thus taking account of her as-yet-not-fully-married status].” But the House of Shammai concur with the view of R. Simeon, for R. Simeon has said, “The act of bespeaking either does effect acquisition or does not effect acquisition.”

XXIII. YERUSHALMI YEBAMOT 3:5

[A] **THREE BROTHERS, TWO OF THEM MARRIED TO TWO SISTERS, AND ONE OF THEM [THE THIRD] MARRIED TO AN UNRELATED WOMAN, ONE OF THE HUSBANDS OF THE SISTERS DIED, AND THE BROTHER MARRIED TO THE UNRELATED WOMAN MARRIED HIS [THE CHILDLESS BROTHER’S] WIDOW, AND [THEN] HE [THE BROTHER WHO WAS MARRIED TO THE UNRELATED WOMAN AND ALSO TO THE WIDOW OF HIS CHILDLESS BROTHER WENT AND] DIED — THE FIRST WOMAN GOES FORTH [WITHOUT HALISAH OR LEVIRATE MARRIAGE] AS THE SISTER OF HIS WIFE, AND THE SECOND ON THE GROUNDS OF BEING HER CO-WIFE [NEITHER ONE THEREFORE ENTERING INTO LEVIRATE MARRIAGE OR REQUIRING A RITE OF HALISAH WITH THE SURVIVING BROTHER]. [IF] HE BESPOKE HER AND DIED, THE UNRELATED WOMAN PERFORMS THE RITE OF HALISAH BUT DOES NOT ENTER INTO LEVIRATE MARRIAGE:**

- 1. I:1:** [As to M. 2:1H-I:If the second brother had bespoken her and then died, the second wife executed the rite of halisah but does not enter into levirate marriage:] both rabbis and R. Simeon concur [in this statement, and this is now explained, since each has a separate theory of the effect of bespeaking].

XXIV. YERUSHALMI YEBAMOT 3:6

[A] THREE BROTHERS, TWO OF THEM MARRIED TO TWO SISTERS, AND ONE OF THEM MARRIED TO AN UNRELATED WOMAN, THE ONE MARRIED TO THE UNRELATED WOMAN DIED, AND ONE OF THE BROTHERS MARRIED TO THE SISTERS MARRIED HIS WIFE, THEN HE TOO DIED — THE FIRST WOMAN GOES FORTH ON GROUNDS OF BEING THE SISTER OF HIS WIFE, AND THE SECOND ON GROUNDS OF BEING THE CO-WIFE. [IF] HE BESPOKE HER AND THEN DIED, THE UNRELATED WOMAN PERFORMS THE RITE OF HALISAH, AND DOES NOT ENTER INTO LEVIRATE MARRIAGE.

1. I:1: [As to M. 3:6H] both rabbis and R. Simeon concur in this case.

XXV. YERUSHALMI YEBAMOT 3:7

[A] THREE BROTHERS, TWO OF THEM MARRIED TO TWO SISTERS, AND ONE OF THEM MARRIED TO AN UNRELATED WOMAN, ONE OF THE HUSBANDS OF THE SISTERS DIED, AND THE ONE MARRIED TO AN UNRELATED WOMAN MARRIED HIS WIDOW, AND THEN THE WIFE OF THE SECOND BROTHER DIED, AND AFTERWARD THE BROTHER MARRIED TO THE UNRELATED WOMAN DIED — LO, THIS [SURVIVING SISTER] IS PROHIBITED TO HIM FOR ALL TIME, SINCE SHE HAD BEEN PROHIBITED TO HIM FOR ONE MOMENT [WHEN HER HUSBAND DIED, SHE WAS FORBIDDEN TO HIS BROTHER, THEN MARRIED TO HER SISTER, AS HIS WIFE'S SISTER].

1. I:1: Said R. Abina, "This is in line with that which R. Yosé said in the name of R. Yohanan [M. 3:1], 'A case involving a prohibition of sisters who were sisters-in-law, survivors of childless husbands, is not similar to a case involving a prohibition of sisters who were not sisters-in-law, survivors of childless husbands.'"

XXVI. YERUSHALMI YEBAMOT 3:8

[A] THREE BROTHERS, TWO OF THEM MARRIED TO TWO SISTERS, AND ONE OF THEM MARRIED TO AN UNRELATED WOMAN, ONE OF THE HUSBANDS OF THE SISTERS DIVORCED HIS WIFE, AND THE BROTHER MARRIED TO THE UNRELATED WOMAN DIED, AND THE ONE WHO DIVORCED HIS WIFE MARRIED HER [THE UNRELATED WOMAN], AND HE TOO DIED — THIS IS THE SORT OF CASE CONCERNING WHICH THEY HAVE STATED, "AND IN THE CASE OF ALL OF THEM WHO DIED OR WERE

DIVORCED, THEIR CO-WIVES ARE PERMITTED,” [FOR THE UNRELATED WOMAN TAKEN IN LEVIRATE MARRIAGE NEVER WAS THE CO-WIFE OF THE SISTER OF THE WIFE OF THE SURVIVING BROTHER. THE SISTER HAD BEEN DIVORCED BEFORE THE LEVIRATE MARRIAGE TO THE UNRELATED MAN EVER TOOK PLACE].

1. **I:1:** [One of the husbands of the sisters] divorced [his wife] [M. 3:8D]: R. Haggai in the name of R. Zeira: “It is not the end of the matter that the rule applies to a case in which he divorced his wife and afterward married [the unrelated woman, M. 3:8F]. But even if he had married her and afterward divorced his wife, [the same rule would apply. That is, if one of the men married to sisters married the woman who was an outsider and then divorced his first wife and then died, the third brother may enter into levirate marriage with the woman who is not an outsider].”
2. **I:2:** Said R. Yudan, “Even R. Eleazar [who said that if the cause of a prohibition is removed, the prohibition remains in effect] will concur here. [When the man died, she was not a co- wife.]”

XXVII. YERUSHALMI YEBAMOT 3:9

[A] AND IN EVERY CASE IN WHICH THE BETROTHAL OR DIVORCE [OF THE DECEASED BROTHER] IS SUBJECT TO DOUBT, LO, THESE CO-WIVES PERFORM THE RITE OF HALISAH BUT [OF COURSE] DO NOT ENTER INTO LEVIRATE MARRIAGE. WHAT IS A CASE OF DOUBT CONCERNING BETROTHAL? [IF] HE THREW HER A TOKEN OF BETROTHAL, IT IS A MATTER OF DOUBT WHETHER IT LANDED NEARER TO HIM OR NEARER TO HER — THIS IS A CASE IN WHICH THERE IS DOUBT CONCERNING BETROTHAL.

1. **I:1:** We do not have here a case of a writ of divorce of doubtful validity, but a fully valid writ of divorce! [We shall now have a case of a writ of doubtful validity.] What would be a matter of doubt concerning betrothal? If he threw her a token of betrothal — it is a matter of doubt whether it landed nearer to him or nearer to her — this is a case in which there is doubt concerning betrothal [M. 3:9F].

[B] AND A CASE OF DOUBT CONCERNING A WRIT OF DIVORCE? [IF] ONE WROTE THE WRIT OF DIVORCE IN HIS OWN HAND, BUT THERE ARE NO WITNESSES TO ATTEST THE DOCUMENT, [IF] THERE ARE WITNESSES TO ATTEST THE DOCUMENT, BUT IT IS NOT DATED, [IF] IT IS DATED, BUT IT [CONTAINS THE ATTESTATION OF] ONLY A SINGLE WITNESS — THIS IS A CASE IN WHICH THE DIVORCE IS SUBJECT TO DOUBT.

1. **I:2:** It was taught: On the strength of these three sorts of writs [H-J], one may collect [funds owed, e.g., in settlement of a marriage contract] from unindentured property, but one may not collect from indentured property [as would be the case if the writ were wholly valid].

XXVIII. YERUSHALMI YEBAMOT 3:10

[A] **THREE BROTHERS MARRIED TO THREE UNRELATED WOMEN, AND ONE OF THE MEN DIED, AND THE SECOND BROTHER BESPOKE HER [THE WIDOW OF HIS BROTHER AND THEN HE TOO DIED – LO, THESE PERFORM THE RITE OF HALISAH AND DO NOT ENTER INTO LEVIRATE MARRIAGE, SINCE IT IS SAID, “AND ONE OF THEM DIESÉHER BROTHER-IN-LAW WILL COME UNTO HER” (DEUT. 25:5), [REFERRING TO] THE ONE WHO IS SUBJECT TO THE LEVIRATE POWER OF A SINGLE BROTHER-IN-LAW, AND NOT THE ONE WHO IS SUBJECT TO THE LEVIRATE POWER OF TWO BROTHERS-IN-LAW. R. SIMEON SAYS, “THE SURVIVING BROTHER TAKES IN LEVIRATE MARRIAGE WHICHEVER ONE HE WANTS AND PERFORMS THE RITE OF HALISAH WITH THE SECOND WOMAN.”**

1. **I:1:** Now a woman awaiting levirate marriage who came before any number of levirs – is it possible that she does not enter into levirate marriage? [Surely not. So what is the point here?]
 - a. **I:2:** R. Hiyya taught, “The wife of one [deceased childless brother] enters into levirate marriage, and the wife of two deceased [childless brothers] does not [enter into levirate marriage].” There is no difficulty in understanding why one performs the rite of halisah with the woman who had been bespoken, [for] the one who is subject to the levirate power of a single brother-in-law enters into levirate marriage, and not the one who is subject to the levirate power of two brothers-in-law. But as to the second wife [who is subject to levirate marriage only by reason of her deceased childless spouse alone, and not because of a prior marriage or levirate relationship] – why should she not enter into levirate marriage?

XXIX. YERUSHALMI YEBAMOT 3:11

[A] **TWO BROTHERS MARRIED TO TWO SISTERS, AND ONE OF THEM DIED, AND AFTERWARD THE WIFE OF THE SECOND DIED – LO, THIS ONE [SURVIVING SISTER] IS PROHIBITED TO HIM FOR ALL TIME, SINCE SHE WAS PROHIBITED TO HIM FOR A SINGLE MOMENT [AS HIS WIFE’S SISTER].**

1. **I:1:** Said R. Abina, “This is in line with that which R. Hela, R. Yosa in the name of R. Yohanan [said], ‘A prohibition of two sisters who are levirate widows is not the same as the prohibition affecting two sisters who are not levirate widows.’”

XXX. YERUSHALMI YEBAMOT 3:12

[A] TWO MEN WHO BETROTHED TWO WOMEN, AND AT THE TIME OF THEIR ENTRY INTO THE MARRIAGE CANOPY, THE TWO WOMEN [INADVERTENTLY] WERE EXCHANGED FOR ONE ANOTHER — LO, THESE MEN ARE LIABLE FOR (1) HAVING SEXUAL RELATIONS WITH A MARRIED WOMAN [NAMELY, THE BETROTHED OF THE OTHER]. [IF IN ADDITION] THEY WERE BROTHERS, THEY ARE LIABLE (2) ON THE COUNT OF HAVING SEXUAL RELATIONS WITH THE WIFE OF THE BROTHER. AND IF THE WOMEN [IN ADDITION] WERE SISTERS, THEY ARE LIABLE FOR (3) HAVING SEXUAL RELATIONS WITH A WOMAN AND HER SISTER. AND IF [AT THE TIME OF SEXUAL RELATIONS] THEY [IN ADDITION] WERE IN THEIR MENSTRUAL PERIOD, THE MEN ARE LIABLE FOR (4) HAVING SEXUAL RELATIONS WITH A MENSTRUATING WOMAN:

1. **I:1:** If one of the brothers had sexual relations with the second woman as well, he is liable on two counts, first, on the count of her *being* the wife of his brother, and second, on the count of having relations with both a woman and her sister.
2. **I:2:** [With reference to M. 3:12A-F] R. Hiyya taught [in the Tosefta’s version]: lo, these [four parties in all] are liable for sixteen sin-offerings: (1) on the count of being brothers, and (2) on the count of being sisters, and (3) on the count of having intercourse with menstruating women, and (4) on account of intercourse with a married woman. If they are not brothers [C.1], they are liable for twelve sin-offerings. If they are not sisters [C.2], they are liable for eight. If they are not menstruating [C.3], they are liable for four. [If] the men were adult and the girls were minor, they are liable only for two. [If] the women were adult and the males minors, the women are liable for two [the women alone are liable.. If the father had married them off, they are liable for eight [T. Yeb. 5:9]. [If] one of them was adult and the other male was a minor, the one who is subject to sexual relations with the minor is liable, for she is the wife of the adult. But the one who has sexual relations with the adult is exempt, for she is the wife of the minor [T. Yeb. 5:10].

[B] AND THEY SET THEM APART FOR THREE MONTHS, LEST THEY BE PREGNANT. AND IF THEY WERE MINORS NOT YET FIT TO GIVE BIRTH, THEY ARE FORTHWITH RESTORED [TO THEIR PROPER HUSBANDS].

- 1. II:1:** [With reference to M. 3:10G], R. Ba in the name of R. Jeremiah: “A woman who has been raped does not have to wait for three months.”

[C] AND IF THEY WERE DAUGHTERS OF PRIESTS, THEY ARE INVALID FOR EATING HEAVE-OFFERING.

- 1. III:1:** R. Yosé said, “That is to say that being raped invalidates a girl from marrying a member of the priestly caste as much as [adultery in the case of] a married woman [requires separation from her husband].”

XXXI. YERUSHALMI YEBAMOT 4:1

[A] HE WHO UNDERGOES THE RITE OF HALISAH WITH HIS CHILDLESS BROTHER’S WIDOW, AND IT TURNS OUT THAT SHE IS PREGNANT, AND SHE GIVES BIRTH — WHEN THE OFFSPRING IS TIMELY, [THE LEVIR] IS PERMITTED TO MARRY HER RELATIVES, AND SHE IS PERMITTED TO MARRY HIS RELATIVES, AND HE HAS NOT INVALIDATED HER FROM MARRYING INTO THE PRIESTHOOD. [IF] THE OFFSPRING IS NOT TIMELY, HE IS PROHIBITED FROM MARRYING HER RELATIVES, AND SHE IS PROHIBITED FROM MARRYING HIS RELATIVES, AND HE HAS INVALIDATED HER FROM MARRYING INTO THE PRIESTHOOD.

- 1. I:1:** [Since M. 4:1B states, It turns out that she is pregnant, we draw the clear conclusion that] the rule applies after the fact. But to begin with [if it is known that the widow is pregnant,] it is not [permitted to perform the rite of halisah, until it is known that the rite is required].
- 2. I:2:** If a widow performed the rite of halisah during the three-month period after her husband’s death, what is the law as to her having to do so once again after the three months have gone by?
- 3. I:3:** R. Yudan raised the question: “If the levir has performed the rite of halisah with the widow when she was pregnant, and then she suffered a miscarriage [so that it is clear that the rite will have been required], [what is the law as to her having to repeat the rite again]?”
- 4. I:4:** Samuel said, “They acquire title on behalf of a foetus.” R. Eleazar said, “They do not acquire title on behalf of a foetus.”

XXXII. YERUSHALMI YEBAMOT 4:2

- [A] **HE WHO ENTERS INTO LEVIRATE MARRIAGE WITH HIS CHILDLESS BROTHER'S WIDOW, AND IF TURNS OUT THAT SHE IS PREGNANT, AND SHE GIVES BIRTH — WHEN THE OFFSPRING IS TIMELY, HE MUST PUT HER AWAY, AND THEY [BOTH MAN AND WOMAN] ARE LIABLE FOR A SACRIFICE. [IF] THE OFFSPRING IS NOT TIMELY, HE MAY CONFIRM [THE MARRIAGE]:**
- I:1:** Said R. Yosé, “In any case in which it is possible for you to ascertain what certainly has happened, they are not liable on account of doubt to bring a suspensive guilt-offering. [Rather, one waits until it is possible to clarify precisely what has happened, and if one is actually guilty, *he* brings a sin-offering. The alternative may be to bring unconsecrated beasts to the courtyard of the Temple, for if no sin has been committed, then these beasts in fact do not serve a sacred purpose and are unconsecrated.]”
- [B] **[IF] IT IS A MATTER OF DOUBT WHETHER THE OFFSPRING IS BORN AT NINE MONTHS, THEREFORE ASSIGNED TO THE FIRST HUSBAND, OR BORN AT SEVEN MONTHS, THEREFORE ASSIGNED TO THE SECOND, HE MUST PUT HER AWAY. BUT THE OFFSPRING IS VALID. AND BOTH OF THEM ARE LIABLE FOR A SUSPENSIVE GUILT-OFFERING:**
- II:1:** How shall we interpret the case? If we deal with a case in which the levir had sexual relations with the widow right after the death of the husband, and the pregnancy came into evidence after two months, then the Mishnah should be formulated to read: Whether it is born at nine months, therefore is assigned to this one, or at nine months, therefore is assigned to that one, or whether it is born at seven months, therefore is assigned to this one, or at seven months, therefore is assigned to that one.
 - II:2:** If the child subject to doubt [of M. 4:2H] comes to collect his share in the estate of his father, they say to him, “That one [the levir] is your father.” If the levir comes to take a share in the estate of his brother, they say to him, “This is the son [who may or may not be the son of the deceased. You have no claim on this estate, which passes to the son.]” Then what do they do? They make a compromise among themselves and divide up the estate of the deceased.
 - II:3:** If the father of the deceased childless brother died, and the levir and the child whose status is subject to doubt come to share in the estate [with the latter claiming to be the heir of the deceased childless

son of the deceased grandfather], then there are among the sons those who are certainly heirs [namely, the surviving brothers, sons of the deceased father] and the son whose status is subject to doubt, [and this latter one cannot collect, since he cannot show for sure that he is the son and heir of the deceased son, for he may be the son of the levir]. If the child subject to doubt died, [and the heirs of the child on his father's side and those on his mother's side wish to participate in the division of his estate, since we do not know for sure which one is his father, the heirs on his mother's side wish to take the estate] – in this case, there is the claim of the son[s] of the brother of his father whose claim is one of certainty [inheriting either if he is son of the levir, so he is their brother, or if he is son of the deceased, so he is the son of the brother of their father], while the heirs of the mother lay a claim which is subject to doubt.

4. **II:4:** It has been taught: The first of two such offspring is suitable to be made high priest, but the second is deemed a mamzer by reason of doubt. R. Eliezer b. Jacob says, “The second is not a mamzer by reason of doubt” [T. Yeb. 6:2-J].

XXXIII. YERUSHALMI YEBAMOT 4:3

[A] **A WOMAN AWAITING LEVIRATE MARRIAGE WHO RECEIVED PROPERTY — THE HOUSE OF SHAMMAI AND THE HOUSE OF HILLEL CONCUR THAT SHE SELLS OR GIVES AWAY THE PROPERTY [THAT SHE HAS RECEIVED], AND THE TRANSACTION IS CONFIRMED. [IF] SHE DIED, WHAT DO THEY DO WITH HER MARRIAGE CONTRACT AND WITH THE PROPERTY THAT COMES IN AND GOES OUT WITH HER [I.E., MELOG PROPERTY]? THE HOUSE OF SHAMMAI SAY, “THE HEIRS OF THE [LEVIRATE] HUSBAND AND THE HEIRS OF [THE WOMAN’S] FATHER DIVIDE IT.” AND THE HOUSE OF HILLEL SAY, “THE PROPERTY REMAINS IN THE POSSESSION OF THOSE WHO HAVE A PRESUMPTIVE CLAIM TO IT: “THE MARRIAGE CONTRACT IS SUBJECT TO THE PRESUMPTIVE CLAIM OF’ THE HEIRS OF THE HUSBAND. “THE PROPERTY THAT COMES IN AND GOES OUT WITH HER IS SUBJECT TO THE PRESUMPTIVE CLAIM OF THE HEIRS OF THE FATHER.”**

1. **I:1:** Here [at M. 4:3A] you say that she sells or gives away her property, and the transaction is valid. If she died, how should they dispose of her marriage contract? And here you say, “Let the heirs of the husband divide it up with the heirs of the father [of the woman].” [So far as the House of Shammai is concerned, what is the difference in this latter case, that the property does not remain fully in the domain of the woman or her heirs, as in the former instance?]

2. **I:2:** If the property came to her before she entered the status of a woman awaiting levirate marriage, and the property produced usufruct after she had entered the status of a woman awaiting levirate marriage – it is treated as if it had come to her after she had entered that status. [We follow the criterion of the point at which the produce came into existence.]
3. **I:3:** Said R. Zeira, “As to the levir of the present case, it is a problem for the House of Shammai, since they are not certain whether or not he is regarded as equivalent to the husband or not equivalent to the husband. If he is in the status of the husband, he inherits the whole estate. If he is not in the status of the husband, he should inherit nothing. On account of this doubt, let the heirs of the husband divide it up with the heirs of the father of the woman.
4. **I:4:** R. Hoshaiyah taught: “The heirs [of the woman] who inherit her marriage settlement are liable to bury her when she dies. [This applies to the levir, who inherits her marriage settlement.]” Said R. Yosé, “If R. Hoshaiyah had not taught that law, it would have been a problem for us. Since she has no marriage contract, she also should have no rights of burial [from the levir or his heirs].”

XXXIV. YERUSHALMI YEBAMOT 4:4

[A] [If] HE MARRIED HER, LO, SHE IS DEEMED TO BE IN THE STATUS OF HIS WIFE FOR EVERY PURPOSE, BUT IN THIS MATTER ONLY: [THE CHARGE OF] HER MARRIAGE CONTRACT [FALLS] ONTO THE PROPERTY OF HER FIRST HUSBAND.

1. **I:1:** [He who died and left his wife awaiting marriage with her deceased childless husband’s brother, even if he left an estate worth a hundred manehs and the charge of her marriage contract is only a maneh, the heirs cannot sell his estate, for an of his property is encumbered for the payment of her marriage contract (cf. M. Ket. 8:8)]. What should the heirs do? He should consummate the marriage, then divorce her, and she gives him a quittance for her marriage contract [T. Ket. 9:1A-F].
 - a. **I:2:** R. Zeira in the name of R. Hamnuna, “If he married her and divorced her and then remarried her, if he prepared a new marriage contract for her, then the settlement of that marriage contract falls upon his property. But if not, her marriage contract remains incumbent on the estate of her first husband.”

XXXV. YERUSHALMI YEBAMOT 4:5-7

[A] **IT IS THE DUTY OF THE OLDEST SURVIVING BROTHER TO ENTER INTO LEVIRATE MARRIAGE. [IF] HE DID NOT WANT TO DO SO, THEY PASS IN TURN TO ALL THE OTHER BROTHERS. [IF] THEY [ALL] DID NOT WANT TO DO SO, THEY GO BACK TO THE OLDEST AND SAY TO HIM, “YOURS IS THE DUTY! EITHER UNDERGO THE RITE OF HALISAH OR ENTER INTO LEVIRATE MARRIAGE.” [IF THE LEVIR PROPOSED TO] SUSPEND [HIS DECISION, WAITING] FOR A YOUNGSTER TO GROW UP, OR FOR AN ADULT TO COME FROM OVERSEAS, OR FOR A DEAF-MUTE OR AN IDIOT [TO RECOVER SOUND OR SENSE], THEY DO NOT LISTEN TO HIM. BUT THEY SAY TO HIM: “YOURS IS THE DUTY. EITHER UNDERGO THE RITE OF HALISAH OR ENTER INTO LEVIRATE MARRIAGE.”**

HE WHO UNDERGOES A RITE OF HALISAH WITH HIS CHILDLESS BROTHER’S WIDOW, LO, HE IS DEEMED AS ONE WITH THE BROTHERS FOR INHERITANCE [OF THE DECEASED BROTHER’S ESTATE]. AND IF THERE IS A FATHER [OF THE DECEASED BROTHER] THERE [TO SHARE IN THE INHERITANCE], THE PROPERTY REVERTS TO THE FATHER. HE WHO MARRIES HIS CHILDLESS BROTHER’S WIDOW ACQUIRES THE ESTATE OF HIS BROTHER.

1. **I:1:** [It is obvious that, as at M. 4:7A, the brother who has performed merely the rite of halisah in no way is differentiated from the other brothers. The reason the Mishnah states this fact is] so that you should not say, Just as the result of the rite of halisah is to free [the widow and her co-wives from further levirate ties] and the result of the levirate marriage likewise is to free [the co-wives from further levirate ties], therefore, just as you rule that he who marries his levirate sister-in-law acquires the estate of his brother, so, along these same lines, he who performs the rite of halisah with his levirate sister-in-law also has acquired the estate of his brother. So as to avoid such a false conclusion, it was necessary to state, Lo, he is deemed as one with the brothers for inheritance of the deceased brother’s estate [M. 4:7A].

- a. **I:2:** R. Judah in the name of Samuel said, “He who bespeaks his levirate sister-in-law has not acquired the estate of his brother.”
- b. **I:3:** If there were two levirate sisters-in-law, if the levir bespoken one of them and had sexual relations [consummating the levirate marriage] with the other one, [he surely should acquire the brother’s estate, for, after all,] what are the possibilities? If it was by bespeaking, then he should acquire the estate, and if it was through sexual relations, he should acquire the estate.

[B] **R. JUDAH SAYS, “ONE WAY OR THE OTHER: IF THE FATHER IS THERE, THE PROPERTY REVERTS TO THE FATHER.”**

1. **II:1:** R. Isaac bar Tabelai in the name of R. Eleazar, “The reason of R. Judah [is this:] ‘And ~e first son whom she bears shall succeed’ (Deut. 25:6). Scripture thereby compares the levir to a firstborn. Just as the firstborn does not inherit [the father’s estate] during the lifetime of the father, so this one should not inherit the father’s estate while the father is yet alive.”
2. **II:2:** R. Abba bar Kahana, R. Hiyya bar Ashi in the name of Rab: “The law accords with the view of R. Judah.”

XXXVI. YERUSHALMI YEBAMOT 4:8

[A] HE WHO UNDERGOES A RITE OF HALISAH WITH HIS CHILDLESS BROTHER’S WIDOW – HE IS PROHIBITED FROM MARRYING HER RELATIVES, AND SHE IS PROHIBITED FROM MARRYING HIS RELATIVES. HE IS PROHIBITED FROM MARRYING HER MOTHER, HER MOTHER’S MOTHER, HER FATHER’S MOTHER, HER DAUGHTER, THE DAUGHTER OF HER DAUGHTER, THE DAUGHTER OF HER SON, AND HER SISTER WHILE SHE IS YET ALIVE. BUT [HIS] BROTHERS ARE PERMITTED [TO MARRY ANY OF THE AFORENAMED].

1. **I:1:** The reason [that he is prohibited, M. 4:8A-C] is that he has performed the rite of halisah with her. Lo, if he had not performed the rite of halisah with her and she died, he is permitted to marry her mother. [The fact that there had been a levirate connection is null.]

[B] AND SHE IS PROHIBITED FROM MARRYING HIS FATHER, THE FATHER OF HIS FATHER, HIS SON, THE SON OF HIS SON, HIS BROTHER, AND THE SON OF HIS BROTHER. A MAN IS PERMITTED TO MARRY THE KINSWOMAN OF THE CO-WIFE OF A WOMAN WITH WHOM HE HAS PERFORMED THE RITE OF HALISAH, BUT IS PROHIBITED FROM MARRYING THE CO-WIFE OF THE KINSWOMAN OF A WOMAN WITH WHOM HE HAS PERFORMED THE RITE OF HALISAH.

1. **II:1:** That is to say that secondary consanguineous connections are subject to the sages’ decree [and may not marry a woman] with whom the rite of halisah has been performed [by a relative].
2. **II:2:** So does the Mishnah state: A man is permitted to marry the kinswoman of the co-wife of a woman with whom he has performed the rite of halisah but he is prohibited from marrying the co-wife of the kinswoman of a woman with whom he has performed the rite of halisah.

XXXVII. YERUSHALMI YEBAMOT 4:9

[A] HE WHO UNDERGOES A RITE OF HALISAH WITH HIS CHILDLESS BROTHER'S WIDOW, AND HIS BROTHER MARRIED HER SISTER, AND [THIS BROTHER DIED — SHE PERFORMS A RITE OF HALISAH AND IS NOT TAKEN IN LEVIRATE MARRIAGE. AND SO: HE WHO DIVORCES HIS WIFE, AND HIS BROTHER MARRIED HER SISTER, AND [HIS BROTHER] DIED — LO, THIS ONE IS EXEMPT FROM THE RITE OF HALISAH AND FROM LEVIRATE MARRIAGE.

1. I:1: Simeon bar Ba raised the question before R. Yohanan, "What is the difference between the status of one who performs the rite of halisah [with his brother's childless widow] and one who divorces [a woman]? [In the former instance if someone marries such a woman and dies, the woman performs the rite of halisah with a surviving brother, but does not enter into levirate marriage. In the case of one who divorces his wife, and whose brother marries that wife's sister, then the brother dies childless, the widow — that is, the sister of the woman whom the surviving brother has divorced — does not even perform the rite of halisah, let alone entering levirate marriage. We now ask, What is the difference between the status of these two women?]"

XXXVIII. YERUSHALMI YEBAMOT 4:10

[A] A WOMAN AWAITING MARRIAGE WITH A LEVIR, THE BROTHER OF WHOM BETROTHED HER SISTER — IN THE NAME OF R. JUDAH B. BETERA DID THEY SAY, "THEY INSTRUCT HIM: 'WAIT UNTIL YOUR OLDER BROTHER DOES A DEED.'" [IF] HIS BROTHER UNDERWENT A RITE OF HALISAH WITH HER [THE WOMAN AWAITING LEVIRATE MARRIAGE] OR MARRIED HER, HE [BL MAY [THEN] MARRY HIS WIFE. [IF] THE CHILDLESS BROTHER'S WIDOW DIED, HE MAY MARRY HIS WIFE. [IF] THE LEVIR DIED, LET HIM [OF A] PUT AWAY HIS [BETROTHED] WIFE WITH A WRIT OF DIVORCE AND THE WIFE OF HIS BROTHER WITH A RITE OF HALISAH:

1. I:1: The rule is only that if the widow should die, then he may be permitted to his [betrothed] wife. It follows that if his wife should die, he remains prohibited to his sister-in-law.

XXXIX. YERUSHALMI YEBAMOT 4:11

[A] A CHILDLESS BROTHER'S WIDOW SHOULD NOT PERFORM THE RITE OF HALISAH OR ENTER INTO LEVIRATE MARRIAGE UNTIL THREE MONTHS HAVE GONE BY. AND

SO IN THE CASE OF ALL OTHER WOMEN: THEY SHOULD NOT BECOME BETROTHED OR ENTER MARRIAGE UNTIL THREE MONTHS HAVE GONE BY [AFTER THE CONCLUSION OF A FORMER MARRIAGE].

1. **I:1:** At what point is the presence of the foetus recognized? Sumkhos says in the name of R. Meir, “In three months, “Even though there is no clear proof of that proposition, there is at least an indication of it: ‘And it came to pass at the end of three months’” (Gen. 38:24) [T. Nid. 1:7A-C]. Said R. Yudan, “And even if she is pregnant only with air: ‘We were with child, we writhed, we have as it were brought forth wind’ (Is. 26:18) [cf. T. Nid. 1:7E].
2. **I:2:** R. Zeira, R. Ba bar Zutra, R. Haninah in the name of R. Hiyya the Great: “Even if [the foetus is discernible] in the greater part of the first month, and for the greater part of the last month [if] the middle [month] is complete, [we deem the three months’ rule to apply – that is, after only sixty-two days].” R. Assi says, “Ninety days, complete.” And Samuel says, “They and their intercalated days [that is, three months, whether they are ninety days or even more than ninety days, by reason of adding additional days through late sightings of the moon].”
3. **I:3:** R. Hiyya bar Ashi was in session before Rab. He observed that he was preoccupied. He said to him, “Why so?” He said to him, “My ass is pregnant and is coming to term, and I wanted to cover her so that she should not be chilled.” He said to him, “When did the male mount her?” He said to him, “On such and such a day, and I reckoned from there.” He calculated [and] said to him, “If so, she will require [waiting a few more days].”

[B] ALL THE SAME ARE VIRGINS AND WOMEN WHO HAVE HAD SEXUAL RELATIONS, ALL THE SAME ARE WOMEN WHO HAVE BEEN DIVORCED AND WIDOWS, ALL THE SAME ARE WOMEN WHO HAVE BEEN MARRIED AND WOMEN WHO HAVE BEEN BETROTHED. **R. JUDAH SAYS, “THOSE WHO HAVE BEEN MARRIED [AND WHOSE HIS BANDS HAVE DIED MAY BE BETROTHED, AND THOSE WHO ARE BETROTHED [AND WHOSE HUSBANDS DIED] MAY BE MARRIED, EXCEPT FOR THOSE WHO HAVE BEEN BETROTHED IN THE PROVINCE OF JUDEA. [FOR THERE], THE [BRIDEGROOM] IS SHAMELESS FOR HER.”**

1. **II:1:** R. Meir scruples as to writs of divorce, [since he is concerned that, if the woman turns out to be pregnant, the husband who divorced her may claim that, had he known she was pregnant, he would not have divorced her, and in that way he may nullify the writ of divorce he has issued. That is why Meir requires a waiting period, to ascertain that the divorcée is not pregnant. The other categories then are required to wait

so that a single law will apply to all]. R. Judah scruples as to the offspring [and permits immediate remarriage by those who were betrothed, since that is not a consideration]. R. Yosé scruples both as to writs of divorce and as to the offspring [and so excludes only the widow from betrothal; but no one may be married without a waiting period].

2. **II:2:** It has been taught: “A convert, a captive woman, and a slave-girl, who were redeemed, converted, or freed, respectively, have to wait for three months,” the words of R. Judah. R. Yosé says, “They do not have to wait.” And as to the status of their blood, R. Judah says, “It imparts uncleanness [from when the blood first appears, to objects the woman has touched] during the preceding twenty-four hours.” R. Yosé says, “It is sufficient [for the woman to impart uncleanness only to those objects she has touched] from the moment at which she [has discovered the blood. There is no retroactive period of contamination, because the woman is assumed to have a fixed period and to know when her menstrual cycle will begin].”

a. **II:3:** Simeon bar Ba said, “A case came before R. Yohanan, and he decided the case in accord with the view of R. Yosé.”

3. **II:4:** [As to reckoning the period of three months between ending one marriage and beginning another:] A woman who performs the rite of *halisah* counts [the ninety days] from the time at which her husband had died [earlier than the rite]. A woman who goes forth from a marriage through a writ of divorce counts from the time of the handing over of her writ of divorce. R. Haninah said, “It is from the time of the handing over of her writ of divorce.” R. Yohanan said, “It is from the time at which the writ is written [even prior to its being handed to her].”

[C] **R. YOSÉ SAYS, “ALL WOMEN MAY BE BETROTHED, EXCEPT FOR A WIDOW, ON ACCOUNT OF MOURNING [FOR A PERIOD OF THIRTY DAYS].”**

1. **III:1:** How long is the period of mourning? Thirty days.

XL. YERUSHALMI YEBAMOT 4:12

[A] **FOUR BROTHERS MARRIED TO FOUR WOMEN, AND THEY DIED [LEAVING YET MORE SURVIVING BROTHERS] — IF THE OLDEST [SURVIVING] BROTHER AMONG THEM WANTS TO ENTER INTO LEVIRATE MARRIAGE WITH ALL OF THEM [THE SURVIVING, CHILDLESS WIDOWS], HE HAS THE RIGHT TO DO SO. HE WHO WAS**

MARRIED TO TWO WOMEN AND WHO DIED — THE ACT OF SEXUAL RELATIONS
[IN LEVIRATE MARRIAGE~ OR THE RITE OF HALISAH WITH ONE OF THEM
EXEMPTS HER CO-WIFE [FROM THE REQUIREMENT TO DO THE SAME].

1. **I:1:** Four of the brothers, etc. [That is, there were more than four brothers.]
 - a. I:2: There was a case of thirteen brothers, twelve of whom died childless. The surviving levirate widows came and brought their case before Rabbi. Rabbi said to the last brother, “Go and enter into levirate marriage with them.” He said to him, “I don’t have the resources to support them.” They replied, “Each one of us will provide maintenance for a month. He said, “And who will provide for the intercalated month?” Said Rabbi, “I shall provide for the intercalated month.”
 - b. I:3: It is written, “And the ark of the Lord remained in the house of Obededom the Gittite three months; and the Lord blessed Obededom and all his household” (2 Sam. 6:11). With what did he bless him? It was with children. That is in line with what is written elsewhere: “All these were of the sons of Obededom with their sons and brethren, able men qualified for the service; sixty-two of Obededom” (I Chr. 26:8). For [in that three month period] each one of the wives of his eight sons produced two sons every month.
2. **I:4:** Said R. Ba bar Zabeda, “It is written, ‘And the name of his house shall be called in Israel, ‘The house of him that had his sandal pulled off’ (Deut. 25:10). It is a house that has been undone by a single rite of halisah, [but this allows the co-wife to remarry, in line with M. 4:12D].”

[B] [If] ONE OF THEM WAS VALID AND ONE OF THEM WAS INVALID [FOR MARRIAGE INTO THE PRIESTHOOD], IF HE THEN PERFORMS THE RITE OF HALISAH, LET HIM PERFORM THE RITE OF HALISAH WITH THE ONE INVALID [FOR MARRIAGE INTO THE PRIESTHOOD]. AND IF HE WAS GOING TO ENTER INTO LEVIRATE MARRIAGE, LA HIM ENTER INTO LEVIRATE MARRIAGE WITH THE ONE WHO IS VALID [FOR MARRIAGE INTO THE PRIESTHOOD].

1. **II:1:**[In respect to M. 4:12E-G,] what is the law as to deceiving [the levir, so as to have him perform the rite of halisah with the one invalid for marriage into the priesthood, even against his original intent]?

XLI. YERUSHALMI YEBAMOT 4:13

[A] **HE WHO REMARRIES A WOMAN WHOM HE HAS DIVORCED [AFTER SHE HAD WED SOMEONE ELSE AND WAS DIVORCED OR WIDOWED], HE WHO MARRIES A WOMAN WITH WHOM HE HAS PERFORMED THE RITE OF HALISAH, AND HE WHO MARRIES THE KINSWOMAN OF A WOMAN WITH WHOM HE HAS PERFORMED THE RITE OF HALISAH MUST PUT HER AWAY. “AND THE OFFSPRING [OF SUCH A UNION, IS A MAMZER,” THE WORDS OF R. AQIBA. AND SAGES SAY, “THE OFFSPRING IS NOT A MAMZER.” BUT THEY CONCEDE IN THE CASE OF ONE WHO MARRIES THE KINSWOMAN OF A WOMAN WHOM HE HAS DIVORCED [F] THAT THE OFFSPRING IS A MAMZER.**

- 1.** **I:1:** R. Hiyya in the name of R. Yohanan: “He who remarries a woman whom he has divorced once she married someone else has invalidated her from marriage into the priesthood.”
- 2.** **I:2:** R. Zeira, R. Hiyya in the name of R. Yohanan: “He who remarries a woman whom he has divorced once she married someone else – her daughter [with him] is valid for marriage into the priesthood.”

XLII. YERUSHALMI YEBAMOT 4:14-15

[A] **WHAT IS THE DEFINITION OF A MAMZER? “[THE OFFSPRING OF] ANY [MARRIAGE OF NEAR OF KIN THAT IS FORBIDDEN UNDER THE RUBRIC, ‘HE SHALL NOT COME INTO THE CONGREGATION OF THE LORD’” (DEUT. 23:3), THE WORDS OF R. AQIBA. SIMEON OF TEMAN SAYS, “[THE OFFSPRING OF ANY [MARRIAGE] FOR WHICH THE PARTICIPANTS ARE LIABLE TO EXTIRPATION BY HEAVEN.” AND THE LAW FOLLOWS HIS OPINION. R. JOSHUA SAYS, “[THE OFFSPRING OF] ANY [MARRIAGE] FOR WHICH THE PARTICIPANTS ARE LIABLE TO BE PUT TO DEATH BY A COURT.” SAID R. SIMEON B. AZZAI, “I DISCOVERED A FAMILY REGISTER IN JERUSALEM, IN WHICH WAS WRITTEN: ‘MR. SO-AND-SO IS A MAMZER, [HAVING BEEN BORN OF AN ILLICIT UNION] OF A MARRIED WOMAN [AND SOMEONE OTHER THAN HER HUSBAND], SO SUPPORTING THE OPINION OF R. JOSHUA.**

- 1.** **I:1:** R. Yosé b. Haninah says, “And all of them derived their positions from the case of the father’s wife: ‘A man shall not take his father’s wife, and he shall not uncover her who is his father’s’ (Deut. 23:1). [Immediately thereafter: ‘No mamzer shall enter the assembly of the Lord’ (Deut. 23:3).]”

2. **I:2:** Even though R. Joshua said, “He who has sexual relations With his sister – the offspring is valid,” he concedes that if the offspring was a female, she is invalid to marry into the priesthood. Even though R. Simeon b. Judah said in the name of R. Simeon b. Yohai, “A Gentile or a slave who had sexual relations with an Israelite girl – the offspring is valid,” he concedes that if it was a daughter, she is invalid to marry a priest.
3. **I:3:** And why did they state that the law follows R. Simeon of Teman [so accepting his reading of the verse]? Said R. Yosé b. R. Hanina, “In a setting in which all forms of consanguineous marriage were treated within a single general rule, subjecting all of them to extirpation, the wife of the father was singled out. This was to teach you that from such a marriage a mamzer is produced.”

XLIII. YERUSHALMI YEBAMOT 4:16

[A] HIS WIFE WHO DIED – HE IS PERMITTED TO MARRY HER SISTER. (2) [IF] HE DIVORCED HER AND AFTERWARD SHE DIED, HE IS PERMITTED TO MARRY HER SISTER. (3) [IF] SHE WAS MARRIED TO SOMEONE ELSE AND DIED, HE IS PERMITTED TO MARRY HER SISTER. (4) HIS CHILDLESS BROTHER’S WIDOW WHO DIED – HE IS PERMITTED TO MARRY HER SISTER. (5) [IF] HE PERFORMED THE RITE OF HALISAH WITH HER AND SHE DIED, HE IS PERMITTED TO MARRY HER SISTER.

1. **I:1:** [Since M. 4:16G specifies that if the levirate widow died, he may marry her sister, it follows that], lo, [the implication then is that] with respect to her mother, he is forbidden. [He cannot marry her mother. But why should that be the case? There is no consideration of the prohibition of the mother deriving from the levirate widow’s having been subject to the levir, once the levirate widow has died.] For did not R. Jacob bar Aha say in the name of R. Eleazar, “A woman awaiting levirate marriage who died – the levir is permitted to marry her mother”?

XLIV. YERUSHALMI YEBAMOT 5:1

[A] RABBAN GAMALIEL SAYS, “THERE IS NO WRIT OF DIVORCE [THAT IS VALID] AFTER [ANOTHER] WRIT OF DIVORCE, AND NO BESPEAKING [A STATEMENT OF BETROTHAL IN A CASE OF A LEVIRATE CONNECTION] AFTER ANOTHER BESPEAKING, AND NO COITION [CONSUMMATING A LEVIRATE MARRIAGE] AFTER

ANOTHER COITION, AND NO RITE OF HALISAH [THAT IS VALID] AFTER ANOTHER RITE OF HALISAH.” AND SAGES SAY, “THERE IS A WRIT OF DIVORCE [THAT IS VALID] AFTER [ANOTHER] WRIT OF DIVORCE, AND THERE IS BESPEAKING AFTER BESPEAKING, BUT THERE IS NOTHING [VALIDLY DONE] AFTER COITION OR AFTER A RITE OF HALISAH.”

1. **I:1:** “Her husband’s brother shall go in to her” (Deut. 25:5) – this refers to an act of sexual relations. “And he shall take her as his wife” (Deut. 25:5) – this refers to the act of bespeaking [declaring his intent to enter into levirate marriage, with the appropriate token of betrothal]. Is it possible to suppose that just as the act of sexual relations completes [the act of acquiring her as the surviving brother’s wife], so the bespeaking [should complete acquisition of the sister-in-law as the levir’s wife]? Scripture states, “And perform the duty of the husband’s brother to her” (Deut. 25:5). The whole section has been proclaimed for the purpose of levirate marriage: The act of sexual relations completes the acquisition of the sister-in-law as the wife of the levir, and the act of bespeaking does not do so. If that is the case, then what use is the act of bespeaking? It serves to prohibit the sister-in-law to the other surviving brothers.
2. **I:2:** R. Simeon says, “Bespeaking either does effect acquisition or does not effect acquisition.”
3. **I:3:** What is an act of bespeaking in the case of a sister-in-law?
 - a. **I:4:** Just as rabbis maintain that bespeaking effects acquisition, while leaving part [of the levirate widow not yet fully acquired,] so they maintain that a writ of divorce frees the woman but leaves [part of her not yet fully released in the case of the levirate widow. That is, a writ of divorce is not equivalent to halisah, which would fully release the widow. But it does have some affect upon her].
 - b. **I:5:** As to the view of R. Simeon, just as he says, “Bespeaking either wholly acquires the widow or wholly fails to acquire her, [leaving no ambiguity],” does he also maintain that a writ of divorce either wholly releases her or in no way releases her [in the case of the use of a writ of divorce in place of a rite of halisah]?
 - c. **I:6:** Rabban Gamaliel accords with the view of R. Simeon in saying, “Bespeaking either fully acquires the widow or in no way acquires her.” Now here, does he accord with R. Simeon in maintaining that a writ of divorce either fully releases the woman or does not release the woman at all?

- d. I:7: Does not Rabban Gamaliel concur with R. Simeon when he maintains that no bespeaking validly follows another bespeaking in the case of a levirate widow [M. 5:1B]? [How so? If the first levir has effected acquisition, the second has not, and if the first levir has not effected acquisition, the second also has not. There is no way to view bespeaking as both effecting acquisition and also leaving some part of the widow's status not wholly resolved for the second levir to acquire.]
- e. I:8: In the view of Rabban Gamaliel, [who has concurred that a writ of divorce is valid after bespeaking, so if one bespoke one widow and gave a writ of divorce to another widow, he has rendered the first invalid and is prohibited to marry the female relatives of either one of them; so too with bespeaking after a writ of divorce, in which case the widow subject to the bespeaking requires a writ of divorce. Now we have reasoned that Gamaliel maintains that, in both cases, the status of the woman has been left subject to a measure of uncertainty. For the bespeaking does not wholly effect acquisition, and the writ does not wholly let her go free. We have now to ask a secondary question:] What is the law as to there being a valid writ of divorce after a writ of divorce consequent upon bespeaking, or bespeaking after a writ of divorce consequent upon bespeaking? [Does the writ of divorce free the woman and nullify any aspect of acquisition effected by the prior bespeaking of that same woman? We now examine cases illustrative of this question.]
- f. I:9: In the opinion of Rabban Gamaliel, what is the law as to there being an invalid act of sexual relations after a prior act of invalid sexual relations?

4. **I:10:** R. Yudan raised the question, "If one has betrothed a woman from the present day, to take effect after thirty days, and her sister happened to come to him as his levirate bride during the thirty-day period – [thus a case in which there is a betrothal, and yet the betrothed woman is not fully betrothed during the thirty-day period] – [since betrothal and bespeaking are equivalent to one another,] do we say that even here there is no bespeaking after bespeaking [M. 5:1B]? [The sister who has come during the thirty days to the man as his levirate wife in no way is subject to him, since the betrothal of her sister already is in effect, even though not wholly so.]

XLV. YERUSHALMI YEBAMOT 5:2

[A] (HOW SO.) [IF A LEVIR] BESPOKE HIS CHILDLESS BROTHER'S WIDOW AND [THEN] GAVE HER A WRIT OF DIVORCE, SHE [NONETHELESS] REQUIRES A RITE OF HALISAH FROM HIM:

1. **I:1:** [Referring to M. 5:2B-C, we note that the relationship is sufficiently severed by a writ of divorce so that levirate marriage is no longer an option. Since M. 5:2C requires a rite of halisah and does not permit levirate marriage,] that is to say that a writ of divorce releases more of the woman than the bespeaking has acquired for the levir.

[B] [IF] HE BESPOKE HER AND THEN PERFORMED A RITE OF HALISAH, SHE [NONETHELESS] REQUIRES A WRIT OF DIVORCE FROM HIM:

1. **II:1:** [As to M. 5:2D-E, bespeaking, followed by a rite of halisah,] an invalid rite of halisah [such as is referred to here, since it does not accomplish the complete cutting of the tie to the levirate sister-in-law] nonetheless releases.

[C] [IF] HE BESPOKE HER AND THEN HAD SEXUAL RELATIONS, LO, THIS HAS BEEN DONE IN ACCORD WITH ITS REQUIREMENT:

1. **III:1:** [Referring to M. 5:2F,] said R. Ba bar Memel, "That is to say that one's religious duty first is to betroth [parallel to bespeaking] and then to have sexual relations [consummating the marriage]."

XLVI. YERUSHALMI YEBAMOT 5:3

[A] [IF] ONE GAVE A WRIT OF DIVORCE AND [THEN] BESPOKE [THE CHILDLESS BROTHER'S WIDOW], SHE REQUIRES A WRIT OF DIVORCE AND A RITE OF HALISAH. [IF] HE GAVE A WRIT OF DIVORCE AND THEN HAD SEXUAL RELATIONS, SHE REQUIRES A WRIT OF DIVORCE AND A RITE OF HALISAH. [IF] HE GAVE A WRIT OF DIVORCE AND PERFORMED THE RITE OF HALISAH, NOTHING WHATSOEVER FOLLOWS THE RITE OF HALISAH:

1. **I:1:** [As to M. 5:3A, she requires] a writ of divorce on account of his bespeaking, and halisah because of the levirate connection to him to which she is subject. [As to M. 5:3B, sexual relations, followed by a writ of divorce and a rite of halisah:] that is to say an invalid act of sexual relations does not release the woman [on which account she requires halisah. He could not keep the marriage going once he had

given a writ of divorce, hence the sexual relations were out of order]. Now see here: A rite of halisah that is invalid nonetheless releases her, while an act of sexual relations that is invalid does not release her! [M. 5:3C states that nothing follows the rite of halisah – even if it is invalid. Yet invalid coition does not have the equivalent effect.]

XLVII. YERUSHALMI YEBAMOT 5:4

[A] [IF] HE PERFORMED THE RITE OF HALISAH AND [THEN] BESPOKE [THE CHILDLESS BROTHER'S WIDOW], [OR] (2) GAVE A WRIT OF DIVORCE, OR HAD SEXUAL RELATIONS [WITH HER], OR [IF] HE HAD SEXUAL RELATIONS [THEN] BESPOKE [THE WOMAN],

- 1. I:1:** Even though they have said that a valid act of halisah does not follow a prior valid act of halisah, nonetheless, an act of sexual relations that takes place after the rite of halisah still has the effect of invalidating the widow from marriage into the priesthood. Even without such a complication is she not invalid for marriage into the priesthood [because halisah is equivalent to divorce, and she is in the status of a divorcée, whom a priest may not marry]? But she is invalid for eating food in the status of heave-offering.

[B] [OR] GAVE A WRIT OF DIVORCE OR PERFORMED THE RITE OF HALISAH, NOTHING WHATSOEVER FOLLOWS THE RITE OF HALISAH. ALL THE SAME ARE THE CASES OF A SINGLE CHILDLESS BROTHER'S WIDOW WITH A SINGLE LEVIR, AND TWO CHILDLESS BROTHERS' WIDOWS WITH A SINGLE LEVIR.

- 1. II:1:** If he gave a writ of divorce or performed the rite of halisah, nothing whatsoever follows the rite of halisah [M. 5:4B- C]. And have we not learned that same rule: Nothing whatsoever follows the rite of halisah [M. 5:1G, M. 5:3C]? It is because of that which we learn at the end of this passage: All the same are the cases of a single childless brother's widow with a single levir, and two childless brothers' widows with a single levir [M. 5:4D].
- 2. II:2:** [As to the statement of M. 5:4A, He performed the rite of halisah and then bespoke the levirate widow,] if one were to betroth a woman with whom he had performed the rite of halisah, is it possible that his act of betrothal takes effect? [Surely not. Nothing follows the valid rite of halisah. So why should the issue of bespeaking, parallel to betrothing, require specification

XLVIII. YERUSHALMI YEBAMOT 5:5-6

[A] **HOW SO:** [IF] HE BESPOKE THIS ONE AND BESPOKE THAT ONE, [THEY REQUIRE] TWO WRITS OF DIVORCE AND [ONE] RITE OF HALISAH. [IF] HE BESPOKE THIS ONE AND [GAVE] A WRIT OF DIVORCE TO THAT ONE, SHE [THE BESPOKEN WIDOW] REQUIRES A WRIT OF DIVORCE AND THE RITE OF HALISAH. [IF] HE BESPOKE THIS ONE AND HAD SEXUAL RELATIONS WITH THAT ONE, THEY REQUIRE TWO WRITS OF DIVORCE AND [ONE] RITE OF HALISAH. [IF] HE BESPOKE THIS ONE AND PERFORMED THE RITE OF HALISAH WITH THAT ONE, THE FIRST ONE REQUIRES A WRIT OF DIVORCE. [IF HE GAVE A] WRIT OF DIVORCE TO THIS ONE AND A WRIT OF DIVORCE TO THAT ONE, THEY REQUIRE FROM HIM A RITE OF HALISAH. [IF HE GAVE] A WRIT OF DIVORCE TO THIS ONE AND HAD SEXUAL RELATIONS WITH THAT ONE, SHE [THE LATTER] REQUIRES A WRIT OF DIVORCE AND A RITE OF HALISAH. [IF HE GAVE] A WRIT OF DIVORCE TO THIS ONE AND BESPOKE THAT ONE, SHE [THE LATTER] REQUIRES A WRIT OF DIVORCE AND A RITE OF HALISAH. [IF HE GAVE] A WRIT OF DIVORCE TO THIS ONE AND PERFORMED HALISAH WITH THAT ONE, NOTHING WHATSOEVER FOLLOWS THE RITE OF HALISAH.

- 1. I:1:** In the view of Rabbi, who maintains that bespeaking effects acquisition without the knowledge and consent of the woman, what is the law as to the effect of bespeaking by a boy nine years and one day old. The act of sexual relations of an adult completely acquires the woman, while his bespeaking acquires her, leaving over some measure of the levirate widow unaffected.
- 2. I:2:** Samuel said, “In the view of R. Meir, they have treated the act of sexual relations of a boy nine years and one day old as equivalent to the act of bespeaking of an adult.” Now just as you maintain that they have treated the act of sexual relations of a boy nine years and one day old as equivalent to the act of bespeaking of an adult, along these same lines is the act of halisah of a boy nine years and one day old tantamount to a writ of divorce issued by an adult?

XLIX. YERUSHALMI YEBAMOT 5:7-8

[A] [IF] HE PERFORMED THE RITE OF HALISAH [WITH THIS ONE] AND PERFORMED THE RITE OF HALISAH [WITH THAT ONE], OR IF HE PERFORMED THE RITE OF HALISAH WITH THIS ONE AND BESPOKE THAT ONE, OR IF HE GAVE A WRIT OF DIVORCE TO THIS ONE AND HAD SEXUAL RELATIONS WITH THAT ONE, [D] IF HE HAD SEXUAL RELATIONS WITH THIS ONE AND HAD SEXUAL RELATIONS WITH THAT ONE, OR IF HE HAD SEXUAL RELATIONS WITH THIS ONE AND BESPOKE THAT ONE, OR IF HE GAVE A WRIT OF DIVORCE TO THIS ONE AND PERFORMED THE RITE OF HALISAH WITH THAT ONE, NOTHING WHATSOEVER FOLLOWS THE

RITE OF HALISAH. [AND THIS IS ~HE RULE] WHETHER IN THE CASE OF A SINGLE LEVIR AND TWO CHILDLESS BROTHER'S WIDOWS, OR TWO LEVIRS AND A SINGLE CHILDLESS BROTHER'S WIDOW.

[IF] HE PERFORMED A RITE OF HALISAH WITH ONE AND BESPOKE ONE, GAVE A WRIT OF DIVORCE TO ONE AND HAD SEXUAL RELATIONS WITH ONE, OR HAD SEXUAL R.ELATIONS AND BESPOKE, AND GAVE A WRIT OF DIVORCE AND PERFORMED HALISAH, NOTHING WHATSOEVER FOLLOWS THE RITE OF HALISAH WHETHER THIS COMES AT THE OUTSET, OR IN THE MIDDLE, OR AT THE END. AS TO SEXUAL RELATIONS: WHEN THIS IS AT THE OUTSET, NOTHING WHATSOEVER FOLLOWS IT. IF THIS COMES IN THE MIDDLE OR AT THE END, THERE IS SOMETHING THAT FOLLOWS IT. R. NEHEMIAH SAYS, "ALL THE SAME ARE SEXUAL RELATIONS AND THE RITE OF HALISAH, WHETHER AT THE BEGINNING OR AT THE MIDDLE OR AT THE END: "NOTHING WHATSOEVER FOLLOWS EITHER OF THEM."

1. I:1: There they say, "The reason for the view of R. Nehemiah is that an act of sexual relations that is invalid nonetheless releases the levirate widow. [If there is an act of sexual relations with a widow after another widow has received a writ of divorce or been bespoken, it nullifies whatever has gone before and takes effect. Whatever takes place after that act of sexual relations likewise is null.]" In the opinion of rabbis over there [in Babylonia, explaining Nehemiah's position,] an act of sexual, relations, whether it takes place after bespeaking or after a writ of divorce, releases the levirate widow. In the opinion of rabbis here [in the land of Israel, also explaining Nehemiah's position,] an act of sexual relations that takes place after bespeaking releases the levirate widow; [that is, the levirate connection of the other widows now is null]. That which takes place after a writ of divorce [has been given to one of the other widows] does not release [the other widows].

L. YERUSHALMI YEBAMOT 6:1

[A] HE WHO HAS SEXUAL RELATIONS WITH HIS CHILDLESS BROTHER'S WIDOW – WHETHER INADVERTENTLY OR DELIBERATELY, WHETHER UNDER CONSTRAINT OR WILLINGLY, EVEN IF HE DOES SO INADVERTENTLY AND SHE DELIBERATELY, HE DELIBERATELY AND SHE INADVERTENTLY, HE UNDER CONSTRAINT AND SHE NOT UNDER CONSTRAINT, SHE UNDER CONSTRAINT AND HE NOT UNDER CONSTRAINT, ALL THE SAME BEING THE ONE WHO MERELY PARTIALLY OPENS [UNCOVERS THE VAGINA] AND THE ONE WHO COMPLETES ENTRY THEREIN] –

1. I:1: We have learned: Even if he does so inadvertently and she deliberately, he deliberately and she inadvertently [M. 6:1D-E]. R.

Hiyya taught: “Even if both of them did it inadvertently [not intending to consummate the levirate tie], or both of them did it deliberately.” They proposed to rule: “That applies to one of sound senses, who is capable of intelligent decision, who effects acquisition whether knowingly or not knowingly. But a deaf-mute, who is not capable of intelligent decision, should effect acquisition only knowingly.”

- 2. I:2:** “Her husband’s brother shall go in to her” (Deut. 25:5) – with his full knowledge. “And he shall take her as a wife” (Deut. 25:5) – [even] without his full knowledge. “And he shall perform the duty of a husband’s brother to her” (Deut. 25:5) – even over her objections. “Her husband’s brother shall go in to her” (Deut. 25:5) – with her full knowledge. “And he shall take her as a wife” (Deut. 25:5) – without her full knowledge. “And he shall perform the duty of a husband’s brother to her” (Deut. 25:5) – even over her objections. “Her husband’s brother shall go in to her” (Deut. 25:5) – in the normal way. “And he shall take her as a wife” (Deut. 25:5) – not in the normal way. “And he shall perform the duty of a husband’s brother to her” (Deut. 25:5) – even from the side. “Her husband’s brother shall go in to her” (Deut. 25:5) – in a completed act of coition. “And he shall take her as a wife” (Deut. 25:5) – in an incomplete act of coition. “And he shall perform the duty of a husband’s brother to her” (Deut. 25:5) – even by merely uncovering the sexual parts.

a. I:3: What is the definition of uncovering the sexual parts?

b. I:4: There we have learned: All women impart uncleanness by reason of blood in the outer house [the vagina, even though the blood is still attached to the walls of the womb] [M. Nid. 5:1E]. What is the outer house?

[B] ...HAS ACQUIRED [HIS SISTER-IN-LAW AS HIS LEVIRATE WIFE]. AND THERE IS NO DISTINCTION BETWEEN ONE SORT OF SEXUAL ACT AND SOME OTHER.

- 1. II:1:** Now if he did not distinguish between one sort of sexual act and some other, what has he acquired?
- 2. II:2:** Said R. Yosé, “A *Tannaitic teaching has stated*, ‘If he had sexual relations with her, lo, she is his wife for all purposes.’ What is the law as to her eating food in the status of heave-offering [if he is a priest].”

LI. YERUSHALMI YEBAMOT 6:2

[A] AND SO: HE WHO HAS SEXUAL RELATIONS WITH ANY ONE OF ALL THE FORBIDDEN DEGREES THAT ARE LISTED IN THE TORAH, OR WITH ANY OF THOSE INVALID [FOR SEXUAL RELATIONS WITH HIM] – [FOR EXAMPLE] A WIDOW TO A HIGH PRIEST, A DIVORCÉE OR A WOMAN WHO HAS PERFORMED THE RITE OF HALISAH WITH AN ORDINARY PRIEST, A MAMZERET OR A NETINAH WITH AN ISRAELITE, AND ISRAELITE WOMAN WITH A MAMZER OR A NETIN – HAS RENDERED HER INVALID [TO MARRY A PRIEST OR, IF SHE IS A PRIEST’S DAUGHTER, TO EAT HEAVE-OFFERING]. AND THERE IS NO DISTINCTION BETWEEN ONE SORT OF SEXUAL ACT AND SOME OTHER.

1. I:1: “A widow... he shall not marry” (Lev. 21:14) – is it possible to suppose that [if] he [merely] raped her [but did not actually marry her], [she should not be deemed to have been invalidated for marriage into the priesthood]? Scripture says, “He may not profane his seed among his people” (Lev. 21:15). Is it possible to suppose that if he began the act of sexual, relations [but did not complete it], [she should not be deemed to have been invalidated]? Scripture says, “He may not profane” [the word being written in such wise as to indicate] one who, even through rape, and even through merely commencing the act of sexual relations, is equivalent to one who completes it, and the offspring of such a union is a mamzer. So here too [with reference to the high priest], the mere beginning of the sexual act is equivalent in its legal effects to the completion of the act, and the offspring is a mamzer.

LII. YERUSHALMI YEBAMOT 6:3

[A] [IF IT IS A MARRIAGE BETWEEN] A WIDOW AND A HIGH PRIEST, [BE TWEEN] A DIVORCÉE OR A WOMAN WHO HAS PERFORMED THE RITE OF HALISAH AND AN ORDINARY PRIEST – FROM THE TIME OF THE BETROTHAL, THEY SHOULD NOT EAT HEAVE-OFFERING. R. ELEAZAR AND R. SIMEON DECLARE [HER] VALID [TO CONTINUE TO DO SO UNTIL THE MARRIAGE IS CONSUMMATED]. [IF] THEY WERE WIDOWED OR DIVORCED – [IF THIS IS A SEVERANCE OF] THE MARRIAGE, THEY REMAIN INVALID [FOR EATING HEAVE-OFFERING]. [IF THIS IS A SEVERANCE OF] BETROTHAL, THEY ARE VALID [ONCE MORE TO EAT HEAVE-OFFERING OR TO MARRY A PRIEST].

1. **I:1:** What is the scriptural basis for the view of those rabbis [who stand behind M. 6:3A-B]? What is the scriptural basis for the view of R. Eleazar and R. Simeon?
2. **I:2:** Said R. Yosé b. R. Bun, “It is not the end of the matter that it is once they have been married [that the law takes effect]. If they had merely had sexual relations [with the unsuitable women], whether this was at the stage of betrothal or at the stage of marriage, they are unfit to eat the food. If they had not had sexual relations, whether at the stage of betrothal or at the stage of marriage, they retain the right to eat it.”

LIII. YERUSHALMI YEBAMOT 6:4

[A] A HIGH PRIEST SHOULD NOT MARRY A WIDOW, WHETHER THIS IS A WOMAN WIDOWED OUT OF BETROTHAL OR WIDOWED OUT OF MARRIAGE.

1. **I:1:** “A widow... he shall not marry” (Lev. 21:14) – whether out of betrothal or out of marriage. “A divorcée... he shall not marry” (Lev. 21:14) – whether out of betrothal or out of marriage.

[B] AND HE SHOULD NOT MARRY AN ADOLESCENT. R. ELEAZAR AND R. SIMEON DECLARE [IT] VALID FOR HIM TO MARRY AN ADOLESCENT. HE SHOULD NOT MARRY A GIRL WHO HAS LOST HER VIRGINITY BY REASON OF A BLOW FROM A PIECE OF WOOD.

1. **II:1:** They concur that he should not marry a girl who has lost her virginity by reason of a blow from a piece of wood [M. 6:4D]. What is the difference between the adolescent and the girl who has lost her virginity by reason of a blow from a piece of wood?
2. **II:2:** As to a woman he has raped or seduced, he should not marry such a woman [thereafter], but if he did marry her, they do not remove her from his domain. As to the woman whom another man has raped or seduced, he should not marry that woman, and if he did marry her, they remove her from his domain.

[C] [If] HE BETROTHED A WIDOW AND THEN WAS APPOINTED HIGH PRIEST, HE MAY CONSUMMATE THE MARRIAGE. M'SH B: JOSHUA B. GAMLA BETROTHED MARTHA, DAUGHTER OF BAYTHOS. THEN THE KING APPOINTED HIM HIGH PRIEST. HE MARRIED HER. A WOMAN AWAITING MARRIAGE WITH HER LEVIRATE BROTHER-IN-LAW WHO CAME [FOR THAT PURPOSE] BEFORE AN

ORDINARY PRIEST, AND THEN HE [THE ELIGIBLE BROTHER-IN-LAW] WAS APPOINTED HIGH PRIEST –

1. **III:1:** And along these same lines, if he betrothed a minor and then was appointed high priest, may he marry her? In her regard, I cite the verse, “woman” (Lev. 21:13) – not a minor.

[D] **EVEN THOUGH HE HAS BESPOKEN HER, LO, THIS ONE SHOULD NOT CONSUMMATE THE MARRIAGE.**

1. **IV:1:** Even the House of Shammai, [who deem bespeaking fully to acquire the levirate widow in marriage], will concur in this case, and even R. Simeon, [who maintains the same view], will concur in this case. [We do not have so total an act of acquisition as to permit the marriage to be confirmed under these circumstances.]

[E] **A HIGH PRIEST WHOSE BROTHER DIED PERFORMS THE RITE OF HALISAH AND DOES NOT ENTER INTO LEVIRATE MARRIAGE [WITH THE SURVIVING SISTER-IN-LAW].**

1. **V:1:** This supports the view of him who says that the rite of halisah releases the widow. But in accord with the one who says that the rite of halisah effects acquisition, does one instruct the high priest, “Transgress the teachings of the Torah”? [Surely not. There should be no levirate connection at all, not even halisah.]

LIV. YERUSHALMI YEBAMOT 6:5

[A] **AN ORDINARY PRIEST SHOULD NOT MARRY A STERILE WOMAN, UNLESS HE ALREADY HAS A WIFE AND CHILDREN:**

1. **I:1:** Lo, is an Israelite who does not have a wife and children permitted to marry a sterile woman?
2. **I:2:** Said R. Judah b. Pazzi, “It is written, ‘Among the olive rows of the wicked they make oil’ (Job 24:11). ‘No treacher turns toward their vineyards’ (Job 24:18). It is because their act of sexual relations was not in order to procreate.”

[B] **R. JUDAH SAYS, “EVEN THOUGH HE HAS A WIFE AND CHILDREN, HE SHOULD NOT MARRY A STERILE WOMAN, BECAUSE SHE IS THE WHORE (LEV. 21:7) REFERRED TO IN THE TORAH.” AND SAGES SAY, “THE CATEGORY OF WHORE APPLIES ONLY TO THE WOMAN WHO HAS CONVERTED OR TO THE WOMAN WHO HAS BEEN FREED FROM SLAVERY [BECAUSE OF THEIR PRIOR STATUS], AND TO THE WOMAN WHO HAS UNDERGONE LICENTIOUS SEXUAL RELATIONS.”**

1. **II:1:** They objected to R. Judah, “But if she was a woman who became barren [after marriage or was not going to produce offspring or got old, [is this too a whore]?”
2. **I:2:** It has been taught: R. Eleazar says, “Also an unattached male who had sexual relations with an unattached female not for the sake of effecting a marital union – lo, this falls into the category of fornication. [But she is not then a whore.]”

LV. YERUSHALMI YEBAMOT 6:6

[A] A MAN SHOULD NOT GIVE UP FULFILLING THE COMMANDMENT TO BE FRUITFUL AND MULTIPLY UNLESS HE HAS CHILDREN. THE HOUSE OF SHAMMAI SAY, “TWO BOYS.” AND THE HOUSE OF HILLEL SAY, “A BOY AND A GIRL, “SINCE IT IS SAID, ‘MALE AND FEMALE HE CREATED THEM’ (GEN. 5:2).”

1. **I:1:** The House of Shammai say, “Two boys, as it is said with references to Moses, ‘Gershom and Eliezer’” (1 Chr. 23:15). And the House of Hillel say, “A male and a female, on the model of the creation of the world, for it is said, ‘Male and female he made them’” (Gen. 1:27).
1. **I:2:** The children of sons are equivalent to one’s own children. The children of daughters are not equivalent to one’s own children [cf. T. 8:4B].

[B] [IF] A MAN MARRIED A WOMAN AND LIVED WITH HER FOR TEN YEARS AND SHE DID NOT GIVE BIRTH, HE HAS NO RIGHT TO DESIST FROM HAVING SEXUAL RELATIONS WITH HER. [IF] HE DIVORCED HER, SHE IS PERMITTED TO MARRY SOMEONE ELSE. THE SECOND HUSBAND IS ALLOWED TO LIVE WITH HER FOR TEN YEARS. AND IF SHE MISCARRIED, SHE COUNTS THE TEN YEARS FROM THE TIME THAT SHE MISCARRIED.

1. **II:1:** R. Ammi in the name of R. Simeon b. Laqish: “The scriptural basis for this teaching [at M. 6:6E, living with the woman for ten years,] is as follows: ‘[Now, Sarai, Abram’s wife, bore him no children. She had an Egyptian maid, whose name was Hagar]. So after Abram had dwelt ten years in the land of Canaan, Sarai, Abram’s wife, took Hagar the Egyptian, her maid, and gave her to Abram her husband as a wife’ (Gen. 16:1-3). Deduct the years that he spent outside of the land.”

2. **II:2:** If a woman was married to one husband and did not produce offspring, she nonetheless collects her marriage settlement. The same is so in the second marriage, and so for the third, as to the fourth and fifth marriages, she no longer may collect a marriage settlement. R. Haninah bar Iggul in the name of R. Hezekiah: “In the case of the third marriage itself, she no longer has a claim on a marriage settlement.”

[C] THE MAN IS REQUIRED TO BE FRUITFUL AND MULTIPLY BUT NOT THE WOMAN. R. YOHANAN B. BEROQAH SAYS, “CONCERNING BOTH OF THEM DOES SCRIPTURE SAY, ‘AND GOD BLESSED THEM AND SAID TO THEM, BE FRUITFUL AND MULTIPLY’ (GEN. 1:28).”

1. **III:1:** [With reference to M. 6:6I,] R. Eleazar in the name of R. Yosé bar Zimra, “The scriptural basis for the position of that Tannaite authority is as follows: ‘Be fruitful and multiply, and fill the earth and subdue it’ (Gen. 1:28). ‘Subdue it’ is written as if in the singular, thus addressed to only one of the two. Now who is the one who would be expected to subdue? It is the man, not the woman.”
2. **III:2:** R. Jeremiah, R. Abbahu, R. Isaac bar Merion in the name of R. Haninah: “The law accords with the view of R. Yohanan b. Beroqah.”

LVI. YERUSHALMI YEBAMOT 7:1

[A] A WIDOW WED TO A HIGH PRIEST, A DIVORCÉE OR A WOMAN WHO HAS PERFORMED THE RITE OF HALISAH WED TO AN ORDINARY PRIEST — [IF] SHE BROUGHT IN TO HIM [AS PART OF HER DOWRY] MELOG-SLAVES AND IRON-FLOCK SLAVES,

1. **I:1:** How do we know of a priest who married a woman and acquired slaves that [the slaves and woman] eat food in the status of heave-offering? [As to a slave:] Scripture says, “But if a priest buys a slave as his property for money, the slave may eat of it; and those that are born in his house may eat of his food” (Lev. 22:11). How do we know that if his wife purchased slaves, and her slaves bought slaves, they eat food in the status of heave-offering? Scripture says, “But if a priest buys a slave as his property for money” – also his property [that is, his wife] that has acquired property may eat such food.
 - a. **I:2:** R. Jacob bar Aha, R. Hela in the name of R. Eleazar: “They eat such food, and they bestow on others the right to eat it. [When the Mishnah allows the slaves to eat heave-offering,] it speaks of a slave who acquired slaves on condition that his master may have domain over them, [and hence, since they belong to the master,

they may eat his food as a priest]. But in the case of a slave who purchased slaves on condition that his master will not have domain over him, [such slaves may not eat food in the status of heave-offering, for here we cannot say that] he is his [the priestly master's] possession.”

[B] THE MELOG-SLAVES DO NOT EAT HEAVE-OFFERING. THE IRON-FLOCK SLAVES EAT:

1. **II:1:** And here [at M. 7:1D, melog-slaves] is not the slave deemed the acquisition of his [master]? R. Hela in the name of R. Eleazar: “They eat and they bestow the right to eat. He who is suitable to eat such food bestows the right to eat it, and he who is not suitable to eat such food does not bestow the right to eat it. [The woman who has performed the right of *halisah* is not suitable to eat such food, so cannot bestow the right to eat it either. The priest, who has the right, bestows it on what belongs to him.]” R. Yohanan said, “The reason [for the rule at M. 7:1D] is on account of legal penalty [imposed by rabbis].”

a. **II:2:** Jacob bar Aha said, “The cited authorities differ as to iron-flock slaves.” R. Yohanan said, “If the husband sold them, they are not deemed sold.” Said to him R. Eleazar, “They have the right to eat food in the status of heave-offering on the strength of their being owned by the husband, and yet you say this!” He said to him, “Lo, there is the matter of melog-slaves, and lo, they eat food in the status of heave-offering on the strength of their being owned by the husband, and yet you [surely] say that if the husband sold them, they are not held to be sold. “As to iron-flock slaves, they have given you what is yours. [How so?] In strict logic, such a slave should not eat food in the status of heave-offering, and yet they have said that such a slave may eat it. But they also have held that if the husband sold them, they are not sold.”

[C] WHAT ARE MELOG-SLAVES? [IF] THEY DIED, THE LOSS IS HERS, AND IF THEY INCREASE IN VALUE, THE INCREASE IS HERS. EVEN THOUGH HE [THE HUSBAND] IS LIABLE TO MAINTAIN THEM, LO, THESE DO NOT EAT HEAVE-OFFERING. AND WHAT ARE IRON-FLOCK SLAVES? [IF] THEY DIE, THE LOSS IS HIS, AND IF THEY INCREASE IN VALUE, THE INCREASE IS HIS. SINCE HE IS RESPONSIBLE TO REPLACE THEM IF THEY ARE LOST, LO, THESE EAT HEAVE-OFFERING:

1. **III:1:** The offspring of a melog-beast belongs to the husband. The offspring of a melog-slave girl belongs to the wife. Hananiah, son of the brother of Joshua, said, “The offspring of a melog-slave girl is in the same status as the offspring of a melog-beast.”

2. **III:2:** It has been taught: If they come in as boys, they are taken out as young men [T. Yeb. 9:1H] [in the case of iron-flock slaves]. If she brought into the marriage two utensils, one of them worth the value of her marriage settlement, she takes it in settlement of her marriage contract, If one of them was worth one and a half times the value of her marriage settlement – R. Huna and R. Nahman bar Jacob: One of them said, “He pays off the whole value of the other utensil and takes it,” and the other said, “She pays off the value of the half of the utensil [that is not coming to her] and takes it.”
3. **III:3:** R. Hiyya bar Ada raised the question before R. Mana, “What are melog-slaves?” He said to him, “It is in line with that which you say: ‘Pluck, pluck.’” [The husband gets only the usufruct.]
4. **III:4:** There we have learned: He who contracts to raise a flock and share in the profits from a Gentile on iron terms – the offspring are exempt from the law of the firstling. The offspring of the offspring are liable [M. Bekh. 2:4A-B]. R. Jeremiah raised the question: “There you have said that the offspring belong to the first party [the Gentile], and here you say that the offspring belong to the second [the husband].”

LVII. YERUSHALMI YEBAMOT 7:2-3

[A] **AN ISRAELITE GIRL WHO MARRIED A PRIEST AND BROUGHT HIM SLAVES [AS PART OF HER DOWRY] WHETHER THESE ARE MELOG-SLAVES OR IRON-FLOCK SLAVES – LO, THESE EAT HEAVE-OFFERING, AND A PRIEST’S DAUGHTER WHO MARRIED AN ISRAELITE AND BROUGHT HIM [AS PART OF HER DOWRY] EITHER MELOG-SLAVES OR IRON-FLOCK SLAVES, LO, THESE DO NOT EAT HEAVE-OFFERING. “AN ISRAELITE DAUGHTER WHO WAS MARRIED TO A PRIEST, WHO DIED AND LEFT HER PREGNANT – HER [IRON-FLOCK] SLAVES DO NOT EAT HEAVE-OFFERING ON ACCOUNT OF THE PORTION [OF THE SLAVES] THAT BELONGS TO THE FOETUS. FOR THE FOETUS INVALIDATES [A WOMAN FROM EATING HEAVE-OFFERING (LEV. 22:13)] BUT DOES NOT VALIDATE [HER DOING SO],” THE WORDS OF R. YOSÉ. THEY SAID TO HIM, “SINCE YOU HAVE GIVEN US TESTIMONY ABOUT THE DAUGHTER OF AN ISRAELITE MARRIED TO A PRIEST, EVEN THE DAUGHTER OF A PRIEST MARRIED TO A PRIEST, WHO DIED AND LEFT HER PREGNANT – HER SLAVES SHOULD NOT EAT HEAVE-OFFERING ON ACCOUNT OF THE PORTION THAT BELONGS TO THE FOETUS.”**

1. **I:1:** Said R. Eleazar, “The Mishnah should be read in this way: Slaves belonging to her do eat food in the status of heave-offering, but those belonging to the deceased priest do not. For if you do not read matters

in this way, then it will turn out that she may continue to eat such food, while her servants no longer may eat it. [The melog-slaves belong to her; the foetus has no share in them. They continue to eat heave-offering. The iron-flock slaves belong to the deceased. Since he is dead, they no longer eat heave-offering produce by virtue of the caste of their owner.] But if she has the right to eat the caste-rations, her servants have that right.” R. Josiah in the name of R. Yohanan: “If that is the operative consideration, then even she should no longer eat produce in the status of heave-offering. [That is, that indeed is the fact, for the foetus invalidates her right to eat such food.]”

2. **I:2:** R. Ishmael bar Joseph taught in the name of Abbayye [= Abun], “If there was a daughter [of the priest, along with the foetus and other sons, the daughter] confers the right to eat such food upon the slaves. [If the deceased had a small estate and left a son and a daughter, as well as a foetus, the surviving daughter has every right to derive support from the estate – inclusive of the priestly rations – while the sons go begging. In this case the slaves eat the priestly food. The foetus has no affect upon this situation. If the foetus is male, it is no better than the other males. If it is a female, it has no rations until it is actually born anyhow.]” R. Immi in the name of R. Yudan: “[Answering the question of why the text discusses the case in which there is a daughter as well as a son, and so explaining why, if he left only a son plus the foetus, the slaves should not have the right to eat priestly rations, we have the following to say:] For the daughter was in a position to seize the slaves in settlement of her claim for support, [so the slaves are tantamount to belonging to her].”
3. **I:3:** If along with the foetus there were male heirs, they confer the right to eat food in the status of heave-offering. If there were females, they do not confer that right. If there were males, they confer that right, for there are two matters of doubt associated with the foetus, first, whether or not it is a male or a female, second, whether or not it will prove viable. In such a case involving doubt vis-[^]-vis the rulings of scribes, they impose a lenient ruling

LVIII. YERUSHALMI YEBAMOT 7:4

[A] THE FOETUS, THE LEVIR, BETROTHAL

1. **I:1:** Said R. Simeon, “In this the rule of justice is smitten. For if a fact [the presence of the foetus] serves to invalidate, that fact should also

serve to validate. If a fact does not serve to validate, that fact also should not serve to invalidate” [T. Yeb. 9:3B-C].

[B] A DEAF-MUTE, A BOY NINE YEARS AND ONE DAY OLD INVALIDATE [A WOMAN FROM EATING HEAVE-OFFERING] BUT DO NOT VALIDATE [HER TO DO SO].

- 1.** **II:1:** Does a deaf-mute invalidate? Has R. Hiyya not taught as follows: “The wife of a deaf-mute and of a person lacking sound senses immerses following sexual relations with her husband and then eats food in the status of heave-offering. [Consequently, marriage to the deaf-mute does not invalidate the woman’s right to eat such food.]”

[C] **[IF]** IT IS A MATTER OF DOUBT WHETHER OR NOT THE BOY IS NINE YEARS AND ONE DAY OLD:

- 1.** **III:1:** he is deemed to invalidate [the woman from eating heave-offering]. [We resolve the doubt in a strict way.]

[D] **[OR IF]** IT IS A MATTER OF DOUBT WHETHER OR NOT HE HAS PRODUCED TWO PUBIC HAIRS:

- 1.** **IV:1:** It is as if he has produced two pubic hairs – to bestow the right to eat food in the status of heave- offering.

[E] **[IF]** A HOUSE COLLAPSED ON HIM AND ON THE DAUGHTER OF HIS BROTHER [HIS WIFE] AND IT IS NOT KNOWN WHICH OF THEM DIED FIRST, HER CO-WIFE PERFORMS HALISAH AND DOES NOT ENTER INTO LEVIRATE MARRIAGE:

- 1.** **V:1:** Is it the intention of the person who framed this passage of the Mishnah to deal with co-wives [that that subject is now introduced]?

LIX. YERUSHALMI YEBAMOT 7:5

[A] THE RAPIST AND THE SEDUCER AND THE IDIOT DO NOT INVALIDATE [WOMEN WITH WHOM THEY HAVE SEXUAL RELATIONS] FROM EATING HEAVE-OFFERING AND DO NOT VALIDATE [THEM FOR EATING HEAVE-OFFERING]:

- 1.** **I:1:** [Since the rapist does not invalidate the woman with whom he has had sexual relations,] that is to say that a rapist [unfit for marriage into the priesthood] does not invalidate a woman from marrying into the priesthood, if she is otherwise unattached.

[B] **[IF]** SHE TURNED OUT TO BE PREGNANT, SHE DOES NOT EAT HEAVE OFFERING. **[IF]** THE FOETUS WAS REMOVED FROM HER WOMB, SHE EATS HEAVE OFFERING. A PRIEST WHO HAD SEXUAL RELATIONS WITH AN ISRAELITE GIRL – SHE DOES

NOT EAT HEAVE-OFFERING. [IF] SHE TURNED OUT TO BE PREGNANT, SHE [STILL] DOES NOT EAT HEAVE-OFFERING. IF SHE GAVE BIRTH [TO A VIABLE OFFSPRING], SHE DOES EAT HEAVE-OFFERING. IT TURNS OUT THAT THE POWER OF THE CHILD IS GREATER THAN THAT OF THE FATHER [SINCE THE CHILD VALIDATES OR INVALIDATES THE MOTHER FOR EATING HEAVE-OFFERING, WHICH HIS FATHER COULD NOT ACCOMPLISH].

1. **II:1:** Since M. 7:5F specifies that when the wife is pregnant she no longer eats heave-offering, it must follow that if we are not sure that she is pregnant, she may continue to do so. Accordingly,] that supports the teaching that R. Hiyya taught: “The wife of a deaf-mute or an idiot immerses after the [sexual] embrace of her husband and [having attained cultic cleanness following sexual relations,] she may eat food in the status of heave-offering. [That is, if she is the daughter of a priest and her husband is an Israelite, so long as she is not pregnant, she may continue to eat food in the status of heave-offering, since this marriage is not effective as a completely normal one would be. We do not know that she is not pregnant. We permit her to eat priestly rations.]”

[C] **BUT IF THEY ARE NOT SUITABLE TO ENTER [INTO THE CONGREGATION OF] ISRAEL (DEUT. 22:2-4),LO, [THROUGH AN ACT OF SEXUAL RELATIONS] THEY DO INVALIDATE HER FROM EATING HEAVE-OFFERING. HOW SO? AN ISRAELITE WHO HAD SEXUAL RELATIONS WITH A PRIEST’S DAUGHTER – SHE [CONTINUES TO] EAT HEAVE-OFFERING.**

1. **III:1:** And if they are not suitable to enter into the congregation of Israel, lo, they do invalidate her [from eating heave-offering] [M. 7:5C]. And who are they? A nine-year-and-one-day-old boy, a proselyte, Ammonite, Moabite, Egyptian, [Edomite origin,] a slave, [a netin], or mamzer [of that age or older], or one of impaired priestly stock, Samaritan, or Gentile, who had sexual relations with the daughter of a priest, Levite, or Israelite has rendered her invalid for marrying into the priesthood. R. Yosé says, “Anyone whose seed is valid – she is valid [for marrying into the priesthood]. And any whose seed is invalid – she is invalid, [thus delisting the Egyptian].” Rabban Simeon b. Gamaliel says, “Any whose daughter you are permitted to marry – you are permitted to marry his widow; and any whose daughter you are not permitted to marry – you are not permitted to marry his widow. [Thus Ammonites and Moabites are delisted]” [T. Yeb. 8:1].

LX. YERUSHALMI YEBAMOT 7:6

[A] A SLAVE INVALIDATES BY REASON OF HAVING SEXUAL RELATIONS, BUT NOT BY REASON OF OFFSPRING. HOW SO? AN ISRAELITE GIRL MARRIED TO A PRIEST, OR A PRIESTLY GIRL MARRIED TO AN ISRAELITE, AND SHE GAVE BIRTH TO A SON WITH HIM, AND THE SON WENT AND TRIFLED WITH A SLAVE-GIRL, AND SHE PRODUCED A SON FROM HIM – LO, THIS BOY IS A SLAVE. [IF] THE MOTHER OF HIS [THE SLAVE’S] FATHER WAS AN ISRAELITE GIRL MARRIED TO A PRIEST, [IF THE FATHER AND SON DIE], SHE DOES NOT EAT HEAVE-OFFERING [BY REASON OF THE GRANDSON]. [IF] SHE WAS A PRIEST’S DAUGHTER MARRIED TO AN ISRAELITE, [DESPITE THE GRANDSON] SHE DOES EAT HEAVE-OFFERING.

1. I:1: As to a slave, how do we know that he invalidates a woman by having sexual relations with her [so that she cannot eat priestly rations]? R. Yohanan said in the name of R. Ishmael, “‘But if a priest’s daughter is a widow or divorced and has no child and returns to her father’s house, as in her youth, she may eat of her father’s food’ (Lev. 22:13). The man from whom a woman may derive the status of a widow or receive a writ of divorce – such a woman returns to her father’s house. The man from whom a woman does not derive the status of a widow or receive a writ of divorce – she does not return to her father’s house.”

LXI. YERUSHALMI YEBAMOT 7:7

[A] A MAMZER INVALIDATES AND VALIDATES FOR EATING. HOW SO? AN ISRAELITE GIRL MARRIED TO A PRIEST, A PRIESTLY GIRL MARRIED TO AN ISRAELITE, AND SHE PRODUCED A DAUGHTER WITH HIM, [E] AND THE DAUGHTER WENT AND MARRIED A SLAVE OR A GENTILE AND PRODUCED A SON FROM HIM – LO, THIS SON IS A MAMZER. [IF] THE MOTHER OF HER MOTHER WAS AN ISRAELITE GIRL MARRIED TO A PRIEST, [BECAUSE OF THE MAMZER GRANDSON, THE GRANDMOTHER] EATS HEAVE-OFFERING. [IF SHE WAS] THE DAUGHTER OF A PRIEST MARRIED TO AN ISRAELITE, [BECAUSE OF THE GRANDSON, THE GRANDMOTHER] MAY NOT EAT HEAVE-OFFERING.

1. I:1: Does this statement not differ from Rab, for Rab has said, “A Gentile or a slave who had sexual relations with an Israelite girl – the offspring is valid”?

LXII. YERUSHALMI YEBAMOT 7:8

[A] A HIGH PRIEST— SOMETIMES HE INVALIDATES [A WOMAN FROM EATING HEAVE-OFFERING]. HOW SO? A PRIESTLY GIRL MARRIED TO AN ISRAELITE, AND SHE PRODUCED A DAUGHTER BY HIM, AND THE DAUGHTER WENT AND MARRIED A PRIEST AND PRODUCED A SON BY HIM — LO, THIS [SON] IS WORTHY TO BE HIGH PRIEST STANDING AND SERVING AT THE ALTAR, AND HE VALIDATES HIS MOTHER FOR EATING HEAVE-OFFERING, AND [IF HIS MOTHER DIED] HE INVALIDATES HIS MOTHER’S MOTHER:

1. **I:1:** [Indicating that one may make reference not only to a high priest but to others,] Bar Qappara taught: “An infant one day old may either invalidate or bestow the right to eat [priestly rations, as the case may be]. [A priest’s daughter married to an Israelite, if she has a son a day old, may not eat priestly rations. An Israelite girl married to a deceased priest may eat such food if she has an infant a day old.]”

[B] THIS LADY THEN SAYS, ‘NET THERE] NOT [BE MANY] LIKE MY [GRAND]SON, THE HIGH PRIEST, WHO [BECAUSE HE IS YET ALIVE] INVALIDATES ME FROM EATING FOOD IN THE STATUS OF HEAVE-OFFERING.’”

1. **II:1:** How so? A priest’s daughter who is married to an Israelite, and who had a daughter with him, And an Israelite girl married to a priest, who produced a son with him, and the two of them married and produced a son — lo, this [son] is suitable to serve as high priest, standing and laboring at the altar. He bestows upon his mother the right to eat food in the status of heave-offering [if his father dies], but he also invalidates the right of the mother of his mother from doing so. This is the meaning of, “Let there not be many like my grandson, the high priest, who because he is yet alive invalidates me from eating food in the status of heave-offering” [M. 7:8G].

LXIII. YERUSHALMI YEBAMOT 8:1

[A] AN UNCIRCUMCISED [PRIEST] AND ALL UNCLEAN [PRIESTS] DO NOT EAT HEAVE-OFFERING (LEV. 22:4-6). THEIR WIVES AND SLAVES DO EAT HEAVE-OFFERING. ONE WITH CRUSHED TESTICLES OR WHOSE PENIS IS CUT OFF (DEUT. 23:2) — THEY AND THEIR SLAVES DO EAT HEAVE-OFFERING. THEIR WIVES DO NOT EAT HEAVE-OFFERING.

1. **I:1:** “No man of the line of Aaron who is a leper or suffers a discharge may eat of the Holy Things until he is clean” (Lev. 22:4). [Since the Hebrew makes use of the word “man” two times,] it serves to encompass the uncircumcised priest [who may also not eat Holy Things]. Or perhaps the repeated use of “man” serves to encompass the priest in mourning, prior to the burial of his deceased? Said R. Yosé b. Haninah, “It is written, ‘No outsider shall eat of a Holy Thing’ (Lev. 22:10). On account of one’s being an outsider have I prohibited the eating of Holy Things, but I have not prohibited doing so on account of one’s being in mourning.”
2. **I:2:** As to Holy Things, what is the law as to their being prohibited to a priest in mourning?
 - a. **I:3:** In the view of R. Aqiba, [who derives the law prohibiting an uncircumcised person from the repeated use of the word “man,”] for what purpose does he utilize the language “sojourner and hired hand” when that language is used with regard to heave offering?
3. **I:4:** R. Yosa in the name of R. Yohanan, Simeon bar Ba in the name of R. Yohanan: “He who purchases uncircumcised slaves from a Gentile on the stipulation that he will circumcise them, even if he circumcised them – they may not eat food in the status of heave-offering [until they have immersed in an immersion pool].” R. Yosé in the name of R. Yohanan, Simeon bar Ba in the name of R. Yohanan.”He who purchases slaves from a Gentile on the stipulation that he will circumcise them, and the slaves retracted [from their agreement on that matter] argues with them for a year. If they agreed, lo, that is well and good, and if not, he is permitted to sell them back to a Gentile.”
4. **I:5:** R. Samuel bar Hiyya bar Judah, R. Haninah in the name of Rabbi: “A proselyte-sojourner has to accept upon himself the stipulation [that the sole precept he will transgress is] to eat carrion.”
5. **I:6:** It is written, “But every slave of a man that is bought for money may eat of it after you have circumcised him” (Ex. 12:44). Is it the case, then, that if it is the slave of a man, you circumcise him against his will? But the son of an ordinary person you do not circumcise against his will.
 - a. **I:7:** [As to the exegesis of Ex. 12:44 above], R. Abbahu and R. Eleazar did not state matters in that way. Rather: “‘But every slave of a man that is bought for money may eat of it after you have circumcised him’ (Ex. 12 ~ If it is your slave, you circumcise him against his will. If it is your son [that is, a proselyte who comes

along with his adult male children,] you do not circumcise him against his will.”

6. **I:8:** One whose mark of circumcision is covered up, one who was born circumcised, and one who was circumcised before he had converted to Judaism may not eat food in the status of heave offering.
7. **I:9:** “Circumcising, he shall be circumcised” (Gen. 17:13) – The repetition of the same word represents a decree that there should be two aspects to the act of circumcision, one that serves for the circumcision, the other that serves for uncovering the crown, one for circumcision and one for trimming the shreds of flesh.
8. **I:10:** Rab said, “‘Circumcising, he shall be circumcised’ (Gen. 17:23) – on the basis of this verse, we know that one who is born circumcised has to undergo the drawing of a single drop of blood to mark the covenant. ‘Circumcising, he shall be circumcised’ – on the basis of this verse, we know that an uncircumcised Israelite may not perform the rite of circumcision unless he will first circumcise himself, and, it is hardly necessary to say, the same applies to an uncircumcised Gentile.”
9. **I:11:** He whose mark of circumcision was covered over, and one who was born circumcised, and one who had been circumcised prior to conversion – in all instances, it is necessary to produce a drop of blood from him as a mark of the covenant. R. Simeon b. Eleazar taught, “The House of Shammai and the House of Hillel did not dispute concerning the case of one who was born circumcised, that one indeed must draw a drop of blood as a mark of the covenant because in this case, the foreskin has been pressed back. Concerning what did they dispute? Concerning a proselyte who converted while already circumcised, for the House of Shammai say, “It is necessary to draw from him a drop of blood to mark the covenant,” and the House of Hillel say, “It is not necessary to draw from him a drop of blood to mark the covenant.”
10. **I:12:** “[And on the eighth day the flesh] of his foreskin [shall be circumcised]” (Lev. 12:3). In the case of certainty, the rite of circumcision overrides the restrictions of the Sabbath, but in the case of doubt, it does not override the restrictions of the Sabbath. “His foreskin” – when it is certain that it is a foreskin, the rite of circumcision overrides the restrictions of the Sabbath. But the circumcision of a child with both male and female traits does not override the Sabbath.

- a. I:13: There we have learned: All are liable for an appearance-offering (Ex. 23:14; Deut. 16:16), except for a deaf-mute, idiot, minor, one without pronounced sexual characteristics, one who exhibits the sexual traits of both sexes [M. Hag. 1:IA-C]. [Now, since Judah treats the person with sexual traits of both sexes as subject to the requirement of circumcision, hence as a male, we ask:] How does R. Judah deal with this issue?

12. I:14: There we have learned: An infant who is sick – they do not circumcise him until he gets better [Y. Shab. 19:5]. Samuel said, “Even if he caught a fever for one moment, they wait on him for thirty days.” As to that thirty-day period, what is the law on giving him nourishment deriving from produce in the status of heave-offering? [Is he uncircumcised such that he may not eat such produce? Or does the fact that the untimely circumcision is not due to his failure mitigate the law?] What is the law as to anointing him with oil in the status of heave-offering? Let us derive the answer to that question from the following: An uncircumcised priest and all unclean priests do not eat heave-offering. Their wives and slaves do eat heave-offering [M. 8:1A-B]. [Accordingly, the infant may not eat food in the status of heave-offering until he is circumcised.]

- a. I:15: There we have learned: These are the shreds that invalidate circumcision: Flesh that covers the greater part of the corona [M. Shab. 19:6]. R. Abina in the name of R. Jeremiah: “That is the flesh that covers the greater part of the height of the corona.” R. Yosé b. Yosé said, “It means flesh that covers the greater part of the very top of the corona.” [And if he is fleshy, so that he looks uncircumcised, he must repair it for appearances’ sake (M Shab 19:6)]: R. Tabi in the name of Samuel: “They examine the penis when it is erect. [If he appears to be circumcised, that suffices.]”
- b. I:16: It has been taught [in regard to completing the trimming:] So long as the person performing the rite is yet doing the work, he may return to incomplete aspects of it, whether to remnants that would invalidate the circumcision or to remnants that, if left, would not invalidate the rite of circumcision. Once he has left off the work, he may resume the work only as to cutting off the shreds of flesh that if left would invalidate the rite of circumcision.

[B] AND IF HE DID NOT HAVE INTERCOURSE WITH HER FROM THE TIME THAT HIS TESTICLES WERE CRUSHED OR HIS PENIS WAS CUT OFF, LO, THESE [WOMEN] DO EAT HEAVE-OFFERING.

- 1.** **II:1:** Said R. Eleazar, “This represents the view of R. Eleazar and R. Simeon [at M. 6:3].” Said R. Yohanan, “It represents the view of all parties [inclusive of Meir]. The case here is different, because in this instance the mutilated husband [by not having a further act of sexual relations] has not done a thing to increase his domain in her case after he had been made unfit to have sexual relations with her.”

LXIV. YERUSHALMI YEBAMOT 8:2

[A] WHO IS HE WHO HAS CRUSHED TESTICLES? ANY ONE WHOSE TESTICLES ARE CRUSHED, AND EVEN ONE OF THEM.

- 1.** **I:1:** [Had Scripture said only,] “Crushed,” I might have concluded that if his eye were crushed, the same rule would apply. Scripture says, “The spout,” [so intending to specify the organ subject to crushing]. The meaning is that there is a mutilation beside a canal. If we deal with a mutilation beside a canal, then [why not include the eye, for] his eye is beside his nose. Scripture states, “Crushed.” [This refers to that] which falls down between one’s heels.
- 2.** **I:2:** And it is not the end of the matter that if the testicles are crushed, he may not enter the congregation, but even if the testicles were pierced, or dried up, or if one was lacking [the same rule applies] [T. Yeb. 10:3C]. It has been taught: Said R. Ishmael b. R. Yohanan b. Beroqah, “I heard at the Vineyard at Yabneh: He who has only one testicle, he cannot procreate, and lo, such a one is a eunuch by nature” [T. Yeb. 10:3D].
- 3.** **I:3:** As to one with crushed testicles, there is a Tannaite authority who teaches that if it was done by man, such a person is invalid, but if it was done naturally, he is valid. There is a Tannaite authority who teaches, whether it was done by man or naturally, he is invalid. The one who has said that if it was done by man he is invalid, but if it was done naturally, he is valid, derives the rule from the case of the mamzer, linked as it is to this one by common language: “A mamzer should not enter” (Deut. 23:2), “He whose testicles are crushed shall not enter” (Deut. 23:1).

[B] AND ONE WHOSE PENIS IS CUT OFF? ANY WHOSE SEXUAL ORGAN IS CUT OFF. BUT IF SO MUCH AS A HAIR-THREAD OF THE CROWN REMAINED, HE IS VALID [TO EAT HEAVE-OFFERING].

1. **II:1:** Yosé in the name of R. Haninah, “The reference is to the upper part of the crown.” R. Hiyya in the name of R. Haninah, “[Even] the lower part of the crown.” R. Joshua b. Levi said, “The lower part of the crown.” There they have stated, “If the mutilated penis has the shape of a spout, he is valid.” R. Hela in the name of R. Yohanan: “If it is cut like a quill, lo, this one is valid. “If it is cut like a quill upside down, lo, this one is invalid.” If there is a perforation in it on the inside, he is invalid. If it is perforated on the outside, he is valid. R. Ba in the name of R. Judah: “If it is inside, from the crown and inward; if it is outside, from the crown and outward.” If it is perforated, lo, this one is invalid. If it is closed up again, lo, this one is valid.

2. **II:2:** *It has been taught:* The sole difference between one whose testicle is crushed and one whose penis is removed is in the laws of medicine alone. For the crushed testicle may be restored to health, while the penis that has been cut off will not grow back.

3. **II:3:** There we have learned: All those who are forbidden from entering into the congregation are permitted to marry one another, R. Judah prohibits. R. Eliezer says, “Those who are of certain status are permitted to intermarry with others who are of certain status. Those who are of certain status and those who are of doubtful status, those who are of doubtful status and those who are of certain status, those who of doubtful status and those who are of doubtful status – it is prohibited.” And who are those who are of doubtful status~ The “silenced:ct one,” the foundling, and the Samaritan [M. Qid. 4:3] [The reference to Deut. 23:1, “He whose testicles are crushed or whose male member is cut off shall not enter the assembly of the Lord,]” R. Jeremiah said, “[All who are subject to] the general rule [of being prohibited to enter the congregation, whether the invalidation derives from the condition of their birth or from genealogy, are permitted to marry one another.?? an Israelite whose male member has been cut off is permitted to marry a mamzer-girl.” Said R. Yosé, “And on condition that, in any event, he is invalid by reason of genealogy. If he is merely invalid by reason of the condition of his body, it is not in such a case that he may marry a mamzer-girl.”
 - a. **II:4:** In the opinion of R. Judah [M. Qid. 4:3], may a mamzer not marry [even] a mamzer-girl?

4. **II:5:** There we have learned: [He who enters into levirate marriage with his childless brother’s widow, and it turns out that she is pregnant and she gave birth, when the offspring is timely, he must put her away, and both man and woman are liable for a sacrifice. If the off-spring is

not timely, he may confirm the marriage.] If it is a matter of doubt whether the off-spring is born at nine months, therefore assigned to the first husband, or born at seven months, therefore assigned to the second, he must put her away. But the offspring is valid. And both of them are liable for a suspensive guilt-offering [M. Yeb. 4:2]. It has been taught: The first of two such offspring is suitable to be made high priest, but the second is deemed a mamzer by reason of doubt. R. Eliezer b. Jacob says, “The second is not a mamzer by reason of doubt” [T. Yeb. 6:21-1]. R. Eliezer b. Jacob concurs in the case of a child that may or may not be a Samaritan, or that may or may not be of impaired priestly stock; [these are treated as equivalent to others in doubt].

[C] **THOSE WHOSE TESTICLES ARE CRUSHED OFF, WHOSE PENIS IS CUT OFF ARE PERMITTED TO HAVE SEXUAL RELATIONS WITH A FEMALE CONVERT AND A FREED SLAVE-GIRL. THEY ARE PROHIBITED ONLY FROM COMING INTO THE CONGREGATION, SINCE IT IS WRITTEN, “HE WHOSE TESTICLES ARE CRUSHED AND WHOSE PENIS IS CUT OFF SHALL NOT ENTER THE CONGREGATION OF THE LORD” (DEUT. 23:2).**

- 1. III:1:** Said R. Haninah, “The Mishnah [M. 4:1D] is not in accord with what R. Judah has said [since he does not permit proselytes to marry mamzer-girls], because R. Judah has said that they form four congregations: the congregation of priests, the congregation of Levites, the congregation of Israelites, and the congregation of proselytes.”
- 2. III:2:** R. Hoshaiah the Elder and R. Judah the Patriarch were in session. R. Yohanan ran in and whispered into the ear of R. Hoshaiah the Elder: “A priest with crushed testicles (Deut. 23) – what is the law as to his marrying the daughter of proselytes?” [Judah the Patriarch] said to him, “What did he say to you?” He said to him, “Something to which the carpenter son of carpenters [a learned descendant of learned men] would not be able to answer. He did not speak to me about a proselyte-woman, who in respect to a priest has the status of a prostitute, nor did he ask me about the daughter of an Israelite, who would be in the status of an impaired priestly woman [if she were to be married to him]. He has asked me only about the daughter of proselytes!”
- 3. III:3:** A priest who had sexual relations with a divorcée, and produced a daughter, [who then is in the status of an impaired priest-girl], and the daughter [with a valid Israelite] then produced a daughter – what is [the status of the granddaughter? May she marry a priest]?

- a. III:4: R. Jacob bar Idi in the name of R. Joshua b. Levi: “There was the case of a family in the Rhodes, about which there were suspicions [as to its status in the priestly genealogy]. Rabbi sent R. Romanos to examine it. He examined [the family] and discovered that its grandmother had converted to Judaism at an age of less than three years and one day, so he declared the family fit for the priesthood.”

LXV. YERUSHALMI YEBAMOT 8:3

[A] **THE MALE AMMONITE AND MOABITE ARE PROHIBITED [FROM ENTERING THE CONGREGATION OF THE LORD (DEUT. 23:4)], AND THE PROHIBITION CONCERNING THEM IS FOREVER. BUT THEIR WOMEN ARE PERMITTED FORTHWITH. THE EGYPTIAN AND THE EDMITE ARE PROHIBITED ONLY FOR THREE GENERATIONS, ALL THE SAME BEING MALES AND FEMALES. R. SIMEON PERMITS THE FEMALES FORTHWITH. SAID R. SIMEON, “IT IS AN ARGUMENT A FORTIORI: NOW IF IN THE CASE IN WHICH SCRIPTURE HAS PROHIBITED THE MALES FOREVER, IT HAS PERMITTED THE FEMALES FORTHWITH, IN A CASE IN WHICH SCRIPTURE HAS PROHIBITED THE MALES ONLY FOR THREE GENERATIONS, IS IT NOT LOGICAL THAT WE SHOULD PERMIT THE FEMALES FORTHWITH?”**

1. **I:1:** [Proving from Scripture the proposition of M. 8:3B:] Scripture refers to the male Ammonite (Deut. 23:4), not the female one, the male Moabite, not the female one. Along these same lines shall we add, A male Edomite, not a female one, a male Egyptian, not a female one? Scripture states, “Because they [i.e., the Ammonites and Moabites] did not meet you with bread and with water on the way, [when you came forth out of Egypt, and because they hired against you Balaam the son of Beor from Pethor of Mesopotamia, to curse you] (Deut. 23:4).

- a. I:2: One verse of Scripture states, “Now Absalom had set Amasa over the army instead of Joab. Amasa was the son of a man] named Ithra the Israelite, [who had married Abigail the daughter of Nahash, sister of Zeruiah, Joab’s mother]” (2 Sam. 17:25). And yet another verse of Scripture states, “[Abigail bore Amasa, and the father of Amasa was] Jether the Ishmaelite” (1 Chr. 2:17). R. Samuel bar Nahman says, “He was an Ishmaelite, and you say he was an Israelite? But when he came into the court house of Jesse, he found him in session and expounding the following verse: “Turn to me and be saved, all the ends of the earth!” (Is. 45:22). He converted to Judaism, and Jesse gave him his daughter.” Rabbis

say, “He was an Israelite, and you say he was an Ishmaelite? But he girded his loins like an Ishmaelite and thrust his sword into the court house: ‘Either kill or be killed, or we shall carry out the teaching of my master. Whoever violates this law with this sword I shall kill him: A male Ammonite, not a female one, a male Moabite, not a female one.’”

2. **I:3:** R. Zakkai taught before R. Yohanan, “The daughter of a male Ammonite proselyte to Judaism is valid [for marriage into the priesthood]. The daughter of a female Ammonite proselyte is invalid.”

[B] THEY SAID TO HIM, “IF YOU STATE THE RULE AS A MATTER OF LAW, WE SHALL ACCEPT IT. BUT IF YOU STATE IT AS A PROPOSED LOGICAL ARGUMENT, THERE IS AN ANSWER.” HE SAID TO THEM, “NOT SO! I STATE A RULE OF LAW.” MAMZERIM AND NETINIM ARE PROHIBITED, AND THE PROHIBITION CONCERNING THEM IS FOREVER, ALL THE SAME BEING MALES AND FEMALES.

1. **II:1:** What was the answer they had in mind? He said to them, “Not so. I state a rule of law [M. 8:3I]. And there is a verse of Scripture that supports my view: ‘The sons [of the third generation that are born to them may enter the assembly of the Lord]’ (Deut. 23:8) – and not the daughters.”
2. **II:2:** R. Jacob bar Aha in the name of R. Josiah: “The eleventh generation in the family of a mamzer, in accord with R. Simeon, is valid. For he does not interpret the language ‘tenth’ as tenth. [That is, Deut. 23:2 does not say ‘forever,’ while Deut. 23:3 does. The former stops with the tenth generation.]”
3. **II:3:** R. Yosa in the name of R. Yohanan: “Also in the age to come, the Holy One, blessed be he, will have to deal only with the tribe of Levi.”
4. **II:4:** Said R. Yohanan, “As to any family in which some invalidity has been submerged, they do not check too carefully about it.”

LXVI. YERUSHALMI YEBAMOT 8:4-5

[A] SAID R. JOSHUA, “I HAVE HEARD THAT “THE EUNUCH PERFORMS THE RITE OF HALISAH, AND THEY PERFORM THE RITE OF HALISAH WITH HIS WIFE. “AND: “THE EUNUCH DOES NOT PERFORM THE RITE OF HALISAH, AND THEY DO NOT PERFORM THE RITE OF HALISAH WITH HIS WIFE. “AND I CANNOT EXPLAIN [THE CONFLICT BETWEEN THE TWO SAYINGS].” SAID R. AQIBA, “I SHALL

EXPLAIN [THE CONFLICT BETWEEN THE TWO SAYINGS]. **A EUNUCH CASTRATED BY MAN PERFORMS THE RITE OF HALISAH, AND THEY PERFORM THE RITE OF HALISAH WITH HIS WIFE, BECAUSE THERE WAS A TIME IN WHICH HE WAS VALID [AS A HUSBAND]. A EUNUCH BY NATURE DOES NOT PERFORM THE RITE OF HALISAH, AND THEY DO NOT PERFORM THE RITE OF HALISAH WITH HIS WIFE, BECAUSE THERE WAS NEVER A TIME IN WHICH HE WAS VALID."**

- I:1:** What is the definition of a eunuch by nature? R. Hiyya in the name of R. Yohanan: "It is any whom the sun has not seen in a state of validity for even a single moment."

[B] R. ELIEZER SAYS, "NOT SO, BUT: "A EUNUCH BY NATURE PERFORMS THE RITE OF HALISAH, AND THEY PERFORM THE RITE OF HALISAH WITH HIS WIFE, "BECAUSE HE MAY BE HEALED. A EUNUCH CASTRATED BY MAN DOES NOT PERFORM THE RITE OF HALISAH, AND THEY DO NOT PERFORM THE RITE OF HALISAH WITH HIS WIFE, BECAUSE HE MAY NEVER BE HEALED." TESTIFIED R. JOSHUA B. BETERA CONCERNING BEN MEGUSAT, WHO WAS IN JERUSALEM, A EUNUCH CASTRATED BY MAN, AND THEY SUBJECTED HIS WIFE TO LEVIRATE MARRIAGE — THUS CONFIRMING THE OPINION OF R. AQIBA.

A EUNUCH DOES NOT PERFORM THE RITE OF HALISAH AND DOES NOT ENTER INTO LEVIRATE MARRIAGE. AND SO: A STERILE WOMAN DOES NOT PERFORM THE RITE OF HALISAH AND IS NOT TAKEN IN LEVIRATE MARRIAGE. THE EUNUCH WHO PERFORMED THE RITE OF HALISAH WITH HIS CHILDLESS BROTHER'S WIDOW HAS NOT RENDERED HER INVALID [FOR MARRIAGE INTO THE PRIESTHOOD]. [IF] HE HAD SEXUAL RELATIONS WITH HER, HE HAS RENDERED HER INVALID [FOR MARRIAGE INTO THE PRIESTHOOD], FOR IT IS AN ACT OF SEXUAL RELATIONS OF THE CHARACTER OF FORNICATION. AND SO: A STERILE WOMAN WITH WHOM THE BROTHERS HAVE PERFORMED THE RITE OF HALISAH — THEY HAVE NOT RENDERED HER INVALID [FOR MARRIAGE INTO THE PRIESTHOOD]. [IF] THEY HAD SEXUAL RELATIONS WITH HER, THEY HAVE RENDERED HER INVALID [FOR MARRIAGE INTO THE PRIESTHOOD], FOR IT IS AN ACT OF SEXUAL RELATIONS OF THE CHARACTER OF FORNICATION.

- 1. II:1:** The opinions assigned to R. Eliezer are confused. There he has said, Not so, but a eunuch by nature F, performs the rite of halisah and they perform the rite of halisah with his wife [M. 8:4J-K], and here you say this? [Eliezer, at M. Nid. 5:9I says the law follows the House of Hillel's view that, in the case of a eunuch by nature, he is subject neither to halisah nor to levirate marriage. That judgment directly contradicts this statement at M. 8:4.]
- 2. II:2:** R. Hiyya in the name of R. Yohanan, "[What is before us represents the] views of R. Eliezer, R. Joshua, and R. Aqiba. But as to the view of sages, the same law applies both to the eunuch by human action and the eunuch by nature: He neither performs the rite of halisah nor do they perform the rite of halisah with his wife. He neither enters

into levirate marriage nor do they enter levirate marriage with his wife.”

LXVII. YERUSHALMI YEBAMOT 8:6

- [A] **A PRIEST, A EUNUCH BY NATURE, WHO MARRIED AN ISRAELITE GIRL, BESTOWS UPON HER THE RIGHT TO EAT HEAVE-OFFERING. R. YOSÉ AND R. SIMEON SAY, “A PRIEST WHO BORE SEXUAL TRAITS OF BOTH SEXES WHO MARRIED AN ISRAELITE GIRL BESTOWS UPON HER THE RIGHT TO EAT HEAVE-OFFERING.”**
- I:1:** [As to M. 8:6B] it has been taught: He bestows on her the right to eat [the priestly gifts consisting of the] breast and thigh [of certain sacrificial animals]. R. Yohanan says, “She has the right to eat food in the status of heave-offering, but she does not have the right to eat the breast and thigh.” R. Simeon b. Laqish said, “There is an argument a fortiori in this matter.”
- [B] **R. JUDAH SAYS, “A PERSON LACKING REVEALED SEXUAL TRAITS WHO WAS TORN AND TURNED OUT TO BE A MALE SHOULD NOT PERFORM THE RITE OF HALISAH, FOR HE IS DEEMED EQUIVALENT TO A EUNUCH.” A PERSON BEARING TRAITS OF BOTH SEXES MARRIES BUT IS NOT TAKEN IN MARRIAGE.**
- II:1:** [With reference to M. 8:6C]: And do [sages] not differ from R. Judah [in treating a person lacking revealed sexual traits who turned out to be a male to be equivalent to a eunuch]?”
 - II:2:** If a person exhibiting traits of both sexes [androgyne] should betroth a woman, they do not scruple as to his act of betrothal. If he is taken in betrothal, they do scruple about his being betrothed. If he had sexual relations [with an invalid person] as a woman, he has been invalidated from eating heave-offering as are women
- [C] **R. ELIEZER SAYS, “[THOSE WHO HAVE SEXUAL RELATIONS WITH] A PERSON BEARING TRAITS OF BOTH SEXES ARE LIABLE ON HIS ACCOUNT FOR STONING AS IS HE WHO HAS SEXUAL RELATIONS WITH A MALE” (LEV. 20:13).**
- III:1:** “But that is on condition that the sexual relations have taken place in the androgyne’s male organ” [T. Yeb. 10:2P].
 - III:2:** Said Rabbi, “I looked but I did not find teachings of [Eleazar] Ben Shammua = M. 8:6E] with regard to the androgyne [other than this one].” For [Ben Shammua’s] disciples had ganged up on him [and did not let him study further traditions on this subject with them].

LXVIII. YERUSHALMI YEBAMOT 9:1

[A] THERE ARE WOMEN PERMITTED TO THEIR HUSBANDS AND PROHIBITED TO THEIR LEVIRS, PERMITTED TO THEIR LEVIRS AND PROHIBITED TO THEIR HUSBANDS, PERMITTED TO THESE AND TO THOSE. AND THESE ARE WOMEN PERMITTED TO THEIR HUSBANDS AND PROHIBITED TO THEIR LEVIRS:

AN ORDINARY PRIEST WHO MARRIED A WIDOW, AND WHO HAS A BROTHER WHO IS HIGH PRIEST; A MAN OF IMPAIRED PRIESTLY STOCK WHO MARRIED A VALID WOMAN], AND WHO HAS A BROTHER WHO IS VALID [AS A PRIEST]: AN ISRAELITE WHO MARRIED AN ISRAELITE GIRL AND WHO HAS A BROTHER WHO IS A MAMZER; A MAMZER WHO MARRIED A FEMALE MAMZER, AND WHO HAS A BROTHER WHO IS A VALID ISRAELITE – [THESE] ARE PERMITTED TO THEIR HUSBANDS AND PROHIBITED TO THEIR LEVIRS.

1. **I:1:** R. Niha bar Saba asked before R. Jonah, “Why does the Mishnah [M. 9:1F] use the word ‘marry’? Even if it were a betrothal [the same rule would apply]. Why further [at M. 9:1F] do we speak of a widow? Even if it were a virgin [that is, betrothed, not married, she could not enter into levirate marriage with the high priest, since she would also be a widow]?”
2. **I:2:** I have others to add to the list, for example, the co-wife of a wayward wife is permitted to the husband but prohibited to the levir [because her co-wife, the wayward one, is prohibited to the husband, hence also to the levir] [= M. 1:1]. In the case of his brother who had sexual relations with the sister of a woman with whom [the surviving brother] had performed the rite of halisah, the deceased’s wife was permitted to her husband, but is prohibited to the levir. The fact that there are these, and other, possibilities] supports the view of R. Jonah, for R. Jonah said, “The generalizations of Rabbi [in the Mishnah] are not all-inclusive.”
3. **I:3:** A valid man who married a valid woman, and who has a brother of impaired priestly stock – she is permitted to the husband, but is forbidden to enter into levirate marriage with the surviving brother-in-law.

LXIX. YERUSHALMI YEBAMOT 9:2

[A] AND THESE ARE PERMITTED TO THEIR LEVIRS AND PROHIBITED TO THEIR HUSBANDS: A HIGH PRIEST WHO BETROTHED A WIDOW, AND WHO HAS A BROTHER WHO IS AN ORDINARY PRIEST; A VALID [PRIEST] WHO MARRIED A

WOMAN OF IMPAIRED PRIESTLY STOCK AND WHO HAS A BROTHER OF IMPAIRED PRIESTLY STOCK; AN ISRAELITE WHO MARRIED A FEMALE MAMZER AND WHO HAS A BROTHER WHO IS A MAMZER; A MAMZER WHO MARRIED AN ISRAELITE GIRL AND WHO HAS A BROTHER WHO IS A VALID ISRAELITE — THEY ARE PERMITTED TO THEIR LEVIRS AND PROHIBITED TO THEIR HUSBANDS:

1. **I:1:** [The language of the Mishnah is] only “betrothed.” Lo, If he had had sexual relations with her [at M. 9:2B], she would have been invalidated by the act of sexual relations [from marrying a priest, his surviving brother].
2. **I:2:** And are these the entire set of possibilities? Lo, you have others [in which the widow is permitted to the levir, while she had been prohibited to remain wed to her husband, for instance:] He who remarries a woman whom he had first divorced and who then had wed another man (Deut. 24:1ff.) — she is prohibited to her husband but permitted to her levir. He who had sexual relations with the sister of a woman with whom he had performed the rite of halisah — she is prohibited to her husband but permitted to the levir. A man with crushed testicles who married a valid woman, and who has a brother who is valid — she is prohibited to her husband but permitted to her levir. The fact that [there are these and other possibilities] supports the view of R. Jonah, for R. Jonah said, “The generalizations of Rabbi [in the Mishnah] are not all-inclusive.”

LXX. YERUSHALMI YEBAMOT 9:3

[A] PROHIBITED TO THESE AND TO THOSE: A HIGH PRIEST MARRIED TO A WIDOW [WHO THUS IS IMPAIRED], WHO HAS A BROTHER WHO IS A HIGH PRIEST OR [WHO IS] AN ORDINARY PRIEST; A VALID [PRIEST] WHO MARRIED A WOMAN OF IMPAIRED PRIESTLY STOCK, AND WHO HAS A BROTHER WHO IS A VALID PRIEST; AN ISRAELITE WHO MARRIED A FEMALE MAMZER, AND WHO HAS A BROTHER WHO IS AN ISRAELITE; A MAMZER WHO MARRIED AN ISRAELITE GIRL, AND WHO HAS A BROTHER WHO IS A MAMZER — THESE ARE PROHIBITED TO THESE AND TO THOSE. AND ALL OTHER WOMEN ARE PERMITTED TO THEIR HUSBANDS AND TO THEIR LEVIRS.

1. **I:1:** And are these the entire set of possibilities? Lo, you have others [in which the widow is permitted to the levir, while she had been prohibited to remain wed to her husband, for instance:] a woman accused of infidelity is forbidden to this one and to that one; a woman with whom one has performed the rite of halisah is forbidden to this one and to that one. He who had sexual relations with the sister of a

woman with whom he had performed the rite of halisah – she is prohibited to her husband but permitted to the levir. A man with crushed testicles who married a valid woman, and who has a brother who is valid – she is prohibited to her husband but permitted to her levir. The fact that [there are these and other possibilities] supports the view of R. Jonah, for R. Jonah said, “The generalizations of Rabbi [in the Mishnah] are not all-inclusive.”

LXXI. YERUSHALMI YEBAMOT 9:4

[A] IN WHAT CONCERNS THE SECONDARY GRADE [OF FORBIDDEN DEGREES] BY REASON OF SCRIBAL RULINGS: A WOMAN WITHIN A SECONDARY GRADE OF KINSHIP TO THE HUSBAND AND NOT IN A SECONDARY GRADE OF KINSHIP TO THE LEVIR IS PROHIBITED TO HER HUSBAND AND PERMITTED TO HER LEVIR.

- 1. I:1:** What is the law as to her receiving a marriage settlement from the levir? Since she is permitted to be married to him, does she have a claim on a marriage settlement from him? Or since her claim of a marriage settlement is against the estate of her first husband, to whom she is forbidden, should she have no marriage settlement?

[B] [If] SHE IS IN A SECONDARY GRADE OF KINSHIP TO THE LEVIR AND NOT IN A SECONDARY GRADE OF KINSHIP TO THE HUSBAND, SHE IS PROHIBITED TO THE LEVIR AND PERMITTED TO THE HUSBAND. [If] SHE IS IN A SECONDARY GRADE OF KINSHIP TO THIS ONE AND TO THAT ONE, SHE IS PROHIBITED TO THIS ONE AND TO THAT ONE.

- 1. II:1:** What is the law as to her receiving a marriage settlement from the levir? Since she is prohibited to [the levir], should she have no claim of a marriage-settlement against him? Or since the claim for settlement of her marriage contract falls upon the estate of her first husband, to whom she had been permitted, does she have a claim for settlement of her marriage contract?

[C] SHE HAS NO RIGHTS TO A MARRIAGE CONTRACT, OR TO THE USUFRUCT [OF HER MELOG-PROPERTY], OR TO ALIMONY, OR TO WORN-CLOTHES] [INDEMNITY, FOR CLOTHES THAT HAVE COMPLETELY WORN OUT,] [FOR LOSS ON MELOG-PROPERTY]. BUT AN OFFSPRING OF SUCH A MARRIAGE IS VALID [FOR THE PRIESTHOOD]

- 1. III:1:** Said R. Jeremiah, “He is not subject to the law of enjoyment of the usufruct in general, for he has a claim on her only for usufruct alone. [But the other considerations associated with that right do not apply in such a marriage as this.] R. Yosé of Sidon taught before R. Jeremiah, differing from R. Jeremiah, “But [he does enjoy] the

husband's right to keep what ever the woman finds, to keep the fruit of her labor, and to abrogate her vows." [So Yosé differs from Jeremiah's position.

[D] AND THEY FORCE HIM TO PUT HER AWAY.

- 1. IV:1:** There we have learned: A writ of divorce imposed by a court in the case of an Israelite court, it is valid. And in the case of a Gentile court, it is invalid [M. Git. 9:9A-C]. Samuel said, "The writ imposed by a Gentile court is invalid, but it renders the woman invalid to marry into the priesthood [as a divorcée]." And Samuel said, "Announce this law in your locales: "It is invalid but invalidates for the priesthood." Samuel said, "They force the issuance of a writ of divorce only in the case of those whose marriage is invalid." Samuel said, "They force the issuance of a writ of divorce only in the case such as that in which a widow is married to a high priest, a divorcée or a woman who has performed the rite of removing the shoe has married an ordinary priest." And have we not learned [at M. Yeb. 9:4G]: In what concerns the secondary grade of forbidden relations, they force the husband to divorce the wife? It was not in that regard that Samuel made his statement.

[E] IN THE CASE OF A WIDOW WED TO A HIGH PRIEST, A DIVORCÉE OR A WOMAN WHO HAS PERFORMED THE RITE OF HALISAH TO AN ORDINARY PRIEST, A FEMALE MAMZER OR A FEMALE NETIN TO AN ISRAELITE, OR AN ISRAELITE GIRL TO A NETIN OR A MAMZER, SHE HAS A RIGHT TO HER KETUBAH.

- 1. V:1:** What is the difference between these, [listed at M. Ket. 11:7A = M. 9:4A-G, who lose all property rights] and those, [listed at M. Ket. 11:7D = M. 9:4H, who retain all property rights] Now the reason is simple. Those [at M. Ket. 11:7D = M. 9:4H] are subject to the laws of the Torah, and the laws of the Torah require no reenforcement [through further penalties, if they should be violated]. Accordingly, they receive a marriage settlement. On the other hand, these [at M. Ket. 11:7A = M. 9:4A-G] are subject to the laws made by scribes, and the laws made by scribes most certainly do require reenforcement [through further penalties]. Accordingly, they receive no marriage settlement.
- 2. V:2:** R. Jacob bar Aha; R. Zeirah, and R. Hilea, both say that they differ as to providing for maintenance [in the case of a widow married to a high priest]. R. Yohanan said, "She does have a right to maintenance." Said to him R. Eleazar, "The law requires him to divorce her, and you maintain this?" They proposed to rule: Also with

regard to the further clauses of the marriage settlement [over and above the basic payment] do they dispute.

LXXII. YERUSHALMI YEBAMOT 9:5

[A] AN ISRAELITE GIRL BETROTHED TO A PRIEST, PREGNANT BY A PRIEST:

- 1.** **I:1:** “[This also is yours, the offering of their gift, all the wave offerings of the people of Israel; I have given them to you, and to your sons and daughters with you, as a perpetual due;] every one who is clean in your house may eat of it” (Num. 18:11). Now she is not considered “in this house.” In the case of a priest: “[But if a priest buys a slave as his property for money, the slave may eat of it; and] those that are born in his house [may eat of his food]” (Lev. 22:11). Now this one is not part of his house.

[B] AWAITING LEVIRATE MARRIAGE WITH A PRIEST:

- 1.** **II:1:** “[But if a priest buys a slave as his property for money, the slave may eat of it; and] those that are born in his house [may eat of his food]” (Lev.22:11). Now she is not considered “in his house.”

[C] AND SO TOO A PRIESTLY GIRL MARRIED TO AN ISRAELITE, DOES NOT EAT HEAVE-OFFERING:

- 1.** **III:1:** “If a priest’s daughter is married to an outsider [she shall not eat of the offering of the Holy Things]” (Lev. 22:12).
- 2.** **III:2:** Betrothed to an Israelite, awaiting levirate marriage with an Israelite: “[But if a priest’s daughter is a widow or divorced, and has no child,] and returns to her father’s house, as in her youth, [she may eat of her father’s food; yet no outsider shall eat of-it]” (Lev 22:13). “Returns to her father’s house” excludes a priest’s daughter awaiting levirate marriage. “As in her youth” excludes one who is pregnant.

[D] AN ISRAELITE GIRL BETROTHED TO A LEVITE:

- 1.** **IV:1:** “[And you may eat it an any place,] you and your households; [for it is your reward in return for your service in the tent of meeting]” (Num. 18:31). Now this is one not considered “in his house.”

[E] PREGNANT BY A LEVITE:

1. **V:1:** “Those that are born in his house” (Lev. 22:11). And this one is not born of his house.

[F] Awaiting Levirate Marriage with a **Levite**:

1. **VI:1:** “You and your household” (Num. 18:31). And she is not in his house.]

[G] AND SO TOO A **Levite** Girl Married to an **Israelite**, Does Not Eat Tithe:

1. **VII:1:** If a priest’s daughter is married to an outsider, she shall not eat of the offering of the Holy Things” (Lev. 22:12).

[H] A **Levite** Girl Betrothed to a **Priest**, Pregnant by a **Priest**:

1. **VIII:1:** “[This also is yours, the offering of their gift, all the wave offerings of the people of Israel; I have given them to you, and to your sons and daughters with you, as a perpetual due;] every one who is clean in your house may eat of it” (Num. 18:11). And she is not in his house.
2. **VIII:2: Pregnant by a priest:** “That are born in his house” (Lev. 22:11). And here we do not have someone born in his house.

[I] Awaiting Levirate Marriage with a **Priest**:

1. **IX:1:** “[This also is yours, the offering of their gift, all the wave offerings of the people of Israel; I have given them to you, and to your sons and daughters with you, as a perpetual due;] every one who is clean in your house may eat of it” (Num. 18:11). And she is not [yet] in his house.

[J] AND SO TOO A **Priestly** Girl Married to a **Levite**, Eats Neither Heave-offering nor Tithe.

1. **X:1:** [She is no longer fully in the caste of the priesthood and not yet in the caste of the Levites:] It is not difficult to understand why she should not eat food in the status of heave-offering. But as to tithe [given to Levites], what are your alternatives? If she is in the priestly caste, she has a right to eat it, and if she is in the caste of the Levites, she has the right to eat it.

LXXIII. YERUSHALMI YEBAMOT 9:6-8

[A] AN **ISRAELITE** Girl Who Married a **Priest** Eats Heave-offering. [If] He Died and She Had a Child from Him, She Eats Heave Offering. [If] She

MARRIED A LEVITE, SHE EATS TITHE. [IF] HE DIED AND SHE HAD A CHILD FROM HIM, SHE EATS TITHE. [IF] SHE MARRIED AN ISRAELITE, SHE EATS NEITHER HEAVE-OFFERING NOR TITHE. [IF] HE DIED, AND SHE HAD A CHILD FROM HIM, SHE EATS NEITHER HEAVE-OFFERING NOR TITHE.

[B] [IF] HER SON BY AN ISRAELITE DIED, SHE EATS TITHE. [IF] HER SON BY A LEVITE DIED, SHE EATS HEAVE-OFFERING. [IF] HER SON BY A PRIEST DIED, SHE EATS NEITHER HEAVE-OFFERING NOR TITHE.

[C] A PRIESTLY DAUGHTER WHO MARRIED AN ISRAELITE DOES NOT EAT HEAVE-OFFERING. [IF] HE DIED AND SHE HAD A CHILD FROM HIM, SHE DOES NOT EAT HEAVE-OFFERING. [IF] SHE MARRIED A LEVITE, SHE EATS TITHE. [IF] HE DIED AND SHE HAD A CHILD FROM HIM, SHE EATS TITHE. [IF] SHE MARRIED A PRIEST, SHE EATS HEAVE-OFFERING. [IF] HE DIED AND SHE HAD A CHILD FROM HIM, SHE EATS HEAVE OFFERING [IF] HER CHILD FROM THE PRIEST DIED, SHE DOES NOT EAT HEAVE OFFERING. [IF] HER CHILD FROM THE LEVITE DIED, SHE DOES NOT EAT TITHE. [IF] HER CHILD FROM THE ISRAELITE DIED, SHE GOES BACK TO HER FATHER'S HOUSE. CONCERNING SUCH A ONE IT IS SAID, "AND SHE SHALL RETURN TO HER FATHER'S HOUSE, AS IN HER GIRLHOOD. THE FOOD OF HER FATHER SHE WILL EAT" (LEV. 22:13).

1. I:1: R. Liunti asked before R. Jonah, "There is no problem to understand why the daughter of a priest who is married to an Israelite [who dies leaving her childless] goes back and eats food in the status of heave-offering [since Scripture states that fact]. But as to the daughter of an Israelite who married a priest [and had a son with him, and the priest died, and she married an Israelite], since [in virtue of the son from the priest] she was suitable to eat food in the status of heave-offering, why [now, that she has married an Israelite], does she not have the right to eat food in the status of heave-offering [M. 9:6E]?"
2. I:2: Rab said, "The law is that she eats food in the status of heave-offering but she does not eat the breast or the thigh [of Holy Things given to the priest]." R. Yohanan said, "She eats the breast and the thigh as well."

LXXIV. YERUSHALMI YEBAMOT 10:1

[A] THE WOMAN WHOSE HUSBAND WENT OVERSEAS, AND WHOM THEY CAME AND TOLD, "YOUR HUSBAND HAS DIED," AND WHO REMARRIED, AND WHOSE HUSBAND AFTERWARD RETURNED, GOES FORTH FROM THIS ONE [THE SECOND HUSBAND] AND FROM THAT ONE [THE FIRST]. AND SHE REQUIRES A WRIT OF DIVORCE FROM THIS ONE AND FROM THAT.

1. **I:1:** Just as you say there, [at Y. 3:12], And they set them apart for three months, lest they be pregnant. And if they were minors not yet fit to give birth, they are forthwith restored to their proper husbands [M. 3:12G-I] [so that, despite the error, the women may return to their husbands], why not say [that the woman is allowed to return to her husband] here?

a. **I:2:** [Answering the question of I:1G] Samuel said, “I maintain that we take account of the possibility that the first husband had sent her a writ of divorce from overseas [in which case she was legally married to the second party. Accordingly, a writ of divorce is required from both parties].”

2. **I:3:** Up to this point we have dealt with a case in which the woman knew that she was actually married, [on which account she is subject to the specified penalties]. But if she did not know that she was a married woman [what is the law, e.g., if her father betrothed her, and she did not know it and entered into a betrothal on her own]?

[B] AND SHE HAS NO CLAIM OF [PAYMENT OF HER] MARRIAGE CONTRACT, OF USUFRUCT, OR OF ALIMONY, OR OF INDEMNIFICATION, EITHER ON THIS ONE OR ON THAT.

1. **II:1:** And R. Abina said, “She has not got the right to recover from him the usufruct that he has enjoyed [of her melog-property].” That which you have said applies if he enjoyed the usufruct prior to the return of the first husband. But if the second husband has enjoyed the usufruct after the first husband returned, she does retrieve compensation from him, [since at this point the second husband surely had no right to the usufruct].

[C] IF SHE HAD COLLECTED ANYTHING FROM THIS ONE OR FROM THAT, SHE MUST RETURN IT.

1. **III:1:** That which you have said applies to anything she has collected once the first husband came back. But if she collected anything prior to the return of the first husband, just as she may not recover from him, so he may not recover from her.

[D] AND THE OFFSPRING IS DEEMED A MAMZER, WHETHER BORN OF THE ONE MARRIAGE OR THE OTHER.

1. **IV:1:** Now there is no difficulty understanding why the offspring from the second should be a mamzer. But why should the offspring of the first marriage be deemed a mamzer? R. Ba in the name of R. Zeira said, “The Mishnah-passage before us follows the view of R. Aqiba.

For R. Aqiba said, ‘He who has sexual relations with his wife once she has been convicted of being unfaithful – the offspring is a mamzer. He who remarries his wife after he divorced her and after she had married someone else – the offspring is a mamzer.’”

[E] AND NEITHER ONE OF THEM [IF HE IS A PRIEST] BECOMES UNCLEAN FOR HER [IF SHE SHOULD DIE AND REQUIRE BURIAL]. AND NEITHER ONE OF THEM HAS THE RIGHT EITHER TO WHAT SHE FINDS OR TO THE FRUIT OF HER LABOR, OR TO ANNUL HER VOWS. [IF] SHE WAS AN ISRAELITE GIRL, SHE IS RENDERED INVALID FOR MARRIAGE INTO THE PRIESTHOOD; A LEVITE, FROM EATING TITHE; AND A PRIEST-GIRL, FROM EATING HEAVE-OFFERING.

- 1. V:1:** This is in line with that which R. Hiyya taught: “A man [who is a priest] contracts corpse-uncleanness to bury his wife only if she is a valid one, but he does not contract uncleanness to bury his wife if she was invalid.”
- 2. V:2:** There is a Tannaite authority who teaches, “She goes forth and is subject to thirteen penalties [as are listed at M. 10:IE-L, inclusive of J]. And there is a Tannaite authority who teaches, “She goes forth and is subject to fourteen penalties.”
- 3. V:3:** Said R. Jeremiah, “A woman of the Levitical caste who fornicated retains the right to eat tithes.” And so it has been taught: A girl of the Levitical caste who was taken captive [and who, it is suspected, may have been raped], or who had sexual relations with any man invalid for her – he does not have the power to invalidate her [from eating tithes] [cf. T. Yeb. 8:2C]. Levites who became unfit from the priesthood by their mothers – sages did not scruple concerning them on the count of their being unfit [T. Yeb. 8:2B].

[F] AND THE HEIRS OF EITHER ONE OF THE HUSBANDS DO NOT INHERIT HER KETUBAH. AND IF THEY DIED, A BROTHER OF THIS ONE AND A BROTHER OF THAT PERFORM THE RITE OF HALISAH BUT DO NOT ENTER INTO LEVIRATE MARRIAGE.

- 1. VI:1:** [With reference to M. 10:1M, that the heirs of the husbands do not inherit her marriage settlement,] have we not in fact already learned: She has no claim of payment of her marriage contract [M. 10:1G]? [Why then was it necessary to make the statement of M. 10:1M?] Said R. Yosé b. Jacob, “It is so that you should not say, ‘The sages have imposed a penalty upon her, but have not imposed a penalty upon her heirs.’ Consequently it was necessary to state explicitly, ‘She has no claim of payment of her marriage contract,’ [even so far as the clause covering the right of her male heirs to inherit her property is concerned].”

2. **VI:2:** As to the accused wife, just as she is prohibited from returning to her husband [M. Sot. 1:2E], so she is prohibited from marrying her lover. Just as she is prohibited from marrying the brother of her husband, so she is forbidden from marrying the brother of her lover [M. Sot. 1:2F]. Is it then possible to argue: just as the co-wife of the accused wife is forbidden to marry the brother of her husband, so [if the lover marries her and dies childless] she would be forbidden to marry the brother of her lover?
3. **VI:3:** R. Zeira in the name of R. Yohanan: “The co-wife of an accused wife is forbidden [to enter into a levirate marriage], and the co-wife of a divorcée [whom the husband remarried] is permitted [to enter levirate marriage].” R. Jacob in the name of R. Yohanan: “All co-wives are permitted [to enter levirate marriage] except for the co-wife of an accused wife.”

LXXV. YERUSHALMI YEBAMOT 10:2

- [A] **R. YOSÉ SAYS, “HER MARRIAGE CONTRACT IS [A LIEN] ON THE PROPERTY OF HER FIRST HUSBAND.” R. ELEAZAR SAYS, “THE FIRST HUSBAND HAS A RIGHT TO WHAT SHE FINDS AND TO THE FRUIT OF HER LABOR AND TO ANNUL HER VOWS.”**
1. **I:1:** R. Ba, R. Hamnuna and R. Zeira – both say, “[With reference to M. 10:6I, R. Yosé says, ‘Anyone who invalidates his wife for marriage with others invalidates her for marriage for himself, and whoever does not invalidate his wife for marriage with others does not invalidate her for himself’:] This [reasoning] applies also at the start of the chapter [and explains Yosé’s reasoning at M. 10:2A].” What does R. Yosé rule concerning the other penalties [listed at M. 10:1, apart from the marriage contract, about which he differs from M. 10:1]?
 2. **I:2:** What is the position of R. Eleazar with regard to the marriage contract?
- [B] **R. SIMEON SAYS, “HAVING SEXUAL RELATIONS WITH HER OR PERFORMING A RITE OF HALISAH WITH HER ON THE PART OF THE BROTHER OF THE FIRST HUSBAND EXEMPTS HER CO-WIFE [FROM LEVIRATE CONNECTION]. “AND OFFSPRING FROM HIM IS NOT A MAMZER.”**
1. **II:1:** R. Yosé and R. Eleazar will concur with R. Simeon [M. 10:2C], but R. Simeon will not concur with R. Yosé and R. Eleazar. [They will concur with him since, if there is no penalty imposed vis-a-vis the first husband’s sexual relations in the husband’s lifetime, all the more so

after death there will be none. But the penalties remitted by Yosé and Eleazar will remain in effect, since they apply while the first husband is yet alive.] That is to say that in the view of R. Simeon an invalid act of sexual relations exempts [a co-wife from having to enter into levirate marriage. If the first husband died and his brother had sexual relations, it is invalid, since she is in fact a wayward wife and should not enter into levirate marriage. But if she has done so, the co-wife is exempt].

- [C] **BUT IF SHE SHOULD REMARRY WITHOUT PERMISSION, [SINCE THE REMARRIAGE WAS AN INADVERTENT TRANSGRESSION AND NULL], SHE IS PERMITTED TO RETURN TO HIM.**
1. **III:1:** [With reference to M. 10:2E, if she married without permission, she is permitted to return to him:] Is not the contrary more reasonable, that if she remarried with permission of the court, she is permitted to return to her first husband, but if she did so without permission, she is prohibited from doing so?
- [D] **[If] SHE WAS REMARRIED AT THE INSTRUCTION OF A COURT, SHE IS TO GO FORTH, BUT SHE IS EXEMPT FROM THE REQUIREMENT OF BRINGING AN OFFERING [I] [If] SHE DID NOT REMARRY AT THE INSTRUCTION OF A COURT, SHE GOES FORTH, AND SHE IS LIABLE TO THE REQUIREMENT OF BRINGING AN OFFERING. THE AUTHORITY OF THE COURT IS STRONG ENOUGH TO EXEMPT HER FROM THE REQUIREMENT OF BRINGING A SACRIFICE. [If] THE COURT INSTRUCTED HER TO REMARRY, AND SHE WENT AND ENTERED AN UNSUITABLE UNION, SHE IS LIABLE FOR THE REQUIREMENT OF BRINGING AN OFFERING. FOR THE COURT PERMITTED HER ONLY TO MARRY [PROPERLY].**
1. **IV:1:** [With reference to M. 10:2H: She goes forth from both husbands, but she is exempt from having to bring an offering,] said R. Yohanan, “She is not exempt here, but rather she is obligated.” [Simeon maintains that this was a deliberate deed, hence there is no possibility of expiating it through a sin-offering. Yohanan differs from that theory and holds that, even if the court gave instructions and permitted the remarriage, it still was inadvertent, and hence an offering will expiate the sin.]

LXXVI. YERUSHALMI YEBAMOT 10:3

- [A] **THE WOMAN WHOSE HUSBAND AND SON WENT OVERSEAS, AND WHOM THEY CAME AND TOLD, “YOUR HUSBAND DIED, AND THEN YOUR SON DIED,” AND WHO REMARRIED, AND WHOM THEY AFTERWARD TOLD, “MATTERS WERE**

REVERSED” – GOES FORTH [FROM THE SECOND MARRIAGE]. AND EARLIER AND LATER OFFSPRING ARE IN THE STATUS OF MAMZER.

1. **I:1:** [Since we have two witnesses at M. 10:3B and two more at M. 10:3D,] to what do you compare this testimony? Is it equivalent to witnesses as to the death of the husband, or witnesses as to a writ of divorce[‘s having been issued]? If you treat these witnesses as equivalent to the witnesses to the death of the husband, then there is a difference of opinion with the rabbis from over there [in Babylonia]. [That is, two witnesses say the husband has died, and two say he has not died.] If you treat these witnesses as equivalent to the witnesses to the writ of divorce, then there is a difference of opinion with the rabbis from over here [in Palestine] as well as with the rabbis from over there. [Two witnesses say that she has been divorced, and two say she has not been divorced.]
 - a. **I:2:** As to a case in which] two say, “She was betrothed,” and two say, “She was not betrothed” – R. Jonah compares the case to that involving prohibited fat: “Two say, ‘So and so ate forbidden fat,’ and two say, ‘He did not eat forbidden fat’ – is it possible that he is not required to bring a suspensive guilt-offering by reason of doubt? And in this case the husband must issue a writ of divorce by reason of doubt.” Said to him R. Yosé, “Do not compare the case to the one involving forbidden fat, for even in such a matter should he say merely, ‘My heart moves me [to fear I ate forbidden fat],’ he must bring a suspensive guilt-offering.”

LXXVII. YERUSHALMI YEBAMOT 10:4

- [A] [IF] THEY TOLD HER, “YOUR SON DIED AND AFTERWARD YOUR HUSBAND DIED,” AND SHE ENTERED INTO LEVIRATE MARRIAGE, AND AFTERWARD THEY TOLD HER, “MATTERS WERE REVERSED,” SHE GOES FORTH [FROM THE LEVIRATE MARRIAGE]. AND THE EARLIER AND LATER OFFSPRING ARE IN THE STATUS OF MAMZER.
1. **I:1:** [The childless brother’s widow] should not have gotten married [to another party] but should rather have entered into levirate marriage [with a surviving brother]. [We deal with] a levirate widow who remarried without under going a rite of removing the shoe.
 2. **I:2:** R. Jeremiah says, “This one [the levir] performs the rite of removing the shoe, and that one [the husband, that is, the man she has married] preserves the marriage [as is].” R. Judah bar Pazzi in the

name of R. Yohanan, “She must go forth.” R. Yosé in the name of R. Hila, “She must go forth.”

LXXVIII. YERUSHALMI YEBAMOT 10:5

[A] [If] THEY TOLD HER, “YOUR HUSBAND DIED,” AND SHE MARRIED, AND AFTERWARD THEY TOLD HER, “HE WAS ALIVE, BUT THEN HE DIED,” SHE GOES FORTH [FROM THE SECOND MARRIAGE]. AND THE EARLIER OFFSPRING IS A MAMZER, BUT THE LATER IS NOT A MAMZER. [If] THEY TOLD HER, “YOUR HUSBAND DIED,” AND SHE BECAME BE TROTHED, AND AFTERWARD HER HUSBAND CAME HOME, SHE IS PERMITTED TO RETURN TO HIM. [F] EVEN THOUGH THE SECOND MAN GAVE HER A WRIT OF DIVORCE, HE HAS NOT RENDERED HER INVALID FROM MARRYING INTO THE PRIESTHOOD. THIS DID R. ELEAZAR B. MATYA EXPOUND, “AND A WOMAN DIVORCED FROM HER HUSBAND (LEV. 21:7) – AND NOT FROM A MAN WHO IS NOT HER HUSBAND.”

1. I:1: [The reason that *she* may remain valid for marriage to a priest is *that the writ* of divorce from the second man, never in fact her husband, is null (M. 10:5F), for] R. Yohanan in the name of R. Yannai: “She is affected merely by a social disqualification for the priesthood, but the court cannot declare her disqualified for that purpose.”
2. I:2: [In the case of the second sets of witnesses throughout, e.g., at M. 10:5D] how do you interpret these cases? Do we have one witness or two witnesses? If you interpret the passage to speak of a single witness, you turn out to rule that a single witness’s testimony permits the woman to marry the levir [at M. 10:4]. If you interpret the passage to speak of two witnesses, then there is a dispute with the view of Rab.
3. I:3: [As to the view at M. 10:5 that the betrothal is null,] how do we know that another man’s betrothal does not take hold in the case of a married woman? R. Immi in the name of R. Yannai: “‘And if she goes and be comes another man’s wife’ (Deut. 24:2). When she goes forth from his house, there must be the possibility of her becoming another man’s wife.”

LXXIX. YERUSHALMI YEBAMOT 10:6

[A] HE WHOSE WIFE WENT OVERSEAS, AND WHOM THEY CAME AND TOLD, “YOUR WIFE HAS DIED,” AND WHO MARRIED HER SISTER, AND WHOSE WIFE THEREAFTER CAME BACK – SHE IS PERMITTED TO COME BACK TO HIM. HE IS PERMITTED TO

MARRY THE KINSWOMEN OF THE SECOND, AND THE SECOND WOMAN IS PERMITTED TO MARRY HIS KINSMEN. AND IF THE FIRST DIED, HE IS PERMITTED TO MARRY THE SECOND WOMAN. [IF] THEY SAID TO HIM, “YOUR WIFE HAS DIED,” AND HE MARRIED HER SISTER, AND AFTERWARD THEY SAID TO HIM, “SHE WAS ALIVE BUT THEN SHE DIED” – THE FORMER OFFSPRING IS A MAMZER [BORN BEFORE THE WITNESS DIED], AND THE LATTER IS NOT A MAMZER.

1. **I:1:** It is written, “If a man lies with her carnally” (Num. 5:13) – her [the wife’s] act of sexual relations renders her prohibited and the act of sexual relations of another woman [her sister] does not render her forbidden. [That is the reason behind M. 10:6D]. And, further, it says here, “[And if you have not turned aside to uncleanness] while you were under your husband’s authority” (Num. 5:19) – thus excluding cases of action under constraint. [Why then do we invoke the penalties indicated above when the husband goes away and the wife remarries, while we invoke no such penalties in the present case, when Scripture makes possible an equivalently lenient ruling for the hapless wife?]

2. **I:2:** It has been taught: Said R. Judah, “The House of Shammai and the House of Hillel concur in the case of one who has sexual relations with his mother-in-law, that he has invalidated his wife [from remaining wed to him]. Concerning what case did they differ? Concerning that of a man who had sexual relations with the sister of his wife. For the House of Shammai say, ‘He thereby has invalidated his wife, who cannot remain wed to him, contrary to I:1A, above]. And the House of Hillel say, ‘He has not invalidated her.’”

a. **I:3:** It has been taught: R. Simeon said, “The House of Shammai and the House of Hillel did not dispute about the case in which one had sexual relations with the sister of his wife, that he has not invalidated his wife [from remaining wed to him]. Concerning what did they dispute? Concerning a case in which he had sexual relations with his mother-in-law. For in such a case: The House of Shammai say, ‘He has invalidated [his wife, who cannot remain wed to him].’ And the House of Hillel say, ‘He has not invalidated her.’”

[B] **R. YOSÉ SAYS, “ANYONE WHO INVALIDATES [HIS WIFE] FOR MARRIAGE] WITH OTHERS INVALIDATES HER FOR MARRIAGE FOR HIMSELF, AND WHOEVER DOES NOT INVALIDATE HIS WIFE FOR MARRIAGE WITH OTHERS DOES NOT INVALIDATE HER FOR HIMSELF.”**

1. **II:1:** R. Ba, R. Hamnuna and R. Zeira – both say, “[With reference to M. 10:6I,] “This [reasoning] applies also at the start of the chapter [and explains Yosé’s reasoning at M. 10:2A].” What does R. Yosé rule

concerning the other penalties [listed at M. 10:1, apart from the marriage contract, about which he differs from M. 10:1]?

[C] [If] THEY SAID TO HIM, “YOUR WIFE HAS DIED,” AND HE MARRIED HER SISTER BY THE SAME FATHER, [AND THEY REPORTED THAT] SHE DIED AND HE MARRIED HER SISTER FROM THE SAME MOTHER, [AND THEY REPORTED THAT] SHE DIED AND HE MARRIED HER SISTER FROM THE SAME FATHER, [AND THEY REPORTED THAT] SHE DIED, AND HE MARRIED HER SISTER FROM THE SAME MOTHER, AND IT TURNS OUT THAT ALL OF THEM ARE ALIVE — HE IS PERMITTED [TO CONTINUE IN MARRIAGE] WITH THE FIRST, THE THIRD, AND THE FIFTH, AND THEY EXEMPT THEIR CO-WIVES. BUT HE IS PROHIBITED [FROM CONTINUING IN MARRIAGE] WITH THE SECOND AND THE FOURTH, AND SEXUAL RELATIONS [OF THE LEVIR] WITH ONE OF THEM DOES NOT EXEMPT HER CO-WIFE. AND IF HE HAD INTERCOURSE WITH THE SECOND AFTER THE [ACTUAL] DEATH OF THE FIRST, HE IS PERMITTED [TO REMAIN MARRIED TO] THE SECOND AND THE FOURTH, AND THEY EXEMPT THEIR CO-WIVES. AND HE IS PROHIBITED [FROM REMAINING MARRIED TO] THE THIRD AND THE FIFTH. AND SEXUAL RELATIONS WITH ONE OF THEM DOES NOT EXEMPT HER CO WIFE.

1. **III:1:** What would be a practical case [illustrative of M. 10:6I-W]? A man [Reuben] has a daughter, [Rachel], and a stepdaughter. [That is, his wife has a daughter from her first husband, whom we shall call Leah. These are sisters from a single mother.] And there is another woman, [Sarah], who has a daughter [Bilhah] and a stepdaughter [Zilpah, and these are sisters from the same father]. Now these two wed [Reuben and Sarah]. They produce a daughter, Dinah. Dinah and Rachel are sisters from the same father, but she has no relationship to Leah; Dinah and Bilhah are sisters from the same mother, but Dinah is unrelated to Zilpah. Now in this case,] the beginning was from the stepsister of a woman. [That is, he first married Zilpah. He was told she had died. He married Bilhah, her sister on her father’s side, then he married Dinah, her sister on her mother’s side, who was unrelated to Zilpah. Then he married Rachel and finally Leah, as M. 10:6J-W explain.]

LXXX. YERUSHALMI YEBAMOT 10:7

[A] A BOY NINE YEARS AND ONE DAY OLD INVALIDATES [HIS CHILDLESS BROTHER’S WIDOW] FOR THE OTHER BROTHERS, AND THE OTHER BROTHERS INVALIDATE HER FOR HIM. BUT [WHILE] HE INVALIDATES HER AT THE OUTSET, THE BROTHERS INVALIDATE HER AT THE OUTSET AND AT THE END. HOW SO? A BOY NINE YEARS AND ONE DAY OLD WHO HAD SEXUAL RELATIONS WITH HIS

CHILDLESS BROTHER'S WIDOW HAS INVALIDATED HER FOR THE [OTHER] BROTHERS. [IF ONE OF THE BROTHERS HAD SEXUAL RELATIONS WITH HER, BESPOKE HER GAVE HER A WRIT OF DIVORCE, PERFORMED THE RITE OF HALISAH HE HAS INVALIDATED HER FOR HIM.

1. **I:1:** How is it so that he does not invalidate her at the end [M. 10:7D]? invalidates her only at the outset alone] if he has bespoken the woman. But if it is after he has had sexual relations with her, he invalidates her even at the end
2. **I:2:** “If he designates her for his son, [he shall deal with her as a daughter]” (Ex. 21:9). He designates her for his son, but he does not designate her for his brother. And let him be free to designate her for his brother, on the basis of the following argument a fortiori: Now if in the case of the son, who does not stand in his stead for purposes of the rite of removing the shoe or for levirate marriage, lo, he designates her for him, in the case of his brother, who does stand in his stead for purposes of the rite of removing the shoe and for levirate marriage – is it not logical that he should be free to designate her for him?
3. **I:3:** “If he designates her for his son” (Ex. 21:9) – it must be with the son’s knowledge and consent. Said R. Yohanan, “There is no requirement here for the son’s knowledge and consent.” Said R. Jacob bar Aha, “There is indeed a requirement here for the son’s knowledge and consent, along the lines of the position of R. Yosé b. R. Judah. [The money the father got at the outset was for selling the girl, not for purposes of betrothing her. It follows that if there is to be a betrothal, it comes later on, hence with the girl’s agreement. Likewise, if the father wishes to betroth her to his son, it must be with the son’s agreement.]”
4. **I:4:** “If he designates her for his son” (Ex. 21:9) – it must be with the son’s knowledge and consent. R. Yohanan said, “He designates her, whether for his adult son or his minor son, whether with his knowledge and consent or without his knowledge and consent.” R. Simeon b. Laqish said, “He designates her only for his adult son, and that is on condition that it is with the son’s knowledge and consent.”

LXXXI. YERUSHALMI YEBAMOT 10:8

[A] **A** BOY NINE YEARS AND ONE DAY OLD WHO HAD SEXUAL RELATIONS WITH HIS CHILDLESS BROTHER'S WIDOW, AND AFTERWARD HIS BROTHER, WHO WAS NINE YEARS AND ONE DAY OLD, HAD SEXUAL RELATIONS WITH HER, HE [THE LATTER] HAS INVALIDATED HER FOR MARRIAGE WITH HIM [THE FORMER]. **R.**

SIMEON SAYS, “HE HAS NOT INVALIDATED [HER FOR MARRIAGE WITH THE FIRST BROTHER].” A BOY NINE YEARS AND ONE DAY OLD WHO HAD SEXUAL RELATIONS WITH HIS CHILDLESS BROTHER’S WIDOW, AND AFTERWARD HE HAD SEXUAL RELATIONS WITH HER CO-WIFE, HAS INVALIDATED HER FOR HIMSELF. R. SIMEON SAYS, “HE HAS NOT INVALIDATED HER FOR HIMSELF.” A BOY NINE YEARS AND ONE DAY OLD WHO HAD SEXUAL RELATIONS WITH HIS CHILDLESS BROTHER’S WIDOW AND THEN DIED — SHE PERFORMS THE RITE OF HALISAH BUT DOES NOT ENTER INTO LEVIRATE MARRIAGE [WITH A LEVIR]. [IF] HE MARRIED A WOMAN AND DIED, LO, THIS ONE IS EXEMPT [FROM THE LEVIRATE CONNECTION ENTIRELY]. A BOY NINE YEARS AND ONE DAY OLD WHO HAD SEXUAL RELATIONS WITH HIS CHILDLESS BROTHER’S WIDOW, AND WHEN HE GREW UP, HE MARRIED ANOTHER WIFE, AND THEN DIED. IF HE DID NOT HAVE SEXUAL RELATIONS WITH THE FIRST FROM THE TIME THAT HE REACHED MATURITY, THE FIRST PERFORMS THE RITE OF HALISAH BUT DOES NOT ENTER INTO LEVIRATE MARRIAGE. AND THE SECOND EITHER PERFORMS THE RITE OF HALISAH OR ENTERS INTO LEVIRATE MARRIAGE. R. SIMEON SAYS, “HE [THE SURVIVING LEVIR] ENTERS INTO LEVIRATE MARRIAGE WITH WHICHEVER ONE HE WANTS, BUT HE ALSO PERFORMS THE RITE OF HALISAH WITH THE SECOND WOMAN.”

1. I:1: Samuel said, “In the view of R. Meir, they have treated the act of sexual relations of a boy nine years and one day old as equivalent to the act of bespeaking of an adult.” Now just as you maintain that they have treated the act of sexual relations of a boy nine years and one day old as equivalent to the act of bespeaking of an adult, along these same lines is the act of *halisah* of a boy nine years and one day old tantamount to a writ of divorce issued by an adult? Rabbis say, “The rite of *halisah* of a boy nine years and one day old is null and of no effect.” Then why have they treated the act of sexual relations of a boy nine years and one day old as equivalent to an act of bespeaking by an adult male? Because an act of sexual relations on the part of an adult effects acquisition whether or not with the knowledge and consent of the levirate widow.
2. I:2: Now a woman awaiting levirate marriage who came before any number of levirs — is it possible that she does not enter into levirate marriage? [Surely not.] R. Hiyya taught, “The wife of one [deceased childless brother] enters into levirate marriage, and the wife of two deceased [childless brothers] does not enter into levirate marriage.”

[B] ALL THE SAME ARE A BOY NINE YEARS AND ONE DAY OLD AND ONE TWENTY YEARS OLD WHO HAS NOT PRODUCED TWO PUBIC HAIRS.

1. **I:1:** [With reference to M. 10:8R,] it is obvious that if a boy younger than twenty years produced two pubic hairs, retroactively he is deemed a man [back to the age of thirteen]. In the case of a man more than twenty years of age who finally produced two pubic hairs, from that point onward he is regarded as a man. Where there is a dispute, it concerns someone twenty years of age [who produced two pubic hairs at that point]. Samuel said, “Retroactively [to the age of thirteen] he is treated as a man.” Rab said, “From this point forward he is treated as a man.”

LXXXII. YERUSHALMI YEBAMOT 11:1

- [A] THEY MARRY THE KINSWOMEN OF A WOMAN WHOM ONE HAS RAPED OR SEDUCED.**
1. **I:1:** This is the meaning of the Mishnah-pericope: They may later marry one related to one whom one has raped or seduced. [Thus, if] one has raped a woman, he is permitted to marry her mother. [If] one has seduced a woman, he is permitted to marry her daughter.
- [B] HE WHO RAPES OR SEDUCES THE KINSWOMAN OF HIS WIFE IS LIABLE. A MAN MARRIES THE WOMAN RAPED BY HIS FATHER OR SEDUCED BY HIS FATHER, RAPED BY HIS SON OR SEDUCED BY HIS SON. R. JUDAH PROHIBITS THE CASE OF THE ONE RAPED BY HIS FATHER OR SEDUCED BY HIS FATHER.**
1. **II:1:** Said R. Yohanan, “The law taught here applies via marriage. [That is to say], if one married a woman and afterward raped her mother, he is liable. If he married a woman and afterward seduced her daughter [by another marriage], he is liable.”
 - a. **II:2:** Said R. Eleazar, “Sumkhos and R. Yohanan b. Nuri said the same thing. For we have learned there: If he slaughtered a beast and its granddaughter and afterward slaughtered its daughter, he incurs forty stripes. Sumkhos says in the name of R. Meir, ‘He incurs eighty stripes’ [M. Hul. 5:3/0-P]. There we have learned:R. Yohanan b. Nuri says, ‘He who has sexual relations with his mother-in-law is liable on her account because of the prohibition against having sexual relations with (1) his mother-in-law, and (2) the mother of his mother-in-law, and (3) the mother of his father-in-law.’ They said to him, ‘All three in fact fall into a single prohibition’ [M. Ker. 4:6C-D] [In Sumkhos’s view, a single warning and a single negative commandment suffice to impose liability on two counts. In Yohanan b. Nuri’s, under the stated condition, in which the woman stands in multiple relationships to

the man, the man is culpable on all counts of all relationships. So both say the same thing, that is, that for a single deed, one may bear multiple liabilities.]” R. Judah bar Pazzi in the name of R. Yohanan:”Sumkhos agrees in the first instance [in which it is stated: If one slaughtered a cow and afterward its two offspring, he incurs eighty stripes. If he slaughtered the two offspring and then slaughtered it, he incurs forty (M. Hul. 5:3M)]. [In that case the violation is on a single count. Now why does Sumkhos not differ in the first case?]”

2. **II:3:** It is written, “You shall not uncover the nakedness of a woman and of her daughter, and you shall not take her son’s daughter or her daughter’s daughter to uncover her nakedness; they are your near kinswomen; it is wickedness” (Lev. 18:17). [“Taking” is understood to refer to marrying.] And it is written, “If a man takes a wife and her mother also, it is wickedness; they shall be burned with fire, both he and they, that there may be no wickedness among you” (Lev. 20:14). Now in the rest of these passages, “lying with” is written, while here, “taking” is the language that is used. This is to teach you that he is not liable for the latter until the former is taken by him, [so only if he is married to the one is there liability for the other].
3. **II:4:** Rab Huna said, “Up to this point we have dealt with the daughter of his daughter as to marriage. What about the daughter of his daughter as to betrothal? [That is, we have shown that there is liability for marrying a woman and her daughter. But what about betrothing the woman and her daughter?]” It is written, “You shall not uncover the nakedness of your son’s daughter or of your daughter’s daughter, for their nakedness is your own nakedness” (Lev. 18:10). Now how shall we interpret that statement? If it makes reference to [prohibiting] marriage, lo, that matter already has been stated [in the prohibition against marrying a woman and her daughter (Lev. 18:17)]. So if it does not apply to marriage, treat the statement as referring to betrothal.
4. **II:5:** R. Huna derived all of them, [mother’s mother, father’s mother], from the following verse: “You shall not uncover the nakedness of a woman and of her daughter,... they are your near kins-women; it is wickedness” (Lev. 18:17). And it is written, “If a man takes a wife and her mother also, it is wickedness; they shall be burned with fire, both he and they, that there may be no wickedness among you” (Lev. 20:14). “Wickedness” is stated in both verses, so establishing grounds for an exegesis by analogy. Just as three generations below [grandchildren] are encompassed, so three generations above [grandparents] are encompassed. Just as below [in the case of a man

and daughter], there is the violation of a negative commandment, so above [in the case of a man with the mother], there is the violation of a negative commandment. Just as below [in the case of the generations following], the prohibited relationship is via marriage, so above [in the prior generations], what is prohibited is via marriage. Just as below [in the case of the coming generations], the penalty is execution by burning, so above [in the case of marriage with the prior generations], the form of execution is burning. Just as below [in the case of the later generations], the law treats the daughter of the male as equivalent to the daughter of the female, so above [in the prior generations], the law treats the mother of the male as the mother of the female.

5. **II:6:** said R. Yosé b. R. Bun, “We do not derive a warning from a logical argument either. Rather, there is a verse of Scripture that supplies a warning, as follows: ‘Do not profane your daughter by making her a harlot’ (Lev. 19:29).”
6. **II:7:** They raised the question before R. Abbahu, “He who had sexual relations with a woman, and she produced a daughter, and he went and had sexual relations with her and she produced a daughter, and he went and had sexual relations with her, [that is, his granddaughter, in sequence] – [in this third case, that is, of relations with the granddaughter,] is he liable on her account on these counts: having sexual relations with a woman, her daughter, and her granddaughter? [In the sexual relations with the granddaughter, is he liable for having relations with a woman and her daughter, and also on the count of the granddaughter?”]
7. **II:8:** Referring back to M. Yeb. 11:1: They marry the kinswomen of a woman whom one has raped or seduced. R. Judah prohibits in the case of one raped by his father or seduced by his father. So that prohibition applies not only when the father has actually married or betrothed the woman. We now ask why Judah rejects the proof-texts adduced above for the contrary view.] What is the scriptural basis for the position of R. Judah? “A man shall not take the wife of his father and shall not uncover the garment of his father” (Deut. 22:30). This [“garment”] refers to a woman whom his father has raped.

LXXXIII. YERUSHALMI YEBAMOT 11:2

[A] **THE CONVERT WHOSE SONS CONVERTED WITH HER — THE SONS NEITHER PERFORM THE RITE OF HALISAH NOR ENTER INTO LEVIRATE MARRIAGE, EVEN IF THE CONCEPTION OF THE FIRST WAS NOT IN A STATE OF SANCTITY AND THE**

BIRTH WAS IN A STATE OF SANCTITY, AND THE SECOND WAS CONCEIVED AND BORN IN A STATE OF SANCTITY.

1. **I:1:** [In the context of a discussion of liability for cursing mother and father, it is pointed out:] Is not a proselyte liable [for cursing] his mother but not liable for cursing his father, in accord with the view of R. Yosé the Galilean? R. Aqiba says, “[Scripture states, ‘For every one who curses his father or his mother shall be put to death;] he has cursed his father or his mother, [his blood is upon him]’ (Lev. 20:9). He who is liable for cursing his father is liable for cursing his mother. He who is not liable for cursing his father is not liable for cursing his mother.” R. Aqiba concedes in the case of a silenced one [that is, one whose father’s identity is not known] that he is liable for cursing his mother, even though he is not liable for cursing his father, [since we do not know who his father is].
2. **I:2:** Under what circumstances? When [his brother] had had sexual relations with her after she had converted. But if [his brother] had not had sexual relations with her after she had converted, all parties concur that it is as if the surviving brother is marrying a woman totally unrelated to him. A proselyte who was converted to Judaism and was married to a woman and her daughter, or to a woman and her sister, marries one of them and divorces one. Under what circumstances? When he had not had sexual relations with one of them after he had converted. But if he had had sexual relations with one of them after he converted, the one with whom he had had sexual relations is his wife. But if he had had sexual relations with both of them, if he had such relations, he had them [and he may remain married to both of them].
3. **I:3:** “If a proselyte [is married to] his sister, whether on his father’s side or on his mother’s side, he must divorce her,” the words of R. Meir. R. Judah says, “If it is his sister on his mother’s side, he must divorce her. If it was on his father’s side, he may remain wed to her.” “If it was the sister of his mother, he must divorce her. If it was the sister of his father, he may confirm the marriage,” the words of R. Meir. R. Judah says, “If it was the sister of his mother on her mother’s side, he must divorce her. If it was the sister of his mother on her father’s side, he may remain wed to her.”

[B] AND SO IS THE LAW IN THE CASE OF A SLAVE-GIRL WHOSE SONS CONVERTED WITH HER.

1. **II:1** R. Idi said before R. Yosé in the name of R. Hisda, “A slave is permitted to marry his sister.”

2. **II:2:** R. Phineas said before R. Yosé in the name of R. Yosé: “A slave who had sexual relations with his mother – is he liable to a sin-offering?” Just as we find in regard to the side of the mother that the law has treated the part of the mother that has converted [after conversion] as equivalent to the part that has not converted [prior to conversion], [so he is prohibited to marry his mother], so in regard to the slave-girl [M. 11:2C] let us treat the part of the slave-girl that has been freed as equivalent to the part that has not been freed. [The prohibition is therefore rabbinic and he is not liable to bring a sin-offering.]

LXXXIV. YERUSHALMI YEBAMOT 11:3

[A] **FIVE WOMEN, EACH OF WHOM ALREADY HAS A SON AND THEN PRODUCED ANOTHER, WHOSE [OTHER] OFFSPRING BECAME CONFUSED WITH ONE ANOTHER, THEY GREW UP IN THIS STATE OF CONFUSION, AND MARRIED WIVES AND DIED – FOUR [OF THE SURVIVING BROTHERS, WHOSE MOTHERS ARE KNOWN] PERFORM THE RITE OF HALISAH WITH ONE WIDOW, AND ONE OF THEM [THE FIFTH] ENTERS LEVIRATE MARRIAGE WITH HER. HE AND THREE [OF THE BROTHERS] ENTER INTO THE RITE OF HALISAH WITH ANOTHER, AND ONE [OTHER] ENTERS INTO LEVIRATE MARRIAGE WITH HER [AND SO ON]. IT TURNS OUT THAT THERE ARE FOUR RITES OF HALISAH AND ONE LEVIRATE MARRIAGE FOR EACH OF THE SURVIVING WIDOWS.**

1. **I:1:** In every other setting you maintain that a valid act of halisah cannot follow a [prior valid] act of halisah [in the case of one widow], and here you say this?

LXXXV. YERUSHALMI YEBAMOT 11:4

[A] **THE WOMAN WHOSE OFFSPRING WAS CONFUSED WITH THE OFFSPRING OF HER DAUGHTER-IN-LAW, THEY GREW UP IN A STATE OF CONFUSION, AND MARRIED WIVES AND DIED, THE SONS OF THE DAUGHTER-IN-LAW PERFORM THE RITE OF HALISAH AND DO NOT ENTER INTO LEVIRATE MARRIAGE, FOR IT IS A MATTER OF DOUBT CONCERNING WHETHER IT IS THE WIFE OF HIS BROTHER OR THE WIFE OF THE BROTHER OF HIS FATHER. AND THE SONS OF THE OLD LADY EITHER PERFORM THE RITE OF HALISAH OR ENTER INTO LEVIRATE MARRIAGE, FOR IT IS A MATTER OF DOUBT CONCERNING WHETHER IT IS THE WIFE OF HIS BROTHER OR THE WIFE OF THE SON OF HIS BROTHER. [IF] THE VALID [= THOSE NOT SUBJECT TO CONFUSION] ONES DIED, THE SONS WHO WERE CONFUSED PERFORM THE RITE OF HALISAH AND DO NOT ENTER INTO LEVIRATE MARRIAGE**

WITH THE [WIDOWS OF THE CHILDLESS] SONS OF THE OLD LADY, FOR IT IS A MATTER OF DOUBT CONCERNING WHETHER IT IS THE WIFE OF HIS BROTHER OR THE WIFE OF HIS FATHER'S BROTHER. AND THE SONS OF THE DAUGHTER-IN-LAW — ONE OF THEM PERFORMS THE RITE OF HALISAH AND ONE ENTERS INTO LEVIRATE MARRIAGE [WITH THE WIDOW].

1. **I:1:** Said R. Yohanán, "This is the meaning of the Mishnah [at M. 11:4I]: To the wives of the sons of the bride, to the wives of the sons of the old lady."

LXXXVI. YERUSHALMI YEBAMOT 11:5

[A] A PRIEST-GIRL WHOSE OFFSPRING WAS CONFUSED WITH THE OFFSPRING OF HER SLAVE-GIRL — LO, THESE [MEN] EAT HEAVE-OFFERING.

1. **I:1:** for the slaves of priests eat food in the status of heave-offering.

[B] AND THEY [TAKE AND] DIVIDE A SINGLE SHARE AT THE THRESHING FLOOR. AND THEY DO NOT BECOME UNCLEAN BY CONTACT WITH CORPSES.

1. **II:1:** This is in line with that which R. Hiyya has taught: Women and slaves do not take a share at the threshing floor, but at the house they hand over to them the gifts owing to the priesthood and Levitical caste.

[C] AND THEY DO NOT MARRY WIVES, WHETHER VALID OR INVALID [FOR MARRIAGE INTO THE PRIESTHOOD]:

1. **III:1:** Not valid women, because of the invalid one [among the two], nor invalid women, because of the valid one.
2. **III:2:** what is the law as to their bringing a single meal-offering and having it completely offered up [as is done with a priest's meal-offering]? It has been taught: They bring a single meal-offering, and they stipulate concerning it [that it belongs to the ones among them who really are the priests], and then it is offered up completely.
3. **III:3:** What is the law as to their bringing two meal-offerings, one completely offered up, and one from which the handful is removed, with the remainder being eaten? It has been taught: They [also may] bring two meal-offerings, one of them being completely offered up, and one of them from which the handful is removed with the remainder being eaten.
4. **III:4:** What is the law as to their giving testimony as a single group [a slave cannot testify], so that it goes to their credit as a single act of

testimony? Or let the answer derive from that which R. Zeira said R. Isaac in the name of R. Assi [stated], “Since if they turned out to be conspiring witnesses, they cannot both be put to death, so that the slayer cannot be put to death,” also here the law is the same. [Hence they cannot testify jointly as if they are a single person.]

LXXXVII. YERUSHALMI YEBAMOT 11:6

[A] [If] THE CHILDREN WHO HAD BEEN CONFUSED WITH ONE ANOTHER GREW UP AND FREED ONE ANOTHER,

- 1. I:1:** That [M. 11:6A] is true after the fact. Lo, to begin with, is it not permitted [to emancipate a slave]? Thus is the meaning of the Mishnah: It is permitted to emancipate a slave to begin with.

[B] THEY MARRY WIVES SUITABLE FOR MARRIAGE INTO THE PRIESTHOOD. AND THEY DO NOT BECOME UNCLEAN BY CONTACT WITH CORPSES. BUT IF THEY BECOME UNCLEAN, THEY DO NOT INCUR FORTY STRIPES. AND THEY DO NOT EAT HEAVE-OFFERING. BUT IF THEY ATE IT, THEY DO NOT PAY BACK PRINCIPAL AND AN ADDED AND THEY DO NOT TAKE A PORTION AT THE THRESHING FLOOR. BUT THEY SELL HEAVE-OFFERING AND THE PROCEEDS ARE THEIRS.

- 1. II:1:** What is the meaning of **wives suitable for marriage into the priesthood [M. 11:6B]**? Not invalid ones.

[C] AND THEY DO NOT TAKE A SHARE IN THE HOLY THINGS OF THE SANCTUARY. AND THEY DO NOT GIVE THEM HOLY THINGS, BUT THEY DO NOT TAKE [THEIR HOLY THINGS] BACK FROM THEM FROM THE OBLIGATION TO GIVE THE SHOULD GIVE THE MAW [TO A PRIEST. AND THEIR FIRSTLING [ANIMAL] SHOULD BE PUT OUT TO PASTURE UNTIL IT SUFFERS A BLEMISH. AND THEY APPLY TO THEM THE STRICT RULES OF THE PRIESTHOOD AND THE STRICT RULES PERTAINING TO ORDINARY ISRAELITES.

- 1. III:1:** How do we know that a priest has the right to offer his offerings during any priestly watch that he chooses?
- 2. III:2:** If he was old or sick, he gives his offering to any watch he chooses, and the hide and flesh of his offering remain his property. If he was unclean or blemished, he gives his offerings to the members of the officiating watch, and the hide and meat go to them.

LXXXVIII. YERUSHALMI YEBAMOT 11:7

[A] SHE WHO DID NOT DELAY THREE MONTHS AFTER HER HUSBAND [DIVORCED HER OR DIED] AND REMARRIED AND GAVE BIRTH, AND IT IS NOT KNOWN WHETHER THE OFFSPRING IS NINE MONTHS OLD, BELONGING TO THE FORMER HUSBAND, OR SEVEN MONTHS OLD, BELONGING TO THE LATTER — [IF] SHE HAD SONS BY THE FIRST AND SONS BY THE SECOND, THEY PERFORM THE RITE OF HALISAH AND DO NOT ENTER INTO LEVIRATE MARRIAGE. AND SO TOO HE PERFORMS THE RITE OF HALISAH. [IF] HE HAD BROTHERS BY THE FIRST MARRIAGE AND BROTHERS BY THE SECOND, BUT NOT FROM THE SAME MOTHER — HE PERFORMS THE RITE OF HALISAH OR ENTERS INTO LEVIRATE MARRIAGE. BUT AS TO THEM, ONE OF THEM [FROM ONE MARRIAGE] PERFORMS THE RITE OF HALISAH, AND ONE OF THEM [FROM THE OTHER MARRIAGE] ENTERS INTO LEVIRATE MARRIAGE. [IF] ONE OF THEM WAS AN ISRAELITE AND ONE A PRIEST, HE MARRIES A WOMAN APPROPRIATE FOR MARRIAGE INTO THE PRIESTHOOD. HE DOES NOT BECOME UNCLEAN BY CONTACT WITH CORPSES. AND IF HE WAS MADE UNCLEAN, HE DOES NOT INCUR FORTY STRIPES. AND HE DOES NOT EAT HEAVE-OFFERING. IF HE ATE IT, HE DOES NOT PAY BACK THE PRINCIPAL AND ADDED FIFTH. AND HE DOES NOT TAKE A SHARE AT THE THRESHING FLOOR. BUT HE SELLS [HIS OWN] HEAVE-OFFERING, AND THE PROCEEDS ARE HIS. HE DOES NOT TAKE A SHARE IN THE HOLY THINGS OF THE SANCTUARY. AND THEY DO NOT GIVE HIM HOLY THINGS. BUT THEY DO NOT REMOVE HIS [HOLY THINGS] FROM HIS OWN POSSESSION. AND HE IS EXEMPT FROM THE REQUIREMENT TO GIVE THE PRIESTS THE SHOULDER, CHEEKS, AND MAW. AND A FIRSTLING BELONGING TO HIM SHOULD BE PUT OUT TO PASTURE UNTIL IT IS BLEMISHED. AND THEY APPLY TO HIM THE STRICT RULES APPLICABLE TO THE PRIESTHOOD AND THE STRICT RULES APPLICABLE TO ISRAELITES.

1. **I:1:** With what sort of case do we deal [at M. 11:7A-B]? [Did she get married] after the death of the first husband? You cannot take that position, *for we have learned:* He performs the rites of mourning for them, and they perform the rites of mourning for him [M. 11:7W]. [This indicates that both husbands are alive at his birth.] But we deal with a case in which the first husband divorced her [and she remarried without waiting the proper time].

[B] IF BOTH OF THEM WERE PRIESTS, HE PERFORMS THE RITES OF MOURNING FOR THEM, AND THEY PERFORM THE RITES OF MOURNING FOR HIM. HE DOES NOT BECOME UNCLEAN FOR THEM, AND THEY DO NOT BECOME UNCLEAN FOR HIM. HE DOES NOT INHERIT THEM, BUT THEY DO INHERIT HIM.

1. **II:1:** R. Hiyya taught, “Priests responsible to undertake the rites of mourning do contract uncleanness even in a case [in which the relationship of the priest to the deceased is] subject to doubt.” Said R.

Yosé, “The Mishnah has made that same point: He performs the rites of mourning for them, and they perform the rites of mourning for him [M. 11:7W].”

a. II:2: An infant born after eight months of pregnancy, lo, it is tantamount to a stone. And they do not move him about [on the Sabbath]. But his mother bends over him and gives him suck [T. Shab. 15:5D-F]. R. Yosé raised the question, “As to infants subject to doubt [as to whether they were born at eight or at nine months], what is the law on violating the laws of the Sabbath on their account [in order to perform the rite of circumcision?”

3. II:3: It has been taught: Rabban Simeon b. Gamaliel said, “In the case of a human being, any offspring that survives for thirty days does not fall into the category of a miscarriage: ‘At a month old you shall redeem them’ (Num. 18:16). In the case of a domestic animal, if it lives for eight days, it is not in the category of a miscarriage: ‘And from the eighth day on it shall be acceptable as an offering by fire to the Lord’ (Lev. 22:27).”

[C] IF THE OFFSPRING HIT THIS [FATHER], AND THEN WENT AND HIT THE OTHER, CURSED THIS ONE AND THEN WENT AND CURSED THAT ONE, HE IS EXEMPT:

1. III:1: [B] R. Hanania raised the question, “Does this statement not differ with the view of R. Yohanan. For there is a dispute: In regard to the two festival days observed in the exilic communities, R. Yohanan said, ‘They receive admonition [not to violate the sanctity of the day] in a situation of doubt [as to whether or not it is in fact the festival day].’ R. Simeon b. Laqish said, ‘They do not receive admonition in a case of doubt.’”

2. III:2: If he hit both of them simultaneously, or cursed both of them simultaneously, he is liable. R. Judah declares him exempt.

[D] AND HE GOES UP TO THE TEMPLE FOR THE PRIESTLY WATCH OF THIS ONE AND OF THAT ONE. BUT HE DOES NOT TAKE A SHARE IN THE PRIESTLY DUES OF EITHER WATCH. IF BOTH OF THEM BELONGED TO A SINGLE PRIESTLY WATCH, THEN HE DOES TAKE A SINGLE PORTION [IN THE SHARE OF THAT WATCH].

1. I:1: In that case, perhaps he ought not go up at all?

LXXXIX. YERUSHALMI YEBAMOT 12:1

[A] THE PROPER WAY TO CARRY OUT THE RITE OF HALISAH IS BEFORE THREE JUDGES, AND EVEN THOUGH THE THREE OF THEM ARE LAYMEN [IT IS VALID].

1. **I:1:** Scripture states, [“Then his brother’s wife shall go up to the gate to the] elders” (Deut. 25:7), and you say [that the three may even be] laymen? The religious duty is best carried out with elders, [but laymen are acceptable].
2. **I:2:** There is a Tannaite authority who teaches, “A rite of halisah performed by proselytes is valid,” and there is a Tannaite authority who teaches, “A rite of halisah performed by proselytes is invalid.” The one who said, “A rite of halisah performed by proselytes is valid,” accords with the one who said, ““In Israel”” (Deut. 25:10) serves to encompass proselytes.” He who said, “A rite of halisah performed by proselytes is invalid,” accords with the one who said, ““In Israel”” serves to exclude proselytes.”

[B] [IF THE WOMAN] PERFORMED THE RITE OF HALISAH WITH A SLIPPER, HER PERFORMANCE OF HALISAH IS VALID.

1. **II:1:** From whose viewpoint was it necessary to specify that it is valid after the fact? It is necessary from the viewpoint of R. Meir. For R. Meir said, “They do not perform the rite of halisah with a slipper.”
 - a. **II:2:** R. Ba R. Judah in the name of Rab: “If Elijah should come and say that they perform the rite of halisah with a slipper, you may listen to him. If he should say that they do not perform the rite of halisah with a sandal, you do not listen to him. For lo, the community is accustomed to perform the rite of halisah with a slipper, and the accepted practice nullifies any contrary law.” R. Zeira, R. Jeremiah in the name of Rab: “If Elijah should come and say that they perform the rite of halisah with a slipper, you should listen to him. If he should say that they do not do so, you should not listen to him. For lo, the community is accustomed to perform the rite of halisah with a slipper, and the accepted practice nullifies any contrary law.”
3. **II:3:** Rab said, “The principal action involved in the rite of halisah is the loosing of the straps of the sandal.” Rab said, “The principal action effecting ownership through usucaption is harvesting the produce. [That is, the testimony of Witnesses must be that they have seen the squatter harvest the produce of the field.]”

4. **II:4:** Said R. Yannai, “If the brother Δ Din Δ law removed the shoe and she unloosed it or if she removed it and he unloosed it, her rite of halisah IS invalid [She must both unloose the slipper and also If he wanted to retract [and go through the levirate marriage], he may retract. “
5. **II:5:** Said R. Eleazar, “There are those who have said, ‘Her act of halisah is invalid, and if the levir wanted to retract, he may retract.’ And there are those who have said, ‘Her act of halisah is invalid, but if he wants to retract, he may not retract.’”
6. **II:6:** And she who performs the rite of halisah with a minor – her rite of halisah is invalid. And if he wanted to retract, he has not got the right to retract. [If she performed halisah] with a felt sock, or if she performed halisah with a minor, her halisah is invalid, but if he wants to retract, he may not retract.

[C] [IF SHE DID IT] WITH A FELT SOCK, HER PERFORMANCE OF HALISAH IS INVALID.

1. **III:1:** If she performed the rite of halisah with a felt sock [cf. M. 12:ID]: There is a Tannaite authority who teaches, “Her act of halisah is valid.” There is a Tannaite authority who teaches, “Her rite of halisah is invalid.” He who has said her rite of halisah is valid maintains that we speak of a sock made of leather. He who has said her act of halisah is invalid maintains that we deal with a sock made of cloth.

[D] [IF SHE DID IT] WITH A SANDAL THAT HAS A HEEL, IT IS VALID. [IF SHE DID IT] WITH A SANDAL THAT DOES NOT HAVE A HEEL, IT IS INVALID.

1. **IV:1:** There they say, “For instance, heeled sandals,” and rabbis here say, “For example, the sandals we wear.”
 - a. **IV:2:** Said Rab, “If I had not seen R. Hiyya the Elder, my beloved friend, perform the rite of halisah with a shoe with plaited straps, our heart would not allow us to do it that way.”

[E] [IF THE STRAPS OF THE SANDAL WERE FASTENED] BELOW THE KNEE, HER PERFORMANCE OF HALISAH IS VALID. [IF THE STRAPS OF THE SANDAL WERE FASTENED] ABOVE THE KNEE, IT IS INVALID:

1. **V:1:** The meaning of the Mishnah is that if it is tied from the knee and downward, it is valid [for use in the rite of halisah], and if it is from the knee and upward, it is invalid.

XC. YERUSHALMI YEBAMOT 12:2

[A] [If] SHE PERFORMED THE RITE OF HALISAH WITH A SANDAL THAT DOES NOT BELONG TO HIM:

- 1. I:1:** [[If] she performed the rite of halisah with a sandal that does not belong to him:] A ram's horn used for the purposes of idolatry and one deriving from an apostate city – R. Eleazar says, "They are valid." R. Hiyya taught: "Such a ram's horn is valid." R. Hoshaiah taught, Such a ram's horn is invalid." All concur in the case of a palm branch [used for the festival of Tabernacles] that it is invalid. All concur in the case of a sandal deriving from an apostate city that it is valid [for use in the halisah rite] since it is written, "[He shall be known in Israel as] the house of the one whose shoe was removed" (Deut. 25:10). The meaning is, without regard [to the origin of the shoe]. Said R. Mana, "Just as you say there, 'It is a day for you to blow the trumpets' (Num. 29:1), without regard [to the origin of the trumpet, so you say here, 'The house of the one whose shoe was removed' (Deut. 25:10), without regard [to the origin of the shoe]."

[B] OR WITH A SANDAL MADE OF WOOD, OR WITH THE SANDAL, IT IS VALID. [If] SHE PERFORMED THE RITE OF HALISAH WITH A SANDAL TOO LARGE IN WHICH [NONETHELESS] HE IS ABLE TO WALK ABOUT, OR WITH ONE TOO SMALL THAT [NONETHELESS] COVERS THE LARGER PART OF HIS FOOT, HER PERFORMANCE OF HALISAH IS VALID.

- 1. II:1:** A sandal made of wood [M. 1:2A]: Associates in the name of Rab: "That is on condition that the thongs are made of wood." R. Ba in the name of Rab: "And that is on condition that the main body of the shoe is made of wood." There they say in the name of Rab: "And that is on condition that the straps are made of wood." There they say in the name of Rab: "And that is on condition that the straps are made of wood." R. Hela in the name of R. Yohanan, "Even if they are made out of wood, it is valid."
- 2. II:2:** It was taught: But one may walk about in [a loose sandal] until he reaches the door of his courtyard.

[C] [If SHE PERFORMED] THE RITE OF HALISAH BY NIGHT, HER PERFORMANCE IS VALID. R. ELIEZER INVALIDATES IT.

- 1. III:1:** [As to M. 12:2, halisah by night is invalid in Eliezer's view]: What is the scriptural basis for the view of R. Eliezer? "[Then his

brother's wife shall go up to him] in the presence of the elders, [and pull his sandal off his foot, and spit in his face; and shall shall answer and say, 'So shall it be done to the man who does not build up his brother's house]'" (Deut. 25:9). [Presence: "before the eyes of"].

[D] [IF SHE DID IT] WITH THE LEFT [SHOE], HER PERFORMANCE OF HALISAH IS INVALID. R. ELIEZER VALIDATES IT:

- 1. IV:1:** R. Yohanan raised the question, "The opinions assigned to R. Eliezer are at variance. There he said that the use of the right hand is absolutely essential [in the rite of purifying the leper (M. Neg. 14:9)], while here [M. 12:2EDF] he does not regard the use of the right foot as essential." Said R. Yosé, "There it is written, '[The priest shall take some of the blood of the guilt offering, and the priest shall put it on the tip of the right ear of the one that is to be cleansed, and on the thumb of his] right [hand, and on the big toe of his right foot]'" (Lev. 14:14). Accordingly, use of the right finger and toe is essential. But here, in which no verse of Scripture refers to the right foot, the use of the right foot is not essential."
- 2. IV:2:** R. Yosé of Sidon taught before R. Jeremiah, "[Then his master shall bring him to God, and he shall bring him to the door or the doorpost, and his master shall bore] his ear [through with an awl]" (Ex. 21:6). Just as the reference to 'ear' in that other passage [in regard to purifying the leper] refers to the right ear, so the reference to the ear here means the right ear."

XCI. YERUSHALMI YEBAMOT 12:3

[A] [IF] SHE REMOVED THE SHOE AND SPIT BUT DID NOT PRONOUNCE THE PRESCRIBED WORDS, HER PERFORMANCE OF HALISAH IS VALID. [IF] SHE PRONOUNCED THE PRESCRIBED WORDS AND SPIT BUT DID NOT REMOVE THE SHOE, HER PERFORMANCE OF HALISAH IS INVALID. [IF] SHE REMOVED THE SHOE AND PRONOUNCED THE PRESCRIBED WORDS BUT DID NOT SPIT, R. ELIEZER SAYS, "HER PERFORMANCE OF HALISAH IS INVALID." R. AQIBA SAYS, "HER PERFORMANCE OF HALISAH IS VALID." R. ELIEZER SAYS, "THIS WILL BE DONE' (DEUT. 25:9) – ANYTHING THAT IS AN ACTUAL DEED IS ESSENTIAL [TO THE PERFORMANCE OF THE RITE]." SAID TO HIM R. AQIBA, "IS THERE PROOF FROM THAT SCRIPTURE? 'THUS WILL BE DONE TO THE MAN' – ANYTHING THAT IS A DEED DONE IN REGARD TO THE MAN [IS ESSENTIAL]."

- 1. I:1:** Samuel said, "If she removed the shoe but did not spit, let her spit." R. Hela in the name of R. Eliezer: "If she removed the shoe but

did not pronounce the prescribed words or spit, her rite of halisah is invalid.”

2. **I:2:** R. Ba raised the question before R. Immi: “If she spit before she removed the shoe, [what is the law]?” He said to him, “It is as if they were done in the proper order.”

XCII. YERUSHALMI YEBAMOT 12:4

[A] A DEAF♁MUTE BOY WITH WHOM THE RITE OF HALISAH WAS CARRIED OUT, A DEAF♁MUTE GIRL WHO PERFORMED THE RITE OF HALISAH, SHE WHO PERFORMS THE RITE OF HALISAH WITH A MINOR — HER PERFORMANCE OF HALISAH IS INVALID. A MINOR♁GIRL WHO PERFORMED THE RITE OF HALISAH SHOULD PERFORM THE RITE OF HALISAH AGAIN WHEN SHE GROWS UP. IF SHE DID NOT PERFORM THE RITE OF HALISAH [LATER ON], HER PERFORMANCE OF HALISAH IS VALID:

1. **I:1:** Said R. Yohanan, “[The reason behind M. 12:4A♁B] is that those participants are unable to state the required formula, ‘He will say’ (Deut. 25:7), and ‘She will say’ (Deut. 25:9).”
2. **I:2:** There we have learned: All are liable to bring an appearance♁offering, except for a deaf♁mute, an idiot, and a minor [M. Hag. 1:1]. Associates in the name of R. Eleazar [cite the following verse in that regard: “‘When all Israel comes to appear before the Lord] that they may hear and learn to fear the Lord your God’ (Deut. 31:12). [This excludes the deaf♁mute.]”
3. **I:3:** R. Ishmael b. R. Yosé asked before Rabbi, “What is the difference between a minor♁boy and a minor♁girl [m that the latter’s act of halisah is valid post facto]?” He said to him, “In the relevant passage, reference is made to ‘man’ (Deut. 25:7). But here [with reference to the female participant], it is written, ‘Then his brother’s wife shall go up to him’ (Deut. 25:9). That is, without differentiation [as to her age].”

XCIII. YERUSHALMI YEBAMOT 12:5

[A] [If] SHE PERFORMED THE RITE OF HALISAH BEFORE TWO JUDGES. OR BEFORE THREE, ONE OF WHOM TURNED OUT TO BE A RELATIVE OR OTHERWISE INVALID, HER PERFORMANCE OF HALISAH IS INVALID. R. SIMEON AND R. YOHANAN

HASSANDLAR VALIDATE IT. WM'SH B: A CERTAIN MAN PERFORMED HALISAH WITH HIS CHILDLESS BROTHER'S WIDOW BY THEMSELVES IN PRISON. AND WHEN THE CASE CAME BEFORE R. AQIBA, HE VALIDATED THE RITE.

- 1. I:1:** The case [M. 12:5F] took place [when R. Aqiba was] in prison. And the case came to prison. R. Yohanan Hassandlar pretended to be a pedlar. One day he chanced to come by the prison in which R. Aqiba was kept, and he shouted out saying, "Who needs needles? Who needs pins? If a girl performed the rite of halisah just with the levir alone [without judges present], what is the law?" R. Aqiba looked out of the window and said to him, "Do you have spindles? Do you have it is valid!"

XCIV. YERUSHALMI YEBAMOT 12:6

[A] THE PROPER WAY TO CARRY OUT THE RITE OF HALISAH [IS AS FOLLOWS]: HE AND HIS CHILDLESS BROTHER'S WIDOW COME TO COURT. AND THEY OFFER HIM SUCH ADVICE AS IS APPROPRIATE FOR HIM, SINCE IT SAYS, "THEN THE ELDERS OF THE CITY SHALL CALL HIM AND SPEAK TO HIM" (DEUT. 25:8). AND SHE SHALL SAY, "MY HUSBAND'S BROTHER REFUSES TO RAISE UP FOR HIS BROTHER A NAME IN ISRAEL. HE WILL NOT PERFORM THE DUTY OF A HUSBAND'S BROTHER TO ME" (DEUT. 25:7). AND HE SAYS, "I DO NOT WANT TO TAKE HER" (DEUT. 25:7). AND [ALL OF THIS] WAS SAID IN THE HOLY LANGUAGE. "THEN HIS BROTHER'S WIFE COMES TO HIM IN THE PRESENCE OF THE ELDERS AND REMOVES HIS SHOE FROM HIS FOOT AND SPITS IN HIS FACE" (DEUT. 25:9) — SPIT THAT IS VISIBLE TO THE JUDGES, AND SHE ANSWERS AND SAYS, "SO SHALL IT BE DONE TO THE MAN WHO DOES NOT BUILD UP HIS BROTHER'S HOUSE." THUS FAR DID THEY PRONOUNCE [THE WORDS OF SCRIPTURE]. AND WHEN R. HYRCANUS PRONOUNCED [THE WORDS OF SCRIPTURE] UNDER THE TEREBINTH TREE IN KEFAR ETAM AND COMPLETED THE READING OF THE ENTIRE PERICOPE, THEY BECAME ACCUSTOMED TO COMPLETE THE ENTIRE PERICOPE. "AND HIS NAME SHALL BE CALLED IN ISRAEL: THE HOUSE OF HIM WHO HAS HAD HIS SHOE REMOVED" (DEUT. 25:9) — IT IS THE DUTY OF THE JUDGES, AND NOT THE DUTY OF THE DISCIPLES [SO TO NAME HIM]. R. JUDAH SAYS, "IT IS THE DUTY OF ALL BYSTANDERS TO SAY, 'THE MAN WHOSE SHOE HAS BEEN REMOVED! THE MAN WHOSE SHOE HAS BEEN REMOVED! THE MAN WHOSE SHOE HAS BEEN REMOVED!'"

- 1. I:1:** And they offer him such advice as is appropriate for him [M. 12:6C]: What is the sort of advice appropriate to him? If he was an old man, one says to her, "What do you need that old man for?" If she was an old lady, one says to him, "What do you need that old lady for?" If

she was young and he was old, they say to him, “She is young, and will belittle you.” If he was young and she was old, they say to her, “He is young, and he will belittle you.” If he wants and she does not want [the marriage], they listen to her wishes. If she wants and he does not want, they listen to his wishes.

2. **I:2:** Does recitation of the required formula stand in the way of the valid performance of the rite? R. Samuel bar R. Isaac said, “In the case of one who is able to recite the required formula, not reciting it does not invalidate the rite. And in the case of one who is not able to recite the required formula, not reciting it does invalidate the rite.”
3. **I:3:** There [in Babylonia, where they prepare a writ of halisah], they state in the writ, “She appeared before us and removed his shoe from his right foot and spit before us with spittle that could be seen on the ground [M. 12:6H], and she stated, ‘So shall it be done to the man who does not build up his brother’s house.’”
4. **I:4:** Said R. Abbahu, “Once the spit has come out of her mouth, even if the wind picked it and carried it away, the rite is valid.” If she spit blood – R. Ba in the name of R. Judah, R. Zeriqan introduced the statement [in the name of] R. Jeremiah in the name of Abba bar Abba, R. Zeira introduced the matter in the name of Samuel: “If there is any remnant of spit [in it], it is valid.” A woman without hands – how does she remove the shoe? With her teeth.
5. **I:5:** It has been taught: A rite of halisah done under false pretenses is valid. What is the definition of a rite of halisah done under false pretenses? Said R. Simeon b. Laqish, “It is any in which they say to the levir ‘Perform the rite of halisah, and she will be permitted to you later on.’”
6. **I:6:** There is a Tannaite authority who teaches, “The rite of halisah is not praiseworthy.” There is a Tannaite authority who teaches, “The rite of halisah is praiseworthy.” Said R. Hisda, “He who has said, ‘The rite of halisah is not praiseworthy,’ accords with the earlier version of the Mishnah. [The reference is to M. Bekh. 1:7FÐI: The requirement of levirate marriage takes precedence over the ceremony of halisah. At first, when they would consummate the levirate marriage for the sake of fulfilling a commandment, [that was the case]. But now, that they do not consummate the levirate marriage for the sake of fulfilling a commandment, they have ruled: The requirement of halisah takes precedence over the requirement of levirate marriage.] The one who

said that the rite of halisah is praiseworthy accords with the later version of the Mishnah [just now cited].”

XCV. YERUSHALMI YEBAMOT 13:1

[A] THE HOUSE OF SHAMMAI SAY, “ONLY GIRLS WHO ARE [MERELY] BETROTHED EXERCISE THE RIGHT OF REFUSAL.” AND THE HOUSE OF HILLEL SAY, “THOSE WHO ARE BETROTHED AND THOSE WHO ARE MARRIED.”

- 1. I:1:** There we have learned: R. Judah b. Baba gave testimony concerning five matters: that they instruct women married while minors to exercise the right of refusal [M. Ed. 6:1A-B]. Now concerning a matter on which testimony has been given [in tractate Eduyyot] do the Houses dispute [at M. 13:1A-B]?
- 2. I:2:** This was the essential meaning of the testimony [of Judah b. Baba]: The House of Shammai say, “Only the girls who are merely betrothed exercise the right of refusal.” And the House of Hillel say, “Those who are betrothed and those who are married [may exercise the right of refusal]” [M. 13:1A-B]. Now there is the following difficulty with the position of the House of Hillel: The consummated marriage has permitted this girl [to the husband]. He has a right to keep things she finds and to the usufruct of her labor, as well as to abrogate her vows, so that she is in the status of his wife for all purposes. And yet you say this? [The position of the House of Hillel is that, in permitting the marriage, sages have stepped outside the law, and so, in revoking it, they merely revoked] what they have given you to begin with. By strict law the consummation of the marriage is null, but the sages have said that the consummation of the marriage is valid, and they are the ones who also have said that she has the right to exercise the right of refusal against him and to leave that marriage.

[B] THE HOUSE OF SHAMMAI SAY, “[THE RIGHT OF REFUSAL IS EXERCISED] AGAINST THE HUSBAND, BUT NOT AGAINST THE LEVIR.”

- 1. II:1:** [In regard to the distinction of M. 13:1C:] What is the reason for the view of the House of Shammai? In the case of her husband, to whom she is married in accord with her wishes, she may exercise the right of refusal. In the case of her levirate husband, to whom she is married [not in accord with her wishes but] against her will, she may not exercise the right of refusal.

[C] AND THE HOUSE OF HILLEL SAY, “AGAINST THE HUSBAND AND AGAINST THE LEVIR.”

1. **III:1:** [Applying the Hillelite view (M. 13:1D),] R. Yohanan said, “[In the case of a minor-girl married off by her mother or brothers to the deceased,] such a girl may carry out her right of refusal [even] against the levir, [her assigned husband who died childless], in such wise as to uproot [from her own person] all affect of the deceased, with the effect of permitting her co-wife to marry her father as if she herself had never been married at all], and a daughter-in-law to marry her father-in-law. [Thus the right of refusal extends even to the levir, after the death of the husband, so that it is as if the original marriage had never taken place.]” Both Rab and R. Simeon b. Laqish say, “She does not carry out her right of refusal against the levir in such wise as to uproot all affect [upon her own person] of the deceased, with the effect of permitting her co-wife to marry her father, and a daughter-in-law to marry her father-in-law.”
 - a. III:2: Gloss of a detail in the secondary expansion of III:1, based on the citation of M. Yeb. 1:2.
 - b. III:3: Gloss of a detail in the secondary expansion of III:1, based on the citation of M. Yeb. 1:2.
 - c. III:4: Gloss of a detail in the secondary expansion of III:1, based on the citation of M. Yeb. 1:2.
2. **III:5:** R. Hamnuna in the name of Assi: “[At M. 13:1D, we have a case of a girl] who exercises the right of refusal in a case in which there are two levirs. [She may remarry anyone of her choice at that point. Her refusal is effective against both equally.] In this case one of the two has bespoken her. She may then exercise the right of refusal against his act of bespeaking and marry anyone of her choice.”

[D] THE HOUSE OF SHAMMAI SAY, “[IT MUST BE EXERCISED] IN HIS PRESENCE.” AND THE HOUSE OF HILLEL SAY, “IN HIS PRESENCE AND NOT IN HIS PRESENCE.” THE HOUSE OF SHAMMAI SAY, “[IT MUST BE EXERCISED] IN A COURT.” AND THE HOUSE OF HILLEL SAY, “IN A COURT AND NOT IN A COURT.” SAID THE HOUSE OF HILLEL TO THE HOUSE OF SHAMMAI, “SHE MAY EXERCISE THE RIGHT OF REFUSAL WHILE SHE IS A MINOR, EVEN FOUR OR FIVE TIMES.”

1. **IV:1:** [As to M. 13:1E-F, whether or not the husband must be present when the right of refusal is exercised:] Said the House of Hillel to the House of Shammai, “There was the case of the wife of Pishon, the camel driver, in behalf of whose wife sages exercised the right of refusal not in his presence.” Said the House of Shammai to them, “Is

there any proof from that case? It was because he was ‘measuring with his finger on the scale’ [wasting her melog-property]. Therefore the sages ‘measured him with their finger on the scale’ [worked outside of the law to penalize him].”

2. **IV:2:** R. Ba in the name of R. Hiyya bar Ashi, “There was the case of a girl who went down to the river to do laundry. They said to her, ‘Lo, there is your betrothed husband going by.’ She said, ‘Let mother go and marry him.’ The case came before sages. They ruled, ‘There is no exercise of the right of refusal greater than that.’” Said R. Haninah, “There was the case of a girl who went to buy flax from the flax dealer. They said to her, ‘Lo, there is your betrothed going by.’ She said, ‘Let mother go and marry him.’ The case came before sages, who ruled, ‘There is no exercise of the right of refusal greater than that.’”
3. **IV:3:** [With reference to M. 13:1G-H, exercise of the right of refusal in a court:] Does a court go into session for the exercise of the right of refusal? Has it not been taught: Avoid three and seek three: Seek cases involving halisah, abrogation of vows, and peacemaking. Avoid exercising the right of refusal, avoid being a pledge, and avoid serving as a bailee for a bailment.

[E] **REPLIED TO THEM THE HOUSE OF SHAMMAI, “ISRAELITE GIRLS ARE NOT OWNERLESS PROPERTY. “BUT: SHE EXERCISES THE RIGHT OF REFUSAL AND WAITS UNTIL SHE REACHES MATURITY, OR SHE EXERCISES THE RIGHT OF REFUSAL AND REMARRIES [FORTHWITH].”**

1. **V:1:** [As to M. 13:1K:] Does the statement of the Mishnah mean that [since] she exercises the right of refusal and remarries forthwith, she should not become betrothed? That is to say, if she transgressed and indeed exercised the right of refusal at the stage of a fully consummated marriage, in the view of the House of Shammai, her exercise of the right of refusal is valid.

XCVI. YERUSHALMI YEBAMOT 13:2

[A] **WHO IS THE SORT OF GIRL WHO MUST EXERCISE THE RIGHT OF REFUSAL? ANY GIRL WHOSE MOTHER OR BROTHERS HAVE MARRIED HER OFF WITH HER KNOWLEDGE AND CONSENT. [IF] THEY MARRIED HER OFF WITHOUT HER KNOWLEDGE AND CONSENT, SHE DOES NOT HAVE TO EXERCISE THE RIGHT OF REFUSAL [BUT SIMPLY LEAVES THE MAN].**

1. **I:1:** What is the definition of their marrying her off with her knowledge and consent [M. 13:2B)?

- [B] **R. HANINA B. ANTIGONOS SAYS, “ANY CHILD WHO CANNOT KEEP WATCH OVER HER BETROTHAL-GIFT DOES NOT HAVE TO EXERCISE THE RIGHT OF REFUSAL.”**
- II:1:** [Is there] a disagreement with the view of Hanina b. Antigonos [at M. 13:2E]?
- [C] **R. ELIEZER SAYS, “THE DEED OF A MINOR IS NULL. BUT SHE IS DEEMED LIKE ONE WHO HAS BEEN SEDUCED. [IF IT IS] AN ISRAELITE GIRL WITH A PRIEST, SHE DOES NOT EAT HEAVE-OFFERING. [IF IT IS] A PRIEST-GIRL WITH AN ISRAELITE, SHE [CONTINUES TO] EAT HEAVE-OFFERING.”**
- III:1:** R. Eliezer says, “The deed of a minor is null [M. 13:2F]. “The husband [in the case of the marriage of a minor] has no right to keep the things she finds, nor to the usufruct of her labor, nor does he abrogate her vows. It is as if she is not his wife for any purpose, whatsoever, except that she has to exercise the right of refusal.” R. Joshua says, “He does have the right to keep what she finds and to the usufruct of her labor, and he does abrogate her vows. It is as if she is his wife for all purposes, except that she may go forth from him through exercising the right of refusal.” Said R. Ishmael, “I have reviewed all of the teachings of sages, and I have found no man whose teachings are entirely consistent with respect to a minor, except for the teachings of R. Eliezer. But [in this instance, he is not consistent], for he has said that she has to exercise the right of refusal [to leave him].”
 - III:2:** What is the law as to her exercising the right of refusal against him and having the act uproot the effects of a writ of divorce [that he has given her, so that she now is deemed not to have been divorced by him, and so, even if she should in the interval have married a third party, she may remarry him, never having received a divorce from him]? And as to a girl of profaned priestly stock or a girl in the status of mamzer? [If a priest married a girl of impaired priestly stock, which he should not do, or if an Israelite married a mamzer-girl, which he should not do, and then she exercises the right of refusal, does that serve to uproot the marriage, as if it had never happened, and so to spare him the flogging coming to him for this improper marriage?]
 - III:3:** There it has been taught: A minor who has not produced two [pubic] hairs – R. Judah says, “That which he separates is [valid] heave offering.” [R. Yosé says, “If [he separated heave-offering] before he reached the age of vows [= majority], that which he has separated is not [valid] heave-offering. But [if he separated heave-offering] after he reached the age of vows, that which he has separated is [valid] heave-offering” (M. Ter. 1:3)]. It has been taught in the name of R. Meir, “Under no circumstance is heave-offering separated by [a

minor deemed valid] heave-offering, unless [this person, who chronologically is a minor], has produced two pubic hairs, [the sign of majority].”

- a. III:4: Secondary expansion of a detail of the foregoing. Point of intersection of the whole with our composite: It is in accord with the one who said, “On their own they took upon themselves tithes [and therefore, they are only a rabbinic obligation in Second Temple times].” Now the view of R. Yohanan, [who maintains that an act of consecration of a minor is valid, and who regards a vow of a minor as in effect on the authority of the law of the Torah,] presents a problem to the view of R. Joshua [expressed above, that the husband has the right to keep what his minor-wife finds and to abrogate her vows]. After all, the marriage of the minor is merely on the authority of rabbis, while the right to abrogate her vows derives from the authority of the Torah. And yet you say this, [that the husband, married on the authority of the rabbis, has the power to abrogate vows that have standing under the higher authority of the Torah]?

XCVII. YERUSHALMI YEBAMOT 13:3

[A] R. ELIEZER B. JACOB SAYS, “ANY HINDRANCE [IN THE MARRIAGE] THAT DERIVES FROM THE MAN — IT IS AS IF SHE IS HIS WIFE. AND ANY HINDRANCE [IN THE MARRIAGE] THAT DOES NOT DERIVE FROM THE MAN — IT IS AS IF SHE IS NOT HIS WIFE.”

1. I:1: It has been taught: R. Eliezer b. Jacob says, “Any hindrance in the marriage that derives from the man — it is as if she is his wife, [and she goes forth] with a writ of divorce. And any hindrance in the marriage that does not derive from the man — it is as if she is not his wife, [and she goes forth] through exercising the right of refusal.”

XCVIII. YERUSHALMI YEBAMOT 13:4

[A] SHE WHO EXERCISES THE RIGHT OF REFUSAL AGAINST A MAN — HE IS PERMITTED TO MARRY HER KINSWOMEN, AND SHE IS PERMITTED TO MARRY HIS KINSMEN. AND HE HAS NOT INVALIDATED HER FOR MARRIAGE INTO THE PRIESTHOOD. [IF] HE GAVE HER A WRIT OF DIVORCE, HE IS PROHIBITED FROM MARRYING HER KINSWOMEN, AND SHE IS PROHIBITED FROM MARRYING HIS KINSMEN. AND HE HAS INVALIDATED HER FOR MARRIAGE INTO THE PRIESTHOOD. [IF] HE (1)

GAVE HER A WRIT OF DIVORCE AND (2) THEN TOOK HER BACK, THEN SHE (3) EXERCISED THE RIGHT OF REFUSAL AGAINST HIM AND (4) MARRIED SOMEONE ELSE, AND (5) WAS WIDOWED OR DIVORCED — SHE IS PERMITTED TO GO BACK TO HIM. [IF] SHE (3) EXERCISED THE RIGHT OF REFUSAL AND (2) HE TOOK HER BACK, [IF] HE [THEN] GAVE (1) HER A WRIT OF DIVORCE AND SHE (4) MARRIED SOMEONE ELSE AND (5) WAS WIDOWED OR DIVORCED, SHE IS PROHIBITED FROM GOING BACK TO HIM. **THIS IS THE GENERAL RULE: IN A CASE OF A WRIT OF DIVORCE FOLLOWING THE EXERCISE OF THE RIGHT OF REFUSAL, SHE IS PROHIBITED FROM RETURNING TO HIM. IN A CASE OF EXERCISE OF THE RIGHT OF REFUSAL AFTER A WRIT OF DIVORCE, SHE IS PERMITTED TO GO BACK TO HIM.**

1. **I:1:** R. Yohanan in the name of R. Yannai: “[Since the exercise of the right of refusal is in no way parallel to a divorce,] there is no aspect in which the girl is rendered sullied for marriage into the priesthood, and a court will not declare her sullied [for marriage into the priesthood].”

XCIX. YERUSHALMI YEBAMOT 13:5

[A] **SHE WHO EXERCISES THE RIGHT OF REFUSAL AGAINST A MAN (1) AND WAS REMARRIED TO ANOTHER, WHO DIVORCED HER (2), [AND WHO WENT AND WAS ASSIGNED TO YET] A THIRD MAN, AND SHE EXERCISED THE RIGHT OF REFUSAL AGAINST HIM, [AND WHO WENT AND WAS ASSIGNED TO YET] A FOURTH, WHO DIVORCED HER, [AND WHO WENT AND WAS ASSIGNED TO YET] A FIFTH, AND SHE EXERCISED THE RIGHT OF REFUSAL AGAINST HIM — ANY OF THE MEN FROM WHOM SHE WENT FORTH WITH A WRIT OF DIVORCE — SHE IS PROHIBITED FROM GOING BACK TO HIM. [AND ANY OF THE MEN FROM WHOM SHE WENT FORTH] BY EXERCISING THE RIGHT OF REFUSAL — SHE IS PERMITTED TO GO BACK TO HIM.**

1. **I:1:** R. Yohanan in the name of R. Yannai: “There is no aspect in which the girl is rendered sullied for marriage into the priest hood, and a court will not declare her sullied [for marriage into the priesthood].”

C. YERUSHALMI YEBAMOT 13:6

[A] **HE WHO DIVORCES HIS WIFE AND TOOK HER BACK — [IF HE DIES CHILD LESS] SHE IS PERMITTED TO A LEVIR. AND R. ELIEZER PROHIBITS [HER FROM ENTERING LEVIRATE MARRIAGE WITH HER DECEASED CHILDLESS HUSBAND’S BROTHER], AND SO: HE WHO DIVORCES AN ORPHAN AND TOOK HER BACK — SHE IS PERMITTED TO THE LEVIR. AND R. ELIEZER PROHIBITS. A MINOR WHOSE**

FATHER MARRIED HER OFF AND WHO WAS DIVORCED IS DEEMED AN ORPHAN WHILE HER FATHER IS YET ALIVE. [IF] HE TOOK HER BACK, THE OPINION OF ALL PARTIES IS THAT SHE IS PROHIBITED TO THE LEVIR.

- I:1:** What is the reason for the position of R. Eliezer [M. 13:6A-B]?
- I:2:** Sages concede to R. Eliezer in the case of a minor whose father married her off, and whose husband divorced her, then took her back, and died [M. 13:6E-F], that she performs the rite of halisah and does not enter into levirate marriage, for she has been prohibited to him for a single moment. [The reason is] that the act of divorce is completely valid, but the act of remarriage is not completely valid [M. 13:6E-F] [T. Yeb. 13:5E-G].
- I:3:** As to her co-wife, what is the law? [That is, may the co-wife of an orphan in her father's lifetime, such as is described above, be permitted to enter into levirate marriage, on the grounds that the orphan in her father's lifetime was not fully wed to the deceased?] Rab said, "Her co-wife is forbidden." R. Yohanan said, "Her co-wife is forbidden." R. Simeon b. Laqish said, "Her co-wife is permitted."
- I:4:** R. Hamnuna was in session before R. Ada bar Ahva. He said, "As to her co-wife, what is the law?" He said to him, "She is permitted." He said, "[If she herself was] divorced?" He said, "She is forbidden."

CI. YERUSHALMI YEBAMOT 13:7

[A] TWO BROTHERS MARRIED TO TWO SISTERS [WHO ARE] MINOR ORPHANS, AND THE HUSBAND OF ONE OF THEM DIED — SHE [THE WIDOW] GOES FORTH [WITHOUT LEVIRATE RITES] ON THE COUNT OF BEING THE SISTER OF [HIS] WIFE. AND SO TWO DEAF-MUTES. AN ADULT AND A MINOR, THE HUSBAND OF THE MINOR DIED — THE MINOR GOES FORTH ON GROUNDS OF BEING THE SISTER OF HIS WIFE. [IF] THE HUSBAND OF THE ADULT DIED, R. ELIEZER SAYS, "THEY INSTRUCT THE MINOR TO EXERCISE THE RIGHT OF REFUSAL AGAINST HIM [THE SURVIVING BROTHER, HER HUSBAND]." RABBAN GAMALIEL SAYS, "IF SHE EXERCISES THE RIGHT OF REFUSAL, SHE EXERCISES THE RIGHT OF REFUSAL [WITHOUT INSTRUCTION, AND IT IS ACCEPTABLE.]

- I:1:** [The reason for the rule at M. 13:7A-C] is that, as is the mode by which the one is acquired by her husband, so is the mode by which the other is acquired by hers. [Each is the wife, equally, of her husband. So at the death of one husband, the widow is equivalently subject to the levir, who is married to her sister.]

[B] “**BUT IF NOT, LET HER WAIT UNTIL SHE REACHES MATURITY. THEN THE OTHER ONE GOES FORTH ON GROUNDS OF BEING THE SISTER OF [HIS] WIFE.**”

1. **II:1:** [With reference to M. 13:7K:] Let her wait until she reaches maturity, and when she reaches maturity, let her wed [the levir, and at that point, the adult goes forth on grounds of being the sister of his wife]. Said R. Eleazar, “There is no question of a [required] marriage here, but let her merely be betrothed. [The act of a betrothal by a minor may have effect, sufficient to be confirmed by the girl when she reaches maturity. Hence the consummation of the marriage is not required; the original betrothal is confirmed when the girl reaches maturity, with the same effect as above.]”

[C] **R. JOSHUA SAYS, “WOE TO THE MAN ON ACCOUNT OF HIS WIFE, AND WOE TO THE MAN ON ACCOUNT OF THE WIFE OF HIS BROTHER! “HE PUTS AWAY HIS WIFE WITH A WRIT OF DIVORCE, AND THE WIFE OF HIS BROTHER WITH A RITE OF HALISAH.”**

1. **III:1:** R. Haggai said before R. Zeira, Menahem in the name of R. Yohanan: “The law accords with the view of R. Eliezer: ‘If she exercises the right of refusal, she exercises the right of refusal.’” [But that is not what Eliezer has said. Rather, assigned to him is the following:] R. Eliezer says, “They instruct the minor to exercise the right of refusal against him” [M. 13:7I]. And you say this! R. Zeira, R. Hiyya in the name of R. Yohanan: “The law is in accord with the view of R. Joshua: ‘If she exercises the right of refusal, she exercises the right of refusal.’” R. Joshua says, “Woe to the man on account of his wife, and woe to the man on account of the wife of his brother!” [M. 13:7L]. And you say this! R. Hela, R. Yosé in the name of R. Yohanan: “The law is in accord with the opinion of Rabban Gamaliel.”

CII. YERUSHALMI YEBAMOT 13:8

[A] **HE WHO WAS MARRIED TO TWO MINOR ORPHANS AND WHO DIED — THE ACT OF SEXUAL RELATIONS OR THE PERFORMANCE OF THE RITE OF HALISAH ON THE PART OF ONE OF THEM EXEMPTS HER CO-WIFE. AND SO TWO DEAF-MUTES.**

1. **I:1:** [The reason for the rule at M. 13:8A-B, C] is that, as is the mode by which the one is acquired by her husband, so is the mode by which the other is acquired by hers. [Each is equally the wife of her husband. So at the death of one husband, the widow is equivalently subject to the levir, who is married to her sister.]

[B] A MINOR AND A DEAF-MUTE — THE ACT OF SEXUAL RELATIONS ON THE PART OF ONE OF THEM DOES NOT EXEMPT HER CO-WIFE.

- 1. II:1:** [At M. 13:8D-E,] what does one do? [The deaf-mute is not a candidate for the rite of halisah, which she cannot perform. Sexual relations with the deaf-mute will not exempt the minor from the requirement of the rite of halisah. The minor cannot perform the rite of halisah either.] R. Hiyya bar Ashi in the name of Rab: “He marries the deaf mute and divorces her with a writ of divorce, and the minor waits until she reaches maturity and then performs the rite of halisah.”

CIII. YERUSHALMI YEBAMOT 13:9

[A] A WOMAN OF SOUND SENSES AND A DEAF-MUTE — THE ACT OF SEXUAL RELATIONS OF THE WOMAN OF SOUND SENSES EXEMPTS THE DEAF-MUTE. BUT THE ACT OF SEXUAL RELATIONS OF THE DEAF-MUTE DOES NOT EXEMPT THE WOMAN OF SOUND SENSES.

- 1. I:1:** But it invalidates the woman of sound senses [who cannot marry the levir].

CIV. YERUSHALMI YEBAMOT 13:10

[A] AN ADULT AND A MINOR — THE ACT OF SEXUAL RELATIONS OF THE ADULT EXEMPTS THE MINOR. BUT THE ACT OF SEXUAL RELATIONS OF THE MINOR DOES NOT EXEMPT THE ADULT.

- 1. I:1:** But it invalidates the adult, [who may not marry the levir].

CV. YERUSHALMI YEBAMOT 13:11

[A] HE WHO WAS MARRIED TO TWO [UNRELATED] MINOR ORPHANS AND WHO DIED — THE LEVIR CAME AND HAD SEXUAL RELATIONS WITH THE FIRST, AND THEN HE CAME AND HAD SEXUAL RELATIONS WITH THE SECOND, OR ANOTHER BROTHER CAME AND HAD SEXUAL RELATIONS WITH THE SECOND — HE HAS NOT INVALIDATED THE FIRST [FROM MARRIAGE WITH HIM]. AND SO IN THE CASE OF TWO DEAF-MUTES. A MINOR AND A DEAF-MUTE — THE LEVIR CAME AND HAD SEXUAL RELATIONS WITH THE MINOR, AND THEN HE CAME AND HAD SEXUAL RELATIONS WITH THE DEAF-MUTE, OR ANOTHER BROTHER CAME AND HAD SEXUAL RELATIONS WITH THE DEAF-MUTE — HE HAS NOT INVALIDATED THE

MINOR. [IF] THE LEVIR CAME AND HAD SEXUAL RELATIONS WITH THE DEAF-MUTE, AND THEN WENT AND HAD SEXUAL RELATIONS WITH THE MINOR, OR ANOTHER BROTHER CAME AND HAD SEXUAL RELATIONS WITH THE MINOR — HE HAS INVALIDATED THE DEAF-MUTE.

1. **I:1:** Even if he did not have sexual relations with the minor, he invalidates the deaf-mute [for marriage with the levir, for the status of the minor by itself is what matters. The connection of the minor to the levir invalidates the deaf-mute. If the minor was fully within the domain of the deceased, then her connection to the levir invalidates the deaf-mute, whose relation to the deceased was not so strong]. But if the levir did not have sexual relations with the minor-girl, and she had died, he would have been permitted to enter into levirate marriage with the deaf-mute.

CVI. YERUSHALMI YEBAMOT 13:12

[A] A WOMAN OF SOUND SENSES AND A DEAF-MUTE — THE LEVIR CAME AND HAD SEXUAL RELATIONS WITH THE WOMAN OF SOUND SENSES, THEN WENT AND HAD SEXUAL RELATIONS WITH THE DEAF-MUTE, OR ANOTHER BROTHER CAME AND HAD SEXUAL RELATIONS WITH THE DEAF-MUTE — HE HAS NOT INVALIDATED THE WOMAN OF SOUND SENSES. [IF] THE LEVIR CAME AND HAD SEXUAL RELATIONS WITH THE DEAF-MUTE, AND THEN WENT AND HAD SEXUAL RELATIONS WITH THE WOMAN OF SOUND SENSES, OR ANOTHER BROTHER CAME AND HAD SEXUAL RELATIONS WITH THE DEAF-MUTE — HE HAS INVALIDATED THE DEAF-MUTE.

1. **I:1:** Even if he did not have sexual relations with the woman of sound senses, he invalidates the deaf-mute [for marriage with the levir]. [The connection of the woman of sound senses to the levir invalidates the deaf-mute. Since she was fully within the domain of the deceased, her connection to the levir invalidates the deaf-mute, whose relation to the deceased was not so strong.] If the levir did not have sexual relations with the woman of sound senses, and she had died, he would have been permitted to enter into levirate marriage with the deaf-mute.

CVII. YERUSHALMI YEBAMOT 13:13

[A] AN ADULT AND A MINOR — THE LEVIR CAME AND HAD SEXUAL RELATIONS WITH THE ADULT, AND THEN WENT AND HAD SEXUAL RELATIONS WITH THE MINOR, OR ANOTHER BROTHER CAME AND HAD SEXUAL RELATIONS WITH THE MINOR

— HE HAS NOT INVALIDATED THE ADULT. [IF] THE LEVIR CAME AND HAD SEXUAL RELATIONS WITH THE MINOR, AND THEN CAME AND HAD SEXUAL RELATIONS WITH THE ADULT, OR ANOTHER BROTHER CAME AND HAD SEXUAL RELATIONS WITH THE ADULT — HE HAS INVALIDATED THE MINOR.

1. **I:1:** Even if he did not have sexual relations with the adult, he invalidates the deaf-mute [for marriage with him]. But if the levir did not have sexual relations with the adult and she died, he would have been permitted to enter into levirate marriage with- the minor.

[B] **R. ELEAZAR SAYS, “THEY INSTRUCT THE MINOR TO EXERCISE THE RIGHT OF REFUSAL AGAINST HIM.”**

1. **II:1:** That is the case after the fact [if the levir has had sexual relations with the minor]. But to begin with, she need not do so.

CVIII. YERUSHALMI YEBAMOT 13:14

[A] **A MINOR LEVIR WHO HAD SEXUAL RELATIONS WITH A MINOR WIDOW [OF A CHILDLESS BROTHER] — THEY SHOULD GROW UP WITH ONE ANOTHER. [IF A MINOR LEVIR] HAD SEXUAL RELATIONS WITH AN ADULT WIDOW, SHE SHOULD RAISE HIM.**

1. **I:1:** “A claim against a woman’s virginity [indicating that she should be deprived of her marriage settlement] must be made within thirty days of the marriage,” the words of R. Meir. And sages say, “It must be made forthwith.”
 - a. **I:2:** R. Jeremiah raised the question, “Along the lines of R. Meir’s theory, what is the law as to the husband’s being permitted to say, ‘I held myself back for thirty days’ [and did not have sexual relations during that time, so that if a child is born seven months from the date of the marriage], the offspring will be given the status of one whose paternity is not known? [The husband thus claims that during that period he did not have sexual relations, so that the child born in seven months cannot be his. Does Meir’s principle hold for monetary cases only, or also for paternity suits?]”

[B] **THE CHILDLESS BROTHER’S WIDOW WHO CLAIMED WITHIN THIRTY DAYS, “I HAVE NOT YET HAD SEXUAL RELATIONS [WITH MY LEVIR]” — THEY FORCE THE LEVIR TO PERFORM THE RITE OF HALISAH WITH HER. [IF SHE SO CLAIMED] AFTER THE THIRTY DAYS, THEY REQUEST HE PERFORM THE RITE OF HALISAH FOR HER.**

1. **II:1:** [With regard to M. 13:14D-G:] [If, after thirty days,] he says, “I had sexual relations with her,” and she says, “I have not had sexual relations with him,” even though he retracted and claimed, “I did not have sexual relations with her,” he has not got the power to make such a claim, for in the first place he claimed, “I did have sexual relations with her.” But if at the outset he said, “I did not have sexual relations with her,” both of them have the power to uproot the prevailing assumption [by reason of their agreement].

[C] **SO LONG AS HE ADMITS [HER CLAIM] EVEN AFTER TWELVE MONTHS, THEY FORCE HIM TO PERFORM THE RITE OF HALISAH FOR HER. SHE WHO VOWS AGAINST DERIVING BENEFIT FROM HER LEVIR — [IF SHE DOES SO] WHILE HER HUSBAND IS YET ALIVE, THEY FORCE HIM, [THE LEVIR, AFTER THE HUSBAND DIES WITHOUT OFFSPRING] TO PERFORM THE RITE OF HALISAH WITH HER. [IF SHE SO VOWS] AFTER HER HUSBAND’S DEATH, THEY REQUEST FROM HIM THAT HE PERFORM THE RITE OF HALISAH FOR HER. AND IF THAT WAS HER VERY INTENTION, EVEN [IF SHE TOOK THE VOW] WHILE HER HUSBAND WAS YET ALIVE, THEY REQUEST HIM TO PERFORM THE RITE OF HALISAH FOR HER.**

1. **III:1:** [With reference to M. 13:14H, that they force the levir to perform the rite of halisah with her, but not to consummate the levirate marriage,] associates raised the following question: “How shall we interpret this passage? [In line with M. Bekh. 1:7F-I: The requirement of levirate marriage takes precedence over the ceremony of halisah. At first, when they would consummate the levirate marriage for the sake of fulfilling a commandment, that was the case. But now that they do not consummate the levirate marriage for the sake of fulfilling a commandment, they have ruled: The requirement of halisah takes precedence over the requirement of levirate marriage,] if we deal with the first version of the Mishnah, we have learned that it is permitted to enter into levirate marriage. If we follow the latter version of the Mishnah, we have learned that it is permitted to perform the rite of halisah. But have we learned that they force [the levir to perform the rite of halisah and not to enter into levirate marriage]?”

- a. **III:2:** If he said,] “I have had sexual relations with her,” and she said, “I have not had sexual relations with him,” it is obvious that he has to provide her with food. It is obvious that he does not inherit her estate. The point requiring attention is whether he inherits the estate of his deceased childless brother. If she says, “I have had sexual relations with him,” and he says, “I did not have sexual relations with her,” it is self-evident that he does not have to provide food for her. It is obvious that he does not inherit the

estate of his brother. What requires attention is whether he inherits her estate [should she die].

CIX. YERUSHALMI YEBAMOT 14:1

[A] A DEAF-MUTE WHO MARRIED A WOMAN OF SOUND SENSES, OR A MAN OF SOUND SENSES WHO MARRIED A DEAF-MUTE — IF HE WANTED HE PUTS HER AWAY. AND IF HE WANTED, HE CONFIRMS THE MARRIAGE.

- 1. I:1:** How does he put her away with sign language? He makes a sign and then gives to her her writ of divorce [M. 14:1E] [T. Yeb. 13:7FF-GG].

[B] JUST AS HE MARRIES HER BY MEANS OF SIGN LANGUAGE, SO HE PUTS HER AWAY BY MEANS OF SIGN LANGUAGE. A MAN OF SOUND SENSES WHO MARRIED A WOMAN OF SOUND SENSES, AND THE WOMAN BECAME A DEAF-MUTE — IF HE WANTED, HE PUTS HER AWAY. AND IF HE WANTED, HE CONFIRMS THE MARRIAGE. [IF] SHE BECAME AN IDIOT, HE MAY NOT PUT HER AWAY.

- 1. II:1:** The statement of the Mishnah [M. 14:1E: Just as he marries her by means of sign language, so he puts her away by means of sign language] applies to a case in which he betrothed her by a money payment. But if he betrothed her through an act of sexual relations, then his betrothal was through a deed, while his divorce is not based on a deed [and is insufficient to nullify the betrothal].
- 2. II:2:** R. Eleazar asked R. Yohanan, “[He who has sexual relations with] a woman who married a deaf-mute or an idiot — [what is the law? Is the marital tie sufficiently strong that one is punished on this account]?” He said to him, “Even a suspensive guilt-offering [to cover the possibility that she may be legally wed] is not required in her case.” R. Jacob bar Aha in the name of R. Yohanan, R. Hela in the name of R. Eleazar, “Even a suspensive guilt-offering is not required in her case.”

[C] [IF] HE WAS MADE A DEAF-MUTE OR BECAME AN IDIOT, HE MAY NEVER PUT HER AWAY.

- 1. III:1:** Members of the house of R. Yannai said, “It is because of [her ready] involvement [with many men].” Both R. Zeira and R. Ila said, “It is because she cannot keep her writ of divorce [so does not fall under Deut. 24:1].”

CX. YERUSHALMI YEBAMOT 14:2

[A] SAID R. YOHANAN B. NURI, “ON WHAT ACCOUNT DOES A WOMAN WHO BECAME A DEAF-MUTE GO FORTH, BUT A MAN WHO BECAME A DEAF-MUTE DOES NOT PUT AWAY [HIS WIFE BY A WRIT OF DIVORCE]?” THEY SAID TO HIM [TO YOHANAN B. NURI], “THE MAN WHO DIVORCES HIS WIFE IS NOT EQUIVALENT TO A WOMAN WHO RECEIVES A DIVORCE. “FOR A WOMAN GOES FORTH WILLINGLY OR UNWILLINGLY. “BUT A MAN PUTS HIS WIFE AWAY ONLY WILLINGLY.” R. YOHANAN B. GUDGEDA TESTIFIED CONCERNING A DEAF-MUTE WHOSE FATHER MARRIED HER OFF, THAT SHE GOES FORTH WITH A WRIT OF DIVORCE. THEY SAID TO HIM [TO YOHANAN B. NURI], “THIS TOO FOLLOWS THE SAME RULE.”

1. I:1: R. Haninah raised the question before R. Hila, “The stated rule [of Yohanan b. Gudgedah] makes sense with regard to a woman of sound senses, [for she is married with her own will and consent, without the intervention of a third party, and in the case of divorce, likewise, a writ is received by her alone,] so that she goes forth whether willingly or unwillingly. But a deaf-mute, who [cannot express her] will, should go forth only [willingly]. [She was married only at their father’s instance. She should be divorced only with her father’s knowledge and consent. Why is the normal procedure of the writ of divorce applied here?]”

CXI. YERUSHALMI YEBAMOT 14:3

[A] TWO DEAF-MUTE BROTHERS MARRIED TO TWO DEAF-MUTE SISTERS, OR TO TWO SISTERS OF SOUND SENSES, OR TO TWO SISTERS, ONE A DEAF-MUTE AND THE OTHER OF SOUND SENSES, OR TWO DEAF-MUTE SISTERS MARRIED TO TWO BROTHERS OF SOUND SENSES, OR TO TWO DEAF-MUTE BROTHERS, OR TO TWO BROTHERS, ONE A DEAF-MUTE AND ONE OF SOUND SENSES — LO, THESE WOMEN ARE EXEMPT FROM THE RITE OF HALISAH AND LEVIRATE MARRIAGE. BUT IF THEY WERE UNRELATED TO ONE ANOTHER, THEY ENTER INTO MARRIAGE. AND IF THEY [THE MEN IN THE SEVERAL CASES] WANTED TO PUT THEM AWAY, THEY DO PUT THEM AWAY [M. 14:1E].

1. I:1: R. Yohanan said, “[This statement that the women are exempt from the rite of halisah and levirate marriage] does not apply to the opening case [M. 14:3F], but it does apply to the closing case [M. 14:3K-M]. What should have been taught at the outset? When the man of sound senses was married to the woman of sound senses [then there would be no rite of halisah or levirate marriage, since there is a

completely valid marriage, in which case the widow cannot enter into levirate marriage with her sister's husband]. But if the deaf-mute man was married to the woman of sound senses, or the man of sound senses was married to the deaf-mute woman, in such a case, we apply the final rule of the lot, [that is, M.14:3S].”

[B] TWO BROTHERS, ONE DEAF-MUTE AND THE OTHER OF SOUND SENSES [M. 14:3F], MARRIED TO TWO SISTERS OF SOUND SENSES, THE DEAF-MUTE, HUSBAND OF A SISTER OF SOUND SENSES, DIED — WHAT SHOULD THE HUSBAND OF SOUND SENSES WHO IS MARRIED TO THE SISTER OF SOUND SENSES DO? SHE [THE CHILDLESS BROTHER'S WIDOW] SHOULD GO FORTH ON THE GROUNDS OF BEING THE SISTER OF HIS WIFE. [IF] THE HUSBAND OF SOUND SENSES OF A SISTER OF SOUND SENSES DIED, WHAT SHOULD THE DEAF-MUTE WHO IS HUSBAND OF THE SISTER OF SOUND SENSES DO? HE SHOULD PUT AWAY HIS WIFE WITH A WRIT OF DIVORCE, AND THE WIFE OF HIS BROTHER IS PROHIBITED [FOR MARRIAGE TO ANYBODY AT ALL] FOR ALL TIME.

1. II:1: As to her co-wife [at M. 14:3N], what is the law?

CXII. YERUSHALMI YEBAMOT 14:4

[A] TWO BROTHERS OF SOUND SENSES MARRIED TO TWO SISTERS, ONE OF THEM A DEAF-MUTE AND ONE OF THEM OF SOUND SENSES [M. 14:3C], THE HUSBAND OF SOUND SENSES MARRIED TO THE DEAF-MUTE DIED, — WHAT SHOULD THE HUSBAND OF SOUND SENSES MARRIED TO THE WIFE OF SOUND SENSES DO? SHE [THE WIDOW] SHOULD GO FORTH ON GROUNDS OF BEING THE SISTER OF HIS WIFE. IF THE HUSBAND OF SOUND SENSES MARRIED TO THE WIFE OF SOUND SENSES SHOULD DIE, WHAT SHOULD THE HUSBAND OF SOUND SENSES MARRIED TO THE DEAF-MUTE DO? HE PUTS AWAY HIS WIFE WITH A WRIT OF DIVORCE, AND THE WIFE OF HIS BROTHER WITH A RITE OF HALISAH.

1. I:1: As to her co-wife, what is the law?

CXIII. YERUSHALMI YEBAMOT 14:5

[A] TWO BROTHERS, ONE OF THEM A DEAF-MUTE AND ONE OF SOUND SENSES [M. 13:4F], MARRIED TO TWO SISTERS, ONE OF THEM A DEAF-MUTE AND ONE OF SOUND SENSES [M. 14:3C] — M THE DEAF-MUTE HUSBAND MARRIED TO THE DEAF-MUTE WIFE SHOULD DIE, WHAT SHOULD THE HUSBAND OF SOUND SENSES MARRIED TO THE SISTER OF SOUND SENSES DO? SHE [THE WIDOW] SHOULD GO FORTH BECAUSE OF BEING THE SISTER OF HIS WIFE. [IF] THE HUSBAND OF

SOUND SENSES MARRIED TO THE WIFE OF SOUND SENSES SHOULD DIE, WHAT SHOULD THE DEAF-MUTE HUSBAND MARRIED TO THE DEAF-MUTE SISTER DO? HE PUTS AWAY HIS WIFE WITH A WRIT OF DIVORCE, AND THE WIFE OF HIS BROTHER IS PROHIBITED [TO REMARRY] FOR ALL TIME.

1. I:1: As to her co-wife, what is the law?

CXIV. YERUSHALMI YEBAMOT 14:6

[A] TWO BROTHERS, ONE A DEAF-MUTE AND ONE OF SOUND SENSES [M. 14:3F], MARRIED TO TWO WOMEN OF SOUND SENSES NOT RELATED TO ONE ANOTHER [M. 14:3H] – THE DEAF-MUTE HUSBAND OF THE WOMAN OF SOUND SENSES SHOULD DIE, WHAT SHOULD THE HUSBAND OF SOUND SENSES MARRIED TO THE WOMAN OF SOUND SENSES DO? HE EITHER PERFORMS THE RITE OF HALISAH OR TAKES THE WIDOW IN LEVIRATE MARRIAGE. IF THE HUSBAND OF SOUND SENSES OF THE WOMAN OF SOUND SENSES SHOULD DIE, WHAT SHOULD THE DEAF-MUTE HUSBAND OF THE WOMAN OF SOUND SENSES DO? HE MARRIED [THE WIDOW] AND DOES NOT PUT HER AWAY FOR ALL TIME.

1. I:1: What is the law as to her [the woman of sound senses married to the man of sound senses who comes to a levir who is a deaf-mute] eating food in the status of heave-offering?

CXV. YERUSHALMI YEBAMOT 14:7

[A] TWO BROTHERS OF SOUND SENSES MARRIED TO TWO WOMEN UNRELATED TO ONE ANOTHER, ONE OF SOUND SENSES AND ONE A DEAF-MUTE [M 14:3C-H] – [IF] THE HUSBAND OF SOUND SENSES MARRIED TO THE DEAF-MUTE DIES WHAT SHOULD THE HUSBAND OF SOUND SENSES MARRIED TO THE WOMAN OF SOUND SENSES DO? HE SHOULD MARRY HER, AND IF HE WANTS TO PUT HER AWAY, HE PUTS HER AWAY. [IF] THE HUSBAND OF SOUND SENSES MARRIED TO THE WOMAN OF SOUND SENSES SHOULD DIE, WHAT SHOULD THE HUSBAND OF SOUND SENSES MARRIED TO THE DEAF-MUTE WOMAN DO? HE EITHER PERFORMS THE RITE OF HALISAH OR ENTERS INTO LEVIRATE MARRIAGE. TWO BROTHERS, ONE A DEAF-MUTE AND OF [M. 14:3F], MARRIED TO TWO WOMEN UNRELATED TO ONE ANOTHER, ONE A DEAF-MUTE AND ONE OF SOUND SENSES [M 14:3C]. [IF] THE DEAF-MUTE MARRIED TO THE DEAF-MUTE WOMAN SHOULD DIE, WHAT SHOULD THE HUSBAND OF SOUND SENSES MARRIED TO THE WOMAN OF IMPAIRED SENSES DO? HE SHOULD MARRY THE WIDOW, BUT IF HE WANTS TO PUT HER AWAY, HE PUTS HER AWAY. IF THE HUSBAND OF SOUND SENSES MARRIED TO THE WOMAN OF SOUND SENSES SHOULD DIE, WHAT SHOULD

THE DEAF-MUTE MAN MARRIED TO THE DEAF-MUTE WOMAN DO? HE MARRIES HER. AND HE CANNOT PUT HER AWAY FOR ALL TIME.

1. **I:1:** What is the law as to her, [the deaf-mute married to a man of sound senses, who came before a levir], eating food in the status of heave-offering?

CXVI. YERUSHALMI YEBAMOT 15:1

[A] THE WOMAN WHO WENT, SHE AND HER HUSBAND, OVERSEAS, THERE WAS PEACE BETWEEN HER AND HIM, AND THE WORLD WAS AT PEACE, AND SHE CAME AND SAID, “MY HUSBAND DIED” – SHE MAY REMARRY. “MY HUSBAND DIED” – SHE MAY ENTER INTO LEVIRATE MARRIAGE:

1. **I:1:** We invoke a parallel problem at M. Ket. 2:5A-D: The woman who said, “I was married and I am now divorced,” is believed. For the mouth that prohibited is the mouth that permitted. But if there are witnesses that she was married, and she says, “I am divorced,” she is not believed.] Now just as you say there, If there are witnesses that she was married, and she says, I am divorced, she is not believed, so should we say the same here [that she should not be believed? For everyone knows she was a married woman]. The case here is different, when it involves witnesses to the death of the man. Since, should the husband come, he will forth with invalidate her testimony, [there is no reason to lie, since she has to fear that, if she claims he is dead and he is not, he will appear and prove her false. In the other case, by contrast, if he should say, “I never divorced you,” she can readily claim that he had indeed divorced her]. And should she be believed to say, “My levir has died”? You cannot maintain that view, for we have learned there: A woman is not believed to testify, “My levirate brother- in-law has died,” so that she may remarry. Nor is she believed to testify, “My sister has died,” so that she may enter into his [her brother-in-law’s] house [M. Yeb. 15:10R-S].

[B] [If] THERE WAS PEACE BETWEEN HER AND HIM, BUT WAR IN THE WORLD

1. **II:1:** What is the law as to a single witness’s being believed in time of war? Let us derive the answer from the following: There was a man in the time of Rabbi, whom they asked, “Where is So-and-so?” He said to them, “He’s dead.” “Where is So-and-so?” “He too is dead.” He said to him, “Are they all dead?” He said to them, “If they were alive, would they not have come back?” R. Jeremiah in the name of R. Haninah, “The case came before Rabbi, and he ruled, ‘She who has

remarried [on the strength of such testimony] has remarried [and need not go forth], but she who has not remarried should not remarry.”

2. **II:2:** What is the difference [M. 15:1G] between the time at which there is peace in the world and the time at which there is war? In a time of war she may suppose that he is dead, and he did not die. [Hence she is not believed.]

[C] **STRIFE BETWEEN HIM AND HER, BUT THE WORLD WAS AT PEACE, AND SHE CAME AND SAID, “MY HUSBAND DIED” – SHE IS NOT BELIEVED.**

1. **III:1:** [With reference to M. 15:1H, strife between him and her:] What is the definition of “strife”? R. Ba in the name of R. Hiyya bar Ashi, “[If she claimed,] ‘You did not betroth me and you did not divorce me, and I have never been your wife,’ this is not a definition of strife. ‘You betrothed me and you divorced me, but you did not pay off my marriage settlement’ – lo, that is a definition of strife.”

[D] **R. JUDAH SAYS, “UNDER NO CIRCUMSTANCES IS SHE BELIEVED UNLESS SHE CAME IN TEARS, WITH HER GARMENTS TORN [AS A SIGN OF MOURNING].” THEY SAID TO HIM, “ALL THE SAME [ARE ONE WHO CRIES, WEARING TORN GARMENTS, AND ONE WHO DOES NOT CRY, WEARING NEAT GARMENTS] – SHE MAY REMARRY [UNDER THE STATED CIRCUMSTANCES].”**

1. **IV:1:** They objected to R. Judah, “Now what if one of them came in tears, and one did not come in tears. Are you going to prohibit one and release the other?” R. Hananiah, associate of the rabbis, replied, “What if her son went overseas and died there. I may claim [that if she is crying], it is because she remembers him and weeps on his account.”

CXVII. YERUSHALMI YEBAMOT 15:2

[A] **THE HOUSE OF HILLEL SAY, “WE HAVE HEARD [THAT THE WOMAN’S TESTIMONY CONCERNING THE DEATH OF HER HUSBAND IS ACCEPTED] ONLY IN A CASE IN WHICH SHE COMES BACK FROM THE GRAIN HARVEST AND IS IN THE SAME TERRITORY.” SAID TO THEM THE HOUSE OF SHAMMAI, “ALL THE SAME ARE ONE WHO COMES HOME FROM THE GRAIN HARVEST, AND THE ONE WHO COMES HOME FROM HARVESTING OLIVES, AND ONE WHO COMES FROM CUTTING GRAPES, AND ONE WHO COMES HOME FROM ONE PROVINCE TO ANOTHER. SAGES SPOKE ABOUT THE GRAIN HARVEST ONLY BECAUSE THAT IS COMMONPLACE.” THE HOUSE OF HILLEL REVERTED AND TAUGHT THE LAW IN ACCORD WITH THE OPINION OF THE HOUSE OF SHAMMAI.**

1. **I:1:** Said the House of Shammai to them, “And is not the entire year harvest time? How so? When the barley harvest is over, the wheat harvest comes, when the wheat harvest is over, the time of picking grapes comes, when the time of picking grapes is over, the time of cutting olives comes. It turns out that the whole year is harvest-time.” In that way they proved their case.

CXVIII. YERUSHALMI YEBAMOT 15:3

[A] **THE HOUSE OF SHAMMAI SAY, “SHE [WHO TESTIFIES THAT HER HUSBAND HAS DIED] REMARRIES AND COLLECTS HER MARRIAGE CONTRACT [IN THE CASE OF M. 15:IA-F].” AND THE HOUSE OF HILLEL SAY, “SHE REMARRIES BUT DOES NOT COLLECT HER MARRIAGE CONTRACT.” THE HOUSE OF SHAMMAI SAID TO THEM, “YOU HAVE PERMITTED [HER TO REMARRY], THAT IS [RELEASING], THE STRICT PROHIBITION CONCERNING SEXUAL RELATIONS. WILL YOU NOT PERMIT [HER TO COLLECT HER MARRIAGE CONTRACT], THAT IS [INVOLVING] THE LENIENT RULE CONCERNING MONEY?” THE HOUSE OF HILLEL SAID TO THEM, “WE FIND [IN THE LAW] THAT BROTHERS IN ANY EVENT DO NOT INHERIT THE ESTATE ON THE BASIS OF HER TESTIMONY [SINCE TWO WITNESSES ARE REQUIRED (DEUT. 19:15)].” THE HOUSE OF SHAMMAI SAID TO THEM, “BUT SHALL WE NOT LEARN FROM THE DOCUMENT OF HER MARRIAGE CONTRACT, WHICH HE WRITES OVER TO HER: ‘IF YOU ARE MARRIED TO SOMEONE ELSE, YOU [ALSO] MAY COLLECT WHAT IS HEREIN PROMISED IN WRITING FOR YOU ‘?’” THE HOUSE OF HILLEL REVERTED AND TAUGHT THE LAW IN ACCORD WITH THE OPINION OF THE HOUSE OF SHAMMAI.**

1. **I:1:** As to the daughter, what is the law on their deriving support from the estate of the allegedly deceased father on the strength of the woman’s testimony that he has died? The House of Shammai interpret the language [of the marriage contract]: The House of Shammai answered, “Shall we not learn from her marriage contract, which he writes over to her: ‘If you be married to someone else, you may collect what here is promised in writing to you’?” The House of Hillel reverted to teach according to the opinion of the House of Shammai [M. Yeb. 15:3].
2. **I:2:** Members of the House of Hillel made an exegesis of the ordinary language of the marriage settlement. Hillel the Elder made an exegesis of the ordinary language [of legal documents and not merely of the text of the Torah]. So did they write [the marriage contract] in Alexandria. When the Alexandrians would betroth a woman, afterward someone else would come along and grab her right out of the market. An

incident of this sort came before sages, and they contemplated declaring their children to be mamzers. Hillel the Elder said to them, “Show me the marriage contract of your mothers.” They showed them to him, and written in it was the following language: “When you will enter my house, you will be my wife in accord with the law of Moses and the Jews,” [not before that time, on the strength of which he decided that they were not [mamzers] [T. Ket. 4:9].

3. **I:3:**R. Eleazar b. Azariah made an exegesis of the language of the marriage settlement. Thus did R. Eleazar b. Azariah interpret it: “The sons will inherit the estate, and the daughters will be maintained by it. Just as the sons inherit the estate only after the death of their father, so too the daughters are supported only after the death of their father” [M. Ket. 4:8C].
4. **I:4:** R. Meir expounded, [Yerushalmi: the language of a contract], “He who receives a field as a sharecropper from his fellow, and, once he had acquired possession of it, he neglected it – they make an estimate of how much it is suitable to produce and he pays that sum to him. For thus does he write to him, ‘If I neglect and I do not work it, I shall pay you from the best produce’” [T. Ket. 4:10].
5. **I:5:** R. Judah expounded [Yerushalmi: the language of the marriage contract]: “A man brings in behalf of his wife all the offerings that she owes, “even if she ate prohibited fat, or even if she desecrated the Sabbath. “For thus does he write for her [in her marriage contract], ‘And obligations that you owe Win be mine from before up to now.’ “[If] she gave him a quittance for part of her marriage contract, she gave him a quittance for the whole. “For thus does she write for him [in the quittance], ‘Obligations that you owe will be mine from before up to now’” [T. Ket. 4 :11].
6. **I:6:** R. Yosé expounded the language of the marriage contract. R. Yosé [Yerushalmi drops: the Galilean] expounded, “In a place in which they collect the marriage contract as a loan, they collect it as a loan, and they do not collect the [full amount] of the marriage contract. In a place in which they double the sum of the marriage contract, they collect only half” [T. Ket. 4:13]
7. **I:7:** R. Eleazar Haqqappar expounded the language of the marriage contract. R. Eleazar Haqqappar expounded, “A man has not got the right to purchase a domesticated beast, a wild beast, or a bird, unless he has provided food for them.”

- 8. I:8:** R. Joshua b. Qorha expounded the language of the marriage contract [in the Tosefta's version]: R. Joshua b. Qorha expounded "He who lends money to his fellow should not exact a pledge greater than his debt. "For thus does he [the borrower] write to him [in the document of loan], "You will be paid from my property, from property that I acquire from beforehand up to now" [T. Ket. 4:12].
- 9. I:9:** R. Huna expounded the language of the marriage contract. So did R. Huna expound: "The sons will inherit the estate and the daughters will be supported by it. "Just as the sons inherit movables, so the daughters are supported by the sale of movables." Samuel said, "The daughters are not supported by the sale of movables."
- 10. I:10:** He who enters his wife's estate and contemplates divorcing her, if he went ahead and plucked up produce from the ground in any measure at all, lo, this one is rewarded for his promptness [M. Ket. 8:4]. He who enters into an expropriated estate and heard a report that they [assumed to have died and left the estate] are returning – if he went ahead and plucked up produce from the ground in any measure at all, lo, this one is rewarded for his promptness. What is meant by the expropriated estate? Any whose father or brothers or one of those who leave him an inheritance went overseas and he heard that they had died, and he entered into his inheritance. What is an abandoned estate? It is any estate, the death of the owner of which has not been reported, but into which one nonetheless has entered for purpose of inheritance. R. Simeon b. Gamaliel says, "I have heard that an expropriated estate is equivalent to an abandoned estate. "He who takes over an abandoned estate – they retrieve it from his possession. "And in the case of all of them, they estimate their value [for restoring what is misappropriated] as if he is a tenant- farmer." What is abandoned property? Any of which the location of the owner is not known [T. Ket. 8:2-3].

CXIX. YERUSHALMI YEBAMOT 15:4

- [A] ALL ARE BELIEVED TO TESTIFY IN HER BEHALF THAT HER HUSBAND HAS DIED, EXCEPT FOR HER MOTHER-IN-LAW, THE DAUGHTER OF HER MOTHER IN-LAW, HER CO-WIFE, HER SISTER-IN-LAW [WHO WILL ENTER LEVIRATE MARRIAGE IN CASE THE HUSBAND HAS DIED CHILDLESS], AND THE DAUGHTER OF HER HUSBAND [BY ANOTHER MARRIAGE]. WHAT IS THE DIFFERENCE BETWEEN EVIDENCE FOR [SEVERING A MARITAL RELATIONSHIP] THROUGH A WRIT OF DIVORCE AND [EVIDENCE FOR DOING SO] THROUGH DEATH?**

- I:1:** It has been taught: Just as they, [listed at M. 15:4A], are not believed to testify in her regard, so she is not believed to testify in their regard. The son of her mother-in-law is in the status of the daughter of her mother-in-law. The son of her husband is in the status of the daughter of her husband. [In the case of] her co-wife: Even if she already has remarried. Her sister-in-law: Even if she is her sister [and cannot marry the levir anyhow].

[B] THE WRITTEN DOCUMENT [OF DIVORCE] PROVES THE MATTER:

- II:1:** [As to M. 15:4B-C:] And the written document of divorce proves the matter. And do they not believe what she says [at all, but do they rely only on the writ? She has to testify, “In my presence it was written and signed,” and] if she does not make that statement, she cannot be released to remarry. [Accordingly, her testimony is taken into account, and not only the evidence of the document itself.]

[C] [IF] ONE WITNESS SAYS, “HE DIED,” AND SHE REMARRIED, AND THEN ANOTHER WITNESS COMES AND SAYS, “HE DID NOT DIE,” LO, THIS WOMAN DOES NOT GO FORTH [FROM THE SECOND MARRIAGE]:

- III:1:** It is because he made his statement after she had remarried that she does not go forth, Lo, if he had made his statement prior to her remarriage, and then she remarried, she must go forth.

[IV] [IF] ONE WITNESS SAYS, “HE DIED,” AND TWO WITNESSES SAY, “HE DID NOT DIE,” THEN EVEN THOUGH SHE HAS REMARRIED, SHE GOES FORTH. TWO WITNESSES SAY, “HE DIED,” AND ONE WITNESS SAYS, “HE DID NOT DIE,” EVEN THOUGH SHE HAS NOT REMARRIED, SHE MAY REMARRY.

- IV:1:** R. Nahman bar Jacob in the name of Rab: “If she was married on the basis of the testimony of two witnesses [M. 15:4F] [that the husband had died], even if the husband then should come, they say to her, ‘He is not with us. [We do not recognize you.]’”

CXX. YERUSHALMI YEBAMOT 15:5

- [A] [IF] ONE WOMAN [CO-WIFE] SAYS, “HE DIED, AND ONE [CO-WIFE] SAYS, “HE DID NOT DIE,” THIS ONE WHO SAYS, “HE DIED,” MAY REMARRY AND COLLECT HER MARRIAGE CONTRACT, AND THAT ONE WHO SAYS, “HE DID NOT DIE,” MAY NOT REMARRY AND MAY NOT COLLECT HER MARRIAGE CONTRACT. [IF] ONE WOMAN SAYS, “HE DIED,” AND ONE SAYS, “HE WAS KILLED” – R. MEIR SAYS, “SINCE THEY CONTRADICT ONE ANOTHER [IN DETAILS OF THEIR TESTIMONY], LO, THESE WOMEN MAY NOT REMARRY.” R. JUDAH AND R.**

SIMEON SAY, “SINCE THIS ONE AND THAT ONE ARE IN AGREEMENT THAT HE IS NOT ALIVE, THEY MAY REMARRY.”

- 1.** **I:1:** R. Jacob bar Aha in the name of R. Yohanan, R. Hela in the name of R. Eleazar: “R. Meir concurs in regard to the former [in which one wife says he died and the other that he did not die, that the woman may remarry].” It has been found taught [to the contrary] as follows: The matter is subject to dispute [between Meir and sages] both in regard to the former matter and in regard to the latter one.
- 2.** **I:2:** Said R. Eleazar, “R. Judah and R. Simeon concur in regard to witnesses. [That is, if one says he has died and one says he has not died, there is a contradiction in the testimony of the two witnesses, and the testimony is null.]”
- 3.** **I:3:** There we have learned: He concerning whom two groups of witnesses gave testimony – these testify that he took a vow to be a Nazir for two spells, and those testify that he took a vow to be a Nazir for five spells – The House of Shammai say, “The testimony is at variance, and no Naziriteship applies here at all.” And the House of Hillel say, “In the sum of five are two spells, so let him serve out two spells of Naziriteship” [M. Naz. 3:7]. Rab said, “As to a general number [the Houses] are in disagreement, [that is, as to whether he has taken the Nazirite vow at all.. But as to a specific number, all parties agree that (the testimony is at variance). [Following the versions of Y. Yeb. 5:5, M. Naz. 3:7: The sum of five includes two, as at M. 5:2F.]” R. Yohanan said, “As to spelling out the number of vows there is a difference of opinion, but as to a general number, all parties concur that (within the general principle of five spells of Naziriteship there are two upon which all parties concur). [Following the parallels: the testimony is at variance.]”

CXXI. YERUSHALMI YEBAMOT 15:6

[A] [IF] ONE WITNESS SAYS, “HE HAS DIED,” AND ONE WITNESS SAYS, “HE HAS NOT DIED,” [OR] A WOMAN SAYS, “HE HAS DIED,” AND A WOMAN SAYS, “HE HAS NOT DIED” – LO, THIS WOMAN MAY NOT REMARRY.

- 1.** **I:1:** Giddul bar Minyamin in the name of Rab: “In any case in which [sages] have declared the testimony of a woman to be as valid as - that of a man, the testimony of a man serves to discredit that of a woman, and the testimony of a woman serves to discredit that of a man.”

2. **I:2:** It was taught in the name of R. Nehemiah, “They follow the majority of the [available] testimony.”

CXXII. YERUSHALMI YEBAMOT 15:7

[A] **A** WOMAN WHO WENT, SHE AND HER HUSBAND, OVERSEAS, AND CAME AND SAID, “MY HUSBAND HAS DIED,” REMARRIES AND COLLECTS HER MARRIAGE CONTRACT [M. 15:3]. AND HER CO-WIFE IS PROHIBITED [FROM REMARRYING, FOR A WOMAN IS NOT BELIEVED CONCERNING THE DEATH OF HER HUSBAND SO AS TO FREE HER CO-WIFE FROM THE MARITAL TIE, AS AT M. 15:4]. [If] SHE [THE CO-WIFE] WAS AN ISRAELITE GIRL MARRIED TO A PRIEST, “SHE CONTINUES TO EAT HEAVE-OFFERING,” THE WORDS OF R. TARFON. R. AQIBA SAYS, “THUS IS NOT THE WAY TO REMOVE HER FROM THE TOILS OF TRANSGRESSION, UNLESS SHE IS BOTH PROHIBITED FROM REMARRYING AND PROHIBITED FROM EATING HEAVE-OFFERING.”

1. **I:1:** [Explaining M. 15:7D], she is suspect of ruining her own situation in order to ruin that of her co-wife.

CXXIII. YERUSHALMI YEBAMOT 15:8

[A] [If] SHE SAID “MY HUSBAND DIED AND AFTERWARD MY FATHER-IN-LAW DIED,” SHE MAY REMARRY AND COLLECT HER MARRIAGE CONTRACT. BUT HER MOTHER-IN-LAW IS PROHIBITED [FROM DOING SO]. [If] SHE [THE MOTHER-IN-LAW] WAS A PRIEST-GIRL MARRIED TO AN ISRAELITE, OR AN ISRAELITE GIRL MARRIED TO A PRIEST, “SHE CONTINUES TO EAT HEAVE-OFFERING,” THE WORDS OF R. TARFON. R. AQIBA SAYS, “THIS IS NOT THE WAY TO REMOVE HER FROM THE TOILS OF TRANSGRESSION, UNLESS SHE IS BOTH PROHIBITED FROM REMARRYING AND PROHIBITED FROM EATING HEAVE-OFFERING “

1. **I:1:** And let her be believed to testify, “My father-in-law died” [vs. M. 15:8B].

CXXIV. YERUSHALMI YEBAMOT 15:9

[A] [If] A MAN BETROTHED ONE OF FIVE GIRLS AND IT IS NOT KNOWN WHICH ONE OF THEM HE BETROTHED, [AND] EACH ONE OF THEM SAYS, “ME DID HE BETROTH” – HE GIVES A WRIT OF DIVORCE TO EACH ONE OF THEM. “BUT HE LEAVES THE MARRIAGE CONTRACT AMONG THEM, AND TAKES HIS LEAVE,” THE WORDS OF R. TARFON. R. AQIBA SAYS, “THUS IS NOT THE WAY TO REMOVE

HUM FROM THE TOILS OF TRANSGRESSION, “UNLESS HE GIVES A WRIT OF DIVORCE AND PAYS OFF THE MARRIAGE CONTRACT TO EACH AND EVERY ONE OF THEM.” [IF] ONE STOLE FROM ONE OF FIVE MEN AND DOES NOT KNOW FROM WHICH ONE OF THEM HE STOLE, [AND] EACH ONE OF THEM SAYS, “FROM ME DID HE STEAL,” “HE LEAVES THAT WHICH HE STOLE AMONG THEM AND TAKES HIS LEAVE,” THE WORDS OF R. TARFON. R. AQIBA SAYS, “THIS IS NOT THE WAY TO REMOVE HIM FROM THE TOILS OF TRANSGRESSION, UNLESS HE PAYS THE VALUE OF THAT WHICH WAS STOLEN TO EACH AND EVERY ONE OF THEM.”

1. **I:1:** Said R. Assi, “The following Tannaitic teaching expresses the view of R. Aqiba and not of R. Tarfon, for we have learned there: “I stole from one of you a maneh, but it is not known from which one of you I stole it,” or: “The father of one of you deposited a maneh with me, and it is not known to me the father of which one of you it was,” he gives a maneh to this one and a maneh to that one, for he himself confessed the matter on his own [T. Yeb. 14:2G-I].”

CXXV. YERUSHALMI YEBAMOT 15:10

[A] **THE WOMAN WHO WENT, SHE AND HER HUSBAND, OVERSEAS, AND HER SON WAS WITH THEM — AND SHE CAME AND SAID, “MY HUSBAND DIED, AND AFTERWARD MY SON DIED”**

1. **I:1:** R. Hananiah raised the following question before R. Ila: “Who is the Tannaite authority who has taught, They scruple on account of her testimony, so that she performs the rite of halisah [M. 15:10F]? The authority behind that statement surely is R. Tarfon, and not R. Aqiba. [At M. 15:8, Tarfon says that we pay no attention whatsoever to the statement of the co-wife, on which account the Israelite-girl married to a priest continues to eat heave-offering. Aqiba does take some account of what the co-wife has said, on which count he rules the woman may no longer eat such food.]”

[B] **SHE IS BELIEVED. [IF SHE SAID], “MY SON DIED, AND AFTERWARD MY HUSBAND DIED,” SHE IS NOT BELIEVED, BUT THEY SCRUPLE ON ACCOUNT OF HER TESTIMONY, SO THAT SHE PERFORMS THE RITE OF HALISAH, BUT SHE DOES NOT ENTER INTO LEVIRATE MARRIAGE. “A SON WAS GIVEN UNTO ME OVERSEAS,” AND, SHE SAID, “MY SON DIED, AND THEN MY HUSBAND DIED” — SHE IS BELIEVED. “MY HUSBAND DIED, AND AFTERWARD MY SON DIED” — SHE IS NOT BELIEVED. BUT THEY SCRUPLE ON ACCOUNT OF HER TESTIMONY, SO THAT SHE PERFORMS THE RITE OF HALISAH, BUT SHE DOES NOT ENTER INTO LEVIRATE MARRIAGE. “A LEVIRATE BROTHER-IN-LAW WAS GIVEN UNTO ME**

OVERSEAS,” AND, SHE SAID, “MY HUSBAND DIED, AND AFTERWARD MY LEVIRATE BROTHER-IN LAW DIED,” “MY LEVIRATE BROTHER-IN-LAW DIED AND AFTERWARD MY HUSBAND SHE IS BELIEVED. [IF] SHE WENT, SHE AND HER HUSBAND AND HER LEVIRATE BROTHER IN-LAW, OVERSEAS, AND SHE SAID, “MY HUSBAND DIED AND AFTERWARD MY LEVIRATE BROTHER-IN-LAW DIED,” “MY LEVIRATE BROTHER-IN-LAW DIED AND AFTERWARD MY HUSBAND DIED” — SHE IS NOT BELIEVED. FOR A WOMAN IS NOT BELIEVED TO TESTIFY, “MY LEVIRATE BROTHER IN-LAW HAS DIED,” SO THAT SHE MAY REMARRY. NOR IS SHE BELIEVED TO TESTIFY, “MY SISTER HAS DIED,” SO THAT SHE MAY ENTER INTO HIS [HER BROTHER-IN-LAW’S] HOUSE. AND A MAN IS NOT BELIEVED TO SAY, “MY BROTHER HAS DIED,” SO THAT HE MAY ENTER INTO LEVIRATE MARRIAGE WITH HIS [THE BROTHER’S] WIFE. [NOR IS HE BELIEVED TO TESTIFY,] “MY WIFE DIED,” SO THAT HE MAY MARRY HER SISTER.

1. **I:1:** [With reference to the contrast between M. 15:10C-D and E — that she is believed when she says the husband died first, then the son, but not, the son died first, then the husband, on the one side — and M. 15:10M. At 15:10G-I, she is believed when she said the son died, then the husband, but not, the husband died, then the son] — what is the difference between this latter case and the former one? For why is it that] here you rule that she is not believed, and there you say, she is believed?

CXXVI. YERUSHALMI YEBAMOT 16:1

[A] A WOMAN WHOSE HUSBAND AND CO-WIFE WENT OVERSEAS AND THEY CAME AND SAID TO HER, “YOUR HUSBAND HAS DIED,” SHOULD NOT REMARRY [WITHOUT HALISAH] OR ENTER INTO LEVIRATE MARRIAGE, UNTIL SHE ASCERTAINS WHETHER HER CO-WIFE IS PREGNANT.

1. **I:1:** Rab asked R. Hiyya the Elder, “Why should she wait for three months? Let her perform the rite of halisah forthwith. For what difference does it make? If the foetus is viable, then the rite of halisah will not have affected the woman. If the foetus is not viable, then the woman’s rite of halisah is already within her domain, [and she should not be required to obtain the rite after a long delay.]” He said to him, “The requirement concerning three months applies only with regard to the woman herself [to ascertain that she is not pregnant. It is not on account of the co-wife].”

[B] [IF] SHE HAD A MOTHER-IN-LAW, [HOWEVER] SHE DOES NOT HAVE TO SCRUPLE CONCERNING HER [THE MOTHER-IN-LAW’S POSSIBLE PREGNANCY, WHICH MAY BRING FORTH A LEVIR, ON WHOM SHE THEN WOULD HAVE TO WAIT].

- 1.** **II:1:** [As to M. 16:1C-D,] associates in the name of R. Yohanan: “The reason for the position of rabbis [that she does not have to wait on the news of her mother-in-law’s possible pregnancy] is that Scripture says, ‘When brothers will dwell together’ (Deut. 25:5) – under conditions of certainty, not in a case of doubt.”

[C] [AND IF] SHE [THE MOTHER-IN-LAW] WENT AWAY FULL [OF CHILD], SHE MUST SCRUPLE [CONCERNING HER].

- 1.** **III:1:** This is a case in which there is only one matter of doubt, whether or not it is male or female, and in such a case, so far as the law of the Torah is concerned, one applies the law strictly.

[D] R. JOSHUA SAYS, “SHE DOES NOT HAVE TO SCRUPLE [CONCERNING HER].”

- 1.** **IV:1:** This is a case in which, in fact, there are two matters of doubt. First it is a matter of doubt whether it is a male or female, second, it is a matter of doubt whether the foetus is viable or not viable. In a case in which there are two matters of doubt, so far as the law of Torah is concerned, one applies the law leniently.

CXXVII. YERUSHALMI YEBAMOT 16:2

[A] TWO SISTERS-IN-LAW [WIVES OF TWO BROTHERS] – THIS ONE SAYS, “MY HUSBAND DIED,” AND THAT ONE SAYS, “MY HUSBAND DIED” – THIS ONE IS PROHIBITED ON ACCOUNT OF THE HUSBAND OF THAT ONE [TO WHOM SHE IS BOUND IN A LEVIRATE CONNECTION], AND THAT ONE IS PROHIBITED ON ACCOUNT OF THE HUSBAND OF THIS ONE. [IF] THIS ONE HAS WITNESSES [WHO TESTIFY INDEPENDENTLY THAT THE HUSBAND HAS DIED], AND THAT ONE DOES NOT HAVE WITNESSES – THE ONE WHO HAS WITNESSES IS PROHIBITED. AND THE ONE WHO DOES NOT HAVE WITNESSES IS PERMITTED. [IF] THIS ONE [OF A] HAS CHILDREN AND THAT ONE DOES NOT HAVE CHILDREN, THE ONE WHO HAS CHILDREN IS PERMITTED, AND THE ONE WHO DOES NOT HAVE CHILDREN IS PROHIBITED. [IF] THEY ENTERED INTO LEVIRATE MARRIAGE AND THE LEVIRS DIED, THEY ARE PROHIBITED FROM REMARRYING.

- 1.** **I:1:** Two women – this one has witnesses [to the effect that her husband has died] and children, and that one has no witnesses and no children [M. 16:2E-H] – both of them are permitted [to remarry]. [If one has witnesses that her husband has died and also has children, she obviously may remarry. The other is believed that her husband has died. And because the co-wife has witnesses, the other also has no levir available and may remarry. This is entirely obvious] [T. Yeb. 14:3Q-R].

[B] R. ELEAZAR SAYS, “SINCE THEY WERE PERMITTED TO MARRY THE LEVIRS [WHO THEN DIED], THEY ARE PERMITTED TO MARRY ANYONE [HEREAFTER].”

- 1. II:1:** What is the reason for the view of R. Eleazar [M. 16:2K]? Is it because he holds that a woman is not suspect of wishing to ruin the situation of her co-wife in any way? [In that case he would hold that a co-wife may give testimony as to the status of her fellow wife. Or does he hold that a woman will not so testify as to ruin her own situation?]

CXXVIII. YERUSHALMI YEBAMOT 16:3

[A] THEY DERIVE TESTIMONY [CONCERNING THE IDENTITY OF A CORPSE] ONLY FROM THE APPEARANCE OF THE WHOLE FACE WITH THE NOSE

- 1. I:1:** [With reference to M. 16:3A,] R. Judah said, “The nose with the cheeks.”
- 2. I:2:** It is written, “Abijah and his people slew them with a great slaughter; [so there fell slain of Israel five hundred thousand picked men]” (2 Chr. 13:17). Said R. Aba b. Kahana, “He removed the Israelite’s noses.” That is in line with what is written, “The point of recognition of their faces witnesses against them” (Is. 3:9). This refers to the nose.

[B] EVEN THOUGH THERE ARE SIGNS OF THE CORPSE’S IDENTITY ON HIS BODY OR GARMENTS. THEY DERIVE TESTIMONY [THAT A MAN HAS DIED] ONLY AFTER HE HAS ACTUALLY DIED LAND HAS BEEN SEEN DEAD]:

- 1. II:1:** Has it not been taught: How do you know that if your brother has lost his way, you restore him? [Scripture says, “And so shall you do with any lost thing of your brother’s, which he loses and you find; you may not withhold your help” (Deut. 22:3).] This applies both to his person and to his clothing. [It follows that one does take account of identifying marks on garments.] [Why then do we not take account of identifying marks on garments here?] The case here is different, for as to identifying marks on garments, they generally change with time.

[C] AND EVEN IF THEY [THE WITNESSES] SAW HIM MORTALLY WOUNDED, CRUCIFIED, OR BEING EATEN BY A WILD BEAST. THEY GIVE TESTIMONY [ABOUT THE IDENTITY OF A CORPSE] ONLY DURING THE PERIOD OF THREE DAYS [AFTER DEATH].

- 1. III:1:** [In the case of the wounding,] I say that he was smitten with a white-hot sword, and he survived. In the case of one who was being

crucified on the cross: I say that a Roman matron passed by and redeemed him. A wild beast eating him: I say that they had mercy on him from heaven, [and he survived]. If he fell into a lion's pit, they do not give testimony concerning him [T. Yeb. 14:4A]: I say, "A miracle was done for him, as for Daniel." If he fell into a furnace of fire, they do not give testimony concerning him [T. Yeb. 14:4B]: I say, "A miracle was done for him as for Hananel, Mishael, and Azariah."

[D] **R. JUDAH B. BABA SAYS, "[DECAY IN CORPSES] IS NOT ALIKE FOR ALL MEN, ALL PLACES, AND ALL TIMES."**

1. **IV:1:** [As to the view of] R. Judah b. Baba [M. 16:3F], R. Zeira, R. Hananel in the name of Rab: "The law accords with the view of R. Judah b. Baba."

CXXIX. YERUSHALMI YEBAMOT 16:4

[A] [If] HE FELL INTO A BODY OF WATER, WHETHER WITHIN SIGHT OF SHORE OR NOT WITHIN SIGHT OF SHORE — HIS WIFE IS PROHIBITED [UNTIL THE CORPSE TURNS UP]. SAID **R. MEIR, M'SHB:** "A CERTAIN PERSON FELL INTO A LARGE CISTERN, AND CAME UP [ALIVE] AFTER THREE DAYS." SAID **R. YOSÉ, M'SH B:** "A BLIND MAN WENT DOWN TO IMMERSE IN A CAVE, AND HIS GUIDE WENT DOWN AFTER HIM, AND THEY STAYED [IN THE WATER] LONG ENOUGH TO DROWN, "AND THEY [THE SAGES] PERMITTED THEIR WIVES TO MARRY."

1. **I:1:** If] he fell into a body of water, whether within sight of shore or not within sight of shore, his wife is prohibited," the words of R. Meir [M. Yeb. 16:4A-B]. And sages say, "[If it is] within sight of shore, she is permitted [to remarry]. [If it is] not within sight of shore, his wife is prohibited [from marrying]. For a wave may have picked him up and thrown him back onto dry land." Said R. Meir, M'SH B: "A certain man fell into a large cistern and came up after thirty days" [M. Yeb. 16:4C]. They said to him, "They do not adduce a miracle story in evidence." [T. Yeb. 14:6]. Said Rabbi, M'SH B: "Two men were fishing with traps in the Jordan. And one of them went into an underwater cave of fish. He tried to leave but could not find the exit of the cave. His fellow waited for him long enough for him to have died through drowning, and then reported the matter in his home. "At dawn the sun came up, and the man [trapped in the cave] saw the way out of the cave, and came home, and found a mourning party in his house." Said R. Aqiba, "When I was traveling on the sea, I saw a ship struggling in the waves, and I was saddened for the fate of a disciple of sages who was on board. And when I came to Caesarea-Mazaca in

Cappodocia, I saw him in session and asking questions of law before me. ~ “I said to him, ‘My son, how did you escape from the ocean?’ He said to me, ‘One wave tossed me to the next, and the next to the next, until I came up on dry land.’ “I said, ‘How great are the words of sages. For they have said, “‘If it is within sight of shore, his wife is permitted to remarry. If it is not within sight of shore, his wife is prohibited”” [M. Yeb. 16:4A-B] [T. Yeb. 14:5].

[B] SWB MSHB: “A CERTAIN MAN IN ASYA WAS LET DOWN BY A ROPE INTO THE SEA, AND THEY DREW BACK UP ONLY HIS LEG. “SAGES SAID, ‘IF [THE RECOVERED PART INCLUDED] FROM THE KNEE AND ABOVE, [HIS WIFE] MAY REMARRY. [IF] THE RECOVERED PART INCLUDED ONLY FROM THE KNEE AND BELOW, SHE MAY NOT REMARRY.””

1. **II:1:** They wanted to harvest sponges [and when they came to sell them], they came and found him working as a moneychanger in Acre.
2. **II:2:** R. Haggai asked before R. Yosé, “[As to finding that the recovered part, M. 16:4G, included from the knee and above, in which case it is assumed that the man cannot have lived], is it not reasonable that they assign to him an interval [of waiting for probable death, which is up to twelve months]?”

CXXX. YERUSHALMI YEBAMOT 16:5

[A] EVEN IF ONE HEARD THE WOMEN SAYING, “SO-AND-SO HAS DIED,” IT IS SUFFICIENT [FOR HIM TO GO AND TESTIFY IN COURT THAT SO-AND-SO HAS DIED]. R. JUDAH SAYS, “EVEN IF HE HEARD CHILDREN SAYING, ‘LO, WE’RE ON OUR WAY TO LAMENT AND BURY MR. SO-AND-SO,’ [THAT SUFFICES]:

1. **I:1:** Even if one heard the sound of professional mourners, mentioning his name among the deceased – there is no more solid evidence than that. [If] one heard an Israelite court declare, “So-and-so, son of so-and-so, is dead,” or “has been killed,” his wife may remarry. [If] one heard royal bureaucrats saying, “So-and-so, son of so-and-so, is dead,” or “has been slain,” his wife should not remarry [T. Yeb. 14:7A-D].

[B] “WHETHER ONE INTENDED OR DID NOT INTEND [TO GIVE TESTIMONY].” R. JUDAH B. BABA SAYS, “IN THE CASE OF AN ISRAELITE, THIS IS VALID ONLY IF HE INTENDED TO GIVE TESTIMONY. “AND IN THE CASE OF A GENTILE, IF HE INTENDED TO GIVE TESTIMONY, HIS TESTIMONY IS NOT VALID.”

1. **II:1:** What is the meaning of intending to give testimony? R. Yohanan says, “It is any case in which the wife is mentioned [to the one who is

to give testimony, so that by saying the husband has died he may intend to permit her to remarry].” R. Simeon b. Laqish said, “It is any case in which they commence the proceeding by asking him what has happened, and he replies.”

- 2.** **II:2:** They do not cross-examine witnesses in matters concerning a wife’s [remarrying by reason of her husband’s death]. R. Tarfon and R. Aqiba say, “They do cross-examine witnesses in matters concerning wives.” **M’SH B:** A certain man came before R. Tarfon to give testimony concerning a woman [that her husband had died so] she may remarry. He said to him, “My son, how do you know testimony for this woman?” He said to him, “Rabbi, [the husband] was with us on a caravan, and a gang fell on us, and he grabbed the branch of a fig tree and tore it off. And he drove the gang back. “And I said to him, ‘I congratulate you, Lion!’ “He said to me, ‘That’s just what I’m called in my village, Yohanan b. Yonatan, the lion of the town of Shahara.”” He [Tarfon] said to him, “Well said, my son, Yonatan b. Yohanan, the lion of the town of Shabara.” He said to him, “No, Rabbi. It was Yohanan b. Yonatan, the lion of the town of Shahara.” He said to him, “But did you not just say, ‘Yonatan b. Yohanan, of the town of Shabara, a lion?’” He said to him, “But his name was Yohanan b. Yonatan, of the town of Shahara.” After some days he fell ill and died, and R. Tarfon examined his testimony and permitted his wife to remarry. Now we may say that there is nothing in that story, [and Tarfon holds that they do not cross-examine]. There is the following Tannaitic teaching: They do not cross-examine witnesses in matters concerning a wife’s remarrying by reason of her husband’s death. This does not accord with the view of R. Tarfon. For R. Tarfon says, “They do cross-examine witnesses in matters concerning a wife’s remarrying by reason of her husband’s death.”

CXXXI. YERUSHALMI YEBAMOT 16:6

- [A]** **THEY GIVE TESTIMONY [ABOUT THE IDENTITY OF A CORPSE THAT THEY HAVE SEEN] BY THE LIGHT OF A CANDLE OR BY THE LIGHT OF THE MOON. AND THEY PERMIT A WOMAN TO REMARRY ON THE EVIDENCE OF AN ECHO [THAT IS HEARD TO SAY THAT HER HUSBAND HAS DIED].** **M’SH B:** A CERTAIN PERSON STOOD ON TOP OF A MOUNTAIN AND SAID, “**MR. SO-AND-SO, THE SON OF SO-AND-SO, OF SUCH-AND-SUCH A PLACE, HAS DIED.**” AND THEY WENT BUT DID NOT FIND ANYONE THERE. AND THEY [NONETHELESS] PERMITTED HIS WIFE TO REMARRY. **SWB M’SH B:** IN SALMON, A CERTAIN PERSON SAID, “**I AM MR. SO AND-SO, THE SON OF MR. SO-AND-SO. A SNAKE HAS BITTEN ME, AND LO, I AM**

DYING.” AND THEY WENT, AND WHILE THEY DID NOT RECOGNIZE HIM, THEY PERMITTED HIS WIFE TO REMARRY.

1. **I:1:** And R. Hanina said, “R. Jonathan taught us, ‘And those rules apply in a case in which people saw the shadow of a man.’” R. Aha bar Haninah in the name of R. Haninah, “That which you have said applies to a case in a field. But as to what happens in a town, even though people did not see the shadow of a man, [the evidence is acceptable].”
2. **I:2:** There we have learned, “The inciter, this refers to an ordinary fellow: the incited, this refers to an ordinary fellow.” [When M. San. 7:1 2A refers to an ordinary fellow, does it mean to say,] “Lo, a sage is not [subject to the law]?” [The meaning is this:] Since the person incites someone to idolatry, this is no sage. Since one is incited to idolatry, this is no sage.
 - a. **I:3:** How do they get testimony against him? They conceal against him two witnesses [Tosefta: disciples of sages], [who are put] in an inside room, and he sits in an out side room. And they light a candle near him, so that they can see him. And they listen to what he says. And so did they do to Ben Stada [Sutra] in Lydda. They appointed against him two disciples of sages, and [in consequence of what they heard and saw], they stoned him [T. San. 10:11].
 - i. **I:4:** [In the light of M. Yeb. 16:6B: They permit a woman to marry again on the evidence of an echo that her husband has died,] do you say this [that it is necessary to light a lamp so that the witnesses should see him while they hear him]. [It should be sufficient merely to hear him.] It is different in the present case [of M. Yeb. 16:6], because he has said, “I.” [That is, the man is heard to speak of himself, so it is not necessary to identify him further.]

CXXXII. YERUSHALMI YEBAMOT 16:7

[A] SAID R. AQIBA, “WHEN I WENT DOWN TO NEHARDEA TO INTERCALATE THE YEAR, NEHEMIAH OF BET DELI CAME UPON ME. HE SAID TO ME, ‘I HEARD THAT ONLY R. JUDAH B. BABA PERMITS A WIFE IN THE LAND OF ISRAEL TO REMARRY ON THE EVIDENCE OF A SINGLE WITNESS [TO HER HUSBAND’S DEATH].’ I SHOUTED TO HIM, ‘THAT IS INDEED SO. ‘ HE SAID TO ME, ‘TELL THEM IN MY NAME — YOU KNOW THAT THE COUNTRY IS ALIVE WITH RAVAGING BANDS — I HAVE A TRADITION FROM RABBAN GAMALIEL THE ELDER THAT: THEY PERMIT A WIFE TO REMARRY ON THE TESTIMONY OF A SINGLE WITNESS [TO HER HUSBAND’S DEATH]. AND WHEN I CAME AND LAID

THE MATTERS OUT BEFORE RABBAN GAMALIEL, HE WAS OVERJOYED AT MY REPORT AND SAID, ‘WE NOW HAVE FOUND A PAIR FOR R. JUDAH B. BABA.’ AND IN THE SAME DISCOURSE RABBAN GAMALIEL RECALLED THAT MEN WERE SLAIN AT TEL ARZA, AND RABBAN GAMALIEL THE ELDER PERMITTED THEIR WIVES TO REMARRY ON THE EVIDENCE OF A SINGLE WITNESS.” AND THEY CONFIRMED THE PRACTICE OF PERMITTING [THE WIFE TO] REMARRY ON THE EVIDENCE OF A SINGLE WITNESS, ON THE EVIDENCE OF A SLAVE, ON THE EVIDENCE OF A WOMAN, ON THE EVIDENCE OF A SLAVE- GIRL.

1. **I:1:** If one found written in a writ, “So-and-so has died,” “So- and-so has been put to death,” R. Jeremiah said, “[This is adequate testimony that he has died, so] they permit his wife to remarry.” R. Bun bar Kahana said, “They do not permit his wife to remarry.”

CXXXIII. YERUSHALMI YEBAMOT 16:8

[A] **R. ELIEZER AND R. JOSHUA SAY, “THEY DO NOT PERMIT A WOMAN TO REMARRY ON THE EVIDENCE OF A SINGLE WITNESS.” R. AQIBA SAYS, “NOT ON THE EVIDENCE OF A WOMAN, NOT ON THE EVIDENCE OF A SLAVE, NOR ON THE EVIDENCE OF A SLAVE-GIRL, NOR ON THE EVIDENCE OF RELATIVES.”**

1. **I:1:** We have learned: They confirmed the practice of permitting the wife to remarry on the evidence of hearsay evidence, on the basis of the evidence of a woman, on the basis of a woman’s hearsay evidence, on the basis of the testimony of a slave, on the basis of the testimony of a slave-girl, on the basis of the testimony of relatives [vs. M. 16:8B]. And do you say this [M. 16:8B]?

CXXXIV. YERUSHALMI YEBAMOT 16:9

[A] **THEY SAID TO HIM, “THE LEVITES WENT TO SOAR, THE DATE-TOWN, AND ONE OF THEM GOT SICK ON THE ROAD, AND THEY LEFT HIM IN AN INN. “AND UPON THEIR RETURN, THEY SAID TO THE INN-HOSTESS, ‘WHERE IS OUR FRIEND?’ “SHE SAID TO THEM, ‘HE DIED, AND I BURIED HIM.’ AND THEY PERMITTED HIS WIFE TO REMARRY [ON THE STRENGTH OF HER EVIDENCE.” THEY SAID TO HIM, “AND SHOULD NOT A PRIEST-GIRL BE EQUIVALENT TO AN INN-HOSTESS?)]’ HE SAID TO THEM, “WHEN SHE [THE PRIEST-GIRL] WILL BE AN INN HOSTESS, SHE WILL BE BELIEVED. THE INN-HOSTESS HAD PRODUCED FOR THEM HIS STAFF, HIS SANDAL, POUCH, AND THE TORAH-SCROLL, WHICH HE HAD HAD IN HAND.”**

- 1.** **I:1:** R. Aha in the name of R. Hanina: “They treated her as equivalent to a midwife, who is believed if she gives testimony on the spot.” Said R. Samuel bar Soserta, “They treated her as equivalent to a Gentile who speaks in all innocence.”

TRACTATE

KETUBOT

The document of marriage, the *ketubah*, provides for support for the wife by the husband and alimony in the event of divorce or the husband's death. This document also promises restoration to the wife's family and patrimony the lands, goods, and capital brought by the wife into the marriage and reserved for her male children by that husband. We then proceed to questions pertaining to the middle of the marriage, when the couple is living together, and finally at the end, we address the settlement of the marriage contract. The halakhah therefore has its say in a marriage, beginning, middle, and end. The logical organization by phases in the present instance means that we deal with the beginning of a marriage, effected by the deed, then the middle of the marriage, when the couple lives together, and then the end of the marriage so far as that is pertinent here, meaning, the settlement and payment of the marriage-contract.

The marriage-contract defines the locus for working out the aforesaid rights and obligations. Each party has an interest in the orderly formation of the social and economic fact of the marriage—and in its fair and orderly dissolution as well. In this tractate the dissolution involves collecting the marriage-settlement from the husband's estate. Elsewhere we deal with other aspects of the dissolution of the marriage, which may also involve the dissolution of the household. That marriage document and the arrangements it represents have no foundations in Scripture and constitute a contribution of the Oral part of the Torah alone.

Scripture figures only episodically, especially in two matters. The first is the fine for rape, which is paid to the father, so Deut. 22:28–29. The second is found in Exod 22:15–16. Another aspect of the halakhah to which Scripture contributes concerns conflicting claims as to the virginity of the bride (Deut. 22:13–21). But Scripture does not contribute the requirement of a marriage-agreement that provides for the woman's support in the event of divorce or death of the husband.

The topic of marriage-contracts takes as its generative problem reciprocal and corresponding rights and obligations of all parties to the marriage, and does so at each point in the unfolding of the marriage. These parties are the girl, the boy, and the girl's family (her father). The marriage-contract then defines the locus for the negotiation of the rights and obligations of each. As noted above all parties have an interest in the orderly formation of the social and economic fact of the marriage

—the foundation, after all, of the household—and in its orderly dissolution as well.

- I.** Foundation of the household: The material rights of the parties to the marital union: (1) the wife
 - A.** The marriage contract of the virgin
 - B.** Conflicting claims for the marriage-contract of a virgin
 - C.** The rules of evidence in connection with the validation of the marriage-contract

- II.** The formation of the marriage: the material rights of the parties to the marital union: (2) the father and the husband
 - A.** The fine that is paid to the father for rape or seduction (Deut 21:22)

 - B.** The father
 - C.** The father and the husband
 - D.** The husband

- III.** The duration of the marriage. The reciprocal responsibilities and rights of the husband and wife
 - A.** The wife's duties to the husband
 - B.** The husband's obligations to the wife
 - C.** The dowry
 - D.** The marital rights and duties of the wife
 - E.** Property rights of the wife

- IV.** Cessation of the marriage: the collection of the marriage-contract
 - A.** Imposing an oath in connection with collecting the marriage-settlement
 - B.** Multiple claims on an estate, including the wives' for their marriage-settlement
 - C.** Support for the widow
 - D.** Rights to, and collection of, a marriage contract: special cases
 - E.** Two case-books

YERUSHALMI KETUBOT

CHAPTER ONE

1:1

- [A] [24d] A virgin is married on Wednesday, and a widow on Thursday.
- [B] For twice weekly courts are in session in towns, on Monday and Thursday.
- [C] So if [the husband] had a complaint as to virginity, he immediately goes to court.
- [I:1 A] [Bar Qappara said, “The reason [the virgin is married on Wednesday] is that a blessing is stated with reference to the works of creation on that day.”
- [B] But is it not so that a blessing is stated [in regard to creation] only in respect to Thursday and Friday alone; on Thursday for the fowl and fish, and on Friday with regard to Adam and Eve? [So what sort of blessing relates to a virgin’s marriage on a Wednesday?]
- [C] *Said R. Yosé, “The reason of Bar Qappara is that Wednesday is the eve of Thursday, and Thursday is the eve of Friday. [So what he has in mind is not the occasion of the marriage, but the occasion of the actual act of sexual relations, which presumably takes place Wednesday night, that is, the eve of Thursday. A virgin is married on Wednesday, so that the first act of sexual relations may take place on the eve of Thursday, which is a blessed day.]”*
- [D] Now [in respect to the Mishnah] is a blessing not written with regard to the Seventh day, too? [Why should both sorts of women not marry on Friday, since the Seventh Day is especially blessed?]
- [E] The blessing for the Sabbath Day refers not to human beings but rather to the day itself.
- [F] Now if the blessing of the Seventh Day did refer to human beings, should a virgin be married on the Sabbath? *Has it not been taught, “A*

man should not engage in sexual relations with a virgin on the Sabbath, because thereby he causes an injury”?

[G] But [the reason is needed] from the viewpoint of [those] others [who] permit [a virgin to have sexual relations on the Sabbath].

[H] But do the others [disagreeing with the cited rule] permit it except in a case in which the marriage has taken place [while it is still day]? Now prior to that time the husband does not take possession of things the woman finds, does not command ownership of the fruits of her labor, and does not have the right to annul her vows. Once she has entered the marriage canopy, he does take possession of things that she finds, does command ownership of the fruits of her labor, and does have the right to annul her vows. Accordingly, if the marriage were to take place on the Sabbath, would he not be in the position of effecting rights of ownership on the Sabbath [which is not permitted]?! [That is why a marriage may not take place on the Sabbath, and not because of the consideration of the blessing accorded to the day and not to creatures in the works of creation.]

[I] *Said R. Mana, “That is to say those who marry widows must get married, [completing the act of sexual relations,] while it is still day, so that the husband should not be in the position of effecting an acquisition on the Sabbath.”*

[I:2 A] *R. Eleazar produced as a reason for the Mishnah’s ruling: **if the husband had a complaint as to virginity, he immediately goes to court [M. 1:1C].***

[B] *The following Tannaitic passage supports the view of R. Eleazar:*

[C] **From the time of the danger and thereafter, they began the custom of marrying her on Tuesday,**

[D] **and sages did not stop them.**

[E] **[If] he wanted to marry her on [Monday] they do not listen to him.**

[F] **[But] if it is on account of constraint [e.g., a death], it is permitted [T. Ket. 1:1E-H].**

[G] What is the meaning of “constraint”? It would be by reason of witchcraft [that is, the day of the wedding may be changed to avoid a witch’s spell (Qorban Ha’edah)].

- [I:3 A] What is the difference between Monday and Tuesday [once the day was changed from Wednesday]? Is there a reason for preferring Tuesday to Monday?]
- [B] [The reason is that the court session will still be nearer, if the wedding takes place on Tuesday, rather than if it takes place on Monday,] for waiting for one day is not the same as waiting for two days.
- [C] So let him wait for two days anyhow? It is so that the purchase will not become pleasing to him [so that he will accept the woman in her damaged condition].
- [D] So let the purchase become pleasing to him [and what difference does it make]?
- [E] *That would hardly be feasible, for R. Ila said in the name of R. Eleazar, "If one has found the entry open [so that the woman is not a virgin], it is forbidden to maintain the marriage, because there is a doubt as to the woman's having been faithless as a wayward wife."*
- [F] But why not take into account the possibility that she had been raped?
- [G] If a girl has been raped, everybody knows about it.
- [H] And even if you take account of the possibility that she had been raped, you still have only a single cause of doubt, that is, whether she had been raped or seduced. In such a case, on the basis of the law of the Torah one must in any event impose a stringent ruling.
- [I] Said R. Yosé, "And even if you take account of the possibility that she had been raped, there are two sources of doubt. First of all, you have the question of whether she had been raped or seduced. Second, you have the doubt of whether this had taken place after she had been betrothed or before she had been betrothed. Now when you have two matters of doubt, so far as the law of the Torah is concerned, you must impose a lenient ruling."
- [J] *If one effected the rite of betrothal at the marriage canopy [and not long in advance, which then eliminates this second doubt just now specified], there is no further need to invoke these matters of doubt [since if she was not betrothed, she was not subject to the specified prohibitions].*

[K] *They said [that] R. Mattenaiah did thus with his daughter.*

[I:4 A] In the view of R. Eleazar, in a place in which courts meet every day, a girl may be married every day. In a place in which the courts do not meet every day, should she not get married at all [if there is no regular court day]?!

[B] But in his view, it is so as not to move the time from Wednesday.

[C] And why not move the time from Wednesday? [What difference would it make?]

[D] *So, too, Eleazar concurs with that which Bar Qappara taught:*

[E] Bar Qappara said, “It is that a blessing is stated with reference to the works of creation on that day.”

[I:5 A] Now [if the consideration is the time of court sessions], let a virgin get married on Sunday, and if she turns out not to be a virgin, the husband can immediately go to court on Monday.

[B] *There are those who would want to teach that the reason is so as not to move the time from Wednesday.*

[C] *There are those who propose to explain the matter in accord with that which Bar Qappara said, for Bar Qappara said, “It is that a blessing is stated with reference to the works of creation on that day.”*

[D] In any event they concur that she is not married on Friday or on Saturday night.

[E] She is not married on Friday, because of the honor owing to the Sabbath.

[F] Nor on Saturday night –

[G] Associates say, “It is because of the trouble [of preparing the meal on the Sabbath day, which is not allowed].”

[H] R. Yosé says, “It is because of the honor owing to the Sabbath.”

[I] *The following Tannaitic teaching supports the view of associates: **On what account did they rule, A virgin is married on Wednesday [M. 1:1A]? [Y. lacks: so that if he had a complaint against [her lack of signs of] virginity, he goes early to court (on the next morning.)***

If so, she should be married [just as well] after the Sabbath [on Sunday]. But because the husband does his preparations [for the wedding feast] through the [three] weekdays, they arranged that he should marry her on Wednesday [T. Ket. 1:1A-D].

- [I:6 A] *R. Ba bar Kohen said before R. Yosé, R. Aha in the name of R. Jacob bar Idi: “It is forbidden for a man to marry [betroth] a woman on the eve of the Sabbath [Friday].”*
- [B] *That which you have said pertains to preparing the banquet honoring the betrothal.*
- [C] But as to actually betrothing a woman on a Friday, one may do so.
- [D] Samuel said, “Even on the ninth of Ab one may betroth a woman, so that someone else may not get there first.”
- [E] *The opinions attributed to Samuel are at variance with one another. There he has said, “‘God gives the desolate a home to dwell in’ (Ps. 68:6). ‘In the balances they go up; they are together lighter than a breath’ (Ps. 62:9). [Elsewhere these verses are interpreted to mean that God is the one who makes matches between man and woman.] And here he has said this [that there are endless possibilities, so one has to make haste].”*
- [F] But his meaning is, “So that someone else may not get there first so far as the success of his prayer concerned. [Someone may pray for this particular woman in marriage, and God may listen to the prayer, even though originally God had intended the woman for someone else.]”
- [G] But even so, a match will not stand [which was not originally predestined].
- [H] R. Hezekiah, R. Hiyya in the name of R. Abbahu said, “It is forbidden to litigate monetary cases on the eve of the Sabbath [Friday].”
- [I] *And lo, the following Tannaitic teaching differs: **Therefore they do not litigate capital cases on either the eve of the Sabbath or the eve of a festival [M. San. 4:3].** Lo, that would indicate that they do litigate monetary cases.*
- [J] *And so did R. Hiyya teach: They judge monetary cases on the eve of the Sabbath, but not capital cases.*
- [K] Here [where monetary cases may be tried on a Friday] we deal with a teaching as to practical law, whereas there, [where we do

not,] we express the law in line with the theory of the Torah. [If one violates the law and judges such a case, the judgment remains valid, despite its procedural error.]

- [I:7 A] R. Jonah in the name of R. Qerispa, “A mature woman is regarded as an open vessel [and may not be subjected to a claim against her virginity].”
- [B] *That which you have [25a] said serves so as not to deprive her of payment for her marriage contract [should she be found not to exhibit signs of virginity]. But as to keeping the marriage going, the husband is not permitted to do so, by reason of the possibility that she has been wayward.*
- [C] *This is in line with the following statement which R. Hanina made, for R. Hanina said, “There was a case of a woman in whom tokens of virginity were not found. The case came before the rabbi. He said to her, ‘Where have they gone?’ She said to him, ‘The steps in father’s house were high, and [the hymen] fell away [through the motion required in raising the legs higher than usual].’ Rabbi accepted this claim.”*
- [D] *That which you have stated meant that she does not lose the right to collect her marriage settlement. But as to keeping the marriage going, the husband is not permitted to do so, by reason of the possibility that she has been wayward.*
- [E] *Now this further accords with that which we have learned there: **A virgin, widow, divorcée, and one who has severed the levirate connection through a rite of halisah – at the stage of betrothal – their marriage contract is worth two hundred zuz, and they are subject to the claim against their virginity [M. 1:2C-F]. A virgin, widow, divorcée, or one who has severed the levirate connection through a rite of halisah – at the stage of consummation of the marriage – their marriage contract is a maneh. And they are not subject to a claim against their virginity [M. 1:4A-C].***
- [F] *That which you have said applies to the matter of the marriage settlement of a maneh or two hundred zuz, but as to keeping the marriage going, the husband is not permitted to do so, by reason of the possibility that she has been wayward.*
- [G] *That which you have said further accords with what we have learned there: **He who lives with his father-in-law in Judah, not***

with witnesses, cannot lodge a claim against the girl's virginity, for he has been alone with her [M. 1:5A-D].

[H] *That which you have said applies to the matter of marriage settlement of a maneh or two hundred zuz, but as to keeping the marriage going, the husband is not permitted to do so, by reason of the possibility that she has been wayward.*

[I] *That which you have said further accords with what we have learned there: **He who marries a woman and did not find tokens of virginity – she says, “After you betrothed me, I was raped, and your field has been flooded, “ and he says, “Not so, but it was before I betrothed you, and my purchase was a bargain made in error” – [Rabban Gamaliel and R. Eliezer say, “She is believed.” R. Joshua says, “She is not believed.”] [M. 1:6].***

[J] *That which you have said applies to the matter of the marriage settlement of a maneh or two hundred zuz, but as to keeping the marriage going, the husband is not permitted to do so, by reason of the possibility that she has been wayward.*

[K] *That which you have said further accords with what we have learned there: **She says, “I was injured by a piece of wood,” and he says, “Not so, but you have been laid by a man” – [Rabban Gamaliel and R. Eliezer say, “She is believed.”] [M. 1:7].***

[L] *That which you have said applies to the matter of the marriage settlement of a maneh or two hundred zuz, but as to keeping the marriage going, the husband is not permitted to do so, by reason of the possibility that she has been wayward.*

[M] *Now all of these rulings are in line with that which R. Ila said in the name of R. Eleazar, “If one has found the entry open, it is forbidden to maintain the marriage, because there is a doubt as to the woman's having been faithless as a wayward wife.”*

[I:8 A] In accord with the view of R. Eleazar, [who explains M.'s rule on the days on which virgins are married because of the possibility of a claim that the woman was not a virgin,] when is an adult woman to be married? A virgin at the stage of the consummation of a marriage – when is she to be married? A girl deprived of her hymen by a piece of wood (following the view of R. Meir) – when is she to be married?

[B] *Let us derive the answer from the following: [The woman who was widowed or divorced – she says, “You married me as a virgin” –*

and he says, “Not so, but I married you as a widow” –] if there are witnesses that when she got married she went forth with music, with her hair flowing loose, [her marriage contract is two hundred] [M. 2:1A-E]. *Now the matter of a wedding on Wednesday is not mentioned here at all. That indicates that the consideration of marriage on Wednesday is null. [It must follow that any sort of woman is permitted to marry on that day, which is not reserved for virgins only.]*

[I:9 A] A widow on Thursday [M. 1:1A].

[B] For if he should marry her on any earlier day of the week, he may leave her and go back to work.

[C] So they arranged that he should marry her on Thursday, so that he should remain away from work for three successive days,

[D] Thursday, the eve of the Sabbath [Friday], and the Sabbath – three days away from work.

[E] He turns out to take pleasure with her for three days running [T. Ned. 1:1L-O].

[F] Moses ordained seven days of banqueting [for a wedding] and seven days of mourning. But [there is no indication] that he ordained a thing in celebration of the marriage of a widow.

[G] Even though you maintain that he did not ordain a thing for a widow, still, from the example of Boaz we learn that she is owed the blessing [of the marriage couple]: “And he took ten men of the elders of the city, and said, ‘Sit down here,’ and they sat down” (Ruth 4:2). [The relevance of this proof text is indicated in a moment, at J.]

[H] Said R. Alexandri, “On the basis of this verse we learn that a minor is not permitted to sit down until an adult says to him, ‘Sit.’”

[I] Said R. Phineas, “On the basis of this verse we learn that a court appoints elders to supervise affairs in banqueting halls [to prevent excessive levity].”

[J] Said R. Eleazar b. R. Yosé, “On the basis of this verse we learn that the blessing said for a bridal couple requires the presence of ten witnesses.”

[K] Said R. Judah bar Pazzi, “And it is not the end of the matter that that is the case in the marriage of a boy and a virgin girl, but even when a widower marries a widow [the rule is the same, as is derived from the example] of Boaz. For Boaz was a widower, and Ruth was a widow.”

[L] And it is written, “So the two of them went on until they came to Bethlehem. And when they came to Bethlehem, the whole town was stirred because of them” (Ruth 1:19).

[M] *Is it really possible that everyone in town should be stirred because of Naomi, on account of her widowhood? But what had happened was that the wife of Boaz had died that very day. While everyone was mourning for her, Ruth came into town with Naomi, so it turned out that, when this one was going out [to be buried], that one was coming in.*

[I:10 A] *It has been taught:* They say the blessing for the wedding couple [in the grace after meals] all seven days [of banqueting for the couple].

[B] *R. Jeremiah considered ruling that they bring the bride out [to the marriage canopy] all seven days.*

[C] *Said to him R. Yosé, “And lo, R. Hiyya taught:* They say the blessing for the mourners every day for seven days. *Now can you maintain that they bring the corpse out every day for seven days? [Obviously not.] Then what is the upshot of the matter?* Just as, in the case of a death, one mourns with the mourner, so in the case of a marriage, one rejoices with the groom. Just as in the former case, one makes mention [of the corpse, without parading it around], so in the latter case, one makes mention [of the bride, without putting her on display].”

[I:11 A] ***It has been taught: “In olden times in Judah they would appoint two best men, one on the side of the groom, and one on the side of the bride. And even so, they appointed them only for the marriage. But in Galilee they did not have that custom.”***

[B] ***“In olden times in Judah they would put the bride and groom off by themselves for an hour before the wedding celebration so that he should feel confident with her. But in Galilee they did not have that custom.”***

[C] ***Said R. Judah, “In olden times in Judah the best men investigated the place of the groom and the place of the bride. But in Galilee they did not have that custom.***

[D] ***“In olden times in Judah the best men would sleep in the place in which the bride and groom were sleeping. But in Galilee they did not have that custom.”***

[E] ***Anyone who did not follow this custom has no claim against the virginity of the girl [T. Ned. 1:4A-G].***

- [F] *There we have learned: R. Judah says, “Every vine has its wine, and that which does not produce wine, lo, this is a dorketi-vine [which produces grapes for eating and not for wine] [M. Nid. 9:11B]. [The metaphor is to hymeneal blood.]*
- [G] *R. Jeremiah asked, “If so, then, in accord with R. Judah, no one may ever lay a claim against a girl’s virginity, [since she may claim she comes from a family which does not produce hymeneal blood].”*
- [H] *Said R. Yosé, “The very essence [of the cited passage of Tosefta, above,] is that there is such a thing as a claim against a girl’s virginity [under appropriate circumstances], in the view of R. Judah.”*
- [I] *For it has been taught: Said R. Judah, “In olden times in Judah they would appoint two best men, one on the side of the groom, and one on the side of the bride. And even so, they appointed them only for the marriage. But in Galilee they did not have that custom.” [T. Ned. 1:4, as above].*
- [J] *Now what is the upshot of the matter? The burden of proof lies on the girl to prove that she comes from a dorketi-vine family.*
- [K] *[With reference to the statement, **Anyone who did not follow this custom has no claim against the virginity of the girl,**] R. Jeremiah reasoned [that the meaning is], “The custom of Judea in Galilee,” [so that whoever did not follow the Judean custom in Galilee may make no such claim].*
- [L] *Said to him R. Yosé, “And is this merely a custom of Judea to be practiced in Galilee? Is it based in fact upon testimony of the Torah [that the requirements are as Judah has stated]? But the meaning is, ‘[Anyone who did not follow] the custom of Judea in Judea, or the custom of Galilee in Galilee.’”*
- [M] *Since you have said that it is not based upon the testimony of the Torah, [even in Judea] one need not set up the best men. But the reason is that the Israelite girls should not break out into fornication [since they will not want to be found out by the best man of the groom].*
- [N] *If the consideration is so that Israelite girls should not break out into fornication, even if one sets up the best men, he should not be believed on the count of a claim of not having found signs of virginity [since the best man, too, may be fooled by the girl’s deceit in such a case].*

[O] Said R. Yosé in the name of R. Ila, “A man is not likely to lay out all the costs of a meal and then to give his wife a bad name.”

[P] If the reason [the man is believed] is that a man is not likely to lay out all the costs of a meal and then give his wife a bad name, then even if he does not appoint a best man [to oversee the conduct of the girl], he should be believed [if he does claim that she was not a virgin].

[Q] “[The reason that the husband is not invariably believed if he did not set up a best man to look out for her acts,]” said R. Hila, “is that [he has differed from the accepted procedure], so he is subject to suspicion on account of some sort of other act of licentiousness [on his part (cf. PM)].”

[R] [As to the fact that if he did not appoint a best man, he cannot lay a claim against the girl’s virginity,] how shall we interpret the case? If the groomsman has investigated the girl but the husband found blood, lo, he has found blood. If he did not find blood, lo, if he has investigated the girl, it was hardly an investigation!

[S] *But thus must we interpret the case:* We deal with a situation in which the groomsman did not investigate the girl, but the husband nonetheless found blood. [Here is what is at issue:] The girl claims, “It is hymeneal blood.” And he claims, “Not so, but it is a bird’s blood [imported for the purpose]. “ In such a dispute his claim is weakened because he did not follow accepted procedure.

[T] *Now what you have said serves for the purpose of* not depriving the girl of payment for her marriage settlement. But as to keeping the marriage going, he has not got the right to do so, by reason of the possibility of her being a wayward wife.

[U] *And this further accords with what we have learned there: A virgin, a widow, etc. [M. 1:2, 4].*

[V] *Now all of these rulings are in line with what R. Ila said in the name of R. Eleazar, “If one has found the entry open, it is forbidden to maintain the marriage, because there is a doubt as to the woman’s having been faithless as a wayward wife.”*

[I:12 A] *It has been taught:* As to the claim of virginity, any amount [of blood will suffice to prove that the girl is a virgin].

- [B] There was a case concerning a woman who produced hymeneal blood only so much as a mustard seed. The case came before R. Ishmael, son of R. Yosé. He ruled, “May such as you become many in Israel.”
- [C] R. Zechariah, son-in-law of R. Levi, [said,] “He meant this as a curse, as people call blind men, ‘full of light.’”
- [D] His colleague said, “He regarded it as a curse to her, [for] a woman who produces a small volume of hymeneal blood produces a small number of children.”
- [E] R. Yosé said, “It was to praise her, for any woman who produces only a modest flow of blood does not commonly impart uncleanness to food prepared under conditions of cleanness.”

1:2

- [A] **A virgin – her marriage contract is two hundred [zuz].**
- [B] **And a widow, a maneh [one hundred zuz].**
- [C] **A virgin, widow, divorcée, and one who has severed the levirate connection through a rite of halisah**
- [D] **at the stage of betrothal –**
- [E] **their marriage contract is two hundred [zuz].**
- [F] **And they are subject to the claim against their virginity.**
- [G] **A convert, a woman taken captive, and a slave girl who were redeemed or who were freed or who converted at an age of less than three years and one day –**
- [H] **their marriage contract is two hundred [zuz].**
- [I] **And they are subject to the claim against their virginity.**

- [I:1 A] [As to the currency used to pay the marriage contract,] R. Huna in the name of [25b] Samuel: “[The reference is to] the *sheqel* of the sanctuary [fifty Tyrian *shekels*].”
- [B] R. Ba bar Bina said, “[It is paid] in any currency circulating [in that area].”
- [C] *The following passage of the Mishnah supports the view of R. Ba bar Bina: The five selas for redeeming the firstborn son are to be paid in Tyrian coinage [as at A, above]. The thirty for the slave [Ex. 21:32], the fifty to be paid by the rapist and seducer [Ex. 22:15-16, Deut. 22:28-29], and the hundred to be paid by the common gossip [Deut. 22:19] – all are to be paid in shekels of the sanctuary, that is, in Tyrian coinage. And everything that is to be redeemed is*

redeemed in silver or its equivalent, except for shekel dues [M. Bekh. 8:7]. *Now we note that the authority of this passage has not included on the list of items to be paid in Tyrian coinage the payment for a woman's marriage contract.*

[D] Said R. Abin, "Has not the requirement for a woman's marriage settlement been derived to begin with from the verses relevant to the rapist and seducer [which refer to a bridal price]? *Since the authority of this passage has made reference to the rapist and seducer [and their paying in the stated coinage], it is as if he has taught that the marriage settlement of a woman is to be covered in the same coinage.*"

[E] *[If that is the nature of the proof,] then up to this point we have proved that that is the case only in the settlement of a virgin's marriage settlement [since she will be covered by the rapist or seducer's penalty]. What is the case for the widow['s marriage settlement]?*

[F] Said R. Hinena, "It is enough if the widow collects half of what is coming to the virgin [in the same coinage]."

[G] *Said R. Hiyya bar Ada, "[With reference to C above, nothing is proved here except that some authorities maintain a different view from others on this question. For] even if the passage of the Mishnah just now cited should have included reference to the marriage settlement of a woman with them [so that it would have explicitly stated that that is paid in Tyrian coinage], nonetheless, do not all of these other rabbis differ?"*

[H] *[Dissenting authorities are now indicated.] Both R. Hanamah and R. Jonathan say, "It is paid in any coinage in circulation."*

[I] R. Joshua b. Levi said, "It is paid in any coinage in circulation."

[J] R. Jacob bar Aha, R. Immi, R. Simeon b. Laqish in the name of R. Yudan the Patriarch: "It is paid in any coinage in circulation."

[K] R. Yohanan said, "Severine coins, those of the weight of the ones from Jerusalem[?]."

[L] These authorities say this, and those authorities say that [so that some parties accept only Tyrian coinage, while others approve anything in general circulation].

[M] *But even [Yohanan, just now cited] reverted and maintained the view of those [who accept any coinage in circulation]. But*

is it not the case that these authorities say this, and those authorities say that? And lo, he [Yohanan] himself has reverted and ruled in accord with their views?

[N] *A case came before R. Hanina of a woman whose marriage settlement called for less than two hundred zuz [in Tyrian coinage], and he ruled, “Let her collect what he has written in the contract for her [in any circulating coinage, for a woman may settle for less than is due her].” He further instructed R. Mana, “Sit down and sign [the decree with me].”*

[O] *He said to him, “Make your opinion conform to mine, and then you go and sign the decree [that the settlement be paid in Tyrian coinage]. Is it not R. Hiyya [Huna] who stated in the name of Samuel, ‘It is paid in the coinage of the sanctuary [Tyrian]’?”*

[I:2 A] *R. Abodema of Sepphoris in the name of R. Huna in the name of Vitur Meuneh [sic!]: “A woman whose marriage contract was for less than two hundred zuz should hide her marriage contract [relying rather on the stipulation established by the court], so that she may collect what is coming to her in the coinage of the sanctuary.”*

[B] *[Someone] said in the name of R. Huna, “That is the case in a district in which they do not write out the marriage contract [but treat it as the stipulation of the court]. However, in a district in which they do write out a marriage contract, that which [the contract] yields is what the woman collects. [She has accepted less than was coming to her.]”*

[C] *Said R. Yohanan, “And so it has been taught on Tannaite authority [that the woman may accept less than a legal settlement]: A deaf-mute who married a woman of sound senses – she has no claim on him for either support or for a marriage settlement, but if she should die, he inherits her estate, for she consented to suffer a loss to him, but he did not consent to suffer a loss to her. A man of sound senses who married a deaf-mute – she has a claim on him for both support and a marriage settlement, but if she should die, he does not inherit her estate, for he has consented to suffer a loss to her, but she has not consented to suffer a loss to him.*

[This proves that a woman may settle for less than is due her.]”

[D] But does a deaf-mute woman effect an act of ownership and receive a marriage contract? [Surely not!]

[E] R. Jeremiah in the name of R. Eleazar: “Interpret the rule to speak of a case in which, when he married her, she was of sound senses [so that she could express her wishes and so effect an intelligible act of will].”

[F] R. Jacob bar Aha in the name of R. Eleazar, “When he married her, she was of sound senses, and then she became a deaf-mute. Under all circumstances, when he married her was she not of sound senses? [So what issue is under discussion here?]”

[G] R. Jacob bar Aha in the name of R. Eleazar: “Interpret the case to speak of a woman who had been a deaf-mute, then she recovered her senses, he married her when she was of sound senses, and then she became a deaf-mute again. [The rule then is important,] so that you should not conclude that, since she had been a deaf-mute at the outset, she does not have a claim on a marriage contract. On that account it was necessary to indicate that she does have one.”

[H] R. Yosé did not explain matters in this way. [But he said.] “If someone has sexual relations with a deaf-mute, does she receive the fine [which he owes on that account]? [No.] And whoever does not receive a fine also does not receive a marriage settlement.”

[I] Said R. Yudan, “Now does the matter depend on whether or not a woman receives such a fine? Lo, there is the grown woman, who does not receive such a fine, and yet her marriage settlement is two hundred zuz. Lo, there is the virgin at the stage of the consummation of a marriage [M. 1:4], who does receive a fine, and yet her marriage settlement is only a *maneh*. [So the proposed reason is null, that is, that a deaf-mute woman does not receive a marriage settlement at all. Rather the operative consideration is that she cannot exercise informed judgment, on which account the sages did not provide a marriage settlement for her.]”

[J] **A deaf-mute or an idiot who married a woman of sound senses, even though the deaf-mute went and became sound in his senses, or the idiot regained his mind – they [these women of sound senses] do not receive a marriage contract. [If] they [the men who were healed] wanted to confirm the marriage, they pay a maneh as the marriage contract [T. Ned. 1:3D-H].**

[K] R. Eleazar in the name of R. Haninah, “And [the rule that they have a marriage contract of a *maneh*] applies to a case in which the husband had sexual relations with her once he had recovered his senses or had recovered his sanity [respectively]. But if he did not have sexual relations with her once he had recovered his senses or had recovered his sanity, she has not got a claim for a marriage settlement of a *maneh*.”

[II:1 A] **[A convert, a woman taken captive, and a slave girl who were redeemed, converted, or freed,] at an age of less than three years and one day [M. 1:2G] –**

[B] R. Yosé in the name of R. Hiyya bar Ashi, R. Jonah, R. Hiyya bar Ashi in the name of Rab: “To what is the matter comparable? It is to be compared to one who makes an impression in the flesh, which goes and fills out again.”

[C] *R. Hiyya taught:* “It is comparable to one who stirs up the water in a spring, which goes and clears up again.”

[D] *Said R. Yosé, “The Mishnah itself has said the same: If [a girl is] less than [three years and one day old], it is as one that puts a finger into the eye [M. Nid. 5:4].”*

[E] Said R. Abin, “‘I cry to God most high, to the God who fulfills his purpose for me’ (Ps. 57:2). If a court decides to intercalate [the year, Heaven concurs. Along these same lines,] the signs of virginity come back [to a girl less than three years and one day old], and if not, they do not.”

1:3

[A] An adult male who had sexual relations with a minor female [younger than three years and a day],

[B] and a minor male [younger than nine years and a day] who had sexual relations with an adult female,

[C] “and a girl injured by a blow [so that her signs of virginity are destroyed] –

[D] “their marriage contract is two hundred zuz,” the words of R. Meir.

[E] And sages say, “The girl injured by a blow – her marriage contract is a maneh.”

[I:1 A] What is the definition of a minor male and female?

[B] In the name of R. Judah b. Higrā they said, “A minor male is a child younger than nine years and one day, and a minor female, younger than three years and one day.”

[I:2 A] *The rule governing an adult male who had sexual relations with a minor female poses no problem, because the marks of virginity will come back to her. But in the case of a minor male who had sexual relations with an adult female, the marks of virginity in the adult are not going to come back, [so why should the marriage settlement come to two hundred zuz]?*

[B] Said R. Abin, “Interpret the law to apply to a case in which the minor male had sexual relations not in the natural manner.”

[C] Said R. Yosé b. R. Abin, “And you may even maintain that he had sexual relations in the normal way. But, while for a minor, an act of sexual relations [however performed] is valid, still, he does not have the strength to make a mark on the signs of virginity.”

[D] *And so too it has been taught:* There was a case in which a girl got pregnant, while her signs of virginity were intact.

[II:1 A] [**“their marriage contract is two hundred zuz,” the words of R. Meir:**] *They objected to the view of R. Meir [M. 1:3D]: “The signs of virginity are no longer present, and you maintain that [the girl injured by a blow] should receive a marriage contract in the sum of two hundred zuz?”*

[B] He said to them, “Now does the matter [of the marriage contract] depend solely on the mere presence of physical signs of virginity? Lo, there is the case of the fully mature woman who may not have signs of virginity, and her marriage settlement is for two hundred zuz. There is, further, a virgin even after the marriage has been consummated, who has signs of virginity, and yet her marriage settlement is only a *maneh* [as at M. 1:4, below].”

[C] *What is the upshot of the matter?* In the case of an adult [unmarried woman], her charm has not passed. But in the case of a virgin after the marriage has been consummated, her charm has passed.

[D] *In what, then, lies the dispute?*

[E] It is solely concerning the girl injured by a blow. For R. Meir maintains that her charm has not passed, while sages hold that her charm has passed.

[II:2 A] A virgin laid by a minor or by one who is not a man is valid for marriage into the priesthood.

[B] R. Halapta bar Saul taught, “She is valid even for marriage to a high priest.”

[C] *R. Jeremiah and R. Ammi raised the question:* “What is the difference between her and a girl laid merely by the entry of a finger, [whose signs of virginity are thereby removed]? As to a girl laid merely by the entry of a finger, is it possible that she is not invalid for marriage into the high priesthood? [She is no longer a virgin.]”

[D] Said R. Haggai, “Interpret the law to apply to a case in which he had sexual relations with her not in accord with the natural manner.”

[E] *R. Haggai wished to retract that explanation. Said to him R. Abba, “Do not retract.”*

[F] *And why did R. Haggai wish to retract? It is because of the following verse of Scripture:* “And he shall take a wife in her virginity” (Lev. 21:12). The requirement is that she be a virgin from both directions.

[G] *This is in line with what is stated:* “[The maiden was very fair to look upon,] a virgin, whom no man had known” (Gen. 24:16). “She was a virgin,” as to normal modes of intercourse, “And no man had known her,” in unnatural modes of sexual intercourse.

[H] Said R. Isaac b. Eleazar, “No one ever laid hands on her at all, in line with what is said, ‘For the scepter of wickedness shall not rest upon the land allotted to the righteous, [lest the righteous put forth their hands to do wrong]’” (Ps. 125:3).

[I] *How did R. Haggai interpret the statement of R. Halapta [B] prior to the point at which he retracted? [That is, how could he validate the girl’s marriage to a high priest if she had had unnatural sexual relations?]*

[J] He interpreted the law to apply to a case in which there had been only the very beginning of intimacy [but not complete sexual relations]. [He distinguished in the case of unnatural sexual relations between mere exposure of the sexual parts and actual sexual relations, e.g., in the case of a minor or a beast, regarding such a case as not of a sexual character at all.]

[K] And why does R. Yosé [M] not interpret the statement to apply to the case in which there had been only the very beginning of intimacy [in the following version of Yosé's view]?

[L] *Said R. Mana, "Because it was a question in his mind."* [The foregoing refers to the statement that follows:] R. Yosé raised the question, "As to a case in which there had been only the very beginning of intimacy in the setting of homosexual relations, what is the law? In that same stage with respect to bestiality, what is the law?"

[N] *When R. Jeremiah heard this latter position taken by R. Haggai, he said, "Is it not in this very context that R. Ammi raised his question?"*

1:4

[A] **A virgin, a widow, a divorcée, or one who has severed the levirate connection through a rite of halisah –**

[B] **at the stage of consummation of the marriage –**

[C] **their marriage contract is a maneh.**

[D] **And they are not subject to a claim against their virginity.**

[E] **A convert, a girl taken captive or a slave girl who were redeemed, or who converted, or who were freed at an age older than three years and one day –**

[F] **their marriage contract is a maneh.**

[G] **And they are not subject to a claim against their virginity.**

[I:1 A] What is the definition of a **virgin ... at the stage of the consummation of the marriage** [M. 1:4A-B]?

[B] Said R. Yohanan, "It is the status of any woman who has entered the marriage canopy, when the witnesses who testify about her state that she was never actually laid. [In such a case the husband cannot claim that she was not a virgin and so deprive her of the marriage settlement of a *maneh*.]"

[C] *Said R. Yosé, “That is to say, if a man married a woman assuming she was a virgin and she turned out to have been laid, this does not constitute a purchase a purchase made in error, which would have caused her to lose a marriage settlement of a maneh.” If one has married a woman on the assumption that she had not committed fornication, and it turned out that she had committed fornication, this is not a case of a purchase made in error, in consequence of which she would have been deprived of the marriage settlement of a maneh. [On the contrary, she gets the settlement of a maneh.]”*

[II:1 A] R. Eleazar raised the question: “He who has sexual relations with a freed slave girl [cf. M. 1:4E] – what is the law [as to his owing a fine on that score]?” [Cf. M. 3:1: He who had sexual relations with a slave girl who was freed, when less than three years and one day old, does not pay a fine; if she was more than three years and one day old, she does receive a fine from him. Now Eleazar’s question requires interpretation in this context, since the Mishnah answers the question as it is phrased. What we have is a slave girl over the age of three years and one day who is subject, as at I.B, to testimony that she never committed fornication. In such a case, is there a fine?]”

[B] *Let us derive the answer from the following:* [25c] One might suppose that he who has sexual relations with an Aramaean slave girl should be liable. Accordingly, Scripture says, “[If a man seduces a virgin who is not betrothed, and lies with her,] he shall give the marriage present for her, and make her his wife” (Ex. 22:16). He who may make a woman his wife is subject to this law, which then excludes the case of the slave girl, or one with whom he may not enter into marriage. Lo, if a man may enter into a marriage with such a woman, she then would receive the fine. But do you then say that whoever has a right to a fine also has a right to a marriage contract? [Thus in the case of a freed slave girl, even over three years, if she is subject to testimony that she has never committed fornication, she has a right to a fine. Then the question is, why should she not have a marriage settlement of two hundred zuz, like any other virgin?]

[C] Said R. Yudan, “And does the matter depend upon the issue of the fine? Lo, there is the case of the adult woman, who does not receive a fine, and whose marriage contract nonetheless calls for the payment of two hundred zuz. Lo, there is, further, the case of the virgin out of the stage of consummation of the marriage, who does receive a fine, but whose marriage settlement is a hundred zuz!”

[D] *[As to the statement that if a man may marry a woman, then she receives a fine,] said R. Zeira before R. Mana, “Apply that statement*

to a case in which the girls listed were converted or freed at an age prior to three years and one day.”

[E] He said to him, “If we deal with a case in which the girl was converted or freed at an age of less than three years and one day, they are in the status of Israelites for all purposes. [There is no problem in dealing with girls in that status at all.]”

[II:2 A] In the case of a blind woman or a barren woman, they are subject to a claim of virginity.

[B] **Sumkhos said in the name of R. Meir, “A blind girl is not subject to a claim of virginity” [T. Ned. 1:3X-Y].**

[C] *What is the reasoning behind R. Meir’s view?* I maintain, “The husband found the signs of virginity, but hid them [so as to claim she had not been a virgin].”

[D] *What is the reasoning behind the view of rabbis?* She has the power to hold on to the signs of virginity [and not to let the husband destroy them].

[E] *How does R. Meir deal with the claim of rabbis?* The husband has the power to wipe out the signs of virginity with a little spit.

[II:3 A] *It has been taught:* A claim against a woman’s virginity [indicating that she should be deprived of her marriage settlement] must be made within thirty days of the marriage,” the words of R. Meir.

[B] And sages say, “It must be made forthwith.”

[C] *How shall we interpret this dispute?* If we deal with a case in which we know that the husband had sexual relations, then he must bring the claim right away. If we deal with a case in which he did not have sexual relations, then even after much time, [there can be no claim, there being no evidence].

[D] But we must interpret the dispute to deal with a case lacking further specification, [so we do not know for sure whether sexual relations have taken place]. R. Meir says, “We may assume that a man may hold back for thirty days [but no longer].” Rabbis say, “Even for a single day a man will not hold back [but will have sexual relations as soon as he can do so].”

[E] *Said R. Jeremiah,* “Along the lines of R. Meir’s theory, what is the law as to the husband’s being permitted to say, ‘I held myself back for thirty days’ [and did not have sexual relations during that time, so that if a child is born seven months from the date of the

marriage], the offspring will be given the status of one whose paternity is not known? [The husband thus claims that during that period he did not have sexual relations, so that the child born in seven months cannot be his. Does Meir's principle hold for monetary cases only, or also for paternity suits?]"

[F] *Let us derive the answer from the following:* In the case of a levirate wife who said, "During the first thirty days of marriage I have not had sexual relations with my levir" – they force him to free her through a rite of removing the shoe. If she said after thirty days that that was the case, they request that he free her through the rite of removing the shoe. In this case, R. Eleazar said, "It represents the view of R. Meir." And R. Eleazar stated, "They stated that rule only with reference to the levirate wife herself. Lo, with regard to her co-wife [who went off and got married, assuming that the marriage of the wife to the levir freed her from further restrictions.] that is not the case, [and such a claim is not accepted to interfere with the status of the co-wife]." *Now just as you say there*, she does not have the power to impose a disability on her co-wife, *so you must say here*, he does not have the right to impose a disability on his son. [The answer to Jeremiah's question then is that the husband's claim is not accepted.]

1:5

[A] He who lives ["eats"] with his father-in-law in Judah,

[B] not with witnesses,

[C] cannot lodge a claim against the girl 's virginity,

[D] for he has been alone with her.

[E] All the same are the widow of an Israelite and the widow of a priest

–

[F] their marriage contract is a maneh [a hundred zuz].

[G] The priest's court would collect four hundred zuz for a virgin.

[H] And sages did not stop them.

[I:1 A] [The origin of the custom noted at M. 1:5A is as follows.] In the past [the Romans] decreed a persecution in Judea. For they had a tradition from their fathers that Judah had killed Esau. For it is written, "[Judah, your brothers shall praise you;] your hand shall be on the neck of your enemies; [your father's sons shall bow down before you]" (Gen. 49:8). So they went and subjugated them and raped their daughters. They decreed that a soldier should enjoy the right of the first act of intercourse [with Israelite girls who were to be wed]. Accordingly,

[sages] decreed that the girl's husband should have sexual relations with the bride while she was still in her father's house. Since the girl knows that she is subject to the fear owing to the husband, she will guard herself from [profanation from] any source.

- [B] But if in the end she is laid by a soldier, she is in the status of one who has been raped, and one who has been raped is permitted to have sexual relations with her husband.
- [C] What did they do with wives of priests [who could not return to the priest once sexual relations, on any count, had taken place with another man]? They hid them away.
- [D] Then they should hide Israelite girls away, too!
- [E] There would be rumors, and the government would hear them, and the two sorts of girls would be mixed up with one another.
- [F] What sort of indication did they have [informing the townspeople – and thus the Romans as well – of a coming wedding? To avoid these regular public signs, priests were married secretly.]
- [G] They would hear the sound of the wheels grinding flour in the town: “A banquet is there! A banquet is there!”
- [H] At the sight of a light in Beror Heil, [there was a sign,] “It is the completion of the week for a son, it is the completion of the week for a son [so that the circumcision will be taking place now].”
- [I] Even though the persecution came to an end, the custom [alluded to at M. 1:5A] did not come to an end.
- [J] The daughter-in-law of R. Hoshaiiah came to the marriage canopy already pregnant.

[II:1 A] [The priests' court would collect four hundred zuz for a virgin (M. 1:5G).] *It was taught:* And two hundred for a widow.

- [B] *It was taught:* All the same are an Israelite widow and a widow of the priestly caste in this regard [that both get a *maneh*].
- [C] *Said R. Yosé, “It stands to reason that when the daughter of a priest marries an Israelite, she collects [four hundred], for that is what her tribe collects. But when an Israelite girl marries a priest, she should not collect four hundred. It is not enough that she rises to the status of the wife of a priest, but do you say that she also should collect [twice the normal marriage settlement]?”*

[D] *Said R. Mana, “Is it not more reasonable that matters are just the opposite? An Israelite girl who marries a priest should collect four hundred, because she rises to the priestly status. A priest’s daughter should not collect it when she marries an Israelite, because she descends from the priesthood.”*

[E] Said R. Yosé b. R. Bun, “All the same are this one and that one. It is a fine which they have enacted so that a man should remain bound to his own tribe and his own family in marriage.”

1:6

[A] **He who marries a woman and did not find tokens of virginity –**

[B] **she says, “After you betrothed me, I was raped, and your field has been flooded,”**

[C] **and he says, “Not so, but it was before I betrothed you, and my purchase was a bargain made in error” –**

[D] **Rabban Gamaliel and R. Eliezer say, “She is believed.”**

[E] **R. Joshua says, “We do not depend on her testimony. But lo, she remains in the assumption of having had sexual relations before she was betrothed and of having deceived him,**

[F] **“until she brings evidence to back up her [contrary] claim.”**

[I:1 A] *R. Jeremiah proposed, “On the basis of what is said here, may we conclude that, in the view of Rabban Gamaliel and R. Eliezer, there can be no claim against a girl’s virginity [on the part of the husband,] but in accord with the view of R. Joshua, [there can be such a claim]? [In the view of the former the husband can never prove his claim.]”*

[B] *He retracted and said, “There can be a claim against a girl’s virginity on the part of the husband, in the view of Rabban Gamaliel and R. Eliezer, in the case of a wife who remains silent [and does not enter a contrary claim].”*

[I:2 A] Now even in the case of one who enters a claim and says, “He found the tokens of virginity, but he destroyed them,” [the husband can enter a contrary claim].

[B] But she should be believed.

[C] *You cannot accept her claim [at face value], for R. Ila said in the name of R. Eleazar, “If the husband found the door open, it is forbidden to continue the marriage, by reason of the possibility that she had been a wayward wife.”*

[D] [Reverting to the contrast to M. 1:6,] in the instance [of the Mishnah, at M. 1:6A-D], it is said that she is believed, while in the present case [of C], she is not believed. [What accounts for the difference?]

[E] In this former case, both parties concur that the door was open [since the claim of the woman is only that while the signs of virginity were not found, she had been raped]. But here [at C, above], the wife claims that she was a virgin, [while the husband denies it altogether,] so she is not believed.

[I:3 A] *There we have learned: “If there were blemishes on her while she was yet in her father’s house, the father must bring proof [that after she was betrothed these blemishes made their appearance on her, so that the husband ‘s field has been flooded. If she had entered the domain of the husband, then the husband has to bring proof that before she was betrothed these blemishes were on her body, so that his purchase was a purchase made in error,” the words of R. Meir (M. 7:8A-C).]*

[B] *R. Eleazar asked R. Yohanan, “Does this law of the Mishnah accord [in the domain of the husband] with Rabban Gamaliel and R. Eliezer only, and not with R. Joshua [in line with the rule of M. 1:6 that the husband has to bring proof]?”*

[C] He said to him, “No, it is the opinion of all parties. The case of blemishes is different, because they appear quite commonly. [Accordingly, Joshua also may concur in this case that the husband must bring proof, since the presumption as to blemishes supports the wife’s position.]”

[D] [Differing from this view of Yohanan’s,] *said R. Yosé, “From our predecessors we see that the rabbis [at both cases] compare the instance of blemishes to that of signs of virginity. One party derives the rule from one thing for the other, and vice versa, thus: As to deriving the rule governing the signs of virginity from the rule governing blemishes, if the blemishes appeared on the girl while she was yet in her father’s house, the father has to bring proof. As to deriving the rule governing blemishes from that for the signs of virginity, if the blemishes appeared on her, and it was a matter of doubt whether it was after she had entered the domain of the husband or beforehand, the husband has to bring proof. [That is, in the former case, if the blemishes appeared while she was in the father’s domain, he has to bring proof. So with the case of the signs of virginity. If the doubt occurs in the father’s domain, he must bring proof. Gamaliel and*

Eliezer then accept the wife's claim when the matter of doubt came into being after she was already in the husband's domain. So with blemishes if the matter of doubt came into being when she was in the husband's domain, he must bring proof. Accordingly, Yosé insists, the law for blemishes and the signs of virginity is one and the same.]"

[E] But is this how you derive the law for the signs of virginity? Now when [in the case of the issue at M. 1:6] the signs of virginity were lost, was it not while the girl was in her father's house that they were lost? [For the claim of the husband is brought as soon as the wedding and sexual relations have taken place, so the only place at which the signs of virginity can have been lost is the father's house, prior to the wedding.] How then can you say that the husband has to bring proof? And here, too, [according to your view,] the husband should have to bring the proof [to back up his claim regarding the appearance of the blemishes even when the blemishes appeared while the girl was yet in her father's house]! [We can only conclude, as Yohanan has proposed, that the two cases are different.]

1:7

[A] She says, "I was injured by a piece of wood,"

[B] and he says, "Not so, but you have been laid by a man" –

[C] Rabban Gamaliel and R. Eliezer say, "She is believed."

[D] And R. Joshua says, "We do not depend on her testimony. But lo, she remains in the assumption of having been laid by a man,

[E] "until she brings evidence to back up her claim."

[I:1 A] Said R. Eleazar, "This law represents the view of R. Meir, for R. Meir said, 'In the case of a girl injured by a piece of wood, her marriage contract is two hundred zuz.' [The case before us involves such a claim for two hundred zuz. The husband offers a *maneh*.]"

[B] *Said R. Yosé, "Now originally we reasoned as follows: The dispute between R. Meir and these rabbis is in a case in which he married her under the assumption that she was injured by a piece of wood. [He accepted her on those terms. In such a case, Meir maintained that the marriage settlement was to be two hundred zuz.] But if he had married her assuming that she was a virgin, and she turned out to be injured by a piece of wood, even R. Meir will concur [that she gets a *maneh* only]. Now, however, on the basis of what is to follow, even if the husband married her assuming that she was a virgin and she turned out to be injured by a piece of wood, the same dispute of R. Meir and sages applies, as indicated here: **She says, 'I was injured by a piece***

of wood,' and he says, 'Not so, but you have been laid by a man' [M. 1:7A-B]. [Here the husband clearly assumed she was a virgin, and since at A we have maintained that Meir is the authority here, the dispute between Meir and sages can only be as has now been formulated, C, rather than as originally proposed, B.]”

- [C] R. Jeremiah in the name of R. Zeira did not state matters in this way. Rather, she says, “I was injured by a piece of wood,” and her marriage settlement should be two hundred zuz, while he says, “Not so, but you have been laid by a man, and you have no claim on me whatsoever.” How shall we interpret the matter? If he married her assuming she was a virgin and turned out to be injured by a piece of wood, then R. Meir also will concur [that she gets only a *maneh*]. If it is a case in which he married her under the assumption that she was injured by a piece of wood, and she turned out to have been injured by a piece of wood, in such a case it is certainly obvious that the gate was open, whether because of a piece of wood or because of a man [so what claim does the husband wish to enter here?]
- [D] R. Huna, in the name of R. Zeira, did not explain matters in this way. But she says, “I was injured by a piece of wood, and so did I stipulate with you,” and he says, “Not so, but you were laid by a man, and I made no contrary stipulation with you at all. “ [At issue is ~he stipulation applying at the outset. The Mishnah accords with Meir’s view, and at issue is two hundred zuz or no payment at all. The woman claims the whole amount, and the husband says he owes nothing.]

1:8

- [A] [If] they saw her [sexually] conversing with a man in the market,
[B] [and] they said to her, “What is the character of this one?”
[C] [and she said,] “It is Mr. So-and-so, and he is a priest” –
[D] Rabban Gamaliel and R. Eliezer say, “She is believed.”
[E] And R. Joshua says, “We do not depend on her testimony. But lo, she remains in the assumption of having had sexual relations with a Netin or a mamzer,
[F] “until she brings evidence to back up her claim.”
- [I:1 A] What is the meaning of “conversing”? It means, “having sexual relations.” *Why then do we learn, “... conversing ...”?* It is a euphemism.
- [B] Rabbi uses euphemisms.

- [I:2 A] R. Jacob bar Aha in the name of R. Josiah: “The law accords with Rabban Gamaliel and R. Eliezer, because we have two who outnumber a single contrary opinion.”
- [B] [25d] *R. Yosé asked*, “If the law accords with them, then why are the two named at all, and if the two are named, why is it stated that the law follows them? [Furthermore,] if R. Yohanan should concur with R. Joshua, the law will not be in accord with Rabban Gamaliel and R. Eliezer but rather with R. Joshua.”
- [C] *What is the upshot of the matter?* The operative reason is that we have testimony which a woman is suited to give.
- [I:3 A] *They wished to propose: The dispute between R. Joshua and these rabbis applies only in a place in which the majority is unsuited [for marriage into the priesthood], but in a place in which the majority is suited, also R. Joshua will concur.*
- [B] *R. Jacob bar Aha in the name of R. Yohanan, R. Ila in the name of R. Eleazar proposed*, “Even in a place in which the majority is suitable, the same dispute is at hand. R. Joshua maintains that a woman inclined to fornication seeks unfit men.”
- [C] *Said R. Zeira, “The Mishnah maintains that even honorable men practice fornication. For it has been taught: ‘Even the most pious of all pious men is not appointed a guardian to keep a watch against violations of the laws of fornication.’”*

1:9

- [A] [If] **she was pregnant, and they said to her, “What is the character of this fetus?”**
- [B] [and she said,] **“It is by Mr. So-and-so, and he is a priest” –**
- [C] **Rabban Gamaliel and R. Eliezer say, “She is believed.”**
- [D] **And R. Joshua says, “We do not depend on her testimony. But lo, she remains under the assumption of having been made pregnant by a Netin or a mamzer,**
- [E] **“until she brings evidence to back up her claim.”**
- [I:1 A] Said R. Eleazar, “All concur with regard to the offspring that he is declared to be of an unknown father. *And so it has been taught on Tannaite authority: Under what circumstances [do sages accept her testimony]? In regard to testimony as to her own status. But as to the offspring, all concede [Gamaliel and Eliezer to Joshua] that it is of unknown male parentage [T. Ket. 1:6L-M].”*

- [B] Said to him R. Yohanan, “[The cited passage does not prove the point. For it refers to] one of unknown male parentage without further specification. Now we find the case of a child of unknown male parentage who is suitable to marry a high priest. What would be such a case? If you have a gang of priests going by, and one of them went away and had sexual relations with a woman – lo, we have a case of one of unknown male parentage who is eligible to marry a high priest.”
- [C] Said to him R. Eleazar, “Lo, there is the case of a widow of a man of mixed stock. She is valid [for marriage to a priest], but her daughter is invalid [for marriage into the priesthood]. [Likewise in the case of M. 1:9, the girl is believed as to her own status, but the offspring is invalid.]”
- [D] He said to him, “I follow the view of the one who holds that whoever declares the woman valid also validates her daughter.” [The dispute of Meir and sages which we shall see in a moment concerns the status of the daughter, with some authorities validating both mother and daughter, and others only the mother, not the daughter.]
- [E] Said R. Jacob bar Aha, “He has stated the matter only in accord with him who validates [the mother].”
- [F] *Lo, it follows that there is another view, which invalidates [the daughter]. Who is the one who declares the daughter valid? It is R. Meir. Who is the one who declares the daughter invalid? It is rabbis. This is in accord with the following: For it has been taught: **What is a mixture [of proselytes or people of impaired priestly stock, which produces a girl suitable for marriage to an Israelite but invalid for marriage into the priesthood]? Any girl in whom is no trace of ancestry of impaired priestly stock, a Netin or a mamzer [T. adds: or servants of the kings]. R. Meir says, “Any girl who bears no trace of ancestry of a Netin, a mamzer, or a servant of the kings – her daughter do they permit to marry [even] into the priesthood” [T. Qid. 5:2].***
- [G] But as to a family in which some invalid genealogy has been mixed up –
- [H] R. Meir says, “One examines the family genealogy four generations on the mother’s side and then she may marry into the priesthood.”
- [I] And sages say, “One investigates the genealogy without limit.”
- [J] R. Jeremiah in the name of R. Zeira, “Only R. Eleazar maintains that view [that the mother is valid but the daughter invalid].”

- [K] He asked R. Yohanan, “As to the widow of a family containing a mixture [as explained above] what is her status?”
- [L] He said to him, “She is valid [for marriage into the priesthood].”
- [M] “And as to her daughter, what is her status?”
- [N] He said to him, “In the view of him who declares the mother valid, the daughter also is declared valid.”
- [O] *They wished then to state*, “In the view of R. Eleazar, a child of unknown male parentage is invalid. In the opinion of R. Yohanan, a child of unknown male parentage is valid.”
- [P] No, even R. Yohanan holds that a child of unknown male parentage is invalid for marriage into the priesthood. In fact, he answered the other party in accord with the latter’s theory: “In accord with your theory, in which you hold, ‘Also we have a child of unknown male parentage here,’ we have a case in which a child of unknown male parentage may become a high priest. How so? If you have a gang of priests going by, and one of them went away and had sexual relations with a woman – lo, we have a case of unknown male parentage, who is eligible to become high priest.”
- [Q] *A statement of R. Zeira implies that a child of unknown male parentage is valid. [How so?] R. Zeira raised the question before R. Yosé*: “So with regard to the status of the family is the rule the same? [That is, so far as the child’s genealogy, do we hold the same view?]”
- [R] He said to him, “Yes.”
- [S] Said R. Simeon b. Laqish, “There [at M. Qid. 4:4], we have learned the law with respect to the matter of genealogy, but here [at M. 1:9] we deal with the matter of the right of the child to eat Holy Things in the provinces [e.g., food in the status of heave offering]. [He may not eat priestly rations.]”
- [T] *A statement of R. Samuel bar Isaac indicates that a child whose male parentage is unknown is invalid [even as to genealogy]. [For] Samuel bar R. Isaac asked*, “If so, there will be no such thing as a child of unknown male parentage in the view of Rabban Gamaliel and R. Eliezer, but only in accord with the opinion of R. Joshua [because the woman will always say that she has had sexual relations with a suitable person, so the child is valid].”

[U] *He retracted and said*, “There can be a child of unknown male parentage according to Rabban Gamaliel and R. Eliezer, when the woman remains silent [and makes no claim whatever]. And you may even say that we have a case, too, in which the woman does testify, but says, ‘I do not know [who the father is].’ [In such a case the child is invalid, that is, when the mother makes no claim or admits she is not sure about the father.]”

1:10

[A] Said R. Yosé, M'SH B: “A girl went down to draw water from the well and was raped.

[B] “Ruled R. Yohanan b. Nuri, ‘If most of the men of the town marry off their daughters to the priesthood, lo, she may be married into the priesthood.’”

[I:1 A] *R. Judah in the name of Rab*, “The incident took place at the well of Sepphoris [= identifying the well mentioned in M. 1:10A with the one known from Sepphoris].”

[I:2 A] *Both R. Jeremiah, R. Hama bar Uqba say in the name of R. Hanina in the name of R. Yannai*, “R. Joshua concurs in the case of a woman who was raped [that she is believed if she says it was by a man who has not invalidated her, by his act of sexual relations, from marriage into the priesthood]. [His position, that a licentious woman does not care with whom she has sexual relations and hence is not believed when she says it was with a valid man, does not apply in the present case.]”

[B] R. Hezekiah, R. Abbahu in the name of R. Yohanan: “R. Joshua concurs in the case of a woman who was raped.”

[C] R. Hiyya bar Ashi said in the name of Rab, “The law accords with the view of R. Yosé, which he stated in the name of R. Yohanan b. Nuri.”

[D] *R. Zeira asked before R. Yosa*, “How is a case to be judged?”

[E] He said to him, “It is in accord with R. Yosé’s view, which he stated in the name of R. Yohanan b. Nuri.”

[I:3 A] Said R. Ila in the name of R. Yannai, “It was in the middle of Sepphoris that [the man] had intercourse [with the girl of M. I:10]. [It was within the town, for example, at the time of the market, and the majority of the marketers as well as the majority of the local people are suitable. But if it was outside of the town, for example, at a well, we know of only the local residents, be they in the majority valid; then we should not rule as we do.]”

- [B] R. Ba in the name of R. Yannai, “If they saw the man leave Sepphoris and have sexual relations [with the girl], we assume that he is one of those who invalidates a woman for marriage into the priesthood by his act of sexual relations, for there [outside of town] he had sexual relations. [He no longer is part of the majority which is valid (PM).]”
- [C] What is the law [if one has been seen to leave the] plaza [of the town? Is he regarded as part of the “majority” of the town, e.g., valid, or not?]
- [D] R. Jeremiah bar Vava, R. Yosé says, “He is regarded as in the status of the majority.”
- [E] *Support for the position of R. Jeremiah derives from the following, which R. Hiyya stated in the name of R. Yohanan:* “In the case of an alleyway, in which only one Israelite lives along with gentiles, and which fell down in an earthquake – [on the Sabbath] they labor to dig the stones out on account of the Israelite who is there. [That is, if the Israelite is in permanent residence, then there is a fifty-fifty chance that he is the one who is buried, and the laws of the Sabbath are set aside on his account, since in the saving of life a lenient ruling is made.]”
- [F] And in the case of a plaza, they follow the status of the majority [and since there is no evidence that the majority is Israelite, they would not labor on the Sabbath]. [In the plaza there is no permanent residence.]
- [G] *Now from the perspective of what R. Jeremiah has said, [D,] how shall we interpret the case cited above, namely, that which R. Ba said in the name of R. Yannai,* “If they saw the man leave Sepphoris and have sexual relations with the girl, we assume that he is one of those who invalidates a woman for marriage into the priesthood by his act of sexual relations, for there [outside of town] he had sexual relations?”
- [H] *In the view of R. Jeremiah,* they saw him leave one of the houses, and in the view of R. Yosé, even if they saw him leave the plaza [the rule is the same]. [In the view of the former, he must be seen to leave a place of permanent abode, in which case we know that he is part of the majority which does not invalidate. In the view of Yosé, the issue of permanent abode is not pertinent.]
- [I] If Sepphoris was locked up [so that the majority of the city will be inside, how do we decide the woman’s claim?]
- [J] R. Yosé says, “[We require] solid proof [that the man was valid vis-a-vis the priesthood]. [We cannot follow the majority of those who dwell in the town in a case such as this.]”

[K] *Now R. Yosé here states that [location in the plaza of the town serves to signify that one is part of] the majority [of the town]. [The whole town is deemed to be a place of permanent residence, even if one is seen leaving one of the houses to the public domain.]*

[L] *Support for the position of R. Yosé derives from the following, which R. Zeira, R. Yosé in the name of R. Yohanan, stated: “If the basket of grain belonging to one who properly tithes his produce should be confused at the mill with that of someone else, if it is the established practice of a person who does not properly tithe his produce to bring his grain for milling to that mill on that day, one has to take account [of the confusion and treat the grain as doubtfully tithed], and if not, he need not take account of that possibility. [This then supports Yosé’s view that we do not follow the majority of those who bring their grain on that day, but rather, we follow the presumption concerning a single individual. It follows that the criterion is not the issue of the majority, but rather the issue of what is a permanent fact. Along these same lines, if the invalid person is properly assumed to live in the town, one takes account of that fact, and we do not follow the majority of the town, even if it is valid. The whole town is deemed that individual person’s permanent place.]” Now, what is the difference between this case [in which there is only a single suspect person who usually brings his grain on that day] and a Saracen, for has it not been taught: In the case of a Saracen woman, who meets her needs on any one day out of what is prohibited, that day is deemed proof for every day [that the source, e.g., the mill, is prohibited]? [The point is that we have said above, if the day is not one on which one who does not usually tithe properly is apt to bring his grain, then we allow the one who does tithe properly to take as valid whatever grain he wishes. But what about the possibility of a Saracen woman, for whom the rule is that a single use of the facility invalidates the facility?] It is not possible for such a person not to utilize [the facility, if we see that it has been used on a given occasion]. [Consequently, there is more than a single disqualifying point of utilization of the mill.] But here [with reference to the mill], I maintain that the one who does not properly tithe his produce is not assumed to mill his grain there on that day, so does one have to take account of the possibility that he has done so, while there [with reference to the Mishnah’s case, as discussed above], I maintain that of the whole town only the man who invalidates a woman for marriage into the priesthood if he has sexual*

relations with her went down to the well to draw water there on that day. Should I take account of the possibility [that he is the one who has raped the girl]? Now lo, R. Ila in the name of R. Yannai said, “It was in the middle of Sepphoris that the man had intercourse [with the girl of M. 1:10]. Now lo, R. Ba in the name of R. Yannai said, “If they saw the man leave Sepphoris and have sexual relations with the girl, we assume that he is one of those who invalidates a woman for marriage into the priesthood by his act of sexual relations, for there, outside of town, he had sexual relations.”

- [I:4 A] [We now raise parallel rules on how we settle matters of doubt such as this:] In the case of what is found, we follow the status of the majority [Y. Sheq. 7:5]. [Why here do we not follow the status of the majority of those who live in the town?]
- [B] *By reason of [such a difficulty as this], the rabbis have compared the case to that involving a dead creeping thing, for it has been taught: **Nine frogs and one dead creeping thing in the private domain – and one touched one of them, and it is not known which of them he touched – a case of doubt concerning him is resolved as unclean. If one of them separated to the private domain, a case of doubt concerning him is deemed unclean. If one of them separated to the public domain, a case of doubt concerning him is deemed clean. And in the case of what is found: they follow the status of the majority [T. Toh. 6:2J-Q, cf. M. Toh. 5:3-4].*** [The deceased frogs do not impart uncleanness. The dead creeping thing does. In private domain we deem them to have a permanent place, and we treat the possibilities as fifty-fifty that the dead creeping thing has touched the food. A matter of doubt in private domain is resolved as unclean. In public domain the doubt is resolved as clean. When we follow the majority – that is, the frogs – we shall produce a decision in favor of cleanness. Along these lines, if someone from the town left the town, if it is in our presence, we do not say we follow the status of the majority of those who live in the town, but we treat it as a case in which there is permanent location, so the chances are fifty-fifty.]
- [C] Said R. Hisda, “Did not all the mighty men [of the law] find grounds [for distinguishing the case of M. 1:10 from the case before us]?!”
- [D] Said R. Immi, “‘Blessed be he who chose them and their teachings.’ Still, instead of comparing the case to one involving private domain, why not compare it to a case involving public domain? For it has been taught: **Nine creeping things and one frog are in the public domain – and one touched one of them – and it is not known which of**

them he has touched – a matter of doubt concerning him is deemed clean. One of them separated to private domain – a matter of doubt concerning him is deemed unclean. One of them separated to the public domain – a matter of doubt concerning him is deemed clean. And in the case of what is found: they follow the status of the majority [T. Toh. 6:2A-I].”

- [E] Said R. Hisda, “Did not all the mighty men [of the law] find grounds [for distinguishing the case of M. 1:10 from the case before us]?!”
- [F] Said R. Immi, “‘Blessed be he who chose them and their teachings.’ Is not the plaza of Sepphoris public domain? [Accordingly, the comparison should surely be made to public domain, as in the second case just now cited, and the matter of doubt concerning the girl’s attacker should be resolved in favor of cleanness, that is to say, he should be assumed not to invalidate her for marriage into the priesthood.]”
- [G] Said R. Yosé, “Since both of them have the power to go apart in private, the place in which they are located is deemed to be private domain. [Accordingly, we impose the strict ruling and treat the attacker as one who invalidates a woman for marriage into the priesthood.]”
- [I:5 A] *There was a case of an infant whom they found tossed into the garbage. The case came before R. Ishmael b. R. Yosé. He said, “Let her be treated as of a mixed-family [which may or may not be permitted to marry into the priesthood].”*
- [B] [26a] *R. Jeremiah contemplated ruling, “She is to be assigned to the status of one of mixed-family, but valid for marriage into the priesthood. [For if that is not the case, then] does R. Ishmael b. R. Yosé differ from his father? [For if it is not a family of mixed background which is nonetheless valid for marriage into the priesthood, then Yosé at M. 1:10 cannot concur with Ishmael, his son, who has precluded her marriage into the priesthood.]”*
- [C] Said R. Yosé, “And even if you say that he assigned her to a status of a family of mixed background, which is invalid for marriage into the priesthood, *still, R. Ishmael b. R. Yosé does not differ from his father.* Why? Because, while valid men commit fornication, it is the result of fornication with invalid men that people toss the offspring into the garbage. [This case is different from the Mishnah, in which the presumption is that the girl who was raped was raped by a person valid for marriage into the priesthood.]”

YERUSHALMI KETUBOT

CHAPTER TWO

2:1

[A] The woman who was widowed or divorced –

[B] she says, “You married me as a virgin” –

[C] and he says, “Not so, but I married you as a widow” –

[D] if there are witnesses that [when she got married], she went forth to music, with her hair flowing loose,

[E] her marriage contract is two hundred.

[F] R. Yohanan b. Beroqa says, “Also, passing out parched corn is proof [of her status as a virgin when she was married].”

[I:1 A] *There is no difficulty in understanding that if the wife is divorced, [it will be the husband who enters the contrary claim]. But in the case of the widow, who [has the power to] enter a claim [against hers]?*

[B] It is the heirs.

[II:1 A] **[if there are witnesses that when she got married, she went forth to music, with her hair flowing loose:]** But [why not] follow the criterion of the majority, and the majority of those who are married are married as virgins. [Why should there have to be witnesses, D, so that, if there is none, the husband’s claim is accepted?] On the basis of [the fact that the majority who are married are married as virgins], assume that she was married as a virgin.

[B] That is to say that in matters having to do with monetary judgments, they do not follow the case of the majority.

[C] [We now illustrate that fact.] *There we have learned: An ox [deemed harmless] which gored a cow [which died], and her newborn calf was found dead beside her, [and it is not known whether, before it gored her, she gave birth, or after it gored her, she gave birth – the owner of the ox pays half-damages for the cow and quarter-damages for the offspring] [M. B. Q. 5:1A-C].* Now do the majority

of cows produce abortions [and not healthy offspring]? Surely one should rule that it was because of the goring that the cow aborted [and hence the prevailing assumption is - not applied here].

[D] Said R. Abbahu, “That is to say that in matters having to do with monetary judgments, they do not follow the case of the majority.”

[E] Said R. Abun, “And on one matter, in monetary judgments, they do follow the case of the majority. *As in that which R. Aha taught: ‘A camel which was in heat among the herd of camels, and one of the camels was found dead – the owner of the one in heat is liable, for I maintain that that one which was in heat bit the other.’*”

[II:2 A] If one laid claim for a *maneh* [a hundred zuz, and the defendant denied the claim, and the plaintiff brought witnesses that he owes him fifty zuz –

[B] R. Hiyya the Elder says, “He must take an oath as to the remainder [as does one who concedes part of a claim. The testimony is tantamount to a concession.]”

[C] R. Yohanan says, “He does not have to take an oath as to the remainder.”

[D] *The position of R. Hiyya the Elder derives from, Two in court lay hold of a cloak. This one says, “I found it,” and that one says, “I found it” [M. B.M. 1:1].* Since the man is holding on to half of the cloak, it is as if he brought witnesses to court that half of it belongs to him.

[E] If the other party says, “The whole of it is mine,” this one who is holding on to half of the cloak is as if he brought witnesses to court that half of it belongs to him.

[F] If the other party says, “The whole of it is mine,” he takes an oath that the whole of it is his.

[G] *Now did he not hear that which R. Ila said in the name of R. Yohanan, “The requirement of taking an oath is so that a man should not see his fellow in the marketplace and say to him, ‘The cloak you are wearing is mine. Come and divide up your cloak with me.’ [There is a special reason operative here.]”*

[H] R. Abin in the name of Rab, “My uncle [Hiyya] concurs in the case of a deed.”

[I] *What would be the case of a deed?*

[J] If he claimed a *maneh* and the other party denied the claim, and the plaintiff produced a deed that he owes him fifty zuz, he has a claim on only fifty zuz.

[K] And R. Yosé b. R. Bun said, “*Let us derive the law from the following*: ‘If the bond read, ‘Silver *selas*, which are ...,’ and the rest is blotted out – there is no claim for less than two. As to larger amounts, if the creditor says, ‘Five,’ and the debtor says that he owes only three, Ben Azzai says, ‘Since [26b] he has-conceded part of the claim, he takes an oath.’ And sages say, ‘This is not a concession of the character of the claim.’ Is the reason then that it is because the concession is not of the same sort as the claim? Lo, if the concession had been of the same sort as the claim, would he have been liable?”

[L] But here [at M. 2:1A-E] it is not a concession which is of the sort as what is claimed?

[M] All parties concur that he is liable to the woman for a *maneh*, and she is as if she lays claim on another *maneh* [to make up the full two hundred zuz]. He does not concede that claim. He who wishes to exact something from his fellow bears the burden of proof.

[III:1 A] She went forth to music.

[B] Rabbis over there say, “On a palanquin.”

[C] Rabbis of this area say, “A curtained litter.”

[III:2 A] She went forth ... with her hair flowing loose.

[B] R. Hiyya in the name of R. Yohanan: “It is on account of those who went forth on the Day of Atonement.”

[C] But if it is because she went forth with hair flowing loose, and witnesses concerning her give testimony that she had not had sexual relations, should we not take account of the possibility that she may have been a virgin at the stage of the consummation of the marriage?

[D] *That is to say*, a virgin at the consummation of the marriage, who remarries, does not go forth with her hair flowing loose.

[E] And perhaps we should take account of the possibility that she has lost her virginity through the blow of a piece of wood.

[F] *But the passage conforms to the view of R. Meir, for R. Meir says, “As to a girl who has lost her virginity through the blow of a piece of wood, her marriage settlement is two hundred zuz” [M. 1:3].*

[G] And R. Yohanan said, “They did not take account of a matter which is not commonplace.”

[IV:1 A] **R. Yohanan b. Beroqa says, “Also, passing out parched corn is proof of her status as a virgin when she was married” [M. 2:1F].**

[B] And should we not take account of the possibility that she may have been a virgin at the stage of the consummation of the [preceding] marriage?

[C] That is to say, a virgin at the consummation of the preceding marriage, when she remarries, is not celebrated with the passing out of parched corn.

[D] *It has been taught:* Abba Saul says, “Also one before whom they carried a jug of first fruits.”

[E] And should we not take account of the possibility that she may have been a virgin at the stage of the consummation of the preceding marriage?

[F] That is to say, a virgin at the consummation of the preceding marriage, when she remarries, is not celebrated with a procession in which they carry before her a jug of first fruits.

2:2

[A] **And R. Joshua concedes in the case of him who says to his fellow, “This field belonged to your father, and I bought it from him,”**

[B] **that he is believed.**

[C] **For the mouth which prohibited is the mouth which permitted.**

[D] **And if there are [other] witnesses that it had belonged to his father, and he claims, “I bought it from him,” he is not believed.**

[I:1 A] R. Joshua concurs, and if he differs, it is at the opening rule, [at M. 1:6]. [Even though the woman might claim to have been injured by a piece of wood, we do not accept the lesser claim she does present, so Joshua.]

[II:1 A] **He is not believed [M. 2:2A-B:]** in a case in which he did not enjoy the usufruct for the necessary years for establishing ownership through usucaption.

- [B] But if he had made use of the field for the requisite years for establishing ownership through usucaption, he is believed.
- [C] That is the case when the father did not die while in possession of the field.
- [D] But if the father had died while in possession of the field, even if he had not enjoyed the usufruct of the field for the years sufficient to establish ownership through usucaption, he is believed.
- [E] *Here is an illustration of the matter.* Reuben enjoys the usufruct of a field, on the assumption that it belongs to him. Simeon produces witnesses that his father had died while in possession of the field. They remove the field from the possession of Reuben and hand it over to Simeon. But if Reuben went and brought witnesses that Simeon's father had not died while in possession of the field, [then the claim of Simeon is null].
- [F] Said R. Nahman bar Jacob, "I am the one who took it away from Reuben. I am the one who will return it to him."
- [G] *Rabbis over here maintain this view. Rabbis over there rule,* "From the time that the clear testimony comes forth, the field left Reuben's possession [and is not returned, lest the court lose all credibility]."
- [H] *Said R. Yosé, "Rabbis over there concur that* if to begin with two witnesses testified that his father had died while in possession of the field, and two stated that he did not die while in possession of the field, the field remains in the presumptive ownership of Reuben. [If the refutation took place in a timely way, all concur with the illustration given above.]"
- [I] *Said R. Yohanan, "And so it has been taught on Tannaite authority:* If two say the husband has died, and two say he has not died, she may not remarry. But if she did remarry, she should not go forth. If two say, 'She was divorced,' and two say, 'She was not divorced,' she should not remarry, but if she remarried, she has to go forth from the second husband."
- [J] *Over there in Babylonia they say that* there is no difference between testimony about the death of the husband and that about the issuance of a writ of divorce: she should not remarry, but if she remarried, she should not go forth. *In the view of rabbis over there, there is no problem, since the same rule applies to a case of death and one of divorce. But in the view of rabbis over here [in the Land of Israel],* what is the difference between a case of death and one of divorce?

[K] [Answering that question,] Zeira made his statement without further specification as to authority, while R. Hiyya in the name of R. Yohanan said, “It is reasonable to believe witnesses as to death, because if the husband should come [and appear alive after all], he may effectively contradict their testimony [but if he should deny having issued a writ of divorce, that would not have the same effect].”

[L] *Said R. Hezekiah, “Rabbis from over there concur with us. Just as the rabbis over there hold, from the time that the testimony clearly came forth, the field left Reuben’s possession], so rabbis over here say, ‘From the time that she remarried, it was on the basis of clear-cut testimony that she remarried [since the witnesses to the divorce testified prior to her remarriage].”*

[M] [Differing from the foregoing two statements] *said R. Yosé, “Is it not reasonable to suppose that the opinions assigned to the rabbis over there are at variance? Do rabbis over there not concur that to begin with when two say, ‘His father died while in possession of the field,’ and two say, ‘His father did not die while in possession of the field,’ that the field remains in the presumptive ownership of Reuben? But if two say, ‘She was divorced,’ and she remarried and then two say, ‘She was not divorced,’ she should not go forth.”*

[N] That is so.

[O] *The following teaching assigned to Tannaitic authority differs from the position of R. Yohanan: “If two say, ‘She was betrothed,’ and two say, ‘She was not betrothed,’ she should not remarry, but if she remarried, she need not go forth.” [But at O, Yohanan has the divorcée go forth from the second marriage.]*

[P] R. Hoshaiyah said, “R. Yohanan interprets the rule to apply to a case in which two said, ‘She was betrothed and then divorced,’ and two said, ‘She was not divorced.’ In such a case she should not remarry, but if she remarried, she should not go forth.”

[Q] What is the difference between this case and the prior one?

[R] In the prior one the woman was presumed to be a married woman on the basis of universal knowledge,

while here she was not presumed to be a married woman except before the two witnesses alone.

[S] When the two will come and say, “This is the one who betrothed her,” [they will be believed].

[T] *The following Tannaitic teaching [cf. T. Ket. 2:2] differs from the view of R. Yohanan:* Two say, “She was taken captive but she is clean [not raped],” and two say, “She was taken captive, but she is unclean,” she may not remarry, and if she remarried, she need not go forth. [Why is this different from testimony about divorce?] Said R. Yosé, “Since these say, ‘She is clean,’ and those say, ‘She is unclean,’ it is as if these say, ‘She was taken captive,’ and those say, ‘She was not taken captive.’ [So the two sets contradict each other.] And we rely on her evidence [in addition].”

[II:2 A] [As to] two say, “She was betrothed,” and two say, “She was not betrothed,” –

[B] R. Jonah compares the case to that involving prohibited fat. Two say, “So-and-so ate forbidden fat,” and two say, “He did not eat forbidden fat” – is it possible that he is not required to bring a suspensive guilt offering by reason of doubt? And in this case the husband must issue a writ of divorce by reason of doubt.

[C] Said R. Yosé, “Do not compare the case to the one involving forbidden fat, for even in such a case as this, if he says, ‘My heart moves me [to fear I ate forbidden fat],’ he has to bring a suspensive guilt offering.”

[D] *The following Tannaitic teaching differs from R. Yosé:*

[E] If two say, “She was betrothed,” and two say, “She was not betrothed,” she may not remarry [without a writ of divorce from the betrothal].

[F] *And the end of the same teaching differs from the view of R. Jonah:*

[G] If she should remarry, she goes forth.

[H] Said R. Mana, “It is not that R. Yosé says, ‘She may remarry,’ nor that R. Jonah says, ‘If she should remarry, she should go forth.’ He has stated the matter only that one should not compare the case to that of forbidden fat, for even in such a matter, should he say merely, ‘My heart moves me [to fear I ate forbidden fat],’ he must bring a suspensive guilt offering.”

2:3

[A] **The witnesses who said, “This is our handwriting, but we were forced [to sign],” “We were minors,” “We were invalid [e.g., as relatives] for testimony,” –**

[B] **lo, these are believed, [and the writ is invalid].**

[C] **But if there are witnesses that it is their handwriting, or if their handwriting was available from some other source, they are not believed.**

[I:1 A] *It has been taught:* **So too witnesses who testified to declare someone unclean or clean, to put someone afar or to bring someone near, to prohibit or to permit, to exempt or to render liable –**

[B] **[If] before their testimony was cross-examined in court, they said, “We are joking,” lo, these are believed. [If] after their testimony was cross-examined in court, they said, “We are joking,” they are not believed [T. Ket. 2:1F-G].**

[II:1 A] **[But if there are witnesses that it is their handwriting, or if their handwriting was available from some other source, they are not believed:]** R. Simeon b. Laqish said, “They treated witnesses whose names are signed on a bond as if their testimony had been cross-examined in court. [This explains M. 2:3C. That is, if their handwriting is attested, they can no longer deny the matter.]”

[B] If they say, “It is [not] our handwriting,” and others say, “It is their handwriting” –

[C] *R. Hiyya taught,* “[Their own testimony] makes no further difference, [since others are available to verify it].

[D] *Said R. Yosé,* “*The Mishnah itself has made the same point: But if there are witnesses that it is their handwriting, or if their handwriting was available from some other source, they are not believed [M. 2:3C].*”

- [II:2 A]** If they say, “It is our handwriting,” and others say, “It is not their handwriting” –
- [B] Said R. Mana, “The bond is treated as one which has been subjected to a claim of forgery, [and it has to be confirmed by a court].”
- [C] Said R. Assi, “And that is the case if it is a bond which has been subjected to a claim of forgery, so that it has to be confirmed by a court.”
- [D] [If the plaintiff should not persist,] R. Eleazar says, “It does not require confirmation in court.”
- [E] *Said R. Ila, “The reason for the view of R. Eleazar is that, since the witnesses to the bond are treated as if their testimony had been cross-examined in court, [no further confirmation by a court is required].”*
- [II:3 A]** R. Hana said, “They derive evidence [as to the character of the witnesses’ signatures] from a document which has been examined [and shown to derive from them], along the lines of what people say about the scribe Assi, [that his documents are readily recognized].”
- [B] And as to letters, [do they confirm the handwriting of witnesses from letters written by them]? This is a question.
- [C] [Said R. Yosé b. R. Bun, “That is on condition that there are three bonds deriving from three different individuals [bearing that witnesses’ witness’ signature. Then we have adequate evidence on the matter].”
- [II:4 A]** R. Huna in the name of Rab: “Witnesses are believed if they state that the bond is merely a matter of trust [that the negotiation would be consummated afterwards], or a feigned transfer [a deed of sale for accommodation].”
- [B] For Rab said, “It is forbidden to sign as a witness on a writ signifying a bond as a matter of trust or a feigned transfer.”
- [C] *Now does Rab differ here from [what is attributed to him by Huna]? They said in the name of Rab, “Witnesses are believed if they state that a bond is a matter of trust or a feigned transfer.” Accordingly, a statement of Rab differs from another statement of Rab.*
- [D] R. Haggai said, “It is not that Rab said it is forbidden to sign as a witness on such a document. [He held that] it is prohibited to preserve such a document, in line with the following verse: ‘If iniquity is in your hand, put it far away’ – this refers to a matter of trust or a [26c]

feigned transfer. ‘And let not wickedness dwell in your tents’ (Job 11:14) – this refers to a bond which has already been paid off.”

2:4

[A] This one says, “This is my handwriting, and this is the handwriting of my fellow,”

[B] and this one says, “This is my handwriting, and this is the handwriting of my fellow,” –

[C] lo, these are believed.

[D] “This one says, ‘This is my handwriting,’ and this one says, ‘This is my handwriting’ –

[E] “they have to add another to them [so each signature is confirmed by two witnesses],” the words of Rabbi.

[F] And sages say, “They do not have to add another to them.

[G] “But: A man is believed to say, ‘This is my handwriting.’”

[I:1 A] Why was it necessary to teach [M. 2:4A-C]? It is because of the position of Rabbi [at M. 2:4D-E].

[B] [That is to say:] Even though Rabbi says, “They have to add another to them [so each signature is confirmed by two witnesses],” in the opening case, he concurs that they are believed [since each testifies for himself and has the confirmation, also, of his fellow, hence two witnesses are available].

[C] *It was taught in the tradition of interpretation of tractate Ketubot of the schoolhouse: In the view of Rabbi, it is as if he gives evidence for a writ, and in the view of sages, it is as if he gives evidence concerning a loan. [That is, in Rabbi’s view, when they confirm a writ in court, they give testimony to the fact that it is their handwriting. Therefore, there must be two witnesses for each signature. In the sages’ view they give testimony that the bond is valid and the loan was made, so two individual witnesses suffice, and each of these we have without testimony of the fellow as to the signature of the other party.]*

[I:2 A] *It has been taught: A man may write down his testimony in a document and give testimony on the strength of that document and continue, even many years after [the date of the document] [T. Ket. 2:1L].*

[B] R. Huna said, “And that rule applies if he remembers what he said in his testimony.”

[C] R. Yohanan said, “Even though he does not remember what he said in his testimony.”

[D] *The position of R. Huna accords with the view of Rabbi, and that of R. Yohanan is in accord with the opinion of rabbis.*

[I:3 A] R. Zeira, R. Huna in the name of Rab: “One of the two parties and an outsider do not join together to confirm the handwriting of the other witness.”

[B] *What would be such a case?*

[C] If someone recognizes his own handwriting and the handwriting of the fellow, and as to one signature, no one recognizes it, but only his fellow recognized it.

[D] As to his fellow, what is the law as to his being joined with someone from the marketplace to give testimony concerning it?

[E] *That is the point of what R. Zeira said, R. Huna in the name of Rab:* “One of the two parties and an outsider do not join together to confirm the handwriting of the other witness.”

[F] No, it is a problem to raise when they are two. As to the handwriting of the other, no one recognizes it, but his fellow recognizes it. Now, what is the law as to treating his fellow as someone from the marketplace, an independent witness, to give testimony concerning it? If you say that he may do so, then you turn out to have all of the testimony to the document at hand confirmed by a single witness!

[G] Said R. Yudan, “And that is so. In the case of two Israelites who came out of a town, the majority of the inhabitants of which were gentiles, for example, Susita. As to one of them all knew him as an Israelite, and as to the other, no one knew him, but his fellow knows him [as an Israelite]. What is the law as to treating the fellow as someone from the marketplace, to give testimony concerning him [that he is valid to testify, as an Israelite]? If you say that that is the case, then do you not turn out to have all of the testimony [to his status] confirmed by a single witness? And here, too, you turn out to have all the testimony confirmed by the evidence of a single witness.”

[I:4 A] *R. Haggai said R. Zeira asked,* “If one witness testifies orally, and testimony of another witness is contained within a document, what is the law as to joining these two forms of testimony together?”

- [B] Is the testimony [of a single witness] in writing worth a thing?
- [C] Here is why it is a question: If they were two, and they found someone to confirm the handwriting of the first, but did not find someone to confirm the handwriting of the second.
- [D] *R. Mana raised the question, “If a single witness is in writing, what is the law as to requiring [the defendant] to take an oath?”*
- [E] If a single witness is confirmed only through his handwriting, is this worth a thing?
- [F] No, the question is necessary for a case in which they were two. One found witnesses to confirm the handwriting of the first, but did not find witnesses to confirm the handwriting of the second.
- [G] [*The answer*] is in line with the following.
- [H] The evidence of witnesses is not combined [so that we have the testimony of two witnesses] unless the two of them saw the incident simultaneously.
- [I] R. Joshua b. Qorha says, “Even if they saw it sequentially [it is combined].”
- [J] R. Jeremiah, R. Samuel bar Isaac in the name of Rab: “Sages concede to R. Joshua b. Qorha in the matter of witnesses to the claim of one to be the first-born and in the case of witnesses to the claim of one to have established rights of ownership through usucaption, that successive, not only simultaneous, witness, is acceptable.”
- [K] R. Ba in the name of R. Jeremiah: “Also in the case of testimony as to the presence of the signs of puberty, *the fact is the same.*”
- [L] *This is indeed self-evident*: If one says, “I saw two hairs on his privy parts,” and the other said, “I saw two hairs on his body,” [the two statements are acceptable as joined testimony that the person is now mature].
- [M] If one says, “I saw a single hair on his privy parts,” and one says, “I saw a single hair on his belly and nothing more,” – all the more so do we deem a hair on his privy parts and one on his body [to constitute the required two pubic hairs, so that the person is now deemed mature].
- [N] If two say, “We saw a single hair on his privy parts,” and two say, “We saw a single hair on his belly” –
- [O] R. Yosé b. R. Bun and R. Hoshaiah, son of R. Shimi –

[P] one said, “He is unfit [not yet mature],” and the other said, “He is fit.”

[Q] The one who said that he is unfit deems the testimony to be equivalent to that of one who testifies concerning the appearance of only part of the required sign of [maturity].

[R] The one who said that it is valid maintains, “I saw that there were two, but one of them may have fallen out.”

[S] If one party says, “I saw two hairs on his privy parts,” and one says, “I saw two hairs on his belly” –

[T] R. Ba said, “In the opinion of all parties, he is now valid [mature], [since there is sure evidence that there are the requisite pubic hairs].”

[U] Said R. Haggai, “In the opinion of all parties, he is invalid.”

[V] R. Yosé said, “It is still subject to dispute.”

[W] *Said R. Yosé to R. Haggai, “Lo, R. Yudan, my teacher, ruled in accord with my view of the matter.”*

[X] *He said to him, “Now since I differ from his [your] master, all the more so do I disagree with him [you] !”*

[Y] Said R. Mana, “R. Haggai’s ruling is quite sound. For if we have a bond which bears four seals, and one party gives testimony concerning two of them, while another gives testimony concerning two of them, and someone cavils at the value of the bond, is the bond of any value whatsoever? [Hardly!] For does not each seal require the validation of two witnesses? Here, too, each sign of puberty requires the validation of two witnesses.”

[Z] *R. Hinena derived the same fact from the case of [attesting to full use and enjoyment of a property] throughout the years of usucaption [to which testimony must be brought]. [That is, if one wishes to establish the claim of title through usucaption, he must bring evidence that he has held and used the property for a given number of years.] Now if one witness testified that he had enjoyed usucaption for the first, second, and third years, and one witness testified that he had enjoyed usucaption for the fourth, fifth, and sixth years, is it possible that such [joined] testimony is worth a*

thing? [Hardly!] Is it not so that each year of usucaption must be attested by two witnesses? Here, too, each sign of maturity requires the validation of two witnesses. [Cf. Y. San. 3:9 IV.]

2:5

[A] **The woman who said, “I was married, and I am divorced” is believed.**

[B] **For the mouth which prohibited is the mouth which permitted.**

[C] **But if there are witnesses that she was married, and she says, “I am divorced,”**

[D] **she is not believed.**

[I:1 A] *It has been taught:* If after a woman remarried [under the circumstances described at M. 2:5A-B], witnesses came along, lo, this woman should not go forth.

[B] *Both R. Huna and R. Haninah say,* “It is not the end of the matter that that is so if the testimony comes after she has remarried. But even if the court has permitted the woman to remarry [under the circumstances described here, she may do so, even if, prior to the remarriage, witnesses should come in her regard and say that she had been married].”

[C] *This is in line with the case of* a woman who came to R. Yohanan, saying to him, “I was married, but I have been divorced.” He permitted her to remarry. *After she had gone forth, they said to him,* “Rabbi, lo, there are witnesses to her status in Lud [so perhaps she should not be permitted to remarry in line with M. 2:5C-D].”

[D] He said to them, “So do I reply to you: If witnesses concerning her should be in distant Qasosenun, should she wait on that account? [Surely not!]”

[E] *Said R. Yosé bar Bun,* “*There were two cases. In one they said to him, ‘Lo, there are witnesses concerning her in Lud,’ and in one they said to him, ‘Lo, there are witnesses concerning her in Caesarea.’ And thus did he reply to them, ‘So do I reply to you: If witnesses concerning her should be in distant Qasosenun, should she wait on that account? [Surely not!]’*”

[I:2 A] *R. Yudan raised the question:* “[If a woman said,] ‘I was a married woman, and I was divorced in such-and-such a place,’ and two witnesses came along and said, ‘No woman was divorced in that place,’ do they serve to contradict her testimony [that she has been divorced]? [Or do we maintain that since we do not believe she has

been divorced, we also do not accept her testimony that, to begin with, she was married?]" [This question is not answered.]

- [B] *R. Yosé raised the question, "If a woman said, 'I was married, but I was divorced in such-and-such a place on such-and-such a date,' and witnesses came along and said, 'A woman was divorced in such-and-such a place,' and two witnesses came along and said, 'A woman was not divorced in such-and-such a place,' would this be a case in which there is contradiction of testimony by other testimony?"*
- [C] [Indeed it would be such a case, so] we depend entirely on what she says [as if there were no witnesses at all].
- [D] If today she said, "I was a married woman," and on the next day she said, "I was divorced," we say to her, "Yesterday you said this, and today you said that?" If then she said to them, "It was because of a bunch of lewd men who were coming along to mate with me [that I claimed to be married and did not add that I was divorced]," [how do we rule?]
- [E] R. Abin in the name of R. Ila: "Because she brought a reasonable explanation for what she had originally said, she is believed."
- [F] *This is in line with that case involving Samuel. He wanted to have sexual relations with his wife. She said to him, "I am unclean." On the next day, she said to him, "I am clean." He said to her, "Yesterday you told me you were unclean, and today you tell me you are clean!"*
- [G] *She said to him, "At that time I didn't really have the strength for it."*
- [H] He came and asked Rab. He said to him, "Since she brought a reasonable explanation for her original statement, she is believed."

2:6

- [A] **The woman who said, "I was taken captive, but I am pure," is believed.**
- [B] **For the mouth which prohibited is the mouth which permitted**
- [C] **But if there are witnesses to the fact that she was taken captive, and she says, "I am pure,"**
- [D] **she is not believed.**
- [E] **But if the witnesses appeared [to testify that she was taken captive] after she was remarried, lo, this one should not go forth.**

- [I:1 A] R. Huna said, “It is not the end of the matter that that is so if the testimony comes after she has remarried. But even if the court has permitted the woman to remarry [under the circumstances described here, she may do so, even if, prior to the marriage, witnesses should come in her regard and say that she had been taken captive].”
- [I:2 A] Women were taken captive there [in Babylonia]. The case came before Abba bar Ba, Levi, and Samuel. *They appointed for them witnesses to bring them back up to the land of Israel.*
- [B] [Samuel] said to him [Abba], “And what shall we do with regard to the earlier period of time, in which they were alone [among gentiles]?”
- [C] *Said to him Abba bar Ba, “If your daughter were in their situation, would you make such a statement?”*
- [D] *Now the daughters of Samuel were taken captive.* It was like an error which goes forth from the ruler[‘s mouth]. *When they came up here, the captors came along with them. The case came before R. Haninah. [The women] kept the captors outside the courtroom. They said to [Haninah], “We were taken captive, but we have remained clean.”* He then permitted them [to marry as undefiled women].
- [E] *When they left court, the captors sent and took hold of them [once more, until the ransom should be paid].*
- [F] [Haninah] said, “You may be sure that these are the daughters of a sage [who knew enough to keep the captors outside of the court, so that their testimony would fall within the frame of M. 2:6A-C].”
- [G] *When he found out who they were, they told Simeon bar Ba, “Take care of your relatives.”*
- [H] *He married the first, who died; the second, who died.*
- [I] Why was that so? Was it because they had dissembled? God forbid, they had not dissembled. But it was because of the sin of [26d] Hananiah, son of the brother of R. Joshua, who had intercalated the year abroad [and they were punished because of his sin].

2:7

- [A] **Two women who were taken captive –**
 [B] **this one says, “I was taken captive, but I am pure,”**
 [C] **and that one says, “I was taken captive, but I am pure” –**
 [D] **they are not believed.**

[E] **And when they give evidence about one another, lo, they are believed.**

[F] **And so two men –**

[G] **this one says, “I am a priest,”**

[H] **and that one says, “I am a priest” –**

[I] **they are not believed.**

[J] **But when they give evidence about one another, lo, they are believed.**

[I:1 A] [With reference to the acceptance of testimony of only a single witness as to the priestly status of a person,] *R. Hiyya in the name of R. Yohanan [said], “The Mishnah speaks of the matter of [giving to such a person] Holy Things [separated in] the provinces, [such as heave offering rations for the priesthood]. But as to the matters of genealogy and Holy Things deriving from the altar, there must be two witnesses [that the man is a priest].”*

[B] *And lo, it is taught: They promote a person to the status of being a priest, Levite, or Israelite, on the evidence of a single witness [to that effect] [T. Ket. 2:3A].* [Now as to explaining that statement,] as to promotion to the priesthood and the status of a Levite, *there is no problem* [since we speak of the matter of the man’s being given produce reserved for priestly and levitical rations, as at A, above]. But as to promotion to the status of Israelite, is this not with regard to genealogy?

[C] [No, it is with respect to] giving him poor man’s tithe.

[I:2 A] **There are two presumptive grounds for a person’s being deemed a member of the priesthood in the land of Israel: Raising up hands in the priestly benediction, and sharing heave offering at the threshing floor.**

[B] **And in Syria, up to the point at which the agents announcing the new moon reach up to Namrin, the raising of hands in the priestly benediction [constitutes adequate grounds], but not sharing heave offering at the threshing floor [since in Syria the rule on heave offering is less strict anyhow – since there it is considered rabbinic and not biblical in origin].**

[C] **Babylonia is in the same status as Syria.**

[D] **R. Simeon b. Eleazar says, “Also in Alexandria, when the courts sit there.”**

[E] **Rabban Simeon b. Gamaliel says, “Just as eating heave offering is presumptive evidence that a person is a priest in the case of the**

dividing of shares at the threshing floor], so first tithe is presumptive evidence that a person is a Levite in the case of the dividing of shares at the threshing floor.”

[F] But a person who takes his shares [of heave offering] in court [at the division of an estate] has no presumption that he is a priest [T. Ket. 3: 1A-F].

[G] [The reason for F is that] I say, “He has inherited heave offering from his mother’s father, who was a priest [while he himself is not in that caste].”

[I:3 A] Said R. Ishmael b. R. Yosé, “In my life I never gave testimony, but one time I gave testimony [as to a person’s caste], and thereby I raised a slave to the priestly caste.”

[B] Said R. Isaac b. Haqolah, “Rabbi and R. Simeon b. Rabbi: one promoted a brother on the basis of the testimony of his other brothers, and the other promoted a son on the evidence of his father’s testimony. One was a promotion to the priesthood and one to the status of Levite.”

[C] *A man came to Rabbi. He said to him, “This boy is my son, and he is a priest.”*

[D] He said to him, “He indeed is [confirmed as] your son, but he is not [deemed to be] a priest.”

[E] Said to him R. Hiyya the Elder, “If you accept his testimony as to his being his son, you should accept his testimony as to his being a priest, and if you do not accept his testimony as to his being a priest, you should not accept his testimony as to his being his son.”

[F] He said to him, “He indeed is his son, but I say that he may be his son by a divorcée or by a woman who has performed the rite of removing the shoe, [and that possibility has not been removed in court testimony].”

[G] Said R. Abin, “Thus did [Hiyya] say to him, ‘If you accept his testimony as to his being his son, you should accept his testimony as to his being a priest, and if you do not accept his testimony as to his being a priest, you should not accept his testimony as to his being his son, [or otherwise you will treat the case as one in which] the entire testimony is dismissed, [and that is not possible, since the father has every right to testify as to his paternity of the son]. Accordingly, he should be believed in his regard.’”

[H] “He replied to him, ‘He indeed is his son, but I say that he may be the son by a divorcée or by a woman who has performed the rite of removing the shoe.’”

[I] Did not R. Isaac b. Haqolah say, “Rabbi and R. Simeon b. Rabbi: one promoted a brother on the basis of the testimony of his other brothers, and the other promoted a son on the evidence of his father’s testimony. One was a promotion to the priesthood and one to the status of Levite.”

[J] [*On the basis of the foregoing discussion*] shall we say that it was Rabbi [Judah the Patriarch] who promoted a brother on the basis of the evidence of the other brothers, [since we see here that he declined to promote a son on the basis of the evidence of the father]?

[K] [*No, that is not necessary. You may*] even say that he promoted a son on the basis of his father’s testimony, but it was a promotion to the status of Levite.

2:8

[A] **R. Judah says, “They do not raise someone to the priesthood on the evidence of a single witness.”**

[B] **Said R. Eleazar, “Under what circumstances? When there are those who raise doubt about the matter. But when there is none who raises doubt about the matter, they do raise someone to the priesthood on the evidence of a single witness.”**

[C] **Rabban Simeon b. Gamaliel says in the name of R. Simeon, son of the prefect, “They raise someone to the priesthood on the evidence of a single witness.”**

[I:1 A] R. Hiyya in the name of R. Yohanan: “There is no raising doubt about a matter with less than two witnesses.”

[B] *R. Bun bar Hiyya raised the question: “How shall we interpret the matter [of Hiyya]? If it is a case in which they raised him to the priesthood on the basis of the testimony of a single witness, then they may remove him on the basis of the testimony of a single witness. [Why would two be needed?] If, further, they raised him to the priesthood on the basis of the testimony of two witnesses, then even any number of witnesses [should not have the power to] remove him [from the priesthood once a decision is reached by a court].”*

[C] *Said R. Huna, “[This latter objection] is in accord with the rabbis of that passage [at M. 2:2 who hold that once a court makes a*

decision, the decision is final]. But so far as the rabbis of the present passage are concerned, and in accord with the view of R. Nahman bar Jacob, just as they promote him on the basis of the testimony of two witnesses, so they remove him on the basis of the testimony of two witnesses.”

2:9

- [A] A woman who was taken prisoner by gentiles –
- [B] [if it was] for an offense concerning property, she is permitted [to return] to her husband.
- [C] [If it was for] a capital offense, she is prohibited to her husband.
- [D] A city which was overcome by siege – all the priest girls found therein are invalid [to return to their husbands].
- [E] But if they have witnesses, even a man slave or a girl slave, lo, they are believed.
- [F] But a person is not believed to testify in his own behalf.
- [G] Said R. Zekhariah b. Haqqasab, “By this sanctuary! Her hand did not move from mine from the time that the gentiles entered Jerusalem until they left it.”
- [H] Said they to him, “A person cannot give testimony in his own behalf.”
- [I:1 A] *There we have learned: Testified R. Yosé the priest and R. Zekhariah b. Haqqasab concerning a girl who was left as a pledge in Ashkelon,*
- [B] and the members of her family put her out,
- [C] even though witnesses concerning her gave testimony that she had not been alone [with a man] or been made unclean [by a man].
- [D] Said to them sages, “If you believe that she was left as a pledge, you might as well believe that she was not alone with a man or made unclean, and if you don’t believe that she was not alone with a man or made unclean, you might as well not believe that she was left as a pledge” [M. Ed. 8:2D-G].
- [E] Lo, if witnesses concerning her do not give testimony that she was not alone with a man or that she was not made unclean, then she is not [restored to her status with her family]. [Now the implication is that if there are no witnesses, then she may not marry into the priesthood. But the Mishnah has said that if the offense concerns property, she is permitted to return to her husband or to marry into the priesthood. So

the implications of the cited pericope of the Mishnah contradict those of the present passage.]

[F] Said R. Eleazar, “The case of leaving a girl as a pledge is different, because people generally treat such a case as one in which a lenient rule applies. [Once the time of redemption of the pledge passes, the gentile will treat the girl in accord with the rules governing gentiles.]”

[II.1 A] If it was for a capital offense, she is prohibited to her husband [M. 2:9C].

[B] R. Yudan, son of R. Hama of Kepar Tahamin, in the name of Hezekiah: “And that rule applies when the court decision has been reached to put her to death.”

[C] R. Yohanan said, “Even if the court decision has not been reached to put her to death, [the rule applies].”

[D] They say in the name of R. Yohanan, “The wife of a thug is in the status of a thug.”

[III:1 A] What is a siege [of M. 2:9D]?

[B] R. Ba in the name of R. Hiyya bar Ashi: “For instance, it is a case in which they placed around the town bells, chains, dogs, trunks of trees, geese, and soldiers [alt., “camp”] surrounding the town [so that no one can escape].”

[C] And R. Ba in the name of R. Hama bar Ashi said, “There was a case in which a single blind woman escaped from there.” [That is, from the siege, which evidently was not as tight as the kind described in B. By implication, the Mishnah’s reference to a siege must be to a tight siege from which no one can escape.]

[D] If there was a single escape route in the town, it protects all the priest’s wives [assuming that each one had gotten out there].

[E] If there were many hiding places, it is a question [as to whether or not we concede all the priest’s wives managed to hide out in them].

[III:2 A] R. Zeira, R. Ba bar Zabeda, R. Isaac bar Haqolah in the name of R. Yudan the patriarch, “And that rule [of M. 2:9E] applies to a case in which the siege was on the part of the government [of the country in which the town was located]. But if it was a siege on the part of some other empire, then it is a case parallel to one in which bandits took a town, [and they are in haste and not likely to take the time to rape various women in the town].”

[III:3 A] [As to M. 2:9E,] may even a minor [testify]?

[B] R. Immi in the name of R. Joshua b. Levi, “Even a minor, even a relative.”

[C] And may even a minor who is a relative [testify]?

[D] *Let us derive the answer from the following:* Hananiah of Qartes, his sons, and wife were taken captive. They came to R. Hanina [with the testimony that the wife had not been raped], but he did not accept their testimony. They came to R. Joshua b. Levi and he accepted their testimony. *That then is to say* that even a minor relative may testify.

[IV:1 A] [Said R. Zekhariah b. Haqqasab, “By this sanctuary! Her hand did not move from mine from the time that the gentiles entered Jerusalem until they left it.” Said they to him, “A person cannot give testimony in his own behalf”:] With reference to M. Sot. 1:3H,] R. Hiyya bar Joseph sent after a woman and gave orders for three disciples to go with her, so that, if one of them would have to turn aside [heed a call of nature], she would be left alone with two others.

[B] *Now have we not learned,* “They hand over to him two disciples of sages lest he have sexual relations with her on the way”?

[C] Said R. Abin, “With her husband, lo, there are three.”

[D] [With regard to Judah’s position, that the husband is believed, the following alludes to and then carries forward **M. Ket. 2:9F-H: A person is not believed to testify in his own behalf.** Said R. Zekhariah b. Haqqassab, “By this sanctuary! Her hand did not move from mine from the time that the gentiles entered Jerusalem until they left it.” They said to him, “A person cannot give testimony in his own behalf. “[] But even so, he set aside a house for her by herself. She was supported by his property. But he never was alone with her, except at the instance [in the presence] of her children [T. Ket. 3:2E].

[E] And he cited in his own regard the following verse of Scripture: “I am weary with my groaning, and I find no rest” (Jer. 45:3).

2:10

[A] **And these are believed to give testimony when they reach maturity about what they saw when they were minors:**

[B] **A man is believed to say, (1) “This is the handwriting of [my] father,” (2) “This is the handwriting of my master,” and (3) “This is the handwriting of my brother” –**

- [C] (4) **“I remember about Mrs. So-and-so that she went forth to music with her hair flowing loose [when she was married]” [M. 2:1] –**
- [D] (S) **“I remember that Mr. So-and-so would go forth from school to immerse to eat heave offering,” (6) “That he would take a share [of heave offering] with us at the threshing floor” –**
- [E] (7) **“This place is a grave area” –**
- [F] (8) **“Up to here did we walk on the Sabbath.”**
- [G] **But a man is not believed to say, (9) “Mr. So-and-so had a right of way in this place,” (10) “So-and-so had the right of halting and holding a lamentation in this place.”**
- [I:1 A] [27a] [With respect to M. 2:10B, recognizing someone’s handwriting,] *it has been taught that* that is on condition that those who give testimony are familiar with [the handwriting about which they testify in general]. [The rule would not apply to someone whose handwriting was only rarely seen.]
- [B] *It has been taught that* that is [further] on condition that he join together with other [adults to give testimony].
- [I:2 A] [As to M. 2:10D, one’s going forth to immerse to eat heave offering,] should one not take account of the possibility that he was a slave?
- [B] [*The statement of M. 2:10D about one’s leaving school to immerse then*] supports what R. Hama bar Uqbah said in the name of R. Yosé bar Haninah, “It is forbidden for a person to teach Torah to his slave.”
- [C] [To the contrary,] did not R. Zeira say in the name of R. Jeremiah, “A slave counts among the seven called to the Torah on the Sabbath, and ‘And he said ...,’ counts among the three verses [required to be read for any given person called to the Torah].”
- [D] Interpret the statement to apply to a slave who learned on his own, or whom his master taught as in the case of Tabi.
- [E] [M. 2:10D further refers to the evidence that someone has shared in the priests’ rations at the threshing floor, and it follows:] Should one not take account of the possibility that he was a slave?
- [F] *The statement then supports what R. Hiyya taught:* Women and slaves do not take a share of the priestly offering at the threshing floor, but they hand over the priestly or Levitical gifts to them at home.
- [I:3 A] What is the law as to extracting money on the basis of what is implied by the testimony [of those who when they reach maturity say what they

had seen when they were minors]? [Here one testifies not directly to cause a monetary loss, as in M. 2:10G(9), but indirectly concerning a prohibition, thereby by implication causing the loss.]

[B] *What would be a case?*

[C] If all knew that the Sabbath limit extended up to the field of Reuben, and they came and said, “Up to this point we would come on the Sabbath, but that had been supposed to be the field of Simeon [not Reuben],” what is the law, in such a case, as to removing that field from the ownership of Simeon and handing it over to Reuben?

[D] What would be the law as to their being believed to testify, “They would go out to collect unripe Sabbatical year produce, and we heard Mr. So-and-so speaking ill of Mrs. So-and-so, his wife [accusing her of adultery], or a Mrs. So-and-so speaking ill of her children [stating that they come from a man not her husband]” [does this testimony find a hearing in court later on]?

[E] *R. Aha, R. Samuel raised the question:* “If they were proved to be perjured witnesses, what is the law as to their being required to pay [e.g., if they testified as to one matter, but in the course of the testimony, the implications were such that a monetary payment would be exacted from the accused, as above, and then it turned out that they were perjurers]?”

[F] *Now the rule accords with what R. Ba, R. Judah in the name of Samuel [said],* “In a case involving perjury, they do not deal with the implications of what has been said [in the false testimony], and here, too, the ruling is the same.”

[I:4 A] *It has been taught:* [Children are believed to testify] that we ate at the “cutting off of Mr. So-and-so and Mr. So-and-so.”

[B] What is this “cutting off”?

[C] When someone would sell an inherited property, his relatives would bring jugs and fill them up with parched corn and nuts and break them before the children, and the children would collect the parched corn and nuts and say, “Mr. So-and-so has been cut off from his inherited property.” When he would regain the property [e.g., at the Jubilee or through prior redemption], they would perform the same rite and say, “Mr. So-and-so has gotten back to his inherited property.”

[D] [This same rite was performed in another case of alienation, for] said R. Yosah b. R. Bun, “Also he who married a woman

who was unworthy of his status – his relatives would bring jugs and fill them with parched corn and nuts and break them before the children, and the children would collect the parched corn and nuts and say, ‘Mr. So-and-so is cut off from his family.’ When he would divorce the woman, they would perform the same rite and say, ‘Mr. So-and-so has gotten back to his family.’”

[I:5 A] **When they reach maturity about what they saw when they were minors [M. 2:10A]:**

[B] They are believed only when they reach maturity about what they saw when they were minors.

[C] Lo, when they are minors, they are not believed. *Yet we have learned there: Said R. Yohanan b. Beroqah, “A woman or minor is believed to testify, ‘From this place did this swarm go forth.’” And one may walk through the field of his fellow to get back his swarm of bees [M. B.Q. 10:2].*

[D] In this connection R. Aha, R. Hinena in the name of R. Yohanan said, “[The statement of R. Yohanan b. Beroqah that a woman or minor is believed, at M. B.Q. 10:2/I] applies only to a case in which one party stole the swarm when it was swarming or flying about [and the thief enticed the swarm to settle in his hive].”

[E] *R. Hoshaiia taught*, “And that is on condition that the flock is yet swarming. But if it had already landed on a branch belonging to his neighbor, it is not in such a case that the law applies.”

[F] *R. Zeira raised the question before R. Mana*, “Is it not reasonable that the law applies when the testimony comes on the spot? Lo, if it was after a time, that testimony is not accepted.”

[G] He said to him, “I too maintain that view, for we have learned: **Under what circumstances? When they gave testimony about their own home town. But if they went forth and came back, they are not believed, for they may have stated matters only because of enticement or fear [T. Ket. 3:3K-N].**”

YERUSHALMI KETUBOT

CHAPTER THREE

3:1

[A] These are the girls [invalid for marriage to an Israelite] who [nonetheless] receive a fine [from the man who seduces them]:

[B] He who has sexual relations with a mamzer girl, a Netin girl, or a Samaritan girl;

[C] he who has sexual relations with a convert girl, and with a girl taken captive, and a slave girl who were redeemed, who converted, or who were freed when they were at an age of less than three years and one day [and who remain in the status of virgins];

[D] he who has sexual relations with his sister, and with the sister of his father, and with the sister of his mother, and with his wife's sister, and with the wife of his brother, and with the wife of the brother of his father, and with the menstruating woman –

[E] they receive a fine [from the man who seduces them].

[F] Even though [sexual relations with] them are subject to extirpation,

[G] one does not incur through them the death penalty at the hands of an earthly court.

[I:1 A] It is written, “[And they shall fine him a hundred *shekels* of silver, and give them to the father of the young woman, because he has brought an evil name on a virgin of Israel;] and she shall be his wife; [he shall not put her away all of his days]” (Deut. 22:19).

[B] This refers to a woman who is suitable for him.

[C] And is a mamzer girl suitable for him [M. 3:1B]? [Why should she receive such a fine?]

[D] R. Simeon b. Laqish said, “[If her father utterly refuses to give her to him,] he shall pay money equivalent to the marriage present for virgins’ (Ex. 22:17). Scripture in this verse encompassed a great many

virgins [beyond those subject to the cited verse of Scripture, covering the mamzer-girl].”

- [E] Said R. Zeira, “If it were written here, ‘like marriage presents for virgins,’ [matters would have been as you say]. *But written here is only*, ‘the marriage present [in the singular] for virgins,’ and, accordingly Scripture has encompassed them only so far as a marriage present is concerned.”
- [F] *Then from what verse of Scripture [is the matter derived]?*
- [G] *It is in accord with that which Hezekiah taught*, “‘If her father utterly refuses to give her to him, [he shall pay money equivalent to the marriage present for virgins]’ (Ex. 22:17). I know only that the law applies if the father has refused. How do I know that if they refused even from Heaven [e.g., if the girl is not suited to marry the rapist], the law is the same? Scripture says, ‘utterly refuses,’ meaning, on any count. [That is, even if the girl is not a suitable wife for the man, he must pay the fine.]”
- [H] If that is the case, then he who has sexual relations with a slave girl [over the age specified at M. 3:1C] should be subject to payment of a fine.
- [I] *That is not possible, for it has been taught*: “Is it possible that he who has sexual relations with an Aramaean slave girl should be liable? Scripture says, ‘[If a man seduces a virgin who is not betrothed, and lies with her,] he shall give the marriage present for her, and make her his wife’ (Ex. 22:16). This then applies to him who is able to marry her, thus excluding an Aramaean slave girl, whom the Israelite man may not marry.”
- [J] *They objected*, “Lo, there is the case of his sister [M. 3:1D], whom he has not got the right to marry, and yet to whom he pays a fine.”
- [K] She is subject to a different principle, for she has the right to marry some other [Israelite, if not him, which is not the case with the Aramaean slave girl].
- [L] Lo, there is the case of his daughter, who has got the right to marry someone else, and to whom he does not pay a fine.
- [M] The case of the daughter is different, for in her regard he is liable to the death penalty.
- [N] For whoever is liable to the death penalty does not have to pay monetary penalties.

- [II:1 A] **A Netinah girl:** Said R. Yosé, “They scrupled with regard to the Netinim only by reason of invalid genealogy alone.”
- [B] *If you say that* it was because of those made invalid by reason of slavery, then he who has sexual relations with a *Netinah* girl should not have to pay a fine to her, *but we have learned that* he who has sexual relations with a *Netinah* girl has to pay a fine to her.
- [III:1 A] **A Samaritan girl:** This rule accords with him who said, “A Samaritan is equivalent to an Israelite in all regards.”
- [B] But in accord with him who said, “A Samaritan is equivalent to a gentile,” [*such a person would*] *not [concur] in this case.*
- [C] *For there is a dispute as follows:*
- [D] “A Samaritan is equivalent to a gentile,” the words of Rabbi.
- [E] Rabban Simeon b. Gamaliel says, “A Samaritan is equivalent to an Israelite for all intents and purposes.”
- [F] Even if you maintain that a Samaritan is equivalent to a gentile, [the rule would be as it is here, for] a Samaritan – on what account is he invalid? Is it not because he is a gentile? Now a slave is a gentile, and a slave who has sexual relations [27b] with an Israelite girl – the offspring is in the status of a *mamzer*. Yet a *mamzer* girl does receive a fine. [Accordingly, in the present case, even if we regard the Samaritan as a gentile, it will yet follow that the Samaritan girl will receive a fine.]
- [G] [No, that is not a good argument.] As to imposing a strict rule or as to genealogy, you do well to treat the Samaritan as a gentile. A slave who has sexual relations with an Israelite girl – the offspring is a *mamzer*. But as to the matter of the fine, will you treat him as equivalent to an Israelite? [This is a lenient rule, not a strict ruling. After all, he who has sexual relations with a gentile woman – the offspring is a gentile. It follows that he who treats Samaritans as equivalent to Israelites alone can concur with the rule before us.]
- [III:2 A] Said R. Yosé b. R. Hanina, “He who rapes or seduces an orphan girl is exempt [from having to pay a fine, since the fine goes to the father, who is not there to collect it].”
- [B] Said R. Ba bar Mamel, “This is subject to dispute, and the view just now stated accords with the opinion of R. Yosé the Galilean, but R. Aqiba maintains that she is subject to a fine, and the fine concerning her is paid to her herself.”

[C] *Said R. Yosé, “The Mishnah has stated, [in accord with Aqiba’s position,] that those who are less than three years and one day old [inclusive of the convert] are subject to a fine. Now is not [the convert] tantamount to an orphan?”*

[D] *Has it not been taught: “[Then the man who lay with her shall give to the father of the young woman fifty shekels of silver, and she shall be his wife,] because he has violated her; [he may not put her away all her days]’ (Deut. 22:29)? This serves to encompass an orphan girl, so that she receives a fine,” the words of R. Yosé the Galilean. [So Yosé would maintain the view assigned to Aqiba.]*

[E] *Said R. Ahi, “Interpret the statement to apply to one who has sexual relations with the girl prior to her father’s death, and then her father died. It already was appropriate to pay the fine prior to the father’s death.”*

[III:3 A] *There we have learned: [A non-priest] who deliberately eats produce in the status of heave offering pays the principal but does not pay the added fifth [M. Ter. 7:1A].*

[B] *And we have learned: **These are the ones who are flogged [M. Mak. 3:1]** [including a non-priest who ate heave offering deliberately].*

[C] *Said R. Yohanan, “The Mishnah deals with the two extremes. If people warned him, he is flogged. If they did not warn him, he pays.”*

[D] *R. Yohanan maintains the theory that in a case in which there is the possibility of flogging and monetary compensation, the felon is flogged and does not pay monetary compensation [and that is why he sees the rule in M. Mak. 3:1 as dealing with a case in which there has been suitable admonition].*

[E] *And [why not] let the man both receive a flogging and also pay a monetary penalty?*

[F] *“[Then if the guilty man deserves to be beaten, the judge shall cause him to lie down and be beaten in his presence with a number of stripes] in proportion to his offense” (Deut. 25:2). The meaning of this verse is that on account of one offense you may impose liability, but you may not impose liability on account of offenses.*

[G] *And why should he not pay the monetary penalty and not be flogged?*

[H] *Scripture speaks of one who is subject to two offenses.*

[I] *“[Then if the guilty man deserves to be beaten,] the judge shall cause him to lie down and be beaten in his presence with a number of stripes*

in proportion to his offense” (Deut. 25:2). It is in accord with the correct number.

- [J] [Differing from what has just been stated, C,] R. Simeon b. Laqish said, “Even if they did not admonish him, he does not pay a monetary penalty. [Those who are liable to a flogging on account of inadvertent sin are exempt, and that is the case even if there is no admonition.] For even if they had warned him, he would have been flogged [and not have to pay a penalty in money, so if they did not give him an admonition, he also should be free of having to pay a monetary penalty].”
- [K] *The Mishnah statement that follows differs from the view of R. Simeon b. Laqish: [A non-priest] who inadvertently eats produce in the status of heave offering pays both the principal and an added fifth [M. Ter. 6:1A].* Now if they had warned him, is he not to be flogged?
- [L] *Interpret the Mishnah [from Simeon’s perspective] in line with the view of R. Meir, for R. Meir has said, “One may both be flogged and also pay a monetary penalty.”*
- [M] *The Mishnah further differs from the view of R. Simeon b. Laqish, for we have learned: **These are the girls [invalid for marriage to an Israelite] who nonetheless receive a fine from the man who seduces them [M. 3:1A].*** If they had warned [the man], should he not be flogged?
- [N] *Interpret the Mishnah in line with the view of R. Meir, for R. Meir has said, “One may both be flogged and also pay a monetary penalty.”*
- [O] R. Abbahu in the name of R. Simeon b. Laqish: “From the case of him who spreads an evil report about a girl did R. Meir derive his view:
- [P] “[Then the elders of that city] shall take that man and whip him” (Deut. 22:18). ‘They take that man’ – flogging him. ‘And whip him’ – adding a monetary penalty.”
- [Q] *Rabbis say, “It was to make its own fresh point that the case of the one who spreads a bad name about a girl was treated as special, and something which is introduced to make its own point does not provide the occasion for presenting lessons pertinent to other cases at all.*
- [R] “For in all other cases a man does not incur liability by reason of what he merely says [as distinct from what he does], while here, a man incurs liability for what he merely says. Accordingly, since that is the case, you may not derive lessons from this case applicable to any other.

Along these same lines, you may not derive the lesson from this case either as regards penalties or as regards flogging.”

- [S] Did R. Abbahu not state in the name of R. Yohanan, “If one deliberately ate prohibited fat but did not know that people are liable for an offering on that account, if they gave suitable admonition to him [so he did it deliberately], he is flogged and has to bring an offering”? Now here, along these same lines, he should be flogged and have to pay a monetary penalty as well.
- [T] R. Bun bar Hiyya in the name of R. Samuel bar R. Isaac, “It says, ‘In proportion to his offense’ (Deut. 25:2). Two matters are handed over to a court. You take hold of one of them, and that then excludes a matter which is in the hands of Heaven. [On this account the court will not both exact a financial penalty and also impose a flogging, as at M. Mak. 1:2.]”
- [U] All concur that a monetary penalty is not exacted when the death penalty is applied. *It is on the basis of the following verse of Scripture*: “He who kills a beast shall make it good; and he who kills a man shall be put to death” (Lev. 24:21).
- [V] Just as in the case of one who smites a beast, you do not distinguish between one who does the deed inadvertently and one who does it deliberately, imposing the monetary penalty in both cases, so in the case of one who smites a man, you should not make a distinction between one who does it inadvertently and one who does it deliberately, but in both cases you exempt him from a monetary penalty.
- [W] *Where there is a dispute is* when you have the possibility of a monetary penalty and also flogging.
- [X] R. Yohanan said, “There is no monetary penalty where there is a death penalty. But there is a monetary penalty where there is a flogging.”
- [Y] R. Simeon b. Laqish says, “Just as there is no monetary penalty when there is the death penalty, so there is no monetary penalty where there is a flogging.”
- [Z] R. Ammi the Babylonian in the name of the rabbis over there [said], “The scriptural basis for the position of R. Simeon b. Laqish is that the Scripture makes references to ‘evil person’ both with regard to those liable to the death penalty and also with regard to those liable to the flogging. Just as in the case of the evil person to whom

reference is made in the setting of those suffering the death penalty at the hand of a court, there is no question of exacting a monetary penalty where there is the death penalty, so the reference to an evil person in the case of those liable to a flogging means that there is no issue of monetary penalty when there is a case of flogging.”

[III:4 A] Nathan bar Hoshaiyah said, “[As to the conflict between the present rule, that a girl receives a financial penalty paid by a rapist, who is not flogged, and that at M. Mak. 3:1, which specifies that the penalty is flogging,] the difference is that here we deal with a girl, [to whom the penalty is owing,] while there we deal with a grown woman [to whom no financial penalty is paid, and hence there is flogging instead]. A girl receives a financial penalty, and no flogging pertains to [sexual relations with] her. A woman will produce the penalty of flogging, but she does not receive a financial penalty. But does she not receive compensation for shame or personal injury? [Surely she does! So even in the case of flogging, there will be monetary compensation.]”

[B] *Rabbis of Caesarea* say, “Interpret the rule [of M. Mak. 3:1] to speak of a case in which the man seduced the girl [so there is no question of shame or personal injury], or to one in which the girl forgave him [these forms of compensation and did not exact payment of them].”

[C] Now [from A it follows that] Nathan bar Hoshaiyah maintains that in a case in which there are both a flogging and monetary compensation, one pays the monetary penalty and is not flogged.

[D] But why should the man not be flogged and also pay?

[E] [Since Scripture says,] “In proportion to his offense,” the meaning is that one imposes liability for a single offense, and one does not impose liability for two offenses.

[F] Or let him pay and not suffer a flogging, as in the case of perjured witnesses. Just as you say in that other context of perjured witnesses that they pay and are not flogged, here, too, he pays and is not flogged.

[G] [*Denying that the analogy is necessary,*] said R. Jonah, “*The reason for the position of Nathan bar Hoshaiiah is this: ‘Proportionate to his offense’ means the one who, through being flogged, suffers a just penalty for his offense. This then excludes the one to whom they say, ‘Go and pay a monetary penalty.’*”

[H] [Reverting to the earlier exercise and introducing Nathan bar Hoshaiiah’s position, we proceed:] *The following statement of the Mishnah differs from R. Simeon b. Laqish: **He who deliberately eats produce in the status of heave offering pays the principal but does not pay the added fifth [M. Ter. 7:1].** Now from the viewpoint of Nathan bar Hoshaiiah, who said that he pays [as indicated above], there are no problems. As to the view of R. Yohanan, who said that if one has suffered admonition, he is flogged, and if he has not received admonition, he pays, one may interpret the case to be one in which one did the deed deliberately but without admonition. But in the view of R. Simeon b. Laqish, there is no difference whether or not one did the deed inadvertently or deliberately, whether one received admonition or did not receive admonition.*

[I] From the view of Simeon b. Laqish one may interpret the law to accord with the opinion of R. Meir, who has said that one may both be flogged and also required to pay monetary compensation.

[J] *Said R. Haninah before R. Mana, “Now even if R. Simeon b. Laqish should maintain that the entire passage of Mishnah [both at M. Ter. 6:7=7:1 and at M. Mak. 3:1] accords with R. Meir, if it possible to maintain that the relevant Scripture also conforms to the view of R. Meir? [Hardly!] Now lo, is it not written, ‘And if a man eats of a Holy Thing unwittingly, [he shall add a fifth of its value to it,*

and give the Holy Thing to a priest]' (Lev. 22:14)? [This surely contradicts Simeon b. Laqish's view that all those who suffer floggings, even for sins done inadvertently, are exempt from having to pay compensation. Accordingly, Simeon b. Laqish must explain the pertinent Scripture, not merely the several rules of the Mishnah.] But R. Simeon b. Laqish maintains that the added fifth is in the category of an offering. [It is not in the category of monetary penalty at all.]”

[K] [But this is hardly adequate.] For even if you maintain that the added fifth is in the category of an offering, is the principal in the category of an offering?

[L] *Said R. Yudan bar Shalom, “The Mishnah itself has made the point that the principal is in the category of a monetary penalty, for we have learned there: **He does not pay restitution with heave offering; rather he pays it with unconsecrated produce, and this takes on the status of heave of offering [M. Ter. 6:1E].*** Now if the guilty party were to pay something equivalent in value to what he had enjoyed, there would be no problem [for this would not be in the status of a monetary penalty, which, by definition, is of a greater value than what has been destroyed or misappropriated] . And further [evidence that what is paid is in the category of a monetary penalty, and not merely restitution,] derives from what is taught: “If one ate unclean produce in the status of heave offering, he must pay back unconsecrated produce which is cultically clean. If he paid unconsecrated produce which was unclean, he has carried out his obligation.” Now is it not so that, in fact, all he really owes him is wood [since unclean unconsecrated food is suitable only for burning]? [Yet, even so, he has to pay unconsecrated food in a state of cultic cleanness. It must follow that the penalty is much more costly than the offense, with the necessary consequence that the penalty has the status of a monetary penalty, not merely compensation for the loss.] It follows that the principal is in the status of a monetary

penalty. Just as you hold that the principal is in the status of a monetary penalty, along these same lines the added fifth must be deemed to be in the status of a monetary penalty.”

[M] *But R. Simeon b. Laqish is consistent with his position enunciated elsewhere:* “All were subject to the general statement, ‘You shall not bear false witness against your neighbor’ (Ex. 20:16). The perjured witness then was treated as a special case: ‘And you shall do to him as he had conspired to do’ (Deut. 19:19). Is that not so that he should pay monetary compensation? Now here, too, all were subject to the general statement, ‘An outsider shall not eat of a holy thing’ (Lev. 22:10). Then a special case was expressed as follows: ‘And when a man inadvertently eats what was holy ...’ (Lev. 22:14), indicating that he pays compensation. [So even though all others who are flogged for sins committed inadvertently are exempt from having to pay monetary penalties, in this case one is liable under such circumstances.]”

[N] *Now has it not been taught [that there is no difference of opinion in this particular matter, for] sages concur with R. Meir in the case of one who steals heave offering belonging to his fellow and who ate it, that he is flogged and he also pays monetary compensation? [Even in a case of a deliberate sin, therefore, one may be flogged and also pay monetary compensation, and that is the view even of sages vis-a-vis Meir.]*

[O] [But that is a special case,] for one who eats prohibited fat belonging to himself is flogged. [The case is different, since the monetary compensation owing to the fellow is quite separate from the flogging owing to Heaven.]

[III:5 A] [Along these same lines, of indicating cases in which there are both a flogging and payment of monetary compensation,] *has it not been taught:* He who muzzles a cow [belonging to his fellow, when ploughing with the cow] pays six *qabs* for [the day’s] muzzling of a cow, or four for [the day’s]

muzzling of an ass? [Here, too, we have monetary compensation and also a flogging for violating the rule of the Torah against muzzling an ass when it is ploughing.]

[B] [But that case, too, is different,] for he who muzzles his own ox is flogged.

[III:6 A] Said R. Yosé, “[One may indeed find ample evidence that multiple penalties are imposed,] for so are those who are subject to the death penalty [also subject to monetary compensation and flogging]. If one stole heave offering belonging to the sanctuary [e.g., heave offering which one had consecrated to the upkeep of the house] and ate it, he is flogged and pays monetary compensation, for in any event he has caused a monetary loss to his fellow.”

[B] *Said R. Mana before R. Yosé*, “If that is so [that in the case cited by you, one both is flogged and pays monetary compensation], then in the case of him who has sexual relations with his minor sister, he should both be flogged and pay monetary compensation, for [we find that] he who has sexual relations with his adult sister is flogged.”

[C] [But, thinking better of this argument,] he went and said, “In the case of his sister, [27c] the penalty of paying monetary compensation and the death penalty apply simultaneously [in which case we apply the latter, not the former], while in the present case as soon as he muzzles the ox, he is liable for flogging. It is only thereafter that he incurs the liability for monetary compensation to the owner of the cow.”

[D] *R. Zeira objected before R. Mana*, “Lo, he who sets fire to the standing grain of his fellow on the Sabbath – on account of the burning of the first stalk, he becomes liable to flogging. From that point onward, he incurs the monetary penalty. [But that in fact is not the law. He is exempt from monetary compensation because he is liable to the death penalty. But by the reasoning presented just now, the law should be as Zeira has stated it.] But that is

not what the law has stated. Rather, on account of each stalk of standing grain there is the admonition for the death penalty, and here, for each span of the muzzling of the ox there is the admonition for the penalty of flogging.”

[E] [*The question remains of why, in the case of muzzling the ox, there should be both monetary compensation and flogging. Dealing with this question,*] R. Yosé b. R. Bun said, “There are two Amoraic teachers [who have given opinions in this matter]. One of them said, ‘We deal with a case in which he muzzles the cow when it is ploughing grain in the status of heave offering or Holy Things [in which case there is no question of a flogging, so the owner pays monetary compensation].’ The other one said, ‘We deal with a case in which the man has the cow muzzled by an agent. The agent then is flogged, while the owner of the field is exempt from flogging [and so pays the monetary compensation to the owner of the cow].’”

[F] [Proving that the messenger bears the penalty for his own deed, we not cite the relevant verse of Scripture:] “[If any man of the House of Israel kills an ox or a lamb or a goat in the camp, or kills it outside the camp, and does not bring it to the door of the tent of meeting, to offer it as a gift to the Lord before the tabernacle of the Lord,] blood-guilt shall be imputed to that man; [he has shed blood; and that man shall be cut off from among his people]” (Lev. 17:4). “To that man,” and not to the one who sent him [indicating that there is no claim that one has merely done what some other party has told him to do and hence is exempt from responsibility for having committed a sin].

[G] [If, with respect to produce in the status of heave offering,] one inadvertently sinned with regard to the matter of heave offering, but [on Passover] deliberately sinned in the matter of eating leaven [in that status],

inadvertently sinned with regard to the matter of heave offering, but [with reference to eating grapes in that status] deliberately sinned against the rule for the Nazir, inadvertently sinned with regard to the matter of heave offering, but [with reference to the prohibition against eating,] deliberately sinned against the rules of the Day of Atonement, [he has to pay the principal and added fifth in respect to the heave offering he has consumed].

[H] *Now if you interpret this matter to deal with two distinct things [for instance, he sinned inadvertently in one of them and deliberately in the second], then there is no difficulty [in explaining these cases]. [The liability to flogging for the deliberate sin does not exempt the man from paying monetary compensation for the inadvertent one. Simeon b. Laqish likewise will find the man liable for monetary compensation in the case of heave offering, which he treats as an exception to the general rule.] But if you deal with this case as involving a single matter, then there is a dispute about the ruling involving Yohanan and Simeon b. Laqish.*

[III:7 A] *There we have learned: **There is no difference between the Sabbath and the Day of Atonement, except that deliberately violating this one is punishable at the hands of an earthly court, while deliberately violating that one is punishable through extirpation [M. Meg. 1: SB].*** Lo, in regard to monetary compensation, both of them are equivalent.

[B] *The cited passage of the Mishnah accords with the view of R. Nehunia b. Haqqaneh. For R. Nehunia b. Haqqaneh says, “**The Day of Atonement is equivalent to the Sabbath as to payment**” [T. Ket. 3:5E].*

[C] R. Simeon b. Menassia says, “Those liable to extirpation are equivalent to those liable to the death penalty at the hands of an earthly court.”

[D] *What is the difference between them [since in the view of both one who violates the Day of Atonement is exempt from monetary compensation]?*

[E] R. Aha in the name of R. Abinah: “The matter of having sexual relations with a girl who is in her menstrual period will be at issue between them. [Whether or not the monetary penalty is imposed is subject to dispute.]”

[F] R. Mana says, “Also having sexual relations with the sister of one’s mother is at issue between them.”

[G] *In the view of R. Nehunia b. Haqqaneh* just as in the case of the Sabbath, there is no possibility of remission once the prohibition has applied, so in the case of the Day of Atonement, there is no possibility of remission once the prohibitions [of the day] have come into effect. [That is why there is a common rule applying to them.] But in the case of these women, there is remission once the prohibition concerning them has applied [so the period comes to an end, or the aunt may become permitted]. Accordingly, he must pay [since monetary compensation would apply here, while it would not apply in the matter of the Sabbath or of the Day of Atonement]. *In the view of R. Simeon b. Menassia* just as in the case of the violation of the law of the Sabbath, extirpation applies, so in the case of the violation of the laws of the Day of Atonement, extirpation applies. So, too, in the case of these women, since the penalty of extirpation applies, one will not also have to pay monetary compensation [just as in the instance of the

violation of the Sabbath or the Day of Atonement].

[H] *R. Judah bar Pazzi raised the following question: “As to the imposition of both flogging and extirpation, what do these Tannaitic authorities have to say? [Is the issue of flogging parallel to that of monetary compensation?]”*

[I] *Said R. Yosé, “That question bothered rabbis.”*

[J] *R. Jonah raised the question, “Why should that be the case? Did [the assembly] not hear what R. Simeon b. Yohai taught? For R. Simeon b. Yohai taught as follows: R. Tarfon says, ‘Extirpation is mentioned with regard to the Sabbath, and extirpation is mentioned with regard to the Day of Atonement. Just as extirpation, mentioned with regard to the Sabbath, means, there will not be a flogging in the case in which the penalty of extirpation is incurred, so extirpation mentioned with respect to the Day of Atonement means that where there is extirpation, the penalty of flogging will not apply.’”*

[K] *Said R. Mana before R. Yosé, “Is not the matter subject to doubt only from the viewpoint of R. Simeon b. Laqish? But so far as R. Yohanan is concerned [there is no doubt], for if he maintains that there can be a flogging where the death penalty applies, it is an argument a fortiori that there can be a flogging where the penalty of extirpation applies. For they have engaged in the following dispute: He who slaughters a dam and its offspring for the sake of idolatry – R. Yohanan said, ‘If others gave warning to the man on*

the count of not slaughtering a dam and its offspring on the same day, he is given a flogging. If they gave warning on the count of idolatry, he is stoned to death [and not flogged].’ R. Simeon b. Laqish said, ‘Even if others should give him warning on the count of not slaughtering the dam and its offspring on the same day, he is not given a flogging, since, if they had warned him on the count of idolatry, he would be stoned to death’ [cf. Y. A.Z. 4:1/1H-J].”

[L] [*Yosé*] said to [*Mana*], “*Even in the view of R. Yohanan it remains a matter of doubt. For there you deal with two distinct matters, while here you deal with only a single one.*”

[III:8 A] [*We now revert to Simeon b. Laqish’s view that Meir maintains one is flogged and pays a monetary penalty in the same matter, but in the opinion of rabbis, there will be no case in which there is a monetary penalty, for those who are liable to a flogging for inadvertent acts are exempt from monetary payment and raise the question:*] *In the view of R. Simeon b. Laqish, what is the difference between the views of these Tannaim [that is, Nehunia b. Haqqaneh, and R. Simeon b. Menassia,] and these rabbis vis-à-vis Meir?* [For in their view if there is a penalty of extirpation, there will be no monetary penalty in addition. Yohanan will hold that there can be the difference of opinion in regard to those subject to penalty of extirpation when there was no warning as to flogging. In such a case rabbis hold he is liable to a

monetary penalty. The two Tannaim will regard him as exempt.]

[B] [There is the difference concerning those who are liable for violating] negative commandments in which no penalty of extirpation is involved. [This will now be spelled out.]

[C] R. Yudan said, “He who has sexual relations with a *mamzer* girl [would be a point of] difference between them. [The Tannaim cited above will hold that he is liable to a monetary penalty. The rabbis vis-a-vis Meir will regard him as exempt, even if there has been no admonition.]”

[D] R. Hananiah said, “He who sets fire to the standing grain of his fellow on a festival day is at issue between them. In the view of these Tannaim [whom we have cited above], since there is no question of extirpation in such a case, the felon must pay a monetary penalty. In the opinion of rabbis [vis-a-vis Meir], since there is the matter of a flogging, he does not have to pay monetary compensation.”

[E] *Then shall we say that **These are the girls who receive a fine*** does not accord with the position of rabbis [vis-a-vis Meir]?

[F] Said R. Mattanaiah, “One may interpret the passage to express the opinion of all parties. It speaks of a *mamzer* man who has sexual relations with a *mamzer* girl. [He is permitted to have sexual relations with her, so the sole issue is the monetary penalty, not flogging.]”

[G] And as to the one who has sexual relations with the wife of his brother – is this not his deceased childless brother’s wife? [This then takes place after the brother’s death. Why is there consideration at all either of extirpation or of monetary penalty?]

[H] Said R. Mattenaiah, “Interpret the law to speak of a case in which his brother had children, and he betrothed a woman and then died, and his brother went and raped her. [This woman is not subject to the surviving brother on the count of a levirate connection. Had the brother not died, the issue would have been the death penalty and not monetary compensation to the woman.]”

3:2

[A] **And these do not receive a fine [from the man who seduces them]:**

[B] **He who has sexual relations with a convert, a girl taken captive, or a slave girl, who was redeemed, or who converted, or who was freed, at an age of more than three years and one day –**

[C] **(R. Judah says, “A girl who was redeemed, lo, she remains in her condition of sanctity, even though she is an adult”) –**

[I:1 A] Said R. Yohanan, “R. Judah included her [in the list of those who are compensated] only with respect to the monetary compensation [owing to her from the seducer].”

[B] *R. Hiyya taught*, “It was also for payment to her of a marriage settlement of a *maneh* or two hundred *zuz*.”

[C] R. Simeon b. Laqish said, “Also to give her food in the status of heave offering to eat [if she is wed to a priest]. [That is to say, in Judah’s view, she remains wholly unviolated for all intents and purposes.]”

[D] *In accord with the interpretation of Judah’s statement by R. Simeon b. Laqish, R. Judah and R. Dosa both say the same thing. For we have learned there: A woman taken captive [when she is redeemed and returns to her husband, a priest] may eat produce in the status of heave offering [M. Ed. 3:6], the words of R. Dosa.*

[E] R. Haninah in the name of R. Simeon b. Laqish supplied [the following statement]: “The law accords with R. Dosa.”

3:3

[A] **He who has sexual relations with his daughter, his daughter’s daughter, with the daughter of his son, with the daughter of his wife, with the daughter of her son, with the daughter of her daughter –**

[B] **they do not receive a fine [from the man who seduces them],**

[C] **for he incurs the death penalty.**

[D] **For the death penalty inflicted upon him is at the hands of an earthly court,**

[E] **and whoever incurs the death penalty [at the hands of an earthly court] does not pay out a financial penalty [in addition], since it says, “If no damage befall, he shall surely be fined” (Ex. 21:22).**

[I:1 A] [The Mishnah’s adduced reason is at M. 3:2D-E, namely, the father does not owe monetary penalty, because he is on trial for his life.] But if someone else had had sexual relations with the girl, would not the financial penalty be paid to her father? [Since he is the father, he cannot be required to pay such a penalty to himself. That would be an adequate reason for the rule. When, then, does the Mishnah adduce a more general consideration?]

[B] Interpret the teaching to speak of a case in which a person had sexual relations with the girl before her father died, and then her father died [before the court proceedings had taken place. Then the financial penalty is paid to the girl. It is for an analogous case in which the father died after his daughter was raped that the Mishnah must state the law].

[C] [This construction of the law of the Mishnah] is in accord with the view of R. Yosé the Galilean [at M. 3:4], for he requires specification of a special case in which one might have thought that the fine is paid to the girl, but so far as R. Aqiba is concerned, she most certainly does get a monetary penalty, and that monetary penalty is paid to her herself. [Accordingly, the issue raised by A is not compelling.]

[I:2 A] [With reference to Ex. 21:22,] said R. Jeremiah in the name of R. Eleazar, “Since it is said, ‘And if no damage befall,’ do I not know that, ‘If any harm follows, then you shall give life for life’ (Ex. 21:23)? Why then does Scripture find it necessary to state, ‘if any harm follows’? It serves to encompass him who deliberately does the deed

when subject to prior admonition [who is liable as stated]. [But if the deed is inadvertent, lacking prior admonition, then the penalty is a monetary fine, and not the death penalty (PM).]”

[B] *Said R. Yosé, “And is this point not stated in the Mishnah itself: **And whoever incurs the death penalty does not pay out a financial penalty in addition [M. 3:3E]**? [That would refer to one who does the deed deliberately and after prior admonition.] Now this statement deals only with one who does the deed inadvertently [indicating that even if there is the possibility of the death penalty, removed by the fact that the deed was done inadvertently, nonetheless there is no question of monetary compensation. That would be an extreme reading of the Mishnah’s statement.]*

[C] *Said Hezekiah, “Further it is taught [along these same lines] in Tannaitic tradition: ‘He who kills a beast shall make it good; and he who kills a man shall be put to death’ (Lev. 24:21). Just as in the case of one who kills a beast you have made no distinction between doing so inadvertently and doing so deliberately, in both instances imposing liability to monetary compensation, so in the case of one who kills a man you should make no distinction between doing so inadvertently and doing so deliberately, in both instances freeing [the felon] from liability to paying monetary compensation. [This then supports the view of Yosé, above.]”*

3:4

[A] **A girl who was betrothed and then divorced –**

[B] **R. Yosé the Galilean says, “She does not receive a fine [from the man who raped or seduced her].”**

[C] **R. Aqiba says, “She does receive a fine,**

[D] **“and the fine belongs to her.”**

[I:1 A] What is the scriptural basis for the view of R. Yosé the Galilean?

[B] “[If a man meets a virgin] who is not betrothed, [and seizes her and lies with her, and they are found, then the man who lay with her shall give to the father of the young woman fifty *shekels*]” (Deut. 22:28).

[C] And [how does] R. Aqiba [deal with] “who is not betrothed”?

[D] Before the girl is betrothed, he pays the money to her father. Once she is betrothed, he pays it to her.

[E] *Within the theory of R. Aqiba, [should we then conclude that] in the case of a girl, [the felon] pays the money to her father; in the case of a*

woman, he pays it to her; in the case of a virgin, he pays the money to her father; in the case of a girl smitten by a piece of wood, he pays it to her herself? [Reference is made to Deut. 22:29, which speaks of giving the father of the young woman fifty *shekels*. According to Aqiba's reading of Deut. 22:28, the same distinctions are to be read into the verse that follows. Yet that verse serves other exegetical purposes.]

[F] [No, the proposed exegesis hardly is required.] For in that case we have a different [way of reading matters, specifically:] "Young woman" – and not mature woman. "Virgin" – and not a girl smitten by a piece of wood.

[G] *But is it not written*, "who is not betrothed" [which should then exclude the one who has been betrothed, contrary to Aqiba's view]?

[H] "Who is not betrothed" serves [not for G.'s purpose but rather] to provide the basis for an argument by means of analogy [to Deut. 22:29]. Just as in the latter instance the monetary penalty is fifty *shekels*, so here [at Deut. 22:28] the monetary penalty is fifty *shekels*.

[I] *Now does not R. Yosé concur that the penalty [for violation at Deut. 22:28] is fifty shekels?*

[J] He most certainly concurs. [But he builds his analogy on the basis of the recurrence of the word] "money." Just as money stated elsewhere [with reference to the seducer], money is stated meaning that fifty *shekels* must be paid, so here too the penalty is fifty *shekels*.

[I:2 A] From the viewpoint of Yosé the Galilean,] if he had sexual relations with the girl prior to her becoming betrothed, and only afterward she became betrothed [what is the law? In this case does she receive monetary compensation?]

[B] Does not the opinion of R. Ahi indicate that he does pay [in such a case, so far as Yosé is concerned]?

[C] *For has it not been taught*: "[The man who lay with her shall give to the father of the young woman fifty *shekels*, and she shall be his wife,] because he has violated her; [he may not put her away all his days]' (Deut. 22:29)? This serves to encompass the orphan girl, who receives monetary compensation," the words of R. Yosé the Galilean.

[D] Said R. Ahi, “Interpret the teaching to speak of a case in which the man had sexual relations with her before her father had died, and then her father died. Accordingly, it was already appropriate that the penalty be paid to the father.”

[E] Now [answering A] the same rule will apply both to the case in which he had sexual relations with the girl before her father died, and then he died, and to the case in which he had sexual relations with the girl before she was betrothed, and then she was betrothed.

[F] *R. Zeira said R. Hisda asked*, “If he had sexual relations with her before she was married, and then she was married [what is the law]? [Does the penalty go to her father or to the girl herself?]

[G] *On the basis of that which you have said there*, that when she is subject to her husband’s domain [when she is betrothed], he pays the money to her father, then here [by analogy], since she is subject to her husband’s domain, he pays the money to her father.

3:5

[A] The one who seduces a girl pays on three counts, and the one who rapes a girl pays on four:

[B] the one who seduces a girl pays for the shame, the damage, and a fine,

[C] and the one who rapes a girl adds to these,

[D] for he in addition pays for the pain [which he has inflicted].

[E] [Y. lacks: What is the difference between the one who rapes a girl and the one who seduces her?

[F] The one who rapes a girl pays for the pain,] and the one who seduces her does not pay for the pain.

[G] The one who rapes a girl pays the financial penalties forthwith, but the one who seduces her pays the penalties [only] when he puts her away.

[H] The one who rapes the girl [forever after] drinks out of his earthen pot, but the one who seduces her, if he wanted to put her away, does put her away.

[I:1 A] *Now this rule [that there is compensation for the pain] does not conform to the view of R. Simeon. For R. Simeon exempts the rapist from obligation to compensate for pain.*

[B] [He sees the case as] similar to one who cuts off a wen from his fellow, which the fellow was going to cut off himself anyhow, or to one who cuts down the plants of one's fellow, which the fellow was planning to cut down himself.

[C] **They said to him, “There is no similarity between the girl who is raped and the girl who has sexual relations willingly [T. Ket. 3:6F], nor is the girl who is laid [27d] in the garbage heap to be compared to the one who has sexual relations under the marriage canopy.”**

[D] How does R. Simeon interpret, “because he has violated her” (Deut. 22:29)?

[E] They said in the name of R. Hisda, “You may interpret the passage to speak of a case in which he had sexual relations with her on top of thorns [which caused the pain to be compensated].”

[II:1 A] He who seduces her pays the penalties only when he puts her away [M. 3:5G]:

[B] Said R. Hisda, “This applies in a case in which he did not wish to keep the marriage going. But if he wanted to keep the marriage going, he pays nothing at all.”

[II:2 A] R. Ishmael taught, “‘[If a man seduces a virgin who is not betrothed, and lies with her,] he shall give the marriage present for her, [and make her his wife]’ (Ex. 22:16). This teaches that he treats what is owing as a bridal present, and a bridal present can only be a marriage settlement.

[B] “*This is in line with what Scripture has said, ‘Ask of me ever so much as a marriage present and gift, [and I will give according as you say to me; only give me the maiden to be my wife]’ (Gen. 34:12).’*”

[II:3 A] R. Eleazar asked, “[In the view of the party who holds that a woman who is married under these circumstances does not receive a marriage settlement,] as to the daughters of a woman who has been raped [and thereby married], what is the law about their enjoying the stipulations of the normal marriage contract [which provides for their upkeep]?”

[B] “*But it is obvious to me [he continued] that as to the males, they are not covered by the clause for male heirs [that they inherit the marriage settlement, should the mother die, since she does not enjoy such a normal settlement anyhow].*”

[C] “*In the case of the woman who is married after seduction, it is self-evident that the clause covering the female heirs does apply. [She*

certainly does enjoy the advantage of all stipulations of a normal marriage settlement.]

- [D] *“If you say that both sorts of women should present problems to him, [so that he should find no more self-evident the status of one than the other,] then we should have to ask in both the case of the daughters of the one who has been raped and the daughters of the one who has been seduced whether or not they are covered by the stipulations of the marriage settlement.”*
- [E] *It is in accord with rabbis that the question must be raised.*
- [F] *For so far as R. Yosé b. R. Judah is concerned, the answer is self-evident. For R. Yosé b. R. Judah says, “He who rapes a woman has to give a marriage settlement to the value of a maneh.” [In his view, then, the daughters are covered by the normal stipulation, even in the case of the rapist, since the mother receives a marriage settlement.]*

3:6

- [A] **How does he “drink from his earthen pot”?**
- [B] **Even if she is lame, even if she is blind, and even if she is afflicted with boils, [he must remain married to her].**
- [C] **[If] a matter of unchastity turned out to pertain to her, or if she is not appropriate to enter into the Israelite congregation, he is not permitted to confirm her as his wife [but, if he has married her, he must divorce her],**
- [D] **since it is said, “And she will be a wife to him” (Deut. 22:29) – a wife appropriate for him.**
- [I:1 A] R. Jeremiah, R. Hiyya in the name of R. Simeon b. Laqish: “Scripture should not say, ‘And she will be a wife to him’ (Deut. 22:19). [For] this refers to the one who spreads a bad story about the wife [that she was no virgin when she was married]. Now it hardly is necessary to state [therefore that she shall be his wife,] for she already is in his domain [by definition].
- [B] “Why does Scripture say, ‘And she will be a wife to him’? It is so that you may derive from that usage an argument by analogy. You then provide the following exegesis: ‘And she shall be a wife to him,’ ‘And she shall be to him.’ Just as ‘And she shall be to him,’ stated later on, refers to a woman who is appropriate for him, so ‘And she shall be to him’ here refers to a woman who is appropriate for him.
- [C] “Then you wish to argue, ‘Just as the usage later on means that it must be a woman who is appropriate to him and only then, to such a woman,

must he pay a monetary penalty, so here, ‘And she shall be a wife to him’ means that it must be a woman who is appropriate to him, to whom he must pay a monetary penalty.”

[D] R. Zeira, Ulla in the name of R. Ishmael in the name of R. Eleazar, “Scripture should not say, ‘And she will be a wife to him’ (Deut. 22:19). For this refers to one who spreads a bad story about his wife. Now it is hardly necessary to state [that she shall be his wife], for she already is in his domain [by definition] .

[E] “Why does Scripture say, ‘And she will be a wife to him’? It is so that you may derive from that usage an argument by analogy. You will then provide the following exegesis: ‘And she shall be a wife to him.’ Why does Scripture state, ‘She will be a wife to him’? For further on it indicates that if he should divorce her, the court instructs him to bring her back to his household. Also, ‘She will be a wife to him’ stated here means that if he should divorce her, the court instructs him to bring her back. [He is not flogged for violating the commandment not to divorce her. Rather, he simply restores the marriage.]”

[I:2 A] ***R. Hiyya taught: All the same are the one who rapes and the one who spreads a bad story about a girl, who divorced [the woman they have raped or maligned, respectively]:***

[B] **they force him to bring her back.**

[C] **[If] they are priests, they incur forty stripes [for violating the rule against divorcing her] [T. Ket. 3:7A-C].**

[I:3 A] *There is the following [indicating cases in which one indeed may put the girl out (PM)] which is taught: If a man is found lying with] the woman who has had sexual relations with a husband (Deut. 22:22). This encompasses the case in which a woman had received her husband when she is yet betrothed, while she is still in her father’s house. [She is in the status of a woman who has had sexual relations with a husband, with the result that one who thereafter has sexual relations with her is guilty of having had relations with a married woman and is put to death through strangulation.]*

[B] And it is not the end of the matter that [the sexual relations take place] in the normal manner. But even [if the husband had sexual relations] not in the normal manner, [the woman is deemed fully wed to him].

[C] R. Abbahu in the name of R. Yohanan: “The verse is required to indicate that sexual relations not in the normal manner [effect acquisition of the woman]. If you maintain [to the contrary] that the

verse refers to a relationship effected through sexual relations in the normal manner, why should Scripture refer to a woman ‘who has had sexual relations’? Even someone else [than the husband] may [through an act of normal sexual relations] render her ‘a woman who has had sexual relations.’”

[D] *For we have learned there:* **[If] two men had sexual relations with a betrothed girl in succession, the first is liable to be put to death by stoning, and the second by strangling [M. San. 7:9].** [The latter has had sexual relations with a married woman, that is, the wife of the former, who through the mere act of sexual relations has acquired the woman as his wife.]

[E] In the case of a betrothed girl, if ten men had sexual relations not in the normal manner, and one did so in the normal manner, all of them are subject to the penalty of stoning.

[F] If all of them had sexual relations with her in the normal manner, the first of them is punished by stoning, and the rest by strangulation.

[G] If ten men began [but did not complete] the act of sexual relations with her, but only one of them completed the act, all of them are put to death through stoning.

[H] If all of them completed the act of sexual relations, the first of them is put to death through stoning, and the rest of them through strangulation.

[I] In the case of an unattached girl, if ten men had sexual relations with her not in the normal manner, and one in the normal manner, all of them are subject to a monetary penalty.

[J] If all of them had sexual relations with her in the normal manner, the first of them is liable to a monetary penalty, and the rest of them are exempt.

[K] If she selected one of them for herself [as a husband], the rest of them are exempt from penalty on the count of violating a negative commandment [of not being able to send her forth].

[L] [If she then changed her mind and] said, “I do not want [the one whom I chose],” she may choose and go and make another choice.

[M] If the one she chose was married to her sister, he is then exempt [from the consideration of not being able to send her

forth]. If he died, they do not force the surviving brother to marry the girl [since the commandment does not apply to him at all].

3:7

[A] **An orphan who was betrothed and divorced –**

[B] **R. Eleazar says, “He who seduces her is exempt [from paying a fine], but he who rapes her is liable.”**

[I:1 A] *Said R. Yohanan, “The opinion of R. Eleazar accords with the theory of R. Aqiba, his master. Just as R. Aqiba has said [at M. 3:4] that such a girl [as may be in the status of an orphan, e.g., one who was betrothed and divorced at the stage of betrothal] receives a monetary penalty, which belongs to her, so R. Eleazar has said that she receives a monetary penalty, which belongs to her.”*

[B] If so, that should be the case even for the one who is seduced?

[C] [The reason that that is not the case is provided by] R. Jeremiah in the name of R. Eleazar: “Interpret the matter to apply to a girl who has relinquished her claim on such a payment.”

[D] [But payment for shame and injury do not belong to the girl, but to the father. Consequently one must ask:] May a person relinquish claim on something which to begin with does not belong to him [in this case: her]?

[E] Interpret the matter to speak of a girl who is an orphan [and so payment for shame and injury would go to her].

[F] *And so did the House of Rabbi teach: “As to an orphan girl – R. Eleazar said, ‘He who rapes her is liable [to pay a fine], but he who seduces her is exempt [cf. M. 3:7B].’”*

[G] Now does someone have the power to relinquish claim on something which to begin with has not entered his domain [here: her domain, namely, the payment for the monetary penalty, which she has not yet received]?

[H] *Let us derive from the following [the principle that one does not make acquisition of a monetary penalty from the moment at which liability applies, e.g., from the moment the girl is laid, but only later on:] in line with what R. Bun bar Hiyya said in the name of R. Zeira: “A monetary penalty does not apply to the [felon] at the very outset [at the moment of the felony].” For we have learned there: **A girl who was seduced – the financial penalties for shame, damage, and fine***

belong to her father... If she won in court before her father died, lo, the funds belong to the father. If the father then died, lo, they belong to the brothers [M. 4:1A-E]. Now if you maintain that the liability applies at the very outset of the felony, lo, the funds belong to the brothers at the very outset [that is, whether or not the girl had gone to court, the rule should be the same]. [The fact that the court action is introduced indicates that the monetary penalty applies only later on, not automatically at the moment of the felony. Accordingly, how can the girl relinquish claim on the monetary penalty, as explained above?]

[I] [We must now reinterpret the terms of the Mishnah. Along these lines,] Raba in the name of R. Hisda [said], “*The Mishnah speaks of the compensation for shame and injury. [One who seduces the girl is forgiven these items, since she may relinquish claim on them. But the monetary penalty has not yet entered her domain.]*”

[J] *That view accords with R. Mana’s statement, “What is the meaning of the statement that he who rapes her is liable? It is on all counts. And he who seduces her is exempt? It is on all counts.”*

[K] *R. Abin said Shimi proposed the following: “What is the meaning of the statement that he who rapes her is liable and he who seduces her is exempt? He who rapes her is liable on all counts. He who seduces her is exempt from having to pay compensation for shame and injury, but remains liable to pay the monetary penalty.”*

[L] And lo, R. Aqiba says, “He who rapes and he who seduces is exempt on all counts? [This would contradict Abin’s statement that the girl has not got the power to relinquish the monetary penalty.]”

[M] *That statement belongs to R. Yosé the Galilean [and not to Aqiba at all].*

3:8

[A] What is the [mode of assessing compensation for] shame?

[B] All [is assessed] in accord with the status of the one who shames and the one who is shamed.

[C] [How is the compensation for] damage [assessed]?

[D] They regard her as if she is a slave girl for sale: How much was she worth [before the sexual incident], and how much is she worth now.

[E] The fine?

[F] It is the same for every person [fifty selas, Deut. 22:29].

[G] And any [fine] which is subject to a fixed amount by the Torah is equivalent for every person.

[I:1 A] It is not the same thing to inflict an indignity upon an honored person as it is to inflict an indignity upon a worthless person.

[B] And it is not the same thing to receive an indignity from an honored person as it is to receive an indignity from a worthless person.

[C] And the indignity inflicted upon a great person who is humiliated is not equivalent to the indignity inflicted upon an unimportant person who is humiliated [T. B.Q. 9:12E-F].

[D] The indignity inflicted upon an honored person is greater, but the injury done him is less.

[E] The indignity inflicted upon an unimportant person is minor, but injury done him is greater.

3:9

[A] In any situation in which there is a right of sale, there is no fine. And in any situation in which there is a fine, there is no right of sale.

[B] A minor girl is subject to sale and does not receive a fine.

[C] A girl receives a fine and is not subject to sale.

[D] A mature woman is not subject to sale and [does] not [receive] a fine.

[I:1 A] *R. Hiyya in the name of R. Yohanan, “[The statement that a minor girl is subject to sale and does not receive a fine] represents the view of R. Meir. But rabbis maintain that she is subject to sale and she also will receive a fine at one and the same time.”*

[B] In accord with the view of R. Meir from the age of one day up to three years and one day, she is subject to sale and does not receive a fine. From the age of three years and one day until she reaches pubescence, she receives a fine and is not subject to sale. Once she is mature, she neither is subject to sale nor receives a fine.

[C] In accord with the view of rabbis from the age of one day up to three years and one day, she is subject both to sale and to receiving a fine. From the age of three years and one day until she produces two pubic hairs, she is subject to a sale but does not receive a fine. Once she produces two pubic hairs and until she reaches full maturity, she is

subject to a fine and is not subject to sale. Once she has reached maturity, she neither is subject to sale nor receives a fine.

[I:2 A] *There we have learned: He who has sexual relations with a betrothed maiden is liable only if she is a virgin girl, betrothed in her father's house. If two men had sexual relations with her, the former is put to death through stoning, the latter through strangulation [M. San. 7:11].*

[B] *R. Yosa in the name of R. Yohanan, R. Hiyya in the name of R. Eleazar, [maintained, "In insisting that it is a maiden, the Mishnah expresses the opinion] of R. Meir. But so far as rabbis are concerned, even if she is a minor [less than three years and one day, one is liable]."*

[C] *What is the scriptural basis of the position of R. Meir?*

[D] The word "maiden" is spelled without its full complement of letters [which is taken to mean that Scripture wishes to exclude a category of young girls, namely, those less than the specified age].

[E] *And how do rabbis interpret the same deficient spelling of the word for "maiden"?*

[F] R. Abbahu in the name of R. Simeon b. Laqish: "The word for 'maiden' is fully spelled out one time in the passage, and it imparts its message on the entire passage, meaning that the maiden spoken of therein must be of the requisite age."

[G] *Objected R. Meir to rabbis, "Lo, he who brings forth an evil name – lo, only 'maiden' in not fully spelled out form is written in that connection, and yet she is invariably deemed to be an adult. The reason is that [if this girl is found guilty, she is put to death by stoning], but a minor is not put to death by stoning."*

[H] *How do rabbis deal with this passage?*

[I] Said R. Abin, "Interpret the passage [in which 'maiden' is not fully spelled out] to speak of a case in which the man had sexual relations through the anus." [That is, the husband who brings forth slander against the bride is liable, even if he had sexual relations in an unnatural manner. That is, the peculiar spelling introduces a distinct consideration into the law.]

[I:3 A] *R. Jacob bar Abba raised the question before Rab:*
“He who has sexual relations with a betrothed minor –
what is the law?”

[B] He said to him, “He is put to death through stoning [as
he would if she were an adult virgin, just as rabbis hold
at II.C].”

[C] “He who has sexual relations with a pubescent girl –
what is the law [from rabbis’ viewpoint]? [Is the
penalty the same?]”

[D] He said to him, “I deem such a girl to be a maiden and
not an adult, [and the penalty is not stoning but
strangulation]. And read [Scripture to mean] ‘girl’ and
not ‘child’ [as rabbis hold].”

[E] [Continuing,] he said to him, “And do you not agree
with me that the man is subject to a fine: [‘Then the
man who lay with her shall give to the father of the
young woman fifty *shekels* of silver, and she shall be
his wife’ (Deut. 22:29)]?” [Rab points out that the
rabbis’ position is supported by the view that even if the
man has sexual relations with a minor, he still is liable
to the fine. This would then support the view of rabbis
as against Meir.]

[F] He said to him, “‘because he has violated her’ (Deut.
22:29) – this serves to encompass even a minor girl
within the law of the fine.

[G] “And read, ‘because he has violated her’ to encompass
a pubescent girl to be under the law of the fine.”

[H] *Said Rab, “Even though R. Jacob bar Abba won over
me in the discussion of the law, in fact the final
decision is this: ‘He who has sexual relations with a
minor is put to death through stoning, but she is exempt
from punishment.’”*

[I] [28a] R. Abin in the name of R. Samuel, “And why
did he not interpret the matter along the lines of the
following [to prove that he who has intercourse with
a minor is stoned to death]?”

[J] “[But if in the open country a man meets a young
woman who is betrothed, and the man seizes her

and lies with her,] then only the man who lay with her shall die. [But to the young woman you shall do nothing; in the young woman there is no offense punishable by death, for this case is like that of a man attacking and murdering his neighbor; because he came upon her in the open country, and though the betrothed young woman cried for help there was no one to rescue her]' (Deut. 22:25-27). Now do we not know that 'in the young woman there is no offense punishable by death'? And why does Scripture tell us, 'But to the young woman you shall do nothing; in the young woman there is no offense punishable by death'? But on the basis of this needless statement, we conclude the following: He who has sexual relations with a minor is punished by stoning, but she is exempt from punishment."

3:10

[A] He who says, "I seduced Mr. So-and-so's daughter," pays the penalties of shame and damage on the basis of his own testimony.

[B] But he does not pay a fine.

[C] He who says, "I stole and I slaughtered and sold [an animal belonging to So-and-so]," pays back the principal on the basis of his own testimony, but he does not pay double damages or four or fivefold damages.

[D] [If he says,] "My ox killed So-and-so," or "the ox of So-and-so," lo, this one pays on the basis of his own testimony.

[E] [If he says,] "My ox killed So-and-so's slave," he does not pay on the basis of his own evidence.

[F] This is the general principle: Whoever pays a compensation greater than the damage he has actually done does not pay said damages on the basis of his own testimony [alone, and cannot be assessed for such damages].

[I:1 A] R. Isaac raised the question: "What is the law as to the defendant's paying up the value [as distinct from the fine of thirty *shekels*] of the slave [killed by the man's ox] on the basis of his own testimony? [That is, while one does not pay a fine on the basis of his own testimony, does he pay the value of the slave, for that is not regarded as a fine?]"

[B] *Now what information does [Isaac] require?*

- [C] [What he is asking is whether] the whole of the thirty *shekels* is deemed the fine, or whether, in addition to the value of the slave, is the fine. [That is, is the fine all the man pays, or does he pay the value of the slave and also pay the fine of thirty *shekels*?]
- [D] If you maintain that the whole of what is paid is the thirty *shekels*, thus a fine, then he will not pay [on the basis of his own testimony].
- [E] If you say that anything paid beyond the value of the slave is the fine, then he does pay [up to the value of the slave]. [That is to say, he pays the value of the slave, and, in addition, thirty *shekels*, and his latter fee is the fine.]
- [F] *There we have learned: “Your ox killed my slave” and he said, “It did not kill him!” “I impose an oath on you,” and he said, “Amen” – he is exempt [should the oath prove false] [M. Shebu. 5:6].* [Thus the denial under oath did not involve a monetary claim but rather a fine alone, so the whole of the thirty *shekels* constitutes a fine.]
- [G] Said R. Haggai before R. Yosé, “Interpret the Mishnah rule to speak of a case in which [the ox] killed a slave who was afflicted with boils [who was worth nothing, in which case whatever was paid over was a fine, there being no value to the slave over and above it].”
- [H] *He said to him, “Now note that which follows: [If the claim is,] ‘Your ox has killed my son!’ and he says, ‘It did not kill him!’ ‘I impose an oath on you!’ ‘Amen’ – he is liable.*
- [I] “Now if you interpret the opening case to deal with a slave afflicted by boils, then shall we interpret this one to apply to one afflicted by boils, so that the man may be free [in this case, too, there being no monetary claim]?”
- [J] [Y. Shebu. 5:6 adds:] “You cannot do so, for we have learned, **‘If one killed a free man, he pays his value [not merely a fine] [M. B.Q. 4:5].’**”
- [K] Said R. Haggai before R. Yosé, “Interpret the case in accord with the one who said the following: ‘If a ransom is laid on him [whose ox kills a man], then he shall give for the redemption of his life [whatever is laid upon him]’ (Ex. 21:30), – [‘his life’ refers to] the life of the party responsible for the injury [the life of the owner of the ox]. [This is without regard to the value of the victim.] The whole of it then is a fine.”
- [I:2 A] [As to one who confesses in a case in which he took an oath to avoid paying a fine,] what is the law as to [the judges’] saying to him, “Carry

out your obligation to Heaven”? [That is, even if by law he is exempt from paying, he bears an obligation to Heaven to pay.]

- [B] *Let us derive the answer to that question from the following:*
- [C] *M' SH B: Rabban Gamaliel knocked out the tooth of Tabi, his slave. He came before R. Joshua. He said to him, “As to Tabi, my slave, I have found an excuse to free him.”*
- [D] He said, “You do not have the power to do so, for fines apply only in a case in which there are witnesses who testify in court. [But here there is none, so there are no grounds for freeing Tabi.]”
- [E] *Now in this case, note that they did not say to him to carry out his obligation to Heaven [and free the slave anyhow]. This indicates that they do not say to him, “Carry out your obligation to Heaven.”*
- [F] *R. Gamaliel b. R. Abina raised the question before R. Mana, “Does Rabban Gamaliel maintain the rule in accord with him who said that it is permitted to free him?”*
- [G] He said to him, “The very essence of the case says that it is prohibited to free one’s slave, for if that were not the case, he would have freed him in the first place [without the cause of having knocked out his tooth and without going to court for approval].”

YERUSHALMI KETUBOT

CHAPTER FOUR

4:1

- [A] A girl [twelve to twelve and a half years of age] who was seduced –
[B] [the financial penalties] for her shame, damage, and fine belong to her father,
[C] and the [compensation for] pain in the case of a girl who was seized [Deut. 22:28] and raped, also belongs to the father].
[D] [If] she won in court before her father died, lo, they [the funds] belong to the father.
[E] [If] the father [then] died, lo, they belong to the brothers.
[F] [If] she did not suffice to win her case in court before the father died, [G] lo, they are hers.

- [I:1 A] *What authority stands behind the formulation of [the passage of the Mishnah which speaks of] a girl [twelve to twelve and a half years of age, and not a virgin, hence stressing that we deal with a minor girl]?*
- [B] It is R. Meir [who holds that a minor does not collect a financial penalty anyhow].
- [C] But as to rabbis, even a minor [would fall under the rule of M. 4: 1B].
- [D] [The language,] in the case of a girl who was seized, [means,] in the case of a girl who was raped.
- [E] *This does not accord with the opinion of R. Simeon, for R. Simeon exempts the rapist [28b] from having to pay compensation on account of the pain he has inflicted [for reasons given above].*
- [I:2 A] Up to this point we have dealt with items subject to compensation by reason of the act of sexual relations itself. But if the man did her injury, blinded her, cut off her hand, broke her leg, to whom does he pay the compensation? Is it to her or to her father?
- [B] R. Yohanan said, “He pays it to her father.”

[C] R. Simeon b. Laqish said, “He pays it to her herself.”

[D] *R. Simeon b. Laqish maintains the theory that the fruit of the girl’s labor belongs to her herself even before she reaches maturity.*

[E] *R. Yohanan maintains that the fruit of her labor belongs to her only after she has reached maturity.*

[F] *R. Abin in the name of R. Hila: “The dispute concerns the status of the produce of her labor up to the time at which she reaches maturity. But from the time that she has reached maturity and onward, all parties concur that the fruit of her labor belongs to her herself.”*

[G] *There is a Tannaitic teaching which supports the view of this party, and there is a Tannaitic teaching which supports the view of that party.*

[H] *The following Tannaitic teaching supports the view of R. Yohanan:*

[I] He who injures the daughter or son of his fellow – what is owing to his daughter he pays over forthwith. What is owing to his son he invests in property. [Hence the father takes over what is paid to the daughter, as Yohanan maintains.]

[J] *Said R. Yudan, father of R. Judah, father of R. Mattenaiah: “There is yet another Tannaitic tradition, and both the first part and the second part of this tradition support the position of R. Simeon b. Laqish.”*

[K] **He who injures his minor daughter – the compensation for her injury belongs to her, and for [Y.: shame and injury] all other forms of compensation, lo, he is exempt.**

[L] **[If] others injured her, compensation for her injury belongs to her [Y.: shame and injury compensation go to her father].**

[M] **And as to the rest of the compensation, he sets it aside for her [in trust].**

[N] **And if she dies, he inherits her estate [T. B.Q. 9:8G, 9:9].**

[II:1 A] [As to M. 4:1D, E, which distinguishes between her winning in court before her father died and afterward, thus: **[If] she won in court before her father died, lo, they [the funds] belong to the father. [If] the father [then] died, lo, they belong to the brothers. [If] she did not suffice to win her case in court before the father died, lo, they are hers,**] *why do you say so?*

[B] R. Simeon b. Yohai taught, “The verse says, ‘Then the man ... shall give to the father of the young woman’ (Deut. 22:29). [Now it could as well have said, ‘to her father.’] How so? If she won in court before her father died, then you have a case for which Scripture says, ‘And he will give to the father of the girl.’ If the father died, then you have found a case in which Scripture says, ‘And he will give’ to the girl herself.

[C] “If she should win in court before she reaches maturity, you have a case in which Scripture says, ‘And he will pay to the father of the girl.’ If this is after she has reached maturity, you have found a case in which Scripture says, ‘And he will give to her.’”

[D] *How do we know that that is the case? [Why not assign the penalty to the brothers even in the case of M. 4:1F?]*

[E] R. Abbahu in the name of R. Yohanan: “‘You may bequeath them [slaves] to your sons after you, to inherit as a possession forever’ (Lev. 25:46). Them do you bequeath to your sons, and you do not bequeath your daughters to your sons.”

[F] Scripture speaks of monetary fines which may be payable [indicating that the Torah has assigned ownership to those penalties to the father, but they do not enter his estate; they pass to the daughter].

[G] *R. Hiyya taught:* “[The brothers] have no claim either for monetary penalties owing to the daughter, or for compensation for having seduced her, or for compensation paid for having done damage to her.”

[II:2 A] At what point does the obligation to pay the monetary fine apply?

[B] R. Jonah says, “From the outset [as soon as the damage is done].”

[C] R. Yosé said, “At the end [when the court has assigned the obligation].”

[D] *R. Yosé objected to R. Jonah,* “*In your view, in which you say, ‘At the outset, lo, we have learned, **If she won in court before her father died, lo, the funds belong to the father. If the father then died, lo, they belong to the brothers [M. 4:1D-E].’*** [This indicates that the

father does not acquire possession of the monetary penalty until the court has acted on the case, that is to say, not at the outset.]"

[E] *He said to him, "[This case is different from the usual one]. For you have touched upon what R. Simeon b. Yohai has taught: 'Then the man shall give ... to the father of the young woman.' [How so? As above. This then is Scripture's decree for this case in particular.]"*

[F] *R. Jonah objected to R. Yosé, "In accord with your view, in that you maintain that the obligation pertains only at the end, lo, we have learned: If she won her case in court before she matured, lo, they belong to her father. If the father died, lo, they belong to the brothers. If this was after she had reached maturity, lo, they belong to her. Now does a mature girl ever collect a monetary compensation? [Surely not. Now in your view that the obligation applies only once she has come to court and won the case, now she is mature, so she should not collect the money at all.]"*

[G] *He said to him, "You have touched upon what R. Hiyya has taught for R. Hiyya has taught: 'because he has violated her' (Deut. 22:29). This serves to encompass a case in which she was a girl and reached maturity."*

[H] *Now this dispute runs along the lines of that dispute, for we have learned there:*

[I] If he stole an ox or a sheep belonging to his father and slaughtered or sold it, and afterward his father died ..., he pays fourfold or fivefold restitution [M. B.Q. 7:2H]. [The thief pays to the heirs, because he had incurred the obligation prior to the death of the father. Now from the viewpoint of Jonah, even if the father had died prior to the court case, the son would be liable to pay, because the obligation to pay damages applied as soon as he slaughtered the beast. In Yosé's view, only if the father died after the court action would the obligation be in place and payable to the heirs.]

[J] *R. Haggai objected to R. Yosé, (L + V: R. Yosé objected to R. Haggai), "In your view, in which you maintain that it is only upon the decision in the court case that the matter depends, the Mishnah should teach, 'If one stole his father's property and slaughtered and sold the meat while the father was yet alive, but did not suffice to stand in court before the father died, then he pays [only] double indemnity [but not the fourfold or fivefold restitution].' But lo, it has said, 'Fourfold or fivefold compensation.'"*

[K] [He replied,] “But here all parties concur that the money belongs to the girl. [The two cases are to be distinguished. In the case of the theft, the father leaves the ox to his estate; the brothers have a perfectly valid claim to it. In the case of the penalty owing for the daughter, the Torah has given the father that claim, but it has not assigned it, further, to the estate. Consequently, the claim that the dispute above applies here, too, is invalid.]”

[L] *There is no need, then, to raise [the dispute of Jonah and Yosé], for it deals only with the monetary penalty. To whom [does the man] pay, to her does he pay, or to her father? [The cases are parallel. Cf. Qorban Ha’Edah.]*

4:2

[A] [If] she won her case in court before she had matured [at twelve and a half years of age], lo, they belong to the father.

[B] [If] the father died, lo, they belong to the brothers.

[C] [If] she did not suffice to win her case in court before the father died,

[D] lo, they are hers.

[E] R. Simeon says, “If she did not succeed in collecting the funds before the father died, lo, they are hers.”

[F] [As to] the fruit of her labor and the things which she finds,

[G] even though she did not collect [her wages] –

[H] [if] the father died,

[I] lo, they belong to the brothers.

[I:1 A] R. Simeon b. Yohai taught, “‘Then the man who lay with her shall give to the father of the young woman fifty *shekels* of silver’ (Deut. 22:29). This teaches that the father acquires possession of the penalty] only when it is handed over” [thus explaining the view of M. 4:2E].

[I:2 A] R. Simeon says, “The matter depends upon actual collection of the funds.”

[B] And Rabbi says, “The matter depends upon winning the case in court.”

[C] R. Simeon treats the matter as a court action [in which the claim is treated as tantamount to ready cash only when it is actually paid over, hence it is not subject to inheritance in the man’s estate].

[D] *Rabbis treat the matter as tantamount to a loan [which is equivalent to uncollected cash and enters the estate].*

[E] *In the view of R. Simeon* one collects the matter in real estate of the highest quality.

[F] *In the opinion of rabbis* one collects it in real estate of middling quality.

[G] *In the opinion of R. Simeon* the advent of the Seventh Year does not remit the debt.

[H] *In the opinion of rabbis* the advent of the Seventh Year does remit the debt.

[I] *In the opinion of R. Simeon* a firstborn son collects a double portion.

[J] *In the opinion of rabbis* a firstborn son does not collect a double portion.

[I:3 A] R. Zeira sent to R. Nahman b. Jacob and R. Immi b. Pappi: “The fruits of the daughter’s labor [after the death of the father] – to whom [do they go]?”

[B] He said to him, “The ‘diligent authority’ said, ‘To her herself.’”

[C] Who is “the diligent authority”? It is Samuel.

[D] Said R. Mattenah in the name of Rabbi, “They [authorities] in general have given this ruling, and they have given it as an exegesis of Scripture.

[E] “‘You may bequeath them to your sons after you, to inherit as a possession forever’ (Lev. 25:46). Them do you bequeath to your sons, and your daughters you do not bequeath to your sons.

[F] “With respect to the fruits of the daughter’s labor does Scripture here speak.”

[G] *Said R. Yudan, “The Mishnah itself has said the same thing: As to the fruit of her labor and the things which she finds, even though she did not collect [her wages] – if the father died, lo, they belong to the brothers [M. 4:2F-I].* The fruits of her labor performed while the father was alive [are what go to the brothers], but as to what she does after the father’s death, all parties concur that that belongs to her.”

4:3

[A] **He who betroths his daughter, and he [the husband] divorced her,**

[B] [and] he [the father] betrothed her [to someone else], and she was widowed –

[C] her marriage contract [in both instances] belongs to him [the father].

[D] [If] he [the father] married her off, [however,] and he [the husband] divorced her,

[E] he [the father] married her off, and she was widowed –

[F] her marriage contract belongs to her.

[G] R. Judah says, “The first [marriage-contract’s payoff belongs to the father.”

[H] They said to him, “Once he has [actually] married her off [not merely betrothed her], the father has no domain over her.”

[I:1 A] *Said R. Bun bar Hiyya, “The reasoning of R. Judah is that it is so a man will be available to provide for his daughter in a liberal spirit. [Since he knows that if the husband should die, the marriage settlement reverts to him, he will be willing to provide for the daughter with an open hand.]”*

[I:2 A] R. Jacob bar Aha in the name of R. Isaac: “It is from the case of the slanderer that R. Meir [= M. 4:3D-E] has derived his view [that once the daughter is married off, the father has no further domain over her]. [We follow the present status, not that which prevailed at the outset. Once she is wed, the father loses all domain. Judah’s contrary view is that we follow the status prevailing at the outset, when the marriage settlement was drawn up, and hence the father gets the settlement, since when the document was written, the girl was in his domain.]”

[B] *For has not R. Hiyya taught [along the lines of Judah’s view], “If the daughter committed fornication while she was still in her father’s house, but it was only after she had reached maturity that the bad name about her deed began to circulate [about what she had done in her minority], the slanderer is neither flogged nor required to pay a hundred selas [should the report prove false]. But either the girl or those who perjure themselves against her are taken out to the place of stoning. [If the report is true, she is stoned. If it is not, the false witnesses are stoned. Accordingly, she is adjudged in terms of her condition now, for the slanderer himself is omitted from the case. When she committed the deed, she was a girl in her father’s house, hence subject to penalty. The slanderer bears responsibility only when he speaks of a girl in her father’s house. Omitting him from the case means that we adjudge the matter in terms of the girl’s present status.]”*

[C] *R. Mana raised the question [concerning A's statement and its origins] before R. Yosé, "But what if he spread slander about the girl while she was still a minor, and then she passed into maturity? [Surely the slanderer pays a penalty, for the slander was spread at the time at which an obligation on that count can have been incurred. Why then compare the case to one in which she committed fornication while she was a minor and then passed into maturity? Compare it, rather, to a case in which she was slandered while a minor and then passed into maturity. In such a case the slanderer indeed is liable. Here, too, the marriage settlement belongs in the father's domain.]"*

[D] He said to him, "Indeed in such a case we have heard that the slanderer does pay a financial penalty to the father."

[E] *Said R. Jeremiah before R. Zeira, "I am indeed astonished that rabbis compare the marriage settlement to a monetary penalty. There is no real similarity. For the marriage settlement applies at the very outset, while the monetary penalty is imposed only at the end of the transaction. [The girl acquires ownership of the marriage settlement at the very outset, when it is written, but the monetary penalty falls due only at the end, when the girl wins her court case.] And yet you say this!"*

[F] He said to him, "Now who can tell you [that that contrary argument stands]? For even a monetary penalty [may be held to apply] at the very outset [in which case the two matters indeed are quite parallel]. *For the statement of [following the reading of PM:] R. Jonah accords with the view of R. Jeremiah, and that of R. Yosé accords with the view of R. Zeira [in that the dispute as to the point at which the monetary penalty imposed on the slanderer will stand behind the positions outlined here]."*

4:4

[A] The convert whose daughter converted with her,

[B] and she [the daughter] committed an act of fornication [when she was a betrothed girl] –

[C] lo, this one is put to death through strangling.

[D] She is not subject to the rule, "At the door of her father's house" (Deut. 22:21), nor to "a hundred selas" (Deut. 22:19), [in the case of one who slandered her].

[E] [If] her conception was not in a state of sanctity but her parturition was in a state of sanctity, lo, this one is put to death with stoning.

[F] She is not subject to the rule, “At the door of her father’s house,” nor to “a hundred selas.”

[G] [If] her conception and parturition were in a state of sanctity, lo, she is equivalent to an Israelite girl for every purpose.

[H] [If] she has a father but no “door of her father’s house” [e.g., her father has no house],

[I] [or if] she has “a door of her father’s house” but no father,

[J] lo, this one is put to death with stoning.

[K] At the door of her father’s house is stated only as a duty [in addition to stoning].

[I:1 A] It is written, “because he has brought an evil name upon a virgin of Israel” (Deut. 22:19). Excluded then is this one [the daughter of the convert], who is not an Israelite.

[B] “Because he has brought an evil name upon a virgin of Israel” (Deut. 22:19). Included then is a convert whose conception was not in a state of sanctity, but whose parturition was in a state of sanctity, indicating that [under the appropriate circumstances] she is put to death through stoning [M. 4:4E].

[C] But [should we maintain that] Scripture has encompassed her under the law of receiving monetary penalty [should the report prove false]?

[D] *You cannot maintain that view.*

[E] *And Hezekiah taught the matter along these same lines:* “Since it is said, ‘they shall stone her [to death with stones]’ (Deut. 22:21), do we not know that it is ‘to death’? But this usage indicates that you have the case of another girl, who is subject to the death penalty by stoning, while [should the accusation prove false, the slanderer] will be exempt from paying a monetary penalty. And who might be such a one? It is a convert, whose conception was not in a state of sanctity, but whose birth was in a state of sanctity, for she indeed is subject to the death penalty through stoning [= M. 4:4E].”

[I:2 A] It is written, “If any man takes a wife, and goes in to her, and then spurns her [and charges her with shameful conduct, and brings an evil name upon her]” (Deut. 22:13-14).

[B] Under no circumstances is the husband liable unless he marries the girl and has sexual relations with her and then lays a claim against her virginity.

[C] “And charges her with shameful conduct” (Deut. 22:14).

- [D] Might one think that that would encompass even her merely over-cooking his meal?
- [E] Here it is stated, “shameful conduct,” and later on the same expression is used [at Deut. 22:17]. Just as “shameful conduct” to which reference is made later on means fornication, so “shameful conduct” to which reference is made here means fornication.
- [F] Should one then propose that just as “shameful conduct” stated below refers to sexual relations in the normal manner, so here the same definition prevails, how then do we know that even if [the illicit lover] had sexual relations with her in some other way, [the charge still applies]?
- [G] Scripture says, “and brings an evil name upon her” (Deut. 22:14) – on any count.
- [H] “Saying, ‘I took this woman, and when I came near her, I did not find in her the tokens of virginity’” (Deut. 22:14).
- [I] This excludes a case in which- one has designated as his wife a Hebrew slave girl.
- [J] “I took” – excluding the case of a woman who is awaiting levirate marriage.
- [K] “I took” [28c] – excluding the case of a betrothed girl.
- [L] “I took” – excluding the case in which one has designated as his wife a Hebrew slave girl [against whom such a charge may not be brought].
- [M] *Said R. Jonah, “Even in accord with the view of him who said that the money is paid over as at the outset [for the purchase of the slave girl as if it were a betrothal gift, still, the present law does not apply since the money was paid over to begin with to purchase, not to betroth, the slave girl].”*
- [N] “I took” – excluding the case of a woman who is awaiting levirate marriage.
- [O] It is not the end of the matter that the rule is given in line with the first Mishnah, [which held] that the religious duty of entering into levirate marriage takes precedence over the duty of undergoing the rite of removing the shoe. But even in accord with the latter version of the Mishnah, which maintains that the religious duty of removing the shoe takes precedence over the duty of entering into levirate marriage, [the rule is the same].

[P] “I took” – excluding the case of a betrothed girl.

[Q] “And when I came near her, I did not find in her the tokens of virginity” (Deut. 22:14). And should we not take account of the possibility that he found them and destroyed them? The case surely involves the husband’s bringing witnesses in support of his claim.

[R] “And these are the tokens of my daughter’s virginity” (Deut. 22:17). And should we not take account of the possibility that it is the blood of a slaughtered bird [which the father shows]?

[S] [We surely deal with a case in which] the father brought witnesses to refute the witnesses brought by the husband.

[T] Said R. Yosé b. R. Bun, “This passage makes provision for [the husband’s] witnesses, [the father’s] witnesses to render them perjured, and [the husband’s] witnesses to render them perjured as well.

[U] “The husband says, ‘Lo, here are witnesses to prove that she committed fornication while in her father’s house.’ The father then produces witnesses to prove these witnesses of the husband are perjurers. The husband then brings witnesses to prove that these witnesses in behalf of the father are perjurers.”

[V] *There are Tannaim who teach as follows:* “But if the thing is true [that the tokens of virginity were not found in the young woman]” (Deut. 22:20) – this refers to a case in which the father did not find witnesses to prove that the witnesses brought by the husband are perjurers.

[I:3 A] “‘And they shall spread the garment’ (Deut. 22:17) – the whole is meant as a metaphor [that the case must be clearly spread out before the judges, but the evidence indeed derives from witnesses, not merely from the fact that the garment is available, one way or the other].”

[B] *R. Ishmael taught,* “This is one of three verses used in the Torah in the sense of a parable.

[C] “[And here is yet another: ‘When men quarrel and one strikes the other ... and he does not die but keeps his bed, then, if the man rises again and walks abroad with his staff, he that struck him shall be clear’ (Ex. 21:18-19).

[D] “Now would it enter your mind that this one will be walking about in the marketplace, while the other one is put to death on his account? But what is the meaning of, ‘with his staff’? It means in good health.

[E] “[If a thief is found breaking in and is struck so that he dies, there shall be no blood-guilt for him.] But if the sun has risen upon him, there shall be blood-guilt for him’ (Deut. 22:22, 3).

[F] “Now does the sun rise on him alone? And does it not rise upon everyone in the world? But just as sunshine is special in that it is at peace with the entire world, so, as long as you know that you are at peace with the intruder, whether by day or by night, he who kills him, lo, he is liable.”

[G] *It was taught:* R. Eliezer b. Jacob says, “[With reference to the verse, ‘And they shall spread the garment’ (Deut. 22:17),] the matter should be interpreted precisely as it is written [in a literal way, not as a metaphor].”

[H] *What is the meaning of this statement,* “The matter should be interpreted as it is written”?

[I] Said R. Yosé b. R. Bun, “Under no circumstances is the husband liable [under the law of Deut. 22:13-21] unless he marries the girl and has sexual relations with her and then lays a claim against her virginity.”

[J] “And they shall spread the garment” (Deut. 22:17): It is not the end of the matter that they shall [merely] spread out the garment [literally] j but [the matter is not decided] until the issues are as plain as a garment.”

[I:4 A] R. Assi said, “‘And they shall spread out the garment.’ Under no circumstances are the perjured witnesses stoned, nor the husband flogged, nor must he pay the hundred *selas*, unless [other witnesses] state, ‘He was with us in such-and-such a place, and the husband hired them to give false testimony.’”

[B] If they said, “He was with us in such-and-such a place,” but they did not say, “The husband hired them to give false testimony” [what is the law]? [If the witnesses intending to prove the husband’s witnesses to be perjurers did not state that they saw money change hands, how do we rule?]

[C] R. Yosé b. R. Bun, R. Yohanan in the name of R. Simeon b. Laqish: “Here it is stated, ‘charge’ [‘And charges her with shameful conduct’ (Deut. 22:14)], and elsewhere it is stated, ‘charge’ [“You shall not charge him interest” (Ex. 22:24 (25))]. Just as ‘charge’ stated elsewhere refers to money, so ‘charge’ stated here refers to money. [Accordingly, the husband is flogged only if

=there is testimony that he handed over money to the false witnesses.]”

[D] *And has it not been taught [contrary to Yosé b. R. Bun’s view]:* “If he did not say to witnesses, ‘Come and give evidence in my behalf,’ but they came on their own accord, he is not subject to flogging, nor does he have to hand over a hundred *selas*? Rather, [if she is guilty,] then the girl, or [if they are proved perjurers] the perjured witnesses against her go off to the place of stoning.

[E] The reason is that he did not make such a statement to them. Lo, if he had so instructed them, then even if he did not pay them money, it is as if he had paid them money and so hired them for the purpose.

[I:5 A] If the father produced two sets of witnesses [against those brought by the husband], one saying, “You were with us in such-and-such a place,” and the other saying, “The husband hired them to give false testimony,” [and these witnesses themselves were proved perjurers,]

[B] *it is self-evident that* that set which stated, “He was with us in such-and-such a place,” is stoned to death, and those who stated, “The husband hired them to give false witness,” are flogged and have to pay a hundred *selas*.

[C] Said R. Yosé b. R. Bun, “And it is not on account of these and not on account of those, too, that [the husband] is flogged and has to pay a hundred *selas*. [The testimony of the first group is decisive, not that of the second. Without what the former witnesses have said, the latter witnesses would produce no effect. Consequently the latter witnesses] are flogged on the count of not giving false testimony against one’s fellow. [But they are not penalized as would the husband have been.]”

[I:6 A] *R. Bun bar Hiyya raised the question before R. Zeira,* “If the father produced witnesses to prove the witnesses on behalf of the husband to be perjurers, [shall we say that] if the father’s witnesses are proved to be perjurers, [the father] suffers a flogging and has to pay a hundred *selas* at the decision of a court of three judges, but the [father’s] witnesses are put to death by stoning at the decision of a court of twenty-three judges?”

[B] He said to him, “If the witnesses in behalf of the father were not proved to be perjurers, would the husband not turn out to be flogged and to pay a hundred *selas* at the decision of a court of three? And the father’s witnesses are put to death by stoning at the decision of a court of twenty-three judges [just as Bun has proposed].”

- [C] R. Zeira's theory is that we deal with two distinct cases.
- [D] R. Jeremiah in the name of R. Abbahu: "The whole constitutes a single case."
- [E] *The following Tannaitic teaching contradicts the view of R. Abbahu:*
- [F] ["And bring out the tokens of her virginity to the elders of the city in the gate" (Deut. 22:15):] "Elders of the city" refers to a court of three judges. "To the gate" refers to a court of twenty-three judges.
- [G] [No, that is not decisive, for we may] interpret the matter to speak of a case in accord with R. Meir's view, for R. Meir says, "One is flogged and also required to pay damages at the decision of a court of three judges."
- [H] *There we have learned: "Cases involving a rapist [Deut. 22:28-29], a seducer [Ex. 22:16-17], and one who brings forth an evil name [Deut. 22:19] are judged by three," the words of R. Meir. And sages say, "He who brings forth an evil name if tried by a court of twenty-three, for there may be a capital case" [M. San. 1:1D-F].*
- [I] R. Mana said, "The dispute concerns a betrothed maiden. [If she is found guilty,] R. Meir says, 'She loses the right to collect her marriage settlement on the decision of a court of three judges, and she is put to death by stoning on the decision of a court of twenty-three.' And sages say, 'In the same court in which she is condemned to death by stoning, there she is sentenced to the loss of the right to collect her marriage settlement.'
- [J] "But as to one who brings forth an evil name, all parties concur that in the same court in which perjurers are sentenced to death by stoning, there the husband is condemned to be flogged and pay a hundred *selas*. [So the Mishnah's rule refers not to the court which will try the man, but to the one which will try the woman. The husband's trial is both separate and later. First comes that of the woman, and her trial court is what is subject to discussion. Meir surely could not refer to a case of seduction, in which case the woman is on trial for her life.]"
- [K] *Said to him R. Yosé b. R. Bun, "Lo, the Mishnah pericope has been taught with its own division, and you divide it in your own way. Rather, [as the layout of the Mishnah makes clear,]*

the division of opinion [between Meir and sages] concerns one who brings forth an evil name. R. Meir maintains, 'The husband is sentenced to flogging and to pay a fine of a hundred selas by a court made up of [three judges]. If witnesses [are on trial for perjury in such a case], they are sentenced to death by the decision of a court of twenty-three judges.' And sages teach that in the court in which the witnesses are sentenced to death by stoning, there the husband is tried for the penalty of flogging and for paying a fine of a hundred *selas*.

[L] "But as to a betrothed maiden, *all parties concur that in the court in which she is tried on the count of stoning, there she is tried on the count of losing the claim of her marriage settlement.*"

[M] *Now the view of R. Mana is in accord with the opinion of R. Zeira, and the opinion of R. Yosé b. R. Bun is in accord with the view of R. Abbahu.*

[I:7 A] Under no circumstances is the husband flogged, nor is he required to pay a hundred *selas*, unless [the contrary] witnesses are stoned to death [by being proved to be perjurers]. [Merely contradicting their testimony does not suffice.]

[B] As to the monetary penalty [owing from him who slanders the girl] – at what point is obligation incurred?

[C] R. Jonah said, "At the end."

[D] R. Yosé says, "To begin with [as soon as the deed is performed, without regard to the court action]."

[E] *R. Yosé objected to R. Jonah, "In accord with your opinion, in which you maintain that the obligation is incurred only at the end, [in court action, there is a problem posed to him who maintains] that the husband is flogged and pays a hundred sela fine at the decision of a court of three judges, and the witnesses [if proved perjurers] are sentenced to death by stoning by a court of twenty-three. [This would imply that one pays the penalty prior to the stoning of the witnesses. If that is not the case, then all parties surely concur that the same court makes both decisions. The implication of this position is that the husband is obligated to pay even prior to the completion of the court action against the witnesses.]"*

[F] *Said R. Mana, “Even in accord with the view of R. Yosé the question you have raised must be dealt with. [Even if the liability is incurred along with the act itself, there will be a problem. How so?] In accord with the view of him who said that witnesses about to perjure themselves also must be given an admonition, if the witnesses did not receive a warning, they may be flogged and required to pay a hundred selas at the decision of a court of three judges. But if the witnesses are sentenced to death, it must be at the decision of a court of twenty-three. [If there was no normal admonition, these witnesses are not subject to the death penalty at all, even though they are proved to be perjurers. Now if one maintains that as soon as they are perjured, they have to pay the monetary penalty, why so? For perhaps we can show that they did not receive proper admonition prior to their deed. Yosé then need not differ from the cited teaching. His intent is to indicate that the law applies when they are suitable to be tried under penalty of stoning to death, that is, to explain the matter (all: PM).]”*

[G] *Said Abba-Meri, “What makes you say so? [Perhaps the position of the cited passage indeed deals with a case in which there was proper admonition. Or we may hold the view that perjured witnesses are not given admonition anyhow.]”*

[I:8 A] Said R. Yosé b. R. Hanina, “He who rapes or seduces an orphan is exempt [from having to pay a fine, since the fine goes to the father, who is not there to collect it].”

[B] Said R. Ba bar Mamel, “This is subject to dispute, and the view just now stated accords with the opinion of R. Yosé the Galilean, but R. Aqiba maintains that he is subject to a fine, and the fine concerning her is paid to her herself.”

[C] *Said R. Yosé, “The Mishnah has made that same point: **If she has no door of her father’s house ..., lo, this one is put to death with stoning [M. 4:4H-J].** Now is this one not tantamount to an orphan?”*

[I:9 A] *Both R. Ammi and R. Joshua b. Levi say, “He who brings forth an evil name concerning a minor girl is exempt.”*

[B] Said R. Hoshaiah, “And that is so. Now if we dealt with an adult who had not been subjected to proper admonition, would there be a case? [Hardly. Without admonition there is not capital offense. Now is a minor subject to admonition at all? No, she is not. Hence] a minor who has been subjected to proper admonition is equivalent [at worst] to an adult who has not been subjected to proper admonition.”

[I:10 A] R. Zeira, R. Hamnuna in the name of R. Ada bar Ahva: “Under no circumstances does she go out to the place of stoning unless she is a girl [twelve years through twelve and a half years and one day old] at the time she is taken forth for stoning.”

[B] *What is the scriptural basis for this view?*

[C] “Then they shall bring the girl out to the door of her father’s house” (Deut. 22:21).

[D] *Now lo, [to the contrary,] has it not been taught by R. Hiyya:* “If the daughter committed fornication while she was still in her father’s house, but it was only after she had reached maturity that the bad name about her deed began to circulate [about what she had done in her minority], the slanderer is neither flogged nor required to pay a hundred *selas* [should the report prove false]. But either she or those who perjure themselves against her are taken out to the place of stoning. [If the report is true, she is stoned. If it is not, the witnesses are stoned. Accordingly, she is stoned even if she is not of the specified age, prior to full maturity.]”

[E] *The following passage of the Mishnah differs from the view of R. Ada bar Ahva:* **If [the incorrigible son] fled before his trial was over, and afterward, while a fugitive, the lower “beard” became full, he is exempt. If after his trial was done he fled, and afterward his beard became full, he is liable [M. San. 8:6].** [That is the case, even though he is no longer in the status of a son. In principle Adda’s view is contradicted.]

[F] *[No, the two cases are different, for] in the present case, you may insist [that Scripture is specific in] saying, “And they shall take out [38d] the young girl who has committed fornication.” [So Scripture specifies that it is only when she is a young girl that she is liable.] But in the case of the incorrigible son, can you say, “They shall take him out”?* It says, “The son” [even later on].

[I:11 A] *It has been taught:* **A betrothed maiden who committed fornication – they stone her at the doorway of her father’s house.**

[B] **[If] she does not have a doorway of her father’s house, they stone her in the place in which she fornicated.**

[C] **But if it was a gentile town, they stone her at the door of the [Israelite] courthouse [T. San. 10:10D-F].**

[D] **He who worships an idol – they stone him in the place in which he performed his act of service.**

[E] But if it was a gentile town, they stone him at the door of the [Israelite] courthouse.

[F] *And did not R. Hiyya teach*, “‘Bring out of the camp him who cursed; ... [and let all the people so stone him]’ (Lev. 24:14)? This indicates that the court was inside the camp, and the place of stoning outside, [so how can we stone someone right by the court itself?]”

[G] Said R. Yosé, “The case is different for the idolater. The very gate at which he went wrong is the gate at which he was caught, and that is the gate at which he is judged and the gate at which he is stoned.”

[H] “Because she has wrought folly in Israel” (Deut. 22:21).

[I] This folly belongs to all Israel.

[J] “To play the harlot in her father’s house” (Deut. 22:21). Let those who have brought them up in a bad way come, for they have brought [her] up, and let them be shown to be a folly – they and those who have raised them [on which account the stoning takes place at the father’s doorway].

4:5-6

[A] The father retains control of his daughter [younger than twelve and a half] as to effecting any of the tokens of betrothal: money, document, or sexual intercourse.

[B] And he retains control of what she finds, of the fruit of her labor, and of abrogating her vows.

[C] And she receives her writ of divorce [from a betrothal].

[D] But he does not dispose of the return [on property received by the girl from her mother] during her lifetime.

[E] [When] she is married, the husband exceeds the father for he disposes of the return on property received by the girl from her mother] during her lifetime.

[F] But he is liable to maintain her, and to ransom her, and to bury her.

[G] R. Judah says, “Even the poorest man in Israel should not hire fewer than two flutes and one professional wailing-woman.”

[I:1 A] [The language of “retaining control as to effecting the tokens of betrothal”] *applies without difficulty* to money and a document. [But how] does the father retain control in respect to an act of betrothal through sexual intercourse?

[B] The passage may be interpreted to speak of a case in which the man said to him, “When your daughter will be acquired by me through an act of sexual intercourse, you will gain possession of this money.”

[II:1 A] He retains control of what she finds [M. 4:5-6B].

[B] R. Zakkai of Alexandria confronted the following question: “If she found something on account of a field owned by her [e.g., digging in a field she owned, she found an object], how do you decide the law as to its ownership?

[C] “Is it treated as something she has found [in which case it belongs to the father], or is it equivalent to return on her property?

[D] “*If you treat it as tantamount to a return on her property, then, if she is married, the husband exceeds the father for he disposes of the return on property received by the girl from her mother during her lifetime [M. 4:5-6E].*”

[II:2 A] It is an ordinance that sages have ordained, that the husband should oversee his wife’s property and utilize the return.

[B] Now why not say that the same applies to the father?

[C] Even without such an ordinance the father oversees the property of his daughter and disposes of the return on her property.

[III:1 A] But he is liable to maintain her and to ransom her [M. 4:5-6F].

[B] *It has been taught:* The husband who said, “I do not wish either to utilize the return or to oversee [my wife’s property],” they pay no attention to him.

[C] As to a father who said, “I shall utilize the return and oversee my daughter’s property,” they do listen to him.

[IV:1 A] And to bury her [M. 4:5-6F]: *It was taught:* If the husband did not wish to bury her, the father does so and collects the cost from the husband in court.

[B] Said R. Haggai, “They have ruled that that is so only of the father. Lo, if someone else did so, he cannot collect what he lays out.”

[C] R. Yosé says, “Whether it is the father or some other party, he does collect his outlays.”

[D] *And the dispute as laid out by these authorities follows the lines of the dispute of the following, for we have learned there:*
He who went overseas and someone went and supported his

wife – Hanan says, “He who did so has lost his money.”
Sons of high priests disputed with him and ruled, “Let him
take an oath for however much he has laid out in support
of the wife and collect the debt” [M. Ket. 13:2A-C].

[E] Said R. Haggai, “They have stated only, ‘Another party.’ Lo, if
the father did so, he may surely collect what he laid out.”

[F] R. Yosé says, “Whether it is the father or another party, he
cannot collect what he has laid out.”

[G] *In the view of R. Haggai* whether it is for burial or for
support, the father may collect what he has laid out, while
another party may not collect what he has laid out.

[H] *In the view of R. Yosé*, as to burial, whether it is the father
or an other party, he collects what he has laid out. For it
never entered his mind that his wife, if she dies, should be
tossed out to the dogs.

[IV:2 A] *It has been taught: And in a place in which it is customary to say a
lamentation, to arrange for a lamentation for her, [which is not
incumbent on the father]* [T. Ket. 4:2C-D].

4:7

[A] For all purposes is she in the domain of the father, until she enters the
domain of the husband through marriage.

[B] [If] the father handed her over to the agents of the husband, lo, she
[from that point on] is in the domain of the husband.

[C] [If] the father went along with the agents of the husband, or [if] the
agents of the father went along with the agents of the husband, lo,
she is in the domain of the father.

[D] [If] the agents of the father handed her over to the agents of the
husband, lo, she is in the domain of the husband.

[I:1 A] It is not the end of the matter that [she must enter] the marriage
canopy, but [if she enters] a house in which the husband has a marriage
canopy, [lo, she enters the domain of the husband].

[B] *It may be compared to the construction in which there is a triclinium and
a marriage chamber and that chamber communicates with the
triclinium* [Jastrow I, p. 554].

[I:2 A] *For what purpose [is the law stated, as to the point at which the
daughter passes from the domain of the father to that of the husband]?*

- [B] R. Eleazar said, “It is for the purpose of inheriting from her [should she die].”
- [C] R. Simeon b. Laqish said, “It is for the purpose of abrogating vows she may take.”
- [D] Said R. Zeira, “Even though R. Simeon b. Laqish has said, ‘It is for the purpose of abrogating her vows,’ he concurs that the husband does not abrogate vows she may take before she actually enters the marriage canopy.”
- [E] *Said R. Huna, “The following Tannaitic teaching supports the view of R. Simeon b. Laqish: ‘Playing the harlot in her father’s house’ (Deut. 22:21) – excluding a case in which the messengers of the father handed her over to the messengers of the husband, that [should she fornicate en route], she is put to death not through stoning but through strangulation.”*

4:8

- [A] **The father [while alive] is not liable for the maintenance of his daughter.**
- [B] **This exegesis did R. Eleazar b. Azariah expound before sages in the vineyard of Yabneh, “The sons will inherit and the daughters will receive maintenance – Just as the sons inherit only after the death of the father, so the daughters receive maintenance only after the death of the father.”**
- [I:1 A] **It is a religious duty to support the daughters, and one need not say, the sons.**
- [B] **R. Yohanan b. Beroqah says, “It is an obligation to support daughters” [T. Ket. 4:8].**
- [C] *There are Tannaim who teach that the sons are the main consideration [for support], and there are Tannaim who teach that the daughters are the main consideration.*
- [D] *He who said that the sons are the main consideration assigns their priority to the fact that they study Torah.*
- [E] *He who said that the daughters are the main consideration assigns their priority to the concern that they not become dissolute.*
- [I:2 A] **R. Simeon b. Laqish in the name of R. Judah b. Hananiah: “In Usha they voted that a man is required to support his minor children.”**

[B] Said R. Yohanan, “Now do we really know who took part in that vote, [since the law is not as was voted]?”

[C] Uqba came to R. Yohanan. He said to him, “Uqba, support your children.”

[D] He said to him, “How do we know that that is required, my lord?”

[E] He said to him, “Uqba, you wicked man, support your children!”

[F] *Said R. Ulla, “The Mishnah itself maintains that a man should support his minor children, for we have learned there: **If she was suckling a child, they take of ~[the required weight of wool which a woman must spin as] the fruit of her labor, and they provide more food for her [M. 5:9F].** [This indicates that the husband has to provide food for the infant.]”*

[I:3 A] R. Simeon b. Laqish in the name of R. Judah bar Hananiah: “They voted in Usha that he who writes over his property to his sons – he and his wife are supported by them.”

[B] As to the minor children, what is the law?

[C] R. Abbahu in the name of R. Yosé b. R. Haninah, *and there are those who state the tradition in the name of R. Judah b. Haninah*: “He, his wife, and his minor children are supported from the property.”

[D] What is the law as to his widow?

[E] *Said R. Zeira, “That question was raised but not answered.”*

[F] *Said R. Ba bar Mamel, “It was raised and answered.”*

[G] Said R. Ba, [continuing his intervention] “This is how matters appear: If the widow was supported [by the husband] during his lifetime, she continues to derive support, and if not, she does not continue to derive support.”

[H] [Now to begin with at A,] it was stated only, “He who deeds over his property to his sons.” Lo, if he sold it to them, that is not the case.

[I] [If then,] he wrote over his property to his sons who then sold it to others, what is the law [as to supporting the father]? [Do we hold that the father’s gift was unconditional, or do we maintain that it was not with such an act in mind that the father deeded his property to the son?]

- [J] *It is reasonable to suppose that [the law here] is [as stated in the former case].*
- [K] *Said R. Haninah, "I cannot produce the reasoning behind that position."*
- [L] *R. Mana came [and said,] "It is not reasonable that they hire for him a servant girl [to take care of him, out of the proceeds of the property he deeded to the son. Or] they get a wife for him, so she serves him. [It follows that his wife is supported along with him from the property. We take for granted he did not write over the property so that the son should sell it and leave nothing for his and his wife's support.]"*
- [M] What is the status as to the minor grandchildren [of the donor]?
[Are they too to be supported from the deeded estate?]
- [N] R. Mana said, "The grandchildren here – lo, they are in the status of the children elsewhere [with regard to inheritance]."
- [O] [Supply: R. Yosé said, "The grandchildren are not in the status of the children."]
- [P] *He said to him, "R. Samuel son of R. Yosé b. R. Bun and R. Mattenaiah were in session. They considered ruling, 'The dispute concerning the grandchildren here is equivalent to the dispute concerning the grandchildren elsewhere [as to inheritance]. [That is, do the grandchildren have to support the widow and the daughters?]"*
- [Q] Said to them R. Yosé b. R. Bun, "As to the grandchildren, the Torah has carried the inheritance [of their deceased father, son of their grandfather] to them, [and consequently, they bear all the obligations pertaining to their father]."
- [I:4 A] R. Simeon b. Laqish in the name of R. Judah bar Haninah: "They voted in Usha in the case of him who acted disrespectfully to a sage [elder] and who hit him that one pays him compensation for the humiliation in toto [which is more than the compensation for damages to be paid him]."
- [B] There was a case of someone who insulted a sage and hit him, and he [was required to] pay him compensation for the humiliation in toto.
- [C] *They say that [the authority who made that ruling was] R. Judah b. Haninah.*

[I:5 A] R. Simeon b. Laqish in the name of R. Judah b. Haninah: “They voted in Usha that a man should set aside a fifth of his property for the doing of religious deeds. [But one may not set aside more than that.]”

[B] To what extent?

[C] R. Jeremiah and R. Abba bar Kahana, one said, “Sufficient for heave offering and heave offering of the tithe,” and the other said, “Honor the Lord with your substance, with the first fruits of all your produce” (Prov. 3:9).

[D] *R. Gamaliel bar Onia raised the following question before R. Mana: “What is the meaning of ‘a fifth’? Is it for every year?”*

[E] *The discussion is completely worked out there, in the first chapter of tractate Peah, through, “and he should not die in the world to come.” [The Talmud here simply alludes to or abbreviates the discussion elsewhere, as indicated, at Y. Peah 3:1.]*

[II:1 A] R. Eleazar b. Azariah made an exegesis of the language of the marriage settlement. Thus did R. Eleazar b. Azariah interpret it: “The sons will inherit the estate, and the daughters will be maintained by it.

[B] **“Just as the sons inherit the estate only after the death of their fathers, so too the daughters are supported only after the death of their father [M. 4:8C].”**

[II:2 A] Members of the House of Hillel made an exegesis of the ordinary language of the marriage settlement.

[B] **Hillel the Elder made an exegesis of ordinary language [of legal documents and not merely of the text of the Torah].**

[C] So did they write [the marriage contract] in Alexandria.

[D] **When the Alexandrians would betroth a woman, afterward someone else would come along and grab her right out of the market.**

[E] **An incident of this sort came before sages, and they contemplated declaring their children to be *mamzers*.**

[F] **Hillel the Elder said to them, “Show me the marriage contract of your mothers.”**

[G] They showed them to him, and written in it was the following language:

[H] “When you will enter my house [39a], you will be my wife in accord with the law of Moses and the Jews,” [not before that time, on the strength of which he decided that they were not *mamzers*] [T. Ket. 4:9].

[II:3 A] The House of Shammai interpret the language [of the marriage contract]:

[B] [The House of Shammai answered, “Do we not learn from her marriage contract that he thus writes for her: ‘If you be married to someone else, you will still collect what is written for you here’?”

[C] The House of Hillel reverted to teach according to the opinion of the House of Shammai [M. Yeb. 15:3].

[II:4 A] R. Meir expounded (Y.: the language of a contract): “He who receives a field as a sharecropper from his friend, and, once he had acquired possession of it, he neglected it –

[B] “they make an estimate of how much it is suitable to produce and he pays that sum to him.

[C] “For thus does he write him, ‘If I neglect and I do not work it, I shall pay you from the best produce’” [T. Ket. 4:10].

[I:10 A] R. Judah expounded (Y.: the language of the marriage contract): “A man brings in behalf of his wife all the offerings which she owes,

[B] “even if she ate prohibited fat, or even if she desecrated the Sabbath.

[C] “For thus does he write for her [in her marriage contract], ‘And obligations which you owe will be mine from before up to now.’

[D] “[If] she gave him a quittance for part of her marriage contract, she gave him a quittance for the whole.

[E] “For thus does she write him [in the quittance], ‘Obligations which you owe will be mine from before up to now’” [T. Ket. 4:11].

[I:11 A] R. Yosé expounded the language of the marriage contract. R. Yosé (Y. drops: the Galilean) expounded, “In a place in which they are accustomed to collect the marriage contract as a loan, they collect the full amount [as if it were a loan].

[B] “[In a place in which they are accustomed] to double the sum of the marriage contract, they collect only half” [T. Ket. 4:13].

[II:5 A] R. Eleazar Haqqappar expounded the language of the marriage contract.

[B] R. Eleazar Haqqappar expounded, “A man has not got the right to purchase a domesticated beast, a wild beast, or a bird, unless he provided food for them.”

[II:6 A] **R. Joshua b. Qorha expounded the language of the marriage contract. [In the Tosefta’s version and the Y. Yebamot parallel:] R. Joshua b. Qorha expounded, “He who lends money to his fellow should not exact a pledge greater than his debt.**

[B] “For thus does he [the borrower] write to him [in the document of loan],

[C] ““You will be paid from my property, from property which I acquire from beforehand up to now”” [T. Ket. 4:12].

[II:7 A] R. Huna expounded the language of the marriage contract.

[B] So did R. Huna expound: “The sons will inherit the estate and the daughters will be supported by it.

[C] “Just as the sons inherit movables, so the daughters are supported by the sale of movables.”

[D] Samuel said, “The daughters are not supported by the sale of . movables.”

[E] *The Mishnah’s law supports the view of Samuel: “Female children which you will have from me will dwell in my house and derive support from my property until they will be married to husbands” [M. 4:12A], and in this regard it has been taught, “From real estate, not from movables.”*

[F] *Said R. Ba bar Zabeda, “The view of R. Huna accords with the opinion of Rabbi, and that of Samuel accords with the view of R. Simeon b. Eleazar.”*

[G] *For it has been taught: “All the same are landed property and movable property: They are seized for the support of the wife and daughters,” the words of Rabbi.*

[H] **R. Eleazar b. R. Simeon [Y.: Simeon b. Eleazar] says, “Landed property – sons remove from the possession of**

sons, and daughters from daughters, and daughters from sons, but not sons from daughters. [Y. reads: “and sons from daughters (if the daughters had seized property for food when the property was bountiful) and daughters from sons (when the property was insufficient)]. Movable property: sons remove from the possession of sons, and daughters from daughters, and sons from daughters, but not daughters from sons.”

[I] [Y. omits: **Whether the father indentured the property while he was alive, or whether the heirs did so after the death of the father, they are not seized for the matter of the marriage contract.**

[J] **But for maintenance they do collect from that property** [T. **Ket. 4:18A-D**]. [The entire property is available for the support of wife and daughters, so Rabbi. Eleazar wishes to distinguish. If older sons or daughters have taken the property in place of younger sons or daughters at the time of inheritance, when the estate is too small to satisfy all claims, the court extracts sufficient funds to support the widow and daughters by selling land held by the sons. The court then gives the necessary funds to the daughters. But sons do not take land away from the daughters; once the daughters take possession of the land, it is theirs.]

[K] *They say that R. Huna retracted.* They say, “That is just as well. The marriage settlement derives from the requirements of the law of the Torah, while supporting the daughters derives from the decree of scribes. Now will their decree uproot a requirement of the law of the Torah?”

[L] *But the dispute has to do with the funds to pay off the marriage settlement of their mother.*

[M] Even if you say that the dispute concerns the funds to be used for paying off the marriage settlement of their mother. Now is that money not tantamount to real estate?

[II:8 A] He who enters his wife’s estate and contemplates divorcing her,

[B] if he went ahead and plucked up produce from the ground in any measure at all,

[C] lo, this one is rewarded for his promptness [T. Ket. 8:2].

- [D] He who enters into an expropriated estate and heard a report that they [assumed to have died and left the estate] are returning,
- [E] if he went ahead and plucked up produce from the ground in any measure at all,
- [F] lo, this one is rewarded for his promptness.
- [G] What is meant by the expropriated estate?
- [H] Any whose father or brothers or one of those who leave him an inheritance went overseas, and he heard that they had died, and he entered into his inheritance.
- [I] But as to an abandoned estate, they extract it from his possession.
- [J] What is an abandoned estate?
- [K] [Following T.:] It is any estate, the death of the owner of which has not been reported, but into which one nonetheless has entered for purposes of inheritance [T. Ket. 8:3A-G].
- [L] Said Rabban Simeon b. Gamaliel, "I heard that an expropriated estate is in the same category as an abandoned estate.
- [M] "But it is in the case of a forsaken estate that they extract possession from him."
- [N] And what is a forsaken estate? It is any whose father or brothers or one of those who leave him an inheritance went overseas, and he does not know where they now are.
- [O] Samuel said, "One which is appropriated is a case in which the owner went away without anyone's knowledge, for if he went away with the knowledge of others, people might locate him. One which is expropriated is one in which the owner went away with the knowledge of others.
- [P] "You may in that case know that the other party was looking for an excuse to drive him off his property, for lo, he went away with the knowledge of others, and he did not leave instructions concerning his property."
- [Q] R. Ba, R. Judah in the name of Samuel: "As to movables, they are not subject to the law governing abandoned property."
- [R] R. Jacob bar Aha in the name of Rab, "As to palm trees in Babylonia which do not require grafting, is it not

reasonable that we should treat them as standing grain awaiting harvesting and as vines awaiting grape cutting?”

4:9

- [A] [If] he did not write a marriage contract for her,
[B] the virgin [nonetheless] collects two hundred [zuz, in the event of divorce or widowhood],
[C] and the widow, a maneh,
[D] for this is [in all events] an unstated condition imposed by the court.
[E] [If] he assigned to her a field worth a maneh instead of two hundred zuz, and did not write for her, “All property which I have is surety for your marriage contract,”
[F] he is nonetheless liable,
[G] for this is [in all events] an unstated condition imposed by the court.

[I:1 A] *The Mishnah passage before us represents the view of R. Meir, for R. Meir says, “Whoever pays less to a virgin than two hundred zuz and to a widow less than a maneh [in the marriage contract – lo, this is fornication” [M. 5:2A].*

[II:1 A] [As to M. 4:9E-G] from whose viewpoint was it necessary to make this statement?

[B] It is necessary from the view of R. Meir.

[C] Even though R. Meir has said, “A bond which is not secured with a pledge of property may not be collected,” he concurs here that the wife may collect her marriage contract.

4:10

- [A] [If] he did not write for her, “If you are taken captive, I shall redeem you and bring you back to my side as my wife,” or, in the case of a priest girl, “I shall bring you back to your town,”
[B] he is nonetheless liable [to do so],
[C] for this is [in all events] an unstated condition imposed by the court.
[D] [If] she was taken captive, he is liable to redeem her,
[E] And if he said, “Lo, here is her writ of divorce and [the funds owing on] her marriage contract, let her redeem herself,”
[F] he has no right to do so.
[G] [If] she fell ill, he is liable to heal her.

[H] [If] he said, “Lo, here is her writ of divorce and [the funds owing on] her marriage contract, let her heal herself,” he has the right to do so.

[I:1 A] *It has been taught: A deceased childless brother’s widow who was taken captive – the heirs [of the husband] are not obligated to redeem her. [Cf. T. Ket. 4:5-6.]*

[B] R. Hiyya bar Ashi in the name of Rab: “It is not the end of the matter **that she is taken captive during the lifetime of her husband, but even if she was taken captive after the death of the husband, the heirs are not liable to redeem her**” [T. Ket. 4:5G].

[C] R. Hiyya bar Aha: “*The Mishnah supports the view of Rab: I shall bring you back to my side as my wife, here [in regard to a deceased brother’s widow] there is no “as my wife,” or, in the case of a priest girl, I shall bring you back to your town*” [M. 4:10A].

[D] What is the meaning of, “Your town”?

[E] It means, exactly that, to a settled place.

[I:2 A] *It was taught: Rabban Simeon b. Gamaliel says, “Medical care of fixed cost – she is healed at the expense of her marriage contract. But as to medical care of unfixed cost – lo, that is equivalent to any other aspect of her support” [T. Ket. 4:S/I].*

[B] *There is a relevant case. A woman came to R. Yohanan. He said to her, “If you set a fixed fee with the physician, you will lose out.”*

[C] She said to him, “Did not R. Haggai say in the name of R. Joshua b. Levi, ‘Do not be like those lawyers and do not reveal to an individual the law governing his case’?”

[D] He knew that she was a proper person [and would not lie, e.g., claiming that there was no fixed fee demanded by the physician, if there actually was one].

4:11

[A] [If] he did not write for her, “Male children which you will have with me will inherit the proceeds of your marriage contract, in addition to their share with their other brothers,”

[B] he nonetheless is liable [to pay over the proceeds of the marriage contract to the woman’s sons],

[C] for this is [in all events] an unstated condition imposed by the court.

[I:1 A] *This is in line with what R. Ammi said, “It is so that a man will be likely to give a dowry to his daughter in a liberal spirit. [Assuring that the wife’s property will pass to her children makes the wife’s father more willing to give her a large dowry.]”*

[I:2 A] *There we have learned: **He who says, “Mr. So-and-so will inherit me,” in a case in which he has a daughter, “My daughter will inherit me,” in a case in which he has a son, has said nothing whatsoever. For he has made a stipulation contrary to what is written in the Torah.] R. Yohanan b. Beroqah says, “If he made such a statement concerning someone who is suitable for receiving an inheritance, [e.g., a son among other sons,] his statement is valid. But if he made such a statement concerning someone who is not suitable for receiving an inheritance from him, his statement is null” [M. B.B. 8:5].***

[B] Said R. Yohanan, “R. Yohanan ben Beroqah’s statement applies only in a case in which the man spoke of one son among others, or one daughter among others. But if he spoke of a daughter’s inheriting among surviving brothers of the deceased, or a brother’s inheriting the estate in place of daughters, it was not [to such a case that he addressed this statement].”

[C] R. Yosa in the name of R. Yohanan: “There was a case, and R. Rabbi decided it in accord with the view of R. Yohanan b. Beroqah.”

[D] R. Zeira in the name of R. Yohanan: “Rabbi asked Nathan the Babylonian, what is the reason that they said that the law follows R. Yohanan b. Beroqah’s ruling?”

[E] R. Ba, R. Hiyya in the name of R. Yohanan, “What is the reason that he asked Nathan the Babylonian, ‘Why did they say, “The law is in accord with the view of R. Yohanan b. Beroqah”?’” [Why should Rabbi have been in doubt?]

[F] [Nathan] said to [Rabbi], “Now did you yourself not teach also: **[If the husband did not write for her, ‘Male children which you will have with me will] inherit [the proceeds of your marriage contract, in addition to their share with their other brothers,] he nonetheless is liable [to pay over the proceeds of the marriage contract to the woman’s son], for this is an unstated condition imposed by the court [M. 4:10]?**

[G] “They inherit [the proceeds no matter what the husband does]. [Here we have a case of one son among the others, and in line with what Rabbi taught at M. Ket. 4:10, the language of inheritance is

used, yet one son gets a larger share. Consequently, Rabbi concurs that the father has the power to give an inheritance to one son over others.]”

[H] [Rabbi] said to [Nathan], “They will take [as a gift that which is coming to them]. [But as to inheritances, the law is not the same. That is to say, even in accord with the one who said, ‘They will inherit’ as specified under the laws of inheritance, not of gift, nonetheless the power of the court suffices to revise the law in the present case from what it is in other cases. Hence the cited case is not pertinent to the original question,” so Rabbi replies to Nathan.]

[I] He came to him [cf. PM for a better text]. He said to him, “Here you do not have a case of inheritance, but rather, donation.”

[J] He came to his father. He said to him, “You have contradicted Nathan the Babylonian [with a worthless objection]. You do not have a case here of a gift [29b] but of inheritance.”

[K] Said R. Yosé b. R. Bun, “Thus he said to him, ‘I erred in what I taught you. This is not a case of a gift but of inheritance.’”

[I:3 A] Said R. Zeira, “A more lenient ruling applies in the case of the marriage settlement.

[B] “For in all other cases a man transfers ownership only through a deed, but here even if he did it verbally, it is valid.

[C] “Further, in all other cases a man does not transfer ownership except to someone who is already alive. But here he transfers ownership to someone who is not yet alive.”

[D] *Said R. Jeremiah before R. Zeira, “And I should be surprised if rabbis compared a marriage settlement to an inheritance. They indeed are not to be compared. For an inheritance derives from the authority of the Torah, while provision of the marriage settlement derives from the authority of scribes. So how can you say this?”*

[E] Even if you say that a marriage settlement is provided for merely by scribes, do they not concede in regard to stipulations entered into the marriage settlement that such stipulations derive from the authority of sages? [Such a stipulation cannot overturn the law of the Torah.]

4:12

[A] [If he did not write for her,] “Female children which you will have from me will dwell in my house and derive support from my property until they will be married to husbands,”

[B] he nonetheless is liable [to support her daughters],

[C] for this is [in all events] an unstated condition imposed by the court.

[I:1 A] R. Hisda said, “When they reach maturity, they lose their claim on support. If they get married, they lose their claim for a dowry.”

[B] R. Hiyya taught, “If they reached maturity, but had not gotten married or got married but had not reached maturity, they lose their claim on maintenance but do not lose their claim for a dowry.”

[C] *R. Abin in the name of Hela: “And if it be such that they [the brothers] admit to her [that they did not give her a dowry when they got married], as in the case of a widow who laid claim on the estate – she says, ‘I have not yet collected any part of my marriage settlement,’ and the estate claims, ‘You have received your marriage settlement,’ [if the claim is] prior to her remarriage, the estate has to bring proof that she had received her marriage settlement. [If the claim came] once she remarried, she has to bring proof that she had not received her marriage settlement.”*

[D] *Lo, we have learned: An orphan girl whose mother or brothers married her off, even with her consent, for whom they wrote over as her portion a hundred or fifty zuz, can, when she grows up, exact from them what should rightly have been given to her [M. Ket. 6:7]. The reason is that she was a minor. Lo, if it was an adult, she has given up her claim. [Hiyya preserves the adult’s claim on a dowry.]*

[E] Interpret the case to speak of one who [as an adult] had collected part of what was coming to her. Did not R. Abina say in the name of R. Assi, “A first-born who took a share as if he was an ordinary son – the presumption is that he has given up his claim on the double portion.” [The operative reason in that instance] once more is that [the first-born] indeed collected part [of what was coming to him and hence we may assume that he has given up his claim on the rest of the double portion.]

[F] [Rejecting this argument,] R. Yosé b. R. Bun said, “This one has taken no part whatsoever of the portion coming to the first-born.”

[I:2 A] *A case [in which a woman had been deprived of her dowry] came before R. Mana, who proposed to rule in accord with the view of R. Hisda [so depriving the woman of her dowry].*

[B] *Said to him R. Hananiah, “And lo, R. Hiyya taught, ‘If they reached maturity but had not gotten married, or got married but had not reached maturity, they lose their claim on maintenance but do not lose their claim for a dowry.’”*

[C] *He said to him, “I produce a tradition [in the name of R. Hisda] and you produce a teaching founded on Tannaitic authority [in the name of R. Hiyya]. The tradition must give way before the teaching.”*

[I:3 A] *Rabin bar Hiyya asked before R. Zeira, “If the husband had sexual relations with the fiancé while she was yet in her father’s house, do the stipulations of the marriage settlement take effect at that point, or does the document come into effect only when the marriage is consummated?”*

[B] *R. Bun bar Hiyya raised the question before R. Zeira, “If the wife relinquished her claim on her husband, what is the law?”*

[C] *[The answer is] she may give up her rights, but she may not give up the rights belonging to her offspring [in that marriage].*

4:13

[A] **[If he did not write for her,] “You will dwell in my house and derive support from my property so long as you are a widow in my house,”**

[B] **[his estate] nonetheless is liable [to support his widow],**

[C] **for this is [in all events] an unstated condition imposed by the court.**

[I:1 A] *R. Zeira sent [and] asked R. Nahman bar Jacob and R. Abimi bar Pappi, “If there was no house available [does the estate have to build one]?”*

[B] *He said to him, “The estate rents out a house.”*

[C] *Henceforward, if she says she wants land [in her husband’s domain], and they say they want to give ready cash [instead of a place in the deceased’s house], the law favors the estate.*

[D] *There was a woman who had a marriage settlement of twenty denars, and there was a house available worth ten denars. The case came to R.*

Haninah. He said, "Either let them build a house for her or let them give her twenty denars."

[E] *Said R. Mana, "Since the house available is worth only ten, the marriage settlement for her is worth only ten. From that point on, if she demands land and they offer ready cash, the law favors the estate."*

4:14

[A] **So did the Jerusalemites write into a marriage contract [=M. 4:13].**

[B] **The Galileans wrote the marriage contract as did the Jerusalemites.**

[C] **The Judeans wrote into the marriage contract, "Until such time as the heirs will choose to pay of your marriage contract."**

[D] **Therefore if the heirs wanted, they pay of ~her marriage contract and let her go.**

[I:1 A] The Galileans were concerned about the honor owing to them and were not much concerned about their money [so they supported the widow indefinitely].

[B] The Judeans were concerned about their money and were not much concerned about the honor owing to them [so they ordained the rule of M. 4:14D].

[C] R. Hananiah son of R. Abbahu, and some say it in the name of R. Abbahu: "Caesarea is in the status of Judah. And all other provinces are in the status of Jerusalem.

[D] *When a certain man was dying, he said, "Pay off that man's [my] wife a marriage settlement [and issue a writ of divorce]."*

[E] The case came before R. Mana. He said, "Let the words of the dying man be carried out."

[F] Said to him R. Haninah, "And has a man got the right to nullify a stipulation written in the marriage settlement merely by a verbal declaration? [He had deprived her of support as a widow.]"

[G] He said to him, "You said it. How do you know?"

[H] *He said to him, "And we do not deal with a case in Galilee, and we proposed to say, 'Galileans had more concern for the honor owing to them than their money.' [The custom outweighs the dying man's statement. The widow retains the right of support from the estate.]"*

YERUSHALMI KETUBOT

CHAPTER FIVE

5:1

- [A] [29c] Even though they have said, “A virgin collects two hundred zuz and a widow a maneh” [M. 4:8A],
- [B] if [the husband] wanted to increase that sum, even by a hundred maneh, he may add to it.
- [C] [If] she was widowed or divorced, whether at the stage of betrothal or at the stage of consummated marriage, she collects the full amount.
- [D] R. Eleazar b. Azariah says, “[If she is widowed or divorced] at the stage of consummated marriage, she collects the full amount.
- [E] “[If it was] at the stage of betrothal, the virgin collects [only] two hundred zuz, and the widow, a maneh,
- [F] “for he wrote over [any additional sum] only on condition of consummating the marriage.”
- [I:1 A] On what count is the husband liable to her [for paying the additional gifts, in the case of M. 5:1C]? Did not both R. Yohanan and R. Simeon b. Laqish say, “He who writes a bond to his fellow assuming that he owes him money, and it turns out that he does not owe him, is not liable to pay him [the sum specified in the bond]”?
- [B] [The count on which he is liable to pay over the additional sums promised in advance is this:] The husband wants to pay a sizable sum to be called “the son-in-law of So-and-so.” [Consequently, the husband has assigned ownership in advance of the marriage to what he has agreed to pay.]
- [C] *Up to this point [we have dealt with a reason applicable to a divorce]* at the stage of betrothal. If the agreement was made [and there was a divorce] at the stage of marriage, [the reason that the additional sums promised must be paid is this:] The husband is willing to pay a sizable

sum for the pleasure of having sexual relations with the woman, which are very pleasant.

[D] *Up to this point [we have dealt with a reason applicable to a divorce in which the agreement was made] at a fully consummated marriage. [If] the husband never had sexual relations with the wife, [the reason that the additional sums promised must be paid is this:] He is willing to add a sizable sum for the property, which he has added.*

[E] [Reviewing what has just now been stated:] If the agreement was made at the stage of betrothal, [or] made at the stage of the marriage, [or] he already is subject to be called So-and-so's son-in-law, [or] he already has been able to have sexual relations, [or] he did not add possession of a sizable sum [that is, if none of these factors apply at all, on what count is the husband liable?]

[F] The husband is willing to give the wife a sizable sum, so that she will not go back on her consent to be his wife.

[G] And has she got the power to [leave the marriage]?

[H] *And has it not been taught:* A man puts away his wife only at his own will and volition [but the woman has not got that same right at all]?

[I] *Said R. Abin, "She may torment him until he lets her go out with a writ of divorce."*

[I:2 A] *It has been taught as a Tannaite formulation:* Just as the husband agrees to pay [a sum over and above the minimum amount of the marriage settlement], so the father agrees to a dowry [and thereby is obligated].

[B] But the husband assigns ownership through a bond, while the father assigns ownership [of what he promises to give] only verbally.

[C] And that is on condition [that the matter subject to the pledge is] something which is acquired through a verbal declaration.

[D] *What would be a practical illustration of this law?*

[E] Giddul in the name of Rab: "How much are you going to give to your son?' 'Such and so.'

[F] "How much are you going to give to your daughter?' 'Such and so.'

[G] “Once that girl was consecrated, she has acquired ownership of the things to which the father referred, in preference to the other daughters. [The latter have no claim on these items, which the father has assigned to the daughter who is getting married.]”

[H] *Said R. Hiyya bar Joseph, “Does Giddul the great say something trivial?* [Obviously, acquisition is effected along with the object worth a *perutah* she receives as a token of betrothal.] Rather: ‘How much are you going to give to your son?’ ‘Such and so.’

[I] “‘How much are you going to give to your daughter?’ ‘Such and so.’

[J] “Once that girl was consecrated, she has acquired ownership of the things to which the father referred, in preference to the other daughters. And the son likewise [acquires these things] in preference to the other sons. [It is the acquisition by the son which is the important point. The daughter obviously will acquire property along with the token of betrothal.]”

[K] *Said R. Zeira, “And is it such a small thing [which I originally said]?* Does it not turn out that one acquires both a woman and movables with something worth merely a *perutah*, and a man cannot acquire two women with what is worth a *perutah* only? [So what I said really is a major innovation, in indicating that the husband acquires not only the wife but also a sizable amount of movables for what is worth a *perutah*, and the *perutah* should serve as the token of betrothal for the woman alone.]”

[L] Now how is this rule different from the rule that a man may not acquire real estate and a sum of movables with what is worth a *perutah*? [Movables are acquired along with real estate. Why cannot movables be acquired along with the woman for what is worth a *perutah*?]

[M] The difference is that a man may acquire two plots of real estate with what is worth a *perutah*, but a man may not acquire two women with what is worth a *perutah*. [The symbolic weight of the *perutah* is not the same for women as for real estate.]

[I:3 A] R. Ba bar Hiyya in the name of R. Yohanan: “‘How much are you going to give to your son?’ ‘Such and so.’

[B] “‘How much are you going to give to your daughter?’ ‘Such and so.’

[C] “Once that girl was consecrated, she has acquired ownership of the things to which the father referred, in preference to the other daughters. And the son likewise [acquires these things] in preference to the other sons.

[D] “And that rule is on the condition that the agreement is at the stage of the first marriage into which these children have entered. [The transfer of ownership is effected through a verbal statement only in the case of the original marriage, which is a source of great joy to the fathers.]”

[E] *This statement accords with what R. Hanania said, “He who marries off his son in a house – the son has acquired ownership of the house. And that rule is on the condition that it is the first marriage of the son.”*

[F] *R. Hoshaiiah taught, “He has acquired ownership of the movables, but he has not acquired ownership of the house itself.”*

[G] *Now does he differ [from Hanania]?*

[H] *R. Jeremiah in the name of R. Abbahu: “Interpret [Hoshaiiah’s] statement to speak of a case in which the father’s granary was in the house. [Accordingly, the father uses the house and does not intend to give it away.]”*

[I] *R. Hezekiah in the name of R. Joshua b. Levi, “[That point is self-evident.] It was necessary [to make it to indicate that] even if there were things in the house which had been borrowed from the marketplace, [the son has not acquired ownership of the house]. [Even if used for such a purpose as temporary storage, the house remains in the domain of the father.]”*

[J] *Said R. Abbahu, “If [the father had made it explicit to the son that he was merely] lending him the house for the purpose of the marriage, then the son also has not acquired ownership [of the movables which are in the house].”*

[K] *A case of this sort came before R. Jacob b. R. Bun, and he decided it in accord with the view of R. Abbahu.*

[L] *R. Zeira said, “The matter itself has no foundation whatever, and the rabbis went and built up quite a building on it!”*

[I:4 A] You say, the father may make an agreement in behalf of his daughter. Is that the case even if she has reached maturity?

[B] *Let us derive the answer from the following: A father makes an agreement [as to betrothal] in behalf of his daughter, but a mother may*

not do so in behalf of her daughter, nor may a brother do so in behalf of his sister.

- [C] [Just as there is no] difference in the case of his sister, whether she is a girl or an adult woman, here, too, there is no difference between whether she is a girl or an adult woman [and the father may make such an agreement of betrothal in both cases].
- [D] *R. Ba Qartegena asked, “Is that so even in the case of a third party? [Even if a third party should say to him, ‘Give your daughter to So-and-so, and I shall contribute such-and-such as a dowry,’ has the verbal agreement effected ownership, so the third party has to pay over, or is that the case only for the father?] Even if the girl is mature, [should a] third party [make such a pledge]?”*
- [E] *Let us derive the answer from the following:* The father makes an agreement for his daughter, but a woman may not do so for her daughter, or a brother for his sister. All the more so may a third party not do so!
- [F] That is the case even within the limits of the strict law. [That is, just as if a third party should promise a dowry, it is null, so is the law in the case of a financial agreement.]
- [G] “Give your daughter to So-and-so, and I shall give you such-and-such!” “Take such and such a field, and I shall give you such-and-such an amount of money!” [The former statement is not a promise of a dowry, since it is made to the father, and it has no weight in transferring ownership. So, too, in the case of the field, if the party took over ownership of the field, he owes nothing to the other party, since the verbal declaration means nothing.]

[II:1 A] [R. Eleazar b. Azariah says, “If she is widowed or divorced at the stage of consummated marriage, she collects the full amount. If it was at the stage of betrothal, the virgin collects only two hundred zuz, and the widow, a maneh, for he wrote over any additional sum only on condition of consummating the marriage:”] [As to M. 5:1D-F’s statement of Eleazar b. Azariah’s view that collection is possible only in the case of a consummated marriage,] *the point of the Mishnah teaching is that the husband has added further gifts to the wife’s marriage settlement only because of his love on the first night of marriage, on which he has had sexual relations with her. [The act of acquisition is sealed by the love of the sexual act, not merely the love of the marriage canopy.]*

[B] If the husband had sexual relations, then divorced her, then remarried her, still the love of that first night endures [on which account the entire original dowry, not merely the marriage contract, is subject to the woman's ownership].

[C] If he had sexual relations and died, and the bride fell to the levir, still the love of the first night is in effect, [and she has acquired ownership not merely of the marriage settlement but also of the additional property he has promised her].

[II:2 A] R. Jacob bar Aha, R. Alexa in the name of Hezekiah: "The law accords with the view of R. Eleazar b. Azariah, who stated, **If she was widowed or divorced at the stage of betrothal, the virgin collects only two hundred zuz and the widow, a maneh. If she was widowed or divorced at the stage of a consummated marriage, she collects the full amount**" [M. 5:1E, D].

[B] R. Hananiah said, "The law accords with the view of R. Eleazar b. Azariah."

[C] Said [29d] Abayye, "They said to R. Hananiah, 'Go and shout [outside whatever opinion you like. But] R. Jonah, R. Zeira in the name of R. Jonathan said, 'The law accords with the view of R. Eleazar b. Azariah.' [Yet] R. Yosa bar Zeira in the name of R. Jonathan said, 'The law does not accord with the view of R. Eleazar b. Azariah.' [So we do not, in fact, know the decision.]"

[D] Said R. Yosé, "We had a mnemonic. Hezekiah and R. Jonathan both say one thing."

[E] *For it has been taught:*

[F] **He whose son went abroad, and whom they told, "Your son has died,"**

[G] **and who went and wrote over all his property to someone else as a gift,**

[H] **and whom they afterward informed that his son was yet alive**

—

[I] **his deed of gift remains valid.**

[J] R. Simeon b. Menassia says, "His deed of gift is not valid, for if he had known that his son was alive, he would never have made such a gift" [T. Ket. 4:14E-H].

[K] Now R. Jacob bar Aha [= A] said, “The law is in accord with the view of R. Eleazar b. Azariah, and the opinion of R. Eleazar b. Azariah is the same in essence as that of R. Simeon b. Menassia.”

[L] Now R. Yannai said to R. Haninah, “Go and shout outside whatever you want.”

[M] But, said R. Yosé bar Zeira in the name of R. Jonathan, “The law is not in accord with R. Eleazar b. Azariah.”

[N] *But, in fact, the case is to be decided in accord with the view of R. Eleazar b. Azariah.*

5:2

[A] **R. Judah says, “If he wants, he writes to a virgin a bond for two hundred, and she writes, ‘I have received from you a maneh.’**

[B] **“And to a widow, he writes a bond for a maneh, and she writes, ‘I have received from you fifty zuz.’”**

[C] **R. Meir says, “Whoever pays less to a virgin than two hundred zuz and to a widow less than a maneh – lo, this is fornication.”**

[I:1 A] *R. Judah maintains the view that they do not give to a virgin less than a maneh [a hundred zuz], and to a widow, fifty zuz.*

[B] [If that is his view of what is required,] then why do they not write out that sum to begin with [rather than going through the procedure of providing a false receipt for funds received]?

[C] But rather [we deal with a case in which] one diminishes the sum as the transaction unfolds.

[D] And [if the sum specified in the Mishnah is not meant to be precise], why should she not write, “I have received from you such and such an amount of money” [rather than specifying, as does the Mishnah, a *maneh*]?

[E] *Indeed there is a teaching in the name of Bar Qappara exactly along those lines: “that I have received from you such and such an amount of money.”*

[I:2 A] Said R. Yohanan, “R. Judah has stated his view only with reference to the end of the transaction. But to begin with, also R. Judah concurs [that she must first make acquisition of a properly drawn-up writ and only afterward exercises her right to relinquish claim on some of the amount specified therein].”

[B] What is the meaning of “at the outset,” and what is the meaning of “at the end”?

[C] Associates in the name of R. Yohanan, “ ‘At the outset’ is prior to sexual relations, and [‘at the end’ is] after sexual relations.”

[D] R. Zeira in the name of R. Yohanan, “It is prior to entering the marriage canopy and after entering the marriage canopy[, even if there was not an act of sexual relations].”

[E] If the husband did not have sexual relations and then he divorced her and then he took her back, you have a case in which there is no difference between “at the outset” and “at the end” [cf. PM].

[I:3 A] What is a wife and what is a concubine?

[B] R. Meir says, “A wife has a marriage contract, and a concubine does not have a marriage contract.”

[C] R. Judah says, “Both this one and that one have a marriage contract. A wife has a marriage contract, which is subject to the normal stipulations associated therewith, and a concubine has a marriage contract, too, but it is not subject to the normal stipulations associated therewith.”

[I:4 A] R. Judah in the name of Rab: “This represents the view of R. Meir and R. Judah. But so far as sages are concerned [the following is the law].”

[B] [In the Tosefta’s version:] **A man marries a woman on condition of not having to maintain her and of not having to support her.**

[C] **And not only so, but he may make an agreement with her that she maintain and support him and teach him Torah.**

[D] **M’S H B: Joshua, the son of R. Aqiba, married a woman and made an agreement with her that she maintain and support him and teach him Torah.**

[E] **There were years of famine. They [the husband and wife] went and divided their property.**

[F] **She began to complain against him to sages.**

[G] **And when he came to court, he said to them, “She is more credible to me than any man.”**

[H] **She said to them, “Most assuredly did he covenant with me thus.”**

[I] Sages said to her, “Nothing validly follows an agreement” [T. Ket. 4:7].

5:3

[A] They give a virgin twelve months to provide for herself from the time that the husband has demanded her.

[B] And just as they give [a time of preparation] to the woman, so they give a time of preparation to a man to provide for himself.

[C] And to a widow they give thirty days.

[D] [If] the time came and he did not marry her, she in any event is supported by him.

[E] And she eats heave offering [if he is a priest, and she is not].

[F] R. Tarfon says, “They give her all of her support in food in the status of heave offering.”

[G] R. Aqiba says, “Half in unconsecrated produce and half in heave offering.”

[I:1 A] *It has been taught:* Reaching maturity is equivalent to a demand [on the part of the prospective husband that the betrothed prepare herself for marriage, for which she is given] twelve months [T. Ket. 5:1A].

[I:2 A] Said R. Hila, “It is taught there: They give a mature woman [after she reached maturity] twelve months, and then they give her a token of betrothal, and so, in the case of a widow, they give her thirty days.”

[B] *We have learned, They give a virgin twelve months, and you say this? [You now assign her another year’s preparation time!]*

[C] R. Abin in the name of R. Hela: “[If] after the girl reached maturity twelve months have passed, they give her a token of betrothal thirty days thereafter.”

[I:3 A] [If] she observed twelve months prior to marriage with the first [who then died], and a second suitor then came along [and betrothed her] and said to her, “Have you not already prepared [for the wedding for twelve months, in connection with the first betrothal]?” she has the right to say to him, “I love him even more than the first one, [and so need more time to prepare myself for the marriage].”

[B] If the groom is a widower and she is a virgin, *and he wants to get married right away*, she can say to him, “I love him more than I would a young lad, [and need more time to prepare properly for him~.”

- [C] If he was a lad and she was a widow *and she wants to get married right away*, he can say to her, “I love her more than a virgin.”
- [D] If the girl was a minor and she wants to wait until she grows up, they listen to her.

- [II:1 A] **[And she eats heave offering [if he is a priest, and she is not]. R. Tarfon says, “They give her all of her support in food in the status of heave offering.” R. Aqiba says, “Half in unconsecrated produce and half in heave offering:”** [As to M. 5:3D-E,] if the time came and they did not get married, [the women in question] eat his food, and they eat food in the status of heave offering.
- [B] If their husbands died [and they came before the levir], they continue to eat his food, but they do not eat food in the status of heave offering.
- [C] Said Samuel, brother of R. Berekhiah, “And that rule applies when the time [for the marriage] had come to completion on the fourth day of the week, [when a virgin should be married anyhow].
- [D] “But if the time came to completion on the third or the fifth day [do the women begin to gain support from the husband right away on those days]?”
- [E] Both R. Hama bar Uqba in the name of R. Yosé b. R. Haninah and Levi say, “The case is treated as one in which scribes have kept a person imprisoned, [and he may not marry until the following Wednesday, and during that period he is not obligated to support her].”
- [F] Said R. Joshua b. Levi, “If the obstacle is on his account, she is supported from his property.”

- [II:2 A] *It was taught:* **R. Tarfon says, “They give her all of her support in food in the status of heave offering.**
- [B] “For heave offering is everywhere available.”
- [C] **R. Aqiba says, “Half in unconsecrated produce and half in heave offering.**
- [D] “For women routinely impart uncleanness to food which is to be guarded in conditions of cultic cleanness [e.g., during their period].”
- [E] **Rabban Simeon b. Gamaliel says, “In any situation in which heave offering is mentioned, one gives [in heave offering] twice [the required amount of] unconsecrated produce” [T. Ket. 5:1L].**

5:4

- [A] **The levir cannot feed heave offering to the sister-in-law [who is widowed at the stage of betrothal and is awaiting consummation of the levirate marriage (M. Yeb. 7:4)].**
- [B] **If she had waited six months for the husband [M. 5:3A], and six months awaited the levir,**
- [C] **[or] even if all of them were waiting for the husband but only one day was spent waiting for the levir,**
- [D] **or all of them were awaiting the levir, except one day awaiting the husband,**
- [E] **she does not eat heave offering.**
- [F] **This is the first Mishnah.**
- [G] **The succeeding court ruled: “The woman does not eat heave offering until she enters the marriage canopy.”**
- [I:1 A] ***Said R. Jeremiah, “There it is taught: The widow of a childless brother, for the first three months after his death, is supported from the estate of her husband. After three months she is not supported either from her husband’s estate or from her levir’s property. If her levir went to court and fled, lo, she is supported from his property” [T. Yeb. 6:7I-K].***
- [B] **If the levir fell ill, it is as if he had fled.**
- [C] **If he went abroad, it is as if he had fled.**
- [D] **A widow who said, “Lo, I shall spend my widowhood in the house of my husband” – they listen to her.**
- [E] **[With reference to I.D, above,] R. Yosé in the name of R. Hela: “He who says, ‘I shall not perform the rite of removing the shoe’ is in the status of him who says, ‘I shall not issue a writ of divorce.’ [That is, if after he agreed to enter the rite of removing the shoe, he declined to do so, he need not support the levirate widow.]”**
- [F] **R. Zabeda taught, “R. Isaac [said,] ‘He who says, ‘I shall not enter the rite of removing the shoe’ is equivalent to him who says, ‘I shall not issue a writ of divorce.’”**
- [II:1 A] **If she had waited six months for the husband and six months awaited the levir, ... she does not eat food in the status of heave offering [M. 5:4C, E].**

[B] And it is not the end of the matter that it was six months for the levir, but even if all of them were waiting for the husband but only one day was spent waiting for the levir, she does not have the right to eat food in the status of heave offering.

[II:1 A] The Mishnah passage [which holds that if the time came and he did not marry her, she in any event is supported by him, and she eats heave offering if he is a priest, M. 5:3D-E,] does not accord either with the first Mishnah nor with the last Mishnah, [for the former allows for eating heave offering while the woman is yet betrothed, and the last Mishnah permits it only when she is married]. But it is in accord with the version of the Mishnah that came in the interim.

[B] *For it has been taught:* Aforetimes they ruled, “An Israelite girl who is betrothed [to a priest] eats food in the status of heave offering.”

[C] *For this is how they interpreted the verse,* “If a priest buys someone as his property for money, [the slave may eat of it]” (Lev. 22) [the betrothed likewise is his property for money] .

[D] For if you do not maintain that view, then what is the difference between him who acquires a woman and him who acquires a slave girl? [Both are acquired and both equally may eat food in the status of heave offering.]

[E] They retracted and ruled, “After twelve months, when he becomes liable to feed her, [then she may eat food in the status of heave offering].

[F] The court which came at the end ruled, “**Under no circumstances does a woman eat heave offering until she enters the marriage canopy**” [M. 5:4G].

[II:3 A] **And already did Yohanán b. Bagbag send to R. Judah b. Betera in Nisibis, saying to him, “I heard about you that you rule, ‘An Israelite girl betrothed to a priest eats heave offering.’”**

[B] **He sent back and said to him, “I was sure that you are an expert in the inner chambers of the law. But you don’t even know how to construct an argument a fortiori!**

[C] **“Now if a Canaanite slave girl, with whom sexual relations do not constitute an act of acquisition so that she may eat heave offering, but a money payment constitutes an act of acquisition so that she may eat heave offering –**

- [D] “an Israelite girl, for whom the act of sexual relations does constitute an act of acquisition so that she may eat heave offering – logically the transfer of a money payment should constitute an act of acquisition sufficient for her to eat heave offering.
- [E] “But what shall I do! For lo, sages have said, ‘An Israelite girl who is betrothed does not eat heave offering until she enters the marriage canopy’” [T. Ket. 5:1Q-T].
- [F] Now in this connection they relied upon the following verse of Scripture, as it is said, “Everyone who is clean in your house may eat of it” (Num. 18:11). [That would imply that the girl must be in the house of the priest, that is, in a fully consummated union.]
- [G] Said R. Yudan, “Lo, this is an argument a fortiori to which one may construct a reply. *For he can say to him*, ‘No, if you have stated the rule in the case of a Canaanite slave girl, who is acquired through usucaption, will you say the rule of this one, who is not acquired through usucaption? [Surely not!]’
- [H] “Now any argument a fortiori which is subject to such a reply is null, and so is this one.”

5:5

- [A] [30a] He who sanctifies to the temple the fruits of his wife’s labor [her wages], lo, this woman [continues to] work and eat [maintain herself].
- [B] And the excess –
- [C] R. Meir says, “It is consecrated.”
- [D] R. Yohanan Hassandlar says, “It is unconsecrated.”
- [I:1 A] R. Meir says, “It is consecrated. It belongs to him.”
- [B] R. Yohanan Hassandlar says, “It is unconsecrated.”
- [C] But is it [not] his? [That is, the excess under discussion is what is left over after providing for her. What argument is possible? This is surely his property.]
- [D] R. Simeon b. Laqish says, “The excess under dispute is the amount over and above the five selas [of labor value per diem, which the wife must perform for the husband. It is not at all concerned with the excess remaining over the return on the wife’s labor, which is due to the husband. That, all parties concur, goes to the husband.]”

[E] Interpret [the dispute of the Mishnah to speak of a case] in which the husband supplies the wife with her food but does not give her an additional silver coin for her private needs, for we have learned: **If the husband does not give her a silver maah for her needs, the produce of her labor belongs to her [M. Ket. 5:9C].** [Meir's reason is that in this case, in which the husband provides the wife's maintenance, the produce of the wife's labor belongs to him. But since he does not provide the additional money, he forfeits it, in which case she continues to eat the fruits of her own labor. Yohanan maintains that the excess is in exchange for this silver coin. Since he does not pay it, the excess belongs to her, and the husband cannot consecrate it anyhow.]

[F] R. Yohanan said, "The dispute concerns the excess after death." For [Yohanan] interprets the case to be one in which the husband does not provide maintenance for the wife, inclusive of the weekly allowance of a silver coin. [All parties concur that the husband gets the fruit of the wife's labor in exchange for food, and the excess over what is needed for her maintenance is in exchange for the silver coin given as a weekly allowance. If, then, the husband consecrates her labor while she is yet alive, even Meir will concur that there is no valid act of consecration. But after she dies, how do we deal with the excess? Meir maintains that someone may consecrate something which is not yet in existence. Yohanan holds that that is not the case.] But if, [Yohanan continues,] the husband does provide her with food, all parties concur that his act of consecration is valid."

[G] R. Zeira said, "*There we have a Tannaitic teaching which supports the view of R. Yohanan: 'Under what circumstances? When the husband does not provide food for the wife. But if he provided food for her, all parties concur that his act of consecration is valid.'*"

[H] But is not everything which the wife has indentured to the husband so far as the usufruct is concerned? [Why should he not be able to sanctify it? It is indentured to him while he is alive. So how has F given us a valid answer?]

[I] R. Samuel bar R. Isaac said, "At issue between them is the status of the work of the woman's hands. R. Meir says, 'The work of the woman's hands is suitable to be consecrated even at the outset.' R. Yohanan Hassandlar says, 'The work of the woman's hands is not suitable to be consecrated at the very outset.' [The things the woman

makes are not in existence when the man consecrated them. Meir holds that as soon as the woman makes something, it becomes consecrated, for one may consecrate something not then in existence. Yohanan maintains that someone may not consecrate what is not then in existence.]”

- [I:2 A] **[Following the Tosefta’s version:] “What I am going to inherit from father is sold to you,”**
- [B] **or, “What is going to come up in my trap is sold to you” –**
- [C] **he has said nothing whatsoever.**
- [D] **“What I am going to inherit from father today is sold to you,”**
- [E] **And, “What is coming up in my trap today is sold to you” –**
- [F] **his statement is confirmed [T. B.M. 4:10].**
- [G] R. Abbahu in the name of R. Yohanan, “We deal [at D] with a case in which the son takes out a loan for shrouds for his father, in a case in which the father is sick or in danger of dying.”
- [H] R. Abbahu in the name of R. Yohanan, “[The statement about what is coming up in the trap *today*] applies in the case in which the trap is spread out before him at that very moment.”
- [I] And R. Abbahu said in the name of R. Yohanan, “But as to sanctifying [what comes up in the trap on that day], it is not sanctified.”
- [J] Why is it not sanctified?
- [K] It is because of the dispute between R. Meir and R. Yohanan Hassandlar.
- [L] [I should say that the case of] sanctifying something which may come up in the trap is different, because it is not necessarily so common for something to fall into the trap [and hence even if something is deemed to be sold, E, it will not be regarded as consecrated].
- [M] *Said R. Yosé to R. Jacob bar Aha, “Do you remember that you and R. Jeremiah in the name of R. Simeon b. Laqish said, ‘Who is the Tannaitic authority who taught in the case of him who sanctifies what comes up in a trap, that it is not a commonplace event and so is covered by the dispute of R. Meir and R. Yohanan Hassandlar?’” [So Simeon b. Laqish assigned that dispute on sanctifying what*

is not yet in existence to the matter of the trap, rather than to the issue above of the excess of the woman's labor, while the husband was yet alive.]

[N] *But there are diverse views of the position of R. Simeon b. Laqish [and some assign his view of the dispute to the issue of the trap, and others to the issue of the excess of the wife's production, as above].*

[I:3 A] R. Jeremiah asked, "He who sanctifies the fruit of his slave's labor, and he was out hunting [so we do not know whether the prey is in hand at the moment of sanctification], what is the law?"

[B] *Let us derive the answer from the following:* "He who consecrates his slave – he is holy, but the work of his hands is unconsecrated. If he sanctified the work of his hands, he is unconsecrated, and the work of his hands is holy."

[I:4 A] R. Yohanan said, "He who cuts off the hand of his fellow's slave – the master of the slave collects compensation for the injury, pain, healing, time lost, and indignity, and the slave himself will then be supported from charity funds."

[B] *And lo, it has been taught: **He who sanctifies the produce of his servant's hands – lo, this one provides him with maintenance therefrom. And only the remainder is deemed sanctified [T. Ar. 3:8B].***

[C] Said R. Ba bar Mamel, "It is not in his mind that his slave should die." [Pene Moshe: he sanctified his slave to begin with only as to his value, but not as to the work of his hands.]

[D] [Translating the version at Y. B.Q.:] R. Hela in the name of R. Yohanan: "'He who consecrates the work of his own hands – whatever he makes is deemed to have been sanctified.' He went and taught, 'He who consecrates the work of his slave's hands – he deducts from what the slave makes the cost of feeding him, but the rest is deemed consecrated.'" *Now here you say,* "The rest is deemed consecrated," *and there you have said,* "The whole of what he makes is consecrated." [Why is no provision made for supporting the free Israelite, as provision is made for supporting the slave?]

[E] Said R. Aha, "Israelites are commanded to provide food for free people more than they are required to provide for slaves, [and consequently, the free man will find support through charity, while the slave will not]."

- [F] Did not R. Yohanan state, “He who cuts off the hand of his fellow’s slave – the master of the slave collects compensation for the injury, pain, healing, time lost, and indignity, and the slave himself will then be supported from charity funds”?
- [G] Rabbis of Caesarea in the name of R. Aha, “Israelites are commanded to support slaves who have been injured, more than they are commanded to support slaves who are whole in body [and consequently in the present instance the slave will be supported from charity funds].”
- [H] Now did not R. Yohanan – from whatever he would eat, he would give to his slave and cited the following verse in this connection: “Did not he who made me in the womb make him?” (Job 31:15). [This proves that Israelites are obligated to support even healthy slaves.]

5:6

- [A] **These are the kinds of labor which a woman performs for her husband:**
- [B] **she grinds flour, bakes bread, does laundry, prepares meals, feeds her child, makes the bed, works in wool.**
- [C] [If] **she brought with her a single slave girl, she does not grind, bake bread, or do laundry.**
- [D] [If she brought] **two, she does not prepare meals and does not feed her child.**
- [E] [If she brought] **three, she does not make the bed for him and does not work in wool.**
- [F] **If she brought four, she sits on a throne.**
- [G] **R. Eliezer says, “Even if she brought him a hundred slave girls, he forces her to work in wool,**
- [H] **“for idleness leads to unchastity.”**
- [I] **Rabban Simeon b. Gamaliel says, “Also: He who prohibits his wife by a vow from performing any labor puts her away and pays off her marriage contract.**
- [J] **“For idleness leads to boredom.”**
- [I:1 A] **The kinds of work which a woman does for her husband –**
- [B] *it has been taught as a Tannaite statement: seven basic categories of labor did they enumerate.*

[C] **And the rest did not require enumeration [M. 5:6A-B] [T. Ket. 5:4A-C].**

[II:1 A] **She feeds her child [M. 5:6B].**

[B] Said R. Haggai, “It says only, ‘her child’ [in the singular]. Lo, in a case of twins, she is not [required to suckle both].”

[C] And why does it say, “her child”?

[D] It is so that she should not nurse her friend’s child.

[E] *That is in line with the following, which is taught:*

[F] **The husband cannot force his wife to give suck to the child of his fellow.**

[G] **And the wife cannot force her husband to permit her to give suck to the child of her girl friend [T. Ket. 5:5G-H].**

[H] [If] she took a vow not to give suck to her child –

[I] **the House of Shammai say, “She pulls her teats from his mouth.”**

[J] **And the House of Hillel say, “He forces her to give suck to her child.”**

[K] [If] she was divorced, however, they do not force her to give suck to him [T. Ket. 5:5A-D].

[L] Under what circumstances? In a case in which the infant does not recognize the mother.

[M] But if he recognizes her, they force her and pay her a wage to nurse her child.

[N] And how old would he be so as to recognize her?

[O] R. Jeremiah in the name of Rab: “Three months.”

[P] Now [when he made that statement], R. Zeira cast his gaze at him.

[Q] *He said to him, “Why are you staring at me? Shall I tell you what Samuel said? For Samuel said, ‘Three days.’”*

[R] *Samuel is consistent with opinions expressed elsewhere.*

[S] *Samuel said, “I recognized the midwife who delivered me [right after I was born].”*

[T] *R. Joshua b. Levi said, “I recognized the ritual circumciser who performed the circumcision on me.”*

[U] *R. Yohanan said, “I recognized the women who kept my mother company [during labor].”*

[V] *It has been taught: “An infant continues to suckle all twenty-four months. From that point onward, he is like one who sucks [from] an abomination,” the words of R. Eliezer.*

[W] **And R. Joshua says, “The infant continues to suck even for four or five years [Y. lacks: and he is permitted to do so]. If he separated from the teat, they do not return him to it” [T. Nid. 2:3/I-J].**

[X] How long [a time is deemed to mark the child’s actually separating from the teat and giving up nursing, so that the child then is prohibited from returning to nursing]?

[Y] *R. Jacob b. R. Aha, R. Jeremiah in the name of Rab: “After twenty-four hours.”*

[Z] *R. Hezekiah, R. Abbahu in the name of R. Joshua b. Levi: “No longer than three days, reckoned from the moment of the last feeding. [So it depends on the status of the infant.]”*

[AA] *It was taught, “After twenty-four hours.” [= The baraita is in accord with Rab].*

[BB] *R. Hezekiah the elder: “Under what circumstances? In a case in which he gave up the teat while in a state of good health. But if he did so while in a state of illness, they do bring him back to the teat forthwith. [Now this rule applies, moreover,] in the case of an infant who is in no danger [by reason of sickness], but in the case of an infant whose life is endangered [by sickness], forthwith do they return him to the teat even after some time as soon as [the need is recognized].”*

[III:1 A] **If she brought [with her a single slave girl, etc. (M. 5:6C-F)].** Said R. Samuel bar R. Isaac, “It is not the end of the matter that she actually

brought [the slave girls with her]. But even if she was in a position to do so [but did not actually bring them in, the same law applies].”

[B] *This is in line with what is taught: His wife goes up with him, but she does not go down with him [T. Ket. 5:9B].* [She rises in status and perquisites, but does not lose what she already has if she marries down.]

[C] A widow and her children go down but do not go up.

[D] Workers go up but do not go down.

[E] A daughter neither goes up nor goes down.

[III:2 A] [Since the Mishnah specifies the work of the several slave girls, M. 5:6C-F, we now ask:] And let her bring a slave girl to do all the work?

[B] Said R. Hiyya bar Judah, “It is for the welfare of the slave girl [who should not be overworked]. [That is why the slave girl has a specified set of tasks, and the mistress of the household must do the rest of them.]”

[C] Said R. Bun, “It is because these sorts of work are menial that they assigned them to the slave girl.”

[D] Said R. Judah b. R. Bun, “[The reason sages assigned the remainder of the work to the woman] is that it is not usual for a woman to sit idly in her husband’s household.”

[III:3 A] R. Huna said, “Even if she brought in to the marriage a hundred slave girls, he may force her to perform for him certain tasks best done in private.”

[B] What are these tasks best done in private?

[C] She anoints his body with oil, washes his feet, and mixes his cup.

[D] What is the reason? Is it because she is obligated to do these things, or is it because it is not appropriate to make use of a slave girl to do them?

[E] *What is the practical difference between these two reasons?*

[F] A case in which she brought slave boys into the marriage.

[G] If you say that these are not tasks for which it is appropriate to make use of a slave girl, lo, she has brought slave boys into the marriage [who may do these tasks].

[H] *Accordingly, the reason is only on the count that she is liable to do these things for him.*

[I] *R. Abudema in Sepphoris raised the question before R. Mana, “Is it not reasonable to suppose that the reason is only on the count of her being liable to do these things for him?”*

[J] *He said to him, “I, too, maintain that view.”*

[III:4 A] *It is taught [in the Tosefta’s version]: R. Judah says, “Also: He cannot force her to work in flax, for it makes the mouth swell and cuts the lips” [T. Ket. 5:4G].*

5:7

[A] He who takes a vow not to have sexual relations with his wife –

[B] the House of Shammai say, “[He may allow this situation to continue] for two weeks.”

[C] And the House of Hillel say, “For one week.”

[D] Disciples go forth for Torah study without [the wife’s] consent for thirty days.

[E] Workers go out for one week.

[F] “The sexual duty of which the Torah speaks [Ex. 21:10]: (1) those without work [of independent means] – every day; (2) workers – twice a week; (3) ass-drivers – once a week; (4) camel-drivers – once in thirty days; (S) sailors – once in six months, “ the words of R. Eliezer.

[I:1 A] He who takes a vow not to have sexual relations with his wife –

[B] the House of Shammai say, “[He may remain married] for two weeks,

[C] “equivalent to the period of uncleanness after the birth of a female.”

[D] And the House of Hillel say, “One week,

[E] “equivalent to the period of uncleanness after the birth of a male,

[F] “and equivalent to the menstrual period” [T. Ket. 5:6A-F].

[II:1 A] Disciples go forth for Torah study without [the wife’s] consent for thirty days [M. 5:7D].

- [B] Lo, with their wives' consent, [they may go forth] even for any period of time.
- [II:2 A] R. Samuel bar Nahman in the name of R. Jonathan: ““And he sent them to Lebanon, ten thousand a month in relays; [they would be a month in Lebanon and two months at home]”” (1 Kings 5:14).
- [B] Said R. Abin, “The Holy One, blessed be he, preferred procreation over [30b] the building of the house of the sanctuary.”
- [C] *What is the scriptural basis for this opinion?*
- [D] “They would be a month in Lebanon and two months at home” (1 Kings 5:14).
- [E] Rab said, ““the divisions that came and went, month after month throughout the year”” (1 Chr. 27:1).
- [III:1 A] With reference to M. 5:7E, **Workers go out for one week**, as against M. 5:7F, **Workers, twice a week:**] Here you say once a week, and there you say twice a week?
- [B] *Bar Qappara taught*, “Workers go out to their usual labor without permission of their wives for a week at a time. [They have the right to vary from their normal procedure for a week. For any longer spell they must have the agreement of their wives.]”
- [IV:1 A] **The sexual duty of which the Torah speaks [M. 5:7F]:** *There are Tannaim who teach* [with reference to Ex. 21:10: “He shall not diminish her S’R, her clothing, and her ‘WNH,” with the words given in consonants translated at RSV: her food, her marital rights, respectively], that S’R refers to sexual relations, and ‘WNH refers to food. *And there are Tannaim who teach:* ‘WNH refers to sexual relations, [and] S’R refers to food.
- [B] *He who says that S’R refers to sexual relations* cites in evidence the following verse: “None of you shall approach anyone near (S’R) of kin to him to uncover nakedness” (Lev. 18:6). ‘WNH in the sense of food is found in the following verse: “And he humbled you and let you hunger and fed you with manna” (Deut. 8:3).
- [C] *He who says that S’R refers to food* cites in evidence the following verse: “He rained flesh (S’R) upon them like dust, winged birds like the sand of the seas” (Ps. 78:27). ‘WNH in the sense of sexual relations is seen in the following: “If you ill-treat (‘NH) my daughters, or if you take wives besides my daughters” (Gen. 31:50). This refers to sexual relations.

[D] *R. Eliezer b. Jacob interpreted the verse in this way: “Food and clothing [referred to at Ex. 21:10] means that the clothing should be in accord with her body, that he should not give what is suitable for a girl to an old woman, nor what is suitable for an old woman to a girl. ‘Her clothing and her marital rights’ – this means that the clothing should be appropriate to the season, so he should not give her summer clothes in the rainy season or clothes for the rainy season in the summer.”*

[E] *Now what is there to be said about food [since the verse is interpreted in such wise that the obligation to provide food is omitted]?*

[F] *Now if matters on which life does not depend the husband has not got the right to hold back from the wife, matters on which the life depends, is it not an argument a fortiori that he may not withhold such things from her?*

[G] *Now what is there to be said about marital rights?*

[H] *Now if matters on account of which she did not have to get married from the very outset he has not got the right to hold back from her, matters for which she got married to begin with, is it not an argument a fortiori [that he may not hold back such things from her]?*

[I] *It is from the present that Jacob, our father, sent to Esau, his brother, that R. Eliezer derived his lesson:*

[J] *“For he sent the gifts in an appropriate way: ‘Two hundred she-goats and twenty he-goats,’ – one to ten – ‘two hundred ewes and twenty rams,’ – one to ten – ‘thirty milch camels and their colts’” (Gen. 32:14-15).*

[K] *(Said R. Berekiah, “It is because the camel is modest when he has sexual relations that the Scripture did not mention him.”)*

[L] *“Forty cows and ten bulls,” – one to four, for they are workers – “twenty she-asses and ten he-asses” – one to two for they are workers (Gen. 32:15).*

[V:1 A] **[As to M. 5:7D, disciples, and M. 5:7F, those of independent means:]** *R. Jeremiah raised the question, “As to these disciples of sages, is it not reasonable that we should treat them as equivalent to those who have independent means [and have sexual relations every day]?”*

[B] *Said R. Mana, “Is it not yet more reasonable to treat them as equivalent to those who harvest crops [that is, very hard workers indeed], for they work harder [in their learning, than anyone else].”*

[V:2 A] Rab said, “[When M. 5:11 says that the wife] eats with him on Sabbath nights, the Mishnah uses a euphemism [for sexual relations].”

5:8

[A] **She who rebels against her husband [declining to perform wifely services [M. 5:6] –**

[B] **they deduct from her marriage contract seven denars a week.**

[C] **R. Judah says, “Seven tropaics.”**

[D] **How long does one continue to deduct?**

[E] **Until her entire marriage contract [has been voided].**

[F] **R. Yosé says, ‘He continues to deduct [even beyond the value of the marriage contract], for an inheritance may come [to her] from some other source, from which he will collect what is due him.’**

[G] **And so is the rule for the man who rebels against his wife [declining to do the husband ‘s duties (M. 5:5)] –**

[H] **they add three denars a week to her marriage contract.**

[I] **R. Judah says, “Three tropaics.”**

[I:1 A] *Here you state [that they deduct] seven [M. 5:8B], and there you state [that they add] three [M. 5:8H]!*

[B] *Said R. Yosé bar Haninah, “As to her, since she is obligated to him for seven [sorts of labor], he deducts from her marriage settlement seven, while in his case, since he is obligated to her for three [acts of labor], he adds three to her contract.”*

[C] *But take note of the following: If she brought slaves into the marriage [as specified above], she should not owe him a thing.*

[D] *Further take note of the case in which he stipulated with her that he will not owe her food, clothing, or marital relations – in such a case, lo, he should not owe her a thing!*

[E] *Why so [that there should be seven obligations for a woman, three for a man]?*

[F] *It is in line with what R. Yohanan said, “The anguish of a man is greater than that of a woman [in being deprived of wifely services].”*

[G] *There is a pertinent verse of Scripture:* “And when she pressed him hard with her words day after day, and urged him, [his soul was vexed to death]” (Judg. 16:16).

[H] What is the meaning of, “and urged him”?

[I] Said R. Isaac bar Eleazar, “She would pull herself out from under him.”

[J] “His soul was vexed to death,” but her soul was not vexed to death.

[K] And there are those who say that she found the necessary satisfaction with other men.

[L] All the more so that she desired sexual relations!

[M] [The rule under discussion is in line with what] R. Nahman said in the name of R. Nahman: “That certain organ – if she starves it, she makes it satisfied. The more she satisfies it, the more she makes it hungry” [cf. Jastrow, 2:1485].

[I:2 A] And in accord with the view of R. Eliezer, an ass driver [and the other professionals, who, according to Eliezer at M. 5:7, have different obligations to their wives, from whom they may be absent for brief periods], how much does he diminish [the marriage contract, when the wife rebels]?

[B] *Let us derive the answer from the following: R. Hiyya taught,* “[Even in the case of] a betrothed girl, a sick woman, a menstruating woman, and a deceased childless brother’s widow – they write for him a writ of rebellion as a charge against her marriage contract.”

[C] *Now how do we interpret this matter?* If it was a case in which she rebelled against him [refusing to have sexual relations], and she is already in her menstrual period, it is the Torah that has required her to rebel against him. *But thus must we interpret the matter:* It is a case in which she rebelled against him [refusing to have sexual relations] before her menstrual period had begun. Now [the argument continues], when in fact she comes to her menstrual period, she is no longer in a position to rebel, and yet you say that [nonetheless] he writes such a writ of rebellion against her marriage contract. Now, along these same lines [here in the case of an ass driver, etc.], one likewise deducts [the sum from her marriage settlement, even though, in point of fact, the husband bears no obligation to have sexual relations with her and is not going to do so. The fact that she has rebelled suffices to set in motion the process of reducing her marriage settlement.]

- [I:3 A] What does one deduct? Is it from the property she brought him into the marriage over and above the dowry?
- [B] *Let us derive the answer from the following: R. Yosé says, “He continues to deduct even beyond the value of the marriage contract, for an inheritance may come to her from some other source, from which he will collect what is due him “ [M. 5:8F]. It has stated only that he may collect from an inheritance, something that is not commonplace. That means that he may even deduct from the property she brought him into the marriage over and above the dowry.*
- [I:4 A] R. Zeira in the name of Samuel: “They write a writ of rebellion as a charge against the marriage contract in the case of a betrothed woman, but they do not write a rebellion as a charge against the marriage contract of a deceased childless brother’s widow.”
- [B] *And has not R. Hiyya taught: “Even in the case of a menstruating woman, a sick woman, a betrothed girl, and a deceased childless brother’s widow, they write a writ of rebellion as a charge against her marriage contract”?*
- [C] *The former statement [Hiyya’s] accords with the former version of the Mishnah, the latter [Samuel’s] accords with the final version of the Mishnah.*
- [D] Said R. Yosé bar Bun, “Even if you say that this, too, refers to the final version of the Mishnah, [Samuel’s statement applies to a case in which the levir wants to enter into levirate marriage. They do not force him to do so if he prefers to undergo the rite of removing the shoe. Hiyya’s statement speaks of a case in which the woman wants neither to enter into levirate marriage nor to undergo the rite of removing the shoe.]”
- [I:5 A] [In the Tosefta’s version:] **Our rabbis ordained that a court should warn her four or five consecutive weeks, twice a week.**
- [B] **[If she persists] any longer than that – even if her marriage contract is a hundred *maneh*, she has lost the whole thing [T. Ket. 5:7C-D].**
- [I:6 A] R. Haninah in the name of R. Ishmael b. R. Yosé: “She who goes forth because she has a bad name has no claim on indemnity [for the wear or ruin of things which she brought into the marriage along as her property]. She who rebels [and leaves the marriage on that count] does have such a claim.”

- [B] R. Simon in the name of R. Joshua b. Levi: “She who rebels and she who goes forth because of having a bad name have no claim either for support or for indemnity.”
- [C] Said R. Yosé, “In the case of those who write in the marriage settlement, ‘If he should hate,’ ‘If she should hate,’ [in which case there may be a provision contrary to that just now stated] – this is a stipulation concerning a monetary matter, and such a stipulation remains in effect [despite the circumstances of the breakup of the marriage].”

5:9

- [A] **He who maintains his wife by a third party may not provide for her less than two qabs of wheat or four qabs of barley [per week].**
- [B] (Said R. Yosé, “Only R. Ishmael ruled that barley may be given to her, for he was near Edom. “)
- [I:1 A] What is the meaning of “Near Edom”? It means in the South.

5:10

- [A] **And one pays over to her a half-qab of pulse, a half-log of oil, and a qab of dried figs or a maneh of fig cake.**
- [B] **And if he does not have it, he provides instead fruit of some other type.**
- [C] **And he gives her a bed, a cover, and a mat.**
- [D] **And he gives her a cap for her head, and a girdle for her loins, and shoes from one festival season to the next, and clothing worth fifty zuz from one year to the next.**
- [E] **And they do not give her either new ones in the sunny season or old ones in the rainy season.**
- [F] **But they provide for her clothing for fifty zuz in the rainy season, and she clothes herself with the remnants in the sunny season.**
- [G] **And the rags remain hers.**
- [I:1 A] Said R. Mana, “He gives her a *maneh* and four *litras*.”
- [B] [In the Tosefta’s version:] **He gives her a cup, a plate, a bowl, an oil cruse, a lamp, and a wick.**
- [C] **She has no claim for wine, for the wives of the poor do not drink wine.**

[D] She has no claim for a pillow, for the wives of the poor do not sleep on pillows [T. Ket. 5:8E-F].

[I:2 A] R. Hiyya in the name of R. Yohanan, “[If] she had food left over, it goes back to the husband. If she had remnants left over [M. 5:10F, they belong to her.”

[B] That which you have said applies to a married woman. But as to a widow, whether she had food or remnants left over, they belong to her.

5:11

[A] He gives her in addition a silver maah [a sixth of a denar] for her needs [per week].

[B] And she “eats” with him on the Sabbath at night.

[C] And if he does not give her a silver coin for her needs, the fruit of her labor belongs to her.

[D] And how much work does she do for him?

[E] The weight of the five selas of warp must she spin for him in Judea (which is ten selas weight in Galilee), or the weight of ten selas of wool in Judah (which are twenty selas in Galilee).

[F] And if she was feeding a child, they take off [the required weight of wool which she must spin as] the fruit of her labor, and they provide more food for her.

[G] Under what circumstances?

[H] In the case of the most poverty-stricken man in Israel.

[I] But in the case of a weightier person, all follows the extent of his capacity [to support his wife].

[I:1 A] [As to M. 5:11B,] the matter is expressed in a euphemism [and refers in fact to sexual relations].

[B] Simeon b. Ba in the name of R. Yohanan: “It refers to eating literally.”

[C] *In the view of Rab [that M. 5:11B refers to sexual relations], in any event all week long she eats with him [so the Mishnah cannot refer to that fact and must have a euphemistic intent].*

[D] *In the view of R. Yohanan she eats by herself [and hence the meaning is eating literally].*

[I:2 A] She has no claim for wine, for the wives of the poor do not drink wine [T. Ket. 5:8E].

[B] And do the rich ones drink wine?

[C] [Indeed so.] *For lo, it has been taught:* There was the case of Marta, daughter of Boethus, for whom the sages decreed a portion of two *seahs* of wine every day.

[D] And does a court make provision for wine?

[E] [Surely not], for R. Hiyya b. Ada said, “It is on the count of the following verse: ‘Wine and new wine take away the understanding’” (Hos. 4:11).

[F] Yet, lo, we have learned, **And if she was feeding a child, they take off the required weight of wool which she must spin as the fruit of her labor and they provide more food for her** [M. 5:11F].

[G] What do they add? R. Joshua b. Levi said, “Wine, for it makes one fatter.”

[H] R. Hezekiah, R. Abbahu in the name of R. Yohanan, “Also as to cooked food for her have they made provision.”

[I:3 A] Even so, [Marta] cursed them and said to them, “Thus may you award for your own daughters” [T. Ket. 5:9D].

[B] Said R. Aha, “And they answered after her, ‘Amen.’”

[C] Said R. Eleazar bar Sadoq, [30c] “May I not see comfort, if I did not see her picking out pieces of barley from under the hooves of horses in Akko. And concerning her I pronounced the following verse of Scripture: ‘If you do not know, O most beautiful of women, follow in the tracks of the flock, and pasture your kids beside the shepherds’ tents” (Song 1:8).

[D] *And has it not been taught:* **There is a case involving Miriam, daughter of Simeon b. Gurion, to whom the sages awarded five hundred golden denars daily for a cup of spices, and she was only a sister-in-law awaiting levirate marriage.**

[E] **But she cursed [the settlement] and said, “So may you award for your own daughters!”**

[F] Said R. Leazar b. R. Sadoq, “May I not see comfort, if I did not see her picking out pieces of barley from under the hoofs of horses in Akko.

[G] “Concerning her I pronounced the following Scripture, ‘If you do not know, O most beautiful of women’” (Song 1:8) [T. Ket. 5:9C-D, 5:10].

YERUSHALMI KETUBOT

CHAPTER SIX

6:1

[A] What a wife finds and the fruit of her labor go to her husband [M. 4:4] –

[B] And as to what comes to her as an inheritance, he has use of the return while she is alive.

[C] [Payments made for] shaming her or injuring her are hers.

[D] R. Judah b. Beterah says, “When [an injury] is done to a hidden [part of her body], to her go two shares, and to him one.

[E] “When [an injury is done] to a part of her body which shows, to him go two shares, and to her one.

[F] “His is paid over forthwith. But with hers, let real estate be purchased, and he [the husband] has the use of the return [on it while she is alive].”

[I:1 A] *R. Hezekiah in the name of R. Immi: “R. Yohanan and R. Simeon b. Laqish debated the matter. One of them said that [the rule of M. 6:1A that what the wife finds goes to her husband] represents the opinion of all parties. The other holds that the matter is subject to [the same] dispute [as was reported above, at M. 5:5, between Meir and Yohanan Hassandlar, with the former alone standing behind the assignment of what the woman finds to the husband].*

[B] *“Now I do not know which of the two parties maintains the one view, and which the other.”*

[C] *It is reasonable to suppose that R. Simeon b. Laqish is the one who has said that the rule is subject to dispute [just as much as the one at M. 5:5]. For he interpreted the earlier discussion as applying to a case in which the husband supplies the wife with her food but does not give an additional silver coin weekly for her private needs. And we have learned, **If he does not give her a silver coin for her needs, the fruit of her labor belongs to her***

[M. 5:11C]. Now the fruit of her labor is equivalent to something which she finds. [Accordingly, Simeon b. Laqish sees M. 6:1's rule as subject to dispute.]

[D] R. Jacob bar Immi in the name of R. Simeon b. Laqish came [and said], "The rule represents the opinion of both parties."

[E] *Then there are diverse reports of the opinions of R. Simeon b. Laqish!*

[I:2 A] [As to the ruling that what comes to the wife as an inheritance is invested, with the husband's enjoying the return while he is alive, M. 6:1B], from whose viewpoint is such a ruling required?

[B] *It is important from the viewpoint of R. Meir. Even though R. Meir treats the hand of the slave as the hand of his master [and the hand of the wife as the hand of the husband], so that if the woman has taken possession of something, her husband automatically has done so, he concurs that the husband has a claim on her [possessions] for the usufruct alone.*

[I:3 A] [We turn to a discussion of M. B.M. 1:5, asking what is the difference between the first and second parts of that text.] *We learned there [M. B.M. 1:5A]: Things which are found by one's minor son or daughter, things which are found by his Canaanite slave boy or slave girl, things found by his wife – lo, they belong to him, since he is able to change them [from the work they are doing] to some other kind of work.*

[B] *What is the reason that they say [in M. B.M. 1:5B]: Things found by his adult son or daughter, things found by his Hebrew slave boy or slave girl – lo, they belong to them, for he is not able to change them [from the work they are doing] to some other kind of work.*

[C] *They objected: "Lo, there is his wife [also]. [Lo] he is not able to change her [from her agreed-upon labor] to some other kind of work, and yet you say [M. B.M. 1:5A] that what she finds belongs to him?"*

[D] Said R. Yohanan, "Another reason applies to the wife."

[E] What is the other reason that applies to the wife?

[F] R. Haggai said, "It is [to avoid] strife."

[G] R. Yosé says, "It is said thus only that the wife should not swipe her husband's goods and claim, "I have found a lost object.'"

[H] Take note of the case in which someone else gave her a gift. [Could she not claim equally well that property she has taken from her husband and claimed as her own in fact is a gift? Why have sages accomplished a thing in declaring that what a wife finds belongs to her husband, so as to protect the husband's property?]

[I] If it is a gift, people will hear about it [while with reference to what she finds, people will not hear about it].

[G] *They objected*: “What if it is before witnesses [that she finds the object]? [That is also going to be known, just as is the gift.]”

[K] They prohibited her keeping what she finds before witnesses, because of what she finds not before witnesses.

[L] Said R. Yohanan, “[The rule that things found by his son or daughter belong to them] applies when they are not dependent on him. But if they were dependent on their father, things which they find belong to him.”

[I:4 A] *R. Isaac taught, “He who divorces his wife and has not paid off the whole of her marriage settlement must provide her with maintenance until the time that he pays it off fully.”*

[I:5 A] *As to the distinction of M. 6:1D-F,] R. Redipah, R. Aha in the name of R. Bun bar Kahana: “[The reason that we distinguish between injuries which show and injuries which do not is that when the injury is done] in private, it does not shame her [so much, and hence she gets the larger part].”*

[B] And why does he collect any part at all?

[C] It is because of his pain, which he feels on her account.

6:2

[A] He who agrees to pay over money [as a dowry] to his son-in-law, and his son-in-law dies –

[B] sages have said, “He can claim, ‘To your brother was I willing to give [money], but to you [the levir] I am not willing to give money.’”

[I:1 A] [Do we not deal] with things which are acquired through a verbal donation? [Did not the deceased acquire these objects when the father-in-law promised them, as Giddul says at Y. 5: 1/II? Accordingly, the

deceased's surviving brother, the levir, should be able to collect the dowry in court.]

[B] *Bar Qappara taught*, “[The father] agrees to pay over these funds on condition that the marriage actually be consummated.”

[I:2 A] *And so*: He who agrees to give money to his minor daughter – they force him to pay it over.

[B] Lo, if it was to an adult daughter, that is not the case.

[C] Said R. Abun, “They force [the husband] to hand over a writ of divorce.”

6:3

[A] **[If a woman] agreed to bring into [the marriage for] him a thousand denars [ten manehs],**

[B] **he [the husband] agrees [to pay over in her marriage contract] fifteen manehs over against this.**

[C] **And over against the goods [which she agreed to bring in,] estimated [to be a given value], he agrees [to restore, as a condition of her marriage contract,] a fifth less.**

[D] **[That is, if] the estimated value [to be inscribed in the marriage contract] is a maneh, and the actual value is [specified at] a maneh, he has [value] only for one maneh [and not a fifth more in value].**

[E] **[If] the estimated value [to be inscribed in the marriage contract] is a maneh [but not specified at a maneh, as at D], she must give over thirty-one selas and a denar [= 125 denars in value of goods].**

[F] **And [if the value to be written into the marriage contract is to be] four hundred, she must give over five hundred.**

[G] **What the husband agrees [to have inscribed in the marriage contract] he agrees to, less a fifth.**

[I:1 A] Why did [sages] rule that in the case of ready cash, [the husband pays over] one and a half times [what is paid in], while in the case of the estimated value of goods, [he pledges to pay back the stated sum] less a fifth?

[B] Said R. Yosé b. Hanina, “They take account of the attitude of a woman, who wishes to make full and ample use of her utensils, and, consequently, [agrees to] diminish their value by a fifth [for the goods are given over to the husband]. [Sages have provided for the deduction, so that he will agree to let her use them up.]

[C] “They take account of the attitude of a man, who wishes [30d] to do business with the ready cash, and consequently agrees to evaluate the capital at one and a half times its actual sum.”

[D] Said R. Yosé, “That is to say [B] that a man has not got the right to sell off his wife’s utensils [since she has already agreed to deduct a fifth of their value in the marriage settlement].”

[E] *It happened that R. Hiyya, R. Yosa, R. Immi went up to make an estimate of the goods of the daughter of R. Yosé b. Haninah. They said to [the groom] to deduct a fifth of the value of the goods and to add double [50 percent] of the value of the ready cash.*

[F] He said to them that he would indeed deduct a fifth, but he would not add twice [the value of the ready cash]. [He did not plan to utilize the capital and so had no reason to agree to this arrangement.]

[I:2 A] Simeon bar Abba in the name of R. Yohanan: “If she brought into the marriage gold specie, it is evaluated at its full value.”

[B] *And so it has been taught:* If she brought ornaments to be made into coin, they are evaluated at one and a half times full value.

[C] If he brought coins to be made into ornaments, they are evaluated at face value.

[I:3 A] *R. Aha bar Papa raised the question before R. Immi, “If she brought into the marriage a domesticated beast, [is it treated as ready cash or as utensils]?”*

[B] He said to him, “It is written down at face value.”

[C] “If she brought into the marriage real estate?”

[D] He said to him, “It is written into the marriage settlement at face value.

[E] “And does not the husband make money off of it?”

[F] “And does he collect from real estate? He has a right only to the usufruct [on which account there is no presumption that he will make much money from the real property, as distinct from capital].”

6:4

[A] [If] she agreed to bring in to him ready money, a silver sela is treated as six denars [instead of four].

[B] The husband takes upon himself [responsibility to give] ten denars for pocket money in exchange for each and every maneh [which she brings in].

[C] Rabban Simeon b. Gamaliel says, “All follows the local custom. “

[I:1 A] If she agreed to bring into the marriage goods estimated in value to be worth five hundred *denars*, and he had the right to write them into the marriage contract at a value of four hundred, but he did not do so, but rather wrote them in at a value of a thousand denars,

[B] if she made her own stipulation [did what she agreed to do], she takes what she wrote over to him [Y.: all of it].

[C] And if not, he takes off three [Y.: five] denars for each and every sela [written into the contract]. [By paying five denars per sela, he produces four hundred denars, which is what she has coming to her, since a hundred selas are worth four hundred denars. But the woman does not collect any part of the additional sum, up to the thousand.]

[D] But he may not touch the additional sum.

[E] [If] she agreed to bring into him five hundred denars in ready money, [and] he wrote over to her a thousand denars [Y.: 750] in her marriage contract,

[F] if she made her own stipulation, she takes what he wrote over to her [Y.: all of it].

[G] And if not, he takes off six denars for each and every sela [written into the contract].

[H] But he may not touch the additional sum.

[I] If she agreed to bring into the marriage a thousand zuz, he has to write them into the marriage settlement at the value of fifteen maneh.

[J] If he did not do so, but rather he wrote over to her a field worth twelve manehs,

[K] if she made her own stipulation, she takes what he wrote over to her [Y.: all of it].

[L] And if not, he should not pay less to a virgin than two hundred zuz and a widow a maneh [T. Ket. 6:6E-M].

[M] *Here [at the cases above], you say that he deducts [from what he has promised], while at this final case, you say that he does not deduct [from what he promised, but he pays the required sums, L].*

[N] In the one case she has neglected part of her stipulation [of what she agreed to do], and in the other, she has not neglected part of her stipulation [of what she agreed to do].

[O] *In the one case you have said that he touches the additional sum, and in the other case you have said that he does not touch the additional sum. [We note that in the third case, there is no statement parallel to D and H.]*

[P] In the former cases he has added and not diminished, in the latter case he has diminished and not added. [Cf. PM.]

[I:2 A] *It has been taught:* Whether we deal with the estimated value of goods or with the face value of ready cash –

[B] As to the estimated value of goods? It is in accord with the diminished value [of the goods, through usage, that the sum to be entered into the marriage settlement is reached].

[C] [As to the face value of ready cash?] It is in accord with the increased value [of the cash, in business].

[D] [It then is in accord] with what the woman brings in to the marriage.

[II:1 A] [As to M. 6:4B, the husband] **gives ten denars for pocket money in exchange for every maneh she brings in:**

[B] Said R. Yohanan, “They have treated the value of the enjoyment of the pocket money as equivalent to the value of the utilization of the ready cash. [That is, just as we deal in a fixed proportion in the case of her bringing in ready cash, so we deal in a fixed proportion here. Yohanan explains the Mishnah’s rule.]”

[C] R. Abin said, “They treated the value of procreation as equivalent to the value of the utilization of the ready cash.” [Disagreeing with Yohanan, Abin maintains that all follows the agreement between the parties, and not a fixed ratio of money. Cf. PM.]

[III:1 A] [M. 6:4C] *is in line with the following: Disciples of R. Yosé went up to the town of Qadashin. They found a couple that was childless. They said to them, “Did you stipulate among yourselves? If you stipulated among yourselves [how the settlement was to be worked out, on the occasion of a divorce, if you were to remain childless,] well and good. And if not, all follows the local custom.”*

6:5

[A] He who marries off his daughter without specified conditions should not assign to her less than fifty zuz.

[B] [If] he agreed to bring her in naked, the husband may not say, “When I shall bring her into my house, I shall cover her with a garment belonging to me.”

[C] But he clothes her while she is still in her father’s house.

[D] And so: He who marries off an orphan girl should not assign to her less than fifty zuz.

[E] If there is sufficient money in the fund, they provide her with a dowry according to the honor due her.

[I:1 A] *R. Abba Mari, brother of R. Yosé, asked, “Has it not been taught: [Y.: how do we know that he who married off his daughter and agreed with his son-in-law that she should stand naked, and the [son-in-law] should clothe her, they do not say, ‘Let her stand naked and have him clothe her,’ but he covers her in a manner fitting to her [T. Ket. 6:7]? [The question is, why has the Mishnah made the point, M. 6:5B, the husband does have to carry out the stipulation, while in the cited passage of the Tosefta, he does not?]”*

[B] *There they used the language people use [even though it is not meant literally]. [In the Mishnah the husband has undertaken to provide the clothing, and he has to do so in proper garments.] For a man may say, “It is easier for me to have her stand naked, and I shall clothe my wife.” But in the present case [of the Mishnah’s version of the law], it was for this purpose that he made the stipulation to begin with.*

[II:1 A] *And as to the meaning of the Mishnah: **And so, he who marries off an orphan girl [M. 6:5D]:***

[B] Said R. Hinena, “That is to say that they instruct the administrators of charity funds to borrow money [for the stated purpose of supplying at least fifty zuz to the orphan girl].”

[C] *For he interprets the Mishnah passage to speak of a case in which the fund does not contain sufficient money. Hence they borrow up to the necessary fifty zuz.*

[D] But if the fund contains adequate money, they add [a dowry according to the honor due to her].

[E] Said R. Yosé, “That is to say that they do not instruct the administrators of charity funds to borrow money.”

[F] *For he interprets the Mishnah passage to speak of a case in which the fund does contain sufficient money.*

[G] *But if the fund does not have sufficient money, they provide less than the stated amount.*

[H] *There was the case of a girl who came in the time of R. Ammi. He told her [that she could not have money at that time, since] he had to leave money over [for the poor] for the festival.*

[I] *Said to him R. Zeira, “You are causing a loss to her. But let her take what is in the pot. The Master of the festival is yet alive [God, who will yet provide].”*

[J] *Now what R. Hanina said accords with the view of R. Zeira [B = I], and the opinion of R. Yosé accords with the principle of R. Ammi [E = H]. [Yosé takes account of the needs of the poor, as Ammi takes account of the needs of the poor in the festival].*

6:6

[A] An orphan girl [lacking a father], whose mother or brothers married her off [even] with her consent,

[B] for whom they wrote over as her portion a hundred zuz or fifty zuz,

[C] when she grows up, can exact from them what should rightly have been given to her [out of her father’s estate].

[D] R. Judah says, “If a man had married off his first daughter, to the second should be given [a dowry] along the lines of that which he had given to the first.”

[E] And sages say, “Sometimes a man is poor and then gets rich, or is rich, and then grows poor.

[F] “But they estimate the value of the property and give to her [her share].”

[I:1 A] *[As to M. 6:6D, the meaning of the Mishnah statement] is this: If he had married off his first daughter [while he was alive], then let [to the second a dowry] be given [along the lines of that which he had given to the first].*

[B] *The view of the sages [M. 6:6E] is that sometimes a man marries off his daughter and gives her money on her account, and sometimes he marries off his daughter and collects money on her account.*

- [I:2 A] *R. Zeira asked R. Nahman bar Jacob and R. Ammi bar Papi, “Who is the Tannaite authority who stands by the view that a tenth of the man’s possessions [are assigned to his daughter for her dowry]?”*
- [B] Said to him R. Zeira in the name of R. Jeremiah, “The requirement of giving a tenth of one’s possessions accords with the view of Rabbi.”
- [C] *They asked before Rabbi, “Lo, if there were ten daughters and one son, if the first should take a tenth of the property of the father, and the second a tenth, and the third, fourth, fifth, and so through the tenth, then nothing at all will be left for the son!”*
- [D] He said to them, “The first takes a tenth of the property and leaves. The second takes her tenth of the property from what is left. The third takes her tenth from what is left. The fourth takes her tenth from what is left – onward to the tenth. It turns out that the daughters take two shares less a mite, and the son takes one share and a mite more.”
- [E] Lo, if there were two daughters and one son, and the first took a tenth of the father’s property, and the second did not suffice to take her tenth of the property before the son died,
- [F] *R. Haninah contemplated ruling, “The second one takes a tenth of the property, and as to the rest, the two daughters divide it up evenly.”*
- [G] *Said to him R. Yohanan, “In the former case [when the daughter took her share first, prior to the death of the son], it was a case in which there was not sufficient [property for supporting her]. But now [that the son has died], let what remains be sold, and let her derive her support from the proceeds.”*
- [H] *R. Tabi in the name of R. Josiah: “The reason for the view of R. Haninah is this: If she may collect what is owing to her from property which has been mortgaged [to third parties], all the more so that she may collect from what is before her [and readily available, not being indentured].”*
- [I] *R. Yohanan is consistent with views of his expressed elsewhere.*
- [J] [What is the law as to collecting support for daughters for a dowry from indentured property when there is a fixed value assigned to the dowry? That is, after the father died, the brothers took the property and mortgaged it. May the daughters collect their dowry from this mortgaged property, retrieving it for that purpose from the possession of the purchaser?] Said R.

Zeira, “R. Yohanan would not permit collection [under such circumstances].”

[K] *Who orders collection [of the dowry from the mortgaged property]? R. Haninah [and R. Ilai] do so.*

[L] *R. Yosa was trustee for the estate of orphans, and some of the daughters sought support [for their weddings]. The case came before R. Eleazar and R. Simeon b. Yaqim. Ruled R. Simeon b. Yaqim, “Is it not better that they should be supported from the property of their father, and not from public charity?”*

[M] Said to him R. Eleazar, “If such a matter should come before our rabbis, though, they would not touch it. Shall we then decide a practical case in this way? [That is, they are not sure of the law.]”

[N] *Said to R. Yosé, “I shall provide for them, and if the [male] orphans should come and complain, I shall provide for them, too, [by retrieving from the girls and giving to the boys].”*

[O] *Even so, the heirs knew about the decision and entered no complaint.*

[P] *R. Zeira asked before R. Yosé, “How do they decide a practical case?”*

[Q] He said to him, “In accord with the view of R. Haninah [K].”

[R] *So the case came from court, decided in accord with the view of R. Haninah.*

[S] [Disagreeing with this position, said] R. Abun in the name of R. Hela: “They regard the property as if it were destroyed [and totally unavailable, and they do not collect from it for the present purpose].”

6:7

[A] **“He who appoints a third party to oversee money for his daughter, and she says, ‘My [betrothed] husband is trustworthy for me’ –**

[B] **“the third party [nonetheless] should carry out what has been assigned to his trust,” the words of R. Meir.**

- [C] **R. Yosé says, “And if it is only a field, and she wants to sell it off, lo, it is sold off from this moment!**
- [D] **“In what circumstances?**
- [E] **“In the case of an adult.**
- [F] **“But in the case of a minor – the deed of a minor is null.”**
- [I:1 A] *The Mishnah speaks of an agreement made at the stage of betrothal [in which case the husband has not yet effected possession of what is coming to the wife].*
- [B] **But at the stage of a fully consummated marriage, also R. Meir concurs [that the guardian should accede to the daughter’s wishes, since the husband in any event enjoys the usufruct of the property] .**
- [C] [If] the father appointed the guardian after the marriage was fully consummated, [here, too,] there is a dispute [between Yosé and Meir]. [As it stands, this statement contradicts A-B.]
- [I:2 A] **He who says, “Give over a *shekel* from my property to my children for their maintenance for a week,” but they are supposed to take a *sela* – they give over to them a *sela*.**
- [B] **But if he said, “Give them only a *shekel*,” they give them only a *shekel*.**
- [C] [Tosefta adds:] **If he said, “If they die, let others inherit from me,” whether he said, “Give,” and whether he did not say, “Give,” they give over to them only a *shekel*.**
- [D] **As to food for the widow and the daughters, whether he said, “Give,” or said, “Do not give,” they give to them a *sela* [Y.: a *shekel*].**
- [E] **Rabban Simeon b. Gamaliel says, “Meir did say, ‘He who says, “Give a *shekel* from my property to my children for a week,” but they are supposed to take a *sela* – they give over to them a *shekel*. And as to the rest of their needs, they are supported from the charity fund.’”**
- [F] **But sages say, “They continue to derive support [31a] [from his estate] until the property is all gone. Only afterward are they supported by the charity fund” [T. Ket. 6:10].**
- [G] *Said R. Yosé, “On the basis of this passage, an answer was found for the question of Hilpi.”*
- [H] *For he had said, “I shall sit myself down here at the side of the canal. Whoever asks me a teaching of R. Hiyya the Elder, which I cannot*

square with what is stated in the Mishnah, may throw me into the canal!” [Lacking here is the citation of A-C, above. It is assumed that A-B indicate that the instructions of the dying man are not carried out, A, but interpreted by the executor. At C, by contrast, they are carried out.] Now what does it say? Let the guardian carry out his trust. [This is Meir’s view, who holds that one must carry out the instructions of the dying man, just as at M. 6:7B.]”

[I] **If he said, “If they die, let others inherit from me”** [above, C]: [now with regard to the use of the language of inheritance,] did not R. Abbahu state in the name of R. Yohanan, “In all modes of language does a man transfer ownership to another party except for the language of inheritance [which can be used only with reference to someone who falls in the line of inheritance]? [Accordingly, this usage is curious.]”

[J] *We should have here not the language, “inheritance,” but merely, “take” [“receive”].*

[K] [*Finding this reply out of context,*] R. Zeira asked before R. Mana, “But is the dispute here with regard to a gift? [We deal, II.C, with inheritance, not donation.]”

[L] *There indeed is a dispute.*

[M] If one deeded all his property to two men simultaneously,

[N] if he deeded to this one in the language of a gift, and to that one in the language of an inheritance –

[O] Said R. Eleazar, “Since this one has effected ownership with a deed using the language of a gift, the other one also has acquired ownership with a deed using the language of inheritance.”

[P] Said R. Yohanan, “It would rather appear that in the case of the deed written in the language of a gift, the donee has acquired ownership, while in the case of the deed written in the language of inheritance, he has not acquired ownership.”

[Q] *Said R. Phineas, “A case came before R. Jeremiah. [He ruled,] ‘Since R. Eleazar spoke in the language of instruction, while R. Yohanan expressed his view using the language of surmise, the law accords with the view of R. Eleazar.’”*

[R] Said R. Samuel, “Did not R. Meir state [the rule]? [But sages differ from his view.] And is it not so that [to sages, matters] do not appear [to accord with Meir’s view, which is why Yohanan used the formulation he did]?”

[S] But does that matter? [In any case, as we shall now see, the view of Yohanan in a quite separate case is set aside on account of the opinion, in the Mishnah, of Meir. We shall have another case in which the view of Yohanan is rejected as to the decision of law.] For did not R. Yosa say in the name of R. Yohanan, “Wool of a firstling [prohibited for benefit] which one hackled [with wool from another sheep, not subject to such a prohibition] is treated as null by reason of its being only a small part of the final mixture of wool.”

[T] *Now R. Hiyya of Sepphoris brought for a decision to the attention of R. Immi the case of the mixture of a litra of wool from a sheep which was a firstling, along with eight litras of permitted wool, and R. Immi did not decide the case [in accord with Yohanan’s view, that is, he did not permit the mixture of prohibited and permitted wool].*

[U] *For R. Yosa said, “Is it not an explicit teaching of the Mishnah: **He who wove into a garment one sit’s length of wool from a firstling – the garment is to be burned. If he wove into a sack the hair of a Nazirite or the hair of a first-born of an ass, the sack must be burned [M. Orl. 3:3]?”*** [There is no question that the prohibited part of the fabric is not deemed nullified by the much larger, permitted part. Accordingly, the principle cited by Yohanan contradicts the direct statement of the Mishnah. Now the important side here is that the cited passage of the Mishnah elsewhere is assigned to Meir. So we have a case in which Immi did not wish to decide the law in accord with Yohanan’s opinion, because the Mishnah passage assigned to Meir was available. Here, too, Meir maintains that the language of a donation serves to validate the ordinarily inappropriate language of inheritance. Even though Yohanan holds that the matter does not appear to be valid, his view is then set aside.]

[V] [With reference to M. B.B. 8:4E-J: **He who divides his estate among his sons by verbal donation, giving a larger portion to one and a smaller portion to another, or who treated the first-born [merely] as equivalent to all the others – his statement is valid. But if he had said, “By reason of an inheritance [the aforesaid arrangements are made,]” he has said nothing whatsoever. If he had written, whether at the beginning middle or the end that these things are handed over as a gift, his statement is valid.**] *Now this passage differs from the view of Yohanan.* For in the present

instance we have the language both of donation and of inheritance, and the former's use validates the latter's, even though, under ordinary circumstances, an inheritance in violation of the law of the Torah is null.]

[W] [Yohanan replied,] "There [where the arrangement is *not* valid, we have a case in which] he addressed one in the language of donation and the other in the language of inheritance. But here [where it is valid] to each participant in the estate he makes use of the language of donation, and to each also, of the language of inheritance. [So there is a viable distinction between the cited passage of the Mishnah and the case to which Yohanan made reference above.]"

[II:1 A] [*With reference to M. 6:7C-F, in which case Yosé permits the field to go to the husband,]* R. Haggai asked before R. Yosé, "And is this not a case in which he imposes a disadvantage on another party? [If the field goes to the husband, the brothers of the woman cannot get it back. If it remains in the hands of the guardian, they can. Accordingly, this is a disadvantage to the brothers of the wife.]"

[B] He said to him, "[The rule of Yosé applies] when there are no brothers."

[C] And does he not then impose a disadvantage on the brothers of the father [for the same reason as given above]?

[D] R. Hananiah, son of R. Hillel [replied], "[The father] is more interested in the good order of his own household [meaning, of his daughter] than in that of his relatives."

YERUSHALMI KETUBOT

CHAPTER SEVEN

7:1

[A] [31b] He who prohibits his wife by vow from deriving benefit from him

[B] for a period of thirty days appoints an agent to provide for her.

[C] [If the effects of the vow are not nullified] for a longer period, he puts her away and pays off her marriage contract.

[D] R. Judah says, “In the case of an Israelite, for [a vow lasting] one month he may continue in the marriage, but for two [or more], he must put her away and pay off her marriage contract.

[E] “But in the case of a priest, for two months he may continue in the marriage, and after three he must put her away and pay off her marriage contract.”

[I:1 A] *There [at M. 5:7] we have learned: He who takes a vow not to have sexual relations with his wife – the House of Shammai say, “He may allow this situation to continue for two weeks.” And the House of Hillel say, “For one week.”* And here do you say this [that the situation may last for thirty days]?

[B] There we deal with a case in which he prohibits her by vow from deriving benefit from his body, while here he prohibits her by vow from deriving benefit from his property.

[I:2 A] [Since the support of the wife is an established obligation,] now may a man take a vow against paying his debt?

[B] Said R. Yosé b. Haninah, “Since he has the power in the future to divorce her and to pay off her marriage settlement and so to diminish the matter of her support, it is as if he is not subject to a debt.”

[C] [But if that is the operative consideration, then why place a limit of thirty days on the matter?] Let her sit and wait [for any length of time]

and if he divorces her, lo, well and good, and if not, then let him provide food for her [through a third party].

[D] *[The rule accords, rather, with the] view of him who said, “The maintenance of a wife does not derive from the laws of the Torah [but rather from a decree of the scribes] . “ [Consequently the vow is valid, since it does not contradict a long-standing obligation. The situation continues for a period so that a remission from the vow may be sought. If none is forthcoming, then the divorce must follow.]*

[E] *This accords with what is taught: **A court does not impose an obligation for food for a woman out of the proceeds of produce of the Seventh Year** [since this would appear to be paying a debt out of such produce], **but she is maintained by her husband in the Seventh Year** [T. Sheb. 5:22], [since he is not obligated to her on the basis of the law of the Torah, so it is not as if he is paying a debt out of the produce of the Seventh Year].*

[F] But why not treat her as a worker whose labor is not worth even a *perutah* [who may be paid out of produce of the Seventh Year]?

[G] *This indicates that they do not treat her as a worker whose labor is not worth a *perutah* [since what is owing is far more].*

[I:3 A] And why may he not appoint an agent [for a longer period]? *For it is stated: **[He who is forbidden by vow from deriving benefit from his fellow and has nothing to eat – the fellow goes to a storekeeper and says,] “Mr. So-and-so is forbidden by vow from deriving benefit from me, and I don’t know what I can do about it”** [M. Ned. 4:7A-B].* So he may appoint an agent [as in that case].

[B] [The reason that this arrangement is not acceptable is that] a woman has the right to say, “I do not wish to be supported by someone else but only by my husband.”

[C] *And have we not learned, **He who maintains his wife by a third party** [M. 5:9A]? [This indicates that such an arrangement is permissible.]*

[D] That rule speaks of a case in which the woman agreed to the arrangement, while this rule speaks of a case in which the woman did not agree to the arrangement.

[E] *If it is a case in which the woman did not agree to the arrangement, then even for a single day he should not have the right to set up an agent.*

[F] *They extend the period for him for thirty days, since during that time he may find a way of getting out of his vow [through the remission of a sage].*

[I:4 A] [Approaching the matter from an entirely fresh perspective,] Samuel said, “We deal with a case in which he imposes the oath for a period of thirty days [only]. But if he imposed the oath forever, then forthwith must he divorce her and pay off her marriage settlement. [So ‘thirty days’ belongs at M. 7:1A.]”

[B] R. Zeira, R. Abina in the name of Rab: “And even if he imposed the oath forever, nonetheless they extend the period of him for thirty days, so that during that time he may find a way of getting out of his vow. [So ‘thirty days’ belongs in B.]”

[C] *There are Tannaim who repeat the language of the Mishnah: “Thirty days [he appoints an agent to provide for her].”*

[D] *There are Tannaim who repeat the language of the Mishnah: “[For a period of] up to thirty days.”*

[E] *He who said, “Thirty days” supports the view of Rab, and he who says, “Up to thirty days,” supports the position of Samuel.*

[I:5 A] R. Yosé says, “It is in the case of a woman of the priestly cast that they are in dispute. [The issue is not how we read the language, ‘thirty days.’ If that were the case, then Judah’s statement at D in no way differs from what has gone before. Rather, all parties deal with the beginning of the thirty day period. The point of M. 7:1A-C is that at the beginning of the month beyond the thirty-day period, one divorces the wife and pays off the marriage settlement. There is no distinction between an Israelite and a priestly wife. Judah then maintains that in the case of the Israelite woman, that is so. But in the case of a priestly woman, for two months he preserves the marriage. At the beginning of the third, he pays off the marriage settlement. This is expressed in what follows.] **For a longer period he puts her away and pays off her marriage contract [refers to] the end of the second month [both for the priestly wife and for the Israelite one]. R. Judah says, ‘In the case of an Israelite, for a vow lasting one month he may continue in the marriage, but for two he must put her away and pay off her marriage contract – at the end of two months. And in the case of a priest, for two months he may continue in the marriage, and after three he must put her away and pay off her marriage contract – at the beginning of the third month.’”**

- [B] *Now there is a Tannaitic teaching which differs [from Yosé's view]:* **“at the end of three months,”** the words of R. Meir [T. Ket. 7:1].
- [C] *R. Mana said to him [Yosé], “Now in a case in which the Tannaite authority does not present a dispute, will you treat the matter as if there is a dispute? Rather [interpret the matter more simply]. They dispute in the case of an Israelite. For a longer period, he puts her away and pays off her marriage contract deals with the beginning of the second month. R. Judah says, ‘In the case of an Israelite, for a vow lasting one month he may continue in the marriage, but for two he must put her away and pay off her marriage contract – at the beginning of the second month. And in the case of a priest for two months he may continue in the marriage, and after three he must put her away and pay off her marriage contract – at the end of the third month.’”*
- [D] *And so it has been taught:* “At the end of the third month,” the words of all parties.

7:2

- [A] **He who prohibits his wife by vow from tasting any single kind of produce whatsoever**
- [B] **must put her away and pay of her marriage contract.**
- [C] **R. Judah says, “In the case of an Israelite, [if the vow is] for one day he may persist in the marriage, but [if it is] for two he must put her away and pay off her marriage contract.**
- [D] **“And in the case of a priest, [if it is] for two days he may persist in the marriage, but [if it is] for three he must put her away and pay off her marriage contract.”**
- [I:1 A] *And can a man impose a vow on his fellow while he is alive?*
- [B] *But we deal with a case in which he said to her, “If you eat such-and-such a thing, you will be forbidden to derive benefit from his [my] property.”*
- [C] *Then, if she ate that thing, she will be forbidden from deriving benefit from his property.*
- [D] *But this is what is stated at the outset of the chapter [at M. 7:1A]! [Why here must he divorce her forthwith, when earlier he may wait for a month?]*
- [E] *But we deal with a case in which his wife took a vow, and her husband heard it and did not abrogate it for her.*

[F] *And the rule accords with the view of him who said, “He has [by not abrogating the vow] put his finger between her teeth, so he must divorce her right away and pay off her marriage settlement.”*

[G] *Said R. Huna, “Even in accord with him who said, ‘By taking the vow, she has put her finger between his teeth,’ so he may divorce her without paying her marriage contract, will concur here because it is a case in which he provoked her, so she took the vow [and hence he must bear responsibility.]”*

7:3

[A] **He who prohibits his wife by a vow from adorning herself with any single sort of jewelry must put her away and pay off her marriage contract.**

[B] **R. Yosé says, “In the case of poor girls, [if] he has not assigned a time limit, [he must divorce them].**

[C] **“But in the case of rich girls, [he may persist in the marriage if he set a time limit] of thirty days.”**

[I:1 A] *R. Huna said, “This is the meaning of the Mishnah’s statement: In the case of poor girls, since he did not set a [reasonable] limit, [he must divorce her forthwith].”*

[B] Ulla bar Ishmael said, “In the case of poor girls, if he has not assigned a time limit [he divorces them right away]. But if he set a time limit even [such an unreasonable one as] ten years, it is permitted.”

[C] [Omit:] For a fox does not die of the dust of his den. [This sentence is borrowed from B. Ket. 71b’s version of the dispute and refers to the issue of vows on matters affecting the sexual relations of the couple. It is not pertinent here.]

[D] R. Nathan bar Hoshaiyah said R. Yohanan [said], “[The permissible time limit] excludes the festival [for Israelite women adorn themselves for the festivals and may not be prohibited by vow from doing so].”

7:4

[A] He who prohibits his wife by a vow from going home to her father’s house.

[B] when he [father] is with her in [the same] town,

[C] [if it is] for a month, he may persist in the marriage.

[D] [If it is] for two, he must put her away and pay off her marriage contract.

[E] And when he is in another town, [if the vow is in effect] for one festival season he may persist in the marriage. [But if the vow remains in force] for three, he must put her away and pay off her marriage contract.

[I:1 A] *Said R. Zeira, "It has been taught there: If he imposed a vow on her, 'That you may not wash in a bath' – in towns, he may remain wed to her for one week, and in villages, two weeks.*

[B] "'That you may not fasten on a sandal' – in villages [the marriage may continue] for three days and in towns, for twenty-four hours."

[I:2 A] R. Yohanan said, "They have stated the law [regarding the festival in the context of the 'festival of pursuit.'"

[B] What is the meaning of, "the festival of pursuit"?

[C] Said R. Yosé b. R. Bun, "This refers to the first festival [after the wedding], on which the father pursues the daughter all the way back to her husband's house [keeping her company for the trip home, after she and her husband have visited him for the festival.]"

7:5

[A] **He who prohibits his wife by a vow from going to a house of mourning or to a house of celebration must put her away and pay off her marriage contract,**

[B] **because he locks the door before her.**

[C] **But if he claimed that he took such a vow because of some other thing, he is permitted to impose such a vow.**

[D] [If he took a vow,] saying to her, (1) "On condition that you say to So-and-so what you said to me," or (2) "what I said to you," or (3) "that you draw water and pour it out onto the ash heap,"

[E] **he must put her away and pay off her marriage contract.**

[I:1 A] [If] **he prohibited her by vow from lending a sieve or a strainer, millstones or oven [to her girl friend], he must put her away and pay off her marriage contract,**

[B] **because he gives her a bad name among her neighboring women.**

[C] **And so: she who prohibited him by vow from lending a sieve or a strainer, millstones or oven, must go forth without payment of her marriage contract,**

[D] **because she gives him a bad name in his neighborhood [T. Ket. 7:4].**

[I:2 A] [If] he prohibited her by vow from going to a house of mourning or to a house of celebration, he must put her away and pay off her marriage contract [M. 7:5A-B],

[B] because sometime later she will be laid out [for burial] and not a single human being will pay attention to her [T. Ket. 7:5].

[C] And so too: If she prohibited him by vow from going to a house of mourning or to a house of celebration, she must go forth without payment of her marriage contract,

[D] because sometime later he will be laid out [for burial] and not a single human being will pay attention to him.

[I:3 A] Said R. Meir, [Y.: in the name of R. Aqiba, his master], “What is the meaning of the verse, ‘[It is better to go to the house of mourning than to go to the house of feasting; for this is the end of all men,] and the living will lay it to heart’ (Qoh. 7:2) –

[B] “Do [for others] that they may do for you, accompany [others to the grave] that they may accompany you, mourn [for others] that they may mourn for you, bury others that they may bury you,

[C] “as it is said, ‘It is better to go to the house of mourning.’”

[II:1 A] But if he claimed that it was because of “something else” it is permitted [M. 7:5C].

[B] It is because of a bad name [associated with such a gathering].

[III:1 A] If he took a vow, “On condition that you say to So-and-so what you said to me” privately, or “What I said to you” privately, or “that you draw water and pour it out onto the ash heap,” he must put her away and pay off her marriage contract [M. 7:5].

[B] *There they say that* the reference [to drawing water] is to the deed of Onan [interrupted coition].

[C] *But here rabbis maintain that* the reference is to [requiring her to do] silly things.

7:6

[A] And those women go forth without the payment of the marriage contract at all:

[B] She who transgresses against the law of Moses and Jewish law.

[C] **And what is the law of Moses [which she has transgressed]? [If] she feeds him food which has not been tithed, or has sexual relations with him while she is menstruating, or [if] she does not cut off her dough offering, or [if] she vows and does not carry out her vow.**

[D] **And what is the Jewish law? If she goes out with her hair flowing loose, or she spins in the marketplace, or she talks with just anybody.**

[E] **Abba Saul says, “Also: if she curses his parents in his presence.”**

[F] **R. Tarfon says: “Also, if she is a loud-mouth.”**

[G] **[What is a loud-mouth? When she talks in her own house, her neighbors can hear her voice.**

[I:1 A] *And in all of these cases [the decision is reached on the testimony of] witnesses [as in the following instances]:*

[B] “Mr. So-and-so tithes [in my behalf],” “Mr. So-and-so examined my rag [and declared me clean],” “Mr. So-and-so cut off the dough offering,” “Mr. So-and-so released my vow” –

[C] *in all of these instances, they looked into the matter and did not find [that those named had done what the woman claimed] –*

[D] [accordingly, the woman] has fed [her husband] food which has not been properly tithed, has sexual relations when she was menstruating, did not cut off the dough offering, and vowed and did not carry her vow.

[E] *Now there are no problems with all of the other items, for in all of them [the husband] is affected. But if she takes a vow and does not carry it out, what difference does it make to him?*

[F] *He has the right to say, “I do not want a woman who takes vows, for she will end up burying her children.”*

[G] *It has been taught in the name of R. Judah, “On account of the sin of vow-taking children die, for it is written, ‘In vain have I smitten your children, [they took no correction; your own sword devoured your prophets like a ravening lion’” (Jer. 2:30).*

[II:1 A] **[If she goes out] with her hair flowing loose [M. 7:6D] – in the courtyard did they state the rule, all the more so in the alleyway.**

[B] R. Hiyya in the name of R. Yohanan: “She who goes out in her kerchief is not subject to violating the rule against going out with her hair flowing loose.”

[C] *That which you have said applies to the courtyard, but as to the alleyway, she is subject to violating the rule against going out with her hair flowing loose.*

[D] There is a courtyard which is tantamount to an alleyway, and an alleyway which is tantamount to a courtyard.

[E] A courtyard into which the public way breaks through – lo, it is tantamount to an alleyway. And an alleyway which the public way does not pass through – lo, it is tantamount to a courtyard.

[III:1 A] Abba Saul says, “Also: if she curses his parents in his presence.” R. Tarfon says, “Also: if she is a loud-mouth” [M. 7:6E-F].

[B] What is the definition of a loud-mouth?

[C] Samuel said, “It is any whose neighbor can hear her talking in his own house.”

[D] Rab said, [31c] “It is any whose voice may be heard from one bed to the next when she has sexual relations.”

[III:2 A] R. Hanin taught in the name of R. Samuel: “All the same are women of whom they have said that they have no marriage settlement [at all], and those of whom they have said that they go forth without a marriage settlement. [Among the former are] an orphan [who exercised the right of refusal], one in a secondary consanguineous relationship, and a barren woman. [In both cases,] they referred not only to the marriage settlement of a *maneh* or two hundred zuz [as the case may be], but even if her marriage settlement was a thousand *denars*, she collects.”

[B] *There we learned*, “Women of whom they said, ‘They go out without a marriage settlement’ require warning, and if they were not warned, he should send her forth and give her the marriage settlement, not only a *maneh* or two hundred zuz, but even if her marriage settlement was a thousand *denars*. And she collects [indemnity for wear and tear on clothing brought with her into the marriage] from whatever is available to her.”

[C] But she who goes out because of having a bad name has no claim on such an indemnity.

[D] Does she collect also the property she brought him into the marriage over and above the dowry?

[E] R. Zeira said, “She does get it back.”

[F] R. Hila said, “She does not get it back.”

[G] *R. Hila treated her as equivalent to a dead woman [to whose estate this additional sum does not accrue].*

[H] R. Hila, R. Yosa, R. Ba bar Kohen stating the matter in the name of R. Haninah b. Gamaliel, “Women of whom they have said that they go forth without a marriage settlement [not those who to begin with have none] – they referred not only to the marriage settlement of a *maneh* or two hundred zuz. Even if her marriage settlement was a thousand *denars*, she loses the whole thing.”

[I] R. Simon said R. Yohanan [said], “All passages of the Mishnah [in which it is said, ‘She goes forth without the payment of the marriage contract at all’] are subject to the rule of this Mishnah teaching.”

[J] *Said R. Mana before R. Yosa, “In regard to which Mishnah teaching is that the case? Is it in regard to what R. Hanin taught in the name of Samuel [IV.A]?”*

[K] He said to him, “It represents the view of all parties [and refers only to those who go forth].”

[L] *And so did R. Hiyya teach: “**Women who transgress the law lose the whole [of their marriage settlement] [cf. T. Ket. 7:7B].**”*

[III:3 A] R. Eleazar in the name of R. Haninah: “If they saw her hitching up her pantaloons as the traveling pedlar was going out of her house, it is an unseemly thing. She goes forth.

[B] “If there is some sort of spit on her bed, it is an unseemly thing. She goes forth. If there was some sort of spit on his bed, it is an unseemly thing. She goes forth.

[C] “If his sandal was before her bed, it is an unseemly thing. She goes forth. If her sandal was before his bed, it is an unseemly thing. She goes forth.

[D] “If both of them were [seen] going forth from a hidden place, it is an unseemly thing. She goes forth. If they were helping one another climb up out of a pit, it is an unseemly thing. She goes forth. If both of them were [seen] patting her thigh in the bath, it is an unseemly thing. She goes forth.”

- [E] Haninah bar Iqa in the name of R. Judah: “And in all cases, if she brought proof for her explanation of the matter, she is believed.”
- [F] *R. Ada bar Ahva in the name of Rab: “There was a case which came before Rabbi, and he said, ‘What difference does that make? [She need not go forth in these cases.]’”*
- [G] *They raised before him the following question: “Even if they saw him put his mouth over her mouth?”*
- [H] He said, “A case of this sort came before R. Yosé, involving a man whom they saw putting his mouth on her mouth. He ruled, ‘Let her go forth collecting one-half the additional dowry.’
- [I] *“Now her relatives complained at this decision, saying, ‘ [Before you make such a decision, find out] whether she is an idiot [who cannot explain what she was doing, in which case] she may go forth without collecting her dowry. But if she is no fool [and can explain the matter], let her hold on to her complete dowry.”*
- [J] *Said to them R. Mana, “Bring her marriage contract and let us read it.” They brought her marriage contract and found written in it, ‘If this woman; Miss So-and-so, marries that man, Mr. So-and-so, as her husband, and he does not please her, let her collect one half of her dowry [and go forth].’ [The fact that she got involved with another man indicates that she did not like her husband.]”*
- [K] Said R. Abin, “Since she agreed that the other party might put his mouth on her mouth, *is it not she has expressed her displeasure with her husband. And she may collect only half of her dowry.*”

[III:4 A] If she was in his embrace and he in hers, she is an unfaithful wife. If they were embracing, she is an unfaithful wife. If they were kissing, she is an unfaithful wife. If they went and locked the door behind them, she is an unfaithful wife.

- [B] If they merely shoved it closed – *that is a question.*

7:7

[A] He who betrothed a woman on condition that there are no encumbering vows upon her, and it turns out that there are encumbering vows upon her –

[B] she is not betrothed.

- [C] [If] he married her without [further] specification and encumbering vows turned out to be upon her, she must go forth without payment of her marriage contract.
- [D] [If] he betrothed her on condition that she had no blemishes on her, and blemishes turned up on her, she is not betrothed.
- [E] [If] he married her without further specification and blemishes turned up on her, she must go forth without payment of her marriage contract.
- [F] All those blemishes which invalidate priests [M. Bekh. 7] invalidate women.
- [G] “[If] there were blemishes on her while she was yet in her father’s house,
- [H] “the father must bring proof that after she was betrothed these blemishes made their appearance on her, so that his [the husband’s] field has been flooded [M. 1:6].
- [I] “[If] she had entered the domain of the husband, then the husband has to bring proof that before she was betrothed these blemishes were on her body, so that his purchase was a purchase made in error,” the words of R. Meir.
- [J] And sages say, “Under what circumstances? In the case of blemishes on the hidden parts of her body. But in the case of blemishes which are on the parts of her body to be seen by the naked eye, he has no such claim.
- [K] And if there is a bathhouse in that town, then even blemishes which are on the hidden parts of her body are not subject to his claim,
- [L] “for he has her examined by his kinswomen.”
- [I:1 A] *We have learned [from the passage above] what sort of blemishes apply, but what sort of vows are under discussion here?*
- [B] R. Yohanan in the name of R. Simeon b. Yosedeq: “Of what sort of vows did they speak? For example, if she vowed not to eat meat, not to drink wine, and not to wear stylish clothing [T. Ket. 7:8/I].”
- [C] Said R. Zeira, “Such as fine flax garments from Beth Shean. They are stylish clothing.”
- [I:2 A] *Said R. Yosé, “The Mishnah speaks of a case in which he said to her, ‘on condition that you are not subject to vows.’ But if he had said to her, ‘on condition that no vow applies to you [at all],’ then even if she had taken a vow not to eat carobs, that is in the status of a vow, [and she is not betrothed].”*

- [I:3 A] **If she went to a sage and he released her vow, lo, this one confirms the marriage [= she is betrothed].**
- [B] **If she went to a physician and he healed her, lo, this woman is not betrothed [T. Ket. 7:8D, F].**
- [C] What is the difference between an elder and a physician?
- [D] An elder uproots the vow from its roots [as if it had never applied].
- [E] A physician heals her only for time to come.
- [F] *There are Tannaim who repeat:* Even if she went to an elder and he released her vow, she is not betrothed.
- [G] *That version of the passage accords with R. Eleazar, for we have learned there:* **R. Eliezer says, “They forbade the one only because of the other” [M. Git. 4:7].** [The case involves divorcing a woman because of a vow. Meir maintains that for any vow that had to be brought to a sage, he may not take her back, but for any that did not have to be brought to a sage but is to be nullified by the husband, he may take her back. Eliezer says that the one which did not have to be brought to a sage is forbidden because of the other. In the latter case one need not scruple that he may say, “If I had known that a sage could revoke the vow, I should not have divorced her.” In such a case we prohibit his remarrying her after the divorce. Now a vow not brought to sage for remission will not present such a danger.]
- [H] Said R. Eliezer, “It was reasonable that because of a vow that required the inquiry of a sage, [she should be permitted to return to the husband], for a sage uproots the vow by the roots [as if it had never applied at all].
- [I] And why did they prohibit a vow which requires the inquiry of a sage? Because of the vow which does not require inquiry of a sage.
- [I:4 A] *There are Tannaim who teach,* “[Since, M. Qid. 2:4A-C, she is not betrothed,] she is permitted to marry without a writ of divorce. [There is no aspect of betrothal whatsoever.]”
- [B] *And there are Tannaim who teach,* “She is prohibited from remarrying without a writ of divorce.”

[C] *They proposed to say, “He who says that she is permitted to remarry without a writ of divorce is R. Eliezer [who holds one does not want his wife to go to court and so surely does not want this woman]. And he who says that she is forbidden to remarry without a writ of divorce is rabbis [vis-a-vis Eliezer].”*

[D] *The whole of the passage, however, expresses the view of rabbis. He who said that she is permitted to remarry without a writ of divorce [maintains that] since she knows that if she should go to an elder, he will release her vow for her, then she will not go to him, and on that account she is permitted to remarry without a writ of divorce. [There is nothing to fear.] He who said that she is forbidden to remarry without a writ of divorce takes the view that she is not to go to a sage to release her vow, with the result that her betrothal takes effect retroactively, in consequence of which he offspring from the second marriage will enter the status of illegitimacy. On that account it is forbidden for her to remarry without a writ of divorce.*

[I:5 A] [If he married her without further specification] –

[B] *R. Simeon b. Laqish said, “The Mishnah [at M. 7:7: He who betrothed a woman on condition that she is not subject to any vows, and she was found to be subject to a vow – her betrothal is not valid. If he married her without stipulation, and she turned out to be under a vow, she is divorced without payment of her marriage settlement] speaks of a case in which he betrothed her on a stipulation [that there be no vows], but married her without further stipulation. But if he betrothed her without stipulation and married her without stipulation, she does have a right to collect her marriage settlement.”*

[C] *R. Yohanan said, “Even if he divorced her without stipulation and married her without stipulation, she has no right to collect her marriage settlement.”*

[D] *R. Hiyya said in the name of R. Yohanan, “She has to receive a writ of divorce from him, even if he betrothed her on the stipulation that there be no vows and married her without that same stipulation.”*

[E] *R. Zeira raised the question before R. Mana, “If he betrothed her without stipulation and divorced her when she was merely betrothed to him, what does R. Simeon b. Laqish say in such a case?”*

- [F] *Let us derive the answer from the following: **If there were blemishes on her while she was yet in her father's house, her father has to bring proof [M. 7:7G-H].*** Lo, if he brought proof, she has a right to collect her marriage contract [so Simeon will concur].
- [G] *Why do you say we deal with a case in which he betrothed her without stipulation and divorced her when she was merely betrothed to him? [Maybe it is a case in which he betrothed with a stipulation, and thereafter blemishes appeared. She does collect.] [What follows indicates that the cited clause deals with betrothal without stipulation, while she is yet at home.] **Under what circumstances? In the case of blemishes which are on hidden places. But in the cases of blemishes which are out in the open, he has not got the right to make such a claim.*** But if it was a case of stipulation that there be none, then even in the case of blemishes which are out in the open, he has a right to make such a claim. [So this proves the contrary.]
- [H] *Associates said before R. Yosa, "Note that which follows, and it will stand at variance with R. Simeon b. Laqish: **If she had entered the domain of the husband, the husband has to bring proof.*** Lo, if the husband brought proof, she has no claim on a marriage settlement. How then can R. Simeon b. Laqish say that she has a right to her marriage settlement?
- [I] *R. Kohen in the name of rabbis of Caesarea: "The Mishnah speaks of a case in which he married her but did not consummate the wedding. That which R. Simeon b. Laqish said applies to a case in which he married her and did consummate the marriage. I claim that he accepted her condition when he had sexual relations with her."*
- [II:1 A] **For all blemishes which invalidate priests from serving in the temple invalidate women [M. Ket. 7:7F].**
- [B] **In addition to them in the case of women are bad breath, a sweaty odor, and a mole that has no hair on it [T. Ket. 7:9].**
- [C] *R. Hama bar Uqbah in the name of R. Yosé b. Haninah: "They taught that detail with regard to the facial skin."*
- [D] *And have we not learned, **Under what circumstances? In the case of blemishes which are not visible. But in the case of blemishes which are out in the open, he has no right to make such a claim [cf. M. 7:7J].***

- [E] Now is this not one of the blemishes which would be out in the open?
- [F] *Interpret the rule to speak of a case in which she hid it under the cap on her head.*
- [G] *It was taught:* A mole which has hair on it, whether large or small, whether on the body or the face – lo, this is a blemish.
- [H] And one which has no hair inside it, as to a blemish on the body, is not deemed a blemish.
- [I] Under what conditions?
- [J] In the case of a small one.
- [K] But in the case of a large one, whether it is on the body or on the face, lo, this is deemed a blemish.
- [L] How large [31d] is a large one?
- [M] R. Simeon b. Gamaliel says, “As large as an Italian *issar*.”
- [N] R. Eleazar in the name of R. Haninah, “For example the Qordian *denar*.”
- [O] They estimated its size at a half of a small gold coin [of any measure].
- [P] R. Redipah, Jonah, R. Jeremiah asked, “A bald woman, with a line of hair running along her head from ear to ear – [is this a blemish in a woman]?”
- [Q] *They proposed to derive the answer from the following: In addition to them in the case of women are bad breath, a sweaty body odor, and a mole that has no hair on it [T. Ket. 7:9]. Now a bald spot has not been mentioned at all. So they proposed to rule that it is not deemed a blemish.*
- [R] Came along R. Samuel son of R. Yosa b. R. Bun in the name of R. Nisa, “It is indeed a blemish. *The Mishnah rule teaches only something which is ugly on this one [priest] and on that one [woman], not those which are a blemish on this one and not a blemish on that one. But as to something which is an adornment on this one and a blemish on that one, for example, a bald spot – even if it is a blemish, it was not included in the teaching. You should know that that is the case, for lo, there is the case of a beard, and lo, it is an adornment for a man but a blemish for a woman. And*

we have not learned the tradition: 'In addition to them in a woman is a beard.' Lo, there is the matter of breasts, which are an adornment for a woman and a blemish for a man. And we did not teach, 'In addition to them in the case of a man are breasts.'"

[II:2 A] *The Mishnah speaks of blemishes which do not usually develop with her later on.*

[B] But as to blemishes which usually develop later on, [if that is the kind of blemish which has made its appearance] even after she has entered the domain of the husband, he [= the father] has to bring proof for his claim, "I stipulated with her [even in regard to this sort of blemish as well]."

7:8

[A] **A man who suffered blemishes – they do not force him to put her away.**

[B] **Said Rabban Simeon b. Gamaliel, "Under what circumstances? In the case of small blemishes.**

[C] **"But in the case of major blemishes, they do force him to put her away."**

[I:1 A] *R. Judah in the name of Rab: "The meaning of the Mishnah is that when the blemishes already were on him, [they do not force him to put her away]. [We assume she knew about the blemishes and agreed to accept them.] But if they came upon him later on, they do force him to put her away."*

[B] R. Ba bar Kahana in the name of R. Yohanan: "The law is in accord with the position of R. Rabban Simeon b. Gamaliel."

[C] *A case came before R. Jeremiah in Kopiah, and he forced him to divorce his wife.*

[D] *Now this is in accord with rabbis, in a case in which they were already present on the man. [But if they were to appear later on, then even if they were minor blemishes, they force him to divorce her.] In the view of Rabban Simeon b. Gamaliel, it is when the blemishes made their appearance [after the marriage, since if that is not so, what difference does it make whether they were major or minor blemishes, since prior to the marriage she knew about them and accepted them].*

- [F] *Said R. Zeira, “The view of Rabban Simeon b. Gamaliel is in accord with the opinion of R. Meir.” [= They therefore force him to divorce her when the blemishes were previously there.]*
- [G] *Which opinion of R. Meir? Is it in accord with his former opinion [at M. 7:7G-I, and just as Meir imposes a strict ruling, so does Simeon b. Gamaliel] or is it in accord with his latter opinion [at M. 7:9C]? If it accords with R. Meir at the earlier passage, then the rule applies if they made a stipulation to that effect. If it accords with his opinion in the latter passage, then even if he made a stipulation, it is null. [For the possibilities of interpreting this statement, cf. PM.] Rather the Mishnah should be interpreted in accord with Rabban Simeon b. Gamaliel. [That is, he deals with a case in which the blemishes appeared later on. Simeon b. Gamaliel holds that, in that case, if the blemishes were minor, they do not force him to put her away. But if they were major, they do.]*
- [H] *And does the Mishnah passage which begins, **And these are the ones whom they force to put her away [M. 7:9A]**, accord with rabbis [and not Simeon b. Gamaliel]? [That is, if the stated blemishes appeared later on, they force him to divorce her. But if they were present to begin with, they do not. Or in the case of these blemishes, even Simeon b. Gamaliel will concur that if they were present to begin with, they force him to divorce her.]*
- [I] *Let us derive the answer from the following: Rabban Simeon b. Gamaliel says, “**If it was a major blemish, for example, if he was lame in one foot, blind in one eye, these are major blemishes, and [Y.: for example, if he was blind in one eye, amputated in one hand, lame in one foot, he must immediately] put her away and pay off her marriage contract [T. Ket. 7:10H].**” That is to say, then, that the present Mishnah passage accords with Rabban Simeon b. Gamaliel, while the one beginning, **And these are the ones whom they force to put her away**, accord with rabbis.*

7:9

- [A] **And these are the ones whom they force to put her away: he who is afflicted with boils, or who has a polypus, or who collects [dog excrement], or a coppersmith, or a tanner –**
- [B] **whether these [blemishes] were present before they were married or whether after they were married they made their appearance.**

- [C] **And concerning all of them did R. Meir say, “Even though he made a condition with her [that the marriage is valid despite these blemishes], she still can claim, ‘I thought that I could take it. But now I find I cannot take it.’”**
- [D] **And sages say, “She takes it despite herself, except in the case of the one afflicted with boils,**
- [E] **“because [in that case] she enervates him.”**
- [F] **M’S H B: In Sidon there was a tanner who died [childless], and he had a brother [the levir] who was a tanner.**
- [G] **Sages ruled, “She can claim, ‘Your brother I could take, but I can’t take you [being a tanner].”**
- [I:1 A] **He who collects is one who collects excrement.**
- [B] And some say, “It is a tanner.”
- [C] *Said R. Zeira, “The following Tannaitic teaching indicates it: **This is one who collects dog excrement [T. Ket. 7:11B].”***
- [D] *For we have learned: **He who collects [and] a tanner.** [In listing these two separately, the text indicates that the one who collects is distinct from the tanner.]*
- [E] **And a coppersmith –** Samuel said, “It is one who refines copper from ore.”
- [I:2 A] *It was taught: **Said Rabban Simeon b. Gamaliel, “An old man afflicted with boils met me in Sepphoris. He said to me, ‘There are twenty-four kinds of boils. And the worst of them all, for which alone a woman is very bad, is only ra’atan” [T. Ket. 7:11I].***
- [B] R. Samuel bar Nahman in the name of R. Jonathan, “And it was with that sort of boils that the evil Pharaoh was smitten. That is in line with the following verse of Scripture: ‘But the Lord afflicted Pharaoh and his house with great plagues [because of Sarai, Abraham’s wife]’” (Gen. 12:17).
- [C] Said R. Berekiah, “It was because he dared to come near the shoe of that matron.”
- [D] There are twenty-four kinds of cedars, and of all of them, Scripture has explicitly referred to only seven of them alone. That is in line with the following: “I will put in the wilderness the cedar, the acacia, the myrtle, and the olive; I will set in the desert the cypress, the plane, and the pine together” (Is. 41:19).

[E] The cypress is the cypress [in Aramaic], the plane is the teak, and the pine is the larch.

[F] They added to them *alonim*, *almonim*, and *almugim*. *Alonim* are terebinths, *almonim* are oaks, *almugim* are coral wood.

YERUSHALMI KETUBOT

CHAPTER EIGHT

8:1

[A] [32a] The woman to whom property came before she was betrothed

—

[B] the House of Shammai and the House of Hillel concur that if she sells or gives away [the property], the transaction is valid.

[C] [If] they [goods or property] came to her after she was betrothed,

[D] the House of Shammai say, “She may sell them.”

[E] And the House of Hillel say, “She may not sell them.”

[F] These and those concur that if she sold or gave away [goods or property], the transaction is valid.

[G] Said R. Judah, “They stated before Rabban Gamaliel, ‘Since [the husband-to-be] has acquired possession of the woman, shall he not acquire possession of the property?’”

[H] “He said to them, ‘We are at a loss concerning the [husband’s right to new[ly received property or goods]! Now will you turn our attention to the old?’”

[I:1 A] *The meaning of the Mishnah [at M. 8:1A] is, “before she was betrothed [and she then became betrothed].”*

[B] What is the difference between the disposition on her part of property received prior to betrothal, on which all parties concur, and property which came to her after betrothal, on which there is a dispute [M. 8:1A-B vs. C-E]?

[C] Prior to her betrothal, the property comes to her advantage only. After she has become betrothed, it comes both to her advantage and to his advantage. [That is why the House of Shammai maintain that to begin with she should not dispose of the property, but if she has done so, after the fact her act is valid.]

[I:2 A] *R. Phineas raised the question before R. Yosé, “And why then should you not teach this dispute as one of the ones in which the House of Shammai take the lenient position, and the House of Hillel, the strict position?”*

[B] *He said to him, “Our intention is only to list the ones in which the ruling is stringent for both parties to the transaction, or lenient for both parties to the transaction. But here we have a stringency from one perspective, and a leniency from the other.”*

[C] *But lo, we have learned: **The House of Shammai say, “That which is declared ownerless [only] to the poor – lo, it is ownerless” [M. Pe. 6:1A].** [The House of Hillel insist that what is declared ownerless must be equally available to rich and poor. Here the advantage – the produce is exempt from the requirement of tithing – accrues solely to the poor, yet the item is listed among the lenient rulings of the House of Shammai.] Lo, we have a lenient ruling for the poor, but a strict ruling for the householder! Yet it is listed [among the lenient rulings of the House of Shammai].*

[D] *He said to him, “While, to be sure, it is a lenient ruling for the poor, it is by no means a strict ruling for the householder. For it is with full intent and awareness that he has declared the produce to be ownerless. [So the householder surely does not regard the ruling as a disadvantage, since, to begin with, he declared the produce to be ownerless.]”*

[E] *And lo, we have learned: **A sheaf which lay near a wall or a stock or oxen or implements but was forgotten – the House of Shammai say, “It is not regarded as a Forgotten Sheaf.” And the House of Hillel say, “It is regarded as a Forgotten Sheaf” [M. Pe. 6:2].** Lo, this is a lenient ruling from the perspective of the householder [who retains ownership of the sheaf], but a strict ruling for the poor [who do not get the sheaf]. [Yet it is listed among lenient rulings of the House of Shammai, so far as the householder is concerned.]*

[F] *He said to him, “While, to be sure, it is a lenient ruling for the householder, it is by no means a strict ruling for the poor. For the poor have not yet acquired ownership of the stalk.”*

[G] *Accordingly, one may then say in the present case that it also is a lenient ruling for the woman [who retains the right to do business with her property], while it is not a strict ruling for the husband, who has not yet acquired ownership of the property!*

[H] *He said to him, “Since he has betrothed the woman, the property comes both to her and to his advantage.”*

[I:3 A] [Following the Tosefta version:] **Said R. Judah, “They stated before Rabban Gamaliel, ‘[Since when she is] betrothed, [she] is his wife, and [when she is] married, [she] is [equally, but no more] his wife, just as this one [the woman at the stage of the consummated marriage sells off her property and the transaction is null, so that one [the woman at the stage of betrothal], sells off her property and the transaction is null.’ [T. Ket. 8:1A].**

[B] **“He said to them, ‘We are at a loss concerning the newly received property or goods! Now will you turn our attention to the old ones?’” [M. 8:1G-H].**

[C] What is the definition of “the new”? It is property which has come after she was married.

[D] And what is “the old”? It is property which has come prior to her marriage, with regard to the situation prevailing after she has gotten married.

8:2

[A] **[If] they came to her after she was married,**

[B] **these and those concur that if she sold or gave them away, the husband retrieves them from the domain of the purchasers.**

[C] **[If they came to her] before she was married, and then she was married,**

[D] **Rabban Gamaliel says, “If she sold or gave away [the property], the transaction is valid.”**

[E] **Said R. Hanina b. Aqabya, “They said before Rabban Gamaliel, ‘Since he has acquired possession of the woman, shall he not acquire possession of the property?’**

[F] **“He said to them, ‘We are at a loss concerning the newly received [property or goods]! How will you turn our attention to the old ones?’”**

[I:1 A] *We learn [as the proper language of] the passage [at M. 8:2D]: “She sells or gives away the property, and the transaction is valid.” [That is, even to begin with, she may do so, and not merely after the fact, for that is the sense of the progressive tense used here.]*

[B] *R. Hiyya taught, “She should not sell or give away the property, but if she has sold or given it away, the transaction is valid.” [Hiyya then teaches the law to apply only to the situation prevailing after the fact. That is now the reading of the Mishnah as we have it.]*

[I:2 A] Said R. Haninah b. Aqiba, “This is not how Rabban Gamaliel replied to them, but rather, thus did Rabban Gamaliel reply to them:

[B] “No, if you have stated the rule in the case of a betrothed woman, in which instance the husband-to-be does not take over possession of whatever she may find or of the works of her hands, and has not got the right to abrogate her vows, will you say the same in the case of a married woman, in which instance the husband does have the right to retain ownership of what she finds and of the work of her hands and has got the right to abrogate her vows?”

[C] “They said to him, ‘Lo, the situation prevailing for property which has come to her prior to her marriage, once she has gotten married, will prove the contrary. For with regard to her status in general, now the husband does retain ownership of things she may find and of the fruit of her labor and has the right to abrogate her vows, and you yet concur with us that she should not sell or give away that property?’”

[D] He said to them, “Indeed I do concur with you that she should not sell or give away that property. But if she has sold it or given it away, her act is valid.”

[I:3 A] *A case came before R. Ammi. He ruled, “Is not Rabban Gamaliel an individual [in relationship to the majority]? We may not make a decision relying upon his authority.”*

[B] *A Tannaitic teaching supports [Ammi’s] view and differs from it:*

[C] **Then our rabbis went and voted [the following rule]:**

[D] **In the case of property which fell to her before she was married, and then she was married, if she sold or gave it away, the transaction is null [T. Ket. 8 ~ J].**

[E] *That supports him: Her act of sale is null.*

[F] *That which differs from him is as follows: Our rabbis went and instructed and voted – for until they took the vote, they did not differ from him. [He was not a minority.]*

8:3

[A] **R. Simeon makes a distinction between one sort of property and another:**

[B] **Property about which the husband is informed she should not sell.**

[C] **And if she sold or gave it away, the transaction is null.**

[D] **Property about which the husband is not informed she should not sell.**

[E] **But if she sold or gave it away, the transaction is valid.**

[I:1 A] Said R. Yohanan, **“Property about which the husband is informed – this refers to real estate.**

[B] **“Property about which the husband is not informed – this refers to movables.”**

[C] R. Yosé b. Haninah said, **“Property about which the husband is informed – this is property which comes to her when she is in the domain of the husband [whether real estate or movables].**

[D] **“And property about which the husband is not informed – this is property which comes to her while her husband is located overseas.”**

[E] *There is a Tannaitic teaching which supports the view of R. Yosé b. Haninah: What is **property about which the husband is not informed?** This is property which comes to her while her husband is located overseas.*

8:4

[A] [If] ready cash fell to her, land should be purchased with it.

[B] And he [the husband] has the usufruct thereof.

[C] [If there fell to her] produce plucked up from the ground, [likewise] land should be purchased with its [proceeds].

[D] And he has the usufruct thereof.

[E] And as to produce attached to the ground [which the wife inherits] –

[F] Said R. Meir, **“They make an estimate of their value as follows: How much is the land worth with the produce affixed to it, and how much is it worth without the produce.**

[G] **“And with [the proceeds of] the difference, land is purchased.**

[H] **“And he has the usufruct thereof.”**

[I] And sages say, **“[The value of the produce] attached to the ground belongs to him. [The value of that which is] plucked up from the ground is hers.**

[J] **“And land is purchased with the [proceeds of the latter].**

[K] **“And he has the usufruct thereof.”**

[I:1 A] *Said R. Jeremiah, “As to the view of R. Meir, he treats what is produce yet unharvested as equivalent to what is harvested.” [Reference here is to M. Shebu. 6:6G, R. Meir says, “There are things which are in*

the ground but are not deemed to be immovable property in the status of the ground... How so? **“Ten fruit-laden vines I handed over to you” – “They were only five” – R. Meir imposes an oath (regarding the produce on the vines; there is no oath affecting real estate). And sages say, “Whatever is attached to the ground (including produce) is equivalent to the ground.”]**

[B] *Said R. Yosé, “Now did he [you] not hear what R. Yosé b. Haninah said: ‘R. Meir made that statement with reference only to standing grain, which is soon going to be harvested, or to vines which are soon going to be cut.’ Lo, with regard to stubble, the rule does not apply. But here, even if there is mere stubble [the rule is the same]. [Hence there is no relevance to the view of R. Meir cited from M. Shebu. 6:6G.]”*

[C] *R. Jeremiah raised the question: “The opinions assigned to R. Meir [then] are at variance. There [M. Shebu. 6:6 as interpreted at B] he did not treat what is not yet harvested as equivalent to what is harvested. But here [M. 8:4E-G] he has treated what is not yet harvested as equivalent to what is harvested.”*

[D] *Said R. Yohanan, “It is not that R. Meir treated what is not yet harvested as equivalent to what is harvested. But if you should see a case in which there is grain already harvested, you favor the side of the wife [and assign it the status of ready cash]. If you see a field which is not yet sown [but has stubble], you assign it to the side of the husband. In a case of doubt, you estimate how much the field was worth prior to being sown, and how much it is worth now that it has been sown [in line with M. 8:4F]. Before it was sown it was worth one *denar*. Once it has been sown it is worth two *denars*. That single *denar* is used for the purchase of real estate, and the husband enjoys the usufruct thereof.”*

8:5

[A] **R. Simeon says, “At each point at which, when she enters into marriage, he has the advantage, he is at disadvantage at her going forth [from the marriage].**

[B] **“At each point at which, when she enters into marriage, he is at a disadvantage, he has the advantage at her going forth.**

[C] **“Produce affixed to the ground when she comes in belongs to him, and when she goes forth, belongs to her.**

[D] **“And those plucked up from the ground when she comes in belong to her, and when she goes forth, belong to him.”**

[I:1 A] You have said, “When she enters into the marriage, [the produce] belongs to him [M. 8:5C].” If she sold it, it is not sold. If she gave all

of it to a sharecropper, [the husband] derives a share of it. If she declared it to be first fruits, the produce is not deemed sanctified.

[B] You have said, “When she goes forth, the produce [affixed to the ground belongs to her].” If [the husband] sold it, it is not sold. If he gave it to a sharecropper, she derives a share of it.

[C] If he declared the produce to be first fruits, *there is a dispute of R. Yohanan and R. Simeon b. Laqish, for thus do they debate the matter:*

[D] “And you shall rejoice in all the good which the Lord your God has given to you and to your house” (Deut. 26:11). This teaches that a man brings first fruits out of produce belonging to his wife.

[E] R. Simeon b. Laqish said, “That is so once she has died. But while she is alive, he may not do so.”

[F] Said R. Yohanan, “There is no difference whether she is alive [32b] or dead.”

[G] (*R. Simeon b. Laqish is consistent with what he has said elsewhere. For he has said, “A man does not inherit his wife’s estate by reason of the law of the Torah.”*)

[H] *In the view of R. Simeon b. Laqish therefore, the property the husband has declared to be first fruits is not sanctified.*

[I] *In the view of R. Yohanan the produce has been sanctified, but the status of sanctification is removed from the produce [when it reverts to the wife].*

8:6

[A] **[If] old slave men or slave women fell to her [possession], they are to be sold.**

[B] **And land should be purchased with their [proceeds].**

[C] **And he [the husband] has the usufruct thereof.**

[D] **Rabban Simeon b. Gamaliel says, “She should not sell them,**

[E] “for they are the glory of her father’s house.”

[I:1 A] The Mishnah speaks of a case in which they do not produce enough to pay for their own keep.

[B] But if they produce enough to pay for their own keep, she should not sell them, for the glory of her father’s house yet endures.

8:7

[A] [If] old olive trees of grapevines fell to her [possession], they are to be sold [for their value as] wood.

[B] And land should be purchased with their [proceeds].

[C] And he has the usufruct thereof.

[D] R. Judah says, “She should not sell them,

[E] “for they are the glory of her father’s house.”

[I:1 A] *R. Abun in the name of rabbis over there [in Babylonia]: “The Mishnah speaks of a case in which the olive trees came to her as an inheritance, but not the land on which they stand, the vines but not the land on which they stand. But if there came to her olive trees and the land on which they stand, vines and the land on which they stand, she may not cut them down, for the glory of her father’s house yet endures.”*

[B] But rabbis from over here say, “Even if there came to her olive trees and the land on which they stand, vines and the land on which they stand, [they still may be sold for the wood]. Is it not the value of the olive grove which came to her, and is it not the value of the vineyard which came to her [that is under discussion]? [The reference at M. 8:7A is to the vineyard or olive grove, not merely to the trees. The distinction proposed is not valid in terms of ordinary usage.]”

[C] *The following Tannaitic teaching supports the view of rabbis from over there [A-C, that if there is land, even though the ground does not yield olives or grapes, it remains part of the glory of her father]:*

[D] “An orchard I’m selling you” –

[E] even if there is not a single tree in it,

[F] it belongs [to the purchaser],

[G] for he sold it to him only by its name.

[H] “A vineyard I’m selling to you” –

[I] even if there is not a single vine in it,

[J] it belongs [to the purchaser].

[K] for he sold it to him only by its name [T. B.B. 6:18].

8:8

[A] He lays out the expenses for [the upkeep of] the property of his wife

–

[B] [whether] he laid out a great deal of money and received little usufruct,

[C] [or whether he laid out~ a small amount of money and received much

–

[D] what he has laid out, he has laid out, and the usufruct which he has enjoyed, he has enjoyed.

[E] [But] if he laid out [money for the upkeep of the estate] and did not enjoy the usufruct [at all, there being no return],

[F] he should take an oath [to verify] the amount he has laid out [as expenses].

[G] And that should he collect [in recompense, from her by deduction from her marriage contract].

[I:1 A] R. Ba in the name of R. Hiyya bar Ashi, “Even if he ate only a baleful [of produce, in all those years, that suffices to meet the condition of M. 8:8B].”

[B] Assi said, “And that is the case if the outlay is greater than the profit, but if the profit is greater than the outlay, he is given the full profit. [That is, the rule of M. 8:8F applies when the outlay is greater than the profit. Otherwise he gets the full profit, if it is greater, and his hand is on top].”

[C] *The following Tannaitic teaching differs from the view of Assi: and in the case of all of them [of those who return land and their fruit], they estimate their value [to restore what has been appropriated] as if they were sharecroppers [T. Ket. 8:3J].* [Contra Assi, such individuals, like sharecroppers, take only a portion and not all the profit.]

[D] *The cited Tannaitic passage deals with a field for planting, while Assi speaks of a field for building.* [They estimate the value of a field used for planting as if the one who worked it was a sharecropper. Assi, on the other hand, speaks of a field for building, in the case in which a person has entered the field, without being hired but with the owner’s permission, and built a building there. In such a case, the husband – like the artisan – collects the full profit, as set out in T. Ket. 8:10.]

[E] Did not R. Ba say in the name of R. Hiyya bar Ashi, “Even if he ate only a baleful of produce [why should the husband receive the full profit? In

the single baleful he covers his expenses. Accordingly, we should consider the husband not like one entering a field with permission but like one who enters without permission and his hand should be on the bottom, receiving either the profit or the expenses, whichever is less. But why does Assi consider the husband like the person who enters the permission]?”

[F] Here [in the Mishnah] we speak of a case in which he enjoyed the usufruct, there [in Assi’s statement] we speak of a case in which he did not enjoy the usufruct. [The Mishnah passage, on which Ba comments, speaks of a case in which there has been some, if not adequate, usufruct. But Assi speaks of a case in which there has been no usufruct whatsoever and the person is therefore considered like one who enters with permission.]

8:9

[A] **A woman awaiting levirate marriage with her deceased childless husband’s brother to whom property came –**

[B] **the House of Shammai and the House of Hillel concur that she sells or gives away her property, and the transaction is valid.**

[C] [If] **she died, how should they dispose of her marriage contract and of the property which comes into the marriage with her and goes out of the marriage with her [= melog property]?**

[D] **The House of Shammai say, “Let the heirs of the husband divide it up with the heirs of the father [of the woman].”**

[E] **And the House of Hillel say, “The property remains in the hands of its presumptive owners:**

[F] **“the [value of the] marriage contract in the possession of the heirs of the husband, and the property which goes in and comes out with her in the possession of the heirs of the father.”**

[I:1 A] *Here [at M. 8:9A] you say that she sells or gives away her property, and the transaction is valid.*

[B] *And here you say, “Let the heirs of the husband divide it up with the heirs of the father [of the woman].” [So far as the House of Shammai is concerned, what is the difference in this latter case, that the property does not remain fully in the domain of the woman or her heirs, as in the former instances?]*

[C] *Said R. Yosé b. Haninah, “[There is a distinction to be made]. In the case in which you have said, ‘She sells or gives away her property, and the transaction is valid,’ it involves property which came to her after*

she had entered the status of a woman awaiting levirate marriage. *And here where you say, ‘Let the heirs of the husband divide it up with the heirs of the father of the woman,’* it involves property which came to her before she entered the status of a woman awaiting levirate marriage.”

[I:2 A] If the property came to her before she entered the status of a woman awaiting levirate marriage, and the property produced a crop after she had entered the status of a woman awaiting levirate marriage, it is treated as if it had come to her after she had entered that status. [We follow the criterion of the point at which the produce came into existence.]

[I:3 A] *Said R. Zeira, “As to the levir of the present case, it is a problem for the House of Shammai, since they are not certain whether or not he is regarded as equivalent to the husband or not equivalent to the husband. If he is in the status of the husband, he inherits the whole estate. If he is not in the status of the husband, he should inherit nothing. On account of this doubt, let the heirs of the husband divide it up with the heirs of the father of the woman.”*

[B] *To the House of Hillel it is self-evident that he is in the status of the husband and inherits all.*

[C] [As to the property which comes into the marriage with her and goes out of the marriage with her, that remains in the domain of the heirs of the father,] because even the levir’s brother would have no right to such property beyond the [mere] usufruct alone.

[I:4 A] *R. Hoshaiyah taught: “The heirs [of the woman] inherit her marriage settlement, and they are liable to bury her when she dies. [This applies to the levir, who inherits her marriage settlement.]”*

[B] *Said R. Yosé, “If R. Hoshaiyah had not taught that law, it would have been a problem for us. Since she has no marriage contract, she also should have no rights of burial [from the levir or his heirs].”*

[C] *But there is a problem: If a woman has not got a marriage settlement, is it possible that she has no rights of burial? [The cost of burying her is an obligation even though she has no other rights.]*

[D] A woman, even though she has no marriage settlement, most certainly does enjoy rights of burial. But in the present case, if she has a marriage settlement, she enjoys rights of burial, and if she

does not have a marriage settlement, she does not enjoy rights of burial. [The case of the levir is special, since he may claim that he inherits the marriage settlement from the brother, not from the levirate wife, and, consequently, he does not bear responsibility for burying her.]

8:10

[A] [If the deceased husband] left ready cash, land should be purchased with it.

[B] And he [the levir] has the usufruct thereof.

[C] [If he left] produce plucked up from the ground, fit should be sold] and land should be purchased with the proceeds].

[D] And he has the usufruct thereof.

[E] [If he left] produce yet attached to the ground –

[F] R. Meir says, “They make an estimate of their value as follows: ‘How much is the land worth with the produce affixed to it, and how much is it worth without the produce?’

[G] “And with the [proceeds of the] difference land is purchased.

[H] “And he has the usufruct thereof.”

[I] And sages say, “Produce attached to the ground belongs to him. Produce plucked up from the ground – whoever gets it first keeps it.

[J] “[If] he got it first, he keeps it.

[K] “[If] she got it first, land should be purchased with the [proceeds].

[L] “And he has the usufruct thereof.”

[M] [If] he consummated the marriage with her, lo, she is deemed to be his wife for every purpose,

[N] except that her marriage contract is a lien on the estate of her first husband.

[I:1 A] *R. Abbahu in the name of R. Yohanan: “[While it is obvious that if the estate contained ready cash, it is indentured toward the payment of the wife’s marriage contract and hence must be invested in land, with the levir getting the usufruct], the rule [of M. 8:10A-B] is necessary to deal with a case in which there was ready cash deposited with [the levir himself]. It is so that he should not say, ‘Since I am the heir, I shall keep it anyhow’” [T. Ket. 9:1H].*

[B] [As to M. 8:10/I’s statement that the produce belongs to him,] R. Abbahu in the name of R. Yohanan, “In fact there is no aspect in which the

produce belongs to him. But for what purpose [is the law stated]? It is so that if the heir took precedence and seized [the produce], they retrieve it from his domain.”

[C] Also with regard to a creditor is the law the same? *But has it not been taught:* As to an heir and a creditor, one of whom came first and seized property – they retrieve it from his domain? [So here the law is not the same.]

[D] [*Contrary to this view,*] said R. Aha bar Ulla, “Let us derive the rule from the following: **He who sanctified property worth ninety manehs, and his debt was a hundred manehs – the debtor adds another denar and redeems these possessions, on condition of paying the woman her marriage settlement and the creditor his debt [M. Ar. 6:2E-G]. [Note: For that which is sanctified does not go forth without redemption (T. Ar. 4:6b).]** And it is not the end of the matter that it is a *denar*, but even in any amount [the redemption is effected,] so that what is sanctified should not appear to go forth without redemption.”

[E] [Commenting on the passage just now cited,] R. Abbahu in the name of R. Yohanan: “[Prior to this act of redemption], the laws of sacrilege fully apply to the property [even though it is indentured to the payment of the wife’s marriage settlement or the debt].”

[F] *Now there is a question:* If the laws of sacrilege fully apply to it, then it should be redeemed at full value [and not merely for a token payment]. If the property is not redeemed at full value, the laws of sacrilege should not apply to it at all. [That is, if the act of sanctification really did pertain to this property, despite its being indentured for the stated purpose, the debt or marriage settlement, then it should be redeemed at full value, not merely for a token of its worth. Otherwise, it should not be regarded as sanctified at all. In fact the act of sanctification has not taken effect, which is why one need not redeem the property for full value. The redemption is merely symbolic. The relevance to our issue will be clearer in a moment.]

[G] *How shall we interpret the case? If we deal with what is as yet unharvested, does sacrilege apply to what is yet attached to the ground? But we deal with standing grain [which is about to be cut down, and this is regarded as already cut down].* Now since, if the temple treasurer should pass through and seize this grain, they do not retrieve it from his domain, [despite the prior indenture to the woman or the creditor, the fact is that the act of sanctification *has*

taken effect]. Now in the case with which we began, the law covering the temple treasurer is no different from that covering the heir. Just as, in the case of the temple treasurer, if the treasurer came through and seized the grain, they do not retrieve it from his domain, also in the case of the heir, if he came through and seized property, they do not retrieve it from his domain. [Thus if the heir seized the property in place of the wife or the creditor, he keeps what he has seized. This is the point at which we began our inquiry.]

- [H] *R. Samuel, R. Abbahu in the name of R. Yohanan: “Also in the case of an ox the law is the same. [If someone consecrated an ox, which was indentured for the payment of a debt or a woman’s marriage settlement, the laws of sacrilege apply.] Now in this case can you compare the ox to real estate? [Surely not. The operative reason is that the act of seizure is effective.]”*
- [I] *R. Tanhum bar Mari in the name of R. Yosé, “[The case of the ox does not prove a thing. For] in the case of an ox, they have treated it as consecrated property which one has diminished in value [and that is why the laws of sacrilege apply]. [It is not an issue of whether or not the seizure of the property is effective. There is a separate point; there is no relevance whatsoever.]”*
- [J] [This brings us back to the point at which we started, namely, whether or not, if the heir seized property, they retrieve it from his domain. The passage at M. Ar. indicates that one does not do so, but the cited passage above states that one does do so.] *Here [D] you say that they do retrieve the property from his domain, and there [C] you say that they do not retrieve the property from his domain.*
- [K] [The reason that, in the case of the levir, one retrieves the property from his domain and restores it to the woman is this:] Since you have weakened the claim of the woman, in that the settlement of her marriage contract falls only upon the property of her first husband [M. 8:10N], in this case you [compensate and] strengthen her hand, so that if the heir should go and seize [the late husband’s property], they retrieve it from his domain [for paying off the woman’s marriage contract]. [That explains why the rule is what it is in the present instance, which then is treated as a special case.]
- [L] *And so too it has been taught: “[If the deceased] left trees, and [the heirs] cut them down, whether the trees were old or young, they retrieve the wood from their domain.”*

8:11

[A] [The levir] may not say to her, “There is [the repayment for] your marriage contract, lying on the table.”

[B] But all of his property is subject to lien for the payment of her marriage contract.

[C] (Y. lacks:) And so a man may not say to his wife, “There is [the repayment for] your marriage contract, lying on the table.”

[D] But all of his property is subject to lien for the payment of her marriage contract.

[E] [If] he divorced her, she has a claim only on her marriage contract.

[F] [If] he remarried her, lo, she is equivalent to all women.

[G] And she has a claim [only] on her marriage contract alone.

[I:1 A] [Tosefta’s version: He who died and leaves his wife awaiting marriage with her deceased childless husband’s brother,

[B] even if he left an estate worth a hundred *manehs* and the charge of her marriage contract is only a *maneh*,

[C] the heirs cannot sell (his estate),

[D] for all of his property is encumbered for the payment of her marriage contract.]

[E] [Yerushalmi gives only:] What should [the levir] do?

[F] He should consummate the marriage, then divorce her, and she gives him a quittance for her marriage contract [T. Ket. 9:1A-F].

[G] Said R. Yosé, “*The Tannaitic teaching is to be interpreted as dealing with two separate cases: Either he consummates the marriage and divorces her, or she gives him a quittance for her marriage contract.*”

[I:2 A] R. Zeira in the name of R. Hamnuna, “If he married her and divorced her and then remarried her, if he prepared a new marriage contract for her, then the settlement of that marriage contract falls upon his property. But if not, her marriage contract remains incumbent on the estate of her first husband.”

[B] [Maintaining that this point is not new,] R. Yosé said in the name of R. Hisda, “*The Mishnah has made that same point: He who divorces his wife and then remarries her – on the strength of the original marriage contract does he remarry her* [M. Ket. 9:9N-O].

[C] At the end: **He should consummate the marriage, then divorce her** and remarry her.

[D] [*Zeira*] *intended to present us with a more substantial point than that, namely, even if he married her, divorced her, and then remarried her, if he prepared a new marriage contract for her, then the settlement of that marriage contract falls upon his property. But if not, her marriage contract remains incumbent on the estate of her first husband.*

[I:3 A] R. Zeira in the name of R. Hamnunah said, “A betrothed woman who died has no claim on a marriage settlement [e.g., for burial costs, against the husband]. [For this is not similar to a case in which she was divorced, for in this case] she has not been permitted to remarry in the marketplace.

[B] The rule is stated so that you should not say that it is a case parallel to one in which she was divorced, so that she should have a right to a marriage contract. On that account it is necessary to say, she has no claim on a marriage contract.

[I:4 A] **In earlier times, when her marriage contract was in her father’s hands, it was a light thing in his [the husband’s] eyes to divorce her. [Yerushalmi lacks: Simeon b. Shetah therefore ordained that her marriage contract should be with her husband (who might do business with it, signing it over for a mortgage and the like). And he (therefore) writes for her, “All property which I have is liable and obligated for the payment of your marriage contract” [T. Ket. 12:1A-C].**

[B] They went and ordained that her marriage contract should remain with her husband. Even so, it was a light thing in the husband’s eyes to divorce her.

[C] They went and ordained that a man should purchase cups, dishes, and plates, with funds covering his wife’s marriage contract.

[D] *This is in line with that which we have learned: **He may not say to her, “There is [the repayment for] your marriage contract, lying on the table.” But all of his property is subject to lien [32c] for the payment of her marriage contract [M. Ket. 8:11A-B].***

[E] They went and ordained that a man may do business with the funds covering the marriage contract of his wife, since, because a man may do business with that capital, he may lose it, so that it is quite a serious matter in his eyes to divorce her.

[F] Now Simeon b. Shetah made three decrees:

[G] that a man may do business with the marriage contract of his wife:

[H] that children should go to school;

[I] that glassware is susceptible to becoming unclean.

[J] Did not R. Zeira, R. Abuna in the name of R. Jeremiah say, “Yosé b. Yoezer of Seridah, and Yosé b. Yohanan of Jerusalem decreed that the land of the peoples should be unclean, and likewise that that is the case for glass utensils.”

[K] R. Yosé said, “R. Judah b. Tabbi [made that decree].”

[L] R. Judah said, “R. Judah b. Tabbi and Simeon b. Shetah made a decree concerning metal utensils. Hillel and Shammai made a decree concerning the cleanness of hands.”

[M] R. Yosé b. R. Bun in the name of R. Levi, “That was the law as they had received it, but they had forgotten it, and then the pairs went and [reasoned the law, and so] came to the same conclusion as their predecessors.”

[N] This serves to teach you that in the case of any matter for which a court is prepared to give up its life, in the end that matter will endure in their hand.

[O] *This is in line with what was said to Moses at Sinai, and accords with what R. Mana said, “For it is no trifle for you, but it is your life, and thereby you shall live long in the land which you are going over the Jordan to possess’ (Deut. 32:47). And if it is a trifle for you, why should that be the case? Because you do not devotedly labor in it. ‘For it is your life’ – under what circumstances is it your life? When you devotedly labor in it.”*

YERUSHALMI KETUBOT

CHAPTER NINE

9:1

- [A] [32d] He who writes for his wife [a contract that states], “I have no right nor claim to your property,”
- [B] lo, this one [nonetheless] has the usufruct during her lifetime.
- [C] And if she dies, he inherits her estate.
- [D] If so, why did he write to her, “I have no right nor claim to your property”?
- [E] So that if she sold or gave away [her property], her act is valid.
- [F] [If] he wrote for her, “I have no right nor claim to your property or to its usufruct [consequent profits],”
- [G] lo, this one does not have the usufruct in her lifetime.
- [H] But if she dies, he inherits her estate.
- [I] R. Judah says, “Under all circumstances [in any event] he has the usufruct of the usufruct,
- [J] “unless he writes for her, ‘I have no right nor claim to your property, to its usufruct, or to the usufruct of its usufruct, without limit.’”
- [K] [If] he wrote for her, “I have no right nor claim to your property, to its usufruct, to the usufruct of its usufruct, during your lifetime and after your death,”
- [L] he neither has the usufruct in her lifetime, nor, if she dies, does he inherit her.
- [M] Rabban Simeon b. Gamaliel says, “If she died, he should [in any event] inherit her,
- [N] “because he has made a stipulation against what is written in the Torah [which is that the husband inherits his wife’s estate].
- [O] “And whoever makes a stipulation against what is written in the Torah – his stipulation is null.”

[I:1 A] R. Yohanan in the name of R. Yannai, “[The law of the Mishnah applies to a case] in which he has not yet married [the woman], but if he had married her, a man does not give up his rights by using such language as this. [This statement is not one of donation and hence does not produce the desired effect.]”

[B] *Said R. Yosé b. R. Bun, “A statement of R. Hiyya contains the same implication: He who says, ‘My hands are removed from this field,’ ‘My feet are removed from this field,’ has said nothing whatsoever.”*

[C] *Said R. Abun bar Hiyya before R. Zeira, “But does the Mishnah contain the same principle, that a man does not give up his rights by using such language as this? For [to the contrary] we have learned there: **He who was married to two women, and who sold off his field, and the first woman wrote to the purchaser, ‘I have no case or claim with you, ‘ the second wife nonetheless seizes the field from the purchaser, and the first wife from the second, and the purchaser from the first [M. Ket. 10:6].** [It is the second who does so,] lo, the first wife does not. [Consequently, she has not given up her rights by using the cited language.]”*

[D] He said to him, “The very essence of the case maintains that a person does not give up his rights by using such language. But in the cited case even the second wife should not have the right to remove the property from the possession of the first. [Since the first has not given up her right to the field, the second also may not retrieve the field from her possession.] And why does the first woman not retrieve the field from the domain of the purchaser? It is because she writes a deed for him as follows: ‘Any complaint which I may have with regard to this field will have no bearing upon your rights to it’ [and with such language she indeed does give up her rights of ownership].”

[I:2 A] If he wrote such a document for her, and she wrote an equivalent document for him [e.g., covering her rights to support], just as he does not give up his rights through using such language, so a woman does not lose her rights by using such language.

[B] If he wrote such a document for her at the stage of betrothal and at the stage of marriage [so renouncing claim to property which may come to her not only when she is engaged, but also when she is married], *there is a dispute between the House of Shammai and the House of Hillel.*

[C] *For the House of Shammai's view is that she may sell [the property which may come to her after marriage]. In the view of the House of Hillel she may not sell it. [The view of the former applies even to begin with, not merely after the fact. In the view of the latter if she got property after marriage, even after the fact she may not sell it. Cf. PM for a second possible way of seeing this statement of the Houses.]*

[I:3 A] R. Jeremiah raised the following question before R. Zeira: "If he wrote for her, 'I have no right nor claim to your property,' and property came to her after that point, what is the law?"

[B] Now may a man make a stipulation concerning something which has not yet reached his domain?

[C] *Said R. Bun bar Hiyya before R. Zeira, "From the husband's advantage you derive his disadvantage [a statement to be explained now]. [What is the point of the man's declaring not only that he has not got a claim to property which comes when she is engaged, but also that he renounces his claim to property which comes when she is married? If, indeed, even after the fact, she may not sell that property, why should the husband trouble to issue such a worthless stipulation?] But by writing the second clause [governing what comes after the marriage], he renounces his claim to the usufruct of the property which comes at that time. Thus from the husband's advantage [in enjoying the usufruct of the wife's property] you derive [his purpose in defining his own] disadvantage [that he will not utilize that advantage which he formerly enjoyed]."*

[I:4 A] *R. Levi bar Hiyyata raised the question, "If he wrote to her, 'I have no right nor claim to your property which may accrue to you after this time,' what is the law?"*

[B] Now may a man make a stipulation concerning something which has not yet reached his domain?

[I:5 A] [If he wrote to her, "I have no right nor claim to your property,"] and she sold unharvested produce –

[B] R. Aha said, "It is as if she sells produce which has been harvested [which she has no right to do, since the husband continues to enjoy the usufruct of the property (M. 9:1B)]."

[C] [Differing from this view,] said R. Yosé, “It is as if she sells one-tenth of the real estate [itself], [and her act of sale is valid, since she may dispose of the land, not the produce thereof].”

[I:6 A] R. Zeira, R. Judah in the name of Rab: “He who writes over a field as a gift to his wife [following PM’s reading] may not sell the produce thereof [for he does not enjoy the usufruct of that field any longer].”

[B] *Said R. Zeira, “Does the following Tannaitic teaching maintain that view?”*

[C] **How so? [Yerushalmi: These are the usufruct of the usufruct:]**

[D] **He sells the usufruct and purchases real estate with the proceeds. And he has the usufruct of the produce [of that field] [T. Ket. 9:1E-F]. [So the parallel case does assign to the husband the usufruct of the field.]**

[E] *R. Immi raised the question, “If another party had written over a property to her, [the husband] would have enjoyed the usufruct of that property. If he himself has done so, is it not an argument a fortiori [that he should retain the usufruct?”*

[F] [R. Judah in the name of Rab] made that statement only with reference to writing over [the property]. Lo, if he were to sell it, he would not [give up the usufruct].

[G] What is the difference between his writing the field over to her and his selling it to her?

[H] [In writing over the field to her,] he was looking for a pretext for taking away [his responsibility to] feed his wife. [But in selling the field to her, it was simply because he needed the money. In the former case he exchanged the usufruct of the deeded field for his duty to feed her.]

[I] *So far as R. Judah’s position is concerned, there is no problem [in the view that the husband does not enjoy the usufruct of the field], for [we may postulate that we deal with a case] in which the husband wrote to the wife, “I have no right nor claim to your property or to its usufruct.” Consequently he does not enjoy the usufruct. [Judah’s disagreement with the Mishnah at M. concerns only the usufruct of the usufruct. He concurs that the husband does not enjoy the usufruct.]*

[J] [But the problem before us is this:] Even if he had written to her, “I have no right nor claim to your property or to its

usufruct,” [was it his intent to give up all claim on the usufruct thereafter]? [Or did he make reference only to what was then in the field?]

[K] *There is, further, no difficulty in dealing with the view of rabbis in a case in which he wrote to her, “I have no right nor claim to your property or to its usufruct.” He has no right to the usufruct of the usufruct.*

[L] [But the problem before us is this:] Even if he had written to her, “I have no right nor claim to your property or its usufruct,” does he then not have a claim on the usufruct of the usufruct? [Since he referred to the field and its usufruct, one may claim that he gave up his claim only on the usufruct of the field at that time, but not from the usufruct of the usufruct thereafter.]

[M] *Let us derive the answer from that which R. Zeira, R. Judah in the name of Rab [said]: “He who writes over a field as a gift to his wife may not sell the produce thereof [having given up the usufruct].”*

[N] *Said R. Zeira, “Does the following Tannaitic teaching maintain that view?”*

[O] How so?

[P] He sells the usufruct and purchases real estate with the proceeds. And he has the usufruct of the produce of that field [T. Ket. 9:1E-F].

[Q] Since he has written to her, “I have no right or claim to your property and to the usufruct thereof,” is he not in the position of one who has written over a field as a gift to his wife?

[R] Now you have said, “Not the usufruct nor the usufruct of the usufruct.”

[S] *So there is no point of difference in R. Judah’s position between a case in which he wrote, “I have no right nor claim to this field or to its usufruct,” and a case in which he wrote, “I have no right nor claim to your property and to its usufruct.” In either case he has not got a claim to the usufruct.*

[T] *There is, further, along these same lines, no difference in the view of rabbis in a case in which he wrote to her,*

“I have no right nor claim to your property or to its usufruct,” or in a case in which he wrote to her, “I have no right nor claim to this field or to its produce.” In either case he enjoys the usufruct.

- [II:1 A] R. Jeremiah in the name of Rab: “The law accords with the view of Rabban Simeon b. Gamaliel [at M. 9:1M-O]. But it is not in accordance with the reason that he gives for the matter.”
- [B] “The law is in accord with the view of Rabban Simeon b. Gamaliel,” when he has said, **“If she died, he should in any event inherit her.”**
- [C] “But [it is not for] the reason [that he gives for the matter]”: **“Because he has made a stipulation against what is written in the Torah, and whoever makes a stipulation against what is written in the Torah – his stipulation is null” [M. 9:1N, O].**
- [D] For that is so in respect to a stipulation having to do with the body. But in regard to a stipulation having regard to monetary rights, the stipulation is valid. But here we deal with a stipulation having to do with monetary rights, so why have they said that his stipulation is null?
- [E] Because at the end [after her death] he will acquire the estate. [The acquisition is through the stipulation established by the court, and it is not the husband’s prerogative to give up what the court stipulates in all cases.]
- [F] R. Immi in the name of R. Yohanan: “If a woman [in any circumstances] should sell or give away her property, in law, what she has done should be valid, for [only] at the end [after her death] does he have rights over them [only then would he acquire them; until then, however, he only enjoys the usufruct]. Why then did sages maintain that her act of sale is null? It is so that a woman should not sell her husband’s property and claim, ‘It is mine.’”
- [G] *R. Yustini had a case before rabbis, and they found for the antagonist, telling him, “Abandon your property.”* [The rabbis supported the view that the husband who nullifies his claim on his wife’s estate loses out.]
- [H] *He appealed to R. Simeon b. Laqish. He said to him, “Return to your property.”*
- [I] *R. Jeremiah raised the question before R. Zeira, “In accord with what authority did the rabbis who decided*

against R. Yustini rule? Lo, there is the view of Rab, R. Yohanan, R. Simeon b. Laqish.”

[J] *He said to him, “[They ruled in accord with] the rabbis of the case of R. Yustini.”*

[II:2 A] *They asked before R. Yohanan, “[As to M. 9:1L, If she dies, he does not inherit her,] in view of sages [just now cited], who does inherit her?”*

[B] *He said to them, “Her brothers inherit her.”*

[II:3 A] *R. Jeremiah raised the question before R. Zeira, “Brothers who divided up an estate of their father – as to the widow, is she supported out of their property?”*

[B] *Why does he raise this as a matter of doubt? It is so that you should not maintain that they should be treated as if they have sold the property, so that she should not be supported out of their property.*

[C] *It is self evident that if they have sold the property, they have sold what is theirs, [and the widow has no claim on the purchasers of the property for her support].*

[II:4 A] *R. Jeremiah raised the question before R. Abbahu, “It is written, ‘And if the Jubilee of the people of Israel comes, then their inheritance will be added to the inheritance of the tribe to which they belong’ (Num. 36:4).*

[B] *“When the Jubilee is observed, property received by inheritance returns to its tribe. And when the Jubilee is not observed, property received by inheritance does not return to its tribe. [Why should Scripture say, ‘If ...?’]”*

[C] *He said to him, “To the contrary. The use of ‘if’ is to tell you, even when the Jubilee is observed, land received by inheritance returns, but land received under the inheritance law of the Torah [that is, land inherited by a husband from his wife] does not return [to her tribe].”*

[II:5 A] *R. Hillel bar Pazzi raised the following question before R. Yosé: “If the husband sold [the melog property of the wife, which would leave the marriage were he to divorce her, but which he would inherit if she dies before he does,] and then she died, [what is the law]? [Do we follow the rule prevailing at the moment of sale, in which case he had the usufruct, but not the right of sale, or do we follow the rule prevailing now, in which case he has inherited the property and it is his to sell off?]”*

[B] He said to him, “His act of sale is null. The matter is to be compared to the act of sale of a father [of property the son will some day inherit] during the lifetime of the son, and then the son died. [The act of sale is null.]”

[C] “If the wife sold the property and then the husband died [what is the law]?”

[D] He said to him, “Her act of sale is valid. It is comparable to a son who sold off property written over to him while his father was yet alive. When the father dies, the sale is valid.” [On the readings here, cf. PM.]

[II:6 A] *R. Hiyya bar Mareh raised the following question before R. Jonah: “If she sold the property to her husband, [what is the law]? [Since he enjoys the usufruct, does the sale amount to anything?]”*

[B] *He said to him, “Since Hezekiah said, ‘The law is in accord with the view of Rabbi,’ that implies that her act of sale is valid.”*

[C] *[The reference is to] that which has been taught:*

[D] **He who says, “Give my property to So and so, and if he dies, to So and so, and if he dies, to So-and-so,” –**

[E] **the first enjoys the usufruct.**

[F] **And if he dies, it is to be handed on to the second. And if he dies, it is handed over to the third party.**

[G] **If the second one died before the first,**

[H] **since the second party never acquired ownership of the property, the third party has never acquired ownership either, and, consequently,**

[I] **the first enjoys the usufruct, and if he died, [the usufruct] is to go back to the heirs of the donor.**

[J] [Proposing to explain this matter,] [Jonah] said to him, “Thus did R. Hoshaiyah, [33a] father of the Mishnah, explain: ‘*After him*, to So and so, and *after him*, to So and so,’ [then the law would be as just now stated at H]. But if the testator had said, ‘If the third party should die,’ [then the law would not be as just now explained]. Rather, since the second party has not yet acquired ownership of the property, his heirs also should not acquire ownership thereof. But well do you find the teaching phrased as follows: ‘After him, to Such-and-such, after him to So and so.’”

[K] *It has been taught [in this same passage]:*

[L] **“The first party has the right to sell the land and to enjoy the usufruct,” the words of Rabbi.**

[M] **Rabban Simeon b. Gamaliel says, “The first part has the right only to the usufruct alone” [T. B.B. 8:4A-F].**

[N] Hezekiah said, “The law is in accord with Rabbi.”

[O] *Said R. Mana, “On the basis of what Hezekiah has said, ‘The law is in accord with the view of Rabbi,’ we may draw the conclusion that the donor does not give over this property under the law of gifts in contemplation of death. [That is, even though Rabbi says that the first party may sell the land, he concurs that he cannot give the land away under the provisions of the law of gifts in contemplation of death. Why not? Because the property under that law passes after death. But at that point at which the man dies, the second party in the line of succession already has acquired ownership of the land. Accordingly, in this instance the law of gifts in contemplation of death is null, having been set aside by the special circumstances of the original donation. In the parallel case before us, since a woman has a right to the property itself, her act of sale is certainly valid.]”*

[P] *As to the present case R. Mana said before R. Yosé, “[As to the comparison of the case of the woman, whose act of sale or gift is valid, just as there, the first party’s act of sale is valid, that comparison is not necessarily compelling.] For in the case of the woman, since the responsibility to provide for her remains that of the husband, it is not really parallel to the gift in contemplation of death. [Her sale or gift applies only after the death of the husband. She does not have to sell the property to buy food. Why do you treat her act of sale as valid? Rabbi has maintained that, under the law of the gift in contemplation of death, the sale is null.]”*

[Q] He said to him, “The husband’s obligation is to provide food which is required for her, such as food, oil, and salt. *But she wants to buy and eat chickens. [It is for the latter purpose that she sells the land to the husband. This is in no way tantamount to a gift in contemplation of death. It is at the volition of the wife that she sells the property to the husband.]”*

[R] *[Since we compare the law applying to the woman to the law applying to the first recipient of the gift, mentioned*

above,] *that is to say that* if the first party should want to sell the land and buy chickens to eat, he may do so.

[S] *Said R. Jacob bar Aha, “It has been taught there: The consideration of burial is equivalent to the consideration of maintenance. Just as you have said there, one may sell the land and buy food, so here: one may sell the land and buy the appurtenances of burial.”*

[II:7 A] *Said R. Yosé, “As to those who write in the marriage contract, if she should die without children, her dowry should return to the household of her father, that stipulation concerns a monetary matter, and it is valid.”*

9:2

[A] **He who died and left a wife, a creditor, and heirs,**

[B] **and who had goods on deposit or a loan in the domain of others –**

[C] **R. Tarfon says, “They should be given over to the weakest among them [the creditor].”**

[D] **R. Aqiba says, “They do not show pity in a lawsuit.**

[E] **“But they should be given over to the heirs.**

[F] **“For all of the [other claimants] have to confirm their claim by an oath.**

[G] **“But the heirs do not have to confirm their claim by an oath.”**

[I:1 A] *“[The meaning of Tarfon’s statement about the weakest,]” R. Yosé bar Haninah said, “is to the weakest so far as his proofs are concerned. For instance, as between a creditor whose debt is secured merely by witnesses and one whose debt is secured by a bond, it is to begin with to the one whose debt is secured merely by witnesses.”*

[B] *R. Yohanan said, “The meaning is, the weakest in body [and so least able to pursue the purchasers of the deceased’s property and regain what is owing to him or her].”*

[C] *But what if they were rich [but weak in body], like the son of Andrai? [What sort of “pity” would Aqiba then mean at M. 9:2D?]*

[D] *Said R. Aha, “It is to the weakest in body, who also is poor.”*

[I:2 A] *That is in line with the following: To a woman relation of R. Samuel bar Abba they gave [the residuary estate] on grounds that she was the weakest. R. Simeon b. Laqish brought agents of R. Yudan the patriarch and took the property away from her.*

- [B] *Yohanan was leaning on R. Simeon b. Abba. He said to him, “What shall we do for that poor lady?” He said to him, “R. Simeon b. Laqish brought the agents of R. Yudan the patriarch, who took the property away from her.”*
- [C] He said to him, “And is that the right way to do things? [That is, how can the property be seized from her after she has acquired ownership of it by court decree?]
- [D] *Said R. Jeremiah before R. Zeira, “Shall we say that .Yohanan is consistent with his view expressed elsewhere, and R. Simeon with his? For they have a dispute as follows:*
- [E] “All concur that if the judges erred in reasoning, they do not retract the decision. If they erred in a matter of the law of the Torah, they do retract the decision.
- [F] *“In what point do they differ? In regard to an error in the law of the Mishnah.*
- [G] “For R. Yohanan said, ‘An error with respect to the law of the Mishnah falls into the category of an error in reasoning.’ [That is why he was surprised at the reversal of the decision by Simeon b. Laqish.]
- [H] “R. Simeon b. Laqish said, ‘An error with regard to the Mishnah falls into the category of an error in the law of the Torah.’ [That is why he reversed the court’s original decision and took away the property.]”
- [I] An error with respect to the Mishnah is the same as an error with regard to the opinion of sages. [They decided in accord with Tarfon, rather than Aqiba. That is an error which must be reversed.]
- [J] But [in respect to M. 9:2F G, the heirs] are exempt from having to take an oath, [for there may be other cases in which the creditor or the widow would be free of having to take an oath].
- [K] This is a law deriving from the Torah, and that is not a law deriving from the Torah [in that the heirs receive the estate by the law of the Torah, and the marriage settlement coming to the wife and the repayment of the debt may be collected only by reason of a decree of sages].

9:3

- [A] [If] he left produce harvested from the ground,
[B] whoever gets them first has effected acquisition of them.
[C] [If] the wife made acquisition of an amount greater than the value of her marriage contract,
[D] or a creditor greater than the value of the debt owing to him –
[E] as to the excess [of the claims of these respective parties] –
[F] R. Tarfon says, “It should be given to the weakest among them.”
[G] R. Aqiba says, “They do not show pity in a lawsuit.
[H] “But it [= A] should be given over to the heirs.
[I] “For all of them have to confirm their claim by an oath.
[J] “But the heirs do not have to confirm their claim by an oath.”

- [I:1 A] *Both Rab and R. Simeon b. Laqish say, “The law [of M. 9:3A-B] applies in a case in which they were piled up in the stall. But if he had piled them up in his house, his house has effected ownership of them [for the person who owns the house now.]”*
- [B] R. Yohanan said, “Even if he had piled them up in his house, his house has not effected ownership of them,
- [C] *“for he had supposed that they belonged to him [because his house had effected possession of the produce for him], but they in fact do not belong to him at all.”*
- [D] And at what point does the householder acquire ownership of produce in the Seventh Year?
- [E] *R. Jeremiah considered ruling, “Once he has put the produce into his own utensils.”*
- [F] Said R. Yosé, “Even if he had put them into his own utensils, he has not acquired ownership of them,
- [G] *“for he [the householder] had supposed that the produce belonged to him, but the produce in fact does not belong to him.”*
- [H] *A widow seized a slave girl as payment for her marriage settlement. R. Isaac ruled, “Since she has seized her, she is properly seized [and the action is valid].”*
- [I] *R. Immi took the slave away from her, for she had thought that the slave belonged to her, and she was not hers [for the*

collection of her outstanding marriage settlement]. [The slave is in the status of movables, not real estate.]

[J] *There is further the following case: When the sons of Shimi died, their father left them a goat. A creditor came and seized it. The case came before R. Abbahu, and he ruled, “He has taken what belongs to him.”*

[K] *But has it not been taught: As to an heir and a creditor, one of whom came first and seized property – they retrieve it from his domain?*

[L] *For they thought it was theirs, and it is not theirs.*

[M] Said R. Jacob bar Zabedi, “R. Abbahu concurs that if they had sold it, given it as a pledge, or moved it from one place to another, and thereafter the creditor came and seized it, they retrieve it from him.”

[N] But [in respect to the claim that the heirs] are exempt from having to take an oath, [there may be other cases in which the creditor or the widow would be free from having to take an oath]. This is a law deriving from the Torah, and that is not a law deriving from the Torah.

9:4

[A] He who sets up his wife as a storekeeper,

[B] or appointed her guardian,

[C] lo, this one may impose upon her an oath [that she has not misappropriated any of his property],

[D] at any time he wants.

[E] R. Eliezer says, “Even with respect to her spindle or her dough [if she is not a shopkeeper or storekeeper or guardian, he may impose an oath].”

[I:1 A] *Well did R. Eliezer rule. And what is the reason of rabbis [for not allowing an oath on the items of M. 9:4E]?*

[B] If you maintain that [he may impose such an oath], there will never be peace in his house.

[I:2 A] If she broke dishes, *how do you treat the case?* Is she in the status of an unpaid bailee [who makes it up only if at fault] or a paid bailee [who makes it up even if not at fault]?

- [B] *It is reasonable to suppose that she should be treated as a paid bailee [because the husband takes care of her].*
- [C] She is not treated even as an unpaid bailee, for if you say [that she is, and hence has to take an oath that she is not at fault], there will never be peace in his house.

9:5

[A] **If he wrote to her, “Neither vow nor oath may I impose upon you,”**

[B] **then he cannot impose an oath on her.**

[C] **But he imposes an oath upon her heirs and upon those who are her lawful successors.**

[D] **[If he said,] “Neither vow nor oath may I impose upon you, upon your heirs, or upon your legal successors,”**

[E] **he cannot impose an oath upon her or upon her heirs or legal successors.**

[F] **But his heirs do impose an oath upon her, upon her heirs, or upon her legal successors.**

[I:1 A] *Both R. Jonah and R. Yosé say, “It is not the end of the matter that [she is exempt from an oath concerning] property to which she had access during the lifetime of her husband, but even as to property which she utilized after her husband’s death the heirs cannot impose an oath on her.”*

[I:2 A] *There we have learned: **He who rents a cow from his fellow and then lent it to someone else, and it died of natural causes – let the one who rented it take an oath that it died of natural causes, and the one who borrowed it then pays compensation to the one who rented it [M. B.M. 3:2].*** R. Hela in the name of R. Yannai: “And that rule applies in a case in which the owner gave him permission to rent it to others.”

[B] *And R. Hiyya taught likewise: **One who borrows has no right to lend out, and one who rents has no right to rent out, and one who borrows has no right to rent out, and one who rents has no right to lend out, and one with whom these things are left as a bailment has no right to leave them as a bailment with someone else, unless the householder [the owner] has even him permission to do so [T. B.M. 3:1].***

[C] And all those who changed the conditions of their guardianship without the knowledge of the owner are liable.

- [D] But as to the borrower, even if he did not change [the terms of the agreement], he *is* liable!
- [E] *But since we have learned: An unpaid bailee may stipulate that he is exempt from having to pay compensation [M. B.M. 7:7R-S], now this comes to tell you that,* even though he stipulated with him that he is exempt, he still is liable.
- [F] What if he sought to impose an oath on the borrower [in the case of A]?
- [G] *Let us derive the law from the following: If he wrote to her, “Neither vow nor oath may I impose upon you,” then he cannot impose an oath on her, but he may impose an oath upon her heirs and upon those who are her lawful successors [M. 9:5A B]. That is to say that* if he wanted to impose an oath on the borrower, he may impose an oath on him [as successor].
- [H] *That law [of M. B.M. 3:2] is derived from the present matter [M. Ket. 9:5], and the present matter derives from that law.*
- [I] *That law [M. B.M. 3:2] derives from the present matter: if he wanted to impose an oath on the borrower, he may do so [treating him as legal successor].*
- [J] *And the other matter [M. Ket. 9:5] derives from this case [of M. B.M. 3:2]. If he wanted to impose an oath on the woman, he may not impose an oath on her [for if he imposed an oath on the borrower, he may not do so on the renter].*
- [L] *Said R. Haninah, “It is hardly necessary to derive the law [of M. Ket. 9:5] from the present one [of M. B.M. 3:2]. [It is explicit that the woman is freed of the oath.] And what is necessary is to derive the present law from that one. This is in line with what R. Hela said in the name of R. Yannai, ‘And that rule applies to the case in which he gave him permission to lend out [the beast to a third party].’ And here, that law applies to a case in which he gave her permission for her children to be executors [in which case, subject to oath, they may so act].”*
- [I:3 A] Said R. Yosé, “It is necessary to pay him a salary all the time that he is hired by him [even though the beast is in fact borrowed by a third party].”
- [B] R. Zeira asked R. Abuna, “If the owner borrowed the ox, and then it died [what is the law as to the need to pay compensation to the one who had hired it out, the renter]?”

[C] *He said to him, “So do we maintain is the law – even if the owner ate the beast!”*

[D] Said R. Yosé bar Abun, “If they ate the beast, they ate their own beast!”

[I:4 A] [*Referring to Y. Qid. 1:4*] R. Zeira raised the question before R. Yosa, “How do we decide such a case?”

[B] *He said to him, “[We follow the majority]. Here we have two against four [so the second party is liable, since Eleazar, Yohanán, Yannai, and Hiyya all maintain that is so]. [The borrower has no right to lend out the beast, so the original guardian is liable.] The law follows the majority.”*

[C] [33b] *He said to him, “We have only two against two, for R. Eleazar is the disciple of R. Hiyya the Elder, and R. Yohanán is the disciple of R. Yannai.”*

9:6

[A] [If he said,] “Neither vow nor oath may I or my heirs or my legal successors impose upon you, upon your heirs, or upon your legal successors,”

[B] neither he nor his heirs or legal successors can impose an oath upon her, her heirs, or her legal successors.

[C] [If] she went from her husband’s grave to her father’s house,

[D] or if she went back to her father in law’s house and was not appointed executor,

[E] the heirs do not impose an oath on her [that she has not misappropriated any property of the estate].

[F] And if she was appointed executor [of the estate], the heirs do impose an oath on her concerning time to come.

[G] But they do not impose an oath on her concerning past time.

[I:1 A] Said R. Jonah, “And that rule [M. 9:6A-B] applies in a case in which she acted as executor during her husband’s lifetime. But if she did so after the death of her husband, the heirs do impose an oath on her.”

[B] *That is what the Mishnah says: If she was not appointed executor, the heirs do not impose an oath on her [M. 9:6C-D]. If she was appointed executor of the estate, the heirs do impose an oath on her concerning time to come, but they do not impose an oath on her concerning past time [M. 9:6F-G].*

- [C] What is the definition of past time? From the time of the husband's death to the time of his burial.
- [D] And R. Yosé said, "Even if she acted as executor after the death of her husband, the heirs may not impose an oath on her."
- [E] *But lo, have we not learned: If she was not appointed executor, the heirs do not impose an oath on her. And if she was appointed executor, the heirs do impose an oath on her concerning time to come, but they do not impose an oath on her concerning past time [M. 9:6C-G]?*
- [F] Interpret that rule to apply to the opening clause [= M. 9:5A F].
- [G] *But if it applies to the opening clause, it contradicts the following: R. Jonah and R. Yosé both say, "It is not the end of the matter that she is exempt from an oath affecting property to which she had access during the lifetime of her husband, but even as to property to which she had access after the death of her husband, the heirs may not impose an oath on her."*
- [H] Interpret that rule [that there is no oath, as at G] to apply from the time of death to the time of burial.
- [I] For R. Abbahu in the name of R. Yohanan said, "As to matters affecting the period from the time of death to the time of burial the heirs may not impose an oath on her."
- [J] *Bar Qappara taught, "It is so that she should not leave him and go off to her father's house [while the husband is dying, so as to avoid having to take an oath after his death as to things she may have touched from his death until his burial]."*

9:7

- [A] **She who impairs her marriage contract collects it only through an oath.**
- [B] **[If] one witness testified against her, alleging that it had been collected, she collects it only through an oath.**
- [C] **[If the contract is to be paid of] from the property of heirs, or from property subject to a lien, or in his [the husband's] absence**
- [D] **should she collect [her marriage contract] only through an oath.**
- [I:1 A] Said R. Zeora, "In all of these cases, an oath in the status of one deriving from the Torah has fallen away [in that the oaths required

here are not of the standing of a Torah oath, but an oath imposed by sages as a remedy].”

- [B] And [note, by way of proof,] the marriage settlement owing to a woman – is it not assumed to be within her power to collect it? [And she has not collected it, in accord with her own statement. Now she takes an oath and collects it. Now in a Torah oath one takes an oath so as not to pay, while here the woman takes an oath so as to collect it. This is an example therefore of the oath created by sages as a remedy.] But [sages have treated it] as if she will collect it at some point in the future.
- [C] And this is a case in which he claims that her marriage settlement, specified in a writ covering two hundred zuz, has been collected, and she says that only a hundred have been collected thus far, without her having taken an oath. [She collects only by taking an oath.]
- [I:2 A] *There we have learned: She who impairs her marriage contract collects it only by taking an oath – how so? If her marriage settlement was worth a thousand zuz and he said to her, “You have collected your marriage settlement,” but she says, “I have received only a maneh [a hundred zuz]” – collects [the remainder] only by taking an oath [M. Ket. 9:8A-C].* [Now since M. 9:7 and 9:8 specify that the oath is required in a case of impairing the marriage contract, but not in a case of diminishing it, in which case the woman collects without taking an oath, that is, by claiming less than is theoretically possible, we must ask:] What is the difference between impairing the contract and diminishing it?
- [B] Said R. Hanina, “In a case of impairing the marriage contract, there has been give and take in the meantime. In a case of diminishing it [claiming less], there has been no give and take in the meantime. [She claims she has received nothing at all.]”
- [C] *R. Jeremiah proposed, “Just as you say there, If one witness testified against her, that it had been collected, she collects it only through an oath [M. 9:7B], along these same lines, if a single witness testified against her, that the marriage contract is less [than specified, in which case the matter does not depend only upon what the woman says,] let her collect it only through an oath.”*
- [D] Said R. Yosé, “When that single witness testifies against her, that her marriage contract is less than specified, it is a case of a single witness contradicting the testimony of two witnesses [who have signed the document as witnesses], and a single witness has not got the power to contradict two.”

- [I:3 A] *It has been taught: An heir, the father of whom has impaired his bond, may collect without an oath [cf. M. Shebu. 7:7E F]. In this case the power of the heir is stronger than the power of the father [T. Shebu. 6: SE F].* For the son may collect without taking an oath, while the father may collect only by taking an oath.
- [B] Said R. Eleazar, “And let him take the oath applying to an heir: **‘That father gave us no instructions in this matter, nor did he tell us anything in this regard, nor have we found written in the documents of our father that the bond of indebtedness has been paid’ [M. Shebu. 7:7].**”
- [C] R. Hoshaiiah raised the question, “Does the law of the Tannaitic teaching before us accord with the view of the House of Shammai? [In what follows the House of Shammai treat the marriage contract of the woman as having been paid off, in that if anyone is going to deny her the compensation, he must prove that she has committed adultery. So we regard the possession of the goods in payment of the contract as already devolving upon the woman. Here, too, we treat the collection of the bond owing to the heir as a fait accompli, so that anyone who wishes to prevent collection of the bond must prove that it has already been paid off. On that basis the position of the Tosefta’s rule appears to be in accord with the principle of the House of Shammai.]” For the Shammaites [at M. Sot. 4:2H-I] hold that **a woman may receive the marriage contract while not undergoing the ordeal of drinking the water.**
- [D] [*No, that is not the case. There is a special consideration operative at M. Sot. 4:2H I, for*] said R. Yosé, “*There the reason of the House of Shammai is that she may say, ‘Bring me my husband, and I shall drink the water.’ [Hence her failure to drink is not due to any principle that the marriage settlement is treated as already in the wife’s domain.]*” *But here there is a difference.* In law even the father would not have to take an oath. But sages have ordained an oath applying to him [in the case of collecting this bond]. For him they made that ordinance, but for his son they did not make that ordinance. Since the father has died, the son’s case is dealt with within the strictest limits of the Torah law [which does not impose such an oath]. Accordingly, if his father has become obligated to take an oath in court but then dies, his son does not collect it [through a court oath], for if you do not hold this view, shall we than say that a man bequeaths his obligation to take an oath to his son? [Clearly, that is not the case.]
- [E] Said R. Abin, “That is to say that if his father has impaired his right to collect a bond in court, his son cannot collect it.”

[F] *R. Hisda asked, “Then because this one has taken two steps [in court], shall the other one lose [his right to collect the bond]? For if the father had impaired his right outside of court, you rule that the son may collect his bond. Accordingly, it is because he has impaired his right in court that you have said, He does not collect the bond.”*

[II:1 A] **From the property of heirs she collects only through an oath [M. 9:7C-D].** R. Yohanan in the name of R. Yannai, “They exact payment from the property of an estate only in the case of a bond in which usury is eating up the estate.”

[B] And there are those who say, “Also in the case of paying off the marriage settlement of a wife.”

[C] Said R. Yannai, “It is because the estate has to supply maintenance [to the widow, and it is better for the estate to pay off the marriage contract instead].”

[D] *Said R. Matteniah, “Who takes account of the charge against the estate represented by the widow’s maintenance?” It is R. Simeon.* For R. Simeon said, ‘[The widow’s enjoying maintenance from the estate] depends on [whether or not the marriage contract] has been collected. [If she has gotten some payment, she no longer may charge her maintenance to the estate.]”

[E] *And what is the [reason of rabbis (A, as against B), who do not concur that the widow must be prevented from eating up the resources of the estate]?*

[F] It is on account of preserving her attractiveness, so that people should want to seek to marry her.

[G] And there are those who say, “Also for payment of what the deceased has stolen or for damages he has caused.”

[H] *Said R. Yosé, “Also we too have learned in the Mishnah both of these: As to theft, from the following: **If it is a matter for which the deceased bore responsibility should the object be lost, the heir is liable to pay compensation [M. B.B. 10:1].** As to damages from the following: **They exact payment from the property of an estate only from the poorest quality [real estate] [M. Git. 5:2C].** Thus does the Mishnah teach: They do collect from the property of an estate for *damages* only from the poorest quality [real estate].”*

[I] [As to M. Git. 5:2C] has it not been taught: If the son took the place of the father, as to damages, they assess them from land of the highest quality, and for a creditor, from land of intermediate quality, and for payment of the marriage settlement of a woman, from land of the poorest quality?

[J] Said R. Yosé b. R. Bun, “Here we deal with an adult heir [in which case collection is made from land of the highest quality], and there we deal with a minor heir [in which case compensation comes from land of the poorest quality].”

9:8

[A] “She who impairs her marriage contract” [M. 9:7A]: How so?

[B] [If] her marriage contract was worth a thousand zuz, and he said to her, “You have collected your marriage contract,” but she says, “I have received only a maneh [a hundred zuz],”

[C] she collects [the remainder] only through an oath.

[D] “[If] one witness testified against her that it had been collected”: How so?

[E] [If] her marriage contract was worth a thousand zuz,

[F] and he [the witness] said to her, “You have collected the value of your marriage contract,”

[G] and she says, “I have not collected it,”

[H] and one witness testified against her that it had been collected,

[I] she should collect the marriage contract only through an oath.

[J] “From property subject to a lien” [M. 9:7C(1)]: How so?

[K] [If the husband] sold off his property to others, and she comes to collect from the purchasers, she should collect from them only through an oath.

[L] “From the property of the heirs [orphans]” [M. 9:7C(2)]: How so?

[M] [If the husband] died and left his property to the orphans, and she comes to collect [her marriage contract] from the orphans, she should collect from them only by an oath.

[N] “In his absence” [M. 9:7C(3)]: How so?

[O] [If the husband] went overseas, and she comes to collect [her marriage contract] in his absence, she collects [what is due her] only by an oath.

[P] R. Simeon says, “So long as she comes to claim her marriage contract, the heirs impose an oath on her.

[Q] “But if she does not lay claim to her marriage contract, the heirs do not impose an oath on her.”

[I:1 A] [As to M. 9:8 ff.,] the point of the Mishnah [not limited to the collection of a marriage contract] is that in the case of a debt to be collected from the debtor’s property in the debtor’s absence, collection may be made only upon taking an oath.

[B] And do they collect [a debt when the debtor is] absent?

[C] R. Jeremiah said, “Interpret the law to apply to a case in which interest is eating up [the property of the absentee].”

[D] And does a court collect a debt involving interest?

[E] Interpret the rule to apply to a case in which it is a gentile who serves as the guarantor [of the loan]. [The gentile now seeks the borrower and demands interest when the debt is not paid, since it will devolve upon the gentile to pay it.]

[F] *Liksa [Alexander] said before R. Mana, “We do things in a much better way than you do. We write out a decision [in court for the claimant]. If [the defendant] comes [and brings evidence in his own behalf, well and good. And if not, we assign the property [to the plaintiff even in the defendant’s absence].”*

[G] *He said to him, “We, too, do the same thing. We announce [the pending decision] for thirty days. If [the defendant] comes to court, well and good, and if not, we assign his property [to the plaintiff, even in the defendant’s absence].”*

[H] *He said to him, “Take note of the possibility that the defendant may be in some distant corner [and so unaware of the court’s proclamation].”*

[I] *He said to him, “We send three summonses, one after thirty days, the next thirty days thereafter, and the third thirty days thereafter. If [the defendant] comes to court, well and good, and if not, we assign his property [the plaintiff, even in the defendant’s absence].”*

[J] Said R. Mattanaiah, “That is the case if he came to court and received a judgment and then fled. But he did not come to court but fled, they do not come to a decision, but make

proclamation [for all parties concur that the proclamation comes prior to all court action].”

- [I:2 A] *It turns out that* Hanan and R. Simeon have said the same thing. [M. Ket. 13:1E, **He who went overseas and his wife at home claims maintenance –**] Hanan says, “**Let her take an oath at the end, but let her not take an oath at the outset.**” [That is, she takes an oath when she claims her marriage settlement after her husband’s death, or after he returns, that she has not held back any property belonging to her husband.] And likewise R. Simeon says, “Let the wife take an oath only at the end, [when she claims her marriage settlement].”
- [B] So just as you say that the law follows Hanan, so here the law is in accord with R. Simeon.

9:9

- [A] [If] she produced a writ of divorce, and a marriage contract is not attached to it, she collects her marriage contract.
- [B] [But if she produced] a marriage contract, and a writ of divorce is not attached to it,
- [C] [and if 7 she claims, “My writ of divorce is lost,”
- [D] [while the husband] claims, “My quittance is lost,” –
- [E] and so, too, a creditor who produced a bill of indebtedness and a prosbol [securing the loan in the year of release] is not attached to it –
- [F] lo, these [parties] may not collect [what they claim].
- [G] Rabban Simeon b. Gamaliel says, “From the time of the danger and thereafter;
- [H] “a woman collects her marriage contract without her writ of divorce.
- [I] “And a creditor collects what is owing to him without a prosbol attached.”
- [I:1 A] R. Hiyya in the name of R. Yohanan: “He who contested the ruling of a court [claiming that he had paid off the woman’s marriage contract but not before witnesses] is not believed.”
- [B] *Said to him R. Hiyya bar Abba, “And is it not a teaching of the Mishnah itself: **If she produced a writ of divorce, and a marriage contract is not attached to it, she collects her marriage contract** [M. 9:9A]? [The marriage contract is a court document, and the husband cannot contest it. So what contribution is made at A?]”*

- [C] *R. Yohanan said to him, “O, Babylonian! After I show you the potsherd, are you going to cite me a pearl? [I explained, at A, the reason for M.’s rule, cited by you to me at B.]”*
- [I:2 A] [33c] Rab said, “In a locale in which they do not write out a document of a marriage contract, [the rule of M. 9:9A applies]. [In such a place it is simply a stipulation of the court.] But in a place in which they do write out a document of a marriage contract, what she produces is what she collects. [In the former place she collects merely by producing a writ of divorce. She has nothing else anyhow. But in a place where there is a marriage contract in writing, she has to produce it. This severely limits M. 9:9A.]”
- [B] He retracted and said, “Even in a place in which they write out a marriage contract, she may collect. *He who is very strong may now come and reply to my position.*”
- [C] *R. Yosé replied, “[As to your view that even if a marriage contract was written out, the wife may collect solely on the strength of a writ of divorce, then] lo, has the law taught that a woman may collect on the strength of her writ of divorce, hiding her marriage contract, and then she may go and collect [on the strength of her marriage contract]?”*
- [D] But is there no court available [which will surely know that the marriage contract has been paid off by the husband] !
- [E] *We deal with a case in which the court members had died.*
- [F] And are there no witnesses?
- [G] We deal with a case in which the witnesses [to the transaction] went overseas [and are unavailable].
- [H] *Is there no receipt [written out by the woman in exchange for the payment of her marriage settlement]? Or does Rab not accept the requirement that such a document be written out?*
- [I] *Rab most certainly does affirm that a receipt must be written out. He is of the view of him who said, “If one’s document of indebtedness is lost, write a duplicate for him.”*
- [J] [So, too,] *he is of the view of him who said, “If her marriage contract is lost, write up another for her.” [But it is marked as a duplicate, so only a single such document may be presented to the court.]*
- [K] *R. Ba objected, “Lo, then has the law taught that a woman may collect [her marriage settlement by presenting] her writ of divorce [as at M. 9:9A]? Then she may put away her marriage contract and wait until her*

husband dies, and then go and collect [again, on the strength of the marriage contract with the writ of divorce].) [The heirs may not know that there once was a receipt in payment of the marriage settlement, and they may be fooled into paying a second time.]”

[L] Said to him R. Yosé b. R. Bun, “And is it not incumbent on her to produce evidence that she was married to him until the time that he died?”

[I:3 A] R. Zeira, R. Abuna in the name of Rab: “In a locale in which they write a writ of a marriage contract, if he claims, ‘I wrote one,’ and she claims, ‘You did not write one,’ [in which case she produces only a writ of divorce and wishes to collect,] it is incumbent on her to bring proof that he had not written such a document.

[B] “In a locale in which they ordinarily do not write a writ of a marriage contract, and he claims, ‘I wrote one out,’ and she claims, ‘You did not write one out,’ it is incumbent on him to bring proof that he had written one out.”

[I:4 A] *R. Hiyya bar Abba found a prozbol which had been lost by R. Jonathan and he ran to hand it to him. He said to him, “I don’t need it any more, for so it has been taught: A creditor is believed to claim, ‘I had such a document [as a prozbol and I let it rot.]”*

[B] *R. Jeremiah in the name of R. Hiyya: “The Mishnah has made that same point: **‘From the time of the danger and thereafter, a woman collects her marriage contract without her writ of divorce, and a creditor collects what is owing to him without a prozbol attached to the bond’ [M. 9:9G-I].”***

[C] But that is surely not possible [that there was no *prozbol* at all]. But [the claim is], ‘I had such a document and I let it rot,’ and here too, ‘I had such a document and I let it rot.’”

9:10

[A] [If she produces] two writs of divorce and two marriage contracts –

[B] she collects [the value of] two marriage contracts.

[C] [If she produces] two marriage contracts but only one writ of divorce, or one marriage contract and two writs of divorce, or a marriage contract and a writ of divorce and a death [certificate],

[D] she collects only one marriage contract.

[E] For he who divorces his wife and then remarries her

[F] on the strength of the first marriage contract does he remarry her.

[G] **And a minor boy whose father married him off –**

[H] **her [his wife’s] marriage contract is confirmed [as valid after he reaches maturity].**

[I] **For on the strength of that document he confirmed [the marriage].**

[J] **A proselyte who converted, and his wife alongside [did the same] –**

[K] **her [original] marriage contract is valid.**

[L] **For on the strength of that document he [the husband] confirmed [the marriage].**

[I:1 A] The rule of the Mishnah before us applies when there is a writ of divorce dated between the date of one marriage contract and that of the subsequent one [in which case each marriage contract bears a date prior to the writ of divorce which follows it].

[I:2 A] [*When we speak of two marriage contracts and one writ of divorce,] up to this point we have dealt with a case in which the two marriage contracts are of the same value. [She collects the value of only one of them. She collects either one, either the one bearing an earlier date or the one bearing a later date. Since the sum is the same, it does not matter.]*

[B] But if this one contained a stipulation of the payment of a *maneh*, and in the other, a stipulation of the payment of two hundred zuz –

[C] R. Huna, R. Jeremiah, and R. Hisda – one of them said, “She collects the amount specified in the document bearing the earlier date.”

[D] And the other one said, “She collects the sum specified in the document bearing the later date.”

[E] And as to the additional sums inscribed in the marriage contract, she collects that sum which is specified in the document bearing the later date.

[F] *Said R. Hananiah before R. Mana, “Is it not so that that has not been stated [by the language of the Mishnah rule before us]?”*

[I:3 A] He who borrows money from his fellow and then goes and borrows from him a second time has to indicate [in the second bond], “This is beside what is specified in the first bond, which I have owing to you.”

[II:1 A] **[[If she produces] two marriage contracts but only one writ of divorce, or one marriage contract and two writs of divorce, or a marriage contract and a writ of divorce and a death [certificate], she collects only one marriage contract. For he who divorces his wife and then remarries her on the strength of the first marriage**

contract does he remarry her.] [The reason for the rule of M. 9:10C, two marriage contracts but only one writ of divorce and the like, in which instance she collects only on the strength of one of them,] *is that it is a woman's way to say, "I have lost my marriage contract. Make me a new one."*

[B] *And along these same lines, is it not the way of a man to say, "I have lost my receipt. Make me another one"?* [It surely is, which explains the rule on the second bond.]

[C] *For is it possible that he will concede to him [that the first one was forgery]?* [We do not take account of that possibility. That is why we assume that the first was lost, as we said above.]

[II:2 A] [As to the case of one marriage contract and two writs of divorce in which we say that the remarriage is on the strength of the original marriage contract,] R. Yudan bar Shiqli brought a case before R. Yosé.

[B] He asked him, "Did not R. Abbahu say in the name of R. Yohanan, 'A bond on the strength of which one took out a loan, which one paid off – one should not take out a loan relying on that bond on the self same day'? [Along these same lines, has not the original indenture been nullified?]"

[C] He said to him, "Here we deal with a case in which he paid it off, and there we deal with a case in which we did not pay it off." [The indenture has not been nullified. The Mishnah deals with a case in which the marriage contract was not paid off prior to remarriage. Even though she produced two writs of divorce, she collects only a single marriage settlement, since it was on the strength of the original writ that he remarried her.]

[III:1 A] [And a minor boy whose father married him off – her [his wife's] marriage contract is confirmed [as valid after he reaches maturity]. For on the strength of that document he confirmed [the marriage]. A proselyte who converted, and his wife alongside [did the same] – her [original] marriage contract is valid. For on the strength of that document he [the husband] confirmed [the marriage]:] [With reference to M. 9:10G-J,] R. Hanan taught before R. Hela, "There are two Amoras in disagreement on the interpretation of this passage. One of them said, 'It is a rule pertinent only as to the marriage contract, but not as to any further conditions written into it.' And the other said, 'It is pertinent both to the marriage contract and to the conditions written into it.'"

- [B] *Now this poses no problems so far as a proselyte is concerned.* But as to a minor – does a minor issue a writ of divorce at all?
- [C] Said R. Haggai, “Interpret the matter in accord with that which R. Eleazar said in the name of R. Haninah, ‘And that rule applies to a case in which after he had recovered his senses or after he had recovered his sanity [he had sexual relations].’ And here we deal with the law pertaining if he had sexual relations after he had reached maturity. [And the point is that even though the marriage contract has not been changed in any detail after he reached maturity, the original marriage contract remains entirely valid].”

YERUSHALMI KETUBOT

CHAPTER TEN

10:1

[A] [33d] He who was married to two wives and died –

[B] the first [wife] takes precedence over the second,

[C] and the heirs of the first take precedence over the heirs of the second.

[D] [If] he married the first and she died, then he married the second, and he died,

[E] the second and her heirs take precedence over the heirs of the first.

[I:1 A] [Y:] *The Mishnah-rule speaks of a case involving the collection of the marriage-contract.* [In the Tosefta's language:] **Under what circumstances?**

[B] In the case of [the collection of] the marriage contract.

[C] But as to maintenance, both of them are equal [and neither has a priority over the other] [T. Ket. 10:10D-E].

[I:2 A] As to paying off the marriage contract and burial – which takes precedence?

[B] As to paying off the marriage contract and paying off a loan secured by witnesses, which takes precedence?

[C] As to paying off the marriage contract and providing maintenance for the daughters, which takes precedence?

[D] *In the view of him who says, “They collect funds for maintenance of the daughters even from indentured property [e.g., mortgaged land],” the provision of funds for maintenance of the daughters takes precedence.*

[E] *In the view of him who said, “They do not collect funds for the maintenance of daughters even from indentured property,” the provision of funds for maintenance of the daughters does not take precedence.*

[I:3 A] [The Mishnah has] spoken [thus far] only of [the wife's] dying [at M. 10:1D]. [That is to say, the husband marries and the first wife dies. He therefore inherits her estate. Then he remarries. Then he dies. The second wife takes precedence over the heirs of the first. Why? Because in this case the property of the first wife has entered the husband's estate before he encumbered his estate with the debt constituted by the marriage contract of the second wife. The creditor takes precedence over the heir. So the second wife or her heirs take the value of the marriage contract, and then the estate is divided equally among the heirs.]

[B] Lo, if the wife was divorced, she is in the status of a creditor.

[C] *That is in line with the following, which has been taught: [The Yerushalmi's version, rather than T. 10:1:]* If he married a woman and wrote her a marriage contract and divorced her, but did not pay off her marriage contract, then married another and wrote her a marriage contract, then he remarried the first wife and wrote her a marriage contract in addition to her original marriage contract – that of the first marriage takes precedence over the second wife and her heirs, but the second wife and her heirs take precedence over the heirs of the first wife [so far as her marriage contract is concerned].

[II:1 A] [As to M. 10:1D-E, **If he married the first and she died, then he married the second, and he died, the second and her heirs take precedence over the heirs of the first,**] said Ben Nannos (L + V: Ben Azzai), “The heirs of the first wife may say to the heirs of the second, ‘If you are in the status of creditors, take what is coming to you and get out. And if not, then you and we should divide the estate equally.’”

[B] Said to him R. Aqiba, “My son, the second wife has jumped ahead of them in receiving an inheritance in accord with the law of the Torah, and they collect the marriage contract owing to their mother, and then go and divide the estate.” [The issue is the grounds on which the various parties receive shares in the estate. When both wives survive the husband, they are equal in their claims, and the clause allowing the wife's large dowry to pass directly to her male heirs applies. But in the case of M. 10:1D-E, as already explained, we have a different situation. One died when the husband was alive; he inherited her estate. Payment for her marriage contract is an obligation of his estate. The heirs of the first then are creditors. The second wife and her heirs, who have survived the husband, seek collection of the marriage settlement. Their status is as heirs of a debt owing to their mother, not as direct heirs of the father. What is the status of the first group *also* as heirs of the portion in the estate of their father? This brings us to Ben

Nannos's statement. The heirs of the second wife come to collect the marriage settlement owing to their mother. They do not want the heirs of the first wife to collect the greater marriage settlement owing to their mother. So they say to them, "If you are creditors, collect your debt. If you are not creditors, then share *equally* – despite the fact that your mother's marriage settlement is greater than ours." Aqiba's answer is that when the man died while the second wife was yet alive, the clause providing for the male children of the wife to collect her marriage settlement is set aside. The entire estate now becomes an inheritance. All claimants deal with the estate under the Torah's laws of inheritance. Accordingly, the heirs of the first wife collect what is owing. But they then remain in the status of heirs and also collect a share in the residuary estate. So at issue is the right of the heirs of the first wife to constitute not only creditors of the estate, but also heirs, and Aqiba maintains that they retain that right. What now follows is a dispute on the conditions under which the debate just now concluded takes place, since the law of M. 10:2, which stresses that, to begin with, the laws of inheritance must apply and hence there must be an estate to share, must be read into the matter before us.]

[C] R. Mana said, "The dispute concerns a case in which there is one *denar* in addition [over what is required to pay the marriage contracts, thus providing for an inheritance in line with M. 10:2]. But if there is not one *denar* in addition [thus allowing for the creation of a divisible estate, in line with the law of the Torah that there be an inheritance], then R. Aqiba will concur with Ben Nannos that the second wife [with her heirs] has jumped ahead of them in receiving an inheritance in accord with the law of the Torah, and they collect the marriage contract owing to their mother and then go and divide the estate." [This is explained presently.]

[D] *Said to him R. Yosé b. R. Bun, "In this matter, concerning which no dispute has been laid down, will you treat the law as though it is subject to dispute? But rather: If there is not one denar over and above what is required, then they dispute [whether or not we invoke the laws of inheritance].* But if there is available one *denar* in addition, also Ben Nannos will concur with R. Aqiba that both these [the heirs of the first wife] and those [the heirs of the second wife] divide the estate equally. [The availability of the *denar* to constitute an estate for the purposes of inheritance leads us to invoke those laws in preference to the other possible criterion by which the estate is to be divided.]" [Mana's view of Aqiba's position is that even when there is an inheritable estate, if one woman died while the husband was alive, the other after he died, the former's heirs lose the claim to the clause

that her sons inherit her property. Ben Nannos maintains that they retain that right if there is an inheritable estate. If there is no *denar* estate, Ben Nannos concurs that we invoke the laws of inheritance alone in dividing the estate. Yosé reads the language of IV.A to indicate there is no inheritable estate of a *denar*. The dispute then comes only under the condition that there is no inheritable estate. Ben Nannos maintains that in collecting what is owing to the mother, the heirs collect a debt alone. Aqiba will concur with the view of Ben Nannos when there is an additional *denar*. As to the readings and interpretation, cf. PM.]

[II:2 A] [If there is available a *denar* over and above what is required to pay off the two marriage contracts, and the father has left a further debt, then what remains] is used to reduce the debt. [We do not treat the additional *denar* as surplus.]

[B] And along these same lines, the obligation may be increased.

[C] *What would be a practical case illustrating this statement?*

[D] If there was a field [belonging to their father, which he had sold to others for a period of years, but the field] is going to return [to the father's domain] when the Jubilee comes, that field is regarded as if it had already been restored [to the father's domain, and is regarded as surplus over and above what is needed to pay off the two marriage contracts].

[II:3 A] [*We now pursue a parallel in principle, involving a different sort of case:*] *What would be a practical case?*

[B] One betrothed Rachel, then consummated a marriage with Leah, and then went and consummated the marriage with Rachel. [Which one takes precedence in the collection of her marriage settlement? The dispute runs parallel to that of Eleazar b. Azariah and rabbis at M. 5:1. Rabbis see no difference between the law covering the dissolution of the marriage through divorce or death at the stage of betrothal and that covering dissolution at the stage of a fully consummated marriage. Eleazar b. Azariah regards the former as different from the latter. Along these same lines:]

[C] In the view of rabbis Rachel will take precedence [since she was betrothed f^rst].

[D] In the view of Eleazar b. Azariah, Leah will take precedence [since she was married f^rst].

[E] No, I should say to you that also R. Eleazar will concur that since the man went and consummated the marriage with Rachel, Rachel takes precedence.

[F] To what may this matter be compared?

[G] To someone who borrowed money from his fellow, and said to him, “If I have not returned the money to you between now and twelve months from now, may all of my property be indentured to you.”

[H] If the twelve months had passed and he had not returned his money, his property is indentured to him from that original point onward. [Here too Rachel’s claim is from the original betrothal.]

[I] But if he had said to him, “My property will be indentured to you only after twelve months [have passed],” the property is indentured to him only at the end of twelve months.

[J] As to [usufruct in] the time intervening, *there is a dispute of R. Meir and Rabbis.*

[K] *In the view of R. Meir* by means of the bond the property has become obligated.

[L] *In the opinion of rabbis* it is merely payment of money that has become obligated.

10:2

[A] He who was married to two wives and they died,

[B] and afterward he died,

[C] and the orphans claim the marriage contract of their mother –

[D] and there are there [funds to pay] only two marriage contracts –

[E] they divide equally.

[F] [If] there was there an excess of a denar [over the necessary funds],

[G] these collect the marriage contract of their mother, and those collect the marriage contract of their mother.

[H] [If] the orphans said, “We reckon the value of the estate of our father at one denar more,” so that they may collect the marriage contract of their mother,

[I] they do not listen to them.

[J] But they make an estimate of the value of the property in court.

[I:1 A] *This is in line with what R. Ammi said, “It is so that a man will be likely to give a dowry to his daughter in a liberal spirit.”*

[B] Then even if there is not available a *denar* more than is required, [the heirs should collect the full value of the marriage contract].

[C] Said R. Abun, “When you can carry out the teachings of the scribes and also carry out the teachings of the Torah, you must carry out the teachings of the scribes and the teachings of the Torah. When you cannot carry out both the teachings of the scribes and the teachings of the Torah, you should disregard the teachings of the scribes [e.g., as at A] and carry out the teachings of the Torah [which provide for an inheritance].”

[I:2 A] R. Judah bar Pazzi in the name of R. Yosé b. Haninah: “If one of the brothers died, all of them divide it up equally [when there is just enough to cover both marriage settlements].”

[B] *Said R. Mana, “That is obvious. But for this purpose it was necessary to teach the law: it is to deal with a case in which they had not yet divided the estate. It is so that you should not say, “Treat the case as if it is not so, and let his group [of brothers] inherit [his share by itself, not allowing the sons of the other mother a part].”*

[I:3 A] If there was a firstborn there, you rule, the firstborn takes a double share [of what all inherit from the father].

[B] What is the meaning of his taking a double share?

[C] Does he take a double share of what is owing to his own group [of heirs]? Or does he take a double share in all that is coming to all the brothers?

[D] *R. Hoshaiah taught, “If there were there two groups of daughters, all of them take an equal share.”*

[E] If there was a firstborn son, you say that the firstborn son takes a double share.

[F] Of what does he take a double share? Does he take a double share in his own group, or does he take a double share in the entire marriage settlement accruing to the mother?

[I:4 A] At what point do they estimate the value of the estate?

[B] The disciples of R. Mana say, “It is at the end [evaluating it at the time of division].”

[C] *Said to them R. Yosé b. R. Bun, “Is it not you who say in the name of rabbis, ‘For that purpose it was necessary to teach the law, to deal with a case in which they had not yet divided the estate’?*

[D] “But as at the very outset [when the father died] they make the estimate for them [of the value of the estate].”

10:3

[A] [If] there was property which was going [to accrue to the estate], it is not deemed equivalent to that which is in [the estate’s] possession.

[B] R. Simeon says, “Even if there is movable property there,

[C] “it is nothing.

[D] “[The males inherit their mother’s property] only if there is available real estate of a value greater than that of the two marriage contracts by at least a denar. “

[I:1 A] R. Mana said, “*The dispute concerns* the principle of [assessing the estate for] the two marriage contracts. [How do we evaluate the estate?]

[B] “R. Simeon says, ‘We evaluate [only] real estate.’

[C] “Rabbis say, ‘[We evaluate also] movables.’

[D] “As to that remaining *denar all parties concur* that it constitutes movables.”

[E] *R. Yosé b. R. Bun said, “All parties concur* on the principle [assessing the estate for] the two marriage contracts, that it involves only real estate. Concerning what is the disagreement~ It deals with that *denar*.

[F] “R. Simeon says, ‘It constitutes real estate.’

[G] “*And rabbis say, ‘Movables.’”*

[I:2 A] R. Ba bar Zabeda in the name of Rab: “But they conducted the law in Syria in such wise as to collect for paying off the marriage settlement also from copper specie and from banquet plate.”

[B] R. Abbahu in the name of R. Yohanan, “But that is on condition that they have been used only that night [that is, only on that occasion; but if they had been used for a long time, they fall into the category of the deceased’s movables (Pené Moshe)].”

[C] R. Samuel bar Nahman in the name of R. Jonathan, “The people in Arabia conducted the law in such wise as to collect [for paying off the

marriage settlement] from perfume and from camels [owned by the deceased].”

[D] *And along these same lines:* But you cannot seize perfume prepared for use that same night.

[E] *The widow of R. Huna collected from movables in accord with the custom prevailing in the place in which she lived.*

10:4

[A] **He who was married to three wives and died,**

[B] **the marriage contract of this one was a maneh, and that of the next two hundred zuz, and that of the last three hundred –**

[C] **and there is there only a maneh –**

[D] **they divide it equally.**

[E] **[If] there are two hundred,**

[F] **the one who is owed a maneh takes fifty, and the ones who are owed two hundred and three hundred each take three golden denars [seventy-five zuz each].**

[G] **[If] there were three hundred zuz there, the one who claims a maneh takes fifty zuz, and the one who claims two hundred takes a maneh, and the one who claims three hundred zuz takes six gold denars [one hundred fifty zuz].**

[H] **And so [three who put their money into] a single purse –**

[I] **if the capital in the end was too little or too much,**

[J] **so would they divide up what was available [as at G].**

[I:1 A] *Samuel said, “The judges single out him to whom to adjudicate the claim in litigation. The matter is comparable to a case in which two bonds are issued [bearing the same date] as indentures of a single field. To whichever one of the bonds the judges wish to assign the field, they assign it.”*

[B] *Now the Mishnah before us stands at variance with the view of Samuel as to the discretionary power of the judges: **If there is there only a single maneh, they divide it equally [M. 10:4B-C].** Is this not a case in which the judges should be able to use their discretion [and assign the maneh to whichever of the women they choose]?*

[C] *Do you indeed say so? [But the case of A, M. 10:4 does not permit discretion. The claim of each is the same as that of all others.]*

[D] *And lo, it has been taught: **How does the firstborn not take a double portion? [If] he inherited writs of indebtedness, he takes a double portion. [If] claims of collection went forth against him [as his father's heir], he pays out a double portion [T. B.B. 7:6A-C].***

[E] *Is this not another case in which the judges may use their discretion? [Surely not. In this case the law of the firstborn is applied.]*

[F] [Explaining Samuel's position,] R. Abin in the name of Samuel: "There is no difference between a case in which two bonds were issued against a single field or a case in which a single bond was issued against two fields. To whichever one of the bonds the judges wish to assign the field they assign it."

[II:1 A] [With reference to M. 10:4E-F, **[If] there are two hundred, the one who is owed a maneh takes fifty, and the ones who are owed two hundred and three hundred each take three golden denars, seventy-five zuz each**] Samuel said, "The Mishnah speaks of a case in which the several parties give permission to one another to carry on the litigation.

[B] "Thus the third woman permits the second to deal with the first. In this case, the second says to the first, 'Do you not have a claim for a *maneh*? Take fifty and leave the transaction.'"

[III:1 A] **And so three who put their money into a single purse – if the capital in the end was too little or too much, so would they divide up what was available [M. 10:4H-J].**

[B] *Said R. Eleazar, "That which you have stated applies to a case in which the sela itself went down or up in value. But so far as profit or loss is concerned, all divide equally [and not in proportion to the capital they have invested]."* [The point is that when there is profit or loss based on variations in the value of currency, they divide up the profit or loss in proportion to the coinage they have contributed. But as to the total value of the capital, the division is equal. This immediately generates the following question:]

[C] *Now here is the problem: This one gave a hundred denars, and that one put in ten. Now how can you say this [that they divide equally]?*

[D] *Associates say, [following the text of Y. B.Q. 4:1] "It would appear to me that [when they divide up equally] it is because they have purchased a large pearl [so that the one who contributed the smallest sum] may say, 'If I had not contributed only denars, you would have been unable to purchase nothing [of much value]. [The larger capital made possible*

whatever profits, since the higher price goes to the more perfect pearl.]’ But if they had purchased something which is routinely divided, they put the profits in the middle and divide them up [in proper proportion]. [Only when the smallest sum has made possible the entire deal is the claim divided as stated. Otherwise, it must be divided in proportion to the invested capital, since there is no reason to assign to the smaller investor a share in the profits greater than the proportion of capital which he put in at the outset.]”

[E] R. Eleazar [Y. Ket. 10:4: Abin bar Hiyya (so also L + V)] said, “Even in the case of the purchase of something which may be routinely divided, [the smaller investor gets a larger share, as specified. For he] has the right to claim, ‘Your capital is sizable. Hence you do business slowly. My capital is small. I turn over my capital rapidly and make as much as you do [by the greater velocity of trade].’ [So the division is equal under all circumstances.]”

[F] *Up to this point we have dealt with a case in which the trade is domestic. [The outlays for the partnership are then minimal.]*

[G] *But if the trade is located in large volume, [can the smaller partner make the same claim?] [After all, the capital is tied up in a distant venture. Yes indeed!] Said R. Hela, “He does have the right to claim, ‘While you go and come once, I can do it ten times.’ [Thus (Y. B.Q. 4 ~) ‘Your capital is sizable. Hence you do business slowly. My capital is small. I turn over my capital rapidly [keeping it] here [in the local market] and make as much as you do [by the greater velocity of trade].’”*

[III:2 A] *There we have learned: [If] it went and gored yet another ox worth two hundred,] the last one takes a hundred zuz, the one before it, fifty zuz, and the first two each take a golden denar [twenty-five zuz] [M. B.Q. 4:1J-K]. [All are deemed partners, and this is how the loss is assigned to each, in accord with the proportion of the capital which each has contributed.]*

[B] R. Samuel in the name of R. Zeira, “And so is the rule for dividing profits [if partners have invested in a common sum of capital in accord with the stated proportions].”

[C] *Said R. Yosé, “This statement of R. Zeira stands at variance with what R. Eleazar [has said, since Eleazar insists that the division is even, no matter the capital each has put in].”*

[D] *Said R. Mani [34a], “I raised the question before R. Yudan [concerning the clear difference of opinion between M. B.Q. 4:1J-K, cited above, A, and the position of Eleazar, just now mentioned].*

[E] *“He said to me, ‘Does not R. Eleazar concur that if they stipulated among themselves at the outset [that the division would be proportion], this party collects in accord with his proportion of the invested capital, and that party takes a share in the profits in accord with his share in the invested capital? [He assuredly does concur.] Now in the case of oxen, we deem such a stipulation, even when not made explicit, to be in effect. [Consequently, Eleazar need have no difficulty concurring with the cited pericope of M.]”*

[F] *[Continuing this account, Mani says,] “He [I] went and said the same before R. Yosé. He said to me, ‘There is an explicit tradition that R. Eleazar indeed differs with R. Zeira in this matter.’ R. Eleazar says, ‘When the matter is left without further explication, they divide up the matter equally [thus in contradiction to the cited pericope of M.].’ R. Zeira said, ‘When the matter is left without further explication, each party takes his share of the profits in proportion to the capital which he originally invested.”*

10:5

[A] **He who was married to four wives and who died –**

[B] **the first takes precedence over the second, and the second over the third, and the third over the fourth**

[C] **The first is subjected to an oath by the second [that she has not yet collected her marriage contract], and the second to the third, and the third to the fourth, and the fourth collects without an oath.**

[D] **Ben Nannos says, “And is it on account of the fact that she is last that she is rewarded?**

[E] **“She too should collect only by means of an oath.”**

[F] **[If] all of them [the marriage contracts] were issued on one day,**

[G] **whoever came before her fellow, by even a single hour, has acquired [the right of collection first].**

[H] **And thus did they write in Jerusalem the hours of the day [in a marriage contract].**

[I] **[If] all of them were issued at the same hour and there is only a maneh there,**

[J] **they divide it up equally [= M. 10:4A-C].**

[I:1 A] R. Abuna in the name of R. Samuel: “In accord with the view of Ben Nannos, [who requires the final party to take an oath, as much as the others,] the matter is to be compared to the case in which a single bond is issued against three purchasers [of the property of the debtor]. All three of them share equally [in giving up property to pay the debt which was secured by the fields of the debtor which they themselves have purchased]. [In the case of the Mishnah, likewise, all the women share equally in any claim laid against the estate to be paid out of the real estate received by them in compensation for their marriage contracts. None of the women may claim to the creditor that she has left a place for collection to be effected, namely, in the property received by a wife whose marriage contract bears a later date.]”

[B] *Said R. Aqiba before R. Mana, “Does this not differ from what R. Samuel said, for Samuel said, ‘The judges may at their discretion single out him to whom to adjudicate the litigation in the case of two bonds [bearing the same date] as indentures of a single field. To whichever one of the bond holders the judges wish to assign the field, they assign it.’ And here has he said this [that all parties equally are subject to the claim, rather than having the judges exercise discretion]?”*

[C] *He said to him, “Did not [Samuel speak] of a case of two bonds [bearing the same date] issued against a single field? But did he speak of a single bond issued against two fields [e.g., two wives’ land]? [In such a case there is no discretionary power in the hands of the judges.] Lo, here we speak of a single bond.”*

[D] *[He said to him,] “And have you not heard what R. Abun said in the name of Samuel, ‘there is no difference between a case in which two bonds were issued against one field, or a case in which a single bond was issued against two fields. To whichever one of the bonds the judges wish to assign the field they assign it’? [So there surely is a dispute between Samuel and the principle expressed here.]”*

[I:2 A] *With reference to taxes in kind, head taxes, and forfeiture, Rabbi applied the law in accordance with the view of Ben Nannos. [That is, if the state seized the land of a taxpayer in arrears for these taxes, and the land was sold, then the original owner could bring the later purchasers to court. Rabbi assigned liability to compensate the original owner to all purchasers equally, without regard to their place in the sequence of purchase of the property.]*

[II:1 A] [As to M. 10:5G, **Whoever came before her fellow, by even a single hour, has acquired the right of collection first:**] *The relatives of R. Yosé bought fields from members of the household of Bar Topqan. The*

latter went and got married. Their wives brought them old titles [showing that the property sold had originally belonged to their family, and, according to the law of seized property, the purchasers were bound to pay them one-fourth of the price paid for the property (all: Jastrow, p. 1622)].

[B] *They came to court, suing the relatives of R. Yosé. Said R. Mana to them, “I know that when you sold those fields, you did not have those titles before you. [Consequently, when the sale took place, the original owners were unknown, and the law of seized property had no application.]”*

10:6

[A] **He who was married to two women,**

[B] **and who sold off his field –**

[C] **and the first woman wrote to the purchaser, “I have no case or claim with you,”**

[D] **the second [wife] nonetheless seizes the field from the purchaser,**

[E] **and the first wife from the second,**

[F] **and the purchaser from the first,**

[G] **and they go around in a circle,**

[H] **until they make a compromise among them.**

[I] **And so in the case of a creditor, and so in the case of a woman who is a creditor.**

[I:1 A] *Said R. Yosé, “[Since the Mishnah indicates that the second party may seize the property from the one before her, even though that party may then go and effect a seizure as well, it follows that] he who borrowed money from two people, and the second of the two came and said to him, ‘Rise and settle with me, then if [the prior creditor] should seize what you give me in settlement, he may seize it,’ [that arrangement is all right].”*

[B] *If he then settled with the second, then the first came and seized the property from him, and he settled with the first, [what is the law?] [May the second creditor lay claim on the borrower, or is there a lien on the property?]*

[C] *Said R. Phineas, “A case came before R. Jeremiah. He ruled, ‘If he has settled [with the first], he has settled with him [and the other creditor cannot lay claim on the field with which the debtor settled with the former creditor].”*

[D] *Said R. Yosé, “And did he not write a lien [on all his property, which is indentured to the second party]?”*

[E] *It is a case in which the creditor’s claim was based on an inheritance [of a claim against the debtor held by the creditor’s father and passed on in his estate and the situation is treated as a case in which property has been acquired by heirs, and is no longer deemed indentured to the creditor (PM)].*

[F] *Said R. Haninah, “Even if the claim was laid out as an ordinary one on the party of the creditor, we deal with a case in which, indeed, he did not write out a lien against all his property, or in which he said to him, ‘You may effect collection [of the loan, if it should be in default] only from this field [in particular, excluding the field under discussion entirely]!”*

[I:2 A] Said R. Mattanaiah, “The rule [at M. 10:6/I, in regard to a woman who is a creditor, **And so in the case of a creditor, and so in the case of a woman who is a creditor**] accords with him who said, ‘The original marriage settlement is valid so far as collecting the *maneh* or two hundred zuz, but not as to collecting the dowry in excess of those sums.’ [For this latter purpose, a new marriage settlement must be written out when the couple remarries.]

[B] *“But in the view of him who said, ‘It is valid both for the marriage settlement and for the excess dowry,’ seizure may be effected [since what the woman has stipulated, that she will not exercise her rights against the purchaser, applies to her but not to her male childrens’ claim].”*

YERUSHALMI KETUBOT

CHAPTER ELEVEN

11:1

[A] **A widow is supported by the property of the orphans.**

[B] **Her wages [the work of her hands] belong to them.**

[C] **But they are not liable to bury her.**

[D] **Her heirs, who inherit her marriage contract, are liable to bury her.**

[I:1 A] R. Judah in the name of Samuel, R. Abbahu in the name of R. Yohanan: “The things that she finds belong to her. If she had food left over, in the case of a married woman, in which the things she finds belong to the husband, if she left over food, the leavings belong to him.

[B] “In the case of a widow, in which the things which she finds belong to her, if she left over food, it belongs to her.”

[C] As to the remnants [of garments], do they likewise belong to her?

[D] Now if in the case of a married woman, in which, if she left over food, it belongs to him, and if there are remnant of garments left over, they belong to her, in the case of a widow, in which, if she left over food, it belongs to her, if she left over remnants of garments, is it not an argument a fortiori [that the remnants should belong to her]?

[E] *There she requires them for use during her menstrual period. Also here she requires them for use during her menstrual period.*

[II:1 A] **[...the work of her hands belongs to them:]** R. Immi in the name of R. Yosé b. Haninah: “Also she does not do for them those private services [which she does for her husband].”

[B] What are those private services which she does for her husband [as part of her general obligation to labor]?

[C] Anointing his body [but not theirs], washing his face, mixing the cup for him.

- [II:2: A] And they add extras to the food they supply to her. In the case of a married woman, she has no claim on wine. In the case of a widow, [if she used to have wine,] she has a claim on wine.
- [B] In the case of a married woman, if she said, “Let the work of my hands be exchanged for my food,” they do not listen to her [and allow her such a trade-off].
- [C] In the case of a widow who said, “Let the work of my hands be exchanged for my food,” they do listen to her [and allow the trade-off].
- [III:1 A] [**Her heirs, who inherit her marriage contract, are liable to bury her:**] Rab said, “In the case of a dying man, if he said, ‘Do not bury me [from my own property,]’ he is buried as a public charge.”
- [B] *Said R. Immi, “Now does it enter your mind [34b] that other people should profit from the man’s property, while he is buried by communal funds? The following passage of the Mishnah stands at variance with Rab: Her heirs, who inherit her marriage contract, are liable to bury her [M. 11:1D]. [So there surely is a trade-off.]”*
- [C] Interpret the matter to speak of a case in which they inherited real estate, *in line with the following: He who died and left movable property, and the marriage contract of his wife and a creditor laid claim against it [Y.: and left male slaves and female slaves and documents and movable property] – whoever seizes it first effects acquisition of whatever he left. And [there being nothing left for burial costs], he is buried by the philanthropic funds [T. Ket. 9:3A-D].* [Thus it is because they inherit real estate in the case of the Mishnah that they need to pay the burial costs. Here, where they do not inherit real estate, they do not. That would support Rab’s position.]
- [E] The reason is that one of them went and seized the movables. Lo, if he did not go and seize the movables, they extract the necessary funds for burial, [and that is the case even for movables, hence a problem to Rab’s view].
- [F] Interpret the law [D as read by E] to apply to a case in which he says, “Bury me [and pay the cost out of my estate].”
- [G] [But that is not probative, since even if he did not give such instructions, nonetheless the estate pays the burial costs, in line with] that which R. Yosé said in the name of rabbis, “If the deceased is buried, but had not given instructions, ‘Bury me [at the expense of my estate],’ even though others went and seized his property [in payment

for what was owing to them], they seize what they have taken from their possession.”

[H] That rule applies to a case in which they have seized real estate.

[I] [To summarize the matter,] lo, when you maintain that they retrieve what other creditors have seized, it is a case in which they have seized real estate. But in a case in which they have seized movables in settlement of their claims, they do not retrieve what other creditors have seized to settle the costs of burial.

[J] That is the case in regard to a loan secured only by verbal testimony. But in the case of a loan secured by a bond, whether they have seized real estate or whether they have seized movables, they do not take back what they have seized from their possession [and they are allowed to keep the property in settlement of this latter kind of loan].

[III:2 A] [As to the statement, “If he said, ‘Do not bury me at the expense of my estate,’ they listen to him and bury him as a public charge,] this is in line with that which R. Abba bar R. Huna said, “They have treated the verbal declaration of a dying man as equivalent in force to the deed of a healthy man, who wrote a deed of gift and handed over the property, [in that, in the former case, a formal act of acquisition is not required for ownership to be deemed to have been transferred].”

[B] Now that rule applies if the man died from the very disease from which he had been suffering when he made his statement.

[C] Lo, if he got better, that is not the case.

[D] And that is the case specifically if he specified a particular field, saying, “Give such-and-such a field to So-and-so.”

[E] If he said, “Give such-and-such a field to So-and-so,” is this equivalent to an adequate specification, or is that not the case unless he specifies, “Part of it at the north and part of it at the south”?

[III:3 A] *R. Yudan asked*, “If he said, ‘Make a burning for me,’ or, ‘Perform in my memory such-and-such a deed, and give half of such-and-such a field to So-and-so,’ if they do not do the burning, do they also not give the field?” [This question is not answered.]

[B] *R. Haggai raised the question*, “A dying man who said, ‘Let my daughters be supported from my estate,’ – [what is the law]?”

- [C] And if he did not say so, are the daughters not supported from the estate? [Of course they are, since it is a stipulation of the marriage contract.]
- [D] *No, the question is pressing. For is it not this which is being asked: What is the law as to their being supported from indentured property, and what is the law as to their being supported from movables?*

[III:4 A] *R. Yudan fled to Noy [where Yosé was domiciled]. A case came before R. Yosé: “A dying man who said, ‘Let the bonds of So-and-so [my bonds] be handed over to So-and-so’ [what is the law]? [Has this statement transferred ownership of the bonds?]”*

[B] He said to him, “A dying man transfers ownership by a mere verbal declaration only of things which are transferred by a healthy person either through a deed or through an act of drawing the object to the recipient.

[C] “But these are acquired through drawing or through a deed, *in line with that which is taught:*

[D] **“A boat is acquired through drawing.**

[E] **“R. Nathan says, ‘A boat and documents are acquired through drawing and through a writ’ [T. Qid. 1:7A-B].**

[F] “If one wrote a deed but did not draw the object, or drew the object but did not write a deed, he has accomplished nothing – unless he both writes a deed and draws the object.”

11:2

[A] **A widow, whether at the stage of betrothal or at the stage of marriage, sells [her husband’s estate’s property that was security for her marriage contract to realize her marriage contract or to purchase food] without court permission.**

[B] **R. Simeon says, “A widow at the stage of marriage sells without court permission.**

[C] **“One at the stage of betrothal sells only with court permission,**

[D] **“because she has no claim of support.**

[E] **“And whoever has no claim of support may sell [property of the husband’s estate encumbered for the marriage contract] only with court permission.”**

[I:1 A] [*Explaining M. 11:2B-E:*] *R. Simeon maintains the theory that the matter depends upon whether or not there is a provision for*

maintenance for the woman. If the husband made an agreement to support the woman at the stage of betrothal, then she may sell off his property without court approval. If he made an agreement not to provide maintenance for her at the level of the fully consummated marriage, then she may sell off his property only with court permission.

[B] As to the view of sages – R. Aha, R. Hinena in the name of R. Yohanan: “A man is concerned about the honor owing to his widow, whether this is at the stage of betrothal or whether it is at the stage of a fully consummated marriage.”

[I:2 A] R. Judah in the name of Samuel: “She who relinquishes her claim against the estate for collection of her marriage settlement nonetheless is supported by the estate.”

[B] *Now the problem in that statement is simple:* If a woman does not have a marriage contract, does she have the right to any support at all?

[C] It is a fact that a woman who does not have a marriage contract does not have a claim on support. *But in this case we say,* “Is it not enough for you that she has relinquished her claim on the orphans for collection of her marriage contract? Do you want also to deprive her of support?”

[D] R. Judah in the name of Rab: “She who lays claim for payment of her marriage contract before a court has lost her claim on support [from the estate].”

[E] Said R. Yosé, “But that is only in the case that she does so in full knowledge and consent.

[F] “Lo, if she did so under coercion, that is not the case.”

[G] *There was the case of the widow of R. Abedimas. The heirs deceived her, telling her that R. Ba bar Kohen wanted to marry her. Accordingly, she went to court to claim full settlement of her marriage contract, on account of which she lost her right to support by the estate. When the matter became fully clear, the case came before R. Yosé. He restored her right to collect support from the estate.*

[I:3 A] R. Eleazar in the name of R. Yosé b. Zimra: “A widow who allowed two or three months to pass without laying claim on support has [henceforward] lost her claim on support during those three months.”

- [B] That is the case if she did not borrow money for her support during that period, but if she did, she collects her support from the estate.
- [C] That is the case if she did not have a pledge in hand. But if she had a pledge in hand, even if she did not take out a loan for her support, she collects [what is owing, out of the pledge].
- [D] R. Yosé in the name of R. Yohanan, “[As to Yosé b. Zimra’s statement, above, A,] The point is that at the outset, [the court or estate] sells property to provide funds for support for a period. of twelve months. They hand over support for thirty days only. [If she should remarry during the year, what is left over remains in the hands of the estate and no action is needed to retrieve it. It is then assumed remarriage will take place within the year.]”

[I:4 A] If at the end of thirty days, they claim, “We already provided for you,” while she claims, “I collected nothing,” *the matter is settled in line with what* R. Abbahu said in the name of R. Yohanan, “If one borrowed in her behalf twelve thousand *denars* for a year, to pay over to her one golden *denar* per month, *it is obvious that* in the first month of the year, the estate paid over the money, and in the last [that is, a month not yet here], it did not. What about the time in between? This is the case concerning which they have said, ‘Lo, at the outset, it is not [settled in favor of the plaintiff].’ [The reference is to M. B.M. 8:8/I: There is a regular rent over a twelve-month period, paid monthly, and the year received an additional month, the rule is that the month is divided, with half the rent collected by the landlord. Samuel here says that the claim comes in the middle of the month. Since, in this case, the woman comes at the end of the month, she has to bring proof of the facts of the matter. It is she who wishes to collect from the defendant.]”

- [B] R. Abbahu in the name of R. Yohanan: “At the outset they sell off sufficient property to provide food for an entire twelvemonth period, and they give her maintenance for thirty days.”
- [C] But why not sell off sufficient property merely for maintenance for thirty days alone? It is so as not to weaken the woman’s claim [should the estate lose its property in the meantime].
- [D] And why not give her maintenance for the entire twelve-month period all at once?
- [E] If you say so, you turn out to impose a liability on the estate.

[F] *That is in line with the following, as it is taught: A widow who seized even a thousand zuz for her support – they do not extract it from her possession.*

[G] *What does one say to her [if she had done so]? “Show us what you have collected.”*

[H] *The disciples of R. Mana say, “They say to her, ‘Show us what you have collected.’”*

[I] Said to them R. Yosé b. R. Bun, “Since she is going to have to take an oath at the end, even as to what she has already gotten, they say to her, ‘Let it be,’ [because she must give a full accounting anyhow].”

11:3

[A] [R. Simeon says,] “[If] she sold off her marriage contract or part of it,

[B] “[or] pledged her marriage contract or part of it,

[C] “[or] gave away her marriage contract to someone else, or part of it

–

[D] “she may sell the remainder only with court permission.”

[E] And sages say, “She sells it even four or five times [occasions, bit by bit].

[F] “And [in the meantime, before collecting her marriage contract] she sells [it] for support without court permission, and writes, ‘I sold it for support.’”

[G] **But a divorcée should sell only with court permission.**

[I:1 A] *It has been taught: “And she writes, ‘These did I sell for my marriage contract, and these did I sell for support’” [M. 11:3F], the words of R. Judah.*

[B] **R. Yosé says, “She sells and writes without specification.**

[C] **“Therefore her claim is strong” [T. Ket. 11:1].**

[D] [If she has sold property, and claimants against the estate wish to seize that property for settlement of their claims, for example,] if a creditor whose loan is secured by verbal testimony comes along, she may say, “I sold that property for food.”

[E] If a creditor whose loan is secured by a bond comes along, she may say, “I sold off that property for settlement of my marriage contract.”

- [F] And even if one who is owed money on the evidence of verbal testimony should come along, may she say, “I sold the property for maintenance,” and then may she go and seize the property for the settlement of her marriage contract?
- [G] And do they not say to her, “Lo, here is your deed of sale! [You yourself have sold the property. How can you now seize it again?]
- [H] Interpret the matter to speak of a case in which the property was greater in value than the price for which she sold it.
- [I:2 A] R. Jacob b. Aha in the name of R. Yohanan, R. Hela in the name of R. Eleazar: “Just as a man is concerned for the honor owing to his widow, so he is concerned for the honor owing to the woman he has divorced.”
- [B] For R. Jacob b. Aha in the name of R. Eleazar: “‘and not to hide yourself from your own flesh’ (Is. 58:7) – this refers to the woman one has divorced.”
- [C] *The wife of R. Yosé the Galilean gave him much grief. R. Eleazar b. Azariah went up to see him. He said to him, “Rabbi, divorce her, for she does not respect you.” He said to him, “Her marriage settlement is too much for me to pay.”*
- [D] *He said to him, “I’ll give you what you need to pay off her marriage settlement, so you can divorce her.” He gave him what he needed to settle the marriage contract and he divorced her.*
- [E] *She went and married the town bailiff. He lost all his money and went blind. She would accompany him all over town and lead him.*
- [F] *One time the couple made the rounds of the entire town, and did not get a thing. He said to her, “Isn’t there another neighborhood?”*
- [G] *She said to him, “There is another neighborhood. But my former husband lives there, and I don’t have the strength to go there.” He began to beat her up.*
- [H] *At that moment R. Yosé the Galilean happened to come by and heard the disgraceful racket they were making in the marketplace. He took the couple and gave them a place in which to live in one of the houses he owned and provided food for them all their days of their lives.*
- [I] This was in fulfillment of the verse, “And not hide yourself from your own flesh” – this refers to the woman he has divorced.
- [J] *Even so, her voice was heard by night, and people heard her saying, “Is not the pain I suffered outside of my body [in having to collect*

alms] better than the pain I suffer inside of my body [in having to live off the alms of my ex-husband].”

11:4

- [A] **A widow whose marriage contract was two hundred, and who sold [land of her husband’s estate] worth a maneh for two hundred zuz, or worth two hundred zuz for a maneh, –**
- [B] **her marriage contract has been received thereby.**
- [C] **[If] her marriage contract was worth a maneh and she sold [land] worth a maneh and a denar for a maneh,**
- [D] **her sale is void.**
- [E] **Even if she says, “I shall return the denar to the heirs, “ her sale is void.**
- [I:1 A] *There is no problem in understanding why, if she sold what was worth a maneh for two hundred zuz, the sale is valid, for she has received her marriage contract.*
- [B] But if she sold what was worth two hundred zuz for a *maneh*, why should she be deemed to have received the two hundred zuz coming to her?
- [C] In any event she has caused a loss to the estate.
- [D] If she sold what was worth a *maneh* for two hundred zuz, [why is this acceptable]? [34c] In the end will the property not come back on grounds that it is a sale made in error?
- [E] Interpret the rule to speak of a case in which the property which has been sold was worth more than the sale price. [The purchaser has no grounds for annulling the sale.]
- [F] *Said R. Abin, “[That-is hardly necessary. For the rule as given, without postulating E, serves] to support the view of R. Simeon b. Laqish.”*
- [G] For R. Simeon b. Laqish said, “There is never a claim of overcharge in the case of the sale of real estate.”
- [H] Said R. Yohanan, “If the sale price was way out of line, there indeed is a claim of overcharge to be made.”
- [I] *The following statement of the Mishnah stands at variance with the view of R. Yohanan: **These are matters which are not subject to a claim of fraud on account of overcharge: slaves, bills of***

**indebtedness, real estate and that which has been consecrated
[M. B.M. 4:6A-B].**

[J] [He may reply,] “Interpret the law to speak of a case in which the sale price was way out of line.”

[K] If one has redeemed [that which has been consecrated] worth a *maneh* for two hundred zuz,

[L] R. Yohanan said, “It is not held to be redeemed.”

[M] And R. Simeon b. Laqish said, “It is redeemed.”

[N] *The following passage in Tannaitic teaching stands at variance with the view of R. Yohanan:*

[O] If one said, “This cloak is exchanged for that ass [the latter having been consecrated, so that the cloak is consecrated and the ass redeemed],”

[P] the ass has gone forth to the secular status, [and the cloak has served to redeem it].

[Q] Now the latter part of the same passage stands at variance with the view of R. Simeon b. Laqish:

[R] But he has to make up the difference in value [so the ass is not redeemed merely by the cloak, because of the wide difference in true value].

[S] Said R. Yosé, “The very essence of the case cries out that he *has* to make up the difference in value!”

[T] *Concerning what do they differ?* Concerning the consideration of having to bring an offering on account of sacrilege [if the ass is utilized for secular purposes merely on the strength of the exchange for the cloak, that is, prior to the payment of full value].

[U] R. Yohanan said, “One has to bring an offering on account of sacrilege.” [The redemption has not taken place, because of the disparity in value between the cloak and the ass.]

[V] R. Simeon b. Laqish said, “One does not have to bring an offering on account of sacrilege.”

11:5

[A] Rabban Simeon b. Gamaliel says, “Under all circumstances is her sale valid, unless there was so much land there as to allow her to leave a field of nine qabs, “and in the case of a vegetable garden, a field of half a qab.”

[B] (In accord with the opinion of R. Aqiba, a quarter-qab.)

[C] [If] her marriage contract was worth four hundred zuz, and she sold [land] to this one for a maneh, and to that one for a maneh,

[D] the sale to the last one is void.

[E] But all the others – their purchase is valid.

- [I:1 A] *[As to M. 11:5C-E] that rule applies to a case in which she sold it to them with four deeds. But if she sold it to them on a single deed [covering all four pieces of land], we come to the dispute between R. Yohanan and R. Simeon b. Laqish.*
- [B] *For they dispute as follows.*
- [C] If one wrote over a deed of gift of all of his property to two men simultaneously, and the witnesses to the document were valid for one of the donees but invalid [e.g., as relatives] for the other –
- [D] *R. Hela in the name of R. Yosé [stated], “R. Yohanan and R. Simeon b. Laqish differed on the matter. One of them said, ‘Since they are deemed invalid for one of the parties to the deed, they are invalid for the other,’ while the other said, ‘They indeed are regarded as valid for one party and invalid for the other.’ [If part of the testimony is invalidated, the whole of the document is nullified, or if part is invalidated, part remains acceptable. Here, too, since we have a single document, if the deed of gift is invalid without valid signatures, so the writ of dismissal is null, or the contrary.]”*
- [E] R. Mana did not interpret [the positions to be assigned to each, not specifying who holds which opinion].
- [F] R. Abin explained, “R. Yohanan said, ‘Since they are deemed invalid for one of the parties to the deed, they are invalid for the other,’ while R. Simeon b. Laqish said, ‘They indeed are regarded as valid for one party and invalid for the other.’”
- [G] *Said R. Eleazar, “The following rule of the Mishnah supports the position of R. Yohanan: **Just as, in the case of two [witnesses], if one of them turns out to be a relative or otherwise invalid, the testimony of both of them is null, so in the case of three, if one of***

them turns out to be a relative or otherwise invalid, the testimony of all three of them is null [M. Mak. 1:5M-N]. [Just as, if part of the testimony of witnesses who give testimony verbally is nullified, the whole of it is dropped, so in the case of a document; we maintain the same principle about witnesses who give testimony in writing.]”

[H] *R. Jacob bar Aha said, “R. Hanina, associate of the rabbis, and the rabbis differed on this matter.*

[I] “One of them said that R. Eleazar made a valid statement [in citing M. Mak. 1:5], and the other of them said that R. Eleazar did not make a valid statement [since the cited passage does not support Yohanan’s position at all].

[J] “The one who said that R. Eleazar made a valid statement holds that the testimony is treated as a single corpus of evidence and as a single person. And the law is that in the case of testimony, part of which is nullified, the whole of it is deemed null. [That is, we have a single writ, so it is as if the testimony concerns a single person, and the rest follows.]

[K] “The one who said that R. Eleazar did not make a valid statement holds that the matter is treated as it is when we have two distinct groups of witnesses, who may give valid testimony for one party and yet be invalid in testifying about the affairs of the other party. [We treat the testimony as disjointed.]”

11:6

[A] **[If] the estimate of the value made by judges was a sixth too little or a sixth too much, their sale is void.**

[B] **Rabban Simeon b. Gamaliel says, “Their sale is confirmed.**

[C] **“For if it is so [that the sale is void], of what value is the decision of a court?”**

[D] **But if they drew up a deed of inspection,**

[E] **even if they sold what was worth a maneh for two hundred, or what was worth two hundred for a maneh,**

[F] **their sale is confirmed.**

[I:1 A] *Just as you have said [at M. 11:4] that, in the case of an ordinary person, should land be sold at a price a third over and above or less than true value, and, in the case of movables, up to a sixth [that would represent fraud through overcharge],*

[B] *along these same lines*, in the case of that which has been consecrated, for redeeming real estate, the fraud through overcharge is one sixth of true value, and, in the case of movables, a twelfth. [A more strict rule for overcharge applies.]

[I:2 A] *There we have learned: The proclamation of the sale of goods of orphans [an estate] evaluated by the court to meet the father's debt is for thirty days. And the proclamation of the sale of goods of the sanctuary evaluated by the court is for sixty days. And they make an announcement morning and night [M. Ar. 6:1A-C].*

[B] Why for thirty days? So as to improve the position of the orphans [in attracting a larger potential group of purchasers].

[C] If so, then why not announce the sale for more than thirty days?

[D] For thirty days you improve the orphans' position. For a longer time than that, you weaken their position [since people may retract their offers].

[E] And why not say the same for announcing an auction for the redemption of consecrated property?

[F] The case of consecrated property is different, because you regard as an irrevocable offer whatever a person says at the outset [so there is no possibility of retracting the offer, since a mere declaration effects ownership in behalf of the temple].

[G] If that is the case, why not persist in announcing the sale for an unlimited time?

[H] It is sufficient for consecrated property if its time of sale is double that of the sale of property belonging to ordinary folk.

[I] *Said R. Yudan, "On the basis of that which you have said, namely, that the case of consecrated property is different, because you regard as an irrevocable offer whatever a person says at the outset, if someone should come up with the offer meeting the value estimated by the court, they do not then retract and assign the field to someone else. [The irrevocability of the sale is for both parties, including the temple's.]"*

[I:3 A] **And they make an announcement morning and night, when the workers come in and when the workers go out.**

[B] **They state the traits of the property: How much it was worth and how much is demanded to redeem it for the purpose of paying a**

woman's marriage settlement or a creditor's claim against the estate [T. Ar. 4:1C-E].

- [C] Said R. Yosé, “[The thirty-day period of advertising] applies to a case in which the estimated value of the court has not been realized. But if they should get an offer equivalent to the estimated value, they assign the field forthwith and do not continue the advertising.
- [D] *“For this is in line with the Mishnah: **If the estimate of the value made by judges was a sixth too little or a sixth too much, their sale is void.***
- [E] “It is void because they estimated too little or too much. But if they got precisely the estimated value, they assign the field to the bidder without delay.”
- [F] *Said R. Hananiah before R. Mana, “What makes you say that we deal with a case in which they did not make a public announcement [under which circumstances, if they got the estimated price, they need not do so]? Perhaps we have a case in which they did make a public announcement [in which instance the cited passage does not prove your point].”*
- [G] It is from the end of the same passage: **But if they drew up a deed of inspection [M. 11:6D]** [which indicates that the former part of the pericope deals with a case in which there was no public announcement of the sale].

[I:4 A] What is a deed of inspection?

[B] R. Judah b. Pazzi said, “It is an announcement.”

[C] Ulla bar Ishmael said, “[The reason that slaves, bonds, and movables are not subject to a deed of inspection is this:] In the case of slaves, that they not run away; in the cases of bonds and movables, that they not be stolen [under the pretext of inspecting them].”

[D] *R. Ba bar Kahan raised the question before R. Yosé: “Does that rule not imply that slaves are to be redeemed by the assessment of three judges [for slaves are in the status of movables in general, so that slaves will not hear that they are to be sold and so run away]?”*

[E] He said to him, “Yes.”

[F] *He said to him, “And yet we have learned: **Immovable property is assessed by nine and a priest, and in the case***

of man the law is the same [M. Meg. 4:3J-K]. [So ten, not three, are required.]”

[G] He said to him, “But here the reference is to a free man [who is subject to valuation, and not to a slave. A slave will be evaluated by three.]”

[I:5 A] *[With reference to M. 11:6A-B,] Hananiah bar Shelameh said in the name of Rab, “A case came before Rabbi, and he considered applying the law in accord with the position of rabbis.*

[B] “Said to him R. Eleazar b. Parta, the son of the son of R. Eleazar b. Parta, ‘Rabbi, did you not teach us in the name of your forefathers, **But if they issued a deed of inspection [the sale is valid]?** [That is, Rabbi’s forefather, Simeon b. Gamaliel, took the view that whether or not there is a deed of inspection, the sale is valid. Rabbis’ position, then, is as stated.]’

[C] “He said to him, ‘Yes.’

[D] “*And he went and decided the case in accord with the position of Rabban Simeon b. Gamaliel.*”

11:7

[A] **An orphan girl [married off by her mother or brothers], a woman in a secondary grade of prohibited relationship [M. Yeb. 2:4], and a sterile woman, do not have a claim on a marriage contract,**

[B] **nor on the increase [on melog property], nor on maintenance, nor on indemnity [for wear of clothing].**

[C] **But if to begin with he married her as a sterile woman, she has a claim on a marriage contract.**

[D] **A widow married to a high priest, a divorced woman or one who has performed the rite of halisah married to an ordinary priest, a mamzer girl and a Netin girl married to an Israelite, an Israelite girl married to a Netin or to a mamzer, do have a marriage contract.**

[I:1 A] There is no problem in explaining why one in a secondary grade of prohibited relationship and a woman who is sterile [should be deprived of her property rights]. But why should that be the case for an orphan girl? Does an orphan girl not have a right to a marriage settlement?

[B] R. Hezekiah, R. Abbahu in the name of R. Yohanan, “Interpret the passage to speak of an orphan girl who exercised the right of refusal.”

[C] R. Aibu bar Nigri, R. Immi: “Just as they have penalized her, so they penalize him.”

[D] *In what regard is that the case?*

[E] If he betrothed her with a gift of a *litra* of gold, he loses all claim to that *litra* of gold [when she leaves him, since he took the risk of betrothing a girl who could in the end walk out on him without penalty].

[II:1 A] Nor on the increase [on melog property] [M. 11:7B]:

[B] Said R. Jeremiah, “He is not subject to the law of enjoyment of the usufruct in general, for he has a claim on her only for usufruct alone. [But the other considerations associated with that right do not apply in such a marriage as this.]”

[C] *R. Yosé of Sidon taught before R. Jeremiah, differing from R. Jeremiah, “But [he does enjoy] the husband’s right to keep whatever the woman finds, to keep the fruit of her labor, and to abrogate her vows. [So Yosé differs from Jeremiah’s position.]”*

[D] What then is the meaning of, **Nor on the increase**? That she has not got the right to collect from him the usufruct [of the *melog* property] which he has already enjoyed.

[E] *Said R. Yosé, “Every hour R. Ila would say to me, ‘Repeat as your Mishnah passage: “He inherits her estate and he contracts uncleanness [if he is a priest, in burying her, despite the general obligation not to do so except in the case of close relatives].””*

[F] *And has it not been taught this way: A [priest] contracts uncleanness in burying his wife if she is a valid wife for him, and he does not do so if she is not a valid wife for him?*

[II:2 A] *R. Abun (L + V: Reuben) raised the question before R. Mana, “Slaves belonging to women who are in a secondary grade of prohibited relationship to their husband – what is the law as to their eating food in the status of heave offering [if the woman is married to a priest]? [While the valid wives of priests may eat such food, and their servants likewise may do so, do we regard this marriage as sufficiently valid to allow the same privilege?]”*

[B] He said to him, “Be quiet, and it will be good for you: She has the right to eat food in the status of heave offering, and yet do her slaves not have that right?”

[II:3 A] *There we have learned: A writ of divorce imposed by a court – in the case of an Israelite court, is valid. And in the case of a gentile court, it is invalid [M. Git. 9:9A-C].*

[B] Samuel said, “The writ imposed by a gentile court is invalid, but it renders the woman invalid to marry into the priesthood [as a divorcée].”

[C] And Samuel said, “Announce this law in your locales.”

[D] It is invalid but [nonetheless, still] it invalidates for the priesthood.

[E] Samuel said, “They force the issuance of a writ of divorce only in the case of those whose marriage is invalid.”

[F] Samuel said, “They force the issuance of a writ of divorce only in the case in which a widow is married to a high priest, a divorcée or a woman who has performed the rite of removing the shoe has married an ordinary priest.”

[G] *And have we not learned [at M. Yeb. 9:4]: In what concerns the secondary grade of forbidden relations, they force the husband to divorce the wife?*

[H] *It was not in that regard that Samuel made his statement.*

[I] *And have we not learned [at M. Ned. 7:1]: He who imposes a vow upon his wife not to derive benefit from him – for thirty days, he may appoint someone to support her. From that point, he must divorce her and pay off her marriage settlement?*

[J] Thus we learn that he must divorce her. But have we learned from that statement that they force him to do so?

[III:1 A] **[A widow married to a high priest, a divorced woman or one who has performed the rite of halisah married to an ordinary priest, a mamzer girl and a Netin girl married to an Israelite, an Israelite girl married to a Netin or to a mamzer, do have a marriage contract:]** What is the difference between these [listed at M. 11:7A, who lose all property rights] and those [listed at M. 11:7D, who retain all property rights]?

[B] Now the difference is simple. Those [at M. 11:7D] are subject to the laws of the Torah, and the laws of the Torah require no reenforcement [through further penalties, if they should be violated]. Accordingly, they receive a marriage settlement.

- [C] On the other hand, these [at M. 11:7A] are subject to the laws made by scribes, and the laws made by scribes most certainly do require reinforcement [through further penalties]. Accordingly, they receive no marriage settlement.
- [D] *There are, further, those who wish to explain the difference as follows:*
- [E] In the case of these [the widow married to a high priest, and so on] since the law has penalized both them and their offspring [in that they are invalidated for marriage into the priesthood], they have not imposed further penalties against them, and therefore they do receive a marriage settlement.
- [F] On the other hand, those [e.g., an orphan girl and the like] who suffer no personal penalties whatsoever, and whose offspring likewise suffer no penalties, do suffer a penalty in another way, and hence they do not receive a marriage settlement.
- [G] *What is the practical difference between the two reasons just now given?*
- [H] He who remarries a woman he has divorced after she was married to a third party.
- [I] *He who says, "These, because they have violated the law of the Torah, [do receive a marriage settlement, since the laws of the Torah require no reinforcement]," – this woman, since hers is a violation of the law of the Torah, therefore [34d] may receive a marriage settlement.*
- [J] *And in the view of him who says, "These, since the law has penalized both them and their offspring," will maintain that, in this instance, since there is no penalty exacted against her and her offspring, she therefore receives no marriage settlement.*
- [III:2 A] *R. Jacob bar Aha said that both R. Zeirah, and R. Hila differ as to providing for maintenance [in the case of a widow married to a high priest].*
- [B] R. Yohanan said, "She does have a right to maintenance."
- [C] Said to him R. Eleazar, "The law requires him to divorce her, and you maintain this?"
- [D] *They proposed to rule:* Also with regard to the further clauses of the marriage settlement [over and above the basic payment] do they dispute.

[E] All parties concur that she has no claim on maintenance. How so? The sages have imposed a penalty on her heirs [who lose out on all the property she brought into the marriage with her]. Is it not an argument a fortiori that they imposed a penalty on her?

[F] *Now he who maintains that they dispute concerning maintenance* [argues], “Lo, with respect to the additional provisions of the marriage contract, there is no penalty. How so? The penalty was imposed on her, but no penalty has been imposed on her heirs.”

YERUSHALMI KETUBOT

CHAPTER TWELVE

12:1

[A] He who marries a woman,

[B] and she stipulated with him that he support her daughter for five years –

[C] He is liable to support her for five years.

[D] [If] she [the wife, having been divorced] married someone else,

[E] and she stipulated with him [the second husband] that he support her daughter for five years, he is liable to support her for five years,”

[F] The first may not say, “~f she comes to my house, I shall support her.”

[G] But he sends her food to the place where her mother is located.

[H] And so the two of them do not say, “Lo, we shall support her together [in partnership].”

[I] But one supports her and the other gives her the cost of her support [in addition].

[I:1 A] On what basis is he liable to support her? *Did not both R. Yohanan and R. Simeon b. Laqish say, “He who writes a bond to his fellow assuming that he owes him money, and it turns out that he does not owe it to him, is not liable to pay him [the sum specified in the bond]”?*

[B] R. Simeon b. Laqish said, “They have treated her [support of the daughter] additional element in the marriage contract [as an inducement to the marriage].”

[C] [If that is the operative theory,] then let him pay off the pledge at the end [should there be a divorce, or should he die, as is the case with the dowry in general].

[D] They have treated the matter as tantamount to the gifts of betrothal given to the woman.

- [E] If that is the case, then let him pay it out at the outset.
- [F] They have treated the matter as equivalent to a case in which he betroths a woman on the stipulation that he pay her twelve golden *denars* a year, in which case he provides her with a gold *denar* each month [on an ongoing basis].
- [I:2 A] *It has been taught:* As to the first five years [to which the husband referred] he supports her whether the cost of the food is high or low. If [he failed to provide food during that period] and the cost was high, but [at the end, when claim was laid against him], the cost had gone down, if he was the cause [of the nonpayment of support] he [now] pays at the highest price [prevailing during that period of years]. But if she was the cause [of the delinquency], he pays at the lowest cost [prevailing during that period of years].
- [B] [If, during the five years] the prices had been low but [at the point, at the end, at which claim was laid against the husband~, the price had gone up, whether he was at fault or she was at fault, he pays the cost at the low prices [prevailing during the period for which he was obligated].
- [C] *That is in line with the statement:* The daughter does not go up and does not go down.
- [I:3 A] *There we have learned:* **[If] he did not write for her, [“Female children which you will have from me will dwell in my house and derive support from my property until they will be married to husbands,” he nonetheless is liable, for this is an unstated condition imposed by the court [M. Ket. 4:12].**
- [B] Concerning this passage it has been taught: And they will be clothed in garments provided by me [as part of the support].
- [I:4 A] To whom do we assign the fruit of the daughter’s labor?
- [B] *Let us derive the answer from the following:* **If [having been divorced], she remarries, the husband is liable to maintain her, and the other gives her the cost of her support [in addition] [M. 12:1J].**
- [C] That is to say that he supports her, and the fruit of her labor belongs to her.
- [D] *Said R. Yosé, “That is to say, if one has agreed to support his daughter-in-law, he supports her, and the fruit of her labor belongs to his son.”*

- [I:5 A] If the husband, who has to support the daughter, wants her to come and live in his house, and she does not agree, the law is with her.
- [B] *For it is taught: But one supports her, and the other gives her the cost of her support [in addition].*
- [I:6 A] If she fell ill, it is as if she had been married.
- [B] If she died, it is as if she had been married.
- [C] If she died, it is as if she had already died. [In the first of these cases, the prospective husband has to support the daughter as if the mother had married him. In the second, B-C, we treat the agreement as null; the heirs have no claim.]

12:2

- [A] **[If the daughter, whom the two husbands have agreed to support] is married,**
- [B] **the husband provides support.**
- [C] **And they [the mother's successive husbands] pay her the cost of her support.**
- [D] **[If] they died, their daughters are supported from unencumbered property, while [the daughter] is supported even from property mortgaged to others,**
- [E] **for she is in the status of a creditor.**
- [F] **The smart ones would write, "on condition that I support your daughter for five years, so long as you are [living] with me. "**
- [I:1 A] As to the additional stipulations of a marriage contract which were written into a bond [so obligating the husband as with a debt] –
- [B] *R. Jacob b. Aha said, "There is a dispute between R. Yohanan and R. Simeon b. Laqish."*
- [C] *R. Yohanan said, "He wrote these additional stipulations into the bond merely as a way of indicating the strength [of his resolve, but they do not constitute debts incumbent on him, so the wife and daughters cannot collect from indentured property]."*
- [D] *R. Simeon b. Laqish said, "He wrote these additional stipulations into the bond because that insures that they may collect them [from indentured property]."*

- [E] *R. Jeremiah exchanged the traditions [assigned to each authority, so that what is given to Yohanan is what is stated at D in the name of Simeon b. Laqish].*
- [F] *Said R. Yudan, “The following Mishnah supports the position of him who said, ‘He wrote these additional stipulations into the bond merely as a way of indicating the strength of his resolve.’ For we have learned there: **They do not exact payment from mortgaged property for an indemnity for produce consumed, or for the improvements made on land, or for the maintenance of a widow or daughters, for the good order of the world [M. Git. 5:3].** Is this not the case even if a bond has been issued in that regard? [Surely it is.] Also here, we deal with a bond [and do not permit the bond to be collected from mortgaged property, so it serves only the purpose of an inducement, in fact of no substance at all].”*
- [G] *Said R. Hananiah, “It is **because she is a creditor [M. 12:2E]:** Is this not with a bond [in security of what he has promised]? Here, too, it is deemed a valid bond [and she collects on the strength of it from indentured property, as the present rule of the Mishnah makes clear].”*

- [II:1 A] *If she should die, she is not with him [in line with M. 12:12F, **The smart ones would write, “on condition that I support your daughter for five years, so long as you are living with me,”**]. If she was divorced, she is not with him [in that same context].*
- [B] *If he then remarried her after a divorce, [does the clause in the original marriage contract covering support for the daughter come back into effect automatically]?*
- [C] *In the view of him who said, “The former marriage contract remains in effect as to the basic payment of the marriage settlement, but not as to additional stipulations,” here, too, the stated teaching [of M. 12:2F applies, and he is no longer obligated for the daughter’s ongoing support].*
- [D] *In the view of him who said, “The former marriage contract remains in effect both as to the basic payment of the marriage settlement and also as to additional stipulations,” here what is the law?*
- [E] ***The smart ones would write, “on condition that I support your daughter for five years, so long as you are living with me,” [M. Ket. 12:2F], and in this matter it has been further taught, “And that is on condition that the commitment applies to the first marriage [but not to any subsequent marriages that may take place between us].”***

[F] *Now this accords with what R. Haninah said: “He who marries off his son in a house – the son has acquired ownership of the house. But that rule applies only to the first marriage [that the son enters].”*

12:3

[A] **A widow who said, “I don’t want to move from my husband’s house”**

–

[B] **the heirs cannot say to her, “Go to your father’s house and we’ll take care of you [there].”**

[C] **But they provide for her in her husband’s house,**

[D] **giving her a dwelling in accord with her station in life.**

[I:1 A] It is written, “I am like one free [forsaken] among the dead, [like the slain that lie in the grave, like those whom thou dost remember no more, for they are cut off from thy land]” (Ps. 88:6).

[B] Once a man died, he is free [of the requirement of carrying out] the commandments.

RABBI’S DEATH AND HIS LAST WISHES. THE DEATH OF OTHER SAGES

[I:2 A] When Rabbi lay dying, he gave instructions in three matters: “Let my widow not be moved from my house. Do not make a lamentation for me in the villages. He who took care of me while I was alive should take care of me after I have died.”

[B] “My widow should not be moved from my house.”

[C] [35a] *Is this not a Mishnaic teaching: A widow who said, “I don’t want to move from my husband’s house” [M. 12:3A]. [Why did Rabbi have to say so?]*

[D] *Said R. Dosa, “It was so that they should not say to her, ‘It is the palace of the patriarch and indentured to the patriarchate [Gamaliel, my son, who then may live here].”*

[E] *Said R. Eleazar b. Yosé, “It is in line with that which is taught: [In Tosefta’s version:] A woman whose husband has died dwells in the rooms [of her house] just as she did when her husband was alive. She makes use of the man slaves and woman slaves, of silver utensils and golden utensils, just as she made use of them when her husband was alive, and she will be supported, just as she did when her husband was alive. [For thus does he write for her, ‘You will dwell in my house and enjoy support from my*

property so long as you spend your widowhood in my house’]
[T. Ket. 11:5].”

[F] “Do not make a lamentation for me in the villages”: This is to prevent contention.

[G] “He who took care of me while I was alive should take care of me after I have died” Said R. Haninah of Sepphoris, “For example, Joseph of Ephrat, Yosé Hopni.”

[H] R. Hezekiah added, “Do not provide elaborate shrouds for me, and let my bier be open to the ground.”

[I] *There is a saying implying that Rabbi was buried in only a single wrapping.*

[J] For Rabbi said, “It is not in the garb in which a man goes [to the grave] that he comes [from the grave, at the resurrection of the dead].”

[K] But rabbis say, “Just as a man goes to the grave does he come from it.”

[L] *It has been taught in the name of R. Nathan, “In the garment with which a man goes to the grave he comes up from it.”*

[M] *What is the scriptural basis for this statement?*

[N] “It is changed like clay under the seal, and it is dyed like a garment” (Job 38:14).

[O] Antoninus asked Rabbi, “What is the meaning of the following verse of Scripture: ‘It is changed like clay under the seal’” (Job 38:14)?

[P] He said to him, “He who will bring the generation [back to life] is the one who will clothe [it, at the resurrection of the dead].”

[I:3 A] *R. Yohanan gave instructions, “Shroud me in scarlet, which is neither white nor black. If I end up among the righteous, I shall not be ashamed, and if I end up among the wicked, I shall not be ashamed.”*

[B] *R. Josiah gave instructions, “Shroud me in hemmed white shrouds.”*

[C] *They said to him, “Are you better than your master [Yohanan]?”*

[D] *He said to them, “And should I be ashamed of the things I have done?”*

[E] *R. Jeremiah gave instructions, “Shroud me in white shrouds. Dress me in my slippers, and put my sandals on my feet, and place my staff in my hand, and bury me by the side of a road. If the Messiah comes, I shall be ready.”*

[I:4 A] *The Sepphoreans said, “Whoever tells us that Rabbi has died shall we kill.”*

[B] *Bar Qappara approached them, with his head covered, and his clothing torn. “The angels and the mortals have laid hold of the tablets, and the angels got the upper hand and have seized the tablets.”*

[C] *They said to him, “Rabbi has died.”*

[D] *He said to them, “You have said so.” Then they tore their clothes, and the noise of their tearing of their clothes reached Papa, three miles away.*

[E] *R. Nathan in the name of R. Mana: “There were miracles done that day. It was the eve of the Sabbath, and all the villagers assembled to make a lamentation for him. They put down the bier eighteen times en route to burial to mourn him, and they accompanied him down to Bet Shearim. The daylight was protracted until each one of them had reached his home [in time for the Sabbath] and had time to fill up a jug of water and light the Sabbath lamp. When the sun set, the cock crowed, and the people began to be troubled, saying, ‘Perhaps we have violated the Sabbath.’*

[F] *“But an echo came to them, ‘Whoever did not refrain from participation in the lamentations for Rabbi may be given the good news that he is going to enjoy a portion in the world to come,*

[G] *“‘except for the launderer [who used to come to Rabbi day by day, but did not bother to participate in his funeral].’ When he heard this, he went up to the roof and threw himself down and died. Then an echo went forth and said, ‘Even the laundryman [will enjoy the life of the world to come].’”*

[I:5 A] *Rabbi lived in Sepphoris seventeen years and he cited the following verse in his own regard: “And Jacob lived in the land of Egypt*

seventeen years; [so the days of Jacob, the years of his life, were a hundred and forty-seven years]" (Gen. 47:28).

- [B] Thus: And Judah lived in Sepphoris for seventeen years, *and of that time he spent thirteen years suffering from a toothache.*
- [C] Said R. Yosé b. R. Bun, "During that entire period of thirteen years, a woman in labor never died in the land of Israel, nor was there ever a miscarriage in the land of Israel."
- [D] *And why did he suffer from pain in the teeth?*
- [E] *One time he was passing by and saw a calf being taken to the slaughter. It lowed in terror, but Rabbi said to her, "Go, for this is the purpose for which you were created."*
- [F] *And in the end [when the pain was made to cease] how was he healed? They saw how they were killing a nest of mice, and he said to them, "Let them be. It is written, '[The Lord is good to all,] and his compassion is over all that he has made'" (Ps. 145:9).*
- [I:6 A] *Rabbi was very humble and he said, "Whatever anyone tells me to do shall I do, except for what the elders of Bathera did in behalf of my forefather, for they gave up their position and appointed him in their place [the reference being to Bathyrans' giving way before Hillel and making him patriarch].*
- [B] *"If the exilarch, R. Huna, should come here, I should seat him above me, because he comes from the tribe of Judah, while I come from the tribe of Benjamin, because he derives from the male line, and I from the female line."*
- [C] *One time R. Hiyya the Elder came to him. He said to him, "Lo, R. Huna is here." Rabbi's face blanched. He said to him, "It is his bier."*
- [D] *He said to him, "Go see who wants you outside." He went out and found no one there, and he knew that Rabbi was angry with him. R. Hiyya then did not go to see Rabbi for thirty days.*
- [E] *Said R. Yosé b. R. Bun, "During those thirty days Rab learned from R. Hiyya all of the principles of the Torah."*
- [F] *At the end of the thirteen years and thirty days, Elijah came to him [= to Rabbi] in the guise of R. Hiyya the Elder. He said to him, "How does my lord do?"*
- [G] *He said to him, "I have a tooth which is painful to me."*
- [H] *He said to him, "Show me."*

- [I] *And he showed it to him. [Elijah] put his finger on the tooth and healed it.*
- [J] *The next day R. Hiyya the Elder came to him. He said to him, “How does my lord do? As to your teeth, how are they doing?”*
- [K] *He said to him, “From that moment at which you put your finger on it, it has been healed.”*
- [L] *At that moment [Hiyya] said, “Woe for you, women in childbirth in the Land of Israel! Woe for you, pregnant women in the Land of Israel!”*
- [M] *[Hiyya] said, “It was not I [who healed you, but Elijah did it].”*
- [N] *From that moment onward Rabbi began to pay respect to Hiyya.*
- [O] *When he would come into the meetinghouse, he would say, “Let R. Hiyya the Elder go in before me.”*
- [P] *Said to him R. Ishmael b. R. Yosé, “Even before me?”*
- [Q] *He said to him, “Heaven forbid! But R. Hiyya the Elder is within, but R. Ishmael b. R. Yosé is innermost.”*
- [R] *Rabbi was praising R. Hiyya the Elder in the presence of R. Ishmael b. R. Yosé. One time he saw him in the bathhouse and [Hiyya] did not rise to pay his respects [to Ishmael].*
- [S] *Ishmael said to [Rabbi], “Is this the one whom you were praising to me?”*
- [T] *He said to him, “What did he do to you?”*
- [U] *He said to him, “I saw him in the bathhouse, and he did not rise to pay his respects to me.”*
- [V] *He said to [Hiyya], “Why did you behave in such a way?”*
- [W] *He said to him, “May a terrible thing happen to me, if I even noticed him. I knew nothing about it. At that time I was reviewing the aggadic traditions of the whole book of Psalms.”*
- [X] *From that time [Rabbi] assigned to him two disciples to accompany him so that he would not get into trouble because of his concentration on his own thoughts.*
- [I:7 A] *R. Yosa fasted eighty fasts in order to see R. Hiyya the Elder [in a dream]. He finally saw him, and his hands trembled and his eyes grew dim.*

- [B] *Now if you say that R. Yosa was an unimportant man, [and so was unworthy of such a vision, that is not the case]. For a weaver came before R. Yohanan. He said to him, "I saw in my dream that the heaven fell, and one of your disciples was holding it up."*
- [C] *He said to him, "Will you know him [when you see him]?"*
- [D] *He said to him, "When I see him, I shall know him." Then all of his disciples passed before him, and he recognized R. Yosa.*
- [E] *R. Simeon b. Laqish fasted three hundred fasts in order to have a vision of R. Hiyya the Elder, but he did not see him.*
- [F] *Finally he began to be distressed about the matter. He said, "Did he labor in learning of Torah more than I?"*
- [G] *They said to him, "He brought Torah to the people of Israel to a greater extent than you have, and not only so, but he even went into exile [to teach on a wider front]."*
- [H] *He said to them, "And did I not go into exile too?"*
- [I] *They said to him, "You went into exile only to learn, but he went into exile to teach others."*
- [J] *When R. Huna, the exilarch, died, they brought his bones up here. They said, "If we are going to bury him properly, let us place him near R. Hiyya, because he comes from there."*
- [K] *They said, "Who is worthy of placing him there?"*
- [L] *Said to them R. Haggai, "I shall go up and place him there."*
- [M] *They said to him, "You are looking for an excuse, for you are an old man, so you want to go up there and die and be buried there next to Hiyya."*
- [N] *He said to them, "Tie a rope to my feet, [35b] and if I delay there too long you can drag me out."*
- [O] *He went in and found three biers.*
- [P] [He heard,] *"Judah, my son, is after you, and no one else. Hezekiah, my son, is after you, and no one*

else. After you, Joseph, son of Israel, and no one else.”

[Q] *He raised his eyes and looked. One said to him, “Lower your face.”*

[R] *Said R. Hiyya the Elder, “Judah, my son, make room for R. Huna.”*

[S] *He made a place for him, but [Huna] did not accept being buried [next to Hiyya the Elder, out of modesty]*

[T] *[They] said, “Just as [out of modesty] he did not accept being buried next to him, so may his seed never die out.”*

[U] R. Haggai left that place at the age of eighty years, and they doubled the number of his years, [so that he lived another eighty years].

- [I:8 A] It is written, ““You shall carry me out of Egypt and bury me in their burial ground” (Gen. 47:30): as to Jacob, wherever he was located [in death] – what loss would he sustain? [Granted that sinners benefit from burial in the Land of Israel, which atones for sin, since Jacob was entirely righteous, what difference did it make to him to be buried there rather than in Egypt (PM)]?
- [B] R. Eleazar said, “There is something hidden here.”
- [C] Hanina said, “There is something hidden here.”
- [D] What is the meaning of “There is something hidden here”?
- [E] R. Simeon b. Laqish said, “I shall walk before the Lord in the lands of the living’ (Ps. 116:9) – and is it not the fact that the lands of the living are only Tyre and Caesarea and their surroundings [so reference cannot be made to this world, since in this world life is most abundant in the cities that are named, and places like them]. There is everything, there is abundance.”
- [F] [Rather,] R. Simeon b. Laqish in the name of Bar Qappara [said], “It is the land where the dead will be the first to return to life in the time of the Messiah.. What is the scriptural foundation for that view? ‘Thus says God, the Lord, who created the heaven and stretched them out, who spread forth the earth and what comes from it, who gives breath to the people upon it, and spirit to those who walk in it’ (Is. 42:5).”

- [G] If that is the case [that in the land of Israel the dead rise first,] then our masters who are located in Babylonia lose out!
- [H] Said R. Simai, “The Holy One, blessed be he, opens the ground before them, and they roll to the land like leather bottles, and once they get their, their soul comes back to them.”
- [I] What is the Scriptural basis for that view?
- [J] “And I will place you on the land of Israel and I will put my spirit within you and you shall live” (Ez. 37:14).
- [K] R. Berekiah asked R. Helbo, R. Helbo asked R. Immi, R. Immi asked R. Eleazar, and R. Eleazar, R. Hanina; and there are those who say, R. Haninah asked R. Joshua, “And is that the case even of Jeroboam and his allies?”
- [L] He said to him, “‘The whole land burned by sulfur and salt, unsown, and growing nothing, where no grass can sprout, an overthrow like that of Sodom and Gomorrah, Admah and Zeboiim, which the Lord overthrew in his anger and his wrath’ (Dt. 29:22).”
- [M] Said R. Berekiah, “Even though everyone asked someone else, in the end we have not learned a thing on this question! What’s the point of this verse? Since the land of Israel was burned, the attribute of justice was applied to them, in line with the verse, ‘And he shall make a strong covenant with many for one week’ (Dan. 9:27).” [They have suffered and atoned, and they too will rise from the dead.]
- [N] *It has been taught as a Tannaite statement in the name of R. Yudah*, “‘For seven years sulphur and salt prevailed in the land of Israel. *That is in line with what is written*, ‘And he shall make a firm covenant with many for one week’” (Dan. 9:27).
- [O] As to the Samaritans that were in the land during this time – what did they do?
- [P] It was burned in strips, [and they lived in the strips that were not burning].
- [Q] It is written, “And you, Pashhur, and all who dwell in your house shall go into captivity, to Babylon you shall go and there you shall die and there you shall be buried” (Jer. 20:6).
- [R] R. Abba said R. Helbo, and R. Hama bar Hanina – one said, “If one died there and was buried there, he has two

[sins against him,] and the other said, "If one died there and was buried here, he has only one." The other said, "Burial atones for their death there."

[S] *R. Jonah in the name of R. Hama bar Hanina, "A man's feet are what bring him anywhere where he wants [to die], as it is said, 'And the Lord said, Who will entice Ahab that he may go up and fall at Ramoth-Gilead?' [And one said one thing and another said another]" (1 Kings 22:20). But he died in his own house, not there."*

[T] *Elihoref and Ahaiah, two scribes of Solomon, saw the angel of death staring at them and grinding his teeth. Solomon said a word, and they were raised up into the air, and he went and took them from there. [The angel of death] came and laughed at Solomon. He received him. He said to him, "A while ago you were grinding your teeth, and now you are smiling!"*

[U] *He said to him, "The All-merciful told me to take Elihoref and Ahaiah from the air, and I said, 'Who is going to put them there, from which place I have been sent to take them?' And he moved you to do it for me. [It was your own deed, therefore] which made it possible for me to carry out my mission, so I went and I took care of them."*

[V] *As to the two sons of R. Reuben bar Istrobili, the disciples of R. Hama, the angel of death laid eyes on them and was grinding his teeth.*

[W] *He said, "Let us send them into exile into the south. Perhaps the suffering of exile will atone for their sins and they will not be taken."*

[X] *The angel of death went and took them from them.*

[I:9 A] *Ulla, who went down into exile, was dying there. He began to cry. They said to him, "Why are you crying? Will we not bring your body to be buried there?"*

[B] *He said to him, "And what good does it do me, if I lose my pearl [my soul] in an unclean land? It is not the same when one sucks in the bosom of one's mother as when he sucks in the bosom of an alien woman."*

- [I:10 A] *R. Meir lay dying in Asia. He said, “Tell the sons of the land of Israel that your Messiah is coming [home, for burial].”*
- [B] *And even so, he said to them, “Place my bier at the seashore, for it is written, ‘He has founded it upon the seas, and established it upon the rivers’” (Ps. 24:2).*
- [C] *Seven seas surround the land of Israel, the Great Sea, the Sea of Tiberias, the Sea of Kub, the Salt Sea, the Sea of Helath, the Sea of Shilhath, the Sea of Apamaea.*
- [D] *And as to the Sea of Hamas, Diocletian stopped up rivers and made it.*
- [E] *It is written, “[And from Bamoth to the valley lying in the region of Moab by the top of Pisgah,] which looks down upon the desert” (Num. 21:20).*
- [F] *Said R. Hiyya bar Ba, “Whoever goes up to the Mountain of Yeshimon overlooking the desert, and who saw a kind of small sieve in the Sea of Tiberias – that is the well of Miriam.”*
- [G] *Said R. Yohanan bar Marah, “The rabbis surveyed it, and lo, it is directly opposite the center door of the ancient synagogue of the town of Sarognin in the land of Israel.”*

[I:11 A] *Rabbah bar Qaria and R. Eleazar were strolling in the road and saw biers which were being brought from abroad to the land.*

- [B] *Said Rabbah bar Qaria to R. Eleazar, “What have these profited? I recite concerning them, ‘[And I brought you into a plentiful land to enjoy its fruits and its good things. But when you came in you defiled my land,] and made my heritage an abomination’ (Jer. 2:7). That you did while you were alive, and will you come and impart corpse uncleanness to my land now that you are dead?”*
- [C] *He said to him, “Once they reach the land, they take a clump of ~4 dirt and place it on their bier, in accord with that which is written, ‘[Praise his people, O you nations;] for he avenges the blood of his servants, [and takes vengeance on his adversaries, and makes expiation for the land of his people]’” (Deut. 32:43).*

12:4

- [A] **[If] she said, “I don’t want to move from my father’s house,”**
- [B] **the heirs can say to her, “If you are with us, you will have support. But you are not with us, you will not have support.”**

[C] If she claimed that it is because she is a girl and they are boys, they do provide for her while she is in her father's house.

[I:1 A] If she claimed that it is because she is a girl and they are boys: It is because [in this situation she will get] a bad name.

12:5

[A] "So long as she is in her father's house, she collects her marriage contract at any time.

[B] "So long as she is in her husband's house, she collects her marriage contract within twenty-five years.

[C] "For in twenty-five years she may do good [for friends and neighbors] corresponding to the value of her marriage contract, " the words of R. Meir,

[D] which he said in the name of Rabban Simeon b. Gamaliel.

[E] And sages say, "So long as she is in her husband's house, she collects her marriage contract at any time.

[F] "So long as she is in her father's house, she collects her marriage contract within twenty-five years. "

[G] [If] she died, her heirs call attention [to her uncollected] marriage contract for twenty-five years.

[I:1 A] [Explaining M. 12:5G, **[If] she died, her heirs call attention [to her uncollected] marriage contract for twenty-five years:**] For the favor that they did for her that she had control over her property during her husband's lifetime up to twenty-five years, she relinquishes her marriage settlement. [We presume that because she already received adequate compensation, she relinquishes her claim to the marriage settlement.] [and this constitutes adequate compensation for the marriage settlement, over a period of twenty-five years].

[B] [With reference to M. 12: SF:] At the end of twenty-five years, [we assume that] she has relinquished claim on her marriage settlement.

[I:2 A] *R. Hiyya bar Ashi in the name of R. Hiyya raised the question before Rabbi, "Is it not reasonable to suppose that [when sages place a twenty-five year limitation on collection of the marriage settlement], it is in the case of a woman who has no deed of marriage contract in hand? But in the case of a woman who has a deed of marriage contract in hand, she may collect it at any time she wishes, [even after the stated period]. [If she wanted to relinquish claim, she would hand the deed over to the heirs.]"*

- [B] *He said to him, “To the contrary, the rule as stated serves to present a new point. Even a woman who does have a deed of marriage contract collects only in the period of twenty-five years.”*
- [C] *A statement of R. Eleazar suggests the same: “A creditor may collect the debt at any time [even after twenty-five years].”*
- [D] *Lo, he has stated that only a creditor may do so. But a woman may not collect her marriage contract over an unlimited period of time, but only for twenty-five years.*
- [I:3 A] *Said R. Abin, “Is it not reasonable that the law [limiting collection] applies only to a woman who has no benefit of maintenance? But in the case of a woman who receives maintenance, I say that it is because of her receiving maintenance that she has not requested payment of her marriage settlement.”*
- [B] *[Differing from this view,] said R. Yosé b. R. Bun, “In the end [it does not depend upon] her laying claim to the payment. Even if she merely made mention of it [in which case she would not lose maintenance, that suffices to keep the claim alive].”*
- [C] *For we have learned there: **If she died, her heirs call attention to her uncollected marriage contract for twenty-five years [M. 12:5G].***
- [D] *This formulation serves to make a new point. Even if she allowed twenty-five years less one day to pass without laying claim to her marriage settlement, and then she laid claim to it, they allow her yet another twenty-five years [from that date].*
- [I:4 A] *R. Simon in the name of R. Joshua b. Levi: “They assigned the cited law only to the settlement of the marriage contract of a maneh or two hundred zuz. But as to the additional funds, e.g., a marriage settlement of a thousand *denars*, she may collect that sort of additional sum at any time.”*
- [B] *R. Abbahu in the name of R. Yohanan stated, “Even in regard to a marriage settlement in the sum of a thousand *denars*, she collects the full amount only up to twenty-five years.”*
- [C] *Now the dispute of these authorities follows the same lines as the dispute of the authorities in the following matter.*
- [D] *For we have learned there: **And the marriage contract of a woman is collected from property of the poorest quality [M. Git. 5:1C].***

[E] Said R. Jeremiah, “This has been taught only in respect to the payment of the *maneh* or the two hundred zuz [as the case may be to a widow or a virgin at the time of marriage]. But as to a marriage settlement, in addition, of a thousand *denars*, this is collected from real estate of middling quality.”

[F] And R. Yosé says, “Even the marriage settlement [35c] of a thousand *denars* is collected only from real estate of the poorest quality.”

[G] *And that which R. Yosé said accords with the view of R. Yohanan, and that which R. Jeremiah said accords with the opinion of R. Joshua b. Levi.*

[H] *For we have learned there: He who writes over as a gift all of his property to his children, but wrote to his wife a piece of land of any size at all – she has lost the right to collect any further on her marriage settlement [M. Pe. 3:9].*

[I] Rab said, “This rule applies in a case in which he transferred ownership through her [to the children].”

[J] And Samuel said, “It applies to a case in which he makes the division in her presence [so that she has every right to cavil and refrains from doing so].”

[K] R. Yosé bar Haninah said, “This is one of the lenient rulings applicable to the marriage settlement which they have taught here.”

[L] *Said R. Ba, “The reasoning of R. Yosé b. Haninah [= F, G] is this: It is not the end of the matter that if her marriage settlement was a *maneh* or two hundred zuz [that the stated rule applies]. But even if her marriage settlement was worth a thousand *denars*, it still is one of the lenient rulings involving the marriage settlement which they have taught here.”*

YERUSHALMI KETUBOT

CHAPTER THIRTEEN

13:1

- [A] Two judges of civil law were in Jerusalem, Admon and Hanan b. Abshalom.
- [B] Hanan lays down two rulings.
- [C] Admon lays down seven.
- [D] He who went overseas, and his wife [left at home] claims maintenance
—
- [E] Hanan says, “Let her take an oath at the end, but let her not take an oath at the outset [that is, she takes an oath when she claims her marriage contract after her husband’s death, or after he returns, that she has not held back any property of her husband].”
- [F] Sons of high priests disputed with him and ruled, “Let her take an oath at the outset and at the end.”
- [G] Ruled R. Dosa b. Harkinas in accord with their opinion.
- [H] Said R. Yohanan b. Zakkai, “Well did Hanan rule. She should take an oath only at the end.”
- [I:1 A] Did not R. Phineas say in the name of R. Hoshaiiah, “There were four hundred sixty synagogues in Jerusalem, and each one of them had, in addition, a schoolhouse and a study-house, a schoolhouse for Scripture, and a study-house for Mishnah. [So there must have been more than two such judges.]”
- [B] These two were appointed to deal with cases involving theft.
- [C] It serves to teach you that whoever has sufficient authority in his power to prevent [a bad decision] and does not do so – the consequent disruption is credited to him.
- [D] *It has been taught in the name of R. Nathan*, “Also Nahum the Mede was with them.”

[E] *In the view of R. Nathan* there were three judges of civil law in Jerusalem.

[I:2 A] R. Hezekiah in the name of R. Aha, R. Hiyya, interpreted the following three verses as intended to express praise:

[B] “She sat at the entrance of Enaim [‘eyes’]” (Gen. 38:14). Is it possible that this is so?

[C] Even the most reprobate of whores does not do it that way!

[D] But: She set her eyes at that gate to which all eyes look, saying before Him, “Lord of all ages! Let me not go forth empty-handed from this household.”

[E] Another matter: “At the entrance to Enaim” – she opened his eyes, saying to him, “I am available! I am in a state of cleanness [not in my menstrual period]!”

[F] “Now Eli was very old, and he heard all that his sons were doing to all Israel, and how they lay with the women who served at the entrance to the tent of meeting” (1 Sam. 2:22).

[G] “They had sexual relations” is what is written.

[H] For the women would bring their bird offerings to complete the rite of purification [after having produced babies], and they would keep them back [and not offer them up].

[I] The Holy One, blessed be he, imputed it to them [for not offering up their bird offering] as if they had had sexual relations with those women.

[J] *Said R. Tanhuma*, “*Lo, he admonished them: ‘Why then look with greedy eye at my sacrifices and my offerings’*” (1 Sam. 2:29).

[K] Now if you say that here was a most serious transgression, why should he exempt them from admonition on account of the most severe sort of transgression [having sexual relations with the women] and admonish him only for the lesser transgression?

[L] [35d] “Yet his sons did not walk in his ways, but turned aside after gain; they took bribes and perverted justice” (1 Sam. 8:3).

[M] For they took tithes and then made decisions.

[N] Said R. Berekiah, “When a caravan would go by, they would neglect their public duties to Israel and would go and transact business with the caravan.”

[II:1 A] **[He who went overseas, and his wife [left at home] claims maintenance:]** There is the case [which took place on a market day] involving R. Ishmael, who in the market of Sepphoris assigned support for a woman [whose husband had gone abroad].

[B] What difference does it make that this was on a market day?

[C] *Rabbi heard and said, “And who told [Ishmael] that [the husband] had not sent her adequate means of support? Who told him that [the husband] did not leave behind [adequate means of support]?”*

[D] Travelers know [and that is why the decision was reached on a market day].

[E] *R. Hela said Rab asked, “Does Rabbi maintain that the Mishnah law [M. 13:1] speaks not of a married woman but of a widow? [For all parties concur on providing support, differing only on the oath].”*

[F] *He said, “Both Samuel and R. Simeon b. Laqish maintain, ‘The Mishnah speaks only of a widow.’”*

[G] *Said R. Abin, “The House of Rabbi taught the law as follows: **He who went overseas, and his wife claims maintenance [M. 13:1D].”***

[H] *Some wished to state as follows: “He who said that the Mishnah speaks of a married woman interprets the passage in this way: **At the outset:** that she has not misappropriated her husband’s property; **at the end:** that she has not hidden away or deceived him in regard to his property. [A married woman can have done either.] He who said that the Mishnah speaks of a widow interprets matters as follows: **At the outset:** that the husband had not left behind funds for her maintenance; **at the end:** that she has not hidden away or deceived in regard to the estate’s property.”*

[J] [Rejecting this view,] said Samuel, brother of R. Berekiah, “[The widow indeed is subjected to an oath at the outset] that she has not relinquished her claim against the estate for collection of her marriage settlement.”

[II:2 A] **Lo, in the case of a man and his wife who went overseas, and she came and said, “My husband has died,” either derives maintenance or collects her marriage contract.**

- [B] **If she said, “My husband has divorced me,” she is supported to the extent of her marriage contract [T. Ket. 10:3A-B].**
- [C] [Why does she collect only to the extent of her marriage contract?] It is because there are only these two possibilities: if she is a married woman, she is supported out of her husband’s estate. If she is not a married woman, she is supported only to the extent of her marriage settlement.
- [II:3 A] Lo, if the husband came back from overseas, and his wife claims maintenance, and he said, “The fruit of her labor, which she has enjoyed, may serve to pay for her maintenance,” they listen to him. But if a court had provided maintenance for her, what the court has provided has been validly received.
- [B] R. Jeremiah said, “That applies to a case in which [the woman lays claim because] the fruit of her labor does not add up to sufficient funds for her maintenance. In such a case they accept his claim.”
- [C] *This is in accord with him who says that provision of maintenance for the woman is not based on the law of the Torah. This is in line with what has been taught: **A court does not impose an obligation for food for a woman out of the proceeds of produce of the Seventh Year [since this would appear to be paying a debt out of such produce], but she is maintained by her husband in the Seventh Year [since he is not obligated to her on the basis of the law of the Torah, so it is not as if he is paying a debt out of the produce of the Seventh Year] [T. Sheb. 5:22].***
- [D] [Differing from Jeremiah, above, B,] R. Yosé says, “That applies to a case in which [the woman lays claim even though] the fruit of her labor does add up to sufficient funds for her maintenance.”
- [E] In such a case what the court has provided has been validly received [and why should that be so, if she received more than she should have]?
- [F] Interpret the case to be one in which they provided for needs over and above [what her labor would cover].
- [II:4 A] Lo, if the husband was abroad, and he said, “Let these be handed over to his [my] children,” the daughters are assumed to be covered by his statement.
- [B] If it was when he lay dying (L + V: If it was during the Seventh Year) that he said, “Let these be given to his [my] children,” the daughters are not assumed to be covered by his statement.

- [II:5 A]** R. Zeira, R. Hananel in the name of Rab, R. Zeira in the name of Abba bar Jeremiah, “As to the two rulings that Hanan laid down, the law follows his view. As to the seven rulings that Admon laid down, the law does not follow his view.”
- [B]** R. Ba bar Zabeda in the name of R. Isaac bar Haqola, “In every place at which we have learned, ‘said Rabban Gamaliel: ‘I prefer the opinion of Admon,’ the law is in accord with his view.”

13:2

- [A] He who went overseas, and someone went and supported his wife –**
- [B] Hanan says, “He [who did so] has lost his money.”**
- [C] Sons of high priests disputed with him and ruled, “Let him take an oath for however much he has laid out [in support of the wife] and collect [the debt].”**
- [D] Ruled R. Dosa b. Harkinas in accord with their opinion.**
- [E] Said R. Yohanan b. Zakkai, “Well did Hanan rule. He has put his money on the horn of a gazelle.”**
- [I:1 A]** *R. Ba bar Mamel raised the question: “He who pays a bond of indebtedness for his fellow [as at M. Ned. 4:2C], without the latter’s knowledge and consent – do we deal with the dispute of Hanan and the high priests [at M. Ket. 13:2: He who went overseas, and someone else went and supported his wife – Hanan says, ‘He who did so has lost his money. ‘ Sons of high priests disputed with him and ruled, ‘Let him take an oath for however much he has laid out in support of the wife and collect the debt?’] [Hanan does not see the support as a loan of money to the husband, who owes nothing.]*
- [B]** *[Arguing that the case is not parallel to Ba bar Mamel’s,] said R. Yosé, “The reasoning behind the position of the sons of the high priests is that in that case it never entered the man’s mind that his wife die of hunger. [Consequently, we assume he would have agreed to the loan, had he known of the circumstances necessitating it.] But here, by contrast, [the man in behalf of whom the debt was repaid may claim,] ‘I could have appeased him so that he might forgive the loan [had you not paid it for me].’ [Hence there is no reason to suppose that the debtor would have consented to the repayment of the loan, had he been consulted, and the sons of the high priests therefore may not have taken the same position here that they take at M. Ket. 13:2.]”*
- [C]** *But what if the creditor held a pledge in security of the loan?*

- [D] *[The debtor nonetheless may claim,] “I could have appeased him so that he might return the pledge.”*
- [E] *Up to this point we have dealt with the case of a creditor who is not insistent. [In such a case the debtor in behalf of whom the debt was paid is exempt from having to repay his benefactor.] [But is the rule the same] even in the case of a debtor who is insistent on repayment of the debt?*
- [F] *Let us derive the answer from the following: **He who is prohibited by vow from deriving benefit from his friend – the friend nonetheless] pays out his sheqel [half-sheqel tax to the temple] [M. Ned. 4:2A-B].** Now in the case of the *sheqel* tax, do they not exact a pledge from him [if he fails to pay it]? [So we have an insistent creditor. Yet even here the friend may pay it off, without violating the other’s oath.] *That then implies that* even in the case of a debtor who is insistent, [the same rule applies].*
- [G] *You should know that that is the case, for lo, we have the further teaching: **He offers in his behalf bird offerings for Zab-men or Zab-women, bird offerings for women who have just given birth, sin offerings, and guilt offerings [M. Ned. 4:3A-B].*** Is not the reason that [the one who is prohibited by the other’s vow] has not put anything directly into the hand of him [who took the vow]? Here, too, we deal with a case in which nothing has come directly into the hand of the debtor.
- [H] R. Joshua b. Levi said, “You have no case in which one party is forced to pay up in behalf of some other party with the result that the latter is liable to make it up to him except for the matters of the forced-labor tax and the head tax.”
- [I] Rab said, “Whoever is forced to pay up for his fellow – the other party is liable to make it up to him.”
- [J] *The proof for the extreme position taken up by Rab is indicated in the following: **He who stole a field from his fellow, and bandits seized it from him – if it is a blow from which the whole district suffered, he may say to him, “Lo, there is yours before you.” But if it is because of the deeds of the thief in particular, the thief is liable to replace it for him with another field [M. B.B. 10:5].*** [Here, too, since the one who has paid the funds was forced to because of the other, the latter must make it up to him. There is no limit as to liability.]

[K] [No, this is not an apt comparison.] Is not what R. Yohanan said known here: “It is a penalty which they have imposed upon the thief “? [That is, truly even the thief would not have to make it up. But there is a special reason for requiring him to do so. In general, however, he who is forced to pay in behalf of his fellow cannot then gain compensation from his fellow.]

[L] *R. Abun raised the question, “But what if it was his master [to whom he owed tuition for his studies]? [If then the disciple was forced to pay out money for the master, is this parallel to forced payment of the forced-labor tax or the head tax, in which case the disciple may deduct what he has paid from what he owes the master? Or do we not permit such a deduction, hence compensation?]”*

[M] *R. Yosé b. R. Bun and R. Hiyya bar Lullianus both maintain views of the matter as Samuel ruled on it.*

[N] One of them said, “It is equivalent to the case of the forced labor tax and the head tax.”

[O] And the other said, “It is not equivalent to the forced-labor tax and to the head tax.”

[I:2 A] ***There we have learned: He who is prohibited by vow from enjoying benefit from his fellow – the fellow goes in to visit him when he is sick, remaining standing but not sitting down. And he heals the man himself, but not what belongs to him [M. Ned. 4:4A-C].***

[B] R. Judah and R. Yosé – one of them said, “[In the case in which the fellow may visit him, but must remain standing,] it is when the one who took the vow prohibited him from deriving benefit as to his own person, and [in the case in which the other party may heal the man but not his property], it is when the one who took the vow prohibited him from benefiting his property.”

[C] The other one said, “[In the latter instance, in which he is prohibited from sitting down but may visit him and so heal him,] it is when the one who took the vow has someone else to heal him, and [where the one against whom the vow was taken is permitted to heal him but not his property], it is when the one who took the oath has no one else to heal him.”

[D] Now if he has someone else to heal him, then even healing the man himself should not be permitted to the one against whom the vow was taken.

[E] [No, that is not the case. Here we have a situation in which] it is not from just anyone that the one who is ill will have the merit of being healed. [Only this one can do the job.]

[I:3 A] **[And he returns to him something which the one who took the vow has lost. But in a place in which for this action a reward is paid out, the benefit of the reward should fall to the sanctuary (M. Ned. 4:2D-E).]** [Now why should the one who found and returned the lost object, e.g., a cow, not collect the reward for himself?] Now is it not a case in which the property of the one who returned the cow is what is prohibited to the owner of the cow? [But since the owner of the cow, who may not derive benefit from the one who found the cow, is the one who wishes to pay the reward, why should he not do so? Do we not assume that the case is one in which the vow is so phrased that the owner of the lost cow is prohibited from deriving benefit from the one who has found the cow, as the language of the Mishnah indicates?]

[B] Ulla bar Ishmael in the name of R. Isaac: “We deal with a case in which the property of this party is prohibited to that party, and the property of that party is prohibited to this party.”

[C] *Who stands behind the view that the reward should fall to the sanctuary?* It is R. Meir, for R. Meir says, “The laws of sacrilege apply to things which are subject to prohibitions [such as those imposed by declaring that something is *qonam*].”

[I:4 A] *R. Abun bar Hiyya raised the question as follows:* “If one has taken a vow not to derive benefit from a loaf of bread, what is the law as to warming his hands on it?”

[B] *Let us derive the answer from the following:* **“He who says, ‘This loaf of bread is sanctified,’ and either he or his fellow ate it – lo, this one has committed an act of sacrilege. Therefore, it is subject to redemption. If he said, ‘Lo, it is incumbent on me,’ and he ate it, he has transgressed by committing sacrilege to the extent of the benefit he has derived in enjoying the loaf of bread. If someone else ate it, lo, that one has not committed sacrilege. Therefore it is not subject to redemption,”** the words of R. Meir [T. Ned. 2:9A-H]. Now this statement of matters refers only to his eating it. Lo, if he warmed his hands with it, it is permitted [and the vow is not pertinent].

[E] *The disciples of R. Jonah in the name of R. Bun bar Hiyya:* “The foregoing statement of matters applies when he has said, ‘I shall not eat it and I shall not even taste it.’ In that

case he has prohibited his mere eating of the loaf. But there yet is a problem to deal with, namely, if he took an oath from deriving benefit from the loaf. What is the law as to his warming his hands with it?"

- [II:1 A] *It has been taught: He who went overseas, and someone went and supported his wife [M. 13:2A]:*
- [B] Said R. Haggai? "The Mishnah has stated only, 'Someone else.' Lo, if the father did so, he collects what he has laid out."
- [C] R. Yosé says, "Whether it is the father or a third party, he does not collect what he has laid out."
- [D] *And the dispute of these is in line with the following argument, which we have learned there: And [the father] retains control of what she finds, of the fruit of her labor, and of abrogating her vows, and he receives her writ of divorce [from a betrothal]. But he does not dispose of the return on property received by the girl from her mother during her lifetime. When she is married, the husband exceeds the father, for he disposes of the return on property received by the girl from her mother during her lifetime. But he is liable to maintain her and to ransom her and to bury her [M. Ket. 4:6].*
- [E] Said R. Haggai, "It has spoken only of the father. Lo, in the case of a third party, he does not collect. [That is, if the husband refuses to bury her, the father does so and collects. But if a third party buries her, he cannot collect from the husband the expenses of the funeral.]"
- [F] R. Yosé says, "Whether if the father or a third party, he does collect the costs of burial."
- [G] *In the view of R. Haggai* whether it is for expenses of burial or for maintenance, the father collects, but the third party does not collect [from the husband].
- [H] *In the view of R. Yosé*, as to burial costs, whether it is the father or a third party who has paid, he collects. For it never came to the husband's mind that his wife should be thrown to the dogs. But as to maintenance, whether paid by the father or by a third party, he may not collect.

13:3

[A] Admon lays down seven.

[B] He who died and left sons and daughters,

[C] when the property is ample,

[D] the sons inherit, and the daughters receive support [from the estate].

[E] [And when] the property is negligible, the daughters receive~ maintenance, and the sons go out begging at [other peoples'] doors.

[F] Admon says, “Do I lose because I am male?”

[G] Said Rabban Gamaliel, “I prefer Admon’s opinion.”

[I:1 A] How much is a large estate?

[B] R. Zeira, R. Judah in the name of Rab: “Sufficient to supply support for twelve months both for these and for those.”

[C] Samuel heard and said, “That [view, that maintenance is for twelve months,] is the opinion of R. Gamaliel bar Rabbi. But sages say, ‘[The estate is deemed sufficient only if it can support the children] until they reach maturity or until they are married.’”

[D] *They asked before R. Yosé, “What tradition from R. Yohanan do you have?”*

[E] *He said to them, “I have no tradition whatever from him in this matter, except for what Nathan bar Hoshaiiah raised before R. Yohanan: ‘If there was available adequate food for these and for those for twelve months, and the property diminished in value [so that the estate turns out to be unable to support them, as originally estimated], [what is the law]?’*

[F] “He said to him, ‘Since they began [receiving support from the estate] [36a] with permission, they have begun [and continue to receive such support as the estate can provide through the remaining period, even if it is less than the full twelve months], down to the last penny.’”

[I:2 A] [What is the law if the estate] was estimated [to be incapable of supporting the heirs for a year and then increased in value and turned out to be suitable for that purpose? R. Haninah and R. Mana], –

[B] R. Mana said, “And the rule [that the children are supported] applies only if there is sufficient [value in the estate from beginning to] end [to maintain them] for twelve months.”

[C] Following the text at Y. B.B. 9:1/I, K,] R. Haninah said, “Even if at the outset there is not sufficient value in the estate to support both these and those for twelve months, but the estate

grew in value so that there is sufficient value to maintain these and those for twelve months, the estate does indeed support them.”

[D] R. Hisda asked, “If there was not available sufficient food for twelve months, but the property rose in value, what is the law?” [As at Y. B.B. 9:1L:] *Said R. Ammi, “The Babylonians derive the answer from the following: ‘If the heirs went and sold [off part of the estate], they have sold off what belongs to them [so the property of the estate is deemed to belong to them].’ All the more so if the estate should be greater in value [than what is needed for the support of the orphans for twelve months], should they divide up [what is in excess of what is required].”*

[E] [Following PM:] If there were sufficient resources for the estate for maintaining the orphans for twelve months, what is the law as to the sons saying to the daughters, “Take what is coming to you and go forth”? [Can the sons tell them that they will buy out their share in the estate, and the daughters must then leave the property?]

[F] *Said R. Abedona, “Let us derive the answer – which is negative – from the following: **He who was married to two wives, who died, and afterward he died, and the orphans claim the marriage settlement owing to their mother’s estate, and there are there funds to pay for only two marriage settlements – they divide the estate equally. If there was there an excess of a single denar over the necessary funds, these collect the marriage settlement owing to their mother’s estate, and those collect the marriage settlement owing to their mother’s estate.**]* If [the orphans] said, ‘We reckon the value of the estate of our father at one denar more,’ so that they may collect the marriage settlement owing to their mother, they do not listen to them, but they make an estimate of the value of the property in court [M. Ket. 10:2]. [Here, too, they do not allow the male heirs to buy out the interest of the female heirs. A court assesses the worth of the estate, and if the estate will not support the heirs for twelve months, the entire estate goes to the female heirs.]”

- [G] [Following Y. B.B. 9:1Q:] *R. Hisda raised the question*: “If there was sufficient food for these and those for twelve months, but in addition, there was a widow to support, what is the law [as to the widow’s diminishing the estimated resources of the estate]?”
- [H] “Now is this rule, which you have stated, that the estate be sufficient to support these and those for twelve months, reckoned in addition to the obligation of paying off the marriage contract of the widow, in addition to the support of the daughters, in addition to paying off a debt secured by a deed, in addition to paying off a debt before witnesses, and in addition to the costs of burial?”
- [I] The widow and the daughters are equivalent to one another; the widow and the sons are equivalent to one another. [Each is supported at the estate’s expense.]
- [J] The claim of the widow does not override the claims of the daughters, and the claim of the daughters does not override the claim of the widow. [This then has answered O-P.]
- [K] There are cases in which the claim of the widow does override the claim of the daughters as well as the sons. [Her claim is prior, and she collects what is owing, with the result that the estate is diminished so the male and female heirs receive less.]
- [L] Just as the widow’s claim overrides the claim of the daughters as well as the sons, so will the widow’s claim not override the claim of the sons [alone, even when there are no daughters to support]?
- [M] The reason that she cannot lay claim to override the claim of the sons is that she is able to lay claim to her marriage settlement and thereby to cause the loss of her claim of support. [That is, if she receives her marriage settlement, then she does not have a claim for further support from the estate. So her claim for support is limited. But there is a widow, male heirs, and female heirs, since, to begin with, the daughters are supported by the estate only by

reason of a remedy supplied by sages, when the widow claims her marriage settlement, it is with that same authority, namely, the sages. The sons' right to inherit is secured by the higher authority of the Torah.]

[N] *There are those who teach:* “They should depend [on others].”

[O] *He who cites the tradition using that word refers to the following verse:* “Rest yourselves under the tree” (Gen. 18:4).

[P] *There are those who teach:* “They should ask at peoples' doors.”

[Q] “May his children wander about and beg; may they be driven out of the ruins they inhabit” (Ps. 109:10).

[I:3 A] R. Hananel in the name of R. Zeira in the name of Abba bar Jeremiah: “Two rulings did Hanan lay down, and the law is in accord with his opinion.

[B] “Seven rulings did Admon lay down, and the law is not in accord with his opinion.”

[C] R. Ba Zabeda in the name of R. Isaac b. Haqulah, “In every place at which we have learned, ‘Said Rabban Gamaliel, I concur in the opinion of Admon,’ the law in fact is in accord with Admon.”

13:4

[A] **He who claims that his fellow [owes him jars of oil, and the other party admitted that he owes him [empty] jugs –**

[B] **Admon says, “Since he has conceded part of the claim, let him take an oath.”**

[C] **And sages say, “This is not concession along the lines of the original claim.”**

[D] **Said Rabban Gamaliel, “I prefer Admon's opinion.”**

[I:1 A] [The following translation derives from the version at Y. Shebu. 6:4:] *The Mishnah speaks of a case in which the plaintiff laid claim for wheat, and the defendant conceded that he had barley. But if he laid claim for two varieties and the concession was for one of them, all parties agree that the defendant is liable to an oath.*

- [B] *R. Ammi in the name of R. Yohanan: “The Mishnah speaks of a case in which the plaintiff laid claim for wheat, and the defendant conceded that he had barley. But if he laid claim for two varieties, and the defendant conceded one of them, all parties agree that the defendant is exempt.”* [So Ammi-Yohanan differs from the preceding view and maintains that there is a dispute even here.]
- [C] *Said R. Abbahu, “In regard to this statement of R. Ammi, what shall we make of what we have learned: **Rabban Gamaliel declares liable [M. Shebu. 6:4/I]**?* [So how can Ammi-Yohanan maintain that all parties in the stated case declare the defendant exempt?”]
- [D] [No, that is no objection. For the purpose is] to tell you precisely how stringent is the position of Rabban Gamaliel and to what extent he will impose a liability. [For even in the case outlined at M. Shebu. 6:4H, Gamaliel imposes liability.]
- [E] R. Hiyya in the name of R. Yohanan: “It is not the end of the matter that in a case in which one laid claim for wheat and the defendant conceded barley [that Gamaliel declares the bailee liable]. But even if the defendant had laid claim for two different varieties, and the defendant conceded only one of them, the sages [for their part go to the extreme of declaring the bailee] exempt.”
- [F] R. Simeon b. Laqish said, “Let not the matter be so. For it is a case in which the plaintiff laid claim for wheat, and the defendant conceded barley. But if the plaintiff laid claim for two varieties, and the defendant conceded one of them, all parties maintain that the defendant is liable.” [So Yohanan and Simeon b. Laqish take opposed views.]
- [G] *Rab maintains this view which has been stated by R. Simeon b. Laqish, [as the following precedent indicates:] A certain man went for a plea before Rab. His claim against his fellow was for wheat, barley, and spelt. Rab said to him, “Hold off the case until all of the claims which the plaintiff wishes to make have mounted against you, and at the end, take an oath covering all of them.”* [Thus the defendant conceded only one of the items, and Rab had him take an oath for all of them. So if one laid claim for many varieties and the defendant conceded one of them, he has to take an oath.]
- [H] Said R. Abbahu: “Thus does R. Simeon b. Laqish reply to R. Yohanan: ‘In accord with your opinion, in which you maintain that if the plaintiff laid claim to two varieties and the defendant conceded one of them, all the sages maintain that he is exempt from an oath, *have we not learned, **If one has laid claim against the defendant for utensils and***

real estate, and he conceded in the case of utensils but denied in the case of real estate, or he has conceded in the case of real estate but denied in the case of utensils' [M. Shebu. 6:4N-O]? If it is a case of conceding one sort of utensils and denying another sort he is liable. If it is a case of conceding utensils but denying real estate, is it not an argument a fortiori?" [That is to say, since Yohanan maintains that even if the claim is for two varieties and the concession is for one of them, the rabbis exempt the man from an oath, the cited teaching poses a problem. The Mishnah, we note, at M. Shebu. 6:4Q-S, holds that denial or concession in the case of real estate does not carry in its wake the requirement to take an oath. Now a case of utensils of one sort which the defendant concedes, while utensils of another sort which the defendant denies, is parallel to a case of concession of utensils and denial of real estate. If the defendant concedes the one, he is liable for the other. This is a problem for Yohanan. Why? Because Yohanan maintains that, if the claim is for two varieties and the concession is for one of them, the man should be *exempt*. But the law is that he is liable, so M. Shebu. 6:4R. If you do not grant that point, there will be a problem on the grounds of the stated argument a fortiori, and this is what Yohanan must note.]

[I] He said to him, "[The purpose of the Mishnah rule is] to impose upon him the requirement of an oath. [That is, the truth is that even in a case of a concession of utensils and a denial of utensils, the man should be exempt from the requirement of taking an oath. The purpose of the Mishnah's framer in stating M. Shebu. 6:4R is to allow for the provision of S, namely, concession of part of the claim on utensils yields the requirement of taking an oath for all the utensils, and the oath then extends to the claim for real estate:] **For property for which there is no security imposes in its wake the requirement of an oath in regard to property for which there is security."**

[J] *And even with regard to the position of R. Simeon b. Laqish, the dispute [between Admon and sages poses] no [problems,] as we have learned: He who claims jars of oil from his fellow, and the other confessed to having flagons of oil [– Admon says, "Since he has confessed to him part of the claim in the same kind, he should take an oath to him." And sages say, "This confession is not of the same kind as that which is subject to the claim" [M. Shebu. 6:4J-K].* [That is to say, Simeon b. Laqish has said that if one claimed two varieties and the other conceded one of them, in the view of rabbis, he is liable to an oath. That position can be harmonized with the statement just now cited, as we shall now see.]

- [K] *Now how shall we interpret the case just now cited?* If the plaintiff has laid claim for jars *and* oil, all parties must concede that within the concession is an element of what is claimed. If he laid claim for jars, and the bailee conceded [only] that he had oil, all parties will concur that there is no element of concession of what is claimed in what is conceded [and on this account, sages must maintain that the confession is not of the same kind as that which is subject to the claim, even though, in general, that is their position, as Simeon b. Laqish has maintained].
- [L] *R. Zira and R. Abbahu in the name of Samuel*, “It is a case in which he laid claim for jars and for oil. This party maintains that the claim is for jars that are filled, and that party says that the claim is for jars that are empty, [so at issue is the interpretation of the cited language]. [If the claim is for filled jars and the concession is for oil or for the jars, the concession covers part of the claim. Admon then maintains that the claim is for filled jars of oil. The concession is for part, and he has to take an oath.]
- [M] As to the view that it is for jars without oil, [there are no problems in interpreting the position of sages]. But how can there be a claim for oil without jars? [In this case why should he have mentioned the jars at all?]
- [N] R. Eleazar in the name of R. Abin: “His intention is to express the measure of oil in such a way: [‘Such-and-such measures of oil belonging to me are in your possession,’ and in fact there is no claim on jars at all. When the defendant conceded having jars but no oil, he thus has not conceded any part of what is claimed].”
- [O] [*Now why should there be an argument? Let the authorities*] *ask him about the matter [of his claim] !*
- [P] In this case we have a matter in which the man laid claim and then was struck dumb, [so he cannot clarify further].
- [Q] *Thus does the Mishnah state: If he conceded part of the claim for real estate, he is exempt. If he conceded part of the claim for utensils, he is liable [M. Shebu. 6:4Q-R].*

13:5

- [A] **He who agrees to give money to his son-in-law but then stretched out the leg [defaulted] –**
- [B] **let her sit until her head turns white.**

[C] Admon says, “She can claim, ‘If I made such an agreement in my own behalf, well might I sit until my head grows white. Now that father has made an agreement concerning me, what can I do? Either marry me or let me go!’”

[D] Said Rabban Gamaliel, “I prefer Admon’s opinion.”

[I:1 A] *The Mishnah speaks of a case in which he made the agreement in her presence. But if he did not do so, rabbis also will concede [Admon’s position].*

[I:2 A] *It has been taught as a Tannaite statement: Said R. Yosé b. R. Judah, “Admon and sages did not differ concerning a case in which her father made the agreement in her behalf and he stretched out the leg [M. 13:5] – that she should not sit until her head turns white.*

[B] “[For in such a case] she can claim, ‘Father made the agreement for me. What can I do about it! Either marry me or let me go’ [M. 13:5C].

[C] “Concerning what case did they differ?

[D] “Concerning a case in which she herself made the arrangement.

[E] “Admon says, ‘She can claim, “I thought that father indeed would give me [what I promised to my betrothed]. But now that father does not provide for me [what I need to pay off my agreement with you], either marry me or let me go.’”

[F] Said Rabban Gamaliel, “I prefer the opinion of Admon” [M. 13:SD] [T. Ket. 12:4F-K].

13:6

[A] [36b] He who contests [another’s] ownership of a field, but he himself is a signatory on it [the documents of ownership] as a witness –

[B] Admon says, “He can claim, ‘The second [owner of the property] was easier for me, and the first was harder than he [for purposes of repossessing the field which in any case is mine].”

[C] And sages say, “He has lost every right.”

[D] [If] he made his field a boundary mark for another person, he has lost every right.

[I:1 A] It is not the end of the matter that **he made it a boundary mark for another person**. But even if [he signed a document in which] another party made it a boundary mark for another person, he has lost every right to it.

13:7

[A] He who went overseas, and the right of way to his field was lost –

[B] Admon says, “Let him go the shortest way.”

[C] And sages say, “Let him purchase a right of way with a hundred manehs [if need be],

[D] “or let him fly through the air.”

[I:1 A] R. Yosé b. Haninah said, “[When Admon allows the man to recover his right of way, it is in the case of him] who lays claim along with ample proof [in behalf of that claim]. [A mere statement is null.]”

[I:2 A] [As to M. 13:7C-D,] *there is a statement that* that is the case when his field is surrounded on four sides by four different landowners.

[B] Samuel said, “Even if one person surrounds him on every side [the position of sages is as stated].

[I:3 A] *It has been taught as a Tannaite statement:* Is it not one of the stipulations that Joshua made [that he may reach his land]: Lo, if one was lost in vineyards or fields, he takes the shortest route out until he reaches the main road, or until he reaches his house, and that is the case even if it is field full of vineyards, for it was on that stipulation that Joshua allowed the Israelites to inherit the land.

[B] To be sure, Joshua stipulated that one may leave in such a way. But did he stipulate that one may go in that way?

[C] Moreover, it is a stipulation of Joshua for a person himself, but did he make an equivalent stipulation for his cow to do the same? [Hardly.]

[D] [To be sure, one may go in to recover his swarm of bees, so what is the difference?] Said R. Yosé, “As to one’s cow, it will come home by itself. But as to his swarm of bees, since it will not come home by itself, they have treated it as equivalent to his person [and allowed him to go and get it].”

[I:4 A] Said R. Jeremiah, “Admon and R. Aqiba say the same thing, *for we have learned in the Mishnah:* [Nor has he sold the cistern, or the cellar, even though he wrote him in the deed, ‘The depth and height.’ ‘But the seller has to purchase from the buyer a right of way to the cistern or the cellar,’ the words of R. Aqiba. And sages say, ‘He does not have to purchase a right of way.’ And R. Aqiba concedes that when the seller said, ‘Except for these,’ he does not have to purchase a right of way for himself.] [If the seller then sold [the cistern or cellar] to someone else, R. Aqiba says, ‘[The

**new purchaser] does not have to buy a right of way for himself.’
And sages say, ‘He has to buy a way for himself’ [M. B.B. 4:2].**

[Thus, Admon follows the principle of Aqiba that if a right of way is lost through disuse, one need not purchase a right of way.]”

[B] [Disagreeing with this view:] Has he not heard what R. Hila, R. Yosé said in the name of R. Yohanan: “They differ from one another when there has been no prior specification [of a right of way, that is, as in the case before us]. [Admon will allow the right of way only where there had been one already set forth, which then was lost because of lack of use. But where there is no such right of way established, Admon need not concur with Aqiba’s generous position.]”

[C] *Now how shall we interpret this matter [to show that Hila, B, is right]? If it is certain that there is already a right of way, all parties concur that it is not necessary for him to purchase a right of way. If it is certain that there is no right of way, all parties concur that he has to purchase a right of way. But thus must we interpret the matter: In a case in which the matter has not been made explicit –*

[D] R. Aqiba says, “He does not have to purchase a right of way.”

[E] And sages say, “He has to purchase a right of way.”

[F] But in this case, even though it is certain that he had had a right of way, all parties [including Aqiba] concur that he must purchase a right of way once more.

13:8

[A] **He who produces a bond of indebtedness against someone else, and the other brought forth [a deed of sale to show] that the other had sold him a field –**

[B] **Admon says, “He can claim, ‘If I owed you money, you should have collected what was coming to you when you sold me the field. “**

[C] **And sages say, “This [first] man was smart in selling him the field, since he can take it as a pledge.”**

[I:1 A] R. Jonah says, “That is the case when the field is worth [the debt]. [In that case Admon says the purchaser should have collected what was owing to him from the sale price.]”

[B] R. Yosé says, “It is when the field is not worth [the debt]. [In any event he should have collected what he could.]”

[I:2 A] [As to sages’ position,] What if the borrower already had land?

- [B] *He could say to him, “I wanted good land as a pledge.”*
- [C] *But what if he had good land?*
- [D] *He could say to him, “I wanted land of my own [as a pledge].”*
- [E] *And not only so, but he can say to him, “I did not have the strength to go to all the trouble of claiming two fields.” [That is, the lender can say, “Even though you had land available as a pledge for my loan to you, I sold you mine, since I did not want to go to the trouble of placing a lien on two fields. I sold you the land so that I could collect the debt from you through that land, which is what I now wish to do.”]*

13:9

[A] **Two who produced bonds of indebtedness against one another –**

[B] **Admon says, “If I had owed you money, how is it possible that you borrowed from me?”**

[C] **And sages say, “This one collects his bond of indebtedness, and that one collects his bond of indebtedness.”**

- [I:1 A] If this one had borrowed a *maneh* from that one, and that one had borrowed two hundred zuz from this one,
- [B] *R. Huna said, “R. Nahman bar Jacob and R. Sheshet disputed about such a case.*
- [C] *“One said, ‘Let him collect a maneh in exchange for the maneh [leaving a maneh, or a hundred zuz, under litigation].’*
- [D] *“And the other said, ‘This one collects the full amount of his bond, and that one collects the full amount of his bond.’”*
- [E] *The one who said, “Let this one collect a maneh against the maneh owed by the other,” derives the law from the case of oxen deemed harmless who did damage to one another. They pay only out of the excess [over the value of the damages suffered by each, which are cancelled out] at the rate of half-damages.*
- [F] *He who said, “This one collects the full amount of his bond, and that one collects the full amount of his bond,” derives his position from the view of rabbis vis-a-vis Admon [M. 13:10C].*
- [G] *But rabbis vis-a-vis Admon concur that he may collect a maneh for the maneh owing to him!*
- [H] **But it is because we have learned: Admon says, “If I had owed you money, how is it possible that you borrowed from**

me?'" [M. 13:9]. [That is, one party denies the validity of the other's bond.]

[I] *On that account it is necessary to maintain*, This one collects the full amount of his bond, and that one collects the full amount of his bond.

[J] If the one who had a claim for two hundred zuz relinquished his claim on a *maneh*, and the one who had a claim for a *maneh* did not relinquish his claim,

[K] *he who says*, "Let one party collect a *maneh* against the *maneh* owed by himself," [sees no further exchange], for the *maneh* has now been collected against the other *maneh*.

[L] *But the one who says*, "This one collects the amount owing in his bond and that one collects the amount owing in his bond," holds that the one who relinquished his claim [has so impaired his bond and] does not collect a thing, and the one who did not relinquish his claim collects [what is owing to him].

[M] If the one who owed two hundred had written it in a bond, and the one who owed a hundred did not write a bond,

[N] *the one who said*, "Let him hand over a *maneh* in exchange for a *maneh*," [and so nothing is owing] maintains that the *maneh* already has been matched by the *maneh*.

[O] *And one who said*, "This one collects the full amount owing on his bond and that one collects the full amount specified on his bond" – that one who had written a bond collects, and that one who had not written a bond does not collect.

13:10

[A] **There are three provinces in what concerns marriage: Judea, Transjordan, and Galilee.**

[B] **They do not remove [wives] from town to town or from city to city [in another province].**

[C] **But in the same province they do remove [wives] from town to town or from city to city,**

[D] **but not from a town to a city, and not from a city to a town.**

[E] **They remove [wives] from a bad dwelling to a good one, but not from a good one to a bad one.**

[F] Rabban Simeon b. Gamaliel says, “Also not from a bad one to a good one, for the good one is a test [puts her to the proof].”

[I:1 A] *The Mishnah speaks of a case in which the man was living in Judea but married a woman from Galilee,*

[B] or living in Galilee but married a woman in Judea.

[C] But if he was living in Judea and married a woman from Judea, living in Galilee and married a woman from Galilee, they do force her to go forth with him.

[I:2 A] **If he wrote, “I, Mr. So-and-so, from Judah,” and he married a woman from Judea, they force her to go forth with him.**

[B] **If he wrote, “from Galilee,” they do not force her to go forth.**

[C] **If he wrote, “I, So-and-so, from Galilee,” and he married a woman from Galilee, they force her to go forth.**

[D] **“From Judah,” they do not force her to go forth [T. Ket. 12:5].**

[E] *It has been taught: They remove a wife from a town which has a gentile majority to a town which is totally Israelite. But they do not remove a wife from a town which is totally Israelite to a town which has a gentile majority [T. Ket. 12:5H].*

[II:1 A] [With reference to M. 13:10F:] And how do we know that a good dwelling puts one to the test?

[B] R. Levi in the name of R. Hama in the name of Haninah, “‘But I cannot flee to the hills, lest the disaster overtake me, and I die’ (Gen. 19:19). Now he was in the plain and near the mountain, and yet you say this? [That is, he preferred to stay on the plain, where conditions are less healthy. That indicates that a good dwelling puts one to the test.]”

13:11

[A] **All have the right to bring up [his or her family] to the land of Israel, but none has the right to remove [his or her family] therefrom.**

[B] **All have the right to bring up to Jerusalem, but none has the right to bring down –**

[C] **all the same are men and women.**

[D] **[If] one married a woman in the land of Israel and divorced her in the land of Israel, he pays her off with the coinage of the land of Israel.**

- [E] [If] he married a woman in the land of Israel and divorced her in Cappodocia, he pays her off in the coinage of the land of Israel.
- [F] [If] he married a woman in Cappodocia and divorced her in the land of Israel, he pays her off in the coinage of the land of Israel.
- [G] Rabban Simeon b. Gamaliel says, “He pays her off in the coinage of Cappodocia.”
- [H] If he married a woman in Cappodocia and divorced her in Cappodocia, he pays her off in the coinage of Cappodocia.
- [I:1 A] [Tosefta’s version:] [If] he wants to come to the land of Israel and she does not want to come, they force her to come.
- [B] [If] she wants to come and he does not want to come, they force him to come.
- [C] If he wants to go up to Jerusalem, and she does not want to, they force her to go up.
- [D] [If] she wants to go up to Jerusalem, and he does not want, they [Y.: do not] force him to go up.
- [E] [If] he wants to leave the land of Israel, and she does not want to leave, they do not force her to leave.
- [F] [If] she wants to leave, and he does not want to leave, they force her not to leave [T. Ket. 12:5/I-L].
- [II:1 A] He pays her off with the coinage of the land of Israel [M. 13:11D].
- [B] *That implies that the coinage of the land of Israel is better than that of all the other countries.*
- [C] *That supports the view of him who said that payment of a marriage contract for a wife derives from the laws of the Torah [and hence is paid in the best coinage].*
- [D] *It is not in accord with the view of Rabban Simeon b. Gamaliel. For it has been taught:*
- [E] The marriage contract is provided for a woman on the basis of the law of the Torah.
- [F] Rabban Simeon b. Gamaliel says, “The marriage contract is provided for a woman only on the basis of the teachings of the scribes” [and hence may be paid in inferior coinage].
- [G] [Add:] This supports the view of the one who said, “He pays her off in the current [local] coinage.”

CHAPTER FOURTEEN

THE STRUCTURE OF YERUSHALMI KETUBOT

Whether or not the Talmud of the Land of Israel is carefully organized in large-scale, recurrent structures and guided by a program that we may call systematic forms the principal question addressed by an academic commentary. The preceding chapters therefore have pointed toward the presentation set forth here. By “structure” I mean, a clearly-articulated pattern that governs the location of fully-spelled out statements. By “system,” I mean, a well-crafted and coherent set of ideas that explain the social order of the community addressed by the writers of a document, a social philosophy, a theory of the way of life, world view, and character of the social entity formed by a given social group. I see a collective, anonymous, and political document, such as the one before us, as a statement to, and about, the way in which people should organize their lives and govern their actions. At issue then in any document such as the remarkable one before us is simple: does this piece of writing present information or a program, facts to whom it may concern, or a philosophically and aesthetically cogent statement about how things should be? The connection between structure and system is plain to see. From the way in which people consistently frame their thoughts, we move to the world that, in saying things in one way rather than in some other, they wish to imagine. Modes of formulating thought adumbrate modes of imagining the world in which people wish to live, to which they address these thoughts.

If the document exhibits structure and sets forth a system, then it is accessible to questions of rationality. We may ask about the statement that its framers or compilers wished to make by putting the document together as they did. But if we discern no structure and perceive no systematic inquiry or governing points of analysis, then all we find here is inert and miscellaneous information, facts but no propositions, arguments, viewpoints. Now as a matter of fact the Talmud of the Land of Israel commonly finds itself represented as lacking organization and exhibiting a certain episodic and notional character. That view moreover characterizes the reading and representation of the document by learned and experienced scholars, who have devoted their entire lives to Talmud study and

exegesis. It must follow that upon the advocate of the contrary view – the one implicit in the representation of the document for academic analysis – rests the burden of proof. I set forth the allegation that the Talmud of the Land of Israel exhibits a structure and follows a system and therefore exhibits a commonly-intelligible rationality. The claim to write an academic commentary explicitly states that proposition. For the tractate before us, I have therefore to adduce evidence and argument.

I maintain that through the normal procedures of reasoned analysis we may discern in the tractate a well-crafted structure. I hold that the structure made manifest, we may further identify the purpose and perspective, the governing system of thought and argument, of those who collected and arranged the tractate's composites and put them together in the way in which we now have them. By "structure" I mean, how is a document organized? and by "system," what do the compilers of the document propose to accomplish in producing this complete, organized piece of writing? The answers to both questions derive from a simple outline of the tractate as a whole, underscoring the types of compositions and composites of which it is comprised. Such an outline tells us what is principal and what subordinate, and how each unit – composition formed into composites, composites formed into a complete statement – holds together and also fits with other units, fore and aft. The purpose of the outline then is to identify the character of each component of the whole, and to specify its purpose or statement. The former information permits us to describe the document's structure, the latter, its system.

While the idea of simply outlining a Talmud-tractate beginning to end may seem obvious, I have never made such an outline before, nor has anyone else. (I have provided complete outlines for the Mishnah and for the Tosefta in relationship to the Mishnah, and, not always in outline form, for the Midrash-compilations of late antiquity as well) Yet, as we shall now see, the character of the outline dictates all further analytical initiatives. Specifically, when we follow the layout of the whole, we readily see the principles of organization that govern. These same guidelines on organizing discourse point also to the character of what is organized: complete units of thought, with a beginning, middle, and end, often made up of smaller, equally complete units of thought. The former we know as composites, the latter as compositions.

Identifying and classifying the components of the tractate – the composites, the compositions of which they are made up – we see clearly how the document coheres: the plan and program worked out from beginning to end. When we define that plan and program, we identify the facts of a pattern that permit us to say in a specific and concrete way precisely what the compilers of the tractate intended to accomplish. The structure realizes the system, the program of analysis and thought that takes the form of the presentation we have before us. From what people do, meaning, the way in which they formulate their ideas and organized

them into cogent statements, we discern what they proposed to do, meaning, the intellectual goals that they set for themselves.

These goals – the received document they wished to examine, the questions that they brought to that document – realized in the layout and construction of their writing, dictate the points of uniformity and persistence that throughout come to the surface. How people lay out their ideas guides us into what they wished to find out and set forth in their writing, and that constitutes the system that defined the work they set out to accomplish. We move from how people speak to the system that the mode of discourse means to express, in the theory that modes of speech or writing convey modes of thought and inquiry.

We move from the act of thought and its written result backward to the theory of thinking, which is, by definition, an act of social consequence. We therefore turn to the matter of intention that provokes reflection and produces a system of inquiry. That statement does not mean to imply I begin with the premise of order, which sustains the thesis of a prior system that defines the order. To the contrary, the possibility of forming a coherent outline out of the data we have examined defines the first test of whether or not the document exhibits a structure and realizes a system. So everything depends upon the possibility of outlining the writing, from which all else flows. If we can see the order and demonstrate that the allegation of order rests on ample evidence, then we may proceed to describe the structure that gives expression to the order, and the system that the structure sustains.

The present work undertakes the exegesis of exegesis, for the Yerushalmi, like its counterpart in the one of Babylonia, is laid out as a commentary to the Mishnah. That obvious fact defined the character of my academic commentary, since we have already faced the reality that our tractate is something other than a commentary, though it surely encompasses one. The problems that captured my attention derived from the deeper question of how people make connections and draw conclusions. To ask about how people make connections means that we identify a problem – otherwise we should not have to ask – and what precipitated the problem here has been how a composition or a composite fits into its context, when the context is defined by the tasks of Mishnah-commentary, and the composition or composite clearly does not comment on the Mishnah-passage that is subjected to comment.

The experience of analyzing the document with the question of cogency and coherence in mind therefore yields a simple recognition. Viewed whole, the tractate contains no gibberish but only completed units of thought, sentences formed into intelligible thought and self-contained in that we require no further information to understand those sentences, beginning to end. The tractate organizes these statements as commentary to the Mishnah. But large tracts of the writing do not comment on the Mishnah in the way in which other, still larger

tracts do. Then how the former fit together with the latter frames the single most urgent question of structure and system that I can identify.

Since we have already examined enormous composites that find their cogency in an other than exegetical program, alongside composites that hold together by appeal to a common, prior, coherent statement – the Mishnah-sentences at hand – what justifies my insistence that an outline of the document, resting on the premise that we deal with a Mishnah-commentary, govern all further description? To begin with, the very possibility of outlining this tractate derives from the simple fact that the framers have given to their document the form of a commentary to the Mishnah. It is in the structure of the Mishnah-tractate that they locate everything together that they wished to compile. We know that is the fact because the Mishnah-tractate defines the order of topics and the sequence of problems.

Relationships to the Mishnah are readily discerned; a paragraph stands at the head of a unit of thought; even without the full citation of the paragraph, we should find our way back to the Mishnah because at the head of numerous compositions, laid out in sequence one to the next, clauses of the Mishnah-paragraph are cited in so many words or alluded to in an unmistakable way. So without printing the entire Mishnah-paragraph at the head, we should know that the received code formed the fundamental structure because so many compositions cite and gloss sentences of the Mishnah-paragraph and are set forth in sequence dictated by the order of sentences of said Mishnah-paragraph. Internal evidence alone suffices, then, to demonstrate that the structure of the tractate rests upon the Mishnah-tractate cited and discussed here. Not only so, but the sentences of the Mishnah-paragraphs of our tractate are discussed in no other place in the entire Talmud of the Land of Israel in the sequence and systematic exegetical framework in which they are set forth here; elsewhere we may find bits or pieces, but only here, the entirety of the tractate.

That statement requires one qualification, and that further leads us to the analytical task of our outline. While the entire Mishnah-tractate of treated here is cited in the Talmud of the Land of Israel, the framers of the Talmud of the Land of Israel by no means find themselves required to say something about every word, every sentence, every paragraph. On the contrary, they discuss only what they choose to discuss, and glide without comment by large stretches of the tractate. A process of selectivity, which requires description and analysis, has told the compilers of the Talmud of the Land of Israel's composites and the authors of its compositions (This statement requires refinement. I do not know that all available compositions have been reproduced, and that the work of authors of compositions of Mishnah-exegesis intended for a talmud is fully exposed in the document as we have it. That is not only something we cannot demonstrate – we do not have compositions that were not used, only the ones that were – but something that we must regard as unlikely on the face of matters. All we may say is positive: the character of the compositions that address Mishnah-exegesis tells us about the concerns of the

writers of those compositions, but we cannot claim to outline all of their concerns, on the one side, or to explain why they chose not to work on other Mishnah-sentences besides the ones treated here. But as to the program of the compositors, that is another matter: from the choices that they made (out of a corpus we cannot begin to imagine or invent for ourselves) we may describe with great accuracy the kinds of materials they wished to include and the shape and structure they set forth out of those materials. We know what they did, and that permits us to investigate why they did what they did. What we cannot know is what they did not do, or why they chose not to do what they did not do. People familiar with the character of speculation and criticism in Talmudic studies will understand why I have to spell out these rather commonplace observations. I lay out an argument based on evidence, not on the silences of evidence, or on the absence of evidence – that alone.) what demands attention, and what does not. Our outline has therefore to signal not only what passage of the Mishnah-tractate is discussed, but also what is not discussed, and we require a general theory to explain the principles of selection (“making connections, drawing conclusions” meaning, to begin with, making selections). For that purpose, in the outline, I reproduce the entirety of a Mishnah-paragraph that stands at the head of a Talmudic composite, and I underscore those sentences that are addressed, so highlighting also those that are not.

It follows that the same evidence that justifies identifying the Mishnah-tractate as the structure (therefore also the foundation of the system) of Yerushalmi-tractate before us also presents puzzles for considerable reflection. The exegesis of Mishnah-exegesis is only one of these. Another concerns the purpose of introducing into the document enormous compositions and composites that clearly hold together around a shared topic or proposition, e.g., my appendix on one theme or another, my elaborate footnote providing information that is not required but merely useful, and the like. My earlier characterization of composites as appendices and footnotes signalled the fact that the framers of the document chose a not-entirely satisfactory way of setting out the materials they wished to include here, for large components of the tractate do not contribute to Mishnah-exegesis in any way at all. If these intrusions of other-than-exegetical compositions were proportionately modest, or of topical composites negligible in size, we might dismiss them as appendages, not structural components that bear much of the weight of the edifice as a whole. Indeed, the language that I chose for identifying and defining these composites – footnotes, appendices, and the like – bore the implication that what is not Mishnah-commentary also is extrinsic to the Talmud of the Land of Israel’s structure and system.

But that language served only for the occasion. In fact, the outline before us will show that the compositions are large and ambitious, the composites formidable and defining. Any description of the tractate’s structure that dismisses as mere accretions or intrusions so large a proportion of the whole misleads. Any notion that “footnotes” and “appendices” impede exposition and disrupt thought, contribute extraneous information or form tacked-on appendages – any such notion begs the question: then why fill up so much space with such purposeless information? The right way is to ask whether the document’s topical composites

play a role in the re-presentation of the Mishnah-tractate by the compilers of the Talmud of the Land of Israel. We have therefore to test two hypotheses:

1. the topical composites (“appendices,” “footnotes”) do belong and serve the compilers’ purpose

or

2. the topical composites do not participate in the re-presentation of the Mishnah-tractate by Yerushalmi and do not belong because they add nothing and change nothing.

The two hypotheses may be tested against the evidence framed in response to a single question: is this topical composite necessary? The answer to that question lies in our asking, what happens to the reading of the Mishnah-tractate in light of the topical composites that would not happen were we to read the same tractate without them? The outline that follows systematically raises that question, with results specified in due course. It suffices here to state the simple result of our reading of the tractate, start to finish: the question of structure, therefore also that of system, rests upon the position we identify for that massive component of the tractate that comprises not Mishnah-commentary but free-standing compositions and composites of compositions formed for a purpose other than Mishnah-commentary.

The principal rubrics are given in small caps. The outline takes as its principal rubrics two large-scale organizing principles.

The first is the divisions of the Mishnah-tractate to which the Talmud of the Land of Israel-tractate serves as a commentary. That simple fact validates the claim that the tractate exhibits a fully-articulated structure. But the outline must also underscore that the Mishnah-tractate provides both more and less than the paramount outline of the Talmud of the Land of Israel-tractate. It is more because sentences in the Mishnah-tractate are not analyzed at all. These untreated Mishnah-sentences are given in bold face lower case caps, like the rest of the Mishnah, but then are specified by underlining and enclosure in square brackets.

Second, it is less because the structure of the tractate accommodates large composites that address topics not defined by the Mishnah-tractate. That brings us to the second of the two large-scale modes of holding together both sustained analytical exercises and also large sets of compositions formed into cogent composites. These are treated also as major units and are indicated by Roman numerals, alongside the Mishnah-paragraphs themselves; they are also signified in small caps. But the principal rubrics that do not focus on Mishnah-commentary but on free-standing topics or propositions or problems are not given in boldface type. Consequently, for the purposes of a coherent outline we have to identify as

autonomous entries in our outline those important composites that treat themes or topics not contributed by the Mishnah-tractate.

I. YERUSHALMI KETUBOT 1:1

- [A] **A VIRGIN IS MARRIED ON WEDNESDAY, AND A WIDOW ON THURSDAY. FOR TWICE WEEKLY COURTS ARE IN SESSION IN TOWNS, ON MONDAY AND THURSDAY. SO IF [THE HUSBAND] HAD A COMPLAINT AS TO VIRGINITY, HE IMMEDIATELY GOES TO COURT.**
1. **I:1:** [Bar Qappara said, “The reason [the virgin is married on Wednesday] is that a blessing is stated with reference to the works of creation on that day.”]
 2. **I:2:** R. Eleazar produced as a reason for the Mishnah’s ruling: So if the husband had a complaint as to virginity, he immediately goes to court [M. 1:1C].
 3. **I:3:** What is the difference between Monday and Tuesday [once the day was changed from Wednesday]? Is there a reason for preferring Tuesday to Monday?
 - a. **I:4:** In the view of R. Eleazar, in a place in which courts meet every day, a girl may be married every day. In a place in which the courts do not meet every day, should she not get married at all [if there is no regular court day]?!]
 - b. **I:5:** Now [if the consideration is the time of court sessions], let a virgin get married on Sunday, and if she turns out not to be a virgin, the husband can immediately go to court on Monday.
 4. **I:6:** R. Ba bar Kohen said before R. Yosé, R. Aha in the name of R. Jacob bar Idi: “It is forbidden for a man to marry [betroth] a woman on the eve of the Sabbath [Friday].”]
 5. **I:7:** R. Jonah in the name of R. Qerispa, “A mature woman is regarded as an open vessel [and may not be subjected to a claim against her virginity].”]
 6. **I:8:** In accord with the view of R. Eleazar, [who explains M.’s rule on the days on which virgins are married because of the possibility of a claim that the woman was not a virgin,] when is an adult woman to be married? A virgin at the stage of the consummation of a marriage –

when is she to be married? A girl deprived of her hymen by a piece of wood (following the view of R. Meir) – when is she to be married?

7. **I:9:** A widow on Thursday [M. 1:1A]. For if he should marry her on any earlier day of the week, he may leave her and go back to work. So they arranged that he should marry her on Thursday, so that he should remain away from work for three successive days, Thursday, the eve of the Sabbath [Friday], and the Sabbath – three days away from work. He turns out to take pleasure with her for three days running [T. Ned. 1:1L-O].
8. **I:10:** It has been taught: They say the blessing for the wedding couple [in the grace after meals] all seven days [of banqueting for the couple]
9. **I:11:** In olden times in Judah they would appoint two best men, one on the side of the groom, and one on the side of the bride. And even so, they appointed them only for the marriage. But in Galilee they did not have that custom. In olden times in Judah they would put the bride and groom off by themselves for an hour before the wedding celebration so that he should feel confident with her. But in Galilee they did not have that custom.” Said R. Judah, “In olden times in Judah the best men investigated the place of the groom and the place of the bride. But in Galilee they did not have that custom. In olden times in Judah the best men would sleep in the place in which the bride and groom were sleeping. But in Galilee they did not have that custom. Anyone who did not follow this custom has no claim against the virginity of the girl” [T. Ned. 1:4A-G].
10. **I:12:** It has been taught: As to the claim of virginity, any amount [of blood will suffice to prove that the girl is a virgin]

II. YERUSHALMI KETUBOT 1:2

[A] A VIRGIN – HER MARRIAGE CONTRACT IS TWO HUNDRED [ZUZ]. AND A WIDOW, A MANEH [ONE HUNDRED ZUZ]. A VIRGIN, WIDOW, DIVORCÉE, AND ONE WHO HAS SEVERED THE LEVIRATE CONNECTION THROUGH A RITE OF HALISAH AT THE STAGE OF BETROTHAL – THEIR MARRIAGE CONTRACT IS TWO HUNDRED [ZUZ]. AND THEY ARE SUBJECT TO THE CLAIM AGAINST THEIR VIRGINITY.

1. **I:1:** [As to the currency used to pay the marriage contract,] R. Huna in the name of Samuel: “[The reference is to] the sheqel of the sanctuary [fifty Tyrian shekels].” R. Ba bar Bina said, “[It is paid] in any currency circulating [in that area].”

- a. I:2: R. Abodema of Sepphoris in the name of R. Huna in the name of Vitur Meuneh [sic!]: “A woman whose marriage contract was for less than two hundred zuz should hide her marriage contract [relying rather on the stipulation established by the court], so that she may collect what is coming to her in the coinage of the sanctuary.” [Someone] said in the name of R. Huna, “That is the case in a district in which they do not write out the marriage contract [but treat it as the stipulation of the court]. However, in a district in which they do write out a marriage contract, that which [the contract] yields is what the woman collects. [She has accepted less than was coming to her.]”

[B] A CONVERT, A WOMAN TAKEN CAPTIVE, AND A SLAVE GIRL WHO WERE REDEEMED OR WHO WERE FREED OR WHO CONVERTED AT AN AGE OF LESS THAN THREE YEARS AND ONE DAY — THEIR MARRIAGE CONTRACT IS TWO HUNDRED [ZUZ]. AND THEY ARE SUBJECT TO THE CLAIM AGAINST THEIR VIRGINITY.

1. **II:1:** R. Yosé in the name of R. Hiyya bar Ashi, R. Jonah, R. Hiyya bar Ashi in the name of Rab: “To what is the matter comparable? It is to be compared to one who makes an impression in the flesh, which goes and fills out again.”

III. YERUSHALMI KETUBOT 1:3

[A] AN ADULT MALE WHO HAD SEXUAL RELATIONS WITH A MINOR FEMALE [YOUNGER THAN THREE YEARS AND A DAY], AND A MINOR MALE [YOUNGER THAN NINE YEARS AND A DAY] WHO HAD SEXUAL RELATIONS WITH AN ADULT FEMALE, AND A GIRL INJURED BY A BLOW [SO THAT HER SIGNS OF VIRGINITY ARE DESTROYED] —

1. **I:1:** What is the definition of a minor male and female?
2. **I:2:** The rule governing an adult male who had sexual relations with a minor female poses no problem, because the marks of virginity will come back to her. But in the case of a minor male who had sexual relations with an adult female, the marks of virginity in the adult are not going to come back, [so why should the marriage settlement come to two hundred zuz]?

[B] “THEIR MARRIAGE CONTRACT IS TWO HUNDRED ZUZ,” THE WORDS OF R. MEIR. AND SAGES SAY, “THE GIRL INJURED BY A BLOW — HER MARRIAGE CONTRACT IS A MANEH.”

1. **II:1:** They objected to the view of R. Meir [M. 1:3D]: “The signs of virginity are no longer present, and you maintain that [the girl injured by a blow] should receive a marriage contract in the sum of two hundred zuz?”
2. **II:2:** A virgin laid by a minor or by one who is not a man is valid for marriage into the priesthood. R. Halapta bar Saul taught, “She is valid even for marriage to a high priest.” R. Jeremiah and R. Ammi raised the question: “What is the difference between her and a girl laid merely by the entry of a finger, [whose signs of virginity are thereby removed]? As to a girl laid merely by the entry of a finger, is it possible that she is *not* invalid for marriage into the high priesthood? [She is no longer a virgin.]”

IV. YERUSHALMI KETUBOT 1:4

[A] A VIRGIN, A WIDOW, A DIVORCÉE, OR ONE WHO HAS SEVERED THE LEVIRATE CONNECTION THROUGH A RITE OF HALISAH — AT THE STAGE OF CONSUMMATION OF THE MARRIAGE — THEIR MARRIAGE CONTRACT IS A MANEH. AND THEY ARE NOT SUBJECT TO A CLAIM AGAINST THEIR VIRGINITY:

1. **I:1:** What is the definition of a virgin... at the stage of the consummation of the marriage [M. 1:4A-B]?

[B] A CONVERT, A GIRL TAKEN CAPTIVE OR A SLAVE GIRL WHO WERE REDEEMED, OR WHO CONVERTED, OR WHO WERE FREED AT AN AGE OLDER THAN THREE YEARS AND ONE DAY — THEIR MARRIAGE CONTRACT IS A MANEH. AND THEY ARE NOT SUBJECT TO A CLAIM AGAINST THEIR VIRGINITY.

1. **II:1:** R. Eleazar raised the question: “He who has sexual relations with a freed slave girl [cf. M. 1:4E] — what is the law [as to his owing a fine on that score]?” [Cf. M. 3:1: He who had sexual relations with a slave girl who was freed, when less than three years and one day old, does not pay a fine; if she was more than three years and one day old, she does receive a fine from him. Now Eleazar’s question requires interpretation in this context, since the Mishnah answers the question as it is phrased. What we have is a slave girl over the age of three years and one day who is subject, as at I.B, to testimony that she never committed fornication. In such a case, is there a fine?]
 2. **II:2:** In the case of a blind woman or a barren woman, they are subject to a claim of virginity. Sumkhos said in the name of R. Meir, “A blind girl is not subject to a claim of virginity” [T. Ned. 1:3X-Y].

3. **II:3:** It has been taught: A claim against a woman's virginity [indicating that she should be deprived of her marriage settlement] must be made within thirty days of the marriage," the words of R. Meir. And sages say, "It must be made forthwith."

V. YERUSHALMI KETUBOT 1:5

[A] **HE WHO LIVES ["EATS"] WITH HIS FATHER-IN-LAW IN JUDAH, NOT WITH WITNESSES, CANNOT LODGE A CLAIM AGAINST THE GIRL'S VIRGINITY, FOR HE HAS BEEN ALONE WITH HER. ALL THE SAME ARE THE WIDOW OF AN ISRAELITE AND THE WIDOW OF A PRIEST — THEIR MARRIAGE CONTRACT IS A MANEH [A HUNDRED ZUZ].**

1. **I:1:** [The origin of the custom noted at M. 1:5A is as follows.] In the past [the Romans] decreed a persecution in Judea. For they had a tradition from their fathers that Judah had killed Esau. For it is written, "[Judah, your brothers shall praise you;] your hand shall be on the neck of your enemies; [your father's sons shall bow down before you]" (Gen. 49:8). So they went and subjugated them and raped their daughters. They decreed that a soldier should enjoy the right of the first act of intercourse [with Israelite girls who were to be wed]. Accordingly, [sages] decreed that the girl's husband should have sexual relations with the bride while she was still in her father's house.

[B] **THE PRIEST'S COURT WOULD COLLECT FOUR HUNDRED ZUZ FOR A VIRGIN. AND SAGES DID NOT STOP THEM.**

1. **II:1:** It was taught: And two hundred for a widow. It was taught: All the same are an Israelite widow and a widow of the priestly caste in this regard [that both get a maneh].

VI. YERUSHALMI KETUBOT 1:6

[A] **HE WHO MARRIES A WOMAN AND DID NOT FIND TOKENS OF VIRGINITY — SHE SAYS, "AFTER YOU BETROTHED ME, I WAS RAPED, AND YOUR FIELD HAS BEEN FLOODED," AND HE SAYS, "NOT SO, BUT IT WAS BEFORE I BETROTHED YOU, AND MY PURCHASE WAS A BARGAIN MADE IN ERROR" — RABBAN GAMALIEL AND R. ELIEZER SAY, "SHE IS BELIEVED." R. JOSHUA SAYS, "WE DO NOT DEPEND ON HER TESTIMONY. BUT LO, SHE REMAINS IN THE ASSUMPTION OF HAVING HAD SEXUAL RELATIONS BEFORE SHE WAS BETROTHED AND OF HAVING**

DECEIVED HIM, UNTIL SHE BRINGS EVIDENCE TO BACK UP HER [CONTRARY] CLAIM.”

1. **I:1:** R. Jeremiah proposed, “On the basis of what is said here, may we conclude that, in the view of Rabban Gamaliel and R. Eliezer, there can be no claim against a girl’s virginity [on the part of the husband,] but in accord with the view of R. Joshua, [there can be such a claim]? [In the view of the former the husband can never prove his claim.]”
 - a. **I:2:** Now even in the case of one who enters a claim and says, “He found the tokens of virginity, but he destroyed them,” [the husband can enter a contrary claim]. But she should be believed.
2. **I:3:** There we have learned: “If there were blemishes on her while she was yet in her father’s house, the father must bring proof [that after she was betrothed these blemishes made their appearance on her, so that the husband’s field has been flooded. If she had entered the domain of the husband, then the husband has to bring proof that before she was betrothed these blemishes were on her body, so that his purchase was a purchase made in error,” the words of R. Meir (M. 7:8A-C).] R. Eleazar asked R. Yohanan, “Does this law of the Mishnah accord [in the domain of the husband] with Rabban Gamaliel and R. Eliezer only, and not with R. Joshua [in line with the rule of M. 1:6 that the husband has to bring proof]?”

VII. YERUSHALMI KETUBOT 1:7

[A] SHE SAYS, “I WAS INJURED BY A PIECE OF WOOD,” AND HE SAYS, “NOT SO, BUT YOU HAVE BEEN LAID BY A MAN” – RABBAN GAMALIEL AND R. ELIEZER SAY, “SHE IS BELIEVED.” AND R. JOSHUA SAYS, “WE DO NOT DEPEND ON HER TESTIMONY. BUT LO, SHE REMAINS IN THE ASSUMPTION OF HAVING BEEN LAID BY A MAN, UNTIL SHE BRINGS EVIDENCE TO BACK UP HER CLAIM.”

1. **I:1:** Said R. Eleazar, “This law represents the view of R. Meir, for R. Meir said, ‘In the case of a girl injured by a piece of wood, her marriage contract is two hundred zuz.’ [The case before us involves such a claim for two hundred zuz. The husband offers a *maneh*.]”

VIII. YERUSHALMI KETUBOT 1:8

[A] [IF] THEY SAW HER [SEXUALLY] CONVERSING WITH A MAN IN THE MARKET, [AND] THEY SAID TO HER, “WHAT IS THE CHARACTER OF THIS ONE?” [AND SHE

SAID,] “IT IS MR. SO-AND-SO, AND HE IS A PRIEST” – RABBAN GAMALIEL AND R. ELIEZER SAY, “SHE IS BELIEVED.” AND R. JOSHUA SAYS, “WE DO NOT DEPEND ON HER TESTIMONY. BUT LO, SHE REMAINS IN THE ASSUMPTION OF HAVING HAD SEXUAL RELATIONS WITH A NETIN OR A MAMZER, UNTIL SHE BRINGS EVIDENCE TO BACK UP HER CLAIM.”

1. **I:1:** What is the meaning of “conversing”? It means, “having sexual relations.” Why then do we learn, “... conversing...”? It is a euphemism.
2. **I:2:** R. Jacob bar Aha in the name of R. Josiah: “The law accords with Rabban Gamaliel and R. Eliezer, because we have two who outnumber a single contrary opinion.”
3. **I:3:** They wished to propose: The dispute between R. Joshua and these rabbis applies only in a place in which the majority is unsuited [for marriage into the priesthood], but in a place in which the majority is suited, also R. Joshua will concur.

IX. YERUSHALMI KETUBOT 1:9

[A] [IF] SHE WAS PREGNANT, AND THEY SAID TO HER, “WHAT IS THE CHARACTER OF THIS FETUS?” [AND SHE SAID,] “IT IS BY MR. SO-AND-SO, AND HE IS A PRIEST” – RABBAN GAMALIEL AND R. ELIEZER SAY, “SHE IS BELIEVED.” AND R. JOSHUA SAYS, “WE DO NOT DEPEND ON HER TESTIMONY. BUT LO, SHE REMAINS UNDER THE ASSUMPTION OF HAVING BEEN MADE PREGNANT BY A NETIN OR A MAMZER, UNTIL SHE BRINGS EVIDENCE TO BACK UP HER CLAIM.”

1. **I:1:** Said R. Eleazar, “All concur with regard to the offspring that he is declared to be of an unknown father.” And so it has been taught: Under what circumstances [do sages accept her testimony]~ In regard to testimony as to her own status. But as to the offspring, all concede [Gamaliel and Eliezer to Joshua] that it is of unknown male parentage [T. Ket. 1:6L-M].

X. YERUSHALMI KETUBOT 1:10

[A] SAID R. YOSÉ, M'SH B: “A GIRL WENT DOWN TO DRAW WATER FROM THE WELL AND WAS RAPED. RULED R. YOHANAN B. NURI, ‘IF MOST OF THE MEN OF THE TOWN MARRY OFF THEIR DAUGHTERS TO THE PRIESTHOOD, LO, SHE MAY BE MARRIED INTO THE PRIESTHOOD.’”

1. **I:1:** R. Judah in the name of Rab, “The incident took place at the well of Sepphoris [identifying the well mentioned in M. 1:10A with the one known from Sepphoris].”
2. **I:2:** Both R. Jeremiah, R. Hama bar Uqba say in the name of R. Hanina in the name of R. Yannai, “R. Joshua concurs in the case of a woman who was raped [that she is believed if she says it was by a man who has not invalidated her, by his act of sexual relations, from marriage into the priesthood]. [His position, that a licentious woman does not care with whom she has sexual relations and hence is not believed when she says it was with a valid man, does not apply in the present case.]” R. Hizkeah, R. Abbahu in the name of R. Yohanan: “R. Joshua concurs in the case of a woman who was raped.”
3. **I:3:** Said R. Ila in the name of R. Yannai, “It was in the middle of Sepphoris that [the man] had intercourse [with the girl of M. I:10]. [It was within the town, for example, at the time of the market, and the majority of the marketers as well as the majority of the local people are suitable. But if it was outside of the town, for example, at a well, we know of only the local residents, be they in the majority valid; then we should not rule as we do.]” R. Ba in the name of R. Yannai, “If they saw the man leave Sepphoris and have sexual relations [with the girl], we assume that he is one of those who invalidates a woman for marriage into the priesthood by his act of sexual relations, for there [outside of town] he had sexual relations. [He no longer is part of the majority which is valid.]” What is the law [if one has been seen to leave the] plaza [of the town? Is he regarded as part of the “majority” of the town, e.g., valid, or not?]
 - a. **I:4:** [We now raise parallel rules on how we settle matters of doubt such as this:] In the case of what is found, we follow the status of the majority [Y. Sheq. 7:5]. [Why here do we not follow the status of the majority of those who live in the town?]
 - i. **I:5:** There was a case of an infant whom they found tossed into the garbage. The case came before R. Ishmael b. R. Yosé. He said, “Let her be treated as of a mixed-family [which may or may not be permitted to marry into the priesthood].”

XI. YERUSHALMI KETUBOT 2:1

[A] THE WOMAN WHO WAS WIDOWED OR DIVORCED — SHE SAYS, “YOU MARRIED ME AS A VIRGIN” — AND HE SAYS, “NOT SO, BUT I MARRIED YOU AS A WIDOW” —

1. **I:1:** There is no difficulty in understanding that if the wife is divorced, [it will be the husband who enters the contrary claim]. But in the case of the widow, who [has the power to] enter a claim [against hers]?

[B] IF THERE ARE WITNESSES THAT [WHEN SHE GOT MARRIED] —

1. **II:1:** But [why not] follow the criterion of the majority, and the majority of those who are married are married as virgins. [Why should there have to be witnesses, D, so that, if there is none, the husband’s claim is accepted?] On the basis of [the fact that the majority who are married are married as virgins], assume that she was married as a virgin. That is to say that in matters having to do with monetary judgments, they do not follow the case of the majority.
2. **II:2:** If one laid claim for a *maneh* [a hundred zuz, and the defendant denied the claim, and the plaintiff brought witnesses that he owes him fifty zuz — R. Hiyya the Elder says, “He must take an oath as to the remainder [as does one who concedes part of a claim. The testimony is tantamount to a concession.]” R. Yohanan says, “He does not have to take an oath as to the remainder.” Point of contact: Is the reason then that it is because the concession is not of the same sort as the claim? Lo, if the concession had been of the same sort as the claim, would he have been liable? And here [at M. 2:1A-E] it is not a concession which is of the sort as what is claimed? All parties concur that he is liable to the woman for a *maneh*, and she is as if she lays claim on another *maneh* [to make up the full two hundred zuz]. He does not concede that claim. He who wishes to exact something from his fellow bears the burden of proof.

[C] SHE WENT FORTH TO MUSIC, WITH HER HAIR FLOWING LOOSE, HER MARRIAGE CONTRACT IS TWO HUNDRED.

1. **III:1:** Rabbis over there say, “On a palanquin.”
2. **III:2:** R. Hiyya in the name of R. Yohanan: “It is on account of those who went forth on the Day of Atonement.”

[D] R. YOHANAN B. BEROQA SAYS, “ALSO, PASSING OUT PARCHED CORN IS PROOF [OF HER STATUS AS A VIRGIN WHEN SHE WAS MARRIED].”

1. IV:1: And should we not take account of the possibility that she may have been a virgin at the stage of the consummation of the [preceding] marriage?

XII. YERUSHALMI KETUBOT 2:2

[A] AND R. JOSHUA CONCEDES IN THE CASE OF HIM WHO SAYS TO HIS FELLOW, “THIS FIELD BELONGED TO YOUR FATHER, AND I BOUGHT IT FROM HIM,” THAT HE IS BELIEVED. FOR THE MOUTH WHICH PROHIBITED IS THE MOUTH WHICH PERMITTED.

1. I:1: R. Joshua concurs, and if he differs, it is at the opening rule, [at M. 1:6]. [Even though the woman might claim to have been injured by a piece of wood, we do not accept the lesser claim she does present, so Joshua.]

[B] AND IF THERE ARE [OTHER] WITNESSES THAT IT HAD BELONGED TO HIS FATHER, AND HE CLAIMS, “I BOUGHT IT FROM HIM,” HE IS NOT BELIEVED.

1. II:1: in a case in which he did not enjoy the usufruct for the necessary years for establishing ownership through usucaption. But if he had made use of the field for the requisite years for establishing ownership through usucaption, he is believed.
 - a. II:2: As to] two say, “She was betrothed,” and two say, “She was not betrothed,” – R. Jonah compares the case to that involving prohibited fat. Two say, “So-and-so ate forbidden fat,” and two say, “He did not eat forbidden fat” – is it possible that he is not required to bring a suspensive guilt offering by reason of doubt? And in this case the husband must issue a writ of divorce by reason of doubt. Said R. Yosé, “Do not compare the case to the one involving forbidden fat, for even in such a case as this, if he says, ‘My heart moves me [to fear I ate forbidden fat],’ he has to bring a suspensive guilt offering.”

XIII. YERUSHALMI KETUBOT 2:3

- [A] THE WITNESSES WHO SAID, “THIS IS OUR HANDWRITING, BUT WE WERE FORCED [TO SIGN],” “WE WERE MINORS,” “WE WERE INVALID FOR TESTIMONY,” – LO, THESE ARE BELIEVED, [AND THE WRIT IS INVALID].
- I:1:** It has been taught: So too witnesses who testified to declare someone unclean or clean, to put someone afar or to bring someone near, to prohibit or to permit, to exempt or to render liable – [If] before their testimony was cross-examined in court, they said, “We are joking,” lo, these are believed. [If] after their testimony was cross-examined in court, they said, “We are joking,” they are not believed [T. Ket. 2:1F-G].
- [B] BUT IF THERE ARE WITNESSES THAT IT IS THEIR HANDWRITING, OR IF THEIR HANDWRITING WAS AVAILABLE FROM SOME OTHER SOURCE, THEY ARE NOT BELIEVED.
- II:1:** [But if there are witnesses that it is their handwriting, or if their handwriting was available from some other source, they are not believed:] R. Simeon b. Laqish said, “They treated witnesses whose names are signed on a bond as if their testimony had been cross-examined in court. [This explains M. 2:3C. That is, if their handwriting is attested, they can no longer deny the matter.]”
 - II:2:** If they say, “It is our handwriting,” and others say, “It is not their handwriting” – Said R. Mana, “The bond is treated as one which has been subjected to a claim of forgery, [and it has to be confirmed by a court].” Said R. Assi, “And that is the case if it is a bond which has been subjected to a claim of forgery, so that it has to be confirmed by a court.”
 - II:3:** R. Hana said, “They derive evidence [as to the character of the witnesses’ signatures] from a document which has been examined [and shown to derive from them], along the lines of what people say about the scribe Assi, [that his documents are readily recognized].”
 - II:4:** R. Huna in the name of Rab: “Witnesses are believed if they state that the bond is merely a matter of trust [that the negotiation would be consummated afterwards], or a feigned transfer [a deed of sale for accommodation].”

XIV. YERUSHALMI KETUBOT 2:4

[A] THIS ONE SAYS, “THIS IS MY HANDWRITING, AND THIS IS THE HANDWRITING OF MY FELLOW,” AND THIS ONE SAYS, “THIS IS MY HANDWRITING, AND THIS IS THE HANDWRITING OF MY FELLOW,” – LO, THESE ARE BELIEVED. “THIS ONE SAYS, ‘THIS IS MY HANDWRITING,’ AND THIS ONE SAYS, ‘THIS IS MY HANDWRITING’ – “THEY HAVE TO ADD ANOTHER TO THEM [SO EACH SIGNATURE IS CONFIRMED BY TWO WITNESSES],” THE WORDS OF RABBI. AND SAGES SAY, “THEY DO NOT HAVE TO ADD ANOTHER TO THEM. BUT: A MAN IS BELIEVED TO SAY, ‘THIS IS MY HANDWRITING.’”

1. I:1: Why was it necessary to teach [M. 2:4A-C]? It is because of the position of Rabbi [at M. 2:4D-E].
2. I:2: It has been taught: A man may write down his testimony in a document and give testimony on the strength of that document and continue, even a hundred years after [the date of the document] [T. Ket. 2:1L].
3. I:3: R. Zeira, R. Huna in the name of Rab: “One of the two parties and an outsider do not join together to confirm the handwriting of the other witness.”
4. I:4: R. Haggai said R. Zeira asked, “If one witness testifies orally, and testimony of another witness is contained within a document, what is the law as to joining these two forms of testimony together?”

XV. YERUSHALMI KETUBOT 2:5

[A] THE WOMAN WHO SAID, “I WAS MARRIED, AND I AM DIVORCED” IS BELIEVED. FOR THE MOUTH WHICH PROHIBITED IS THE MOUTH WHICH PERMITTED. BUT IF THERE ARE WITNESSES THAT SHE WAS MARRIED, AND SHE SAYS, “I AM DIVORCED,” SHE IS NOT BELIEVED.

1. I:1: It has been taught: If after a woman remarried [under the circumstances described at M. 2:5A-B], witnesses came along, lo, this woman should not go forth. Both R. Huna and R. Haninah say, “It is not the end of the matter that that is so if the testimony comes after she has remarried. But even if the court has permitted the woman to remarry [under the circumstances described here, she may do so, even

if, prior to the remarriage, witnesses should come in her regard and say that she had been married].”

2. **I:2:** R. Yudan raised the question: “[If a woman said,] ‘I was a married woman, and I was divorced in such-and-such a place,’ and two witnesses came along and said, ‘No woman was divorced in that place,’ do they serve to contradict her testimony [that she has been divorced]? [Or do we maintain that since we do not believe she has been divorced, we also do not accept her testimony that, to begin with, she was married?]” [This question is not answered.] R. Yosé raised the question, “If a woman said, ‘I was married, but I was divorced in such-and-such a place on such-and-such a date,’ and witnesses came along and said, ‘A woman was divorced in such-and-such a place,’ and two witnesses came along and said, ‘A woman was not divorced in such-and-such a place,’ would this be a case in which there is contradiction of testimony by other testimony?”

XVI. YERUSHALMI KETUBOT 2:6

[A] **THE WOMAN WHO SAID, “I WAS TAKEN CAPTIVE, BUT I AM PURE,” IS BELIEVED. FOR THE MOUTH WHICH PROHIBITED IS THE MOUTH WHICH PERMITTED BUT IF THERE ARE WITNESSES TO THE FACT THAT SHE WAS TAKEN CAPTIVE, AND SHE SAYS, “I AM PURE,” SHE IS NOT BELIEVED. BUT IF THE WITNESSES APPEARED [TO TESTIFY THAT SHE WAS TAKEN CAPTIVE] AFTER SHE WAS REMARRIED, LO, THIS ONE SHOULD NOT GO FORTH.**

1. **I:1:** R. Huna said, “It is not the end of the matter that that is so if the testimony comes after she has remarried. But even if the court has permitted the woman to remarry [under the circumstances described here, she may do so, even if, prior to the marriage, witnesses should come in her regard and say that she had been taken captive].”
- a. **I:2:** Illustrative case. Women were taken captive there [in Babylonia]. The case came before Abba bar Ba, Levi, and Samuel. They appointed for them witnesses to bring them back up to the land of Israel. [Samuel] said to him [Abba], “And what shall we do with regard to the earlier period of time, in which they were alone [among gentiles]?”

XVII. YERUSHALMI KETUBOT 2:7

[A] TWO WOMEN WHO WERE TAKEN CAPTIVE — THIS ONE SAYS, “I WAS TAKEN CAPTIVE, BUT I AM PURE,” AND THAT ONE SAYS, “I WAS TAKEN CAPTIVE, BUT I AM PURE” — THEY ARE NOT BELIEVED. AND WHEN THEY GIVE EVIDENCE ABOUT ONE ANOTHER, LO, THEY ARE BELIEVED. AND SO TWO MEN — THIS ONE SAYS, “I AM A PRIEST,” AND THAT ONE SAYS, “I AM A PRIEST” — THEY ARE NOT BELIEVED. BUT WHEN THEY GIVE EVIDENCE ABOUT ONE ANOTHER, LO, THEY ARE BELIEVED.

1. **I:1:** [With reference to the acceptance of testimony of only a single witness as to the priestly status of a person.] R. Hiyya in the name of R. Yohanan [said], “The Mishnah speaks of the matter of [giving to such a person] Holy Things [separated in] the provinces, [such as heave offering rations for the priesthood]. But as to the matters of genealogy and Holy Things deriving from the altar, there must be two witnesses [that the man is a priest].”
2. **I:2:** There are two presumptive grounds for a person’s being deemed a member of the priesthood in the land of Israel: Raising up hands in the priestly benediction, and sharing heave offering at the threshing floor. And in Syria, up to the point at which the agents announcing the new moon reach up to Namrin, the raising of hands in the priestly benediction [constitutes adequate grounds], but not sharing heave offering at the threshing floor [since in Syria the rule on heave offering is less strict anyhow — since there it is considered rabbinic and not biblical in origin]. Babylonia is in the same status as Syria. R. Simeon b. Eleazar says, “Also in Alexandria, when the courts sit there.” Rabban Simeon b. Gamaliel says, “Just as eating heave offering is presumptive evidence that a person is a priest [in the case of the dividing of shares at the threshing floor], so first tithe is presumptive evidence that a person is a Levite in the case of the dividing of shares at the threshing floor.” But a person who takes his shares [of heave offering] in court [at the division of an estate] has no presumption that he is a priest [T. Ket. 3:1A-F].
3. **I:3:** Said R. Ishmael b. R. Yosé, “In my life I never gave testimony, but one time I gave testimony [as to a person’s caste], and thereby I raised a slave to the priestly caste.” Said R. Isaac b. Haqolah, “Rabbi and R. Simeon b. Rabbi: one promoted a brother on the basis of the testimony of his other brothers, and the other promoted a son on the

evidence of his father's testimony. One was a promotion to the priesthood and one to the status of Levite."

XVIII. YERUSHALMI KETUBOT 2:8

[A] **R. JUDAH SAYS, "THEY DO NOT RAISE SOMEONE TO THE PRIESTHOOD ON THE EVIDENCE OF A SINGLE WITNESS." SAID R. ELEAZAR, "UNDER WHAT CIRCUMSTANCES? WHEN THERE ARE THOSE WHO RAISE DOUBT ABOUT THE MATTER. BUT WHEN THERE IS NONE WHO RAISES DOUBT ABOUT THE MATTER, THEY DO RAISE SOMEONE TO THE PRIESTHOOD ON THE EVIDENCE OF A SINGLE WITNESS." RABBAN SIMEON B. GAMALIEL SAYS IN THE NAME OF R. SIMEON, SON OF THE PREFECT, "THEY RAISE SOMEONE TO THE PRIESTHOOD ON THE EVIDENCE OF A SINGLE WITNESS."**

1. **I:1:** R. Hiyya in the name of R. Yohanan: "There is no raising doubt about a matter with less than two witnesses."

XIX. YERUSHALMI KETUBOT 2:9

[A] **A WOMAN WHO WAS TAKEN PRISONER BY GENTILES — [IF IT WAS] FOR AN OFFENSE CONCERNING PROPERTY, SHE IS PERMITTED [TO RETURN] TO HER HUSBAND:**

1. **I:1:** There we have learned: Testified R. Yosé the priest and R. Zekhariah b. Haqqasab concerning a girl who was left as a pledge in Ashkelon, and the members of her family put her out, even though witnesses concerning her gave testimony that she had not been alone [with a man] or been made unclean [by a man]. Said to them sages, "If you believe that she was left as a pledge, you might as well believe that she was not alone with a man or made unclean, and if you don't believe that she was not alone with a man or made unclean, you might as well not believe that she was left as a pledge" [M. Ed. 8:2D-G]. Lo, if witnesses concerning her do not give testimony that she was not alone with a man or that she was not made unclean, then she is not [restored to her status with her family]. [Now the implication is that if there are no witnesses, then she may not marry into the priesthood. But the Mishnah has said that if the offense concerns property, she is permitted to return to her husband or to marry into the priesthood. So the implications of the cited pericope of the Mishnah contradict those of the present passage.]

[B] [IF IT WAS FOR] A CAPITAL OFFENSE, SHE IS PROHIBITED TO HER HUSBAND.

1. **II:1:** R. Yudan, son of R. Hama of Kepar Tahamin, in the name of Hezekiah: “And that rule applies when the court decision has been reached to put her to death.”

[C] A CITY WHICH WAS OVERCOME BY SIEGE — ALL THE PRIEST GIRLS FOUND THEREIN ARE INVALID [TO RETURN TO THEIR HUSBANDS]. BUT IF THEY HAVE WITNESSES, EVEN A MAN SLAVE OR A GIRL SLAVE, LO, THEY ARE BELIEVED. BUT A PERSON IS NOT BELIEVED TO TESTIFY IN HIS OWN BEHALF.

1. **III:1:** What is a siege [of M. 2:9D]?
2. **III:2:** R. Zeira, R. Ba bar Zabeda, R. Isaac bar Haqolah in the name of R. Yudan the patriarch, “And that rule [of M. 2:9E] applies to a case in which the siege was on the part of the government [of the country in which the town was located]. But if it was a siege on the part of some other empire, then it is a case parallel to one in which bandits took a town, [and they are in haste and not likely to take the time to rape various women in the town].”
3. **III:3:** [As to M. 2:9E,] may even a minor [testify]?

[D] SAID R. ZEKHARIAH B. HAQQASAB, “BY THIS SANCTUARY! HER HAND DID NOT MOVE FROM MINE FROM THE TIME THAT THE GENTILES ENTERED JERUSALEM UNTIL THEY LEFT IT.” SAID THEY TO HIM, “A PERSON CANNOT GIVE TESTIMONY IN HIS OWN BEHALF.”

1. **IV:1:** [With reference to M. Sot. 1:3H,] R. Hiyya bar Joseph sent after a woman and gave orders for three disciples to go with her, so that, if one of them would have to turn aside [heed a call of nature], she would be left alone with two others. Point of relevant: the story of Zekhariah is cited.

XX. YERUSHALMI KETUBOT 2:10

[A] AND THESE ARE BELIEVED TO GIVE TESTIMONY WHEN THEY REACH MATURITY ABOUT WHAT THEY SAW WHEN THEY WERE MINORS: A MAN IS BELIEVED TO SAY, “THIS IS THE HANDWRITING OF [MY] FATHER,” “THIS IS THE HANDWRITING OF MY MASTER,” AND “THIS IS THE HANDWRITING OF MY BROTHER” — “I REMEMBER ABOUT MRS. SO-AND-SO THAT SHE WENT FORTH TO MUSIC WITH HER HAIR FLOWING LOOSE [WHEN SHE WAS MARRIED]” — “I REMEMBER THAT MR. SO-AND-SO WOULD GO FORTH FROM SCHOOL TO IMMERSER TO EAT HEAVE OFFERING,” “THAT HE WOULD TAKE A SHARE [OF

HEAVE OFFERING] WITH US AT THE THRESHING FLOOR” – “THIS PLACE IS A GRAVE AREA” – “UP TO HERE DID WE WALK ON THE SABBATH.” BUT A MAN IS NOT BELIEVED TO SAY, “MR. SO-AND-SO HAD A RIGHT OF WAY IN THIS PLACE,” “SO-AND-SO HAD THE RIGHT OF HALTING AND HOLDING A LAMENTATION IN THIS PLACE.”

- 1.** **I:1:** [With respect to M. 2:10B, recognizing someone’s handwriting,] it has been taught that that is on condition that those who give testimony are familiar with [the handwriting about which they testify in general]. [The rule would not apply to someone whose handwriting was only rarely seen.]
- 2.** **I:2:** As to M. 2:10D, one’s going forth to immerse to eat heave offering,] should one not take account of the possibility that he was a slave?
- 3.** **I:3:** What is the law as to extracting money on the basis of what is implied by the testimony [of those who when they reach maturity say what they had seen when they were minors]? [Here one testifies not directly to cause a monetary loss, as in M. 2:10G(9), but indirectly concerning a prohibition, thereby by implication causing the loss.]
- 4.** **I:4:** It has been taught: [Children are believed to testify] that we ate at the “cutting off of Mr. So-and-so and Mr. So-and-so.”
- 5.** **I:5:** When they reach maturity about what they saw when they were minors [M. 2:10A]: They are believed only when they reach maturity about what they saw when they were minors. Lo, when they are minors, they are not believed.

XXI. YERUSHALMI KETUBOT 3:1

[A] THESE ARE THE GIRLS [INVALID FOR MARRIAGE TO AN ISRAELITE] WHO [NONETHELESS] RECEIVE A FINE [FROM THE MAN WHO SEDUCES THEM]: HE WHO HAS SEXUAL RELATIONS WITH A MAMZER GIRL:

- 1.** **I:1:** It is written, “[And they shall fine him a hundred *shekels* of silver, and give them to the father of the young woman, because he has brought an evil name on a virgin of Israel;] and she shall be his wife; [he shall not put her away all of his days]” (Deut. 22:19). This refers to a woman who is suitable for him. And is a mamzer girl suitable for him [M. 3: 1B]? [Why should she receive such a fine?]

[B] A NETIN GIRL:

1. **II:1:** Said R. Yosé, “They scrupled with regard to the Netinim only by reason of invalid genealogy alone.”

[C] OR A SAMARITAN GIRL; HE WHO HAS SEXUAL RELATIONS WITH A CONVERT GIRL, AND WITH A GIRL TAKEN CAPTIVE, AND A SLAVE GIRL WHO WERE REDEEMED, WHO CONVERTED, OR WHO WERE FREED WHEN THEY WERE AT AN AGE OF LESS THAN THREE YEARS AND ONE DAY [AND WHO REMAIN IN THE STATUS OF VIRGINS]; HE WHO HAS SEXUAL RELATIONS WITH HIS SISTER, AND WITH THE SISTER OF HIS FATHER, AND WITH THE SISTER OF HIS MOTHER, AND WITH HIS WIFE’S SISTER, AND WITH THE WIFE OF HIS BROTHER, AND WITH THE WIFE OF THE BROTHER OF HIS FATHER, AND WITH THE MENSTRUATING WOMAN — THEY RECEIVE A FINE [FROM THE MAN WHO SEDUCES THEM]. EVEN THOUGH [SEXUAL RELATIONS WITH] THEM ARE SUBJECT TO EXTIRPATION, ONE DOES NOT INCUR THROUGH THEM THE DEATH PENALTY AT THE HANDS OF AN EARTHLY COURT.

1. **III:1:** A Samaritan girl: This rule accords with him who said, “A Samaritan is equivalent to an Israelite in all regards.” But in accord with him who said, “A Samaritan is equivalent to a gentile,” [such a person would] not [concur] in this case.
2. **III:2:** Said R. Yosé b. R. Hanina, “He who rapes or seduces an orphan girl is exempt [from having to pay a fine, since the fine goes to the father, who is not there to collect it].
3. **III:3:** There we have learned: [A non-priest] who deliberately eats produce in the status of heave offering pays the principal but does not pay the added fifth [M. Ter. 7:1A]. And we have learned: These are the ones who are flogged [M. Mak. 3:1] [including a non-priest who ate heave offering deliberately]. Said R. Yohanan, “The Mishnah deals with the two extremes. If people warned him, he is flogged. If they did not warn him, he pays.” Differing from what has just been stated, R. Simeon b. Laqish said, “Even if they did not admonish him, he does not pay a monetary penalty. [Those who are liable to a flogging on account of inadvertent sin are exempt, and that is the case even if there is no admonition.] For even if they had warned him, he would have been flogged [and not have to pay a penalty in money, so if they did not give him an admonition, he also should be free of having to pay a monetary penalty].” The Mishnah statement that follows differs from the view of R. Simeon b. Laqish: [A non-priest] who inadvertently eats produce in the status of heave offering pays both the principal and an added fifth [M. Ter. 6:1A]. Now if they had warned him, is he not to be flogged? Interpret the Mishnah [from Simeon’s perspective] in line with the view of R. Meir, for R. Meir has said, “One may both be

flogged and also pay a monetary penalty.” The Mishnah further differs from the view of R. Simeon b. Laqish, for we have learned: These are the girls [invalid for marriage to an Israelite] who nonetheless receive a fine from the man who seduces them [M. 3:1A].

- a. III:4: Cases involving both flogging and a monetary penalty: Nathan bar Hoshaiyah said, “[As to the conflict between the present rule, that a girl receives a financial penalty paid by a rapist, who is not flogged, and that at M. Mak. 3:1, which specifies that the penalty is flogging,] the difference is that here we deal with a girl, [to whom the penalty is owing,] while there we deal with a grown woman [to whom no financial penalty is paid, and hence there is flogging instead]. A girl receives a financial penalty, and no flogging pertains to [sexual relations with] her. A woman will produce the penalty of flogging, but she does not receive a financial penalty. But does she not receive compensation for shame or personal injury? [Surely she does! So even in the case of flogging, there will be monetary compensation.]”
- b. III:5: [Along these same lines, of indicating cases in which there are both a flogging and payment of monetary compensation,] has it not been taught: He who muzzles a cow [belonging to his fellow, when ploughing with the cow] pays six *qabs* for [the day’s] muzzling of a cow, or four for [the day’s] muzzling of an ass? [Here, too, we have monetary compensation and also a flogging for violating the rule of the Torah against muzzling an ass when it is ploughing.]
- c. III:6: Said R. Yosé, “[One may indeed find ample evidence that multiple penalties are imposed,] for so are those who are subject to the death penalty [also subject to monetary compensation and flogging]. If one stole heave offering belonging to the sanctuary [e.g., heave offering which one had consecrated to the upkeep of the house] and ate it, he is flogged and pays monetary compensation, for in any event he has caused a monetary loss to his fellow.”
- d. III:7: There we have learned: There is no difference between the Sabbath and the Day of Atonement, except that deliberately violating this one is punishable at the hands of an earthly court, while deliberately violating that one is punishable through extirpation [M. Meg. 1:5B]. Lo, in regard to monetary compensation, both of them are equivalent.

- i. III:8: [We now revert to Simeon b. Laqish's view that Meir maintains one is flogged and pays a monetary penalty in the same matter, but in the opinion of rabbis, there will be no case in which there is a monetary penalty, for those who are liable to a flogging for inadvertent acts are exempt from monetary payment and raise the question:] In the view of R. Simeon b. Laqish, what is the difference between the views of these Tannaim [that is, Nehunia b. Haqqaneh, and R. Simeon b. Menassia,] and these rabbis *visa-vis* Meir? [For in their view if there is a penalty of extirpation, there will be no monetary penalty in addition. Yohanan will hold that there can be the difference of opinion in regard to those subject to penalty of extirpation when there was no warning as to flogging. In such a case rabbis hold he is liable to a monetary penalty. The two Tannaim will regard him as exempt.]

XXII. YERUSHALMI KETUBOT 3:2

[A] AND THESE DO NOT RECEIVE A FINE [FROM THE MAN WHO SEDUCES THEM]: HE WHO HAS SEXUAL RELATIONS WITH A CONVERT, A GIRL TAKEN CAPTIVE, OR A SLAVE GIRL, WHO WAS REDEEMED, OR WHO CONVERTED, OR WHO WAS FREED, AT AN AGE OF MORE THAN THREE YEARS AND ONE DAY — (R. JUDAH SAYS, “A GIRL WHO WAS REDEEMED, LO, SHE REMAINS IN HER CONDITION OF SANCTITY, EVEN THOUGH SHE IS AN ADULT”) —

1. I:1: Said R. Yohanan, “R. Judah included her [in the list of those who are compensated] only with respect to the monetary compensation [owing to her from the seducer].” R. Hiyya taught, “It was also for payment to her of a marriage settlement of a *maneh* or two hundred zuz.” R. Simeon b. Laqish said, “Also to give her food in the status of heave offering to eat [if she is wed to a priest]. [That is to say, in Judah's view, she remains wholly unviolated for all intents and purposes.]”

XXIII. YERUSHALMI KETUBOT 3:3

[A] HE WHO HAS SEXUAL RELATIONS WITH HIS DAUGHTER, HIS DAUGHTER'S DAUGHTER, WITH THE DAUGHTER OF HIS SON, WITH THE DAUGHTER OF HIS WIFE, WITH THE DAUGHTER OF HER SON, WITH THE DAUGHTER OF HER DAUGHTER — THEY DO NOT RECEIVE A FINE [FROM THE MAN WHO SEDUCES THEM], FOR HE INCURS THE DEATH PENALTY. FOR THE DEATH PENALTY

INFLECTED UPON HIM IS AT THE HANDS OF AN EARTHLY COURT, AND WHOEVER INCURS THE DEATH PENALTY [AT THE HANDS OF AN EARTHLY COURT] DOES NOT PAY OUT A FINANCIAL PENALTY [IN ADDITION], SINCE IT SAYS, “IF NO DAMAGE BEFALL, HE SHALL SURELY BE FINED” (EX. 21:22).

1. **I:1:** [The Mishnah’s adduced reason is at M. 3:2D-E, namely, the father does not owe monetary penalty, because he is on trial for his life.] But if someone else had had sexual relations with the girl, would not the financial penalty be paid to her father? [Since he is the father, he cannot be required to pay such a penalty to himself. That would be an adequate reason for the rule. When, then, does the Mishnah adduce a more general consideration?]
2. **I:2:** [With reference to Ex. 21:22,] said R. Jeremiah in the name of R. Eleazar, “Since it is said, ‘And if no damage befall,’ do I not know that, ‘If any harm follows, then you shall give life for life’ (Ex. 21:23)? Why then does Scripture find it necessary to state, ‘if any harm follows’? It serves to encompass him who deliberately does the deed when subject to prior admonition [who is liable as stated]. [But if the deed is inadvertent, lacking prior admonition, then the penalty is a monetary fine, and not the death penalty.]”

XXIV. YERUSHALMI KETUBOT 3:4

[A] **A GIRL WHO WAS BETROTHED AND THEN DIVORCED – R. YOSÉ THE GALILEAN SAYS, “SHE DOES NOT RECEIVE A FINE [FROM THE MAN WHO RAPED OR SEDUCED HER].” R. AQIBA SAYS, “SHE DOES RECEIVE A FINE, AND THE FINE BELONGS TO HER.”**

1. **I:1:** What is the scriptural basis for the view of R. Yosé the Galilean? “[If a man meets a virgin] who is not betrothed, [and seizes her and lies with her, and they are found, then the man who lay with her shall give to the father of the young woman fifty *shekels*]” (Deut. 22:28). And [how does] R. Aqiba [deal with] “who is not betrothed”? Before the girl is betrothed, he pays the money to her father. Once she is betrothed, he pays it to her.
 - a. **I:2:** From the viewpoint of Yosé the Galilean,] if he had sexual relations with the girl prior to her becoming betrothed, and only afterward she became betrothed [what is the law? In this case does she receive monetary compensation?]

XXV. YERUSHALMI KETUBOT 3:5

[A] THE ONE WHO SEDUCES A GIRL PAYS ON THREE COUNTS, AND THE ONE WHO RAPES A GIRL PAYS ON FOUR: THE ONE WHO SEDUCES A GIRL PAYS FOR THE SHAME, THE DAMAGE, AND A FINE, AND THE ONE WHO RAPES A GIRL ADDS TO THESE, FOR HE IN ADDITION PAYS FOR THE PAIN [WHICH HE HAS INFLICTED]. THE ONE WHO RAPES A GIRL PAYS FOR THE PAIN,] AND THE ONE WHO SEDUCES HER DOES NOT PAY FOR THE PAIN.

1. **I:1:** Now this rule [that there is compensation for the pain] does not conform to the view of R. Simeon. For R. Simeon exempts the rapist from obligation to compensate for pain.

[B] THE ONE WHO RAPES A GIRL PAYS THE FINANCIAL PENALTIES FORTHWITH, BUT THE ONE WHO SEDUCES HER PAYS THE PENALTIES [ONLY] WHEN HE PUTS HER AWAY. THE ONE WHO RAPES THE GIRL [FOREVER AFTER] DRINKS OUT OF HIS EARTHEN POT, BUT THE ONE WHO SEDUCES HER, IF HE WANTED TO PUT HER AWAY, DOES PUT HER AWAY.

1. **II:1:** Said R. Hisda, “This applies in a case in which he did not wish to keep the marriage going. But if he wanted to keep the marriage going, he pays nothing at all.”
2. **II:2:** R. Ishmael taught, “[If a man seduces a virgin who is not betrothed, and lies with her,] he shall give the marriage present for her, [and make her his wife]’ (Ex. 22:16). This teaches that he treats what is owing as a bridal present, and a bridal present can only be a marriage settlement.”
3. **II:3:** R. Eleazar asked, “[In the view of the party who holds that a woman who is married under these circumstances does not receive a marriage settlement,] as to the daughters of a woman who has been raped [and thereby married], what is the law about their enjoying the stipulations of the normal marriage contract [which provides for their upkeep]?”

XXVI. YERUSHALMI KETUBOT 3:6

[A] HOW DOES HE “DRINK FROM HIS EARTHEN POT”? EVEN IF SHE IS LAME, EVEN IF SHE IS BLIND, AND EVEN IF SHE IS AFFLICTED WITH BOILS, [HE MUST REMAIN MARRIED TO HER]. [IF] A MATTER OF UNCHASTITY TURNED OUT TO PERTAIN

TO HER, OR IF SHE IS NOT APPROPRIATE TO ENTER INTO THE ISRAELITE CONGREGATION, HE IS NOT PERMITTED TO CONFIRM HER AS HIS WIFE [BUT, IF HE HAS MARRIED HER, HE MUST DIVORCE HER], SINCE IT IS SAID, “AND SHE WILL BE A WIFE TO HIM” (DEUT. 22:29) – A WIFE APPROPRIATE FOR HIM.

1. **I:1:** R. Jeremiah, R. Hiyya in the name of R. Simeon b. Laqish: “Scripture should not say, ‘And she will be a wife to him’ (Deut. 22:19). [For] this refers to the one who spreads a bad story about the wife [that she was no virgin when she was married]. Now it hardly is necessary to state [therefore that she shall be his wife,] for she already is in his domain [by definition]. Why does Scripture say, ‘And she will be a wife to him’? It is so that you may derive from that usage an argument by analogy. You then provide the following exegesis: ‘And she shall be a wife to him,’ ‘And she shall be to him.’ Just as ‘And she shall be to him,’ stated later on, refers to a woman who is appropriate for him, so ‘And she shall be to him’ here refers to a woman who is appropriate for him.”
2. **I:2:** R. Hiyya taught: All the same are the one who rapes and the one who spreads a bad story about a girl, who divorced [the woman they have raped or maligned, respectively]: they force him to bring her back. [If] they are priests, they incur forty stripes [for violating the rule against divorcing her] [T. Ket. 3:7A-C].
 - a. **I:3:** There is the following [indicating cases in which one indeed may put the girl out] which is taught: If a man is found lying with] the woman who has had sexual relations with a husband (Deut. 22:22). This encompasses the case in which a woman had received her husband when she is yet betrothed, while she is still in her father’s house. [She is in the status of a woman who has had sexual relations with a husband, with the result that one who thereafter has sexual relations with her is guilty of having had relations with a married woman and is put to death through strangulation.]

XXVII. YERUSHALMI KETUBOT 3:7

[A] AN ORPHAN WHO WAS BETROTHED AND DIVORCED – R. ELEAZAR SAYS, “HE WHO SEDUCES HER IS EXEMPT [FROM PAYING A FINE], BUT HE WHO RAPES HER IS LIABLE.”

1. **I:1:** Said R. Yohanan, “The opinion of R. Eleazar accords with the theory of R. Aqiba, his master. Just as R. Aqiba has said [at M. 3:4] that such a girl [as may be in the status of an orphan, e.g., one who was

betrothed and divorced at the stage of betrothal] receives a monetary penalty, which belongs to her, so R. Eleazar has said that she receives a monetary penalty, which belongs to her.”

XXVIII. YERUSHALMI KETUBOT 3:8

[A] WHAT IS THE [MODE OF ASSESSING COMPENSATION FOR] SHAME? ALL [IS ASSESSED] IN ACCORD WITH THE STATUS OF THE ONE WHO SHAMES AND THE ONE WHO IS SHAMED. [HOW IS THE COMPENSATION FOR] DAMAGE [ASSESSED]? THEY REGARD HER AS IF SHE IS A SLAVE GIRL FOR SALE: HOW MUCH WAS SHE WORTH [BEFORE THE SEXUAL INCIDENT], AND HOW MUCH IS SHE WORTH NOW. THE FINE? IT IS THE SAME FOR EVERY PERSON [FIFTY SELAS, DEUT. 22:29]. AND ANY [FINE] WHICH IS SUBJECT TO A FIXED AMOUNT BY THE TORAH IS EQUIVALENT FOR EVERY PERSON.

- 1. I:1:** It is not the same thing to inflict an indignity upon an honored person as it is to inflict an indignity upon a worthless person. And it is not the same thing to receive an indignity from an honored person as it is to receive an indignity from a worthless person. And the indignity inflicted upon a great person who is humiliated is not equivalent to the indignity inflicted upon an unimportant person who is humiliated [T. B.Q. 9:12E-F].

XXIX. YERUSHALMI KETUBOT 3:9

[A] IN ANY SITUATION IN WHICH THERE IS A RIGHT OF SALE, THERE IS NO FINE. AND IN ANY SITUATION IN WHICH THERE IS A FINE, THERE IS NO RIGHT OF SALE. A MINOR GIRL IS SUBJECT TO SALE AND DOES NOT RECEIVE A FINE. A GIRL RECEIVES A FINE AND IS NOT SUBJECT TO SALE. A MATURE WOMAN IS NOT SUBJECT TO SALE AND [DOES] NOT [RECEIVE] A FINE.

- 1. I:1:** R. Hiyya in the name of R. Yohanan, “[The statement that a minor girl is subject to sale and does not receive a fine] represents the view of R. Meir. But rabbis maintain that she is subject to sale and she also will receive a fine at one and the same time.”
 - a. I:2:** There we have learned: He who has sexual relations with a betrothed maiden is liable only if she is a virgin girl, betrothed in her father’s house. If two men had sexual relations with her, the former is put to death through stoning, the latter through strangulation [M. San. 7:11]. R. Yosa in the name of R. Yohanan, R. Hiyya in the name of R. Eleazar, [maintained, “In insisting that

it is a maiden, the Mishnah expresses the opinion] of R. Meir. But so far as rabbis are concerned, even if she is a minor [less than three years and one day, one is liable].”

- i. I:3: R. Jacob bar Aba raised the question before Rab: “He who has sexual relations with a betrothed minor – what is the law?”

XXX. YERUSHALMI KETUBOT 3:10

[A] **HE WHO SAYS, “I SEDUCED MR. SO-AND-SO’S DAUGHTER,” PAYS THE PENALTIES OF SHAME AND DAMAGE ON THE BASIS OF HIS OWN TESTIMONY. BUT HE DOES NOT PAY A FINE. HE WHO SAYS, “I STOLE AND I SLAUGHTERED AND SOLD [AN ANIMAL BELONGING TO SO-AND-SO],” PAYS BACK THE PRINCIPAL ON THE BASIS OF HIS OWN TESTIMONY, BUT HE DOES NOT PAY DOUBLE DAMAGES OR FOUR OR FIVEFOLD DAMAGES. [IF HE SAYS,] “MY OX KILLED SO-AND-SO,” OR “THE OX OF SO-AND-SO,” LO, THIS ONE PAYS ON THE BASIS OF HIS OWN TESTIMONY. [IF HE SAYS,] “MY OX KILLED SO-AND-SO’S SLAVE,” HE DOES NOT PAY ON THE BASIS OF HIS OWN EVIDENCE. THIS IS THE GENERAL PRINCIPLE: WHOEVER PAYS A COMPENSATION GREATER THAN THE DAMAGE HE HAS ACTUALLY DONE DOES NOT PAY SAID DAMAGES ON THE BASIS OF HIS OWN TESTIMONY [ALONE, AND CANNOT BE ASSESSED FOR SUCH DAMAGES].**

1. **I:1:** R. Isaac raised the question: “What is the law as to the defendant’s paying up the value [as distinct from the fine of thirty shekels] of the slave [killed by the man’s ox] on the basis of his own testimony? [That is, while one does not pay a fine on the basis of his own testimony, does he pay the value of the slave, for that is not regarded as a fine?]”
2. **I:2:** [As to one who confesses in a case in which he took an oath to avoid paying a fine,] what is the law as to [the judges’] saying to him, “Carry out your obligation to Heaven”? [That is, even if by law he is exempt from paying, he bears an obligation to Heaven to pay.]

XXXI. YERUSHALMI KETUBOT 4:1

[A] **A GIRL [TWELVE TO TWELVE AND A HALF YEARS OF AGE] WHO WAS SEDUCED – [THE FINANCIAL PENALTIES] FOR HER SHAME, DAMAGE, AND FINE BELONG TO HER FATHER, AND THE [COMPENSATION FOR] PAIN IN THE CASE OF A GIRL WHO WAS SEIZED [DEUT. 22:28] AND RAPED, ALSO BELONGS TO THE FATHER].**

1. **I:1:** What authority stands behind the formulation of [the passage of the Mishnah which speaks of] a girl [twelve to twelve and a half years of age, and not a virgin, hence stressing that we deal with a minor girl]? It is R. Meir [who holds that a minor does not collect a financial penalty anyhow]. But as to rabbis, even a minor [would fall under the rule of M. 4:1B].
2. **I:2:** Up to this point we have dealt with items subject to compensation by reason of the act of sexual relations itself. But if the man did injury, blinded her, cut off her hand, broke her leg, to whom does he pay the compensation? Is it to her or to her father? R. Yohanan said, “He pays it to her father.” R. Simeon b. Laqish said, “He pays it to her herself.”

[B] [IF] SHE WON IN COURT BEFORE HER FATHER DIED, LO, THEY [THE FUNDS] BELONG TO THE FATHER. [IF] THE FATHER [THEN] DIED, LO, THEY BELONG TO THE BROTHERS. [IF] SHE DID NOT SUFFICE TO WIN HER CASE IN COURT BEFORE THE FATHER DIED, LO, THEY ARE HERS.

1. **II:1:** why do you say so? R. Simeon b. Yohai taught, “The verse says, ‘Then the man... shall give to the father of the young woman’ (Deut. 22:29). [Now it could as well have said, ‘to her father.’] How so? If she won in court before her father died, then you have a case for which Scripture says, ‘And he will give to the father of the girl.’ If the father died, then you have found a case in which Scripture says, ‘And he will give’ to the girl herself. If she should win in court before she reaches maturity, you have a case in which Scripture says, ‘And he will pay to the father of the girl.’ If this is after she has reached maturity, you have found a case in which Scripture says, ‘And he will give to her.’”
2. **II:2:** At what point does the obligation to pay the monetary fine apply?

XXXII. YERUSHALMI KETUBOT 4:2

[A] [IF] SHE WON HER CASE IN COURT BEFORE SHE HAD MATURED [AT TWELVE AND A HALF YEARS OF AGE], LO, THEY BELONG TO THE FATHER. [IF] THE FATHER DIED, LO, THEY BELONG TO THE BROTHERS. [IF] SHE DID NOT SUFFICE TO WIN HER CASE IN COURT BEFORE THE FATHER DIED, LO, THEY ARE HERS. R. SIMEON SAYS, “IF SHE DID NOT SUCCEED IN COLLECTING THE FUNDS BEFORE THE FATHER DIED, LO, THEY ARE HERS.” [AS TO] THE FRUIT OF HER LABOR AND THE THINGS WHICH SHE FINDS, EVEN THOUGH SHE DID NOT COLLECT [HER WAGES] – [IF] THE FATHER DIED, LO, THEY BELONG TO THE BROTHERS.

1. **I:1:** R. Simeon b. Yohai taught, “‘Then the man who lay with her shall give to the father of the young woman fifty *shekels* of silver’ (Deut. 22:29). This teaches that the father acquires possession of the penalty] only when it is handed over” [thus explaining Simeon’s view].
2. **I:2:** R. Simeon says, “The matter depends upon actual collection of the funds.” And Rabbi says, “The matter depends upon winning the case in court.”
3. **I:3:** R. Zeira sent to R. Nahman b. Jacob and R. Immi b. Pappi: “The fruits of the daughter’s labor [after the death of the father] – to whom [do they go]?” He said to him, “The ‘diligent authority’ said, ‘To her herself.’”

XXXIII. YERUSHALMI KETUBOT 4:3

[A] HE WHO BETROTHS HIS DAUGHTER, AND HE [THE HUSBAND] DIVORCED HER, [AND] HE [THE FATHER] BETROTHED HER [TO SOMEONE ELSE], AND SHE WAS WIDOWED – HER MARRIAGE CONTRACT [IN BOTH INSTANCES] BELONGS TO HIM [THE FATHER]. [IF] HE [THE FATHER] MARRIED HER OFF, [HOWEVER,] AND HE [THE HUSBAND] DIVORCED HER, HE [THE FATHER] MARRIED HER OFF, AND SHE WAS WIDOWED – HER MARRIAGE CONTRACT BELONGS TO HER. R. JUDAH SAYS, “THE FIRST [MARRIAGE-CONTRACT’S] PAYOFF BELONGS TO THE FATHER.” THEY SAID TO HIM, “ONCE HE HAS [ACTUALLY] MARRIED HER OFF [NOT MERELY BETROTHED HER], THE FATHER HAS NO DOMAIN OVER HER.”

1. **I:1:** Said R. Bun bar Hiyya, “The reasoning of R. Judah is that it is so a man will be available to provide for his daughter in a liberal spirit. [Since he knows that if the husband should die, the marriage settlement reverts to him, he will be willing to provide for the daughter with an open hand.]”
2. **I:2:** R. Jacob bar Aha in the name of R. Isaac: “It is from the case of the slanderer that R. Meir [= M. 4:3D-E] has derived his view [that once the daughter is married off, the father has no further domain over her]. [We follow the present status, not that which prevailed at the outset. Once she is wed, the father loses all domain. Judah’s contrary view is that we follow the status prevailing at the outset, when the marriage settlement was drawn up, and hence the father gets the settlement, since when the document was written, the girl was in his domain.]”

XXXIV. YERUSHALMI KETUBOT 4:4

[A] THE CONVERT WHOSE DAUGHTER CONVERTED WITH HER, AND SHE [THE DAUGHTER] COMMITTED AN ACT OF FORNICATION [WHEN SHE WAS A BETROTHED GIRL] – LO, THIS ONE IS PUT TO DEATH THROUGH STRANGLING. SHE IS NOT SUBJECT TO THE RULE, “AT THE DOOR OF HER FATHER’S HOUSE” (DEUT. 22:21), NOR TO “A HUNDRED SELAS” (DEUT. 22:19), [IN THE CASE OF ONE WHO SLANDERED HER]. [IF] HER CONCEPTION WAS NOT IN A STATE OF SANCTITY BUT HER PARTURITION WAS IN A STATE OF SANCTITY, LO, THIS ONE IS PUT TO DEATH WITH STONING. SHE IS NOT SUBJECT TO THE RULE, “AT THE DOOR OF HER FATHER’S HOUSE,” NOR TO “A HUNDRED SELAS.” [IF] HER CONCEPTION AND PARTURITION WERE IN A STATE OF SANCTITY, LO, SHE IS EQUIVALENT TO AN ISRAELITE GIRL FOR EVERY PURPOSE. [IF] SHE HAS A FATHER BUT NO “DOOR OF HER FATHER’S HOUSE” [E.G., HER FATHER HAS NO HOUSE], [OR IF] SHE HAS “A DOOR OF HER FATHER’S HOUSE” BUT NO FATHER, LO, THIS ONE IS PUT TO DEATH WITH STONING. AT THE DOOR OF HER FATHER’S HOUSE IS STATED ONLY AS A DUTY [IN ADDITION TO STONING].

1. **I:1:** It is written, “because he has brought an evil name upon a virgin of Israel” (Deut. 22:19). Excluded then is this one [the daughter of the convert], who is not an Israelite. “Because he has brought an evil name upon a virgin of Israel” (Deut. 22:19). Included then is a convert whose conception was not in a state of sanctity, but whose parturition was in a state of sanctity, indicating that [under the appropriate circumstances] she is put to death through stoning [M. 4:4E].
2. **I:2:** It is written, “If any man takes a wife, and goes in to her, and then spurns her [and charges her with shameful conduct, and brings an evil name upon her]” (Deut. 22:13-14). Under no circumstances is the husband liable unless he marries the girl and has sexual relations with her and then lays a claim against her virginity. “And charges her with shameful conduct” (Deut. 22:14). Might one think that that would encompass even her merely over-cooking his meal? Here it is stated, “shameful conduct,” and later on the same expression is used [at Deut. 22:17]. Just as “shameful conduct” to which reference is made later on means fornication, so “shameful conduct” to which reference is made here means fornication.
3. **I:3:** ‘And they shall spread the garment’ (Deut. 22:17) – the whole is meant as a metaphor [that the case must be clearly spread out before the judges, but the evidence indeed derives from witnesses, not merely from the fact that the garment is available, one way or the other].” R. Ishmael taught, “This is one of three verses used in the Torah in the sense of a parable.” It was taught: R. Eliezer b. Jacob says, “[With

reference to the verse, ‘And they shall spread the garment’ (Deut. 22:17),] the matter should be interpreted precisely as it is written [in a literal way, not as a metaphor].”

- 4.** **I:4:** R. Assi said, “‘And they shall spread out the garment.’ Under no circumstances are the perjured witnesses stoned, nor the husband flogged, nor must he pay the hundred selas, unless [other witnesses] state, ‘He was with us in such-and-such a place, and the husband hired them to give false testimony.’”
 - a.** I:5: If the father produced two sets of witnesses [against those brought by the husband], one saying, “You were with us in such-and-such a place,” and the other saying, “The husband hired them to give false testimony,” [and these witnesses themselves were proved perjurers,] it is self-evident that that set which stated, “He was with us in such-and-such a place,” is stoned to death, and those who stated, “The husband hired them to give false witness,” are flogged and have to pay a hundred selas.
 - b.** I:6: R. Bun bar Hiyya raised the question before R. Zeira, “If the father produced witnesses to prove the witnesses on behalf of the husband to be perjurers, [shall we say that] if the father’s witnesses are proved to be perjurers, [the father] suffers a flogging and has to pay a hundred selas at the decision of a court of three judges, but the [father’s] witnesses are put to death by stoning at the decision of a court of twenty-three judges?”
 - c.** I:7: Under no circumstances is the husband flogged, nor is he required to pay a hundred selas, unless [the contrary] witnesses are stoned to death [by being proved to be perjurers]. [Merely contradicting their testimony does not suffice.] As to the monetary penalty [owing from him who slanders the girl] – at what point is obligation incurred?
- 5.** **I:8:** Said R. Yosé b. R. Hanina, “He who rapes or seduces an orphan is exempt [from having to pay a fine, since the fine goes to the father, who is not there to collect it].”
 - a.** I:9: Both R. Ammi and R. Joshua b. Levi say, “He who brings forth an evil name concerning a minor girl is exempt.”
- 6.** **I:10:** R. Zeira, R. Hamnuna in the name of R. Ada bar Ahva: “Under no circumstances does she go out to the place of stoning unless she is a girl [twelve years through twelve and a half years and one day old] at the time she is taken forth for stoning.”

7. **I:11:** It has been taught: A betrothed maiden who committed fornication – they stone her at the doorway of her father’s house. [If she does not have a doorway of her father’s house, they stone her in the place in which she fornicated. But if it was a gentile town, they stone her at the door of the [Israelite] courthouse [T. San. 10:10D-F].

XXXV. YERUSHALMI KETUBOT 4:5-6

[A] THE FATHER RETAINS CONTROL OF HIS DAUGHTER [YOUNGER THAN TWELVE AND A HALF] AS TO EFFECTING ANY OF THE TOKENS OF BETROTHAL: MONEY, DOCUMENT, OR SEXUAL INTERCOURSE:

1. **I:1:** [The language of “retaining control as to effecting the tokens of betrothal”] applies without difficulty to money and a document. [But how] does the father retain control in respect to an act of betrothal through sexual intercourse?

[B] AND HE RETAINS CONTROL OF WHAT SHE FINDS: OF THE FRUIT OF HER LABOR, AND OF ABROGATING HER VOWS. AND SHE RECEIVES HER WRIT OF DIVORCE [FROM A BETROTHAL]. BUT HE DOES NOT DISPOSE OF THE RETURN [ON PROPERTY RECEIVED BY THE GIRL FROM HER MOTHER] DURING HER LIFETIME. [WHEN] SHE IS MARRIED, THE HUSBAND EXCEEDS THE FATHER FOR HE DISPOSES OF THE RETURN ON PROPERTY RECEIVED BY THE GIRL FROM HER MOTHER] DURING HER LIFETIME.

1. **II:1:** R. Zakkai of Alexandria confronted the following question: “If she found something on account of a field owned by her [e.g., digging in a field she owned, she found an object], how do you decide the law as to its ownership? “Is it treated as something she has found [in which case it belongs to the father], or is it equivalent to return on her property?”
2. **II:2:** It is an ordinance that sages have ordained, that the husband should oversee his wife’s property and utilize the return. Now why not say that the same applies to the father?

[C] BUT HE IS LIABLE TO MAINTAIN HER, AND TO RANSOM HER:

1. **III:1:** It has been taught: The husband who said, “I do not wish either to utilize the return or to oversee [my wife’s property],” they pay no attention to him.

[D] AND TO BURY HER. R. JUDAH SAYS, “EVEN THE POOREST MAN IN ISRAEL SHOULD NOT HIRE FEWER THAN TWO FLUTES AND ONE PROFESSIONAL WAILING-WOMAN.”

1. **IV:1:** It was taught: If the husband did not wish to bury her, the father does so and collects the cost from the husband in court.
2. **IV:2:** It has been taught: And in a place in which it is customary to say a lamentation, to arrange for a lamentation for her, [which is not incumbent on the father] [T. Ket. 4:2C-D].

XXXVI. YERUSHALMI KETUBOT 4:7

[A] FOR ALL PURPOSES IS SHE IN THE DOMAIN OF THE FATHER, UNTIL SHE ENTERS THE DOMAIN OF THE HUSBAND THROUGH MARRIAGE. [IF] THE FATHER HANDED HER OVER TO THE AGENTS OF THE HUSBAND, LO, SHE [FROM THAT POINT ON] IS IN THE DOMAIN OF THE HUSBAND. [IF] THE FATHER WENT ALONG WITH THE AGENTS OF THE HUSBAND, OR [IF] THE AGENTS OF THE FATHER WENT ALONG WITH THE AGENTS OF THE HUSBAND, LO, SHE IS IN THE DOMAIN OF THE FATHER. [IF] THE AGENTS OF THE FATHER HANDED HER OVER TO THE AGENTS OF THE HUSBAND, LO, SHE IS IN THE DOMAIN OF THE HUSBAND.

1. **I:1:** It is not the end of the matter that [she must enter] the marriage canopy, but [if she enters] a house in which the husband has a marriage canopy, [lo, she enters the domain of the husband].
2. **I:2:** For what purpose [is the law stated, as to the point at which the daughter passes from the domain of the father to that of the husband]? R. Eleazar said, “It is for the purpose of inheriting from her [should she die].” R. Simeon b. Laqish said, “It is for the purpose of abrogating vows she may take.”

XXXVII. YERUSHALMI KETUBOT 4:8

[A] THE FATHER [WHILE ALIVE] IS NOT LIABLE FOR THE MAINTENANCE OF HIS DAUGHTER. THIS EXEGESIS DID R. ELEAZAR B. AZARIAH EXPOUND BEFORE SAGES IN THE VINEYARD OF YABNEH, “THE SONS WILL INHERIT AND THE DAUGHTERS WILL RECEIVE MAINTENANCE — JUST AS THE SONS INHERIT ONLY AFTER THE DEATH OF THE FATHER, SO THE DAUGHTERS RECEIVE MAINTENANCE ONLY AFTER THE DEATH OF THE FATHER.”

1. **I:1:** It is a religious duty to support daughters, and one need not say, sons. R. Yohanan b. Beroqah says, “It is an obligation to support daughters” [T. Ket. 4:8].
2. **I:2:** R. Simeon b. Laqish in the name of R. Judah b. Hananiah: “In Usha they voted that a man is required to support his minor children.” Said R. Yohanan, “Now do we really know who took part in that vote, [since the law is not as was voted]?”
3. **I:3:** R. Simeon b. Laqish in the name of R. Judah bar Hananiah: “They voted in Usha that he who writes over his property to his sons – he and his wife are supported by them.” As to the minor children, what is the law? R. Abbahu in the name of R. Yosé b. R. Haninah, and there are those who state the tradition in the name of R. Judah b. Haninah: “He, his wife, and his minor children are supported from the property.” What is the law as to his widow?
 - a. **I:4:** Other Ushan ordinances: R. Simeon b. Laqish in the name of R. Judah bar Haninah: “They voted in Usha in the case of him who acted disrespectfully to a sage [elder] and who hit him that one pays him compensation for the humiliation in toto [which is more than the compensation for damages to be paid him].”
 - b. **I:5:** Other Ushan ordinances: R. Simeon b. Laqish in the name of R. Judah b. Haninah: “They voted in Usha that a man should set aside a fifth of his property for the doing of religious deeds. [But one may not set aside more than that.]”

[B] EXEGETING THE LANGUAGE OF THE MARRIAGE CONTRACT

1. **II:1:** R. Eleazar b. Azariah made an exegesis of the language of the marriage settlement. Thus did R. Eleazar b. Azariah interpret it: “The sons will inherit the estate, and the daughters will be maintained by it: Just as the sons inherit the estate only after the death of their fathers, so too the daughters are supported only after the death of their father [M. 4:8C].”
2. **II:2:** Members of the House of Hillel made an exegesis of the ordinary language of the marriage settlement.
3. **II:3:** The House of Shammai interpret the language [of the marriage contract].
4. **II:4:** R. Meir expounded the language of a contract): “He who receives a field as a sharecropper from his friend, and, once he had acquired possession of it, he neglected it – they make an estimate of how much

it is suitable to produce and he pays that sum to him. For thus does he write him, 'If I neglect and I do not work it, I shall pay you from the best produce'" [T. Ket. 4:10].

5. **II:5:** R. Judah expounded the language of the marriage contract): "A man brings in behalf of his wife all the offerings which she owes, even if she ate prohibited fat, or even if she desecrated the Sabbath. For thus does he write for her [in her marriage contract], 'And obligations which you owe will be mine from before up to now.'
6. **II:6:** R. Yosé expounded the language of the marriage contract. R. Yosé (Y. drops: the Galilean) expounded, "In a place in which they are accustomed to collect the marriage contract as a loan, they collect the full amount [as if it were a loan]. [In a place in which they are accustomed] to double the sum of the marriage contract, they collect only half" [T. Ket. 4:13].
7. **II:7:** R. Eleazar Haqqappar expounded the language of the marriage contract. R. Eleazar Haqqappar expounded, "A man has not got the right to purchase a domesticated beast, a wild beast, or a bird, unless he provided food for them."
8. **II:8:** R. Joshua b. Qorha expounded the language of the marriage contract. [In the Tosefta's version and the Y. Yebamot parallel:] R. Joshua b. Qorha expounded, "He who lends money to his fellow should not exact a pledge greater than his debt. For thus does he [the borrower] write to him [in the document of loan], You will be paid from my property, from property which I acquire from beforehand up to now'" [T. Ket. 4:12].
9. **II:9:** R. Huna expounded the language of the marriage contract. So did R. Huna expound: "The sons will inherit the estate and the daughters will be supported by it. Just as the sons inherit movables, so the daughters are supported by the sale of movables."
10. **II:10:** He who enters his wife's estate and contemplates divorcing her, if he went ahead and plucked up produce from the ground in any measure at all, lo, this one is rewarded for his promptness [T. Ket. 8:2]. He who enters into an expropriated estate and heard a report that they [assumed to have died and left the estate] are returning, if he went ahead and plucked up produce from the ground in any measure at all, lo, this one is rewarded for his promptness. What is meant by the expropriated estate? Any whose father or brothers or one of those who leave him an inheritance went overseas, and he heard that they had died, and he entered into his inheritance. But as to an abandoned

estate, they extract it from his possession. What is an abandoned estate? It is any estate, the death of the owner of which has not been reported, but into which one nonetheless has entered for purposes of inheritance [T. Ket. 8:3A-G].

XXXVIII. YERUSHALMI KETUBOT 4:9

[A] [IF] HE DID NOT WRITE A MARRIAGE CONTRACT FOR HER, THE VIRGIN [NONETHELESS] COLLECTS TWO HUNDRED [ZUZ, IN THE EVENT OF DIVORCE OR WIDOWHOOD], AND THE WIDOW, A MANEH, FOR THIS IS [IN ALL EVENTS] AN UNSTATED CONDITION IMPOSED BY THE COURT.

1. **I:1:** The Mishnah passage before us represents the view of R. Meir, for R. Meir says, “Whoever pays less to a virgin than two hundred zuz and to a widow less than a maneh [in the marriage contract – lo, this is fornication” [M. 5:2A].

[B] [IF] HE ASSIGNED TO HER A FIELD WORTH A MANEH INSTEAD OF TWO HUNDRED ZUZ, AND DID NOT WRITE FOR HER, “ALL PROPERTY WHICH I HAVE IS SURETY FOR YOUR MARRIAGE CONTRACT,” HE IS NONETHELESS LIABLE, FOR THIS IS [IN ALL EVENTS] AN UNSTATED CONDITION IMPOSED BY THE COURT.

1. **II:1:** As to M. 4:9E-G] from whose viewpoint was it necessary to make this statement?

XXXIX. YERUSHALMI KETUBOT 4:10

[A] [IF] HE DID NOT WRITE FOR HER, “IF YOU ARE TAKEN CAPTIVE, I SHALL REDEEM YOU AND BRING YOU BACK TO MY SIDE AS MY WIFE,” OR, IN THE CASE OF A PRIEST GIRL, “I SHALL BRING YOU BACK TO YOUR TOWN,” HE IS NONETHELESS LIABLE [TO DO SO], FOR THIS IS [IN ALL EVENTS] AN UNSTATED CONDITION IMPOSED BY THE COURT. [IF] SHE WAS TAKEN CAPTIVE, HE IS LIABLE TO REDEEM HER, AND IF HE SAID, “LO, HERE IS HER WRIT OF DIVORCE AND [THE FUNDS OWING ON] HER MARRIAGE CONTRACT, LET HER REDEEM HERSELF,” HE HAS NO RIGHT TO DO SO. [IF] SHE FELL ILL, HE IS LIABLE TO HEAL HER. [IF] HE SAID, “LO, HERE IS HER WRIT OF DIVORCE AND [THE FUNDS OWING ON] HER MARRIAGE CONTRACT, LET HER HEAL HERSELF,” HE HAS THE RIGHT TO DO SO.

1. **I:1:** It has been taught: A deceased childless brother’s widow who was taken captive – the heirs [of the husband] are not obligated to redeem her. [Cf. T. Ket. 4:5-6.]

2. **I:2:** It was taught: Rabban Simeon b. Gamaliel says, “Medical care of fixed cost – she is healed at the expense of her marriage contract. But as to medical care of unfixed cost – lo, that is equivalent to any other aspect of her support” [T. Ket. 4:5/I].

XL. YERUSHALMI KETUBOT 4:11

- [A] [If] HE DID NOT WRITE FOR HER, “MALE CHILDREN WHICH YOU WILL HAVE WITH ME WILL INHERIT THE PROCEEDS OF YOUR MARRIAGE CONTRACT, IN ADDITION TO THEIR SHARE WITH THEIR OTHER BROTHERS,” HE NONETHELESS IS LIABLE [TO PAY OVER THE PROCEEDS OF THE MARRIAGE CONTRACT TO THE WOMAN’S SONS], FOR THIS IS [IN ALL EVENTS] AN UNSTATED CONDITION IMPOSED BY THE COURT.
1. **I:1:** This is in line with what R. Ammi said, “It is so that a man will be likely to give a dowry to his daughter in a liberal spirit. [Assuring that the wife’s property will pass to her children makes the wife’s father more willing to give her a large dowry.]”
2. **I:2:** There we have learned: He who says, “Mr. So-and-so will inherit me,” in a case in which he has a daughter, “My daughter will inherit me,” in a case in which he has a son, has said nothing whatsoever. For he has made a stipulation contrary to what is written in the Torah.] R. Yohanan b. Beroqah says, “If he made such a statement concerning someone who is suitable for receiving an inheritance, [e.g., a son among other sons,] his statement is valid. But if he made such a statement concerning someone who is not suitable for receiving an inheritance from him, his statement is null” [M. B.B. 8:5]...R. Yosa in the name of R. Yohanan: “There was a case, and R. Rabbi decided it in accord with the view of R. Yohanan b. Beroqah.” R. Zeira in the name of R. Yohanan: “Rabbi asked Nathan the Babylonian, what is the reason that they said that the law follows R. Yohanan b. Beroqah’s ruling?” R. Ba, R. Hiyya in the name of R. Yohanan, “What is the reason that he asked Nathan the Babylonian, ‘Why did they say, “The law is in accord with the view of R. Yohanan b. Beroqah?”’” [Why should Rabbi have been in doubt?] [Nathan] said to [Rabbi], “Now did you yourself not teach also: [If the husband did not write for her, ‘Male children which you will have with me will] inherit [the proceeds of your marriage contract, in addition to their share with their other brothers,] he nonetheless is liable [to pay over the proceeds of the marriage contract to the woman’s son], for this is an unstated condition imposed by the court [M. 4:10]?”

3. **I:3:** Said R. Zeira, “A more lenient ruling applies in the case of the marriage settlement. For in all other cases a man transfers ownership only through a deed, but here even if he did it verbally, it is valid. Further, in all other cases a man does not transfer ownership except to someone who is already alive. But here he transfers ownership to someone who is not yet alive.”

XLI. YERUSHALMI KETUBOT 4:12

[A] **[IF HE DID NOT WRITE FOR HER,] “FEMALE CHILDREN WHICH YOU WILL HAVE FROM ME WILL DWELL IN MY HOUSE AND DERIVE SUPPORT FROM MY PROPERTY UNTIL THEY WILL BE MARRIED TO HUSBANDS,” HE NONETHELESS IS LIABLE [TO SUPPORT HER DAUGHTERS], FOR THIS IS [IN ALL EVENTS] AN UNSTATED CONDITION IMPOSED BY THE COURT.**

1. **I:1:** R. Hisda said, “When they reach maturity, they lose their claim on support. If they get married, they lose their claim for a dowry.” R. Hiyya taught, “If they reached maturity, but had not gotten married or got married but had not reached maturity, they lose their claim on maintenance but do not lose their claim for a dowry.”
- a. **I:2:** A case [in which a woman had been deprived of her dowry] came before R. Mana, who proposed to rule in accord with the view of R. Hisda [so depriving the woman of her dowry].
2. **I:3:** Rabin bar Hiyya asked before R. Zeira, “If the husband had sexual relations with the fiancée while she was yet in her father’s house, do the stipulations of the marriage settlement take effect at that point, or does the document come into effect only when the marriage is consummated?”

XLII. YERUSHALMI KETUBOT 4:13

[A] **[IF HE DID NOT WRITE FOR HER,] “YOU WILL DWELL IN MY HOUSE AND DERIVE SUPPORT FROM MY PROPERTY SO LONG AS YOU ARE A WIDOW IN MY HOUSE,” [HIS ESTATE] NONETHELESS IS LIABLE [TO SUPPORT HIS WIDOW], FOR THIS IS [IN ALL EVENTS] AN UNSTATED CONDITION IMPOSED BY THE COURT.**

1. **I:1:** R. Zeira sent [and] asked R. Nahman bar Jacob and R. Abimi bar Pappi, “If there was no house available [does the estate have to build one]?”

XLIII. YERUSHALMI KETUBOT 4:14

[A] SO DID THE JERUSALEMITES WRITE INTO A MARRIAGE CONTRACT. THE GALILEANS WROTE THE MARRIAGE CONTRACT AS DID THE JERUSALEMITES. THE JUDEANS WROTE INTO THE MARRIAGE CONTRACT, “UNTIL SUCH TIME AS THE HEIRS WILL CHOOSE TO PAY OF YOUR MARRIAGE CONTRACT.” THEREFORE IF THE HEIRS WANTED, THEY PAY OFF HER MARRIAGE CONTRACT AND LET HER GO.

1. **I:1:** The Galileans were concerned about the honor owing to them and were not much concerned about their money [so they supported the widow indefinitely]. The Judeans were concerned about their money and were not much concerned about the honor owing to them [so they ordained the rule of M. 4:14D].

XLIV. YERUSHALMI KETUBOT 5:1

[A] EVEN THOUGH THEY HAVE SAID, “A VIRGIN COLLECTS TWO HUNDRED ZUZ AND A WIDOW A MANEH” [M. 4:8A], IF [THE HUSBAND] WANTED TO INCREASE THAT SUM, EVEN BY A HUNDRED MANEH, HE MAY ADD TO IT. [IF] SHE WAS WIDOWED OR DIVORCED, WHETHER AT THE STAGE OF BETROTHAL OR AT THE STAGE OF CONSUMMATED MARRIAGE, SHE COLLECTS THE FULL AMOUNT.

1. **I:1:** On what count is the husband liable to her [for paying the additional gifts, in the case of M. 5:1C]? Did not both R. Yohanan and R. Simeon b. Laqish say, “He who writes a bond to his fellow assuming that he owes him money, and it turns out that he does not owe him, is not liable to pay him [the sum specified in the bond]”?
2. **I:2:** Just as the husband agrees to pay [a sum over and above the minimum amount of the marriage settlement], so the father agrees to a dowry [and thereby is obligated]. But the husband assigns ownership through a bond, while the father assigns ownership [of what he promises to give] only verbally. And that is on condition [that the matter subject to the pledge is] something which is acquired through a verbal declaration.
3. **I:3:** R. Ba bar Hiyya in the name of R. Yohanan: “How much are you going to give to your son?” ‘Such and so.’ ‘How much are you going to give to your daughter?’ ‘Such and so.’ Once that girl was consecrated, she has acquired ownership of the things to which the father referred, in preference to the other daughters. And the son likewise [acquires

these things] in preference to the other sons. And that rule is on the condition that the agreement is at the stage of the first marriage into which these children have entered. [The transfer of ownership is effected through a verbal statement only in the case of the original marriage, which is a source of great joy to the fathers.]”

4. **I:4:** You say, the father may make an agreement in behalf of his daughter. Is that the case even if she has reached maturity?

[B] R. ELEAZAR B. AZARIAH SAYS, “[IF SHE IS WIDOWED OR DIVORCED] AT THE STAGE OF CONSUMMATED MARRIAGE, SHE COLLECTS THE FULL AMOUNT. [IF IT WAS] AT THE STAGE OF BETROTHAL, THE VIRGIN COLLECTS [ONLY] TWO HUNDRED ZUZ, AND THE WIDOW, A MANEH, FOR HE WROTE OVER [ANY ADDITIONAL SUM] ONLY ON CONDITION OF CONSUMMATING THE MARRIAGE.”

1. **II:1:** [As to M. 5:1D-F’s statement of Eleazar b. Azariah’s view that collection is possible only in the case of a consummated marriage,] [the point of the Mishnah teaching is that] the husband has added further gifts to the wife’s marriage settlement only because of his love on the first night of marriage, on which he has had sexual relations with her. [The act of acquisition is sealed by the love of the sexual act, not merely the love of the marriage canopy.]
2. **II:2:** R. Jacob bar Aha, R. Alexa in the name of Hezekiah: “The law accords with the view of R. Eleazar b. Azariah, who stated, If she was widowed or divorced at the stage of betrothal, the virgin collects only two hundred zuz and the widow, a maneh. If she was widowed or divorced at the stage of a consummated marriage, she collects the full amount” [M. 5:1E, D]. R. Hananiah said, “The law accords with the view of R. Eleazar b. Azariah.”

XLV. YERUSHALMI KETUBOT 5:2

[A] R. JUDAH SAYS, “IF HE WANTS, HE WRITES TO A VIRGIN A BOND FOR TWO HUNDRED, AND SHE WRITES, ‘I HAVE RECEIVED FROM YOU A MANEH.’ AND TO A WIDOW, HE WRITES A BOND FOR A MANEH, AND SHE WRITES, ‘I HAVE RECEIVED FROM YOU FIFTY ZUZ.’” R. MEIR SAYS, “WHOEVER PAYS LESS TO A VIRGIN THAN TWO HUNDRED ZUZ AND TO A WIDOW LESS THAN A MANEH — LO, THIS IS FORNICATION.”

1. **I:1:** R. Judah maintains the view that they do not give to a virgin less than a maneh [a hundred zuz], and to a widow, fifty zuz. [If that is his view of what is required,] then why do they not write out that sum to

begin with [rather than going through the procedure of providing a false receipt for funds received]?

2. **I:2:** Said R. Yohanan, “R. Judah has stated his view only with reference to the end of the transaction. But to begin with, also R. Judah concurs [that she must first make acquisition of a properly drawn-up writ and only afterward exercises her right to relinquish claim on some of the amount specified therein].”
3. **I:3:** What is a wife and what is a concubine? R. Meir says, “A wife has a marriage contract, and a concubine does not have a marriage contract.” R. Judah says, “Both this one and that one have a marriage contract. A wife has a marriage contract, which is subject to the normal stipulations associated therewith, and a concubine has a marriage contract, too, but it is not subject to the normal stipulations associated therewith.”
 - a. **I:4:** R. Judah in the name of Rab: “This represents the view of R. Meir and R. Judah. But so far as sages are concerned [the following is the law].” A man marries a woman on condition of not having to maintain her and of not having to support her. And not only so, but he may make an agreement with her that she maintain and support him and teach him Torah.

XLVI. YERUSHALMI KETUBOT 5:3

[A] THEY GIVE A VIRGIN TWELVE MONTHS TO PROVIDE FOR HERSELF FROM THE TIME THAT THE HUSBAND HAS DEMANDED HER. AND JUST AS THEY GIVE [A TIME OF PREPARATION] TO THE WOMAN, SO THEY GIVE A TIME OF PREPARATION TO A MAN TO PROVIDE FOR HIMSELF. AND TO A WIDOW THEY GIVE THIRTY DAYS. [IF] THE TIME CAME AND HE DID NOT MARRY HER, SHE IN ANY EVENT IS SUPPORTED BY HIM.

1. **I:1:** It has been taught: Reaching maturity is equivalent to a demand [on the part of the prospective husband that the betrothed prepare herself for marriage, for which she is given] twelve months [T. Ket. 5:1A].
2. **I:2:** Said R. Hila, “It is taught there: They give a mature woman [after she reached maturity] twelve months, and then they give her a token of betrothal, and so, in the case of a widow, they give her thirty days.”

3. **I:3:** [If] she observed twelve months prior to marriage with the first [who then died], and a second suitor then came along [and betrothed her] and said to her, “Have you not already prepared [for the wedding for twelve months, in connection with the first betrothal]?” she has the right to say to him, “I love him even more than the first one, [and so need more time to prepare myself for the marriage].”

[B] **AND SHE EATS HEAVE OFFERING [IF HE IS A PRIEST, AND SHE IS NOT]. R. TARFON SAYS, “THEY GIVE HER ALL OF HER SUPPORT IN FOOD IN THE STATUS OF HEAVE OFFERING.” R. AQIBA SAYS, “HALF IN UNCONSECRATED PRODUCE AND HALF IN HEAVE OFFERING.”**

1. **II:1:** [As to M. 5:3D-E,] if the time came and they did not get married, [the women in question] eat his food, and they eat food in the status of heave offering. If their husbands died [and they came before the levir], they continue to eat his food, but they do not eat food in the status of heave offering.
2. **II:2:** “They give her all of her support in food in the status of heave offering. For heave offering is everywhere available.” R. Aqiba says, “Half in unconsecrated produce and half in heave offering.”

For women routinely impart uncleanness to food which is to be guarded in conditions of cultic cleanness [e.g., during their period].”

XLVII. YERUSHALMI KETUBOT 5:4

[A] **THE LEVIR CANNOT FEED HEAVE OFFERING TO THE SISTER-IN-LAW [WHO IS WIDOWED AT THE STAGE OF BETROTHAL AND IS AWAITING CONSUMMATION OF THE LEVIRATE MARRIAGE.]**

1. **I:1:** Said R. Jeremiah, “There it is taught: The widow of a childless brother, for the first three months after his death, is supported from the estate of her husband. After three months she is not supported either from her husband’s estate or from her levir’s property. If her levir went to court and fled, lo, she is supported from his property” [T. Yeb. 6:7I-K]. If the levir fell ill, it is as if he had fled. If he went abroad, it is as if he had fled. A widow who said, “Lo, I shall spend my widowhood in the house of my husband” – they listen to her.

[B] **IF SHE HAD WAITED SIX MONTHS FOR THE HUSBAND [M. 5:3A], AND SIX MONTHS AWAITED THE LEVIR, [OR] EVEN IF ALL OF THEM WERE WAITING FOR THE HUSBAND BUT ONLY ONE DAY WAS SPENT WAITING FOR THE LEVIR, OR ALL OF THEM WERE AWAITING THE LEVIR, EXCEPT ONE DAY AWAITING THE HUSBAND,**

SHE DOES NOT EAT HEAVE OFFERING. THIS IS THE FIRST MISHNAH. THE SUCCEEDING COURT RULED: “THE WOMAN DOES NOT EAT HEAVE OFFERING UNTIL SHE ENTERS THE MARRIAGE CANOPY.”

1. **II:1:** And it is not the end of the matter that it was six months for the levir, but even if all of them were waiting for the husband but only one day was spent waiting for the levir, she does not have the right to eat food in the status of heave offering.
 - a. **II:2:** The Mishnah passage [which holds that if the time came and he did not marry her, she in any event is supported by him, and she eats heave offering if he is a priest, M. 5:3D-E,] does not accord either with the first Mishnah nor with the last Mishnah, [for the former allows for eating heave offering while the woman is yet betrothed, and the last Mishnah permits it only when she is married]. But it is in accord with the version of the Mishnah that came in the interim.
2. **II:3:** And already did Yohanan b. Bagbag send to R. Judah b. Betera in Nisibis, saying to him, “I heard about you that you rule, ‘An Israelite girl betrothed to a priest eats heave offering.’” He sent back and said to him, “I was sure that you are an expert in the inner chambers of the law. But you don’t even know how to construct an argument a fortiori! Now if a Canaanite slave girl, with whom sexual relations do not constitute an act of acquisition so that she may eat heave offering, but a money payment constitutes an act of acquisition so that she may eat heave offering – an Israelite girl, for whom the act of sexual relations does constitute an act of acquisition so that she may eat heave offering – logically the transfer of a money payment should constitute an act of acquisition sufficient for her to eat heave offering. But what shall I do! For lo, sages have said, ‘An Israelite girl who is betrothed does not eat heave offering until she enters the marriage canopy’ [T. Ket. 5:1Q-T].”

XLVIII. YERUSHALMI KETUBOT 5:5

[A] **HE WHO SANCTIFIES TO THE TEMPLE THE FRUITS OF HIS WIFE’S LABOR [HER WAGES], LO, THIS WOMAN [CONTINUES TO] WORK AND EAT [MAINTAIN HERSELF]. AND THE EXCESS – R. MEIR SAYS, “IT IS CONSECRATED.” R. YOHANAN HASSANDLAR SAYS, “IT IS UNCONSECRATED.”**

1. **I:1:** R. Meir says, “It is consecrated. It belongs to him.” R. Yohanan Hassandlar says, “It is unconsecrated.” But is it [not] his? [That is, the

excess under discussion is what is left over after providing for her. What argument is possible? This is surely his property.]

2. **I:2:** “What I am going to inherit from father is sold to you,” or, “What is going to come up in my trap is sold to you” – he has said nothing whatsoever. “What I am going to inherit from father today is sold to you,” And, “What is coming up in my trap today is sold to you” – his statement is confirmed [T. B.M. 4:10].
3. **I:3:** R. Jeremiah asked, “He who sanctifies the fruit of his slave’s labor, and he was out hunting, what is the law?”
4. **I:4:** R. Yohanan said, “He who cuts off the hand of his fellow’s slave – the master of the slave collects compensation for the injury, pain, healing, time lost, and indignity, and the slave himself will then be supported from charity funds.”

XLIX. YERUSHALMI KETUBOT 5:6

[A] THESE ARE THE KINDS OF LABOR WHICH A WOMAN PERFORMS FOR HER HUSBAND : SHE GRINDS FLOUR, BAKES BREAD, DOES LAUNDRY, PREPARES MEALS :

1. **I:1:** It has been taught as a Tannaite statement: The kinds of work which a woman does for her husband – seven basic categories of labor did they enumerate. And the rest did not require enumeration [M. 5:6A-B] [T. Ket. 5:4A-C].

[B] FEEDS HER CHILD, MAKES THE BED, WORKS IN WOOL.

1. **II:1:** Said R. Haggai, “It says only, ‘her child.’ Lo, in a case of twins, she is not [required to suckle both].”

[C] [If] SHE BROUGHT WITH HER A SINGLE SLAVE GIRL, SHE DOES NOT GRIND, BAKE BREAD, OR DO LAUNDRY. [If SHE BROUGHT] TWO, SHE DOES NOT PREPARE MEALS AND DOES NOT FEED HER CHILD. [If SHE BROUGHT] THREE, SHE DOES NOT MAKE THE BED FOR HIM AND DOES NOT WORK IN WOOL. If SHE BROUGHT FOUR, SHE SITS ON A THRONE. R. ELIEZER SAYS, “EVEN IF SHE BROUGHT HIM A HUNDRED SLAVE GIRLS, HE FORCES HER TO WORK IN WOOL, FOR IDLENESS LEADS TO UNCHASTITY.” RABBAN SIMEON B. GAMALIEL SAYS, “ALSO: HE WHO PROHIBITS HIS WIFE BY A VOW FROM PERFORMING ANY LABOR PUTS HER AWAY AND PAYS OFF HER MARRIAGE CONTRACT. FOR IDLENESS LEADS TO BOREDOM.”

1. **III:1:** If she brought [with her a single slave girl, etc. (M. 5:6C-F)]. Said R. Samuel bar R. Isaac, “It is not the end of the matter that she actually brought [the slave girls with her]. But even if she was in a position to do so [but did not actually bring them in, the same law applies].”
2. **III:2:** [Since the Mishnah specifies the work of the several slave girls, M. 5:6C-F, we now ask:] And let her bring a slave girl to do all the work?
3. **III:3:** R. Huna said, “Even if she brought in to the marriage a hundred slave girls, he may force her to perform for him certain tasks best done in private.”
4. **III:4:** It is taught [in the Tosefta’s version]: R. Judah says, “Also: He cannot force her to work in flax, for it makes the mouth swell and cuts the lips” [T. Ket. 5:4G].

L. YERUSHALMI KETUBOT 5:7

[A] HE WHO TAKES A VOW NOT TO HAVE SEXUAL RELATIONS WITH HIS WIFE — THE HOUSE OF SHAMMAI SAY, “[HE MAY ALLOW THIS SITUATION TO CONTINUE] FOR TWO WEEKS.” AND THE HOUSE OF HILLEL SAY, “FOR ONE WEEK.”

1. **I:1:** He who takes a vow not to have sexual relations with his wife — the House of Shammai say, “[He may remain married] for two weeks, equivalent to the period of uncleanness after the birth of a female.” And the House of Hillel say, “One week, equivalent to the period of uncleanness after the birth of a male, and equivalent to the menstrual period” [T. Ket. 5:6A-F].

[B] DISCIPLES GO FORTH FOR TORAH STUDY WITHOUT [THE WIFE’S] CONSENT FOR THIRTY DAYS.

1. **II:1:** Lo, with their wives’ consent, [they may go forth] even for any period of time.
2. **II:2:** R. Samuel bar Nahman in the name of R. Jonathan: “‘And he sent them to Lebanon, ten thousand a month in relays; [they would be a month in Lebanon and two months at home]’” (1 Kings 5:14). Said R. Abin, “The Holy One, blessed be he, preferred procreation over the building of the house of the sanctuary.”

[C] WORKERS GO OUT FOR ONE WEEK.

1. **III:1:** With reference to M. 5:7E, Workers go out for one week, as against M. 5:7F, Workers, twice a week:] Here you say once a week, and there you say twice a week?

[D] **“THE SEXUAL DUTY OF WHICH THE TORAH SPEAKS [EX. 21:10]:**

1. **IV:1:** The sexual duty of which the Torah speaks [M. 5:7F]: There are Tannaim who teach [with reference to Ex. 21:10: “He shall not diminish her S’R, her clothing, and her ‘WNH,” with the words given in consonants translated at RSV: her food, her marital rights, respectively], that S’R refers to sexual relations, and ‘WNH refers to food. And there are Tannaim who teach: ‘WNH refers to sexual relations, [and] S’R refers to food.

[E] (1) **THOSE WITHOUT WORK [OF INDEPENDENT MEANS] – EVERY DAY; (2) WORKERS – TWICE A WEEK; (3) ASS-DRIVERS – ONCE A WEEK; (4) CAMEL-DRIVERS – ONCE IN THIRTY DAYS; (5) SAILORS – ONCE IN SIX MONTHS,”**
THE WORDS OF **R. ELIEZER.**

1. **V:1:** [As to M. 5:7D, disciples, and M. 5:7F, those of independent means:] R. Jeremiah raised the question, “As to these disciples of sages, is it not reasonable that we should treat them as equivalent to those who have independent means [and have sexual relations every day]?” Said R. Mana, “Is it not yet more reasonable to treat them as equivalent to those who harvest crops [that is, very hard workers indeed], for they work harder [in their learning, than anyone else].”
2. **V:2:** Rab said, “[When M. 5:11 says that the wife] eats with him on Sabbath nights, the Mishnah uses a euphemism [for sexual relations].”

LI. YERUSHALMI KETUBOT 5:8

[A] **SHE WHO REBELS AGAINST HER HUSBAND [DECLINING TO PERFORM WIFELY SERVICES – THEY DEDUCT FROM HER MARRIAGE CONTRACT SEVEN DENARS A WEEK. R. JUDAH SAYS, “SEVEN TROPAICS.” HOW LONG DOES ONE CONTINUE TO DEDUCT? UNTIL HER ENTIRE MARRIAGE CONTRACT [HAS BEEN VOIDED]. R. YOSÉ SAYS, ‘HE CONTINUES TO DEDUCT [EVEN BEYOND THE VALUE OF THE MARRIAGE CONTRACT], FOR AN INHERITANCE MAY COME [TO HER] FROM SOME OTHER SOURCE, FROM WHICH HE WILL COLLECT WHAT IS DUE HIM.” AND SO IS THE RULE FOR THE MAN WHO REBELS AGAINST HIS WIFE [DECLINING TO DO THE HUSBAND ‘S DUTIES (M. 5:5)] – THEY ADD THREE DENARS A WEEK TO HER MARRIAGE CONTRACT. R. JUDAH SAYS, “THREE TROPAICS.”**

1. **I:1:** Here you state [that they deduct] seven [M. 5:8B], and there you state [that they add] three [M. 5:8H]! Said R. Yosé bar Haninah, “As to her, since she is obligated to him for seven [sorts of labor], he deducts from her marriage settlement seven, while in his case, since he is obligated to her for three [acts of labor], he adds three to her contract.”
2. **I:2:** And in accord with the view of R. Eliezer, an ass driver [and the other professionals, who, according to Eliezer at M. 5:7, have different obligations to their wives, from whom they may be absent for brief periods], how much does he diminish [the marriage contract, when the wife rebels]?
3. **I:3:** What does one deduct? Is it from the property she brought him into the marriage over and above the dowry?
4. **I:4:** R. Zeira in the name of Samuel: “They write a writ of rebellion as a charge against the marriage contract in the case of a betrothed woman, but they do not write a rebellion as a charge against the marriage contract of a deceased childless brother’s widow.”
5. **I:5:** Our rabbis ordained that a court should warn her four or five consecutive weeks, twice a week. [If she persists] any longer than that – even if her marriage contract is a hundred *maneh*, she has lost the whole thing [T. Ket. 5:7C-D].
6. **I:6:** R. Haninah in the name of R. Ishmael b. R. Yosé: “She who goes forth because she has a bad name has no claim on indemnity [for the wear or ruin of things which she brought into the marriage along as her property]. She who rebels [and leaves the marriage on that count] does have such a claim.”

LII. YERUSHALMI KETUBOT 5:9

[A] **HE WHO MAINTAINS HIS WIFE BY A THIRD PARTY MAY NOT PROVIDE FOR HER LESS THAN TWO QABS OF WHEAT OR FOUR QABS OF BARLEY [PER WEEK]. SAID R. YOSÉ, “ONLY R. ISHMAEL RULED THAT BARLEY MAY BE GIVEN TO HER, FOR HE WAS NEAR EDMOM.”**

1. **I:1:** What is the meaning of “Near Edom”? It means in the South.

LIII. YERUSHALMI KETUBOT 5:10

[A] AND ONE PAYS OVER TO HER A HALF-QAB OF PULSE, A HALF-LOG OF OIL, AND A QAB OF DRIED FIGS OR A MANEH OF FIG CAKE. AND IF HE DOES NOT HAVE IT, HE PROVIDES INSTEAD FRUIT OF SOME OTHER TYPE. AND HE GIVES HER A BED, A COVER, AND A MAT. AND HE GIVES HER A CAP FOR HER HEAD, AND A GIRDLE FOR HER LOINS, AND SHOES FROM ONE FESTIVAL SEASON TO THE NEXT, AND CLOTHING WORTH FIFTY ZUZ FROM ONE YEAR TO THE NEXT. AND THEY DO NOT GIVE HER EITHER NEW ONES IN THE SUNNY SEASON OR OLD ONES IN THE RAINY SEASON. BUT THEY PROVIDE FOR HER CLOTHING FOR FIFTY ZUZ IN THE RAINY SEASON, AND SHE CLOTHES HERSELF WITH THE REMNANTS IN THE SUNNY SEASON. AND THE RAGS REMAIN HERS.

1. I:1: Said R. Mana, “He gives her a *maneh* and four *litras*.” [In the Tosefta’s version:] He gives her a cup, a plate, a bowl, an oil cruse, a lamp, and a wick. She has no claim for wine, for the wives of the poor do not drink wine. She has no claim for a pillow, for the wives of the poor do not sleep on pillows [T. Ket. 5:8E-F].
2. I:2: R. Hiyya in the name of R. Yohanan, “[If] she had food left over, it goes back to the husband. If she had remnants left over [M. 5:10F, they belong to her.”

LIV. YERUSHALMI KETUBOT 5:11

[A] HE GIVES HER IN ADDITION A SILVER MAAH [A SIXTH OF A DENAR] FOR HER NEEDS [PER WEEK]. AND SHE EATS WITH HIM ON THE SABBATH AT NIGHT. AND IF HE DOES NOT GIVE HER A SILVER COIN FOR HER NEEDS, THE FRUIT OF HER LABOR BELONGS TO HER. AND HOW MUCH WORK DOES SHE DO FOR HIM? THE WEIGHT OF THE FIVE SELAS OF WARP MUST SHE SPIN FOR HIM IN JUDEA (WHICH IS TEN SELAS WEIGHT IN GALILEE), OR THE WEIGHT OF TEN SELAS OF WOOL IN JUDAH (WHICH ARE TWENTY SELAS IN GALILEE). AND IF SHE WAS FEEDING A CHILD, THEY TAKE OFF [THE REQUIRED WEIGHT OF WOOL WHICH SHE MUST SPIN AS] THE FRUIT OF HER LABOR, AND THEY PROVIDE MORE FOOD FOR HER. UNDER WHAT CIRCUMSTANCES? IN THE CASE OF THE MOST POVERTY-STRICKEN MAN IN ISRAEL. BUT IN THE CASE OF A WEIGHTIER PERSON, ALL FOLLOWS THE EXTENT OF HIS CAPACITY [TO SUPPORT HIS WIFE].

1. I:1: [As to M. 5:11B,] the matter is expressed in a euphemism [and refers in fact to sexual relations].

2. **I:2:** She has no claim for wine, for the wives of the poor do not drink wine [T. Ket. 5:8E].
- a. **I:3:** Even so, she cursed them and said to them, “Thus may you award for your own daughters” [T. Ket. 5:9D].

LV. YERUSHALMI KETUBOT 6:1

[A] **WHAT A WIFE FINDS AND THE FRUIT OF HER LABOR GO TO HER HUSBAND [M. 4:4]**
 — **AND AS TO WHAT COMES TO HER AS AN INHERITANCE, HE HAS USE OF THE RETURN WHILE SHE IS ALIVE. [PAYMENTS MADE FOR] SHAMING HER OR INJURING HER ARE HERS. R. JUDAH B. BETERAH SAYS, “WHEN [AN INJURY] IS DONE TO A HIDDEN [PART OF HER BODY], TO HER GO TWO SHARES, AND TO HIM ONE. WHEN [AN INJURY IS DONE] TO A PART OF HER BODY WHICH SHOWS, TO HIM GO TWO SHARES, AND TO HER ONE. HIS IS PAID OVER FORTHWITH. BUT WITH HERS, LET REAL ESTATE BE PURCHASED, AND HE [THE HUSBAND] HAS THE USE OF THE RETURN [ON IT WHILE SHE IS ALIVE].”**

1. **I:1:** R. Hezekiah in the name of R. Immi: “R. Yohanan and R. Simeon b. Laqish debated the matter. One of them said that [the rule of M. 6:1A that what the wife finds goes to her husband] represents the opinion of all parties. The other holds that the matter is subject to [the same] dispute [as was reported above, at M. 5:5, between Meir and Yohanan Hassandlar, with the former alone standing behind the assignment of what the woman finds to the husband].
2. **I:2:** [As to the ruling that what comes to the wife as an inheritance is invested, with the husband’s enjoying the return while he is alive, M. 6:1B], from whose viewpoint is such a ruling required? It is important from the viewpoint of R. Meir. Even though R. Meir treats the hand of the slave as the hand of his master [and the hand of the wife as the hand of the husband], so that if the woman has taken possession of something, her husband automatically has done so, he concurs that the husband has a claim on her [possessions] for the usufruct alone.
- a. **I:3:** [We turn to a discussion of M. B.M. 1:5, asking what is the difference between the first and second parts of that text.] We learned there [M. B.M. 1:5A]: Things which are found by one’s minor son or daughter, things which are found by his Canaanite slave boy or slave girl, things found by his wife – lo, they belong to him, since he is able to change them [from the work they are doing] to some other kind of work. What is the reason that they say [in M. B.M. 1:5B]: Things found by his adult son or daughter,

things found by his Hebrew slave boy or slave girl – lo, they belong to them, for he is not able to change them [from the work they are doing] to some other kind of work.

3. **I:4:** R. Isaac taught, “He who divorces his wife and has not paid off the whole of her marriage settlement must provide her with maintenance until the time that he pays it off fully.”
4. **I:5:** As to the distinction of M. 6:1D-F,] R. Redipah, R. Aha in the name of R. Bun bar Kahana: “[The reason that we distinguish between injuries which show and injuries which do not is that when the injury is done] in private, it does not shame her [so much, and hence she gets the larger part].”

LVI. YERUSHALMI KETUBOT 6:2

[A] **HE WHO AGREES TO PAY OVER MONEY [AS A DOWRY] TO HIS SON-IN-LAW, AND HIS SON-IN-LAW DIES – SAGES HAVE SAID, “HE CAN CLAIM, ‘TO YOUR BROTHER WAS I WILLING TO GIVE [MONEY], BUT TO YOU [THE LEVIR] I AM NOT WILLING TO GIVE MONEY.’”**

1. [Do we not deal] with things which are acquired through a verbal donation? [Did not the deceased acquire these objects when the father-in-law promised them, as Giddul says at Y. 5: 1/II? Accordingly, the deceased’s surviving brother, the levir, should be able to collect the dowry in court.]
2. **I:2:** And further [it is taught]: He who agrees to give money to his minor daughter – they force him to pay it over. Lo, if it was to an adult daughter, that is not the case.

LVII. YERUSHALMI KETUBOT 6:3

[A] **[IF A WOMAN] AGREED TO BRING INTO [THE MARRIAGE FOR] HIM A THOUSAND DENARS [TEN MANEHS] HE [THE HUSBAND] AGREES [TO PAY OVER IN HER MARRIAGE CONTRACT] FIFTEEN MANEHS OVER AGAINST THIS AND OVER AGAINST THE GOODS [WHICH SHE AGREED TO BRING IN,] ESTIMATED [TO BE A GIVEN VALUE], HE AGREES [TO RESTORE, AS A CONDITION OF HER MARRIAGE CONTRACT,] A FIFTH LESS [THAT IS, IF] THE ESTIMATED VALUE [TO BE INSCRIBED IN THE MARRIAGE CONTRACT] IS A MANEH, AND THE ACTUAL VALUE IS [SPECIFIED AT] A MANEH, HE HAS [VALUE] ONLY FOR ONE MANEH [AND NOT**

A FIFTH MORE IN VALUE] [IF] THE ESTIMATED VALUE [TO BE INSCRIBED IN THE MARRIAGE CONTRACT] IS A MANEH [BUT NOT SPECIFIED AT A MANEH, AS AT D], SHE MUST GIVE OVER THIRTY-ONE SELAS AND A DENAR [= 125 DENARS IN VALUE OF GOODS] AND [IF THE VALUE TO BE WRITTEN INTO THE MARRIAGE CONTRACT IS TO BE] FOUR HUNDRED, SHE MUST GIVE OVER FIVE HUNDRED WHAT THE HUSBAND AGREES [TO HAVE INSCRIBED IN THE MARRIAGE CONTRACT] HE AGREES TO, LESS A FIFTH.

1. **I:1:** Why did [sages] rule that in the case of ready cash, [the husband pays over] one and a half times [what is paid in], while in the case of the estimated value of goods, [he pledges to pay back the stated sum] less a fifth?
2. **I:2:** Simeon bar Abba in the name of R. Yohanan: “If she brought into the marriage gold specie, it is evaluated at its full value.”
3. **I:3:** R. Aha bar Papa raised the question before R. Immi, “If she brought into the marriage a domesticated beast, [is it treated as ready cash or as utensils]?”

LVIII. YERUSHALMI KETUBOT 6:4

[A] [IF] SHE AGREED TO BRING IN TO HIM READY MONEY, A SILVER SELA IS TREATED AS SIX DENARS [INSTEAD OF FOUR]:

1. **I:1:** If she agreed to bring into the marriage goods estimated in value to be worth five hundred *denars*, and he had the right to write them into the marriage contract at a value of four hundred, but he did not do so, but rather wrote them in at a value of a thousand denars, if she made her own stipulation [did what she agreed to do], she takes what she wrote over to him [Y.: all of it]. And if not, he takes off three [Y.: five] denars for each and every sela [written into the contract]. [By paying five denars per sela, he produces four hundred denars, which is what she has coming to her, since a hundred selas are worth four hundred denars. But the woman does not collect any part of the additional sum, up to the thousand.] But he may not touch the additional sum. [If] she agreed to bring into him five hundred denars in ready money, [and] he wrote over to her a thousand denars [Y.: 750] in her marriage contract, if she made her own stipulation, she takes what he wrote over to her [Y.: all of it]. And if not, he takes off six denars for each and every sela [written into the contract]. But he may not touch the additional sum. If she agreed to bring into the marriage a thousand zuz, he has to write them into the marriage settlement at the

value of fifteen maneh. If he did not do so, but rather he wrote over to her a field worth twelve manehs, if she made her own stipulation, she takes what he wrote over to her [Y.: all of it]. And if not, he should not pay less to a virgin than two hundred zuz and a widow a maneh [T. Ket. 6:6E-M].

2. **I:2:** It has been taught: Whether we deal with the estimated value of goods or with the face value of ready cash – As to the estimated value of goods? It is in accord with the diminished value [of the goods, through usage, that the sum to be entered into the marriage settlement is reached].

[B] THE HUSBAND TAKES UPON HIMSELF [RESPONSIBILITY TO GIVE] TEN DENARS FOR POCKET MONEY IN EXCHANGE FOR EACH AND EVERY MANEH [WHICH SHE BRINGS IN].

1. **II:1:** [As to M. 6:4B, the husband] gives ten denars for pocket money in exchange for every maneh she brings in: Said R. Yohanan, “They have treated the value of the enjoyment of the pocket money as equivalent to the value of the utilization of the ready cash. [That is, just as we deal in a fixed proportion in the case of her bringing in ready cash, so we deal in a fixed proportion here. Yohanan explains the Mishnah’s rule.]”

[C] RABBAN SIMEON B. GAMALIEL SAYS, “ALL FOLLOWS THE LOCAL CUSTOM.”

1. **III:1:** [M. 6:4C] is in line with the following: Disciples of R. Yosé went up to the town of Qadashin. They found a couple that was childless. They said to them, “Did you stipulate among yourselves? If you stipulated among yourselves [how the settlement was to be worked out, on the occasion of a divorce, if you were to remain childless,] well and good. And if not, all follows the local custom.”

LIX. YERUSHALMI KETUBOT 6:5

[A] HE WHO MARRIES OFF HIS DAUGHTER WITHOUT SPECIFIED CONDITIONS SHOULD NOT ASSIGN TO HER LESS THAN FIFTY ZUZ. [IF] HE AGREED TO BRING HER IN NAKED, THE HUSBAND MAY NOT SAY, “WHEN I SHALL BRING HER INTO MY HOUSE, I SHALL COVER HER WITH A GARMENT BELONGING TO ME.” BUT HE CLOTHES HER WHILE SHE IS STILL IN HER FATHER’S HOUSE.

1. **I:1:** R. Abba Mari, brother of R. Yosé, asked, “Has it not been taught: He who married off his daughter and agreed with his son-in-law that she should stand naked, and the [son-in-law] should clothe her, they do

not say, 'Let her stand naked and have him clothe her,' but he covers her in a manner fitting to her [T. Ket. 6:7]? [The question is, why has the Mishnah made the point, M. 6:5B, the husband does have to carry out the stipulation, while in the cited passage of the Tosefta, he does not?]"

[B] AND SO: HE WHO MARRIES OFF AN ORPHAN GIRL SHOULD NOT ASSIGN TO HER LESS THAN FIFTY ZUZ. IF THERE IS SUFFICIENT MONEY IN THE FUND, THEY PROVIDE HER WITH A DOWRY ACCORDING TO THE HONOR DUE HER.

- 1. II:1:** Said R. Hinena, "That is to say that they instruct the administrators of charity funds to borrow money [for the stated purpose of supplying at least fifty zuz to the orphan girl]." Said R. Yosé, "That is to say that they do not instruct the administrators of charity funds to borrow money."

LX. YERUSHALMI KETUBOT 6:6

[A] AN ORPHAN GIRL [LACKING A FATHER], WHOSE MOTHER OR BROTHERS MARRIED HER OFF [EVEN] WITH HER CONSENT, FOR WHOM THEY WROTE OVER AS HER PORTION A HUNDRED ZUZ OR FIFTY ZUZ, WHEN SHE GROWS UP, CAN EXACT FROM THEM WHAT SHOULD RIGHTLY HAVE BEEN GIVEN TO HER. R. JUDAH SAYS, "IF A MAN HAD MARRIED OFF HIS FIRST DAUGHTER, TO THE SECOND SHOULD BE GIVEN [A DOWRY] ALONG THE LINES OF THAT WHICH HE HAD GIVEN TO THE FIRST." AND SAGES SAY, "SOMETIMES A MAN IS POOR AND THEN GETS RICH, OR IS RICH, AND THEN GROWS POOR. BUT THEY ESTIMATE THE VALUE OF THE PROPERTY AND GIVE TO HER [HER SHARE]."

- 1. I:1:** [As to M. 6:6D, the meaning of the Mishnah statement] is this: If he had married off his first daughter [while he was alive], then let [to the second a dowry] be given [along the lines of that which he had given to the first].
- 2. I:2:** R. Zeira asked R; Nahman bar Jacob and R. Ammi bar Papi, "Who is the Tannaite authority who stands by the view that a tenth of the man's possessions [are assigned to his daughter for her dowry]?" Said to him R. Zeira in the name of R. Jeremiah, "The requirement of giving a tenth of one's possessions accords with the view of Rabbi."

LXI. YERUSHALMI KETUBOT 6:7

[A] “HE WHO APPOINTS A THIRD PARTY TO OVERSEE MONEY FOR HIS DAUGHTER, AND SHE SAYS, ‘MY [BETROTHED] HUSBAND IS TRUSTWORTHY FOR ME’ – “THE THIRD PARTY [NONETHELESS] SHOULD CARRY OUT WHAT HAS BEEN ASSIGNED TO HIS TRUST,” THE WORDS OF R. MEIR.

1. **I:1:** The Mishnah speaks of an agreement made at the stage of betrothal [in which case the husband has not yet effected possession of what is coming to the wife]. But at the stage of a fully consummated marriage, also R. Meir concurs [that the guardian should accede to the daughter’s wishes, since the husband in any event enjoys the usufruct of the property].
2. **I:2:** He who says, “Give over a shekel from my property to my children for their maintenance for a week,” but they are supposed to take a sela – they give over to them a sela. But if he said, “Give them only a shekel,” they give them only a shekel. If he said, “If they die, let others inherit from me,” whether he said, “Give,” and whether he did not say, “Give,” they give over to them only a shekel. As to food for the widow and the daughters, whether he said, “Give,” or said, “Do not give,” they give to them a sela [Y.: a shekel]. Rabban Simeon b. Gamaliel says, “Meir did say, ‘He who says, “Give a shekel from my property to my children for a week,” but they are supposed to take a sela – they give over to them a shekel. And as to the rest of their needs, they are supported from the charity fund.’” But sages say, “They continue to derive support [from his estate] until the property is all gone. Only afterward are they supported by the charity fund” [T. Ket. 6:10].

[B] **R. YOSÉ SAYS, “AND IF IT IS ONLY A FIELD, AND SHE WANTS TO SELL IT OFF, LO, IT IS SOLD OFF FROM THIS MOMENT! IN WHAT CIRCUMSTANCES? IN THE CASE OF AN ADULT. BUT IN THE CASE OF A MINOR – THE DEED OF A MINOR IS NULL.”**

1. **II:1:** [With reference to M. 6:7C-F, in which case Yosé permits the field to go to the husband,] R. Haggai asked before R. Yosé, “And is this not a case in which he imposes a disadvantage on another party? [If the field goes to the husband, the brothers of the woman cannot get it back. If it remains in the hands of the guardian, they can. Accordingly, this is a disadvantage to the brothers of the wife.]”

LXII. YERUSHALMI KETUBOT 7:1

[A] **HE WHO PROHIBITS HIS WIFE BY VOW FROM DERIVING BENEFIT FROM HIM FOR A PERIOD OF THIRTY DAYS APPOINTS AN AGENT TO PROVIDE FOR HER. [IF THE EFFECTS OF THE VOW ARE NOT NULLIFIED] FOR A LONGER PERIOD, HE PUTS HER AWAY AND PAYS OFF HER MARRIAGE CONTRACT. R. JUDAH SAYS, “IN THE CASE OF AN ISRAELITE, FOR [A VOW LASTING] ONE MONTH HE MAY CONTINUE IN THE MARRIAGE, BUT FOR TWO [OR MORE], HE MUST PUT HER AWAY AND PAY OFF HER MARRIAGE CONTRACT. BUT IN THE CASE OF A PRIEST, FOR TWO MONTHS HE MAY CONTINUE IN THE MARRIAGE, AND AFTER THREE HE MUST PUT HER AWAY AND PAY OFF HER MARRIAGE CONTRACT.”**

1. **I:1:** There [at M. 5:7] we have learned: He who takes a vow not to have sexual relations with his wife – the House of Shammai say, “He may allow this situation to continue for two weeks.” And the House of Hillel say, “For one week.” And here do you say this [that the situation may last for thirty days]?
2. **I:2:** [Since the support of the wife is an established obligation,] may a man take a vow against paying his debt?
3. **I:3:** And why may he not appoint an agent [for a longer period]? [The reason that this arrangement is not acceptable is that] a woman has the right to say, “I do not wish to be supported by someone else but only by my husband.”
 - a. **I:4:** [Approaching the matter from an entirely fresh perspective,] Samuel said, “We deal with a case in which he imposes the oath for a period of thirty days [only]. But if he imposed the oath forever, then forthwith must he divorce her and pay off her marriage settlement. [So ‘thirty days’ belongs at M. 7:1A.]”
4. **I:5:** R. Yosé says, “It is in the case of a woman of the priestly cast that they are in dispute. [The issue is not how we read the language, ‘thirty days.’ If that were the case, then Judah’s statement at D in no way differs from what has gone before. Rather, all parties deal with the beginning of the thirty day period. The point of M. 7:1A-C is that at the beginning of the month beyond the thirty-day period, one divorces the wife and pays off the marriage settlement. There is no distinction between an Israelite and a priestly wife. Judah then maintains that in the case of the Israelite woman, that is so. But in the case of a priestly woman, for two months he preserves the marriage. At the beginning of the third, he pays off the marriage settlement. This is expressed in what

follows.] For a longer period he puts her away and pays off her marriage contract [refers to] the end of the second month [both for the priestly wife and for the Israelite one]. R. Judah says, ‘In the case of an Israelite, for a vow lasting one month he may continue in the marriage, but for two he must put her away and pay off her marriage contract – at the end of two months. And in the case of a priest, for two months he may continue in the marriage, and after three he must put her away and pay off her marriage contract – at the beginning of the third month.’”

LXIII. YERUSHALMI KETUBOT 7:2

[A] **HE WHO PROHIBITS HIS WIFE BY VOW FROM TASTING ANY SINGLE KIND OF PRODUCE WHATSOEVER MUST PUT HER AWAY AND PAY OF HER MARRIAGE CONTRACT. R. JUDAH SAYS, “IN THE CASE OF AN ISRAELITE, [IF THE VOW IS] FOR ONE DAY HE MAY PERSIST IN THE MARRIAGE, BUT [IF IT IS] FOR TWO HE MUST PUT HER AWAY AND PAY OFF HER MARRIAGE CONTRACT. AND IN THE CASE OF A PRIEST, [IF IT IS] FOR TWO DAYS HE MAY PERSIST IN THE MARRIAGE, BUT [IF IT IS] FOR THREE HE MUST PUT HER AWAY AND PAY OFF HER MARRIAGE CONTRACT.”**

1. **I:1:** And can a man impose a vow on his fellow while he is alive? But we deal with a case in which he said to her, “If you eat such-and-such a thing, you will be forbidden to derive benefit from his [my] property.”

LXIV. YERUSHALMI KETUBOT 7:3

[A] **HE WHO PROHIBITS HIS WIFE BY A VOW FROM ADORNING HERSELF WITH ANY SINGLE SORT OF JEWELRY MUST PUT HER AWAY AND PAY OFF HER MARRIAGE CONTRACT. R. YOSÉ SAYS, “IN THE CASE OF POOR GIRLS, [IF] HE HAS NOT ASSIGNED A TIME LIMIT, [HE MUST DIVORCE THEM]. BUT IN THE CASE OF RICH GIRLS, [HE MAY PERSIST IN THE MARRIAGE IF HE SET A TIME LIMIT] OF THIRTY DAYS.”**

1. **I:1:** R. Huna said, “This is the meaning of the Mishnah’s statement: In the case of poor girls, since he did not set a [reasonable] limit, [he must divorce her forthwith].”

LXV. YERUSHALMI KETUBOT 7:4

[A] **HE WHO PROHIBITS HIS WIFE BY A VOW FROM GOING HOME TO HER FATHER'S HOUSE WHEN HE [FATHER] IS WITH HER IN [THE SAME] TOWN, [IF IT IS] FOR A MONTH, HE MAY PERSIST IN THE MARRIAGE. [IF IT IS] FOR TWO, HE MUST PUT HER AWAY AND PAY OFF HER MARRIAGE CONTRACT. AND WHEN HE IS IN ANOTHER TOWN, [IF THE VOW IS IN EFFECT] FOR ONE FESTIVAL SEASON HE MAY PERSIST IN THE MARRIAGE. [BUT IF THE VOW REMAINS IN FORCE] FOR THREE, HE MUST PUT HER AWAY AND PAY OFF HER MARRIAGE CONTRACT.**

1. **I:1:** Said R. Zeira, "It has been taught there: If he imposed a vow on her, 'That you may not wash in a bath' – in towns, he may remain wed to her for one week, and in villages, two weeks. That you may not fasten on a sandal' – in villages [the marriage may continue] for three days and in towns, for twenty-four hours."
2. **I:2:** R. Yohanan said, "They have stated the law [regarding the festival in the context of the 'festival of pursuit.'"

LXVI. YERUSHALMI KETUBOT 7:5

[A] **HE WHO PROHIBITS HIS WIFE BY A VOW FROM GOING TO A HOUSE OF MOURNING OR TO A HOUSE OF CELEBRATION MUST PUT HER AWAY AND PAY OFF HER MARRIAGE CONTRACT, BECAUSE HE LOCKS THE DOOR BEFORE HER.**

1. **I:1:** [If] he prohibited her by vow from lending a sieve or a strainer, millstones or oven [to her girl friend], he must put her away and pay off her marriage contract, because he gives her a bad name among her neighboring women. And so: she who prohibited him by vow from lending a sieve or a strainer, millstones or oven, must go forth without payment of her marriage contract, because she gives him a bad name in his neighborhood [T. Ket. 7:4].
2. **I:2:** [If] he prohibited her by vow from going to a house of mourning or to a house of celebration, he must put her away and pay off her marriage contract [M. 7:5A-B], because sometime later she will be laid out [for burial] and not a single human being will pay attention to her [T. Ket. 7:5].
 - a. **I:3:** Said R. Meir, [Y.: in the name of R. Aqiba, his master], "What is the meaning of the verse, '[It is better to go to the house of

mourning than to go to the house of feasting; for this is the end of all men,] and the living will lay it to heart' (Qoh. 7:2) – Do [for others] that they may do for you, accompany [others to the grave] that they may accompany you, mourn [for others] that they may mourn for you, bury others that they may bury you.”

[B] BUT IF HE CLAIMED THAT HE TOOK SUCH A VOW BECAUSE OF SOME OTHER THING, HE IS PERMITTED TO IMPOSE SUCH A VOW.

1. II:1: It is because of a bad name [associated with such a gathering].

[C] [IF HE TOOK A VOW,] SAYING TO HER, (1) “ON CONDITION THAT YOU SAY TO So-AND-SO WHAT YOU SAID TO ME,” OR (2) “WHAT I SAID TO YOU,” OR (3) “THAT YOU DRAW WATER AND POUR IT OUT ONTO THE ASH HEAP,” HE MUST PUT HER AWAY AND PAY OFF HER MARRIAGE CONTRACT.

1. III:1: There they say that the reference [to drawing water] is to the deed of Onan [interrupted coition].

LXVII. YERUSHALMI KETUBOT 7:6

[A] AND THOSE WOMEN GO FORTH WITHOUT THE PAYMENT OF THE MARRIAGE CONTRACT AT ALL: SHE WHO TRANSGRESSES AGAINST THE LAW OF MOSES AND JEWISH LAW. AND WHAT IS THE LAW OF MOSES [WHICH SHE HAS TRANSGRESSED]? [IF] SHE FEEDS HIM FOOD WHICH HAS NOT BEEN TITHED, OR HAS SEXUAL RELATIONS WITH HIM WHILE SHE IS MENSTRUATING, OR [IF] SHE DOES NOT CUT OFF HER DOUGH OFFERING, OR [IF] SHE VOWS AND DOES NOT CARRY OUT HER VOW. AND WHAT IS THE JEWISH LAW?

1. I:1: And in all of these cases [the decision is reached on the testimony of] witnesses [as in the following instances].

[B] IF SHE GOES OUT WITH HER HAIR FLOWING LOOSE, OR SHE SPINS IN THE MARKETPLACE, OR SHE TALKS WITH JUST ANYBODY.

1. II:1: in the courtyard did they state the rule, all the more so in the alleyway. R. Hiyya in the name of R. Yohanan: “She who goes out in her kerchief is not subject to violating the rule against going out with her hair flowing loose.” That which you have said applies to the courtyard, but as to the alleyway, she is subject to violating the rule against going out with her hair flowing loose.

- [C] **ABBA SAUL SAYS, “ALSO: IF SHE CURSES HIS PARENTS IN HIS PRESENCE.” R. TARFON SAYS: “ALSO, IF SHE IS A LOUD-MOUTH.” [WHAT IS A LOUD-MOUTH? WHEN SHE TALKS IN HER OWN HOUSE, HER NEIGHBORS CAN HEAR HER VOICE.]**
1. **III:1:** What is the definition of a loud-mouth?
 2. **III:2:** R. Hanin taught in the name of R. Samuel: “All the same are women of whom they have said that they have no marriage settlement [at all], and those of whom they have said that they go forth without a marriage settlement. [Among the former are] an orphan [who exercised the right of refusal], one in a secondary consanguineous relationship, and a barren woman. [In both cases,] they referred not only to the marriage settlement of a *maneh* or two hundred zuz [as the case may be], but even if her marriage settlement was a thousand *denars*, she collects.”
 3. **III:3:** R. Eleazar in the name of R. Haninah: “If they saw her hitching up her pantaloons as the traveling pedlar was going out of her house, it is an unseemly thing. She goes forth. If there is some sort of spit on her bed, it is an unseemly thing. She goes forth. If there was some sort of spit on his bed, it is an unseemly thing. She goes forth. If his sandal was before her bed, it is an unseemly thing. She goes forth. If her sandal was before his bed, it is an unseemly thing. She goes forth. If both of them were [seen] going forth from a hidden place, it is an unseemly thing. She goes forth. If they were helping one another climb up out of a pit, it is an unseemly thing. She goes forth. If both of them were [seen] patting her thigh in the bath, it is an unseemly thing. She goes forth.”
 4. **III:4:** If she was in his embrace and he in hers, she is an unfaithful wife. If they were embracing, she is an unfaithful wife. If they were kissing, she is an unfaithful wife. If they went and locked the door behind them, she is an unfaithful wife. If they merely shoved it closed – that is a question.

LXVIII. YERUSHALMI KETUBOT 7:7

- [A] **HE WHO BETROTHED A WOMAN ON CONDITION THAT THERE ARE NO ENCUMBERING VOWS UPON HER, AND IT TURNS OUT THAT THERE ARE ENCUMBERING VOWS UPON HER — SHE IS NOT BETROTHED. [IF] HE MARRIED HER WITHOUT [FURTHER] SPECIFICATION AND ENCUMBERING VOWS TURNED OUT TO BE UPON HER, SHE MUST GO FORTH WITHOUT PAYMENT OF HER MARRIAGE CONTRACT. [IF] HE BETROTHED HER ON CONDITION THAT SHE HAD NO BLEMISHES ON HER,**

AND BLEMISHES TURNED UP ON HER, SHE IS NOT BETROTHED. [IF] HE MARRIED HER WITHOUT FURTHER SPECIFICATION AND BLEMISHES TURNED UP ON HER, SHE MUST GO FORTH WITHOUT PAYMENT OF HER MARRIAGE CONTRACT.

1. **I:1:** We have learned [from the passage above] what sort of blemishes apply, but what sort of vows are under discussion here? R. Yohanan in the name of R. Simeon b. Yosedeq: “Of what sort of vows did they speak? For example, if she vowed not to eat meat, not to drink wine, and not to wear stylish clothing [T. Ket. 7:8/I].”
2. **I:2:** Said R. Yosé, “The Mishnah speaks of a case in which he said to her, ‘on condition that you are not subject to vows.’ But if he had said to her, ‘on condition that no vow applies to you [at all],’ then even if she had taken a vow not to eat carobs, that is in the status of a vow, [and she is not betrothed].”
3. **I:3:** If she went to a sage and he released her vow, lo, this one confirms the marriage [= she is betrothed]. If she went to a physician and he healed her, lo, this woman is not betrothed [T. Ket. 7:8D, F].
 - a. **I:4:** There are Tannaim who teach, “[Since, M. Qid. 2:4A-C, she is not betrothed,] she is permitted to marry without a writ of divorce. [There is no aspect of betrothal whatsoever.]” And there are Tannaim who teach, “She is prohibited from remarrying without a writ of divorce.”
4. **I:5:** [If he married her without further specification] – R. Simeon b. Laqish said, “The Mishnah [at M. 7:7: He who betrothed a woman on condition that she is not subject to any vows, and she was found to be subject to a vow – her betrothal is not valid. If he married her without stipulation, and she turned out to be under a vow, she is divorced without payment of her marriage settlement] speaks of a case in which he betrothed her on a stipulation [that there be no vows], but married her without further stipulation. But if he betrothed her without stipulation and married her without stipulation, she does have a right to collect her marriage settlement.” R. Yohanan said, “Even if he divorced her without stipulation and married her without stipulation, she has no right to collect her marriage settlement.”

[B] ALL THOSE BLEMISHES WHICH INVALIDATE PRIESTS INVALIDATE WOMEN. “[IF] THERE WERE BLEMISHES ON HER WHILE SHE WAS YET IN HER FATHER’S HOUSE, THE FATHER MUST BRING PROOF THAT AFTER SHE WAS BETROTHED THESE BLEMISHES MADE THEIR APPEARANCE ON HER, SO THAT HIS [THE HUSBAND’S] FIELD HAS BEEN FLOODED. [IF] SHE HAD ENTERED THE DOMAIN OF THE HUSBAND, THEN THE HUSBAND HAS TO BRING PROOF THAT BEFORE SHE WAS

BETROTHED THESE BLEMISHES WERE ON HER BODY, SO THAT HIS PURCHASE WAS A PURCHASE MADE IN ERROR,” THE WORDS OF **R. MEIR**. AND SAGES SAY, “UNDER WHAT CIRCUMSTANCES? IN THE CASE OF BLEMISHES ON THE HIDDEN PARTS OF HER BODY. BUT IN THE CASE OF BLEMISHES WHICH ARE ON THE PARTS OF HER BODY TO BE SEEN BY THE NAKED EYE, HE HAS NO SUCH CLAIM. AND IF THERE IS A BATHHOUSE IN THAT TOWN, THEN EVEN BLEMISHES WHICH ARE ON THE HIDDEN PARTS OF HER BODY ARE NOT SUBJECT TO HIS CLAIM, FOR HE HAS HER EXAMINED BY HIS KINSWOMEN.”

1. **II:1:** For all blemishes which invalidate priests from serving in the temple invalidate women [M. Ket. 7:7F]. In addition to them in the case of women are bad breath, a sweaty odor, and a mole that has no hair on it [T. Ket. 7:9].
2. **II:2:** The Mishnah speaks of blemishes which do not usually develop with her later on. But as to blemishes which usually develop later on, [if that is the kind of blemish which has made its appearance] even after she has entered the domain of the husband, he [= the father] has to bring proof for his claim, “I stipulated with her [even in regard to this sort of blemish as well].”

LXIX. YERUSHALMI KETUBOT 7:8

[A] A MAN WHO SUFFERED BLEMISHES — THEY DO NOT FORCE HIM TO PUT HER AWAY. SAID **RABBAN SIMEON B. GAMALIEL**, “UNDER WHAT CIRCUMSTANCES? IN THE CASE OF SMALL BLEMISHES. BUT IN THE CASE OF MAJOR BLEMISHES, THEY DO FORCE HIM TO PUT HER AWAY.”

1. **I:1:** R. Judah in the name of Rab: “The meaning of the Mishnah is that when the blemishes already were on him, [they do not force him to put her away]. [We assume she knew about the blemishes and agreed to accept them.] But if they came upon him later on, they do force him to put her away.”

LXX. YERUSHALMI KETUBOT 7:9

[A] AND THESE ARE THE ONES WHOM THEY FORCE TO PUT HER AWAY: HE WHO IS AFFLICTED WITH BOILS, OR WHO HAS A POLYPUS, OR WHO COLLECTS [DOG EXCREMENT], OR A COPPERSMITH, OR A TANNER — WHETHER THESE [BLEMISHES] WERE PRESENT BEFORE THEY WERE MARRIED OR WHETHER AFTER THEY WERE MARRIED THEY MADE THEIR APPEARANCE. AND CONCERNING ALL

OF THEM DID **R. MEIR** SAY, “EVEN THOUGH HE MADE A CONDITION WITH HER [THAT THE MARRIAGE IS VALID DESPITE THESE BLEMISHES], SHE STILL CAN CLAIM, ‘I THOUGHT THAT I COULD TAKE IT. BUT NOW I FIND I CANNOT TAKE IT.’” AND SAGES SAY, “SHE TAKES IT DESPITE HERSELF, EXCEPT IN THE CASE OF THE ONE AFFLICTED WITH BOILS, BECAUSE [IN THAT CASE] SHE ENERVATES HIM.” **M’SHEB**: IN SIDON THERE WAS A TANNER WHO DIED [CHILDLESS], AND HE HAD A BROTHER [THE LEVIR] WHO WAS A TANNER. SAGES RULED, “SHE CAN CLAIM, ‘YOUR BROTHER I COULD TAKE, BUT I CAN’T TAKE YOU [BEING A TANNER].’”

1. **I:1**: He who collects is one who collects excrement. And a coppersmith – Samuel said, “It is one who refines copper from ore.”
2. **I:2**: It was taught: Said Rabban Simeon b. Gamaliel, “An old man afflicted with boils met me in Sepphoris. He said to me, ‘There are twenty-four kinds of boils. And the worst of them all, for which alone a woman is very bad, is only ra’atan’” [T. Ket. 7:11I].

LXXI. YERUSHALMI KETUBOT 8:1

[A] THE WOMAN TO WHOM PROPERTY CAME BEFORE SHE WAS BETROTHED – THE HOUSE OF SHAMMAI AND THE HOUSE OF HILLEL CONCUR THAT IF SHE SELLS OR GIVES AWAY [THE PROPERTY], THE TRANSACTION IS VALID. [IF] THEY [GOODS OR PROPERTY] CAME TO HER AFTER SHE WAS BETROTHED, THE HOUSE OF SHAMMAI SAY, “SHE MAY SELL THEM.” AND THE HOUSE OF HILLEL SAY, “SHE MAY NOT SELL THEM.” THESE AND THOSE CONCUR THAT IF SHE SOLD OR GAVE AWAY [GOODS OR PROPERTY], THE TRANSACTION IS VALID. SAID **R. JUDAH**, “THEY STATED BEFORE **RABBAN GAMALIEL**, “SINCE [THE HUSBAND-TO-BE] HAS ACQUIRED POSSESSION OF THE WOMAN, SHALL HE NOT ACQUIRE POSSESSION OF THE PROPERTY?’ HE SAID TO THEM, ‘WE ARE AT A LOSS CONCERNING THE [HUSBAND’S RIGHT TO NEW[LY RECEIVED PROPERTY OR GOODS]! NOW WILL YOU TURN OUR ATTENTION TO THE OLD?’”

1. **I:1**: The meaning of the Mishnah [at M. 8:1A] is, “before she was betrothed [and she then became betrothed].” What is the difference between the disposition on her part of property received prior to betrothal, on which all parties concur, and property which came to her after betrothal, on which there is a dispute [M. 8:1A-B vs. C-E]?
2. **I:2**: **R. Phineas** raised the question before **R. Yosé**, “And why then should you not teach this dispute as one of the ones in which the House of Shammai take the lenient position, and the House of Hillel, the strict position?”

3. **I:3:** Said R. Judah, “They stated before Rabban Gamaliel, ‘[Since when she is] betrothed, [she] is his wife, and [when she is] married, [she] is [equally, but no more] his wife, just as this one [the woman at the stage of the consummated marriage sells off her property and the transaction is null, so that one [the woman at the stage of betrothal], sells off her property and the transaction is null.’ [T. Ket. 8:1A]. He said to them, ‘We are at a loss concerning the newly received property or goods! Now will you turn our attention to the old ones?’” [M. 8:1G-H].

LXXII. YERUSHALMI KETUBOT 8:2

[A] [If] THEY CAME TO HER AFTER SHE WAS MARRIED, THESE AND THOSE CONCUR THAT IF SHE SOLD OR GAVE THEM AWAY, THE HUSBAND RETRIEVES THEM FROM THE DOMAIN OF THE PURCHASERS. [If they came to her] BEFORE SHE WAS MARRIED, AND THEN SHE WAS MARRIED, RABBAN GAMALIEL SAYS, “If she sold or gave away [the property], the transaction is valid.” SAID R. HANINA B. AQABYA, “THEY SAID BEFORE RABBAN GAMALIEL, ‘SINCE HE HAS ACQUIRED POSSESSION OF THE WOMAN, SHALL HE NOT ACQUIRE POSSESSION OF THE PROPERTY?’ HE SAID TO THEM, ‘WE ARE AT A LOSS CONCERNING THE NEWLY RECEIVED [PROPERTY OR GOODS]! HOW WILL YOU TURN OUR ATTENTION TO THE OLD ONES?’”

1. **I:1:** We learn [as the proper language of] the passage [at M. 8:2D]: “She sells or gives away the property, and the transaction is valid.” [That is, even to begin with, she may do so, and not merely after the fact, for that is the sense of the progressive tense used here.]
2. **I:2:** Said R. Haninah b. Aqiba, “This is not how Rabban Gamaliel replied to them, but rather, thus did Rabban Gamaliel reply to them: No, if you have stated the rule in the case of a betrothed woman, in which instance the husband-to-be does not take over possession of whatever she may find or of the works of her hands, and has not got the right to abrogate her vows, will you say the same in the case of a married woman, in which instance the husband does have the right to retain ownership of what she finds and of the work of her hands and has got the right to abrogate her vows?”
 - a. **I:3:** A case came before R. Ammi. He ruled, “Is not Rabban Gamaliel an individual [in relationship to the majority]? We may not make a decision relying upon his authority.”

LXXIII. YERUSHALMI KETUBOT 8:3

[A] **R. SIMEON MAKES A DISTINCTION BETWEEN ONE SORT OF PROPERTY AND ANOTHER: PROPERTY ABOUT WHICH THE HUSBAND IS INFORMED SHE SHOULD NOT SELL. AND IF SHE SOLD OR GAVE IT AWAY, THE TRANSACTION IS NULL. PROPERTY ABOUT WHICH THE HUSBAND IS NOT INFORMED SHE SHOULD NOT SELL. BUT IF SHE SOLD OR GAVE IT AWAY, THE TRANSACTION IS VALID.**

1. **I:1:** Said R. Yohanan, “Property about which the husband is informed – this refers to real estate. Property about which the husband is not informed – this refers to movables.” R. Yosé b. Haninah said, “Property about which the husband is informed – this is property which comes to her when she is in the domain of the husband [whether real estate or movables]. And property about which the husband is not informed – this is property which comes to her while her husband is located overseas.”

LXXIV. YERUSHALMI KETUBOT 8:4

[A] **[IF] READY CASH FELL TO HER, LAND SHOULD BE PURCHASED WITH IT. AND HE [THE HUSBAND] HAS THE USUFRUCT THEREOF. [IF THERE FELL TO HER] PRODUCE PLUCKED UP FROM THE GROUND, [LIKEWISE] LAND SHOULD BE PURCHASED WITH ITS [PROCEEDS]. AND HE HAS THE USUFRUCT THEREOF. AND AS TO PRODUCE ATTACHED TO THE GROUND [WHICH THE WIFE INHERITS] – SAID R. MEIR, “THEY MAKE AN ESTIMATE OF THEIR VALUE AS FOLLOWS: HOW MUCH IS THE LAND WORTH WITH THE PRODUCE AFFIXED TO IT, AND HOW MUCH IS IT WORTH WITHOUT THE PRODUCE. AND WITH [THE PROCEEDS OF] THE DIFFERENCE, LAND IS PURCHASED. AND HE HAS THE USUFRUCT THEREOF.” AND SAGES SAY, “[THE VALUE OF THE PRODUCE] ATTACHED TO THE GROUND BELONGS TO HIM. [THE VALUE OF THAT WHICH IS] PLUCKED UP FROM THE GROUND IS HERS. AND LAND IS PURCHASED WITH THE [PROCEEDS OF THE LATTER]. AND HE HAS THE USUFRUCT THEREOF.”**

1. **I:1:** Said R. Jeremiah, “As to the view of R. Meir, he treats what is produce yet unharvested as equivalent to what is harvested.” [Reference here is to M. Shebu. 6:6G, R. Meir says, “There are things which are in the ground but are not deemed to be immovable property in the status of the ground...” How so? “Ten fruit-laden vines I handed over to you” – “They were only five” – R. Meir imposes an oath (regarding the produce on the vines; there is no oath affecting real estate). And sages say, “Whatever is attached to the ground (including produce) is equivalent to the ground.”] Said R. Yosé, “Now did he [you] not hear what R. Yosé b. Haninah said: ‘R. Meir made that

statement with reference only to standing grain, which is soon going to be harvested, or to vines which are soon going to be cut.' Lo, with regard to stubble, the rule does not apply. But here, even if there is mere stubble [the rule is the same]. [Hence there is no relevance to the view of R. Meir cited from M. Shebu. 6:6G.]”

LXXV. YERUSHALMI KETUBOT 8:5

[A] **R. SIMEON SAYS, “AT EACH POINT AT WHICH, WHEN SHE ENTERS INTO MARRIAGE, HE HAS THE ADVANTAGE, HE IS AT DISADVANTAGE AT HER GOING FORTH [FROM THE MARRIAGE]. AT EACH POINT AT WHICH, WHEN SHE ENTERS INTO MARRIAGE, HE IS AT A DISADVANTAGE, HE HAS THE ADVANTAGE AT HER GOING FORTH. PRODUCE AFFIXED TO THE GROUND WHEN SHE COMES IN BELONGS TO HIM, AND WHEN SHE GOES FORTH, BELONGS TO HER. AND THOSE PLUCKED UP FROM THE GROUND WHEN SHE COMES IN BELONG TO HER, AND WHEN SHE GOES FORTH, BELONG TO HIM.”**

- 1. I:1:** You have said, “When she enters into the marriage, [the produce] belongs to him [M. 8:5C].” If she sold it, it is not sold. If she gave all of it to a sharecropper, [the husband] derives a share of it. If she declared it to be first fruits, the produce is not deemed sanctified. You have said, “When she goes forth, the produce [affixed to the ground belongs to her].” If [the husband] sold it, it is not sold. If he gave it to a sharecropper, she derives a share of it. If he declared the produce to be first fruits, there is a dispute of R. Yohanan and R. Simeon b. Laqish, for thus do they debate the matter.

LXXVI. YERUSHALMI KETUBOT 8:6

[A] [IF] OLD SLAVE MEN OR SLAVE WOMEN FELL TO HER [POSSESSION], THEY ARE TO BE SOLD. AND LAND SHOULD BE PURCHASED WITH THEIR [PROCEEDS]. AND HE [THE HUSBAND] HAS THE USUFRUCT THEREOF. **RABBAN SIMEON B. GAMALIEL SAYS, “SHE SHOULD NOT SELL THEM, FOR THEY ARE THE GLORY OF HER FATHER’S HOUSE.”**

- 1. I:1:** The Mishnah speaks of a case in which they do not produce enough to pay for their own keep. But if they produce enough to pay for their own keep, she should not sell them, for the glory of her father’s house yet endures.

LXXVII. YERUSHALMI KETUBOT 8:7

[A] [IF] OLD OLIVE TREES OF GRAPEVINES FELL TO HER [POSSESSION], THEY ARE TO BE SOLD [FOR THEIR VALUE AS] WOOD. AND LAND SHOULD BE PURCHASED WITH THEIR [PROCEEDS]. AND HE HAS THE USUFRUCT THEREOF. R. JUDAH SAYS, “SHE SHOULD NOT SELL THEM, FOR THEY ARE THE GLORY OF HER FATHER’S HOUSE.”

1. **I:1:** R. Abun in the name of rabbis over there [in Babylonia]: “The Mishnah speaks of a case in which the olive trees came to her as an inheritance, but not the land on which they stand, the vines but not the land on which they stand. But if there came to her olive trees and the land on which they stand, vines and the land on which they stand, she may not cut them down, for the glory of her father’s house yet endures.” But rabbis from over here say, “Even if there came to her olive trees and the land on which they stand, vines and the land on which they stand, [they still may be sold for the wood]. Is it not the value of the olive grove which came to her, and is it not the value of the vineyard which came to her [that is under discussion]? [The reference at M. 8:7A is to the vineyard or olive grove, not merely to the trees. The distinction proposed at A-C is not valid in terms of ordinary usage.]”

LXXVIII. YERUSHALMI KETUBOT 8:8

[A] HE LAYS OUT THE EXPENSES FOR [THE UPKEEP OF] THE PROPERTY OF HIS WIFE — [WHETHER] HE LAID OUT A GREAT DEAL OF MONEY AND RECEIVED LITTLE USUFRUCT, [OR WHETHER HE LAID OUT A SMALL AMOUNT OF MONEY AND RECEIVED MUCH — WHAT HE HAS LAID OUT, HE HAS LAID OUT, AND THE USUFRUCT WHICH HE HAS ENJOYED, HE HAS ENJOYED. [BUT] IF HE LAID OUT [MONEY FOR THE UPKEEP OF THE ESTATE] AND DID NOT ENJOY THE USUFRUCT [AT ALL, THERE BEING NO RETURN], HE SHOULD TAKE AN OATH [TO VERIFY] THE AMOUNT HE HAS LAID OUT [AS EXPENSES]. AND THAT SHOULD HE COLLECT [IN RECOMPENSE, FROM HER BY DEDUCTION FROM HER MARRIAGE CONTRACT].

1. **I:1:** R. Ba in the name of R. Hiyya bar Ashi, “Even if he ate only a baleful [of produce, in all those years, that suffices to meet the condition of M. 8:8B].” Assi said, “And that is the case if the outlay is greater than the profit, but if the profit is greater than the outlay, he is given the full profit. [That is, the rule of M. 8:8F applies when the outlay is greater than the profit. Otherwise he gets the full profit, if it is greater, and his hand is on top].”

LXXIX. YERUSHALMI KETUBOT 8:9

[A] A WOMAN AWAITING LEVIRATE MARRIAGE WITH HER DECEASED CHILDLESS HUSBAND'S BROTHER TO WHOM PROPERTY CAME — THE HOUSE OF SHAMMAI AND THE HOUSE OF HILLEL CONCUR THAT SHE SELLS OR GIVES AWAY HER PROPERTY, AND THE TRANSACTION IS VALID. [IF] SHE DIED, HOW SHOULD THEY DISPOSE OF HER MARRIAGE CONTRACT AND OF THE PROPERTY WHICH COMES INTO THE MARRIAGE WITH HER AND GOES OUT OF THE MARRIAGE WITH HER? THE HOUSE OF SHAMMAI SAY, "LET THE HEIRS OF THE HUSBAND DIVIDE IT UP WITH THE HEIRS OF THE FATHER [OF THE WOMAN]." AND THE HOUSE OF HILLEL SAY, "THE PROPERTY REMAINS IN THE HANDS OF ITS PRESUMPTIVE OWNERS: THE [VALUE OF THE] MARRIAGE CONTRACT IN THE POSSESSION OF THE HEIRS OF THE HUSBAND, AND THE PROPERTY WHICH GOES IN AND COMES OUT WITH HER IN THE POSSESSION OF THE HEIRS OF THE FATHER."

1. **I:1:** Here [at M. 8:9A] you say that she sells or gives away her property, and the transaction is valid. And here you say, "Let the heirs of the husband divide it up with the heirs of the father [of the woman]." [So far as the House of Shammai is concerned, what is the difference in this latter case, that the property does not remain fully in the domain of the woman or her heirs, as in the former instances?]
2. **I:2:** If the property came to her before she entered the status of a woman awaiting levirate marriage, and the property produced a crop after she had entered the status of a woman awaiting levirate marriage, it is treated as if it had come to her after she had entered that status. [We follow the criterion of the point at which the produce came into existence.]
3. **I:3:** Said R. Zeira, "As to the levir of the present case, it is a problem for the House of Shammai, since they are not certain whether or not he is regarded as equivalent to the husband or not equivalent to the husband. If he is in the status of the husband, he inherits the whole estate. If he is not in the status of the husband, he should inherit nothing. On account of this doubt, let the heirs of the husband divide it up with the heirs of the father of the woman."
4. **I:4:** R. Hoshaiyah taught: "The heirs [of the woman] inherit her marriage settlement, and they are liable to bury her when she dies. [This applies to the levir, who inherits her marriage settlement.]"

LXXX. YERUSHALMI KETUBOT 8:10

[A] [IF THE DECEASED HUSBAND] LEFT READY CASH, LAND SHOULD BE PURCHASED WITH IT. AND HE [THE LEVIR] HAS THE USUFRUCT THEREOF. [IF HE LEFT] PRODUCE PLUCKED UP FROM THE GROUND, FIT SHOULD BE SOLD] AND LAND SHOULD BE PURCHASED WITH THE PROCEEDS]. AND HE HAS THE USUFRUCT THEREOF. [IF HE LEFT] PRODUCE YET ATTACHED TO THE GROUND – R. MEIR SAYS, “THEY MAKE AN ESTIMATE OF THEIR VALUE AS FOLLOWS: ‘HOW MUCH IS THE LAND WORTH WITH THE PRODUCE AFFIXED TO IT, AND HOW MUCH IS IT WORTH WITHOUT THE PRODUCE?’ AND WITH THE [PROCEEDS OF THE] DIFFERENCE LAND IS PURCHASED. AND HE HAS THE USUFRUCT THEREOF.” AND SAGES SAY, “PRODUCE ATTACHED TO THE GROUND BELONGS TO HIM. PRODUCE PLUCKED UP FROM THE GROUND – WHOEVER GETS IT FIRST KEEPS IT. [IF] HE GOT IT FIRST, HE KEEPS IT. [IF] SHE GOT IT FIRST, LAND SHOULD BE PURCHASED WITH THE [PROCEEDS]. AND HE HAS THE USUFRUCT THEREOF.” [IF] HE CONSUMMATED THE MARRIAGE WITH HER, LO, SHE IS DEEMED TO BE HIS WIFE FOR EVERY PURPOSE, EXCEPT THAT HER MARRIAGE CONTRACT IS A LIEN ON THE ESTATE OF HER FIRST HUSBAND.

1. I:1: R. Abbahu in the name of R. Yohanan: “[While it is obvious that if the estate contained ready cash, it is indentured toward the payment of the wife’s marriage contract and hence must be invested in land, with the levir getting the usufruct], the rule [of M. 8:10A-B] is necessary to deal with a case in which there was ready cash deposited with [the levir himself]. If is so that he should not say, ‘Since I am the heir, I shall keep it anyhow’” [T. Ket. 9:1H]. [As to M. 8:10/T’s statement that the produce belongs to him,] R. Abbahu in the name of R. Yohanan, “In fact there is no aspect in which the produce belongs to him. But for what purpose [is the law stated]? It is so that if the heir took precedence and seized [the produce], they retrieve it from his domain.” Also with regard to a creditor is the law the same? But has it not been taught: As to an heir and a creditor, one of whom came first and seized property – they retrieve it from his domain? [So here the law is not the same.]

LXXXI. YERUSHALMI KETUBOT 8:11

[A] [THE LEVIR] MAY NOT SAY TO HER, “THERE IS [THE REPAYMENT FOR] YOUR MARRIAGE CONTRACT, LYING ON THE TABLE.” BUT ALL OF HIS PROPERTY IS SUBJECT TO LIEN FOR THE PAYMENT OF HER MARRIAGE CONTRACT. AND SO A MAN MAY NOT SAY TO HIS WIFE, “THERE IS [THE REPAYMENT FOR] YOUR

MARRIAGE CONTRACT, LYING ON THE TABLE.” **BUT ALL OF HIS PROPERTY IS SUBJECT TO LIEN FOR THE PAYMENT OF HER MARRIAGE CONTRACT. [IF] HE DIVORCED HER, SHE HAS A CLAIM ONLY ON HER MARRIAGE CONTRACT. [IF] HE REMARRIED HER, LO, SHE IS EQUIVALENT TO ALL WOMEN. AND SHE HAS A CLAIM [ONLY] ON HER MARRIAGE CONTRACT ALONE.**

1. **I:1:** He who died and leaves his wife awaiting marriage with her deceased childless husband’s brother, even if he left an estate worth a hundred manehs and the charge of her marriage contract is only a maneh, the heirs cannot sell (his estate), for all of his property is encumbered for the payment of her marriage contract.] What should [the levir] do? He should consummate the marriage, then divorce her, and she gives him a quittance for her marriage contract [T. Ket. 9:1A-F].
2. **I:2:** R. Zeira in the name of R. Hamnuna, “If he married her and divorced her and then remarried her, if he prepared a new marriage contract for her, then the settlement of that marriage contract falls upon his property. But if not, her marriage contract remains incumbent on the estate of her first husband.”
3. **I:3:** R. Zeira in the name of R. Hamnunah said, “A betrothed woman who died has no claim on a marriage settlement [e.g., for burial costs, against the husband]. [For this is not similar to a case in which she was divorced, for in this case] she has not been permitted to remarry in the marketplace.
4. **I:4:** In earlier times, when her marriage contract was in her father’s hands, it was a light thing in his [the husband’s] eyes to divorce her. [Yerushalmi lacks: Simeon b. Shetah therefore ordained that her marriage contract should be with her husband (who might do business with it, signing it over for a mortgage and the like). And he (therefore) writes for her, “All property which I have is liable and obligated for the payment of your marriage contract”] [T. Ket. 12:1A-C].

LXXXII. YERUSHALMI KETUBOT 9:1

[A] **HE WHO WRITES FOR HIS WIFE [A CONTRACT THAT STATES], “I HAVE NO RIGHT NOR CLAIM TO YOUR PROPERTY,” LO, THIS ONE [NONETHELESS] HAS THE USUFRUCT DURING HER LIFETIME. AND IF SHE DIES, HE INHERITS HER ESTATE. IF SO, WHY DID HE WRITE TO HER, “I HAVE NO RIGHT NOR CLAIM TO YOUR PROPERTY”?** SO THAT IF SHE SOLD OR GAVE AWAY [HER PROPERTY], HER ACT IS VALID. [IF] HE WROTE FOR HER, “**I HAVE NO RIGHT NOR CLAIM TO YOUR**

PROPERTY OR TO ITS USUFRUCT [CONSEQUENT PROFITS],” LO, THIS ONE DOES NOT HAVE THE USUFRUCT IN HER LIFETIME. BUT IF SHE DIES, HE INHERITS HER ESTATE. R. JUDAH SAYS, “UNDER ALL CIRCUMSTANCES [IN ANY EVENT] HE HAS THE USUFRUCT OF THE USUFRUCT, UNLESS HE WRITES FOR HER, ‘I HAVE NO RIGHT NOR CLAIM TO YOUR PROPERTY, TO ITS USUFRUCT, OR TO THE USUFRUCT OF ITS USUFRUCT, WITHOUT LIMIT.’” [IF] HE WROTE FOR HER, “I HAVE NO RIGHT NOR CLAIM TO YOUR PROPERTY, TO ITS USUFRUCT, TO THE USUFRUCT OF ITS USUFRUCT, DURING YOUR LIFETIME AND AFTER YOUR DEATH,” HE NEITHER HAS THE USUFRUCT IN HER LIFETIME, NOR, IF SHE DIES, DOES HE INHERIT HER.

1. **I:1:** R. Yohanan in the name of R. Yannai,” [The law of the Mishnah applies to a case] in which he has not yet married [the woman], but if he had married her, a man does not give up his rights by using such language as this. [This statement is not one of donation and hence does not produce the desired effect.]
 - a. I:2: If he wrote such a document for her, and she wrote an equivalent document for him [e.g., covering her rights to support], just as he does not give up his rights through using such language, so a woman does not lose her rights by using such language. If he wrote such a document for her at the stage of betrothal and at the stage of marriage [so renouncing claim to property which may come to her not only when she is engaged, but also when she is married], there is a dispute between the House of Shammai and the House of Hillel.
 - b. I:3: R. Jeremiah raised the following question before R. Zeira: “If he wrote for her, ‘I have no right nor claim to your property,’ and property came to her after that point, what is the law?”
 - c. I:4: R. Levi bar Hiyyata raised the question, “If he wrote to her, ‘I have no right nor claim to your property which may accrue to you after this time,’ what is the law?”
 - d. I:5: [If he wrote to her, “I have no right nor claim to your property,”] and she sold unharvested produce – R. Aha said, “It is as if she sells produce which has been harvested [which she has no right to do, since the husband continues to enjoy the usufruct of the property (M. 9:1B)].”
2. **I:6:** R. Zeira, R. Judah in the name of Rab: “He who writes over a field as a gift to his wife may not sell the produce thereof [for he does not enjoy the usufruct of that field any longer].”

[B] **RABBAN SIMEON B. GAMALIEL SAYS, “IF SHE DIED, HE SHOULD [IN ANY EVENT] INHERIT HER, BECAUSE HE HAS MADE A STIPULATION AGAINST WHAT IS WRITTEN IN THE TORAH [WHICH IS THAT THE HUSBAND INHERITS HIS WIFE’S ESTATE]. AND WHOEVER MAKES A STIPULATION AGAINST WHAT IS WRITTEN IN THE TORAH – HIS STIPULATION IS NULL.”**

1. **II:1:** R. Jeremiah in the name of Rab: “The law accords with the view of Rabban Simeon b. Gamaliel [at M. 9:1M O]. But it is not in accordance with the reason that he gives for the matter.” “The law is in accord with the view of Rabban Simeon b. Gamaliel,” when he has said, “If she died, he should in any event inherit her.” “But [it is not for] the reason [that he gives for the matter]”: “Because he has made a stipulation against what is written in the Torah, and whoever makes a stipulation against what is written in the Torah – his stipulation is null” [M. 9:1N, O].
 - a. **II:2:** They asked before R. Yohanan,” [As to M. 9:1L, If she dies, he does not inherit her,] in view of sages [just now cited], who does inherit her?”
2. **II:3:** R. Jeremiah raised the question before R. Zeira, “Brothers who divided up an estate of their father – as to the widow, is she supported out of their property?”
3. **II:4:** R. Jeremiah raised the question before R. Abbahu, “It is written, ‘And if the Jubilee of the people of Israel comes, then their inheritance will be added to the inheritance of the tribe to which they belong’ (Num. 36:4). When the Jubilee is observed, property received by inheritance returns to its tribe. And when the Jubilee is not observed, property received by inheritance does not return to its tribe. [Why should Scripture say, ‘If...’?]”
4. **II:5:** R. Hillel bar Pazzi raised the following question before R. Yosé: “If the husband sold [the *melog* property of the wife, which would leave the marriage were he to divorce her, but which he would inherit if she dies before he does,] and then she died, [what is the law]? [Do we follow the rule prevailing at the moment of sale, in which case he had the usufruct, but not the right of sale, or do we follow the rule prevailing now, in which case he has inherited the property and it is his to sell off?]”
5. **II:6:** R. Hiyya bar Mareh raised the following question before R. Jonah: “If she sold the property to her husband, [what is the law]? [Since he enjoys the usufruct, does the sale amount to anything?]”

6. **II:7:** Said R. Yosé, “As to those who write in the marriage contract, if she should die without children, her dowry should return to the household of her father, that stipulation concerns a monetary matter, and it is valid.”

LXXXIII. YERUSHALMI KETUBOT 9:2

[A] **HE WHO DIED AND LEFT A WIFE, A CREDITOR, AND HEIRS, AND WHO HAD GOODS ON DEPOSIT OR A LOAN IN THE DOMAIN OF OTHERS – R. TARFON SAYS, “THEY SHOULD BE GIVEN OVER TO THE WEAKEST AMONG THEM [THE CREDITOR].” R. AQIBA SAYS, “THEY DO NOT SHOW PITY IN A LAWSUIT. BUT THEY SHOULD BE GIVEN OVER TO THE HEIRS. FOR ALL OF THE [OTHER CLAIMANTS] HAVE TO CONFIRM THEIR CLAIM BY AN OATH. BUT THE HEIRS DO NOT HAVE TO CONFIRM THEIR CLAIM BY AN OATH.”**

1. **I:1:** “[The meaning of Tarfon’s statement about the weakest,]” R. Yosé bar Haninah said, “is to the weakest so far as his proofs are concerned. For instance, as between a creditor whose debt is secured merely by witnesses and one whose debt is secured by a bond, it is to begin with to the one whose debt is secured merely by witnesses.” R. Yohanan said, “The meaning is, the weakest in body [and so least able to pursue the purchasers of the deceased’s property and regain what is owing to him or her].”
- a. **I:2:** That is in line with the following: To a woman relation of R. Samuel bar Abba they gave [the residuary estate] on grounds that she was the weakest. R. Simeon b. Laqish brought agents of R. Yudan the patriarch and took the property away from her. Yohanan was leaning on R. Simeon b. Abba. He said to him, “What shall we do for that poor lady?” He said to him, “R. Simeon b. Laqish brought the agents of R. Yudan the patriarch, who took the property away from her.”

LXXXIV. YERUSHALMI KETUBOT 9:3

[A] **[IF] HE LEFT PRODUCE HARVESTED FROM THE GROUND, WHOEVER GETS THEM FIRST HAS EFFECTED ACQUISITION OF THEM. [IF] THE WIFE MADE ACQUISITION OF AN AMOUNT GREATER THAN THE VALUE OF HER MARRIAGE CONTRACT, OR A CREDITOR GREATER THAN THE VALUE OF THE DEBT OWING TO HIM – AS TO THE EXCESS [OF THE CLAIMS OF THESE RESPECTIVE PARTIES] – R. TARFON SAYS, “IT SHOULD BE GIVEN TO THE WEAKEST AMONG THEM.” R. AQIBA SAYS, “THEY DO NOT SHOW PITY IN A LAWSUIT. BUT IT SHOULD BE GIVEN OVER TO**

THE HEIRS. **F**OR ALL OF THEM HAVE TO CONFIRM THEIR CLAIM BY AN OATH. **B**UT THE HEIRS DO NOT HAVE TO CONFIRM THEIR CLAIM BY AN OATH.”

1. **I:1:** Both Rab and R. Simeon b. Laqish say, “The law [of M. 9:3A-B] applies in a case in which they were piled up in the stall. But if he had piled them up in his house, his house has effected ownership of them [for the person who owns the house now.]” R. Yohanan said, “Even if he had piled them up in his house, his house has not effected ownership of them, for he had supposed that they belonged to him [because his house had effected possession of the produce for him], but they in fact do not belong to him at all.”

LXXXV. YERUSHALMI KETUBOT 9:4

[A] **H**E WHO SETS UP HIS WIFE AS A STOREKEEPER, OR APPOINTED HER GUARDIAN, LO, THIS ONE MAY IMPOSE UPON HER AN OATH [THAT SHE HAS NOT MISAPPROPRIATED ANY OF HIS PROPERTY], AT ANY TIME HE WANTS. **R.** **E**LIEZER SAYS, “**E**VEN WITH RESPECT TO HER SPINDLE OR HER DOUGH [IF SHE IS NOT A SHOPKEEPER OR STOREKEEPER OR GUARDIAN, HE MAY IMPOSE AN OATH].”

1. **I:1:** Well did R. Eliezer rule. And what is the reason of rabbis [for not allowing an oath on the items of M. 9:4E]?
2. **I:2:** If she broke dishes, how do you treat the case? Is she in the status of an unpaid bailee [who makes it up only if at fault] or a paid bailee [who makes it up even if not at fault]?

LXXXVI. YERUSHALMI KETUBOT 9:5

[A] **I**F HE WROTE TO HER, “**N**EITHER VOW NOR OATH MAY **I** IMPOSE UPON YOU,” THEN HE CANNOT IMPOSE AN OATH ON HER. **B**UT HE IMPOSES AN OATH UPON HER HEIRS AND UPON THOSE WHO ARE HER LAWFUL SUCCESSORS. [IF HE SAID,] “**N**EITHER VOW NOR OATH MAY **I** IMPOSE UPON YOU, UPON YOUR HEIRS, OR UPON YOUR LEGAL SUCCESSORS,” HE CANNOT IMPOSE AN OATH UPON HER OR UPON HER HEIRS OR LEGAL SUCCESSORS. **B**UT HIS HEIRS DO IMPOSE AN OATH UPON HER, UPON HER HEIRS, OR UPON HER LEGAL SUCCESSORS.

1. **I:1:** Both R. Jonah and R. Yosé say, “It is not the end of the matter that [she is exempt from an oath concerning] property to which she had access during the lifetime of her husband, but even as to property

which she utilized after her husband's death the heirs cannot impose an oath on her.”

a. I:2: There we have learned: He who rents a cow from his fellow and then lent it to someone else, and it died of natural causes – let the one who rented it take an oath that it died of natural causes, and the one who borrowed it then pays compensation to the one who rented it [M. B.M. 3:2]. R. Hela in the name of R. Yannai: “And that rule applies in a case in which the owner gave him permission to rent it to others.” But as to the borrower, even if he did not change [the terms of the agreement], he is liable! But since we have learned: An unpaid bailee may stipulate that he is exempt from having to pay compensation [M. B.M. 7:7R-S], this comes to tell you that, even though he stipulated with him that he is exempt, he still is liable. What if he sought to impose an oath on the borrower [in the case of A]? Let us derive the law from the following: If he wrote to her, “Neither vow nor oath may I impose upon you,” then he cannot impose an oath on her, but he may impose an oath upon her heirs and upon those who are her lawful successors [M. 9:5A B]. That is to say that if he wanted to impose an oath on the borrower, he may impose an oath on him [as successor].

i. I:3: Said R. Yosé, “It is necessary to pay him a salary all the time that he is hired by him [even though the beast is in fact borrowed by a third party].”

II. I:4: R. Zeira raised the question before R. Yosa, “How do we decide such a case?” He said to him, “[We follow the majority]. Here we have two against four [so the second party is liable, since Eleazar, Yohanan, Yannai, and Hiyya all maintain that is so]. [The borrower has no right to lend out the beast, so the original guardian is liable.] The law follows the majority.”

LXXXVII. YERUSHALMI KETUBOT 9:6

[A] [IF HE SAID,] “NEITHER VOW NOR OATH MAY I OR MY HEIRS OR MY LEGAL SUCCESSORS IMPOSE UPON YOU, UPON YOUR HEIRS, OR UPON YOUR LEGAL SUCCESSORS,” NEITHER HE NOR HIS HEIRS OR LEGAL SUCCESSORS CAN IMPOSE AN OATH UPON HER, HER HEIRS, OR HER LEGAL SUCCESSORS. [IF] SHE WENT FROM HER HUSBAND’S GRAVE TO HER FATHER’S HOUSE, OR IF SHE WENT BACK TO HER FATHER IN LAW’S HOUSE AND WAS NOT APPOINTED EXECUTOR, THE

HEIRS DO NOT IMPOSE AN OATH ON HER [THAT SHE HAS NOT MISAPPROPRIATED ANY PROPERTY OF THE ESTATE]. AND IF SHE WAS APPOINTED EXECUTOR [OF THE ESTATE], THE HEIRS DO IMPOSE AN OATH ON HER CONCERNING TIME TO COME. BUT THEY DO NOT IMPOSE AN OATH ON HER CONCERNING PAST TIME.

1. **I:1:** Said R. Jonah, “And that rule [M. 9:6A-B] applies in a case in which she acted as executor during her husband’s lifetime. But if she did so after the death of her husband, the heirs do impose an oath on her.”

LXXXVIII. YERUSHALMI KETUBOT 9:7

[A] SHE WHO IMPAIRS HER MARRIAGE CONTRACT COLLECTS IT ONLY THROUGH AN OATH. [IF] ONE WITNESS TESTIFIED AGAINST HER, THAT IT HAD BEEN COLLECTED, SHE COLLECTS IT ONLY THROUGH AN OATH.

1. **I:1:** Said R. Zira, “In all of these cases, an oath in the status of one deriving from the Torah has fallen away [in that the oaths required here are not of the standing of a Torah oath, but an oath imposed by sages as a remedy].”
2. **I:2:** There we have learned: She who impairs her marriage contract collects it only by taking an oath – how so? If her marriage settlement was worth a thousand zuz and he said to her, “You have collected your marriage settlement,” but she says, “I have received only a maneh [a hundred zuz]” – collects [the remainder] only by taking an oath [M. Ket. 9:8A-C]. [Now since M. 9:7 and 9:8 specify that the oath is required in a case of impairing the marriage contract, but not in a case of diminishing it, in which case the woman collects without taking an oath, that is, by claiming less than is theoretically possible, we must ask:] What is the difference between impairing the contract and diminishing it?
3. **I:3:** It has been taught: An heir, the father of whom has impaired his bond, may collect without an oath [cf. M. Shebu. 7:7E F]. In this case the power of the heir is stronger than the power of the father [T. Shebu. 6:5E-F]. For the son may collect without taking an oath, while the father may collect only by taking an oath. Said R. Eleazar, “And let him take the oath applying to an heir: That father gave us no instructions in this matter, nor did he tell us anything in this regard, nor have we found written in the documents of our father that the bond of indebtedness has been paid [M. Shebu. 7:7].”

[B] **[IF THE CONTRACT IS TO BE PAID OF]** FROM THE PROPERTY OF HEIRS, OR FROM PROPERTY SUBJECT TO A LIEN, OR IN HIS **[THE HUSBAND’S]** ABSENCE SHOULD SHE COLLECT **[HER MARRIAGE CONTRACT]** ONLY THROUGH AN OATH.

- 1.** **II:1:** R. Yohanan in the name of R. Yannai, “They exact payment from the property of an estate only in the case of a bond in which usury is eating up the estate.” And there are those who say, “Also in the case of paying off the marriage settlement of a wife.” Said R. Yannai, “It is because the estate has to supply maintenance [to the widow, and it is better for the estate to pay off the marriage contract instead].”

LXXXIX. YERUSHALMI KETUBOT 9:8

[A] **“SHE WHO IMPAIRS HER MARRIAGE CONTRACT”:** How so? **[IF]** HER MARRIAGE CONTRACT WAS WORTH A THOUSAND ZUZ, AND HE SAID TO HER, **“YOU HAVE COLLECTED YOUR MARRIAGE CONTRACT,”** BUT SHE SAYS, **“I HAVE RECEIVED ONLY A MANEH [A HUNDRED ZUZ],”** SHE COLLECTS **[THE REMAINDER]** ONLY THROUGH AN OATH. **“[IF]** **[ONE WITNESS TESTIFIED AGAINST HER THAT IT HAD BEEN COLLECTED”:** How so? **[IF]** HER MARRIAGE CONTRACT WAS WORTH A THOUSAND ZUZ, AND HE **[THE WITNESS]** SAID TO HER, **“YOU HAVE COLLECTED THE VALUE OF YOUR MARRIAGE CONTRACT,”** AND SHE SAYS, **“I HAVE NOT COLLECTED IT,”** AND ONE WITNESS TESTIFIED AGAINST HER THAT IT HAD BEEN COLLECTED, SHE SHOULD COLLECT THE MARRIAGE CONTRACT ONLY THROUGH AN OATH. **“FROM PROPERTY SUBJECT TO A LIEN:”** How so? **[IF THE HUSBAND]** SOLD OFF HIS PROPERTY TO OTHERS, AND SHE COMES TO COLLECT FROM THE PURCHASERS, SHE SHOULD COLLECT FROM THEM ONLY THROUGH AN OATH. **“FROM THE PROPERTY OF THE HEIRS [ORPHANS]”:** How so? **[IF THE HUSBAND]** DIED AND LEFT HIS PROPERTY TO THE ORPHANS, AND SHE COMES TO COLLECT **[HER MARRIAGE CONTRACT]** FROM THE ORPHANS, SHE SHOULD COLLECT FROM THEM ONLY BY AN OATH. **“IN HIS ABSENCE”:** How so? **[IF THE HUSBAND]** WENT OVERSEAS, AND SHE COMES TO COLLECT **[HER MARRIAGE CONTRACT]** IN HIS ABSENCE, SHE COLLECTS **[WHAT IS DUE HER]** ONLY BY AN OATH. **R. SIMEON** SAYS, **“SO LONG AS SHE COMES TO CLAIM HER MARRIAGE CONTRACT, THE HEIRS IMPOSE AN OATH ON HER. BUT IF SHE DOES NOT LAY CLAIM TO HER MARRIAGE CONTRACT, THE HEIRS DO NOT IMPOSE AN OATH ON HER.”**

- 1.** **I:1:** [As to M. 9:8 ff.,] the point of the Mishnah [not limited to the collection of a marriage contract] is that in the case of a debt to be collected from the debtor’s property in the debtor’s absence, collection may be made only upon taking an oath.

2. **I:2:** It turns out that Hanan and R. Simeon have said the same thing. [M. Ket. 13:1E, He who went overseas and his wife at home claims maintenance –] Hanan says, “Let her take an oath at the end, but let her not take an oath at the outset. “[That is, she takes an oath when she claims her marriage settlement after her husband’s death, or after he returns, that she has not held back any property belonging to her husband.] And likewise R. Simeon says, “Let the wife take an oath only at the end, [when she claims her marriage settlement].”

XC. YERUSHALMI KETUBOT 9:9

[A] [If] SHE PRODUCED A WRIT OF DIVORCE, AND A MARRIAGE CONTRACT IS NOT ATTACHED TO IT, SHE COLLECTS HER MARRIAGE CONTRACT. [BUT IF SHE PRODUCED] A MARRIAGE CONTRACT, AND A WRIT OF DIVORCE IS NOT ATTACHED TO IT, [AND IF] SHE CLAIMS, “MY WRIT OF DIVORCE IS LOST,” [WHILE THE HUSBAND] CLAIMS, “MY QUITTANCE IS LOST,” – AND SO, TOO, A CREDITOR WHO PRODUCED A BILL OF INDEBTEDNESS AND A PROSBOL [SECURING THE LOAN IN THE YEAR OF RELEASE] IS NOT ATTACHED TO IT – LO, THESE [PARTIES] MAY NOT COLLECT [WHAT THEY CLAIM]. RABBAN SIMEON B. GAMALIEL SAYS, “FROM THE TIME OF THE DANGER AND THEREAFTER; A WOMAN COLLECTS HER MARRIAGE CONTRACT WITHOUT HER WRIT OF DIVORCE. AND A CREDITOR COLLECTS WHAT IS OWING TO HIM WITHOUT A PROSBOL ATTACHED.”

1. **I:1:** R. Hiyya in the name of R. Yohanan: “He who contested the ruling of a court [claiming that he had paid off the woman’s marriage contract but not before witnesses] is not believed.” Said to him R. Hiyya bar Abba, “And is it not a teaching of the Mishnah itself: If she produced a writ of divorce, and a marriage contract is not attached to it, she collects her marriage contract [M. 9:9A]? [The marriage contract is a court document, and the husband cannot contest it. So what contribution is made at A?]”
2. **I:2:** Rab said, “In a locale in which they do not write out a document of a marriage contract, [the rule of M. 9:9A applies]. [In such a place it is simply a stipulation of the court.] But in a place in which they do write out a document of a marriage contract, what she produces is what she collects. [In the former place she collects merely by producing a writ of divorce. She has nothing else anyhow. But in a place where there is a marriage contract in writing, she has to produce it. This severely limits M. 9:9A.]”

3. **I:3:** R. Zeira, R. Abuna in the name of Rab: “In a locale in which they write a writ of a marriage contract, if he claims, ‘I wrote one,’ and she claims, ‘You did not write one,’ [in which case she produces only a writ of divorce and wishes to collect,] it is incumbent on her to bring proof that he had not written such a document In a locale in which they ordinarily do not write a writ of a marriage contract, and he claims, ‘I wrote one out,’ and she claims, ‘You did not write one out,’ it is incumbent on him to bring proof that he had written one out.”
- a. **I:4:** R. Hiyya bar Abba found a *prozbol* which had been lost by R. Jonathan and he ran to hand it to him. He said to him, “I don’t need it any more, for so it has been taught: A creditor is believed to claim, ‘I had such a document [as a *prozbol* and I let it rot.’”

XCI. YERUSHALMI KETUBOT 9:10

[A] IF SHE PRODUCES] TWO WRITS OF DIVORCE AND TWO MARRIAGE CONTRACTS – SHE COLLECTS [THE VALUE OF] TWO MARRIAGE CONTRACTS.

1. **I:1:** The rule of the Mishnah before us applies when there is a writ of divorce dated between the date of one marriage contract and that of the subsequent one [in which case each marriage contract, bears a date prior to the writ of divorce which follows it].
2. **I:2:** [When we speak of two marriage contracts and one writ of divorce,] up to this point we have dealt with a case in which the two marriage contracts are of the same value. [She collects the value of only one of them. She collects either one, either the one bearing an earlier date or the one bearing a later date. Since the sum is the same, it does not matter.] But if this one contained a stipulation of the payment of a *maneh*, and in the other, a stipulation of the payment of two hundred zuz....
3. **I:3:** He who borrows money from his fellow and then goes and borrows from him a second time has to indicate [in the second bond], “This is beside what is specified in the first bond, which I have owing to you.”

[B] [IF SHE PRODUCES] TWO MARRIAGE CONTRACTS BUT ONLY ONE WRIT OF DIVORCE, OR ONE MARRIAGE CONTRACT AND TWO WRITS OF DIVORCE, OR A MARRIAGE CONTRACT AND A WRIT OF DIVORCE AND A DEATH [CERTIFICATE], SHE COLLECTS ONLY ONE MARRIAGE CONTRACT. FOR HE WHO DIVORCES HIS WIFE

AND THEN REMARRIES HER ON THE STRENGTH OF THE FIRST MARRIAGE CONTRACT DOES HE REMARRY HER.

1. **II:1:** [The reason for the rule of M. 9:10C, two marriage contracts but only one writ of divorce and the like, in which instance she collects only on the strength of one of them,] is that it is a woman's way to say, "I have lost my marriage contract. Make me a new one."

a. **II:2:** [As to the case of one marriage contract and two writs of divorce in which we say that the remarriage is on the strength of the original marriage contract,] R. Yudan bar Shiqli brought a case before R. Yosé. He asked him, "Did not R. Abbahu say in the name of R. Yohanan, 'A bond on the strength of which one took out a loan, which one paid off – one should not take out a loan relying on that bond on the self same day'? [Along these same lines, has not the original indenture been nullified?]"

[C] AND A MINOR BOY WHOSE FATHER MARRIED HIM OFF – HER [HIS WIFE'S] MARRIAGE CONTRACT IS CONFIRMED [AS VALID AFTER HE REACHES MATURITY]. FOR ON THE STRENGTH OF THAT DOCUMENT HE CONFIRMED [THE MARRIAGE]. A PROSELYTE WHO CONVERTED, AND HIS WIFE ALONGSIDE [DID THE SAME] – HER [ORIGINAL] MARRIAGE CONTRACT IS VALID. FOR ON THE STRENGTH OF THAT DOCUMENT HE [THE HUSBAND] CONFIRMED [THE MARRIAGE].

1. **III:1:** [With reference to M. 9:10G-J,] R. Hanan taught before R. Hela, "There are two Amoras in disagreement on the interpretation of this passage. One of them said, 'It is a rule pertinent only as to the marriage contract, but not as to any further conditions written into it.' And the other said, 'It is pertinent both to the marriage contract and to the conditions written into it.'"

XCII. YERUSHALMI KETUBOT 10:1

[A] HE WHO WAS MARRIED TO TWO WIVES AND DIED – THE FIRST [WIFE] TAKES PRECEDENCE OVER THE SECOND, AND THE HEIRS OF THE FIRST TAKE PRECEDENCE OVER THE HEIRS OF THE SECOND.

1. **I:1:** Under what circumstances? In the case of [the collection of] the marriage contract. But as to maintenance, both of them are equal [and neither has a priority over the other] [T. Ket. 10:10D-E].

2. **I:2:** As to paying off the marriage contract and burial – which takes precedence? As to paying off the marriage contract and paying off a

loan secured by witnesses, which takes precedence? As to paying off the marriage contract and providing maintenance for the daughters, which takes precedence? In the view of him who says, "They collect funds for maintenance of the daughters even from indentured property [e.g., mortgaged land]," the provision of funds for maintenance of the daughters takes precedence. In the view of him who said, "They do not collect funds for the maintenance of daughters even from indentured property," the provision of funds for maintenance of the daughters does not take precedence.

3. **I:3:** [The Mishnah has] spoken [thus far] only of [the wife's] dying [at M. 10:1D]. [That is to say, the husband marries and the first wife dies. He therefore inherits her estate. Then he remarries. Then he dies. The second wife takes precedence over the heirs of the first. Why? Because in this case the property of the first wife has entered the husband's estate before he encumbered his estate with the debt constituted by the marriage contract of the second wife. The creditor takes precedence over the heir. So the second wife or her heirs take the value of the marriage contract, and then the estate is divided equally among the heirs.] Lo, if the wife was divorced, she is in the status of a creditor.

[B] **[If]** HE MARRIED THE FIRST AND SHE DIED, THEN HE MARRIED THE SECOND, AND HE DIED, THE SECOND AND HER HEIRS TAKE PRECEDENCE OVER THE HEIRS OF THE FIRST.

1. **II:1:** Said Ben Nannos (L + V: Ben Azzai), "The heirs of the first wife may say to the heirs of the second, 'If you are in the status of creditors, take what is coming to you and get out. And if not, then you and we should divide the estate equally.'
2. **II:2:** [If there is available a *denar* over and above what is required to pay off the two marriage contracts, and the father has left a further debt, then what remains] is used to reduce the debt. [We do not treat the additional *denar* as surplus.]
- a. **II:3:** We now pursue a parallel in principle, involving a different sort of case:] What would be a practical case? One betrothed Rachel, then consummated a marriage with Leah, and then went and consummated the marriage with Rachel. [Which one takes precedence in the collection of her marriage settlement? The dispute runs parallel to that of Eleazar b. Azariah and rabbis at M. 5:1. Rabbis see no difference between the law covering the dissolution of the marriage through divorce or death at the stage of betrothal and that covering dissolution at the stage of a fully

consummated marriage. Eleazar b. Azariah regards the former as different from the latter. Along these same lines:]

XCIII. YERUSHALMI KETUBOT 10:2

[A] **HE WHO WAS MARRIED TO TWO WIVES AND THEY DIED, AND AFTERWARD HE DIED, AND THE ORPHANS CLAIM THE MARRIAGE CONTRACT OF THEIR MOTHER — AND THERE ARE THERE [FUNDS TO PAY] ONLY TWO MARRIAGE CONTRACTS — THEY DIVIDE EQUALLY. [IF] THERE WAS THERE AN EXCESS OF A DENAR [OVER THE NECESSARY FUNDS], THESE COLLECT THE MARRIAGE CONTRACT OF THEIR MOTHER, AND THOSE COLLECT THE MARRIAGE CONTRACT OF THEIR MOTHER. [IF] THE ORPHANS SAID, “WE RECKON THE VALUE OF THE ESTATE OF OUR FATHER AT ONE DENAR MORE,” SO THAT THEY MAY COLLECT THE MARRIAGE CONTRACT OF THEIR MOTHER, THEY DO NOT LISTEN TO THEM. BUT THEY MAKE AN ESTIMATE OF THE VALUE OF THE PROPERTY IN COURT.**

- 1. I:1:** This is in line with what R. Ammi said, “It is so that a man will be likely to give a dowry to his daughter in a liberal spirit.”
- 2. I:2:** R. Judah bar Pazzi in the name of R. Yosé b. Haninah: “If one of the brothers died, all of them divide it up equally [when there is just enough to cover both marriage settlements].”
- 3. I:3:** If there was a firstborn there, you rule, the firstborn takes a double share [of what all inherit from the father].
- 4. I:4:** At what point do they estimate the value of the estate?
- 5. I:5:** At what point do they estimate the value of the estate?

XCIV. YERUSHALMI KETUBOT 10:3

[A] [IF] THERE WAS PROPERTY WHICH WAS GOING [TO ACCRUE TO THE ESTATE], IT IS NOT DEEMED EQUIVALENT TO THAT WHICH IS IN [THE ESTATE’S] POSSESSION. **R. SIMEON SAYS, “EVEN IF THERE IS MOVABLE PROPERTY THERE, IT IS NOTHING. [THE MALES INHERIT THEIR MOTHER’S PROPERTY] ONLY IF THERE IS AVAILABLE REAL ESTATE OF A VALUE GREATER THAN THAT OF THE TWO MARRIAGE CONTRACTS BY AT LEAST A DENAR.”**

- 1. I:1:** R. Mana said, “The dispute concerns the principle of [assessing the estate for] the two marriage contracts. [How do we evaluate the estate?] R. Simeon says, ‘We evaluate [only] real estate.’ Rabbis say,

‘[We evaluate also] movables.’ As to that remaining denar all parties concur that it constitutes movables.” R. Yosé b. R. Bun said, “All parties concur on the principle [assessing the estate for] the two marriage contracts, that it involves only real estate. Concerning what is the disagreement~ It deals with that denar. R. Simeon says, ‘It constitutes real estate.’ And rabbis say, ‘Movables.’”

2. **I:2:** R. Ba bar Zabeda in the name of Rab: “But they conducted the law in Syria in such wise as to collect for paying off the marriage settlement also from copper specie and from banquet plate.” R. Abbahu in the name of R. Yohanan, “But you cannot seize plates prepared for use that same night.”

XCV. YERUSHALMI KETUBOT 10:4

[A] HE WHO WAS MARRIED TO THREE WIVES AND DIED, THE MARRIAGE CONTRACT OF THIS ONE WAS A MANEH, AND THAT OF THE NEXT TWO HUNDRED ZUZ, AND THAT OF THE LAST THREE HUNDRED — AND THERE IS THERE ONLY A MANEH — THEY DIVIDE IT EQUALLY.

1. **I:1:** Samuel said, “The judges single out him to whom to adjudicate the claim in litigation. The matter is comparable to a case in which two bonds are issued [bearing the same date] as indentures of a single field. To whichever one of the bonds the judges wish to assign the field, they assign it.” Now the Mishnah before us stands at variance with the view of Samuel as to the discretionary power of the judges: If there is there only a single maneh, they divide it equally [M. 10:4B-C]. Is this not a case in which the judges should be able to use their discretion [and assign the maneh to whichever of the women they choose]?

[B] [If] THERE ARE TWO HUNDRED, THE ONE WHO IS OWED A MANEH TAKES FIFTY, AND THE ONES WHO ARE OWED TWO HUNDRED AND THREE HUNDRED EACH TAKE THREE GOLDEN DENARS [SEVENTY-FIVE ZUZ EACH]. [If] THERE WERE THREE HUNDRED ZUZ THERE, THE ONE WHO CLAIMS A MANEH TAKES FIFTY ZUZ, AND THE ONE WHO CLAIMS TWO HUNDRED TAKES A MANEH, AND THE ONE WHO CLAIMS THREE HUNDRED ZUZ TAKES SIX GOLD DENARS [ONE HUNDRED FIFTY ZUZ].

1. **II:1:** Samuel said, “The Mishnah speaks of a case in which the several parties give permission to one another to carry on the litigation. Thus the third woman permits the second to deal with the first. In this case, the second says to the first, ‘Do you not have a claim for a *maneh*? Take fifty and leave the transaction.’”

[C] AND SO [THREE WHO PUT THEIR MONEY INTO] A SINGLE PURSE — IF THE CAPITAL IN THE END WAS TOO LITTLE OR TOO MUCH, SO WOULD THEY DIVIDE UP WHAT WAS AVAILABLE [AS AT G].

1. **III:1:** Said R. Eleazar, “That which you have stated applies to a case in which the *sela* itself went down or up in value. But so far as profit or loss is concerned, all divide equally [and not in proportion to the capital they have invested].” [The point is that when there is profit or loss based on variations in the value of currency, they divide up the profit or loss in proportion to the coinage they have contributed. But as to the total value of the capital, the division is equal.]
2. **III:2:** There we have learned: [If] it went and gored yet another ox worth two hundred,] the last one takes a hundred zuz, the one before it, fifty zuz, and the first two each take a golden denar [twenty-five zuz] [M. B.Q. 4:1J-K]. [All are deemed partners, and this is how the loss is assigned to each, in accord with the proportion of the capital which each has contributed.] R. Samuel in the name of R. Zeira, “And so is the rule for dividing profits [if partners have invested in a common sum of capital in accord with the stated proportions].”

XCVI. YERUSHALMI KETUBOT 10:5

[A] HE WHO WAS MARRIED TO FOUR WIVES AND WHO DIED — THE FIRST TAKES PRECEDENCE OVER THE SECOND, AND THE SECOND OVER THE THIRD, AND THE THIRD OVER THE FOURTH. THE FIRST IS SUBJECTED TO AN OATH BY THE SECOND [THAT SHE HAS NOT YET COLLECTED HER MARRIAGE CONTRACT], AND THE SECOND TO THE THIRD, AND THE THIRD TO THE FOURTH, AND THE FOURTH COLLECTS WITHOUT AN OATH. BEN NANNOS SAYS, “AND IS IT ON ACCOUNT OF THE FACT THAT SHE IS LAST THAT SHE IS REWARDED? SHE TOO SHOULD COLLECT ONLY BY MEANS OF AN OATH.”

1. **I:1:** R. Abuna in the name of R. Samuel: “In accord with the view of Ben Nannos, [who requires the final party to take an oath, as much as the others,] the matter is to be compared to the case in which a single bond is issued against three purchasers [of the property of the debtor]. All three of them share equally [in giving up property to pay the debt which was secured by the fields of the debtor which they themselves have purchased]. [In the case of the Mishnah, likewise, all the women share equally in any claim laid against the estate to be paid out of the real estate received by them in compensation for their marriage contracts. None of the women may claim to the creditor that she has

left a place for collection to be effected, namely, in the property received by a wife whose marriage contract bears a later date.]”

2. **I:2:** With reference to taxes in kind, head taxes, and forfeiture, Rabbi applied the law in accordance with the view of Ben Nannos. [That is, if the state seized the land of a taxpayer in arrears for these taxes, and the land was sold, then the original owner could bring the later purchasers to court. Rabbi assigned liability to compensate the original owner to all purchasers equally, without regard to their place in the sequence of purchase of the property.]

[B] [If] ALL OF THEM [THE MARRIAGE CONTRACTS] WERE ISSUED ON ONE DAY, WHOEVER CAME BEFORE HER FELLOW, BY EVEN A SINGLE HOUR, HAS ACQUIRED [THE RIGHT OF COLLECTION FIRST]. AND THUS DID THEY WRITE IN JERUSALEM THE HOURS OF THE DAY [IN A MARRIAGE CONTRACT]. [If] ALL OF THEM WERE ISSUED AT THE SAME HOUR AND THERE IS ONLY A MANEH THERE, THEY DIVIDE IT UP EQUALLY [= M. 10:4A-C].

1. **II:1:** The relatives of R. Yosé bought fields from members of the household of Bar Topqan. The latter went and got married. Their wives brought them old titles [showing that the property sold had originally belonged to their family, and, according to the law of seized property, the purchasers were bound to pay them one-fourth of the price paid for the property.

XCVII. YERUSHALMI KETUBOT 10:6

[A] HE WHO WAS MARRIED TO TWO WOMEN, AND WHO SOLD OFF HIS FIELD — AND THE FIRST WOMAN WROTE TO THE PURCHASER, “I HAVE NO CASE OR CLAIM WITH YOU,” THE SECOND [WIFE] NONETHELESS SEIZES THE FIELD FROM THE PURCHASER, AND THE FIRST WIFE FROM THE SECOND, AND THE PURCHASER FROM THE FIRST, AND THEY GO AROUND IN A CIRCLE, UNTIL THEY MAKE A COMPROMISE AMONG THEM.

1. **I:1:** Said R. Yosé, “[Since the Mishnah indicates that the second party may seize the property from the one before her, even though that party may then go and effect a seizure as well, it follows that] he who borrowed money from two people, and the second of the two came and said to him, ‘Rise and settle with me, then if [the prior creditor] should seize what you give me in settlement, he may seize it,’ [that arrangement is all right].” If he then settled with the second, then the first came and seized the property from him, and he settled with the

first, [what is the law?] [May the second creditor lay claim on the borrower, or is there a lien on the property?]

[B] AND SO IN THE CASE OF A CREDITOR, AND SO IN THE CASE OF A WOMAN WHO IS A CREDITOR.

- 1. II:1:** Said R. Mattenaiah, “The rule [at M. 10:6/I, in regard to a woman who is a creditor, And so in the case of a creditor, and so in the case of a woman who is a creditor] accords with him who said, ‘The original marriage settlement is valid so far as collecting the *maneh* or two hundred zuz, but not as to collecting the dowry in excess of those sums.’ [For this latter purpose, a new marriage settlement must be written out when the couple remarries.] But in the view of him who said, ‘It is valid both for the marriage settlement and for the excess dowry,’ seizure may be effected [since what the woman has stipulated, that she will not exercise her rights against the purchaser, applies to her but not to her male childrens’ claim].”

XCVIII. YERUSHALMI KETUBOT 11:1

[A] A WIDOW IS SUPPORTED BY THE PROPERTY OF THE ORPHANS.

- 1. I:1:** R. Judah in the name of Samuel, R. Abbahu in the name of R. Yohanan: “The things that she finds belong to her. If she had food left over, in the case of a married woman, in which the things she finds belong to the husband, if she left over food, the leavings belong to him. In the case of a widow, in which the things which she finds belong to her, if she left over food, it belongs to her.”

[B] [THE WORK OF HER HANDS] BELONG TO THEM. BUT THEY ARE NOT LIABLE TO BURY HER.

- 1. II:1:** R. Immi in the name of R. Yosé b. Haninah: “Also she does not do for them those private services [which she does for her husband].”
- 2. II:2:** And they add extras to the food they supply to her. In the case of a married woman, she has no claim on wine. In the case of a widow, [if she used to have wine,] she has a claim on wine.

[C] HER HEIRS, WHO INHERIT HER MARRIAGE CONTRACT, ARE LIABLE TO BURY HER.

- 1. III:1:** Rab said, “In the case of a dying man, if he said, ‘Do not bury me [from my own property,]’ he is buried as a public charge.”

- a. III:2: [As to the statement, “If he said, ‘Do not bury me at the expense of my estate,’ they listen to him and bury him as a public charge,] this is in line with that which R. Abba bar R. Huna said, “They have treated the verbal declaration of a dying man as equivalent in force to the deed of a healthy man, who wrote a deed of gift and handed over the property, [in that, in the former case, a formal act of acquisition is not required for ownership to be deemed to have been transferred].”
- b. III:3: R. Yudan asked, “If he said, ‘Make a burning for me,’ or, ‘Perform in my memory such-and-such a deed, and give half of such-and-such a field to So-and-so,’ if they do not do the burning, do they also not give the field?” [This question is not answered.]
 - i. III:4: R. Yudan fled to Noy [where Yosé was domiciled]. A case came before R. Yosé: “A dying man who said, ‘Let the bonds of So-and-so [my bonds] be handed over to So-and-so’ [what is the law]? [Has this statement transferred ownership of the bonds?]”

XCIX. YERUSHALMI KETUBOT 11:2

- [A] **A WIDOW, WHETHER AT THE STAGE OF BETROTHAL OR AT THE STAGE OF MARRIAGE, SELLS [HER HUSBAND’S ESTATE’S PROPERTY THAT WAS SECURITY FOR HER MARRIAGE CONTRACT TO REALIZE HER MARRIAGE CONTRACT OR TO PURCHASE FOOD] WITHOUT COURT PERMISSION.**
- [B] **R. SIMEON SAYS, “A WIDOW AT THE STAGE OF MARRIAGE SELLS WITHOUT COURT PERMISSION. ONE AT THE STAGE OF BETROTHAL SELLS ONLY WITH COURT PERMISSION, BECAUSE SHE HAS NO CLAIM OF SUPPORT. AND WHOEVER HAS NO CLAIM OF SUPPORT MAY SELL [PROPERTY OF THE HUSBAND’S ESTATE ENCUMBERED FOR THE MARRIAGE CONTRACT] ONLY WITH COURT PERMISSION.”**

1. **I:1:** [Explaining M. 11:2B-E:] R. Simeon maintains the theory that the matter depends upon whether or not there is a provision for maintenance for the woman. If the husband made an agreement to support the woman at the stage of betrothal, then she may sell off his property without court approval. If he made an agreement not to provide maintenance for her at the level of the fully consummated marriage, then she may sell off his property only with court permission. As to the view of sages – R. Aha, R. Hinena in the name of R. Yohanan: “A man is concerned about the honor owing to his

widow, whether this is at the stage of betrothal or whether it is at the stage of a fully consummated marriage.”

2. **I:2:** R. Judah in the name of Samuel: “She who relinquishes her claim against the estate for collection of her marriage settlement nonetheless is supported by the estate.”
3. **I:3:** R. Eleazar in the name of R. Yosé b. Zimra: “A widow who allowed two or three months to pass without laying claim on support has [henceforward] lost her claim on support during those three months.”
4. **I:4:** If at the end of thirty days, they claim, “We already provided for you,” while she claims, “I collected nothing,” the matter is settled in line with what R. Abbahu said in the name of R. Yohanan, “If one borrowed in her behalf twelve thousand denars for a year, to pay over to her one golden denar per month, it is obvious that in the first month of the year, the estate paid over the money, and in the last [that is, a month not yet here], it did not. What about the time in between? This is the case concerning which they have said, ‘Lo, at the outset, it is not [settled in favor of the plaintiff].’ [The reference is to M. B.M. 8:8/I: There is a regular rent over a twelve-month period, paid monthly, and the year received an additional month, the rule is that the month is divided, with half the rent collected by the landlord. Samuel here says that the claim comes in the middle of the month. Since, in this case, the woman comes at the end of the month, she has to bring proof of the facts of the matter. It is she who wishes to collect from the defendant.]”

C. YERUSHALMI KETUBOT 11:3

[A] [R. SIMEON SAYS,] “[IF] SHE SOLD OFF HER MARRIAGE CONTRACT OR PART OF IT, [OR] PLEDGED HER MARRIAGE CONTRACT OR PART OF IT, [OR] GAVE AWAY HER MARRIAGE CONTRACT TO SOMEONE ELSE, OR PART OF IT — SHE MAY SELL THE REMAINDER ONLY WITH COURT PERMISSION.” AND SAGES SAY, “SHE SELLS IT EVEN FOUR OR FIVE TIMES [OCCASIONS, BIT BY BIT]. AND [IN THE MEANTIME, BEFORE COLLECTING HER MARRIAGE CONTRACT] SHE SELLS [IT] FOR SUPPORT WITHOUT COURT PERMISSION, AND WRITES, ‘I SOLD IT FOR SUPPORT.’” BUT A DIVORCÉE SHOULD SELL ONLY WITH COURT PERMISSION.

1. **I:1:** It has been taught: “And she writes, “These did I sell for my marriage contract, and these did I sell for support” [M. 11:3F], the

words of R. Judah. R. Yosé says, “She sells and writes without specification. Therefore her claim is strong” [T. Ket. 11:1].

2. **I:2:** R. Jacob b. Aha in the name of R. Yohanan, R. Hela in the name of R. Eleazar: “Just as a man is concerned for the honor owing to his widow, so he is concerned for the honor owing to the woman he has divorced.”

CI. YERUSHALMI KETUBOT 11:4

[A] **A WIDOW WHOSE MARRIAGE CONTRACT WAS TWO HUNDRED, AND WHO SOLD [LAND OF HER HUSBAND’S ESTATE] WORTH A MANEH FOR TWO HUNDRED ZUZ, OR WORTH TWO HUNDRED ZUZ FOR A MANEH, — HER MARRIAGE CONTRACT HAS BEEN RECEIVED THEREBY. [If] HER MARRIAGE CONTRACT WAS WORTH A MANEH AND SHE SOLD [LAND] WORTH A MANEH AND A DENAR FOR A MANEH, HER SALE IS VOID. EVEN IF SHE SAYS, “I SHALL RETURN THE DENAR TO THE HEIRS,” HER SALE IS VOID.**

1. **I:1:** There is no problem in understanding why, if she sold what was worth a *maneh* for two hundred zuz, the sale is valid, for she has received her marriage contract. But if she sold what was worth two hundred zuz for a *maneh*, why should she be deemed to have received the two hundred zuz coming to her?

CII. YERUSHALMI KETUBOT 11:5

[A] **RABBAN SIMEON B. GAMALIEL SAYS, “UNDER ALL CIRCUMSTANCES IS HER SALE VALID, UNLESS THERE WAS SO MUCH LAND THERE AS TO ALLOW HER TO LEAVE A FIELD OF NINE QABS, “AND IN THE CASE OF A VEGETABLE GARDEN, A FIELD OF HALF A QAB.” (IN ACCORD WITH THE OPINION OF R. AQIBA, A QUARTER-QAB.) [If] HER MARRIAGE CONTRACT WAS WORTH FOUR HUNDRED ZUZ, AND SHE SOLD [LAND] TO THIS ONE FOR A MANEH, AND TO THAT ONE FOR A MANEH,’ THE SALE TO THE LAST ONE IS VOID. BUT ALL THE OTHERS — THEIR PURCHASE IS VALID.**

1. **I:1:** [As to M. 11:5C-E] that rule applies to a case in which she sold it to them with four deeds. But if she sold it to them on a single deed [covering all four pieces of land], we come to the dispute between R. Yohanan and R. Simeon b. Laqish. For they dispute as follows. If one wrote over a deed of gift of all of his property to two men simultaneously, and the witnesses to the document were valid for one

of the donees but invalid [e.g., as relatives] for the other – R. Hela in the name of R. Yosé [stated], “R. Yohanan and R. Simeon b. Laqish differed on the matter. One of them said, ‘Since they are deemed invalid for one of the parties to the deed, they are invalid for the other,’ while the other said, ‘They indeed are regarded as valid for one party and invalid for the other.’ [If part of the testimony is invalidated, the whole of the document is nullified, or if part is invalidated, part remains acceptable. Here, too, since we have a single document, if the deed of gift is invalid without valid signatures, so the writ of dismissal is null, or the contrary.]”

CHIII. YERUSHALMI KETUBOT 11:6

[A] [If] THE ESTIMATE OF THE VALUE MADE BY JUDGES WAS A SIXTH TOO LITTLE OR A SIXTH TOO MUCH, THEIR SALE IS VOID. RABBAN SIMEON B. GAMALIEL SAYS, “THEIR SALE IS CONFIRMED. FOR IF IT IS SO [THAT THE SALE IS VOID], OF WHAT VALUE IS THE DECISION OF A COURT?” BUT IF THEY DREW UP A DEED OF INSPECTION, EVEN IF THEY SOLD WHAT WAS WORTH A MANEH FOR TWO HUNDRED, OR WHAT WAS WORTH TWO HUNDRED FOR A MANEH, THEIR SALE IS CONFIRMED.

- 1. I:1:** Just as you have said [at M. 11:4] that, in the case of an ordinary person, should land be sold at a price a third over and above or less than true value, and, in the case of movables, up to a sixth [that would represent fraud through overcharge], in the case of that which has been consecrated, for redeeming real estate, the fraud through overcharge is one sixth of true value, and, in the case of movables, a twelfth. [A more strict rule for overcharge applies.]
- 2. I:2:** There we have learned: The proclamation of the sale of goods of orphans [an estate] evaluated by the court to meet the father’s debt is for thirty days. And the proclamation of the sale of goods of the sanctuary evaluated by-the court is for sixty days. And they make an announcement morning and night [M. Ar. 6:1A-C]. Why for thirty days? So as to improve the position of the orphans [in attracting a larger potential group of purchasers].
- 3. I:3:** And they make an announcement morning and night, when the workers come in and when the workers go out. They state the traits of the property: How much it was worth and how much is demanded to redeem it for the purpose of paying a woman’s marriage settlement or a creditor’s claim against the estate [T. Ar. 4:1C-E].

a. I:4: Gloss of a detail of the foregoing.

4. **I:5:** With reference to M. 11:6A-B,] Hananiah bar Shelameh said in the name of Rab, “A case came before Rabbi, and he considered applying the law in accord with the position of rabbis. Said to him R. Eleazar b. Parta, the son of the son of R. Eleazar b. Parta, ‘Rabbi, did you not teach us in the name of your forefathers, But if they issued a deed of inspection [the sale is valid]? [That is, Rabbi’s forefather, Simeon b. Gamaliel, took the view that whether or not there is a deed of inspection, the sale is valid. Rabbis’ position, then, is as stated.]’ He said to him, ‘Yes.’ And he went and decided the case in accord with the position of Rabban Simeon b. Gamaliel.”

CIV. YERUSHALMI KETUBOT 11:7

[A] AN ORPHAN GIRL [MARRIED OFF BY HER MOTHER OR BROTHERS], A WOMAN IN A SECONDARY GRADE OF PROHIBITED RELATIONSHIP, AND A STERILE WOMAN, DO NOT HAVE A CLAIM ON A MARRIAGE CONTRACT:

1. **I:1:** There is no problem in explaining why one in a secondary grade of prohibited relationship and a woman who is sterile [should be deprived of her property rights]. But why should that be the case for an orphan girl? Does an orphan girl not have a right to a marriage settlement?

[B] NOR ON THE INCREASE [ON MELOG PROPERTY], NOR ON MAINTENANCE, NOR ON INDEMNITY [FOR WEAR OF CLOTHING]. BUT IF TO BEGIN WITH HE MARRIED HER AS A STERILE WOMAN, SHE HAS A CLAIM ON A MARRIAGE CONTRACT.

1. **II:1:** Said R. Jeremiah, “He is not subject to the law of enjoyment of the usufruct in general, for he has a claim on her only for usufruct alone. [But the other considerations associated with that right do not apply in such a marriage as this.]”
2. **II:2:** R. Abun raised the question before R. Mana, “Slaves belonging to women who are in a secondary grade of prohibited relationship to their husband – what is the law as to their eating food in the status of heave offering [if the woman is married to a priest]? [While the valid wives of priests may eat such food, and their servants likewise may do so, do we regard this marriage as sufficiently valid to allow the same privilege?]”

3. **II:3:** There we have learned: A writ of divorce imposed by a court – in the case of an Israelite court, is valid. And in the case of a gentile court, it is invalid [M.Git.9:9A-C]. Samuel said, “The writ imposed by a gentile court is invalid, but it renders the woman invalid to marry into the priesthood [as a divorcée].”

[C] **A WIDOW MARRIED TO A HIGH PRIEST, A DIVORCED WOMAN OR ONE WHO HAS PERFORMED THE RITE OF HALISAH MARRIED TO AN ORDINARY PRIEST, A MAMZER GIRL AND A NETIN GIRL MARRIED TO AN ISRAELITE, AN ISRAELITE GIRL MARRIED TO A NETIN OR TO A MAMZER, DO HAVE A MARRIAGE CONTRACT.**

1. **III:1:** What is the difference between these [listed at M. 11:7A, who lose all property rights] and those [listed at M. 11:7D, who retain all property rights]?
- a. **III:2:** R. Jacob bar Aha said that both R. Zeirah, and R. Hila differ as to providing for maintenance [in the case of a widow married to a high priest]. R. Yohanan said, “She does have a right to maintenance.”

CV. YERUSHALMI KETUBOT 12:1

[A] **HE WHO MARRIES A WOMAN, AND SHE STIPULATED WITH HIM THAT HE SUPPORT HER DAUGHTER FOR FIVE YEARS – HE IS LIABLE TO SUPPORT HER FOR FIVE YEARS. [IF] SHE [THE WIFE, HAVING BEEN DIVORCED] MARRIED SOMEONE ELSE, AND SHE STIPULATED WITH HIM [THE SECOND HUSBAND] THAT HE SUPPORT HER DAUGHTER FOR FIVE YEARS, HE IS LIABLE TO SUPPORT HER FOR FIVE YEARS,” THE FIRST MAY NOT SAY, “IF SHE COMES TO MY HOUSE, I SHALL SUPPORT HER.” BUT HE SENDS HER FOOD TO THE PLACE WHERE HER MOTHER IS LOCATED. AND SO THE TWO OF THEM DO NOT SAY, “LO, WE SHALL SUPPORT HER TOGETHER [IN PARTNERSHIP].” BUT ONE SUPPORTS HER AND THE OTHER GIVES HER THE COST OF HER SUPPORT [IN ADDITION].**

1. **I:1:** On what basis is he liable to support her? Did not both R. Yohanan and R. Simeon b. Laqish say, “He who writes a bond to his fellow assuming that he owes him money, and it turns out that he does not owe it to him, is not liable to pay him [the sum specified in the bond]”? R. Simeon b. Laqish said, “They have treated her [support of the daughter] additional element in the marriage contract [as an inducement to the marriage].”

2. **I:2:** It has been taught: As to the first five years [to which the husband referred] he supports her whether the cost of the food is high or low. If [he failed to provide food during that period] and the cost was high, but [at the end, when claim was laid against him], the cost had gone down, if he was the cause [of the nonpayment of support] he [now] pays at the highest price [prevailing during that period of years]. But if she was the cause [of the delinquency], he pays at the lowest cost [prevailing during that period of years].
3. **I:3:** There we have learned: [If] he did not write for her,] “Female children which you will have from me will dwell in my house and derive support from my property until they will be married to husbands,” he nonetheless is liable, for this is an unstated condition imposed by the court [M. Ket. 4:12].
4. **I:4:** To whom do we assign the fruit of the daughter’s labor?
5. **I:5:** If the husband, who has to support the daughter, wants her to come and live in his house, and she does not agree, the law is with her.
6. **I:6:** If she fell ill, it is as if she had been married. If she died, it is as if she had been married.

CVI. YERUSHALMI KETUBOT 12:2

[A] [IF THE DAUGHTER, WHOM THE TWO HUSBANDS HAVE AGREED TO SUPPORT] IS MARRIED, THE HUSBAND PROVIDES SUPPORT. AND THEY [THE MOTHER’S SUCCESSIVE HUSBANDS] PAY HER THE COST OF HER SUPPORT. [IF] THEY DIED, THEIR DAUGHTERS ARE SUPPORTED FROM UNENCUMBERED PROPERTY, WHILE [THE DAUGHTER] IS SUPPORTED EVEN FROM PROPERTY MORTGAGED TO OTHERS, FOR SHE IS IN THE STATUS OF A CREDITOR.

1. **I:1:** As to the additional stipulations of a marriage contract which were written into a bond [so obligating the husband as with a debt] – R. Jacob b. Aha said, “There is a dispute between R. Yohanan and R. Simeon b. Laqish.” R. Yohanan said, “He wrote these additional stipulations into the bond merely as a way of indicating the strength [of his resolve, but they do not constitute debts incumbent on him, so the wife and daughters cannot collect from indentured property].” R. Simeon b. Laqish said, “He wrote these additional stipulations into the bond because that insures that they may collect them [from indentured property].”

[B] THE SMART ONES WOULD WRITE, “ON CONDITION THAT I SUPPORT YOUR DAUGHTER FOR FIVE YEARS, SO LONG AS YOU ARE [LIVING] WITH ME.”

1. **II:1:** If she should die, she is not with him [in line with M. 12:12F, The smart ones would write, “on condition that I support your daughter for five years, so long as you are living with me,”]. If she was divorced, she is not with him [in that same context]. If he then remarried her after a divorce, [does the clause in the original marriage contract covering support for the daughter come back into effect automatically]?

CVII. YERUSHALMI KETUBOT 12:3

[A] A WIDOW WHO SAID, “I DON’T WANT TO MOVE FROM MY HUSBAND’S HOUSE” – THE HEIRS CANNOT SAY TO HER, “GO TO YOUR FATHER’S HOUSE AND WE’LL TAKE CARE OF YOU [THERE].” BUT THEY PROVIDE FOR HER IN HER HUSBAND’S HOUSE, GIVING HER A DWELLING IN ACCORD WITH HER STATION IN LIFE.

1. **I:1:** It is written, “I am like one free [forsaken] among the dead, [like the slain that lie in the grave, like those whom thou dost remember no more, for they are cut off from thy land]” (Ps. 88:6). Once a man died, he is free [of the requirement of carrying out] the commandments.

[B] RABBI’S DEATH AND HIS LAST WISHES. THE DEATH OF OTHER SAGES

1. **I:2:** When Rabbi lay dying, he gave instructions in three matters: “Let my widow not be moved from my house. Do not make a lamentation for me in the villages. He who took care of me while I was alive should take care of me after I have died.”
 - a. **I:3:** R. Yohanan gave instructions, “Shroud me in scarlet, which is neither white nor black. If I end up among the righteous, I shall not be ashamed, and if I end up among the wicked, I shall not be ashamed.” R. Josiah gave instructions, “Shroud me in hemmed white shrouds.”
2. **I:4:** The Sepphoreans said, “Whoever tells us that Rabbi has died shall we kill.”
3. **I:5:** Rabbi lived in Sepphoris seventeen years and he cited the following verse in his own regard: “And Jacob lived in the land of Egypt seventeen years; [so the days of Jacob, the years of his life, were a hundred and forty-seven years]” (Gen. 47:28). Thus: And Judah lived

in Sepphoris for seventeen years, and of that time he spent thirteen years suffering from a toothache.

4. **I:6:** Rabbi was very humble and he said, “Whatever anyone tells me to do shall I do, except for what the elders of Bathera did in behalf of my forefather, for they gave up their position and appointed him in their place [the reference being to Bathyrans’ giving way before Hillel and making him patriarch]. If the exilarch, R. Huna, should come here, I should seat him above me, because he comes from the tribe of Judah, while I come from the tribe of Benjamin, because he derives from the male line, and I from the female line.”
 - a. **I:7:** R. Yosa fasted eighty fasts in order to see R. Hiyya the Elder [in a dream]. He finally saw him, and his hands trembled and his eyes grew dim.
5. **I:8:** It is written, ““You shall carry me out of Egypt and bury me in their burial ground” (Gen. 47:30): as to Jacob, wherever he was located [in death] – what loss would he sustain? [Granted that sinners benefit from burial in the Land of Israel, which atones for sin, since Jacob was entirely righteous, what difference did it make to him to be buried there rather than in Egypt]?”
7. **I:9:** Ulla, who went down into exile, was dying there. He began to cry. They said to him, “Why are you crying? Will we not bring your body to be buried there?”
8. **I:10:** R. Meir lay dying in Asia. He said, “Tell the sons of the land of Israel that your Messiah is coming [home, for burial].”
9. **I:11:** Rabbah bar Qaria and R. Eleazar were strolling in the road and saw biers which were being brought from abroad to the land.

CVIII. YERUSHALMI KETUBOT 12:4

- [A] [IF] SHE SAID, “I DON’T WANT TO MOVE FROM MY FATHER’S HOUSE,” THE HEIRS CAN SAY TO HER, “IF YOU ARE WITH US, YOU WILL HAVE SUPPORT. BUT YOU ARE NOT WITH US, YOU WILL NOT HAVE SUPPORT.” IF SHE CLAIMED THAT IT IS BECAUSE SHE IS A GIRL AND THEY ARE BOYS, THEY DO PROVIDE FOR HER WHILE SHE IS IN HER FATHER’S HOUSE.
1. **I:1:** If she claimed that it is because she is a girl and they are boys: It is because [in this situation she will get] a bad name.

CIX. YERUSHALMI KETUBOT 12:5

[A] “SO LONG AS SHE IS IN HER FATHER’S HOUSE, SHE COLLECTS HER MARRIAGE CONTRACT AT ANY TIME. “SO LONG AS SHE IS IN HER HUSBAND’S HOUSE, SHE COLLECTS HER MARRIAGE CONTRACT WITHIN TWENTY-FIVE YEARS. FOR IN TWENTY-FIVE YEARS SHE MAY DO GOOD [FOR FRIENDS AND NEIGHBORS] CORRESPONDING TO THE VALUE OF HER MARRIAGE CONTRACT,” THE WORDS OF R. MEIR, WHICH HE SAID IN THE NAME OF RABBAN SIMEON B. GAMALIEL. AND SAGES SAY, “SO LONG AS SHE IS IN HER HUSBAND’S HOUSE, SHE COLLECTS HER MARRIAGE CONTRACT AT ANY TIME. SO LONG AS SHE IS IN HER FATHER’S HOUSE, SHE COLLECTS HER MARRIAGE CONTRACT WITHIN TWENTY-FIVE YEARS.” [IF] SHE DIED, HER HEIRS CALL ATTENTION [TO HER UNCOLLECTED] MARRIAGE CONTRACT FOR TWENTY-FIVE YEARS.

1. **I:1:** [Explaining M. 12:5G, [If] she died, her heirs call attention [to her uncollected] marriage contract for twenty-five years:] For the favor that they did for her that she had control over her property during her husband’s lifetime up to twenty-five years, she relinquishes her marriage settlement. [We presume that because she already received adequate compensation, she relinquishes her claim to the marriage settlement.] [and this constitutes adequate compensation for the marriage settlement, over a period of twenty-five years].
2. **I:2:** R. Hiyya bar Ashi in the name of R. Hiyya raised the question before Rabbi, “Is it not reasonable to suppose that [when sages place a twenty-five year limitation on collection of the marriage settlement], it is in the case of a woman who has no deed of marriage contract in hand? But in the case of a woman who has a deed of marriage contract in hand, she may collect it at any time she wishes, [even after the stated period]. [If she wanted to relinquish claim, she would hand the deed over to the heirs.]”
3. **I:3:** Said R. Abin, “Is it not reasonable that the law [limiting collection] applies only to a woman who has no benefit of maintenance? But in the case of a woman who receives maintenance, I say that it is because of her receiving maintenance that she has not requested payment of her marriage settlement.”
4. **I:4:** R. Simon in the name of R. Joshua b. Levi: “They assigned the cited law only to the settlement of the marriage contract of a maneh or two hundred zuz. But as to the additional funds, e.g., a marriage

settlement of a thousand *denars*, she may collect that sort of additional sum at any time.”

CX. YERUSHALMI KETUBOT 13:1

[A] TWO JUDGES OF CIVIL LAW WERE IN JERUSALEM, ADMON AND HANAN B. ABSHALOM. HANAN LAYS DOWN TWO RULINGS. ADMON LAYS DOWN SEVEN.

- 1. I:1:** Did not R. Phineas say in the name of R. Hoshaiiah, “There were four hundred sixty synagogues in Jerusalem, and each one of them had, in addition, a schoolhouse and a study-house, a schoolhouse for Scripture, and a study-house for Mishnah. [So there must have been more than two such judges.]” These two were appointed to deal with cases involving theft. It serves to teach you that whoever has sufficient authority in his power to prevent [a bad decision] and does not do so – the consequent disruption is credited to him.
 - a. I:2:** Further on the same principle: Eli and his sons.

[B] HE WHO WENT OVERSEAS, AND HIS WIFE [LEFT AT HOME] CLAIMS MAINTENANCE – HANAN SAYS, “LET HER TAKE AN OATH AT THE END, BUT LET HER NOT TAKE AN OATH AT THE OUTSET [THAT IS, SHE TAKES AN OATH WHEN SHE CLAIMS HER MARRIAGE CONTRACT AFTER HER HUSBAND’S DEATH, OR AFTER HE RETURNS, THAT SHE HAS NOT HELD BACK ANY PROPERTY OF HER HUSBAND].” SONS OF HIGH PRIESTS DISPUTED WITH HIM AND RULED, “LET HER TAKE AN OATH AT THE OUTSET AND AT THE END.” RULED R. DOSA B. HARKINAS IN ACCORD WITH THEIR OPINION. SAID R. YOHANAN B. ZAKKAI, “WELL DID HANAN RULE. SHE SHOULD TAKE AN OATH ONLY AT THE END.”

- 1. II:1:** [He who went overseas, and his wife [left at home] claims maintenance:] There is the case [which took place on a market day] involving R. Ishmael, who in the market of Sepphoris assigned support for a woman [whose husband had gone abroad].
- 2. II:2:** Lo, in the case of a man and his wife who went overseas, and she came and said, “My husband has died,” either derives maintenance or collects her marriage contract. If she said, “My husband has divorced me,” she is supported to the extent of her marriage contract [T. Ket. 10:3A-B].
- 3. II:3:** Lo, if the husband came back from overseas, and his wife claims maintenance, and he said, “The fruit of her labor, which she has enjoyed, may serve to pay for her maintenance,” they listen to him. But if a court had provided maintenance for her, what the court has

provided has been validly received. R. Jeremiah said, “That applies to a case in which [the woman lays claim because] the fruit of her labor does not add up to sufficient funds for her maintenance. In such a case they accept his claim.” R. Yosé says, “That applies to a case in which [the woman lays claim even though] the fruit of her labor does add up to sufficient funds for her maintenance.”

4. **II:4:** Lo, if the husband was abroad, and he said, “Let these be handed over to his [my] children,” the daughters are assumed to be covered by his statement.
5. **II:5:** R. Zeira, R. Hananel in the name of Rab, R. Zeira in the name of Abba bar Jeremiah, “As to the two rulings that Hanan laid down, the law follows his view. As to the seven rulings that Admon laid down, the law does not follow his view.”

CXI. YERUSHALMI KETUBOT 13:2

[A] **HE WHO WENT OVERSEAS, AND SOMEONE WENT AND SUPPORTED HIS WIFE – HANAN SAYS, “HE [WHO DID SO] HAS LOST HIS MONEY.” SONS OF HIGH PRIESTS DISPUTED WITH HIM AND RULED, “LET HIM TAKE AN OATH FOR HOWEVER MUCH HE HAS LAID OUT [IN SUPPORT OF THE WIFE] AND COLLECT [THE DEBT].” RULED R. DOSA B. HARKINAS IN ACCORD WITH THEIR OPINION. SAID R. YOHANAN B. ZAKKAI, “WELL DID HANAN RULE. HE HAS PUT HIS MONEY ON THE HORN OF A GAZELLE.”**

1. **I:1:** R. Ba bar Mamel raised the question: “He who pays a bond of indebtedness for his fellow [as at M. Ned. 4:2C], without the latter’s knowledge and consent – do we deal with the dispute of Hanan and the high priests [at M. Ket. 13:2: He who went overseas, and someone else went and supported his wife – Hanan says, ‘He who did so has lost his money.’ Sons of high priests disputed with him and ruled, ‘Let him take an oath for however much he has laid out in support of the wife and collect the debt?’ [Hanan does not see the support as a loan of money to the husband, who owes nothing.] [Arguing that the case is not parallel to Ba bar Mamel’s,] said R. Yosé, “The reasoning behind the position of the sons of the high priests is that in that case it never entered the man’s mind that his wife die of hunger. [Consequently, we assume he would have agreed to the loan, had he known of the circumstances necessitating it.] But here, by contrast, [the man in behalf of whom the debt was repaid may claim,] ‘I could have appeased him so that he might forgive the loan [had you not paid it for me].’ [Hence there is no reason to suppose that the debtor would have

consented to the repayment of the loan, had he been consulted, and the sons of the high priests therefore may not have taken the same position here that they take at M. Ket. 13:2.]”

- a. I:2: Secondary development of the problem of M. Ned. 4:2.
- b. I:3: Secondary development of the problem of M. Ned. 4:2.
- c. I:4: Secondary development of the problem of M. Ned. 4:2.

2. **I:5:** It has been taught: He who went overseas, and someone went and supported his wife [M. 13:2A]: Said R. Haggai? “The Mishnah has stated only, ‘Someone else.’ Lo, if the father did so, he collects what he has laid out.” R. Yosé says, “Whether it is the father or a third party, he does not collect what he has laid out.”

CXII. YERUSHALMI KETUBOT 13:3

[A] **ADMON LAYS DOWN SEVEN. HE WHO DIED AND LEFT SONS AND DAUGHTERS, WHEN THE PROPERTY IS AMPLE, THE SONS INHERIT, AND THE DAUGHTERS RECEIVE SUPPORT [FROM THE ESTATE]. [AND WHEN] THE PROPERTY IS NEGLIGIBLE, THE DAUGHTERS RECEIVE MAINTENANCE, AND THE SONS GO OUT BEGGING AT [OTHER PEOPLES’] DOORS. ADMON SAYS, “DO I LOSE BECAUSE I AM MALE?” SAID RABBAN GAMALIEL, “I PREFER ADMON’S OPINION.”**

1. **I:1:** How much is a large estate? R. Zeira, R. Judah in the name of Rab: “Sufficient to supply support for twelve months both for these and for those.”
- a. I:2: R. Haninah said, “Even if at the outset there is not sufficient value in the estate to support both these and those for twelve months, but the estate grew in value so that there is sufficient value to maintain these and those for twelve months, the estate does indeed support them.” R. Hisda asked, “If there was not available sufficient food for twelve months, but the property rose in value, what is the law?”
2. **I:3:** R. Hananel in the name of R. Zeira in the name of Abba bar Jeremiah: “Two rulings did Hanan lay down, and the law is in accord with his opinion. Seven rulings did Admon lay down, and the law is not in accord with his opinion.”

CXIII. YERUSHALMI KETUBOT 13:4

[A] **HE WHO CLAIMS THAT HIS FELLOW [OWES HIM JARS OF OIL, AND THE OTHER PARTY ADMITTED THAT HE OWES HIM [EMPTY] JUGS – ADMON SAYS, “SINCE HE HAS CONCEDED PART OF THE CLAIM, LET HIM TAKE AN OATH.” AND SAGES SAY, “THIS IS NOT CONCESSION ALONG THE LINES OF THE ORIGINAL CLAIM.” SAID RABBAN GAMALIEL, “I PREFER ADMON’S OPINION.”**

- 1. I:1:** The Mishnah speaks of a case in which the plaintiff laid claim for wheat, and the defendant conceded that he had barley. But if he laid claim for two varieties and the concession was for one of them, all parties agree that the defendant is liable to an oath. R. Ammi in the name of R. Yohanán: “The Mishnah speaks of a case in which the plaintiff laid claim for wheat, and the defendant conceded that he had barley. But if he laid claim for two varieties, and the defendant conceded one of them, all parties agree that the defendant is exempt.” [So Ami-Yohanán differs from the preceding view and maintains that there is a dispute even here.]

CXIV. YERUSHALMI KETUBOT 13:5

[A] **HE WHO AGREES TO GIVE MONEY TO HIS SON-IN-LAW BUT THEN STRETCHED OUT THE LEG [DEFAULTED] – LET HER SIT UNTIL HER HEAD TURNS WHITE. ADMON SAYS, “SHE CAN CLAIM, ‘IF I MADE SUCH AN AGREEMENT IN MY OWN BEHALF, WELL MIGHT I SIT UNTIL MY HEAD GROWS WHITE. NOW THAT FATHER HAS MADE AN AGREEMENT CONCERNING ME, WHAT CAN I DO? EITHER MARRY ME OR LET ME GO!’” SAID RABBAN GAMALIEL, “I PREFER ADMON’S OPINION.”**

- 1. I:1:** The Mishnah speaks of a case in which he made the agreement in her presence. But if he did not do so, rabbis also will concede [Admon’s position].
- 2. I:2:** Said R. Yosé b. R. Judah, “Admon and sages did not differ concerning a case in which her father made the agreement in her behalf and he stretched out the leg [M. 13:5] – that she should not sit until her head turns white. [For in such a case] she can claim, ‘Father made the agreement for me. What can I do about it! Either marry me or let me go’ [M. 13:SC]. Concerning what case did they differ? Concerning a case in which she herself made the arrangement. Admon says, ‘She can claim, “I thought that father indeed would give me [what I promised to my betrothed]. But now that father does not provide for

me [what I need to pay off my agreement with you], either marry me or let me go.” Said Rabban Gamaliel, “I prefer the opinion of Admon” [M. 13:SD] [T. Ket. 12:4F-K].

CXV. YERUSHALMI KETUBOT 13:6

[A] **HE WHO CONTESTS [ANOTHER’S] OWNERSHIP OF A FIELD, BUT HE HIMSELF IS A SIGNATORY ON IT [THE DOCUMENTS OF OWNERSHIP] AS A WITNESS — ADMON SAYS, “HE CAN CLAIM, “THE SECOND [OWNER OF THE PROPERTY] WAS EASIER FOR ME, AND THE FIRST WAS HARDER THAN HE [FOR PURPOSES OF REPOSSESSING THE FIELD WHICH IN ANY CASE IS MINE].” AND SAGES SAY, “HE HAS LOST EVERY RIGHT.” [IF HE MADE HIS FIELD A BOUNDARY MARK FOR ANOTHER PERSON, HE HAS LOST EVERY RIGHT.**

1. **I:1:** It is not the end of the matter that he made it a boundary mark for another person. But even if [he signed a document in which] another party made it a boundary mark for another person, he has lost every right to it.

CXVI. YERUSHALMI KETUBOT 13:7

[A] **HE WHO WENT OVERSEAS, AND THE RIGHT OF WAY TO HIS FIELD WAS LOST — ADMON SAYS, “LET HIM GO THE SHORTEST WAY.” AND SAGES SAY, “LET HIM PURCHASE A RIGHT OF WAY WITH A HUNDRED MANEHS [IF NEED BE], OR LET HIM FLY THROUGH THE AIR.”**

1. **I:1:** R. Yosé b. Haninah said, “[When Admon allows the man to recover his right of way, it is in the case of him] who lays claim along with ample proof [in behalf of that claim]. [A mere statement is null.]”
2. **I:2:** [As to M. 13:7C-D,] there is a statement that that is the case when his field is surrounded on four sides by four different landowners.
3. **I:3:** Is it not one of the stipulations that Joshua made [that he may reach his land]: Lo, if one was lost in vineyards or fields, he takes the shortest route out until he reaches the main road, or until he reaches his house, and that is the case even if it is field full of vineyards, for it was on that stipulation that Joshua allowed the Israelites to inherit the land.
4. **I:4:** Said R. Jeremiah, “Admon and R. Aqiba say the same thing: [Nor has he sold the cistern, or the cellar, even though he wrote him in the deed, ‘The depth and height.’ ‘But the seller has to purchase from the

buyer a right of way to the cistern or the cellar,’ the words of R. Aqiba. And sages say, ‘He does not have to purchase a right of way.’ And R. Aqiba concedes that when the seller said, ‘Except for these,’ he does not have to purchase a right of way for himself.] [If the seller then sold [the cistern or cellar] to someone else, R. Aqiba says, ‘[The new purchaser] does not have to buy a right of way for himself. ‘ And sages say, ‘He has to buy a way for himself’ [M. B.B. 4:2]. [Thus, Admon follows the principle of Aqiba that if a right of way is lost through disuse, one need not purchase a right of way.]”

CXVII. YERUSHALMI KETUBOT 13:8

[A] **HE WHO PRODUCES A BOND OF INDEBTEDNESS AGAINST SOMEONE ELSE, AND THE OTHER BROUGHT FORTH [A DEED OF SALE TO SHOW] THAT THE OTHER HAD SOLD HIM A FIELD — ADMON SAYS, “HE CAN CLAIM, ‘IF I OWED YOU MONEY, YOU SHOULD HAVE COLLECTED WHAT WAS COMING TO YOU WHEN YOU SOLD ME THE FIELD.’” AND SAGES SAY, “THIS [FIRST] MAN WAS SMART IN SELLING HIM THE FIELD, SINCE HE CAN TAKE IT AS A PLEDGE.”**

1. **I:1:** R. Jonah says, “That is the case when the field is worth [the debt]. [In that case Admon says the purchaser should have collected what was owing to him from the sale price.]” R. Yosé says, “It is when the field is not worth [the debt]. [In any event he should have collected what he could.]”
2. **I:2:** [As to sages’ position,] What if the borrower already had land?

CXVIII. YERUSHALMI KETUBOT 13:9

[A] **TWO WHO PRODUCED BONDS OF INDEBTEDNESS AGAINST ONE ANOTHER — ADMON SAYS, “IF I HAD OWED YOU MONEY, HOW IS IT POSSIBLE THAT YOU BORROWED FROM ME?” AND SAGES SAY, “THIS ONE COLLECTS HIS BOND OF INDEBTEDNESS, AND THAT ONE COLLECTS HIS BOND OF INDEBTEDNESS.”**

1. **I:1:** If this one had borrowed a *maneh* from that one, and that one had borrowed two hundred zuz from this one, R. Huna said, “R. Nahman bar Jacob and R. Sheshet disputed about such a case. One said, ‘Let him collect a *maneh* in exchange for the *maneh* [leaving a *maneh*, or a hundred zuz, under litigation].’ And the other said, ‘This one collects the full amount of his bond, and that one collects the full amount of his bond.’”

CXIX. YERUSHALMI KETUBOT 13:10

[A] THERE ARE THREE PROVINCES IN WHAT CONCERNS MARRIAGE: JUDEA, TRANSJORDAN, AND GALILEE. THEY DO NOT REMOVE [WIVES] FROM TOWN TO TOWN OR FROM CITY TO CITY [IN ANOTHER PROVINCE]. BUT IN THE SAME PROVINCE, THEY DO REMOVE [WIVES] FROM TOWN TO TOWN OR FROM CITY TO CITY, BUT NOT FROM A TOWN TO A CITY, AND NOT FROM A CITY TO A TOWN. THEY REMOVE [WIVES] FROM A BAD DWELLING TO A GOOD ONE, BUT NOT FROM A GOOD ONE TO A BAD ONE.

1. I:1: The Mishnah speaks of a case in which the man was living in Judea but married a woman from Galilee, or living in Galilee but married a woman in Judea. But if he was living in Judea and married a woman from Judea, living in Galilee and married a woman from Galilee, they do force her to go forth with him.
2. I:2: If he wrote, “I, Mr. So-and-so, from Judah,” and he married a woman from Judea, they force her to go forth with him. If he wrote, “from Galilee,” they do not force her to go forth. If he wrote, “I, So-and-so, from Galilee,” and he married a woman from Galilee, they force her to go forth. “From Judah,” they do not force her to go forth [T. Ket. 12:5]. It has been taught: They remove a wife from a town which has a gentile majority to a town which is totally Israelite. But they do not remove a wife from a town which is totally Israelite to a town which has a gentile majority [T. Ket. 12:5H].

[B] RABBAN SIMEON B. GAMALIEL SAYS, “ALSO NOT FROM A BAD ONE TO A GOOD ONE, FOR THE GOOD ONE IS A TEST [PUTS HER TO THE PROOF.]”

1. II:1: [With reference to M. 13:10F:] And how do we know that a good dwelling puts one to the test?

CXX. YERUSHALMI KETUBOT 13:11

[A] ALL HAVE THE RIGHT TO BRING UP [HIS OR HER FAMILY] TO THE LAND OF ISRAEL, BUT NONE HAS THE RIGHT TO REMOVE [HIS OR HER FAMILY] THEREFROM. ALL HAVE THE RIGHT TO BRING UP TO JERUSALEM, BUT NONE HAS THE RIGHT TO BRING DOWN — ALL THE SAME ARE MEN AND WOMEN. [IF] ONE MARRIED A WOMAN IN THE LAND OF ISRAEL AND DIVORCED HER IN THE LAND OF ISRAEL, HE PAYS HER OFF WITH THE COINAGE OF THE LAND OF ISRAEL. [IF] HE MARRIED A WOMAN IN THE LAND OF ISRAEL AND DIVORCED HER IN

CAPPODOCIA, HE PAYS HER OFF IN THE COINAGE OF THE LAND OF ISRAEL. [IF] HE MARRIED A WOMAN IN CAPPODOCIA AND DIVORCED HER IN THE LAND OF ISRAEL, HE PAYS HER OFF IN THE COINAGE OF THE LAND OF ISRAEL. RABBAN SIMEON B. GAMALIEL SAYS, “HE PAYS HER OFF IN THE COINAGE OF CAPPODOCIA.”

- I:1:** [If] he wants to come to the land of Israel and she does not want to come, they force her to come. [If] she wants to come and he does not want to come, they force him to come. If he wants to go up to Jerusalem, and she does not want to, they force her to go up. [If] she wants to go up to Jerusalem, and he does not want, they [Y.: do not] force him to go up. [If] he wants to leave the land of Israel, and she does not want to leave, they do not force her to leave. [If] she wants to leave, and he does not want to leave, they force her not to leave [T. Ket. 12:5/I-L].

[B] IF HE MARRIED A WOMAN IN CAPPODOCIA AND DIVORCED HER IN CAPPODOCIA, HE PAYS HER OFF IN THE COINAGE OF CAPPODOCIA.

- II:1:** That implies that the coinage of the land of Israel is better than that of all the other countries. That supports the view of him who said that payment of a marriage contract for a wife derives from the laws of the Torah [and hence is paid in the best coinage]. It is not in accord with the view of Rabban Simeon b. Gamaliel.

TRACTATE

NEDARIM

What a vow does is to call down Heaven's sanctity upon the benefit, material or otherwise, that the donor wishes to give over for the sake of Heaven. No wonder then, that in analyzing vows, we call upon the conceptions of the gift to Heaven that form the center of holy things. The intention of the farmer to consecrate the beast, expressed in the proper language, is confirmed: the beast enters the status of sanctification even before it is set on the altar and slaughtered, its blood tossed at the corners of the altar. "Qorban," "Nazir," and other effective language—these form a single classification—are words that transform by reason of the intent with which they are spoken, which they realize because they are spoken.

Vows define a dimension of the life of wives with their husbands or daughters with their fathers. That fact emerges from the pertinent verses of Scripture, which are found at Num 30:1–16. The halakhah of vows (drawing in its wake the halakhah of the special vow of the Nazirite) concerns matters of personal status: what may a person do or not do by reason of a self-imposed vow? The presentation of the halakhah starts with the definition of a vow and proceeds to consider the affects of a vow upon what a person may or may not do, mainly, what they may or may not eat. We conclude with close attention to how one may gain absolution from a vow, releasing its binding character by reason of diverse grounds or pretexts. That is the whole story, beginning, middle, and end—a structure that is simple and logical. That vows principally locate themselves within the household guides the articulation of the details of the law. The halakhah spreads a broad net over the language people use, treating every sort of euphemism as effective in imposing the vow.

The halakhah recognizes no important difference in substance between stating a certain formula and writing down a certain formula into a document. In either case, the relationship of a woman to the generality of mankind is drastically restricted, while the range of relationships of that same woman to a particular man is drastically expanded. Stating other formulas of words effect important changes, permitting or prohibiting activities and relationships. The vow in general, and the vow to be a Nazirite in particular, share the principle that words enchant, affect relationships, and effect change in the world.

- I.** The language of vows
 - A.** Euphemisms
 - B.** Language of no effect
 - C.** Language of limited effect

- II.** The binding effects of vows
 - A.** Vows not to derive benefit
 - B.** Vows not to eat certain food
 - C.** Vows not to use certain objects
 - D.** The temporal limitation in vows

- III.** The absolution of vows
 - A.** Grounds for the absolution of vows
 - B.** The annulment of the vows of a daughter
 - C.** The annulment of the vows of a wife
 - D.** The husband's power to annul the wife's vows: special rules
 - E.** The vows of a woman that are not subject to abrogation

YERUSHALMI NEDARIM

CHAPTER ONE

1:1

- [A] [36c] All substitutes for [language used to express] vows are equivalent to vows, and for bans (herem) are equivalent to bans, and for oaths are equivalent to oaths, and for Nazirite vows are equivalent to Nazirite vows.
- [B] He who says to his fellow, “I am forbidden by vow from you,” “I am separated from you,” “I am distanced from you,”
- [C] “if I eat your [food],” [or] “if I taste your [food],”
- [D] is bound [by such a vow].
- [E] [He who says,] “I am excommunicated from you,” –
- [F] R..Aqiba in this case did incline to impose a stringent ruling.
- [G] [He who says,] “As the vows of the evil folk ...,” has made a binding vow in the case of a Nazir, or in the case of [bringing] an offering, or in the case of an oath.
- [H] [He who says,] “As the vows of the suitable folk,” has said nothing whatsoever.
- [I] “As their [suitable folks] freewill-offerings,” ... he has made a binding vow in the case of a Nazir or in the case of [bringing] an offering.
- [I:1 A] It is written, “When a man vows [a vow, or swears an oath to bind himself by a pledge, he shall not break his word; he shall do according to all that proceeds out of his mouth]:” (Num. 30:2).
- [B] Why then [having said, “When a man vows, “] does Scripture add [the word,] “vow” [which is hardly necessary to make the statement make sense]?
- [C] It is on the basis of that further statement that we know that **all substitutes for language used to express vows are equivalent to vows.**
- [D] “Or swears....”

- [E] Why does Scripture add, “an oath”?
- [F] It is on the basis of that further statement that we know that **all substitutes for language used to express oaths are equivalent to oaths.**
- [G] “But no devoted thing [that a man devotes to the Lord, of anything that he has ..., shall be sold or redeemed]” (Lev. 27:28).
- [H] Why does Scripture add, “that he devotes ...”?
- [I] It is on the basis of that further statement that we know that **all substitutes for language used to express bans are equivalent to bans.**
- [J] [“When either a man or a woman] makes a special vow, the vow of a Nazirite, [to separate himself to the Lord]” (Num. 6:2).
- [K] Why does Scripture add, “to separate himself to the Lord”?
- [L] It is on the basis of that further statement that we know that **all substitutes for language used to take Nazirite vows are equivalent to Nazirite vows.**
- [M] *To this point we have interpreted matters in line with the exegetical principle of R. Aqiba, who maintains that [when we have repetitious language such as has been pointed to here, the purpose of such] language is to inclusive [and meant to encompass secondary considerations, as spelled out above].*
- [N] *As to the position of R. Ishmael, who maintains that these are ordinary repetitions, and the Torah uses language in accord with its normal mode [speaking as to ordinary people, and hence, the repetition of a word bears no meaning other than stylistic], as in the instances, “Going, you have surely gone away ...,” “Longing, you have longed greatly ...” (Gen. 31:30), and “Being stolen, I have been surely stolen ...” (Gen. 40:15), [so that, in all of these cases, the verb is repeated for emphasis, not for a further layer of meaning,] how shall we prove the same proposition?*
- [O] “When a man vows a vow or swears an oath to bind himself by a pledge, he shall not break his word; he shall do according to all that proceeds out of his mouth” (Num. 30:2).
- [P] Why is Scripture [constrained to] add, “He shall do according to all that proceeds out of his mouth” [when the point is perfectly clear in the preceding clause]?

- [Q] It is on the basis of that further statement that we know that **all substitutes for language used to express vows are equivalent to vows, and all substitutes for language used to express oaths are equivalent to oaths.**
- [R] And how do we know that **all substitutes for language used to express bans are equivalent to bans?**
- [S] "... vows a vow ..." (Num. 30:2): Just as in the case of "vow" stated in this context means that **substitutes for language used for taking vows are equivalent to vows, and substitutes for language used for oaths are equivalent to oaths,** so the use of the word "vow" stated here [with reference to bans] means that **all substitutes for language used to express bans are equivalent to bans.**
- [T] And how [within the same line of reasoning] do we know that **substitutes for Nazirite vows are equivalent to Nazirite vows?**
- [U] "... vows a vow ..." (Num. 6:2).
- [V] Just as the use of the word "vow" stated elsewhere means that **substitutes for language used for an oath are equivalent to an oath,** so "vow" stated here means that **substitutes for the language used for a Nazirite vow are equivalent to a Nazirite vow.**
- [W] How, then, does R. Aqiba interpret the additional language, "... he shall do according to all that proceeds out of his mouth"?
- [X] It is on the basis of that statement that we know that in the case of a vow, part of which is annulled, the whole of it is deemed abrogated.
- [Y] *And does not R. Ishmael hold the same view?*
- [Z] He derives the entire law from that same passage. He holds, on the basis of that repetitious clause, that **substitutes for language used for taking vows are equivalent to vows, substitutes for language used for taking oaths are equivalent to oaths.**
- [AA] *He further holds, on this same basis, that in the case of a vow, part of which is annulled, the whole of it is deemed abrogated.*
- [BB] How, further, does R. Ishmael interpret the language, "...to separate himself to the Lord"?

[CC] On the basis of that statement we know that a person may assign to himself a Nazirite vow while a Nazirite vow already is in effect upon himself.

[DD] *Does R. Aqiba not hold that same view?*

[EE] He derives the whole of the law from that same passage: on the basis of that statement we know that a person may assign to himself a Nazirite vow while a Nazirite vow already is in effect upon himself.

[I:2 A] Now is it not the case that, in the law [of the Torah], rules governing valuations, bans, acts of substitution of one beast for another, already consecrated one, and acts of consecration of property, are stated [that is, at Leviticus chapter 27]. *Accordingly, why have we not learned* [at M. 1:1] that substitute language for language used for pledging valuations, acts of substitution, and consecrations, is valid, [just as much as that used in connection with bans]?

[B] *Had these items been included in the tradition, what would the substitute formulations have been? Arapin, arasin, araqin* [for arakhin, Valuations]. *Temupah, temarenah, temuqah* [for temurah, substitution]. *Hegder, hegzer, hegrem* [for heqdash]?

[C] *The inclusion of bans poses no problem to the view of him who said that when bans are not further specified, they are meant to assign property to the upkeep of the Temple house. But in the view of him who said that when bans are not further specified, they are meant to assign property to the priesthood, why have we not included* [in the catalogue of M.] substitutes for language used to designate out of a large batch of produce the portion which is to serve as heave offering for the priest?

[D] Had this item been included in the tradition, what would the substitute formulations have been [for *terumah*, heave offering]? *Terupah, terusah, teruqah.*

[I:3 A] *R. Jacob bar Aha said, "There is a dispute between R. Yohanan and R. Eleazar.*

[B] "For R. Yohanan has said, 'People are [not] flogged on account of violating prohibitions [which, not being found in the Torah, are taken upon themselves by a verbal statement].'

[C] "And R. Eleazar says, 'They are flogged'" (so PM).

[D] Said R. Jacob bar Aha, “Thus did R. Yohanan reply to R. Eleazar: ‘In accord with your view, in which you maintain that people are flogged on account of violating prohibitions [taken upon themselves by a verbal statement], [how do you deal with the following passage:] *For lo, we have learned: He who is prohibited by vow from enjoying benefit from his fellow, [and the fellow] goes in to visit him ... [M. 4:4A]* – but [in accord with your view that a flogging is involved], he should not go in to visit him at all!”

[E] *Said R. Jeremiah, “That case is different, [for he is permitted to do so even in violation of his vow] in order to keep peace.”*

[F] *R. Yosé raised the question, “If he is permitted [under the stated conditions] to do so to keep peace, then even if he were bound by an oath [and not merely a vow], he should be permitted to do so. And [yet] we have learned, ‘In the case of a vow, it is prohibited, and in the case of an oath, it is permitted.’” [For the meaning of this statement, cf. PM.]*

[I:4 A] [In T.’s version:] **What is a vow that imposes a prohibition [of that which is permitted] in the Torah?**

[B] **He who says, “Lo, I take upon myself that I shall not eat meat, and that I shall not drink wine, as on the day on which I saw Jerusalem in ruins, or as on the day on which so-and-so was slain”**
–

[C] **it is binding [T. Naz. 1:4D-G].** [Y.:This is a verbal statement which imposes a prohibition in accord with the law of the Torah (at Num. 30:2).]

[D] *R. Ba, in the name of R. Yohanan, and Rab both maintain, “And that rule applies if the man is [already] subject to a vow covering that day [to which he has made reference].”*

[E] *R. Yosé raised the question: “If we deal with a case in which the man is already subject to a vow covering that day anyhow, why does the man now make a declaration as to the stated prohibition? Why can he not say, “[Lo, I am prohibited] as on that day” [since the vow is already in effect]?”*

[I:5 A] If he says, “This is forbidden,” or “A vow [on that loaf],” this is an oath.

[B] If you maintain, “This is a prohibition,” has the standing of an oath, he is liable for each prohibition individually, and for each oath individually.

- [C] But if you say that the language of “prohibition” is of a species of the language of oath, then he is liable for the one by itself and for the other by itself.
- [D] The language of prohibition serves as an oath, and can you say, “If you say so”?
- [E] *Said R. Eleazar, “There are two Tannaitic authorities [each of whom phrases matters in his own way].”*
- [F] *Said R. Jeremiah, “[No, it is] a single Tannaitic authority. If the man has expressed the prohibition using the language of a vow, you hold him responsible for having taken a vow, and if he said it in language appropriate to an oath, you hold him responsible for an oath.”*
- [G] [Thus, if he said,] “Lo, it is prohibited to me..., [36d] it is incumbent on me ...,” you hold him responsible for having made use of language appropriate to a vow.
- [H] [If he said,] “Lo, it is prohibited to me and I shall not taste it,” lo, you hold him responsible for language serving as an oath.
- [I] Then, if you maintain that the language of “prohibition” is a species of the genus of an oath, he is liable individually for each prohibition and for each vow [which he may violate, item by item].
- [J] *[As to this statement that he is liable for each prohibition,] said R. Yosé, “That rule applies only in the case in which he spoke of five distinct loaves of bread. But if he spoke of a single loaf of bread, once he has used the language of an oath, he has transformed the loaf into the status, so far as he is concerned, of carrion. From that point forward, whatever language he uses serves merely to strengthen [the original statement, not to apply it to other loaves of bread]. [We do not maintain that he has taken more oaths dealing with that same bread. So we will not hold that he is liable, on account of that loaf, under the counts of multiple oaths. The loaf is prohibited like carrion.] [It follows that] it is as if he has added oaths to cover what is already prohibited, and oaths do not apply to what is already prohibited.”*
- [K] [Differing from this view,] said R. Hananiah, “Even if you deal with a single loaf, the rule still applies [that one is liable for violating multiple oaths, contrary to Yosé’s view].”
- [L] *That is in line with the following passage, which we have learned:*
- [M] **“I swear that I won’t eat,” “... and that I won’t eat “... and that I won’t eat ...” and he ate –**

[N] he is liable only on one count [M. Shebu. 3:7A-C],

[O] for he said the latter ones only to back up the former ones.

[P] “I swear that I didn’t eat,” “... and that I didn’t eat,” “... and that I didn’t eat,”

[Q] he is liable for each and every one of them.

[R] This rule is more strict concerning an oath involving what already has happened than it is concerning an oath about what is going to happen in the future [T. Shebu. 6:4D-J].

[S] [Now, since there can be a vow made while yet another vow is in effect,] if you maintain that a statement of a prohibition is not a species of the genus of oath, then he should be liable for this statement by itself and for that statement by itself [at the first of the two cases above].

[I:6 A] [As to the statement earlier that oaths do not apply to what is already prohibited,] said R. Yudan, “That is the case when one has expressed the vow [applying the prohibition to himself] and afterward expressed the oath. But if he expressed the oath and afterward he expressed the vow, then vows do apply to what is already prohibited, while oaths do not apply to what is already prohibited.”

[B] R. Yosé interpreted the following verse of Scripture:[“When a man vows to the Lord or swears an oath to prohibit [by means of a] prohibition ...” (Num. 30:2). Thus Scripture refers to an oath as imposing a prohibition. Its purpose is to indicate that all the same are the one who has imposed a prohibition on himself through the language of the vow and the one who has done so through the language of an oath. The statement is valid either way.]

[C] [An example of the language used for taking a vow is this:] “Lo, it is incumbent on me as a prohibition ...,” “Lo, it is incumbent upon him as a prohibition ...”; [this latter statement applying to the object, rather than the person to whom reference is made] – it is prohibited.

[D] “By an oath, lo, it is incumbent on me as a prohibition ...,” “... lo, it is incumbent upon him by an oath ...” – it is prohibited.

[E] [Differing from this view that the same rule governs a vow and an oath,] said R. Yudan, “In the case of a vow, it is prohibited, but in the case of an oath, it is permitted.”

[F] “By a prohibition, lo, it is incumbent on me as a prohibition,” “lo, it is incumbent upon him as a prohibition ...” – it is prohibited.

[G] “by an oath; Lo, it is incumbent on me,” it is prohibited.”By an oath, lo, it is incumbent on him ...” – it is permitted. [In this latter case, he has made an oath using the language of a vow, and such a statement is null.]

[II:1 A] He who says, “I am excommunicated from you” [M. 1:1E] –

[B] B. R. Yosé b. Haninah said, “Each of them is prohibited from deriving benefit from the other, *as if he had said, ‘And I from you!’*”

[C] It is analogous to a case in which one has said, “This loaf of bread is excommunicated from me,” in which we take for granted the meaning, further is, “*And I from it.*”

[D] “Lo, I am prohibited by vow from this loaf of bread, and it from me”
–

[E] “*It from you,*” “It from you” [Aramaic, Hebrew, respectively] –

[F] all the same are such usages as, “Lo, I am to you,” “Lo, I am incumbent on you,” “Lo, you are to me ...,” “Lo, you are incumbent on me....”

[G] *It has been taught:* If one said, “I am finished with you,” “I am separate from you,” [these are valid expressions of a vow].

[H] *R. Jeremiah raised the question, “And why have we not included [in the formulation of the passage], ‘I am removed’?”*

[I] Said R. Yosé, “Indeed, it is taught at the end: **‘I am removed from the Jews’**” [M. 11:12E].

[J] “... that I shall not eat for you ...,” “... that I shall not taste for you....”

[K] R. Eleazar in the name of R. Hoshaiyah: “They apply to him the prohibitions pertinent in the case of one who uses a euphemism for the language of ‘offering’ [*Qorban*].”

[L] *R. Bun bar Hiyya raised the question, “If he had said, ‘I shall not eat of yours,’ do they apply to him the prohibition pertinent in the case of one who uses a euphemism for an oath?”*

[M] *Said R. Yosé, “It is the normal way of saying the thing. People say, ‘The handle of an ax.’ Does anyone say, ‘The ax of the handle’?”* [Jastrow 2:1395: “In making a vow one begins with the word, ‘oath,’ but does not place it at the end.”

[II:2 A] **He who says, “I am excommunicated from you” – R. Aqiba in this case did incline to impose a stringent ruling [M. 1:1E-F].**

[What is this stringent ruling?]

[B] It is to impose a prohibition upon all of his property.

[C] *This is in line with that which you say in Scripture: “... if any one did not come within three days ..., all his property should be forfeited and he himself banned from the congregation of the exiles” (Ezra 10:8).*

[D] *How do rabbis [who do not concur with Aqiba’s stringent ruling] interpret this same verse?*

[E] A more strict rule applies to him who is subject to the excommunication decreed by a court [than to him who is subject to the excommunication expressed by an individual].

[III:1 A] **He who says, “As the vows of the evil folk ...,” has made a binding vow in the case of a Nazir, an offering, an oath [M. 1:1G].**

[B] Samuel said, *“The meaning of the passage of the Mishnah is to treat each item by itself: **Either of a Nazir, or of an offering, or of an oath.*** [If he said, ‘... like the oaths taken by evil men,’ lo, he would be a Nazir, e.g., if a Nazir were passing by; it may mean, too, that the object is prohibited as is an offering; and there may be a case in which what he has done is take an oath.]”

[C] R. Zeira said, “The matter of becoming a Nazir applies in all three instances.”

[D] *Said R. Abin, “He who wants to interpret this statement of Zeira will do so as follows:*

[E] “If there was in front of a person a bunch of grapes, and someone came along and said, ‘Lo, I am a Nazir from it,’ lo, this one is a Nazir.

[F] “If then another one came along and said, ‘Lo, it is as an offering to me,’ lo, it is as an offering to that party.

[G] “If yet another came along and said, ‘Lo, it is incumbent on me by an oath [not to eat of that bunch of grapes]’ lo, it is forbidden to him by an oath.

[H] “Finally, a fourth party came along and said, ‘Lo, whatever these three have said also is incumbent on me,’ will this party not turn out to be subject to a prohibition against that bunch of grapes on account of the Nazirite vow, the prohibition of an offering, and the application of an oath?”

[IV:1 A] *It was taught: “As their freewill offerings” [that is, of evil men] – he has said nothing at all. [Cf. M. 1:1/I.]*

[B] *Is that to say that evil people do not bring freewill offerings?*

[C] Once the man has volunteered a freewill offering, he no longer can be regarded as an evil man.

[D] *The Mishnah accords with the view of R. Judah.*

[E] *For it has been taught in the name of R. Judah, “It is better not to take a vow than to take a vow but not to carry it out’ (Qoh. 5:5). Better than both is that one should take no vow at all.”*

[F] R. Meir says, “It is better not to take a vow than to take a vow but not to carry it out” (Qoh. 5:5). Better than either is to take a vow and to carry it out.

[G] “And so it says, ‘make your vows to the Lord your God, and perform them’” (Ps. 76:11).

[H] What should one do? In the case of a freewill offering, he brings his lamb to the courtyard and says, “Lo, this is a burnt offering.”

[I] R. Abin said: “R. Judah opened the discourse with someone who sought absolution from a vow as follows: ‘If I had known that he who takes a vow is called an evil person, would I have taken a vow?’”

[J] Said R. Yannai, “‘It is a snare for a man to say rashly, ‘It is holy,’ and to reflect only after making his vows’ (Prov. 20:25).

[K] “When a man has begun to take a vow, the record book concerning him is opened up, [and who knows what else will be written down in it?”

[L] Another interpretation of the verse, “It is a snare for a man to say rashly, ‘It is holy,’ and to reflect only after making his vows.”

[M] This refers to postponing the fulfillment of vows. If a man has postponed fulfilling his vow, the record book concerning him is opened up.

[N] There is the case of one who said, “Lo, incumbent on me is a burnt offering,” and then he delayed bringing it. His ship sank in the sea.

[V:2 A] **He who says, “As the vows of the respectable folk” has said nothing whatsoever [M. 1:1H].**

[B] Is that to say that people who take oaths are respectable?

[C] Once he has taken a vow, he is no longer regarded as a suitable person.

[D] *The Mishnah passage before us accords with the view of R. Judah. It has been taught in the name of R. Judah:*

[E] **“The pious men of old used to want to bring a sin offering. But the space on the altar was not sufficient for the bringing in their behalf of offerings in expiation of inadvertent sins. So they would offer Nazirite vows as freewill offerings, so that they might bring a sin offering.”**

[F] **Rabban Simeon b. Gamaliel says, “They were sinners, for they would take a vow as a Nazir, as it is said ‘And he shall make atonement for him, because he sinned against the soul’” (Num. 6:11) [T. Ned. 1:1H-P].**

[V:2 A] This sin, to which reference is made, against his soul, is that he has kept himself from drinking wine.

[B] *Now this view of R. Simeon [b. Gamaliel] accords with the view of Simeon the Righteous. For it has been taught:*

[C] **Said Simeon the Righteous, “In my entire life I ate the guilt offering of a Nazir only one time. Once a man came to me from the south, and I saw him, that he had beautiful eyes and a lovely face, and curly hair. I said to him, ‘My son, why did you destroy that lovely hair of yours?’**

[D] **“He said to me, ‘Rabbi, I was a shepherd in my town, and I came to draw water from the river. I looked at my reflection, and my evil impulse grew proud within me and**

besought thereby to remove me from the world. I said to it, ‘Evil one, Have you a right to be jealous of a thing which really is not yours, of something which is destined to turn into dust, worms, and maggots? Lo, it is incumbent on me to shave you off for the sake of Heaven’ [and that constituted the vow of a Nazir].

[E] “I kissed him on his head, saying to him, ‘My son, may people like you become many, who do the will of the Omnipresent. Through you is fulfilled this Scripture, ‘When either a man or a woman makes a special vow, the vow of a Nazirite, to separate himself to the Lord’” (Num. 6:2) [T. Naz. 4:7].

[F] *R. Mana raised the question:* “Why do I have to interpret the matter [of M. 1:1 H] in accord with Simeon the Righteous? It accords even with R. Simeon.”

[G] Simeon the Righteous did not eat the fat of a sin offering in his entire life, nor did he consume the blood of a sin offering in his entire life.

[H] Simeon the Righteous maintained that people take vows out of ill temper.

[I] Since they take vows out of ill temper, in the end it will come to nothing.

[J] Since in the end it comes to nothing, the offerings brought by a Nazir, when slaughtered in the Temple courtyard, are equivalent to unconsecrated offerings slaughtered in the Temple courtyard. But this particular one took his vow in a serene spirit, when what he said and what he was thinking were one and the same thing.

1:2

[A] He who says to his fellow, “Qonam,” “Qonah,” “Qonas” – lo, these are substitutes for Qorban [a vow to bring a sacrifice, and are valid].

[B] [He who says to his fellow,] “Hereq,” “Herekh,” “Heref,” lo, these are substitutes for herein [ban].

[C] [He who says to his fellow,] “Naziq,” “Naziah,” “Paziah,” – lo, these are substitutes for Nazirite vows.

[D] [He who says,] “Shebutah,” “Shequqah,”

[E] [or if he] vowed [with the word], “Mota,”

[F] lo, these are substitutes for shebu’ah [oath].

[I:1 A] *To this point we have dealt with [cases in which one has used the cited language Qonam, to prohibit something] for himself.*

[B] What is the law as to one’s consecrating something to Heaven using the language, “Qonam”?

[C] *Let us derive the answer from the following:*

[D] [If he said to him, “Lend me your spade,” [and the other said, “Qonam be this spade] if it is mine,” “Qonam be these things to me if I have a spade [at all],”

[E] **one may be sure that he has no spade at all.** [The point of D is that once the man says what he says, the spade is prohibited for his use and thus leaves his domain, which is why E follows] [T. Ned. 4:6F-G].

[F] *Said R. Tahalipa of Caesarea, “The case of the cited rule is different [so that use of the word qonam in connection with consecration is not generally proved]. For with the very language with which he made reference to the spade [in denying its use to his fellow] he made reference to the property [in sanctifying the property to Heaven]. For what choice do you really have here? If he has consecrated the spade, he has consecrated the rest of his property. If he has not consecrated the spade, even the rest of his property he has not consecrated.” If he had said, ‘Qonam if I have a spade,’ and then went and said, ‘Qonam be my property for you,’ if he has a spade, his property is prohibited [for the use of the other party]. That would well [have proved your proposition that the use of qonam serves as you maintain it does. But that is not what we have, and, hence, there is the special reason for the present rule.]”*

[G] [To the contrary,] said R. Joshua b. Hananiah, “If it had said, [‘If he had no spade, his property is] permitted to the other party,’ then matters would have followed [as has been claimed]. It says only, ‘This one has no spade.’ Lo, if he had had a spade, his property indeed would have been prohibited.”

[H] It follows that the spade is consecrated [with the use of the language, *qonam*]. That is to say that the property is consecrated. That is to say [37a] that a man does consecrate property to Heaven using the language of *Qonam*.

[I:2 A] *R. Jeremiah raised the following question: “As to an expression which bears a secular implication [that something is unconsecrated] and also*

that it is consecrated as an offering, what is the law? Do we interpret that language as having prohibited the thing for the person who uses the language?"

[B] And lo, we have learned [M. 1:2A], *Qonas!* [That would answer the foregoing question in a stringent way, namely, use of such language serves to impose a prohibition.]

[C] The usage stands for *Qonsah* [which is meaningless; there is no secular meaning].

[D] And lo, we have learned [M. 1:2D], *Shebutah!*

[E] The usage stands for Shepulah.

[F] *And lo, Bar Qappara taught, "Heres* [also serves as a euphemism for *Qorban*, and that is a word with both secular and sacred meaning, that is, potsherd]."

[G] Does that not stand for *Haspa* [potsherd]? [This then proves the proposition that when there is both a secular and a sacred meaning, we do impose the sacred meaning].

[H] Said R. Zeia, "It is language used for the Most High [and hence will not prove the stated proposition], [for it is said,] 'He who commands the sun (HRS), and it does not rise; [He who seals up the stars]'" (Job 9:7).

[I:3 A] [As to the various usages cited in the Mishnah-paragraph] said R. Simeon b. Laqish, "These usages all mean something in the language of other nations [who can take oaths using them]. For instance, Nabataeans refer to *haspa* as *kaspa*."

[B] [As to *Naziq* and *Naziah*,] said R. Yosé, "That statement is valid [that is, that these usages serve as euphemisms] in other places. But in a place in which they call a Nazir a *Naziq*, [this is not a euphemism at all, but the normal usage]. I say so: Shall a Nazir among stammerers not be a Nazir? [Merely because the pronunciation is poor, that is null?]"

[C] [Along these same lines,] *it is taught Shebutah, Shequqah* [M. 1:2D]. [In this same connection] *R. Hiyya taught, "Shebuqah, Shequah, Shequdah."*

[II:1 A] **If one vowed with the word, "Mota,"** [M. 1:2E], or, "*Bemomi*," [it is null unless] it is along the lines of a vow which Moses took: "And Moses undertook [to dwell with the man, and he gave Moses his daughter Zipporah]" (Ex. 2:21).

- [B] *R. Jonah raised the question, “And do we not maintain that one is subject to the oath if he has vowed in the manner in which Saul took a vow:”*[And the man of Israel were distressed that day;] for Saul laid an undertaking [oath] [on the people, saying, ‘Cursed be the man who eats food until it is evening and I am avenged on my enemies.’ So none of the people tasted food]” (1 Sam. 14:24)?
- [C] [He who says,] “By the right hand,” lo, this is an oath.
- [D] [If he said,] “By the left hand,” lo, this is an oath.
- [E] Said R. Mattenaiah, “This is in line with that which is written, ‘[The man clothed in linen, who was above the waters of the stream,] raised his right hand and his left hand toward heaven; and I heard him swear by him who lives forever [that it would be for a time, two times, and half a time]’” (Dan. 12:7).

1:3

[A] He who says, “Nor-unconsecrated-produce shall I not eat with you,” “Not-valid-[food],” and, “Not-pure,” “[Not] clean [for the altar],” or “Unclean,” or “Remnant,” or “Refuse” –

[B] is bound.

[C] [If he said, “May it be to me] like the lamb [of the daily whole-offering],” “Like the temple-sheds,” “Like the wood,” “Like the fire,” “Like the altar,” “Like the sanctuary,” “Like Jerusalem” –

[D] [if] he vowed by the name of one of any of the utensils used for the altar,

[E] even though he has not used the word qorban

[F] lo, this one has vowed [in as binding a way as if he had vowed] by qorban.

[G] R. Judah says, “He who says, ‘Jerusalem,’ has said nothing.”

[I:1 A] [Explaining M. 1:3A:] “*Lo, what I shall eat of yours will not be consecrated produce but in the status of an offering*” –

[B] “It will not be suitable for me but rather for the altar” – “It will not be pure for me but rather for the altar” –

[C] “It will be clean for the altar and not for me” –

[D] “Unclean for me and not for the altar” –

[E] Suitable and pure (dky) are in the category of clean.

- [F] And “unclean” includes not suitable, not clean, “held back from being clean” and unclean.
- [G] As to refuse [that sacrificial meat rendered invalid by the officiating priest’s improper intention], there is no difference whether the reference is to refuse deriving from a burnt offering [which one may not eat anyhow] or refuse deriving from peace offerings.
- [H] As to remnant: As to remnant deriving from a burnt offering, at no point was it valid. As to remnant deriving from peace offerings, at one point it was valid. [Therefore we ask:]
- [I] If one said, “Lo, this is incumbent on me in the status of remnant deriving from peace offerings,” what is the law as to its being in the status of a lamb? [That is, did the man refer to the meat at the point at which it had not yet become remnant and so permitted, or was his intent to refer to it as it now is, in which case it is forbidden?]
- [J] R. Yohanan said, “It is like the lamb of the daily whole offering.”
- [K] *There they said,* “... like the offspring of an animal set apart for use as a sin offering [which is in its status].”
- [L] R. Simeon b. Laqish said, “Like the ram of Abraham, our father.”
- [M] *R. Hiyya taught in support of the position of R. Simeon b. Laqish:* “Like a lamb which never in its life sucked milk.”
- [N] *In the view of rabbis from over there [in Babylonia] it should teach,* “... like the courtyard.”
- [O] *Said R. Abin, “In the view of R. Simeon b. Laqish [L], we should add to the list, ‘Like the offerings of the altar.’”*
- [P] Said R. Yosé b. R. Bun, “In the opinion of R. Yohanan [J], we should add to the list, ‘Like the smoke of the inner altar and the candelabrum.’”
- [Q] “Like the sheds” – “Like the sheds for wood,” “Like the sheds for offerings.”
- [R] “Like the wood” – “Like two bundles of wood.”
- [S] “Like the fires” – “Like the flame of the fires.”
- [T] “Like the altar” – “Like the offerings of the altar.”

[U] “Like the sanctuary” – “Like the offerings of the sanctuary.”

[V] “Like Jerusalem” – “Like the offerings of Jerusalem.”

[II:1 A] **If one has vowed by the name of one of any of the utensils used for the altar [M. 1:3D] – like a spoon, incense shovel, or rake.**

[B] **R. Judah says, “He who says, ‘Jerusalem,’ has said nothing” [M. 1:3G].**

[C] **For this one who has said the word has referred only to the wood and stones in the city.**

[D] **If he said, “Like the Torah,” lo, this [person] is permitted [not bound by a vow].**

[E] **“... like the sanctity of the Torah,” “Like that which is written in it,” lo, this one is bound by the vow [T. Ned. 1:4].**

[F] If he said, “Like the offerings which are written therein” –

[G] *there are Tannaim who teach*, “That is in the status of ‘... like the Torah and like that which is written in it’ – lo, this one is not bound.”

[H] *R. Abin bar Kahana said*, “That is the view of R. Simeon b. Laqish [at M. Sheb. 5:4].”

[I] Said R. Yohanan, “In the view of R. Simeon, it turns out that he is responsible only for wheat, and is exempt as to the rest.”

[J] Said R. Yosé, “It represents the view of all parties.”

[K] “‘Like the Torah ...’ ‘like the sanctity of the Torah ...’ ‘like that which is written in it ...’ ‘like the sanctity of its writing.’”

1:4

[A] **He who says, “An offering,” “A whole offering,” “A meal offering,” “A sin offering,” “A thank offering,” “Peace offering,” –**

[B] **“be what I eat with you,”**

[C] **he is bound [prohibited from eating with the other party].**

[D] **R. Judah permits [declares him not bound].**

[E] **[If he says, “May what I eat of yours be] the qorban,” “Like the qorban,” “[By] a qorban [do I vow]” –**

[F] “be what I eat with you,”

[G] he is bound.

[H] [If he says,] “For qorban shall be what I eat with you,”

[I] R. Meir declares him bound.

[J] He who says to his fellow, “Qonam be my mouth which speaks with you,” or “My hand which works with you,” “My foot which walks with you,”

[K] is bound.

[I:1 A] *All parties concur that if he had said, “... the offering,” he is not bound.*

[B] If he said, “*Like* an offering,” he is bound. [In the former case he may be understood to vow by the living animal, in the latter, only by the animal which has been offered up on the altar.]

[C] *Concerning what do they differ?*

[D] [Concerning use of the language,] “Offering.”

[E] R. Judah says, “He who says, ‘Offering,’ is like him who says, ‘*The* offering,’ and he is not bound.”

[F] *And rabbis say,* “[If he said,] ‘Offering,’ it is as if he says, ‘*Like* an offering,’ and he is bound by the vow.”

[G] Said to them R. Judah, “Do you not agree with me in the case of him who says, ‘An oath,’ that he is like him who says, ‘By the oath,’ and he is bound?”

[H] “Now here he who says, ‘An offering’ is like him who says, ‘The offering,’ and he is not bound.”

[I] But rabbis assign the more stringent ruling in this case:

[J] “He who says, ‘An oath,’ is like him who says, ‘By the oath,’ and he is bound. And here he who says, ‘An offering,’ is like him who says, ‘*Like* an offering,’ and he too is bound.”

[I:2 A] [Augmenting M. 1:3C:] “A pipe,” “The pipe,” “Like the pipe,” “As the pipe” – whether he then said, “Be what I shall eat of yours,” or said, “Be what I shall not eat of yours,” he is not bound.

[B] If he said, “Not unconsecrated food be what I shall eat of yours” – he is bound by the vow [= M. 1:3A].

[C] “Unconsecrated food be that which I shall eat of yours” – he is not bound by the vow.

[D] R. Yosa in the name of R. Yohanan, “From the opinion of R. Meir you may conclude that out of a negative statement you may infer an affirmative one:

[E] “‘Not offering I shall eat of yours,’ [so far as he is concerned, means,] ‘I shall not eat of yours that which is not an offering.’ Lo what *I shall* eat of yours will not be unconsecrated but rather in the status of an offering.”

[II:1 A] “My walking be prohibited to you” “My speaking be prohibited to you” [cf. M. 1:4J], he has said nothing whatsoever.

[B] Why is that so? Because he has imposed upon himself a vow by reference to something which is of no substance.

[C] [How so?] “... take a vow ...” (Lev. 27:2) – Just as vow, stated elsewhere, refers to a reference to something of substance, (L and V:of no substance) so “vow” stated here (Num. 30:2) refers to something which is of substance (L and V:of no substance)

[D] “... my eye sees you,” “... my ear hears you ...” – he is bound.

[E] “My hand which works with you” – he is bound.

[F] [The question is this:] If he then plowed ground with him, to what extent is he forbidden to work with him? Sufficient to earn his salary, or sufficient to give benefit to the ground itself?

[G] If he walled up an oven, to what extent is he forbidden? Is it enough to earn his salary, or enough actually to benefit the oven? [This question is not answered.]

YERUSHALMI NEDARIM

CHAPTER TWO

2:1

[A] [37b] These vows are not binding [at all]:

[B] He who says, “May what I eat of yours be unconsecrated food,” “[Be] like pig meat,” “Like an idol,” “Like hides pierced at the heart,” “Like carrion,” “Like terefah-meat,” “Like abominations,” “Like creeping things,” “Like the dough offering of Aaron,” or “Like his heave offering,” –

[C] it is not binding.

[D] He who says to his wife, “Lo, you are like mother to me,” – they open for him a door [for the unbinding of his oath] from some other source,

[E] so that he may not behave lightly in such a matter.

[F] [He who says,] “Qonam if I sleep,” or, “If I speak,” or, “If I walk” –

[G] he who says to his wife, “Qonam if I have sexual relations with you” –

[H] lo, this is a case to which applies the law, “He shall not break his word” (Num. 30:2). [He must gain remission from a sage.]

[I] [If he said,] “By an oath that I shall not sleep,” “that I shall not speak,” “that I shall not walk,”

[J] it is binding.

[I:1 A] [Proving the point of M. 2:1A-C:] “[When a man vows a vow] to the Lord” (Num. 30:2) – A person prohibits himself only by reference to something which belongs to the Lord.

[II:1 A] [With reference to M. 2:1H, that a man must keep his word in a vow concerning something which he would ordinarily be permitted to do, with the further implication that the vow is not applicable on the basis of Scripture, but people apply to themselves, by a vow, such a prohibition and must not treat their own words as unconsecrated,] *the household of Rab taught*: “How do we know concerning vows which

are released for you so far as Heaven is concerned, that people customarily treat such vows as binding, so that one should not take a vow and then treat it as null?

[B] “Scripture says, ‘He shall not break his word’ (Num. 30:2). The meaning is, he should not treat his words as unconsecrated.”

[C] *They wish to say*, “For instance, [using the language,] ‘As an offering,’ or ‘By an oath.’ Lo, as to other sorts of expressions, the rule is not the same.”

[D] [*The foregoing exegesis*] comes to tell you that even in regard to vows made by reference to all other matters, [the rule is the same].

[II:2 A] “... to bind himself by a pledge ...” (Num. 30:2):

[B] *There are Tannaim who teach*, “To bind himself, but not to bind others.”

[C] *And there are Tannaim who teach*, “Even to bind others.” [That is, by a vow one may prohibit others from enjoying use of his own property.]

[D] *They proposed to state*, “*He who said*, ‘... for himself, not for others,’ means that he may not prohibit use of his property by others. *He who said*, ‘... even for others,’ means to state that he may prohibit use of his property by others. But lo, as to prohibiting himself the use of property belonging to others, he may not [do so by means of this vow].”

[II:3 A] **He who says to his wife, “Lo, you are like mother to me,” [M. 2:1G] –**

[B] “Having sexual relations with you to me is like having sexual relations with mother,”

[C] “Like mother’s flesh” –

[D] he has said nothing at all. [But he must gain remission from a sage.]

[E] If he said, “This loaf of bread is incumbent on me as prohibited like having sexual relations with mother” – what is the law? [Does one have to obtain remission from a sage for such a vow, or is it null automatically?]

[F] *Let us derive the answer from the following: He who says to his wife, “Qonam if I have sexual relations with you” [M. 2:1G] –*

[G] Rab said, “He is bound by the vow.”

[H] Samuel said, “He is not bound.”

[I] *How does Samuel interpret, “He shall not break his word”?*

[J] It is as if he is subject to the prohibition of breaking his word
[as a general rabbinical ordinance].

[K] *Rab is consistent with an opinion expressed elsewhere.*

[L] *It has been taught in the name of the house of Rab: “How do we know concerning vows which are released for you so far as Heaven is concerned, that people customarily treat such vows as binding, so that one should not take a vow and then treat it as null? Scripture says, ‘He shall not break his word’ (Num. 30:2). The meaning is, he should not treat his words as unconsecrated.” [Here he must gain remission from a s age.]*

[III:1 A] [If one said,] “By an oath! I shall not sleep for three days,” they flog him [for breaking his oath] and he may go to sleep forthwith [cf. M. 2:1/I].

[B] “By an oath, I shall not eat for three days,” they wait for him until he actually eats, and only then do they flog him [for not keeping his oath].

2:2

[A] [He who says,] “Qorban I shall not eat with you!” “Qorban be what I eat with you!” “Not-Qorban be what I do not eat with you!” –

[B] he is not bound.

[C] “By an oath, I shall not eat with you!” “By an oath, if I shall eat with you,” “Not by an oath I shall not eat with you,”

[D] he is bound.

[E] This rule is therefore more strict in the case of oaths than in the case of vows. [F] But [there is] a stricter rule which applies to vows than applies to oaths.

[G] How so?

[H] [If] he said, “Qonam be the Sukkah which I am making!” “The lulab which I am taking!” “The tefillin which I am laying on” –

[I] in the case of vows, it is binding.

[J] In the case of oaths, it is not binding.

[K] For an oath is not taken to transgress the commandments of the Torah] [but a vow is binding].

- [I:1 A] *And why do we not repeat the tradition [at M. 2:2A also] in the language, “By an oath I shall not eat with you’ – he is not bound”?* [Cf. PM and QH, both of whom emend the text.]
- [B] *But it is because we repeat the further tradition: **There is a stricter rule in the case of oaths than in the case of vows [M. 2:2E].***
- [C] *Now we reasoned, maintaining, “By an oath, I shall not eat with you” [the oath is binding] in the view of sages. On that account we have not repeated that item [in the former clause].*
- [I:2 A] “Lo, it is an offering,” “Lo, it is for an offering,” “Lo, it is like an offering” – the vow is not binding.
- [B] “Lo, it is an oath,” “Lo, it is for an oath,” “Lo, it is like an oath” – the oath is binding.
- [C] **This rule is therefore stricter in the case of oaths than in the case of vows. But there is a stricter rule which applies to vows than applies to oaths. How so? [M. 2:2F.]**
- [II:1 A] **[in the case of vows, it is binding. In the case of oaths, it is not binding. For an oath is not taken to transgress the commandments of the Torah but a vow is binding.:]** “Or if anyone utters with his lips a rash oath to do evil or to do good, any sort of rash oath that men swear” (Lev. 5:4).
- [B] Just as doing good is a matter of choice, so doing evil is a matter of choice. This then excludes [taking a valid oath with regard to a matter which is subject to a prohibition, [or] to a matter which is a religious requirement [thus explaining the difference between I and J].
- [C] *They proposed the rule:* “Lo, that applies in the case of inadvertence. But in the case of a deliberate deed it does not. [One is liable for taking and violating the oath].
- [D] *There is the following available teaching:*R. Ishmael says, “‘He shall do according to all that proceeds out of his mouth’ (Num. 30:2). [This then implies,] ‘not in accord with that which proceeds from the mouth of Heaven.’”
- [E] And may one say that the same rule applies in the matter of that which is consecrated? [That is, will an act of consecration also be invalid, based on this same statement of Scripture?]
- [F] R. Yosah in the name of R. Hila, “[That is not the case.] For lo, a man may declare his *sukkah* to be consecrated to Heaven [and, in general, one has the power to consecrate anything].”

2:3

[A] **There is a vow within a vow, but there is no oath within an oath.**

[B] **How so?**

[C] [If] **he said, “Lo, I am a Nazir if I eat,” “Lo, I am a Nazir if I eat,”**

[D] **[and if] he ate,**

[E] **he is liable for each such statement [and observes two spells of Naziriteship].**

[F] [If he said,] **“By an oath I shall not eat,” “By an oath I shall not eat,”**

[G] **and he ate,**

[H] **he is liable for one count only.**

[I:1 A] *R. Yosé raised the question; “If someone has said, ‘By an oath, by an oath, by an oath [regarding several loaves], I shall not eat’ and then he ate – what is the law? [Do we have three distinct oaths here?]”*

[B] *Said R. Yosé b. R. Bun: “Let us derive the answer to the question from the following rule: **‘I swear that I won’t eat this loaf of bread, I swear that I won’t eat it, I swear that I won’t eat it’ – and he ate it – he is liable on only one count [M. Shebu. 3:7A].***

[C] *“The reason is that he made explicit mention of ‘this’ loaf. But if he had not made explicit mention of ‘this’ loaf [so that the oath applied only to that one piece of bread], then he would have been liable for each such statement.”*

[I:2 A] *Abimi, brother of Haifa, said, “I have studied in practice the law of vows, I have studied in practice the law of oaths.”*

[B] *Haifa wanted to examine him [to see what he had learned]:*

[C] *“[If] there were before someone five loaves of bread, and he said, ‘I swear that I shall [not] eat this loaf,’ and then he went and said, ‘These two loaves of bread,’ and then he went and said, ‘These three loaves of bread,’ and then he went and said, ‘These four loaves of bread,’ and then he went and said, ‘These five loaves of bread,’ and he then ate the first loaf of bread – what is the law?”*

[D] [Abimi] *said to him, “He is liable on each count [for violating each oath, since each involved another loaf of bread].”*

[E] [Abimi’s brother] *said to him, “He is liable on only one count; since he has made use of the word ‘oath,’ he has rendered the loaf of bread from that point forward to be in the status of carrion, and [the others are included therein, so] he is as one who makes an oath [regarding the*

other loaves of bread] concerning that which already is prohibited, and oaths do not apply to matters which are already subject to a prohibition.”

- [F] Haifa went and examined him yet once more:
- [G] “If there were before a man five loaves of bread, and he said, ‘I vow that I shall eat these five loaves of bread,’ and then he went and said, ‘... these four loaves of bread,’ and then he went and said, ‘... these three loaves of bread,’ and then he went and said, ‘... these two loaves of bread,’ and then he went and said, ‘... that I shall [not] eat this one,’ and then he ate them all, [what is the law]?”
- [H] [Abimi] said to him, “He is liable on only one count [for the latter oaths were piggybacked onto the original one].”
- [I] [Haifa] said to him, “He is liable for each one.
- [J] “Now if someone had said, ‘I swear that I shall eat five loaves of bread,’ but he ate only four of them, is it possible that he is not exempt? [He is exempt, for he did not eat the five. If he then said the same of the four, it is a new oath.]”
- [K] *Said R. Yosé, “It is reasonable that the law is in accord with the opinion of the brother of Haifa in the latter case, but in accord with Haifa in the former case. [When the man took the original oath and referred to these five loaves, he had in mind to make an oath governing each of the loaves individually, at the outset, and consequently the later oaths were piggybacked onto the original one, as Abimi maintains. So in the latter case he is liable only for one oath. Haifa is right in the former case, for the man did not intend in the latter oaths to include the first loaf of bread. If he ate the first, he is liable only for that one, and not for violating the oaths governing the rest (PM).]”*

2:4

- [A] **Vows which are not spelled out are subject to a more stringent rule, and [vows] which are spelled out are subject to a more lenient rule.**
- [B] **How so?**
- [C] [If] he said, “Lo, it is to me like salted meat,” “Like wine used for idolatrous worship,”
- [D] **if his vow referred to things belonging to Heaven, it is binding.**
- [E] **If it is of things belonging to idolatry that he vowed, it is not binding.**
- [F] **But if he vowed without specification, it is binding [as at D].**

- [G] [If he said,] “Lo, it is to me like a devoted thing,”
- [H] if he said, “Like a thing devoted to Heaven,” it is binding.
- [I] If [he said,] “Like a thing devoted to priests,” it is not binding.
- [J] And if he said it without further specification, it is binding [as at H].
- [K] [If he said,] “Lo, it is unto me like tithe,”
- [L] if he vowed that it was like tithe of cattle, it is binding.
- [M] If it was like tithe of the threshing floor, it is not binding.
- [N] And if he said it without further specification, it is binding [as at L].
- [O] “[If he said,] ‘Lo, it is to me like heave offering,’
- [P] “if he vowed that it was like heave offering of the chamber [of the Temple], it is binding.
- [Q] “and if it was like that of the threshing floor, it is not binding.
- [R] “And if it was without further specification, it is binding,” the words of R. Meir.
- [S] [Y.:Sages] R. Judah says, “A statement referring without specification to heave offering made in Judah is binding. But in Galilee it is not binding.
- [T] “For the men of Galilee are not familiar with heave offering belonging to the chamber.
- [U] “Statements that something is devoted, without further specification, in Judah are not binding, and in Galilee they are binding.
- [V] “For the Galileans are not familiar with things devoted to the priests.”
- [I:1 A] *They proposed to rule:* “That which is salted permanently is deemed salted meat [in line with M. 2:4C], but if it was with regard to that which is salted only for a time, that is not the case. [It is not deemed salted.]”
- [B] *Said R. Yudan,* “On the basis of that which we have learned: **If he said, ‘Lo, it is to me like salted meat,’ ‘Like wine used for idolatrous worship’ [M. 2:4C],** we find that that which is salted only for a time indeed is regarded as salted.”
- [C] What is the meaning of “salted for a moment”?
- [D] *It is in line with the following, as it is taught:* “What does he do [in salting the limbs of the offerings]? He places the limbs on top of salt and turns them over.”

[E] *Said R. Abba Mari, “That case is different [and is not regarded as salting the limbs for a moment], because if he holds them back [and does offer them, but leaves them in the salt], they are salted permanently.”*

[F] *What then is under consideration [in the case of that which is salted for a moment]? It is in line with that which R. Hiyya bar Abba said, [in citing the following passage]: “He who takes olives from the press dips them one by one and eats them [M. Ma. 4:3]. That is to say that if you have something which is salted only for a moment, it falls into the category of that which is salted.”*

[II:1 A] **If he said, “Lo, it is unto me like heave offering,” if he vowed that it was like heave offering of the chamber of the Temple, it is binding [M. 2:4/O-P].** Lo, if it was like heave offering taken from the bread of the thank offering [that is, one out of ten of those loaves is forbidden, as belonging to the cult], it then will be permitted.

[B] **And if it was like that of the threshing floor, it is not binding [M. 2:4Q].** Lo, if it was like heave offering taken from the bread of the thank offering, it then will be forbidden.

[C] *Accordingly, at one point you maintain that it is permitted, and at the other point, forbidden [as a binding oath].*

[D] *Let us derive the solution to this problem from the following: If he said, “Like the dough offering of Aaron,” or, “Like his heave offering,” the vow is not binding [M. 2:1B].*

[E] Lo, in the case of a vow referring to heave offering of the bread of the thank offering, it is binding.

[III:1 A] **And sages say, “A statement referring without specification to heave offering made in Judah is binding. But in Galilee, it is not binding. For the men of Galilee are not familiar with heave offering belonging to the chamber” [M. 2:4T- U].**

[B] [37c] Lo, if they were familiar with it, a vow taken without further specification would be binding.

[C] **“Statements that something is devoted, without further specification, in Judah are not binding, and in Galilee they are binding. For the Galileans are not familiar with things devoted to the priests” [M. 2:4U-V].**

[D] But if they were familiar with them, a vow taken without further specification would not be binding.

- [E] *Here you say it is not binding, and there you say it is binding.* [In the matter of heave offering, where there is a doubt, we declare the vow to be not binding. In the case of devoted objects, in a case of doubt, we declare the vow to be binding. That is, in Galilee, the vow regarding a devoted thing is deemed binding, since we are not sure whether or not the person who took the vow knew the difference between a binding and a non-binding statement regarding a devoted thing.]
- [F] *Said R. Eleazar, “[The implications of the two passages differ, because] they are two different Tannaitic authorities, [each with his own tradition on the matter].”*
- [G] *Said R. Jeremiah, “No, it is a single Tannaite authority who stands behind both statements. He accords with the view of him who said that a statement without further specification as to a devoted thing is interpreted to mean that the thing is devoted to the upkeep of the Temple building.*
- [H] “But in the view of him who said that a statement without further specification as to a devoted thing is interpreted to mean that the thing is devoted to the priests, even in Galilee, the vow should be not binding.”
- [I] [Explaining M. 2:4U,] R. Yosé in the name of R. Hila: “In Galilee, because people are familiar with the ban applied to Achan [and its laws, since the events of Josh. 7:1ff. took place there], you must rule that statements that something is devoted, without further specification, in Galilee are binding. In Judah, since they are not familiar with that matter, such statements are not binding.”

2:5

- [A] [If] one vowed by “herem,” but then he said, “I vowed only concerning that which is a herem [a net] of the sea,”
- [B] [or if he vowed] by “qorban” but then said, “I vowed only concerning qorban [offerings] to kings,”
- [C] [if he said,] “Lo, ‘asmi [my bone] is qorban,” and explained, “I vowed only concerning the ‘esem which I placed before me by which to vow,”
- [D] [if he said,] “Qonam is that benefit which my wife derives from me,”
- [E] and he said, “I vowed only concerning my first wife, whom I have already divorced” –

[F] “in all these cases they do not accept inquiry concerning them. But if they accept inquiry, they punish and treat them strictly,” the words of R. Meir.

[G] And sages say, “They find an opening for them in some other place [by some pretext].

[H] “And they instruct them that they not treat vows lightly.”

[I:1 A] *There was a man who took a vow along the lines of the language [specified at M.]. The man came before R. Meir, who sent him on to R. Judah. [Meir] said to the man, “Tell him that you came to me, and I sent you on to him.”*

[B] *The man came before R. Judah, who sent him to R. Yosé. He said to the man, “Tell him that R. Meir sent you to me, and I sent you to him [Yosé].”*

[C] *The man came to R. Yosé. He said to him, “If the first one you came to is not prepared to release you from your vow, surely no one else is going to release you either. For R. Meir maintains, ‘If they accept inquiry, they punish and treat them strictly’” [M. 2:5F].*

[D] *The man went and came back to R. Meir. He said to him, “Since you knew full well that that is how matters stand, why in the world did you not say so to me to begin with?”*

[E] *He said to him, “I saw that you took things lightly, so I made a strict rule for you [by sending you on a wild goose chase].”*

YERUSHALMI NEDARIM

CHAPTER THREE

3:1

[A] **Four [types of] vows did sages declare not binding: Vows of incitement, vows of exaggeration, vows made in error, and vows [broken] under constraint.**

[B] **Vows of incitement: How so?**

[C] **[If] one was selling something and said, “Qonam if I chop the price down for you to under a sela,” and the other says, “Qonam if I pay you more than a sheqel,”**

[D] **[then] both of them agree at three denars.**

[E] **R. Eliezer b. Jacob says, “Also: He who wants to force his fellow by a vow to eat with him says, ‘Any vow which I am going to vow is null’ – so long as he is mindful at the moment of his vow.”**

[37d] [I:1 A] **Now do not sages declare all vows not binding [and not merely the four listed here, should occasion arise]?**

[B] [For] it is written, “And Moses said to the heads of the people of Israel” (Num. 30:1).

[C] [Scripture thereby] has made the matter depend on the heads of the tribes, who are to release the vows of the people.

[D] R. Judah in the name of Samuel: “‘He shall not break his word’ (Num. 30:2). *He* shall not break his word. Lo, someone else may turn his word into something no longer sacred. And who is that? It is a sage who releases his vow.”

[E] Haninah, son of the brother of R. Joshua, says, “‘I have sworn an oath and carried it out’ (Ps. 119:106). There are occasions on which it is not carried out.”

[F] R. Joshua says, “‘Therefore I swore in my anger ...’ (Ps. 95:11). In my anger I swore. But I retract.”

- [G] Now is it so that sages declare all vows not binding? *And have we not learned: **Four types of vows did sages declare not binding [M. 3:1A].***
- [H] R. Eleazar in the name of R. Hiyya the Elder: “These [four] do not require the remission of a sage, [but are null to begin with].”
- [I] *Both Rab and Samuel say, “These do indeed require the release granted by a sage.”*
- [J] [*Responding to what Eleazar has said,*] *Issi objected, “And is it not so that suitable grounds for remission of vows derive only from the present passage [which indicates that, to begin with, the vow was in error]? [On that basis, a sage may release a vow. But he may not do so merely on grounds that the person who took the vow regrets it.]”*
- [K] *Samuel said to [Issi], “Tie a rope on it. [Draw conclusions from the present passage for other such passages, indicating that all of them produce remission of a vow on the same grounds (PM).]”*
- [L] *The following passage of the Mishnah stands at variance with the view of Issi: **Also this one can annul his vow without consultation with a sage [M. 8:7F].***
- [M] Interpret the cited passage: All [other sorts of] vows require remission on the basis of some other pretext [than their own substance], while, in the case of these, the grounds for remitting them come right along with them. [But in any event, there must be consultation with a sage.]
- [N] *Said R. Zeira, “That which you have said [about not consulting a sage] applies to a case in which those who took the vows do not affirm them. But in a case in which they affirm the vow [indicating that they made their statement not merely to incite, but in a deliberate way], then they do have to obtain the remission granted by a sage.”*
- [O] [With reference to M. 3:1C-D,] if one of the parties to a vow affirms it, and another party to it does not affirm it, since the vow is null for one party, it also is null for the other.
- [P] *The disciples of R. Hiyya bar Luliani said R. Yudan [said], “[The law is the same in matters of sale. That is, if someone was selling an object to two purchasers, and one proposes to pay three, while the other offers two, and the seller says, ‘Qonam if I cut the price down for you by less than a sela’*

– to the one who offered three, he does not stand by the vow but his intention merely was to strengthen his position. To the one who offered two, he may stand by what he has said and this is a valid vow. [Since the seller has remitted a *denar* for one party, he does the same for yet another *denar* for the other party. That is,] since his vow for the party who has said three is null, so his vow for the other is null, and he can cut off another *denar* and sell the object to the second party for two; [for this version, cf. Qorban Ha'Edah].”

- [II:1 A] **[Four [types of] vows did sages declare not binding: Vows of incitement:]** Said R. Ammi, “Who stands behind the teaching about vows of incitement [M. 3:1A]? It is R. Tarfon, for he interprets the rule to apply even to a case in which the ones who took the vow stand by their word [and maintain that they did indeed intend to take a vow]. [In his view they need not turn to a sage for remission of the vow.]”
- [B] Said R. Ba, “Interpret the passage to represent the view of all parties, and to speak of a case in which they do not stand by their word.
- [C] “*If you say that we deal with a case in which they stand by their word, then, [at M. 3:1E,] we should repeat the tradition: R. Eliezer b. Jacob and R. Tarfon both maintain the same view [that both parties maintain that these vows serve only to express exaggeration and really are null].*”
- [D] [With reference to M. 3:1E, **R. Eliezer b. Jacob says, “Also: He who wants to force his fellow by a vow to eat with him says, ‘Any vow which I am going to vow is null’ – so long as he is mindful at the moment of his vow,”**] *there are Tannaim who repeat the tradition: “He who wants ...,” and there are Tannaim who repeat it: “Also: He who wants...”* He who says, “*He who wants,*” supports the view of R. Ammi [so PM]. He who says, “*Also: He who wants ... ,*” supports the view of R. Ba.
- [E] [Sharing the view of Ammi,] *R. Pedat in the name of R. Yohanan: “What Tannaite authority stands behind the view of vows of incitement [that they are null, even without consultation with a sage, because they are made only to exaggerate and not in a deliberate spirit]? It is R. Tarfon.”*
- [F] *Thus does the Mishnah state: **Any vow which I am going to vow is null, ‘so long as he is mindful at the moment of his vow [M. 3:1E].***

[G] This is the case if he made no stipulation. But if he made a stipulation, even though he is not mindful of it at the moment of his vow, [it should be in effect]. [That is, his vow has replaced the stipulation and is to be confirmed. Accordingly, what is emphasized now is that when the man takes the vow, he must recall the prior stipulation and make the matter explicit.]

[H] That is the rule for vows but [not] for oaths.

[II:2 A] There may be stipulations in the case of vows, but there may be none in the case of oaths.

[B] *This is in line with that which is taught: **An oath administered by the judges accords with the stipulations which are in our heart, not with the stipulations which are in your heart*** [T. Sot. 7:3].

[C] Said R. Judah, “It is assumed that it is in accord with the stipulations which are in our heart that one administers the oath. And why does one stipulate with him? It is because of uninformed people. So that they may not say, ‘There are stipulations which apply to oaths.’”

[D] *R. Hananiah taught before R. Mana, “And lo, it is written, ‘... Nor is it with you that I make this sworn covenant, but with him who is not here with us this day as well as with him who stands here with us this day’ (Deut. 29:14-15). What does this statement imply?”*

[E] He said to him, “Just as, with the generations which follow us, there can be no stipulation in their heart, so in our case there is no stipulation in our heart [cf. T. Sot. 7:5].”

3:2

[A] **Vows of exaggeration:**

[B] [If] he said, “**Qonam if I did not see [walking] on this road as many as went out of Egypt,**”

[C] “**... if I did not see a snake as big as the beam of an olive press.**”

[D] **Vows made in error:**

[E] “**... if I ate,**” or “**... if I drank,**” and he remembered that he ate or drank;

[F] “**... if I eat,**” or “**... if I drink**” and he forgot and ate and drank.

[G] [If] he said, “**Qonam be any benefit my wife gets from me, for she stole my purse,**” “**for she beat up my son,**” and he found out that she had not beaten up his son, or he found out that she had not stolen it.

[H] [If] he saw people eating figs [belonging to him] and said, “Lo, they are qorban to you!” and they turned out to be his father and brothers, and there were others with them –

[I] the House of Shammai say, “They are permitted, and those with them are prohibited.”

[J] And the House of Hillel say, “These and those [men] are permitted [to eat the figs].”

[I:1 A] Surely it is possible that on that road [over a period of time] as many people did indeed pass as had gone out of Egypt.

[B] *But thus do we interpret the language of the vow:* to apply to a single sighting.

[C] *For lo, when Diocletian went down there, with him went down no fewer than one hundred twenty myriads.*

[D] *So thus do we interpret the language of the vow:* in a single sighting.

[II:1 A] [Regarding M. 3:2C,] *And lo, the snake belonging to Emperor Shapur [was so large as to be able to] swallow camels and to swallow wagons. When they wanted to kill it, they brought camels’ hides and filled them with straw and put burning coals into them, and the snake swallowed them and perished.*

[B] Said R. Judah bar Pazzi, “I have seen the skin of a snake as big as eight intercolumniations.”

[C] Said R. Samuel bar Jacob, “I saw the skin of a snake of such a size as to be worthy to serve as a kingly gift. [Consequently, this should not be regarded as a vain oath, for there can have been snakes of such a size.]”

[II:2 A] Samuel said, “[The Mishnah speaks of-a vow referring to] a square [snake].”

[B] *But if the Mishnah spoke of a square snake, then it should have been so phrased as to include even a small one [and not only a large one].*

[C] *Said father of R. Mattanaiah, “That is indeed so. But it is the normal manner of the framer of this passage of the Mishnah to make reference only to a remarkable thing. For thus have we learned in the Mishnah: ... if I did not see a camel flying in the air ... [M. Shebu. 3:8H]. It could as well have taught, ‘A mouse flying in the air.’”*

[D] *It was taught:* Rabban Simeon b. Gamaliel says, “Nothing is square in its natural condition [as it was created].”

[E] *Objected R. Berekiah, “And have we not learned the following Mishnah-tradition: **The requisite space of the bright spot is not less than a Cilician split bean squared. The space of the split bean is nine lentils. The space of a lentil is four hairs. It turns out that there are thirty-six hairs arranged in a square [M. Neg. 6:1]?”***

[F] *Said R. Yosena, “The very essence of the cited pericope states that it is not squared [by nature], and why is it taught that it is squared? That it turns out to be a square [in that, like a bean, its width and length should be of the same measure].”*

[G] *And lo, there is the mint [which is shaped like a square while you say that there is nothing shaped like a square]?*

[H] *It is full of knots.*

[I] *Elephant’s berry [which is quadrangular]?*

[J] *It is round on the bottom.*

[K] *There are some who wish to claim, Rabban Simeon b. Gamaliel spoke only about animals [creatures].*

[L] *And so has it been taught:*

[M] *There are square-shaped foods, but not square-shaped animals [creatures].*

[II:3 A] “[You shall not take the name of the Lord your God] in vain” (sw’) (Deut. 5:11).”[You shall not take the name of the Lord your God] in vain” (Ex. 20:7).

[B] Both of them were stated in a single act of speech, which it is not possible for [a mortal] mouth to speak or a [mortal] ear to hear.

[C] “Remember [the Sabbath day, to keep it holy]” (Ex. 20:8).”Observe [the Sabbath day, to keep it holy]” (Deut. 5:12).

[D] Both of them were stated in a single act of speech, which it is not possible for [a mortal] mouth to speak or a [mortal] ear to hear.

[E] “[You shall keep the Sabbath, because it is holy for you;] everyone who profanes it shall be put to death” (Ex. 31:14).”[And you shall say to them, “This is the offering by fire which you shall offer to the Lord:] two male lambs a year old without blemish”” (Num. 28:3).

- [F] Both of them were stated in a single act of speech, which it is not possible for [a mortal] mouth to speak or a [mortal] ear to hear.
- [G] “You shall not uncover the nakedness of your brother’s wife;[she is your brother’s nakedness]” (Lev. 18:16).”[If brothers dwell together, and one of them dies and has no son, the wife of the dead shall not be married outside the family to a stranger;] her husband’s brother shall go in to her” (Deut. 25:5).
- [H] Both of them were stated in a single act of speech, [which it is not possible for a mortal mouth to speak or a mortal ear to hear].
- [I] “So no inheritance shall be transferred from one tribe to another” (Num. 36:9).”And every daughter who possesses an inheritance [in any tribe of the people of Israel shall be wife to one of the family of the tribe of her father]” (Num. 36:8).
- [J] Both of them were stated in a single act of speech, [which it is not possible for a mortal mouth to speak or a mortal ear to hear].
- [K] “You shall not wear a mixture of materials, [wool and linen together]” (Deut. 22:11).”You shall make yourself tassels [on the four corners of your cloak with which you cover yourself]” (Deut. 22:12).
- [L] Both of them were stated in a single act of speech, [which it is not possible for a mortal mouth to speak or a mortal ear to hear].
- [M] And so too it says: “Once God has spoken; twice I have heard this; [that power belongs to God]” (Ps. 62:12).
- [N] And it is written, “Is not my word like fire, says the Lord, and like a hammer which breaks the rock in pieces?” (Jer. 23:29).

[II:4 A] What is a vain oath and what is a false oath?

- [B] **A vain oath is an oath to differ from what is well known to people [M. Shebu. 2:8B]; a false oath is an oath to change [falsehood into truth or vice versa, where facts are not well known].**
- [B] R. Jacob bar Aha in the name of R. Yohanan: “Anything which is known to two – this is a false oath. If it is known to three, this is a vain oath.”
- [C] R. Hila in the name of R. Eleazar: “Even if it is known to two, and yet one more on the other side of the world knows the same matter, it is a vain oath.”
- [D] *What is the practical difference between these two opinions?*

[E] If one has taken an oath to differ from what is well known before two, and they threw the object [of which he spoke] into the sea, and then gave him warning on the count of taking a vain oath –

[F] *in the opinion of R. Yohanan*, he is not to be flogged [since this is not a rash oath, since somewhere else the facts are known].

[G] *In the opinion of R. Eleazar*, he is to be flogged.[J] If they gave him due warning on the count of taking a false oath, [38a]

[H] *in the opinion of R. Yohanan*, he is to be flogged [since it is a vain oath].

[I] *In the opinion of R. Eleazar*, he is not to be flogged.

[J] *R. Ba in the name of R. Judah*: “Even if he expressed a vain oath about a pearl, [e.g., that he had seen a pearl as large as an egg, that would be a vain oath].”

[K] And what is the meaning of “even” [for this is a fine example]?

[L] But rather “for example” if one took an oath about a pearl as big as an egg.

[II:5 A] *It was taught: Just as vows of exaggeration are not binding, so oaths of exaggeration are not binding* [T. Ned. 2:1H].

[B] *And has it not been taught*, “Oaths of exaggeration are binding”?

[C] R. Jeremiah in the name of R. Pedat: “In the case in which the oaths are binding, it is an instance in which the people who took the oath stand by what they said, and in the case of the oath which is invalid, it is an instance in which the people who took the oath did not stand by the oath. [In the former the people claim to be serious, so the oath is binding.]”

[D] *Said R. Ba*, “*And even if you say* that both statements speak of cases in which the people who took the oath stand by the oath, in the one case [where the oath is binding] it is an instance in which the man has invoked the oath upon his property, saying, ‘An oath bearing on my property is incumbent on me [that I shall not make use of my property if the oath is not true]?’”

[F] In such a case his property is prohibited [if the oath is invalid].

[G] But as to flogging, he is not flogged.

[H] Just as vows of incitement [M. Ned. 3:1] are not binding, so oaths of incitement are not binding.

[I] But further, if it is a case in which he invokes the oath over his property, saying, “An oath governing my property is incumbent on me,” his property is prohibited [if the oath is invalid].

[J] But as to flogging, he is not flogged.

[II:6 A] *Hezekiah said, “He who took an oath concerning two things to the effect that they are indeed two things has taken a vain oath and is on that account to be flogged.”*

[B] *R. Haggai in the name of R. Simeon b. Laqish, “One who saw rain falling and said, ‘I take an oath by my Lord, that the rain is abundant,’ is flogged on the count of having taken a vain oath.”*

[C] *R. Honiah, R. Jacob bar Bun in the name of R. Samuel b. Bar Nahman, “There were twenty-four councils in the South, and all of them were wiped out by reason of vain oath-taking concerning that which was true, as it was written, ‘On account of vanity have I smitten your children’” (Jer. 2:30).*

[II:7 A] *There we have learned: “I swear that I won’t eat this loaf of bread,” “I swear that I won’t eat it,” “I swear that I won’t eat it” – and he ate it – he is liable on only one count [M. Shebu. 3:7A-C]. [One oath is not added onto another, so where there is one valid oath, a second is null.]*

[B] This is the sort of matter which, in the case of vows, is binding, and, in the case of oaths, is not binding [for, M. Ned. 2:3A, there can be a vow within a vow, but no oath within an oath].

[C] There is the sort of matter which, in the case of oaths is binding, and in the case of vows is not binding:

[D] *It accords with the following Mishnah-pericope: It is all the same whether the oath pertains to things which belong to himself or things which belong to others, things which are of substance and things which are not of substance [M. Shebu. 3:SA-B]. [For in vows, vows are binding only concerning what belongs to oneself and also to matters of substance.]*

[II:8 A] (And) R. Ba in the name of Samuel [said], “If someone has taken an oath that Mr. So-and-so has given a *maneh* to Mr. So-and-so, and it turns out that he had not given him anything, [it is null, and there is no penalty,] since he cannot take an oath that Mr. So-and-so [a third

party] will give a *maneh* to Mr. So-and-so in the future, it follows that he also cannot make an oath concerning what has happened in the past.”

[B] *Now this statement of Samuel’s is contradicted by two cases [namely, a contrary tradition to Samuel’s view is to be found at two points]. [First, the one about a second party’s having given a maneh to a third party; second, the one about eating or not eating. In both instances the contrary view is that a stricter rule applies to the past case than to the future one, in that the oath is valid for the past but not for the future – contrary to Samuel’s view.] [This is not spelled out.]*

[III:1 A] **[A stricter rule applies to the past than to the future [T. Ned. 2:4/I]:for he who says, “I swear that I won’t eat this loaf of bread,” “I swear that I won’t eat it,” “I swear that I won’t eat it” is liable on only one count. [But if he said,] “I did not eat it, “I did not eat it,” he is liable on each count (following PM). With reference to M. 3:2D, vows made in error are null:] This aspect of the law is stricter in the case of oaths than in the case of vows.**

[B] For in the case of oaths taken in error, the oaths are binding, and in the case of vows taken in error, the vows are not binding.

[IV:1 A] *R. Simeon bar Laqish raised the question before R. Ba: “Does R. Aqiba add to the opinion of the House of Hillel? That is in line with the following, which we have learned there: **But then R. Aqiba came along and taught that the vow, part of which is unloosed, is wholly unloosed [M. 9:6C]. [Is the reason of the House of Hillel at M. 3:2J the same as that of Aqiba, or does Aqiba say something different?]**”*

[B] He said to him, “Now if in that case, where we have a vow which requires the investigation of a sage [for its remission], you maintain that a vow, part of which is unloosed, is wholly unloosed, here, in which case we have a vow which does not regard the investigation of a sage [for its remission], is it not an argument *a fortiori* that a vow, part of which is unloosed, is wholly unloosed? [Accordingly, that cannot be the operative consideration.]”

[C] R. Yosé in the name of R. Hela, “[The reason for the ruling of the House of Hillel here is different from Aqiba’s consideration.] It is because we have a vow made in error: ‘If I had known that my father and brothers were there, I should never have taken a vow.’ [On that basis, and not on Aqiba’s, the House of Hillel remit the vow.]”

[A] Vows [broken] under constraint:

[B] [If] one's fellow imposed a vow on him to eat with him, but he got sick, or his son got sick, or a river [overflowed and] stopped him – lo, these are vows [broken] under constraint.

[I:1 A] Now the reason that the vow is null is that the fellow got sick. Lo, if he had not gotten sick, then [the vow would] not [have been null. Yet why is that so, since, if it was not a vow broken under constraint, still, it was a vow of incitement, and invalid on that count anyhow?]

[B] *Said R. Jeremiah, “The Mishnah represents the view of R. Meir, as in the following: [‘He who says to his fellow, ‘Qonam be benefit you derive from me if you do not come and give my son a kor of wheat and two jugs of wine’ –] R. Meir says, ‘He is prohibited until he will give [what the other has demanded].’ [And sages say, ‘Also: This one can annul his vow without consultation with a sage...’ [M. 8:7D-F]. [Meir’s view is that in a case such as this, which is parallel to M. 3:3B, a vow to eat, we do not have a vow of incitement at all.]”*

[C] *Said R. Yosé, “And why do we not interpret the matter [of M. 3:3] to represent the view of all parties [that here is no vow of incitement], in line with that which R. Zeira has said, [which would indicate that what we have here is no vow of incitement, even so far as sages are concerned]. For how shall we interpret the dispute, [in line with the preceding one, M. 8:7A-C: He who says to his fellow, ‘Qonam be benefit I derive from you, if you do not come and collect for your child a kor of wheat and two jugs of wine,’ – lo, this one can annul his vow without consultation with a sage and say to him, ‘Did you not speak only to do me honor? But [not taking your wheat and wine for my children] is what I deem to be honorable!].’ For R. Zeira said, ‘The dispute concerns a case lacking further explication.’ For how shall we interpret the matter? If in this case, one party says, ‘It is because of the honor owing to me,’ and the other party says, ‘It is because of the honor owing to me,’ then all parties concur that the vow is binding [since the one who took the vow fully intended it]. [It is in no way to be abrogated.] f we deal with a case in which this one says, ‘It is because of the honor owing to me,’ and that one says, ‘It is because of the honor owing you,’ all parties concur that the vow is not binding. [Accordingly, the dispute concerns a case lacking further explication. In that case, sages maintain that*

when he has said, 'It is because of the honor owing to you,' he has conceded his position. Therefore there is no vow at all.]”

[D] *Said R. Hela, “That is the way one says to his neighbor to do a favor perforce [referring to an invitation accompanied with a vow in case of refusal (so Jastrow)]. [Hela explains sages’ view that without further explication we assume that the intention of the host was for the honor of the one who was to accept his hospitality. The upshot is that sages will not regard such a situation as the case of a vow of incitement at all (PM).]”*

3:4

[A] They take a vow to murderers, robbers, or tax collectors

[B] that [produce] is heave offering, even though it is not heave offering;

[C] that [property] belongs to the state, even though it does not belong to the state.

[D] The House of Shammai say, “In any form of words they vow except in the form of an oath.”

[E] And the House of Hillel say, “Even in the form of an oath.”

[F] The House of Shammai say, “One should not [volunteer to] take a vow at the outset.”

[G] And the House of Hillel say, “Also:One [voluntarily] takes a vow at the outset.”

[H] The House of Shammai say, “[One takes a vow] only in the matter concerning which the vow is imposed.”

[I] And [he House of Hillel say, “Also:concerning that in which the vow is not imposed.”

[J] How so?

[K] [If] they said to him, “Say:’Qonam be any benefit my wife has with me!”“ and he said, “Qonam be any benefit my wife and children have with me!” –

[L] The House of Shammai say, “His wife is permitted, and his children prohibited.”

[M] And the House of Hillel say, “These and those are permitted.”

[I:1 A] [They take a vow] to murderers at a time of slaughter, and to robbers at a time of robbery.

[B] *R. Judah b. Pazzi taught in the name of R. Yohanan, “If it was a matter in which one was in danger, it is permitted [to take a false oath, but not under ordinary circumstances].”*

- [C] *R. Aha, R. Hinena in the name of R. Yohanan:* “If it was a matter [in which times were] settled, it is forbidden [to take such an oath].”
- [I:2 A] *It has been taught:* **They attribute [produce subject to seizure] by assessors and tax collectors to heave offering, or to gentile ownership, or to the ownership of the government. But they do not attribute ownership to another Israelite [T. Ned. 2:2].**
- [B] For Israelites who have power commonly fall [from their positions of strength], with the result that, if he [to whom the Israelite attributed ownership] should fall from power, the [tax collector] will come back to him [who originally claimed the other party was responsible for the party] as at the outset.
- [II:1 A] [Referring to M. 3:4F, **The House of Shammai say, “One should not volunteer to take a vow at the outset,”**] if one has transgressed and volunteered so far as the House of Shammai are concerned, what is the law? [Is this a valid vow or not?]
- [B] *Let us derive the answer from the following:* **The House of Shammai say, “His wife is permitted, and his children are prohibited” [M. 3:4L].** That is to say, if one has transgressed and volunteered to take a vow at the outset, so far as the House of Shammai is concerned, the vow is deemed to be released.
- [II:2 A] *They proposed to rule that that [M. 3:4A] is the case for vows, but not for oaths. The following teaching turned up:* R. Ishmael says, “You shall not swear by my name falsely” (Lev. 19:12). But you may take a false oath to murderers, robbers, or tax collectors.”

3:5

- [A] **[He who says,] “Lo, these plants are qorban if they are not cut down,”**
- [B] **“This cloak is qorban if it is not burned” –**
- [C] **they are subject to redemption.**
- [D] **“Lo, these plants are qorban until they are cut down,”**
- [E] **“This cloak is qorban until it is burned” –**
- [F] **they are not subject to redemption.**
- [I:1 A] If one saw the royal agents coming near, or if he saw a fire coming near, and he said, **“Lo, these plants are qorban if they are not cut down,” “This cloak is qorban if it is not burned” – they are subject to redemption. [“Lo, these plants are qorban until they are cut down,” “This cloak is qorban until it is burned,” – they are not subject to redemption (M. 3:5).** In the former instance, the plants

or cloak are sanctified when the man says they are *qorban*. They may be redeemed. In the latter they cannot be redeemed so long as they are not cut down, that is, so long as they have not *yet* been consecrated].

- [I:2 A] Is the act of consecration valid retroactively, or is it valid only for the time from now on?
- [B] *What difference does it make?*
- [C] A case in which one has derived benefit from the objects. If you say that he has sanctified the plants retroactively, then, should he have enjoyed benefit, he will have committed an act of sacrilege.
- [D] If you say it is only from now on, then if in the past he has derived benefit from the plants, he has not committed an act of sacrilege. [This question is not answered.]
- [E] Hezekiah said, “[With reference to ... **until they are cut down, they are not subject to redemption,**] if he redeemed them, they revert to their status as consecrated [and must be redeemed].”
- [F] R. Yohanan said, “If he redeemed them, they are redeemed.”
- [G] *The Mishnah’s clear language stands at variance with R. Yohanan: **They are not subject to redemption.***
- [H] Interpret the matter to speak of a case in which he said, “... **until they are cut down,**” [in which case] **they are not subject to redemption** [that is, they do not require it].
- [I] *Said R. Yosé, “That which Hezekiah has said [E] applies to a case in which he himself has redeemed them.*
- [J] “But if a third party redeemed them, all elements of consecration are removed from them. [Whatever the original owner said is null.]”
- [K] *The opinions assigned to R. Yosé are at variance with one another. There he has said, “If he redeemed them, all elements of sanctification are removed from them.” And here [at M. Qid. 3:SIJ] he has said, “If she married someone else, the betrothal [consecration of the original party] is not removed from her.” [Why should there be any doubt? The one who gave her the money for betrothal following her divorce should have no claim to her at all.]*
- [L] *No, [that is so]. He had a [different] question, pertaining to a case in which he gave her two perutot, one already, and*

one for when he will divorce her. [With the former he betrothed her for now, with the other for after she will be divorced.] What is the law pertaining to that case? [This question is not answered.]

3:6

- [A] **He who vows [not to gain benefit] from those who go down to the sea is permitted [to enjoy benefit] from those who dwell on dry land.**
- [B] **[He who vowed not to enjoy benefit] from those who dwell on dry land is prohibited [to enjoy benefit] from those who go down to the sea,**
- [C] **for those who go down to the sea are part of the generality of those who live on dry land.**
- [D] **[Those who go down to the sea includes] not the like of those who go from Acre to Jaffa but the one who sails out of sight of land.**
- [I:1 A] It is so that you should not say that those [who go down to the sea] include those who go from Acre to Jaffa, but **the one who sails out of sight of land [M. 3:6D]** . [That is then applied to M. 3:6A as much as M. 3:6B-C.]
- [B] **[If he vowed not to gain benefit] from those who dwell on dry land, he is prohibited to enjoy benefit from those who go down to the sea [M. 3:6B].**
- [C] And it is not the end of the matter that he is prohibited only from such as those who go from Acre to Jaffa, but he is prohibited also to derive benefit from those who sail out of sight of land.
- [D] And did he not take a vow not to derive benefit from those who live on dry land?
- [E] That is to say, **Those who go down to the sea are part of the generality of those who live on dry land [M. 3:6C].**
- [I:2 A] If he took a vow not to derive benefit from those who go down to the sea after thirty days, [before the deadline] they are treated as those who live on dry land.
- [B] *There is a dispute of R. Ishmael and R. Aqiba [at M. 11:9, T. 7:6].*
- [C] **For R. Ishmael said, “[The effective point is defined by] the vow.”**
- [D] **R. Aqiba says, “It is defined by the prohibition[‘s point of applicability].”**

[I:3 A] And with regard to those who make pleasure trips it is necessary [to ask, for we do not know whether they fall into the category of those who go down to the sea].

3:7

[A] He who vows [not to enjoy benefit] from those who see the sun is prohibited [to enjoy benefit] even from the blind.

[B] For he intended [to separate himself] only from the one whom the sun sees.

[C] He who vows [not to enjoy benefit] from black-haired men is prohibited [to enjoy benefit] from bald people and from white-haired people.

[D] But he is permitted [to enjoy benefit] from women and children,**[E]** for only men are called black-haired.

[F] He who vows [not to enjoy benefit] from creatures that are [already] born is permitted [to enjoy benefit] from those creatures who may be born [thereafter].

[G] He who vowed [not to enjoy benefit] from those who may be born [thereafter], he is prohibited [to enjoy benefit] from those who [already] are born.

[H] R. Meir permits [him to enjoy benefit] also from those who are born.

[I] And sages say, “This one intended [to separate himself] only from anyone who will be born [thereafter].”

[I:1 A] *What is the Scriptural basis for the position of R. Meir?*

[B] “And now your two sons, who were born to you in the land of Egypt” (Gen. 48:5).

[C] And lo, they were already born.

[D] What is the Scriptural basis for the position of rabbis?

[E] “Lo, a son is born to the house of David. Josiah is his name” (1 Kings 13:2), and yet he was not then born.

3:8

[A] He who vows [not to enjoy benefit] from those who rest on the Sabbath is prohibited [to enjoy benefit] both from Israelites and from Samaritans.

[B] [If he vowed not to enjoy benefit] from garlic eaters, he is forbidden [to derive benefit] from Israelites and Samaritans.

- [C] [If he vowed not to enjoy benefit] from those who ascend to Jerusalem, he is forbidden [to enjoy benefit] from Israelites but permitted [to enjoy benefit] from Samaritans.
- [D] [If a man said,] “Qonam if I have benefit from the children of Noah,” he is permitted [to enjoy benefit] from Israelites and prohibited [to enjoy benefit] from the nations of the world.
- [E] “... if I have benefit from the seed of Abraham,” he is prohibited [to enjoy benefit] from Israelites, and permitted [to enjoy benefit] from the nations of the world.
- [F] [If he said, “Qonam] if I have benefit from Israelites,” he buys for more and sells for less.
- [G] “... if Israelites enjoy benefit from me,” he buys for less and sells for more –
- [H] (if anyone will pay attention to him!)
- [I] “... if I derive benefit from them and they from me” – he drives benefit from strangers.
- [I:1 A] And are not the sons of Ishmael part of the seed of Abraham [M. 3:10E]?
- [B] “[But God said to Abraham, ‘Be not displeased because of the lad and because of your slave woman; whatever Sarah says to you, do as she tells you] for through Isaac shall your descendants be named’” (Gen. 21:12).
- [C] And is not Esau part of the seed of Isaac?
- [D] Said R. Judan bar Shalom: “In Isaac,” but only in part of Isaac.
- [E] R. Huna said, “The use of the *bet* [in Isaac] indicates that there the reference is to ‘two,’ namely, to the son who is destined to inherit both worlds, this world and the world to come.”
- [F] R. Gershom in the name of R. Aha: “[I see him, but not now; I behold him, but not nigh;] a star shall come out of Jacob, [and a scepter shall rise out of Israel]’ (Num. 24:17). From whom will a star come out? From him who is destined to arise from Jacob.”
- [G] R. Aha in the name of R. Huna, “Esau, the evil one, is destined to put on his cloak and to dwell with the righteous in the Garden of Eden in the age to come. But the Holy One, blessed be he, will drag him and throw him out of there.
- [H] What is the Scriptural basis for this statement?

[I] “Though you soar aloft like the eagle, though your nest is set among the stars, thence I will bring you down, says the Lord” (Obad. 1:4).

[J] And “stars” refer only to the righteous, as you say, “[And those who are wise shall shine like the brightness of the firmament;] and those who turn many to righteousness, like the stars for ever and ever” (Dan. 12:3).

3:9

[A] [If he said,] “Qonam if I derive benefit from the uncircumcised,” he is permitted [to derive benefit] from uncircumcised Israelites, but prohibited [from deriving benefit] from circumcised gentiles.

[B] “Qonam if I derive benefit from the circumcised” – he is prohibited [to derive benefit] from uncircumcised Israelites and permitted [to derive benefit] from circumcised gentiles.

[C] For the word “uncircumcised” is used only as a name for gentiles, as it is written, “For all the nations are uncircumcised, and the whole house of Israel is uncircumcised at heart” (Jer. 9:26).

[D] And it says, “This uncircumcised Philistine” (1 Sam. 17:36).

[E] And it says, “Lest the daughters of the Philistines rejoice, lest the daughters of the uncircumcised triumph” (2 Sam. 1:20).

[F] R. Eleazar b. Azariah says, “The foreskin is disgusting, for evil men are shamed by reference to it, as it is written, ‘For all the nations are uncircumcised.’”

[G] R. Ishmael says, “Great is circumcision, for thirteen covenants are made thereby.”

[H] R. Yosé says, “Great is circumcision, since it overrides the prohibitions of the Sabbath, which is subject to strict rules.”

[I] R. Joshua b. Qorha says, “Great is circumcision, for it was not suspended even for a moment for the sake of Moses, the righteous.”

[J] R. Nehemiah says, “Great is circumcision, for it overrides the prohibition [against removing the marks of] nega'im.”

[K] Rabbi says, “Great is circumcision, for, despite all the commands which Abraham our father carried out, he was called complete and whole only when he had circumcised himself as it is said, ‘Walk before me and be perfect’ (Gen. 17:1).

[L] **“Another matter: Great is circumcision, for if it were not for that, the Holy One, blessed be he, would not have created his world, since it says, ‘Thus says the Lord:But for my covenant day and night, I should not have set forth the ordinances of heaven and earth’” (Jer. 33:25).**

[I:1 A] Said R. Yohanan bar Mareh, “It is written, ‘On that day [38b] the Lord made a covenant with Abram, saying ‘To your descendants I give this land, from the river of Egypt to the great river, the river Euphrates’ (Gen. 15:18); ‘But I will establish my covenant with Isaac, [whom Sarah shall bear to you at this season next year]’ (Gen. 18:21). There are thirteen covenants” [cf. M. 3:9G].

[I:2 A] “And on the eighth day the flesh of his foreskin shall be circumcised” (Lev. 12:3) – even on the Sabbath.

[B] How then am I to interpret: “ [You shall keep the Sabbath, because it is holy for you;] every one who profanes it shall be put to death” (Ex. 31:14)? Even by reason of circumcision.

[C] How then am I to interpret:” ... on the eighth day the flesh of his foreskin shall be circumcised” (Lev. 12:3)? Except for the Sabbath.

[D] Scripture says,” ... on the day ...” – even on the Sabbath.

[I:3 A] In the Torah, in the Prophetic Writings, and in the Writings, we find that the Sabbath is weighed in the balance opposite all of the other commandments in the Torah.

[B] In the Torah, as it is written, “[And the Lord said to Moses,] ‘How long do you refuse to keep my commandments and my laws?’” (Ex. 16:28).

[C] And it is written, “See! The Lord has given you the Sabbath, [therefore on the sixth day he gives you bread for two days]” (Ex. 16:29).

[D] In the prophets, it is written: “But the House of Israel rebelled against me in the wilderness; they did not walk in my statutes [but rejected my ordinances, by whose observance man shall live;] and my Sabbaths they greatly profaned” (Ezek. 20:13).

[E] In the Writings, as it is written, “Thou didst come down upon Mount Sinai, [and speak with them from heaven and give them right ordinances and true laws, good statutes and commandments,] and thou didst make known to them thy holy Sabbath” (Neh. 9:13-14).

[F] Said R. Eleazar b. R. Abinah, “The word ‘commandments’ [of the Sabbath] is written out fully, to tell you that it is weighed in the

balance against all of the other commandments of the Torah. Yet circumcision overrides [the requirements of the Sabbath].”

[G] One may compare the matter to two women who were standing on steps, one above the other, so that you do not know which of them is taller than the other. If this one appears to be coming down the steps before her friend, you know that her friend is taller than she.

[H] The most stringent of all of them is the commandment concerning the prohibition of idolatry: “But if you err, and do not observe all these commandments which the Lord has spoken to Moses, [... all the congregation shall offer one young bull for a burnt offering]” (Num. 15:22).

[I] Said R. Judah b. Pazzi, “The profanation of God’s name is the most stringent of all of them.”

[J] That is in line with that which is written, “As for you, O house of Israel, thus says the Lord God: Go serve every one of you his idols, now and hereafter, if you will not listen to me; but my holy name you shall no longer profane with your gifts and your idols” (Ezek. 21:39).

TOPICAL APPENDIX ON THE SUBJECT OF CIRCUMCISION

- [I:4 A] Because Moses was slow in getting circumcised, the angel sought to kill him.
- [B] That is in line with the following: “[At a lodging place on the way] the Lord met him and sought to kill him” (Ex. 4:24).
- [C] Said R. Yosé, “Heaven forbid! Moses was not slow about getting circumcised. But [in Midian] he wondered to himself whether to fulfill his obligation and get circumcised, and so to undergo the danger, or to postpone it.
- [D] “The Holy One, blessed be he, said to him, ‘[And the Lord said to Moses in Midian,] “Go back to Egypt; [for the men who were seeking your life are dead]” ‘ (Ex. 4:19).
- [E] “But it was because he was slow on account of taking care of a lodging place before he undertook the circumcision [that the angel sought to kill him].”
- [F] “That is in line with these words: ‘At a lodging place on the way [the Lord met him and sought to kill him]’” (Ex. 4:24).

- [G] And Rabban Simeon b. Gamaliel said, “Heaven forbid! The angel did not seek to kill Moses, but the child.
- [H] “Come and see: Who was called, ‘groom’? Moses or the baby?”
- [I] *There are Tannaim who teach that Moses was called the groom.*
- [J] *There are Tannaim who teach that the child was called the groom.*
- [K] *He who said that Moses was called the groom: “A bridegroom of blood” (Ex. 4:25) is sought from your hand.*
- [L] *And he who said that the child was called the groom: “A bridegroom of blood” (Ex. 4:25) stands for me.*
- [M] “Then Zipporah took a flint and cut off her son’s foreskin, and touched Moses’ feet with it, and said, ‘Surely you are a bridegroom of blood to me!’” (Ex. 4:25).
- [N] R. Judah, R. Nehemiah, and rabbis:
- [O] *One said, “It was at the feet of Moses.”*
- [P] *The next said, “It was at the feet of the angel.”*
- [Q] *The third said, “It was at the feet of the child.”*
- [R] *He who said that it was at the feet of Moses: “There, that which is a sin for you has been cut away.”*
- [S] *He who said it was at the feet of the angel: “Lo, you have done your duty.”*
- [T] *He who said it was at the feet of the child [maintains that] she touched the body of the child.*
- [U] “So he let him alone. Then it was that she said, ‘You are a bridegroom of blood,’ [because of the circumcision]” (Ex. 4:26).
- [V] On the basis of this statement we learn that there are two acts of circumcision, one for the actual circumcision, the other for uncovering the corona, one for the act of circumcision, the other to remove the trimmings.
- [I:5 A] “And on the eighth day the flesh of his foreskin shall be circumcised” (Lev. 12:3) – even though there is a bright spot there.
- [B] How then do I interpret the following: “Take heed, in an attack of leprosy, to be very careful to do according to all that the Levitical priests shall direct you” (Deut. 24:8)?

- [C] Even in the case of circumcision.
- [D] How then shall I interpret: “And on the eighth day the flesh of his foreskin shall be circumcised”? When there is no bright spot.
- [E] Scripture says, “... flesh ...” – even though there is a bright spot there.
- [F] *In the view of R. Jonah*, who has said that a commandment to do a deed overrides a commandment not to do a deed, even though the latter is not stated alongside the former, this poses no problems.
- [G] *But in the view of R. Yosé*, who has said, “A commandment to do a deed does not override a commandment not to do a deed unless the latter is stated right alongside the former, [how is this to be explained]?”
- [H] Since it is written, “The flesh of his foreskin,” it is as if it were written right alongside.

YERUSHALMI NEDARIM

CHAPTER FOUR

4:1

- [A] **There is no difference between him who is forbidden by vow from enjoying any benefit from his fellow and him who is forbidden by vow from deriving food from him,**
- [B] **except for setting foot in his [the fellow's] house and [using his] utensils in which food is not prepared.**
- [C] **He who is forbidden by vow from deriving food from his fellow – [the fellow] should not lend him a sifter, a sieve, a millstone, or an oven. But he may lend him a shirt, a ring, a cloak, earrings, or anything in which food is not prepared.**
- [D] **But in a place in which such things as these are rented out [for money or food], it is forbidden to do so.**

[38c] [I:1 A] *Lo, something in which food is prepared is forbidden [in line with M. 4:1B]. [Why should this be the case?] Did he not take a vow [only] not to eat [food]?*

[B] *Said R. Simeon b. Laqish, “Thus is the meaning of the Mishnah-rule: **There is no difference between him who is forbidden by vow from enjoying any benefit from his fellow and him who is forbidden by vow from deriving food from him** [which includes things used in the preparation of food].”*

[C] *So too did a member of the House of Rabbi state: **He who is forbidden by vow from deriving food from his fellow – the fellow should not lend him a sifter, sieve, millstone, or oven** [M. 4:1C].*

[I:2 A] *It was taught: But he may lend him cups, plates, and dishes, for they do not enhance the food but merely hold it.*

[B] *Frying pans and pots are prohibited.*

[C] *Milling or pressing is forbidden.*

- [D] As to reaping, there is a question.
- [E] As to cutting olives, there is a question.
- [F] As to gaining benefit which is needed in preparing food, what is the law? [E.g., may one lend him an ax to cut down wood for making a fire for cooking?]
- [I:3 A] *It was taught:* But he may lend him an ax.
- [B] *We contemplated ruling:* That is an ax for cutting wood. [No, that is not the case.]
- [C] Interpret the teaching to apply only to an ax used for hoeing. *And no further inferences are to be drawn from that fact.*
- [D] *R. Abona said R. Jeremiah proposed: “As to a sifter, since its meshes are wide and one may sift flour with it, it is forbidden to lend it to him.”*
- [II:1 A] **[But in a place in which such things as these are rented out [for money or food], it is forbidden to do so:]** R. Ba in the name of R. Zeira, “[As to M. 4:1D,] the reason is that giving him money with which to buy bread.”
- [B] *R. Bun bar Hiyya asked, “If that is the case, it should be forbidden to lend him money, for he will be in the position of giving him money to buy bread.”*
- [C] *R. Abina said R. Jeremiah proposed: “As to ornaments which are on them, is it forbidden to lend them?”*

4:2

- [A] **He who is prohibited by vow from deriving benefit from his friend –**
- [B] **he [the friend] nonetheless pays out his sheqel [half-sheqel tax to the Temple],**
- [C] **pays back his debt,**
- [D] **and returns to him something which he [the one who took the vow] has lost.**
- [E] **But in a place in which for this action a reward is paid out, the benefit [of the reward] should fall to the sanctuary.**
- [I:1 A] *R. Ba bar Mamel raised the question: “He who pays a bond of indebtedness for his fellow [as at M. 4:2C] without the latter’s knowledge and consent – do we deal with a parallel to the dispute of Hanan and the high priests [at M. Ket. 13:2:He who went overseas,*

and someone else went and supported his wife – Hanan says, ‘He who did so has lost his money.’ Sons of high priests disputed with him and ruled, ‘Let him take an oath for however much he has laid out for support of the wife and collect the debt.’ Hanan does not see the support as a loan of money to the husband, who owes nothing]?”

- [B] [Arguing that the case is not parallel to Ba bar Mamel’s,] said R. Yosé, “*The reasoning behind the position of the sons of the high priests is that in that case it never entered the man’s mind that his wife should die of hunger. [Consequently, we assume he would have agreed to the loan, had he known of the circumstances necessitating it.] But here, by contrast, [the man in behalf of whom the debt was repaid may claim,] ‘I could have appeased him so that he might forgive the loan [had you not paid it for me].’* [Hence there is no reason to suppose that the debtor would have consented to the repayment of the loan, had he been consulted, and the sons of the high priests therefore will not take the same position here that they take at M. Ket. 13:2.]”
- [C] But what if the creditor held a pledge in security of the loan?
- [D] [The debtor nonetheless may claim,] “I could have appeased him so that he might return my pledge.”
- [E] Up to this point we have dealt with the case of a creditor who is not insistent. [In such a case the debtor in behalf of whom the debt was paid is exempt from having to repay his benefactor.] [But is the rule the same] even in the case of a debtor who is insistent on repayment of the debt?
- [F] [Following the text of Y. Ket. 13:2:] *Let us derive the answer from the following: [He who is prohibited by vow from deriving benefit from his friend – the friend nonetheless] pays out his sheqel [half-sheqel tax to the Temple] [M. 4:2A-B].* Now in the case of the *sheqel* tax, do they not exact a pledge from him [if he fails to pay it]? [So we have an insistent creditor. Yet even here the friend may pay it off, without violating the other’s-oath. That then implies that even in the case of a debtor who is insistent, [the same rule applies].
- [G] *You should know that that is the case, for lo, we have the further teaching: He offers in his behalf bird offerings for Zab-men or Zab-women, bird offerings for women who have just given birth, sin offerings and guilt offerings [M. 4:3A-B].* Is not the reason that [the one who is prohibited by the other’s vow] has not put anything directly into the hand of him [who took the vow]? Here too we deal

with a case in which nothing has come directly into the hand of the debtor.

[H] R. Joshua b. Levi said, “You have no case in which one party is forced to pay up in behalf of some other party with the result that the latter is liable to make it up to him except for the matters of the forced-labor tax and the head tax.”

[I] Rab said, “Whoever is forced to pay up for his fellow – the other party is liable to make it up to him.”

[J] *The proof for [the extreme position taken up by] Rab is indicated in the following: **He who stole a field from his fellow, and bandits seized it from him [– if it is a blow from which the whole district suffered, he may say to him, “Lo, there is yours before you.” But if it is because of the deeds of the thief in particular, the thief is liable to replace it for him with another field] [M. B.B. 10:5].*** [Here too, since the one who has paid the funds was forced to because of the other, the latter must make it up to him. There is no limit as to liability.]

[K] *[No, this is not an apt comparison.] Is not that which R. Yohanan said known here: “It is a penalty which they have imposed upon the thief. [That is, truly the thief should not have to make it up. But there is a special reason for requiring him to do so. In general, however, he who is forced to pay in behalf of his fellow cannot then gain compensation from his fellow.]”*

[L] *R. Abun raised the question, “But what if it was his master [to whom he owed tuition for his studies? If then the disciple was forced to pay out money for the master, is this parallel to forced payment of the forced-labor tax or the head tax, in which case the disciple may deduct what he has paid from what he owes the master? Or do we not permit such a deduction, hence compensation?]”*

[M] *R. Yosé b. R. Bun and R. Hiyya bar Luliani both maintain views of the matter as R. Samuel ruled on it.*

[N] One of them said, “It is equivalent to the case of the forced-labor tax and the head tax.”

[O] [Supplied by QH]: And the other said, “It is not equivalent to the forced-labor tax and to the head tax.”

[I:2 A] *There we have learned: **He who is prohibited by vow from enjoying benefit from his fellow – the fellow goes in to visit him***

when he is sick, remaining standing but not sitting down.] And he heals the man himself, but not what belongs to him [M. 4:4A-C].

[B] R. Judah and R. Yosé –

[C] One of them said, “[In the case in which the fellow may visit him, but must remain standing,] it is when the one who took the vow prohibited him from deriving benefit as to his own person, and [in the case in which the other party may heal the man but not his property], it is when the one who took the vow prohibited him from benefiting his property.”

[D] The other one said, “[In the instance in which he is prohibited to sit down but may visit and so heal him,] it is when the one who took the vow has someone else to heal him, and [where the one against whom the vow was taken is permitted to heal him but not his property], it is when the one who took the oath has no one else to heal him.”

[E] Now if he has someone else to heal him, then even healing the man himself should not be permitted to the one against whom the vow was taken.

[F] [No, that is not the case. Here we have a situation in which] it is not from just anyone that the one who is ill will have the merit of being healed. [Only this one can do the job.]

[II:1 A] **[And he returns to him something which the one who took the vow has lost. But in a place in which for this action a reward is paid out, the benefit of the reward should fall to the sanctuary (M. 4:2D-E).** Now why should the one who found and returned the lost object, e.g., a cow, not collect the reward for himself? Now is it not a case in which the property of the one who returned the cow is what is prohibited to the owner of the cow? [But since the owner of the cow, who may not derive benefit from the one who found the cow, is the one who is to pay the reward, why should he not do so? Do we not assume that the case is one in which the vow is so phrased that the owner of the lost cow is prohibited from deriving benefit from the one who has found the cow, as the language of M. indicates?]

[B] Ulla bar Ishmael in the name of R. Isaac: “We deal with a case in which the property of this party is prohibited to that party, and the property of that party is prohibited to this party.”

[C] *Who stands behind the view that the reward should fall to the sanctuary?*

[D] It is R. Meir, for R. Meir says, “The laws of sacrilege apply to things which are subject to prohibitions [such as those imposed by declaring that something is *qonam*].”

[II:2 A] *R. Abun bar Hiyya raised the question as follows: “If one has taken a vow not to derive benefit from a loaf of bread, what is the law as to warming his hands on it?”*

[B] *Let us derive the answer from the following: “He who says, ‘This loaf of bread is sanctified,’ and either he or his fellow ate it – lo, this one has committed an act of sacrilege. Therefore it is subject to redemption. If he said, ‘Lo, it is incumbent on me,’ and he ate it, he has transgressed by committing sacrilege to the extent of the benefit he has derived in enjoying the loaf of bread. If someone else ate it, lo, that one has not committed sacrilege. Therefore it is not subject to redemption,” the words of R. Meir [T. Ned. 2:9A-H].* Now this statement of matters refers only to this eating it. Lo, if he warmed his hands with it, it is permitted [and the vow is not pertinent].

[C] *The disciples of R. Jonah in the name of R. Bun bar Hiyya: “The foregoing statement of matters applies when he has said, ‘I shall not eat it, and I shall not even taste it.’ In that case he has prohibited his eating of the loaf only.*

[D] *But there yet is a problem to deal with, namely, if he took an oath not to derive benefit from the loaf. What is the law as to his warming his hands with it?” [In this form the question is not answered.]*

4:3

[A] **And he takes up his heave offering of his tithes with his permission.**

[B] **And he offers in his behalf bird offerings for Zab-men or Zab-women, bird offerings for women who have just given birth, sin offerings, and guilt offerings.**

[C] **And he teaches him midrash, laws and stories.**

[D] **But he does not teach him Scripture.**

[E] **But he teaches his sons and daughters Scripture.**

[F] **And he takes care of his wife and children, even though he [who vowed] is liable for their care.**

[G] **But he should not take care of his domesticated animal, whether unclean or clean.**

[H] R. Eliezer says, “He takes care of the unclean one, and he does not take care of the clean one.”

[I] They said to him, “What is the difference between the unclean one and the clean one?”

[J] He said to them, “As to the clean one:its soul belongs to Heaven, and its body belongs to him. But as to the unclean one, its soul and its body belong to Heaven [it is prohibited to him].”

[K] They said to him, “Also the unclean one:its soul belongs to Heaven, but its body belongs to him.

[L] “For if he wants, lo, he can sell it to gentiles or feed it to dogs.”

[I:1 A] He who sets aside tithes owing from the produce of his fellow, without the latter’s permission – to whom does the benefit of enjoying the advantage of these tithes belong? [E.g., should a person be willing to pay for the tithes or offerings which have been set aside, so that he will give the consecrated produce to his daughter’s son, who is a priest, who receives that minimal payment?]

[B] R. Abbahu says, “It goes to the one who sets aside the tithes.”

[C] R. Zeira said, “It belongs to the owner of the produce.”

[D] *R. Zeira is consistent with views of his expressed elsewhere, for R. Zeira has said in the name of R. Simeon b. Laqish, “He who designated an animal belonging to himself as an offering for a Nazir or as an offering for a mesora owed by his fellow – the one for whom atonement is attained [by the offering of that beast] is the one who has the power to effect an act of substitution [of that beast, e.g., declaring another beast sacred in place of this one for the given purpose. Consequently, the one in behalf of whom the animal is set aside (parallel to the owner of the produce) acquires the beast.]”*

[E] *The following passage of the Mishnah stands at variance with the view of R. Simeon b. Laqish: **And he takes up his heave offering or his tithes with his permission [M. 4:3A].** [Now the owner of the produce gets the advantage for the benefit of assigning these tithes to a particular priest, as explained at A. Yet the owner should not gain any advantage from the person who has taken up the heave offering.]*

[F] Interpret the Mishnah’s law to speak of a case in which the owner of the produce is not to receive the benefit of enjoying the advantage of these tithes.

- [II:1 A] [And he teaches him midrash, laws and stories. But he does not teach him Scripture. But he teaches his sons and daughters Scripture. And he takes care of his wife and children, even though he [who vowed] is liable for their care:] It is written, “Behold, I have taught you statutes and ordinances” (Deut. 4:5).
- [B] Just as I do so without pay, so you must do so without pay.
- [C] Is it possible that the same rule applies to teaching Scripture and translation [cf. M. 4:3D]?
- [D] Scripture says, “Statutes and ordinances.”
- [E] Statutes and ordinances must you teach without pay, but you need not teach Scripture and translation without pay.
- [F] *And yet we see that those who teach Mishnah collect their pay.*
- [G] Said R. Judah b. R. Ishmael, “It is a fee for the use of their time [which they cannot utilize to earn a living for themselves] which they collect.”

- [III:1 A] [With reference to M. 4:3G-L, **But he should not take care of his domesticated animal, whether unclean or clean. R. Eliezer says, “He takes care of the unclean one, and he does not take care of the clean one”**:] R. Zeira said, “On the basis of what they say here, [one party will hold] that he may feed his slave, while [the other party will maintain] that he may not feed his slave.”
- [B] *They proposed to state the matters [to the contrary] as follows:* He who said, **As to the clean one, its soul belongs to Heaven and its body belongs to him**, in the case of this one, will rule that since his body and soul belong to Heaven, he may feed his slave. And he who said, **For if he wants, lo, he can sell it to gentiles or feed it to dogs**, in this case of this one, will hold that since his body does not belong to him, for he cannot sell him to gentiles or feed him to dogs, he may feed his slave.
- [C] *We find, however, that it is taught:* He may feed his slave.

4:4

- [A] **He who is prohibited by vow from enjoying benefit from him – he [the fellow] goes in to visit him when he is sick,**
- [B] **remaining standing but not sitting down.**
- [C] **And he heals him himself, but not what belongs to him.**
- [D] **He washes with him in a large bathtub, but not a small one.**

[E] **He sleeps with him in the same bed.**

[F] **R. Judah says, “In the sunny season [does he share a bed], but not in the rainy season, because at that time he gives the other the benefit [of the warmth of his body].”**

[F] **And he sits with him on the same couch,**

[H] **and eats with him at the same table, but not from the same bowl.**

[I] **But he eats with him from the same bowl which is passed around**

[I:1 A] [The reason behind M. 4:4A,] R. Simeon b. Yaqim said, is so that he will not stay for a long time.

[II:1 A] *The Mishnah [when it says, M. 4:4C, that he heals himself but not what belongs to him,] deals with a case in which the physician has prohibited by oath the other party’s property from deriving benefit from him. But if the sick person has prohibited himself from deriving benefit from the physician’s property, he has committed a sin against himself [and the physician may not heal him if he is not willing to do so at no fee].*

[III:1 A] **But not in a small tub [M. 4:4D].** [38d] For he raises the water level for him.

[B] *It was taught:* He washes with him in a small bath, for he removes some of the warmth from the water in doing so.

[IV:1 A] *It was taught:* **He eats with him from the same bowl that is passed around [M. 4:4/I].**

[B] What is the meaning of “a bowl that is passed around”?

[C] *There [in Babylonia] they say,* “It is a huge cup, which every guest at a banquet must empty.”

[D] *Here rabbis explain,* “It is a dish which has sufficient food in it for everyone to eat, be sated, and leave over.”

[E] *It was taught:* From a cup which is passed around.

[F] What is a cup which is passed around?

[G] *There they say,* “It is a spiced wine.”

[H] *Rabbis here explain,* “It is a cup filled with the essence of grasses and roots, from which each guest drinks a bit and passes on to the next until it returns to the host.”

4:5

[A] He may not eat with him from the same feeding-bowl that is set before workers.

[B] “And he may not work with him in the same furrow,” the words of R. Meir.

[C] And sages say, “He works with him but at a distance.”

[I:1 A] *In the opinion of R. Meir it is prohibited to teach him a trade. In the opinion of R. Meir it is prohibited to advocate his cause.*

4:6

[A] He who is forbidden by vow from enjoying benefit from his fellow,

[B] [if this was] before the Seventh Year, he may not go down into his field, and he may not eat produce that hangs over [from the property of the other].

[C] But [if this was] in the Seventh Year, while he may not go down into his field, he may eat the produce that hangs over [from the property of the other].

[D] [If] he vowed that he would not derive food from him,

[E] [if this was] before the Seventh Year, he goes down into his field but does not eat the produce.

[F] And [if this was] in the Seventh Year, he goes down [into the field] and eats the produce.

[I:1 A] [As to M. 4:6C,] [why not] let him go down into the field [to eat the produce, since the produce is ownerless, so the land should be deemed ownerless for the time needed in which to eat the produce]?

[B] *The rule accords with R. Simeon b. Yaqim:* “It is so that he should not stay around [in the field, longer than is absolutely necessary, that the rule is framed].”

[II:1 A] *R. Yohanan interpreted the Mishnah’s statement as follows:* “He who is forbidden by vow from enjoying benefit from his fellow, if this vow was taken before the Seventh Year, he may not go down into his field, and he may not eat produce that hangs over from the property of the other. And as to the Seventh Year, while he may not go down into the field, he may eat the produce that hangs over from the property of the other. But if it was in the Seventh Year that he took the vow, he may both go down into the field of the other and also eat the produce. [Thus Yohanan reads M. 4:6F as the rule governing the vow taken in the Seventh Year. The field was ownerless when the man took the vow.]”

[B] *R. Simeon b. Laqish interpreted the Mishnah's statement as follows:* “He who is forbidden by vow from enjoying benefit from his fellow, if this was before the Seventh Year, he may not go down into his field, and he may not eat produce that hangs over from the property of the other. But if it was in the Seventh Year that he took the vow, while he may not go down into his field, he may eat the produce that hangs over from the property of the other. If he vowed that he would not derive food from him, if this was before the Seventh Year, he goes down into his field but does not eat the produce. But if it was in the Seventh Year that he took the vow, he may go down into the field and eat the produce.”

[C] *Now the view of R. Simeon b. Laqish accords with the position of R. Yosé, for R. Yosé says, “It is because his vow has come before his act of declaring the food to be ownerless property”* [T. Ned. 2:9K, cf. M. 4:8E]. So to R. Simeon b. Laqish said, “It is because his vow came before his act of declaring the food to be ownerless property [by reason of the Sabbatical Year], and not his act of declaring the food to be ownerless property before his vow.”

[D] R. Jonah, R. Ba bar Hiyya in the name of R. Yohanan: “R. Yosé concurs in the case of that which the Torah has declared to be ownerless that it is permitted [and so the case before us is different from that on which Yosé made his comment, and we cannot take for granted Yosé accords with the position espoused by Simeon b. Laqish].”

4:7

[A] **He who is forbidden by a vow from deriving benefit from his fellow**

–

[B] **should not lend him [his fellow] anything, nor should [the one who took the vow] borrow anything from him.**

[C] **He should not lend him money, nor should he borrow money from him.**

[D] **He should not sell him anything, nor should he buy anything from him.**

[E] [If] he said to him, “Lend me your cow, “

[F] [and] he said to him, “It is not available, “

[G] and he said to him, “Qonam be my field if I ever again plow my field with it [the cow],” –

[H] if he [himself] usually plowed, while he is prohibited, everyone else is permitted [to plow his field with that cow].

[I] If he did not usually plow his own field, then he and everyone else in the world are prohibited [from plowing the field with that cow].

[I:1 A] [As to M. 4:7H:If he usually plowed,] [he is prohibited from ploughing the field with that cow, because he is treated as if] he says, “Qonam be my field, if I ever again plow my field,” [but others are then permitted to do so].

[B] [As to M. 4:7/I, If he did not usually plow his own field,] [then everyone is prohibited from plowing the field with that cow, because he is treated as if he says, “Qonam be my field if it is ever again plowed [with that cow, by anybody].”

4:8

[A] He who is forbidden by vow from deriving benefit from his fellow and has nothing to eat –

[B] he [the fellow] goes to a storekeeper and says, “Mr. So-and-so is forbidden by vow from deriving benefit from me, and I don’t know what I can do about it.”

[C] And he [the storekeeper] gives food to him [who took the vow] and then goes and collects from this one [against whom the vow was taken].

[I:1 A] The reason this procedure is permitted is] that the storekeeper in any event cannot collect from the man in court. [Accordingly, it is not a violation of the fellow’s oath.]

4:9

[A] [If] he [against whom the vow was taken] had to build his house [that of the one prohibited by vow from deriving benefit],

[B] or to set up his fence,

[C] or to cut the grain in his field,

[D] he [the fellow] goes to the workers and says to them, “Mr. So-and-so is forbidden by vow from deriving benefit from me, and I don’t know what I can do about it.”

[E] [Then the workers] do the work with him [who took the vow] and come and collect their salary from this one [against whom the vow was taken].

- [I:1 A] What is the rule as to his saying [at M. 4:9D], “Whoever does the work will not lose out by it”? [Is such language permissible in the present instance?]
- [B] *Let us derive the answer from the following: In R. Ammi’s time there was a fire in town [on the Sabbath]. R. Ammi sent out a proclamation in the marketplace of the Aramaeans, saying, “Whoever does the work will not lose out by it.” [Ammi could not ask the people to do the work, because of the restrictions of the Sabbath on the employees of Israelites. Accordingly, he solved the problem in the way proposed in the present context.]*
- [C] *R. Eleazar b. R. Yosé before R. Yosé [said,] “It was a case of danger [so that rule cannot apply here].”*
- [D] *If it was a matter of danger, then even R. Ammi should have put the fire out. Is it not taught :In any matter of danger they do not say, let the matter be done by gentiles or minors, but even by adults, and even by Israelites.*
- [E] There was a case in which a fire broke out in the courtyard of Yosé b. Simai in Shihin, and the soldiers of the camp of Sepphoris came down to put it out. But he did not let them do so.
- [F] He said to him, “Let the tax collector come and collect what is owing to him.”
- [G] Forthwith clouds gathered, and rain came and put the fire out. After the Sabbath he sent a *sela* to every soldier, and to their commander he sent fifty *denars*.
- [H] Said R. Haninah, “It was not necessary to do so.”
- [I] *There was a Samaritan who was R. Jonah’s neighbor. A fire broke out in the neighborhood of R. Jonah. The Samaritan came and wanted to put it out, but R. Jonah did not let him do so.*
- [J] *[The Samaritan] said to him, “Will it be on your responsibility if it burns up my property?”*
- [K] *[Jonah] said to him, “Yes.” And the whole area was saved.*
- [L] *R. Jonah of Kefar Ammi spread out his cloak over the grain, and the flames fled from it.*

4:10

[A] [If] they were going on a journey and he [who had forbidden himself by a vow from deriving benefit from his fellow] had nothing to eat,

[B] he [against whom the vow was taken] gives something to another as a gift, and the other [who took the vow] is permitted to make use of it.

[C] If there is no one else with them, he [against whom the vow was taken] leaves it on a rock or on a fence and says, “Lo, these things are ownerless property for anyone who wants them.”

[D] Then the other [who is prohibited by vow from deriving benefit from his fellow] takes what he wants and eats it.

[E.] And R. Yosé prohibits [such a procedure].

[I:1 A] *It was taught:* R. Meir says, “Once someone declares property ownerless, the thing has left his domain [entirely, and he cannot retract].”

[B] R. Yosé says, “That which has been declared ownerless leaves the hand of the owner only through [another party’s] act of acquisition, [prior to which the original owner has the power to retract]. [That which is declared ownerless is in the status of which is a gift. Until the other party has effected possession, the donor can retract.]”

[C] *Both R. Jeremiah, R. Ba bar Hiyya say, R. Yohanan in the name of R. Yannai:* “In the view of R. Yosé, it is like one who gives a gift to ten people, and this one is one of them. [Until the one has effected acquisition the original owner can retract.]”

[D] If one has declared his field ownerless –

[E] *There are Tannaim who teach,* “He may retract.”

[F] *And there are Tannaim who teach,* “He may not retract.”

[G] *R. Hezekiah, R. Abbahu in the name of R. Simeon b. Laqish:* “*He who said,* ‘He may retract,’ accords with the view of R. Yosé. *He who said,* ‘He may not retract,’ accords with the view of R. Meir.”

[H] Is that to say that R. Yosé holds that if one declares his property ownerless, [just as in the case of a gift,] the produce remains liable to tithes? [There is no reason to deem the produce exempt until the other party takes possession of the field.] Does he not hold that declaring a field ownerless is like giving it as a gift [in which case it remains liable to tithes]?

- [I] *R. Jacob bar Aha in the name of R. Simeon b. Laqish introduced [the following statement]: “In the view of R. Yosé if one declares his property ownerless, does it really remain liable to tithes? There [the law has stated], That which is declared ownerless in the view of R. Yosé is not liable to tithes.”*
- [J] This view is in line with that which R. Yohanan said in the name of R. Yannai: “‘And the Levite, because he has no portion or inheritance with you ... shall come and eat and be filled’ (Deut. 14:29). Since you have and he does not have, you are liable to give him. This then excludes the case of ownerless property, in which instance you and he have exactly the same rights [to the produce of that field].”
- [K] The same rule applies to the gleanings, forgotten sheaf, corner of the field, and ownerless property. [All are exempt from tithes.]
- [L] *[As to the view of Meir that the owner cannot retract, above,] up to this point we have dealt with a case in which the original owner declared the field ownerless for a considerable period of time. Is the law [so far as Meir is concerned the same] even if the original owner declared the field ownerless for a brief period of time?*
- [M] *Let us derive the answer from the following: He who declares his field ownerless may retract for the limited span of three days.*
- [N] Said R. Zeira, “Lo, it has stated [that one may retract for] only three days. Then after three days, he may not retract.”
- [O] *R. Simeon, a judge, taught before R. Zeira, “Even after a span of three days, he may retract.”*
- [P] He said to him, “Since you maintain that even after three days one may retract, then the same rule will apply to a period of three days or many days [that is, one may always retract, in which case, there can never be a valid act of abandoning ownership of a field].”
- [Q] *The cited Tannaitic passage supports the position of R. Zeira: “Under what circumstances? When one has declared the property ownerless without further specification. **But if he said, ‘My field is ownerless***

for a period of one day, one week, one month, one year, or one septennate,’ then before someone has acquired ownership of the field – whether it is the original owner or another party – he has the right to retract. Once someone has acquired ownership of the field – whether it is the original owner or another party – he has not the right to retract.”
[=T. Ma. 3:11]

[R] [Now as to the question raised above, L,] that is to say that the same rule applies if the span of time is considerable or limited.

[S] That is to say that [in any event, sages] did not take account of the possibility of deceit [in declaring the field ownerless so as to avoid payment of tithes].

[T] *That is to say that* one may declare his field ownerless and then go and acquire ownership of it once more.

[U] *On this basis, further, we may answer the question raised by R. Zeira. For R. Zeira said, “Does the same rule apply to a brief period and an extended span of time [for declaring the field ownerless, and the answer is that it does].”*

[II:1 A] Then the other, who is prohibited by vow from deriving benefit from his fellow, takes what he wants and eats it. And R. Yosé prohibits such a procedure [M. 4:10D-E].

[B] *What is the reason for the position of R. Yosé?*

[C] It is because **his vow has come before his act of declaring the food to be ownerless property** [T. Ned. 2:9K]. Lo, if his act of declaring the food ownerless were to come before his taking of the vow, there would be no objection at all on Yosé’s part.

[II:2 A] *They asked before R. Yosé, “The reason is that his vow has come before his act of declaring the property to be ownerless. [But until the property enters the possession of another party, it still has not truly been abandoned by the original owner. That, after all, is Yosé’s position above.] Accordingly what difference will it make if the act of declaring the property ownerless comes before his vow?”*

- [B] He said to them, “It never entered his mind to prohibit [for his benefit, when he took the vow,] anything which the other party should declare ownerless.
- [D] *Said R. Jonah, “Thus did they raise a question to him: Lo, if he did so for a single individual, that is not the case. But lo, we have learned, **And the other party takes what he wants and eats it. And R. Yosé declares it prohibited [M. 4:10D-E].”***
- [E] He said to them, “It never entered his mind to prohibit, [for his benefit, when he took the vow] anything which the other party should declare ownerless.”
- [F] He who declares property ownerless in the presence of three people may not retract.
- [G] Said R. Jonah, R. Abba, R. Hiyya in the name of R. Simeon b. Yosedeq: “He who declares his field ownerless to ten men may not retract.”
- [H] *Said R. Yosé, “And that accords with the view of R. Meir.”*
- [I] *R. Mana asked, “Do you not mean to say, not ‘to three’ but in the presence of three’?”*
- [J] (In this regard do you present the question to R. Meir? You may as well present it to R. Yosé, who also should speak of declaring the property ownerless before ten, not to ten.)
- [K] [Concluding what R. Mana has started to say:] He said to him, “If he declared it ownerless before two persons, he may retract, and the field’s produce remains liable to tithes. If he did so before three, he may not retract, and the field’s produce is exempt from tithes.”

YERUSHALMI NEDARIM

CHAPTER FIVE

5:1

- [A] **Partners who prevented themselves by vow from deriving benefit from one another are prohibited from entering the common courtyard.**
- [B] **R. Eliezer b. Jacob says, “This one enters the part which is his, and that one enters the part which is his.”**
- [C] **And both of them are prohibited from setting up a millstone and oven there, or from raising chickens.**
- [D] **[If] one of them was prohibited by vow from deriving benefit from his fellow, he should not enter into the common courtyard.**
- [E] **R. Eliezer b. Jacob says, “He can say to him, ‘Into the part which is mine I enter, but I do not enter into the part which is yours.’”**
- [F] **And they force the one who has taken the vow to sell his share [to the other].**
- [39a] [I:1 A] [*The basis for the dispute of Mishnah is that*] *rabbis say that every square handbreadth in the courtyard belongs equally to both partners.*
- [B] **But R. Eliezer b. Jacob says, “This one enters the part which is his, and that one enters the part which is his “ [M. 5:1B] .**
- [C] If the courtyard was divided into squares, even rabbis will concur [with Eliezer b. Jacob’s position].
- [D] If one party went and sold his share, even R. Eliezer b. Jacob will concur [with sages’ position, that it is prohibited to enter].
- [E] [If the courtyard is divided up,] and the two stipulated that each one gives up [his rights in favor of the other, in the part of the courtyard which is the share of the other], then they are assumed to be partners [in the way in which Eliezer b. Jacob maintains].

- [F] *The interesting question is the case in which they did not stipulate between them that each gives up [his rights in the area belonging to the other]. What does R. Eliezer b. Jacob maintain in such a case?*
- [G] *And lo, we have learned in yet another case [in which we should want to know the position of Eliezer b. Jacob]: **If he said, “Qonam if I have benefit from Israelites,” he buys for more and sells for less [M. 3:8F].** What could R. Eliezer b. Jacob maintain in such a case?*
- [H] *And lo, we have learned: **He who is forbidden by a vow from deriving benefit from his fellow should not lend him anything, nor should the other borrow anything from him [M. 4:7A-B].** What would R. Eliezer b. Jacob maintain in such a case?*
- [I] *And lo, we have learned: **He should not sell him anything, nor should he buy anything from him [M. 4:7D].** [What would R. Eliezer b. Jacob maintain in such a case?]*
- [J] *And as to that which R. Simeon b. Yaqim said, “That the one subject to the vow should not stay around [longer than is necessary]”?*
- [K] *[The answer in all instances derives from the following:] **And both of them are prohibited from setting up a millstone and oven there, or from raising chickens [M. 5:1C].** [In all the aforelisted cases, Eliezer will concede that the matter is forbidden.]*
- [L] *The reason that there is a question on R. Eliezer b. Jacob’s position is that the Mishnah deals with a case of partners who took a vow to prohibit each from deriving benefit from the other [M. 5:1A]. So the reason is that the prohibition is mutual.*
- [M] *But if they did not take a vow to prohibit one another from deriving benefit from the other, then without further specification [of the relationship], they are assumed to intend each to exercise certain rights. [Even so, under the present circumstances they are prohibited from deriving benefit from these normally accorded rights, because in the end each has the power to prevent the other from exercising those rights. Hence now each must use that power. This is in line with the following:] *There we have learned: **What are usages which are effective in the securing of title through usucaption, and what are usages which are not effective in the securing of title through usucaption? [If one put cattle, an oven, etc., in a courtyard, this is not an effective mode of securing title through usucaption. But if he made a partition for his beast ten handbreadths high, etc., lo, this is an effective mode of securing title through usucaption] [M. B.B. 3:5].****

- [N] Said R. Jeremiah, “[The reason that these usages are effective] is that partners to a courtyard are customarily lenient in permitting one another to do those things.”
- [O] R. Eleazar said, “He who [for a specified period of time] raises chickens in a courtyard that is not his own – lo, this constitutes securing title through usucaption [to continue the same procedure].”
- [P] Said R. Yosé, “That is quite so. For what is the choice? If he has the right to raise chickens, lo, he has exercised that right. If he does not have the right to raise chickens, lo, he has established the right through usucaption.”
- [Q] R. Yohanan in the name of R. Benaiah: “In all matters, partners to a courtyard have a right to object to what one another may do, except for the right to do laundry, on account of the honor owing to Israelite women.”
- [R] *R. Mattenaiah said, “That which you have said applies to a case in which women do the laundry. But in a place in which men do the laundry, it is not in such a case in which the rule applies.”*
- [S] *And that which you have said, “Except for doing laundry in the courtyard,” applies to the whole of the courtyard. But in the four cubits belonging to his fellow, he cannot object [to what the former does, since the one who does the laundry claims that he is doing it in his own four cubits].*
- [T] And if the place is sloping downward into the property of the fellow, then he may object, *for he claims, “You pour out the water and it comes down into my area.”*
- [U] *It has been taught:* As to the place at which an oven or double-stove is located, there is no possibility of securing title through usucaption.
- [V] As to the space on top of them, even in any small measure, there is the possibility of securing title through usucaption.
- [W] Said R. Zeira, “And that is on condition that there is some sort of roofing which serves the needs of the oven.”
- [X] R. Yohanan in the name of R. Yannai: “Partners [to a given court-yard] may effect acquisition [of movables] from one another in that courtyard, and they are liable to one another on account of damages [done by the property of one another].”

[Y] Said R. Bun bar Kahana, “[A partner to a courtyard may effect acquisition of movables in that courtyard] when he says [to the other party to the courtyard, from whom he acquires the movables], ‘Pile up [the movables] in one place, and I shall effect acquisition to them.’ But if they were [already] piled up, he effects ownership only if he shifts [the movables] about.”

[II:1 A] R. Eliezer b. Jacob says, “He can say to him, ‘Into the part which is mine I enter, but I do not enter into the part which is yours’” [M. 5:1E]. [And they force the one who has taken the vow to sell his share to the other] [M. 5:1F].

[B] [Now why should the one who takes the vow be forced to sell his rights to the other party? He can say to him, “I shall enter my part, not yours”!] And do you maintain that they force him [to sell]?

[C] *It is not with regard to the present passage [M. 5:1E] that that statement is made, but rather with regard to the following: **If a third party was prohibited by vow from deriving benefit from one of them, he should not enter into the common courtyard [M. 5:2A].***

[D] In this regard, they force the one who has taken the other to sell his share.

[E] That rule applies in a case in which one has said, “Benefit deriving from me is prohibited to you.” But if he says, “Benefit deriving from you is prohibited to me,” *it is not in such a case that we impose the requirement of a sale [since the one who took the oath surely will keep it and no third party will stumble by it].*

5:2

[A] **[If] a third party [“someone from the market”] was prohibited by vow from deriving benefit from one of them, he should not enter into the common courtyard.**

[B] **R. Eliezer b. Jacob says, “He can say to him, ‘Into the part which belongs to your fellow I enter, but I do not enter into your part.’”**

[I:1 A] *For have we not learned, “They force [him to sell his share in the common property]”?* [They do not force the one who took the oath to sell his share in such a case.]

[I:2 A] *R. Hiyya taught: **If he was a habitual taker of vows, they force him [to sell his share] [T. Ned. 2:9N].***

[B] For the other party may say to him, “The first time, when I came, you did this to me. The second time you did it to me. Henceforward either release your vow or sell me your share.”

5:3

[A] **He who is prohibited by vow from deriving benefit from his fellow, and he [the fellow] has a bathhouse or an olive-press in town which are hired out [to other people] –**

[B] **if he [the fellow] has rights therein it [the bathhouse or olive-press] is prohibited [to the other].**

[C] **[If] he has no rights therein, he [the other] is permitted.**

[D] **He who says to his fellow, “Qonam if I enter your house,” or “... if I buy your field,”**

[E] **[if the other party] died or sold them to a third party, he [the one who took the vow, now] is permitted [to enter the house or the field].**

[F] **[If he said, “Qonam if I enter this house” or “... if I purchase this field” –**

[G] **[even if the other party] died or sold it to a third party, it is [nonetheless] forbidden.**

[I:1 A] What [proportion of the income] constitutes a right [to the bathhouse, sufficient to mean that use of the house is prohibited]?

[B] Half, a third, or a quarter. [Less than this is not taken into account.]

[I:2 A] [If he said,] “This house of yours,” on what count do you [interpret the case, use of ‘your house,’ in which case, if the fellow died, the one who took the oath is no longer bound, or ‘this house,’ in which case he remains bound]?

[B] If it is on the count of “your house, which is this one” [hence emphasizing the attribution of the house to this man’s ownership, or do we rule otherwise]?

[C] If the house fell down and he rebuilt it, [do we say that the original house] *no longer is in the man’s possession*?

[D] *Let us derive the answer from the following:* He who says to his heirs, “Give a nuptial house to my son,” or [39b] “a widow’s manse” to my daughter – if [the house] fell down, the heirs remain liable to make it up to the son or the daughter. [The answer to C is that the house remains subject to the vow, even though it fell down and was rebuilt.]

- [I:3 A] *There we have learned: He who says to his son, “Qonam! You will not derive benefit from anything that is mine!” – if the father died, the son may inherit him. But if he had specified that the vow applied in life and after death, if the father died, the son may not inherit him [M. B.B. 9:10A-C].*
- [B] *Said R. Jeremiah, “See how we have learned the tradition here: He who says to his son, ‘Qonam! You will not derive benefit from anything that is mine!’ – if the father died, the son may inherit him. But if he had specified that the vow applied in life and after death, if the father died, the son may not inherit him. Now it also has been taught: ‘... in my lifetime,’ if he dies, he may inherit him. ‘... after I die ...,’ if he dies, he may inherit him. ‘... in my lifetime and after my death ...,’ if he dies, he may not inherit him. [There is then this other version of the same matter, which is not to be followed. In this version, it is only when he says *both in his lifetime and after death* that the son does not inherit].”*
- [C] *What is the difference between this version, in which he has stated each item individually, and that version, in which he has stated both items together [and in which case we enforce the latter and not the former]?*
- [D] *Both R. Jeremiah and R. Yosé b. Haninah say, “If he said, ‘Qonam be this property if I enter it, whether in life or after death,’ once he has said, ‘This property’ he has prohibited his use of that property whether he is alive or dead.”*
- [E] *Said R. Yosé, “We have learned in regard to the Division of Damages [of which M. B.B. 9:8 is part] a law which we have not learned in regard to the division tractate of Vows: ‘Qonam be benefit derived from these goods during my lifetime and after my death ...’; once he has said, ‘These,’ he has prohibited the other party’s use of those goods, whether during the lifetime or after the death of the one who took the oath.” (PM)*

5:4

- [A] [If one said to his fellow,] “Lo, I am herem unto you,”
- [B] the one against whom the vow is made is prohibited [from using what belongs to the other, who made the vow].
- [C] [If he said,] “Lo, you are herem unto me,”
- [D] the one who takes the vow is prohibited [from benefiting from the other].

- [E] [If he said,] “Lo, I am unto you and you are unto me [herem],” both of them are prohibited.
- [F] But both of them are permitted [to make use of property belonging to] the immigrants from Babylonia [that is, inalienable property, which is deemed ownerless].
- [G] And they are forbidden [to make use of property] belonging to that town [which each citizen owns jointly with all others].
- [I:1 A] If he said, “*Qonam* be benefit deriving from me for you and for him who will receive a question [concerning abrogating this vow] in your regard as well” –
- [B] [the sage to whom the vow is brought for absolution] accepts a question concerning the former, and he does not accept a question concerning the latter. [Once the former is relieved of the vow, the latter is no longer bound by it either.]
- [C] *There are Tannaim who teach:* He receives a question concerning both the former and the latter.
- [D] *Samuel son of R. Joseph b. R. Bun said, “This latter opinion expresses the view of whom who said that [the operative criterion is defined] by the prohibition [imposed by the vow, and that has applied to both parties]. But in accord with the view of him who said, [the operative criterion is established] by the vow itself [so we are guided by the point at which the vow applied, and the vow applied to the former party before it applied to the latter, we deal with a single vow. Consequently,] a vow part of which is abrogated is deemed wholly null.”*
- [I:2 A] **He who is prohibited by vow from deriving benefit from his town or from the people of his town,**
- [B] **and someone came from the outside and lived there for thirty days**
–
- [C] **he is permitted to derive benefit from him.**
- [D] **[But if he was prohibited by vow from deriving benefit] from those who dwell in his town, and someone came from the outside and lived there for thirty days, he is prohibited [from deriving benefit from him] [T. Ned. 2:10A-D].**
- [E] “*Qonam* be benefit deriving from me for my fellow townspeople” – he may not present a question about abrogating the vow to an elder who lives there.

- [F] “Qonam be benefit deriving from my fellow townspeople for me” – he may then present his question to an elder who is located there.
- [G] *There are Tannaim who teach:* Even in the former case, he may present the question to the elder in the town, for the sage is not in the position of abrogating a vow which he has taken himself.
- [H] He who takes a vow affecting the community at large has no possibility of releasing the vow.
- [I:3 A] **He who is prohibited by vow from deriving benefit from his fellow [in a vow made] in his presence –**
- [B] **they accept inquiry from him only in his presence.**
- [C] **[But if he vowed not to derive benefit from his fellow] not in his presence,**
- [D] **they accept inquiry from him either in his presence or not in his presence [T. Ned. 2:10F-I].**
- [E] R. Yohanan said, “It is because of the shame involved.”
- [F] R. Joshua b. Levi said, “It is because [of the possibility that the person against whom the vow was taken will] suspect [that the other party is violating the vow if he does not know that the vow has been released].”
- [G] *Now the dispute expressed between the foregoing follows the lines of the dispute among the following, as it has been taught:*
- [H] “On the Day of Atonement, it is necessary to spell out the deeds one has done,” the words of R. Judah b. Beterah.
- [I] R. Aqiba said, “It is not necessary to specify the various sins.”
- [J] *There are Tannaim who teach:* “It is necessary to spell out what is covered by the vow.”
- [K] *And there are Tannaim who teach:* “It is not necessary to specify what is covered by the vow.”
- [L] *A certain person vowed not to make a profit. He came before R. Yudan bar Shalom. He said to him, “From what did you take an oath?”*
- [M] *He said to him, “That I would not make a profit.”*

[N] *R. Yudan said to him, “Now, do people take such an oath as this? Perhaps the vow concerned merely not playing dice.”*

[O] The man said, “That is indeed the case. Blessed be He who has chosen the Torah and the sages who have said that it is necessary to specify what is covered by the vow!”

5:5

[A] **What is something which belongs to the immigrants from Babylonia?**

[B] **For example, the Temple mount and courtyards, and the well which is in the middle of the way.**

[C] **And what are things which belong to that town?**

[D] **For example, the town square, the bathhouse, the synagogue, the ark, and the scrolls.**

[E] **And he who writes over his share to the nasi of the court allows the fellow, prohibited by vow, to derive benefit from those things which are deemed to be held jointly by the town’s citizens].**

[F] **R. Judah says, “All the same is the one who writes over his share to the nasi and the one who writes over his share to an ordinary person.**

[G] **“What is the difference between him who writes over his share to the nasi and the one who writes over his share to an ordinary person?**

[H] **“For the one who writes over his share to the nasi does not have to grant him title. But the one who writes over his share to an ordinary person does have to grant him title.”**

[I] **And sages say, “All the same are this one and that one. They have to grant title.**

[J] **“They referred to the nasi only because they spoke of prevailing conditions.”**

[K] **R. Judah says, “The Galileans do not have to write [their share over to the nasi]. For their forefathers already have written over their share in their behalf.”**

[I:1 A] *The meaning of the Mishnah-rule [at M. 5:5D] is that a town square divided by the public way is in the status of something which belongs to the immigrants from Babylonia.*

[I:2 A] *A man consecrated a woman as his betrothed by giving a Torah-scroll to her. R. Shobetai and R. Hasida brought the case to R. Yosah. He ruled, “She is not betrothed.”*

- [B] *Said R. Hezekiah, "I read the letter [concerning this case], and written in it was, 'And no more.'"*
- [C] *Said R. Mana, "I asked before R. Hezekiah, 'What is the meaning of, 'And no more'?"*
- [D] "With a Torah-scroll belonging to an individual did he betroth the woman.
- [E] "He said to them, 'She is not betrothed.'
- [F] "Now if you wish to maintain that that is the case even if he has betrothed the woman with a Torah-scroll belonging to the community, that is the meaning of, 'And no more.'" (See PM, QH)

[II:1 A] [As to M. 5:5E, **And he who writes over his share to the nasi of the court allows the fellow, prohibited by vow, to derive benefit from those things which are deemed to be held jointly by the town's citizens,**] the meaning of the Mishnah is that he must write over the share of the *nasi*.

5:6

- [A] **He who is forbidden by vow from deriving benefit from his fellow and who has nothing to eat –**
- [B] **he [the fellow] gives it [food] to someone else as a gift, and this one [prohibited by vow] is permitted [to make use of] it.**
- [C] **M'SH B:There was someone in Bet Horon whose father was prohibited by vow from deriving benefit from him.**
- [D] **And he [the man in Bet Horon] was marrying off his son, and he said to his fellow, "The courtyard and the banquet are given over to you as a gift. But they are before you only so that father may come and eat with us at the banquet."**
- [E] **The other party said, "Now if they really are mine, then lo, they are consecrated to heaven!"**
- [F] **He said to him, "I didn't give you what's mine so you would consecrate it to Heaven!"**
- [G] **He said to him, "You did not give me what's yours except so that you and your father could eat and drink and make friends again, and so the sin [for violating the oath] could rest on his [my] head!"**
- [H] **Now the case came before sages. They ruled, "Any act of donation which is not so [given] that, if one sanctified it to Heaven, it is sanctified, is no act of donation."**

- [I:1 A] [The other party said, “Now if they really are mine, then lo, they are consecrated to heaven:”] R. Yohanan said, “This one [at M. 5:5E] clearly is a disciple of a sage.”
- [I:2 A] Hillel the Elder had eighty pairs of disciples. The oldest of them was Jonathan b. Uzziel. The youngest of them was Rabban Yohanan ben Zakkai. One time when Hillel was ill, they entered to visit him. Rabban Yohanan b. Zakkai waited outside in the courtyard. [Hillel] said to them, “Where is the youngest of you, who is the source of wisdom and the source [of learning for] the generations to come, and, it need hardly be said, truly the greatest among you?”
- [B] They said to him, “Lo, he is in the courtyard.”
- [C] He said to them, “Let him come in.”
- [D] When he came in, Hillel said to them,” ‘Endowing with wealth those who love me, and filling their treasuries’” (Prov. 8:21).
- [E] [Delete:And R. Yohanan said, “This one clearly is a disciple of a sage.”]
- [F] *R. Yosé b. R. Bun said, “This was a case: The father of Jonathan bar Uzziel prohibited by vow from deriving benefit from his property. He went and wrote them over to Shammai. What did Shammai do? He sold part, consecrated part, and gave [Jonathan] the rest as a gift. And he then said, ‘Whoever comes and complains against this gift – let him get it back also from the possession of the purchaser and from the possession of the sanctuary, and then he can come and get it back from this one [Jonathan].’”*
- [II:1 A] [Now the case came before sages. They ruled, “Any act of donation which is not so [given] that, if one sanctified it to Heaven, it is sanctified, is no act of donation,”] R. Jeremiah asked, “Then [in light of that statement], may we say that a man may not give a gift to his fellow on the stipulation that he may not consecrate it to heaven?”
- [B] *This is the meaning of the Mishnah’s statement: Any gift which is like that in Beth Horon, which was deceitful, which is not so given that, if the recipient consecrated it to Heaven, it is not deemed consecrated, is no gift at all.*

YERUSHALMI NEDARIM

CHAPTER SIX

6:1

- [A] **He who takes a vow not to eat what is cooked is permitted [to eat what is] roasted or seethed.**
- [B] [If] he said, “Qonam if I taste cooked food,” he is prohibited from eating what is loosely cooked in a pot, but permitted to eat what is solidly cooked in a pot.
- [C] **And he is permitted to eat a lightly boiled egg or gourds prepared in hot ashes.**

[39c] [I:1 A] [M. 6:1A indicates that the Mishnah does not regard roasting or seething as cooking. And yet elsewhere] the Mishnah has maintained that that which is seethed is regarded as cooked.

[B] *For we have learned: He would cook the peace offerings or seethe [the offering] [M. Naz. 6:9A].* [Then at Num. 6:19, the shoulder of the ram is called cooked.]

[C] *Now Scripture, for its part, refers to roasting as cooking: “And they roasted the Passover lamb” (2 Chr. 35:13).*

[D] Now if, in this latter instance, you wish to maintain that they did not act in accord with the requirements of the law, R. Jonah Bosrayya said that it was in accord with the law [that they had acted].

[E] So it follows that the Mishnah maintains that that which is seethed is regarded as cooked, while the Scripture has held that that which is roasted is regarded as cooked.

[F] And have we not learned: **He who takes a vow not to eat what is cooked is permitted to eat what is roasted or seethed [M. Ned. 6:1A]?**

[G] Said R. Yohanan, “In matters of vows the sages have followed the usage of ordinary people.”

[H] Said R. Josiah, “In matters of vows the sages have followed the usage of the Torah.” [Hence he will differ from the Mishnah’s rule and will maintain that if a person takes a vow not to eat what is cooked, he may not eat what is roasted or seethed.]

[I] *What practical difference is there between these two positions?*

[J] [A case in which one says,] “Qonam be wine, which I shall not taste on the Festival.” [Such a vow prevents his drinking wine on the Festival, and the issue is the extent of the Festival, that is, Tabernacles.]

[K] *In the view of R. Yohanan*, he is prohibited from drinking wine on the last of the Festival, [since when they refer to it people mean the entire span of the Festival, even though the final day is not part of the Festival of Tabernacles itself, but is a distinct and additional festival-day].

[L] *In the view of R. Josiah*, he is permitted to drink wine on the last day of the Festival [for the reason stated above].

[M] [No, that is not the case.] Even R. Josiah concedes that he is prohibited [to drink wine on that last day]. R. Josiah has made his statement only so as to impose the more strict rule.

[N] *R. Hiyya bar Ba said, “R. Yohanan would eat dumplings [boiled in water] and say, ‘I have not tasted food today.’”*

[O] *And lo, we have learned, He who takes a vow not to eat food is permitted to have water and salt [M. Erub. 3:1]* [which indicates that these dumplings also fall into the category of food].

[P] [R. Yohanan] interprets [this teaching of M. Erub. 3:1] to accord with the view of R. Josiah, who has said that, so far as vows are concerned, they follow the usage of language in the Torah.

[Q] And how do we know that [in the Torah] all sorts of things may be called food?

[R] R. Aha bar Ila said, “Ten asses loaded with grain, bread, and provision ...” (Gen. 45:23). Why does Scripture refer to ‘provision’? It is to indicate that all sorts of things are regarded as provisions [of food].”

[I:2 A] **He who takes a vow not to eat what is cooked [M. 6:1A]:** What is the law as to his being permitted to eat what is smoked?

- [B] What is the law as to his being permitted to eat what is fried?
- [C] What is the law as to his being permitted to eat what is cooked in the boiling waters of the hot springs of Tiberias?
- [D] *Rabbis of Caesarea asked:* “As to smoked foods, what is the law as to applying the prohibition against eating food cooked by gentiles?”
- [E] What is the law as to its being subject to the prohibition of cooking on the Sabbath?
- [F] What is the law as to its being subject to the prohibition of cooking meat in milk?
- [G] [Since smoking produce establishes its liability to tithes as a normal form of processing,] what is the law [as to its being subjected to the law of separating tithes and so constituting] produce prohibited by reason by being untithed?
- [H] He who takes a vow not to eat what is smoked: What is the law as to his being permitted to eat what is cooked?
- [I] R. Ba bar Judah in the name of the household of R. Ahi: “As to a cake of pressed dates (a honey cake, so PM), it is not subject to the prohibition against eating food cooked by gentiles, but it serves as food for the purpose of preparing a symbolic meal to permit cooking on festival days.”
- [J] R. Yosé b. R. Bun in the name of R. Huna: “Every sort of edible which may be eaten raw, as is, is not subject to the prohibition against eating food cooked by gentiles, but it serves as food for the purpose of preparing a symbolic meal to permit cooking on festival days.”
- [I:3 A] **He who takes a vow not to eat what is cooked [M. 6:1A]:** What is the law as his being permitted to eat what is solidly cooked in a pot?
- [B] *Let us derive the answer from the following:* **He is prohibited from eating what is loosely cooked in a pot, but permitted to eat what is solidly cooked in a pot [M. 6:1B].** Now if a cooked dish, what is prohibited when roasted or seethed, is permitted when solidly cooked, that which is cooked, which is permitted when roasted or seethed – should it not be permitted when it is solidly cooked in a pot?
- [C] Does an argument a fortiori apply in the case of vows? [*Of course it does not!*] *But this is the law of the Mishnah:* A dish which is forbidden when roasted or seethed is permitted when solidly cooked in the pot. What is cooked, which is permitted when roasted or seethed, is permitted when solidly cooked in the pot.

[I:4 A] *It was taught:* **He who vows not to eat what is cooked is prohibited from eating soft biscuits, because sick people eat their bread with them [T. Ned. 3:1B].**

[B] Said R. Hisda, “He is prohibited from eating a rolled egg because sick people eat their bread with it. But he is permitted to eat an egg boiled so long that it ends up the size of a pill.”

[II:1 A] **But he is permitted to eat a lightly boiled egg or gourds prepared in hot ashes [M. 6:1C].**

[B] (L and V add:R. Hanina said:) This [gourd] is a bitter kind, which they sweeten by heating it in hot ashes.

6:2

[A] **He who takes a vow not to eat what is cooked in a pot is prohibited only from what is boiled [therein].**

[B] [If he said, “Qonam if I taste anything which goes down into a pot,” he is prohibited from eating anything which is cooked in a pot.

[C] [He who takes a vow not to eat] what is pickled is prohibited only from eating pickled vegetables.

[D] [If he said, “Qonam] if I taste anything pickled,” he is prohibited from eating anything which is pickled.I IO Chapter Six

[E] [If he took a vow not to eat what is] seethed, he is forbidden only from eating seethed meat.

[F] [If he said, “Qonam] if I taste anything seethed,” he is prohibited from eating anything which is seethed.

[G] “[He who takes a vow not to eat] what is roasted is prohibited only from eating roasted meat,” the words of R. Judah.

[H] [If he said, “Qonam] if I taste anything roasted,” he is prohibited from eating anything which is roasted.

[I:1 A] What is the meaning of, **what is boiled [M. 6:2A]?**

[B] It is, for example, pounded wheat, groats, pearl barley, wheat flour, rice, porridge of broken grain, and aged barley grain. [These are what is boiled in a pot.]

[I:2 A] **But if he said, [“ Qonam if I taste] anything which goes down into a pot, he is prohibited from eating anything which goes down into a stew pot.**

- [B] **If he said, “Qonam if I taste anything which goes down into a stew-pot,” he is permitted to eat anything which goes down into a pot [T. Ned. 3:2A-B],**
- [C] for that which goes down into a pot also goes into a stew-pot.
- [D] But there is that which goes into a stew-pot and does not go down into a pot.
- [E] What would be your instances? For example, raw fish.
- [F] He who vows not to taste anything which **is baked in an oven is prohibited only from eating bread alone.**
- [G] **If he said he was prohibited by vow from eating what is made in an oven, he is prohibited from eating anything which is made in an oven [T. Ned. 3:2C- D].**

6:3

- [A] **[He who takes a vow not to eat] what is salted is prohibited only from eating salted fish.**
- [B] **[If he said, “Qonam] if I eat anything salted,” then he is prohibited from eating anything at all which is salted.**
- [C] **[He who says, “Qonam] if I taste fish or fishes,” is prohibited [to eat] them, whether large or small, salted or unsalted, raw or cooked.**
- [D] **But he is permitted to eat pickled chopped fish and brine.**
- [E] **He who vows not to eat small fish is prohibited from eating pickled chopped fish. But he is permitted to eat brine and fish-brine.**
- [F] **He who vowed [not to eat] pickled chopped fish is permitted to eat brine and fish-brine.**
- [I:1 A] *They proposed to rule:* “That which is salted permanently is deemed salted meat [in line with M. 2:4C], but if it was with regard to that which is salted only for a time, that is not the case.”
- [B] Said R. Yudah, “On the basis of that which we have learned: **If he said, ‘Lo, it is to me like salted meat,’ ‘Like wine used for idolatrous worship’ [M. 2:4C],** that indicates that that which is salted only for a time is regarded as salted.”
- [C] What is the meaning of salted for a moment?
- [D] *It is in line with the following, as it is taught:* What does he do [in salting the limbs of the offerings]? He places the limbs on top of salt and turns them over.

[E] Said R. Abba Mari, “That case is different [and is not regarded as salting the limbs for a moment], because if he holds them back [and does not offer them, but leaves them in the salt], they are salted permanently.”

[F] *What then is under consideration [in the case of that which is salted for a moment]? It is in line with that which R. Hiyya bar Abba said [in citing the following passage]: “He who takes olives from the press dips them one by one and eats them [M. Ma. 4:3]. That is to say that if you have something which is salted only for a moment, it falls into the category of that which is salted.”*

[I:2 A] **R. Simeon b. Eleazer says, “If he said, ‘Qonam if I eat fish,’ he is prohibited from eating big fish but permitted to eat little ones.**

[B] **If he said, ‘Qonam if I eat little fish,’ he is prohibited from eating little ones but permitted to eat big ones.**

[C] **“[If he said, ‘Qonam] if I eat fish,’ he is prohibited from eating big fish and prohibited from eating little fish” [M. 6:4A] [T. Ned. 3:SF-H].**

[D] [39d] What is a small one and what is a large one?

[E] *The answer accords with that which R. Zeira said, “In the case of any fish I may eat of less than a litra, I feel as if I were eating chalkis [a small fish]. And that is so here.”*

[II:1 A] **And he is permitted to eat pickled chopped fish and brine [M. 6:3D].**

[B] Lo, if it is not chopped, he is forbidden to eat it.

[C] R. Jeremiah said *Zeira asked, “Does this not differ from the view of R. Yohanan? For R. Yohanan said, ‘In the case of vows they follow the ordinary usage of people. It surely would not be usual for someone to say to his fellow, ‘Buy me fish,’ and he would buy him chalkis. [In the case of the vow against fish, the person never intended a vow against chopped ones, but only whole ones.]”*

[D] *R. Abin derived the proposition from the latter part of the same statement of the Mishnah: “He who vowed not to eat pickled chopped fish is permitted to eat brine and fish-brine [M. 6:3F]. Lo, if it is not chopped up, it is prohibited.”*

[E] *Rabbi said R. Zeira raised the question, “And does this not contradict the view of R. Yohanan? For R. Yohanan said, ‘In the case of vows they follow the ordinary usage of people.’ It would*

not be usual for someone to say to his fellow, 'Buy me chopped fish,' and he would buy him small fish preserved in brine."

[F] *There they call "chopped fish" "small fish preserved in brine."*

6:4

[A] **He who vows not to have milk is permitted to eat curds.**

[B] **And R. Yosé prohibits [eating curds].**

[C] **[If he vowed not to eat] curds, he is permitted to have milk.**

[D] **Abba Saul says, "He who vows not to eat cheese is prohibited to eat it whether it is salted or unsalted."**

[I:1 A] What are curds? Congealed milk.

[B] What is the reason for the position of R. Yosé? Because it is called by the name applied to its source [milk].

[C] *In the opinion of R. Yosé*, he who vows not to have wine should be prohibited from boiled wine too [because it is called by the name applied to its source, even though it is not regarded as wine]: boiled wine.

[I:2 A] [The following composition belongs at M. 6:5 and is introduced because that Mishnah-pericope contributes a rule:] This is the comprehensive rule that R. Simeon says in the name of R. Joshua, "To whatever [is forbidden but may become] permitted, for example, produce liable to tithing that has not yet been tithed, second tithe, produce that has been consecrated, new produce [before the offering of the *omer*, which permits its utilization], sages have not assigned a limit. [That is, if these items are mixed up with produce which is permitted, sages do not maintain that if what is permitted exceeds what is prohibited by a given ratio, the whole is permitted.] But if both prohibited and permitted types of produce were of the same kind, the whole mixture is prohibited if the prohibited portion is any measure at all. If the prohibited and permitted types of produce were not of the same kind, then the whole mixture is prohibited if the prohibited portion imparts its flavor to the entire mixture [but permitted if it does not]. To whatever [is forbidden but may not ever become] permitted, for example, heave offering, dough offering, produce of a vineyard before its fourth year, produce produced by a mixture of seeds in a vineyard, sages have assigned a limit [of a fixed ratio]. If the prohibited produce and the permitted produce were of the same kind, the ratio is in whatever proportion [sages have said, e.g., one out of a hundred parts, and the like], and if the permitted produce and

prohibited produce were not of the same kind, then it is prohibited if the prohibited portion imparts its flavor to the entire mixture.” Now as to produce covered by vows, how do you deal with them? Are they regarded as something which is forbidden and may become permitted or as something which is forbidden and may not become permitted?

- [B] *It would stand to reason that they are to be treated* as is a matter which is forbidden but may become permitted, for we have learned there that an elder [has the power] to uproot a vow as at the outset [as if it had never applied at all].
- [C] They said, “He uproots it only from now and for the future.”
- [D] *And the following passage of the Mishnah treats vows as equivalent to something which is forbidden and may not become permitted, for we have learned there:* **That which grows from seed in the status of heave offering has the status of heave offering. And what grows from the seed of produce that grew from seed in the status of heave offering is unconsecrated. But as regards produce which is liable to tithes, first tithe, aftergrowths of the seventh year of the Sabbatical cycle, heave offering separated from produce grown outside of the Land of Israel, mixtures of heave offering and unconsecrated produce and first fruits – that which grows from them is common food. That which grows from seed which is dedicated to the Temple or second tithe is unconsecrated. And he redeems the seed when it is sown [M. Ter. 9:4, trans. Alan J. Avery-Peck, pp. 256- 57] .**
- [E] *Now in this connection it has been taught:* Under what circumstances [with regard to produce liable to tithes]? It is with regard to seed which disintegrates in the ground. But as regards seed which does not disintegrate in the ground, then that which grows from seed which has grown from their seed remains subject to prohibition.
- [F] Now there is yet another strict rule which applies to that which grows from them, for R. Zeira has said in the name of R. Jonathan, “An onion which is prohibited by reason of being mixed seeds in a vineyard which one has pulled up and planted once again, even if it grew a good bit in this other place, remains prohibited [because the root is prohibited], for that which grows from something which is prohibited does not have the power to remove the prohibition affecting its root.”
- [G] *Now in any event the Mishnah treats [vows] as something which is prohibited but may become permitted. For we have learned there:* **He who vows not to eat something which is mixed with something else,**

if there is sufficient of the prohibited substance to impart a flavor, it is prohibited from eating the mixture [M. 6:5E].

- [H] Interpret that passage to speak of the mixture of something prohibited of one species with something prohibited of a different species, in respect to a matter which may become permitted [under other circumstances, so that is not decisive].

6:5

[A] **He who takes a vow not to eat meat is permitted to eat broth and meat sediment.**

[B] **And R. Judah prohibits [him from eating broth and meat sediment].**

[C] **Said R. Judah, MCSH W: “R. Tarfon prohibited me from eating eggs which were roasted with [meat].”**

[D] **They said to him, “And that is the point! Under what circumstances? When he will say, ‘This meat is prohibited to me.’**

[E] **“For he who vows not to eat something which is mixed with something else, if there is sufficient [of the prohibited substance] to impart a flavor, is prohibited [from eating the mixture].”**

[F] **He who vows not to drink wine is permitted to eat a cooked dish which has the taste of wine.**

[G] **[If] he said, “Qonam if I taste this wine,” and it fell into a cooked dish, if there is sufficient [wine] to impart a flavor, lo, this is prohibited.**

[I:1 A] [With reference to M. 6:5G,] R. Hela said, “Once he has said, ‘This,’ he has prohibited for himself both it and any benefit it may impart.”

6:6

[A] **He who takes a vow not to eat grapes is permitted to drink wine.**

[B] **[He who takes a vow not to eat] olives is permitted to have olive-oil.**

[C] **[If] he said, “Qonam if I eat these olives or grapes,” he is prohibited to eat them and what exudes from them.**

[I:1 A] *It was taught* [in T.’s version]: R. Simeon b. Eleazar says, “If something is usually eaten and what exudes from it is usually eaten, and one has vowed not to eat it, he is prohibited also from eating what exudes from it.

[B] **“If he takes a vow not to eat what exudes from it, he is prohibited from eating it as well.**

- [C] **“What is usually eaten, but that which exudes from it is not usually eaten, and one has taken a vow not to eat it – he is permitted to eat what exudes from it.**
- [D] **“[If he took a vow not to eat] what exudes from it, he is permitted to eat it.**
- [E] **“What is not usually eaten and what exudes from it is usually eaten and one has taken a vow not to eat it – this one has intended his vow to cover only what exudes from it” [T. Ned. 3:3 D-E].** [Simeon b. Eleazar distinguishes in terms of edibility. If one vows not to eat an edible substance with produces an edible substance, the latter is prohibited along with the former, and vice versa.]
- [F] *What is the sort of thing to which reference [at A] is made? For example, olives or grapes.*
- [G] And as to something which is usually eaten, but that which exudes is not usually eaten, if one vowed not to eat it, he is permitted to eat what exudes from it. *What is the sort of thing to which reference is made? For example, mulberries.*
- [H] And as to something which is not usually eaten, but what exudes from it is usually eaten, and if one took a vow against eating it, he has intended the vow to cover only what exudes from it – *what would be an example?*
- [I] Said R. Yosé b. R. Bun, “Garden seeds, which are not eaten.”

6:7

- [A] **He who takes a vow not to eat dates is permitted to have date honey.**
- [B] **[He who takes a vow not to eat] winter grapes is permitted to have the vinegar made from winter grapes.**
- [C] **R. Judah b. Betera says, “Anything which is called after the name of that which is made from it, and one takes a vow not to have it – he is prohibited also from eating that which comes from it.”**
- [D] **But sages permit.**
- [I:1 A] *What is the reason for the view of R. Yosé [at M. 6:4 A-B]? Because it is called by the name applied to its source.*
- [B] *What is the reason of R. Judah b. Betera? Because it is called by the name of that which it generates.*

[C] *It stands to reason that R. Judah b. Betera will concur with the view of R. Yosé, but R. Yosé will not agree with R. Judah b. Betera.*

[D] R. Judah b. Betera will concur with the view of R. Yosé: If [when] it is called by the name of that which it generates [it is forbidden], if it is called by the name of its source – is it not an argument a fortiori that it will be prohibited?

[E] But R. Yosé will not agree with R. Judah b. Betera. He has stated the rule only in the case in which it is called by the name applied to its source. But if it is called by the name of that which it generates, that is not [a case in which Yosé has any reason to prohibit].

6:8

[A] He who takes a vow not to have wine is permitted to have apple wine.

[B] [He who takes a vow not to have] oil is permitted to have sesame oil.

[C] He who takes a vow not to have honey is permitted to have date honey.

[D] He who takes a vow not to have vinegar is permitted to have the vinegar of winter grapes.

[E] He who takes a vow not to have leeks is permitted to have shallots.

[F] He who takes a vow not to have vegetables is permitted to have wild vegetables,

[G] since they have a special name.

[I:1 A] *The Mishnah [at M. 6:8E] speaks of a place in which they do not call shallots leeks. But in a place in which they call shallots leeks, they did not rule on the matter.*

[B] *That is indeed why it was necessary to include the rule, so indicating that even in a place in which they call shallots leeks, [it is permitted:]*
He who takes a vow not to have leeks is permitted to have shallots [M. 6:8E].

[II:1 A] **He who takes a vow not to have vegetables is permitted to have wild vegetables, since they have a special name [M. 6:8F-G].**

[B] *Now in this connection it was taught: He who takes an oath not to eat vegetables in the Seventh Year is prohibited from eating wild vegetables [because that is what he must have meant, since the other kind are not available anyhow] [T. Ned. 3:5].*

- [C] *R. Qerispa in the name of R. Haninah b. Gamaliel stated the reason for this rule. It applied before Rabbi permitted importing vegetables from abroad into the Land [in the Seventh Year]. But once Rabbi permitted importing vegetables from abroad into the Land, the same rule applied in the Seventh Year as applied in the other years of the Sabbatical cycle.*
- [D] Said R. Yosé b. Haninah, “Endives are reckoned [as food] to [receive or impart] the uncleanness pertaining to food in the Seventh Year.” [Even though under ordinary circumstances endives growing wild are not regarded as food at all, in the Seventh Year they are used as food and hence enter the system of uncleanness as it pertains to food.]
- [E] *That which you have stated applies before Rabbi permitted importing vegetables from abroad into the Land [in the Seventh Year], but once Rabbi permitted importing vegetables from abroad into the Land, the same rule applied in the Seventh Year as applied in the other years of the Sabbatical cycle.*

[II:2 A] *It has been taught: They do not intercalate the year either in the case of the Seventh Year or in the case of the year after the Seventh Year. And if they did so, lo, this is intercalated. When are they accustomed to intercalate the year? In the year before the Seventh Year [T. San. 2:9].*

[B] Said R. Zeira in the name of R. Abbahu, “This statement which has been made [that they do not intercalate the year in the Seventh Year] applies to the case before Rabbi permitted purchasing vegetables from abroad for use in the Land. But once Rabbi had permitted purchasing vegetables from abroad for use in the Land, there was no longer any difference between the Seventh Year and the other years of the Sabbatical cycle.

[II:3 A] [As to the further statement, T. San. 2:9, that they do not intercalate the year in a time of famine,] R. Meir says, “Lo, Scripture says, ‘And there came a man from Baal Shalisha, and he brought the man of God bread of the first fruits, twenty loaves of barley, and fresh ears of corn in his sack’ (2 Kings 4:42). [And is it not so that there is no place in which the produce ripens earlier in the land of Israel than in Baal Shalisha? And even so, he offered as first fruits only that species which he had brought to the man of God. Is it possible that he brought it before the ‘omer had been offered (the sixteenth of Nisan, so allowing the consumption of the new

year for the first time)? Scripture says, ‘And he said, Give to the people, so that they may eat’ (2 Kings 4:43).] So it follows that the year was suitable for intercalation.

[B] “Now why did Elisha not intercalate it?”

[C] “Because it was a year of famine, and the whole people was running around to the threshing floors” [T. San. 2:9].

[II:4 A] *It was taught:* They do not intercalate the year when there is uncleanness.

[B] R. Yosé says, “They do so. For so we find that Hezekiah the King intercalated the year when there was uncleanness, for it is said, ‘For a multitude of the people, even the men of Ephraim and Manasseh, Issachar and Zebulun, had not cleaned themselves, yet they ate the Passover otherwise than it is written. For Hezekiah prayed for them, saying, The Lord pardon every one’ (2 Chron. 30:18)” [T. San. 2:10].

[C] R. Simeon says, “Even though they intercalated the month of Nisan, only the month of Adar is treated as intercalated. [That is, they do intercalate by reason of uncleanness, but this is done only in Adar.]”

[D] R. Simeon b. Judah says in the name of R. Simeon, “Hezekiah made the congregation celebrate a second Passover” [T. San. 2:11].

[E] *There are Tannaim who teach:* “They do intercalate the year because of uncleanness.”

[F] *There are Tannaim who teach,* “They do not intercalate the year [on that account].”

[G] *Now the one who says that they do not intercalate the year on that account derives proof for his position from the cited verse. They ate the Passover not in accordance with what is written in Scripture. [So Hezekiah prayed for forgiveness, because he had intercalated the year by reason of uncleanness.]*

[H] *And the one who says that they do intercalate the year on account of uncleanness – how does he interpret the cited verse which indicates that they acted not in*

accord with the requirements written in Scripture?
[Hezekiah prayed for forgiveness] because he had intercalated the year in Nisan, and they intercalate the year only in Adar.

[I] *Now this view [that the year was intercalated by reason of uncleanness affecting the people prior to Passover] accords with that which R. Simon bar Zebid said, “The skull of Arnon the Jebusite they found [40a] beneath the altar [of the Temple].”*

[J] “[For Hezekiah had prayed for them, saying, ‘The good Lord pardon every one who] sets his heart to seek God, [the Lord the God of his fathers, even though not according to the sanctuary’s rules of cleanness]’” (2 Chr. 30:18-19) – and to do and to teach in Israel ordinances and judgments.

[K] [Now what is the meaning of this reference to “not according to the sanctuary’s rules of cleanness”?] R. Simeon bar Zebid and R. Samuel bar Nahman —

[L] one said, “Even though he carried out any number [of deeds] for the sake of the cleanness of Holy Things, he did not fully carry out what is required for the cleanness of Holy Things.”

[M] And the other said, “Even all those many good deeds which people do for the sake of the cleanness of Holy Things — one does not thereby carry out the obligation involved in attaining the cleanness of Holy Things.”

[N] It is written, “They began to sanctify on the first day of the first month, and on the eighth day of the month they came to the vestibule of the Lord; then for eight days they sanctified the house of the Lord, and on the sixteenth day of the first month they finished” (2 Chr. 29:17).

[O] Now is it not so that in a single day they were able to burn every idol which was there, [so why did it take so many days to clean and sanctify the Temple]?

[P] Said R. Idi, “Because of the idols belonging to the Chaldeans which had been painted with vermilion.”

[Q] Six things did Hezekiah the King of Judah do. In three of them, [sages] agreed with him, and in three of them they did not agree with him.

[R] He dragged his father’s bones on a rope bier, he pulverized the brazen serpent, and he hid away the notebook of remedies, and they agreed with him.

[S] And in three things they did not agree with him: he closed off the waters of Upper Gihon, he cut [the gold off the doors of the Temple, and he intercalated the month of Nisan in Nisan itself [calling Nisan the second Adar after Nisan had already begun], and they did not agree with what he had done [M. Pes. 9:1].

[T] They do not intercalate the year prior to the New Year, and if they did so, the year is not deemed intercalated.

[U] But in a matter of urgency [e.g., because people feared they would not be able to do so later], they did intercalate the year immediately after New Year.

[V] Nonetheless, intercalated is only the month of Adar.

[II:5 A] Rabbi says, “Nisan has never been intercalated [that is, the new moon of Nisan has never been designated on the thirty-first day of Adar].”

[B] *And have we not learned: How so for the heave offering of sheqels?*

[C] All public offerings are offered on the first of Nisan.

[D] **If the new *sheqels* come on time, [the public offerings] are offered [from beasts purchased from] the new [heave offering of the *sheqels*].**

[E] **And if not, they are offered [from beasts purchased] from the old [heave offering of the *sheqels*] [T. R.H. 1:4 = T. Sheq. 2:7].** [The point is that the money for the purchase of the public offerings on the first of Nisan should come from newly contributed funds. Now if the new funds come in on time, they are used. The assumption then is that the money comes in on the thirtieth day, in which case that money is used for beasts to be offered on the next day. If they intercalated the month and treated the new moon of Nisan as the thirty-first day of Adar, the daily whole offering of that date would come from the newly contributed funds. If not, they would use the funds contributed in the prior year. What this set of rules indicates in any event is that there are occasions on which the new moon of Nisan will be celebrated on the thirty-first of Adar, and this is stated as, If....]

[F] [But that proves nothing. For it says,] “If it should come....” But it never came in that way.

[II:6 A] Rab said, “Tishré has never been intercalated [that is, beginning on the thirty-first day of Elul].”

[B] *And have we not learned: [If a man slaughtered a heifer and divided it among purchasers on the first day of the eighth year,] if the month was intercalated, [the debt incurred by them who buy the meat is cancelled; but if the month was not intercalated, it is not canceled (M. Sheb. 10:2)].* [As above, I, this would indicate that it is possible that Tishré indeed was intercalated.]

[C] [But that proves nothing. For it says,] “If it should come....” But it never came in that way.

[II:7 A] Now when they sanctified the year in Usha, on the first day R. Ishmael b. R. Yohanan b. Beroqah passed [before the ark] and said it in accord with the view of R. Yohanan b. Nuri.

[B] Said Rabban Simeon b. Gamaliel, “That was not the custom which we followed in Yabneh.”

[C] So on the second day R. Hanina, son of R. Yosé the Galilean, passed [before the ark] and said the prayer in accordance with the opinion of R. Aqiba.

[D] Then said Rabban Simeon b. Gamaliel, “Now *that* was the custom which we followed in Yabneh!” [T. R.H. 2:11].

[E] *Now thus it is taught that* they declared [the day] holy on the first and on the second [and this calls into question Rab’s statement that Tishré has never been intercalated].

[F] R. Zeira in the name of R. Hisdai: “That year things were miscalculated.”

[G] What is the meaning of “in the first ...,” and “in the second ...”?

[H] Raba in the name of Rab: “In the first year, in the second year.”

[I] And has it not been taught: **They declared it sanctified on the first day ... on the second day ...?** [So the above answer is impossible.]

[J] [If the court] declared the month to be sanctified before its time or after its time, is it possible that the month should be deemed sanctified?

[II:8 A] Scripture states, “[The appointed feasts of the Lord] *which* [you shall proclaim as holy convocations, my appointed feasts, are these]” (Lev. 23:2).

[B] That is, *these* are my appointed feasts, these others are not my appointed feasts. [So if one has sanctified the new month] prior to its proper time, on the twenty-ninth day, or after its intercalation, on the thirty-second day of the month, [it is not sanctified].

[C] Now how do we know that they in any event intercalate the year on account of those who dwell in Exile but have not yet reached their homes [and so cannot carry out the Passover at the right time]?

[D] Scripture states, “Say to the people of Israel, The appointed feasts [of the Lord which you shall proclaim as holy convocations]” (Lev. 23:2) —

[E] that is to say, “Declare appointed feasts in such a way that all Israelites may carry them out.”

[F] Said R. Samuel bar Nahman, “And that is so that the Israelites may reach the Euphrates River [en route home].”

[II:9 A] They intercalate the year only in Judah, and if they intercalated it [elsewhere], lo, it is deemed to have been intercalated.

[B] Hananiah of Ono gave testimony [before Rabban Gamaliel] that if they cannot intercalate the year in Judah, they intercalate the year in Galilee, and it is deemed to have been intercalated [T. San. 2:13].

[C] They do not intercalate the year abroad, and if they did so, it is not intercalated.

- [D] Now you see that in Galilee they do not intercalate. So that they intercalate abroad [hardly seems likely].
- [E] *The point is this:* In Galilee they do not intercalate the year. And if they did so, it indeed is intercalated. Abroad they do not intercalate, and if they did so, it is *not* intercalated.
- [F] This rule applies when they are able to intercalate in the Land of Israel.
- [G] But if they are not able to intercalate in the Land of Israel, then they do intercalate the year abroad.
- [H] Jeremiah intercalated the year abroad.
Ezekiel intercalated the year abroad.
Baruch b. Neriah intercalated the year abroad. Hananiah, nephew of R. Joshua, intercalated the year abroad.
- [I] *Rabbi sent him three letters with R. Isaac and R. Nathan.*
- [J] In one he wrote, “To his holiness, Hananiah.”
- [K] And in one he wrote, “The lambs that you have left behind have become rams.”
- [L] And in one he wrote, “If you do not accept our authority, go out to the thorny wilderness, and there you be the slaughterer [of the sacrifice], with Nehunyon, the sprinkler [of blood upon the altar].”
- [M] *He read the first and did obeisance, the second and did likewise. But when he read the third, he wanted to disgrace the messengers.*
- [N] *They said to him, “You cannot, for you have already treated us with honor.”*

- [O] R. Isaac stood up and read what is written in the Torah as, “These are the festivals of Hananiah, the nephew of R. Joshua.”
- [P] He said, “‘These are the festivals of the Lord’ is what is written.”
- [Q] He replied, “They are with us, [and your calendar is not legitimate, because you have intercalated abroad, and that is not to be done].”
- [R] R. Nathan arose and read in the prophetic passage, “For from Babylonia will Torah go forth, and the word of the Lord from Nehar Peqod.”
- [S] They said to him, “[It is written,] ‘For from Zion will Torah go forth, and the word of the Lord from Jerusalem.’”
- [T] He said to them, “[The Torah is] with us. [Your decrees are not authoritative.]”
- [U] [Hananiah] went and complained about them to R. Judah b. Batera in Nisibis. He said to them,” ‘After them ... after them ...’ [meaning, one must accept the authority of the majority].”
- [V] He said to him, “Do I not know what is over there? What tells me that they are masters of calculating the calendar like me? Since they are not so well informed as I am in calculating the calendar, let them listen to what I say.”
- [W] [*He replied,*] “*And since they [now] are masters of calculation as much as you, you must listen to them.*”
- [X] *He rose up and mounted his horse. Places which he reached, he reached, [and there he retracted his intercalation,] and the ones he did not reach observed the holy days in error.*

[Y] It is written, “[These are the words of the letter which Jeremiah the prophet sent from Jerusalem] to the rest of the elders of the exiles” (Jer. 29:1).

[Z] Said the Holy One, blessed be he, “The elders of the exile are most valuable to me. [Yet] more beloved to me is the smallest circle which is located in the Land of Israel, more than a great Sanhedrin located outside of the Land.”

[AA] It is written,”... and the craftsmen and the smiths, one thousand” (2 Kings 24:16) – and you say this! [Namely, how can you say that the smallest circle in the Land is more beloved than the important Sanhedrin abroad? The craftsmen and smiths are assumed to be disciples of sages, and they are many and important in Babylonia.]

[BB] R. Berekhaiah in the name of R. Helbo and rabbis:

[CC] R. Berekhaiah in the name of R. Helbo said, “The craftsmen were one thousand, and the smiths one thousand in number.”

[DD] And rabbis say, “All of them together added up to a thousand.”

[EE] R. Berekhaiah in the name of Rabbi: “These are the apprentices [to the courts].”

[FF] And rabbis say, “They are the councillors.”

[GG] *R. Hoshaiah, when he would receive testimony*

*[concerning the new moon]
would do so very graciously.
He would say to them, "You
must realize how important is
the testimony which you
provide, how great a sum of
money for rental of houses
depends on your evidence."*

[HH] Said R. Abuna, "And if so, then even capital cases [depend on the testimony of the witnesses to the new moon]. [For example:] In the case of a girl three years and one day old, if someone has sexual relations with her [if she is betrothed], lo, this one is subject to the death penalty by stoning. But if the court should decide to intercalate the year, and such a one should have sexual relationships with the same girl [now not yet three years and one day old], he is not subject to the death penalty by stoning."

[II] Said R. Abin, "I cry to God Most High, to God who fulfills his purpose for me' (Ps. 57:2). As to a girl three years and one day old, if the court decides to intercalate the year, the signs of virginity return, and if not, the signs of virginity do not return."

**[JJ] "The laying of hands
[on a community
sacrifice] by elders and
the breaking of the**

heifer's neck are done by three judges," the words of R. Simeon. R. Judah says, "By five" [M. San. 1:2G-H].

[KK] What is the Scriptural basis for the opinion of R. Simeon? [Scripture states, "And the elders shall lay on hands ..." (Lev. 4:15).

6:9

[A] [He who takes a vow not to eat] cabbage is forbidden from asparagus [deemed a species of the cabbage genus].

[B] [He who takes a vow not to eat] asparagus is permitted to have cabbage.

[C] [He who takes a vow not to have] grits is forbidden to have grits pottage.

[D] And R. Yosé permits it.

[E] [He who takes a vow not to eat] grits pottage is permitted to have grits.

[F] [He who takes a vow not to eat] grits pottage is forbidden to eat garlic.

[G] And R. Yosé permits it.

[H] [He who takes a vow not to eat] garlic is permitted to eat grits pottage.

[I:1 A] *What is the reason for the position of R. Yosé?* Because it is called by the name of its source.

[B] *In the opinion of R. Yosé,* he who vows not to have wine would be permitted to have spiced wine [which does not bear the same name, but that in fact is wine and prohibited].

[II:1 A] **He who takes a vow not to have grits is forbidden to have grits pottage [M. 6:9C].**

[B] And that rule applies when the greater part of the pottage is grits.

[III:1 A] **He who takes a vow not to eat grits pottage is forbidden to eat garlic [M. 6:9F].**

[B] Does that rule apply when the greater part of the mixture is garlic?

[C] In one case you follow the criterion of the dominant flavor, and in the other case you follow the criterion of the dominant component of the mixture. [When there is garlic, that is the principal ingredient.]

6:10

[A] **[He who takes a vow not to eat] lentils is forbidden from eating lentil cakes.**

[B] **And R. Yosé permits.**

[C] **[He who takes a vow not to eat] lentil cakes is permitted to eat lentils.**

[I:1 A] *R. Yosa went to R. Yosé and the latter brought to him lentils which had been parched, milled, kneaded in honey, and then fried. He said to him, “These are the lentil cakes of which sages have spoken [at M. 6:10C].”*

6:11

[A] **[He who says, “Qonam] if I taste [a grain of] wheat or wheat [ground up in any form]” is forbidden from eating it, whether it is ground up or in the form of bread.**

[B] **[If he said, “Qonam if I eat] a grit [or] grits in any form,” he is forbidden from eating them whether raw or cooked.**

[C] **R. Judah says, “[If he said,] ‘Qonam if I eat either a grit or a [grain of] wheat,’ he is permitted to chew them raw.”**

[I:1 A] *It was taught: R. Judah says, “... Qonam be a grit if I taste it,’ he is forbidden to chew one, but permitted to eat it in a pottage.*

[B] *“... grits if I taste them ...,’ he is forbidden to eat them in a porridge but permitted to chew them.*

[C] *“... a grain of wheat if I taste it ...,’ he is forbidden to chew it but permitted to eat it in a piece of bread.*

[D] *“... grains of wheat if I taste them ...,’ he is forbidden to eat them in bread, but permitted to chew them.”*

[E] He has said, “A grain of wheat [C],” and you say this [that it is prohibited to eat it in a piece of bread?

[F] *Said R. Yosé, “That is the usual way with people. Once someone sees a good piece of bread, he says, ‘Blessed be He who made this grain of wheat.’”*

YERUSHALMI NEDARIM

CHAPTER SEVEN

7:1

[A] He who vows not to eat vegetables is permitted to eat gourds.

[B] And R. Aqiba prohibits [him from eating gourds].

[C] They said to R. Aqiba, “And does not a man say to his messenger, ‘Buy me vegetables,’ to which the other replies [upon his return home], ‘I found only gourds?’”

[D] He said to them, “And that is just how things are! But would he say to him, ‘I found only pulse?’”

[E] “But gourds are in the general category of vegetables, while pulse is not in the general category of vegetables.”

[F] And [if he vowed not to eat vegetables] he is prohibited from eating Egyptian beans when they are fresh, but he is permitted to eat them when they are dried.

[I:1 A] [40b] [A] *Is the theory of R. Aqiba [that the agent says,] “I found one thing, and I did not find the other thing”?* [That is, the agency has shifted, since he found gourds but not vegetables. In that case would he maintain the same with the usage of ‘meat’ – that is, including under the category of ‘meat’ fish or locusts? For an agent sent for meat might not bring back meat but might bring back fish or locusts. That is the force of the question that follows:] If so, in the case of him who vows not to eat meat, would he be prohibited also to eat the meat of fish and locusts? For along these same lines, a man says to his fellow, “Buy me meat,” and he will reply to his fellow, “I found only fish.”

[B] [No, that cannot be Aqiba’s reasoning.] *Rather, R. Aqiba supposes that gourds are in the general category of vegetables [M. 7:1E], while rabbis maintain that gourds are not in the general category of vegetables.*

[C] So too with respect to commercial law the dispute is the same. If someone said to a purchaser, “These garden vegetables are sold,” and

there were gourds there, *in the view of R. Aqiba*, they are included in the sale. In the view of rabbis, they are not included in the sale.

[D] So too in matters of law declaring property ownerless or consecrated the rule is the same.

[E] *R. Jacob bar Aha, R. Hiyya in the name of R. Yohanan: “The opinion of the minority authority here is the same as that of the consensus of sages [stated without assignment to a given name] there, and the opinion of the minority authority there is the same as that of the consensus of sages here.”*

[F] *For it has been taught: **He who takes a vow not to eat meat is prohibited from eating every kind of meat [M. 6:6]. He is prohibited from eating the head, the feet, and the windpipe, and [he is prohibited from eating] fowl. But he is permitted to eat the flesh of fish and locusts. Rabban Simeon b. Gamaliel says, “He who vows not to eat meat is prohibited from eating all kinds of meat. But he is permitted to eat the head, the feet, and the windpipe, fowl, fish, and locusts.” And so did Rabban Simeon b. Gamaliel say, “The innards are not the meat, and people who eat them are not men” [T. Ned. 3:5]. [Simeon b. Gamaliel concurs with rabbis vis-a-vis Aqiba, and Aqiba’s view is the same as that of the anonymous authority before us.]***

- [I:2 A] All concur that he who takes vow not to eat gourds is permitted to eat vegetables [M. 7:1A].
- [B] *This is in line with that which is taught:* He who takes a vow against a given genus is prohibited to benefit from a species of that genus. He who takes a vow against a species of a given genus is permitted to derive benefit from the genus itself.
- [C] [For example:] he who takes a vow against eating meat is prohibited from eating the sinews. He who takes a vow against eating the sinews is permitted to eat the meat.
- [D] *Where there is a dispute is with regard to Egyptian gourds. But as to Greek gourds, all parties concur that they are in the status of vegetables.*
- [E] *R. Qerispa in the name of R. Yohanan: “In all these towns [where we live] the gourds that we eat are in the category of Greek gourds.”*
- [F] R. Yuda bar Seredayya says, “Yellow gourds are in the category of vegetables.”

[G] *R. Jonah and R. Yosé raised the question: “What is the law as to yellow gourds’ being liable to tithes?”*

[H] Bar Qappara taught, “Yellow gourds are exempt from tithes.”

[I] *That which you have just now stated applies* before they have actually turned into gourds. But once they have turned into gourds, they are in the status of vegetables [and so are liable to tithes.]

[J] *R. Yosé gave the decision concerning* the leaves of colocasia that it is prohibited to draw water with them in the Seventh Year because deer eat them, [and in the Seventh Year one may not destroy food which is serviceable for beasts].

[K] He who takes a vow against eating vegetables – what is the law as to his being permitted to eat various kinds of hepatoria, e.g., Napu, Melissophylon, and Colocasia?

[L] *Both R. Isaac bar Haqila, R. Joshua b. Levi say,* “Colocasia is deemed a vegetable so far as tithing, the laws of the Seventh Year, the rules on the corner of the field, and the prohibition of sewing mixed seeds in a vineyard. But as to vows, it is a question.”

[I:3 A] He who takes a vow against eating vegetables – what is the law as to his being permitted to eat dried vegetables?

[B] *Let us derive the answer from the following: He is prohibited from eating Egyptian beans when they are fresh, but he is permitted to eat them when they are dried* [M. 7:1 F] The rule covers only Egyptian beans, that is, a kind of produce which is subject to a particular harvest season. Lo, as to something which is not subject to a particular harvest season, one is prohibited even with regard to what is dried.

[I:4 A] **He who vows not to eat what is due from the earth is prohibited from eating cucumbers, gourds, and chate-melons but permitted to eat fruit which grows on trees** [T. Ned. 4:3A].

[B] **He who vows not to eat the produce of a given year is prohibited from eating all the produce of that year.**

[C] **But he is permitted to eat ~meat of the] calves, lambs, sheep, and milk, and pigeons [produced that year].**

[D] **If he said, “Qonam if I taste what is] produced in ~this] year,” he is prohibited from eating all of them** [T. Ned. 4:1A-C].

[E] **He who vows not to drink fruit juice is prohibited from all kinds of sweet juice but permitted to drink wine [T. Ned. 4:3B].**

[F] *This accords with the view of him who said that in vows they follow ordinary usage. But in accord with the view of him who said in vows they follow the usage of the Torah, the Torah has called [wine] juice. “Your juice” refers to wine.*

7:2

[A] **“He who vows not to eat grain is forbidden to eat dried Egyptian beans,” the words of R. Meir.**

[B] **And sages say, “He is prohibited only from eating the five varieties [wheat, barley, spelt, goat grass, and oats].”**

[C] **R. Meir says, “He who vows not to eat [field] produce is forbidden only to eat the five varieties. But he who vows not to eat grain is prohibited from eating all kinds of grain. But he is permitted to eat fruit of trees and vegetables.”**

[I:1 A] *What is the operative consideration behind the ruling of R. Meir? Dry Egyptian beans are] the bread of the Holy Land [therefore implied in a vow against eating grain].*

[B] *What is the operative consideration behind the view of rabbis? When one vows against eating grain, he means, home grown grain [that is, the five species of grain natural to the Land].*

[C] *There we have learned in the Mishnah: **He who takes a vow against eating bread and grain is forbidden these five species: wheat, barley, spelt, goat-grass, and oats,” the words of R. Meir [M. Hal. 1:2].** Now lo, he who takes a vow not to eat bread and grain – shouldn’t he be forbidden to eat all kinds of grain, in rabbis’ view? [It is assumed that sages dispute with Meir on two counts: [1] he who vows against grain is prohibited only to eat these five, and [2] he who vows against bread and grain is forbidden all kinds. Now is it not so that “bread” and “grain” derives only from the five species?]*

[D] *R. Hiyya in the name of R. Yohanan: “The Mishnah has said this: He who takes a vow from bread is forbidden only to eat them [M. Hal. 1:2] – [but he who vows against grain is forbidden to eat anything, thus interpreting Meir’s language].”*

[E] *With what sort of case do we deal [when we say that he who vows against bread and grain is prohibited from eating what is made of the five species]? If one refers to, “bread as defined by the Torah,” then one who says, “...grain as defined by the Torah,” should be*

prohibited to eat all things, for it is written, “Grain of the vineyard” (Dt. 22:9), meaning, wine! If one refers to “bread without further specification, then nothing is called bread without further specification except for that which is made from wheat or barley alone!

[F] *Said R. Yosé, “Interpret the law to deal with a setting in which people eat all kinds of bread made from all kinds of suitable grain. Bread without further specification, then, refers only to that which is made of the five listed species of grain alone.”*

7:3

[A] **He who vows not to wear clothing is permitted to wear sacking, curtains, or hangings.**

[B] [If] **he said, “Qonam if wool touches me,” he is permitted to wear wool shearings.**

[C] [If he said, “Qonam if] **flax touches me,” he is permitted to wear stalks of flax.**

[D] **R. Judah says, “All depends upon the one who makes the vow:**

[E] **“[If] he was bearing a burden and was sweating and breathing heavily [and] said, ‘Qonam if wool and flax touch me,’ he is permitted to wear them as clothing but prohibited to throw them over onto his back [as a bundle].”**

[I:1 A] **He who vows not to wear clothing is prohibited from putting on a belt or a *fascia*.**

[B] **But he is permitted to put on a leather coat, a spread, shoes, pants, and a hat [T. Ned. 4:3H-I].**

[C] **He who takes a vow not to wear clothing is prohibited from all kinds of clothing but permitted to wear these [just now listed].**

[D] *R. Jeremiah said R. Zeira raised the question: “If he said, ‘Qonam be clothing, which I shall not don, with which I shall not cover myself’ – [which of the two statements do we enforce?]” [B-C refers to things which are not clothing, but which do cover the body. This question is not answered.]*

[I:2 A] **R. Simeon b. Eleazar says, “As to that which is usually used for clothing, and that which comes from it is usually used for clothing, and one has taken a vow not to make use of it – he is prohibited [Y.:permitted] also from making use of what comes from it.**

[B] **“[If he took a vow] not to use what comes from it, he is prohibited from making use of it.”**

[C] *What would be examples? For instance, hides.*

[D] **“As to something usually used for clothing, but what comes from it is not usually used for clothing, and one has taken a vow not to use it – he is permitted to make use of what comes from it.**

[E] **“[If] he took a vow not to use] what comes from it, he is permitted to make use of it.”**

[F] *What would be examples? For instance, garments made of goatskins [the hair of which is not used for clothing].*

[G] **“As to something which is not usually used for clothing but what comes from it is usually used for wearing, and one has taken a vow not to make use of it,**

[H] **“this one has intended only to refrain from using what comes from it” [T. Ned. 3:4B-G].**

[I] *What would be examples?*

[J] R. Yosé b. R. Bun: “For instance, the wool of a vine [that is, cotton~.”

[II:1 A] *Thus is the meaning of the Mishnah [at M. 7:3E], If he was bearing a burden and was sweating ..., and said, ‘Qonam if wool and flax touch me, ‘ he is forbidden to wear them as clothing but permitted to throw them over onto his back [as a bundle].*

7:4

[A] **“He who vows not to enter a house is permitted to enter the upper room,” the words of R. Meir.**

[B] **And sages say, “The upper room is covered by the category of the house [and he is prohibited from entering it].”**

[C] **He who vows not to enter the upper room is permitted to enter the house.**

[I:1 A] The statement of R. Meir would apply in a town [in which the upper room is not called part of the house]. [But in villages the upper room is part of the house. We take context into account.]

7:5

[A] **“He who vows not to use a bed is permitted to use a couch,” the words of R. Meir.**

[B] **And sages say, “A couch is covered by the category of the bed [and he is prohibited from making use of a couch].”**

[C] **He who vows not to make use of a couch is permitted to make use of a bed.**

[I:1 A] *In the case of mourning rites,] it was taught, a couch is overturned and not overturned [that is, it is leaned on its side].*

[B] R. Simeon b. Eleazar says, “One unties its thongs, and that suffices.”

[C] R. Yosah in the name of R. Joshua b. Levi: “The law accords with the view of R. Simeon b. Eleazar.”

[D] R. Jacob bar. Aha in the name of R. Isi: “As to a bed, the poles of which are connected by a cross-pole so as to form a slanting cover – one removes it, and that suffices.”

[I:2 A] What is a bed and what is a couch?

[B] Said R. Jeremiah, “A bed is any, on the outside of which the knots are tied, and a couch is any, on the outside of which the knots are not tied.”

[C] *And lo, we have learned: **The bed and the cot [become susceptible to uncleanness] when one will have rubbed them with fish skin [M. Kel. 16:1D].*** Now if the bed has its ropes tied on the outside of it, then, for what purpose will it be necessary to rub it?

[D] Said R. Eleazar, “Interpret the rule to apply to a Caesarean crib, which has holes [through which the ropes are passed].”

7:6

[A] **He who vows not to enter a city is permitted to enter into the border of the city but prohibited from entering into its confines.**

[B] **But he who vows not to enter a house is prohibited from entering beyond the jamb of the door and inwards.**

[I:1 A] How do we know that the confines of the town are equivalent to the town?

[B] It is written, “When Joshua was in Jericho” (Josh. 6:13). Now was he in Jericho? It is written, “Jericho was shut up from within and from

without” and yet you say this? [It must mean that he was within the confines, but not the town itself.]

[C] Said R. Judah bar Shalom, “He was on the outskirts.”

[D] R. Abun in the name of R. Aha, “He was in Jericho itself.”

[I:2 A] *R. Mana asked, “Does this [M. 7:6B] not differ from the view of R. Yohanan? For R. Yohanan said, “In vows they follow ordinary usage.” [People usually mean when they say, “a house,” from the entry into the house.]*

[B] *Is it not the way of people, that when they see someone at the gate of a city, they prefer to say, “In Tiberias I saw him”? [Here too the doorway of the house is equivalent to the house itself, and not merely the specified fraction thereof.]*

7:7

[A] [He who says,] “Qonam be these pieces of fruit for me,” “They are Qonam for my mouth,” “They are Qonam to my mouth,” –

[B] he is prohibited [from eating] whatever he may exchange for those [pieces of fruit] and whatever grows from them as well.

[C] [If he says, “Qonam if ~ I eat [these pieces of fruit].” [“Qonam] if I taste them,”

[D] he is permitted to eat whatever he may exchange for those pieces of fruit and whatever grows from them.

[E] [This is the case] of something the seed of which perishes.

[F] But in the case of something the seed of which does not perish, even what grows from it is prohibited.

[I:1 A] *For what interval [does the prohibition at M. 7:7F of what grows from the produce apply, when the seed does not perish]?*

[B] *The answer is in accord with that which R. Jacob bar Idi said in the name of R. Yohanan, “For three growing seasons it is forbidden, and at the fourth it is permitted,” and so is the law here. [That is, three crops grown from those seeds will be prohibited. The fourth and beyond will be permitted.]*

7:8

[A] He who says to his wife, “Qonam be [the results of] the work of your hands for me,” “They are qonam for my mouth,” “They are qonam to my mouth” –

[B] he is prohibited to make use of things exchanged for them or things which grow from them as well.

[C] [If he said, “Qonam] that I shall not eat,” or “That I shall not taste,”

[D] then he is permitted to eat or taste things exchanged for them and things which grow from them.

[E] This is the rule for something the seed of which perishes.

[F] But in the case of something the seed of which does not perish, even things which grow from the things which grow from them are prohibited.

[G] [He who says, “Qonam] be what you are making if I eat it until Passover,” “Be what you are making if I wear it until Passover,”

–

[H] [if] she prepared [these things] before Passover, he is permitted to eat or to wear [what she has made] after Passover.

[I:1 A] *The meaning of the Mishnah [at M. 7:8G] is this: “What you make until Passover, I shall not eat, what you make until Passover I shall not wear.”*

7:9

[A] [If he said, “Qonam be to me] what you are making until Passover if I eat it,” “What you are making until Passover if I wear it,” –

[B] [if] she prepared these things before Passover, he is prohibited from eating or wearing [what she has made] after Passover.

[I:1 A] *The meaning of the Mishnah is this: “What you make until Passover I shall never wear” [for his meaning is to prohibit what she makes from now until Passover, and the prohibition is without limit in this phrasing of the matter].*

7:10

[A] [He who says, “Qonam] be what you enjoy on my account before Passover if you go to your father’s house before the Festival of Sukkot,”

[B] [if] she went before Passover, she is prohibited from deriving benefit from him until Passover.

[C] [If she went] after Passover, she is subject to having violated the rule, “He shall not profane his word” (Num. 30:2).

[I:1 A] *And the wife is prohibited from deriving benefit from him from that point, lest she go after Passover, so it will turn out that the benefit she derives will have been prohibited retroactively.*

7:11

[A] [He who says, “Qonam] be what you enjoy on my account up to the Festival of Sukkot if you go to your father’s house before Passover,”

[B] and she went to her father’s house before Passover,

[C] she is prohibited from deriving benefit from him up to the Festival of Sukkot.

[D] But she is permitted to go to her father’s house after Passover.

[I:1 A] And the wife is prohibited from deriving benefit from him from that point, lest she go before Passover, so that it will turn out that the benefit she derives will have been prohibited retroactively.

YERUSHALMI NEDARIM

CHAPTER EIGHT

8:1

- [A] [He who says,] “Qonam if I taste wine today,” is prohibited only to nightfall.
- [B] [If he referred to] “this week,” he is prohibited the entire week, and the Sabbath [which is coming, is included] in that past week.
- [C] [If he referred to] “this month, “he is prohibited that entire month, but the day of the New Month [is assigned] to the coming month.
- [D] [If he referred to] “this year, “he is prohibited that entire year, but the New Year[‘s day] is assigned to the year which follows.
- [E] [If he referred to] “this septennate, “he is prohibited that entire septennate, and the Seventh Year is assigned to the last septennate [and is included in the vow].
- [F] And if he said, “One day,” “One week,” “One month,” “One year,” “One septennate,” he is prohibited from that day until the same day [or month, year, or septennate following].
- [I:1A] [40d] [With reference to M. 8:1A,] lo, once it gets dark, he is permitted [to drink wine]. [So at dark the day ends.]
- [B] *Does this view not differ from that of R. Yohanan, for R. Yohanan has said, “In vows they follow the usage of ordinary people.” [Ordinary usage includes the night with the preceding day.]*
- [C] *And is it not the way of people to say to one another at evening, “I didn’t eat a thing today”?*
- [D] *And did he say, “Yesterday”?* [“I didn’t eat a thing yesterday,” stated at the evening, would be an unusual usage. When someone speaks in the evening of “today,” he must mean the day which has come to an end at sundown. Accordingly, people refer at evening to the preceding day as “today,” and this poses a problem to Yohanan, for why, in this case, should he not be forbidden to drink wine that evening?]

- [E] *Take a different way of putting matters, and will he then differ? [For one may say,] is it not the way of people to say to one another in the morning, “I didn’t eat a thing today”? Now is he refer-ring to that day? [Is not the reference to the preceding night? So in ordinary usage “today” may well refer to the preceding night as much as not.]*
- [F] Nonetheless, will the passage not differ [from Yohanan’s view]?
- [G] [If someone said to his fellow,] “This day,” [he may mean,] “Any time this week.” [Or if he said,] “This week,” [he may mean,] “From today onward.” So if he said, “This day,” he means, “From this day onward.” [In any event, Yohanan must explain why, in ordinary usage, the evening is permitted at M. 8:1A.]
- [H] [The answer is that the Mishnah’s formulation does differ from Yohanan’s view, and if it were] in accord with him who said, “In vows they follow ordinary usage,” [the night would not be permitted for drinking wine].
- [I] *But here the Mishnah accords with the view of him who said, “In vows they follow the usage of the Torah.”*
- [J] *[That is not so. One who holds that the law is in accord with ordinary usage may interpret this passage in a satisfactory way, for] R. Jonah of Bosrah said, “So people say to one another, ‘Wait for me today,’ [meaning, only down to nightfall].”*
- [I:2 A] ***There we have learned, If he said, “Until the beginning of Adar,” it applies until the beginning of the First Adar [and not the intercalated one]. If he said, “Until the end of Adar,” it applies until the end of the First Adar [M. 8:6B-C]. Is that to suggest that Nisan is the new year as to vows? [Would one then be prohibited, if he took a vow for “this year,” only up to the end of the intercalated year?]***
- [B] [No, that is not the case.] Tishré is the new year for vows. [The reason that one would be prohibited both for the month and for its intercalated time as well] is so that you should not conclude that the celebration of the new month of Adar should take the place of Elul, in which case it will be permitted to drink wine in Elul. On that account it was necessary to state that one is prohibited [by the vow] to drink wine both during the month [of Adar] and during the intercalated month as well.
- [II:1 A] **And if he said, “One day,” “One week,” “One month,” “One year,” “One septennate,” he is prohibited from that day until the same day [month, year, or septennate] following [M. 8:1F].**

- [B] *It was taught:* From that day until the same day.
- [II:2 A] R. Aha, R. Abbahu in the name of R. Yosé b. Haninah: “It is forbidden to a person to fast on the Sabbath beyond six hours [noon].”
- [B] *Said R. Yosé, “The Mishnah itself has made the same statement: **If they were fasting, and it rained for them before sunrise, they should not complete the fast** [M. Ta. 3:9A].”*
- [C] Up to that point it is dawn. **If it rained after sunrise, they should complete the day in fasting** [M. Ta. 3:9B].
- [D] For the greater part of the day already has passed in a status of sanctification. [It follows that up to the midpoint of the day it is deemed to have been a day observed in fasting. Hence one may not fast up to the midpoint of the day on the Sabbath.]
- [II:3 A] *From a statement made by R. Yohanan it follows that people may declare themselves in a fast for a period merely of hours.*
- [B] For R. Yohanan said, “Lo, I shall remain in a fast until I have completed my chapter [of Mishnah, on which I am now working, or] until I complete the passage [of Scripture on which I am now working].”
- [C] *From a statement of R. Jonah it follows that people may declare themselves in a fast for a period merely of hours.*
- [D] *For R. Jonah was in Tyre, and he heard that R. Yosé’s son was dying. Even though he had already eaten cheese and drunk water, he observed a fast for all the rest of that day.*
- [E] *From a statement made by Rab it follows that people may declare themselves in a fast for a period merely of hours.*
- [F] For Rab said, “[If one is fasting and cannot complete the day,] he borrows [hours of fasting from some other day, but then] he pays back [the needed hours, by fasting on that other day].”
- [G] [Asking whether one must indeed pay back the hours he did not fast in completion of the day,] Samuel said, “Now is this a vow?”
- [H] If one has taken a vow to fast and forgotten and eaten an olive’s bulk of food, he has lost the time already observed as a fast [since he can make it up on some other day anyhow].
- [I] *R. Ba in the name of rabbis over there:* “And that rule applies if he had taken a vow to fast for a day without further specification. But

if in taking the vow he had said, ‘This day,’ then he must complete fasting on that same day.”

[J] He has said only that he would not eat. Lo, if he merely tasted, it is not in such a case that he loses the time already observed.

[K] *R. Ba Hasida in the name of R. Zeira, “Lo, as to merely tasting something [without swallowing it], there is no consideration of having to say a blessing, or of having stolen [from someone else], or of having violated the rules governing doubtfully tithed produce, or of having interrupted his fast.”*

[II:4 A] An individual who decreed a fast upon himself may eat and drink once it gets dark.

[B] But if he had said that it was part of a public fast, then he may eat or drink while it is still day.

[C] If one took a vow to fast, and festival days and Sabbaths intervened [in that period], he is flogged [for violating the fast by eating], but he does not require the release of a sage [for his vow] .

[D] If he vowed and days listed in the Fasting-Scroll intervened [on which he was not supposed to fast] –

[E] R. Hezekiah, R. Yudan, R. Jeremiah in the name of R. Hiyya bar Ba –

[F] one said, “He must fast [on those days] and need not make it up.”

[G] And the other said, “He is flogged [for not fasting on those days], but he does not require the release of a sage [for his vow] .”

[H] *That rule which you stated applies* before the nullification of the rules of the Fasting-Scroll. But once the rules of the Fasting Scroll were annulled, all of these considerations no longer applied.

[I] *Both R. Hananiah and R. Yohanan say, “The Fasting-Scroll has been nullified.”*

[J] R. Joshua b. Levi said, “The Fasting-Scroll has been nullified.”

[K] Said R. Yohanan, “Last night I was sitting and repeating the following: M’SH S:They decreed a fast on Hanukkah in Lod. R. Eliezer went and told R. Joshua. R. Joshua washed [which is not to be done on a fast] and said to them, ‘Go and observe a fast as a penalty for having fasted.’ Now how can you say, then, that the rules of the Fasting-Scroll have been nullified [since the Scroll says one may not fast on Hanukkah, and we see that

Eliezer and Joshua maintain that indeed one may not fast on Hanukkah]?”

[L] *Said R. Abba, “Even though you maintain that the rules of the Fasting-Scroll have been nullified, as to the celebration of Hanukkah and Purim they have not been nullified.”*

[M] *From the following statements of rabbis we learn that the rules of the Fasting-Scroll have been nullified.*

[N] *R. Jonathan fasted on the entire eve of the New Year.*

[O] *R. Abin fasted on the entire eve of the Festival of Sukkot.*

[P] *R. Zeira fasted three hundred fasts, and some say, nine hundred fasts, and he paid no attention at all to the days listed by the Fasting-Scroll on which one is not supposed to fast.*

[Q] *R. Jacob bar Aha gave instructions to scribes: “If a woman should come and ask you, say to her, ‘On all days it is permitted to fast, except for the Sabbath, festival days, the celebrations of the first day of a new month, the intermediate days of the festivals [of Passover and Tabernacles], Hanukkah, and Purim.’”*

8:2

[A] [If he said,] **“To Passover,” he is prohibited until it comes.**

[B] [If he said,] **“Until it will be [Passover],” he is prohibited until it is over.**

[C] [If he said,] **“Until before Passover,”**

[D] **R. Meir says, “He is prohibited until it comes.”**

[E] **R. Yosé says, “He is prohibited until it is over.”**

[I:1 A] *R. Jeremiah raised the following problem before R. Zeira: “The opinions assigned to R. Meir are at variance with one another, and the same is so for R. Yosé. There [in connection with **M. Qid. 3:9:He who has two groups of daughters by two wives in succession, and who said, ‘I have betrothed my oldest daughter, but I do not know whether it is the oldest of the older group or the oldest of the younger group or the youngest of the older group who is also older than the oldest of the younger group’** – ‘all of them are prohibited to marry without a writ of divorce, except for the youngest of the younger group,’ the words of R. Meir. R. Yosé says, ‘They are all permitted, except for the oldest of the older*

group’], [Yosé’s view is expressed as follows:] ‘It is until all of the possibilities of marrying off the members of the elder group have passed,’ or ‘... of the younger group...’ And here he has said this! [That is, here Yosé accepts the possibility that a person will use language susceptible of diverse meanings, which is why the language of M. 8:2C is given a stringent meaning, and at M. Qid. 3:9 he maintains that one will not mean more than one, obvious thing, which is why all the daughters are permitted. Accordingly, the principle by which Yosé interprets the language here and that used there are at variance with one another, and the same is so for Meir.]’

- [C] [Ridiculing this question,] he said to him, “**When Ben Azzai and Ben Zoma died, the truly diligent students passed from the scene’ [M. Sot. 9:15].** There was no further diligent student until Jeremiah here came along!”
- [D] *Said R. Ba, son of R. Hiyya bar Va, ‘Why does he criticize him? Did not R. Eleazar raise the same question before R. [41a] Yohanan: ‘The opinions assigned to R. Yosé are at variance with one another’?’*
- [E] *He said to him, “It is not that their opinions are at variance. The problem lies in a confusion in the readings of the Mishnah itself. And so it has been taught by the house of Rabbi: If he said, ‘Until before Passover,’ R. Meir says, ‘He is prohibited until it is over.’ R. Yosé says, ‘He is prohibited until it comes.’”*
- [F] *We wish to explain the language, **Until before ...**, and you say this [that the dispute has to do with whether someone will use language susceptible of diverse meanings and so impose a state of doubt upon himself]?*
- [G] Said R. Zeira, “They are disputing about usages of language [and not about that principle]. [The sole issue is what people mean when they say this.] The meaning then is, ‘Until before Passover.’”
- [H] Said R. Abin, “All concur that on Passover he is released from the vow. *What they dispute concerns* the two weeks before Passover. One party maintains that it is before that preparatory period arrives, and the other maintains that it is when it is over, [and Passover itself has come].”

8:3

- [A] [If he said,] “**Until harvest,**” “**Until vintage,**” “**Until olive gathering,**” **he is forbidden only until it comes.**

[B] This is the general principle: As to any occasion whose time is fixed, if he said, “Until it comes,” he is prohibited until it comes.

[C] [If] he said, “Until it will be,” he is prohibited until it is over.

[D] But as to any occasion whose time is not fixed, whether he said, “Until it will be,” and whether he said, “Until it comes,” he is prohibited only until it comes.

[I:1 A] If one has set a time for the marriage banquet of his son and said, “*Qonam* be wine, which I shall not even taste, until the banquet comes,” do we interpret this language as setting a fixed time for the banquet [in line with M. 8:3B], in which case the vow applies until the affair has begun? Or do we maintain that, since he can postpone the banquet to a later time, it is as if its time is not set? [This question is not answered.]

8:4

[A] [If he said,] “Until summer [harvest],” “Until it will be summer [harvest],” it applies until the people will begin to bring in produce in baskets.

[B] [If he said,] “Until summer [harvest] is over,” it applies until the knives are put away.

[C] [If he said,] “Until the harvest,” it applies until the people begin to harvest the wheat crop but not the barley crop.

[D] All is in accord with the place in which he takes his oath:]

[E] If it was in the mountain, [we follow conditions in] the mountain.

[F] And if it was in the valley, [we follow conditions in] the valley.

[I:1 A] What are the baskets [to which M. 8:4A makes reference]? Are they baskets for figs or for grapes?

[B] *Let us derive the answer from the following: Until the knives are put away [M. 8:4B].*

[C] Can you say that knives are for figs, and not knives for grapes? [Obviously not.]

[D] *Let us derive the answer from the following [that the usage would refer to figs, not grapes]:* A load of raisins came to Tiberias. Gamaliel Zugga asked R. Ba bar Zabeda [whether one must treat these as doubtfully tithed produce]. He said to him, “The whole Land of Israel does not produce a single load of raisins [so they come from abroad, and there is no concern about doubtfully tithed produce].” And is it so that the whole Land of Israel does not produce a single load of raisins?

[That is absurd.] But this is what he said to him, “There is not a single location in the Land of Israel which produces a load of raisins.

[Accordingly, the raisins come from a variety of locations. Since we have no reason to suppose all of these do not come from abroad, we assume some of them do. Now the relevance to the question is simple: it is clear that figs, as much as grapes, are commonplace in the Land. This story indicates that grape growing is not so commonplace as is assumed above.]”

[II:1 A] “Until the harvest,” it applies until the people begin to harvest the wheat crop but not the barley crop [M. 8:4C].

[B] It is written, “... until the end of the barley harvest and the wheat harvest ...” (Ruth 2:23), and you say this [that only the wheat harvest is called a harvest]?

[C] *The reference of Scripture is to usage in the south [a barley growing area], while the Mishnah derives from Galilee, [in which barley is uncommon].*

[III:1 A] [All is in accord with the place in which he takes his oath: If it was in the mountain, [we follow conditions in] the mountain. And if it was in the valley, we follow conditions in the valley:] If when in Galilee one has taken a vow not to eat summer fruit, and then he went down into the valleys, even though the summer fruit had begun to ripen in the valleys, he is prohibited until it ripens in Galilee [cf. M. 8:4D-F].

8:5

[A] [If he said,] “Until the rains,” “Until the rains will come, “it applies until the second shower has fallen [in November]

[B] Rabban Simeon b. Gamaliel says, “Until the time of the second shower comes.”

[C] “[If he said,] ‘Until the rains stop,’ it applies until Nisan is wholly passed,” the words of R. Meir.

[D] R. Judah says, “Until Passover is passed.”

[I:1 A] *R. Zeira proposed,* “If one has said, ‘Until the rain,’ he is prohibited until the final rain has fallen.”

[I:2 A] *There we have learned: He who says, “Lo, I pledge myself to give wood,” should give no less than two pieces [M. Sheq. 6:6A].*

[B] *R. Yosé b. Rabbi said R. Ba bar Mamel proposed,* “If he said, ‘Lo, I pledge myself to give a piece of wood,’ he must bring a single piece.”

- [C] *Said R. Eleazar, “The Mishnah itself has said so, for this is deemed an offering by itself, and that is deemed an offering by itself. For we have learned there: **And two, with two pieces of wood in their hands** [M. Yoma 2:5E]. [This is] in order to add wood to the altar [and consequently, we learn that each piece of wood is an offering by itself].”*
- [I:3 A] *It has been taught: R. Yosé says, “Any statement which refers to the second set of rains means until the second set of rains has fallen, and any statement which does not refer to the second set of rains means until the second set of rains arrives.”*
- [B] *It has been taught: R. Rabban Simeon b. Gamaliel says, “[The reference is to a period of] seven days on which it rained without ceasing, and there is in that flow sufficient water to constitute the second rain period.”*
- [C] *And why is it called RBY’H? Because it fructifies (RB’) the land.*
- [I:4 A] *R. Meir is consistent with views of his held elsewhere, and so is R. Judah [M. 8:5C-D].*
- [B] *For we have learned there: **Up to what time do they ask for rain? R. Judah says, “Until Passover has passed.” R. Meir says, “Until the end of Nisan “ [M. Ta. 1:2E- G].***

8:6

- [A] **[If he said,] “Qonam be wine if I taste it this year,” and the year received an intercalated month, he is prohibited during the year and the added month.**
- [B] **[If he said,] “Until the beginning of Adar,” it applies until the beginning of the First Adar [not the intercalated one].**
- [C] **[If he said,] “Until the end of Adar,” it applies until the end of the First Adar.**
- [I:1 A] *Is that [M. 8:6A-B, which treat Adar as the end of “this year”] to suggest that Nisan [following Adar] is the new year as to vows?*
- [B] *[No, that is not the case.] Tishré is the new year for vows. It is so that you should not conclude that the celebration of the new month of Adar should take the place of Elul, in which case it will be permitted to drink wine in Elul. On that account it was necessary to state that one is prohibited by the vow to drink wine during the month of Adar and during the intercalated month as well [M. 8:6A].*

- [I:2 A] R. Abin in the name of R. Ila, “And that rule [as given in M. 8:6B, **If he said, “Until the beginning of Adar,” it applies until the beginning of the First Adar not the intercalated one**] applies to a case in which he took the vow and afterward sages intercalated the additional month. [He could not have meant to vow for the Second Adar.] But if they added the month and afterward he took the vow, it is not in such a case that the law applies.”
- [B] As far as paying rent for a house [rented up to Adar], there is no difference.
- [C] If this party says, “It was to the First Adar,” and that party says, “It was to the Second Adar,” they must divide between them the intercalated month.
- [D] *Do you see then that in regard in vows, one does not take account [of a prohibition applying to the added month], but as to monetary cases, one does? [That is not so, since the landlord must bring evidence.]*
- [E] Said R. Hila, “That rule applies to a case in which the sages intercalated the month, and afterward the occupant rented the house. But if he rented the house and afterward they intercalated the month, *it is not to such a case that the rule applies. [The occupant gets only the First Adar.]*”
- [F] And as to dating deeds, they write, “In the First Adar,” “In the Second Adar.” But they write, “Second Adar,” merely as “Second.”
- [G] R. Judah says, “For ‘Second Adar,’ one writes a tav [standing for second in Aramaic], and that suffices.”

8:7

- [A] R. Judah says, “[If he said,] ‘Qonam be wine if I taste it until Passover will be,’ he is prohibited only up to the night of Passover.
- [B] “For this man intended to refer only until the time that people usually drink wine.”
- [C] [If] he said, “Qonam be meat if I taste it until there will be the fast,” he is prohibited only up to the night of the fast.
- [D] For this man intended to refer only to the time at which people usually eat meat.
- [E] R. Yosé, his son, says, “[If he said,] ‘Qonam be garlic if I taste it until it will be the Sabbath,’ he is prohibited only up to the night of the Sabbath.

- [F] **“For this man intended to refer only to the time at which people usually eat garlic.”**
- [G] **He who says to his fellow, “Qonam be benefit I derive from you, if you do not come and collect for your child a kor of wheat and two jugs of wine,”**
- [H] **lo, this one [the fellow] can annul his vow without consultation with a sage,**
- [I] **and say to him, “Did you not speak only to do me honor? But this [not taking your wheat and wine for my children] is what I deem to be honorable!”**
- [J] **And so: He who says to his fellow, “Qonam be benefit you derive from me, if you do not come and give my son a kor of wheat and two jugs of wine” –**
- [K] **R. Meir says, “He is prohibited until he will give [what the other has demanded].”**
- [L] **And sages say, “Also: This one can annul his vow without consultation with a sage,**
- [M] **“and one [who made the vow] says to him, ‘Lo, it is as if I have received what I demanded’”**
- [I:1 A] R. Hiyya in the name of R. Yohanan, “The dispute concerns the first of the two cases as well [that is, it applies to M. 8:7G-I as much as to J-M].”
- [B] Said R. Zeira, “The dispute concerns a case lacking further explication.
- [C] *“For how shall we interpret the matter otherwise? If in this case one party says, ‘It is because of the honor owing to me,’ and the other party says, ‘It is because of the honor owing to me,’ then all parties concur that the vow is binding [since the one who took the vow fully intended it]. [It is in no way to be abrogated. The recipient cannot say M. 8:7M.]*
- [D] “If we deal with a case in which this one says, ‘It is because of the honor owing to me,’ and that one says, ‘It is because of the honor owing you,’ all parties concur that the vow is not binding. [The proposed recipient can say M. 8:7M]. *Accordingly, the dispute concerns a case lacking further explication.* [In that case, sages maintain that when he has said, ‘It is because of the honor owing to you,’ he has conceded his position. Therefore there is no vow at all.]
- [E] “Rabbi [Meir] says that in the case of vows lacking further explication, it is treated as a case in which one has said, ‘It was because of the honor owing to me.’ And rabbis say that in the case of vows lacking

further explication, it is treated as a case in which this party has said, 'It was because of the honor owing to me, ' and that party has said, 'It was because of the honor owing to you that I made that statement.'"

[I:2 A] R. Yosa raised the following question before R. Yohanan: "[May we say that] the Mishnah conforms to the view of Rabban Simeon b. Gamaliel [and not sages in the following pericope: **[If he said,] 'Lo, this is your writ of divorce on condition that you serve father for two years,' 'On condition that you give suck to my son for two years, ' if the son died, or if the father died – or if the father said, 'I don't want her to serve me,' [if this is] not because of provocation [on the woman's part], it is not a writ of divorce. Rabban Simeon b. Gamaliel says, 'Such a writ is a valid writ of divorce.' A general principle did] Rabban Simeon b. Gamaliel say] 'Any hindrance which does not come from her – lo, this is a valid writ of divorce' [M. Git. 7:6G-M]. [Here, at M. 8:7L-M, sages say that one has the power to say, 'Lo, it is as if I have received what I demanded.' The stipulation is treated as if it has been fulfilled. The vow is now carried out. The one who took it did not cause the impossibility of carrying it out, parallel to Simeon b. Gamaliel's reasoning.]]"**

[B] *He said to him, "No, the case here, regarding vows, is different. [Rabbis will concur in the present case, but on different grounds, namely,] it is because of the consideration of releasing the vow [that the ruling is what it is, not because of the consideration operative at M. Git. 7:6]."*

[C] *Said R. Yosé, "And are we not dealing with a case of vows which do not require a sage's act of abrogation at all?" [These are merely vows of incitement.]*

[D] *Said R. Jonah, "No, that is not so. What we deal with here is a case in which one makes his vow depend upon another matter [namely, the issue of honor]. [We deal with a completely valid vow. The issue is not the case of a vow of incitement at all, as has been suggested. All parties can concur with M. 8:7G-I's view.]*

[I:3 A] *Up to this point we have dealt with a case in which the donor actually wishes to hand over the gift. [Here the proposed recipient states, "It is as if I have already received the gift," and hence the vow is fulfilled = M. 8:7M.] But in a case in which the prospective donor does not wish to hand over the gift, [what is the law]?*

[B] *He has the right to say to him, “My plan was only to put you to the test. Now that I see that you are distressed, lo, it is as if I have gotten [what I wanted, and the vow is null].”*

8:8

[A] [If] they were nagging him to marry the daughter of his sister and he said, “Qonam be what she enjoys which is mine for all times” –

[B] and so he who divorces his wife and says, “Qonam be what my wife enjoys of mine for all time” –

[C] lo, these are permitted to derive benefit from him.

[D] For this man intended [his vow] only with reference to [actual] marriage with them.

[I:1 A] Said R. Yosé, “This passage represents the view of R. Judah, who has said that all cases are settled in terms of the state of mind of the one who took the oath. [Clearly, in this case, the context defines the extent of the oath.]”

[II:1 A] **And so he who divorces his wife [M. 8:8B].**

[B] Said R. Yosé, “This passage represents the view of R. Judah, who has said that all cases are settled in terms of the state of mind of the one who took the oath.”

8:9

[A] [If] one was nagging his friend to eat with him [and the other] said, “Qonam be your house if I enter it,” “if I drink a single drop of cold water of yours,”

[B] he is permitted to enter his house and to drink cold water of his.

[C] For this man intended [his vow] only with reference to eating and drinking [but not merely coming into the house or taking a glass of cold water]

[I:1 A] Said R. Yosé, “That is to say [M. 8:9C] [if we have a case in which] one takes an oath to his fellow that he will not eat with him, [and his fellow tries to coax him to do so, the intent of the one who took the vow concerns eating] this particular food at this particular banquet.”

YERUSHALMI NEDARIM

CHAPTER NINE

9:1

[A] **R. Eliezer says, “They unloose a vow for a person by [reference to] the honor of his father or mother.”**

[B] **And sages prohibit.**

[C] **Said R. Sadoq, “Before they unloose a vow for him by [reference to] the honor of his father or mother, let them unloose his vow by reference to the honor of the Omnipresent. If so, there will be no vows!”**

[E] **But sages concede to R. Eliezer that, in a matter which is between him and his mother or father, they unloose his vow by [reference to] the honor of his father or mother.**

[41b] [I:1] **A]** [Explaining the view of sages,] rabbis say that a man may not be assumed to stand up against the honor of his father and mother [and so will not say under any condition that even though it was contrary to the honor owing to my father and my mother, I took the vow].
[Accordingly, we take any statement of regret as subject to doubt.]

[B] R. Eliezer says, “Sometimes he may stand up against [the honor of his father and his mother, as just now explained,] and sometimes he may not.”

[C] R. Eliezer concedes that after the death of a parent, he will not stand up against the honor of his father and mother [and under such circumstances he will not release the vow, as at A].

[D] All parties concur that, as to the honor owing to one’s master, a discipline will not stand up against [the honor of the master, so the rule is as at A].

[E] *For we have learned, The reverence owing to your master is tantamount to the reverence owing to God [M. Abot 4:12].*

[II:1 A] **“If so, there will be no vows:”**

[B] So there will be no vows!

[C] And has it not been written, “Moses said to the heads of the tribes of the people of Israel” (Num. 30:1).

[D] The passage of Scripture depends upon the heads of the tribes [sages], who should release their vows. [If you maintain that one releases a vow because of the honor owing to Heaven, there will be no need for sages to release vows, since they will be automatically null.] If so, you turn out to uproot from the Torah the entire passage concerning vows.

[III:1 A] **[But sages concede to R. Eliezer that, in a matter which is between him and his mother or father, they unloose his vow by reference to the honor of his father or mother:]** *R. Jeremiah raised the question: “You say, They unloose his vow by reference to the honor of his father or mother [M. 9:1E]. [Does it then follow that] as to matters which are between him and the Omnipresent, they should not unloose his vow by reference to the honor owing to the Omnipresent?”*

[B] [No, that is not the proper inference.] Now if in a matter which is between him and his mother or father, they unloose his vow by reference to the honor of his father or mother, then, *along these same lines*, they do unloose a vow for him in a matter which is between him and the Omnipresent by reference to the honor of the Omnipresent.

[C] What would be a matter involving the honor owing to the Omnipresent?

[D] For example,”... a *sukkah*, which I shall not build ...” “... a *lulab*, which I shall not take ...” “Phylacteries, which I shall not place....”

[E] *But are these examples of vows contrary to the honor owing to the Omnipresent?* [Indeed, the implications of the verses to be cited now are that the doing of these religious duties is to the advantage of the person who does them, and not to the Omnipresent.]

[F] *It is along these lines:* “If you have sinned, what do you accomplish against him? And if your transgressions are multiplied, what do you do to him? If you are righteous, what do you give to him? or what does he receive from him?” (Job 35:6-7).

[III:2 A] Said R. Yannai, “Whoever listens to his impulse to do evil [by acting in wrath and taking a vow] serves an idol.”

[B] What is the Scriptural basis for this view? “There shall be no strange god among you; you shall not bow down to a foreign god” (Ps. 81:9) – that which is strange in you you should not crown as king over you.”

[III:3 A] R. Simeon b. Levi released a vow through use the following formula: “Had you known that he who takes a vow is as if he places a chain around his neck, would you have taken the vow?”

[B] “This may be compared to an inquisitor who was going along and saw an empty neck-chain and stuck his head into it.”

[C] “It is as if ‘he has bound himself by a prohibition’ (Num. 30:3). This is in line with the verse, ‘When he took him bound in chains’” (Jer. 40:1).

[D] R. Jonathan released a vow through use of the following formula: “Had you known that he who takes a vow is like him who builds a high place [for idolatry], and he who offers on it an offering, would you have taken the vow?”

[E] *Now there is the following problem:* The penalty for idolatry is stoning to death, and vows are subject to the penalty merely of violating a negative commandment, and do you say this [that the two are comparable]?

[F] *The only valid comparison you may make is that which accords with what* R. Yannai said, “Whoever listens to his impulse to do evil [by acting in wrath] serves an idol.”

[G] R. Isaac released a vow through use of the following language: “Had you known that he who takes a vow is like him who takes plunges it into his heart, Would you have taken the vow?”

[H] “There is one whose rash words are like sword thrusts” (Prov. 12:18) –

[I] R. Haninah of Sepphoris on the name of R. Phineas “Like a sword thrust’ is not written, but rather, ‘like sword thrusts.’ After one has taken a vow not to eat a loaf of bread, woe to him if he eats it, and woe to him if he does not eat it. If he eats it, he transgresses his vow. If he does not eat it, he sins against himself. What should he do? Let him go to a sage who will release him from his vow. ‘But the tongue of the wise brings healing’” (Prov. 12:18).

[J] R. Dimi in the name of R. Isaac: “What the Torah has declared prohibited for you is not enough, but you seek to impose upon yourself a prohibition as to other matters too:’... to impose a prohibition ...” (Num. 30:3).

[K] R. Yohanan offered an opening [for absolving the vow], and the one who took the vow expressed his regret. But if he were not sorry for his vow, would he have come before Yohanan for absolution at all? [Cf. Jastrow, 2:1648.]

[L] Is this not releasing the vow on the basis of what happens afterward [which is forbidden, as we shall see]?

[M] Said R. Hela, “Regret of this kind is commonplace [and acceptable grounds for releasing the vow].”

[N] *It is in line with the following story: R. Simeon did not find grounds for releasing his vow, until one of the sages of Galilee came to him. (There are those who say it was R. Simeon b. Eleazar.) He took him from here and put him there, took him from here and put him there, until he put him into the sun to examine his garments.*

[O] They said to him, “If you had known that the elder would do this to you, would you have taken such a vow?”

[P] *He said to him, “No.” Then he released the vow.*

[Q] *They said to the elder, “How did you know to do things this way?”*

[R] He said to them, “Many years ago, I served R. Meir.” *And there are those who say, “The staff of R. Meir was in his hand, and it teaches me knowledge.”*

[S] *R. Jeremiah would release a vow and confirm it. Now whether it was because he was in doubt about releasing it, we do not know, or whether it was because the soul craves only what is forbidden to it we do not know.*

[T] *When R. Jeremiah did not want to judge a case, he would say, “My eyes are tired. ‘And by their word every dispute and every diseased spot shall be settled’ (Deut. 21:5). Scripture thus has compared settling disputes to examining diseased spots. Just as in examining spots, the issue is decided by what the eyes of the priest see, so in the matter of disputes, [41c] the matter must be settled by what the priest sees. [Since my eyes are weak, I cannot deal with your case.]”*

[U] *R. Mana took a vow not to drink his father’s wine. His father came up to him. The father said to him, “If you had known that I would be disturbed by your oath, would you have taken the vow?” He said to him, “No.” He then released him from his vow.*

[III:4 A] [As to M. 9:1E, unloosing a vow by reference to the honor of father or mother,] *how shall we interpret the matter?* If he says, “Benefit deriving from me is forbidden to father,” *then we must invoke that which was said by R. Jacob bar Aha, R. Samuel bar Nahman in the name of R. Jonathan: “They force the son to provide maintenance for the father.”*

[B] *But thus we must interpret the matter:* It is a case in which he has said, “Benefit deriving from father is prohibited to me.”

[C] *R. Mana took an oath and went up to R. Shammai. He said to him, “If you had known that people would become distant from you, because you are a constant vow taker, would you have taken such a vow?” He said to him, “No.” And he released him from the vow.*

9:2

[A] **And further did R. Eliezer say, “They unloose a vow by reference to what happens unexpectedly [a new fact].”**

[B] **And sages prohibit.**

[C] **How so?**

[D] **[If] he said, “Qonam be what I enjoy which derives from so-and-so,” and the person was appointed a scribe,**

[E] **or the person was marrying of his son in the near future,**

[F] **and he [who took the vow] then said, “If I had known that he would be appointed a scribe, or that he would be marrying of~ his son in the near future, I should never have made such an oath!” –**

[G] [If he said,] “Qonam be this house if I enter it,” and it was turned into a synagogue,

[H] [If] he said, “If I had known that it would be made into a synagogue, I should never have made such an oath” –

[I] R. Eliezer permits [declares the vow to be unbound].

[J] And sages prohibit [declare the vow to remain binding].

[I:1 A] R. Simeon in the name of R. Joshua b. Levi, “It was from Moses that R. Eliezer derived his position. For the Holy One, blessed be he, released him from a vow on the basis of what had happened unexpectedly.

[B] “Said to him the Holy One, blessed be he, ‘If you had known ‘... all the men who were seeking your life are dead ...’ (Ex. 4:19), would you have taken an oath?”

[C] (Now had they died? And were they not in fact Datan and Abiram? But they had lost all their property [so it was as if they were dead].)

[D] *Said R. Jeremiah, “[That which R. Eliezer has said applies prior to the point at which sages argued with him as to whether or not these matters are deemed events which have taken place unexpectedly. [There is in fact no proof from the case of Moses, on which account Eliezer changed his mind and accepted sages’ view.]” [R. Yosé maintains that Eliezer remained in disagreement with sages.]*

[E] *Support for the view of R. Eliezer (PM) derives from the following:*

[F] **This error did Nahum the Mede make [M. Naz. 5:3D]:**
What error did he make?

[G] It was that he released them from their own on the basis of what would happen in the future.

[H] **Nahum the Mede said to them, “Now if you had known that the Temple was going to be destroyed, would you have taken vows to be Nazirs?” [M. Naz. 5:3E].** [Nahum concurred with Eliezer, who never accepted sages’ view.]

[I] *Said R. Zeira, “[Nahum] should have said to them, ‘Did you not know that the prophets had already prophesied to you that the Temple was going to be destroyed?’ [If so, it would not be as if the event of the destruction took place later on, so that releasing the vow is] not by reason of what would*

only happen later on.” [So Nahum did not release the vow on Eliezer’s grounds at all.]

[J] Said to them R. Hela, “Still it is in the category of that which only took place later on. For they could say, ‘We know it, but we thought that these are things which were far off [and not going to happen in our own time].

[K] “‘The vision that he sees is for many days hence, and he prophesies of times far off’” (Ezek. 12:27).

[L] *Now the view of R. Jeremiah accords with the theory of R. Zeira and that of R. Yosé accords with the view of R. Hela. [Jeremiah maintains that Eliezer retracted, and this would be in line with the picture of Zeira, and Yosé holds that Eliezer did not retract, just as Hela maintains.]*

[I:2 A] *Now we have learned there: “They sell a synagogue only with the stipulation that if they want, they may take it back,” [the words of R. Meir. And sages say, “They sell it for all time, except for use for four purposes: a bathhouse, tannery, immersion pool, or urinal”] [M. Meg. 3:2A-C].*

[B] *Now up to this point the rule applies to a building which one built for use as a synagogue. If it was built for use as a courtyard and later on, one declared it sacred, what is the law?*

[C] *Let us derive the answer from the following: If one said, “Qonam be this house if I enter it,” and it was turned into a synagogue, [M. 9:2G]. [Then the sanctity inheres even if it was turned into a synagogue later on, after it was built for some other purpose.]*

[D] That is to say that one may have built it as a courtyard and consecrated it later on, in which case it is deemed consecrated.

[E] At what point does the sanctity inhere? Is it forthwith, or only when it is actually used? Let us derive the answer from the following:

[F] He who makes an ark and coverings for a [holy] scroll,

[G] before one has made use of them for the Most High, an ordinary person is permitted to make use of them.

[H] Once one has made use of them for the Most High, an ordinary person is no longer permitted to make use of them [T. Meg. 2:13A-C].

[I] Now if these were made for the purpose of a holy scroll, they are not deemed holy except when they have been used, this building, which one built to begin with for the purpose of a courtyard, is it not an argument a fortiori that it is holy only when it has been used?

[J] As to these [the ark and coverings for the scroll], if one made them for secular purposes and then sanctified them, they are deemed sanctified [just as is the building built originally as a courtyard and then sanctified].

9:3

[A] R. Meir says, “There are things which appear to be equivalent to what happens unexpectedly, but are not, in fact, treated as equivalent to what happens unexpectedly.”

[B] And sages concur with him.

[C] How so?

[D] [If] he said, “Qonam that I shall never marry so-and-so, for her father is evil,”

[E] [and] they told him, “He died,” or “He has repented,” –

[F] [if he said,] “Qonam be this house, that I shall not enter it, for there is a bad dog inside,” or, “snake inside,”

[G] [and] they told him, “The dog died,” or, “The snake was killed,” –

[H] lo, these appear to be equivalent to that which happens unexpectedly, yet are not treated as equivalent to that which happens unexpectedly.

[I] And sages concur with him.

[I:1 A] Samuel said, “It is because it is a vow made in error [that the rule is one need not even consult a sage for releasing these vows]. That is, the dog had already died, the snake had already been slain.”

[B] R. Ila in the name of R. Eleazar, “It is because he made his vow depend on an extraneous matter. It is as if he says, ‘*Qonam* that I shall not derive benefit from Mr. So-and-so, so long as he wears black clothing.’ If then he put on white clothing, he is permitted to derive benefit from him.”

[C] R. Zeira in the name of R. Yohanán, “Also he does not require the nullification of his vow by a sage under such circumstances.”

9:4

[A] **And further did R. Meir say, “They unloose his [vow] by reference to what is written in the Torah, saying to him,**

[B] **“If you had known that you would transgress the commandment, ‘You shall not take vengeance,’ or ‘You shall not bear a grudge’ (Lev. 19:18), or, ‘You shall not hate your brother in your heart’ (Lev. 19:17), or, ‘You shall love your neighbor as yourself (Lev. 19:18), or ‘That your brother may live with you’ (Lev. 25:36), [would you have taken such a vow.?] Now what happens if he becomes poor and you will be unable to help him out?”**

[C] **“And he says, ‘If I had known that matters were thus, I should never have taken such a vow’ –**

[D] **“lo, this [vow] is loosed.”**

[I:1 A] It is written, “You shall not take vengeance or bear any grudge against the sons of your own people, [but you shall love your neighbor as yourself: I am the Lord]” (Lev. 19:18).

[B] *What would be a practical illustration?*

[C] *If one was cutting meat, and the knife in his hand cut his hand, would he go and cut the other hand [which had been holding the knife]? [Hardly. Similarly, taking vengeance is injuring oneself yet again.]*

[D] “You shall love your neighbor as yourself.”

[E] R. Aqiba says, “This is the great general rule of the Torah.”

[F] Ben Azzai says, “‘This is the book of the generations of Adam’ (Gen. 5:1). This is the great general rule of the Torah.”

[II:1 A] Now what happens if he becomes poor and you will be unable to help him out? [M. 9:4B]: *Is this not similar to releasing the vow on grounds of what happens later on?*

[B] Said R. Zeira, “Poverty is commonplace [and so constitutes suitable grounds, without deeming the matter to be something which took place only later on].”

[C] *There was a man who had a case against a rich adversary. The case came for judgment before Rab. Rab sent after him [the rich defendant]. The latter said, “With such as this one am I expected to come to court? If all the camels of Arabia should come, they could not carry the keys to my treasure houses.”*

[D] *Rab heard this and said, “Now indeed does this man take such pride in what does not really belong to him at all? May there be a curse on him and his money.”*

[E] *Forthwith a decree came from the government that he and everything he owned should fall to the royal treasury.*

[F] *He came to Rab and said to him, “Pray for me, that at least he will give me back my life.” He prayed for him and he gave him back his life.*

9:5

[A] They unloose a man’s vow by reason of the wife’s marriage contract.

[B] M’SH B: A certain man vowed not to impart benefit to his wife.

[C] And her marriage contract called for a payment of four hundred denars.

[D] And he came before R. Aqiba, who required him to pay off her marriage contract.

[E] He said to him, “Rabbi, my father left [an estate worth] eight hundred denars, and my brother received four hundred, and I four hundred. Is it not enough for her if she collects two hundred and I keep two hundred?”

[F] R. Aqiba said to him, “Even if you have to sell the hair of your head, you still have to pay off her marriage contract.”

[G] He said to him, “Now if I had ever known that things were so, I should never have taken such a vow.”

[H] And R. Aqiba declared the vow to be not binding.

- [I:1 A] [As to M. 9:5F, selling the hair of one's head to pay off the marriage contract,] do they indeed collect a marriage settlement from movables [such as the hair on one's head]?
- [B] R. Ba said, "Even though you say, 'Do they collect from movables,' the court instructs him to pay off [from his real property, even though he then has to sell his hair to support himself]."
- [I:2 A] R. Miasha asked, "What is the law as to instructing the heirs to collect from bailments [Y.: encumbered property]? [That is, if the husband dies and the wife lays claim for the settlement of her marriage contract by the husband's estate, does the court instruct the estate to collect for her from movables which the husband has left as bailments in the hands of third parties? Is it as if she has acquired ownership of these bailments while he was yet alive, or not?]"
- [B] *Said R. Abba Mari, "The Mishnah has said that indeed one does not give such instructions to the estate. For we have learned there: **[Goods on deposit or a loan in the domain of others] are to be given over to the heirs. For all of them have to confirm their claim by an oath. But the heirs do not have to confirm their claim by an oath [M. Ket. 9:2].*** [Once the man dies, his estate automatically takes possession of his bailments, and the widow, to collect these properties, must take an oath that her marriage settlement has not yet been collected.]"
- [C] *What sort of oath is required of her [in the case described at M. 9:5B]?*
- [D] *There they say, "I have not collected what is owing to me from him, and am I likely to get a thing from him at all? [Would that he will at least pay me what he owes me." Here too, the woman has collected nothing belonging to her husband, and she hopes to collect at least what is owing to her (cf. PM).]*

9:6

- [A] **They unloose [vows] by reference to festival days and Sabbaths.**
- [B] **At first they said, "On those particular days [the vows] are not binding, but for all other days they are binding."**
- [C] **But then R. Aqiba came along and taught that the vow part of which is unloosed is wholly unloosed.**
- [D] **How so?**
- [E] **[If] he said, "Qonam be what I enjoy from any one of you" D**

[F] [if] his vow with reference to any one of them was declared not binding, the vow with reference to all of them was declared not binding.

[G] [If he said, “Qonam] be what I enjoy from this one and from that one,”

[H] [if] the vow pertaining to the first was declared not binding, all of them are no longer subject to the vow.

[I] [If] the vow pertaining to the last one of them was declared not binding, the last one is permitted [to give benefit to the man] but the rest of them are prohibited.

[J] [If the vow] was declared not binding for one in the middle, from him and onward, it is not binding, but from him and backward, it is binding.

[K] [If he said,] “Let what I enjoy of this one’s be qorban, and of that one’s be qorban,” they require an opening [absolution] for each and every one of them.

[L] [If he said,] “Qonam be wine, because it is bad for the belly”

[M] [and] they told him, “But isn’t old wine good for the belly?”

[N] he is permitted to drink old wine.

[O] And not old wine alone is permitted,

[P] but all wine [is permitted].

[Q] [If he said,] “Qonam be an onion if I taste it, for onions are bad for the heart,”

[R] then Cyprus onions are permitted for him.

[S] And not Cyprus onions alone are permitted,

[T] but all onions [are permitted].

[U] There was a case along these lines, and R. Meir declared him permitted to eat all onions.

[I:1 A] *It is taught as a Tannaite statement:* [With respect to the rule, **If the vow was declared not binding for one in the middle, from him and onward, it is not binding, but from him and backward, it is binding**], If one was released, all those from him onward are not subject to the vow; all those from him and prior are subject to the vow.

[I:2 A] *It is taught as a Tannaite statement:* **In the name of R. Nathan: “There is a sort of vow part of which is not binding, and part of which is binding [vs. M. 9:6C]. How so? If he took a vow not to eat fruit in a basket in which there were shuah-figs, and then he said, ‘Had I know that there were shuah-figs in it, I should have taken a**

vow only in regard to the rest of what is in the basket,' then he is permitted to eat the shuah-figs in the basket but prohibited from eating any of the other fruit in the basket" [T. Ned. 5:1P-R].

[B] [Contrary to that position:] Not for the figs alone has he been released from the vow, but for all the produce in the basket. But if he said, "If I had known that there were shuah-figs, I should not have taken a vow not to eat shuah-figs," then he has been released from his vow only with regard to the shuah-figs.

9:7

[A] **They unloose a vow for a man by reference to his own honor and by reference to the honor of his children.**

[B] **They say to him, "Had you known that the next day they would say about you, 'That's the way of So-and-so, going around divorcing his wives,'**

[C] **"And that about your daughters they'd be saying, 'They're daughters of a divorce! What did their mother do to get herself divorced' [would you have taken a vow]?"**

[D] **And [if] he then said, "Had I known that things would be that way, I should never have taken such a vow,"**

[E] **lo, this [vow] is not binding.**

[I:1 A] *It has been taught: R. Judah b. Betera says, "They unloose a vow for a man by reference to his own honor alone [but not of his children]" [M. Ned. 9: 7A] [T. Ned. 5:6A].*

[B] *[M. 9:7A] is in line with the following case: A woman took a vow against her daughter. She came to R. Yohanan. He said to her, "If you had known that your daughter would have a bad name because of you, would you have taken a vow?"*

[C] *She said to him, "No," and he released her from the vow.*

[D] *Now does not the Mishnah state, **They unloose a vow for a man by reference to his own honor and by reference to the honor of his children [M. 9:7A]**? [Why do we require the precedent?]*

[E] *This case is important to indicate that you should not maintain the law in accord with the view of R. Judah b. Betera.*

9:8

- [A] [If one said,] “Qorban if I marry that ugly Miss So-and-so,” and lo, she is beautiful,
- [B] “... dark,” and lo, she is light,
- [C] “... short,” and lo, she is tall,
- [D] he is permitted [to marry] her,
- [E] not because she was ugly and turned beautiful, dark and turned light, short and turned tall, but because the vow [to begin with] was based on erroneous facts.
- [F] M'SH B: A certain man took a vow that from the daughter of his sister he should not derive benefit.
- [G] And they brought her into the house of R. Ishmael and made her beautiful.
- [H] Said to him R. Ishmael, “My son, did you ever take a vow about this lass?”
- [I] He said to him, “Never!”
- [J] And R. Ishmael declared his [vow] not binding.
- [K] That moment R. Ishmael wept and said, “Israelite girls really are beautiful, but poverty makes them ugly.”
- [I:1 A] He made her a golden eye [in place of the one she was missing,] and a golden tooth [to fill a gap in her mouth].
- [B] Then this is what he said to him, “Acquire possession of her and what is on her” [T. Ned. 5:6B].

9:9

- [A] And when R. Ishmael died, Israelite girls took up a lamentation, saying, “Israelite girls, weep over R. Ishmael.”
- [B] And that is what [Scripture] says for Saul, “Israelite girls, weep for Saul [who clothed you in scarlet delicately, who put ornaments of gold upon your apparel]” (2 Sam. 1:24).
- [I:1 A] It is written, “Ye daughters of Israel, weep over Saul, who clothed you daintily in scarlet, who put ornaments of gold upon your apparel” (2 Sam. 1:24).
- [B] As to the views of R. Judah and R. Nehemiah, one of them said, “The reference is actually to the daughters of Israel, for when their husbands would go to war, [Saul] would provide them with food.

- [C] “Why does Scripture say, ‘Who put ornaments of gold upon your apparel’?”
- [D] “The meaning is that an ornament is beautiful only on a lovely body.”
- [E] And the other said, “The reference is not to the daughters of Israel (BNWT) but to the builders of Israel (BNYWT), the Israelite sanhedrin. For Saul would spy out a group of associates and give them food and drink.
- [F] “And what is the meaning of the statement of Scripture, ‘Who put ornaments of gold upon your apparel’?”
- [G] “For he would listen to the reasoning for a law from a sage and would praise him for it.”

YERUSHALMI NEDARIM

CHAPTER TEN

10:1

[A] A betrothed girl –

[B] her father and her husband annul her vows.

[C] [If] the father annulled her vow, but her husband did not annul her vow,

[D] [or if] her husband annulled her vow, but her father did not annul her vow,

[E] it is not annulled.

[F] And it is not necessary to say, if one of them confirmed her vow [and the other did not, that it is not confirmed].

[40d] [I:1 A] It is written, “And if she is married to a husband, [while under her vows or any thoughtless utterance of her lips by which she has bound herself, and her husband hears of it, and says nothing to her on the day that he hears; then her vows shall stand]” (Num. 30:6-7).

[B] Now how shall we explain the case to which this verse refers?

[C] If it is to a married woman, it is written [in her regard],”And if she vowed in her husband’s house” (Num. 30:10).

[D] If it is in regard to a woman available [for marriage], it is written in her regard,”Or when a woman vows a vow ...” (Num. 30:3)

[E] To what then does Scripture refer,”And if she is married to a husband ...”?

[F] Who is this? It is a betrothed girl, in which case **her father and her husband annul her vows [M. 10:IB]**.

[I:2 A] Up to this point we have dealt with the case of vows which the girl took once she became betrothed [in which case the prospective husband has to nullify them along with the father]. But as to vows

which she took before she was betrothed, [how do we know that the husband has to nullify them along with the father?]

[B] "... while under her vows ..." serves to encompass vows she took [before she became betrothed], which come along with her from her father's house.

[I:3 A] *It was taught* in the name of R. Eleazar: "'And if she is married to a husband' The Scripture speaks of a mature woman who is betrothed. [In this case the father has no further control over the woman.]"

[B] *Associates say,*"Well did R. Eleazar rule. *But there is the following problem in the opinion of R. Eleazar:* If she has reached maturity, has she not then left the domain of her father? [How then can the father have a part in nullifying her vows?] In the case of an orphan girl, the father of whom had died, who nullifies her oaths? It is the husband who does so. [So how can Scripture speak of a mature woman?]

[C] "*And there is a problem in the view of rabbis [who hold that Scripture speaks of a girl [not a mature woman]:* If prior to the point at which [the mature woman] has entered the husband's domain, the husband nullifies her vows, once she has done so, is it not an argument a fortiori that she should continue to do so? [Accordingly, why should Scripture find it necessary to say so]? How then do rabbis interpret Scripture's statement, '... while under her vows ...'? [This would indicate that the vows applied prior to the betrothal.]"

[D] *How shall we interpret the cited verse?* If it speaks of vows which she took before she was betrothed, and then she was betrothed, it already has been shown that the father and the husband must jointly nullify those vows.

[E] *We must then interpret the passage to speak of* a vow which she took while the father was yet alive, and then the father died, and she reached maturity. [In this case the husband alone nullifies the vow.]

[F] [*Now since Eleazar maintains that the Scripture's reference is to a mature woman,*] *how does R. Eleazar prove that* in the case of a betrothed girl, the father and the husband jointly annul her vows?

[G] [Since Scripture refers explicitly to vows which are the business] of a man and his wife (Num. 30:10), it encompasses the husband's right. As to that of the father, [Scripture also refers to vows which are the business] of a father and his daughter (Num. 30:3). [This would indicate that there are vows which fall between the two categories, and they are those of the betrothed girl, who falls within both domains.]

[H] *How do rabbis interpret these same categories?* They understand the references to vows between a husband and his wife to exclude those between her and other people, and likewise, those between the father and his daughter likewise exclude those between her and other people. [Such vows neither the husband nor the father may abrogate.]

[I] *Does R. Eleazar not hold the same view?*

[J] *He most certainly does hold the same view. He derives the whole of the lesson from that same passage: “Between a husband and his wife” – not between her and others.” “Between a father and his daughter” – not between her and others.*

[II:1 A] And it is not necessary to say, If one of them confirmed her vow [and the other did not, that it is not confirmed] [M. 10:IF].

[B] *Now see here! If the father annulled the vow, it is not annulled [if the husband also did not do so], and yet you find it necessary to say this? [It is obvious to require specification.]*

[C] *It was not stated for that purpose but for the following:* If the father annulled his share of the vow, and the husband did not suffice to do so before he died [that is, the husband died before hearing that it was necessary for him to annul the vow], the father must then go and [explicitly] annul the share belonging to the husband.

[D] **Said R. Nathan, “This represents the view of the House of Shammai. But sages say there is no need [explicitly] to nullify a vow which has not to begin with been confirmed [T. Ned. 6:4H]. [If the husband died, the power vested in him returns to the father, who already has exercised it, cf. M. 10:2.]”**

[E] But if the vow had been confirmed, the father cannot nullify it.

[F] You say that the father has the power to annul the share which the husband was to annul. Now if he wanted to confirm the vow, if he said, “It is confirmed for you, as is [without further specification], it is confirmed for you, as is.” [There is no further possibility of nullification.]

[G] But if he wanted to nullify the share of the husband, [he must say,] “It is nullified for you, even as to the share of the husband.” [That cannot be said without being made explicit, contrary to the foregoing.]

[H] *Now it is perfectly clear that if [the husband nullified his share, but] the father did not annul his share of the vow, and the daughter*

violated her vow, she is flogged. If the father nullified his share, but the husband did not, what is the law as to her being flogged? Is it the case that, since if the husband should die, the right to nullify the vow returns to the father, she is not flogged? [The father's abrogation suffices.]

[I] *The question accords with the view of him, [C, F,] who holds that once [the husband has] died, there is no question of [his having to] annul [her vow]. [The whole matter devolves upon the father. Within such a view, the power of the father is such that the question is credible.] But in the view of him [such as the House of Shammai] who holds that once [the husband has] died, there still is a question of [his having to] annul [her vow – that is, the father does so in behalf of the deceased – how is such a question credible]?*

[J] We treat death as equivalent to his having annulled her vow. And so too, since he has not annulled her vow, and she has violated her vow, she will be flogged.

[II:2 A] *It has been taught:* If the father annulled his share, and the husband did not suffice to annul his share before he died, the second husband has the right to nullify the share of the first.

[B] *Said Yosé,* "The Mishnah has made the same point on its own: **Her father and her last husband annul her vows [M. 10:3B].**

10:2

[A] **[If] the father died, [his] authority does not pass to the husband.**

[B] **[If] the husband died, [his] authority passes to the father.**

[C] **In this regard the power of the father is greater than the power of the husband.**

[D] **In another regard, however, the power of the husband is greater than the power of the father.**

[E] **For the husband annuls the vows in the case of a grown-up woman, but the father does not annul the vows of a grown-up woman.**

[I:1 A] *They proposed to interpret the Mishnah to speak of a case in which the father did not annul his share of the vow before he died. In that case the father's right does not devolve upon the husband. [But if the father had done so and then died before the husband nullified his share, the husband retains the right to nullify his own share as well. His right to do so in this case is not compromised by the father's death.]*

[B] *Let us derive the answer to this proposed interpretation from the following: **The way of a disciple of sages is this: Before his daughter goes forth from his home, he says to her, "All the vows which you vowed in my house, lo, they are annulled"** [M. 10:4A-B].* [This indicates there is no such distinction as is proposed at I.A.]

[C] *That is to say, even in a case in which the father did not annul his share, and the father then died, the power of the father to nullify the vow does not devolve upon the husband.*

[II:1 A] If the husband died, his authority passes to the father [M. 10:2B].

[B] *They proposed to interpret the Mishnah to speak of a case in which the husband had annulled his share. But if the husband did not annul his share and died, his power to nullify the vows of the girl does not devolve upon the father.*

[C] *Let us derive the answer to this proposed interpretation from the following: **If she took a vow while she was betrothed and was divorced on that very day and betrothed again on that same day and repeated the process even a hundred times, her father all her last husband annul her vows** [M. 10:3A-B].*

[D] *That is to say, even in a case in which the husband did not annul his share, but the husband died, his power does devolve upon the father.*

[III:1 A] If the father died, his authority does not pass to the husband [M. 10:2A].

[B] *R. Haggai raised the following problem before R. Yosé: "Up to this point we have dealt with vows which the girl took before she had become betrothed. [In that case, if the father died, the power does not pass to the husband.] But as to vows which she took once she had become betrothed, [42a] if the father died, the power to nullify the vows should pass to the domain of the husband. [The reason for the former proposition is that when the girl took the vow, she was not within the domain of the husband anyhow. But in the latter case, she already lay within the domain of both father and husband.]"*

[C] *He said to him, "Now in the case of vows which she took before she was betrothed, and then she was betrothed, is it now not fitting that both the father and the husband should have the power to annul those vows? Yet even in this case, you must rule that if the father died, the power to nullify the vows does not pass into the domain of the husband. *That is to say*, even if she took a vow once she had been betrothed, the same rule should apply."*

[D] [He said to him,] “If she took a vow before she got betrothed, and the husband died, the power to annul the vow devolves upon the father.”

[E] He said to him, “Now in the case of vows which she took before she was betrothed, and then she was betrothed, is it now not fitting that both the father and the husband should have the power to annul those vows? Yet even in this case, you must rule that if the husband died, the power to nullify the vows does pass back into the domain of the father. *That is to say*, even if she took a vow once she was betrothed, if the husband died, the power to annul the vow passes into the domain of the father.”

[IV:1 A] For the husband annuls the vows in the case of a grown-up woman [M. 10:2E]

[B] *The Mishnah accords with the view of R. Eleazar. For it has been taught in the name of R. Eleazar, “And if she is married to a husband...’ The Scripture speaks of a mature woman who is betrothed.”*

10:3

[A] [If] she took a vow while she was betrothed and was divorced on that very day [and] betrothed again on that same day [and repeated the process], even a hundred [times],

[B] her father and her last husband annul her vows.

[C] This is the general principle: In the case of any girl who has not gone forth to her own domain for a single moment, her father and her last husband annul her vows.

[I:1 A] Said R. Hela, “ ‘... and if she is married to a husband ...’ (Num. 30:3) – even if there are a hundred marriages, her father and her last husband annul her vows.”

[B] Said R. Yosé, “The Mishnah itself has said so: **Her father and her last husband annul her vows**” [M. 10:3B].

10:4

[A] The way of a disciple of a sage [is this]:

[B] Before his daughter goes forth from his home, he says to her, “All vows which you vowed in my house, lo? they are annulled.”

[C] And so the husband, before she enters his domain, says to her, “All vows which you vowed before you came into my domain, lo, they are annulled.”

[D] **For after she enters his domain, he cannot annul [those prior] vows any more.**

[E] **A grown-up woman who waited twelve months, and a widow who waited thirty days –**

[F] **R. Eliezer says, "Since her husband is liable to support her, he annuls her vows."**

[G] **And sages say, "The husband does not annul her vows until she enters his domain."**

[I:1 A] *Since the theory of R. Eliezer is that the right to annul the vows depends upon the duty to supply support, if a man betrothed a woman on the stipulation that he support her forthwith, the husband [who has just betrothed the woman] has the right to annul her vows forthwith.*

[B] Likewise, if one married a woman on the stipulation that he will not support her, the father retains the right to nullify her vows –

[C] so far as sages are concerned.

[D] R. Jacob bar Aha in the name of R. Yohanan: "Under no circumstances may the husband annul the vows until the woman enters his domain."

10:5

[A] **A deceased childless brother's widow awaiting levirate marriage, whether with a single levir or with two levirs –**

[B] **R. Eliezer says, "He annuls her vows."**

[C] **R. Joshua says, "That is the case with one, but not with two."**

[D] **R. Aqiba says, "That is the case neither with one nor with two."**

[I:1 A] In the view of R. Eliezer, may one or more of the levirs annul her vows?

[B] [This question may further be restated on the basis of] what R. Abbahu said in the name of R. Yohanan, "[In the circumstances specified at Y. Qid. 3:1,] even the act of a hundred men in betrothing the woman will be deemed valid" In that case, who annuls her vows?

[C] And in line with that which R. Jacob said in the name of R. Yohanan: "He may designate her for his minor son," – who has the power to annul her vows?

[D] And in line with that which R. Jacob bar Aha said in the name of R. Yohanan and R. Hela said in the name of R. Eleazar, "Even a

suspensive guilt offering is not required in such a case [at Y. Yeb. 14:1],” – who has the right to annul her vows?

10:6

- [A] Said R. Eliezer,”Now if in the case of a woman whom he acquired for himself, lo, he annuls her vows, a woman who is acquired for him by Heaven, is it not logical that he should annul her vows?”
- [B] Said to him R. Aqiba,”No. If you have so stated the rule in regard to a woman whom he has acquired for himself,
- [C] “the fact is that others have no claim on her.
- [D] “But will you say the same in the case of a woman acquired in his behalf by Heaven, in whom others [other levirs] have a claim?”
- [E] Said to him R. Joshua,”Aqiba, your argument applies in the case of two levirs. What will you say in the case of one levir?”
- [F] He said to him,”A deceased childless brother’s widow is not wholly [betrothed] to the levir [alone] in the way in which a betrothed girl is wholly [betrothed] to her husband.”
- [I:1 A] Said R. Eliezer,”Now in the case of a woman in whom I have no part before she enters my domain, once she enters my domain, she is wholly in my power [so that I may annul her vows]. In the case of a woman in whom I have some part before she comes into my domain [in that the woman cannot marry anyone other than the levir in the event that her childless husband dies, and that is the case while she is still married to her first husband], once she enters my domain [since I have bespoken her], is it not logical that she should be wholly in my power [so that I may annul her vows]?”
- [B] Said to him R. Aqiba,”No. If you have so stated matters in the case of a woman in whom I have no part before she comes into my domain, while once she enters my domain, she is wholly within my power, the fact is that, just as I have no part in her, so others have no part in her. But will you say the same of a woman in whom I have a part before she enters into my domain, and who, once she enters my domain, is wholly within my power? For just as I have a part in her, so others [at that point] have a part in her.”
- [C] Said to him R. Joshua,”Aqiba your argument applies to a case of two levirs. What will you reply in the case of one levir [M. 10:6G]?”
- [D] He said to him,”Just as you have not made a distinction for us between a case in which there is a single levir and one in which

there are two levirs, or in a case in which he bespoke the widow and one in which he did not bespeak the widow, so in the case of vows and oaths you should make no distinction.”

[E] He said to him, “It would have been too bad for you had you been around in the time of R. Eleazar b. Arakh and given an answer of this sort!” [T.. Ned. 6:5].

[F] For he said, “An act of bespeaking does not effect a complete state of acquisition. He concurs that he does not annul her vows before she enters his domain.”

10:7

[A] He who says to his wife, “All vows which you will vow from this time until I return from such-and-such a place, lo, they are confirmed,” has said nothing whatsoever.

[B] [If he says,] “Lo, they are annulled” –

[C] R. Eliezer says, “It is annulled.”

[D] And sages say, “It is not annulled.”

[E] Said R. Eliezer, “If he annulled vows which have the force of a prohibition, will he not annul vows which do not have the force of a prohibition?”

[F] They said to him, “Lo, Scripture says, ‘Her husband will confirm it and her husband will annul it’ (Num. 30:14) –

[G] “That which enters the category of confirmation enters the category of annulment. That which does not enter into the category of confirmation does not enter into the category of annulment.”

[I:1 A] He said to R. Eliezer, “The case of an immersion pool will prove the matter as I see it. It raises things which have become unclean from their status of uncleanness, but it does not rescue things which are clean from becoming unclean.”

[B] R. Eliezer went and offered a different mode of argument, which is as follows: “No. If in a situation in which he cannot annul his own vows once he has made them, lo, he has the power to annul his own vows before he has made them [by declaring them null in advance], in a situation in which he may annul the vows of his wife once she has made them, is it not logical that he should be able to annul the vows of his wife before she makes them?”

[C] They said to him, “Now if he is able to annul his own vows before he makes them, it is also true that if he wanted to confirm his vows

[by actually making] them, he does confirm them. But may he annul the vows of his wife before she actually vows? For if he wanted to confirm them, he has not got the power to do so” [T. Ned. 6:SM-O].

[D] Another matter: “Her husband will confirm it and her husband will annul it” (Num. 30:14) –

[E] “A vow which enters the category of confirmation enters the category of annulment. A vow which does not enter into the category of confirmation does not enter into the category of annulment”[M. 10:7F- G][T. Ned. 6:6].

10:8

[A] The annulment of vows [may be done] all day long.

[B] There is in this matter a basis for a lenient ruling and for a stringent ruling.

[C] How so?

[D] [If] she vowed on the night of the Sabbath, [the husband] annuls the vow on the night of the Sabbath and on the Sabbath day, down to nightfall.

[E] [But if] she vowed just before nightfall, he annuls the vow only until it gets dark.

[F] For if it should get dark and he should not annul the vow, he cannot annul the vow [any longer].

[I:1 A] *It is set forth as a Tannaite statement: R. Yosé b. R. Judah and R. Eleazar b. R. Simeon say,*”The annulment of vows is done over a twenty-four hour period” [vs. M. 10:8A] [T. Ned. 10:6A].

[B] *What is the Scriptural basis for the position of rabbis [that annulling a vow may be done only on the day on which the vow was made]? “... on the day that he hears of it ...” (Num. 30:5) “... from day to day ...”*

[C] *What is the Scriptural basis for the view of R. Yosé b. R. Judah? “... from day to day ...” (Num. 30:14). (L and V:”... on the day that he hears of it ...”)*

[D] *How does R. Yosé b. R. Judah (L and V:rabbis) interpret the Scriptural verse cited by rabbis, (L and V:R Yosé b. R. Judah) “... on the day that he hears of it”?*

- [E] Interpret it to refer to an occasion on which she took a vow at the beginning of the night. [If he heard of it the next day, the twenty-four hour period still applies.]
- [F] *How do rabbis (L and V:R. Yosé b. R. Judah) interpret the verse cited in evidence by R. Yosé b. R. Judah (L and V:rabbis), "From day to day"?*
- [G] Interpret it to apply to a case in which she took a vow at the beginning of the night of the Sabbath, and the husband was struck dumb at that time, but then recovered the power of speech [at the end of the Sabbath].
- [H] *In the view of R. Yosé b. R. Judah* they give him twenty-four hours [for nullifying the vow].
- [I] *In the view of rabbis* he has only the time remaining of that day [to sunset] alone. [If he has not recovered the power of speech, he loses the power to annul the vow.]
- [J] If the husband was struck dumb and then recovered the power of speech,
- [K] *in the opinion of R. Yosé b. R. Judah* they join together twenty-four hours [in which, all together, he may nullify the vow]. [These need not be hours in which he could speak.]
- [L] *In the opinion of rabbis* under all circumstances he has the right to nullify the vow until he recovers the power of speech.
- [M] An hour before sunset he no longer has the power to annul the vow.
- [I:2 A] [If he said,] "It is annulled for you at eve," it is annulled for all time. [If he said,] "It is confirmed for you at evening," it is confirmed for all time.
- [B] "It is annulled for you up to evening" is as if he says, "It is annulled for you from evening and beyond."
- [I:3 A] *There we have learned: They annul vows on the Sabbath [M. Shab. 24:5].*
- [B] *It was taught:* [That is the case] whether they are vows which are important with regard to keeping the Sabbath or vows which have no bearing on the keeping of the Sabbath.

- [C] And they accept inquiry on releasing vows which deal with what is needful for the Sabbath.
- [D] Lo, if it was not for the requirements of the Sabbath, is that not the case?
- [E] That is so [only] in the case of an elder, who has the power to annul the vow on the next day.
- [F] And as to the view of R. Yosé b. R. Judah and R. Eleazar b. R. Simeon, who have said, “The time allotted for the nullification of vows is twenty-four hours after the taking of the vow,” even vows which cover matters needful to the Sabbath he may not annul.
- [G] Interpret the matter to express the view of all parties, in a case in which she took a vow at the beginning of the Sabbath night [Friday night after sunset, so that now there are only twenty-four hours of the Sabbath available for annulling the oath].
- [I:4 A] R. Abbahu in the name of R. Yohanan: “The husband who said, ‘There is no vow here,’ ‘There is no oath here,’ has not said anything at all.
- [B] “Likewise the elder who has said, ‘It is released for you,’ ‘It is nullified for you,’ has not said anything at all. But this one must follow the rule pertaining to him, and that one must follow the rule pertaining to him.
- [C] “The husband says, ‘It is released for you.’ ‘It is null for you,’ and the elder says, ‘There is no vow here at all,’ ‘There is no oath here at all.’”
- [I:5 A] Said R. Yohanan, “The former authorities would raise this question: What is the law as to a man’s inquiring as to the validity of his confirming a vow, [so that he may revert and nullify it]?”
- [I:6 A] *Here is a case:* If the wife took a vow, and her husband heard it and did not annul it for her –
- [B] *It is self-evident that,* so far as the husband is concerned, he cannot annul the vow for her. What is the law as to having an elder annul it for her?
- [C] *How shall we interpret the case?* If we deal with vows which are between the husband and the wife, they are vows which pertain only to him. [A man cannot annul his own vow.]
- [D] *But we deal* with vows between her and other people.
- [E] *And is this* [C] *not the view only of R. Judah?*
- [F] *It was taught in the name of R. Judah.*

[G] *R. Hiyya taught it in the name of sages: [A man cannot annul vows of his wife which relate to her relations with third parties.]*

- [I:7 A] What is the law as to [a sage's] releasing vows by night?
- [B] Now if in the case of a vow to be nullified by the husband, in which case, "On the day," is written, lo, he may annul the vow by night, as to vows to be released by an elder, concerning which, to begin with, Scripture does not say, "... by day," is it not an argument a fortiori?
- [C] What is the law as to releasing a vow through an interpreter?
- [D] [*Let us derive the answer*] from the following case. R. Ba bar Zutra was appointed interpreter for R. Yohanan in the case of a woman who could not understand Syriac.
- [I:8 A] *It has been taught:* They do not receive inquiry about releasing vows unless they are wrapped in cloaks and seated, and the one who is approached is seated. But the one who brings the inquiry must be standing on the basis of the law: "And the two men who bring the case must stand" (Deut. 19:17).
- [B] I know that only those who bring an adversary proceeding must stand.
- [C] One who asks a question concerning law or lore – how do I know [that he too must stand]?
- [D] Scripture says, "... they stand ... and they shall stand."
- [E] *R. Aha bar Papa went up to release a vow of R. Immi.*
- [F] He kept him standing for sufficient time to say, "There is no vow here."
- [G] [42b] *R. Mana went up to release a vow of Gamaliel of Qunteh. He kept him standing long enough to say, "There is no vow here, there is no oath here."*
- [H] *R. Mana went up to release a vow of Gamaliel son of his [G.'s] son. [The grandson] said to him, "Do not treat me as you treated my grandfather. But you sit down, and I shall stand up."*
- [I:9 A] R. Zeira, R. Judah, Jeremiah bar Abba in the name of R. Samuel: Three [men] who know how to release vows may release them as does a sage.
- [B] *They proposed to rule that that applies only in a place in which there is no elder.*

[C] *Rabbis of Caesarea maintain that that is the case even in a place in which there is an elder.*

[D] *[When Yosa released vows by himself,] they said before R. Yosa, R. Huna, “‘Heads of tribes’ (Num. 30:1) are required [= a court of three].”*

[E] *Who are “The heads of the tribes”?*

[F] *R. Huna: “The head of the heads of the tribes.”*

[I:10 A] *What is the law as to officially appointing elders for dealing with ad hoc cases [but not with all sorts of cases]?*

[B] *Let us derive the answer from the following: Rab was appointed by Rabbi to release vows and to examine women’s sanitary napkins.*

[C] *After he had died, he sought from his son to be appointed to examine the blemishes of firstlings as well.*

[D] *He said to him, “I shall not add to you beyond what father assigned to you.”*

[E] *Said R. Yosé b. R. Bun, “Rabbi gave all authority to him: to judge these specific cases: to release vows, examine women’s napkins, and inspect blemishes of firstlings such as are out in the open. After Rabbi died, he sought from his son the right to inspect blemishes of firstlings which are not out in the open. He said to him, ‘I shall not add to you beyond what father assigned to you.’”*

[F] *Even though you rule that they appoint elders for specific purposes alone, that is so only if he is worthy to deal with all sorts of matters.*

[G] *That is illustrated by the following: R. Joshua b. Levi appointed all of his disciples. But he was distressed about one of them, who was there, who had weak eyes, so he could not appoint him, so he appointed him for some specific matters.*

[H] *That is to say, He who is worthy of appointment for one specific purpose is worthy of appointment for all purposes, and he who is not worthy for all purposes – even for one specific purpose he is unworthy.*

[I:11 A] *What is the law as to appointing elders for a period of a few days?*

[B] *Let us derive the answer from the following: R. Hiyya bar Abba came to R. Eleazar. He said to him, “Win the favor of Yudan, the patriarch, so that he will write in my behalf a letter of recommendation, because*

I am going abroad to make a living.” He won his approval, and he wrote him as follows: “Lo, we send to you a great man as our messenger. He is our agent and is in our status until he comes back to us.”

[C] R. Hezekiah, R. Dosetai, R. Abbai bar Zamina, and some present the tale in the name of R. Dosetai the Elder: “Thus did he write for him, ‘Lo, we send you a great man, who is not ashamed to say, ‘I have not heard the answer to your question.’”

[I:12 A] What is the law as to his releasing vows when wearing a shawl [rather than a proper cloak]?

[B] R. Abbahu in the name of R. Yohanan, “They release vows wearing a shawl.”

[C] R. Joshua b. Levi released a vow wearing a shawl.

[D] R. Huna in the name of R. Jeremiah, “That is so in a situation in which there is no cloak.”

[E] Said R. Yosé b. R. Bun, “That is so in the case of vows, which are unimportant.”

YERUSHALMI NEDARIM

CHAPTER ELEVEN

11:1

[A] **And these are the vows which he annuls:**

[B] **matters of inflicting self-punishment** [“afflicting the soul,” (Num. 30:13)] –

[C] **“... If I shall wash,” or, “If I shall not wash,” “... If I shall adorn myself,” or, “... If I shall not adorn myself.”**

[D] **Said R. Yosé, “These are not vows which inflict self-punishment.”**

[42c] [I:1 A] It is written, “Any vow and any binding oath to afflict herself, [her husband may establish, or her husband may make void]” (Num. 30:13).

[B] I know that the abrogation of vows applies only to vows which involve self-punishment.

[C] How do I know that the same applies to vows which are between him and her?

[D] Scripture says, “... as between a man and his wife ...” (Num. 30:16).

[E] Up to this point we have dealt with the husband’s [right to annul a vow]. How do I know that the same applies to the father?

[F] Scripture says, “... between a father and his daughter [while in her youth, within her father’s house]” (Num. 30:16).

[G] Accordingly, just as the husband annuls only those vows which involve self-punishment and vows between him and her, so the father annuls only those vows which involve self-punishment and vows between him and her

[I:2 A] *R. Jacob bar Aha said, “There is a dispute between R. Yohanan and R. Simeon b. Laqish.”*

[B] R. Yohanan said, “Whether it is a vow or an oath, the husband has a right to effect an annulment [of what the wife has said].”

[C] R. Simeon b. Laqish said, “It is only vows that he may annul, not oaths.”

[D] *Said R. Yosé b. R. Bun, “Also with regard to vows as dealt with by an elder do R. Yohanan and R. Simeon b. Laqish dispute.”*

[E] R. Yohanan said, “Whether it is a vow or an oath, the elder has a right to effect a release [of what the woman has said].”

[F] R. Simeon b. Laqish said, “It is only vows that he may release, not oaths.”

[G] *Now the position of R. Simeon b. Laqish accords with the view of R. Isi [better: Yosé].*

[H] *Someone came to have a vow released by R. Yosé. The latter wrapped himself in his cloak and sat down. He said to him, “What sort of oath did you take?”*

[I] *He said to him, “By the Divinity of Israel! She may not come into my house [referring to my wife]!”*

[J] *He said to him, “By the Divinity of Israel, she indeed may not come into your house [because this is an oath, not a vow, and a sage cannot release an oath].”*

[I:3 A] *R. Zeira interpreted [the dispute between Yosé and rabbis] in the Mishnah as follows: “These are the vows which he annuls: matters of inflicting self-punishment – ‘If I shall wash,’ or, ‘If I shall not wash,’ ‘... If I shall adorn myself,’ or, ‘... If I shall not adorn myself.’ Said R. Yosé, ‘These are not vows which inflict self-punishment, but vows which are between him and her.’ What then are vows inflicting self-punishment so far as R. Yosé is concerned? If she said, ‘Qonam be any sort of produce in the world for me’ – lo, this vow he may annul [since it inflicts self-punishment]. [When, at M. 11:2, this definition appears, in Zeira’s view it is the definition of Yosé.]”*

[B] [We turn now, in Zeira’s account, to sages’ view of the difference between vows which inflict self-punishment and those which are between him and her. We make the point that, when the husband annuls the former sort, those vows are permanently annulled, even following divorce. But when the husband annuls the latter sort, the vows are annulled only so long as she is living with him.] Sages say,

“As to vows which inflict self-punishment, if the husband annulled such a vow for her, it is annulled for all time. But as to vows between him and her, if he should annul such a vow, it is annulled only so long as she is with him.”

[C] R. Yosé says, “Whether we speak of vows of self-punishment or vows between him and her, if the husband annulled such a vow, it is annulled for all time.” [So there are two distinct disputes in M.]

[D] And lo, rabbis say, “As to vows inflicting self-punishment, if he nullified such a vow for her, it is annulled for all time.”

[E] R. Yosé says, “As to vows which are between him and her, if he annulled such a vow for her, it is annulled for all time.”

[F] *What is the difference between the two parties?*

[G] It is a case in which the wife said, “*Qonam* be benefit deriving from me for you, if I should ever go forth from your domain.”

[H] [Assuming the meaning is that the benefit is prohibited from the moment of the vow if she should be divorced later on, we ask,] Then, why should he [not] annul that vow?

[I] We deal with a case in which she said only, “*Qonam* be benefit from my body which you may enjoy, when I shall have gone forth from your domain.” [In this case, the benefit is denied only when she is divorced, not from the present moment. In such a case he has no right to annul the vow.]

[J] Rabbis say, “This is a vow inflicting self-punishment.”

[K] R. Yosé says, “This is a vow between him and her.”

[L] *Both R. Zeira and R. Hela say, “They are in the category of vows which are between him and her.”*

[M] [Commenting on Yosé’s view that, in the case of a vow covering matters between husband and wife, if the husband annulled such a vow, the vow is annulled for all time, we note that,] *in the view of R. Zeira, R. Yosé and R. Yohanan b. Nuri maintain the same position. For we have learned there: [If she said, “Qonam if I work for you,” the husband need not annul that vow, which is null to begin with. R. Aqiba says, “Let him annul it, lest she place a burden upon him more than is appropriate for him.”] R. Yohanan b. Nuri says, “Let him annul it, lest he divorce her, and she be prohibited from returning to him” [M. 11:4B-G]. [Thus when the*

husband nullifies the vow, the annulment is effective even after the divorce, on which basis, if the husband does annul the vow, he may remarry the woman. Accordingly, Yohanan b. Nuri and Yosé concur on the effect of the husband's annulling vows between the husband and the wife.]

[N] [*Differing from Yosé's view of dispute on two points,*] *R. Hela interpreted the Mishnah as follows: **These are the vows which he annuls: matters of inflicting self-punishment – “If I shall wash,” or, “If I shall not wash,” “... If I shall adorn myself,” or, “... If I shall not adorn myself.”** What then does R. Yosé say? These are not vows of self-punishment at all, but rather vows between him and her.*

[O] What then are vows of self-punishment? In the view of all parties: “If I shall wash,” or, “If I shall not wash.”

[P] *So too it has been taught: Vows of inflicting self-punishment are these: “If I shall wash,” or, “If I shall not wash,” “If I shall adorn myself,” or “... If I shall not adorn myself.”*

[I:4 A] *Whether in the view of R. Zeira or in that of R. Hela, the opinions assigned to R. Yosé are contradictory.*

[B] *For it has been taught: **A spring belonging to the townfolk – [when there are waiting to draw water] they and others [outsiders], they come before others. [When there are] others and their cattle, the others take some first, before their cattle. R. Yosé says, “Their cattle come before others.” [When there are] their cattle and the cattle of others, their cattle come before the cattle of others. [When there are] others and their own laundry [to be done], [the needs of] the others come before the doing of their laundry. R. Yosé says, “The doing of their laundry comes before the use of the others” [T. B.B. 11:33-35]. Said R. Yohanan, “Who is the Tannaite authority who holds that doing laundry [hence: washing] is a matter of maintenance of life? It is R. Yosé.” For it has been taught [with reference to the use of the area of a city of refuge]: They do not make use of that area for steeping flax or for doing laundry. R. Yosé permits doing laundry there [because it is a matter of maintenance of life]. [Yet here, we note, he does not regard the issue of washing as inflicting self-punishment.] [Thus we see] that the opinions assigned to R. Yosé are at variance with one another. There he***

has said that washing is not a matter involving the maintenance of life [M. 11:1D], while here he has said that doing laundry is a matter of the maintenance of life.

[C] Said R. Mana, “A person bears with not washing. A person cannot bear with not doing laundry.”

[D] *Judah of Husa hid in a cave for three days to inquire into the reason for the rule that the maintenance of the life of this town takes precedence over the maintenance of the life of another town.*

[E] *He came to R. Yosé b. Halapta, saying to him, “I hid in a cave for three days to inquire into the reason for the rule that the maintenance of the life of this town takes precedence over the maintenance of the life of another town.”*

[F] *He called R. Abba, his son, saying to him, “What is the reason for the rule that the maintenance of the life of this town takes precedence over the maintenance of the life of another town?”*

[G] He recited for him the following verse: “‘These cities had each its pasture lands round about it; so it was with all these cities’ (Josh. 21:42). [That is, each city was supplied with all its needs.]”

[H] *He said to him, “What caused your ignorance? It was that you did not study with your fellow [but all by yourself in the cave].”*

[I:5 A] *There is no problem with the vow, “... If I shall wash.” But if she vows, “... I shall not wash ...” – and let her wash!*

[B] Said R. Mana, “It is a case in which she said, ‘*Qonam* be benefit deriving from me for you, once I shall have washed, if I should wash.’ [That is, the repetition is merely to underline her original intent.]”

[C] And let him annul the vow for her? [Why should Yosé differ in this case?]

[D] Said R. Yosé b. R. Bun, “We deal with a case in which she has stated only, ‘*Qonam* be benefit of my body for you, if I shall wash.’ [In that case, the oath involves sexual relations.]”

[E] [This is all the more reason for nullifying the vow, since she has no right to take such a vow.] Let him force her [to have sexual relations]. Did not R. Huna say, "... if she said, "*Qonam* be benefit deriving from me for you,' the husband may force her to have sexual relations with him"?

[F] "... benefit deriving from you for me," – in that case, he must annul the vow.

[G] This case is different, for it is a source of benefit both for him and for her.

[H] Said R. Abba Mari, "... 'If I wash ..., ' 'If I do not wash ..., ' for all time.

[I] "'If I shall adorn myself ..., ' 'If I shall not adorn myself ... ' for all time."

[J] Rabbis of Caesarea in the name of R. Nisa, "... if I wash, and if I shall not adorn myself ..., ' 'If I adorn myself and if I shall not wash....'" [Abba Mari's view is that when the wife says what is cited at H and I, the meaning is this: If I wash or do not wash today, I shall never again do so. The dispute between Yosé and rabbis, then, is whether not doing so for a single day is degrading. Rabbis hold that it is and that the husband must therefore annul the vow. Yosé maintains that it is not. She may refrain from washing that day. The husband need not annul the vow. All of this, then, refers to the washing. Rabbis of Caesarea, by contrast, treat both elements of M. 11:1C as a single vow. The issue of whether she will wash depends on whether she adorns herself and vice versa. So the intent is this: "If I wash today, I shall not adorn myself forever." and so to the contrary.]

11:2

[A] "And what are those vows which do inflict self-punishment?"

[B] "[If] she said, 'Qonam to me be the produce of the world,' lo, this [sort of vow] he does have the power to annul.

[C] "[If she said, 'Qonam] be to me the produce of this province,' let him bring her produce from another province.202 Chapter Eleven

[D] "[If she said, 'Qonam] be the produce of this stall for me, ' he cannot annul that vow.

[E] "But if he derived his provisions from that particular store alone, lo, his one may annul the vow," the words of R. Yosé.

- [I:1 A] Samuel said, “**If she said, ‘Qonam to be the produce of the world, ‘ [M. 11:2B]** and there were available provisions piled up in the market, the husband should purchase produce for her from those provisions [since the wife’s intent was only to prohibit produce which should become available later on].”
- [B] R. Simeon b. Laqish said, “**If she said, ‘Qonam to me be the produce of this particular province, ‘ [M.” 11:2C]** and traveling merchants were at hand, the husband should buy produce for her from them.”
- [I:2 A] It is written, “Any vow and any binding oath to afflict herself her husband may establish or her husband may make void” (Num. 30:13).
- [B] **For example,”... pepper, if I taste it ...” “white flour, if I taste it” [T. Ned. 7:2E].**
- [C] It is not the end of the matter that such a thing is available, but even if such a thing is not available [the husband nullifies the oath], lest someone else import such a thing from some other source.
- [I:3 A] R. Yohanan in the name of R. Yannai: “If there were before him two loaves of bread, one sound, the other moldy, if then the wife preferred the sound one and took an oath not to eat the moldy one, lo, this husband may annul the vow.”
- [B] On what count does he annul the vow [since she hardly afflicts herself thereby]?
- [C] *Associates say*, “It is because he has the power to annul vows which inflict self-punishment on her.”
- [D] *Both R. Zeira and R. Hela say*, “It is because he has the power to annul vows which inflict punishment on him [in that she may become accustomed to taking vows].”
- [I:4 A] R. Zeira in the name of Samuel: “All vows does a husband have the power to annul, except for the one of her who says, ‘Benefit deriving from me be prohibited from Mr. So-and-so!’ [In this case, the vow is neither one inflicting self-punishment nor one involving matters between the husband and the wife.]”
- [B] Lo, [if she said,] “Benefit deriving from Mr. So-and-so be prohibited from me,” he has the power to annul such a vow.
- [C] *And lo, we have learned: If she said, ‘Qonam be the produce of this stall for me,’ he cannot annul that vow” [M. 11:2D]?*

[D] Interpret the statement just cited to represent the view of R. Yosé.
[This is not a vow which inflicts self-punishment, because he can purchase from someone else.]

[E] *But others differed from him, for we have learned there: “But if he derived his provisions from that particular store alone, lo, this one may annul the vow,”* the words of R. Yosé [M. 11:2E].

[F] *“The reason for this exception,”* said R. Yosé, *“is that this storekeeper extends him credit and hands over produce as needed.”*

[G] *R. Mana said, “Because this particular merchant gives him produce at a good price.”* [In this case Yosé concurs that there is a matter of inflicting self-punishment, but otherwise he will not.]

11:3

[A] [If she said,] **“Qonam if I derive benefit from anybody,” he has not got the power to annul that vow.**

[B] **But she may derive benefit from Gleanings, the Forgotten Sheaf, and the Corner of the Field (Lev. 19:9, Deut. 24:19).**

[C] [If she said,] **“Qonam be the benefit priests and Levites derive from me,”** they collect their dues by force.

[D] [If she said,] **“Qonam be the benefit these [particular] priests and Levites derive from me,”** others collect [the priestly dues from her].

[I:1 A] Said R. Yohanan, “The meaning of the Mishnah’s law is that **she may derive benefit from Gleanings, the Forgotten Sheaf, and the Corner of the Field** [M. 11:3B,] [thus excluding poor man’s tithe].”

[B] *It was taught:* And poor man’s tithe.

[C] [No,] the matter of poor man’s tithe does not apply here, because poor man’s tithe is handed over through the poor man’s effecting acquisition of it, while these other gifts to the poor are handed over by merely being abandoned. [The householder has the right to hand the poor man’s tithe over to a particular poor person, with the result that it has the status of a personal handout, for which thanks are received. The other gifts to the poor cannot be handed over to a particular person but are simply abandoned.]

[I:2 A] R. Yosé b. Haninah said, “A man hands over his tithes as a favor for his own benefit.”

- [B] R. Yohanan said, “A man does not do so.”
- [C] *What is the Scriptural basis for R. Yosé b. Haninah’s view?*
- [D] “And every man’s holy things shall be his” (Num. 5:10).
- [E] And how does R. Yohanan interpret that verse?
- [F] “They will be his” – Let him give them to anyone whom he wills.
- [G] *The Mishnah stands at variance with the statement of R. Yosé b. Haninah: “Qonam if priests or Levites will derive benefit from me” – they take [his priestly and Levitical offerings] against his will [M. 11:3C].*
- [I] Interpret it to apply to him who says, “I do not want to give any sort of priestly gift at all.” You should know that that is the case, *for we have learned: If she said, “Qonam if these particular priests or these particular Levites derive benefit from me,” they hand over her tithes and of offerings to others [M. 11:3D].*
- [J] *The following Tannaitic teaching stands at variance with R. Yohanan: One may say to an Israelite, “Here is a sela, and hand over this firstling to the son of my daughter, who is a priest.”*
- [K] Interpret it to apply to a case in which he wants [42d] to give it to one of two priests, and the son of his daughter is one of them, and he says to him, “Here is this *sela*, and give the whole of it to the son of my daughter, who is a priest.”
- [L] *They asked before R. Zeira, “[The stated case clearly involves an Israelite speaking to another Israelite. But is it prohibited if it is] a priest speaking to an Israelite?”*
- [M] [He said to them,] “Rabbi prohibits [even in such a case].”
- [N] *What R. Yosé said [in the same matter] he did not tell them.*
- [O] *R. Hezekiah in the name of R. Aha, “Thus did he say to them: ‘In the opinion of R. Yosé b. Haninah, A priest to an Israelite [it also is forbidden].”*
- [P] Why is it forbidden?
- [Q] Is it not because of appearances?

[R] *So too R. Yohanan maintains that in the case of an Israelite to an Israelite [such a transaction] is forbidden for appearances' sake, [so Yohanan has an answer too].*

[S] Said R. Yosé bar Bun, “What we have here is nothing less than the profanation of God’s name, and will you maintain that it is prohibited merely because of appearances?!”

[T] *And further note the following:* Priests and Levites who assist in the threshing floors – they do not give them heave offering or tithe, and if one has given it to them, lo, this one has profaned it!

[U] “The priests shall not profane the holy things of the people of Israel, which they offer to the Lord” (Lev. 22:15). And they profane them.

[V] Furthermore they have said: That which they have designated as heave offering [in such a case] is not heave offering, nor as tithes, tithes, and they which they have declared consecrated is not holy.

[W] And concerning them the Scripture has said, “Its heads give judgment for a bribe, its priests teach for hire, its prophets divine for money” (Mic. 3:11). And the Omnipresent brings on them three punishments.

[X] That is in line with that which is written: “Therefore because of you Zion shall be plowed as a field; Jerusalem shall become a heap of ruins; and the mountain of the house a wooded height” (Mic. 3:12).

[Y] *The Mishnah stands at variance with the position of R. Yohanan: **He who betrothed a woman with food in the status of heave offering or tithe, or gifts to be given to the priest or with purification water, lo, this woman is betrothed, even if she is an Israelite [M. Qid. 2:9].*** [So one may betroth and so derive benefit from his tithes, for if that is not so, with what does he betroth?]

[Z] Interpret the passage to speak of heave offerings which he inherited from the father of his mother, who was a

priest [and not that which he has set aside for his own crop's heave offering].

11:4

[A] [If she said,] “Qonam if I work for father,” or, “For your father,” or,”... for your brother,” he cannot annul that vow.

[B] [If she said, “Qonam] if I work for you,” he need not annul [that vow, which is null to begin with].

[D] R. Aqiba says, “Let him annul it,

[E] “lest she produce in her labor more than is appropriate for him [and this excess will be subject to her vow].”

[F] R. Yohanan b. Nuri says, “Let him annul it,

[G] “lest he divorce her, and she be prohibited from returning to him.”

[I:1 A] *There we have learned: He who sanctifies to the Temple the fruits of his wife's labor, lo, this woman continues to work and maintain herself. As to the excess – R. Meir says, “It is consecrated.” R. Yohanan Hassandlar says, “It is unconsecrated” [M. Ket. 5:4].* [The husband cannot consecrate what is not his; the wife's wages do not belong to him. The issue is the amount of the wife's wages not used for her maintenance. Meir assigns the excess to the husband, and Yohanan assigns it to her.]

[B] *R. Simeon b. Laqish says, “The excess under dispute is the amount over and above the five selas [of labor-value per diem which the wife must perform for the husband].”* [The dispute is not concerned with the excess remaining over the return on the wife's labor which is due to the husband. That, all parties concur, goes to the husband.]

[C] For [Simeon] interprets the dispute [of the Mishnah at M. Ket. 5:4 to speak of a case] in which the husband supplies the wife with her food, but does not give her an additional silver coin for her private needs, *for we have learned: If the husband does not give her a silver maah for her needs, the produce of her labor belongs to her [M. Ket. 5:9C].* [Meir's reason is that in this case, in which the husband provides the wife's maintenance, the produce of the wife's labor belongs to him. But since he does not provide the additional money, he forfeits it, in which case she continues to eat the fruits of her own labor. Yohanan maintains that the excess is in exchange for this silver coin. Since he does not pay it, the excess belongs to her, and the husband cannot consecrate it anyhow.]

[D] R. Yohanan said, “The dispute concerns the excess after death.” For [Yohanan] interprets the case to be one in which the husband does not provide maintenance for the wife, inclusive of the weekly allowance of a silver coin. [All parties concur that the husband gets the fruit of the wife’s labor in exchange for food, and the excess over what is needed for her maintenance is in exchange for the silver coin given as a weekly allowance. If then the husband consecrates her labor while she is yet alive, even Meir will concur that there is no valid act of consecration. But after she dies, how do we deal with the excess? Meir maintains that someone may consecrate something which is not yet in existence. Yohanan holds that that is not the case.] But if [Yohanan continues,] the husband does provide her with food, all parties concur that his act of consecration is valid.”

[E] *Now here [explaining the dispute before us in line with the above considerations], how shall we interpret the statement, “He cannot annul that vow”?*

[F] R. Meir says, “He does not have to annul that vow. [Whatever the wife does belongs to the husband. Hence he need not annul the vow, since it is null to begin with.]”

[G] R. Yohanan Hassandlar says, “[The excess] belongs to her, [on which count the husband cannot nullify the vow of M. 11:4].”

[H] [Along these same lines, since Aqiba maintains that the excess belongs to her,] R. Aqiba says, “The excess belongs to her, [so, as at M. 11:4E, if the wife produces produce in excess of what is coming to the husband, that vow is valid, and hence the husband had best annul it].”

[I] R. Yohanan b. Nuri says, “It belongs to him, [so a different reason, namely, that at M. 11:4G, must be adduced to explain why the husband must annul the vow].”

[I:2 A] [We now interpret the positions of Aqiba and Yohanan b. Nuri more systematically, and in their own terms.] **R. Aqiba says, “Let him annul it” [M. 11:4D].**

[B] [To be sure, the produce of the wife’s work belongs to the husband, but,] said R. Ba, “We deal with a case in which she has prohibited by vow his deriving benefit from the fruits of her labor in excess of the sum of five *selas* for which she is liable. For labor up to the value of five *selas*, he may force her to work. For labor beyond that value, he may not force her to work, for he must fear that she may produce more than is required, with the consequence that he may derive benefit from

that which is prohibited to him by her vow. Consequently, R. Aqiba says, 'He must annul that vow.' [That is, the vow covering even what rightfully belongs to the husband must be annulled because of the excess, to which the vow does apply.]”

[C] Said R. Hela, “It is really not possible for the wife to work just up to the value of exactly five *selas*. So he may force the wife to work for the value of up to five *selas*. From that point he may not force her to labor, lest she produce somewhat more than five *selas*, with the result that he will derive benefit from that which is prohibited to him by her vow. Accordingly, R. Yohanán b. Nuri said, ‘Let him annul the oath.’”

[D] *Said R. Hela, “The reason for the position of R. Yohanán b. Nuri is that, since she knows that if he divorces her, she will be prohibited to return to him, she will then provoke him so that he will divorce her [so to prevent that situation, Yohanán b. Nuri wants the oath annulled].”*

11:5

[A] [If] his wife took a vow and he thought that his daughter had taken a vow,

[B] [if] his daughter took a vow and he thought that his wife had taken a vow,

[C] [If] she vowed a Nazirite vow and he thought she had vowed by Qorban,

[D] [if she vowed by] Qorban, and he thought that she had vowed a Nazirite vow,

[E] [if] she vowed not to eat figs, and he thought she had vowed not to eat grapes,

[F] [if] she vowed not to eat grapes and he thought she had vowed not to eat figs –

[G] lo, this one should go back and annul [the vow again].

[I:1 A] [He must go back and annul the vow again] even if he heard the vow and remained silent.

[B] [If he confirmed the vow, he must do so again] even if he had heard the vow and confirmed it already.

11:6

[A] [If] she said, “Qonam be these figs and grapes if I taste [them],”

[B] [if] he confirmed the vow concerning figs, the whole is deemed confirmed.

[C] [If] he annulled the vow concerning figs, it is not deemed annulled until he annuls the vow concerning grapes too.

[D] [If] she said, “Qonam be figs if I taste them, and grapes if I taste them,” lo, these are deemed two distinct vows.

[I:1 A] *There are Tannaim who teach:* [The process of annulment and that of confirmation of vows are comparable. Accordingly,] he confirms the vow as by reference to one of its particular species, or he annuls the vow by reference to one of its particular species [not item by item].

[B] *There are Tannaim who teach:* He confirms the vow as a whole, or he annuls the vow as a whole [item by item].

[C] *There are Tannaim who teach:* He confirms the vow by reference to one of its several species, and he annuls it as a whole [item by item].

[D] *There are Tannaim who teach:* He confirms the vow as a whole, but he annuls it by reference to one of its several species [not item by item].

[E] *The Mishnah conforms to the view of him who said,* “He confirms it by reference to one of its several species, but he annuls it as a whole [item by item].”

[F] *For it has been taught:* **If he confirmed the vow concerning figs, the whole is deemed confirmed. If he annulled the vow concerning figs, it is not deemed annulled until he annuls the vow concerning grapes too [M. 11:6B-C].**

[II:1 A] **If she said, “Qonam be figs if I taste them and, furthermore, grapes” [this is not comparable to the two distinct vows of M. 11:6D]. [In this case do we have two distinct vows?]**

[B] *There is a dispute between R. Ishmael and R. Aqiba.*

[C] For R. Ishmael says, “[The matter is decided by reference to the use of the language of a vow which covers both items. If then she should violate the vow once it has come into force, we invoke the criterion of the applicability] of the vow, [and she would be liable on both counts].”

[D] And R. Aqiba says, “[The operative criterion is what is the case when she makes the statement] of prohibition. [At that point she took a

single vow, since the statement concerning the grapes depended on the fuller one concerning figs. Accordingly, we have a single count of liability.]”

11:7

[A] **[If he said,] “I was aware that there are vows, but I was not aware that there is the possibility of annulling them,” he may annul [the vow].**

[B] **[If he said,] “I was aware that there is the possibility of annulling vows, but I was not aware that this particular statement was a vow,”**

[C] **R. Meir says, “He may not annul the vow.”**

[D] **And sages say, “He may annul the vow.”**

[I:1 A] *Said R. Zeira, “The reason for the view of R. Meir is that the husband is looking for an excuse. He wants her to take an oath so that he may divorce her [without paying off her marriage settlement]. [After all, he knew he could annul the vow, so why didn’t he nullify this one?] For if not, he should have divorced her to begin with [and paid off her marriage settlement].”*

11:8

[A] **He who was prohibited by vow from imparting any benefit to his son-in-law but who wants to give his daughter some money**

[B] **says to her, “Lo, this money is given to you as a gift, on condition that your husband has no right to it, but you dispose of it for your own personal use.”**

[I:1 A] *It was taught: “‘And not for you.’ [That is, the father has to say to her, ‘You have no domain over these funds to do as you like, but you dispose of it for your own personal use alone.’]”*

[B] *Said Rabbi, “Who maintains the view that the father must say, ‘And not for you’? It is R. Meir, for he treats the hand of the slave as the hand of his master, [and the hand of the wife as the hand of her husband].*

[C] *“The reason [that this arrangement, then, is valid, is] that the father has said, ‘And not for you.’ Lo, if he had not said, ‘And not for you,’ whatever the wife acquires, the husband acquires anyhow, [and the father could not then give anything at all to the wife]. [Accordingly, only by establishing the stated condition in the stated language is his action permissible.]*

11:9

[A] **“But the vow of a widow or a divorce shall stand against her” (Num. 30:9) –**

[B] **How so?**

[C] [If] she said, **“Lo, I shall be a Nazir after thirty days,”**

[D] **even though she was married during the thirty days, he [whom she married] has not got the power to annul her vow.**

[E] [If] she took a vow and she was in the domain of the husband, he **annuls the vow for her.**²¹⁴ Chapter Eleven

[F] **How so?**

[G] [If] she said, **“Lo, I shall be a Nazir after thirty days,”**

[H] [if] the husband abrogated the vow], even though she was widowed or divorced within thirty days, **lo, this [vow] is annulled.**

[I] [If] she took a vow on that very day and was divorced on the same day and remarried to the same man on the same day, **he cannot annul the vow.**

[J] **This is the general principle:[In the case of] any woman who has gone forth into her own domain for a single moment [M. 10:3C] – he has not got the power to annul the vows.**

[I:1 A] This matter [invokes the dispute of R. Ishmael and R. Aqiba]. R. Ishmael says, “[We follow the situation prevailing] at the time at which the vow [applies].”

[B] And R. Aqiba holds, “[We follow the situation prevailing] at the time at which the prohibition [applies].” [Accordingly, M. 11:9 is expressed within the principle of Aqiba. In Aqiba’s view the prohibition is validated or invalidated at the moment at which the woman binds herself. Ishmael treats as decisive the time at which the prohibition will take effect. The Mishnah then accords with Aqiba, judging the vow in terms of the situation prevailing when it is made.]

[I:2 A] If the vow and the prohibition invoked thereby applied simultaneously [what is the law]?

[B] *What would be a practical case?*

[C] If she said, “Lo, I shall be a Nazir when thirty days have passed,” and her husband heard the vow and did not annul it, then he divorced her and remarried her within the thirty-day period – here we have a case in which the vow and the prohibition apply simultaneously. [That is, when the woman stands within a single domain, subject to her

husband's authority, if there is an interval during which she is not subject to the husband's authority, but she returns to the husband's authority, do we invoke the principle of M. 11:9J? This question is not answered.]

11:10

[A] In the case of nine [sorts of] girls, their vows are valid [and not subject to abrogation]:

[B] (1) a girl [who vowed when] past maturity who is an orphan [in her father's lifetime]; (2) a girl who [vowed as] a minor child and then passed maturity and is an orphan [in her father's lifetime]; (3) a girl who [vowed] before she reached maturity and is an orphan [in her father's lifetime];

[C] (4) a girl [who vowed] past maturity whose father died; (5) a girl who [vowed as] a minor and then passed maturity whose father died; (6) a girl who [vowed] before she reached maturity and whose father died;

[D] (7) a girl whose father died, and [who vowed and] after the death of her father, she passed maturity;(8) a girl [who vowed] past maturity whose father is alive; (9) a girl who passed maturity [and then vowed] and whose father is alive.

[E] R. Judah says, "Also:He who marries off his minor daughter and she was widowed or divorced and came back home to him – she is still deemed a girl [subject to the abrogation of her vows by the father]."

[I:1 A] Said R. Yohanan, "They are two [not nine]. [The orphan constitutes one category, and the other girls are a second category.] *Why then do we learn, Nine?* It is in order to sharpen the wits of the disciples."

[B] And in the view of R. Judah, they are three categories.

11:11

[A] [If she said,] "Qonam be any benefit I have of [my] father ..., "Of your father ..., if I do any work for you,"

[B] "... if I derive benefit from you, if I work for my father," "... if I work for your father,"

[C] lo, this one he annuls.

[I:1 A] *It was taught:* [If she said, "Qonam be what I do at your instruction if it benefits my father"], R. Nathan says, "He does not annul such a vow."

[B] **And sages say, “He annuls such a vow” [T. Ned. 7:6A-C].**

[I:2 A] On what account does he annul the vow [M. 11:11C]?

[B] *Associates say, “On account of inflicting punishment as it affects him [the husband? suffers from the vow, which then is a matter between him and her]. [Because of the husband, his father is deprived of the benefit of his wife’s labor. This is an embarrassment .] “*

[C] *Both R. Zeira and R. Hela say, “It is because he annuls vows involving inflicting self-punishment on the part of the wife.”*

11:12

[A] **Aforetimes they did rule: Three sorts of women go forth and collect their marriage contract:**

[B] **(1) she who says, “I am unclean for you,” (2) “Heaven [knows] what is between you and me [namely, your impotence],” (3) “I am removed from [having sexual relations with] all the Jews.”**

[C] **They reverted to rule:**

[D] **so that a woman should not covet someone else and spoil [her relationship with] her husband,**

[E] **but:(1) she who says, “I am unclean for you,” must bring proof for her claim. (2) [She who says,] “Heaven [knows] what is between you and me,” – let them find a way to appease her. (3) [She who says,] “I am removed from all the Jews,” let him annul his share [in the vow], so that she may have sexual relations with him, but let her be removed from all the other Jews.**

[I:1 A] [With reference to M. 11:12E(1), *She who says, “I am unclean for you, “must bring proof for her claim,*] lo, if she did not bring proof for her claim, it is obvious that she is permitted to have sexual relations with her husband [even if he is a priest].

[B] Said R. Hela, “Is it not reasonable to suppose that if he was an associate, he should take account [of the possibility that she is telling the truth], so that, if he was a priest, she should be prohibited from eating food in the status of heave offering?”

[C] *A case came before R. Hananiah, associate of the rabbis, and he permitted the woman to eat food in the status of heave offering.*

[D] *Said R. Haggai, “Father [in what follows] knows both the first part of the passage and the latter part of the passage.”*

[E] Soldiers came into a city, and a woman came and said, “Soldiers embraced me and had sexual relations with me.” Nonetheless he permitted her to eat food in the status of heave offering [even though she said she had been raped].

[F] *The case [of a priest’s daughter, not married] came before R. Isaac bar Tabelai, concerning a woman who said, “My [gentile] stableman seduced me.” He said to her, “Is not the stableman prohibited?” And he prohibited her from eating food in the status of heave offering.*

[G] Here [F] you say that he prohibited, and there [E] you say that he permitted [her to eat heave offering].

[H] There [where she is not believed at all] she came with the intent of prohibiting herself, and he declared her permitted [not permitting her to get a divorce from her husband]. But here she came to permit herself [to continue to eat heave offering], so he declared her forbidden.

[II:1 A] She who says, “Heaven knows what is between you and me” – let them find a way to appease her [M. 11:12E(2)].

[B] *Just as far as the Heaven is from the earth, so let that woman be distant from that man.*

[C] Let it be done as a matter of a favor [on the part of the husband, to divorce the woman].

[D] Said R. Huna, “Let them prepare a meal, and they will get used to coming together at the meal [and will be reconciled].”

[II:2 A] *It has been taught:* If one said, “I am finished with you,” “I am separate from you,” these are valid expressions of a vow.

[B] *R. Jeremiah raised the question, “And why have they not included [in the formulation of the passage], ‘I am removed’?”*

[C] *Said R. Yosé, “Indeed it is taught at the end [of the tractate]: ‘I am removed from all the Jews’ [M. II:12E(3)].”*

[D] If she was divorced [after taking that oath], let her go and live with the Arabs, because her soul lusts after them.

[II:3 A] *It has been taught:* A woman who took an oath to be a Nazir and her husband heard and did not annul the vow for her –

- [B] **R. Meir and R. Judah say, “He has put his finger between her teeth. If he wanted to annul the vow, he may do so. And if he said, ‘I do not want a wife who is a Nazir,’ he puts her away but pays off her marriage contract.”**
- [C] **R. Yosé and R. Simeon say, “She has put her finger between her teeth. For if the husband wanted to annul the vow, he could not do so. And if he said, ‘I do not want a wife who is a Nazir,’ she goes forth without receiving payment of her marriage contract” [T. Naz. 3:12-13].**
- [D] *[Do the views of R. Meir and R. Judah accord with] the former version of the Mishnah [that is, M. 11:12A, in which the woman, despite what she has done, gets her marriage settlement]? For if that is not the case, then on what account do R. Meir and R. Judah rule as they do?*
- [E] No, their view accords with even the second version of the Mishnah before us [that is, M. 11:12C-E] . But why did he not annul his share of the vow? [In this latter version, the husband has to annul his share in the vow. Since he did not do so, he has caused the case to take its course and so has to pay off her marriage contract. That accounts for their view at B, above.]
- [F] Shall we say, further, that R. Yosé and R. Simeon accord with the latter version of the Mishnah’s law [as above]?
- [G] *No. You may even say that they accord with the former version of the Mishnah’s law. [Why then does the woman go forth without receiving her marriage settlement?] What did she take the vow for in the first place? [It is her own fault!]*

CHAPTER TWELVE

THE STRUCTURE OF YERUSHALMI NEDARIM

Whether or not the Talmud of the Land of Israel is carefully organized in large-scale, recurrent structures and guided by a program that we may call systematic forms the principal question addressed by an academic commentary. The preceding chapters therefore have pointed toward the presentation set forth here. By “structure” I mean, a clearly-articulated pattern that governs the location of fully-spelled out statements. By “system,” I mean, a well-crafted and coherent set of ideas that explain the social order of the community addressed by the writers of a document, a social philosophy, a theory of the way of life, world view, and character of the social entity formed by a given social group. I see a collective, anonymous, and political document, such as the one before us, as a statement to, and about, the way in which people should organize their lives and govern their actions. At issue then in any document such as the remarkable one before us is simple: does this piece of writing present information or a program, facts to whom it may concern, or a philosophically and aesthetically cogent statement about how things should be? The connection between structure and system is plain to see. From the way in which people consistently frame their thoughts, we move to the world that, in saying things in one way rather than in some other, they wish to imagine. Modes of formulating thought adumbrate modes of imagining the world in which people wish to live, to which they address these thoughts.

If the document exhibits structure and sets forth a system, then it is accessible to questions of rationality. We may ask about the statement that its framers or compilers wished to make by putting the document together as they did. But if we discern no structure and perceive no systematic inquiry or governing points of analysis, then all we find here is inert and miscellaneous information, facts but no propositions, arguments, viewpoints. Now as a matter of fact the Talmud of the Land of Israel commonly finds itself represented as lacking organization and exhibiting a certain episodic and notional character. That view moreover characterizes the reading and representation of the document by learned and experienced scholars, who have devoted their entire lives to Talmud study and exegesis. It must follow that upon the advocate of the contrary view – the one implicit in the representation of the document for academic analysis – rests the

burden of proof. I set forth the allegation that the Talmud of the Land of Israel exhibits a structure and follows a system and therefore exhibits a commonly-intelligible rationality. The claim to write an academic commentary explicitly states that proposition. For the tractate before us, I have therefore to adduce evidence and argument.

I maintain that through the normal procedures of reasoned analysis we may discern in the tractate a well-crafted structure. I hold that the structure made manifest, we may further identify the purpose and perspective, the governing system of thought and argument, of those who collected and arranged the tractate's composites and put them together in the way in which we now have them. By "structure" I mean, how is a document organized? and by "system," what do the compilers of the document propose to accomplish in producing this complete, organized piece of writing? The answers to both questions derive from a simple outline of the tractate as a whole, underscoring the types of compositions and composites of which it is comprised. Such an outline tells us what is principal and what subordinate, and how each unit – composition formed into composites, composites formed into a complete statement – holds together and also fits with other units, fore and aft. The purpose of the outline then is to identify the character of each component of the whole, and to specify its purpose or statement. The former information permits us to describe the document's structure, the latter, its system.

While the idea of simply outlining a Talmud-tractate beginning to end may seem obvious, I have never made such an outline before, nor has anyone else. (I have provided complete outlines for the Mishnah and for the Tosefta in relationship to the Mishnah, and, not always in outline form, for the Midrash-compilations of late antiquity as well) Yet, as we shall now see, the character of the outline dictates all further analytical initiatives. Specifically, when we follow the layout of the whole, we readily see the principles of organization that govern. These same guidelines on organizing discourse point also to the character of what is organized: complete units of thought, with a beginning, middle, and end, often made up of smaller, equally complete units of thought. The former we know as composites, the latter as compositions.

Identifying and classifying the components of the tractate – the composites, the compositions of which they are made up – we see clearly how the document coheres: the plan and program worked out from beginning to end. When we define that plan and program, we identify the facts of a pattern that permit us to say in a specific and concrete way precisely what the compilers of the tractate intended to accomplish. The structure realizes the system, the program of analysis and thought that takes the form of the presentation we have before us. From what people do, meaning, the way in which they formulate their ideas and organized

them into cogent statements, we discern what they proposed to do, meaning, the intellectual goals that they set for themselves.

These goals – the received document they wished to examine, the questions that they brought to that document – realized in the layout and construction of their writing, dictate the points of uniformity and persistence that throughout come to the surface. How people lay out their ideas guides us into what they wished to find out and set forth in their writing, and that constitutes the system that defined the work they set out to accomplish. We move from how people speak to the system that the mode of discourse means to express, in the theory that modes of speech or writing convey modes of thought and inquiry.

We move from the act of thought and its written result backward to the theory of thinking, which is, by definition, an act of social consequence. We therefore turn to the matter of intention that provokes reflection and produces a system of inquiry. That statement does not mean to imply I begin with the premise of order, which sustains the thesis of a prior system that defines the order. To the contrary, the possibility of forming a coherent outline out of the data we have examined defines the first test of whether or not the document exhibits a structure and realizes a system. So everything depends upon the possibility of outlining the writing, from which all else flows. If we can see the order and demonstrate that the allegation of order rests on ample evidence, then we may proceed to describe the structure that gives expression to the order, and the system that the structure sustains.

The present work undertakes the exegesis of exegesis, for the Yerushalmi, like its counterpart in the one of Babylonia, is laid out as a commentary to the Mishnah. That obvious fact defined the character of my academic commentary, since we have already faced the reality that our tractate is something other than a commentary, though it surely encompasses one. The problems that captured my attention derived from the deeper question of how people make connections and draw conclusions. To ask about how people make connections means that we identify a problem – otherwise we should not have to ask – and what precipitated the problem here has been how a composition or a composite fits into its context, when the context is defined by the tasks of Mishnah-commentary, and the composition or composite clearly does not comment on the Mishnah-passage that is subjected to comment.

The experience of analyzing the document with the question of cogency and coherence in mind therefore yields a simple recognition. Viewed whole, the tractate contains no gibberish but only completed units of thought, sentences formed into intelligible thought and self-contained in that we require no further information to understand those sentences, beginning to end. The tractate organizes these statements as commentary to the Mishnah. But large tracts of the writing do not comment on the Mishnah in the way in which other, still larger

tracts do. Then how the former fit together with the latter frames the single most urgent question of structure and system that I can identify.

Since we have already examined enormous composites that find their cogency in an other than exegetical program, alongside composites that hold together by appeal to a common, prior, coherent statement – the Mishnah-sentences at hand – what justifies my insistence that an outline of the document, resting on the premise that we deal with a Mishnah-commentary, govern all further description? To begin with, the very possibility of outlining this tractate derives from the simple fact that the framers have given to their document the form of a commentary to the Mishnah. It is in the structure of the Mishnah-tractate that they locate everything together that they wished to compile. We know that is the fact because the Mishnah-tractate defines the order of topics and the sequence of problems.

Relationships to the Mishnah are readily discerned; a paragraph stands at the head of a unit of thought; even without the full citation of the paragraph, we should find our way back to the Mishnah because at the head of numerous compositions, laid out in sequence one to the next, clauses of the Mishnah-paragraph are cited in so many words or alluded to in an unmistakable way. So without printing the entire Mishnah-paragraph at the head, we should know that the received code formed the fundamental structure because so many compositions cite and gloss sentences of the Mishnah-paragraph and are set forth in sequence dictated by the order of sentences of said Mishnah-paragraph. Internal evidence alone suffices, then, to demonstrate that the structure of the tractate rests upon the Mishnah-tractate cited and discussed here. Not only so, but the sentences of the Mishnah-paragraphs of our tractate are discussed in no other place in the entire Talmud of the Land of Israel in the sequence and systematic exegetical framework in which they are set forth here; elsewhere we may find bits or pieces, but only here, the entirety of the tractate.

That statement requires one qualification, and that further leads us to the analytical task of our outline. While the entire Mishnah-tractate of treated here is cited in the Talmud of the Land of Israel, the framers of the Talmud of the Land of Israel by no means find themselves required to say something about every word, every sentence, every paragraph. On the contrary, they discuss only what they choose to discuss, and glide without comment by large stretches of the tractate. A process of selectivity, which requires description and analysis, has told the compilers of the Talmud of the Land of Israel's composites and the authors of its compositions (This statement requires refinement. I do not know that all available compositions have been reproduced, and that the work of authors of compositions of Mishnah-exegesis intended for a talmud is fully exposed in the document as we have it. That is not only something we cannot demonstrate – we do not have compositions that were not used, only the ones that were – but something that

we must regard as unlikely on the face of matters. All we may say is positive: the character of the compositions that address Mishnah-exegesis tells us about the concerns of the writers of those compositions, but we cannot claim to outline all of their concerns, on the one side, or to explain why they chose not to work on other Mishnah-sentences besides the ones treated here. But as to the program of the compositors, that is another matter: from the choices that they made (out of a corpus we cannot begin to imagine or invent for ourselves) we may describe with great accuracy the kinds of materials they wished to include and the shape and structure they set forth out of those materials. We know what they did, and that permits us to investigate why they did what they did. What we cannot know is what they did not do, or why they chose not to do what they did not do. People familiar with the character of speculation and criticism in Talmudic studies will understand why I have to spell out these rather commonplace observations. I lay out an argument based on evidence, not on the silences of evidence, or on the absence of evidence – that alone.) what demands attention, and what does not. Our outline has therefore to signal not only what passage of the Mishnah-tractate is discussed, but also what is not discussed, and we require a general theory to explain the principles of selection (“making connections, drawing conclusions” meaning, to begin with, making selections). For that purpose, in the outline, I reproduce the entirety of a Mishnah-paragraph that stands at the head of a Talmudic composite, and I underscore those sentences that are addressed, so highlighting also those that are not.

It follows that the same evidence that justifies identifying the Mishnah-tractate as the structure (therefore also the foundation of the system) of Yerushalmi-tractate before us also presents puzzles for considerable reflection. The exegesis of Mishnah-exegesis is only one of these. Another concerns the purpose of introducing into the document enormous compositions and composites that clearly hold together around a shared topic or proposition, e.g., my appendix on one theme or another, my elaborate footnote providing information that is not required but merely useful, and the like. My earlier characterization of composites as appendices and footnotes signalled the fact that the framers of the document chose a not-entirely satisfactory way of setting out the materials they wished to include here, for large components of the tractate do not contribute to Mishnah-exegesis in any way at all. If these intrusions of other-than-exegetical compositions were proportionately modest, or of topical composites negligible in size, we might dismiss them as appendages, not structural components that bear much of the weight of the edifice as a whole. Indeed, the language that I chose for identifying and defining these composites – footnotes, appendices, and the like – bore the implication that what is not Mishnah-commentary also is extrinsic to the Talmud of the Land of Israel’s structure and system.

But that language served only for the occasion. In fact, the outline before us will show that the compositions are large and ambitious, the composites formidable

and defining. Any description of the tractate's structure that dismisses as mere accretions or intrusions so large a proportion of the whole misleads. Any notion that "footnotes" and "appendices" impede exposition and disrupt thought, contribute extraneous information or form tacked-on appendages – any such notion begs the question: then why fill up so much space with such purposeless information? The right way is to ask whether the document's topical composites play a role in the re-presentation of the Mishnah-tractate by the compilers of the Talmud of the Land of Israel. We have therefore to test two hypotheses:

1. the topical composites ("appendices," "footnotes") do belong and serve the compilers' purpose

or

2. the topical composites do not participate in the re-presentation of the Mishnah-tractate by Yerushalmi and do not belong because they add nothing and change nothing.

The two hypotheses may be tested against the evidence framed in response to a single question: is this topical composite necessary? The answer to that question lies in our asking, what happens to the reading of the Mishnah-tractate in light of the topical composites that would not happen were we to read the same tractate without them? The outline that follows systematically raises that question, with results specified in due course. It suffices here to state the simple result of our reading of the tractate, start to finish: the question of structure, therefore also that of system, rests upon the position we identify for that massive component of the tractate that comprises not Mishnah-commentary but free-standing compositions and composites of compositions formed for a purpose other than Mishnah-commentary.

The principal rubrics are given in small caps. The outline takes as its principal rubrics two large-scale organizing principles.

The first is the divisions of the Mishnah-tractate to which the Talmud of the Land of Israel-tractate serves as a commentary. That simple fact validates the claim that the tractate exhibits a fully-articulated structure. But the outline must also underscore that the Mishnah-tractate provides both more and less than the paramount outline of the Talmud of the Land of Israel-tractate. It is more because sentences in the Mishnah-tractate are not analyzed at all. These untreated Mishnah-sentences are given in bold face lower case caps, like the rest of the Mishnah, but then are specified by underlining and enclosure in square brackets.

Second, it is less because the structure of the tractate accommodates large composites that address topics not defined by the Mishnah-tractate. That brings us to the second of the two large-scale modes of holding together both sustained analytical exercises and also large sets of compositions formed into cogent

composites. These are treated also as major units and are indicated by Roman numerals, alongside the Mishnah-paragraphs themselves; they are also signified in small caps. But the principal rubrics that do not focus on Mishnah-commentary but on free-standing topics or propositions or problems are not given in boldface type. Consequently, for the purposes of a coherent outline we have to identify as autonomous entries in our outline those important composites that treat themes or topics not contributed by the Mishnah-tractate.

I. YERUSHALMI NEDARIM 1:1

[A] ALL SUBSTITUTES FOR [LANGUAGE USED TO EXPRESS] VOWS ARE EQUIVALENT TO VOWS, AND FOR BANS (HEREM) ARE EQUIVALENT TO BANS, AND FOR OATHS ARE EQUIVALENT TO OATHS, AND FOR NAZIRITE VOWS ARE EQUIVALENT TO NAZIRITE VOWS. HE WHO SAYS TO HIS FELLOW, “I AM FORBIDDEN BY VOW FROM YOU,” “I AM SEPARATED FROM YOU,” “I AM DISTANCED FROM YOU,” “IF I EAT YOUR [FOOD],” [OR] “IF I TASTE YOUR [FOOD],” IS BOUND [BY SUCH A VOW]:

1. **I:1:** It is written, “When a man vows [a vow, or swears an oath to bind himself by a pledge, he shall not break his word; he shall do according to all that proceeds out of his mouth]:” (Num. 30:2). Why then [having said, “When a man vows,”] does Scripture add [the word,] “vow” [which is hardly necessary to make the statement make sense]? It is on the basis of that further statement that we know that all substitutes for language used to express vows are equivalent to vows. “Or swears...” Why does Scripture add, “an oath”? It is on the basis of that further statement that we know that all substitutes for language used to express oaths are equivalent to oaths.
2. **I:2:** Now is it not the case that, in the law [of the Torah], rules governing valuations, bans, acts of substitution of one beast for another, already consecrated one, and acts of consecration of property, are stated [that is, at Leviticus chapter 27]. Accordingly, why have we not learned [at M. 1:1] that substitute language for language used for pledging valuations, acts of substitution, and consecrations, is valid, [just as much as that used in connection with bans]?
3. **I:3:** R. Jacob bar Aha said, “There is a dispute between R. Yohanan and R. Eleazar. For R. Yohanan has said, ‘People are [not] flogged on account of violating prohibitions [which, not being found in the Torah, are taken upon themselves by a verbal statement].’ And R. Eleazar says, ‘They are flogged’

- 4. I:4:** What is a vow which imposes a prohibition [of that which is permitted] in the Torah? He who says, “Lo, I take upon myself that I shall not eat meat, and that I shall not drink wine, as on the day on which I saw Jerusalem in ruins, or as on the day on which so-and-so was slain” — it is binding [T. Naz. 1:4D-G].
- 5. I:5:** If he says, “This is forbidden,” or “A vow [on that loaf],” this is an oath. If you maintain, “This is a prohibition,” has the standing of an oath, he is liable for each prohibition individually, and for each oath individually. But if you say that the language of “prohibition” is of a species of the language of oath, then he is liable for the one by itself and for the other by itself.

- a. I:6:** [As to the statement earlier that oaths do not apply to what is already prohibited,] said R. Yudan, “That is the case when one has expressed the vow [applying the prohibition to himself] and afterward expressed the oath. But if he expressed the oath and afterward he expressed the vow, then vows do apply to what is already prohibited, while oaths do not apply to what is already prohibited.”

[B] [HE WHO SAYS,] “I AM EXCOMMUNICATED FROM YOU,” — R. AQIBA IN THIS CASE DID INCLINE TO IMPOSE A STRINGENT RULING.

- 1. II:1:** He who says, “I am excommunicated from you” [M. 1:1E] — R. Yosé b. Haninah said, “Each of them is prohibited from deriving benefit from the other, as if he had said, ‘And I from you!’” It is analogous to a case in which one has said, “This loaf of bread is excommunicated from me,” in which we take for granted the meaning, further is, “And I from it.
- 2. II:2:** He who says, “I am excommunicated from you” — R. Aqiba in this case did incline to impose a stringent ruling [M. 1:1E-F]. [What is this stringent ruling?] It is to impose a prohibition upon all of his property.

[C] [HE WHO SAYS,] “AS THE VOWS OF THE EVIL FOLK...,” HAS MADE A BINDING VOW IN THE CASE OF A NAZIR, OR IN THE CASE OF [BRINGING] AN OFFERING, OR IN THE CASE OF AN OATH:

- 1. III:1:** Samuel said, “The meaning of the passage of the Mishnah is to treat each item by itself: Either of a Nazir, or of an offering, or of an oath. [If he said, ‘... like the oaths taken by evil men,’ lo, he would be a Nazir, e.g., if a Nazir were passing by; it may mean, too, that the

object is prohibited as is an offering; and there may be a case in which what he has done is take an oath.]”

[D] “AS THEIR [SUITABLE FOLKS] FREEWILL-OFFERINGS,”... HE HAS MADE A BINDING VOW IN THE CASE OF A NAZIR OR IN THE CASE OF [BRINGING] AN OFFERING.

1. **IV:1:** It was taught: “As their freewill offerings” [that is, of evil men] — he has said nothing at all. [Cf. M. 1:1/I.] Is that to say that evil people do not bring freewill offerings? Once the man has volunteered a freewill offering, he no longer can be regarded as an evil man.

[E] [HE WHO SAYS,] “AS THE VOWS OF THE SUITABLE FOLK,” HAS SAID NOTHING WHATSOEVER.

1. **V:1:** Is that to say that people who take oaths are respectable? Once he has taken a vow, he is no longer regarded as a suitable person.
 - a. **V:2:** Gloss of a detail of the foregoing.

II. YERUSHALMI NEDARIM 1:2

[A] HE WHO SAYS TO HIS FELLOW, “QONAM,” “QONAH,” “QONAS” — LO, THESE ARE SUBSTITUTES FOR QORBAN [A VOW TO BRING A SACRIFICE, AND ARE VALID]. [HE WHO SAYS TO HIS FELLOW,] “HEREQ,” “HEREKH,” “HEREF,” LO, THESE ARE SUBSTITUTES FOR HEREIN [BAN]. [HE WHO SAYS TO HIS FELLOW,] “NAZIQ,” “NAZIAH,” “PAZIAH,” — LO, THESE ARE SUBSTITUTES FOR NAZIRITE VOWS. [HE WHO SAYS,] “SHEBUTAH,” “SHEQUQAH” —

1. **I:1:** To this point we have dealt with [cases in which one has used the cited language Qonam, to prohibit something] for himself. What is the law as to one’s consecrating something to Heaven using the language, “Qonam”?
2. **I:2:** R. Jeremiah raised the following question: “As to an expression which bears a secular implication [that something is unconsecrated] and also that it is consecrated as an offering, what is the law? Do we interpret that language as having prohibited the thing for the person who uses the language?”
3. **I:3:** [As to the various usages cited in the Mishnah-paragraph] said R. Simeon b. Laqish, “These usages all mean something in the language of other nations [who can take oaths using them]. For instance, Nabataeans refer to *haspa* as *kaspa*.”

[B] [OR IF HE] VOWED [WITH THE WORD], “MOTA,” LO, THESE ARE SUBSTITUTES FOR SHEBU’AH [OATH]:

- 1.** **II:1:** If one vowed with the word, “Mota,” [M. 1:2E], or, “Bemomi,” [it is null unless] it is along the lines of a vow which Moses took: “And Moses undertook [to dwell with the man, and he gave Moses his daughter Zipporah]” (Ex. 2:21). R. Jonah raised the question, “And do we not maintain that one is subject to the oath if he has vowed in the manner in which Saul took a vow: ‘[And the man of Israel were distressed that day;] for Saul laid an undertaking [oath] [on the people, saying, ‘Cursed be the man who eats food until it is evening and I am avenged on my enemies.’ So none of the people tasted food]’ (1 Sam. 14:24)?”

III. YERUSHALMI NEDARIM 1:3

[A] HE WHO SAYS, “NOR-UNCONSECRATED-PRODUCE SHALL I NOT EAT WITH YOU,” “NOT-VALID-[FOOD],” AND, “NOT-PURE,” “[NOT] CLEAN [FOR THE ALTAR],” OR “UNCLEAN,” OR “REMNANT,” OR “REFUSE” — IS BOUND. [IF HE SAID, “MAY IT BE TO ME] LIKE THE LAMB [OF THE DAILY WHOLE-OFFERING],” “LIKE THE TEMPLE-SHEDS,” “LIKE THE WOOD,” “LIKE THE FIRE,” “LIKE THE ALTAR,” “LIKE THE SANCTUARY,” “LIKE JERUSALEM” — [IF] HE VOWED BY THE NAME OF ONE OF ANY OF THE UTENSILS USED FOR THE ALTAR, EVEN THOUGH HE HAS NOT USED THE WORD QORBAN LO, THIS ONE HAS VOWED [IN AS BINDING A WAY AS IF HE HAD VOWED] BY QORBAN. R. JUDAH SAYS, “HE WHO SAYS, ‘JERUSALEM,’ HAS SAID NOTHING.”

- 1.** **I:1:** [Explaining M. 1:3A:] “Lo, what I shall eat of yours will not be consecrated produce but in the status of an offering” — “It will not be suitable for me but rather for the altar” — “It will not be pure for me but rather for the altar” — “It will be clean for the altar and not for me” — “Unclean for me and not for the altar” — Suitable and pure (dky) are in the category of clean.

[B] [IF] HE VOWED BY THE NAME OF ONE OF ANY OF THE UTENSILS USED FOR THE ALTAR, EVEN THOUGH HE HAS NOT USED THE WORD QORBAN LO, THIS ONE HAS VOWED [IN AS BINDING A WAY AS IF HE HAD VOWED] BY QORBAN. R. JUDAH SAYS, “HE WHO SAYS, ‘JERUSALEM,’ HAS SAID NOTHING.”

- 1.** **II:1:** If one has vowed by the name of one of any of the utensils used for the altar [M. 1:3D] — like a spoon, incense shovel, or rake. R. Judah says, “He who says, ‘Jerusalem,’ has said nothing” [M. 1:3G]. For this one who has said the word has referred only to the wood and

stones in the city. If he said, “Like the Torah,” lo, this [person] is permitted [not bound by a vow]. “... like the sanctity of the Torah,” “Like that which is written in it,” lo, this one is bound by the vow [T. Ned. 1:4].

IV. YERUSHALMI NEDARIM 1:4

[A] HE WHO SAYS, “AN OFFERING,” “A WHOLE OFFERING,” “A MEAL OFFERING,” “A SIN OFFERING,” “A THANK OFFERING,” “PEACE OFFERING,” — “BE WHAT I EAT WITH YOU,” HE IS BOUND [PROHIBITED FROM EATING WITH THE OTHER PARTY]. R. JUDAH PERMITS [DECLARES HIM NOT BOUND]. [IF HE SAYS, “MAY WHAT I EAT OF YOURS BE] THE QORBAN,” “LIKE THE QORBAN,” “[BY] A QORBAN [DO I VOW]” — BE WHAT I EAT WITH YOU,” HE IS BOUND. [IF HE SAYS,] “FOR QORBAN SHALL BE WHAT I EAT WITH YOU,” R. MEIR DECLARES HIM BOUND:

1. I:1: All parties concur that if he had said, “... the offering,” he is not bound. If he said, “Like an offering,” he is bound. [In the former case he may be understood to vow by the living animal, in the latter, only by the animal which has been offered up on the altar.] Concerning what do they differ? [Concerning use of the language,] “Offering.” R. Judah says, “He who says, ‘Offering,’ is like him who says, ‘The offering,’ and he is not bound.” And rabbis say, “[If he said,] ‘Offering,’ it is as if he says, ‘Like an offering,’ and he is bound by the vow.”
2. I:2: [Augmenting M. 1:3C:] “A pipe,” “The pipe,” “Like the pipe,” “As the pipe” — whether he then said, “Be what I shall eat of yours,” or said, “Be what I shall not eat of yours,” he is not bound. If he said, “Not unconsecrated food be what I shall eat of yours” — he is bound by the vow [= M. 1:3A].

[B] HE WHO SAYS TO HIS FELLOW, “QONAM BE MY MOUTH WHICH SPEAKS WITH YOU,” OR “MY HAND WHICH WORKS WITH YOU,” “MY FOOT WHICH WALKS WITH YOU,” IS BOUND.

1. II:1: “My walking be prohibited to you” “My speaking be prohibited to you” [cf. M. 1:4J], he has said nothing whatsoever. Why is that so? Because he has imposed upon himself a vow by reference to something which is of no substance.

V. YERUSHALMI NEDARIM 2:1

- [A] AND THESE VOWS ARE NOT BINDING [AT ALL]: HE WHO SAYS, “MAY WHAT I EAT OF YOURS BE UNCONSECRATED FOOD,” “[BE] LIKE PIG MEAT,” “LIKE AN IDOL,” “LIKE HIDES PIERCED AT THE HEART,” “LIKE CARRION,” “LIKE TEREFAH-MEAT,” “LIKE ABOMINATIONS,” “LIKE CREEPING THINGS,” “LIKE THE DOUGH OFFERING OF AARON,” OR “LIKE HIS HEAVE OFFERING,” — IT IS NOT BINDING.
1. I:1: [Proving the point of M. 2:1A-C:] “[When a man vows a vow] to the Lord” (Num. 30:2) — A person prohibits himself only by reference to something which belongs to the Lord.
- [B] HE WHO SAYS TO HIS WIFE, “LO, YOU ARE LIKE MOTHER TO ME,” — THEY OPEN FOR HIM A DOOR [FOR THE UNBINDING OF HIS OATH] FROM SOME OTHER SOURCE, SO THAT HE MAY NOT BEHAVE LIGHTLY IN SUCH A MATTER. [HE WHO SAYS,] “QONAM IF I SLEEP,” OR, “IF I SPEAK,” OR, “IF I WALK” — HE WHO SAYS TO HIS WIFE, “QONAM IF I HAVE SEXUAL RELATIONS WITH YOU” — LO, THIS IS A CASE TO WHICH APPLIES THE LAW, “HE SHALL NOT BREAK HIS WORD” (NUM. 30:2). [HE MUST GAIN REMISSION FROM A SAGE.]
1. II:1: [With reference to M. 2:1H, that a man must keep his word in a vow concerning something which he would ordinarily be permitted to do, with the further implication that the vow is not applicable on the basis of Scripture, but people apply to themselves, by a vow, such a prohibition and must not treat their own words as unconsecrated,] the household of Rab taught: “How do we know concerning vows which are released for you so far as Heaven is concerned, that people customarily treat such vows as binding, so that one should not take a vow and then treat it as null? Scripture says, ‘He shall not break his word’ (Num. 30:2). The meaning is, he should not treat his words as unconsecrated.”
 2. II:2: “... to bind himself by a pledge...” (Num. 30:2): There are Tannaim who teach, “To bind himself, but not to bind others.” And there are Tannaim who teach, “Even to bind others.” [That is, by a vow one may prohibit others from enjoying use of his own property.]
 3. II:3: He who says to his wife, “Lo, you are like mother to me,” [M. 2:1G] — “Having sexual relations with you to me is like having sexual relations with mother,” “Like mother’s flesh” — he has said nothing at all. [But he must gain remission from a sage.]

[C] [IF HE SAID,] “BY AN OATH THAT I SHALL NOT SLEEP,” “THAT I SHALL NOT SPEAK,” “THAT I SHALL NOT WALK,” IT IS BINDING.

1. III:1: “By an oath, I shall not eat for three days,” they wait for him until he actually eats, and only then do they flog him [for not keeping his oath].

VI. YERUSHALMI NEDARIM 2:2

[A] [HE WHO SAYS,] “QORBAN I SHALL NOT EAT WITH YOU!” “QORBAN BE WHAT I EAT WITH YOU!” “NOT-QORBAN BE WHAT I DO NOT EAT WITH YOU!” — HE IS NOT BOUND. “BY AN OATH, I SHALL NOT EAT WITH YOU!” “BY AN OATH, IF I SHALL EAT WITH YOU,” “NOT BY AN OATH I SHALL NOT EAT WITH YOU,” HE IS BOUND. THIS RULE IS THEREFORE MORE STRICT IN THE CASE OF OATHS THAN IN THE CASE OF VOWS. [F] BUT [THERE IS] A STRICTER RULE WHICH APPLIES TO VOWS THAN APPLIES TO OATHS. HOW SO? [IF] HE SAID, “QONAM BE THE SUKKAH WHICH I AM MAKING!” “THE LULAB WHICH I AM TAKING!” “THE TEFILLIN WHICH I AM LAYING ON” — IN THE CASE OF VOWS, IT IS BINDING. IN THE CASE OF OATHS, IT IS NOT BINDING. FOR AN OATH IS NOT TAKEN TO TRANSGRESS THE COMMANDMENTS OF THE TORAH [BUT A VOW IS BINDING].

1. I:1: And why do we not repeat the tradition [at M. 2:2A also] in the language, “‘By an oath I shall not eat with you’ — he is not bound”?
2. I:2: “Lo, it is an offering,” “Lo, it is for an offering,” “Lo, it is like an offering” — the vow is not binding. “Lo, it is an oath,” “Lo, it is for an oath,” “Lo, it is like an oath” — the oath is binding.

[B] IN THE CASE OF VOWS, IT IS BINDING. IN THE CASE OF OATHS, IT IS NOT BINDING. FOR AN OATH IS NOT TAKEN TO TRANSGRESS THE COMMANDMENTS OF THE TORAH BUT A VOW IS BINDING.

1. II:1: “Or if anyone utters with his lips a rash oath to do evil or to do good, any sort of rash oath that men swear” (Lev. 5:4). Just as doing good is a matter of choice, so doing evil is a matter of choice. This then excludes [taking a valid oath with regard to a matter which is subject to a prohibition, [or] to a matter which is a religious requirement [thus explaining the difference].

VII. YERUSHALMI NEDARIM 2:3

[A] **THERE IS A VOW WITHIN A VOW, BUT THERE IS NO OATH WITHIN AN OATH. HOW SO? [IF] HE SAID, “LO, I AM A NAZIR IF I EAT,” “LO, I AM A NAZIR IF I EAT,” [AND IF] HE ATE, HE IS LIABLE FOR EACH SUCH STATEMENT [AND OBSERVES TWO SPELLS OF NAZIRITESHIP]. [IF HE SAID,] “BY AN OATH I SHALL NOT EAT,” “BY AN OATH I SHALL NOT EAT,” AND HE ATE, HE IS LIABLE FOR ONE COUNT ONLY.**

1. **I:1:** R. Yosé raised the question; “If someone has said, ‘By an oath, by an oath, by an oath [regarding several loaves], I shall not eat’ and then he ate — what is the law? [Do we have three distinct oaths here?]”
2. **I:2:** Abimi, brother of Haifa, said, “I have studied in practice the law of vows, I have studied in practice the law of oaths.” Haifa wanted to examine him [to see what he had learned]: [If] there were before someone five loaves of bread, and he said, ‘I swear that I shall [not] eat this loaf,’ and then he went and said, ‘These two loaves of bread,’ and then he went and said, ‘These three loaves of bread,’ and then he went and said, ‘These four loaves of bread,’ and then he went and said, ‘These five loaves of bread,’ and he then ate the first loaf of bread — what is the law?” [Abimi] said to him, “He is liable on each count [for violating each oath, since each involved another loaf of bread].” [Abimi’s brother] said to him, “He is liable on only one count; since he has made use of the word ‘oath,’ he has rendered the loaf of bread from that point forward to be in the status of carrion, and [the others are included therein, so] he is as one who makes an oath [regarding the other loaves of bread] concerning that which already is prohibited, and oaths do not apply to matters which are already subject to a prohibition.”

VIII. YERUSHALMI NEDARIM 2:4

[A] **VOWS WHICH ARE NOT SPELLED OUT ARE SUBJECT TO A MORE STRINGENT RULE, AND [VOWS] WHICH ARE SPELLED OUT ARE SUBJECT TO A MORE LENIENT RULE. HOW SO? [IF] HE SAID, “LO, IT IS TO ME LIKE SALTED MEAT,” “LIKE WINE USED FOR IDOLATROUS WORSHIP,” IF HIS VOW REFERRED TO THINGS BELONGING TO HEAVEN, IT IS BINDING. IF IT IS OF THINGS BELONGING TO IDOLATRY THAT HE VOWED, IT IS NOT BINDING. BUT IF HE VOWED WITHOUT SPECIFICATION, IT IS BINDING. [IF HE SAID,] “LO, IT IS TO ME LIKE A DEVOTED**

THING,” IF HE SAID, “LIKE A THING DEVOTED TO HEAVEN,” IT IS BINDING. IF [HE SAID,] “LIKE A THING DEVOTED TO PRIESTS,” IT IS NOT BINDING. AND IF HE SAID IT WITHOUT FURTHER SPECIFICATION, IT IS BINDING. [IF HE SAID,] “LO, IT IS UNTO ME LIKE TITHE,” IF HE VOWED THAT IT WAS LIKE TITHE OF CATTLE, IT IS BINDING. IF IT WAS LIKE TITHE OF THE THRESHING FLOOR, IT IS NOT BINDING. AND IF HE SAID IT WITHOUT FURTHER SPECIFICATION, IT IS BINDING.

- I:1:** They proposed to rule: “That which is salted permanently is deemed salted meat [in line with M. 2:4C], but if it was with regard to that which is salted only for a time, that is not the case. [It is not deemed salted.]” Said R. Yudan, “On the basis of that which we have learned: If he said, ‘Lo, it is to me like salted meat,’ ‘Like wine used for idolatrous worship’ [M. 2:4C], we find that that which is salted only for a time indeed is regarded as salted.”

[B] “[IF HE SAID,] ‘LO, IT IS TO ME LIKE HEAVE OFFERING,’ IF HE VOWED THAT IT WAS LIKE HEAVE OFFERING OF THE CHAMBER [OF THE TEMPLE], IT IS BINDING. AND IF IT WAS LIKE THAT OF THE THRESHING FLOOR, IT IS NOT BINDING. AND IF IT WAS WITHOUT FURTHER SPECIFICATION, IT IS BINDING,” THE WORDS OF R. MEIR.

- II:1:** If he said, “Lo, it is unto me like heave offering,” if he vowed that it was like heave offering of the chamber of the Temple, it is binding [M. 2:4/O-P]. Lo, if it was like heave offering taken from the bread of the thank offering [that is, one out of ten of those loaves is forbidden, as belonging to the cult], it then will be permitted. And if it was like that of the threshing floor, it is not binding [M. 2:4Q]. Lo, if it was like heave offering taken from the bread of the thank offering, it then will be forbidden. Accordingly, at one point you maintain that it is permitted, and at the other point, forbidden [as a binding oath].

[C] AND SAGES SAY, “A STATEMENT REFERRING WITHOUT SPECIFICATION TO HEAVE OFFERING MADE IN JUDAH IS BINDING. BUT IN GALILEE IT IS NOT BINDING. FOR THE MEN OF GALILEE ARE NOT FAMILIAR WITH HEAVE OFFERING BELONGING TO THE CHAMBER. STATEMENTS THAT SOMETHING IS DEVOTED, WITHOUT FURTHER SPECIFICATION, IN JUDAH ARE NOT BINDING, AND IN GALILEE THEY ARE BINDING. FOR THE GALILEANS ARE NOT FAMILIAR WITH THINGS DEVOTED TO THE PRIESTS.”

- III:1:** Lo, if they were familiar with it, a vow taken without further specification would be binding. “Statements that something is devoted, without further specification, in Judah are not binding, and in Galilee they are binding. For the Galileans are not familiar with things devoted

to the priests” [M. 2:4U-V]. But if they were familiar with them, a vow taken without further specification would not be binding.

IX. YERUSHALMI NEDARIM 2:5

[A] [If] ONE VOWED BY “HEREM,” BUT THEN HE SAID, “I VOWED ONLY CONCERNING THAT WHICH IS A HEREM [A NET] OF THE SEA,” [OR IF HE VOWED] BY “QORBAN “ BUT THEN SAID, “I VOWED ONLY CONCERNING QORBAN [OFFERINGS] TO KINGS,” [IF HE SAID,] “LO, ‘ASMI [MY BONE] IS QORBAN,” AND EXPLAINED, “I VOWED ONLY CONCERNING THE ‘ESEM WHICH I PLACED BEFORE ME BY WHICH TO VOW,” [IF HE SAID,] “QONAM IS THAT BENEFIT WHICH MY WIFE DERIVES FROM ME,” AND HE SAID, “I VOWED ONLY CONCERNING MY FIRST WIFE, WHOM I HAVE ALREADY DIVORCED” — IN ALL THESE CASES THEY DO NOT ACCEPT INQUIRY CONCERNING THEM. BUT IF THEY ACCEPT INQUIRY, THEY PUNISH AND TREAT THEM STRICTLY,” THE WORDS OF R. MEIR. AND SAGES SAY, “THEY FIND AN OPENING FOR THEM IN SOME OTHER PLACE [BY SOME PRETEXT]. AND THEY INSTRUCT THEM THAT THEY NOT TREAT VOWS LIGHTLY.”

1. **I:1:** There was a man who took a vow along the lines of the language [specified at M.]. The man came before R. Meir, who sent him on to R. Judah. [Meir] said to the man, “Tell him that you came to me, and I sent you on to him.” The man came before R. Judah, who sent him to R. Yosé. He said to the man, “Tell him that R. Meir sent you to me, and I sent you to him [Yosé].” The man came to R. Yosé. He said to him, “If the first one you came to is not prepared to release you from your vow, surely no one else is going to release you either. For R. Meir maintains, ‘If they accept inquiry, they punish and treat them strictly’” [M. 2:5F].

X. YERUSHALMI NEDARIM 3:1

[A] FOUR [TYPES OF] VOWS DID SAGES DECLARE NOT BINDING:

1. **I:1:** Now do not sages declare all vows not binding [and not merely the four listed here, should occasion arise]? Now is it so that sages declare all vows not binding? And have we not learned: Four types of vows did sages declare not binding [M. 3:1A]. R. Eleazar in the name of R. Hiyya the Elder: “These [four] do not require the remission of a sage, [but are null to begin with].”

[B] VOWS OF INCITEMENT: VOWS OF EXAGGERATION, VOWS MADE IN ERROR, AND VOWS [BROKEN] UNDER CONSTRAINT. VOWS OF INCITEMENT: HOW SO? [IF] ONE WAS SELLING SOMETHING AND SAID, “QONAM IF I CHOP THE PRICE DOWN FOR YOU TO UNDER A SELA,” AND THE OTHER SAYS, “QONAM IF I PAY YOU MORE THAN A SHEQEL,” [THEN] BOTH OF THEM AGREE AT THREE DENARS. R. ELIEZER B. JACOB SAYS, “ALSO: HE WHO WANTS TO FORCE HIS FELLOW BY A VOW TO EAT WITH HIM SAYS, ‘ANY VOW WHICH I AM GOING TO VOW IS NULL’ — SO LONG AS HE IS MINDFUL AT THE MOMENT OF HIS VOW.”

- 1. II:1:** Said R. Ammi, “Who stands behind the teaching about vows of incitement [M. 3:1A]? It is R. Tarfon, for he interprets the rule to apply even to a case in which the ones who took the vow stand by their word [and maintain that they did indeed intend to take a vow]. [In his view they need not turn to a sage for remission of the vow.]”
- 2. II:2:** There may be stipulations in the case of vows, but there may be none in the case of oaths. This is in line with that which is taught: “An oath administered by the judges accords with the stipulations which are in our heart, not with the stipulations which are in your heart” [T. Sot. 7:3].

XI. YERUSHALMI NEDARIM 3:2

[A] VOWS OF EXAGGERATION: [IF] HE SAID, “QONAM IF I DID NOT SEE [WALKING] ON THIS ROAD AS MANY AS WENT OUT OF EGYPT,”

- 1. I:1:** Surely it is possible that on that road [over a period of time] as many people did indeed pass as had gone out of Egypt.

[B] “... IF I DID NOT SEE A SNAKE AS BIG AS THE BEAM OF AN OLIVE PRESS.”

- 1. II:1:** [Regarding M. 3:2C,] “... if I did not see a snake as big as the beam of an olive press,”] And lo, the snake belonging to Emperor Shapur [was so large as to be able to] swallow camels and to swallow wagons. When they wanted to kill it, they brought camels’ hides and filled them with straw and put burning coals into them, and the snake swallowed them and perished.
- 2. II:2:** Samuel said, “[The Mishnah speaks of-a vow referring to] a square [snake].”
- 3. II:3:** “[You shall not take the name of the Lord your God] in vain” (sw’) (Deut. 5:11). “[You shall not take the name of the Lord your God] in vain” (Ex. 20:7). Both of them were stated in a single act

of speech, which it is not possible for [a mortal] mouth to speak or a [mortal] ear to hear.”

4. **II:4:** What is a vain oath and what is a false oath? A vain oath is an oath to differ from what is well known to people [M. Shebu. 2:8B]; a false oath is an oath to change [falsehood into truth or vice versa, where facts are not well known].
5. **II:5:** It was taught: Just as vows of exaggeration are not binding, so oaths of exaggeration are not binding [T. Ned. 2:1H]. And has it not been taught, “Oaths of exaggeration are binding”? R. Jeremiah in the name of R. Pedat: “In the case in which the oaths are binding, it is an instance in which the people who took the oath stand by what they said, and in the case of the oath which is invalid, it is an instance in which the people who took the oath did not stand by the oath. [In the former the people claim to be serious, so the oath is binding.]”
6. **II:6:** Hezekiah said, “He who took an oath concerning two things to the effect that they are indeed two things has taken a vain oath and is on that account to be flogged.”
7. **II:7:** There we have learned: “I swear that I won’t eat this loaf of bread,” “I swear that I won’t eat it,” “I swear that I won’t eat it” — and he ate it — he is liable on only one count [M. Shebu. 3:7A-C]. [One oath is not added onto another, so where there is one valid oath, a second is null.] This is the sort of matter which, in the case of vows, is binding, and, in the case of oaths, is not binding [for, M. Ned. 2:3A, there can be a vow within a vow, but no oath within an oath].
8. **II:8:** R. Ba in the name of Samuel [said], “If someone has taken an oath that Mr. So-and-so has given a maneh to Mr. So-and-so, and it turns out that he had not given him anything, [it is null, and there is no penalty,] since he cannot take an oath that Mr. So-and-so [a third party] will give a maneh to Mr. So-and-so in the future, it follows that he also cannot make an oath concerning what has happened in the past.”

[C] **VOWS MADE IN ERROR: “... IF I ATE,” OR “... IF I DRANK,” AND HE REMEMBERED THAT HE ATE OR DRANK; “... IF I EAT,” OR “... IF I DRINK” AND HE FORGOT AND ATE AND DRANK. [**

1. **III:1:** [A stricter rule applies to the past than to the future [T. Ned. 2:4/I]:for he who says, “I swear that I won’t eat this loaf of bread,” “I swear that I won’t eat it,” “I swear that I won’t eat it” is liable on only one count. [But if he said,] “I did not eat it,” “I did not eat it,” he is

liable on each count (following PM). With reference to M. 3:2D, vows made in error are null:] This aspect of the law is stricter in the case of oaths than in the case of vows. For in the case of oaths taken in error, the oaths are binding, and in the case of vows taken in error, the vows are not binding.

[D] [If] HE SAID, “QONAM BE ANY BENEFIT MY WIFE GETS FROM ME, FOR SHE STOLE MY PURSE,” “FOR SHE BEAT UP MY SON,” AND HE FOUND OUT THAT SHE HAD NOT BEATEN UP HIS SON, OR HE FOUND OUT THAT SHE HAD NOT STOLEN IT. [If] HE SAW PEOPLE EATING FIGS [BELONGING TO HIM] AND SAID, “LO, THEY ARE QORBAN TO YOU!” AND THEY TURNED OUT TO BE HIS FATHER AND BROTHERS, AND THERE WERE OTHERS WITH THEM — THE HOUSE OF SHAMMAI SAY, “THEY ARE PERMITTED, AND THOSE WITH THEM ARE PROHIBITED.” AND THE HOUSE OF HILLEL SAY, “THESE AND THOSE [MEN] ARE PERMITTED [TO EAT THE FIGS].”

1. **IV:1:** R. Simeon bar Laqish raised the question before R. Ba: “Does R. Aqiba add to the opinion of the House of Hillel?” That is in line with the following, which we have learned there: But then R. Aqiba came along and taught that the vow, part of which is unloosed, is wholly unloosed [M. 9:6C]. [Is the reason of the House of Hillel at M. 3:2J the same as that of Aqiba, or does Aqiba say something different?]

XII. YERUSHALMI NEDARIM 3:3

[A] **VOWS [BROKEN] UNDER CONSTRAINT: [If] ONE’S FELLOW IMPOSED A VOW ON HIM TO EAT WITH HIM, BUT HE GOT SICK, OR HIS SON GOT SICK, OR A RIVER [OVERFLOWED AND] STOPPED HIM — LO, THESE ARE VOWS [BROKEN] UNDER CONSTRAINT.**

1. **I:1:** Now the reason that the vow is null is that the fellow got sick. Lo, if he had not gotten sick, then [the vow would] not [have been null]. Yet why is that so, since, if it was not a vow broken under constraint, still, it was a vow of incitement, and invalid on that count anyhow?] Said R. Jeremiah, “The Mishnah represents the view of R. Meir, as in the following: [‘He who says to his fellow, ‘Qonam be benefit you derive from me if you do not come and give my son a kor of wheat and two jugs of wine’ —] R. Meir says, ‘He is prohibited until he will give [what the other has demanded.] [And sages say, ‘Also: This one can annul his vow without consultation with a sage...’ [M. 8:7D-F]. [Meir’s view is that in a case such as this, which is parallel to M. 3:3B, a vow to eat, we do not have a vow of incitement at all.]”

XIII. YERUSHALMI NEDARIM 3:4

- [A] **THEY TAKE A VOW TO MURDERERS, ROBBERS, OR TAX COLLECTORS THAT [PRODUCE] IS HEAVE OFFERING, EVEN THOUGH IT IS NOT HEAVE OFFERING; THAT [PROPERTY] BELONGS TO THE STATE, EVEN THOUGH IT DOES NOT BELONG TO THE STATE. THE HOUSE OF SHAMMAI SAY, "IN ANY FORM OF WORDS THEY VOW EXCEPT IN THE FORM OF AN OATH." AND THE HOUSE OF HILLEL SAY, "EVEN IN THE FORM OF AN OATH."**
- 1. I:1:** [They take a vow] to murderers at a time of slaughter, and to robbers at a time of robbery.
 - 2. I:2:** It has been taught: They attribute [produce subject to seizure] by assessors and tax collectors to heave offering, or to gentile ownership, or to the ownership of the government. But they do not attribute ownership to another Israelite [T. Ned. 2:2].
- [B] **THE HOUSE OF SHAMMAI SAY, "ONE SHOULD NOT [VOLUNTEER TO] TAKE A VOW AT THE OUTSET." AND THE HOUSE OF HILLEL SAY, "ALSO: ONE [VOLUNTARILY] TAKES A VOW AT THE OUTSET." THE HOUSE OF SHAMMAI SAY, "[ONE TAKES A VOW] ONLY IN THE MATTER CONCERNING WHICH THE VOW IS IMPOSED." AND [HE HOUSE OF HILLEL SAY, "ALSO: CONCERNING THAT IN WHICH THE VOW IS NOT IMPOSED." HOW SO? [IF] THEY SAID TO HIM, "SAY: 'QONAM BE ANY BENEFIT MY WIFE HAS WITH ME!'" AND HE SAID, "QONAM BE ANY BENEFIT MY WIFE AND CHILDREN HAVE WITH ME!" — THE HOUSE OF SHAMMAI SAY, "HIS WIFE IS PERMITTED, AND HIS CHILDREN PROHIBITED." AND THE HOUSE OF HILLEL SAY, "THESE AND THOSE ARE PERMITTED."**
- 1. II:1:** [Referring to M. 3:4F, The House of Shammai say, "One should not volunteer to take a vow at the outset,"] if one has transgressed and volunteered so far as the House of Shammai are concerned, what is the law? [Is this a valid vow or not?]
 - 2. II:2:** They proposed to rule that that [M. 3:4A] is the case for vows, but not for oaths. The following teaching turned up: R. Ishmael says, "You shall not swear by my name falsely' (Lev. 19:12). But you may take a false oath to murderers, robbers, or tax collectors."

XIV. YERUSHALMI NEDARIM 3:5

[A] [HE WHO SAYS,] “LO, THESE PLANTS ARE QORBAN IF THEY ARE NOT CUT DOWN,” “THIS CLOAK IS QORBAN IF IT IS NOT BURNED” — THEY ARE SUBJECT TO REDEMPTION. “LO, THESE PLANTS ARE QORBAN UNTIL THEY ARE CUT DOWN,” “THIS CLOAK IS QORBAN UNTIL IT IS BURNED” — THEY ARE NOT SUBJECT TO REDEMPTION.

1. **I:1:** If one saw the royal agents coming near, or if he saw a fire coming near, and he said, “Lo, these plants are qorban if they are not cut down,” “This cloak is qorban if it is not burned” — they are subject to redemption. [“Lo, these plants are qorban until they are cut down,” “This cloak is qorban until it is burned,” — they are not subject to redemption (M. 3:5). In the former instance, the plants or cloak are sanctified when the man says they are qorban. They may be redeemed. In the latter they cannot be redeemed so long as they are not cut down, that is, so long as they have not yet been consecrated].
 - a. **I:2:** Is the act of consecration valid retroactively, or is it valid only for the time from now on?

XV. YERUSHALMI NEDARIM 3:6

[A] **HE WHO VOWS [NOT TO GAIN BENEFIT] FROM THOSE WHO GO DOWN TO THE SEA IS PERMITTED [TO ENJOY BENEFIT] FROM THOSE WHO DWELL ON DRY LAND. [HE WHO VOWED NOT TO ENJOY BENEFIT] FROM THOSE WHO DWELL ON DRY LAND IS PROHIBITED [TO ENJOY BENEFIT] FROM THOSE WHO GO DOWN TO THE SEA, FOR THOSE WHO GO DOWN TO THE SEA ARE PART OF THE GENERALITY OF THOSE WHO LIVE ON DRY LAND. [THOSE WHO GO DOWN TO THE SEA INCLUDES] NOT THE LIKE OF THOSE WHO GO FROM ACRE TO JAFFA BUT THE ONE WHO SAILS OUT OF SIGHT OF LAND.**

1. **I:1:** It is so that you should not say that those [who go down to the sea] include those who go from Acre to Jaffa, but the one who sails out of sight of land [M. 3:6D]. [That is then applied to M. 3:6A as much as M. 3:6B-C.] [If he vowed not to gain benefit] from those who dwell on dry land, he is prohibited to enjoy benefit from those who go down to the sea [M. 3:6B]. And it is not the end of the matter that he is prohibited only from such as those who go from Acre to Jaffa, but he is prohibited also to derive benefit from those who sail out of sight of land.

2. **I:2:** If he took a vow not to derive benefit from those who go down to the sea after thirty days, [before the deadline] they are treated as those who live on dry land. There is a dispute of R. Ishmael and R. Aqiba [at M. 11:9, T. 7:6].
3. **I:3:** And with regard to those who make pleasure trips it is necessary [to ask, for we do not know whether they fall into the category of those who go down to the sea].

XVI. YERUSHALMI NEDARIM 3:7

[A] HE WHO VOWS [NOT TO ENJOY BENEFIT] FROM THOSE WHO SEE THE SUN IS PROHIBITED [TO ENJOY BENEFIT] EVEN FROM THE BLIND. FOR HE INTENDED [TO SEPARATE HIMSELF] ONLY FROM THE ONE WHOM THE SUN SEES. HE WHO VOWS [NOT TO ENJOY BENEFIT] FROM BLACK-HAIRED MEN IS PROHIBITED [TO ENJOY BENEFIT] FROM BALD PEOPLE AND FROM WHITE-HAIRED PEOPLE. BUT HE IS PERMITTED [TO ENJOY BENEFIT] FROM WOMEN AND CHILDREN,[E] FOR ONLY MEN ARE CALLED BLACK-HAIRED. HE WHO VOWS [NOT TO ENJOY BENEFIT] FROM CREATURES THAT ARE [ALREADY] BORN IS PERMITTED [TO ENJOY BENEFIT] FROM THOSE CREATURES WHO MAY BE BORN [THEREAFTER]. HE WHO VOWED [NOT TO ENJOY BENEFIT] FROM THOSE WHO MAY BE BORN [THEREAFTER], HE IS PROHIBITED [TO ENJOY BENEFIT] FROM THOSE WHO [ALREADY] ARE BORN. R. MEIR PERMITS [HIM TO ENJOY BENEFIT] ALSO FROM THOSE WHO ARE BORN. AND SAGES SAY, “THIS ONE INTENDED [TO SEPARATE HIMSELF] ONLY FROM ANYONE WHO WILL BE BORN [THEREAFTER].”

1. **I:1:** What is the Scriptural basis for the position of R. Meir, and of rabbis?

XVII. YERUSHALMI NEDARIM 3:8

[A] HE WHO VOWS [NOT TO ENJOY BENEFIT] FROM THOSE WHO REST ON THE SABBATH IS PROHIBITED [TO ENJOY BENEFIT] BOTH FROM ISRAELITES AND FROM SAMARITANS. [IF HE VOWED NOT TO ENJOY BENEFIT] FROM GARLIC EATERS, HE IS FORBIDDEN [TO DERIVE BENEFIT] FROM ISRAELITES AND SAMARITANS. [IF HE VOWED NOT TO ENJOY BENEFIT] FROM THOSE WHO ASCEND TO JERUSALEM, HE IS FORBIDDEN [TO ENJOY BENEFIT] FROM ISRAELITES BUT PERMITTED [TO ENJOY BENEFIT] FROM SAMARITANS. [IF A MAN SAID,] “QONAM IF I HAVE BENEFIT FROM THE CHILDREN OF NOAH,” HE IS PERMITTED [TO ENJOY BENEFIT] FROM ISRAELITES AND PROHIBITED [TO ENJOY BENEFIT] FROM THE NATIONS OF THE WORLD. “...IF I HAVE BENEFIT FROM

THE SEED OF ABRAHAM,” HE IS PROHIBITED [TO ENJOY BENEFIT] FROM ISRAELITES, AND PERMITTED [TO ENJOY BENEFIT] FROM THE NATIONS OF THE WORLD. [IF HE SAID, “QONAM] IF I HAVE BENEFIT FROM ISRAELITES,” HE BUYS FOR MORE AND SELLS FOR LESS. “... IF ISRAELITES ENJOY BENEFIT FROM ME,” HE BUYS FOR LESS AND SELLS FOR MORE — (IF ANYONE WILL PAY ATTENTION TO HIM!) “... IF I DERIVE BENEFIT FROM THEM AND THEY FROM ME” — HE DRIVES BENEFIT FROM STRANGERS.

1. I:1: And are not the sons of Ishmael part of the seed of Abraham [M. 3:10E]?

XVIII. YERUSHALMI NEDARIM 3:9

[A] [IF HE SAID,] “QONAM IF I DERIVE BENEFIT FROM THE UNCIRCUMCISED,” HE IS PERMITTED [TO DERIVE BENEFIT] FROM UNCIRCUMCISED ISRAELITES, BUT PROHIBITED [FROM DERIVING BENEFIT] FROM CIRCUMCISED GENTILES. “QONAM IF I DERIVE BENEFIT FROM THE CIRCUMCISED” — HE IS PROHIBITED [TO DERIVE BENEFIT] FROM UNCIRCUMCISED ISRAELITES AND PERMITTED [TO DERIVE BENEFIT] FROM CIRCUMCISED GENTILES. FOR THE WORD “UNCIRCUMCISED” IS USED ONLY AS A NAME FOR GENTILES, AS IT IS WRITTEN, “FOR ALL THE NATIONS ARE UNCIRCUMCISED, AND THE WHOLE HOUSE OF ISRAEL IS UNCIRCUMCISED AT HEART” (JER. 9:26). AND IT SAYS, “THIS UNCIRCUMCISED PHILISTINE” (1 SAM. 17:36). AND IT SAYS, “LEST THE DAUGHTERS OF THE PHILISTINES REJOICE, LEST THE DAUGHTERS OF THE UNCIRCUMCISED TRIUMPH “ (2 SAM. 1:20). R. ELEAZAR B. AZARIAH SAYS, “THE FORESKIN IS DISGUSTING, FOR EVIL MEN ARE SHAMED BY REFERENCE TO IT, AS IT IS WRITTEN, ‘FOR ALL THE NATIONS ARE UNCIRCUMCISED.’” R. ISHMAEL SAYS, “GREAT IS CIRCUMCISION, FOR THIRTEEN COVENANTS ARE MADE THEREBY.” R. YOSÉ SAYS, “GREAT IS CIRCUMCISION, SINCE IT OVERRIDES THE PROHIBITIONS OF THE SABBATH, WHICH IS SUBJECT TO STRICT RULES.” R. JOSHUA B. QORHA SAYS, “GREAT IS CIRCUMCISION, FOR IT WAS NOT SUSPENDED EVEN FOR A MOMENT FOR THE SAKE OF MOSES, THE RIGHTEOUS.” R. NEHEMIAH SAYS, “GREAT IS CIRCUMCISION, FOR IT OVERRIDES THE PROHIBITION [AGAINST REMOVING THE MARKS OF] NEGA’IM.” RABBI SAYS, “GREAT IS CIRCUMCISION, FOR, DESPITE ALL THE COMMANDS WHICH ABRAHAM OUR FATHER CARRIED OUT, HE WAS CALLED COMPLETE AND WHOLE ONLY WHEN HE HAD CIRCUMCISED HIMSELF AS IT IS SAID, ‘WALK BEFORE ME AND BE PERFECT’ (GEN. 17:1). ANOTHER MATTER: GREAT IS CIRCUMCISION, FOR IF IT WERE NOT FOR THAT, THE HOLY ONE, BLESSED BE HE, WOULD NOT HAVE CREATED HIS WORLD, SINCE IT SAYS, ‘THUS SAYS THE LORD: BUT FOR MY COVENANT DAY AND NIGHT, I SHOULD NOT HAVE SET FORTH THE ORDINANCES OF HEAVEN AND EARTH’” (JER. 33:25).

1. **I:1:** Said R. Yohanan bar Mareh, “It is written, ‘On that day the Lord made a covenant with Abram, saying ‘To your descendants I give this land, from the river of Egypt to the great river, the river Euphrates’ (Gen. 15:18); ‘But I will establish my covenant with Isaac, [whom Sarah shall bear to you at this season next year]’ (Gen. 18:21). There are thirteen covenants” [cf. M. 3:9G].
2. **I:2:** “And on the eighth day the flesh of his foreskin shall be circumcised” (Lev. 12:3) — even on the Sabbath.
 - a. **I:3:** In the Torah, in the Prophetic Writings, and in the Writings, we find that the Sabbath is weighed in the balance opposite all of the other commandments in the Torah.

[B] TOPICAL APPENDIX ON THE SUBJECT OF CIRCUMCISION

- i. **I:4:** Because Moses was slow in getting circumcised, the angel sought to kill him. That is in line with the following: “[At a lodging place on the way] the Lord met him and sought to kill him” (Ex. 4:24).
- ii. **I:5:** “And on the eighth day the flesh of his foreskin shall be circumcised” (Lev. 12:3) — even though there is a bright spot there. How then do I interpret the following: “Take heed, in an attack of leprosy, to be very careful to do according to all that the Levitical priests shall direct you” (Deut. 24:8)?

XIX. YERUSHALMI NEDARIM 4:1

[A] THERE IS NO DIFFERENCE BETWEEN HIM WHO IS FORBIDDEN BY VOW FROM ENJOYING ANY BENEFIT FROM HIS FELLOW AND HIM WHO IS FORBIDDEN BY VOW FROM DERIVING FOOD FROM HIM, EXCEPT FOR SETTING FOOT IN HIS [THE FELLOW’S] HOUSE AND [USING HIS] UTENSILS IN WHICH FOOD IS NOT PREPARED. HE WHO IS FORBIDDEN BY VOW FROM DERIVING FOOD FROM HIS FELLOW — [THE FELLOW] SHOULD NOT LEND HIM A SIFTER, A SIEVE, A MILLSTONE, OR AN OVEN. BUT HE MAY LEND HIM A SHIRT, A RING, A CLOAK, EARRINGS, OR ANYTHING IN WHICH FOOD IS NOT PREPARED.

1. **I:1:** Lo, something in which food is prepared is forbidden [in line with M. 4:1B]. [Why should this be the case?] Did he not take a vow [only] not to eat [food]?
2. **I:2:** It was taught: But he may lend him cups, plates, and dishes, for they do not enhance the food but merely hold it. Frying pans and pots

are prohibited. Milling or pressing is forbidden. As to reaping, there is a question. As to cutting olives, there is a question.

3. I:3: It was taught: But he may lend him an ax.

[B] BUT IN A PLACE IN WHICH SUCH THINGS AS THESE ARE RENTED OUT [FOR MONEY OR FOOD], IT IS FORBIDDEN TO DO SO.-

1. II:1: R. Ba in the name of R. Zeira, “[As to M. 4:1D,] the reason is that giving him money with which to buy bread.”

XX. YERUSHALMI NEDARIM 4:2

[A] HE WHO IS PROHIBITED BY VOW FROM DERIVING BENEFIT FROM HIS FRIEND — HE [THE FRIEND] NONETHELESS PAYS OUT HIS SHEQEL [HALF-SHEQEL TAX TO THE TEMPLE], PAYS BACK HIS DEBT,

1. I:1: R. Ba bar Mamel raised the question: “He who pays a bond of indebtedness for his fellow [as at M. 4:2C] without the latter’s knowledge and consent — do we deal with a parallel to the dispute of Hanan and the high priests [at M. Ket. 13:2: He who went overseas, and someone else went and supported his wife — Hanan says, ‘He who did so has lost his money.’ Sons of high priests disputed with him and ruled, ‘Let him take an oath for however much he has laid out for support of the wife and collect the debt.’ Hanan does not see the support as a loan of money to the husband, who owes nothing]?”

2. I:2: There we have learned: [He who is prohibited by vow from enjoying benefit from his fellow — the fellow goes in to visit him when he is sick, remaining standing but not sitting down.] And he heals the man himself, but not what belongs to him [M. 4:4A-C]. R. Judah and R. Yosé — One of them said, “[In the case in which the fellow may visit him, but must remain standing,] it is when the one who took the vow prohibited him from deriving benefit as to his own person, and [in the case in which the other party may heal the man but not his property], it is when the one who took the vow prohibited him from benefiting his property.” The other one said, “[In the instance in which he is prohibited to sit down but may visit and so heal him,] it is when the one who took the vow has someone else to heal him, and [where the one against whom the vow was taken is permitted to heal him but not his property], it is when the one who took the oath has no one else to heal him.”

[B] AND RETURNS TO HIM SOMETHING WHICH HE [THE ONE WHO TOOK THE VOW] HAS LOST. **BUT** IN A PLACE IN WHICH FOR THIS ACTION A REWARD IS PAID OUT, THE BENEFIT [OF THE REWARD] SHOULD FALL TO THE SANCTUARY.

- 1.** **II:1:** Now why should the one who found and returned the lost object, e.g., a cow, not collect the reward for himself? Now is it not a case in which the property of the one who returned the cow is what is prohibited to the owner of the cow? [But since the owner of the cow, who may not derive benefit from the one who found the cow, is the one who is to pay the reward, why should he not do so? Do we not assume that the case is one in which the vow is so phrased that the owner of the lost cow is prohibited from deriving benefit from the one who has found the cow, as the language indicates?]
- 2.** **II:2:** R. Abun bar Hiyya raised the question as follows: “If one has taken a vow not to derive benefit from a loaf of bread, what is the law as to warming his hands on it?”

XXI. YERUSHALMI NEDARIM 4:3

[A] AND HE TAKES UP HIS HEAVE OFFERING OF HIS TITHES WITH HIS PERMISSION. AND HE OFFERS IN HIS BEHALF BIRD OFFERINGS FOR ZAB-MEN OR ZAB-WOMEN, BIRD OFFERINGS FOR WOMEN WHO HAVE JUST GIVEN BIRTH, SIN OFFERINGS, AND GUILT OFFERINGS.

- 1.** **I:1:** He who sets aside tithes owing from the produce of his fellow, without the latter’s permission — to whom does the benefit of enjoying the advantage of these tithes belong? [E.g., should a person be willing to pay for the tithes or offerings which have been set aside, so that he will give the consecrated produce to his daughter’s son, who is a priest, who receives that minimal payment?] R. Abbahu says, “It goes to the one who sets aside the tithes.” R. Zeira said, “It belongs to the owner of the produce.”

[B] AND HE TEACHES HIM MIDRASH, LAWS AND STORIES. **BUT** HE DOES NOT TEACH HIM SCRIPTURE. **BUT** HE TEACHES HIS SONS AND DAUGHTERS SCRIPTURE. AND HE TAKES CARE OF HIS WIFE AND CHILDREN, EVEN THOUGH HE [WHO VOWED] IS LIABLE FOR THEIR CARE.

- 1.** **II:2:** It is written, “Behold, I have taught you statutes and ordinances” (Deut. 4:5). Just as I do so without pay, so you must do so without pay. Is it possible that the same rule applies to teaching

Scripture and translation [cf. M. 4:3D]? Scripture says, “Statutes and ordinances.”

[C] **BUT HE SHOULD NOT TAKE CARE OF HIS DOMESTICATED ANIMAL, WHETHER UNCLEAN OR CLEAN. R. ELIEZER SAYS, “HE TAKES CARE OF THE UNCLEAN ONE, AND HE DOES NOT TAKE CARE OF THE CLEAN ONE.” THEY SAID TO HIM, “WHAT IS THE DIFFERENCE BETWEEN THE UNCLEAN ONE AND THE CLEAN ONE?” HE SAID TO THEM, “AS TO THE CLEAN ONE: ITS SOUL BELONGS TO HEAVEN, AND ITS BODY BELONGS TO HIM. BUT AS TO THE UNCLEAN ONE, ITS SOUL AND ITS BODY BELONG TO HEAVEN [IT IS PROHIBITED TO HIM].” THEY SAID TO HIM, “ALSO THE UNCLEAN ONE: ITS SOUL BELONGS TO HEAVEN, BUT ITS BODY BELONGS TO HIM. FOR IF HE WANTS, LO, HE CAN SELL IT TO GENTILES OR FEED IT TO DOGS.”**

1. **III:1:** With reference to M. 4:3G-L, the dispute of Eliezer and sages:] R. Zeira said, “On the basis of what they say here, [one party will hold] that he may feed his slave, while [the other party will maintain] that he may not feed his slave.”

XXII. YERUSHALMI NEDARIM 4:4

[A] **HE WHO IS PROHIBITED BY VOW FROM ENJOYING BENEFIT FROM HIM — HE [THE FELLOW] GOES IN TO VISIT HIM WHEN HE IS SICK, REMAINING STANDING BUT NOT SITTING DOWN:**

1. **I:1:** [The reason behind M. 4:4A,] R. Simeon b. Yaqim said, is so that he will not stay for a long time.

[B] **AND HE HEALS HIM HIMSELF, BUT NOT WHAT BELONGS TO HIM.**

1. **II:1:** The Mishnah [when it says, M. 4:4C, that he heals himself but not what belongs to him,] deals with a case in which the physician has prohibited by oath the other party’s property from deriving benefit from him. But if the sick person has prohibited himself from deriving benefit from the physician’s property, he has committed a sin against himself [and the physician may not heal him if he is not willing to do so at no fee].

[C] **HE WASHES WITH HIM IN A LARGE BATHTUB, BUT NOT A SMALL ONE. HE SLEEPS WITH HIM IN THE SAME BED. R. JUDAH SAYS, “IN THE SUNNY SEASON [DOES HE SHARE A BED], BUT NOT IN THE RAINY SEASON, BECAUSE AT THAT TIME HE GIVES THE OTHER THE BENEFIT [OF THE WARMTH OF HIS BODY].”**

1. **III:1:** For he raises the water level for him.

[D] AND HE SITS WITH HIM ON THE SAME COUCH, AND EATS WITH HIM AT THE SAME TABLE, BUT NOT FROM THE SAME BOWL. BUT HE EATS WITH HIM FROM THE SAME BOWL THAT IS PASSED AROUND:

- 1. IV:1:** What is the meaning of “a bowl that is passed around”?

XXIII. YERUSHALMI NEDARIM 4:5

[A] HE MAY NOT EAT WITH HIM FROM THE SAME FEEDING-BOWL THAT IS SET BEFORE WORKERS. “AND HE MAY NOT WORK WITH HIM IN THE SAME FURROW,” THE WORDS OF R. MEIR. AND SAGES SAY, “HE WORKS WITH HIM BUT AT A DISTANCE.”

- 1. I:1:** In the opinion of R. Meir it is prohibited to teach him a trade. In the opinion of R. Meir it is prohibited to advocate his cause.

XXIV. YERUSHALMI NEDARIM 4:6

[A] HE WHO IS FORBIDDEN BY VOW FROM ENJOYING BENEFIT FROM HIS FELLOW, [IF THIS WAS] BEFORE THE SEVENTH YEAR, HE MAY NOT GO DOWN INTO HIS FIELD, AND HE MAY NOT EAT PRODUCE THAT HANGS OVER [FROM THE PROPERTY OF THE OTHER] BUT [IF THIS WAS] IN THE SEVENTH YEAR, WHILE HE MAY NOT GO DOWN INTO HIS FIELD, HE MAY EAT THE PRODUCE THAT HANGS OVER [FROM THE PROPERTY OF THE OTHER].

- 1. I:1:** [As to M. 4:6C,] [why not] let him go down into the field [to eat the produce, since the produce is ownerless, so the land should be deemed ownerless for the time needed in which to eat the produce]?

[B] [IF] HE VOWED THAT HE WOULD NOT DERIVE FOOD FROM HIM, [IF THIS WAS] BEFORE THE SEVENTH YEAR, HE GOES DOWN INTO HIS FIELD BUT DOES NOT EAT THE PRODUCE. AND [IF THIS WAS] IN THE SEVENTH YEAR, HE GOES DOWN [INTO THE FIELD] AND EATS THE PRODUCE.

- 1. II:1:** R. Yohanan interpreted the Mishnah’s statement as follows: “He who is forbidden by vow from enjoying benefit from his fellow, if this vow was taken before the Seventh Year, he may not go down into his field, and he may not eat produce that hangs over from the property of the other. And as to the Seventh Year, while he may not go down into the field, he may eat the produce that hangs over from the property of the other. But if it was in the Seventh Year that he took the vow, he may both go down into the field of the other and also eat the produce.”

R. Simeon b. Laqish interpreted the Mishnah's statement as follows: "He who is forbidden by vow from enjoying benefit from his fellow, if this was before the Seventh Year, he may not go down into his field, and he may not eat produce that hangs over from the property of the other. But if it was in the Seventh Year that he took the vow, while he may not go down into his field, he may eat the produce that hangs over from the property of the other. If he vowed that he would not derive food from him, if this was before the Seventh Year, he goes down into his field but does not eat the produce. But if it was in the Seventh Year that he took the vow, he may go down into the field and eat the produce."

XXV. YERUSHALMI NEDARIM 4:7

[A] HE WHO IS FORBIDDEN BY A VOW FROM DERIVING BENEFIT FROM HIS FELLOW — SHOULD NOT LEND HIM [HIS FELLOW] ANYTHING, NOR SHOULD [THE ONE WHO TOOK THE VOW] BORROW ANYTHING FROM HIM. HE SHOULD NOT LEND HIM MONEY, NOR SHOULD HE BORROW MONEY FROM HIM. HE SHOULD NOT SELL HIM ANYTHING, NOR SHOULD HE BUY ANYTHING FROM HIM. [IF] HE SAID TO HIM, "LEND ME YOUR COW," [AND] HE SAID TO HIM, "IT IS NOT AVAILABLE," AND HE SAID TO HIM, "QONAM BE MY FIELD IF I EVER AGAIN PLOW MY FIELD WITH IT [THE COW]," — IF HE [HIMSELF] USUALLY PLOWED, WHILE HE IS PROHIBITED, EVERYONE ELSE IS PERMITTED [TO PLOW HIS FIELD WITH THAT COW]. IF HE DID NOT USUALLY PLOW HIS OWN FIELD, THEN HE AND EVERYONE ELSE IN THE WORLD ARE PROHIBITED [FROM PLOWING THE FIELD WITH THAT COW].

1. I:1: [As to M. 4:7H: If he usually plowed,] [he is prohibited from ploughing the field with that cow, because he is treated as if] he says, "Qonam be my field, if I ever again plow my field," [but others are then permitted to do so].

XXVI. YERUSHALMI NEDARIM 4:8

[A] HE WHO IS FORBIDDEN BY VOW FROM DERIVING BENEFIT FROM HIS FELLOW AND HAS NOTHING TO EAT — HE [THE FELLOW] GOES TO A STOREKEEPER AND SAYS, "MR. SO-AND-SO IS FORBIDDEN BY VOW FROM DERIVING BENEFIT FROM ME, AND I DON'T KNOW WHAT I CAN DO ABOUT IT." AND HE [THE STOREKEEPER] GIVES FOOD TO HIM [WHO TOOK THE VOW] AND THEN GOES AND COLLECTS FROM THIS ONE [AGAINST WHOM THE VOW WAS TAKEN].

1. **I:1:** The reason this procedure is permitted is] that the storekeeper in any event cannot collect from the man in court. [Accordingly, it is not a violation of the fellow's oath.]

XXVII. YERUSHALMI NEDARIM 4:9

[A] [IF] HE [AGAINST WHOM THE VOW WAS TAKEN] HAD TO BUILD HIS HOUSE [THAT OF THE ONE PROHIBITED BY VOW FROM DERIVING BENEFIT], OR TO SET UP HIS FENCE, OR TO CUT THE GRAIN IN HIS FIELD, HE [THE FELLOW] GOES TO THE WORKERS AND SAYS TO THEM, "MR. SO-AND-SO IS FORBIDDEN BY VOW FROM DERIVING BENEFIT FROM ME, AND I DON'T KNOW WHAT I CAN DO ABOUT IT." [THEN THE WORKERS] DO THE WORK WITH HIM [WHO TOOK THE VOW] AND COME AND COLLECT THEIR SALARY FROM THIS ONE [AGAINST WHOM THE VOW WAS TAKEN].

1. **I:1:** What is the rule as to his saying [at M. 4:9D], "Whoever does the work will not lose out by it"? [Is such language permissible in the present instance?]

XXVIII. YERUSHALMI NEDARIM 4:10

[A] [IF] THEY WERE GOING ON A JOURNEY AND HE [WHO HAD FORBIDDEN HIMSELF BY A VOW FROM DERIVING BENEFIT FROM HIS FELLOW] HAD NOTHING TO EAT, HE [AGAINST WHOM THE VOW WAS TAKEN] GIVES SOMETHING TO ANOTHER AS A GIFT, AND THE OTHER [WHO TOOK THE VOW] IS PERMITTED TO MAKE USE OF IT. IF THERE IS NO ONE ELSE WITH THEM, HE [AGAINST WHOM THE VOW WAS TAKEN] LEAVES IT ON A ROCK OR ON A FENCE AND SAYS, "LO, THESE THINGS ARE OWNERLESS PROPERTY FOR ANYONE WHO WANTS THEM."

1. **I:1:** It was taught: R. Meir says, "Once someone declares property ownerless, the thing has left his domain [entirely, and he cannot retract]. R. Yosé says, "That which has been declared ownerless leaves the hand of the owner only through [another party's] act of acquisition, [prior to which the original owner has the power to retract]. [That which is declared ownerless is in the status of which is a gift. Until the other party has effected possession, the donor can retract.]"

[B] THEN THE OTHER [WHO IS PROHIBITED BY VOW FROM DERIVING BENEFIT FROM HIS FELLOW] TAKES WHAT HE WANTS AND EATS IT. AND R. YOSÉ PROHIBITS [SUCH A PROCEDURE].

1. **II:1:** What is the reason for the position of R. Yosé. It is because his vow has come before his act of declaring the food to be ownerless property [T. Ned. 2:9K].
2. **II:2:** They asked before R. Yosé, “The reason is that his vow has come before his act of declaring the property to be ownerless. [But until the property enters the possession of another party, it still has not truly been abandoned by the original owner. That, after all, is Yosé’s position above.] Accordingly what difference will it make if the act of declaring the property ownerless comes before his vow?”

XXIX. YERUSHALMI NEDARIM 5:1

[A] PARTNERS WHO PREVENTED THEMSELVES BY VOW FROM DERIVING BENEFIT FROM ONE ANOTHER ARE PROHIBITED FROM ENTERING THE COMMON COURTYARD. R. ELIEZER B. JACOB SAYS, “THIS ONE ENTERS THE PART WHICH IS HIS, AND THAT ONE ENTERS THE PART WHICH IS HIS.” AND BOTH OF THEM ARE PROHIBITED FROM SETTING UP A MILLSTONE AND OVEN THERE, OR FROM RAISING CHICKENS. [IF] ONE OF THEM WAS PROHIBITED BY VOW FROM DERIVING BENEFIT FROM HIS FELLOW, HE SHOULD NOT ENTER INTO THE COMMON COURTYARD.

1. **I:1:** [The basis for the dispute of Mishnah is that] rabbis say every square handbreadth in the courtyard belongs equally to both partners. R. Eliezer b. Jacob says, “This one enters the part which is his, and that one enters the part which is his “ [M. 5:1B]. If the courtyard was divided into squares, even rabbis will concur [with Eliezer b. Jacob’s position]. If one party went and sold his share, even R. Eliezer b. Jacob will concur [with sages’ position, that it is prohibited to enter]. [If the courtyard is divided up,] and the two stipulated that each one gives up [his rights in favor of the other, in the part of the courtyard which is the share of the other], then they are assumed to be partners [in the way in which Eliezer b. Jacob maintains]. The interesting question is the case in which they did not stipulate between them that each gives up [his rights in the area belonging to the other]. What does R. Eliezer b. Jacob maintain in such a case?

[B] R. ELIEZER B. JACOB SAYS, “HE CAN SAY TO HIM, ‘INTO THE PART WHICH IS MINE I ENTER, BUT I DO NOT ENTER INTO THE PART WHICH IS YOURS.’” AND THEY FORCE THE ONE WHO HAS TAKEN THE VOW TO SELL HIS SHARE [TO THE OTHER].

1. **II:1:** Now why should the one who takes the vow be forced to sell his rights to the other party? He can say to him, “I shall enter my part, not yours”!] And do you maintain that they force him [to sell]?

XXX. YERUSHALMI NEDARIM 5:2

[A] **[IF]** A THIRD PARTY [“SOMEONE FROM THE MARKET”] WAS PROHIBITED BY VOW FROM DERIVING BENEFIT FROM ONE OF THEM, HE SHOULD NOT ENTER INTO THE COMMON COURTYARD. **R. ELIEZER B. JACOB SAYS,** “**HE CAN SAY TO HIM, ‘INTO THE PART WHICH BELONGS TO YOUR FELLOW I ENTER, BUT I DO NOT ENTER INTO YOUR PART.’**”

1. **I:1:** For have we not learned, “They force [him to sell his share in the common property]”? [They do not force the one who took the oath to sell his share in such a case.]
2. **I:2:** R. Hiyya taught: If he was a habitual taker of vows, they force him [to sell his share] [T. Ned. 2:9N].

XXXI. YERUSHALMI NEDARIM 5:3

[A] **HE WHO IS PROHIBITED BY VOW FROM DERIVING BENEFIT FROM HIS FELLOW, AND HE [THE FELLOW] HAS A BATHHOUSE OR AN OLIVE-PRESS IN TOWN WHICH ARE HIRED OUT [TO OTHER PEOPLE] — IF HE [THE FELLOW] HAS RIGHTS THEREIN IT [THE BATHHOUSE OR OLIVE-PRESS] IS PROHIBITED [TO THE OTHER]. [IF] HE HAS NO RIGHTS THEREIN, HE [THE OTHER] IS PERMITTED. HE WHO SAYS TO HIS FELLOW, “QONAM IF I ENTER YOUR HOUSE,” OR “... IF I BUY YOUR FIELD,” [IF THE OTHER PARTY] DIED OR SOLD THEM TO A THIRD PARTY, HE [THE ONE WHO TOOK THE VOW, NOW] IS PERMITTED [TO ENTER THE HOUSE OR THE FIELD]. [IF HE SAID, “QONAM IF I ENTER THIS HOUSE” OR “... IF I PURCHASE THIS FIELD” — [IF THE OTHER PARTY] DIED OR SOLD IT TO A THIRD PARTY, IT IS [NONETHELESS] FORBIDDEN.**

1. **I:1:** What [proportion of the income] constitutes a right [to the bathhouse, sufficient to mean that use of the house is prohibited]?
2. **I:2:** [If he said,] “This house of yours,” on what count do you [interpret the case, use of ‘your house,’ in which case, if the fellow died, the one who took the oath is no longer bound, or ‘this house,’ in which case he remains bound]?

3. **I:3:** There we have learned: He who says to his son, “Qonam! You will not derive benefit from anything that is mine!” — if the father died, the son may inherit him. But if he had specified that the vow applied in life and after death, if the father died, the son may not inherit him [M. B.B. 9:10A-C]. Said R. Jeremiah, “See how we have learned the tradition here: He who says to his son, ‘Qonam! You will not derive benefit from anything that is mine!’ — if the father died, the son may inherit him. But if he had specified that the vow applied in life and after death, if the father died, the son may not inherit him.

XXXII. YERUSHALMI NEDARIM 5:4

[A] [IF ONE SAID TO HIS FELLOW,] “**LO, I AM HEREM UNTO YOU,**” THE ONE AGAINST WHOM THE VOW IS MADE IS PROHIBITED [FROM USING WHAT BELONGS TO THE OTHER, WHO MADE THE VOW]. [IF HE SAID,] “**LO, YOU ARE HEREM UNTO ME,**” THE ONE WHO TAKES THE VOW IS PROHIBITED [FROM BENEFITING FROM THE OTHER]. [IF HE SAID,] “**LO, I AM UNTO YOU AND YOU ARE UNTO ME [HEREM],**” BOTH OF THEM ARE PROHIBITED. **BUT BOTH OF THEM ARE PERMITTED [TO MAKE USE OF PROPERTY BELONGING TO] THE IMMIGRANTS FROM BABYLONIA [THAT IS, INALIENABLE PROPERTY, WHICH IS DEEMED OWNERLESS]. AND THEY ARE FORBIDDEN [TO MAKE USE OF PROPERTY] BELONGING TO THAT TOWN [WHICH EACH CITIZEN OWNS JOINTLY WITH ALL OTHERS].**

1. **I:1:** If he said, “Qonam be benefit deriving from me for you and for him who will receive a question [concerning abrogating this vow] in your regard as well” — [the sage to whom the vow is brought for absolution] accepts a question concerning the former, and he does not accept a question concerning the latter. [Once the former is relieved of the vow, the latter is no longer bound by it either.]
2. **I:2:** He who is prohibited by vow from deriving benefit from his town or from the people of his town, and someone came from the outside and lived there for thirty days — he is permitted to derive benefit from him. [But if he was prohibited by vow from deriving benefit] from those who dwell in his town, and someone came from the outside and lived there for thirty days, he is prohibited [from deriving benefit from him] [T. Ned. 2:10A-D].
3. **I:3:** He who is prohibited by vow from deriving benefit from his fellow [in a vow made] in his presence — they accept inquiry from him only in his presence. [But if he vowed not to derive benefit from

his fellow] not in his presence, they accept inquiry from him either in his presence or not in his presence [T. Ned. 2:10F-I].

XXXIII. YERUSHALMI NEDARIM 5:5

- [A] **WHAT IS SOMETHING WHICH BELONGS TO THE IMMIGRANTS FROM BABYLONIA? FOR EXAMPLE, THE TEMPLE MOUNT AND COURTYARDS, AND THE WELL WHICH IS IN THE MIDDLE OF THE WAY. AND WHAT ARE THINGS WHICH BELONG TO THAT TOWN? FOR EXAMPLE, THE TOWN SQUARE, THE BATHHOUSE, THE SYNAGOGUE, THE ARK, AND THE SCROLLS.**
- I:1:** The meaning of the Mishnah-rule [at M. 5:5D] is that a town square divided by the public way is in the status of something which belongs to the immigrants from Babylonia.
 - a. I:2:** A man consecrated a woman as his betrothed by giving a Torah-scroll to her. R. Shobetai and R. Hasida brought the case to R. Yosah. He ruled, “She is not betrothed.”
- [B] **AND HE WHO WRITES OVER HIS SHARE TO THE NASI OF THE COURT ALLOWS THE FELLOW, PROHIBITED BY VOW, TO DERIVE BENEFIT FROM THOSE THINGS WHICH ARE DEEMED TO BE HELD JOINTLY BY THE TOWN’S CITIZENS]. R. JUDAH SAYS, “ALL THE SAME IS THE ONE WHO WRITES OVER HIS SHARE TO THE NASI AND THE ONE WHO WRITES OVER HIS SHARE TO AN ORDINARY PERSON. WHAT IS THE DIFFERENCE BETWEEN HIM WHO WRITES OVER HIS SHARE TO THE NASI AND THE ONE WHO WRITES OVER HIS SHARE TO AN ORDINARY PERSON? FOR:THE ONE WHO WRITES OVER HIS SHARE TO THE NASI DOES NOT HAVE TO GRANT HIM TITLE. BUT THE ONE WHO WRITES OVER HIS SHARE TO AN ORDINARY PERSON DOES HAVE TO GRANT HIM TITLE.” AND SAGES SAY, “ALL THE SAME ARE THIS ONE AND THAT ONE. THEY HAVE TO GRANT TITLE. THEY REFERRED TO THE NASI ONLY BECAUSE THEY SPOKE OF PREVAILING CONDITIONS.” R. JUDAH SAYS, “THE GALLEANS DO NOT HAVE TO WRITE [THEIR SHARE OVER TO THE NASI]. FOR THEIR FOREFATHERS ALREADY HAVE WRITTEN OVER THEIR SHARE IN THEIR BEHALF.”**
- II:1:** the meaning of the Mishnah is that he must write over the share of the nasi.

XXXIV. YERUSHALMI NEDARIM 5:6

- [A] **HE WHO IS FORBIDDEN BY VOW FROM DERIVING BENEFIT FROM HIS FELLOW AND WHO HAS NOTHING TO EAT — HE [THE FELLOW] GIVES IT [FOOD] TO SOMEONE ELSE AS A GIFT, AND THIS ONE [PROHIBITED BY VOW] IS PERMITTED [TO MAKE**

USE OF] IT. **M'SH B:** THERE WAS SOMEONE IN **BET HORON** WHOSE FATHER WAS PROHIBITED BY VOW FROM DERIVING BENEFIT FROM HIM. AND HE [THE MAN IN **BET HORON**] WAS MARRYING OFF HIS SON, AND HE SAID TO HIS FELLOW, “THE COURTYARD AND THE BANQUET ARE GIVEN OVER TO YOU AS A GIFT. BUT THEY ARE BEFORE YOU ONLY SO THAT FATHER MAY COME AND EAT WITH US AT THE BANQUET.” THE OTHER PARTY SAID, “NOW IF THEY REALLY ARE MINE, THEN LO, THEY ARE CONSECRATED TO HEAVEN!” HE SAID TO HIM, “I DIDN’T GIVE YOU WHAT’S MINE SO YOU WOULD CONSECRATE IT TO HEAVEN!” HE SAID TO HIM, “YOU DID NOT GIVE ME WHAT’S YOURS EXCEPT SO THAT YOU AND YOUR FATHER COULD EAT AND DRINK AND MAKE FRIENDS AGAIN, AND SO THE SIN [FOR VIOLATING THE OATH] COULD REST ON HIS [MY] HEAD!”

1. **I:1:** R. Yohanan said, “This one [at M. 5:5E] clearly is a disciple of a sage.”
 - a. **I:2:** Hillel the Elder had eighty pairs of disciples. The oldest of them was Jonathan b. Uzziel. The youngest of them was Rabban Yohanan ben Zakkai. R. Yosé b. R. Bun said, “This was a case: The father of Jonathan bar Uzziel prohibited by vow from deriving benefit from his property. He went and wrote them over to Shammai. What did Shammai do? He sold part, consecrated part, and gave [Jonathan] the rest as a gift. And he then said, ‘Whoever comes and complains against this gift — let him get it back also from the possession of the purchaser and from the possession of the sanctuary, and then he can come and get it back from this one [Jonathan].’”

[B] NOW THE CASE CAME BEFORE SAGES. THEY RULED, “ANY ACT OF DONATION WHICH IS NOT SO [GIVEN] THAT, IF ONE SANCTIFIED IT TO HEAVEN, IT IS SANCTIFIED, IS NO ACT OF DONATION.”

1. **II:1:** R. Jeremiah asked, “Then [in light of that statement], may we say that a man may not give a gift to his fellow on the stipulation that he may not consecrate it to heaven?”

XXXV. YERUSHALMI NEDARIM 6:1

[A] HE WHO TAKES A VOW NOT TO EAT WHAT IS COOKED IS PERMITTED [TO EAT WHAT IS] ROASTED OR SEETHED. [IF] HE SAID, “QONAM IF I TASTE COOKED FOOD,” HE IS PROHIBITED FROM EATING WHAT IS LOOSELY COOKED IN A POT, BUT PERMITTED TO EAT WHAT IS SOLIDLY COOKED IN A POT:

1. **I:1:** [M. 6:1A indicates that the Mishnah does not regard roasting or seething as cooking. And yet elsewhere] the Mishnah has maintained that that which is seethed is regarded as cooked. For we have learned: He would cook the peace offerings or seethe [the offering] [M. Naz. 6:9A]. [Then at Num. 6:19, the shoulder of the ram is called cooked.] Now Scripture, for its part, refers to roasting as cooking: “And they roasted the Passover lamb” (2 Chr. 35:13). So it follows that the Mishnah maintains that that which is seethed is regarded as cooked, while the Scripture has held that that which is roasted is regarded as cooked.
2. **I:2:** He who takes a vow not to eat what is cooked [M. 6:1A]: What is the law as to his being permitted to eat what is smoked? What is the law as to his being permitted to eat what is fried? What is the law as to his being permitted to eat what is cooked in the boiling waters of the hot springs of Tiberias?
3. **I:3:** He who takes a vow not to eat what is cooked [M. 6:1A]: What is the law as his being permitted to eat what is solidly cooked in a pot?
4. **I:4:** It was taught: He who vows not to eat what is cooked is prohibited from eating soft biscuits, because sick people eat their bread with them [T. Ned. 3:1B].

[B] AND HE IS PERMITTED TO EAT A LIGHTLY BOILED EGG OR GOURDS PREPARED IN HOT ASHES.

1. **II:1:** This [gourd] is a bitter kind, which they sweeten by heating it in hot ashes.

XXXVI. YERUSHALMI NEDARIM 6:2

[A] HE WHO TAKES A VOW NOT TO EAT WHAT IS COOKED IN A POT IS PROHIBITED ONLY FROM WHAT IS BOILED [THEREIN]. [IF HE SAID, “QONAM IF I TASTE ANYTHING WHICH GOES DOWN INTO A POT,” HE IS PROHIBITED FROM EATING ANYTHING WHICH IS COOKED IN A POT. [HE WHO TAKES A VOW NOT TO EAT] WHAT IS PICKLED IS PROHIBITED ONLY FROM EATING PICKLED VEGETABLES. [IF HE SAID, “QONAM] IF I TASTE ANYTHING PICKLED,” HE IS PROHIBITED FROM EATING ANYTHING WHICH IS PICKLED. [IF HE TOOK A VOW NOT TO EAT WHAT IS] SEETHED, HE IS FORBIDDEN ONLY FROM EATING SEETHED MEAT. [IF HE SAID, “QONAM] IF I TASTE ANYTHING SEETHED,” HE IS PROHIBITED FROM EATING ANYTHING WHICH IS SEETHED. “[HE WHO TAKES A VOW NOT TO EAT] WHAT IS ROASTED IS PROHIBITED ONLY FROM EATING ROASTED MEAT,” THE

WORDS OF R. JUDAH. [IF HE SAID, “QONAM] IF I TASTE ANYTHING ROASTED,” HE IS PROHIBITED FROM EATING ANYTHING WHICH IS ROASTED.

1. **I:1:** What is the meaning of, what is boiled [M. 6:2A]?
2. **I:2:** But if he said, [“ Qonam if I taste] anything which goes down into a pot, he is prohibited from eating anything which goes down into a stew pot. If he said, “Qonam if I taste anything which goes down into a stew-pot,” he is permitted to eat anything which goes down into a pot [T. Ned. 3:2A-B],

XXXVII. YERUSHALMI NEDARIM 6:3

[A] [HE WHO TAKES A VOW NOT TO EAT] WHAT IS SALTED IS PROHIBITED ONLY FROM EATING SALTED FISH. [IF HE SAID, “QONAM] IF I EAT ANYTHING SALTED,” THEN HE IS PROHIBITED FROM EATING ANYTHING AT ALL WHICH IS SALTED. [HE WHO SAYS, “QONAM] IF I TASTE FISH OR FISHES,” IS PROHIBITED [TO EAT] THEM, WHETHER LARGE OR SMALL, SALTED OR UNSALTED, RAW OR COOKED. BUT HE IS PERMITTED TO EAT PICKLED CHOPPED FISH AND BRINE. HE WHO VOWS NOT TO EAT SMALL FISH IS PROHIBITED FROM EATING PICKLED CHOPPED FISH.

1. **I:1:** They proposed to rule: “That which is salted permanently is deemed salted meat [in line with M. 2:4C], but if it was with regard to that which is salted only for a time, that is not the case.” Said R. Yudah, “On the basis of that which we have learned: If he said, ‘Lo, it is to me like salted meat,’ ‘Like wine used for idolatrous worship’ [M. 2:4C], that indicates that that which is salted only for a time is regarded as salted.”
2. **I:2:** R. Simeon b. Eleazer says, “If he said, ‘Qonam if I eat fish,’ he is prohibited from eating big fish but permitted to eat little ones. If he said, ‘Qonam if I eat little fish,’ he is prohibited from eating little ones but permitted to eat big ones. [If he said, ‘Qonam] if I eat fish,’ he is prohibited from eating big fish and prohibited from eating little fish,” [M. 6:4A] [T. Ned. 3:5F-H].

[B] BUT HE IS PERMITTED TO EAT BRINE AND FISH-BRINE. HE WHO VOWED [NOT TO EAT] PICKLED CHOPPED FISH IS PERMITTED TO EAT BRINE AND FISH-BRINE.

1. **II:1:** And he is permitted to eat pickled chopped fish and brine [M. 6:3D]. Lo, if it is not chopped, he is forbidden to eat it. R. Jeremiah said Zeira asked, “Does this not differ from the view of R. Yohanana? For R. Yohanana said, ‘In the case of vows they follow the ordinary

usage of people. It surely would not be usual for someone to say to his fellow, 'Buy me fish,' and he would buy him chalkis. [In the case of the vow against fish, the person never intended a vow against chopped ones, but only whole ones.]” R. Abin derived the proposition from the latter part of the same statement of the Mishnah: He who vowed not to eat pickled chopped fish is permitted to eat brine and fish-brine [M. 6:3F].

XXXVIII. YERUSHALMI NEDARIM 6:4

[A] HE WHO VOWS NOT TO HAVE MILK IS PERMITTED TO EAT CURDS. AND R. YOSÉ PROHIBITS [EATING CURDS]. [IF HE VOWED NOT TO EAT] CURDS, HE IS PERMITTED TO HAVE MILK. ABBA SAUL SAYS, “HE WHO VOWS NOT TO EAT CHEESE IS PROHIBITED TO EAT IT WHETHER IT IS SALTED OR UNSALTED.”

- 1. I:1:** What are curds? Congealed milk. What is the reason for the position of R. Yosé? Because it is called by the name applied to its source [milk].
- 2. I:2:** This is the comprehensive rule that R. Simeon says in the name of R. Joshua, “To whatever [is forbidden but may become] permitted, for example, produce liable to tithing which has not yet been tithed, second tithe, produce which has been consecrated, new produce [before the offering of the *omer*, which permits its utilization], sages have not assigned a limit. [That is, if these items are mixed up with produce which is permitted, sages do not maintain that if what is permitted exceeds what is prohibited by a given ratio, the whole is permitted.] But if both prohibited and permitted types of produce were of the same kind, the whole mixture is prohibited if the prohibited portion is any measure at all. If the prohibited and permitted types of produce were not of the same kind, then the whole mixture is prohibited if the prohibited portion imparts its flavor to the entire mixture [but permitted if it does not]. To whatever [is forbidden but may not ever become] permitted, for example, heave offering, dough offering, produce of a vineyard before its fourth year, produce produced by a mixture of seeds in a vineyard, sages have assigned a limit [of a fixed ratio]. If the prohibited produce and the permitted produce were of the same kind, the ratio is in whatever proportion [sages have said, e.g., one out of a hundred parts, and the like], and if the permitted produce and prohibited produce were not of the same kind, then it is prohibited if the prohibited portion imparts its flavor to the entire mixture.” Now as to produce covered by vows, how do you deal with them? Are they regarded as something which is forbidden

and may become permitted or as something which is forbidden and may not become permitted?

XXXIX. YERUSHALMI NEDARIM 6:5

[A] **HE WHO TAKES A VOW NOT TO EAT MEAT IS PERMITTED TO EAT BROTH AND MEAT SEDIMENT. AND R. JUDAH PROHIBITS [HIM FROM EATING BROTH AND MEAT SEDIMENT]. SAID R. JUDAH, M'SH W: "R. TARFON PROHIBITED ME FROM EATING EGGS WHICH WERE ROASTED WITH [MEAT]." THEY SAID TO HIM, "AND THAT IS THE POINT! UNDER WHAT CIRCUMSTANCES? WHEN HE WILL SAY, 'THIS MEAT IS PROHIBITED TO ME.' FOR HE WHO VOWS NOT TO EAT SOMETHING WHICH IS MIXED WITH SOMETHING ELSE, IF THERE IS SUFFICIENT [OF THE PROHIBITED SUBSTANCE] TO IMPART A FLAVOR, IS PROHIBITED [FROM EATING THE MIXTURE]." HE WHO VOWS NOT TO DRINK WINE IS PERMITTED TO EAT A COOKED DISH WHICH HAS THE TASTE OF WINE. [IF] HE SAID, "QONAM IF I TASTE THIS WINE," AND IT FELL INTO A COOKED DISH, IF THERE IS SUFFICIENT [WINE] TO IMPART A FLAVOR, LO, THIS IS PROHIBITED.**

1. **I:1:** R. Hela said, "Once he has said, 'This,' he has prohibited for himself both it and any benefit it may impart."

XL. YERUSHALMI NEDARIM 6:6

[A] **HE WHO TAKES A VOW NOT TO EAT GRAPES IS PERMITTED TO DRINK WINE. [HE WHO TAKES A VOW NOT TO EAT] OLIVES IS PERMITTED TO HAVE OLIVE-OIL. [IF] HE SAID, "QONAM IF I EAT THESE OLIVES OR GRAPES," HE IS PROHIBITED TO EAT THEM AND WHAT EXUDES FROM THEM.**

1. **I:1:** It was taught: R. Simeon b. Eleazar says, "If something is usually eaten and what exudes from it is usually eaten, and one has vowed not to eat it, he is prohibited also from eating what exudes from it. If he takes a vow not to eat what exudes from it, he is prohibited from eating it as well. What is usually eaten, but that which exudes from it is not usually eaten, and one has taken a vow not to eat it — he is permitted to eat what exudes from it. [If he took a vow not to eat] what exudes from it, he is permitted to eat it. What is not usually eaten and what exudes from it is usually eaten and one has taken a vow not to eat it — this one has intended his vow to cover only what exudes from it" [T. Ned. 3:3 D-E].

XLI. YERUSHALMI NEDARIM 6:7

[A] **HE WHO TAKES A VOW NOT TO EAT DATES IS PERMITTED TO HAVE DATE HONEY. [HE WHO TAKES A VOW NOT TO EAT] WINTER GRAPES IS PERMITTED TO HAVE THE VINEGAR MADE FROM WINTER GRAPES. R. JUDAH B. BETERA SAYS, “ANYTHING WHICH IS CALLED AFTER THE NAME OF THAT WHICH IS MADE FROM IT, AND ONE TAKES A VOW NOT TO HAVE IT — HE IS PROHIBITED ALSO FROM EATING THAT WHICH COMES FROM IT.” BUT SAGES PERMIT.**

1. **I:1:** What is the reason for the view of R. Yosé [at M. 6:4 A-B]? Because it is called by the name applied to its source. What is the reason of R. Judah b. Betera? Because it is called by the name of that which it generates.

XLII. YERUSHALMI NEDARIM 6:8

[A] **HE WHO TAKES A VOW NOT TO HAVE WINE IS PERMITTED TO HAVE APPLE WINE. [HE WHO TAKES A VOW NOT TO HAVE] OIL IS PERMITTED TO HAVE SESAME OIL. HE WHO TAKES A VOW NOT TO HAVE HONEY IS PERMITTED TO HAVE DATE HONEY. HE WHO TAKES A VOW NOT TO HAVE VINEGAR IS PERMITTED TO HAVE THE VINEGAR OF WINTER GRAPES. HE WHO TAKES A VOW NOT TO HAVE LEEKS IS PERMITTED TO HAVE SHALLOTS.**

1. **I:1:** The Mishnah [at M. 6:8E] speaks of a place in which they do not call shallots leeks. But in a place in which they call shallots leeks, they did not rule on the matter.

[B] **HE WHO TAKES A VOW NOT TO HAVE VEGETABLES IS PERMITTED TO HAVE WILD VEGETABLES, SINCE THEY HAVE A SPECIAL NAME.**

1. **II:1:** He who takes a vow not to have vegetables is permitted to have wild vegetables, since they have a special name [M. 6:8F-G]. Now in this connection it was taught: He who takes an oath not to eat vegetables in the Seventh Year is prohibited from eating wild vegetables [because that is what he must have meant, since the other kind are not available anyhow] [T. Ned. 3:5]. R. Qerispa in the name of R. Haninah b. Gamaliel stated the reason for this rule. It applied before Rabbi permitted importing vegetables from abroad into the Land [in the Seventh Year]. But once Rabbi permitted importing vegetables from abroad into the Land, the same rule applied in the Seventh Year as applied in the other years of the Sabbatical cycle.

- a.** II:2: It has been taught: They do not intercalate the year either in the case of the Seventh Year or in the case of the year after the Seventh Year. And if they did so, lo, this is intercalated. When are they accustomed to intercalate the year? In the year before the Seventh Year [T. San. 2:9]. Said R. Zeira in the name of R. Abbahu, “This statement which has been made [that they do not intercalate the year in the Seventh Year] applies to the case before Rabbi permitted purchasing vegetables from abroad for use in the Land. But once Rabbi had permitted purchasing vegetables from abroad for use in the Land, there was no longer any difference between the Seventh Year and the other years of the Sabbatical cycle.
- i.** II:3: As to the further statement, T. San. 2:9, that they do not intercalate the year in a time of famine,] R. Meir says, “Lo, Scripture says, ‘And there came a man from Baal Shalisha, and he brought the man of God bread of the first fruits, twenty loaves of barley, and fresh ears of corn in his sack’ (2 Kings 4:42). [And is it not so that there is no place in which the produce ripens earlier in the land of Israel than in Baal Shalisha? And even so, he offered as first fruits only that species which he had brought to the man of God. Is it possible that he brought it before the ‘omer had been offered (the sixteenth of Nisan, so allowing the consumption of the new year for the first time)? Scripture says, ‘And he said, Give to the people, so that they may eat’ (2 Kings 4:43).] So it follows that the year was suitable for intercalation.
- II.** II:4: It was taught: They do not intercalate the year when there is uncleanness.
- III.** II:5: Rabbi says, “Nisan has never been intercalated [that is, the new moon of Nisan has never been designated on the thirty-first day of Adar].”
- IV.** II:6: Rab said, “Tishré has never been intercalated [that is, beginning on the thirty-first day of Elul].”
- v.** II:7: Now when they sanctified the year in Usha, on the first day R. Ishmael b. R. Yohanan b. Beroqah passed [before the ark] and said it in accord with the view of R. Yohanan b. Nuri. Said Rabban Simeon b. Gamaliel, “That was not the custom which we followed in Yabneh.” So on the second day R. Hanina, son of R. Yosé the Galilean, passed [before the ark] and said the prayer in accordance with the opinion of R. Aqiba.

Then said Rabban Simeon b. Gamaliel, “Now *that* was the custom which we followed in Yabneh!” [T. R.H. 2:11].

VI. II:8: Scripture states, “[The appointed feasts of the Lord] which [you shall proclaim as holy convocations, my appointed feasts, are these]” (Lev. 23:2). That is, these are my appointed feasts, these others are not my appointed feasts. [So if one has sanctified the new month] prior to its proper time, on the twenty-ninth day, or after its intercalation, on the thirty-second day of the month, [it is not sanctified].

XLIII. YERUSHALMI NEDARIM 6:9

[A] **[HE WHO TAKES A VOW NOT TO EAT] CABBAGE IS FORBIDDEN FROM ASPARAGUS [DEEMED A SPECIES OF THE CABBAGE GENUS]. [HE WHO TAKES A VOW NOT TO EAT] ASPARAGUS IS PERMITTED TO HAVE CABBAGE. [HE WHO TAKES A VOW NOT TO HAVE] GRITS IS FORBIDDEN TO HAVE GRITS POTTAGE. AND R. YOSÉ PERMITS IT.**

- 1.** **I:1:** What is the reason for the position of R. Yosé? Because it is called by the name of its source.

[B] **[HE WHO TAKES A VOW NOT TO EAT] GRITS POTTAGE IS PERMITTED TO HAVE GRITS.**

- 1.** **II:1:** And that rule applies when the greater part of the pottage is grits.

[C] **[HE WHO TAKES A VOW NOT TO EAT] GRITS POTTAGE IS FORBIDDEN TO EAT GARLIC. AND R. YOSÉ PERMITS IT. [HE WHO TAKES A VOW NOT TO EAT] GARLIC IS PERMITTED TO EAT GRITS POTTAGE.**

- 1.** **III:1:** Does that rule apply when the greater part of the mixture is garlic?

XLIV. YERUSHALMI NEDARIM 6:10

[A] **[He who takes a vow not to eat] lentils is forbidden from eating lentil cakes. And R. Yosé permits. [He who takes a vow not to eat] lentil cakes is permitted to eat lentils.**

- 1.** **I:1:** R. Yosa went to R. Yosé and the latter brought to him lentils which had been parched, milled, kneaded in honey, and then fried. He

said to him, “These are the lentil cakes of which sages have spoken [at M. 6:10C].”

XLV. YERUSHALMI NEDARIM 6:11

[A] [HE WHO SAYS, “QONAM] IF I TASTE [A GRAIN OF] WHEAT OR WHEAT [GROUND UP IN ANY FORM]” IS FORBIDDEN FROM EATING IT, WHETHER IT IS GROUND UP OR IN THE FORM OF BREAD. [IF HE SAID, “QONAM IF I EAT] A GRIT [OR] GRITS IN ANY FORM,” HE IS FORBIDDEN FROM EATING THEM WHETHER RAW OR COOKED. R. JUDAH SAYS, “[IF HE SAID,] ‘QONAM IF I EAT EITHER A GRIT OR A [GRAIN OF] WHEAT,’ HE IS PERMITTED TO CHEW THEM RAW.”

1. **I:1:** It was taught: R. Judah says, “... Qonam be a grit if I taste it,’ he is forbidden to chew one, but permitted to eat it in a pottage. ‘... grits if I taste them...,’ he is forbidden to eat them in a porridge but permitted to chew them ‘... a grain of wheat if I taste it...,’ he is forbidden to chew it but permitted to eat it in a piece of bread. “... grains of wheat if I taste them...,’ he is forbidden to eat them in bread, but permitted to chew them.”

XLVI. YERUSHALMI NEDARIM 7:1

[A] HE WHO VOWS NOT TO EAT VEGETABLES IS PERMITTED TO EAT GOURDS. AND R. AQIBA PROHIBITS [HIM FROM EATING GOURDS]. THEY SAID TO R. AQIBA, “AND DOES NOT A MAN SAY TO HIS MESSENGER, ‘BUY ME VEGETABLES,’ TO WHICH THE OTHER REPLIES [UPON HIS RETURN HOME], ‘I FOUND ONLY GOURDS’?” HE SAID TO THEM, “AND THAT IS JUST HOW THINGS ARE! BUT WOULD HE SAY TO HIM, ‘I FOUND ONLY PULSE?’ BUT GOURDS ARE IN THE GENERAL CATEGORY OF VEGETABLES, WHILE PULSE IS NOT IN THE GENERAL CATEGORY OF VEGETABLES.” AND [IF HE VOWED NOT TO EAT VEGETABLES] HE IS PROHIBITED FROM EATING EGYPTIAN BEANS WHEN THEY ARE FRESH, BUT HE IS PERMITTED TO EAT THEM WHEN THEY ARE DRIED.

1. **I:1:** Is the theory of R. Aqiba [that the agent says,] “I found one thing, and I did not find the other thing”? [That is, the agency has shifted, since he found gourds but not vegetables. In that case would he maintain the same with the usage of ‘meat’ — that is, including under the category of ‘meat’ fish or locusts? For an agent sent for meat might not bring back meat but might bring back fish or locusts. That is the force of the question that follows:] If so, in the case of him who vows not to eat meat, would he be prohibited also to eat the meat of fish and

locusts? For along these same lines, a man says to his fellow, “Buy me meat,” and he will reply to his fellow, “I found only fish.”

2. **I:2:** All concur that he who takes vow not to eat gourds is permitted to eat vegetables [M. 7:1A].
3. **I:3:** He who takes a vow against eating vegetables — what is the law as to his being permitted to eat dried vegetables?
4. **I:4:** He who vows not to eat what is due from the earth is prohibited from eating cucumbers, gourds, and chate-melons but permitted to eat fruit which grows on trees [T. Ned. 4:3A]. He who vows not to eat the produce of a given year is prohibited from eating all the produce of that year. But he is permitted to eat [meat of the] calves, lambs, sheep, and milk, and pigeons [produced that year]. If he said, “*Qonam* if I taste what is] produced in [this] year,” he is prohibited from eating all of them [T. Ned. 4:1A-C]. He who vows not to drink fruit juice is prohibited from all kinds of sweet juice but permitted to drink wine [T. Ned. 4:3B].

XLVII. YERUSHALMI NEDARIM 7:2

[A] “**HE WHO VOWS NOT TO EAT GRAIN IS FORBIDDEN TO EAT DRIED EGYPTIAN BEANS,**” THE WORDS OF **R. MEIR**. AND SAGES SAY, “**HE IS PROHIBITED ONLY FROM EATING THE FIVE VARIETIES [WHEAT, BARLEY, SPELT, GOAT GRASS, AND OATS].**” **R. MEIR SAYS, “HE WHO VOWS NOT TO EAT [FIELD] PRODUCE IS FORBIDDEN ONLY TO EAT THE FIVE VARIETIES. BUT HE WHO VOWS NOT TO EAT GRAIN IS PROHIBITED FROM EATING ALL KINDS OF GRAIN. BUT HE IS PERMITTED TO EAT FRUIT OF TREES AND VEGETABLES.”**

1. **I:1:** What is the operative consideration behind the ruling of R. Meir? [Dry Egyptian beans are] the bread of the Holy Land [therefore implied in a vow against eating grain]. What is the operative consideration behind the view of rabbis? When one vows against eating grain, he means, home grown grain [that is, the five species of grain natural to the Land].

XLVIII. YERUSHALMI NEDARIM 7:3

[A] **HE WHO VOWS NOT TO WEAR CLOTHING IS PERMITTED TO WEAR SACKING, CURTAINS, OR HANGINGS. [IF] HE SAID, “QONAM IF WOOL TOUCHES ME,” HE**

IS PERMITTED TO WEAR WOOL SHEARINGS. [IF HE SAID, “QONAM IF] FLAX TOUCHES ME,” HE IS PERMITTED TO WEAR STALKS OF FLAX.

- 1.** **I:1:** He who vows not to wear clothing is prohibited from putting on a belt or a fascia. But he is permitted to put on a leather coat, a spread, shoes, pants, and a hat [T. Ned. 4:3H-I]. He who takes a vow not to wear clothing is prohibited from all kinds of clothing but permitted to wear these [just now listed].
- 2.** **I:2:** R. Simeon b. Eleazar says, “As to that which is usually used for clothing, and that which comes from it is usually used for clothing, and one has taken a vow not to make use of it — he is prohibited also from making use of what comes from it. [If he took a vow] not to use what comes from it, he is prohibited from making use of it.” As to something usually used for clothing, but what comes from it is not usually used for clothing, and one has taken a vow not to use it — he is permitted to make use of what comes from it. [If] he took a vow not to use] what comes from it, he is permitted. As to something which is not usually used for clothing but what comes from it is usually used for wearing, and one has taken a vow not to make use of it, this one has intended only to refrain from using what comes from it” [T. Ned. 3:4B-G].

[B] **R. JUDAH SAYS, “ALL DEPENDS UPON THE ONE WHO MAKES THE VOW: [IF] HE WAS BEARING A BURDEN AND WAS SWEATING AND BREATHING HEAVILY [AND] SAID, ‘QONAM IF WOOL AND FLAX TOUCH ME,’ HE IS PERMITTED TO WEAR THEM AS CLOTHING BUT PROHIBITED TO THROW THEM OVER ONTO HIS BACK [AS A BUNDLE].”**

- 1.** **II:1:** Thus is the meaning of the Mishnah [at M. 7:3E], If he was bearing a burden and was sweating..., and said, ‘Qonam if wool and flax touch me, he is forbidden to wear them as clothing but permitted to throw them over onto his back [as a bundle].

XLIX. YERUSHALMI NEDARIM 7:4

[A] **“HE WHO VOWS NOT TO ENTER A HOUSE IS PERMITTED TO ENTER THE UPPER ROOM,” THE WORDS OF R. MEIR. AND SAGES SAY, “THE UPPER ROOM IS COVERED BY THE CATEGORY OF THE HOUSE [AND HE IS PROHIBITED FROM ENTERING IT].” HE WHO VOWS NOT TO ENTER THE UPPER ROOM IS PERMITTED TO ENTER THE HOUSE.**

1. **I:1:** The statement of R. Meir would apply in a town [in which the upper room is not called part of the house]. [But in villages the upper room is part of the house. We take context into account.]

L. YERUSHALMI NEDARIM 7:5

[A] **“HE WHO VOWS NOT TO USE A BED IS PERMITTED TO USE A COUCH,” THE WORDS OF R. MEIR. AND SAGES SAY, “A COUCH IS COVERED BY THE CATEGORY OF THE BED [AND HE IS PROHIBITED FROM MAKING USE OF A COUCH].” HE WHO VOWS NOT TO MAKE USE OF A COUCH IS PERMITTED TO MAKE USE OF A BED.**

1. **I:1:** In the case of mourning rites,] it was taught, a couch is overturned and not overturned [that is, it is leaned on its side].
2. **I:2:** What is a bed and what is a couch?

LI. YERUSHALMI NEDARIM 7:6

[A] **HE WHO VOWS NOT TO ENTER A CITY IS PERMITTED TO ENTER INTO THE BORDER OF THE CITY BUT PROHIBITED FROM ENTERING INTO ITS CONFINES. BUT HE WHO VOWS NOT TO ENTER A HOUSE IS PROHIBITED FROM ENTERING BEYOND THE JAMB OF THE DOOR AND INWARDS.**

1. **I:1:** How do we know that the confines of the town are equivalent to the town?
2. **I:2:** R. Mana asked, “Does this not differ from the view of R. Yohanan? For R. Yohanan said, “In vows they follow ordinary usage.” [People usually mean when they say, “a house,” from the entry into the house.]

LII. YERUSHALMI NEDARIM 7:7

[A] **[HE WHO SAYS,] “QONAM BE THESE PIECES OF FRUIT FOR ME,” “THEY ARE QONAM FOR MY MOUTH,” “THEY ARE QONAM TO MY MOUTH,” — HE IS PROHIBITED [FROM EATING] WHATEVER HE MAY EXCHANGE FOR THOSE [PIECES OF FRUIT] AND WHATEVER GROWS FROM THEM AS WELL. [IF HE SAYS, “QONAM IF ~ I EAT [THESE PIECES OF FRUIT].” [“QONAM] IF I TASTE THEM,” HE IS PERMITTED TO EAT WHATEVER HE MAY EXCHANGE FOR THOSE PIECES OF FRUIT AND WHATEVER GROWS FROM THEM. [THIS IS THE CASE] OF**

SOMETHING THE SEED OF WHICH PERISHES. BUT IN THE CASE OF SOMETHING THE SEED OF WHICH DOES NOT PERISH, EVEN WHAT GROWS FROM IT IS PROHIBITED.

1. **I:1:** For what interval [does the prohibition at M. 7:7F of what grows from the produce apply, when the seed does not perish]?

LIII. YERUSHALMI NEDARIM 7:8

[A] **HE WHO SAYS TO HIS WIFE, “QONAM BE [THE RESULTS OF] THE WORK OF YOUR HANDS FOR ME,” “THEY ARE QONAM FOR MY MOUTH,” “THEY ARE QONAM TO MY MOUTH” — HE IS PROHIBITED TO MAKE USE OF THINGS EXCHANGED FOR THEM OR THINGS WHICH GROW FROM THEM AS WELL. [IF HE SAID, “QONAM] THAT I SHALL NOT EAT,” OR “THAT I SHALL NOT TASTE,” THEN HE IS PERMITTED TO EAT OR TASTE THINGS EXCHANGED FOR THEM AND THINGS WHICH GROW FROM THEM. THIS IS THE RULE FOR SOMETHING THE SEED OF WHICH PERISHES. BUT IN THE CASE OF SOMETHING THE SEED OF WHICH DOES NOT PERISH, EVEN THINGS WHICH GROW FROM THE THINGS WHICH GROW FROM THEM ARE PROHIBITED. [HE WHO SAYS, “QONAM] BE WHAT YOU ARE MAKING IF I EAT IT UNTIL PASSOVER,” “BE WHAT YOU ARE MAKING IF I WEAR IT UNTIL PASSOVER,” — [IF SHE PREPARED [THESE THINGS] BEFORE PASSOVER, HE IS PERMITTED TO EAT OR TO WEAR [WHAT SHE HAS MADE] AFTER PASSOVER.**

1. **I:1:** The meaning of the Mishnah [at M. 7:8G] is this: “What you make until Passover, I shall not eat, what you make until Passover I shall not wear.”

LIV. YERUSHALMI NEDARIM 7:9

[A] **[IF HE SAID, “QONAM BE TO ME] WHAT YOU ARE MAKING UNTIL PASSOVER IF I EAT IT,” “WHAT YOU ARE MAKING UNTIL PASSOVER IF I WEAR IT,” — [IF SHE PREPARED THESE THINGS BEFORE PASSOVER, HE IS PROHIBITED FROM EATING OR WEARING [WHAT SHE HAS MADE] AFTER PASSOVER.**

1. **I:1:** The meaning of the Mishnah is this: “What you make until Passover I shall never wear” [for his meaning is to prohibit what she makes from now until Passover, and the prohibition is without limit in this phrasing of the matter].

LV. YERUSHALMI NEDARIM 7:10

[A] [HE WHO SAYS, “QONAM] BE WHAT YOU ENJOY ON MY ACCOUNT BEFORE PASSOVER IF YOU GO TO YOUR FATHER’S HOUSE BEFORE THE FESTIVAL OF SUKKOT,” [IF] SHE WENT BEFORE PASSOVER, SHE IS PROHIBITED FROM DERIVING BENEFIT FROM HIM UNTIL PASSOVER. [IF SHE WENT] AFTER PASSOVER, SHE IS SUBJECT TO HAVING VIOLATED THE RULE, “HE SHALL NOT PROFANE HIS WORD” (NUM. 30:2).

1. I:1: And the wife is prohibited from deriving benefit from him from that point, lest she go after Passover, so it will turn out that the benefit she derives will have been prohibited retroactively.

LVI. YERUSHALMI NEDARIM 7:11

[A] [HE WHO SAYS, “QONAM] BE WHAT YOU ENJOY ON MY ACCOUNT UP TO THE FESTIVAL OF SUKKOT IF YOU GO TO YOUR FATHER’S HOUSE BEFORE PASSOVER,” AND SHE WENT TO HER FATHER’S HOUSE BEFORE PASSOVER, SHE IS PROHIBITED FROM DERIVING BENEFIT FROM HIM UP TO THE FESTIVAL OF SUKKOT. BUT SHE IS PERMITTED TO GO TO HER FATHER’S HOUSE AFTER PASSOVER.

1. I:1: And the wife is prohibited from deriving benefit from him from that point, lest she go before Passover, so that it will turn out that the benefit she derives will have been prohibited retroactively.

LVII. YERUSHALMI NEDARIM 8:1

[A] [HE WHO SAYS,] “QONAM IF I TASTE WINE TODAY,” IS PROHIBITED ONLY TO NIGHTFALL. [IF HE REFERRED TO] “THIS WEEK,” HE IS PROHIBITED THE ENTIRE WEEK, AND THE SABBATH [WHICH IS COMING, IS INCLUDED] IN THAT PAST WEEK. [IF HE REFERRED TO] “THIS MONTH,” HE IS PROHIBITED THAT ENTIRE MONTH, BUT THE DAY OF THE NEW MONTH [IS ASSIGNED] TO THE COMING MONTH. [IF HE REFERRED TO] “THIS YEAR,” HE IS PROHIBITED THAT ENTIRE YEAR, BUT THE NEW YEAR[’S DAY] IS ASSIGNED TO THE YEAR WHICH FOLLOWS. [IF HE REFERRED TO] “THIS SEPTENNATE,” HE IS PROHIBITED THAT ENTIRE SEPTENNATE, AND THE SEVENTH YEAR IS ASSIGNED TO THE LAST SEPTENNATE [AND IS INCLUDED IN THE VOW].

1. **I:1:** [With reference to M. 8:1A,] lo, once it gets dark, he is permitted [to drink wine]. [So at dark the day ends.] Does this view not differ from that of R. Yohanan, for R. Yohanan has said, “In vows they follow the usage of ordinary people.” [Ordinary usage includes the night with the preceding day.]
2. **I:2:** There we have learned, If he said, “Until the beginning of Adar,” it applies until the beginning of the First Adar [and not the intercalated one]. If he said, “Until the end of Adar,” it applies until the end of the First Adar [M. 8:6B-C]. Is that to suggest that Nisan is the new year as to vows? [Would one then be prohibited, if he took a vow for “this year,” only up to the end of the intercalated year?]

[B] **AND IF HE SAID, “ONE DAY,” “ONE WEEK,” “ONE MONTH,” “ONE YEAR,” “ONE SEPTENNATE,” HE IS PROHIBITED FROM THAT DAY UNTIL THE SAME DAY [OR MONTH, YEAR, OR SEPTENNATE FOLLOWING].**

1. **II:1:** It was taught: From that day until the same day.
2. **II:2:** R. Aha, R. Abbahu in the name of R. Yosé b. Haninah: “It is forbidden to a person to fast on the Sabbath beyond six hours [noon].”
3. **II:3:** From a statement of R. Jonah it follows that people may declare themselves in a fast for a period merely of hours. From a statement made by Rab it follows that people may declare themselves in a fast for a period merely of hours.
4. **II:4:** An individual who decreed a fast upon himself may eat and drink once it gets dark. But if he had said that it was part of a public fast, then he may eat or drink while it is still day. If one took a vow to fast, and festival days and Sabbaths intervened [in that period], he is flogged [for violating the fast by eating], but he does not require the release of a sage [for his vow]. If he vowed and days listed in the Fasting-Scroll intervened [on which he was not supposed to fast]...

LVIII. YERUSHALMI NEDARIM 8:2

[A] **[IF HE SAID,] “TO PASSOVER,” HE IS PROHIBITED UNTIL IT COMES. [IF HE SAID,] “UNTIL IT WILL BE [PASSOVER],” HE IS PROHIBITED UNTIL IT IS OVER. [IF HE SAID,] “UNTIL BEFORE PASSOVER,” R. MEIR SAYS, “HE IS PROHIBITED UNTIL IT COMES.” R. YOSÉ SAYS, “HE IS PROHIBITED UNTIL IT IS OVER.”**

1. **I:1:** R. Jeremiah raised the following problem before R. Zeira: “The opinions assigned to R. Meir are at variance with one another, and the

same is so for R. Yosé. There [in connection with M. Qid. 3:9: He who has two groups of daughters by two wives in succession, and who said, ‘I have betrothed my oldest daughter, but I do not know whether it is the oldest of the older group or the oldest of the younger group or the youngest of the older group who is also older than the oldest of the younger group’ — ‘all of them are prohibited to marry without a writ of divorce, except for the youngest of the younger group,’ the words of R. Meir. R. Yosé says, ‘They are all permitted, except for the oldest of the older group’], [Yosé’s view is expressed as follows:] ‘It is until all of the possibilities of marrying off the members of the elder group have passed,’ or ‘... of the younger group...’ And here he has said this! [That is, here Yosé accepts the possibility that a person will use language susceptible of diverse meanings, which is why the language of M. 8:2C is given a stringent meaning, and at M. Qid. 3:9 he maintains that one will not mean more than one, obvious thing, which is why all the daughters are permitted. Accordingly, the principle by which Yosé interprets the language here and that used there are at variance with one another, and the same is so for Meir.]”

LIX. YERUSHALMI NEDARIM 8:3

[A] [IF HE SAID,] “UNTIL HARVEST,” “UNTIL VINTAGE,” “UNTIL OLIVE GATHERING,” HE IS FORBIDDEN ONLY UNTIL IT COMES. THIS IS THE GENERAL PRINCIPLE: AS TO ANY OCCASION WHOSE TIME IS FIXED, IF HE SAID, “UNTIL IT COMES,” HE IS PROHIBITED UNTIL IT COMES. [IF] HE SAID, “UNTIL IT WILL BE,” HE IS PROHIBITED UNTIL IT IS OVER. BUT AS TO ANY OCCASION WHOSE TIME IS NOT FIXED, WHETHER HE SAID, “UNTIL IT WILL BE,” AND WHETHER HE SAID, “UNTIL IT COMES,” HE IS PROHIBITED ONLY UNTIL IT COMES.

1. I:1: If one has set a time for the marriage banquet of his son and said, “*Qonam* be wine, which I shall not even taste, until the banquet comes,” do we interpret this language as setting a fixed time for the banquet [in line with M. 8:3B], in which case the vow applies until the affair has begun? Or do we maintain that, since he can postpone the banquet to a later time, it is as if its time is not set?

LX. YERUSHALMI NEDARIM 8:4

[A] [IF HE SAID,] “UNTIL SUMMER [HARVEST],” “UNTIL IT WILL BE SUMMER [HARVEST],” IT APPLIES UNTIL THE PEOPLE WILL BEGIN TO BRING IN PRODUCE

IN BASKETS. [IF HE SAID,] “UNTIL SUMMER [HARVEST] IS OVER,” IT APPLIES UNTIL THE KNIVES ARE PUT AWAY.

- I:1:** What are the baskets [to which M. 8:4A makes reference]? Are they baskets for figs or for grapes? Let us derive the answer from the following: Until the knives are put away [M. 8:4B]. Can you say that knives are for figs, and not knives for grapes? [Obviously not.]

[B] [IF HE SAID,] “UNTIL THE HARVEST,” IT APPLIES UNTIL THE PEOPLE BEGIN TO HARVEST THE WHEAT CROP BUT NOT THE BARLEY CROP.

- II:1:** It is written, “... until the end of the barley harvest and the wheat harvest...” (Ruth 2:23), and you say this [that only the wheat harvest is called a harvest]?

[C] ALL IS IN ACCORD WITH THE PLACE IN WHICH HE TAKES HIS OATH: IF IT WAS IN THE MOUNTAIN, [WE FOLLOW CONDITIONS IN] THE MOUNTAIN. AND IF IT WAS IN THE VALLEY, [WE FOLLOW CONDITIONS IN] THE VALLEY.

- III:1:** If when in Galilee one has taken a vow not to eat summer fruit, and then he went down into the valleys, even though the summer fruit had begun to ripen in the valleys, he is prohibited until it ripens in Galilee

LXI. YERUSHALMI NEDARIM 8:5

[A] [IF HE SAID,] “UNTIL THE RAINS,” “UNTIL THE RAINS WILL COME,” IT APPLIES UNTIL THE SECOND SHOWER HAS FALLEN [IN NOVEMBER]. RABBAN SIMEON B. GAMALIEL SAYS, “UNTIL THE TIME OF THE SECOND SHOWER COMES. [IF HE SAID,] ‘UNTIL THE RAINS STOP,’ IT APPLIES UNTIL NISAN IS WHOLLY PASSED,” THE WORDS OF R. MEIR. R. JUDAH SAYS, “UNTIL PASSOVER IS PASSED.”

- I:1:** R. Zeira proposed, “If one has said, ‘Until the rain,’ he is prohibited until the final rain has fallen.”
- I:2:** There we have learned: He who says, “Lo, I pledge myself to give wood,” should give no less than two pieces [M. Sheq. 6:6A]. R. Yosé b. Rabbi said R. Ba bar Mamel proposed, “If he said, ‘Lo, I pledge myself to give a piece of wood,’ he must bring a single piece.”
- I:3:** It has been taught: R. Yosé says, “Any statement which refers to the second set of rains means until the second set of rains has fallen, and any statement which does not refer to the second set of rains means until the second set of rains arrives.”

4. **I:4:** R. Meir is consistent with views of his held elsewhere, and so is R. Judah [M. 8:5C-D]. For we have learned there: Up to what time do they ask for rain? R. Judah says, “Until Passover has passed.” R. Meir says, “Until the end of Nisan” [M. Ta. 1:2E- G]

LXII. YERUSHALMI NEDARIM 8:6

- [A] [IF HE SAID,] “QONAM BE WINE IF I TASTE IT THIS YEAR,” AND THE YEAR RECEIVED AN INTERCALATED MONTH, HE IS PROHIBITED DURING THE YEAR AND THE ADDED MONTH. [IF HE SAID,] “UNTIL THE BEGINNING OF ADAR,” IT APPLIES UNTIL THE BEGINNING OF THE FIRST ADAR [NOT THE INTERCALATED ONE]. [IF HE SAID,] “UNTIL THE END OF ADAR,” IT APPLIES UNTIL THE END OF THE FIRST ADAR.
1. **I:1:** Is that [M. 8:6A-B, which treat Adar as the end of “this year”] to suggest that Nisan [following Adar] is the new year as to vows?
 2. **I:2:** R. Abin in the name of R. Ila, “And that rule [as given in M. 8:6B] applies to a case in which he took the vow and afterward sages intercalated the additional month. [He could not have meant to vow for the Second Adar.] But if they added the month and afterward he took the vow, it is not in such a case that the law applies.”

LXIII. YERUSHALMI NEDARIM 8:7

- [A] **R. JUDAH SAYS,** “[IF HE SAID,] ‘QONAM BE WINE IF I TASTE IT UNTIL PASSOVER WILL BE,’ HE IS PROHIBITED ONLY UP TO THE NIGHT OF PASSOVER. FOR THIS MAN INTENDED TO REFER ONLY UNTIL THE TIME THAT PEOPLE USUALLY DRINK WINE.” [IF] HE SAID, “QONAM BE MEAT IF I TASTE IT UNTIL THERE WILL BE THE FAST,” HE IS PROHIBITED ONLY UP TO THE NIGHT OF THE FAST. FOR THIS MAN INTENDED TO REFER ONLY TO THE TIME AT WHICH PEOPLE USUALLY EAT MEAT. **R. YOSÉ, HIS SON, SAYS,** “[IF HE SAID,] ‘QONAM BE GARLIC IF I TASTE IT UNTIL IT WILL BE THE SABBATH,’ HE IS PROHIBITED ONLY UP TO THE NIGHT OF THE SABBATH. FOR THIS MAN INTENDED TO REFER ONLY TO THE TIME AT WHICH PEOPLE USUALLY EAT GARLIC.” **HE WHO SAYS TO HIS FELLOW,** “QONAM BE BENEFIT I DERIVE FROM YOU, IF YOU DO NOT COME AND COLLECT FOR YOUR CHILD A KOR OF WHEAT AND TWO JUGS OF WINE,” **LO, THIS ONE [THE FELLOW] CAN ANNUL HIS VOW WITHOUT CONSULTATION WITH A SAGE, AND SAY TO HIM,** “DID YOU NOT SPEAK ONLY TO DO ME HONOR? **BUT THIS [NOT TAKING YOUR WHEAT AND WINE FOR MY CHILDREN] IS WHAT I DEEM TO BE HONORABLE!”** AND SO: **HE WHO SAYS TO HIS FELLOW,** “QONAM BE

BENEFIT YOU DERIVE FROM ME, IF YOU DO NOT COME AND GIVE MY SON A KOR OF WHEAT AND TWO JUGS OF WINE” — R. MEIR SAYS, “HE IS PROHIBITED UNTIL HE WILL GIVE [WHAT THE OTHER HAS DEMANDED].” AND SAGES SAY, “ALSO: THIS ONE CAN ANNUL HIS VOW WITHOUT CONSULTATION WITH A SAGE, AND ONE [WHO MADE THE VOW] SAYS TO HIM, ‘LO, IT IS AS IF I HAVE RECEIVED WHAT I DEMANDED.’”

1. **I:1:** R. Hiyya in the name of R. Yohanan, “The dispute concerns the first of the two cases as well [that is, it applies to M. 8:7G-I as much as to J-M].” Said R. Zeira, “The dispute concerns a case lacking further explication. For how shall we interpret the matter otherwise? If in this case one party says, ‘It is because of the honor owing to me,’ and the other party says, ‘It is because of the honor owing to me,’ then all parties concur that the vow is binding [since the one who took the vow fully intended it]. [It is in no way to be abrogated. The recipient cannot say M. 8:7M.] If we deal with a case in which this one says, ‘It is because of the honor owing to me,’ and that one says, ‘It is because of the honor owing you,’ all parties concur that the vow is not binding. [The proposed recipient can say M. 8:7M]. Accordingly, the dispute concerns a case lacking further explication. [In that case, sages maintain that when he has said, ‘It is because of the honor owing to you,’ he has conceded his position. Therefore there is no vow at all.]”
2. **I:2:** R. Yosa raised the following question before R. Yohanan: “[May we say that] the Mishnah conforms to the view of Rabban Simeon b. Gamaliel [and not sages in the following pericope: [If he said,] ‘Lo, this is your writ of divorce on condition that you serve father for two years,’ ‘On condition that you give suck to my son for two years, ‘ if the son died, or if the father died — or if the father said, ‘I don’t want her to serve me,’ [if this is] not because of provocation [on the woman’s part], it is not a writ of divorce. Rabban Simeon b. Gamaliel says, ‘Such a writ is a valid writ of divorce.’ A general principle did] Rabban Simeon b. Gamaliel say] ‘Any hindrance which does not come from her — lo, this is a valid writ of divorce’ [M. Git. 7:6G-M]. [Here, at M. 8:7L-M, sages say that one has the power to say, ‘Lo, it is as if I have received what I demanded.’ The stipulation is treated as if it has been fulfilled. The vow is now carried out. The one who took it did not cause the impossibility of carrying it out, parallel to Simeon b. Gamaliel’s reasoning.]”
3. **I:3:** Up to this point we have dealt with a case in which the donor actually wishes to hand over the gift. [Here the proposed recipient states, “It is as if I have already received the gift,” and hence the vow is

fulfilled = M. 8:7M.] But in a case in which the prospective donor does not wish to hand over the gift, [what is the law]?

LXIV. YERUSHALMI NEDARIM 8:8

- [A] [If] THEY WERE NAGGING HIM TO MARRY THE DAUGHTER OF HIS SISTER AND HE SAID, “QONAM BE WHAT SHE ENJOYS WHICH IS MINE FOR ALL TIMES” —
1. I:1: Said R. Yosé, “This passage represents the view of R. Judah, who has said that all cases are settled in terms of the state of mind of the one who took the oath. [Clearly, in this case, the context defines the extent of the oath.]”
- [B] AND SO HE WHO DIVORCES HIS WIFE AND SAYS, “QONAM BE WHAT MY WIFE ENJOYS OF MINE FOR ALL TIME” — LO, THESE ARE PERMITTED TO DERIVE BENEFIT FROM HIM. FOR THIS MAN INTENDED [HIS VOW] ONLY WITH REFERENCE TO [ACTUAL] MARRIAGE WITH THEM.
1. II:1: Said R. Yosé, “This passage represents the view of R. Judah, who has said that all cases are settled in terms of the state of mind of the one who took the oath.”

LXV. YERUSHALMI NEDARIM 8:9

- [A] [If] ONE WAS NAGGING HIS FRIEND TO EAT WITH HIM [AND THE OTHER] SAID, “QONAM BE YOUR HOUSE IF I ENTER IT,” “IF I DRINK A SINGLE DROP OF COLD WATER OF YOURS,” HE IS PERMITTED TO ENTER HIS HOUSE AND TO DRINK COLD WATER OF HIS. FOR THIS MAN INTENDED [HIS VOW] ONLY WITH REFERENCE TO EATING AND DRINKING [BUT NOT MERELY COMING INTO THE HOUSE OR TAKING A GLASS OF COLD WATER].
1. I:1: Said R. Yosé, “That is to say [M. 8:9C] [if we have a case in which] one takes an oath to his fellow that he will not eat with him, [and his fellow tries to coax him to do so, the intent of the one who took the vow concerns eating] this particular food at this particular banquet.”

LXV. YERUSHALMI NEDARIM 9:1

[A] **R. ELIEZER SAYS, “THEY UNLOOSE A VOW FOR A PERSON BY [REFERENCE TO] THE HONOR OF HIS FATHER OR MOTHER.” AND SAGES PROHIBIT.**

- I:1:** [Explaining the view of sages,] rabbis say that a man may not be assumed to stand up against the honor of his father and mother [and so will not say under any condition that even though it was contrary to the honor owing to my father and my mother, I took the vow].
[Accordingly, we take any statement of regret as subject to doubt.]

[B] **SAID R. SADOQ, “BEFORE THEY UNLOOSE A VOW FOR HIM BY [REFERENCE TO] THE HONOR OF HIS FATHER OR MOTHER, LET THEM UNLOOSE HIS VOW BY REFERENCE TO THE HONOR OF THE OMNIPRESENT. IF SO, THERE WILL BE NO VOWS!”**

- II:1:** So there will be no vows! And has it not been written, “Moses said to the heads of the tribes of the people of Israel” (Num. 30:1). The passage of Scripture depends upon the heads of the tribes [sages], who should release their vows. [If you maintain that one releases a vow because of the honor owing to Heaven, there will be no need for sages to release vows, since they will be automatically null.] If so, you turn out to uproot the entire passage concerning vows from the Torah.

[C] **BUT SAGES CONCEDE TO R. ELIEZER THAT, IN A MATTER WHICH IS BETWEEN HIM AND HIS MOTHER OR FATHER, THEY UNLOOSE HIS VOW BY [REFERENCE TO] THE HONOR OF HIS FATHER OR MOTHER.**

- III:1:** R. Jeremiah raised the question: “You say, They unloose his vow by reference to the honor of his father or mother [M. 9:IE]. [Does it then follow that] as to matters which are between him and the Omnipresent, they should not unloose his vow by reference to the honor owing to the Omnipresent?”
- III:2:** Said R. Yannai, “Whoever listens to his impulse to do evil [by acting in wrath and taking a vow] serves an idol.”
- III:3:** R. Simeon b. Levi released a vow through use the following formula: “Had you known that he who takes a vow is as if he places a chain around his neck, would you have taken the vow?” R. Jonathan released a vow through use of the following formula: “Had you known that he who takes a vow is like him who builds a high place [for idolatry], and he who offers on it an offering, would you have taken

the vow?” R. Isaac released a vow through use of the following language: “Had you known that he who takes a vow is like him who takes plunges it into his heart, Would you have taken the vow?” R. Yohanan offered an opening [for absolving the vow], and the one who took the vow expressed his regret.

4. **III:4:** [As to M. 9:1E, unloosing a vow by reference to the honor of father or mother,] how shall we interpret the matter? If he says, “Benefit deriving from me is forbidden to father,” then we must invoke that which was said by R. Jacob bar Aha, R. Samuel bar Nahman in the name of R. Jonathan: “They force the son to provide maintenance for the father.”

LXVI. YERUSHALMI NEDARIM 9:2

[A] **AND FURTHER DID R. ELIEZER SAY, “THEY UNLOOSE A VOW BY REFERENCE TO WHAT HAPPENS UNEXPECTEDLY [A NEW FACT].” AND SAGES PROHIBIT. HOW SO? [IF] HE SAID, “QONAM BE WHAT I ENJOY WHICH DERIVES FROM SO-AND-SO,” AND THE PERSON WAS APPOINTED A SCRIBE, OR THE PERSON WAS MARRYING OF HIS SON IN THE NEAR FUTURE, AND HE [WHO TOOK THE VOW] THEN SAID, “IF I HAD KNOWN THAT HE WOULD BE APPOINTED A SCRIBE, OR THAT HE WOULD BE MARRYING OF HIS SON IN THE NEAR FUTURE, I SHOULD NEVER HAVE MADE SUCH AN OATH!” — [IF HE SAID,] “QONAM BE THIS HOUSE IF I ENTER IT,” AND IT WAS TURNED INTO A SYNAGOGUE, [IF] HE SAID, “IF I HAD KNOWN THAT IT WOULD BE MADE INTO A SYNAGOGUE, I SHOULD NEVER HAVE MADE SUCH AN OATH” — R. ELIEZER PERMITS [DECLARES THE VOW TO BE UNBOUND]. AND SAGES PROHIBIT [DECLARE THE VOW TO REMAIN BINDING].**

1. **I:1:** R. Simeon in the name of R. Joshua b. Levi, “It was from Moses that R. Eliezer derived his position. For the Holy One, blessed be he, released him from a vow on the basis of what had happened unexpectedly. Said to him the Holy One, blessed be he, ‘If you had known ‘... all the men who were seeking your life are dead...’ (Ex. 4:19), would you have taken an oath?”
 - a. **I:2:** Now we have learned there: “They sell a synagogue only with the stipulation that if they want, they may take it back,” [the words of R. Meir. And sages say, “They sell it for all time, except for use for four purposes: a bathhouse, tannery, immersion pool, or urinal”] [M. Meg. 3:2A-C]. Now up to this point the rule applies to a building which one built for use as a synagogue. If it was built for use as a courtyard and later on, one declared it sacred, what is the law? Let us derive the answer from the following: If one said,

“Qonam be this house if I enter it,” and it was turned into a synagogue, [M. 9:2G]. [Then the sanctity inheres even if it was turned into a synagogue later on, after it was built for some other purpose.] That is to say that one may have built it as a courtyard and consecrated it later on, in which case it is deemed consecrated.

LXVII. YERUSHALMI NEDARIM 9:3

[A] **R. MEIR SAYS, “THERE ARE THINGS WHICH APPEAR TO BE EQUIVALENT TO WHAT HAPPENS UNEXPECTEDLY, BUT ARE NOT, IN FACT, TREATED AS EQUIVALENT TO WHAT HAPPENS UNEXPECTEDLY.” AND SAGES CONCUR WITH HIM. HOW SO? [IF] HE SAID, “QONAM THAT I SHALL NEVER MARRY SO-AND-SO, FOR HER FATHER IS EVIL,” [AND] THEY TOLD HIM, “HE DIED,” OR “HE HAS REPENTED,” — [IF HE SAID,] “QONAM BE THIS HOUSE, THAT I SHALL NOT ENTER IT, FOR THERE IS A BAD DOG INSIDE,” OR, “SNAKE INSIDE,” [AND] THEY TOLD HIM, “THE DOG DIED,” OR, “THE SNAKE WAS KILLED,” — LO, THESE APPEAR TO BE EQUIVALENT TO THAT WHICH HAPPENS UNEXPECTEDLY, YET ARE NOT TREATED AS EQUIVALENT TO THAT WHICH HAPPENS UNEXPECTEDLY AND SAGES CONCUR WITH HIM.**

- 1. I:1:** Samuel said, “It is because it is a vow made in error [that the rule is one need not even consult a sage for releasing these vows]. That is, the dog had already died, the snake had already been slain.” R. Ila in the name of R. Eleazar, “It is because he made his vow depend on an extraneous matter. It is as if he says, ‘*Qonam* that I shall not derive benefit from Mr. So-and-so, so long as he wears black clothing.’ If then he put on white clothing, he is permitted to derive benefit from him.”

LXVIII. YERUSHALMI NEDARIM 9:4

[A] **AND FURTHER DID R. MEIR SAY, “THEY UNLOOSE HIS [VOW] BY REFERENCE TO WHAT IS WRITTEN IN THE TORAH, SAYING TO HIM, IF YOU HAD KNOWN THAT YOU WOULD TRANSGRESS THE COMMANDMENT, ‘YOU SHALL NOT TAKE VENGEANCE,’ OR ‘YOU SHALL NOT BEAR A GRUDGE’ (LEV. 19:18), OR, ‘YOU SHALL NOT HATE YOUR BROTHER IN YOUR HEART’ (LEV. 19:17), OR, ‘YOU SHALL LOVE YOUR NEIGHBOR AS YOURSELF (LEV. 19:18), OR ‘THAT YOUR BROTHER MAY LIVE WITH YOU’ (LEV. 25:36), [WOULD YOU HAVE TAKEN SUCH A VOW?]**

1. **I:1:** It is written, “You shall not take vengeance or bear any grudge against the sons of your own people, [but you shall love your neighbor as yourself: I am the Lord” (Lev. 19:18).

[B] **NOW WHAT HAPPENS IF HE BECOMES POOR AND YOU WILL BE UNABLE TO HELP HIM OUT?’ AND HE SAYS, ‘IF I HAD KNOWN THAT MATTERS WERE THUS, I SHOULD NEVER HAVE TAKEN SUCH A VOW’ — LO, THIS [VOW] IS LOOSED.’**

1. **II:1:** Is this not similar to releasing the vow on grounds of what happens later on? Said R. Zeira, “Poverty is commonplace [and so constitutes suitable grounds, without deeming the matter to be something which took place only later on].”

LXIX. YERUSHALMI NEDARIM 9:5

[A] **THEY UNLOOSE A MAN’S VOW BY REASON OF THE WIFE’S MARRIAGE CONTRACT. M’SH B: A CERTAIN MAN VOWED NOT TO IMPART BENEFIT TO HIS WIFE. AND HER MARRIAGE CONTRACT CALLED FOR A PAYMENT OF FOUR HUNDRED DENARS. AND HE CAME BEFORE R. AQIBA, WHO REQUIRED HIM TO PAY OFF HER MARRIAGE CONTRACT. HE SAID TO HIM, “RABBI, MY FATHER LEFT [AN ESTATE WORTH] EIGHT HUNDRED DENARS, AND MY BROTHER RECEIVED FOUR HUNDRED, AND I FOUR HUNDRED. IS IT NOT ENOUGH FOR HER IF SHE COLLECTS TWO HUNDRED AND I KEEP TWO HUNDRED?” R. AQIBA SAID TO HIM, “EVEN IF YOU HAVE TO SELL THE HAIR OF YOUR HEAD, YOU STILL HAVE TO PAY OFF HER MARRIAGE CONTRACT.” HE SAID TO HIM, “NOW IF I HAD EVER KNOWN THAT THINGS WERE SO, I SHOULD NEVER HAVE TAKEN SUCH A VOW.” AND R. AQIBA DECLARED THE VOW TO BE NOT BINDING.**

1. **I:1:** [As to M. 9:5F, selling the hair of one’s head to pay off the marriage contract,] do they indeed collect a marriage settlement from movables [such as the hair on one’s head]?
2. **I:2:** R. Miasha asked, “What is the law as to instructing the heirs to collect from bailments? [That is, if the husband dies and the wife lays claim for the settlement of her marriage contract by the husband’s estate, does the court instruct the estate to collect for her from movables which the husband has left as bailments in the hands of third parties? Is it as if she has acquired ownership of these bailments while he was yet alive, or not?]”

LXX. YERUSHALMI NEDARIM 9:6

[A] THEY UNLOOSE [VOWS] BY REFERENCE TO FESTIVAL DAYS AND SABBATHS. AT FIRST THEY SAID, “ON THOSE PARTICULAR DAYS [THE VOWS] ARE NOT BINDING, BUT FOR ALL OTHER DAYS THEY ARE BINDING.” BUT THEN R. AQIBA CAME ALONG AND TAUGHT THAT THE VOW PART OF WHICH IS UNLOOSED IS WHOLLY UNLOOSED. HOW SO? [IF] HE SAID, “QONAM BE WHAT I ENJOY FROM ANY ONE OF YOU” – [IF] HIS VOW WITH REFERENCE TO ANY ONE OF THEM WAS DECLARED NOT BINDING, THE VOW WITH REFERENCE TO ALL OF THEM WAS DECLARED NOT BINDING. [IF HE SAID, “QONAM] BE WHAT I ENJOY FROM THIS ONE AND FROM THAT ONE,” [IF] THE VOW PERTAINING TO THE FIRST WAS DECLARED NOT BINDING, ALL OF THEM ARE NO LONGER SUBJECT TO THE VOW. [IF] THE VOW PERTAINING TO THE LAST ONE OF THEM WAS DECLARED NOT BINDING, THE LAST ONE IS PERMITTED [TO GIVE BENEFIT TO THE MAN] BUT THE REST OF THEM ARE PROHIBITED. [IF THE VOW] WAS DECLARED NOT BINDING FOR ONE IN THE MIDDLE, FROM HIM AND ONWARD, IT IS NOT BINDING, BUT FROM HIM AND BACKWARD, IT IS BINDING. [IF HE SAID,] “LET WHAT I ENJOY OF THIS ONE’S BE QORBAN, AND OF THAT ONE’S BE QORBAN,” THEY REQUIRE AN OPENING [ABSOLUTION] FOR EACH AND EVERY ONE OF THEM. [IF HE SAID,] “QONAM BE WINE, BECAUSE IT IS BAD FOR THE BELLY” [AND] THEY TOLD HIM, “BUT ISN’T OLD WINE GOOD FOR THE BELLY?” HE IS PERMITTED TO DRINK OLD WINE. AND NOT OLD WINE ALONE IS PERMITTED, BUT ALL WINE [IS PERMITTED]. [IF HE SAID,] “QONAM BE AN ONION IF I TASTE IT, FOR ONIONS ARE BAD FOR THE HEART,” THEN CYPRUS ONIONS ARE PERMITTED FOR HIM. AND NOT CYPRUS ONIONS ALONE ARE PERMITTED, BUT ALL ONIONS [ARE PERMITTED]. THERE WAS A CASE ALONG THESE LINES, AND R. MEIR DECLARED HIM PERMITTED TO EAT ALL ONIONS.

1. **I:1:** It is taught as a Tannaite statement: [With respect to the rule, If the vow was declared not binding for one in the middle, from him and onward, it is not binding, but from him and backward, it is binding], If one was released, all those from him onward are not subject to the vow; all those from him and prior are subject to the vow.
2. **I:2:** It is taught as a Tannaite statement: In the name of R. Nathan: “There is a sort of vow part of which is not binding, and part of which is binding [vs. M. 9:6C]. How so? If he took a vow not to eat fruit in a basket in which there were shuah-figs, and then he said, ‘Had I know that there were shuah-figs in it, I should have taken a vow only in regard to the rest of what is in the basket,’ then he is permitted to eat the shuah-figs in the basket but prohibited from eating any of the other fruit in the basket” [T. Ned. 5:1P-R].

LXXI. YERUSHALMI NEDARIM 9:7

[A] **THEY UNLOOSE A VOW FOR A MAN BY REFERENCE TO HIS OWN HONOR AND BY REFERENCE TO THE HONOR OF HIS CHILDREN. THEY SAY TO HIM, “HAD YOU KNOWN THAT THE NEXT DAY THEY WOULD SAY ABOUT YOU, ‘THAT’S THE WAY OF SO-AND-SO, GOING AROUND DIVORCING HIS WIVES,’ AND THAT ABOUT YOUR DAUGHTERS THEY’D BE SAYING, ‘THEY’RE DAUGHTERS OF A DIVORCE! WHAT DID THEIR MOTHER DO TO GET HERSELF DIVORCED ‘ [WOULD YOU HAVE TAKEN A VOW]?’” AND [IF] HE THEN SAID, “HAD I KNOWN THAT THINGS WOULD BE THAT WAY, I SHOULD NEVER HAVE TAKEN SUCH A VOW,” LO, THIS [VOW] IS NOT BINDING.**

1. **I:1:** It has been taught: R. Judah b. Betera says, “They unloose a vow for a man by reference to his own honor alone [but not of his children]”[M. Ned. 9: 7A] [T. Ned. 5:6A].

LXXII. YERUSHALMI NEDARIM 9:8

[A] **[IF ONE SAID,] “QORBAN IF I MARRY THAT UGLY MISS SO-AND-SO,” AND LO, SHE IS BEAUTIFUL, “... DARK,” AND LO, SHE IS LIGHT, “... SHORT,” AND LO, SHE IS TALL, HE IS PERMITTED [TO MARRY] HER, NOT BECAUSE SHE WAS UGLY AND TURNED BEAUTIFUL, DARK AND TURNED LIGHT, SHORT AND TURNED TALL, BUT BECAUSE THE VOW [TO BEGIN WITH] WAS BASED ON ERRONEOUS FACTS. M’SH B: A CERTAIN MAN TOOK A VOW THAT FROM THE DAUGHTER OF HIS SISTER HE SHOULD NOT DERIVE BENEFIT. AND THEY BROUGHT HER INTO THE HOUSE OF R. ISHMAEL AND MADE HER BEAUTIFUL. SAID TO HIM R. ISHMAEL, “MY SON, DID YOU EVER TAKE A VOW ABOUT THIS LASS?” HE SAID TO HIM, “NEVER!” AND R. ISHMAEL DECLARED HIS [VOW] NOT BINDING. THAT MOMENT R. ISHMAEL WEPT AND SAID, “ISRAELITE GIRLS REALLY ARE BEAUTIFUL, BUT POVERTY MAKES THEM UGLY.”**

1. **I:1:** He made her a golden eye [in place of the one she was missing.] and a golden tooth [to fill a gap in her mouth]. Then this is what he said to him, “Acquire possession of her and what is on her” [T. Ned. 5:6B].

LXXIII. YERUSHALMI NEDARIM 9:9

[A] **AND WHEN R. ISHMAEL DIED, ISRAELITE GIRLS TOOK UP A LAMENTATION, SAYING, “ISRAELITE GIRLS, WEEP OVER R. ISHMAEL.” AND THAT IS WHAT**

[SCRIPTURE] SAYS FOR SAUL, “ISRAELITE GIRLS, WEEP FOR SAUL [WHO CLOTHED YOU IN SCARLET DELICATELY, WHO PUT ORNAMENTS OF GOLD UPON YOUR APPAREL]” (2 SAM. 1:24).

1. **I:1:** It is written, “Ye daughters of Israel, weep over Saul, who clothed you daintily in scarlet, who put ornaments of gold upon your apparel” (2 Sam. 1:24). As to the views of R. Judah and R. Nehemiah, one of them said, “The reference is actually to the daughters of Israel, for when their husbands would go to war, [Saul] would provide them with food.

LXXIV. YERUSHALMI NEDARIM 10:1

[A] **A BETROTHED GIRL — HER FATHER AND HER HUSBAND ANNUL HER VOWS. [IF THE FATHER ANNULLED HER VOW, BUT HER HUSBAND DID NOT ANNUL HER VOW, [OR IF] HER HUSBAND ANNULLED HER VOW, BUT HER FATHER DID NOT ANNUL HER VOW, IT IS NOT ANNULLED. A**

1. **I:1:** It is written, “And if she is married to a husband, [while under her vows or any thoughtless utterance of her lips by which she has bound herself, and her husband hears of it, and says nothing to her on the day that he hears; then her vows shall stand]” (Num. 30:6-7). Now how shall we explain the case to which this verse refers? If it is to a married woman, it is written [in her regard], “And if she vowed in her husband’s house” (Num. 30:10). If it is in regard to a woman available [for marriage], it is written in her regard, “Or when a woman vows a vow...” (Num. 30:3) To what then does Scripture refer, “And if she is married to a husband...”? Who is this? It is a betrothed girl, in which case her father and her husband annul her vows [M. 10:1B].

2. **I:2:** Up to this point we have dealt with the case of vows which the girl took once she became betrothed [in which case the prospective husband has to nullify them along with the father]. But as to vows which she took before she was betrothed, [how do we know that the husband has to nullify them along with the father?] “... while under her vows...” serves to encompass vows she took [before she became betrothed], which come along with her from her father’s house.

3. **I:3:** It was taught in the name of R. Eleazar: “‘And if she is married to a husband’ The Scripture speaks of a mature woman who is betrothed. [In this case the father has no further control over the woman.]”

[B] **AND IT IS NOT NECESSARY TO SAY, IF ONE OF THEM CONFIRMED HER VOW [AND THE OTHER DID NOT, THAT IT IS NOT CONFIRMED].**

1. **II:1:** Now see here! If the father annulled the vow, it is not annulled [if the husband also did not do so], and yet you find it necessary to say this? [It is obvious to require specification.] It was not stated for that purpose but for the following: If the father annulled his share of the vow, and the husband did not suffice to do so before he died [that is, the husband died before hearing that it was necessary for him to annul the vow], the father must then go and [explicitly] annul the share belonging to the husband.
2. **II:1:** It has been taught: If the father annulled his share, and the husband did not suffice to annul his share before he died, the second husband has the right to nullify the share of the first. Said Yosé, “The Mishnah has made the same point on its own: Her father and her last husband annul her vows [M. 10:3B].

LXXV. YERUSHALMI NEDARIM 10:2

[A] [If] THE FATHER DIED, [HIS] AUTHORITY DOES NOT PASS TO THE HUSBAND.

1. **I:1:** They proposed to interpret the Mishnah to speak of a case in which the father did not annul his share of the vow before he died. In that case the father’s right does not devolve upon the husband. [But if the father had done so and then died before the husband nullified his share, the husband retains the right to nullify his own share as well. His right to do so in this case is not compromised by the father’s death.]

[B] [If] THE HUSBAND DIED, [HIS] AUTHORITY PASSES TO THE FATHER. IN THIS REGARD THE POWER OF THE FATHER IS GREATER THAN THE POWER OF THE HUSBAND. IN ANOTHER REGARD, HOWEVER, THE POWER OF THE HUSBAND IS GREATER THAN THE POWER OF THE FATHER.

1. **II:1:** They proposed to interpret the Mishnah to speak of a case in which the husband had annulled his share. But if the husband did not annul his share and died, his power to nullify the vows of the girl does not devolve upon the father.

[C] [If] THE FATHER DIED, [HIS] AUTHORITY DOES NOT PASS TO THE HUSBAND:

1. **III:1:** R. Haggai raised the following problem before R. Yosé: “Up to this point we have dealt with vows which the girl took before she had become betrothed. [In that case, if the father died, the power does not pass to the husband.] But as to vows which she took once she had

become betrothed, [42a] if the father died, the power to nullify the vows should pass to the domain of the husband. [The reason for the former proposition is that when the girl took the vow, she was not within the domain of the husband anyhow. But in the latter case, she already lay within the domain of both father and husband.]”

[D] FOR THE HUSBAND ANNULS THE VOWS IN THE CASE OF A GROWN-UP WOMAN, BUT THE FATHER DOES NOT ANNUL THE VOWS OF A GROWN-UP WOMAN.

- 1. IV:1:** The Mishnah accords with the view of R. Eleazar. For it has been taught in the name of R. Eleazar, “And if she is married to a husband...’ The Scripture speaks of a mature woman who is betrothed.”

LXXVI. YERUSHALMI NEDARIM 10:3

[A] [IF] SHE TOOK A VOW WHILE SHE WAS BETROTHED AND WAS DIVORCED ON THAT VERY DAY [AND] BETROTHED AGAIN ON THAT SAME DAY [AND REPEATED THE PROCESS], EVEN A HUNDRED [TIMES], HER FATHER AND HER LAST HUSBAND ANNUL HER VOWS. THIS IS THE GENERAL PRINCIPLE: IN THE CASE OF ANY GIRL WHO HAS NOT GONE FORTH TO HER OWN DOMAIN FOR A SINGLE MOMENT, HER FATHER AND HER LAST HUSBAND ANNUL HER VOWS.

- 1. I:1:** The Mishnah accords with the view of R. Eleazar. For it has been taught in the name of R. Eleazar, “And if she is married to a husband...’ The Scripture speaks of a mature woman who is betrothed.”

LXXVII. YERUSHALMI NEDARIM 10:4

[A] THE WAY OF A DISCIPLE OF SAGES [IS THIS]: BEFORE HIS DAUGHTER GOES FORTH FROM HIS HOME, HE SAYS TO HER, “ALL VOWS WHICH YOU VOWED IN MY HOUSE, LO? THEY ARE ANNULLED.” AND SO THE HUSBAND, BEFORE SHE ENTERS HIS DOMAIN, SAYS TO HER, “ALL VOWS WHICH YOU VOWED BEFORE YOU CAME INTO MY DOMAIN, LO, THEY ARE ANNULLED.” FOR AFTER SHE ENTERS HIS DOMAIN, HE CANNOT ANNUL [THOSE PRIOR] VOWS ANY MORE. [A GROWN-UP WOMAN WHO WAITED TWELVE MONTHS, AND A WIDOW WHO WAITED THIRTY DAYS — R. ELIEZER SAYS, “SINCE HER HUSBAND IS LIABLE TO SUPPORT HER, HE ANNULS HER VOWS.” AND SAGES SAY, “THE HUSBAND DOES NOT ANNUL HER VOWS UNTIL SHE ENTERS HIS DOMAIN.”

- I:1:** Since the theory of R. Eliezer is that the right to annul the vows depends upon the duty to supply support, if a man betrothed a woman on the stipulation that he support her forthwith, the husband [who has just betrothed the woman] has the right to annul her vows forthwith.

LXXVIII. YERUSHALMI NEDARIM 10:5

[A] **A DECEASED CHILDLESS BROTHER'S WIDOW AWAITING LEVIRATE MARRIAGE, WHETHER WITH A SINGLE LEVIR OR WITH TWO LEVIRS — R. ELIEZER SAYS, "HE ANNULS HER VOWS." R. JOSHUA SAYS, "THAT IS THE CASE WITH ONE, BUT NOT WITH TWO." R. AQIBA SAYS, "THAT IS THE CASE NEITHER WITH ONE NOR WITH TWO."**

- I:1:** In the view of R. Eliezer, may one or more of the levirs annul her vows? [This question may further be restated on the basis of] what R. Abbahu said in the name of R. Yohanán, "[In the circumstances specified at Y. Qid. 3:1,] even the act of a hundred men in betrothing the woman will be deemed valid" In that case, who annuls her vows?

LXXIX. YERUSHALMI NEDARIM 10:6

[A] **SAID R. ELIEZER, "NOW IF IN THE CASE OF A WOMAN WHOM HE ACQUIRED FOR HIMSELF, LO, HE ANNULS HER VOWS, A WOMAN WHO IS ACQUIRED FOR HIM BY HEAVEN, IS IT NOT LOGICAL THAT HE SHOULD ANNUL HER VOWS?" SAID TO HIM R. AQIBA, "NO. IF YOU HAVE SO STATED THE RULE IN REGARD TO A WOMAN WHOM HE HAS ACQUIRED FOR HIMSELF, THE FACT IS THAT OTHERS HAVE NO CLAIM ON HER. BUT WILL YOU SAY THE SAME IN THE CASE OF A WOMAN ACQUIRED IN HIS BEHALF BY HEAVEN, IN WHOM OTHERS [OTHER LEVIRS] HAVE A CLAIM?" SAID TO HIM R. JOSHUA, "AQIBA, YOUR ARGUMENT APPLIES IN THE CASE OF TWO LEVIRS. WHAT WILL YOU SAY IN THE CASE OF ONE LEVIR?" HE SAID TO HIM, "A DECEASED CHILDLESS BROTHER'S WIDOW IS NOT WHOLLY [BETROTHED] TO THE LEVIR [ALONE] IN THE WAY IN WHICH A BETROTHED GIRL IS WHOLLY [BETROTHED] TO HER HUSBAND."**

- I:1:** Said R. Eliezer, "Now in the case of a woman in whom I have no part before she enters my domain, once she enters my domain, she is wholly in my power [so that I may annul her vows]. In the case of a woman in whom I have some part before she comes into my domain [in that the woman cannot marry anyone other than the levir in the event that her childless husband dies, and that is the case while she is still married to her first husband], once she enters my domain [since I have bespoken her], is it not logical that she should be wholly in my

power [so that I may annul her vows]? Said to him R. Aqiba, “No. If you have so stated matters in the case of a woman in whom I have no part before she comes into my domain, while once she enters my domain, she is wholly within my power, the fact is that, just as I have no part in her, so others have no part in her. But will you say the same of a woman in whom I have a part before she enters into my domain, and who, once she enters my domain, is wholly within my power? For just as I have a part in her, so others [at that point] have a part in her.” Said to him R. Joshua, “Aqiba your argument applies to a case of two levirs. What will you reply in the case of one levir [M. 10:6G]?” He said to him, “Just as you have not made a distinction for us between a case in which there is a single levir and one in which there are two levirs, or in a case in which he bespoke the widow and one in which he did not bespeak the widow, so in the case of vows and oaths you should make no distinction.” He said to him, “It would have been too bad for you had you been around in the time of R. Eleazar b. Arakh and given an answer of this sort!” [T.. Ned. 6:5].

LXXX. YERUSHALMI NEDARIM 10:7

[A] **HE WHO SAYS TO HIS WIFE, “ALL VOWS WHICH YOU WILL VOW FROM THIS TIME UNTIL I RETURN FROM SUCH-AND-SUCH A PLACE, LO, THEY ARE CONFIRMED,” HAS SAID NOTHING WHATSOEVER. [IF HE SAYS,] “LO, THEY ARE ANNULLED” — R. ELIEZER SAYS, “IT IS ANNULLED.” AND SAGES SAY, “IT IS NOT ANNULLED.” SAID R. ELIEZER, “IF HE ANNULLED VOWS WHICH HAVE THE FORCE OF A PROHIBITION, WILL HE NOT ANNUL VOWS WHICH DO NOT HAVE THE FORCE OF A PROHIBITION?” THEY SAID TO HIM, “LO, SCRIPTURE SAYS, ‘HER HUSBAND WILL CONFIRM IT AND HER HUSBAND WILL ANNUL IT’ (NUM. 30:14) — THAT WHICH ENTERS THE CATEGORY OF CONFIRMATION ENTERS THE CATEGORY OF ANNULMENT. THAT WHICH DOES NOT ENTER INTO THE CATEGORY OF CONFIRMATION DOES NOT ENTER INTO THE CATEGORY OF ANNULMENT.”**

1. **I:1:** He said to R. Eliezer, “The case of an immersion pool will prove the matter as I see it. It raises things which have become unclean from their status of uncleanness, but it does not rescue things which are clean from becoming unclean.” R. Eliezer went and offered a different mode of argument, which is as follows: “No. If in a situation in which he cannot annul his own vows once he has made them, lo, he has the power to annul his own vows before he has made them [by declaring them null in advance], in a situation in which he may annul the vows of his wife once she has made them, is it not logical that he should be

able to annul the vows of his wife before she makes them?” They said to him, “Now if he is able to annul his own vows before he makes them, it is also true that if he wanted to confirm his vows [by actually making] them, he does confirm them. But may he annul the vows of his wife before she actually vows? For if he wanted to confirm them, he has not got the power to do so” [T. Ned. 6:SM-O].

LXXXI. YERUSHALMI NEDARIM 10:8

[A] THE ANNULMENT OF VOWS [MAY BE DONE] ALL DAY LONG. THERE IS IN THIS MATTER A BASIS FOR A LENIENT RULING AND FOR A STRINGENT RULING. HOW SO? [IF] SHE VOWED ON THE NIGHT OF THE SABBATH, [THE HUSBAND] ANNULS THE VOW ON THE NIGHT OF THE SABBATH AND ON THE SABBATH DAY, DOWN TO NIGHTFALL. [BUT IF] SHE VOWED JUST BEFORE NIGHTFALL, HE ANNULS THE VOW ONLY UNTIL IT GETS DARK. FOR IF IT SHOULD GET DARK AND HE SHOULD NOT ANNUL THE VOW, HE CANNOT ANNUL THE VOW [ANY LONGER].

- 1.** **I:1:** R. Yosé b. R. Judah and R. Eleazar b. R. Simeon say, “The annulment of vows is done over a twenty-four hour period” [vs. M. 10:8A] [T. Ned. 10:6A].
- 2.** **I:2:** [If he said,] “It is annulled for you at eve,” it is annulled for all time. [If he said,] “It is confirmed for you at evening,” it is confirmed for all time.
- 3.** **I:3:** There we have learned: They annul vows on the Sabbath [M. Shab. 24:5]. It was taught: [That is the case] whether they are vows which are important with regard to keeping the Sabbath or vows which have no bearing on the keeping of the Sabbath.
- 4.** **I:4:** R. Abbahu in the name of R. Yohanan: “The husband who said, ‘There is no vow here,’ ‘There is no oath here,’ has not said anything at all. Likewise the elder who has said, ‘It is released for you,’ ‘It is nullified for you,’ has not said anything at all. But this one must follow the rule pertaining to him, and that one must follow the rule pertaining to him. The husband says, ‘It is released for you.’ ‘It is null for you,’ and the elder says, ‘There is no vow here at all,’ ‘There is no oath here at all.’”
- 5.** **I:5:** Said R. Yohanan, “The former authorities would raise this question: What is the law as to a man’s inquiring as to the validity of his confirming a vow, [so that he may revert and nullify it]?”

6. **I:6:** Here is a case: If the wife took a vow, and her husband heard it and did not annul it for her — It is self-evident that, so far as the husband is concerned, he cannot annul the vow for her. What is the law as to having an elder annul it for her?
7. **I:7:** What is the law as to [a sage's] releasing vows by night?
8. **I:8:** *It has been taught:* They do not receive inquiry about releasing vows unless they are wrapped in cloaks and seated, and the one who is approached is seated. But the one who brings the inquiry must be standing on the basis of the law: “And the two men who bring the case must stand” (Deut. 19:17). I know that only those who bring an adversary proceeding must stand. One who asks a question concerning law or lore — how do I know [that he too must stand]? Scripture says,”... they stand... and they shall stand.”
9. **I:9:** Zeira, R. Judah, Jeremiah bar Abba in the name of R. Samuel: Three [men] who know how to release vows may release them as does a sage.
10. **I:10:** What is the law as to officially appointing elders for dealing with ad hoc cases [but not with all sorts of cases]?
11. **I:11:** What is the law as to appointing elders for a period of a few days?
12. **I:12:** What is the law as to his releasing vows when wearing a shawl [rather than a proper cloak]?

LXXXII. YERUSHALMI NEDARIM 11:1

[A] **AND THESE ARE THE VOWS WHICH HE ANNULS: MATTERS OF INFLICTING SELF-PUNISHMENT** [“AFFLICING THE SOUL,” (NUM. 30:13)] — “... **IF I SHALL WASH,**” OR, “**IF I SHALL NOT WASH,**” “... **IF I SHALL ADORN MYSELF,**” OR,”... **IF I SHALL NOT ADORN MYSELF.**” SAID **R. YOSÉ,** “**THESE ARE NOT VOWS WHICH INFLICT SELF-PUNISHMENT.**”

1. **I:1:** It is written, “Any vow and any binding oath to afflict herself, [her husband may establish, or her husband may make void]” (Num. 30:13). I know that the abrogation of vows applies only to vows which involve self-punishment. How do I know that the same applies to vows which are between him and her? Scripture says,”... as between a man and his wife...” (Num. 30:16).

2. **I:2:** R. Jacob bar Aha said, “There is a dispute between R. Yohanan and R. Simeon b. Laqish.” R. Yohanan said, “Whether it is a vow or an oath, the husband has a right to effect an annulment [of what the wife has said].” R. Simeon b. Laqish said, “It is only vows that he may annul, not oaths.” Said R. Yosé b. R. Bun, “Also with regard to vows as dealt with by an elder do R. Yohanan and R. Simeon b. Laqish dispute.” R. Yohanan said, “Whether it is a vow or an oath, the elder has a right to effect a release [of what the woman has said].” R. Simeon b. Laqish said, “It is only vows that he may release, not oaths.”

3. **I:3:** R. Zeira interpreted [the dispute between Yosé and rabbis] in the Mishnah as follows: “These are the vows which he annuls: matters of inflicting self-punishment — ‘If I shall wash, ‘ or, ‘If I shall not wash,’ ‘... If I shall adorn myself,’ or, ‘... If I shall not adorn myself. ‘Said R. Yosé, ‘These are not vows which inflict self-punishment, but vows which are between him and her.’ What then are vows inflicting self-punishment so far as R. Yosé is concerned? If she said, ‘Qonam be any sort of produce in the world for me’ — lo, this vow he may annul [since it inflicts self-punishment].”
 - a. **I:4:** Whether in the view of R. Zeira or in that of R. Hela, the opinions assigned to R. Yosé are contradictory.

4. **I:5:** There is no problem with the vow, “... If I shall wash.” But if she vows,”... I shall not wash...” — and let her wash! Said R. Mana, “It is a case in which she said, ‘Qonam be benefit deriving from me for you, once I shall have washed, if I should wash.’ [That is, the repetition is merely to underline her original intent.]”

LXXXIII. YERUSHALMI NEDARIM 11:2

[A] “AND WHAT ARE THOSE VOWS WHICH DO INFLICT SELF-PUNISHMENT? “[IF] SHE SAID, ‘QONAM TO ME BE THE PRODUCE OF THE WORLD,’ LO, THIS [SORT OF VOW] HE DOES HAVE THE POWER TO ANNUL. “[IF SHE SAID, ‘QONAM] BE TO ME THE PRODUCE OF THIS PROVINCE,’ LET HIM BRING HER PRODUCE FROM ANOTHER PROVINCE. “[IF SHE SAID, ‘QONAM] BE THE PRODUCE OF THIS STALL FOR ME, ‘ HE CANNOT ANNUL THAT VOW. “BUT IF HE DERIVED HIS PROVISIONS FROM THAT PARTICULAR STORE ALONE, LO, ~HIS ONE MAY ANNUL THE VOW,” THE WORDS OF R. YOSÉ.

1. **I:1:** Samuel said, “If she said, ‘Qonam to be the produce of the world, ‘ [M. 11:2B] and there were available provisions piled up in the market, the husband should purchase produce for her from those

provisions [since the wife's intent was only to prohibit produce which should become available later on].”

a. I:2: It is written, “Any vow and any binding oath to afflict herself her husband may establish or her husband may make void” (Num. 30:13). For example, “... pepper, if I taste it...” “white flour, if I taste it” [T. Ned. 7:2E]. It is not the end of the matter that such a thing is available, but even if such a thing is not available [the husband nullifies the oath], lest someone else import such a thing from some other source.

2. I:3: R. Yohanan in the name of R. Yannai: “If there were before him two loaves of bread, one sound, the other moldy, if then the wife preferred the sound one and took an oath not to eat the moldy one, lo, this husband may annul the vow.”

3. I:4: R. Zeira in the name of Samuel: “All vows does a husband have the power to annul, except for the one of her who says, ‘Benefit deriving from me be prohibited from Mr. So-and-so!’ [In this case, the vow is neither one inflicting self-punishment nor one involving matters between the husband and the wife.]”

LXXXIV. YERUSHALMI NEDARIM 11:3

[A] [IF SHE SAID,] “QONAM IF I DERIVE BENEFIT FROM ANYBODY,” HE HAS NOT GOT THE POWER TO ANNUL THAT VOW. BUT SHE MAY DERIVE BENEFIT FROM GLEANINGS, THE FORGOTTEN SHEAF, AND THE CORNER OF THE FIELD (LEV. 19:9, DEUT. 24:19). [IF SHE SAID,] “QONAM BE THE BENEFIT PRIESTS AND LEVITES DERIVE FROM ME,” THEY COLLECT THEIR DUES BY FORCE. [IF SHE SAID,] “QONAM BE THE BENEFIT THESE [PARTICULAR] PRIESTS AND LEVITES DERIVE FROM ME,” OTHERS COLLECT [THE PRIESTLY DUES FROM HER].

1. I:1: Said R. Yohanan, “The meaning of the Mishnah’s law is that she may derive benefit from Gleanings, the Forgotten Sheaf, and the Corner of the Field [M. 11:3B,] [thus excluding poor man’s tithe].”

a. I:2: R. Yosé b. Haninah said, “A man hands over his tithes as a favor for his own benefit.” R. Yohanan said, “A man does not do so.” The Mishnah stands at variance with the statement of R. Yosé b. Haninah: “Qonam if priests or Levites will derive benefit from me” — they take [his priestly and Levitical offerings] against his will [M. 11:3C]

LXXXV. YERUSHALMI NEDARIM 11:4

[A] [IF SHE SAID,] “QONAM IF I WORK FOR FATHER,” OR, “FOR YOUR FATHER,” OR, “... FOR YOUR BROTHER,” HE CANNOT ANNUL THAT VOW. [IF SHE SAID, “QONAM] IF I WORK FOR YOU,” HE NEED NOT ANNUL [THAT VOW, WHICH IS NULL TO BEGIN WITH]. R. AQIBA SAYS, “LET HIM ANNUL IT, LEST SHE PRODUCE IN HER LABOR MORE THAN IS APPROPRIATE FOR HIM [AND THIS EXCESS WILL BE SUBJECT TO HER VOW].” R. YOHANAN B. NURI SAYS, “LET HIM ANNUL IT, LEST HE DIVORCE HER, AND SHE BE PROHIBITED FROM RETURNING TO HIM.”

- 1. I:1:** There we have learned: He who sanctifies to the Temple the fruits of his wife’s labor, lo, this woman continues to work and maintain herself. As to the excess — R. Meir says, “It is consecrated.” R. Yohanan Hassandlar says, “It is unconsecrated” [M. Ket. 5:4]. [The husband cannot consecrate what is not his; the wife’s wages do not belong to him. The issue is the amount of the wife’s wages not used for her maintenance. Meir assigns the excess to the husband, and Yohanan assigns it to her.] R. Simeon b. Laqish says, “The excess under dispute is the amount over and above the five *selas* [of labor-value per diem which the wife must perform for the husband].” [The dispute is not concerned with the excess remaining over the return on the wife’s labor which is due to the husband. That, all parties concur, goes to the husband.] R. Yohanan said, “The dispute concerns the excess after death.” For [Yohanan] interprets the case to be one in which the husband does not provide maintenance for the wife, inclusive of the weekly allowance of a silver coin. [All parties concur that the husband gets the fruit of the wife’s labor in exchange for food, and the excess over what is needed for her maintenance is in exchange for the silver coin given as a weekly allowance. If then the husband consecrates her labor while she is yet alive, even Meir will concur that there is no valid act of consecration. But after she dies, how do we deal with the excess? Meir maintains that someone may consecrate something which is not yet in existence. Yohanan holds that that is not the case.] But if [Yohanan continues,] the husband does provide her with food, all parties concur that his act of consecration is valid.”
- 2. I:2:** We now interpret the positions of Aqiba and Yohanan b. Nuri more systematically, and in their own terms.] R. Aqiba says, “Let him annul it” [M. 11:4D]. [To be sure, the produce of the wife’s work belongs to the husband, but,] said R. Ba, “We deal with a case in which she has prohibited by vow his deriving benefit from the fruits of her labor in excess of the sum of five *selas* for which she is liable. For labor up to the value of five *selas*, he may force her to work. For labor

beyond that value, he may not force her to work, for he must fear that she may produce more than is required, with the consequence that he may derive benefit from that which is prohibited to him by her vow. Consequently, R. Aqiba says, ‘He must annul that vow.’ [That is, the vow covering even what rightfully belongs to the husband must be annulled because of the excess, to which the vow does apply.]”

LXXXVI. YERUSHALMI NEDARIM 11:5

[A] [If] HIS WIFE TOOK A VOW AND HE THOUGHT THAT HIS DAUGHTER HAD TAKEN A VOW, [If] HIS DAUGHTER TOOK A VOW AND HE THOUGHT THAT HIS WIFE HAD TAKEN A VOW, [If] SHE VOWED A NAZIRITE VOW AND HE THOUGHT SHE HAD VOWED BY QORBAN, [If SHE VOWED BY] QORBAN, AND HE THOUGHT THAT SHE HAD VOWED A NAZIRITE VOW, [If] SHE VOWED NOT TO EAT FIGS, AND HE THOUGHT SHE HAD VOWED NOT TO EAT GRAPES, [If] SHE VOWED NOT TO EAT GRAPES AND HE THOUGHT SHE HAD VOWED NOT TO EAT FIGS — LO, THIS ONE SHOULD GO BACK AND ANNUL [THE VOW AGAIN].

1. I:1: He must go back and annul the vow again] even if he heard the vow and remained silent. [If he confirmed the vow, he must do so again] even if he had heard the vow and confirmed it already.

LXXXVII. YERUSHALMI NEDARIM 11:6

[A] [If] SHE SAID, “QONAM BE THESE FIGS AND GRAPES IF I TASTE [THEM],” [If] HE CONFIRMED THE VOW CONCERNING FIGS, THE WHOLE IS DEEMED CONFIRMED. [If] HE ANNULLED THE VOW CONCERNING FIGS, IT IS NOT DEEMED ANNULLED UNTIL HE ANNULS THE VOW CONCERNING GRAPES TOO.

1. I:1: There are Tannaim who teach: [The process of annulment and that of confirmation of vows are comparable. Accordingly,] he confirms the vow as by reference to one of its particular species, or he annuls the vow by reference to one of its particular species [not item by item]. There are Tannaim who teach: He confirms the vow as a whole, or he annuls the vow as a whole [item by item]. There are Tannaim who teach: He confirms the vow by reference to one of its several species, and he annuls it as a whole [item by item]. There are Tannaim who teach: He confirms the vow as a whole, but he annuls it by reference to one of its several species [not item by item].

[B] [If] SHE SAID, “QONAM BE FIGS IF I TASTE THEM, AND GRAPES IF I TASTE THEM,” LO, THESE ARE DEEMED TWO DISTINCT VOWS.

1. **II:1:** There is a dispute between R. Ishmael and R. Aqiba. For R. Ishmael says, “[The matter is decided by reference to the use of the language of a vow which covers both items. If then she should violate the vow once it has come into force, we invoke the criterion of the applicability] of the vow, [and she would be liable on both counts].” And R. Aqiba says, “[The operative criterion is what is the case when she makes the statement] of prohibition. [At that point she took a single vow, since the statement concerning the grapes depended on the fuller one concerning figs. Accordingly, we have a single count of liability.]”

LXXXVIII. YERUSHALMI NEDARIM 11:7

[A] [IF HE SAID,] “I WAS AWARE THAT THERE ARE VOWS, BUT I WAS NOT AWARE THAT THERE IS THE POSSIBILITY OF ANNULLING THEM,” HE MAY ANNUL [THE VOW]. [IF HE SAID,] “I WAS AWARE THAT THERE IS THE POSSIBILITY OF ANNULLING VOWS, BUT I WAS NOT AWARE THAT THIS PARTICULAR STATEMENT WAS A VOW,” R. MEIR SAYS, “HE MAY NOT ANNUL THE VOW.” AND SAGES SAY, “HE MAY ANNUL THE VOW.”

1. **I:1:** Said R. Zeira, “The reason for the view of R. Meir is that the husband is looking for an excuse. He wants her to take an oath so that he may divorce her [without paying off her marriage settlement]. [After all, he knew he could annul the vow, so why didn’t he nullify this one?] For if not, he should have divorced her to begin with [and paid off her marriage settlement].”

LXXXIX. YERUSHALMI NEDARIM 11:8

[A] HE WHO WAS PROHIBITED BY VOW FROM IMPARTING ANY BENEFIT TO HIS SON-IN-LAW BUT WHO WANTS TO GIVE HIS DAUGHTER SOME MONEY SAYS TO HER, “LO, THIS MONEY IS GIVEN TO YOU AS A GIFT, ON CONDITION THAT YOUR HUSBAND HAS NO RIGHT TO IT, BUT YOU DISPOSE OF IT FOR YOUR OWN PERSONAL USE.”

1. **I:1:** *It was taught:* “‘And not for you.’ [That is, the father has to say to her, ‘You have no domain over these funds to do as you like, but you dispose of it for your own personal use alone.’]”

XC. YERUSHALMI NEDARIM 11:9

[A] “BUT THE VOW OF A WIDOW OR A DIVORCE SHALL STAND AGAINST HER” (NUM. 30:9) — How so? [If] she said, “Lo, I shall be a Nazir after thirty days,” even though she was married during the thirty days, he [whom she married] has not got the power to annul her vow. [If] she took a vow and she was in the domain of the husband, he annuls the vow for her. How so? [If] she said, “Lo, I shall be a Nazir after thirty days,” [if] the husband abrogated the vow], even though she was widowed or divorced within thirty days, lo, this [vow] is annulled. [If] she took a vow on that very day and was divorced on the same day and remarried to the same man on the same day, he cannot annul the vow. This is the general principle:[In the case of] any woman who has gone forth into her own domain for a single moment [M. 10:3C] — he has not got the power to annul the vows.

1. I:1: This matter [invokes the dispute of R. Ishmael and R. Aqiba]. R. Ishmael says,”[We follow the situation prevailing] at the time at which the vow [applies].” And R. Aqiba holds,”[We follow the situation prevailing] at the time at which the prohibition [applies].”
2. I:2: If the vow and the prohibition invoked thereby applied simultaneously [what is the law]? What would be a practical case?

XCI. YERUSHALMI NEDARIM 11:10

[A] IN THE CASE OF NINE [SORTS OF] GIRLS, THEIR VOWS ARE VALID [AND NOT SUBJECT TO ABROGATION]: (1) A GIRL [WHO VOWED WHEN] PAST MATURITY WHO IS AN ORPHAN [IN HER FATHER’S LIFETIME]; (2) A GIRL WHO [VOWED AS] A MINOR CHILD AND THEN PASSED MATURITY AND IS AN ORPHAN [IN HER FATHER’S LIFETIME]; (3) A GIRL WHO [VOWED] BEFORE SHE REACHED MATURITY AND IS AN ORPHAN [IN HER FATHER’S LIFETIME]; (4) A GIRL [WHO VOWED] PAST MATURITY WHOSE FATHER DIED; (5) A GIRL WHO [VOWED AS] A MINOR AND THEN PASSED MATURITY WHOSE FATHER DIED; (6) A GIRL WHO [VOWED] BEFORE SHE REACHED MATURITY AND WHOSE FATHER DIED; (7) A GIRL WHOSE FATHER DIED, AND [WHO VOWED AND] AFTER THE DEATH OF HER FATHER, SHE PASSED MATURITY;(8) A GIRL [WHO VOWED] PAST MATURITY WHOSE FATHER IS ALIVE; (9) A GIRL WHO PASSED MATURITY [AND THEN VOWED] AND WHOSE FATHER IS ALIVE. R. JUDAH SAYS, “ALSO: HE WHO MARRIES OFF HIS MINOR DAUGHTER AND SHE WAS WIDOWED OR DIVORCED AND

CAME BACK HOME TO HIM — SHE IS STILL DEEMED A GIRL [SUBJECT TO THE ABROGATION OF HER VOWS BY THE FATHER].”

1. **I:1:** Said R. Yohanan, “They are two [not nine]. [The orphan constitutes one category, and the other girls are a second category.] Why then do we learn, Nine? It is in order to sharpen the wits of the disciples.”

XCII. YERUSHALMI NEDARIM 11:11

[A] [IF SHE SAID,] “QONAM BE ANY BENEFIT I HAVE OF [MY] FATHER...,” “OF YOUR FATHER..., IF I DO ANY WORK FOR YOU,” “... IF I DERIVE BENEFIT FROM YOU, IF I WORK FOR MY FATHER,” “... IF I WORK FOR YOUR FATHER,” LO, THIS ONE HE ANNULS.

1. **I:1:** It was taught: [If she said, “Qonam be what I do at your instruction if it benefits my father”], R. Nathan says, “He does not annul such a vow.” And sages say, “He annuls such a vow” [T. Ned. 7:6A-C].
2. **I:2:** On what account does he annul the vow [M. 11:11C]?

XCIII. YERUSHALMI NEDARIM 11:12

[A] AFORETIMES THEY DID RULE: THREE SORTS OF WOMEN GO FORTH AND COLLECT THEIR MARRIAGE CONTRACT: SHE WHO SAYS, “I AM UNCLEAN FOR YOU,” “HEAVEN [KNOWS] WHAT IS BETWEEN YOU AND ME [NAMELY, YOUR IMPOTENCE],” “I AM REMOVED FROM [HAVING SEXUAL RELATIONS WITH] ALL THE JEWS.” THEY REVERTED TO RULE: SO THAT A WOMAN SHOULD NOT COVET SOMEONE ELSE AND SPOIL [HER RELATIONSHIP WITH] HER HUSBAND, BUT: SHE WHO SAYS, “I AM UNCLEAN FOR YOU,” MUST BRING PROOF FOR HER CLAIM.

1. **I:1:** [With reference to M. 11:12E(1), She who says, “I am unclean for you, “must bring proof for her claim,] lo, if she did not bring proof for her claim, it is obvious that she is permitted to have sexual relations with her husband [even if he is a priest].

[B] [SHE WHO SAYS,] “HEAVEN [KNOWS] WHAT IS BETWEEN YOU AND ME,” — LET THEM FIND A WAY TO APPEASE HER. (3) [SHE WHO SAYS,] “I AM REMOVED FROM ALL THE JEWS,” LET HIM ANNUL HIS SHARE [IN THE VOW], SO THAT SHE

MAY HAVE SEXUAL RELATIONS WITH HIM, BUT LET HER BE REMOVED FROM ALL THE OTHER JEWS.

- 1.** **I:1:** Just as far as the Heaven is from the earth, so let that woman be distant from that man.
- 2.** **I:2:** It has been taught: If one said, “I am finished with you,” “I am separate from you,” these are valid expressions of a vow. R. Jeremiah raised the question, “And why have they not included [in the formulation of the passage], ‘I am removed’?”
- 3.** **I:3:** It has been taught: A woman who took an oath to be a Nazir and her husband heard and did not annul the vow for her — R. Meir and R. Judah say, “He has put his finger between her teeth. If he wanted to annul the vow, he may do so. And if he said, ‘I do not want a wife who is a Nazir,’ he puts her away but pays off her marriage contract.” R. Yosé and R. Simeon say, “She has put her finger between her teeth. For if the husband wanted to annul the vow, he could not do so. And if he said, ‘I do not want a wife who is a Nazir,’ she goes forth without receiving payment of her marriage contract” [T. Naz. 3:12-13].

TRACTATE

NAZIR

The halakhah of *Nedarim-Nazir* investigates the power of a person through invoking the name of Heaven to affect the classification in which he or she is situated and thereby his or her concrete and material relationships with other people. This is done by stating, “May what I eat of your food be prohibited to me as is a sacrifice prohibited to me,” all conveyed in the word “Qorban.” Having said that, the person may not eat the food of the other. The reason is that the other person’s food has been declared by the individual who took the vow to be in the status of a sacrifice. We know that what makes an ordinary beast into a holy beast, subject to the laws of sacrilege and set aside for the altar, is its verbal designation as a sacrifice. Here, too, what makes ordinary food into food in the status of holy things, so far as the given individual is concerned, is the verbal designation of that ordinary food as holy things. The difference is that designating an animal as a beast for sacrifice is a public act, affecting society at large: no one can then make use of said animal. Declaring that a dish of oatmeal is in the status of a Qorban, by contrast, has no affect upon the cereal except for the person who made that declaration.

The Nazirite vow forms a subdivision of the category, vows, and is treated as continuous with the exposition of that topic. This is because the right of the husband to annul his wife’s vows extends to the Nazirite vow that she may take and is surely the formal reason that justifies situating the tractate where it is. Scripture deals with two topics, the restrictions self-imposed by the Nazirite vow and the offerings required in connection therewith. The relevant verses of Scripture are Num 6:10–21. The Nazirite is comparable to a *kohen* or priest: subject to certain prohibitions and assigned a particular position in the conduct of the Temple cult. The priest cannot serve if he is drunk or contaminated by a corpse or bald (a bald-headed man is invalid to serve as a priest, *m. Bekhorot* 7:2.A). From the perspective of Scripture, once the Nazirite vow takes effect, prohibitions are invoked against wine, hair-cutting, and corpse-uncleanness. The other point of interest are the offerings that are required if the Nazirite is made unclean with corpse-uncleanness and when the Nazirite completes the vow in a state of cleanness.

- I.** The special vow of the nazirite
 - A.** The language of the vow to be a Nazirite
 - B.** Stipulations and the Nazirite vow
 - C.** The duration of the vow
 - D.** Annulling the vow

- II.** The special offerings of the Nazirite
 - A.** Designation and disposition of the Nazirite's offerings

- III.** Restrictions on the Nazirite
 - A.** The grape
 - B.** Cutting hair
 - C.** Corpse-uncleanness
 - D.** Doubts in the case of a Nazirite

CHAPTER ONE

YERUSHALMI NAZIR

1:1

[A] All euphemisms for [the form of words for] a Nazirite vow are equivalent to a Nazirite vow [and binding].

[B] He who says, “I will be [such]” - lo, this one is a Nazir.

[C] Or: “I shall be comely” - he is a Nazir.

[D] [If he says,] “Naziq” or “Naziah” or “Paziah” - lo, this one is a Nazir.

[E] [If he says,] “Lo, I shall be like this one,” “Lo, I shall curl [my hair],” “Lo, I shall tend [my hair],” “Lo, it is incumbent on me to grow [my hair] long” - lo, this one is a Nazir.

[F] [If he says,] “Lo, I pledge myself [to offer] birds” -

[G] R. Meir says, “He is a Nazir.”

[H] And sages say, “He is not a Nazir.”

[I:1 A] It is written, “When a man vows a vow” (Num. 30:2).

[B] Why does Scripture specify “a vow” [when the verb contains that meaning]?

[C] It is on the basis of this usage that we know that euphemisms for vows are equivalent to vows.

[D] “Or when he swears an oath” (Num. 30:2).

[E] Why does Scripture specify “an oath”?

[F] It is on the basis of this usage that we know that euphemisms for oaths are equivalent to oaths.

[G] [The abbreviations in the text indicate that the remainder of this discussion is located at Y. Ned. 1:1.]

[H] *It is found that R. Ishmael taught, “[With reference to Num. 6:2: ‘When a man or a woman makes a special vow, the vow of a Nazirite, to separate himself to the Lord,’ the use of the language,] ‘makes a special vow, the vow of a Nazirite, to separate’ indicates that one may apply to himself the Nazirite vow while he already is subject to a Nazirite vow.”*

[I:2 A] *It has been taught: **All euphemisms for a Nazirite vow are equivalent to a Nazirite vow** [and if one has taken the vow solely by a euphemism], he will be flogged on account of that vow [should he violate it].*

[B] *Even though R. Yohanan has said, “People are not flogged on account of prohibitions [taken upon themselves by a verbal statement],” he nonetheless concurs here that one will be flogged [for the Nazirite vow expressed solely through a euphemism because it is wholly binding].*

[C] *Even though R. Simeon said, “He does not bring an offering [who takes a Nazirite vow solely through a euphemism],” he nonetheless concurs here that one will be flogged [for violating a Nazirite vow taken through a euphemism].*

[D] *Even though R. Judah has said, “A matter of doubt concerning whether or not one has taken a Nazirite vow is deemed permitted [that is, the vow does not apply],” he nonetheless concurs here that one will be flogged [for violating a Nazirite vow taken through a euphemism].”*

[I:3 A] *How shall we interpret [these euphemisms to which reference is made]?*

[B] *If we deal with a case in which the person has made it clear that he intended through the euphemism to become a Nazir, even if he has said, “I shall remember the bread,” and explained that he had meant to become a Nazirite, he surely is a Nazirite.*

[C] *But if he has said that he did not thereby intend to become a Nazir, even though he actually expressed the language of a Nazirite, he should not be deemed a Nazir.*

[D] *So, if one was reading in the Torah and mentioned the passage of Nazir or Naziq, [he most certainly would not be regarded as a Nazir, since it was not his intention to become one].*

[E] *But we must interpret the passage to speak of one who makes use of any of the cited expressions as his Nazirite vow. If he makes use of any*

of them for the purpose of a Nazirite vow, then the vow of a Nazirite will apply to him. But if not, then the vow of a Nazirite will not apply to him.

[F] [If he then is a Nazirite, one] says to him, “Keep the vow and heed it.”

[II:1 A] [If he said,] “I shall be,” [lo, this one is a Nazir] [M. 1:1B].

[B] Simeon bar Ba in the name of R. Yohanan, “We deal with a case in which he saw Nazirites passing by.”

[C] What is the law if he said, “How comely”?

[D] Does he mean to ridicule them, or does he mean to say, “I shall be like them”?

[E] R. Yosé b. R. Bun in the name of Samuel, “He means, ‘Would that I may be like them.’”

[III:1 A] Or: “I shall be comely” - he is a Nazir [M. I:IC].

[B] *How shall we deal with this case?* If it is a case in which he said “comely,” *this is the same as the foregoing rule.*

[C] *If it is a case in which he is holding his hair, lo, we have learned, “Lo, I shall be like this one” [M. I:IE], [so what is the point of the present item]?*

[D] If it is in line with that which R. Yosé b. R. Hanina said, “If he was holding onto his hair, and he said, ‘Lo, I am like this one,’ [that is, a Nazir passing by], then that is what we learn at the outset.”

[E] *But thus do we interpret the matter:* it applies to one who says [when a Nazirite passes by,] “There is none so beautiful as this one!”

[IV:1 A] “Nazir, Naziyah, Pasiyah” - lo, this one is a Nazir [M. 1:1D].

[B] Said R. Yohanan, “These are formulations that the principal authorities [of the Mishnah, that is, earlier authorities] have selected, and we do not have the right to add to this list.”

[C] *And lo, R. Hiyya taught, “Raziyah, ... hiziyah.”*

[D] Said R. Shila, “As to formulations that the secondary authorities [to the Mishnah] have selected, we do not have the right to add to them. [That is, we add to neither A nor C.]”

[E] *And did not Bar Qappara teach, “[As a euphemism for an offering, one may use the language of] heres, not haspa.”*

[F] Said R. Zeira, “The language [of *heres*] is language that pertains to the Most High, ‘who commands the sun [HRS], and it does not rise’” (Job 9:7).

[G] Said R. Simeon b. Laqish, “This is the language [for the divinity] used by the nations of the world.”

[H] Said R. Zeira, “It is the language of the Nevites, *who call Haspa Kaspa.*”

[I] Said R. Yosé, “These rules are suitable in other places, but as to in a place where people say Naziq for Nazir, I say so; shall a Nazirite among stammerers not be a Nazirite?”

[IV:2 A] *It has been taught: [Tosefta’s version:] The House of Shammai say, “Euphemisms for euphemisms are binding.”*

[B] **And the House of Hillel say, “Euphemisms for euphemisms are not binding” [T. Naz. 1:1A-B].**

[C] *What are euphemisms for euphemisms?*

[D] Said R. Ba bar Zabeda, “*Manzaqa, manziyena, mapehazena.*”

[E] *Said R. Yosa, “These are not euphemisms [51b] for euphemisms. They are genuine euphemisms.*

[F] *“If one has said, ‘I take a vow’ [mandarna], is it possible that he is not a Nazirite? If one said, ‘I take a Nazirite vow’ [manzirna], it is as if he has said, ‘Mapehazena’ [as above]. These then would not be euphemisms for euphemisms.”*

[G] *In the view of R. Yosé, This is in line with that which we have learned:*

[H] **“Lo, I pledge myself to offer birds” - R. Meir says, “He is a Nazir.” And sages say, “He is not a Nazir” [M. 1:1F-H].**

[I] [Interpreting this matter,] said R. Yohanan, “It is on the grounds that we have a euphemism for a euphemism [with Meir in the position of the House of Shammai]. [It is in line with the following verse of Scripture:] ‘And his body was wet with the dew of heaven till his hair grew as long as eagles’ feathers, and his nails were like birds’ claws’ (Dan. 4:33). [The reference to birds, in the context of long hair, indicates that a reference to

birds may mean one plans to be a Nazir]” [This item is misplaced, as we see in a moment at

[V:1 A] **“Lo, I shall be like this one” [M. 1:1E] -**

[B] Said R. Yosé bar Haninah, “We deal with a case in which he was holding his hair, and he said, ‘Lo, I shall be like this one.’”

[V:2 A] **“Lo, I shall curl my hair,” “Lo, I shall tend my hair” [M. 1:1E] -** it is like one who said, “Lo, I am among those who curl their hair,” “like those who tend their hair.”

[B] If he said, “Lo, I shall curl and tend my hair,” he is like one who says, “I shall not curl and I shall not tend for less than thirty days.” But he is liable for thirty days.

[C] “Lo, I shall not curl and tend my hair” - he is like the one who says, “I shall not curl and tend my hair for more than thirty days.” But he is liable to do so for thirty days.

[VI:1 A] **“Lo, it is incumbent on me to grow my hair long” - [lo, this one is a Nazir] [M. 1:1E].**

[B] **“Lo, I shall curl, ... tend.” “Lo, it is incumbent on me [not to curl and not to tend].” “Lo, it is incumbent on me to grow my hair long. “**

[C] **“Lo, I pledge myself to offer birds” - R. Meir says, “He is a Nazir.” And sages say, “He is not a Nazir” [M. 1:1F-H].**

[D] Said R. Yohanan, “It is a debate as to the applicability of euphemisms for euphemisms, [in line with the following verse of Scripture]: ‘Till his hair grew as long as eagles’ feathers, and his nails were like birds’ claws’” (Dan. 4:33).

[E] R. Simeon b. Laqish said, “[The reason for the dispute has nothing to do with the applicability of euphemisms for euphemisms. It is] because an unclean Nazirite brings a bird offering. [Therefore Meir maintains that the man has accepted upon himself a vow as a Nazir, since birds pertain to the Nazir.]”

[F] Yet does he [an unclean Nazir] bring birds? Does he not bring pigeons or doves?

[G] *There are Tannaim who teach that any clean fowl may be called a bird.*

- [H] *And there are Tannaim who teach that all fowl, whether unclean or clean, are called birds.*
- [I] *The one who maintains that any clean fowl may be called a bird cites the following verse: “But you may eat all clean birds” (Deut. 14:11).*
- [J] *And the one who maintains that all fowl, whether unclean or clean, are called birds, cites the following verse: “Speak to the birds of every sort” (Ezek. 39:17).*
- [K] *What is the reasoning for the position of rabbis [who hold that he is not a Nazir when he pledges to offer birds]? He is treated as one who volunteers to bring birds for the purpose of the upkeep of the Temple house.*
- [L] *What is the reasoning behind the position of R. Meir? He is treated as one who volunteers a guilt offering for the upkeep of the house. [There is no such thing, since one may not volunteer a guilt offering, which is brought only under specified circumstances and is not a free-will offering. Hence what he has said is gibberish vis-a-vis the Temple and can only refer to the bird offering of a Nazirite.]*
- [M] *What is the practical difference between them?*
- [N] *If one has said, “Lo, I pledge myself to bring a guilt offering.”*
- [O] *In the opinion of R. Meir, since people are not permitted to volunteer a guilt offering for the upkeep of the Temple house, in fact he is a Nazir.*
- [P] *In the opinion of rabbis, since [the man was thinking] an unclean Nazir does not bring a guilt offering, he cannot be regarded as a Nazir [since that was never in his mind].*

1:2

- [A] **[He who says,] ‘Lo. I shall be an abstainer [Nazir] from grape pits ‘ or “from grape skins ‘ or “from haircuts” or “from uncleanness [of corpses]” - lo, this one is a .Nazir [in all regards].**
- [B] **And all the details of a Nazirite vow pertain to him.**

- [C] [He who says,] “Lo, I shall be like Samson” or “like the son of Manoah” or “like the husband of Delilah” or “like the one who tore down the gates of Gaza” or “like the one whose eyes the Philistines plucked out” - lo, this one is a Nazir in the status of Samson.
- [D] What is the difference between a lifelong Nazirite and a Nazirite in the status of Samson [also a Nazirite for life]?
- [E] A lifelong Nazirite: [If] his hair gets too heavy, he lightens it with a razor and brings three [offerings of] cattle (Num. 6:14).
- [F] And if he is made unclean, he brings an offering on account of uncleanness.
- [G] A Nazirite in the status of Samson: [If] his hair gets too heavy, he does not lighten it.
- [H] And if he is made unclean, he does not bring an offering on account of uncleanness.
- [I:1 A] *The Mishnah [at M. 1:2A] speaks of a case in which one has said, I shall be an abstainer “from grape pits” or “from grape skins” or “from haircuts” or “from uncleanness [of corpses]” - [in this case, it is as if he has said, “Lo, I am a Nazir,” without further specification, and he is a Nazir in all respects].*
- [B And if he said the word “Nazir” in each instance -
- [C *in accord with the view of R. Judah, [he is not a Nazir] unless he repeats the word “and” in each instance.*
- [D] *But in accord with the view of R. Meir, even if he did not repeat the word “and” in each instance, [he is liable for all details]. [Cf. Y. Shebu. 5:4].*
- [I:2 A] [If someone said,] “Lo, I am a Nazir and a Nazir,” he is a Nazir for two spells [of thirty days].
- [B] *For [if he merely wished to lay emphasis on his statement by repeating it,] he could have said “Lo, I am a Nazir” - two times.*
- [C] [If he said,] “Lo, I am a Nazir and one, lo, this one is a Nazir for two spells [M. 1:3D].
- [D] [If he said,] “and more,” lo, he is a Nazir for three spells.
- [E] [If he said,] “...one and more and again,” lo, this one is a Nazir for four spells.

- [F] R. Yosé b. R. Bun said, “‘Like them’ - he is liable for eight spells; ‘Like them’ - he is liable for sixteen.”
- [G] [Tosefta’s version:] Sumkhos says, “[If he said,] ‘Lo, I am a Nazir tetragon,’ lo, this one is a Nazir for four spells. ‘Digon,’ lo, three Nazirite spells [are incumbent on him] ‘Drigon,’ lo, two Nazirite spells [are incumbent on him]” [T. Naz. 1:2C-F].
- [I:3 A] If one has said, “Lo, I am ... ,” this is an intimation of a Nazirite vow.
- [B] “Lo, incumbent on me ...” is an intimation of a pledge for an offering.
- [C] R. Eleazar in the name of R. Hoshaiyah: “They hold him responsible because [that phrase] is an intimation of [a pledge for] an offering.”
- [D] *R. Yosé b. R. Bun bar Hiyya raised the question*, “If someone said, ‘I shall not eat with you,’ is this deemed an intimation of an oath or not?”
- [E] *Said R. Yosé*, “People ordinarily say, ‘By an oath, I shall not eat with you!’ But do they say, ‘I shall not eat with you, an oath!’?”
- [F] *Said R. Mattenaiah*, “People usually say, ‘The handle of an ax.’ Does any one say, ‘The axe of the handle’? [That is, if one takes an oath, he begins with the words ‘by an oath’ and does not finish with them.]”
- [G] If one has said, “[Had I known that that was so,] I should not have taken the vow of a Nazir,” he is released from the vow
- [H] But if he said, “[If I had not known that,] I still would have taken the vow of a Nazir,” lo, this one is bound by the vow.
- [I:4 A] R. Bun bar Hiyya in the name of R. Abina, R. Immi in the name of R. Yosé bar Haninah: “He who says, ‘Lo, I am prohibited from fruit juice deriving from produce in the fourth year [which may not be utilized]’ has said nothing whatsoever [since he has declared that he will utilize what is in fact prohibited]. [This is not a valid Nazirite vow.]”
- [B] *Associates say*, “This is subject to dispute, [and the foregoing statement accords] with the view of R. Simeon [in that dispute]. For we have learned:
- [C] **“I swear I won’t eat,” and he ate food which is not suitable for eating, or drank liquids which are not suitable for drinking - he is exempt. “I swear that I won’t eat,” but he ate carrion and terefah meat, abominations and creeping things - he is liable. R. Simeon**

declares him exempt [M. Shebu. 3:4A-B]. [Here too, having taken a vow to prohibit what already is prohibited, the man has said nothing, so far as Simeon is concerned.]

[D] Said R. Zeira, “The dispute concerns a case in which one has treated as a group [both prohibited and permitted matters]. [In such a case, the authorities behind the anonymous rule maintain that the prohibition applies, and Simeon does not.] But if each particular item is treated explicitly, all parties concur that [one is not liable for such an oath], because oaths do not apply to matters that already are prohibited. Now here we deal with a general statement [and not the explicit naming of each particular item. So how can we say that the present matter is parallel to the dispute specified in M. Shebu. 3:4]?”

[E] Said R. Yudan, “Here we speak of vows, [in which a negative vow may apply,] and there we speak of oaths [to which prohibition does not apply, and hence] vows may apply to matters that are prohibited, while oaths do not apply to matters that are prohibited. [So the dispute is parallel, as was originally proposed.]”

[II:1 A] **[He who says,] “Lo, I shall be like Samson” or “like the son of Manoah” or “like the husband of Delilah’ or “like the one who tore down the gates of Gaza” or “like the one whose eyes the Philistines plucked out” - lo, this one is a Nazir in the status of Samson:] Just as euphemisms for Nazirite vows are equivalent to Nazirite vows, so euphemisms for Samson vows are equivalent to Samson vows [T. Naz. 1:5A].**

[B] What are these euphemisms for Samson-vows?

[C] Said R. Abina, “*‘Shimshuk,’ ‘Shirshur,’ ‘Shumshus.’*”

[III:1 A] **[As to M. 1:2E: A lifelong Nazirite, if his hair gets too heavy, he lightens it with a razor - who is the authority for this statement?**

[B] It is Rabbi. For R. Jeremiah said in the name of R. Immi, “In accord with the view of Rabbi, a Nazir for life may cut his hair once every twelve months. In accord with sages, there are cases in which he may cut his hair once in thirty days; there are cases in which he may cut his hair once in twelve months.”

[C] *Said R. Hila in the name of R. Assi: “The Mishnah itself has made the same point: [He who said,] “I will be a Nazir like the hairs of my head” or “like the dust of the earth” or “like the sand of the sea” - lo, this one is a lifetime Nazir. But he cuts his hair once every*

thirty days. Rabbi says, “Such a one as this does not cut his hair once every thirty days. But who is the one who cuts his hair once every thirty days? It is he who says, ‘Lo, I pledge myself to as many [distinct] Nazirite vows as the hairs of my head’ or ‘as the dust of the earth’ or ‘as the sand of the sea’” [M. 1:4].

[D] Said R. Zeira, “The dispute concerns a case in which the matter was left unspecified. *For how else shall we interpret the dispute?* If we deal with one who says, ‘The fullness of my hair,’ *all parties concur that he cuts his hair once in twelve months* [since we deal with a protracted spell]. If we deal with one who says, ‘Like the number of the hairs of my head,’ *all parties concur that he cuts his hair once every thirty days* [because he is carrying out successive, distinct spells]. Thus we must interpret the matter of this dispute to concern one who says, Like hair. Rabbi says, ‘It is equivalent to “the fullness of my head.”’”

[E] “And rabbis say, ‘It is like one who says, ‘Like the number of hairs on my head.’ And [as to the reasoning of rabbis] here, [it is like one who says, ‘Like the number of hairs of my head,’] because the man does not take a vow [to be a Nazirite] but merely indicates that he will abstain from what is prohibited. [Hence we do not impose a strict rule on him, but allow him to cut his hair once a month.] “

[F] *And further indication [that the case involves one who says only, “Like the hair on my head” - but if he had said, “Like the number of hairs on my head,” then Rabbi would concur that we deal with distinct spells] - derives from the following: R. Judah added, “If he had said, ‘Lo, I am a Nazir in accord with the sheaves of the summer harvest’ and ‘the paths of the year of release’ and ‘in accord with the number of stars in the firmament,’ lo, this one is a lifetime Nazir. And he shaves once in thirty days” [T. Naz. 1:3G-H]. Now can you say that R. Judah has made this statement within the supposition of rabbis? Surely it is in accord with the view of Rabbi that he added [what he added]. [The dispute concerns a case in which someone has not said, “In accord with the number of.” That is how Judah can add to the position taken by Rabbi, maintaining that even if one has not said, “In accord with the number of,” he has in fact taken many distinct vows.]*

[G] Absalom was a lifetime Nazir, and he cut his hair once in twelve months.

[H] What is the reason? It is because of the Nazirite vow.

[I] *[Reverting to the view of rabbis that there are cases in which one cuts his hair once in twelve months, and others in which he does so once in thirty days,] in which case. in the view of rabbis does the law hold that one cuts his hair once in thirty days?*

[J] *It is in line with that which we have learned: [He who says,] “Lo, I am a Nazir, a jugful” or “a basketful” - they examine his intention. And if he said, “I intended to take a Nazirite vow for one long period,” he is a Nazir for thirty days. But if he said, “I took a Nazirite vow without specification,” they regard the basket as if it is full of mustard seeds. And he is a Nazir for the rest of his life. Now in this regard it was taught, “He cuts his hair once in thirty days.” [This can only accord with rabbis, since Rabbi will not see here distinct spells, which have not been specified.] And lo, it says, “He cuts his hair once in twelve months.” [Accordingly, there are cases in which one cuts his hair once in twelve months, and other ones in which he cuts his hair once in thirty days.]*

[III:2 A] [In the case of a Nazir who cuts his hair once in twelve months,] if he has counted out six months and then becomes unclean, does he count another six months, or does he go back and count out twelve months from that time? [This question is not answered.]

[III:3 A] If one has completed the Nazirite spell but does not cut his hair for two or three days, and then becomes unclean - [does he lose the entire spell he has already observed]? [Or do we maintain that it is as if he has completed it, even though the offerings have not been made?]

[B] *R. Mana raised the question, “Since he has not consecrated his hair with the blood of his offering, what is it that permits him to cut off his hair? [Hence the question is no question, since he has no right at this point to cut his hair in any case.]”*

[C] If one has said, “Lo, I shall be a Nazir after twenty days have passed and from now am subject to a lifelong Nazirite vow” - [does the lifelong Naziriteship begin at this point or not?]

[D] [Do we maintain that] since he will cut his hair during his lifelong Naziriteship, [that is, once in twelve months,] he is subject to the Nazirite vow forthwith, [as he has said,] and when twenty days have passed, the one-month vow applies as well?

[E] [Or do we hold that, since he is a lifelong Nazirite,] should he become unclean, there is no way that he can lose days of his vow [because he has become unclean and no way he can have to begin counting clean

days again, and hence,] he is not deemed a Nazirite [for life until after he has completed his thirty-day Naziriteship, which will commence twenty days hence]? [This question is not answered.]

[F] He who says, “Lo, I am a Nazir when thirty days have passed, and a Samson Nazir from this point,” [what is the law]? [Do we maintain that the Samson-Nazirite vow applies forthwith, or only after he will have completed the Nazirite vow for thirty days, which comes into effect in thirty days?]

[G] Said R. Hinena, “It is reasonable to suppose that the Nazir vow specified by the Torah should take precedence over the Nazir vow in the manner of Samson.

[H] What is the reason in Scripture for this position?

[I] “So shall he do according to the Torah for his separation as a Nazirite” (Num. 6:21).

[J] This refers to the one whose Naziriteship accords with the specifications of the Torah, thus excluding the one whose Naziriteship follows the example of Samson, which is not the same as that of the Torah.

[IV:1 A] If a Nazirite in the status of Samson is made unclean, he does not bring an offering on account of uncleanness [M. 1:2H].

[B] *The Mishnah states only that he does not bring an offering on account of uncleanness. Lo, as to being flogged, he is indeed flogged.*

[C] *The Mishnah accords with the view of R. Judah. for it has been taught in the name of R. Judah: **R. Judah says, “A Nazir in the status of Samson is permitted to become unclean with corpse uncleanness. For Samson himself became unclean with corpse uncleanness” [M. 1:2H].***

[D] **R. Simeon says, “He who says ‘Lo, I am like Samson’ has said nothing.**

[E] **“For the language of Naziriteship has not gone from his lips [to encumber] him” [vs. A and M. 1:2C] [T. Naz. 1:5B-E].**

[F] *What is the Scriptural basis for the view of R. Simeon?*

[G] “In accord with his Nazirite vow” (Num. 6:21) - the one whose Naziriteship accords with the specifications of the Torah [is under discussion here] [51c], thus excluding the one whose Naziriteship

follows the example of Samson, **for the language of Naziriteship has not gone forth from his lips to encumber him.**

[H] But [in the case of Samson], it was from the message [of the angel].

[I] What is the Scriptural basis for this view?

[J] “For the boy shall be a Nazirite to God from birth” (Judg. 13:5)

1:3

[A] **A Nazirite vow that is unspecified [as to length] is for a period of thirty days.**

[B] **[If] he said, “Lo, I shall be a Nazir for one long spell,” “Lo, I shall be a Nazir for one short spell,” [or] even “From now until [for as long as it takes to go] the end of the world” -**

[C] **he is a Nazir for thirty days.**

[D] **[If he said,] “Lo, I shall be a Nazir and for one day [more],” “Lo, I shall be a Nazir and for one hour [more],” “Lo, I shall be a Nazir for one spell and a half” -**

[E] **lo, he is a Nazir for two spells [of thirty days].**

[F] **[If he said,] “Lo, I shall be a Nazir for thirty days and for one hour,” he is a Nazir for thirty days and for one day,**

[G] **for Nazirite vows are not taken by the measure of hours.**

[I:1 A] [The vow is for thirty days because,] said Bar Qappara, “the words ‘will be’ contain letters that add up to the value of thirty [in the following verse: ‘(This is the law for the Nazirite who takes a vow. His offering to the Lord) will be (according to his vow as a Nazirite, apart from what else he can afford; in accordance with the vow that he takes, so shall he do according to the law for his separation as a Nazirite)’ (Num. 6:21).]”

[B] R. Samuel bar Nahman in the name of R. Jonathan, “[The days of the Nazirite vow] add up to the twenty-nine times that the language is written in the Torah in the passage concerning the Nazir, ‘He has vowed as a Nazirite to separate himself.’ [The thirtieth is the day on which he cuts his hair.]”

[C] *But lo, it is mentioned thirty times [not twenty-nine]!*

[D] Said R. Yosé b. R. Bun, “One is counted for the point at which it is made for the first time.”

[E] *In the opinion of Bar Qappara*, if he cut his hair on the thirtieth day, he has not carried out his obligation.

[F] *In the opinion of R. Yohanan* [sic], if he cut his hair on the thirtieth day, he has carried out his obligation.

[G] *And there are those who wish to derive the same proposition from the following*: “He shall let the locks of hair of his head grow long” (Num. 6:5). Now how long does it take to let the locks of one’s hair grow long? It is thirty days.

[H] *And there are those who wish to derive the same proposition from the following*: “[And she shall put off her captive’s garb, and shall remain in your house] and bewail her father and mother a full month of days; [after that you may go in to her, and be her husband, and she shall be your wife]” (Deut. 21:13). Just as the reference to “days” here indicates that thirty days are meant, so the reference to “days” here indicates that thirty days are meant.

[I] *And there are those who wish to prove the same proposition from the following*: “The former time shall be void, because his separation was defiled” (Num. 6:12). This refers to the days that Moses and his court permitted, [that is, once the Nazirite vow had come to an end,] and there are no fewer than thirty days [for observing the vow].

[J] *And there are those who wish to derive the same proposition from the following*: “[All the days of his vow of separation, no razor shall come upon his head;] until the time is completed [for which he separates himself to the Lord, he shall be holy]” (Num. 6:5). And how many are the completion of the days? Thirty.

[K] If that is the case, then if he cut his hair on the thirtieth day, he has not fulfilled his obligation [= E].

[L] Said R. Isaac ba Eleazar, “When it says ‘days,’ the word is written lacking the letter Y (YMM rather than YMYM).”

[I:2 A] *There we have learned*: **The one who says: “Lo, I shall be a Nazir from here to such-and-such a place” - they make an estimate of how many days it takes to go from here to such-and-such a place. If it is less than thirty days, he is a Nazir for thirty days. And if not, he is a Nazir in accord with the number of days [required to**

go to such-and-such a place] [M. 1:6]. *And here he has said this, [that the limit is thirty days] [M. 1:3B-C]!*

[B] *The case here is different, for he has said, “One” [=M. 1:3B: “One long spell”].*

[I:3 A] Rab said, ‘Lo, I am a Nazir for thirty days and one day’ - he is a Nazir for two spells [sixty days]. *For he could have said, “Thirty one days.”*

[B] *The Mishnah stands at variance with the position of Rab: “Lo, I shall be a Nazir for one day,” “Lo, I shall be a Nazir for one hour,” “Lo, I shall be a Nazir one and a half” - lo, this is a Nazir for two spells [M. 1:3D-E]. Now what should he have said? thirty [days] and one hour? [Hardly. The “hour” stands for a day.]*

[C] *The Tannaitic passage that follows stands at variance with Rab:*

[D] R. Ishmael and R. Aqiba did not differ as to one who says, “Lo, I shall be a Nazir for thirty days and one day,” that he is a Nazir only for one spell. [Rab clearly cannot concur here.]

[E] Concerning what did they differ?

[F] Concerning the one who says, “Lo, I am a Nazirite for thirty days and one day more.”

[G] For R. Ishmael said, “He is a Nazir for two spells.”

[H] And R. Aqiba said, “He is a Nazir for one spell only.”

1:4

[A] [He who said,] “I will be a Nazir like the hairs of my head” or “like the dust of the earth” or “like the sand of the sea” - lo, this one is a lifetime Nazir.

[B] But he cuts his hair once every thirty days.

[C] Rabbi says, “Such a one as this does not cut his hair once every thirty days.

[D] “But who is the one who cuts his hair once every thirty days?

[E] “It is he who says, ‘Lo, I pledge myself to as many [distinct] Nazirite vows as the hairs of my head’ or ‘as the dust of the earth’ or ‘as the sand of the sea.’”

[F] [He who says,] “Lo, I am a Nazir, a jugful” or “a basketful” -

[G] they examine his intention.

[H] **And if he said, “I intended to take a Nazirite vow for one long period,” he is a Nazir for thirty days.**

[I] **But if he said, “I took a Nazirite vow without specification,” they regard the basket as if it is full of mustard seeds.**

[J] **And he is a Nazir for the rest of his life.**

[I:1 A] Said R. Mani, “They assign to him [of M. 1:4F] the more strict rulings that pertain: At the outset they regard it as if it is filled with citrons, afterward with pomegranates, afterward with nuts, afterward with filberts, afterward with pepper, afterward with sesame, and afterward with mustard seed.”

[I:2 A] R. Yosé b. R. Bun in the name of Rab: “He who sets a limit to his Nazirite vow - they do not permit him to cut his hair.”

[B] *And so too has it been taught:* [If he said,] **“Lo, I am a Nazir all my days,” “Lo, I am a lifelong Nazir,” lo, this one is a lifelong Nazir. If he said, “Lo, I am a Nazir] for a hundred years” or “for two hundred years,” this one is not a lifelong Nazir [T. Naz. 1:4]. [A lifelong Nazir may cut his hair, but this one may not, in line with A.]**

1:5

[A] [If he said,] **“Lo, I shall be a Nazir from here to such-and-such a place,”**

[B] **they make an estimate of how many days it takes to go from here to such-and-such a place.**

[C] **If it is less than thirty days, he is a Nazir for thirty days.**

[D] **And if not, he is a Nazir in accord with the number of days [required to go to such-and-such a place].**

[E] [If he said,] **“Lo, I shall be a Nazir according to the number of days of the year,”**

[F] **he counts his Nazirite spell in accord with the number of days of the year.**

[G] **Said R. Judah, “There was a case of this sort, and once he had fulfilled his Nazirite vow, he dropped dead”**

[I:1 A] *How shall we interpret [the statement at M. 1:5F]?* If it is in accord with the days of the solar year, he must observe 365 spells of Naziriteship, in accord with the number of days of the solar year. If it is in accord with the days of the lunar year, he must observe 354 Naziriteships, in accord with the number of days in the lunar year. If

[he said that] it is in accord with the number of the days of the year, that is the question.

- [II:1 A] *It was taught in the name of R. Judah [M. 1:5G]: “This one was worthy of death, but the Nazirite vow suspended the punishment that was coming to him.” [Judah then maintains that the vow is creditable.]*
- [B] *The following Tannaitic teaching accords with the view of R. Judah:*
- [C] [In the Tosefta’s version:] **“For the pious men of old used to make free-will offerings of Nazirite vows.**
- [D] **“For there is not sufficient place [on the altar] for the bringing of offerings in expiation for inadvertent sins in their behalf.**
- [E] **“So they would offer Nazirite vows as free-will offerings,**
- [F] **“so that they might bring an offering.”**
- [G] **Rabban Simeon b. Gamaliel says, “[He who says] ‘Like the free-will offering of suitable folk’ has not made a valid vow in the case of a Nazir.**
- [H] **“For the pious men of old did not make free-will offerings of Nazirite vows.**
- [I] **“For [in any case,] if one wanted to bring a whole offering, he might bring it. [If he wanted to bring] peace offerings, he might bring them. [If he wanted to bring] a thank offering and the four kinds of bread that go with it, he might bring [them].**
- [J] **“They did not make free-will offerings of Nazirite vows because they require atonement, since it says, ‘And he shall make atonement for him, because he sinned against the soul’” (Num. 6:11). [T. Ned. 1:1].**
- [K] **“This one sinned against himself because he refrained from drinking wine.”**
- [L] *And the view of Simeon the Righteous accords with the opinion of R. Simeon [that the vow is not creditable].*
- [M] *For it has been taught [in the Tosefta’s version]: Said Simeon the Righteous, “In my entire life, I ate a guilt offering of a Nazir only one time.”*

[N] M'SH B: "A man came to me from the south, and I saw that he had beautiful eyes, a handsome face, and curly locks. I said to him, 'My son, on what account did you [become a Nazir and] destroy this lovely hair?'"

[O] "He said to me, 'I was a shepherd in my village, and I came to draw water from the river, and I looked at my reflection, and my bad impulse took hold of me and sought to drive me from the world.'

[P] "I said to him, 'Evil one! You should not take pride in something that does not belong to you, in something that is going to turn into dust, worms, and corruption. Lo, I take it upon myself to shave you off for the sake of heaven.'

[Q] "I patted his head, kissed him, and said to him, 'My son, may people like you become many, people who do the will of the Omnipresent in Israel. Through you is fulfilled this Scripture, as it is said, "A man or a woman, when he will express a vow to be a Nazir, to abstain for the sake of the Lord,"'" (Num. 6:2) [T. Naz. 4:7].

[R] *R. Mana raised the question, "Why do I have to invoke the name of Simeon the Righteous? It would accord even with R. Simeon. Simeon the Righteous never in his life ate the sin offering of one who had eaten forbidden fat. Simeon the Righteous never in his life ate the sin offering of one who had eaten blood."*

[S] Simeon thought that people take an oath out of pique, and since they take an oath out of pique, in the end it will be null. And since it will be null, his offerings are as if he has slaughtered unconsecrated animals in the courtyard. And this one, because it was a vow taken in serenity, had made what he has said and what he has felt to be one and the same.

YERUSHALMI NAZIR

CHAPTER TWO

2:1

[A] [He who says,] “Lo, I am a Nazir as to dried figs and pressed figs”

[B] the House of Shammai say, “He is a Nazir.”

[C] And the House of Hillel say, “He is not a Nazir. “

[D] Said R. Judah, “Also: When the House of Shammai made this ruling, they made it only with reference to the one who says, ‘Lo, they are unto me as a Qorban [in which case, the Nazirite vow is implied].”

[I:1 A] [Said] Said R. Yohanan, “The reason for the position of the House of Shammai is that the man has expressed the language of the Nazirite vow. [Once he has used the word ‘Nazir,’ he has indicated his intention, and his later qualification as to the purpose is null and of no effect.]”

[B] R. Simeon b. Laqish said, “It is because we have a euphemism for a euphemism, [which the House of Shammai maintain is effective].”

[C] Said R. Judah b. Pazzi, “The following verse of Scripture supports the position of R. Simeon b. Laqish: Thus says the Lord, ‘As the wine is found in the cluster, [and they say, “Do not destroy it, for there is a blessing in it,” so will I do for my servants’ sake and not destroy them all’] (Is. 65:8). The language used in the Torah refers to the grape cluster as wine, while people may refer to dried figs as wine, as a euphemism for a euphemism.”

[D] *What is the practical difference between them?*

[E] *[It concerns how to rule in accord with the position of the house of Shammai. for example,] if someone said, “Lo, I am a Nazirite from dried figs and pressed figs,” in the opinion of R. Yohanan, [we have seen the use of the word ‘Nazir’ and therefore he is a Nazir.*

In the opinion of R. Simeon b. Laqish, [this is not a euphemism for a euphemism and therefore] he is not a Nazir.

[F] “Lo, I am a Nazir as to a loaf” -

[G] *In the opinion of R. Yohanan, he is a Nazir, and in the opinion of R. Simeon b. Laqish, he is no Nazir.*

[H] If he said, “As to a loaf,” he has said nothing at all.

[I] *R. Uqba raised the question before R. Mana: “The opinions assigned to R. Simeon b. Laqish are at variance with one another.*

[J] *“For we have learned there: **He who says, ‘Lo, I pledge myself to bring a meal offering made of barley,’ in any case must bring one made of wheat, [which is the proper kind of grain] [M. Men. 12:3A].** Said R. Abbahu in the name of R. Simeon b. Laqish, ‘[The reason is] that he has spoken the words “meal offering,” [so the principle is that once the words are used, there is no turning back].’ And here [B] he has said this?”*

[K] *He holds both views. He maintains that one applicable consideration is that the man has expressed the term “Nazir” and so is liable, and he also maintains that he is liable on account of using a euphemism for a euphemism.*

[L] You should know that this is the case [that both considerations apply], *for we have learned: **If one said, “This cow says, ‘Lo, I am a Nazir if I stand up,’” [The House of Shammai say, “He is a Nazir” [M. 2:2A-C].** Now did the cow say any such thing? [Obviously not.] It is not then because he has used the language of a Nazirite vow on his own. Here, then, it is because he has used the language of a Nazirite vow on his own.*

[I:2 A] All sorts of linguistic usages serve as an expression of Naziriteship, except for language used to say [that something is forbidden to him] as an offering.

[B] All sorts of linguistic usages serve as an expression [of a vow not to derive benefit from something, because to him it has the status of] an offering, except for the language used as an expression of Naziriteship.

- [C] If one has said to a grape cluster, “I am finished with you,” “I am separate from you,” “I am held back from you,” “Lo, I am a Nazir from you” - lo, this one is a Nazirite.
- [D] [If he said,] “Lo, incumbent on me as an offering [is the grape cluster], he has not rendered it prohibited for himself, except for the sake of a [vow using the language of prohibition as an] offering.
- [E] If he said to a loaf, “I am finished with you,” “I am separate from you,” “I am held back from you,” “Lo, incumbent on me as an offering [is the loaf],” he has prohibited the loaf for himself only on account of its being an offering.
- [F] If he said, “Lo, I am a Nazirite from you,” lo, he is a Nazir.
- [G] Thus we see that a usage such as “restrained from” serves to express both the Nazirite vow and the vow of a prohibition on account of an offering.
- [H] So too the language of “grape cluster” contains implications both for the Nazirite vow and for the [vow of prohibition on account of its being]- an offering.
- [I] If one has said to the grape cluster, “I am finished with you,” if he then comes [to seek permission from a sage to eat it,] one says to him, “As to its value, it is holy [and] one has to redeem it.”
- [J] And if he then comes to seek permission to eat it, one says to him, “No, you are a Nazir.”
- [K] All sorts of linguistic usages serve as an expression of deconsecration, except for the language of substitution.
- [L] All sorts of linguistic usages serve as an expression of substitution, except for the language of deconsecration.
- [M] If one said of Holy Things consecrated for use on the altar, “Lo, this is in place of that,” “This is substituted for that,” “This is exchanged for that,” “Lo, this is an exchange; this is deconsecrated for that,” it does not constitute a substitution, [for a beast that has been consecrated for the altar does not suffer deconsecration and cease to be holy. It also is not a statement of substitution, because the language of deconsecration bears no effects for substitution.]
- [N] If one says of Holy Things consecrated for the upkeep of the house, “Lo, this is in place of that,” [the animal that had been

secular, to which he had made reference,] falls in exchange for the value [of the consecrated beast, but the beast consecrated for the upkeep of the house does not remain holy in line with Lev. 27:10, because what had been consecrated is the value of the beast, and not its actual corpus. The man then pays for and deconsecrates the beast of which he has spoken.]

[O] [Disagreeing with N,] *R. Hoshaiiah taught*: “If one used the language ‘in exchange for this’ or ‘as a substitution for this,’ he has said nothing at all.” [For Hoshaiiah maintains that the language of “exchange” is tantamount to the language of “substitution,” and in this case, if he speaks of Holy Things consecrated for the upkeep of the house, the language of substitution is null, for the reason explained in the immediately preceding statement, N.]

[P] [Reverting to K-L, above, that various kinds of usages serve both purposes:] Thus the language of deconsecration and the language of substitution may be one and the same.

[Q] Beasts consecrated for the altar may be subject to deconsecration and may be subject to an exchange.

[R] [How so?] Holy Things consecrated for the altar, which were consecrated to the altar before they suffered a disqualifying blemish, [have been consecrated as to their corpus]. [Consequently, the language] “lo, this is instead of that” [is language that serves to deconsecrate the blemished beast and to supply the other in its place].

[S] If [then] one came along intending to offer another beast [as substitution while the original one was yet] unblemished -

[T] one says to him, “You have consecrated the value, [and hence one must pay for the beast].”

[U] If he comes to eat the blemished one, one says to him, “It bears the sanctity of a beast declared to substitute for a holy beast, [so you may not eat the blemished beast either, in line with the verse of Scripture that states,] ‘He shall not substitute anything for it or exchange it, a good for a bad, or a bad for a good; and if he makes any exchange of beast for beast, then both it and that for which it is exchanged shall be holy’” (Lev. 27: 10).

[V] Said R. Isaac bar Eleazar, “[It *is not* the case that the language ‘instead’ serves both purposes - deconsecration and substitution -

so that we impose upon the beast both the one status and the other. Why not?] The man knows full well that whoever makes a statement of substitution is flogged. It never entered his mind to mean 'substitution' when he used the stated language."

- [M] All sorts of linguistic usages serve as an expression of fixed valuations except for language limited to the meaning of one's actual market value [in general].
- [X] All sorts of linguistic usages serve as an expression of the pledge of one's actual market value in general, except for language limited to the meaning of pledging one's fixed valuation in particular.
- [Y] If one has said of someone, "His worth is incumbent on me," "His value is incumbent on me," "The estimate of his worth is incumbent on me," "His valuation is incumbent on me" - one pays his valuation.
- [Z] "His price is incumbent on me" - he pays his market price.

[AA] Thus the language of estimate of value serves both as an expression of estimated market value and of fixed valuation.

[BB] Accordingly, the language of "man" may mean that one pledges the man's valuation, and it may mean that one pledges merely his estimated value.

[CC] If one said of a man, "His estimated value is incumbent on me,"

[DD] if he was handsome, one pays his estimated market value, [which is high].

[EE] If he was ugly, one pays [at a minimum] his fixed valuation.

[I:3 A] The House of Shammai say, "[If one has used the language cited at M. 2:1, he then is] prohibited by vow [from eating dried figs and pressed figs], and he also is subject to the vow of a Nazir."

[B] And the House of Hillel say, "He is not prohibited by vow [from eating dried figs and pressed figs], and he also is not subject to the vow of a Nazir."

2:2

[A] [If] one said, "This cow says, 'Lo, I am a Nazir if I stand up,'

[B] "This door says, 'Lo, I am a Nazir if I am opened'" -

[C] the House of Shammai say, "He is a Nazir."

[D] **And the House of Hillel say, “He is not a Nazir.”**

[E] **Said R. Judah, “Also: When the House of Shammai made their ruling, they made it only with reference to the one who says, ‘Lo, this cow is unto me as a Qorban if it stands up.’”**

[I:1 A] If one saw an idolater passing by [and] said, “See what this idolater says, ‘Lo, I am a Nazir’” -

[B] one must conclude that since idolaters do not take Nazirite vows, he is a Nazir [on his own account].

[C] [If then we consult the idolater, and] he said [nothing, what is the law]? [Do we say that since the Israelite has expressed the word “Nazir,” he is such?]

[D] *Let us derive the answer from the following passage: **If one said, “This cow says, ‘Lo, I am a Nazir if I stand up’” [M. 2:2A],** have you stated [that the man is a Nazir] for any reason other than that he has expressed a Nazirite vow? Here too, since the Israelite has expressed the Nazirite vow, [he is a Nazir].*

[E] If one saw an Israelite passing by [and] said, “See what this Israelite says, ‘Lo, I am a Nazir’” - [he certainly is a Nazir on his own account]. [But if] the Israelite actually said, [“Lo, I am a Nazir,”] [what is the law]?

[F] Since Israelites do take Nazirite vows, he is a Nazir.

[G] Do we rule then that even so, he is in the status of a Nazir, or do we maintain that his intent is only to say something unusual?

[H] So do I reply to this question: If one was reading in the Torah and made mention of the word Nazir as Naziq, [it is of no effect, and so too here].

[I:2 A] As to a man, what is the law on imposing on him the Nazirite vow if he used the feminine form?

[B] *There they say, “Lo, a Nazir woman is passing by,”* [and the language has effect, so the answer is that use of the feminine form is valid if a man takes a vow using it].

[C] As to a woman, what is the law on imposing on her the Nazirite vow if she uses the masculine form?

[D] Said R. Yosé, “The most basic usage of the Nazirite vow is masculine in form, [and yet it applies to a woman as much as to a

man, for it is said,] ‘When either a man or a woman makes a special vow, the vow of a Nazirite, to separate himself to the Lord’ (Num. 6:2).”

[I:3 A] [In the view of the House of Shammai, (M. 2:2C), do we maintain that one is a Nazir] only if the cow will stand up or the door opens?

[B] *Let us derive the answer from the following passage of the Mishnah:* **[If people were going along the way, and someone was coming toward them, and one of them said, “Lo, I am a Nazir if this is so-and-so,” and one of them said, “Lo, I am a Nazir if this is not so-and-so,” “Lo, I am a Nazir if one of you is a Nazir,” “Lo, I am a Nazir if neither one of you is a Nazir” or “if both of you are Nazirs” or “if all of you are Nazirs” - the House of Shammai say, “All of them are Nazirs.” And the House of Hillel say, “A Nazir is only one whose statement was not confirmed” [M. 5.5].** [It will follow that merely using the language of Nazir makes the person a Nazir, so far as the House of Shammai are concerned.] [Commenting on the cited passage, the Talmud proceeds:] The Mishnah passage means that the one whose statement was confirmed [is a Nazirite, as is the clear sense of the Hillelite statement]. It is a case in which one uses language that states the opposite of his meaning, as in the instance of a woman who says that, if such-and-such is so, may she not bury her son.

[I:4 A] Even if [52a] the cow did not stand up, even if the door did not open,

[B] the House of Shammai say, “He is prohibited by vow and also is subject to the vow of a Nazir.”

[C] And the House of Hillel say “He is not prohibited by vow and he also is not subject to the vow of a Nazir.”

2:3

[A] **[If] they mixed a cup for someone, and he said, “Lo, I am a Nazir from it,”**

[B] **lo, this one is a Nazir.**

[C] **M’S H B: A woman was drunk and they filled a cup for her, and she said, “Lo, I am a Nazirite from it. “**

[D] **Sages ruled, “She intended only to say, ‘Lo, it is unto me as a Qorban.””**

- [I:1 A] *The Mishnah [at M. 2:3A-B] speaks of a case in which one cannot [drink wine, and so is unlikely to be placed under pressure to drink]. [Hence he intended to take a Nazirite vow.] But in the case of a habitual drinker, the language means that he simply cannot take another drink.]*
- [B] *This is in line with the following: M'SH B: A woman was drunk, and they filled a cup for her, and she said, "Lo, I am a Nazirite from it." Sages ruled, "She intended only to say, 'Lo, it is unto me as a Qorban'" [M. 2:3C-D].*
- [II:1 A] [Explaining M. 2:3D's applicability,] said R. Jeremiah in the name of R. Zeira: "Even an effective formula for applying the language of *Qorban* is not present, [so that the cup is permitted, not prohibited as if it were a Temple offering].
- [B] "Why so? For one does not impose upon himself a Nazirite vow in the language of *Qorban*, or a *Qorban* vow in the language of a Nazirite vow."

2:4

- [A] [If one said,] "Lo, I am a Nazir on condition that I shall drink wine and become unclean with corpse uncleanness,"
- [B] lo, this one is a Nazir.
- [C] But he is prohibited to do all of these things [that he has specified as conditional upon his vow].
- [D] [If he said,] "I recognize that there is such a thing as Naziriteship, but I do not recognize that a Nazir is prohibited from drinking wine,"
- [E] lo, this one is bound [by the Nazirite oath].
- [F] And R. Simeon declares him not bound.
- [G] [If he said,] "I recognize full well that a Nazir is prohibited to drink wine, but I was thinking that sages would permit me to do so, because I cannot live without wine,"
- [H] or "because I am in the work of burying the dead,"
- [I] lo, this one is not bound.
- [J] And R. Simeon declares him bound.
- [I:1 A] *The Mishnah's statement [M. 2:4A-B] accords with the view of R. Meir, for R. Meir says, "One has to repeat a condition [in both positive and negative formulations, and the man has not done so]."*

[B] There [at M. 1:1, with reference to euphemisms], it represents the opinion of all parties, [and, even in accord with Meir,] one says to him, “Keep and hearken [to what you have said].” [There no condition has preceded the statement of the Nazirite vow, while here the condition is expressed at the outset.]

[C] *The Mishnah passage before us accords either with the view of R. Meir [for the reason just now indicated], or with that of R. Judah b. Tema, for it has been taught: “Lo, this is your writ of divorce on condition that you not fly in the air,” “on condition that you not cross over the Great Sea by foot” - lo, this is a writ of divorce. “On condition that you cross the Great Sea by foot” - it is not a valid writ of divorce. R. Judah b. Tema says, “It is a valid writ of divorce.” [A general principle did R. Judah b. Tema state: “Any condition that it is not possible for her to carry out, and that he stated as a condition to her, he has intended only by way of exaggeration”] [T. Git. 5:12A-D]. [That is, the vow is valid, M. 2:4A-B, even though its conditions are null.]*

[D] [As to the reasoning of the authority who holds the writ is invalid,] said R. Zeira, “You should know that he is seeking an excuse to divorce her.”

[E] [No, to the contrary, if he had really wanted to do so,] would he have made the validity of the writ depend upon matters that she could not have carried out? [In the Mishnah, likewise, the man knows that a Nazir may not drink wine, and so he exaggerated and did not really intend such a condition to take effect.]. What is the reasoning of R. Judah b. Tema? Since he made the matter depend upon something the woman could not do, it is as if his stipulation was carried out with regard to the writ of divorce.

[I:2 A] *Can the Mishnah passage before us accord with the view of R. Simeon [in the following passage:] He who says, “Lo, I pledge myself to bring a meal offering made of barley” in any case must bring one made of wheat. R. Simeon declares him free of the obligation, for he has not volunteered a free-will meal offering in the way in which people volunteer to make a free-will meal offering [M. Men. 12:3A, F-G]. [Accordingly, Simeon surely should not concur with our rule, since the man has not taken the vow in the accepted way.]*

[B] [No, indeed Simeon can concur here,] for R. Joshua b. Levi said, “The present case is different, for he has left the cutting of the-hair intact [as a prohibition upon himself, and this is the usual restriction on the

Nazir, so in this regard, he has volunteered as people usually do].
[Since he may not cut his hair until the end of the period, in the wake of that prohibition the others also apply.]”

- [C] *R. Jeremiah raised the question*, “If we deal with a case in which he has left as a valid prohibition the cutting of the hair, *note what follows*: **[If he said, ‘I recognize that there is such a thing as Naziriteship, but I do not recognize that a Nazir is prohibited from drinking wine,'] lo, this one is bound. And R. Simeon declares him not bound [M. 2:4E-F].** Lo, he has left valid the prohibitions against cutting of the hair as well as the matter of uncleanness, and yet R. Simeon has declared him exempt [from punishment for violating the oath]’!”
- [D] The case here is different, because the consideration here is the releasing of a vow, [which is at issue].
- [E] If the issue here is the releasing of the vow, *then note what comes at the end*: **If he said, I recognize full well that a Nazir is prohibited from drinking wine, but I was thinking that sages would permit me to do so, because I cannot live without wine,” lo, this one is not bound. And R. Simeon declares him bound [M. 2 4G-R]**
- [F] [The issue here is this:] R. Simeon says, “This is not suitable basis for unloosening the vow.” And rabbis say, “It is suitable grounds for unloosening the vow.”
- [G] And why is that the case? It is because he makes his vow depend upon his very life.
- [H] *That is sufficient grounds in regard to drinking wine.*
- [I] As to contracting corpse uncleanness, we deal with someone who works at burying the dead. [That is why sages permit him to be released from his vow.]

2:5

- [A] **[If one said,] “Lo, I am a Nazir, and I take it upon myself to bring the hair offering of a[nother] Nazir,” and his friend heard and said, “So am I, and I take it upon myself to bring the hair offering of a[nother] Nazir,”**
- [B] **if they are smart, they each bring the hair offering of the other,**
- [C] **and if not, they bring the hair offering of other Nazirs.**

- [I:1 A] *As to this language, “So am I,” how do you interpret it? Does the language, “So am I,” apply to everything the other has said, or does it apply to only part of what he has said?*
- [B] *If you treat it as applicable to everything the other has said, then if he said, “So am I,” he is a Nazir [and provides another’s hair offering]. If you treat the language, “So am I,” to pertain to only part of what he has said, he has said, “Lo, I am a Nazir,” [then he is a Nazir but bears no responsibility for providing the hair offering of another Nazir].*
- [C] *The house of Rabbi taught [that] the language, “So am I,” applies to the whole of what the other has said.*
- [D] *Said R. Yosé, “That is to say, if one person said, ‘Lo, I am a Nazir for a hundred days,’ and his friend heard and said, ‘So am I,’ this one is a Nazir for a hundred days, but that one is a Nazir only for thirty days - unless he should say, ‘Lo, I shall be like him,’ ‘Lo, I shall be similar to him.’”*
- [I:2 A] *R. Hiyya taught: **“Lo, I pledge myself to supply half of the hair offering of a Nazir,” and he further went and said, “Lo, I am a Nazir,” [T. Naz. 2:6A] - if he made his hair offering [for himself] on the thirtieth day [after the pledge], he has carried out his obligation. [He does not then have to provide the hair offering for another Nazir. His original statement did not specify which Nazir he would cover, and by providing what he himself owes, he has supplied what he originally said he would, namely, half of the hair offering of a Nazir.]***
- [B] *Said R. Yosé, “The Mishnah itself has made the same point: **If one said, “Lo, I am a Nazir, and I take it upon myself to bring the hair offering of another Nazir,” and his friend heard and said, “So am I, and I take it upon myself to bring the hair offering of another Nazir, “ if they are smart, they each bring the hair offering of the other [M. 2:5A-B].** Lo, they may not provide for themselves. The reason is that he has said, ‘Lo, I am a Nazir, and I take it upon myself to bring the hair offering of another Nazir.’ But if he had said, ‘Lo, I take it upon myself to provide half of the hair offering of a Nazir,’ and he went and said, ‘Lo, I am a Nazir,’ if he presented the hair offering he himself owed, he has carried out his obligation.”*
- [II:1 A] *[As to M. 2:5B,] it is no problem that the second person should provide the hair offering for the first, [who already is a Nazir when the second makes his statement]. May the first party provide the hair*

offering for the second, [since when the first party made his statement, the second party was not then a Nazir]?

- [B] R. Yosé in the name of R. Zeira, “That is to say, a person may accept upon himself the obligation to bring the offering for a Nazir, when he is going to take the oath as a Nazir only in the future.”
- [D] *R. Hinena in the name of R. Zeira said, “We derive three lessons from this passage:*
- [E] “*One*, if he provided a hair offering for himself, he has carried out his obligation.
- [F] “*Another is that* a man may accept upon himself the obligation to bring the offering for a Nazir, when he is going to take the oath as a Nazir only in the future.
- [G] “*And the third is that* a man may take upon himself the obligation to bring the offering for a Nazir without the knowledge and consent of the fellow [in behalf of whom it is offered], but he may not designate it except with his knowledge and consent.”
- [H] *R. Mana raised the question before R. Yudan, “If one said, ‘Lo I take it upon myself to provide the offering of a Nazir,’ without further specification that he provides a hair offering for a Nazir whether the man has already taken the vow as a Nazir or whether he is going to take it in the future, if he made it explicit, however, [that it was for someone who was going to take the oath in the future, but at that moment had not taken it] - [what is the law]?”*
- [I] *The answer to this question accords with that which R. Levi bar Haitah asked: “If the husband wrote to the wife in a deed, ‘I have no claim whatsoever on property that will come to you in the future,’ of what value is such a statement? Now does someone stipulate concerning something that is not yet in existence? [Obviously not, and so too here, he may not make such a statement as a binding one.]”*

2:6

- [A] “[If one said,] **Lo, I pledge myself to bring half of the hair offering of a Nazir, and his friend heard and said, ‘And I too pledge myself to bring half the hair offering of a Nazir,’**
- [B] “**this one brings the whole hair offering of a Nazir and that one brings the whole hair offering of a Nazir,**” the words of R. Meir.

[C] And sages say, “This one brings half the hair offering of a Nazir, and that one brings half the hair offering of a Nazir. “

[I:1 A] *Both R. Abbahu, in the name of R. Yohanan, and R. Hisda maintain that the dispute concerns a case in which the matter was left without further explication, [in that the statement was made without explanation of which half of the offerings the person proposed to supply]. How [otherwise] shall we interpret the dispute? If he should say, “The (whole) half for the head,” all parties concur that he must supply the complete hair offering of a Nazir. If the person should say, “Half of the obligation,” all parties concur that he supplies half of the required hair offering of the Nazir. But we therefore must interpret the passage to speak of one who says, “Half.”*

[B] R. Meir says, “He is in the status of one who says, ‘Half of the head.’”

[C] And rabbis say, “He is in the status of one who says, ‘Half of the obligation. “

[D] *Said R. Yudan, “You find a lenient and a strict ruling therein. In the view of R. Meir, [there is a lenient side, for it is Meir] who has said, ‘Half of the head[‘s requisite offerings] - [a single person who has made such a statement] brings a single offering, for the Nazir brings as a hair offering one complete offering on that account. In the view of rabbis [there is a strict side, for it is rabbis] who say, ‘Half of the obligation’ - [a single person who has made such a statement] brings an offering and a half, half of the obligation applicable to an individual [in addition to the man who was himself a Nazir].”*

2:7

[A] [If one said,] “I will be a Nazir when a son is born to me,” and a son was born to him, lo, this one is a Nazir.

[B] [If] a daughter, a child of unclear sexual traits, [or] a child bearing the sexual traits of both sexes is born to him, he is not a Nazir.

[C] If he said, “When I see that a child is born to me, [I shall be a Nazir,]”

[D] even if a daughter, a child bearing unclear sexual traits, [or] a child bearing the sexual traits of both sexes, is born to him, lo, he is a Nazir.

[I:1 A] [If a] daughter [is born, it means nothing, since the man referred to a son, not a daughter]. *What requires inquiry is the birth of an offspring bearing unclear sexual traits or sexual traits of both sexes [in which case M. 2:7D’s rule is invoked].*

2:8

[A] **[But if] his wife miscarried, he is not a Nazir.**

[B] **R. Simeon says, “He should say, ‘If it was a viable foetus, lo, I am a Nazir out of obligation. And if not, lo, I am a Nazir by free choice.’”**

[C] **[If] she went and gave birth again, lo, this one is a Nazir.**

[D] **R. Simeon says, “He should say, ‘If the first was a viable foetus, the first [Nazirite spell that I observed] is done out of obligation, and this one is by free choice. And if not, then the first was by free choice, and this one is out of obligation.’”**

[I:1 A] [As to M. 2:8A, why is he not a Nazir?] Should we not take account of the possibility that it had been a viable foetus, [in which case he would be a Nazir]?

[B] *R. Yohanan said, “It is an expression of the principle of R. Judah. For R. Judah has said, ‘When there is doubt in regard to one’s having taken a vow as a Nazir, [the vow is] released, [so the Nazirite vow will not apply in a case of a doubt].’”*

[C] He said to him, “That statement of R. Judah’s applies only at the end of the matter. But as to resolving a matter of doubt at the outset, even R. Judah will concur [that *the* vow is deemed to be binding].”

[D] What is an issue raised at the outset of the matter, and what is an issue raised at the end of the matter?

[E] Said R. Samuel bar R. Isaac, “I do not know whether I took the vow of a Nazir or whether I did not take the vow of a Nazir’ - that is the sort of doubt affecting the outset of the matter. ‘Whether it was for forty or fifty days’ - that is the sort of doubt affecting the end of the matter. [In this latter case, we impose the less strict alternative. In the former, we impose the Nazirite vow and so resolve the doubt in a strict way.]”

[F] *R. Yosé b. R. Bun says, “R. Hiyya bar Ba and R. Samuel bar Isaac differed. All parties concur that if the issue is whether or not he took the vow of a Nazir, that is the sort of doubt affecting the outset of the matter. If the doubt is whether or not it was for forty or fifty days, that is the sort of doubt affecting the end of the matter. Concerning what did they differ? If it was for one spell or for two. R. Hiyya bar Ba treats it as an issue at the end of the matter, [and hence leniently, imposing*

only a single spell]. R. Samuel treats it as an issue at the outset of the matter, [and hence strictly, imposing two spells].”

[G] R. Mana: “The issue of whether it was for two spells or for one is a problem to R. Samuel bar Isaac, who has not determined whether this is dealt with as an issue at the outset of the matter or at the end.”

2:9

[A] **[He who said,] “Lo, I am a Nazir, and [again] a Nazir if a son is born to me,”**

[B] **[if] he began counting out the Nazir days covering his own vow, and afterward a son was born to him,**

[C] **he completes the days of his own vow and afterward counts out the days of the vow pertaining to his son.**

[D] **[If he said,] “Lo, I am a Nazir when a son will be born to me, and [again] a Nazir,”**

[E] **[if] he began to count out the days covering his own vow, and afterward a son was born to him,**

[F] **he puts aside [the observance of the days of] his own [vow] and counts out the days covering the vow he made for his son.**

[G] **And afterward he completes the days required for his own vow.**

[I:1 A] *R. Yosé raised the question, “If one said, ‘Lo, I am a Nazir for these thirty days, and for these thirty days’ - [what is the law]? [Is he liable for a single spell of thirty days, to which he has twice made reference, cutting hair once, but bringing two sets of Nazirite offerings? Or do we maintain that, just as if he had said, ‘A spell as a Nazir, a spell as a Nazir,’ he is liable for two such spells?]”*

[B] *R. Zeira said before R. Mana, “And is not this law covered in the following passage of the Mishnah: **He puts aside the observance of the days of his own vow and counts out the days covering the vow he made for his son [M. 2:9F]**? [The question raised by Yosé is answered simply: he is liable for a double spell.] For are we not dealing with a case *in* which his wife is sitting on the travailing stool [and about to give birth]? [He takes the oath. She surely will give birth on this day, and yet we do not maintain that both spells as a Nazir begin at the same moment. There is one to which he is liable, and yet a second, on account of the birth, to which he made reference. This then answers Yosé’s question.]”*

[C] He said to him, “The vow as a Nazir that he has taken for himself is not similar to the vow as a Nazir he has taken for his son. [The case of the Mishnah really is not parallel. There are two separate vows, which the man has taken on distinct occasions.] Rather, if he said, ‘Lo, I am a Nazir now, and a Nazir after twenty days,’ [in this case, he keeps one vow, then the other, each one for thirty days]. [Here too once he takes the vow for himself, it applies, and then the vow for the son will apply later on.]”

I:2 A] [With reference to M. 2:9A: “**Lo, I am a Nazir, and again a Nazir if a son is born to me,**’ both *R. Eleazar* and *R. Yosé bar Haninah maintain*, “He completes his own vow as a Nazir. The vow in behalf of his son does not apply to him until he brings the hair offering. [Then he begins the vow for his son.] It is similar to the case of] a Nazir who becomes unclean, [and who brings an offering on the seventh day, which does not go to his credit as part of the counting of his vow afresh. Here too the day on which he brings the hair offering does not go to the credit of the vow he must now take and keep for his son.]”

[B] *The views assigned to R. Yosé b. Haninah are at variance with one another. There he has said*, “One affected by corpse uncleanness who took the vow of a Nazir - the seventh day [of his purification rite] counts toward the number of days he is to keep his vow. But a [clean] Nazir who becomes unclean - the seventh day [of the purification rite] does not go to his credit toward the number of thirty days he must observe.” *And yet here* is it not equivalent to the case of a person unclean with corpse uncleanness who took the vow of a Nazir? And is it not so that a person affected by corpse uncleanness who took the vow of a Nazir - the seventh day of his purification rite goes to his credit? [But] the reason is that he is not obligated to bring an offering on account of his uncleanness. Now as to a Nazir who was made unclean - the seventh day of his purification rite does not go to his credit toward the number of days he is required to keep the vow, because he is obligated to bring [52b] an offering by reason of his uncleanness. And in the present case, since he is liable to bring an offering, the seventh day of his purification rite does not go to his credit toward the number of days he is to keep the Nazir vow.

[II:1 A] Simeon bar Abba in the name of R. Yohanan: “If he became unclean during the Nazirite vow he took in behalf of his son [while he is still within the days of his own vow, as at M. 2:9F], and they warned him by reason of his own Nazirite vow, he is flogged. [He is still subject to his own vow, as well as to that he took in behalf of his son.] If he set

aside beasts for his offerings [while he is still observing the period covered by the vow for his son, in line with M. 2:9F], the beasts are deemed to have been consecrated.”

[B] *Do we not then take account of that which R. Hiyya has taught: [If he said,] “These are the offerings on account of which I shall separate myself as a Nazir,]” he has said nothing, since it says, “His offering for the Lord on account of his Nazirite vow” (Num. 6:2), and not his Nazirite vow on account of his offering [T. Git. 2:6E]?*

[C] The meaning is that his vow as a Nazir should come before the designation of his offering, and the designation of his offering should not come before his vow as a Nazir. [But there he already is a Nazir.]

[II:2 A] *[As to M. 2:9F,] R. Judah raised the question before R. Yosé, “And [why not] let the completion of his Nazirite vow come before his observance of the Nazirite vow he has taken for his son. Did not R. Abbahu state in the name of R. Yohanan, ‘If one said, ‘Lo, this will be a burnt offering after thirty days’ - if he sells the beast during the thirty days, it is regarded as sold. If he consecrates it, it is regarded as consecrated’? [Here too let the Nazirite vow that covers him take precedence and be completed before the Nazirite vow he has taken for his son takes effect.] “*

[B] He replied, “[But does that statement of Abbahu] not apply to him who says, ‘Lo, this is a burnt offering,’ [in which case the law is that a further act of consecration takes the place of the former act]? Now he who says, ‘Lo, incumbent on me,’ and he who says, ‘Lo, I shall be [a Nazir]’ - are these equivalent to the one who says, “Lo, incumbent on me,” [and accordingly, the obligation to keep the vow for his son is present and is to be observed, since it supersedes the other].”

[II:3 A] *R. Hiyya taught: “Lo, I am a Nazir after twenty days, [and] a Nazir from now for a hundred days,” he counts twenty and afterward he counts thirty and stops, and he counts eighty to complete his first Nazirite-vow. [The man owes two vows. He first has to be a Nazir for a hundred days. Second, he has to be a Nazir after twenty days have passed. And, of course, we have to provide for thirty days’ growth of hair. How do we arrange matters? He observes twenty days of the hundred-day vow. He then counts out thirty days for the vow he owed at that point. He has now kept fifty. He stops, cuts his hair and brings the offering covering that thirty-day vow. Then he keeps another eighty days, and the twenty plus the eighty fulfill the first of the two vows, the one for the hundred days] [T. Git. 2:10A-C].*

2:10

[A] [If he said,] “Lo, I am a Nazir when a son will be born to me and a Nazir for a hundred days,”

[B] [if] a son was born to him before seventy days [had passed], he has lost nothing.

[C] [If the son was born] after seventy days, he loses the seventy days he has observed,

[D] for there is no cutting of hair in less than thirty days [from the beginning of the observance of the vow].

[I:1 A] *It is obvious that* [if the son was born] at the end of the [seventieth] day, the whole of that day goes to his credit [to ensure the completion of seventy days of observance of his vow] as if he had observed the whole of it. [If the son was born] at the beginning of that day, however, what is the law as to its going to his credit as if he had observed the whole of it?

[B] *Now does not the Mishnah itself answer this question: **If the son was born after seventy days, he loses the seventy days he had observed [M. 2:10C]**?* [The seventieth day does not apply to either count, neither his nor the son’s. Even if the son was born only at the beginning of the seventy-first day the Mishnah indicates, the man loses all that seventy-day period he has observed. But if the seventieth day were to be assigned to one period or the other, then there would be thirty days left for growing hair for the new vow within the span of the old. Accordingly, the conclusion we must reach is that] even part [of the seventieth day] does not [count for either calculation]. *That is to say*, [if the son is born] at the start of the day, it goes to his [the son’s vow’s] credit as would the entire day. [That is the counterpart to A.]

[I:2 A] [Explaining M. 2:10C by giving further instances of the same principle, we proceed:] If the son was born on the eightieth day, the father loses ten.

[B] If the son was born on the ninetieth day, the father loses twenty. [That is, he must observe thirty days, and he has only ten to his credit on the prior vow.]

[C] [If] he has completed the Nazirite vow he made himself [but has not yet brought his offerings], and [the son is born to his wife, so] he comes to complete the thirty days owing for the Nazirite vow of the son, and he is made unclean -

- [D] if this is during the first ten days [of observing the Nazirite vow for the son], he loses all that he has observed [inclusive of the vow he took in his own behalf, which he has already completed].
- [E] [If he is made unclean] during the final twenty days [of the Nazirite vow he observes for his son],
- [F] *both R. Ba, in the name of Rab, and R. Yohanan say*, “He loses thirty days [of his own Nazirite vow, as will be explained].”
- [G] R. Samuel said, “He loses only seven [days for the purification process leading to his cutting his hair in consequence of having been made unclean].”
- [H] *Samuel bar Ba raised the question before R. Yosa*, “[In line with M. 6:5H-I, **Contracting corpse uncleanness causes the loss of all the days previously observed ... but hair cutting (other than at the right time, at the end,) causes the loss of only thirty days**], *does R. Yohanan [D-E] maintain that* [one may make a distinction between becoming unclean during the first ten and the last twenty days? Then the principle is not that we deal with a single protracted spell as a Nazir. Nor is the operative consideration the loss caused by contracting uncleanness. There must be another factor explaining the distinction between D and E above. Does he then hold that] losing days because of cutting the hair is equivalent to losing days by reason of a concrete [contamination by a corpse]? [For why at the outset does the father lose all that he has observed, D, while at E he loses the seven days?]”
- [I] Said R. Zeira, “If, then, R. Yohanan maintains that losing days because of cutting the hair is equivalent to losing them because of a concrete [contamination by a corpse], then why should he lose only thirty days [at E]? Let him lose the entire period he has observed [just as at D].”
- [I:3 A] *Said R. Abin bar Hiyya before R. Zeira*, “[As to the man’s becoming unclean during his observing the vow taken for his son,] interpret [his loss of days observed already] to apply to a case in which the son was born on a day on which it was not appropriate to bring an offering. [E.g., the father has come to the end of the period of his Nazirite vow but has not completed the entire spell. Here he loses the whole period observed, should he be made unclean, because we treat the son’s spell and his own as a single protracted period.]”

[B] But take note for yourself: what if the son was born at night? Lo, it is not an appropriate time for bringing an offering. [Do we treat the setting as one of a single protracted vow in this case too?]

[C] The father is suitable to bring an offering [the next day], but it is the night that has caused the postponement.

[D] But what if the son Was born on the Sabbath? Lo, it is not an appropriate time for bringing an offering [as above].

[E] He is suitable to bring an offering [the next day], but it is the Sabbath that has caused the postponement.

[F] If he completed his own spell as a Nazir [and brought his offerings,] but did not suffice to bring the hair offering before the son was born on the Sabbath, lo, it is not an appropriate time for bringing an offering [as above].

[G] He is suitable to bring an offering [the next day], but it is the Sabbath that has caused the postponement. [These two lines should probably be excised, since what follows takes up what is not repetition in them.]

[I:4 A] If he completed his Nazirite vow and did not suffice to bring his hair offering before his son was born, he brings one hair offering for the two of them [at the end of the process].

[B] If he set aside his offerings but did not have time to bring his hair offering before his son was born -

[C] *there they say*, he brings a single hair offering on both counts.

[D] R. Yohanan said, “He brings a hair offering and then goes and brings yet another hair offering.”

[E] *The following Tannaitic passage stands at variance with the view of R. Yohanan:*

[F] [In the Tosefta’s version:] **They asked R. Simeon b. Yohai, “Lo, if one was a Nazir and a mesora -**

[G] **“what is the law as to [the Nazir’s] cutting his hair one time and receiving credit on that account both for his Nazirite vow and for his sara’ at purification rites, [both of which require it]?”**

- [H] He said to them, “He does not cut his hair [one time for both purposes of purification].”
- [I] They said to him, “Why not?”
- [J] He said to them, “Now if this one were cutting his hair merely to remove the hair, and if that one were cutting his hair merely to remove the hair, you would have ruled quite well. But the Nazir cuts his hair to remove the hair, and the mesora cuts his hair in order thereafter to grow [more] hair.”
- [K] They said to him, “But we too stated the rule only so that it should not count for him for the days of the certification of his uncleanness. But let it count for him toward the days of his counting.”
- [L] He said to them, “If this one cut his hair after entering water and that one cut his hair after entering water, you should have ruled quite well. But a Nazir cuts his hair after entering water, while a mesora cuts his hair before entering water.”
- [M] They said to him, “But we too stated the rule not so that the hair cutting should go to his credit in a state of cleanness, but let it go to his credit if he brings his offerings on account of uncleanness.”
- [N] He said to them, “If this one cuts his hair after the tossing of blood, and that one cuts his hair after the tossing of blood, you should have ruled quite well. But a Nazir cuts his hair after the tossing of blood [of sacrifices], while a mesora cuts his hair [before the tossing of blood].”
- [O] They said to him, “The correct view of the matter: Let it not go to his credit in the days of the completion of his certification for uncleanness, but let it go to his credit for the days of counting. Let it not go to his credit in a case of cleanness, but let it go to his credit in a case of uncleanness, thus: A Nazir who was afflicted by sara’at and a mesora who took a vow as a Nazir will then cut the hair at one time for both requirements” [T. Naz. 5:2].

[P] Lo, the foregoing applies when he was both a Nazir and a mesora. But if he was a Nazir and a Nazir, [that is, subject to two spells], he provides a single hair-offering for both of them.

[Q] *How does R. Yohanan interpret the matter?*

[R] He maintains that they differ from R. Simeon b. Yohai's view of the matter.

YERUSHALMI NAZIR

CHAPTER THREE

3:1

- [A] He who said, “Lo, I am a Nazir,” cuts his hair on the thirty-first day.
[B] But if he cut it on the thirtieth day, he has fulfilled his obligation.
[C] [If he said,] “Lo, I am a Nazir for thirty days,”
[D] if he cut his hair on the thirtieth day, he has not fulfilled his obligation.

- [I:1 A] *One part [M. 3:1A] supports the view of Bar Qappara [Y. 1:3], who maintains that the Nazirite vow is to be for thirty complete days]:*
- [B] **If he cut his hair on the thirtieth day, he has not fulfilled his obligation [M. 3:1D].**
- [C] *And the other part supports the view of R. Jonathan [in the same passage].*
- [D] **If he cut it on the thirtieth day, he has fulfilled his obligation [M. 3:1D].**
- [E] *Now do we have two distinct and contradictory viewpoints here?*
- [F] *That is not so. There is only a single viewpoint. [Bar Qappara will concur that, after the fact, if he cut his hair on the thirtieth day, he has carried out his obligation.]*
- [G] [This distinction is illustrated by the following:] **This testimony [did R. Pappayas present concerning one who took a vow to observe two spells as a Nazir, that if he cut his hair for the first spell on the thirtieth day, he cuts for the second on the sixtieth; but if he cut his hair for the second on the sixtieth day less one, he has fulfilled his obligation, for the thirtieth day counts for him among the number of days of the second Nazirite vow (M. 3:2G)]. [Pappayas maintains as follows:] They know that it is forbidden to cut the hair,**

but they thought that, if he cut it on *the* thirtieth day, he has not carried out his obligation. If, on the other hand, he came to give testimony [after the fact], if he cut his hair on the thirtieth day, he has carried out his obligation. [That is to say, the distinction important here is operative in the proper interpretation of the cited passage.]

[I:2 A] *R. Immi had a case [in which he ruled that] someone may cut his hair on the thirtieth day, and he had a case [in which he ruled that] someone may cut his hair on the thirty-first day.*

[B] *Said R. Zeriqa, “It is from the following passage of the Mishnah that R. Immi derived his [confused] view of the law, for we have learned there: **He who took a Nazirite vow for two spells cuts his hair for the first on the thirty-first day, and for the second on the sixty-first day [M.3:2A],** [and, Immi maintained, if he wanted to cut it on the thirtieth day, he may do so].”*

[C] *Said R. Yosé, “[That proves nothing.] There we deal with a case in which the ruling is post facto. But here do we deal with a ruling that is de novo?”*

[D] *R. Jeremiah instructed R. Isaac Atoshayya, and some say he instructed R. Hiyya bar R. Isaac Atoshayya, to have the hair cut on the thirtieth day, on the basis of the following passage of the Mishnah: **[He who buries his dead three days before the festival – the requirement of the seven days of mourning is nullified for him. He who buries his dead] eight days [before the festival] – the requirement of the thirty days of mourning is nullified for him, [for they have said, “The Sabbath counts in the days of mourning, but one does not interrupt the period of mourning, while the festivals interrupt the period of mourning and do not count in the days of mourning”] [M. M.Q. 3:5].** The eighth day is [equivalent to] the thirtieth day. [That is, part of the day is deemed equivalent to the whole of it, and likewise here.]*

[E] *Said R. Yosé, “[No, it is not for that reason at all.] The case there is different; it is on account of the honor owing to the festival that they permit it. [So M. M.Q. 3:5 supplies no relevant evidence on the disposition of part of the final day.] You should know that that is so, for R. Helbo bar Huna said in the name of R. Yohanan, ‘If the eighth day [of the mourning] should come out on the Sabbath, he may get a haircut on the eve of the Sabbath.’ Now if you say that it is not because of the honor owing to the festival, would they have permitted doing*

so in that wise? If that is the case, then even if his [the Nazir's] thirtieth day should coincide with the Sabbath, he should be able to cut his hair on the eve of the Sabbath. *And further evidence [that part of the day is not equivalent to the whole of it] derives from the following, which R. Yohanan has stated: 'On account of all of one's deceased, he makes a tear after seven days, and he mends it after thirty days.' And let him make a tear on the seventh day and mend on the thirtieth day.'*

[F] *Said R. Haggai, "That is his tradition on the matter [of disposing of part of a day], while we have our [different] tradition [on the same matter]."*

3:2

[A] He who took a Nazirite vow for two spells cuts his hair for the first on the thirty-first day and for the second on the sixty-first day.

[B] And if he cut his hair for the first on the thirtieth day, he cuts his hair for the second on the sixtieth day.

[C] But if he cut his hair on the sixtieth day less one, he [nonetheless] has fulfilled his obligation.

[D] This testimony did R. Pappas present concerning one who took a vow to observe two spells as a Nazir.

[E] If he cut his hair for the first spell on the thirtieth day, he cuts his hair for the second on the sixtieth [B].

[F] But if he cut his hair for the second on the sixtieth day less one, he has fulfilled his obligation [C].

[G] For the thirtieth day counts for him among the number [of days of the second Nazirite vow].

[I:1 A] [If] he completed his first spell as a Nazir, [then designated the offerings required on that account,] and came to lay hands on the offerings designated for the second spell, [and he came to ask a sage whether or not his vows indeed were binding, there being some pretext on the basis of which to nullify them,] and [the sages who were consulted] did not find for him a pretext for releasing the former vow before they found a pretext for releasing the second vow, [so he has the animal set aside for the second vow available, and he wants to offer that for the offering owing by reason of the first vow and indeed does so] – the offering set aside in fulfillment of the second vow does indeed serve in fulfillment of the animal required in completion of the first vow.

- [B] *How shall we interpret this case? [That is, how is it possible to release the vows separately and distinctly?] If we deal with a case in which he said, “Lo, I am a Nazir for two spells,” [and then one of them was released] – a vow part of which is nullified is wholly null. If we deal with a case in which he said, “Lo, I am a Nazir for these thirty days, for these thirty days,” in such a case, it cannot be that the animals set aside for carrying out the offering for the second vow serve to fulfill the requirements for the first spell. [The two vows are totally distinct from one another.]*
- [C] *But this is how we must interpret the case. We deal with a case in which he says, “Lo, I am a Nazir and a Nazir.”*
- [D] [Or it may be a case in which] he says, “These are for Nazirite vows” [without further specification]. [Hence the two vows under discussion have not been differentiated from one another.]
- [E] But if he had said, “These are for my Nazirite vow, and these are for another Nazirite vow,” in such a case it is not that the animals set aside in fulfillment of the second vow may be used in carrying out what is owing for the first Nazirite vow.
- [F] Said R. Eleazar, “If he completed the Nazirite spell for the first vow, [and he consulted a sage and was released from the vow,] if then he brought an offering [part of all the required one] and cut his hair [and provided the hair offering], the rites conducted for the first [of the two vows, the one that was released], serve to fulfill the requirements for the second vow.”
- [G] *R. Jacob bar Aha gave instructions to the associates: “If you hear this teaching of R. Eleazar, you should know that R. Yohanan differs from him [when Eleazar says that if he had brought the offering, implying only part of the requisite offerings], for [Yohanan maintains that rule applies only] if he brought all [of the requisite] offerings. Now this view accords with] rabbis [at M. 6:11]. But in the view of R. Simeon, if he had brought only one offering, [the rule still applies]. [That is to say, Eleazar’s statement is phrased in accord with Simeon’s view. Yohanan differs in this regard and accords with rabbis’ opinion.]”*
- [H] [In what follows we deal with one who designated the offerings for two Nazirite vows at the same time. If then] **he counted out the days required [for both of them], and brought the offerings for both of them at one time,**
- [I] **he gets credit only for one of them.**

[J] **[If] he set aside the offerings for one of them by itself and the offering for the other by itself and went and offered this one in place of that one, he has not fulfilled his obligation. [The vows are distinct from one another and each has to be carried through to its final sacrifice. The man therefore may not bring the offerings for both together. Nor may he use offerings set aside in fulfillment for one vow for the conclusion of the other.] [T. Naz. 2:15E]**

[K] [Now what is prohibited is bringing the animals one for the other. But] as to sanctifying [and designating the offerings to be used in fulfillment of the second vow while the first vow has not been carried out,] [that is a valid action and the animal indeed is] sanctified.

[L] [*But that procedure should be prohibited. That is, it is prohibited to designate his offering prior to the applicability of the vow itself,*] **for did not R. Hiyya teach: “His offering for the Lord on account of his Nazirite vow” (Num. 6:2) – and not his Nazirite vow on account of his offering [T. Naz. 2:6E], meaning that his Nazirite vow should come before designation of his offering in fulfillment of that vow, and designation of the offering in fulfillment of the vow should not come before his taking of the vow.**

[M] The present case is different, because he already is subject to his Nazirite vow, [while Hiyya’s statement applies to a case in which he is not yet subject to the Nazirite vow at all].

[N] *Now that poses no problems* when the animal set aside in fulfillment of the second vow, which is nullified, is made to serve in completion of his offerings for the first vow, [for the first vow is in effect when the animal is set aside for the second one]. But how can you make sense of the case in which the animal set aside for the first vow, which is nullified, is used in completion of the offerings required for the second vow? [That is to say, the case stated by Eleazar above in 1, is now subjected to questioning.]

[O] *Said R. Judah, “But this supports R. Eleazar’s view. Did not R. Jacob bar Aha instruct the associates, ‘If you hear this teaching of R. Eleazar, you should know that R. Yohanan differs from him, for he maintains that the rule applies only if he brought all of the requisite offerings.’ Now this view accords with rabbis, but we maintain that Eleazar accords with the opinion of R. Simeon.”*

[P] [Maintaining that we need not enter the issues just now explored but have a simpler explanation,] R. Hinena in the name of R. Phineas: “Interpret the case to speak of one who is subject to his own Nazirite vow and is subject to a Nazirite vow by reason of the birth of his son as well.” [We treat these two vows as a single vow, as we have already seen.]

[Q] [But can that be so? Here do we treat] the animals set aside for fulfillment of the second vow [under the specified circumstances] in such wise that they may be used to carry out the man’s obligations under the first [of the two vows]? [Surely not, since the two vows are distinct so far as the offerings required at the end of each are concerned.]

[R] [*Reverting to P above,*] R. Yosé b. R. Bun said, “No, we may suppose that we deal with a case of one who says, ‘Lo, I am a Nazir [twice].’ It would have been reasonable that he should be liable for a single spell. But you have imposed on him a strict ruling, requiring that he be liable to two spells. [We should have treated the two spells as totally coincident.] Is it not enough that you imposed upon him a strict ruling requiring that he be liable to two spells, [that if he should be relieved of one of the vows], you maintain that he has nothing [in respect to the offering already made]? Now [if he should be relieved of one of the vows,] do you maintain that he has nothing [in respect to the offerings already made]? [That is, should we not at least credit him with the offerings made for the first vow in fulfillment of the requirement in completion of the second vow? One should not impose so severe a ruling as to deprive him of that advantage.]”

3:3

[A] He who said, “Lo, I am a Nazir,”

[B] [if] he was made unclean on the thirtieth day,

[C] he loses the whole [thirty days he already has observed].

[D] R. Eliezer says, “He loses only seven days.”

[E] [If he said,] “Lo, I am a Nazir for thirty [whole] days,” [and] was made unclean on the thirtieth day, he loses the whole [thirty days he already has observed].

[I:1 A] A. R. Abbahu in the name of R. Yohanan: “It is from the case of the mesora that R. Eliezer has derived the rule [given at M. 3:3D]. For so

we find [in the case of the mesora] that there will be seven days between one shaving and the next [between the first shaving, after the days of completion of his uncleanness, and the second shaving, after the days of his counting out, are seven days]. [Here too there will be seven days.]”

[B] *Now why did not [Yohanan] derive the ruling from the case of the unclean Nazir, [for he is unclean for seven days and then cuts his hair by reason of his having been unclean]? [So too he should lose seven days thereafter.]*

[C] The *mesora* cuts his hair and goes and cuts his hair again, while an unclean Nazir does not cut his hair and then go and cut his hair again, [so the latter does not supply a relevant analogy].

[D] *Rabbis of Caesarea say, “The dispute was stated explicitly. R. Yohanan said, ‘It was from the mesora that R. Eliezer derived his proof.’ R. Eleazar says, ‘It is from the unclean Nazir that R. Eliezer derived his proof.’”*

[II:1 A] [As to M. 3:3E, **“Lo, I am a Nazir for thirty whole days,” and was made unclean on the thirtieth day, he loses the whole thirty days he already has observed**, in which Eliezer concurs in the case of one who vows a thirty-day period, that if he was made unclean on the thirtieth day he loses the whole period, while if, M. 3:3A, he does not make the matter explicit as to thirty days, he is going to lose only. seven days,] lo, what difference does it make to R. Eliezer whether we have a Nazir who took the Nazirite vow without further explication, and the Nazir who took the vow and made it explicit that he will observe thirty days?

[B] In the case of one who took a Nazirite vow without explication, if he plucked a hair [on the thirtieth day], he does not lose the days he already has observed, [and if he is made unclean on the thirtieth day,] the seventh day [thereafter] counts [toward the thirty days].

[C] But if he had made it explicit [that he would serve thirty whole days,] if [on the thirtieth day] he plucked out a hair, he loses [because we require thirty complete days], and [if he is made unclean,] the seventh day thereafter does not count [toward the thirty days].

3:4

[A] **“Lo, I am a Nazir for a hundred days,**

[B] **[if] he was made unclean on the hundredth day,**

[C] **he loses the whole [hundred days already observed].**

[D] R. Eliezer says, “He loses only thirty days.”

[E] [If] he was made unclean on the hundred-and-first day, he loses thirty days.

[F] R. Eliezer says, “He loses only seven days.”

[I:1 A] *R. Zeira in the name of R. Simeon b. Laqish: “The Scriptural basis for the position of R. Eliezer is as follows: ‘And this is the law for the Nazirite, when the time of his separation has been completed’ (Num. 6:13). He who contracts uncleanness on the day of the completion of his separation – they assign to him the law governing a Nazir [that is, he must observe only a normal vow of thirty days, and not the entire hundred].”*

[B] *Samuel bar Ba asked the following question before R. Zeira: “If he was made unclean during those days [assigned to him after he has once more become clean], what is the law? [Does he now lose the entire thirty-day period he now has observed (M. 3:4A-C) or only seven days (M. 3:4D)?]”*

[C] Said R. Shimi, “Since you say that this period is added to his status as a Nazir, it is as if he has contracted uncleanness on the day of the completion of his vow, and he who contracts uncleanness on the day of the completion of his vow – the seventh day – does not count [thereafter to complete the assigned period of Nazirite cleanness]. [He has to bring his offering on the eighth day, like any other Nazir who has become unclean, and he then counts out his new term from the eighth day onward.]”

[D] *R. Mana asked, “If he should contract uncleanness during the period of the completion of his vow, why should he lose thirty days? He should lose only seven. [That is, let him be obligated to observe seven days in a state of cleanness, and the seventh day then should not count. That should suffice on the count of assigning him the status of a Nazir.] But in the case of the one who contracts uncleanness after the completion of his vow as a Nazir, the seventh day of purification should go to his credit.”*

3:5

[A] He who vowed to be a Nazirite while in a graveyard, even if he was there for thirty days – those days do not count for him toward the number [of days owing under the vow].

[B] Nor does he bring an offering for his uncleanness [for being in the graveyard].

[C] [If, however] he went out and then came back [into the graveyard], they do count for him toward the number [of required days].

[D] And he does bring an offering for his uncleanness.

[E] Eliezer says, “That is not the case if it is on the very same day, since it says, But the former days shall be void (Num . 6:12) – [the offering for uncleanness is brought] only when the former days apply to him.

[I:1 A] If one took an oath while among the graves,

[B] R. Yohanan said, “They admonish him concerning not drinking wine and not cutting his hair [so he is indeed a Nazir by reason of the oath]. [Since he does not bring an offering for his being unclean, he also is not flogged on that count and therefore is not given an admonition on that count.]”

[C] R. Simeon b. Laqish said, “Since they do not warn him as to uncleanness, they also do not admonish him as to not drinking wine and not cutting his hair.”

[D] *The opinions assigned to R. Yohanan conflict. There [at Y. Naz. 6:4] he has said, “They admonish him with regard to wine, uncleanness, and hair cutting,” but here he has said this [about no admonition as to uncleanness, for he is not flogged on that count, since he does not have to bring an offering by reason of contracting corpse uncleanness].*

[E] *Rabbis of Caesarea said, “The difference [between R. Simeon b. Laqish and R. Yohanan] covers the entire matter, [including uncleanness, which B has omitted. There is then no contradiction. Thus] R. Yohanan said, ‘They warn him regarding not drinking wine and cutting hair.’ R. Simeon b. Laqish said, ‘Since they do not warn him with regard to uncleanness, they do not warn him [or, therefore, flog him] with regard to wine or hair cutting either.’”*

[I:2 A] If he remains there [i.e., in the graveyard after taking the vow], R. Yohanan said, “They warn him in regard to all the prohibitions for each span of time [during which he can leave the graveyard, but does not do so, and, if he does not leave], he is flogged [on each count].”

[B] R. Eleazar says, “He does not receive a warning until he leaves the graveyard and returns, [so he is not liable, as Yohanan has maintained, prior to actually leaving].”

[C] [52d] Said R. Ba, “Thus did R. Yohanan reply to R. Eleazar: Lo, it is written, ‘[All the days that he separates himself to the Lord] he

shall not go [near a dead body]. Neither [for his father nor his mother, nor his brother or sister, if they die,] shall he make himself unclean' (Num. 6:6-7). [The two acts, the coming and the becoming unclean, are deemed distinct from one another. If one is subject to the one, he is subject to the other. Accordingly, Yohanan maintains, he is warned and then flogged.]”

- [D] He said to him, “The meaning is that if they warned him on the count of not coming in, he is flogged. If it was on the count of not becoming unclean, he is not flogged, [so the verse does not mean what Yohanan has maintained].”
- [E] Said R. Hila, “It is from the matter of prostrating oneself [in the Temple, once one is unclean,] that R. Yohanan derived the rule [that the man is warned and flogged for remaining in the graveyard] . *For we have learned there: [If while one was unclean in the Temple courtyard] he prostrated himself or he remained sufficiently long to prostrate himself, [he is flogged] [M Shebu. 2:3].* [Here too if the man remained in the graveyard, he is flogged on that account if he remained for a spell sufficiently long for him actually to have left, just as at A.]”
- [F] *Said R. Mattenaiah, “We considered ruling that they differ as to the matter of flogging. But in respect to the offering, there is no disagreement. [Yohanan concurs that none is required.] But that which R. Hila has said, that R. Yohanan has derived his position from the matter of prostrating oneself [or remaining for a sufficient period to do so,] implies that the matter of flogging and the matter of offerings are one and the same [just as at M. Shebu. 2:3].”*
- [G] *The following passage of the Mishnah stands at variance with the view of R. Yohanan: **A Nazir who was drinking wine all day long is liable on only one count [M. 6:4A].** [Why should he not be flogged for each span of time sufficient for him to have ceased drinking, parallel to the present case?]*
- [H] [R. Yohanan] interprets that rule to apply to a case in which the gullet is never empty, [for the drinking of wine was continuous].
- [I] *The following passage likewise appears to differ from the view of R. Yohanan: **If he was contracting corpse uncleanness all day long, he is liable on only one count.***

[J] Interpret the passage to apply to a case in which the man does not remain in the graveyard for a sufficient time to have left, [but leaves just after he is warned, so that only one] flogging [is called for].

[K] *The following Tannaite passage stands at variance with the view of R. Yohanan: A priest who was standing in a graveyard, and people outside stretched out to him another corpse [for his disposition in the graveyard] – is it possible that he should take it? Scripture says, “He shall not defile himself as a husband among his people [and so profane himself]” (Lev. 21:4). If he took it, is it possible that he should be liable [on that count]? Scripture says, “And so profane himself.”*

[L] [The law applies] to one who adds an aspect of profanation to his status [not already being profaned], excluding this one, who hardly can add any further profanation to the profanation that he already has suffered [by being in the graveyard to begin with]. [Yohanan would regard him as liable on each count.]

[M] Said R. Zeira, “R. Yohanan said, ‘To profane himself’ – thus excluding this one, who does not add any profanation to the profanation that he has already suffered. [Yohanan concurs here.]

[N] “It is so that he should not say, ‘Since I already have become unclean because of [gathering the bones of] father, I shall gather the bones of Mr. So-and-so as well. It is in my power to profane myself for him while he is dying.’”

[O] Rabbi says, “Also [the dispute applies to Num. 6:6,] ‘if they die.’”

[P] R. Simeon b. Laqish said, “The dispute between them is [whether one who should not become unclean violates the law if he takes care of a dying man]. [One party holds that the violation takes place only when the man actually dies. There is no reason to refrain from caring for the dying man.]”

[Q] *Now the case of R. Simeon bar Vava accords with the view of R. Simeon bar Laqish: Simeon bar Vava, when he was dying, said, “Take this out of here, take that out of here, [so they do not become unclean when I die].”*

- [I:3 A] [If someone took the oath of a Nazir while in a graveyard] went out and came back in,
- [B] R. Tarfon declares him exempt [since he was already unclean with a corpse uncleanness lasting for seven days, so there is no reason that he should not contract uncleanness further, since it cannot make any difference].
- [C] R. Aqiba declares him liable.
- [D] R. Tarfon said to him, “Now what sort of profanation [through corpse contamination] has this one added beyond the profanation he has already suffered?”
- [E] Said R. Aqiba, “When he was there, he became unclean with an uncleanness that lasts for seven days [and this he could transmit to others]. When he went out, he was unclean with an uncleanness that passes in the evening, [so far as transmitting uncleanness to others]. When he then went back in, he again became unclean with an uncleanness that lasts seven days.”
- [F] R. Tarfon said to him, “Aqiba, whoever parts from you parts from his life.”
- [II:1 A] [With reference to M. 3:5E: **If he went out and then came back into the graveyard, they do count for him toward the number of required days,**] Rab said, “If he went out, he counts [the days] toward his Nazirite vow in a state of cleanness [even though he has not completed the rite of purification from corpse uncleanness by being sprinkled on the third and seventh days]. If he went in on the seventh day of his [purification], on that day he brings an offering on account of uncleanness. [That is, on the day on which he becomes unclean, he brings the offering in expiation of that uncleanness. The uncleanness vis-[^]-vis the Nazirite vow is treated as distinct from the processes of corpse uncleanness and purification.]”
- [B] R. Eleazar says, “Not on that same day, [but only when he will have observed some days in cleanness, as at M. 3:5G].”
- [C] *Kahana raised the question before Rab*, “Now does he not require sprinkling with purification water on the third and seventh days?”
- [D] He said to him, “The Torah has called clean the one who separates from the grave: ‘After he is cleansed (read: defiled) he shall count for himself seven days’” (Ezek. 44:26).

[E] Samuel said, “If he went out, was sprinkled and again sprinkled, then immersed, then on that very day he went into the graveyard, on that very day he brings his offering by reason of his uncleanness.”

[III:1 A] **R. Eliezer says, “That is not the case if it is on the very same day, since it says, ‘But the former days shall be void’ (Num. 6:12) – the offering for uncleanness is brought only when the former days apply to him “ [M. 3:5G].**

[B] Ulla bar Ishmael said, “What concerned him was someone who took the oath as a Nazir while he was unclean. But in the case of one who took the oath as a Nazir while he was clean, even R. Eliezer concurs that the law applies even though he has not [already observed clean days] from which to lose [the days by reason of the uncleanness he has just suffered]. [That is, if it happens on the same day on which he takes the oath, Eliezer will concur with M. 3:5F.]”

[III:2 A] [*So far as Eliezer’s position is concerned,*] Samuel bar Abba raised the question, “[In the case of one who was observing a Nazirite vow for himself and, upon the occasion of the birth of a son, began to count out the days and counted one clean day for himself when the son was born, in which case he breaks off observing the vow in his own behalf and begins to observe the one for his son,] if he has observed one day for his own Nazirite vow, and, [since the son was then born], one for his son’s Nazirite vow, what is the law as to their joining together?”

[B] *How shall we interpret the case? If we deal with a case in which his son was born this day, and on the next day he went into the graveyard, lo, the observance of the Nazirite vow taken for his son has lasted for two days. [So why do we ask about joining together when there is already the requisite number?] And if his son was born the next day, and on that same morrow he went into the graveyard, lo, his own Nazirite vow already has been observed for two days. [So what sort of problem can there be in Eliezer’s view, since in both cases, there is a requisite number of days, in line with M. 3:5G?]*

[C] Said R. Mana, “Interpret the question to apply when the son is born at twilight [so we do not know for sure to which day to assign him]. [Then the matter of the days’ joining together makes a difference.]”

[D] Said R. Abin, “You may maintain that the son was born even at noon. *For do we not maintain that the beginning of the day goes to his credit, and the end of the day goes to the credit of the vow observed for the son?*”

- [E] *Said R. Yosé, “The case that was perplexing him involved a person who took the oath as a Nazir when he was clean. But in the case of a person who took the oath of a Nazir when he was unclean, it is self-evident that the days will join together.”*
- [F] *Said R. Mana before R. Yosé, “Is it not an argument a fortiori? Now if regarding days that do not go to the credit of fulfilling either his Nazirite vow or the Nazirite vow of his son, you maintain that the days join together, days that do go to the credit of his Nazirite vow and the Nazirite vow in behalf of his son – is it not logical that they should join together?”*
- [G] *Said R. Yosé, “There, [in the case of one who took the oath of the Nazir while he was unclean,] he is not suitable for receiving a warning [and flogging], but here he is suitable for receiving a warning and flogging, [so the cases are different and the argument a fortiori does not stand].”*
- [III:3 A] *R. Bun bar Hiyya raised the question, “Just as you say with reference to R. Eliezer at the outset that the law applies when he has ‘former days’ to lose, [do we say that] at the end even though he does not have former days to lose [it also applies]? [That is, if the Nazir was made unclean on the last day of his Naziriteship, on which he has no further days awaiting his completion of the vow, even so, he loses all of the days he already has observed. Or do we maintain that even at the end of his period, if he has no further days to lose, Eliezer’s view of M. 3:5G applies once more?]”*
- [B] *Said R. Zeira before R. Mana, “And is this not the teaching of the Mishnah itself: **If he was made unclean on the hundred-and-first day, he loses thirty days. R. Eliezer says, ‘He loses only seven days’ [M. 3:4E-F].** [So the answer is he does lose days.]”*
- [C] *He said to him, “We have heard that he loses days. But have we heard that he brings an offering by reason of his uncleanness? [That is, if after he has completed his vow he is made unclean, is an offering for that uncleanness demanded?]” [This question is not answered.]*

3:6

- [A] **He who [while overseas] took a vow to be a Nazir for a long spell and completed his spell as a Nazir, and afterward came to the Land [of Israel] –**
- [B] **the House of Shammai say, “He is a Nazir for thirty days.”**

[E] And the House of Hillel say, “He is a Nazir as from the very beginning.”

[D] M'SH B: Helene the queen – her son went off to war, and she said, “If my son comes home from war whole and in one piece, I shall be a Nazir for seven years.” Indeed her son did come home from war, and she was a Nazir for seven years. Then at the end of the seven years, she went up to the Land. The House of Hillel instructed her that she should be a Nazir for another seven years. Then at the end of seven years she was made unclean. So she turned out to be a Nazir for twenty-one years.

[E] Said R. Judah, “She was a Nazir only fourteen years.”

[I:1 A] *A. R. Yosé b. R. Bun said, “There was a dispute between R. Hiyya bar Joseph and R. Yohanan. One said, ‘R. Judah accords with the view of the House of Shammai.’ And the other said, ‘R. Judah maintained that she had not been made unclean at all.’”*

[B] *If you say that R. Judah is in accord with the view of the House of Shammai, [and therefore the Mishnah speaks of her having been unclean, then there is a problem]. It should teach that she was unclean for thirty days and fourteen years.*

[C] It is not necessary to make explicit reference to months when years are under discussion.

3:7

[A] He concerning whom two groups of witnesses gave testimony –

[B] these testify that he took a vow to be a Nazir for two spells,

[C] and these testify that he took a vow to be a Nazir for five spells_

[D] the House of Shammai say, “The testimony is at variance, and no Naziriteship applies here at all. “

[E] And the House of Hillel say, “In the sum of five are two spells. So let him serve out two spells of Naziriteship.”

[I:1 A] Rab said, “As to the basic principle [that he is a Nazirite] [the houses] are in disagreement, [that is, as to whether he has taken the Nazirite vow at all]. But as to the details, all parties agree that the sum of five includes two, [as at M. San. 5:2F,] so he is a Nazir for two spells.”

[B] R. Yohanan said, “As to spelling out the number of vows, there is a difference of opinion, but as to the general principle that a Nazirite vow has been taken, all parties concur that the testimony is at variance. There is no valid Nazirite vow at all.”

- [C] *Which party states the general number, and which party counts out the number of specific vows [the man is supposed to have taken]? [Examples of each are as follows:]*
- [D] *One party has said, “two,” and one party has said “five.”*
- [E] *The one who counts out the number of vows one by one is the one who says, “One, two,” and the other says, “Three, four, five.”*
- [F] Rab said, “If testimony is contradicted by testimony [on the spot], the testimony is not null.”
- [G] And R. Yohanan said, “If testimony has been contradicted by testimony [on the spot], the testimony has been nullified.”
- [H] All parties concede, however, [that] if testimony has been contradicted by later testimony, the testimony [of the first set of witnesses] is not nullified.
- [I] *The full extent of the position taken by R. Yohanan is seen in the following case:*
- [J] For R. Ba bar Hiyya in the name of R. Yohanan: “The assumption [that a loan has taken place is] confirmed [by testimony] that one has counted out [coins]. If this witness says, ‘From the pocket did he count out the money,’ and that one says, ‘From the pouch did he count out the money,’ we have a case in which a testimony is contradicted by testimony [on the spot, within the same pair of witnesses, who thus do not agree]. [This is null.]”
- [K] Here even Rab concedes that the testimony is null. *Concerning what do they differ?* Concerning a case in which there were two groups of witnesses. One states, “From the pocket did he count out the money,” and the other says, “From the pouch did he count out the money.” Here we have a case in which testimony is contradicted [on the spot]. The effect of the testimony [in Yohanan’s view] is null. But in the view of Rab, the effect of the testimony is not null.
- [L] [Y. Naz. lacks:] If one witness says, “Into his vest did he count out the money,” and the other says, “Into his wallet,”
- [M] in the opinion of all parties, [even though] the testimony is contradicted later on, the testimony is not nullified. [This testimony is not about the essence of the case.]

[N] If one party says, “With a sword did he kill him,” and the other party says, “With a staff did he kill him,” we have a case in which testimony has been contradicted by testimony [on the spot – just as in a property case, so in a capital one].

[O] Even Rab concedes that the effect of the entire testimony is null.

[P] In what regard did they differ?

[Q] In a case in which there were two sets of two witnesses:

[R] One group says, “With a sword he killed him,” and the other says, “With a staff he killed him.”

[S] Here we have a case in which the testimony has been contradicted [on the spot], and the effect of the testimony is null.

[T] But in the view of Rab, the effect of the testimony is not null.

[U] One group of witnesses says, “[The murderer] turned toward the north,” and the other group of witnesses says, “He turned toward the south.” All parties concur that if the testimony [of one group] has been contradicted after the testimony [has been given], the testimony has not been nullified.

[V] *The full force of Rab’s opinion is indicated in the following, which we have learned there: [If one woman says, “He died, ‘ and one says, “He was killed,” R. Meir says, “Since they contradict one another [in details of their testimony], lo, these women may not remarry.”] R. Judah and R. Simeon say, “Since this one and that one are in agreement that he is not alive, they may remarry” [M. Yeb. is:SB- D].*

[W] *Now did he not hear that which R. Eleazar said, “R. Judah and R. Simeon concur in the matter of witnesses, [that where they contradict one another on the spot, their testimony is null]”?*

[X] If so, what is the difference between such contradiction when it comes from witnesses and the same when it comes from co wives?

[Y] They did not treat the statement of a co-wife concerning her fellow wife as of any consequence whatsoever.

[Z] *The Mishnah pericope is at variance with the position of Rab: All the same are interrogation and examination in the following regard: When the witnesses contradict one another, their testimony is null [M. San. 5:2F]. [Rab does not deem it invariably null, as we have seen.] [Now how does Rab interpret the passage that contradicts his position]?*

[AA] Said R. Mana, “Rab interprets the Mishnah rule to speak of a case in which one witness contradicts another [but not in which a set of witnesses contradicts another such set in some minor detail].”

[BB] *Said R. Abin, “Even if you interpret the passage to speak of contradictions between one set of witnesses and another, [still Rab will be able to deal with the matter.] For a capital case is subject to a different rule, since it is said, ‘Justice, and only justice, will you pursue’ (Deut. 16:20). [Thus capital trials are subject to a different set of rules of evidence from those applicable in the matter of certifying the death of a husband and the right of the wife to marry again.]”*

[I:2 A] **Said R. Ishmael b. R. Yohanan b. Beroqah, “The House of Shammai and the House of Hillel did not differ concerning a case in which there were two sets of witnesses, in which there were two sets of witnesses giving testimony concerning him, that he is a Nazir for the shortest period [specified in their joint testimony]. Concerning what sort of case did they differ? Concerning a case in which there were two individual witnesses giving testimony concerning him.**

[B] **“For: The House of Shammai say, ‘The testimony is divided, so that there is no obligation to be a Nazir at all.’**

[C] **“And the House of Hillel say, ‘In the sum of five are two spells. So let him serve out two spells of Naziriteship’” [M. 3: 7] [T. Naz. 3:1].**

YERUSHALMI NAZIR

CHAPTER FOUR

4:1

[A] He who said, “Lo, I am a Nazir,” and his friends heard and said, “Me too,” “Me too,” “Me too” –

[B] all of them are Nazirs.

[C] [If] the vow of the first was declared not binding, the vows of all of them are deemed not binding.

[D] [If the vow of the] last of them was declared not binding, the last of them is not bound, but all the rest of them remain bound.

[E] [If] he said, “Lo, I am a Nazir,” and his friend heard and said, “Let my mouth be like his mouth, and my hair like his hair,” lo, this one is a Nazir [= M. 1:1A].

[F] [If he said,] “Lo, I am a Nazir,” and his wife heard and said, “Me too” –

[G] he annuls her vow, but his stands.

[H] [If the wife said,] “Lo, I am a Nazir,” and her husband heard and said, “Me too,” he cannot annul [her vow].

[I:1 A] [53a] *Thus is the emphasis of the Mishnah passage:* “And me too,” “And me too.”

[B] *Who formulates the Tannaitic rule in terms of the inclusion of and’?*

[C] It is R. Judah. But R. Meir holds [that the Mishnah may be read], “Me too,” “Me too,” [without the additional *and*],.

[I:2 A] *The Mishnah [speaks of a case] in which each one spoke within the span of the first party’s statement [immediately, without a pause.]*

[B] [*But*] *it has been taught [in accordance with M. 4:1C-D]:* If the vow taken in the middle was released, from that one and beyond, the vows are released; from that one and before, the vows remain binding.

- [C] *This Tannaitic statement deals with a case* even in which all of them did not make their statements of the vow within the span of the first's party's making his statement, but within the span of taking the vow one after the other.
- [I:3 A] How much time elapses within the span of speech of each party?
- [B] R. Simon in the name of R. Joshua b. Levi: "It is sufficient time for one person to greet his fellow."
- [C] Abba bar R. Hana in the name of R. Yohanan: "It is sufficient time for a master and disciple to greet one another, so that the latter may say to the former, 'Peace be unto you, sir.'"
- [I:4 A] One party who said, "Lo, I am a Nazir for a hundred days," and his fellow heard and said, "And me too, for a hundred days," and the first party then went and said, "Me too" –
- [B] the one that had been principal is treated as secondary. [That is to say, the first party took his oath, the second followed suit, then the first party reverted and accepted the formulation of the second party. In this case, if the vow of the second party is nullified, that taken by the first party is automatically nullified as well, for obvious reasons.]
- [C] If one party said, "Lo, I am a Nazir," and another said, "Me too" during the span of time of the first party's statement, and another party heard and said, "Me too," during the span of time of the second party's statement –
- [D] if the first party is released from his vow, the second party is released. If the second party is released from his vow, the third party is not released.
- [E] If one party said, "Lo, I am a Nazir for two spells," and two people heard him and said, "We are Nazirs,"
- [F] [are the two of them Nazirs] for one spell each, or is each one of them liable for two spells? [This question is not answered.]
- [G] If he is released from his vow, they are released from theirs. If they are released from their vow, he is not released from his.
- [H] Two who said, "Lo, we are Nazirs," and one other person heard and said, "And I shall be in the place of the two of them" –
- [I] is he liable for two spells as a Nazir, or is he liable for a single spell as a Nazir, covering each one of them?

[J] If they are released from their vow, he is released. If he is released from his vow, they are not released from theirs.

- [I:5 A] If someone has said, “My mouth is prohibited from wine,” “My hair from being cut,” “My hands from touching corpse uncleanness,” “My feet from walking in corpse uncleanness,”
- [B] “My head is a Nazir,” “My liver is a Nazir,”
- [C] “My walking about is a Nazir,” “My speaking is a Nazir,” he has said nothing at all.
- [D] Why not? Because he treated the Nazir vow as dependent upon something which life does [not] depend [in the case of mouth, hands, feet].
- [E] “When a man vows a vow to the Lord” (Num 30:2) – just as the language of a vow to which reference is made later on speaks of a matter upon which life depends, so “vow,” concerning which reference is made here [with regard to the Nazir], speaks of something on which life depends.
- [II:1 A] [With reference to M. 4:1F-G,] if his vow was annulled, her vow is released. If her vow is released, his vow is not annulled. [His is prior and independent.]
- [B] **[As to M. 4: 1H, If the wife said, “Lo, I am a Nazir,” and her husband heard and said, “Me too,” he cannot annul her vow.].** What is the meaning of “Me too”? How is this treated?
- [C] Is it treated as if he had said, “Amen,” and “Let it be confirmed for you,” or is it equivalent to saying, “You have done well”?
- [D] *For R. Hiyya the elder and R. Hoshaiyah the elder have taught: “A woman who took an oath as a Nazir, and her husband heard and said to her, ‘Why did you take an oath as a Nazir?’ ‘What have you done that you have taken an oath as a Nazir,’ I did not want you to become a Nazir,’ ‘There is no vow here,’ ‘There is no oath here’ – the husband has said nothing whatsoever.*
- [E] “But if he had said, ‘You have done well in taking the vow as a Nazir,’ ‘That is just what I wanted, that you become a Nazir,’ ‘If you had not taken the oath as a Nazir, I should have imposed on you an oath as a Nazir’” –
- [F] *R. Hiyya taught, “In the case of all of these usages, the husband cannot abrogate the oath.”*

[G] *R. Hoshaiiah taught*, “In the case of all of these usages, the husband has the power to abrogate the oath – unless he responds using the language, ‘Amen,’ ‘It is confirmed for you.’ At that point he no longer has the power to abrogate the oath.”

4:2

[A] **“Lo, I am a Nazir, – and you?”**

[B] **and she said, “Amen” –**

[C] **If he annuls hers, his is null.**

[D] **[If she said] “Lo, I am a Nazir, and you?”**

[E] **and he said, “Amen” –**

[F] **he has not got the power to annul her vow.**

[I:1 A] [At M. 4:2A-C.] if her vow is released, his vow is released. If his vow is released, her vow is not released [since, in this case, he has made his vow depend upon her, so her vow is principal].

[B] [Explaining this fact,] R. Abbahu in the name of R. Yohanan: “It is because he has made his vow depend upon her.”

[C] [That applies] in a case in which he says, “On the stipulation that you do so, and you ...?”

[I:2 A] R. Abbahu in the name of R. Yohanan: “The husband who said ‘There is no vow here,’ ‘There is no oath here,’ has not said anything at all.

[B] “Likewise the elder who has said, ‘It is released for you,’ ‘It is nullified for you,’ has not said anything at all. But this one must follow the rule pertaining to him, and that one must follow the rule pertaining to him.

[C] “The husband says, ‘It is released for you,’ ‘It is null for you,’ and the elder says, ‘There is no vow here at all,’ ‘There is no oath here at all.’”

4:3

[A] **A woman who took a vow as a Nazir but nonetheless went around drinking wine and contracting corpse uncleanness –**

[B] **lo, this one receives forty stripes.**

[C] **[If] her husband annulled the vow for her, but she did not know that her husband had annulled it for her and nonetheless continued to go around drinking wine and contracting corpse uncleanness,**

[D] **she does not receive forty stripes.**

[E] **R. Judah says, “If she does not receive forty stripes, nonetheless, she should receive punishment for disobedience.”**

[I:1 A] The flogging of which the Torah has spoken involves forty stripes less one. [53b] They make an estimate of the victim’s capacity to receive the flogging. If he is able to do so, they flog him, and if not, they do not flog him.

[B] As to the flogging imposed for disobedience, by contrast, they beat him until he accepts [the authority of the law] or until he dies.

[I:2 A] It is written, “[But if her father expresses disapproval to her on the day that he hears of it, no vow of hers ... shall stand;] and the Lord shall forgive her, [because her father opposed her]” (Num. 30:5).

[B] This indicates that she requires forgiveness [if she violates her vow not knowing that her husband has nullified it].

[C] When R. Jacob reached this verse of Scripture, he would say, “He who [put his hand in the pot] intending that a piece of pork should come up, but a piece of suitable meat came up instead, nonetheless requires forgiveness. He who intends that pork should come up, and pork indeed did come up – how much the more so does he require forgiveness!”

[I:3 A] *It has been taught as a Tannaite formulation:* **The woman who took a vow as a Nazirite, and her girlfriend heard and said, “And I too,” and afterward the husband of this one [who originally took the vow] came and annulled it for her –**

[B] **she is not bound by her vow, but her girlfriend is bound by it.**

[C] **R. Simeon says, “If she [the girlfriend] had said, ‘Also I intended only to be like her,’ then both of them are not bound by the vow” [T. Naz. 3:10].**

[I:4 A] *There we have learned:* **[If five people laid claim on a man and said to him, “Give us the bailment, which we have in your hand,” “I swear that you have nothing in my hand” – he is liable on only one count. “I swear that you have nothing in my hand,” “nor you” – he is liable on each and every count,] R. Eliezer says, “This is so only if he states the oath at the end as well as at the outset.” R. Simeon says, “This is so only if he will state an oath to each and every claim” [M. Shebu. 5:3]. [Now with reference to M. Shebu. 5:4: “Give me the wheat, barley, and spelt, which I have in your hand,” “I swear you have nothing in my hand” – he is liable on only one count. “I swear that you have not got in my hand wheat and**

barley and spelt” – he is liable for each and every count,] said R. Yohanan, “In accord with the view of R. Simeon [who said, M. Shebu. 5:3, that one is liable on each count only if he states an oath in connection with each claim,] if it should turn out that the bailee does not have the wheat [that is claimed] in his possession, he is exempt on all the other counts [at M. Shebu. 5:4, because the oath was valid only for wheat, since the language of an oath applied only to that item].”

- [B] Said R. Abba, “Even R. Judah concedes that point [for, while he stands with the authority of M. Shebu. 5:3, which disagrees with Simeon, still, in this instance, he will concur. The opposition to Simeon will maintain that only if the bailee rejects each claim individually and turns out to have lied on each item is there an oath valid for each one. In the present instance, the first item is truthful, that is, the bailee does not have wheat. The oath is applied to that item, and there is no liability regarding the other items.]”
- [C] [If] it should turn out that the bailee does not have wheat, what is the law [from Simeon’s viewpoint] as to the oath’s applying to the other items?
- [D] *Associates say*, “The oath does not apply, [since the man took the oath specifically with reference to wheat, which is the item to which the language of the oath referred].”
- [E] R. Zeira said, “It applies [to the other items].”
- [F] *Said R. Jacob bar Aha*, “*A baraita supports the view expressed by the associates: A woman who said, ‘Lo, I am a Nazirite,’ and her girlfriend heard and said, ‘And I,’ and then the husband of the first heard the matter and nullified the oath – the first is freed of her oath, but the second is bound by it.*” R. Simeon says, “*If the second woman said, ‘But my intent was solely to be release her,’ [since the first woman is not bound by the oath,] also the second is not bound by it.* Now this is because the second woman said, ‘My intent was solely to be like her.’ But if she had not said, ‘To be like her, then the second would have been bound, even while the first was not bound. [So this would indicate that, so far as Simeon is concerned, the oath applies to other items, even though it does not apply to the first item named, just as the Nazirite oath applies to the second woman when it does not apply to the first. This is not spelled out.] Now in that case [involving the Nazirite vow], in which instance the very principle of an oath does not pertain [namely, to the second woman], you rule that the Nazirite vow applies, here, in which the very principle of an oath does pertain, [namely, to the other items besides

wheat], is it not an argument a fortiori that the oath should apply [also to those items concerning which it is not explicitly specified]?”

[G] Now as to that which R. Yohanan has said, namely, “In accord with the view of R. Simeon, if it should turn out that the bailee does not have the wheat in his possession, he is exempt on all other counts,” this is a case in which one intends to appease his fellow and so states explicitly, “Let barley be like wheat! Let spelt be like wheat!” [Thus, just as the man is exempt on the count of wheat, he will be exempt on the count of barley or spelt.]

[I:5 A] *It is self-evident in the matter* [of the woman who said, “I intended only to be like her,”] that if the husband of the first woman did not nullify the oath right away, [so that the oath applied for a time,] and if the woman [during that time] violated the oath, the first woman will be flogged [cf. M. 4:3]. But what is the law pertaining to the second woman? [That is, if the second woman should violate the oath before the time that the husband of the first woman nullifies it,] is the second woman flogged as well? [Or perhaps since the husband of the first woman ultimately did nullify the oath, the second woman retrospectively is freed of the oath and not flogged for violating it.]

[B] Said R. Yosé, “Since this one [the first woman] is flogged [under the stated conditions], so the other one [the second] will be flogged [for exactly the same reason, since she shares the status of the first].”

[C] [Following the version of Y. Shebu. 5:4,] said R. Judah, “[And it is a condition imposed by the court even where it is not made explicit in a given case] that the second woman, [in such a case as is before us,] is deemed to be in the status of one who has said, ‘Lo, I am a Nazirite at the end of twenty days.’ [So the vow does not apply. When the husband nullifies the vow of the first woman, the one applying to the second is nullified, and it has never, in fact, applied. Consequently, the second woman has never violated a valid oath. She should not be flogged.]”

[D] *R. Simeon is consistent with his position expressed elsewhere, for R. Simeon declares exempt, for he has not taken a vow in the way in which people properly take vows [M. Men. 12:3].*

4:4

[A] A woman who took a vow to be a Nazir and set aside her beast [for the required sacrifice], but afterward her husband annulled her vow for her –

[B] now if the beast [set aside for her] belonged to him,

[C] it goes forth and pastures in the corral.

[D] But if the beast [set aside for her] belonged to her,

[E] the animal designated as a sin offering is left to die. And the animal designated as a burnt offering is offered as a burnt offering. And the animal designated as a peace offering is offered as a peace offering. It is eaten for one day [like a Nazir's peace offering], but it does not require bread offering, [unlike a Nazir's offering].

[F] [Now if] she had coins that she had not designated for any specific purpose, they fall to a free-will offering.

[G] [If the] coins [were] designated [for a specific purpose] –

[H] those designated for a sin offering are to go off to the Dead Sea.

[I] They are not available for benefit, but the laws of sacrilege do not apply to them.

[J] The coins set aside for the purchase of a burnt offering are used for the bringing of a burnt offering.

[K] And they are subject to the laws of sacrilege.

[L] The coins set aside for the purchase of a peace offering are used [for the bringing of a peace offering].

[M] And [the animal] is eaten for one day and does not require a bread offering.

[I:1 A] Lo, [in the case of a beast That belonged to the wife, M. 4:4D] has it been sanctified? [How is that possible, since what belongs to her belongs to her husband anyhow?]

[B] Here we deal with a case in which someone else has given her a gift [of the beast] and said to her, “It is on the stipulation that your husband will have no domain over that gift.” Consequently the gift beast belongs to her.

[C] R. Mattenaiah said, “We deal with a case in which she is guardian of his property. Then if he should come and reject [her decision], the beast is not sanctified, but if not, it is sanctified.”

[II:1 A] *There [at Y. Naz. 5:4,] you find it said [that if a vow to be a Nazir is annulled after the beast has been designated for the Nazir's offering,]*

the beast goes out and pastures with the flock [since it is not deemed sanctified], and here you say this, [M. 4:4E: The beast designated as a sin offering is left to die]?

[B] [There is a simple difference between the case in which the sage nullifies the oath and the one in which the husband abrogates it.] There the sage uproots the vow from its roots [as if it had never applied at all, and consequently the consecration is null as if it had never happened]. But here [the husband] uproots the vow only as to the future [but it was originally valid, and consequently the beast was consecrated].

[C] Who abrogates [the obligation she has incurred to bring various sacrifices] that are incumbent on her?

[D] Said R. Yosé ben Haninah, “It is the decree of Scripture: If he abrogated her vow, he also abrogated that which is incumbent on her [by reason of the vow]. So he who abrogates her vow also abrogates that which is incumbent on her.”

[II:2 A] [As to the peace offerings of M. 4:4E,] *it has been taught*: They do not require either a bread offering alongside, or the waving of the shoulder offering. [In this regard, we simply extend the principle that the offerings are not made to conform to the rules of the Nazirite, since they are not brought in behalf of a Nazir.]

[B] *R. Bun bar Hiyya, son of R. Simeon, raised the question*: “As to peace offerings [brought as thank offerings] offered after the sacrificer has died, what is the rule as to their requiring a bread offering?”

[C] He reverted and said, “And so too is the rule in the lifetime of the sacrificer. [That is, if someone has designated an animal as an offering, and the animal got lost, so the person used some other beast to meet his obligation, and then the first one turned up] – do they not come to the altar [only] needlessly, [that is, not as obligatory offerings]? [Of course they do. Yet] you say that they require a bread offering. Here too, [at B,] they also require a bread offering.”

[D] *Said R. Yosé*, “*It is obvious to R. Bun bar Hiyya* in the case of peace offerings that are brought after the abrogation of the Nazirite vow that they do not require a bread offering, [which is what M. 4:4E states]. What then is the difference between the case of death and the case of abrogation of the vow?”

[E] In the case of death, the offering already has fallen into the category of one suitable for the accompaniment of a bread offering, but in the case of the abrogation of the vow, the offering has never

fallen into the category of one suitable for the accompaniment of a bread offering at all.

[II:3 A] *It has been taught:* There will be a guilt offering after the abrogation of the vow. [That is, the woman became unclean as a Nazir and so owes a guilt offering, but the husband then abrogates the vow; she brings the guilt offering anyhow.] But if she should die, the guilt offering is not offered.

[B] [But since there is no guilt offering after death,] if she should die, the beast set aside as a guilt offering is not offered. If the husband should [merely] abrogate the vow [as we just noted], her guilt offering will be offered.

[C] If she should die, her guilt offering will not be offered, because you have no guilt offering that is prepared after the death of the sacrificer.

[D] If the husband should abrogate her vow, however, the animal designated as her guilt offering will be offered, for you have no guilt offering brought needlessly, as this one is. [That is, a guilt offering normally would not be offered if the sacrificer already has atoned for the cause that the obligation applied to bring such a guilt offering. But in this case the guilt offering is offered.]

[II:4 A] *There we have learned:* **The surplus of money set aside for the offerings of Nazirs is used for other Nazirs' offerings. The surplus of money set aside for a particular Nazir's offerings is used for the purchase of free-will offerings [M. Sheq. 2:5I-J].**

[B] Said R. Hisda, “[The rule that the surplus of funds set aside by a particular Nazir is used for the purchase of free-will offerings] applies in a case in which the sin offering for that Nazir has been offered at the end. [That is, the burnt offering and peace offerings already have been offered, with the sin offering at the end of the process. Then money is left over. Accordingly, the money is regarded as excess left over for the purchase of a sin offering; such funds in general may be used for free-will offerings.] But if the peace offerings were offered at the end, then the excess funds are deemed money left over for the purchase of peace offerings [and used for peace offerings too].”

[C] Said R. Zeira, “Even if the peace offerings [of the Nazir] had been offered at the end, since part of the funds have served for the needs of the Nazir [inclusive of the sin offering required for him], the law is that the excess funds will serve for the purchase of a free-will offering.”

- [D] *There is a Tannaitic teaching that supports the view of this party, and there is a Tannaitic teaching that supports the view of that party.*
- [E] *There is a Tannaitic teaching that supports the view of R. Zeira: What are coins that have been left undesignated? They are any in which are mixed up funds for the purchase of sin offerings that ultimately must be left to die, [e.g., a Nazir who set aside such funds and then did not need them for his sin offering]. And even if one has designated funds for the purchase of sin offerings that [ultimately must be] left to die in the midst of the lot, these are deemed to be funds left undesignated. [They are not regarded under any circumstances as surplus funds from the purchase of burnt offerings or peace offerings, and that is merely because funds left over after the purchase of sin offerings are involved. This is precisely what Zeira has just now maintained.]*
- [F] *The following Tannaitic teaching supports the view of R. Hisda: If [someone has said,] “These coins are for the purchase of my sin offering, and the rest are for the purchase of the offerings required in fulfillment of my Nazirite vow,” and then died, the laws of sacrilege apply to all of the money, and the laws of sacrilege do not apply to only part of the money. [Since money for a burnt offering is mixed up, the laws of sacrilege apply to all the money. And yet the law] does not say, “If the sacrificer dies, let the money fall to the purchase of a free-will offering.” [The money set aside for the sin offering goes to the Dead Sea, and the rest of the money is used for burnt offerings and peace offerings. Accordingly, when the funds for the sin offering are to be distinguished, e.g., when the sin offering comes first, then the disposition of such funds follows the rule of the sin offering. Otherwise it does not, just as Hisda has maintained.]*

[II:5 A] Said R. Hisda, “The surplus of bread offering of a Nazir is left to rot.”

- [B] Said R. Yosé, “And that is so. One most certainly cannot offer it by itself, for bread is never offered all by itself. One also cannot offer it with the Nazirite offerings of someone else, for you have no Nazirite offerings that come without bread [to begin with, so no one else will need it]. Consequently, one has to rule that the surplus of bread of a Nazirite offerings is left to rot.”
- [C] *They reasoned further that the same rule applies to the surplus of the Nazirite’s bread and the surplus of funds designated for the Nazirite’s wine offering. [The surplus wine will be poured out.]*
- [D] Said R. Yosé b. R. Bun, “The surplus of [funds set aside for] the wine offering is in the status of Most Holy Things, [like the surplus of

money set aside for the purchase of a sin offering or a guilt offering], so that excess goes for a free-will offering.”

[E] *In regard to the view of R. Yosé b. R. Bun, Samuel, R. Hisda, and R. Eleazar, all three have maintained the same view as he does.*

[F] *R. Hisda [is represented by] that which has already been noted here [A].*

[G] *As to Samuel: R. Yosé said, “When I was there [in Babylonia], I heard R. Judah asking R. Samuel, ‘If one has set aside his *sheqel* offering and then dies, [what do we do with the money]?’ He said to him, ‘It goes for the purchase of a free-will offering.’ [The money goes for the purchase of animals for sacrifice on behalf of the community, which are in the status of Most Holy Things].”*

[H] [As to Eleazar:] *The excess of money set aside for the purchase of [the high priest’s] tenth *ephah* of fine flour –*

[I] *R. Yohanan said, “The money is thrown into the Dead Sea.”*

[J] *R. Eleazar says, “It is assigned for the purchase of a free-will offering. [They are in the status of Most Holy Things.]”*

[II:6 A] *R. Ba said in the name of Rab, “Money may be deemed undesignated [as to its purpose], but a beast is not regarded as undesignated.” [A female is a sin offering, a male a burnt offering, and a two year-old ram for peace offerings.]*

[B] *Said R. Sheshet, “And so it has been taught: [Lev. 4:28 refers to ‘his offering’ to show that one may carry out his obligation with his own offering, but not with that set aside for use by his father]. It might be possible to think that the rule that he cannot discharge an obligation with his father’s offering applies only if it is an animal set aside by his father for a sin of the same sort of seriousness; but if his father’s was a minor sin, his is a major sin, or if his father’s was a major sin, his is a minor sin, that may be done. For a man cannot make use of his father’s animal set aside for the hair offering at the end of his Nazirite vow in fulfillment of his obligation to offer a hair offering at the end of his own Nazirite vow. [Accordingly, one may not use the animal for a sin of equivalent gravity. But one may use it for a sin of a different sort of seriousness.] But he may make use of money set aside by his father and transfer it from a serious sin to a less serious one, or from a less serious to a more serious one, for one may make use of his father’s money set aside for a hair offering in respect to his own hair offering, so long as the money is not designated for that purpose, but not when*

the money is designated [for that particular purpose]. Scripture then says, ‘His offering (Lev 4:21). That is to say, ‘With his offering, he carries out his obligation, and he does not carry out his obligation with the offering designated for his father.’”

- [II:7 A] Now when the Mishnah deals with money, it refers to money that is not designated as to its purpose. But when the Mishnah refers to animals, it does not refer to those that are undesignated as to their purpose, contrasting M. 4:4D-E and F-M]. [The former omits all reference to undesignated beasts.]
- [B] As to a beast, the laws governing undesignated offerings do not apply at the outset, but the laws involving undesignated offerings do apply at the end. As to coins, the laws governing undesignated offerings apply at the outset, but the laws involving undesignated offerings do not apply at the end.
- [C] As to coins, the laws governing undesignated offerings apply at the outset, *for we have learned*: **If she had coins that were not designated for any specific purpose, they fall to a free-will offering [M. 4:4F].**
- [D] As to a beast, the laws governing undesignated offerings do not apply to it at the outset, *for we have learned*: **Rabban Simeon b. Gamaliel says, “If one brought three beasts and did not specify their purposes, [that which is suitable to serve as a sin offering is offered as a sin offering,” and so forth,[M. 6:8A-B].**
- [E] [53c] As to coins, the laws governing undesignated offerings do not apply to them at the end, *for we have learned*: If one has said, “These coins are for the purchase of my sin offering, and the rest is for the purchase of the other offerings owing in fulfillment of my Nazirite vow,” and then he dies – the laws of sacrilege apply to all of the money, and they do not apply to only part of the money.
- [F] As to a beast, it is subject to the laws governing undesignated offerings at the end, when one has brought money and converted them, [that is, rendered them no longer holy by exchanging them for] a beast.
- [II:8 A] If one has designated as an offering an ass [that is not going to be offered on the altar, and hence the value of which is what has been consecrated], it is as if he has designated coins [for use for purchase of offerings for the altar].
- [B] If one has designated an ox [for a Nazirite vow, and such a beast has no place in fulfillment of what is to be offered],

- [C] R. Yosé b. R. Bun and R. Hiyya bar Luliani both say in the name of Shimi –
- [D] one said, “It is as if he designated coins.”
- [E] And the other said, “It is as if he has designated a beast.”

4:5

- [A] **Once the blood of any one of the offerings has been tossed for her, he cannot any longer annul the vow.**
- [B] **R. Aqiba says, “Even if any one of the beasts has been slaughtered in her behalf [but the blood not yet tossed], he cannot annul her vow.”**
- [C] **Under what circumstances?**
- [D] **In the case of the hair offering of a woman who has remained clean.**
- [E] **But it was the hair offering of a woman who has become unclean, he may annul her vow.**
- [F] **For he has the power to say, “I don’t want a disgraceful wife.”**
- [G] **Rabbi says, “Even in the case of a hair offering brought by a woman who has remained clean, he may annul the vow.**
- [H] **“For he has the power to say, ‘I don’t want a wife whose hair is shaved off.’”**
- [I:1 A] May the husband abrogate the vow on [so minor a] count as the condition of her hair?
- [B] R. Yosé b. R. Bun in the name of R. Yosa b. Hanina: “It is a decree of the Scripture. He may abrogate her vows. He may abrogate whatever pertains to her. When he abrogates her vows, he may abrogate whatever pertains to her.”
- [I:2 A] [As to M. 4:5A,] said R. Eleazar, “The law accords with the view in particular of R. Simeon [at M. Naz. 6:9, who says once one offering’s blood is dealt with, the Nazir may drink wine].
- [B] Said R. Yohanan, “It represents the view of all parties. Once the negative rule [pertaining to her, about not cutting the hair,] has been transformed into a positive one, [that she must cut it, the husband may no longer abrogate the vow].”
- [C] Rabbis say, “‘And after that the Nazirite may drink wine’ (Num. 6:20). After all of these rites [he may do so]. [After all of the offerings have been made, then he may drink wine.]”

[D] R. Simeon says, “Even after a single one of the rites, [he may drink wine]. [Then M. 4:5A will follow: the blood of any of the offerings seals the matter.]”

[E] *Said Hezekiah, “The following passage of the Mishnah supports the view of R. Eleazar: **Under what circumstances? In the case of the hair offering of a woman who has remained clean. But if it was the hair offering of a woman who has become unclean, he may annul her vow, for he has the power to say, ‘I don’t want a disgraceful wife’ [M. 4:5F].*** Lo, in the case of the woman who cuts her hair after remaining clean, she is not disgraceful. [So even though she has not yet cut her hair, she may then drink wine. It is only Simeon who holds that view, since one of the sacrificial animal’s blood has been tossed in her behalf. From that time on, she is no longer under the disgrace of the vow.] Who then maintains that the matter of the haircutting does not leave the woman in the status of a disgraced person? Is it not R. Simeon?”

[F] *Said R. Yosé bar Abun, “Also Rabbi is of the same view: **Rabbi says, ‘Even in the case of a hair offering brought by a woman who has remained clean, he may annul the vow, for he has the power to say, ‘I don’t want a wife whose hair is shaved off’ [M. 4:5G-H].*** Now [if Rabbi did not concur with Simeon,] he should have said, ‘I do not want a woman who is disgraced and shaved.’”

[II:1 A] Said R. Jonathan [at M. 4:5B], “R. Aqiba spoke only of the sin offering, for a sin offering is invalid if offered not for the properly designated purpose [and here the blood must be sprinkled for the proper purpose, or the altar will lose the offering]. [In other cases, however, if the blood is sprinkled not for its originally designated purpose – the vow having been annulled – it will be accepted.]”

[B] If that is the case, [then we must draw the conclusion that] even when the beast is alive, [the same rule applies]. [That is to say, even if the sin offering has been designated but not slaughtered, the husband should not have the right to abrogate the wife’s vow any longer, because he will cause the loss of Holy Things to the altar. Once the sin offering has been designated, it must be left to die.]

[C] No, that is not the case. The beast is handed over to the Most High only when it has been slaughtered, [but so long as it has not been slaughtered, we do not take account of the possible loss to the altar].

4:6

- [A] A man imposes a Nazirite vow upon his son, but a woman does not impose a Nazirite vow upon her son.
- [B] How so?
- [C] [If] he cut his hair, or his relatives cut his hair,
- [D] he objected [and would not keep the vow] or his relatives objected –
- [E] [If] he had a beast set apart [for his offering],
- [F] the beast set aside as a sin offering is left to die.
- [G] And the beast set aside as a burnt offering is offered as a burnt offering, and the one set aside as a peace offering is offered as a peace offering and eaten on one day and does not require a bread offering.
- [H] [If] he had set aside coins [for the purchase of his offerings, and they] had not yet been designated, they fall to the purchase of a free-will offering.
- [I] [If] the coins had been set aside and designated for particular purposes,
- [J] the coins set aside for the purchase of a sin offering go off to the Salt Sea. They are not available for benefit, but they are not subject to the laws of sacrilege.
- [K] The coins set aside for the purchase of a burnt offering are used for the bringing of a burnt offering, and they are subject to the laws of sacrilege.
- [L] The coins set aside for the purchase of a peace offering are used for the bringing of a peace offering, which is eaten on one day and does not require a bread offering.
- [M] A man brings a hair offering [with offerings set aside] for the Naziriteship of his father, but a woman does not bring a hair offering [with offerings set aside] for the Naziriteship of her father.
- [N] How so?
- [O] He who had a father who was a Nazir, who had set aside coins for the purchase of his sacrifices, which had not been designated for his particular Naziriteship offerings, and whose [father] died,
- [P] and he said, “Lo, I am a Nazir on condition that I may bring a hair offering with the coins [set aside by my] father” –
- [Q] said R. Yosé, “Lo, these coins fall to the purchase of a free-will offering.

[R] **“This one does not bring a hair offering [with money set aside] for the Naziriteship of his father.**

[S] **“And what is the case in which one brings a hair offering [with money set aside] for the Naziriteship of his father?”**

[T] **“He who, along with his father, was a Nazir,**

[U] **“and his father set aside coins that were not designated for the purchase of particular animals for the fulfillment of his Nazirite vow and his father then] died –**

[V] **“this is a case in which one brings a hair offering [with offerings set aside] for the Naziriteship of his father.”**

[I:1 A] “Man” (Lev. 13:44). I know only that the law [that the leper goes around with unbound hair].

[B] How do I know that the law covers a woman?

[C] Scripture says, “Leprous” – applying to anyone, man, woman, child.

[D] If so, why does it say, “A man”?

[E] To apply to them [C] the law that follows. [Thus] A man goes around with unbound hair and torn garments, but a woman does not go around with unbound hair and torn garments [M. Sot. 3:8B].

[I:2 A] **A man imposes a Nazirite vow on his son.... A man brings the hair offering for the Nazirite vow of his father [M. Sot. 3:8C, D].**

[B] R. Yohanan in the name of R. Meir: “There are twenty-four rulings of those in which the House of Shammai take the lenient position and the House of Hillel take a stringent position, and this is one of them.

[C] “The House of Shammai say, ‘A man does not impose a Nazirite vow on his son.’

[D] “And the House of Hillel say, ‘A man does impose a Nazirite vow on his son.’”

[I:3 A] The law that a man may impose the Nazirite vow on his son applies from birth.

[B] *There are those who maintain that that same right persists until the son produces symptoms of maturity [at thirteen], and there are those who maintain that the same right persists until the son reaches the age at which he is responsible for his own vows [just past twelve].*

[C] All concur that once he has come to the time for which he bears responsibility for his own vows, the father may no longer impose the oath upon him.

[II:1 A] If he cut his hair, or his relatives cut his hair, if he objected and would not keep the vow, or his relatives objected [M. 4:6D] –

[B] this may be done in any language (that the people speak), and it is as if he has objected [in the proper formula].

[C] If he simply sat himself down before a barber, it is not as if he has expressed his objection.

[D] [But if he had done so, and then] a relative objected [to the imposition of] the vow, [what is the law]? [This question is not answered.]

[III:1 A] [If he had a beast set apart [for his offering], the beast set aside as a sin offering is left to die. And the beast set aside as a burnt offering is offered as a burnt offering, and the one set aside as a peace offering is offered as a peace offering and eaten on one day and does not require a bread offering. [If] he had set aside coins [for the purchase of his offerings, and they] had not yet been designated, they fall to the purchase of a free-will offering. [If] the coins had been set aside and designated for particular purposes, the coins set aside for the purchase of a sin offering go off to the Salt Sea. They are not available for benefit, but they are not subject to the laws of sacrilege. The coins set aside for the purchase of a burnt offering are used for the bringing of a burnt offering, and they are subject to the laws of sacrilege. The coins set aside for the purchase of a peace offering are used for the bringing of a peace offering, which is eaten on one day and does not require a bread offering. A man brings a hair offering [with offerings set aside] for the Naziriteship of his father, but a woman does not bring a hair offering [with offerings set aside] for the Naziriteship of her father. How so? He who had a father who was a Nazir, who had set aside coins for the purchase of his sacrifices, which had not been designated for his particular Naziriteship offerings, and whose [father] died, and he said, “Lo, I am a Nazir on condition that I may bring a hair offering with the coins [set aside by my] father” – said R. Yosé, “Lo, these coins fall to the purchase of a free-will offering. “This one does not bring a hair offering [with money set aside] for the Naziriteship of his father. “And what is the case in which one brings a hair offering [with money set aside] for the Naziriteship of his father? “He who, along with his father, was a Nazir, “and his father set aside coins that were not

designated for the purchase of particular animals for the fulfillment of his Nazirite vow and his father then] died – “this is a case in which one brings a hair offering [with offerings set aside] for the Naziriteship of his father:”: What is the law as to his own vow’s and his father’s vow’s applying to him at one and the same time? [The following story deals with this question.]

- [B] [In the Tosefta’s version:] **M’S H B: The father of R. Hananiah b. Hananiah set upon him the vow of the Nazir, and then his father brought him before Rabban Gamaliel.**
- [C] **And Rabban Simeon b. Gamaliel was examining him [to determine] whether he had come to the age of producing tokens of maturity.**
- [D] **And R. Yosé b. R. Judah says, “Whether he has come to the age of making vows.”**
- [E] **He said to him, “Why are you so troubled? If I am subject to the authority of father, lo, the authority of father is upon me, and lo, I am a Nazir. And if I am subject to my own authority, lo, I am a Nazir from this point forward.”**
- [F] **He stood and kissed upon his head. He said, “I am certain concerning this one that he will not die before he has taught instruction(s).” And he did not die before he taught instruction in Israel [T. Nid. 5:1F].**
- [G] Said R. Eliezer bar Sadoq, “I saw him in session and expounding [the Torah] in Yavneh.”
- [III:2 A]** **R. Aha and R. Immi said R. Yosé ben Haninah asked, “[If the father imposes one spell as a Nazir on the son, and the son becomes unclean and brings a bird offering on that count,] do we regard the bird offering, [slaughtered by breaking the neck, as is done with birds brought as sacrifices], to be valid as any other; so what is the law as to eating the bird offering that is brought by such a son? [If he is wholly a Nazir, they may be eaten. If not, they are carrion.]”**
- [B] **Before you ask about the disposition of the fowl whose neck is broken in this connection, you should ask about the fowl that is slaughtered, [since if the son is not a Nazir, we have nothing other than unconsecrated beasts slaughtered in the Temple courtyard]!**
- [C] **[No,] in that regard we have a single item of doubt, and here we have two causes for doubt [concerning the boy’s status and the status of the bird killed by having the neck broken].**

- [D] *Said R. Mani, “And even here we have only a single matter of doubt [if his fowl offering is killed by having the neck broken, as is the normal procedure for a valid fowl offering, so the sole doubt is whether or not, to begin with, the offering is valid as to his status as a Nazir].*
- [E] *This is the line with the following: He who kills [a beast or bird] and he who rips out the gullet – the act of killing is not subject to the prohibition against properly slaughtering unconsecrated beasts in the Temple courtyard. [This mode is not an act of slaughter.]*
- [F] Rabbis of Caesarea in the name of R. Yosé b. Haninah, “Even a single matter of doubt is not present in this case.”
- [G] *This accords with the one who said, “The matter of killing a bird by a proper act of slaughter has no strong foundations in the law.”*
- [H] [It is merely as follows:] “They spread out for themselves all around the camp” (Num. 11:32) (Since they spread out for themselves that which had been properly slaughtered (SHT), [and since quail are at hand, we have a hint here that fowl must be properly slaughtered].

[III:3 A] Up to this point, we have dealt with a case in which the father and son were equivalent [in the Nazirite vow, one pertaining to him, one to the son]. But if he was a Nazir for one spell, and his son was a Nazir for two spells,

- [B] he took the vow as a Nazir while in a state of cleanness, while the son took the vow as a Nazir while in a state of uncleanness, [so the son needs to use the money for a bird offering, which the father did not owe],
- [C] he took the vow as a Nazir in a state of uncleanness, and his son took the vow in a state of cleanness, [what is the law as to the father’s adding money to purchase the additional offerings that the son will require, e.g., for the two spells or for the birds the son will have to bring if he is unclean]? [This question is not answered.]

[III:4 A] What is the Scriptural basis for the position of R. Yosé [who insists that the father and the son must be Nazirs at the same time if the son is to make use of the offerings designated for fulfilling the father’s requirements]?

- [B] “His offering to the Lord” (Num. 6:21) [meaning that his vow as a Nazir should come before the designation of his offering, and the designation of his offering should not come before he has taken the Nazirite vow.

[III:5 A] *They wished to propose that R. Judah, [who stands behind the contrary rule, M. 4:6M-P,] would concur with R. Yosé's view, but that R. Yosé would not concur with R. Judah's view.*

[B] *But they turned up a tradition that stated, "This one will not concur with the conditions set by that one, and that one will not concur with the conditions set by this one."*

YERUSHALMI NAZIR

CHAPTER FIVE

5:1

[A] The House of Shammai say, “[An act of] consecration done in error is binding [consecrated].”

[B] And the House of Hillel say, “It is not binding [consecrated].”

[C] How so?

[D] [If] one said, “The black ox that goes out of my house first, lo, it is consecrated,”

[E] and a white one went out –

[F] the House of Shammai say, “It is consecrated.”

[G] And the House of Hillel say, “It is not consecrated.”

[H] “The gold denar that comes into my hand first, lo, it is consecrated,”

[I] and one of silver came up [into his hand] –

[J] the House of Shammai say, “It is consecrated.”

[K] And the House of Hillel say, “It is not consecrated.”

[L] “The jug of wine that comes up into my hand first, lo, it is consecrated,”

[M] but one of oil came up –

[N] the House of Shammai say, “It is consecrated.”

[O] And the House of Hillel say, “It is not consecrated.”

[I:1 A] [53d] *There we have learned:* One who [in designating agricultural gifts] intends to say, “heave offering,” but says, “tithe,” “tithe,” but says “heave offering,” [or who, in designating a sacrifice, intends to say,] “burnt offering,” but says, “peace offering,” “peace offering,” but says, “burnt offering”; [or who, in making a vow, intends to say,] “that I will not enter this house,” but says, “that house,” “that I will not derive benefit from this one,” but says, “from that one,” has not said anything, until his mouth and heart agree [M. Ter. 3:8].

- [B] [Referring to M. 5:1A, an act of consecration done in error is valid,] R. Jeremiah said, “If he had been going to say, ‘Unconsecrated,’ but he said, ‘Burnt offering,’ he has consecrated [the beast as a burnt offering].”
- [C] *Said R. Yosé, “We deal with someone who in fact intended to effect an act of consecration but who has made an error by reason of some extrinsic factor, [so what Jeremiah has said is invalid] “*
- [D] *As to this Mishnah passage [just now cited from M. Ter. 3:8]; in accord with the view of which authority is it phrased?*
- [E] *In the view of R. Jeremiah, it represents the opinion only of the House of Hillel in the dispute given above.*
- [F] *In the view of R. Yosé, it represents the opinion of all parties, [since the House of Shammai may concur].*
- [I:2 A] “[Or if any one utters] with his lips [a rash oath]” (Lev. 5:4 with his lips and not merely in his heart.
- [B] Is it possible that I should then exclude one who decides in his heart?
- [C] Scripture says, “To express.”
- [D] Samuel said, “He who decides in his heart [to take a rash oath] is liable only when he expresses it with his lips.”
- [E] *But has it not been taught: “Whoever is of a generous heart” (Ex. 35:5) – this is one who decides in his heart [to make the donation]?*
- [F] You say that this refers to one who decides in his heart.
- [G] But perhaps it refers to one who actually expresses his pledge with his lips?
- [H] When Scripture states, “You shall be careful to perform what has passed your lips, for you have voluntarily vowed to the Lord your God what you have promised with your mouth” (Deut. 23:23),¹⁰ reference then is made to one who actually expresses his pledge with his lips.
- [I] Lo, how then am I to interpret the statement, “Whoever is of a generous heart”? This is one who decides in his heart [to make a vow, without actually expressing it with his lips. This then poses a problem to the position of Samuel.]

[J] *That which Samuel has said relates to whether or not the man must bring an offering. [If he did not actually express the vow, he is not liable for the offering specified by Scripture.]*

[I:3 A] *There we have learned: He who saves up coins and says, “Lo, these are for my sheqel tax,” the House of Shammai say, “The surplus over what is actually needed for his sheqel is consecrated and hence goes for a free-will offering.” And the House of Hillel say, “The surplus over what is actually needed for his sheqel is unconsecrated. “ If he says, “I shall bring [only] some of them for my sheqel,” they concur that the surplus is unconsecrated. If he says, “These are for the purchase of a sin offering,” they concur that the surplus is for a free-will offering. If he says, “I shall bring [only] some of them for purchase of a sin offering,” they concur that the surplus is unconsecrated [M. Sheq. 2:3].*

[B] *R. Yosé in the name of R. Eleazar: “Where the Houses of Shammai and Hillel differ, it is when he saves up small change. But if he says, “These [coins lying here before me, all together are for the sheqel tax],” all parties concur that the surplus is for a free-will offering, [since he specifies that the coins he is setting aside, whether needed or not? are for a sheqel tax, all parties concur that they are consecrated].*

[C] *R. Hezekiah and R. Bibi in the name of R. Eleazar: “Where the Houses of Shammai and Hillel differ, it is when he saves up small change. But if he says, ‘These,’ all parties concur that the surplus is unconsecrated. [The man knows full well that he cannot add to what is actually required for the sheqel tax. When he refers to ‘these,’ he can mean only what is needed for the sheqel tax itself. He cannot be understood to refer to the other money in hand at all.]”*

[D] *Said R. Hezekiah, “The following passage of the Mishnah supports the view of R. Bibi: **Said R. Simeon, ‘What is the difference between sheqel taxes and the sin offering? Sheqel taxes are subject to a prescribed limit, but a sin offering is not subject to a prescribed limit’ [M. Sheq. 2:4A-B].** Now how shall we interpret this passage? If we deal with a case in which someone says, ‘I shall bring some of them as *sheqels*,’ all parties concur that the surplus is unconsecrated [as he has specified in saying, only *some* of them]. If we deal with one who says, ‘I shall bring some of them for the purchase of my sin offering,’ all parties concur that the money remaining must be unconsecrated. So we must interpret it as dealing with a case in which one says, ‘These are *sheqel* taxes.’ Since the Torah has set a prescribed limit to the amount required, the surplus over what the man needs is unconsecrated. In the case of a sin offering, since the Torah has not set*

a prescribed limit to the matter, the surplus of funds set aside for a sin offering will be used for free-will offerings. [All parties then must concur that the remainder of the money is unconsecrated, just as Bibi has held.]”

[E] *How does R. Yosé interpret this same passage? He maintains that it deals with someone who collects small change [and says, “These.” R. Simeon then explains the position of] the House of Hillel. [The Hillelites hold that the surplus is unconsecrated since there is a fixed limit to what can be paid. So we have nothing other than an act of consecration done in error, which is not the case with the sin offering. But if all the money were set before the man and he said, “These,” then the Hillelites also will concur that the surplus goes for a free-will offering.]*

[F] If one has set aside a coin for his sheqel assuming that he owes it and turns out not to owe it – the coin is not sanctified. If he set aside two of them assuming that he owes two, and turns out to owe only one of them – *what do you do with the second coin?* [What is the relevant analogy?] [Do we compare this case to the following:] If one assumed that he was liable and it turned out that he was not liable? Or is it similar to the case of the one who says, “These”?

[G] *Let us derive the answer from the following:* If one set aside an animal as his sin offering, assuming that he was liable for one, and turned out not to be liable, it is not sanctified. If he set aside two animals assuming that he was liable for them and turned out to be liable for only one animal as a sin offering, *as to that second beast, what do you do with it?* Is it parallel to the case in which he assumed that he was liable and turned out not to be liable, or is it parallel to the case of the one who says, “These”? But in that case, the beast is put out to pasture [until it is blemished, then it is sold, and the proceeds are used for a freewill offering]. *Here too* the money is set aside for a free-will offering. [Delete: How can you say, “These”?]

[I:4 A] *There we have learned: He who says, “Lo, I pledge myself to bring a meal offering prepared in a baking pan,” and brings one prepared in a frying pan, or who says, “Lo, I pledge myself to bring a meal offering prepared in a frying pan,” and brings one prepared in a baking pan [– what he has brought, he has brought, and it is consecrated as a separate free-will offering]. But he has not carried out his obligation for the original pledge [M. Men. 12:2A-D].*

[B] *R. Yosé in the name of R. Simeon b. Laqish: “This, [‘what he has brought,'] represents the view of the House of Shammai, for the House of Shammai say, ‘An act of consecration done in error is binding’” [M. 5:1A].*

[C] *R. Zeira asked before R. Yosé, “And why do we not interpret the matter to represent the opinion of all parties. [The operative factor is not the consideration of an act of consecration done in error.] Rather, we deal with a person who says, ‘I said I would bring it in a baking pan.’ But if he had said, ‘Lo, incumbent on me is an offering in a baking pan,’ and then he went and said, ‘In a frying pan,’ he has carried out his obligation [as B maintains].”*

[D] *R. Hanina and R. Yosa in the name of R. Yohanan proposed, “It represents the opinion of all parties.”*

[E] *R. Jeremiah raised the question, “[If he had said,] ‘Lo, incumbent on me is an offering baked in a baking pan or in a frying pan,’ [in which case, at the point of the vow, he has not defined the matter], and then he went and said, ‘In a baking pan,’ and then he went and said, ‘In a frying pan,’ [what is the law]? [May he bring whichever one he wants, since the matter is left undefined, or is he bound by his final statement?]*

[F] *R. Judah bar Pazzi in the name of R. Aha, R. Hama in the name of R. Yosé, “He defines the obligation even orally. [What he says at the end is what he must do.]”*

[G] *They proposed to rule, “Even [the offerings required on a festival day define what he must bring under these circumstances], even the particular utensils he uses in preparation of the meal offering may define the matter.”*

[I:5 A] *There we have learned: R. Yosé b. R. Judah says, “The law has treated that which is done unintentionally as equivalent to that done intentionally in the case of the substitute. But it has not treated that which is done unintentionally as equivalent to that which is done intentionally in the case of consecrated beasts” [M. Tem. 2:3G]. [This would accord with the Hillelite view, M. 1:5B.]*

[B] [Interpreting this statement,] Hezekiah said, “The law has treated that which is done unintentionally as equivalent to that done intentionally in the case of a negative commandment, and so too in the case of the substitute, because it is a negative commandment [not to effect a substitution, Lev. 27:10]. [In both cases, intentional or not, one is flogged.] But if someone had intended to say, ‘Unconsecrated,’ and he

said, 'Burnt offering,' he has not consecrated the beast. [That is not Yosé's intent.]”

- [C] Said R. Yohanan, “[This is Yosé b. R. Judah’s meaning:] If someone intended to say, ‘Unconsecrated,’ and said, ‘Burnt offering,’ he has consecrated the beast [in the case of an act of substitution]. But if he intended to say, ‘Burnt offering,’ and said, ‘Unconsecrated,’ he has not consecrated the beast [in the case of an act of substitution].”
- [D] *Now the opinion of R. Yohanan explaining that which R. Yosé b. R. Judah has said with regard to a substitution is like that given by R. Jeremiah interpreting the position of the House of Shammai with reference to Holy Things [consecrating animals as Holy Things].*
- [E] *In accord with the view of R. Yohanan, there is no problem in the statement that the law has treated an inadvertent act as equivalent to a deliberate one in the matter of an act of substitution. But as to the view that the law did not treat an inadvertent act as equivalent to a deliberate one in respect to Holy Things, [what would be an example?]*
- [F] This would apply, in particular, to the case of one who [in error] sanctifies a firstling. [It is not consecrated.]
- [G] But would it be sanctified even if it were done deliberately? Did not R. Hiyya and R. Aha, R. Yosa in the name of R. Yohanan [state]: “If one has consecrated a firstling as a burnt offering for the altar, even as to the value of the beast, he has not effected an act of consecration? If he consecrated a blemished animal for the altar, even in an act of substitution, he has not consecrated it. But he who consecrated a blemished beast transgresses. [This is in the setting of an act of substitution. In this instance, an inadvertent act is not treated as a deliberate one in the case of Holy Things, and one is not liable who has done so inadvertently.]”
- [H] Is he then subject to a flogging [if he does so deliberately?] [Surely not, for one who consecrated a blemished beast transgresses but is not flogged.]
- [I] Said R. Yudan, father of R. Mattenaiah, “Interpret the matter to speak of one who consecrated unblemished beasts for the upkeep of the Temple house, [and in this case, the law has not treated the one who does so inadvertently as equivalent to the one who does deliberately in the case of Holy Things]. [For if it were done inadvertently, the act would be null.]”
- [J] Now R. Yosé b. R. Judah follows the theory of his father [Judah]:
If one has consecrated unblemished beasts for the upkeep of the

house, he transgresses a positive commandment. How do we know that it is a negative commandment? Scripture states, “And the Lord said to Moses, [‘Say to Aaron and his sons . . . , When any one of the house of Israel . . . presents his offering . . . to be accepted, you shall offer a male without blemish.... You shall not offer anything that has a blemish, for it will not be accepted]” (Lev. 22:17). A negative commandment thus is stated here,” the words of R. Judah. [This explains the Mishnah’s statement.]

[K] *Rabbi was in session and repeating traditions in the passage on not effecting an act of substitution with a firstling.* [The passage is M. Tem. 1:1H: **Priests do not effect an act of substitution in the case either of a sin offering or of a guilt offering or of a firstling.**] *The father of Bar Pediah passed by. Rabbi saw him and said, “I know what he is going to say to him when I cite the passage, ‘And the Lord said to Moses saying ...’ (Lev. 22:17). Will he not say, ‘The words of R. Judah’? And is it written thus?”*

[L] For R. Ammi said in the name of R. Yohanan, “They remove a letter or a word, for purposes of an exegesis, from the beginning of a passage and put it at the end.”

[M] R. Haninah in the name of R. Jeremiah, “And even in the middle of the word do they do so: ‘And you shall pour oil upon it . . . ; it is a cereal offering’ (Lev. 2:15) – You will pour some oil. ‘It is a meal offering’ serves to encompass all meal offerings, requiring that oil be poured on them.”

[I:6 A] *There we have learned: **The proclamation of the sale of goods of orphans evaluated by the court to meet the father’s debt is for thirty days. And the proclamation of the sale of goods of the sanctuary evaluated by the court is for sixty [54a] days. And they make an announcement morning and night. [He who sanctifies his property, and there was incumbent upon it the payment of the marriage settlement – R. Eliezer says, “When he divorces her, he imposes on her a vow not to enjoy any benefit from him.” R. Joshua says, “He need not do so”] [M. Ar. 6:1].***

[B] Said R. Mana, “R. Eliezer takes into account the possibility of a conspiracy [between the husband and the wife to defraud the Temple]. R. Joshua does not take account of the possibility of a conspiracy. [The man will not divorce her so that she may get his property back in payment of her marriage settlement.]”

- [C] Said R. Yosé b. R. Bun, “The position of R. Eliezer accords with the view of the House of Shammai, and the opinion of R. Joshua is in agreement with the opinion of the House of Hillel.
- [D] “The view of R Eliezer accords with the House of Shammai, for the House of Shammai say, ‘A man cannot seek absolution for an act of consecration,’ and therefore has said that the husband has to pledge by vow not to derive benefit from the wife he is divorcing. [This would be the only way to get back what he has consecrated.] And the view of R. Joshua is in accord with the position of the House of Hillel. For the House of Hillel say, ‘A man may seek absolution for an act of consecration, [which a sage may reverse and annul, and that is why he has said that the husband need not pledge by vow not to derive benefit from the wife he is divorcing, [since he can accomplish the same end without doing so]. For what difference will it make? If the man has regrets, he will go and seek absolution from his vow concerning not deriving benefit from the wife.’”
- [E] R. Joshua concedes in the case of a guarantor of payment for a man’s wife’s marriage settlement that the husband must take a vow not to derive benefit from the wife.
- [F] What would R. Joshua rule concerning a gift? Since one gives a gift in a liberal spirit, he does not have to take a vow not to derive benefit from her [if she seizes the gift in payment of the marriage settlement]. Or since [the recipient’s] position is weakened, for the donor may retract the gift, [the husband donor] must take an oath not to derive benefit from her.
- [G] *Let us derive the answer from the following: The husband of a woman relative of R. Haggai owed a debt to someone on the strength of a bond. The creditor came and seized property from him for what was owing on his debt. The case came before R. Aha, [for the husband wanted to divorce the wife, and they wanted to know whether he had to take a vow not to derive benefit from her, and he ruled that he does have to do so]. [They scruple about a possible conspiracy between the husband and the wife. For the marriage contract of the wife was of an earlier date than that on the bond owing to the creditor.] He ruled, “He has to vow not to derive benefit from her.”*
- [H] R. Yosé said, “He does not have to take a vow not to derive benefit.”

[I] Associates say before R. Aha and R. Yosé, “Well did R. Aha rule, for if he should return to her, the creditor will not be able to come and seize what is owing to him, [which has been taken back in payment of the wife’s marriage settlement].”

[J] Said to them R. Yosé, “Let us treat them as jewelry and gifts [that he is giving her now that he is taking her back]. Let them be treated as the wife’s dowry. [The creditor can seize these.]”

[K] Said R. Haggai, “By Moses! Has R. Yosé stated the law correctly? Surely not! [For the property has been seized by reason of her marriage settlement, and how can you now treat it as if it is nothing more than a gift or part of the dowry]?”

[L] *The case went forth in accord with the view of R. Aha [that it is necessary, in the case of a gift, to take a vow against deriving benefit from the wife, if he should remarry her].*

[I:7 A] *There you rule: He who vowed to be a Nazir and sought absolution from a sage, who declared him not bound, if he had set a cow aside [for his offerings], it goes forth and pastures with the herd [never having been consecrated] M. 5:3E], and here you say this [that an act of consecration made in error is binding]?*

[B] Said R. Yosé b. R. Bun, “There it was with regard to his Nazirite vow that the man approached the sage. His offerings have gone forth from the power of his Nazirite vow and have become unconsecrated, [the vow never having been valid to begin with].”

[I:8 A] R. Jeremiah in the name of R. Huna, R. Hezekiah and R. Aha in the name of R. Yohanan, “All parties concur that one does not seek absolution from a sage for an act of substitution that he has made. *With regard to what do they differ?* It is in regard to an act of consecration. For the House of Shammai say, ‘Just as a man does not approach a sage for absolution in regard to an act of substitution [of one beast for another, in which case both are deemed consecrated], so he does not seek absolution from a sage for an act of consecration.’ The House of Hillel say, ‘A man does seek absolution from a sage on account of an act of consecration, while he does not seek absolution from a sage on account of an act of substitution.’”

[II:1 A] R. Simeon b. Laqish in the name of Bar Qappara, “[From the viewpoint of the House of Shammai at M. 5:1D-H, **The black ox that**

goes out of my house first, lo, it is consecrated and a white one went out –] you hold him liable by reason of the word ‘ox’ and the word ‘first’ and consequently he is liable on both counts, [as will now be explained:] [If he said,] ‘The black ox that comes out of the house first,’ and a white ox came out, and then black ones came after it, [we hold him responsible for both the first ox and the black ox, thus:] you hold him responsible [both for the first ox, the white one, to come out and] for the first of the black ones. ‘The white ox that came forth from my house first,’ and a black one came out, and then white ones came out after it – you hold him liable on the count both of the first and of the white one.”

[B] If he said, “The ox that was standing at the crib,” and it turned out to be kneeling –

[C] “kneeling at the crib,” and it turned out to be standing –

[D] [following the position of the House of Hillel,] *let the rule governing it accord with that which R. Abbahu said in the name of R. Yohanan*: “If one intended to give heave offering from a stack of wheat, and he gave heave offering from barley, if it is by night, he has done nothing at all. If it is by day, what he has done is valid, for he saw what he was doing. But if he spoke of dark-colored wheat, and it turned out to be grain of a superior quality – even if he did so by day, he has done nothing whatsoever, [for he cannot possibly have desired to do things in this way].”

[E] If he said, “The ox that comes forth first,” [and the first thing out was] a ram, it is nothing.

[F] If it was a calf, it is indeed validly consecrated.

[G] [Lo] For it is written, “Take a bull calf for a sin offering” (Lev. 9:2).

[H] If he spoke of an ox, and a lamb came out, it is nothing.

[I] If he spoke of denars and came up with selas, it is nothing.

[J] If he spoke of denars and came up with small change, it is nothing.

[K] If he spoke of denars and came up with a gold denar, it is deemed consecrated, [since this falls within what he had said].

5:2

[A] He who vowed to be a Nazir and sought absolution of a sage, who declared his vow to be binding,

[B] counts out the days from the moment at which he took the vow.

[C] [If] he sought absolution from a sage, who declared him nor bound,

[D] M he had a cow ser aside,

[E] it goes forth and pastures with the herd [never having been consecrated].

[F] The House of Hillel said to the House of Shammai, “Do you not concede in the case, which is [an example of] an act of consecration made in error, that the beast goes forth and pastures with the herd [so is not consecrated]?”

[G] The House of Shammai said to them, “Do you nor agree in the case of one who erred [in counting our the tith of cattle] and called the ninth ‘tenth,’ and [called] the tenth ‘ninth,’ and [called] the eleventh ‘tenth,’ that it is [all three that are] consecrated?”

[H] The House of Hillel said to them, “It is nor the staff [that he used for counting out the cattle to name to tenth in sequence] that has rendered it consecrated.

[I] “Now if he had laid the staff on the eighth or on the twelfth, do you think he has done anything of consequence ar all? But the Scripture that declared the tenth consecrated has declared the ninth and the eleventh consecrated as well.”

[I:1 A] *It has been set forth as a Tannaite statement: The House of Shammai say, “He counts out the days from the moment at which he made inquiry.”*

[B] **And the House of Hillel say, “He counts out the days from the moment at which he [took the vow]” [T. Naz. 3:19~C].**

[C] *How shall we interpret the dispute?* If we deal with a case in which he treated his Nazirite vow as if it were null, all parties concur that he counts the days from the moment at which he approached the sage, [since he had not observed it prior to that time, but only after he was told that it was binding]. If we deal with one who did not treat his Nazirite vow as null, then all parties concur that he counts the days from the moment at which he took the vow as a Nazir, [for he has been keeping it].

[D] *But thus must we interpret the matter:* the dispute concerns one who is going to approach a sage for abrogation. The House of Shammai say,

“Since he is going to approach a sage, he treats the vow as null.” And the House of Hillel say, “If he were planning to treat the vow as null, he would not approach a sage at all.”

[I:2 A] “Lo, if one took the oath of a Nazir and was treating the oath as null, they do not accept an inquiry from him as to the validity of the vow unless he conducts himself in accord with the prohibitions of the vow for the number of days he has already conducted himself as if the vow had been released,” the words of R. Judah.

[B] Said R. Yosé, “Under what circumstances? In the case of one who has vowed for a long period of time. But if it is one who has vowed for a short period of time, it is sufficient for him to observe thirty days.”

[C] Now what is the difference between a vow for a long period of time and one for a short period of time.

[D] *But this is the proper interpretation:* “Under what circumstances? When he has treated his vow as null for a long time. But if he had treated his vow as null only for a short period of time, it is sufficient if he keeps it properly for thirty days [prior to approaching the sage].”

[E] *Now how shall we interpret the matter?* If we deal with one who treated as null the restrictions as to cultic uncleanness, all parties concur that he has lost all of the days he already has observed. If we deal with a case in which he has treated as null only the prohibition against getting a haircut, all parties concur that he loses only thirty days.

[F] *But thus must we interpret the matter,* to apply to one who has treated as null his Nazirite vow as to not drinking wine. That applies when he is yet subject to his Nazirite vow. But if he is already past the vow, he has lost all [the days already observed].

[II:1 A] **[If he had a cow set aside, it goes forth and pastures with the herd never having been consecrated. The House of Hillel said to the House of Shammai, “Do you not concede in the case, which is an example of an act of consecration made in error, that the beast goes forth and pastures with the herd so is not consecrated?” The House of Shammai said to them, “Do you nor agree in the case of one who erred in counting our the tithe of cattle and called the ninth ‘tenth,’ and called the tenth ‘ninth,’ and called the eleventh ‘tenth,’ that it is all three that are consecrated?” The House of**

Hillel said to them, “It is nor the staff that he used for counting out the cattle to name to tenth in sequence that has rendered it consecrated. “Now if he had laid the staff on the eighth or on the twelfth, do you think he has done anything of consequence at all? But the Scripture that declared the tenth consecrated has declared the ninth and the eleventh consecrated as well.”:] *There we have learned: If he called the ninth “tenth,” and the tenth “ninth,” and the eleventh “tenth,” all three are sanctified. They are disposed of as follows:] The ninth is eaten by reason of its blemish, the tenth is tithe, and the eleventh is offered as peace offering [M. Bekh. 9:8D].*

- [B] “[He shall not substitute anything for it ... and if he makes any exchange of beast for beast, then both it and that for which it is exchanged] shall be holy” (Lev. 27:10).
- [C] This teaches that the status of sanctification applies to the ninth and to the eleventh.
- [D] Is it possible that both of them may be offered?
- [E] Scripture says, [“If he makes his offering] of the herd,” “Herd” encompasses the eleventh within the herd. “Of the herd” serves to exclude the ninth. [It is eaten as is.]
- [F] Why do you encompass the eleventh and omit the ninth?
- [G] Since Scripture has used language that serves to encompass, it has made use also of a limiting expression.
- [H] This is so that you may find reason to say: When does that which is holy effect an act of substitution? Is it for the one that is before it or the one that is after it? You must say that it is the one that is after it.
- [I] Thus I encompass the eleventh, which follows the beast that in fact is the sanctified one. But I exclude the ninth, which comes before the tenth, which is the consecrated beast.
- [J] *Up to now, we have dealt with a case in which the man thought it was the tenth and called it the tenth [even though it was ninth, an honest error].*
- [K] If he knew for sure that it was the ninth but called it the tenth –
- [L] *Associates say, “It is holy.”*
- [M] R. Yudan said, “It is not holy.”
- [N] *The following passage of the Mishnah supports the view of the associates [that the erroneous act is effective even if done on*

purpose]. The House of Hillel said to the House of Shammai, “Do you not concede in this case, [which is an example of an act of consecration made in error,] that the beast goes forth and pastures with the herd [so is not consecrated]?” The House of Shammai said to them, “Do you not agree in the case of one who erred [m counting out the tithes of cattle] and called the ninth ‘tenth,’ and called the tenth ‘ninth,’ and called the eleventh ‘tenth,’ that all three are consecrated?” [M. 5:3F-G] [So this is proof that the Hillelites deem the animal called tenth as holy, even under these conditions.]

[O] *But if they did not accept this answer from them, they could have replied as follows:* “How can you answer us by appealing to a matter that is sanctified but solely by error [the tithes of cattle], in respect to a matter that is sanctified whether in error or not in error? [Since they did not give this answer, they concur that the deliberate act is effective.]”

[P] *It is in accord with that which R. Ammi said,* “The case of the tenth was the subject of their answer [so it was not relevant to argue as P proposes].”

[Q] *Or let the answer accord with that which R. Nissa said,* “It is like a man who has two good reasons and replies by stating only one of them.”

5:3

[A] He who vowed to be a Nazir and went to bring his beast [for the sacrifice] and found that it had been stolen,

[B] if before his beast was stolen he took the vow as a Nazirite, lo, this one is a Nazir.

[C] And if after his beast was stolen [but he had not known it] he took the vow as a Nazirite, he is not a Nazir.

[D] And this error did Nahum the Mede make:

[E] When Nazirites came up from the Exile and found that the Temple had been destroyed, Nahum the Mede said to them, “Now if you had known that the Temple was going to be destroyed, would you have taken vows to be Nazirs?”

[F] They said to him, “No. “

[G] Nahum the Mede declared them not bound [by the Nazirite vow].

[H] But when the matter came to sages, they said to him, “Whoever took a Nazirite vow before the Temple was destroyed is a Nazir:

[I] “And whoever did so after the Temple was destroyed is not a Nazir.”

[I:1 A] *How shall we interpret this matter?* If we deal with a case in which the man saw an ox walking through the marketplace, and he said, “Lo, I am a Nazir, on the strength of using that ox that has passed by,” even [if he had said this] after the ox was stolen, he is a Nazir. [When he took the oath, the ox was not in his domain. Nonetheless, he has taken the vow as a Nazir. He is subject to the vow.] If he had been thinking that he had [money for purchasing] the ox, and it turned out that he did not have it, do we rule thus: “If he was rich and became poor, the vow of the Nazir is removed from him”? [Hardly.]

[B] *But so must we interpret the case:* We speak of one who says, “Lo, I shall become a Nazir depending for the offerings needed at the end of the vow on the ox that I have in my house.” Then he goes and finds that the ox has been stolen. Now if he had taken the oath prior to the theft of the ox, lo, this one is a Nazir [since we cannot nullify the vow on the basis of what would happen only later on]. If after the ox had been stolen he took the oath as a Nazir, he is not a Nazir at all, [for he took the oath under the false impression that he had what he did not have].

[I:2 A] *The disciples of R. Hiyya bar Luliana say,* “R. Judah asked: ‘If the thieves returned the ox by night, does the vow of the Nazir apply to the man retroactively, or do we maintain that, from that point onward, it applies?’” [This question is not answered.]

[II:1 A] **This error did Nahum the Mede make [M.. 5:3D]:** What error did he make?

[B] It was that he released them from their own on the basis of what would happen in the future.

[C] **Nahum the Mede said to them, “Now if you had known that the Temple was going to be destroyed, would you have taken vows to be Nazirs?” [M. 5:3E].**

[D] *Said R. Zeira,* “[Nahum] should have said to them, ‘Did you not know that the prophets had already prophesied to you that the Temple was going to be destroyed?’ If so, it would not be as if the event of the destruction took place later on, so that releasing the vow is not by reason of what would only happen later on.”

[E] Said to them R. Hila, “Still it is in the category of that which only took place later on. *For they could say, ‘We knew it, but [54b] we thought that these were things that were far off [and not going to happen in*

our own time].’ ‘The vision that he sees is for many days hence, and he prophesies of times far off’” (Ezek. 12:27).

- [II:2 A] Three-hundred Nazirites came up [to Jerusalem] in the days of R. Simeon b. Shetah. For one hundred fifty of them he found grounds for absolution, and for one hundred fifty of them he did not find grounds for absolution.
- [B] *He came to Yannai the king*
- [C] *He said to him, “There are here three-hundred Nazirites who require nine-hundred offerings. You give half from your [property], and I shall give half from mine.”*
- [D] *He sent him four-hundred-fifty [sacrifices].*
- [E] *An evil rumor came to him, “He gave nothing of his own.”*
- [F] Yannai the king heard and was angered. Simeon b. Shetah was frightened and fled.
- [G] *After [some] days, important men came up from the kingdom of Persia to Yannai the king. When they were sitting and eating, they said to him, “We recall that there was here a certain old man who said before us words of wisdom. Let him teach us something.”*
- [H] *They said to him, “Send and bring him.”*
- [I] *He sent and gave him his word, and he came. He seated him[self] between the king and queen.*
- [J] *He said to him, “Why did you deceive me?”*
- [K] *He said to him, “I did not deceive you. You [gave] of your money and I [gave] of my light [Torah], as it is written [Qoh. 7:12], ‘For wisdom is a defense even as money is a defense.’”*
- [L] *He said to him, “Why did you flee?”*
- [M] *He said to him, “I heard that my lord was angry against me, and I wanted to carry out this Scripture, ‘Hide yourself for a little moment, until the anger be past’” (Is. 26:20).*
- [N] *And he [Yannai] cited concerning him [the following Scripture]: “The advantage of knowledge of wisdom will give life to those that possess it” (Qoh. 7:1Z).*
- [O] *He [Yannai] said to him, “And why did you sit down between the king and queen?”*

- [P] *He [Simeon] said to him, “In the Book of Ben Sira it is written [Ben Sira 11:1], ‘Esteem her, so she shall exalt you and seat you between princes.’”*
- [Q] *He [Yannai] said, “Give him the cup so that he may say the blessing.”*
- [R] *He [Simeon] took the cup and said, “Let us bless the food that Yannai and his companions have eaten.”*
- [S] *He said to him, “Are you stubborn even to such an extent?”*
- [T] *He said to him, “What shall we say, ‘For the food that we have not eaten’?”*
- [U] *He said, “Give him something to eat.” They gave him, and he ate and said, “Let us bless the food that we have eaten.”*
- [V] Said R. Yohanan, “The [colleagues of Simeon] differed with Simeon b. Shetah.”
- [W] R. Jeremiah said, “It concerned the first [blessing].”
- [X] R. Ba said, “It concerned the second [blessing].”
- [Y] *The opinions assigned to R. Jeremiah are at variance with one another. There he raised this as a question, and here it was self-evident to him [that one who eats vegetables only may say the grace for those who have eaten bread].*
- [Z] *The case in which it was a question to him accords with rabbis, and the case in which the answer is self-evident to him accords with Rabban Simeon b. Gamaliel. For it has been taught: “If one reclined and dipped vegetables with a group, even though he did not even eat with them so much as an olive’s bulk of grain, they invoke him in the call to say grace,” the words of sages.*
- [AA] R. Jacob bar Aha in the name of R. Yohanan, “Under no conditions do they include him in the call to say grace, unless he should eat with them at least as much as an olive’s bulk of grain. *For it has been taught:* If two ate a piece of bread and one ate vegetables, they say a common call to say grace.”
- [BB] *The cited passage accords with the view of Rabban Simeon b. Gamaliel.*

5:4

[A] [If people] were going along the way and someone was coming toward them –

- [B] one of them said, “Lo, I am a Nazir if this is so-and-so,”
- [C] and one of them said, “Lo, I am a Nazir if this is not so-and-so.”
- [D] “Lo, I am a Nazir if one of you is a Nazir.”
- [E] “Lo, I am a Nazir if neither one of you is a Nazir,”
- [F] “if both of you are Nazirs,”
- [G] “if all of you are Nazirs” –
- [H] the House of Shammai say, “All of them are Nazirs.”
- [I] And the House of Hillel say, “A Nazir is only one whose statement was not confirmed.”
- [J] And R. Tarfon says, “None of them is a Nazir.”
- [K] [If] he turned away suddenly, he is not a Nazir.
- [L] R. Simeon says, “Let him say, ‘If it was in accord with my statement, lo, I am a Nazir out of obligation, and if not, lo, I am a Nazir out of free will. ““
- [M] [If] one saw a koy and said, “Lo, I am a Nazir if this is a wild beast.”
- [N] “Lo, I am a Nazir if this is not a wild beast.”
- [O] “Lo, I am a .Nazir if this is a domesticated beast.”
- [P] “Lo, I am a Nazir if this is not a domesticated beast.”
- [Q] Lo, I am a Nazir if this is a wild beast and a domesticated beast.”
- [R] “Lo, I am a Nazir if this is not a wild beast and a domesticated beast.”
- [S] “Lo, I am Nazir if one of you is a Nazir.”
- [T] “Lo, I am a Nazir if none of you is a Nazir.”
- [U] “Lo, I am a Nazir if all of you are Nazirs” –
- [V] lo, all of them are Nazirs.

[I:1 A] *The meaning of the Mishnah* [at M. 5:4, **And the House of Hillel say, “A Nazir is only one whose statement was not confirmed”**] is that the one whose statement was confirmed is a Nazirite.

[B] [It is a case in which one uses language that states] the opposite [of his meaning, as in the instance of] a woman who says that if such-and-such is so, may she not bury her son.

[I:2 A] *It was taught:* **R. Judah says in the name of R. Tarfon, “Not a single one of them is a Nazir, because a Nazirite vow applies only when it is clearly and unambiguously expressed, beyond a shadow of a doubt”** [T. Naz. 3:19P].

[B] *This is in line with R. Judah's statement, "A matter of doubt in vows of Naziriteship is grounds for releasing the vow."*

[II:1 A] *How shall we interpret [M. 5:4K-L]? If we speak of a case in which this one says, "It is Reuben," and that one says, "It is Simeon," what choice do you have? If it is Reuben, this one is a Nazir. If it is Simeon, that one is a Nazir. [Why is one not a Nazir, as M. 5:4K says?] But thus must we interpret the matter: It is a case in which this one says, "It is Reuben," and that one says, "It is Simeon."*

[II:2 A] **If then he suddenly turned away, [it turns out that it is neither Reuben nor Simeon, so] he is not a Nazir [M. 5:4K].**

[B] *This is in line with that which R. Simeon says, "He does not bring an offering unless he will be [a viable birth]."*

[II:3 A] *It was taught: **And all of them count out nine vows of Naziriteship [T. Naz. 3:19CC].** Lo, [at M. 5:4M-V] they are ten. It is not possible that the statement of one of them should not be invalidated.*

[B] Said R. Yosa, "This represents the view of the House of Shammai, for the House of Shammai say, 'An act of consecration made in error is valid.'"

YERUSHALMI NAZIR

CHAPTER SIX

6:1

- [A] Three things are prohibited to a Nazir: [corpse] uncleanness, cutting the hair, and anything that goes forth from the grapevine.
- [B] And anything that exudes from the grapevine joins together with anything else that exudes from the grapevine [to form a volume prohibited for use].
- [C] And one is liable only if he will eat about an olive's bulk of grapes.
- [D] The first Mishnah: Until he drinks a quarter log of wine.
- [E] R. Aqiba says, "Even if he dunked his bread into wine and there is in what is sopped up enough to join together to be in the volume of an olive's bulk, he is liable."

[I:1 A] [54c] [The source in Scripture for the prohibition of] uncleanness [is in accord with the following verse of Scripture: "All the days that he separates himself to the Lord he shall not go near a dead body" (Num. 6:6).

[B] [The source for the prohibition of] cutting the hair: "All the days of his vow of separation no razor shall come upon his head" (Num. 6:5).

[C] As to anything that goes forth from the grapevine: "All the days of his separation [he shall eat] nothing that is produced by the grapevine, [not even the seeds or the skins]" (Num. 6:4).

[II:1 A] [And anything that exudes from the grapevine joins together with anything else that exudes from the grapevine to form a volume prohibited for use:] R. Zakkai taught before R. Yohanan: "If one has sacrificed an animal, burned incense, and poured out a libation [to an idol in a single spell of inadvertence], he is liable on each count [and not solely on the single, general count of worshipping an idol]."

[B] *Said to him R. Yohanan, "O Babylonian! You have [come a long way and] forded three rivers, so you have forgotten [what you knew, which*

is:] He is liable on only a single count. Before one breaks the idol into pieces [and so inadvertently fails to recognize he is forbidden to worship the idol], he is liable on a single count, and he will not be liable on multiple counts. Once he breaks the idol into pieces, will he be liable on multiple counts, and not liable solely on a single count?"

- [C] *R. Ba bar Mamel. raised the question before R. Zeira: "And let him be liable on each count, [that is, for each individual action in connection with idolatry], just as you prove the same proposition with regard to the Sabbath [on which one is liable for individual acts in violation of the law of the Sabbath, and not merely for the single principle of not working on the Sabbath]. [This proof is as follows:] '[But the seventh day is a Sabbath to the Lord your God;] in it you shall do no work' (Ex. 20:10). This represents a generalization. 'You shall kindle no fire in all your habitations [on the Sabbath day]' (Ex. 35:3~. This represents a limitation on the foregoing. Now was not the prohibition against kindling fire part of the generalization? And why was it singled out for specific mention? It was to teach you that, just as kindling a fire is an individual action, and people are liable on its account by itself, so is the rule governing each action on account of which it is possible to become liable on its own. Now here too [with reference to idolatry, we may argue along these same lines]: 'You shall not serve them.' This represents a generalization. 'You shall not bow down to them' (Ex. 20:5). This represents a limitation on the foregoing. Now was not the prohibition against bowing down part of the generalization? And why was it singled out for specific mention? It was to teach you that just as bowing down is the action of individuals, and people are liable on its account by itself, so is the rule governing each action on account of which it is possible to become liable on its own."*
- [D] One may reply to you [that proofs really are not similar]: "In the case of the verses dealing with the Sabbath, you have the general rule stated in one place, and the specific exemplification thereof stated in another place. In the case of the prohibition of idolatry, you have a case in which the general rule is side by side with the specific exemplification thereof."
- [E] He said to him, "And lo, it is written, 'You shall worship no other god, [for the Lord, whose name is Jealous, is a jealous God]' (Ex. 34:14). Lo, here too you have a case in which the general rule is stated in one place, and the specific exemplification thereof is stated in another place."

[F] He said to him, “Since you do not derive proof from the verse that stands by its side, you also may not derive evidence from a verse that is located in some other place.”

[G] *Associates* say, “It makes no difference whatsoever whether the generalization is in one place and the specific exemplification thereof is in some other place, or whether the general rule and the specific exemplification thereof are in the same place. In fact, the operative reason is different. In the case of the Sabbath, there is a general rule and afterward a specific exemplification thereof. In the case of idolatry, you have a specific exemplification, and then the general rule. [You therefore cannot maintain that the specific exemplification has been singled out, since, up to that point, there is no general rule from which it can have been singled out.]”

[H] R. Yosé says, “It makes no difference whatsoever whether you have a general rule and afterward a specific exemplification thereof, or whether you have a specific exemplification and only afterward a general rule. In any event, it adds up to a general rule and a specific exemplification thereof. But [there really is a difference in the exegetical foundations of the two areas of the law. For in reference to] the Sabbath, you have a generalization dealing with work done thereon and a specific exemplification also dealing with work done thereon. In the case of idolatry, by contrast, the generalization deals with acts of labor having to do with idolatry, while the specific exemplification thereof deals with acts of service having [also] to do with the Most High.”

[I] R. Mana said, “[There is another point of differentiation, namely:] The matter of kindling a flame was needlessly singled out, [and hence it serves to teach a rule for matters beyond itself], while the matter of prostration was singled out for a purpose. It is to teach the rule concerning the act of prostration itself. For such an act is not a concrete deed [as is killing an animal, burning incense, or pouring out wine]. [Hence it does not serve to impose a general principle on the fundamental and encompassing rule against idolatry, but teaches only that that act, prostration, itself is prohibited.]”

[J] *Now this accords with that which Hezekiah taught*, “Whoever sacrifices to any god, [save to the Lord only,] shall be utterly destroyed” (Ex. 22:19). The explicit reference to sacrificing is singled out to teach a general rule covering all acts of service to an idol, while prostration is singled out to teach that it itself is

prohibited, for it does not contain a concrete deed [as do these other acts of service to an idol].

[K] Or perhaps matters are to the contrary? [No, that is not so, for] a matter that constitutes a concrete deed imparts the rule governing it to other actions, while an act that does not involve a concrete deed does not impart the rule governing it to other actions.

[L] [As to the statement that singling out kindling a fire was not needed,] said R. Jeremiah, “The prohibition of kindling a fire most certainly had to be specifically indicated, to teach the rule that courts should not go into session on the Sabbath [to impose the death penalty through burning]. What is the Scriptural basis for that law? Here it is stated, ‘In all your habitations’ (Ex. 35:3). And with reference to courts of law, it is written elsewhere, ‘And these things shall be for a statute and ordinance to you throughout your generations in all your dwelling places’ (Num. 35:29). Just as habitations referred to in this later passage refers to courts of law, so habitations referred to here refers to courts of law.”

[M] Said R. Samuel bar Abdoma, “Even if you say that it was singled out for a particular need, it is as if it was singled out not for a particular need. [The same proposition could have been proven in other ways.]”

[N] Now as to the view that something that was singled out even though it was not necessary to do serves to teach a law concerning that matter from which it has been singled out, [let us pursue this matter with respect to M. 6:1A-B’s rule that whatever exudes from the grapevine joins together with whatever else is of the same origin to form the single volume needed to impose liability for violating the law against the Nazir’s consuming grapes or drinking wine, that is, as is stated at Num. 6:3-4: “He shall separate himself from wine and strong drink; he shall drink no vinegar made from wine or strong drink; and he shall not drink any juice of grapes or eat grapes, fresh or dried. All the days of his separation he shall eat nothing that is produced by the grapevine, not even the seeds or the skins.” It is this second statement that constitutes the specific exemplification of the first. In

this regard, we now proceed, at T-U, to raise a problem.]

[O] Now the seeds and the skins are covered by the general rule. Yet these have been treated as distinct from the general rule, and this is so as to regard them as distinct [so liable each on its own], so that they should not join together [with the rest to form the requisite volume].

[P] But [this case is different from the one dealing with kindling], for in that area of the law, we have the generalization in one place, and the specific exemplification thereof in another place. Here, by contrast, we have the generalization and the specific exemplification thereof in the same place.

[Q] *Now lo, associates say*, “It makes no difference whatsoever whether the generalization is in one place and the specific exemplification thereof is in some other place, or whether the general rule and the specific exemplification thereof are in the same place. You have a generalization limited by a specific exemplification in any event. But there [with reference to kindling a flame on the Sabbath] you have a generalization and afterward a specific exemplification thereof, while here you have a particular exemplification and afterward a generalization, [‘separate himself from wine,’ ‘not drink juice of grapes or eat grapes’].”

[R] And lo, R. Yosé said, “It makes no difference whatsoever whether you have a general rule and afterward a specific exemplification thereof, or whether you have a specific exemplification and only afterward a general rule. In any event it adds up to a general rule and a specific exemplification thereof. But [there really is a difference in the exegetical foundations of the two areas of the- law]. For there [the reference to kindling on the Sabbath] was not required, while here [the specific reference to grape seeds and skins] was required. And why was it necessary to make reference to these in particular? It was meant to exclude [from the prohibition] the leaves and branches of grapevines.”

[S] *And lo, it has been taught in the name of R. Eliezer, “[All the days of his separation], he shall eat nothing that is produced by the grapevine, not even the seeds or the skins’ (Num. 6:4). Even the leaves and branches of grapevines are included. [Accordingly, the specification of seeds and skins was not needed.]”*

[T] There [with reference to the Sabbath] it was necessary that the general rule be stated [about not doing work,] but here the general rule [about not drinking wine] was not necessary to be expressed. And why [was it expressed when it was not necessary?] It was to indicate that the various prohibited products of the vine join together to form [the requisite volume, an olive’s bulk of prohibited matter].

[II:2 A] Whence in Scripture do we find a warning against eating carrion? “You shall not eat anything that dies of itself; [you may give it to the alien who is within your towns, that he may eat it, or you may sell it to a foreigner]” (Deut. 14:21).

[B] *To this point we have proved that carrion is prohibited. How do we know that terefah meat [meat torn from a beast] also is prohibited?*

[C] Said R. Yohanan, “Scripture refers to ‘carrion’ and ‘any sort of carrion.’ This serves to encompass *terefah* meat.”

[D] He who eats a limb cut from a living animal [suffers punishment, based on the law prohibiting eating] *terefah* meat.

[E] *R. Yosa said, “R. Yohanan and R. Simeon b. Laqish disputed in this regard.*

[F] “R. Yohanan [54d] said, ‘He is liable on two counts [two relevant verses].’

[G] “R. Simeon b. Laqish said, ‘He is liable on only one count.’”

[H] *What is the Scriptural basis for the position of R. Yohanan?* [One count is covered by,] “You shall not eat anything that dies of itself; [you may give it to the alien who is within your towns, that he may eat it, or you may sell it to a foreigner]” (Deut. 14:21). [And the other count is covered by,] “[Only be sure that you do not eat the blood; for the blood is the life,] and you shall not eat the life with the flesh” (Deut. 12:23).

[I] *What is the Scriptural basis for the position of R. Simeon b. Laqish?*

[J] *Associates said before R. Yosé, “The position of R. Simeon b. Laqish accords with that which is taught: R. Eliezer b. Jacob, “[You shall be men consecrated to me;] therefore you shall not eat any flesh that is torn by beasts in the field; [you shall cast it to the dogs]’* (Ex. 22:30). Do not cut off and eat flesh from a beast as you cut off and eat produce of the ground.”

[K] *And does R. Simeon b. Laqish not reason in the matter of the prohibition of terefah meat in accord with the view of R. Yohanan?* [He derives the prohibition of *terefah* meat from the verse that refers to it explicitly, namely, Ex. 22:30.] For if he should reason in accord with that view, then the person would be liable on two counts [as Yohanan has maintained].

[L] *He said to them, “Even if he should reason in the same way, still a person would be liable on only one count. [Why?] The case here is different, for the Scripture has once again gone and stated matters as a general rule.”*

[M] *They [associates] replied to him,* “‘You shall eat no fat’ (Lev. 7:23). ‘Moreover you shall eat no blood whatever, [whether of fowl or animal, in any of your dwelling (Lev. 7:26). And it is written, ‘[It shall be a perpetual statute throughout your generations, in all your dwelling places,] that you eat neither fat nor blood’ (Lev. 3:17). If so, since the Scripture has gone and stated matters as a generalization, one should be liable on only a single count.”

[N] He said to them, “‘If it were written, ‘Fat and blood,’ it would be well in accord with your view. But it is written only, ‘No fat, ... no blood.’ This serves to impose liability for this one by itself and for that one by itself.” And lo, it is written, ‘And he shall not drink any juice of grapes’ (Num. 6:3). And it is written, ‘Not even seeds or the skins’ (Num. 6:4). On this basis we must say that since the Scripture has gone and stated the matter again as a general rule, he should be liable on only a single count.”

[O] He said to them, “‘If it had been written, ‘Seeds or skins,’ it would have been well for your argument. But it is written only, ‘Even seeds or the skins,’ which formulation serves to impose liability on this count by itself and on that count by itself.”

[II:3 A] *Rabbi says to the associates,* “*You should know that R. Yohanan and R. Simeon b. Laqish differed as to a limb cut from a living beast that people divided up and ate in small bits [so that in the gullet at any one time is not the requisite volume, an olive’s bulk, to impose liability]. In the opinion of all parties, one is exempt in such a case.*

Where they differ is in a case in which in his mouth one divided up the limb cut from the living beast and then ate it. R. Yohanan treats the mouth as equivalent to the gullet. R. Simeon b. Laqish treats his mouth as equivalent to the area outside of his mouth.”

- [B] *They [associates] said to him, “As to you, what is your opinion?”*
- [C] *He said to them, “I told you, lo, everyone differs on this matter, and yet you say this to me? But if you want to know what I think, then even if one had divided up the meat from the living beast outside of the mouth and ate it [so that prior to its entry into the gullet, it does not add up to the requisite volume], one still should be liable. Why? Because this is the normal way of eating.”*
- [D] *As to an ant that one divided up in his mouth and ate, there may or may not be a dispute between R. Yohanan and R. Simeon b. Laqish [since in this case we have a complete creature, even though it is not of requisite volume].*
- [E] *R. Miasha asked R. Zeira, “As to a stalk of grapes that one divided in one’s mouth and ate, is there also a dispute of R. Yohanan and R. Simeon b. Laqish?”*
- [F] *He said to him, “In that case, we deal with a matter that is subject to a prohibition and that is a source of uncleanness. In a case in which its capacity to impart uncleanness is nullified, [that is, when smaller than the requisite volume], the prohibition affecting it also is nullified. But here you have a case in which there is a prohibition, but there is no consideration of uncleanness.”*

[G] *R. Ba bar Mamel raised the question: “In the case of an olive’s bulk of unleavened bread, [of which one is liable to eat an olive’s bulk on the first night of Passover], that one divided in one’s mouth and then ate – is there a dispute between R. Yohanan and R. Simeon b. Laqish?”*

[H] Said R. Yosé b. R. Bun, “In any event, did not his cheek derive benefit from it [in the requisite volume, when it was in his mouth]?”

[I] *Rabbis of Caesarea say R. Nisa raised the question: “As to slices of a pomegranate of produce prohibited by the law of orlah that one cut off in his mouth and ate – is there this same dispute of R. Yohanan and R. Simeon b. Laqish?”*

[J] *How shall we interpret the issue? Is it because of the juice [that exudes from the prohibited slice?] We already have learned, “As to what imparts uncleanness by reason of exuded juice, it is only what exudes from olives and grapes [M. Ter. 11:3]. [If one consumes olive oil or grape juice from produce in the status of orlah, he is flogged. There is no punishment by reason of consuming the juice of other produce in that status.]”*

[K] *Rabbis of Caesarea say: “Interpret the dispute to deal with a case in which one has swallowed [the pomegranate slice itself].”*

[II:4 A] As to a piece of meat that had been in the status of *terefah* [since the animal had been dying] and then

became carrion [for the animal had died] –

[B] *R. Yosa, son of the daughter of R. Yosé, in the name of R. Jeremiah: “R. Yohanan and R. Simeon b. Laqish differed on this matter.*

[C] “R. Yohanan says, ‘He is liable on two counts [for eating both *terefah* and carrion].’

[D] “R. Simeon b. Laqish said, ‘He is liable on only one count.’”

[E] *Said R. Eleazar b. R. Yosé before R. Yosé, “The following verse supports the position of R. Yohanan: ‘And every person that eats what dies of itself [or what is torn by beasts, whether he is a native or a sojourner, shall wash his clothes, and bathe himself in water, and be unclean until the evening]’ (Lev. 17:15). Now why does Scripture find it necessary to refer to *terefah* meat in this context, namely, what is torn by beasts? If it was in the status of meat torn by beasts, the beast was alive. But has it not already been said that it was carrion? If it was meat from a beast yet alive, the beast in fact died. Lo, it has been encompassed in the general reference to carrion. So let Scripture say, ‘It is carrion.’ [That alone is at issue; on that count alone he is liable.]”*

[F] *R. Abbahu in the name of R. Yosé b. Haninah: “The Scriptural basis for the position of R. Yosé is in the following verse of Scripture: ‘You shall not make yourselves abominable [by beast or by bird or by anything [with which the ground*

teems]’ (Lev. 20:25). Now is it not so that there are only eight creeping things alone that have the capacity to impart uncleanness? But the point is that as is the requisite volume necessary for them to be able to impart uncleanness, so is the requisite volume in which it is prohibited to eat them.”

[G] *R. Eleazar objected*, “Lo, limbs cut from clean beasts have the capacity to impart uncleanness in any volume at all, while the requisite volume in which it is prohibited to eat them is an olive’s bulk.”

[H] And did he accept that argument?

[I] What is the meaning of, “And did he accept that argument”?

[J] *It is like a man who says to his antagonist*, “*You’d better believe it.*”

[K] Hiyya bar Ba said, “Not in the case of all carrion has the Torah treated the measure of carrion required to impart uncleanness as equivalent to the measure on account of the eating of which one is liable. [They are not invariably the same.]”

[L] *R. Haninah objected*, “Lo, in the case of eight creeping things, they impart uncleanness if they are of the bulk of a lentil, and they are prohibited as to eating if they are in the bulk of an olive, whether this is as to their blood or as to their flesh.”

[M] [As to Yohanan’s statement that he who eats of the limb cut from a living beast that is dying is liable on two counts,] *R. Samuel bar Suseretai raised the question*: “If so, he who

eats a limb cut from a living beast that is clean, should be liable on two counts. One count is as follows: ‘You shall not eat anything that dies of itself’ (Deut. 14:21). The other count is as follows: ‘[Only be sure that you do not eat the blood; for the blood is the life,] and you shall not eat the life with the flesh’” (Deut. 12:23).

[N] And do they derive an answer deriving from rules governing clean beasts in the case of an argument on the status of unclean beasts?

[O] And did not R. Eliezer derive an answer for a case covering what is clean from a case covering what is unclean?

[P] If that is the case, then he who eats a limb cut from a living beast that was an unclean beast should be liable on three counts. [He should be liable] on the count of, “You shall not eat anything that dies of itself” (Deut. 14:21). [He should be liable] on the count of, “[Only be sure that you do not eat the blood; for the blood is the life,] and you shall not eat the life with the flesh” (Deut. 12:23). [And he should be liable] on the count of, “[And the swine, because it parts the hoof but does not chew the cud, is unclean for you.] Their flesh you shall not eat, [and their carcasses you shall not touch]” (Deut. 14:8).

[II:5 A] R. Abbahu in the name of R. Yosé b. Haninah, “If one has eaten five ants at once, in a single spell of inadvertence, he is liable on each count because in each instance it was a creature unto itself. But if he mashed them up and ate them, he is liable on only one count.

[B] “But that law applies when they constitute the bulk of an olive.

- [C] “If he ate what was mashed up, and it completes the measure to an olive’s bulk, he is liable.
- [D] “If he ate from what is mashed up in the bulk of an olive, and an additional ant, he is liable on two counts.
- [E] “If that is the case, then if he ate from what is mashed up but forms less than the olive’s bulk, and he added to the mash a whole ant, he should be liable on two counts.
- [F] “If so, then if he ate an ant of the bulk of an olive, he should be liable on two counts.
- [G] “So is the rule covering the joining together of what is prohibited to a Nazir. If he ate from a mixture of diverse prohibited materials that adds up to the bulk of an olive, he is liable. If he ate from such a mixture of forbidden materials in the bulk of an olive, and in addition he ate the stalk of a grape, he is liable on two counts.
- [H] “If that is the case, then if he ate the branch of a grape that is an olive’s bulk, he should be liable on two counts.”
- [I] R. Abbahu in the name of R. Yohanan, “All prohibited produce joins together to impose a flogging on its account if it is of an olive’s bulk.
- [J] “If one ate an olive’s bulk of such a mixture and an ant, he is liable on two counts.
- [K] “If that is so, and then if he ate from prohibited produce that added up to less than an olive’s bulk, but he completed the mixture to the requisite volume with an ant, he should be liable on two counts.”
- [L] Said R. Abbahu in the name of R. Yohanan, “As regards all things prohibited, one measures them as though they were onions or leeks [in assessing whether they impart a flavor].”
- [M] *And this statement accords with that which R. Abbahu said in the name of R. Yosé b. Haninah:* “As to carrion that was treated as null because it was confused with meat from a properly slaughtered beast, the uncleanness imparted by touching the carrion likewise is treated as null, in accord with the laws of the Torah [because the carrion itself is treated as null, being mixed up with a far larger batch of acceptable meat].”
- [N] R. Abbahu in the name of R. Yohanan: “If we deal with [food that is prohibited and that] imparts a flavor, one is flogged by reason of consuming that prohibited substance only if one will actually taste the flavor of that which is prohibited.”

[O] *R. Hiyya bar Joseph objected before R. Yohanan, “Lo, there is the case of meat mixed with milk. Now if one has not tasted the actual taste of that which is forbidden, will you say that he is [not] flogged?”*

[P] *And did he accept this answer?*

[Q] *And R. Bun bar Hiyya said before R. Zeira, “What is the meaning of, ‘Did he accept this answer’? It is like a man who said to his antagonist, ‘And you’d better believe it.’”*

[R] R. Abbahu in the name of R. Yohanan, “As to substances [prohibited] when they impart a flavor [to a larger broth with which they are mixed,] one is flogged on their account only in the case of those things [that are prohibited] to a Nazir and that impart a flavor to a broth [that is, wine].”

[S] Said R. Zeira, “As to any substance [that is prohibited] and that imparts a flavor, one is flogged [by reason of consuming that prohibited substance] only if one will actually taste the flavor of that which is prohibited; but in the case [of what is prohibited] to a Nazir, even if one does not actually taste that flavor of what is prohibited, [he is flogged].”

[T] Said R. Ba bar Mamel, “In the case of anything [that is prohibited] when it imparts a flavor, what is prohibited and what is permitted do not join together [that is, e.g., a flavor from a prohibited substance and the same flavor from a permitted batch of the same substance would not join together]; but in the case of a Nazir, what is prohibited and what is permitted do join together [to form the requisite volume of prohibited substance].”

[U] *The traditions contain support for this party and for that party.*

[V] *Support for the position of R. Zeira is as follows: “An olive’s bulk of wine that fell into the pot, and one ate an olive’s bulk from it – one is exempt from punishment, unless he eats the entire potful, [for only at that point will he have consumed the actual volume of prohibited substance].”*

[W] Now in the view of R. Ba bar Mamel, once he has eaten an olive’s bulk thereof, he should be liable.

[X] *The following is the Tannaite support for R. Ba bar Mamel:*

- [Y] In line with that which is stated, “He shall not drink any juice of grapes or eat grapes, fresh or dried” (Num. 6:3), now what has the Scripture intended here?
- [Z] But since it is said, “[All the days of his separation] he shall eat nothing that is produced by the grapevine, not even the seeds or the skins” (Num. 6:4), and it is written, “He shall separate himself from wine and strong drink” (Num. 6:3), why then does Scripture find it necessary to say, “[And he shall not drink the juice of grapes,] or eat grapes, fresh or dried” (Num. 6:3)?
- [AA] But the meaning is that if he soaked grapes in water, and soaked his bread therein, and there is in what is sopped up enough to join together to be in the volume of an olive’s bulk, he is liable [cf. M. 6:1E].
- [BB] Now on the basis of this rule, you form the law for all prohibited substances that are mentioned in the Torah.
- [CC] Now if in the case of that which is produced by the wine, which is not prohibited forever, and which is not prohibited as to benefit [e.g., the Nazir may buy and sell grapes, although he may not consume them], and it is subject to release from the prohibition after the prohibition has been in force, the law has treated the matter of imparting flavor as the principal consideration,
- [DD] in the case of all other prohibited substances in the Torah, in which instance the prohibition is perpetual, the prohibition extends even to deriving benefit from the substance, and in which instance there is no release from the prohibition once the prohibition has come into force.
- [EE] it surely is reasonable that we should treat the issue of their imparting a flavor as the principal consideration.
- [FF] It is on the basis of this argument that sages have derived the rule concerning all substances that impart a flavor, namely, that because they impart a flavor, they are prohibited.
- [GG] *Now this is a problem to the position of R. Zeira.*
- [HH] In all cases the rule is that the prohibition applies once the substance imparts a flavor, but here the rule is that the substance is prohibited even if it does not impart a flavor.

[III:1 A] The first Mishnah: Until he drinks a quarter log of wine [M. 6:1D].

[B] Now they would provide an exegesis on the basis of the reference to strong drink. Just as in the case of strong drink mentioned elsewhere, the prohibited volume is a quarter *log*, so the measure applying here is a quarter *log*. They reverted and ruled: He may not eat or drink. Hence just as the volume prohibited in the case of eating is an olive's bulk, so the volume prohibited in the case of drinking is an olive's bulk.

[IV:1 A] R. Aqiba says, "Even if he dunked his bread into wine and there is in what is sopped up enough to join together to be in the volume of an olive's bulk, he is liable" [M. 6:1E].

[B] Said R. Hananiah, "But that law applies to a case in which, to begin with, he dunked the bread in a mixture containing at least an olive's bulk of wine."

[C] R. Immi in the name of R. Yohanan: "As to a cup mixed [with water and wine], for dunking one is flogged on that account."

[D] That which you have said applies to a case in which they did not warn him on the count of dunking bread.

[E] But if they warned him also on the count of dunking bread, it is not in that instance.

[F] It is written, "He shall not drink any juice or grapes" (Num. 6:3).

[G] I know only that he may not drink juice of grapes. How do I know that he may not drink juice from grape skins?

[H] Scripture says, "Juice ... any juice." This use of the word "any" serves to encompass all sorts of juice in the juice under discussion.

[I] Juice of wine mixed with wine joins together.

[J] Juice of grapes mixed together joins together.

[K] Juices of grapes mixed with wine – what is the law as to the whole forming a single mixture? [This question is not answered.]

[L] If one consumed a half olive's bulk of wine and a half olive's bulk of juice, he is liable. If he ate this one by itself, and that one by itself, he will be exempt. If they were joined together, he would be liable.

[M] If he ate an olive's bulk of wine and of juice, he is liable on only a single count.

[N] If he ate this by itself and that by itself, he would be liable on two counts.

[O] If he joined them together, he would be liable on only one count.

6:2

[A] **And he is liable for wine by itself, for grapes by themselves, for grape pits by themselves, and for grape skins by themselves.**

[B] **R. Eleazar b. Azariah says, "He is liable only if he will eat two pits and their skin [that covers them]."**

[C] **What are grape pits and what are grape skins?**

[D] **"Harsanim are what is outside, and zaggim are what is inside," the words of R. Judah.**

[E] **R. Yosé says, "That you not err:**

[F] **"It is like the bell of cattle:**

[G] **"What is outside is the hood, and what is inside is the clapper."**

[I:1 A] It is written, "He shall not eat grapes, fresh or dried" (Num. 6:3).

[B] Since it is written, "Grapes," do we not know that they are fresh? Why does Scripture find it necessary to state, "Fresh or dried grapes"?

[C] It is so to establish liability for this by itself and for that by itself [= M. 6:2A].

[D] *This furthermore accords with that which Hezekiah taught:* "Now in a case in which the law has not treated the leavings of a piece of fruit as equivalent to a piece of fruit [cf. Y. Or. 2:6], the law has treated that which is fresh as equivalent to that which is dried [both being subject to the orlah taboo]; here, in a case in which the law has treated the leavings of a piece of fruit as equivalent to a piece of fruit, is it not logical that that which is fresh should be treated as equivalent to that which is dried?"

[E] "Accordingly, why does Scripture state, 'Fresh or dried grapes'? It is to establish liability for this by itself and for that by itself."

[F] *Now this is furthermore in line with that which R. Hila has said,* "No man shall take a mill or an upper millstone in pledge, [for he would be taking a life in pledge]" (Deut. 24:6). Since Scripture says, 'Upper millstone,' do we not know that the mill also is

covered by the rule? Why then does Scripture find it necessary to refer both to a mill and to an upper millstone? It is stated so as to establish liability for this by itself and for that by itself.”

[G] The reference to “fresh” serves furthermore to encompass half-ripe grapes.

[H] The reference to “fresh” in addition serves to encompass grapes in the budding stage.

[I] *The present statement accords with the view of R. Yosé, for R. Yosé says, “Newly fashioned berries are forbidden to a Nazir because they are regarded as fruit” [M. Orl. 1:7].*

[I:2 A] There is he who eats a grape cluster and is liable on the counts of fresh grapes, dry grapes, grape pits, grape skins. If he soaked it in water, he is liable on the count of juice. If he pressed it, he is liable on the count of wine.

[B] And that is the case when others have admonished him on the count, “He shall eat nothing that is produced by the grapevine” (Num. 6:4).

[II:1 A] [As to M. 6:2B,] *said R. Ba bar Aha, “The reason behind the view of R. Eleazar b. Azariah is to make one liable for a complete bit of grape matter [even less than an olive’s bulk in volume].”*

[B] *And it has been taught: “Grape pits, grape skins” – this serves to encompass the third sort of matter that is between them, that is, congealed matter between the pits and skins.*

[C] *And lo, it also has been taught, in the name of R. Eleazar: “The language ‘Nothing that is produced by the grapevine’ serves to encompass the leaves and branches.”*

[D] R. Eliezer accords with the view of R. Ishmael, for R. Ishmael has said, “When you have a general statement and a specific exemplification thereof, the whole is covered by the generalization, [and the generalization is not limited by the specific exemplification, e.g., pits, skins].”

[E] For what purpose, then, is reference made to pits and skins? It is to encompass the third sort of matter that is between them [as above, B].

[III:1 A] [In the view of Eleazar b. Azariah, if one eats a complete grape, even though it is not of an olive’s bulk, he is liable. If then *harsanim* (so: grape skins) are what is our side, and *zaggim* (so: grape pits) are what

is inside, as Judah has said, we may well find in the case of a grape that one may eat only a half olive's bulk and yet eat an entire grape, e.g., two pits with their skin. But if you maintain that the matter is reversed, so that the word for pits in fact stands for skin and vice versa, you will not find a case in which you have two skins and a single pit. This brings us to ask about the reasoning behind Yosé's position:] What is the reason for R. Yosé's statement [at M. 6:2E-G]?

- [B] If one has eaten a half olive's bulk of skins and pits making up a single grape, in the view of R. Eleazar b. Azariah, he is liable. In the view of rabbis, he is exempt.
- [C] *What is the reason for R. Judah's position?* If one has eaten an olive's bulk of skins and pits from two grapes, in the view of R. Eleazar b. Azariah, he is liable on one count only. In the view of rabbis, he is liable on two counts.
- [D] *Said R. Abun, "The view of R. Eleazar b. Azariah accords with that of R. Yosé. For if you say it accords with the view of R. Judah, then [Eleazar b. Azariah should require that] one eat in olive's bulk consisting of two skins and a pit."*

6:3

- [A] **A Nazirite vow for an unspecified period of time is [to apply] for thirty days.**
- [B] **[If] he cut his hair, or thugs forcibly cut his hair, he loses thirty days.**
- [C] **A Nazir who cut his hair, whether with scissors or with a razor, or who pulled out any hair whatsoever, is liable.**
- [D] **A Nazir shampoos and parts his hair [with his fingers~, but he does not comb his hair.**
- [E] **R. Ishmael says, "He should not shampoo his head in the dirt,**
- [F] **"because it makes the hair fall out."**
- [I:1 A] It is written, "All the days of his vow of separation no razor shall come upon his head" (Num. 6:5).
- [B] Lo, if it came upon his head, he is liable.
- [C] "He shall let the locks of hair of his head grow long" (Num. 6:5).
- [D] How long does it take to let the hair grow long? Thirty days.
- [E] Up to this point, [we have derived evidence that cutting of the hair causes the loss of days toward fulfilling the vow] only in the case of a Nazir who is in a state of cleanness.

- [F] As to an unclean Nazir: “[And if any man dies very suddenly beside him, and he defiles his consecrated head,] then he shall shave his head on the day of his cleansing; on the seventh day he shall shave it” (Num. 6:9).
- [G] Why does Scripture state, “On the seventh day he shall shave it”?
- [H] It is on the strength of this verse that we know that if he cut his hair during the seven days of purification, he loses that rite and has to go and cut his hair after seven days. [This proves E-F’s proposition.]
- [I] “And he shall shave” the whole of it and not part of it.
- [J] On this basis, [we know] that if he left two of the hairs of his head uncut, he has done nothing whatsoever.
- [I:2 A]** “No razor shall come upon his head” (Num. 6:5). I know that the rule applies only to a razor. How do I know that I should include in the prohibition also shampoo or scissors as much as a razor?
- [B] Scripture states, “Will not pass over his head” – thus including anything that one may pass over his head.
- [C] [Since the reference is to a razor,] on that basis we know that he loses days by reason of hair cutting only if he cuts his hair with a razor.
- [D] *R. Ba bar Mamel and R. Ila asked before R. Yosa*, “[If he cuts his hair with anything other than a razor,] then let him not, to be sure, lose all thirty days, but let him lose at least seven.”
- [E] No. The meaning of Scripture’s reference to the razor [in particular is that through these other means of hair cutting] he does not lose either seven or thirty days.
- [F] If you say that he does not lose thirty days [but does lose seven], then what is the difference between a clean Nazir and an unclean one [who loses seven days when he becomes unclean, as we noted above]?
- [G] A lenient and a strict rule is taught with regard to a clean Nazir, and a lenient and a strict rule is taught with regard to an unclean Nazir.
- [H] A lenient rule and a strict rule concerning a clean Nazir: The lenient side is that he loses days only if he uses a razor. The strict side. is that he loses thirty days.
- [I] The lenient rule with regard to the unclean Nazir is that he loses only seven days. The strict side is that all sorts of means of cutting the hair apply to him.

[J] [As above,] if you say that he does not lose thirty days [but does lose seven], then what is the difference between a clean Nazir and an unclean one?

[K] *There are those who wish to say [this is Yosé's answer]:* What is the difference between scissors and a razor in respect to a clean Nazir, when we take account of R. Eliezer's position [that a clean Nazir who cut his hair after fulfilling the required number of days but prior to the offerings loses seven days]? [He too must deem only use of a razor to be culpable.]”

[I:3 A] *There we have learned: Three shave, and their shaving is a requirement: the Nazir, the leper, and Levites (Num.. 8:7). And all of them who shaved without a razor, or who left behind two hairs, have done nothing at all [and must repeat the shaving] [M. Neg. 14:4].*

[B] *R. Eleazar said, “The Mishnah refers to an unclean Nazir. But as to a clean Nazir, once he has cut off most of the hair on his head, even if he did so without a razor, he has carried out his obligation.”*

[C] *R. Ammi raised a question with respect to this statement of R. Eleazar, “The very essence of the discussion about a razor speaks of a [55b] clean Nazir. ‘No razor shall come upon his head until the time is completed for which he separates himself to the Lord’ (Num. 6:5). Lo, once he has completed his vow, he must shave with a razor.”*

[D] *That which Eleazar has stated deals with an unclean Nazir in regard to the cutting off of two hairs, [that is, if two hairs are left uncut, the haircutting is null].*

[E] *Said R. Yosé to R. Jacob bar Aha, “Do you remember that when we were studying the tractate on the Nazir, we said that there is no difference as to whether the clean Nazir at the end of his vow cuts his hair with scissors or with a razor, and R. Eleazar said, “The Mishnah, [that is, M. Neg. 14:3,] speaks of an unclean Nazir [when it requires use of a razor]? And why is that not the case for a clean Nazir? A clean Nazir cuts his hair after the tossing of the blood of his offerings. Once that has been done, his head is deemed holy and his Nazirite vow is completed. [Then it no longer matters how he cuts his hair.] So if it is as if it fell off, [e.g., not cut with a razor], [what difference does it make]? [The vow is complete. but an unclean Nazir has not yet completed his vow.]”*

[F] You say concerning a clean Nazir, therefore, that the greater part of the hair on his head, if left uncut, does invalidate the hair cutting.

[G] If he did not suffice to cut it off before the whole of it grew back, does he have to cut off the rest and that suffices? Or does he again have to cut off the whole? [This question is not answered.]

- [I:4 A] You rule with regard to an unclean Nazir: Failure to cut off even two hairs invalidates his hair cutting. Removal of as many as two hairs causes him to lose days he already has observed.
- [B] And along these same lines with regard to a clean Nazir: Failure to cut off two hairs invalidates the hair cutting. Cutting off as few as two hairs causes him to lose days already observed.
- [C] Said R. Yosé b. R. Bun, “And that is so. *For thus has it been taught: R. Simeon b. Judah says in the name of R. Simeon, ‘Just as two hairs [if left] prevent him [from completing the Naziriteship], so two hairs cause him to lose the days he already has observed’*” [T. Naz. 4:3C].
- [D] *R. Jeremiah asked, “If one cut his hair entirely, but left two hairs, and they were long enough to be bent over to their root twice, and he cut them one time – since he cut them off sufficiently to indicate there has been a hair cutting, has he carried out his obligation? Or since he left enough to indicate that there yet is hair, has he not carried out his obligation?”* [This question is not answered. I
- [E] *R. Ila said before R. Yosé, “As to a flogging [for hair cutting], if he cut off a single hair, it suffices to invalidate the hair growing and he is flogged. If he cut off two, he loses the days already observed. [Delete: three.]”*
- [F] *The Mishnah stands at variance with the view of R. Yosé: He who pulled out any hair whatsoever is liable [M. 6:3C].”*
- [G] Said R. Abba bar Mamel, “Interpret the matter in respect to R. Yosé: ‘In any amount whatsoever on this one, and in any amount whatsoever on that one. [They add up to a single hair.]”
- [H] *The following Tannaitic tradition differs from the view of R. Ila: There is he who plucks two hairs and becomes liable on four counts, because of being a Nazirite, because of being a mesora, because of [doing so on] a festival day, and because*

of making a bald spot [T. Mak. 5:5G-H]. [Illa, we recall, thinks that one is flogged for removing only a single hair.]

[I] The teaching pertains to violation of negative commandments. But as to a flogging, they administer a flogging even because of removing one hair.

[I:5 A] *There are Tannaim who teach, “They shampoo entangled and matted hair,” and there are Tannaim who teach, “They do not shampoo such hair.”*

[B] *Said R. Hisda, “He who said, ‘They do shampoo it,’ speaks of a healthy man and healthy hair, and he who said, ‘They do not shampoo it,’ speaks of hair that is weak and ready to fall out.”*

6:4

[A] **A Nazir who was drinking wine all day long is liable only on one count.**

[B] **[If] they said to him, “Don’t drink it! Don’t drink it!” and he continues drinking, he is liable on each and every count [of drinking].**

[C] **[If] he was cutting his hair all day long, he is liable only on a single count.**

[D] **[If] they said to him, “Don’t cut it! Don’t cut it!” and he continued to cut his hair, he is liable for each and every count [of cutting].**

[E] **[If] he was contracting corpse uncleanness all day long, he is liable on only one count.**

[F] **If they said to him, “Don’t contract corpse uncleanness! Don’t contract corpse uncleanness!” and he continued to contract corpse uncleanness, he is liable for each and every count.**

[I:1 A] If one took an oath while among graves,

[B] R. Yohanan said, “They warn him concerning not drinking wine and not cutting the hair [so he indeed is a Nazir by reason of his oath]. [But since he does not bring an offering for his being unclean, he is not flogged on that count and therefore is not warned.]”

[C] R. Simeon Simeon b. Laqish said, “Since they do not warn him as to uncleanness, they also do not warn him as to not drinking wine and not cutting hair.”

[I:2 A] If there were set before a Nazir two flasks, one containing water, and one containing wine, and he drank the one containing water, and they

said to him, “You should know that, what you are drinking is water, but if you drink the wine, there are ten olive’s bulks in volume of wine, and you will be liable for ten floggings” –

- [B] he has not received an admonition on that assumption.
- [C] But if there was one flask of wine, and he began to drink it, and they said to him, “You should know if you drink the whole of it, that it contains in volume ten olive’s bulks of wine, and you will be liable for ten floggings,” he has received an admonition on that assumption [and will be flogged ten times if he drinks the whole flask].
- [D] If there were before a man two spits of meat, one containing properly slaughtered meat, the other containing carrion meat,
- [E] if he then took the one containing properly slaughtered meat, and they said to him, “What you are now eating is properly slaughtered meat. If you should eat the one containing carrion, there are ten olive’s bulks of carrion on it, and you will be liable for ten floggings,” he has not thereby received a warning on that assumption.
- [F] But if there was a single spit, containing only carrion meat, and he began to eat it, and they said to him, “You should know that if you should eat the whole thing, it contains ten olive’s bulks in volume of carrion meat, and you will thereby become liable for ten floggings,” he thereby has received suitable admonition in that assumption [and will be liable should he proceed as planned].

6:5

- [A] **Three things are prohibited to a Nazir: [corpse] uncleanness, cutting the hair, and anything that goes forth from the grapevine.**
- [B] **A more strict rule applies to corpse uncleanness and haircutting than applies to that which comes forth from the grapevine.**
- [C] **For corpse uncleanness and haircutting cause the loss of the days already observed, but [violating the prohibition against] that which goes forth from the vine does not cause the loss of the days already observed.**
- [D] **A more strict rule applies to that which goes forth from the vine than applies to corpse uncleanness and haircutting.**
- [E] **For that which goes forth from the vine allows for no exception, but corpse uncleanness and haircutting allow for exceptions,**

[F] **m the case of [cutting the hair for] a religious duty and in the case of finding a neglected corpse [with no one else to provide for burial, in which case, the Nazir is absolutely required to bury the corpse].**

[G] **A more strict rule applies to corpse uncleanness than to haircutting.**

[H] **For corpse uncleanness causes the loss of all the days previously observed and imposes the liability for an offering.**

[I] **But haircutting causes the loss of only thirty days and does not impose liability for an offering.**

[I:1 A] **As to uncleanness:** “All the days that he separates himself to the Lord, he shall not go near a dead body” (Num. 6:6).

[B] **As to haircutting:** “All the days of his vow of separation, no razor shall come upon his head” (Num. 6:5).

[C] **As to what comes forth from the vine:** “Nothing that is produced by the grapevine, not even the seeds or the skins” (Num. 6:4).

[II:1 A] **A more strict rule applies to corpse uncleanness and haircutting than applies to that which comes forth from the grapevine:**

[B] **As to uncleanness:** “All the days that he separates himself to the Lord, he shall not go near a dead body” (Num. 6:6).

[C] **As to haircutting:** “But the former time shall be void, because his separation was defiled” (Num. 6:12).

[III:1 A] **A more strict rule applies to that which goes forth from the vine than applies to corpse uncleanness and haircutting.**

[B] *They proposed to rule that that applies to four cups of wine [to be drunk on Passover]. But if he said, “By an oath, I shall drink wine,” and he went and became a Nazir, the vow of the Nazir does not override the oath.*

[C] *He said, “I drink wine,” so may one come to rule that he should not drink wine! [The vow is null.]*

[D] *As to the release of the prohibition against haircutting for a religious duty, it is not the end of the matter that he does so in order to provide for the inspection of symptoms should he be smitten with a *nega*. But he does so even to provide for inspecting his bald spot and to find out whether it has spread or not spread.*

[E] *As to a neglected corpse [M. 6:5F], this is in line with that which we have learned: **If they were going along the way and found a neglected corpse [M. Neg. 7:1].***

[IV:1 A] A more strict rule applies to corpse uncleanness than to haircutting [M. 6:5G]:

[B] As to uncleanness, it is written, “But the former time shall be void, ... and he shall bring a male lamb a year old for a guilt offering” (Num. 6:12).

[C] A more strict rule applies to haircutting.

[D] for the law treats the one who cuts the hair as equivalent to the one whose hair is cut [T. Naz. 4:4C]. [Both are flogged.]

[E] But as to uncleanness, the law does not treat the one who imparts uncleanness to a Nazir as equivalent to the one who is made unclean.

6:6

[A] Cutting off the hair on account of contracting corpse uncleanness: how [is it done]?

[B] “One would sprinkle [with purification water] on the third and seventh day and cut off his hair on the seventh day and bring his offerings on the eighth day.

[C] “But if he cut off his hair on the eighth day, he brings his offerings on that same day,” the words of R. Aqiba.

[D] Said R. Tarfon, “What is the difference between this one and a mesora, [who, if he cuts his hair on the eighth day, brings the offerings on the ninth]?”

[E] He said to him, “in the case of this one, cleaning him is contingent on the passing of his [seven] days, but in the case of the mesora, declaring him clean is [also] contingent upon his haircutting.

[F] “And he brings on offering only when the sun has set [after conclusion of his purification rite].”

[I:1 A] It is written, “And [the unclean Nazir] shall separate himself to the Lord for the days of his separation, and bring a male lamb a year old for a guilt offering” (Num. 6:12).

[B] “[He begins counting the new period of his vow] from the [eighth day, that is], the day on which he brought his offerings,” the words of Rabbi.

[C] R. Yosé b. R. Judah says, “[He begins counting the clean days of a new vow] from the time at which he cut his hair.”

[D] *R. Zeira in the name of R. Hoshaiah, R. Hiyya in the name of R. Yohanan*, “When they differ, it is as to a case in which he cut his hair

on the seventh day and brought his offerings on the eighth day. [Here, Yosé b. R. Judah maintains that on the seventh day, the vow in a state of cleanness takes effect.] But if he cut his hair on the eighth day and brought his offerings on that same day, both parties concur that it is on the day on which he brings his offerings [that counting for the new vow commences] [= M. 6:6C].”

[E] Said R. Yosé, “And that rule applies if he immersed on the seventh day, [and then he counts the clean days from the seventh day, as Yosé maintains].

[F] “But if he had immersed himself on the eighth day, the eighth day is treated as the seventh, and the seventh as the eighth, [that is to say, the two days are regarded as one, since the immersion was supposed to have taken place along with the offering]. And he begins counting the clean days for the new oath only on that seventh [= eighth] day.”

[G] If he was made unclean and again was made unclean [before he brought his offering for the former incident], he brings an offering for each of the two incidents of contamination.

[H] Said R. Zeira, “This [G] accords [only] with the view of R. Yosé b. R. Judah. [One can imagine such a situation, for he was made unclean and then on the seventh day thereafter was made unclean again. Now on the seventh day, he could begin to count the new Nazirite vow in a state of uncleanness. Another incident of contamination then takes place. He has then to observe each one, that is, bringing offerings to cover one and then the other incident of contamination.]

[I] “But in the view of Rabbi, [one cannot find a relevant case, for] this man remains subject to the original vow of Naziriteship, [that is, he is in a state of] uncleanness [on account of the former one, since the new vow as a Nazir, in a state of cleanness, begins only after he has brought his offerings, and, in Rabbi’s view, this one cannot have brought his offerings]. [Accordingly, he brings only one set of offerings, after seven days have passed from the second incident of uncleanness.] “

[J] [That is not so, in fact,] for R. Ila said, “When they differ, it is as to counting the days of the second Nazirite vow in a state of cleanness. [In Rabbi’s view, he begins to count the clean days from the eighth day, and Yosé b. R. Judah has him begin to count in the seventh, in line with the following

verse:] ‘And he shall separate himself ... and bring a male lamb’ (Num. 6:12).

[K] “Said Rabbi, ‘It applies only when he shall actually bring the offering.’

[L] “R. Yosé b. R. Judah says, ‘Even if he is suitable for bringing the offering, on account of uncleanness [but has not actually done so, hence on the seventh day].’ [Accordingly, in Ila’s view, one may explain how Rabbi may construct a case relevant to the cited problem above, G.]

[M] “But all parties concur that he brings an offering on account of uncleanness [if he went and suffered uncleanness a second time, since he has immersed by reason of the original contamination].”

[N] *Now thus it was taught:* If one was made unclean on the seventh day [after being made unclean], and then went and became unclean again on the eighth day, he brings an offering for each distinct incident of contamination. [Let us see how Zeira and Ila read this teaching.]

[O] *Now [in interpreting this statement], in the theory of R. Zeira, so far as Rabbi is concerned, the offering covering the first incident is set aside, and he brings an offering for the second one [as if we have a single, protracted incident of contamination, covering both specific cases]. In the view of R. Yosé b. R. Judah, the first offering is not set aside, [and we treat each as a separate case].*

[P] *In the theory of R. Hila, in the opinion of all parties, the former offering is not set aside, and he brings yet another, [for all parties concur in the stated ruling].*

6:7

[A] **The cutting of hair in the case of [completing the vow in a state of] cleanness: How is it done?**

[B] **One would bring three beasts, a sin offering, a burnt offering, and a peace offering (Num. 6:14).**

[C] **“and he would slaughter the peace offering and cut off his hair after their [slaughter],” the words of R. Judah.**

[D] R. Eleazar says, “He would cut his hair only after the sin offering.

[E] “For the sin offering takes precedence under all circumstances. “

[F] But if he cut his hair after any one of the three of them, he has carried out his obligation.

[I:1 A] R. Joshua b. Levi said, “‘And he shall offer the ram as a sacrifice of peace offering’ (Num. 6:17). What is the meaning of Scripture’s statement? It is that he should give precedence to this rite, [that is, the peace offering, as Judah has said, so that he may cut off his hair as soon as possible].”

[B] *R. Hinena objected before R. Mana*, “And lo, it is written, The priest shall offer also its cereal offering and its drink offering’ (Num. 6:17). Will you then say here too that the meaning is to give precedence to these rites? [That is manifestly impossible. They are offered with the peace offering, not prior to it.]”

[C] *What is the upshot of the matter?*

[D] *R. Hinena in the name of R. Joshua b. Levi proposed*, “**If the Nazir cut his hair after any one of the three offerings, he has carried out his obligation [M. 6:7F].**”

[I:2 A] *R. Zeira raised the question before R. Mana*, “Who [55c] is responsible for the following statement of the Mishnah: **All sin offerings that are mentioned in the Torah take precedence over guilt offerings [M. Zeb. 10:5A]**? [Should it not accord in particular with R. Eleazar at D?]”

[B] He said to him, “All parties concur: **All sin offerings that are mentioned in the Torah take precedence over guilt offerings.**” [The difference of M. 6:7C and D is specific to the rites of the Nazir.]

6:8

[A] Rabban Simeon b. Gamaliel says, “[If] one brought three beasts and did not specify [their purposes, respectively],

[B] “that which is suitable to serve as a sin offering [a ewe-lamb in its first year] is offered as a sin offering; [that which is suitable to serve as] a burnt offering [a he-lamb in its first year] is offered as a burnt offering, and [that which is suitable to serve as] a peace offering [a ram two years old] is offered as a peace offering. ‘

- [C] He would take “the hair of the head of his separation “ (Num. 6:18) and cast it under the cauldron [in which the peace offering is cooked].
- [D] And if he cut it off in the provinces, he would [in any event~ cast it under the cauldron.
- [E] Under what circumstances?
- [F] In the case of [completing the vow and] cutting the hair in a state of cleanness.
- [G] But in the case of cutting the hair in a state of uncleanness, he would not cast it under the cauldron.
- [H] R. Meir says, “All cast hair under the cauldron except only for one who was unclean [and who cut off his hair outside the Temple,~ in the provinces. “
- [I:1 A] *They raised the following question [as to M. 6:8A in which the various beasts were not designated for their several purposes]: “The rule speaks of a case in which he did not designate the beasts when he brought them to the Temple courtyard. Lo, he must have designated them in his house [since otherwise why should the rule of M. 6:8B be necessary? Why can he not do whatever he wants?]”*
- [B] They reverted to state, “Even in his own house he did not designate the purpose of the various beasts [under discussion in the Mishnah], [and still they are treated as if they have been designated, in line with M. 6:8B]. Why? Because as to cattle, the rules governing undesignated beasts simply do not apply to begin with [since if it is male, it serves one purpose under all circumstances, and if it is female, a different purpose].”
- [I:2 A] As to the disposition of the hair, R. Yosé b. R. Bun in the name of Rab: “One dips the hair in the crow of the peace offerings.”
- [B] What is the Scriptural basis for this position? “And put [the hair] in the fire, which is under the sacrifice of the peace offering” (Num. 6:18)? That is to say, even the sacrifice must be in the fire.
- [I:3 A] *It was taught [in the Tosefta’s version]: All cast hair under the cauldron, except only for one who was unclean [and who cut his hair] in the provinces [M. 6:8H],*
- [B] **because his hair is to be buried.**
- [C] “He who was made unclean [and who cuts his hair] in the sanctuary casts his hair under the cauldron of the sin offering or of the guilt offering,~’ the words of R. Meir.

- [D] **R. Judah says, “The one who cuts his hair in a state of uncleanness here and there does not toss his hair under the cauldron.**
- [E] **“The one who cuts his hair in a state of cleanness here and there does cast his hair under the cauldron.”**
- [F] **And sages say, “The one who cuts his hair by reason of uncleanness here and there and the one who cuts his hair in a state of cleanness in the provinces do not cast their hair under the cauldron.**
- [G] **“You have only a Nazir who cut his hair in a state of cleanness and who does so at the door of the tent of meeting who casts his hair under the cauldron, since it is said, ‘And the Nazir will cut his hair at the door of the tent of meeting’” (Num. 6:18) [M. 6:8F-G; T. Naz. 4:6].**
- [H] [*Interpreting this verse,*] *rabbis say,* “The rule applies only when he is both suitable for entering the tent and also near the tent.”
- [I] R. Meir says, “If he is suitable, even if he is not near, and if he is near, even if he is not suitable, [he does so].”

6:9

- [A] **He would cook the peace offerings or seethe [the offering].**
- [B] **The priest takes “the cooked shoulder of the ram and one unleavened cake out of the basket and one unleavened wafer and puts them into the hand of the Nazir” (Num. 6:19~.**
- [C] **And he waves them.**
- [D] **And afterwards the Nazir is permitted to drink wine and to contract corpse uncleanness.**
- [E] **R. Simeon says, “Once the blood of any one of the sacrifices has been tossed in his behalf, the Nazir is permitted to drink wine and to contract corpse uncleanness.”**
- [I:1 A] [**Referring to M. Ned. 6:1, He who takes a vow not to eat what is cooked is permitted to eat what is roasted or seethed,** we note that the Mishnah here does not regard roasting or seething as cooking.] The Mishnah has maintained that that which is seethed is regarded as cooked. *For we have learned: He would cook the peace offerings or seethe [the offering] [N. Naz. 6:9A].* [Then at Num. 6:19, the shoulder of the ram is called cooked.] Now Scripture, for its part, refers to roasting as cooking: “And they roasted the Passover lamb” (2 Chron. 35:13). *Now if, in this latter instance, you wish to maintain*

that they did not act in accord with the requirements of the law, R. Jonah Bosrayya said that it was in accord with the law [that they had acted]. So it follows that the Mishnah maintains that that which is seethed is regarded as cooked, while the Scripture has held that that which is roasted is regarded as cooked. *And have we not learned: He who takes a vow not to eat what is cooked is permitted to eat what is roasted or seethed [M. Ned. 6:1A]?*

- [B] Said R. Yohanan, “In matters of vows, the sages have followed the usage of ordinary people.”
- [C] Said R. Josiah, “In matters of vows, the sages have followed the usage of the Torah.” [Hence he will differ from the Mishnah’s rule and will maintain that if a person takes a vow not to eat what is cooked, he may not eat what is roasted or seethed.]
- [D] *What practical difference is there between these two positions?*
- [E] [A case in which one says,] “Qonam be wine, which I shall not taste on the festival.” [Such a vow prevents his drinking wine on the festival, and the issue is the extent of the festival, that is, Tabernacles.]
- [F] *In the view of R. Yohanan*, he is prohibited from drinking wine on the last day of the festival, [since people mean the entire span of the festival when they refer to it, even though the final day is not part of the festival of Tabernacles itself, but is a distinct and additional festival day].
- [G] *In the view of R. Josiah*, he is permitted to drink wine on the last day of the festival [for the reason stated above].
- [H] [No, that is not the case.] Even R. Josiah concedes that he is prohibited [from drinking wine on that last day]. R. Josiah has made his statement only so as to impose the more strict rule.
- [I] *R. Hiyya bar Ba said, “R. Yohanan would eat dumplings [boiled in water] and say, ‘I have not tasted food today.’”*
- [J] *And lo, we have learned, He who takes a vow not to eat food is permitted to have water and salt [M. Erub. 3:1],* [which indicates that these dumplings also fall into the category of food].
- [K] [R. Yohanan] interprets [this teaching of M. Erub. 3:1] to accord with the view of R. Josiah, who has said that, so far as

vows are concerned, they follow the usage of language in the Torah.

[L] And how do we know that [in the Torah] all sorts of things may be called food?

[M] R. Aha bar Ila said, “‘Ten asses loaded with grain, bread, and provision’ (Gen. 45:23). Why does Scripture refer to ‘provision’? It is to indicate that all sorts of things are regarded as provisions [of food].”

[I:2 A] It is written, “And the priest shall take the shoulder of the ram, when it is boiled” (Num. 6:19). Since Scripture refers to “when it is boiled,” is it possible to suppose that it is boiled by itself?

[C] Scripture says, “Of the ram,” [meaning that it is boiled as part of the ram]. How so? One chops it off leaving a hair’s breadth of flesh yet attached.

[D] And that which is holy [the shoulder] will not absorb [the taste of] that which is unconsecrated [the rest of the ram], nor will that which is unconsecrated absorb [the taste of] that which is holy.

[I:3 A] *Hilpai asked R. Yohanan and R. Simeon b. Laqish*, “As to spices [deriving from produce in the status of *orlah* that is, in the first three years after planting], what is the law as to their imposing a prohibition on produce with which they are mixed in a proportion of more than one to two hundred, [that is, one part prohibited spice in a mixture of two-hundred-and-one parts of permitted food]?”

[B] He said to him, “Spices have no seasoning effect in a mixture larger than two-hundred times their quantity.”

[C] *And lo, we have learned: Whatever is leavened, flavored, or mingled with food in the status of heave offering, orlah, or diverse kinds of the vineyard is forbidden [M. Orl. 2:4].* [The implication is that that is the case in any measure whatsoever, so there is no possibility of nullification even in a very large mixture, vs. B.] *Now if you say that the rule applies even in a proportion of one to one hundred or one to two hundred [as the case may be], then even if the prohibited*

produce has not caused leavening or has not spiced the mixture, [the prohibition should apply]. [So the cited passage means that there is no nullification even by reason of mixture in a quantity much larger than that of the prohibited produce.] *But we deal with a case of grapes.* [That is to say, when we rule that spices have no seasoning effect in a **mixture larger** than two hundred times their quantity], it is in an instance in which the mixture involves grapes [used for imparting flavor to the broth]. [Grapes do not impart much of a flavor and hence may be nullified.]

[D] R. Yosé in the name of R. Yohanan: “We deal with grapes that have not dried. But in the case of those that have dried, they do serve as a spice in a mixture greater than one part in two hundred.”

[E] R. Hiyya in the name of R. Yohanan, “That is so in the case of those in which they have not cooked the mixture, but in the case in which they have they do serve as a spice in a mixture greater than one in two hundred.”

[F] R. Yosa and R. Joshua b. Levi in the name of Bar Pedaiah: “All those [substances] that impart a flavor [are nullified in a mixture of] one part [of the flavor] in a hundred parts [of that which is flavored].”

[G] R. Hiyya in the name of R. Joshua b. Levi in the name of Bar Pedaiah: “All those [substances] that impart a flavor [are nullified in a mixture of] one part [of the flavor] in sixty parts [of that which is flavored].”

[H] *Said R. Samuel bar R. Isaac to R. Hiyya bar Abbah, “Lo, R. Yosé differs from you. And lo, the Mishnah itself differs from the two of you: **Whatever is leavened, flavored, or mingled with food in the status of heave offering, orlah, or diverse kinds of the vineyard is forbidden [M. Or. 2:4].*** Now if you say that the rule applies even in a proportion of one to one hundred or one to two hundred [as the case may be], then even if the prohibited produce has not caused leavening or has not spiced the mixture, [the prohibition should apply]. [So the cited passage means that there is no nullification by reason of a quantity much larger than

the prohibited produce.] Accordingly, we deal with a larger quantity, [and yet the rule is the same, that there is no nullification].

[I] Said R. Jeremiah, “Interpret the matter to speak of a mixture of meat of one status with that of another. [That is, when one part in a hundred or one part in sixty serves to nullify the prohibited part, we deal with a mixture of meat that is permitted cooked with that which is prohibited. The prohibited meat imparts its flavor to the permitted. In such a case, the stated measures apply.]”

[J] Said R. Yosé, “The same rule applies to mixtures of one kind of meat with another kind of meat and with mixtures of all or other sorts of prohibited substances.”

[K] Abbahu in the name of R. Yohanan, ‘As regards all things prohibited by the Torah, one measures them as if they were onions or leeks [in assessing whether they impart a flavor].’”

[L] *What is the upshot of the matter?*

[M] This party maintains that as to prohibited substances that impart a flavor, they are nullified in a mixture of one part of the prohibited substance to one hundred of permitted.

[N] The other party has said that as to prohibited substances that impart a flavor, they are nullified in a mixture of one part of the prohibited substance to sixty parts of permitted.

[O] And both parties derive the law from the case of the ram brought by the Nazir.

[P] *The one who has said that* prohibited substances that impart a flavor are nullified in a mixture of one part of the prohibited substance to one hundred parts of permitted holds that you treat the shoulder as one hundredth of the ram, [which is in fact not consecrated]. [The former is prohibited to the owner, the latter permitted.]

[Q] *The one who has said that prohibited substances that impart a flavor are nullified in a mixture of one part of the prohibited substance to sixty parts of permitted holds that you treat the shoulder as one sixtieth of the ram.*

[R] *According to the one who has said that prohibited substances that impart a flavor are nullified in a mixture of one to one hundred, you remove the bones from the shoulder, and the one who said that the figure is one in sixty holds that you do not remove the bones from the shoulder.*

[S] Now just as you remove the bones from the flesh of the shoulder, so you must remove the bones from the flesh of the ram, [in which case the proportions will be the same, one in sixty, not one in a hundred, as you claim]!

[T] You cannot say so, for lo, *it has been taught:* Refuse [grain] in the status of heave offering does not join together with other produce in the status of heave offering that has fallen into a common mixture to impose a prohibition upon unconsecrated food [into which it is fallen, that is, by bringing the produce in the status of heave offering to a proportion so high that it imparts its status to the whole mixture]. But refuse grain in the status of unconsecrated food does join together with other produce in the status of unconsecrated food that has fallen into a common mixture in order to nullify the small quantity of produce in the status of heave offering that has fallen into the whole batch. [Here too the bones of the ram join together with the meat to nullify the flavor imparted to the whole by the shoulder, which is forbidden to the owner, but the bones in the shoulder do not join together with the meat in the shoulder to impart to the rest of the ram the prohibited status to which the shoulder is subject.]

[U] [Since we already have ruled that refuse grain in the status of heave offering does not join together with other grain in the status of

heave offering to impart prohibited status to the whole mixture,] R. Bibi asked, “Refuse grain in the status of heave offering – what is the law as to its joining together with food in unconsecrated status to nullify heave offering with which it is mixed?”

[V] *That which R. Huna has said*, that is, shells that are subject to a prohibition, [e.g., as *orlah* produce], join together to create a volume sufficient to render the whole mixture permitted, suggests that refuse grain in the status of heave offering *will* join together with produce in unconsecrated status to nullify the small amount of produce in the status of heave offering with which it is mixed.

[W] *Hezekiah taught*: “Whatever I have prohibited to you in another setting I have permitted to you here. For in all other places, a mixture of one prohibited part in a hundred is prohibited, while a mixture of one part in a hundred and a bit more is permitted, here even one part in a hundred is permitted.”

- [II:1 A] Rab said, “Waving the offering is a necessary step in the case of the Nazir [as at M. 6:9C-D].”
- [B] *And has it not been taught*: “‘The law governing the Nazir,’ whether he has wings [hands] or does not have wings [hands]”? [So waving is not essential.]
- [C] That which Rab has said applies to a Nazir who has hands.
- [D] *And so it has been taught*: In the case of one who is suitable for going through with the rite of waving the offering, the actual waving is a necessary part of the rite, and in the case of one who is not suitable for going through with the rite of waving the offering, the actual waving is not a necessary part of the rite, [and he may drink wine even if his offering has not been placed in his hands and waved].
- [II:2 A] Samuel said, “[If the Nazir has no] hair [to cut off], it serves to prevent proper fulfillment of the rites required of the Nazir as do the waving of the offering and the placing the blood of the offering on the thumbs of the *mesora*.”

- [B] *And has it not been taught:* ““The law governing the *mesora*,’ whether he has thumbs and whether he does not have thumbs”?”
- [C] Interpret it to follow the view of R. Eliezer, who has said that one puts the blood on the place where the thumbs would be [and so there is a necessary requirement that the blood he put on the thumbs or on their stumps].

6:10

- [A] **[If] he cut off his hair after a sacrifice and the sacrifice turned out to be invalid, his cutting of the hair is invalid, and his sacrifices have not gone to his credit.**
- [B] **[If] he cut his hair after a sin offering made not for its own name [under an incorrect designation], and afterward he brought his [other] offerings under their proper designation,**
- [C] **his cutting of the hair is invalid, and his sacrifices have not gone to his credit.**
- [D] **[If] he cut his hair after the burnt offering or the peace offering improperly designated and afterward he brought his [other] offerings under their proper designation, his cutting of the hair is invalid, and his sacrifices have not gone to his credit.**
- [E] **R. Simeon says, “That particular sacrifice has not gone to his credit, but the other sacrifices have gone to his credit.”**
- [F] **And if he cut his hair after all three of them and one of them turned out to be valid, his cutting of the hair is valid, and he brings the other sacrifices.**
- [I:1 A] [As to M. 6: 10E, Simeon’s view is that if the other sacrifices have gone to his credit,] his haircutting also has gone to his credit.
- [B] For if you say otherwise, [that is, his haircutting has not gone to his credit,] then even his other offerings also should not go to his credit. [That is, if he has to cut his hair yet another time, after thirty days, he also will have to bring other offerings later on; in that case, why should Simeon maintain that the other sacrifices have gone to his credit? That is manifestly impossible.]
- [C] *R. Yohanan raised the question:* “In accord with the view of R. Simeon, what is the law as to cutting one’s hair after a sacrifice of his peace offerings brought in connection with a festal offering?”
- [D] *Now does not the Mishnah deal with this matter:* **R. Simeon says, “That particular sacrifice has not gone to his credit, but the other sacrifices have gone to his credit” [M. 6:10E]? And that is the case**

even if he did not slaughter them as peace offerings in the status of free-will offerings. [That is, even if he had slaughtered them, not as peace offerings, but as a free-will offering, the other offerings go to his credit and his haircutting is valid. It follows that he may cut his hair after bringing peace offerings in the status of a free-will offering so far as Simeon is concerned.] That is to say, he may cut his hair after the submission of peace offerings brought in the status of free-will offerings in accord with the view of R. Simeon.

[E] *R. Yosé bar Abun said that as to R. Ada bar Aha and R. Yohanan, R. Ada bar Ahva regarded it as a question, while so far as R. Yohanan is concerned, the answer is obvious [as just now given].*

6:11

[A] **He in whose behalf one of the drops of blood has been properly tossed and who [then] is made unclean**

[B] **R. Eliezer says, “He loses the whole [set of offerings already offered up].”**

[C] **And sages say, “Let him bring the rest of his offerings when he becomes clean.”**

[D] **They said to him, M’S H B: “In behalf of Miriam of Tadmor [Palmyra], one of the drops of blood was properly tossed, and they came and told her that her daughter was dying, and she went and found her dead.**

[E] **“And sages said, ‘Let her bring the rest of her offerings when she will be clean.’”**

[I:1 A] *The opinions assigned to R. Eliezer stand at variance with one another. There he has said that [if a Nazir is made unclean through corpse uncleanness,] he loses only thirty days, [as already observed, cf. M. 3:4], while here he says this that he loses the entire spell, however long].*

[B] R. Yohanan said, “[The meaning of ‘He loses the whole’ is that] he loses the whole set of offerings [already offered up].”

[I:2 A] [The following question assumes that so far as Eliezer is concerned, the cutting of the hair is not essential to completion of the rite. So long as a single offering is properly presented, the Nazir is permitted to drink wine and the oath is fulfilled. That is so, therefore, even though the Nazir has not yet cut his hair.] *It is, then, self-evident that that is the case, [namely, if one of the offerings has been properly made], and then the Nazir is made unclean, [the vow is fulfilled and he may do*

what was formerly forbidden]. [Accordingly, we ask,] is it not so that in such a case he is valid, and afterward he is made unclean, that his offering is accepted, and he is relieved of the vow? [If that is the case, why in the world would Eliezer maintain, as he does at M. 6:11B, that he loses the whole set of offerings already offered up? What has been done has been carried out in a state of cleanness.]

[B] [55d] Said R. Hinena, “Now is this not R. Eliezer? And R. Eliezer is a Shammaite. *For it has been taught: A totally hairless Nazir – the House of Shammai say, ‘He has to pass a razor across his head.’ And the House of Hillel say, ‘He does not have to pass a razor across his head’* [T. Naz. 1:6A-C]. [As a Shammaite, Eliezer maintains that cutting the hair is essential to the rite. Since here he does not cut his hair, all of the offerings he already has brought also are useless.]”

[I:3 A] *So the meaning of the Mishnah passage before us is: “Let him become clean and then bring the rest of the offerings he owes”* [M. 6:11C].

[B] *And so too is the meaning of the Mishnah: “Let her become clean and then bring the rest of the offerings that she owes [at M. 6:11E].”*

YERUSHALMI NAZIR

CHAPTER SEVEN

7:1

[A] A high priest and a Nazir do not contract corpse uncleanness on account of [burying even] their close relatives.

[B] [But they do contract corpse uncleanness on account of a neglected corpse].

[C] [If] they were going along the way and found a neglected corpse –

[D] R. Eliezer says, “Let a high priest contract corpse uncleanness, but let a Nazir not contract corpse uncleanness.”

[E] And sages say, “Let a Nazir contract corpse uncleanness, but let a high priest not contract corpse uncleanness.”

[F] Said to them R. Eliezer, “Let a priest contract corpse uncleanness, for he does not have to bring an offering on account of his uncleanness. But let a Nazir not contract corpse uncleanness, for he does have to bring an offering on account of his uncleanness.

[G] They said to him, “Let a Nazir contract corpse uncleanness, for his sanctification is not a permanent sanctification, but let a priest not contract corpse uncleanness, for his sanctification is a permanent sanctification.”

[I:1 A] It is written, “He shall not go in to any dead body, [nor defile himself, even for his father or for his mother]” (Lev. 21:11).

[B] *How shall we interpret this passage?* If it serves to prohibit him from contracting corpse uncleanness in connection with burying distant relatives, lo, that matter is covered by the general rule applying to an ordinary priest, [and here we deal with a high priest]. [Lev. 21:1-2 allow the ordinary priest to bury only his nearest of kin.]

[C] Accordingly, if it does not pertain to distant relatives, apply it to close relatives.

- [D] It is written, “He shall not go in to *any* dead body,” *and yet you say this?*
- [E] Said R. Hiyya bar Gameda, “Accordingly, [what we have is] a prohibition in the wake of yet another prohibition in the Torah, [which has the effect] only of permitting [the high priest] to bury a neglected corpse.”
- [F] *There are those who wish to derive the same fact from the following:* “He shall not defile himself as a husband among his people and so profane himself” (Lev. 21:4) among his people he shall not profane himself, but he must profane himself to take care of a neglected corpse.
- [G] *There are those who wish to derive the same fact from the following:* “And so profane himself” (Lev. 21:4) to profane himself, he does not contract uncleanness, but he does contract uncleanness for a neglected corpse.
- [H] *There are those who wish to derive the same fact from the following:* “For a hanged man is accursed by God” (Deut. 21:23). He who is subject to admonition about cursing the name of God is admonished concerning a neglected corpse, and he who is not admonished concerning cursing God is not admonished in regard to a neglected corpse.
- [I] *They objected:* Lo, there is the case of the idolater [who is admonished not to curse God, and yet who is not subject to the requirement of burying a neglected corpse].
- [J] [No, the verse in regard to not hanging the body overnight] applies to those who to begin with may be put to death [for various infractions] and have their bodies hung. This excludes the gentile, who is put to death only through decapitation.
- [K] “You shall surely bury him on the same day” (Deut. 21:23) is a positive commandment.
- [L] Whence do you encompass under the requirement of burial on the same day the sword with which he is slain, the tree from which he is hung, or the scarf with which he is strangled?
- [M] Scripture states, “You shall bury it.”
- [N] Why does Scripture state, “You shall bury him”?
- [O] Might one think that one might think that one buries the felon himself [but not these other things]. Accordingly, Scripture

says, “You shall surely bury him,” meaning, bury him, the tree used in his regard, or the stone used in his case.

[P] How so? One digs a hole three handbreadths deep, so that the corpse will not snag on the plough.

[I:2 A] “You will bury him” – all of him, not part of him.

[B] “You will bury him” – On this basis, we learn that if one has left over any part of what should be buried with him, one has done nothing whatsoever, for it is said, “For you shall surely bury him.”

[C] On this basis, we learn that one is deemed a neglected corpse only if his head and the greater part of his body are discovered together.

[D] *R. Yosé taught before R. Yohanan*, “Just as a person contracts corpse uncleanness because of a neglected corpse, so a person contracts corpse uncleanness by reason of a limb from a neglected corpse.”

[E] Said to him R. Yohanan, “And is that so? [That contrasts with the view that a neglected corpse is such only if the bulk of the corpse is available for burial.]”

[F] R. Jacob bar Aha in the name of R. Zeira: “Interpret the statement to apply to one who already is unclean and goes and once again to become unclean [for yet another limb].”

[I:3 A] *It was taught*: R. Yosé says, “A man [who is an ordinary priest] does not contract uncleanness on account of a limb that has fallen from his father while the father is yet alive, but he does contract corpse uncleanness by reason of a bone the size of a barley kernel deriving from his father [after he has died].”

[B] R. Yudah says, “Just as a person contracts corpse uncleanness by reason of burying a bone the size of a barley kernel deriving from his father, so he contracts uncleanness by reason of a limb that has fallen from his father while he is yet alive.”

[C] M'SH B: Yosé b. Paksis [a priest] had an ulcer on his foot. The doctor came to cut it off. He said to him, “When you have left it hanging by only a thread as thin as a hair, let me know.” He cut it off and left it hanging by a thread as thin as a hair, and so informed him. He called Nehunya his son and said to him, “Nehunya, my son, up to this point you were obligated to take care of me. From this point forth, go out, for a person does not contract corpse uncleanness by reason of a limb cut off from his father when he is alive.”

- [D] Now when the case came to sages, they said, “Concerning this person it is said, ‘There is a righteous man who perishes in his righteousness’ (Qoh. 7:15). [56a] That is to say, the [punctiliously] righteous man perishes, and his [showy] righteousness with him.”

GENERAL DEFINITIONS PERTINENT TO THE NEGLECTED CORPSE

[I:4 A] What is the definition of a neglected corpse?

- [B] It is the case in which the dying man cries out, and the townsfolk do not come [to answer his cries]. If the townsfolk should come, lo, this one drags him by one hand.
- [C] To what extent? So that there are sufficient bearers of the bier, people to take their place, and people to take the place of those who take their place.
- [D] *The afore-stated requirement [that the priest participate only briefly] applies* so long as they do not need him. But if they should require his assistance, it is not in such a case [that he is exempt] .
- [E] *The rule further applies* when they do not know him, but if they recognize the corpse, it is not-in such a case that he must participate.
- [F] *The rule further applies* when it is not in accord with the honor owing to [the corpse]. But if it was in accord with the honor owing to him, it is not in such a case [that the priest does only a small part of the work].

[I:5 A] And in the case of a ruler, the honor owing to him is the same.

- [B] And then what is the law as to a priest’s contracting corpse uncleanness to bury a ruler?
- [C] *When R. Yudah the Patriarch died, R. Yannai proclaimed, saying, “There is no consideration of priesthood today, [and everyone must participate in the burial rites, even priests].”*
- [D] *When R. Yudan the Patriarch, grandson of R. Yudan the Patriarch, died, R. Hiyya pushed R. Zeira bar Ba into the synagogue that stood among the vineyards in Sepphoris and forced him to contract uncleanness [since the body lay in the synagogue].*
- [E] *When Yehudinaia, sister of R. Yudan the Patriarch, died, R. Hanina sent to R. Mana, but the latter did not come up. He said to him, “If when they are alive, one does not contract uncleanness on account of women, is it not an*

argument all the more so that when they are dead, one should not do so?”

[F] Said R. Nisa, “When they are dead, they are to be treated as neglected corpses [and so given all due respect, even by priests].”

- [I:6 A] What is the law as to [a priest’s] contracting corpse uncleanness in honor of his master?
- [B] *The father-in-law of R. Yannai the Younger died. He was both his father-in-law and his master. Yannai asked R. Yosé, who prohibited him from contracting corpse uncleanness on his father-in-law’s account. R. Hama heard and said, “Let his disciples contract corpse uncleanness for him.”*
- [C] His disciples contracted corpse uncleanness for him, but they also ate meat and drank wine.
- [D] *Said to them R. Mana, “One of these two contradictory matters may not be allowed to you. If you are in the status of mourners, then why have you eaten meat and drunk wine? And if you are not in the status of mourners, then why have you contracted corpse uncleanness?”*
- [I:7 A] What is the law as to a priest’s contracting uncleanness for the sake of study of Torah [e.g., by going abroad, where by definition the earth is contaminated with corpses]?
- [B] *R. Yosé was in session and repeating traditions, and someone unclean with corpse uncleanness came in. When he sat down, he said nothing to him, and when he left, he said nothing to him.*
- [C] *R. Nihome, son of R. Hiyya bar Abba, “Father did not walk under the gateway of Caesarea.”*
- [D] *But R. Ammi did go under it.*
- [E] *R. Hezekiah, R. Kohen, and R. Jacob bar Aha were walking in the piazza of Caesarea. They came to the gateway. R. Kohen went aside. They came to a clean place and he came back to them. He said to them, “What were you doing [while I was unable to walk with you]? Said R. Hezekiah to R. Jacob bar Aha, “Don’t tell him a thing. We do not know whether it was because he was displeased, because a person must contract uncleanness in order to study Torah, or whether it was because he did not want him to put them off with difficult questions.”*

- [I:8 A] *It has been taught: A priest contracts uncleanness [in connection with redemption of land] to give testimony and to engage in a lawsuit against them abroad.*
- [B] *And just as he contracts uncleanness in connection with affairs abroad, so he surely contracts uncleanness in a graveyard [in the same matter].*
- [C] *And [a priest] contracts uncleanness [if it is] to study Torah or to marry a woman.*
- [D] *R. Judah says, “If he has someone else with whom to study, lo, this one should not contract uncleanness, and if not, lo, this one may contract uncleanness.”*
- [E] *R. Yosé says, “Even though he may have someone else with whom to study, lo, this one may contract uncleanness [to study with this particular master],*
- [F] *“for it is not with just anyone that a person has the merit to learn, but with him alone who can impart the merit of learning to him.”*
- [G] *They said concerning Joseph the priest that he would contract uncleanness by going abroad [to study with] R. Yosé in Sidon [T. A.Z. 1:8E-K].*
- [H] *A priest should not go abroad, even to marry a woman,*
- [I] *unless they assured him [that it would be possible to do so] [T. A.Z. 1:9A-B].*
- [I:9 A] *What is the law as to a high priest’s contracting corpse uncleanness in order to raise his hands [to bestow the priestly blessing]?*
- [B] *Gebilah, brother of R. Ba bar Kohen, said before R. Yosah in the name of R. Aha, “A priest does contract corpse uncleanness, [e.g., by remaining in the synagogue when a corpse is present] in order to raise his hands [and bestow the priestly blessing].”*
- [C] *R. Aha, [who had been cited,] heard this and said, “I never said such a thing.”*
- [D] *Then he retracted and said, “Or perhaps he did not hear it directly from me. But it is according to that which R. Judah bar Pazzi in the name of R. Eliezer [said], ‘Any priest who stands in the synagogue and does not raise his hands [and bestow the priestly blessing] violates an affirmative commandment.’ Now he may have concluded that a positive commandment overrides a negative commandment, [that is,*

not contracting corpse uncleanness], but I never said such a thing. Bring him and I shall inflict a flogging on him.”

[E] *R. Abbahu was in session and repeating traditions in the “turbulent synagogue” in Caesarea. Now a death took place. The time for the priests to raise their hands came. They did not ask him [whether they might interrupt their studies on that account]. The time came for eating. They asked him [whether they now had to leave the synagogue, since the prohibition against being in the synagogue with a corpse now applied, their studies having been suspended for the meal].*

[F] *He said to them, “As to raising the hands, you did not ask me, but as to eating, you asked me!” When they heard this, each one of them picked himself up and scurried out.*

[I:10 A] Said R. Yannai, “A priest contracts uncleanness in order to see the king.”

[B] *When Diocletian the king came up here, they saw R. Hiyya skipping over the graves in Tyre to see him.*

[C] R. Hezekiah, R. Jeremiah, and R. Hiyya in the name of R.

Yohanán: “It is a religious duty to see the great men of the realm. For when the dynasty of the house of David will come, one will know how to distinguish one dynasty from the other.”

[I:11 A] What is the law as to one’s contracting corpse uncleanness to pay respect to his father and mother?

[B] *R. Yosa heard that his mother was coming to Bosrah. He came and ask R. Yohanán, “What is the law about going forth [to receive her, even though this requires crossing over gentile land, which is unclean]?”*

[C] He said to him, “If it is because of the danger of the trip, [so as to protect her from brigands,] go, but if it is in order to pay respect to your mother, I am not sure of the law.”

[D] *Said R. Samuel bar R. Isaac, “The question is still troubling to R. Yohanán, even though he said, because Yosa pressured him, ‘Since you have decided to go forth, may you come back in peace.’”*

[E] R. Eleazar heard and said, “There is no granting of permission greater than this [granting of his blessing].”

[I:12 A] What is the law as to one’s contracting uncleanness to pay respect to the community at large?

- [B] *It was taught:* If there were two parallel paths, one long but in a state of cleanness, and one short but in a state of uncleanness, if the community at large [coming to comfort him as the bereaved] was taking the longer one, one should go with them, and if not he takes the nearer one, on account of the honor owing to the community.
- [C] *Up to this point, we have dealt with an uncleanness that derives from the decree of sages. But as to a form of uncleanness that is decreed by the Torah, [what is the law]?*
- [D] *The answer derives from that which R. Zeira said, “So important is the honor owing to the community that it overrides a negative commandment. [That is, the neglected corpse’s needs override all other considerations] for a single moment.”*
- [E] *That then indicates that even in the case of uncleanness deriving from the laws of the Torah, [one must pay honor to the community, at the cost of contracting such uncleanness].*
- [F] R. Jonah, R. Yosé of Galilee in the name of R. Yosé b. Haninah: “They do not ask for information about laws before the bier of a corpse.”
- [G] *And lo, R. Yohanan raised a question to R. Yannai before the bier of R. Simeon b. Yosedeq: “If one has sanctified his burnt offering for the purpose of the upkeep of the house, [is the offering nonetheless sacrificed, since, to begin with, it was designated as a burnt offering]?” And he replied to him.*
- [H] *He said, “This was when they were taking out the bier to the line [of mourners, and not before the bier itself].”*
- [I] *And lo. R. Jeremiah asked a question to R. Zeira before the bier of R. Simeon, and also of R. Samuel bar R. Isaac, and he replied to him.*
- [J] *He said to him, “It was when he was distant from the bier that he answered him. But when he was near it, he would not reply to him.”*
- [K] *It has been taught:* Those who carry the bier are prohibited to put on a sandal, lest the sandal of one of them break, and it will turn out that he will be prevented from carrying out the religious duty.

[L] *R. Zeira suddenly broke off his speech. They came and wanted to strengthen him, and they founded him troubled. They said to him, “Why is this the case?”*

[M] *He said to them, “For it has been taught: ‘And the living will lay it to heart’ (Qoh. 7:2).”*

[I:13 A] He who finds a neglected corpse, lo, this one must attend to him and bury him where he is lying.

[B] Under what circumstances? When he has found him outside of the boundary of a town. But if he found him in the boundary of the town, lo, this one brings him to the place of burial and buries him [in the normal cemetery].

[C] Said R. Aqiba, “Thus was the beginning of my labor of learning before sages. One time I was walking along the way, and I found a neglected corpse, and I attended to him for about four *mils*, until I brought him to the graveyard, and I buried him there. Now when I came to R. Eliezer and to R. Joshua, I told him them what I had done. They said to me, ‘For every step you took, you were credited as if you had shed blood [for taking the neglected corpse away from the spot in which he should have been buried].’ Now I said, ‘If when I intended to acquire merit, [56b] I suffered blame [for not doing things right], when I do not intend to acquire merit, how much the more so [do I suffer blame]. From that time I have not ceased to serve [and study with] sages.”

[D] He would say, “He who does not serve sages is worthy of death.”

[I:14 A] A neglected corpse acquires for itself the place in which it is located for a space of four cubits, and that applies even to a field full of saffron.

[B] For it was with that stipulation that Joshua caused the Israelites to inherit the land.

[C] Under what circumstances is that so? When one has found the neglected corpse in a field. But if he found him in a roadway, he buries him either to the right side or the left side of the roadway.

[D] If he found him by a field that was uncultivated and one that had never been ploughed at all, one buries him in the uncultivated field. If it was a field that had never been ploughed and a field that had been seeded, they bury him in the field that had never been ploughed. If it was a field containing a vineyard and a field planted with seeds, one buries him in the field planted with seeds.

[E] If it was a field containing a vineyard and a field containing an orchard,

[F] *there are Tannaite authorities who teach that one buries him in the field containing a vineyard, and there are Tannaite authorities who teach that one buries him in a field containing an orchard.*

[G] *One who maintains that one buries him in a field containing a vineyard but not in a field containing an orchard holds that it is because of avoiding the possibility of creating a shade over corpse uncleanness, [which will then be transmitted to by-passers].*

[H] *One who maintains that one buries him in a field containing an orchard but not in a field containing a vineyard holds that it is because of the fact that when one cuts the grapes for the vat, the grapes are rendered susceptible to uncleanness, [and if the corpse is planted there, the grapes will contract corpse uncleanness].*

[I] If one has done the opposite [of what has been specified above], R. Immi in the name of R. Simeon b. Laqish: “He transgresses on the count of ‘You shall not defile your land’” (Deut. 21:23).

[J] If both of them were uncultivated fields, both were previously unploughed fields, both were seeded, one buries the neglected corpse in whichever one he wishes.

[I:15 A] [If in the situation of finding a neglected corpse,] there are a priest and a Levite, the Levite should become unclean [in dealing with the corpse].

[B] If there are a Levite and an Israelite, the Israelite should become unclean.

[C] And is not a Levite the same as an Israelite [so far as contracting uncleanness is concerned]?

[D] Said R. Abin, “The tradition repeated here applies to the time [in which the Levites ascend] the platform [to participate in the cult, and at that time the Levites must be cultically clean].”

[II:1 A] **[R. Eliezer says, “Let a high priest contract corpse uncleanness, but let a Nazir not contract corpse uncleanness.” And sages say, “Let a Nazir contract corpse uncleanness, but let a high priest not contract corpse uncleanness.”** Responding to a version that has M.

7:1D-E's dispute concern an ordinary priest, and not a high priest, we review as follows:] Sages concur with the view of R. Eliezer in the case of a high priest and a Nazir, that the Nazir should contract uncleanness, and the high priest should not contract uncleanness.

[B] R. Eliezer concurs with the view of sages in the case of a high priest and a Nazir that the Nazir should contract uncleanness, and the high priest should not contract uncleanness.

[II:2 A] [As to M. 7:1G's reason for sages' view, that the Nazir is not permanently sanctified:] But what if his father sanctified him from the womb? [Here too we have permanent, lifelong sanctification .]

[B] That poses no argument, for this is a sanctification decreed by the Torah [for the high priest], while that is a sanctification not decreed by the Torah.

[C] *R. Huna in the name of R. Joseph, "The opinion of R. Eliezer accord. with the principle of the House of Shammai.*

[D] "For the House of Shammai say, 'When you have that which is offered more regularly and that which is at a higher level of sanctification, that which is offered more regularly takes precedence.'

[E] "Likewise R. Eliezer says, 'When you have that which is offered more regularly and that which is at a higher level of sanctification, that which is offered more regularly takes precedence.' [The priest is at a higher level of sanctification, and the Nazir is in the status of that which is 'more regular' in that he must remain clean at all times.]"

[F] [Along these same lines:] If there are a Nazir for thirty days and a Nazir for a hundred, let the Nazir of thirty days become unclean. If there are a Nazir of one hundred days and a Nazir for life, let the Nazir for one hundred days become unclean.

[G] If there are a Nazir for life and a Nazir for many spells of Naziriteship –

[H] *there are Tannaim who teach:* Let the Nazir for life become unclean.

[I] *And there are Tannaim who teach:* Let the Nazir for many spells become unclean.

[J] *The one who has said that* the Nazir for life should become unclean, lo, [he will explain that the Nazir for many spells should] not [become unclean], because he cuts his hair many times.

[K] *He who has said that the Nazir for many spells should become unclean, and the Nazir for life should not become unclean, [maintains that the latter should] not become unclean, because he offers many offerings.*

[L] *If one did so instead of the other, the ruling accords with that which R. Ammi has said in the name of R. Simeon b. Laqish: "He transgresses on the count of, 'You shall not defile your land' (Deut. 21:23), and here that is the case."*

7:2

[A] On account of what sorts of uncleanness does the Nazir cut his hair [and bring an offering for having become unclean]?

[B] On account of a corpse, and on account of an olive's bulk of flesh from a corpse, and on account of an olive's bulk of corpse matter, and on account of a ladleful of corpse mould;

[C] on account of the backbone, and on account of the skull, and on account of a limb of a corpse, and on account of a limb cut from a living human being on which is still proper flesh;

[D] and on account of a half-qab of bones, and on account of a half-log of blood –

[E] on account of touching them, and on account of carrying them, and on account of overshadowing them;

[F] and on account of a bone the bulk of a barley seed –

[G] on account of touching it and on account of carrying it.

[H] On account of these, the Nazir cuts his hair and is sprinkled on the third and seventh day [after contamination].

[I] And he loses the days that he has already observed.

[J] And he begins to count [clean days] only after he is made clean and brings his offerings.

[I:1 A] An old man asked R. Yohanan, "[If] an olive's bulk of corpse matter imparts uncleanness, should not the whole of the corpse do so on the basis of an argument a fortiori? [Why then does M. 7:2B refer to the corpse]?"

[B] He said to him, "The purpose of specifying the whole corpse is to encompass a complete abortion, which, however, is not of the volume of an olive's bulk."

[C] He went and asked again, “If a limb of a corpse imparts uncleanness, will not the whole of it impart uncleanness on the basis of an argument a fortiori?”

[D] He said to him, “The purpose of specifying the whole corpse is to encompass an abortion, the limbs of which have not yet taken shape [indicating that it too imparts uncleanness as a corpse does].”

[E] *Said R. Yosé, “Now was that old man really very smart? For he did not ask the way a sage presents questions. Once he had asked his first question and gotten the answer, he had no need to ask the second one. And if he really did not want to ask both of them, he should have asked the second question and then gone and asked the first one.”*

[F] *The disciples of R. Yosé b. Halapta asked the second question and did not present the first one, for, since the abortion did not add up to an olive’s bulk, it was obvious that in the case in which the limbs had not yet taken shape, [the same rule would apply].*

[G] *Said R. Mana to R. Hezekiah, “Do you remember that R. Jacob bar Aha was here, and the two questions of that old man [were raised] in connection with [our studies of] tractate Ohalot [M. Oh. 2:1A-B: These contaminate in the tent: the corpse, an olive’s bulk of flesh from the corpse, an olive’s bulk of corpse dregs, and a ladleful of corpse mould]?”*

[H] *“Now do not the two questions of the old man in regard to tractate Ohalot apply also here, in matters on account of which the Nazir [becomes unclean by reason of corpse uncleanness and accordingly must] cut his hair? And further, on the basis of what R. Yohanan said [above at B, that the purpose was to include the abortion], I might have thought that the uncleanness imputed to the abortion does not derive from the authority of the Torah. [I might therefore have supposed that the Nazir does not shave on that account.] But because the law requires the mother to sit out the days of purifying, that indicates that in the case of such an abortion, also, the uncleanness derives from the law of the Torah.”*

[I:2 A] *It was taught: R. Simeon b. Yohai says, “On what account have they ruled that a dead creeping thing imparts uncleanness when it is the bulk of a lentil?”*

- [B] “It is because as to a creeping thing, the beginning of its formation as a whole creature is when it is the size of a lentil.”
- [C] *R. Yudan raised the question: “May a corpse impart uncleanness when it is of less than the bulk of an olive? [The beginning of its formation as a whole creature is when it is even smaller than an olive’s bulk.]”*
- [D] For R. Yohanan has said that the purpose of specifying the whole corpse is to encompass a complete abortion, which is not of the volume of an olive’s bulk.
- [E] And carrion imparts uncleanness if it is of the bulk of a bean.
- [F] For R. Haninah said, “I saw a calf the size of a bean in its sac.”
- [G] *[Replying to this kind of criticism in behalf of Simeon b. Yohai, the Talmud says,] How now! I provide an explanation [for the position of the rabbis in what I have said, in the theory that] one receives a reward for such an exegetical exercise.*

[II:1 A] [And an olive’s bulk of corpse matter:] What is the corpse matter? It is the flesh of a corpse that has coagulated, or liquid excretion from a corpse that has congealed.

- [B] Lo, if it has yet dissolved, does it not [impart uncleanness]? [That is indeed correct.]
- [C] Did not R. Haninah in the name of R. Helbo say, “As to corpse matter that one has chopped up, lo, this is still unclean. If one thoroughly chopped it up, lo, this is clean [since there is not a single bit of corpse matter of the requisite bulk].”
- [D] [As to the definition of corpse matter,] R. Yudan and R. Yosé – one said, “The purpose of the definition is to exclude the excretion of flesh that is in the corpse. [That is, the reference to the congealed liquid bears no relationship to flesh of the corpse that has been chopped up, but it refers only to the excretion. The excretion is not unclean unless it coagulates.]”
- [E] The other one said, “It means that if it should congeal and it is of the bulk of an olive, it imparts uncleanness, even if it has dissolved, [as against B].”

[II:2 A] We have learned: R. Yosé says, “The flesh of a corpse that is dry and cannot be soaked in order to be restored to its former bulk is clean” [M. Nid. 7:1I]. [M. Nid. 7:1A-B maintain that the blood of a menstruating woman and the flesh of a corpse impart uncleanness

when they are wet or dry. Yosé does not concur. Dry corpse matter does not impart uncleanness.]

[B] *What is the reason for the view of R. Yosé?*

[C] The rule that the corpse matter imparts uncleanness when it is carried derives from the fact that carrion imparts uncleanness when it is carried. Along these lines, therefore, if the rule for carrion is that when it is dry, it is clean, so corpse matter, when it is fully desiccated, is clean.

[D] *R. Ammi raised the question*, “Now may we argue: Just as carrion, when it putrefies, is clean, so a corpse, when it putrefies, should be clean. If that is the case, then may we say that, so far as R. Yosé is concerned, there is no consideration of corpse matter[‘s being unclean, contrary to the Mishnah’s view]?”

[E] *We find that it is taught in the name of R. Yosé that we do take into consideration the contaminating power of corpse matter.*
[Accordingly, the comparison of corpse matter to carrion will not work.]

[F] *Associates asked before R. Yosé*: “[If we derive the rule from the analogy to carrion, then may we say,] Just as carrion is not subject to the consideration of mould, so in the case of a corpse, we do not take into consideration the issue of corpse mould, [which then will not impart uncleanness, contrary to 1. 7:2B]?”

[G] He said to them, “We do not derive the rule covering the corpse from that covering the carrion so far as bones are concerned, [which produce the mould], but only so far as the flesh is concerned. The flesh does not produce the sort of mould that is under discussion, while the bones do produce the sort of mould that is under discussion.”

[H] *This is in accord with what Bar Qappara has taught*, “[A tranquil mind gives life to flesh,] but passion rots the bones” (Prov. 14:30).

[I] R. Yannai said, “[Whoever in the open field touches one who is slain with a sword, or a dead body, or a bone of a man,] or a grave, [shall be unclean seven days]’ (Num. 19:16). [This means that] even if one touched the grave of the first man, he is made unclean. [That is, corpses of even the sons of Noah, prior to the giving of the Torah, impart uncleanness.]”

[J] *Associates rearrange the letters [in order to indicate that corpse mould imparts uncleanness in a tent]:*
“When it says, ‘Or a grave’ (QBR), one may rearrange the letters and read, ‘Or corpse mould’ (RQB).”

[K] Bar Qappara says, “‘Or a grave’ (QBR) may be read, ‘Or corpse mould’ (RQB).”

[L] Said R. Judah ben Pazzi, “The Holy One, blessed be he, took a spoonful of dirt from the place of the altar, and with it created the first man. He said, ‘May he be created from the place of the altar and so endure.’ This is in line with that which is stated, ‘Then the Lord God formed man of dust of the ground, [and breathed into his nostrils the breath of life; and man became a living being]’ (Gen. 2:7). And it is written, ‘An altar of earth you shall make for me [and sacrifice on it your burnt offerings and your peace offerings, your sheep and your cattle]’ (Ex. 20:24). Just as ‘earth’ stated later on refers to earth of the altar, so earth stated here refers to earth of the altar.”

[M] “[My spirit shall not abide in man forever, for he is flesh,] but his days shall be a hundred and twenty years” (Gen. 6:3).

[N] The first man lived nearly a thousand years, and you say, “[My spirit shall not abide in man forever, for he is flesh,] but his days shall be a hundred-and-twenty years]” (Gen. 6:3)?

[O] But in one-hundred-and twenty years he returns [in the grave] to form as much dirt as fills a single spoonful of mould.

[P] *Now a problem to this statement is represented by Og, king of Bashan, [who was huge]: How is it possible that in one hundred-and twenty years after death both Og, king of Bashan, and an infant who dies on the day of his birth add up to merely a spoonful of mould?*

[II:3 A] “The spoonful of mould of which they have spoken includes the joints of his fingers ant upward,” the words of R. Meir.

[B] **And sages say, “It refers to his handfuls” [T. Ah. 2:2].**

[C] *R. Zeira, R. Hiyya in the name of Rabbi demonstrated the position of R. Meir in one way and the view of rabbis in another way.*

[II:4 A] **What is the sort of corpse that produces corpse mould [taken into account in the law at M. 7:2B]?**

[B] **It is that one which is buried naked in a stone sarcophagus on a marble floor or table.**

[C] **But that which is buried in its shroud and in a wooden coffin on dirt does not produce corpse mould.**

[D] **This then is dirt of graves, and [to produce uncleanness] one needs a ladleful and a bit more [T. Ah. 2:3A-D].**

[E] Said R. Yohanan, “If with it was buried even a small bandage, this will not produce corpse mould.”

[F] R. Yosa in the name of R. Yohanan: “If there are two corpses buried side by side, this one serves as a kind of ‘bandage’ for that, and that one serves as a kind of ‘bandage’ for this. For what choice do you have, [56C] that a bandage be regarded as present for one and not the other? [That is not very likely. Accordingly, neither corpse is deemed to produce true corpse mould.]”

[G] *Abba bar Nathan objected, “But what if one brought half a ladleful of mould from this corpse and half a ladleful of mould from that corpse and mixed the batches of corpse mould together? [Would you say that this is an insufficient volume of corpse matter to produce uncleanness?]”*

[H] *Now [Yosa] began to look into the question [as if it were a serious question], but then he realized that he was making fun of him, so he grew angry with him, and [the disciple] dropped dead.*

[I] *Said R. Yosa, “Lo, this man has gone his way, and we have heard nothing from him [by way of an answer to the question].”*

[J] *What is the upshot of the matter? [How is this case different from the one involving the two corpses, side by side, which do not produce corpse mould?]*

[K] There, [in the case of two corpses laid side by side,] each one is not suitable to produce a ladleful of mould, while here, [where the two corpses are buried separately], each one is able to produce a ladleful of mould.

- [II:5 A] If the leg of the corpse is cut off from the thigh and upward, the corpse as a whole will not produce sufficient mould to produce uncleanness. If it is cut off from the thigh and below, [the corpse] will produce mould.
- [B] If it was buried with [the corpse], if it is [cut off] from the thigh and downward, it is deemed to constitute [an additional] bandage, [and hence] the whole does not produce mould. If it is from the thigh and upward, it is not treated as if it is a bandage, [and there will be valid corpse mould].
- [C] *Associates raised the following question before R. Samuel bar Abedoma: “If one tied a bandage [onto the leg], if it is from the thigh and downward, [what is the law?]”*
- [D] *And he said to them, “If so, even if the leg was not cut off, I should regard it as if it were cut off, and it should be treated as a bandage. Since it is attached to it, the whole of it is treated as a single body.”*
- [E] If it is lacking, what is the law as to its producing mould?
- [F] *Let us derive the answer from the following: If a body is lacking [a major limb], it does not produce corpse mould, nor does [that incomplete body by itself] establish a prima facie claim to burial space, nor does it contribute to the identification of a group of graves as a graveyard.*
- [G] *R. Yohanan asked, “How much of the body may be lacking so that the corpse does not produce corpse matter?”*
- [H] *The answer may derive from that which we have learned there: **So much that it may be taken from a living man and he would die [M. Oh. 2:3F].** And here that is the same measure.*
- [I] But what if his gullet were pierced? Lo, he would not be deemed to be lacking, and yet he would not live.
- [J] *You have only the measure supplied by the following: If the leg was cut off, if it was from the thigh and below, [the remainder of the corpse] produces mould. If it was from the thigh and above, the remainder of the corpse does not produce mould. If it was buried with the rest of the corpse, if it had been cut off from the thigh and below, it serves as a bandage [in the established sense, so that the corpse does not produce mould], but if it was cut off from the thigh and above, it is not treated as a bandage.*

- [II:6 A] As to abortions, what is the law about their producing mould?
- [B] *He who maintains that their blood imparts uncleanness if it is of the measure of a quarter log also will maintain that they do produce mould.*
- [C] *And he who says that their blood does not impart uncleanness in the measure of a quarter log will also hold that they do not produce corpse mould.*
- [D] *Let us derive the answer from the following: **As to mounds, why is the dirt in them unclean? It is because women bury their abortions there, and lepers their limbs [T. Ah. 16:1A-B].** [Accordingly, the abortions do produce corpse mould.]*
- [E] *Said R. Yudan, father of R. Mattenaiah, “Is it not reasonable that that is not the case! For lepers bury their limbs there. Now can you say on that count that the dirt is unclean? [Limbs do not produce corpse mould.] Is it not because of actually touching as much as a barley seed of the dead bone [that the dirt is unclean]?” And lo, it is taught: **If one dug dirt from it and piled it [against other, clean] dirt, [it is not subject to the rule of] dirt of mounds, [that is,] it is clean [T. Ah. 16:1H].** [So the issue of actually touching that dirt is not so clear. If touching the bone were a consideration, the rule should be that the mixture is unclean.]*
- [F] Interpret the matter in accord with the following Tannaitic teaching that has been taught:
- [G] If one has removed dirt from [such a mound], it is unclean.
- [H] Rabban Simeon b. Gamaliel declares it clean. [It imparts uncleanness only when it is located in its own place. The cited statement above, G, likewise accords with the view of R. Simeon b. Gamaliel.]
- [III:1 A] [As to M. 7:2C,] *said R. Simeon b. Eleazar, “They have followed the theory of R. Simeon, for it has been taught: **“A backbone or a skull, even though [the former] has been broken, even though they have been crushed, are unclean, because the grave joins it together [T. Ah. 2:5A, B]** on the count of their forming the corpse of a man in a tent. [If then they are not broken up, they impart uncleanness by reason of overshadowing even when they are not joined together in a grave, just as ~. 7:2C maintains.]”*
- [IV:1 A] *The Mishnah [at M. 7:2D, referring to a half qab] follows the view of R. Eleazar b. Azariah, for it has been taught [in the Tosefta’s version]:*

- [B] R. Eliezer says, “At the outset, the elders were divided.
- [C] “Some of them say, ‘A quarter log of blood and a quarter qab of bones,’ and some of them say, ‘A half qab of bones and a half log of blood’ [impart corpse uncleanness in a tent].
- [D] “The court that followed them ruled, ‘A quarter log of blood and a quarter qab of bones [require burning] heave offering and Holy Things [made unclean on their account].
- [E] “‘A half qab of bones and a half log of blood [are sufficient as regards rendering unclean] the Nazir and the sanctuary’” [T. Naz. 5:1].
- [F] R. Jacob bar Idi in the name of R. Simeon, “This was an exegesis that they have stated on the authority of Haggai, Zechariah, and Malachi.”

7:3

- [A] But as to [uncleanness contracted by overshadowing] interlaced foliage, projecting stones, a grave area, foreign land, the sealing stone and the buttressing stone [of a grave],
- [B] a quarter log of blood, and a tent, and a quarter qab of bones, and utensils that touch a corpse,
- [C] and because of the days of counting [after producing a symptom of sara’at (Lev. 14:8)] and the days during which he is certified [unclean with sara’at] –
- [D] on account of these, the Nazir does not cut his hair or sprinkle himself on the third and seventh days and he does not lose the prior days [observed m cleanness].
- [E] And he begins to count forthwith [after immersion and sunset].
- [F] And he is not subject to bringing an offering.
- [G] Truly did they rule: The days [of uncleanness] by reason of being a zab or zabah (Lev. 15:2, 25, 28), and the days of being shut up as mesora (Lev. 13:4-10, these [nonetheless] go to his credit [in counting out his Nazir days].
- [I:1 A] [Since M. 7:2C has referred to a limb cut from a living human being on which is still proper flesh, while M. 7:3 omits reference to such a limb lacking proper flesh, we now ask] what is the law covering [a limb cut from a living person that has a moderate but insufficient amount of flesh]? [This is that middle case, hence: intermediate.]

[B] R. Yohanan said, “As to a Nazir who had contact with] such an intermediate [case], the rule is to impose the lenient law [and hence no uncleanness is incurred].”

[C] R. Simeon, b. Laqish said, “The rule is to impose the stringent law, [and the Nazir is unclean with corpse uncleanness].”

[D] What is the intermediate case [under discussion here]? It is a limb cut from a corpse or a limb cut from a living person on which is not sufficient flesh.

[E] *Asked R. Yosé*, “How do you know that a bone the size of a barley seed [imposes uncleanness]? Is it not from the following verse of Scripture: ‘Or a bone of a man’ (Num. 19:16)? Here you treat the bone [with a sufficient amount of flesh] as equivalent to a barley seed in bulk, while there you treat the bone [lacking a sufficient amount of flesh] not as equivalent to a barley seed in bulk.”

[F] *R. Samuel bar Abodema taught*: “[Whoever in the open field touches] one who is slain’ (Num. 19:16 (anything that is slain [even lacking requisite flesh on the bone, even if the bone is not a barley seed in bulk, imparts uncleanness when it is touched]. This then encompasses a limb from a corpse and a limb from a living person that do not have a requisite amount of flesh .”

[I:2 A] [As to the uncleanness contracted by being overshadowed by] interlaced foliage or projecting stones [that are overshadowing a grave, M. 7:3A,] said R. Yohanan, “The uncleanness conveyed through interlaced foliage or projecting stones is an uncleanness on the authority of the law of the Torah so far as food in the status of heave offering is concerned, yet a Nazir does not cut his hair [as having been unclean in that circumstance].”

[B] *R. Jeremiah asked*, “[What is the meaning of Yohanan’s statement?] Is it that one must burn heave offering, [which may or may not have been made unclean under these circumstances?] [That is not likely,] because even if the doubt [as to the contamination of heave offering is because of an uncleanness] decreed merely by scribes, one must burn the heave offering. [So that cannot be Yohanan’s meaning.] But it has to do with flogging. [That is, if one has eaten food in the status of heave offering having been made unclean by corpse uncleanness transmitted through overshadowing _ interlaced foliage of projecting stones, he is flogged.]”

[C] *R. Sidanayyah taught before R. Jeremiah, “And the following differs from the view of R. Jeremiah: **For every form of corpse uncleanness on account of which a Nazir cuts his hair are people liable on account of entering the sanctuary. And for every form of corpse uncleanness on account of which a Nazir does not cut his hair, people are not liable on account of coming into the sanctuary [M. 7:4A-B]. [In the latter case, when we deal with heave offering, the person is not flogged.]”***

[I:3 A] [As regards M. 7:3A,] said R. Yohanan, “The interlaced branches of two neighboring trees that form an area of four cubits by four cubits [and that overshadow both a bit of corpse matter and also a Nazir] – the Nazir does have to cut his hair on that account, [for these form a tent for all intents and purposes].”

[B] R. Yosé said R. Yohanan [maintained], “If his hand is on one side, and his other hand is on the interlaced branches, [that is, if the corpse matter is underneath the interlaced branches, and the Nazir is standing outside, so that only his hand is above the branches,] the Nazir does not have to cut his hair on that account [since we have ample protection against the transmission of the corpse matter, afforded by the interlaced branches].”

[C] [Commenting on this statement of Yohanan’s, in relationship to M. Oh. 6:1A., **Man and utensils are made into tents to spread contamination but not to afford protection against contamination**, so that if there is corpse contamination under a utensil, whatever else is under the utensil is made unclean, but what is above the corpse contamination covered by the utensil also is made unclean, for the utensil does not interpose, but it does function as a tent,] *R. Yosé asked*, “[Yohanan has said, A, that the intertwined foliage of the trees serves as a tent to impart uncleanness to the Nazir, who has to cut his hair on that account, but he also has said, B, that if his hand is above the foliage and uncleanness below, he does not have to cut his hair because the foliage affords interposition. Accordingly, I must ask:] If it interposes against the transmission of uncleanness, it should also interpose as to cleanness, and if it does not interpose against the transmission of uncleanness, it also should not interpose as to cleanness. [Accordingly, in line with M. Oh. 6:1,1 imagine the intertwined foliage under discussion to be analogous to the utensil under discussion there.] “

[D] Said R. Yohanan, “If there is a corpse in the house, and a Nazir is under the bed, the Nazir has to cut his hair, [assuming there is a space between the bed and the floor of four cubits, to permit the

passage of corpse uncleanness]. All the more so, if the corpse is under the bed and the Nazir is in the house, he has to cut his hair.”

[E] Said R. Yohanan, “If a corpse and a Nazir are under the legs of a bed, or located under the belly of a camel, or located under the midpoint of a lintel, or under cornices, the Nazir does not have to cut his hair. And is it not an argument a fortiori that that should be the case with an object that appears to afford protection, [such as the intertwined foliage of the two trees]? [All of these objects afford protection but do not bring uncleanness as do tents.]”

[F] Hezekiah heard this statement and said, “Have they now declared corpses to be clean!”

[G] R. Yohanan said, “If the corpse is in the house and the Nazir is in the inner room, the Nazir has to cut his hair. All the more so if the corpse is in the inner room and the Nazir is in the house, that the Nazir has to cut his hair!”

[H] *R. Mana raised the question [about this argument a fortiori]:* “[Why should the inner room not be deemed a tent to transmit uncleanness outside, when the corpse is therein, rather than drawing the uncleanness within, when the corpse is in the house? That is,] if the tent [covering the corpse] is outside, the [inner room] should serve as a tent to draw the corpse uncleanness to it. If it does not serve as a tent to draw the uncleanness to itself, than the uncleanness should be deemed released completely. [So why is there an argument a fortiori?]”

[I] Said R. Yohanan, “If the corpse matter is located from the midpoint in a wall and outward, the Nazir cuts his hair on that account [if he is standing at the top of the wall].”

[J] Said R. Josiah, “If there is corpse matter buried in the ground of a house, a Nazir cuts his hair on that account.”

[K] R. Jacob bar Aha in the name of R. Josiah: “[If a Nazir overshadows] the greater part of the skeleton or the greater number of bones of a corpse, he does not cut his hair on that account.”

- [II:1 A] [As to the use, at M. 7:3G, of “truly,” this is in line with that which R. Eliezer has said, “In any place in which we repeat the term, ‘truly,’ we deal with a law revealed to Moses at Sinai.”]
- [II:2 A] [As to the reason behind M. 7:3G,] “But the former time shall be void, because his separation was defiled” (Num. 6:12) on the basis of that statement, we learn that the unclean days are lost.
- [B] “And it will be void” – you have a voiding of days already observed only with regard to the days of corpse uncleanness alone.
- [C] [Explaining M. 7:3G,] And the days already observed – should they not go to his credit? Now if the days that are affected by uncleanness of sitting or lying [on an object contaminated by a *zab* or a *zabah*], you maintain that such days do go to the Nazir’s credit, days that are not affected by that form of uncleanness – is it not a matter of reason that they should also go to his credit?
- [D] *Why do you hold that they do not go to his credit?*
- [E] Said Rabbi in the name of R. Simeon b. Laqish, “‘He shall let the locks of the hair of his head grow long’ (Num. 6:5). Days on which he grows hair go to his credit. Days on which he removes his hair, [the days of being shut up as a *mesora*,] should not go to his credit.”
- [F] To this point, we derive the facts governing the days of his counting. What about the days of his being certified unclean?
- [G] R. Yohanan in the name of R. Yannai, “‘Let her not be as one dead’ (Num. 12:12). Just as the days of uncleanness by reason of a corpse contamination do not go to the Nazir’s credit, so the days of the Nazir’s being shut up as a *mesora*, who resembles a corpse, should not go to his credit.”
- [H] *A member of the household of Rabbi said, “That is in line with what R. Yohanan said before R. Simeon b. Laqish, but he did not accept that view.” [Why not?]*
- [I] He said to him, “Here you deal with shutting up, and there you deal with certification [as unclean] “
- [J] You cannot maintain that view, for R. Yohanan has said in the name of R. Yannai, “‘Let her not be as one dead’ (Num. 12:12). Just as the days of corpse uncleanness are seven, so the days of being shut up are seven.”

7:4

- [A] Said R. Eleazar in the name of R. Joshua, “For every form of corpse uncleanness on account of which a Nazir cuts his hair are people liable on account of entering the sanctuary.
- [B] “And for every form of corpse uncleanness on account of which a Nazir does not cut his hair, people are not liable on account of coming into the sanctuary.”
- [C] Said R. Meir, “Let this matter not be less stringent [than when uncleanness is contracted] from a dead creeping thing.”
- [D] Said R. Aqiba, “reasoned before R. Eliezer as follows:
- [E] “Now if on account of a bone the bulk of a barley kernel, which does not impart uncleanness to a man in a tent, a Nazir nonetheless cuts his hair for touching or carrying it [M. 7:2F],
- [F] ““a quarter-log of blood, which does impart uncleanness to man in a tent –
- [G] ““is it not logical that a Nazir should cut off his hair for having touched or carried it’ [vs. M. 7:3B]?”
- [H] “He said to me, ‘Now what’s going on, Aqiba! In this area of law, people don’t adduce arguments a fortiori at all!’
- [I] “But when I came and laid matters out before R. Joshua, he said to me, ‘You stated matters very well. But thus have they ruled that the law should be.’”
- [I:1 A] *There [at M. Oh. 1:1-2] we have learned: Two are unclean through a corpse. One is unclean with the uncleanness of seven [days], and one is unclean with the uncleanness [that passes at] evening.*
- [B] *Three are unclean through a corpse. Two are unclean with the uncleanness of seven [days], and one is unclean with the uncleanness [that passes at] evening.*
- [C] *Four are unclean through a corpse. Three are unclean with the uncleanness of seven [days], and one is unclean with the uncleanness [that passes at] evening.*
- [D] *How so [for] two?*
- [E] *A man who touches the corpse is unclean with the uncleanness of seven [days], and a man who touches him is unclean with the uncleanness [that passes at] evening.*
- [F] *Utensils that touch the corpse and utensils [that touch other] utensils are unclean with the uncleanness of seven [days]. The*

third, whether man or utensils, is unclean with the uncleanness [that passes at] evening.

[G] **How so [for] four?**

[H] **Utensils that touch the corpse, and a man [who touches] utensils, and utensils [that touch] the man are unclean with the uncleanness of seven [days]. The fourth, whether man or utensils, is unclean with the uncleanness that passes in the evening [M. Oh. 1:1-2].** [If a human being touches a corpse, which is a father of fathers of uncleanness, he becomes a father of uncleanness. What the human being then touches becomes an offspring of uncleanness. A father of uncleanness is unclean for seven days, and offspring until the sunset. Utensils that touch a corpse, however, are made into a father of fathers of uncleanness, like the corpse itself. What they touch then becomes a father of uncleanness, and what touches that which it touches becomes an offspring.]

[I] R. Yohanan [56d] in the name of R. Yannai, “And all of them, [that is, the several removes of uncleanness from the corpse, constitute a form of uncleanness based on the authority of the] Torah so far as food in the status of heave offering [or Holy Things is concerned]. But so far as liability for coming in a state of uncleanness into the Temple, one is liable only on account of one in the second remove who has touched one in the first remove [from the original contact with the corpse]. [That is, one in the second remove is liable on account of coming into the Temple, should he not undergo a prior rite of purification.]”

[J] What is the Scriptural basis for this position? “But the man who is unclean and does not cleanse himself” (Num. 19:20). He who requires an act of purification is liable on account of entering the Temple [in a state of uncleanness], and he who does not require purification is not liable for entering the Temple [prior to a rite of purification]. [He who requires purification is one who touches the corpse, as well as the next one who touches that man who has touched the corpse.]

[K] [As to the reasoning of R. Yohanan,] they objected: “Lo, a man who touches utensils that have touched a corpse requires a rite of purification, yet he is in the second remove of uncleanness. [In line with G, he should not be liable. The utensils are equivalent to the corpse itself. A man who touches them requires purification. Now if you hold that one in the second remove is he who has touched one in the first remove, then the one who touched one who touched utensils that touched the corpse should not be liable for entering the Temple, for he is in the third remove from the original point of contact. Now

why? This one, in the third remove, has touched one who requires purification.]”

- [L] *A statement of R. Abin bar Hiyya, “[Scripture’s reference applies] to the uncleanness transferred from man to man, not from the uncleanness transferred to man by utensils.”*
- [M] The meaning of the statement of R. Abin bar Hiyya is that one is liable only on account of uncleanness in the first remove [from the original contact alone. That is so even in the case of the uncleanness that a man received from utensils.] Since in the case of uncleanness transmitted from a [deceased] man to a man, one is liable [vis-a-vis the Temple].only in the first remove, [F, above], here one is liable only when in the first remove alone.
- [N] Said R. Yosé, ‘[When one in the third remove is exempt from entering the Temple,] it is a case in which he has immersed [We speak of a man who touched utensils that touched a in the third remove.] But if he has n [he is liable] [Now when Yohanan has said that he is exempt, it is when the man has immersed but has not yet seen sunset.]”
- [O] *This is in line with that which Rabbi has said, for Rabbi said, “All those who are unclean remain unclean until they enter water.”*
- [P] [Rejecting Yohanan’s view,] R. Ila said, “He who himself touched the corpse is liable [but not if he has touched utensils that touched a corpse; this then differs from Yohanan’s view above.]”
- [Q] [Ila] made that statement and also set forth the Scriptural basis for it: “But the man who is unclean” (Num. 19:20). [Scripture refers] to uncleanness pertaining to man, but he is in the third remove from the original source of uncleanness].
- [R] [Ila is] in line with that which R. Abun bar Hiyya has said, “[Scripture speaks] of uncleanness transferred from a [deceased] man to a man, and not to the uncleanness transferred from man to utensils. [Scripture refers only to the transfer of uncleanness from man to man. Here one unclean in move is liable if he enters the Temple. But if he had touched utensils that had touched a corpse, he would have been exempt if he entered the Temple.]”
- [S] *R Zeriqa in the name of R. Hamnuna: “There is a Tannaitic teaching in the following source that differs from R. Ila’s view.[Tosefta’s version:] [As to] cement and put together and with which one made utensils, if the greater part is from the unclean, it is unclean. If the greater part is from the clean [dung], it is clean. Half and half –*

R. Eleazar says, “They burn heave offering on their account, but they are not liable on their account for uncleanness of the Temple and its Holy Things” [T. Kel. B.M. 1:5]. But if the whole of it were made of cement, one would be liable. Now who would be liable? Would it not be he who touches it who is liable? Then do we not speak of one unclean in the second remove by reason of touching that which is unclean, [the cement utensil,] in the first remove? [This would be contrary to Ila’s statement that utensils are not involved *in* the sequence of removes.]

[T] *Said R. Pinhas before R. Yosé, “Interpret the rule to speak of a case in which one has tossed [the object itself into the Temple].”*

[U] *He said to him, “If we deal with a case in which he has tossed [the object itself into the Temple,] in such a case we have learned: [‘On account of entering the Temple] while he needs to wash off his body, he is punished by extirpation. [On account of entering the Temple] while he requires the laundering of his clothes, he receives a flogging of forty stripes. On the count of bringing unclean utensils into the Temple, [he should be wholly exempt].”*

[V] [No, that is not the case.] On the count of bringing unclean utensils into the Temple, [he is liable, e.g., in the case of his tossing them in].

[M] *Said R. Eleazar b. R. Yosé before R. Yosé, “So too have we learned to repeat the .Mishnah, supporting the position of the former authority, [namely, Ila, who finds in the following support for his view that a man who touches utensils that have touched a corpse is not liable for entering the Temple]:* **R. Eleazar said in the name of R. Joshua, ‘For every form of corpse uncleanness on account of which a Nazir cuts his hair people are liable on account of entering the Temple, and for every form of corpse uncleanness on account of which a Nazir does not cut his hair, people are not liable on account of coming into the Temple’ [M. 7:4A-B].** Thus for uncleanness in the first remove, on account of which the Nazir must cut his hair, people are liable for entering the Temple. On account of uncleanness in the second remove, on account of which a Nazir does not cut his hair, people are not liable for entering the Temple. [That would then encompass a man who had touched utensils that had touched a corpse, just as Ila has maintained.]”

[X] [Up to now, we have assumed we deal with uncleanness transferred by a sequence of contacts, in successive removes from the corpse.] Said R. Yohanan, “It is with reference to types of uncleanness that themselves exude from the corpse [that the law

stated at M. 7:4A-B] was required. This then is the meaning: As to a quarter *log* of blood or a quarter *qab* of bones, on account of which a Nazir does not cut his hair, one is not liable for entering the Temple. On account of half a log of blood or half a *log* of bones, on account of which a Nazir must cut his hair, people are liable for entering the Temple [if they have not undergone a prior rite of purification for touching such a volume of unclean corpse matter].”

[Y] *Said R. Jeremiah, “We considered ruling: ‘The dispute of R. Yohanan and Ila has to do with bringing an offering. [That is, if one when unclean has inadvertently entered the sanctuary to bring an offering, he is liable for the uncleanness as the two authorities have maintained, respectively.] But as to flogging, all parties concur that they flog such a person even if he is unclean only in the third remove, or only even in the fourth remove.’”*

[Z] *R. Yosé of Sidon taught before R. Jeremiah and differed from this statement of R. Jeremiah: “For every form of uncleanness that derives from a corpse on account of which a Nazir cuts his hair, people are liable for coming in the Temple. And for every form of uncleanness that derives from a corpse on account of which a Nazir does not cut his hair, they are not liable for coming into the Temple.”*

[AA] *Said R. Yosé b. R. Bun, R. Yannai, R. Yohanan: “This teaching was required with reference to forms of uncleanness that exclude from a corpse: As to a quarter *log* of blood or a quarter *qab* of bones, on account of which a Nazir does not cut his hair, people are not liable for entering the Temple. On account of a half *log* of blood or a half *qab* of bones, on account of which a Nazir does have to cut his hair, people are flogged for entering the Temple.”*

YERUSHALMI NAZIR

CHAPTER EIGHT

8:1

- [A] Two Nazirs, to whom someone said, “I saw one of you made unclean, but I don’t know which one of you it was” –
- [B] [they cut their hair] and bring an offering [owed by a Nazirite] because of uncleanness and an offering because of cleanness.
- [C] And each one of them says, “If it was I who was unclean, the offering because of uncleanness is mine, and the offering because of cleanness is yours. And if it was I who was the clean one, then the offering of cleanness is mine, and the offering of uncleanness is yours.”
- [D] Then they count out thirty days and bring an offering because of cleanness.
- [E] And each one of them says, “If it was I who was unclean, the offering because of uncleanness was mine and the offering of cleanness was yours, and this offering is now because of my being clean. But if it was I who was the clean one, the offering because of uncleanness was mine, and the offering because of cleanness was yours, and this offering now is because of your being clean.”
- [F] If one of them died –
- [G] said R. Joshua, “Let [the survivor] seek out someone from the market to take a vow as a Nazir as his counterpart, and let him say, ‘If I was unclean, lo, you are a Nazir forthwith. And if I was clean, lo, you will be a Nazir after thirty days.’ Then they count thirty days and bring an offering because of uncleanness and an offering because of cleanness.
- [H] “And he says, ‘If I was the one who was unclean, the offering because of uncleanness is mine, and the offering because of cleanness is yours, and if I was the clean one, then the offering because of cleanness is mine, and the offering because of uncleanness is subject to doubt.’

[I] “And they count out another thirty days and bring an offering because of cleanness.

[J] “And he says, ‘If I was the one who was unclean, then the offering because of uncleanness was mine, and the offering because of cleanness was yours, and this is the offering because of my being clean. And if I was the one who was clean, then the offering because of cleanness was mine, and the offering because of uncleanness is subject to doubt. And this is the offering because of your being clean.’”

[K] Said to him Ben Zoma, “But who in the world would agree to take a vow as a Nazir to serve as his counterpart?

[L] “But he [alone, the surviving Nazir,] offers a sin offering of fowl and a burnt offering of cattle and says, ‘Now if I was the unclean one, the sin offering is offered in fulfillment of my obligation, and the burnt offering is a free-will offering. But if I was the clean one, then the burnt offering is in fulfillment of my obligation, and the sin offering is subject to doubt.’

[M] “He counts out thirty days [more as a Nazir] and brings an offering because of cleanness and he says, ‘If I was the unclean one, the first burnt offering was a free-will offering, and this one is in fulfillment of an obligation. But if I was the clean one, the first burnt offering was in fulfillment of an obligation, and this one is a free-will offering.

[N] ““and these are the rest of the offering [that I owe].””

[O] Said R. Joshua, “This one turns out to bring his offerings in bits and pieces.”

[P] But sages concurred with the opinion of Ben Zoma [M. 6:11].

[I:1 A] [57a] Now [as to the testimony of M. 8:1A,] it is not the end of the matter that one has said to them, “**I saw one of you made unclean, but I don’t know which one of you it was**” [M. 8:1A].

[B] But even if someone said to them, “I saw one of you take a vow as a Nazir, but I do not know which one of you it was” – both of them have to observe the vow of the Naziriteship on account of his testimony.

[C] That is so when they do not contradict his statement. But if they reject what he has said, it is not in such a case [that the two of them have to observe the vow].

[D] If both of them contradicted the statement [of two witnesses, what is the law?]

[E] *The answer derives from the following:*

[F] **[If] one witness says, “He was made unclean, “ and he says, “I was not made unclean” – he is clean.**

[G] **[If] two say, “You were made unclean,” and he says, “I was not made unclean “ –**

[H] **R. Meir declares unclean.**

[I] **And sages say, “He is believed concerning himself” [M. Toh. 5:9A-E].**

[J] *R. Judah in the name of Rab: “The Mishnah teaching is as follows: R. Meir declares unclean. R. Judah and sages declare clean.’*

[K] *Said R. Yohanan, “The Mishnah teaching is as follows: R. Meir declares unclean. R. Judah declares clean. [Judah and sages do not invariably concur that he is clean (= believed).]”*

[L] *The statement of the following rabbis supports the view of R. Yohanan [that it is only Judah who differs from Meir]: R. Gurion in the name of R. Yosé b. Haninah: “R. Judah has ruled in this wise only in the case of an ancient source of uncleanness, in which case, the accused has the right to say, ‘I was made unclean, but I underwent a process of purification.’ [In such a case, Judah will declare the man to be clean. For he could have denied altogether that he was unclean. But in other cases, he will not. Sages, by contrast, will declare him to be clean under all circumstances.]” And so too is the rule taught with regard to the eating of forbidden fat. And the same is the case in regard to coming into the Temple [in a state of uncleanness, e.g., two people say that one has done so, and he denies it]. [In both of these cases, sages will concur with Judah that we invoke the principle that the man has a further claim, which he does not make, and hence he is believed for the claim he does enter. In both of these cases there is the obligation of bringing an offering in the case of an inadvertent sin. But the man also may say, “I did it deliberately,” in which case, he is exempt from having to bring an offering. He is believed only in the case of the uncleanness, for in that case, there is no offering. Sages do not accept this reasoning of Judah’s. Accordingly, Yohanan is right that Judah stands alone in this distinction of his.]*

- [M] *And why should sages not concur with Judah in regard to uncleanness [in which the man may claim that he had immersed]?*
- [N] *It is because of the uncleanness of a Nazir. [In this instance, even with regard to uncleanness, one may have to bring an offering. The Nazir who is confronted by two people who say he has been made unclean cannot reply that he took a purificatory bath,] for the witnesses will then say, "Then where is your offering?" [There is no consideration of deliberate action either, because whether or not the action was inadvertent, the Nazir has to bring the offerings because of uncleanness. Here, then, is a case involving uncleanness, in which there is no possibility of a further claim. Here sages will not concur with Judah in a case of uncleanness, and, it follows, in no other case of uncleanness will they have reason to accept his view.]*
- [O] *And why should sages not concur with Judah in regard to heave offering? [Two witnesses say to the man, "You have eaten heave offering." At issue, then, is the added fifth. He says, "I did not eat it." He is believed. He has the possibility of the more extreme claim, "I deliberately ate it," in which case he would not have to pay the added fifth.]*
- [P] *To this point, we have the problems raised by R. Haninah.*
- [Q] *R. Mana derived his interpretation of the dispute of sages and Judah from the following. [Mana introduces the consideration of a different set of materials, as follows: **If two say, "He ate," and he says, "I did not eat" – R. Meir declares liable. Said R. Meir, "If two bring upon him the death penalty, which is strict, will they not bring upon him the obligation to an offering, which is lenient?" They said to him, "What if he should choose to say, 'I did it deliberately,' [in which case he is exempt from a sin offering, and the witnesses cannot contradict him?]" [M. Ker. 3:1G-J]. [This is the point at issue between Judah and sages, so far as Mana is concerned.]***
- [R] *In the case of a case of a betrothed slave girl, what then have you got to say? [Here two witnesses say to him, "You have had sexual relations with a betrothed slave girl," and he says, "I did not." Now shall we say here that he is not*

believed because there is no other, better claim that he might have made but did not make? That is surely not the case.] For if he did it inadvertently, [not knowing her status,] he is liable, and if he did it deliberately, he still is liable, [so he should not be believed].

[S] [No, he has the] right to say to him, “I began the process of sexual contact but I did not complete it.” [In the case of a betrothed slave girl, he would then not be liable at all.]

[T] *An alternative plea is in accord with that which R. Simeon b. Laqish has said,* “[He may say,] ‘I was forced to do it because of the enchantment she practiced on me, [but I would not have willingly done it,]’ in which case he is exempt in the case of a betrothed slave girl].”

[U] [Mana’s criticism continues:] “In the case of the Nazirite vow, what have you got to say? If the Nazir is made unclean inadvertently, he is liable to the offerings, and if he is made unclean deliberately, he is liable to the offerings. If he is made unclean unwillingly, he also is liable to the offerings. [So what claim could have been entered that the man has refrained from pressing?]

[V] [“And if any man dies very suddenly beside him” (Num. 6:9).] “Suddenly” serves to encompass a case in which it is inadvertent. “Very” serves to encompass a case in which it is deliberate [contamination].

[W] [No, he still has a claim he might have made and did not make. But it is of a different order entirely:] “I had stipulated in my heart that if I should become unclean, my vow as a Nazir should be removed from me entirely, so that [when he was made unclean, he was not a Nazir], and another vow of Nazir will apply to me [from that point onward].” In any event, therefore, he does not become liable to the Nazirite vow until this time, [that is, the moment of corpse contamination]. [This sentence is now repeated verbatim, but the repetition adds nothing.]

[X] *[If you have a case of an alleged violation of] an oath, what have you got to say? [That is, two people accused him of having taken an oath, and he denies having done so.] Whether he has done so inadvertently, or whether he has done so deliberately, he is liable.*

[Y] [Furthermore, he cannot allege that he has had an unstated stipulation in mind, as was the case above,] because a stipulation may apply in vows, but a stipulation does not apply in the case of oaths.

[Z] [Nonetheless, even in the cases of oaths, there is a claim he could have made but did not make, in which case one must believe the claim he does make, as in all the former cases. This claim] *is in accord with that which R. Ba said R. Judah [stated], “If he violates the oath inadvertently, he is subject to an offering, and if he does so deliberately, he is subject to an offering. But if he said, ‘I thought that this was no oath at all,’ he is exempt. [Accordingly, we find a case in which there is a claim the man can have made but did not make, on the basis of which we must accept the claim he did make.]”*

[AA] *Lo, in all of these cases that we have listed, one cannot teach [that sages concur with R. Judah because in all of them there is a special reason [to accept the claim that the man makes against the testimony of two witnesses]. But in the following, one may maintain that [Judah and sages will concur], because there is no special reason [to accept the man’s claim. Accordingly, the two witnesses’ statement is accepted as against the accused’s denial.]*

[BB] *There is the following, which R. Yosé has given, deriving from that which R. Yosé said, “[If a witness came and said,] ‘Mr. So-and-so ate forbidden fat, and I gave him warning not to do so,’ the accused is not flogged [on the evidence of one witness]. But if a single party warned him that it was forbidden fat, and two witnesses warned him not to eat it, then he is flogged. And is not the principal part of the testimony against it that of a single witness?”*

[CC] On the basis of what R. Judah maintains, [we answer the same questions,] for R. Judah says, “[If a single witness came along and said,] ‘Mr. So-and-so, a Nazirite, has become unclean, and I gave him warning about it,’ the accused is not flogged.

[DD] “If a single party said to him, ‘You are a Nazir,’ and he obeyed the laws of the Nazirite on the basis of his statement, and then he drank wine or contracted corpse

uncleanness, and two witnesses warned him not to do so, he then will be flogged.

[EE] “And is not the principal part of the testimony against him that of a single witness, [to the effect that he is a Nazirite to begin with]?”

[FF] *There is that which R. Mana said, “[If a single witness came and said,] ‘Mrs. So-and-so, wife of a priest, has gone and had sexual relations with another man, and then her husband had sexual relations with her, and her husband is a priest, and I warned him about it,’ the husband is not flogged. If she went in private according to the testimony of two witnesses, and one of them said, ‘I saw her, that she was made unclean, and then her husband, [a priest,] had sexual relations with her, despite the warning of two witnesses,’ the husband is flogged. Now is not the principal part of the testimony against her that of a single witness?”*

[II:1 A] And bring an offering because of uncleanness and an offering because of cleanness [M. 8:1B], [that is, at the end of the spell as a Nazir, as is now spelled out:]

[B] *That is to say, one does so at the end of the thirty days. But if he is yet in the midst of the thirty days, they wait until the end of the thirty days.*

[C] [This rule applies, further,] in a case in which this one was a Nazir for thirty days, and that one was a Nazir for thirty days. But if this one was a Nazir for thirty days, and that one was a Nazir for one-hundred days, they wait for the latter to complete the hundred days.

[D] *R. Jacob the Southerner raised the following question before R. Yosé: “If the one who was waiting for the other [to complete the hundred days] was made unclean during those days [between his completing the thirty days, and the other party’s completing the hundred days], what is the disposition of those days?”*

[E] He said to him, “It is analogous to the case in which one’s fellow seeks for himself someone from the marketplace, [e.g., the co-Nazir has died, and someone else is needed to take his place]. [Here too they have to go and count out thirty days; they cut their hair, bringing an offering on account of uncleanness and an offering on account of cleanness, in partnership, and then they go and count thirty more, and bring an offering on account of cleanness.]”

[III:1 A] [With reference to the case of M. 8: IF-J, **If one of them died – said R. Joshua, “Let the survivor seek out someone from the market to take a vow as a Nazir as his counterpart, and let him say, ‘If I was unclean, lo, you are a Nazir forthwith. And if I was clean, lo, you will be a Nazir after thirty days.’ Then they count thirty days and bring an offering because of uncleanness and an offering because of cleanness. “And he says, ‘If I was the one who was unclean, the offering because of uncleanness is mine, and the offering because of cleanness is yours, and if I was the clean one, then the offering because of cleanness is mine, and the offering because of uncleanness is subject to doubt.”**” And they count out another thirty days and bring an offering because of cleanness. “And he says, ‘If I was the one who was unclean, then the offering because of uncleanness was mine, and the offering because of cleanness was yours, and this is the offering because of my being clean. And if I was the one who was clean, then the offering because of cleanness was mine, and the offering because of uncleanness is subject to doubt. And this is the offering because of your being clean:””] if the surviving Nazir drank wine during the first spell of thirty days, he is flogged [because he either was unclean and therefore is now observing his thirty-day spell in cleanness, or he was clean but has not yet brought his offerings].

[B] If he did so during the second spell of thirty days, he is not flogged [because it is a matter of doubt whether he had been unclean or clean]. [He has now counted thirty days and brought an offering. This can be for an offering for cleanness, so he would now be free to drink wine. By reason of this doubt, he is relieved of the punishment of flogging.]

[C] As to the one who comes from the marketplace [to take the place of the deceased], he is not flogged either during the former spell or during the latter [should he drink wine]. [In both spells, there is a matter of doubt. We do not know whether his fellow had been unclean, in which case he now is a Nazir, or if his fellow had been clean, in which case his spell as a Nazir is during the second, not the first, period.]

[D] *Up to this point, we have maintained that he is not flogged for either the former or the latter spell, because we deal with a case in which the Nazir received an admonition not to drink wine in the former period as one distinct spell, and in the latter period as one distinct spell. But [if witnesses gave admonition not to drink wine] during the two spells simultaneously, we come to a matter of dispute between R. Yohanan and R. Simeon b. Laqish. For they*

dispute about the case of the two days treated as holy in connection with festivals observed in the Exile.

[E] R. Yohanan said, “They receive a warning about a matter subject to doubt, [that is, the second day, and hence here too the warning affects the two periods, one of which is subject to doubt].”

[F] Rabbi Simeon b. Laqish said: “They do not receive a warning about a matter subject to doubt.”

[G] If one has said, “I took an oath as a Nazir, but I do not know how I took the oath, whether it takes effect now, or whether it takes effect later on” – one says to him, “[He must observe both periods and designate the offering,] – this is for the former period, and this is for the later period.”

[H] If he drank wine during the first thirty days, he is flogged. If he did so during the second thirty days, he is not flogged. [The reasoning is the same as specified earlier. In the former period, there is no doubt as to his obligation to refrain from wine, but in the latter, there is a doubt about the matter. Or, alternatively, we read the opposite: If he drank wine during the first thirty days, he is not flogged. If he did so during the second thirty days, he is flogged. We are not sure in the former period whether or not the vow applies, but in the latter we take for granted that he is now subject to it. In the second period, he still has not brought the offering, as explained above.]

[I] And should we not take account of the possibility that the former days are within his spell as a Nazir, while the latter days are not within his spell as a Nazir. [So why should he be flogged under the stated conditions]?

[J] All the days of his vow of separation” (Num. 6:5) serves to treat the days after the completion of the required days of his vow as equivalent to those that are during the spell of fulfillment of his vow, so far as the prohibitions against wine, corpse uncleanness, and hair cutting are concerned.

[IV:1 A] [With regard to M. 8:1/0, Joshua, “**This one turns out to bring his offerings in bits and pieces**”:] And let him bring his offerings in bits and pieces! [What difference does it make?]

[B] This answer was so as not to prevent some sort of reply from coming from the meeting place [of sages]. [That is, Joshua wanted to sharpen the wits of the disciples.]

**DOUBTS AFFECTING THE CONDITION AS TO CLEANNESS OF THE NAZIRITE: SPECIAL
CASES**

- [IV:2 A] A Nazir who is subject to doubt about his having become unclean in private domain, [in which case, he is deemed to be unclean] [delete: and so is not (able to bring) the Passover] –
- [B] R. Hoshaiiah the Elder said, “The Nazir must cut his hair [even though the uncleanness is merely by reason of a doubt].”
- [C] R. Yohanan said, “The Nazir does not cut his hair.”
- [D] *For we have learned there: For every form of corpse uncleanness on account of which a Nazir cuts his hair are people liable on account of entering the Temple. And for every form of corpse uncleanness on account of which a Nazir does not cut his hair, people are not liable on account of coming into the Temple [M. 7:4A-B].* [People are not liable for entering the Temple in a state of possible uncleanness incurred in private domain. The Nazir on the same count will not have to cut his hair.]
- [E] An individual who was subject to uncleanness by reason of doubt in the setting of private domain, as to the Passover, [is he deemed unclean and so forced to observe the second Passover, which is kept by those unclean on the occasion of the first]?
- [F] R. Hoshaiiah said, “His observance is held over to the second Passover.”
- [G] R. Yohanan said, “They send him out a long way [from Jerusalem at the first Passover, so he is required to observe the second only by reason of distance from Jerusalem, rather than by reason of the mere possibility of having become unclean in private domain].”
- [H] *This is in accord with that which R. Yohanan has said, “If one is made unclean [in connection with the observance of Passover] merely by an uncleanness in the deep, they send him out a long way from Jerusalem [for the same reason as just now spelled out].”*
- [I] The community at large that suffered uncleanness by reason of doubt in private domain, with regard to Passover –
- [J] R. Yohanan said, “Let them prepare the Passover while subject to doubt [as to whether or not they are unclean].”
- [K] R. Hoshaiiah said, “Let them observe the Passover in a state of total uncleanness.”

[L] Indeed, R. Hoshaiiah the Elder concurs that they should observe the Passover while subject to doubt [as to whether or not they are unclean.] R. Hoshaiiah has stated the contrary view only to impose a strict ruling, [in that while a minority may be clean, all should observe the rite in a state of uncleanness].

[IV:3 A] R. Yohanan said in the name of R. Benaiah, “As to an uncircumcised Israelite, they sprinkle [purification water] on him, for so we find that our forefathers accepted upon themselves in the wilderness the rite of sprinkling uncircumcised males. [That is, the purification rite in consequence of corpse uncleanness, preparatory to Passover, is carried out even for Israelites who are uncircumcised.]”

[B] [The following refers to Joshua 4:19: “The people came out of the Jordan on the tenth day of the first month, (that is, Nisan, five days before Passover).”] *Said R. Hisda, “That [A] accords with the view of the one who said that on the eleventh of Nisan, they circumcised themselves. But in accord with the view of the one who said that they did so on the tenth, you do not find the sprinkling of uncircumcised males. [That is, if they were circumcised on the eleventh, they had to sprinkle themselves with purification water prior to that date so that there would be four days remaining to the eve of Passover, that is, between the third and the seventh day of sprinkling for purification from corpse uncleanness. But if they had circumcised on the tenth, there would be no such consideration.]”*

[C] Said R. Abin, “In any event, they did not carry out the sprinkling of the uncircumcised, [since they observed that Passover in a state of uncleanness anyhow].”

[D] R. Eleazar in the name of R. Haninah: M'SH B: “There was an uncircumcised priest who was sprinkled, and the sprinkling upon him was declared to be valid.”

[E] *It was taught:* R. Eliezer b. Jacob says, “There were soldiers and Temple guards in Jerusalem who immersed and then ate their Passover offerings on that same evening. [Since the process of purification from corpse uncleanness was not complete, they observed the Passover in a state of uncleanness.]”

8:2

[A] A Nazir who was subject to doubt as to being made unclean [on the day he took the vow] and subject to doubt as to being a confirmed [victim of sara'at]

[B] eats Holy Things after sixty days [= two Nazirite periods].

[C] And he drinks wine and contracts corpse uncleanness after a hundred-and-twenty days [four Nazirite periods].

[D] For cutting of the hair in the case of a nega [sara'at] overrides [the prohibition against] cutting the hair of the Nazir [only] when [the sara'at] is certain.

[E] But in a case when it is subject to doubt, it does not override [the other].

[I:1 A] What is a case in which one is subject to doubt as to being confirmed a victim of sara'at [M. 8:2A]?

[B] Two who came [to a priest], and he confirmed one of them. But he did not suffice to confirm the other before the two became confused, [so that the priest no longer was sure which one he has already confirmed].

[C] This is a case in which one is subject to doubt as to being confirmed a victim of sara'at.

[I:2 A] *The Mishnah is in line with that which R. Hiyya has taught: [If] it is a matter of doubt whether a Nazir was unclean or clean, but it is certain that he was a Nazir,*

[B] [if] it is a matter of doubt whether a mesora was unclean or clean, but it is certain that he was a mesora [= M. 8:2A],

[C] he eats Holy Things after sixty days.

[D] He drinks wine and contracts corpse uncleanness after one hundred and twenty days [M. 8:2A-C].

[E] How so?

[F] [If] they said to him, "You are an unclean Nazir, and an unclean Nazir cuts his hair only after seven days, so go and count out seven days," and he was sprinkled and the sprinkling process was repeated, and he cut his hair and brought an offering –

[G] [and] he counted out seven days and sought to cut his hair, and they said to him, "You are a clean Nazir, and a clean Nazir cuts his hair only after thirty days, go and count out twenty-three more days to complete the required thirty days,"

- [H] he cuts his hair and brings his offering.
- [I] He counted out thirty days and sought to cut his hair, and they said to him, “You are a clean Nazir, and a clean Nazir cuts his hair only after the blood has been tossed” –
- [J] what should he then do?
- [K] He brings a burnt offering in the form of a beast and makes the following condition concerning it, saying, “Now if I am clean, lo, this is brought in fulfillment of my obligation, and if not, this is a free-will offering.”
- [L] How should it be done for him to impose the more stringent ruling upon him [as possibly a confirmed mesora]?
- [M] He brings a new clay jug and puts into it a quarter log of spring water and brings two wild birds and slaughters one of them over the earthenware utensil into the spring water.
- [N] He digs a hole and buries it in his presence, and it is prohibited for the benefit of anybody.
- [O] Then he brings a sin offering in the form of a bird and makes the following condition concerning it, saying, “Now if I am unclean, the sin offering is in fulfillment of my obligation, and the burnt offering is a free-will offering. But if I am clean, then the burnt offering is in fulfillment of my obligation and the sin offering is subject to doubt.”
- [P] And he cuts the hair on his head, beard, and eyebrows, just as mesoras cut their hair, and he brings the burnt offering of a beast and makes the following condition concerning it, saying, “Now if I was unclean, the first burnt offering was a free-will offering and this one is in fulfillment of my obligation. And the sin offering in the form of fowl is on account of his [my] obligation. But if I am clean, then the first burnt offering is in fulfillment of my obligation, and this one is a free-will offering. And the sin offering in the form of a bird is subject to doubt.”
- [Q] And he cuts off the hair of his head, beard, and eyebrows, just as [57b] the mesoras cut off their hair.
- [R] R. Simeon says, “On the morrow he brings his guilt offering and its log of oil with it and sets them up at the Nicanor gate and makes the following condition concerning them, saying: ‘If I am a mesora, lo, this is his [my] guilt offering, and if not, lo, this is a

peace offering given as a free-will offering.’ This guilt offering then is slaughtered on the north side of the altar. And its blood has to be placed on the thumbs and big toes of the man, and it requires laying on of hands, and drink offerings, and the waving of the breast and thigh, and it is eaten by the male priests.”

- [S] But sages did not concur with R. Simeon, for the man thus brings Holy Things to the house invalidly.
- [T] [How so?] To offer a sin offering of a beast is something he cannot do, because a sin offering in the form of a beast is not offered in a case of doubt.
- [U] To offer a sin offering in the form of a bird is something he cannot do, for a rich man who brought the offering of a poor man has not fulfilled his obligation [M. Neg. 14:12].
- [V] So what should he do?
- [M] Let him write over his property to someone else and then bring the offering of a poor man.
- [X] It turns out that the poor man brings a sin offering in the form of a bird and makes the following condition concerning it, saying, “If I was a mesora, lo, this is in fulfillment of my obligation. And if not, lo, this is given because of the doubt concerning me.”
- [Y] And he is permitted to eat Holy Things forthwith.
- [Z] But as to drinking wine and contracting corpse uncleanness, these are things he cannot do.
- [AA] For the days of his Nazirite vow are not credited on account of the days in which he is subject to sara’at.
- [BB] How should he do things in accord with the opinion of Ben Zoma [M. 8:1]?
- [CC] Let him count out thirty days and bring a burnt offering in the form of a beast and cut his hair, and bring a sin offering in the form of a bird and make the following condition concerning it, saying, “If I was unclean, this sin offering is in fulfillment of my obligation, and the burnt offering is a free-will offering. If I am clean, the burnt offering is in fulfillment of my obligation, and the sin offering is subject to doubt.”
- [DD] Then he counts out thirty days and brings the whole of his offering.

[EE] And he brings a burnt offering in the form of a beast and makes the following condition concerning it, saying, “If I was unclean, the first burnt offering was in fulfillment of my obligation, and this one is a free-will offering. And the sin offering in the form of a bird is on account of his obligation. If I was clean, the first burnt offering was a free-will offering, and this one is brought in fulfillment of my obligation. And the sin offering in the form of a bird is on account of the doubt that concerns me.”

[FF] Then he drinks wine and contracts corpse uncleanness forthwith.

[GG] Under what circumstances?

[HH] When he takes the vow of a Nazir for thirty days.

[II] But if he takes the vow as a Nazir for twelve months, he eats Holy Things only after two years have passed.

[JJ] And he drinks wine and contracts corpse uncleanness after four years have passed [T. Naz. 6:1A-ZZ].

[I:3 A] Said R. Yohanan, “[The view that a Nazir who was subject to doubt as to being a confirmed victim of sara’at does not have to bring a guilt offering but only a sin offering of fowl along with a burnt offering in the form of a beast] is the opinion of Ben Zoma. But so far as sages are concerned, he remains subject to confirmation [as a victim of sara at] until he waves his guilt offering [and the log of oil that goes with it]. [The guilt offering is essential to the process.]”

[B] *R. Jeremiah raised the question*, “Until he waves his guilt offering will this one be confirmed as a sara’at?! [Where do we find that waving the guilt offering is essential to the rite?]”

[C] Said to him R. Yosé, “Why not? We find many instances in which guilt offerings are set aside by reason of doubt, in which case one is required to bring yet another guilt offering, [which indicates that the guilt offering is indeed essential to the rite]. *For we have learned there: A guilt offering that was confused with peace offerings – R. Simeon says, ‘Both of them are slaughtered at the north [as a guilt offering] and are eaten in accord with the rules governing the more stringent of them, [as a guilt offering, inside the courtyard, by male priests for a day and a night].’ They said to him, ‘They do not allow Holy Things to suffer such an invalidity’* [M. Zeb. 8:3A-C]. [In the view of rabbis here, guilt offerings are set aside by reason of doubt; one has to bring another guilt offering; the guilt offering is essential to the rite.]”

- [D] [As to M. 8:2A-C, waiting to drink wine for a hundred-and twenty days,] R. Jacob the Southerner raised the question before R. Yosé, “And should they not make provision for him as to his wine, [so that he may drink wine forthwith]? [To be sure, we do not know for certain that the cutting of the hair goes to his credit as to his Nazirite vow. But the haircutting need not hold back the right to drink wine once more. Why hold him back, then, by reason of doubt?]”
- [E] He said to him, “‘And the Nazir shall shave his consecrated head at the door of the tent of meeting’ (Num. 6:18). That applies to the one who is suitable to come to the door of the tent of meeting, excluding then this one, who is not suitable to come to the tent of meeting.”
- [F] [Following Pené Moshe in moving materials found further on to the present point in the discussion,] R. Zeira in the name of R. Yudan [said], “The Mishnah itself has made the same point, for **R. Simeon says, ‘Once the blood of any one of the sacrifices has been tossed in his behalf, the Nazir is permitted to drink wine and to contract corpse uncleanness’ [M. 6:9E].** [Thus we require someone who is suitable to have the blood tossed in his behalf. In such a person’s case, the haircutting will not hold him back. But in the case of those subject to doubt, who are not suitable to come to the door of the tent of meeting and to have the blood tossed, the rule is not the same.]”
- [G] What is the rule as to [deriving benefit] from his [M. 8:2A] hair? [In the case of a Nazir’s hair, one may not derive benefit. In the case of one who may be subject to haircutting as a *mesora* and not as a Nazir, what is the law? Does the same prohibition apply?]
- [H] R. Jacob bar Aha [said], “R. Yohanan and R. Simeon b. Laqish differed on this matter.
- [I] “R. Yohanan said, ‘His hair is prohibited as to gain.’
- [J] “R. Simeon b. Laqish said, ‘His hair is permitted.’”
- [K] R. Zeira raised the question, “Does the dispute concern a *mesora* who took an oath as a Nazir, or is it about a Nazir who suffered an attack of *sara’at*? If you say that we deal with a *mesora* who took the oath as a Nazir then in the case of a Nazir who was afflicted with *sara’at*, all parties concede that it is prohibited to derive benefit from the hair. If you say that it is in

regard to a Nazir who suffered an attack of sara'at that they differ, then in the case of a *mesora* who took the vow as a Nazir, all parties concur that it is permitted.”

[L] *To R. Jeremiah it was self-evident that the dispute concerned a mesora who took an oath as a Nazir. But in the case of a Nazir who suffered an attack of sara'at at at, all parties concur that it is forbidden.*

[M] As to cutting the hair as a religious duty, what is the law for its setting aside the cutting of the hair as an optional matter merely by reason of doubt? [= M. 8:2D-E. Cutting of the hair as an optional matter refers to an ordinary haircut. Now the Torah has prohibited cutting the round corners of the head and similarly the beard. But when it is a religious duty to do so, for example, in the case of a Nazir, one must do so. Now if this is done as a matter of doubt, and not as a definite requirement of the Torah, what is the law?]

[N] *Let us derive the answer from the following: **And he cuts the hair on his head, beard, and eyebrows, just as mesoras cut their hair** [II. T]. And should we not take account of the possibility that it is a haircutting as a religious duty? [Perhaps he was a clean Nazir and not a *mesora*.] But is he not prohibited from doing so only on the count of not destroying the beard? [It follows that even by reason of cutting hair by reason of doubt, the cutting of the hair does override the prohibitions against destroying the corners of the head or the beard (Pené Moshe).]*

[O] Samuel bar Abba said, “Interpret the matter to speak of a eunuch.”

[R] *Now lo, we have learned that the reference is to a beard, and can you say that we deal with a eunuch? You may interpret the matter, therefore, only in accord with that which R. Jacob said in the name of R. Yohanan, “If one has removed [the hair] from below to above, it is prohibited. [If one removed the corners of the hair from below to above, it is prohibited. One then will have removed the locks by themselves and then cut the hair. But if one cut the head of the hair and also cut off the ear-locks, there is no prohibition, since this is not a case of rounding the corners of the hair of the head .]”*

[S] R. Yosé bar Abin said, “There is no difference whether one removes the ear-locks from below to above or from above to below.”

- [I:4 A] **If one was in doubt as to being unclean but certainly shut up as a mesora, he eats Holy Things after eight days.**
- [B] **He drinks wine and contracts corpse uncleanness after sixty seven days.**
- [C] **If he was certainly unclean but subject to doubt as to whether he was a mesora,**
- [D] **he eats Holy Things after thirty-seven days,**
- [E] **he drinks wine and contracts corpse uncleanness after seventy-four days.**
- [F] **If he was unclean of a certainty and determined to be a mesora of a certainty,**
- [G] **he eats Holy Things after eight days.**
- [H] **And he drinks wine and contracts corpse uncleanness after forty-four days [T. Naz. 6:1AAA-HHH].**
- [I] Said R. Abba Mari brother of R. Yosé, “That is to say that cutting the hair with a razor causes the loss, in the case of an unclean Nazir, of seven days.”

YERUSHALMI NAZIR

CHAPTER NINE

9:1

[A] Gentiles are not subject to the Nazirite vow.

[B] Women and slaves are subject to the Nazirite vow.

[C] A more strict rule applies to women than to slaves.

[D] For a master forces his slave [to be subject to a Nazirite vow], but a husband does not force his wife [to be subject to a Nazirite vow].

[E] A more strict rule applies to slaves than to women.

[F] For the husband has the right to annul the vows of his wife, but he does not [permanently] annul the vows of his slaves.

[G] [If] he annulled [the vow] of his wife, it is annulled for all time.

[H] [If] he annulled [the vow] of his slave,

[I] [if] the slave went forth to freedom,

[J] he has to complete his Nazirite vow.

[K] [If] he escaped from his master –

[L] R. Meir says, “He may not drink wine.”

[M] And R. Yosé says, “He may drink wine.”

[I:1 A] [57c] [“And the Lord said to Moses, ‘Say to the] people of Israel, When either a man or a woman makes a special vow ...’” (Num. 6:1-2).

[B] Israelites take a Nazirite vow, and gentiles do not take a Nazirite vow.

[C] *This is in line with that which you say*, “[When] any one [of the house of Israel or of the sojourners in Israel presents his offering, whether in payment of a vow or as a free-will offering ...]” (Lev. 22:18).

[D] Why does Scripture say, “Any one”? It is to encompass gentiles, who take vows and present free-will offerings like Israelites.

[E] May one then say that the rule is the same for the present matter?

[F] No, the case is different, for it is written, “And the priest ... shall make atonement for him” (Num. 6:11). He who is subject to atonement [may become a Nazir], thus excluding gentiles, who are not subject to atonement.

[I:2 A] There we have learned: As to a gentile – R. Meir says, “He is subject to the pledge of valuation by others, but he does not pledge the valuation of others.”

[B] R. Judah says, “He pledges the valuation of others but is not subject to the pledge of valuation by others.”

[C] And this one and that one agree that they vow and are subject to the vow of payment of worth [M. Ar. 1:2].

[D] [*Asking whether the same dispute pertains to the matter of the vow as a Nazir.*] *R. Jeremiah raised the question: “He who says there that he pledges the valuation of another here will maintain that he takes the vow as a Nazir. He who says that he is subject to the pledge of valuation by another here will maintain that he is subject to a pledge as a Nazir imposed by another.”* [This requires explication.]

[E] *As to being subjected to a pledge as a Nazir by another, how is such a thing possible?*

[F] An Israelite imposes the vow of a Nazir on a pagan.

[G] But will the pagan listen?!

[H] But rather, it is a case in which an Israelite said, “Lo, I am a Nazir,” and a pagan heard and said, “What this one has said is incumbent on me too.” In such a case, he is in one who fulfills an obligation [he has voluntarily incurred]. [That is, the pagan promises to bring the offerings the Israelite has pledged, in due course. This is hardly accepting the Nazirite vow imposed by the Israelite.]

[I] *As to a pagan’s imposing the vow of a Nazir on an Israelite, how is such a thing possible?*

[J] An Israelite cannot impose the vow of a Nazir on another Israelite. Will a pagan then have the power to impose the vow of a Nazir on an Israelite? [Obviously not!]

[K] No, we may deal with a case in which a pagan said, “Lo, I am a Nazir,” and an Israelite heard and said, “What this one has said is incumbent on me.”

[L] [That is hardly the case, for, if it is, then in your exegesis of Scripture,] how have you affected an exclusion?

[I:3 A] As to vows, an Israelite is subject to the commandment of not breaking one’s word [Num. 30:2], and a pagan is not subject to the commandment of not breaking one’s word.

[B] Said R. Jonah, “An Israelite enjoys the possibility of a sage’s releasing his vow, and a pagan does not enjoy that possibility.”

[C] Said R. Yosé, “An Israelite may require release of his vow by a sage [in order to be rid of it], while a pagan does not require the release of his vow by a sage. [His vow is null in any event.]”

[D] *Now this view of R. Yosé accords with the opinion of R. Abbahu. A gentile woman came before R. Abbahu. He said to Abimi bar Tobi, “Go and release her from the vow by reference to an unexpected event, [which, had she foreseen, would have prevented her from taking the vow]. [This is not valid grounds in the case of an Israelite. Hence he treated the case as null.]”*

[E] *The view of R. Jonah accords with the opinion of R. Aha, for he has said, “Laban is the same as Cushan-Rishataim, king of Mesopotamia. [‘And the people of Israel served Cushan-Rishataim eight years’ (Judg. 3:8).] And why is he called Cushan-Rishathaim? Because he did two evil deeds [the word for evil deed using the same letters as the second of the two names]. The first is that he broke his word, given under oath [to Jacob], and the second is that he subjugated Israel for eight years.”*

[II:1 A] **[As to M. 9:1D, For a master forces his slave [to be subject to a Nazirite vow], but a husband does not force his wife to be subject to a Nazirite vow:]** And let him force her? Did not R. Huna say, “[If he said], ‘Benefit from me is prohibited to you,’ [without even abrogating the vow,] he forces her and has sexual relations with her. [If she said,] ‘Benefit from you is forbidden to me,’ lo, this husband should abrogate the vow his wife has taken. [In the former case, he does not even have to abrogate the vow, because she owes him sexual relations.]”

[B] That case [of vows] is different because it is a matter pertaining to benefit deriving from him and benefit deriving from her. [Here it is a

matter of benefit for her alone when she vows not to drink wine, and he has to abrogate the vow if it is to be nullified, since, otherwise, it has no bearing upon his situation .]

[III:1 A] [For a master forces his slave [to be subject to a Nazirite vow], but a husband does not force his wife [to be subject to a Nazirite vow:] And he should not force his slave to be subject to a Nazirite vow [vs. M. 9:1D].

[B] The case of the slave is different, for it is written, “Because his separation to God is upon his head” (Num. 6:7). This refers to the one who has no other Lord but God, thus excluding a slave, who has another lord.

[III:2 A] If a slave [who has taken the vow of a Nazir and whose master objects to the vow] has the power to oppose his master’s word [and to keep the vow, a sage] says to him, “It is the law that you must listen to the instructions of your master.”

[B] If [in the case of a slave who has taken a Nazirite vow], the master forces him to contract corpse uncleanness, what is the law as to his having to bring the requisite offerings? [Do we maintain that the vow, observed up to that point, is valid?]

[C] Now was he then a true Nazir? [His master’s action has abrogated the vow.]

[D] You are the one who gave the decree for him that he should contract corpse uncleanness [by obeying his master’s instructions and not keeping the vow]. Now will you instruct him to bring an offering because of uncleanness? Here should he bring an offering because of uncleanness? [Obviously not.]

[E] If his master forced him to contract corpse uncleanness, what is the law as to his losing the days already observed?

[F] And is he in fact a Nazir? But you are the one who has decreed that he contract corpse uncleanness, and will you now hold that he loses days already observed? And here should he **lose such** days? [Obviously not.]

[IV:1 A] [If he annulled [the vow] of his slave, [if] the slave went forth to freedom, he has to complete his Nazirite vow] *It is obvious [in line with M. 9: IH-J] that if he was made unclean and afterward went forth to freedom, he brings an offering on account of the uncleanness [when he is able to do so, later on]. What is the law as to a case in which his master forced him to contract corpse uncleanness or when his master*

did not force him to do so? [That is to say, does he bring an offering later on only when his master did not force him to contract corpse uncleanness, or also in a case in which his master did force him?]

[B] [It is obvious that it is when the master did not force him that he brings the offering later on. For] *if you say that* it is when his master forced him, does he have to bring an offering on account of uncleanness?

[C] *If you say that* we deal with a case in which his master did not force him to contract uncleanness, [why should he complete the vow only after he has gone forth to freedom, as at M. 9 ~ J]? Let him complete it while he is yet under the master's authority!

[D] *Said R. Yosé, "We deal with a case in which his master forced him to contract corpse uncleanness [and to violate his oath thereafter]. It is so that you will not say, since he has gone forth to freedom, the vow concerning uncleanness [and the requisite offerings] no longer apply to him. Accordingly, it is necessary to rule that **he may count toward the fulfillment of the Nazirite vow the days he has observed in a state of uncleanness [T. Naz. 6:6D]."***

[IV:2 A] *Said R. Yosé, "A slave who said, 'Lo, I shall be a Nazir when I go forth to freedom' – one forces him to observe the Nazirite vow [by freeing him and then requiring him to keep his word.]"*

[B] As to a slave, one forces him to keep the Nazirite vow, but one does not force him to keep vows or oaths [vis-a-vis M. 9:1D].

[C] *R. Jeremiah raised the following question before R. Zeira: "If his master forced him to contract corpse uncleanness, what is the law as to flogging the slave? Or is [his being a Nazir] only a matter of law [but not on the authority of the Torah]?"*

[D] *How shall we interpret the case?* If the vow to be a Nazir that pertains to him is merely a matter of law, then merely as a matter of law, the master has the right to force the slave [to violate the oath, if he wishes].

[E] *Or if we maintain that* the law that a slave may take the vow of a Nazir and the law that a master has the right to force him to violate the law both derive from the rulings of mere scribes, then he should not be flogged.

[F] *Said R. Mana, "Do they flog on account of violation of a matter of law? [If he is not a Nazir by reason of Torah law, surely they will not flog him.] But thus must the matter be interpreted: If the Naziriteship applying to him is a matter of Torah and of law, then the master has*

the right to force the slave to violate the oath, but the slave also is flogged. But if both aspects derive solely from the decree of sages, then he is not to be flogged.”

- [IV:3 A] If his master forced him to violate one aspect of the Nazirite vow, what is the law as to his forcing him to violate all of the matters of the vow?
- [B] *In raising this question, we have reached the dispute of R. Meir and R. Yosé:*
- [C] **If he escaped from his master –**
- [D] **R. Meir says, “He may not drink wine. “**
- [E] **And R. Yosé says, “He may drink wine” [M. 9:1K-M].**
- [F] *How shall we interpret the case?* If it is a case in which the master said, “Whether in my presence or otherwise, drink wine,” also R. Meir will concur [that he must do so]. If it is a case in which the master said, “In my presence drink wine, but not in my presence do not drink wine,” also R. Yosé will concur.
- [G] *Rather we deal with a case in which the master says, “Drink.”*
- [H] **R. Meir says, “[It is as if he says,] ‘In my presence, drink, and not in my presence, do not drink.’”**
- [I] **R. Yosé says, “It is as if he says, ‘Whether in my presence or not in my presence, drink wine’” [T. Naz. 6:5].** Here too, if the master forced him to violate one aspect of the vow, we are not sure whether or not his intent was to force him to violate all of the vow, and so the dispute of Meir and Yosé expresses the two possibilities.]

9:2

- [A] **A Nazir who cut his hair and then [before he brought his offerings] learned that he had been unclean –**
- [B] **if it was a known uncleanness**
- [C] **he loses [all the days he has counted in cleanness].**
- [D] **But if it was an uncleanness located in the nethermost deep, he does not lose the days he already has counted out.**
- [E] **If before he had cut his hair he learned that he had been made unclean, one way or the other, he loses the days he already has observed.**
- [F] **How so?**

[G] [If] he went down to immerse in a cave and a bit of corpse matter turned out to be floating at the mouth of the cave,

[H] he is unclean.

[I] [If] it was located imbedded in the floor of the cave –

[J] [if] he had gone down only to cool himself in the water, he is deemed still clean.

[K] [If he had gone down] to clean himself from corpse uncleanness, he is yet unclean.

[L] For the unclean person is confirmed in the presumption of being unclean, and the clean one is confirmed in the presumption of being clean.

[M] For there are grounds for such a decision [in either case].

[I:1 A] *Said R. Yohanan, “Who is the authority who maintains [as at E], ‘If he had cut his hair ... if he had not cut his hair’? [That is to say, the matter is determined by the cutting of the hair; rather than by tossing of the blood.] It is R. Eliezer.*

[B] “But as to sages, [the decisive point is] prior to the tossing of the blood in his behalf.”

[C] *Ulla bar Ishmael in the name of R. Eleazar: “The Scriptural basis for the position of R. Eliezer [is as follows:] ‘And the Nazirite shall shave his consecrated head’ (Num. 6:18). The Torah thus has made fulfilling his Nazirite vow depend upon his hair.”*

[I:2 A] [If the Nazir] had completed observing his vow as a Nazirite but did not suffice to cut off his hair before he was informed concerning his having been made unclean as a matter of doubt by reason of a grave in the nethermost deep, he loses the days he already has observed.

[B] If, however, he had designated animals for his offerings, but had not then sufficed to cut off his hair before he was informed concerning his having been made unclean as a matter of doubt by reason of a grave in the nethermost deep, [how do rabbis, B, deal with this case? Does the fact that he has designated the animals for his offerings constitute a decisive turning as against the mere doubt represented by the buried grave?]

[C] *Said R. Zeira before R. Mana, “And is it not precisely the same case as the Mishnah deals with, [that is, M. 6:11]? [There is no difference between actually tossing the blood and merely designating the animal.]” [Now just as,] so far as Eliezer is concerned, it makes no difference whether he did or did not shave off his hair, also in the view*

of sages it makes no difference whether the blood had already been tossed in his behalf or had not in fact been tossed in his behalf.”

MISCELLANY ON THE GRAVE IN THE NETHERMOST DEPTHS

[I:3 A] How do we know that one in doubt concerning a grave in the nethermost deep [is deemed clean so far as preparing the Passover offering is concerned]?

[B] R. Jacob bar Aha in the name of rabbis: “[If any man of you ... is unclean through touching a dead body,] or is afar off for you on a journey, [he shall still keep the Passover to the Lord. In the second month on the fourteenth day, they shall keep it]’ (Num. 9:9-11).

[C] “Just as [being afar off on a journey] is a public fact [and so prevents keeping the first Passover, in Nisan], so any matter, [e.g., a source of uncleanness,] that is a public fact [will have the same effect], thus excluding a grave in the nethermost deep, which is not publicly known.”

[D] *To this point, we have dealt with the rule governing those who celebrate Passover. How do we know that the same rule applies to a Nazir [as at M. 9:2D]?*

[E] R. Yohanan in the name of Rabbi: “‘And if any man dies very suddenly beside him’ (Num. 6:9). Just as [in this case] it is beside him, and so a fully public fact, so any matter that is a public fact [will have the same effect], thus excluding a grave in the nethermost deep, which [by definition] is not publicly known.”

[I:4 A] As to a community that is subjected to uncleanness by reason of doubt deriving from a grave in the nethermost depths – what is the law on the priest’s frontlet propitiating on account of the doubtful uncleanness? [That is, after the tossing of the blood, the community suffers the stated form of uncleanness. Does the frontlet have the effect of securing propitiation, so that the community may eat the meat of the sacrifice?]

[B] It is an argument a fortiori: Now if an individual who is at a disadvantage in the case of uncleanness that is confirmed is at an advantage in the case of a grave in the nethermost depths, [that is, uncleanness that is not confirmed but subject to doubt], the community, which is at an advantage in the case of uncleanness that is confirmed, surely should be at an advantage in the case of a grave in

the nethermost depths! [Accordingly, the answer to A is in the affirmative.]

- [C] [No, it is not really a valid argument a fortiori at all. We find] a lenient side for the individual, and a stringent side for the community. [This is now explained.]
- [D] The lenient rule for the individual is that if, prior to the sprinkling of the blood of [the Nazir's] offerings, it is known that he is unclean, he is treated as if he was made unclean after the sprinkling of the blood, so that he should not be made to postpone his observance of Passover to the second Passover [kept by people unclean at the time of the first]. [That is, if there is a case of uncleanness by reason of doubt, e.g., a grave in the nethermost depths, and this is known to the Nazir prior to the sprinkling of the blood, this is treated as if it came afterward, with the consequence for the second Passover that has been specified.]
- [E] But you impose, in this same case, a more strict rule upon the community. If, after the sprinkling of the blood, the fact of uncleanness becomes known, it is treated as if the community has become unclean prior to the sprinkling of the blood, so that the community may not eat the flesh. [That is, some things, including the Passover offering, may be offered in a state of uncleanness, but the meat may not be eaten in a state of uncleanness. The priestly frontlet does not propitiate in such wise as to permit the meat to be eaten. Accordingly, there is a more strict rule pertaining to the community than to the individual. It therefore is more reasonable to suppose that if there is uncleanness by reason of doubt affecting the community, even if this is discovered after the blood is tossed, the meat of the offering may not be eaten by the community.]
- [F] [Continuing this line of comparing lenient and strict rulings, we proceed:] While you impose a lenient ruling in the case of a clean Nazir, you impose a strict ruling in the case of an unclean one.
- [G] [Namely:] In the case of a clean Nazir, you impose the lenient ruling, that if [he brings offerings in a state of cleanness but then] uncleanness becomes known to him prior to the sprinkling of the blood, he is treated as if he was made unclean after the sprinkling of the blood, so that he will not have to bring an offering by reason of uncleanness.
- [H] In the case of a Nazir who brings offerings by reason of uncleanness, [57d] you impose a more strict rule. For if the fact that he has been made unclean should become known after the sprinkling of the blood, he is treated as if he was made unclean and then made unclean again,

so that he will have to bring [yet another] offering by reason of uncleanness for each count of [having been made unclean].

[I] *This is in line with that which has been taught: **If he continued ~o contract corpse uncleanness, he brings an offering for each and every count [M. 6:4F].***

- [I:5 A] The officiating priest [who performs the service in slaughtering] the Passover offering – what is the law as to the priestly frontlet’s propitiating on his account [should he become unclean by reason of uncleanness in the nethermost depths]?
- [B] There is an argument a fortiori to answer this question.
- [C] Now if the owner of the Passover animal, who stands in an inferior position with regard to an infirm old man [unable to consume an olive’s bulk of meat from the animal, for such a person may not be included among those counted for the slaughter of the animal], enjoys a superior position to a priest with regard to uncleanness in the nethermost depths [since in that regard the frontlet propitiates, so that he may eat the meat and be deemed suitable to observe the first Passover in a state of cleanness],
- [D] the officiating priest, who stands in a superior position with regard to an infirm old man [since an infirm old man has the right to carry out the slaughter of the Passover animal and so to serve as the officiating priest, even though he is unable to eat the meat of the animal],
- [E] should [the officiating priest] not also stand in a superior position with regard to uncleanness in the nethermost depths [so that the frontlet will propitiate on account of that doubtful source of uncleanness, just as is the case for the sacrificer]?
- [F] No, that is not the case. If you have stated that rule [that the frontlet propitiates uncleanness affecting the owner], who enjoys a superior position in regard to all other situations of uncleanness through the year, [for an unclean person may send sacrifices and offerings, even if he is unclean],
- [G] will you say the same of the officiating priest, who enjoys an inferior position in regard to all other situations of uncleanness through the year, [for an unclean priest may not officiate during the rest of the year in the case of the offering of an individual]. So since the officiating priest stands in an inferior position also with regard to being subject to corpse uncleanness on Passover [by reason of a grave in the

nethermost depths, and, it must follow, the frontlet will not propitiate in his behalf].

[H] *What is the upshot of the matter?*

[I] [It is written at Num. 9:9,] “For you,” meaning that the rule applies to the sacrificer and to the priest who officiates in his behalf.

[J] *To this point, we have dealt with those who prepare the Passover. How do we know that the same rule applies to the Nazir [that the officiating priest in the case of the Nazir is subject to the same rule]?*

[K] *R. Yosé b. R. Bun in the name of R. Hisda, “We considered ruling that since the words ‘in his behalf’ are used with reference to the Nazir’s offerings, the law is that the frontlet propitiates for him, but not for the officiating priest who serves him [if the priest suffers the stated uncleanness]. But since the Nazir and the one who observes Passover are treated together in the same passage, we learn that what applies to one part applies to the other, [and the law is the same for both].”*

[I:6 A] What is the definition of a grave in the nethermost depths?

[B] If the corpse is buried in straw, stubble, dirt, or pebbles, [that is, a concealed grave]. If he was buried in water, or in a dark place, or in the crevices of rocks, this is not regarded as a hidden grave in the nethermost depths, since here people may have searched it out, so it may be known].

[C] The basic principle is that in any case in which one can clear out [debris], you do not have a grave in the nethermost depths [since someone can have known about the grave]. But in any case in which one cannot clear out the debris, you have a grave _ in the nethermost depths [since here no one can ever have known about the grave]. [If one can clear away the debris, one also may have buried someone there. But if the debris has piled up on its own and there is no reason to imagine someone is buried in that spot, then you may have a grave in the nethermost depths, about which no one can have known.]

[D] Now in the case of straw and stubble, can you not clear them out?

[E] *The Mishnah does not accord with the view of R. Yosé for R. Yosé says, “Straw that one is not destined to remove, lo, it is like dirt, and dirt that one is destined to remove, lo, it is like straw” [T. Ah. 15:5B]. [It follows that straw in general is apt to be cleared away. Here, B, the supposition is that straw in general is apt to be*

left where it is, which is why there can be a totally unknown grave beneath it.]

[F] R. Yosé b. R. Bun in the name of R. Hisda, “No, the foregoing statement represents the view of all parties. When R. Yosé has stated his view [that straw is apt to be cleared away,] it is in a case in which one has mixed it up with dirt. [When, for instance, one is using straw to make bricks, he is apt to clear it away. Hence it is treated as of consequence until one will declare it to be null, unlike the supposition in the definition given above.]”

[G] There is straw that is in the status of dirt, and dirt that is in the status of straw. Straw that one cannot remove, lo, it is in the status of dirt. And dirt that one can remove, lo, it is in the status of straw.

[H] *A member of the household of R. Yannai* said, “If one has covered [straw] with mats, lo, it is deemed null.” [But in the case under discussion, at M. Oh. 15:6,]10, it is said that if they filled it with mats, [the straw] is not treated as null. If they covered it with mats, is it then null? [Surely it remains of consequence.] If they filled [the house] with palm branches there is an issue. [It is not clear whether or not these will be cleared away.]

[I] R. Zeriqan, R. Ammi in the name of R. Simeon b. Laqish: “Even if it was filled [with thin branches].”

- [I:7 A] What is a grave in the nethermost depths? It is a grave that no one remembers. and should one not take account of someone at the other side of the world [who knew about the corpse buried here]? We take it for granted that [if he knew that there was a corpse], he would have [buried him] while he was living [there] (cf. Pene Moshe).
- [B] Interpret the matter to apply to a corpse that one found doubled up.
- [C] *It has been taught:* You have in the status of a grave in the nethermost depths only the case of finding a corpse alone. [Corpse matter alone is taken to transmit uncleanness when it unexpectedly turns up.]
- [D] Lo, if one found carrion, [that is not deemed uncleanness in the nethermost depths].
- [E] Now is there not an argument a fortiori: If a corpse, which does not produce that form of uncleanness that is imparted to couches and chairs, [e.g., if one affected by corpse uncleanness does not impart uncleanness to couches on which he lies or chairs on which he sits], lo, the corpse nonetheless [when unexpectedly found]

produces a grave in the nethermost depths, [which is a source of uncleanness by reason of doubt to all who have passed over it], carrion, which does produce that form of uncleanness that is imparted to couches and chairs, [for one unclean with carrion uncleanness imparts uncleanness to chairs or couches on which he sits or lies], is it not reasonable that, when carrion is found buried, it should also produce the situation of a grave [newly discovered] in the nethermost depths?

[F] For what purpose has it been said, “You have in the status of a grave in the nethermost depths only the case of finding a corpse alone” [C]?

[G] The purpose is to exclude the possibility of uncleanness that is effected through sitting or lying, [that is, the uncleanness imputed to a *zab* or *zabah*]. [Specifically, if there is a *zab* on the seventh day after his original flux, in which we do not know whether he will produce a flux that day and so lose all seven days, or will not produce a flux, and so he will be deemed clean. We do not declare that he is unclean by reason of doubt, so that we will not include him in a Passover offering. Thus, that kind of uncleanness by reason of doubt, parallel to the doubt about uncleanness deriving from the discovery of a grave in the nethermost depths, is not imputed to the *zab*. *So* is the meaning of C.]

[II:1 A] **[If] he went down to immerse in a cave and a bit of corpse matter turned out to be floating at the mouth of the cave, he is unclean:]**

R. Yosé b. R. Bun said, “Bar Piqah asked Rabbi, “To this point, we have dealt with a cave that is roofed over. [In that case we have a matter of doubt in private domain.] But [does the law of M. 9:2G apply] also to a cave that is not roofed over? [Is a stringent rule imposed here too?]”

[B] *Bar Piqah’s assumption was that* in the case of doubt concerning a bit of uncleanness floating on the surface of water, [we rule that the doubt is resolved in favor of cleanness].

[C] Said to him Rabbi, “Bar Piqah is still engaged in his foolishness. Is not a matter of doubt affecting uncleanness floating on the surface of water deemed to be clean only in the case of a dead creeping thing? But if it is a doubt affecting corpse matter, it is as if it were standing still [there is no distinction]. *This is in line with that which has been taught: As to all things that are thrown, matters of doubt affecting them are deemed to be clean, except for an olive’s bulk of corpse matter [cf. T. Toh. 5:8A-B].* As to those who overshadow [corpse matter, that is,

it is a matter of doubt as to whether they have done so], and as to those who impart uncleanness to what is beneath them or to what is above them, [that is, the *zab* or the *zabah*, who impart uncleanness to beds and chairs on which they sit] – matters of doubt in these instances are resolved as unclean.”

- [III:1 A] [As to M. 9:2I: If corpse matter was located imbedded in the floor of the cave, and one went down to attain cleanness from corpse uncleanness, he is held to be unclean, and the question that follows assumes that he is unclean but does not cut his hair, since this would be a form of uncleanness on account of which a Nazir does not have to cut his hair.] Now does this not differ with R. Josiah’s position, because he has said that on account of uncleanness buried in the floor of a house, a Nazir has to cut his hair?
- [B] Said R. Yohanan, “Here we deal with uncleanness that is at the side, while there we deal with uncleanness that is directly opposite. [Josiah refers to uncleanness on which the Nazir actually stands. On that account, he has to cut his hair. Here we are not so sure he has had contact with corpse matter.]”
- [C] R. Ezra in the name of R. Yudan said, “And even if you say that in both instances the uncleanness is over at the side, or in both instances the uncleanness is directly beneath the Nazir, there is no problem. What is the meaning of ‘unclean’ [in the passage before us]? It is that he is unclean, but, nonetheless, he need not cut his hair, [and to this proposition Josiah will not take exception].”

9:3

- [A] **He who finds a corpse in the first instance lying in usual fashion removes it and the earth affected by it.**
- [B] **[If] he found two, he removes them and the earth surrounding them.**
- [C] **[If] he found three,**
- [D] **if there are between one and the other from four to eight amahs,**
- [E] **lo, this is deemed a graveyard.**
- [F] **He examines the dirt twenty amahs from it.**
- [G] **[If] he found a corpse at the end of the twenty amahs, he examines the dirt another twenty amahs from that corpse.**
- [H] **For there are grounds for such a decision.**
- [I] **But if he had found it at the outset, he would have removed it and the dirt affected by it.**

- [I:1 A] What is the definition of a corpse lying in usual fashion?
- [B] It is one with the feet spread out and the hands on the heart.
- [C] But if one found it doubled over, I maintain that a pile of stones fell on him and killed him, [so this is not a normal burial] .
- [D] *And has it not been taught: **If one found two corpses, with the head of this one alongside the knees of the other, they are not subject to the rule of contaminated soil, and they are not subject to the rule of the graveyard [T. Ah. 16:2] [Yerushalmi: One removes them and the soil affected by them.]***
- [E] *They then considered ruling, What is the case of a corpse doubled over? It is one in which the head of one is alongside the knees of the other.*
- [F] *Said R. Isaac b. R. Eleazar, “[No, that is not the case. In a normal burial, we find the head of one alongside the knees of the other.] For example, when they roast fish, they place the head of one by the tail of the other, the tail of one by the head of the other.”*
- [I:2 A] *R. Isaac bar Gofeta raised the following question before R. Mana: “There you rule, **He who removes a bone from the midst of his field gathers bone by bone, and it is clean [M. Oh. 16:5B2].** [There is no consideration of removing the dirt affected by the corpse.] *And here you say this, [that one removes the dirt affected by the corpse as well as the corpse itself]?”**
- [B] *He said to him, “Cite that which follows: R. Simeon says, ‘**If one had adapted it at the outset as a tomb, it does produce soil affected by the corpse, [which must be removed]**’ [M. Oh. 16:5C].”*
- [I:3 A] How much is soil affected by a corpse in a grave?
- [B] One scales off three fingers’ breadth of dirt, up to the place to which the excretions of the corpse exude.
- [I:4 A] Said R. Hisda, “Does [M. 9:3A, which says that one may remove a corpse,] indicate that one may move a neglected corpse from its place? [This is contrary to the rule that a neglected corpse acquires possession of the place in which it was found.]”
- [B] Said R. Zeira, “Interpret the Mishnah to speak of a case in which a corpse was buried without permission.”

[C] If the corpse was buried upon inquiry [as to whether or not it might be buried in that place], then should you not raise the question of whether or not it is a neglected corpse?

[D] *R. Zeira holds that* neglected corpses are not commonplace.

[I:5 A] **It comes out that one may say, There are three kinds of graves. A grave that is discovered – they empty it out. Once one has emptied it out, its place is clean, and it is prohibited for further benefit.**

[B] **A grave that inconveniences the public – they empty it out. Once one has emptied it out, its place is unclean, and it is prohibited for benefit.**

[C] **A grave that is known – they do not empty it out. If one has emptied it out, however, it is clean, and it is permitted for benefit [T. Ah. 16:9].**

[D] [With regard to a grave that inconveniences the public,] *R. Abba bar Kohen* gave a decision in *Kepar Aqabiah*, “Its place is permitted as to benefit [as against the rule above].”

[E] *Does he then differ from the stated rule [of the Tosefta]?*

[F] No, here [where the place is forbidden] we deal with a case in which the grave was there before the town, and there, where we say the place is permitted, we deal with a case in which the town was there before the grave.

[G] *It has been taught:* A grave flanking a town on three sides – they clear it out.

[H] If it flanked [the town] on two sides,

[I] *there are Tannaim who teach:* They clear it out.

[J] *And there are Tannaim who teach:* They do not clear it out.

[K] *Said R. Hisda, “He who said that they clear it out deals with a case in which it was located within seventy-and-two-thirds cubits. He who said that they do not clear it out deals with a case in which it was located beyond seventy-and-two-thirds cubits.*

[L] *“He who said that they clear it out deals with a grave area in the shape of a gamma [an L-shaped graveyard surrounding the town on two sides]. One who said that they do not clear it out deals with one that is shaped like a he, [in which the graveyard*

is on two sides of the town, but not connected so as to cover two contiguous sides].”

[M] They may clear out all tombs except the tombs of kings and prophets.

[N] They said to R. Aqiba, “And lo, are not the tombs of the family of David cleared out? And the tombs of the family of Hulda were in Jerusalem, and no one ever laid a hand on them to clear them out.”

[O] Said to them R. Aqiba, “Is there any proof from that case? There was a tunnel there, which carried the uncleanness down into the brook of Kidron.”

[I:6 A] *There we have learned:* **[If a man sold to his fellow a plot of land in which to make a tomb,] he must make a courtyard at the opening of the vault, six cubits by six, sufficient area for the bier and its bearers [M. B.B. 6:8].** *And here you say this,* [that is, one examines the ground from four cubits to eight, that is, sufficient space for the bier and its bearers, rather than the six by six stated above]?

[B] There, [when we deal with sale and purchase of the ground], the bier is measured as is, while here, we deal with the bier measured with some further space, [that is, the ground in which the search must take place is somewhat larger than the ground in which the burial of the corpse will take place].

[C] To what extent? To sufficient space for the bearers of the bier, their replacements, and the replacements of their replacements.

[I:7 A] *There we have learned:* **A vineyard that was planted in rows less than four cubits apart –**

[B] **R. Simeon says, “It is not regarded as a vineyard.”**

[C] **And sages say, “It is regarded as a vineyard, and the middle rows are regarded as though they were not present” [M. Kil. 5:2].**

[D] Simeon bar Ba in the name of R. Yohanan: “Just as Simeon and sages differ here, so they differ in regard to defining a graveyard. [If the graves are very close together, Simeon does not regard it as a graveyard [as at M. 9:3D-E]. Sages ignore the ones in the middle, as though they were not present, and regard it as a permanent graveyard.]”

[E] *Said R. Jonah, “But the cases are not similar. [There is no disagreement about a graveyard.] There,* [when M. 9:3D says that if

there is a space of them four to eight cubits from one grave to the next, we have a graveyard,] there is every reason to think we have a graveyard. *But here*, [by analogy to a vineyard in which the rows are jammed together, if we had graves jammed together as the vines are jammed together], we should not think we have a graveyard at all. [We assume that the graves are jammed together only temporarily, and later on they will be moved apart and proper space provided. So there is no reason for Simeon and sages to differ as to a case parallel, for graves, to the vines of M. Kil.]”

[F] [*Differing from Jonah*,] R. Yosé said, “*Indeed the cases are not similar [but for a separate set of reasons]*. When we speak of the vineyard, we have the case in which the vines were distant from one another, and the farmer bunched them together. *Then there is a dispute*. If after they were bunched together, the farmer went and spaced the vines out together, all parties concur that we have a valid vineyard. The dispute then concerns a case in which the farmer went and spaced them out once they were bunched together. [Simeon holds that, since the man bunched them together to begin with, we do not take account of his going and spacing them out again. He wanted a vineyard, and that is what he started out with. Rabbis maintain that if the man went and spaced them out, the ones he removed from the middle were never planted for vines but for the wood. In the present case concerning what do they argue? Concerning a case in which the former came and found the corpses bunched together. [We do not know the intent of the people who planted the corpses in their present locations, that is, whether or not they intended to make a valid graveyard.] R. Simeon maintains that a rock pile fell on the graves and bunched them together, [but it was originally a valid graveyard.] Rabbis say they were originally properly spaced out, and the grave-diggers bunched them together. [Simeon says that even though the graves were bunched together, they remain in the status of a valid graveyard as they were at the outset. Rabbis hold that the grave-digger himself did it, and there will be no further meddling with the graves’ location on his part. Consequently we do not have a valid graveyard at all]”

[II:1 A] **[If he found a corpse at the end of the twenty amahs, he examines the dirt another twenty amahs from that corpse. For there are grounds for such a decision. But if he had found it at the outset, he would have removed it and the dirt affected by it]** To what extent do they require a man to examine the dirt [M. 9:3F-G]?

[B] R. Yosé in the name of R. Miasha bar Jeremiah, [58a] “Up to forty cubits.”

- [C] If he examined twenty cubits of dirt and found corpse matter, he examines another twenty.
- [D] If he examined another twenty and found corpse matter, he examines another twenty.
- [E] There are, to be sure, Tannaim who repeat the tradition as follows. If he examined ten cubits of dirt and found corpse matter, he examines another ten cubits. If he examined another ten cubits and found corpse matter, he examines yet another ten cubits.

9:4

- [A] Any matter of doubt concerning negas at the outset is ruled as clean before a decision has been made in favor of uncleanness.**
- [B] [But if] a decision has been made in favor of uncleanness, a matter of doubt in its regard is deemed unclean [M. Neg. 5:41].**
- [C] In seven ways do they examine the zab before he has been confirmed to be subject to zibah: In regard to food, drink, carrying things, jumping up and down, sickness, something he had seen, and something in his fantasy.**
- [D] Once he has been confirmed as to zibah, they do not examine him.**
- [E] Any flux he produces through constraint, or which is subject to doubt, or his semen is unclean.**
- [F] For there are grounds for such a decision.**

[I:1 A] “He shall declare him unclean” (Lev. 13:3).

- [B] That which is certainly unclean does he declare unclean. He does not declare unclean that which is subject to doubt.
- [C] Under all circumstances, he remains subject to the uncleanness affecting him until it is clearly known that he has become clean: “Then the priest shall declare him clean” (Lev. 13:6).
- [D] That which is certainly clean does he declare clean. He does not declare clean that which is subject to doubt.

[I:2 A] [As to a person who may or may not have suffered a flux in line with Lev. 15:1ff.:] Under all circumstances, he remains in the status of cleanness until it is clearly known that he has become unclean.

- [B] It is written, “Also for her who is sick with her impurity; that is, for any one, male or female, who has a discharge” (Lev. 15:33)

- [C] Just as a woman in her period is deemed unclean even when the period has commenced under constraint,
- [D] so a man becomes unclean as a zab even when the flux has commenced under constraint, [e.g., caused by something external to his own body] [M. 9:4E].
- [E] If that is the case, then even from the very first appearance of flux, [should he be regarded as unclean]?
- [F] Said R. Zeira, “No, it applies when he has produced a flux in the model of the flow of a menstruating woman, [that is, when she produces yet a second flow, she is confirmed as subject to her period].”
- [G] As to flux produced under constraint [M. 9:4E,] said R. Eliezer, “It means what it says, [that is, if he saw yet a third appearance of flux by reason of one of the external constraints listed at M. 9:4C, he is then confirmed as a zab].”
- [H] As to what is subject to doubt [M. 9:4E]: We do not know that whether it is flux or semen is deemed *flux*.
- [I] And as to the appearance of semen, if that is not the case, is he then not going to be unclean? [Surely he will be unclean until evening. Why does M. 9:4E refer to his semen?]
- [J] [The rule is that if a man produces semen first, and then *flux*, the rule is that *flux* that comes after a *flow* of semen does not impart uncleanness to the man until twenty-four hours have passed. Rather we keep the matter in suspense, to see whether the flux has possibly been produced in the aftermath of the semen. That is the case prior to his having been confirmed as unclean. But if he has been confirmed as unclean, the fact that semen has been produced does not lead us to conclude that the flux may be clean.] We do not suspend judgment for twenty-four hours.

9:5

- [A] He who hits his fellow, whether with a stone or with his fist,
[B] and they diagnosed him as likely to die,
[C] [bur] he got better than he was,
[D] and afterward he got worse and died –
[E] he is liable.
[F] R. Nehemiah says, “He is exempt,

[G] “for there is a basis to the matter [of thinking that he did not die from the original injury].”

[I:1 A] *Thus the Mishnah pericope [should read at M. 9:5F-G]:* R. Nehemiah declares exempt, and sages declare liable, for there is a basis to the matter [of thinking that he did die from the original injury, since, after all, there was a diagnosis to that effect].

[B] [The reason that rabbis hold him liable] is that two estimates [of the victim’s condition, the one at the outset, the one at the end after which he died,] are of greater weight than one [in the middle, at which he appeared to have gotten somewhat better].

[E] R. Nehemiah says, “The estimate of the man’s condition in the middle is greater than the one fore or aft.”

[I:2 A] *What is the Scriptural basis for R. Nehemiah’s opinion?*

[B] “[When men quarrel and one strikes the other with a stone or with his fist and the man does not die but keeps his bed,] then if the man rises again and walks abroad with his staff, he that struck him shall be clear” (Ex. 21:18-19).

[C] Now would it have entered your mind that this one should be walking about in the marketplace, while the other is put to death on his account? [Obviously not, and so the purpose of Scripture’s statement is as follows:] Even though the victim should die after he was originally examined and diagnosed as dying, the other party is exempt [should the man’s condition improve in the meantime].

[D] *What is the Scriptural basis for rabbis’ opinion?*

[E] “And the man does not die but keeps his bed” –

[F] Now we do not know that “if he does not die but keeps his bed” – [why does Scripture specify both his not dying and also his going to bed?]

[G] It is to speak of a case in which they did not make prognosis that he would die. [That is, Scripture is to be interpreted to mean, ‘If he does not die,’ that is, they did not reach a prognosis that he would die, but that he would not die.]

[H] In this case, it is written, “Then if the man rises again and walks abroad with his staff, then the one who struck him shall be clear” (Ex. 21:19).

- [I] [This then means that,] lo, if then he does not get up, the one who struck him is liable.
- [J] If then they reached the prognosis that he would die, in such a case it is written, “Only he shall pay for the loss of his time, and shall have him thoroughly healed” (Ex. 21:19). [That is, if he was not expected to die, the one who hit him nonetheless must pay the costs of his recovery.]
- [K] [But why should that be the case? There has been no prognosis that healing would be required.] R. Illa in the name of R. Simeon b. Laqish: “It is Scripture’s innovation, saying that he must pay the costs of his recovery [despite the absence of a prognosis to that effect].”
- [L] R. Abbahu in the name of R. Yosé b. Haninah: “It was an erroneous prognosis. [That is, one must pay financial compensation because retrospectively we see that the original prognosis was an error. Then the physicians thought the man would die. So, retrospectively, we reinterpret the prognosis and say that it was that the one who hit the man would have to pay financial compensation.]”
- [M] *What is the difference between these two positions, [the one maintaining that the Scripture has made a decree that one must pay, the other maintaining that the point is that the original prognosis was erroneous, and so the aggressor must pay]?*
- [N] It would be a case in which **he got better than he was, and then he got worse, and died –**
- [O] **he is liable.**
- [P] **R. Nehemiah declares him exempt, for there is a basis to the matter of thinking that he did not die from the original injury.**
- [Q] One who said that the reason is that it is Scripture’s innovative decree that the aggressor pay for recovery maintains that if he paid funds for recovery, he has paid them over.
- [R] [His problem is this:] If he did not pay them out, what is the law as to his paying them out?

[S] The one who said that the original prognosis was in error maintains that if the aggressor did not pay over the funds for recovery [before the victim in fact died], they do not say to him to pay that money over.

[T] [His problem is this:] If he did pay out the money, what is the law as to the victim's accepting the funds?

[U] *There is a Tannaite pericope that supports the position of this party, and there is one that supports the position of that party.*

[V] *The Mishnah pericope that supports the position of R. Yosé bar Haninah [B] is as follows:*

[W] If they reached the prognosis that he would die, but the man lived, at what point do they pay him the costs of his recovery? From the moment at which he began to improve. [That is, the man got better and then got worse and died. At what point do we say that they have to pay out the costs of his medical treatment? It is from the time that he got better. But if he did not pay out the funds until the time that he got worse, he does not have to pay out at all.] [It follows that it is not Scripture's decree, but because] the original prognosis was in error.

[X] For if you say it is Scripture's decree that he pay, he should pay from the very outset.

[Y] *The Tannaite pericope that supports the position of R. Simeon b. Laqish is as follows:*

[Z] If they reached the prognosis that he would live, and he died, at what point does he pay out the funds? From the moment at which he got worse. [That is to say, even though he paid out nothing earlier, he pays from the time that the man got worse. The reason is not that the original prognosis had been in error, because if that were the case, we should require payment at the opposite time. For once the man got worse, there should be no payment, since, it is clear, the original prognosis was in error. Thus the reason for the payment is that it is Scripture's decree, and the aggressor has to pay under all circumstances – this by Scriptural decree – even if the man got worse.]

[AA] Said R. Yosé, “[*Rejecting the proof in favor of R. Simeon b. Laqish,*] *There is no consideration here of paying [merely] when the man starts failing. But he has to pay from the beginning of the transaction. One must then say that it is Scripture’s own decree that the man must pay. And if you say it was originally a false prognosis, one must then pay the man’s cost until he actually dies.*”

- [I:3 A] If one hit him on his hand, and it swelled up, and the physician said, “If I cut off his hand, he will live,” what is the law as to his having to pay compensation for the cost of the hand? [Is he liable, for having hit him, or exempt, for not having intended to injure the hand?]
- [B] *Let us derive the answer to that question from the following:*
- [C] “When men strive together [and hurt a woman with child, so that there is a miscarriage, and yet no harm follows, the one who hurt her shall be fined]” (Ex. 21:22).
- [D] “When men quarrel [and one strikes the other with a stone ... and the man does not die ...]” (Ex. 21:18).
- [E] “striving together” and “quarreling” are one and the same thing. Why does Scripture then use the language, “When men *strive together*” and “When men *quarrel*”?
- [F] But it is to apply the law covering the one who deliberately does bodily injury to the one who does not deliberately do so, and to apply the law covering the one who does not deliberately do so to the one who does deliberately do so. [That is, at Ex. 21:18, one man deliberately injures the other, while at Ex. 21:22, the two men do not deliberately injure the pregnant woman. Accordingly, A, one has to pay compensation.]
- [G] It is easy to see why it is necessary to explicitly apply the law governing the one who deliberately does bodily injury to the one who does not deliberately do so.
- [H] But as to applying the law for the one who does not deliberately do bodily injury to the one who does deliberately do so, [why was this made explicit?]
- [I] For if for not deliberately doing bodily injury, one is liable, is it not an argument a fortiori that the one who deliberately does bodily injury should be liable!

[J] But thus is the purpose of Scripture in so stating the law: If one hit the other on his hand and it swelled, if the physician said, “If one cuts off his hand, he will live,” what is the law as to paying compensation for the hand? Just as that which you have stated there, “It is a decree of Scripture that one must pay compensation for (the hand) healing,” here likewise it is a decree of Scripture that one must pay compensation for the hand.

9:6

[A] “Samuel was a Nazir,” according to the words of R. Nehorai,

[B] “since it is said, ‘And no razor [morah] shall come upon his head’ (I Sam. 1:11).

[C] “Since in regard to Samson, it is said, ‘[And no] razor [shall come upon his head]’ (Judg. 13:5), and concerning Samuel it is said, ‘And no razor ...,’

[D] “just as the reference to ‘razor’ in the case of Samson means that he was a Nazir, so the reference to a ‘razor’ in the case of Samuel means that he was a Nazir.”

[E] Said R. Yosé, “But is not the word morah said only with regard to fear (morah) of a human being?”

[F] Said to him R. Nehorai, “But has it not already been said, And Samuel said, ‘How can I go? If Saul hears it, he will kill me’ (I Sam. 16:2).

[G] “For he was subject to the morah of flesh and blood.”

[I:1 A] Said R. Yannai, “It is written, ‘And as for all the hills that used to be hoed with a hoe, you will not come there for fear of briars and thorns’ (Is. 7:25). *Just as the seed is afraid of the iron tool [hoe], so the hair is afraid of the iron tool [comb]. [That is, the reference to ‘fear’ in Scripture with reference to the razor supports the view of Nehorai.]*”

CHAPTER TEN

THE STRUCTURE OF YERUSHALMI NAZIR

Whether or not the Talmud of the Land of Israel is carefully organized in large-scale, recurrent structures and guided by a program that we may call systematic forms the principal question addressed by an academic commentary. The preceding chapters therefore have pointed toward the presentation set forth here. By “structure” I mean, a clearly-articulated pattern that governs the location of fully-spelled out statements. By “system,” I mean, a well-crafted and coherent set of ideas that explain the social order of the community addressed by the writers of a document, a social philosophy, a theory of the way of life, world view, and character of the social entity formed by a given social group. I see a collective, anonymous, and political document, such as the one before us, as a statement to, and about, the way in which people should organize their lives and govern their actions. At issue then in any document such as the remarkable one before us is simple: does this piece of writing present information or a program, facts to whom it may concern, or a philosophically and aesthetically cogent statement about how things should be? The connection between structure and system is plain to see. From the way in which people consistently frame their thoughts, we move to the world that, in saying things in one way rather than in some other, they wish to imagine. Modes of formulating thought adumbrate modes of imagining the world in which people wish to live, to which they address these thoughts.

If the document exhibits structure and sets forth a system, then it is accessible to questions of rationality. We may ask about the statement that its framers or compilers wished to make by putting the document together as they did. But if we discern no structure and perceive no systematic inquiry or governing points of analysis, then all we find here is inert and miscellaneous information, facts but no propositions, arguments, viewpoints. Now as a matter of fact the Talmud of the Land of Israel commonly finds itself represented as lacking organization and exhibiting a certain episodic and notional character. That view moreover characterizes the reading and representation of the document by learned and experienced scholars, who have devoted their entire lives to Talmud study and

exegesis. It must follow that upon the advocate of the contrary view – the one implicit in the representation of the document for academic analysis – rests the burden of proof. I set forth the allegation that the Talmud of the Land of Israel exhibits a structure and follows a system and therefore exhibits a commonly-intelligible rationality. The claim to write an academic commentary explicitly states that proposition. For the tractate before us, I have therefore to adduce evidence and argument.

I maintain that through the normal procedures of reasoned analysis we may discern in the tractate a well-crafted structure. I hold that the structure made manifest, we may further identify the purpose and perspective, the governing system of thought and argument, of those who collected and arranged the tractate's composites and put them together in the way in which we now have them. By "structure" I mean, how is a document organized? and by "system," what do the compilers of the document propose to accomplish in producing this complete, organized piece of writing? The answers to both questions derive from a simple outline of the tractate as a whole, underscoring the types of compositions and composites of which it is comprised. Such an outline tells us what is principal and what subordinate, and how each unit – composition formed into composites, composites formed into a complete statement – holds together and also fits with other units, fore and aft. The purpose of the outline then is to identify the character of each component of the whole, and to specify its purpose or statement. The former information permits us to describe the document's structure, the latter, its system.

While the idea of simply outlining a Talmud-tractate beginning to end may seem obvious, I have never made such an outline before, nor has anyone else. (I have provided complete outlines for the Mishnah and for the Tosefta in relationship to the Mishnah, and, not always in outline form, for the Midrash-compilations of late antiquity as well) Yet, as we shall now see, the character of the outline dictates all further analytical initiatives. Specifically, when we follow the layout of the whole, we readily see the principles of organization that govern. These same guidelines on organizing discourse point also to the character of what is organized: complete units of thought, with a beginning, middle, and end, often made up of smaller, equally complete units of thought. The former we know as composites, the latter as compositions.

Identifying and classifying the components of the tractate – the composites, the compositions of which they are made up – we see clearly how the document coheres: the plan and program worked out from beginning to end. When we define that plan and program, we identify the facts of a pattern that permit us to say in a specific and concrete way precisely what the compilers of the tractate intended to accomplish. The structure realizes the system, the program of analysis and thought that takes the form of the presentation we have before us. From what

people do, meaning, the way in which they formulate their ideas and organized them into cogent statements, we discern what they proposed to do, meaning, the intellectual goals that they set for themselves.

These goals – the received document they wished to examine, the questions that they brought to that document – realized in the layout and construction of their writing, dictate the points of uniformity and persistence that throughout come to the surface. How people lay out their ideas guides us into what they wished to find out and set forth in their writing, and that constitutes the system that defined the work they set out to accomplish. We move from how people speak to the system that the mode of discourse means to express, in the theory that modes of speech or writing convey modes of thought and inquiry.

We move from the act of thought and its written result backward to the theory of thinking, which is, by definition, an act of social consequence. We therefore turn to the matter of intention that provokes reflection and produces a system of inquiry. That statement does not mean to imply I begin with the premise of order, which sustains the thesis of a prior system that defines the order. To the contrary, the possibility of forming a coherent outline out of the data we have examined defines the first test of whether or not the document exhibits a structure and realizes a system. So everything depends upon the possibility of outlining the writing, from which all else flows. If we can see the order and demonstrate that the allegation of order rests on ample evidence, then we may proceed to describe the structure that gives expression to the order, and the system that the structure sustains.

The present work undertakes the exegesis of exegesis, for the Yerushalmi, like its counterpart in the one of Babylonia, is laid out as a commentary to the Mishnah. That obvious fact defined the character of my academic commentary, since we have already faced the reality that our tractate is something other than a commentary, though it surely encompasses one. The problems that captured my attention derived from the deeper question of how people make connections and draw conclusions. To ask about how people make connections means that we identify a problem – otherwise we should not have to ask – and what precipitated the problem here has been how a composition or a composite fits into its context, when the context is defined by the tasks of Mishnah-commentary, and the composition or composite clearly does not comment on the Mishnah-passage that is subjected to comment.

The experience of analyzing the document with the question of cogency and coherence in mind therefore yields a simple recognition. Viewed whole, the tractate contains no gibberish but only completed units of thought, sentences formed into intelligible thought and self-contained in that we require no further information to understand those sentences, beginning to end. The tractate organizes these statements as commentary to the Mishnah. But large tracts of the

writing do not comment on the Mishnah in the way in which other, still larger tracts do. Then how the former fit together with the latter frames the single most urgent question of structure and system that I can identify.

Since we have already examined enormous composites that find their cogency in an other than exegetical program, alongside composites that hold together by appeal to a common, prior, coherent statement – the Mishnah-sentences at hand – what justifies my insistence that an outline of the document, resting on the premise that we deal with a Mishnah-commentary, govern all further description? To begin with, the very possibility of outlining this tractate derives from the simple fact that the framers have given to their document the form of a commentary to the Mishnah. It is in the structure of the Mishnah-tractate that they locate everything together that they wished to compile. We know that is the fact because the Mishnah-tractate defines the order of topics and the sequence of problems.

Relationships to the Mishnah are readily discerned; a paragraph stands at the head of a unit of thought; even without the full citation of the paragraph, we should find our way back to the Mishnah because at the head of numerous compositions, laid out in sequence one to the next, clauses of the Mishnah-paragraph are cited in so many words or alluded to in an unmistakable way. So without printing the entire Mishnah-paragraph at the head, we should know that the received code formed the fundamental structure because so many compositions cite and gloss sentences of the Mishnah-paragraph and are set forth in sequence dictated by the order of sentences of said Mishnah-paragraph. Internal evidence alone suffices, then, to demonstrate that the structure of the tractate rests upon the Mishnah-tractate cited and discussed here. Not only so, but the sentences of the Mishnah-paragraphs of our tractate are discussed in no other place in the entire Talmud of the Land of Israel in the sequence and systematic exegetical framework in which they are set forth here; elsewhere we may find bits or pieces, but only here, the entirety of the tractate.

That statement requires one qualification, and that further leads us to the analytical task of our outline. While the entire Mishnah-tractate of treated here is cited in the Talmud of the Land of Israel, the framers of the Talmud of the Land of Israel by no means find themselves required to say something about every word, every sentence, every paragraph. On the contrary, they discuss only what they choose to discuss, and glide without comment by large stretches of the tractate. A process of selectivity, which requires description and analysis, has told the compilers of the Talmud of the Land of Israel's composites and the authors of its compositions (This statement requires refinement. I do not know that all available compositions have been reproduced, and that the work of authors of compositions of Mishnah-exegesis intended for a talmud is fully exposed in the document as we have it. That is not only something we cannot demonstrate – we do not have

compositions that were not used, only the ones that were – but something that we must regard as unlikely on the face of matters. All we may say is positive: the character of the compositions that address Mishnah-exegesis tells us about the concerns of the writers of those compositions, but we cannot claim to outline all of their concerns, on the one side, or to explain why they chose not to work on other Mishnah-sentences besides the ones treated here. But as to the program of the compositors, that is another matter: from the choices that they made (out of a corpus we cannot begin to imagine or invent for ourselves) we may describe with great accuracy the kinds of materials they wished to include and the shape and structure they set forth out of those materials. We know what they did, and that permits us to investigate why they did what they did. What we cannot know is what they did not do, or why they chose not to do what they did not do. People familiar with the character of speculation and criticism in Talmudic studies will understand why I have to spell out these rather commonplace observations. I lay out an argument based on evidence, not on the silences of evidence, or on the absence of evidence – that alone.) what demands attention, and what does not. Our outline has therefore to signal not only what passage of the Mishnah-tractate is discussed, but also what is not discussed, and we require a general theory to explain the principles of selection (“making connections, drawing conclusions” meaning, to begin with, making selections). For that purpose, in the outline, I reproduce the entirety of a Mishnah-paragraph that stands at the head of a Talmudic composite, and I underscore those sentences that are addressed, so highlighting also those that are not.

It follows that the same evidence that justifies identifying the Mishnah-tractate as the structure (therefore also the foundation of the system) of Yerushalmi-tractate before us also presents puzzles for considerable reflection. The exegesis of Mishnah-exegesis is only one of these. Another concerns the purpose of introducing into the document enormous compositions and composites that clearly hold together around a shared topic or proposition, e.g., my appendix on one theme or another, my elaborate footnote providing information that is not required but merely useful, and the like. My earlier characterization of composites as appendices and footnotes signalled the fact that the framers of the document chose a not-entirely satisfactory way of setting out the materials they wished to include here, for large components of the tractate do not contribute to Mishnah-exegesis in any way at all. If these intrusions of other-than-exegetical compositions were proportionately modest, or of topical composites negligible in size, we might dismiss them as appendages, not structural components that bear much of the weight of the edifice as a whole. Indeed, the language that I chose for identifying and defining these composites – footnotes, appendices, and the like – bore the implication that what is not Mishnah-commentary also is extrinsic to the Talmud of the Land of Israel’s structure and system.

But that language served only for the occasion. In fact, the outline before us will show that the compositions are large and ambitious, the composites formidable and defining. Any description of the tractate's structure that dismisses as mere accretions or intrusions so large a proportion of the whole misleads. Any notion that "footnotes" and "appendices" impede exposition and disrupt thought, contribute extraneous information or form tacked-on appendages – any such notion begs the question: then why fill up so much space with such purposeless information? The right way is to ask whether the document's topical composites play a role in the re-presentation of the Mishnah-tractate by the compilers of the Talmud of the Land of Israel. We have therefore to test two hypotheses:

1. the topical composites ("appendices," "footnotes") do belong and serve the compilers' purpose

or

2. the topical composites do not participate in the re-presentation of the Mishnah-tractate by Yerushalmi and do not belong because they add nothing and change nothing.

The two hypotheses may be tested against the evidence framed in response to a single question: is this topical composite necessary? The answer to that question lies in our asking, what happens to the reading of the Mishnah-tractate in light of the topical composites that would not happen were we to read the same tractate without them? The outline that follows systematically raises that question, with results specified in due course. It suffices here to state the simple result of our reading of the tractate, start to finish: the question of structure, therefore also that of system, rests upon the position we identify for that massive component of the tractate that comprises not Mishnah-commentary but free-standing compositions and composites of compositions formed for a purpose other than Mishnah-commentary.

The principal rubrics are given in small caps. The outline takes as its principal rubrics two large-scale organizing principles.

The first is the divisions of the Mishnah-tractate to which the Talmud of the Land of Israel-tractate serves as a commentary. That simple fact validates the claim that the tractate exhibits a fully-articulated structure. But the outline must also underscore that the Mishnah-tractate provides both more and less than the paramount outline of the Talmud of the Land of Israel-tractate. It is more because sentences in the Mishnah-tractate are not analyzed at all. These untreated Mishnah-sentences are given in bold face lower case caps, like the rest of the Mishnah, but then are specified by underlining and enclosure in square brackets.

Second, it is less because the structure of the tractate accommodates large composites that address topics not defined by the Mishnah-tractate. That brings us

to the second of the two large-scale modes of holding together both sustained analytical exercises and also large sets of compositions formed into cogent composites. These are treated also as major units and are indicated by Roman numerals, alongside the Mishnah-paragraphs themselves; they are also signified in small caps. But the principal rubrics that do not focus on Mishnah-commentary but on free-standing topics or propositions or problems are not given in boldface type. Consequently, for the purposes of a coherent outline we have to identify as autonomous entries in our outline those important composites that treat themes or topics not contributed by the Mishnah-tractate.

I. YERUSHALMI NAZIR 1:1

[A] ALL EUPHEMISMS FOR [THE FORM OF WORDS FOR] A NAZIRITE VOW ARE EQUIVALENT TO A NAZIRITE VOW [AND BINDING].

- 1. I:1:** It is written, “When a man vows a vow” (Num. 30:2). Why does Scripture specify “a vow” [when the verb contains that meaning]? It is on the basis of this usage that we know that euphemisms for vows are equivalent to vows. “Or when he swears an oath” (Num. 30:2). Why does Scripture specify “an oath”? It is on the basis of this usage that we know that euphemisms for oaths are equivalent to oaths.
- 2. I:2:** It has been taught: All euphemisms for a Nazirite vow are equivalent to a Nazirite vow [and if one has taken the vow solely by a euphemism], he will be flogged on account of that vow [should he violate it].
- 3. I:3:** How shall we interpret [these euphemisms to which reference is made]?...But we must interpret the passage to speak of one who makes use of any of the cited expressions as his Nazirite vow. If he makes use of any of them for the purpose of a Nazirite vow, then the vow of a Nazirite will apply to him. But if not, then the vow of a Nazirite will not apply to him. [If he then is a Nazirite, one] says to him, “Keep the vow and heed it.”

[B] HE WHO SAYS, “I WILL BE [SUCH]” – LO, THIS ONE IS A NAZIR.

- 1. II:1:** Simeon bar Ba in the name of R. Yohanan, “We deal with a case in which he saw Nazirites passing by.”

[C] OR: “I SHALL BE COMELY” – HE IS A NAZIR.

- 2. III:2:** How shall we deal with this case? If it is a case in which he said “comely,” this is the same as the foregoing rule.

[D] [IF HE SAYS,] “NAZIQ” OR “NAZIAH” OR “PAZIAH” – LO, THIS ONE IS A NAZIR.

1. **IV:1:** Said R. Yohanan, “These are formulations that the principal authorities [of the Mishnah, that is, earlier authorities] have selected, and we do not have the right to add to this list.”
2. **IV:2:** It has been taught: [Tosefta’s version:] The House of Shammai say, “Euphemisms for euphemisms are binding.” And the House of Hillel say, “Euphemisms for euphemisms are not binding” [T. Naz. 1:1A-B].

[E] [IF HE SAYS,] “LO, I SHALL BE LIKE THIS ONE,” “LO, I SHALL CURL [MY HAIR],” “LO, I SHALL TEND [MY HAIR],”

1. **V:1:** Said R. Yosé bar Haninah, “We deal with a case in which he was holding his hair, and he said, ‘Lo, I shall be like this one.’”
2. **V:2:** “Lo, I shall curl my hair,” “Lo, I shall tend my hair” [M. 1:1E] – it is like one who said, “Lo, I am among those who curl their hair,” “like those who tend their hair.”

[F] “LO, IT IS INCUMBENT ON ME TO GROW [MY HAIR] LONG” – LO, THIS ONE IS A NAZIR.

[G] [IF HE SAYS,] “LO, I PLEDGE MYSELF [TO OFFER] BIRDS” – R. MEIR SAYS, “HE IS A NAZIR.” AND SAGES SAY, “HE IS NOT A NAZIR.”

1. **VI:1:** “Lo, it is incumbent on me to grow my hair long” – [lo, this one is a Nazir] [M. 1:1E]. “Lo, I shall curl,... tend.” “Lo, it is incumbent on me [not to curl and not to tend].” “Lo, it is incumbent on me to grow my hair long.” “Lo, I pledge myself to offer birds” – R. Meir says, “He is a Nazir.” And sages say, “He is not a Nazir” [M. 1:1F-H].
2. **VI:2:** Said R. Yohanan, “It is a debate as to the applicability of euphemisms for euphemisms, [in line with the following verse of Scripture]: ‘Till his hair grew as long as eagles’ feathers, and his nails were like birds’ claws’” (Dan. 4:33). R. Simeon b. Laqish said, “[The reason for the dispute has nothing to do with the applicability of euphemisms for euphemisms. It is] because an unclean Nazirite brings a bird offering. [Therefore Meir maintains that the man has accepted upon himself a vow as a Nazir, since birds pertain to the Nazir.]”

II. YERUSHALMI NAZIR 1:2

[A] [HE WHO SAYS,] ‘LO, I SHALL BE AN ABSTAINER [NAZIR] FROM GRAPE PITS’ OR “FROM GRAPE SKINS” OR “FROM HAIRCUTS” OR “FROM UNCLEANNESS [OF CORPSES]” – LO, THIS ONE IS A NAZIR [IN ALL REGARDS]. AND ALL THE DETAILS OF A NAZIRITE VOW PERTAIN TO HIM.

1. **I:1:** The Mishnah [at M. 1:2A] speaks of a case in which one has said, I shall be an abstainer “from grape pits” or “from grape skins” or “from haircuts” or “from uncleanness [of corpses]” – [in this case, it is as if he has said, “Lo, I am a Nazir,” without further specification, and he is a Nazir in all respects]. And if he said the word “Nazir” in each instance, in accord with the view of R. Judah, [he is not a Nazir] unless he repeats the word “and” in each instance. But in accord with the view of R. Meir, even if he did not repeat the word “and” in each instance, [he is liable for all details].
2. **I:2:** [If someone said,] “Lo, I am a Nazir and a Nazir,” he is a Nazir for two spells [of thirty days]. For [if he merely wished to lay emphasis on his statement by repeating it,] he could have said “Lo, I am a Nazir” two times. [If he said,] “Lo, I am a Nazir and one, lo, this one is a Nazir for two spells [M. 1:3D]. [If he said,] “and more,” lo, he is a Nazir for three spells. [If he said,] “one and more and again,” lo, this one is a Nazir for four spells.
3. **I:3:** If one has said, “Lo, I am...,” this is an intimation of a Nazirite vow. “Lo, incumbent on me...” is an intimation of a pledge for an offering.
4. **I:4:** R. Bun bar Hiyya in the name of R. Abina, R. Immi in the name of R. Yosé bar Haninah: “He who says, ‘Lo, I am prohibited from fruit juice deriving from produce in the fourth year [which may not be utilized]’ has said nothing whatsoever [since he has declared that he will utilize what is in fact prohibited]. [This is not a valid Nazirite vow.” Associates say, “This is subject to dispute, [and the foregoing statement accords] with the view of R. Simeon [in that dispute].

[B] [HE WHO SAYS,] “LO, I SHALL BE LIKE SAMSON” OR “LIKE THE SON OF MANOAH” OR “LIKE THE HUSBAND OF DELLIAH” OR “LIKE THE ONE WHO TORE DOWN THE GATES OF GAZA” OR “LIKE THE ONE WHOSE EYES THE PHILISTINES PLUCKED OUT” – LO, THIS ONE IS A NAZIR IN THE STATUS OF SAMSON.

1. **II:2:** Just as euphemisms for Nazirite vows are equivalent to Nazirite vows, so euphemisms for Samson vows are equivalent to Samson vows [T. Naz. 1:5A]. What are these euphemisms for Samson-vows?

[C] **WHAT IS THE DIFFERENCE BETWEEN A LIFELONG NAZIRITE AND A NAZIRITE IN THE STATUS OF SAMSON [ALSO A NAZIRITE FOR LIFE]? A LIFELONG NAZIRITE: [IF] HIS HAIR GETS TOO HEAVY, HE LIGHTENS IT WITH A RAZOR AND BRINGS THREE [OFFERINGS OF] CATTLE (NUM. 6:14). AND IF HE IS MADE UNCLEAN, HE BRINGS AN OFFERING ON ACCOUNT OF UNCLEANNESS. A NAZIRITE IN THE STATUS OF SAMSON: [IF] HIS HAIR GETS TOO HEAVY, HE DOES NOT LIGHTEN IT.**

1. **III:1:** [As to M. 1 :2E: A lifelong Nazirite, if his hair gets too heavy, he lightens it with a razor – who is the authority for this statement? It is Rabbi. For R. Jeremiah said in the name of R. Immi, “In accord with the view of Rabbi, a Nazir for life may cut his hair once every twelve months. In accord with sages, there are cases in which he may cut his hair once in thirty days; there are cases in which he may cut his hair once in twelve months.”]
2. **III:2:** [In the case of a Nazir who cuts his hair once in twelve months,] if he has counted out six months and then becomes unclean, does he count another six months, or does he go back and count out twelve months from that time? [This question is not answered.]
3. **III:3:** If one has completed the Nazirite spell but does not cut his hair for two or three days, and then becomes unclean – [does he lose the entire spell he has already observed]? [Or do we maintain that it is as if he has completed it, even though the offerings have not been made?] R. Mana raised the question, “Since he has not consecrated his hair with the blood of his offering, what is it that permits him to cut off his hair? [Hence the question is no question, since he has no right at this point to cut his hair in any case.]”

[D] **AND IF HE IS MADE UNCLEAN, HE DOES NOT BRING AN OFFERING ON ACCOUNT OF UNCLEANNESS.**

1. **IV:1:** The Mishnah states only that he does not bring an offering on account of uncleanness. Lo, as to being flogged, he is indeed flogged.

III. YERUSHALMI NAZIR 1:3

[A] A NAZIRITE VOW THAT IS UNSPECIFIED [AS TO LENGTH] IS FOR A PERIOD OF THIRTY DAYS. [IF] HE SAID, “LO, I SHALL BE A NAZIR FOR ONE LONG SPELL,” “LO, I SHALL BE A NAZIR FOR ONE SHORT SPELL,” [OR] EVEN “FROM NOW UNTIL [FOR AS LONG AS IT TAKES TO GO] THE END OF THE WORLD” – HE IS A NAZIR FOR THIRTY DAYS. [IF HE SAID,] “LO, I SHALL BE A NAZIR AND FOR ONE DAY [MORE],” “LO, I SHALL BE A NAZIR AND FOR ONE HOUR [MORE],” “LO, I SHALL BE A NAZIR FOR ONE SPELL AND A HALF” – LO, HE IS A NAZIR FOR TWO SPELLS [OF THIRTY DAYS]. [IF HE SAID,] “LO, I SHALL BE A NAZIR FOR THIRTY DAYS AND FOR ONE HOUR,” HE IS A NAZIR FOR THIRTY DAYS AND FOR ONE DAY, FOR NAZIRITE VOWS ARE NOT TAKEN BY THE MEASURE OF HOURS.

1. **I:1:** [The vow is for thirty days because,] said Bar Qappara, “the words ‘will be’ contain letters that add up to the value of thirty [in the following verse: ‘(This is the law for the Nazirite who takes a vow. His offering to the Lord) will be (according to his vow as a Nazirite, apart from what else he can afford; in accordance with the vow that he takes, so shall he do according to the law for his separation as a Nazirite)’ (Num. 6:21).]” R. Samuel bar Nahman in the name of R. Jonathan, “[The days of the Nazirite vow] add up to the twenty-nine times that the language is written in the Torah in the passage concerning the Nazir, ‘He has vowed as a Nazirite to separate himself.’ [The thirtieth is the day on which he cuts his hair.]”
2. **I:2:** There we have learned: The one who says: “Lo, I shall be a Nazir from here to such-and-such a place” – they make an estimate of how many days it takes to go from here to such-and-such a place. If it is less than thirty days, he is a Nazir for thirty days. And if not, he is a Nazir in accord with the number of days [required to go to such-and-such a place] [M. 1:6]. And here he has said this, [that the limit is thirty days] [M. 1:3B-C]!
3. **I:3:** Rab said, ‘Lo, I am a Nazir for thirty days and one day’ – he is a Nazir for two spells [sixty days]. For he could have said, “Thirty one days.”” The Mishnah stands at variance with the position of Rab: “Lo, I shall be a Nazir for one day,” “Lo, I shall be a Nazir for one hour,” “Lo, I shall be a Nazir one and a half” – lo, this is a Nazir for two spells [M. 1:3D-E].

IV. YERUSHALMI NAZIR 1:4

[A] [HE WHO SAID,] “I WILL BE A NAZIR LIKE THE HAIRS OF MY HEAD” OR “LIKE THE DUST OF THE EARTH” OR “LIKE THE SAND OF THE SEA” – LO, THIS ONE IS A LIFETIME NAZIR. BUT HE CUTS HIS HAIR ONCE EVERY THIRTY DAYS. RABBI SAYS, “SUCH A ONE AS THIS DOES NOT CUT HIS HAIR ONCE EVERY THIRTY DAYS. “BUT WHO IS THE ONE WHO CUTS HIS HAIR ONCE EVERY THIRTY DAYS? “IT IS HE WHO SAYS, ‘LO, I PLEDGE MYSELF TO AS MANY [DISTINCT] NAZIRITE VOWS AS THE HAIRS OF MY HEAD’ OR ‘AS THE DUST OF THE EARTH’ OR ‘AS THE SAND OF THE SEA.’” [HE WHO SAYS,] “LO, I AM A NAZIR, A JUGFUL” OR “A BASKETFUL” – THEY EXAMINE HIS INTENTION. AND IF HE SAID, “I INTENDED TO TAKE A NAZIRITE VOW FOR ONE LONG PERIOD,” HE IS A NAZIR FOR THIRTY DAYS. BUT IF HE SAID, “I TOOK A NAZIRITE VOW WITHOUT SPECIFICATION,” THEY REGARD THE BASKET AS IF IT IS FULL OF MUSTARD SEEDS. AND HE IS A NAZIR FOR THE REST OF HIS LIFE.

1. I:1: Said R. Mani, “They assign to him [of M. 1:4F] the more strict rulings that pertain: At the outset they regard it as if it is filled with citrons, afterward with pomegranates, afterward with nuts, afterward with filberts, afterward with pepper, afterward with sesame, and afterward with mustard seed.”
2. I:2: R. Yosé b. R. Bun in the name of Rab: “He who sets a limit to his Nazirite vow – they do not permit him to cut his hair.”

V. YERUSHALMI NAZIR 1:5

[A] [IF HE SAID,] “LO, I SHALL BE A NAZIR FROM HERE TO SUCH-AND-SUCH A PLACE,” THEY MAKE AN ESTIMATE OF HOW MANY DAYS IT TAKES TO GO FROM HERE TO SUCH-AND-SUCH A PLACE. IF IT IS LESS THAN THIRTY DAYS, HE IS A NAZIR FOR THIRTY DAYS. AND IF NOT, HE IS A NAZIR IN ACCORD WITH THE NUMBER OF DAYS [REQUIRED TO GO TO SUCH-AND-SUCH A PLACE]. [IF HE SAID,] “LO, I SHALL BE A NAZIR ACCORDING TO THE NUMBER OF DAYS OF THE YEAR,” HE COUNTS HIS NAZIRITE SPELL IN ACCORD WITH THE NUMBER OF DAYS OF THE YEAR.

1. I:1: How shall we interpret [the statement at M. 1:5F]? If it is in accord with the days of the solar year, he must observe 365 spells of Naziriteship, in accord with the number of days of the solar year. If it is in accord with the days of the lunar year, he must observe 354 Naziriteships, in accord with the number of days in the lunar year. If

[he said that] it is in accord with the number of the days of the year, that is the question.

[B] SAID R. JUDAH, “THERE WAS A CASE OF THIS SORT, AND ONCE HE HAD FULFILLED HIS NAZIRITE VOW, HE DROPPED DEAD “

1. **II:1:** It was taught in the name of R. Judah [M. 1:5G]: “This one was worthy of death, but the Nazirite vow suspended the punishment that was coming to him.” [Judah then maintains that the vow is creditable.]

VI. YERUSHALMI NAZIR 2:1

[A] [HE WHO SAYS,] “LO, I AM A NAZIR AS TO DRIED FIGS AND PRESSED FIGS” – THE HOUSE OF SHAMMAI SAY, “HE IS A NAZIR.” AND THE HOUSE OF HILLEL SAY, “HE IS NOT A NAZIR.” SAID R. JUDAH, “ALSO: WHEN THE HOUSE OF SHAMMAI MADE THIS RULING, THEY MADE IT ONLY WITH REFERENCE TO THE ONE WHO SAYS, ‘LO, THEY ARE UNTO ME AS A QORBAN [IN WHICH CASE, THE NAZIRITE VOW IS IMPLIED].”

1. **I:1:** [Said] Said R. Yohanan, “The reason for the position of the House of Shammai is that the man has expressed the language of the Nazirite vow. [Once he has used the word ‘Nazir,’ he has indicated his intention, and his later qualification as to the purpose is null and of no effect.]” R. Simeon b. Laqish said, “It is because we have a euphemism for a euphemism, [which the House of Shammai maintain is effective].”
2. **I:2:** All sorts of linguistic usages serve as an expression of Naziriteship, except for language used to say [that something is forbidden to him] as an offering. All sorts of linguistic usages serve as an expression [of a vow not to derive benefit from something, because to him it has the status of] an offering, except for the language used as an expression of Naziriteship.
3. **I:3:** The House of Shammai say, “[If one has used the language cited at M. 2:1, he then is] prohibited by vow [from eating dried figs and pressed figs], and he also is subject to the vow of a Nazir.” And the House of Hillel say, “He is not prohibited by vow [from eating dried figs and pressed figs], and he also is not subject to the vow of a Nazir.”

VII. YERUSHALMI NAZIR 2:2

[A] [If] ONE SAID, “THIS COW SAYS, ‘LO, I AM A NAZIR IF I STAND UP,’ ‘THIS DOOR SAYS, ‘LO, I AM A NAZIR IF I AM OPENED’” – THE HOUSE OF SHAMMAI SAY, “HE IS A NAZIR.” AND THE HOUSE OF HILLEL SAY, “HE IS NOT A NAZIR.” SAID R. JUDAH, “ALSO: WHEN THE HOUSE OF SHAMMAI MADE THEIR RULING, THEY MADE IT ONLY WITH REFERENCE TO THE ONE WHO SAYS, ‘LO, THIS COW IS UNTO ME AS A QORBAN IF IT STANDS UP.’”

1. I:1: If one saw an idolater passing by [and] said, “See what this idolater says, ‘Lo, I am a Nazir’” – one must conclude that since idolaters do not take Nazirite vows, he is a Nazir [on his own account]. [If then we consult the idolater, and] he said [nothing, what is the law]? [Do we say that since the Israelite has expressed the word “Nazir,” he is such?]
2. I:2: As to a man, what is the law on imposing on him the Nazirite vow if he used the feminine form? As to a woman, what is the law on imposing on her the Nazirite vow if she uses the masculine form?
3. I:3: [In the view of the House of Shammai, (M. 2:2C), do we maintain that one is a Nazir] only if the cow will stand up or the door opens?
4. I:4: Even if the cow did not stand up, even if the door did not open, the House of Shammai say, “He is prohibited by vow and also is subject to the vow of a Nazir.” And the House of Hillel say “He is not prohibited by vow and he also is not subject to the vow of a Nazir.”

VIII. YERUSHALMI NAZIR 2:3

[A] [If] THEY MIXED A CUP FOR SOMEONE, AND HE SAID, “LO, I AM A NAZIR FROM IT,” LO, THIS ONE IS A NAZIR.

1. I:1: The Mishnah [at M. 2:3A-B] speaks of a case in which one cannot [drink wine, and so is unlikely to be placed under pressure to drink]. [Hence he intended to take a Nazirite vow. But in the case of a habitual drinker, the language means that he simply cannot take another drink.]

[B] M'SH B: A WOMAN WAS DRUNK AND THEY FILLED A CUP FOR HER, AND SHE SAID, “LO, I AM A NAZIRITE FROM IT.” SAGES RULED, “SHE INTENDED ONLY TO SAY, ‘LO, IT IS UNTO ME AS A QORBAN.’”

1. **II:1:** [Explaining M. 2:3D's applicability,] said R. Jeremiah in the name of R. Zeira: "Even an effective formula for applying the language of *Qorban* is not present, [so that the cup is permitted, not prohibited as if it were a Temple offering]."

IX. YERUSHALMI NAZIR 2:4

[A] [IF ONE SAID,] "LO, I AM A NAZIR ON CONDITION THAT I SHALL DRINK WINE AND BECOME UNCLEAN WITH CORPSE UNCLEANNESS," LO, THIS ONE IS A NAZIR. BUT HE IS PROHIBITED TO DO ALL OF THESE THINGS [THAT HE HAS SPECIFIED AS CONDITIONAL UPON HIS VOW]. [IF HE SAID,] "I RECOGNIZE THAT THERE IS SUCH A THING AS NAZIRITESHIP, BUT I DO NOT RECOGNIZE THAT A NAZIR IS PROHIBITED FROM DRINKING WINE," LO, THIS ONE IS BOUND [BY THE NAZIRITE OATH]. AND R. SIMEON DECLARES HIM NOT BOUND. [IF HE SAID,] "I RECOGNIZE FULL WELL THAT A NAZIR IS PROHIBITED TO DRINK WINE, BUT I WAS THINKING THAT SAGES WOULD PERMIT ME TO DO SO, BECAUSE I CANNOT LIVE WITHOUT WINE," OR "BECAUSE I AM IN THE WORK OF BURYING THE DEAD," LO, THIS ONE IS NOT BOUND. AND R. SIMEON DECLARES HIM BOUND.

1. **I:1:** The Mishnah's statement [M. 2:4A-B] accords with the view of R. Meir, for R. Meir says, "One has to repeat a condition [in both positive and negative formulations, and the man has not done so]." There [at M. 1:1, with reference to euphemisms], it represents the opinion of all parties, [and, even in accord with Meir,] one says to him, "Keep and hearken [to what you have said]." [There no condition has preceded the statement of the Nazirite vow, while here the condition is expressed at the outset.]
2. **I:2:** Can the Mishnah passage before us accord with the view of R. Simeon [in the following passage:] He who says, "Lo, I pledge myself to bring a meal offering made of barley" in any case must bring one made of wheat. R. Simeon declares him free of the obligation, for he has not volunteered a free-will meal offering in the way in which people volunteer to make a free-will meal offering [M. Men. 12:3A, F-G]. [Accordingly, Simeon surely should not concur with our rule, since the man has not taken the vow in the accepted way.]

X. YERUSHALMI NAZIR 2:5

[A] [IF ONE SAID,] "LO, I AM A NAZIR, AND I TAKE IT UPON MYSELF TO BRING THE HAIR OFFERING OF A [NOTHER] NAZIR," AND HIS FRIEND HEARD AND SAID, "SO

AM I, AND I TAKE IT UPON MYSELF TO BRING THE HAIR OFFERING OF A[NOTHER] NAZIR” –

- I:1:** As to this language, “So am I,” how do you interpret it? Does the language, “So am I,” apply to everything the other has said, or does it apply to only part of what he has said?
- I:2:** R. Hiyya taught: “Lo, I pledge myself to supply half of the hair offering of a Nazir,” and he further went and said, “Lo, I am a Nazir,” [T. Naz. 2:6A] – if he made his hair offering [for himself] on the thirtieth day [after the pledge], he has carried out his obligation. [He does not then have to provide the hair offering for another Nazir. His original statement did not specify which Nazir he would cover, and by providing what he himself owes, he has supplied what he originally said he would, namely, half of the hair offering of a Nazir.]

[B] IF THEY ARE SMART, THEY EACH BRING THE HAIR OFFERING OF THE OTHER AND IF NOT, THEY BRING THE HAIR OFFERING OF OTHER NAZIRS.

- II:1:** [As to M. 2:5B,] it is no problem that the second person should provide the hair offering for the first, [who already is a Nazir when the second makes his statement]. May the first party provide the hair offering for the second, [since when the first party made his statement, the second party was not then a Nazir]?

XI. YERUSHALMI NAZIR 2:6

[A] “[IF ONE SAID,] LO, I PLEDGE MYSELF TO BRING HALF OF THE HAIR OFFERING OF A NAZIR, AND HIS FRIEND HEARD AND SAID, ‘AND I TOO PLEDGE MYSELF TO BRING HALF THE HAIR OFFERING OF A NAZIR,’ “THIS ONE BRINGS THE WHOLE HAIR OFFERING OF A NAZIR AND THAT ONE BRINGS THE WHOLE HAIR OFFERING OF A NAZIR,” THE WORDS OF R. MEIR. AND SAGES SAY, “THIS ONE BRINGS HALF THE HAIR OFFERING OF A NAZIR, AND THAT ONE BRINGS HALF THE HAIR OFFERING OF A NAZIR.”

- I:1:** Both R. Abbahu, in the name of R. Yohanan, and R. Hisda maintain that the dispute concerns a case in which the matter was left without further explication, [in that the statement was made without explanation of which half of the offerings the person proposed to supply].

XII. YERUSHALMI NAZIR 2:7

[A] [IF ONE SAID,] “I WILL BE A NAZIR WHEN A SON IS BORN TO ME,” AND A SON WAS BORN TO HIM, LO, THIS ONE IS A NAZIR. [IF] A DAUGHTER, A CHILD OF UNCLEAR SEXUAL TRAITS, [OR] A CHILD BEARING THE SEXUAL TRAITS OF BOTH SEXES IS BORN TO HIM, HE IS NOT A NAZIR. IF HE SAID, “WHEN I SEE THAT A CHILD IS BORN TO ME, [I SHALL BE A NAZIR,]” EVEN IF A DAUGHTER, A CHILD BEARING UNCLEAR SEXUAL TRAITS, [OR] A CHILD BEARING THE SEXUAL TRAITS OF BOTH SEXES, IS BORN TO HIM, LO, HE IS A NAZIR.

1. I:1: [If a] daughter [is born, it means nothing, since the man referred to a son, not a daughter]. What requires inquiry is the birth of an offspring bearing unclear sexual traits or sexual traits of both sexes [in which case M. 2:7D’s rule is invoked].

XIII. YERUSHALMI NAZIR 2:8

[A] [BUT IF] HIS WIFE MISCARRIED, HE IS NOT A NAZIR. R. SIMEON SAYS, “HE SHOULD SAY, ‘IF IT WAS A VIABLE FOETUS, LO, I AM A NAZIR OUT OF OBLIGATION. AND IF NOT, LO, I AM A NAZIR BY FREE CHOICE.’” [IF] SHE WENT AND GAVE BIRTH AGAIN, LO, THIS ONE IS A NAZIR. R. SIMEON SAYS, “HE SHOULD SAY, ‘IF THE FIRST WAS A VIABLE FOETUS, THE FIRST [NAZIRITE SPELL THAT I OBSERVED] IS DONE OUT OF OBLIGATION, AND THIS ONE IS BY FREE CHOICE. AND IF NOT, THEN THE FIRST WAS BY FREE CHOICE, AND THIS ONE IS OUT OF OBLIGATION.’”

1. I:1: [As to M. 2:8A, why is he not a Nazir?] Should we not take account of the possibility that it had been a viable foetus, [in which case he would be a Nazir]? R. Yohanan said, “It is an expression of the principle of R. Judah. For R. Judah has said, ‘When there is doubt in regard to one’s having taken a vow as a Nazir, [the vow is] released, [so the Nazirite vow will not apply in a case of a doubt].’”

XIV. YERUSHALMI NAZIR 2:9

[A] [HE WHO SAID,] “LO, I AM A NAZIR, AND [AGAIN] A NAZIR IF A SON IS BORN TO ME,” [IF] HE BEGAN COUNTING OUT THE NAZIR DAYS COVERING HIS OWN VOW, AND AFTERWARD A SON WAS BORN TO HIM, HE COMPLETES THE DAYS OF HIS

OWN VOW AND AFTERWARD COUNTS OUT THE DAYS OF THE VOW PERTAINING TO HIS SON.

- 1.** **I:1:** R. Yosé raised the question, “If one said, ‘Lo, I am a Nazir for these thirty days, and for these thirty days’ – [what is the law]? [Is he liable for a single spell of thirty days, to which he has twice made reference, cutting hair once, but bringing two sets of Nazirite offerings? Or do we maintain that, just as if he had said, ‘A spell as a Nazir, a spell as a Nazir,’ he is liable for two such spells?]”
- 2.** **I:2:** With reference to M. 2:9A: “Lo, I am a Nazir, and again a Nazir if a son is born to me,’ both R. Eleazar and R. Yosé bar Haninah maintain, “He completes his own vow as a Nazir. The vow in behalf of his son does not apply to him until he brings the hair offering. [Then he begins the vow for his son.] It is similar to the case of] a Nazir who becomes unclean, [and who brings an offering on the seventh day, which does not go to his credit as part of the counting of his vow afresh. Here too the day on which he brings the hair offering does not go to the credit of the vow he must now take and keep for his son.]”

[B] [IF HE SAID,] “LO, I AM A NAZIR WHEN A SON WILL BE BORN TO ME, AND [AGAIN] A NAZIR,” [IF] HE BEGAN TO COUNT OUT THE DAYS COVERING HIS OWN VOW, AND AFTERWARD A SON WAS BORN TO HIM, HE PUTS ASIDE [THE OBSERVANCE OF THE DAYS OF] HIS OWN [VOW] AND COUNTS OUT THE DAYS COVERING THE VOW HE MADE FOR HIS SON. AND AFTERWARD HE COMPLETES THE DAYS REQUIRED FOR HIS OWN VOW.

- 1.** **II:1:** Simeon bar Abba in the name of R. Yohanan: “If he became unclean during the Nazirite vow he took in behalf of his son [while he is still within the days of his own vow, as at M. 2:9F], and they warned him by reason of his own Nazirite vow, he is flogged. [He is still subject to his own vow, as well as to that he took in behalf of his son.] If he set aside beasts for his offerings [while he is still observing the period covered by the vow for his son, in line with M. 2:9F], the beasts are deemed to have been consecrated.”
- 2.** **II:2:** [As to M. 2:9F,] R. Judah raised the question before R. Yosé, “And [why not] let the completion of his Nazirite vow come before his observance of the Nazirite vow he has taken for his son. Did not R. Abbahu state in the name of R. Yohanan, ‘If one said, ‘Lo, this will be a burnt offering after thirty days’ – if he sells the beast during the thirty days, it is regarded as sold. If he consecrates it, it is regarded as consecrated’? [Here too let the Nazirite vow that covers him take precedence and be completed before the Nazirite vow he has taken for his son takes effect.] “

3. **II:3:** R. Hiyya taught: “Lo, I am a Nazir after twenty days, [and] a Nazir from now for a hundred days,” he counts twenty and afterward he counts thirty and stops, and he counts eighty to complete his first Nazirite-vow. [The man owes two vows. He first has to be a Nazir for a hundred days. Second, he has to be a Nazir after twenty days have passed. And, of course, we have to provide for thirty days’ growth of hair. How do we arrange matters? He observes twenty days of the hundred-day vow. He then counts out thirty days for the vow he owed at that point. He has now kept fifty. He stops, cuts his hair and brings the offering covering that thirty-day vow. Then he keeps another eighty days, and the twenty plus the eighty fulfill the first of the two vows, the one for the hundred days] [T. Git. 2:10A-C].

XV. YERUSHALMI NAZIR 2:10

[A] [IF HE SAID,] “**LO, I AM A NAZIR WHEN A SON WILL BE BORN TO ME AND A NAZIR FOR A HUNDRED DAYS,**” [IF] A SON WAS BORN TO HIM BEFORE SEVENTY DAYS [HAD PASSED], HE HAS LOST NOTHING. [IF THE SON WAS BORN] AFTER SEVENTY DAYS, HE LOSES THE SEVENTY DAYS HE HAS OBSERVED, FOR THERE IS NO CUTTING OF HAIR IN LESS THAN THIRTY DAYS [FROM THE BEGINNING OF THE OBSERVANCE OF THE VOW].

1. **I:1:** It is obvious that [if the son was born] at the end of the [seventieth] day, the whole of that day goes to his credit [to ensure the completion of seventy days of observance of his vow] as if he had observed the whole of it. [If the son was born] at the beginning of that day, however, what is the law as to its going to his credit as if he had observed the whole of it?
- a. **I:2:** [Explaining M. 2:10C by giving further instances of the same principle, we proceed:] If the son was born on the eightieth day, the father loses ten. If the son was born on the ninetieth day, the father loses twenty. [That is, he must observe thirty days, and he has only ten to his credit on the prior vow.] [If] he has completed the Nazirite vow he made himself [but has not yet brought his offerings], and [the son is born to his wife, so] he comes to complete the thirty days owing for the Nazirite vow of the son, and he is made unclean – if this is during the first ten days [of observing the Nazirite vow for the son], he loses all that he has observed [inclusive of the vow he took in his own behalf, which he has already completed].

- i. I:3: Said R. Abin bar Hiyya before R. Zeira, “[As to the man’s becoming unclean during his observing the vow taken for his son,] interpret [his loss of days observed already] to apply to a case in which the son was born on a day on which it was not appropriate to bring an offering. [E.g., the father has come to the end of the period of his Nazirite vow but has not completed the entire spell. Here he loses the whole period observed, should he be made unclean, because we treat the son’s spell and his own as a single protracted period.]”

2. I:4: If he completed his Nazirite vow and did not suffice to bring his hair offering before his son was born, he brings one hair offering for the two of them [at the end of the process]. If he set aside his offerings but did not have time to bring his hair offering before his son was born – there they say, he brings a single hair offering on both counts. R. Yohanan said, “He brings a hair offering and then goes and brings yet another hair offering.”

XVI. YERUSHALMI NAZIR 3:1

[A] **HE WHO SAID, “LO, I AM A NAZIR,” CUTS HIS HAIR ON THE THIRTY-FIRST DAY. BUT IF HE CUT IT ON THE THIRTIETH DAY, HE HAS FULFILLED HIS OBLIGATION. [IF HE SAID,] “LO, I AM A NAZIR FOR THIRTY DAYS,” IF HE CUT HIS HAIR ON THE THIRTIETH DAY, HE HAS NOT FULFILLED HIS OBLIGATION.**

1. I:1: One part [M. 3:1A] supports the view of Bar Qappara [Y. 1:3], who maintains that the Nazirite vow is to be for thirty complete days]: If he cut his hair on the thirtieth day, he has not fulfilled his obligation [M. 3:1D]. And the other part supports the view of R. Jonathan [in the same passage]. If he cut it on the thirtieth day, he has fulfilled his obligation [M. 3:1D]. Now do we have two distinct and contradictory viewpoints here?
 - a. I:2: R. Immi had a case [in which he ruled that] someone may cut his hair on the thirtieth day, and he had a case [in which he ruled that] someone may cut his hair on the thirty-first day.

XVII. YERUSHALMI NAZIR 3:2

[A] **HE WHO TOOK A NAZIRITE VOW FOR TWO SPELLS CUTS HIS HAIR FOR THE FIRST ON THE THIRTY-FIRST DAY AND FOR THE SECOND ON THE SIXTY-FIRST DAY.**

AND IF HE CUT HIS HAIR FOR THE FIRST ON THE THIRTIETH DAY, HE CUTS HIS HAIR FOR THE SECOND ON THE SIXTIETH DAY. BUT IF HE CUT HIS HAIR ON THE SIXTIETH DAY LESS ONE, HE [NONETHELESS] HAS FULFILLED HIS OBLIGATION. THIS TESTIMONY DID R. PAPPYAS PRESENT CONCERNING ONE WHO TOOK A VOW TO OBSERVE TWO SPELLS AS A NAZIR. IF HE CUT HIS HAIR FOR THE FIRST SPELL ON THE THIRTIETH DAY, HE CUTS HIS HAIR FOR THE SECOND ON THE SIXTIETH. BUT IF HE CUT HIS HAIR FOR THE SECOND ON THE SIXTIETH DAY LESS ONE, HE HAS FULFILLED HIS OBLIGATION. FOR THE THIRTIETH DAY COUNTS FOR HIM AMONG THE NUMBER [OF DAYS OF THE SECOND NAZIRITE VOW].

1. **I:1:** [If] he completed his first spell as a Nazir, [then designated the offerings required on that account,] and came to lay hands on the offerings designated for the second spell, [and he came to ask a sage whether or not his vows indeed were binding, there being some pretext on the basis of which to nullify them,] and [the sages who were consulted] did not find for him a pretext for releasing the former vow before they found a pretext for releasing the second vow, [so he has the animal set aside for the second vow available, and he wants to offer that for the offering owing by reason of the first vow and indeed does so] – the offering set aside in fulfillment of the second vow does indeed serve in fulfillment of the animal required in completion of the first vow.

XVIII. YERUSHALMI NAZIR 3:3

[A] HE WHO SAID, “LO, I AM A NAZIR,” [IF] HE WAS MADE UNCLEAN ON THE THIRTIETH DAY, HE LOSES THE WHOLE [THIRTY DAYS HE ALREADY HAS OBSERVED]. R. ELIEZER SAYS, “HE LOSES ONLY SEVEN DAYS.”

1. **I:1:** R. Abbahu in the name of R. Yohanan: “It is from the case of the mesora that R. Eliezer has derived the rule [given at M. 3:3D]. For so we find [in the case of the mesora] that there will be seven days between one shaving and the next [between the first shaving, after the days of completion of his uncleanness, and the second shaving, after the days of his counting out, are seven days]. [Here too there will be seven days.]”

[B] [IF HE SAID,] “LO, I AM A NAZIR FOR THIRTY [WHOLE] DAYS,” [AND] WAS MADE UNCLEAN ON THE THIRTIETH DAY, HE LOSES THE WHOLE [THIRTY DAYS HE ALREADY HAS OBSERVED].

1. **I:1:** [As to M. 3:3E, If he said, “Lo, I am a Nazir for thirty whole days,” and was made unclean on the thirtieth day, he loses the whole thirty days he already has observed, in which Eliezer concurs in the case of one who vows a thirty-day period, that if he was made unclean on the thirtieth day he loses the whole period, while if, M. 3:3A, he does not make the matter explicit as to thirty days, he is going to lose only seven days,] lo, what difference does it make to R. Eliezer whether we have a Nazir who took the Nazirite vow without further explication, and the Nazir who took the vow and made it explicit that he will observe thirty days?

XIX. YERUSHALMI NAZIR 3:4

- [A] **“LO, I AM A NAZIR FOR A HUNDRED DAYS, [IF] HE WAS MADE UNCLEAN ON THE HUNDRETH DAY, HE LOSES THE WHOLE [HUNDRED DAYS ALREADY OBSERVED]. R. ELIEZER SAYS, “HE LOSES ONLY THIRTY DAYS.” [IF] HE WAS MADE UNCLEAN ON THE HUNDRED-AND-FIRST DAY, HE LOSES THIRTY DAYS. R. ELIEZER SAYS, “HE LOSES ONLY SEVEN DAYS.”**
1. **I:1:** R. Zeira in the name of R. Simeon b. Laqish: “The Scriptural basis for the position of R. Eliezer is as follows: ‘And this is the law for the Nazirite, when the time of his separation has been completed’ (Num. 6:13). He who contracts uncleanness on the day of the completion of his separation – they assign to him the law governing a Nazir [that is, he must observe only a normal vow of thirty days, and not the entire hundred].”

XX. YERUSHALMI NAZIR 3:5

- [A] **HE WHO VOWED TO BE A NAZIRITE WHILE IN A GRAVEYARD, EVEN IF HE WAS THERE FOR THIRTY DAYS – THOSE DAYS DO NOT COUNT FOR HIM TOWARD THE NUMBER [OF DAYS OWING UNDER THE VOW]. NOR DOES HE BRING AN OFFERING FOR HIS UNCLEANNESS [FOR BEING IN THE GRAVEYARD].**
1. **I:1:** If one took an oath while among the graves, R. Yohanan said, “They admonish him concerning not drinking wine and not cutting his hair [so he is indeed a Nazir by reason of the oath]. [Since he does not bring an offering for his being unclean, he also is not flogged on that count and therefore is not given an admonition on that count.]” R. Simeon b. Laqish said, “Since they do not warn him as to uncleanness,

they also do not admonish him as to not drinking wine and not cutting his hair.”

2. **I:2:** If he remains there [i.e., in the graveyard after taking the vow], R. Yohanan said, “They warn him in regard to all the prohibitions for each span of time [during which he can leave the graveyard, but does not do so, and, if he does not leave], he is flogged [on each count].” R. Eleazar says, “He does not receive a warning until he leaves the graveyard and returns, [so he is not liable, as Yohanan has maintained, prior to actually leaving].”
3. **I:3:** [If someone took the oath of a Nazir while in a graveyard] went out and came back in, R. Tarfon declares him exempt [since he was already unclean with a corpse uncleanness lasting for seven days, so there is no reason that he should not contract uncleanness further, since it cannot make any difference]. R. Aqiba declares him liable.

[B] [If, HOWEVER] HE WENT OUT AND THEN CAME BACK [INTO THE GRAVEYARD], THEY DO COUNT FOR HIM TOWARD THE NUMBER [OF REQUIRED DAYS]. AND HE DOES BRING AN OFFERING FOR HIS UNCLEANNESS.

1. **II:1:** [With reference to M. 3:5E: If he went out and then came back into the graveyard, they do count for him toward the number of required days,] Rab said, “If he went out, he counts [the days] toward his Nazirite vow in a state of cleanness [even though he has not completed the rite of purification from corpse uncleanness by being sprinkled on the third and seventh days]. If he went in on the seventh day of his [purification], on that day he brings an offering on account of uncleanness. [That is, on the day on which he becomes unclean, he brings the offering in expiation of that uncleanness. The uncleanness vis-[^]-vis the Nazirite vow is treated as distinct from the processes of corpse uncleanness and purification.]” R. Eleazar says, “Not on that same day, [but only when he will have observed some days in cleanness, as at M. 3:5G].”

[C] R. ELIEZER SAYS, “THAT IS NOT THE CASE IF IT IS ON THE VERY SAME DAY, SINCE IT SAYS, BUT THE FORMER DAYS SHALL BE VOID (NUM. 6:12) – [THE OFFERING FOR UNCLEANNESS IS BROUGHT] ONLY WHEN THE FORMER DAYS APPLY TO HIM.”

1. **III:1:** Ulla bar Ishmael said, “What concerned him was someone who took the oath as a Nazir while he was unclean. But in the case of one who took the oath as a Nazir while he was clean, even R. Eliezer concurs that the law applies even though he has not [already observed clean days] from which to lose [the days by reason of the uncleanness

he has just suffered]. [That is, if it happens on the same day on which he takes the oath, Eliezer will concur with M. 3:5F.]”

2. **III:2:** [So far as Eliezer’s position is concerned,] Samuel bar Abba raised the question, “[In the case of one who was observing a Nazirite vow for himself and, upon the occasion of the birth of a son, began to count out the days and counted one clean day for himself when the son was born, in which case he breaks off observing the vow in his own behalf and begins to observe the one for his son,] if he has observed one day for his own Nazirite vow, and, [since the son was then born], one for his son’s Nazirite vow, what is the law as to their joining together?”
3. **III:3:** R. Bun bar Hiyya raised the question, “Just as you say with reference to R. Eliezer at the outset that the law applies when he has ‘former days’ to lose, [do we say that] at the end even though he does not have former days to lose [it also applies]? [That is, if the Nazir was made unclean on the last day of his Naziriteship, on which he has no further days awaiting his completion of the vow, even so, he loses all of the days he already has observed. Or do we maintain that even at the end of his period, if he has no further days to lose, Eliezer’s view of M. 3:5G applies once more?]”

XXI. YERUSHALMI NAZIR 3:6

[A] **HE WHO [WHILE OVERSEAS] TOOK A VOW TO BE A NAZIR FOR A LONG SPELL AND COMPLETED HIS SPELL AS A NAZIR, AND AFTERWARD CAME TO THE LAND [OF ISRAEL] – THE HOUSE OF SHAMMAI SAY, “HE IS A NAZIR FOR THIRTY DAYS.” AND THE HOUSE OF HILLEL SAY, “HE IS A NAZIR AS FROM THE VERY BEGINNING.” M’SH B: HELENE THE QUEEN – HER SON WENT OFF TO WAR, AND SHE SAID, “IF MY SON COMES HOME FROM WAR WHOLE AND IN ONE PIECE, I SHALL BE A NAZIR FOR SEVEN YEARS.” INDEED HER SON DID COME HOME FROM WAR, AND SHE WAS A NAZIR FOR SEVEN YEARS. THEN AT THE END OF THE SEVEN YEARS, SHE WENT UP TO THE LAND. THE HOUSE OF HILLEL INSTRUCTED HER THAT SHE SHOULD BE A NAZIR FOR ANOTHER SEVEN YEARS. THEN AT THE END OF SEVEN YEARS SHE WAS MADE UNCLEAN. SO SHE TURNED OUT TO BE A NAZIR FOR TWENTY-ONE YEARS. SAID R. JUDAH, “SHE WAS A NAZIR ONLY FOURTEEN YEARS.”**

1. **I:1:** A. R. Yosé b. R. Bun said, “There was a dispute between R. Hiyya bar Joseph and R. Yohanan. One said, ‘R. Judah accords with the view of the House of Shammai.’ And the other said, ‘R. Judah maintained that she had not been made unclean at all.’”

XXII. YERUSHALMI NAZIR 3:7

[A] HE CONCERNING WHOM TWO GROUPS OF WITNESSES GAVE TESTIMONY — THESE TESTIFY THAT HE TOOK A VOW TO BE A NAZIR FOR TWO SPELLS, AND THESE TESTIFY THAT HE TOOK A VOW TO BE A NAZIR FOR FIVE SPELLS — THE HOUSE OF SHAMMAI SAY, “THE TESTIMONY IS AT VARIANCE, AND NO NAZIRITESHIP APPLIES HERE AT ALL.” AND THE HOUSE OF HILLEL SAY, “IN THE SUM OF FIVE ARE TWO SPELLS. SO LET HIM SERVE OUT TWO SPELLS OF NAZIRITESHIP.”

1. I:1: Rab said, “As to the basic principle [that he is a Nazirite] [the houses] are in disagreement, [that is, as to whether he has taken the Nazirite vow at all]. But as to the details, all parties agree that the sum of five includes two, [as at M. San. 5:2F,] so he is a Nazir for two spells.” R. Yohanan said, “As to spelling out the number of vows, there is a difference of opinion, but as to the general principle that a Nazirite vow has been taken, all parties concur that the testimony is at variance. There is no valid Nazirite vow at all.”
2. I:2: Said R. Ishmael b. R. Yohanan b. Beroqah, “The House of Shammai and the House of Hillel did not differ concerning a case in which there were two sets of witnesses, in which there were two sets of witnesses giving testimony concerning him, that he is a Nazir for the shortest period [specified in their joint testimony]. Concerning what sort of case did they differ? Concerning a case in which there were two individual witnesses giving testimony concerning him. For: The House of Shammai say, ‘The testimony is divided, so that there is no obligation to be a Nazir at all.’ And the House of Hillel say, ‘In the sum of five are two spells. So let him serve out two spells of Naziriteship’” [M. 3: 7] [T. Naz. 3:1].

XXIII. YERUSHALMI NAZIR 4:1

[A] HE WHO SAID, “LO, I AM A NAZIR,” AND HIS FRIENDS HEARD AND SAID, “ME TOO,” “ME TOO,” “ME TOO” — ALL OF THEM ARE NAZIRS. [IF] THE VOW OF THE FIRST WAS DECLARED NOT BINDING, THE VOWS OF ALL OF THEM ARE DEEMED NOT BINDING. [IF THE VOW OF THE] LAST OF THEM WAS DECLARED NOT BINDING, THE LAST OF THEM IS NOT BOUND, BUT ALL THE REST OF THEM REMAIN BOUND. [IF] HE SAID, “LO, I AM A NAZIR,” AND HIS FRIEND HEARD

AND SAID, “LET MY MOUTH BE LIKE HIS MOUTH, AND MY HAIR LIKE HIS HAIR,” LO, THIS ONE IS A NAZIR.

1. **I:1:** Thus is the emphasis of the Mishnah passage: “And me too,” “And me too.” Who formulates the Tannaitic rule in terms of the inclusion of and’?
2. **I:2:** The Mishnah [speaks of a case] in which each one spoke within the span of the first party’s statement [immediately, without a pause.]
3. **I:3:** How much time elapses within the span of speech of each party?
4. **I:4:** One party who said, “Lo, I am a Nazir for a hundred days,” and his fellow heard and said, “And me too, for a hundred days,” and the first party then went and said, “Me too” – the one that had been principal is treated as secondary. [That is to say, the first party took his oath, the second followed suit, then the first party reverted and accepted the formulation of the second party. In this case, if the vow of the second party is nullified, that taken by the first party is automatically nullified as well, for obvious reasons.]
5. **I:5:** If someone has said, “My mouth is prohibited from wine,” “My hair from being cut,” “My hands from touching corpse uncleanness,” “My feet from walking in corpse uncleanness,” “My head is a Nazir,” “My liver is a Nazir,” “My walking about is a Nazir,” “My speaking is a Nazir,” he has said nothing at all. Why not? Because he treated the Nazir vow as dependent upon something which life does [not] depend [in the case of mouth, hands, feet].

[B] [IF HE SAID,] “LO, I AM A NAZIR,” AND HIS WIFE HEARD AND SAID, “ME TOO” – HE ANNULS HER VOW, BUT HIS STANDS. [IF THE WIFE SAID,] “LO, I AM A NAZIR,” AND HER HUSBAND HEARD AND SAID, “ME TOO,” HE CANNOT ANNUL [HER VOW].

1. **II:1:** [With reference to M. 4:1F-G,] if his vow was annulled, her vow is released. If her vow is released, his vow is not annulled. [His is prior and independent.] [As to M. 4:1H, If the wife said, “Lo, I am a Nazir,” and her husband heard and said, “Me too,” he cannot annul her vow.]. What is the meaning of “Me too”? How is this treated? Is it treated as if he had said, “Amen,” and “Let it be confirmed for you,” or is it equivalent to saying, “You have done well”?

XXIV. YERUSHALMI NAZIR 4:2

[A] “LO, I AM A NAZIR, — AND YOU?” AND SHE SAID, “AMEN” — IF HE ANNULS HERS, HIS IS NULL. [IF SHE SAID] “LO, I AM A NAZIR, AND YOU?” AND HE SAID, “AMEN” — HE HAS NOT GOT THE POWER TO ANNUL HER VOW.

1. **I:1:** [At M. 4:2A-C,] if her vow is released, his vow is released. If his vow is released, her vow is not released [since, in this case, he has made his vow depend upon her, so her vow is principal].
2. **I:2:** R. Abbahu in the name of R. Yohanan: “The husband who said ‘There is no vow here,’ ‘There is no oath here,’ has not said anything at all. Likewise the elder who has said, ‘It is released for you,’ ‘It is nullified for you,’ has not said anything at all. But this one must follow the rule pertaining to him, and that one must follow the rule pertaining to him. The husband says, ‘It is released for you,’ ‘It is null for you,’ and the elder says, ‘There is no vow here at all,’ ‘There is no oath here at all.’”

XXV. YERUSHALMI NAZIR 4:3

[A] A WOMAN WHO TOOK A VOW AS A NAZIR BUT NONETHELESS WENT AROUND DRINKING WINE AND CONTRACTING CORPSE UNCLEANNESS — LO, THIS ONE RECEIVES FORTY STRIPES. [IF] HER HUSBAND ANNULLED THE VOW FOR HER, BUT SHE DID NOT KNOW THAT HER HUSBAND HAD ANNULLED IT FOR HER AND NONETHELESS CONTINUED TO GO AROUND DRINKING WINE AND CONTRACTING CORPSE UNCLEANNESS, SHE DOES NOT RECEIVE FORTY STRIPES. **R. JUDAH** SAYS, “IF SHE DOES NOT RECEIVE FORTY STRIPES, NONETHELESS, SHE SHOULD RECEIVE PUNISHMENT FOR DISOBEDIENCE.”

1. **I:1:** The flogging of which the Torah has spoken involves forty stripes less one. They make an estimate of the victim’s capacity to receive the flogging. If he is able to do so, they flog him, and if not, they do not flog him. As to the flogging imposed for disobedience, by contrast, they beat him until he accepts [the authority of the law] or until he dies.
2. **I:2:** It is written, “[But if her father expresses disapproval to her on the day that he hears of it, no vow of hers... shall stand;] and the Lord shall forgive her, [because her father opposed her]” (Num. 30:5). This

indicates that she requires forgiveness [if she violates her vow not knowing that her husband has nullified it].

- 3.** **I:3:** The woman who took a vow and her girlfriend heard and said, “And I too,” and afterward the husband of this one [who originally took the vow] came and annulled it for her – she is not bound by her vow, but her girlfriend is bound by it. R. Simeon says, “If she [the girlfriend] had said, ‘Also I intended only to be like her,’ then both of them are not bound by the vow” [T. Naz. 3:10].
- a.** **I:4:** There we have learned: [If five people laid claim on a man and said to him, “Give us the bailment, which we have in your hand,” “I swear that you have nothing in my hand” – he is liable on only one count. “I swear that you have nothing in my hand,” “nor you” – he is liable on each and every count,] R. Eliezer says, “This is so only if he states the oath at the end as well as at the outset.” R. Simeon says, “This is so only if he will state an oath to each and every claim” [M. Shebu. 5:3]. [Now with reference to M. Shebu. 5:4: “Give me the wheat, barley, and spelt, which I have in your hand,” “I swear you have nothing in my hand” – he is liable on only one count. “I swear that you have not got in my hand wheat and barley and spelt” – he is liable for each and every count,] said R. Yohanan, “In accord with the view of R. Simeon [who said, M. Shebu. 5:3, that one is liable on each count only if he states an oath in connection with each claim,] if it should turn out that the bailee does not have the wheat [that is claimed] in his possession, he is exempt on all the other counts [at M. Shebu. 5:4, because the oath was valid only for wheat, since the language of an oath applied only to that item].” [If] it should turn out that the bailee does not have wheat, what is the law [from Simeon’s viewpoint] as to the oath’s applying to the other items? Associates say, “The oath does not apply, [since the man took the oath specifically with reference to wheat, which is the item to which the language of the oath referred].” R. Zeira said, “It applies [to the other items].” Said R. Jacob bar Aha, “A baraita supports the view expressed by the associates: A woman who said, ‘Lo, I am a Nazirite,’ and her girlfriend heard and said, ‘And I,’ and then the husband of the first heard the matter and nullified the oath – the first is freed of her oath, but the second is bound by it.” R. Simeon says, “If the second woman said, ‘But my intent was solely to be release her,’ [since the first woman is not bound by the oath,] also the second is not bound by it. Now this is because the second woman said, ‘My intent was solely to be like her.’ But if she had not said, ‘To be like her, then

the second would have been bound, even while the first was not bound.

- I. I:5: It is self-evident in the matter [of the woman who said, “I intended only to be like her,”] that if the husband of the first woman did not nullify the oath right away, [so that the oath applied for a time,] and if the woman [during that time] violated the oath, the first woman will be flogged [cf. M. 4:3]. But what is the law pertaining to the second woman? [That is, if the second woman should violate the oath before the time that the husband of the first woman nullifies it,] is the second woman flogged as well? [Or perhaps since the husband of the first woman ultimately did nullify the oath, the second woman retrospectively is freed of the oath and not flogged for violating it.]

XXVI. YERUSHALMI NAZIR 4:4

[A] A WOMAN WHO TOOK A VOW TO BE A NAZIR AND SET ASIDE HER BEAST [FOR THE REQUIRED SACRIFICE], BUT AFTERWARD HER HUSBAND ANNULLED HER VOW FOR HER — NOW IF THE BEAST [SET ASIDE FOR HER] BELONGED TO HIM, IT GOES FORTH AND PASTURES IN THE CORRAL. BUT IF THE BEAST [SET ASIDE FOR HER] BELONGED TO HER, THE ANIMAL DESIGNATED AS A SIN OFFERING IS LEFT TO DIE.

1. **I:1:** Lo, [in the case of a beast That belonged to the wife, M. 4:4D] has it been sanctified? [How is that possible, since what belongs to her belongs to her husband anyhow?]

[B] AND THE ANIMAL DESIGNATED AS A BURNT OFFERING IS OFFERED AS A BURNT OFFERING. AND THE ANIMAL DESIGNATED AS A PEACE OFFERING IS OFFERED AS A PEACE OFFERING. IT IS EATEN FOR ONE DAY [LIKE A NAZIR’S PEACE OFFERING], BUT IT DOES NOT REQUIRE BREAD OFFERING, [UNLIKE A NAZIR’S OFFERING]. [NOW IF] SHE HAD COINS THAT SHE HAD NOT DESIGNATED FOR ANY SPECIFIC PURPOSE, THEY FALL TO A FREE-WILL OFFERING. [IF THE] COINS [WERE] DESIGNATED [FOR A SPECIFIC PURPOSE] — THOSE DESIGNATED FOR A SIN OFFERING ARE TO GO OFF TO THE DEAD SEA. THEY ARE NOT AVAILABLE FOR BENEFIT, BUT THE LAWS OF SACRILEGE DO NOT APPLY TO THEM. THE COINS SET ASIDE FOR THE PURCHASE OF A BURNT OFFERING ARE USED FOR THE BRINGING OF A BURNT OFFERING. AND THEY ARE SUBJECT TO THE LAWS OF SACRILEGE. THE COINS SET ASIDE FOR THE PURCHASE OF A PEACE OFFERING ARE USED [FOR THE BRINGING OF A PEACE OFFERING]. AND [THE ANIMAL] IS EATEN FOR ONE DAY AND DOES NOT REQUIRE A BREAD OFFERING.

1. **II:1:** There [at Y. Naz. 5:4,] you find it said [that if a vow to be a Nazir is annulled after the beast has been designated for the Nazir's offering,] the beast goes out and pastures with the flock [since it is not deemed sanctified], and here you say this, [M. 4:4E: The beast designated as a sin offering is left to die]?
2. **II:2:** [As to the peace offerings of M. 4:4E,] it has been taught: They do not require either a bread offering alongside, or the waving of the shoulder offering. [In this regard, we simply extend the principle that the offerings are not made to conform to the rules of the Nazirite, since they are not brought in behalf of a Nazir.] R. Bun bar Hiyya, son of R. Simeon, raised the question: "As to peace offerings [brought as thank offerings] offered after the sacrificer has died, what is the rule as to their requiring a bread offering?"
3. **II:3:** It has been taught: There will be a guilt offering after the abrogation of the vow. [That is, the woman became unclean as a Nazir and so owes a guilt offering, but the husband then abrogates the vow; she brings the guilt offering anyhow.] But if she should die, the guilt offering is not offered. [But since there is no guilt offering after death,] if she should die, the beast set aside as a guilt offering is not offered. If the husband should [merely] abrogate the vow [as we just noted], her guilt offering will be offered.
4. **II:4:** There we have learned: The surplus of money set aside for the offerings of Nazirs is used for other Nazirs' offerings. The surplus of money set aside for a particular Nazir's offerings is used for the purchase of free-will offerings [M. Sheq. 2:5I-J]. Said R. Hisda, "[The rule that the surplus of funds set aside by a particular Nazir is used for the purchase of free-will offerings] applies in a case in which the sin offering for that Nazir has been offered at the end. [That is, the burnt offering and peace offerings already have been offered, with the sin offering at the end of the process. Then money is left over. Accordingly, the money is regarded as excess left over for the purchase of a sin offering; such funds in general may be used for free-will offerings.] But if the peace offerings were offered at the end, then the excess funds are deemed money left over for the purchase of peace offerings [and used for peace offerings too]." Said R. Zeira, "Even if the peace offerings [of the Nazir] had been offered at the end, since part of the funds have served for the needs of the Nazir [inclusive of the sin offering required for him], the law is that the excess funds will serve for the purchase of a free-will offering."

5. **II:5:** Said R. Hisda, “The surplus of bread offering of a Nazir is left to rot.” Said R. Yosé, “And that is so. One most certainly cannot offer it by itself, for bread is never offered all by itself. One also cannot offer it with the Nazirite offerings of someone else, for you have no Nazirite offerings that come without bread [to begin with, so no one else will need it]. Consequently, one has to rule that the surplus of bread of a Nazirite offerings is left to rot.”
6. **II:6:** R. Ba said in the name of Rab, “Money may be deemed undesigned [as to its purpose], but a beast is not regarded as undesigned.” [A female is a sin offering, a male a burnt offering, and a two year-old ram for peace offerings.]
7. **II:7:** Now when the Mishnah deals with money, it refers to money that is not designated as to its purpose. But when the Mishnah refers to animals, it does not refer to those that are undesigned as to their purpose, contrasting M. 4:4D-E and F-M]. [The former omits all reference to undesigned beasts.] As to a beast, the laws governing undesigned offerings do not apply at the outset, but the laws involving undesigned offerings do apply at the end. As to coins, the laws governing undesigned offerings apply at the outset, but the laws involving undesigned offerings do not apply at the end.
8. **II:8:** If one has designated as an offering an ass [that is not going to be offered on the altar, and hence the value of which is what has been consecrated], it is as if he has designated coins [for use for purchase of offerings for the altar]. If one has designated an ox [for a Nazirite vow, and such a beast has no place in fulfillment of what is to be offered], R. Yosé b. R. Bun and R. Hiyya bar Luliani both say in the name of Shimi – one said, “It is as if he designated coins.” And the other said, “It is as if he has designated a beast.”

XXVII. YERUSHALMI NAZIR 4:5

[A] **ONCE THE BLOOD OF ANY ONE OF THE OFFERINGS HAS BEEN TOSSED FOR HER, HE CANNOT ANY LONGER ANNUL THE VOW.**

1. **I:1:** May the husband abrogate the vow on [so minor a] count as the condition of her hair?
2. **I:2:** [As to M. 4:5A,] said R. Eleazar, “The law accords with the view in particular of R. Simeon [at M. Naz. 6:9, who says once one offering’s blood is dealt with, the Nazir may drink wine]. Said R.

Yohanan, “It represents the view of all parties. Once the negative rule [pertaining to her, about not cutting the hair,] has been transformed into a positive one, [that she must cut it, the husband may no longer abrogate the vow].”

[B] R. AQIBA SAYS, “EVEN IF ANY ONE OF THE BEASTS HAS BEEN SLAUGHTERED IN HER BEHALF [BUT THE BLOOD NOT YET TOSSED], HE CANNOT ANNUL HER VOW.” UNDER WHAT CIRCUMSTANCES? IN THE CASE OF THE HAIR OFFERING OF A WOMAN WHO HAS REMAINED CLEAN. BUT IT WAS THE HAIR OFFERING OF A WOMAN WHO HAS BECOME UNCLEAN, HE MAY ANNUL HER VOW. FOR HE HAS THE POWER TO SAY, “I DON’T WANT A DISGRACEFUL WIFE.” RABBI SAYS, “EVEN IN THE CASE OF A HAIR OFFERING BROUGHT BY A WOMAN WHO HAS REMAINED CLEAN, HE MAY ANNUL THE VOW. “FOR HE HAS THE POWER TO SAY, “I DON’T WANT A WIFE WHOSE HAIR IS SHAVED OFF.””

- 1. II:1:** Said R. Jonathan [at M. 4:5B], “R. Aqiba spoke only of the sin offering, for a sin offering is invalid if offered not for the properly designated purpose [and here the blood must be sprinkled for the proper purpose, or the altar will lose the offering]. [In other cases, however, if the blood is sprinkled not for its originally designated purpose – the vow having been annulled – it will be accepted.]”

XXVIII. YERUSHALMI NAZIR 4:6

[A] A MAN IMPOSES A NAZIRITE VOW UPON HIS SON, BUT A WOMAN DOES NOT IMPOSE A NAZIRITE VOW UPON HER SON.

- 1. I:1:** “Man” (Lev. 13:44). I know only that the law [that the leper goes around with unbound hair]. How do I know that the law covers a woman? Scripture says, “Leprous” – applying to anyone, man, woman, child. If so, why does it say, “A man”? To apply to them [C] the law that follows. [Thus] A man goes around with unbound hair and torn garments, but a woman does not go around with unbound hair and torn garments [M. Sot. 3:8B].
- 2. I:2:** A man imposes a Nazirite vow on his son... A man brings the hair offering for the Nazirite vow of his father [M. Sot. 3:8C, D]. R. Yohanan in the name of R. Meir: “There are twenty-four rulings of those in which the House of Shammai take the lenient position and the House of Hillel take a stringent position, and this is one of them.
- 3. I:3:** The law that a man may impose the Nazirite vow on his son applies from birth.

[B] How so? [If] he cut his hair, or his relatives cut his hair, he objected [and would not keep the vow] or his relatives objected —

- 1. II:1:** this may be done in any language (that the people speak), and it is as if he has objected [in the proper formula].

[C] [If] he had a beast set apart [for his offering], the beast set aside as a sin offering is left to die. And the beast set aside as a burnt offering is offered as a burnt offering, and the one set aside as a peace offering is offered as a peace offering and eaten on one day and does not require a bread offering. [If] he had set aside coins [for the purchase of his offerings, and they] had not yet been designated, they fall to the purchase of a free-will offering. [If] the coins had been set aside and designated for particular purposes, the coins set aside for the purchase of a sin offering go off to the salt sea. They are not available for benefit, but they are not subject to the laws of sacrilege. The coins set aside for the purchase of a burnt offering are used for the bringing of a burnt offering, and they are subject to the laws of sacrilege. The coins set aside for the purchase of a peace offering are used for the bringing of a peace offering, which is eaten on one day and does not require a bread offering. A man brings a hair offering [with offerings set aside] for the Naziriteship of his father, but a woman does not bring a hair offering [with offerings set aside] for the Naziriteship of her father. How so? He who had a father who was a Nazir, who had set aside coins for the purchase of his sacrifices, which had not been designated for his particular Naziriteship offerings, and whose [father] died, and he said, “Lo, I am a Nazir on condition that I may bring a hair offering with the coins [set aside by my] father” — said R. Yosé, “Lo, these coins fall to the purchase of a free-will offering. “This one does not bring a hair offering [with money set aside] for the Naziriteship of his father. “And what is the case in which one brings a hair offering [with money set aside] for the Naziriteship of his father? “He who, along with his father, was a Nazir, “and his father set aside coins that were not designated for the purchase of particular animals for the fulfillment of his Nazirite vow and his father then] died — “This is a case in which one brings a hair offering [with offerings set aside] for the Naziriteship of his father.”

- 1. III:1:** What is the law as to his own vow's and his father's vow's applying to him at one and the same time?

2. **III:2:** R. Aha and R. Immi said R. Yosé ben Haninah asked, “[If the father imposes one spell as a Nazir on the son, and the son becomes unclean and brings a bird offering on that count,] do we regard the bird offering, [slaughtered by breaking the neck, as is done with birds brought as sacrifices], to be valid as any other; so what is the law as to eating the bird offering that is brought by such a son? [If he is wholly a Nazir, they may be eaten. If not, they are carrion.]”
3. **III:3:** Up to this point, we have dealt with a case in which the father and son were equivalent [in the Nazirite vow, one pertaining to him, one to the son]. But if he was a Nazir for one spell, and his son was a Nazir for two spells, he took the vow as a Nazir while in a state of cleanness, while the son took the vow as a Nazir while in a state of uncleanness, [so the son needs to use the money for a bird offering, which the father did not owe], he took the vow as a Nazir in a state of uncleanness, and his son took the vow in a state of cleanness, [what is the law as to the father’s adding money to purchase the additional offerings that the son will require, e.g., for the two spells or for the birds the son will have to bring if he is unclean]? [This question is not answered.]
4. **III:4:** What is the Scriptural basis for the position of R. Yosé [who insists that the father and the son must be Nazirs at the same time if the son is to make use of the offerings designated for fulfilling the father’s requirements]?
5. **III:5:** They wished to propose that R. Judah, [who stands behind the contrary rule, M. 4:6M-P,] would concur with R. Yosé’s view, but that R. Yosé would not concur with R. Judah’s view. But they turned up a tradition that stated, “This one will not concur with the conditions set by that one, and that one will not concur with the conditions set by this one.”

XXIX. YERUSHALMI NAZIR 5:1

[A] **THE HOUSE OF SHAMMAI SAY, “[AN ACT OF] CONSECRATION DONE IN ERROR IS BINDING [CONSECRATED].” AND THE HOUSE OF HILLEL SAY, “IT IS NOT BINDING [CONSECRATED].”**

1. **I:1:** There we have learned: One who [in designating agricultural gifts] intends to say, “heave offering,” but says, “tithe,” “tithe,” but says “heave offering,” [or who, in designating a sacrifice, intends to say,] “burnt offering,” but says, “peace offering,” “peace offering,” but says,

“burnt offering”; [or who, in making a vow, intends to say], “that I will not enter this house,” but says, “that house,” “that I will not derive benefit from this one,” but says, “from that one,” has not said anything, until his mouth and heart agree [M. Ter. 3:8]. [Referring to M. 5:1A, an act of consecration done in error is valid,] R. Jeremiah said, “If he had been going to say, ‘Unconsecrated,’ but he said, ‘Burnt offering,’ he has consecrated [the beast as a burnt offering].” Said R. Yosé, “We deal with someone who in fact intended to effect an act of consecration but who has made an error by reason of some extrinsic factor, [so what Jeremiah has said is invalid] “

2. **I:2:** “[Or if any one utters] with his lips [a rash oath]” (Lev. 5:4 with his lips and not merely in his heart. Is it possible that I should then exclude one who decides in his heart? Scripture says, “To express.”
3. **I:3:** There we have learned: He who saves up coins and says, “Lo, these are for my sheqel tax,” the House of Shammai say, “The surplus over what is actually needed for his sheqel is consecrated and hence goes for a free-will offering.” And the House of Hillel say, “The surplus over what is actually needed for his sheqel is unconsecrated.” If he says, “I shall bring [only] some of them for my sheqel,” they concur that the surplus is unconsecrated. If he says, “These are for the purchase of a sin offering,” they concur that the surplus is for a free-will offering. If he says, “I shall bring [only] some of them for purchase of a sin offering,” they concur that the surplus is unconsecrated [M. Sheq. 2:3]. R. Yosé in the name of R. Eleazar: “Where the Houses of Shammai and Hillel differ, it is when he saves up small change. But if he says, “These [coins lying here before me, all together are for the sheqel tax],” all parties concur that the surplus is for a free-will offering, [since he specifies that the coins he is setting aside, whether needed or not? are for a sheqel tax, all parties concur that they are consecrated]. R. Hezekiah and R. Bibi in the name of R. Eleazar: “Where the Houses of Shammai and Hillel differ, it is when he saves up small change. But if he says, “These,” all parties concur that the surplus is unconsecrated. [The man knows full well that he cannot add to what is actually required for the sheqel tax. When he refers to ‘these,’ he can mean only what is needed for the sheqel tax itself. He cannot be understood to refer to the other money in hand at all.]”
4. **I:4:** There we have learned: He who says, “Lo, I pledge myself to bring a meal offering prepared in a baking pan,” and brings one prepared in a frying pan, or who says, “Lo, I pledge myself to bring a meal offering prepared in a frying pan,” and brings one prepared in a

baking pan [– what he has brought, he has brought, and it is consecrated as a separate free-will offering]. But he has not carried out his obligation for the original pledge [M. Men. 12:2A-D]. R. Yosé in the name of R. Simeon b. Laqish: “This, [‘what he has brought,’] represents the view of the House of Shammai, for the House of Shammai say, ‘An act of consecration done in error is binding’” [M. 5:1A]. R. Hanina and R. Yosa in the name of R. Yohanan proposed, “It represents the opinion of all parties.”

- 5.** **I:5:** There we have learned: R. Yosé b. R. Judah says, “The law has treated that which is done unintentionally as equivalent to that done intentionally in the case of the substitute. But it has not treated that which is done unintentionally as equivalent to that which is done intentionally in the case of consecrated beasts” [M. Tem. 2:3G]. [This would accord with the Hillelite view, M. 1:5B.] [Interpreting this statement,] Hezekiah said, “The law has treated that which is done unintentionally as equivalent to that done intentionally in the case of a negative commandment, and so too in the case of the substitute, because it is a negative commandment [not to effect a substitution, Lev. 27:10]. [In both cases, intentional or not, one is flogged.] But if someone had intended to say, ‘Unconsecrated,’ and he said, ‘Burnt offering,’ he has not consecrated the beast. [That is not Yosé’s intent.]” Said R. Yohanan, “[This is Yosé b. R. Judah’s meaning:] If someone intended to say, ‘Unconsecrated,’ and said, ‘Burnt offering,’ he has consecrated the beast [in the case of an act of substitution]. But if he intended to say, ‘Burnt offering,’ and said, ‘Unconsecrated,’ he has not consecrated the beast [in the case of an act of substitution].”
- 6.** **I:6:** There we have learned: The proclamation of the sale of goods of orphans evaluated by the court to meet the father’s debt is for thirty days. And the proclamation of the sale of goods of the sanctuary evaluated by the court is for sixty [54a] days. And they make an announcement morning and night. [He who sanctifies his property, and there was incumbent upon it the payment of the marriage settlement – R. Eliezer says, “When he divorces her, he imposes on her a vow not to enjoy any benefit from him.” R. Joshua says, “He need not do so”] [M. Ar. 6:1]. R. Mana said, “R. Eliezer takes into account the possibility of a conspiracy [between the husband and the wife to defraud the Temple]. R. Joshua does not take account of the possibility of a conspiracy. [The man will not divorce her so that she may get his property back in payment of her marriage settlement.]” Said R. Yosé b. R. Bun, “The position of R. Eliezer accords with the view of the House of Shammai, and the opinion of R. Joshua is in agreement with the opinion of the House of Hillel.”

7. **I:7:** There you rule: He who vowed to be a Nazir and sought absolution from a sage, who declared him not bound, if he had set a cow aside [for his offerings], it goes forth and pastures with the herd [never having been consecrated] M. 5:3E], and here you say this [that an act of consecration made in error is binding]? Said R. Yosé b. R. Bun, “There it was with regard to his Nazirite vow that the man approached the sage. His offerings have gone forth from the power of his Nazirite vow and have become unconsecrated, [the vow never having been valid to begin with].”

8. **I:8:** R. Jeremiah in the name of R. Huna, R. Hezekiah and R. Aha in the name of R. Yohanan, “All parties concur that one does not seek absolution from a sage for an act of substitution that he has made. With regard to what do they differ? It is in regard to an act of consecration. For the House of Shammai say, ‘Just as a man does not approach a sage for absolution in regard to an act of substitution [of one beast for another, in which case both are deemed consecrated], so he does not seek absolution from a sage for an act of consecration.’ The House of Hillel say, ‘A man does seek absolution from a sage on account of an act of consecration, while he does not seek absolution from a sage on account of an act of substitution.’”

[B] **HOW SO? [IF] ONE SAID, “THE BLACK OX THAT GOES OUT OF MY HOUSE FIRST, LO, IT IS CONSECRATED,” AND A WHITE ONE WENT OUT — THE HOUSE OF SHAMMAI SAY, “IT IS CONSECRATED.” AND THE HOUSE OF HILLEL SAY, “IT IS NOT CONSECRATED.” “THE GOLD DENAR THAT COMES INTO MY HAND FIRST, LO, IT IS CONSECRATED,” AND ONE OF SILVER CAME UP [INTO HIS HAND] — THE HOUSE OF SHAMMAI SAY, “IT IS CONSECRATED.” AND THE HOUSE OF HILLEL SAY, “IT IS NOT CONSECRATED.” “THE JUG OF WINE THAT COMES UP INTO MY HAND FIRST, LO, IT IS CONSECRATED,” BUT ONE OF OIL CAME UP — THE HOUSE OF SHAMMAI SAY, “IT IS CONSECRATED.” AND THE HOUSE OF HILLEL SAY, “IT IS NOT CONSECRATED.”**

1. **II:1:** R. Simeon b. Laqish in the name of Bar Qappara, “[From the viewpoint of the House of Shammai at M. 5:1D-H, The black ox that goes out of my house first, lo, it is consecrated and a white one went out —] you hold him liable by reason of the word ‘ox’ and the word ‘first’ and consequently he is liable on both counts, [as will now be explained:] [If he said,] ‘The black ox that comes out of the house first,’ and a white ox came out, and then black ones came after it, [we hold him responsible for both the first ox and the black ox, thus:] you hold him responsible [both for the first ox, the white one, to come out and] for the first of the black ones. ‘The white ox that came forth from my house first,’ and a black one came out, and then white ones came

out after it – you hold him liable on the count both of the first and of the white one.”

XXX. YERUSHALMI NAZIR 5:2

[A] HE WHO VOWED TO BE A NAZIR AND SOUGHT ABSOLUTION OF A SAGE, WHO DECLARED HIS VOW TO BE BINDING, COUNTS OUT THE DAYS FROM THE MOMENT AT WHICH HE TOOK THE VOW. [IF] HE SOUGHT ABSOLUTION FROM A SAGE, WHO DECLARED HIM NOR BOUND,

1. I:1: It has been set forth as a Tannaite statement: The House of Shammai say, “He counts out the days from the moment at which he made inquiry.” And the House of Hillel say, “He counts out the days from the moment at which he [took the vow]” [T. Naz. 3:19C]. The dispute concerns one who is going to approach a sage for abrogation. The House of Shammai say, “Since he is going to approach a sage, he treats the vow as null.” And the House of Hillel say, “If he were planning to treat the vow as null, he would not approach a sage at all.”
 - a. I:2: “Lo, if one took the oath of a Nazir and was treating the oath as null, they do not accept an inquiry from him as to the validity of the vow unless he conducts himself in accord with the prohibitions of the vow for the number of days he has already conducted himself as if the vow had been released,” the words of R. Judah. Said R. Yosé, “Under what circumstances? In the case of one who has vowed for a long period of time. But if it is one who has vowed for a short period of time, it is sufficient for him to observe thirty days.”

[B] IF HE HAD A COW SET ASIDE, IT GOES FORTH AND PASTURES WITH THE HERD [NEVER HAVING BEEN CONSECRATED]. THE HOUSE OF HILLEL SAID TO THE HOUSE OF SHAMMAI, “DO YOU NOT CONCEDE IN THE CASE, WHICH IS [AN EXAMPLE OF] AN ACT OF CONSECRATION MADE IN ERROR, THAT THE BEAST GOES FORTH AND PASTURES WITH THE HERD [SO IS NOT CONSECRATED]?” THE HOUSE OF SHAMMAI SAID TO THEM, “DO YOU NOR AGREE IN THE CASE OF ONE WHO ERRED [IN COUNTING OUR THE TITHE OF CATTLE] AND CALLED THE NINTH ‘TENTH,’ AND [CALLED] THE TENTH ‘NINTH,’ AND [CALLED] THE ELEVENTH ‘TENTH,’ THAT IT IS [ALL THREE THAT ARE] CONSECRATED?” THE HOUSE OF HILLEL SAID TO THEM, “IT IS NOR THE STAFF [THAT HE USED FOR COUNTING OUT THE CATTLE TO NAME TO TENTH IN SEQUENCE] THAT HAS RENDERED IT CONSECRATED. “NOW IF HE HAD LAID THE STAFF ON THE EIGHTH OR ON THE TWELFTH, DO YOU THINK HE HAS DONE ANYTHING OF CONSEQUENCE

AR ALL? BUT THE SCRIPTURE THAT DECLARED THE TENTH CONSECRATED HAS DECLARED THE NINTH AND THE ELEVENTH CONSECRATED AS WELL.”

1. **II:1:** There we have learned: If he called the ninth “tenth,” and the tenth “ninth,” and the eleventh “tenth,” all three are sanctified. [They are disposed of as follows:] The ninth is eaten by reason of its blemish, the tenth is tithe, and the eleventh is offered as peace offering [M. Bekh. 9:8D]. “[He shall not substitute anything for it... and if he makes any exchange of beast for beast, then both it and that for which it is exchanged] shall be holy” (Lev. 27:10). This teaches that the status of sanctification applies to the ninth and to the eleventh. Is it possible that both of them may be offered? Scripture says, [“If he makes his offering] of the herd,” “Herd” encompasses the eleventh within the herd. “Of the herd” serves to exclude the ninth. [It is eaten as is.] Why do you encompass the eleventh and omit the ninth? Since Scripture has used language that serves to encompass, it has made use also of a limiting expression. This is so that you may find reason to say: When does that which is holy effect an act of substitution? Is it for the one that is before it or the one that is after it? You must say that it is the one that is after it. Thus I encompass the eleventh, which follows the beast that in fact is the sanctified one. But I exclude the ninth, which comes before the tenth, which is the consecrated beast.

XXXI. YERUSHALMI NAZIR 5:3

- [A] HE WHO VOWED TO BE A NAZIR AND WENT TO BRING HIS BEAST [FOR THE SACRIFICE] AND FOUND THAT IT HAD BEEN STOLEN, IF BEFORE HIS BEAST WAS STOLEN HE TOOK THE VOW AS A NAZIRITE, LO, THIS ONE IS A NAZIR. AND IF AFTER HIS BEAST WAS STOLEN [BUT HE HAD NOT KNOWN IT] HE TOOK THE VOW AS A NAZIRITE, HE IS NOT A NAZIR.**
1. **I:1:** How shall we interpret this matter? If we deal with a case in which the man saw an ox walking through the marketplace, and he said, “Lo, I am a Nazir, on the strength of using that ox that has passed by,” even [if he had said this] after the ox was stolen, he is a Nazir. [When he took the oath, the ox was not in his domain. Nonetheless, he has taken the vow as a Nazir. He is subject to the vow.] If he had been thinking that he had [money for purchasing] the ox, and it turned out that he did not have it, do we rule thus: “If he was rich and became poor, the vow of the Nazir is removed from him”? [Hardly.]
 - a. **I:2:** The disciples of R. Hiyya bar Luliana say, “R. Judah asked: ‘If the thieves returned the ox by night, does the vow of the Nazir

apply to the man retroactively, or do we maintain that, from that point onward, it applies?” [This question is not answered.]

[B] AND THIS ERROR DID NAHUM THE MEDE MAKE: WHEN NAZIRITES CAME UP FROM THE EXILE AND FOUND THAT THE TEMPLE HAD BEEN DESTROYED, NAHUM THE MEDE SAID TO THEM, “NOW IF YOU HAD KNOWN THAT THE TEMPLE WAS GOING TO BE DESTROYED, WOULD YOU HAVE TAKEN VOWS TO BE NAZIRS?” THEY SAID TO HIM, “NO.” NAHUM THE MEDE DECLARED THEM NOT BOUND [BY THE NAZIRITE VOW]. BUT WHEN THE MATTER CAME TO SAGES, THEY SAID TO HIM, “WHOEVER TOOK A NAZIRITE VOW BEFORE THE TEMPLE WAS DESTROYED IS A NAZIR: “AND WHOEVER DID SO AFTER THE TEMPLE WAS DESTROYED IS NOT A NAZIR.”

- 1.** **II:1:** This error did Nahum the Mede make [M.. 5:3D]: What error did he make? It was that he released them from their own on the basis of what would happen in the future. Nahum the Mede said to them, “Now if you had known that the Temple was going to be destroyed, would you have taken vows to be Nazirs?” [M. 5:3E]. Said R. Zeira, “[Nahum] should have said to them, ‘Did you not know that the prophets had already prophesied to you that the Temple was going to be destroyed?’ If so, it would not be as if the event of the destruction took place later on, so that releasing the vow is not by reason of what would only happen later on.”
- 2.** **II:2:** Three-hundred Nazirites came up [to Jerusalem] in the days of R. Simeon b. Shetah. For one hundred fifty of them he found grounds for absolution, and for one hundred fifty of them he did not find grounds for absolution.

XXXII. YERUSHALMI NAZIR 5:4

[A] [IF PEOPLE] WERE GOING ALONG THE WAY AND SOMEONE WAS COMING TOWARD THEM — ONE OF THEM SAID, “LO, I AM A NAZIR IF THIS IS SO-AND-SO,” AND ONE OF THEM SAID, “LO, I AM A NAZIR IF THIS IS NOT SO-AND-SO.” “LO, I AM A NAZIR IF ONE OF YOU IS A NAZIR.” “LO, I AM A NAZIR IF NEITHER ONE OF YOU IS A NAZIR,” “IF BOTH OF YOU ARE NAZIRS,” “IF ALL OF YOU ARE NAZIRS” — THE HOUSE OF SHAMMAI SAY, “ALL OF THEM ARE NAZIRS.” AND THE HOUSE OF HILLEL SAY, “A NAZIR IS ONLY ONE WHOSE STATEMENT WAS NOT CONFIRMED.” AND R. TARFON SAYS, “NONE OF THEM IS A NAZIR.”

- 1.** **I:1:** The meaning of the Mishnah [at M. 5:4, And the House of Hillel say, “A Nazir is only one whose statement was not confirmed”] is that the one whose statement was confirmed is a Nazirite.

2. **I:2:** It was taught: R. Judah says in the name of R. Tarfon, “Not a single one of them is a Nazir, because a Nazirite vow applies only when it is clearly and unambiguously expressed, beyond a shadow of a doubt” [T. Naz. 3:19P].

[B] [If] HE TURNED AWAY SUDDENLY, HE IS NOT A NAZIR. R. SIMEON SAYS, “LET HIM SAY, ‘IF IT WAS IN ACCORD WITH MY STATEMENT, LO, I AM A NAZIR OUT OF OBLIGATION, AND IF NOT, LO, I AM A NAZIR OUT OF FREE WILL.’” [If] ONE SAW A KOY AND SAID, “LO, I AM A NAZIR IF THIS IS A WILD BEAST.” “LO, I AM A NAZIR IF THIS IS NOT A WILD BEAST.” “LO, I AM A NAZIR IF THIS IS A DOMESTICATED BEAST.” “LO, I AM A NAZIR IF THIS IS NOT A DOMESTICATED BEAST.” “LO, I AM A NAZIR IF THIS IS A WILD BEAST AND A DOMESTICATED BEAST.” “LO, I AM A NAZIR IF THIS IS NOT A WILD BEAST AND A DOMESTICATED BEAST.” “LO, I AM NAZIR IF ONE OF YOU IS A NAZIR.” “LO, I AM A NAZIR IF NONE OF YOU IS A NAZIR.” “LO, I AM A NAZIR IF ALL OF YOU ARE NAZIRS” – LO, ALL OF THEM ARE NAZIRS.

1. **II:1:** How shall we interpret [M. 5:4K-L]? If we speak of a case in which this one says, “It is Reuben,” and that one says, “It is Simeon,” what choice do you have? If it is Reuben, this one is a Nazir. If it is Simeon, that one is a Nazir. [Why is one not a Nazir, as M. 5:4K says?] But thus must we interpret the matter: It is a case in which this one says, “It is Reuben,” and that one says, “It is Simeon.”
2. **I:2:** If then he suddenly turned away, [it turns out that it is neither Reuben nor Simeon, so] he is not a Nazir [M. 5:4K]. This is in line with that which R. Simeon says, “He does not bring an offering unless he will be [a viable birth].”
3. **I:3:** It was taught: And all of them count out nine vows of Naziriteship [T. Naz. 3:19CC]. Lo, [at M. 5:4M-V] they are ten. It is not possible that the statement of one of them should not be invalidated. Said R. Yosa, “This represents the view of the House of Shammai, for the House of Shammai say, ‘An act of consecration made in error is valid.’”

XXXIII. YERUSHALMI NAZIR 6:1

[A] THREE THINGS ARE PROHIBITED TO A NAZIR: [CORPSE] UNCLEANNESS, CUTTING THE HAIR.

1. **I:1:** [The source in Scripture for the prohibition of] uncleanness [is in accord with the following verse of Scripture: “All the days that he

separates himself to the Lord he shall not go near a dead body” (Num. 6:6). [The source for the prohibition of] cutting the hair: “All the days of his vow of separation no razor shall come upon his head” (Num. 6:5). As to anything that goes forth from the grapevine: “All the days of his separation [he shall eat] nothing that is produced by the grapevine, [not even the seeds or the skins]” (Num. 6:4).

[B] AND ANYTHING THAT GOES FORTH FROM THE GRAPEVINE. AND ANYTHING THAT EXUDES FROM THE GRAPEVINE JOINS TOGETHER WITH ANYTHING ELSE THAT EXUDES FROM THE GRAPEVINE [TO FORM A VOLUME PROHIBITED FOR USE]. AND ONE IS LIABLE ONLY IF HE WILL EAT ABOUT AN OLIVE’S BULK OF GRAPES.

- 1.** **II:1:** [And anything that exudes from the grapevine joins together with anything else that exudes from the grapevine to form a volume prohibited for use:] R. Zakkai taught before R. Yohanan: “If one has sacrificed an animal, burned incense, and poured out a libation [to an idol in a single spell of inadvertence], he is liable on each count [and not solely on the single, general count of worshipping an idol].” Said to him R. Yohanan, “O Babylonian! You have [come a long way and] forded three rivers, so you have forgotten [what you knew, which is:] He is liable on only a single count. Before one breaks the idol into pieces [and so inadvertently fails to recognize he is forbidden to worship the idol], he is liable on a single count, and he will not be liable on multiple counts. Once he breaks the idol into pieces, will he be liable on multiple counts, and not liable solely on a single count?”
 - a.** II:2: Secondary detail tacked on to the foregoing. New topic for the established inquiry.
 - b.** II:3: As above.
 - c.** II:4: As above.
- 2.** **II:5:** R. Abbahu in the name of R. Yosé b. Haninah, “If one has eaten five ants at once, in a single spell of inadvertence, he is liable on each count because in each instance it was a creature unto itself. But if he mashed them up and ate them, he is liable on only one count. But that law applies when they constitute the bulk of an olive. If he ate what was mashed up, and it completes the measure to an olive’s bulk, he is liable. If he ate from what is mashed up in the bulk of an olive, and an additional ant, he is liable on two counts. If that is the case, then if he ate from what is mashed up but forms less than the olive’s bulk, and he added to the mash a whole ant, he should be liable on two counts. If so, then if he ate an ant of the bulk of an olive, he should be liable on two counts. So is the rule covering the joining together of what is

prohibited to a Nazir. If he ate from a mixture of diverse prohibited materials that adds up to the bulk of an olive, he is liable. If he ate from such a mixture of forbidden materials in the bulk of an olive, and in addition he ate the stalk of a grape, he is liable on two counts. If that is the case, then if he ate the branch of a grape that is an olive's bulk, he should be liable on two counts.”

[C] **THE FIRST MISHNAH: UNTIL HE DRINKS A QUARTER LOG OF WINE.**

1. **III:1:** Now they would provide an exegesis on the basis of the reference to strong drink. Just as in the case of strong drink mentioned elsewhere, the prohibited volume is a quarter *log*, so the measure applying here is a quarter *log*. They reverted and ruled: He may not eat or drink. Hence just as the volume prohibited in the case of eating is an olive's bulk, so the volume prohibited in the case of drinking is an olive's bulk.

[D] **R. AQIBA SAYS, “EVEN IF HE DUNKED HIS BREAD INTO WINE AND THERE IS IN WHAT IS SOPPED UP ENOUGH TO JOIN TOGETHER TO BE IN THE VOLUME OF AN OLIVE'S BULK, HE IS LIABLE.”**

1. **IV:1:** Said R. Hananiah, “But that law applies to a case in which, to begin with, he dunked the bread in a mixture containing at least an olive's bulk of wine.”

XXXIV. YERUSHALMI NAZIR 6:2

[A] **AND HE IS LIABLE FOR WINE BY ITSELF, FOR GRAPES BY THEMSELVES, FOR GRAPE PITS BY THEMSELVES, AND FOR GRAPE SKINS BY THEMSELVES.**

1. **I:1:** It is written, “He shall not eat grapes, fresh or dried” (Num. 6:3). Since it is written, “Grapes,” do we not know that they are fresh? Why does Scripture find it necessary to state, “Fresh or dried grapes”? It is so to establish liability for this by itself and for that by itself [= M. 6:2A].
2. **I:2:** There is he who eats a grape cluster and is liable on the counts of fresh grapes, dry grapes, grape pits, grape skins. If he soaked it in water, he is liable on the count of juice. If he pressed it, he is liable on the count of wine. And that is the case when others have admonished him on the count, “He shall eat nothing that is produced by the grapevine” (Num. 6:4).

[B] **R. ELEAZAR B. AZARIAH SAYS, “HE IS LIABLE ONLY IF HE WILL EAT TWO PITS AND THEIR SKIN [THAT COVERS THEM].” WHAT ARE GRAPE PITS AND WHAT ARE GRAPE SKINS? “HARSANIM ARE WHAT IS OUTSIDE, AND ZAGGIM ARE WHAT IS INSIDE,” THE WORDS OF R. JUDAH.**

1. **II:1:** [As to M. 6:2B,] said R. Ba bar Aha, “The reason behind the view of R. Eleazar b. Azariah is to make one liable for a complete bit of grape matter [even less than an olive’s bulk in volume].” And it has been taught: “Grape pits, grape skins” – this serves to encompass the third sort of matter that is between them, that is, congealed matter between the pits and skins. And lo, it also has been taught, in the name of R. Eleazar: “The language ‘Nothing that is produced by the grapevine’ serves to encompass the leaves and branches.”

[C] **R. YOSÉ SAYS, “THAT YOU NOT ERR: “IT IS LIKE THE BELL OF CATTLE: “WHAT IS OUTSIDE IS THE HOOD, AND WHAT IS INSIDE IS THE CLAPPER.”**

1. **III:1:** [In the view of Eleazar b. Azariah, if one eats a complete grape, even though it is not of an olive’s bulk, he is liable. If then harsanim (so: grape skins) are what is our side, and zaggim (so: grape pits) are what is inside, as Judah has said, we may well find in the case of a grape that one may eat only a half olive’s bulk and yet eat an entire grape, e.g., two pits with their skin. But if you maintain that the matter is reversed, so that the word for pits in fact stands for skin and vice versa, you will not find a case in which you have two skins and a single pit. This brings us to ask about the reasoning behind Yosé’s position:] What is the reason for R. Yosé’s statement [at M. 6:2E-G)?

XXXV. YERUSHALMI NAZIR 6:3

[A] **A NAZIRITE VOW FOR AN UNSPECIFIED PERIOD OF TIME IS [TO APPLY] FOR THIRTY DAYS. [IF] HE CUT HIS HAIR, OR THUGS FORCIBLY CUT HIS HAIR, HE LOSES THIRTY DAYS. A NAZIR WHO CUT HIS HAIR, WHETHER WITH SCISSORS OR WITH A RAZOR, OR WHO PULLED OUT ANY HAIR WHATSOEVER, IS LIABLE. A NAZIR SHAMPOOS AND PARTS HIS HAIR [WITH HIS FINGERS], BUT HE DOES NOT COMB HIS HAIR. R. ISHMAEL SAYS, “HE SHOULD NOT SHAMPOO HIS HEAD IN THE DIRT, “BECAUSE IT MAKES THE HAIR FALL OUT.”**

1. **I:1:** It is written, “All the days of his vow of separation no razor shall come upon his head” (Num. 6:5). Lo, if it came upon his head, he is liable. “He shall let the locks of hair of his head grow long” (Num. 6:5). How long does it take to let the hair grow long? Thirty days.

2. **I:2:** “No razor shall come upon his head” (Num. 6:5). I know that the rule applies only to a razor. How do I know that I should include in the prohibition also shampoo or scissors as much as a razor? Scripture states, “Will not pass over his head” – thus including anything that one may pass over his head. [Since the reference is to a razor,] on that basis we know that he loses days by reason of hair cutting only if he cuts his hair with a razor.
3. **I:3:** There we have learned: Three shave, and their shaving is a requirement: the Nazir, the leper, and Levites (Num.. 8:7). And all of them who shaved without a razor, or who left behind two hairs, have done nothing at all [and must repeat the shaving] [M. Neg. 14:4]. R. Eleazar said, “The Mishnah refers to an unclean Nazir. But as to a clean Nazir, once he has cut off most of the hair on his head, even if he did so without a razor, he has carried out his obligation.”
4. **I:4:** You rule with regard to an unclean Nazir: Failure to cut off even two hairs invalidates his hair cutting. Removal of as many as two hairs causes him to lose days he already has observed. And along these same lines with regard to a clean Nazir: Failure to cut off two hairs invalidates the hair cutting. Cutting off as few as two hairs causes him to lose days already observed.
5. **I:5:** There are Tannaim who teach, “They shampoo entangled and matted hair,” and there are Tannaim who teach, “They do not shampoo such hair.”

XXXVI. YERUSHALMI NAZIR 6:4

- [A] **A NAZIR WHO WAS DRINKING WINE ALL DAY LONG IS LIABLE ONLY ON ONE COUNT. [IF] THEY SAID TO HIM, “DON’T DRINK IT! DON’T DRINK IT!” AND HE CONTINUES DRINKING, HE IS LIABLE ON EACH AND EVERY COUNT [OF DRINKING]. [IF] HE WAS CUTTING HIS HAIR ALL DAY LONG, HE IS LIABLE ONLY ON A SINGLE COUNT. [IF] THEY SAID TO HIM, “DON’T CUT IT! DON’T CUT IT!” AND HE CONTINUED TO CUT HIS HAIR, HE IS LIABLE FOR EACH AND EVERY COUNT [OF CUTTING]. [IF] HE WAS CONTRACTING CORPSE UNCLEANNESS ALL DAY LONG, HE IS LIABLE ON ONLY ONE COUNT. IF THEY SAID TO HIM, “DON’T CONTRACT CORPSE UNCLEANNESS! DON’T CONTRACT CORPSE UNCLEANNESS!” AND HE CONTINUED TO CONTRACT CORPSE UNCLEANNESS, HE IS LIABLE FOR EACH AND EVERY COUNT.**
1. **I:1:** If one took an oath while among graves, R. Yohanan said, “They warn him concerning not drinking wine and not cutting the hair [so he

indeed is a Nazir by reason of his oath]. [But since he does not bring an offering for his being unclean, he is not flogged on that count and therefore is not warned.]” R. Simeon Simeon b. Laqish said, “Since they do not warn him as to uncleanness, they also do not warn him as to not drinking wine and not cutting hair.”

2. **I:2:** If there were set before a Nazir two flasks, one containing water, and one containing wine, and he drank the one containing water, and they said to him, “You should know that, what you are drinking is water, but if you drink the wine, there are ten olive’s bulks in volume of wine, and you will be liable for ten floggings” – he has not received an admonition on that assumption. But if there was one flask of wine, and he began to drink it, and they said to him, “You should know if you drink the whole of it, that it contains in volume ten olive’s bulks of wine, and you will be liable for ten floggings,” he has received an admonition on that assumption [and will be flogged ten times if he drinks the whole flask].

XXXVII. YERUSHALMI NAZIR 6:5

[A] THREE THINGS ARE PROHIBITED TO A NAZIR: [CORPSE] UNCLEANNESS, CUTTING THE HAIR, AND ANYTHING THAT GOES FORTH FROM THE GRAPEVINE.

1. **I:1:** As to uncleanness: “All the days that he separates himself to the Lord, he shall not go near a dead body” (Num. 6:6). As to haircutting: “All the days of his vow of separation, no razor shall come upon his head” (Num. 6:5). As to what comes forth from the vine: “Nothing that is produced by the grapevine, not even the seeds or the skins” (Num. 6:4).

[B] A MORE STRICT RULE APPLIES TO CORPSE UNCLEANNESS AND HAIRCUTTING THAN APPLIES TO THAT WHICH COMES FORTH FROM THE GRAPEVINE. FOR CORPSE UNCLEANNESS AND HAIRCUTTING CAUSE THE LOSS OF THE DAYS ALREADY OBSERVED, BUT [VIOLATING THE PROHIBITION AGAINST] THAT WHICH GOES FORTH FROM THE VINE DOES NOT CAUSE THE LOSS OF THE DAYS ALREADY OBSERVED.

1. **II:1:** As to uncleanness: “All the days that he separates himself to the Lord, he shall not go near a dead body” (Num. 6:6). As to haircutting: “But the former time shall be void, because his separation was defiled” (Num. 6:12).

[C] A MORE STRICT RULE APPLIES TO THAT WHICH GOES FORTH FROM THE VINE THAN APPLIES TO CORPSE UNCLEANNESS AND HAIRCUTTING. FOR THAT WHICH GOES

FORTH FROM THE VINE ALLOWS FOR NO EXCEPTION, BUT CORPSE UNCLEANNESS AND HAIRCUTTING ALLOW FOR EXCEPTIONS, IN THE CASE OF [CUTTING THE HAIR FOR] A RELIGIOUS DUTY AND IN THE CASE OF FINDING A NEGLECTED CORPSE [WITH NO ONE ELSE TO PROVIDE FOR BURIAL, IN WHICH CASE, THE NAZIR IS ABSOLUTELY REQUIRED TO BURY THE CORPSE].

1. **III:1:** They proposed to rule that that applies to four cups of wine [to be drunk on Passover]. But if he said, “By an oath, I shall drink wine,” and he went and became a Nazir, the vow of the Nazir does not override the oath. He said, “I drink wine,” so may one come to rule that he should not drink wine! [The vow is null.]

[D] **A MORE STRICT RULE APPLIES TO CORPSE UNCLEANNESS THAN TO HAIRCUTTING. FOR CORPSE UNCLEANNESS CAUSES THE LOSS OF ALL THE DAYS PREVIOUSLY OBSERVED AND IMPOSES THE LIABILITY FOR AN OFFERING. BUT HAIRCUTTING CAUSES THE LOSS OF ONLY THIRTY DAYS AND DOES NOT IMPOSE LIABILITY FOR AN OFFERING.**

1. **IV:1:** As to uncleanness, it is written, “But the former time shall be void,... and he shall bring a male lamb a year old for a guilt offering” (Num. 6:12). A more strict rule applies to haircutting. for the law treats the one who cuts the hair as equivalent to the one whose hair is cut [T. Naz. 4:4C]. [Both are flogged.]

XXXVIII. YERUSHALMI NAZIR 6:6

[A] **CUTTING OFF THE HAIR ON ACCOUNT OF CONTRACTING CORPSE UNCLEANNESS: HOW [IS IT DONE]? “ONE WOULD SPRINKLE [WITH PURIFICATION WATER] ON THE THIRD AND SEVENTH DAY AND CUT OFF HIS HAIR ON THE SEVENTH DAY AND BRING HIS OFFERINGS ON THE EIGHTH DAY. “BUT IF HE CUT OFF HIS HAIR ON THE EIGHTH DAY, HE BRINGS HIS OFFERINGS ON THAT SAME DAY,” THE WORDS OF R. AQIBA. SAID R. TARFON, “WHAT IS THE DIFFERENCE BETWEEN THIS ONE AND A MESORA, [WHO, IF HE CUTS HIS HAIR ON THE EIGHTH DAY, BRINGS THE OFFERINGS ON THE NINTH]?” HE SAID TO HIM, “IN THE CASE OF THIS ONE, CLEANING HIM IS CONTINGENT ON THE PASSING OF HIS [SEVEN] DAYS, BUT IN THE CASE OF THE MESORA, DECLARING HIM CLEAN IS [ALSO] CONTINGENT UPON HIS HAIRCUTTING. “AND HE BRINGS ON OFFERING ONLY WHEN THE SUN HAS SET [AFTER CONCLUSION OF HIS PURIFICATION RITE].”**

1. **I:1:** It is written, “And [the unclean Nazir] shall separate himself to the Lord for the days of his separation, and bring a male lamb a year old for a guilt offering” (Num. 6:12). “[He begins counting the new period of his vow] from the [eighth day, that is], the day on which he brought

his offerings,” the words of Rabbi. R. Yosé b. R. Judah says, “[He begins counting the clean days of a new vow] from the time at which he cut his hair.”

XXXIX. YERUSHALMI NAZIR 6:7

[A] **THE CUTTING OF HAIR IN THE CASE OF [COMPLETING THE VOW IN A STATE OF] CLEANNES: HOW IS IT DONE? ONE WOULD BRING THREE BEASTS, A SIN OFFERING, A BURNT OFFERING, AND A PEACE OFFERING (NUM. 6:14). “AND HE WOULD SLAUGHTER THE PEACE OFFERING AND CUT OFF HIS HAIR AFTER THEIR [SLAUGHTER],” THE WORDS OF R. JUDAH. R. ELEAZAR SAYS, “HE WOULD CUT HIS HAIR ONLY AFTER THE SIN OFFERING. “FOR THE SIN OFFERING TAKES PRECEDENCE UNDER ALL CIRCUMSTANCES.” BUT IF HE CUT HIS HAIR AFTER ANY ONE OF THE THREE OF THEM, HE HAS CARRIED OUT HIS OBLIGATION.**

1. **I:1:** R. Joshua b. Levi said, ““And he shall offer the ram as a sacrifice of peace offering’ (Num. 6:17). What is the meaning of Scripture’s statement? It is that he should give precedence to this rite, [that is, the peace offering, as Judah has said, so that he may cut off his hair as soon as possible].”
 - a. **I:2:** R. Zeira raised the question before R. Mana, “Who [55c] is responsible for the following statement of the Mishnah: All sin offerings that are mentioned in the Torah take precedence over. guilt offerings [M. Zeb. 10:5A]? [Should it not accord in particular with R. Eleazar at D?]”

XL. YERUSHALMI NAZIR 6:8

[A] **RABBAN SIMEON B. GAMALIEL SAYS, “[IF] ONE BROUGHT THREE BEASTS AND DID NOT SPECIFY [THEIR PURPOSES, RESPECTIVELY], THAT WHICH IS SUITABLE TO SERVE AS A SIN OFFERING [A EWE-LAMB IN ITS FIRST YEAR] IS OFFERED AS A SIN OFFERING; [THAT WHICH IS SUITABLE TO SERVE AS] A BURNT OFFERING [A HE-LAMB IN ITS FIRST YEAR] IS OFFERED AS A BURNT OFFERING, AND [THAT WHICH IS SUITABLE TO SERVE AS] A PEACE OFFERING [A RAM TWO YEARS OLD] IS OFFERED AS A PEACE OFFERING.’ HE WOULD TAKE “THE HAIR OF THE HEAD OF HIS SEPARATION” (NUM. 6:18) AND CAST IT UNDER THE CAULDRON [IN WHICH THE PEACE OFFERING IS COOKED]. AND IF HE CUT IT OFF IN THE PROVINCES, HE WOULD [IN ANY EVENT] CAST IT UNDER THE CAULDRON. UNDER WHAT CIRCUMSTANCES? IN THE CASE OF [COMPLETING THE VOW AND] CUTTING THE HAIR IN A STATE OF CLEANNES. BUT IN THE CASE OF CUTTING THE HAIR IN A STATE OF UNCLEANNES, HE WOULD NOT CAST IT UNDER THE**

CAULDRON. R. MEIR SAYS, “ALL CAST HAIR UNDER THE CAULDRON EXCEPT ONLY FOR ONE WHO WAS UNCLEAN [AND WHO CUT OFF HIS HAIR OUTSIDE THE TEMPLE,~ IN THE PROVINCES.”

- 1. I:1:** They raised the following question [as to M. 6:8A in which the various beasts were not designated for their several purposes]: “The rule speaks of a case in which he did not designate the beasts when he brought them to the Temple courtyard. Lo, he must have designated them in his house [since otherwise why should the rule of M. 6:8B be necessary? Why can he not do whatever he wants?]”
- 2. I:2:** As to the disposition of the hair, R. Yosé b. R. Bun in the name of Rab: “One dips the hair in the craw of the peace offerings.”
- 3. I:3:** All cast hair under the cauldron, except only for one who was unclean [and who cut his hair] in the provinces [M. 6:8H], because his hair is to be buried. “He who was made unclean [and who cuts his hair] in the sanctuary casts his hair under the cauldron of the sin offering or of the guilt offering,” the words of R. Meir. R. Judah says, “The one who cuts his hair in a state of uncleanness here and there does not toss his hair under the cauldron. The one who cuts his hair in a state of cleanness here and there does cast his hair under the cauldron.” And sages say, “The one who cuts his hair by reason of uncleanness here and there and the one who cuts his hair in a state of cleanness in the provinces do not cast their hair under the cauldron. You have only a Nazir who cut his hair in a state of cleanness and who does so at the door of the tent of meeting who casts his hair under the cauldron, since it is said, ‘And the Nazir will cut his hair at the door of the tent of meeting’” (Num. 6:18) [M. 6:8F-G; T. Naz. 4:6].

XLI. YERUSHALMI NAZIR 6:9

[A] HE WOULD COOK THE PEACE OFFERINGS OR SEETHE [THE OFFERING]. THE PRIEST TAKES “THE COOKED SHOULDER OF THE RAM AND ONE UNLEAVENED CAKE OUT OF THE BASKET AND ONE UNLEAVENED WAFER AND PUTS THEM INTO THE HAND OF THE NAZIR” (NUM. 6:19)

- 1. I:1:** [Referring to M. Ned. 6:1, He who takes a vow not to eat what is cooked is permitted to eat what is roasted or seethed, we note that the Mishnah here does not regard roasting or seething as cooking.] The Mishnah has maintained that that which is seethed is regarded as cooked. For we have learned: He would cook the peace offerings or seethe [the offering] [N. Naz. 6:9A]. [Then at Num. 6:19, the shoulder

of the ram is called cooked.] Now Scripture, for its part, refers to roasting as cooking: “And they roasted the Passover lamb” (2 Chron. 35:13). Now if, in this latter instance, you wish to maintain that they did not act in accord with the requirements of the law, R. Jonah Bosrayya said that it was in accord with the law [that they had acted]. So it follows that the Mishnah maintains that that which is seethed is regarded as cooked, while the Scripture has held that that which is roasted is regarded as cooked. And have we not learned: He who takes a vow not to eat what is cooked is permitted to eat what is roasted or seethed [M. Ned. 6:1A]?

- a. I:2: It is written, “And the priest shall take the shoulder of the ram, when it is boiled” (Num. 6:19). Since Scripture refers to “when it is boiled,” is it possible to suppose that it is boiled by itself? Scripture says, “Of the ram,” [meaning that it is boiled as part of the ram]. How so? One chops it off leaving a hair’s breadth of flesh yet attached.
- b. I:3: Hilpai asked R. Yohanan and R. Simeon b. Laqish, “As to spices [deriving from produce in the status of orlah that is, in the first three years after planting], what is the law as to their imposing a prohibition on produce with which they are mixed in a proportion of more than one to two hundred, [that is, one part prohibited spice in a mixture of two-hundred-and-one parts of permitted food]?” He said to him, “Spices have no seasoning effect in a mixture larger than two-hundred times their quantity.”

[B] AND HE WAVES THEM. AND AFTERWARDS THE NAZIR IS PERMITTED TO DRINK WINE AND TO CONTRACT CORPSE UNCLEANNESS. R. SIMEON SAYS, “ONCE THE BLOOD OF ANY ONE OF THE SACRIFICES HAS BEEN TOSSED IN HIS BEHALF, THE NAZIR IS PERMITTED TO DRINK WINE AND TO CONTRACT CORPSE UNCLEANNESS.”

- 1. **II:1:** Rab said, “Waving the offering is a necessary step in the case of the Nazir [as at M. 6:9C-D].” And has it not been taught: “‘The law governing the Nazir,’ whether he has wings [hands] or does not have wings [hands]”? [So waving is not essential.] That which Rab has said applies to a Nazir who has hands.
- 2. **II:2:** Samuel said, “[If the Nazir has no] hair [to cut off], it serves to prevent proper fulfillment of the rites required of the Nazir as do the waving of the offering and the placing the blood of the offering on the thumbs of the *mesora*.”

XLII. YERUSHALMI NAZIR 6:10

[A] [If] HE CUT OFF HIS HAIR AFTER A SACRIFICE AND THE SACRIFICE TURNED OUT TO BE INVALID, HIS CUTTING OF THE HAIR IS INVALID, AND HIS SACRIFICES HAVE NOT GONE TO HIS CREDIT. [If] HE CUT HIS HAIR AFTER A SIN OFFERING MADE NOT FOR ITS OWN NAME [UNDER AN INCORRECT DESIGNATION], AND AFTERWARD HE BROUGHT HIS [OTHER] OFFERINGS UNDER THEIR PROPER DESIGNATION, HIS CUTTING OF THE HAIR IS INVALID, AND HIS SACRIFICES HAVE NOT GONE TO HIS CREDIT. [If] HE CUT HIS HAIR AFTER THE BURNT OFFERING OR THE PEACE OFFERING IMPROPERLY DESIGNATED AND AFTERWARD HE BROUGHT HIS [OTHER] OFFERINGS UNDER THEIR PROPER DESIGNATION, HIS CUTTING OF THE HAIR IS INVALID, AND HIS SACRIFICES HAVE NOT GONE TO HIS CREDIT. **R. SIMEON SAYS, “THAT PARTICULAR SACRIFICE HAS NOT GONE TO HIS CREDIT, BUT THE OTHER SACRIFICES HAVE GONE TO HIS CREDIT.”** AND IF HE CUT HIS HAIR AFTER ALL THREE OF THEM AND ONE OF THEM TURNED OUT TO BE VALID, HIS CUTTING OF THE HAIR IS VALID, AND HE BRINGS THE OTHER SACRIFICES.

1. **I:1:** [As to M. 6: 10E, Simeon’s view is that if the other sacrifices have gone to his credit,] his haircutting also has gone to his credit. For if you say otherwise, [that is, his haircutting has not gone to his credit,] then even his other offerings also should not go to his credit. [That is, if he has to cut his hair yet another time, after thirty days, he also will have to bring other offerings later on; in that case, why should Simeon maintain that the other sacrifices have gone to his credit? That is manifestly impossible.]

XLIII. YERUSHALMI NAZIR 6:11

[A] HE IN WHOSE BEHALF ONE OF THE DROPS OF BLOOD HAS BEEN PROPERLY TOSSED AND WHO [THEN] IS MADE UNCLEAN — **R. ELIEZER SAYS, “HE LOSES THE WHOLE [SET OF OFFERINGS ALREADY OFFERED UP].”** AND SAGES SAY, “LET HIM BRING THE REST OF HIS OFFERINGS WHEN HE BECOMES CLEAN.” THEY SAID TO HIM, **M’SHE B:** “IN BEHALF OF MIRIAM OF TADMOR [PALMYRA], ONE OF THE DROPS OF BLOOD WAS PROPERLY TOSSED, AND THEY CAME AND TOLD HER THAT HER DAUGHTER WAS DYING, AND SHE WENT AND FOUND HER DEAD. “AND SAGES SAID, ‘LET HER BRING THE REST OF HER OFFERINGS WHEN SHE WILL BE CLEAN.’”

1. **I:1:** The opinions assigned to R. Eliezer stand at variance with one another. There he has said that [if a Nazir is made unclean through corpse uncleanness,] he loses only thirty days, [as already observed, cf. M. 3:4], while here he says this that he loses the entire spell, however long].
2. **I:2:** [The following question assumes that so far as Eliezer is concerned, the cutting of the hair is not essential to completion of the rite. So long as a single offering is properly presented, the Nazir is permitted to drink wine and the oath is fulfilled. That is so, therefore, even though the Nazir has not yet cut his hair.] It is, then, self-evident that that is the case, [namely, if one of the offerings has been properly made], and then the Nazir is made unclean, [the vow is fulfilled and he may do what was formerly forbidden]. [Accordingly, we ask,] is it not so that in such a case he is valid, and afterward he is made unclean, that his offering is accepted, and he is relieved of the vow? [If that is the case, why in the world would Eliezer maintain, as he does at M. 6:11B, that he loses the whole set of offerings already offered up? What has been done has been carried out in a state of cleanness.]
3. **I:3:** So the meaning of the Mishnah passage before us is: “Let him become clean and then bring the rest of the offerings he owes” [M. 6:11C]. And so too is the meaning of the Mishnah: “Let her become clean and then bring the rest of the offerings that she owes [at M. 6:11E].”

XLIV. YERUSHALMI NAZIR 7:1

[A] A HIGH PRIEST AND A NAZIR DO NOT CONTRACT CORPSE UNCLEANNESS ON ACCOUNT OF [BURYING EVEN] THEIR CLOSE RELATIVES. [BUT THEY DO CONTRACT CORPSE UNCLEANNESS ON ACCOUNT OF A NEGLECTED CORPSE].

1. **I:1:** It is written, “He shall not go in to any dead body, [nor defile himself, even for his father or for his mother]” (Lev. 21:11). How shall we interpret this passage? If it serves to prohibit him from contracting corpse uncleanness in connection with burying distant relatives, lo, that matter is covered by the general rule applying to an ordinary priest, [and here we deal with a high priest]. [Lev. 21:1-2 allow the ordinary priest to bury only his nearest of kin.] Accordingly, if it does not pertain to distant relatives, apply it to close relatives.
 - a. **I:2:** “You will bury him” – all of him, not part of him. “You will bury him” – On this basis, we learn that if one has left over any

part of what should be buried with him, one has done nothing whatsoever, for it is said, “For you shall surely bury him.” On this basis, we learn that one is deemed a neglected corpse only if his head and the greater part of his body are discovered together.

2. **I:3:** It was taught: R. Yosé says, “A man [who is an ordinary priest] does not contract uncleanness on account of a limb that has fallen from his father while the father is yet alive, but he does contract corpse uncleanness by reason of a bone the size of a barley kernel deriving from his father [after he has died].” R. Judah says, “Just as a person contracts corpse uncleanness by reason of burying a bone the size of a barley kernel deriving from his father, so he contracts uncleanness by reason of a limb that has fallen from his father while he is yet alive.”

[B.] GENERAL DEFINITIONS PERTINENT TO THE NEGLECTED CORPSE

1. **I:4:** What is the definition of a neglected corpse?
2. **I:5:** And in the case of a ruler, the honor owing to him is the same. And what is the law as to a priest’s contracting corpse uncleanness to bury a ruler?
3. **I:6:** What is the law as to [a priest’s] contracting corpse uncleanness in honor of his master?
4. **I:7:** What is the law as to a priest’s contracting uncleanness for the sake of study of Torah [e.g., by going abroad, where by definition the earth is contaminated with corpses]?
5. **I:8:** It has been taught: A priest contracts uncleanness [in connection with redemption of land] to give testimony and to engage in a lawsuit against them abroad. And just as he contracts uncleanness in connection with affairs abroad, so he surely contracts uncleanness in a graveyard [in the same matter]. And [a priest] contracts uncleanness [if it is] to study Torah or to marry a woman. R. Judah says, “If he has someone else with whom to study, lo, this one should not contract uncleanness, and if not, lo, this one may contract uncleanness.” R. Yosé says, “Even though he may have someone else with whom to study, lo, this one may contract uncleanness [to study with this particular master], “for it is not with just anyone that a person has the merit to learn, but with him alone who can impart the merit of learning to him.” They said concerning Joseph the priest that he would contract uncleanness by going abroad [to study with] R. Yosé in Sidon [T. A.Z. 1:8E-K]. A priest should not go abroad, even to marry a woman,

unless they assured him [that it would be possible to do so] [T. A.Z. 1:9A-B].

6. **I:9:** What is the law as to a high priest's contracting corpse uncleanness in order to raise his hands [to bestow the priestly blessing]?
7. **I:10:** Said R. Yannai, "A priest contracts uncleanness in order to see the king."
8. **I:11:** What is the law as to one's contracting corpse uncleanness to pay respect to his father and mother?
9. **I:12:** What is the law as to one's contracting corpse uncleanness to pay respect to the community at large?
10. **I:13:** He who finds a neglected corpse, lo, this one must attend to him and bury him where he is lying. Under what circumstances? When he has found him outside of the boundary of a town. But if he found him in the boundary of the town, lo, this one brings him to the place of burial and buries him [in the normal cemetery].
11. **I:14:** A neglected corpse acquires for itself the place in which it is located for a space of four cubits, and that applies even to a field full of saffron. For it was with that stipulation that Joshua caused the Israelites to inherit the land.
12. **I:15:** [If in the situation of finding a neglected corpse,] there are a priest and a Levite, the Levite should become unclean [in dealing with the corpse].

[B] **[If]** THEY WERE GOING ALONG THE WAY AND FOUND A NEGLECTED CORPSE — **R. ELIEZER SAYS, "LET A HIGH PRIEST CONTRACT CORPSE UNCLEANNESS, BUT LET A NAZIR NOT CONTRACT CORPSE UNCLEANNESS."** AND SAGES SAY, **"LET A NAZIR CONTRACT CORPSE UNCLEANNESS, BUT LET A HIGH PRIEST NOT CONTRACT CORPSE UNCLEANNESS."** SAID TO THEM **R. ELIEZER, "LET A PRIEST CONTRACT CORPSE UNCLEANNESS, "FOR HE DOES NOT HAVE TO BRING AN OFFERING ON ACCOUNT OF HIS UNCLEANNESS. "BUT LET A NAZIR NOT CONTRACT CORPSE UNCLEANNESS," FOR HE DOES HAVE TO BRING AN OFFERING ON ACCOUNT OF HIS UNCLEANNESS. [G] THEY SAID TO HIM, "LET A NAZIR CONTRACT CORPSE UNCLEANNESS, FOR HIS SANCTIFICATION IS NOT A PERMANENT SANCTIFICATION, BUT LET A PRIEST NOT CONTRACT CORPSE UNCLEANNESS, FOR HIS SANCTIFICATION IS A PERMANENT SANCTIFICATION."**

1. **II:1:** [R. Eliezer says, "Let a high priest contract corpse uncleanness, but let a Nazir not contract corpse uncleanness." And sages say, "Let a

Nazir contract corpse uncleanness, but let a high priest not contract corpse uncleanness.” Responding to a version that has M. 7:1D-E’s dispute concern an ordinary priest, and not a high priest, we review as follows:] Sages concur with the view of R. Eliezer in the case of a high priest and a Nazir, that the Nazir should contract uncleanness, and the high priest should not contract uncleanness.

2. **II:2:** [As to M. 7:1G’s reason for sages’ view, that the Nazir is not permanently sanctified:] But what if his father sanctified him from the womb? Here too we have permanent, lifelong sanctification. That poses no argument, for this is a sanctification decreed by the Torah [for the high priest], while that is a sanctification not decreed by the Torah.

XLV. YERUSHALMI NAZIR 7:2

[A] ON ACCOUNT OF WHAT SORTS OF UNCLEANNESS DOES THE NAZIR CUT HIS HAIR [AND BRING AN OFFERING FOR HAVING BECOME UNCLEAN]? ON ACCOUNT OF A CORPSE, AND ON ACCOUNT OF AN OLIVE’S BULK OF FLESH FROM A CORPSE:

1. **I:1:** An old man asked R. Yohanan, “[If] an olive’s bulk of corpse matter imparts uncleanness, should not the whole of the corpse do so on the basis of an argument a fortiori? [Why then does M. 7:2B refer to the corpse]?”
2. **I:2:** It was taught: R. Simeon b. Yohai says, “On what account have they ruled that a dead creeping thing imparts uncleanness when it is the bulk of a lentil? It is because as to a creeping thing, the beginning of its formation as a whole creature is when it is the size of a lentil.”

[B] AND ON ACCOUNT OF AN OLIVE’S BULK OF CORPSE MATTER, AND ON ACCOUNT OF A LADLEFUL OF CORPSE MOULD;

1. **II:1:** [And an olive’s bulk of corpse matter:] What is the corpse matter? It is the flesh of a corpse that has coagulated, or liquid excretion from a corpse that has congealed.
2. **II:2:** We have learned: R. Yosé says, “The flesh of a corpse that is dry and cannot be soaked in order to be restored to its former bulk is clean” [M. Nid. 7:1I]. [M. Nid. 7:1A-B maintain that the blood of a menstruating woman and the flesh of a corpse impart uncleanness when they are wet or dry. Yosé does not concur. Dry corpse matter does not impart uncleanness.]

3. **II:3:** “The spoonful of mould of which they have spoken includes the joints of his fingers ant upward,” the words of R. Meir. And sages say, “It refers to his handfuls” [T. Ah. 2:2].
4. **II:4:** What is the sort of corpse that produces corpse mould [taken into account in the law at M. 7:2B]? It is that one which is buried naked in a stone sarcophagus on a marble floor or table. But that which is buried in its shroud and in a wooden coffin on dirt does not produce corpse mould. This then is dirt of graves, and [to produce uncleanness] one needs a ladleful and a bit more [T. Ah. 2:3A-D].
5. **II:5:** If the leg of the corpse is cut off from the thigh and upward, the corpse as a whole will not produce sufficient mould to produce uncleanness. If it is cut off from the thigh and below, [the corpse] will produce mould.
6. **II:6:** As to abortions, what is the law about their producing mould?

[C] ON ACCOUNT OF THE BACKBONE, AND ON ACCOUNT OF THE SKULL, AND ON ACCOUNT OF A LIMB OF A CORPSE, AND ON ACCOUNT OF A LIMB CUT FROM A LIVING HUMAN BEING ON WHICH IS STILL PROPER FLESH:

1. **III:1:** [As to M. 7:2C,] said R. Simeon b. Eleazar, “They have followed the theory of R. Simeon, for it has been taught: “A backbone or a skull, even though [the former] has been broken, even though they have been crushed, are unclean, because the grave joins it together [T. Ah. 2:5A, B] on the count of their forming the corpse of a man in a tent. [If then they are not broken up, they impart uncleanness by reason of overshadowing even when they are not joined together in a grave, just as M. 7:2C maintains.]”

[D] AND ON ACCOUNT OF A HALF-QAB OF BONES, AND ON ACCOUNT OF A HALF-LOG OF BLOOD — ON ACCOUNT OF TOUCHING THEM, AND ON ACCOUNT OF CARRYING THEM, AND ON ACCOUNT OF OVERSHADOWING THEM; AND ON ACCOUNT OF A BONE THE BULK OF A BARLEY SEED — ON ACCOUNT OF TOUCHING IT AND ON ACCOUNT OF CARRYING IT. ON ACCOUNT OF THESE, THE NAZIR CUTS HIS HAIR AND IS SPRINKLED ON THE THIRD AND SEVENTH DAY [AFTER CONTAMINATION]. AND HE LOSES THE DAYS THAT HE HAS ALREADY OBSERVED. AND HE BEGINS TO COUNT [CLEAN DAYS] ONLY AFTER HE IS MADE CLEAN AND BRINGS HIS OFFERINGS.

1. **IV:1:** The Mishnah [at M. 7:2D, referring to a half qab] follows the view of R. Eleazar b. Azariah, for it has been taught [in the Tosefta’s version]: R. Eliezer says, “At the outset, the elders were divided. “Some of them say, ‘A quarter log of blood and a quarter qab of

bones,' and some of them say, 'A half qab of bones and a half log of blood' [impart corpse uncleanness in a tent]. "The court that followed them ruled, 'A quarter log of blood and a quarter qab of bones [require burning] heave offering and Holy Things [made unclean on their account]. "'A half qab of bones and a half log of blood [are sufficient as regards rendering unclean] the Nazir and the sanctuary'" [T. Naz. 5:1].

XLVI. YERUSHALMI NAZIR 7:3

- [A] BUT AS TO [UNCLEANNESSE CONTRACTED BY OVERSHADOWING] INTERLACED FOLIAGE, PROJECTING STONES, A GRAVE AREA, FOREIGN LAND, THE SEALING STONE AND THE BUTTRESSING STONE [OF A GRAVE], A QUARTER LOG OF BLOOD, AND A TENT, AND A QUARTER QAB OF BONES, AND UTENSILS THAT TOUCH A CORPSE, AND BECAUSE OF THE DAYS OF COUNTING [AFTER PRODUCING A SYMPTOM OF SARAAT (LEV. 14:8)] AND THE DAYS DURING WHICH HE IS CERTIFIED [UNCLEAN WITH SARAAT] — ON ACCOUNT OF THESE, THE NAZIR DOES NOT CUT HIS HAIR OR SPRINKLE HIMSELF ON THE THIRD AND SEVENTH DAYS AND HE DOES NOT LOSE THE PRIOR DAYS [OBSERVED M CLEANNESSE]. AND HE BEGINS TO COUNT FORTHWITH [AFTER IMMERSION AND SUNSET]. AND HE IS NOT SUBJECT TO BRINGING AN OFFERING.
1. **I:1:** [Since M. 7:2C has referred to a limb cut from a living human being on which is still proper flesh, while M. 7:3 omits reference to such a limb lacking proper flesh, we now ask] what is the law covering [a limb cut from a living person that has a moderate but insufficient amount of flesh]? [This is that middle case, hence: intermediate.] R. Yohanan said, "As to a Nazir who had contact with] such an intermediate [case], the rule is to impose the lenient law [and hence no uncleanness is incurred]." R. Simeon, b. Laqish said, "The rule is to impose the stringent law, [and the Nazir is unclean with corpse uncleanness]."
 2. **I:2:** [As to the uncleanness contracted by being overshadowed by] interlaced foliage or projecting stones [that are overshadowing a grave, M. 7:3A,] said R. Yohanan, "The uncleanness conveyed through interlaced foliage or projecting stones is an uncleanness on the authority of the law of the Torah so far as food in the status of heave offering is concerned, yet a Nazir does not cut his hair [as having been unclean in that circumstance]."
 3. **I:3:** [As regards M. 7:3A,] said R. Yohanan, "The interlaced branches of two neighboring trees that form an area of four cubits by four cubits

[and that overshadow both a bit of corpse matter and also a Nazir] – the Nazir does have to cut his hair on that account, [for these form a tent for all intents and purposes].” R. Yosé said R. Yohanan [maintained], “If his hand is on one side, and his other hand is on the interlaced branches, [that is, if the corpse matter is underneath the interlaced branches, and the Nazir is standing outside, so that only his hand is above the branches,] the Nazir does not have to cut his hair on that account [since we have ample protection against the transmission of the corpse matter, afforded by the interlaced branches].”

[B] TRULY DID THEY RULE: THE DAYS [OF UNCLEANNESS] BY REASON OF BEING A ZAB OR ZABAH (LEV. 15:2, 25, 28), AND THE DAYS OF BEING SHUT UP AS MESORA (LEV. 13:4-10, THESE [NONETHELESS] GO TO HIS CREDIT [IN COUNTING OUT HIS NAZIR DAYS].

1. **II:1:** [As to the use, at M. 7:3G, of “truly,” this is in line with that which R. Eliezer has said, “In any place in which we repeat the term, ‘truly,’ we deal with a law revealed to Moses at Sinai.”
2. **II:2:** [As to the reason behind M. 7:3G,] “But the former time shall be void, because his separation was defiled” (Num. 6:12) on the basis of that statement, we learn that the unclean days are lost. “And it will be void” – you have a voiding of days already observed only with regard to the days of corpse uncleanness alone.

XLVII. YERUSHALMI NAZIR 7:4

[A] SAID R. ELEAZAR IN THE NAME OF R. JOSHUA, “FOR EVERY FORM OF CORPSE UNCLEANNESS ON ACCOUNT OF WHICH A NAZIR CUTS HIS HAIR ARE PEOPLE LIABLE ON ACCOUNT OF ENTERING THE SANCTUARY. “AND FOR EVERY FORM OF CORPSE UNCLEANNESS ON ACCOUNT OF WHICH A NAZIR DOES NOT CUT HIS HAIR, PEOPLE ARE NOT LIABLE ON ACCOUNT OF COMING INTO THE SANCTUARY.” SAID R. MEIR, “LET THIS MATTER NOT BE LESS STRINGENT [THAN WHEN UNCLEANNESS IS CONTRACTED] FROM A DEAD CREEPING THING.” SAID R. AQIBA, “REASONED BEFORE R. ELIEZER AS FOLLOWS: “NOW IF ON ACCOUNT OF A BONE THE BULK OF A BARLEY KERNEL, WHICH DOES NOT IMPART UNCLEANNESS TO A MAN IN A TENT, A NAZIR NONETHELESS CUTS HIS HAIR FOR TOUCHING OR CARRYING IT [M. 7:2F] ““A QUARTER-LOG OF BLOOD, WHICH DOES IMPART UNCLEANNESS TO MAN IN A TENT – ““IS IT NOT LOGICAL THAT A NAZIR SHOULD CUT OFF HIS HAIR FOR HAVING TOUCHED OR CARRIED IT?”” “HE SAID TO ME, ‘NOW WHAT’S GOING ON, AQIBA! IN THIS AREA OF LAW, PEOPLE DON’T ADDUCE ARGUMENTS A FORTIORI AT ALL!’ “BUT WHEN I CAME AND LAID MATTERS OUT BEFORE R. JOSHUA, HE SAID TO ME,

‘YOU STATED MATTERS VERY WELL. BUT THUS HAVE THEY RULED THAT THE LAW SHOULD BE.’”

- 1.** **I:1:** There [at M. Oh. 1:1-2] we have learned: Two are unclean through a corpse. One is unclean with the uncleanness of seven [days], and one is unclean with the uncleanness [that passes at] evening. Three are unclean through a corpse. Two are unclean with the uncleanness of seven [days], and one is unclean with the uncleanness [that passes at] evening. Four are unclean through a corpse. Three are unclean with the uncleanness of seven [days], and one is unclean with the uncleanness [that passes at] evening. How so [for] two? A man who touches the corpse is unclean with the uncleanness of seven [days], and a man who touches him is unclean with the uncleanness [that passes at] evening. Utensils that touch the corpse and utensils [that touch other] utensils are unclean with the uncleanness of seven [days]. The third, whether man or utensils, is unclean with the uncleanness [that passes at] evening. How so [for] four? Utensils that touch the corpse, and a man [who touches] utensils, and utensils [that touch] the man are unclean with the uncleanness of seven [days]. The fourth, whether man or utensils, is unclean with the uncleanness that passes in the evening [M. Oh. 1:1-2]. [If a human being touches a corpse, which is a father of fathers of uncleanness, he becomes a father of uncleanness. What the human being then touches becomes an offspring of uncleanness. A father of uncleanness is unclean for seven days, and offspring until the sunset. Utensils that touch a corpse, however, are made into a father of fathers of uncleanness, like the corpse itself. What they touch then becomes a father of uncleanness, and what touches that which it touches becomes an offspring.]

XLVIII. YERUSHALMI NAZIR 8:1

- [A] TWO NAZIRS, TO WHOM SOMEONE SAID, “I SAW ONE OF YOU MADE UNCLEAN, BUT I DON’T KNOW WHICH ONE OF YOU IT WAS” – [THEY CUT THEIR HAIR]**
- 1.** **I:1:** Now [as to the testimony of M. 8:1A,] it is not the end of the matter that one has said to them, “I saw one of you made unclean, but I don’t know which one of you it was” [M. 8:1A]. But even if someone said to them, “I saw one of you take a vow as a Nazir, but I do not know which one of you it was” – both of them have to observe the vow of the Naziriteship on account of his testimony. That is so when they do not contradict his statement. But if they reject what he has said, it is not in such a case [that the two of them have to observe the vow].

[B] AND BRING AN OFFERING [OWED BY A NAZIRITE] BECAUSE OF UNCLEANNESS AND AN OFFERING BECAUSE OF CLEANNESS. AND EACH ONE OF THEM SAYS, “IF IT WAS I WHO WAS UNCLEAN, THE OFFERING BECAUSE OF UNCLEANNESS IS MINE, AND THE OFFERING BECAUSE OF CLEANNESS IS YOURS. AND IF IT WAS I WHO WAS THE CLEAN ONE, THEN THE OFFERING OF CLEANNESS IS MINE, AND THE OFFERING OF UNCLEANNESS IS YOURS.” THEN THEY COUNT OUT THIRTY DAYS AND BRING AN OFFERING BECAUSE OF CLEANNESS. AND EACH ONE OF THEM SAYS, “IF IT WAS I WHO WAS UNCLEAN, THE OFFERING BECAUSE OF UNCLEANNESS WAS MINE AND THE OFFERING OF CLEANNESS WAS YOURS, AND THIS OFFERING IS NOW BECAUSE OF MY BEING CLEAN. BUT IF IT WAS I WHO WAS THE CLEAN ONE, THE OFFERING BECAUSE OF UNCLEANNESS WAS MINE, AND THE OFFERING BECAUSE OF CLEANNESS WAS YOURS, AND THIS OFFERING NOW IS BECAUSE OF YOUR BEING CLEAN.”

- 1.** **II:1:** And bring an offering because of uncleanness and an offering because of cleanness [M. 8:1B], [that is, at the end of the spell as a Nazir, as is now spelled out:] That is to say, one does so at the end of the thirty days. But if he is yet in the midst of the thirty days, they wait until the end of the thirty days. [This rule applies, further,] in a case in which this one was a Nazir for thirty days, and that one was a Nazir for thirty days. But if this one was a Nazir for thirty days, and that one was a Nazir for one-hundred days, they wait for the latter to complete the hundred days.

[C] IF ONE OF THEM DIED — SAID R. JOSHUA, “LET [THE SURVIVOR] SEEK OUT SOMEONE FROM THE MARKET TO TAKE A VOW AS A NAZIR AS HIS COUNTERPART, AND LET HIM SAY, ‘IF I WAS UNCLEAN, LO, YOU ARE A NAZIR FORTHWITH. AND IF I WAS CLEAN, LO, YOU WILL BE A NAZIR AFTER THIRTY DAYS.’ THEN THEY COUNT THIRTY DAYS AND BRING AN OFFERING BECAUSE OF UNCLEANNESS AND AN OFFERING BECAUSE OF CLEANNESS. “AND HE SAYS, ‘IF I WAS THE ONE WHO WAS UNCLEAN, THE OFFERING BECAUSE OF UNCLEANNESS IS MINE, AND THE OFFERING BECAUSE OF CLEANNESS IS YOURS, AND IF I WAS THE CLEAN ONE, THEN THE OFFERING BECAUSE OF CLEANNESS IS MINE, AND THE OFFERING BECAUSE OF UNCLEANNESS IS SUBJECT TO DOUBT.’ “AND THEY COUNT OUT ANOTHER THIRTY DAYS AND BRING AN OFFERING BECAUSE OF CLEANNESS. “AND HE SAYS, ‘IF I WAS THE ONE WHO WAS UNCLEAN, THEN THE OFFERING BECAUSE OF UNCLEANNESS WAS MINE, AND THE OFFERING BECAUSE OF CLEANNESS WAS YOURS, AND THIS IS THE OFFERING BECAUSE OF MY BEING CLEAN. AND IF I WAS THE ONE WHO WAS CLEAN, THEN THE OFFERING BECAUSE OF CLEANNESS WAS MINE, AND THE OFFERING BECAUSE OF UNCLEANNESS IS SUBJECT TO DOUBT. AND THIS IS THE OFFERING BECAUSE OF YOUR BEING CLEAN. “ SAID TO HIM BEN ZOMA, “BUT WHO IN THE WORLD WOULD AGREE TO TAKE A VOW AS A NAZIR TO SERVE AS HIS COUNTERPART? “BUT HE [ALONE, THE SURVIVING NAZIR,] OFFERS A SIN OFFERING OF FOWL

AND A BURNT OFFERING OF CATTLE AND SAYS, ‘NOW IF I WAS THE UNCLEAN ONE, THE SIN OFFERING IS OFFERED IN FULFILLMENT OF MY OBLIGATION, AND THE BURNT OFFERING IS A FREE-WILL OFFERING. BUT IF I WAS THE CLEAN ONE, THEN THE BURNT OFFERING IS IN FULFILLMENT OF MY OBLIGATION, AND THE SIN OFFERING IS SUBJECT TO DOUBT.’ “HE COUNTS OUT THIRTY DAYS [MORE AS A NAZIR] AND BRINGS AN OFFERING BECAUSE OF CLEANNESS AND HE SAYS, ‘IF I WAS THE UNCLEAN ONE, THE FIRST BURNT OFFERING WAS A FREE-WILL OFFERING, AND THIS ONE IS IN FULFILLMENT OF AN OBLIGATION. BUT IF I WAS THE CLEAN ONE, THE FIRST BURNT OFFERING WAS IN FULFILLMENT OF AN OBLIGATION, AND THIS ONE IS A FREE-WILL OFFERING. “AND THESE ARE THE REST OF THE OFFERING [THAT I OWE].”’

1. **III:1:** [With reference to the case of M. 8: IF-J, one is called from the marketplace to help complete the Nazirite vow of the surviving man,] if the surviving Nazir drank wine during the first spell of thirty days, he is flogged [because he either was unclean and therefore is now observing his thirty-day spell in cleanness, or he was clean but has not yet brought his offerings. If he did so during the second spell of thirty days, he is not flogged [because it is a matter of doubt whether he had been unclean or clean]. [He has now counted thirty days and brought an offering. This can be for an offering for cleanness, so he would now be free to drink wine. By reason of this doubt, he is relieved of the punishment of flogging.]

[D] SAID R. JOSHUA, “THIS ONE TURNS OUT TO BRING HIS OFFERINGS IN BITS AND PIECES.” BUT SAGES CONCURRED WITH THE OPINION OF BEN ZOMA.

1. **IV:1:** And let him bring his offerings in bits and pieces! [What difference does it make?] This answer was so as not to prevent some sort of reply from coming from the meeting place [of sages]. [That is, Joshua wanted to sharpen the wits of the disciples.]

[E] DOUBTS AFFECTING THE CONDITION AS TO CLEANNESS OF THE NAZIRITE:
SPECIAL CASES

2. **IV:2:** A Nazir who is subject to doubt about his having become unclean in private domain, [in which case, he is deemed to be unclean] [delete: and so is not (able to bring) the Passover] – R. Hoshaiyah the Great said, “The Nazir must cut his hair [even though the uncleanness is merely by reason of a doubt].” R. Yohanan said, “The Nazir does not cut his hair.”
3. **IV:3:** R. Yohanan said in the name of R. Benaiah, “As to an uncircumcised Israelite, they sprinkle [purification water] on him, for so we find that our forefathers accepted upon themselves in the

wilderness the rite of sprinkling uncircumcised males. [That is, the purification rite in consequence of corpse uncleanness, preparatory to Passover, is carried out even for Israelites who are uncircumcised.]”

XLIX. YERUSHALMI NAZIR 8:2

[A] A NAZIR WHO WAS SUBJECT TO DOUBT AS TO BEING MADE UNCLEAN [ON THE DAY HE TOOK THE VOW] AND SUBJECT TO DOUBT AS TO BEING A CONFIRMED [VICTIM OF SARA’AT] EATS HOLY THINGS AFTER SIXTY DAYS [TWO NAZIRITE PERIODS]. AND HE DRINKS WINE AND CONTRACTS CORPSE UNCLEANNESS AFTER A HUNDRED-AND-TWENTY DAYS [FOUR NAZIRITE PERIODS]. FOR CUTTING OF THE HAIR IN THE CASE OF A NEGA [SARA’AT] OVERRIDES [THE PROHIBITION AGAINST] CUTTING THE HAIR OF THE NAZIR [ONLY] WHEN [THE [SARA’AT] IS CERTAIN. BUT IN A CASE WHEN IT IS SUBJECT TO DOUBT, IT DOES NOT OVERRIDE [THE OTHER].

1. **I:1:** What is a case in which one is subject to doubt as to being confirmed a victim of sara’at [M. 8:2A]?
2. **I:2:** The Mishnah is in line with that which R. Hiyya has taught: [If] it is a matter of doubt whether a Nazir was unclean or clean, but it is certain that he was a Nazir, [if] it is a matter of doubt whether a mesora was unclean or clean, but it is certain that he was a mesora [= M. 8:2A], he eats Holy Things after sixty days. He drinks wine and contracts corpse uncleanness after one hundred and twenty days [M. 8:2A-C].
3. **I:3:** Said R. Yohanan, “[The view that a Nazir who was subject to doubt as to being a confirmed victim of sara’at does not have to bring a guilt offering but only a sin offering of fowl along with a burnt offering in the form of a beast] is the opinion of Ben Zoma. But so far as sages are concerned, he remains subject to confirmation [as a victim of *sara at*] until he waves his guilt offering [and the log of oil that goes with it]. [The guilt offering is essential to the process.]”
4. **I:4:** If one was in doubt as to being unclean but certainly shut up as a mesora, he eats Holy Things after eight days. He drinks wine and contracts corpse uncleanness after sixty seven days. If he was certainly unclean but subject to doubt as to whether he was a mesora, he eats Holy Things after thirty-seven days, he drinks wine and contracts corpse uncleanness after seventy-four days. If he was unclean of a certainty and determined to be a mesora of a certainty, he eats Holy

Things after eight days. And he drinks wine and contracts corpse uncleanness after forty-four days [T. Naz. 6:1AAA-HHH].

L. YERUSHALMI NAZIR 9:1

- [A] **GENTILES ARE NOT SUBJECT TO THE NAZIRITE VOW. WOMEN AND SLAVES ARE SUBJECT TO THE NAZIRITE VOW. A MORE STRICT RULE APPLIES TO WOMEN THAN TO SLAVES. FOR A MASTER FORCES HIS SLAVE [TO BE SUBJECT TO A NAZIRITE VOW], 1.I:1:** [“And the Lord said to Moses, ‘Say to the] people of Israel, When either a man or a woman makes a special vow...” (Num. 6:1-2). Israelites take a Nazirite vow, and gentiles do not take a Nazirite vow. This is in line with that which you say, “[When] any one [of the house of Israel or of the sojourners in Israel presents his offering, whether in payment of a vow or as a free-will offering...”] (Lev. 22:18). Why does Scripture say, “Any one”? It is to encompass gentiles, who take vows and present free-will offerings like Israelites.
2. **I:2:** There we have learned: As to a gentile – R. Meir says, “He is subject to the pledge of valuation by others, but he does not pledge the valuation of others.” R. Judah says, “He pledges the valuation of others but is not subject to the pledge of valuation by others.” And this one and that one agree that they vow and are subject to the vow of payment of worth [M. Ar. 1:2]. [Asking whether the same dispute pertains to the matter of the vow as a Nazir,] R. Jeremiah raised the question: “He who says there that he pledges the valuation of another here will maintain that he takes the vow as a Nazir. He who says that he is subject to the pledge of valuation by another here will maintain that he is subject to a pledge as a Nazir imposed by another.”
3. **I:3:** As to vows, an Israelite is subject to the commandment of not breaking one’s word [Num. 30:2], and a pagan is not subject to the commandment of not breaking one’s word. Said R. Jonah, “An Israelite enjoys the possibility of a sage’s releasing his vow, and a pagan does not enjoy that possibility.” Said R. Yosé, “An Israelite may require release of his vow by a sage [in order to be rid of it], while a pagan does not require the release of his vow by a sage. [His vow is null in any event.]”
- [B] **BUT A HUSBAND DOES NOT FORCE HIS WIFE [TO BE SUBJECT TO A NAZIRITE VOW]. A MORE STRICT RULE APPLIES TO SLAVES THAN TO WOMEN. FOR THE HUSBAND HAS THE RIGHT TO ANNUL THE VOWS OF HIS WIFE:**

- 1. II:1:** And let him force her? Did not R. Huna say, “[If he said], ‘Benefit from me is prohibited to you,’ [without even abrogating the vow,] he forces her and has sexual relations with her. [If she said,] ‘Benefit from you is forbidden to me,’ lo, this husband should abrogate the vow his wife has taken. [In the former case, he does not even have to abrogate the vow, because she owes him sexual relations.]”

[C] BUT HE DOES NOT [PERMANENTLY] ANNUL THE VOWS OF HIS SLAVES. IF HE ANNULLED [THE VOW] OF HIS WIFE, IT IS ANNULLED FOR ALL TIME. [IF] HE ANNULLED [THE VOW] OF HIS SLAVE:

- 1. III:1:** [For a master forces his slave [to be subject to a Nazirite vow], but a husband does not force his wife [to be subject to a Nazirite vow:] And he should not force his slave to be subject to a Nazirite vow [vs. M. 9:1D].
- 2. III:2:** If a slave [who has taken the vow of a Nazir and whose master objects to the vow] has the power to oppose his master’s word [and to keep the vow, a sage] says to him, “It is the law that you must listen to the instructions of your master.” If [in the case of a slave who has taken a Nazirite vow], the master forces him to contract corpse uncleanness, what is the law as to his having to bring the requisite offerings? [Do we maintain that the vow, observed up to that point, is valid?]

[D] [IF] THE SLAVE WENT FORTH TO FREEDOM, HE HAS TO COMPLETE HIS NAZIRITE VOW. [IF] HE ESCAPED FROM HIS MASTER – R. MEIR SAYS, “HE MAY NOT DRINK WINE.” AND R. YOSÉ SAYS, “HE MAY DRINK WINE.

- 1. IV:1:** It is obvious [in line with M. 9: IH-J] that if he was made unclean and afterward went forth to freedom, he brings an offering on account of the uncleanness [when he is able to do so, later on]. What is the law as to a case in which his master forced him to contract corpse uncleanness or when his master did not force him to do so? [That is to say, does he bring an offering later on only when his master did not force him to contract corpse uncleanness, or also in a case in which his master did force him?]
- 2. IV:2:** Said R. Yosé, “A slave who said, ‘Lo, I shall be a Nazir when I go forth to freedom’ – one forces him to observe the Nazirite vow [by freeing him and then requiring him to keep his word.]” As to a slave, one forces him to keep the Nazirite vow, but one does not force him to keep vows or oaths [vis-a-vis M. 9:1D].

3. **IV:3:** If his master forced him to violate one aspect of the Nazirite vow, what is the law as to his forcing him to violate all of the matters of the vow?

LI. YERUSHALMI NAZIR 9:2

[A] A NAZIR WHO CUT HIS HAIR AND THEN [BEFORE HE BROUGHT HIS OFFERINGS] LEARNED THAT HE HAD BEEN UNCLEAN — IF IT WAS A KNOWN UNCLEANNESS HE LOSES [ALL THE DAYS HE HAS COUNTED IN CLEANNESS]. BUT IF IT WAS AN UNCLEANNESS LOCATED IN THE NETHERMOST DEEP, HE DOES NOT LOSE THE DAYS HE ALREADY HAS COUNTED OUT. IF BEFORE HE HAD CUT HIS HAIR HE LEARNED THAT HE HAD BEEN MADE UNCLEAN, ONE WAY OR THE OTHER, HE LOSES THE DAYS HE ALREADY HAS OBSERVED. **How so?**

1. **I:1:** Said R. Yohanan, “Who is the authority who maintains, ‘If he had cut his hair...if he had not cut his hair’? [That is to say, the matter is determined by the cutting *of* the hair; rather than by tossing of the blood.] It is R. Eliezer. But as to sages, [the decisive point is] prior to the tossing of the blood in his behalf.”
2. **I:2:** [If the Nazir] had completed observing his vow as a Nazirite but did not suffice to cut off his hair before he was informed concerning his having been made unclean as a matter of doubt by reason of a grave in the nethermost deep, he loses the days he already has observed.] If, however, he had designated animals for his offerings, but had not then sufficed to cut off his hair before he was informed concerning his having been made unclean as a matter of doubt by reason of a grave in the nethermost deep, [how do rabbis deal with this case? Does the fact that he has designated the animals for his offerings constitute a decisive turning as against the mere doubt represented by the buried grave?]

[B] MISCELLANY ON THE GRAVE IN THE NETHERMOST DEPTHS

- a. **I:3:** How do we know that one in doubt concerning a grave in the nethermost deep [is deemed clean so far as preparing the Passover offering is concerned]?
- b. **I:4:** As to a community that is subjected to uncleanness by reason of doubt deriving from a grave in the nethermost depths — what is the law on the priest’s frontlet propitiating on account of the doubtful uncleanness? [That is, after the tossing of the blood, the community suffers the stated form of uncleanness. Does the

frontlet have the effect of securing propitiation, so that the community may eat the meat of the sacrifice?

- c. I:5: The officiating priest [who performs the service in slaughtering] the Passover offering – what is the law as to the priestly frontlet’s propitiating on his account [should he become unclean by reason of uncleanness in the nethermost depths]?

3. I:6: What is the definition of a grave in the nethermost depths?

4. I:7: What is a grave in the nethermost depths? It is a grave that no one remembers. and should one not take account of someone at the other side of the world [who knew about the corpse buried here]? We take it for granted that [if he knew that there was a corpse], he would have [buried him] while he was living [there].

[C] IF HE WENT DOWN TO IMMERSE IN A CAVE AND A BIT OF CORPSE MATTER TURNED OUT TO BE FLOATING AT THE MOUTH OF THE CAVE, HE IS UNCLEAN.

1. II:1: [If he went down to immerse in a cave and a bit of corpse matter turned out to be floating at the mouth of the cave, he is unclean:] R. Yosé b. R. Bun said, “Bar Piqah asked Rabbi, ‘To this point, we have dealt with a cave that is roofed over. [In that case we have a matter of doubt in private domain.] But [does the law of M. 9:2G apply] also to a cave that is not roofed over? [Is a stringent rule imposed here too?]’”

[D] [IF] IT WAS LOCATED IMBEDDED IN THE FLOOR OF THE CAVE – [IF] HE HAD GONE DOWN ONLY TO COOL HIMSELF IN THE WATER, HE IS DEEMED STILL CLEAN. [IF HE HAD GONE DOWN] TO CLEAN HIMSELF FROM CORPSE UNCLEANNESS, HE IS YET UNCLEAN. FOR THE UNCLEAN PERSON IS CONFIRMED IN THE PRESUMPTION OF BEING UNCLEAN, AND THE CLEAN ONE IS CONFIRMED IN THE PRESUMPTION OF BEING CLEAN. FOR THERE ARE GROUNDS FOR SUCH A DECISION [IN EITHER CASE].

1. III:1: [As to M. 9:2I: If corpse matter was located imbedded in the floor of the cave, and one went down to attain cleanness from corpse uncleanness, he is held to be unclean, and the question that follows assumes that he is unclean but does not cut his hair, since this would be a form of uncleanness on account of which a Nazir does not have to cut his hair.] Now does this not differ with R. Josiah’s position, because he has said that on account of uncleanness buried in the floor of a house, a Nazir has to cut his hair?

LII. YERUSHALMI NAZIR 9:3

[A] **HE WHO FINDS A CORPSE IN THE FIRST INSTANCE LYING IN USUAL FASHION REMOVES IT AND THE EARTH AFFECTED BY IT. [IF] HE FOUND TWO, HE REMOVES THEM AND THE EARTH SURROUNDING THEM. [IF] HE FOUND THREE, IF THERE ARE BETWEEN ONE AND THE OTHER FROM FOUR TO EIGHT AMAHS, LO, THIS IS DEEMED A GRAVEYARD. HE EXAMINES THE DIRT TWENTY AMAHS FROM IT:**

- 1. I:1:** What is the definition of a corpse lying in usual fashion?
- 2. I:2:** R. Isaac bar Gofeta raised the following question before R. Mana: “There you rule, He who removes a bone from the midst of his field gathers bone by bone, and it is clean [M. Oh. 16:5B2]. [There is no consideration of removing the dirt affected by the corpse.] And here you say this, [that one removes the dirt affected by the corpse as well as the corpse itself]?”
- 3. I:3:** How much is soil affected by a corpse in a grave?
- 4. I:4:** Said R. Hisda, “Does [M. 9:3A, which says that one may remove a corpse,] indicate that one may move a neglected corpse from its place? [This is contrary to the rule that a neglected corpse acquires possession of the place in which it was found.]”
- 5. I:5:** It comes out that one may say, There are three kinds of graves. A grave that is discovered – they empty it out. Once one has emptied it out, its place is clean, and it is prohibited for further benefit. A grave that inconveniences the public – they empty it out. Once one has emptied it out, its place is unclean, and it is prohibited for benefit. A grave that is known – they do not empty it out. If one has emptied it out, however, it is clean, and it is permitted for benefit [T. Ah. 16:9].
- 6. I:6:** There we have learned: [If a man sold to his fellow a plot of land in which to make a tomb,] he must make a courtyard at the opening of the vault, six cubits by six, sufficient area for the bier and its bearers [M. B.B. 6:8]. And here you say this, [that is, one examines the ground from four cubits to eight, that is, sufficient space for the bier and its bearers, rather than the six by six stated above]?
- 7. I:7:** A vineyard that was planted in rows less than four cubits apart – R. Simeon says, “It is not regarded as a vineyard.” And sages say, “It is regarded as a vineyard, and the middle rows are regarded as though

they were not present” [M. Kil. 5:2]. Simeon bar Ba in the name of R. Yohanan: “Just as Simeon and sages differ here, so they differ in regard to defining a graveyard. [If the graves are very close together, Simeon does not regard it as a graveyard [as at M. 9:3D-E]. Sages ignore the ones in the middle, as though they were not present, and regard it as a permanent graveyard.]”

[B] [If] HE FOUND A CORPSE AT THE END OF THE TWENTY AMAHS, HE EXAMINES THE DIRT ANOTHER TWENTY AMAHS FROM THAT CORPSE. FOR THERE ARE GROUNDS FOR SUCH A DECISION. BUT IF HE HAD FOUND IT AT THE OUTSET, HE WOULD HAVE REMOVED IT AND THE DIRT AFFECTED BY IT

- 1. II:1:** To what extent do they require a man to examine the dirt [M. 9:3F-G]?

LIII. YERUSHALMI NAZIR 9:4

[A] ANY MATTER OF DOUBT CONCERNING NEGAS AT THE OUTSET IS RULED AS CLEAN BEFORE A DECISION HAS BEEN MADE IN FAVOR OF UNCLEANNESS. [BUT IF] A DECISION HAS BEEN MADE IN FAVOR OF UNCLEANNESS, A MATTER OF DOUBT IN ITS REGARD IS DEEMED UNCLEAN [M. NEG. 5:41]. IN SEVEN WAYS DO THEY EXAMINE THE ZAB BEFORE HE HAS BEEN CONFIRMED TO BE SUBJECT TO ZIBAH: IN REGARD TO FOOD, DRINK, CARRYING THINGS, JUMPING UP AND DOWN, SICKNESS, SOMETHING HE HAD SEEN, AND SOMETHING IN HIS FANTASY. ONCE HE HAS BEEN CONFIRMED AS TO ZIBAH, THEY DO NOT EXAMINE HIM. ANY FLUX HE PRODUCES THROUGH CONSTRAINT, OR WHICH IS SUBJECT TO DOUBT, OR HIS SEMEN IS UNCLEAN. FOR THERE ARE GROUNDS FOR SUCH A DECISION.

- 1. I:1:** “He shall declare him unclean” (Lev. 13:3). That which is certainly unclean does he declare unclean. He does not declare unclean that which is subject to doubt. Under all circumstances, he remains subject to the uncleanness affecting him until it is clearly known that he has become clean: “Then the priest shall declare him clean” (Lev. 13:6). That which is certainly clean does he declare clean. He does not declare clean that which is subject to doubt.
- 2. I:2:** [As to a person who may or may not have suffered a flux in line with Lev. 15:1ff.:] Under all circumstances, he remains in the status of cleanness until it is clearly known that he has become unclean. It is written, “Also for her who is sick with her impurity; that is, for any one, male or female, who has a discharge” (Lev. 15:33) Just as a woman in her period is deemed unclean even when the period has commenced under constraint, so a man becomes unclean as a *zab* even

when the *flux* has commenced under constraint, [e.g., caused by something external to his own body] [M. 9:4E].

LIV. YERUSHALMI NAZIR 9:5

[A] **HE WHO HITS HIS FELLOW, WHETHER WITH A STONE OR WITH HIS FIST, AND THEY DIAGNOSED HIM AS LIKELY TO DIE, [BUR] HE GOT BETTER THAN HE WAS, AND AFTERWARD HE GOT WORSE AND DIED — HE IS LIABLE. R. NEHEMIAH SAYS, “HE IS EXEMPT.”**

1. **I:1:** Thus the Mishnah pericope [should read at M. 9:5F-G]: R. Nehemiah declares exempt, and sages declare liable, for there is a basis to the matter [of thinking that he did die from the original injury, since, after all, there was a diagnosis to that effect].
 - a. **I:2:** What is the Scriptural basis for R. Nehemiah’s opinion?
“[When men quarrel and one strikes the other with a stone or with his fist and the man does not die but keeps his bed,] then if the man rises again and walks abroad with his staff, he that struck him shall be clear” (Ex. 21:18-19). Now would it have entered your mind that this one should be walking about in the marketplace, while the other is put to death on his account? [Obviously not, and so the purpose of Scripture’s statement is as follows:] Even though the victim should die after he was originally examined and diagnosed as dying, the other party is exempt [should the man’s condition improve in the meantime]. What is the Scriptural basis for rabbis’ opinion? “And the man does not die but keeps his bed” – Now we do not know that “if he does not die but keeps his bed” – [why does Scripture specify both his not dying and also his going to bed?] It is to speak of a case in which they did not make prognosis that he would die. [That is, Scripture is to be interpreted to mean, ‘If he does not die,’ that is, they did not reach a prognosis that he would die, but that he would not die.] In this case, it is written, “Then if the man rises again and walks abroad with his staff, then the one who struck him shall be clear” (Ex. 21:19). [This then means that,] lo, if then he does not get up, the one who struck him is liable.
2. **I:3:** If one hit him on his hand, and it swelled up, and the physician said, “If I cut off his hand, he will live,” what is the law as to his having to pay compensation for the cost of the hand? [Is he liable, for having hit him, or exempt, for not having intended to injure the hand?]

L.V. YERUSHALMI NAZIR 9:6

[A] “SAMUEL WAS A NAZIR,” ACCORDING TO THE WORDS OF R. NEHORAI, “SINCE IT IS SAID, ‘AND NO RAZOR [MORAH] SHALL COME UPON HIS HEAD’ (1 SAM. 1:11). “SINCE IN REGARD TO SAMSON, IT IS SAID, ‘[AND NO] RAZOR [SHALL COME UPON HIS HEAD]’ (JUDG. 13:5), AND CONCERNING SAMUEL IT IS SAID, ‘AND NO RAZOR...,’ JUST AS THE REFERENCE TO ‘RAZOR’ IN THE CASE OF SAMSON MEANS THAT HE WAS A NAZIR, SO THE REFERENCE TO A ‘RAZOR’ IN THE CASE OF SAMUEL MEANS THAT HE WAS A NAZIR.” SAID R. YOSÉ, “BUT IS NOT THE WORD MORAH SAID ONLY WITH REGARD TO FEAR (MORAH) OF A HUMAN BEING?” SAID TO HIM R. NEHORAI, “BUT HAS IT NOT ALREADY BEEN SAID, AND SAMUEL SAID, ‘HOW CAN I GO? IF SAUL HEARS IT, HE WILL KILL ME’ (1 SAM. 16:2). “FOR HE WAS SUBJECT TO THE MORAH OF FLESH AND BLOOD.”

1. I:1: Said R. Yannai, “It is written, ‘And as for all the hills that used to be hoed with a hoe, you will not come there for fear of briars and thorns’ (Is. 7:25). Just as the seed is afraid of the iron tool [hoe], so the hair is afraid of the iron tool [comb]. [That is, the reference to ‘fear’ in Scripture with reference to the razor supports the view of Nehorai.]”

TRACTATE

SOTAH

The injustice done by the husband's whim to the innocent wife who is required to undergo the humiliating ordeal of the bitter water (Num 5:1–31) serves as the halakhah's occasion to make its definitive statement that God's justice is perfect. The wicked get their exact punishment; the righteous, their precise reward. For the sages that statement becomes possible only here, for in their view it is not enough to show that sin or crime provokes divine response, that God penalizes evil-doers. Justice in the here and now counts only when the righteous also receive what is coming to them. Scripture's casual remark that the woman found innocent will bear more children provokes elaborate demonstration from the established facts of history that Scripture supplies, that both righteous and wicked are subject to God's flawless and exact justice.

The penalty must fit the crime; measure must match measure. The more exact the result to the cause, the more compelling is the proof of immediate and concrete justice as the building block of world order that sages would put forth out of Scripture. That is the point at which justice is transformed from a vague generality—a mere sentiment—to a precise and measurable dimension of the actual social order of morality. It is demonstrated by how things hold together when subject to tension, at the pressure-points of structure, and not merely how they are arrayed in general. Here, in fact, is how God made the world and what is good about the creation that God pronounced good. To make that point, sages select a rite that reeks of injustice—the case of the wife accused of adultery and the ordeal to which she is subjected. Their presentation of the rite, in the setting of home and family, is framed so as to demonstrate God's perfect justice—not only in the public life of Israel's social order, but in the here and now of home and family. It is hard to find a less likely candidate for service in demonstrating that proposition than the subject before us. But, for reasons that are now clear, sages identified the topic as the ideal occasion for saying just that.

The ordeal imposed on the woman accused of unfaithfulness, spelled out in the Written Torah, elicits from the sages of the Oral Torah no searching inquiry. The halakhah of the Mishnah narrates the rite, and the Tosefta and two Talmuds fill in some minor details. The tractate expands to cover other rites conducted in Hebrew or in other languages as well.

I. Invoking the ordeal

II. Narrative of the ordeal

III. Rules of the ordeal

A. Exemptions and applicability

B. Testimony and exemptions from the ordeal

IV. Rites conducted in Hebrew

A. A catalogue

B. The anointed for battle and the draft-exemptions

C. The rite of the heifer sacrifice for the neglected corpse

YERUSHALMI SOTAH

CHAPTER ONE

1:1

- [A] **He who expresses jealousy to his wife [concerning her relations with another man (Num. 5:14)] –**
- [B] **R. Eliezer says, “He expresses jealousy before two witnesses, and he imposes on her the requirement of drinking the bitter water on the testimony of a single witness or even on his own evidence [that she has been alone with the named man].”**
- [C] **R. Joshua says, “He expresses jealousy before two witnesses, and he requires her to drink the bitter water before two witnesses.”**
- [I:1 A] It is written, “If the spirit of jealousy comes upon him, and he is jealous of his wife who has defiled herself” (Num. 5:14).
- [B] [The meaning is] that he should not express a spirit of jealousy toward her in a moment of levity or in the midst of idle chatter, or in a setting of lightheadedness or harsh argument, but in a spirit of patience [reversing the order of the penultimate and ultimate items].
- [C] If he transgressed and expressed his jealousy to her in one of these ways, what is the law?
- [D] Have these matters been expressed [merely] as a matter of what is religious duty, [or does the violation of these conditions constitute] an invalidating fact [so that the act of jealousy has not been properly carried out]? If you say that [they have been listed merely] as a matter of what is religious duty, then his act of declaring jealousy is valid. If you say [that violation of these conditions constitutes an invalidating fact, then the declaring jealousy has not been properly carried out.
- [E] The answer is as follows: At any point [in the cited passage (Num. 5:13)] in which the language “ordinance” [or] “Torah” is used, [then what is specified is essential to the performance of the rite, with the result that failure to carry out the law as specified] constitutes an invalidating fact.

- [I:2 A] R. Joshua said in the name of R. Eliezer, “It is a firm obligation [for a husband to express his jealousy to the wife, should occasion warrant it. [He has no choice.]”
- [B] R. Joshua said, “It is a matter of choice.”
- [C] *Said R. Eleazar b. R. Yosé before R. Yosa, “The opinion of R. Eliezer [that it is a firm obligation] accords with the position of the House of Shammai [which is cited presently]. And the opinion of R. Joshua accords with the position of the House of Hillel.”*
- [D] *That the opinion of R. Eliezer accords with the position of the House of Shammai is in the following context:*
- [E] The House of Shammai say, “A man should divorce his wife only if he discovered in her a matter of adultery.”
- [F] If then he discovered in her ugly things, as to divorcing her, he has no right, for he has not found in her a matter of adultery.
- [G] But to keep her as his wife, he has no right, for, [after all], he did discover ugly things about her.
- [H] On that account, [Eliezer] says, “It is an obligation [to go through with the rite of finding out whether or not the wife has committed adultery, since he has no alternative].”
- [I] *For lo, it has been taught on the authority of the House of Shammai, “I know [as grounds for divorce] only the case of the woman who goes forth [from marriage] by reason of having committed adultery. How do I know [the law pertaining to] her who goes forth [in public] with her hair disheveled, her clothing in shambles [so that her skin shows], and her arms uncovered? Scripture says, ‘... because he has found some indecency in her’” (Deut. 24:1). [The term “some” is understood to encompass the offenses listed.]*
- [J] *[A further point:] R. Mana said, “[The husband has the right to divorce the wife on account of ugly matters, short of proof of adultery, only] it is when the matter is confirmed through witnesses.*
- [K] “But in the present context [the husband has the right to administer the rite] without witnesses [confirming what she has done].”
- [L] *And the opinion of R. Joshua accords with the position of the House of Hillel.*

[M] For the House of Hillel say, “[Appropriate grounds for divorce include] even a case in which she burned his soup.”

[N] On that account, [Joshua] says, “It is a matter of choice [and not an obligation, to impose the rite of the bitter water.]”

[O] If he wants to express jealousy, he expresses jealousy. If he wants to divorce her, he divorces her.

[II:1 A] **[R. Eliezer says, “He expresses jealousy before two witnesses, and he imposes on her the requirement of drinking the bitter water on the testimony of a single witness or even on his own evidence that she has been alone with the named man:”]** *And what is the Scriptural basis for the position of R. Eliezer [at M. 1:1B]?*

[B] “For he has found a matter of indecency in her” (Deut. 24:1).

[C] “Indecency” refers to her going in secret with another man.

[D] “Matter” refers to the rite of expressing jealousy.

[E] [As to the word “matter”:] Matter [is stated here, and] matter [is stated later on; “On the evidence of two witnesses shall a matter be sustained” (Deut. 19:15)].

[F] Just as, in that other context, two witnesses are required, so, in the present matter, two witnesses are required.

[G] **...and he imposes on her the requirement of drinking the bitter water on the testimony of a single witness or even on his own evidence that she has been alone with the named man:**

[H] “If she acts unfaithfully against him” (Num. 5:12) [this is confirmed, even if there are no further witnesses], in accord with the stipulations which [the husband] made with her in the presence of others. [That is, if in the presence of others he has made certain stipulations, then his own evidence suffices that these known stipulations have been violated.]

[II:2 A] *It was taught:* **R. Yosé b. R. Judah says in the name of R. Eliezer, “He expresses jealousy on the testimony of a single witness or even on his own evidence.**

[B] **“And he imposes the requirement of drinking the bitter water on the testimony of two witnesses [that she has been alone with the named man] vs. M. 1:1B] [T. Sot. 1:1].**

[C] [Yosé continues:] “Here it is stated, ‘For he has found a matter of indecency in her’ –

[D] “and ‘finding’ in all contexts means in the presence of [two] witnesses.

[E]] “How does R. Eliezer interpret the word ‘matter’?

[F] “It refers to any sort of thing which is apt to result in an act of adultery.”

[II:3 A] [In accord with Eliezer’s position at M. 1:1B,] as to imposing the requirement of drinking the bitter water on the testimony of a single witness, what [is the basis for that position]?

[B] Now if what he himself says, which prevents the imposition upon him of the requirement of taking an oath governing monetary matters, suffices to require the wife to undergo the ordeal of drinking the bitter water, the evidence of a single witness, which does have the power to require him to take an oath covering monetary matters—is it not an argument a fortiori [that that evidence should suffice to require the wife to undergo the rite!]

[C] As to a relative, what is the law as to his having the power to testify and so require the wife to undergo the rite?

[D] Who is closer and more closely related than her husband!

[E] A witness who reports only what he has heard – what is the law as to his having the power to impose upon her the requirement to undergo the ordeal?

[F] What is the difference between such a witness and a relative?

[G] As to a relative, even though at this moment he is not valid to give testimony, he may become valid in the future. But a witness who testifies to what he has heard from a third party will never be valid, neither now nor in the future [so hearsay evidence is excluded].

[III:1 A] [R. Joshua says, “**He expresses jealousy before two witnesses, and he requires her to drink the bitter water before two witnesses:**”]
What is the Scriptural basis for The position of R. Joshua?

[B] “For he has found a matter of indecency in her” (Dt. 24:1) – “matter” refers to expressing jealousy; “for he has found” – and there is no finding except before witnesses [hence, two witnesses are required for the expression of jealousy and the warning not to associate with a given man].

[C] How does R. Joshua interpret Scripture’s reference to indecency?

[D] It is indecency which comes about on account of the matter [concerning which he had warned her to begin with].

[III:2 A] [With reference to the statement, R. Yosé b. R. Judah says in the name of R. Eliezer, “He expresses jealousy on the testimony of a single witness or even on his own evidence. And he imposes the requirement of drinking the bitter water on the testimony of two witnesses that she has been alone with the named man [T. Sot. 1:1], [Sages] replied to the position of R. Yosé b. R. Judah, “[If the husband claims to have warned the wife on the basis of his own evidence, or on the basis of a single witness, and that suffices,] then there is no end to the matter [since the husband can always claim, without corroborating evidence, to have warned the wife about thus and so]. Does he have the power to express jealousy to her in private and then to bring witnesses that she indeed went in secret with the named man, so as to invalidate her right to collect her marriage settlement? [Surely not!]”

[B] Said R. Yosé, “What business did she have to go in private [with the other man, anyhow, whether warned or not? Even by the law of the Torah, she may then lose her rights to her marriage settlement. *Rather, the question that is raised concerns the Eliezer of our Mishnah passage.* [Eliezer wants the jealousy expressed before two witnesses but the requirement to drink the water to be on the husband’s own testimony or that of a single witness.] Does he have the power to express jealousy to her [before two witnesses and then] to state that she had gone in private with the named man and so to invalidate her right to collect her marriage settlement on the basis of his own testimony? [Surely not!]”

[C] *Said R. Mana, “Even in accord with that Tannaite authority [namely, Yosé b. R. Judah], the question remains a valid one [and must be dealt with]. It is in accord with the one who has said that the husband has a right to express jealousy to her [and warn her from going in private] even with her father or her son. Does he have the power to express jealousy to her in regard to her father or her son and to bring witnesses that she has gone in private with them so as to invalidate her right to collect her marriage contract? [Surely not!] If now you say, ‘What business did she have to go in private with them,’ the Torah indeed has permitted her to go in private [with her father or her son]. [So, in accord with the present context, she had every right to do what she did, and, accordingly, we may now say, ‘There is no end to the matter!’]”*

[D] [The position that the law is as just now stated is explained next.] For R. Yohanan has said in the name of R. Simeon b. Yohai, “It is written, ‘If your brother, the son of your mother, or your son, or your daughter, or the wife of your bosom, ... entices you in secret ... (Deut. 13:6).

[E] “‘Your daughter in secret, and your mother in secret ...’ – [this indicates that] a man may go in private with his mother and live with her, with his daughter and live with her, with his sister, but he may not live with her.”

[III:3 A] Witnesses who testify that the husband has expressed jealousy [concerning a particular man] who are proved to be perjurers are flogged [on account of committing perjury].

[B] Witnesses to her going in private with the named man, who turn out to be perjurers, you will certainly say are flogged.

[C] But what is the law as to their having to pay [the value of her marriage settlement, of which they have conspired to deprive her]? Do we say that it is not by reason of the power of their testimony that she has lost her marriage-settlement [since she would have lost it anyhow]?

[D] *Or do we say that the law is in accord with that which R. Ba R Judah in the name of Samuel stated: “In the rules governing perjured witnesses, they do not derive one matter [by analogy] [16c] from some other? [That is, in the present case, we do not invoke the reason given at C, because the punishment of perjurers is a distinct legal matter, governed by its own logic and rules, and we do indeed do to the perjurers what they conspired to do, even if they did not really have the power to effect their conspiracy.] And here, they do pay..” [This question is not answered.]*

[III:4 A] If the wife was accused by one witness of having gone in the morning in private [with the named man], and if she then was accused by another witness of having gone in the evening in private with the named man, [what is the law]? [Does this constitute testimony which is joined together, so that, in Joshua’s view, that case is now complete?]

[B] The answer to that question is in accord with the following: **If two people saw her continue alone with the husband [after she had gotten her writ of divorce from him], she does require a second writ of divorce from him. If only one person saw it, she does not require a second writ of divorce from him. If one saw it in the morning and one at twilight – this was an actual case, and R. Eleazar b. Tadaï came and asked sages, who ruled, “It is only a single witness [at a time], and she does not require a second writ of divorce from him” [T. Got. 5:4/O-S] [So also at A the witnesses do not join together.]**

- [III:5 A] If the husband expressed jealousy to her in the presence of a single witness in the morning, and in the presence of another witness at the eventide, since this is a single person [who has expressed the jealousy, namely the husband, and she is a single person [to whom the jealousy was expressed], do we say that this is a valid act of expressing jealousy or not?
- [B] *Let us derive the answer from the following: **The evidence of two witnesses is not joined together [so that we have the testimony of two witnesses] unless the two of them saw the incident simultaneously. R. Joshua b. Qorha says, “Even if they saw it sequentially [it is combined]” [T. San. 5:5F-G].***
- [C] R. Jeremiah, R. Samuel bar Isaac in the name of Rab. “Sages concede to R. Joshua b. Qorha in the matter of witnesses to the claim of one to be the firstborn and in the case of witnesses to the claim of one to have established rights of ownership through usucaption, [that successive, not only simultaneous, witness, is acceptable].”
- [D] R. Abba in the name of R. Jeremiah: “Also in the case of testimony as to the presence of the signs of puberty, the fact is the same, [that successive witnesses join together].”
- [E] *This is indeed self-evident.* If one says, “I saw two hairs in his privy parts,” and the other said, “I saw two hairs on his body,” [the two statements are acceptable as joined testimony that the person is now mature].
- [F] If one says, “I saw a single hair on his privy parts,” and one says, “I saw a single hair on his belly and nothing more,” –all the more so do we deem a hair on his privy parts and one on his body [to constitute the required two pubic hairs, so that the person is now deemed mature].
- [G] If two say, “We saw a single hair on his privy parts,” and two say, “We saw a single hair on his belly” – R. Yosé b. R. Bun and R. Hoshaiah, son of R. Shimi –
- [H] one said, “He is unfit [not yet mature],” and the other said, “He is fit.”
- [I] *The one who said that he is unfit [deems the testimony to be equivalent to that of one who testifies concerning the appearance] of only part of the required sign of [maturity]. The one who said that it is valid [maintains], “I say [that there were two], but one of them may have fallen out.”*

[J] If two parties say], “I saw two hairs on his privy parts,” and one says, “I saw two hair on his belly – R. Ba said, “In the opinion of all parties, he is now valid [and mature, since there is solid evidence of the appearance of the requisite puberty signs].”

[K] Said R. Haggai, “In the opinion of all parties, he is invalid.”

[L] R. Yudan said, “It is yet subject to dispute.”

[M] R. Yosé said, “It is still subject to dispute.”

[N] *Said R. Yosé to R. Haggai, “Lo, R. Yudan, [my teacher], ruled In accord with my view of the matter.”*

[O] *He said to him, “Now since I differ from his [your] master, all the more so do I disagree with him [you]!”*

[P] Said R. Mana, “R. Haggai’s ruling is quite sound. For if we have a bond which bears four seals, and one party gives testimony concerning two of them, while another gives testimony concerning two of them, and someone cavils at the value of the bond, is the bond of any value whatsoever? [Hardly!] For does not each seal require the validation of two witnesses? Here, too, each sign of puberty requires the validation of two witnesses.”

[Q] *Hinena derived the same fact from the case of [attesting to full use and enjoyment of a property] throughout the years of usucaption [to which testimony must be brought]. [That is, if one wishes to establish the claim of title through usucaption, he must bring evidence that he has held and used the property for a given number of years.] Now if one witness testified that he had enjoyed usucaption for the first, second, and third years, and one witness testified that he had enjoyed usucaption for the fourth, fifth, and sixth years, it is possible that such [joined testimony is worth a thing? [Hardly!] Is it not so that each year of usucaption must be attested by two witnesses? Here too, each sign of maturity requires the validation of two witnesses. [Cf. Y. San. 3:9 IV.]*

1:2

[A] How does he express jealousy to her?

[B] [If] he stated to her before two witnesses, “Do not speak with Mr. So-and-so,” and she indeed spoke with him,

[C] she still is permitted to have sexual relations with her husband and is permitted to eat heave-offering.

[D] [If] she went with him to some private place and remained with him for sufficient time to become unclean,

[E] she is prohibited from having sexual relations with her husband and [if the husband is a priest,] she is prohibited from eating heave-offering.

[F] And if [her husband] should die, she performs the rite of *halisah* [removing the shoe, which severs her relationship to the childless husband's surviving brother, in line with the law of Dt. 25:5-10] but is not taken into levirate marriage.

[I:1 A] The operative criterion, therefore, appears to be that she actually talk with the named man, [since M. 1:2B refers to speaking with the man].

[B] Then if she should go to some secluded place with him, but did not say a thing to him, is her being in private with him nothing?

[C] *Reference to her speaking with him serves the purpose of indicating to you that even if she spoke with him but was not in private with him, [it adds up to nothing]. [In fact, the operative criterion is going into a secluded place with the named man. That is why, if she did not do so,] she is still permitted to have sexual relations with her husband and is permitted to eat heave offering.*

[D] *The Mishnah pericope employs chaste language.* [What it means when it refers to speaking is], “Do not go in private with Mr. So-and-so.”

[I:2 A] What is the law as to the husband's expressing jealousy to her about two different men simultaneously?

[B] R. Yudan says, “It is subject to dispute. He who says, ‘He expresses jealousy to her even in regard to her father and her son,’ maintains that he expresses jealousy to her in regard to two men at once.”

[C] *R. Yosé raised the question:* “May the husband express jealousy to her about [going in private at one time with] as many as a hundred men?”

[D] Answering this question in the negative,] said R. Yosé b. R. Bun, “If he said to her, ‘Do not enter the synagogue,’ [that is null].

[Likewise it is legitimate for a woman to be alone with many men at one time, and hence the answer is negative.]”

[I:3 A] If she went with him [to some private place –

[Bl Said R. Mana, “The language in use is, ‘With him.’ Lo, if they walked single file, there is no objection.”

[C R. Abin said, “Even if they walked single file, in any event there is reason to suspect [that] something [is going on].”

[D] [If they went into] the public plaza by night, a ruined house by day, or dark alleys by day [this constitutes going into a secluded place].

[I:4 A] **They asked Ben Zoma, “Why is a doubt in private domain deemed unclean?”**

[B] **He said to them, “What is the status of the accused wife in respect to her husband?**

[C] **“Has she certainly committed adultery, or has she only possibly committed adultery?”**

[D] **They said to him, “[She has only] possibly [committed adultery].”**

[E] **He said to them, “Nonetheless, we find that she is prohibited to her husband. On this basis you may also reason on a matter of doubt involving a creeping thing: Just as, in this case, in private do main, we deem a matter of doubt to be unclean, so in the other case, in private domain, we deem a matter of doubt to be unclean. If you argue: Just as here, that is the case where there is intelligence for interrogation involving private domain, so a matter of doubt is deemed unclean while in the public domain, a matter of doubt is deemed clean” [T. Toh. 6:1].**

[F] *The opinions attributed to the rabbis are at variance. For said R. Zeira, R. Yosa in the name of R. Yohanan: “A minor who committed adultery – she does not thereby intend to be prohibited to her husband. [She is treated as one who has been raped, and is permitted to have sexual relations with her husband.]” And yet we have learned: **Whoever lacks understanding to be interrogated – a matter of doubt concerning him is resolved in favor of cleanness [M. Toh. 3:6C-D].** Lo, if he has sufficient intelligence to be interrogated, a matter of doubt affecting him is resolved as unclean. *And yet in the present case*, even though the girl has sufficient intelligence so that she may be interrogated, a matter of doubt concerning her is deemed resolved as clean.”*

[G] **“And why is a matter of doubt in the public domain deemed clean?” [the students asked Ben Zoma].**

- [H] **He said to them, “We find that the community prepares the Passover offering in a state of uncleanness when the majority of the community is unclean. And if in a matter of certain uncleanness, the community is permitted [to violate the rules of cleanness], all the more so in a matter of doubtful uncleanness [do we extend a lenient ruling to the community]” [T. Toh. 6:16RM].**
- [I:5 A] *There we have learned:* **In respect to all other forbidden sexual relations. Scripture has treated him who begins the sexual act as culpable just as is he who completes it, and such a one is liable for each and every act of sexual relations. But this strict rule does the law impose even more stringently in the case of the bondwoman: it treats in her regard the man who does the act intentionally as equivalent to the one who does it inadvertently [M. Ker. 2:4K-M].**
- [B] R Jeremiah, R. Ba bar Mamel in the name of Rab, “The sexual relations [referred to in connection with the slave woman, ‘If a man lies carnally with a woman who is a slave, betrothed to another man ...’ (Lev. 19:20)], refers to an actual emission of semen. Now here, [with regard to the betrothed slave woman], sexual relations are mentioned, and there, [with regard to the accused wife], sexual relations are at issue (Num. 5:13). In the present case, the law holds that sexual relations mean an actual emission of semen, while in regard to the accused wife, you say [that merely if the woman remains with the named man for sufficient time to become unclean, even if sexual relations do not actually take place, she is subject to the ordeal].”
- [C] Said R. Yosé, “The case of the accused wife is different, for in the present case it is written, ‘... and it is hidden from the eyes of her husband, and she is undetected though she has defiled herself’ (Num. 5:13). Once she goes into private, the Torah calls her unclean. [And that is without regard to whether or not she has actually engaged in sexual relations.] *But here* [in the case of the betrothed slave woman], violation of the law occurs only if there is an actual emission of semen.”
- [D] If so, then with what regard is the language “... if a man lies carnally with her ...” (Num. 5:13) used?
- [E] It serves to indicate that a given measure of time [of going in private is what is involved in declaring the woman to have violated her obligations to her husband, even though she does not actually have sexual relations].
- [F] *This is in line with that which is taught:* “... and it is hidden from the eyes of her husband ... and she has defiled herself” (Num. 5:13).

- [II:1 A] **And how long is “the time required for becoming unclean” [M. 1:2D]?**
- [B] **Sufficient time to have sexual relations.**
- [C] **And how much is sufficient time for having sexual relations?**
- [D] **Sufficient time for sexual contact.**
- [E] **And how much is sufficient time for sexual contact?**
- [F] **Sufficient time to uncover [the sexual organs].**
- [G] **R. Eliezer says, “Sufficient to walk around the date palm.”**
- [H] **R. Joshua says, “Sufficient to mix the cup.”**
- [I] **Ben Azzai says, “Sufficient to drink it.”**
- [J] **R. Aqiba says, “Sufficient to roast an egg.”**
- [K] **R. Judah b. Paterah says, “Sufficient to swallow three eggs in succession.”**
- [L] **] R. Eleazar b. Jeremiah says, “Sufficient for a weaver to tie a knot.”**
- [M] **Hanan b. Pinhas says, “Sufficient for her to put her finger into her mouth.”**
- [N] **Pelimo [Yerushalmi: Minyamin] says, “Sufficient to put out her hand and take a loaf of bread from a basket.”**
- [O] **Even though there is no clear proof for the proposition, there is at least a hint as to the proposition, since it says, “For on account of a harlot, to a loaf of bread” (Prov. 6:26) [T. Sot. 1:2E-R].**
- [P] *Said R. Yosé, “All of the foregoing specifications of time apply once he has completed untying the petticoat. [That is, this additional amount of time is added to the specified intervals just now given.]”*
- [Q] **Said R. Yohanan, “Each one of the cited authorities specified the measure which applied to him [in his own sexual life].”**
- [R] **Now, as a matter of fact, did Ben Azzai ever get married?**
- [S] *There are some who wish to propose that he [took the measure] based on his own [unfulfilled] passion.*
- [T] *And there are those who wish to say that once he actually did have sexual contact at one point but that he withdrew [prior to orgasm].*

[U] *And there are those who wish to propose* [that he knew by divine revelation, in line with the following verse of Scripture:] *ù’The mysteries of the Lord are for those who fear him, and he makes known [o them his covenant”* (Ps. 25:14).

[II:2 A] *It was taught:* Rabbi says, “There are three references to uncleanness stated in [the commencement of] the pericope [on the accused wife, each one prohibiting the woman in some aspect]. One refers to [prohibiting return to] the husband, one [prohibiting marriage to] the lover, and one to [prohibiting her from eating] heave offering.” [The references to uncleanness or defilement are as follows: “If a man lies with her carnally ... and she is undetected though she has defiled herself” (Num. 5:13); “and he is jealous of his wife, who has defiled herself” (Num. 5:14); “and he is jealous of his wife, though she has not defiled herself” (Num. 5:14)]

[B] Now as to heave offering, do we find a case in which a woman is permitted to have sexual relations with her husband and prohibited to eat food in the status of heave offering [should she be married to a priest]? [Who needs a verse to make such an obvious point!]

[C] Indeed, why not? There is, after all, the case of the daughter of a priest who is married to an Israelite [and hence prohibited from eating food in the status of heave offering]. Now if she is raped, is she not [still] permitted to have sexual relations with her husband, while forbidden to eat food in the status of heave offering?

[D] Then we do not find the case of a woman who is prohibited to have sexual relations with her husband and yet permitted to eat food in the status of heave offering [and it is surely not to such a case that reference is made at B].

[E] [The exegetical remark then must be assigned to some other purpose.] Said R. Abin, “It is stated [differently, namely], one refers to the husband, one to the lover, and one to the levirate brother-in-law.”

[F] *Said R. Yosé b. R. Bun, “The Mishnah pericope itself has made the same point: **And if her husband should die, she performs the rite of halisah but is not taken into levirate marriage** [M. Sot. 1:2F].”*

[G] [Relevant to B.] *R. Jacob bar Idi taught before R. Jonathan:* ““But if you have gone astray, though you are under your husband’s authority, and if you have defiled yourself, and some man other

than your husband has lain with you ...' (Num. 5:20) – This then excludes a case of rape.”

[H] *What do you derive from the reference* [to “... under your husband’s authority ...]”?

[I] He said to him, “Just as ‘... under your husband’s authority ...’ is of her own free will, so in the present case, [the prohibited act of sexual relations must be] of her own free will [just excluding cases of rape].”

[II:3 A] [What follows is at Y. Yeb. 10:1 and follows Pené Moshe:] As to the accused wife, just as she is prohibited from returning to her husband [M. 1:2E], so she is prohibited from marrying her lover.

[B] Just as she is prohibited from marrying the brother of her husband, so she is forbidden from marrying the brother of her lover [M. 1:2F].

[C] Is it then possible to argue: just as the cowife of the accused wife is forbidden to marry the brother of her husband, so [if the lover marries her and dies childless] she would be forbidden to marry the brother [16d] of her lover?

[D]] *Let us derive the answer to that question from the following rule: **The woman whose husband goes overseas, and whom they come and tell, “Your husband has died,” – and he has a brother, who enters into levirate marriage with her, and the levir dies, and afterward her husband returns home – the husband is prohibited from marrying her*** [in line with M. Yeb. 10:1], *but permitted to marry her co-wife, he is prohibited from marrying her, but permitted to marry the wife of his brother [T. Yeb. 14:3AF].* Now is not the wife of his brother equivalent to the cowife of an accused wife [since the hapless woman is equivalent to an adulteress]? *That then implies that the co-wife of a woman accused of adultery is permitted to marry the brother of the accused woman’s suspected lover.*

[E] [*This is no proof, for the authority for this rule is null, for*] *said R. Yudan, “The law follows the view of rabbis of that place [Babylonia]. For R. Hila said, ‘They teach there: All those women who are prohibited to marry a man and have sexual relations do not require a writ of divorce from him, except in the case of a married woman alone.’ [There is no parallel, then, between the cowife of the brother and the cowife of the accused wife.] R. Aqiba says, ‘Also in the case of the sister of his wife and the sister of his brother [a writ of divorce is required]. [That is, if he thought the prohibited party had died and married his wife’s sister or his brother’s sister, and then learned that*

the wife or brother was yet alive, he must issue a writ of divorce. Now if Aqiba requires a writ of divorce in the case of the brother's wife, then the brother's wife should also be forbidden, and the wife of the brother is equivalent to the co-wife of an accused wife, so there too, the co-wife of a woman accused of adultery should be forbidden to marry the mother of the lover.]' *But in accord with the view of the rabbis of our locale [the land of Israel, as we shall see now in Yohanan's name, who can concur with the cited passage above]?* [For all parties here concur that a writ of divorce is required. So it is not Aqiba alone. Hence the problem is to determine who will concur with the proposed law.

- [F] R. Hiyya in the name of R. Yohanan: "All concur in the case of the wife of his brother [married in error, as explained] that she requires a writ of divorce from him, because, in accord with the laws governing a man's wife, he has acquired her [as his wife]. [That is, when he married her, it was assumed to be , legal marriage. She is treated as his legal wife and hence requires a writ of divorce.] [If she is deemed validly married so as to require a writ of divorce,] she is a prohibited connection. [Accordingly, it is as if his brother has married a woman who is prohibited to him.] And a woman who is prohibited for marriage serves lo exempt"
- [G] *Said R. Hinena, "Even in accord with the rabbis of our locale, the passage is in full agreement. They have imposed an extra-legal penalty on her [the accused wife], and they did not impose that penalty on her heirs [in the present context: the wife of his brother so far as the levirate requirement is concerned]."*
- [I] *Said R. Hananiah, son of R. Hillel, "If the ruling accords with the rabbis of that other place, then he should be permitted to marry her. [Since they hold that she requires no writ of divorce either, he should be permitted to marry her as well, for she is deemed to have acted under constraint. Hence the cited passage surely conforms to the theory of the authorities of the Holy Land.]"*
- [II:4 A] R. Zeira in the name of R. Yohanan: "The cowife of an accused wife is forbidden [to enter into a levirate marriage], and the cowife of a divorcée [whom the husband remarried] is permitted to enter levirate marriage."
- [B] R. Jacob in the name of R. Yohanan: "All co-wives are permitted [to enter levirate marriage] except for the cowife of an accused wife."
- [C] Samuel said, "The divorced wife herself is permitted to enter levirate marriage."

- [D] Does he dispute [with A]?
- [E] [No, he does not differ.] Since the discussion concerned co-wives, they did not mention divorced wives.
- [F] As to the cowife of an accused wife, why is she forbidden [to enter levirate marriage if the cuckolded husband dies without children]?
- [G] R. Yohanan said, “It is because it is because of the stench of licentiousness which has affected her [willy-nilly].”
- [H] Rab said, “It is because in her regard uncleanness is written in the list of prohibited connection.”

1:3

- [A] **And these women [married to priests and accused of unfaithfulness] are prohibited from eating heave-offering:**
- [B] (1) She who says, “I am unclean to you,” and (2) she against whom witnesses testified that she is unclean;
- [C] and (3) she who says, “I shall not drink the bitter water,” and (4) she whose husband will not force her to drink it;
- [D] and (5) she whose husband has sexual relations with her on the way [up to Jerusalem for the rite of drinking the water].
- [E] What should he do in respect to her?
- [F] He brings her to the court in that place [in which they live], and [the judges] hand over to him two disciples of sages, lest he have sexual relations with her on the way.
- [G] R. Judah says, “Her husband is trustworthy in regard to her [not to have sexual relations in this circumstance].”

[I:1 A] *The Mishnah pericope before us does not accord with the views expressed in the first Mishnah, in which we have learned: Aforetimes they did rule: Three sorts of women go forth and collect their marriage contract: (1) she who says, “I am unclean for you,” (2) “Heaven [knows] what is between you and me [namely, your impotence],” “I am removed from [having sexual relations with] all the Jews.” They reverted to rule: so that a woman should not covet someone else and spoil [her relationship with] her husband, but: (1) she who says, “I am unclean for you,” must bring proof for her claim. (2) [She who says,] “Heaven [knows] what is between you and me,” – let them find a way to appease her. (3) [She who says,] “I am removed from all the Jews,” let him annul his share [in the vow], so that she may have sexual relations with him, but*

let her be removed from all the other Jews [M. Ned. 11:12]. [Now the present pericope accepts the woman's testimony without her bringing corroborating evidence, thus in accord with the position of the first Mishnah, while the later version, that she has to bring evidence, contradicts the present rule]

[B] Said R. Abin, "And even if you say that the rule before us accords with the later version of the Mishnah, in any event there are grounds for [thinking that] the matter [is as the woman states, for she was warned and went in private with the named man]."

[I:2 A] *It was taught:* "And some man other than your husband has lain with you" (Num. 5:20) thus excluding a case in which the sexual relations with another man came before those with your husband [that is, excluding a case in which the woman has sexual relations with the named man prior to marriage to her husband]. [The curse will then not apply.]

[B] Said R. Ila, "This is in line with that which is said: '... besides the burnt offering of the morning ...' (Num. 28:23) [meaning, afterward]."

[C] *Have we not learned:* **Just as the water puts her to the proof, so the water puts him [the lover] to the proof, since it is said, "And it shall come..." "And it shall come..." (Num. 5:22, 5:24). Just as she is prohibited to the husband, so she is prohibited to the lover [M. Sot. 5:1A-C]** Just as she is prohibited to the brother of her husband, so she is prohibited to the brother of her lover. Just as the water tests her for each and every act of sexual relations that she has had with her husband after her lover, so the water tests him. [Now this indicates that if the husband has sexual relations after the lover does, the woman still has to undergo the ordeal, contrary to the view of A.]

[D] R. Abin in the name of R. Hila, "Here [at M. 1:3D], we deal with a case in which he acts knowingly, while there, where the water affects her even after the husband has sexual relations in the aftermath of her relations with the lover, it is when he did so unknowingly."

[II:1 A] [With reference to M. 1:3G, **He brings her to the court in that place [n which they live, and the judges hand over to him two disciples of sages, lest he have sexual relations with her on the way,] R. Hiyya bar Joseph sent after his wife and gave orders for three disciples to go with her, so that, if one of them would have to turn aside [to heed a call of nature], she would be left alone with two others.**"]

[B] *Now have we not learned, and the judges hand over to him two disciples of sages* [so why did Hiyya send three?]

[C] Said R. Abin, “With her husband, lo, there are three.”

[III:1 A] [With regard to Judah’s position, that the husband is believed, the following alludes to and then carries forward **M. Ket. 2:9F-H: A person is not believed to testify in his own behalf.** Said R. Zekhariah b. Haqqassab, “By this sanctuary! Her hand did not move from mine from the time that the gentiles entered Jerusalem until they left it.” They said to him, “A person cannot give testimony in his own behalf. ‘] But even so, he set aside a house for her by herself. She was supported by his property. But he never was alone with her, except at the instance [in the presence] of her children [T. Ket. 3:2E].

[B] And he cited in his own regard the following verse of Scripture: “I am weary with my groaning, and I find no rest” (Jer. 45:3).

[III:2 A] *It was taught [following the Tosefta’s version:*

[B] **Judah says, “Her husband is trustworthy in regard to her [not to have sexual relations in this circumstance]” [M. Sot. 1:3G], on the basis of an argument a fortiori. Now if in the case of a menstruating woman, on account of sexual relations with whom one incurs the penalty of extirpation, her husband is trustworthy in regard to her, in the case of an accused wife, on account of which the husband does not incur the penalty of extirpation, is it not logical that her husband should be deemed trustworthy in regard to her?”**

[C] **They said to him, “Now all the more so: Since one does not incur the penalty of extirpation for having sexual relations with her, her husband really should not be deemed trustworthy in regard to her. Another matter: No. If you have said the rule in the case of the menstruating woman, who becomes permitted after she is prohibited, will you state the same rule in regard to the accused wife, who will never be permitted once she is prohibited? And so Scripture says, Stolen water is sweeter (Prov. 9:17).”**

[D] **Yosé says, “Scripture has expressed its trust in him with regard to her, since it says, And the husband shall bring his wife to the priest (Num. 5:1 5)” [T. Sot. 1:2S-X, 1:3A].**

[E] They said to him, “It is only on condition that there are witnesses.”

1:4

- [A] They would bring her up to the high court which is in Jerusalem and admonish her as they admonish witnesses in a capital crime.
- [B] They say to her, “My daughter, much is done by wine, much is done by joking around, much is done by kidding around, much is done by bad friends. For the sake of the great Name which is written in holiness, do it so that it will not be blotted out by water (Num. 5:23).”
- [C] and they tell her things which neither she nor the family of her father’s house should be hearing.
- [I:1 A] And just as the court admonishes her to repent, so they admonish her not to repent. Therefore they say to her, “Now my daughter, if it is perfectly clear to you that you are clean, stand your ground and drink. For these waters are like a dry salve which is put on living flesh and does no harm. If there is a wound, it penetrates and goes through [the skin; if there is no wound, it has no effect]” [T. Sot. 1:6].
- [I:2 A] *R. Zabedeh, son-in-law of R. Levi, would tell the following story.*
- [B] *R. Meir would teach a lesson in the synagogue of Hammata every Sabbath night. There was a woman who would come regularly to hear him. One time the lesson lasted a longer time than usual.*
- [C] *She went home and found that the light had gone out. Her husband said to her, “Where have you been?”*
- [D] *She replied to him, “I was listening to the lesson.”*
- [E]] *He said to her, “May God do such-and-so and even more, if this woman enters my house before she goes and spits in the face of that sage who gave the lesson.”*
- [F] *R. Meir perceived with the help of the Holy Spirit [what had happened] and he pretended to have a pain in his eye.*
- [G] *He said, “Any woman who knows how to recite a charm over an eye – let her come and heal mine.”*
- [H] *The woman’s neighbors said to her, “Lo, your time to go back home has come. Pretend to be a charmer and go and spit in R. Meir’s eye.”*
- [I] *She came to him. He said to her, “Do you know how to heal a sore eye through making a charm?”*
- [J] *She became frightened and said to him, “No.”*

- [K] *He said to her, “Do they not spit into it seven times, and it is good for it?”*
- [L] *After she had spit in his eye, he said to her, “Go and tell your husband that you did it one time.”*
- [M] *She said to him, “And lo, I spit seven times?”*
- [N] R. Meir’s disciples said to him, “Rabbi, in such a way do they disgracefully treat the Torah [which is yours]? If you had told us about the Incident with the husband, would we not have brought him and flogged him at the stock, until he was reconciled with his wife?”
- [O] He said to them, “And should the honor owing to Meir be tantamount to the honor owing to Meir’s creator? Now if the Holy Name, which is written in a state of sanctification, the Scripture has said is to be blotted out with water so as to bring peace between a man and his wife, should not the honor owing to Meir be dealt with in the same way!”

[II:1 A] ...and they tell her things which neither she nor the family of her father’s house should be hearing:

- [B] For example: the story of Reuben and Bilhah, the story of Judah and Tamar.
- [C] “What wise men have told” (Job 15:18) – this refers to Reuben and Judah.
- [D] “And their fathers have not hidden” (Job 15:18) – and what reward did they get for this? “To whom alone the land was given, and no stranger passed among them “ (Job 15:19).
- [E] When Moses came to bless them: “Let Reuben live and not die, nor let his men be few” (Deut. 33:6).
- [F] “And this be said of Judah” (Deut. 33:7).

[II:2 A] R. Hezekiah in the name of R. Aha, R. Hiyya, interpreted the following three verses as intended to express praise:

- [B] “She sat at the entrance of Enaim [‘eyes’]” (Gen. 38 :14). Is it possible that this is so?
- [C] Even the most reprobate of whores does not do it that way!
- [D] But she set her eyes at that gate to which all eyes look, saying before Him, “Lord of all ages! Let me not go forth empty-handed from this household.”

[E] Another matter: “At the entrance to Enaim” – she opened his eyes, saying to him, “I am available! I am in a state of cleanness [not in my menstrual period]!”

[F] “Now Eli was very old, and he heard all that his sons were doing to all Israel, and how they lay with the women who served at the entrance to the tent of meeting” (1 Sam. 2:22).

[G] “They had sexual relations” is what is written.

[H] For the women would bring their bird offerings to complete the rite of purification [after having produced babies], and they would keep them back [and not offer them up].

[I] The Holy One, blessed be he, imputed it to them [for not offering up their bird offering] as if they had had sexual relations with those women.

[J] *Said R. Tanhuma, “Lo, he admonished them: ‘Why then look with greedy eye at my sacrifices and my offerings’”* (1 Sam. 2:29).

[K] Now if you say that here was a most serious transgression, why should he exempt them from admonition on account of the most severe sort of transgression [having sexual relations with the women] and admonish him only for the lesser transgression?

[L] [35d] “Yet his sons did not walk in his ways, but turned aside after gain; they took bribes and perverted justice” (1 Sam. 8:3).

[M] For they took tithes and then made decisions.

[N] *Said R. Berekiah, “When a caravan would go by, they would neglect their public duties to Israel and would go and transact business with the caravan.”*

1:5

[A] [Now] if she said, “I am unclean,” she gives a quittance for her marriage-contract [which is not paid over to her], and goes forth [with a writ of divorce].

[B] And if she said, “I am clean,” they bring her up to the eastern gate, which is at the entrance of Nicanor’s Gate.

[C] There it is that they force accused wives to drink the bitter water,

[D] and they purify women after childbirth and purify lepers.

[E] And a priest grabs her clothes – if they tear, they tear, and if they are ripped up, they are ripped up – until he bares her breast.

[F] And he tears her hair apart [Num. 5:18].

[G] R. Judah says, “If she had pretty breasts, he did not let them show. And if she had pretty hair, he did not pull it apart.

[I:1 A] It is written, “And the priest shall bring her near, and set her before the Lord” (Num. 5:16).

[B] This refers to Nicanor’s Gate.

[C] At every place at which “before the Lord” is mentioned, the reference is to Nicanor’s Gate.

[I:2 A] It is written, “If a man sins against a man, God will mediate for him; but if a man sins against the Lord, who can intercede for him?” (1 Sam. 2:25).

[B] R. Hiyya bar Ba and R. Joshua b. Levi:

[C] R. Hiyya bar Ba interpreted the passage to apply to the lover.

[D] And R. Joshua b. Levi interpreted the passage to apply to the [faithless] wife. I

[E] R. Hiyya bar Ba interpreted the passage to speak of the lover: “This one supports and maintains the woman, and you come and take over what is available (‘TD) [to her]!”

[F] R. Joshua b. Levi interpreted the passage to apply to the woman: “This one supports and maintains you, and you set your eyes on someone else?!”

[II:1 A] Now do they humiliate the woman merely by reason of doubt [in the procedures specified at M. I:5E-G]?

[B] Said R. Simlai, “In every place in which you find fornication, you find that an indiscriminate slaughter overspreads the world.”

[II:2 A] The Scripture states that they recite the formula to the woman, and then they humiliate her [Num. 5:1922, 2327]. The Mishnah, [by contrast], states that they humiliate her and afterward they read the curse to her.

[B] Said R. Ili, “Since it is written, ‘And he shall set the woman up ...’ (Num. 5:16) – and was she sitting down before? But because of the first time he stood her up, her hair already was disheveled.”

- [II:3 A] *The opinions assigned to R. Judah are at variance with one another. There he has said: “**In the case of a man, they cover him up in front, and in the case of a woman, they cover her up in front and behind,**” the words of R. Judah. [M. San. 6:3A], and here he has said this [that we take precautions not to show off her private parts].*
- [B] There [in connection with the execution,] in any event the woman is being prepared for death. But here, perhaps she may turn out to be pure, and the youthful priests may compete [for her charms].
- [C] *The opinions assigned to sages are at variance. There they say, “**A man is stoned naked, but a woman is not stoned naked**” [M. San. 6:3B], and here they say this [that the woman’s clothing is ripped and her hair messed up]!*
- [D] [The difference is based on the instructions given by Scripture for the two different situations, one the death penalty, the other the humiliation of adulteresses:] There it is written, “You will love your neighbor as yourself” (Lev. 19:18), meaning, “Choose for him a mode of execution as painless as possible.” [That accounts for the leniency.] But here: “And all women may take warning and not commit lewdness as you have done” (Ezek. 23:48) [which accounts for the stringency].

1:6

- [A] **[If] she was clothed in white clothing, he puts black clothes on her.**
- [B] **[If] she had gold jewelry, chains, nose-rings, and finger rings on, they take them away from her to put her to shame.**
- [C] **Then he brings an Egyptian rope and ties it above her breasts.**
- [D] **And whoever wants to stare at her comes and stares, except for her boy-slaves and girl-slaves, since in any case she has no shame before them.**
- [E] **And all women are allowed to stare at her, since it is said, That all women may be taught not to do after your lewdness (Ezek. 23:48).**
- [I:1 A] *The Mishnah pericope [at M. 1 :6A] speaks of a case in which [black clothes] are not becoming to her.*
- [B] But if they were becoming to her, it is not in such a case [that this law pertains, but she is left in white].
- [II:1 A] **Then he brings an Egyptian rope and ties it above her breasts:**
- [B] And why an **Egyptian rope?**
- [C] Said R. Isaac, “Because she did the sort of thing that Egyptians do.”

[II:2 A] *R. Jeremiah raised the question, “Is the Egyptian rope essential to the rite? Is the Egyptian basket [referred to at M. Sot. 2:1] essential to the rite?” [This inquiry is not answered.]*

[B] Who provides them?

[C] *The answer is in accord with that which Rabbi said, for Rabbi said, “Providing funds for the water channel, the wall of the city and its tower, and all the needs of the city, is from the money left over in the Temple treasury and here the same rule applies.”*

1:7

[A] **By that same measure by which a man metes out [to others], do they mete out to him:**

[B] **She primped herself for sin, the Omnipresent made her repulsive.**

[C] **She exposed herself for sin, the Omnipresent exposed her.**

[D] **With the thigh she began to sin, and afterward with the belly, therefore the thigh suffers the curse first, and afterward the belly.**

[E] **But the rest of the body does not escape [punishment].**

[I:1 A] **R. Meir did say [following the Tosefta’s version]: “On what basis do you rule that by the same measure by which a man metes out, they mete out to him [M. 1:7A]?”**

[B] **“Since it is said, ‘By measure in sending her away thou dost contend with her’ (Is. 27:8) – I know only that he measured out with a seah. How do I know that [if] he measured out with a qab, a half qab, a third qab, a half third qab, a quarter qab, a half quarter qab, an eighth qab, twentieth qab [the same rule applies]?”**

[C] **Since it says, ‘For all the armor of the armed man in the tumult’ (Is. 9:5), lo, you have here many measures.**

[D] **“I know only that this applies to something which comes by measure.**

[E] **“How do I know that a few perutot add up to a large sum?”**

[F] **“Since it is said, ‘Laying one thing to another to find out the account’ [Qoh. 7:27] [T. Sot. 3:1].**

[G] **The rule of measure for measure applies in yet another way.] in worldly affairs, [if] someone commits a transgression, on account of which people are liable to death at the hands of heaven, [it may be exacted little by little, until it adds up.**

[H] His ox dies, his chicken is lost, his flask breaks, he breaks his finger, and the account is complete.

[I] Another matter: One happens and joins the next, the account is complete.

[J] And how much is completing the account? Even one transgression [will not be overlooked].

[I:2 A] *It have been taught on Tannaite authority:*

[B] **R. Meir would say, “Just as there are diverse tastes in regard to food, so there are diverse tastes in regard to women[’s behavior].**

[C] **“You can find a man on whose cup a fly flits by, and he will put it aside and won’t even taste what’s in that cup. This one is a bad lot for women, for he is [always] contemplating divorcing his wife.**

[D] **“You can find a man in whose cup a fly takes up residence. So he tosses it out and does not drink what is in it. Such a one is like Pappos b. Judah, who used to lock his door to keep his wife inside when he went out.**

[E] **“And you can find a man into whose cup a fly falls, and he tosses it away and drinks what is in the cup.**

[F] **“This is the trait of the ordinary man, who sees his wife talking with her neighbors or with her relatives and leaves her be [M. Sot. 4:4C].**

[G] **“And you have a man into whose meal a fly falls, and he picks it up and sucks it [for the soup it absorbed] and tosses it away, and then eats what is on his plate.**

[H] **“This is the trait of a bad man, who sees his wife going around with her hair in a mess, with her shoulders uncovered, shameless before her boy-servants, shameless before her girl-servants, going out and doing her spinning in the marketplace, bathing, talking with anybody at all.**

[I] **“It is a commandment to divorce such a woman, as it is said, When a man takes a wife and marries her, if then she finds no favor in his eyes because he has found some indecency in her, and he writes her a bill of divorce and puts it in her hand and sends her out of his house and she departs out of his house” (Deut. 24:1).**

- [J] **And if she goes and becomes another man’s wife (Deut. 24:2)--and Scripture calls him, “A different man,” because he is not his match.**
- [K] **The first man put her away because of transgression, and this other one comes along and stumbles through her.**
- [L] **The second husband, if he has merit in Heaven, puts her away. And if not, in the end, she will bury him,**
- [M] **since it is said, Or if the latter husband dies, who took her to be his wife (Deut. 24:3)--**
- [N] **this man is deserving of death, for he received such a woman into his house.**
- [O] Samuel said, “They keep distant from a loose woman [and do not marry her], but they need not keep distance from her daughter”
- [P] *Now this view of his accords with that which R. Yohanan said, “A married woman who committed adultery – “the offspring are assigned the status of the husband, for the greater part of the act of sexual relations derives from the husband.”*
- [I:3 A] One Scripture says, “... make your body swell and your thigh fall away” (Num. 5:22).
- [B] And another Scripture says, “... her body shall swell, and her thigh shall fall away” (Num. 5:27).
- [C] And yet another verse of Scripture says, “When the Lord makes your thigh fall away and your body swell” (Num. 5:21).
- [D]] Does one verse of Scripture determine the meaning of two other Scriptural verses? [What does the water really affect?]
- [E] Said R. Mana, “In one instance, the verse refers to what actually happens [to the belly], and in another, to the stipulation specified by the priest].”
- [F] Said R. Abin, “And even if you say the several verses refer to what actually happens, they also refer to the stipulation.”
- [I:4 A] “To make the belly swell and to cause the thigh to fall away” refers to the lover.
- [B] “And her belly swelled and her thigh fell away” refers to the wife.

- [C] Now that is quite reasonable. With the thigh the sin first began, and afterward the whole belly got involved. Therefore the thigh is smitten first, and then the whole belly – and finally the whole body is not exempt.
- [D] R Ahba son of R. Papi made the following interpretation: “Now if in the case of the application of the measure of punishment, which is minimal, a single limb is smitten, and the rest of the limbs feel it, in the case of the measure of goodness, which is abundant, ail the more so!”

1:8

- [A] **Samson followed his eyes [where they led him], therefore the Philistines put out his eyes, since it is said, And the Philistines laid hold on him and put out his eyes (Judges 16:21).**
- [B] **Absalom was proud of his hair, therefore he was hung by his hair [II Sam. 14:25-26].**
- [C] **And since he had sexual relations with ten concubines of his father, therefore they thrust ten spear heads into his body, since it is said, And ten young men that carried Jacob’s armor surrounded and smote Absalom and killed him (II Sam. 18:15).**
- [D] **And since he stole three hearts – his father’s, the court’s, and the Israelite’s – since it is said, And Absalom stole the heart of the men of Israel (II Sam. 15:6) – therefore three darts were thrust into him, since it is said, And he took three darts in his hand and thrust them through the heart of Absalom (II Sam. 18:14).**
- [I:1 A] *It was taught:* Rabbi says, “Since the beginning of his ruin took place in Gaza, therefore he was punished in Gaza.”
- [B] And it is not written: “Samson went down to Timnah, [and at Timnah he saw one of the daughters of the Philistines]” (Judg. 14:1)?
- [C] Said R. Samuel bar Nahman, “The one [woman] in Timnah he took in marriage.”
- [D] One verse of Scripture states, “Samson went down to Timnah, and at Timnah he saw one of the daughters of the Philistines]” (Judg. 14:1).
- [E] And yet another verse of Scripture states, “And when Tamar was told, ‘Your father-in-law is going up to Timnah [to shear his sheep],’ she put off her widow’s garments, and put on a veil, wrapping herself up, and sat at the entrance to Enaim, which is on the road to Timnah” (Gen. 38:13-14).

- [F] Rab said, “As to the usage, ‘going up’ or ‘going down’ to Timnah, the meaning is that there were two Timnahs, one involving Judah, the other involving Samson.”
- [G] R. Simeon said, “There was only a single Timnah. And the reason that going up and going down are both used in that regard is that the one involving Judah was an ascent, for Heaven’s sake. Therefore it is written in that regard, ‘going up.’ The one involving Samson, since it was not for the sake of Heaven, is referred to as ‘going down.’”
- [H] Said R. Aibu bar Nigri, “It is like a spring, to which they go down when going from Paltetah and to which they come up from Tiberias.”
- [I:2 A]** It is written, “[Then Samson went down with his father and mother to Timnah,] and he came to the vineyards of Timnah” (Judg. 14:5).
- [B] Said R. Samuel bar R. Isaac, “This teaches that his father and his mother showed him the vineyards of Timnah, sewn in mixed seeds, and said to him, ‘Child, just as [17b] their vineyards are sewn with mixed seeds, so their daughters are sewn with mixed seeds.’”
- [C] “His father and his mother did not know that it was from the Lord, for he was seeking an occasion against the Philistines” (Judges 14:4) –
- [D] Said R. Eleazar, “In seven places, it is written, ‘you should not intermarry with them.’”
- [E] Said R. Abin, “This is to prohibit intermarriage.
- [F] “And here why does it say [that Samson was punished for marrying a Philistine woman, when there is no prohibition in the Torah against marrying Philistines]?”
- [G] Said R. Isaac, “‘Toward the scorners he is scornful, [but to the humble he shows favor]’ (Prov. 3:34). [Since Samson got involved with scornful people, he was punished.]”
- [I:3 A]** It is written, “And the spirit of the Lord began to stir him...between Zorah and Eshtaol” (Judg. 13:25).
- [B] There are two Amoraim who interpret this passage.
- [C] One of them said, “When the Holy Spirit rested upon him, his footsteps were as if from Zorah and Eshtaol.”
- [D] The other one said, “When the Holy Spirit rested on him, his hair grew stiff like a bell, and the sound went as between Zorah and Eshtaol.”

- [I:4 A] “[And the woman bore a son, and called his name Samson; and the boy grew] and the Lord blessed him” (Judg. 13:24).
- [B] R. Huna in the name of R. Yosé: “For [despite his great strength,] his sexual capacities were like those of any other man [Qorban ha’edah: and so he could enjoy sexual relations with a normal woman].”
- [I:5 A] It is written, “[Then Samson called out to the Lord and said, ‘O Lord God, remember me, I pray thee, and strengthen me, I pray thee, only this once, O God,] that I may be avenged upon the Philistines for one of my two eyes” (Judg. 16:28).
- [B] Said R. Aha, “He said before him, ‘Lord of the world! Give me the reward of one of my eyes in this world, and let the reward for the other eye be readied for me in the world to come.’”
- [C] Said R. Aha, “It teaches that the Philistines feared him for twenty years after his death just as they feared him for twenty years when he was alive.”
- [II:1 A] **Absalom was proud of his hair, therefore he was hung by his hair [II Sam. 14:25-26].**
- [B] R. Haninah said, “It was like a large carob tree.”
- [C] Might you think [that Absalom with his head of hair was slender, looking] like a kindon tree?
- [D] R. Bibi in the name of R. Yohanan, “They were arranged in single stalks.”
- [E] *Said R. Haninah, “When I came up here [to the land of Israel], I took the garment of my son and the garment of my son-in-law and wrapped it around the trunk of a carob of the land of Israel, but they did not suffice to reach around it. And I cut down the branch of a carob, and my hands filled up with its sap.”*
- [F] Said R. Jonathan, “Better were the leavings of the orchards which we ate in our youth, than the peaches which we eat in our old age. *For in the passage of time the world changes.*”
- [G] Said R. Hiyya bar Ba, “In olden times a seah of Arbelit grain would yield a seah of fine flour, a seah of flour would yield a seah of inferior wheat, a seah of fine flour would yield a seah of bran. And nowadays, the yield is not even one for one.”

- [II:2 A] It is written, “Now in all Israel there was no one so much to be praised for his beauty as Absalom” (2 Sam. 14:25). Is it possible that this was in all ways?
- [B] [Indeed so.] Scripture says, “From the sole of his foot to the crown of his head, there was no blemish in him” (2 Sam. 14:25)
- [C] It is written, “And he had a son whose name was Saul, a handsome young man. There was not a man among the people of more handsome than he” (I Sam 9:2) Is it possible that this was in all ways?
- [D] Scripture states, “From his shoulders upward he was taller than any of the people” (I Sam 9:2).
- [E] But with regard to Abner, what does it state? “[And the king said to his servants,] “Do you not know that a king and a great man has fallen this day in Israel?” (2 Sam. 3:38).
- [F] Why was Abner killed?
- [G] R. Joshua b. Levi, R. Simeon b. Laqish, and rabbis:
- [H] R. Joshua b. Levi said, “It was because he treated the blood of youths as if it were a light thing: ‘[And Abner said to Joab,] ‘Let the young men arise and play before us’” (2 Sam. 2:14).
- [I]] R. Simeon b. Laqish said, “It was because he placed his name before the name of David.”
- [J] *This is in line with that which is written in Scripture:* “And Abner sent messengers to David where he was, saying, ‘To whom does the land belong?’” (2 Sam. 3:12).
- [K] And it thus is written, “... from Abner to David ...”
- [L] And rabbis say, “It was because he did not allow Saul to be appeased by David.”
- [M] *This is in line with that which is written,* “See, my father, see the skirt of your robe in my hand” (I Sam. 24:11).
- [N] He said to him, “What do you make of the self-glorification of his one! It got caught on a thorn and the skirt was torn off.”
- [O] When they came to Maagel, he said to him, “[And David called to the army, and to Abner the son of Ner, saying,] ‘Will you not answer, Abner?’” (I Sam. 26:14). In regard to the skirt, you said it was ripped off by a thorn. Have your spear and shield [conjectural: SPHT = waffle] been ripped off?”

[P] *And there are those who say*, “It was because there was sufficient doubt so that it was in his power to forgive Nob, the city of the priests, and he did not forgive them.”

[III:1 A] And since he stole three hearts – his father’s, the court’s, and the Israelite’s – since it is said, And Absalom stole the heart of the men of Israel (II Sam. 15:6) – therefore three darts were thrust into him, since it is said, And he took three darts in his hand and thrust them through the heart of Absalom (II Sam. 18:14).

[B] **His father’s**, as it is written, “And at the end of forty years [Absalom said to the king, ‘Pray let me go and pay my vow, which I have vowed to the lord, in Hebron]’” (2 Sam. 15:7).

[C] “The whole reign of David was only forty years, and here it says this! But when the Israelites sought a king: “For your servant vowed a vow [while I dwelt at Geshur in Aram, saying, ‘If the Lord will indeed bring me back to Jerusalem, then I will offer worship to the Lord]’” (2 Sam. 15:8).

[D] [David] said to [Absalom], “What do you want here?”

[E] He said, “Write out an order that two men whom I will take may come with me.”

[F] He said to him, “Tell me whom you wish to take, and I shall write the order.”

[G] He said to him, “Write it out blank, and I’ll choose whomever I want.”

[H] He wrote the order with blank spaces.

[I] He went and chose his men, two by two, until he reached two hundred men. That is in line with what is written: “With Absalom went two hundred men from Jerusalem who were invited guests, and they went in their simplicity and knew nothings. And while Absalom was offering the sacrifices, he sent for Ahithophel” (2 Sam. 15:11).

[J] “Invited” by David.

[K] “Going in their simplicity” because of Absalom.

[L] “And they knew nothing” of the conspiracy of Ahithophel.

[M] Huna in the name of R. Aha: “And all of them were heads of sanhedrins.”

[N]] When they saw things going opposite to the will of the king, they said, “Lord of all ages, let us fall into the hand of David, and let David not fall into our hand. For if we fall into David’s hand, lo, he will have mercy on us. But if, God forbid, David should fall into our hand, we shall not have mercy on him.”

[O] That is in line with what David said: “He will deliver my soul in safety from the battle that I wage, for many are arrayed against me” (Ps. 55:19).

[P] **And the heart of the court:** “Absalom said moreover, ‘O that I were a judge in the land!’” (2 Sam. 15:4).

[Q] “Thus Absalom did [to all of Israel who came to the king for judgment]” (2 Sam. 15:6).

[R] **And the heart of all Israelites:** “So Absalom stole the hearts of the men of Israel” (2 Sam. 15:6).

1:9

[A] **And so is it on the good side:**

[B] **Miriam waited a while for Moses, since it is said, And his sister stood afar off (Ex. 2:4), therefore, Israel waited on her seven days in the wilderness, since it is said, And the people did not travel on until Miriam was brought in again (Num. 12:15).**

[I:1 A] Said R. Yohanan, “The following verse was stated through the Holy Spirit: ‘And his sister stood at a distance, [to know what would be done to him]’ (Ex. 2:4).”

[B] “I saw the Lord standing beside the altar” (Amos 9:1). .

[C] **His sister:** “Say to wisdom, You are my sister” (Prov. 7:4).

[D] **From a distance:** “The Lord appeared to him from afar” (Jer. 31:3).

[E] **To know:** “The earth shall be full of the knowledge of the Lord [as the waters cover the sea]” (Is. 11:9).

[F] **What would be done to him:** “Surely the Lord does nothing, without revealing his secret to his servants the prophets” (Amos 3:7).

1:10

- [A] Joseph had the merit of burying his father, and none of his brothers was greater than he, since it is said, “And Joseph went up to bury his father...and there went up with him both chariots and horsemen” (Gen. 50:7, 9).
- [B] We have none so great as Joseph, for only Moses took care of his [bones].
- [C] Moses had the merit of burying the bones of Joseph, and none in Israel was greater than he, since it is said, “And Moses took the bones of Joseph with him” (Ex. 13:19).
- [D] We have none so great as Moses, for only the Holy One blessed he Be took care of his [bones], since it is said, “And he buried him in the valley” (Deut. 34:6).
- [E] And not of Moses alone have they stated [this rule], but of all righteous people, since it is said, “And your righteousness shall go before you. The glory of the Lord shall gather you [in death]” (Is. 58:8).
- [I:1 A] Said R. Isaac, “The glory of the Life of the Ages was with them [when they went to bury Jacob.]”
- [B] It is written, “When they came to the threshing floor of Atad [thorn]” (Gen. 50:11). Now do they thresh thorns?
- [C] Said R. Samuel bar Nahman, “We have examined the whole of Scriptures and have not found a place called Atad. But what is the meaning of Atad [as thorns]? These are the Canaanites, who were worthy of being put to death through threshing in thorns [when the Israelites conquered the land].”
- [D] By what merit were they saved?
- [E] It was by the merit of [the following action]: “The inhabitants of the land, the Canaanites, saw the mourning on the threshing floor of Atad, and they said, ‘this is a grievous mourning to the Egyptians’” (Gen. 50:11).
- [F] And what form of mourning did they carry out for him?
- [G] R. Eleazar said, “They let their garments loose.”
- [H] R. Simeon h. Laqish said, “They untied the shoulder knots on their garments.”
- [I] Rabbis say, “They bowed down.”

[J] Said R. Yudan bar Shalom, “They pointed with the finger and said, ‘This is a grievous mourning to the Egyptians’” (Gen. 50:11).

[K] Now if these Canaanites, who performed a rite of burial neither with their own hands nor even with their feet [by walking to the grave], see how the Holy One, blessed be he, has given them a reward— the Israelites, who carry out the rites of burial with their own hands and feet, with their adults and with their minors—how much the more so [will they be rewarded for their actions]!

- [I:2 A] Said R. Abbahu, “All those seventy days which passed between the letters [sent by Haman, on the one side, and Mordecai, on the other, the thirteenth of Nisan and the twenty third of Sivan] corresponded to the seventy days in which the Egyptians were occupied in burying our father, Jacob.”
- [I:3 A] It is written, “And David lamented with this lamentation over Saul and Jonathan his son, and he said ... that the use of the bow should be taught to the people of Judah” (2 Sam. 1:1718).
- [B] *This is surely odd [that the Judaeans would have to learn how to use a bow].*
- [C] He could not have meant to teach the Judaeans [since he came from a different area].
- [D] What could this mean?
- [E] But David said, “Since the righteous take their leave, and those who hate Israel come and oppress them, [the Judaeans had best learn to protect themselves].”
- [I:4 A] “Behold, is it not written in the book of the upright” (2 Sam. 1:18) –
- [B] Two Amoras [treat this matter].
- [C] One said, “This is the book of Genesis.”
- [D] The other said, “This is the book of Numbers.”
- [E] *For him who said it was the book of Genesis, there are no problems. But as to him who said this refers to the book of Numbers, what war is there [in that book]?*
- [I:5 A] “The people of Israel journeyed from Beeroth Bene Jaakan to Moserah. There Aaron died” (Deut. 10:6).

- [B] Now did Aaron die in Moserah? And was it not at Mount Hor that he died?
- [C] *That is in line with the following verse of Scripture: “And Aaron, the priest, went up Mount Hor at the command of the Lord, and died there” (Num. 33:38).*
- [D] But once Aaron died, the clouds of glory departed from Israel, and the Canaanites sought to make trouble for Israel.

[E] *This is in line with the following verse of Scripture: “When the Canaanite, the king of Arad, who dwelt in the Negeb, heard that Israel was coming by the way of Atharim, he fought against Israel” (Num. 21:1).*

[F] What is the meaning of “By the way of Atharim”?

[G] He heard that Aaron, their great wayfarer, had died, for he would show the way [tar] for them.

[H] “Come and let us fight them.”

[I] The Israelites wanted to go back to Egypt and journeyed to the rear for eight journeys, but the tribe of Levi ran after them and slew eight families.

[J] They slew four of them, in line with what is written, “Of the Aramites, the Izharites, the Hebronites, and the Uzzielites” (1 Chr. 26:23).

[K] When did they go back? In the time of David.

[L] That is in line with what is written, “In his days the righteous one flourishes” (Ps. 72:7).

[M] They said, “Who caused all this bloodshed for us?”

[N] They said, “It was because we did not perform the proper burial rites for that righteous man.”

[O] So they went and arranged a eulogy for him and performed the proper obsequies for that righteous man.

[P] And the Scripture treated the matter in their regard as if he had died there and been buried there

[Q] for they performed the proper obsequies for that righteous man.

[I:6 A] “And Moses took the bones of Joseph] with him” (Ex. 13:19) –

- [B] R Qerispai in the name of R. Yohanán: “‘With him’ – with your own soul you have done [this deed].”
- [C] Said R. Hama bar Haninah, “It may be compared to a king who was marrying off his son. A hyparch came to demand the right to be carried in a palanquin, and he did not allow him. Said the king, ‘Let him be. Sometime soon he will marry off his daughter, and I shall deal honorably with him out of that with which he has honored me.’ *This is in line with that which is written: ‘I will go down with you to Egypt, and I will also bring you up again’* (Gen. 46:4).”
- [D] *What is the meaning of that which is stated, “I also will bring you up again”?*
- [E] He said, “You I shall bring up, and all the rest of the tribes shall I bring up as well.”
- [F] This teaches that every tribe brought up the bones of its founder with it.
- [I:7 A] *It was taught in the name of R. Judah, “If the matter were not written in Scripture, it would not be possible to say it at all.*
- [B] [Following the Tosefta’s version:] **Moses acquired merit [through burying] the bones of Joseph, so only the Omnipresent, blessed be He, took care of him, since it is said, And he buried him in the valley (Deut. 34:6) [M. Sot. I:9E-F].**
- [C] **This teaches that Moses was laid upon the wings of the Presence for four mils from the portion of Reuben to the portion of Gad.**
- [D] **For he died in the field of a portion of Reuben, but he was buried in a field in the portion of Gad.**
- [E] **Now how do we know that he died in the midst of a field of the portion of Reuben? Since it is said, “Ascend this mountain of the Abarim, Mount Nebo” (Deut. 32:49). And Nebo belongs only in the portion of Reuben, as it is said, “And the sons of Reuben built Heshbon, Elealeh, Kiriathaim, Nebo, and Baal-meon” (Num. 33:37-38).**
- [F] **Now how do we know that he was buried in a field in the portion of Gad? Since it is said, “And Or Gad he said, Blessed be he who enlarges Gad! Gad couches like a lion, he tears the arm, and the crown of the head. He chose the best of the land for himself, for there a commander’s portion was reserved” (Deut. 33:20-21) [T. Sot. 4:8]**

[G] The Holy One, blessed be he, said, “He came to the heads of the people” Dt. 33:21).

[H] The ministering angels said, “The just decrees of the Lord” (Dt. 33:21).

[I] And the Israelites said, “With Israel he executed the commands” (Dt. 33:21).

[J] These and those would say, “He enters into peace, they rest in their beds who walk in their uprightness” (Is. 57:2).

YERUSHALMI SOTAH

CHAPTER TWO

2:1

[A] He [the husband (Num. 5:15)] would bring her meal-offering in a basket of palm-twigs and lay it into her hands to tire her out.

[B] All meal-offerings at the outset and at the end are in a utensil of service.

[C] But this one at the outset is in basket of palm-twigs, and [only] at the end is in a utensil of service.

[D] All meal-offerings require oil and frankincense.

[E] But this one requires neither oil nor frankincense.

[F] All meal-offerings derive from wheat.

[G] But this one derives from barley.

[H] As to the meal-offering of the first sheaf (omer), even though it [too] derives from barley, it would derive from sifted flour.

[I] But this one derives from unsifted flour.

[J] Rabban Gamaliel says, “Just as she acted like a cow, so her offering is food for a cow.”

[I:1 A] It is written, “And in his hand the priest shall have the water of bitterness that brings the curse” (Num. 5:18). If that is the case, then how can it be to tire her out [so that she will confess before the Holy Name is blotted out by the water]? [Here the priest holds the water, since she holds the meal, so how can this tire her out]?

[B] But rather, it is so as to heighten her fear.

[I:2 A] [When M. 2:1A refers to] her meal offering, it indicates that the meal offering is consecrated for her in particular.

[B] Just as it is consecrated for her in particular, so it is consecrated for him in particular. *For if that is not the case, then the foregoing statement] is at variance with that which R. Hiyya stated: In the case*

of the meal offering brought by the accused wife of a priest:] it cannot be wholly offered up, because of the share of the woman, [since a handful has to be taken out of it]. It cannot be eaten, because of the share of the man, [because the meal offering brought by a priest must be wholly offered up]. [So what is to be done with it?]"

- [C] He said to him, "[A handful is taken out of it, for the sake of the woman]. [Then] the handful is offered by itself, and the residue is offered by itself."
- [D] [If that is so, how can you maintain that it must be] her meal offering [wholly in her name]?
- [E] *Rather, the way in which the Scripture lays matters out is how the Mishnah rule lays matters out* [and since Scripture speaks of the offering's belonging to her, the Mishnah speaks of the meal offering's belonging to her]: "Then the man shall bring his wife to the priest, and bring her offering ..." (Num. 5:15).

[I:3 A] As to her husband's separating the offering without her knowledge and consent, what is the law? [Either her offering is in his name as well as hers, as just proved, so he may do so, or the offering is for her sake, so he may not.]

[B] As to another party's separating the offering without her knowledge and consent, what is the law?

[C] *The answer accords with the following statement of R.*

Yohanan: "There are four who lack a stage in the completion of their rites of atonement [permitting them to enter the Temple], in behalf of whom one may separate the required offering without their knowledge and consent, and these are they: the zab, the zabah, and mesora, and the woman who has given birth to a child. For a man may separate an offering in behalf of his child, even while he is in his crib.

[D] *Now that statement poses no problems in regard to the male-Zab or the female-Zab or the mesora* [for minors may be afflicted with these ailments]. But as to a woman after childbirth, does a minor woman give birth? Have not R. Redipah and R. Jonah in the name of R. Huna [stated], "If a woman became pregnant and gave birth before she reached puberty, she and her infant will live. If she became pregnant before, and gave birth after, she reached puberty, she will survive, but the baby will die"? *How then [does Yohanan*

know that one may separate an offering for a minor who has given birth]?

- [E] [In fact, he cannot, for a simple reason, namely:] Since he has married her off, she already has left his domain.
- [F] But [the reason we seek for the husband's right to separate the offering not in the wife's knowledge and consent is] that a man may separate an offering for his wife who is a deaf-mute.
- [G] But here in the case of a minor wife accused of adultery, you cannot maintain that it is the case [that the husband may set aside the offering; since a deaf-mute cannot go through the ordeal].
- [H] *For R. Zeira and R. Yosa in the name of R. Yohanan: "A minor who committed adultery – she has no will to be prohibited to her husband. And as to a deaf-mute wife, you cannot [maintain that the husband has the right to set aside the offering]. For it is written, 'And the woman shall say, Amen, Amen' (Num. 5:22), [and this one cannot make those sounds]."*
- [I] Said R. Abin, "Since it is written, '... and you shall rejoice, you and your household' (Deut. 14:26) – because he is prevented from rejoicing with her [if the rite is not carried out], he has every right to separate the required offering in her behalf without her knowledge and consent. [He has every right to do so, because he must be able to participate in the rejoicing specified in connection with the festivals in Jerusalem, and he will be unable to do so if the rite is not carried out.]
- [J] [At this point we have proved that, because the husband must be able to participate in the Temple cult, he has the right to make it possible for his wife to do so, even without her knowledge and consent. That would indicate he may do so also for the woman after childbirth who lacks the required offering for her to be able to go into the Temple. But if the operative reason is to allow entry into the Temple, then the whole of Yohanan's position is not validated, only that part of it which concerns the offering needed to permit the woman to enter the Temple. This is the force of what follows.] R. Aha in the name of R. Ila. "Without her knowledge and consent he separates not the burnt offering of fowl but the sin offering of fowl [Lev. 12:8], for it is only the latter which renders the woman after childbirth fit to eat meat deriving from Temple sacrifices."

[K] *[Along these same lines] it was taught*, “He separates in her behalf only something which permits her to [eat sacrificial meat].”

[L] Said R. Yosé, “You have only this [consideration, namely, the sin offering of fowl, and hence you may not allow the husband to separate without the wife’s knowledge and consent the offering of the accused wife]. [Only the stated purpose – the husband’s need to be able to go to the Temple – justifies his doing so, and, as is clear, that limits the occasions on which he has the right to separate offerings for his wife to those which affect him as well.]”

[M] *It was taught*, “Just as this prevents the wife from eating meat of sacrificial beasts, so that [namely, the rite of the accused wife] prevents her from doing so, [and, consequently, the husband may separate the offering of the accused wife without her knowledge and consent, just as he may do so for the wife who has just given birth]. And since he is prevented from rejoicing [by eating the festal sacrifices with her], so he is prevented from eating meat deriving from sacrifices [as just now explained].”

[N] *It was taught*: “Even the offerings required at the end of Nazirite vows which may yet be required of her prevent her from eating sacrificial meat [and hence the husband may separate those offerings without her knowledge and consent], for since she is disfigured [prior to the completion of those rites, since she cannot drink wine], he is prevented from rejoicing with her, so it follows that, just as he is prevented from rejoicing with her, it is as if he is prevented from eating the sacrificial meat.”

[O] *It was taught*: R. Judah says, “A man may bring in behalf of his wife every offering that she owes. Even if she ate prohibited fat, or even if she has inadvertently violated the law of the Sabbath, [he provides her required offering].”

[P] So did R. Judah say, “Once he has divorced her, he is no longer liable, for so does he write to her, ‘*And obligations which may come to me on your account from now on [I shall no longer bear].*’”

- [II:1 A]** [In reference to M. 2:1B, **All meal-offerings at the outset and at the end are in a utensil of service. But this one at the outset is in basket of palm-twigs, and [only] at the end is in a utensil of service.**] *has it not been taught:* The manner in which meal offerings are brought is as follows They bring the offering from home in a silver or gold utensil, [and not as specified].
- [C] But [the offering under discussion] is suitable to be brought in a utensil of service [and that is the Mishnah's meaning].
- [III:1 A]** [As to M. 2:1E, the omission of oil and frankincense:] *R. Simeon bar Yohai taught*, “On what account have they ruled, ‘All sin offerings and guilt offerings in the Torah do not require drink offerings [along with them]’? So that the offering of a sinner should not be adorned [in a lovely way. And the same consideration applies here.]”
- [B] *They objected:* “Lo, the sin offering and the guilt offering brought by a mesora [do require drink offerings, so M. Men. 9:6C]. And if you say that the mesora is not deemed a sinner, has not R. Isaac stated, “This is the law of the leper” (Lev. 14:1) – this is the law of the gossip [mesora – mosi shem ra, a play on words]?”
- [C] He said to him, “Since he has been afflicted [by his illness, he has atoned for his sin of gossiping]. And it is written, ‘Lest ... your brother be degraded in your sight’ (Deut. 25:3). After being punished] is he like one who is not a sinner?”
- [III:2 A]** R. Yohanan in the name of R. Ishmael, “It is written, ‘[If you offer a cereal] offering [of first fruits to the Lord, you shall offer for the cereal offering of your first fruits crushed new grain from fresh ears, parched with fire]’ (Lev. 2:14). And it is written, ‘[... and bring] the offering [required of her, a tenth of an ephah of barley meal]’ (Num. 5:15). Just as meal offering stated in the latter context consists of barley, so that in the former likewise it is made up of barley.”
- [B] Said R. Eleazar, “Here, new grain is stated [at Lev. 2:14], and in connection with the plagues of Egypt, new grain is stated (Ex. 9:30). Just as ‘new grain’ mentioned in connection with the plagues in Egypt refers to barley [‘the barley was in ear’], so ‘new grain’ mentioned in connection with the present case is barley.”
- [C] R. Aqiba says, “In regard to a meal offering of the community, bringing first fruits is mentioned in connection with Passover, and bringing first fruits is mentioned in connection with Pentecost [the former: the omer; the latter: the two loaves of bread]. If then we find that of that species of grain which the individual brings in fulfillment

of his obligation, the community brings in fulfillment of its obligation on Pentecost – [then] of what species does the individual bring to fulfill his. obligation? It is barley. So the community should bring in fulfillment of its obligation only barley. Another matter: Should you say that the omer was offered of wheat, then the two loaves would not be first fruits (Lev. 23:17). [The two loaves are supposed to be the first meal offering of wheat of the year. If the omer is made of wheat, then they would not be the first meal offering of wheat.]”

[IV:1 A] [With reference to M. 2:1, sifted flour,] *there we have learned, Pounded meal, groats, and grits are susceptible to uncleanness in all circumstances [being dampened before milling] (M. Makh. 6:2H).*

[B] R. Jonah [explained], “Pounded wheat is split into two, groats into three, and grits into four parts [when they ate milled] “

[C] *R. Yosé b. R. Bun asked*, “Is it so, then, that from that point onward [if ground into more parts], they are deemed flour? Then it is not necessary to winnow flour from them.”

2:2

[A] He [the husband] would bring a clay bowl and put in it a half-log of water from the laver.

[B] R. Judah says, “A quarter-log.”

[C] As he [Judah] calls for less writing, so he calls for less water [M. 2:3H].)

[D] And he [the priest] goes into the hekhal and turns to his right.

[E] Now there was a place, an amah by an amah, with a marble flagstone, and a ring was attached to it.

[F] And when he raised it [the stone], he took the dirt from under it and put it [into the bowl of water],

[G] sufficient to be visible on the water,

[H] since it says, “And of the dust that is on the floor of the tabernacle the priest shall take and put it into the water” (Num. 5:17).

[I:1 A] *It was taught [in a Tannaite tradition]:* The husband would bring a new clay bowl.

[B] *The Mishnah formulation [before us accords with the view] of R. Eleazar. For we have learned there: He would bring a new flask of clay [M. Neg. 14:1B].*

- [C] *Who teaches that it is to be a new flask?*
- [D] *It is R. Eleazar, who interprets the verse as follows: “In an earthen vessel over running water ...” (Lev. 14:5) – just as the water is of a sort with which no [prior] work has been done, so the earthen vessel must be of a sort with which no [prior] work has been done.*
- [E] *Now that interpretation validates the position that, [in connection with the purification rite of a mesora, a new clay utensil is to be used], for he expounds [the language pertinent to that rite], “... in an earthen vessel over running water...” But what have you to say here [with regard to the accused wife, in which case there is no parallel language at all]?*
- [F] *Said R. Yohanan, “[The Tannaite authority who maintains that a new utensil is to be used here] concurs with the position of R. Ishmael [in the following].”*
- [G] *It has been taught: **Water from the laver [M. 2:2A] –***
- [H] *R. Ishmael says, “It is to be spring water.”*
- [I] *And sages declare the rite valid with water of any character.*
- [J] *Lo, R. Eleazar accords with R. Ishmael’s position on the water, and R. Ishmael accords with R. Eleazar’s position on the use of the new utensil.*
- [K] *For it is found taught as follows: A new clay bowl –*
- [L] *R. Ishmael says, “There are Tannaim who teach as follows: ‘A clay bowl, and not a sherd.’*
- [M] *“And there are Tannaim who teach as follows: ‘Even a sherd’ [suitable for holding water is acceptable for the rite].”*
- [N] *Now, in context, they wanted to propose the following theory of the authorities that stand behind this saying: the one who said, “A clay utensil, not a sherd,” is R. Eleazar, and those who said “Even a sherd,” are rabbis.*
- [O] *The whole of the cited tradition belongs to the rabbis. The one who said “The clay utensil, not a sherd” speaks of a case in which the larger part of the bowl is missing and the smaller part is available; [in such a case, the sherd is not suitable]. And the one who said “With a sherd” speaks of a case in which the bowl is lacking only its smaller part, but the larger part is in hand.*

[P] *There are Tannaim who teach: “With a clay utensil, not with a sooty one.”*

[Q] *There are Tannaim who teach, “Even with a sooty one.”*

[R] *They [once more] proposed to conclude that the one who said, “With a clay utensil, not with a sooty one,” is R. Eleazar, and those who said “Even with a sooty one” are the rabbis.*

[S] *The whole of it accords with the position of the rabbis. He who says “With a clay utensil, not a sooty one” cites the view of the rabbis, and he who says “Even with a sooty one” also cites the view of the rabbis.*

[I:2 A] *There we have learned: **A hyssop with which one has sprinkled [a person unclean with purification water] is fit for use [also] in purifying a leper [M. Par. 11:8A].***

[B] *R. Immi in the name of R. Eleazar: “This [pericope of the Mishnah] excludes the position of R. Eleazar.”*

[C] *For it has been taught: **A hyssop which is fit for the [18a] purification rite is fit for the leper. If one sprinkled with it for the purification rite, it is fit for use for a leper. R. Eleazar says, “Cedar wood, hyssop, and a red thread mentioned in Torah are to be articles with which work has not been done [which have never been used before] T. Neg. 8:2].***

[D] *Said R. Yosé, “Now it is not an argument a fortiori [that if one used the hyssop to sprinkle purification water, the hyssop may not be used for sprinkling someone else requiring purification water]? Now in the case of purification water, in which articles required for use in this connection are rendered invalid by use for some other purpose, if one has sprinkled with a hyssop for purification water, the hyssop is invalid for use with a mesora, in the case of purification water, where articles required for use in this connection are rendered invalid by use for some other purpose, is it not logical that hyssop used for purification water one time may not be used for purification water another time?”*

[E] *If one has used a hyssop for a given mesora’s purification rite, what is the law as to then using the hyssop to validate another mesora? [This question is addressed to the position of Eleazar. Do we maintain that it is as if he has sprinkled purification water, and the hyssop is invalid for another mesora, or do we maintain that use for the purification rite is separate and not*

taken into consideration in the case of a second use for a mesora?]

[F] [There is a dispute in this regard.] *One who says* “It is valid” maintains that it is the view of R. Judah, with which R. Eleazar concurs [in the story that follows]. *One who says*, “It is invalid” *holds that it is not the view of R. Judah, with which R. Eleazar concurs.*

[H] *It was taught: Said R. Judah, “It was my Sabbath to be at R. Tarfon’s house. He said to me, ‘Judah, my son, give me my sandal,’ and I gave it to him. He put his hand out of the window, and took a staff from there. He said to me, ‘Judah, my son, with this staff here I have declared clean three lepers. And I learned from that case seven laws [concerning the staff]: it is of cypress wood; its head is planed; it is a cubit in length; its breadth is a fourth of the thickness of the leg of bed, divided one into two, then two into four parts; they sprinkle, repeat, and do it a third time [with the same piece of wood; they declare clean a mesora both while the Temple is standing and not while the Temple is standing; and they effect a rite of purification in the provinces [T. Neg. 8:2D].*

[II:1 A] “And in his hand the priest shall have the water of bitterness that brings the curse” (Num. 5:18):

[B] “Water ...”

[C] Is it possible that the water should have the hue of normal water?

[D] Scripture has said, “... that brings the curse ...” [not normal water].

[E] Is it possible that it should be the color of ink?

[F] Scripture has said, “Water.”

[G] How so?

[H] The water should have the appearance of water and the appearance of bitterness [brought about by the dirt from the ground].

[I] Sages have given as its measure **a half-log of water from the laver [M. 2:2B].**

[J] *And lo, it has been taught: R. Judah says, “A quarter-log” [M. 2:2A].*

[K] *What R. Judah says here is consistent with a position held elsewhere, for we have learned, As he [Judah] calls for less writing, so he calls for less water*

[II:2 A] *There we have learned: Helene, his mother, set a gold candlestick over the door to the sanctuary. She also made a golden tablet on which was written the pericope of the accused wife [M. Yoma 3:10D-E], so that when the sun rises, sparks of golden light sparkle forth from it, so people know that the sun is rising [at which point they were to recite the Shema] [T. Kip. 2:3].*

[B] How was the passage written thereon?

[C] R. Simeon b. Laqish said in the name of R. Yannai, “It was written only in alef-bet [that is, the beginnings of the words of the pericope, but not fully spelled out].”

[D] *And lo it has been taught:* In the writing used here, he wrote there [that is, he wrote the scroll and followed the way the scroll’s text was given on the golden tablet], not with thick nor with thin but with middling letters. [That is, the priest would write the scroll by copying what was on the golden tablet. This then implies that he copied everything out, not merely the beginning letters of each word.]

[E] Interpret the passage to mean that he copied an alef from the tablet onto the Scroll and and so too with a bet and onward.

[F] *R. Hoshaiiah taught [contrary to the foregoing view],* “The entire pericope of the accused wife was completely written out on For from that scroll did he read and interpret all of the details of the pericope.”

[II:3 A] And why these matters of water, dirt, and writing [prior to the ordeal itself, as inducements to confess her sin]?

[B] “Water” indicating the place from which she came.

[C] “Dirt” indicating the place to which she goes.

[D] “Writing” indicating before whom she is destined to give a full account.

[E] *There we have learned: Aqabiah b. Mehallalel says, “Reflect upon three things and you will not fall into the clutches of transgression: Know from whence you come, whither you are going, and before whom you are going to have to give a full account [of yourself]. From whence do you come? From a putrid drop. Whither are you going? To a place of dust, worms, and maggots. And before whom*

are you going to give a full account of Yourself? Before the King of kings, the Holy One, blessed be he” [M. Abot 3:1].

[F] Abba son of R. Pappi, and R. Joshua of Sikhnin in the name of R. Levi: “All three of them did R. Aqabiah derive from a single verse of Scripture: ‘Remember your Creator’ (Qoh. 2:1:BWR’K).

[G] “‘Remember your well (B’RK), your pit (BRK), your Creator (BWR’K)d

[H] “‘Your well’ –the place from which you came.

[I] “‘Your pit’ –the place to which you go.

[J] “‘Your Creator’ –before whom you are going to give a full account of yourself.”

[II:4 A] Three matters must be done for the particular woman at hand [and may not be made ready in advance for anyone who may come along]:

[B] [The writ of divorce]: “He will write for her” (Deut. 24:1).

[C] [The rites of the accused wife]: “He will do for her all of this law” (Num. 5:30).

[D] [The writ of emancipation of a slave woman] “not yet given her freedom” (Lev. 19:20).

[E] *There we have learned:* **Three substances have to be visible on the surface of the water: the dirt used for the water drunk by the accused wife, the ashes of the red cow used for mixing with the water of purification, and the spit of the levirate wife at the rite of removing the shoe.**

[F] **the dirt used for the water drunk by the accused wife: sufficient to be visible on the surface of the water;**

[G] **the ashes of the red cow used for mixing with the water of purification: sufficient to be visible on the surface of the water;**

[H] **and the spit of the levirate wife at the rite of removing the shoe: sufficient to be visible to the sight of the elders [T. Sot. 1:8A-D].**

[I] R. Ishmael taught as a Tannaite ruling, “Also the blood of the bird [used in the purification-rite of the one afflicted with the skin-disease, Lev. 14:1ff.]”

[J] Said R. Zeira, “They took the measure of the matter and laid down the following rule: the blood of a small bird is not fully diluted in a

quarter-log of water, and the blood of a large bird does not blot out the water in a quarter-log of water. That is in line with that which is stated, 'in blood' (Lev. 14:1).

[K] "In the blood of the bird that was killed over the running water" (Lev. 14:6) – is it possible that it should be only blood, with no appearance of water in the mixture?

[L] "Scripture says, "Running water."

[M] "If it calls for" "running water," is it possible that it should be wholly water?

[N] "Scripture says, 'Blood.'

[O] "How so?"

[P] "It must be running water in which the blood of the bird is to be recognized.

[Q] "Sages took the measure of the matter: a quarter-log."

[II:5 A] R Pedat in the name of R. Yohanan: "Water used for the rite of the accused wife is invalidated if left standing overnight."

[B] R. Aha in the name of R. Abina, "Any sort of material, part of which is not destined for the altar itself, is in no way rendered invalid by being left overnight."

[II:6 A] "[And the priest shall take] some of the dust [that is on the floor of the tabernacle and put it into the water]" (Num. 5:17).

[B] Might one think that the dirt may be taken from an available pile of dirt in a basket [and not from the floor of the Temple?

[C] Scripture specifies, "From the dust that is on the floor of the tabernacle."

[D] If the requirement is that the dust be from the floor of the tabernacle, it is possible to suppose that the dirt is valid only if the priest will dig it up with a spade?

[E] Scripture says, "Which will be ..."

[F] How so?...

[G] If there is no dirt there, he brings some and puts it there.

[H] *Said R. Abin, "Accordingly it has been said: 'Is it possible that it will be valid only if one will come and dig up some dirt with a spade?*

‘Scripture says, “Which will be there,’ – deriving from any source [in the courtyard]. “‘The tabernacle’ –to encompass also [dirt from] the tabernacle, also that from the high places of Nob, Gibeon, and Shilo, and the eternal house [to be rebuilt when the Messiah comes].”

2:3

[A] [17A] He came to write the scroll.

[B] From what passage [in Scripture] did he write?

[C] From “If no man has lain with thee... but if thou hast gone aside with another instead of thy husband...” (Num. 5:19f.).

[D] But he does not write, “And the priest shall cause the woman to swear” (Num. 5:21).

[E] And he writes, “The Lord make thee a curse and an oath among thy people... and this water that causeth the curse shall go into thy bowels and make thy belly to swell and thy thigh to fall away.”

[F] But he does not write, “And the woman shall say, Amen, Amen!”

[G] R. Yosé says, “He made no break.”

[H] R. Judah says, “He writes, in fact, only, The Lord make thee a curse and an oath... and this water that causeth the curse shall go into thy bowels...”

[I] “And he did not write, ‘And the woman shall say, Amen, Amen!’”

[I:1 A] R Qeruspai said, “There is a dispute between R. Yohanan and R. Simeon b. Laqish. One said, ‘The priest imposes the oath and then he writes [the curse down in the scroll, as at Num. 5:19, 5:23].’ The other one said, ‘He writes [the curse down in the scroll], and afterward he imposes the oath.’”

[B] *They proposed to make the following statement: He who said, “He imposes the oath and afterward writes the scroll” follows the order in which the Scripture states matters: “[Then the priest shall make her] take an oath” (Num. 5:19) “[Then the priest] shall write [these curses in a book ...]” (Num. 5:23). He who said “He writes the curses and then he imposes the oath” holds that position so as to set the oath immediately prior to the actual administration of the bitter water.*

[C] *There are those who teach, “Both the various conditions specified of the rite and the oath itself are essential to the performance of the rite.”*

[D] *There are those who teach, “The taking of the oath is essential to the rite; the other specifications and conditions are not essential to the rite.”*

[E] *They proposed to theorize as follows: The one who said “both the various conditions specified for the rite and the oath itself are essential to the performance of the rite” maintains that where the words “ordinance” and “Torah” are mentioned, all details in the cited pericope are essential to the correct performance of the rite described therein. And he who says “The taking of the oath is essential to the rite; the other specifications and conditions are not essential to the rite” does not hold that view.*

[F] *No, that is not so. He does hold that view, but he maintains that they are not listed in the necessary order [that is, Scripture tells what must be done, but it does not specify the order in which the rites must be carried out].*

[G] *Now the dispute just now spelled out is in line with the one spelled out earlier. That is to say, he who says, “Both the various conditions specified of the rite and the oath itself are essential to the performance of the rite” accords with the other who said “He imposes the oath and afterward writes the scroll,” just as Scripture specifies. He who says, “The taking of the oath is essential to the rite; the other specifications and conditions are not essential to the rite” holds the view of the one who says “He writes the scroll and afterward imposes the oath.”*

2:4

[A] **He writes (1) neither on a tablet, (2) nor on papyrus, (3) nor on [17B] unprepared hide, but only on [parchment] scroll,**

[B] **since it is written, In a book (Num. 5:23).**

[C] **And he writes (1) neither with gum, (2) nor with coppera, (3) nor with anything which makes a lasting impression [on the writing-material], but only with ink,**

[D] **since it is written, And he will blot it out –**

[E] **writing which can be blotted out.**

[I:1 A] *Levi bar Sisi raised the question before Rabbi: “As to the scroll written for the accused wife, what is the law on its imparting uncleanness to the hands?”*

[B] He said to him, “That is a valid question.”

[C] Said R. Yosé, “It is not a valid question. Is it not so that they decreed that scrolls should impart uncleanness to the hands only because of their holiness? But this scroll is written to be blotted out, [so it is not

holy to begin with and does not require the protection of the cited law].”

[D] *No, it remains a pressing question.* For it is only because the Scripture has specified that the scroll is to be blotted out that it is blotted out. [But otherwise it would be holy, like any other scroll, and hence the question is a valid one.]

[I:2 A] And how many [excess] letters may be written in [the scroll], such that it is no longer a valid [scroll], with the result that the blotting out is not required [by Scripture], so that one [who goes ahead and blots it out] will be liable on that account [for needlessly erasing the name of God]?

[B] R. Hanin taught: “The House of Shammai say, ‘One.’ And the House of Hillel say, ‘Two.’”

[C] *Said R. Hila, “The reason for the position of the House of Hillel is that the two letters should be sufficient to write Yah [God].”*

[I:3 A] *R. Yudan raised the question, “If one wrote the scroll from memory [and did not copy it from a copy before him, and then blotted it out], what is the law?*

[B] “If he blotted it out in dirt [what is the law]?”

[C] “If he wrote it part by part and blotted it out as he went along, [what is the law]?” [These questions are not answered.]

[II:1 A] *It was taught:* R. Eleazar b. Shammua says, “They do not write it on the hide of an unclean beast.”

[B] Said R. Simeon, “Since you have said that the scroll is written to be blotted out, why should he not write it [on such a hide]?”

[C] *It was taught:* R. Eleazar b. Simeon says, “I concur with the position of R. Eleazar b. Shammua, rather than with the position of father. For the woman may say that she will not drink the water, and the holy name written on the scroll will be [permanently] hidden away on the hide of an unclean beast.”

[D] [Simeon said,] “Here it is written, ‘book’ (Num 5:23). And there [in connection with the writ of divorce], ‘book’ is written (Deut. 24:1). Here [in regard to a writ of divorce] you say that it may be written on any thing which is not attached to the ground, *and here you say this [requiring a hide of only one type of beast]?*”

[E] *He said to him, “No. There is a significant difference. Here it is written, ‘On a book, and he will write’ [thus differentiating the two passages].”*

[II:2 A] Is it possible that he writes with ink, red ink, ink prepared with gum, or vitriol?

[B] Scripture says, “And he will blot out ...”

[C] Since it says, “And he will blot out ...,” is it possible that it may be written with any sort of liquid (milk, blood, etc., [M. Makh. 6:4]) or with fruit juice?

[D] Scripture says, “And he will write.”

[E] How so?

[F] It must be writing which can be blotted out.

[G] And what is such writing as that?

[H] It is writing in ink which is not prepared with gum.

[I] And has it not been written, “If it is blotted out of the scroll, it is valid”?

[J] *Interpret that statement in line with the following tradition, as it has been taught:*

[K] Said R. Meir, “So long as we studied with R. Ishmael, we never put vitriol in ink.”

2:5

[A] **To what does she say, Amen, Amen?**

[B] **“Amen to the curse” [Num. 5:21], “Amen to the oath” [Num. 5:19].**

[C] **“Amen that it was not with this particular man” “Amen that it was with no other man.”**

[D] **“Amen that I have not gone aside while betrothed, married, [18B] awaiting Levirate marriage, or wholly taken in Levirate marriage.”**

[E] (6) **“Amen that I was not made unclean, and if I was made unclean, may it [the bitter water] enter into me.”**

[F] **R. Meir says, “Amen that I was not made unclean, Amen that I shall not be made unclean.”**

- [I:1 A] R. Eleazar in the name of R. Yosé b. Zimrah, “[In saying the word ‘Amen’ in an oath, one makes three affirmations, as follows:] ‘Amen’ to receiving the oath, ‘Amen’ to the oath [itself, as at Num. 5:19], ‘Amen’ to confirm what has been said in the oath.”
- [B] [The fact that saying] Amen [after the statement of the oath constitutes] acceptance [of what has been said] derives from the rite of the accused wife [who simply states “Amen” after the officiating priest spells out the oath and its conditions].
- [C] [The fact that saying] Amen [confirms the standing of] the oath [itself] [derives from the following verse:] “... that I may perform the oath which I swore to your fathers, to give them a land flowing with milk and honey, as at this day. Then I answered, ‘Amen [so be it], Lord”” (Jer. 11:5).
- [D] [The fact that saying] Amen [after the statement of the oath] confirms all the matters [stated in the oath] derives from the following: “And Benaiah the son of Jehoiada answered the king, ‘Amen! May the Lord, the God of my lord the king say so. As the Lord has been with my lord the king, even so may he be with Solomon ...” (I Kings 1:3~37).
- [E] [*Referring to Num. 5:21*] said R. Tanhuma, “*If it is from the verse just now cited, then saying Amen to an oath [as indicated in that verse] proves nothing, [for the woman says Amen to the curse, not to the oath]. But rather the following verse is what proves the case: ‘That you may enter into the covenant of the Lord your God and into its curse’ (Deut. 29:12). And there is no ‘curse’ except an oath, as you say in Scripture, ‘Let the priest make the woman take the oath of the curse’” (Num. 5:21).*
- [I:2 A] Now how do we know that [sages] have learned to transfer the oath [from one matter to yet others relevant to the same party]? It is from the accused woman. [That is, how do we know that the same oath may cover more than the provisions for which it originally was invoked? It is from the case of the accused wife.]
- [B] “And the woman shall say, ‘Amen, Amen”” (Num. 5:22).
- [C] **“Amen that it was not with this particular man” “Amen that it was with no other man.”**
- [D] *Up to this point we learn that one may insert into the oath matters concerning which it is appropriate to impose the oath upon the woman [such as, an oath that she has not committed adultery with anyone at all]. How do we know that one may insert into an oath matters*

concerning which it is not appropriate to impose the oath, [in that the matters are not congruent to the original cause of the oath, e.g., that there has been no theft of slaves, property, deeds, and the like]?

[E] *Said R. Yosé b. R. Bun, “Let us derive the answer from the following: **Amen that I have not gone aside while betrothed, married, [18B] awaiting Levirate marriage, or wholly taken in Levirate marriage.*** Now are the matters of the levirate connection [awaiting marriage, or standing in a fully consummated marriage] appropriately included within the oath? [Clearly they are not, since the law is that the woman in a levirate connection is not required to undergo the ordeal of the accused wife.] And even so, you say that they assign the oath to cover these relationships as well. Accordingly, one includes in an oath matters which, to begin with, are not appropriate to its original cause.

[I:3 A] *There are Tannaim who repeat the tradition as follows:* Just as the accused wife is subjected to a curse along with the oath, so all others who are subjected to an oath are subjected to both a curse and an oath. *And there are Tannaim who repeat the tradition as follows:* This particular one is subjected to a curse along with the oath, but no others who are subjected to an oath are subject to both a curse and an oath.

[B] *Since the law of taking an oath derives from the analogy of the case of the accused wife,] they wanted to propose the following: As to the position of the one who said “Just as the accused wife is subjected to a curse along with the oath, so all others who are subjected to an oath are subject to both a curse and an oath.” [That position] poses no problems, [because, as noted, the governing analogy is fully worked out in such a rule]. But as to the position of the one who says “This particular one is subjected to a curse along with the oath, but no others who are subjected to an oath are subject to both a curse and an oath,” [there is a problem].*

[C] For you derive [from the law governing the accused wife] the fact that one may apply the oath to matters not originally covered by its cause. And yet, it would appear, you are not willing to derive [from the law governing the accused wife] the fact that both a curse and an oath apply. [So you are not consistent.]

[D] *There are Tannaim who repeat the tradition as follows:* Just as the accused is subject to saying “Amen ... Amen,” so all others who are subjected to an oath say “Amen ... Amen.” *And there are Tannaim who repeat the tradition as follows:* This particular one is subject to saying “Amen ... Amen,” but all others who are subject to an oath do not say “Amen ... Amen.”

[E] *They wanted then to propose the following:* As to the position of the one who said “Just as the accused wife is required to say ‘Amen ... Amen,’” so all others who are subjected to an oath say ‘Amen ... Amen,’” *there is no problem. But as to the position of the one who says* “This particular one is required to say ‘Amen ... Amen,’ but no others who are subjected to an oath are required to say ‘Amen ... Amen,’” *there is a problem*].

[F] For you derive [from the law governing the accused wife] the act that one may apply the oath to matters not originally covered by its cause. And yet, it would appear, you are not willing to derive [from the law governing the accused wife the fact that all those who take an oath must say] “Amen, Amen.”

[II:1 A] [**“Amen that I have not gone aside while awaiting Levirate marriage...”**]: Said R. Ba bar Mamel, “Who taught that the deceased, childless brother’s wife awaiting levirate marriage [is subject to the oath? It is R. Aqiba. For R. Aqiba maintains that a woman in a levirate marriage [who has illicit sexual relations] produces a mamzer [a totally illegitimate offspring]. [It follows that if she has committed adultery, she is prohibited to remain with her levirate husband.]”

[B] *R Illi said to him, “What difference does the matter of producing a mamzer make in regard to the expression of jealousy [and consequent ordeal]?* The Torah has stated, ‘and he is jealous of his wife’ (Num. 5:14). [This includes] even the case of a woman who is only partly his wife [that is, who is not firmly within the marital bond]. [Hence rabbis vis-a-vis Aqiba, who hold that a woman in a levirate marriage who had illicit sexual relations and produces a child does not impart to that child the status of mamzer, because her marital relation is not so firm as that of a woman in a normal marriage, still concur with the rule of M. 2:5].”

[C] [Rejecting this objection of Illi,] said R. Shimi, “And has not R. Yannai stated, ‘Thirty-and-some-odd sages voted: How do we know that the relationship of consecration of a wife to one husband does not apply [at all] in the case of a levirate marriage? Scripture states, ‘The wife of the deceased shall not be married outside the family to a stranger; her husband’s brother shall go in to her, and take her as his wife’ (Deut. 25:5). [The meaning is that] she will not stand in a complete relationship with another [that is to be deemed completely wed to another; there is no consideration of consecration to any man at all]. Accordingly, (Shimi maintains,) rabbis vis-[^]-vis Aqiba will not concur [in the clause of M. 2:5].”

[D] *Said to him R. Yohanan, “Now [why should such a vote have been required at all? Is it not a statement explicitly made in the Mishnah [so what need was there for an exegetical debate?] He who says to a woman, “Lo, you are betrothed to me after your levir will perform the rite of removing the shoe” – she is not betrothed.* [Since at this point she is not subject to consecration for marriage to anyone, even afterward the statement made now is null.]”

[E] R. Yannai broke out in praises [of Yohanan, on account of this statement of his, citing the following verses of Scripture]: “Those who lavish gold from the purse” (Is. 46:6); “My son, keep sound wisdom and discretion; let them not escape from your sight” (Prov. 3:21); “Be wise, my son, and make my heart glad” (Prov. 27:11); “Give instruction to a wise man, and he will be still wiser” (Prov. 9:9); “The wise man also may hear and increase in learning” (Prov. 1:5).

[F] *Said to him R. Simeon b. Laqish, “Even after all these verses of praise, I can interpret the Mishnah’s rule in line with the position of R. Aqiba, who has ruled that a woman in a levirate marriage who commits adultery produces a mamzer”*

[II:2 A] A woman awaiting levirate marriage who [in the interim] committed adultery –

[B] R. Eleazar said, “She is [thereafter] permitted to have sexual relations with the levirate husband [and so to enter marriage with him].”

[C] R. Joshua b. Levi said, “She is forbidden from having sexual relations with the levirate husband [and may not then marry him].”

[D] *Rabbis state [the following question which] R. Mana said, “Has not R. Jacob bar Aha said in the name of R. Eleazar, A woman awaiting levirate marriage who died – the levir is permitted to marry her mother’?”* [That would indicate that, when she is alive, he may not marry her mother, even prior to his entering levirate marriage with her. It follows that there is a marital bond between the woman and the levir sufficient in strength to prohibit his marrying her mother. It must further follow that if, while awaiting the levirate marriage, she committed adultery, she should be prohibited from marrying the levir, just as she would if she were engaged to him and committed adultery. That statement poses a problem to the position of Eleazar, B.]

[E] [There is yet a further problem to Eleazar:] *Since we have learned, This is the general principle: Concerning any situation in which she may have sexual relations in such wise as not to be prohibited [to her husband], he [the husband] may make no stipulation*

whatsoever with her, now who can be the Tannaite authority who stands behind that statement? It can be neither rabbis nor R. Aqiba. [For M. 2:5E has a stipulation effective for the woman awaiting levirate marriage. Aqiba and rabbis must agree with that statement, as we have seen above. It then follows that, so far as Eleazar is concerned, the authority behind M. 2:6C is not to be located. It must further follow that the dispute between Eleazar and Joshua b. Levi requires reinterpretation, and it is to that task -hat we now proceed.]

[F] *But thus must we interpret the matter [to make sense of the question: He who said that she is permitted to marry accords with rabbis and not with R. Aqiba, and he who said she is forbidden to marry accords with R. Aqiba and not with Rabbis.*

[II:3 A] Said R. Yannai, “A woman awaiting levirate marriage who committed adultery is permitted to marry the levir later on.”

[B] *And it has been taught likewise:* “And it is hidden from the eyes of her husband” (Num. 5:13) – and not from the eyes of her levir.

[C] R. Jacob bar Zabedi in the name of R. Abbahu: “There was a case that involved a woman awaiting levirate marriage to a priest, and sages nonetheless permitted her to have sexual relations with the levir.”

[C] Said R. Yosé b. R. Bun, “Even a flogging does not apply to her case.”

[III:1 A] [R. Meir says, “**Amen that I was not made unclean, Amen that I shall not be made unclean:**”] it is not that R. Meir maintains, “The water tests her from this point,” but rather, “the water is deposited in her, so that, if she should become unclean, they will test her retroactively.”

[III:2 A] “This is the law in cases of jealousy” (Num. 5:29) – the law governing all ages [so that once done, it is not repeated, yielding the following conclusion:]

[B] A woman does not drink the bitter water and then repeat the ordeal.

[C] Said R. Judah, “Nehemiah of Sihin gave testimony for R. Aqiba: ‘A woman does drink the bitter water and repeat the process.’”

[D] “Said R. Aqiba, ‘I shall then explain the matter. As regards adultery with one particular man she does not drink the bitter water and repeat

the ordeal. But as regards an accusation covering two men, she does drink the bitter water and repeat the ordeal.”

[E] But sages say, “Whether it is by reason of one man or of two men [that she is accused of having adultery], she does drink the bitter water and repeat the ordeal [should the occasion arise]. Korkemit proves the matter, for she drank the bitter water, repeated the rite, and did so yet a third time, on the instructions of Shemaiah and Abtalion, and it was by reason of suspicion involving only one man.”

[III:3 A] *There was have learned: Aqabia b. Mahalalel gave testimony in four matters. He would say, “They do not administer bitter water [to test the woman accused of adultery] in the case of a proselyte woman or in the case of a freed slave girls]. And sages say, “They do administer the test.” They said to him, M’SH B: “Karkemit, a freed slave girl, was in Jerusalem, and Shemaiah and Abtalion administered the bitter water to hen” He said to them, “They administered it to her to make her into an example” [M. Ed. 5:6].*

[B] Now how shall we explain this dispute? If it concerns an Israelite who married a proselyte woman, it has been written, “The children of Israel” (Num. 5:12) and not proselytes. If it is the case of a proselyte who married an Israelite girl, it is written, “Then the man shall bring his wife to the priest” (Num. 5:15). *But we must interpret the matter to apply to the marriage of a proselyte man and a proselyte woman.*

[C] *What is the Scriptural basis for the position of Aqabya?*

[D] “The children of Israel” – not proselytes.

[E] *What is the Scriptural basis for the position of sages?*

[F] “And you will say to them” (Num. 5:12) is meant to encompass all which is stated in the pericope. And what is stated in the pericope? “If a man lies with her carnally” (Num. 5:13). Her act of sexual relations is what prohibits her. Then her husband becomes jealous of her and administers the water. [This applies also to the proselytes’ marriage.]

[III:4 A] “And it is hidden from the eyes of her husband” (Num. 5:13) – this excludes a blind man, who cannot see.

[B] If he is a blind man and she is a blind woman— *the Mishnah teaching of R. Judah declares him* exempt from all of the religious requirements which are stated in the Torah.

2:6

[A] **All concur that he [the husband] may make no stipulation with her about anything which happened before she was betrothed or after she may be divorced.**

[B] **[If after she was put away], she went aside with some other man and became unclean, and afterward he [the first husband] took her back, he makes no stipulation with her [concerning such an event].**

[C] **This is the general principle: Concerning any situation in which she may have sexual relations in such wise as not to be prohibited [to her husband], he [the husband] may make no stipulation whatsoever with her.**

[I:1 A] *Said R. Yannai, “It is self-evident that a man may retract his expression of jealousy [prior to the woman’s actually going in secret with the named man]. If he divorced the wife, is it as if he has retracted the expression of jealousy?”*

[B] *What would be a practical case?*

[C] If he expressed jealousy to his wife, then divorced her, then he took her back, and finally, she went aside with the named man. If you say that if he divorced his wife, it is as if he has retracted the expression of jealousy, then he has to express jealousy a second time. If you say that if he divorced her, it is not as if he has retracted the original expression of jealousy, then he does not have to express jealousy to her a second time.

[D] But if he expressed jealousy to her and then she went aside with the named man and he knew about it and then he divorced her and then he took her back and she went aside a second time, then drank the water, and the water did not affect her, what is the law? Is she deemed to be clean? Or, since the water did not affect the woman because she was forbidden when she was taken back by her husband [for the husband took her back after she had gone aside with the named man, is she deemed to be unclean? [The question is not answered.]

YERUSHALMI SOTAH

CHAPTER THREE

3:1

[A] He would take her meal-offering from the basket made of twigs and put it into a utensil of service and lay it into her hands.

[B] And a priest puts his hand under hers and waves it [the meal-offering].

[C] He waved it [Num. 5:25] and brought it near the altar.

[D] He took a handful [of the meal-offering] and burned it up [on the altar].

[E] And the residue is eaten by the priests.

[I:1 A] [He would take her meal-offering from the basket made of twigs and put it into a utensil of service and lay it into her hands:] It is written, “Then the priest shall take the cereal offering of jealousy out of the woman’s hand, and shall wave the cereal offering before the Lord ...” (Num. 5:25).

[B] Now does he do it himself? [The Mishnah specifies that he puts his hand under hers and waves the offering which she holds. Further, the standard procedure is for the sacrificer (he who benefits from the offering) to wave the meal offering, not the priest.]

[C] And does he not wave it [while it is yet] in her hand?

[D] But: On the basis of the cited verse, we derive the fact that he takes the meal offering from an unconsecrated utensil and puts it into a utensil consecrated for the Temple service.

[II:1 A] And a priest puts his hand under hers and waves [the meal offering] [M. 3:1B].

[B] But such a procedure is unseemly [that he should put his hand on hers].

[C] He brings a cloth.

[D] But it will not interpose properly.

- [E] Then he brings an aged priest [who will not be aroused by contact with the woman].
- [F] You may even say that they bring a child, who has not yet reached the time of sexual desire..
- [II:2 A]** *R. Hiyya taught, “In the case of an accused wife who is lacking hands, two priests wave the meal offering in her behalf [one standing in for her].”*
- [II:3 A]** *Said R. Yosé, “Under all circumstances [of the waving of the meal offering], it is only one point of information that the rabbis require, namely, What does he touch against the altar, the meal offering or the utensil?” [The answer is that he touches the body of the utensil against the altar.]*
- [II:4 A]** As to the acts of waving meal offerings, how do we know that they come before the acts of touching the utensil containing the meal offering against the altar?
- [B] R. Jeremiah in the name of R. Pedat: “They derived that law from the rules governing the rite of the accused wife. [‘The priest shall take the cereal offering...and wave it before the Lord and [then] bring it to the altar’ (Num. 5:25).]”
- [C] Said R. Yosé, “The laws governing the accused wife are singled out because they innovate [for their own case alone], and a matter which is singled out for its innovation does not supply laws [governing routine rites].”
- [D] *R. Bun bar Hiyya derived the fact from the following: “‘This is the law of the cereal offering. The sons of Aaron shall offer it before the Lord’ (Lev. 6:14). Now if reference is made to offering it [that is, bringing it into contact with the altar], then where is provision made for waving it? That already has taken place.”*
- [E] Said R. Yosé, “Interpret the passage to refer to those meal offerings which to begin with do not require waving, *in which case there is no implication whatever to be drawn from the cited passage.*”
- [F] Then whence do they derive evidence of the fact [that waving is prior to bringing near]? It is from this verse: “And you shall bring the cereal offering that is made of these things to the Lord, and when it is presented to the priest, he shall bring it to the altar” (Lev. 2:8).

[G] “You shall bring” encompasses the meal offering of the first sheaf, indicating that it requires bringing near. “And bring it near” encompasses the meal offering of the accused wife, indicating that it too requires bringing near. And it is written thereafter: “And he shall raise up” (Lev. 2:9). Now where in the cited passage is reference made to waving the meal offering? [Since no such reference is to be found, that must mean] that it already has been done.

- [II:5 A] *There we have learned: And these are meal offerings [from which] the handful is taken, and the residue of which belongs to the priests [Lev. 7:7-9]: (1) the meal offering of fine flour [Lev. 2:21, and (2) [the meal offering prepared in] a baking pan [Lev. 2:9, 7:8], and (3) [the meal offering prepared in] a frying pan, and (4) the loaves, and (5) the wafers [Lev. 2:9-10], and (6) the meal offering of gentiles, and (7) the meal offering of women, and (8) the meal offering of the offering of the first sheaf of barley [Lev. 2:16], and (9) the meal offering of a sinner [Lev. 5:12], and (10) the meal offering of a woman accused of adultery [Num. 5:26] M. Men. 7:1A-K].*
- [B] *R. Ba bar Mamel and R. Samuel b. R. Isaac were in session. R. Ba bar Mamel raised the following question before R. Samuel b. Isaac: “In the case of the meal offering of the first sheaf, how do we know that what is left over is eaten [by the priests]?”*
- [C] *He said to him, “And did not R. Yohanan say in the name of R. Ishmael, ‘It is written, [If you offer] a cereal offering [of first fruits to the Lord, you shall offer for the cereal offering of your first fruits crushed new grain from fresh ears, parched by fire’ (Lev. 2:14). And it is written [... and bring] the offering [required of her, a tenth of an ephah of a barley meal]’ (Num. 5:15). Just as the meal offering stated in the latter context consists of barley, so that in the former [that is, in the case of the meal offering of the first sheaf] likewise is made up of barley.’ And it follows: Just as in the case of the meal offering brought by the accused wife, what is left over is eaten by the priests, so in the case of the meal offering of the first sheaf, what is left over is eaten by the priests.” [Delete: Said R. Aqiba.]*
- [D] *When they had completed this discourse, R. Ba bar Mamel arose with R. Jeremiah. He said to him, “Now look at this novice in the law of yours! How indeed do we know that in the case of the meal offering of the accused wife itself, what is left over is eaten by the priests?! [All he has done is beg the question!]”*

- [E] *R. Zeira came to R. Isaac of Attush and taught as follows: “‘And every cereal offering, mixed with oil and dry, shall be for all the sons of Aaron, one as well as another’ (Lev. 7:10). Now how shall we interpret the cited passage? If it refers to a meal offering soaked in oil and made from wheat, that has already been treated [at Lev. 2:3: ‘And what is left of the cereal offering shall be for Aaron and his sons’]. So if it does not deal with a meal offering soaked in oil made from wheat, then assign the rule to one soaked in oil made from barley.”*
- [F] And the other said, “How shall we deal with this passage? If it is in reference to a dry meal offering made of wheat, that too has already been dealt with. But if it does not deal with a dry meal offering made with wheat, then apply the rule to a dry meal offering made with barley [such as that brought by the accused wife].”
- [G] For R. Yosé has stated, “We deal with an oil-soaked meal offering made from wheat and a dry meal offering made from wheat [18d], and the passage was stated because it was required. ‘... shall be for all the sons of Aaron, one as well as another’ (Lev. 7:10): A male priest takes a share, even though he is blemished. But a minor does not take a share, even though he is blemished.”
- [H] Said R. Yosé b. R Bun, “Because the Torah has treated a passage as encompassing other matters for one particular purpose, you now wish to treat the matter as encompassing every sort of matter. But what is essential is the repeated reference to ‘memorial.’ [That is, we may prove that the residue of the meal offering of the first sheaf is eaten by the priests by the repeated use of the word ‘memorial,’ both at Lev. 7:10, for any meal offering, and, for the one under discussion (Lev. 2:16): ‘And the priest shall burn as its memorial portion...’] Just as in the case of the use of the word ‘memorial’ later on [at Lev. 2:2, 2:9, etc.], the meaning is that what is left over may be eaten, so in the case of the use of the word ‘memorial,’ here [in the case of the accused wife (Num. 5:26), in the case of the first sheaf (Lev. 2:16)], what is left over may be eaten.”
- [I] Whence did they derive evidence of that fact?
- [J] [It is from the verse] “And you shall bring the cereal offering that is made of these things to the Lord; and when it is presented to the priest, he shall bring it to the altar” (Lev.2:8).
- [K]] “You shall bring” encompassing the meal offering of the first sheaf, that it requires bringing near.

[L] “And bring it near” encompassing the meal offering of the accused wife, that it too requires bringing near.

3:2

[A] **He would give her the water to drink.**

[B] **And [only] afterward he would offer up her meal-offering.**

[C] **R. Simeon says, “He would offer up her meal-offering.**

[D] **“And afterward he would give her the water to drink,**

[E] **“since it is said, And afterward he gives the woman the water to drink [Num. 5:26].**

[F] **“But if he gave her the water to drink and afterward he offered up her meal-offering, it is valid.”**

[I:1 A] *What is the Scriptural basis for the position of rabbis [at M. 3:2A-B]?*

[B] “[And he shall make the woman drink ... and the water ...] shall enter into her ...” (Num. 5:24). [“And the priest shall take the cereal offering of jealousy ... and wave ...” (Num. 5:325).

[C] *What is the Scriptural basis for the position of R. Simeon?*

[D] “And afterward he gives the woman the water to drink” (Num. 5:26).

[E] *How does R. Simeon interpret the Scriptural basis for the position of rabbis, namely, “And the water will enter into her”?*

[F] [It means] all of the water and not only part of it.

[G] *And how do rabbis interpret the Scriptural basis for the position of R. Simeon, “And afterward he gives the woman the water to drink”?*

[H] [This means] that they do so against her wishes, not by her grace.

[I] R. Simeon concurs with sages [i.e., rabbis] that if he gave her the water to drink and afterward he offered up her meal offering, it is valid [M 3:2F].

[J] And sages concur with R. Simeon that if he offered up her meal offering and afterward he gave her the water to drink, it is valid.

[K] What then is the difference between them?

[L] It is in defining what is the religious duty involved [that is, whether the crucial element is the meal offering or the water].

[M] Rabbis maintain that it is a meal offering meal offering that serves to subject the woman to the test.

- [N] R Simeon holds, [by contrast], that it is the water that subjects the woman to the test.
- [O] *What is the Scriptural basis for the position of rabbis?*
- [P] “It is a cereal offering of jealousy, a cereal offering of remembrance, bringing iniquity to remembrance” (Num. 5:15).
- [Q] *What is the Scriptural basis for the position of R. Simeon?*
- [R] “And the water that brings the curse shall enter into her and cause bitter pain” (Num. 5:24).
- [S] *How do the rabbis interpret the Scripture on which R. Simeon rests his case, “... and it will enter into her”?*
- [T] This teaches that [the water] diffuses throughout all her limbs.
- [U] *And how does R. Simeon interpret the Scriptural basis for the position of rabbis, “It is a cereal offering of jealousy, a cereal offering of remembrance, bringing iniquity to remembrance”?*
- [V] [This verse] teaches that all the sins which the woman has against her come to remembrance at that very hour.
- [W] Rabbis say, “[The priest] writes, blots out the scroll, administers the water, then offers the meal offering.”
- [X] R. Simeon says, “He writes the scroll, offers the meal offering, blots out the scroll, then administers the water.”
- [Y] *All parties then concur that the blotting out is done alongside the administration of the waters. rabbis say, “He writes, blots out, administers the water, and makes the offering.” And R. Simeon says, “He writes, offers the offering, blots out, then administers the water.”*
- [Z] *It has been taught: **But under all circumstances she has the power to repent for her behavior, until her meal offering has offered. If once her meal offering has been offering, she said, “I am not going to drink,” they force her and make her drink against her will [T. Sot. 2:3G-H].***
- [AA] This accords with the view of R Simeon. *But in the view of rabbis, [how can we make sense of this, for] the woman already has drunk [the water prior to the offering of her meal offering]? [Accordingly, Simeon’s position is taken for granted here.]*

[BB] *We have learned:* **She hardly sufficed to drink it before her face turns yellow [M. 3:4A].**

[CC] *There are those who teach:* She does not move from there before [and the above clause will follow].

[DD] *He who said,* She hardly sufficed... is R. Simeon, since her meal offering already will have been offered up]. *Those who said* she did not move from there are the rabbis, [since the water does not do its work until her meal offering has been offered up].

3:3

[A] [If] before the scroll is blotted out, she said, “I am not going to drink the water,” her scroll is put away, and her meal-offering is scattered on the ashes.

[B] But her scroll is not valid for the water-ordeal of another accused wife.

[C] [If] her scroll was blotted out and then she said, “I am unclean,” the water is poured out, and her meal offering is scattered on the ashes.

[D] [If] her scroll was blotted out and then she said, “I am not going to drink it,” they force her and make her drink it against her will.

[I:1 A] *It was taught:* Her scroll [M. 3:3A] was put away under the hinge [of the gate] of the Temple [T. Sot. 2:2K].

[B] Why?

[C] So as to wear it out.

[D] There was a small passage there, into which the water would be poured.

[E] *It was taught:* No trace of sanctity applies [to that water].

[F] What is the law as to using that water for kneading mud?

[G] What difference would it make? The water is poured out in any event.

[H] *But it was taught [to the contrary]:* A trace of sanctity applies [to that water].

- [II:1 A] **[If] her scroll was blotted out and then she said, “I am unclean,” the water is poured out, and her meal offering is scattered on the ashes:**
- [B] *That is to say that the meal offering of the accused wife is deemed holy [even] before the scroll is written out. [For it is as if the scroll had not been written at all.]*
- [C] Said R. Yosé, “*More than this did R. Hiyya teach: ‘While the woman is yet en route [to the Temple, if one set aside meal for the meal offering], the meal offering set aside for her is deemed holy.’*”
- [D] *Said R. Yosé b. R. Bun, “The Mishnah [itself] has made that same point: [These are the ones whose meal offerings are to be burned]:...the one whose husband has sexual relations with her on the way to Jerusalem [M. 3:6H]. [The meal offering has to be burned because it was deemed consecrated, and then became useless.]”*
- [III:1 A] **[If] her scroll was blotted out and then she said, “I am not going to drink it,” they force her and make her drink it against her will:**
- [B] Why?
- [C] Because she caused the Holy Name of God to be blotted out.
- [D] How much [of the Name] is to be blotted out [in order to invoke the cited rule?]
- [E] *R. Hanina taught: “The House of Shammai say, ‘One letter.’*
- [F] “*And the House of Hillel say, ‘Two.’*”
- [G] *Said R. Illa, “The basis for the ruling of the House of Hillel is that enough should be blotted out to be sufficient to write the word ‘Lord.’*
- [III:2 A] **R. Judah says, “With iron tongs they force her mouth open, and they force her and make her drink it against her will.”**
- [B] **Said to him R. Aqiba, “And why do we have to test her any further? Is it not to test her? And lo, she is now tested and proved to be degraded by her refusal to drink!” [T. Sot. 2:3E-F].**
- [C] *But R. Aqiba had the theory, “She who says, ‘I am not going to drink’ is equivalent to the one who says ‘I am unclean for*
- [D] *Then does R. Aqiba not maintain that they force her and make her drink it against her will: [by strangling her to force her*

mouth open] until her face turns yellow and force her to drink against her will?

[E] *He maintains that that is the case* if she has already begun to drink the water [and, at that point, she no longer is able to decline to do so].

3:4

[A] **She hardly sufficed to drink it before her face turns yellow, her eyes bulge out, and her veins swell.**

[B] **And they say, “Take her away! Take her away!”**

[C] **so that the Temple-court will not be made unclean [by her corpse].**

[D] **[But if nothing happened], if she had merit, she would attribute [her good fortune] to it.**

[E] **There is the possibility that merit suspends the curse for one year, and there is the possibility that merit suspends the curse for two years, and there is the possibility that merit suspends the curse for three years.**

[F] **On this basis Ben Azzai says, “A man is required to teach Torah to his daughter.**

[G] **“For if she should drink the water, she should know that [if nothing happens to her], merit is what suspends [the curse from taking effect].”**

[H] **R. Eliezer says, “Whoever teaches Torah to his daughter teaches her sexual satisfaction.”**

[I] **R. Joshua says, “A woman wants a qab [of food] with sexual satisfaction more than nine qabs with abstinence.”**

[J] **He would say, “A foolish saint, a smart knave, an abstemious woman,**

[K] **“and the blows of abstainers (perushim)–**

[L] **“lo, these wear out the world.”**

[I:1 A] *[We note that even before she has drunk all the water, but only part of it, the water begins to take effect.] Now did we not propose to maintain [above] that all the water, but not part of the water, [is what carries out the test of the woman]?*

[B] *It [does not mean that she had not drunk it all, but it] is a usage along the lines of what someone must say, “Mr. So-and-so had not sufficed to drink before his body trembled.”*

[II:1 A] There is the possibility that merit suspends the curse for one year, and there is the possibility that merit suspends the curse for two years, and there is the possibility that merit suspends the curse for three years:

[B] **There is the possibility that merit suspends the curse for one year:** This derives from Nebuchadnezzar, “At the end of twelve months ...” (Dan. 4:29).

[C] **there is the possibility that merit suspends the curse for two years:** This derives from Amnon, “After two full years ...” (2 Sam. 13:23).

[D] **there is the possibility that merit suspends the curse for three years:** This derives from Ahab, “For three years Syria and Israel continued without war” (I Kings 22:1).

[E] Said R. Yosé, “It Is said, ‘Throughout those twelve months he kept busy doing religious duties, and throughout all those two years he kept busy studying Torah.’”

[F] *Now where do we find evidence for that statement In Scripture?*

[G] “For three years Syria and Israel continued without war.”

[II:2 A] [“A cereal offering of remembrance, bringing iniquity to remembrance” (Num. 5:15):] “A cereal offering of remembrance” constitutes a general statement.

[B] “Bringing iniquity to remembrance” then serves as a limiting statement.

[C] When we have a generalization followed by such a qualification, then we include in the generalization only what is specified in the qualifying statement.

[D] If that is how you phrase matters, then will it not come out that the attribute of strict justice is buried?

[E] Now if it is the measure of strict punishment, which is lesser, lo, which the [meal offering] serves to call to mind, the measure of goodness, which is abundant, how much the more so [will the meal offering call it to mind].

[F] Then: “A cereal offering of remembrance” applies if the woman has merit.

[G] “Bringing iniquity to remembrance” applies if she has no merit.

[II:3 A] *It was taught:* R. Tarfon says, “All references to remembrance stated in the Torah are meant for good, except for this one, which is meant to speak of punishment.”

[B] Said to him R. Aqiba, “Had the Scripture said, ‘Bringing iniquity to remembrance’ (Num. 5:15) and nothing more, then matters I should have ruled just as you do. But lo, it states, ‘A meal offering of remembrance’ – only in reference to goodness.”

[II:4 A] *It was taught:* **R. Judah b. Petera said in the name of Eleazar b. Matya, “What is the meaning of the Scripture ‘Now if the woman has not been made unclean’? Now do we not know that if the woman was not made unclean, then she is clean? Why does Scripture say so? But in the end, the Omnipresent compensates her for her humiliation. For if she was barren, she will become pregnant. If she used to give birth with pain, now she will give birth in comfort. If she used to produce females, now she will produce males. If she used to produce ugly children, now she will produce pretty babies. If she used to produce dark ones, now she will produce fair ones. If she used to produce short ones, now she will produce tall ones. If she used to produce one by one, now she will produce two by two” [T. Sot. 2:3R-S].**

[B] Said to him R. Simeon b. Laqish, “If so, then every woman will go and behave badly so as to be visited [in this way].”

[C] *Now does R. Simeon not concur in the statement:* “But if the woman has not defiled herself and is clean, then she shall be free and shall conceive children” (Num. 5:28)?

[D] *No, he does concur. He holds:* She will conceive valid seed, not invalid seed.

[III:1 A] **On this basis Ben Azzai says, “A man is required to teach Torah to his daughter. For if she should drink the water, she should know that [if nothing happens to her], merit is what suspends [the curse from taking effect].” Ben Azzai does not concur with R. Eleazar b. Azariah.**

[B] *For it has been taught:* **M’S H B: R. Yohanan b. Beroqah and R. Eleazar Hisma came from Yabneh to Lud and they greeted R. Joshua in Peqiin.**

[B] Said to them R. Joshua: “What was new in the schoolhouse today?”

- [C] They said to him, “We are all your disciples and we drink your water.”
- [D] He said to them, “Even so, it is hardly possible that there should be nothing new in the schoolhouse every day. Whose week was it?”
- [E] They said to him, “[It was the week of] R. Eleazar b. Azariah.”
- [F] He said to them, “And whence was the narration?”
- [G] “Assemble the people, men, women, and children, and the sojourner within your towns, that they may hear and learn to fear the Lord your God” (Deut. 31:12).
- [H] He said to them, “And what did he explain in this connection?”
- [I] They said to him, “Rabbi, thus did he explain in its connection: Now if the men came along to study, the women came along to listen, why did the children come along? To provide a reward to the people who brought them” [T. Sot. 7:9].
- [J] He said to him, “The generation in which R. Eleazar flourishes is not orphaned” [T. Sot. 7:12D].
- [III:2 A] A Roman matron asked R. Eleazar [better: Eliezer], “How is it that, though only one sin was committed in connection with the golden calf, those who died, died by three kinds of execution?”
- [B] He said to her, “Woman has no wisdom except at the distaff, for it is written, ‘And all the women that were wise-hearted did spin with their hands’” (Ex. 35:25).
- [C] Said to him Hyrcanus, his son, “So as not to answer her with a single teaching from the Torah, you have deprived me of three hundred kors of tithe per year!”
- [D] He said to him, “Let the teachings of the Torah be burned, but let them not be handed over to women.”
- [E] When she went out, his disciples said to him, “Rabbi, this one you have pushed away. To us what will you say?”
- [F] *R. Berekhiah, R. Abba bar Kahana in the name of R. Eliezer:* “Any one who was subject to the testimony of witnesses, who had been properly admonished also, died in a court trial. Whoever was subject to the testimony of witnesses but was not given an admonition was subjected to the ordeal of water that brings the curse, like the unfaithful wife. Whoever had neither witnesses nor an admonition died in the consequent plague.”

[G] *Both Rab and Levi bar Sisi say, “If a person slaughtered an animal to the golden calf, offered up incense, and poured out drink offering, he died following a regular court trial. If he clapped hands, danced, or played before the calf, he was subjected to the ordeal of the water that brings the curse, like the accused wife. If he merely rejoiced in his heart [at the making of the calf], he died in a plague.”*

[IV:1 A] What is meant by a **foolish saint** [M. 3:4J]?

[B] If one saw a child drowning in a river and said, “When I shall remove my phylactery, I shall save him,” – while this one is taking off his phylacteries, the other one gave up the ghost.

[C] If he found a fig which was the first of the season, and said “Whomever I shall meet first, I shall give it to him [so as not to benefit from first fruits],” if he then saw a betrothed maiden and ran after her [for that purpose] – *this is in line with that which we have learned: he who runs after his fellow to kill him, after a male, after a betrothed maiden* [M. San. 8:7].

[V:1 A] **A smart knave:**

[B] R. Zeriqan in the name of R. Huna, “This is one who applies lenient rulings to himself and strict rulings to other people.”

[V:2 A] *And that is in line with the following: Under all circumstances does the decided law follow the opinion of the House of Hillel.*

[B] **He who wishes to impose upon himself a more stringent rule,**

[C] **to follow the rule in accord with both the House of Shammai and the House of Hillel, concerning such a person the following verse is said: “The wise man has his eyes in his head, but the fool walks in darkness” (Qoh. 2:14).**

[D] **He who latches on to the lenient rulings of the House of Shammai and to the lenient rulings of the House of Hillel is an evil man.**

[E] **But if it is to be in accord with the opinions of the House of Shammai, then let it be in accord with both their lenient rulings and their strict rulings.**

[F] **And if it is to be in accord with the opinions of the House of Hillel, then let it be in accord with both their lenient rulings and their strict rulings** [T. Yeb. 1:13].

[G] *That ruling which you have stated just now [about following the rulings of either house] applies before the echo went forth.*

[H] But once the echo had gone forth and made its declaration, the law under all circumstances accords with the view of the House of Hillel.

[I] And whoever transgresses the position of the House of Hillel is liable to the death penalty.

[J] *It was taught:* The echo went forth and declared, “These views and those views are the teachings of the living God. But the law accords with the House of Hillel under all circumstances.”

[K] Now where did the echo come forth?

[L] R. Bibi in the name of R. Yohanan: “In Yavneh the echo came forth.”

[VI:1 A] An abstemious woman [M. 3:4J]:

[B] This is one who sits and quotes biblical phrases in a suggestive way:

[C] “And she said, ‘You must come in to me, for I have hired you with my son’s mandrakes and he lay with her that night’” (Gen. 30:16).

[D] Said R. Abbahu: “It was as if it already was in mind. In any case he knew that it was in her mind only so as to produce a founder of a tribe.”

[VII:1 A] Blows of abstainers [M. 3:4J]: This is the sort of person who gives advice to heirs of an estate on how to keep the widow from getting her rightful maintenance.

[B] *It is in line with the following:*

[C] *The widow of R. Shobetai was wasting his estate [by supporting herself in high style from his estate].*

[D] *The heirs came and complained to R. Eleazar. He said to them, “I shall tell you what to do. Pretend that you are going to sell [the land], and she will then lay claim on her portion, and thereby she will lose.”*

[E] *They did exactly that. In the evening she came and complained to R. Eleazar.*

[F] She said to him, “This is a case in which the blows of the abstainers have injured me. May [terrible things] happen to me if I ever intended such a thing to happen.”

[G] A disciple of Rabbi had two hundred zuz less a denar [in which case he was permitted to accept poor man's tithe, having too little money to be deemed well-off.

[H] Rabbi was accustomed to give over to him his poor man's tithe every third year [when it was due] as the tithe owing to those who were in need.

[I] One time the other disciples treated the student in a mean way by making up [the denar, so that he had the two hundred zuz and was no longer eligible to receive the poor man's tithe].

[J] [Rabbi] came and wanted to hand over to him the poor man's tithe as he had been accustomed to do.

[K] He said to him, "Rabbi, I have the requisite sum of money, [and so I am not eligible]."

[L] He said, "In the case of this one, the blows of the abstainers have smitten him."

[M] He instructed his disciples, and he took him up to a tavern and made him one qarat poorer.

[N] And then Rabbi handed over to him the poor man's tithe as he had been accustomed to do.

[VII:2 A] They added to the list [of M. 3:4J], a self-afflicting girl, who afflicts herself so as to lose her hymen.

[B] A widow who is a gadabout – who is always out gossiping and who gives herself a bad name.

[C] A precocious child.

[D] R. Helqiah in the name of R. Simeon: "This is one who is great in the Torah before he reaches maturity and therefore humiliates his elders."

[E] Said R. Yosé, "This is one who is nine years old, but who is sexually mature as a twelve-year-old. If such a one should have sexual relations with any one of the women who are listed in the Torah as prohibited to him, they are put to death on his account, and he goes free."

3:5

[A] R. Simeon says, "Merit does not suspend the effects of the bitter water."

- [B] “And if you say, ‘Merit does not suspend the effects of the bitter water,’ you will weaken the effect of the water for all the women who have to drink it.
- [C] “And you give a bad name to all the women who drink it who turned out to be pure.
- [D] “For people will say, ‘They are unclean, but merit suspended the effects of the water for them.’”
- [E] Rabbi says, “Merit does suspend the effects of the bitter water. But she will not bear children or continue to be pretty. And she will waste away, and in the end she will have the same [unpleasant] death.”
- [I:1 A] Said R. Hamnuna, “A woman who [after drinking the water] is ailing all over her body [but does not suffer locally as predicted for the faithless wife (Num. 5:27)] is permitted to have sexual relations with her husband.”
- [B] *This is in line with the following, which was taught:* R. Simeon b. Eleazar says, “Even a clean woman who drank the water – in the end she will die of an unpleasant sickness, because she has brought herself into this situation of overwhelming doubt.”
- [I:2 A] “But if the woman has not defiled herself and is clean, then she shall be free” (Num. 5:28) – This one is clean, and not one against whom witnesses have come to indicate that she is unclean.
- [B] “If the woman has not defiled herself and is clean” – this one is clean, not one who depended [for surviving the rite of the water that brings the curse] upon merit.
- [C] *This is in line with the opinion of the one who says* “Merit suspends the punishment, even if it is not recognized that that is the fact.”
- [D] *But in line with the opinion of the one who says* “Merit suspends the punishment, and that fact will be recognized.”
- [E] *Said R. Isaac, “Thus we interpret the matter:* If a woman drank the water and the water did not put her to the test, it is so that you may not say that they are false witnesses. Therefore the water did not put her to the test. *This comes to tell you that* the water does not put to the test a woman who is prohibited from having sexual relations with her husband, [as is one who is subject to testimony to her adultery].”
- [F] *Said R. Judah, “And is this in line with the view of the one who said, ‘Merit suspends the punishment [= M. 3:5E], and it is not*

even known that that is the fact' [vs. F]? And why is it not known?
Because merit suspends the punishment from coming upon

[I:3 A] "The man shall be free from iniquity" (Num. 5:31) –

[B] He does not scruple that merit has suspended the punishment
for her.

[C] Is it possible to suppose that she too should not take that into
account?

[D] Scripture says, "And the woman shall hear her iniquity"

[E] *And this is in accord with the one who says that merit
suspends punishment and that fact may not be known.
[Consequently, if she knows the truth, that she has
committed adultery, the failure of the ordeal to prove it
does not mean that she may resume sexual relations. Merit
may simply have suspended the punishment for the time
being.]*

3:6

[A] [If] her meal-offering was made unclean before it was sanctified in a
utensil,

[B] lo, it is in the status of all other such meal-offerings and is to be
redeemed.

[C] And [if this takes place] after it is sanctified in a utensil,

[D] lo, it is in the status of all other such meal-offerings and is to be
burned.

[E] And these are the ones whose meal-offerings are to be burned:

[F] (1) the one who says, "I am unclean to you," and (2) the one against
whom witnesses come to testify that she is unclean;

[G] (3) the one who says, "I am not going to drink the water," and (4) the
one whose husband does not want to make her drink it;

[H] and (5) the one whose husband has sexual relations with her on the
way to Jerusalem [M. 1:3].

[I] (6) And all those who are married to priests – their meal-offerings are
burned.

I:1 A] *It was taught:* If her meal-offering was made unclean before it was
sanctified in a utensil, lo, it is in the status of all of her such
meal-offerings. It is redeemed [M. Sot. 3:6A--B] and eaten. If her
meal-offering was made unclean after it was sanctified in a utensil

[M. Sot. 3:6C--D], its appearance is allowed to rot, and it goes out to the place of burning [T. Sot. 2:4B-F].

- [II:1 A] **the one who says, “I am unclean to you,” and (2) the one against whom witnesses come to testify that she is unclean:**
- [B] Is her meal offering not in the status of an animal set aside as a sin offering, the owner of which has died? [Why is it burned?]
- [C] For as to an animal set aside for a sin offering, the owner of which has died, money set aside for the purchase of such an animal is to go off to the Dead Sea. [So the meal should be thrown into the sea.]
- [D] [No,] it is to be compared to a suspensive guilt offering.
- [E] If it is to be compared to a suspensive guilt offering, then even after it was sanctified in a utensil [it should remain in its status, and it should be offered up].
- [F] Said R. Matteniah, “It is to be compared to a guilt offering which has already been slaughtered. *For we have learned there: He who brings a suspensive guilt offering, and is informed that he did not commit a sin – If after it was slaughtered he is [so] informed, the blood is to be poured out. And the meat goes forth to the place of burning [M. Ker. 6:1A, G-I].* [Now we have a viable analogy]”
- [II:2 A] *It was taught:* **[If] the meal-offering was offered, but there was not time to offer up the handful before her husband died, or if she died, the residue is prohibited.**
- [B] **[If] the handful was offered, and afterward she died, or the husband died, the residue is permitted.**
- [C] **For to begin with it was brought in a case of doubt.**
- [D] **Her doubt has been atoned for and gone its way.**
- [E] **[If] witnesses came against her to testify that she was unclean, one way or the other the meal-offering is prohibited. [If] they turned out to be conspiring witnesses, one way or the other her meal-offering is treated as unconsecrated.**
- [F] **In the case of any woman married to a priest, whether she is a priest-girl, or a Levite-girl, or an Israelite-girl, her meal-offering is not eaten, for he has a share in it. But the offering is not wholly consumed in the fire, because she has a share in it [T. Sot. 2:5-6].**
- [G] What is the meaning of “One way or the other”?

[H] Whether the handful of the meal offering had been removed or had not been removed,

[I] whether it had been offered up or it had not been offered up.

[J] R. Ila said, "It means, 'Whether the handful had been taken or had not been taken, in a case in which it had not been offered up.' But once the meal offering has been offered up, the residue is permitted to the priests. [It was suitably offered and the priests have every right to their part.]"

[II:3 A] *There we learned: R. Simeon says, "[From] the meal offering of a priest who was a sinner [Lev. 6:16], the handful is taken [even though the whole of it in any case is offered on the altar], and the handful is offered by itself, and the residue [thereof] is offered by itself" M. Men. 6:1C.* [Rabbis say no handful is taken; the whole is burned on the altar.]

[B] And both of them interpret the same verse of Scripture: "And the remainder shall be for the priest, as in the cereal offering" (Lev. 5:13).

[C] *Rabbis say, "Lo, it is like a meal offering brought by a priest as a freewill offering. Just as a meal offering brought as a free-will offering is wholly burned up on the altar, so this too is wholly burned up on the altar."*

[D] [And] R. Simeon says, "Lo, the tenth of an ephah of fine flour brought by a priest is like a tenth of an ephah of fine flour brought by an Israelite. Just as the tenth of an ephah of fine flour brought by an Israelite has removed from it a handful [for offering up on the altar], so a handful is taken out of this and offered up on the altar. If [then you wish to say], 'Just as the residue of [an Israelite's] meal offering is eaten, so this is eaten,' Scripture states, 'Every meal offering of the priest shall be wholly burned up'" (Lev. 6:23). "

[E] As to these remnants of the offering, on what account are they brought up to the altar [in Simeon's view]? [In the opinion of rabbis, there is no residue, since there is no handful.] Is it on account of the handful of meal, or on the account of their being residue?

[F] If you say it is on account of the handful, then one may not put them on the altar at night; he may not put them on the altar if the sacrificer has died; and the priest's attitude has no effect upon them [to render them refuse]. [If the priest forms the intention to eat the remnant outside of its normal time, or to burn it outside of its normal place, then that intention renders the offering refuse. That qualification

applies, specifically, to an offering which is subject to the priest's utilization once a given act has taken place to permit the offering to be subject to the priest's utilization. In the case of the meal offering, once the handful is taken, the residue is available for the priest's use. Hence when we distinguish the handful from the residue, we also invoke the consideration of refuse. These facts form the foundation of what follows.]

[G] But if you say that it is on account of their being mere residue, then he does put them on the altar by night, and he does put them on the altar if the sacrificer has died.

[H] What is the law as to taking account of the priest's attitude? [For the priest has no share in the residue anyhow.]

[I] *Let us derive the answer to that question from the following:* **R. Eleazar b. R. Simeon says, "The handful is offered by it- self, and the residue is scattered on the ashes" [T. Sot. 2:6I].**

[J] *R. Yohanan raised the question, "How do we interpret this matter? If it is the ashes above [the altar itself], then R. Simeon has already said the rule [at M. Men. 6:1]. But if it is not a matter of speaking of the ashes above, then apply it to the matter of the ashes which are below [the place of burning]." [That is, they are treated as ordinary residue. If they were treated as the handful, Eleazar would have nothing to add to what his father has said. So it follows:] This is in line with that which has been said:*

[K] They put them on by night, they put them on the ashes after the death of the sacrificer, and the attitude of the priest affects them.

[L] [Differing from this view,] said R. Yosé b. R. Bun, "One does not take account of the priest's attitude to them, for they are not made suitable either for human consumption or for the consumption of the altar. [There is no point at which an act affecting the handful permits the residue for priestly use.]"

[M] *R. Ba bar Mamel raised the question, "Does this statement of R. Eleazar b. R. Simeon follow the theory of his father, or does it follow the theory of sages? If it follows the theory of his father, then [the handful and residue] are to be offered above [on the altar—which is not Eleazar's view]! If it follows the theory of sages, then one should not take a handful [of the meal offering at all, for reasons already specified]. [That is, which analogy governs?].*

[N] *It follows the theory of his father:* R. Simeon says, “Lo, the tenth of an ephah of fine flour brought by a priest is like the tenth of an ephah of fine flour. Just as the tenth of an ephah of fine flour brought by an Israelite has a handful removed from it [for offering up on the altar, so a handful is taken out to this [meal offering]. If, then you wish to say, ‘Just as the residue of [an Israelite’s] meal offering is eaten, so this one [of a priest] is eaten,’ Scripture states, ‘Every meal offering of the priest shall be wholly burned up; it shall not be eaten’ (Lev. 6:23). [Then why does Eleazar not have the meal offering burned on the altar, as his father wishes? It is because the analogy is limited to the rule,] ‘And let it be wholly burned up and not eaten.’ But the analogy does not extend to the rule ‘It will be wholly offered up (without the removal of a handful).”

[II:4 A] [And all those who are married to priests – their meal-offerings are burned:] Said R. Yosé, “Rabbi [at M. 3:6I] accepted the opinion of R. Eleazar b. R. Simeon and he taught in accord with his view.”

[B] *R. Ba bar Kohen raised the following question before R. Yohanan:* “And what difference does it make to me whether the rule accords with R. Eleazar b. R. Simeon? It may even accord with R. Simeon his father [since M. 3:6I does not say where the burning takes place].”

[C] He said to him, “Offering [the meal offering] is on top of the altar, but burning [M. 3:6I] is not on top of the altar.”

[D] *Objected R. Haninah before R. Mana, “And lo, R. Hiyya taught this matter and stood at variance with the stated position. Thus did Hiyya teach:]* To offer it up completely cannot be done, because of the share owned by the wife. To eat it also cannot be done, because of the share of the husband [who was a priest].”

[E] He said to him, “A handful is taken out of it, for the sake of the woman. Then the handful is offered up by itself, and the residue by itself [since the priest may not eat the residue of his now-meal-offering].”

[F] Mana said to Hanina, “Rabbi accepted the view of R. Eleazar b. R. Simeon, and R. Hiyya the Elder in the cited passage accepted the view of R. Simeon, his father, [who

wants the handful and the residue to be offered, each by itself, on the very altar.]”

3:7

- [A] **An Israelite girl who is married to a priest – her meal-offering is burned.**
- [B] **And a priest-girl who is married to an Israelite – her offering is eaten [by the priests].**
- [C] **What is the difference between a priest and a priest-girl?**
- [D] **The meal-offering of a priest-girl is eaten, the meal-offering of a priest is not eaten.**
- [E] **The priest-girl may be deconsecrated [declassified], but a priest may not be deconsecrated [declassified].**
- [F] **A priest-girl contracts corpse-uncleanness, and a priest does not contract corpse-uncleanness.**
- [G] **A priest-boy eats Most Holy Things, but a priest-girl does not eat Most Holy Things.**
- [I:1 A] **What is the difference between a priest and a priest-girl? The meal-offering of a priest-girl is eaten, the meal-offering of a priest is not eaten.**
- [B] This is in line with that which is written, “Every cereal offering of a priest shall be wholly burned; it shall not be eaten” (Lev. 6:23) not a priest girl.
- [C] *R. Abbahu raised the following question before R. Simeon b. Laqish: “And lo, it is written, ‘But if a priest buys a slave as his property for money [the slave may eat of it]’ (Lev. 22:11). Shall we once more say, ‘A priest boy, and not a priest girl’ [meaning that the slaves of a priest girl may not eat food in the status of heave offering]? [So long as she is not declassified, they may do so.]”*
- [D]] *Why then [is the meal offering of a priest girl eaten by the priests, while one of the priest boy is not]?*
- [E] “The priest from among Aaron’s sons, who is anointed to succeed him, shall offer it to the Lord as decreed forever; the whole of it shall be burned” (Lev. 6:22). This encompasses the one whose son takes his place, thus excluding the priest girl, whose son does not take her place [that is, the son of a priest girl married to an Israelite is classed as an Israelite].

[II:1 A] The priest-girl may be deconsecrated [declassified], but a priest may not be deconsecrated [declassified]

- [B] This is in line with that which is written: “[He shall take to wife a virgin of his own people,] that he may not profane his children among his people; [for I am the Lord who sanctify him] ‘ (Lev. 21:15).
- [C] I know only that the child is subject to deconsecration. How do I know that the priest girl herself [who violates the laws of her caste] may be deconsecrated?
- [D] It is a logical inference to be made. Now if the [child], who committed no transgression, lo, he is deemed deconsecrated, she herself, who did perform a transgression [e.g., by marrying an unsuitable person] – is it not logical that she should be deconsecrated?
- [E] The priest boy himself may prove to the contrary. For he may have performed a transgression [that is, married someone not fit for his caste], but he will not be deconsecrated.
- [F] No, if you have said that that is the case for the male, who is not deconsecrated under any circumstances, will you say the same of the female, who may be deconsecrated under all circumstances? Since she may be deconsecrated under all circumstances [e.g., when she marries an ordinary Israelite, she loses her status as a priest girl], she also may be deconsecrated [in the special circumstance before us].
- [G] *What do you wish to say?*
- [H] He should not profane (YHL) [his children among his people] [might have been written]. Instead it says, “He will not suffer deconsecration (YHLL).” Also he who had been fit and was deconsecrated [remains a priest].

[III:1 A] A priest-girl contracts corpse-uncleanness, and a priest does not contract corpse-uncleanness

- [B] R. Dosa of Malehayya and R. Aha in the name of R. Eleazar: “A priest girl is permitted to go abroad. What is the Scriptural basis for that statement? ‘[And the Lord said to Moses,] Speak to the priests, [the sons of Aaron, and say to them that none of them shall defile himself for the dead among his people]’” (Lev. 21:1) – not to the priest girls.”
- [C] *Now if so, what shall we have to say?* Since she is subject to the decree, she should not go abroad? Then let her be subject to the decree and not go abroad!

[D] If you say so, you turn out to ignore the pericope covering sources of uncleanness [which addresses male, not female priests].

[IV:1 A] A priest-boy eats Most Holy Things, but a priest-girl does not eat Most Holy Things.

[B] This is in line with that which is written, “Every male among the priests may eat of it; [it shall be eaten in a holy place; it is most holy]” (Lev. 7:6).

3:8

[A] What is the difference between a man and a woman?

[B] A man goes around with unbound hair and torn garments, but a woman does not go around with unbound hair and torn garments [Lev. 13:44-5].

[C] A man imposes a Nazirite-vow on his son, and a woman does not impose a Nazirite-vow upon her son [M. Naz. 4:6].

[D] A man brings the hair-offering for the Nazirite-vow of his father, and a woman does not bring a hair-offering for the Nazirite-vow of her father [M. Naz. 4:7].

[E] The man sells his daughter, and the woman does not sell her daughter [Ex. 21:6].

[F] The man arranges for a betrothal of his daughter, and the woman does not arrange for a betrothal of her daughter [M. Qid. 2:1].

[G] A man [who incurs the death-penalty] is stoned naked, but a woman is not stoned naked.

[H] A man is hung [after being put to death], and a woman is not hung [M. San. 6:3-4].

[I] A man is sold [to make restitution] for having stolen something, but a woman is not sold to [make restitution] for having stolen something [Ex. 22:2].

[I:1 A] “Man” (Lev 13:44) – I know only that the law that the leper goes around with unkempt hair applies to a man. How do I know that the law applies to a woman?

[B] Scripture states, “Leprous” – applying to anyone, man, woman, child.

[C] If so, why does it say, “A man”?

[D] To apply to them the law that follows: **A man goes around with unbound hair and torn garments, but a woman does not go around with unbound hair and torn garments [Lev. 13:44-5].**

- [II:1 A] A man imposes a Nazirite-vow on his son, and a woman does not impose a Nazirite-vow upon her son [M. Naz. 4:6]. A man brings the hair-offering for the Nazirite-vow of his father, and a woman does not bring a hair-offering for the Nazirite-vow of her father [M. Naz. 4:7].**
- [B] R. Yohanan in the name of R. Meir: “There are twenty-four rulings in which the House of Shammai take the lenient position, and the House of Hillel take a stringent position, and this is one of them.
- [C] “The House of Shammai say, ‘A man does not impose a Nazirite vow on his son.’
- [D] “And the House of Hillel say, ‘A man does impose a Nazirite vow on his son’”
- [III:1 A] The man sells his daughter, and the woman does not sell her daughter [Ex. 21:6].**
- [B] This is in line with that which is written, “When a man sells his daughter as a slave, [she shall not go out as the male slaves do]” (Ex. 21:7).
- [IV:1 A] The man arranges for a betrothal of his daughter, and the woman does not arrange for a betrothal of her daughter [M. Qid. 2:1].**
- [B] This is in line with that which is written, “[And the father of the young woman shall say to the elders,] ‘I gave my daughter to this man to wife, and he spurns her’” (Deut. 22:16).
- [V:1 A] [G]A man [who incurs the death-penalty] is stoned naked, but a woman is not stoned naked.**
- [B] This is in line with that which is written, “[You shall bring them both out to the gate of the city,] and you shall stone them to death [with stones]” (Deut. 22:24).
- [C] “Stone him” –not his garment.
- [D] *R. Haggai raised the following question before R. Yosé:* “And is it not written, ‘[You shall bring them both out to the gate of the city,] and you shall stone them to death with stones’ (Deut. 22:24).
- [E] “If that is so, then ‘[Stone] them’ –not their garments [in which case, both male and female should be stoned in the nude].”
- [F] *What then is the proof of the matter?*

[G] A man, because if naked he does not suffer much humiliation, is stoned naked. A woman, who suffers much humiliation [if she is seen naked] is not stoned naked.

[VI:1 A] **[H] A man is hung [after being put to death], and a woman is not hung [M. San. 6:3-4].**

[B] This is in line with that which is written, “[And if a man has committed a crime punishable by death and he is put to death,] and you hang him [on a tree, his body shall not remain all night upon the tree]” (Deut. 21:22-23).

[C] That is to say, “Hang him” –not her.

[VII:1 A] **A man is sold [to make restitution] for having stolen something, but a woman is not sold to [make restitution] for having stolen something [Ex. 22:2].**

[B] [He is sold] “for that which he has stolen” –not for paying the double indemnity which he owes

[C] “For that which he has stolen” –not for having perjured himself in such a regard and for owing compensation to the victim.

[D] “For that which he has stolen” –he is not sold and then sold another time.

[E] “If he has nothing” – on the basis of that phrase, we draw the conclusion, “On account of one theft, but not on account of two acts of theft, he is sold.”

[F] *R. Jeremiah raised the question*, “If he stole from a partnership, how do you treat such a case? Is this deemed tantamount to a single act of theft, or to two distinct acts of theft?” [This question is not answered.]

[G] If he was stealing and taking out objects all night, then we rule as follows: if the owner was aware of the matter, they constitute two [many distinct] acts of theft. And if not, it constitutes a single [protracted] act of theft.

YERUSHALMI SOTAH

CHAPTER FOUR

4:1

- [A] **A betrothed girl and a deceased childless brother's widow awaiting levirate marriage neither undergo the ordeal of drinking the bitter water nor receive a marriage-contract,**
- [B] **since it is written, "When a wife, being subject to her husband, goes astray" (Num. 5:29) –**
- [C] **excluding the betrothed girl and the deceased childless brother's widow awaiting levirate marriage.**
- [D] **A widow married to a high priest, a divorcee and a woman who has undergone the rite of removing the shoe married to an ordinary priest, a mamzer-girl [24A] and a Netinah-girl married to an Israelite, an Israelite-girl married to a mamzer or to a Netin**
- [E] **neither undergo the ordeal of drinking the bitter water nor receive a marriage-contract.**
- [I:1 A] [And why should the husbands-to-be not] administer the water [to the women named at M. 4:1A]? [Since, after all, they do express jealousy to these potential wives, as is indicated by the fact that they do not receive the marriage settlement that is coming to them, they should be allowed to go through the ordeal.]
- [B] It is a decree of Scripture itself: "Then the man shall bring his wife to the priest" (Num. 5:15) [so the reference to wife is exclusive].
- [C] Then let him [also] not express jealousy [to the women listed at M. 4:1A]!
- [D] Scripture says, "And he is jealous of his wife" (Num. 5:14) – even of a woman who is only partly his wife at that point.
- [I:2 A] *Does the Mishnah's rule accord [also] with the view of the House of Shammai, for the Shammaites [at M. 4:2H-I] hold that a woman may receive the marriage contract while not undergoing the ordeal of*

drinking the water? [Here the two are treated as mutually exclusive; if one does not do the one, she does not get the other.]

[B] [*Yes, that is the case. There is a special consideration operative at M. 4:2H-I, for*] said R. Yosé, “*There the reason the House of Shammai [give her the marriage settlement] is that she may say, ‘Bring me my husband, and I shall drink the water.’ [Since it is possible for her to prove herself to be clean, she is not punished for having been alone with a man other than her husband.]*”

[C] “*But here, she knew full well that a betrothed girl does not drink the water. Why in the world did she [go off with some man so as to] subject herself to this great doubt and invalidate her right to collect her marriage settlement? [Since this woman cannot prove herself clean, she should not have risked being alone with a man. It is her own fault that she loses the marriage settlement, based on the risk she herself took.]”*”

[I:3 A] *R. Judah raised the question, “As to that which you have said there, ‘And he is jealous of his wife (Num. 5:14) even of a woman who is only partly his wife as of that point,’ do we say the same [in reference to the curse, ‘If no man has lain with you, and if you have not turned aside to uncleanness] while you were under your husband’s authority ...’ (Num. 5:19) even if he was your husband only in part? [This then would contradict M. 4:1A.]” [The question is not answered.]*

[I:4 A] *What would be an example of the rule, **A betrothed girl and a deceased childless brother’s widow awaiting levirate marriage neither undergo the ordeal of drinking the bitter water nor receive a marriage-contract**? [In fact M. 4:1A applies only if the entire ordeal is completed with the woman in the stated status.]*

[B] [If, however,] the husband expressed jealousy to her when she was still betrothed, consummated the marriage, and she went aside with the named man, then he makes her drink the water by reason of the original expression of jealousy. [So this exemplifies the other side of the rule, the point at which the status specified at M. 4:1A does not exempt the woman from undergoing the ordeal.]

[C] [Again:] if he expressed jealousy to her while she was yet awaiting marriage with the levir, then he consummated the marriage, then he requires her to drink the water by reason of the original expression of jealousy.

[D] If he expressed jealousy to her while she was yet betrothed, and he married her, and then she went aside, and only thereafter did he have

sexual relations, then she goes forth along with collecting her marriage settlement. [This is in line with M. 4:2E: because of his having sexual relations with her, she loses the opportunity to undergo the ordeal, hence collects.]

- [E] But if not, she goes forth without collecting her marriage settlement.
- [F] If her husband expressed jealousy to her, then died, and she fell before the levir [for levirate marriage], and he married her, and she went aside with the man originally named by the now-deceased husband, the levir requires her to drink the water by reason of the expression of jealousy of the original husband [the levir's brother].
- [G] If her husband did not express jealousy to her, and he died, and she fell before the levir, and he, for his part, expressed jealousy to her about the named man, and he had not consummated the marriage to her before he too died, and then she fell before his brother [yet a further levir], he does not have the right to impose on her the ordeal of the water,
- [H] for she has fallen to him [as a wife] only because of the relationship to the first brother, [her original husband, who never issued an expression of jealousy to begin with].
- [I] But if the levir [the second brother] had expressed jealousy to her and married her and then died, and she then fell before the second levir, and he married her, and she went aside with the named man, he has every right to impose the rite of drinking the water upon her by reason of the expression of jealousy of the second brother.

[II:1 A] *There we have learned: A barren woman and a woman past menopause, and a woman who cannot give birth do not undergo the ordeal of drinking the bitter water and do not receive the marriage-contract [M. 4:3C].* For it is said, "But if the woman has not defiled herself and is clean, then she shall be free and shall conceive children" (Num. 5:28). This applies to one who is suitable to conceive. It then excludes this one, who is not suitable to conceive.

- [B] *They objected:* "Lo there is **the widow married to a high priest [M. 4:1D]** Lo, she is suitable to conceive [yet does not undergo the ordeal of drinking the water nor does she receive a marriage contract]. [So C cannot be the operative consideration.]"
- [C] Her case is subject to a different consideration, for it is written, "He shall not defile himself as a husband among his people and so profane

himself” (Lev. 21:4). [The usual consideration is capacity to produce children.]

[D] *There we have learned, A mamzer invalidates and validates for eating. How so? [An Israelite girl married to a priest, or a priest girl married to an Israelite, who gives birth to a son with him, and the son goes and trifles with a slave girl, and she produces a son from him – lo, this boy is a slave. If the mother of the slave’s father was an Israelite girl married to a priest, if the father and son die, she does not eat heave offering, by reason of the grandson If she was a priest’s daughter married to an Israelite, despite the grandson, she does eat heave offering (M Yeb. 7:5M-S).]* [It follows that a priest’s child who is invalid still is deemed a child for the stated purposes, as just explained.] *And here you say this* [namely, that we totally ignore the priest’s invalid offspring for the present purpose]!

[E] *Said R. Tanhuma, “There it says, ‘[If a priest’s daughter is married to an outsider, she shall not eat of the offering of the Holy Things. But if a priest’s daughter is a widow or divorcée] and has no child [and returns to her father’s house as in her youth, she may eat of her father’s food]’ (Lev. 2:13). [That is, she has no offspring] deriving from any source whatever [even invalid offspring]. But in the present instance, [we speak] only of valid offspring, not invalid offspring [thus excluding from the provisions of Num. 5:28, cited above, the widow married to a high priest and the others listed at M. 4:1D].”*

[II:2 A] [As to the reason behind M. 4:1D-E,] said R. Yosé b. R. Bun, “Do the waters not come [and leave her unmarked] except in order to permit her once more to have sexual relations with her husband? [That is why the women in invalid marriages do not drink the water, for in any case they should not be married to their present husbands.] But in the case of this one, once she has gone aside with the named man, he says to her, ‘Get out.’ [She is permanently forbidden to the husband and he may not remain in the marriage in any event.]”

4:2

[A] **And these do not undergo the ordeal of drinking the bitter water or receive a marriage-contract:**

[B] **She who says, “I am unclean,” or against whom witnesses came to testify that she is unclean;**

[C] **and she who says, “I will not drink.”**

[D] **[If, however,] her husband said, “I will not make her drink,**

[E] or [if] her husband had sexual relations with her on the way [to Jerusalem],

[F] she receives her marriage-contract and does not undergo the ordeal of drinking the bitter water.

[G] [If] their husbands died before they drank the bitter water –

[H] The House of Shammai say, “They receive the marriage-contract and do not undergo the ordeal of drinking the bitter water.”

[I] And the House of Hillel say, “They do not undergo the ordeal of drinking the bitter water and do not receive the marriage-contract.”

[I:1 A] Said R. Josiah, “Zeira told me in the name of the men of Jerusalem, ‘There are three cases in which, if [the aggrieved parties] wish to forgive the malefactor], they are allowed to do so: the accused wife, the incorrigible son, and the rebellious elder.’”

4:3

[A] “A woman who was pregnant by a former husband [who died or divorced the woman] and a woman who was giving suck to a child by another husband do not undergo the ordeal of drinking the bitter water and do not receive the marriage-contract,” the words of R. Meir.

[B] And sages say, “He has the power to set her apart and then to take her back after a while.”

[C] A barren woman and a woman past menopause, and a woman who cannot give birth do not undergo the ordeal of drinking the bitter water and do not receive the marriage-contract.

[D] R. Eliezer says, “He has the power to marry another woman for purposes of procreation.”

[E] And all other woman either undergo the ordeal of drinking the bitter water or do not collect the marriage-contract.

[I:1 A] A man should not marry a woman made pregnant by his fellow or one who is giving suck to the infant of his fellow.

[B] And if he did marry a woman in such a condition, Scripture says of him, “Do not remove an ancient landmark or enter the fields of the fatherless” (Prov. 23:10).

[C] “He who marries a woman made pregnant by his fellow or a woman nursing the infant of his fellow must divorce her and [as a penalty] may never remarry her,” the words of R. Meir.

- [D] **And sages say, “He has the power to set her apart and then to take her back after a while.”**
- [E] Now in all such matters [in which scribes have imposed a strict ruling and a person has violated the scribes’ rule], does R. Meir impose so heavy a penalty [as just now indicated]?
- [F] *Let us derive the answer to that question from the following: **A minor who performed the rite of halisah should perform the rite of halisah again when she grows up. But if she did not perform the rite of halisah [later on], her [original] performance of halisah is confirmed as valid [M. Yeb. 12:4E-F].***
- [G] [We shall now find out that the cited statement belongs to Meir, and we shall then see how it answers the original question.] R. Mana cited this statement without cited authority.
- [H] R. Isaac son of R. Hiyya the Elder in the name of R. Yohanan: “It belongs to R. Meir, [for R. Meir] said, ‘They do not effect the rite of halisah or permit a levirate marriage in the case of a minor girl, lest she turn out to be barren [so the entire rite will not have been required]. [Accordingly, Meir in this case does not impose a strict penalty. To begin with, one should not perform the rite; but if it has been performed, it is valid, and no penalty is exacted.]’ [That answers the original question.]
- [I:2 A] *It was taught: ““[A nursing mother] whose husband died – lo, she should not be betrothed nor should she be wed until twenty-four months have been completed,” the words of R. Meir.*
- [B] **And R. Judah says, “Eighteen months.”**
- [C] **And R. Jonathan b. Joseph says, “The House of Shammai say, ‘Twenty-four months,’ and the House of Hillel say, ‘Eighteen months.’”**
- [D] **Said Rabban Simeon b. Gamaliel, “In accord with the opinion of the one who says, ‘Twenty-four months,’ she is permitted to be wed in twenty-one months. In accord with the opinion of the one who says, ‘Eighteen months,’ she may be wed in fifteen months, for the milk deteriorates only after three months [of conception]” [T. Nid. 2:2A-D].**
- [E] Jacob bar Aha said, “Aqabiah asked R. Simeon b. Laqish about the law, and he instructed him that the interval is twenty- four months.”

[F] R. Jeremiah: “Aqabiah asked R. Hanina, and he informed him that it is twenty-four months.”

[G] *What [is going on here]?*

[H] *There were two cases.*

[I] In one [he ruled] in the name of R. Haninah [19d] and in one, in the name of R. Simeon b. Laqish.

[J] R. Mana ruled, “Eighteen months,” *and he fasted on the entire day [on which he gave that ruling].*

[K] R. Mar Uqba gave instruction in Arbela that it was twenty-four months and that applies even if the infant [of the former marriage] dies.

[II:1 A] [With reference to M. 4:3D,] sages concur with R. Eleazar that if the man already has a wife and children [in the case of M. 4:3C], the barren woman drinks [the bitter water] and may collect her marriage settlement. [Eleazar differs only where the man has no other wife or children.]

[B] If he had a wife and children and they died, between the time that he expressed jealousy and the time that the wife went in private with the named man, she has already been proved appropriate to undergo the ordeal [even though he has no other wife and children now].

[D] If he had no wife and children and then between the time of his expressing jealousy and the time of her going in private with the named man, he got both, she has already been proved inappropriate to undergo the ordeal. [We follow the situation that prevails at the time of the expression of jealousy in applying M. 4:3D.]

4:4

[A] **The wife of a priest drinks the bitter water and [if proved innocent] is permitted [to go back] to her husband.**

[B] **The wife of a eunuch undergoes the ordeal of drinking the bitter water.**

[C] **On account of [men in] all sorts of prohibited relationships [to the woman] are wives subject to warning,**

[D] **except for a minor,**

[E] **and for one who is not human.**

[I:1 A] [Why should M. 4:4A tells us that the woman returns to her husband? That surely is self-evident. She has drunk the water and survived the

ordeal.] *If not, what should we have said? [Surely,] since she drank the water, and the water did not put her to the test, she is clean.*

[B] [No.] I might say that merit suspended the punishment [and hence, perhaps the woman should be prohibited from going back to her husband on the possibility that, indeed, she was guilty, but the ordeal did not prove it]. [Consequently M. 4:4A must be made explicit.]

[C] *That explanation is valid from the viewpoint of the one who said “Merit suspends the punishment, and that fact [of the woman’s uncleanness] may not be known.” But in accord with the view of the one who said “Merit suspends the punishment, and that fact will be known,” [what is there to worry about M. 4:4A]?*

[D] *Said R Isaac, ““Thus do we interpret the matter: It applies to a case in which she drank the water, and it did not put her to the test [In this case the woman was raped, so the water is null .] Since the water does not put to [the test the woman who was raped, but only the one who was seduced, since this one was raped, [it may not have worked].*

[E] [Now, furthermore, since the rule in the priesthood is that] a woman who was raped is in the same status as the woman who had sexual relations willingly, in the case of an ordinary Israelite, on that account it is necessary to state that [the wife of a priest in particular] is permitted to go back to her husband. [We do not assign to rape the failure of the water to put the woman to the test. She returns to her husband. This is not a self-evident point, and that is why the Mishnah must make it explicit.]

[F] Now how do we know that sexual relations which take place contrary to the woman’s will invalidate a married woman to remain married to a priest? Now if in the case of creeping things, which are a minor sort of uncleanness, the law has treated contamination effected them by accident to contamination effected by them deliberately, [I an accused wife, who is subject to a far more stringent law, all the more so!

[I:2 A] *R. Jacob bar Idi taught before R. Jonathan: ““But if you have gone astray, though you are under your husband’s authority, and if you have defiled yourself, and some man other than your husband has been with you ...’ (Num. 5:20*

[B] “This then excludes a case of rape.

[C] “*How do you derive [that fact from the reference to ‘under your husband’s authority’]?”*

- [D] He said to him, “Just as ‘under your husband’s authority’ means ‘of her own free will,’ so in the present case, [the prohibited act of sexual relations must be] of her own free will [excluding a case of rape, in which the rite does not apply].”
- [E] “[If a man lies with her carnally, and it is hidden from the eyes of her husband, and she is undetected though she has defiled herself, and there is no witness against her,] since she was not taken in the act” (Num. 5:13).
- [F] Lo, if she were caught in the act, she would be permitted! And is there a woman who was found out in Israel, who would be forbidden [under these circumstances]? And who is that? It is one who began to have sexual relations willingly, but ended up being raped.
- [G] And is there one who is not detected in Israel and yet she would be permitted?]
- [H] And who is that? It is one who to begin with was subjected to rape, but in the end completed the sexual act willingly.
- [I] *It would, for example, accord with the case of a woman who came to R. Yohanan. She said to him, “I was raped.”*
- [J] He said to her, “But in the end wasn’t it nice for you?”
- [K] She said to him, “Now if someone should dip his finger into honey and put it into his mouth on the Day of Atonement, is it not bad for him at the beginning, but in the end isn’t it nice for him?”
- [L] And he accepted her view.

[II:1 A] “But if you have gone astray though you are under your husband’s authority, and if you have defiled yourself and some man other than your husband has lain with you” (Num. 5:20).

- [B] This is added to encompass the wife of a eunuch [M. 4:4B].
- [C] “And some other man ... has lain with you” –
- [D] This is said to encompass a eunuch [who seduces a married woman] –
- [E] except for a minor and for one who is not human [M. 4:4D-E]

4:5

[A] And these are the women whom a court subjects to warning [in behalf of the husband]:

[B] **A woman whose husband became a deaf mute or an imbecile, or was imprisoned –**

[C] **not to impose upon her the ordeal of drinking the water did they state the rule, but to invalidate her for receiving her marriage-contract.**

[D] **R. Yosé says, “Also: to impose upon her the ordeal of drinking the water.**

[E] **“When her husband goes free from prison, he may then impose the ordeal of drinking the bitter water.”**

[I:1 A] And the Lord said to Moses, “Say to the people of Israel, [If any man s wife goes astray and acts unfaithfully against him... and if the spirit of jealousy comes upon him, and] he is jealous of his wife ... and he will make the woman drink the water ...” (Num. 5:14).

[B] It is a decree of the Scripture [that a court also may warn the wife, since Scripture speaks of the whole people of Israel, not only to the husband].

[C] “Then the man shall bring his wife to the priest” (Num. 5:15).

[D] And should a court [also] not express jealousy to the woman [vs. A-B]?

[E] The Torah has said “he is jealous of his wife” even if she is only partially his wife, [and even a court may do so].

[I:2 A] In the case of sexual relations with those who are invalid for marriage to a woman – how do we know that she is invalidated [for marriage to the priesthood on that account?

[B] How do we interpret the matter? If she is in the status of a married woman, she is subject to a strict rule [that is, subject to extirpation] If it is a widow married to a high priest, it already is stated, “And the man will bring his wife to the priest” (Num. 5:15) – excluding her, since she is not legitimately wed to him.

[C] The common trait applying to them is this: one whose offspring is invalid – his act of sexual relations with her invalidates her for marriage into the priesthood. And one whose seed is not invalid – his act of sexual relations also does not invalidate her for marriage into the priesthood.

[D] **And these are they: A nine-year-and-one-day-old boy of Ammonite, Moabite, Egyptian, Edomite, Samaritan origin, a *Netin*, or *Mamzer* [of that age or older] who had sexual relations with the daughter of a priest, with the daughter of a Levite, or**

with the daughter of an Israelite, has rendered her invalid for marrying into the priesthood.

- [E] **Yosé says, “Anyone whose seed is valid – she is valid [for marrying into the priesthood]. And any whose seed is invalid--she is invalid [thus the Egyptian is delisted].”**
- [F] **Rabban Simeon b. Gamaliel says, “Any whose daughter you are permitted to marry (you are permitted to marry his widow, and any whose daughter you are not permitted to marry – you are not permitted to marry his widow [thus Ammonites and Moabites are delisted]” [T. Yeb. 8:1].**

YERUSHALMI SOTAH

CHAPTER FIVE

5:1

- [A] “Just as the water puts her to the proof, so the water puts him [the lover] to the proof,
- [B] “since it is said, ‘And it shall come...,’ ‘And it shall come...’ (Num. 5:22, 5:24).
- [C] “Just as she is prohibited to the husband, so she is prohibited to the lover,
- [D] “since it is said, ‘And she will be unclean...,’ ‘And she will be unclean...’ (Num. 5:27, 29),” the words of R. Aqiba.
- [E] Said R. Joshua, “Thus did Zechariah b. Haqqassab expound [the Scripture].”
- [F] Rabbi says, “The two times at which, ‘If she is made unclean..., She is made unclean...,’ are stated in the pericope refer, one to the husband and one to the lover.”
- [I:1 A] *We have learned the formulation of the Mishnah as, “It shall come ... it shall come. “*
- [B] *There are Tannaim who teach the Mishnah in the language, “And it shall come ... and it shall come.”*
- [C] *He who said that the Mishnah pericope reads “It shall come ... it shall come” is R. Aqiba [who deems the repetition of the same word to signify two distinct meanings, purposes, or applications].*
- [D] *The one who said that the Mishnah pericope reads “And it shall come ... and it shall come” is R. Ishmael [who emphasizes the use of the conjunction “and” as encompassing, and who does not think that the mere repetition of ears special meaning, because, in his view, the Torah uses the language ordinarily used by people].*
- [E] *[Along these same lines,] we have learned in the formulation of the Mishnah, “She will be unclean ... she will be unclean.”*

- [F] *There are Tannaim who teach the Mishnah in the language, ‘And she will be unclean ... and she will be unclean.’*
- [G] *The one who said that the Mishnah pericope reads “She will be unclean ... she will be unclean” is R. Aqiba.*
- [H] *The one who said that the Mishnah pericope reads “And she will be unclean ... and she will be unclean” is R. Ishmael.*
- [I] *It was taught: “[It is written,] ‘BW [come] and BH [into her].*
- [J] *And so is it written.*
- [K] *[The explanation of the fact] accords with that which R. Ammi said in the name of R. Yohanan: “For the purposes of exegesis they remove [the W] from the beginning [of the word in which it appears, and they set it at] the end [of the word, thus as if it were written, BW and BH, ‘into him’ and ‘into her,’ so in line with M. 5:1A].”*
- [L] *R. Haninah in the name of R. Jeremiah: “And that is the case even of a letter found in the very middle of a word. [This is now spelled out:]*
- [M] *“And you shall put oil upon it [the meal offering]’ (Lev. 2:15). This means, ‘You will pour oil on the meal offering.’*
- [N] *“It serves to encompass all meal offerings [meaning that all of them have to have oil poured on them].*
- [O] *“May I then say that it includes the meal offering baked in the oven? [Surely not!]*
- [P] *“The text therefore states, ‘Oil thereon,’ excluding some kinds of meal offering. [The word ‘LYH is now read ‘LH, meaning, on it, not on some other kind, and the Y then is removed from the middle of the word, as Jeremiah has said. For a better version of the exegesis, see B. Men. 75a.]”*
- [Q] *“[Water that] brings the curse” (HM’RRYM) – R. Tanhuma said, “Why does it say ‘HM’RRYM?’ [Because letters contain the numerical value of 496, for the 248 limbs of the woman, and the 248 limbs of the man [thus the water brings the curse throughout the bodies of both the woman and her lover].*

[R] *That is in line with what we have learned: **Just as the water puts her to the proof, so the water puts him [the lover] to the proof.***

[II:1 A] **Just as she is forbidden to the husband, so she is forbidden to the lover:**

[B] Just as she is forbidden to the brother of her husband [should he die childless], so she is forbidden to the brother of her lover [under the same circumstances]. [Consequently, her lover's brother cannot marry her.]

[C] Just as the water puts her to the test for each act of sexual relations which she has with her husband after she has had sexual relations with her lover, so they put him to the test.

[II:2 A] [M.5:1A implies that if the water does not put her to the proof, then it does not put him to the proof, even though he has violated the law by having sexual relations with a married woman. Why should this be so?] As to her, since it is her lot to be prohibited both to him and to another party [both to the husband and the lover], she is put to the test. But as to him, [only] when she drinks is he tested. If the water put him to the test but did not put her to the test [so that he suffered the ill-effects and she did not], I say that merit suspended the working of the water.

[B] *This poses no problems to the one who holds that the merit suspends the punishment, and that fact may not be known at all. But in the view of him who says that when merit suspends the punishment, the fact is clearly known, lo, in this case, that fact is not [clearly] indicated, [since, after all, one of the two parties has suffered the ill-effects of drinking the water].*

[C] But in such a case I maintain that [the lover] drank water which had been left uncovered and it was poisoned by a snake, and] he was poisoned thereby.

[D] *Do they require that the water put him to the test only in the specified manner [in the right order of symptoms, as specified above]?*

[E] But I say, [The man was affected by the water because] he went in private with other women [besides this one, and he is punished for what he has done in the other cases.

[F] *But to begin with, did we not theorize: when she drinks, he is put to the test?*

[G] Interpret the case to be one in which he did the act deliberately, but she did it inadvertently. Consequently, the water put him to the test and did not put her to the test. [This completes the solution.]

[H] *That view poses no problems to the one who says that merit suspends the punishment, and that fact may not be known at all. But in the view of the one who says that merit suspends the punishment, if so, that fact is certainly known, lo, in this case it was not indicated!*

[I] But I maintain that she drank water that had been left uncovered [and had been poisoned], and so she was poisoned.

[J] Do they not require that the water put her to the test only in the specified manner?

[K] But rather, I say, [The woman was affected by the water because] she went in private with other men [besides this one, and she is punished for what she has done in other cases].

[L] If that is the case, then if the husband divorced her, the suspected lover, unaffected by the water, should be permitted to marry her. [That is contrary, in fact, to the law.]

[M] Interpret the case to be one in which he did the act inadvertently [unaware that she was a married woman], and she did it deliberately. [Consequently] the water put her to the test and did not put him to the test.

[N] Now if he did it deliberately and she did it inadvertently, *it is obvious that* she is permitted to have sexual relations with her husband.

[O] If the husband divorced her, what is the law as to [the lover's] being permitted to marry her?

[P] Surely it is not possible to say that to begin with he deliberately had sexual relations with her, and now is permitted to marry her! And will you say this?

[Q] If he did it inadvertently and she did it deliberately, it is obvious that she is prohibited to have sexual relations with her husband. If the husband divorced her, what is the law as to the lover's being permitted to marry her?

[R] Surely it is not possible to say that she goes forth from the husband's domain! And will you say this?

[S] And how do we know that the matter depends wholly on her [in the case in which the lover acted innocently, and the married woman intentionally]?

[T] Simeon bar Ba in the name of R. Yohanan: “It is written ‘You shall not have sexual relations with your neighbor’s wife and defile yourself through her’ (Lev. 18:20)–’ through her’ is the matter decided.

[U] “If she did the deed deliberately, she is forbidden. If she did it inadvertently, she is permitted.”

5:2

[A] **On that day did R. Aqiba expound as follows: “And every earthen vessel into which any of them falls, whatsoever is in it conveys uncleanness’ (Lev. 11:33). It does not say, ‘It will be unclean, but will [actually] convey uncleanness’ – that is, to impart uncleanness to other things.**

[B] **“Thus has Scripture taught concerning a loaf of bread unclean in the second remove, that it imparts [to a loaf of bread with which it comes into contact] uncleanness in the third remove.”**

[C] **Said R. Joshua, “Who will remove the dirt from your eyes, Rabban Yohanan b. Zakkai, for you used to say, ‘Another generation is going to come to declare clean a loaf of bread in the third remove [from the original source of uncleanness].**

[D] **“For there is no Scripture in the Torah which indicates that it is unclean.**

[E] **“But now has not Aqiba, your disciple, brought Scriptural proof from the Torah that it is indeed unclean,**

[F] **“since it is said, ‘And whatsoever is in it shall impart uncleanness’ (Lev. 11:33).”**

[I:1 A] [With regard to Aqiba’s view that a loaf of bread unclean in the second remove from the original source of uncleanness has the capacity to impart uncleanness to food with which it comes into contact, hence, at the third remove from the original source of uncleanness,] R. Yosé b. R. Bun said, “Rab and Samuel [disputed about this matter].

[B] *“One of them said, ‘Whether the food is in the status of heave offering [and hence, more sensitive to becoming unclean, and also more capable of imparting uncleanness], or in the status of unconsecrated food, [R. Aqiba’s opinion applies].’*

[C] “*The other of them said, ‘If the food is in the status of heave offering, [R. Aqiba’s opinion applies], but food [unclean in the second remove] which is not consecrated [does] not [have the power to impart uncleanness to food with which it comes into contact].’*”[Hence there is no third remove in the matter of unconsecrated food’s contracting uncleanness. Unconsecrated food in the third remove from the original source of uncleanness itself is completely clean and does not receive uncleanness from food in the second remove from the original source of uncleanness.]”

[D] *Now we do not know which one of held one opinion, and which one held the other.*

[E] *But on the basis of that which R. Yosé in the name of R. Jonah, and some say that Rab said it in the name of R Hiyya the Elder, namely, “What is unclean in the third remove from the original source is unclean because of the effects of the dead creeping thing,” [which was that original source, and that is stated without differentiation as to the character of the food— unconsecrated, consecrated—which receives the uncleanness], it follows that it is he who has said that R. Aqiba’s position applies both to heave offering and to unconsecrated food alike.*

[I:2 A] [Now that we have established the grounds for dispute, we turn to other laws of the Mishnah to test the more controversial of the two positions, namely, Rab’s.] *The Mishnah pericope [which follows] stands at variance with the position of Rab:*

[B] **Produce of tithe which was rendered susceptible to uncleanness by liquid and which a tebul-yom touched, or dirty hands – they separate from it heave offering of tithe in a state of cleanness, because it is in the third remove, and the third remove is clean so far as unconsecrated food is concerned [M. Tebul Yom 4:1].**[So there is no status of uncleanness imputed to food which is not consecrated and which suffers contact with food unclean in the second remove. Surely Aqiba has been misinterpreted by Rab, or Aqiba must differ from the cited pericope.]

[C] Interpret the passage as a lenient ruling in regard to uncleanness affecting the hands, since the perpetual uncleanness of the hands [in the second remove] is merely by reason of a decree of the scribes.

[D] *But lo, we have learned [that the same rule applies to the Tebul Yom [so it cannot be a leniency accorded only to the hands]!*

- [E] Interpret the rule to apply to a Tebul Yom who has immersed himself by reason of the doubtful uncleanness imparted by a grave site [which may or may not count to impart uncleanness. Since we do not know for sure that the person was originally made unclean by a corpse, we also have no reason to impose the full stringencies of the law, hence the stated leniency as to food in the third remove from the original source of uncleanness. But, in general there is indeed a third remove of uncleanness affecting ordinary, not consecrated, food.]
- [F] *Said R. Zeira, “[There is a still better solution]. Even if you say that the Tebul Yom under discussion is unclean by reason of an uncleanness specified by the Torah, the case of the Tebul Yom still is different. He is described in Scripture as both clean and unclean. He is clean so far as unconsecrated food is concerned even while it is yet day, and he is clean for heave offering only after the sun has set.”*
- [G] *R. Haggai objected before R. Yosé, “[There is an alternative explanation for the usage of the words ‘unclean’ and ‘clean’ with regard to the Tebul Yom]. One may say that [the entire passage speaks only of food in the status of heave offering] The Tebul Yom [during the day before the sun set] is clean so far as touching the consecrated food is concerned, but unclean [until sunset] so far as eating it is concerned.”*
- [H] He said to him, “The cited passage [Lev. 11:33] refers explicitly to utensils. *Have you got the possibility of maintaining that*, with respect to utensils, they may be clean so far as being touched is concerned and unclean so far as being eaten is concerned?! “
- [I:3 A] *The Mishnah pericope now cited also supports the position of Rab: **Unconsecrated food: in the first remove is unclean and renders [heave offering] unclean. [Unconsecrated food] in the second remove is unfit but does not convey uncleanness. And [unconsecrated food] in the third remove is eaten in pottage of heave offering [M. Toh. 2:3].** [This is the view of Rab, that Aqiba’s view is that there is a third remove to be taken into consideration for both heave offering and unconsecrated food. Why?]*
- [B] Now, lo, it is prohibited to mix food in the third remove with heave offering, [and hence there is indeed a consideration of uncleanness affecting unconsecrated food in the third remove]. [If there is no such consideration, may not one mix the unconsecrated food in the third remove with heave offering?]
- [C] *[No, this is not possible. For] cite what follows; **Heave offering: in the first and in the second removes is unclean and renders [Holy***

Things] unclean. [Heave offering] in the third remove is unfit and does not convey uncleanness. And [heave offering] at the fourth remove is eaten in a pottage of Holy Things [M. Toh. 2:4].[Thus what is unclean at the third remove invalidates what it touches at the fourth, but it does not render it unclean so that what is at the fourth remove has an effect upon what it touches, that is, at the fifth remove.]

- [D] Now if you reason [as you did above, then it must follow that] it is forbidden to treat [what is unclean in the fourth remove] as holy, *then you impute to Rab contradictory positions.*
- [E] For R. Ba in the name of Rab [stated], “What is unclean in the third remove is affected by the original dead creeping thing’s uncleanness. But as to what is affected in the fourth remove, it is indeed permitted to treat it as holy, [and it is not unclean at all]. For the consideration of a fourth remove from the original source of uncleanness affects Holy Things only so far as the Most Holy Things of the sanctuary itself are concerned. [Hence the implication drawn just now contradicts Rab’s position in the present matter.]”
- [F] Said R. Huna, “And are we not speaking here of heave offering [and not of Holy Things]? And as to heave offering, it is prohibited to treat it as subject to the laws governing Holy Things [which are more severe], so as not to cause any sort of mishandling of food in the status of heave offering. [Since the rules are less strict, if one treats heave offering by a more strict rule than is required, one will end up disposing of it, instead of eating it, when in fact it is valid and may be eaten. So there is no contradiction among Rab’s several opinions.]”
- [G] *And cite what follows: **Holy Things: in the first and the second and the third removes are susceptible to uncleanness and convey uncleanness. And [Holy Things] in the fourth remove are unfit and do not convey uncleanness. And [Holy Things] in the fifth remove are eaten in a pottage of Holy Things [M. Toh. 2:5].***
- [H] Now if you say this, then it is forbidden to treat as holy [what was touched it that is unclean in the fourth remove]. [It cannot be eaten by itself.]
- [I] Now is there such a thing as the consideration of a fifth remove from the original source of uncleanness so far as Holy Things are concerned? [Certainly not.]
- [J] [It follows that the original, acute reading of the pericope vis-[^]-vis Rab is not possible. For] you must rule that there is no such thing [as a fifth remove in Holy Things], and here too there is no such thing [as a third

remove, as reasoned above. [The entire argument is thus shown to lead to an absurd extreme and must be dropped.]

- [I:4 A] [That which has touched something unclean in the second remove is clean, for, in line with Lev. 11:33,] said R. Yohanan, “That which is in the third remove is third in contact with the dead creeping thing, [and it is not unclean, so] it is permitted to treat it as heave offering [that is, to declare that batch of food as heave offering for some larger batch of clean food]. [There is nothing unclean about it.]”
- [B] *They asked before him*, “[Is this statement of yours] even in accord with R. Aqiba [at M. 5:2B]?”
- [C] R. Yosé in the name of R. Hila, “And it even accords with the position of R. Aqiba. [Yosé-Hila maintain the position of Samuel, that at issue in Aqiba’s saying is only food in the status of heave offering.] How so? A Tebul Yom is invalid [for eating heave offering, since he is in the second remove], and that which is in the second remove is invalid [for use as heave offering]. [That is, invalid but not unclean.] Just as a Tebul Yom does not invalidate unconsecrated food touched by him from being declared heave offering [for he does not impart uncleanness to that which he touches], so [whatever is] in the second remove [like the Tebul Yom] does not invalidate unconsecrated food [by rendering it unclean] from being declared heave offering.”
- [D] [Taking the opposite line of thought, that Aqiba [treats unconsecrated food as much as heave offering,] R. Yosé in the name of R. Yohanan: “That which is unclean in the third remove is unclean by reason of the contact with the dead creeping thing [as much as that which is in the second remove from the original contact]. Consequently, it is permitted to declare food unclean in the third remove to be heave offering. It is [still] forbidden to treat it as Holy Things, [for, in the case of other food in the status of Holy Things, it will impart uncleanness and so render such food invalid]. [But the uncleanness, so far as heave offering is concerned, is imparted by food in the second remove to food in the third remove, at which point the process ends for heave offering. The net effect is to extend the process for heave offering into the third remove, rather than into the second remove, as is the case for unconsecrated food. This is in line with Rab’s view of Aqiba’s meaning.]”
- [E] *R. Zeira raised the following question before R. Yosa*, “It imparts uncleanness to food in the status of Holy Things, *and do you say this?* [If the heave offering in the third remove can impart

uncleanness to food in the status of Holy Things, then how can you deem it clean when it is in the third remove? Why stop here?]"

[F] He said to him, "It is because of the more strict [procedures attendant upon food in the status of Holy Things]."

[G] Said R. Samuel bar R. Isaac, "The essence of the uncleanness imputed to food in the status of Holy Things is [merely] by reason of the more strict procedures attendant upon food in that status. [That is, to protect such food in that status, uncleanness is imputed at a further remove from the original source of uncleanness than the law would ordinarily require]."

[H] [Along these same lines,] said R. Yosé, "And why does it impart uncleanness in the case of Holy Things? Because of the more strict procedures attendant upon food in the status of Holy Things."

[I] [Reverting to the issue of the relationship of food in the status of Holy Things to unconsecrated food (that is, in the third remove) clean,] *said R. Yudan, "and even in accord with rabbis, who maintain that there is no consideration of uncleanness at the third remove in the case of unconsecrated food, why is it said that such food [that is, in the third remove,] imparts uncleanness in the case of food in the status of Holy Things [as at M. Toh. 2:2-4]? It is again because of the more stringent procedures attendant upon food in the status of Holy Things."*

[J] Said do him R. Yosé, And do we really need to hear a teaching along this line from a great man such as yourself? [Yosé is of the view that ordinary food which is prepared by the rules governing preservation of the cleanness of Holy Things remains in its status as ordinary food. It does not enter the status of food in the status of Holy Things. Accordingly, the very consideration introduced at M is relevant to all potential circumstances. That is, there cannot be a case in which unconsecrated food in the third remove affects food in the status of Holy Things and so invalidates it. For all such food in any case will be deemed null, clean to begin with, since unconsecrated food leaves the ladder of uncleanness in the third and fourth removes from the original source of contamination.]"

[II:1 A] [With reference to M. 5:2, Joshua's statement,] there [in Babylonia] they say, "Since R. Joshua praised R. Aqiba, that is to say that the practiced law accords with [Aqiba's] position."

- [B] *Rabbis of Caesarea say, “He praised him for his exegetical achievement. But for all practical purposes the law does not accord with his position.”*
- [C] *For R. Aha, R. Miasha in the name of R. Eleazar said, “Flogging is not administered to one [who brings] tithe [into contact with food unclean in the second remove from the original source of uncleanness] and who so puts it into the third remove [from that original source]. And even in accord with the view of R. Aqiba, flogging is not administered. [There is no consideration of a third remove from the original source of uncleanness, either for ordinary food or for tithe. One who is supposed to eat his food in a state of cleanness – whether tithe or unconsecrated food – hence will not be flogged for eating food in the third remove from the original source.]”*
- [D] Why should this be so? A Tebul Yoma [20b] has the power of invalidation [and he is in the status of that which is in a second remove from the original source of uncleanness], and that which is in the second remove invalidates. Just as a Tebul Yom who is in contact with unconsecrated food has no effect upon it [in that the food need not await sunset to be deemed clean again, so that which is unclean in the second remove which is in contact with unconsecrated food has no effect upon it.
- [E] Said R. Eleazar, “As we count [removes of uncleanness] in the case of unconsecrated food, so we count removes of uncleanness in the case of tithe [as has just now been illustrated].”
- [F] *This is in line with that which R. Jonah, R. Immi said in the name of R. Simeon b. Laqish, “In all other circumstances we deal with unconsecrated food, but in the present context we deal with tithe, [and that indicates, as Eleazar has just said, that the two are subject to a single set of rules].”*
- [G] Said R. Yosé, “And even with regard to [second tithe] which is unclean in the first remove [from the original source of uncleanness] is not so clear[ly prohibited]. [If someone eats second tithe in the first remove, it is not so obvious that he should be flogged. Why not?] ‘I have not eaten of the tithe while I was mourning or removed any of it while I was unclean’ (Deut. 26:14).] ‘I shall not eat ...,’ is not written, but rather, ‘I did not eat ‘ [and, as we shall now see, the difference matters].”
- [H] Said R. Abba Meri, “How do we know [that the statement before us is not deemed a negative commandment at all, on account of which one may be flogged]? For it is written, ‘...’

according to all that thou hast commanded me' (Deut. 26:14), as if it were not entirely clear. [That is to say, the confession states that one will not have kept the commandment in its proper way if he eats the second tithe in a state of uncleanness. But there is no negative commandment in that regard. It is simply part of the general advice on how to do things right, and for violating such instructions one is not flogged.]”

- [II:2 A] R. Abbahu in the name of R. Mana, “On what account did they rule, ‘Unconsecrated food which is unclean in the second remove imparts uncleanness to unconsecrated liquids’? [For we know full well that unconsecrated food in the second remove does not impart uncleanness to unconsecrated solid food in the second remove at all. Yet in the case of liquid, the unconsecrated solids in the second remove have that very effect; indeed as a result the liquid is deemed unclean in the first remove. (Cf. M. Toh, 2:2ff.)] It is on account of the hands, which are deemed unclean in the second remove by decree of the scribes. They do impart uncleanness to unconsecrated liquid [putting the liquid into the first remove].
- [B] “[If that is so,] then that which is unconsecrated in the second remove in accord with the teaching of the Torah [that is, in line with Aqiba’s reading of Lev. 11:33, any unconsecrated food in the second remove] all the more so [should have that same power to impart uncleanness to unconsecrated solid food in the second remove]!
- [C] “[What follows assumes knowledge of the following: **A doubt concerning liquids, in respect to] conveying uncleanness – it is clean. A doubt concerning hands, either in respect to contracting uncleanness, or in respect to conveying uncleanness, or in respect to being made clean – is clean (M. Toh. 4:7E-J).** Now in all these cases, matters of doubt are resolved as clean.] [Along these same lines, in accord with the proposition just now stated,] just as in the case of uncleanness imparted by the hands, a matter of doubt as to whether the hands have imparted uncleanness to other things is deemed to be clean, so in the case of that which is unclean in the second remove [in general, as distinct from the hands], a doubt involving whether that which is unclean in the second remove has imparted uncleanness to other things is resolved as clean.”
- [D] *R. Hanina objected to R. Mana*, “Lo, if one eats unclean food and drinks unclean liquid, a matter of doubt concerning them which affects their having imparted uncleanness to other things is resolved as unclean. [This is a strict rule, in that a doubt concerning their secondary effects is resolved in a strict way. If we do not know, for

instance, that the person who ate or drank these unclean things touched an object, we assume that he has.]

- [E] “And as to liquids which exude from them, a matter of doubt affecting them, as to whether or not they have imparted uncleanness to other things, likewise is resolved as unclean Accordingly, in all these areas of doubt, which affect uncleanness imputed solely by decree of the scribes, we resolve doubt in a strict way.]
- [F] “And yet, that which is unclean in the second remove, which is a status imputed by the Torah [and not merely by scribes, in line with Aqiba’s exegesis] – should a matter of doubt affecting it so far as it has imparted uncleanness to other things be deemed clean? [Surely not!]”
- [G] *Said R. Mana before R. Haninah, “And are we not in fact dealing with heave offering [to which a more strict rule applies, and that accounts for the stringency outlined at F-H? But in the case of unconsecrated food, the lenient rule proposed by me, Mana, applies.]”*
- [H] *Said to him [R. Hanina], “And even if you maintain that we are dealing with heave offering, what difference does it make? ‘It will be unclean ... it will convey uncleanness’ represents the teaching of Torah [cf. M. 5:2A] [for liquid]. [The power of liquid to impart uncleanness to food is based on the law of the Torah.] Is that not [Yosé’s view, in line with] Aqiba? [But we hold that the reference to uncleanness is to their being unclean, not to their imparting uncleanness. So the Torah law is not involved. Consequently, the original question is valid.]”*

[II:3 A] *There they have said [with reference to Haggai 2:14: “Thus says the Lord of hosts: Ask the priests to decide this question, ‘If one carries holy flesh with the skirt of his garment and touches with his skirt bread, pottage, wine, oil, or any kind of food (in sequence), does it become holy?’ The priests answered, ‘No.’ Then said Haggai, ‘If one who is unclean by contact with a dead body touches any of these, does it become unclean?’ The priests answered, ‘It does become unclean.’ Then Haggai said, ‘So is it with this people ... says the Lord ... and so with every work of their hands; and what they offer there is unclean.]”* Two questions did Haggai the prophet ask them: In the case of one, they answered him properly, and in the case of the other, they did not answer him properly.

[B] “The skirt” is in the first remove of uncleanness [having touched some source of uncleanness].

[C] “The holy flesh” is in the second.

- [D] “The bread and pottage” are in the third remove.
- [E] “The wine, oil, and food” are in the fourth.
- [F] “Now,” [he asked them,] “Is there such a thing as a fourth remove [from the original source of uncleanness] in regard to Holy Things?”
- [G] They answered him, “No. “
- [H] They did not answer him properly, for there [most certainly] is a fourth remove in regard to Holy Things.
- [I] “Then said Haggai, ‘If one who is unclean by contact with a dead body touches any of these, does it become unclean?’”
- [J] [That is to say,] if the skirt of his garment should be unclean with corpse uncleanness and touch any of these, will it impart uncleanness to them?
- [K] “The priests answered, ‘It does become unclean.’”
- [L] [In so saying], they answered him [quite] correctly.
- [M] [*But characterizing the former answer as wrong is not necessarily so.*] For R. Jeremiah, R. Hiyya in the name of R. Yohanan said, “It was in early times, before [scribes] had decreed that we take account of a fourth remove [from the original source of uncleanness] in the matter of Holy Things, that he addressed his question to them. [Accordingly, they answered quite properly.]”
- [N] Then why does Haggai curse them [if they gave the right answer]?
- [O] *He was in the position of someone looking for any excuse to curse his fellow.*
- [P] *But why then did he include reference to their making the house of the Lord unclean if in fact the law was as they said it was, that he should say to them, “And what they offer there is unclean”?*
- [Q] *It was in line with that which R. Simon bar Zebedi said, “They found the skull of Amon the Jebusite buried underneath the altar [which meant that a principal source of uncleanness contaminated all the offerings made in the Temple].”*
- [R] [Explaining the matter differently,] R. Aha in the name of R. Abba bar Kahana: “They were expert in the laws of transferring uncleanness by shifting an object, but they were not expert in the laws of transferring uncleanness by maddaf [which is the mode of uncleanness transferred by a zab, zabah, or menstruating woman (Lev. 15), to objects used for

lying or sitting (but not to food or drink) even without direct contact, located above their heads]. [And this is the colloquy that resulted:]

[S] “‘If one carries holy flesh in the skirt of his garment ...’ He asked them, ‘Does one unclean with corpse uncleanness impart uncleanness to an object merely by shifting it [without direct contact with it]?’

[T] “‘The priests said to him, ‘No.’

[U] “‘They answered him quite correctly, for one unclean with corpse uncleanness does not impart uncleanness to an object merely by shifting it [without actual contact with it].

[V] “‘He asked them, ‘Does one who is unclean with corpse uncleanness convey uncleanness by maddaf [as explained]?’

[M] “‘The priests answered him, ‘He does transmit uncleanness in that way.’

[X] “‘In this regard they did not reply to him correctly. For one unclean with corpse uncleanness does not impart uncleanness through the mode of maddaf [as explained].”

[Y] R. Tanhuma, R. Pinhas in the name of R. Levi: “It was concerning whether or not we take account of a fifth remove from the original source of uncleanness in matters of Holy Things that he asked them. [And the indication is as follows:]

[Z] “‘If one carries holy flesh in the skirt of his garment ...’:

[AA] “‘the skirt of his garment’ is in the first remove.

[BB] “‘holy flesh’ is in the second remove.

[CC] “‘bread and pottage’ are in the third remove.

[DD] “‘wine and oil’ are in the fourth remove.

[EE] “‘And food is in the fifth.

[FF] “‘Now he asked them do we take account of a fifth remove in respect to Holy Things?’

[GG] “‘And the priests answered, ‘No.’

[HH] “‘They answered him quite correctly, for there is no consideration of a fifth remove in Holy Things.’”

[II] Then why does Haggai curse them [if they gave the right answer]?

[JJ] *He was in the position of someone looking for any excuse to curse his fellow.*

[KK] *But why then did he include reference to their making the house of the Lord unclean, if in fact the law was as they said it was, that he should say to them, “And what they offer there is unclean”?*

[LL] *It was in line with that which R. Simeon bar Zebedi said, “They found the skull of Arnon the Jebusite buried underneath the altar.”*

[II:4 A] *It was taught: Said R. Yosé, “How do we know that that which is unclean by a source of uncleanness in the fourth remove [from the original source of uncleanness] in the case of Holy Things is invalid [M. Hag. 3:2E-F]? And it is reasonable. Now if one who has not completed his atonement rites is not invalid in the case of heave-offering but is invalid in the case of Holy Things, that which is made unclean by a source of uncleanness in the fourth remove, which is invalid in the case of heave-offering – is it not reasonable that it should invalidate [that which touches it, in the case of Holy Things]? We have learned in Scripture [cf. M. Sot. 5:3] that that which is made unclean by a source of uncleanness in the third remove from the original source of uncleanness invalidates, and in connection with that which is unclean in the fourth remove [we thus derive the same lesson] by an argument *a fortiori*” [T. Hag. 3:18].*

[B] *Objected R. Yohanan: “Food which has been touched by a Tebul Yom [unclean in the second remove, we recall] will prove the contrary. For it is invalid so far as being designated heave offering is concerned [in line with Lev. 11:33], but it has no invalidating affect upon Holy Things [in the fourth remove]. [That is: Just as the Tebul Yom invalidates in the case of heave offering, so he invalidates in the case of Holy Things. But he does not render the Holy Things unclean in such wise that the Holy Things will then go and impart uncleanness. In this case, then, the argument *a fortiori* of Yosé will not serve, as it does above, and so it is shown to be invalid.]”*

[C] *[Providing a second attack on Yosé’s reasoning,] R. Hiyya in the name of R. Yohanan, “The view of R. Yosé is in line with the theory of R. Aqiba, his teacher. Just as R. Aqiba said, ‘will be unclean’ (Lev. 11:33, referring to food) means ‘will impart uncleanness’ [in the third remove, as at M. 5:2A], as a matter of the law of the Torah, so R. Yosé said, ‘will be unclean’ (Lev. 11:34, with reference to liquid) means ‘will impart uncleanness’ as a matter of the law of the Torah. [In this case, why not construct the same argument *a fortiori* to prove that we*

take account of a fourth remove in regard to food in the status of heave offering and deem such food to be invalid? Now if a Tebul Yom, who is permitted to touch unconsecrated food, is invalid so far as heave offering is concerned, food in the third remove, which is invalid so far as unconsecrated food is concerned (in line with the position of Aqiba at M. 5:2A, unconsecrated food in the third remove is invalid and may not be designated heave offering), all the more so should be deemed to invalidate food in the fourth remove for heave offering. This then is a further argument against the reasoning of Yosé at A-E.]”

[D] *R. Abbahu in the name of R. Yosé bar Haninah: “R. Yosé has no need for the argument a fortiori [to prove that that which is in the fourth remove from the original source of uncleanness in the case of Holy Things is invalid]. R. Yosé [is perfectly able to prove the same thing] on the basis of the exegesis of [the following verse of Scripture. ‘Flesh that touches any unclean thing shall not be eaten’ (Lev. 7:19). ‘Flesh that touches’ –This refers to meat in the second remove of uncleanness which touched that which is unclean in the first remove of uncleanness. ‘Any unclean thing’ –This refers to meat in the third remove of uncleanness which touched that which was unclean in the second remove of uncleanness [as is clear in the sequence of the verse]. ‘Shall not be eaten’ –That which is made unclean at the end is not to be eaten. [That is to say, what touches this meat in the third remove is itself in the fourth remove and is not to be eaten. That proves the proposition.]”*

[II:5 A] Up to this point we have dealt with food made unclean in the airspace of a clay utensil contaminated by a dead creeping thing [Lev. 11:33]. [That is, Aqiba’s proof, based on Lev. 11:33, shows that food made unclean in the contained airspace of a clay utensil into which a dead creeping thing has fallen has the capacity to impart uncleanness to food which touches it.] How do we know that food itself which has been made unclean by a dead creeping thing [has the power to impart uncleanness to other food]?

[B] Now it is a matter of logic. If utensils do not receive uncleanness when they are located in the contained airspace of a clay utensil which has been rendered unclean by a dead creeping thing—lo, such utensils impart uncleanness as does a dead creeping thing [so that food which touches them will be unclean]— food itself, which is rendered unclean by a dead creeping thing, is it not a matter of logic that it should have the capacity to impart uncleanness as does a dead creeping thing to [other] food [with which it comes into contact]? [Surely that is obvious.]

- [C] Up to this point we have dealt with the matter in line with the theory of R. Aqiba [who regards the uncleanness imparted in the third remove as a matter of the law of the Torah]. But as to R. Ishmael [how does he prove that there is a third remove in regard to food which has been in contact with that which has been made unclean?]
- [D] *It is taught by R. Ishmael:* “‘Flesh that touches any unclean thing shall not be eaten.’ [This refers to] food in the first remove, ‘which touched any unclean thing.’ ‘It shall not be eaten’ is meant to encompass that which is in the second remove. And as to the third remove, how do we prove that that is taken into account? It is a matter of logical inference. Now if a Tebul Yom does not invalidate in the case of unconsecrated food, lo, he has the power to invalidate in the case of heave offering [which he touches, so that said heave offering is deemed unclean and may not be eaten,] food unclean in the second remove, which indeed is invalid in the case of unconsecrated food [as at M. Toh. 2:3ff.] – is it not logical that it should have the power to invalidate in the case of heave offering?
- [E] “And as to a fourth remove in the case of Holy Things, how do we prove that proposition? Now it is a matter of logic. If one who has not yet brought his offerings to complete the process of atonement is not invalid for eating heave offering, lo, he is invalid so far as Holy Things are concerned [Lev. 12, 15 indicate that until the offerings are brought to complete the process of atonement, the woman after childbirth and the zab and zabah are not permitted to eat Holy Things], that which is in the third remove from the original source of uncleanness, which indeed is invalid so far as heave offering is concerned—is it not logical that it should have the power to invalidate in the case of Holy Things [with which it comes into contact, hence, the fourth remove]?
- [F] “Lo we have learned from Scripture the law governing the uncleanness of invalidity of that which is in the first remove and the second remove from the original source of uncleanness, and from a logical process we have derived the same rule for that which is in the third remove, and as to that which is in the fourth remove, we have derived the same proposition from an argument a fortiori.
- [G] “[After we have] reasoned one law from the other [deriving the rule governing the third remove in the case of heave offering from the rule governing what is unclean in the second remove in the case

of the Tebul Yom, we derive yet another rule by means of an argument for that which is in the fourth remove, that it is invalid in the case of food in the status of Holy Things], so that all should be governed by the law, thus with the result that heave offering in the third remove, and Holy Things in the fourth remove, should be deemed invalid.”

5:3

- [A] **On that day did R. Aqiba expound as follows: “And you shall measure without the city for the east side two thousand cubits...” (Num. 35:5). And another Scripture says, ‘From the wall of the city and outward a thousand cubits round about’ (Num. 35:4).**
- [B] **“It is not possible to state that the required measure is a thousand amahs, for two thousand amahs already have been specified.**
- [C] **“But it is not possible to state that the required measure is two thousand amahs, for one thousand amahs already have been specified.**
- [D] **“So how shall we rule?**
- [E] **“A thousand amahs form the outskirts, while two thousand amahs form the Sabbath-limit.”**
- [F] **R. Eliezer the son of R. Yosé the Galilean says, “A thousand amahs form the outskirts, and two thousand amahs cover the surrounding fields and vineyards.**
- [I:1 A] **R. Eleazar b. R. Yosé the Galilean says, “Two thousand amahs form the limit of the cities of the Levites. Subtract from them a thousand amahs for the outskirts, and you turn out to have a quarter for outskirts and the rest for fields and vineyards” [M. 5:3F] [T. Sot. 5:13].**
- [B] [As to the “quarter for outskirts” of Eleazar’s saying,] R. Jeremiah, R. Samuel bar R. Isaac in the name of Rab: “A quarter of a thousand. [That is, we take a quarter out of the space on each side of the city. The city has a thousand amahs of outskirts. Hence each side contributes two hundred fifty to the thousand cubits of outskirts].”
- [C] Said R. Isaac, “Even if you say that we take a quarter from each side [as has just been said], it still adds up to a quarter. He who quadrates four storage houses requires sixteen.”
- [D] *R. Mana gives the measure in rectangles [bricks].*
- [E] *R. Abin does so in a belt [four cubits square].*

[F] *R. Oshaiah does the same by marking out [the dimensions].*

- [I:2 A] R. Yosé h. R. Bun said, “Fifty by fifty cubits is a seah area [the area in which one may scatter a seah of seed]. One hundred by one hundred cubits form an area of four seahs.”
- [B] *This is illustrated in the following case: The exilarch was assigned a tax of filling with wheat a room forty by forty cubits.*
- [C] *He came to R. Huna, who instructed him, “Go and make a deal with them. Let them assign you a room of twenty by twenty to be filled now, and one of twenty by twenty to be filled after a while, and you will save half [of the assigned tax, which you will not have to give at all, in line with the calculation of A].”*
- [I:3 A] R. Ba in the name of R. Judah, R. Zeira in the name of R. Uqba: **“They measure only with a rope fifty cubits long, no less, no more. And one measures only [with the rope held] at a level with his heart. [If] one was measuring and reached a valley or a fence, he takes count only of the horizontal span and continues his measuring. [If] he came to a mountain, he takes account only of the horizontal span and continues his measuring. And this is on condition that he does not go outside the Sabbath limit. If he cannot take account of the horizontal span, in this case, said R. Dosetai b. R. Yannai in the name of R. Meir, “I heard that they treat hills as though they were pierced” [M. Erub. 5:4]. [That is, if the other side of the valley lies outside of the Sabbath limit, we do not follow the stated procedure. If one cannot span the area, since it is longer than fifty cubits, then, Meir says, we calculate in such a way as to measure the horizontal distance as if it were a straight line.] [In this connection,] said R. Zeira in the name of R. Hisdai, “They do not measure [with a rope] in the towns of the Levites [in the two thousand cubits of outskirts] or [20c] in the place in a ravine where a heifer is to be killed [that is, when determining which city must bring the heifer to be killed when a neglected corpse turns up, one does not make the measurement with a rope].” Now this statement poses no problems to the one [Aqiba] who says that a thousand cubits form the outskirts, and two thousand cubits, the Sabbath limit. [That is, Aqiba can accept this statement of Hisdai’s, they measure with the rope for that purpose, and in the case of the towns of the Levites, they do not take such a measurement.]**
- [B] *But in accord with the one [Eliezer] who said a thousand cubits form the outskirts, and two thousand cubits the area for fields and vineyards, [how will they derive the measurement for the Sabbath limit if they do*

not measure with a rope in the towns of the Levites?] For [in his view] have they not learned the Sabbath limits from [analogy to] the towns of the Levites? Shall we then say that for the principal purpose they do not take a measure [namely, for establishing the boundaries of the Levitical cities they do not measure with a rope,] while for the auxiliary purpose they do take measure [namely, for establishing the Sabbath limits]?

[I:4 A] How do we know that they do not bury the dead in the Levites' cities?

[B] R. Abbahu in the name of R. Yosé bar Haninah: “‘Their pasture lands shall be for their cattle and for their livestock and for all their beasts’ (Num. 35:3) – they have been assigned for their cattle and beasts, and they have not been assigned for use as a burial ground.”

5:4

[A] On that day did R. Aqiba expound as follows: “‘Then sang Moses and the children of Israel this song unto the Lord and spoke saying,’ (Ex. 15:1).

[B] “Now Scripture hardly needs to add, ‘Saying.’

[C] “And why does Scripture state, ‘Saying’?

[D] “It thereby teaches that the Israelites responded word by word after Moses.

[E] “as they do when they read the Hallel-psalms.

[F] “Therefore, ‘Saying,’ is stated in this context.”

[G] R. Nehemiah says, “[They did so] as they do when they read the Shema’, not as when they read the Hallel.”

[I:1 A] [The following is in the Tosefta’s version, which is fuller than that in Yerushalmi:] **[How did they recite that song?]** It was like a child who recites the Hallel in School.

[B] And they answered him at each and every phrase, thus:

[C] “Moses said, ‘My strength and my song is the Lord,’ (Ex. 15:2), and the Israelites said, ‘My strength and my song is the Lord’” T. Sot. 6:2C-E] M. Sot. 5:4A-F].

[D] R. Eleazar b. R. Yosé the Galilean says, “They proclaimed the song like an adult who proclaims the Hallel in synagogue-worship, responding to him with the foregoing phrase, as follows:

[E] “Moses said, ‘I will sing to the Lord’ (Ex. 15:1), and the Israelites said, ‘I will sing to the Lord.’

- [F] “Moses said, ‘My strength and song is the Lord,’ and the Israelites said, ‘I will sing unto the Lord.’
- [G] “Moses said, ‘The Lord is a man of war’ (Ex. 15:3), and the Israelites said, ‘I will sing unto the Lord.’”
- [H] R. Nehemiah says, “[They proclaimed the song] like men who recite the Shema’ in synagogue-worship, as it is said, And they said, saying (Ex. 15:1).
- [I] “This teaches that Moses would open first with a given matter, and the Israelites would respond to him and complete saying [that same matter, thus:]
- [J] “Moses said, ‘ Then Moses sang, ‘ and the Israelites said, ‘I shall sing unto the Lord.’
- [K] “Moses said, ‘My strength and song is the Lord,’ and the Israelites said, ‘This is my God and I will glorify him.’
- [L] “Moses said, ‘The Lord is a man of war,’ and the Israelites said, ‘The Lord is his name’” [cf. M. Sot. 5:4G].
- [M] A. R. Yosé the Galilean says, “When the Israelites came up out of the sea and saw their enemies strewn as corpses on the seashore, they all burst out into song – even a child lying on his mother’s lap and an infant sucking at its mother’s breast.
- [N] “When they saw the Presence of God, the babe raised his head, and the infant took his mouth off his mother’s teat and all responded in song, saying, This is my God and I will glorify him (Ex. 15:2).”
- [O] R. Meir says, “Even foetuses in their mothers’ wombs broke out into song, as it is said, Bless God in the great congregation, the Lord, O you who are of Israel ‘s fountain (Ps. 68:26).
- [P] “And even an infant took his mother’s teat out of his mouth and broke into song, as it is said, By the mouth of babes and infants thou hast founded a bulwark, because of thy foes (Ps. 8:2).”
- [Q] At that hour the ministering angels who had come together to cavil [against Israel] before the Holy One blessed be He, looked down.
- [R] When the Holy One blessed be He had created the first man, they had said before him, “Lord of the world, What is man that thou art mindful of him, and the son of man that thou dost care for him? Yet thou hast made him little less than God, and dost crown

him with glory and honor. Thou hast given him dominion over the works of thy hands; thou hast put all things under his feet all sheep and oxen, and also the beasts of the field, the birds of the air and the fish of the sea, whatever passes along the paths of the sea (Ps. 8:5-8).

- [S] **At that hour the Holy One, blessed be He, said to the ministering angels, “Come and behold the song which my children proclaim before me.”**
- [T] **So they, when they beheld, proclaimed a song. What song did they proclaim? O Lord, our Lord, how majestic is thy name in all the earth! Thou whose glory above the heavens is chanted by the mouth of babes and infants ... O Lord, our Lord, how majestic is thy name in all the earth! (Ps. 8:1-2, 9).**
- [U] **R. Simeon b. Menassia says, “This pericope was stated only with reference to Isaac, the son of Abraham, in the matter of the Binding” [T. Sot. 6:4].**
- [V] R. Nehemiah said, “When our forefathers came up out of the sea, they saw the corpses of sinful men, who had cruelly overseen their labor, and now all of them were corpses, scattered about on the seashore.
- [M] “They sought to break out into song, and the Holy Spirit rested upon them, so that even the least among all the Israelites could proclaim the song just like Moses.
- [X] “This is in line with that which is written, ‘Then he remembered the days of old, of Moses his servant. Where is he who brought up out of the sea the shepherds of his flock? Where is he who put in the midst of them his Holy Spirit ...?’ (Is. 63:11). ‘The shepherd of the flock’ is not stated, but rather, ‘The shepherd of his flock. ‘ This teaches that he made them all into shepherds [just like Moses].”
- [Y] Why at the song of the sea does Scripture say, “Saying”?
- [Z] It means “speaking to generations to come.”
- [AA] [*When they recited the song of the sea*] R. Abbahu in the name of R. Yosé b. R. Haninah [*said,*] “*It is like a Scripture teacher [who teaches children in school]. [He quotes the beginning of a verse, and the children complete it.]* Moses said, ‘I shall sing.’ And they said after him, ‘I shall sing to the Lord, for he has triumphed gloriously; the horse and his rider he has thrown into the sea.’ Moses said, ‘The Lord is my strength and my song.’ And they said

after him, “The Lord is my strength and my song, and he has become my salvation.””

- [I:2 A] It is written, “[Then sang Deborah and Barak the son of Abinoam on that day]: ‘That the leaders took the lead in Israel, that the people offered themselves willingly’” (Judg. 5:1-2) the heads of the people offered themselves willingly.
- [B] When the Holy One, blessed be he, does wonders for them, let them say the song [Ex. Chapter Fifteen].
- [C] *They objected:* “Lo, there is the redemption from Egypt [when they said the song only after the redemption, not when it took place].”
- [D] It is different, for it is the beginning of their redemption.
- [E] *They objected:* “Lo, there is the redemption in the time of Mordecai and Esther.”
- [F] It is different, for the Israelites were outside of the Holy Land.
- [G] *There are those who wish to say,* “Mordecai and Esther were saved from their enemies. They were not saved from the monarch himself, [so there was no true redemption and freedom].”

5:5

- [A] **On that day did R. Joshua b. Hurqanos expound as follows: “Job served the Holy One, blessed be He, only out of love,**
- [B] **“since it is said, ‘Though he slay me, yet will I wait for him’ (Job. 13:15).**
- [C] **“But still the matter is in doubt [as to whether it means], ‘I will wait for him,’ or, ‘I will not wait for him.’**
- [D] **“Scripture states, ‘Until I die I will not put away mine integrity from me’ (Job. 27:5).**
- [E] **“This teaches that he did what he did out of love.”**
- [I:1 A] It was taught in the name of R. Judah: ““As God lives, who has taken away my right, and the Almighty, who has made my soul bitter’ (Job 27:2).
- [B] “For a man takes a vow by the life of a king only if he loves him.”
- [I:2 A] In the name of R. Nathan they said, ““This will be my salvation, that a godless man shall not come before him’ (Job 13: 16).

[B] “One verse of Scripture says, ‘And you shall love the Lord your God [with all your heart, and with all your soul, and with all your might]’ (Deut. 6:5).

[C] “And another verse of Scripture says, ‘You shall fear the Lord your God; you shall serve him, [and swear by his name]’ (Deut. 6:13).

[D] “Do [his will] out of love, do his will out of fear.

[E] “‘Do [his will] out of love,’ so that if you should come to hate, you will know that you love him, and one who loves cannot hate.

[F] “‘Do his will out of fear,’ so that if you come to rebel against him, [you will know that] one who fears does not rebel”

[I:3 A] There are seven types of Pharisees: the shoulder-Pharisee; the wait-a-while Pharisee; the bookkeeping Pharisee; the niggardly Pharisee; the show-me-what-I-did-wrong Pharisee; the Pharisee-out-or-fear; and the he Pharisee-out-of-love.

[B] “The shoulder-Pharisee” *carries the religious deeds he has done on his shoulder [for all to see].*

[C] “The wait-a-while Pharisee” – “*Wait a minute, so I can go off and do a religious deed.*”

[D] “The bookkeeping Pharisee” – *He does one deed for which he is liable and one deed which is a religious duty, and then he balances one off against the other.*

[E] “The niggardly Pharisee” – “*Who will show me how I can save so that I can do a religious deed.*”

[F] “The show-me-what-I-did-wrong Pharisee” – “*Show me what sin I have done, and I will do an equivalent religious duty.*”

[G] “A Pharisee-out-of-fear,” like Job.

[H] “A Pharisee-out-of-love,” like Abraham.

[I] And the only one of them all who is truly beloved is the Pharisee-out-of-love, like Abraham.

[I:4 A] Abraham made the impulse to do evil into good.

[B] What is the Scriptural basis for that statement?

[C] “And thou didst find his heart faithful before thee, [and didst make with him the covenant to give to his descendants the land of the

Canaanite, the Hittite, the Amorite, the Perizzite, the Jebusite, and the Girgashite]” (Neh. 9:8).

[D] Said R. Aha, “He made an agreement with it: [And thou didst find his heart faithful before thee,] and didst make with him the covenant [to give to his descendants the land of the Canaanite, the Hittite, the Amorite, the Perizzite, the Jebusite, and the Girgashite]’ (Neh. 9:8).”

[E] But David was unable to overcome it, so he had to kill it in his heart.

[F] What is the Scriptural basis for that statement?

[G] “[For I am poor and needy,] and my heart is stricken within me” (Ps. 109:22).

[I:5 A] *R. Aqiba was on trial before Tonosteropos the Wicked. The time for reciting the Shema came. He began to recite it and smiled.*

[B] *[The wicked one] said to him, “Old man, old man! You are either a wizard or you have contempt for pain [that you smile].”*

[C] *He said to him, “May the soul of that man perish. I am no wizard, nor do I have contempt for pain. But for my whole life I have been reciting this verse: ‘And you shall love the Lord your God with all your heart, with all your soul, and with all your might’ (Deut. 5:6). I loved God with all my heart, and I loved him with all my might. But ‘with all my soul’ until now was not demanded of me. And now that the time has come for me to love him with all my soul, as the time for reciting the Shema has arrived, I smile that the occasion has come to carry out the verse at that very moment at which I recite the Scripture.”*

[D] Nehemiah Imsoni, who served R. Aqiba for twenty-two years, would say, “[When we see in Scripture the words] et [the object marker] and gam [‘also’], [they serve as exegetical tools for] encompassing an unstated subject. [When we see the words] akh and rak [‘only’], [they serve to] limit [and exclude].

[E] He said to him, “What is the meaning of that which is written, ‘You shall fear [+ et] the Lord your God’” (Deut. 6:13).

[F] He said to him, “Him and his Torah [shall you fear].”

5:6

[A] Said R. Joshua, “Who will remove the dirt from your eyes, Rabban Yohanan b. Zakkai. For you used to expound for your entire life that Job served the Omnipresent only out of awe,

[B] “since it is said, ‘The man was perfect and upright and one who feared God and avoided evil’ (Job. 1:8).

[C] “And now has not Joshua, the disciple of your disciple, taught that he did what he did out of love.”

[I:1 A] When did Job live?

[B] R. Simeon b. Laqish in the name of Bar Qappara: “In the days of Abraham, our father, did he live. This is in line with that which is written, ‘There was a man in the land of Uz, whose name was Job, [and that man was blameless and upright, one who feared God, and turned away from evil]’ (Job 1:1). And it is written, ‘[Now after these things it was told to Abraham, Behold, Milcah also has borne children to your brother Nahor:] Uz the firstborn, [Buz his brother, Kemuel the father of Amram, Chesed, Hazo, Pildash, Jidlaph, and Bethuel]’” (Gen. 22:20-21).

[C] R. Abba said, “It was in the days of our father, Jacob, and his wife was Dinah. This is in line with that which is written, ‘[But he said to her,] You speak as one of the foolish women would speak’ (Job 2: 10). And it is written, ‘[The sons of Jacob came in from the field when they heard of it; and the men were indignant and very angry,] because he had wrought folly in Israel [by laying with Jacob’s daughter, for such a thing ought not to be done]’” (Gen. 34:7).

[D] R. Levi said, “It was in the time of the tribes that he lived. That is in line with that which is written, ‘[I will show you, hear me; and what I have seen I will declare,] what wise men have told, and their fathers have not hidden’” (Job 15:17-18).

[E] R. Yosé b. Halafta said, “He was among those who went down to Egypt, and when they came up, he died.” It may be compared to a shepherd, to whose flock a wolf came and joined up. What did he do? He set the bellwether against him. That is in line with the following verse of Scripture, ‘God gives me up to the ungodly, and casts me into the hands of the wicked’” (Job 16:11).

[F] *R. Ishmael taught*, “Job was one of the servants of Pharaoh. He was one of the great members of his retinue. That is in line with the following verse of Scripture: ‘Then he who feared the word of the Lord among the servants of Pharaoh made his slaves and his cattle flee into the houses’ (Exod. 9:20). And concerning him it is written, ‘And the Lord said to Satan, Have you considered my servant Job, [that there is none like him on the earth,] a blameless and upright man, who fears God and turns away from evil?’” (Job 1:8).

- [G] R. Yosé bar Judah says, “He was in the time in which the judges ruled Israel. That is indicated in the following verse of Scripture: ‘Behold, all of you have seen it yourselves; why then have you become so vain?’ (Job 27:12). You have seen the deeds of my generation. For they collected tithes at the threshing floors: ‘[Rejoice not, O Israel? Exult not like the peoples; for you have played the harlot, forsaking your God.] You have loved a harlot’s hire upon all [20d] the threshing floors’” (Hos. 9:1).
- [H] R. Samuel bar Nahman in the name of R. Jonathan: “He lived in the time of the kingdom of the Sabeans, for it is said, ‘And the Sabeans fell upon them and took them, [and slew the servants with the edge of the sword; and I alone escaped to tell you]’” (Job 1:15).
- [I] R. Nathan said, “He lived in the time of the Chaldeans, for it is said, ‘[While he was yet speaking, there came another, and said,] The Chaldeans formed three companies, [and made a raid upon the camels and took them, and slew the servants with the edge of the sword; and I alone have escaped to tell you]’” (Job 1:17).
- [J] R. Joshua b. Qorha said, “He lived in the days of Ahasueros, for it is said, ‘[Then the king’s servants said,] Let beautiful young virgins be sought out for the king’ (Esther 2:2). And it is written, ‘And in all the land there were no women so fair as Job’s daughters; [and their father gave them inheritance among [their brothers]]’” (Job 2:15)
- [K] R Joshua b Levi said, “He was among those who came up from the exile.”
- [L] Yohanan said, “He was among those who came up from the exile, but he was an Israelite.”
- [M] On that account, R. Yohanan derived from his behavior rules governing conduct in the time of mourning: “Then Job arose and rent his robe, [and shaved his head and fell upon the ground, and worshipped]” (Job 1:20).
- [N] R. Judah b. Pazzi in the name of R Yohanan, “On of the cited verse we learn that a mourner has to tear his garment while standing up.”
- [O] R Hiyya taught, “In my realm [?] there was a righteous gentile [such as Job, who was not an Israelite], and I paid him his wage, and I dismissed him from my realm.”
- [P] R. Simeon b. Laqish said, “Job never existed and never will

[Q] *The opinions attributed to R. Simeon b. Laqish are at variance with one another.* There R. Simeon b. Laqish said in the name of Bar Qappara, ‘He lived in the time of Abraham, our father,’ and here has he said this?

[R] But he really did exist, while the sufferings ascribed to him never really took place.

[S] And why were these sufferings ascribed to him? It is to indicate that if such sufferings had come to him, he would have been able to endure them.

[I:2 A] R. Aqiba interpreted the following verse: “Then Elihu the son of Barachel the Buzite, of the family of Ram, became angry” (Job 32:2). [Aqiba said,] “Elihu is Balaam the son of Barachel, who came to curse Israel but blessed them. Nevertheless the Lord your God would not hearken to Balaam [the Buzite]” (Deut. 23:5). [He was called] ‘the Buzite,’ for his prophecy was despised (BZZ). [The oracle of him who hears the words of God, who sees the vision of the Almighty], having his eyes uncovered” (Num. 24:4) [And Balaam took up his discourse, and said,] ‘From Aram Balak has brought me, [the king of Moab from the eastern mountains]’ (Num. 23:7).”

[B] Said R. Eleazar b. Azariah, “If [Job] really was the same as Balaam, then the Omnipresent hid that fact, and if he really was not Balaam, then in time to come he is going to have quite a dispute with you. But Elihu is the same as Isaac b. Barachel—a son whom God blessed, as it is said, ‘[And Isaac sowed in the land, and reaped in the same year a hundredfold.] The Lord blessed him, [and the man became very rich]’ (Gen. 26:12-13). ‘The Buzite’—for he despised all houses of idolatry, when he was bound on the altar. ‘Of the family of Ram’—he was a son of Abram.”

[I:3 A] Moses wrote five books of the Torah, and then he went back and wrote the pericope of Balak and Balaam, and, [at the end], he wrote the book of Job.

[B] “[There was a man in the land of Uz, whose name was Job;] and that man was blameless and upright, one who feared God, and turned away from evil” (Job 1:1).

[C] *Said R. Tahalipa of Caesarea,* “For he was a forgiving person.”

[D] Said to him R. Zeira, “One who is not a forgiving person cannot be a truly suitable person. But he forgave him who cursed him.”

YERUSHALMI SOTAH

CHAPTER SIX

6:1

[A] He who expressed jealousy to his wife,

[B] but she went aside in secret,

[C] “even if he heard [that she had done so] from a bird flying by –

[D] “he puts her away, but pays off her marriage-contract,” the words of R. Eliezer.

[E] R. Joshua says, “[He does so] only if the women who spin their yarn by moonlight trade stories about her.”

[I:1 A] *R. Yohanan in the name of R. Yannai: “All [of the laws in] this chapter [at M. 6:2A-B, apply to a case in which] the husband has given a warning [that is, expressed jealousy], saying to her, ‘Do not go in private with Mr. So-and-so.’ Then after he expressed jealousy to her, she went in private with him.”*

[B] R. Simeon b. Laqish said, “[The rules apply] even if she did not go in private with him.”

[C] *Said R. Zeira in the presence of R. Yosa, “It is not that R. Simeon b. Laqish differs [from R. Yohanan]. But he is of the opinion of that Tannaite authority who imposes a lenient ruling with regard to witnesses to the woman’s actually going in private with the named man. [He concurs with Eliezer, M. 1:1, who maintains that the husband may impose the ordeal of drinking the water on the testimony of only a single witness that the woman has gone in private with the named man. Along these same lines, even if he heard from a bird flying overhead that she has gone in private with the named man, he must divorce her, but he pays off her marriage contract. But if there is no evidence at all that she has gone aside, he may not divorce her.]”*

[II:1 A] **[“he puts her away, but pays off her marriage-contract,” the words of R. Eliezer:]** *We have learned in the Mishnah pericope that there is a dispute [of Eliezer and Joshua].*

- [B] *There are Tannaim who repeat the law of the Mishnah pericope without dispute at all [omitting at D “the words of R.]*
- [C] *Said R. Zeira in the presence of R. Mana, “It is not in regard to what R. Eliezer said that R. Joshua takes issue. [Each one said what he said, not in the context of a dispute at all.] But it is on account of that which we have learned, **R. Joshua says, ‘[He does so] only if the women who spin their yarn by moonlight trade stories about her.’**” [The use of the language ‘only if’ implies that there is a dispute, and from Joshua’s viewpoint it is insufficient to hear the news from a bird flying by.]”*
- [D] *R. Abba Mari raised the question there, ‘Said R. Hezekiah, R. Abbahu in the name of R. Eleazar, “In every setting in which Rabbi taught [the law in the form of a] dispute and then went and repeated it without assigning it to a named authority, the law is in accord with the version not in the name of a specific authority. And yet do you say this [that here, Rabbi gave the law in accord with Eliezer’s view, F-H, without noting his name, which means the law follows Eliezer]? [It surely should follow Joshua!]”*

[III:1 A] We learn that the word [used at M. 6:1E, women who spin their yarn,] is MWSRWT.

[B] *There are Tannaim who repeat the word as MWZRWT.*

[C] *The authority who repeats the word as MWSRWT speaks of those who spin wool.*

[D] *The one who repeats the word as MWZRWT speaks of those who work in flax.*

[III:2 A] *How shall we interpret the passage [M. 6:1E]? If we speak of those who have heard but do not know from whom they have heard it, then their testimony is in the status of that of a bird flying by.*

[B] *If we speak of those who have heard and do not know from whom they have heard it, then it is hearsay evidence [which is totally invalid here].*

[C] *We interpret the matter: “It was Mr. So-and-so who heard it from Mr. So-and-so, and Mr. Such-and-such who heard from Mr. Such-and-such,” that is to say, a rumor without foundation. [Even such testimony is taken into account to require the husband to divorce his wife.]*

6:2

- [A] [If] one witness said, “I saw that she was made unclean,”
[B] she would not undergo the ordeal of drinking the bitter water.
[C] And not only so, but even if it was a boy-slave or a girl-slave, lo, these are believed even to invalidate her [from receiving payment of] her marriage-contract.
[D] As to her mother-in-law and the daughter of her mother-in-law, her co-wife, and the husband’s brother’s wife, and the daughter of her husband,
[E] lo, these are believed [cf. M. Yeb. 15:4] –
[F] not to invalidate her from receiving payment of her marriage-contract, but that she should not undergo the ordeal of drinking the bitter water.

- [I:1 A] “And there is no witness against her ...” (Num. 5:13).
[B] I know only that reference is to a valid witness.
[C] How do I know that this encompasses even a slave boy, even a slave girl [in line with M. 6:2C)?
[D] Scripture explicitly states, “No witness,” meaning, of any character whatsoever [would be acceptable to invalidate her from receiving her marriage settlement. There being no witness of any sort, then the ordeal is imposed.]
[E] Now in accord with the position of R. Ishmael, [how do we explain matters]?
[F] For R. Ishmael said, “In every place in Scripture in which it is said witness [21a] without further specification, lo, subsumed in such a reference is the requirement that there be two witnesses, unless Scripture makes it explicit that it speaks of a single witness.”
[G] *There indeed is found [a teaching indicating that even in the matter of the woman’s being made unclean, two witnesses are required], for it was taught: R. Ishmael says, “Two witnesses [are required even here].”*
[I:2 A] *The Mishnah comes from the time before R. Aqiba conceded the position of R. Tarfon [in the following discourse].*
[B] *It has been taught: R. Tarfon says, “A single witness is believed for purposes of declaring the woman unclean, but a single witness is not*

believed for purposes of depriving the woman of payment of her marriage settlement [vs. M. 6:2C].”

[C] R. Aqiba says, “Just as a single witness is believed to declare the woman unclean, so a single witness is believed to deprive the woman of payment of her marriage settlement [in accord with M. 6:2C].”

[D] Said to him R. Tarfon, “Where do we find a case in which the testimony of a single witness in a monetary case is worth a thing?”

[E] Said to him R. Aqiba, “And where do we find a case in which the testimony of a single witness in marital matters is worth a thing? But just as a single witness is believed to declare the woman unclean, so a single witness is believed to deprive the woman of the payment of her marriage settlement.”

[F] R. Aqiba reverted and taught the law in accord with the position of R. Tarfon. [Consequently, before this reversion, the law of the Mishnah was that a single witness is accepted to declare the woman unclean, as at M. 6:2A-B, so she does not undergo the ordeal; the husband divorces her but does not have to pay off her marriage settlement, as M. 6:2C says].

[I:3 A] *R. Bun bar Hiyya raised the following question: “Her mother-in-law said, ‘I saw her, that she was made unclean,’ [in which case, we know, M. 6:2D-F, she is believed to the degree that the wife now does not undergo the ordeal of drinking the bitter water, but she does get her marriage settlement], and another party came and said, ‘I saw her, that she was made unclean’ – [what is the law]? [Does this other party’s testimony serve to deprive the woman of her marriage contract, since in any event she is not going to undergo the ordeal?]*

[B] “Why has this one come to give testimony? If it is to deal with the husband’s administering the water ordeal, it already has been established [by the mother-in-law’s testimony] that she is not to undergo the ordeal.

[C] “But the valid witness came to give testimony only in order to deprive her of payment of her marriage settlement. [But] a single witness does not cause a monetary loss.”

[D] [Along these same lines,] *R. Yosé raised the following question: “[If] the husband heard from a bird passing by ‘I saw her, that she was made unclean,’ now you rule that she should not drink the water. But if then another party came and said, ‘I saw her, that she was made unclean’ –[what is the law]?*

- [E] “Why has this one come to give testimony? If it is to deal with the husband’s administering the water ordeal, it already has been established [by the bird’s testimony] that she is not to undergo the ordeal.
- [F] “But [the valid witness] came to give testimony only in order to deprive her of payment of her marriage settlement.
- [G] “[But] a single witness does not cause a monetary loss.”
- [H] [*Along the lines of these two identical questions, we turn to a parallel case of the effect of a single witness’s testimony.*] *It derives from that which R. Yosé said, “[If a witness came and said,] ‘Mr. So-and-so ate forbidden fat, and I gave him warning not to do so, the accused is not flogged [on the evidence of one witness]. But if a single party warned him that it was forbidden fat, and two witnesses warned him not to eat it, then he is flogged. And is not the principal part of the testimony against him that of a single witness?’ [And such testimony is accepted in matters of prohibitions. A single witness is treated like two here, and likewise the accused wife now loses her marriage settlement. This parallel then answers above].*
- [I] *On the basis of what R. Judah maintains, [we answer the same questions,] for R. Judah says, “[If a single witness came along and said, ‘Mr. So-and-so, a Nazirite, has become unclean, and I gave him warning about it,’ the accused is not flogged. If a single party said to him, ‘You are a Nazir,’ and he obeyed the laws of the Nazirite on the basis of his statement, and then he drank wine or contracted corpse uncleanness, and two witnesses warned him not to do so, he then will be flogged. And is not the principal part of the testimony against him that of a single witness [to the effect that he is a Nazirite to begin with]?’*
- [J] [The answer is on the basis of] that which R. Mana said, “[If a single witness came and said, “Mrs. So-and-so, wife of a priest, has gone and had sexual relations with another man, and then her husband had sexual relations with her, and her husband is a priest, and I warned him about it,’ the husband is not flogged. If she went in private according to the testimony of two witnesses, and one of them said, ‘I saw her, that she was made unclean, and then her husband, a priest, had sexual relations with her, despite the warning of two witnesses,’ the husband is flogged. Now is not the principal part of the testimony against her that of a single witness?’”

6:3

- [A] For logic might dictate as follows [vis ^ vis M. 6:2A-B]: Now, if, in the case of the first kind of testimony [that she has been warned not to get involved with such-and-such a man], which does not impose upon her a permanent prohibition [but only until she has undergone the ordeal of the bitter water], [the accusation] is not sustained by less than two witnesses,
- [B] in the case of the second kind of testimony [that she has indeed been made unclean], which does impose upon her a permanent prohibition [against remaining wed to her husband], surely [the accusation] should not be sustained by less than two witnesses.
- [C] But Scripture says, “And there is no witness against her” (Num. 5:13) – [meaning], any sort of testimony which there is against her.
- [D] On these grounds we may now construct an argument from the lesser to the greater with reference to the first kind of testimony:
- [E] Now if the second kind of testimony, which imposes upon her a permanent prohibition, is sustained by a single witness, the first kind of testimony, which does not impose upon her a permanent prohibition, surely should be sustained by means of a single witness.
- [F] But Scripture says, “Because he has found some unseemly matter in her” (Deut. 24:1), and elsewhere it says, “At the mouth of two witnesses shall a matter be established” (Deut. 19:15) – just as matter spoken of there requires two witnesses, so matter spoken of here requires two witnesses.
- [I:1 A] “The former testimony” concerns going aside in secret. “The latter testimony” refers to the act of sexual relations.
- [I:2 A] *The Mishnah pericope follows the view of R. Joshua, for R. Joshua says, “He expresses jealousy before two witnesses, and he requires her to drink the bitter water before two witnesses” [M. 1:1].*
- [B] *Said R. Mana, “And even in accord with the other Tannaite authority [Eliezer], the cited pericope is perfectly in order. For it has been taught: R. Yosé b. R. Judah says in the name of R. Eliezer, “He expresses jealousy before a single witness or even on his own evidence, and he imposes on her the requirement of drinking the bitter water before two witnesses” [vs. M. Sot. 1:1B]. [So the argument a fortiori derives from M. 6:3 D-F.]*

6:4

[A] [If] one witness says, “She was made unclean,” and one witness says, “She was not made unclean,”

[B] [if] one woman says, “She was made unclean,” and one woman says, “She was not made unclean,”

[C] she would undergo the ordeal of drinking the bitter water.

[D] [If] one witness says, “She was made unclean,” and two witnesses say, “She was not made unclean,” she would undergo the ordeal of drinking the bitter water.

[E] [If] two say, “She was made unclean,” and one says, “She was not made unclean,” she would not undergo the ordeal of drinking the bitter water.

[I:1 A] Giddul bar Minyamin in the name of Rab: “In any case in which [sages] have declared the testimony of a woman to be as valid as that as a man, the testimony of a man serves to discredit that of a woman, and the testimony of a woman serves to discredit that of a man.”

[B] *[If that is so, then let the Tannaite authority of M. 6:4A] teach [the law as follows]:* “[If] one [male] witness said, ‘She has been made unclean, and a woman said, ‘She has not been made unclean,’ [or] a woman said, ‘She has been made unclean,’ and a [male] witness said, ‘She has not been made unclean,’” [and that would have indicated the point made by Rab at A].

[C] *Along these same lines did the house of Rabbi [teach the law].*

[I:2 A] *It was taught in the name of R. Nehemiah,* “They follow the majority of the [available] testimony.”

[B] *What would be a practical illustration of that proposition?*

[C] In the case in which two women testify [in one wise], and one woman [testifies in another], they have treated such a case as one in which there are two witnesses against one witness.

[D] *That rule which you have stated applies to a case in which there was one woman against two women. But if they were a hundred women and a single male witness, all the women are deemed equivalent to a single male witness.*

[I:3 A] R. Adda bar Ahvah said, “A single witness is believed so as to declare her unclean. A single witness is not believed so as to deprive the woman of the right to collect her marriage settlement.”

[B] Said R. Hisda, “What is the reason that they have ruled, ‘A single witness is believed to declare [the accused wife] unclean’? It is because there is some foundation for the matter.”

[I:4 A] [With reference to M. 6:4A, C, if one witness says she was made unclean and one says she was not made unclean, she would drink the water, there is a version that she would not drink the water. It is on the basis of that version that the following is stated:] Simeon bar Ba in the name of R. Yohanan: “Here she would not drink the water, but in the case of a neglected corpse, they would certainly break the neck of a heifer [at M. Sot. 9:7, where there is contradictory testimony about whether or not the murderer was seen].”

[II:1 A] [If one witness says, “She was made unclean,” and two witnesses say, “She was not made unclean,” she would undergo the ordeal of drinking the bitter water. [If] two say, “She was made unclean,” and one says, “She was not made unclean,” she would not undergo the ordeal of drinking the bitter water.:] Rab said, “She would drink the water.”

[B] *The Mishnah’s formulation is at variance with the position of Rab: [If one witness says, “She was made unclean,” and two witnesses say, “She was not made unclean,” she would undergo the ordeal of drinking the bitter water. Lo, [it follows that] if one witness [contradicted another], then she would not drink the water.*

[C] [Rab would] interpret the rule to apply to one who was [ordinarily] invalid to give testimony [in which the two who testified that she is not made unclean are unfit to testify in an ordinary case, while the one who says she was made unclean was a suitable witness. Now a valid witness weighs as much as the two invalid ones [= I.A], so, in the state of doubt, she does drink the water.]

[D] *Now if we deal with those invalid to testify, then note what is said at the latter part of the Mishnah’s statement: [If] two say, “She was made unclean,” and one says, “She was not made unclean,” she would not undergo the ordeal of drinking the bitter water. Lo, here we have a case in which one witness contradicts another, and in such a case, she would not drink the bitter water. Accordingly, how could Rab maintain that she would indeed drink the water?*

[E] R. Yohanan said, “She would not drink the water.

[F] *The Mishnah contradicts the position of R. Yohanan: [If] two say, “She was made unclean,” and one says, “She was not made unclean,” she would not undergo the ordeal of drinking the*

bitter water. Lo, in the case of one witness's word against that of another, she indeed would drink the water.

[G] [Yohanan] would interpret the rule to apply to a case involving witnesses ordinarily invalid to give testimony.

[H] *Well, if we deal with those invalid to testify, then note what is said at the opening part of the Mishnah's statement: [If] one witness says, "She was made unclean," and two witnesses say, "She was not made unclean," she would undergo the ordeal of drinking the bitter water.* Lo, if it were a case in which one witness contradicts another, she would drink the water. *Accordingly, how can R. Yohanan maintain that she did not drink it?*

[I] *They say in the name of R. Samuel, "The whole pericope of the Mishnah treats a case in which those who give testimony are ordinarily invalid to do so [and we follow the majority, which every way it leads]."*

[II:2 A] *They say in the name of R. Samuel, "The Mishnah [at M. 6:4D-E] speaks of a case of another act of going aside."*

[B] *R. Zeira raised the question before R. Mana, "What is the meaning of this statement, 'The Mishnah speaks of a case of another going aside in secret'?"*

[C] *He said to him, "Thus did R. Yohanan state in the name of R. Yannai, 'This entire chapter deals with a case in which the husband had expressed jealousy to the wife, and then she had gone aside.' [The point is that the testimony that the woman has gone aside with the named man must fall within an interval close to the husband's original expression of jealousy. But if the husband expresses jealousy about a given man, and nothing happens, but then, later on, a witness testify that the wife went aside with him, that is deemed null.*

[D] *"If she went aside on the basis of the testimony of two witnesses, and one witness said, 'I saw her, that she was made unclean during the interval of privacy with the named man,' what we have here is evidence for her having gone aside in secret, and we also have here evidence that she was made unclean. [She does not drink.]*

[E] *"If the evidence was that it was after the time of going aside in secret, we have evidence of her having gone aside in secret, but we have no evidence of her having been made unclean [she does not drink]."*

- [II:3 A] If there were three witnesses, one of them says, “I saw her, that she was made unclean after an interval sufficient for her to have gone aside [with the originally named man],” we have evidence of her having gone aside, but we do not have here evidence of her having been made unclean [so she drinks] [= M. 6:4D].
- [B] If one of them said, “I saw her, that she was made unclean during an interval sufficient for her to have gone aside [with the named man],” here we have evidence that she has gone aside and that she was made unclean, [so she does not drink] [= M. 6:4E].
- [C] If there were three witnesses, one of them says, “I saw her, that she was not made unclean during an interval sufficient for her to have gone aside [with the named man],” [and the others know nothing on that score]—
- [D] *How do you treat such a case?* Is it a case in which part of the testimony has been nullified, in consequence of which all of it is treated as null? Or do we maintain that the testimony may be confirmed by the other parties?
- [E] Said R. Abba Mari, “While in general you maintain in the case of testimony part of which has been nullified that the whole of it is null, here you must agree that the testimony is to be confirmed by the remainder of the witnesses, because there is a foundation for so concluding.”

YERUSHALMI SOTAH

CHAPTER SEVEN

7:1

[A] These are said in any language: (1) the pericope of the accused wife [Num. 5:19-22], and (2) the Confession of the tithe [Deut. 26:13-15], and (3) the recital of the Shema, [Deut. 6:4-9], and (4) the Prayer, (5) the Grace after Meals, (6) the oath of testimony, and (7) the oath concerning a bailment.

[I:1 A] It is written, “And the priest shall say to the woman” (Num. 5:19) –

[B] “In any language which she understands,” the words of R. Josiah.

[C] Said to him R. Jonathan, “If she does not understand, then why should she say after him, ‘Amen’? [So B is obvious.] But the meaning of the verse just now cited is that he should not speak to her through an interpreter.”

[I:2 A] R. Yohanan in the name of R. Eleazar b. R. Simeon, “We find that the Omnipresent never spoke with any woman except for Sarah alone.”

[B] But [this cannot be, for] lo, it is written, “To the woman he said, ‘I will greatly multiply your pain in childbearing’” (Gen. 3:16).

[C] Said R. Jacob of Kefar Hanin, “It was through an [angelic] interpreter.”

[D] And lo, it is written, “And the Lord said to her, ‘Two nations are in your womb’” (Gen. 25:23).

[E] Said R. Ba bar Kahana, “The word came to her.”

[F] Said R. Biri, “How many circles around circles did the Lord draw in order to listen to the conversation of that righteous woman! He said, ‘No, but you did laugh’ (Gen. 18:15).”

[I:3 A] The confession in respect to the tithe [M. 7.1A]:

- [B] As it is written, “And you shall respond and say before the Lord your God” (Deut. 26:5).
- [I:4 A] **The recitation of the Shema. as it is written, “And you shall talk of them” (Deut. 6:7).**
- [B] **Rabbi says, “I say, ‘The recitation of the Shema is said only in the Holy Language.’”**
- [C] **What is the Scriptural basis for that view?**
- [D] **“And these words which I command you ...” (Deut. 6:6) [T. Sot. 7:7].**
- [E] *R. Levi Bar Haitah went to Caesarea. He heard them read the Shema in Greek. He wanted to stop them from doing so. R. Yosé heard and was angered. He said, “Should I say, ‘He who does not know how to read them in Assyrian letters [of Hebrew] should not read them at all’? Rather one fulfills his obligation in any language which he knows.”*
- [F] R. Berekhiah replied, “Lo, the Scroll of Esther, if one knew how to read it in either Assyrian letters [of Hebrew] or in everyday speech, he carries out his obligation to read it only in Assyrian letters.”
- [G] [Rejecting G,] said R. Mana, “As to the Scroll of Esther, if one knew how to read it in Assyrian letters and in everyday speech, he fulfills his obligation to read it only in Assyrian. [If he knew how to read it only] in everyday speech, he fulfills his obligation to read it [even] in everyday language. And so one carries out his obligation to read it in any language which he knows.”
- [I:5 A] **And as to the prayer:** [He may say it in whatever language he knows,] so that he may know how to beseech [God] for what he needs.
- [B] **As to the grace after meals,** [he may say it in whatever language that he knows,] so that he may know to whom he says the blessing.
- [I:6 A] **...the oath of testimony, and (7) the oath concerning a bailment:** one administers the oath to a person in his own language.
- [B] If one administered the oath not in one’s own language and the person said, “Amen,” lo, these are exempt [from the penalty of taking a false oath.]
- [C] *That is in line with the following: An oath administered by the judges accords with the stipulations that are in our heart, not with the stipulations that are in your heart [T. Sot. 7:3].*

[D] Said R. Yudan, “It is assumed that it is in accord with the stipulations that are in our heart that he administers the oath. And why does one stipulate with him? It is because of uninformed people. So that they may not say, ‘There are stipulations which apply to oaths.’”

[E] *R. Hananiah taught before R. Mana*, “And lo, it is written, ‘Nor is it with you only that I make this sworn covenant, but with him who is not here with us this day as well as with him who stands here with us this day’ (Deut. 29:14-15). What does this statement imply?”

[F] He said to him, “As to the generations [21c] which follow us, there can be no stipulation in their heart. [In oaths taken in the future, stipulations will be null]” [cf. T. Sot. 7:5].

7:2

[A] **And these are said [only] in the Holy Language: (1) the verses of the first-fruits [Deut. 26:3-10], (2) the rite of halisah [Deut. 25:7,9], (3) blessings and curses [Deut. 27:15-26], (4) the blessing of the priests [Num. 6:24-26], (5) the blessing of a high priest [on the Day of Atonement], (6) the pericope of the king [Deut. 17:14-20]; (7) the pericope of the heifer whose neck is to be broken [Deut. 21:7f.], and (8) [the message] of the anointed for battle when he speaks to the people [Deut. 20:2-7].**

[B] **The verses of the first fruits [M. 7:2A1] – how so?**

[C] **“And you will answer and say before the Lord thy God (Deut. 26:5).**

[D] **And later on it says, “And the Levites will answer and say” (Deut. 27:14).**

[E] **Just as answering which is said in that later passage is in the Holy Language, so answering which is said here [in reference to the first fruits] is in the Holy Language.**

[F] **The rite of removing the shoe [M. 7:2A2] – how so?**

[G] **“And she will answer and say” (Deut. 25:9).**

[H] **And later on it says, “And the Levites will answer and say” (Deut. 27:14).**

[I] **Just as later on answering is to be in the Holy Language, so there answering is to be said in the Holy Language.**

[J] **R. Judah says, “And she will answer and say, Thus – [so it is not valid] unless she says precisely these words.”**

[I:1 A] *It was taught in the name of R. Judah*, “In any place in Scripture [not merely those cited in the Mishnah] in which the language of

‘answering’ and ‘saying’ is used, it must be in the Holy Language [= M. 7:3D-E, F-I]. If [also] it says, ‘Thus and so,’ lo, it must be in the Holy Language.”

[B] Said R. Eleazar, “The generative analogy for them all is as follows: ‘Moses spoke, and God answered him in thunder (Ex. 19. 19).’”

[C] *R. Haggai objected* [to Judah’s statement at A], “And is it not written, ‘Then Laban and Bethuel answered’ (Gen. 24:50)? If you say it was in respect only to ‘answering,’ but not to ‘saying,’ has it not also been stated, ‘And they said’ (Gen. 24:50)? *If you say that* it was in respect only to ‘saying,’ not to ‘answering,’ has it not been said, ‘The thing comes from the Lord; we cannot speak to you bad or good’ (Gen. 24:50)? *And if you say that*, indeed, all of this was said in the Holy Language, and is it not written, ‘And Laban called the place, Yaggar Sahaduta [in Aramaic]’ (Gen. 31:47)? *And if you explain that* that was because it was prior to the giving of the Torah, lo, there is the pericope of the confession for tithe. Lo, it comes from the time after the giving of the Torah, and it may be said in any language at all.”

[D] R. Samuel bar Nahman in the name of R. Yohanan: “It is so that the Sursi language [Aramaic] should not be cheap in your eyes. For in the Torah, Prophets, and Writings, that language is to be found. In the Torah: it is written, ‘And Laban called it, Yagar Sahaduta’ (Gen. 31:47). In the Prophets it is written, ‘Thus will you say to them’ [in Aramaic] (Jer. 10:11). And in the Writings, it is written, ‘And the Chaldeans spoke to the king [in Aramaic]’” (Dan. 2:4).

[I:2 A] Said R. Jonathan of Bet Gubrin, “Four languages are appropriately used in the world, and these are they: everyday speech [Greek] for song; Latin for war; Sursi [Aramaic] for wailing; Hebrew for [clear] speech.”

[B] And there are those who say, “Also Assyrian, for writing.”

[C] Assyrian is a mode of writing, but it is not a mode of speech.

[D] Hebrew is a mode of speech, but it is not a mode of writing.

[E] They selected for themselves Assyrian writing and Hebrew speech.

[F] Why is it called Assyrian?

[G] Because it is particularly felicitous in its mode of writing [a play on the letters in the Hebrew word for Assyrian].

[H] Said R. Levi, “It is because they brought it with them from Assyria.”

[I:3 A] It is written, “And the Levites shall declare to all the men of Israel with a high voice” (Dt. 27:14) – with the voice of the Most High.

[B] This teaches that the Holy One, blessed be he, joined his voice to theirs.

[C] Another matter: “The high voice” – the most elevated of all voices.

[D] Said R. Isaac, “Not too soft and not too loud but right in the middle.”

7:3

[A] **Blessings and curses [M. 7:2A3] – how so?**

[B] **When Israel came across the Jordan and arrived before Mount Gerizim and before Mount Ebal in Samaria, near Shechem, beside the oak of Moreh –**

[C] **as it is written, “Are not they beyond the Jordan” (Deut. 11:30) and elsewhere it says, “And Abram passed through the land to the place of Shechem to the oak of Moreh (Gen. 12:6) – just as the oak of Moreh spoken of there is at Shechem, so the oak of Moreh spoken of here is at Shechem.**

[I:1 A] “Are they not beyond the Jordan [that is,] from the Jordan and beyond, west of the road, toward the going down of the sun, [that is,] the place where the sun sets, in the land of the Canaanites, who live in the Arabah, over against Gilgal, beside the oak of Moreh?” (Deut. 11:30).

[B] This refers to Mount Gerizim and Mount Ebal in Samaria,” the words of R. Judah.

[C] R. Eliezer says, “This does not refer to Mount Gerizim and Mount Ebal in Samaria. For it is said, ‘Are they not beyond the Jordan, [that is,] from the Jordan and beyond, west of the road, toward the going down of the sun, [that is,] the place where the sun sets.’ ‘In the land of Canaanites’ –this refers to the Hivites. ‘Who live in the Arabah’ –this is the area among the hills [where the Hivites live]. ‘Over against Gilgal’ –this does not refer to Gilgal ‘Beside the oak of Moreh’ –this does not refer to the oak of Moreh.”

[D] How does R. Eliezer then deal with the reference to Mount Gerizim and Mount Ebal?

[E] They made two heaps of stones and named them Mount Gerizim and Mount Ebal.

[F] *In the view of R. Judah*, they traversed a hundred and twenty mil on that day.

[G] *In the opinion of R. Eliezer* they did not move from where they were.

[I:2 A] *It was taught*: R. Eliezer b. Jacob says, “The verse of Scripture comes only to lay out the road for them and to indicate that they should go on the road and not across the fields, in a settled area and not in the wilderness, in the Arabah and not in the mountains.”

[I:3 A] Said R. Eleazar b. R. Simeon, “I stated to Samaritan scribes, ‘You have forged your own Torah, and it has done you no good. For you have written in your Torah, “near the oak of Moreh, Shechem.” And is it not known that this is Shechem? But [you forge your Torah] for you do not know how to provide an exegesis through analogy, and we do know how to provide an exegesis by analogy. Here is stated, “oak of Moreh,” and elsewhere it is stated, “Oak of Moreh.” **Just as the oak of Moreh spoken of there is at Shechem, so the oak of Moreh spoken of here is at Shechem.** [Hence you did not need to forge your Torah’s text.]”

[I:4 A] And in accord with the view of R. Ishmael [they did not come to Shechem until after the land was divided, so that he would concur with Judah’s position.] For R. Ishmael said, “All those occasions for coming into the land that are mentioned in the Torah refer to events that took place after fourteen years, seven years in which they conquered the land and seven years in which they divided it up.”

[B] And along these same lines, the blessings and the curses were stated only after fourteen years.

[C] R. Hananiah objected in the presence of R. Mana, “And has it not been written, ‘And on the day when you pass over the Jordan to the land that the Lord your God gives you, you shall set up large stones and cover them with plaster’ (Dt. 27:2)?”

[D] He said to him, “They set up the stones right away, but as to the blessings and the curses, they actually stated them only after fourteen years.”

7:4

[A] **Six tribes went up to the top of Mount Gerizim, and six tribes went up to the top of Mount Ebal.**

- [B] And the priests and Levites and ark of the covenant stood at the bottom, in the middle [between two mountains].
- [C] The priests surround the ark, and the Levites [surround] the priests, and all Israel are round about, since it says, “And all Israel and their elders and officers and judges stood on this side of the ark and on that...” (Joshua 8:33).
- [D] They turned their faces toward Mount Gerizim and began with the blessing:
- [E] “Blessed is the man who does not make a graven or molten image.”
- [F] And these and those answer, “Amen.”
- [G] They turned their faces toward Mount Ebal and began with the curse:
- [H] “Cursed is the man who makes a graven or molten image” (Deut. 27:15).
- [I] And these and those answer, “Amen.”
- [J] [And this procedure they follow] until they complete the blessings and the curses.
- [I:1 A] *It was taught [in the Tosefta’s version]:* How did the Israelites say the blessings and the curses?
- [B] Six tribes went up to the top of Mount Gerizim, and six tribes went up to the top of Mount Ebal. And the priests and the Levites and the ark of the covenant stood at the bottom in the middle [M. Sot. 7:5C-D].
- [C] The priests surround the ark, and the Levites [surround] the priests, and all Israel are round about,
- [D] since it says, “And all Israel and their elders and of priests and judges stood on this side of the ark and on that” (Josh. 8:33) [M. Sot. 7:5C--E].
- [E] What is the meaning of the Scripture, “Half of them in front of Mount Gerizim and half of them in front of Mount Ebal” (Josh. 8:33)?
- [F] This teaches that the part which was before Mount Gerizim was greater than that before Mount Ebal, since the part of the tribe of Levi was below.
- [G] [Yerushalmi starts here:] R. Eliezer b. Jacob says, “You cannot say that Levi was below, for it already has been said that Levi was

above, and you cannot say that Levi was above, for already has it been stated that Levi was below.

- [H] **“On this basis you must say that the elders of the priesthood and of the Levites were below, but the rest of the tribe was above.”**
- [I] **Rabbi [Yerushalmi: Simeon] says, “Those who were appropriate for service stood below, and those who were not appropriate for service stood above” [T. Sot. 8:9].**
- [J] R. Simeon says, “‘Simeon and Levi’ (Dt. 27:13) – just as all of the tribe of Simeon was up above, so all of the tribe of Levi was up above.”
- [K] *How does this Tannaite authority interpret the statement, “Before the Levitical priests,” [meaning that they were down below]?*
- [L] *It is in accord with that which R. Joshua b. Levi said, “In twenty-four places in Scripture the priests are called Levites, and this is one of them. But the Levitical priests, the sons of Zadok, [who kept charge of my sanctuary when the people of Israel went astray from me, shall come near to me to minister to me; and they shall attend on me to offer me the fat and the blood, says the Lord God” (Ezek. 44:15)].*
- [I:2 A] Is it possible to suppose that those who were on Mount Gerizim were the ones to say the blessings, and those on Mount Ebal were the ones to say the curses?
- [B] Scripture states, “[And afterward he read all of the words of the law,] the blessings and the curses, [according to all that is written in the book of the law]” (Joshua 8:34). The meaning is that both this group and that group said both the blessings and the curses.
- [C] Is it possible to suppose that after they said the blessings, they said the curses?
- [D] Scripture states, “[And when all these things come upon you,] the blessings and the curses, [which I have set before you, and you call them to mind among all the nations where the Lord your God has driven you]” (Deut. 30:1).
- [E] Is it possible to suppose that those who were on Mount Gerizim were to answer “Amen” after the blessings, and those who were on Mount Ebal were to answer “Amen” after the curses?
- [F] Scripture says, “[‘Cursed be the man who makes a graven or molten image, an abomination to the Lord, a thing made by the hands of a craftsman, and sets it up in secret.’] And all the people shall answer

and say ‘Amen’” (Deut ~7:15). These and those would say “Amen” after the blessings and after the curse.

[G] How so?

[H] When they would say the blessings, they would turn toward Mount Gerizim. When they would say the curses, they would turn toward Mount Ebal.

[I:3 A] A blessing was in general, and a blessing was in particular, so too, a curse was in general, and a curse was in particular [thus

[B] There were sixteen covenants for each item: “To learn, to teach, to keep, to do,” [that is, four for each item, times four for the two blessings and the two curses, sixteen in all].

[C] It was thus, too, at Mount Sinai, and also at the Plains of Moab [thus forty-eight].

[D] R. Simeon would remove from the list the covenants at Mount Gerizim and Mount Ebal and introduced in their stead that of the Tent of Meeting.

[E] **And so did R. Simeon say, “There is no teaching of the Torah on account of which 576 covenants were not made: twelve at the blessing twelve at the curse, twelve at the general statement, twelve at the particularization thereof – lo, 48 covenants: ‘to study and to teach and to guard and to do, lo, 192 covenants; and so at Mount Sinai and so on the Plains of Moab – lo, 576 covenants.”**

[F] **R. Simeon b. Judah of Kefar Amos says in the name of R. Simeon, “They are 603,550.”**

[G] **Rabbi says, “If matters are in accord with the view of R. Simeon of Judah of Kefar Amos which he said in the name of R. Simeon, then you have nothing whatsoever in the Torah on account of which sixteen covenants were not made, and there is with each one of them six hundred three thousand five hundred and fifty” [T. Sot. 8:10-11].**

[H] [As to A, above,] up to this point, we have dealt with matters subject to both general and particular statements. As to matters that are given as generalizations but not expressed in particular terms, [what is there to say]?

[I] He said to him, “Thus did R. Yohanan say in the name of R. Simeon: “Whatever matter was included within the generalization and then singled out and made particular has been singled out to

teach a lesson. It was not to teach a lesson in its own regard that it is singled out, but rather to teach a lesson regarding the generalization of which it was a part that it was singled out.”

[K] He said to him~ “Was it not in regard to teaching a lesson about a single matter [that Yohanan made this statement]? Did it apply to teaching about two matters? *But [in the passage under discussion,] we are dealing with an item singled out in two different matters [or more]* “

[L] Said R. Tanhuma, “Since at the end it is written, ‘Amen,’ it is as if the whole of it is deemed a single matter.”

- [I:4 A] It is written. “Cursed be he who does not support the words of this Torah” (Dt. 27:26) – Now, does the Torah fall down [that someone has to hold it
- [B] Simeon b. Yaqim says, “This refers to the leader of the prayers, Indicating that he has to stand [when he says the prayers for the congregation].”
- [C] R Simeon b. Halafta says, “This refers to [supporting] the court below [reading: Bet Din] on earth.”
- [D] For R. Huna, R. Judah in the name of Samuel said, “In regard to this statement, Josiah tore his garments and said, ‘It is my duty to hold up [the Torah and support those who study it].’”
- [E] R. Aha in the name of R. Tanhum b. R. Hiyya: “If one has learned, taught, kept, and carried out [the Torah], and he has ample means in his possession to strengthen the Torah and he did not do so, lo, such a one still is in the category of those who are cursed.” [The meaning of ‘strengthen’ here is to support the masters of Torah.]
- [F] R. Jeremiah in the name of R. Hiyya bar Ba, “[If] one did not learn, teach, keep, and carry out [the teachings of the Torah], but did not have ample means to strengthen [the masters of the Torah, but nonetheless he did strengthen them] lo, such a one falls into the category of those who are blessed.”
- [G] And said R. Hannah, R. Jeremiah in the name of R. Hiyya “The Holy One, blessed be he, is going to prepare a protection for those who carry out religious duties [of support for masters of Torah] through the protection afforded to the masters of Torah [themselves]. What is the Scriptural basis for that statement? ‘For the protection of wisdom is like the protection of money’ (Qoh.

7:12). And it says, '[The Torah] is a tree of life to those who lay hold of it; those who hold it fast are called happy' (Prov. 3:18)."

- [I:5 A] ["And all Israel...with their elders, officers, and judges, stood on opposite sides of the ark before the Levitical priests who carried the ark of the covenant of the Lord, half of them in front of Mount Gerizim, and half of them in front of Mount Ebal" (Joshua 11:33).] What is the meaning of that which Scripture states, "Half of them"?
- [B] It teaches that the minority was on Mount Gerizim, and the majority on Mount Ebal.
- [C] And why [was the larger number on Mount Ebal]?
- [D] For the whole tribe of Levi was not located there, but if the whole tribe of Levi had been located there, they would have been equal [in numbers on both sides].
- [E] R. Samuel bar Nahman in the name of R. Jonathan: "If the entire tribe of Levi had been there, they still would not have been equal in numbers. And why [is that so]? For out of the tribe of Simeon, twenty-four thousand had already fallen at Shittim."
- [F] Said R. Yosé b. R. Bun, "If the entire tribe of Levi had been there, they indeed would have been equal in numbers. And why [is that so]? For out of the tribes of Reuben and Gad only forty thousand armed soldiers came."
- [G] Kahana said, "Just as they were divided here, so they were divided at the beginning of the second book of the Pentateuch (Ex. 1:1-5)."
- [H] *There are Tannaite authorities who teach*, "Just as they were divided here, so they were divided in divisions: the sons of Leah on one side, the sons of Rachel on the other side, and the sons of the handmaidens in the middle.
- [I] *Said R. Mattenaiah, "The Scripture basis for the view of that Tannaite authority is as follows*: 'Here this, O house of Israel, who are called by the name of Israel' (Is. 48:1) – Just as, when one joins beams, the thick side of one is set next to the thin side of another, and the thick side of one is set by the thin side of the other, [so the tribes are laid out so that they come out even]."
- [J] There are Tannaite who teach, "Just as they are divided here, so they are divided in their rows in the stones on the priestly breastplate" [Ex. 28:21].

- [K] Their rows [are to be such] that there will be twenty-five [letters] on one side, and twenty-five on the other.
- [L] And are not all the letters of the tribes put together only forty-nine [not fifty]?
- [M] Said R. Yohanan, “The name of Benjamin [normally written BNYMN] is written fully [BNYMYN] in the story of his birth.”
- [N] Said R. Judah bar Zabeda, “The name of Joseph [YWSP] is written fully, ‘He made it a decree in Joseph [YHWSP]’” (Ps. 81:5).
- [O] But are they not [when spelled out by tribes] indeed twenty-three letters on one side, and twenty-seven letters on the other?
- [P] Said R. Yohanan, “Benjamin was at the breaking point: ‘Ben ...’ on one side, and ‘...jamin’ on the other.”
- [Q] Said R. Zebida, “And that is so. Is it written, ‘Their six names’ [at Ex. 28:21, meaning, fully spelled out]? No. It is written, ‘of their names’ (Ex. 28:21), meaning, part of their names, and not the whole of their names.”
- [R] The former ones are written at the right hand of the high priest, which is at the left hand of the one who reads them. The latter ones are written at the left hand of the high priest, which is at the right hand of the reader
- [S] The former ones are not written down in order of birth, since Judah is the royal tribe [and comes first]. The latter ones are written down in order of birth.

7:5

- [A] And afterward they brought stones and built an altar and plastered it with plaster.**
- [B] And they wrote on it all the words of the Torah in seventy languages,**
- [C] as it is written, “Very plainly” (Deut. 27:8).**
- [D] And they took the stones and came and spent the night in their own place [Josh. 4:8].**
- [I:1 A]** [In line with M. 7:5D and against the view of M. 7:5A that they wrote the words of the Torah on the stones of the altar,] *it was taught:* “[The

words of the Torah] were written on the stones of the lodging place [on the other side of the Jordan; Joshua 4:3, 8],” the words of R. Judah.

- [B] R. Yosé says, “They were written on the stones of the altar itself.”
- [C] *The one who says that* the words of the Torah were written on the lodging [that is, in a stationary place, may well understand the following]: Every day the nations of the world send their scribes and copy out the Torah, which is written in seventy languages.
- [D] *But the one who said that* the words of the Torah were written on the stones of the altar – [how can he explain that fact]? For is it not so that they were used only for a moment and then hidden away?
- [E] From his viewpoint,] it is [merely] another miracle. That is to say,] the Holy One, blessed be he, gave insight into the heart of every nation, so that they copied out the words of the Torah which were written in seventy languages.
- [F] *In the view of him who said,* they were written on the stones of the lodging, the following verse poses no problems: “and plaster them with plaster” (Deut. 27:2). *But as to him who said that* they were written on the stones of the altar, how does he explain this requirement, “and plaster them with plaster”?
- [G] It was to be between one stone and the next.
- [H] R. Samuel bar Nahmani in the name of R. Yohanan: ““And peoples will be as if burned to lime”” (Is. 33:12). On account of plaster [that is, the writing on the plaster,] the verdict for them was death [for they had access to the Torah and declined to obey it].”
- [I] R. Abba bar Kahana in the name of R. Yohanan, ““For the nation and kingdom that will not serve you shall perish;] those nations shall be utterly laid to waste (HRWB YHRBW)’ (Is. 60:12). From Horeb the verdict concerning them was the death penalty.”
- [I:2 A] **You turn out to say, There are the three sets of stones:**
- [B] **Stones of the lodging, stones which Joshua laid down under the feet of the priests, and the resting stations which Moses put up for them [T. Sot. 8:6].**
- [C] *Said R. Haninah, “It is clear to us that* there are four kinds of stones.” [The stones of the lodging and those of the altar are different and counted separately]

[D] Said R. Simon bar Zebid, “And that is so. *If you say that* the stones of the lodging were [the same as those of the altar, then they] were used for a moment and then were put away. *If you say that* the stones [of the lodging were the ones] which Joshua put under the feet of the priests, [that is not so, for] they sank down into the water *If you say that* [they were] the stations which Moses set up for them, [those stones] already were taken with them into the land. *If you say that* [they were] the stations which Moses set up for them, [those stones] already were taken with them into the land. But so we must interpret the matter: [The altar was made] of stones which Joshua set up for them at the Jordan [and not stones used for any other purpose].”

[I:3 A] *It was taught: R. Judah says, “R. Halafta, Eleazar b. Matia, and Hananiah b. Kinai stood on those very stones and estimated that each one weighed forty seahs” [T. Sot. 8:6D-E].*

[B] On this basis you may reckon how much there is in a grape cluster.

[C] It is written, “[And Joshua said to them, ‘Pass on before the Ark of the Lord your God into the midst of the Jordan,] and take up each of you a stone upon his shoulder, [according to the number of the tribes of the people of Israel]” (Joshua 4:5). *Not of so much weight is a load which one lifts straight away from the ground to his shoulder as the load which one lifts from the ground to the knees, and from the knees to the shoulder. Not of so much weight is that which one lifts from the ground to his knees and from the knees to the shoulder, as the load which another party places on oneself, [since the other will put on a heavier load than the load one may lift only by himself]. Not of so much weight is the load which another party places on oneself as the load which is lifted by two people.*

[I:4 A] It is written: “[Now therefore take twelve men from the tribes of Israel,] from each tribe a man” (Joshua 3:12). [At issue in what follows is whether the repeated language, “twelve men ... from each ... a man” means to encompass more than twelve, that is, twenty-four.]

[B] *In the opinion of R. Aqiba, who says that* the purpose of the repetition is to encompass [more than the stated twelve], there will be twenty-four: sixteen for the grape cluster, and eight for the figs, pomegranates, and baggage train.

[C] *In the opinion of R. Ishmael who says that* the purpose of the repetition is not to encompass more than the stated twelve,

there will be twelve only: eight for the grape cluster, and four for the figs, pomegranates, and baggage train.

[D] In the opinion of R. Ishmael, who said they were twelve, they carried the grape cluster through a pair of balancing poles.

[E] In the opinion of R. Aqiba, they did so through a couple of pairs of balancing poles.

[I:5 A] It is written, “The waters coming down from above stood and rose in a heap far off at Adam, the city that is beside Zarathan, [and those flowing down toward the sea of the Arabah, the Salt Sea, were wholly cut off, and the people passed over opposite Jericho” (Josh. 3:16).

[B] Said R. Yohanan, “Adam was a city, and Zarathan was a city.”

[C] They were twelve mils apart.

[D] This teaches that the water rose in a heap up to the side of Zarathan.

[E] **Now which is faster, water or man? Water is faster than man. You know that that is the case. So this teaches that the water was rising up in heaps, wave upon wave [ever higher] [T. Sot. 8:3].**

[F] R. Levi said, “[The water reached] to the heart of the firmament.”

[G] There they say, “[The water reached] to Babylonia.” Here it is said, “Far off” (Joshua 3:16), and there it is said, “[Then Isaiah the prophet came to King Hezekiah, and said to him, ‘What did these men say? And whence did they come to you?’ And Hezekiah said,] ‘They have come from a far country, from Babylon’” (2 Kings 20:14).

[I:6 A] *It was taught:* **Said R. Eleazar b. R. Simeon, “And is man swifter, or is water swifter? You have to say that water is swifter than man. This teaches that the waters were continually driven backward and heaped up higher and higher, stacks by stacks, three hundred mils, until all the kings of the nations of the world saw them, as it is said, ‘And it came to pass, when all the kings of the Amorites which were beyond Jordan westward, and all the kings of the Canaanites, which were by the sea, heard how the Lord had dried up the waters, their heart melted, neither was there spirit in them any more, because of the children of Israel’ (Josh. 5:1)” [T. Sot. 8:3].**

[I:7 A] Said R. Simeon b. Laqish, “At the Jordan they took upon themselves responsibility for hidden [sins, as well as revealed Said to them Joshua,

‘If you do not accept upon yourselves responsibility for the hidden things, the water will come and drown you. ““

[B] Said R. Simon B. Zabeda, “Well said. You know that that statement is true, for lo, Achan sinned [in secret], and the majority of the Sanhedrin fell at Ai [on account of his sin].”

[C] Said R. Levi, “In Yavneh the strap was untied. An echo went forth and said, ‘You have no more need to get involved in hidden [sins or to make inquiry about them].’”

7:6

[A] **The blessing of the priests [M. 7:2A4] – how so?**

[B] **In the provinces they say it as three blessings, and in the sanctuary, as one blessing.**

[C] **In the sanctuary one says the Name as it is written, but in the provinces, with a euphemism.**

[D] **In the provinces the priests raise their hands as high as their shoulders, but in the sanctuary, they raise them over their heads,**

[E] **except for the high priest, who does not raise his hands over the frontlet.**

[F] **R. Judah says, “Also the high priest raises his hands over the frontlet,**

[G] **“since it is said, ‘And Aaron lifted up his hands toward the people and blessed them’ (Lev. 9:22).”**

[H] **The blessing of the high priest [M. 7:2A5] – how so?**

[I] **The minister of the assembly takes a scroll of the Torah and gives it to the head of the assembly, and the head of the assembly gives it to the prefect, and the prefect gives it to the high priest.**

[J] **And the high priest stands and receives it and reads in it: “After the death...” (Lev. 16:1ff.) and “Howbeit on the tenth day” (Lev. 23:16-32).**

[K] **Then he rolls up the Torah and holds it at his breast and says, “More than I have read for you is written here.”**

[L] **“And on the tenth...” which is in the Book of Numbers (Num. 29:7-11) did he recite by heart.**

[M] **And afterward he says eight blessings: (1) ... for the Torah, (2) and... for the Temple-service, (3) and... for the Thanksgiving, (4) and for the forgiveness of sin, (5) and for the sanctuary, (6) and for Israel, (7) and for the priests, (8) and the rest of the Prayer.**

- [I:1 A] [With regard to the priests who had to raise their hands above their heads throughout the blessings,] R. Hisda said, “It was very painful for them.”
- [II:1 A] In every place people go to the Torah. But here [at M. 7:61] you say that they bring the Torah to them.
- [B] But because they are important men, the Torah is exalted through them.
- [C] *But lo, over there [in Babylonia] they bring the Torah to the exilarch, [who is not esteemed]?*
- [D] Said R. Yosé b. R. Bun, “Because the ancestry of David is imputed to him, they treat him in accord with the custom applicable to their ancestors [in the house of David].”
- [II:2 A] [*With reference to M. 7:6J*], *there we have learned in the Mishnah: **They skip [from place to place] in the prophetic lections but not in the Torah lections [M. Meg. 4:4E].***
- [B] They leave out verses in a prophet reading but they do not leave out verses in skipping from one prophet to another. But in the case of one of the twelve minor prophets, it is permitted. But they do not leave out verses in the Torah.
- [C] R. Jeremiah in the name of R. Simeon b. Laqish, “The reason is that they may not roll up [or unroll] the scroll of the Torah in public [and thus inflict discomfort on the people by making them wait for the reading].”
- [D] *R. Yosé raised the question: “Take note: What if it was a brief pericope [to be skipped]? [There would be little bother, so Jeremiah’s reason therefore is unacceptable.] But it is so that the Israelites may hear the Torah read in its proper order [and so understand its teachings in context]. “*
- [E] *And lo, we have learned, and reads in it: “**After the death...**” (Lev. 16:1ff.) and “**Howbeit on the tenth day**” (Lev. 23:16-32) [M. 7:6J]?*
- [F] That case is different, for the stated readings follow the order of the rite for the Day [of Atonement].
- [G] You will note that it is the case [that a different rule prevails here], for said R. Simeon b. Laqish, “In every place the reader of the Torah does not read from memory, while he here [M. 7:6L] reads from memory.”

[H] *R. Yosé gave instructions to Bar Ulla, the preceptor of the synagogue of the Babylonians [in his town], “On the day on which you bring out only one Torah, roll it up behind the veil [so as not to bother the community]. If it is a day on which you bring out two scrolls, you should take out one and put it back [and then take out the other].”*

[III:1 A] And afterward he says eight blessings: (1) ... for the Torah, (2) and... for the Temple-service, (3) and... for the Thanksgiving, (4) and for the forgiveness of sin, (5) and for the sanctuary, (6) and for Israel, (7) and for the priests, (8) and the rest of the Prayer.

[B] **For the Torah:** “... who has chosen the Torah.”

[C] **for the Temple-service:** “... for you alone in reverence do we serve.”

[D] **and... for the Thanksgiving:** “to whom it is good to give thanks.”

[E] **and for the forgiveness of sin:** “who forgives the sins of his people Israel in mercy.”

[F] **and for the sanctuary:** “who has chosen the sanctuary.

[G] And said R. Iddi, “...who dwells in Zion.”

[H] **and for Israel:** “...who has chosen Israel.”

[I] **and for the priests:** “...who has chosen the priests.”

[J] **and the rest of the Prayer:** “... with supplication and beseeching for your people Israel need to be saved before you. blessed are you, Lord, who hears prayer.”

7:7

[A] **The pericope of the king – how so?**

[B] **At the end of the first festival day of the Festival [of Sukkot],**

[C] **on the eighth year, [that is] at the end of the seventh year,**

[D] **they make him a platform of wood, set in the courtyard.**

[E] **And he sits on it,**

[F] **as it is said, “At the end of every seven years in the set time” (Deut. 31:10).**

[G] **The minister of the assembly takes a scroll of the Torah and hands it to the head of the assembly, and the head of the assembly hands it to the prefect, and the prefect hands it to the high priest, and the high priest hands it to the king, and the king stands and receives it.**

[H] **But he reads sitting down.**

[I] **Agrippa the King stood up and received it and read it standing up, and sages praised him on that account.**

[J] **And when he came to the verse, “You may not put a foreigner over you, who is not your brother” (Deut. 17:15), his tears ran down from his eyes.**

[K] **They said to him, “Do not be afraid, Agrippa, you are our brother, you are our brother, you are our brother!”**

[I:1 A] [*Regarding M. 7:7H,*] *did not R. Hiyya teach, “The right to sit down in the courtyard was accorded only to the kings of the house of David.”*

[B] *And R. Ammi in the name of R. Simeon b. Laqish said, “Even the kings of the house of David did not have the right to sit down in the courtyard.”*

[C] *Interpret the matter to speak of a case in which one leaned against the wall as if to sit down.*

[D] *And lo, it is written, “And King David went in and sat before the Lord” (2 Sam. 7:18), [so why should the king not sit down at all]?*

[E] *Said R. Aibu bar Nigri, “He sat down in prayer.”*

[F] *There we have learned: [When the fourteenth of Nisan coincided with the Sabbath], the first group went out and took seats on the Temple mount, the second on the Rampart, and the third remained in its place [M. Pes. 5:10B].*

[G] *It remained standing in its place.*

[H] *R. Nahman in the name of R. Mana, “What then is the meaning of that which we have learned, It sat in its place? It stood in its place.”*

[II:1 A] *It was taught: R. Haninah b. Gamaliel says, “Many corpses fell on that day on which they flattered him [Agrippa]”*

7:8

[A] He reads from the beginning of “These are the words” (Deut. 1:1) to “Hear O Israel” (Deut. 6:4), “Hear O Israel” (Deut. 6:4), “And it will come to pass, if you hearken” (Deut. 11:13), and “You shall surely tithe” (Deut. 14:22), and “When you have made an end of tithing” (Deut. 26:12-15), and the pericope of the king [Deut. 17:14-20], and the blessings and the curses [Deut. 27:15-26], and he completes the whole pericope.

[B] With the same blessings with which the high priest blesses them [M. 7:7F], the king blesses them.

[C] But he says the blessing for the festivals instead of the blessing for the forgiveness of sin.

[I:1 A] Said R. Abbahu, “And why do they read, ‘You shall surely tithe,’ and ‘When you have made an end of tithing’? On account of the fact that the Israelites have gone from the seventh year [during which there is no requirement to tithe], to the eighth year [when it again is required to tithe], it is so that the people should not forget about tithing”

[I:2 A] *R Haggai raised the question before R Yosé*, “And is it not necessary to say the prayer of Separation [between the sanctity of the seventh year and the new year which is now begun]?”

[B] He said to him, “They already stated such a prayer of Separation at the New Year itself [when the seventh year came to an end]”

YERUSHALMI SOTAH

CHAPTER EIGHT

8:1

[A] The anointed for battle, when he speaks to the people, in the Holy Language would he speak,

[B] as it is said, “And it shall come to pass when you draw near to the battle, that the priest shall approach” (this is the priest anointed for battle) “and shall speak to the people” (in the Holy Language) “and shall say to them, Hear, O Israel, you draw near to battle this day” (Deut. 20:20-3) –

[C] “against your enemies” (Deut. 20:3) – and not against your brothers,

[D] not Judah against Simeon, nor Simeon against Benjamin.

[E] For if you fall into their [Israelites’] hand, they will have mercy on you.

[I:1 A] The anointed for battle – why [does he speak in the Holy Language]?

[B] *Because it is written*, “shall speak” (Deut. 20:2).

[C] But lo, there is the case of the recitation of the Shema, in which regard, lo, it is written, “And you shall speak of them” (Deut. 6:7), and it [the Shema] may be recited in any language.

[D] But the reason is that it is written [in regard to the speech of the anointed for battle], “Saying” (Deut. 20:2).

[E] Now lo, there is the pericope of the confession in regard to tithes [in which regard, lo, “speaking” is mentioned. Yet it may be said in any language [just like the Shema].

[F] Said R. Haggai, “In the present context, ‘drawing near’ is mentioned. And in yet another context, drawing near appears, as follows: ‘and the priests, the sons of Levi, shall draw near’ (Dt. 21:5) – Just as ‘drawing near’ stated in that latter context requires use of the Holy Language, so here it requires use of the Holy Language.”

- [G] *Up to this point [the answer has been supplied in accord with the principle of R. Aqiba, who maintains that when language is repeated, it is for the purpose of encompassing yet another matter. But in accord with the view of R. Ishmael, who says that when language is repeated, it is merely a stylistic trait [bearing no exegetical consequences, how is the matter to be explained]?*
- [H] Said R. Hiyya bar Abba, “Here, the language of ‘drawing near’ is used. And in yet another context, ‘drawing near’ appears as follows: ‘Moses drew near to the thick darkness where God was’ (Ex. 20:21). Just as ‘drawing near’ stated in the latter context requires use of the Holy Language, so here it requires use of the Holy Language.”
- [I:2 A] [At issue in what follows is the logical sequence of verses. Deut. 20:9 states, “When the officers have made an end of speaking to the people, then commanders shall be appointed at the head of the people.” Logically, the commanders should be appointed, then they should speak.] *Is it not logical that* [first comes], “Commanders shall be appointed at the head of the people,” and then, “The priest shall draw near and speak to the people” (Deut. 20:3)?
- [B] *The one who arrays them for battle [does so] and then he addresses them.*
- [C] [It must follow that] the Scripture does not follow [chronological] order [in this matter].
- [I:3 A] At the frontier you must say, the officer listens to what the priest says and he repeats it in all the languages [spoken by the troops]. But in the battle lines [the priest speaks, without having his message repeated, because the troops are busy] providing water and food for themselves and repairing the lines of communication.
- [B] *R. Haggai raised the question, “Just as you maintain that at the frontier the officer listens to what the priest says and repeats it in all the languages [spoken by the troops], why should you not say that also in the battle lines the same procedure is followed?”*
- [C] *R. Hiyya bar Ada objected, “Is it not logical that first comes, ‘When the officers have made an end of speaking to the people’ (Deut. 20:9), then follows, ‘The priest shall draw near and speak to the people’ (Deut. 20:2)?”*
- [D]] He said to him, “Scripture does not follow [chronological order], and consequently one may not draw any conclusions from the order that it does follow.”

8:2

[A] **As it is said, “And the men which have been called by name rose up and took the captives and with the spoil clothed all that were naked among them and arrayed them and put shoes on their feet and gave them food to eat and something to drink and carried all the feeble of them upon asses and brought them to Jericho, the city of palm trees, unto their brethren. Then they returned to Samaria” (II Chron. 28:15).**

[B] **“Against your enemies” do you go forth.**

[C] **For if you fall into their hand, they will not have mercy upon you.**

- [I:1 A] [The cited verse provides an example of the mercy of the Israelites for the Judeans. What is striking is that some of the chiefs of the Ephraimites stood up against the troops coming back with the captives and protested. In this regard,] said R. Yohanan, “Whoever is not like these [chiefs of the Ephraimites,] who had the means to object [to the sinful act, and to make their objection stick,] should not object.”
- [B] R. Aha in the name of R. Yohanan: “Just as it is a religious duty to speak out in case in which what one says will be carried out, so it is a religious duty not to speak out in a case in which what one says will not be carried out.”
- [C] Said R. Eleazar, “Just as it is prohibited to declare what is unclean to be clean, so it is prohibited to declare what is clean to be unclean. “
- [D] R. Ba bar Jacob in the name of R. Yohanan, “If a case of law comes to hand, in which you do not know whether [to declare something unclean and so to order it to be] burned or whether to hold the item in suspense, under all circumstances you should choose the alternative of burning more than that of holding the matter in suspense. For there is no offering in the Torah more beloved than the offering of bullocks which are to be burned and goats which are to be burned, and, it is clear, they are disposed of by burning up.”
- [E] *R. Yosé raised the question*, “Do they learn the rule governing a matter the religious duty of which is not in so doing, from a matter the religious duty of which indeed is in so doing? [That is, the religious duty concerning the bullocks and goats is to burn them up. But no religious duty attends upon burning up what is not definitely unclean.]”

8:3

- [A] **“Let not your heart be faint, fear not, nor tremble, neither be afraid” (Deut. 20:3).**
- [B] **“Let not your heart be faint” – on account of the neighing of the horses and the flashing of the swords.**
- [C] **“Fear not” – at the clashing of shields and the rushing of the tramping shoes.**
- [D] **“Nor tremble” – at the sound of the trumpets.**
- [E] **“Neither be afraid” – at the sound of the shouting.**
- [F] **For the Lord your God is with you” (Deut. 20:4) –**
- [G] **they come with the power of mortal man, but you come with the power of the Omnipresent.**
- [H] **The Philistines came with the power of Goliath. What was his end? In the end he fell by the sword, and they fell with him.**
- [I] **The Ammonites came with the power of Shobach [II Sam. 10:16]. What was his end? In the end he fell by the sword, and they fell with him.**
- [J] **But you are not thus: “For the Lord your God is he who goes with you to fight for you”**
- [K] **(– this is the camp of the ark).**
- [I:1 A] It is written, “Out of the brightness before him there broke through his clouds hailstones and coals of fire. [The Lord also thundered in the heavens, and the Most High uttered his voice hailstones and coals of fire]” (Ps. 18:12-13).
- [B] “His thick clouds” as against their squadrons.
- [C] “Hailstones” as against their catapults.
- [D] “Coals” as against their missiles.
- [E] “Fire” as against their naphtha.
- [F] “The Lord also thundered in the heavens” as against the clashing of their shields and the noise of their trampling shoes.
- [G] “And the Most High uttered his voice,” as against their whetting the swords.
- [H] “And he sent out his arrows, and scattered them” (Ps. 18:14) as against their arrows.

[I] “And he shot forth lightnings, and routed them” (Ps. 18:14). This teaches that the arrows would scatter them.

[J] Said R. Ba bar Kahana, “This teaches that they would form units, and the arrows scattered them, and the lightning would make them huddle together again.”

[K] “Lightning,” ss against their swords.

[L] “He routed them. “ He routed them and confused them and threw down their signals.

[M] Rabbi says, “The word ‘routed them’ means only pestilence, along the lines of the following: ‘And shall discomfort them with great pestilence until they are destroyed’” (Deut. 7:23).

[II:1 A] “For the Lord your God is he who goes with you to fight for you” (– this is the camp of the ark):

[B] And some say, “This refers to the Name which is placed in the ark.”

[C] *For it has been taught* [following Tosefta’s version]: **R. Judah b. Laqish says, “There were two arks, one which went out with them to battle, and one which stayed with them in the camp. In the one which went out with them to battle there was a scroll of the Torah, as it is said, ‘And the ark of the covenant of the Lord went before them three days’ journey’ (Num. 10:33). And this one which stayed with them in the camp, this is the one in which were the tablets and the sherds of the tablets, as it is said, ‘Neither the ark of the covenant of the Lord nor Moses departed out of the camp’ (Num. 14:44)” [cf. M. Sot. 8:1R-S] [T. Sot. 7:18].**

[D] *And rabbis say,* “There was only one. It went forth to battle one time, in the days of [22c] Eli, [and] it was captured.”

[E] *The following verse of Scripture supports the position of rabbis:* “[And the Philistines said,] ‘Woe to us! For nothing like this has happened before. Woe to us! Who can deliver us from the power of these mighty gods?’” (I Sam. 4:7-8).

[F] This was something they had never seen in their entire lives.

[G] *The following verse of Scripture supports the position of R. Judah b. Laqish:* “And Saul said to Ahijah, ‘Bring hither the ark of God.’ [For the ark of God went at that time with the people of Israel]” (I Sam. 14:18).

[H] Now was the ark not in Qiriat Yearim? [Yes! Thus there must have been two arks.]

[I] *How do the rabbis interpret the verse just now cited?*

[J] They say that Saul said, “Bring me the frontlet.”

[K] A [further] verse of Scripture supports the position of R Judah b. Laqish: “Uriah said to David, ‘The ark, Israel, and Judah dwell in booths; shall I then go into my house’” (2 Sam. 11:11). Now was the ark not in Zion [normally]? [Hence it had been taken into battle.]

[L] How do the rabbis interpret the verse just now cited?

[M] [The ark was kept] in a booth which was covered over but used only temporarily, for the Temple had not yet been built at that time.

[II:2 A] [Following the Tosefta’s version:] **The bottle containing the manna, the flask of the anointing oil, the staff of Aaron, with its almonds and blossoms, and the chest sent as a gift when the Philistines return the Glory to Eli the God of Israel – all of them are in the house of the Most Holy of Holies. When the ark was stored away, they were stored away with it [T. Yoma 2:15].**

[B] Who stored it away?

[C] It was Josiah. When he saw that it was written, “The Lord will bring you and your king to a nation that neither you nor your fathers have known” (Deut. 28:36), [he decided to do so].

[D] *This is in line with the following verse of Scripture:* “And he said to the Levites who taught all Israel and who were holy to the Lord, ‘Put the holy ark in the house which Solomon the son of David, king of Israel, built; you need no longer carry it upon your shoulders’” (2 Chron. 35:3).

[E] He said, “If it goes into exile with you to Babylonia, you are not going to bring it back to its place. But: ‘Now serve the Lord your God and his people Israel’” (2 Chron. 35:3).

[F] The flask of anointing oil: “Take the finest spices: of liquid myrrh five hundred shekels, and of sweet-smelling cinnamon half as much, that is, two hundred and fifty, and of aromatic cane two hundred and fifty, and of cassia five hundred, according to the shekel of the sanctuary, and of half of a hin (Ex. 30:23 24).

[G] A hin contains twelve logs of liquid measure.

[H] “In this oil they seethed the roots,” the words of R. Meir.

[I] R. Judah says, “One would seethe them in water and then put oil on them When the water would absorb the scent, one would then remove them, as the perfumers do.”

[J] *This is in line with that which is written*, “And you shall make sacred anointing oil, blended as by the perfumer; a holy anointing oil it shall be” (Ex. 30:25).

[K] [“It will be”] – this refers for all generations to come (cf. Ex. 30:37).

[L] *It was taught*: R. Judah b. R. Ilai says, “With the anointing oil that Moses made in the wilderness miracles were done from beginning to end For at the outset there were only twelve logs, as it is said, ‘... and of olive oil, a hin’ (Ex. 30:24). Now if there was not sufficient oil for putting oil on the wood, how much the more so [that the oil was insufficient for much else]! And yet the fire fed on it, the wood fed on it, the pot fed on it, with it were anointed the tabernacle and all its utensils, the table and all its utensils, the lampstand and all its utensils; with it were anointed Aaron and his sons for all the seven days of consecration; from it were anointed high priests and kings. [And yet it sufficed.]”

[II:3 A] A king [anointed] at the outset (of a dynasty) requires anointing. But the son of an anointed king does not, for it is said, “Arise, anoint him; for this is he” (I Sam. 16:12).

[B] This one requires anointing. But his son does not require anointing.

[C] But a high priest who is son of a high priest requires anointing, even down to the tenth successive generation.

[D] Now the whole of the twelve hin of oil will remain for the age to come, for it is said, “It will be holy anointing oil for all your generations” (Ex. 30:31).

[E] They anoint kings only over a spring, as it is said, “Cause Solomon my son to ride on my own mule, and bring him down to Gihon; and let Zadok the priest and Nathan the prophet there anoint him king over Israel” (I Kings 1:3-4).

- [F] They anoint a king who is son of a king only on account of dissension.
- [G] Why was Solomon anointed at all? Because of the struggle with Adonijah; Joash, because of Athaliah; Jehu, because of Joram.
- [H] Now is it not written, “Rise, anoint him; for this is he” (I Sam. 16:12)?
- [I] This one requires anointing, but the kings of Israel do not require anointing.
- [J] But Jehoahaz, because of Jehoiakim, his brother, who was two years older than he, [was anointed].
- [K] Now did not Josiah hide [the anointing oil away; so where did they get it]?
- [L] You must say, they anointed him with oil from a balsam tree.
- [M] They anoint kings only from a horn. Saul and Jehu, who were anointed from a cruse, had a transient reign. David and Solomon, who were anointed from a horn, had an enduring reign.
- [N] They do not anoint priests as kings.
- [O] R. Judah of Ein-Todros: “This is on account of the verse which states, ‘The scepter shall not depart from Judah’” (Gen. 49: 10).
- [P] Said R. Hiyya b. Adda, “[That he may not turn aside from the commandment . . .,] so that he may continue long in his kingdom, he and his children, in Israel’ (Deut. 17:20). What is written thereafter? ‘The Levitical priests, that is, all the tribe of Levi, shall have no portion or inheritance with Israel’” (Deut. 18:1).
- [Q] Said R. Yohanan: “Johanan is the same as Jehoahaz.”
- [R] And is it not written, “The sons of Josiah, Johanan the firstborn” (I Chron. 3.15) – first born to rule.
- [S] And is it not written, “The second Jehoiakim, the third Zedekiah, the fourth Shallum”? Zedekiah was third for the throne and fourth in the order of birth.

[T] He was called Zedekiah because he accepted the righteousness of the harsh decree.

[U] Shallum was so called, for in his time the household of David fulfilled its time.

[V] He name was not really Shallum, nor was it Zedekiah, but it was Mattaniah, as it is written, “And the king of Babylonia made Mattaniah, Jehoiachin’s uncle, king in his stead, and changed his name to Zedekiah” (2 Kings 24:17).

[II:4 A] Said R. Yohanan, “The ark was made in accord with the measure of a cubit of six handbreadths.”

[B] Who taught that it was a cubit of six handbreadths?

[C] *It is R. Meir, for we have learned: R. Meir says, “All the cubit [measures] were middle-sized, except for the golden altar and the horns and the circuit and the base [of the altar]” [M. Kel. 17:10A].*

[D] In the view of R. Meir, who has said that the ark was made in accord with a cubic measure of six handbreadths, the length of the ark was fifteen, as it is written, “And they shall make an ark of acacia wood, two cubits and a half shall be its length, a cubit and a half its breadth, and a cubit and a half its height” (Ex. 25:10).

[E] Thus a cubit is six, another cubit is six, and half a cubit is three.

[F] And there were four tables of the law in it, two broken ones, two unbroken ones.

[G] *This is in line with that which is written, “[And I will write on the tables the words that were on the first tables] which you broke, and you shall put them [the broken tables] in the ark” (Deut. 10:2).*

[H] And each of the tablets of the law was six handbreadths long, and three wide.

[I] Place the tablets breadth-wise along the length of the ark, and there will then remain three handbreadths.

Assign half a handbreadth to each wall and two handbreadths will remain for the scroll of the Torah.

- [J] Allow the surplus of three handbreadths [over the space occupied by the tablets] for the balcony.
- [K] The breadth of the ark is nine handbreadths, as it is written, “A cubit and a half its breadth” (Ex. 25:10).
- [L] Now there were four tablets in it, two broken and two unbroken, as it is written, “... which you broke, and you shall put them in the ark” (Deut. 10:2).
- [M] Each of the tablets was six handbreadths long.
- [N] Place the tablets lengthwise across the breadth of the ark.
- [O] Three handbreadths will then remain, half a handbreadth on each side, for handling the tablets.
- [P] The place in which they deposit the scroll of the Torah is two cubits.
- [Q] R. Simeon b. Laqish said, “The ark was made in accord with a cubit of five handbreadths.”
- [R] What Tannaite authority maintains that it was one of five handbreadths?
- [S] It was R. Judah.
- [T] For we have learned there: **R. Judah says, “The cubit of building was six handbreadths and of utensils five”** [M Kel 17:10B].
- [U] Now the ark is a utensil.
- [V] In accord with the view of R. Judah, who has said that the ark was made in accord with a cubit of the measure of five handbreadths, the ark was twelve and a half handbreadths, for it is written, “They shall make an ark ... two cubits and a half shall be its length, a cubit and a half its breadth, and a cubit and a half its height” (Ex. 25:10).
- [W] A cubit is five, another cubit is five, and half a cubit is two and a half.

[X] Now, four tablets were in it, two broken, and two unbroken, as it is written, "... which you broke, and you shall put them in the ark" (Deut 10:2)

[Y] Each of the tables of the law was six handbreadths long and three wide.

[Z] Place the tablets breadth-wise along the long side of the ark, and there then will remain a half handbreadth, a finger's breadth for the wall on one side, and a finger's breadth for the wall on the other side.

[AA] Now the breadth of the ark was seven handbreadths and a half, as it is written, "A cubit and a half its breadth" (Ex. 25:10). A cubit is five hairbreadths and a half a cubit is two and a half. Now, there were four tablets in it, two broken and two unbroken, as it is written, "Which you broke and you shall put them in the ark" (Dt. 10:2).

[BB] Each of the tablets was six handbreadths long and three broad. Place the tablets lengthwise across the breadth of the ark. There will then remain a handbreadth and a half, a finger breadth for the wall on this side, and a finger breadth for the wall on that side. Then there will be half a handbreadth on this side and half on that side for handling.

[II:5 A] How did Bezallel make the ark?

[B] R. Haninah said, "He made three boxes, two of gold, one of wood. He put the one of gold into one of wood, and the one of wood into the other one of gold, and he covered it over. This is in line with that which is written, 'And you shall overlay it with pure gold, within and without you shall overlay it, and you shall make upon it a molding of gold round about'" (Ex. 25:11).

[C] Why does Scripture say, "You will overlay it"?

[D] It encompasses the upper lip.

[E] R. Simeon b. Laqish said, "He made a single box and covered it over. That is in line with what is written, 'And you shall overlay it with pure gold, within and without you shall overlay it' (Ex. 25:11)."

[F] Why does Scripture say, “You will overlay it?”

[G] R. Pinhas says, “To encompass the space between the boards.”

[II:6 A] How were the tablets laid out?

[B] R. Hananiah b. Gamaliel says, “Five commandments were on one side, and five on the other tablet.”

[C] Rabbis say, “Ten were on one tablet, and ten were on the other table. *This is in line with that which is written*, ‘And he declared to you his covenant, which he commanded you to perform, that is the ten commandments; and he wrote them upon two tables of stone’ (Deut. 4:13). Ten on this tablet, ten on that one.”

[D] R. Simeon b. Yohai says, “There were twenty on this tablet and twenty on that one. This is in line with that which is written, “And he declared to you his covenant which he commanded you to perform, that is, the tens of commandments,” – twenty on this tablet and twenty on that one.

[E] R. Simai says, “There were forty on this tablet and forty on that one. They corresponded to one another as a tetragon [four-sided figure]. “

[F] Hananiah, nephew of R. Joshua, says, “Between each one of the commandments were its details and refinements. ‘[His arms are rounded gold, set with jewels. His body is ivory work,] encrusted with sapphires’ (Song 5:14) – *Like the great sea.*”

[G] *R. Simeon b. Laqish, when he would reach this verse, would say*, “Well did you teach me, Hananiah, nephew of R. Joshua. Just as in the great sea, between one great wave and another are small swells, so between each commandment were the details and refinements of the Torah written out.”

[II:7 A] Said R. Tanhuma, “I raised the question before R. Pinhas, ‘The law should be in accord with the view of R. Judah, and not in accord

with the view of R. Meir. What is the Scriptural basis for the position of R. Judah? ‘Take this book of the law and put it by the side of the ark of the covenant of the Lord your God, that it may be there for a witness against you’ (Dt. 31:26). In the opinion of R. Judah, who said this, where was the scroll of the Torah? It was set in a kind of chest, which they made for it outside of the ark, and there the scroll of the Torah was kept. [So he can make sense of the verse.]

[B] “What is the Scriptural basis for the position of R. Meir? ‘And you shall put the mercy seat on the top of the ark and in the ark you shall put the testimony that I shall give you’ (Ex. 25:21). In the view of R. Judah, who maintains that considerations of temporal sequence do not apply in the Torah, the verse cited by Meir poses no problems. Why not? ‘And in the ark you shall put the testimony that I shall give you’ (Ex. 25:321) – and then: ‘and you shall put the mercy seat on the top of the ark’ (Ex. 25:21). [So Judah can interpret this language in accord with his position.]

[II:8 A] R. Pinhas in the name of R. Simeon b. Laqish, “The Torah which the Holy One, blessed be he, gave—the hide on which it is written is white fire. The letters with which it is engraved are black fire. It is fire, surrounded with fire, engraved out of fire, and set in fire. ‘With flaming fire at his right hand’” (Deut. 33:2).

8:4

[A] “And the officers shall speak to the people, saying ‘What man is there who has built a new house and has not dedicated it? Let him go and return to his house’ (Deut. 20:5).”

[B] All the same are the ones who build a house for straw, a house for cattle, a house for wood, and a house for storage.

[C] **All the same are the ones who build it, who purchase it, who inherit it, and to whom it is given as a gift.**

[I:1 A] **who has built a new house:**

[B] I know only that reference is made to one who actually has built the house. **If he has purchased it, inherited it, received it as a gift,** how do I know that the same law applies?

[C] Scripture uses inclusive language, saying not merely “man,” but “who is the man.”

[D] How on the basis of Scripture do we know that the same law applies to one who builds **a house for straw, a house for cattle, a house for wood, and a house for storage?**

[E] Scripture states, “who has built a new house” – of any sort whatsoever.

[F] Is it possible to suppose that the law applies also to building gate-house, a portico, or a porch? May such a one return home?

[G] Scripture says, “A house.”

[H] Just as a house is characterized by the fact that it serves as a dwelling place, so these are excluded, for they do not serve as a dwelling place.

[I:2 A] This further excludes a house which is not four cubits square [at the very least].

[B] *For it has been taught:* A house which is not four cubits square is exempt from the requirements of having a parapet and from having a mezuzah.

[C] from being covered by the intermingling of ownership of houses in a courtyard for purposes of permitting carrying in the courtyard on the Sabbath,

[D] and for the purpose of tithe, entry into such a house does not constitute the beginning of liability of food to the separation of tithes [since it is not regarded as a normal dwelling place, entry into which subjects agricultural produce to the obligation for separation of tithes].

[E] And they do not assign four cubits for free use to the owner at that doorway.

[F] And they do not treat it as joined to a city for purposes of measuring Sabbath limits.

- [G] And he who vows not to make use of a house is permitted to dwell in such a place.
- [H] And ownership of it does not permanently fall to the holder in the Jubilee Year.
- [I] And it is not subject to uncleanness by reason of a nega' such as is described at Lev. 14.
- [J] And the owner of such a house does not return to it, [if he just built it, by reason of the draft exemption].
- [I:3 A]** Why does Scripture say, “who has built”?
- [B] It means to exclude one whose house fell down and who then rebuilt it.
- [C] Said R. Yosé, “Along these same lines, he who remarries a woman whom he has divorced likewise does not go home [as exempt from battle].”
- [I:4 A]** Is it possible to suppose that he who builds a house outside of the land should go back [in time of war]?
- [B] Scripture says, “And has not dedicated it.”
- [C] The one who is subject to the religious requirement of dedicating the house is subject to the law, excluding this one, who is not subject to the religious duty of dedicating the house.
- [I:5 A]** If one has built a house and rented it out to others, and the latter paid the rent in advance, lo, this is as if he has dedicated it, and he stays in the battle line].
- [B] If the tenant paid the rent after twelve months, the owner is in the status of one who has not dedicated the house.
- [C] If one built a house and locked it up as a storage unit for his possessions, if in the house were possessions which one usually leaves unguarded, it is as if he has dedicated the house [and is now deemed to dwell therein], and if not, it is not as if he has dedicated the house.

8:5

- [A] “And who is the man who has planted a vineyard and has not used the fruit thereof” (Deut. 20:6) –**
- [B] All the same are the ones who plant a vineyard and who plant five fruit-trees,**
- [C] and even if they are of five different kinds.**

[D] **And all the same are the ones who plant such a tree, who sink them into the ground, and who graft them.**

[E] **And all the same are the ones who buy a vineyard, and who inherit it, and to whom it is given as a gift.**

[I:1 A] “Who has planted.”

[B] I know only that the law applies to one who has planted the vineyard.

[C] **If he bought it, inherited it, or received it as a gift [M. 8:5E],** how do I know [that the law applies to him too]?

[D] Scripture says, “The man ... who is the man.”

[E] How do I know that the law applies to one who **plants five trees, fruit trees, even of five different kinds [M. 8:5C]**?

[F] Scripture says, “Who has planted...” – any sort of planting comes under consideration.

[G] Is it possible to suppose that if one has planted four fruit trees or five unproductive trees, he should go home?

[H] Scripture says, “A vineyard.”

[I] Just as a vineyard is defined by the characteristic of being made up of five vines, so this one is excluded, which is not made up of five vines.

[I:2 A] Now as to wine straight from the vat, that is, sharp wine – they prepare a symbolic meal for the intermingling of the Sabbath boundaries with it;

[B] and they prepare a symbolic meal for joining ownership for an alleyway with it;

[C] and they bless over it [for the sanctification of the Sabbath];

[D] and they call one to share in the grace after meals over it;

[E] and they say the prayers of sanctification for a bride over it;

[F] and they say the blessing of comfort to a mourner over it;

[G] and it is sold in a shop as wine;

[H] and he who sells wine to his fellow without further specification as to its character may not sell him sharp wine;

[I] and it is prohibited to give instruction or to release vows if one has drunk that sort of wine [which is inebriating];

[J] but as to entering the sanctuary, the only prohibition is that one may not serve at the altar [if one has drunk that kind of wine].

[K] And as to the wine to be drunk by the son deemed to be a rebellious and incorrigible son, it is necessary to inquire whether or not this kind of wine serves [to incur liability].

[I:3 A] Is it possible to suppose that he who plants a vineyard outside of the land should return home as exempt from battle?

[B] Scripture says, “And has not used the fruit thereof.”

[C] One who is under the religious obligation to use the fruit thereof is liable, excluding this one, who is not under the religious requirement to use the fruit thereof.

[I:4 A] *It was taught [in the Tosefta’s version]: All the same are the one who plants a vineyard and the one who plants five fruit trees of five different kinds, even in five distinct row – lo such a one goes home [M. 8:5C].*

[B] **R. Eliezer b. Jacob says, “I find implied in this Scripture only one who has planted a vineyard” [T. Sot. 7:18].**

[C] *And along these same lines:* implied in this Scripture is only one who has planted.

[D] *It was taught:* “And has not eaten the fruit thereof . . .,” thus excluding the one who sinks a root into the ground or grafts a root [who has already eaten the produce of that plant, and who therefore does not qualify for the exemption].

[E] Said R. Yohanan, “That statement represents the view of R. Eliezer b. Jacob [at B].”

[F] Said R. Hisda, “It represents the opinion of all parties.”

[G] [The cited teaching, D, declaring that it is forbidden to go home if one has sunk a root or grafted a branch] applies to the case of his having grafted a branch of a fruit onto another sort of tree, in which case the produce will be subject to a transgression.

[H] *How shall we interpret the matter [of a dispute as to being permitted grafting]?*

[I] If it applies to a case in which one has grafted a branch of one sort of fruit tree onto a fruit tree of another species, the produce will be subject to transgression. And if he grafted a

branch of a fruit tree onto an unproductive tree, of the same species, then it is in the status of one who plants a tree at the outset [in which case the man does go home].

[J] *But we must interpret the dispute to concern a case in which one has grafted a branch of a black fig tree onto a white fig tree.*

- [I:5 A] When does he make use of the fruit [deeming the tree to be beyond the prohibited years when its fruit may not be utilized, that is, when it is the fourth year]? [At issue is the interpretation of the following verses: “When you come into the land and plant all kinds of trees for food, then you shall count their fruit as forbidden to you...and in the fourth year all their fruit shall be holy...but in the fifth year you may eat of their fruit” (Lev. 19:23-25). In the fourth year and in the fifth? [That is, the produce is forbidden for three years. In the fourth year the produce is in the status of fourth-year fruit, which must be eaten in Jerusalem in accord with the laws governing second tithe. Now the issue is when we deem the produce to be routinely utilized? Is it in the fourth year. or the fifth?]
- [B] *It is reasonable to suppose that it is in the fifth year. But in the fourth year, one is liable to make up the value of the produce of the tree [if one makes use of it, and one must spend the money one sets aside in that connection in Jerusalem].*
- [C] *And rabbis of Caesarea say, “It is reasonable to suppose that it is only in the fourth year. For it is written, ‘And in the fourth year all their fruit shall be holy, an offering of praise to the Lord’” (Lev. 19:24).*

8:6

- [A] **“And who is the man who has betrothed a wife” (ibid.) –**
- [B] **All the same are the ones who betroth a virgin and who betroth a widow –**
- [C] **and even a deceased childless brother’s widow who awaits the Levir.**
- [D] **And even if one heard during the battle that his brother had died,**
- [E] **he returns and comes along home.**
- [F] **All these listen to the words of the priest concerning the arrangements of battle and go home.**
- [G] **And they provide water and food and keep the roads in good repair.**
- [I:1 A] “Who has betrothed a wife” –

- [B] I know only that that applies to a virgin male who marries a virgin female. How do I know that it applies to a virgin male who marries a widow? A widower who married a virgin?
- [C] Scripture says, “A woman” –of any sort.
- [D] Why does Scripture say, “New” (Deut. 20:5)?
- [E] It is to exclude one who takes back a woman whom he has previously divorced.
- [F] Said R. Yosé, “That is to say [23c], He who marries a woman incapable of producing offspring, since it is not a religious duty to dwell with her, may not go back.”

[I:2 A] All the same are he who betroths and he who enters into levirate marriage], and even if there is a woman awaiting levirate marriage with one of five brothers [M. 8:6B-L]; and even if there are five brothers who heard that their brother had died in battle, all of them return and come home [T. Sot. 7:19].

- [B] And along these same lines, may we say that even if there is a new house, not dedicated, belonging to five brothers, [all five should go home]?
- [C] There not each one of the five is able to live therein [but only one of them], while here, in the case of the childless widow, any one of the brothers is suitable to enter into levirate marriage with her. [The case of the Mishnah’s law, therefore is not parallel.~

[I:3 A] If one has betrothed a woman for an interval of twelve months, and the time has run out [so that he is to marry her] while he is in battle, he picks himself up and goes along home.

8:7

- [A] And these are the ones who do not return home:**
- [B] He who builds a gate-house, a portico, or a porch;**
- [C] he who plants only four fruit-trees or five barren trees;**
- [D] he who remarries a woman whom he has divorced,**
- [E] or [he who marries] a widow in the case of a high priest, a divorcee or a woman who has undergone the rite of halisah in the case of an ordinary priest, or a mamzeret or a Netinah in the case of an Israelite, or an Israelite girl in the case of a mamzer or a Netin –**
- [F] such a one did not go home.**

[G] **R. Judah says, “Also: He who builds his house on its original foundation did not go home.”**

[H] **R. Eliezer says, “Also: He who builds a house of bricks in the Sharon does not go home.”**

[I:1 A] *It was taught:* [(If) his house fell down and he built it up again, lo, this one goes home].

[B] **R. Judah says, “If he did something new in connection with the house, he goes home, but if not, he does not go home” [cf. M. 8:7G] [T. Sot. 7:18H].**

[C] [If] he merely plastered the house with mortar or opened new windows in its walls, he does not go home.

[D] [If] it was a large house, and he made it a small one,

[E] [if] it was one and he subdivided it into two, [he goes home].

[I:2 A] *It was taught:* **R. Eliezer says, “The men of the Sharon did not go home to their houses, because they do something new to their houses once a week” [M. 8:7H] [T. Sot. 7:18I].**

[B] So too did the high priest pray for them on the Day of Atonement, that their houses should not be turned into their graves.

8:8

[A] And these are the ones who [to begin with] do not move from their place:

[B] He who had [just now] built a house and dedicated it, who had planted a vineyard and used its fruits, who had married the girl whom he had betrothed, or who had consummated the marriage of his deceased childless brother’s widow,

[C] since it is said, “He shall be free for his house one year” (Deut. 24:5) –

[D] “For his house” – this is his house.

[E] “Will be” – this refers to his vineyard.

[F] “And shall cheer his wife” – this applies to his own wife.

[G] “Whom he has acquired” – to include even his deceased childless brother’s widow.

[H] These do not [even] have to provide water and food and see to the repair of the road.

[I:1 A] [In the Tosefta’s version:] **I know only that the law applies to one who built his house but has not dedicated it, planted a vineyard but has not eaten the fruit, betrothed a wife but has not taken her.**

How do we know that if one has built a house and dedicated it, but has not lived in it twelve months, planted a vineyard and eaten its fruits, but has not had the use of it for twelve months, betrothed a wife and taken her, but has not dwelt with her for twelve months-- how do we know that these [stay home and] do not move from their place [M. Sot. 8:4A-B]? Scripture says, “When a man is newly married, he shall not go out with the army or be charged with any business; he shall be free at home one year, to be happy with his wife whom he has taken” (Deut. 24:5). This matter was covered by the general principle, and why has it been explicitly stated? To allow for the imposition of an analogy on its basis, so teaching you: Now just as this one is distinguished in having betrothed a wife and taken her but in not having lived with her for twelve months, that he does not move from his place, so all of them are subject to the same rule [T. Sot. 7:20]

[I:2 A] *It is taught:* All those concerning whom they have said, “They do not go forth at all,” for example, he who builds a house and dedicated it but has not lived in it for twelve months, planted a vineyard and eaten the fruit but not made use of it for twelve months, betrothed a wife and taken her in marriage and has not remained with her twelve months [M. Sot. 8:4B] – these do not pay their share of the taxes of the town, and do not provide water and food for the battle. And they do not repair the roads [T. Sot. 7:24].

[B] For it has been said, “[When a man is newly married, he shall not go out with the army] or be charged with any business” (Deut. 24:5).

[C] This one is not to be charged with any business, but others may be charged with communal duties.

8:9

[A] “And the officers shall speak further unto the people [and they shall say, What man is there who is fearful and fainthearted? Let him return to his home]” (Deut. 20:8).

[B] R. Aqiba says, “‘Fearful and fainthearted’ – just as it implies:

[C] “‘He cannot stand in the battle-ranks or see a drawn sword.’”

[D] R. Yosé the Galilean says, “‘Fearful and fainthearted’ – this is one who trembles on account of the transgressions which are in his hand.

- [E] “Therefore the Torah has connected all of these, [that he might (appear to) return (home) on their account].
- [F] R. Yosé says, “As to a widow married to a high priest, a divorcee or woman who has undergone the rite of halisah to an ordinary priest, a mamzer-girl or a Netinah-girl married to an Israelite, an Israelite girl to a mamzer or a Netin – lo, these are the ones who are ‘fearful and fainthearted.’”
- [I:1 A] It is written, “And the officers shall speak further....”
- [B] This means only that they add [to what already has been said, but do not contribute their own fresh ideas], *like a man who says, “I add to what my master has stated [along the lines of what he has said].”*
- [C] [At issue in what follows is the relationship between the message of the officers to the people, “What man is there that has built a new house ...” (Deut. 20:5), and “The officers shall speak further to the people and say, ‘What man is there that is fearful and fainthearted?’” (Deut. 20:8). Now the dispute is whether both Deut. 20:5 and Deut. 20:8 belong to the original message of the officers, or whether the former is one message, the latter a separate and distinct one given by different authorities.] *It was taught:* The latter message is of the character of an addition. [Now this statement requires explanation.]
- [D] *Said R. Yosé: “There are two Tannaim [who disagree on this matter]. One who said ‘[It is like a man who says,] ‘I add to what my master has said’ maintains that both the former message and the latter message are one and the same. The master has said them both. [The officers then simply repeat them and clarify them for the people.] The one who said ‘The latter message derives from what is added’ holds that the former message did the master state, and the latter message was said by the officer but not by the master.”*
- [E] *Said R. Mana, “It is the view of one Tannaite authority only. As to the former message, the master said it, and as to the latter, the officer said it, and his master did not say it.”*
- [F] *The Tannaite teaching that follows is at variance with the position of R. Yosé: “One hears the pericope from the priest in the Holy Language and repeats it to the people in any language. [This indicates that what the officers say is precisely what they have heard from the high priest.]”*

[G] The end of the same passage is at variance with R. Mana, “Yet a further message did he add.” [This explicitly rejects Mana’s position.]

[H] *If you say so, then there is no disagreement even with the position of R. Yosé, for it is taught:* “As to the former message, the officer repeats it in line with what his master has said. As to the latter message, the officer said it, and his master did not

[I:2 A] *It was taught:* All parties have to bring proof for their claim, except this one. For testimony in support of his position is right there with him [in the evidence of his fright].

[B] *Now this view is in accord with him who said that* [one should go home if **he cannot stand in the battle-ranks or see a drawn sword**

[C] *But in accord with him who says that* he is afraid by reason of the sins which he has committed [which he believes will be his downfall], he surely has to bring proof for his claim.

[D] **Therefore the Torah has connected all of these, [that he might (appear to) return (home) on their account],** and will not be required to publicize his sins.

[E] *And this accords with that which R. Levi said in the name of R. Simeon b. Laqish:* “In the place in which the burnt offering is killed the sin offering is to be killed’ (Lev. 6:25). This is so as not to publicize [the shame of] sinners.”

8:10

[A] **“And it shall be when the officers have made an end of speaking to the people that they shall appoint captains of hosts at the head of the people” (Deut. 20:9), and at the rear of the people.**

[B] **They station warriors at their head and others behind them, and iron axes are in their hand.**

[C] **And whoever wants to retreat – he has the power to break his legs.**

[D] **For the start of defeat is falling back,**

[E] **as it is written, “Israel fled before the Philistines and there was also a great slaughter among the people (1 Sam. 4:17).**

[F] **And further it is written, “And the men of Israel fled from before the Philistines and fell down slain” (1 Sam. 31:1).**

[G] **Under what circumstances [do the foregoing rules apply]?**

[H] **In the case of an optional war.**

[I] **But in the case of a war subject to religious requirements, everyone goes forth to battle –**

[J] **even a bridegroom from his chamber, and a bride from her marriage-canopy.**

[K] **Said R. Judah, “Under what circumstances? In the case of a war subject to religious requirement.**

[L] **“But in the case of an obligatory war, everyone goes forth to battle –**

[M] **“even a bridegroom from his chamber, and a bride from her marriage-canopy.”**

[I:1 A] It is written, “And it shall be when the officers have made an end of speaking to the people that they shall appoint captains of hosts at the head of the people” (Deut. 20:9).

[B] I know only that that applies to the head of the people. How do I know that the same applies at the rear of the people?

[C] Scripture says, “... and they shall be appointed” [with the “and” encompassing yet another set of officers].

[D] *Up to this point the proposition has been proved in accord with [the exegetical approach of R. Aqiba.*

[E] [How is it shown through the exegetical approach] of R. Ishmael?

[F] *R. Ishmael accords with the view of R. Meir, for R. Meir called the end of a rope the head of the rope.*

[G] Said R. Meir, “It is written, “The wise man has his eyes in his head, but the fool walks in darkness”” (Qoh. 2:14).

[H] Said R. Abba Mari, “As to a wise man, while he is at the beginning of a matter he knows what will be at the end of it.”

[I:2 A] “Raiders shall raid Gad, but he shall raid at their heels” (Gen 49: 19).

[B] Raiders will come and raid him, and he will raid them.

[C] *That is the meaning of the Mishnah, **For the start of defeat is falling back***

[I:3 A] R. Yohanan said, “It is the implications of language which is at issue [between M. 8:10G-J and K-M]:

[B] **R. Judah did call a war fought by choice, a war imposed by religious duty. But in the case of a war imposed by obligation, everyone goes forth, even a bridegroom from his chamber and a bride from her canopy [T. Sot. 7:24].**

[C] *Said R. Hisda, “There is a dispute between them. Rabbis say that a war which is a religious duty is such as a war fought by David. A war which is obligatory is the war fought by Joshua. R. Judah would call an optional war such as one in which we go forth against the enemy. He would regard a war of obligation as one in which the enemy makes war on us.”*

[I:4 A] It is written, “Then King Asa made a proclamation to all Judah, none was exempt” (1 Kings 15:22).

[B] What is the meaning of “None was exempt”?

[C] R. Simon and rabbis –

[D] R. Simon says, “One is not exempt to remain at home even for one moment [e.g., a husband must leave his marriage chamber].”

[E] Rabbis say, “None was deemed a great man, son of a great man [and hence exempt from the draft].”

YERUSHALMI SOTAH

CHAPTER NINE

9:1

[A] The rite of the heifer whose neck is to be broken is said in the Holy Language,

[B] since it is said, “If one be found slain in the land lying in the field...”

[C] “Then your elders your judges shall come forth” (Deut. 21:1-2).

[D] Three from the high court in Jerusalem went forth.

[E] R. Judah says, “Five, since it is said, ‘Your elders’ – thus, two, and ‘your judges’, thus two, and there is no such thing as a court made up of an even number of judges, so they add to their number yet one more.”

[I:1 A] [*The verse cited at M. 9:1B*] is not reasonably chosen, for [the proof text cannot [be other than Deut. 21:7] “They shall answer and say.”

[B] [That is so, but the reason the Mishnah has cited the verses it has is] to begin [its citation] at the beginning of the entire passage.

[I:2 A] “If anyone is found slain” (Deut. 21:1) – not at a time at which corpses are commonplace [that is, at a time of war].

[B] “If anyone is found slain” – and not that one should go about searching for [a corpse].

[C] “If anyone is found slain” – the language of “finding” in all instances applies only when there are witnesses present.

[D] “And it is not known who killed him” (Deut. 21:1) – if it is known who killed him, even a slave boy or a slave girl [testifying on that matter], then they would not break the neck of the heifer.

[E] *And yet you say this [that there must be witnesses, that is, C]?*

[F] [*No, there is no difficulty.*] *Here [where there are no witnesses, we speak of] the slayer, but there [where we require witnesses] it is in the case of the slain. [If there is any sort of testimony about the identity of*

the killer, then there is no rite. But there must be witnesses who will observe the finding of the corpse, to indicate that the conditions of finding the corpse are such as to require the rite of breaking the heifer's neck.].

[G] And as to that which you have said, "Even a slave boy or even a slave girl [may give testimony], so that they do not carry out the rite of breaking the heifer's neck," that applies in a case in which [otherwise invalid witnesses] say, "If we should see [the murderer] we should recognize [and identify] him."

[H] But in the case of those who say, "If we should see the murderer, we should not recognize and identify him," they would in any event carry out the rite of breaking the heifer's neck.

[I] In the case of a court which saw the murder [and] said, "If we should see him [the murderer], we should not recognize him," they [still] do not carry out the rite of breaking the neck,"

[J] for it is written, "Neither did our eyes see it shed" (Deut. 21 :7).

[K] That is to say, lo, [if] the court has seen [the murder] under any circumstances, [they do not carry out the rite].

[I:3 A] As to a court which witnesses the act of slaying –

[B] *there are Tannaim who repeat*, "Let two of them stand and testify before the others."

[C] *And there are Tannaim who teach*: "Let all of them stand and give testimony before a court in some other location."

[D] R. Judah b. Pazzi in the name of R. Zeira, "Just as they differed in this matter, so they differed concerning giving testimony as to the appearance of the new moon."

[E] R. Judah bar Pazzi in the name of R. Zeira: "'Slain' and not writhing."

[F] If they saw him [23c] gasping here, and came later on and did and not find him at all, I say that a miracle has been done for him and he lived.

[G] [If] they saw him writhing here and came and found him dead in some other place, in such a case they measure from the place at which he was found [and not at which he was seen writhing].

[I:4 A] "In the land which the Lord your God gives you to possess" (Deut. 21:1) – excluding foreign countries.

[B] “To possess”—excluding Jerusalem, which belongs to all the tribes.

[C] *And in accord with R. Ishmael*, for R. Ishmael has said, “All references to ‘coming’ which are stated in the Torah refer to the time fourteen years after they were stated, seven years for the conquest, seven years for the division of the land,” [how was the law carried out in the interval?]

[D] Said R. Pinhas b. R. Bun, “It is said, ‘All those fourteen years, they would mark off the places [in which the slain were found].’”

[I:5 A] *It has been taught: It is a religious duty to do the work of measuring. How did they do it for him? The agents of the court go forth and take markers, and they dig a hole and bury him, and they mark off his place, until they come to the high court in the hewn-stone chamber, and then they measure out [T. Sot. 9:3D-F].*

[B] How do we know that they mark off [graves to indicate the presence of a corpse]?

[C] R. Berekhiah and R. Jacob bar Bat Jacob in the name of R. Honiah of Bart Hauran, R. Yosé said it [in the name of] R. Jacob bar Aha in the name of R. Honiah of Bart Hauran, R. Hezekiah, R. Uzziel son of R. Honiah of Bart Hauran in the name of R. Honayya of Bart Hauran: “‘Unclean, unclean,’ shall he cry out’ (Lev. 13:45) – it is so that the uncleanness [present] will call out to you and tell you, ‘Keep away.’”

[D] R. Ila in the name of R. Samuel bar Nahman: “[‘They will set apart men to pass through the land continually and bury those remaining upon the face of the land, so as to cleanse it....] And when these pass through the land and any one sees a man’s bone, then he shall set up a sign by it (Ez. 39:14-15). On the basis of [the reference of this passage to ‘bone,]’ we learn that they mark out bones when they are found. On the basis of [the reference to] ‘man’s,’ we learn that they mark out the place in which the backbone and skull are found. On the basis of [the reference to] ‘set up,’ we learn that they mark the spot by plastering a stone permanently thereon.”

[E] If, in any case, you say that it is with a stone not plastered down, it may well roll away and impart uncleanness to some other place.

[F] “[Continuing D:] [On the basis of the reference to] ‘by it,’ we learn that it is to be set up in a clean place [in which no bone is found].

On the basis of [the reference to] ‘sign,’ we learn that they mark such a place.”

[G] If one came across a marked stone, even though that is not how they make a permanent mark, –if one overshadows such a stone, he is unclean. I maintain that there was a corpse buried thereunder. [Even though the stone is to be set up not over, but at the side of, the corpse, it is entirely possible that that is not what was done. Accordingly, we take account of the possibility that the stone was directly over the corpse.]

[H] [If] there were two [such stones, however], he who overshadows them is clean. [If he overshadows the ground] between them, he is unclean.

[I] If one was ploughing between the stones, lo, they were treated as individual markers. [The ground] between them is clean, but [the ground] round about each of them is unclean.

[I:6 A] *It was taught:* They do not make a marker on account of coming across flesh. For the flesh may be consumed in the passage of time, as it rots.

[B] R. Yusta bar Shunam raised the question before R. Mana, “[If the flesh should turn up not rotted,] will it not then result in retroactively imparting uncleanness to clean things?”

[C] He replied to him, “It is better that people should stumble on that account for a brief while [until the flesh rots] and not stumble on that account forever [on account of the permanent marker of uncleanness].”

[II:1 A] **[R. Judah says, “Five, since it is said, ‘Your elders’ – thus, two, and ‘your judges’, thus two, and there is no such thing as a court made up of an even number of judges, so they add to their number yet one more:”] *There we have learned:* “The laying of hands [on a community sacrifice] by elders and the breaking of the heifer’s neck [Dt. 21:1-9] are done by three judges,” the words of R. Simeon. R. Judah says, “By five” [M. San. 1:3A-B]:**

[B] What is the Scriptural basis for the position of R. Simeon?

[C] “And the elders of the congregation shall lay their hands upon the head of the bull” (Lev. 4:15).] “Shall lay” means two A court cannot be made up of an even number of judges, so they add one more to their number, lo, three.

[D] What is the Scriptural basis for the position of R. Judah?

- [E] “Shall lay” means two do it, “elders” means two more, and since a court cannot be made up of an even number of judges, they add one more to their number, lo, five.
- [F] And as to the Scriptural basis for the position of R. Judah in the case of the heifer?
- [G] **“R. Judah says, “Five, since it is said, ‘Your elders’ – thus, two, and ‘your judges’, thus two, and there is no such thing as a court made up of an even number of judges, so they add to their number yet one more.”**
- [H] Said Rabbi, “The opinion of R. Simeon is preferable in the case of the laying of hands, and the opinion of R. Judah in the case of the heifer. The opinion of R. Simeon in the case of the laying on of hands is preferable, for he does not resort to an exegesis of the words ‘and they shall lay hands.’ And the opinion of R. Judah is preferable in the case of the heifer, because he does not resort to an exegesis of the words ‘and they shall go forth.’”
- [I] If you say that the opinion of R. Judah is preferable in the case of the heifer, he does resort to an exegesis of the words “and lay ~heir hands,” and also, “and they will go forth.”
- [J] Accordingly, you rule, “And they will go forth” requires two. “Your elders” requires two. A court cannot have an even number of judges, so they add to them one more, so there are to be seven.
- [K] How does R. Simeon interpret the language, “Your elders ... your judges”?
- [L] They are to be your elders who are your judges.
- [M] *It was taught:* R. Eliezer b. Jacob says, “‘Your elders’ –this refers to the high court. ‘And your judges’ –this refers to the king and high priest.”

9:2

- [A] **[If] it was found hidden under a heap of rocks or hanging from a tree or floating on the surface of water, they did not break the neck of a heifer.**
- [B] **since it is said, On the ground [Deut. 21:1] – not hidden under a pile of rock.**
- [C] **Lying – not hung on a tree.**

- [D] In the field – not floating on the water.
- [E] [If] it was found near the frontier, near a town which had a gentile majority, or near a town which had no court, they did not break a heifer's neck.
- [F] They measure only from a town which has a court.
- [G] “[If] it was found exactly between two such towns, then the two of them bring two heifers,” the words of R. Eliezer.
- [H] And sages say, “One town brings a heifer, and two towns do not bring two heifers.”
- [I] And Jerusalem does not have to bring a heifer whose neck is to be broken.
- [I:1 A] [In Tosefta's version:] R. Eleazar says, “In the case of all of them, if there was a corpse, they would go through the rite of breaking the heifer's neck [even if it was found hidden in a pile of rocks or hanging from a tree].”
- [B] Said to him R. Yosé b. R. Judah, “If it was only strangled and lying in a field, did they break a heifer's neck? On this account it is said, ‘Slain.’ If so, why is it said, ‘Lying’? But even if it was slain and hanging in a tree, they did not break a heifer's neck” [T. Sot. 9:1B-C].
- [I:2 A] *R. Yosé b. R. Bun taught in the name of R. Yohanan, “If [the victim] was found standing over his bed, with a knife plunged into his heart, they do not go through the rite.”*
- [B] *R. Simeon b. Yohai taught: “They would go through the rite. [He will fall in a moment and there is no reason to exclude a corpse found in such condition.]”*
- [C] *As to this teaching of R. Simeon b. Yohai, [we do not know] who those are who taught thus [in his name]. For R. Yohanan said, “As to these sayings of R. Simeon b. Yohai, [we do not know] who those are who taught them in this wise. They are singletons, and we do not rely upon them.”*
- [I:3 A] If the slain was found at the entrance to a town [where there can be no doubt as to the nearest place], they nonetheless measure, so as to carry out in this regard the religious duty of engaging in the act of measuring.
- [I:4 A] *Rab went down [to Babylonia]. He announced, “I am the Ben Azzai of this place [and so am able to take on all inquiries]”*

- [B] *One old man came along and asked him, “Two corpses, one on top of the other – [From which one does one measure to the nearest town?]”*
- [C] *Rab thought that the issue was whether or not they carry out the rite of breaking the heifer’s neck at all. He said to him, “They do not carry out the rite of breaking the heifer’s neck. [By the way, they also do not measure from either corpse.]”*
- [D] He said to him, “Why?”
- [E] He said to him, “In regard to the lower corpse, [they do not carry out the rite] because it is deemed to be buried [M. 9 2B] and in regard to the upper corpse, [they do not carry out the rite] because it is deemed to be floating [not lying square on the ground in the field, M. 9:2D].”
- [F] *When he came up here, he came before Rabbi. He said to him, “He answered you quite properly. ‘When anyone is found slain’ –not when [two] are found. It is not reasonable that that should not be the conclusion. ‘On the ground’ –not floating in the water. ‘In the field’ –not hidden under a pile of rock.”*

[G] And the House of Rabbi taught the matter in exactly this way.

[I:5 A] *The opinions imputed to rabbis are at variance with one another. [At issue is the following passage: **And similarly, concerning all tubers [which are stored] in the ground, such as arum, garlic, or onions – R. Judah says, “These are not [subject to the restrictions of the] forgotten sheaf, [since it is unclear whether the tubers have been forgotten or are in storage].” But sages say, “They are [subject to the restrictions of the] forgotten sheaf” [M. Peah 6:10D-F].** [Sages maintain that “in the field” (Deut. 24:19) in the relevant passage encompasses that which was hidden in the ground.] There [at the present pericope of the Mishnah they say [that the reference “on the ground”] excludes what is hidden [under a pile of rock, hence what is buried in the ground] [= M. 9:2B] And here they maintain [that the same language serves] to encompass what is hidden in the ground [at M. Peah 6:10].*

- [B] [The basis for sages’ view is the exegesis of the following verse: “When you reap your harvest in your field, and have forgotten a sheaf in the field” (Deut. 24:19)]. There, “your field” speaks of what is out in the open, thus excluding that which was buried. “And your crop” speaks of what is out in the open, excluding what is buried. Now we have two exclusionary clauses, and they serve to encompass what is hidden in the ground [a double negative]. But here, “in the ground” [= M. 9:2B] means to exclude what is floating on the surface of the water.

- [II:1 A] **[If it was found near the frontier, near a town which had a gentile majority, or near a town which had no court, they did not break a heifer's neck:]** If the corpse was found near the frontier, I say that the Saracens killed him.
- [B] If it was found near a town in which gentiles live, say that gentiles killed him.
- [C] **or near a town which had no court, they did not break a heifer's neck:** This is in line with that which is written, "Our hands did not shed this blood, neither did our eyes see it shed" (Deut. 21:7).
- [III:1 A] **“[If] it was found exactly between two such towns, then the two of them bring two heifers,” the words of R. Eliezer. And sages say, “One town brings a heifer, and two towns do not bring two heifers:”**] What is the Scriptural basis for the position of rabbis?
- [B] “And the elders of the city which is nearest to the slain man ...” (Deut. 21:2).
- [C] And what is the Scriptural basis for the position of R. Eliezer?
- [D] “And they shall measure the distance to the cities which are around him that is slain” (Deut. 21:2).
- [III:2 A] What is the status as to cities of refuge [in regard to bringing the heifer]?
- [B] *If you say that* they were handed over in order to be divided up [for the Levites, like the rest of the land], then they too will bring a heifer whose neck is to be broken.
- [C] *If you say that* they were handed over as dwelling places [like Jerusalem], they do not bring a heifer whose neck is to be broken

9:3

- [A] **From what point did they measure?**
- [B] **R. Eliezer says, “From his belly-button.”**
- [C] **R. Aqiba says, “From his nose.”**
- [D] **R. Eliezer b. Jacob says, “From the place at which he was turned into a corpse – from his neck.”**
- [I:1 A] **From what point did they measure?**
- [B] **R. Eliezer says, “From his belly-button: – the place where the embryo is found.”**

[C] **R. Aqiba says, “From his nose: – the place of recognition. [That is, people are recognized by the character of their noses.]”**

[D] *And this is in line with that which R. Judah said in the name of Rab: “‘The point of recognition of their faces witnesses against them’ (Is. 3:9, RSV: ‘Their partiality ...’). This refers to their noses.”*

[E] *Said R. Hiyya bar Ba, “Whoever wants not to be recognized should put a rag over his nose, and he will not be recognized.”*

[F] *This is in line with what happened in the times of Arseines the king. The residents of Sepphoris rebelled. So they put rags over their noses so as not to be recognized. In the end they were informed against, and they were all captured forthwith.*

[G] **R. Eliezer b. Jacob says, “From the place at which he was turned into a corpse – from his neck:”** What is the Scriptural basis for this position?

[H] R. Simon in the name of R. Joshua, “To be laid on the necks of the wicked who are to be slain” (Ez. 21:29). “‘To be laid on the necks of the wicked who are to be slain” (Ez. 21:29).

9:4

[A] **“[If] its head is found in one place and its body in another place, they bring the head to the body,”** the words of R. Eliezer.

[B] **R. Aqiba says, “They bring the body to the head.”**

[I:1 A] Said R. Eleazar, “The dispute has to do with the burial place.”

[B] R. Samuel in the name of R. Jonathan, “The dispute concerns a case in which the head was above and the body below. But if the head was below and the body was above, all parties concur that they bring the head to the body.”

[I:2 A] If the ground was sloping in ail directions, I say that the head went down one side and the body went down the other side, or this head has no body, and this body has no head.

[B] If the ground was flat [23d], in any place in which it is to be expected that the parts have scattered, I maintain that it is a single body [from which the parts have come, and the dispute of the Mishnah follows].

[C] If it is not [so arrayed that it would be expected for the head and body to be scattered in this wise,] then I maintain that this head has no body, and that body has no head, [and we can do nothing].

9:5

[A] The elders of Jerusalem took their leave and went away.

[B] The elders of that town bring “a heifer from the herd with which labor had not been done and which had not drawn the yoke” (Deut. 21:3).

[C] But a blemish does not invalidate it.

[D] They brought it down into a rugged valley (and rugged is meant literally, hard, but even if it is not rugged, it is valid).

[E] And they break its neck with a hatchet from behind.

[F] And its place is prohibited for sowing and for tilling, but permitted for the combing out of flax and for quarrying stones.

- [I:1 A] [“And the elders ... shall take a heifer which has never been worked and which has not pulled on the yoke” (Deut 21:3).] “Which has never been worked” – knowingly.
- [B] “And which has not pulled on the yoke” – whether knowingly or unknowingly.
- [C] R. *Jonah* interpreted the statement “‘which has never been worked’ knowingly ‘and which has not pulled on the yoke’ whether knowingly or unknowingly” to apply to a case in which the beast has pulled on the yoke. [That is, to be invalidated, the beast must have borne part of the weight of the yoke.]
- [D] R. *Yosé* interpreted the Tannaitic statement: “‘Knowingly’ – even if it has not drawn on the yoke. And ‘unknowingly’ – if it has drawn on the yoke. [If the owner has knowingly put the yoke onto the heifer, even if it has not drawn on it, it is invalid. If without the owner’s knowledge, the yoke happened to come upon the heifer, it remains valid, unless the heifer should draw on the yoke.]”
- [E] [*The dispute of Jonah and Yosé runs along familiar lines. For*] the opinion of R. *Jonah* is in line with that of R. *Ishmael*, and that of R. *Yosé* accords with rabbis.
- [F] *The opinion of R. Jonah accords with R. Ishmael. For* R. *Ishmael* has said, “The case of any statement which was covered by a general rule [and thus did not need to be repeated], and yet was singled out of the general rule [to be made explicit], is so treated in order to teach an interpretation of the general rule, and lo, it represents a new point. Accordingly, it was necessary to state, ‘Which has never worked’ knowingly; ‘And which has not pulled on the yoke whether knowingly or unknowingly – if the beast has

actually pulled on the yoke. [That is the only source of invalidation, when the beast actually pulls on the yoke; but if there is no actual act of labor, the heifer remains valid.]”

[G] *The view of R. Yosé accords with that of the rabbis. For the rabbis say, “Lo, it remains part of the general statement [of which it forms an integral element], and lo, it serves to provide a new point pertinent to the whole of its context. Accordingly, it was necessary to state, ‘If [it was worked] knowingly, [then it is invalid], even if it did not draw on the yoke. If it was worked, unknowingly, [then it is not invalid] unless it actually draws on the yoke.’”*

[I:2 A] And how much should the beast have drawn on the yoke [for it to be deemed invalid]?

[B] Rabbi says, “The length of the yoke.”

[C] R. Yosé b. R. Judah says, “Three fingerbreadths.”

[D] R. Simon in the name of R. Yosé b. Nehorai: “The girth of the yoke breadth-wise.”

[I:3 A] *R. Bun bar Hiyya raised the question before R. Zeira: “‘With which labor had not been done’ is a general rule. ‘And which had not drawn the yoke’ is a particularization thereof. We have then a generalization and a particularization [which is deemed to be limiting]. Thus the general rule contains only what is expressed by the particularization thereof. [Accordingly, the only sort of labor which will invalidate the heifer will be pulling on the yoke.]”*

[B] *He said to him, “If it had been written, ‘Which had not been worked and which had not drawn ... ,’ what you say would have been so. It is written only, ‘With which labor had not been done.’ There is no generalization and particularization here at all. But the qualifying language serves to encompass, interpreting the reference to ‘yoke’ for purposes of establishing a linguistic analogy [with reference to yoke elsewhere, namely, with regard to the red cow burned for the purification water, Num. 19:2: ‘... a red heifer without defect, in which there is no blemish, and upon which a yoke has never come’].”*

[I:4 A] Just as in the case of the yoke stated with regard to the heifer, Scripture has treated all other sorts of labor as equivalent to pulling on the yoke, so in the case of the yoke stated with regard to the red cow\ Scripture has treated all other sorts of labor as equivalent to pulling on the yoke.

- [B] Just as in the case of “yoke” stated with regard to the heifer, an act of labor invalidates the heifer, whether or not done with the owner’s knowledge and consent, so “yoke” stated with regard to the red cow means that an act of labor done with it invalidates it, whether this is or is not with the knowledge and consent of the owner.
- [C] Just as in the case of “yoke” stated with regard to the red cow the yoke [itself~ invalidates the cow, so “yoke” stated with regard to the heifer [means that] the yoke invalidates it.
- [D] If we then propose, “Just as ‘yoke’ stated with reference to the red cow means that blemishes of the cow invalidate it, so ‘yoke’ stated with reference to the heifer means that blemishes invalidate it,’ Scripture explicitly stated, “in which there is no blemish, meaning, blemishes invalidate in the case of the red cow and blemishes do not invalidate in the case of the heifer.
- [E] [But if that is the mode of argument], then let us say, “With which labor had not been done” (Deut. 21:3) means an act of labor invalidates the heifer, but an act of labor does not invalidate the red cow.
- [F] [Indeed, there is an exclusionary meaning in the use of the language “with which.” But it is not that which has been proposed. Rather it is as follows:] Here “with which labor had not been done” is stated, so indicating, work invalidates the heifer, but an act of work with the beast does not invalidate animals set aside as holy [for use on the altar]. [If they are used for labor, they remain valid for the altar.]
- [G] [With respect to the language used in description of the red cow,] do you have the possibility of saying “in which there is no blemish” to indicate, in the selection of the red cow, blemishes serve to invalidate the cow, but as regards animals set aside for consecrated purposes, blemishes do not invalidate such beasts? [That would be a self-evidently absurd proposition. Scripture specifies to the contrary, that such beasts must be without blemish.]
- [I:5 A]** What is the rule as to the absence of major limbs’ serving as a defect to invalidate the heifer?
- [B] What sort of foolish question is that?] Even in the case of offerings deriving from the children of Noah [non-Israelites], such beasts are not acceptable. *Did not R. Yosa state, “R. Eleazar explained for the associates, ‘And of every living thing of all flesh you shall bring two of every sort into the ark’ (Gen. 6:19)? The meaning of all flesh is, whole of flesh, that is, they are to be whole as to their limbs.”*

[C] [No, the question is not so absurd. For] there, [in reference to the beasts selected by Noah,] some parts of them were to be used for the altar. But here [with reference to the heifer], no part of the beast is to be used on the altar [burned as an offering].

[D] [Answering the question with reference to Deut. 21:8, “Forgive, O Lord, thy people Israel ... ,”] R. Huna in the name of R. Jeremiah: “Since you may note ‘forgiveness’ is written in regard to the heifer, it is tantamount to Holy Things [used to attain forgiveness by serving as an offering]. Accordingly, in the case of the heifer it is as if part of the beast is offered on the altar.”

[I:6 A] If the heifer suffers a blemish which would render it terefah, what is the law as to its being deemed invalid?

[B] Since you have maintained that part of the beast is deemed as if it were to be offered up on the altar, a defect which would render the beast terefah serves to invalidate it.

[C] *For that reason it is self-evident to you that* a defect which would render the beast terefah does invalidate it.

[D] If its hoof is cloven like that of an ass, how do you treat it?

[E] Is it deemed like a beast which is lacking a limb, or like one which has suffered a blemish?

[F] If you treat it like a beast which is lacking a limb, it is invalid. If you treat it like a beast which has suffered a blemish, it is valid [This question is not answered.]

[G] As to its blood, what is the law on its having the capacity as does the blood of a valid beast to impart susceptibility to uncleanness in line with Lev. 11:34, 37?

[H] Since R. Hiyya taught, “Its blood is susceptible to uncleanness,” it follows that its blood also has the capacity to impart susceptibility to uncleanness.”

[I:7 A] An elder asked the rabbis of Caesarea, “[In the case of a beast suffering blemishes that render it terefah, if one breaks the neck,] what is the law as to that action’s rendering the carrion clean of the uncleanness that ordinarily pertains to carrion? [That is, the law in general is that if one properly slaughters a beast that is terefah, the proper act of slaughter removes the uncleanness pertaining to the carrion of a terefah beast. So the question is whether we deem this unusual mode of killing the beast to be tantamount to a proper act of slaughter.]”

[B] They said to him, “And is it not an explicit statement in the Mishnah [at M. Hul. 5:3A-E]: **He who slaughters [a beast], and it turns out to be terefah, he who slaughters a beast for idolatrous purpose, and he who slaughters a cow [to be burned] for purification [water], and an ox which is to be stoned, and a heifer whose neck is to be broken [none of which is eaten] – Simeon declares exempt [from punishment for violating the prohibition against slaughtering it and its offspring on one day]. And sages declare liable [M. Hullin 5:3A-E].** [Sages’ position is that it is a valid act of slaughter, and it follows in the case of the heifer that the uncleanness of a terefah heifer’s carrion indeed is removed by the breaking of its neck, yet another unusual mode of slaughter.]

[C] *He said to them, “Now how can this be? We ask you about the law covering a terefah beast, and you introduce evidence concerning a beast which is properly slaughtered! [Here we are talking about breaking the neck, not properly slaughtering the beast at all.]”*

[D] *They said to them, “Did not R. Yannai state, ‘In the opinion of R. Meir, even if the beast were a terefah beast [and so not suitable for eating at all, in the case at M. Hul. 5:3 cited above], one is liable.’” [Hence the fact that the heifer is not going to be eaten at all has no bearing. The main point is as stated above.]*

[E] *He said to them, “Now are you going to attempt to formulate a reply to me on the basis of what R. Yannai has said?”*

[II:1 A] They brought it down into a rugged valley (and rugged is meant literally, hard):

[B] “Enduring is your dwelling place, and your nest is set in the rock” (Num. 24:21).

[C] **but even if it is not rugged, it is valid:**

[D] *And along these same lines, even though it is not a valley, is it valid?*

[E] R. Simeon b. Yohai taught, “‘Bring down ... and they shall bring down ...’ even though it is not a valley.”

[F] As to this teaching of R. Simeon b. Yohai, we do not know who are those who taught thus [in his name].

[G] For R. Yohanan said, “As to all these sayings of R. Simeon b. Yohai, we do not know] who are those who taught them in this manner. [They are singletons, and we do rely upon them.]”

- [III:1 A] And is it necessary to sever two or the greater part of two [of the organs of the neck, as in the case of a valid act of slaughter]?
- [B] *Let us derive the answer to that question from the following:* R. Zeira stated, “R. Judah in the name of Samuel [said], ‘At the place in the neck which is valid for the act of slaughter, over against it at the back of the neck is the valid place for severing the neck of a bird.’” And thus did he maintain in the present matter as well.
- [IV:1 A] *There we have learned:* **There is one who ploughs a single furrow and is liable on eight counts of violating a negative commandment: [specifically, it is] he who (1) ploughs with an ox and an ass [Dt. 22:10], which are [2, 3] both Holy Things, in the case of (4) [ploughing] Mixed Seeds in a vineyard [Dt. 22:9], (5) in the Seventh Year [Lev. 25:41], (6) on a festival [Lev. 23:7] and who was both a (7) priest [Lev. 21:1] and (8) a Nazirite [Num. 6:6] [ploughing] in a graveyard [M. Mak. 3:9A-C].**
- [B] *R. Hoshaiiah raised the question:* “And let us repeat the tradition, ‘He who ploughs in a place in which a heifer’s neck was broken’ [thus violating M. 9:5F], lo, making nine violations.”
- [IV:2 A] Associates said before R. Yosé, “Interpret the statement [of M. 9:5F, that the place may not be sown or tilled] to apply to the the prior condition of the place [that it must be fallow ground].
- [B] He said to them, “If you apply the rule to the prior condition of the place, all the more so must it be left in the future to lie fallow.]
- [IV:3 A] **The area in which its neck is broken and the surrounding ground – lo, these are prohibited.**
- [B] **And how large is that area of surrounding ground? Four cubits [T. Sot. 9:1].**
- [C] Rabbi says, “I say that the surrounding area is fifty cubits.”
- [IV:4 A] R. Samuel, son of R. Yosé b. R. Bun: “[‘And the elders shall bring the heifer down to a valley ... which is] neither plowed nor sown ...’ (Deut. 21:4) ‘Which is not plowed’ is a generalization, ‘nor sown’ is a particularization. Thus we have a generalization followed by a particularization. Nothing is contained in the generalization except what is made explicit by the particularization. [It follows that only sowing matters is invalidating the plot of ground.]”
- [B] *He said to him,* “If it were written, ‘Which is not plowed ... which is not sown,’ matters would be as you have stated them. *But it is written*

only, ‘Which is not ploughed.’ The proper interpretation then is in line with that which R. Zeira said: ‘We do not have here a case of a generalization followed by a limiting particularization, but rather a statement meant to encompass [all sorts of conditions, here, all kinds of ploughing and working of the ground].’”

9:6

- [A] The elders of that town wash their hands in the place in which the neck of the heifer is broken, and they say,
- [B] “Our hands have not shed this blood, nor did our eyes see it” (Deut. 21:7).
- [C] Now could it enter our minds that the elders of a court might be shedders of blood?
- [D] But [they mean:] He did not come into our hands so that we sent him away without food.
- [E] And we did not see him and let him go along without an escort.
- [F] And [it is] the priests [who] say, “Forgive, O Lord, your people Israel, whom you have redeemed, and do not allow innocent blood in the midst of your people, Israel” (Deut. 21:8).
- [G] They did not have to say, “And the blood shall be forgiven them” (Deut. 21:8).
- [H] But the Holy Spirit informs them, “Whenever you do this, the blood shall be forgiven to you.”
- [I] [If] the murderer was found before the neck of the heifer was broken, it [simply] goes forth and pastures in the herd.
- [J] [If the murderer is found] after the neck of the heifer is broken, it is to be buried in its place.
- [K] For to begin with it was brought in a matter of doubt. It has atoned for the matter of doubt on which account it was brought and which has gone its way.
- [L] [If] the murderer was found before the neck of the heifer was broken, it [simply] goes forth and pastures in the herd. [If the murderer is found] after the neck of the heifer is broken, it is to be buried in its place. For to begin with it was brought in a matter of doubt. It has atoned for the matter of doubt on which account it was brought and which has gone its way.
- [M] [If] the neck of the heifer was broken and afterward the murderer was found, lo, this one is put to death.

- [I:1 A] *[As to the statement, “Our hands have not shed this blood” (Dt. 21:7), the rabbis here [in the Land of Israel] interpret the passage to speak of the murderer. The rabbis over there [in Babylonia] interpret it to speak of the victim.]*
- [B] *The rabbis here interpret the passage to speak of the murderer He did not come into our hands and we let him go instead of putting him to death. We did not see him and allow him to be and neglect to bring him to judgment.*
- [C] *The rabbis over there interpret it to speak of the victim: “He did not come into our hands and nor did we let him go without a posse. We did not see him and leave him without sustenance.”*
- [D] *[“The elders of that city ... wash their hands over the heifer whose neck was broken in the valley” (Deut. 21:6).] They wash their hands in water at the place at which the heifer’s neck is broken.*
- [I:2 A] **The elders say, “Our hands have not shed this blood, and our eye did not see it” (Deut. 21:7) [M. Sot. 9:6B].**
- [B] **And the priests say, “Forgive, O Lord, your people, Israel whom you have redeemed” (Deut. 21:8) [M. Sot. 9:6F].**
- [C] **And the Holy Spirit says, “But let the guilt of blood be forgiven them” (Deut. 21:8) [M. Sot. 9:6H] [T. Sot. 9:2].**
- [D] **In three passages just now cited the one who said one thing did not say another.**
- [E] **Similarly you say:**
- [F] **“We came to the land to which you sent us,” said Joshua.**
- [G] **Caleb said, “Let us now go up and inherit it.”**
- [H] **The spies said, “Yet the people who dwell in the land are strong” (Num. I 3:27).**
- [I] **So you have three things side by side, and the one who said this one did not say that one, and whoever said that one did not say the other.**
- [J] **Similarly you say:**
- [K] **“And she said, Mark, I pray you, whose these are, the signet and the cord and the staff” (Gen. 38:25), so said Tamar.**

[L] Said Judah, “She is more righteous than” (Gen. 38:26).

[M] And the Holy Spirit says, “And he did not lie with her again” (Gen. 38:26).

[N] So you have three things side by side, and the one who said this one did not say that one, and whoever said that one did not say the other.

[O] Similarly you say:

[P] “And they said, Woe to us! Who can deliver us from the power of these mighty gods?” (I Sam. 4:8) – so said the proper ones among them.

[Q] The evil ones among them said, “These are the gods who smote the Egyptians with every sort of plague in the wilderness” (I Sam. 4:8).

[R] And the heroes among them said, “Take courage and acquit yourselves like men, O Philistines” (I Sam. 4:9).

[S] So you have three things side by side, just as before.

[T] Similarly you say:

[U] “Out of the window she peered, she gazed” (Jud. 5:28), so aid the mother of Sisera.

[V] “Her wisest ladies make answer, are they not finding and dividing the spoil (Jud. 5:29-30) – so said his wife and his daughters-in-law.

[W] “So perish all thine enemies, O Lord! But thy friends be like the sun as he rises in his might “(Jud. 5:31)--so said the Holy Spirit [T. Sot. 9:4].

[I:3 A] Said R. Phineas, “This mode of atonement [namely, the breaking of the heifer’s neck] was suitable to make atonement [even] for those who went out of Egypt [in line with Deut. 21:8: ‘Forgive ... whom you have redeemed,’ that is, from Egypt].”

[I:4 A] Said R. Yannai, [The dispute which follows pertains to the case of one who has slaughtered the offspring of a dam which has served as a heifer in the present rite, M. Hul. 5:3A-E. The issue is whether or not one is liable for slaughtering the offspring on the same day on which the dam has been slaughtered for the rite of the heifer.] In the opinion of R. Meir, even if [the dam] has had its neck broken [in the rite of the

heifer], one who slaughters the offspring is liable. [The breaking of the neck is tantamount to a proper act of slaughter.]”

[B] R. Jacob bar Aha, R. Ammi in the name of R. Simeon b. Laqish, “Even in accord with the view of R. Meir [who is the authority named sages at M. Hul. 5:3E], if the dam has had its neck broken in the rite of the heifer, one who slaughters the offspring is exempt. [It is different here.]”

[C] Said R. Ila, “Will he declare him exempt on the count of ‘it and its offspring’ in accord with the view of R. Simeon?”

[I:5 A] [As regards the prohibition of making use of the heifer set aside for the rite,] said R. Yannai, “I have heard a time limit affecting the matter: from what point is the heifer designated for the rite deemed prohibited [for all other purposes]? ‘And they will bring it down’ (Deut. 21:4) – it is from the time that the heifer is brought down [but not beforehand; that is, only once the animal is killed.]”

[B] Said R. Samuel bar R. Isaac, “While it is still alive, it is deemed to be consecrated. The Mishnah’s law itself has made that point in saying, **[If] the murderer was found before the neck of the heifer was broken, it [simply] goes forth and pastures in the herd.** What is the meaning of ‘goes forth’? It goes forth from its status of sanctification.”

[II:1 A] **[If] the murderer was found before the neck of the heifer was broken, it [simply] goes forth and pastures in the herd. [If the murderer is found] after the neck of the heifer is broken, it is to be buried in its place. For to begin with it was brought in a matter of doubt. It has atoned for the matter of doubt on which account it was brought and which has gone its way. [If] the neck of the heifer was broken and afterward the murderer was found, lo, this one is put to death.**] said R. Matteniah, “And that is so. Since it is written, ‘But let the guilt of blood be forgiven them’ (Deut. 21:8), has [Scripture then] fallen silent? No. for even then it says, ‘So you shall purge the guilt of innocent blood from your midst.’ [Thus even though the rite has been carried out, the obligation to punish the murderer, when he is found, remains valid.]”

9:7

[A] **[If] one witness says, “I saw the murderer,” and one witness says, “You did not see him.”**

[B] **[If] one woman says, “I saw him,” and one woman says, “You did not see him,”**

[C] they would go through the rite of breaking the neck of the heifer.

[D] [If] one witness says, “I saw,” and two say, “You did not see,” they would break the neck of the heifer.

[E] [If] two say, “We saw,” and one says to them, “You did not see,” they did not break the neck of the heifer.

[I:1 A] Giddul bar Benyamin in the name of Rab: “In any case in which [sages] have declared the testimony of a woman to be as valid as that of a man, the testimony of a man serves to discredit that of a woman, and the testimony of a woman serves to discredit that of a man.”

[B] [*If that is so, then let the Tannaite authority of M. Sot. 9:7A-B] teach [the law as follows]: “[If] one [male] witness said, ‘I saw the murderer,’ and a woman said, ‘You did not see him,’ [or if] a woman said, ‘I saw the murderer,’ and a [male] witness said, ‘You did not see him,’ [and that would have indicated the point made by Rab at A].”*

[C] Along these lines did the House of Rabbi [teach the law].

[I:2 A] *It was taught* in the name of R. Nehemiah, “They follow the greater part of the [available] testimony.”

[B] *What would be a practical illustration of that proposition?*

[C] In the case in which two women testify [in one wise], and one woman [testifies in another], they have treated such a case as one in which there are two witnesses against one witness.

[D] *That rule which you have stated applies to a case in which there was one woman against two women. But if they were a hundred women and a single male witness, all the women are deemed equivalent to a single male witness.*

9:8

[A] **When murderers became many, the rite of breaking the heifer’s neck was cancelled.**

[B] **[This was] when Eleazar b. Dinai came along, and he was also called Tehinah b. Perishah. Then they went and called him, “Son of a murderer.”**

[I:1 A] [The Hebrew] “Son of a murderer” is [in Aramaic] “Son of a murderer.”

9:9

- [A] When adulterers became many, the ordeal of the bitter water was cancelled.
- [B] And Rabban Yohanan b. Zakkai cancelled it, since it is said, “I will not punish your daughters when they commit whoredom, nor your daughters-in-law when they commit adultery, for they themselves go apart with whores” (Hosea 4:14).
- [I:1 A] It is written, “For they themselves go apart with whores” (Hosea 4:14).
- [B] And it is written, “And the woman shall become an execration among her people” (Num. 5:27).
- [C] That applies when her people are at peace.
- [D] But when her people are licentious [it does not apply].
- [E] “The man shall be free from iniquity” (Num. 5:31).
- [F] When does “the woman bear her own sin” (Num. 5:31)?
- [G] When the man is from of iniquity.

9:10

- [A] When Yosé b. Yoezer of Seredah and Yosé b. Yohanan of Jerusalem died, the grape-clusters were cancelled,
- [B] since it is said, “There is no cluster to eat, my soul desires the first ripe fig” (Micah 7:1).
- [I:1 A] And there was no grape cluster to come until R. Aqiba arose.
- [B] And were all of the pairs not grape clusters?
- [C] But these served as sustainers, while the others did not.
- [I:2 A] *It was taught* [in Tosefta’s version]: **Among all the grape clusters which arose for Israel from the death of Moses to the rise of Joseph b. Yoezer of Seredah and Joseph b. Yohanan of Jerusalem it is not possible to find a blemish.**
- [B] **But once Joseph b. Yoezer of Seredah and Joseph b. Yohanan of Jerusalem died, until the rise of Judah b. Baba, it most certainly is possible to find a blemish among them.**
- [C] **They tell about Judah b. Baba that all of his deeds were directed for the glory of Heaven,**
- [D] **except that he raised small cattle.**

- [E] One time he fell ill, and a physician came to examine him.
- [F] He said to him, “There is no remedy for you except for boiling milk.”
- [G] He went out and got himself a goat and tied it to the leg of his bed, and he would draw hot milk from it, for he would groan [because of angina].
- [H] One time sages wanted to come in to him.
- [I] But they said, “How is it possible to come to him, when there is a robber with him in the house?”
- [J] And when he died, sages examined carefully all of the things he had ever done, and they found in him no sin except for this one alone.
- [K] And he too said when he was dying, “I know that there is against my account only this sin alone,
- [L] “which I have done in transgressing the opinion of my colleagues.”
A. Said R. Ishmael, “The house of my father was one of the Galilean householders.
- [M] “On what account was it wiped out?
- [N] “Because they gave rulings in civil cases with a single judge, and because they raised small cattle.
- [O] “Even so, we had a thicket near the town. A field intervened between it and the town,
- [P] “so the cattle would come in and go out through the upper path.” [T. B.Q. 8:13-14].

9:11

- [A] Yohanan, high priest, did away with the confession concerning tithe.
- [B] Also: He cancelled the rite of the Awakeners and the Stunners [47B].
- [C] Until his time a hammer did strike in Jerusalem.
- [D] And in his time no man had to ask concerning doubtfully-tithed produce.
- [I:1 A] *R. Jeremiah, R. Hiyya in the name of R. Simeon b. Laqish: “The Mishnah [at M. 9:11A, doing away with the confession concerning tithe, Deut. 26:13-15] speaks of the time after which the people were suspect of handing the [first] tithe over to the priesthood while it*

should go to the Levites]. [That is why Yohanan annulled reciting the confession.]”

- [B] The statement [of Simeon, A] supports the position of R. Yohanan [cited below, that whatever Yohanan did was praiseworthy In one aspect and stands at variance with it in other.
- [C] *For we have learned there: A Levite girl betrothed to a priest, pregnant by a priest, awaiting levirate marriage with a priest, and so too, a priestly girl married to a Levite, eats neither heave offering nor tithe. [M. Yeb. 9:4G-I].* [The reason is that her status is not fixed.]
- [D] *Now that she should not eat heave offering makes sense, [since we are not sure that she is in the priestly caste].* But why should she not eat tithe [which goes to the Levite, for, in any event, she remains in the Levitical caste]? What difference does it make? If she is in the priestly caste, she has every right to eat it. If she is in the Levitical caste, she also has every right to eat it.
- [E] *[The problem is readily solved, for] R. Ila in the name of R. Yohanan said, “This accords with the view of the one who said, “They do not give over tithe to the priesthood at all.”*”
- [F] *[R. Yohanan] then accords with the view of the one who said, “They do give tithe to the priesthood [as much as to the Levites], [and this is a point of disagreement with Simeon, A-B].”*
- [G] *The following supports the one who said that all [of the decrees that Yohanan, high priest, made] were praiseworthy.*
- [H] For R. Yohanan has said, “**Also: he decreed concerning the confession [concerning tithes] and annulled [the rules of] doubtfully-tithed produce. For he sent to all the towns of Israel and found that they were separating only the great heave-offering alone. As to first tithe and second tithe, some of them separated these tithes, and some of them did not. He said to them, “Just as the great heave-offering, if neglected, is a transgression punishable by death, so tithing the heave-offering, if neglected, is a transgression analogous [in regard to heave-offering] to certainly untithed produce [and punishable by death]. So let people designate heave-offering and heave-offering of the tithe and hand them over to the priest, and [let them designate] second tithe and render it unconsecrated in exchange for coins. And as to the rest of the tithes, e.g., poorman’s tithe, let him who wants to collect from**

his fellow produce evidence in behalf of his claim” [so now people do not have to ask, as at M. Sot. 9:10D] [T. Sot. 13:10D-F].

[I:2 A] [As to his doing away with the confession concerning tithe, M. 9:11A,] [why should one not] confess?

[B] Said R. Illa, “It angers the Omnipresent when someone says, ‘I have done ...,’ while he has not done a thing.”

[C] If so, then if there is someone who has separated the tithes, he should say the confession, and he who has not separated the tithes should not say the confession.

[D] *This would be in line with the following:* Up to the verse, “Look down [from thy holy habitation, from Heaven, and bless thy people Israel and the ground which thou has given us, as thou didst swear to our fathers, a land flowing with milk and honey]” (Deut. 26:15), they should say in a low voice. And from that point onward, they say in a loud voice. [So the inapplicable statements should be slurred over.]

[II:1 A] **The awakeners [M. Sot. 9:10B] – these are the Levites who say on the platform, Rouse yourself! Why do you sleep, O Lord (Ps. 44:23). Said to them Yohanan, “Now is there such a thing as sleep before Him? And has it not already been said, ‘Lo, the Guardian of Israel neither slumbers nor sleeps’ (Ps. 121:4). But so long as Israel is immersed in pain and the nations of the world are wallowing in prosperity, as it were, Rouse yourself! Why do you sleep” [T. Sot. 13:9A-C].**

[III:1 A] **The knockers [M. Sot. 9:10B] – these are those who knock the calf between its horns, just as they stun a beast to be sacrificed for idolatry. Said to them Yohanan the high priest, “How long are you going to feed terefah-meat to the altar?” [T. Sot. 13:10A-B].**

[B] He went and set up holding rings [to keep the animals in place].

[C] R. Ba in the name of R. Yohanan said, “He made holding rings for them, broad at the bottom and narrow at the top.”

[IV:1 A] **Until his time a hammer did strike in Jerusalem:**

[B] Until the beginning of his time.

[V:1 A] **And in his time no man had to ask concerning doubtfully-tithed produce.**

[B] For he set up pairs [to oversee the matter].

- [V:2 A] *In the view of R. Joshua b. Levi, some of the [decrees] were not praiseworthy and some of them were praiseworthy.*
- [B] For R. Yosé in the name of R. Tanhum, R. Hiyya in the name of R. Joshua b. Levi, “At first tithe was divided into three parts. A third went to members of the priestly and Levitical castes, a third for storage, and a third for the poor and for associates who were in Jerusalem.” [So first tithe went to priests or Levites, and Yohanan did not approve. So in this regard, it was not praiseworthy.]
- [C] Said R. Yosé b. R. Bun, “One who went up to serve as a judge in Jerusalem – up to a third of his needs would he provide out of his own resources. From that amount onward he collected what he needed from the treasury.”
- [D] When Eleazar b. Patorah and Judah b. Pakorah came along, [as powerful priests] they took them by force [that is, the first tithe for the priesthood].
- [E] [Yohanan] had the possibility of stopping them, and he did not stop them.
- [F] So he did away with the confession concerning tithe.
- [G] The awakeners and stunners: both of these were praiseworthy.
- [H] **Until his time a hammer did strike in Jerusalem:** Until the beginning of his time.
- [I] *R. Hasidah asked R. Hezekiah,* “It is not reasonable to suppose that it was only at the end of his days.”
- [J] He said to him, “I too think so.”

[V:3 A] **And in his time no man had to ask concerning doubtfully-tithed produce:**

- [B] R. Yosé in the name of R. Abbahu, R. Hezekiah in the name of R. Judah b. Pazzi, “‘Demai’ means, ‘*Who has properly dealt with his crop, and who has not properly dealt with his crop.*’”

9:12

- [A] **When the Sanhedrin was cancelled, singing at wedding feasts was cancelled, since it is said, “They shall not drink wine with a song” (Is. 24:9).**

- [I:1 A] Abba bar R. Jeremiah said, “‘The old men have quit the city gate, the young men their music’” (Lam. 5:14).

[B] Said R. Hisda, “At first, when people were afraid of the Sanhedrin, they did not sing obscene songs. But now that they are not afraid of the Sanhedrin, they sing obscene songs.”

[I:2 A] [Tosefta’s version:] **And what good was the Sanhedrin for Israel? But it was for this matter, concerning which it is said, “And if the people of the land do at all hide their eyes from that man, when he gives one of his children to Molech, and do not put him to death, then I will set my face against that man and against his family” (Lev. 20:4-5).**

[B] **At first, when a man would sin, if there was a Sanhedrin in operation, they would exact punishment from him. Now [that there is no Sanhedrin], punishment is exacted both from him and from his relatives, as it is said, Then I will set my face against that man and against his family.**

[C] Said R. Yosé b. R. Bun in the name of R. Huna, “At first whenever a misfortune would come upon the community, they would declare a celebration [to commemorate their being saved from that misfortune.”

[D] **When the Sanhedrin was cancelled, singing at wedding feasts was cancelled**

[E] When these and those [namely, celebrations for an occasion of redemption and singing at wedding feasts] were cancelled,

[F] “The joy of our hearts ceased; our dancing has been turned to mourning” (Lam. 5:15).

[G] But what good was the great Sanhedrin?

[H] But since it is said, “And if the people of the land do at all hide their eyes from that man, when he gives one of his children to Molech, and do not put him to death, [then I will set my face against that man]” (Lev. 20:4) – that is, if they do not put him to death with any mode of execution they choose.

[I] **They have compared the matter to one who went bad in a town, so they gave him over to strap-bearer, and he strapped him. He was too hard for the strap-bearer. They gave him over to a rod-officer, and he beat him. He was too hard for the rod-officer. They gave him over to a centurion and he put him in prison, but he was too hard for the centurion] They gave him over to a magistrate, and he threw him into a furnace. So is Israel: the latter tribulations make them forget the former tribulations. [T. Sot. 15:7].**

9:13

- [A] When the former prophets died out, the Urim and Tummim were cancelled.
- [B] When the sanctuary was destroyed, the Shamir-worm ceased and [so did] the honey of supim.
- [C] And faithful men came to an end,
- [D] since it is written, “Help, O Lord, for the godly man ceases” (Ps. 12:2).
- [I:1 A] **When the former prophets died out, the Urim and Tummim were cancelled:**
- [B] R. Samuel bar Nahman in the name of R. Jonathan: “This refers to Samuel and David.”
- [C] R. Ba bar Kahana in the name of Rab: “This refers to Gad and Nathan.”
- [D] R. Jeremiah, R. Samuel bar Isaac in the name of Rab: “This refers to Jeremiah and Baruch.”
- [E] *From the following saying, it is indicated that in the view of R. Joshua b. Levi, “This is Jeremiah and Baruch.”*
- [F] For R. Joshua b. Levi said, “‘He set himself to seek God in the days of Zechariah, who instructed him in the fear of God; [and as long as he sought the Lord, God made him prosper]’ (2 Chron. 26:2). Who arose after him? It was Jeremiah and Baruch.”
- [I:2 A] **When the latter prophets died, that is, Haggai, Zechariah, and Malachi, then the Holy Spirit came to an end in Israel.**
- [B] **But even so, they made them hear [Heavenly messages] through an echo.**
- [C] **M’S H S: Sages gathered together in the upper room of the house of Guria in Jericho, and a heavenly echo came forth and said to them, “There is a man among you who is worthy to receive the Holy Spirit, but his generation is unworthy of such an honor.”**
- [D] **They all set their eyes upon Hillel the elder.**
- [E] **And when he died, they said about him, “Woe for the humble man, woe for the pious man, the disciple of Ezra.”**
- [F] **Then another time they were in session in Yabneh and heard an echo saying, “There is among you a man who is worthy to**

receive the Holy Spirit, but the generation is unworthy of such an honor.”

[G] They all set their eyes upon Samuel the Small.

[H] Why was he called “the small”? For out of modesty he would belittle himself. And some say, it was because he was somewhat smaller than Samuel the Ramatite.

[I] At the time of his death what did they say? “Woe for the humble man, woe for the pious man, the disciple of Hillel the Elder!”

[J] Also he says at the time of his death, “Simeon and Ishmael are destined to be put to death, and the rest of the associates will die by the sword, and the remainder of the people will be up for spoils.

[K] “After this, great disasters will fall.”

[L] This he said in Aramaic.

[M] Also concerning R. Judah b. Baba they ordained that they should say about him, “Woe for the humble man, woe for the pious man, disciple of Samuel the Small.” But the times did not allow it [T. Sotah 13:3-4].

[II:1 A] When the sanctuary was destroyed, the Shamir-worm ceased:

[B] Said R. Judah, “What is the character of this worm? It is a creature from the six days of Creation. When they put it on stones or on beams, they are opened up before it like the pages of a notebook. And not only so, but when they put it on iron, [the iron] is split and falls apart before it. And nothing can stand before it.

[C] “How is it kept? They wrap it in tufts of wool and put it in a lead tube full of barley-bran.” [Yerushalmi adds: This is in line with the verse, ‘The Lord is his name, who makes destruction flash forth against the strong, so that destruction comes upon the fortress’ (Amos 5:9).

[D] “And with it Solomon built the Temple, as it is said, ‘There was neither hammer, nor axe, nor any tool of iron heard in the house, while it was being built’ (I Kings 6:7),” the words of R. Judah.

[E] R. Nehemiah says, “They sawed with a saw outside, as it is said, ‘All these were of costly stones ... sawed with saws in the house and outside’ (I Kings 7:9).

[F] “Why does Scripture say, ‘Inside the house and outside?’ Inside the house they were not heard, for they prepared them outside and brought them inside.”

[G] Said Rabbi, “The opinion of R. Judah seems to me preferable in regard to the stones of the sanctuary, and the opinion of R. Nehemiah in regard to the stones of [Solomon’s] house” [T. Sot. 15:1].

[III:1 A] **The honey of supim:**

[B] Said R. Eleazar, “It is honey which comes from the inner cells of the honeycomb.”

[C] Said R. Yosé b. R. Haninah, “It is fine flour which floats on the top of a sieve and is [like] dough kneaded with honey and oil.”

[IV:1 A] [Responding to M. 9:14A: **Rabban Simeon b. Gamaliel says, “R. Joshua testified, ‘From the day on which the Temple was destroyed, there is no day on which there is no curse, and dew has not come down as a blessing. The good taste of produce is gone,’”**] said R. Jonathan; “Better was the overripe produce which we ate in our youth than the apricots that we eat in our old age. For with the passage of time, the world changes.”

[B] Said R. Hiyya bar Ba, “A seah of Arbelit wheat would produce a seah of fine flour, a seah of flour would produce a seah of inferior flour, a seah of bran would produce a seah of leavings. And nowadays even one for one does not come up.”

[IV:2 A] **And faithful men came to an end, since it is written, “Help, O Lord, for the godly man ceases” (Ps. 12:2):**

[B] Said R. Zeira, “Men faithful in the Torah.”

[C] *This is in line with the following: A certain rabbi would teach Scripture to his brother in Tyre, and when they came and called him to do business, he would say, “I am not going to take away from my fixed time to study. If the profit is going to accrue to me, let it accrue in due course [after my fixed time for study of the Torah has concluded].”*

9:14

[A] **Rabban Simeon b. Gamaliel says, “R. Joshua testified, ‘From the day on which the Temple was destroyed, there is no day on which there is no curse, and dew has not come down as a blessing. The good taste of produce is gone.’”**

- [B] **R. Yosé says, “Also: the fatness of produce is gone.”**
- [C] **R. Simeon b. Eleazar says, “[When] purity [ceased], it took away the taste and scent; [when] tithes [ceased], they took away the fatness of corn.”**
- [D] **And sages say, “Fornication and witchcraft made an end to everything.”**
- [I:1 A] It is written, “[God is a righteous judge,] and a God who has indignation every day” (Ps. 7:11).
- [B] Said R. Zeira, “The former [days] are [easier to] endure [since things get worse from day to day].”
- [C] What nullifies [God’s anger, so that the world is not completely wiped out]?
- [D] R. Abin in the name of R. Aha, “It is the blessing of the priests which nullifies the anger of God.”
- [I:2 A] [Following Tosefta’s order:] **Rabban Simeon b. Gamaliel said, “You should know that the dew has been cursed [M. Sot. 9:12E]:**
- [B] **“In olden times, when the dew came down on straw and on stubble, it would turn white, as it is said, ‘And when the dew had gone up, there was on the face of the wilderness a fine, flake-like thing, fine as hoar frost on the ground’ (Ex. 16:14).**
- [C] **“But now it turns black.**
- [D] **“In olden times, any city which got more dew than its neighbors produced a larger harvest. Now it produces less” [T. Sot. 15:2].**
- [II:1 A] It is taught: **R. Simeon b. Eleazar says, “[When] purity [ceased], it took away the taste and scent; [when] tithes [ceased], they took away the fatness of corn.”**
- [B] From which produce or wheat was more removed?
- [C] *Said R. Levi bar Haita, “Let us derive the answer from the following: ‘[Before a stone was placed upon a stone in the Temple of the Lord, how did you fare?] When one came to a heap of twenty measures, there were but ten’ (Hag. 2:15-16) .When one came to a heap of fifty measures, there were but twenty-five is not written here, but, rather, ‘There were but ten.’ [So the produce suffered more than wheat.]”*
- [III:1 A] **And sages say, “Fornication and witchcraft made an end to everything.”**

9:15

[A] In the war against Vespasian they decreed against the wearing of wreaths by bridegrooms and against the wedding-drum.

[B] In the war against Titus they decreed against the wearing of wreaths by brides.

[C] And [they decreed] that a man should not teach Greek to his son.

[D] In the last war [Bar Kokhba's] they decreed that a bride should not go out in a palanquin inside the town.

[E] But our rabbis [thereafter] permitted the bride to go out in a palanquin inside the town.

[I:1 A] "The crown has fallen from our head, [woe to us, for we have sinned]" (Lam. 5:16).

[I:2 A] And what sorts of bridegroom's wreaths did they prohibit?

[B] Gold-embroidered silks.

[C] R. Ba in the name of Rab: "One made of salt and brimstone."

[D] R. Jeremiah in the name of Rab: "It is one of salt and olives."

[E] R. Nahman bar Jacob said, "Even one of willows."

[F] R. Jeremiah plaited and put on a crown of olive branches in honor
Or a bridal couple.

[G] Samuel heard and said, "It would have been better for him had his head been removed, rather than that he should have done so."

[H] And it was like an error which went forth from the ruler.

[I:3 A] **After the last war, they made a decree against the marriage-canopy of bridegrooms. Against what sort of marriage-canopy of bridegrooms did they make such a decree? It is against those made of gold. But he may make a framework of laths and hang on it anything he wants [T. Sot. 15:9].**

[II:1 A] **What is a crown worn by a bride [M. 9:15B]?**

[B] It is a golden tiara.

[C] *R. Aqiba made for his wife a golden tiara, and the wife of Rabban Gamaliel was jealous of her.*

[D] *He said to her, “If you had done what she did, I would have been glad to make one for you. She sold her braids of hair and gave him the proceeds, so that he might labor in the Torah.”*

[III:1 A] **[And they decreed that a man should not teach Greek to his son:]** They asked R. Joshua, “What is the law as to a man’s teaching his son Greek?”

[B] He said to them, “Let him teach it to him when it is neither day nor night, for it has been written, ‘This book of the law shall not depart out of your mouth, but you shall meditate on it day and night, that you may be careful to do according to all that is written in it’ (Josh. 1:8).”

[C] In that case, it should be forbidden for a man to teach his son a trade, for it is written, “You shall meditate on it day and night” (Josh. 1:8).

[D] But did not R. Ishmael teach, “‘I call heaven and earth to witness against you this day, that I have set before you life and death, blessing and curse; therefore choose life, that you and your descendants may live’ (Deut. 30:9) – this refers to learning a trade.”

[E] R. Ba son of R. Hiyya bar Ba in the name of R. Yohanan, “It is because of traitors [who should not be able to communicate with the enemy].”

[F] R. Abbahu in the name of R. Yohanan, “It is permitted for a man to teach Greek to his daughter, because such learning is an ornament for her.”

[G] Simeon bar Ba heard and said, “It is because R. Abbahu wants to teach his daughter such, that he has assigned the teaching to R. Yohanan. May a curse come upon me, if I heard it from R. Yohanan!”

[IV:1 A] **[In the last war [Bar Kokhba’s] they decreed that a bride should not go out in a palanquin inside the town. But our rabbis [thereafter] permitted the bride to go out in a palanquin inside the town:]** Who releases decrees issued by the former generation?

[B] Said R. Yosé b. R. Bun, “He who releases the decrees made by the [former ones] does the same for decrees made by the [latter ones].”

[V:1 A] [Reverting to the opening pericope:] *This [M. 9:15A] is in line with the following:* The exilarch sent and asked R. Hisdai, “What is the meaning of that which is written. “Thus says the Lord God, Remove the turban, and take off your crown; things shall not remain as they are; exalt that which is low, and abase that which is high’ (Ez. 21:25)?”

[B] He said to him, “If the turban is removed, then the crown is removed [Once the high priest is disrobed, others no longer wear their crowns either.]”

[C] *R. Yohanan heard and said, “His name (Hisda) means grace, and what he says is full of grace.”*

9:16

[A] When R. Meir died, makers of parables came to an end.

[B] When Ben Azzai died, diligent students came to an end.

[C] When Ben Zoma’ died, exegetes came to an end.

[D] When R. Joshua died, goodness went away from the world.

[E] When Rabban Simeon b. Gamaliel died, the locust came, and troubles multiplied.

[F] When R. Eleazar b. Azariah died, wealth went away from the sages.

[G] When R. Aqiba died, the glory of the Torah came to an end.

[H] When R. Hanina b. Dosa died, wonder-workers came to an end.

[I] When R. Yosé Qatnuta died, pietists went away.

[J] (And why was he called Qatnuta? Because he was the least of the pietists.)

[K] When Rabban Yohanan b. Zakkai died, the splendor of wisdom came to an end.

[L] When Rabban Gamaliel the Elder died, the glory of the Torah came to an end,

[M] and cleanness and separateness perished.

[N] When R. Ishmael b. Phabi died, the splendor of the priesthood came to an end.

[O] When Rabbi died, modesty and fear of sin came to an end.

[P] R. Pinhas b. Yair says, “When the Temple was destroyed, associates became ashamed and so did free men, and they covered their heads.

[Q] “And wonder-workers became feeble. And violent men and big talkers grew strong.

[R] “And none expounds and none seeks [learning] and none asks.

[S] “Upon whom shall we depend? Upon our Father in heaven.”

[T] R. Eliezer the Great says, “From the day on which the Temple was destroyed, sages began to be like scribes, and scribes like ministers, and ministers like ordinary folk.

- [U] “And the ordinary folk have become feeble.
 [V]”And none seeks.
- [W] “Upon whom shall we depend? Upon our Father in heaven.”
- [X] With the footprints of the Messiah: presumption increases, and dearth increases.
- [Y] The vine gives its fruit and wine at great cost.
- [Z] And the government turns to heresy.
- [AA] And there is no reproof.
- [BB] The gathering place will be for prostitution.
- [CC] And Galilee will be laid waste.
- [DD] And the Gablan will be made desolate.
- [EE] And the men of the frontier will go about from town to town, and none will take pity on them.
- [FF] And the wisdom of scribes will putrefy.
- [GG] And those who fear sin will be rejected.
- [HH] And the truth will be locked away.
- [II] Children will shame elders, and elders will stand up before children.
- [JJ] “For the son dishonors the father and the daughter rises up against the mother, the daughter-in-law against her mother-in-law; a man’s enemies are the men of his own house” (Mic. 7:6).
- [KK] The face of the generation in the face of a dog.
- [LL] A son is not ashamed before his father.
- [MM] Upon whom shall we depend? Upon our Father in heaven.
- [I:1 A] When R. Eliezer died, the glory of the Torah ceased.
- [B] When R. Joshua died, men of counsel ceased, and reflection ended in Israel [cf. M. Sot 9:15D].
- [C] When R. ‘Aqiba died, the arms of Torah were taken away, and the springs of wisdom ceased [cf: M. Sot. 9:15G].
- [D] When R. Eleazar b. ‘Azariah died, the crown of wisdom ceased, for, “The crown of the wise is their riches” (Prov. 14:24) [cf. M. Sot. 9:15D].
- [E] When Ben Azzai died, conscientious students ceased [M. Sot. 9:15B].
- [F] When Ben Zoma died, exegetes died [M . Sot. 9:15C].

- [G] When R. Hanina b. Dosa died, wonder-workers died out in Israel [M. Sot. 9:15H].
- [H] When Abba Yosé b. Qitnit of Qatanta died, piety became small in Israel.
- [I] (Why was he called a man of Qatanta? Because he was the very essence of piety.)
- [J] When Rabban Simeon b. Gamaliel died, locusts came and troubles increased [M. Sot. 9:15E].
- [K] When Rabbi died, troubles were doubled [T. Sot. 15:3-5].
- [I:2 A] R. Jacob bar Idi in the name of R. Joshua b. Levi: “When Rabban Yohanan b Zakkai lay dying, he commanded, saying, ‘Clear the courtyard of articles susceptible to uncleanness, because of uncleanness [consequent upon my death, since the corpse produces heavy contamination], and prepare a throne for Hezekiah, king of Judah.’”
- [B] “R. Eliezer, his disciple, when he lay dying, gave orders, saying, ‘Clear out the courtyard because of uncleanness, and prepare a throne for Rabban Yohanan ben Zakkai.’”
- [C] *And there are those who say, “The one whom his master envisioned is the one whom he envisioned.”*
- [I:3 A] *The patriarchate wanted to marry into the house of Pazzi, and he did not agree. He told them that they should not be ashamed. When he lay dying, he gave orders and said, “Clear out the courtyard because of uncleanness, and prepare a throne for Jehoshaphat, king of Judah.”*
- [B] They said, “Let this one, who pursued honor, come after that one, who fled from honor.”
- [I:4 A] R. Jacob bar Idi in the name of R. Joshua b. Levi: “M’S H S: Elders assembled in the upstairs room in the house of Gedaya in Jericho, and an echo went out and said to them, ‘There are among you two who are worthy of receiving the Holy Spirit, and Hillel the elder is one of them.’ They all gazed upon Samuel the Small.
- [B] “Again: The elders got together in the upstairs room in Yavneh, and an echo went forth and said to them, ‘There are among you two who are worthy of receiving the Holy Spirit, and Samuel the Small is one of them,’ and they all gazed at R. Eliezer b. Hyrcanus. And they were all happy that their opinion was the same as the opinion of the Omnipresent.”

CHAPTER TEN

THE STRUCTURE OF YERUSHALMI SOTAH

Whether or not the Talmud of the Land of Israel is carefully organized in large-scale, recurrent structures and guided by a program that we may call systematic forms the principal question addressed by an academic commentary. The preceding chapters therefore have pointed toward the presentation set forth here. By “structure” I mean, a clearly-articulated pattern that governs the location of fully-spelled out statements. By “system,” I mean, a well-crafted and coherent set of ideas that explain the social order of the community addressed by the writers of a document, a social philosophy, a theory of the way of life, world view, and character of the social entity formed by a given social group. I see a collective, anonymous, and political document, such as the one before us, as a statement to, and about, the way in which people should organize their lives and govern their actions. At issue then in any document such as the remarkable one before us is simple: does this piece of writing present information or a program, facts to whom it may concern, or a philosophically and aesthetically cogent statement about how things should be? The connection between structure and system is plain to see. From the way in which people consistently frame their thoughts, we move to the world that, in saying things in one way rather than in some other, they wish to imagine. Modes of formulating thought adumbrate modes of imagining the world in which people wish to live, to which they address these thoughts.

If the document exhibits structure and sets forth a system, then it is accessible to questions of rationality. We may ask about the statement that its framers or compilers wished to make by putting the document together as they did. But if we discern no structure and perceive no systematic inquiry or governing points of analysis, then all we find here is inert and miscellaneous information, facts but no propositions, arguments, viewpoints. Now as a matter of fact the Talmud of the Land of Israel commonly finds itself represented as lacking organization and exhibiting a certain episodic and notional character. That view moreover characterizes the reading and representation of the document by learned and experienced scholars, who have devoted their entire lives to Talmud study and

exegesis. It must follow that upon the advocate of the contrary view – the one implicit in the representation of the document for academic analysis – rests the burden of proof. I set forth the allegation that the Talmud of the Land of Israel exhibits a structure and follows a system and therefore exhibits a commonly-intelligible rationality. The claim to write an academic commentary explicitly states that proposition. For the tractate before us, I have therefore to adduce evidence and argument.

I maintain that through the normal procedures of reasoned analysis we may discern in the tractate a well-crafted structure. I hold that the structure made manifest, we may further identify the purpose and perspective, the governing system of thought and argument, of those who collected and arranged the tractate's composites and put them together in the way in which we now have them. By "structure" I mean, how is a document organized? and by "system," what do the compilers of the document propose to accomplish in producing this complete, organized piece of writing? The answers to both questions derive from a simple outline of the tractate as a whole, underscoring the types of compositions and composites of which it is comprised. Such an outline tells us what is principal and what subordinate, and how each unit – composition formed into composites, composites formed into a complete statement – holds together and also fits with other units, fore and aft. The purpose of the outline then is to identify the character of each component of the whole, and to specify its purpose or statement. The former information permits us to describe the document's structure, the latter, its system.

While the idea of simply outlining a Talmud-tractate beginning to end may seem obvious, I have never made such an outline before, nor has anyone else. (I have provided complete outlines for the Mishnah and for the Tosefta in relationship to the Mishnah, and, not always in outline form, for the Midrash-compilations of late antiquity as well) Yet, as we shall now see, the character of the outline dictates all further analytical initiatives. Specifically, when we follow the layout of the whole, we readily see the principles of organization that govern. These same guidelines on organizing discourse point also to the character of what is organized: complete units of thought, with a beginning, middle, and end, often made up of smaller, equally complete units of thought. The former we know as composites, the latter as compositions.

Identifying and classifying the components of the tractate – the composites, the compositions of which they are made up – we see clearly how the document coheres: the plan and program worked out from beginning to end. When we define that plan and program, we identify the facts of a pattern that permit us to say in a specific and concrete way precisely what the compilers of the tractate intended to accomplish. The structure realizes the system, the program of analysis and thought that takes the form of the presentation we have before us. From what people do, meaning, the way in which they formulate their ideas and organized

them into cogent statements, we discern what they proposed to do, meaning, the intellectual goals that they set for themselves.

These goals – the received document they wished to examine, the questions that they brought to that document – realized in the layout and construction of their writing, dictate the points of uniformity and persistence that throughout come to the surface. How people lay out their ideas guides us into what they wished to find out and set forth in their writing, and that constitutes the system that defined the work they set out to accomplish. We move from how people speak to the system that the mode of discourse means to express, in the theory that modes of speech or writing convey modes of thought and inquiry.

We move from the act of thought and its written result backward to the theory of thinking, which is, by definition, an act of social consequence. We therefore turn to the matter of intention that provokes reflection and produces a system of inquiry. That statement does not mean to imply I begin with the premise of order, which sustains the thesis of a prior system that defines the order. To the contrary, the possibility of forming a coherent outline out of the data we have examined defines the first test of whether or not the document exhibits a structure and realizes a system. So everything depends upon the possibility of outlining the writing, from which all else flows. If we can see the order and demonstrate that the allegation of order rests on ample evidence, then we may proceed to describe the structure that gives expression to the order, and the system that the structure sustains.

The present work undertakes the exegesis of exegesis, for the Yerushalmi, like its counterpart in the one of Babylonia, is laid out as a commentary to the Mishnah. That obvious fact defined the character of my academic commentary, since we have already faced the reality that our tractate is something other than a commentary, though it surely encompasses one. The problems that captured my attention derived from the deeper question of how people make connections and draw conclusions. To ask about how people make connections means that we identify a problem – otherwise we should not have to ask – and what precipitated the problem here has been how a composition or a composite fits into its context, when the context is defined by the tasks of Mishnah-commentary, and the composition or composite clearly does not comment on the Mishnah-passage that is subjected to comment.

The experience of analyzing the document with the question of cogency and coherence in mind therefore yields a simple recognition. Viewed whole, the tractate contains no gibberish but only completed units of thought, sentences formed into intelligible thought and self-contained in that we require no further information to understand those sentences, beginning to end. The tractate organizes these statements as commentary to the Mishnah. But large tracts of the writing do not comment on the Mishnah in the way in which other, still larger

tracts do. Then how the former fit together with the latter frames the single most urgent question of structure and system that I can identify.

Since we have already examined enormous composites that find their cogency in an other than exegetical program, alongside composites that hold together by appeal to a common, prior, coherent statement – the Mishnah-sentences at hand – what justifies my insistence that an outline of the document, resting on the premise that we deal with a Mishnah-commentary, govern all further description? To begin with, the very possibility of outlining this tractate derives from the simple fact that the framers have given to their document the form of a commentary to the Mishnah. It is in the structure of the Mishnah-tractate that they locate everything together that they wished to compile. We know that is the fact because the Mishnah-tractate defines the order of topics and the sequence of problems.

Relationships to the Mishnah are readily discerned; a paragraph stands at the head of a unit of thought; even without the full citation of the paragraph, we should find our way back to the Mishnah because at the head of numerous compositions, laid out in sequence one to the next, clauses of the Mishnah-paragraph are cited in so many words or alluded to in an unmistakable way. So without printing the entire Mishnah-paragraph at the head, we should know that the received code formed the fundamental structure because so many compositions cite and gloss sentences of the Mishnah-paragraph and are set forth in sequence dictated by the order of sentences of said Mishnah-paragraph. Internal evidence alone suffices, then, to demonstrate that the structure of the tractate rests upon the Mishnah-tractate cited and discussed here. Not only so, but the sentences of the Mishnah-paragraphs of our tractate are discussed in no other place in the entire Talmud of the Land of Israel in the sequence and systematic exegetical framework in which they are set forth here; elsewhere we may find bits or pieces, but only here, the entirety of the tractate.

That statement requires one qualification, and that further leads us to the analytical task of our outline. While the entire Mishnah-tractate of treated here is cited in the Talmud of the Land of Israel, the framers of the Talmud of the Land of Israel by no means find themselves required to say something about every word, every sentence, every paragraph. On the contrary, they discuss only what they choose to discuss, and glide without comment by large stretches of the tractate. A process of selectivity, which requires description and analysis, has told the compilers of the Talmud of the Land of Israel's composites and the authors of its compositions (This statement requires refinement. I do not know that all available compositions have been reproduced, and that the work of authors of compositions of Mishnah-exegesis intended for a talmud is fully exposed in the document as we have it. That is not only something we cannot demonstrate – we do not have compositions that were not used, only the ones that were – but something that we must regard as unlikely on the face of matters. All we may say is positive: the character of the compositions that address Mishnah-exegesis tells us about the concerns of the

writers of those compositions, but we cannot claim to outline all of their concerns, on the one side, or to explain why they chose not to work on other Mishnah-sentences besides the ones treated here. But as to the program of the compositors, that is another matter: from the choices that they made (out of a corpus we cannot begin to imagine or invent for ourselves) we may describe with great accuracy the kinds of materials they wished to include and the shape and structure they set forth out of those materials. We know what they did, and that permits us to investigate why they did what they did. What we cannot know is what they did not do, or why they chose not to do what they did not do. People familiar with the character of speculation and criticism in Talmudic studies will understand why I have to spell out these rather commonplace observations. I lay out an argument based on evidence, not on the silences of evidence, or on the absence of evidence – that alone.) what demands attention, and what does not. Our outline has therefore to signal not only what passage of the Mishnah-tractate is discussed, but also what is not discussed, and we require a general theory to explain the principles of selection (“making connections, drawing conclusions” meaning, to begin with, making selections). For that purpose, in the outline, I reproduce the entirety of a Mishnah-paragraph that stands at the head of a Talmudic composite, and I underscore those sentences that are addressed, so highlighting also those that are not.

It follows that the same evidence that justifies identifying the Mishnah-tractate as the structure (therefore also the foundation of the system) of Yerushalmi-tractate before us also presents puzzles for considerable reflection. The exegesis of Mishnah-exegesis is only one of these. Another concerns the purpose of introducing into the document enormous compositions and composites that clearly hold together around a shared topic or proposition, e.g., my appendix on one theme or another, my elaborate footnote providing information that is not required but merely useful, and the like. My earlier characterization of composites as appendices and footnotes signalled the fact that the framers of the document chose a not-entirely satisfactory way of setting out the materials they wished to include here, for large components of the tractate do not contribute to Mishnah-exegesis in any way at all. If these intrusions of other-than-exegetical compositions were proportionately modest, or of topical composites negligible in size, we might dismiss them as appendages, not structural components that bear much of the weight of the edifice as a whole. Indeed, the language that I chose for identifying and defining these composites – footnotes, appendices, and the like – bore the implication that what is not Mishnah-commentary also is extrinsic to the Talmud of the Land of Israel’s structure and system.

But that language served only for the occasion. In fact, the outline before us will show that the compositions are large and ambitious, the composites formidable and defining. Any description of the tractate’s structure that dismisses as mere accretions or intrusions so large a proportion of the whole misleads. Any notion that “footnotes” and “appendices” impede exposition and disrupt thought, contribute extraneous information or form tacked-on appendages – any such notion begs the question: then why fill up so much space with such purposeless information? The right way is to ask whether the document’s topical composites

play a role in the re-presentation of the Mishnah-tractate by the compilers of the Talmud of the Land of Israel. We have therefore to test two hypotheses:

1. the topical composites (“appendices,” “footnotes”) do belong and serve the compilers’ purpose

or

2. the topical composites do not participate in the re-presentation of the Mishnah-tractate by Yerushalmi and do not belong because they add nothing and change nothing.

The two hypotheses may be tested against the evidence framed in response to a single question: is this topical composite necessary? The answer to that question lies in our asking, what happens to the reading of the Mishnah-tractate in light of the topical composites that would not happen were we to read the same tractate without them? The outline that follows systematically raises that question, with results specified in due course. It suffices here to state the simple result of our reading of the tractate, start to finish: the question of structure, therefore also that of system, rests upon the position we identify for that massive component of the tractate that comprises not Mishnah-commentary but free-standing compositions and composites of compositions formed for a purpose other than Mishnah-commentary.

The principal rubrics are given in small caps. The outline takes as its principal rubrics two large-scale organizing principles.

The first is the divisions of the Mishnah-tractate to which the Talmud of the Land of Israel-tractate serves as a commentary. That simple fact validates the claim that the tractate exhibits a fully-articulated structure. But the outline must also underscore that the Mishnah-tractate provides both more and less than the paramount outline of the Talmud of the Land of Israel-tractate. It is more because sentences in the Mishnah-tractate are not analyzed at all. These untreated Mishnah-sentences are given in bold face lower case caps, like the rest of the Mishnah, but then are specified by underlining and enclosure in square brackets.

Second, it is less because the structure of the tractate accommodates large composites that address topics not defined by the Mishnah-tractate. That brings us to the second of the two large-scale modes of holding together both sustained analytical exercises and also large sets of compositions formed into cogent composites. These are treated also as major units and are indicated by Roman numerals, alongside the Mishnah-paragraphs themselves; they are also signified in small caps. But the principal rubrics that do not focus on Mishnah-commentary but on free-standing topics or propositions or problems are not given in boldface type. Consequently, for the purposes of a coherent outline we have to identify as

autonomous entries in our outline those important composites that treat themes or topics not contributed by the Mishnah-tractate.

I. YERUSHALMI SOTAH 1:1

[A] **HE WHO EXPRESSES JEALOUSY TO HIS WIFE [CONCERNING HER RELATIONS WITH ANOTHER MAN (NUM. 5:14)] –**

- I:1:** It is written, “If the spirit of jealousy comes upon him, and he is jealous of his wife who has defiled herself” (Num. 5:14). [The meaning is] that he should not express a spirit of jealousy toward her in a moment of levity or in the midst of idle chatter, or in a setting of lightheadedness or harsh argument, but in a spirit of patience [reversing the order of the penultimate and ultimate items]. If he transgressed and expressed his jealousy to her in one of these ways, what is the law?
- I:2:** R. Joshua said in the name of R. Eliezer, “It is a firm obligation [for a husband to express his jealousy to the wife, should occasion warrant it. [He has no choice.]]” R. Joshua said, “It is a matter of choice.”

[B] **R. ELIEZER SAYS, “HE EXPRESSES JEALOUSY BEFORE TWO WITNESSES, AND HE IMPOSES ON HER THE REQUIREMENT OF DRINKING THE BITTER WATER ON THE TESTIMONY OF A SINGLE WITNESS OR EVEN ON HIS OWN EVIDENCE [THAT SHE HAS BEEN ALONE WITH THE NAMED MAN].”**

- II:1:** And what is the Scriptural basis for the position of R. Eliezer [at M. 1:1B]?
- II:2:** It was taught: R. Yosé b. R. Judah says in the name of R. Eliezer, “He expresses jealousy on the testimony of a single witness or even on his own evidence. And he imposes the requirement of drinking the bitter water on the testimony of two witnesses [that she has been alone with the named man] [vs. M. 1:1B] [T. Sot. 1:1].
- II:3:** [In accord with Eliezer’s position at M. 1:1B,] as to imposing the requirement of drinking the bitter water on the testimony of a single witness, what [is the basis for that position]? As to a relative, what is the law as to his having the power to testify and so require the wife to undergo the rite?

[C] **R. JOSHUA SAYS, “HE EXPRESSES JEALOUSY BEFORE TWO WITNESSES, AND HE REQUIRES HER TO DRINK THE BITTER WATER BEFORE TWO WITNESSES.”**

1. **III:1:** What is the Scriptural basis for The position of R. Joshua?
2. **III:2:** [With reference to the statement, R. Yosé b. R. Judah says in the name of R. Eliezer, “He expresses jealousy on the testimony of a single witness or even on his own evidence. And he imposes the requirement of drinking the bitter water on the testimony of two witnesses that she has been alone with the named man [T. Sot. 1:1], [Sages] replied to the position of R. Yosé b. R. Judah, “[If the husband claims to have warned the wife on the basis of his own evidence, or on the basis of a single witness, and that suffices,] then there is no end to the matter [since the husband can always claim, without corroborating evidence, to have warned the wife about thus and so].
3. **III:3:** Witnesses who testify that the husband has expressed jealousy [concerning a particular man] who are proved to be perjurers are flogged [on account of committing perjury].
4. **III:4:** If the wife was accused by one witness of having gone in the morning in private [with the named man], and if she then was accused by another witness of having gone in the evening in private with the named man, [what is the law]? [Does this constitute testimony which is joined together, so that, in Joshua’s view, that case is now complete?]
5. **III:5:** If the husband expressed jealousy to her in the presence of a single witness in the morning, and in the presence of another witness at the eventide, since this is a single person [who has expressed the jealousy, namely the husband, and she is a single person [to whom the jealousy was expressed], do we say that this is a valid act of expressing jealousy or not?

II. YERUSHALMI SOTAH 1:2

[A] HOW DOES HE EXPRESS JEALOUSY TO HER? [IF] HE STATED TO HER BEFORE TWO WITNESSES, “DO NOT SPEAK WITH MR. SO-AND-SO,” AND SHE INDEED SPOKE WITH HIM, SHE STILL IS PERMITTED TO HAVE SEXUAL RELATIONS WITH HER HUSBAND AND IS PERMITTED TO EAT HEAVE-OFFERING.

1. **I:1:** The operative criterion, therefore, appears to be that she actually talk with the named man, [since M. 1:2B refers to speaking with the man]. Then if she should go to some secluded place with him, but did not say a thing to him, is her being in private with him nothing?

2. **I:2:** What is the law as to the husband's expressing jealousy to her about two different men simultaneously?
3. **I:3:** If she went with him [to some private place – Said R. Mana, "The language in use is, 'With him.' Lo, if they walked single file, there is no objection." R. Abin said, "Even if they walked single file, in any event there is reason to suspect [that] something [is going on]."
4. **I:4:** They asked Ben Zoma, "Why is a doubt in private domain deemed unclean?" He said to them, "What is the status of the accused wife in respect to her husband? Has she certainly committed adultery, or has she only possibly committed adultery?" They said to him, "[She has only] possibly [committed adultery]." He said to them, "Nonetheless, we find that she is prohibited to her husband. On this basis you may also reason on a matter of doubt involving a creeping thing: Just as, in this case, in private do main, we deem a matter of doubt to be unclean, so in the other case, in private domain, we deem a matter of doubt to be unclean.
5. **I:5:** There we have learned: In respect to all other forbidden sexual relations. Scripture has treated him who begins the sexual act as culpable just as is he who completes it, and such a one is liable for each and every act of sexual relations. But this strict rule does the law impose even more stringently in the case of the bondswoman: it treats in her regard the man who does the act intentionally as equivalent to the one who does it inadvertently [M. Ker. 2:4K-M]. R. Jeremiah, R. Ba bar Mamel in the name of Rab, "The sexual relations [referred to in connection with the slave woman, 'If a man lies carnally with a woman who is a slave, betrothed to another man...' (Lev. 19:20)], refers to an actual emission of semen. Now here, [with regard to the betrothed slave woman], sexual relations are mentioned, and there, [with regard to the accused wife], sexual relations are at issue [Num. 5:13, cited at H]. In the present case, the law holds that sexual relations mean an actual emission of semen, while in regard to the accused wife, you say [that merely if the woman remains with the named man for sufficient time to become unclean, even if sexual relations do not actually take place, she is subject to the ordeal].

[B] [If] SHE WENT WITH HIM TO SOME PRIVATE PLACE AND REMAINED WITH HIM FOR SUFFICIENT TIME TO BECOME UNCLEAN, SHE IS PROHIBITED FROM HAVING SEXUAL RELATIONS WITH HER HUSBAND AND [IF THE HUSBAND IS A PRIEST,] SHE IS PROHIBITED FROM EATING HEAVE-OFFERING. AND IF HE [HER HUSBAND] SHOULD DIE, SHE PERFORMS THE RITE OF HALISAH [REMOVING THE SHOE, WHICH SEVERS HER RELATIONSHIP TO THE CHILDLESS HUSBAND'S SURVIVING

BROTHER, IN LINE WITH THE LAW OF Dt. 25:5-10] BUT IS NOT TAKEN INTO LEVIRATE MARRIAGE.

- 1.** **II:1:** And how long is “the time required for becoming unclean” [M. 1:2D]? Sufficient time to have sexual relations. And how much is sufficient time for having sexual relations? Sufficient time for sexual contact. And how much is sufficient time for sexual contact? Sufficient time to uncover [the sexual organs].
- 2.** **II:2:** It was taught: Rabbi says, “There are three references to uncleanness stated in [the commencement of] the pericope [on the accused wife, each one prohibiting the woman in some aspect]. One refers to [prohibiting return to] the husband, one [prohibiting marriage to] the lover, and one to [prohibiting her from eating] heave offering.” [The references to uncleanness or defilement are as follows: “If a man lies with her carnally... and she is undetected though she has defiled herself” (Num. 5:13); “and he is jealous of his wife, who has defiled herself” (Num. 5:14); “and he is jealous of his wife, though she has not defiled herself” (Num. 5:14)]
- 3.** **II:3:** As to the accused wife, just as she is prohibited from returning to her husband [M. 1:2E], so she is prohibited from marrying her lover. Just as she is prohibited from marrying the brother of her husband, so she is forbidden from marrying the brother of her lover [M. 1:2F]. Is it then possible to argue: just as the co-wife of the accused wife is forbidden to marry the brother of her husband, so [if the lover marries her and dies childless] she would be forbidden to marry the brother of her lover?
- 4.** **II:4:** R. Zeira in the name of R. Yohanan: “The co-wife of an accused wife is forbidden [to enter into a levirate marriage], and the co-wife of a divorcée [whom the husband remarried] is permitted to enter levirate marriage.”

III. YERUSHALMI SOTAH 1:3

[A] AND THESE WOMEN [MARRIED TO PRIESTS AND ACCUSED OF UNFAITHFULNESS] ARE PROHIBITED FROM EATING HEAVE-OFFERING: (1) SHE WHO SAYS, “I AM UNCLEAN TO YOU,” AND (2) SHE AGAINST WHOM WITNESSES TESTIFIED THAT SHE IS UNCLEAN; AND (3) SHE WHO SAYS, “I SHALL NOT DRINK THE BITTER WATER,” AND (4) SHE WHOSE HUSBAND WILL NOT FORCE HER TO DRINK IT; AND (5) SHE WHOSE HUSBAND HAS SEXUAL RELATIONS WITH HER ON THE WAY

[UP TO JERUSALEM FOR THE RITE OF DRINKING THE WATER]. WHAT SHOULD HE DO IN RESPECT TO HER?

1. **I:1:** The Mishnah pericope before us does not accord with the views expressed in the first Mishnah, in which we have learned: Aforetimes they did rule: Three sorts of women go forth and collect their marriage contract: (1) she who says, "I am unclean for you," (2) "Heaven [knows] what is between you and me [namely, your impotence]," "I am removed from [having sexual relations with] all the Jews." They reverted to rule: so that a woman should not covet someone else and spoil [her relationship with] her husband, but:(1) she who says, "I am unclean for you," must bring proof for her claim. (2) [She who says,] "Heaven [knows] what is between you and me," – let them find a way to appease her. (3) [She who says,] "I am removed from all the Jews," let him annul his share [in the vow], so that she may have sexual relations with him, but let her be removed from all the other Jews [M. Ned. 11:12]. [Now the present pericope accepts the woman's testimony without her bringing corroborating evidence, thus in accord with the position of the first Mishnah, while the later version, that she has to bring evidence, contradicts the present rule]

2. **I:2:** *It was taught:* "And some man other than your husband has lain with you" (Num. 5:20) thus excluding a case in which the sexual relations with another man came before those with your husband [that is, excluding a case in which the woman has sexual relations with the named man prior to marriage to her husband]. [The curse will then not apply.]

[B] **HE BRINGS HER TO THE COURT IN THAT PLACE [IN WHICH THEY LIVE], AND [THE JUDGES] HAND OVER TO HIM TWO DISCIPLES OF SAGES, LEST HE HAVE SEXUAL RELATIONS WITH HER ON THE WAY.**

1. **II:1:** [With reference to M. 1:3G, He brings her to the court in that place [in which they live, and the judges hand over to him two disciples of sages, lest he have sexual relations with her on the way,] R. Hiyya bar Joseph sent after his wife and gave orders for three disciples to go with her, so that, if one of them would have to turn aside [to heed a call of nature], she would be left alone with two others."

[C] **R. JUDAH SAYS, "HER HUSBAND IS TRUSTWORTHY IN REGARD TO HER [NOT TO HAVE SEXUAL RELATIONS IN THIS CIRCUMSTANCE]."**

1. **III:1:** [With regard to Judah's position, that the husband is believed, the following alludes to and then carries forward M. Ket. 2: 9F-H: A

person is not believed to testify in his own behalf. Said R. Zekhariah b. Haqqassab, “By this sanctuary! Her hand did not move from mine from the time that the gentiles entered Jerusalem until they left it. “ They said to him, “A person cannot give testimony in his own behalf. “[] But even so, he set aside a house for her by herself. She was supported by his property. But he never was alone with her, except at the instance [in the presence] of her children [T. Ket. 3: 2E].

2. **III:2:** It was taught [following the Tosefta’s version: Judah says, “Her husband is trustworthy in regard to her not to have sexual relations in this circumstance” [M. Sot. 1:3G], on the basis of an argument a fortiori. Now if in the case of a menstruating woman, on account of sexual relations with whom one incurs the penalty of extirpation, her husband is trustworthy in regard to her, in the case of an accused wife, on account of which the husband does not incur the penalty of extirpation, is it not logical that her husband should be deemed trustworthy in regard to her?”

IV. YERUSHALMI SOTAH 1:4

[A] THEY WOULD BRING HER UP TO THE HIGH COURT WHICH IS IN JERUSALEM AND ADMONISH HER AS THEY ADMONISH WITNESSES IN A CAPITAL CRIME. THEY SAY TO HER, “MY DAUGHTER, MUCH IS DONE BY WINE, MUCH IS DONE BY JOKING AROUND, MUCH IS DONE BY KIDDING AROUND, MUCH IS DONE BY BAD FRIENDS. FOR THE SAKE OF THE GREAT NAME WHICH IS WRITTEN IN HOLINESS, DO IT SO THAT IT WILL NOT BE BLOTTED OUT BY WATER (NUM. 5:23):

1. **I:1:** And just as the court admonishes her to repent, so they admonish her not to repent. Therefore they say to her, “Now my daughter, if it is perfectly clear to you that you are clean, stand your ground and drink. For these waters are like a dry salve which is put on living flesh and does no harm. If there is a wound, it penetrates and goes through [the skin; if there is no wound, it has no effect]” [T. Sot. 1:6].
2. **I:2:** R. Zabedeh, son-in-law of R. Levi, would tell the following story.

[B] AND THEY TELL HER THINGS WHICH NEITHER SHE NOR THE FAMILY OF HER FATHER’S HOUSE SHOULD BE HEARING.

1. **II:1:** For example: the story of Reuben and Bilhah, the story of Judah and Tamar.
 - a. **II:2:** R. Hezekiah in the name of R. Aha, R. Hiyya, interpreted the following three verses as intended to express praise: She sat

at the entrance of Enaim [‘eyes’]” (Gen. 38 :14). Is it possible that this is so? Even the most reprobate of whores does not do it that way! But: She set her eyes at that gate to which all eyes look, saying before Him, “Lord of all ages! Let me not go forth empty-handed from this household.”

V. YERUSHALMI SOTAH 1:5

[A] [NOW] IF SHE SAID, “I AM UNCLEAN,” SHE GIVES A QUITTANCE FOR HER MARRIAGE-CONTRACT [WHICH IS NOT PAID OVER TO HER], AND GOES FORTH [WITH A WRIT OF DIVORCE]. AND IF SHE SAID, “I AM CLEAN,” THEY BRING HER UP TO THE EASTERN GATE, WHICH IS AT THE ENTRANCE OF NICANOR’S GATE. THERE IT IS THAT THEY FORCE ACCUSED WIVES TO DRINK THE BITTER WATER, AND THEY PURIFY WOMEN AFTER CHILDBIRTH AND PURIFY LEPERS.

1. I:1: It is written, “And the priest shall bring her near, and set her before the Lord” (Num. 5:16). This refers to Nicanor’s Gate.
2. I:2: It is written, “If a man sins against a man, God will mediate for him; but if a man sins against the Lord, who can intercede for him?” (I Sam. 2:25). R. Hiyya bar Ba and R. Joshua b. Levi: R. Hiyya bar Ba interpreted the passage to apply to the lover.

[B] AND A PRIEST GRABS HER CLOTHES — IF THEY TEAR, THEY TEAR, AND IF THEY ARE RIPPED UP, THEY ARE RIPPED UP — UNTIL HE BARES HER BREAST. AND HE TEARS HER HAIR APART [NUM. 5:18]. R. JUDAH SAYS, “IF SHE HAD PRETTY BREASTS, HE DID NOT LET THEM SHOW. AND IF SHE HAD PRETTY HAIR, HE DID NOT PULL IT APART.

1. II:1: Now do they humiliate the woman merely by reason of doubt [in the procedures specified at M. I:5E-G]?
2. I:2: The Scripture states that they recite the formula to the woman, and then they humiliate her (Num. 5:19-22, 23-27). The Mishnah, [by contrast], states that they humiliate her and afterward they read the curse to her.

VI. YERUSHALMI SOTAH 1:6

[A] [IF] SHE WAS CLOTHED IN WHITE CLOTHING, HE PUTS BLACK CLOTHES ON HER. [IF] SHE HAD GOLD JEWELRY, CHAINS, NOSE-RINGS, AND FINGER RINGS ON, THEY TAKE THEM AWAY FROM HER TO PUT HER TO SHAME.

1. **I:1:** The Mishnah pericope [at M. 1:6A] speaks of a case in which [black clothes] are not becoming to her.

[B] **THEN HE BRINGS AN EGYPTIAN ROPE AND TIES IT ABOVE HER BREASTS. AND WHOEVER WANTS TO STARE AT HER COMES AND STARES, EXCEPT FOR HER BOY-SLAVES AND GIRL-SLAVES, SINCE IN ANY CASE SHE HAS NO SHAME BEFORE THEM. AND ALL WOMEN ARE ALLOWED TO STARE AT HER, SINCE IT IS SAID, THAT ALL WOMEN MAY BE TAUGHT NOT TO DO AFTER YOUR LEWDNESS (EZEK. 23:48).**

1. **II:1:** And why an Egyptian rope?
2. **I:2:** R. Jeremiah raised the question, “Is the Egyptian rope essential to the rite? Is the Egyptian basket [referred to at M. Sot. 2:1] essential to the rite?” [This inquiry is not answered.]

VII. YERUSHALMI SOTAH 1:7

[A] **BY THAT SAME MEASURE BY WHICH A MAN METES OUT [TO OTHERS], DO THEY METE OUT TO HIM: SHE PRIMPED HERSELF FOR SIN, THE OMNIPRESENT MADE HER REPULSIVE. SHE EXPOSED HERSELF FOR SIN, THE OMNIPRESENT EXPOSED HER. WITH THE THIGH SHE BEGAN TO SIN, AND AFTERWARD WITH THE BELLY, THEREFORE THE THIGH SUFFERS THE CURSE FIRST, AND AFTERWARD THE BELLY. BUT THE REST OF THE BODY DOES NOT ESCAPE [PUNISHMENT].**

1. **I:1:** R. Meir did say [following the Tosefta’s version]: “On what basis do you rule that by the same measure by which a man metes out, they mete out to him [M. 1:7A]? Since it is said, ‘By measure in sending her away thou dost contend with her’ (Is. 27:8) – I know only that he measured out with a seah. How do I know that [if] he measured out with a qab, a half-qab, a third-qab, a half-third-qab, a quarter qab, a half quarter qab, an eighth qab, twentieth qab [the same rule applies]? Since it says, ‘For all the armor of the armed man in the tumult’ (Is. 9:5), lo, you have here many measures. I know only that this applies to something which comes by measure. How do I know that a few perutot add up to a large sum? Since it is said, ‘Laying one thing to another to find out the account’ (Qoh. 7:27) [T. Sot. 3:1].
2. **I:2:** R. Meir would say, “Just as there are diverse tastes in regard to food, so there are diverse tastes in regard to women[’s behavior]. You can find a man on whose cup a fly flits by, and he will put it aside and won’t even taste what’s in that cup. This one is a bad lot for women, for he is [always] contemplating divorcing his wife. You can find a

man in whose cup a fly takes up residence. So he tosses it out and does not drink what is in it. Such a one is like Pappos b. Judah, who used to lock his door to keep his wife inside when he went out. And you can find a man into whose cup a fly falls, and he tosses it away and drinks what is in the cup.”

- I:3:** One Scripture says, “... make your body swell and your thigh fall away” (Num. 5:22). And another Scripture says, “... her body shall swell, and her thigh shall fall away” (Num. 5:27). And yet another verse of Scripture says, “When the Lord makes your thigh fall away and your body swell” (Num. 5:21). Does one verse of Scripture determine the meaning of two other Scriptural verses? [What does the water really affect?]

VIII. YERUSHALMI SOTAH 1:8

[A] **SAMSON FOLLOWED HIS EYES [WHERE THEY LED HIM], THEREFORE THE PHILISTINES PUT OUT HIS EYES, SINCE IT IS SAID, AND THE PHILISTINES LAID HOLD ON HIM AND PUT OUT HIS EYES (JUDGES 16:21).**

- I:1:** It was taught: Rabbi says, “Since the beginning of his ruin took place in Gaza, therefore he was punished in Gaza.” And it is not written: “Samson went down to Timnah, [and at Timnah he saw one of the daughters of the Philistines]” (Judg. 14: 1)? Said R. Samuel bar Nahman, “The one [woman] in Timnah he took in marriage.”
- I:2:** It is written, “[Then Samson went down with his father and mother to Timnah,] and he came to the vineyards of Timnah” (Judg. 14:5). Said R. Samuel bar R. Isaac, “This teaches that his father and his mother showed him the vineyards of Timnah, sewn in mixed seeds, and said to him, ‘Child, just as their vineyards are sewn with mixed seeds, so their daughters are sewn with mixed seeds.’”
- I:3:** It is written, “And the spirit of the Lord began to stir him... between Zorah and Eshtaol” (Judg. 13:25). There are two Amoraim who interpret this passage. One of them said, “When the Holy Spirit rested upon him, his footsteps were as if from Zorah and Eshtaol. “ The other one said, “When the Holy Spirit rested on him, his hair grew stiff like a bell, and the sound went as between Zorah and Eshtaol.”
- I:4:** [And the woman bore a son, and called his name Samson; and the boy grew] and the Lord blessed him” (Judg. 13:24). R. Huna in the

name of R. Yosé: “For [despite his great strength,] his sexual capacities were like those of any other man.”

- 5. I:5:** It is written, “[Then Samson called out to the Lord and said, ‘O Lord God, remember me, I pray thee, and strengthen me, I pray thee, only this once, O God,] that I may be avenged upon the Philistines for one of my two eyes’” (Judg. 16:28). Said R. Aha, “He said before him, ‘Lord of the world! Give me the reward of one of my eyes in this world, and let the reward for the other eye be readied for me in the world to come.’”

[B] ABSALOM WAS PROUD OF HIS HAIR, THEREFORE HE WAS HUNG BY HIS HAIR [2 SAM. 14:25-26]. AND SINCE HE HAD SEXUAL RELATIONS WITH TEN CONCUBINES OF HIS FATHER, THEREFORE THEY THRUST TEN SPEAR HEADS INTO HIS BODY, SINCE IT IS SAID, AND TEN YOUNG MEN THAT CARRIED JACOB’S ARMOR SURROUNDED AND SMOTE ABSALOM AND KILLED HIM (2 SAM. 18:15).

- 1. II:1:** R. Haninah said, “It was like a large carob tree.” Might you think [that Absalom with his head of hair was slender, looking] like a kindon tree? R. Bibi in the name of R. Yohanan, “They were arranged in single stalks.”

- 2. II:2:** It is written, “Now in all Israel there was no one so much to be praised for his beauty as Absalom” (2 Sam. 14:25). Is it possible that this was in all ways? [Indeed so.] Scripture says, “From the sole of his foot to the crown of his head, there was no blemish in him” (2 Sam. 14:25) It is written, “And he had a son whose name was Saul, a handsome young man. There was not a man among the people of more handsome than he” (1 Sam 9 2) Is it possible that this was in all ways? Scripture states, “From his shoulders upward he was taller than any of the people” (1 Sam 9:2).

[C] AND SINCE HE STOLE THREE HEARTS — HIS FATHER’S, THE COURT’S, AND THE ISRAELITE’S — SINCE IT IS SAID, AND ABSALOM STOLE THE HEART OF THE MEN OF ISRAEL (2 SAM. 15:6) — THEREFORE THREE DARTS WERE THRUST INTO HIM, SINCE IT IS SAID, AND HE TOOK THREE DARTS IN HIS HAND AND THRUST THEM THROUGH THE HEART OF ABSALOM (2 SAM. 18:14).

- 1. III:1:** His father’s, as it is written, “And at the end of forty years [Absalom said to the king, ‘Pray let me go and pay my vow, which I have vowed to the lord, in Hebron]” (2 Sam. 15:7). And the heart of the court: “Absalom said moreover, ‘O that I were a judge in the land!’” (2 Sam. 15:4). “Thus Absalom did [to all of Israel who came to the king for judgment]” (2 Sam. 15:6). And the heart of all Israelites: “So Absalom stole the hearts of the men of Israel” (2 Sam. 15:6).

IX. YERUSHALMI SOTAH 1:9

[A] AND SO IS IT ON THE GOOD SIDE: MIRIAM WAITED A WHILE FOR MOSES, SINCE IT IS SAID, AND HIS SISTER STOOD AFAR OFF (EX. 2:4), THEREFORE, ISRAEL WAITED ON HER SEVEN DAYS IN THE WILDERNESS, SINCE IT IS SAID, AND THE PEOPLE DID NOT TRAVEL ON UNTIL MIRIAM WAS BROUGHT IN AGAIN (NUM. 12:15).

1. I:1: Said R. Yohanan, “The following verse was stated through the Holy Spirit: ‘And his sister stood at a distance, [to know what would be done to him]’ (Ex. 2:4).”

X. YERUSHALMI SOTAH 1:10

[A] JOSEPH HAD THE MERIT OF BURYING HIS FATHER, AND NONE OF HIS BROTHERS WAS GREATER THAN HE, SINCE IT IS SAID, “AND JOSEPH WENT UP TO BURY HIS FATHER...AND THERE WENT UP WITH HIM BOTH CHARIOTS AND HORSEMEN” (GEN. 50:7, 9). WE HAVE NONE SO GREAT AS JOSEPH, FOR ONLY MOSES TOOK CARE OF HIS [BONES]. MOSES HAD THE MERIT OF BURYING THE BONES OF JOSEPH, AND NONE IN ISRAEL WAS GREATER THAN HE, SINCE IT IS SAID, “AND MOSES TOOK THE BONES OF JOSEPH WITH HIM” (EX. 13:19). WE HAVE NONE SO GREAT AS MOSES, FOR ONLY THE HOLY ONE BLESSED HE BE TOOK CARE OF HIS [BONES], SINCE IT IS SAID, “AND HE BURIED HIM IN THE VALLEY” (DEUT. 34:6). AND NOT OF MOSES ALONE HAVE THEY STATED [THIS RULE], BUT OF ALL RIGHTEOUS PEOPLE, SINCE IT IS SAID, “AND YOUR RIGHTEOUSNESS SHALL GO BEFORE YOU. THE GLORY OF THE LORD SHALL GATHER YOU [IN DEATH]” (IS. 58:8).

1. I:1: Said R. Isaac, “The glory of the Life of the Ages was with them [when they went to bury Jacob.]” It is written, “When they came to the threshing floor of Atad [thorn]” (Gen. 50:11). Now do they thresh thorns? Said R. Samuel bar Nahman, “We have examined the whole of Scriptures and have not found a place called Atad. But what is the meaning of Atad [as thorns]? These are the Canaanites, who were worthy of being put to death through threshing in thorns [when the Israelites conquered the land].” By what merit were they saved? It was by the merit of [the following action]: “The inhabitants of the land, the Canaanites, saw the mourning on the threshing floor of Atad, and they said, ‘this is a grievous mourning to the Egyptians’” (Gen. 50:11).

2. **I:2:** Said R. Abbahu, “All those seventy days which passed between the letters [sent by Haman, on the one side, and Mordecai, on the other, the thirteenth of Nisan and the twenty third of Sivan] corresponded to the seventy days in which the Egyptians were occupied in burying our father, Jacob.”
3. **I:3:** It is written, “And David lamented with this lamentation over Saul and Jonathan his son, and he said... that the use of the bow should be taught to the people of Judah” (2 Sam. 1:17-18). This is surely odd [that the Judaeans would have to learn how to use a bow]. He could not have meant to teach the Judaeans [since he came from a different area]. But David said, “Since the righteous take their leave, and those who hate Israel come and oppress them, [the Judaeans had best learn to protect themselves].”
4. **I:4:** Behold, is it not written in the book of the upright” (2 Sam. 1:18) – Two Amoras [treat this matter]. One said, “This is the book of Genesis.” The other said, “This is the book of Numbers.”
5. **I:5:** “The people of Israel journeyed from Beeroth Bene Jaakan to Moserah. There Aaron died” (Deut. 10:6). Now did Aaron die in Moserah? And was it not at Mount Hor that he died? That is in line with the following verse of Scripture: “And Aaron, the priest, went up Mount Hor at the command of the Lord, and died there” (Num. 33:38). But once Aaron died, the clouds of glory departed from Israel, and the Canaanites sought to make trouble for Israel.
6. **I:6:** “And Moses took the bones of Joseph] with him” (Ex. 13:19) – R Qerispai in the name of R. Yohanán: “‘With him’ – with your own soul you have done [this deed].”
7. **I:7:** It was taught in the name of R. Judah, “If the matter were not written in Scripture, it would not be possible to say it at all. Moses acquired merit [through burying] the bones of Joseph, so only the Omnipresent, blessed be He, took care of him, since it is said, And he buried him in the valley (Deut. 34:6) [M. Sot. 1:9E-F]. This teaches that Moses was laid upon the wings of the Presence for four mils. from the portion of Reuben to the portion of Gad.

XI. YERUSHALMI SOTAH 2:1

[A] HE [THE HUSBAND (NUM. 5:15)] WOULD BRING HER MEAL-OFFERING IN A BASKET OF PALM-TWIGS AND LAY IT INTO HER HANDS TO TIRE HER OUT.

1. **I:1:** It is written, “And in his hand the priest shall have the water of bitterness that brings the curse” (Num. 5:18). If that is the case, then how can it be to tire her out [so that she will confess before the Holy Name is blotted out by the water]? [Here the priest holds the water, since she holds the meal, so how can this tire her out]?
2. **I:2:** [When M. 2:1A refers to] her meal offering, it indicates that the meal offering is consecrated for her in particular. Just as it is consecrated for her in particular, so it is consecrated for him in particular.
 - a. **I:3:** As to her husband’s separating the offering without her knowledge and consent, what is the law? [Either her offering is in his name as well as hers, as just proved, so he may do so, or the offering is for her sake, so he may not.] As to another party’s separating the offering without her knowledge and consent, what is the law?

[B] ALL MEAL-OFFERINGS AT THE OUTSET AND AT THE END ARE IN A UTENSIL OF SERVICE. BUT THIS ONE AT THE OUTSET IS IN BASKET OF PALM-TWIGS, AND [ONLY] AT THE END IS IN A UTENSIL OF SERVICE.

1. **II:1:** The manner in which meal offerings are brought is as follows They bring the offering from home in a silver or gold utensil, [and not as specified]. But [the offering under discussion] is suitable to be brought in a utensil of service [and that is the Mishnah’s meaning].

[C] ALL MEAL-OFFERINGS REQUIRE OIL AND FRANKINCENSE, BUT THIS ONE REQUIRES NEITHER OIL NOR FRANKINCENSE. ALL MEAL-OFFERINGS DERIVE FROM WHEAT. BUT THIS ONE DERIVES FROM BARLEY.

1. **III:1:** R. Simeon bar Yohai taught, “On what account have they ruled, ‘All sin offerings and guilt offerings in the Torah do not require drink offerings [along with them]’? So that the offering of a sinner should not be adorned [in a lovely way. And the same consideration applies here.]”
 - a. **III:2:** R. Yohanan in the name of R. Ishmael, “It is written, ‘[If you offer a cereal] offering [of first fruits to the Lord, you shall offer for the cereal offering of your first fruits crushed new grain from fresh ears, parched with fire]’ (Lev. 2:14). And it is written, ‘[... and bring] the offering [required of her, a tenth of an ephah of barley meal]’ (Num. 5:15). Just as meal offering stated in the latter context consists of barley, so that in the former likewise it is made up of barley.”

[D] AS TO THE MEAL-OFFERING OF THE FIRST SHEAF (OMER), EVEN THOUGH IT [TOO] DERIVES FROM BARLEY, IT WOULD DERIVE FROM SIFTED FLOUR. BUT THIS ONE DERIVES FROM UNSIFTED FLOUR. RABBAN GAMALIEL SAYS, “JUST AS SHE ACTED LIKE A COW, SO HER OFFERING IS FOOD FOR A COW.”

1. IV:1: R. Jonah [explained], “Pounded wheat is split into two, groats into three, and grits into four parts [when they ate milled] “

XII. YERUSHALMI SOTAH 2:2

[A] HE [THE HUSBAND] WOULD BRING A CLAY BOWL:

1. I:1: It was taught [in a Tannaite tradition]: [The husband would bring a new clay bowl. The Mishnah formulation [before us accords with the view] of R. Eleazar. For we have learned there: He would bring a new flask of clay [M. Neg. 14:1B]. Who teaches that it is to be a new flask? It is R. Eleazar.
 - a. I:2: There we have learned: A hyssop with which one has sprinkled [a person unclean with purification water] is fit for use [also] in purifying a leper [M. Par. 11:8A]. R. Immi in the name of R. Eleazar: “This [pericope of the Mishnah] excludes the position of R. Eleazar.”

[B] AND PUT IN IT A HALF-LOG OF WATER FROM THE LAVER. R. JUDAH SAYS, “A QUARTER-LOG.” AS HE [JUDAH] CALLS FOR LESS WRITING, SO HE CALLS FOR LESS WATER [M. 2:3H.] AND HE [THE PRIEST] GOES INTO THE HEKHAL AND TURNS TO HIS RIGHT. NOW THERE WAS A PLACE, AN AMAH BY AN AMAH, WITH A MARBLE FLAGSTONE, AND A RING WAS ATTACHED TO IT. AND WHEN HE RAISED IT [THE STONE], HE TOOK THE DIRT FROM UNDER IT AND PUT IT [INTO THE BOWL OF WATER], SUFFICIENT TO BE VISIBLE ON THE WATER, SINCE IT SAYS, “AND OF THE DUST THAT IS ON THE FLOOR OF THE TABERNACLE THE PRIEST SHALL TAKE AND PUT IT INTO THE WATER” (NUM. 5:17).

1. II:1: “And in his hand the priest shall have the water of bitterness that brings the curse” (Num. 5:18): “Water..” Is it possible that the water should have the hue of normal water? Scripture has said, “... that brings the curse...” [not normal water]. Is it possible that it should be the color of ink? Scripture has said, “Water.” How so? The water should have the appearance of water and the appearance of bitterness [brought about by the dirt from the ground]. Sages have given as its measure a half-log of water from the laver [M. 2:2B].
2. II:2: There we have learned: Helene, his mother, set a gold candlestick over the door to the sanctuary. She also made a golden tablet on which was written the pericope of the accused wife [M. Yoma 3:10D-E], so

that when the sun rises, sparks of golden light sparkle forth from it, so people know that the sun is rising [at which point they were to recite the Shema] [T. Kip. 2:3].

3. **II:3:** And why these matters of water, dirt, and writing [prior to the ordeal itself, as inducements to confess her sin]?
4. **II:4:** Three matters must be done for the particular woman at hand [and may not be made ready in advance for anyone who may come along]: [The writ of divorce]: “He will write for her” (Deut. 24:1). [The rites of the accused wife]: “He will do for her all of this law” (Num. 5:30). [The writ of emancipation of a slave woman] “not yet given her freedom” (Lev. 19:20).
5. **II:5:** R Pedat in the name of R. Yohanan: “Water used for the rite of the accused wife is invalidated if left standing overnight.” R. Aha in the name of R. Abina, “Any sort of material, part of which is not destined for the altar itself, is in no way rendered invalid by being left overnight.”
6. **II:6:** “[And the priest shall take] some of the dust [that is on the floor of the tabernacle and put it into the water]” (Num. 5:17). Might one think that the dirt may be taken from an available pile of dirt in a basket [and not from the floor of the Temple? Scripture specifies, “From the dust that is on the floor of the tabernacle.”

XIII. YERUSHALMI SOTAH 2:3

[A] **HE CAME TO WRITE THE SCROLL. FROM WHAT PASSAGE [IN SCRIPTURE] DID HE WRITE? FROM “IF NO MAN HAS LAIN WITH THEE... BUT IF THOU HAST GONE ASIDE WITH ANOTHER INSTEAD OF THY HUSBAND...” (NUM. 5:19). BUT HE DOES NOT WRITE, “AND THE PRIEST SHALL CAUSE THE WOMAN TO SWEAR” (NUM. 5:21). AND HE WRITES, “THE LORD MAKE THEE A CURSE AND AN OATH AMONG THY PEOPLE... AND THIS WATER THAT CAUSETH THE CURSE SHALL GO INTO THY BOWELS AND MAKE THY BELLY TO SWELL AND THY THIGH TO FALL AWAY.” BUT HE DOES NOT WRITE, “AND THE WOMAN SHALL SAY, AMEN, AMEN!” R. YOSÉ SAYS, “HE MADE NO BREAK.” R. JUDAH SAYS, “HE WRITES, IN FACT, ONLY, THE LORD MAKE THEE A CURSE AND AN OATH... AND THIS WATER THAT CAUSETH THE CURSE SHALL GO INTO THY BOWELS... “AND HE DID NOT WRITE, “AND THE WOMAN SHALL SAY, AMEN, AMEN!””**

- I:1:** R Qeruspai said, “There is a dispute between R. Yohanan and R. Simeon b. Laqish. One said, ‘The priest imposes the oath and then he writes [the curse down in the scroll, as at Num. 5:19, 5:23].’ The other one said, ‘He writes [the curse down in the scroll], and afterward he imposes the oath.’”

XIV. YERUSHALMI SOTAH 2:4

[A] HE WRITES (1) NEITHER ON A TABLET, (2) NOR ON PAPYRUS, (3) NOR ON UNPREPARED HIDE, BUT ONLY ON [PARCHMENT] SCROLL, SINCE IT IS WRITTEN, IN A BOOK (NUM. 5:23).

- I:1:** Levi bar Sisi raised the question before Rabbi: “As to the scroll written for the accused wife, what is the law on its imparting uncleanness to the hands?” He said to him, “That is a valid question.” Said R. Yosé, “It is not a valid question. Is it not so that they decreed that scrolls should impart uncleanness to the hands only because of their holiness? But this scroll is written to be blotted out, [so it is not holy to begin with and does not require the protection of the cited law].”
- I:2:** And how many [excess] letters may be written in [the scroll], such that it is no longer a valid [scroll], with the result that the blotting out is not required [by Scripture], so that one [who goes ahead and blots it out] will be liable on that account [for needlessly erasing the name of God]?
- I:3:** R. Yudan raised the question, “If one wrote the scroll from memory [and did not copy it from a copy before him, and then blotted it out], what is the law?”

[B] AND HE WRITES (1) NEITHER WITH GUM, (2) NOR WITH COPPERA, (3) NOR WITH ANYTHING WHICH MAKES A LASTING IMPRESSION [ON THE WRITING-MATERIAL], BUT ONLY WITH INK, SINCE IT IS WRITTEN, AND HE WILL BLOT IT OUT— WRITING WHICH CAN BE BLOTTED OUT.

- II:1:** It was taught: R. Eleazar b. Shammua says, “They do not write it on the hide of an unclean beast.” Said R. Simeon, “Since you have said that the scroll is written to be blotted out, why should he not write it [on such a hide]?”
- II:2:** Is it possible that he writes with ink, red ink, ink prepared with gum, or vitriol? Scripture says, “And he will blot out...” Since it says,

“And he will blot out...,” is it possible that it may be written with any sort of liquid (milk, blood, etc., [M. Makh. 6:4]) or with fruit juice? Scripture says, “And he will write.” How so? It must be writing which can be blotted out.

XV. YERUSHALMI SOTAH 2:5

[A] TO WHAT DOES SHE SAY, AMEN, AMEN? “AMEN TO THE CURSE” [NUM. 5:21], “AMEN TO THE OATH” [NUM. 5:19]. “AMEN THAT IT WAS NOT WITH THIS PARTICULAR MAN” “AMEN THAT IT WAS WITH NO OTHER MAN.” “AMEN THAT I HAVE NOT GONE ASIDE WHILE BETROTHED, MARRIED, “

1. I:1: R. Eleazar in the name of R. Yosé b. Zimrah, “[In saying the word ‘Amen’ in an oath, one makes three affirmations, as follows:] ‘Amen’ to receiving the oath, ‘Amen’ to the oath [itself, as at Num. 5:19], ‘Amen’ to confirm what has been said in the oath.”
2. I:2: Now how do we know that [sages] have learned to transfer the oath [from one matter to yet others relevant to the same party]? It is from the accused woman. [That is, how do we know that the same oath may cover more than the provisions for which it originally was invoked? It is from the case of the accused wife.]
3. I:3: There are Tannaim who repeat the tradition as follows: Just as the accused wife is subjected to a curse along with the oath, so all others who are subjected to an oath are subjected to both a curse and an oath. And there are Tannaim who repeat the tradition as follows: This particular one is subjected to a curse along with the oath, but no others who are subjected to an oath are subject to both a curse and an oath.

[B] AWAITING LEVIRATE MARRIAGE: OR WHOLLY TAKEN IN LEVIRATE MARRIAGE.” “AMEN THAT I WAS NOT MADE UNCLEAN, AND IF I WAS MADE UNCLEAN, MAY IT [THE BITTER WATER] ENTER INTO ME.”

1. II:1: Said R. Ba bar Mamel, “Who taught that the deceased, childless brother’s wife awaiting levirate marriage [is subject to the oath? It is R. Aqiba. For R. Aqiba maintains that a woman in a levirate marriage [who has illicit sexual relations] produces a mamzer [a totally illegitimate offspring]. [It follows that if she has committed adultery, she is prohibited to remain with her levirate husband.]”
 - a. II:2: A woman awaiting levirate marriage who [in the interim] committed adultery – R. Eleazar said, “She is [thereafter] permitted to have sexual relations with the levirate husband [and so

to enter marriage with him].” R Joshua b. Levi said, “She is forbidden from having sexual relations with the levirate husband [and may not then marry him.]”

- b. II:3: Said R. Yannai, “A woman awaiting levirate marriage who committed adultery is permitted to marry the levir later on.”

[C] **R. MEIR SAYS, “AMEN THAT I WAS NOT MADE UNCLEAN, AMEN THAT I SHALL NOT BE MADE UNCLEAN:”**

1. **III:1:** it is not that R. Meir maintains, “The water tests her from this point,” but rather, “the water is deposited in her, so that, if she should become unclean, they will test her retroactively.”
2. **III:2:** “This is the law in cases of jealousy” (Num. 5:29) – the law governing all ages [so that once done, it is not repeated, yielding the following conclusion:] A woman does not drink the bitter water and then repeat the ordeal.
 - a. III:3: There was have learned: Aqabia b. Mahalalel gave testimony in four matters. He would say, “They do not administer bitter water [to test the woman accused of adultery] in the case of a proselyte woman or in the case of a freed slave girls]. And sages say, “They do administer the test.” They said to him, M’SH B: “Karkemit, a freed slave girl, was in Jerusalem, and Shemaiah and Abtalion administered the bitter water to her” He said to them, “They administered the bitter water to her to make her into an example” [M. Ed. 5:6].
4. **III:4:** “And it is hidden from the eyes of her husband” (Num. 5:13) – this excludes a blind man, who cannot see.

XVI. YERUSHALMI SOTAH 2:6

[A] **ALL CONCUR THAT HE [THE HUSBAND] MAY MAKE NO STIPULATION WITH HER ABOUT ANYTHING WHICH HAPPENED BEFORE SHE WAS BETROTHED OR AFTER SHE MAY BE DIVORCED. [IF AFTER SHE WAS PUT AWAY], SHE WENT ASIDE WITH SOME OTHER MAN AND BECAME UNCLEAN, AND AFTERWARD HE [THE FIRST HUSBAND] TOOK HER BACK, HE MAKES NO STIPULATION WITH HER [CONCERNING SUCH AN EVENT]. THIS IS THE GENERAL PRINCIPLE: CONCERNING ANY SITUATION IN WHICH SHE MAY HAVE SEXUAL RELATIONS IN SUCH WISE AS NOT TO BE PROHIBITED [TO HER HUSBAND], HE [THE HUSBAND] MAY MAKE NO STIPULATION WHATSOEVER WITH HER.**

1. **I:1:** Said R. Yannai, “It is self-evident that a man may retract his expression of jealousy [prior to the woman’s actually going in secret with the named man]. If he divorced the wife, is it as if he has retracted the expression of jealousy?”

XVII. YERUSHALMI SOTAH 3:1

[A] HE WOULD TAKE HER MEAL-OFFERING FROM THE BASKET MADE OF TWIGS AND PUT IT INTO A UTENSIL OF SERVICE AND LAY IT INTO HER HANDS.

1. **I:1:** It is written, “Then the priest shall take the cereal offering of jealousy out of the woman’s hand, and shall wave the cereal offering before the Lord...” (Num. 5:25). Now does he do it himself? And does he not wave it [while it is yet] in her hand? But: On the basis of the cited verse, we derive the fact that he takes the meal offering from an unconsecrated utensil and puts it into a utensil consecrated for the Temple service.

[B] AND A PRIEST PUTS HIS HAND UNDER HERS AND WAVES IT [THE MEAL-OFFERING]. HE WAVED IT [NUM. 5:25] AND BROUGHT IT NEAR THE ALTAR. HE TOOK A HANDFUL [OF THE MEAL-OFFERING] AND BURNED IT UP [ON THE ALTAR]. AND THE RESIDUE IS EATEN BY THE PRIESTS.

1. **II:1:** But such a procedure is unseemly [that he should put his hand on hers].
2. **II:2:** R. Hiyya taught, “In the case of an accused wife who is lacking hands, two priests wave the meal offering in her behalf [one standing in for her].”
3. **II:3:** Said R. Yosé, “Under all circumstances [of the waving of the meal offering], it is only one point of information that the rabbis require, namely, What does he touch against the altar, the meal offering or the utensil?” [The answer is that he touches the body of the utensil against the altar.]
 - a. **II:4:** As to the acts of waving meal offerings, how do we know that they come before the acts of touching the utensil containing the meal offering against the altar?
5. **II:5:** There we have learned: And these are meal offerings [from which] the handful is taken, and the residue of which belongs to the priests... R. Ba bar Mamel and R. Samuel b. R. Isaac were in session. R. Ba bar Mamel raised the following question before R. Samuel b.

Isaac: “In the case of the meal offering of the first sheaf, how do we know that what is left over is eaten [by the priests]?” He said to him, “And did not R. Yohanan say in the name of R. Ishmael, ‘It is written, [If you offer] a cereal offering [of first fruits to the Lord, you shall offer for the cereal offering of your first fruits crushed new grain from fresh ears, parched by fire.’ (Lev. 2:14). ‘And it is written [... and bring] the offering [required of her, a tenth of an ephah of a barley meal]’ (Num. 5:15). Just as the meal offering stated in the latter context consists of barley, so that in the former [that is, in the case of the meal offering of the first sheaf] likewise is made up of barley.’ And it follows: Just as in the case of the meal offering brought by the accused wife, what is left over is eaten by the priests, so in the case of the meal offering of the first sheaf, what is left over is eaten by the priests.”

XVIII. YERUSHALMI SOTAH 3:2

[A] HE WOULD GIVE HER THE WATER TO DRINK. AND [ONLY] AFTERWARD HE WOULD OFFER UP HER MEAL-OFFERING. R. SIMEON SAYS, “HE WOULD OFFER UP HER MEAL-OFFERING. “AND AFTERWARD HE WOULD GIVE HER THE WATER TO DRINK, “SINCE IT IS SAID, AND AFTERWARD HE GIVES THE WOMAN THE WATER TO DRINK [NUM. 5:26]. “BUT IF HE GAVE HER THE WATER TO DRINK AND AFTERWARD HE OFFERED UP HER MEAL-OFFERING, IT IS VALID.”

- 1. I:1:** What is the Scriptural basis for the position of rabbis [at M. 3:2A-B]? “[And he shall make the woman drink... and the water...] shall enter into her...” (Num. 5:24). [“And the priest shall take the cereal offering of jealousy...and wave...” (Num. 5:325). What is the Scriptural basis for the position of R. Simeon? “And afterward he gives the woman the water to drink” (Num. 5:26).

XIX. YERUSHALMI SOTAH 3:3

[A] [IF] BEFORE THE SCROLL IS BLOTTED OUT, SHE SAID, “I AM NOT GOING TO DRINK THE WATER,” HER SCROLL IS PUT AWAY, AND HER MEAL-OFFERING IS SCATTERED ON THE ASHES. BUT HER SCROLL IS NOT VALID FOR THE WATER-ORDEAL OF ANOTHER ACCUSED WIFE.

- 1. I:1:** It was taught: Her scroll [M. 3:3A] was put away under the hinge [of the gate] of the Temple [T. Sot. 2:2K].

[B] [IF] HER SCROLL WAS BLOTTED OUT AND THEN SHE SAID, “I AM UNCLEAN,” THE WATER IS Poured OUT, AND HER MEAL OFFERING IS SCATTERED ON THE ASHES

1. **II:1:** *That is to say that the meal offering of the accused wife is deemed holy [even] before the scroll is written out. [For it is as if the scroll had not been written at all.]*

[C] [IF] HER SCROLL WAS BLOTTED OUT AND THEN SHE SAID, “I AM NOT GOING TO DRINK IT,” THEY FORCE HER AND MAKE HER DRINK IT AGAINST HER WILL.

1. **III:1:** Why? Because she caused the Holy Name of God to be blotted out.
2. **III:2:** R. Judah says, “With iron tongs they force her mouth open, and they force her and make her drink it against her will.” Said R. Aqiba, “And why do we have to test her any further? Is it not to test her? And lo, she is now tested and proved to be degraded by her refusal to drink!” [T. Sot. 2:3E-F].

XX. YERUSHALMI SOTAH 3:4

[A] SHE HARDLY SUFFICED TO DRINK IT BEFORE HER FACE TURNS YELLOW, HER EYES BULGE OUT, AND HER VEINS SWELL. AND THEY SAY, “TAKE HER AWAY! TAKE HER AWAY!” SO THAT THE TEMPLE-COURT WILL NOT BE MADE UNCLEAR [BY HER CORPSE]. [BUT IF NOTHING HAPPENED], IF SHE HAD MERIT, SHE WOULD ATTRIBUTE [HER GOOD FORTUNE] TO IT.

1. **I:1:** [We note that even before she has drunk all the water, but only part of it, the water begins to take effect.] Now did we not propose to maintain [above] that all the water, but not part of the water, [is what carries out the test of the woman]?

[B] THERE IS THE POSSIBILITY THAT MERIT SUSPENDS THE CURSE FOR ONE YEAR, AND THERE IS THE POSSIBILITY THAT MERIT SUSPENDS THE CURSE FOR TWO YEARS, AND THERE IS THE POSSIBILITY THAT MERIT SUSPENDS THE CURSE FOR THREE YEARS.

1. **II:1:** There is the possibility that merit suspends the curse for one year: This derives from Nebuchadnezzar, “At the end of twelve months...” (Dan. 4:29). there is the possibility that merit suspends the curse for two years: This derives from Amnon, “After two full years...” (2 Sam. 13:23). there is the possibility that merit suspends the curse for three years: This derives from Ahab, “For three years Syria and Israel continued without war” (1 Kings 22:1).

2. **II:2:** [“A cereal offering of remembrance, bringing iniquity to remembrance” (Num. 5:15):] “A cereal offering of remembrance” constitutes a general statement. “Bringing iniquity to remembrance” then serves as a limiting statement. When we have a generalization followed by such a qualification, then we include in the generalization only what is specified in the qualifying statement. If that is how you phrase matters, then will it not come out that the attribute of strict justice is buried?
3. **II:3:** It was taught: R. Tarfon says, “All references to remembrance stated in the Torah are meant for good, except for this one, which is meant to speak of punishment.”
4. **II:4:** R. Judah b. Petera said in the name of Eleazar b. Matya, “What is the meaning of the Scripture ‘Now if the woman has not been made unclean’? Now do we not know that if the woman was not made unclean, then she is clean? Why does Scripture say so? But in the end, the Omnipresent compensates her for her humiliation. For if she was barren, she will become pregnant. If she used to give birth with pain, now she will give birth in comfort. If she used to produce females, now she will produce males. If she used to produce ugly children, now she will produce pretty babies. If she used to produce dark ones, now she will produce fair ones. If she used to produce short ones, now she will produce tall ones. If she used to produce one by one, now she will produce two by two” [T. Sot. 2:3R-S].

[C] **ON THIS BASIS BEN AZZAI SAYS, “A MAN IS REQUIRED TO TEACH TORAH TO HIS DAUGHTER. “FOR IF SHE SHOULD DRINK THE WATER, SHE SHOULD KNOW THAT [IF NOTHING HAPPENS TO HER], MERIT IS WHAT SUSPENDS [THE CURSE FROM TAKING EFFECT].” R. ELIEZER SAYS, “WHOEVER TEACHES TORAH TO HIS DAUGHTER TEACHES HER SEXUAL SATISFACTION.” R. JOSHUA SAYS, “A WOMAN WANTS A QAB [OF FOOD] WITH SEXUAL SATISFACTION MORE THAN NINE QABS WITH ABSTINENCE.”**

1. **III:1:** Ben Azzai does not concur with R. Eleazar b. Azariah, who holds that women do study the Torah: if the men came along to study, the women came along to listen, why did the children come along? To provide a reward to the people who brought them” [T. Sot. 7:9].
2. **III:2:** A Roman matron asked R. Eleazar [better: Eliezer], “How is it that, though only one sin was committed in connection with the golden calf, those who died, died by three kinds of execution?” He said to her, “Woman has no wisdom except at the distaff, for it is written, ‘And all the women that were wise-hearted did spin with their hands’” (Ex. 35:25). Said to him Hyrcanus, his son, “So as not to answer her with a single teaching from the Torah, you have lost out on three hundred

kors of tithe per year!” He said to him, “Let the teachings of the Torah be burned, but let them not be handed over to women.”

[D] **HE WOULD SAY, “A FOOLISH SAINT...:”**

1. **IV:1:** What is meant by a foolish saint? If one saw a child drowning in a river and said, “When I shall remove my phylactery, I shall save him,”— while this one is taking off his phylacteries, the other one gave up the ghost.

[E] **A SMART KNAVE:**

1. **V:1:** R. Zeriqan in the name of R. Huna, “This is one who applies lenient rulings to himself and strict rulings to other people.”
 - a. **V:2:** Under all circumstances does the decided law follow the opinion of the House of Hillel. He who wishes to impose upon himself a more stringent rule, to follow the rule in accord with both the House of Shammai and the House of Hillel, concerning such a person the following verse is said: “The wise man has his eyes in his head, but the fool walks in darkness” (Qoh. 2:14).

[F] **AN ABSTEMIOUS WOMAN...**

1. **VI:1:** This is one who sits and quotes biblical phrases in a suggestive way

[G] **AND THE BLOWS OF ABSTAINERS (PERUSHIM)— “LO, THESE WEAR OUT THE WORLD.”**

1. **VII:1:** This is the sort of person who gives advice to heirs of an estate on how to keep the widow from getting her rightful maintenance.
2. **VII:2:** They added to the list [of M. 3:4J], a self-afflicting girl, A widow who is a gadabout, and a precocious child.

XXI. YERUSHALMI SOTAH 3:5

[A] **R. SIMEON SAYS, “MERIT DOES NOT SUSPEND THE EFFECTS OF THE BITTER WATER. AND IF YOU SAY, ‘MERIT DOES NOT SUSPEND THE EFFECTS OF THE BITTER WATER,’ YOU WILL WEAKEN THE EFFECT OF THE WATER FOR ALL THE WOMEN WHO HAVE TO DRINK IT. AND YOU GIVE A BAD NAME TO ALL THE WOMEN WHO DRINK IT WHO TURNED OUT TO BE PURE. FOR PEOPLE WILL SAY, ‘THEY ARE UNCLEAN, BUT MERIT SUSPENDED THE EFFECTS OF THE WATER FOR THEM.’” RABBI SAYS, “MERIT DOES SUSPEND THE EFFECTS OF THE BITTER**

WATER. BUT SHE WILL NOT BEAR CHILDREN OR CONTINUE TO BE PRETTY. AND SHE WILL WASTE AWAY, AND IN THE END SHE WILL HAVE THE SAME [UNPLEASANT] DEATH.”

1. **I:1:** Said R. Hamnuna, “A woman who [after drinking the water] is ailing all over her body [but does not suffer locally as predicted for the faithless wife (Num. 5:27)] is permitted to have sexual relations with her husband.”
2. **I:2:** “But if the woman has not defiled herself and is clean, then she shall be free” (Num. 5:28) – This one is clean, and not one against whom witnesses have come to indicate that she is unclean. If the woman has not defiled herself and is clean” – this one is clean, not one who depended [for surviving the rite of the water that brings the curse] upon merit.”
 - a. **I:3:** “The man shall be free from iniquity” (Num. 5:31). He does not scruple that merit has suspended the punishment for her. Is it possible to suppose that she too should not take that into account? Scripture says, “And the woman shall hear her iniquity.”

XXII. YERUSHALMI SOTAH 3:6

[A] **[If]** HER MEAL-OFFERING WAS MADE UNCLEAN BEFORE IT WAS SANCTIFIED IN A UTENSIL, LO, IT IS IN THE STATUS OF ALL OTHER SUCH MEAL-OFFERINGS AND IS TO BE REDEEMED. AND **[IF THIS TAKES PLACE]** AFTER IT IS SANCTIFIED IN A UTENSIL, LO, IT IS IN THE STATUS OF ALL OTHER SUCH MEAL-OFFERINGS AND IS TO BE BURNED.

1. **I:1:** It was taught: If her meal-offering was made unclean before it was sanctified in a utensil, lo, it is in the status of all of her such meal-offerings. It is redeemed [M. Sot. 3:6A--B] and eaten. If her meal-offering was made unclean after it was sanctified in a utensil [M. Sot. 3:6C--D], its appearance is allowed to rot, and it goes out to the place of burning [T. Sot. 2:4B-F].

[B] AND THESE ARE THE ONES WHO MEAL-OFFERINGS ARE TO BE BURNED: (1) THE ONE WHO SAYS, “I AM UNCLEAN TO YOU,” AND (2) THE ONE AGAINST WHOM WITNESSES COME TO TESTIFY THAT SHE IS UNCLEAN; (3) THE ONE WHO SAYS, “I AM NOT GOING TO DRINK THE WATER,” AND (4) THE ONE WHOSE HUSBAND DOES NOT WANT TO MAKE HER DRINK IT; AND (5) THE ONE WHOSE HUSBAND HAS SEXUAL RELATIONS WITH HER ON THE WAY TO JERUSALEM [M. 1:3].

1. **II:1:** Is her meal offering not in the status of an animal set aside as a sin offering, the owner of which has died? [Why is it burned?]
2. **II:2:** It was taught: [If] the meal-offering was offered, but there was not time to offer up the handful before her husband died, or if she died, the residue is prohibited. [If] the handful was offered, and afterward she died, or the husband died, the residue is permitted. For to begin with it was brought in a case of doubt. Her doubt has been atoned for and gone its way. [If] witnesses came against her to testify that she was unclean, one way or the other the meal-offering is prohibited. [If] they turned out to be conspiring witnesses, one way or the other her meal-offering is treated as unconsecrated. In the case of any woman married to a priest, whether she is a priest-girl, or a Levite-girl, or an Israelite-girl, her meal-offering is not eaten, for he has a share in it. But the offering is not wholly consumed in the fire, because she has a share in it [T. Sot. 2:5-6].
3. **II:3:** There we learned: R. Simeon says, “[From] the meal offering of a priest who was a sinner [Lev. 6:16], the handful is taken [even though the whole of it in any case is offered on the altar], and the handful is offered by itself, and the residue [thereof] is offered by itself” M. Men. 6:1C]. [Rabbis say no handful is taken the whole is burned on the altar.]
 - a. **II:4:** Said R. Yosé, “Rabbi [at M. 3:61] accepted the opinion of R. Eleazar b. R. Simeon and he taught in accord with his view.”

XXIII. YERUSHALMI SOTAH 3:7

- [A] AN ISRAELITE GIRL WHO IS MARRIED TO A PRIEST — HER MEAL-OFFERING IS BURNED. AND A PRIEST-GIRL WHO IS MARRIED TO AN ISRAELITE — HER OFFERING IS EATEN [BY THE PRIESTS]. WHAT IS THE DIFFERENCE BETWEEN A PRIEST AND A PRIEST-GIRL? THE MEAL-OFFERING OF A PRIEST-GIRL IS EATEN, THE MEAL-OFFERING OF A PRIEST IS NOT EATEN.**
1. **I:1:** This is in line with that which is written, “Every cereal offering of a priest shall be wholly burned; it shall not be eaten” (Lev. 6:23) not a priest girl.
- [B] THE PRIEST-GIRL MAY BE DECONSECRATED, BUT A BOY-PRIEST MAY NOT BE DECONSECRATED.**

1. **II:1:** This is in line with that which is written: “[He shall take to wife a virgin of his own people,] that he may not profane his children among his people; [for I am the Lord who sanctify him] ‘ (Lev. 21:15).

[C] **A PRIEST-GIRL CONTRACTS CORPSE-UNCLEANNES, AND A PRIEST DOES NOT CONTRACT CORPSE-UNCLEANNES.**

1. **III:1:** R. Dosa of Malehayya and R. Aha in the name of R. Eleazar: “A priest girl is permitted to go abroad. What is the Scriptural basis for that statement? ‘[And the Lord said to Moses,] Speak to the priests, [the sons of Aaron, and say to them that none of them shall defile himself for the dead among his people’” (Lev. 21:1) – not to the priest girls.”

[D] **A PRIEST-BOY EATS MOST HOLY THINGS, BUT A PRIEST-GIRL DOES NOT EAT MOST HOLY THINGS.**

1. **IV:1:** This is in line with that which is written, “Every male among the priests may eat of it; [it shall be eaten in a holy place; it is most holy]” (Lev. 7:6).

XXIV. YERUSHALMI SOTAH 3:8

[A] **WHAT IS THE DIFFERENCE BETWEEN A MAN AND A WOMAN? A MAN GOES AROUND WITH UNBOUND HAIR AND TORN GARMENTS, BUT A WOMAN DOES NOT GO AROUND WITH UNBOUND HAIR AND TORN GARMENTS [LEV. 13:44-5].**

1. **I:1:** “Man” (Lev 13:44) – I know only that the law that the leper goes around with unkempt hair applies to a man. How do I know that the law applies to a woman? Scripture states, “Leprous” – applying to anyone, man, woman, child. If so, why does it say, “A man”? To apply to them the law that follows: A man goes around with unbound hair and torn garments, but a woman does not go around with unbound hair and torn garments [Lev. 13:44-5].

[B] **A MAN IMPOSES A NAZIRITE-VOW ON HIS SON, AND A WOMAN DOES NOT IMPOSE A NAZIRITE-VOW UPON HER SON [M. NAZ. 4:6]. A MAN BRINGS THE HAIR-OFFERING FOR THE NAZIRITE-VOW OF HIS FATHER, AND A WOMAN DOES NOT BRING A HAIR-OFFERING FOR THE NAZIRITE-VOW OF HER FATHER [M. NAZ. 4:7].**

1. **II:1:** R. Yohanan in the name of R. Meir: “There are twenty-four rulings in which the House of Shammai take the lenient position, and the House of Hillel take a stringent position, and this is one of them.”

[C] **THE MAN SELLS HIS DAUGHTER, AND THE WOMAN DOES NOT SELL HER DAUGHTER [Ex. 21:6].**

1. **III:1:** This is in line with that which is written, “When a man sells his daughter as a slave, [she shall not go out as the male slaves do]” (Ex. 21:7).

[D] **THE MAN ARRANGES FOR A BETROTHAL OF HIS DAUGHTER, AND THE WOMAN DOES NOT ARRANGE FOR A BETROTHAL OF HER DAUGHTER [M. QID. 2:1].**

1. **IV:1:** This is in line with that which is written, “[And the father of the young woman shall say to the elders,] ‘I gave my daughter to this man to wife, and he spurns her’” (Deut. 22:16).

[E] **A MAN [WHO INCURS THE DEATH-PENALTY] IS STONED NAKED, BUT A WOMAN IS NOT STONED NAKED.**

1. **V:1:** This is in line with that which is written, “[You shall bring them both out to the gate of the city,] and you shall stone them to death [with stones]” (Deut. 22:24). “Stone him” – not his garment.

[F] **A MAN IS HUNG [AFTER BEING PUT TO DEATH], AND A WOMAN IS NOT HUNG [M. SAN. 6:3-4].**

1. **VI:1:** This is in line with that which is written, “[And if a man has committed a crime punishable by death and he is put to death,] and you hang him [on a tree, his body shall not remain all night upon the tree]” (Deut. 21:22-23). That is to say, “Hang him” – not her.

[G] **A MAN IS SOLD [TO MAKE RESTITUTION] FOR HAVING STOLEN SOMETHING, BUT A WOMAN IS NOT SOLD TO [MAKE RESTITUTION] FOR HAVING STOLEN SOMETHING [Ex. 22:2].**

1. **VII:1:** [He is sold] “for that which he has stolen” – not for paying the double indemnity which he owes “For that which he has stolen” – not for having perjured himself in such a regard and for owing compensation to the victim. “For that which he has stolen” – he is not sold and then sold another time. “If he has nothing” – on the basis of that phrase, we draw the conclusion, “On account of one theft, but not on account of two acts of theft, he is sold.”

XXV. YERUSHALMI SOTAH 4:1

[A] **A BETROTHED GIRL AND A DECEASED CHILDLESS BROTHER’S WIDOW AWAITING LEVIRATE MARRIAGE NEITHER UNDERGO THE ORDEAL OF DRINKING THE BITTER**

WATER NOR RECEIVE A MARRIAGE-CONTRACT, SINCE IT IS WRITTEN, “WHEN A WIFE, BEING SUBJECT TO HER HUSBAND, GOES ASTRAY” (NUM. 5:29) – EXCLUDING THE BETROTHED GIRL AND THE DECEASED CHILDLESS BROTHER’S WIDOW AWAITING LEVIRATE MARRIAGE.

1. **I:1:** [And why should the husbands-to-be not] administer the water [to the women named at M. 4:1A]? [Since, after all, they do express jealousy to these potential wives, as is indicated by the fact that they do not receive the marriage settlement that is coming to them, they should be allowed to go through the ordeal.]
2. **I:2:** Does the Mishnah’s rule accord [also] with the view of the House of Shammai, for the Shammaites [at M. 4:2H-I] hold that a woman may receive the marriage contract while not undergoing the ordeal of drinking the water? [Here the two are treated as mutually exclusive; if one does not do the one, she does not get the other.]
3. **I:3:** R. Judah raised the question, “As to that which you have said there, ‘And he is jealous of his wife (Num. 5:14) even of a woman who is only partly his wife as of that point,’ do we say the same [in reference to the curse, ‘If no man has lain with you, and if you have not turned aside to uncleanness] while you were under your husband’s authority...’ (Num. 5:19) even if he was your husband only in part? [This then would contradict M. 4:1A]” [The question is not answered.]
4. **I:4:** What would be an example of the rule, A betrothed girl and a deceased childless brother’s widow awaiting levirate marriage neither undergo the ordeal of drinking the bitter water nor receive a marriage-contract? [In fact M. 4:1A applies only if the entire ordeal is completed with the woman in the stated status.]

[B] A WIDOW MARRIED TO A HIGH PRIEST, A DIVORCEE AND A WOMAN WHO HAS UNDERGONE THE RITE OF REMOVING THE SHOE MARRIED TO AN ORDINARY PRIEST, A MAMZER-GIRL AND A NETINAH-GIRL MARRIED TO AN ISRAELITE, AN ISRAELITE-GIRL MARRIED TO A MAMZER OR TO A NETIN NEITHER UNDERGO THE ORDEAL OF DRINKING THE BITTER WATER NOR RECEIVE A MARRIAGE-CONTRACT.

1. **II:1:** There we have learned: A barren woman and a woman past menopause, and a woman who cannot give birth do not undergo the ordeal of drinking the bitter water and do not receive the marriage-contract [M. 4:3C]. For it is written, “But if the woman has not defiled herself and is clean, then she shall be free and shall conceive children” (Num. 5:28). This applies to one who is suitable to conceive. It then excludes this one, who is not suitable to conceive. They

objected: “Lo there is the widow married to a high priest [M. 4:1D] Lo, she is suitable to conceive [yet does not undergo the ordeal of drinking the water nor does she receive a marriage contract]. [So C cannot be the operative consideration.]”

2. **II:2:** [As to the reason behind M. 4:1D-E,] said R. Yosé b. R. Bun, “Do the waters not come [and leave her unmarked] except in order to permit her once more to have sexual relations with her husband? [That is why the women in invalid marriages do not drink the water, for in any case they should not be married to their present husbands.] But in the case of this one, once she has gone aside with the named man, he says to her, ‘Get out.’ [She is permanently forbidden to the husband and he may not remain in the marriage in any event.]”

XXVI. YERUSHALMI SOTAH 4:2

[A] **AND THESE DO NOT UNDERGO THE ORDEAL OF DRINKING THE BITTER WATER OR RECEIVE A MARRIAGE-CONTRACT: SHE WHO SAYS, “I AM UNCLEAN,” OR AGAINST WHOM WITNESSES CAME TO TESTIFY THAT SHE IS UNCLEAN; AND SHE WHO SAYS, “I WILL NOT DRINK.” [IF, HOWEVER,] HER HUSBAND SAID, “I WILL NOT MAKE HER DRINK, OR [IF] HER HUSBAND HAD SEXUAL RELATIONS WITH HER ON THE WAY [TO JERUSALEM], SHE RECEIVES HER MARRIAGE-CONTRACT AND DOES NOT UNDERGO THE ORDEAL OF DRINKING THE BITTER WATER. [IF] THEIR HUSBANDS DIED BEFORE THEY DRANK THE BITTER WATER — THE HOUSE OF SHAMMAI SAY, “THEY RECEIVE THE MARRIAGE-CONTRACT AND DO NOT UNDERGO THE ORDEAL OF DRINKING THE BITTER WATER.” AND THE HOUSE OF HILLEL SAY, “THEY DO NOT UNDERGO THE ORDEAL OF DRINKING THE BITTER WATER AND DO NOT RECEIVE THE MARRIAGE-CONTRACT.”**

1. **I:1:** Said R. Josiah, “Zeira told me in the name of the men of Jerusalem, ‘There are three cases in which, if [the aggrieved parties] wish to forgive the malefactor], they are allowed to do so: the accused wife, the incorrigible son, and the rebellious elder.’”

XXVII. YERUSHALMI SOTAH 4:3

[A] **“A WOMAN WHO WAS PREGNANT BY A FORMER HUSBAND [WHO DIED OR DIVORCED THE WOMAN] AND A WOMAN WHO WAS GIVING SUCK TO A CHILD BY ANOTHER HUSBAND DO NOT UNDERGO THE ORDEAL OF DRINKING THE BITTER WATER AND DO NOT RECEIVE THE MARRIAGE-CONTRACT,” THE WORDS OF R. MEIR. AND SAGES SAY, “HE HAS THE POWER TO SET HER APART AND THEN TO TAKE HER**

BACK AFTER A WHILE.” A BARREN WOMAN AND A WOMAN PAST MENOPAUSE, AND A WOMAN WHO CANNOT GIVE BIRTH DO NOT UNDERGO THE ORDEAL OF DRINKING THE BITTER WATER AND DO NOT RECEIVE THE MARRIAGE-CONTRACT.

1. **I:1:** A man should not marry a woman made pregnant by his fellow or one who is giving suck to the infant of his fellow. And if he did marry a woman in such a condition, Scripture says of him, “Do not remove an ancient landmark or enter the fields of the fatherless” (Prov. 23:10). “He who marries a woman made pregnant by his fellow or a woman nursing the infant of his fellow must divorce her and [as a penalty] may never remarry her,” the words of R. Meir.
2. **I:2:** It was taught: ““[A nursing mother] whose husband died – lo, she should not be betrothed nor should she be wed until twenty-four months have been completed,” the words of R. Meir. And R. Judah says, “Eighteen months.” And R. Jonathan b. Joseph says, “The House of Shammai say, ‘Twenty-four months,’ and the House of Hillel say, ‘Eighteen months.’” Said Rabban Simeon b. Gamaliel, “In accord with the opinion of the one who says, ‘Twenty-four months,’ she is permitted to be wed in twenty-one months. In accord with the opinion of the one who says, ‘Eighteen months,’ she may be wed in fifteen months, for the milk deteriorates only after three months [of conception]” [T. Nid. 2:2A-D].

[B] R. ELIEZER SAYS, “HE HAS THE POWER TO MARRY ANOTHER WOMAN FOR PURPOSES OF PROCREATION.” AND ALL OTHER WOMAN EITHER UNDERGO THE ORDEAL OF DRINKING THE BITTER WATER OR DO NOT COLLECT THE MARRIAGE-CONTRACT.

1. **II:1:** [With reference to M. 4:3D,] sages concur with R. Eleazar that if the man already has a wife and children [in the case of M. 4:3C], the barren woman drinks [the bitter water] and may collect her marriage settlement. [Eleazar differs only where the man has no other wife or children.]

XXVIII. YERUSHALMI SOTAH 4:4

[A] THE WIFE OF A PRIEST DRINKS THE BITTER WATER AND [IF PROVED INNOCENT] IS PERMITTED [TO GO BACK] TO HER HUSBAND.

1. **I:1:** [Why should M. 4:4A tells us that the woman returns to her husband? That surely is self-evident. She has drunk the water and survived the ordeal.] If not, what should we have said? [Surely,] since she drank the water, and the water did not put her to the test, she is clean.

2. **I:2:** R. Jacob bar Idi taught before R. Jonathan: ““But if you have gone astray, though you are under your husband’s authority, and if you have defiled yourself, and some man other than your husband has been with you...’ (Num. 5:20). This then excludes a case of rape. How do you derive [that fact from the reference to ‘under your husband’s authority’]?”

[B] THE WIFE OF A EUNUCH UNDERGOES THE ORDEAL OF DRINKING THE BITTER WATER. ON ACCOUNT OF [MEN IN] ALL SORTS OF PROHIBITED RELATIONSHIPS [TO THE WOMAN] ARE WIVES SUBJECT TO WARNING, EXCEPT FOR A MINOR, AND FOR ONE WHO IS NOT HUMAN.

1. **II:1:** “But if you have gone astray though you are under your husband’s authority, and if you have defiled yourself and some man other than your husband has lain with you” (Num. 5:20. This is added to encompass the wife of a eunuch [M. 4:4B]. “And some other man... has lain with you” – This is said to encompass a eunuch [who seduces a married woman]– except for a minor and for one who is not human [M. 4:4D-E]

XXIX. YERUSHALMI SOTAH 4:5

[A] AND THESE ARE THE WOMEN WHOM A COURT SUBJECTS TO WARNING [IN BEHALF OF THE HUSBAND]: A WOMAN WHOSE HUSBAND BECAME A DEAF MUTE OR AN IMBECILE, OR WAS IMPRISONED – NOT TO IMPOSE UPON HER THE ORDEAL OF DRINKING THE WATER DID THEY STATE THE RULE, BUT TO INVALIDATE HER FOR RECEIVING HER MARRIAGE-CONTRACT. R. YOSÉ SAYS, “ALSO: TO IMPOSE UPON HER THE ORDEAL OF DRINKING THE WATER. WHEN HER HUSBAND GOES FREE FROM PRISON, HE MAY THEN IMPOSE THE ORDEAL OF DRINKING THE BITTER WATER.”

1. **I:1:** And the Lord said to Moses, “Say to the people of Israel, [If any man s wife goes astray and acts unfaithfully against him.. and if the spirit of jealousy comes upon him, and] he is jealous of his wife... and he will make the woman drink the water...” (Num. 5:14). It is a decree of the Scripture [that a court also may warn the wife, since Scripture speaks of the whole people of Israel, not only to the husband]. “Then the man shall bring his wife to the priest” (Num. 5:15). And should a court [also] not express jealousy to the woman [vs. A-B]? The Torah has said “he is jealous of his wife” even if she is only partially his wife, [and even a court may do so].

2. **I:2:** In the case of sexual relations with those who are invalid for marriage to a woman – how do we know that she is invalidated [for marriage to the priesthood on that account? How do we interpret the matter? If she is in the status of a married woman, she is subject to a strict rule [that is, subject to extirpation] If it is a widow married to a high priest, it already is stated, “And the man will bring his wife to the priest” (Num. 5:15) – excluding her, since she is not legitimately wed to him. The common trait applying to them is this: one whose offspring is invalid – his act of sexual relations with her invalidates her for marriage into the priesthood. And one whose seed is not invalid – his act of sexual relations also does not invalidate her for marriage into the priesthood.

XXX. YERUSHALMI SOTAH 5:1

[A] “JUST AS THE WATER PUTS HER TO THE PROOF, SO THE WATER PUTS HIM [THE LOVER] TO THE PROOF, SINCE IT IS SAID, ‘AND IT SHALL COME,’ ‘AND IT SHALL COME’ (NUM. 5:22, 5:24).

1. **I:1:** We have learned the formulation of the Mishnah as, “It shall come... it shall come. “ There are Tannaim who teach the Mishnah in the language, “And it shall come... and it shall come.” He who said that the Mishnah pericope reads “It shall come... it shall come” is R. Aqiba [who deems the repetition of the same word to signify two distinct meanings, purposes, or applications]. The one who said that the Mishnah pericope reads “And it shall come... and it shall come” is R. Ishmael [who emphasizes the use of the conjunction “and” as encompassing, and who does not think that the mere repetition of ears special meaning, because, in his view, the Torah uses the language ordinarily used by people].

[B] JUST AS SHE IS PROHIBITED TO THE HUSBAND, SO SHE IS PROHIBITED TO THE LOVER, SINCE IT IS SAID, ‘AND SHE WILL BE UNCLEAN,’ ‘AND SHE WILL BE UNCLEAN’ (NUM. 5:27, 29),” THE WORDS OF R. AQIBA. SAID R. JOSHUA, “THUS DID ZECHARIAH B. HAQQASSAB EXPOUND [THE SCRIPTURE].” RABBI SAYS, “THE TWO TIMES AT WHICH, ‘IF SHE IS MADE UNCLEAN, SHE IS MADE UNCLEAN,’ ARE STATED IN THE PERICOPE REFER, ONE TO THE HUSBAND AND THE OTHER ONE TO THE LOVER.”

1. **II:1:** Just as she is forbidden to the husband, so she is forbidden to the lover. Just as she is forbidden to the brother of her husband [should he die childless], so she is forbidden to the brother of her lover [under the same circumstances]. [Consequently, her lover’s brother cannot marry

her.] Just as the water puts her to the test for each act of sexual relations which she has with her husband after she has had sexual relations with her lover, so they put him to the test.

- a. II:2: M.5:1A implies that if the water does not put her to the proof, then it does not put him to the proof, even though he has violated the law by having sexual relations with a married woman. Why should this be so? As to her, since it is her lot to be prohibited both to him and to another party [both to the husband and the lover], she is put to the test.

XXXI. YERUSHALMI SOTAH 5:2

[A] ON THAT DAY DID R. AQIBA EXPOUND AS FOLLOWS: “AND EVERY EARTHEN VESSEL INTO WHICH ANY OF THEM FALLS, WHATSOEVER IS IN IT CONVEYS UNCLEANNESS’ (LEV. 11:33). IT DOES NOT SAY, ‘IT WILL BE UNCLEAN, BUT WILL CONVEY UNCLEANNESS’ – THAT IS, TO IMPART UNCLEANNESS TO OTHER THINGS. THUS HAS SCRIPTURE TAUGHT CONCERNING A LOAF OF BREAD UNCLEAN IN THE SECOND REMOVE, THAT IT IMPARTS UNCLEANNESS IN THE THIRD REMOVE [TO A LOAF OF BREAD WITH WHICH IT COMES INTO CONTACT].”

1. I:1: [With regard to Aqiba’s view that a loaf of bread unclean in the second remove from the original source of uncleanness has the capacity to impart uncleanness to food with which it comes into contact, hence, at the third remove from the original source of uncleanness,] R. Yosé b. R. Bun said, “Rab and Samuel [disputed about this matter]. One of them said, ‘Whether the food is in the status of heave offering [and hence, more sensitive to becoming unclean, and also more capable of imparting uncleanness], or in the status of unconsecrated food, [R. Aqiba’s opinion applies].’ The other of them said, ‘If the food is in the status of heave offering, [R. Aqiba’s opinion applies], but food [unclean in the second remove] which is not consecrated [does] not [have the power to impart uncleanness to food with which it comes into contact].”[Hence there is no third remove in the matter of unconsecrated food’s contracting uncleanness. Unconsecrated food in the third remove from the original source of uncleanness itself is completely clean and does not receive uncleanness from food in the second remove from the original source of uncleanness.”

- a. I:2: Secondary development of the foregoing. Now that we have established the grounds for dispute, we turn to other laws of the

Mishnah to test the more controversial of the two positions, namely, Rab's

- b. I:3: The Mishnah pericope now cited also supports the position of Rab
- c. I:4: [That which has touched something unclean in the second remove is clean, for, in line with Lev. 11:33,] said R. Yohanan, "That which is in the third remove is third in contact with the dead creeping thing, [and it is not unclean, so] it is permitted to treat it as heave offering [that is, to declare that batch of food as heave offering for some larger batch of clean food]. [There is nothing unclean about it.]" They asked before him: "[Is this statement of yours] even in accord with R. Aqiba [at M. 5:2B]?"

[B] SAID R. JOSHUA, "WHO WILL REMOVE THE DIRT FROM YOUR EYES, RABBAN YOHANAN B. ZAKKAI, FOR YOU USED TO SAY, 'ANOTHER GENERATION IS GOING TO COME TO DECLARE CLEAN A LOAF OF BREAD IN THE THIRD REMOVE [FROM THE ORIGINAL SOURCE OF UNCLEANNESS]. FOR THERE IS NO SCRIPTURE IN THE TORAH WHICH INDICATES THAT IT IS UNCLEAN. BUT NOW HAS NOT AQIBA, YOUR DISCIPLE, BROUGHT SCRIPTURAL PROOF FROM THE TORAH THAT IT IS INDEED UNCLEAN, SINCE IT IS SAID, 'AND WHATSOEVER IS IN IT SHALL IMPART UNCLEANNESS' (LEV. 11:33)."

1. **II:1:** [With reference to M. 5:2, Joshua's statement,] there [in Babylonia] they say, "Since R. Joshua praised R. Aqiba, that is to say that the practiced law accords with [Aqiba's] position." Rabbis of Caesarea say, "He praised him for his exegetical achievement. But for all practical purposes the law does not accord with his position." For R. Aha, R. Miasha in the name of R. Eleazar said, "Flogging is not administered to one [who brings] tithe [into contact with food unclean in the second remove from the original source of uncleanness] and who so puts it into the third remove [from that original source]. And even in accord with the view of R. Aqiba, flogging is not administered. [There is no consideration of a third remove from the original source of uncleanness, either for ordinary food or for tithe. One who is supposed to eat his food in a state of cleanness – whether tithe or unconsecrated food – hence will not be flogged for eating food in the third remove from the original source.]"
2. **II:2:** R. Abbahu in the name of R. Mana, "On what account did they rule, 'Unconsecrated food which is unclean in the second remove imparts uncleanness to unconsecrated liquids'? [For we know full well that unconsecrated food in the second remove does not impart uncleanness to unconsecrated solid food in the second remove at all.

Yet in the case of liquid, the unconsecrated solids in the second remove have that very effect; indeed as a result the liquid is deemed unclean in the first remove. (Cf. M. Toh, 2:2ff.)] It is on account of the hands, which are deemed unclean in the second remove by decree of the scribes. They do impart uncleanness to unconsecrated liquid [putting the liquid into the first remove].” [If that is so,] then that which is unconsecrated in the second remove in accord with the teaching of the Torah [that is, in line with Aqiba’s reading of Lev. 11:33, any unconsecrated food in the second remove] all the more so [should have that same power to impart uncleanness to unconsecrated solid food in the second remove]!

3. **II:3:** There they have said [with reference to Haggai 2:14: “Thus says the Lord of hosts: Ask the priests to decide this question, ‘If one carries holy flesh with the skirt of his garment and touches with his skirt bread, pottage, wine, oil, or any kind of food (in sequence), does it become holy?’ The priests answered, ‘No.’ Then said Haggai, ‘If one who is unclean by contact with a dead body touches any of these, does it become unclean?’ The priests answered, ‘It does become unclean.’ Then Haggai said, ‘So is it with this people... says the Lord... and so with every work of their hands; and what they offer there is unclean.’” Two questions did Haggai the prophet ask them: In the case of one, they answered him properly, and in the case of the other, they did not answer him properly.

4. **II:4:** It was taught: Said R. Yosé, “How do we know that that which is unclean by a source of uncleanness in the fourth remove [from the original source of uncleanness] in the case of Holy Things is invalid [= M. Hag. 3:2E-F]? And it is reasonable. Now if one who has not completed his atonement rites is not invalid in the case of heave-offering but is invalid in the case of Holy Things, that which is made unclean by a source of uncleanness in the fourth remove, which is invalid in the case of heave-offering – is it not reasonable that it should invalidate [that which touches it, in the case of Holy Things]? We have learned in Scripture [cf. M. Sot. 5:3] that that which is made unclean by a source of uncleanness in the third remove from the original source of uncleanness invalidates, and in connection with that which is unclean in the fourth remove [we thus derive the same lesson] by an argument a fortiori” [T. Hag. 3:18]. Objected R. Yohanan: “Food which has been touched by a Tebul Yom [unclean in the second remove, we recall] will prove the contrary. For it is invalid so far as being designated heave offering is concerned [in line with Lev. 11:33], but it has no invalidating affect upon Holy Things [in the fourth remove]. [That is: Just as the Tebul Yom invalidates in the case of

heave offering, so he invalidates in the case of Holy Things. But he does not render the Holy Things unclean in such wise that the Holy Things will then go and impart uncleanness. In this case, then, the argument a fortiori of Yosé will not serve, as it does above, and so it is shown to be invalid.]”

- a. II:5: Up to this point we have dealt with food made unclean in the airspace of a clay utensil contaminated by a dead creeping thing [Lev. 11:33]. [That is, Aqiba’s proof, based on Lev. 11:33, shows that food made unclean in the contained airspace of a clay utensil into which a dead creeping thing has fallen has the capacity to impart uncleanness to food which touches it.] How do we know that food itself which has been made unclean by a dead creeping thing [has the power to impart uncleanness to other food]?

XXXII. YERUSHALMI SOTAH 5:3

[A] ON THAT DAY DID R. AQIBA EXPOUND AS FOLLOWS: “AND YOU SHALL MEASURE WITHOUT THE CITY FOR THE EAST SIDE TWO THOUSAND CUBITS...” (NUM. 35:5). AND ANOTHER SCRIPTURE SAYS, ‘FROM THE WALL OF THE CITY AND OUTWARD A THOUSAND CUBITS ROUND ABOUT’ (NUM. 35:4). IT IS NOT POSSIBLE TO STATE THAT THE REQUIRED MEASURE IS A THOUSAND AMAHS, FOR TWO THOUSAND AMAHS ALREADY HAVE BEEN SPECIFIED. BUT IT IS NOT POSSIBLE TO STATE THAT THE REQUIRED MEASURE IS TWO THOUSAND AMAHS, FOR ONE THOUSAND AMAHS ALREADY HAVE BEEN SPECIFIED. SO HOW SHALL WE RULE? A THOUSAND AMAHS FORM THE OUTSKIRTS, WHILE TWO THOUSAND AMAHS FORM THE SABBATH-LIMIT.” R. ELIEZER THE SON OF R. YOSÉ THE GALILEAN SAYS, “A THOUSAND AMAHS FORM THE OUTSKIRTS, AND TWO THOUSAND AMAHS COVER THE SURROUNDING FIELDS AND VINEYARDS.”

1. **I:1:** R. Eleazar b. R. Yosé the Galilean says, “Two thousand amahs form the limit of the cities of the Levites. Subtract from them a thousand amahs for the outskirts, and you turn out to have a quarter for outskirts and the rest for fields and vineyards” [M. 5:3F] [T. Sot. 5:13].
2. **I:2:** R. Yosé h. R. Bun said, “Fifty by fifty cubits is a seah area [the area in which one may scatter a seah of seed]. One hundred by one hundred cubits form an area of four seahs.”
3. **I:3:** R. Ba in the name of R. Judah, R. Zeira in the name of R. Uqba: “They measure only with a rope fifty cubits long, no less, no more. And one measures only [with the rope held] at a level with his heart.

[If] one was measuring and reached a valley or a fence, he takes count only of the horizontal span and continues his measuring. [If] he came to a mountain, he takes account only of the horizontal span and continues his measuring. And this is on condition that he does not go outside the Sabbath limit. If he cannot take account of the horizontal span, in this case, said R. Dosetai b. R. Yannai in the name of R. Meir, “I heard that they treat hills as though they were pierced” {M. Erub. 5:4}. [That is, if the other side of the valley lies outside of the Sabbath limit, we do not follow the stated procedure. If one cannot span the area, since it is longer than fifty cubits, then, Meir says, we calculate in such a way as to measure the horizontal distance as if it were a straight line.] [In this connection,] said R. Zeira in the name of R. Hisdai, “They do not measure [with a rope] in the towns of the Levites [in the two thousand cubits of outskirts] or in the place in a ravine where a heifer is to be killed [that is, when determining which city must bring the heifer to be killed when a neglected corpse turns up, one does not make the measurement with a rope].” Now this statement poses no problems to the one [Aqiba] who says that a thousand cubits form the outskirts, and two thousand cubits, the Sabbath limit. [That is, Aqiba can accept this statement of Hisdai’s, they measure with the rope for that purpose, and in the case of the towns of the Levites, they do not take such a measurement.]

4. **I:4:** How do we know that they do not bury the dead in the Levites’ cities?

XXXIII. YERUSHALMI SOTAH 5:4

[A] **ON THAT DAY DID R. AQIBA EXPOUND AS FOLLOWS: “THEN SANG MOSES AND THE CHILDREN OF ISRAEL THIS SONG UNTO THE LORD AND SPOKE SAYING,’ (EX. 15:1). NOW SCRIPTURE HARDLY NEEDS TO ADD, ‘SAYING.’ AND WHY DOES SCRIPTURE STATE, ‘SAYING’? IT THEREBY TEACHES THAT THE ISRAELITES RESPONDED WORD BY WORD AFTER MOSES. AS THEY DO WHEN THEY READ THE HALLEL-PSALMS. THEREFORE, ‘SAYING,’ IS STATED IN THIS CONTEXT.” R. NEHEMIAH SAYS, “[THEY DID SO] AS THEY DO WHEN THEY READ THE SHEMA’, NOT AS WHEN THEY READ THE HALLEL.”**

1. **I:1:** [How did they recite that song?] It was like a child who recites the Hallel in School. And they answered him at each and every phrase, thus: “Moses said, ‘My strength and my song is the Lord,’ (Ex. 15:2), and the Israelites said, ‘My strength and my song is the Lord’” [T. Sot. 6:2C-E] M. Sot. 5:4A--F]. R. Eleazar b. R. Yosé the Galilean says, “They proclaimed the song like an adult who proclaims the Hallel in

synagogue-worship, responding to him with the foregoing phrase, as follows: “Moses said, ‘I will sing to the Lord’ (Ex. 15:1), and the Israelites said, ‘I will sing to the Lord.’” Moses said, ‘My strength and song is the Lord,’ and the Israelites said, ‘I will sing unto the Lord.’” Moses said, ‘The Lord is a man of war’ (Ex. 15:3), and the Israelites said, ‘I will sing unto the Lord.’” R. Nehemiah says, “[They proclaimed the song] like men who recite the Shema’ in synagogue-worship, as it is said, And they said, saying (Ex. 15: 1). “This teaches that Moses would open first with a given matter, and the Israelites would respond to him and complete saying [that same matter, thus:] “Moses said, ‘Then Moses sang, ‘and the Israelites said, ‘I shall sing unto the Lord.’” Moses said, ‘My strength and song is the Lord,’ and the Israelites said, ‘This is my God and I will glorify him.’” Moses said, ‘The Lord is a man of war,’ and the Israelites said, ‘The Lord is his name’” [cf. M. Sot. 5:4G]. A. R. Yosé the Galilean says, “When the Israelites came up out of the sea and saw their enemies strewn as corpses on the seashore, they all burst out into song – even a child lying on his mother’s lap and an infant sucking at its mother’s breast. “When they saw the Presence of God, the babe raised his head, and the infant took his mouth off his mother’s teat and all responded in song, saying, This is my God and I will glorify him (Ex. 15:2).” R. Meir says, “Even foetuses in their mothers’ wombs broke out into song, as it is said, Bless God in the great congregation, the Lord, O you who are of Israel ‘s fountain (Ps. 68:26). “And even an infant took his mother’s teat out of his mouth and broke into song, as it is said, By the mouth of babes and infants thou hast founded a bulwark, because of thy foes (Ps. 8:2).” [T. Sot. 6:4].

2. **I:2:** It is written, “[Then sang Deborah and Barak the son of Abinoam on that day]: ‘That the leaders took the lead in Israel, that the people offered themselves willingly’” (Judg. 5:1-2 the heads of the people offered themselves willingly).

[B] **WHEN THE HOLY ONE, BLESSED BE HE, DOES WONDERS FOR THEM, LET THEM SAY THE SONG [EX. CHAPTER FIFTEEN].**

XXXIV. YERUSHALMI SOTAH 5:5

[A] **ON THAT DAY DID R. JOSHUA B. HURQANOS EXPOUND AS FOLLOWS: “JOB SERVED THE HOLY ONE, BLESSED BE HE, ONLY OUT OF LOVE, SINCE IT IS SAID, ‘THOUGH HE SLAY ME, YET WILL I WAIT FOR HIM’ (JOB. 13:15). BUT STILL THE MATTER IS IN DOUBT [AS TO WHETHER IT MEANS], ‘I WILL WAIT FOR HIM,’ OR, ‘I WILL NOT WAIT FOR HIM.’ SCRIPTURE STATES, ‘UNTIL I DIE I**

WILL NOT PUT AWAY MINE INTEGRITY FROM ME' (JOB. 27:5). THIS TEACHES THAT HE DID WHAT HE DID OUT OF LOVE."

1. **I:1:** It was taught in the name of R. Judah: "As God lives, who has taken away my right, and the Almighty, who has made my soul bitter' (Job 27:2). For a man takes a vow by the life of a king only if he loves him."
2. **I:2:** In the name of R. Nathan they said, "This will be my salvation, that a godless man shall not come before him' (Job 13:16). One verse of Scripture says, 'And you shall love the Lord your God [with all your heart, and with all your soul, and with all your might]' (Deut. 6:5). And another verse of Scripture says, 'You shall fear the Lord your God; you shall serve him, [and swear by his name]' (Deut. 6:13). Do [his will] out of love, do his will out of fear."
3. **I:3:** There are seven types of Pharisees: the shoulder-Pharisee; the wait-a-while Pharisee; the bookkeeping Pharisee; the niggardly Pharisee; the show-me-what-I-did-wrong Pharisee; the Pharisee-out-or-fear; and the he Pharisee-out-of-love.
 - a. **I:4:** Abraham made the impulse to do evil into good. But David was unable to overcome it, so he had to kill it in his heart.
 - b. **I:5:** R. Aqiba was on trial before Tonosteropos the Wicked. The time for reciting the Shema came. He began to recite it and smiled.

XXXV. YERUSHALMI SOTAH 5:6

[A] SAID R. JOSHUA, "WHO WILL REMOVE THE DIRT FROM YOUR EYES, RABBAN YOHANAN B. ZAKKAI. FOR YOU USED TO EXPOUND FOR YOUR ENTIRE LIFE THAT JOB SERVED THE OMNIPRESENT ONLY OUT OF AWE, SINCE IT IS SAID, 'THE MAN WAS PERFECT AND UPRIGHT AND ONE WHO FEARED GOD AND AVOIDED EVIL' (JOB. 1:8). AND NOW HAS NOT JOSHUA, THE DISCIPLE OF YOUR DISCIPLE, TAUGHT THAT HE DID WHAT HE DID OUT OF LOVE."

1. **I:1:** When did Job live?
2. **I:2:** R. Aqiba interpreted the following verse: "Then Elihu the son of Barachel the Buzite, of the family of Ram, became angry" (Job 32:2). [Aqiba said,] "Elihu is Balaam the son of Barachel, who came to curse Israel but blessed them. Nevertheless the Lord your God would not hearken to Balaam [the Buzite]" (Deut. 23:5)."

3. **I:3:** Moses wrote five books of the Torah, and then he went back and wrote the pericope of Balak and Balaam, and, [at the end], he wrote the book of Job.

XXXVI. YERUSHALMI SOTAH 6:1

- [A] **HE WHO EXPRESSED JEALOUSY TO HIS WIFE, BUT SHE WENT ASIDE IN SECRET, “EVEN IF HE HEARD [THAT SHE HAD DONE SO] FROM A BIRD FLYING BY –**
1. **I:1:** R. Yohanan in the name of R. Yannai: “All [of the laws in] this chapter [at M. 6:2A-B, apply to a case in which] the husband has given a warning [that is, expressed jealousy], saying to her, ‘Do not go in private with Mr. So-and-so.’ Then after he expressed jealousy to her, she went in private with him.” R. Simeon b. Laqish said, “[The rules apply] even if she did not go in private with him.”
- [B] **HE PUTS HER AWAY, BUT PAYS OFF HER MARRIAGE-CONTRACT,” THE WORDS OF R. ELIEZER.**
1. **II:1:** We have learned in the Mishnah pericope that there is a dispute [of Eliezer and Joshua]. There are Tannaim who repeat the law of the Mishnah pericope without dispute at all [omitting at D “the words of R.]
- [C] **R. JOSHUA SAYS, “[HE DOES SO] ONLY IF THE WOMEN WHO SPIN THEIR YARN BY MOONLIGHT TRADE STORIES ABOUT HER.”**
1. **III:1:** We learn that the word [used at M. 6:1E, women who spin their yarn,] is MWSRWT. There are Tannaim who repeat the word as MWZRWT. The authority who repeats the word as MWSRWT speaks of those who spin wool.
2. **III:2:** How shall we interpret the passage [M. 6:1E]? If we speak of those who have heard but do not know from whom they have heard it, then their testimony is in the status of that of a bird flying by.

XXXVII. YERUSHALMI SOTAH 6:2

- [A] **[If] ONE WITNESS SAID, “I SAW THAT SHE WAS MADE UNCLEAN,” SHE WOULD NOT UNDERGO THE ORDEAL OF DRINKING THE BITTER WATER. AND NOT ONLY SO, BUT EVEN IF IT WAS A BOY-SLAVE OR A GIRL-SLAVE, LO, THESE ARE BELIEVED EVEN TO INVALIDATE HER [FROM RECEIVING PAYMENT OF] HER MARRIAGE-CONTRACT. AS TO HER MOTHER-IN-LAW AND THE DAUGHTER OF HER MOTHER-**

IN-LAW, HER CO-WIFE, AND THE HUSBAND'S BROTHER'S WIFE, AND THE DAUGHTER OF HER HUSBAND, LO, THESE ARE BELIEVED [CF. M. YEB. 15:4] – NOT TO INVALIDATE HER FROM RECEIVING PAYMENT OF HER MARRIAGE-CONTRACT, BUT THAT SHE SHOULD NOT UNDERGO THE ORDEAL OF DRINKING THE BITTER WATER.

1. **I:1:** “And there is no witness against her...” (Num. 5:13). I know only that reference is to a valid witness. How do I know that this encompasses even a slave boy, even a slave girl [in line with M. 6:2C]? Scripture explicitly states, “No witness,” meaning, of any character whatsoever [would be acceptable to invalidate her from receiving her marriage settlement. There being no witness of any sort, then the ordeal is imposed.]
2. **I:2:** The Mishnah comes from the time before R. Aqiba conceded the position of R. Tarfon [in the following discourse]. It has been taught: R. Tarfon says, “A single witness is believed for purposes of declaring the woman unclean, but a single witness is not believed for purposes of depriving the woman of payment of her marriage settlement [vs. M. 6:2C].” R. Aqiba says, “Just as a single witness is believed to declare the woman unclean, so a single witness is believed to deprive the woman of payment of her marriage settlement [in accord with M. 6:2C].”
3. **I:3:** R. Bun bar Hiyya raised the following question: “Her mother-in-law said, I saw her, that she was made unclean,’ [in which case, we know, M. 6:2D-F, she is believed to the degree that the wife now does not undergo the ordeal of drinking the bitter water, but she does get her marriage settlement], and another party came and said, ‘I saw her, that she was made unclean’ – [what is the law]? [Does this other party’s testimony serve to deprive the woman of her marriage contract, since in any event she is not going to undergo the ordeal?]

XXXVIII. YERUSHALMI SOTAH 6:3

[A] **FOR LOGIC MIGHT DICTATE AS FOLLOWS [VIS A VIS M. 6:2A-B]:** NOW, IF, IN THE CASE OF THE FIRST KIND OF TESTIMONY [THAT SHE HAS BEEN WARNED NOT TO GET INVOLVED WITH SUCH-AND-SUCH A MAN], WHICH DOES NOT IMPOSE UPON HER A PERMANENT PROHIBITION [BUT ONLY UNTIL SHE HAS UNDERGONE THE ORDEAL OF THE BITTER WATER], [THE ACCUSATION] IS NOT SUSTAINED BY LESS THAN TWO WITNESSES, IN THE CASE OF THE SECOND KIND OF TESTIMONY [THAT SHE HAS INDEED BEEN MADE UNCLEAN], WHICH DOES IMPOSE UPON HER A PERMANENT PROHIBITION [AGAINST REMAINING WED TO HER HUSBAND],

SURELY [THE ACCUSATION] SHOULD NOT BE SUSTAINED BY LESS THAN TWO WITNESSES. BUT SCRIPTURE SAYS, AND THERE IS NO WITNESS AGAINST HER (NUM. 5:13) – [MEANING], ANY SORT OF TESTIMONY WHICH THERE IS AGAINST HER. ON THESE GROUNDS WE MAY NOW CONSTRUCT AN ARGUMENT FROM THE LESSER TO THE GREATER WITH REFERENCE TO THE FIRST KIND OF TESTIMONY: NOW IF THE SECOND KIND OF TESTIMONY, WHICH IMPOSES UPON HER A PERMANENT PROHIBITION, LO, IS SUSTAINED BY A SINGLE WITNESS, THE FIRST KIND OF TESTIMONY, WHICH DOES NOT IMPOSE UPON HER A PERMANENT PROHIBITION, SURELY SHOULD BE SUSTAINED BY MEANS OF A SINGLE WITNESS. BUT SCRIPTURE SAYS, ‘BECAUSE HE HAS FOUND SOME UNSEEMLY MATTER IN HER’ (DEUT. 24:1), AND ELSEWHERE IT SAYS, ‘AT THE MOUTH OF TWO WITNESSES SHALL A MATTER BE ESTABLISHED’ (DEUT. 19:15) – JUST AS MATTER SPOKEN OF THERE REQUIRES TWO WITNESSES, SO MATTER SPOKEN OF HERE REQUIRES TWO WITNESSES.

1. I:1: “The former testimony” concerns going aside in secret. “The latter testimony” refers to the act of sexual relations.
2. I:2: The Mishnah pericope follows the view of R. Joshua, for R. Joshua says, “He expresses jealousy before two witnesses, and he requires her to drink the bitter water before two witnesses” [M. 1:1].

[C] SAID R. MANA, “AND EVEN IN ACCORD WITH THE OTHER TANNAITE AUTHORITY [ELIEZER], THE CITED PERICOPE IS PERFECTLY IN ORDER.

XXXIX. YERUSHALMI SOTAH 6:4

[A] [IF] ONE WITNESS SAYS, “SHE WAS MADE UNCLEAN,” AND ONE WITNESS SAYS, “SHE WAS NOT MADE UNCLEAN,” [IF] ONE WOMAN SAYS, “SHE WAS MADE UNCLEAN,” AND ONE WOMAN SAYS, “SHE WAS NOT MADE UNCLEAN,” SHE WOULD UNDERGO THE ORDEAL OF DRINKING THE BITTER WATER.

1. I:1: Giddul bar Minyamin in the name of Rab: “In any case in which [sages] have declared the testimony of a woman to be as valid as that of a man, the testimony of a man serves to discredit that of a woman, and the testimony of a woman serves to discredit that of a man.”
2. I:2: It was taught in the name of R. Nehemiah, “They follow the majority of the [available] testimony.”
3. I:3: R. Adda bar Ahvah said, “A single witness is believed so as to declare her unclean. A single witness is not believed so as to deprive the woman of the right to collect her marriage settlement.”

4. **I:4:** [With reference to M. 6:4A, C, if one witness says she was made unclean and one says she was not made unclean, she would drink the water, there is a version that she would not drink the water. It is on the basis of that version that the following is stated:] Simeon bar Ba in the name of R. Yohanan: “Here she would not drink the water, but in the case of a neglected corpse, they would certainly break the neck of a heifer [at M. Sot. 9:7, where there is contradictory testimony about whether or not the murderer was seen].”

[B] [IF] ONE WITNESS SAYS, “SHE WAS MADE UNCLEAN,” AND TWO WITNESSES SAY, “SHE WAS NOT MADE UNCLEAN,” SHE WOULD UNDERGO THE ORDEAL OF DRINKING THE BITTER WATER. [IF] TWO SAY, “SHE WAS MADE UNCLEAN,” AND ONE SAYS, “SHE WAS NOT MADE UNCLEAN,” SHE WOULD NOT UNDERGO THE ORDEAL OF DRINKING THE BITTER WATER.

1. **II:1:** Rab said, “She would drink the water.” The Mishnah’s formulation is at variance with the position of Rab: [If one witness says, “She was made unclean,” and two witnesses say, “She was not made unclean,” she would undergo the ordeal of drinking the bitter water. Lo, [it follows that] if one witness [contradicted another], then she would not drink the water.
2. **II:2:** They say in the name of R. Samuel, “The Mishnah [at M. 6:4D-E] speaks of a case of another act of going aside.”
3. **II:3:** If there were three witnesses, one of them says, “I saw her, that she was made unclean after an interval sufficient for her to have gone aside [with the originally named man],” we have evidence of her having gone aside, but we do not have here evidence of her having been made unclean [so she drinks] [= M. 6:4D].

XL. YERUSHALMI SOTAH 7:1

[A] THESE ARE SAID IN ANY LANGUAGE: (1) THE PERICOPE OF THE ACCUSED WIFE [NUM. 5:19-22], AND (2) THE CONFESSION OF THE TITHE [DEUT. 26:13-15], AND (3) THE RECITAL OF THE SHEMA, [DEUT. 6:4-9], AND (4) THE PRAYER, (5) THE GRACE AFTER MEALS, (6) THE OATH OF TESTIMONY, AND (7) THE OATH CONCERNING A BAILMENT.

1. **I:1:** It is written, “And the priest shall say to the woman” (Num. 5: 19) – in any language which she understands,” the words of R. Josiah.

2. **I:2:** R. Yohanan in the name of R. Eleazar b. R. Simeon, “We find that the Omnipresent never spoke with any woman except for Sarah alone.”
 3. **I:3:** The confession in respect to the tithe [M. 7.1A]:
- [B]** AS IT IS WRITTEN, “AND YOU SHALL RESPOND AND SAY BEFORE THE LORD YOUR GOD” (DEUT. 26:5).
4. **I:4:** The recitation of the Shema. as it is written, “And you shall talk of them” (Deut. 6:7). Rabbi says, “I say, “The recitation of the Shema is said only in the Holy Language.”” What is the Scriptural basis for that view? “And these words which I command you...” (Deut. 6:6) [T. Sot. 7:7].
 5. **I:5:** And as to the prayer: [He may say it in whatever language he knows,] so that he may know how to beseech [God] for what he needs.
 6. **I:6:**...the oath of testimony, and (7) the oath concerning a bailment: one administers the oath to a person in his own language.

XLI. YERUSHALMI SOTAH 7:2

[A] AND THESE ARE SAID [ONLY] IN THE HOLY LANGUAGE: (1) THE VERSES OF THE FIRST-FRUITS [DEUT. 26:3-10], (2) THE RITE OF HALISAH [DEUT. 25:7,9], (3) BLESSINGS AND CURSES [DEUT. 27:15-26], (4) THE BLESSING OF THE PRIESTS [NUM. 6:24-26], (5) THE BLESSING OF A HIGH PRIEST [ON THE DAY OF ATONEMENT], (6) THE PERICOPE OF THE KING [DEUT. 17:14-20]; (7) THE PERICOPE OF THE HEIFER WHOSE NECK IS TO BE BROKEN [DEUT. 21:7], AND (8) [THE MESSAGE] OF THE ANOINTED FOR BATTLE WHEN HE SPEAKS TO THE PEOPLE [DEUT. 20:2-7]. THE VERSES OF THE FIRST FRUITS [M. 7:2A1] – HOW SO? “AND YOU WILL ANSWER AND SAY BEFORE THE LORD THY GOD (DEUT. 26:5). AND LATER ON IT SAYS, “AND THE LEVITES WILL ANSWER AND SAY” (DEUT. 27:14). JUST AS ANSWERING WHICH IS SAID IN THAT LATER PASSAGE IS IN THE HOLY LANGUAGE, SO ANSWERING WHICH IS SAID HERE [IN REFERENCE TO THE FIRST FRUITS] IS IN THE HOLY LANGUAGE. THE RITE OF REMOVING THE SHOE [M. 7:2A2] – HOW SO? “AND SHE WILL ANSWER AND SAY” (DEUT. 25:9). AND LATER ON IT SAYS, “AND THE LEVITES WILL ANSWER AND SAY” (DEUT. 27:14). JUST AS LATER ON ANSWERING IS TO BE IN THE HOLY LANGUAGE, SO THERE ANSWERING IS TO BE SAID IN THE HOLY LANGUAGE. R. JUDAH SAYS, “AND SHE WILL ANSWER AND SAY, THUS – [SO IT IS NOT VALID] UNLESS SHE SAYS PRECISELY THESE WORDS.”

1. **I:1:** It was taught in the name of R. Judah, “In any place in Scripture [not merely those cited in the Mishnah] in which the language of ‘answering’ and ‘saying’ is used, it must be in the Holy Language [= M. 7:3D-E, F-I]. If [also] it says, ‘Thus and so,’ lo, it must be in the Holy Language.”
2. **I:2:** Said R. Jonathan of Bet Gubrin, “Four languages are appropriately used in the world, and these are they: everyday speech [Greek] for song; Latin for war; Sursi [Aramaic] for wailing; Hebrew for [clear] speech.”
3. **I:3:** It is written, “And the Levites shall declare to all the men of Israel with a high voice” (Dt. 27:14) – with the voice of the Most High. This teaches that the Holy One, blessed be he, joined his voice to theirs.

XLII. YERUSHALMI SOTAH 7:3

[A] **BLESSINGS AND CURSES [M. 7:2A3] – HOW SO? WHEN ISRAEL CAME ACROSS THE JORDAN AND ARRIVED BEFORE MOUNT GERIZIM AND BEFORE MOUNT EBAL IN SAMARIA, NEAR SHECHEM, BESIDE THE OAK OF MOREH— AS IT IS WRITTEN, “ARE NOT THEY BEYOND THE JORDAN...” (DEUT. 11:30) AND ELSEWHERE IT SAYS, “AND ABRAM PASSED THROUGH THE LAND TO THE PLACE OF SHECHEM TO THE OAK OF MOREH (GEN. 12:6) – JUST AS THE OAK OF MOREH SPOKEN OF THERE IS AT SHECHEM, SO THE OAK OF MOREH SPOKEN OF HERE IS AT SHECHEM.**

1. **I:1:** “Are they not beyond the Jordan [that is,] from the Jordan and beyond, west of the road, toward the going down of the sun, [that is,] the place where the sun sets, in the land of the Canaanites, who live in the Arabah, over against Gilgal, beside the oak of Moreh?” (Deut. 11:30). This refers to Mount Gerizim and Mount Ebal in Samaria,” the words of R. Judah. R. Eliezer says, “This does not refer to Mount Gerizim and Mount Ebal in Samaria.”
2. **I:2:** It was taught: R. Eliezer b. Jacob says, “The verse of Scripture comes only to lay out the road for them and to indicate that they should go on the road and not across the fields, in a settled area and not in the wilderness, in the Arabah and not in the mountains.”
3. **I:3:** Said R. Eleazar b. R. Simeon, “I stated to Samaritan scribes, ‘You have forged your own Torah, and it has done you no good. For you have written in your Torah, “near the oak of Moreh, Shechem.” And is

it not known that this is Shechem? But [you forge your Torah] for you do not know how to provide an exegesis through analogy, and we do know how to provide an exegesis by analogy. Here is stated, “oak of Moreh,” and elsewhere it is stated, “Oak of Moreh.” Just as the oak of Moreh spoken of there is at Shechem, so the oak of Moreh spoken of here is at Shechem. [Hence you did not need to forge your Torah’s text.]”

4. **I:4:** And in accord with the view of R. Ishmael [they did not come to Shechem until after the land was divided, so that he would concur with Judah’s position.] For R. Ishmael said, “All those occasions for coming into the land that are mentioned in the Torah refer to events that took place after fourteen years, seven years in which they conquered the land and seven years in which they divided it up.”

XLIII. YERUSHALMI SOTAH 7:4

[A] **SIX TRIBES WENT UP TO THE TOP OF MOUNT GERIZIM, AND SIX TRIBES WENT UP TO THE TOP OF MOUNT EBAL. AND THE PRIESTS AND LEVITES AND ARK OF THE COVENANT STOOD AT THE BOTTOM, IN THE MIDDLE [BETWEEN TWO MOUNTAINS]. THE PRIESTS SURROUND THE ARK, AND THE LEVITES [SURROUND] THE PRIESTS, AND ALL ISRAEL ARE ROUND ABOUT, SINCE IT SAYS, “AND ALL ISRAEL AND THEIR ELDERS AND OFFICERS AND JUDGES STOOD ON THIS SIDE OF THE ARK AND ON THAT...” (JOSHUA 8:33). THEY TURNED THEIR FACES TOWARD MOUNT GERIZIM AND BEGAN WITH THE BLESSING: “BLESSED IS THE MAN WHO DOES NOT MAKE A GRAVEN OR MOLTEN IMAGE.” AND THESE AND THOSE ANSWER, “AMEN.” THEY TURNED THEIR FACES TOWARD MOUNT EBAL AND BEGAN WITH THE CURSE: “CURSED IS THE MAN WHO MAKES A GRAVEN OR MOLTEN IMAGE” (DEUT. 27:15). AND THESE AND THOSE ANSWER, “AMEN.” [AND THIS PROCEDURE THEY FOLLOW] UNTIL THEY COMPLETE THE BLESSINGS AND THE CURSES.**

1. **I:1:** It was taught [in the Tosefta’s version]: How did the Israelites say the blessings and the curses? Six tribes went up to the top of Mount Gerizim, and six tribes went up to the top of Mount Ebal. And the priests and the Levites and the ark of the covenant stood at the bottom in the middle [M. Sot. 7:5C-D]. The priests surround the ark, and the Levites [surround] the priests, and all Israel are round about, since it says, And all Israel and their elders and of priests and judges stood on this side of the ark and on that (Josh. 8:33) [M. Sot. 7:5C-E]. What is the meaning of the Scripture,... Half of them in front of Mount Gerizim and half of them in front of Mount Ebal (Josh. 8:33)? This

teaches that the part which was before Mount Gerizim was greater than that before Mount Ebal, since the part of the tribe of Levi was below. R. Eliezer b. Jacob says, “You cannot say that Levi was below, for it already has been said that Levi was above, and you cannot say that Levi was above, for already has it been stated that Levi was below. On this basis you must say that the elders of the priesthood and of the Levites were below, but the rest of the tribe was above.” Rabbi says, “Those who were appropriate for service stood below, and those who were not appropriate for service stood above” [T. Sot. 8:9].

2. **I:2:** Is it possible to suppose that those who were on Mount Gerizim were the ones to say the blessings, and those on Mount Ebal were the ones to say the curses? Scripture states, “[And afterward he read all of the words of the law,] the blessings and the curses, [according to all that is written in the book of the law]” (Joshua 8:34). The meaning is that both this group and that group said both the blessings and the curses. Is it possible to suppose that after they said the blessings, they said the curses? Scripture states, “[And when all these things come upon you,] the blessings and the curses, [which I have set before you, and you call them to mind among all the nations where the Lord your God has driven you]” (Deut. 30:1).
3. **I:3:** A blessing was in general, and a blessing was in particular, so too, a curse was in general, and a curse was in particular [thus there were sixteen covenants for each item: “To learn, to teach, to keep, to do,” [that is, four for each item, times four for the two blessings and the two curses, sixteen in all]. It was thus, too, at Mount Sinai, and also at the Plains of Moab [thus forty-eight]. R. Simeon would remove from the list the covenants at Mount Gerizim and Mount Ebal and introduced in their stead that of the Tent of Meeting.
4. **I:4:** It is written. “Cursed be he who does not support the words of this Torah” (Dt. 27:26) – Now, does the Torah fall down [that someone has to hold it] Simeon b. Yaqim says, “This refers to the leader of the prayers, Indicating that he has to stand [when he says the prayers for the congregation].” R Simeon b. Halafta says, “This refers to [supporting] the court below [reading: Bet Din] on earth.”
5. **I:5:** [“And all Israel...with their elders, officers, and judges, stood on opposite sides of the ark before the Levitical priests who carried the ark of the covenant of the Lord, half of them in front of Mount Gerizim, and half of them in front of Mount Ebal” (Joshua 11:33).] What is the meaning of that which Scripture states, “Half of them”? It

teaches that the minority was on Mount Gerizim, and the majority on Mount Ebal.

XLIV. YERUSHALMI SOTAH 7:5

[A] AND AFTERWARD THEY BROUGHT STONES AND BUILT AN ALTAR AND PLASTERED IT WITH PLASTER. AND THEY WROTE ON IT ALL THE WORDS OF THE TORAH IN SEVENTY LANGUAGES, AS IT IS WRITTEN, “VERY PLAINLY” (DEUT. 27:8). AND THEY TOOK THE STONES AND CAME AND SPENT THE NIGHT [32B] IN THEIR OWN PLACE [JOSH. 4:8].

1. **I:1:** [In line with M. 7:5D and against the view of M. 7:5A that they wrote the words of the Torah on the stones of the altar,] *it was taught:* “[The words of the Torah] were written on the stones of the lodging place [on the other side of the Jordan; Joshua 4:3, 8],” the words of R. Judah. R. Yosé says, “They were written on the stones of the altar itself.”
2. **I:2:** You turn out to say, There are the three sets of stones: Stones of the lodging, stones which Joshua laid down under the feet of the priests, and the resting stations which Moses put up for them [T. Sot. 8:6].
3. **I:3:** It was taught: R. Judah says, “R. Halafta, Eleazar b. Matia, and Hananiah b. Kinai stood on those very stones and estimated that each one weighed forty seahs” [T. Sot. 8:6D-E].
 - a. **I:4:** It is written: “[Now therefore take twelve men from the tribes of Israel,] from each tribe a man” (Joshua 3:12). [At issue in what follows is whether the repeated language, “twelve men... from each... a man” means to encompass more than twelve, that is, twenty-four.]
4. **I:5:** It is written, “The waters coming down from above stood and rose in a heap far off at Adam, the city that is beside Zarathan, [and those flowing down toward the sea of the Arabah, the Salt Sea, were wholly cut off, and the people passed over opposite Jericho” (Josh. 3:16). Said R. Yohanan, “Adam was a city, and Zarathan was a city.”
 - a. **I:6:** It was taught: Said R. Eleazar b. R. Simeon, “And is man swifter, or is water swifter? You have to say that water is swifter than man. This teaches that the waters were continually driven backward and heaped up higher and higher, stacks by stacks, three hundred mils, until all the kings of the nations of the world saw

them, as it is said, ‘And it came to pass, when all the kings of the Amorites which were beyond Jordan westward, and all the kings of the Canaanites, which were by the sea, heard how the Lord had dried up the waters, their heart melted, neither was there spirit in them any more, because of the children of Israel’ (Josh. 5:1)” [T. Sot. 8:3].

5. **I:7:** Said R. Simeon b. Laqish, “At the Jordan they took upon themselves responsibility for hidden [sins, as well as revealed Said to them Joshua, ‘If you do not accept upon yourselves responsibility for the hidden things, the water will come and drown you. “

XLV. YERUSHALMI SOTAH 7:6

[A] THE BLESSING OF THE PRIESTS – HOW SO? IN THE PROVINCES THEY SAY IT AS THREE BLESSINGS, AND IN THE SANCTUARY, AS ONE BLESSING. IN THE SANCTUARY ONE SAYS THE NAME AS IT IS WRITTEN, BUT IN THE PROVINCES, WITH A EUPHEMISM. IN THE PROVINCES THE PRIESTS RAISE THEIR HANDS AS HIGH AS THEIR SHOULDERS, BUT IN THE SANCTUARY, THEY RAISE THEM OVER THEIR HEADS, EXCEPT FOR THE HIGH PRIEST, WHO DOES NOT RAISE HIS HANDS OVER THE FRONTLET. R. JUDAH SAYS, “ALSO THE HIGH PRIEST RAISES HIS HANDS OVER THE FRONTLET, SINCE IT IS SAID, ‘AND AARON LIFTED UP HIS HANDS TOWARD THE PEOPLE AND BLESSED THEM’ (LEV. 9:22).”

1. **I:1:** [With regard to the priests who had to raise their hands above their heads throughout the blessings,] R. Hisda said, “It was very painful for them.”

[B] THE BLESSING OF THE HIGH PRIEST [M. 7:2A5] – HOW SO? THE MINISTER OF THE ASSEMBLY TAKES A SCROLL OF THE TORAH AND GIVES IT TO THE HEAD OF THE ASSEMBLY, AND THE HEAD OF THE ASSEMBLY GIVES IT TO THE PREFECT, AND THE PREFECT GIVES IT TO THE HIGH PRIEST. AND THE HIGH PRIEST STANDS AND RECEIVES IT AND READS IN IT: “AFTER THE DEATH...” (LEV. 16:1FF.) AND “HOWBEIT ON THE TENTH DAY” (LEV. 23:16-32). THEN HE ROLLS UP THE TORAH AND HOLDS IT AT HIS BREAST AND SAYS, “MORE THAN I HAVE READ FOR YOU IS WRITTEN HERE.” “AND ON THE TENTH...” WHICH IS IN THE BOOK OF NUMBERS (NUM. 29:7-11) DID HE RECITE BY HEART.

1. **II:1:** In every place people go to the Torah. But here [at M. 7:6I] you say that they bring the Torah to them.
2. **II:2:** [With reference to M. 7:6J], there we have learned in the Mishnah: They skip [from place to place] in the prophetic lections but

not in the Torah lections [M. Meg. 4:4E]. They leave out verses in a prophet reading but they do not leave out verses in skipping from one prophet to another. But in the case of one of the twelve minor prophets, it is permitted. But they do not leave out verses in the Torah. R. Jeremiah in the name of R. Simeon b. Laqish, “The reason is that they may not roll up [or unroll] the scroll of the Torah in public [and thus inflict discomfort on the people by making them wait for the reading].”

[C] **AND AFTERWARD HE SAYS EIGHT BLESSINGS: (1)... FOR THE TORAH, (2) AND... FOR THE TEMPLE-SERVICE, (3) AND... FOR THE THANKSGIVING, (4) AND FOR THE FORGIVENESS OF SIN, (5) AND FOR THE SANCTUARY, (6) AND FOR ISRAEL, (7) AND FOR THE PRIESTS, (8) AND THE REST OF THE PRAYER.**

1. **III:1:** For the Torah: “... who has chosen the Torah.” for the Temple-service: “... for you alone in reverence do we serve.” and... for the Thanksgiving: “to whom it is good to give thanks.” and for the forgiveness of sin: “who forgives the sins of his people Israel in mercy.”

XLVI. YERUSHALMI SOTAH 7:7

[A] **THE PERICOPE OF THE KING — HOW SO? AT THE END OF THE FIRST FESTIVAL DAY OF THE FESTIVAL [OF SUKKOT], ON THE EIGHTH YEAR, [THAT IS] AT THE END OF THE SEVENTH YEAR, THEY MAKE HIM A PLATFORM OF WOOD, SET IN THE COURTYARD. AND HE SITS ON IT, AS IT IS SAID, “AT THE END OF EVERY SEVEN YEARS IN THE SET TIME” (DEUT. 31:10). THE MINISTER OF THE ASSEMBLY TAKES A SCROLL OF THE TORAH AND HANDS IT TO THE HEAD OF THE ASSEMBLY, AND THE HEAD OF THE ASSEMBLY HANDS IT TO THE PREFECT, AND THE PREFECT HANDS IT TO THE HIGH PRIEST, AND THE HIGH PRIEST HANDS IT TO THE KING, AND THE KING STANDS AND RECEIVES IT. BUT HE READS SITTING DOWN.**

1. **I:1:** [Regarding M. 7:7H,] did not R. Hiyya teach, “The right to sit down in the courtyard was accorded only to the kings of the house of David.” And R. Ammi in the name of R. Simeon b. Laqish said, “Even the kings of the house of David did not have the right to sit down in the courtyard.”

[B] **AGRIPPA THE KING STOOD UP AND RECEIVED IT AND READ IT STANDING UP, AND SAGES PRAISED HIM ON THAT ACCOUNT. AND WHEN HE CAME TO THE VERSE, “YOU MAY NOT PUT A FOREIGNER OVER YOU, WHO IS NOT YOUR BROTHER” (DEUT. 17:15), HIS TEARS RAN DOWN FROM HIS EYES. THEY SAID**

TO HIM, “DO NOT BE AFRAID, AGRIPPA, YOU ARE OUR BROTHER, YOU ARE OUR BROTHER, YOU ARE OUR BROTHER!”

1. **II:1:** It was taught: R. Haninah b. Gamaliel says, “Many corpses fell on that day on which they flattered him [Agrippa]”

XLVII. YERUSHALMI SOTAH 7:8

[A] **HE READS FROM THE BEGINNING OF “THESE ARE THE WORDS” (DEUT. 1:1) TO “HEAR O ISRAEL” (DEUT. 6:4), “HEAR O ISRAEL” (DEUT. 6:4), “AND IT WILL COME TO PASS, IF YOU HEARKEN” (DEUT. 11:13), AND “YOU SHALL SURELY TITHE” (DEUT. 14:22), AND “WHEN YOU HAVE MADE AN END OF TITHING” (DEUT. 26:12-15), AND THE PERICOPE OF THE KING [DEUT. 17:14-20], AND THE BLESSINGS AND THE CURSES [DEUT. 27:15-26], AND HE COMPLETES THE WHOLE PERICOPE. WITH THE SAME BLESSINGS WITH WHICH THE HIGH PRIEST BLESSES THEM [M. 7:7F], THE KING BLESSES THEM. BUT HE SAYS THE BLESSING FOR THE FESTIVALS INSTEAD OF THE BLESSING FOR THE FORGIVENESS OF SIN.**

1. **I:1:** Said R. Abbahu, “And why do they read, ‘You shall surely tithe,’ and ‘When you have made an end of tithing’? On account of the fact that the Israelites have gone from the seventh year [during which there is no requirement to tithe], to the eighth year [when it again is required to tithe], it is so that the people should not forget about tithing “
2. **I:2:** R Haggai raised the question before R Yosé, “And is it not necessary to say the prayer of Separation [between the sanctity of the seventh year and the new year which is now begun]?”

XLVIII. YERUSHALMI SOTAH 8:1

[A] **THE ANOINTED FOR BATTLE, WHEN HE SPEAKS TO THE PEOPLE, IN THE HOLY LANGUAGE HE DID SPEAK, AS IT IS SAID, “AND IT SHALL COME TO PASS WHEN YOU DRAW NEAR TO THE BATTLE, THAT THE PRIEST SHALL APPROACH” (THIS IS THE PRIEST ANOINTED FOR BATTLE) “AND SHALL SPEAK TO THE PEOPLE” (IN THE HOLY LANGUAGE) “AND SHALL SAY TO THEM, HEAR, O ISRAEL, YOU DRAW NEAR TO BATTLE THIS DAY” (DEUT. 20:2-3) – “AGAINST YOUR ENEMIES” (DEUT. 20:3) – AND NOT AGAINST YOUR BROTHERS, NOT JUDAH AGAINST SIMEON, NOR SIMEON AGAINST BENJAMIN. FOR IF YOU FALL INTO THEIR [ISRAELITES’] HAND, THEY WILL HAVE MERCY FOR YOU:”**

1. **I:1:** The anointed for battle—why [does he speak in the Holy Language]?
2. **I:2:** [At issue in what follows is the logical sequence of verses. Deut. 20:9 states, “When the officers have made an end of speaking to the people, then commanders shall be appointed at the head of the people.” Logically, the commanders should be appointed, then they should speak.] Is it not logical that [first comes], “Commanders shall be appointed at the head of the people,” and then, “The priest shall draw near and speak to the people” (Deut. 20:3)?
3. **I:3:** At the frontier you must say, the officer listens to what the priest says and he repeats it in all the languages [spoken by the troops]. But in the battle lines [the priest speaks, without having his message repeated, because the troops are busy] providing water and food for themselves and repairing the lines of communication.

[B] R. HAGGAI RAISED THE QUESTION, “JUST AS YOU MAINTAIN THAT AT THE FRONTIER THE OFFICER LISTENS TO WHAT THE PRIEST SAYS AND REPEATS IT IN ALL THE LANGUAGES [SPOKEN BY THE TROOPS], WHY SHOULD YOU NOT SAY THAT ALSO IN THE BATTLE LINES THE SAME PROCEDURE IS FOLLOWED?”

XLIX. YERUSHALMI SOTAH 8:2

[A] AS IT IS SAID, “AND THE MEN WHICH HAVE BEEN CALLED BY NAME ROSE UP AND TOOK THE CAPTIVES AND WITH THE SPOIL CLOTHED ALL THAT WERE NAKED AMONG THEM AND ARRAYED THEM AND PUT SHOES ON THEIR FEET AND GAVE THEM FOOD TO EAT AND SOMETHING TO DRINK AND CARRIED ALL THE FEEBLE OF THEM UPON ASSES AND BROUGHT THEM TO JERICO, THE CITY OF PALM TREES, UNTO THEIR BRETHREN. THEN THEY RETURNED TO SAMARIA” (2 CHRON. 28:15). “AGAINST YOUR ENEMIES” DO YOU GO FORTH. FOR IF YOU FALL INTO THEIR HAND, THEY WILL NOT HAVE MERCY UPON YOU:

1. **I:1:** [The cited verse provides an example of the mercy of the Israelites for the Judeans. What is striking is that some of the chiefs of the Ephraimites stood up against the troops coming back with the captives and protested. In this regard,] said R. Yohanan, “Whoever is not like these [chiefs of the Ephraimites,] who had the means to object [to the sinful act, and to make their objection stick,] should not object.”

L. YERUSHALMI SOTAH 8:3

[A] “LET NOT YOUR HEART BE FAINT, FEAR NOT, NOR TREMBLE, NEITHER BE AFRAID” (DEUT. 20:3).”LET NOT YOUR HEART BE FAINT” – ON ACCOUNT OF THE NEIGHING OF THE HORSES AND THE FLASHING OF THE SWORDS. “FEAR NOT” – AT THE CLASHING OF SHIELDS AND THE RUSHING OF THE TRAMPING SHOES. “NOR TREMBLE” – AT THE SOUND OF THE TRUMPETS. “NEITHER BE AFRAID” – AT THE SOUND OF THE SHOUTING. FOR THE LORD YOUR GOD IS WITH YOU” (DEUT. 20:4) – THEY COME WITH THE POWER OF MORTAL MAN, BUT YOU COME WITH THE POWER OF THE OMNIPRESENT. THE PHILISTINES CAME WITH THE POWER OF GOLIATH. WHAT WAS HIS END? IN THE END HE FELL BY THE SWORD, AND THEY FELL WITH HIM. THE AMMONITES CAME WITH THE POWER OF SHOBACH [2 SAM. 10:16]. WHAT WAS HIS END? IN THE END HE FELL BY THE SWORD, AND THEY FELL WITH HIM. BUT YOU ARE NOT THUS:

1. **I:1:** It is written, “Out of the brightness before him there broke through his clouds hailstones and coals of fire. [The Lord also thundered in the heavens, and the Most High uttered his voice hailstones and coals of fire]” (Ps. 18:12-13). “His thick clouds” as against their squadrons. “Hailstones” as against their catapults. “Coals” as against their missiles. “Fire” as against their naphtha. “The Lord also thundered in the heavens” as against the clashing of their shields and the noise of their trampling shoes.

[B] “FOR THE LORD YOUR GOD IS HE WHO GOES WITH YOU TO FIGHT FOR YOU” (THIS IS THE CAMP OF THE ARK):

1. **II:1:** And some say, “This refers to the Name which is placed in the ark.” For it has been taught [following Tosefta’s version]: R. Judah b. Laqish says, “There were two arks, one which went out with them to battle, and one which stayed with them in the camp. In the one which went out with them to battle there was a scroll of the Torah, as it is said, ‘And the ark of the covenant of the Lord went before them three days’ journey’ (Num. 10:33). And this one which stayed with them in the camp, this is the one in which were the tablets and the sherds of the tablets, as it is said, ‘Neither the ark of the covenant of the Lord nor Moses departed out of the camp’ (Num. 14:44)” [T. Sot. 7:18].
2. **II:2:** The bottle containing the manna, the flask of the anointing oil, the staff of Aaron, with its almonds and blossoms, and the chest sent as a gift when the Philistines return the Glory to Eli the God of Israel – all of them are in the house of the Most Holy of Holies. When the ark was stored away, they were stored away with it [T. Yoma 2:15].

- a. II:3: A king [anointed] at the outset (of a dynasty) requires anointing. But the son of an anointed king does not, for it is said, “Arise, anoint him; for this is he” (I Sam. 16:12).
 - b. II:4: Said R. Yohanan, “The ark was made in accord with the measure of a cubit of six handbreadths.” R. Simeon b. Laqish said, “The ark was made in accord with a cubit of five handbreadths.”
 - c. II:5: How did Bezallel make the ark?
 - d. II:6: How were the tablets laid out?
 - i. II:7: Said R. Tanhuma, “I raised the question before R. Pinhas, ‘The law should be in accord with the view of R. Judah, and not in accord with the view of R. Meir.’”
3. **II:8:** R. Pinhas in the name of R. Simeon b. Laqish, “The Torah which the Holy One, blessed be he, gave—the hide on which it is written is white fire. The letters with which it is engraved are black fire. It is fire, surrounded with fire, engraved out of fire, and set in fire. ‘With flaming fire at his right hand’” (Deut. 33:2).

LI. YERUSHALMI SOTAH 8:4

[A] “AND THE OFFICERS SHALL SPEAK TO THE PEOPLE, SAYING ‘WHAT MAN IS THERE WHO HAS BUILT A NEW HOUSE AND HAS NOT DEDICATED IT? LET HIM GO AND RETURN TO HIS HOUSE’ (DEUT. 20:5).” ALL THE SAME ARE THE ONES WHO BUILD A HOUSE FOR STRAW, A HOUSE FOR CATTLE, A HOUSE FOR WOOD, AND A HOUSE FOR STORAGE. ALL THE SAME ARE THE ONES WHO BUILD IT, WHO PURCHASE IT, WHO INHERIT IT, AND TO WHOM IT IS GIVEN AS A GIFT.

1. **I:1:** who has built a new house: I know only that reference is made to one who actually has built the house. If he has purchased it, inherited it, received it as a gift, how do I know that the same law applies? Scripture uses inclusive language, saying not merely “man,” but “who is the man.” How on the basis of Scripture do we know that the same law applies to one who builds a house for straw, a house for cattle, a house for wood, and a house for storage? Scripture states, “who has built a new house” – of any sort whatsoever.
2. **I:2:** This further excludes a house which is not four cubits square [at the very least]. *For it has been taught:* A house which is not four cubits square is exempt from the requirements of having a parapet and from having a mezuzah, from being covered by the intermingling of

ownership of houses in a courtyard for purposes of permitting carrying in the courtyard on the Sabbath, and for the purpose of tithe, entry into such a house does not constitute the beginning of liability of food to the separation of tithes [since it is not regarded as a normal dwelling place, entry into which subjects agricultural produce to the obligation for separation of tithes].

3. **I:3:** Why does Scripture say, “who has built”? It means to exclude one whose house fell down and who then rebuilt it.
4. **I:4:** Is it possible to suppose that he who builds a house outside of the land should go back [in time of war]?
5. **I:5:** If one has built a house and rented it out to others, and the latter paid the rent in advance, lo, this is as if he has dedicated it, land he stays in the battle line].

LII. YERUSHALMI SOTAH 8:5

[A] “AND WHO IS THE MAN WHO HAS PLANTED A VINEYARD AND HAS NOT USED THE FRUIT THEREOF” (DEUT. 20:6) – ALL THE SAME ARE THE ONES WHO PLANT A VINEYARD AND WHO PLANT FIVE FRUIT-TREES, AND EVEN IF THEY ARE OF FIVE DIFFERENT KINDS. AND ALL THE SAME ARE THE ONES WHO PLANT SUCH A TREE, WHO SINK THEM INTO THE GROUND, AND WHO GRAFT THEM. AND ALL THE SAME ARE THE ONES WHO BUY A VINEYARD, AND WHO INHERIT IT, AND TO WHOM IT IS GIVEN AS A GIFT.

1. **I:1:** “Who has planted.” I know only that the law applies to one who has planted the vineyard. If he bought it, inherited it, or received it as a gift [M. 8:5E], how do I know [that the law applies to him too]? Scripture says, “The man... who is the man.”
 - a. **I:2:** Now as to wine straight from the vat, that is, sharp wine – they prepare a symbolic meal for the intermingling of the Sabbath boundaries with it; and they prepare a symbolic meal for joining ownership for an alleyway with it; and they bless over it for the sanctification of the Sabbath; and they call one to share in the grace after meals over it; and they say the prayers of sanctification for a bride over it; and they say the blessing of comfort to a mourner over it; and it is sold in a shop as wine.

2. **I:3:** Is it possible to suppose that he who plants a vineyard outside of the land should return home as exempt from battle? Scripture says, “And has not used the fruit thereof.”
3. **I:4:** All the same are the one who plants a vineyard and the one who plants five fruit trees of five different kinds, even in five distinct rows – so such a one goes home. R. Eliezer b. Jacob says, “I find implied in this Scripture only one who has planted a vineyard” [T. Sot. 7:18].
4. **I:5:** When does he make use of the fruit [deeming the tree to be beyond the prohibited years when its fruit may not be utilized, that is, when it is the fourth year]? [At issue is the interpretation of the following verses: “When you come into the land and plant all kinds of trees for food, then you shall count their fruit as forbidden to you...and in the fourth year all their fruit shall be holy...but in the fifth year you may eat of their fruit” (Lev. 19:23-25). In the fourth year and in the fifth? [That is, the produce is forbidden for three years. In the fourth year the produce is in the status of fourth-year fruit, which must be eaten in Jerusalem in accord with the laws governing second tithe. Now the issue is when we deem the produce to be routinely utilized? Is it in the fourth year. or the fifth?]

LIII. YERUSHALMI SOTAH 8:6

- [A] **“AND WHO IS THE MAN WHO HAS BETROTHED A WIFE” (IBID.) – ALL THE SAME ARE THE ONES WHO BETROTH A VIRGIN AND WHO BETROTH A WIDOW – AND EVEN A DECEASED CHILDLESS BROTHER’S WIDOW WHO AWAITS THE LEVIR. AND EVEN IF ONE HEARD DURING THE BATTLE THAT HIS BROTHER HAD DIED, HE RETURNS AND COMES ALONG HOME. ALL THESE LISTEN TO THE WORDS OF THE PRIEST CONCERNING THE ARRANGEMENTS OF BATTLE AND GO HOME. AND THEY PROVIDE WATER AND FOOD AND KEEP THE ROADS IN GOOD REPAIR.**
1. **I:1:** “Who has betrothed a wife” – I know only that that applies to a virgin male who marries a virgin female. How do I know that it applies to a virgin male who marries a widow? A widower who married a virgin? Scripture says, “A woman” – of any sort.
 2. **I:2:** All the same are he who betroths and he who enters into levirate marriage], and even if there is a woman awaiting levirate marriage with one of five brothers [M. 8:6B-L]; and even if there are five brothers who heard that their brother had died in battle, all of them return and come home [T. Sot. 7:19].

3. **I:3:** If one has betrothed a woman for an interval of twelve months, and the time has run out [so that he is to marry her] while he is in battle, he picks himself up and goes along home.

LIV. YERUSHALMI SOTAH 8:7

[A] **AND THESE ARE THE ONES WHO DO NOT RETURN HOME: HE WHO BUILDS A GATE-HOUSE, A PORTICO, OR A PORCH; HE WHO PLANTS ONLY FOUR FRUIT-TREES OR FIVE BARREN TREES; HE WHO REMARRIES A WOMAN WHOM HE HAS DIVORCED, OR [HE WHO MARRIES] A WIDOW IN THE CASE OF A HIGH PRIEST, A DIVORCEE OR A WOMAN WHO HAS UNDERGONE THE RITE OF HALISAH IN THE CASE OF AN ORDINARY PRIEST, OR A MAMZERET OR A NETINAH IN THE CASE OF AN ISRAELITE, OR AN ISRAELITE GIRL IN THE CASE OF A MAMZER OR A NETIN – SUCH A ONE DID NOT GO HOME. R. JUDAH SAYS, “ALSO: HE WHO BUILDS HIS HOUSE ON ITS ORIGINAL FOUNDATION DID NOT GO HOME.” R. ELIEZER SAYS, “ALSO: HE WHO BUILDS A HOUSE OF BRICKS IN THE SHARON DOES NOT GO HOME.”**

1. **I:1:** It was taught: [(If) his house fell down and he built it up again, lo, this one goes home]. R. Judah says, “If he did something new in connection with the house, he goes home, but if not, he does not go home” [cf. M. 8:7G] [T. Sot. 7:18H].
2. **I:2:** It was taught: R. Eliezer says, “The men of the Sharon did not go home to their houses, because they do something new to their houses once a week” [M. 8:7H] [T. Sot. 7:18I].

LV. YERUSHALMI SOTAH 8:8

[A] **AND THESE ARE THE ONES WHO [TO BEGIN WITH] DO NOT MOVE FROM THEIR PLACE: [B] HE WHO HAD [JUST NOW] BUILT A HOUSE AND DEDICATED IT, WHO HAD PLANTED A VINEYARD AND USED ITS FRUITS, WHO HAD MARRIED THE GIRL WHOM HE HAD BETROTHED, OR WHO HAD CONSUMMATED THE MARRIAGE OF HIS DECEASED CHILDLESS BROTHER’S WIDOW, SINCE IT IS SAID, “HE SHALL BE FREE FOR HIS HOUSE ONE YEAR” (DEUT. 24:5) – “FOR HIS HOUSE” – THIS IS HIS HOUSE. [E] “WILL BE” – THIS REFERS TO HIS VINEYARD. “AND SHALL CHEER HIS WIFE” – THIS APPLIES TO HIS OWN WIFE. “WHOM HE HAS ACQUIRED” – TO INCLUDE EVEN HIS DECEASED CHILDLESS BROTHER’S WIDOW. THESE DO NOT [EVEN] HAVE TO PROVIDE WATER AND FOOD AND SEE TO THE REPAIR OF THE ROAD.**

1. **I:1:** I know only that the law applies to one who builds his house but has not dedicated it, planted a vineyard but has not eaten the fruit, betrothed a wife but has not taken her. How do we know that if one has built a house and dedicated it, but has not lived in it twelve months, planted a vineyard and eaten its fruits, but has not had the use of it for twelve months, betrothed a wife and taken her, but has not dwelt with her for twelve months--how do we know that these [stay home and] do not move from their place [M. Sot. 8:4A-B]? Scripture says, “When a man is newly married, he shall not go out with the army or be charged with any business; he shall be free at home one year, to be happy with his wife whom he has taken” (Deut. 24:5). This matter was covered by the general principle, and why has it been explicitly stated? To allow for the imposition of an analogy on its basis, so teaching you: Now just as this one is distinguished in having betrothed a wife and taken her but in not having lived with her for twelve months, that he does not move from his place, so all of them are subject to the same rule [T. Sot. 7:20].

2. **I:2:** It is taught: All those concerning whom they have said, “They do not go forth at all,” for example, he who builds a house and dedicated it but has not lived in it for twelve months, planted a vineyard and eaten the fruit but not made use of it for twelve months, betrothed a wife and taken her in marriage and has not remained with her twelve months [M. Sot. 8:4B] – these do not pay their share of the taxes of the town, and do not provide water and food for the battle. And they do not repair the roads [T. Sot. 7:24].

LVI. YERUSHALMI SOTAH 8:9

[A] “AND THE OFFICERS SHALL SPEAK FURTHER UNTO THE PEOPLE [AND THEY SHALL SAY, **WHAT MAN IS THERE WHO IS FEARFUL AND FAINTHEARTED? LET HIM RETURN TO HIS HOME**]” (DEUT. 20:8). **R. AQIBA** SAYS, “**‘FEARFUL AND FAINTHEARTED’** – JUST AS IT IMPLIES: “**HE CANNOT STAND IN THE BATTLE-RANKS OR SEE A DRAWN SWORD.**” **R. YOSÉ THE GALILEAN** SAYS, “**‘FEARFUL AND FAINTHEARTED’** – THIS IS ONE WHO TREMBLES ON ACCOUNT OF THE TRANSGRESSIONS WHICH ARE IN HIS HAND. “**THEREFORE THE TORAH HAS CONNECTED ALL OF THESE, [THAT HE MIGHT (APPEAR TO) RETURN (HOME) ON THEIR ACCOUNT].** **R. YOSÉ** SAYS, “**AS TO A WIDOW MARRIED TO A HIGH PRIEST, A DIVORCEE OR WOMAN WHO HAS UNDERGONE THE RITE OF HALISAH TO AN ORDINARY PRIEST, A MAMZER-GIRL OR A NETINAH-GIRL MARRIED TO AN ISRAELITE, AN ISRAELITE GIRL TO A MAMZER OR A NETIN – LO, THESE ARE THE ONES WHO ARE ‘FEARFUL AND FAINTHEARTED.’**”

1. **I:1:** It is written, “And the officers shall speak further...” This means only that they add [to what already has been said, but do not contribute their own fresh ideas], like a man who says, “I add to what my master has stated [along the lines of what he has said].”
2. **I:2:** It was taught: All parties have to bring proof for their claim, except this one. For testimony in support of his position is right there with him [in the evidence of his fright].

LVII. YERUSHALMI SOTAH 8:10

[A] “AND IT SHALL BE WHEN THE OFFICERS HAVE MADE AN END OF SPEAKING TO THE PEOPLE THAT THEY SHALL APPOINT CAPTAINS OF HOSTS AT THE HEAD OF THE PEOPLE” (DEUT. 20:9), AND AT THE REAR OF THE PEOPLE. THEY STATION WARRIORS AT THEIR HEAD AND OTHERS BEHIND THEM, AND IRON AXES ARE IN THEIR HAND. AND WHOEVER WANTS TO RETREAT — HE HAS THE POWER TO BREAK HIS LEGS. FOR THE START OF DEFEAT IS FALLING BACK, AS IT IS WRITTEN, “ISRAEL FLED BEFORE THE PHILISTINES AND THERE WAS ALSO A GREAT SLAUGHTER AMONG THE PEOPLE (1 SAM. 4:17). AND FURTHER IT IS WRITTEN, “AND THE MEN OF ISRAEL FLED FROM BEFORE THE PHILISTINES AND FELL DOWN SLAIN” (1 SAM. 31:1). UNDER WHAT CIRCUMSTANCES [DO THE FOREGOING RULES APPLY]? IN THE CASE OF AN OPTIONAL WAR. BUT IN THE CASE OF A WAR SUBJECT TO RELIGIOUS REQUIREMENTS, EVERYONE GOES FORTH TO BATTLE — EVEN A BRIDEGROOM FROM HIS CHAMBER, AND A BRIDE FROM HER MARRIAGE-CANOPY. SAID R. JUDAH, “UNDER WHAT CIRCUMSTANCES? IN THE CASE OF A WAR SUBJECT TO RELIGIOUS REQUIREMENT. “BUT IN THE CASE OF AN OBLIGATORY WAR, EVERYONE GOES FORTH TO BATTLE — “EVEN A BRIDEGROOM FROM HIS CHAMBER, AND A BRIDE FROM HER MARRIAGE-canopy.”

1. **I:1:** It is written, “And it shall be when the officers have made an end of speaking to the people that they shall appoint captains of hosts at the head of the people” (Deut. 20:9). I know only that that applies to the head of the people. How do I know that the same applies at the rear of the people? Scripture says, “... and they shall be appointed” [with the “and” encompassing yet another set of officers].
2. **I:2:** “Raiders shall raid Gad, but he shall raid at their heels” (Gen 49:19). Raiders will come and raid him, and he will raid them. That is the meaning of the Mishnah, For the start of defeat is falling back.
3. **I:3:** R. Yohanan said, “It is the implications of language which is at issue [between M. 8:10G-J and K-M]: R. Judah did call a war fought

by choice, a war imposed by religious duty. But in the case of a war imposed by obligation, everyone goes forth, even a bridegroom from his chamber and a bride from her canopy [T. Sot. 7:24].

4. **I:4:** It is written, “Then King Asa made a proclamation to all Judah, none was exempt” (1 Kings 15:22). What is the meaning of “None was exempt”?

LVIII. YERUSHALMI SOTAH 9:1

[A] THE RITE OF THE HEIFER WHOSE NECK IS TO BE BROKEN IS SAID IN THE HOLY LANGUAGE, SINCE IT IS SAID, “IF ONE BE FOUND SLAIN IN THE LAND LYING IN THE FIELD...” “THEN YOUR ELDERS YOUR JUDGES SHALL COME FORTH” (DEUT. 21:1-2). THREE FROM THE HIGH COURT IN JERUSALEM WENT FORTH.

1. **I:1:** [The verse cited at M. 9:1B] is not reasonably chosen, for [the proof text cannot [be other than Deut. 21:7] “They shall answer and say.”
2. **I:2:** “If anyone is found slain” (Deut. 21:1) – not at a time at which corpses are commonplace [that is, at a time of war]. “If anyone is found slain” – and not that one should go about searching for [a corpse]. “If anyone is found slain” – the language of “finding” in all instances applies only when there are witnesses present. “And it is not known who killed him” (Deut. 21:1-10), if it is known who killed him, even a slave boy or a slave girl [testifying on that matter], then they would not break the neck of the heifer.
3. **I:3:** As to a court which witnesses the act of slaying – there are Tannaim who repeat, “Let two of them stand and testify before the others.” And there are Tannaim who teach: “Let all of them stand and give testimony before a court in some other location.”
4. **I:4:** “In the land which the Lord your God gives you to possess” (Deut. 21:1) – excluding foreign countries. “To possess” – excluding Jerusalem, which belongs to all the tribes.
5. **I:5:** It has been taught: It is a religious duty to do the work of measuring. How did they do it for him? The agents of the court go forth and take markers, and they dig a hole and bury him, and they mark off his place, until they come to the high court in the hewn-stone

chamber, and then they measure out [T. Sot. 9:3D-F]. How do we know that they mark off [graves to indicate the presence of a corpse]?

- I:6:** It was taught: They do not make a marker on account of coming across flesh. For the flesh may be consumed in the passage of time, as it rots. R. Yusta bar Shunam raised the question before R. Mana, “[If the flesh should turn up not rotted,] will it not then result in retroactively imparting uncleanness to clean things?”

[B] R. JUDAH SAYS, “FIVE, SINCE IT IS SAID, YOUR ELDERS — THUS, TWO, AND YOUR JUDGES, THUS TWO, AND THERE IS NO SUCH THING AS A COURT MADE UP OF AN EVEN NUMBER OF JUDGES, SO THEY ADD TO THEIR NUMBER YET ONE MORE.”

- II:1:** There we have learned: “The laying of hands [on a community sacrifice] by elders and the breaking of the heifer’s neck [Dt. 21:1-9] are done by three judges,” the words of R. Simeon. R. Judah says, “By five” [M. San. 1:3A-B]: What is the Scriptural basis for the position of R. Simeon? What is the Scriptural basis for the position of R. Judah?

LIX. YERUSHALMI SOTAH 9:2

[A] [IF] IT WAS FOUND HIDDEN UNDER A HEAP OF ROCKS OR HANGING FROM A TREE OR FLOATING ON THE SURFACE OF WATER, THEY DID NOT BREAK THE NECK OF A HEIFER. SINCE IT IS SAID, ON THE GROUND [DEUT. 21:1] — NOT HIDDEN UNDER A PILE OF ROCK. LYING — NOT HUNG ON A TREE. IN THE FIELD — NOT FLOATING ON THE WATER.

- I:1:** R. Eleazar says, “In the case of all of them, if there was a corpse, they would go through the rite of breaking the heifer’s neck [even if it was found hidden in a pile of rocks or hanging from a tree].” Said to him R. Yosé b. R. Judah, “If it was only strangled and lying in a field, did they break a heifer’s neck? On this account it is said, ‘Slain.’ If so, why is it said, ‘Lying’? But even if it was slain and hanging in a tree, they did not break a heifer’s neck” [T. Sot. 9:1B-C].
- I:2:** R. Yosé b. R. Bun taught in the name of R. Yohanan, “If [the victim] was found standing over his bed, with a knife plunged into his heart, they do not go through the rite.” R. Simeon b. Yohai taught: “They would go through the rite. [He will fall in a moment and there is no reason to exclude a corpse found in such condition.]”
- I:3:** If the slain was found at the entrance to a town [where there can be no doubt as to the nearest place], they nonetheless measure, so as to

carry out in this regard the religious duty of engaging in the act of measuring.

4. I:4: Rab went down [to Babylonia]. He announced, “I am the Ben Azzai of this place [and so am able to take on all inquiries] “ One old man came along and asked him, “Two corpses, one on top of the other – [From which one does one measure to the nearest town?] “ Rab thought that the issue was whether or not they carry out the rite of breaking the heifer’s neck at all. He said to him, “They do not carry out the rite of breaking the heifer’s neck. [By the way, they also do not measure from either corpse.]”

5. I:5: The opinions imputed to rabbis are at variance with one another. [At issue is the following passage: And similarly, concerning all tubers [which are stored] in the ground, such as arum, garlic, or onions – R. Judah says, “These are not [subject to the restrictions of the] forgotten sheaf, [since it is unclear whether the tubers have been forgotten or are in storage].” But sages say, “They are [subject to the restrictions of the] forgotten sheaf” [M. Peah 6:10D-F).. [Sages maintain that “in the field” (Deut. 24:19) in the relevant passage encompasses that which was hidden in the ground.] There [at the present pericope of the Mishnah they say [that the reference “on the ground”] excludes what is hidden [under a pile of rock, hence what is buried in the ground] [= M. 9:2B] And here they maintain [that the same language serves] to encompass what is hidden in the ground [at M. Peah 6:10].

[B] [If] IT WAS FOUND NEAR THE FRONTIER, NEAR A TOWN WHICH HAD A GENTILE MAJORITY, OR NEAR A TOWN WHICH HAD NO COURT, THEY DID NOT BREAK A HEIFER’S NECK. THEY MEASURE ONLY FROM A TOWN WHICH HAS A COURT.

1. II:1: If the corpse was found near the frontier, I say that the Saracens killed him. If it was found near a town in which gentiles live, say that gentiles killed him...or near a town which had no court, they did not break a heifer’s neck: This is in line with that which is written, “Our hands did not shed this blood, neither did our eyes see it shed” (Deut. 21:7).

[C] “[If] IT WAS FOUND EXACTLY BETWEEN TWO SUCH TOWNS, THEN THE TWO OF THEM BRING TWO HEIFERS,” THE WORDS OF R. ELIEZER. AND SAGES SAY, “ONE TOWN BRINGS A HEIFER, AND TWO TOWNS DO NOT BRING TWO HEIFERS.” AND JERUSALEM DOES NOT HAVE TO BRING A HEIFER WHOSE NECK IS TO BE BROKEN.

1. III:1: What is the Scriptural basis for the position of rabbis? “And the elders of the city which is nearest to the slain man...” (Deut. 21:2). And what is the Scriptural basis for the position of R. Eliezer? “And

they shall measure the distance to the cities which are around him that is slain” (Deut. 21:2).

2. **III:2:** What is the status as to cities of refuge [in regard to bringing the heifer]?

LX. YERUSHALMI SOTAH 9:3

[A] **FROM WHAT POINT DID THEY MEASURE? R. ELIEZER SAYS, “FROM HIS BELLY-BUTTON.” R. AQIBA SAYS, “FROM HIS NOSE.” R. ELIEZER B. JACOB SAYS, “FROM THE PLACE AT WHICH HE WAS TURNED INTO A CORPSE – FROM HIS NECK.”**

1. **I:1:** From what point did they measure? R. Eliezer says, “From his belly-button: – the place where the embryo is found.” R. Aqiba says, “From his nose: – the place of recognition. [That is, people are recognized by the character of their noses.]”

LXI. YERUSHALMI SOTAH 9:4

[A] **“[IF] ITS HEAD IS FOUND IN ONE PLACE AND ITS BODY IN ANOTHER PLACE, THEY BRING THE HEAD TO THE BODY,” THE WORDS OF R. ELIEZER. R. AQIBA SAYS, “THEY BRING THE BODY TO THE HEAD.”**

1. **I:1:** Said R. Eleazar, “The dispute has to do with the burial place.” R. Samuel in the name of R. Jonathan, “The dispute concerns a case in which the head was above and the body below. But if the head was below and the body was above, all parties concur that they bring the head to the body.”
2. **I:2:** If the ground was sloping in ail directions, I say that the head went down one side and the body went down the other side, or this head has no body, and this body has no head. If the ground was flat, in any place in which it is to be expected that the parts have scattered, I maintain that it is a single body [from which the parts have come, and the dispute of the Mishnah follows].

LXII. YERUSHALMI SOTAH 9:5

[A] THE ELDERS OF JERUSALEM TOOK THEIR LEAVE AND WENT AWAY. THE ELDERS OF THAT TOWN BRING “A HEIFER FROM THE HERD WITH WHICH LABOR HAD NOT BEEN DONE AND WHICH HAD NOT DRAWN THE YOKE” (DEUT. 21:3). BUT A BLEMISH DOES NOT INVALIDATE IT.

1. **I:1:** [“And the elders... shall take a heifer which has never been worked and which has not pulled on the yoke” (Deut 21:3).] “Which has never been worked” – knowingly. “And which has not pulled on the yoke” – whether knowingly or unknowingly.
 - a. **I:2:** And how much should the beast have drawn on the yoke [for it to be deemed invalid]?
 - b. **I:3:** R. Bun bar Hiyya raised the question before R. Zeira: “‘With which labor had not been done’ is a general rule. ‘And which had not drawn the yoke’ is a particularization thereof. We have then a generalization and a particularization [which is deemed to be limiting]. Thus the general rule contains only what is expressed by the particularization thereof. [Accordingly, the only sort of labor which will invalidate the heifer will be pulling on the yoke.]”
2. **I:4:** Just as in the case of the yoke stated with regard to the heifer, Scripture has treated all other sorts of labor as equivalent to pulling on the yoke, so in the case of the yoke stated with regard to the red cow Scripture has treated all other sorts of labor as equivalent to pulling on the yoke. Just as in the case of “yoke” stated with regard to the heifer, an act of labor invalidates the heifer, whether or not done with the owner’s knowledge and consent, so “yoke” stated with regard to the red cow means that an act of labor done with it invalidates it, whether this is or is not with the knowledge and consent of the owner. Just as in the case of “yoke” stated with regard to the red cow the yoke [itself~invalidates the cow, so “yoke” stated with regard to the heifer [means that] the yoke invalidates it. If we then propose, “Just as ‘yoke’ stated with reference to the red cow means that blemishes of the cow invalidate it, so ‘yoke’ stated with reference to the heifer means that blemishes invalidate it,” Scripture explicitly stated, “in which there is no blemish, meaning, blemishes invalidate in the case of the red cow and blemishes do not invalidate in the case of the heifer.
3. **I:5:** What is the rule as to the absence of major limbs’ serving as a defect to invalidate the heifer? [Answering the question with reference

to Deut. 21:8, “Forgive, O Lord, thy people Israel...,”] R. Huna in the name of R. Jeremiah: “Since you may note ‘forgiveness’ is written in regard to the heifer, it is tantamount to Holy Things [used to attain forgiveness by serving as an offering]. Accordingly, in the case of the heifer it is as if part of the beast is offered on the altar.”

a. I:6: If the heifer suffers a blemish which would render it terefah, what is the law as to its being deemed invalid?

4. **I:7:** An elder asked the rabbis of Caesarea, “[In the case of a beast suffering blemishes that render it terefah, if one breaks the neck,] what is the law as to that action’s rendering the carrion clean of the uncleanness that ordinarily pertains to carrion? [That is, the law in general is that if one properly slaughters a beast that is terefah, the proper act of slaughter removes the uncleanness pertaining to the carrion of a terefah beast. So the question is whether we deem this unusual mode of killing the beast to be tantamount to a proper act of slaughter.]”

[B] THEY BROUGHT IT DOWN INTO A RUGGED VALLEY (AND RUGGED IS MEANT LITERALLY, HARD, BUT EVEN IF IT IS NOT RUGGED, IT IS VALID).

1. **II:1:** They brought it down into a rugged valley (and rugged is meant literally, hard: “Enduring is your dwelling place, and your nest is set in the rock” (Num. 24:21). but even if it is not rugged, it is valid: And along these same lines, even though it is not a valley, is it valid?

[C] AND THEY BREAK ITS NECK WITH A HATCHET FROM BEHIND.

1. **III:1:** And is it necessary to sever two or the greater part of two [of the organs of the neck, as in the case of a valid act of slaughter]?

[D] AND ITS PLACE IS PROHIBITED FOR SOWING AND FOR TILLING, BUT PERMITTED FOR THE COMBING OUT OF FLAX AND FOR QUARRYING STONES.

1. **IV:1:** There we have learned: There is one who ploughs a single furrow and is liable on eight counts of violating a negative commandment: [specifically, it is] he who (1) ploughs with an ox and an ass [Dt. 22:10], which are [2, 3] both Holy Things, in the case of (4) [ploughing] Mixed Seeds in a vineyard [Dt. 22:9], (5) in the Seventh Year [Lev. 25:41], (6) on a festival [Lev. 23:7] and who was both a (7) priest [Lev. 21:1] and (8) a Nazirite [Num. 6:6] [ploughing] in a graveyard [M. Mak. 3:9A-C]. R. Hoshaiah raised the question: “And let us repeat the tradition, ‘He who ploughs in a place in which a heifer’s neck was broken’ [thus violating M. 9:5F], lo, making nine violations.”

2. **IV:2:** Associates said before R. Yosé, “Interpret the statement [of M. 9:5F, that the place may not be sown or tilled] to apply to the the prior condition of the place [that it must be fallow ground]. He said to them, “If you apply the rule to the prior condition of the place, all the more so must it be left in the future to lie fallow.]”
3. **IV:3:** The area in which its neck is broken and the surrounding ground – lo, these are prohibited. And how large is that area of surrounding ground? Four cubits [T. Sot. 9:1].
4. **IV:4:** R. Samuel, son of R. Yosé b. R. Bun: “[‘And the elders shall bring the heifer down to a valley... which is] neither plowed nor sown...’ (Deut. 21:4) ‘Which is not plowed’ is a generalization, ‘nor sown’ is a particularization. Thus we have a generalization followed by a particularization. Nothing is contained in the generalization except what is made explicit by the particularization. [It follows that only sowing matters is invalidating the plot of ground.]”

LXIII. YERUSHALMI SOTAH 9:6

[A] **THE ELDERS OF THAT TOWN WASH THEIR HANDS IN THE PLACE IN WHICH THE NECK OF THE HEIFER IS BROKEN, AND THEY SAY, “OUR HANDS HAVE NOT SHED THIS BLOOD, NOR DID OUR EYES SEE IT” (DEUT. 21:7). NOW COULD IT ENTER OUR MINDS THAT THE ELDERS OF A COURT MIGHT BE SHEDDERS OF BLOOD? BUT [THEY MEAN:] HE DID NOT COME INTO OUR HANDS SO THAT WE SENT HIM AWAY WITHOUT FOOD. AND WE DID NOT SEE HIM AND LET HIM GO ALONG WITHOUT AN ESCORT. AND [IT IS] THE PRIESTS [WHO] SAY, “FORGIVE, O LORD, YOUR PEOPLE ISRAEL, WHOM YOU HAVE REDEEMED, AND DO NOT ALLOW INNOCENT BLOOD IN THE MIDST OF YOUR PEOPLE, ISRAEL” (DEUT. 21:8). THEY DID NOT HAVE TO SAY, “AND THE BLOOD SHALL BE FORGIVEN THEM” (DEUT. 21:8). BUT THE HOLY SPIRIT INFORMS THEM, “WHENEVER YOU DO THIS, THE BLOOD SHALL BE FORGIVEN TO YOU.” [IF] THE MURDERER WAS FOUND BEFORE THE NECK OF THE HEIFER WAS BROKEN, IT [SIMPLY] GOES FORTH AND PASTURES IN THE HERD. [IF THE MURDERER IS FOUND] AFTER THE NECK OF THE HEIFER IS BROKEN, IT IS TO BE BURIED IN ITS PLACE. FOR TO BEGIN WITH IT WAS BROUGHT IN A MATTER OF DOUBT. IT HAS ATONED FOR THE MATTER OF DOUBT ON WHICH ACCOUNT IT WAS BROUGHT AND WHICH HAS GONE ITS WAY. [IF] THE NECK OF THE HEIFER WAS BROKEN AND AFTERWARD THE MURDERER WAS FOUND, LO, THIS ONE IS PUT TO DEATH.**

1. **I:1:** [As to the statement, “Our hands have not shed this blood” (Dt. 21:7), the rabbis here [in the Land of Israel] interpret the passage to speak of the murderer. The rabbis over there [in Babylonia] interpret it to speak of the victim.”

a. I:2: The elders say, “Our hands have not shed this blood, and our eye did not see it” (Deut. 21:7) [M. Sot. 9:6B]. And the priests say, “Forgive, O Lord, your people, Israel whom you have redeemed” (Deut. 21:8) [M. Sot. 9:6F]. And the Holy Spirit says, “But let the guilt of blood be forgiven them” (Deut. 21:8) [M. Sot. 9:6H] [T. Sot. 9:2]. In three passages just now cited the one who said one thing did not say another.

2. **I:3:** Said R. Phineas, “This mode of atonement [namely, the breaking of the heifer’s neck] was suitable to make atonement [even] for those who went out of Egypt [in line with Deut. 21:8: ‘Forgive... whom you have redeemed,’ that is, from Egypt].”
3. **I:4:** Said R. Ila, “Will he declare him exempt on the count of ‘it and its offspring’ in accord with the view of R. Simeon? [This question is explained presently.]” Said R. Yannai, [The dispute which follows pertains to the case of one who has slaughtered the offspring of a dam which has served as a heifer in the present rite, M. Hul. 5:3A-E. The issue is whether or not one is liable for slaughtering the offspring on the same day on which the dam has been slaughtered for the rite of the heifer.] In the opinion of R. Meir, even if [the dam] has had its neck broken [in the rite of the heifer], one who slaughters the offspring is liable. [The breaking of the neck is tantamount to a proper act of slaughter.]”

[B] [IF] THE MURDERER WAS FOUND BEFORE THE NECK OF THE HEIFER WAS BROKEN, IT [SIMPLY] GOES FORTH AND PASTURES IN THE HERD. [IF THE MURDERER IS FOUND] AFTER THE NECK OF THE HEIFER IS BROKEN, IT IS TO BE BURIED IN ITS PLACE. FOR TO BEGIN WITH IT WAS BROUGHT IN A MATTER OF DOUBT. IT HAS ATONED FOR THE MATTER OF DOUBT ON WHICH ACCOUNT IT WAS BROUGHT AND WHICH HAS GONE ITS WAY. [IF] THE NECK OF THE HEIFER WAS BROKEN AND AFTERWARD THE MURDERER WAS FOUND, LO, THIS ONE IS PUT TO DEATH:

1. **II:1:** said R. Matteniah, “And that is so. Since it is written, ‘But let the guilt of blood be forgiven them’ (Deut. 21:8), has [Scripture then] fallen silent? No. for even then it says, ‘So you shall purge the guilt of innocent blood from your midst.’ [Thus even though the rite has been carried out, the obligation to punish the murderer, when he is found, remains valid.]”

LXIV. YERUSHALMI SOTAH 9:7

[A] [IF] ONE WITNESS SAYS, “I SAW THE MURDERER,” AND ONE WITNESS SAYS, “YOU DID NOT SEE HIM.” [IF] ONE WOMAN SAYS, “I SAW HIM,” AND ONE WOMAN SAYS, “YOU DID NOT SEE HIM,” THEY WOULD GO THROUGH THE RITE OF BREAKING THE NECK OF THE HEIFER. [IF] ONE WITNESS SAYS, “I SAW,” AND TWO SAY, “YOU DID NOT SEE,” THEY WOULD BREAK THE NECK OF THE HEIFER. [IF] TWO SAY, “WE SAW,” AND ONE SAYS TO THEM, “YOU DID NOT SEE,” THEY DID NOT BREAK THE NECK OF THE HEIFER.

1. **I:1:** Giddul bar Benyamin in the name of Rab: “In any case in which [sages] have declared the testimony of a woman to be as valid as that of a man, the testimony of a man serves to discredit that of a woman, and the testimony of a woman serves to discredit that of a man.”
2. **I:2:** It was taught in the name of R. Nehemiah, “They follow the greater part of the [available] testimony.”

LXV. YERUSHALMI SOTAH 9:8

[A] WHEN MURDERERS BECAME MANY, THE RITE OF BREAKING THE HEIFER’S NECK WAS CANCELLED. [THIS WAS] WHEN ELEAZAR B. DINAI CAME ALONG, AND HE WAS ALSO CALLED TEHINAH B. PERISHAH. THEN THEY WENT AND CALLED HIM, “SON OF A MURDERER.”

1. **I:1:** [The Hebrew] “Son of a murderer” is [in Aramaic] “Son of a murderer.”

LXVI. YERUSHALMI SOTAH 9:9

[A] WHEN ADULTERERS BECAME MANY, THE ORDEAL OF THE BITTER WATER WAS CANCELLED. AND RABBAN YOHANAN B. ZAKKAI CANCELLED IT, SINCE IT IS SAID, “I WILL NOT PUNISH YOUR DAUGHTERS WHEN THEY COMMIT WHOREDOM, NOR YOUR DAUGHTERS-IN-LAW WHEN THEY COMMIT ADULTERY, FOR THEY THEMSELVES GO APART WITH WHORES” (HOSEA 4:14).

1. **I:1:** It is written, “For they themselves go apart with whores” (Hosea 4:14). And it is written, “And the woman shall become an execration among her people” (Num. 5:27). That applies when her people are at peace. But when her people are licentious [it does not apply].

LXVII. YERUSHALMI SOTAH 9:10

[A] WHEN YOSÉ B. YOEZER OF SEREDAH AND YOSÉ B. YOHANAN OF JERUSALEM DIED, THE GRAPE-CLUSTERS WERE CANCELLED, SINCE IT IS SAID, “THERE IS NO CLUSTER TO EAT, MY SOUL DESIRES THE FIRST RIPE FIG” (MICAH 7:1).

1. **I:1:** And there was no grape cluster to come until R. Aqiba arose. And were all of the pairs not grape clusters? But these served as sustainers, while the others did not.
2. **I:2:** It was taught [in Tosefta’s version]: Among all the grape clusters which arose for Israel from the death of Moses to the rise of Joseph b. Yoezer of Seredah and Joseph b. Yohanán of Jerusalem it is not possible to find a blemish. But once Joseph b. Yoezer of Seredah and Joseph b. Yohanán of Jerusalem died, until the rise of Judah b. Baba, it most certainly is possible to find a blemish among them [T. B.Q. 8:13-14].

LXVIII. YERUSHALMI SOTAH 9:11

[A] YOHANAN, HIGH PRIEST, DID AWAY WITH THE CONFESSION CONCERNING TITHE.

1. **I:1:** R. Jeremiah, R. Hiyya in the name of R. Simeon b. Laqish: “The Mishnah [at M. 9:11A, doing away with the confession concerning tithe, Deut. 26:13-15] speaks of the time after which the people were suspect of handing the [first] tithe over to the priesthood while it should go to the Levites. [That is why Yohanán annulled reciting the confession.]” The statement [of Simeon] supports the position of R. Yohanán [cited below, that whatever Yohanán did was praiseworthy, n one aspect and stands at variance with it in other.
2. **I:2:** [As to his doing away with the confession concerning tithe, M. 9:11A,] [why should one not] confess? Said R. Illa, “It angers the Omnipresent when someone says, ‘I have done...,’ while he has not done a thing.”

[B] ALSO: HE CANCELLED THE RITE OF THE AWAKENERS:

1. **II:1:** The awakeners [M. Sot. 9:10B] – these are the Levites who say on the platform, Rouse yourself! Why do you sleep, O Lord (Ps. 44:23). Said to them Yohanán, “Now is there such a thing as sleep before Him? And has it not already been said, ‘Lo, the Guardian of

Israel neither slumbers nor sleeps' (Ps. 121:4). But so long as Israel is immersed in pain and the nations of the world are wallowing in prosperity, as it were, Rouse yourself! Why do you sleep?" [T. Sot. 13:9A-C].

[C] AND THE STUNNERS:

- 1. III:1:** The knockers [M. Sot. 9:10B] – these are those who knock the calf between its horns, just as they stun a beast to be sacrificed for idolatry. Said to them Yohanan the high priest, "How long are you going to feed terefah-meat to the altar?" [T. Sot. 13:10A-B].

[D] UNTIL HIS TIME A HAMMER DID STRIKE IN JERUSALEM:

- 1. IV:1:** Until the beginning of his time.

[E] AND IN HIS TIME NO MAN HAD TO ASK CONCERNING DOUBTFULLY-TITHED PRODUCE.

- 1. V:1:** For he set up pairs [to oversee the matter].
- 2. V:2:** [Reverting to I:1:] In the view of R. Joshua b. Levi, some of the [decrees] were not praiseworthy and some of them were praiseworthy.
- 3. V:3:** R. Yosé in the name of R. Abbahu, R. Hezekiah in the name of R. Judah b. Pazzi, "'Demai' means, 'Who has properly dealt with his crop, and who has not properly dealt with his crop.'"

LXIX. YERUSHALMI SOTAH 9:12

[A] WHEN THE SANHEDRIN WAS CANCELLED, SINGING AT WEDDING FEASTS WAS CANCELLED, SINCE IT IS SAID, "THEY SHALL NOT DRINK WINE WITH A SONG" (Is. 24:9).

- 1. I:1:** Abba bar R. Jeremiah said, "'The old men have quit the city gate, the young men their music'" (Lam. 5:14). Said R. Hisda, "At first, when people were afraid of the Sanhedrin, they did not sing obscene songs. But now that they are not afraid of the Sanhedrin, they sing obscene songs."
- 2. I:2:** And what good was the Sanhedrin for Israel? But it was for this matter, concerning which it is said, "And if the people of the land do at all hide their eyes from that man, when he gives one of his children to Molech, and do not put him to death, then I will set my face against that man and against his family" (Lev. 20:4-5). At first, when a man

would sin, if there was a Sanhedrin in operation, they would exact punishment from him. Now [that there is no Sanhedrin], punishment is exacted both from him and from his relatives, as it is said, Then I will set my face against that man and against his family. [Yerushalmi lacks:] They have compared the matter to one who went bad in a town, so they gave him over to strap-bearer, and he strapped him. He was too hard for the strap-bearer. They gave him over to a rod-officer, and he beat him. He was too hard for the rod-officer. They gave him over to a centurion and he put him in prison, but he was too hard for the centurion] They gave him over to a magistrate, and he threw him into a furnace. So is Israel: the latter tribulations make them forget the former tribulations. [T. Sot. 15:7].

- 3. I:3:** And what good was the Sanhedrin for Israel? But it was for this matter, concerning which it is said, “And if the people of the land do at all hide their eyes from that man, when he gives one of his children to Molech, and do not put him to death, then I will set my face against that man and against his family” (Lev. 20:4-5). At first, when a man would sin, if there was a Sanhedrin in operation, they would exact punishment from him. Now [that there is no Sanhedrin], punishment is exacted both from him and from his relatives, as it is said, Then I will set my face against that man and against his family. Said R. Yosé b. R. Bun in the name of R. Huna, “At first whenever a misfortune would come upon the community, they would declare a celebration [to commemorate their being saved from that misfortune.” When the Sanhedrin was cancelled, singing at wedding feasts was cancelled When these and those [namely, celebrations for an occasion of redemption and singing at wedding feasts] were cancelled, “The joy of our hearts ceased; our dancing has been turned to mourning” (Lam. 5:15). But what good was the great Sanhedrin? But since it is said, “And if the people of the land do at all hide their eyes from that man, when he gives one of his children to Molech, and do not put him to death, [then I will set my face against that man]” (Lev. 20:4) – that is, if they do not put him to death with any mode of execution they choose.

LXX. YERUSHALMI SOTAH 9:13

[A] WHEN THE FORMER PROPHETS DIED OUT, THE URIM AND TUMMIM WERE CANCELLED:

1. **I:1:** R. Samuel bar Nahman in the name of R. Jonathan: “This refers to Samuel and David.” R. Ba bar Kahana in the name of Rab: “This refers to Gad and Nathan.” R. Jeremiah, R. Samuel bar Isaac in the name of Rab: “This refers to Jeremiah and Baruch.”
2. **I:2:** When the latter prophets died, that is, Haggai, Zechariah, and Malachi, then the Holy Spirit came to an end in Israel. But even so, they made them hear [Heavenly messages] through an echo.

[B] WHEN THE SANCTUARY WAS DESTROYED, THE SHAMIR-WORM CEASED:

1. **II:1:** Said R. Judah, “What is the character of this worm? It is a creature from the six days of Creation. When they put it on stones or on beams, they are opened up before it like the pages of a notebook. And not only so, but when they put it on iron, [the iron] is split and falls apart before it. And nothing can stand before it.

[C] AND [SO DID] THE HONEY OF SUPIM:

1. **III:1:** Said R. Eleazar, “It is honey which comes from the inner cells of the honeycomb.”

[D] AND FAITHFUL MEN CAME TO AN END, SINCE IT IS WRITTEN, “HELP, O LORD, FOR THE GODLY MAN CEASES” (PS. 12:2):

1. **IV:1:** [Responding to M. 9:14A: Rabban Simeon b. Gamaliel says, “R. Joshua testified, ‘From the day on which the Temple was destroyed, there is no day on which there is no curse, and dew has not come down as a blessing. The good taste of produce is gone,’”] said R. Jonathan; “Better was the overripe produce which we ate in our youth than the apricots that we eat in our old age. For with the passage of time, the world changes.”
2. **IV:2:** Said R. Zeira, “Men faithful tin the Torah.”

LXXI. YERUSHALMI SOTAH 9:14

- [A] RABBAN SIMEON B. GAMALIEL SAYS, “R. JOSHUA TESTIFIED, ‘FROM THE DAY ON WHICH THE TEMPLE WAS DESTROYED, THERE IS NO DAY ON WHICH THERE IS NO CURSE, AND DEW HAS NOT COME DOWN AS A BLESSING. THE GOOD TASTE OF PRODUCE IS GONE.’” R. YOSÉ SAYS, “ALSO: THE FATNESS OF PRODUCE IS GONE.”**

1. **I:1:** It is written, “[God is a righteous judge,] and a God who has indignation every day” (Ps. 7:11). Said R. Zeira, “The former [days] are [easier to] endure [since things get worse from day to day].”
 2. **I:2:** Rabban Simeon b. Gamaliel said, “You should know that the dew has been cursed [M. Sot. 9:12E]: In olden times, when the dew came down on straw and on stubble, it would turn white, as it is said, ‘And when the dew had gone up, there was on the face of the wilderness a fine, flake-like thing, fine as hoar frost on the ground’ [Ex. 16:14]. But now it turns black. In olden times, any city which got more dew than its neighbors produced a larger harvest. Now it produces less” [T. Sot. 15:2].
- [B] **R. SIMEON B. ELEAZAR SAYS, “[WHEN] PURITY [CEASED], IT TOOK AWAY THE TASTE AND SCENT; [WHEN] TITHES [CEASED], THEY TOOK AWAY THE FATNESS OF CORN.”**
1. **II:1:** From which produce or wheat was more removed?
- [C] **AND SAGES SAY, “FORNICATION AND WITCHCRAFT MADE AN END TO EVERYTHING.”**

LXXII. YERUSHALMI SOTAH 9:15

- [A] **IN THE WAR AGAINST VESPASIAN THEY DECREED AGAINST THE WEARING OF WREATHS BY BRIDEGROOMS AND AGAINST THE WEDDING-DRUM.**
1. **I:1:** “The crown has fallen from our head, [woe to us, for we have sinned]” (Lam. 5:16).
 2. **I:2:** And what sorts of bridegroom’s wreaths did they prohibit?
 3. **I:3:** After the last war, they made a decree against the marriage-canopy of bridegrooms. Against what sort of marriage-canopy of bridegrooms did they make such a decree? It is against those made of gold. But he may make a framework of laths and hang on it anything he wants [T. Sot. 15:9].
- [B] **IN THE WAR AGAINST TITUS THEY DECREED AGAINST THE WEARING OF WREATHS BY BRIDES.**
1. **II:1:** What is a crown worn by a bride [M. 9:15B]?
- [C] **AND [THEY DECREED] THAT A MAN SHOULD NOT TEACH GREEK TO HIS SON.**

1. **III:1:** They asked R. Joshua, “What is the law as to a man’s teaching his son Greek?”

[D] **IN THE LAST WAR [BAR KOKHBA’S] THEY DECREED THAT A BRIDE SHOULD NOT GO OUT IN A PALANQUIN INSIDE THE TOWN. BUT OUR RABBIS [THEREAFTER] PERMITTED THE BRIDE TO GO OUT IN A PALANQUIN INSIDE THE TOWN.**

1. **IV:1:** Who releases decrees issued by the former generation?

[E] **[REVERTING TO THE OPENING PERICOPE:]**

1. This [M. 9:15A] is in line with the following: The exilarch sent and asked R. Hisdai, “What is the meaning of that which is written. “Thus says the Lord God, Remove the turban, and take off your crown; things shall not remain as they are; exalt that which is low, and abase that which is high’ (Ez. 21:25)?”

LXXIII. YERUSHALMI SOTAH 9:16

[A] **WHEN R. MEIR DIED, MAKERS OF PARABLES CAME TO AN END. WHEN BEN ‘AZZAI DIED, DILIGENT STUDENTS CAME TO AN END. WHEN BEN ZOMA’ DIED, EXEGETES CAME TO AN END. WHEN R. JOSHUA DIED, GOODNESS WENT AWAY FROM THE WORLD. WHEN RABBAN SIMEON B. GAMALIEL DIED, THE LOCUST CAME, AND TROUBLES MULTIPLIED. WHEN R. ELEAZAR B. AZARIAH DIED, WEALTH WENT AWAY FROM THE SAGES. WHEN R. AQIBA DIED, THE GLORY OF THE TORAH CAME TO AN END. WHEN R. HANINA B. DOSA DIED, WONDER-WORKERS CAME TO AN END. WHEN R. YOSÉ QATNUTA DIED, PIETISTS WENT AWAY. (AND WHY WAS HE CALLED QATNUTA? BECAUSE HE WAS THE LEAST OF THE PIETISTS.) WHEN RABBAN YOHANAN B. ZAKKAI DIED, THE SPLENDOR OF WISDOM CAME TO AN END. WHEN RABBAN GAMALIEL THE ELDER DIED, THE GLORY OF THE TORAH CAME TO AN END, AND CLEANNES AND SEPARATENESS PERISHED. WHEN R. ISHMAEL B. PHABI DIED, THE SPLENDOR OF THE PRIESTHOOD CAME TO AN END. WHEN RABBI DIED, MODESTY AND FEAR OF SIN CAME TO AN END. R. PINHAS B. YAIR SAYS, “WHEN THE TEMPLE WAS DESTROYED, ASSOCIATES BECAME ASHAMED AND SO DID FREE MEN, AND THEY COVERED THEIR HEADS. “AND WONDER-WORKERS BECAME FEEBLE. AND VIOLENT MEN AND BIG TALKERS GREW STRONG. “AND NONE EXPOUNDS AND NONE SEEKS [LEARNING] AND NONE ASKS. “UPON WHOM SHALL WE DEPEND? UPON OUR FATHER IN HEAVEN.” R. ELIEZER THE GREAT SAYS, “FROM THE DAY ON WHICH THE TEMPLE WAS DESTROYED, SAGES BEGAN TO BE LIKE SCRIBES, AND SCRIBES LIKE MINISTERS, AND MINISTERS LIKE ORDINARY FOLK. “AND THE ORDINARY FOLK HAVE BECOME FEEBLE. “AND NONE SEEKS. “UPON WHOM SHALL WE DEPEND? UPON OUR FATHER IN HEAVEN.” WITH**

THE FOOTPRINTS OF THE MESSIAH: PRESUMPTION INCREASES, AND DEARTH INCREASES. THE VINE GIVES ITS FRUIT AND WINE AT GREAT COST. AND THE GOVERNMENT TURNS TO HERESY. AND THERE IS NO REPROOF. THE GATHERING PLACE WILL BE FOR PROSTITUTION. AND GALILEE WILL BE LAID WASTE. AND THE GABLAN WILL BE MADE DESOLATE. AND THE MEN OF THE FRONTIER WILL GO ABOUT FROM TOWN TO TOWN, AND NONE WILL TAKE PITY ON THEM. AND THE WISDOM OF SCRIBES WILL PUTREFY. AND THOSE WHO FEAR SIN WILL BE REJECTED. AND THE TRUTH WILL BE LOCKED AWAY. CHILDREN WILL SHAME ELDERS, AND ELDERS WILL STAND UP BEFORE CHILDREN. “FOR THE SON DISHONORS THE FATHER AND THE DAUGHTER RISES UP AGAINST THE MOTHER, THE DAUGHTER-IN-LAW AGAINST HER MOTHER-IN-LAW; A MAN’S ENEMIES ARE THE MEN OF HIS OWN HOUSE” (MIC. 7:6). THE FACE OF THE GENERATION IN THE FACE OF A DOG. A SON IS NOT ASHAMED BEFORE HIS FATHER. UPON WHOM SHALL WE DEPEND? UPON OUR FATHER IN HEAVEN.

1. **I:1:** When R. Eliezer died, the glory of the Torah ceased. When R. Joshua died, men of counsel ceased, and reflection ended in Israel [cf. M. Sot 9:15D]. When R. ‘Aqiba died, the arms of Torah were taken away, and the springs of wisdom ceased [cf. M. Sot. 9:15G]. When R. Eleazar b. ‘Azariah died, the crown of wisdom ceased, for, “The crown of the wise is their riches” (Prov. 14:24) [cf. M. Sot. 9:15D]. When Ben Azzai died, conscientious students ceased [M. Sot. 9: 15B]. When Ben Zoma died, exegetes died [M. Sot. 9:15C]. When R. Hanina b. Dosa died, wonder-workers died out in Israel [M. Sot. 9:15H]. When Abba Yosé b. Qitnit of Qatanta died, piety became small in Israel. (Why was he called a man of Qatanta? Because he was the very essence of piety.) When Rabban Simeon b. Gamaliel died, locusts came and troubles increased [M. Sot. 9:15E]. When Rabbi died, troubles were doubled [T. Sot. 15:3-5].
2. **I:2:** R. Jacob bar Idi in the name of R. Joshua b. Levi: “When Rabban Yohanan b Zakkai lay dying, he commanded, saying, ‘Clear the courtyard of articles susceptible to uncleanness, because of uncleanness [consequent upon my death, since the corpse produces heavy contamination], and prepare a throne for Hezekiah, king of Judah.’” R. Eliezer, his disciple, when he lay dying, gave orders, saying, ‘Clear out the courtyard because of uncleanness, and prepare a throne for Rabban Yohanan ben Zakkai.’”
3. **I:3:** The patriarchate wanted to marry into the house of Pazzi, and he did not agree. He told them that they should not be ashamed. When he lay dying, he gave orders and said, “Clear out the courtyard because of uncleanness, and prepare a throne for Jehoshaphat, king of Judah.”

They said, “Let this one, who pursued honor, come after that one, who fled from honor.”

4. **I:4:** R. Jacob bar Idi in the name of R. Joshua b. Levi: “M’SH S: Elders assembled in the upstairs room in the house of Gedaya in Jericho, and an echo went out and said to them, ‘There are among you two who are worthy of receiving the Holy Spirit, and Hillel the elder is one of them.’ They all gazed upon Samuel the Small. Again: The elders got together in the upstairs room in Yavneh, and an echo went forth and said to them, ‘There are among you two who are worthy of receiving the Holy Spirit, and Samuel the Small is one of them,’ and they all gazed at R. Eliezer b. Hyrcanus. And they were all happy that their opinion was the same as the opinion of the Omnipresent.”

TRACTATE

GITTIN

Writs of divorce, *gittin*, find their context in the larger process of sanctifying a woman to a particular man and ending that relationship of consecration. The purpose of the act of consecration of a woman to a particular man is to produce children. But to realize that intentionality, the halakhah takes for granted that both parties must concur. The woman is sanctified to the man when she agrees to the betrothal and thereby agrees to carry out her half of the transaction that the betrothal is meant to make possible. The sanctification of a woman accordingly takes place when the woman, available for that man, meaning, not otherwise consecrated, and also not prohibited by rules of consanguinity or incest, consents. Designating a woman as “holy” or set apart for a particular man, requires the woman’s participation through assent.

That is not so when it comes to the desacralization of the relationship, at which point the woman is no longer consecrated to that particular man but becomes available to any other man of her choice (within the prohibitions of incest). One of two parties—man or God, but not woman—intervenes. In general, the husband acts through a writ of divorce, called a *get*, to desanctify what he has sanctified. His initiative, resulting from his intentionality, is dissolved at his own will. In special cases, Heaven intervenes; the husband dies, leaving the wife free to remarry.

Now what role does the wife possess? None, so far as the Torah is concerned. Scripture does not contemplate a role for the woman in its account of how the relationship of sanctification to a particular man is secularized, that is, nullified. When Heaven accomplishes the same act of nullification of the existing relationship of sanctification through the husband’s death, neither the husband nor the wife participates; when Heaven creates the special circumstance involving levirate connection, no party on earth plays a role.

But even though only the husband may initiate the writ of divorce and have it written and handed over, the halakhah provides the wife with important points of participation in the process of ordinary divorce, even when the man initiates that process. And the woman’s stake in the process correspondingly gains enormous consequence. She has the right to dictate the conditions of delivery. She has the right to be correctly informed, to participate in the transaction as an active player,

determining how her half of the matter will be conducted by dictating the circumstances under which she will receive the document. And, above all, because the halakhah also imposes the most severe and long-lasting penalties upon a woman whose writ of divorce turns out to be impaired and so invalid, and who on the strength of such a document remarries, the woman must thoughtfully exercise her power within the transaction. So the woman not only is given a role in the process but also a very heavy responsibility in the correct implementation of the transaction. For that reason, she takes anything but a passive role in the matter. Scripture at Deut 24:1–4 is explicit that at the cessation of the marital bond (for which in Scripture the language of sanctification does not enter) a writ of divorce be handed to the woman.

I. The writ of divorce

- A.** Transmitting the writ of divorce
- B.** The writ of divorce and the writ of emancipation of slaves
- C.** Preparing a writ of divorce

II. Rules of agency and writs of divorce

III. Rulings pertinent to the writ of divorce made for good order of the world, and other rulings in the same classification

IV. The slave

V. The wife's receipt of the writ of divorce

VI. The husband's instructions on the preparation & delivery of the writ

- A.** Instructing agents to prepare the writ
- B.** The conditional writ of divorce

VII. The impaired writ of divorce

- A.** The writ of divorce that is subject to doubt
- B.** The writ of divorce that is subject to flaws or imperfections
- C.** An invalidating restriction in a writ of divorce
- D.** Confusing writs of divorce

YERUSHALMI GITTIN

CHAPTER ONE

1:1

- [A] [43a] He who delivers a writ of divorce from overseas must state, “In my presence it was written, and in my presence it was signed.”
- [B] Rabban Gamaliel says, “Also: He who delivers [a writ of divorce] from Reqem or from Heger [must make a similar declaration].”
- [C] R. Eliezer says, “Even from Kefar Ludim to Lud.”
- [D] And sages say, “He must state, ‘In my presence it was written, and in my presence it was signed,’ only in the case of him who delivers a writ of divorce from overseas,
- [E] “and him who takes [one abroad].”
- [F] And he who delivers [a writ of divorce] from one overseas province to another must state, “In my presence it was written, and in my presence it was signed.”
- [G] Rabban Simeon b. Gamaliel says, “Even [if he brings one] from one jurisdiction to another [in the same town.]”
- [I:1 A] *Now here is a problem.* In the case of one who brings a deed of gift from overseas, does he have to state, “Before me it was written and before me it was signed”? [Why is the rule more strict for writs of divorce?]
- [B] R. Joshua b. Levi said, “The case [of writs of divorce] is different, for [overseas] they are not expert in the details of preparing writs of divorce [properly].”
- [C] Said R. Yohanan, “It is a lenient ruling which [sages] have provided for her, that she should not sit an abandoned wife [unable to remarry].”
- [D] And is this a lenient ruling? It is only a stringent one, for if the messenger did not testify, “In my presence it was written, and in my presence it was signed,” you are not indeed going to permit the woman to remarry [at all], [so what sort of a lenient ruling do we have here]?

[E] Said R. Yosé, “The strict requirement which you have imposed on the matter at the outset, requiring the messenger to testify, ‘Before me it was written and before me it was signed,’ turns out to be a lenient ruling which you have set for the case at the end. For if the husband later on should come and call into question the validity of the document, his cavil will be null.”

[F] [*As to the denial of credibility to the husband’s challenge to the validity of the writ of divorce,*] *R. Mana contemplated ruling,* “That applies to a complaint dealing with matters external to the body of the document itself. But as to a complaint as to the body of the document itself [do we believe him]? [Surely we take seriously his claim that the document is a forgery.] And as to a complaint [against the writ] which has no substance [one may not take the husband’s cavil seriously]. And even in the case of a cavil which has substance [should he not be believed]? [Surely he should be believed.]”

[G] *Said R. Yosé b. R. Bun,* “[*No, the original statement stands in all these cases.*] [*That is to say,*] *since you have said that the reason you have applied in the case a more stringent requirement at the outset, that the messenger must declare, ‘Before me it was [written, and before me it was] signed,’ you have imposed a lenient ruling at the end, for if the husband later on should come and call into question the validity of the document, his cavil will be null, and we must conclude that there is no difference at all whether the complaint against the validity of the document pertains to matters external to the body of the document or to matters internal to the body of the document, nor is there any difference whether the complaint deals with matters of no substance or matters of substance. [Once the necessary formula is recited by the messenger, the document has been validated against all future doubts.]”*

[H] And yet should one not take account that invalid witnesses may have signed the document?

[I] Said R. Abun, “The husband is not suspect of disrupting [the wife’s future marriage] in a matter which is in the hands of Heaven, [but is suspect of doing so only in a matter which lies before a court]. [Hence we do not take account of the husband’s issuing such a complaint as is entered.] In a court proceeding he is suspect of disrupting the wife’s [future marriage]. For since he knows full well that if he should come and register a complaint against the validity of the document,

his complaint will be deemed null, even he sees to it [when he prepares the writ] that it is signed by valid witnesses.”

- [I:2 A] [If, along with the writ of divorce,] the document contained a deed of gift, and the messenger stated, “Before me it was written and before me it was signed,” [do we maintain that,] since [the husband’s] complaint is null so far as the writ of divorce is concerned, his complaint also is null so far as the writ of donation is concerned?
- [B] Or do we rule that, while the husband’s complaint is null so far as the writ of divorce is concerned, his complaint remains valid so far as the writ of donation is concerned?
- [C] *We learn in the Mishnah later on: All the same are writs of divorce for women and writs of emancipation for slaves: they have treated in the same way the one who takes it and the one who delivers it. This is one of the ways in which writs of divorce for women and writs of emancipation for slaves are treated as equivalent [M. 1:4].*
- [D] [If, along with the writ of emancipation,] the document contained a deed of gift, and the messenger stated, “Before me it was written and before me it was signed,” [do we say that,] while the husband’s complaint is null so far as the writ of divorce is concerned, his complaint remains valid so far as the writ of donation is concerned?
- [E] Or [perhaps we maintain that] since his complaint is valid [in the present document] with respect to the writ of donation, his complaint also is valid [in the special case here] with respect to the writ of divorce?
- [F] [We further ask:] If the master wrote over all of his property to his slave, you maintain that the writ of dismissal [as a slave] is the same as the writ of donation, [and as soon as the slave acquires the one, he effects ownership of the other and all that goes with it],
- [G] *how then do you deal with such a case?* Do you rule that the document is subject to the rules governing a writ of emancipation, so that the master’s later complaint is null?
- [H] Or do you hold that the writ is subject to the rules governing a deed of gift, in which case the master’s complaint is valid?
- [I] *We may adduce a parallel problem subject to dispute:*
- [J] If one wrote over a deed of gift of all of his property to two men simultaneously, and the witnesses to the document were valid for one of the donees but invalid [e.g., as relatives] for the other – *R. Illa in*

the name of R. Ammi [stated], “R. Yohanan and R. Simeon b. Laqish differed on the matter. One of them said, ‘Since they are deemed invalid for one of the parties to the deed, they are invalid for the other,’ while the other said, ‘They indeed are regarded as valid for one party and invalid for the other.’ [One authority holds that if part of the testimony is invalidated, the whole of the document is nullified; the other states that if part is invalidated, the rest still remains acceptable. Here too, since we have a single document, if the deed of gift is invalid without valid signatures, one authority will hold that the writ of dismissal also is null. The other will hold that the dismissal anyway is valid.]”

[K] *R. Mana did not interpret [the positions to be assigned to each, not specifying who holds which opinion].*

[L] *R. Abin explained, “R. Yohanan said, ‘Since they are deemed invalid for one of the parties to the deed, they are invalid for the other,’ while R. Simeon b. Laqish said, ‘They indeed are regarded as valid for one party and invalid for the other.’”*

[M] *Said R. Eleazar, “The following rule of the Mishnah supports the position of R. Yohanan: **Just as, in the case of two [witnesses], if one of them turns out to be a relative or otherwise invalid, the testimony of both of them is null, so in the case of three, if one of them turns out to be a relative or otherwise invalid, the testimony of all three of them is null [M. Mak. 1:5M-N].** [Just as, if part of the testimony of witnesses who give testimony verbally is nullified, the whole of it is dropped, so in the case of a document, we maintain the same principle about witnesses who give testimony in writing.]”*

[N] *R. Jacob bar Aha said, “R. Hanina, associate of the rabbis, and the rabbis differed on this matter. One of them said that R. Eleazar made a valid statement [in citing Mak. 1:5], and the other of them said that R. Eleazar did not make a valid statement [since the cited passage does not support R. Yohanan’s position at all].*

[O] *“The one who said that R. Eleazar made a valid statement holds that the testimony is treated as a single corpus of evidence and as a single person. And the law is that in the case of testimony, part of which is nullified, [43b] the whole of it is deemed null. [That is, we have a single writ, so it is as if the testimony concerns a single person, and the rest follows.] The one who said that R. Eleazar did not make a valid statement*

holds that the matter is treated as it is when we have two distinct groups of witnesses, who may give valid testimony for one party and yet be invalid in testifying about the affairs of the other party. [We treat the testimony as disjoined.]”

- [I:3 A] He who delivers a writ of divorce from overseas must state, “In my presence it was written by day, and in my presence it was signed by day.”
- [I:4 A] “In my presence it was written especially for her, and in my presence it was signed especially for her.”
- [I:5 A] *The question was raised before R. Yohanan, “Does he [who brings a writ of divorce from overseas] need to know the names of the witnesses when they sign the document?” [That is, need he know personally that the witnesses are Israelites, not gentiles?]*
- [B] *He said to them, “Gentile names are invalid when they are signed on the document, and yet do you say this? [He need not know]”*
- [C] *The following statement of the Tannaite origin supports the view of R. Yohanan: “All writs of divorce which come from abroad – even though the names signed therein are gentile names, lo, these are valid, because Israelites overseas take names similar to those of gentiles” [T. Gittin 6:4C-D].*
- [D] That statement applies to writs from abroad. Lo, as to those in the Land, the rule is not the same.
- [I:6 A] *What is the rule [as to writing the writ of divorce overseas]?*
- [B] R. Bibi in the name of R. Assi, “One must write it in the Jewish meeting place [where Jews have their own jurisdiction (Jastrow, p. 566)]. If there is no Jewish meetinghouse there, it must be done in the synagogue. If there is no synagogue, one collects ten men.”
- [C] Said R. Abin, “It is easier for someone to confirm the document through its signatures and not to have to collect ten men.”
- [D] *What [then] is the rule [if there is no synagogue]? Even in an Israelite stall [one may prepare the document, if need be].*
- [I:7 A] And if [the messenger] did not state, “It was written by day and it was signed by day,” “It was written especially for her and it was signed especially for her,” [what is the law?]
- [B] *Let us say that this is what a teacher asked. He said to him, “What is it?” It is what Rabin bar R. Hisda said, “Someone brought a writ of*

divorce and gave it to her, but did not say to her, 'In my presence it was written and in my presence it was signed,' and the case came before R. Yohanan. He ruled, 'Take it from her and say to her before two witnesses, 'In my presence it was written and in my presence it was signed.'"

- [C] *R. Yohanan accords with the view of R. Simeon b. Eleazar, for R. Simeon b. Eleazar said, "It is not a valid writ of divorce unless the messenger says to her at the time he hands over the writ, 'This is your writ of divorce.' [If this is not stated, then, in Simeon's view, the procedure has to be done again.]"*
- [D] *Now does R. Yohanan really accord with R. Simeon b. Eleazar? And R. Simeon b. Eleazar does not concur that if he said to her when he was handing over the document that it is her writ of divorce, [that it is valid]. And is it no writ of divorce? [It surely is, and Simeon b. Eleazar does not require the procedure specified by Yohanan at all, sufficing with the simple statement just now indicated.] Now in the present case, even if he had said to her when he handed over the document that it is her writ of divorce, it still is not a valid writ of divorce unless he says to her in the presence of two witnesses, "In my presence it was written, and in my presence it was signed."*
- [E] *[The cases are not parallel, and the issue is quite separate.] But R. Yohanan maintains that a woman is not believed to state, "I have received my writ of divorce from my husband's messenger [and consequently he requires two witnesses to that effect]."*
- [F] *And lo, we have learned: **A woman herself delivers her writ of divorce from abroad [M. 2:7E]**, and shall we then scruple about [merely] accepting her testimony that she has received it from her husband's agent?*
- [G] *What then is R. Yohanan's reasoning in the present case?*
- [H] *The reason for R. Yohanan's ruling is so as to strengthen the hand of the divorced woman [against later cavil] which might come from two witnesses [since now she too has her two witnesses to the validity of the document, so the husband cannot renege].*
- [I] *A case came before R. Joshua b. Levi. He ruled, "It is not necessary [to take the document from him and give it back to her before two witnesses]."*
- [J] *The opinions assigned to R. Joshua b. Levi are at variance with one another. There he has said, "The case is different, for Jews*

overseas are not experts in the details of executing writs of divorce, and here has he said this [that the messenger does *not* have to take it and deliver it again before witnesses if he failed to make the requisite statement]?

[K] *Associates in the name of R. Joshua b. Levi: "That rule which you have said above [that it is necessary to state the requisite formula] applied at an earlier time, at a time at which associates were not commonly found abroad, but not now that associates are commonly found abroad, they most certainly are experts in the law.*

[L] *And lo, we have learned: **And him who takes one abroad [M. 1:1D].** [Why should it be necessary to make the required statement, since surely in the Land there were, and are, ample numbers of experts. So how can the reason be that which has been given?] Now even if you say that associates are not commonly found abroad, we are commonplace in the Land itself!*

[M] It is so as not to make distinctions among writs of divorce [between those issued in the Land and] those coming from abroad.

[N] If that is the operative reason, then he who brings a writ of divorce from overseas should not have to state, "Before me it was written, and before me it was signed," so as not to make distinctions between [writs issued abroad and those issued] in the Land of Israel.

[O] What is the solution to this problem? They impose a strict rule on the case not requiring it, on account of the case which does require it, and they do not impose a lenient rule on the case requiring it on account of the case not requiring it.

[P] [Solving the alleged division among Joshua's sayings differently,] R. Jacob bar Aha in the name of R. Simeon bar Abba: "That which R. Joshua b. Levi has stated applies to a decision made *post facto*. But as to a decision made *de novo*, also R. Joshua b. Levi concurs [that one must take the document and return it before witnesses, making the required statement]."

- [I:8 A] R. Ba in the name of Rab, R. Zeira in the name of Abba bar Hana, “Two who brought a writ of divorce do not have to state, ‘Before us it was written, and before us it was signed.’”
- [B] R. Yosé b. Yosé in the name of R. Yohanan: “It is necessary that they do so.”
- [C] He himself who brought a writ of divorce from abroad does not have to hand over the document to her before two witnesses in order to strengthen the hand of the divorcee before two witnesses, [since the husband himself handed it over, it is unlikely that he will make trouble later on].
- [I:9 A] If he handed over her writ of divorce, then took it from her and threw it into the sea or river, and later on said to her, “It was a blank piece of paper,” or “It was a canceled lien,” he does not have the power to invalidate her [if she has remarried].
- [B] *R. Bun bar Hiyya raised the question before R. Zeira, “He does not have the power to invalidate the document. Who then has the power to invalidate it? [If he does not know what was written in it, no one else will!]”*
- [C] He said to him, “Since the woman was assumed in the presence of two witnesses to have been divorced, the husband no longer has the power to invalidate her [if she remarries].”
- [D] The husband handed over a writ of divorce, and it later turned out to be an invalid writ of divorce, so [the rabbis] forced him to [give her] another one.
- [E] *The case came before rabbis, and they declared the writ valid [even though it was forcibly extracted].*
- [F] *And has it not been stated, “He has not got the power to invalidate it, [and why not simply accept his invalidation and force him to issue a new writ?].”*
- [G] That case is different. In that case there is no proof of the invalidity, while here it is proven to be invalid [in regard to the writ itself].
- [H] *[The principle] is in line with the following: Hinena son of R. Assi was in Mesene. He threw a writ of divorce to his wife, saying to her, “Here is your writ of divorce.” She sobbed in a loud voice, and her neighbors came in. They took the document from her, and gave her a piece of blank paper. The case came*

before rabbis, and they scrupled [that it was a writ of divorce that he had given her].

[I] And did not R. Yosa state in the name of R. Yohanan, “If the report of a divorce’s having been issued was followed up, and turned out to come from women or children, the report is null”? [Why here do we take account of the women’s report at all?]

[J] There the matter of the writ of divorce was not mentioned explicitly, while here it was mentioned explicitly.

[K] *And there is he who wishes to rule: If he said it was a valid writ of divorce, then if she sobbed and her neighbors came in and took it from her and handed her a piece of blank paper, [their action is null]. [Otherwise we take account of its being invalid and require a new writ.]*

[I:10 A] *R. Jeremiah raised the question, “If one wrote it in the Land of Israel but signed it overseas and went to give it to her overseas, but did not find her overseas, and came and found her in the Land of Israel, he must say to her, ‘In my presence it was written and in my presence it was signed,’ because he has written it in the Land but signed it abroad. But if it had been written in the Land of Israel and signed in the Land of Israel, and he had gone to deliver it to her abroad, but did not find her, and then came and found her in the Land of Israel, he does not have to state, ‘In my presence it was written and in my presence it was signed.’”*

[B] If he gave over her writ of divorce [after] she had said, “Let my courtyard in Acre acquire ownership in my behalf of this document” so he left it in Acre –

[C] Said R. Hinena, “It is as if she has an exceptionally long hand [and she acquires possession of the writ of divorce in the courtyard even if she is not located there].”

[D] If there were someone who had a long hand, and she [standing in the Land] put out her hand and took the document [from the messenger, standing outside of the Land], would he not have to say to her, “In my presence it was written and signed”? [Surely he must say so. Here too, in the case of D, he must say so.]

[E] *Said R. Abba, “Who has said that that is not the case? [No one. The point is as given at D.]”*

[I:11 A] *R. Ezra raised the question before R. Mana, “A man and a woman who were holding on to a writ of divorce –*

- [B] “She says, ‘I have acquired ownership thereof’ –
- [C] “And he says, ‘You have not acquired ownership thereof’ – [what is the law? Whose claim is accepted?]”
- [D] *This is a dispute involving Rabbi and Rabban Simeon b. Gamaliel, who dispute in the following case:*
- [E] The creditor and the debtor who were holding on to a note –
- [F] The creditor says, “It is mine, and it was lost” –
- [G] The debtor says, “It is mine, for I already paid it to you” –
- [H] “Let the writ be confirmed by its signatories,” the words of Rabbi. [If the debtor admits the note is his, he has to pay it off.]
- [I] Rabban Simeon b. Gamaliel says, “Let them divide [what is under dispute].”
- [J] Said R. Eleazar, “All things follow the fact of who holds the part on which the signatures of the witnesses are written.”
- [K] *About what sort of document are they disputing?*
- [L] It is a case in which they wrote [the names of the witnesses] lengthwise, so that both of them are holding on to pieces of the deed containing the signatures of witnesses.
- [M] [Mana] said to him, “That stands for the opinion of all parties. Here [as to the writ of divorce] even though the whole of it is in the hand of the husband (PM: the wife), and a single thread of it is in the hands of the wife (PM: the husband), it is not a valid writ of divorce, for it is written, ‘And he shall put it into her hand’ (Deut. 24:1) that is, the whole of it must be in her hand.”
- [II:1 A] **[R. Eliezer says, “Even from Kefar Ludim to Lud.” And sages say, “He must state, ‘In my presence it was written, and in my presence it was signed,’ only in the case of him who delivers a writ of divorce from overseas, and him who takes [one abroad].” And he who delivers [a writ of divorce] from one overseas province to another must state, “In my presence it was written, and in my presence it was signed:”] R. Eliezer objected to rabbis [= M. 1:1C], “Just as you maintain [M. 1:1F]: He who brings a writ of divorce from one province to another overseas has to say, ‘In my presence it was written, and in my presence it was signed,’ so I maintain that he who brings a writ from one province to another in the Land of Israel**

has to say, ‘In my presence it was written and in my presence it was signed.’”

- [B] Said R. Jacob bar Zebedi, “There was a case concerning one who brought a writ of divorce from the harbor of Caesarea [to Caesarea]. *The case came before R. Abbahu.* He ruled, ‘Yes, you have to say, “Before me it was written and before me it was signed.”’
- [C] But does not the harbor of Caesarea have the same status as Caesarea itself? [So Abbahu is wrong.]”
- [D] Said R. Abin, “[Abbahu is correct, for] it was the case of a ship which was en route.
- [E] “*And so too has it been taught: ‘He who brings a writ of divorce by ship is like him who brings it from overseas, and he must say, “In my presence it was written, and in my presence it was signed”’* [T. Git. 1:1].”

[III:1 A] [Rabban Simeon b. Gamaliel says, “Even [if he brings one] from one jurisdiction to another [in the same town:”] If it was a single jurisdiction [M. 1:1G] and it was divided into two, one does not have to say, “In my presence it was written and in my presence it was signed,” and so is the rule for a jurisdiction which was in two separate parts and was joined into one.

1:2

- [A] R. Judah says, “From Reqem to [the country] east [of Reqem] – and Reqem is equivalent to [territory] east [of Reqem].
- [B] “From Askelon and southward, and Askelon is equivalent to [territory] south [of Askelon].
- [C] “From Akko and northward, and Akko is equivalent to territory north of Akko.”
- [D] R. Meir says, “Akko is equivalent to the Land of Israel so far as writs of divorce are concerned.”
- [I:1 A] R. Yohanan said to the Sepphorean [authorities], “You say in the name of R. Yohanan [43a] ‘Also he who brings a writ from Babylonia to here does not have to state, “In my presence it was written and in my presence it was signed.”’ But I say [in my own name] that he does have to make that statement. For it is in accord with the Mishnah’s own teaching: R. Judah says, ‘From Reqem to the country east of Reqem, and Reqem is equivalent to territory east of Reqem’ [M. 1:2A]. Now even if you maintain that others disagreed with R. Judah,

holding that Reqem is not equivalent to territory east of Reqem, can you possibly maintain that [he who brings a writ] from Babylonia to here [would fall within the territory of Reqem]?”

[I:2 A] Rab said, “We [in Babylonia] declared ourselves equivalent to the Land of Israel so far as writs of divorce are concerned.”

[B] Samuel said, “Even [he who brings a writ] from one neighborhood to another [must make the required declaration to validate the writ].”

[C] [*Rab*] *wished to retract.*

[D] Said Kahana to him, “Now what shall we do to those earlier women [who received writs of divorce under the former dispensation] and then remarried?”

[E] He said to him, “And what power do you have?”

[F] *For he maintained in accord with Rabbi [alt.: Meir], as it has been taught:* “He who brings a writ of divorce from overseas which had not been written in his presence or signed in his presence – [the woman who, relying on that writ, remarried] must leave [the second husband, and suffer] the thirteen [penalties which apply to a woman who commits bigamy],” the words of Rabbi [Meir].

[G] But sages did not concur in that matter. [Rather, they just arranged to deliver the writ in the proper manner.]

[I:3 A] All concur that if [the husband] came and issued a complaint [against the validity of the writ], his complaint is null. [That is, if it is a locale in which such a statement is not required, and the husband issues a complaint against the writ, his statement is disregarded.]

[B] To this point the law is clear for a case in which the wife had already remarried when the husband issued his complaint.

[C] But if he issued his complaint prior to her remarriage, and then she remarried, [what is the law]?

[D] *Let us derive the answer from the following case:*

[E] **M'SH B: A man from Kepar Sasi delivered a writ of divorce for a woman in the presence of R. Ishmael.**

[F] **R. Ishmael said to him, “Where do you come from?”**

[G] **He said to him, “Rabbi, from Kepar Sasi, at the border of Akko.”**

[H] He said to him, “Also you must state, ‘In my presence it was written, and in my presence it was signed,’ so that we shall not be in need of witnesses.”

[I] After he left, R. Eli said before him, “Rabbi, Kepar Sasi is within the border of the Land of Israel, nearer to Sepphoris than to Akko.”

[J] He said to him, “Since the matter has gone forth subject to a ruling in favor of permitting [the validity of the writ of divorce], it is done with” [T. Git. 1:3].

[K] What is the meaning of the statement, “Since the matter has gone forth subject to a ruling in favor of permitting [the validity of the writ of divorce], it is done with”?

[L] Said R. Zeira, “It means that if [the husband] should come and issue a complaint [against the validity of the writ], his complaint is null.”

[M] Now in the case of him who brings a writ from one part of the Land of Israel to another part of the Land of Israel, does he have to state, “In my presence it was written and in my presence it was signed”? [Surely not. But in this case, that declaration has been made.]

[N] It must follow that there is no difference whether the complaint was made after the wife was remarried or before she was remarried and then she remarried.

[I:4 A] [At I:2F we have noted the view of Meir that one who violates rules set up by scribes must be divorced, and her offspring are deemed *mamzers*. Now we deal with the issue of whether or not the law accords with his view.] R. Jacob bar Ada bar Atelai in the name of R. Eleazar: “The law accords with R. Meir in matters involving writs of divorce.”

[B] Now R. Zeira stared at him.

[C] He said to him, “Why are you staring at me?”

[D] [Zeira:] “Because it is stated that the law follows him who imposes the lenient ruling when it comes to matters of decrees of the scribes. [Yet, you claim the law accords with Meir’s strict ruling.]”

[E] *They proposed to rule that [the strict rule is followed] when one individual differs from another. But when one individual differs from sages, that is not the case. Yet here, we have an individual*

[Meir] who differs from sages! [Yet you Jacob bar Ada bar Atelai, impose the strict ruling, made by an individual, as against the lenient ruling, made by the sages as a whole?!]

[II:1 A] [**From Akko and northward, and Akko is equivalent to territory north of Akko.**] **R. Meir says, “Akko is equivalent to the Land of Israel so far as writs of divorce are concerned:”**] R. Hiyya, R. Ba said, “[Since one who sells his slave to an owner who will take the slave abroad must emancipate the slave, rather than permit him to leave the Land of Israel,] he who sells his slave to an owner domiciled in Acre – the slave has gone forth to freedom, [since Acre is outside of the Land of Israel].”

[B] *R. Ishmael, father of R. Yudan, raised the question, “But is that [not also] the case even if the sale is from one owner domiciled in Acre to another?”*

[C] *And that would accord with that which R. Jacob bar Aha in the name of R. Ammi said, “From two cases decided by Rabbi we learn that Acre has parts which belong to the Land of Israel, and it has parts which belong to foreign territory.”*

[D] *Rabbi was in Acre. He saw people eating clean bread. He said to them, “How do you knead the dough? [If it is with a liquid capable of imparting susceptibility to uncleanness, then the bread also is susceptible to uncleanness, and hence, located in Israelite territory, it may be kept cultically clean. [The issue of cleanness is pertinent only if Acre is part of the Land of Israel.]”*

[E] *They said, “A disciple of a sage came here and taught us that egg water does not impart susceptibility to uncleanness so we boil eggs and then use the water to knead dough.”*

[F] *Now they thought that he had said that water in which eggs had been boiled [will not impart susceptibility to uncleanness], while he had said only the whites of the eggs themselves.*

[G] Said R. Jacob b. Idi, “From that moment they decreed that a disciple of a sage should not give instruction.”

TOPICAL APPENDIX ON CONDITIONS IN WHICH DISCIPLES MAY GIVE DECISIONS

[II:2 A] R. Huna in the name of R. Huna said, “A disciple who gave a decision, even in accord with the decided law – his instruction is null.”

- [II:3 A] *It was taught:* A disciple who gave instruction in the presence of his master is liable to the death penalty.
- [B] *It was taught in the name of R. Eliezer:* “Nadab and Abihu died only because they gave instruction in the presence of Moses, their master.”
- [C] M'SH B: A disciple gave instruction in the presence of his master, R. Eliezer. He said to Imma Shalom, his wife, “He is not going to live out the week.” His students said to him, “Rabbi, are you then a prophet?” He said to them, “I am not a prophet nor the disciple of a prophet, but this is the tradition which I have received: ‘Any disciple who teaches a law in his master’s presence is liable to the death penalty.’”
- [D] *It was taught:* It is forbidden for a disciple to teach a law in the presence of his master – until he will be twelve *mils* away from him, the breadth of the camp of Israel.
- [E] Now what is the scriptural basis for that statement?
- [F] “They encamped by the Jordan from Beth-Jeshimoth as far as Abel-shittim in the plains of Moab” (Num. 33:49).
- [G] And how long is that distance? It is twelve mils, that is, the breadth of the camp of Israel.
- [H] The following illustrates the same matter: R. Tanhum bar Jeremiah was in Happar, and a question was brought to him, and he gave instruction. Someone said to him, “And did you not teach us, Rabbi, ‘It is forbidden for a disciple to teach a law in the presence of his master – until he will be twelve mils away from him, the breadth of the camp of Israel’? Now lo, R. Mana, your master, dwells in Sepphoris!”
- [I] He said to him, “May a curse come upon me, if I knew it!” From that moment he gave no further instruction [in that place, at that time].

REVERSION TO THE EXPOSITION OF THE MISHNAH-RULE

- [II:4 A] *Rabbi was in Acre. He saw someone standing in the area on the other side of the bridge [toward the territory of the city itself]. He said to him, “Are you not the son of Mr. So-and-so, a priest? And is your father not a priest? [Why then are you contracting uncleanness by standing in foreign soil?]” [So here Acre is deemed not part of the Land of Israel.]*

[B] He said to him, “Father was haughty, and he married a woman who was unworthy of him, and he profaned that man [me] from being a priest. [For the offspring of the marriage was not in the status of the priesthood.]”

[II:5 A] *As to the towns that are at the border of Sepphoris, on the side of Acre, and the towns at the border of Acre, toward Sepphoris how do you treat them?*

[B] The one group is in the status of Acre, the other in the status of Sepphoris.

1:3

[A] **He who delivers a writ of divorce in the Land of Israel does not have to state, “In my presence it was written, and in my presence it was signed.”**

[B] **If there are disputants against [the validity of the writ], it is to be confirmed by its signatures.**

[C] **He who delivers a writ of divorce from overseas and cannot say, “In my presence it was written, and in my presence it was signed,”**

[D] **if there are witnesses [inscribed] on it –**

[E] **it is to be confirmed by its signatures.**

[F] **All the same are writs of divorce for women and writs of emancipation for slaves:**

[G] **they have treated in the same way the one who takes [it] and the one who delivers it.**

[H] **This is one of the ways in which writs of divorce for women and writs of emancipation for slaves are treated as equivalent.**

[I:1 A] [As to M. 1:3B, **If there are disputants against [the validity of the writ], it is to be confirmed by its signatures,**] who has brought complaint?

[B] R. Hisda said, “The husband cast doubt on the validity of the writ. [But if two other parties cast doubt, there is no possibility of confirming the document. In that case we have two sets of contradictory witnesses, the complainants and the signatories. With two against two, we confirm the prevailing supposition. The woman then is assumed to be married.]”

[C] R. Yosé said, “[If the woman attempts to retrieve property sold by the husband to third parties, so that she may collect what is owing to her on her marriage-settlement, which falls due because of the writ of

divorce,] the purchasers [of the husband's property, wishing to retain it] have the right to raise questions about the validity of the writ of divorce, so that the property they have purchased will not be taken out of their possession."

[I:2 A] [As to a complaint on the part of the husband, if the messenger has said, "In my presence it was written, in my presence it was signed," that protects the wife against the husband's complaint. Now with regard to what detail of the writ is a complaint no longer valid?] *R. Yudan asked, "Up to now, we have dealt with a complaint pertinent to a matter external to the body of the writ itself. But if there is a complaint as to the body of the writ itself [and not as to the manner of its preparation and delivery], there is a dispute between R. Yohanan and rabbis over there.*

[B] "*In view of rabbis over there, there is no difference between a complaint pertinent to matters external to the body of the writ itself, and a complaint concerning the body of the writ itself [e.g., it is a forgery]. [In both cases the husband's complaint is worthless.]*

[C] "*In view of R. Yohanan, if there is a complaint pertinent to matters external to the body of the document itself, the complaint is null. But [if the husband] complains about the body of the document itself, the complaint is validated.*"

[II:1 A] [In regard to M. 1:3C-E, He who delivers a writ of divorce from overseas and cannot say, "In my presence it was written, and in my presence it was signed," if there are witnesses [inscribed] on it – it is to be confirmed by its signatures,] *it has been taught: He who delivers a writ of divorce from overseas, and it was not written in his presence, and it was not signed in his presence, lo, this one sends it back to its place, and he calls a court in session for that matter, and has it confirmed through its signatures. Then he delivers it [again], and states, "I am an agent of a court" [T. Qid. 1:11].*

1:4

[A] Any sort of writ on which there is a Samaritan witness is invalid,

[B] except for writs of divorce for women and writs of emancipation for slaves.

[C] M'SH S: They brought before Rabban Gamaliel in Kepar Otenai the writ of divorce of a woman, and the witnesses thereon were Samaritan witnesses, and he did declare it valid.

- [D] All documents which are drawn up in gentile registries, even if their signatures are gentiles, are valid,
- [E] except for writs of divorce for women and writs of emancipation for slaves.
- [F] R. Simeon says, “Also: These are valid.”
- [G] “They have been mentioned [in this regard] only when they have been prepared by unauthorized people [and not authorized judges].”
- [I:1 A] [Any sort of writ on which there is a Samaritan witness is invalid, except for writs of divorce for women and writs of emancipation for slaves:] As regards monetary matters [Samaritans] are suspect, and, [consequently,] as regards their testimony in monetary matters they are deemed invalid [witnesses].
- [B] They are not deemed suspect in regard to observing the laws of forbidden connections.
- [C] And testimony in capital cases is equivalent to testimony in cases involving prohibited connections. [Samaritan testimony is accepted in capital cases.]
- [D] [Now M. 1:3A refers to only a single Samaritan witness.] But if what has just been said is so, then even if both witnesses are Samaritans, [the writ of divorce should be deemed valid].
- [E] It is different [when both are Samaritans], since they are not experts in the details of preparing writs of divorce.
- [F] If that is the case, then even a single Samaritan witness should be invalid?
- [G] Said R. Abin, “*Interpret the Mishnah to speak of a document in which the Israelite [witness] signed at the end [certifying that this particular Samaritan is knowledgeable].*”
- [H] *Said R. Yosé, “That statement accords with the view of him who said that witnesses sign on the document not in one another’s presence. [That is why we want the Israelite signature at the end, certifying that the Samaritan is knowledgeable. Then there is no possibility that the Samaritan has signed at the end, after the Israelite, such that the Israelite has no knowledge of the suitability of the Samaritan.] But in the view of him who said, ‘Witnesses sign only in the presence of one another,’ even if the Samaritan had signed at the end, it would be a valid document, [since the Israelite in any event will know about the character of the Samaritan signatory].”*

[I] *R. Illa in the name of R. Yosa: “It accords with the view of him who said, ‘The witnesses sign only in the presence of one another.’ But in the view of him who said, ‘The witnesses sign not in one another’s presence,’ even if the Israelite had signed at the end, it is nonetheless invalid. [The Israelite might leave space for the earlier signature without knowing the character of the signatory.]”*

[I:2 A] A writ bearing four signatures of witnesses, the first two of which turn out to be relatives or otherwise invalid – the writ is valid, and is to be confirmed by the remainder of the signatures [the valid ones] [cf. T. Git. 7:15].

[B] But should this not be treated as a document on which the witnesses’ signatures are distant from the body of the text itself, [so that it is possible that the testimony was signed before, or separate from, the writing of the document which the witnesses attest, in which case] the document is invalid?

[C] *You cannot invalidate it on such a basis, for in accord with R. Yosa in the name of R. Jeremiah: “Invalid witnesses do not cause the testimony on the document to be treated as if we have the signatures of the witnesses distant from the body of the text itself, for the invalid witnesses are included only to validate the writ [by filling up space, so that there can be no further doubt as to the validity of the document, on the foundation of the signatures of the valid witnesses].”*

[I:3 A] On what account are Samaritans invalid?

[B] Said R. Yohanan, “It is because they converted to Judaism only by reason of fear of lions [in Samaria].”

[C] *But there is this difficulty:* In the case of someone who did not convert for the sake of Heaven, and then went and converted for the sake of Heaven, is it possible that they do not accept him [as a valid convert]?

[D] R. Yohanan in the name of R. Eleazar, “It is because of the law that if a gentile or a slave has sexual relations with an Israelite girl, the offspring is a mamzer, [Samaritans are in that status, having descended from such marriages].”

[E] But has not R. Aqiba stated, “They are sincere converts”?

[F] They are invalid because they enter into Levirate marriage only when the deceased was merely betrothed to the surviving widow, but they issue writs of divorce when the deceased [43d] was in a fully

consummated marriage with the surviving widow [and so, violating Israelite practice in this regard, they are deemed to be mamzers].

- [G] *But do rabbis not maintain that a mamzer will not come out of the violation of the laws of Levirate marriage?*
- [H] It is because they are not expert in the laws of preparing writs of divorce.
- [I] Lo, Rabban Gamaliel validates their writs of divorce [M. 1:4C].
- [J] R. Jacob bar Idi in the name of R. Yohanan, “It is because among them were mixed up priests who served at the high places: ‘And he appointed priests from among all the people, who were not of the Levites’ (1 Kings 12:31).”
- [K] Said R. Illa, “He did this out of the remnants among the people, and out of the refuse among the people.”

[II:1 A] [All documents which are drawn up in gentile registries, even if their signatures are gentiles, are valid, except for writs of divorce for women and writs of emancipation for slaves:] Said R. Aha, “A lenient rule has been applied to documents which are drawn up in gentile registries” [M. 1:4D].

- [B] If that is the case, then even if both of the signatories are Samaritans [the documents should be accepted, as at M. 1:4A]?
- [C] The reason [B is not the case] is that he maintains that they are not experts in the rules governing the preparation of writs of divorce.
- [D] But lo, R. Simeon declares valid writs of divorce prepared by them [M. 1:4F].
- [E] R. Ba in the name of R. Zeira: “R. Simeon’s statement accords with the view of R. Eleazar. Just as R. Eleazar has said, ‘Even though there is no testimony of witnesses on the document, the document is valid,’ so R. Simeon said, ‘Even though there is no [valid] testimony of witnesses on the document, it is valid.’”
- [F] If so, then even if it was prepared by unauthorized people [and no authorized judges], the writ of divorce should be deemed valid [M. 1:4G]?
- [G] *What is demanded once more is the reason stated by R. Jacob bar Aha:* “A lenient rule has been applied to documents drawn up in gentile registries.”

- [II:2 A] A writ was produced in Bet Shean, the signatories on which were two gentiles.
- [B] R. Yosé says, “There was a dispute in this matter between R. Yohanan and R. Simeon b. Laqish.
- [C] “One said that it was invalid, and one said that it was valid.”
- [D] R. Abbahu spelled out that it was R. Yohanan who said it was invalid and R. Simeon b. Laqish who said it was valid.
- [E] *What is the basis for the ruling of R. Simeon b. Laqish?*
- [F] It was so as not to cause a monetary loss to an Israelite [creditor].
- [G] *But even if this party has no loss, that party [the debtor] will suffer a loss?*
- [H] Said R. Yudan, “But it was so as not to lock the door before people, for tomorrow [the borrower] will want to borrow money, and the other party [creditor] will not give out money [on the basis of such a document of loan, if the only available witnesses are gentiles].”

1:5

- [A] **He who says, “Give this writ of divorce to my wife, and this writ of emancipation to my slave,”**
- [B] **“if he wanted to retract in either case, he may retract,” the words of R. Meir.**
- [C] **And sages say, “[That is the case] for writs of divorce for women, but not for writs of emancipation for slaves.**
- [D] **“For they acquire an advantage for another person not in his presence, but they act to his disadvantage only in his presence.**
- [E] **“For if he wanted not to support his slave, he has the right to make such a decision.**
- [F] **“[But if he wanted] not to support his wife, he has no right [to make such a decision].”**
- [G] **He [Meir] said to them, “But lo, he invalidates his slave from eating heave offering, just as he invalidates his wife from eating heave offering!”**
- [H] **They said to him, “But that is because he is his chattel [so he has the right to do so to his slave, but not to his wife].”**

- [I] He who says, “Give this writ of divorce to my wife and this writ of emancipation to my slave,” and who then died –
- [J] they [to whom he gave the charge] should not give over the documents after his death.
- [K] [If he said,] “Give a maneh to Mr. So-and-so,” and then he died,
- [L] let them give over the money after the man’s death.
- [I:1 A] [**For they acquire an advantage for another person not in his presence, but they act to his disadvantage only in his presence.:**] In every [other] context you maintain that the language, “Give,” is equivalent to the language, “Take.” But here you hold that “Give” means “acquire in behalf of [the donee],” [as at M. 1:5E, “They acquire an advantage ...”].
- [B] *The meaning of the Mishnah passage is precisely that:* “Acquire this writ of divorce for my wife,” “Acquire this writ of emancipation for my slave.”
- [C] *The language of the Mishnah is explicit in this regard, as indicated:* **For they acquire an advantage of another person not in his presence, but they act to his disadvantage only in his presence [M. 1 :5D-E].**
- [II:1 A] [**He [Meir] said to them, “But lo, he invalidates his slave from eating heave offering, just as he invalidates his wife from eating heave offering!”:**] R. Meir says, “It is a disadvantage, whether to this one or to that one” [= 1:5G].
- [B] *And sages say,* “It is an advantage for the slave, and a disadvantage for the woman” [= M. 1:5C-F].
- [II:2 A] *R. Hiyya bar Ba said that R. Yohanan raised the question:* “Now take note. If it was the slave of a noble, emancipation would be a disadvantage to him.”
- [B] *Associates say that R. Yohanan raised the question:* “Take note, if she was the wife of a repulsive man, lo, it would be an advantage to such a woman.”
- [C] *You have only the following [as at M. 1:5G-H, that is, the discourse on the slave alone]:* Now if he should sell his slave without the slave’s knowledge and consent, is it possible to suppose that he is not sold? [Obviously not! The master may sell the slave.] But if one divorces his wife without her knowledge and consent, is it possible to suppose that she is actually divorced? [Obviously not!]”

[D] But: **it is because he is his chattel** [M. 1:5H].

[E] R. Abin said, **“He is his chattel**, for he can invalidate [the slave] so that he may not eat food in the status of heave offering.”

[III:1 A] **He who says, “I made Mr. So-and-so, my slave, a free man,”**

[B] **“I made him a free man,”** [lacking in Y]

[C] **“I am making him a free man,”**

[D] **and, “Lo, he is a free man,”**

[E] **“Lo he is a free man.” “Let him be made a free man” –** [T. B.B. 9:14A-E] –

[F] [the slave] has acquired [ownership of himself and is free].

[G] R. Onayya in the name of R. Yohanan: **“But that is on condition that there is a writ of emancipation [not merely a verbal declaration].”**

[III:2 A] **[If he said,] “Let him be made a free man [in the future]” –**

[B] **Rabbi says, “He has acquired [possession of himself.]”**

[C] **And sages say, “He has not acquired possession of himself.”**

[D] **“Give this writ of emancipation to my slave” and then he died –**

[E] **Rabbi says, “He has not made acquisition [of himself and is free].”**

[F] **And sages say, “He has acquired himself.”**

[G] **[Rabbi continues,] “But they force the heirs to carry out the statement of the decedent” [T. B.B. 9:14F-H].**

[H] Said R. Zeira, **“They dispute a case in which there was no explication of the instructions. For how else shall we interpret the dispute? If it deals with a case in which he said, ‘Free him,’ even Rabbi will concur [that he has acquired himself. If we deal with a case in which he said, ‘Write and hand over,’ even rabbis will concur [that the instructions are null at death]. But we must interpret the dispute to apply to a case in which he said simply, ‘Give.’ Rabbi says, “He who says, ‘Give,’ is equivalent to him who says, ‘Write and hand over.’ And rabbis say, ‘He who says, ‘Give,’ is like him who says, ‘Emancipate.’”**

[III:3 A] **He who says, “Let all of my possessions be given over to So-and-so, a priest,” and among the possessions were slaves, even though the donee**

said, "I do not want them," lo, these have the right to eat food in the status of heave offering.

[B] Rabban Simeon b. Gamaliel says, "Since he has said, 'I do not want them,' the heirs [of the donor] acquire ownership of them."

[C] Said R. Zeira, "They dispute a case in which the matter was not subject to explication at all. For how else may we interpret the dispute? If we deal with a case in which he accepted the donation in the first place, even Rabban Simeon b. Gamaliel must concur [that the donation is valid, and the slaves may eat food in the status of heave offering]. If we deal with a case in which the donee did not accept the donation in the first place, then even rabbis must concur [that the donation is invalid, and the slaves fall to the heirs of the donor]. But thus we must deal with a dispute in which the matter is left without explication at all [so that we simply do not know the view of the donee]. Rabbi maintains that a man will not say, "I do not want them," unless he already has accepted the gift [and now determines to get rid of it]. Rabban Simeon b. Gamaliel says, "Since he says, 'I do not want them,' the end of the matter proves how matters stood at the outset."

[III:4 A] [T.'s version:] He who says, "Give this maneh to So-and-so, which I owe him,"

[B] "Give this maneh to So-and-so, a bailment which he has in my hands,"

[C] "Take this maneh to so-and-so, a bailment which he has in my hands,"

[D] if he wanted to retract, he may not retract.

[E] And he is responsible to replace it should it be lost, up to that point that he [to whom it is owing] receives that which belongs to him [T. Qid. 1:6].

[F] Said R. Illa, "A gift is in the status of a debt."

[III:5 A] [T.'s version:] [He who says,] "Take this maneh to so-and-so," "Give this maneh to so-and-so,"

[B] if he wanted to retract, he may retract.

[C] [If he went and found him dead, let him return the money to [the one who gave it].

- [D] **If he [the one to whom the money is given] should die, let him hand over the money to the heirs [of the one who originally gave it] [T. Qid. 1:7].**
- [E] **[He who said,] “Receive this maneh in behalf of so-and-so,”**
- [F] **“Acquire this gift in behalf of so-and-so,”**
- [G] **“Receive this writ of gift for so-and-so,”**
- [H] **“Acquire this writ of gift for so-and-so,”**
- [I] **if he wanted to retract, he may not retract.**
- [J] **[If he went and found him dead, let him give it to the heirs.**
- [K] **But if after the death of the donee he made acquisition, he should restore it to the heirs [of the donor],**
- [L] **for they do not acquire an advantage for a deceased person once death has taken place [T. Qid. 1:8].**
- [M] He who said, “This maneh belongs to Mr. So-and-so,”
- [N] “Take this maneh to So-and-so,”
- [O] “Let this maneh of So-and-so be in your hand,” –
- [P] if he wanted to retract, he may not do so.
- [Q] For that one who has effected ownership for his fellow may not retract.
- [R] *One time R. Dosetai b. R. Yannai and R. Yosé ben Kippar went down to collect money over there for the associates. They were given a bad name. The donors came and wanted to retrieve the funds that they had given to them. They replied to them, “We already have effected acquisition of the funds.”*
- [S] *They said to them, “We want you to take responsibility for the funds.”*
- [T] *They replied, “We are in the status of an unpaid bailee [and exempt from such an obligation].”*
- [U] *They came to R. Dosetai b. R. Yannai. He said to them, “Here it all is.” They took R. Yosé b. Kippar [who objected] and bound him and forcibly retrieved the funds from him.*
- [V] *When they came back here, he came to his father.*
- [W] *He said to him, “Do you now see what your son has done to me?”*

[X] *He said to him, "What did he do to you?"*

[Y] *He said to him, "Had he concurred with me, they would not have extracted a thing from us."*

[Z] *He said [to the son], "Why did you do so?"*

[AA] *He said to him, "I saw that they were a court of one mind. Their hats were a cubit high. They talked from their bellies..Now Yosé, my brother, was bound, and the strap was rising and falling, and I said to myself, 'Does father have yet another Dosetai?'"*

[BB] *Said R. Haggai, "That rule applies to one who cannot do the matter properly. [Then an agent gives the money back.] But in the case of one who is able to do the matter properly, they take from this one and hand it over to that one."*

[III:6 A] *As to one who forgave a note for his fellow –*

[B] *R. Hiyya and R. Mana – one said, "He has forgiven the debt," and the other said, "He has not forgiven the debt until he hands over the note to his fellow."*

[III:7 A] [T.'s version:] [If he said,] **"Carry this *maneh* to so-and-so,"**

[B] **"Take this to so-and-so,"**

[C] **"Let this *maneh* for so-and-so be in your hand,"**

[D] **and he died,**

[E] **if the heirs [of the sender] wanted to force him [not to deliver it], they cannot do so.**

[F] **And one need not say, in the case of one who says, "Acquire possession for him," or who says, "Receive it for him" [that the rule is the same] [T. Qid. 1:9].**

[G] *Said Raba bar Mamel: "The cited passage deals with a gift of a dying man [in contemplation of death]."*

[H] *If it speaks of a gift in contemplation of death, then in such a case, [what need is there to specify,] **"And one need not say, in the case of one who says, 'Acquire possession for him,' or who says, 'Receive it for him' [that the rule is the same]?"***

[I] *Said R. Mana, "One may interpret the passage in line with that which R. Ba bar R. Huna stated in the name of Rab: 'They treated the statement of a dying man like that made by a healthy man who has*

actually written over and given the gift. But that applies to one who died of that same illness. Lo, if he got better, it does not apply.”

[J] **And one need not say, in the case of one who says, “Acquire possession for him,” or who says, “Receive it for him” [that the rule is the same].**

[K] “Give a *maneh*, to Mr. So-and-so,” and he died – let them give it after his death.

[L] R. Abin in the name of R. Ba bar Mamel, “That statement applies to the statement of a dying man [a gift in contemplation of death].”

YERUSHALMI GITTIN

CHAPTER TWO

2:1

[A] [44a] He who delivers a writ of divorce from overseas and said, “In my presence it was written,” but not, “In my presence it was signed,”

[B] “In my presence it was signed,” but not, “In my presence it was written,

[C] “In my presence the whole of it was written, but in my presence only part of it was signed,”

[D] “In my presence part of it was written, but in my presence the whole of it was signed,”

[E] it is invalid.

[F] [If] one says, “In my presence it was written,” and one says, “In my presence it was signed,” it is invalid.

[G] [If] two say, “In our presence it was written,” and one says, “In my presence it was signed,” it is invalid.

[H] And R. Judah declares it valid.

[I] [If] one says, “In my presence it was written,” and two say, “In our presence, it was signed,” it is valid.

[I:1 A] [*There is no problem [in explaining why if the agent says,] “In my presence it was written,” but not, “In my presence it was signed,” [the writ should be invalid].*

[B] But if the agent says, “In my presence it was signed,” but not, “In my presence it was written,” [why should the writ be invalid]? For is not the confirmation of a writ of divorce only through its signatories? [The agent has properly testified as to that aspect of the preparation of the document.]

[C] But [the rule is phrased] in accord with the view of R. Judah, who invalidates [a writ of divorce written out on an available] blank copy [i.e., a ready-made form]. [Since he requires the writ to be written afresh for the woman for whom it is used, he invalidates one in which the agent cannot testify as to the proper conditions for its preparation as well as for its signing.]

[D] Now does R. Judah [impose that rule for a writ] prepared abroad [specifically] for use by one who issues a writ of divorce in the Land of Israel? And does the issue of utilizing blank writs of divorce apply in the case of one who issues a writ of divorce abroad? [Surely not.]

[E] [But the reason that the agent must be able to state that he has witnessed the preparation of the writ of divorce is] that he must know that it is a writ of divorce for a woman, [and] that he has been appointed the agent [for delivery, and these things he may find out only by witnessing the preparation of the document], for he will not know that it is a writ of divorce for a woman unless the whole of it is written in his presence, [and] until the whole of it is signed in his presence.

[F] *R. Hanin taught as a Tannaite formulation*, “If [the agent] was coming in and going out [during the preparation of the writ], it is acceptable.”

[I:2 A] *R. Yosé raised the question*: “If the agent stated, ‘In my presence it was written, and in my presence it was signed, but it was left alone in the domain of the owner between the time that it was written and the time that it was signed,’ [what is the law?] [Do we scruple that the husband may have exchanged the original writ with some other?]”

[B] *Let us derive the answer to that question from the following*: **If one says, “In my presence it was written,” and one says, “In my presence it was signed,” it is invalid [M. 1:1F]**. The reason is that one says, “In my presence it was written,” and one says, “In my presence it was signed.” [Thus neither witness saw both the writing and signing of the writ.] But if the witness had said, “In my presence it was written and in my presence it was signed, but it was left alone in the domain of the owner between the time that it was written and the time that it was signed,” it is valid [for that one witness saw both elements of the preparation of the writ].

[E] [*Going over this same ground, R. Hisda raised the question*: “If part of the writ is [not] in accord with [the sages’] ordinance [in that there is the possibility of the husband’s having exchanged the original writ with some other, and the sages ordain that the writ is not to be subjected to such a possibility], and part of it is in accord with the laws of the

Torah [in that it is properly witnessed anyhow], [what is the law?]
[The question is the same as Yosé's.]”

[F] If he said, “In my presence it was written, and in my presence it was signed, but it was left alone [between times] in the domain of the owner,” [what is the law?]

[G] *Let us derive the answer from the following: If one says, “In my presence it was written,” and one says, “In my presence it was signed,” it is invalid.* The reason is that one says, “In my presence it was written,” and one says, “In my presence it was signed.” But if he had said, “In my presence it was written and in my presence it was signed, but it was left alone in the domain of the owner for one moment [between the time that it was written and the time that it was signed],” it is valid.

[II:1 A] [**In my presence the whole of it was written, but in my presence only part of it was signed,’ it is invalid:**] *R. Eleazar said R. Abin raised the question: “[With respect to M. 2:1C: ‘In my presence the whole of it was written, but in my presence only part of it was signed,’ it is invalid: If the messenger gave testimony], ‘In my presence it was written, and in my presence it was signed by one witness,’ and two others testify concerning the signature of the second witness on the writ, [what is the law?] [Do we elide the two sorts of testimony, so that the writ is validated? Or do we maintain that the testimony is of different sorts, and so is null?]*”

[B] Said R. Ammi the Babylonian, “You have no more valid [a mode of testimony] than this!”

[C] R. Abba did not concur [that] this [was the question Eleazar had raised in Abin’s name, but rather the question was as follows:] “If he said, ‘In my presence it was written, and in my presence it was signed by one witness, and I myself am the second witness,’ [what is the law?]

[D] [The writ is invalid,] for he is treated as a witness who is an interested party.

[II:2 A] If the writ of divorce was signed by four, and the agent said, “In my presence it was written, and in my presence it was signed by two witnesses. *As to these other two, I have not got the slightest idea what they are doing here*” —

[B] *there is a [relevant] dispute of R. Yohanan and R. Simeon b. Laqish. Their dispute is as follows:*

[C] If one said to ten men, “Sign the writ of divorce,” and part of them signed on one day, and part of them signed on the next day —

[D] R. Simeon b. Laqish said, “It is valid. And as to the remaining signatures, these are people whom the husband specified as a stipulation [that if there should be some problem with the original witnesses, the others would sene to validate the writ].” [Here too, at A, since the agent testifies that two of the signatures are valid, the writ is accepted.]

[E] R. Yohanan said, “It is invalid, unless all of the men sign on the same day.” [Here too Yohanan will want all the signatures to be valid.]

[III:1 A] [With reference to M. 2:1G-H: **If two say, “In our presence it was written,” and one says, “In my presence it was signed,” it is invalid. And R. Judah declares it valid, said R. Ammi, “They differ in a case in which the writ is produced by the one [who says, ‘In my presence it was signed,’ for the agent does not testify that he saw the preparation but only the signing]. But in the case of a writ produced by another party [besides the one who says, ‘In my presence it was signed,’ that is, he witnesses to the preparation brought the writ], *the rabbis concur* that it is a valid writ. [Now we have two witnesses to the validity of the writ; that is, the two who brought it also saw its preparation. With two witnesses, the declaration is not required. The writ is confirmed directly, by their testimony.]”**

[B] *R. Hananiah concurs with R. Ammi.*

[C] *Said R. Zeira, “Where they have a dispute is in a case in which the writ is produced by another party. [That is, the dispute concerns a writ produced by the two agents. Abroad people are not experts, so even here rabbis will invalidate the writ.] But if the writ is produced by him [who says that he alone saw the signing of the document], even R. Judah will concur that it is invalid.”*

[D] *R. Zeira objected to R. Ammi, “If we deal with a case in which the writ is produced by him [who witnessed the signing], then R. Judah will validate even in the former case [= M. 2:1F, as well as M. 2:1G-H]! [That is, If one says, ‘In my presence it was written,’ and another says, ‘In my presence it was signed,’ R. Judah should validate the writ. Judah maintains that if two people brought the writ, there is no need for the declaration. But in accord with your theory, in which Judah declares the writ valid even with only a single person, namely, the one who brought the writ, who also testifies as to the signing, you have a problem. For why does Judah not differ even in the first of the two cases?]”*

[E] *R. Ammi brought R. Jonah, his father-in-law, and he repeated for him the following: “If one says, ‘**In my presence it was written, and in my presence it was signed, it is invalid [M. 2:1F]. R. Judah declares it valid.**’ [So this is the version Zeira says would indeed support Ammi’s position.]”*

[F] *Said R. Abin, “The language of the Tannaitic teaching [in T. 2:2F] supports R. Zeira: ‘**In this case R. Judah declares valid,** [and not in the other (= that of M. 2:1F)].”*

[G] *And there is a problem for the view of R. Zeira: If in the case of a writ which is produced by another party, they did not treat them as two witnesses [since rabbis invalidate the writ in such a case], under what circumstances did they treat them as two witnesses [for sages treat the agent as equivalent to two witnesses]? When he gives testimony concerning the writing and concerning the signing of the writ. [This is the position of Ammi, B.]*

[IV:1 A] [With regard to the rule, **If one says, “In my presence it was written,” and two say, “In our presence it was signed,” it is valid,**] *R. Yosa in the name of R. Yohanan: “That is so in the case of a writ which he produces who testifies to the writing. He is believed as equivalent to two. But if it is produced by the witnesses to the signing, that is null. [They did not see the writing.]”*

[B] *And R. Zeira stared at him.*

[C] *He said to him, “Why are you staring at me? And even if it is produced by another, [it will be valid, that is, one of the witnesses to the signing].”*

[D] *The statement of R. Yosé [at L] accords with R. Ammi. A witness will not retract.*

[E] *Said R. Mana, “Even after he retracted, his statement still is in accord with [Ammi’s] view. If it was written before two witnesses it is different from when it is signed before two witnesses. In the case of signing before two witnesses, the writ is strengthened, In the case of writing before two witnesses, the writ is not strengthened. [That is to say, the writ will be valid even when it is produced by the witnesses to its signing. When two witnesses testify that they have seen the signing of the document, it is a normal validation of the document. There is no reason to disapprove the writ. If the two witnesses testify to its writing, this in no way improves the case of the writ, that is, M. 2:1G. Rabbis deem the writ invalid, therefore, when the writ is produced solely by the witness to the signing. This still accords with the view of R. Ammi at A.]”*

2:2

[A] [If] it was written by day and signed by day,

[B] ... by night and signed by night,

[C] ... by night and signed by day [on the next morning]

[D] it is valid.

[E] [If it was written] by day and signed by night, it is invalid.

[F] R. Simeon declares it valid.

[G] For R. Simeon did rule, “All writs which were written by day and signed by night are invalid, except for writs of divorce for women.”

[I:1 A] Said R. Yohanan, “It is invalid [when improperly written by day and signed by night] because of the consideration of deriving benefit from the usufruct [of the wife’s *melog-property*]. [Should the husband sell it between the one point and the other, the judge may deprive the purchaser of that property, on the theory that the divorce took place at the earlier time and the husband’s control of the property thus ceased prior to the time at which it actually did come to an end.]”

[B] Said to him R. Simeon b. Laqish, “If so, you should scruple about writs of divorce which come from overseas, for they may be written by day and signed by night.”

[C] He said to him, “That would be a point of invalidation [44b] on account of another matter entirely [and not as to the body of the writ, concerning which the messenger brings testimony].”

[II:1 A] [If it was written] by day and signed by night, it is invalid. R. Simeon declares it valid. For R. Simeon did rule, “All writs which were written by day and signed by night are invalid, except for writs of divorce for women:” Said R. Yohanan, “R. Simeon did not rule [that it is valid (M. 2:2F)] except in the case of a signing on that same night. But if it took place on the next day, also R. Simeon will concur [that the writ is invalid].”

[B] R. Simeon b. Laqish said, “There is no difference between a signing by night or a signing on the following day or even after some time, [for Simeon will validate in all such cases].”

[C] [In Yohanan’s view] what is that next day of which they do take account?

[D] R. Hananiah and R. Mana, one said, “It is the next day,” and the other said, “It is the day afterward.”

[E] *And R. Yohanan's view of R. Simeon's opinion poses a problem to R. Simeon, for thus did R. Ba state in the name of R. Zeira, "The opinion of R. Simeon accords with that of R. Eleazar. Just as R. Eleazar has said, 'Even though there are no witnesses on the writ of divorce, it is valid,' so did R. Simeon say, 'Even though there are no witnesses on the writ of divorce, it is valid.' [Accordingly, Yohanan's view contradicts Simeon's view that witnesses do not matter.]"*

[G] Said R. Samuel, brother of R. Berekiah, "Here we deal with a case in which the husband wants to have the writ signed [in which case it must be done properly], and there [at F] we deal with one which he does not want to have signed [in which case it does not matter]."

[II:2 A] If one said to ten men, "Sign this writ of divorce," and some of them signed it that day, and the rest of them on the next —

[B] R. Simeon b. Laqish said, "It is valid, and the reason for [the signing on the part of the others is a stipulation [that should some be unfit, the others will make up the difference]."

[C] R. Yohanan said, "It is invalid, unless all of them should sign it on the very same day ."

[D] R. Jacob bar Idi in the name of R. Joshua b. Levi: "M'SH B: One man said to ten, 'Sign the writ of divorce,' and some of them signed that day, and some the next day. *The case came before rabbis, and they declared it valid, but they scrupled about it [as a routine practice]."*

[E] *In one aspect this ruling supports the view of R. Yohanan vis-à-vis the rabbis [in that the court preferred to have the writ signed on one day alone and scrupled as to permitting that practice in general] and differs about his view vis-à-vis R. Simeon [in that he claimed Simeon would not validate a writ signed over a long period of time, while here the court has accepted Simeon's view without such a consideration]. [For precisely the opposite reasons] in one aspect this ruling supports the view of R. Simeon b. Laqish vis-à-vis R. Simeon.*

2:3

[A] **With all sorts of things do they write [a writ of divorce]:**

[B] **with ink, caustic, red dye, gum, copperas,**

[C] **or with anything which lasts.**

[D] They do not write [a writ of divorce] with liquids, or fruit juice,
[E] or with anything which does not last.

[F] On anything do they write [a writ of divorce]:

[G] on an olive's leaf,

[H] the horn of a cow,

[I] (but he gives the woman the cow)

[J] on the hand of a slave,

[K] (but he gives the woman the slave).

[L] R. Yosé the Galilean says, "They do not write [a writ of divorce] on anything that is alive,

[M] "or on foodstuffs."

[I:1 A] " ... and he writes her [a bill of divorce and puts it in her hand and sends her out of his house ...]" (Deut. 24:1) and not [when he] incises [the letters with a knife].

[B] "... and he writes ..." — and not when he forms letters by dropping that is, by forming the letters dot by dot].

[C] "... and he writes ..." — not when he pours.

[D] "... and he writes ..." — not when he incises.

[E] *There are Tannaim who teach that he may even incise it.*

[F] Said R. Hisda, "One who said he may not incise it refers to digging out around the letters [so that they appear embossed] *as in the case of a denar.*

[G] "He who said one may incise the letters points to a writing tablet [in which the letters are incised]."

[H] "... and he writes ..." — and not when he drops:

[I] R. Yudan bar Shalom and R. Mattenaiah — one said, "That is when he does not join the dots together [into continuous lines],"

[J] and the other said, "Even if he joined the dots [together into continuous lines, it is invalid]."

[K] "... and he writes ..." — not when he pours [out the letters].

[I:2 A] *Said R. Hiyya bar Ba, "The Easterners are very clever. When one of them wants to send a confidential letter to his fellow, he writes it in a solution of gallnut, and the recipient of the letter pours over it untanned ink which settles on the writing."*

[B] If one has done so on the Sabbath, what is the law [as to one's thereby violating the prohibition against writing on the Sabbath]?

[C] *There we have learned: "If one has written on top of writing, he is exempt."* [so it would not be a violation] [M. Shab. 12:5F].

[D] *Both R. Yohanan and R. Simeon b. Laqish say, "And that applies when he has written in ink on top of ink, or in red paint on top of red paint. But if he wrote in ink on top of red paint or red paint on top of ink, he is liable."*

[E] *R. Isaac bar Mesharsheayah in the name of the rabbis over there: "He is liable on two counts, on the count of blotting out, and on the count of writing."*

[F] In the case of witnesses who do not know how to sign their names

[G] R. Simeon b. Laqish said, "One makes a mark before them in ink, and they sign [i.e., retrace it] in red ink, and they sign in ink."

[H] Said to him R. Yohanan, "Because we are engaged in a discussion of the laws of the Sabbath, shall we make a law regarding the freeing of a man's wife [through such a questionable mode of signing a writ of divorce]? But one brings a blank piece of paper and cuts the letters before them [in their proper shape], and they then sign their names [by following the lines of the cuts]."

[I] But is this not merely the handwriting of the first party [who made the cuts]?

[J] But rather one broadens the tear before them [and they follow its main line, but not the whole of it, filling in the incision with ink].

[K] *R. Mana raised the question, "And why do we not rule that he makes an outline before them in water, in which case, when the illiterate witness adds ink, he actually is writing his signature and is not simply signing over the inked-in signature, P]?"*

[L] [The answer is that] if one comes and attempts to blot out [the mark], the erasure still is visible [(CDR for 'RR), so this is still writing on top of writing].

[II:1 A] [With reference to M. 2:3F:] he who cuts an inscription in leather in the form of writing — it is a valid writ of divorce.

[B] He who [merely] marks a mark on leather in the form of writing — the writ is invalid.

[III:1 A] [the horn of a cow, (but he gives the woman the cow:)] “Lo, this is your writ of divorce, on the stipulation that you give it back to me” — it is invalid.

[B] “... on the stipulation that you return it to me” — it is valid.

[C] *And is not this latter statement the same as the former?*

[D] Said R. Yosé, “When you will explain the difference to me... !”

[E] [Explaining B] said R. Yosé b. R. Bun, “When you acquire it and that which is provided for in it, then return it to me.”

[F] *It is in line with the following: People over there were looking for an etrog [for observance of the Festival of Tabernacles], and R. Nahman bar Jacob gave an etrog as a gift to his son, saying to him, “When you will have made acquisition of that piece of fruit and also of the religious duty connected with it, then you will return it to me.” [This is deemed an acceptable transfer of ownership.]*

[G] *R. Jeremiah raised the question: “If he wrote it on a golden goblet and said to her, ‘The place on which there is writing is yours, but the space between the lines is mine, ...’?”*

[H] And is this a kind of “writing” [required by the Torah, if the space between the lines is not given to the woman? Then what she gets is several distinct lines, but not a single document, such as Scripture requires]!

[III:2 A] [If] a hide was torn, it is valid.

[B] [If] it was torn [accidentally], it is invalid.

[C] [If there is in it a tear made by a court, it is invalid] [T. Git. 2:2B-D].

[D] That [A] is the case [that the writ is valid] when it has not been torn by the sort of tear which is incised by a court. But if it is torn with the sort of tear incised by a court, [the torn hide is not a valid material for a writ of divorce].

[E] What is the sort of tear incised by a court?

[F] It is between the body of the writ and the signatures of the witnesses.

[G] **On an olive's leaf [M. 2:3G]:** And is this not tantamount to making use of a torn material? [For one can hardly write on it the entire text of a writ of divorce].

[H] Said R. Zeira, "Boneh bar Shila taught, 'Even if he writes, 'I, Mr. So-and-so, divorce my wife,' it is a valid writ of divorce, [and that much can fit on an olive leaf].'"

[I] [*As to the ruling about a tear made by a court,*] *that ruling follows the view which R. Ila stated, "If the cut is complete, the material is invalid. But if the cut is not complete, it is valid [for a court will execute a complete tear]."*

[III:3 A] On the horn of a cow (but he gives the woman the cow) [M. 2:3H].

[B] The Mishnah speaks of a case in which he said to her, "Lo, this is your writ of divorce."

[C] But if he had said to her, "Lo, this is your writ of divorce, and the rest [of the cow] serves [in payment for] your marriage settlement," she is in the position of simultaneously receiving both her writ of divorce and payment for her marriage settlement.

[D] [It is as if he has said to her,] "Lo, this simultaneously is your writ of divorce and also payment for your marriage-settlement."

[E] *R. Zeira raised the question before R. Mana, "[If] he handed over to her the lead of the cow, what is the law [as to her being divorced when she receives the lead]?*

[F] "In the law in general you rule that the item subject to purchase has been acquired, and, along these same lines, you rule here [that she has acquired the beast and with it her writ of divorce].

[G] "Or perhaps the law is different here, for it is written, '... and he will put it in her hand ...,' (Deut. 24:1), meaning, the delivery is valid only when the whole of it is in her hand."

[IV:1 A] [With reference to M. 2:3, R. Yosé the Galilean says, "They do not write a writ of divorce on anything that is alive or on foodstuffs",] what is the Scriptural basis for the ruling of R. Yosé the Galilean?

[B] Scripture says, "A book [document]" (Deut. 24:1).

[C] Just as a book is distinctive in that it is not a living thing, so included is anything which is inanimate.

[D] Just as a book is not edible, so anything which is not edible is accepted.

[E] *What is the basis for the ruling of rabbis [M. 2:3H]?*

[F] Just as a book is something which is not attached to the ground, so anything which is not attached to the ground is acceptable.

[G] *In the opinion of R. Yosé the Galilean, are stems of produce in the status of produce [when they are attached]?*

[H] *Let us derive the law from the following:* If he wrote the writ of divorce on the horn of a deer, cut it off, then had it signed and gave it to her — it is a valid writ of divorce. It is because he cut it off and afterward had it signed. Lo, if he had had it signed and then cut it off, it would not have been acceptable. [So the stem when attached must be regarded as part of the produce.]

[V:1 A] **[or on foodstuffs:]** R. Ba in the name of R. Miasha, “And the dispute [about whether it is all right if written on the horn of a deer (M. 2:3H)] applies if he wrote it on the bony inside of the horn. But if he should write it on the pithy hollow part of the horn, it is as if it were cut off [from the horn], and it is valid [in the view of all].”

[V:2 A] *R. Jonah raised the question:* “Is the rule also the same in the case of rendering seed susceptible to uncleanness [that is, by watering the seed, in line with Lev. 11:34, 37]? [That is, the law holds that water falls on seed, and the owner of the seed approves, then the seed is rendered susceptible to uncleanness. Yosé deems an animate being to be in the status of that part of it which is attached to the ground and so insusceptible to uncleanness. Does he maintain that with regard to rendering seed susceptible to uncleanness, an animate creature also is deemed to be attached to the ground? The rule is that if when the water — e.g., rain — was falling, one gave thought to utilizing it for his own purposes, then that water imparts susceptibility, as explained. If he gave thought to utilizing the water only for what is still attached to the ground, however — then the water does not impart susceptibility to what it hits thereafter which is not attached to the ground. Now the question is, If one gave thought to utilizing the rain for the beast, and it fell from the beast to harvested produce, is the produce rendered susceptible to uncleanness by that water?]”

[B] If one gave thought that water should fall on a cow, and from the cow onto food —

[C] There R. Yosé the Galilean said, “A book — Just as a book is distinctive in that it is not a living thing, so included is anything which is

inanimate.’ [Thus an animate creature is treated as equivalent to what is attached to the ground.]” And here do you say the same, namely [the animate creature is as if it were attached to the ground, as explained]?

[D] *Or perhaps the case is different*, for it is written, “[And any food in it which may be eaten, upon which water may come, shall be unclean;] and all drink which may be drunk from every such vessel shall be unclean” (Lev. 11:34). [The utensil is detached from the ground and so the liquid therein can impart susceptibility.]

[E] If that is the case, then even if he had given thought that rain should fall for the purpose of filling cisterns, ditches, and caves, [the water will have the capacity to impart susceptibility to uncleanness].

[F] *The case here is different*, for it is written, “Utensil.” [But as to the stems of water dripping from a cow, the question stands.]

2:4

[A] They do not write [a writ of divorce] on something which is attached to the ground.

[B] [If] one wrote it on something attached to the ground, then plucked it up, signed it, and gave it to her, it is valid.

[C] R. Judah declares it invalid, unless both writing it and signing it are [not] on something which is plucked up from the ground.

[D] R. Judah b. Betera says, “They do not write on papyrus from which other writing has been erased,

[E] “or on a hide which has not been prepared,

[F] “for these can be falsified.

[G] And sages declare valid.

[I:1 A] *This ruling [at M. 2:4A] does not differ from the view of R. Yohanan.*

[B] For: R. Yohanan said, “If one has written the passage in the document which makes it binding [the names and operative language] on the upper portion, it is valid.” [That is, Yohanan holds that if one wrote the blank parts with the body of the document, it is valid. Yohanan then interprets M. 2:4A to refer to the body of the document. To begin with one may not write the operative language on what is attached to the ground, lest one sign there. The point of signing is what is important.]

[C] R. Simeon b. Laqish said, “If he wrote the operative language on the lower portion, it is invalid.” [One must leave space for the operative

language of the writ. Even *post facto*, if one has written it on what is attached to the ground, it is invalid.]

[I:2 A] *Samuel bar Abba raised the question:* “If he wrote it and signed it on that which was detached from the ground, and then attached it to the ground and again detached it and gave it to her, what is the view of R. Judah in such a case?”

[I:3 A] *R. Eleazar said that R. Abin raised the question:* “If one wrote it when it was detached from the ground, attached it, then detached it again, and had it signed and gave it to her, what do rabbis say in such a case?” [They want the signing to be on a detached object, M. 2:4B. The present question is not answered.]

[II:1 A] [R. Judah b. Betera says, “**They do not write on papyrus from which other writing has been erased, or on a hide which has not been prepared, for these can be falsified. And sages declare valid:**” Said R. Eleazar, “Is it the case that [Judah b. Betera and rabbis] differ in regard to writs of divorce, but as regards other sorts of deeds, also R. Judah will concur [= M. 2:4D G]? [Is the rule more stringent here?”]

[B] *For [Eleazar] interprets the matter [M. 2:4D] to speak of a writ written on a blank page, but the witnesses sign on a part which has been blotted out. [In other documents Judah will approve.]*

[C] R. Simeon b. Laqish said, “No, there is no difference between writs of divorce and other sorts of court documents, for all are subject to dispute.”

[D] *For [Simeon] interprets it to speak of a document in which the deed is written on a blotted out page and the witnesses signed on the blank part.*

[E] *And they then posed a question to the view of R. Eliezer:* “If the witnesses sign on the blotted out part, in such a case will sages declare valid?”

[F] *Said R. Zeira before R. Mana,* “The sages of the Mishnah concur with the theory of R. Eliezer [that the witnesses are not really required on the writ anyhow]. [They will therefore permit use of paper that can be forged.] For he interprets it to speak of a case in which the document is written on an erasure, and the witnesses sign on a clean piece of paper.”

[G] [In fact, the Mishnah speaks of a case in which both the body of the document and the names of the witnesses are written on paper which has been erased. Judah then invalidates such a document, since it is

easy to forge by erasing further on paper which already has suffered erasures.] [So] Samuel said, “This one and that one are written on that which has been erased. Correctly, then, does Judah rule [for the reason just now explained].”

[H] *What is the reason of the rabbis [for accepting such a document]?*

[I] Said R. Abba, “It is easy to discern whether there has been an erasure only one time, or whether there has been an erasure two times [and accordingly, we need not take account of the possibility of forgery or revising the terms of the document].”

2:5

[A] All are valid for the writing of a writ of divorce,

[B] even a deaf-mute, an idiot, or a minor.

[C] A woman may write her own writ of divorce, and a man may write his quittance [a receipt for the payment of the marriage contract],

[D] for the confirmation of the writ of divorce is solely through its signatures [of the witnesses = M. 2:1/I].

[E] All are valid for delivering a writ of divorce,

[F] except for a deaf-mute, an idiot, and a minor,

[G] a blind man, and a gentile.

[I:1 A] R. Huna said, “And [the rule of B] applies when there is a person of sound senses supervising him.”

[B] R. Yohanan said, “And has it not been written, ‘And he will write for her’ — that is, it must be written with that particular woman in mind [and those names at M. 2:5F cannot form a valid intention in this regard].” [Having an adult supervise, A, does not solve this problem.]

[C] [Huna declares it valid for a minor, etc., to write only the body of the writ.]

[D] Samuel said, [44c] “One has to leave the operative language of the writ of divorce for him [i.e., for the person of sound senses to write.” The minor does not write that language, so that the validity of the writ depends upon the fit person alone.]

[D] *This accords with that which R. Simeon b. Laqish stated:* “If [without having the particular woman in mind (PM)] one has written the operative ... it is null.” [Just as Samuel states, the operative language must be written with the particular woman in mind. The fit individual

does this. Only the rest of the writ may be written by a deaf-mute, imbecile or minor.]

2:6

- [A] [If] a minor [who may not act as an agent] received [the writ of divorce from the husband,] and then [before he had delivered that writ to the wife] passed the point of maturity,
- [B] a deaf-mute and he regained the power of speech,
- [C] a blind man and he regained the power of sight,
- [D] an idiot and he regained his senses,
- [E] a gentile and he converted,
- [F] [the writ remains] invalid.
- [G] But [if it was received from the husband] by one of sound senses who then lost the power of speech and then retained his senses,
- [H] by one who had the power of sight and who was blinded but then recovered the power of sight,
- [I] by one who was sane and then became insane and regained his sanity, it is valid.
- [J] This is the general principle: In any case in which the agent at the outset and at the end was in full command of his senses, it is valid.
- [I:1 A] *A case came before R. Immi of a slave who had delivered a writ of divorce, [and he declared it] valid.*
- [B] *Said to him R. Abba, “And did not R. Hiyya teach: ‘A slave who brought a writ of divorce — it is invalid’?”*
- [C] *Said R. Assi, “If it were not for R. Ba [= B], we should have been ready to permit a married woman to remarry [with a false writ of divorce].”*
- [D] [*But how so?*] *For even if you say that R. Assi had not heard that which R. Hiyya taught, did he not hear the opinion of rabbis? For consider from the following: For R. Zeira stated, “R. Hiyya in the name of R. Yohanan [said], ‘It appears proper that the slave should act as an agent to receive a writ of emancipation [for a fellow slave, since the slave himself is subject to such writs]: but he should not receive a writ of divorce for a woman, [since the slave is not subject to marriage and divorce]’ “ (so PM; cf. Y. Ter. 1:3/II).*
- [E] *They considered ruling that he had made such a ruling only so as to say that he should not receive such a writ. But if he transgressed and did receive one, after the fact it is valid.*

[F] [But this is false. It is never valid.] [For] R. Jacob bar Aha in the name of R. Hoshaiah: “There was a case, and the woman was the wife of a priest, and the sages did not scruple in that case [to regard the writ as valid] even on the count of the stench of invalidation. [That is, in no way was it a valid writ of divorce, in consequence of which the woman remained fully married. She was not in the status of a divorcee, and hence able to remain married to her husband, a priest; if she had fallen under the suspicion of having been divorced, even if it were not a valid writ, she could not remain married to him, since a priest may not marry a divorcee.]”

2:7

[A] Even women who are not deemed trustworthy to state, “Her husband has died” [M. Yeb. 15:4], are deemed trustworthy to deliver her writ of divorce:

[B] her mother-in-law, the daughter of her mother-in-law, her cowife, her husband’s brother’s wife, and her husband* daughter.

[C] What is the difference between [testifying when delivering a writ of] divorce and [testifying that the husband has] died?

[D] For the writing serves as ample evidence [in the case of a writ of divorce].

[E] A woman herself delivers her writ of divorce [from abroad],

[F] on condition that she must state, “In my presence it was written, and in my presence it was signed.”

[I:1 A] And it is not on the basis of what she says that we believe her [as against M. 2:7C-D], [for she must state, as at M. 2:7F]. For if she did not say “In my presence it was written, and in my presence it was signed,” would you still permit the woman to remarry?

[B] *Said R. Yosé b. R. Bun, “It accords with that which R. Abin has said, ‘The husband is not suspect of ruining the wife’s situation in regard to a matter involving Heaven. But in regard to a matter involving court action, he is suspect of ruining her situation.’ For he knows that if he should come and raise a complaint against the writ he has handed over, his complaint will be null. So even he will see to it that it is signed by valid witnesses.”* [Here too we do not scruple that she may lie, since what is written (= M. 2:7D), not merely what she says (= 2:7E F), validates the writ.]

[I:2 A] [With respect to M. 2:7F:] Take note, if the woman lived for ten years in Rome and got married [why does she have to testify as at M. 2:7F]? [Is she not divorced?]

[B] Said R. Yohanan: “The Mishnah treats of a case in which he said to her, ‘You may be divorced only in such-and-such a place [so she is the agent to bring it to the court in that place and must go there to be divorced].’”

YERUSHALMI GITTIN

CHAPTER THREE

3:1

[A] Any writ of divorce which is written not for the sake of this particular woman [for whom it is intended] is invalid.

[B] How so?

[C] [If] one was passing through the market and heard the voice of scribes dictating [to students], “Mr. So-and-so is divorcing Mrs. So-and-so from such-and-such a place,” and said, “Why, this is my name and the name of my wife” –

[D] it is invalid therewith to effect a divorce.

[E] Moreover:

[F] [If] one wrote a writ of divorce for divorcing his wife therewith and then changed his mind.

[G] [and] a fellow-townsmen found it and said to him, “My name is the same as yours, and my wife’s name is the same as your wife’s name

[H] it is invalid therewith to effect a divorce.

[I] Moreover:

[J] [If] one had two wives, and their names were the same,

[K] [if] he wrote a writ of divorce to divorce therewith the elder,

[L] he shall not divorce the younger with it.

[M] Moreover:

[N] [If] he said to a scribe, “Write for whichever one I shall decide to divorce,”

[O] it is invalid therewith to divorce a woman.

[I:1 A] Who were the ones dictating [M. 3:1C]? The schoolteachers.

[B] What is the meaning of “moreover” [at M. 3:1E]?

- [C] There [M. 3:1C] the document was not prepared for use as a writ of divorce, while here [at M. 3:1F-H], the document was prepared for use as a writ of divorce.
- [D] What is the meaning of “moreover” [at M. 3:1I]?
- [E] There [M. 3:1F] the writ was not prepared either for his sake or for hers, but here it was written for his sake even though it was not written for hers.
- [F] What is the meaning of “moreover” [at M. 3:1M]?
- [G] There it was written for his sake, but it was not written for hers, while here it was written for his sake and for hers, but it was not prepared for her sake at the very outset.
- [I:2 A]** Rab said, “All of [the wives involved in cases of defective divorce documents, cf. M. 3:1], are not invalid [for marriage into the priesthood, should the present husband die], except for the last one, for that sort of writ referred to at M. 3:1N) renders a woman invalid [for marriage into the priesthood].”
- [B] Issi said, “All of them [the divorce documents mentioned in the Mishnah] leave a woman invalid [for marriage into the priesthood], except for the first, which does not leave a woman invalid [for marriage into the priesthood].”
- [C] R. Ba bar Hinena said, “All of them leave a woman invalid for marriage into the priesthood.”
- [D] *In the opinion of R. Simeon b. Laqish* all of them are not left invalid [for marriage into the priesthood].
- [E] For R. Simeon b. Laqish has said, “If one wrote the operative language of the writ of divorce in a blank writ, it is invalid.” [In his view the entire writ must be written for that particular woman. That was not done here, so all of the writs are null, leaving the women in each instance valid for marriage into the priesthood, should the present husband die. There is no suspicion of divorce which would invalidate her.]
- [F] *In the opinion of R. Yohanan* all of them are invalid [for marriage into the priesthood].
- [G] For R. Yohanan said, “If one wrote the operative language of the writ of divorce in a blank writ, it is valid [44d] [and hence, as in the present case, even if the writ is not prepared

for that particular woman, it is valid]. [Consequently, all of the women have received a valid writ of divorce and are prohibited from marrying into the priesthood.]”

[H] *In the opinion of R. Eleazar* all of them are invalid [for marriage into the priesthood.] [= F]

- [I:3 A] R. Eleazar asked, “As to a deed of betrothal which one has written not for the sake [of the woman to whom it is presented], what is the law as to the betrothal’s taking effect for [the woman to whom he gave the writ]?”
- [B] *Since he does not raise that question with regard to a writ of divorce, it indicates that a writ of divorce not written for that particular woman does not render her invalid for marrying a priest, [contrary to 3:1H]. Consequently, he raises the question only with regard to a writ of betrothal.*
- [C] *For if you maintain that it is necessary in the case of a writ of divorce [to ask such a question about writing the document for that particular woman], he would not have had to ask it in respect to a writ of betrothal. [For in such a case, the writ would surely take effect, on the basis of an argument a fortiori from the rule governing writs of divorce, as follows:]*
- [D] Now in the case of writs of divorce, since it must be written for the sake of the particular woman for whom it is intended, if one did not write it for that woman’s name, she is untouched by the matter of a divorce at all, [and hence entirely free to marry a priest, should the present husband die,]
- [E] in the case of a writ of betrothal, in which it is not necessary to write the document for the woman’s sake who is to receive it, if he wrote it not for her particular sake, is it not logical to conclude that the betrothal should take effect for that woman?
- [F] *Lo, that should be obvious to him.* Since they derived the law governing a writ of betrothal only from the law governing a writ of divorce, since in the case of a writ of divorce, on the basis of a document not written for the particular woman’s sake, she would not be divorced, also in the case of a writ of betrothal, she should not be regarded as betrothed.

[II:1 A] **[Write for which ever one I shall decide to divorce,] it is invalid therewith to divorce a woman:** *R. Eleazar bar Yosé raised the following question before R. Yosé: “That is to say that a single writ of*

divorce is invalid for use with two different wives. *Along these same lines*, are two writs of divorce invalid for use with two wives [who have the same name]?”

[B] *He said to him, “Is that so?”*

[C] *He said to him, “And yet have we not learned as a Tannaite rule: ‘Two writs of divorce which two men sent, and which were mixed up – the messenger gives both of them to this woman and both of them to that woman’?”* [So B’s proposition is contradicted.]

[D] [He said to him,] “In that case, this one was prepared for this woman, and that one was prepared for that woman, and it is merely the confusion which has caused the difficulty. [Therefore we deemed the writs valid.] Here on the other hand this one has not been written for the sake of this woman, and that one has not been written for the sake of that woman.” [Therefore the writs both are valid.]

[E] [But there is a problem.] Since they were given to her, let it be treated as if it *was* written for this one woman’s sake at the very outset.

[F] *R. Yosé in the name of R. Bibon: “It follows the view of R. Simeon [who holds that there can be no retrospective clarification of original intent]. For it has been taught as a Tannaite rule: [If] one said to a craftsman, ‘Make for me two bells, one for the door and one for the cow,’ ‘Make for me two reed mats, one for lying and one for tents [the latter being insusceptible to uncleanness],’ ‘Make for me two sheets, one for a tapestry [for pictures] and one for tents’ – lo, both of these are unclean until the time that he will distinguish between them [determining the use, whether unclean or clean, of each of them]. And R. Simeon declares them clean until one will actually distinguish between them [T. Kel. B.M. 1:14B]. Just as he has said there that the article remains insusceptible to uncleanness [since that which is not a useful utensil is insusceptible], unless it is regarded as a utensil at the outset, so here he has said that it is not an acceptable writ unless it is prepared for that particular woman at the very outset.”*

[G] *R. Hanania in the name of R. Bibon bar Hiyya: “It represents the opinion of Rabbi [who also holds that there can be no retrospective clarification of original intent].”*

[H] *Said R. Yohanan, “And so it has been taught, ‘All stipulations invalidate in the case of a writ of divorce,’ the words of Rabbi. [Rabbi maintains that there is no retrospective clarification of whether or not the stipulation has been carried out. Accordingly, he will invalidate*

any sort of stipulation, without regard to whether or not it is put into effect. That position has the same consequences for the issue at hand as the one assigned to Simeon b. Gamaliel above.] And sages say, ‘That stipulation which invalidates when it is merely verbal invalidates when it is written into the writ of divorce, and that which does not invalidate when it is merely verbal does not invalidate when it is written into the writ itself. ‘Lo, you are permitted to marry anybody except for So-and-so’ – since such a treatment would invalidate the act of divorce when it is merely stated verbally, it invalidates when it is stated in writing. ‘Lo, this is your writ of divorce, on condition that you pay me two hundred – since it does not invalidate the act of divorce when it is stated verbally, it also does not invalidate the writ when it is stated in writing.’”

- [I] [That is not pertinent to the issue at hand, for] *said R. Yudan*, “*They differ* when he has nullified his stipulation [not carrying it out]. But if he has not nullified his stipulation [and done it], then even Rabbi concurs. Lo, he has said, ‘All stipulations which they have made in regard to writs of divorce ...’ is this not in accord with Rabbi?”
- [J] *Said R. Hinena*, “*There it is a case in which* he writes, ‘... on the following stipulation ...,’ while here he hands it over with the given stipulation. [That is, if written into the writ, the stipulation nullifies the writ. If stated orally, it does not.]”
- [K] *R. Ezra raised the question before R. Mana*, “Is that to say that in accord with the view of Rabbi, the law of not writing blank writs does not apply? [We see that Rabbi validates a verbal stipulation but invalidates a writ of divorce containing a written one. Shall we say that that is so even if one wrote it after the operative language of the writ? That is, if one used a writ in which the spaces for the names were left blank, filled in those names, and then added the stated stipulation, Rabbi deems the writ to be null. Consequently, there is no difference between the operative language of the writ and the formula of the writ of divorce. It will follow that the scribe may not write the formula of the writ of divorce, just as he may not write the operative language, *not* for the particular woman involved in the process. The whole must be done afresh. Consequently there may not be use of a blank writ of divorce, to be filled in with the operative language.]”
- [L] He said to him, “What are you asking about Rabbi? Rabbi accords with R. Judah, for R. Judah declares a writ invalid if it is filled in on a blank copy. [So R is correct.]”

[M] R. Simeon b. Laqish said, “All stipulations invalidate in a writ of divorce, in the opinion of all parties.”

[N] *A practical case came before R. Jeremiah and he decided in accord with the view of R. Simeon b. Laqish.*

[O] *R. Yosé said to him, “Do they ignore the view of R. Yohanan and act in accord with Simeon b. Laqish?”*

[P] *He said to him, “Is the instruction of R. Yohanan instruction, while is that of R. Simeon b. Laqish not instruction?”*

[Q] *Said R. Jacob bar Aha, “It is not that R. Simeon b. Laqish differs from R. Yohanan. Rather [Simeon b. Laqish] learned another passage of the Mishnah and relied on it.”*

[R] *Said R. Yosé b. R. Bun, “It is not that R. Simeon b. Laqish is concerned about accepting the view of R. Yohanan because he differs from him. But it is because a case had come to his court. When he heard a different version of the Mishnah, he relied upon it. If he had not heard a different version of the Mishnah, he should nullify his own opinion in the face of the contrary opinion of R. Yohanan.”*

3:2

[A] **He who writes out blank copies of writs of divorce must leave a space for the name of the man, for the name of the woman, and for the date.**

[B] **[If he does so] for bonds of indebtedness, he must leave a space for the lender, the borrower, the sum of money, and the date.**

[C] **[If he does so] for deeds of sale, he must leave a space for the purchaser, the seller, the sum of money, the field, and the date**

[D] **for good order.**

[E] **R. Judah declares invalid in the case of all [such blank copies of writs].**

[F] **R. Eleazar declares valid in the case of all of them,**

[G] **except in the case of writs of divorce for women, since it is said, “And he shall write for her” (Deut. 24:1) expressly for her.**

[I:1 A] R. Yohanan said, “If one has filled in the operative language into a blank copy of a writ of divorce, the writ is valid.”

[B] R. Simeon b. Laqish said, “If one has filled in the operative language into a blank copy of a writ of divorce, the writ is invalid.”

- [C] *The Mishnah's law stands at variance with the position of R. Yohanan: He who writes out blank copies of writs of divorce must leave a space for the name of the man, for the name of the woman, and for the date [M. 3:2A].* [Contrary to Yohanan, M. 3:2A does not require leaving a space to fill in the operative language at all.]
- [D] [That need not differ from Yohanan's view, for you may] interpret [M. 3:2A] to speak of [his leaving a space for] the operative language along with the spaces [for the names and date, referred to explicitly at M. 3:2A].
- [I:2 A] *There is a question for R. Yohanan: If he has written the operative language with the formula of the writ, in such a case will sages declare the writ to be valid? [Surely not.]*
- [B] R. Jeremiah in the name of R. Zeira: "From the rule governing that which invalidates the writ, you may derive the rule governing that which validates it. If he has written the whole of it for the sake of that particular woman, but the name of the man and the name of the woman not for the sake of that particular woman, is it possible that it would not be invalid? [Obviously not. This is an invalid mode of preparing the writ.] *But along these same lines*, if he wrote the whole of it not for the sake of that particular woman, but the name of the man and the name of the woman for that particular woman, it is valid."
- [C] R. Yosé asked R. Jeremiah: "Now take note of a case in which there are two [or more] bearing the same name. [Do we take account of the possibility that the writ has been prepared for someone else of the same name?]"
- [D] He said to him, "Yes."
- [E] Said to him R. Zeira, his master, "Since the coincidence of names is uncommon, even if we have a case of coincidence of names, it is as if there is no such coincidence."
- [F] *And there is a question to be addressed to the position of R. Simeon b. Laqish: If one has not written the operative language of the writ in a blank copy, in such a case will R. Judah declare the writ invalid? He will. [But why is that his position?]*
- [G] *R. Yosé b. R. Zeira: "It was to avoid having another matter [included in the document that R. Judah has introduced this issue. [That is, Judah will invalidate a writ in which there is excessive space left over for matters to be included in the document other than a writ of divorce.]"*

[H] *Now this is in accord with that which Simeon b. Ba stated in the name of R. Yohanan: “If one has left blank a space of two lines for any other matter whatsoever, it is invalid. [If in any space whatever on the writ some other matter has been recorded, the writ is invalid. Now it is for this same reason that Judah will declare invalid the use of a blank writ, because, for preparing such a document, one has to leave a place for the name of the man and so on. Since we do not allow the leaving of blank spaces in any other writ, by reason of the possibility of forgery, we also invalidate such a procedure in this case.]”*

[II:1 A] What is the meaning of **for good order** [M. 3:2D)?

[B] R. Shabbetai in the name of Hezekiah: “It is for the good order of Israelite woman, that they not be routinely divorced [since, if one may utilize ready-made writs of divorce, at any little fight the husband may issue such a writ; making it necessary to write it out will allow time for cooling off].”

[C] R. Samuel bar R. Isaac asked R. Hiyya bar Ba, “But use of blank documents is valid [so far as the rabbis, M. 3:2A, are concerned, since what is left open is only space for the names], *and do you say this?* Had you said that such a use of blank copies is invalid, such a reason would have applied.”

[D] *What then is the answer?*

[E] Said R. Abun, “It is for the welfare of the scribe, so that he may have ready access to a living.”

[III:1 A] [**R. JUDAH DECLARES INVALID IN THE CASE OF ALL [SUCH BLANK COPIES OF WRITS]. R. ELEAZAR DECLARES VALID IN THE CASE OF ALL OF THEM, EXCEPT IN THE CASE OF WRITS OF DIVORCE FOR WOMEN, SINCE IT IS SAID, “AND HE SHALL WRITE FOR HER” (DEUT. 24:1) EXPRESSLY FOR HER:]** R. Zeira, R. Huna in the name of Rab: “The law accords with R. Judah in regard to writs of divorce, and with R. Eliezer with regard to all other deeds.”

[B] Then should we not [simply] say, “The law is in accord with R. Eliezer [for he holds the same position as Judah regarding writs of divorce]”?

[C] [Rejecting A-B] R. Ba in the name of Rab: “The law is in accord with R. Eliezer in regard to writs of divorce and in accord with R. Judah in regard to other sorts of documents. [That is, both strict rulings are enforced.]”

- [D] And [if C is the case] should we not say, “The law is in accord with R. Judah”? [That would encompass M. 3:2F.]
- [E] *But since both Rab and Samuel say, “The law accords with R. Eliezer,” and you may not find it reasonable to rule, “Here too it is so,” it is therefore necessary to say, “The law is in accord with R. Judah in regard to writs of divorce and with R. Eliezer with regard to other deeds.”*

3:3

- [A] He who is bringing a writ of divorce and lost it –**
- [B] [if] he found it on the spot, it is valid.**
- [C] And if not, it is invalid.**
- [D] [If] he found it in a satchel or a bag,**
- [E] if he recognizes it, it is valid.**
- [F] He who is bringing a writ of divorce and left [the husband] aged or sick hands it over to the woman in the assumption that [the husband] is [still] alive.**
- [G] An Israelite girl married to a priest,**
- [H] and her husband went overseas,**
- [I] eats heave offering in the assumption that [her husband] is alive.**
- [J] He who sends his sin offering from overseas – they offer it up in the assumption that he is alive [cf. M. Tem. 4:1].**

[I:1 A] What is the meaning of “**on the spot**” [M. 3:3B]?

[B] R. Yohanan said, “Any case in which no one else went by there.”

[C] R. Jacob bar Idi, R. Simeon bar Abba in the name of R. Joshua b. Levi: “It is any case in which three people did not go by.”

[I:2 A] What is the law if a gentile went by [who is unlikely to be carrying a writ of divorce]?

[B] *Let us derive the answer from the following: Abba bar bar Hana was bringing a writ of divorce and lost it. A Saracen found it. The case came before R. Yohanan, and he declared it valid.*

[C] *That then implies that if a gentile passed by, it is valid.*

[D] *Perhaps we may say [that the reason Yohanan validated it] is that it bore a distinguishing mark?*

- [E] *But has it not been taught*, “The consideration of a distinguishing mark does not apply to writs of divorce”?
- [F] *That rule applies when one has given as a distinguishing mark the fact that the writ is written out in two or three lines [which can characterize any number of writs of divorce]. But here the distinguishing mark was that the letter A which is written in it was marked with dots at the top.*
- [G] *R. Ezra raised the question before R. Mana*, “In this case why should it ever be invalid?”
- [H] “I say, there was someone else in the vicinity, and his name was the same as that written in the writ.”
- [I] “But take note of this case: What if they searched that entire locale and did not find a single person who bore the same name as that in the lost and now found writ?”
- [J] It is because of the generally strict rules which apply to forbidden connections [e.g., freeing a married woman to enter into a marriage with someone other than the man to whom she is presently wed].
- [K] *And lo, we have learned*: **[They may give evidence even if they have seen the corpse only by the light of a lamp or of the moon, and they permit a woman to remarry solely on the evidence of an echo. Once a man stood on a hilltop and cried out, “Such-and-such, son of So-and so, from such-and-such a place, is dead,”⁷ and although when they went they found no one there, they permitted his wife to remarry. [Moreover: At Salmon someone called out, “A snake has bitten me, Such-and-such, the son of So-and-so, and I am dying” and] although when they went there, they did not recognize him, they permitted his wife to remarry [M. Yeb. 16:6]. [Thus they do provide for lenient rulings!]**
- [L] Said to him R. Mana, “Thus did R. Samuel b. Aha say, ‘As to this man, he had two writs of divorce in hand, one valid, and one invalid. He has lost the

valid one and thrown away the invalid one. When he found it, I say that it was the invalid one which he had found.”

- [I:3 A] *Bar Qappara taught*, “Even if one left him at the age of one hundred years and took another hundred years to make the trip, one hands over the writ to her in the assumption that the husband is alive.”
- [B] *And has it not been taught*: He who says to his wife, “Lo, this is your writ of divorce, to take effect one hour before I die,”
- [C] and he who says to his slave-girl, “This is your writ [45a] of emancipation, to take effect one hour before I die” –
- [D] [if the man was a priest] she forthwith is prohibited from eating food in the status of heave offering. [We assume he may have died forthwith, as against A.]
- [E] In that case, it is from the very outset that the woman’s situation is in disarray [as to eating heave offering]. [For he has specified an hour *before* death.] But here it is only when he will actually die that her situation is in disarray [as to remarrying].

3:4

- [A] **Three things did R. Eleazar b. Parta say before sages and they confirmed his opinion:**
- [B] **concerning [those who live in] a city surrounded by a besieging force, [those who are aboard] a storm-tossed ship, and he who goes out to judgment –**
- [C] **that they are assumed to be alive.**
- [D] **But [those in] a town conquered in a siege, a ship lost at sea, and he who goes forth to be put to death –**
- [E] **they apply to them the stringent rules applicable to the living and the stringent rules applicable to the dead:**
- [F] **An Israelite girl married to a priest, or a priest-girl married to an Israelite [in cases like these] does not eat heave offering.**
- [I:1 A] What is a besieging force?
- [B] R. Ba in the name of R. Hiyya bar Ashi: “It would be a case in which they surrounded the town with bells, chains, irons, geese, chickens, and military apparatus [to keep people from escaping].
- [C] And R. Ba in the name of R. Harna bar Ashi said, “There was a case in which a blind woman fled from such a town.”

- [D] If there was a single breach [in the siege], it affords protection for all.
- [E] If there were hiding places there, it is a question [whether or not we assume that people can survive in them, e.g., the middle ground between M. 3:4B and M. 3:4D].

[F] R. Zeira, R. Ba bar Zabeda, R. Isaac bar Haqulah in the name of R. Yudan the Patriarch, “And that is on condition that it is a besieging force of the same kingdom [in which the town is located]. But in the case of a besieging force of some other kingdom, it is in the status of mere robbers [and all the women are not assumed to have been raped (cf. Y. Ket. 2:9, served by this discussion)].”

[I:2 A] And three more [cases] did they add [to M. 3:4]:

- [B] **[if] a wild beast was mauling him, or a river was sweeping him away, or a house fell on him –**
- [C] **they apply to him the strict rulings applicable to the living and the strict ruling applicable to the dead.**
- [D] **An Israelite girl married to a priest, or a priest-girl married to an Israelite, does not eat heave offering [M. 3:4F] [T. Git. 2:12A-D].**

3:5

[A] **He who brings a writ of divorce in the land of Israel and got sick – lo, this one sends it on by means of someone else.**

[B] **But if he [the husband] had said to him, “Get from her such-and-such an object,”**

[C] **he should not send it by means of someone else,**

[D] **for it is not the wish [of the husband] that his bailment should fall into someone else’s hands.**

[I:1 A] [The reason that an agent may hand over his agency] is that he fell ill. Lo, if he did not fall ill, he may not do so.

[B] *This law, therefore, does not stand at variance with the position of R. Yohanan, for R. Yohanan said, “A bailee who handed over his bailment to another bailee – the first remains liable.”*

[C] [Even if one holds that that is not the case, but that one may legitimately hand over his bailment to another bailee,] R. Ba son of R. Hiyya [said], “In the present instance [it is prohibited to do so] because of the consideration of stipulation affecting writs of divorce. [That is, one must carry out the stipulation set up by the husband.]”

[D] *What is the practical difference between [A-B and C's reasons for the law of the Mishnah]?*

[E] It would be a case in which the husband went ahead and took the object [from the woman, M. 3:5D].

[F] If you say that it is because of a stipulation established concerning a writ of divorce, it is well [and the condition must be met, no matter what].

[G] If you say that the operative reason is that **it is not the wish of the husband that his bailment should fall into someone else's hands**, lo, his bailment is not in someone else's hands [and, it follows, the bailee may appoint another bailee if he should choose].

[I:2 A] Does the same rule applies in delivering tokens of betrothal? [Surely – and why not?]

[B] What difference is there, then, between delivering writs of divorce and delivering tokens of betrothal?

[C] [There really is a difference.] Anyone can hand over a writ of divorce, but not anyone is able to deliver writs of tokens of betrothal in a proper way [so that the woman will agree to accept them].

3:6

[A] **He who brings a writ of divorce from overseas and got sick**

[B] **appoints a court and sends [the writ, with someone else].**

[C] **And he says in their presence, “In my presence it was written, and in my presence it was signed.”**

[D] **And the latter does not have to say, “In my presence it was written, and in my presence it was signed.”**

[E] **But he merely states, “I am the agent of a court.”**

[I:1 A] Said R. Mana, “[It is obvious that the first agent must say what M. 3:6C calls for. Why does this require specification?] It is necessary to say so, for this applies to one who already has reached the land of Israel.

[B] “It is so that you should not say, ‘Since he now has reached the Land of Israel, let the document be treated in accord with the laws governing writs of divorce in the Land of Israel.’

[C] “For with regard to writs of divorce produced in the Land of Israel, it is not necessary to state, ‘In my presence it was written and in my presence it was signed.’”

[I:2 A] What if the second agent also got sick?

[B] *Said R. Haninah son of R. Abba, “Such a case in fact happened, and someone asked and sent to R. Hiyya and to R. Yosa and to R. Immi, and they instructed him, ‘The latter agent does not have to say, ‘In my presence it was written and in my presence it was signed,’ but he merely states, ‘I am the agent of a court’” [M. 3:6E].*

[I:3 A] Does the agent have to hand over to the second one all of the matters which the master has sent along with him to do?

[B] R. Jeremiah said, “He has to hand over to him all of the matters which the master sent him to do.”

[C] R. Abin bar Kahana said, “He does not have to do so.”

[D] *One introduced that which R. Abun bar Kahana said on the basis of the following: The latter agent does not have to say, “In my presence it was written and in my presence it was signed,” but he merely states, “I am the agent of a court.”*

[E] *Said R. Jeremiah, “R. Abun bar Kahana retracted on the basis of that statement: The latter agent does not have to say, ‘In my presence it was written and in my presence it was signed,’ but he merely states, ‘I am the agent of a court.’ [That statement covers only the delivery of the writ of divorce. Consequently, the original agent does not have to hand over all of the things the master has sent him to do.]”*

3:7

[A] **He who lends money to a priest or to a Levite or to a poor man so that he may set apart [what would be] their [share as heave offering, tithe, or poorman’s tithe, respectively, all sell the heave offering to another priest or eat the tithe or poorman’s tithe, in compensation for this loan],**

[B] **separates the produce in their behalf in the assumption that they are alive.**

[C] **And he does not take account of the possibility that the priest has died, or the Levite, or that the poor man has gotten rich.**

[D] **[If] they died, he has to get permission from [their] heirs [to continue in this way to collect what is owing].**

[E] **If he lent them this money in the presence of a court, he does not have to get permission from the heirs.**

[I:1 A] *R. Abbahu in the name of R. Simeon b. Laqish: “This rule [which pays no heed to the fact that the priest has not yet made acquisition of the offerings but assigns him their value without their actually entering his hand] follows the principle of R. Yosé. For we have learned there: **R. Yosé says, ‘Any [animal] the exchange of which is in the hand of a priest is free of the obligation to priestly gifts.’ R. Meir declares liable [to priestly gifts] [M. Bekh. 2:8H-J].** [At issue is a case of two sheep, one of which had given birth and one which had not, which bore two males. One is for the owner, and one for the priest. The former’s firstling is liable for the priestly gifts. Yosé exempts the beast’s owner from handing over the priestly parts of the beast when he slaughters it. Meir’s view is that since we do not know whether it is a firstling, in which case the whole of it belongs to the priest, or if it is not a firstling, it is liable for the separation of priestly gifts. Yosé maintains that since the priest has in hand one firstling, that is, the counterpart or the exchange of this beast, they have treated the one the priest does *not* own as equivalent to the one he does own. In the case of the Mishnah’s rule before us, we treat the money the priest has received as payment for a debt he already owed to him – the offering – and we regard the arrangement explained at M. 3:7A as a valid arrangement for paying the priest what is owing to him.]”*

[B] *[No, the cases are different.] [In the case of M. Bekh.] R. Yosé made such a ruling only [with regard to an animal which is] in hand [so we may well treat the animal as one the priest has acquired]. But here, [the rule would not be parallel unless] the crop had already been sewn. [For the priest surely cannot effect acquisition for something which has not yet come into existence, in the same way that he may effect acquisition of a beast which already is in existence.]*

[I:2 A] *R. Abbahu in the name of R. Yohanan: “The Mishnah speaks of priests and Levites who are the ordinary recipients of the man’s tithes and heave offering.”*

[B] *And lo, we have learned, **A poor man!** And does the consideration of an ordinary relationship apply in that case?*

[I:3 A] *A case along these lines came before R. Immi: A priest or a Levite who owed money to an Israelite said to him, “Designate as heave offering these crops as my share [of the tithes or offerings,] on account of my debt to you and use that to pay off the debt.”*

[B] *He said to him, “And have we not learned only: **He who lend money to a priest or to a Levite or to a poor man so that he may set apart what would be their share as heave offering, the, or poorman’s tithes** [M. 3:7A-B]. It is only when the loan was made on such a stipulation [that the funds would be treated in compensation for the tithes, as if the tithes had already reached the possession of the priest, Levite, or poor man]. But if the loan was not made on such a stipulation, then the procedure is not acceptable. [It cannot be a *post-facto* arrangement.]”*

[C] R. Zeira said, “Even if the loan was not made on the basis of such a stipulation, [it is still an acceptable procedure].”

[D] *Reenforcement for the position of R. Zeira derives from the following: **Similarly in the case of a Levite who owes money to an Israelite, the Israelite may not collect first tithe from other Israelites and designate crops for it [for the amount of the debt], for a Levite cannot make an Israelite into a Levite** [T. Dem. 7:15]. Now it says only that he may not collect and separate from others. Lo, as to what is his own, he may indeed separate [the tithes that are owing and keep them in payment for the debt]. [This may even be after the fact of the loan.]*

[II:2 A] [And he does not take account of the possibility that the priest has died, or the Levite, or that the poor man has gotten rich:] As to what does one not scruple [in line with M. 3:7C]?

[B] But one should scruple that the poor man has not gotten rich!

[C] *And so it has been taught: **He who lends money to a poor man who got rich – they do not separate poorman’s tithe on his account. For they do not set apart poorman’s tithe for that which is lost** [T. Qid. 3:J]. [One cannot now collect the debt from tithe going to that poor man, who is no longer eligible.]*

[III:1 A] [If they died, he has to get permission from [their] heirs [to continue in this way to collect what is owing:] *R. Hiyya bar Uqbah in the name of R. Yosé in the name of R. Haninah: “The Mishnah [at M. 3:7D] speaks of heirs who are priests or Levites.*

[B] “But as to heirs of poor men, a poor man [by definition] leaves no estate.”

[C] *Bar Qappara taught, “You have no man who does not fall into this measure. If it is not he, then it is his son; if it is not his son, then it is his grandson.”*

- [III:2 A] That [M. 3:7D] is to say that [the borrower] has the right to retract.
- [B] As to the lender himself, what is the law as to his retracting from the agreement?
- [C] *Let us derive the answer to that question from the following: **He who lends money to a poor man, who got rich – they do not separate poorman’s tithe on his account, for they do not set apart poorman’s tithe for that which is lost. The poor man has acquired that which is in his possession [T. Qid. 3:1IK].***
- [D] *That is to say* [since the poor man keeps the money], the lender cannot retract.
- [III:3 A] *Does this [M. 3:7D] not stand at variance with the view of Rab, for Rab said, “An inheritance is like indentured property. Just as one who lends money before witnesses [without a written deed] cannot collect from indentured property, so he cannot collect from an estate. [So the heirs need not pay the father’s debt.]” [If so, why does their permission matter? It is not their debt, vs. M. 3:7D.]*
- [B] *Interpret [Rab] to speak of one who makes a loan on the strength of a bond.*
- [C] R. Abbahu in the name of R. Yohanan: “A loan secured on the basis only of witnesses [not a bond] may be collected from an estate,
- [D] “and that is on condition that it is an estate which includes real estate.” [Then they must pay the father’s debt. So their permission bears consequences.]
- [E] *It is in line with the following: Members of the house of R. Nehemiah lent money to the community [planning to collect from poorman’s tithe].*
- [F] *The case came before Rabbis. They ruled, “The whole of the community cannot be deemed rich, nor can the whole of the community be deemed poor.”*

3:8

- [A] **He who put aside produce, so that he may set apart heave offering and tithes on its account [reckoning that it will serve for these purposes],**
- [B] **... coins, so that he may set apart second-tithe on its account,**
- [C] **designates produce [as unconsecrated] relying upon [the coins] in the assumption that they remain available.**

- [D] **“If they got lost, lo, this one takes account of the possibility that they were lost [only] during the preceding twenty-four hours,”** the words of R. Eleazar [b. Shammua].
- [E] R. Judah says, **“At three seasons they examine wine: At the time of the east wind after the Festival [of Sukkot], when the berries first appear, and when the juice enters unripe grapes.”**
- [I:1 A] **“If they got lost, lo, this one takes account of the possibility that they were lost [only] during the preceding twenty-four hours,”** the words of R. Eleazar [b. Shammua]:] [If one takes account of only the preceding twenty-four hours (M. 3:8D),] R. Eleazar b. Antigonus in the name of R. Eliezer b. Yannai [said], **“That is to say that [one takes account of spoilage only for the preceding twenty-four hours of the last day [prior to examination] alone.”**
- [B] Said R. Yohanan, **“[No, to the contrary,] one takes account of having properly treated as covered by the heave offering or tithes produce he has used only for the first twenty-four hours of the first day [after he left the produce for that purpose] alone.**
- [C] **“For we have learned there an immersion pool which was measured and found lacking [the requisite volume of water] – [all things requiring cleanness which were made depending on it ... are unclean] [M. Miq. 2:2A-E],** [up to that last point at which one knows that he has immersed in a proper way].”
- [D] Hinena son of R. Assi bar Mamel in the name of R. Eleazar, **“This [citation of M. Miq. 2:2] excludes the opinion of R. Eleazar [and follows that of rabbis], for we have learned: ‘If [meals prepared as symbolic meals for joining ownership of a courtyard] were lost, lo, one scruples that it was during the preceding twenty-four hours,’** the words of R. Eleazar.” [B C contradict this view.]
- [I:2 A] **There we have learned: He who purchases wine from Samaritans [in a situation in which he cannot presently separate tithes, but wishes to drink the wine, says, “Two logs... which I shall separate, behold, these are made heave offering, and the following ten logs are made first tithe, and the following nine logs are made second tithes.” He then regards the wine as unconsecrated produce and drinks it] [M. Dem. 7:4].**
- [B] **It was taught: R. Yosé and R. Simeon prohibited such a procedure, lest the skin break [losing the one he has designed as tithes] and so it turn out that retroactively he drank untithed wine [T. Dem. 8:7].**

[C] *And this Mishnah-passage [M. 3:8C] does not accord with R. Yose and R. Simeon.*

[D] Said R. Zeira, “In that case [T. Dem. 8:7] it is retrospectively in disarray. But in the present case [M. 3:8] it is in disarray from now on.”

[II:1 A] **[R. Judah says, “At three seasons they examine wine: At the time of the east wind after the Festival [of Sukkot], when the berries first appear, and when the juice enters unripe grapes:”]** As to wine in one’s press, one designates it as tithe and relies on it [as having constituted the tax for other wine] in the assumption that it is sound wine for forty days.

[B] R. Judah says, “Up to the turning of the season [M. 3:8E].”

[C] *It turns out that there is a lenient ruling and a strict ruling on the basis of R. Judah’s position, a lenient ruling and a strict ruling on the basis of rabbis’ position.*

[D] *The lenient ruling vis-^vis R. Judah’s position is that if the forty days should pass, but the turning of the season has not yet come, [one may still rely on what he has set aside]. The strict ruling is that if the season should turn before the forty days have passed, one may no longer rely on what he has set aside.*

[E] *The lenient ruling from the viewpoint of the rabbis is that if the season should pass before forty days have gone by, one may still rely on what he has set aside for heave offering, and the strict ruling is that if the forty days should pass before the season has turned, he may no longer rely on what he has set aside as heave offering for the rest of his crop.*

[II:2 A] *R. Simeon raised the question: “If the forty days have passed, and he did not check up on the wine, and two or three days went by, and then he came and found that the wine had turned, is it deemed to have turned to vinegar retrospectively, or [45b] is it deemed so only for the time to come?”*

[B] *What difference does it make?*

[C] If one deemed what he has left to be heave offering for wine in another place.

[D] If you say that retrospectively it is deemed to have been vinegar, then that which he has deemed to have been covered by the heave offering designated in the-present wine is not held to have been properly provided for.

[E] If you say that it is only for the future that we regard the wine as vinegar, then that which he has deemed to have been covered by the heave offering designated in the present wine is regarded as properly provided for.

[II:3 A] [Following the text of Y. B.B. 6:1. V-VI:] If [one intended to designate a given jar of wine as heave offering for a larger number of jars], and he examined a jar planning to designate it as heave offering [and to drink other jugs of wine as properly tithed], he may continue to rely on that jug of wine for three days as certainly good wine.

[B] From that point onward it is subject to doubt [whether it is good wine and hence serviceable for the other jugs]. [That is, later on the wine turns out to be sour. We do not know whether wine drunk in the intervening days, between the time at which the jug was opened and its wine was found sound and the time at which the jug was rechecked and found to have ed, has been properly tithed. So, as stated here, for three days, it was deemed certainly good wine, and thereafter it was subject to doubt. We now ask the meaning of this statement.]

[C] R. Simon in the name of R. Joshua b. Levi: “For the first three days it was certainly wine. For the last days it was certainly vinegar. The intervening days are subject to doubt [just as explained at B].”

[D] Said R. Abbahu, “I have heard this tradition from him [Joshua b. Levi], but I do not know how one acts in a concrete case, for R. Yohanan has said, ‘Up to three days it is certainly wine, and thereafter, it is subject to doubt.’” [Consequently, there are two conflicting views of the meaning of B.]

[E] *R. La in the name of R. Eleazar, R. Yosa in the name of rabbis who go up to the schoolhouse and hear matters of advice [stated] a similar case involving a needle:*

[F] “It is in accord with the following statement of R. Joshua b. Levi: ‘In the case of a jug in which a smooth needle has been lost, and one came along and found it rusty – [when it is in good shape, it is subject to uncleanness, and hence assumed to be unclean, and when it is rusty, it is not subject to uncleanness at all as a useless object].’

[G] “R. Simon in the name of R. Joshua b. Levi: ‘[If it is found] in the first three days [after it was lost in the jug], it is deemed certainly to have been unclean [not rusty]. If it is found in the last three days, it is deemed certainly to have been clean [rusty and useless]. The middle days are subject to doubt.’

[H] “Said R. Abbahu, ‘I also heard this teaching from him, but what is there to be done [in practice], for R. Yohanan has said, ‘Up to the first three days, it is certainly unclean. From that time forward, it is subject to doubt.’”

[II:4 A] [What follows depends upon M. 3:8A-E: **He who put aside produce so that he may designate heave offering and tithes on its account, reckoning that this produce will serve for these purposes, utilizes produce as tithed relying upon what he has designated as heave offering, in the assumption that the latter remains available. R. Judah says, “At three seasons they examine wine (to see that it remains suitable). At the time of the east wind after the Festival (of Tabernacles), when the berries first appear, and when the juice enters the unripe grapes.”** It is further stated, “As to wine from a man’s press, they designate it as heave offering and rely on it in the assumption that it remains good wine for forty days.” R. Judah says, “Up to the season for the inspection of wine.” It is in this context that the following discussion takes place.] R. Hiyya bar Vava asked, “If one came at the end of the week and found that the wine had turned to vinegar, is it a case in which it is clear that the wine had turned earlier, in which case the wine treated as tithed on the basis of the present cask is now discovered not to have been tithed]? Or do we rule that only from this point onward [this keg of wine, now vinegar, no longer serves as heave offering]?” [This question is not answered.]

[B] R. Isaac asked, “If the season [for examining wine] passed during the forty days [specified at A], [which takes precedence]? [Do we deem the wine to be inspected in less than forty days, since the season for inspection specified by Judah has come due? Or do we wait for the passage of the forty days?] Has the power of the inspection season nullified the effect of the forty days, or has the power of the forty days nullified the effect of the inspection season?” [This question is not answered.]

[II:5 A] [With reference to M. Git. 3:8E: *At three seasons they examine wine ...*, as cited above, A,] R. *Qerispai* asked, “Do they examine the wine every year, or only once every three years [at the specified seasons]?”

[B] *Let us derive the answer from the following:* He who sells his wine, guaranteeing that it will last for a year, must make it good if it turns sour before the Festival [of Tabernacles]. [It follows that one must inspect the wine once a year.]

[C] *Said R. Judah, “Interpret [the statement however, in line with] the example of these Galileans, who harvest the grapes of their vineyards*

only after the Festival [of Tabernacles]. [It would follow from this example that the antecedent year ends with the Festival. Consequently,] one may infer nothing at all [from the stated rule].”

- [D] *In that case, whence shall we derive the answer to the question?*
- [E] *Let us derive it from the following: **If he said it was old wine, it must be last year’s. If he said it is vintage-old, it must be from the year before last [Y. B.B. 6:1P].***
- [G] *May we then not say that it is because of a single tasting? [Hence one has to examine and taste the wine at the specified seasons, and it is on that account that one must make up the wine if it goes sour. Three full years may be subject to the guarantee. Consequently, one must inspect the wine every year, not once in three years.] That is to say that in the case of vintage wine, he is liable to make it up if it turns sour over a period of two years. That is to say, in the case of vintage wine, he is liable to make it up if it turns sour before the Festival. That is to say, he is obligated to inspect the wine every year.*
- [H] *What [does he have to open and taste, if he has many such jars of wine]?*
- [I] *He examines a single jar [if he has many, and that suffices].*
- [J] *Do all of them depend upon that one jar?*
- [K] *But he examines all of the jars.*
- [L] *Will they not turn sour if he opens them all?*
- [M] *Said R. Shimi, “There are men who can fee! a jar at the top and know what is inside it.”*

YERUSHALMI GITTIN

CHAPTER FOUR

4:1

[A] [45c] He who sends a writ of divorce to his wife and overtook the messenger,

[B] or who sent a messenger after him,

[C] and said to him, “The writ of divorce which I gave you is null,” –

[D] lo, this is null.

[E] [If] he [the husband] got to his wife first,

[F] or [if] he sent a messenger to her,

[G] and said to her, “The writ of divorce which I sent to you is null,”

[H] lo, this is null.

[I] If [this took place] after the writ of divorce reached her possession, he no longer has the power to annul it.

[I:1 A] *The statement of the Mishnah [at M. 4:1A-C] stands at variance with the view of R. Yohanan [since it requires the husband to tell the agent directly that the writ of divorce is null]. For [to the contrary] R. Yohanan has said, “A man may nullify his agent’s task merely through a verbal declaration [made to others. There is no need to speak directly to the agent.]”*

[B] Interpret the rule here as different because a more strict rule applies [when there is a possibility of forbidden connection [e.g., if the wife should believe that she has been divorced, but she has not been].

[I:2 A] If one has appointed an agent to bring the writ of divorce, he must hand it over to the wife before two witnesses, and the agent does not count as one of the two.

[B] If the agent went to nullify the writ of divorce, he has to do so before two witnesses, and the agent counts as one of the two.

[C] If the husband went to nullify the writ of divorce *and came across [the agent] in the marketplace and said to him, "Did you hand over that writ of divorce which I gave to you?" He said to him, "It has already reached her."* While he was standing there, he heard a sound, and [the writ] fell from him. He said to him, "Did you not say to me, 'It has already reached her'?" He said to him, "It did reach her, and she said to me, 'Let it be for me in your hand.'" What is the law?

[D] Since the agent has it in his power to divorce her, he is believed. Or perhaps, since [the writ] has been found in his hand, he is not believed.

[I:3 A] If the messenger got sick, how do you treat the matter? Is the law for the delivery of a writ of divorce the same as the law for delivering the tokens of betrothal?

[B] If you follow the model of writs of divorce, anyone is available to deliver a writ of divorce.

[C] If you follow the model of betrothals, not everyone is able deliver tokens of betrothal.

4:2

[A] At first [the husband] would set up a court in some other place and annul [the writ of divorce].

[B] Rabban Gamaliel ordained that people should not do so,

[C] for the good order of the world.

[D] At first he used to change his name and her name, the name of his town and the name of her town [that is, to give an adopted name].

[E] And Rabban Gamaliel ordained that one should write, "Mr. So-and-so, and whatever alias he has," "Mrs. So-and-so, and whatever alias she has,"

[F] for the good order of the world.

[I:1 A] Does not [M. 4:2A, which indicates that the husband may verbally nullify instructions he has given to an agent] contradict the position of R. Simeon b. Laqish? For R. Simeon b. Laqish said, "A man may not verbally nullify instructions he has given to an agent" [while at M. 4:2A he does just that].

[B] Interpret the passage to speak of a case in which he does so in court, which has more authority [than an individual]. [In such a case the law

of M. 4:2A applies, and then it does not contradict Simeon b. Laqish's view.]

[II:1 A] For the good order of the world [M. 4:2C].

- [B] They say in the name of R. Simeon b. Laqish, "It is so that the wife should not turn out to produce mamzers [by remarrying when, in fact, she has not been divorced]."
- [C] And there are those who say in the name of R. Simeon b. Laqish, "It is so that the woman may not have to remain an abandoned wife, [not divorced and not wed.]" [This is explained presently.]
- [D] *The one who said that the reason is that* she should not have to sit abandoned [means] that she may think that the writ has been nullified [so that she is yet a married woman, not free to remarry] while in fact it has not been nullified [so that in fact she has been properly divorced]. That is why she will turn out to remain in the status of an abandoned wife.
- [E] *The one who said it is so that* she should not turn out to produce *mamzerim* [means] that she may think that the writ has not been nullified, [so that she is now unmarried and free to remarry,] while the husband has in fact nullified the writ. Consequently, she may go and remarry without having received a writ of divorce, with the result that her children by the second marriage will be *mamzerim*.
- [F] [Along these same lines if the wife thinks that the husband has nullified the writ of divorce, while he has not done so, someone else may come along and betroth her, with the consequence that the betrothal is valid. But she will imagine that the betrothal is not valid. She will wait until the first husband dies, and then go and marry someone else [while the betrothal of the second party stands, and the children [with the third party] will turn out to be *mamzerim*.
- [G] *Said R. Mana, "I came up with a caravan, and I heard R. Jacob bar Aha and R. Immi in the name of R. Laqish [state], 'It is so that she should not produce mamzerim.'"*
- [H] *Said R. Huna, "Even in accord with the view of the one who said that the reason is so that she should not have to remain in the status of an abandoned wife, the reason that she should not produce mamzers also applies."*

- [II:2 A] [If after Gamaliel’s ordinance, the husband nonetheless] transgressed and nullified the writ of divorce without the wife’s knowledge, what is the law?
- [B] *Let us derive the answer from the following: “If they declared it null, it was null,” the words of Rabbi. Rabban Simeon b. Gamaliel says, “He has not got the power to nullify it or to add to any condition found in it” [T. Qid. 3:3 F1].*
- [C] Rabban Simeon b. Gamaliel ruled properly. *But what is the reason behind the position of Rabbi?*
- [D] It is the law of the Torah that the husband may nullify the writ, and [it was only] the rabbis who ruled that he may not nullify it [as specified in the Mishnah].
- [E] And will [the rabbis’] ruling uproot the rule of the Torah?
- [F] [The following cases prove that rabbis have that power.] Now [as for separating as heave-offering] olives in behalf of a batch of olive-oil, and grapes in behalf of a batch of wine – is it not the rule of Torah that one may separate as heave-offering the one for the other, [even though grapes are cheaper than wine, olive-oil than olives]. Yet it is the sages who ruled to the contrary, that one may not separate [unprocessed] olives as heave-offering for olive-oil, or [unprocessed] grapes as heave offering for wine. And that was because of preventing the theft of something of value [i.e., wine, oil] from the [priestly] tribe. And not only so, but they furthermore have ruled that if one transgressed the rule and separated [grapes as heave-offering for wine or olives for oil], that which he has designated as heave-offering has not got the status of heave offering.
- [G] *R. Oshaiah bar Abba said to R. Yudan the Patriarch, “As to the reports of sayings of your grandfather, who will give us proper guidance?”*
- [III:1 A] **“Mr. So-and-so, and whatever aliases he has,” “Mrs. So-and-so, and whatever alias she has” [M. 4:2].**
- [B] *Take note of a case in which his name was Reuben, and he gave his name as Simeon in another place – [how can he issue a writ of divorce]?*
- [C] That is why it was necessary to write, “I, Mr. So-and-so, and every other name which I have.”

[D] Furthermore they ruled: **[If a man has two wives, one in Judea and one in Galilee, and he has two names, one used in Judea and one used in Galilee, [if he divorced his wife in Judea by the name he uses in Galilee, and his wife in Galilee by the name he uses in Judea, it is invalid [T. Git. 6:5A-B].**

[E] *The cited Tannaitic teaching deals with a case in which he was from Judea and wrote a writ of divorce for use in Galilee, or from Galilee and wrote a writ of divorce for use in Judea. But if they were both from Judea, and he wrote a writ of divorce for use in Judea, or from Galilee and he wrote a writ of divorce for use in Galilee, lo, under the stated conditions above, the writ of divorce is valid and the wife is divorced.*

[F] Said R. Illi, “To begin with he has to say, ‘I, So-and-so, who comes from Judea, with all the names which I bear in Galilee.’”

[G] If he was located in some place other [than Judea or Galilee], he may issue a writ of divorce in any name he wants [since he is not known by either of the names used in Judea or Galilee, respectively].

[H] *Said R. Yosé, “That rule which you have stated applies to what already has been done [in which case the writ will be validated]. But so far as instructions on how matters should be done, the matter must be carried out in accord with the rule of R. Illi.”*

[I] Said R. Abin, “If yet a third name is used for him in some other place, he has to make mention of all three of them.”

[III:2 A] *There we have learned: They write out a writ of divorce for a man, even though his wife is not with him, and a quittance for the wife [acknowledging payment of the marriage-settlement], even though her husband is not with her, on condition that the scribe knows them and the husband pays the scribe’s fee [M. B.B. 10:3A].*

[B] Said R. Abba, “It is necessary [in the case of a writ of divorce or a quittance] that [the scribe] know both of them.”

[C] Said R. La, “It is necessary that he know the husband in the case of preparing a writ of divorce, and the wife in the case of preparing a receipt.”

[III:3 A] *R. Abun bar Hiyya raised the question to Rabbi: “Take note that [if the scribe does not know the wife in a divorce-case] what if the husband brought along a different woman and made use of the writ of divorce*

prepared on that occasion to divorce her? [She will go and remarry on the strength of that writ, which, in fact, was prepared for a different woman. That is why the scribe should know both the husband and the wife for whom he is preparing the writ.]”

- [B] He said to him, “[It is no problem, because when the woman presents the writ,] witnesses will come and testify [that the writ was prepared for this particular woman].”
- [C] But did not R. Simeon b. Laqish state, “The witnesses who have signed on the writ are treated as if their testimony has been properly evaluated in court [so they cannot later on retract]. [How then can they be believed if they say that the writ is invalid?]”
- [D] *There* [where Simeon b. Laqish says they cannot retract] we deal with a case in which they state, “We most certainly did not sign this writ at all.” *But in this case* we deal with a case in which they state, “This is the writ of divorce which we signed [on behalf of the one woman]. And that is not the writ of divorce [on behalf of the other woman] which we signed.”

[III:4 A] *The Mishnah’s statement stands at variance with the view of R. Abba: At first he used to change his name and her name, the name of his town and the name of her town [M. 4:2D].* Now if we deal with a scribe who knows [the couple], how is it necessary to ordain against their changing their names?

- [B] *There may be a case in which someone knows his friends by face but does not know them by name.*
- [C] *The Mishnah-law stands at variance with the view of R. Illi: And Rabban Gamaliel ordained that one should write, “Mr. So-and-so and whatever alias he has,” “Mrs. So-and-so, and whatever alias she has” for the good order of the world [M. 4:2E].* [Now if the scribe does not know the woman when writing a writ of divorce, as La said, how can the ordinance cover her? The ordinance surely is concerned that the woman, as well as the man, be known to the scribe.]
- [D] The Mishnah-law deals with a case in which the husband issues the writ of divorce against his will.
- [E] The rule stated by R. Ila applies to a case in which the husband willingly issues the writ of divorce.

[F] *And there are those who wish to state, “The Mishnah deals with one who divorces his wife in some other location [in which case the scribe has to know both of them],*

[G] *“while R. Illi’s view applies in the case in which the one who issues the writ of divorce is in the same place [as the wife, and there is no reason to scruple].”*

[H] *[As to the husband’s paying the fee,] it is in line with the following: Doshu, brother of Dodu, was divorcing his wife. The case came before rabbis, who ruled that she must pay the fee of the scribe.*

[I] *And have we not learned: **The husband pays the fee of the scribe?***

[J] R. Illi in the name of Samuel, *“We deal [when the husband pays the fee] with a case in which the wife forgives the repayment of her marriage contract [in which case the husband enjoys the benefit of the writ and must pay the fee for preparing it, since he profits].”*

4:3

[A] **A widow collects [her marriage contract] from the estate of the orphans only by means of an oath [that she had not collected what was owing to her].**

[B] **They held back from imposing the oath on her.**

[C] **Rabban Simeon b. Gamaliel ordained that she should take any vow the heirs wanted and collect her marriage contract.**

[D] **The witnesses sign the writ of divorce**

[E] **for the good order of the world.**

[F] **Hillel the Elder ordained the prozbol,**

[G] **for the good order of the world.**

[I:1 A] At first they would take an oath falsely and end up burying their children, in line with that which is said, *“On account of vain [oaths] I have smitten your children” (Jer. 2:30).*

[B] And furthermore they are more in awe of vows than oaths.

- [I:2 A] If [after the ordinance, M. 4:3C] the widow transgressed and took a vow – R. Huna said, “If she has taken a vow, she has taken a vow [and collects her marriage-settlement].”
- [I:3 A] *Rab said to his daughter-in-law [when his son died], “Were I not a liberal-minded person, even the kerchief on your head would belong to me [since in assessing what is owing on the marriage-settlement, they take account even of the clothing of the widow and credit that as part-payment for what is coming to her].”*
- [B] Samuel said, “She acquires ownership of clothing which she is wearing, [and that is not included in the assessment of what she has received toward settlement of her marriage contract].”
- [C] *The following passage of the Mishnah supports the position of Samuel: [All the same are the one who sanctifies his property and the one who pledges his own Valuation:] he has no claim either on his wife’s garment or on his children’s garment [or on dyed clothes which he had dyed for them or on new shoes which he bought for them] [M. Ar. 6:5A-B].*
- [II:1 A] [The witnesses sign the writ of divorce for the good order of the world:] R. Huna said, “On what account did they ordain writing a date in a writ of divorce? It was because of an incident which took place.”
- [B] M’S H B: A man was married to the daughter of his sister, and she committed fornication while she was still married to him. He went and predated a writ of divorce, saying, “It is better that she should be judged as a free agent and not be judged in the status of a married woman.”
- [III:1 A] [Hillel the Elder ordained the prozbol, for the good order of the world:] *R. Huna stated a question before R. Jacob bar Aha [with reference to Hillel’s ordinance circumventing the remission of debts in the seventh year by means of the prozbol, M. 4:3F], “In accord with him who says that collecting tithes [in the time of the Second Temple] is on the authority of scribes [but not required on the authority of the Torah, with the further supposition that the seventh year applies on that same authority, there is no problem]. [Hillel simply has set aside a ruling of scribes.] But in accord with him who says that collecting tithes [in the time of the Second Temple] is on the authority of the Torah, [with the further supposition that the seventh year applies on that same authority,] has Hillel made an ordinance contrary to the laws of the Torah?”*

[B] Said R. Yosé, “In point of fact, is it not so that from the time that the Israelites were exiled to Babylonia, they were freed [45d] only from obligations to carry out those religious duties which depend upon residence in the Land. But remission of debts in the seventh year applies both in the Land and abroad.”

[C] R. Yosé retracted, saying, ““And this is the manner of the release: every creditor shall release what he has lent to his neighbor ... ‘ (Deut. 15:2) – When the year of release applies in the Land on the basis of the authority of Torah, then the remission of debts applies both in the Land and abroad on the authority of the Torah. When the year of release applies on the Land on the authority of the scribes, then the remission of debts applies both in the Land and abroad only on the authority of scribes.”

[D] There they say, “Even in accord with him who said that the obligation to separate tithes derives from the Torah [even in the Second Temple period], the applicability of the year of release is based on the authority of the scribes.”

[III:2 A] “And this is the manner of release: every creditor shall release ...” (Deut. 15:2) – Rabbi says, “There are two references to release, one to the year of release, the other to the jubilee year.

[B] “When the Jubilee is in force, the year of release applies on the authority of the Torah.

[C] “When Jubilees have ceased, the year of release applies only because of the authority of scribes.”

[D] When did the Jubilees come to an end?

[E] “Proclaim liberty throughout the land to all its inhabitants” (Lev. 25:10) – when they are dwelling in the Land, and not when they have gone into exile from it.

[F] If they were located on it, but the tribes were mixed up, with the tribe of Judah living in the land of Benjamin and the tribe of Benjamin living in the land of Judah, is it possible to think that the Jubilee should apply?

[G] Scripture says, “... its inhabitants ... to all its inhabitants....”

[H] You turn out to rule. “Since the tribes of Reuben, Gad, and the half-tribe of Manasseh went into exile, the law of the jubilee year came to an end.”

4:4

- [A] A slave who was taken captive, and they redeemed him –
[B] if as a slave, he is to be kept as a slave;
[C] if a freeman, he is not to be enslaved.
[D] Rabban Simeon b. Gamaliel says, “One way or the other, he is to be enslaved.”
[E] A slave who was made over as security for a debt by his master to others and whom the master [then] freed –
[F] legally, the slave is not liable for anything.
[G] But for the good order of the world, they force his master to free him.
[H] And he [the slave] writes a bond for his purchase-price.
[I] Rabban Simeon b. Gamaliel says, “Only he writes [a bond] who frees him.”

- [I:1 A] [A slave who was taken captive, and they redeemed him – if as a slave, he is to be kept as a slave; if a freeman, he is not to be enslaved. Rabban Simeon b. Gamaliel says, “One way or the other, he is to be enslaved:”] R. Abbahu in the name of Hezekiah: “In accord with the strict logic of the law, even if he was redeemed as a slave, he should not be kept as a slave [that is, by the one who redeemed him, the second owner, since the first owner, the one from whom he was taken, has not yet despaired of recovering ownership]. [Consequently, he is not available for subjugation to the one who redeems him, since he belongs to someone else.] And why did they say that he is to be kept as a slave? So that the slave should not try to run away [to be captured and later try to free himself from the kidnappers. [He knows that, one way or the other, he will be kept as a slave, so he has no reason to run away from his master.]”
- [B] *Said R. Zeira, “The following Tannaitic statement has said [what Abbahu has stated]: His master is to pay his value [T. Qid. 3:4A]. Note that it says only ‘his master.’ Lo, should someone else do so, that is not the case. [Another party may not pay for him and keep him.]”*
- [C] R. Ila in the name of R. Yosa, “In accord with the strict logic of the law, even if he was redeemed as a free man, he should be kept as a slave [for his original owner, as at A]. And why did they say that he should not be kept as a slave? So as not to give rise to suspicion about free men. [People may hesitate to redeem them.]”
- [D] *Said R. Yosé, “Along these lines: Rabban Simeon b. Gamaliel says, ‘One way or the other, he is to be enslaved’ [M. 4:4D]. And his*

master is to pay his cost. Just as Israelites are commanded to redeem free men, so they are commanded to redeem their slaves [T. Qid. 3:4D]. [That is, the original owner must redeem him anyhow.]”

[E] *Now the first Tannaite authority [of the Mishnah-passage, M. 4:4A], who distinguishes between redeeming a captive as a slave and doing so as a free man]. [maintains that position because] he holds that they are commanded to redeem free men and they are not commanded to redeem slaves [along the lines of Ila’s statement]. [In any event, throughout, we deal with the first master, who is held to own the slave since he has not given up hope of recovering him.]*

[F] R. Jacob bar Idi in the name of R. Simeon b. Laqish said, “The law is in accord with the view of Rabban Simeon b. Gamaliel.”

[I:2 A] R. Simon in the name of R. Joshua b. Levi, Yosé b. Saul in the name of Rabbi: “He who despairs of regaining ownership of his slave [and subsequently recovers him] has not got the right to make him a slave again, and must write a writ of emancipation. [Once he despairs, he is no longer the owner.]”

[B] R. Yohanan heard this statement and said, “Well did R. Joshua b. Levi teach me [that a writ of emancipation must be issued]. Have they not learned the law governing a writ of emancipation from that for a woman? Just as a woman does not go forth by reason of despair, but requires a writ of divorce from her husband, so a slave does not go forth by reason of despair, but requires a deed of emancipation.”

[C] Simeon bar Ba in the name of R. Yohanan: “A slave who ran away from the kidnappers and went back to his master – his master [after despairing of getting him back] has not got the right to enslave him and must give him a writ of emancipation.”

[D] R. Abbahu in the name of R. Yohanan said: “He who declares his slave to be ownerless has not got the right to enslave him and has not got the right to prepare for him a writ of emancipation.”

[E] *Said to him R. Zeira, “Everybody holds that he needs a writ of emancipation, and you say that he does not need one?”*

[F] Is it possible that [if he is not circumcised] he does not prevent him from eating the Paschal offering? It is in line with the following teaching: “But every slave that is bought for money may eat of it after you have circumcised him” (Ex. 12:44). When he is serving his master, [if he is not circumcised] he

prevents him from eating the Paschal offering, and when he is not serving his master, [if not circumcised] he does not prevent him from eating the Paschal offering. [So here, the master does not have to circumcise him and is not responsible for him.]

[G] If the master blinded both of his eyes simultaneously, or knocked out two of his teeth simultaneously, he goes free on their account. If he did so in sequence, he goes forth to freedom on account of the former and the master must pay him compensation for the latter. [The relevance of this item will be clear presently.]

[H] R. Illa in the name of R. Simeon b. Laqish: “In accord with him who said that he does not have to write a writ of emancipation [there is no reason to question that the owner pays compensation for the second injury]. [The slave was completely free by reason of the first.]

[I] “But in accord with him who said that he does have to write him a writ of emancipation [= D], [in which case, he remains in the status of a slave until it is written,] do you maintain that he pays him compensation?”

- [I:3 A] I know that [a slave] goes [free] because of the loss of a tooth or an eye. How do I know that he goes free by wearing a freedman’s cap or by being freed through a declaration before a court, or at a general proclamation of the government?
- [B] Scripture states, “He shall let the slave go free” (Ex. 21:26 on any count.
- [C] What is the status of his children?
- [D] He who goes forth by reason of the loss of a tooth or eye – his children remain slaves. He who goes forth by reason of the owner’s despairing of recovering him – his children are free.
- [E] *Said R. Yosé b. R. Bun, “Is not the contrary more reasonable? He who goes forth because of the loss of a tooth or eye, since it is the Torah which has declared him free, his children are free. He who goes forth by reason of the despair of the owner at recovering him, since the Torah has not declared him a free man, his children remain slaves.”*
- [I:4 A] A proselyte who died, whose estate Israelites took over – if there were slaves in the estate, whether adult or minor, they go forth to freedom. [They are freed when the owner dies, prior to Israelite entry into the property.]

[B] Abba Saul says, “The adults go forth to freedom, but the minors do not go forth to freedom. Why? Because they went forth when the master died, [and whoever grabbed them then owns them].”

[C] If so, the same should be said even of the adults?

[D] Said R. Ba, “As to the adults, because they have the intelligence to effect acquisition of themselves [at the moment the master died], they go forth to freedom. But as to the minors, because they do not have the intelligence to effect acquisition of themselves [at the very moment the master died], they do not go forth to freedom.”

[E] R. Joshua b. Levi said, “The law is in accord with Abba Saul.”

[F] *The opinions assigned to R. Joshua b. Levi are at variance with one another.*

[G] There R. Simon said in the name of R. Joshua b. Levi, and R. Yosé b. Saul in the name of Rabbi: “He who despairs [of recovering] his slave has not got the right to subjugate him.” [He makes no distinction between adult and minor. Here he makes such a distinction and holds that minors do not go forth to freedom, while adults do.]

[H] *They reply, “What R. Joshua said applies to reenslaving [one whom he has declared to be ownerless]. [This he cannot do.] If he did not give a writ of emancipation, he did not give one.”*

[I] Did he say that the law is to subjugate him? [Surely not! He has said only that the law follows Abba Saul. Even though the slaves have been declared ownerless, they still lack a writ of emancipation. But the owner no longer has domain over them. He has died without heirs, so there is no one to write a writ of divorce. The adults acquire ownership of themselves without a writ of emancipation. The minors cannot do so.]

[J] Nonetheless, [above he has said] that he has to write him a writ of emancipation, and here you say this? [Why in any event is there a distinction between adult and minor slaves?]

[K] We have heard that R. Yohanan said, “Well did R. Joshua b. Levi teach us [that a writ of emancipation is required, parallel to a writ of divorce, and that applies whether to adults or to minors]. [Once again:] has he said, “The law accords with the view of Abba Saul”?”

[L] *The slave-girl of Rabbah bar Zutra fled. He despaired of recovering her. He came and asked R. Haninah and R. Joshua*

b. Levi [after getting her back]. He said to him, “He has not got the right to enslave her again.”

[M] Does he write a writ of emancipation for her?

[N] He said to him, “If you have written one, you have done well.”

[I:5 A] R. Haninah in the name of R. Ishmael b. R. Yosé: “A slave who married a free woman in his master’s presence has gone forth to freedom.”

[B] Said R. Yohanan, “Last night I was in session and teaching: ‘He who writes a writ of betrothal for his slave or who wrote a writ of marriage for his slave-girl – Rabbi says, ‘The slave has acquired [ownership of himself or herself.]’ And sages say, ‘The slave has not acquired [freedom].’ [Accordingly, sages will not approve of the statement of Haninah above.]”

[C] *The Tannaite authority cited earlier holds the view of Rabbi, that the slave has acquired [ownership of himself.]*

[II:1 A] **[At M. 4:4E: A slave who was made over as security for a debt by his master to others, and whom the master freed:]** Which master freed him?

[B] Rab said, “Either his first master or his second master.”

[C] Said R. Yohanan, “You have as the one who freed him only the first master alone. [The slave is not in the domain of the creditor until the debt falls due.]”

[D] *R. Haggai objected before R. Yosé, “The following Tannaite statement stands at variance with Rab: ‘An Israelite who lent money to a gentile on the security of the gentile’s leaven – after the Passover, he is permitted to derive benefit from that leaven. [Israelites may not own leaven on Passover and if they do, they may not ever again derive benefit from it. This rule indicates, therefore, that, in the case of the loan, the security does not pass into the hands of the creditor until the loan falls due.]’ If you say that the leaven is in the domain of the Israelite, then it should be forbidden.”*

[E] *How does Rab deal with this matter?*

[F] Said R. Yudan, “In the present rule, it is a lenient position which the law has taken with regard to emancipation of slaves [in which the creditor, not only the debtor, has the power to free the slave supplied as security for a loan, even though, in fact, the creditor takes over ownership of the security only when the debt falls due.]”

[G] [That there is a difference between a sale and emancipation is in line with] the following, which has been taught: He who makes his slave security for a debt – if he sold him, he is not deemed sold. If he freed him, he is deemed free.

[H] Support for the position of R. Yohanan derives from the following: **Rabban Simeon b. Gamaliel says, “Only he writes a bond who frees him” [M. 4:4I].** [The one who frees him is assumed to be the original owner.] Now if someone indentured a field to his fellow [as security for a loan] and then went and sold it, will the creditor not come and retrieve it [from the purchaser]? [What difference does it make here too? Will not the creditor seize the slave in payment for the debt? Then he too may be the one to free him.]

[I] Said R. Abbahu, “The explanation for the matter which R. Yohanan gave us is the same as that of R. Meir: We do not find a case in which a slave is freed and then reenslaved.”

[J] In that case he also should not have to write a bond for his value.

[K] Said R. Illa, “It is better that he should say [46a] to him, ‘Give me the two hundred zuz of mine which you have,’ rather than that he should say to him, ‘You are my slave.’”

[II:2 A] The rabbis of Caesarea say in the name of R. Bisa, “The view of Rabban Simeon b. Gamaliel [at M. 4:4I] is in line with that of R. Meir.

[B] “Just as R. Meir says, ‘There is a penalty in the matter,’ so Rabban Simeon b. Gamaliel says, ‘There is a penalty in the matter [that the one who frees him writes a bond].’”

[C] *For it has been taught:* “In the case of a bond which provides for usurious interest, they impose a penalty, and the creditor collects neither the principle nor the interest,” the words of R. Meir.

[D] And sages say, “He collects the principle but not the interest.” [Here too since the owner has transgressed by freeing the slave, he has to pay the damages he has caused to the creditor, and the slave himself is exempt from having to do so.]

4:5

[A] “He who is half-slave and half-free works for his master one day and for himself one day,” the words of the House of Hillel.

[B] Said to them the House of Shammai, “You have taken good care of his master, but of himself you have not take care.

[C] “To marry a slave-girl is not possible, [for half of him after all is free].

[D] “To marry] a free woman is not possible, [for half of him after all is a slave].

[E] “Shall he refrain?

[F] “But was not the world made only for procreation, as it is said, ‘He created it not a waste, he formed it to be inhabited ‘ (Is. 45:18).

[G] “But: For the good order of the world, they force his master to free him.

[H] “And he [the slave] writes him a bond covering half his value.”

[I] And the House of Hillel reverted to teach in accord with the opinion of the House of Shammai.

[I:1 A] How is it possible to produce someone who is half-slave and half-free?

[B] One may solve that problem in one of two ways.

[C] It may be either in accord with Rabbi, for Rabbi says, “A man may free half of his slave.”

[D] Or one may solve the problem in accord with the view of all parties [not merely a minority view] by positing that we deal with a slave belonging to partners, one of whom went and freed the part of the slave owned by him.

[E] [In line with M. 4:5A,] if he found a lost object on the day on which he belongs to his master, it belongs to his master. If it is on the day that he belongs to himself, it belongs to himself.

[F] [*The reason is that*] *the next day he has to work for his master [so it is wholly his master’s, with the result that, on that day, he is wholly within his own domain].*

[G] If he betrothed a woman on the day which belongs to his master, they do not take account of his act of betrothal. If he did so on the day which belongs to himself, they do take account of his act of betrothal.

[H] But did not R. Hiyya state in the name of R. Yohanan, “He who is half-slave and half-free – if he betrothed a woman, they do not take account of his act of betrothal?”

[I] And along these same lines, if he issued a writ of divorce, they do not take account of his act of divorce.

[I:2 A] *There we have learned: They do not take wives on the intermediate days of a festival [M.M.Q.1:4].*

[B] Simeon bar Abba in the name of R. Yohanan, “It is because [people will hold up weddings until the festival, and so have one meal for the two events, the festival and the wedding]. [Consequently, they will postpone marriages and so] nullify the act of procreation [for the interval].”

[C] They asked before R. Yosé, “As to a slave, what is the law about his marrying a woman on the festival[‘s intermediate days]?”

[D] *He said to him, “Let us derive the answer from the following: **Shall he refrain? But was not the world made only for procreation [M. 4:5E-F]**? [Consequently, he too must not postpone his wedding until the intermediate days of a festival.]”*

[E] And R. Simeon bar Abba said in the name of R. Yohanan, “Anyone who is subject to the religious duty of procreation is prohibited from marrying a wife on the intermediate days of a festival.”

4:6

[A] He who sells his slaves to a gentile,

[B] or to someone who lives abroad –

[C] [the slave] has gone forth a free man.

[D] They do not redeem captives for more than they are worth,

[E] for the good order of the world.

[F] And they do not help captives to flee,

[G] for the good order of the world.

[H] Rabban Simeon b. Gamaliel says, “For the good order of captives.”

[I] And they do not purchase scrolls, tefillin, or mezuzot from gentiles for more than they are worth,

[J] for the good order of the world.

[I:1 A] [If one sells a slave] to a gentile, even in the Land of Israel, [the slave goes forth to freedom, since the gentile will not permit the slave to observe the commandments].

[B] Who frees him? The former master pays the price for him, and the latter declares him free.

[C] And abroad, even [if he sold him to] an Israelite, [the slave goes free].

- [D] We further say that if the second master [the purchaser, knew that the slave had come from the Land of Israel], both of them have to pay off his value.
- [E] But if not, the former master [who sold him] pays off his value [to the purchaser], and the second [who purchased him] frees him.
- [I:2 A] **[Talmud's version: He who sells his slave abroad – he has gone forth free. And he needs a writ of emancipation from his second master. Rabban Simeon b. Gamaliel says, “Under some circumstances, he has gone forth free, and under some circumstances, he has not gone forth free. “How so? In the case of Mr. So-and-so, son of So-and-so, (saying,) ‘I have sold my slave to Mr. So-and-so of Antioch,’ the slave has gone forth free.**
- [B] **“But [if he said, ‘I have sold my slave] to So-and-so of Antioch, who is living in Lydda,’ he has not gone forth free.”**
- [C] **[If one has inherited slaves abroad, before they have entered his domain in the land, he is permitted to sell them abroad.**
- [D] **[If a slave went abroad with his master [to Syria] [in this instance if the master sold him there, lo, this one is deemed sold.**
- [E] **A slave who went with his master [planning] to return – they force him to return.**
- [F] **But if it is not to return [to the Land], they do not force him to return.**
- [G] **His slave who fled abroad – his master has not got the right to sell him abroad [but must bring him back to the Land] [T. A.Z. 3:18-19].**
- [I:3 A] If a slave fled from the Land to abroad [and then came back], R. Josiah in the name of R. Hiyya the Elder said, “It is permitted [to return him].”
- [B] R. Hoshaiyah the Elder said, “It is permitted [to send him back abroad].”
- [C] R. Marinos, son of R. Hoshaiyah the Elder, said, “It is forbidden.”
- [D] *Said R. Zeira, “In fact they do not disagree. He who said it is permitted [to send him back abroad] deals with a slave who habitually flees there. He who said that it is prohibited deals with a slave who does not habitually flee there.”*

[E] *Said R. Yosé, “And they do not differ. [The slave is abroad.] He who said it is permitted deals with a case in which he can bring him from there. [He is in the master’s domain.] And he who said it is forbidden deals with a case in which he is not able to bring him from there.”*

[I:4 A] [With reference to M. 4:6B: **He who sells his slave to someone who lives abroad,**] if he made a stipulation with him [that it is only for a limited period, why should he not be] permitted to do so [so that the slave would not go free]?

[B] *It is because we deal with adults. [But with minors no such stipulation is possible.] In the case of minors, why not make such a stipulation with their master?*

[C] It is because we deal with an Israelite master [who cannot consent to the export of his slaves]. But if the master is a gentile [no such stipulation is possible].

[D] *R. Tabela sold his slave and stipulated with the master [that when the master receives the money back, Tabela would get his slave back].*

[E] *R. Isaac of Haban had slaves who fled to the outlying suburbs. He came and asked R. Immi.*

[F] He instructed him, “[If he fled to] Oni, it is forbidden [to extradite him]. [If he fled] to Antipatris, it is permitted [to extradite him]. [If he fled to] Epiqiros, it is a question.”

[G] *The slave-girl of R. Abba bar Ada fled to Qelisia. He came and asked R. Mana, who instructed him as had R. Immi: “[If he fled to] Oni, it is forbidden [to extradite him], to Antipatris, it is permitted to do so, and if it was to Epiqiros, it is a question.”*

[II:1 A] **They do not redeem captives for more than they are worth, for the good order of the world. And they do not help captives to flee, for the good order of the world. Rabban Simeon b. Gamaliel says, “For the good order of captives” [M. 4:6D H].**

[B] It is so that they will not tie them up.

[III:1 A] *It has been taught: **They do not purchase from a gentile scrolls, phylacteries, and mezuzot** [T. A.Z. 3:6B].*

[B] *And lo it has been taught: **M’S H B: A gentile was writing scrolls in Sidon, and the case came before sages. They ruled, “It is permitted to purchase [them] from him”** [T. A. Z. 3:7A-B].*

[C] R. Samuel bar Nathan in the name of R. Hama bar Haninah: “It was a case of a gentile who had returned to his waywardness. [That is, he had converted to Judaism and then given up the faith. He knew, however, that it was necessary to write them with appropriate intention and had prepared them properly.]”

4:7

[A] He who puts his wife away because she has a bad name should not take her back.

[B] [If he did so] because of a vow [which she had made], he should not take her back.

[C] R. Judah says, “[If it was on account of] any sort of vow which is publicly known, he should not take her back.

[D] “But [if it was on account of] a vow which is not publicly known, he may take her back.”

[E] R. Meir says, “[If it is on account of] any sort of vow which requires the investigation of a sage [for its absolution], he should not take her back. [If it is any sort of] vow which does not require the investigation of a sage, he may take her back.”

[F] Said R. Eleazar, “This latter case was prohibited only because of the former.”

[G] Said R. Yosé bar Judah, “M’S H B: In Sidon a man said to his wife, ‘Qonam if I do not divorce you,’ and he divorced her. But sages permitted him to take her back, for the good order of the world.”

[I:1 A] *It was taught:* On what account did they rule, He who puts away his wife because she has a bad name should not take her back [M. 4:7A]?

[B] For [if one puts away his wife because of her having a bad name, and then she is married to someone else and produces a child, and afterward the things said about the first wife turn out to be a joke

–

[C] [if he said, “If I had known that these things were a joke, even if someone had given me a hundred *manehs*, I should never have divorced her” –

[D] then, if he has the power to nullify the divorce] the writ of divorce turns out to be invalid, and the offspring [of the second marriage] to be a *mamzer* [T. Git. 3:5J-M].

- [E] Now he knows that if he should divorce her, she is forbidden to return to him, he gives an irrevocable writ of divorce to begin with.
- [F] *It has been taught: And on what account did they rule, He who puts away his wife because of a vow should not take her back [M. 4:7B]?*
- [G] **For, if one puts away his wife because of a vow, and she is married to someone else and produces a child,**
- [H] **and then the vow should turn out to be null,**
- [I] **[if he said, “If I had known that the vow was null, if someone had given me a hundred *manehs*, I should never have divorced her,”**
- [J] **it will turn out that the writ of divorce is invalid and the offspring a *mamzer* [T. Git. 3:5N-R].**
- [K] Now if he knows that if he should divorce her she is forbidden to return to him, he gives an irrevocable writ of divorce to begin with.
- [L] [Differing from this view of what is behind the Mishnah’s rules,] said R. Zeira, “[The husband was looking for] an excuse for divorcing her, for, lo, [if it was a vow which did not require the investigation of a sage [for its absolution, and yet he did not nullify it, but divorced her, then why should this have been a consideration]? [It can only be to keep the women in line as to vows.]”
- [M] [Along these same lines,] said R. Zeira, “[The husband was looking for] an excuse for divorcing her, for if it was a vow which was not publicly known, [yet he did not nullify it but divorced her, then why should this have been a consideration, as above]?”
- [II:1 A] **Said R. Eleazar, “This latter case was prohibited only because of the former [M. 4:7G]:”**
- [B] “In the strict logic of the law, it should have been the case that even if it was a vow which requires the investigation of a sage, he should be able to remarry her, for a sage uproots the vow as if it had never been in place. On what account did they prohibit [remarriage in the case of a vow which does not require the investigation of a sage? It is because of a vow which requires the investigation of a sage.”

4:8

- [A] **He who divorces his wife because of sterility –**
- [B] **R. Judah says, “He may not remarry her.”**

[C] **And sages say, “He may remarry her.”**

[D] **[If she was married to someone else and had children by him, and she then claims payment for her marriage contract –**

[E] **Said R. Judah, “They say to her, ‘Your silence is better for you than your talking.’”**

[I:1 A] *It was taught:* On what account did they rule, “He who divorces his wife because of sterility may not remarry her”?

[B] For lo, he who divorces his wife because of sterility and she went and married someone else, and she produced children with him, and [the first husband] said, “If I had known that my wife could give birth to children, if someone had given me a hundred manehs for my wife, I should not have been willing to divorce her” –

[C] it will turn out to be an invalid writ of divorce, and the offspring of the second marriage will be deemed in the status of a mamzer.

[D] Now since he knows that if he should divorce her she will be forbidden to remarry him, he will give an irrevocable writ of divorce in the first place.

[E] Said R. Zeira, “In fact the husband was looking for an excuse to divorce her, for how many married woman are sterile, but because the husbands enjoy satisfaction with them, they keep the marriage intact.”

[F] **R. Judah says, “He may not remarry her”** and yet you say this [E]?

[G] *Said R. Yohanan, “The authority here is not that of R. Judah but that of R. Meir [who stands behind M. 4:8C].”*

[H] *And so it has been taught in the name of R. Meir, “One says to her, ‘Your silence is better for you than your talking.’”*

4:9

[A] **He who sells himself and his children to a gentile –**

[B] **they do not redeem him, but they do redeem the children after their father’s death.**

[C] **He who sells his field to a gentile and an Israelite went and purchased it from him –**

[D] **the purchaser brings the fist fruits,**

[E] **on account of the good order of the world.**

- [I:1 A] *The Mishnah [at M. 4:9A-B] speaks of one who repeatedly has sold himself. But if he sold himself for the first time, they do redeem [46b] him.*
- [B] But if he sold himself to Lydians [who are cannibals], then even if it was the first time, they do not redeem him.
- [C] M'SH B: Someone sold himself to Lydians. *The case came before R. Abbahu.* He ruled, "What shall we do? He did it for a living [having no alternative, and he should be redeemed]."
- [II:1 A] *The ruling of the Mishnah [at M. 4:9E] represents the view of R. Meir.* For R. Meir has said, "An idolater has no power of acquisition of real estate in the Land of Israel in such wise as to exempt the real estate from the obligation of tithing. [That is why, M. 4:9D, the Israelite purchaser cannot deem the land exempt from the obligation of tithes, even though a gentile has owned it before.]"
- [B] R. Judah and R. Simeon say, "An idolater does have the power of acquisition of real estate in the Land of Israel in such wise as to exempt the real estate from the obligation of tithing."
- [C] *R. Immi in the name of R. Simeon b. Laqish: "The Scriptural basis for the position of R. Meir is as follows: 'You may bequeath them [gentile slaves] to your sons after you, to inherit as a possession for ever' (Lev. 25:46). The Scripture compares slaves to inherited property. Just as in the case of slaves, you purchase from them, but they do not purchase from you, so as to inherited property, you purchase from them, but they do not purchase from you."*
- [D] *Said R. Eleazar b. R. Yosé before R. Yosé, "And the following supports the position of R. Meir: 'The land shall not be sold in perpetuity' (Lev. 25:23) – that is, permanently."*
- [E] *He said to him, "The very essence of that verse surely supports the position of R. Simeon: 'It will not be sold' – lo, if it should be sold, it is a permanent sale."*
- [F] R. Huna of Sepphoris said, "R. Haninah enforced the law in Sepphoris in accord with the view of R. Simeon."
- [G] R. Zeora before R. Abbahu in the name of R. Eleazar: "Even though R. Meir said, 'An idolater has no power of acquisition of real estate in the Land of Israel in such wise as to exempt the real estate from the obligation of tithing,' he concurs that he has the right to acquire property."

[H] What is the meaning of acquiring property?

[I] Said R. Abba, "It means acquiring the usufruct of the land."

[J] [As above] *and have we not learned: The purchaser brings the first fruits on account of the good order of the world* [M. 4:9D-E]?

[K] He should bring first fruits as a requirement of the Torah-law [not merely as an ordinance for the good of society].

[II:2 A] If one has acquired a field when the Jubilee year is in operation, [which is a purchase only of the usufruct –

[B] R. Ila said, "He has acquired the land."

[C] Abba bar Mamel said, "He has not acquired the land."

[D] *Objected R. Abba bar Mamel to R. Ila, "In accord with your view, holding that he has acquired land, he should have the right to dig cisterns, ditches, and caverns in the land."*

[E] He said to him, "The Torah has said, 'And he will return to his—property' (Lev. 25:13) – that is, just as it was before."

[F] *R. Jacob bar Aha cited this tradition before [R. Yohanan and Simeon b. Laqish] and he did not realize that they too were in dispute [on the same issue].*

[G] R. Yohanan said, "He brings first fruits and makes the required declaration [to be recited, Deut. 26:5-11, when presented to the priest in the Temple]. [He who buys a field when the Jubilee is in force recites, because usufruct means ownership of the Land.]"

[H] R. Simeon b. Laqish said, "He does not bring and make the required declaration."

[I] *Said R. Eleazar b. R. Yosé before R. Yosé, "Everyone concurs that he does bring the first fruits [in line with M. 4:9D]. The issue is whether or not he makes the required recitation of the formula as well. R. Yohanan said, 'He brings and recites it.' R. Simeon b. Laqish said, 'He brings but does not recite it.'*

YERUSHALMI GITTIN

CHAPTER FIVE

5:1

[A] [46c] As to damages, they pay compensation out of the highest quality [real estate,

[B] and as to a debt, out of middling quality [real estate],

[C] and as to the marriage contract of a woman, out of the poorest quality [real estate].

[D] R. Simeon b. Gamaliel says, “Also: the marriage contract of a woman [is paid] out of middling quality [real estate].”

[I:1 A] It is an argument a fortiori that [compensation for damages done] to that which has been declared holy [is paid out of real estate of the highest quality].

[B] *Said R. Abba bar Pappi before R. Yosé, “How shall we interpret that matter? If it is damages done by one’s chattels, in that regard we have learned as a Tannaite formulation, ‘When an ox hurts the ox of his fellow ...’ (Ex. 21:35) and not the ox which has been consecrated. If it refers to damages done by the man himself, in that regard it is in line with that which R. Hiyya taught as a Tannaite statement: ‘Damages are paid to an ordinary person, and damages are not paid to the Most High.’ But thus must we interpret the matter. We deal with someone who says, ‘Lo, I take it as incumbent on me to give a hundred manehs to the sanctuary.’ You must not maintain that it is then treated as a debt and so collected from real estate of middling quality [M. 5:1B]. On that account it is necessary to say: “Damages are paid out of real estate of the highest quality and it is an argument a fortiori that the same applies to that which has been declared holy.”*

[I:2 A] *R. Hiyya taught: Compensation for damages and half damages ... do people collect from indentured property [T. Ket. 2:2A-B].*

[B] *Now that statement poses no problems as to payment for damages. But are not half damages collected from the body of the beast?*

- [C] Said R. Yosé, “Interpret the matter to speak of an ox deemed harmless which did damage, and which the owner went and sold.”
- [D] In fact however the body of the beast already is indentured to the injured party [so it is not possible that the owner of the aggressor could have sold it].
- [E] *Rabbis of Caesarea say*, “Interpret the statement to apply to a case in which the defendant has arranged for the obligation to be treated as a debt [in which case collection is not only from the body of the beast any longer].”
- [F] If that is the case, then [one might suppose] the damages should be collected only from real estate of middling quality [like other debts].
- [G] Since the matter in principle deals with damages, it is paid out of real estate of the highest quality [in line with M. 5:1A].
- [I:3 A] [“When a man causes a field or vineyard to be grazed over, or lets his beast loose and it feeds on another man’s field, he shall make restitution] from the best in his own field and in his own vineyard” (Ex. 22:5). “His field” – excluding that which is indentured to others [which is no longer his].
- [B] “And his vineyard” – excluding that which has been consecrated to Heaven.
- [C] *How shall we make sense of this latter statement [B]?* If we deal with a case in which the owner’s beast did damages, and then the owner went and consecrated the field, *then we have learned, He who sanctified property worth ninety manehs, and he owned a hundred manehs [– the debtor adds another denar and redeems the possessions] [so as to pay off the debt] [M. Ar. 6:2F].* If we deal with a case in which he had sanctified the field and afterward had caused the damage, *in that regard we have learned as a Tannaite statement:* “When an ox hurts the ox of his fellow” – and not an ox which has been consecrated.
- [D] Said R. Yudan, “Interpret the case to involve an ox belonging to the sanctuary which pastured in a field belonging to an ordinary person. [In such a case, there is no compensation to be paid.]”
- [E] *Said to him R. Mana, “We require an example of property belonging to the sanctuary, but you introduce the case of pasturing in a field belonging to an ordinary person. But thus we interpret the matter. We speak of a case in which one has said, ‘Lo, I undertake to contribute a*

hundred manehs to the sanctuary,” and [then the ox] went and did damage. [The damage was done to sanctified property. He has only this vineyard from which to pay what he owes.] So that you should not say, ‘When there is a case of damages to be paid and a loan attested only by witnesses [but not a bond], payment of the damages comes first, here too, the damages take precedence over what is owing to the sanctuary,’ on that account it was necessary to say, ‘His vineyard’ – excluding that which has been consecrated.’”

- [I:4 A] “His field” excluding movables.
- [B] “And his vineyard” excluding that which is going to be acquired by him, deemed as if he has already taken possession of it.
- [C] [To explain this statement:] “His field,” excluding movables, is so that if to begin with one does not desire to be compensated in movables, [he may collect in real property].
- [D] *And this is in line with the following which has been taught* [with reference to “the best of his field”]: I know only that the injured party is compensated in real estate. How do I know that if he wanted to give money, [the aggrieved has a right to that]?
- [E] Scripture says, “He shall give money to [the ox’s] owner” (Ex. 21:34).
- [F] What do you wish now to maintain, that the mode of compensation through real estate is principal, or shall we say that payment of money is the principal mode of compensation, so let the injured party decide for himself at the outset?
- [G] *Now we see that rabbis provide real estate as compensation for him.*
- [H] “His vineyard” – excluding that which is going to be acquired by him, deemed as if he has already taken possession of it.
- [I] R. Eleazar in the name of R. Nisa, “If his father dug a pit and the pit did damage in the lifetime of the father, and the property fell to him by inheritance after the death of the father, I might say, ‘Let the property be indentured in payment of that damage [done in the father’s lifetime].’ *On that account it is necessary to state*, ‘His vineyard’ – excluding that which is going to be acquired by him, deemed as if he has already taken possession of it. [That is not the case.]”
- [I:5 A] “[Property in accord with] ‘the best in his own field and in his own vineyard’ (Ex. 22:5) – that is, ‘the best’ by the criterion of the

property of the party that is responsible for the injury,” the words of R. Ishmael.

[B] R. Aqiba says, “... the best in his own field and in his own vineyard – that is, ‘the best’ by the criterion of the property of the injured party.”

[C] *A problem for the position of R. Aqiba [is to be stated very simply:]* “This party has been injured, and do you say this?!”

[D] But the court determines which of [the defendant’s] fields is the best in the view of the injured party, and they make an assessment of a field of that kind.

[E] *As to the following which has been taught:* Is it possible to suppose that if the beast pastured in the best property, then they make an estimate for him out of the real estate of the highest grade, or, of the lowest property, they make an assessment for him out of what is of the lowest quality?

[F] *Surely you cannot say so. Many furrows of poor quality will be worth one of the best quality, so if you say so, you turn out to give an unfair advantage to the injured party.*

[G] Rather, they regard the field as if it were full of furrows of the best quality, and they then make an estimate for the injured party of what is of the best quality. And as to furrows of the poorest quality [eaten by the flock], they likewise make an estimate of furrows of the poorest quality.

[H] The responsible party turns out to pay out of real estate of the best quality for damages done to real estate of the best quality, and from real estate of the poorest quality for damages done to that of the poorest quality.

[I:6 A] For what reason then does R. Aqiba maintain that **as to damages, they pay compensation for them out of the highest quality real estate?**

[B] *There is no basis for it in Scripture. It is by reason of an ordinance [for the welfare of society, as will now be explained].*

[C] **On what account did they rule, For the compensation for damages, they make an estimate based on the value of the finest property?**

[D] **On account of thugs and grabbers.**

- [E] **So that such felons might say, “Why should I rob? Why should I grab? Tomorrow, lo, the court is going to estimate the value of the best field [and seize it from me].”**
- [F] **They found support for this policy from the following Scripture: “He shall make restitution from the best in his own field and in his own vineyard” (Ex. 22:4) [T. Ket. 12:2G].**
- [G] Up to this point we refer to his real estate. As to his pledge, we derive the same rule as applies to real estate.
- [H] Just as damages done to his real estate are compensated out of the finest quality real estate, so damages done to a pledge he has left [for a loan] are compensated from real estate of the finest quality.
- [I] **On what account did they rule a creditor is repaid from a field of a middling sort**
- [J] **On account of deceitful people.**
- [K] **So that such people might not set their gaze on the finest field of their fellow or on his finest courtyard, then lend him money on the strength of that field or court, then jump and grab the field or the courtyard.**
- [L] **But if that is the main consideration, then should the compensation not be assessed in the poorest quality property?**
- [M] **Said R. Judah, “But that is not the case, so as not to close the path before those who need to borrow money,**
- [N] **“so that someone should not seek a loan and find no one to lend him what he needs” [T. Ket. 12:2H-M].**
- [I:7 A] R. Simai interpreted the following verse: ““And the man [to whom you make the loan shall bring the pledge out to you]’ (Deut. 24:11 this refers to a court officer.
- [B] “For if the lender should go in, lo, he will take the finest sort of thing, and if the borrower should go in, he will take the meanest.
- [C] “Hence the agent of the court goes in and takes an object of average value.”
- [D] [Differing from Simai,] R. Ishmael taught, “As a matter of Torah law, the borrower should go in, as it is said, ‘And the man to whom you make the loan shall bring the pledge out to you’ (Deut. 24:11). [But the sages ordained otherwise.]”

- [E] Up to this point we have dealt with a pledge.
- [F] The matter of assessing real estate derives from that of assessing the pledge [to be taken for a loan].
- [G] Just as the pledge to be taken must be of middling value, so real estate is to be of middling value.
- [I:8 A] *The following matter is self-evident:* A loan which has been passed in court over the debtor's denial does not fall under the law of the release in the Sabbatical year. A decreed obligation which has been converted into a loan [the defendant giving his note in settlement] is subject to release in the seventh year.
- [B] *R. Jeremiah raised the question:* "Also is the rule within the measure of the law? [That is,] a loan which has been passed in court over the debtor's denial is collected from the finest quality of real estate. A decreed obligation which has been converted into a loan is collectible from real estate of middling quality?"
- [I:9 A] **[If there is available only real property of the best quality, all of them [those owed damages, debts, marriage contracts] collect what is due them from property of the best quality.**
- [B] **[If there is available only] property of middling quality, all of them collect what is due them from property of middling quality.**
- [C] **[If there is available only] property of poor quality, all of them collect what is due them from property of poor quality.**
- [D] **[If there is] property of the best and of middling quality, then compensation for damages is collected from property of the best quality, and compensation for a debt and for the marriage contract is collected from property of middling quality.**
- [E] **[If there is] property of the best and of the poorest quality, then compensation for damages is collected from property of the best quality, and compensation for a debt and for the marriage contract is collected from property of the poorest quality.**
- [F] **[If there is available only] property of middling and of poorest quality, then compensation for damages and for debts is collected from property of middling quality, and compensation for the marriage contract is collected from property of poor quality [T. Ket. 12:3F-K].**
- [G] If one's property of the best quality is better than that of anybody else, it still is reckoned as property of the best quality.

- [H] If his property of middling quality is better than that of anyone else, it is still reckoned as property of middling quality [not of finest quality].
- [I] If his property of poorest quality is better than that of anyone else, it is still deemed property of the poorest quality.
- [J] If his property of the best quality was only as good as property of middling quality belonging to other people – R. Zira and R. Illa raised this question.

[K] *Let us derive the answer from the following:*

[L] If there is property only of middling and of poorest quality, then compensation for damages and for debts is collected **from property of middling quality, and compensation for the marriage contract is collected from property of poor quality.** *Just as you rule that* where there is property of the best and of middling quality, then compensation for damages [is drawn from the former], assigning creditors to the category of property of middling quality, *so along these same lines,* where there is property of middling and poor quality, should not the compensation for damages [be collected from the former, leaving] creditors to collect from property of poorest quality?

[M] R. Yosé bar Bun in the name of R. Hisda, “Interpret the case to involve one who had property of the best quality, and he sold it, so that creditors already have been forced to collect from property of middling quality.”

[II:1 A] And the marriage contract of a woman is collected from property of the poorest quality [M. 5:1C] .

[B] Said R. Jeremiah, “This has been taught only in respect to the payment of the maneh [or] the two hundred zuz [as the case may be to a widow or a virgin at the time of marriage]. But as to a marriage settlement’s addition of a thousand denars, this is collected from real estate of middling quality.”

[C] And R. Yosé says, “Even the marriage settlement of a thousand denars is collected only from real estate of the poorest quality.”

[D] *And this dispute is along the same lines as another dispute.*

[E] [**“So long as she is in her husband’s house, she collects her marriage contract within twenty-five years for in that period she may do favors for friends and neighbors to the value of her marriage contract,”** the words of R. Meir]. [And sages say,] **“So long as she is in her husband’s house, she collects her**

marriage contract at any time. So long as she is in her father's house, she collects her marriage contract within twenty-five years" [M. Ket. 12:4].

[F] R. Simeon said R. Joshua b. Levi [maintained], "This dispute deals only with the base value of a marriage settlement, a maneh or two hundred zuz, [as the case may be].

[G] "But if her marriage settlement was a thousand denars, she collects what is owing to her on [the rest of] her marriage settlement at any time, without limit."

[H] R. Abbahu in the name of R. Yohanan proposed: "And even if the marriage settlement is a thousand denars, she collects it only over a period of twenty-five years."

[I] [46d] *And that which R. Yosé said accords with the view of R. Yohanan, and that which R. Jeremiah said accords with the opinion of R. Joshua b. Levi.*

[J] *Now we have learned there: He who writes over as a gift all of his property to his children, but wrote to his wife a piece of land of any size at all – she has lost the right to collect any further on her marriage settlement [M. Pe. 3:9].*

[K] Rab said, "This rule applies in a case in which he transferred ownership through her [to the children]."

[L] And Samuel said, "It applies to a case in which he makes the division in her presence [so that she has every right to cavil and refrains from doing so]."

[M] R. Yosé bar Haninah said, "This is one of the lenient rulings applicable to the marriage settlement which they have taught here."

[N] *And Bar Qappara taught, "This is one of the lenient rulings which they have taught with regard to the damage settlement."*

[O] *Said R. Ba, "The reasoning of R. Yosé b. Haninah [= C, H, I] is this: It is not the end of the matter that if her marriage-settlement was a maneh or two hundred zuz [that the stated rule applies]. But even if her marriage settlement was worth a thousand denars, it still is one of the lenient rulings involving the marriage settlement which they have taught here."*

5:2

[A] They do not exact payment from mortgaged property in a case in which there also is unencumbered property.

[B] even if it is of the poorest quality.

[C] They exact payment from the property of an estate [“orphans”] only from the poorest quality [real estate].

[I:1 A] R. Yohanan in the name of R. Yannai, “They exact payment from the property of an estate only in the case of a bond in which usury is eating up the estate.”

[B] And there are those who say, “Also in the case of paying off the marriage settlement of a wife.”

[C] Said R. Immi, “It is because the estate has to supply maintenance [to the widow, and it is better to pay off the estate in marriage contract instead].”

[D] Said R. Mattenia, “Who takes account of the charge against the estate represented by the widow’s maintenance? It is R. Simeon.

[E] “For R. Simeon said, ‘[The widow’s enjoying maintenance from the estate] depends on [whether or not the marriage contract] has been collected. [If she has gotten some payment, she no longer may charge her maintenance to the estate.]’ “

[F] *And what is [the reason of rabbis (A, as against B), who do not concur that the widow must be prevented from eating up the resources of the estate]?*

[G] It is on account of preserving her attractiveness, so that people should want to marry her.

[H] And there are those who say, “Also for payment of what the deceased has stolen or of compensation for damages he has caused.”

[I] *Said R. Yosé b. R. Bun, “Also we too have learned in the Mishnah both of these: As to theft, from the following: **If it is a matter for which the deceased bore responsibility should the object be lost, the heir is liable to pay compensation [M. B.B. 10:1].** As to damages from the following: **They exact payment from the property of an estate only from the poorest quality [real estate] [M. 5:2C].** Thus does the Mishnah teach: They do collect from the property of an estate for damages only from the poorest quality [real estate].”*

[II:1 A] [As to **M. 5:2C: They exact payment from the property of an estate [“orphans”] only from the poorest quality real estate,**] *has it not been taught:* If the son took the place of the father, as to damages, they assess them from land of the highest quality, and for a creditor, from land of intermediate quality, and for payment of the marriage settlement of a woman, from land of the poorest quality?

[B] Said R. Yosé b. R. Bun, “Here we deal with an adult heir [in which case collection is made from land of the highest quality], and there we deal with a minor heir [in which case compensation comes from land of the poorest quality].”

5:3

[A] They do not exact from mortgaged property indemnity for usufruct or for improvements made on land, or for the maintenance of a widow or daughters,

[B] for the good order of the world.

[C] He who finds a lost object is not subjected to an oath,

[D] for the good order of the world.

[I:1 A] Said R. Hanina, “It is because there is no limit to [the matters listed at M. 5:3A].”

[I:2 A] [If Reuben] stole a field from Simeon and sold it to Levi, and Simeon came and snatched it back from Levi, Levi collects the principle from indentured property belonging to Reuben, and Simeon collects the value of the usufruct from indentured property belonging to Reuben.

[C] If Levi went and improved the value of the property,

[D] Levi collects the principle from the indentured property belonging to Reuben, and he collects the value of his improvements from the unindentured property belonging to Simeon.

[E] R. Hiyya in the name of R. Yohanan said, “And that law applies in a case in which the purchase of this party came before the improvements added by that party. But if the improvements added by that party come before the sale of this party, then Levi collects the value of the improvements even from the indentured property belonging to Simeon. [In the former case there was no fixed value assigned to the improvements prior to the sale. In the latter case, there is a fixed value now attached to the improvements, as part of the sale.]”

[F] R. Ba, R. Hiyya in the name of R. Yohanan said, “Also with regard to usufruct the rule is the same. [That is to say, the party from whom the

field was stolen collects the value of the usufruct only from unindentured property in a case in which the usufruct which the thief enjoyed was not prior to his sale of the field to another purchaser. But if the usufruct took place and then the field was sold to a third party, once more there is a fixed market value assigned to the usufruct, in which case it *may* be collected from indentured property.]”

[G] *There is the following case [in which, if Levi improved the field, the purchaser collects the value of the improvements from unindentured property belonging to Simeon, from whom the field was stolen. That is, where the improvement exceeds the expenditure. But the actual expenditure he collects from the thief himself. This is now illustrated.] One invested four denars, and the consequent improvement to the field is assessed at six. Levi may then collect the four denars [he has invested] from the indentured property of Reuben, and he collects the two others from the unindentured property of Simeon.*

[H] R. Abin in the name of the rabbis over there: “You have no one who enters a property by right, whose hand is on the bottom vis-a-vis Reuben [the thief, above].”

[I] *R. Yosé b. R. Bun in the name of the rabbis over there: “You have no one who enters the property not by right, whose hand is on top vis-a-vis Simeon.” [Abin differs from the preceding view, that he collects his outlay alone from Simeon, and the excess over the outlay from Simeon. This party had every right to buy the field. He bought it from Reuben. Why should his hand be on the bottom vis-a-vis Reuben, so that he collects only his outlay and not his profit from Reuben’s indentured property? R. Yosé b. R. Bun differs with the view that he collects the profit from Simeon. So far as Simeon is concerned, he has entered the property without right. Why should his hand be on top to collect the profit from Simeon, as if he had entered the field by right, when that is not the case?]*

- [I:3 A] Reuben stole a field from Simeon and sold it to Levi, and Levi went and gave it as a gift to Judah, and Simeon came and snatched it back from Judah –
- [B] *Judah [has no right to] go [for compensation] to Levi, for it had been a gift.*
- [C] *Levi has every right to seek compensation from Reuben, for [the field had been] sold [to him by Reuben].*
- [D] *But had it not been given away by him as a gift?*

- [E] *He has the right to claim, “I wanted to give it as a gift, and then he would pay me back for the favor.”*
- [F] Reuben stole a field from Simeon, who gave it as a gift to Levi. Then Levi went and sold it to Judah. Simeon came and snatched it back from Judah.
- [G] *Judah turns to Levi for compensation, for he had sold it to him. Levi may not then go and collect from Reuben, for he had received it from him as a gift.*
- [H] *For R. Yosé said in the name of rabbis, “There is no [collecting from] indentured [property] applicable to a gift.”*
- [I] Reuben stole a field from Simeon and sold it to Levi. Now Simeon [from whom the field had been stolen] did not suffice to write out a writ of seizure [to address to Levi, to get his field back] before he died. *To whom does the field belong?*
- [J] R. Huna and Hiyya son of Rab – one said, “If he had written out the writ of seizure, the field would have reverted to Reuben. [Reuben would have returned Levi’s money, and, of course, restored the field to Simeon.] If Simeon died before the writ of seizure was written, it belongs to Levi. [He already has presumptive right to the field. The sale is validated.]”
- [K] The other said, “Whether or not the writ of seizure had been written, the field remains with Levi.”
- [L] *Said R. Mana, “It is reasonable to suppose that it belongs to Reuben, for he has the right to say [to Levi], ‘I sold you something which does not belong to me. [Here is your money back. I’ll keep the field.]’ “*
- [M] *Said R. Yosé b. R. Bun, “It is reasonable to suppose that it is Levi’s. For Levi has the right to say to Reuben, ‘Is the field yours?’ I shall confirm my purchase of the field. [It has not been seized from me by Simeon, and you have no right to it either.]”*
- [I:4 A] What is the law [M. 5:3A] as to collecting support [for daughters for a dowry] from indentured property [when there is a fixed value assigned to the dowry]? [That is, after the father died, the brothers took the property and mortgaged it. May the daughters collect their dowry from this mortgaged property, retrieving it for that purpose from the possession of the purchaser?]
- [B] *Said R. Zeira, “R. Yohanan would not permit collection [under such circumstances].”*

[C] *Who orders collection [of the dowry from the mortgaged property]? R. Haninah and R. Hai do so.*

[D] *R. Yosa was trustee for the estate of orphans, and some of the daughters sought support [for their weddings]. The case came before R. Eleazar and R. Simeon b. Yaqim. Ruled R. Simeon b. Yaqim, “Is it not better that they should be supported from the property of their father, and not from public charity?”*

[E] *Said to him R. Eleazar, “If such a matter should come before our rabbis, though, they would not touch it. Shall we then decide a practical case in this way? [That is, they are not sure of the law.]”*

[F] *Said to R. Yosé, “I shall provide for them, and if the [male] orphans should come and complain, I shall provide for them too [by retrieving from the girls and giving to the boys].”*

[G] *Even so, the heirs knew about the decision and entered no complaint.*

[I:5 A] *A court decree was issued to Sippor daughter of Absalom: “R. Simeon and R. Jacob bar Idi in the name of R. Simeon bar Ba, ‘I and our rabbis have issued a writ for collecting support for this woman from movables [disposed of by her husband, who has divorced her], in accord with customary practice in her place of residence.’”*

[B] *Rab wrote to Rabbi, “They have differed from the opinion of R. Hiyya the Elder.”*

[C] *R. Hiyya wrote between the lines: “If the heirs went and sold the property, they collect from this indentured property for the [dowry] support of the daughters, and they do not collect from that source for their maintenance.”*

[D] *Now as to this statement, “... went and indentured ...,” “I do not know its meaning. [Did the heirs sell the property, or did the father do so while he was yet alive?]*

[E] *Levi taught: “All the same is an indenture contracted by the father and one contracted by the male heir: they collect [from indentured property] for support [for a dowry] and they do not do so for maintenance [of the daughters].”*

[F] *[Differing from this view,] said R. Abba, “We do not deal with an indenture contracted by the father, but only with one contracted by the male heir. For if in the case of an indenture contracted by the father, if during the lifetime of the father one may not collect [from property*

indentured by the father for the purpose of support for a dowry for the daughter], is it not an argument a fortiori that after his death one also may not do so?”

[G] R. Hama bar Uqbah in the name of R. Yosé b. Haninah: “[If the daughters got married, the widow is supported by them [for she is treated as an heir for the purpose of support].”

[H] *R. Ba is consistent with his rulings elsewhere, and R. Judah is consistent with his rulings elsewhere, for R. Judah, son of the sister of R. Yosé b. Haninah in the name of R. Yosé b. R. Haninah [said]: “Even if they died, the widow is supported by them. [That is, the widow is supported from the daughters’ share until she claims settlement of her marriage contract or remarries.]”*

[I] What is the status as to the minor grandchildren [of the deceased]? [Are they too to be supported from the estate?]

[J] R. Mana said, “The grandchildren – lo, they are in the status of the children.”

[K] R. Yosé said, “The grandchildren are not in the status of the children.”

[L] *R. Samuel son of R. Yosé b. R. Bun and R. Mattenaiah were in session. They considered ruling, “The dispute concerning the grandchildren here is equivalent to the dispute concerning the grandchildren elsewhere [as to inheritance]. [That is, do the grandchildren have to support the widow and the daughters?]*”

[M] Said to them R. Yosé b. R. Bun, “As to the grandchildren, the Torah has carried the inheritance [of their deceased father, son of their grandfather] to them, [and consequently, they bear all the obligations pertaining to their father.]”

[II:1 A] **[As to M. 5:3: He who finds a lost object is not subjected to an oath, for the good order of the world:]** *There we have learned: A maneh belonging to my father you have in your hand” – “He has nothing in my hand but fifty denars – he is exempt [from an oath] for the defendant is in the status of one who returns lost property [M. Shebu. 6:1P-R].*

[B] Said R. Eleazar, “This is an ordinance which they have ordained for such a case, just as they have made an ordinance in the case of one who restores a lost object. *For we have learned: He who finds a lost object is not subjected to an oath, for the good order of the world.*”

- [II:2 A] Said R. Ba, “The Mishnah speaks of a case in which he said to him, ‘I found two oxen of mine.’ But if he had said, ‘I found two oxen of yours, and I returned them to you,’ and the other party says to him, ‘You returned to me only one,’ it is not for such a case that the rabbis have made the stated ordinance. [Here there must be an oath.]”
- [B] R. Pedat in the name of R. Yohanan: “For such a case they did indeed make an ordinance. But as to the situation that prevails at the outset it was a matter of the law of the Torah [and not merely an ordinance ordained by scribes, that no oath is required].”
- [C] *This is in line with that which has been taught as a Tannaite formulation [that derives the law from the Torah, not from a scribal ordinance]:*
- [D] Is it possible to maintain that if he had said to him, “You found two oxen of mine,” and he said, “I found only one,” is it possible that he should be liable to take an oath?
- [E] Scripture says, “... or has found [47a] what was lost and lied about it ...” (Lev. 6:3)
- [F] this excludes a case such as the present one, in which he did not deny the claim.
- [G] But if he had said, “I was standing up on the roof and I saw you drawing two oxen which were tied together,” “Two oxen tied together did you draw for me,” and he says, “I drew only one,” it is not in such a case that they made the ordinance.
- [H] *And along these same lines:* “I was standing by father when he was dying, and he claimed a maneh from you, and you conceded that you did indeed owe it to him,” and he says, “I admitted to owing only fifty zuz,” it was not in such a case that they made the ordinance.

5:4

- [A] Orphans who boarded with a householder,**
- [B] or for whom their father appointed a guardian –**
- [C] he [who provides for their keep] is liable to separate tithe from their produce.**
- [D] A guardian whom a father of orphans has appointed is to be subjected to an oath.**
- [E] [If] a court appointed him, he is not subjected to an oath.**

[F] **Abba Saul says, “Matters are reversed.”**

- [I:1 A] [“So shall] you [also present an offering to the Lord”] (Num. 18:28
- [B] “You,” thus excluding partners.
- [C] “You” – thus excluding guardians.
- [D] “You” – thus excluding he who sets aside heave offering out of produce which does not belong to him.
- [E] “You,” thus excluding partners.
- [F] *Yet [contrary to E] have we not learned: **If partners have set aside heave-offering [that which they have set aside as heave-offering is validly done] [M. Ter. 3:3]?***
- [G] But here [where partners may validly separate heave-offering] we speak of the great heave-offering, [that is, set aside first of all, two percent of the whole, and given to the priest,] and there [where they may not] we speak of heave-offering of tithe [separated from the first tithe by the Levite and handed over to the priest, for that is the topic of Num. 18:28].
- [H] But has the law governing setting aside great heave-offering not been learned from the law governing setting aside heave-offering of tithe?
- [I] But here we speak of theory, there of practice.
- [J] “You” – thus excluding guardians.
- [K] *But it has been taught: **Orphans who boarded with a householder, or for whom their father appointed a guardian – he who provides for their keep is liable to separate tithe from their produce [M. 5:4A].***
- [L] Associates say, “The one rule applies to permanent guardians [who tithe], the other to temporary ones [who do not].”
- [M] *R. Yosé raised the question, “If we speak of permanent guardians, in such a case [why has] it has been taught, ‘He may sell slaves, but not real estate.’ [A permanent guardian would be allowed to sell real estate as well.] But in the one case we speak of an adult orphan [who can take care of his own produce], and in the other case, of a minor orphan [for whom the guardian must provide].”*
- [I:2 A] Said R. Yohanan, “To begin with they appoint a guardian not to incur liability in behalf of [an orphan] but to gain advantage [in his behalf.

But if the guardian should incur a liability [as at M. B.Q. 4:4D], it is a valid act.”

[B] R. Yosé b. Haninah said, “Whether to begin with or after the fact, they do not appoint a guardian for orphans either to gain an advantage for them or to incur a liability for them.”

[C] *The following Mishnah-passage differs from R. Yosé b. Haninah’s view: **The court appoints a guardian for them, [and they bring testimony against (the ox to have it declared an attested danger) to the guardian] [M. B.Q. 4:4D].***

[D] [He said to them,] “The case of an ox is special, since it must be prevented from going out and injuring people.”

[I:3 A] [An ox belonging to orphans which is presently in the possession of a guardian which went out and] did damage – what is the law [as to exacting payment]? [Does the compensation come from the guardian’s own property?]

[B] R. Yohanan said, “The compensation is exacted from the property of the orphans, [for if you rule that it comes from the guardian, then no one will ever agree to be appointed a guardian].”

[C] R. Yosé b. Haninah said, “It is paid by the guardian.”

[D] *Now even if R. Yohanan had not explicitly said so, his earlier statement implies it, for has he not said, “If the guardian should incur a liability, it is a valid act? [And here we do have a liability incurred in behalf of the heirs.]”*

[II:1 A] **[A guardian whom a father of orphans has appointed is to be subjected to an oath. [If] a court appointed him, he is not subjected to an oath. Abba Saul says, “Matters are reversed:”]** A guardian whom the father of orphans has appointed is to be subjected to an oath, for the [father] would not usually investigate [the qualifications of the guardian].

[B] If a court appointed him, he is not subjected to an oath, for the court would usually investigate [the qualifications of the publicly appointed guardian].

[C] Abba Saul says, “Matters are reversed. A guardian whom the father of the orphans has appointed is not to be subjected to an oath, for he has the right to say to him, “I was doing a favor for you. If a court appointed him, he is subjected to an oath, for he is in the status of a paid bailee.”

[D] *The rule of R. Yohanan accords with the position of Rabbis, while that of R. Yosé b. Haninah accords with the view of Abba Saul.*

[E] *That of R. Yohanan concurs with rabbis?* Hardly, for even if he should concur with Abba Saul, he may still maintain that someone would be willing to give money to be believed and to be regarded as a reliable person by the public.

[F] *And that of R. Yosé bar Haninah accords with Abba Saul?* Hardly, for even he may concur with rabbis, for a man may do what he can to avoid an oath, but he need not necessarily do what he can to avoid paying compensation [B].

5:5

[A] He who imparted uncleanness [to the clean food of someone else], and he who mixed heave-offering into the produce of someone else, and he who mixed all other's wine with libation-wine –

[B] if he did so inadvertently, he is exempt [from punishment].

[C] And if he did so deliberately, he is liable.

[D] And priests who deliberately imparted the status of refuse to a sacrifice in the sanctuary are liable.

[I:1 A] [=Y. B.Q. 9:3 IV] *R. Yudan did not go into the schoolhouse. He came across R. Mana, saying to him, "What new point was made in school today?"*

[B] He said to him, "Thus did R. Yosé say, 'He who renders the produce of his fellow unclean is not deemed as if he has done a concrete deed.' [That is, he who imparts uncleanness to the foods of his fellow prepared in conditions of cleanness, is exempt from making restitution, since this is a sort of damage without a perceptible material mark.]"

[C] *He replied, "Now is this point not explicitly stated in a well-known pericope of Mishnah: **Heave-offering and it became unclean [M. B.Q. 9:3E]?"***

[D] He said to him, "Interpret that statement to apply to a case in which the heave-offering became unclean on its own [without the actual deed of the thief,] *in which case there are no implications whatever for the present problem, [and so what Yosé has stated really is a fresh point]."*

[I:2 A] [Delete: As it is stated in the Mishnah.] **If one who was not an expert judged a case, declaring the liable person to be free of liability, declaring the person free of liability to be liable, declaring what is clean to be unclean, declaring what is unclean to be clean – what**

he has done is done. But he has to pay restitution from his own funds [M. Bekh. 4:4A-F].

[B] ["The reason he has to pay compensation,"] R. Jeremiah said in the name of Rab, "is that he has [taken a dead creeping thing] and with his own hand brought it into contact with the food being prepared in conditions of cleanness. [This is a case of doing so deliberately, and that is why he has to pay, in line with M. Git. 5:5B .]"

[C] So too did Samuel say, "We deal with a case in which he has taken a dead creeping thing and with his own hand brought it into contact with the food being prepared in conditions of cleanness."

[D] R. Judah b. Rabbi, "In strict logic, even if he had done so inadvertently, he should be liable. And why have they ruled that he is exempt? It is so that he will inform [the other party, and so prevent the latter from eating food which is unclean, while assuming that it is clean]."

[E] Said R. Yohanan, "In strict logic, even if he had done so deliberately, he should be exempt from having to pay compensation. And why have they ruled that he is liable? It is as an extra-legal penalty [to discourage people from rendering food unclean]."

[F] *Support for the position of R. Yohanan derives from the following:*

He who imparted uncleanness to the clean food of someone else, and he who mixed heave-offering into the produce of someone else, and he who mixed another wine with libation-wine if he did so inadvertently, he is exempt from punishment. And if he did so deliberately, he is liable [M. Git. 5:5A].

[G] And R. Yohanan said, "This is by reason of a penalty."

[H] *The following Tannaitic teaching supports the position of R. Yohanan:* He who places a yoke on the red cow belonging to his fellow [thus rendering the cow unfit for use for preparation of ash for purification water, Num. 19:11 ff.] is exempt from punishment in an earthly court but liable in accord with the laws of heaven.

[I:3 A] To this point the rule applies in a case in which the man who did so assumed that the produce was not consecrated [M. 5:5A]. But if he knew that it was in the status of heave-offering, but assumed that it was permitted to impart uncleanness to it [what is the law]? [It this too deemed to be true inadvertence, since the deed was done deliberately, but in the assumption that it was a permitted deed?]

[B] *Let us derive the answer from the following: **Priests who deliberately imparted the status of refuse to a sacrifice in the sanctuary are liable [M. 5:5D].** Now how shall we interpret the case to which this rule applies? If we deal with a priest who assumed that the animal he was killing [and concerning which he formed the improper intention of eating the meat outside the proper time or place, on which account the animal is turned into refuse at the very moment of slaughter], is there the possibility of imparting the status of refuse to unconsecrated beasts? [Obviously not!] But rather we deal with a case in which the priest knew full well that the beast was in the status of Holy Things. But he thought that it was permitted to impart the status of refuse to Holy Things. Here too we deal with a man who knew that it was food in the status of heave-offering, but who thought that it is permitted to impart uncleanness to such food.*

[I:4 A] [With reference to M. 5:5A, **And he who mixed another's wine with libation-wine:**] R. Huna in the name of Rab: "That rule applies to a case in which he mixed the wine into wine which had already served as a libation wine."

[B] If he simultaneously offered a libation to an idol and mixed in with it his fellow's valid wine, at the outset he is liable to the death penalty [for the former action, and so incurs the more strict penalty]. At the end, he is liable to a money-payment [since he was liable to pay compensation before he became liable to the death penalty, for he had mixed the wine before he made a libation of both kinds of wine].

[C] *R. Abba objected*, "But what if he simultaneously killed someone and broke a flask? Will you say that at the outset he is liable to the death penalty, and at the end he is liable to monetary compensation? [That is impossible, since we know that he is exempt from monetary compensation.]"

[D] *R. Yosé objected*, "What if he set his fellow's grain on fire on the Sabbath? At the outset is he liable to the death penalty and at the end to compensation? [Hardly, for the same reason just now given, namely, he suffers the more severe of the two penalties and that alone.]"

[I:5 A] **He who imparted uncleanness to the clean food of someone else and he who mixed heave-offering into the produce of someone else, and he who mixed another's wine with libation-wine if he did so inadvertently, he is exempt from punishment. And if he did so deliberately, he is liable [M. 5:5A].**

[B] Said R. Yohanan, "It is by reason of an extra-legal penalty."

5:6

- [A] Testified R. Yohanan b. Gudegedah concerning a deaf-mute, whose father married her off, that [if she should be divorced], she goes forth with a writ of divorce;
- [B] and concerning a minor Israelite girl who was married to a priest, that she eats heave-offering,
- [C] and if she died, her husband inherits her estate;
- [D] and concerning a stolen beam which one built into his house, that the original owner collects its value –
- [E] on account of the good order of those who repent;
- [F] and concerning a stolen sin offering, that was not publicly known, that it effects atonement –
- [G] for the good order of the altar.

- [I:1 A] *With reference to M. Yeb. 14:1K-N, 14:2: Said R. Yohanan b. Nuri, “On what account does a woman who became a deaf-mute go forth, but a man who became a deaf-mute does not put away his wife by a writ of divorce?” They said to him “The man who divorces his wife is not equivalent to a woman who receives a divorce. For a woman goes forth willingly or unwillingly. But a man puts his wife away only willingly.” R. Yohanan b. Gudegedah testified concerning a deaf-mute whose father married her off, that [if she should be divorced], she goes forth with a writ of divorce. They said to him [Yohanan b. Nuri], “This too follows the same rule,” R. Hananiah raised the question before R. Hila, “The stated rule [of Yohanan b. Gudegedah] makes sense with regard to a woman of sound senses, [for she is married with her own will and consent, without the intervention of a third party, and in the case of divorce, likewise, a writ is received by her alone,] so that she goes forth whether willingly or unwillingly. But a deaf-mute, who [cannot express her] will, should go forth only [willingly]. [She was married only at her father’s instance. She should be divorced only with her father’s knowledge and consent. Why is the normal procedure of the writ of divorce applied here?]”*
- [B] [But what sort of a question is this!] Is this rule [of Yohanan] not a matter of testimony [which he has given, that is, outside the framework of normal logic]?
- [C] [But the Mishnah adds,] **This too follows the same rule.**

- [D] Do they add to testimony? [That is, we deal in Yohanan’s testimony with a deaf-mute for life. But what about a woman of sound senses who became a deaf-mute? How do we know that she goes forth with a writ of divorce?]
- [E] *For R. Hananiah had proposed to state* the testimony was with regard to a woman of sound senses whose father married her off, and who became a deaf-mute.
- [F] *R. Yosé proposed to state* [that the testimony was] with regard to a minor whose father married her off, and who was divorced.
- [II:1 A] Said R. Yohanan, “For what reason did they state, ‘**A minor Israelite girl who was married to a priest eats heave-offering**’?”
- [B] “It is so that everyone will want to marry her, because of her charm [since she will be well-fed and not scrawny].”
- [C] Said R. Shimi, “But that rule applies in a case in which the girl has sufficient understanding to take good care of her tokens of betrothal [and likewise may be trusted not to permit food in the status of heave-offering to become unclean].”
- [D] [Supply from Y. Yeb 14:2] Said R. Hananiah, “On the basis of what R. Yohanan said, that it is to preserve her charm, that would mean that one may do so even if she does not have sufficient understanding to take good care of her tokens of betrothal.” [That is shown by the citation of the Mishnah which follows, for a girl of such a young age surely cannot be expected to take care of her tokens of betrothal.]
- [E] *Said R. Immi, “The Mishnah elsewhere contains the same implication: [A girl three years and one day old] who is married to a priest may eat food in the status of heave-offering [M. Nid. 5:4].”*
- [F] R. Hamnuna in the name of R. Assi: “A minor is not subject to the marriage canopy [=an act of sexual relations], which is what would allow her to eat food in the status of heave-offering.”
- [G] *Said R. Immi, “The Mishnah elsewhere contains the same implication: If she was married to a priest she eats food in the status of heave-offering [M. Nid. 5:4].”*
- [H] *R. Abin asked, “If when she entered the marriage canopy, she did not have sexual relations, and then she was sent to her father’s house, where she grew up – what is the law as to her eating heave-offering [now, by reason of that first act]?”*

[I] *Let us derive the law from the following:* [She eats food in the status of heave-offering relying] upon the original entry into the marriage-canopy [even though there has been no legally consequential act of sexual relations, that is, after she became an adult].

[III:1 A] He who steals a beam and builds it into his house –

[B] the House of Shammai says, “Let him tear down the whole house and take out [and return] the beam.”

[C] And the House of Hillel says, “One reckons how much it is worth and pays the value of it to the owner,

[D] “for the sake of the welfare of those who repent” [T. B.Q. 10:5].

[E] Said R. Eleazar, “They differ with regard to one who has stolen a beam which had been planed. But if he stole it and planed it himself, then all agree] it is only monetary compensation which he owes to him.”

[F] If he stole and planed it in place, what is the law?

[G] *Let us derive the law from the following:* He who goes down into the ruin which belongs to his fellow and builds it up without permission –

[H] they make an estimate [of the matter],

[I] and his hand is underneath [that is, the advantage belongs to the owner of the ruin].

[J] He who goes down with permission –

[K] they make an estimate [of the matter],

[L] And his hand is now on top [T. B.Q. 10:7].

[M] If [having gone down without permission] he wanted to take his stone and wood, they pay no attention to him. [He may not take the planed beam.]

[N] *R. Jacob bar Aha in the name of R. Joshua b. Levi in the name of R. Nahman bar Jacob asked [in regard to the foregoing opinion that the man may not take away his stones and wood], “If he had gone into his fellow’s ruin for an hour and unpacked his sack for a while, and then wanted to take up his burden once more and leave, is it possible that they would pay no attention to him? [Obviously he is within his rights. Why can he not take up his stones and wood here?]*”

[O] *And has he not heard that which R. Jacob bar Aha said in the name of R. Joshua b. Levi, "This is in order to protect the continued Israelite occupation of the Land of Israel."*

[P] Well did R. [47b] *Yosé state, "We considered ruling, They differ in regard to such an event in the Land. But as to a case which took place abroad, they did not differ. But on the basis of that which R. Jacob bar Aha has said, namely, that it is because of continued settlement [without regard to location in the Land of Israel], that is to suggest that the same law applies both in the Land and abroad."*

[Q] If he wanted to remove his wood and stones [for he has already paid for the wood and stones], what is the law?

[R] One says to him, "Wait until the owner has dwelt in the house [and then collect for his use of what you now have paid for]."

[S] And Samuel said, "They hand them over to him forthwith."

[IV:1 A] **[With regard to M. 5:6F, and concerning a stolen sin offering, that was not publicly known, that it effects atonement,]** Ulla bar Ishmael [said], "In strict logic the rule should have been that even if [the stolen sin offering was not publicly known to have been stolen], it should not effect atonement.

[B] "And why did they rule that it does effect atonement? So that the altar should never be left desolate [without sacrifices on it]."

[C] R. Simeon b. Laqish said, "In accord with strict logic, even if it was publicly known, it should effect atonement. And why have they said that it does not effect atonement? So that the altar will not receive stolen goods."

[D] And how many people make up "the public"?

[E] Gurion in the name of R. Simeon b. Laqish: "Three people."

[F] R. Abin in the name of R. Jonathan: "'You bring to me what has been taken by violence or is lame or sick, and this you bring as your offering!' (Mal. 1:13). Just as what is lame or sick is so for all to see, so whatever is [unfit] for all to see [is rejected]."

5:7

[A] The law concerning the usurping occupant did not apply in Judah in the case of those slain in the war.

[B] From the time of those slain in the war and thenceforward the law of the usurping occupant did apply.

[C] How [does the law apply]?

[D] [If] one purchased a property [first] from the usurping occupant and [then] went and [also] purchased it from the householder,

[E] his purchase is null.

[F] [If he purchased it first] from the householder and [then] went and purchased it from the usurping occupant, his purchase is confirmed.

[G] [If] a man purchased it from a man and then went and purchased it from a woman, his purchase is null.

[H] [If] he purchased it from a woman and then went and purchased it from a man, his purchase is confirmed.

[I] This is the first Mishnah. The court after them ruled: He who purchases a property from a usurping occupant pays the owner a fourth of the value.

[J] Under what circumstances?

[K] When he [the original owner] has not got the means to buy it.

[L] But [if] he has got the means to buy it, he takes precedence over all other people.

[M] Rabbi called a court into session and they voted, that if the property had remained in the hands of the usurping occupant for twelve months, whoever comes first has the right to purchase it.

[N] But he pays the owner a quarter of the value.

[I:1 A] In the beginning [the Romans] decreed oppression against Judah, for they had a tradition in their hands from their forefathers that Judah had slain Esau, for it is written, “Your hand shall be on the neck of your enemies” (Gen. 49:8).

[B] Now they went and subjugated [the Jews] and took their fields and sold them to others. Then the original householders came and seized the fields. The land was tied up in the hands of the usurping occupants.

[C] People refrained from buying land.

[D] They ordained that the law of the usurping occupant should not apply in Judea.

[I:2 A] Under what circumstances?

[B] In the case of those who were slain before the war in the time of the war.

[C] But to those who were slain in the war and thenceforward, the law of the usurping occupant does apply [M. 5:6B] [T. Git. 3:10].

[D] Now are those slain before the war not equivalent to those slain after it? [There is no danger of war at either point. Why is the law of the usurper suspended?]

[E] Interpret the rule to apply to a case in which the usurper came before the war forcibly and stole the property. But the original owner did not succeed in having a writ of seizure prepared, to retrieve the property for him, in a court of law, before the whole world fell under the seizures of the usurpers.

[F] So that the law should not apply only in unequal measures, [E was decreed].

[G] Galilee is always subject to the law of the usurping occupant [T. Git. 3:11F].

[H] Movables are not subject to the law of the usurping occupant [and one pays only the usurper, not the original owner, since he is apt to despair of recovering the property].

[I:3 A] *It was taught: Sharecroppers, tenant-farmers, and guardians are not subject to the law of the usurping occupant.*

[B] He who takes over a field in payment of a debt, and he who does so] in payment of a debt payable in installment they are not subject to the law of the usurping occupant.

[C] As to the collection of the debt payable in installments itself: they wait for the owner [to redeem it] for twelve months [T. Git. 3:11A].

[D] Said R. Judah b. Pazzi, "They continue to make a public declaration of the matter for four weeks after the twelve months."

[E] [*As to the statement that sharecroppers are not subject to the law of the usurping occupant,*] *this is subject to two different interpretations: If the usurper had grabbed the field from the sharecropper, and gave it to another one, the former may come and seize it from the latter. He*

may say to him, “Are you not a sharecropper? [You lose nothing.] Leave the field to me, and whatever you have taken from the field, you have taken.” If the usurper had grabbed the field from the householder, and handed it over to a sharecropper, the former may come and seize it from the latter. The sharecropper may say to him, “hat good is it to you if you grab it back from me, and he takes it again from you? But what I can I’ll pay to you.”

- [II:1 A] [With reference to M. 5:7G-H, **If a man purchased it from a man and then went and purchased it from a woman, his purchase is null. If he purchased it from a woman and then went and purchased it from a man, his purchase is confirmed**] *up to now we have assumed we dealt with a case in which there are two deeds of sale [one provided by the woman, the other by the man]. But if there was only a single deed of sale [signed by the wife as well as the husband, what is the law?]*
- [B] *Both R. Zeira and R. Illa say, “All the more so is the purchase null. And that view applies when he first purchased the field from the man then went and purchased it from the wife. [She will say she signed only to please her husband.]”*
- [C] *Both R. Hananiah and R. Bibon say, “All the more so is the purchase valid. And that view applies to a case in which he purchased the field from the wife and then went and purchased it from the husband.”*
- [D] *And is not everything that belongs to the wife indentured to the husband?*
- [E] *This is as to usufruct.*
- [F] *R. Hezekiah in the name of R. Aha, “And so it is.”*
- [G] *[If the husband] sold it to the first party and [the wife] signed, to a second and a third and she signed, she collects from the last party.*
- [H] *If she did not suffice to do so, she collects from the one before him. If she did not suffice to collect from him, she collects from the one before him.*
- [I] *In this regard Rab said [of M. 5:7G-H], “This rule applies to property which she brought into the marriage through her marriage contract. But as to property which she brought in to him as her dowry, she may collect from any one of them she chooses.”*
- [III:1 A] [As to M. 5:7K-M: **Under what circumstances? When the original owner has not got the means to buy it. But if he has got the means**

to buy it, he takes precedence over all other people, we have the following conflicting claims. The owner says that he had the means to buy the field when the other party purchased it from the usurper. He therefore has the right to purchase it now. The one who bought it from the usurper has not acquired legitimate rights of ownership to the field. That one says that when the usurper put the field up for sale, the original owner did not have the means to buy it. Thus:] They say, “We had the means to buy it.”

[B] The purchaser says, “That was not so.”

[C] Said R. Yosé, “Under all circumstances the field belongs in the presumptive ownership of the original owner. For he who wishes to extract something from his fellow bears the burden of proof.”

[IV:1 A] **[With reference to M. 5:7N’s vote,]** *Rab said, “I was there the day that they voted. There is no difference between paying the quarter of the price in real estate or in ready cash [a fifth of the value of the field].”*

[B] [Concurring with Samuel, B. Git. 58b, who said, “It means a quarter in land, which is equivalent to a third of the money, for Samuel holds that the purchaser bought the land for a quarter less than its value, land worth four *manehs* for three, so a quarter of the value of the land is equal to a third of the purchase price,”] said R. Yosé b. R. Bun, “[If he sold him] land worth a *denar* for a *denar* less a quarter, [then this would represent] a third of the cash value [he had paid to him, which would be a *maah* and a half.” [Cf. PM.]

5:8

[A] **A deaf-mute makes signs and receives signs.**

[B] **And Ben Beterah says, “He communicates by movements of the mouth and receives communication by movements of the mouth,”**

[C] **in the case of movables.**

[D] **And as to little children: their purchase is valid and their sale is valid**

[E] **in the case of movables.**

[I:1 A] **Ben Beterah says, “He communicates by movements of the mouth and receives communication by movements of the mouth [M 5:8B] and so hires workers or is hired out as a worker.”**

[I:2 A] The word “little children” [given in Aramaic] is the same as the Greek word for “little children.”

- [I:3 A] “[The reason that they may do business,]” said R. Yohanan, “is so that they may support themselves.”
- [B] Said R. Mana, “Even though R. Yosé declares a promise made with the condition of a forfeit in case of failure to fulfill it as uncollectible, he admits that they are collectible in the case of those who indenture their sons to a trade, because peoples’ livelihood requires such a measure” [Jastrow II, pp. 1073-74].

5:9

- [A] **And these rules did they state in the interests of peace:**
- [B] **A priest reads first, and afterward a Levite, and afterward an Israelite, in the interests of peace.**
- [C] **They prepare an erub in the house where it was first placed, in the interests of peace.**
- [D] **A well nearest to the stream is filled first, in the interests of peace.**
- [E] **Traps for wild beasts, fowl, and fish are subject to the rules against stealing, in the interests of peace.**
- [F] **R. Yosé says, “It is stealing beyond any doubt.”**
- [G] **Something found by a deaf-mute, an idiot, and a minor is subject to the rule against stealing, in the interests of peace.**
- [H] **R. Yosé says, “It is stealing beyond any doubt.”**
- [I] **A poor man beating the top of an olive tree –**
- [J] **what is under it [the tree] is subject to the rule against stealing, in the interests of peace.**
- [K] **R. Yosé says, “It is stealing beyond any doubt.”**
- [L] **They do not prevent poor gentiles from collecting produce under the laws of Gleanings, the Forgotten Sheaf, and the Corner of the Field, in the interests of peace.**
- [I:1 A] *In the view of the following saying of R. Simeon b. Yohai, [the rule of M. 5:9B] derives from the teaching of the Torah [and is not a mere rabbinical ordinance].*
- [B] *For R. Simeon b. Yohai taught, ““And Moses wrote this law, and gave it to the priests the sons of Levi’ and afterward ‘to all the elders of Israel’ “ (Deut. 31:9).*
- [C] *In the view of the following saying of R. Joshua b. Levi, it derives from the authority of scribes [and not from the Torah].*

- [D] For R. Joshua b. Levi said, “I never said a blessing before a priest, nor did I ever let an Israelite say a blessing before [me].”
- [E] *In the view of the following saying of R. Haninah it derives from the authority of scribes.*
- [F] For R. Haninah said, “A town which is inhabited entirely by priests an Israelite says the blessing first, to keep the peace.”
- [I:2 A] R. Ahi and R. Tanhum bar Hiyya in the name of R. Simlai: “A town which is inhabited wholly by priests all of them raise their hands [to say the priestly blessing].”
- [B] If so, whom do they bless thereby [since there will be no one before them]?
- [C] Their brethren in the north and in the south.
- [D] Who answers [the blessings with the appropriate Amen] after them?
- [E] The women and children.
- [F] *Abbaye bar Benjamin taught*, “The people who stand on the other side of the priests do not fall under the blessing.”
- [G] As to those who stand in front of the priests?
- [H] Said R. Hiyya bar Ba, “Even if there is an iron wall, it does not intervene between the priests and the people [but the blessing breaks right through it].”
- [I] As to those standing at the sides?
- [J] *Let us derive the answer from the following: **If the one who was sprinkling [purification-water with a hyssop onto people suffering corpse-uncleanness] intended to sprinkle before him but sprinkled the water behind, behind and sprinkled it before him, his act of sprinkling is null. If he intended to sprinkle it before him and sprinkled it to the sides, his act of sprinkling is valid [M. Par. 12:2].***
- [K] That then implies that those standing on the sides fall within the framework of the priestly blessing.
- [I:3 A] Said R. Hisda, “And it is necessary that the one who reads for the community [at the time of the priestly blessing] be an Israelite.”

[B] Said R. Hisda, “If there was only one priest, the one who leads the priests in saying the blessing proclaims, ‘Priest.’ To two he says, ‘Priests.’”

[C] And R Huna said, “Even to a single priest, he says, ‘Priests,’ for actually he calls forth the tribe.

[D] “It is so that you should not say, ‘Mr. So-and-so commits fornication and sheds blood, and will he now bless us?’”

[E] “Said the Holy One, blessed be he, ‘Who blesses you? Is it not I who bless you, as it is said, ‘So they shall put my name upon the people of Israel, and I will bless them’” (Num. 6:27).

[II:1 A] They prepare an erub in the house where it was first placed [M. 5:9C].

[B] *Said R. Abin, “The Mishnah speaks [even] of setting it in the room in which it has always been placed.”*

[III:1 A] A well nearest to the stream is filled first [M. 5:9D].

[B] And that rule applies when the water-course flows naturally by it.

[C] Samuel said, “Even if it is at the side.”

[D] There [in Babylonia] they say that the one who is more distant but finds it easier to draw water takes water first over the one who is nearby but finds it more difficult to draw the water.

[IV:1 A] [Something found by a deaf-mute, an idiot, and a minor is subject to the rule against stealing, in the interests of peace. R. Yosé says, “It is stealing beyond any doubt:”] [With reference to M. M.S. 4:4 cited below, P, the following, which plays no part in the present pericope, is stated:] In the view of rabbis, the rule poses no problem.

[B] [With reference to M. 5:9G:] there they say in the name of R. Nahman bar Jacob, “Anyone to whom they give a pebble, and he takes it, a nut, and he throws it out – he who takes property from him is like him who takes it out of the garbage heap.

[C] **“If they gave him a nut and he takes it, a pebble and he throws it away, someone who takes from him commits theft, in the interests of peace [= M. 5 :9G] .**

[D] “If one gives him a nut and a pebble, and he takes them and puts them away and produces them later on, taking from him is an act of theft, pure and simple.”

- [E] Such a one effects acquisition for himself but not for someone else.
- [F] Rab Huna says, “Just as he effects acquisition for himself, so he effects acquisition for someone else.”
- [G] “All concur that an act of donation on his part is null, for it is said, ‘When a man gives [to his neighbor money or goods to keep]’ (Ex. 22:7). That which a man hands over is a gift, and not that which a child hands over,” the words of sages.

[H] R. Judah b. Pazzi in the name of R. Yohanan: “Under no circumstances is it clearly a matter of theft [from a minor] until he produces [47C] two pubic hairs.”

[IV:2 A] *R. Abbahu in the name of R. Yohanan, “That which you have stated [that we deal with stealing beyond any doubt, M. 5:9F] applies to the matter of retrieving the object from the one who has stolen it from the minor.*

[B] “But as to imposing on a thief in such circumstances the requirement to bring an offering or to take an oath, all parties concur that there is such a requirement only in the case of a minor who has produced two pubic hairs.”

[IV:3 A] [We now return to M. M.S. 4:4. The issue is whether a minor can effect an act of ownership. We have explained, in accord with R. Nahman bar Jacob, that there are several possibilities, now spelled out.] But as to the rabbis over here [who hold that the minor cannot effect ownership for himself, as we shall see, that is not the case].

[B] *R. Yosé raised the question, “If so, then even for himself he should not be able to make acquisition. For it is said, ‘[If a man delivers] to his neighbor’ (Ex. 22:7) that is, an act of donation is valid only when the giver is of the status of his neighbor.”*

[C] R. Yosé b. R. Bun in the name of R. Samuel bar R. Isaac, “And note the following concerning children, *for we have learned: As to little children, their purchase is valid and their sale is valid in the case of movables [M. 5:8-E].*

[D] “*And yet there we have learned [at M. M.S. 4:4]: However, let him not say this to his minor son or daughter, to his Canaanite servant or handmaid, for their deed is considered to be his deed. [There clearly is a contradictory assumption here.]*”

[E] *Rabbis of Caesarea say, “Here we deal with a child who has understanding, and there we deal with a child who does not have understanding.”*

[V:1 A] Traps for wild beasts, fowl, and fish are subject to the rules against stealing, in the interests of peace [M. 5:9E].

[B] *That which you have said [in disagreement with R. Yosé] applies to large traps. But as to small ones, it is as if they are in the man’s house [and rabbis here will agree that it is theft, pure and simple].*

[VI:1 A] A poor man beating the top of an olive tree – what is under the tree is subject to the rule against stealing, in the interests of peace. R. Yosé says, “It is stealing beyond any doubt” [M. 5:9IK].

[B] *That which you have said [at which there is a difference of opinion] applies to the ones on the ground. But as to the ones which he picks with his hand, his hand effects acquisition for him.*

[VII:1 A] They do not prevent poor gentiles from collecting produce under the laws of Gleanings, the Forgotten Sheaf, and the Corner of the Field, in the interests of peace [M. 5:9L].

[B] *It was taught [in T.’s version]:*

[C] A city in which Israelites and gentiles live

[D] the collectors of funds for the support of the poor collect equally from Israelites and from gentiles,

[E] for the sake of peace.

[F] They provide support for the poor of the gentiles along with the poor of Israel,

[G] for the sake of peace [T. Git. 3:13].

[H] They make a lament for and bury gentile dead,

[I] for the sake of peace.

[J] They express condolences to gentile mourners,

[K] for the sake of peace [T. Git. 3:14].

[VIII:2 A] A weaver asked R. Immi, “As to the feast day of gentiles, what is the law?” Now [Immi] was thinking that he would permit them to celebrate, in the interests of peace.

[B] Said to him R. Abba, “And did not R. Hiyya teach, ‘A feast day of gentiles is prohibited’?”

[C] Said R. Immi, “Were it not for R. Abba, we should have ended up permitting their idolatry. And blessed is he who separated us from them.”

5:10

[A] **A woman lends a sifter, sieve, handmill, or oven to her neighbor who is suspected of transgressing the law of the Seventh Year,**

[B] **but she should not winnow or grind wheat with her.**

[C] **The wife of a haber lends the wife of an am haares a sifter and sieve.**

[D] **She sifts, winnows, grinds, and sifts wheat with her.**

[E] **But once she has poured water into the flour, she may not come near her,**

[F] **for they do not give assistance to transgressors.**

[G] **And all of these rules they stated only in the interests of peace.**

[H] **They give assistance to gentiles in the Seventh year, but not Israelites.**

[I] **And they inquire after their welfare,**

[J] **in the interests of peace.**

[I:1 A] [With reference to M. 5:10A-B, **A woman lends a sifter, sieve, handmill, or oven to her neighbor who is suspected of transgressing the law of the Seventh Year, but she should not winnow or grind wheat with her,**] *R. Zeira raised the question before R. Mana, “[May we say that] the Mishnah deals with a case in which the request is not made explicit, but if it is spelled out [that the woman wishes to use the sifter or sieve with the utensils, it is forbidden]?”*

[B] He said to him, “And even if it is left unspecified, is it not as if it were fully spelled out?”

[C] He said to him, “I might claim that the sifter is to count out coins, the sieve to sift dirt, the handmill to grind up spices, the oven to heal flax-stalks therein [to dry them].”

[I:2 A] *R. Pinhas raised the question, “Upon whom have sages imposed this penalty? Is it both upon those who sow in the Sabbatical Year and also on those who consume produce thereof, or [only] on those who sow but not on those who merely consume the produce of the Sabbatical Year?”*

- [B] *What is the practical difference between these two positions?*
- [C] It would be a case in which people saw a person purchasing produce from a Saracen. If you say that [the penalty] is on both those who sow in the Sabbatical Year and on those who eat the produce thereof, if people saw him purchase produce from a Saracen, it is prohibited [from dealing with that person, along the lines of M. 5:10A-B].
- [D] But if you say that it is on only those who sow in the Sabbatical Year, but not on those who eat the produce thereof, [that the penalty has been applied,] then if people saw him purchase produce from a Saracen, it is permitted.
- [E] *R. Yosé b. R. Haninah raised the question [relevant only to M. Sheb. Chapter 5], “Has this question been directed to the whole of the rules of the chapter [before us], or does it apply only to the present rule?”*
- [F] *Rabbis of Caesarea in the name of R. Judah b. Titus [!]: “On the basis of that which we have learned in tractate Gittin, in which the law applies to only one matter, [here too] this ruling applies only to the single law to which it is addressed.”*

[II:1 A] **[She sifts, winnows, grinds, and sifts wheat with her. But once she has poured water into the flour, she may not come near her, for they do not give assistance to transgressors. And all of these rules they stated only in the interests of peace:]** *There we have learned: A baker who was working in a state of cultic uncleanness they do not knead dough or roll it out with him [M. A.Z. 4:9].*

- [B] *And in this regard it was taught, They do not sift or winnow with him.*
- [C] *And yet you say this [M. 5:10D: She sifts, winnows]?*
- [D] Said R. Illa, “Here [where it is permitted, the work is with] unconsecrated grain, there [where it is prohibited] it is with grain in the status of heave-offering.”
- [E] *And have we not learned that we deal with a baker [who does not prepare food for sale out of grain in the status of heave-offering]?*
- [F] *One may propose that we speak of a baker who works in grain in the status of heave-offering.*
- [G] *Associates say, “Here [where it is prohibited, we deal with a case in which] he has poured on water [which imparts to the grain susceptibility to receive uncleanness], while there [where it is permitted we deal with a case in which] he has not poured on water.”*

[H] *The Mishnah-passage before us supports the view of the associates: **But once she has poured water into the flour, she may not come near her** [M. 5:10E].*

- [III:1 A] As to M.5:10H: **They give assistance to gentiles,**] *R.Hiyya and R. Immi – one said, “One may say to him, ‘Plough well, and I shall buy from you after the year of release,’ “ and the other said, “Good success”*
- [B] *As to the one who said, “Plough well, and I shall buy the grain from you after the year of release” – what do they say when they greet them? “Good fortune!”*
- [C] *And in the view of him who said, “To a gentile, [one says,] ‘Good fortune,’ “ how do they greet Israelites? “Peace be unto you.”*
- [D] *R. Hinena bar Pappa and R. Samuel bar Nahman passed by someone who was ploughing in the Seventh Year. Said to him R. Samuel bar Nahman, “Good fortune!” Said to him R. Hinena bar Pappa, “Did not Rabbi teach us, ‘[To] those who pass by [that is, transgress] do not say, “The blessing of the Lord be upon you! [We bless you in the name of the Lord!]’ (Ps. 129:6-8) this indicates that it is prohibited to greet those who plough in the Seventh Year by saying, ‘Good fortune!’?”*
- [E] He said to him, “Well, you certainly know how to cite a verse of Scripture. Unfortunately, you don’t know how to explain it. Have they not said that these ‘passersby’ [transgressors] in the verse are worshippers of stars and planets, who perish and pass out of the world? Do they not say to an Israelite, ‘The blessing of the Lord be upon you’?”
- [F] What does an Israelite say to them? ““We bless you in the name of the Lord.””
- [G] “It is not sufficient for you that whatever blessings come into the world come on account of our merit. But you do not say to us, ‘Come and take some small part of these blessings [which] you bring about!’ But, even more, you assign us donations, penalties, head-taxes, and forced labor!”

YERUSHALMI GITTIN

CHAPTER SIX

6:1

[A] [47d] He who says, “Receive this writ of divorce for my wife,”

[B] or, “Take this writ of divorce to my wife,”

[C] if he wanted to retract, may retract.

[D] The woman who said, “Receive my writ of divorce in my behalf” –

[E] if he [the husband] wanted to retract, he may not retract.

[F] Therefore if the husband said to him, “I do not want you to receive it for her, but bring and give it to her,”

[G] if he wanted to retract, he may retract.

[H] Rabban Simeon b. Gamaliel says, “Also: She who says, ‘Fetch my writ of divorce for me,’

[I] “if he wanted to retract, he may not retract.”

- [I:1 A] In all other contexts you treat the language, “Receive,” as equivalent to, “Acquire ownership.” But here you treat the language, “Receive,” as equivalent to saying, “Bring.” [That accounts for the fact that, at M. 6:1A the husband may retract.]
- [B] *The case here is different*, for they acquire an advantage for a person in his absence, [but they do not acquire an obligation in his absence]. [The writ of divorce is not an advantage, and hence ownership thereof in behalf of the wife cannot be acquired by the messenger.]
- [C] *R. Shimi objected*, “But what about a case in which the wife was crying to be divorced? May I say in such a case that she would retract [and therefore reject the writ]? [Why cannot the messenger acquire ownership in this case, in which the wife would regard it as a long-sought benefit?]”
- [D] *And lo, we have learned*, “**A woman herself may bring her writ of divorce**” [M. Git. 2:7E]. Is it possible to maintain in such a case that she may retract?

[E] *There she has acquired the disadvantage for herself, while here, it is a disadvantage for her [which another cannot acquire in her behalf should she be absent].*

[I:2 A] R. Nahman bar Jacob said, “If the woman said, ‘Bring me my writ of divorce,’ but the agent went to the husband and said to him, ‘Your wife said to me, ‘Receive my writ of divorce for me,’ even though the writ actually came into the woman’s possession, it is not a valid writ of divorce. For the husband supposed that it was at the instance of the messenger that the woman is divorced, but the wife is divorced only at her own instance. [The husband has relied upon what the agent said, and that is not what the wife has specified.]”

[B] *R. Huna bar Hiyya objected [to this theoretical problem], “And lo, we have learned: ‘A woman who said, “Receive my writ of divorce for me” – it is not regarded as a valid writ of divorce until it reaches her possession.’ [That is, in line with M. 6:1E, the husband may not retract. But if the husband rejects this messenger for the purpose of receiving the writ in the wife’s behalf, and appoints him to deliver the writ only, the husband may retract. Thus the writ is valid only once it reaches the wife’s domain. Now why should this be the case? If you say she is divorced only at her own instance, just as she has given instructions to the messenger, so here too, even once the writ reaches her hand, it should still be invalid.] Now even when it reaches her, it should still not be a valid writ for she imagines that she is divorced at the instance of the messenger [who has received the writ and acquired it in her behalf], but she is divorced only at her own instance.”*

[C] In the present case we deal with a husband who knows the law [that he cannot appoint the messenger as an agent to receive the writ in behalf of the wife]. [Therefore he knows to tell him,] ‘Receive the writ and acquire ownership of it to bring it to her.’ When, therefore, he says, “I do not want you to receive it for her, but bring it to her,” he appoints the messenger as a delivery-agent only, not as agent for acquiring ownership of the writ. When the writ reaches the woman, she is divorced. In the case of Nahman b. Jacob, the husband depends upon what the agent has stated. The wife has made the messenger an agent to receive ownership. But in fact this was not what she had said, and the husband cannot appoint him an agent to acquire ownership of the writ. Thus, as we know, even though the writ reached the wife, she is not divorced.]

[D] *And have we not learned: A minor who said, “Receive my writ of divorce for me” – it is not a valid writ of divorce until it reaches her possession [M. Git. 5:3, [for she has not got the legal authority to*

appoint an agent]? [Why should this document be deemed a valid writ?]

- [E] Even once the writ of divorce has reached her domain, it should not be regarded as valid. For she supposes that it is at the instance of the messenger that she is divorced, but she is divorced only at her own instance, [that is, when she becomes aware of receiving the writ].
- [F] We deal with a case in which the husband knows that a minor cannot appoint a messenger, [and so he does what has to be done, which is as before, to appoint the wife's messenger into his own agent for delivering the writ in his own behalf].
- [G] *R. Zeira raised the question:* “Up to this point [in dealing with Nahman's case], we have assumed a case in which the wife said, ‘Bring me ...,’ while the messenger reported, ‘Receive in my behalf.’ But if the wife said, ‘Receive in my behalf,’ while the messenger said, ‘Bring me’ [what is the law]?”
- [H] *We find that in both connections it is taught:* “Lo, this is a valid writ of divorce, but if the husband wished to retract, he may retract.”
- [I:3 A] R. Huna in the name of Rab: “A woman may not appoint an agent to receive her writ of divorce [and so acquire ownership thereof in her behalf from the messenger of her husband. [The husband will regard such a procedure as demeaning and will not approve it.]”
- [B] *Samuel received this teaching from him and memorized it by repeating it after him forty times.*
- [C] *And lo, [to the contrary,] we have learned:* “... and put it in her hand ... “ (Deut. 24:1) – I know only that it is delivered into her hand. How do I know that it is a valid act of delivery if it comes by the husband's messenger, by the wife's messenger, or from his messenger to her messenger, or from her messenger to his messenger? Scripture says, “ ... and he will put ... and he will put...”
- [D] Who then holds that [the husband's statement that] I do not want [the writ delivered in this way is taken to be a valid statement]?
- [E] *It is Rabbi, for it has been taught:*
- [F] **[If she said to the messenger,] “Bring me my writ of divorce,” and [the messenger said to the husband,] “Your wife said, ‘Bring me my writ of divorce,”**
- [G] **“Take it,” and “Take it to her,”**

- [H] **“Give it to her,”**
- [I] **“Receive it for her and acquire it for her” –**
- [J] **“If he wanted to retract, he may not retract,”** the words of Rabbi.
- [K] **Rabban Simeon b. Gamaliel [Y.: Nathan] says, “[If the messenger said,] ‘Bring it to her,’ and ‘Give it to her,’ if he wanted to retract, he may retract. [If she said,] ‘Receive it for her,’ ‘Make acquisition in her behalf,’ if he wanted to retract, he may not retract.”**
- [L] **Rabbi says, “In the case of all of them, he may not retract, unless he states, ‘I do not want you to receive it for her [M 6:1F, but merely bring it to her and deliver it to her]” [T. Git. 4: 1].**
- [M] *Now there is a problem to be addressed to the view of Rabbi [who holds that if the husband said, “Here it is,” if he wished to retract he may not]. For the language, “Here,” means, “from the moment of my saying so” [the agency is valid for delivery only]. Hence, if he wanted to retract, he should be able to retract, [for he has made him into a messenger for delivering the writ only].*
- [N] *There is a further problem to be addressed to the view of R. Nathan. For the language, “Here,” means, “from the moment of my saying so” [the agency is valid for delivery]. Hence, if he wanted to retract, may he retract?*
- [I:4 A] R. Huna said, “The man is treated as the messenger of the husband and the messenger of the wife” that is, where the husband said, “Take the writ,” and the wife said, “Receive it,” the messenger serves both].
- [B] Said Assi, “In any case in which the ruling is that the messenger serves both the husband and the wife, she is both divorced and not divorced.” [That is, if the writ should not reach the wife before the husband died, we do not know the conditions under which the messenger was appointed, and hence the woman’s status is in doubt. Accordingly, should the husband have died childless, the wife performs the rite of removing the shoe with the levir, but she does not enter into levirate marriage with him.]
- [C] *Said R. Haggai in the presence of R. Yosé, “And the argument of these authorities has its parallel in the dispute of the following, as we have learned there:”*
- [D] **If one was talking with a woman about matters of divorce or betrothal and handed to her her writ of divorce or tokens of betrothal, but did not make explicit [his purpose in doing so] –**

- [E] **R. Yosé says, “That suffices, [and she is divorced or betrothed, as the case may be].”**
- [F] **R. Judah says, “He must make the matter explicit” [M. M.S. 4:7].**
- [G] *Now the position of Rabbi is parallel to that of R. Yosé, and the position of R. Nathan is parallel to that of R. Judah. [Rabbi says, “If the husband said, ‘Bring the writ,’ if he wanted to retract, he may not do so,” because we do not require the husband to make explicit what he intends, and he will not nullify his act of appointing the agent. This is in line with Yosé’s position. Nathan accords with Judah’s. The husband must make it explicit that he wishes the messenger to receive the writ of divorce and acquire possession of it for the wife.]*
- [H] *[Haggai] said to [Yosé], “And what do you have in mind? [Do you regard these as parallel positions?]”*
- [I] *[He said to him, “No, the cases are different.] For R. Zeira said that R. Hiyya bar Abin said, Ada bar Tahalipa in the name of R. Hoshaiiah [stated], ‘Where they dispute is in a case in which they had gone on to other matters. But if the man was involved in that very matter, then it is a writ of divorce [even though there was no further explication of the matter]. But here even though they were engaged in discussion of that very same matter, there nonetheless is a dispute.’”*
- [J] *R. Zeira raised the question before R. Mana, “Is the matter of delivery of a gift covered by the same dispute? [If one used the language, ‘Bring,’ does it mean, ‘Acquire possession,’ as Rabbi maintains?] And does a man appoint a messenger to receive something which is not his own [in the case of a gift]?”*
- [K] *He said to him, “In the case of delivery of the writ of divorce, the Torah has imputed ownership of the writ of divorce to the wife, so she appoints a messenger to receive something which, in fact, belongs to her. But can you say in the case of a gift that a person may appoint a messenger to receive an object which does not, in any case, belong to him?”*
- [L] *There is further relevant evidence from the following which R. Yosé and R. Jacob bar Zabedi stated, R. Abbahu in the name of R. Yohanan: “If someone said that he was planning to give a gift to his fellow and then wanted to retract, he has every right to retract.”*
- [M] *R. Yosé went and debated with R. Jacob bar Zabedi. He said to him, “Is this an example of a yes which is a yes?”*

[N] He said to him, “When he made the statement, it was indeed a *yes* which was a *yes*.”

[I:5 A] [He who says,] **“Bring a writ of divorce of my wife,” “... a writ of divorce of your daughter,” “... a writ of divorce of your sister,” and he went and gave it to her, it is invalid.**

[B] **If they said to him, “Shall we write a writ of divorce for your wife,” “Here is a writ of divorce for my wife,” “... a writ of divorce for your daughter,” “... a writ of divorce for your sister,”**

[C] **and he went and delivered it to her, it is valid. [At A we do not have the appropriate language. The husband did not say, “Bring this writ of divorce to my wife,” so he has not appointed the messenger for the appropriate purpose. At B C, by contrast, the procedure has been properly inaugurated, so the working out of the instructions is valid as well, a secondary expansion of M] [T. Git. 4:2IK.]**

[D] R. Yosé b. R. Bun and R. Abin in the name of R. Shimi: “This represents the view of Rabbi [who maintains that the husband did not reject the agent as the wife’s agent to receive the writ, except in a case in which he says, ‘I do not want you to receive it, but rather deliver it’]. [But so long as he did not say, ‘I do not want ...,’ it is a valid agency.]”

[E] But sages say, “In a case in which the wife says, ‘Let it be mine in your hand,’ [the husband cannot retract]. [The wife has already acquired the writ through the agent. But if she had not made such a statement to the agent, even if the husband did not say, ‘I do not want you as an agent to receive it, but rather deliver it,’ the husband has the right to retract.]”

[II:1 A] [Rabban Simeon b. Gamaliel says, **“Also: She who says, ‘Fetch my writ of divorce for me,’ if he wanted to retract, he may not retract:”**] Said R. Haninah, “The law is in accord with the position of Rabban [Simeon b. Gamaliel, M. 6:1H-I].

[B] “And that applies in a case in which she had said to him, ‘Take it for me, let it be in your hand.’”

[C] *A man sent a writ of divorce to his wife. She said to him, “Let it be for me in your hand.” [That is, you keep it for me.] The case came [48a] before Rab. He ruled, “If the husband should come to retract, he may not retract.”*

[D] *Now does he differ [from B, above, that the wife must state the specified formula]*

- [E] The language, “Let it be in your hand,” *is not the same as that in which she says, “Let it be for me in your hand.”* [In the latter case, she has told the others to acquire the writ in her behalf.]
- [F] *Said R. Hezekiah, “I know that case from beginning to end. A woman appointed an agent to acquire her writ of divorce from the agent of her husband. The case came before Rab. He said, “If the husband wanted to retract, he may not retract.”*
- [G] *The rulings attributed to Rab are at variance with one another. Earlier R. Huna said in the name of Rab, “A woman may not appoint an agent to receive her writ of divorce from the agent of her husband,” And here he has said this!*
- [H] Shall I say that he was standing behind the door and heard what she had said? [How does the husband know that the wife appointed an agent to receive the writ from his agent? The husband assumed that she would receive the writ from his agent. Therefore when she received it, it is validly received. Rab’s earlier rule applies in a case in which the husband actually knew that she had appointed such an agent and rejected the procedure as demeaning. But if the husband had not known about it, it is an acceptable procedure. Her agent then may receive the writ of divorce from his.]

6:2

- [A] **The woman who said, “Receive my writ of divorce in my behalf,”**
- [B] **requires two sets of witnesses:**
- [C] **two who say, “In our presence she made the statement,”**
- [D] **and two who say, “In our presence he [the messenger] received and tore it up.”**
- [E] **Even if the first set of witnesses are the same as the second set of witnesses,**
- [F] **or there was one of the first set of witnesses and another in the second set of witnesses with one joined with each of them.**
- [G] **A betrothed girl –**
- [H] **she and her father receive her writ of divorce.**
- [I] **Said R. Judah, “Two hands together do not make acquisition simultaneously.**
- [J] **“But her father receives her writ of divorce alone.”**
- [K] **And any girl who is not able to keep _watch over her writ of divorce cannot be divorced.**

[L] **A minor girl who said, “Receive my writ of divorce for me” –**

[M] **it is not a valid writ of divorce until it reaches her hand.**

[N] **Therefore if the husband wanted to retract, he may retract,**

[O] **for a minor cannot appoint a valid messenger.**

[P] **But if the girl’s father said to him, “Go and receive my daughter’s writ of divorce in her behalf,”**

[Q] **if he [the husband] wanted to retract, he may not retract.**

[I.1 A] **Two who say, “In our presence she made the statement,” and two who say, “In our presence the messenger received and tore it up” [M. 6:2C-D] –** [why should this be the case]? [Surely the messenger] concedes [that he received the writ]. [That is why the messenger] joins with the other witness!

[B] Interpret the law to speak of a case in which the messenger was a relative. [Therefore there must be two to give evidence that he had received the writ of divorce.]

[C] *That is to say* a relative may serve as a messenger.

[II.1 A] **A betrothed girl – she and her father receive her writ of divorce [M. 6:2G-H].**

[B] R. Simeon b. Laqish said, “Just as the argument [of Judah and the anonymous statement, M. 6:2G-H vs. I-J] applies to writs of divorce, so it also applies to betrothals.”

[C] Said R. Yohanan, “All parties concur in the case of receiving tokens of betrothal that the father betroths the daughter, and she does not betroth herself.”

[D] R. Simeon b. Laqish concurs in the matter of marriage that the girl has not got the power to marry herself off and so to cause the father to lose the usufruct of her labor.

[E] *In the opinion of R. Yohanan* the girl has not got the right to an independent judgment in respect to her father, and she may not appoint a messenger.

[F] *In the opinion of R. Simeon b. Laqish*, she does have the right to an independent judgment in respect to her father, and she may appoint a messenger.

[G] *The following statement of the Mishnah is at variance with the position of R. Yohanan: A man betroths a woman on his own or through an agent, and a woman is betrothed on her own or*

through her agent [even in the case of a girl] [M. Qid. 2:1].
[Hence a girl has got the power to appoint her own agent.]

[H] Interpret the passage to speak of an adult.

[I] *And have we not learned: A minor girl who said, “Receive my writ of divorce for me” – it is not a valid writ of divorce until it reaches her domain [M. Qid. 6:2M]?*

[J] Interpret the passage to speak of an orphan-girl.

[K] *And lo, we have learned [in the same passage that the girl does have a father, for it is said]: But if the girl’s father said to him, “Go and receive my daughter’s writ of divorce in her behalf,” if the husband wanted to retract, he may not retract [M. 6:2P-Q]-*

[L] *Interpret the passage to be divided into two parts. The former part speaks of an orphan-girl, and the latter part speaks of a girl who has a father.*

[M] *The Mishnah differs from the view of R. Simeon b. Laqish: A man may betroth his daughter while she is still a girl, either on his own or through an agent [M. Qid. 2:1].* [There is no reference to her doing so on her own or through her messenger, as Simeon b. Laqish would allow.]

[N] Interpret the passage to represent the view of R. Judah, for R. Judah said, “Two hands together do not make acquisition simultaneously.” [The daughter can do nothing when the father is in charge.]

[O] *Now R. Yosé said, “A rabbi went out of the meetinghouse and said, ‘A case came forth that was decided in accord with the view of R. Yohanan.’”*

[P] *May we depend upon his report?*

[Q] *It is not necessary to depend upon him. For it was a statement as close to the decision as the distance for a fish from the sea to the frying pan.*

[II:2 A] *Associates say, “The dispute [between Yohanan and Simeon b. Laqish] concerns a courtyard and the matter of four cubits.”*

[B] R. Yohanan said, “A minor-girl may own a courtyard and four cubits of public domain [for receiving her writ of

divorce, should it be thrown to her; or she controls the four cubits about herself in the public domain, and therein she may effect ownership of her writ of divorce]. [Otherwise there is no “hand” to receive the writ.]”

[C] R. Simeon b. Laqish said, “A minor-girl may not own a courtyard of four cubits in the public domain for receiving the writ of divorce, [should it be thrown to her].”

[D] *R. Eleazar said, “They differ as to a courtyard, but she does not enjoy ownership of four cubits in public domain to receive the writ of divorce.”*

[E] Has R. Yohanan said that the girl has control of the area as far as she can reach with outstretched hands? [That is, has the girl not got the right to four cubits of public domain for receiving her writ, even in that space so near her that she can stretch out her hands and reach it? That question is not answered.]

[F] R. Eleazar asked, “What is the status as to the courtyard of the messenger? [That is, should it be regarded as equivalent to his hand?]”

[III:1 A] **[A minor girl who said, “Receive my writ of divorce for me” – it is not a valid writ of divorce until it reaches her hand. Therefore if the husband wanted to retract, he may retract, for a minor cannot appoint a valid messenger. But if the girl’s father said to him, “Go and receive my daughter’s writ of divorce in her behalf,” if he [the husband] wanted to retract, he may not retract.:]** Once the girl is married, she [receives the writ of divorce,] not her father.

[B] If she is a minor, her father [receives the writ of divorce,] not she.

[C] If she is a minor who got married, either she or her father [receive her writ of divorce.] If she has sufficient maturity, she [receives it,] not her father.

[D] What is the definition of a minor who must receive a writ of divorce [and does not go forth merely by exercising her established right of refusal, once she comes of age]?

[E] Said R. Yohanan, “It is any girl who, if you give her a writ of divorce along with something else, can produce [the writ] later on. [She has sufficient maturity to keep charge of her own possessions, knowing what to save, and so is given a writ of divorce.]”

6:3

[A] He who says, “Give this writ of divorce to my wife in such-and-such a place,” and [the messenger] delivered it to her in some other place

–

[B] it is invalid.

[C] [If he said,] “Lo, she is in such-and-such a place,” and he gave it to her in some other place,

[D] it is valid.

[E] The woman who said, “Receive my writ of divorce for me in such-and-such a place,” and [the messenger] received it for her in some other place –

[F] it is invalid.

[G] R. Eleazar declares it valid.

[H] “Bring me my writ of divorce from such-and-such a place,” and he brought it to her from some other place

[I] it is valid.

[I.1 A] *The opening clause of the Mishnah-passage, [M. 6:3A-D,] is not in accord with R. Eleazar’s view [either]. [He would regard the writ as valid.]*

[B] For R. Eleazar says, “Under all circumstances the woman is deemed to have been validly divorced, unless he says to the messenger, ‘Divorce her only in such-and-such a place,’ [and the messenger delivered the writ elsewhere]. [In that case the woman is not divorced.]”

[C] “Lo, she is in such-and-such a place,” and he gave it to her in some other place, lo, in this case, also R. Eleazar concurs that his intent is merely to inform him about her location.

[D] *Also rabbis concur that his intention is to inform her about the place. [The consideration of indicating the place is important for the positions of both Eleazar and rabbis. The rabbis’ take that same view as to M. 6:3F, if the equivalent language should be used.]*

6:4

[A] [If she said,] “Bring me my writ of divorce,” she continues to have the right to eat food in the status of heave-offering until the writ of divorce reaches her hand.

[B] ..., “Receive my writ of divorce in my behalf,” she is prohibited from eating food in the status of heave offering from that point.

[C] ..., “Receive my writ of divorce for me in such-and-such a place,” she continues to have the right to eat food in the status of heave-offering until [the messenger with a writ of divorce] reaches that place.

[D] R. Eleazar prohibits [her from eating food in the status of heave-offering] forthwith.

[I:1 A] *What is the reason for the position of R. Eleazar [M. 6:4D]?*

[B] I say that he found [the husband] on the other side of the door.

[I:2 A] *There we have learned: He who says to one who is not trustworthy in the matter of tithing, “Purchase for me from someone who is trustworthy, or from someone who separates tithes,” the agent is not believed. [If the sender says, “Purchase for me from so-and-so,” behold, this one is believed [M. Demai 4:5A-D].*

[B] *In this regard it was taught: R. Yosé says, “Even if he said to him, ‘From So-and-so,’ he is not believed, unless he said to him, ‘Buy, and I shall pay for it.’” What is the reason for R. Yosé’s ruling? I say that he found someone else closer than he, and purchased from him [cf. T. Dem. 5:3E-I, which is phrased slightly differently but makes the same points]. Now would it appear that the position of R. Eleazar accords with that of R. Yosé, and that of R. Yosé accords with that of R. Eleazar?*

[C] [No, while R. Eleazar surely concurs with the position of R. Yosé,] R. Yosé takes a still more strict position than R. Eleazar. For will not R. Eleazar concur that if she had said to him, “Receive it only in such-and-such a place,” [Eleazar will hold that the messenger will be strict about the matter]? [So the woman may continue to] eat food in the status of heave-offering until the writ reaches the place she has specified. *But here*, even if he had said to him, “Buy from Mr. So-and-so,” he is believed only if he says to him, “Buy, and I’ll pay you back.”

[D] *What is the reason for the strict ruling of R. Yosé?*

[E] I say, “He might find someone nearer at hand and buy from him.”

6:5

[A] He who says, “Write a writ of divorce and give it to my wife,”

[B] ..., “Divorce her,”

[C] ..., “Write a letter and give it to her,”

[D] lo, these [to whom he spoke] should write and give it to her.

- [E] [If he said,] “Free her,”
- [F] ..., “Feed her,”
- [G] ..., “Do what is customary for her,”
- [H] “Do what is appropriate for her,”
- [I] he has said nothing whatsoever.
- [J] At first they ruled, “He who goes out in chains and said, ‘Write a writ of divorce for my wife,’ – lo, these should write and deliver it to her.”
- [K] They reverted to rule, “Also: He who is taking leave by sea or going forth in a caravan [may give the same valid instructions].”
- [L] R. Simeon Shezuri says, “Also: he who is dying”
- [I:1 A] He who says, “Banish her,” is as if he said, “Issue a writ of divorce to her.”
- [B] “Free her ...,” “Feed her ...,” “Do what is customary for her ...,” “Do what is appropriate for her ...,” – he has said nothing whatsoever.
- [C] I say that he had in mind merely providing food for her.
- [II:1 A] [As to M. 6:5J] said R. Mana, “It is not the end of the matter that if he goes out in chains by reason of danger to life, but even if he goes out in chains by reason of a monetary claim, [one should do the same].
- [B] “For any case in which one is in chains is a case in which there is danger to life.”
- [II:2 A] R. Eleazar asked, “Is a gift made by such a one deemed to be a gift in contemplation of death?”
- [B] *R. Nahman in the name of R. Jacob Armenayya [said], “What is a question to R. Eleazar is self-evident to R. Yosé bar Haninah. For we have learned: **A woman who is executed – they derive benefit from her hair. A beast which is executed – the hair is prohibited from benefit [M. Ar. 1 :4D-E].** Said R. Yosé bar Haninah, ‘[We deal with a case in which] she said, Let my brooch be given to my daughter.’ [Thus her verbal will is accepted, because it is a gift in contemplation of death.]”*
- [II:3 A] *As in the following case: Genibah was taken out to be put to death. He declared, “Let a zuz worth of wine be given to R. Abuna of Kepar Panayya,” but it was not given to him.*

- [B] *They took account of the position of Rab, for Rab said, “An inheritance is governed by the laws applying to indentured property. Just as a loan secured only by verbal testimony of witnesses may not be collected from indentured property, so it is not collected from an inheritance.”*
- [C] *But if [the wine] is not handed over to him on grounds of its constituting a debt, let it be handed over on grounds of its being a gift.*
- [D] *They took account of the position of R. Eleazar, for R. Eleazar asked [at A] whether the gift of a person en route to execution has the status of the gift in contemplation of death. [Since he was not certain that it enjoys such a status, nothing is to be done.]*
- [E] *They brought the statement of R. Zeira to R. Isaac Atoshayya and repeated to him: “As is the law covering writs of divorce [M. 6:5J-L], so is the law covering gifts. [Just as in the case of a writ of divorce, if a person about to be executed said, ‘Write,’ but did not say, ‘Give,’ one must write and give, so if he said, ‘Give a gift,’ but did not complete the required formula, one does what he clearly wanted done, in line with M. 6:5J.]”*
- [F] *Said to him R. Ba, “Or perhaps: Just as, in the case of writs of divorce, if one has not handed over the writ while the man is still alive, one does not hand it over at all, so in the case of a gift, if one has not handed it over while he is still alive, it loses all status as a gift.”*
- [G] *He said to him, “Here comes a rabbi to produce his learning and make R. Abuna lose his zuz. He cannot do so, for we have learned: **‘Give a maneh to Mr. So-and-so,’ and then he died – let it be given after death [M. Git. 1:6].** And this further accords with R. Simeon [at M. 6:5L]. Now [despite the view of Rab that the money is in the status of a debt,] Yohanan differs [from Rab’s view, and hence in accord with the position of R. Yohanan,] let the wine be given to him.”*
- [H] For R. Abbahu stated in the name of R. Yohanan, “A loan secured solely on the basis of the verbal testimony of witnesses may be collected from an inheritance, on condition that the inheritance includes real estate. [Consequently, the wine is handed over.]”
- [I] With reference to M. Git. 1:6 = K,] *said R. Yosé, “That which you have stated in this matter applies in a case in which someone was standing at the side of the dying man until he died. But if he was going out and coming in, I say that he may already have given him what he had said.”*

[J] *A statement of R. Haninah implies that [the heirs of Genibah] did not hand over what he had promised. R. Haninah was a witness to the incident. Levi Parisah was going from one place to another. The relatives of Genibah went out to do business with him. He said to them, "Let R. Abuna get his zuz." They argued with him.*

[II:4 A] *It was taught [in regard to M. 6:5J-L:] Also he who is sick.*

[II:5 A] R. Jacob bar Idi in the name of R. Jonathan: "The law accords with the view of R. Simeon Shezuri in the case of one who is dying."

[B] What is the difference between one who is sick and one who is dying?

[C] One may be sick in an expected way but one is dying who suddenly falls ill.

[D] As to one who is sick in a normal way, relatives visit him right away, and those not related come after three days [of illness].

[E] As to one who suddenly falls ill, both [48b] come and see him right away.

[F] R. Huna, R. Pinhas, R. Hezekiah went up to visit R. Yosé [their teacher] after the three days. He said to them, "Was it because you wanted to carry out the teaching of the law [that you waited three days]? [You really are like my relatives.]"

6:6

[A] **He who had been cast into a pit and said, "Whoever hears his [my] voice – let him write a writ of divorce for his [my] wife" –**

[B] **lo, these should write and deliver it to her.**

[C] **A healthy man who said, "Write a writ of divorce for my wife"**

[D] **his intention was to tease her.**

[E] **M'SH B: A healthy man said, "Write a writ of divorce for my wife," and then went up to the rooftop and fell over and died.**

[F] **Said Rabban Simeon b. Gamaliel, "Said sages 'If he fell because of his own action, lo, this is a writ of divorce. If the wind pushed him off, it is not writ of divorce.'"**

[I:1 A] Said R. Haninah, "The rule [of M. 6:6A-B] applies in a case in which people saw the shadow of a man [so that they know that the voice was not a shade.]"

[I:2 A] *There we have learned: They testify as to the identity of a corpse if they have seen it only by the light of a lamp or of the moon, and they allow a woman to remarry only on the basis of evidence given by an echo [that her husband has died] [M. Yeb. 16:6].* And R. Jonathan said, “And those rules apply in a case in which people saw the shadow of a man.”

[B] R. Aha bar Haninah in the name of R. Haninah, “That which you have said applies to a case in a field. But as to what happens in a town, even though people did not see the shadow of a man, [the evidence is acceptable].”

[C] *And have we not learned: He who had been cast into a pit [and said, “Whoever hears my voice – let him write a writ of divorce for my wife” – lo, these should write and deliver it to her] [M. 6:6A-B]?* And R. Jonathan said, “And that rule applies in a case in which people have seen the shadow of a man, [and it is assumed that the pit is in a town].”

[D] Said R. Abin, “Demons were as commonplace in pits as they were in fields.”

[II:1 A] If it is a matter of doubt whether or not he fell because of his own action or whether the wind pushed him off [in line with M. 6:6F], [what is the law]?

[B] *Let us derive the answer from the following: Rabban Simeon b. Gamaliel says, “If he fell on the spot, lo, this is a writ of divorce [M. 6:6F]. If after a while he fell, they write it but do not hand it over [Y.: it is not a valid writ of divorce], [“for I say, ‘The wind knocked him off the roof’”]* [T. Git. D-F]. But when it says, “On the spot,” is it not a matter of doubt, [for we are not going to know whether or not he fell off right away]?

[C] *That is to say,* if it is a matter of doubt whether he fell off on his own or whether the wind pushed him off, lo, this is a valid writ of divorce.

FREE-STANDING COMPOSITION ON THE PROBLEM OF INTENTIONALITY

[II:2 A] If one slaughtered a beast intending to toss its blood to the honor of an idol or to burn up its sacrificial fat to the honor of an idol –

[B] R. Yohanan said, “Improper intention invalidates [the act of slaughter].”

[C] R. Simeon b. Laqish says, “Improper intention does not invalidate.”

[D] *R. Jacob bar Idi objected before R. Simeon b. Laqish, “And have we not learned: [In connection with M. Hul. 2:7A-B: **He who slaughters a gentile’s beast in behalf of a gentile – his act of slaughter is valid,**] R. Yosé says, “That proposition is an argument a fortiori: Now if in a situation in which intention invalidates, namely, in the case of Holy Things, all matters follow only the intention of the one who performs the rites required in the offering, in a situation in which improper intention does not invalidate, namely, in the case of unconsecrated things, is it not logical that all matters should follow only the intention of the one who performs the act of slaughter?” [M. Hul. 2:7F-H]. [Intention has not got the power of invalidation in the case of unconsecrated beasts.] In the case of imparting the status of refuse or remnant to a beast, improper intention does have the power to invalidate. [Why should that not be the case if one intends to offer the beast to an idol?]”*

[E] He said to him, “As to the power of imparting the status of refuse or remnant to a beast, that is indeed so. Improper intention invalidates. But if one has slaughtered a beast intending to toss its blood to the honor of an idol or to burn up its sacrificial fat in honor of an idol, improper intention does not have the power to impart the status of refuse.”

[F] **If one slaughtered it and actually tossed its blood, and burned up its sacrificial fat for the purpose of idolatry –**

[G] **lo, this was an actual case in Caesarea. They came and asked sages, who did not rule either to prohibit or to permit the meat [T. Hul. 2:13].**

[H] R. Hanina in the name of R. Hisda: “That is to say that they did not scruple in this case. For if you say that they did scruple, they should have decided that it was prohibited.”

[I] R. Yosé in the name of R. Hisda, “That is to say that they did scruple. For if you say that they did not scruple, they should not have given any decision at all.”

6:7

[A] [If] he said to two men, “Give a writ of divorce to my wife,”

[B] or to three, “Write a writ of divorce and give it to my wife,”

[C] lo, these should write and give it to her.

[D] “[If] he said to three, ‘Give a writ of divorce to my wife,’ lo, these should say to others to write it, because he has appointed them a court,” the words of R. Meir.

[E] This ruling did R. Hanina of Ono bring back from prison, “I have received the ruling in the case of one who says to three men, ‘Give a writ of divorce to my wife,’ that they should say to other to write it, because he has appointed them as a court [= D].”

[F] Said R. Yosé, “We observed to the messenger, ‘We too have received a ruling: Even if he said to the high court in Jerusalem, ‘Give a writ of divorce to my wife,’ they should learn [how to do it] and write and deliver it.”

[G] If he said to ten men, “Write a writ of divorce for my wife,” one should write it, and two should sign it as witnesses.

[H] [If he said,] “All of you write it,” one of them writes it, and all of them sign it.

[I] Therefore if one of them died, lo, this is an invalid writ of divorce.

[I:1 A] *[The opening clauses of the rule of] the Mishnah, [M. 6:7A, represent the view] of R. Meir [that the two should write the writ themselves and give it to the wife, since in the second clause, we deal with his saying the same to three].*

[B] *And R. Hisda said, “The reason of R. Meir [who distinguishes the case involving two from that involving three] is that just as, in general, others write the writ and the court signs it, so here the others write it and the court signs it.”*

[I:2 A] *R. Hillel bar Wallas raised the question before Rabbi, “Why did they rule, ‘The law is in accord with R. Yosé’?”*

[B] He said to him, “I did not see him [but if I had, I would have found out his reason].”

[C] *When Rabbi wanted to raise a question about an opinion of R. Yosé, he said, “Should we inferiors raise questions about the position of R. Yosé? For just as is the difference between Most Holy Things and unconsecrated food, so is the difference between our generation and the generation of R. Yosé.”*

[D] Said R. Ishmael the son of R. Yosé, “Just as is the difference between gold and dirt, so is the difference between our generation and father’s.”

- [II:2 A] If he said to ten men, “Give a writ of divorce to my wife,”**
- [B] one of them takes it [to her] in behalf of all of them.**
- [C] [If he said,] “All of you take it,”**
- [D] one of them hands it over in the presence of all of them.**
- [E] Therefore if one of them died, lo, this is an invalid writ of divorce [cf. M. 6:7G-I] [T. Git. 4:13].**
- [F] R. Yohanan in the name of R. Eleazar of Roma, “He who counts them out is as if he says, ‘All of you.’”**

YERUSHALMI GITTIN

CHAPTER SEVEN

7:1

- [A] [48c] He who was seized by delirium and said, “Write a writ of divorce for my wife,” has said nothing whatsoever.
- [B] [If] he said, “Write a writ of divorce for my wife,” and [then] delirium seized him, and then he went and said, “Do not write,”
- [C] his second statement is nothing.
- [D] [If] he lost the power of speech, and they said to him, “Shall we write a writ of divorce for your wife,” and he nodded his head,
- [E] they test him three times.
- [F] If he said for no, “No,” and for yes, “Yes,” lo, these should write and deliver the writ of divorce to his wife.
- [I:1 A] The mark that one is an idiot is shown by his going out at night, sleeping overnight in a cemetery, tearing his clothing, and losing what people give him.
- [B] R. Huna said, “But [the category is invoked only if] all of these traits apply to a person. But if they are not all present in a person, then I may say, ‘He who goes out at night is afflicted with lycanthropy. And he who sleeps overnight in a cemetery offers incense to shades. He who tears his clothing or loses what they give him is melancholy [but not insane].’”
- [C] R. Yohanan said, “Even if one of these traits is present, [it is a sign of insanity].”
- [D] *Said R. Abin, “Wile it is reasonable to assume that matters are as R. Yohanan has said, that is, ‘Even if one of them is present,’ still that is on condition that, [if the trait is losing what is given him, he loses [everything] that people give him.” [If a person loses everything, it is certain that he is insane, and not simply a normal person who has lost something.]*

[I:2 A] As to delirium, none of these traits is present.

[B] What is delirium?

[C] R. Yosé said, “One who is confused in mind.”

[D] *There was a case before R. Yosé concerning a weaver [who was delirious] to whom they gave red meat after dark wine, and he calmed down; then they gave him dark wine after red meat, and he continued to calm down.*

[E] This is that delirium of which sages spoke, in which sometimes the victim is insane, and sometimes healthy.

[F] When he is insane, he is insane for all purposes. When he is healthy, lo, he is in the status of a person of sound senses for all purposes.

[G] *A case came before Samuel [concerning an individual who was intermittently delirious]. He said, “When he is healthy, let him hand over a writ of divorce.”*

[H] Does Samuel concur with R. Simeon b. Laqish, for Simeon b. Laqish said, “Whenever he is lucid [he may hand over the writ]”?

[I] No, Samuel takes a more stringent position than R. Simeon b. Laqish, for [Samuel] said, “When he is healthy (HLYM), let him hand over a writ of divorce. [While Simeon b. Laqish requires only temporary respite from the delirium, Samuel requires complete cure. This is proven from the following verse]: ‘Oh restore me to health (*T.HLYMYNY*) and make me live’” (Is. 38:16).

[II:1 A] With regard to M.7:1B, **If he said, “Write a writ of divorce for my wife,” and [then] delirium seized him, and then he went and said, “Do not write,” his second statement is nothing:**] R. Jacob bar Aha said, “There is a dispute between R. Yohanan and R. Simeon b. Laqish. R. Yohanan said, ‘Even while he still suffers from the delirium, they write out the writ of divorce and give it to his wife.’ R. Simeon b. Laqish said, ‘They do so when he is lucid.’”

[B] *The opinions assigned to R. Simeon b. Laqish are at variance with one another? for they have the following dispute:*

[C] If one set aside an animal to serve as his sin offering but then was stuck dumb, went insane, apostatized, or a court instructed that it is permitted to eat forbidden fat [in all of which instances there no longer

is an obligation to offer the animal which had been designated as a sin offering] –

[D] R. Yohanan said, “[The requirement that] he [offer a] sin offering is set aside [no matter what happens later on, e.g., if the man regained his speech or senses, returned to Judaism, or learned that the court had corrected its instruction].” [This contradicts the case where the writ is issued.]

[E] R. Simeon b. Laqish said, “The requirement that he offer a sin offering is not set aside [and the obligation is to be carried out later on, when it is possible or appropriate to do so].” [This contradicts C, where the writ is not issued.]

[F] *R. Yosé b. R. Bun and R. Aha: “The tradition is to be reversed [so that Yohanan takes the position assigned to Simeon b. Laqish and vice versa].”*

[G] *This is so that the statement assigned to R. Yohanan will not turn out to be at variance with another matter attribute to him.]*

[H] For R. Samuel [Y. Hor. 1:2 III.F: Simeon] bar Ba in the name of R. Yohanan, “As to one who is dying, they sprinkle blood [of a sin offering] in his behalf from the blood of a sin offering brought by him and from the blood of a guilt offering brought by him.” [So Yohanan says that in the case of a dying man, the sin offering is to be carried out, and there is no reason for him to take a contrary position here.]

[I] *Rabbis of Caesarea say concerning R. Hiyya and R. Yosa that the former reverses the attributions, and the other said, “Thus is the tradition [to be repeated as valid, just as he has received it above].”*

[J] *The following Mishnah-passage stands at variance with the position of R. Simeon b. Laqish: **If he said, “Write a writ of divorce for my wife,” and then delirium seized him, and then he went and said, “Do not write it,” his second statement is nothing [M. 7:1B-C].***

[K] Interpret the statement to mean, When he regains lucidity, his latter statement nonetheless is null.

[II:2 A] If the husband handed over the wife’s writ of divorce and said, “Let it be your divorce only tomorrow,” and then he was afflicted with delirium –

- [B] *there is a dispute of R. Yohanan and R. Simeon b. Laqish. [The latter will not regard it as valid if he is not in command of his senses at the time it becomes effective.]*
- [C] If he threw her writ of divorce, and said to her, “It will become a valid writ only tomorrow,” *there is a dispute of R. Yohanan and R. Simeon b. Laqish.*
- [D] *R. Eleazar said R. Abin raised the question, “If one has separated heave-offering from his stack of wheat and said, ‘Let it be heave-offering only tomorrow,’ and then he was afflicted with delirium*
- [E] “there is a dispute of R. Yohanan and R. Simeon b. Laqish.”
- [F] *Said R. Zeira, “The following Tannaitic passage stands at variance with R. Simeon b. Laqish and there is no way of interpreting it in support for his view:*
- [G] **“[If a man] was crucified or hacked up, and he gave a sign to write a writ of divorce to his wife,**
- [H] **“they write and hand it over to her,**
- [I] **“so long as he is breathing” [T. Git. 5:1A].**
- [J] “Now is it possible that, in all that time, he did not lose consciousness for a single moment?”
- [K] *The following passage stands at variance with the view of R. Simeon b. Laqish, and there is no way of interpreting it in support for his view:*
- [L] **A deaf-mute who separated heave-offering – that which he has separated as heave-offering in fact is not heave-offering.**
- [M] **Said Rabban Simeon b. Gamaliel, “Under what circumstances? In a case in which he was a deaf-mute from his very origin. But if he was of sound senses and then became a deaf-mute, he writes out what he wants, and ut what he has written” [T. Ter. 1:1].**
- [N] *R. Jacob b. bar Aha, R. Hiyya in the name of R. Yohanan: “[Simeon b. Gamaliel’s colleagues] differed with him about this teaching.*
- [O] *“For lo, the Mishnah stands at variance: **If he became a deaf-mute or insane, he may never divorce his wife [M. Yeb. 14:1] . Now why should he not write and others will carry out what he has written?”***

- [P] Interpret the passage to speak of one who does not know how to write.
- [Q] *R. Ba bar Mamel objected, “And lo, the following Tannaitic passage [which implies written instructions are null] differs [from Rabban b. Gamaliel]: **Even if he wrote it in his own hand to the scribe, saying, ‘Write,’ and to the witnesses, ‘Sign,’ even though they wrote it and signed it and gave it to him, and he gave it to her, it is invalid**” [T. Git. 2:8].*
- [R] *Said R. Yosé, “State the concluding part of the passage, and note that it will not differ: **It is valid only if they hear the husband’s voice** [T. Git. 2:8].*
- [S] “If he said to the scribe, ‘Write,’ and to the witnesses, ‘Sign,’
- [T] “in the end, it is not valid unless they hear his voice.
- [U] “And is it not so that even if he nodded his head [it would be valid], *and yet do you say that is not so? Here too that is not so. [So the cited passage does not use precise language.]”*
- [V] *Said R. Mana, “It is a valid statement. The matter of hearing the voice is deemed the same as the nodding of the head.”*
- [W] *R. Zeira raised the question from R. Mana, “In accord with what you say, if the proper signal is that he has to nod three times, *along these same lines* is the writ valid only if they hear his voice three times?”*
- [X] He said to him, “As to hearing the voice, one time suffices. As to nodding the head, it must be done three times.”
- [Y] Said R. Yudan, “There [in the case of a valid act of setting aside heave-offering] we deal with one who says, ‘Thus and so have I already done.’ But here with regard to issuing a writ of divorce, we deal with one who says, ‘So and thus are you to do.’”
- [Z] *R. Benjamin bar Levi raised the question, “How shall we interpret the matter? If the man is of sound senses as to what is to come, he should have sound senses as to what he has done in the past. If he does not have sound senses as to what is to come, he also does not have sound senses as to what has gone by.”*

[III:1 A] [As to M. 7:1D, **[If] he lost the power of speech, and they said to him, “Shall we write a writ of divorce for your wife,” and he**

nodded his head, they test him three times. If he said for no, “No,” and for yes, “Yes,” lo, these should write and deliver the writ of divorce to his wife,] said R. Abba Mari, “We deal with a deaf-mute, and a deaf-mute cannot appoint a messenger.”

[B] R. Yosé b. R. Bun said, “We deal with a healthy person [who lost his powers of speech and hearing.]”

[IV:1 A] [...**they test him three times. If he said for no, “No,” and for yes, “Yes,” lo, these should write and deliver the writ of divorce to his wife:**] Why is it not a writ of divorce [without the procedure of M. 7:1E-F]? I say that he was going over his deeds.

[IV:2 A] *And so it has been taught:* Under what circumstances? When he lost the power of speech while he had otherwise been perfectly healthy. But if he had lost the power of speech while he was in any case very sick, it is sufficient for him to do it one time.

[B] But that is on condition that they alternate the questions for him.

[C] “Shall we write a writ of divorce [48d] for your wife,” and he says, “Yes.”

[D] “ ... for your mother?” And he says, “No.”

[E] “ ... for your wife?” And he says, “Yes.”

[F] “ ... for your daughter?” And he says, “No.”

[G] “ ... for your wife?” And he says, “Yes.”

[H] “ ... for your sister?” And he says, “No.”

[I] And does the same apply in giving testimony?

[J] R. Abbahu in the name of R. Yohanan said, “Also the rule is the same for giving testimony.”

[K] A man may give his testimony when sitting down.

[L] Also with regard to vows the rule is the same.

[M] *R. Sheshet taught,* “**Just as they examine him as to issuing a writ of divorce three times, so they examine him as to inheritance, purchases, sales, and donations**” [T. Git. 5:11].

7:2

[A] [If] **they said to him, “Shall we write a writ of divorce for your wife,” and he said to them, “Write,”**

[B] [if] they then instructed a scribe and he wrote it, and witnesses and they signed it,

[C] even though they wrote it and signed it and delivered it to him, and he went and handed it over to her,

[D] lo, this writ of divorce is null,

[E] unless he himself says to the scribe, “Write,” and to the witnesses, “Sign.”

[I:1 A] If he had said, “Say to Mr. So-and-so that he should write the writ of divorce, and to Mr. Such-and-such and Mr. So-and-so that they should sign it,” [what is the law]? [M.’s case has the man tell the messenger to write, but only the messenger instructs the scribe. But what if the husband had made it explicit that he wanted these particular people to do the work? Are not the people assigned as agents for this particular purpose?]

[B] R. Zeirah in the name of R. Jeremiah: “There was such a case in the time of Rabbi, and he ruled, ‘Let not such a thing be done in Israel!’”

[C] Samuel said, “It must most certainly be done.”

[D] R. Jeremiah asked Samuel: “If he had said to two, ‘Say to Mr. So-and-so that he should write, and you sign it’ [what would be the law if the two he told to sign the writ did not sign it themselves but had others do so]?”

[E] He said to him, “Lo, it is a valid writ of divorce. But the matter requires further study.”

[F] *The opinions imputed to Samuel are at variance with one another.* [Above he has said that the writ is valid *de novo*. Why should he hesitate here?] There he has said, “It must most certainly be done.” And here he has said this.

[G] *The case here is different,* because they have revised their testimony. [The people he instructed did not themselves sign but told other people to do so.]

[I:2 A] *There is no problem in the law as phrased by the Mishnah,* when he spoke to agents, and the instructed witnesses to sign [M. 7:2B], [for they did not hear these instructions from the husband].

[B] But if they gave instructions to a scribe and he wrote, [why should the writ be invalid]?

[C] *Does this not stand at variance with R. Yohanan,* for R. Yohanan has said, “If he wrote the operative language of the writ of divorce on a

ready-made document, it is valid?" [Accordingly, even though the husband did not give instructions to the scribe, so the scribe was able to make use of an already prepared writ, the writ is valid. Yohanan then would not concur with M. 7:2B's inclusion of the messengers' giving instructions to the scribe as a ground for rejecting the writ.]

- [D] [R. Yohanan] will interpret the law before us in accord with the view of R. Judah, for R. Judah declares a writ made up of a ready-made document to be invalid. [But other parties concur that the scribe need not receive his instructions directly from the husband.]

7:3

[A] **[If he said,] "This is your writ of divorce if I die,"**

[B] **"This is your writ of divorce if I die from this ailment,"**

[C] **"This is your writ of divorce effective after death,"**

[D] **he has said nothing.**

[E] **[If he said, "This is your writ of divorce] effective today if I die,"
"Effective now if I die," lo, this is a valid writ of divorce.**

[F] **[If he said, "Lo this is your writ of divorce] effective now and after
death," it is a writ of divorce and not a writ of divorce.**

[G] **If he dies, [the widow] performs the rite of halisah but does not enter
into Levirate marriage.**

[I:1 A] **"This is your writ of divorce if I die ... ," "This is your writ of
divorce [if I die] from this illness," "This is your writ of divorce
after I die" – he has said nothing [cf. M. 7:3A-D].**

[B] Our rabbis have said, "Lo, this is a valid writ of divorce."

[C] Who are "our rabbis"?

[D] They are R. Judah the Patriarch and his court [who maintains that the date on the writ validates it and indicates it was *dated* from that date].

[E] In three places R. Judah the Patriarch is referred to "our rabbis":

[F] In tractate Gittin [here], in regard to oil [prepared by gentiles] [M. A.Z. 2:6], and in regard to the sandal [M. Nid. 3:4].

[G] And they called him and his court permissive, for any court which issues a lenient ruling in three matters is called permissive.

[H] Said R. Yudan son of R. Ishmael, "His court differed from him."

- [I:2 A] [As to the rabbis' approving the writ of divorce issued with the stated language,] what is the law as to the wife's being permitted to remarry? [At issue is a writ of divorce issued by the man, in which he says, "Lo, this is your writ of divorce, if I do not return between this date and twelve months hence"; the husband died during that period. It is not deemed a writ of divorce. Now Rabbi and his court permitted the woman to remarry without undergoing the rite of removing the shoe, when the husband died childless, on grounds that it was a valid writ. The question now is whether or not the wife is permitted to remarry upon news of the husband's death or must wait until the end of the year.]
- [B] R. Haggai said, "She is permitted to remarry [right away]."
- [C] R. Yosé said, "She is prohibited from remarrying. I say that perhaps a miracle took place and he survived. She has to wait out the twelve months."
- [I:3 A] [If the husband said,] "From today, if I die," "From now, if I die" – lo, that is a valid writ of divorce.
- [B] "From today and after I die," – it is not a valid writ of divorce.
- [C] *Said R. Yudan, "[There is a discussion on this matter between] rabbis and our Rabbi.*
- [D] "*Rabbis reply to our Rabbi, 'Why do you maintain, 'Lo, this is a valid writ of divorce [vs. E]?' It is because he has said, 'If ... ' [That is, if is equivalent to.... From now (if....)] Now lo, in the latter clause, it also says, 'And if,' and yet you maintain that it is not a valid writ of divorce! [If he merely said, 'If I die,' it is null.] But [the reason it is a valid writ is that] he has said, 'From today.' We too maintain that the language, 'From today,' is the principal consideration.' Rabbi objected to rabbis, 'Why do you maintain that it is not a writ of divorce? It is because he has said, 'From today.' Now lo, in the opening clause, the language, 'From today,' is used, and yet you maintain, 'Lo, this is a valid writ of divorce.' But it is because he has said, 'If.' I too maintain that the use of 'if' is the principal consideration.' [Use of 'From today' is equivalent to 'after death.']"*
- [E] *Both R. Yosa in the names of R. Yohanan and Rab say, "The opinion of Rabbi there is the same as that of rabbis here. [Here Rabbi holds that the language, 'From today,' is equivalent to, 'After death.] Since he has said, 'From this date,' it is as if he has said, 'On the stipulation that [I die].'"*

[F] *R. Zeira raised the question before R. Yosa, “Is it ‘On the stipulation that I die’ or ‘On the stipulation [that it takes effect] after death’?”*

[G] He said to him, ““On the stipulation that I die.””

[H] *R. Ba in the name of Rab: “The opinion of Rabbi here is the same as that of rabbis there. Once he has said, ‘From today,’ it is as if he has said, ‘To take effect after death.’”*

[I:4 A] *There we have learned: He who writes over his property to his sons has to write, “From today and after death,” the words of R. Judah.*

[B] **R. Yosé says, “He does not have to do so” [M. B.B. 8:7A-C].**

[C] *What is the reason for the position of R. Yosé?*

[D] The date of the deed provides adequate testimony about it.

[E] *R. Simeon b. Yaqim brought a case before R. Yohanan: “If one used the language, ‘From today and after death,’ his deed of gift is valid. But his writ of divorce is not valid. [What is the difference?]”*

[F] *Associates in the name of R. Yohanan: “That is not the proper way.” [It is inconsistent that the same formula should be illegal in the case of a writ of divorce but legal in the case of a gift (Jastrow I, p. 57).]*

[G] *R. Zeira in the name of R. Yohanan: “The rule affecting writs of divorce is not the same as that affecting gifts.”*

[H] *Said R. Illa, “In the case of a gift, once one has said, ‘From this date,’ it is deemed a fully transferred gift.”*

[I] *For what purpose would one write such a clause in a writ of donation?*

[J] *If he wrote in it, “After death,” it is to preserve for himself the usufruct while yet alive.*

[K] *And in the case of a writ of divorce, once he has written, “Effective this date” in a writ of divorce, it is a valid severance of the marriage.*

[L] *For what purpose would he have written, “After death” in such a document?*

[M] *To preserve for himself the right to the woman while he was yet alive.*

[N] *Said R. Bun bar Kahana before R. Illi, “It is to hold on to the usufruct of her labor.”*

[O] He said to him, “We do not find a case in which a woman is married to one party, while the usufruct of her labor belongs to another.”

[P] *And R. Zeira praised him and called him, “A true son of the Torah.”*

[I:5 A] The same law applies to a writ of emancipation.

[B] “Lo, this is your writ of emancipation from now, to take effect after thirty days” –

[C] in the opinion of Rabbi, lo, this is a valid writ.

[D] In the opinion of rabbis, it is not a valid writ.

[I:6 A] The same rule applies to an ownerless field:

[B] “My field is declared ownerless from this date, effective in thirty days” –

[C] in the opinion of Rabbi, it is regarded as ownerless.

[D] In the opinion of sages, it is not ownerless.

[I:7 A] The rule as to Holy Things:

[B] All parties concur that one’s word of mouth [dedication of an object to the Most High] is equivalent to his handing over an object to an ordinary person.

[C] Also in regard to an act of betrothal the rule is so.

[D] *A Tannaitic teaching is available:* Rabbi says, “She is completely betrothed.”

7:4

[A] **[If he said,] “This is your writ of divorce effective today if I die from this illness,” and then he arose and went about in the market, then fell ill and died –**

[B] **they make an estimate of his situation. If he died on account of the first ailment, lo, this is a valid writ of divorce.**

[C] **And if not, it is not a valid writ of divorce.**

[D] **[In the case of such a writ,] the wife should not afterward continue together with him except in the presence of witnesses,**

[E] even a slave, even a girl-servant,

[F] except for her own slave-girl, because she is shameless before her slave-girl.

G] What is her status in those days?

[H] R. Judah says, “She is in the status of a married woman in every respect.”

[I] R. Yosé says, “She is divorced but not divorced.”

[I:1 A] [If the sick man] ate a large meal of beans, [we do not maintain that it was the meal that killed him, but] it is as one who has died from that same illness [and not from some other cause].

[B] [Along these same lines, if he ate] the filberts themselves [with their burrs, in their green state (Jastrow II, p. 1143)] and did not recover, it is as if he did not die from that illness [but rather from what he ate].

[I:2 A] “This is your writ of divorce effective today if I die from this illness,”

[B] if a house fell on him, or a snake bit him,

[C] it is not a writ of divorce.

[D] For he did not die of that particular ailment.

[E] [If he said, “Lo, this is your writ of divorce,] if I do not recover from this ailment,”

[F] if the house fell on him or a snake bit him.

[G] lo, this is a valid writ of divorce.

[H] For in point of fact he did not arise from that illness [T. Git. 5:2I}K].

[II:1 A] [In the case of such a writ,] the wife should not afterward continue together with him except in the presence of witnesses, even a slave, even a girl-servant, except for her own slave-girl, because she is shameless before her slave-girl:] [With reference to M. 7:4D,] *it was taught*, “Even in the case of a dying man, [the wife may not be alone with him].”

[B] Said R. Jacob bar Aha, “There was a case in which the husband had sexual relations and then died, not recovering from that ailment, [and consequently, one takes account of preventing the wife and the husband from being alone, even where the husband is dying].”

[III:1 A] **[even a slave, even a girl-servant:]** [With regard to M. 7:4E,] a slave and a slave-girl are believed. [How is this possible? There are] witnesses, who know that when the wife was alone with the husband, there was a slave or a slave-girl in the room.

[III:2 A] **But if two people saw her continue alone with him,**

[B] **she does require a second writ of divorce from him.**

[C] **[If only one person saw it, she does not require a second writ of divorce from him.**

[D] **[If one saw it in the morning and one at twilight –**

[E] **this was an actual case, and R. Eleazar b. Tadaï [Y.: Teradion] came and asked sages, who ruled, “This is not a case of her being alone with him for a sufficient time for sexual relations to take place.” [It is only a single witness [at a time], and she does not require a second writ of divorce from him]” [T. Git. 5:4/S].**

[III:3 A] [If the wife was alone with him for] sufficient time to have sexual relations, they scruple in that regard that there has been an act of sexual relations, but they do not scruple that there has been a betrothal.

[B] R. Yosé b. R. Judah says, “They also scruple in that regard by reason of an act of betrothal.”

[C] *R. Jeremiah interpreted the passage to mean that if she was alone with him for sufficient time for an act of sexual relations, they scruple with regard to an act of sexual relations as mere fornication, but they do not scruple that the act of sexual relations was for the purpose of effecting betrothal.*

[D] If she was not alone with him for sufficient time to have sexual relations, they scruple about nothing whatsoever.

[E] R. Yosé b. R. Judah says, “Here too they scruple by reason of an act of betrothal effected through sexual relations.”

[F] *R. Yosé interpreted the passage to mean that if she was alone with him for sufficient time for an act of sexual relations, they scruple with regard to an act of sexual relations as mere fornication, but they do not scruple that the act of sexual relations was for the purpose of effecting betrothal.*

[G] If she was not alone with him for a sufficient time to have sexual relations, they do not scruple by reason of an act of betrothal through the payment of money.

[H] R. Yosé b. R. Judah says, "They also scruple by reason of an act of betrothal through the payment of money."

[I] *Said R. Abin, "The position of the House of Shammai accords with the view of rabbis [here], and the opinion of the House of Hillel accords with the view of R. Yosé b. R. Judah here. [Reference is to M. 8:9, if someone divorced his wife and spent the night with her in an inn, the House of Shammai say that she does not require a fresh writ of divorce from him, and the House of Hillel say that she does. The former do not hold that the act of sexual relations was for the purpose of betrothal.]"*

[IV:1 A] [With regard to M. 7:4H, Judah maintains she is a married woman in all regards,] for what purpose [is she so regarded]?

[B] R. Eleazar says, "It is so that he will inherit her."

[C] *We have learned there: **He has the right to anything she finds, the work of her hands, and to release her vows [M. Ket. 4:4].***

[D] Said R. Zeira, "That is to say that she is deemed in the status of a married woman in every respect."

[IV:2 A] *The opinions assigned to R. Judah are at variance with one another.* There he says that death is commonplace, and here he says that death is not commonplace [and since we do not assume the husband is apt to die any time, she is deemed fully married, at M. 7:4H].

[B] The difference is that in the former case [to be cited in a moment] we deal with the community at large, while in the present case, we deal with an individual. *For it has been taught: R. Judah says, "There was no shofar-chest for bird offerings [49a] because of the possibility of confusion [T. Sheq. 2:3B C].* For one of them [the women who had set aside the coins] might die, and it would then turn out that the blood of sin offerings which are to be left to die [purchased with her money] would be confused with [other blood, which in deed is to be offered].

- [IV:3 A] [As to the one who said, “This is a writ of divorce effective today if I die from this illness” – what is the law if another man] had sexual relations with her? [What sort of offering is called for, one which indicates a sin has surely been committed, since she is a married woman, or one which takes account of the possibility that no sin may – in the end – turn out to have been committed, since the husband may die and retroactively she will have been divorced?]
- [B] *There are Tannaim who teach that the act of sexual relations is clear[ly culpable], [as at C] and there are those who teach that the act of sexual relations with her is subject to doubt.*
- [C] *The one who said that the act of sexual relations with her is clear[ly culpable] holds that he brings a suspensive guilt offering.*
- [D] *The one who said that the act of sexual relations with her is subject to doubt holds that he is exempt from any penalty. If then [the husband] does not die, he will bring a sin offering.*

7:5

- [A] **“Lo, is your writ of divorce on condition that you pay me two hundred zuz,”**
- [B] **lo, this one is divorced, and she should pay the money.**
- [C] **“ ... on condition that you pay me within thirty days from now,” if she paid him during the period of thirty days, she is divorced.**
- [D] **And if not, she is not divorced.**
- [E] **Said Rabban Simeon b. Gamaliel, M'SH B: “In Sidon there was a man who said to his wife, ‘Lo, this is your writ of divorce, on condition that you give me my cloak,’ but the cloak got lost. Sages ruled, ‘Let her pay him its value.’”**
- [I:1 A] *It is taught:* **“Lo, this is your writ of divorce, on condition that you pay me two hundred zuz” [T. 7:5A], and he died,**
- [B] **if she paid the money, she is not subject to the levir.**
- [C] **And if not, she is subject to the levir.**
- [D] **Rabban Simeon b. Gamaliel says, “Let her pay the money to his father or his brothers or to one of the heirs” [T. Git. 5:5A-D], and she will be exempt from the rite of removing the shoe or from levirate marriage.**
- [E] **Conversely, with regard to betrothals the rule is the same:**

[F] “Lo, you are betrothed to me, on condition that I give you two hundred zuz,” and he did not suffice to hand over the money before he died –

[G] Rabban Simeon b. Gamaliel says, “His father or his brothers hand over the money, and she then is obligated to carry out the rite of removing the shoe or entering into levirate marriage.”

[II:1 A] **[Said Rabban Simeon b. Gamaliel, M'SH B: “In Sidon there was a man who said to his wife, ‘Lo, this is your writ of divorce, on condition that you give me my cloak,’ but the cloak got lost. Sages ruled, ‘Let her pay him its value:’”:]** With reference to M. 7:5E’s sages’ ruling that she pays the value of the cloak,] said R. Yudan, “We deal with a case in which it was lost by accident. [Had the cloak been lost through her negligence, she would have had to supply a new cloak. In law she would not have to pay for the value of the cloak in the present case, except for the stipulation made by the husband in connection with the writ of divorce.]”

[B] “They have treated the case as one in which an unpaid bailee stipulates that he will be exempt from an oath [in the case of a loss].”

[C] Said R. Yosé, “And thus do we deal with the law: An unpaid bailee may stipulate that he will be exempt from having to take an oath? [How is this relevant? She pays the money anyhow!]

[D] “But we deal with a case in which the cloak was lost through the woman’s own negligence. They treated payment of the funds as equivalent to restoring the cloak itself.”

[E] The rabbis say, “All the same are the one and the other. She has to make up the cloak because it is a stipulation in the writ.”

7:6

[A] **“Lo, this is your writ of divorce on condition that you serve my father” —**

[B] **“...on condition that you give suck to my son” —**

[C] **how long must she give suck to him [for the writ to remain valid]?**

[D] **Two years.**

[E] **R. Judah says, “Eighteen months.”**

[F] **If the son died, or the father died, lo, this is a valid writ of divorce.**

- [G] [If he said,] “Lo, this is your writ of divorce on condition that you serve my father for two years,” “On condition that you give suck to my son for two years,”
- [H] if the son died, or if the father died,
- [I] or if the father said, “I don’t want her to serve me,”
- [J] [if this is] not because of provocation [on the woman’s part],
- [K] it is not a writ of divorce.
- [L] Rabban Simeon b. Gamaliel says, “Such a writ is a valid writ of divorce.”
- [M] A general principle did Rabban Simeon b. Gamaliel say, “In the case of any hindrance which does not come from her Ð lo, this is a valid writ of divorce.”
- [I:1 A] [“Lo, this is your writ of divorce on condition that you serve my father”:] Said R. Hiyya b. R. Ba, “When he is alive, the condition is such that the wife must serve the father or child as much as is needed. After death, even if she did not give suck as much as was necessary, or even if she did not serve him as much as was necessary but only for a brief moment, or even if she gave suck to the infant only for a brief moment [the writ of divorce is valid.]”
- [B] Rabban Simeon b. Gamaliel said, “When he is alive, even if she did not give suck as much as was necessary, or even if she did not serve him as much as was necessary but only for a brief moment, or even if she gave suck to the infant only for a brief moment [the writ of divorce is valid.] After he has died, even if she did not serve the father or nurse the child at all, [the writ of divorce is valid.]”
- [C] *The following passage of the Mishnah contradicts the position of R. Simeon b. Laqish: how long must she give suck to him [for the writ to remain valid]? Two years. R. Judah says, “Eighteen months.”*
- [D] Said R. Abin, “The rule of the Mishnah addresses a case in which the wife is responsible to hire a wet-nurse [and pays the fee for the stated period].”
- [I:2 A] R. Abbahu in the name of R. Yohanan: “This is the formula of a writ [bearing stipulations] for betrothal: ‘I, So-and-so, betroth you, So-and-so, on condition that I give you such-and-such a sum, and on the condition that I marry you on a certain day, and if that day comes and I do not marry you, then I shall have no claim on you.’”
- [B] [If that day came and he did not marry her] through no fault of his own [by an unavoidable accident] –

- [C] *R. Yohanan said, “The accident is as if he did not make happen, [and the betrothal now is null, so she is a free agent].”*
- [D] *R. Simeon b. Laqish said, “The accident is as if he most certainly did make it happen happen, [and the betrothal remains valid, because the man did not meet his condition solely by reason of circumstances beyond his control].”*
- [E] *In the opinion of R. Simeon b. Laqish, how is it necessary to prepare the writ of betrothal [to avoid such a situation]?*
- [F] *[The woman should write,] “If the day comes, and you have not married me, I shall have no claim against you at all.” [For the act of betrothal depends upon the agreement of both parties, and to avoid the situation of unavoidable constraint the woman too must concede that if the marriage does not take place she has no further claims on the man. Otherwise her rights will have been violated, if we accept the claim of an unavoidable nullification of the entire transaction, working in favor of the man.]*
- [G] *When R. Yohanan was dying, he instructed his daughters to conduct themselves in accord with R. Simeon b. Laqish. He said, “Perhaps a court will come along and maintain the law in accord with him, so that [my] heirs will turn out to be illegitimate. [That is, a court may rule in accord with Simeon b. Laqish that a claim of unavoidable accident is acceptable; hence the girls would be betrothed in Simeon’s view. This will avoid a case in which, if they should accept another token of betrothal, without the first betrothal’s being nullified, their children would be illegitimate.]”*
- [I:3 A] *Someone paid in advance to a canal barge operator, but the canal went dry [so the bargeman could not transport the produce to market]. The case came before R. Nahman bar Jacob. [The defendant claimed,] “Here is the barge, bring me the canal,” [and Nahman accepted the plea.]*
- [B] *Abba bar Huna in the name of r. Abba [who does not accept the claim of an untoward accident] held that the farmer hoped the canal would dry up, so he could take his money back.*
- [C] *It turns out that R. Yohanan and R. Ba do not concur with Rabban Simeon b. Gamaliel, R. Simeon b. Laqish and R. Nahman bar Jacob do concur in his principle.*

[I:4 A] If the woman herself cut off her nipple, it is as if she caused the hindrance. If someone else cut it off, this is a hindrance that does not come about on her account.

7:7

[A] **“Lo, this is your writ of divorce, if I do not return within thirty days,”**

[B] **and he was going from Judah to Galilee,**

[C] **[if] he reached Antipatris and came home,**

[D] **his condition is null.**

[E] **“Lo, this is your writ of divorce, if I do not return within thirty days,”**

[F] **and he was going from Galilee to Judah,**

[G] **[if] he reached Kepar Otenai and came home,**

[H] **his condition is null.**

[I] **“Lo, this is your writ of divorce, if I do not return within thirty days,”**

[J] **and he was going overseas,**

[K] **[if] he reached Akko and came home,**

[L] **his condition is null.**

[M] **“Lo, this is your writ of divorce if I remain away from your presence for thirty days,”**

[N] **if he was coming and going, coming and going,**

[O] **since he did not continue together with her,**

[P] **lo, this is a writ of divorce.**

[I:1 A] *What is the point of the stipulation?*

[B] R. Eleazar said, “It concerns his actually reaching his own home.”

[C] R. Yohanan said, “It pertains to his reaching the specified place.” [Eleazar has the principal concern for him to get home in thirty days, in which case the writ is null; Yohanan wants him to get to the specified locale.]

[D] *The Mishnah-formulation provides support for him who has said, “It concerns his actually reaching his own home, in the following language: [if] he reached Akko and came home, his condition is null.*

[E] *Said R. Haggai before R. Yosé, “Interpret the Mishnah passage to accord with the position of him who said, ‘Akko is in the status of the Land of Israel so far as writs of divorce are concerned.’”*

[F] “But even if you take the view that Akko is in the status of the Land of Israel so far as writs of divorce are concerned, will that also follow for the rule governing stipulations in the writ of divorce? [That is a separate matter.]”

[I:2 A] [With reference to **“Lo, this is your writ of divorce if I remain away from your presence for thirty days,” if he was coming and going, coming and going, since he did not continue together with her, lo, this is a writ of divorce,**] he is forbidden to be alone with her from the time of the writing of the divorce. For he may remain away from her presence for thirty days, and that will validate the writ, and if in the interval they have sexual relations, her writ of divorce will be older than her child.

7:8

[A] **“Lo, this is your writ of divorce, if I do not come back within twelve months,”**

[B] **and he died within twelve months,**

[C] **it is no writ of divorce.**

[D] **“Lo, this is your writ of divorce effective now, if I do not come back here in twelve months,”**

[E] **and he died within twelve months,**

[F] **lo, this is a valid writ of divorce.**

[G] **“If I do not come back within twelve months, write and hand over a writ of divorce to my wife”** Ⓓ

[H] **[if] they wrote a writ of divorce during twelve months and handed it over at the end of the twelve months,**

[I] **it is not a valid writ of divorce.**

[J] **“Write and hand over a writ of divorce to my wife, if I do not return within twelve months,”**

[K] **[if] they wrote it during the twelve months and handed it over after twelve months, it is not a valid writ of divorce.**

[L] R. Yosé says, **“In such a situation it is a valid writ of divorce.”**

[M] **[If] they wrote a writ of divorce after twelve months and handed it over after twelve months, and then he died,**

[N] **if the writ of divorce came before death, lo, it is a valid writ of divorce.**

[O] **But if the death came before the writ of divorce, it is not a valid writ of divorce.**

[P] And if the facts are not known, this is the case of which they have said, “She is divorced and not divorced.”

[I:1 A] *What is the operative consideration behind the ruling of R. Yosé? Is it because he made reference to writing the writ of divorce before he stated the condition?*

[B] *It is this: even if he had not made reference to handing over the writ first, would you also take the position that it is not a valid writ of divorce?* [We must be strict about handing over the writ of divorce; it should not be handed over before twelve months have passed. But what difference does it make if the writ is prepared right away, so long as it is not handed over too soon? If he had said, “Write it and hand it over if I do not return,” should we be justified to invalidate the writ?]

[I:2 A] *R. Hiyya the Elder raised the question before Rabbi, “Lo, this is your writ of divorce, to take effect after the Festival [of Tabernacles] – [when does the writ take effect, how long after the Festival?]”*

[B] He said to him, “The spell of time made up of thirty days after the Festival is classified as ‘after the festival.’”

[C] R. Bibun bar Hiyya raised this question before R. Zeira, “Lo, this is your writ of divorce, to take effect on the eve of Passover’ – [when does the writ take effect, how long before Passover?]”

[D] *Now even in accord with him who has said, “The spell of time made up of thirty days after the Festival is classified as ‘after the festival,’ still, thirty days prior to Passover is not classified as “before Passover.”*

[I:3 A] R. Zeira raised this question before R. Yosa, “If someone said, ‘Qonam be wine that I taste at the conclusion of the Sabbath...’?”

[B] He said to him, “At the conclusion of the Sabbath it is forbidden for him to drink wine, on the eve of the Sabbath it is permitted to do so. Where the question arises, it concerns the days in-between.”

[C] And here too, if he said, “At the end of the Sabbath, lo, here is your writ of divorce,” then if he gave it to her at that time, it is valid, but if he gave it to her on the eve of the Sabbath, it is not a valid writ of divorce. And where we have a question, it concerns the days in-between.

YERUSHALMI GITTIN

CHAPTER EIGHT

8:1

[A] [49b] He who threw a writ of divorce to his wife,
[B] and she was in her own house or in her own courtyard –
[C] lo, this one is divorced.
[D] [If] he threw it to her in his house or in his courtyard,
[E] even if it [the writ] is with her in bed,
[F] she is not divorced.
[G] [If in this latter case he threw it] into her bosom or into her basket,
[H] she is divorced.

- [I:1 A] “ ... And he writes her [a bill of divorce] and puts it in her hand ...” (Deut. 24:1). I know only that [if the writ of divorce is put] into her hand, [it is a suitable transfer of ownership].
- [B] [If he puts it] into her garden or courtyard, how do I know [that that too is a valid act of delivery]?
- [C] Scripture says, “And he will put ...,” “and he will put ...” [two times, at Deut. 24:1 and at Deut. 24:3].
- [D] Up to this point we have proved the matter in accord with R. Aqiba.
- [E] As to the proof in accord with the exegetical methods of R. Ishmael:
- [F] R. Ishmael taught: ““And he took possession of all of his land from his hand, and up to the Arnon’ (Num. 21:24).
- [G] “Now did he take it from his hand? But what is the meaning of ‘from his hand’? It was from his domain. [Here too, reference to ‘her hand’ means her domain.]”
- [I:2 A] Now are not her garden and courtyard regarded as indentured to the husband who has the right of usufruct thereof? [What the wife acquires

is acquired by the husband. How can she acquire the writ through her domain?]

- [B] Said R. Joshua in the name of R. Yannai: “[We deal with a case in which] he writes to her, ‘I have no claim on your property.’ [In this case she can effect acquisition in her garden or courtyard.]”
- [C] R. Isaac bar Haqolah in the name of R. Hoshaiiah: “Even if he did not write to her, ‘I have no claim on your property,’ [she nonetheless effects acquisition of her writ of divorce through its coming into her courtyard].”
- [D] *The position of R. Yannai accords with the view of R. Meir, and that of R. Hoshaiiah is in accord with rabbis [in the following].*
- [E] *The view of R. Yannai accords with that of R. Meir, for R. Meir says, “Since the hand of the slave is tantamount to the hand of his master, the slave does not acquire ownership of his writ of emancipation from the hand of his master.”*
- [F] Now as to her garden or courtyard, since they are indentured to the husband as to the usufruct thereof, [the woman acquires her writ of divorce therein] only if the husband will write to her, ‘I have no claim whatsoever on your property’ [= E].”
- [G] *But there is this problem to be dealt with by rabbis who maintain that the hand of the slave is not tantamount to the hand of the master, [since why should not the slave acquire both himself and his writ of divorce at one and the same time]? [Accordingly, there is no need to invoke the principle important to the view of Meir (PM).]*
- [H] *Now R. Hoshaiiah accords with the view of rabbis [when Hoshaiiah says that the husband does not have to write to her, “I have no claim on your property”].*
- [I] For rabbis have said, “Since the hand of the woman is not tantamount to the hand of the husband, she acquires ownership of her writ of divorce directly from his hand [so the writ and her freedom come simultaneously]. But as to her garden or courtyard, even though they are indentured to the husband for the usufruct thereof, even if he did not write to her, ‘I have no claim on your property,’ [she should acquire the writ of divorce therein, in the theory that she acquires ownership of the writ and of the courtyard at one and the same time].”
- [I:3 A] If both he and she inherited property, even if he wrote [that he had no claim on her], it is as if he had not written [such a deed of gift]. [The

property which comes to them in partnership is not covered by the statement that he relinquishes all claim on her property. This was not in his mind.]

[B] [How do both inherit property together?] If he was married to the daughter of his brother, even if he had written to her that he had no claim on her property, it is as if he did not write such a statement. [This statement pertains to the foregoing, A, explaining how both the wife and the husband received property at one and the same time. The husband died. Both the husband and the wife share in the estate of the husband's father, who is the wife's grandfather.]

[C] If [by contrast] someone had given her a gift, and had said to her, "The gift is on the stipulation that your husband has no domain over this property, but that you will transact business in regard to this property at your own volition," even if the husband had not written to her [that he had no claim on her property, in regard to this particular lot it is as if he had written such a writ].

[I:4 A] *R. Jeremiah raised the question:* "If he threw the writ of divorce to her in a courtyard which does not belong to either one of them, what is the law?"

[B] *R. Aha in the name of R. Haninah,* "This is a question confronting rabbis [whether or not the wife effects acquisition of the writ in the courtyard belonging to a third party]."

[C] Said R. Abin, "It is a dispute between Rab and R. Hiyya the Elder."

[D] For R. Samuel, R. Zeira, R. Hiyya bar Ashi in the name of Rab: "The act of drawing [an object or a beast which is being purchased] does not effect acquisition in a courtyard which does not belong to either the buyer or the seller. [So the answer to A is negative.]"

[E] *And R. Hiyya taught,* [differing with this view,] "Under what circumstances have they stated, 'Movables are acquired through an act of drawing the object'? It is either in the public domain or in a courtyard which does not belong to either the buyer or the seller. [So the answer to A is affirmative.] but if it is in the domain of the purchaser, once the purchaser has accepted the agreement, he has acquired ownership of what is for sale. If it is in the domain of the seller, the purchaser effects acquisition only when he raises up the beast or when he draws it and takes it outside of the domain of the owner. If it is in the domain of him with whom the object or beast was left as a bailment, the purchaser has made acquisition only if the owner

will transfer ownership to him or if the purchaser hires for himself the place in the domain of the bailee at which the object is located.”

[II:1 A] [As to M. 8:1G-H, If he threw it ... into her basket, she is divorced,] Ulla bar Ishmael said, “It never entered the husband’s mind to acquire ownership of her basket [on which account it remains her property and domain].”

[B] But what if the basket were of gold?

[C] All the more so would it not have entered the husband’s mind to effect ownership of her basket.

[D] R. Yohanan said, “But that is on condition that she makes frequent use of it.”

[E] Said R. Yosé, “And that is on condition that she makes use of it on that very occasion.”

[F] R. Simeon b. Laqish said, “It applies when it is tied to her.”

[G] Said R. Yosé, “That is on condition that she raises it up for her own purposes.”

[H] *R. Hoshaiah taught, supporting the view of R. Yohanan, “Even if he tossed it into her kneading trough, lo, she is deemed to have been divorced.”*

8:2

[A] [If] he said to her, “Take this bond of indebtedness,”

[B] or if she found it behind him and read it, and lo, it is her writ of divorce,

[C] it is not a valid writ of divorce –

[D] until he says to her, “Here is your writ of divorce.”

[E] [If] he put it into her hand while she is sleeping, [then] she woke up, read it, and lo, it is her writ of divorce,

[F] it is not a valid writ of divorce –

[G] until he will say to her, “Here is your writ of divorce.”

[H] [If] she was standing in a public place and he threw it to her,

[I] [if] it is nearer to her, she is divorced.

[J] [If] it is nearer to him, she is not divorced.

[K] [If] it is exactly half way, she is divorced and not divorced.

- [I:1 A] Said R. Yohanan, “The Mishnah’s rule represents the principle of R. Simeon b. Eleazar.”
- [B] For R. Simeon b. Eleazar says, “It is never a valid writ of divorce unless the husband says to the wife when he hands over the document, ‘Lo, this is your writ of divorce.’”
- [II:1 A] What is the measure of “near” [as at M. 8:2I, J]?
- [B] Rab said, “Four cubits.”
- [C] Said R. Ilai, the Heir, “Four cubits.”
- [D] R. Eleazar in the name of R. Yohanan in the name of R. Yannai, “The distance to be reached with outstretched hands.”
- [E] *And so we have learned:* The distance to be reached with outstretched hands.
- [F] R. Ba, R. Jeremiah in the name of Rab: “It is the distance to be reached with outstretched hands.”
- [G] *The opinions assigned to Rab are at variance with one another.* There he has said that the distance is four cubits, and here he has said this.
- [H] Here he speaks about matters of legal theory, there about the practiced law.
- [II:2 A] *It is taught: R. Eleazar says, “Even if it is nearer to her than to him,*
- [B] **“if a dog came along and took it [the writ of divorce],**
- [C] **“she is not divorced.**
- [D] **“But if not, she is divorced” [cf. M. 8:2H-K, T. Git. 6:1A-D].**
- [E] *Samuel differs with regard to this statement of R. Eleazar.*
- [F] The best mode of delivery of them all is that he put it into her hand.
- [G] [If there was the distance of outstretched hands between him and her,
- [H] Simeon bar Ba in the name of R. Yohanan, “If it falls nearer to her than to him, she is divorced. If it is nearer to him than to her, she is not divorced. If it was half way in-between, she is divorced and not divorced.”

[I] *Abba bar R. Jeremiah said, "In all those cases in which we learn that she is divorced and not divorced, the responsibility for providing sustenance falls upon the husband."*

8:3

[A] **And so is the rule with regard to betrothals,**

[B] **And so is the rule with regard to debt.**

[C] **[If] the creditor said to him, "Throw me [what you owe] me [as a debt], and he threw it to him,**

[D] **[if] it is closer to the lender, the borrower has the advantage.**

[E] **[If] it is closer to the borrower, the borrower is liable.**

[F] **[If] it is exactly in-between, both of them divide [the sum, should it be lost].**

[G] **[If the wife] was standing on the rooftop and he threw it to her,**

[H] **once it has reached the airspace of the roof, lo, this woman is divorced.**

[I] **[If] he is above and she is below and he threw it to her,**

[J] **once it has left the domain of the roof,**

[K] **even if it should be blotted out or burned,**

[L] **lo, this woman is divorced.**

[I:1 A] [49c] R. Simeon b. Laqish in the name of Abba Kohen Bardela: "A person acquires ownership of a lost object [when it is] within four cubits [of that person]."

[B] *What is the Scriptural basis for that view?*

[C] "In my poverty I have provided for the house of the Lord, a hundred thousand talents of gold, a million talents of silver, and bronze and iron beyond weighing, for there is so much of it; timber and stone too I have provided. To these you must add" (1 Chron. 22:14). [Now how can he refer to himself as poor if he assembled such wealth?]

[D] *Said R. Jonah, said R. Hoshaiiah, "How shall we interpret this matter? If the materials were within four cubits, he was rich. And if they were not within four cubits, does someone consecrate something which is not his own? [When he said he was poor, then, it was because the materials were not within reach. Consequently, when they come within reach, they fall into the person's domain.]"*

[E] *We may interpret the matter to speak of a case in which he consecrates things one by one.*

[F] Said R. Abun, “What is the meaning of, ‘... in my poverty’? That there is no true riches before Him who spoke and brought the world into being.”

[G] Another matter, “In my poverty” – For he fasted and consecrated his meal to heaven.

[I:2 A] [With reference to the proposition, I.A, that a person acquires ownership of a lost object when it is within four cubits of himself,] *R. Jacob bar Idi objected before R. Simeon b. Laqish, “Have we not learned: **If one saw a lost object and fell on it, and someone else came along and grabbed it, this one who grabbed it has acquired possession of it [M. B.M. 1:4A-B]?*** [Why should the former party not have acquired ownership?]

[B] Interpret the case to be one in which the first party did not state, “Let the four cubits [within which I stand] effect possession for me.”

[C] *And have we not learned: **If a poor man fell upon produce designated as peah or spread his cloak over it [in order to claim ownership of this produce], they remove it from him [M. Pe. 4:3D].***

[D] This is yet another case in which he did not state, “Let the four cubits [within which I stand] effect possession for me.”

[E] *And did not R. Hiyya teach: **Two who were fighting about a sheaf of grain, and another party came and snatched it – this one who snatched it has acquired ownership of it [T. Pe. 2:2]?***

[F] This is yet another case in which [the two who were fighting] did not state, “Let the four cubits [within which we stand] effect possession for us.”

[I:3 A] R. Yosa in the name of R. Yohanan, “This rule with regard to acquisition of a writ of divorce [that the four cubits within which the woman stands are deemed her domain for the purposes of effecting ownership of the writ] does not apply to the transfer of a gift.”

- [B] *There is a challenge to the position of R. Yohanan, and a challenge to the position of R. Simeon b. Laqish [who differs from Yohanan].*
- [C] *The challenge to the position of R. Yohanan is this:* Now if in the case of a lost object, of which one does not acquire ownership by reason of the opinion of a third party [that is, a donor], one acquires possession within four cubits [as his own domain], a gift, of which one does acquire ownership by reason of the opinion of a third party [the donor] – is it not a matter of an argument *a fortiori* that one should acquire ownership within four cubits]?
- [D] *The challenge to the position of R. Simeon b. Laqish is this:* Now in the case of a gift, of which one does not acquire ownership within four cubits, one does acquire ownership by reason of the opinion of a third party, a lost object, of which one does acquire ownership within the domain of four cubits, is it not an argument *a fortiori* [that he should acquire ownership through the opinion of a third party who will transfer ownership of the object to him]?
- [E] *R. Zeira objected before R. Yosa, “And lo we have learned: **And so is the rule with regard to betrothals [M. 8:3A]** [which are comparable to the transfer of gifts].”*
- [F] He said to him, “The same rule applies to delivering writs of divorce and tokens of betrothal, [and the latter are not subject to the rule governing gifts].”
- [G] *And lo, we have learned: **And so is the rule with regard to a debt [M. 8:3B].***
- [H] He said to him, “That is because, if he had said to him, ‘Throw it into the sea and the debt will be forgiven to you,’ it is forgiven to him.”
- [I] If that is so, then even if it were nearer to the borrower, the borrower should have made acquisition. [That is, if the creditor had told the debtor to throw the money, and it landed nearer to the debtor but was lost, the debtor should have the advantage and the debt should be forgiven. *Yet we have learned, **If it is closer to the borrower, the borrower [remains] liable [M. 8:3E].***
- [J] But if he had said to him, “Throw it so that it enters into his domain, but it has not yet entered his domain,” [then the law of the Mishnah would apply].
- [K] *Said R. Abin, “As to all of these questions which R. Zeira raised to R. Yosa, R. Simeon b. Laqish addressed to R.*

Yohanan, and he accepted from him the interpretations along the lines of the interpretations [supplied by Yosa to Zeira].”

- [I:4 A] R. Abin in the name of Hezekiah: “[With regard to the law that the woman is divorced and not divorced, the purpose of the law is to deal with] the fee paid to the scribe. [If the writ is lost and a new one has to be written, under these conditions the wife has to pay half of the cost.]”
- [II:1 A] *Said R. Eleazar, “[With reference to M. 8:3G-L, the wife standing on the rooftop,] the Mishnah deals with a rooftop surrounded by a parapet.”*
- [B] And the law applies to a case in which the writ has fallen into the contained airspace of the parapet.
- [C] In the case of a rooftop lacking a parapet, the law applies when the writ has fallen into the airspace within three cubits of the roof.
- [D] For three cubits of airspace nearest to the roof are deemed tantamount to the roof itself.
- [E] R. Jacob bar Aha, R. Ba bar Hamnuna in the name of R. Ada bar Ahva, “Along these same lines is the law for the Sabbath. For three cubits nearest a partition are deemed tantamount to the partition. [That is to say, if the partition does not reach the ground but is within three cubits thereof, it is treated as if it is touching the ground.]”
- [F] *[Differing from E,] said R. Yosa, “But the matter of throwing a writ of divorce upwards is not parallel to the matter of extending a partition downwards as to the law of the Sabbath. For as to the tossing of a writ of divorce, even if it did not come to rest, the transfer is effected. But as to the Sabbath, it must come to rest.”*
- [II:2 A] R. Ammi in the name of R. Yohanan: “[As to M. 8:3I, he is above and she below, once it leaves the domain of the roof, the writ is regarded as having fallen into the wife’s domain,] that law applies when the writ has fallen into the airspace of the partition [of the courtyard in which the wife is standing].”
- [B] *R. Immi raised the question before R. Yohanan: “The Mishnah follows the view of Rabbi. For Rabbi treats the contained airspace of a partition as if it is materially present [so that the airspace effects possession, as concrete domain does].”*

- [C] He said to him, “Here with regard to the transfer of writs of divorce, it represents the opinion of all parties.”
- [D] *But they objected:* “Rabbi says, ‘We deal with a domain which is roofed over,’ and here you say that it is not roofed over. [The parallel fails; it is not Rabbi’s view in particular.]”
- [E] What is the difference between the law governing writs of divorce and the law governing the Sabbath?
- [F] Said R. Abba, “In regard to the Sabbath, it is written, ‘You shall not do any labor’ (Ex. 20:10), and this is done on its own. With regard to the present matter, however, ‘And he will place it in her hand’ (Deut. 24:1 – that is, in her domain.)”

8:4

- [A] **The House of Shammai say, “A man dismisses his wife with an old writ of divorce.”**
- [B] **And the House of Hillel prohibit it.**
- [C] **And what is an old writ of divorce?**
- [D] **It is any writ of divorce, after the writing of which the man continued alone with her.**
- [I:1 A] R. Judah in the name of Samuel: “And in the case of all of them, if they were married [on the strength of an old writ of divorce], she should not go forth [from the second husband], so as not to bring calumny on her children [by the second marriage].”
- [I:2 A] *We have learned, [It is any writ of divorce,] after the writing of which the man continued alone with her [M. 8:4D].*
- [B] *There are Tannaim who teach, “After he gave it to her.”*
- [C] *He who said, “It applies after he wrote it for her,” supports the view of the House of Shammai [all the more so if they were alone after he handed it over, it still may be used].*
- [D] *He who said, “It is after he gave it to her” supports the position of the House of Hillel.*

8:5

- [A] **[If] he wrote [the writ of divorce dating it] according to an era which is not applicable,**
- [B] **according to the era of the Medes, according to the era of the Greeks,**

- [C] according to the building of the Temple, according to the destruction of the Temple,
- [D] [if] he was in the East and wrote, “In the West,” in the West and wrote, “In the East,”
- [E] she goes forth from this one [whom she married on the strength of the divorce from the former husband] and from that one [the first husband].
- [F] And she requires a writ of divorce from this one and from that one.
- [G] And she has no claim on the payment of her marriage contract, or on the usufruct [of melog-property], or to alimony, or to indemnity [for loss on her melog-property],
- [H] either against this one or against that one.
- [I] If she collected [such payment] from this one or from that one, she must return what she has collected.
- [J] And the offspring from either marriage is a mamzer.
- [K] And neither one nor the other contracts uncleanness for her [if they are priests, and she should die and require burial].
- [L] And neither one nor the other gains possession of what she may find, or of the fruit of her labor, or is vested with the right to abrogate her vows.
- [M] [If] she was an Israelite-girl, she is invalidated from marrying into the priesthood.
- [N] [If she was] a Levite-girl, [she is invalidated] from eating tithe.
- [O] [If she was] a priest-girl, she is invalidated from eating heave-offering
- [P] And the heirs neither of this one nor of that one inherit her marriage contract.
- [Q] And if they died, the brothers of this one and the brothers of that one perform the rite of halisah but do not enter into levirate marriage.
- [R] [If] he changed his name or her name,
- [S] the name of his town or the name of her town,
- [T] she goes forth from this one and from that one.
- [U] And all these [above] conditions apply to her.
- [V] All those prohibited relationships of which they have said that their co-wives are permitted [to remarry without levirate marriage],
- [W] [if] these co-wives went and got married and this [woman who is in a prohibited relationship] turns out to be barren –
- [X] she goes forth from this one and from that one.

[Y] And all the above conditions apply.

- [I:1 A]** R. Yohanan in the name of R. Yannai: “They treated the offspring as a mamzer because of the danger [to the Israelites if they should date their documents in a way which indicates disloyalty to the ruler].”
- [I:2 A]** *R. Huna in the name of Rab: “This entire pericope accords with the view of R. Meir [who invalidates a writ of divorce which varies from the norm], except for the clause about **changing his name and her name, the name of his town or the name of her town [M. 8:5R-T].** [In that regard even sages concur that the writ is invalid.]”*
- [B]** *R. Mana raised the question before R. Yosa, “Is that so also in the laws given in the chapter entitled, ‘He who divorces,’ [that is, the next chapter]?”*
- [C]** He said to him, “We are discussing not the chapter in which you are engaged, but the chapter in which we are engaged.”

8:6

**[A] He who marries his deceased childless brother’s widow,
[B] and her co-wife went off and married someone else,
[C] and this one turned out to be barren –
[D] she [the co-wife] goes forth from this one and that one.
[E] And all the above conditions apply.**

- [I:1 A]** [The childless deceased brother’s widow] should not have gotten married [to another party] but should rather have entered into levirate marriage [with a surviving brother].
- [B]** [We deal with] a levirate widow who remarried without undergoing a rite of removing the shoe.
- [I:2 A]** R. Jeremiah says, “This one [the levir] performs the rite of removing the shoe, and that one [the husband, that is, the man she has married] preserves the marriage [as is].”
- [B]** R. Judah bar Pazzi in the name of R. Yohanan, “She must go forth.”
- [C]** R. Yosé in the name of R. Hila, “She must go forth.”
- [D]** *R. Yosé asked R. Phineas, “What is the view of Rabbi?”*
- [E]** He said to him, “It is in accord with R. Jeremiah.”
- [F]** *He said to him, “Retract. If you do not do so, I shall decree concerning you that you are a rebellious elder.”*

[G] Said R. Zebida. “The following Tannaitic teaching supports the view of R. Yohanan: ‘**She goes forth from this one and from that one, and the thirteen penalties apply to her,**’ the words of R. Meir, which he stated in the name of R. Aqiba [T. Git. 6:6].

[H] “But sages say, ‘A *mamzer* does not derive from a levirate widow [who has violated the law].’

[I] “But as to going forth, she indeed goes forth [from the second marriage].”

8:7

[A] **[If] the scribe wrote a writ of divorce for the man and a quittance [receipt given to the husband for her marriage contract payment] for the woman,**

[B] **and he erred and gave the writ of divorce to the woman and the quittance to the man,**

[C] **and they then exchanged them for one another,**

[D] **and [if] after a while, lo, the writ of divorce turns up in the hand of the man, and the quittance in the hand of the woman –**

[E] **she goes forth from this one and from that one.**

[F] **And all the above conditions apply.**

[G] **R. Eleazar says, “If it turned up on the spot, this is not a writ of divorce [= E].**

[H] **“If after a while it turned up, lo, this is a valid writ of divorce.**

[I] **“It is not within the power of the first husband to render void the right of the second.”**

[I:1 A] How shall we interpret the present case? If we deal with a case in which it is known that the scribe erred, then even R. Eleazar will concur. If it is a case in which there was no error [in which the scribe says that he knows he did not err], then even sages will concur [that the first husband has not got the right to break up the marriage of the second].

[B] But we deal with a case in which the matter is not clear. R. Eleazar scruples lest the scribe did not err [in which case only if the writ turned up on the spot do we regard it as invalid]. Rabbis scruple lest the scribe have erred.

[II:1 A] **R. Eleazar says, “If it turned up on the spot, this is not a writ of divorce. If after a while it turned up, lo, this is a valid writ of**

divorce. It is not within the power of the first husband to render void the right of the second” [M. 8:7G-I].

- [B] What is the meaning of “on the spot”?
- [C] R. Zeira says, “Up to the point at which the woman was betrothed [by someone else].”
- [D] R. Isaac bar Haqolah said, “Up to the point at which the wife remarries.”
- [E] *The Mishnah-passage supports the view of R. Zeira: **It is not within the power of the first husband to render void the right of the second.** [It is at the point of betrothal that the second party enters the picture.]*

8:8

- [A] **[If] he wrote [a writ of divorce] to divorce his wife and changed his mind,**
- [B] **the House of Shammai say, “He has invalidated her from marrying into the priesthood.”**
- [C] **And the House of Hillel say, “Even though he gave it to her on a condition, and the condition was not carried out [so that she is not divorced], he has not invalidated her from marrying into the priesthood.”**
- [I:1 A] R. Yohanan in the name of R. Yannai, “[With regard to the view of the House of Hillel,] there is no relationship whatever to the priestly genealogy [in the wholly invalid writ at hand].
- [B] And a court will not declare her contaminated so far as the priesthood is concerned.
- [C] *A case came before R. Hiyya the Elder and he applied the law in accord with the view of the House of Hillel.*
- [D] Said to him Rab, “What made you jump into this very complicated matter?”
- [E] *He said to him, “R. Ishmael, son of R. Yosé, was with me.”*
- [F] *He cited concerning them the verse, “Two are better than one” [Qoh. 4:9].*
- [I:2 A] She who commits a lewd act with her son –

[B] the House of Shammai declare her invalid [for marriage into the priesthood].

[C] And the House of Hillel declare her valid [since no act of sexual relations has taken place].

[D] As to two women who had sexual relations with one another –

[E] the House of Shammai declare them invalid for marriage into the priesthood.

[F] And the House of Hillel declare them valid.

8:9

[A] He who divorced his wife and spent a night with her in an inn –

[B] the House of Shammai say, “She does not require a second writ of divorce from him.”

[C] And the House of Hillel say, “She requires a second writ of divorce from him.”

[D] Under what circumstances?

[E] When she was divorced following consummation of the marriage.

[F] But they concur in the case of one divorced after betrothal alone, that she does not require a second writ of divorce from him.

[G] For he is not yet shameless before her.

[H] If he married her on the strength of [her having been divorced from a former husband] by a “bald “ [that is, defectively witnessed] writ of divorce,

[I] she goes for from this one and from that one.

[J] And all the above conditions apply.

[I:1 A] *Said R. Mana, “The House of Shammai are consistent with views of theirs stated elsewhere, and the House of Hillel are consistent with views of theirs stated elsewhere.*

[B] *“The House of Shammai, who say that a man puts away his wife with an old writ of divorce, maintain that [in the present case] she does not require a second writ of divorce from him.*

[C] *“And the House of Hillel, who maintain that he does not put away his wife with an old writ of divorce, likewise hold that she does require a second writ of divorce from him.”*

- [D] *[Explaining the dispute within a different theory,] said R. Yosé bar Bun, “The House of Shammai are consistent with views of theirs stated elsewhere, and the House of Hillel are consistent with views of theirs stated elsewhere.*
- [E] *“The House of Shammai, who [49d] say that a man should not divorce his wife unless he has a complaint against her because of licentiousness, also hold that she is held by him to be distasteful, and consequently he is not suspect in her regard [of wishing to have sexual relations], so she does not require from him a second writ of divorce.*
- [F] *“The House of Hillel, who maintain that even if she spoiled his soup, [he may divorce her,] hold that she is not distasteful in his eyes, and consequently he is suspect [of having sexual relations with her], so therefore she requires a second writ of divorce from him.”*
- [I:2 A] He who divorces his wife – she should not live alongside him either in the same courtyard or in the same locale.
- [B] If the courtyard belonged to the wife, the man moves out.
- [C] If it belonged to the husband, the wife moves out.
- [D] If it belonged to both of them, who moves out because of the other?
- [E] The woman moves out because of the man.
- [F] But if they are able to do so, [rather than moving out,] this one makes an opening [in the courtyard] in one direction, and that one makes an opening in the other direction.
- [G] Under what circumstances? In a case in which they were actually married.
- [H] But if they were not married, it is not called for.
- [I] And in the case of a priest girl, even if they were not married, [they may not live side by side].
- [J] A betrothed girl in Judah is in the status of a married woman in Galilee.
- [K] He who performs the rite of removing the shoe with his deceased childless brother’s widow, even though he earlier had bespoken her [intending to enter into Levirate marriage, but then changed his mind] –lo, this one need not move out.

[L] For an act of bespeaking [in the case of the levirate connection] does not effect a complete act of acquisition [of the woman as his wife].

8:10

[A] As to “bald” [that is, defectively witnessed] writ of divorce

[B] “all complete it,” the words of Ben Nannos.

[C R. Aqiba says, “Only they complete it who are relatives suitable to give testimony under some other circumstance.”

[D] What is “bald” [defectively witnessed] writ of divorce?

[E] One that has more folds than witnesses.

[I:1 A] And how do we know that there is a document which is folded [and another which is unfolded]?

[B] Said R. Immi. “‘Then I took the sealed deed of purchase, containing the terms and conditions, and the open copy ...’ (Jer. 32: 11).

[C] “‘The sealed deed of purchase’ – this is the folded document.

[D] “‘... and the open copy ...,’ – this is the unfolded one which is within the folded one.

[E] “‘... the terms and conditions ...’ – [what is the difference] between the one [unfolded] and the other folded]?”

[F] “But: **This one bears two [witnesses], and the other, three [M. B.B. 10:2].**

[G] “In this one the witnesses sign on the inside, and in the other, on the outside.”

[I:2 A] R. Ba in the name of R. Judah: “In an unfolded document its witnesses [sign] along its breadth. In a folded document, its witnesses sign along its length.”

[B] Said R. Idi, “The witnesses sign between one fold and another, and that is on condition that it is above [on the upper of the two sides of the fold].”

[C] And should we not take into consideration the possibility of counterfeit [in the case of a folded document, if the witnesses sign at the top and between the folds but not at the bottom]?

[D] *R. Nahman considered this reply:* “The witnesses never sign the document at the bottom until they read what is written in it on the top:

- [E] “‘I, So-and-so, son of Such-and-such, accept upon me responsibility for all which is written in this document above.’”
- [F] And should we not take into consideration the possibility of counterfeit in which one would erase and go and counterfeit [further clauses, after the witnesses have signed]? [E.g., one might add, again, “I accept responsibility.... “]
- [G] *R. Huna reasoned:* “[If written in the document is,] ‘I ... accept upon me ...,’ ‘I accept upon me ...,’ two times, that would invalidate the document. [Consequently, it is not possible to add further clauses.]”
- [H] And should we not take into consideration [the possibility of counterfeit in which one would] add other clauses and go and erase and so counterfeit the document?
- [I] *R. Huna reasoned,* “An erasure on the document means it is invalid, even if it has been confirmed [by the signatures of witnesses].”
- [II:1 A] **[As to M. 8:9H-I: If he married her on the strength of her having been divorced from a former husband by a “bald “ writ of divorce, she goes forth from this one and from that one, and all the above conditions apply,]** said R. Yohanan, “She need not go forth [if there are too few witnesses]. [In line with M. 8:10, it is possible to complete the necessary number of witnesses and so validate the writ.]”
- [B] *Said R. Immi,* “How many concrete examples of such a law came before R. Yohanan and before R. Simeon b. Laqish, and they ruled, ‘Go and complete the necessary witnessing of the writ, in accord with the view of R. Aqiba.’”
- [III:1 A] **[all complete it,] the words of Ben Nannos. R. Aqiba says, “Only they complete it who are relatives suitable to give testimony under some other circumstance:”]** Said R. Yohanan, “The Mishnah-pericope [at M. 8:10, which permits completing the necessary witnessing to the writ by any sort of witness] speaks of a case in which one witness is lacking [e.g., on a writ on which there are more folds than witnesses]. [If more than that are lacking, then one must be valid as a witness for each one who is invalid.]”
- [B] [One may use an otherwise invalid witness] only when there are more than three folds [bearing valid signatures, and only one is lacking a signature]. If there are two or three witnesses lacking, and there are more than three folds, then one may make use of an invalid witness to fill in the empty folds [for there are at least three valid folds and three valid witnesses.

[C] If one fold is unwitnessed and there are three or fewer folds, then one must use a valid witness. [In this case we have two valid witnesses and three folds. We want a third witness, but it must be a valid one.]

[III:2 A] *R. Mana raised the question, “Up to this point, we have dealt with a case in which the invalid witnesses sign together [as a group]. [In such an instance the writ is not validated. For we may end up validating it solely on the basis of the group of invalid witnesses, or we may deem the effective testimony to be two valid and one invalid witness. The court may not realize the error.] But what if the invalid witnesses signed in alternation with valid ones?”*

[B] The answer accords with that which one has stated: “The writ is treated as one in which the valid witnesses have signed too far from the body of the text, [in which case invalid ones fill up the empty space so as to prevent forgery. These invalid witnesses] come along only to facilitate the validation of the writ. And here too [we treat it as a valid arrangement, for the same reason, namely, to have names with which to fill up the space].”

[IV:1 A] **[What is “bald” [defectively witnessed] writ of divorce? One that has more folds than witnesses:]** If there were nine folds [and only five witnesses], leaving four folds lacking the signature of a witness, may one unfold two of the folds and have witnesses sign on the other two folds, to complete the necessary testimony without having more folds than witnesses?

[B] Or do we rule that two witnesses are worthless on a folded writ? [This text is defective. Cf. PM’s improvement.]

[C] If there were five folds and only three witnesses, it is self-evident that one unties one of the folds and has a witness sign on the other, [so that there are four witnesses and four folds].

[D] You turn out to rule that by unfolding the writ you render it a valid means of releasing the wife.

[E] And this is fully in accord with R. Hananiah b. Gamaliel. For R. Hananiah b. Gamaliel says, “[As to the law of a folded writ of divorce, if one has written] the operative language of the writ of divorce, [then sewed it up, then had the witnesses sign,] it is valid, for even if one should sew it up and then have the witnesses sign [one may, as just now noted, untie the folds].”

- [F] That which you have said applies in a case in which the scribe sews all of them and then has the witnesses sign on the first three folds. [In such a case one has to untie the folds and have them signed.]
- [G] But if he sews up the first three folds and then has them sign even if thereafter he sews up any number and has them witnessed, it remains valid. [The requirement is that there be three properly witnessed folds, and we have met that requirement. Beyond that point there is no concern as to the procedure.]
- [H] The law of a writ of divorce [thus] is that the writ be folded and then signed.
- [I] If one folded up the writ, fold by fold, and had each one signed as soon as it was folded, it is clear that the first and second witnesses will not have signed a folded writ of divorce, [since it enters that status only when there are three folds].

[IV:2 A] *How shall we interpret the dispute of Hananiah b. Gamaliel and sages [at M. B.B. 10:1, where **Hananiah b. Gamaliel says, “One which is folded, on the inside of which witnesses signed their names, is valid, because one can unfold it.”** Sages’ contrary view is that if witnesses signed the back of an unfolded document, or if the witnesses signed the front of a folded document, the document is invalid]?*

- [B] If it is a case in which they folded the document and signed on the inside, all parties concur that it can be flattened out [and treated as an unfolded document].
- [C] If we deal with a case in which they folded it and then signed on the outside, all parties concur that one cannot flatten it out and treat it as an unfolded document.
- [D] But we deal with a case in which the scribe folded it and had it signed on the inside [which was improper procedure], and then he had it signed on the outside as well [now the proper way].
- [E] In such a case R. Haninah b. Gamaliel says, “He can treat it as an unfolded document.” And rabbis maintain that he cannot treat it as an unfolded document.

[IV:3 A] [Again with reference to 1. B.B. 10:1C-F: **Hananiah b. Gamaliel says, “One which is folded, on the inside of which its witnesses signed their names, is valid, because one can unfold it,**] Rabbi replied with the intention of supporting the position of R. Hananiah b. Gamaliel, “The body of a document indicates its character, that is, whether the document is unfolded or is not unfolded.”

- [B] What is the meaning of, “the body of the document”?
- [C] Said R. Ba, “It is that which R. Huna said: ‘The witnesses never sign the document at the bottom until they read what is written in it on the top: I, So-and-so, son of Such-and-such, accept upon myself responsibility for all which is written in this document above.’ [This is what is written in the body of a folded document, which then cannot be confused with an unfolded one.]”
- [D] *Now has it not been taught:* The formula of deeds is thus [that is, precisely the language Huna says]. [That formula will appear in an unfolded, as much as in a folded, writ. Consequently, the body of the document will not indicate the character thereof, folded or unfolded.]
- [E] Said R. Mani, “[The cited tradition is:] ‘The formula of folded deeds [only] is thus,’ [and the presence of that formula proves precisely what Rabbi says it proves, since it can be only in a folded document].”
- [F] Said R. Abin, “And even if you say that the unfolded and the folded documents are alike [in containing the cited language], in an unfolded document, [the absence of that language] disqualifies a document, but in a folded one, [the absence of that language] does not constitute a disqualification. [So the proof does not hold.]”
- [G] R. Aha says, “It is as if one has added to the required law [of making up such a document. [The body of the document will not prove that it is an unfolded or a folded document. Even if we find the language which would signify that it is a folded document, one may say that it was originally an unfolded document, but the writer added language beyond what the law requires. It would be comparable to adding to the number of witnesses. That is to say,] an unfolded document has two witnesses, and a folded one has three, but they have [taken an unfolded document and had] three witnesses [sign it, even though that is not required by law]. [Or it would be tantamount to taking] a document which was unfolded on the inside and folded at the outside [that is, conformed to the rules governing the unfolded deed on the inside, and to the rules governing the folded deed at the outside], and they made the witnesses sign on both the inside and the outside. Consequently, these are mere improvements on the document and will not signify the original character thereof. So Hananiah b. Gamaliel’s position is not to be supported as Rabbi has attempted to do.]”

[IV:4 A] *The law has been taught here [that a defectively witnessed writ of divorce is invalid, M. 8:9], and the law has been taught there [at M. B.B. 10:1, that a folded writ which was improperly*

prepared is invalid. Now why is it necessary to teach the law in two different contexts?]

[B] *It was necessary to teach the law there. For if it has been taught here but not there, I might have come to the conclusion that it applies here, because a more strict rule applies in matters of forbidden marital connections, and consequently, such a defectively witnessed writ would be invalid. But in the context of deeds in general, since a more strict rule does not apply there as it does in regard to forbidden connections, it would be valid.*

[C] *It was necessary, therefore, to repeat the same law in that other context [of M. B.B. 10:1].*

[D] *Now if it had been taught in that regard [in connection with M. B.B. 10:1] and had not been taught in the present context, we might have come to the conclusion that, since in regard to a deed in general, one collects on the strength of such a deed [even from indentured property], such a writ, improperly prepared, is invalid. But here, because, on the strength of an improperly witnessed writ of divorce, there is no possibility of collection from indentured property, I should have supposed that the same strict rule does not apply.*

[E] *Accordingly, it was necessary to teach the same rule there, [at M. B.B. 10:1, and here, at M. Git. 8:9].*

YERUSHALMI GITTIN

CHAPTER NINE

9:1

[A] [50a] He who divorces his wife and said to her, “Lo, you are permitted [to marry] any man except for so-and-so” –

[B] R. Eliezer permits [the woman to be divorced on such a condition].

[C] And sages forbid it.

[D] What should he do [in such a circumstance]?

[E] He should take it back from her and go and give it to her again, and say to her, “Lo, you are permitted to marry any man.”

[F] But if he wrote [the stipulation] into the body of the document,

[G] even if he went and blotted it out,

[H] [the writ remains] invalid.

[I:1 A] Said R. Illi, “The Scriptural basis for the position of R. Eliezer is this: ‘... and she departs out of his house, and if she goes and becomes another man’s wife ...’ (Deut. 24:1-2).

[B] “Even if he has permitted her to marry only one other man, it is a valid writ of divorce.”

[C] *This tradition takes a more extreme line than the Mishnah-passage before us. The Mishnah-passage has spoken about her being permitted to marry anyone, but prohibited to marry only one particular man, while the tradition based on Scripture has said that it is a valid writ of divorce even if he prohibited her to every other man and permitted her to marry only one other man.*

[D] *[Since that proof serves a different proposition from the one before us, once more we must ask,] What is the basis for the position of R. Eliezer?*

[E] The husband’s death frees her to remarry, and a writ of divorce frees her to remarry.

[F] Just as the husband's death frees her to remarry, but only partially [since she may yet be beholden to the levir if her husband has died without children], so the writ of divorce is valid if it permits her to remarry, but only partially.

[G] *What is the Scriptural basis for the position of rabbis?*

[H] “ ... And she departs out of his house, and if she goes and becomes another man's wife.... ”

[I] The Scripture treats as analogous both her going forth and her becoming a wife.

[J] Just as in the case of her becoming a wife, once she does so, she may not become a wife to any other man, so in the case of her going forth: once she does so, she need not go forth from any other man [since her writ of divorce is complete and final for all men].

[I:2 A] After R. Eliezer's death, four elders came together to reply to the teachings of R. Eliezer. These were R. Eleazar b. Azariah, R. Yosé the Galilean, R. Tarfon, and R. Aqiba.

[B] Said to them R. Joshua, “You surely are not going to answer the lion after he has died!”

[C] [Nonetheless] R. Tarfon did answer: “Lo, if he said to her, ‘Lo, you are permitted to marry anyone except Mr. So-and-so,’ and she went and married that man's brother, who died childless. How is this one going to enter into levirate marriage [since the writ of divorce bears the stipulation that she may not marry the surviving brother]? It then turns out that the original husband has made a stipulation contrary to that which is written in the Torah, and any stipulation which is contrary to that which is written in the Torah is null.”

[D] If that is the case, then one should not marry his brother's daughter, so that he may make no stipulation contrary to what is written in the Torah, [since, should he die childless, his brother's daughter may not then marry his surviving brother, her father!]

[E] *Said R. Yosé b. R. Bun, “[No, it is quite] reasonable. The reason there is that the Torah has prohibited her from marrying him, while here he himself has prohibited her from marrying him [by the stipulation in the writ of divorce].”*

[F] *R. Hananiah in the name of R. Phineas objected: “If so, then we should teach, ‘**Sixteen women [free their co-wives from the levirate***

connection, rather than fifteen (M. Yeb. 1:1)], in line with the view of R. Eliezer.”

- [G] *Said R. Mana, “The relevant reason already has been stated. There [at M. Yeb. 1:1] the Torah has forbidden her to him, but here he [the first husband, in the writ of divorce] has forbidden her to him.*
- [H] *R. Jeremiah raised the question, “Lo, if he said to her, ‘Lo, you are permitted to marry anyone except for Mr. So-and-so,’ and she went and married someone else, who died. How can this one [through his death, which permits her to marry anyone she wants] permit her to marry someone whom the first husband already has prohibited [her to marry]?”*
- [I] *That which R. Eliezer has stated makes it clear that the death of the second party is equivalent to the writ of divorce of the first party, so that the latter permits the man whom the former had earlier prohibited. [Eliezer certainly concedes that point.]*
- [J] *Said R. Jeremiah, “They have stated only that the death of the second husband is equivalent to the writ of divorce of the first. But as to the rule if she marries [a third party and is divorced from him, in such a case we do] not [maintain that she now is permitted to marry the one whom the original writ of divorce had specified as prohibited].”*
- [K] *Said R. Yosé the Galilean, “Do we find in the Torah that one is prohibited to one party and permitted to another, or permitted to one party and prohibited to another? If one is prohibited to one party, she is prohibited to everyone. If permitted to one party, she is permitted to everyone.”*
- [L] *R. Aqiba answered, “Lo, if this one to whom she was prohibited was a priest, and if the one who divorced her died, would she not turn out to be a widow [and available for marriage] so far as that one whom the husband had named was concerned, while she is yet in the status of a divorcee [and prohibited from marriage] to all other priests?*
- [M] *“Now upon which category of woman has the Torah imposed a more stringent rule? Is it upon the divorcee or the widow? The Torah has imposed a more stringent rule upon the divorcee than upon the widow.*
- [N] *“Now if a divorcee, who is subject to a more stringent rule for all other priests, is not prohibited to this particular priest because he is permitted to marry her despite the divorce to which, for all other priests, she is subject,*

- [O] “a widow, who is subject to a less stringent rule for all other priests, is it not logical that she should be prohibited to this particular priest, because he is permitted to marry her despite the fact that, so far as he is concerned, she is a married woman?”
- [P] “Now as to a widow, who is prohibited to this particular priest by reason of that which has permitted her as a married woman, [in the case of a divorce lacking all qualifying stipulations,] is it not an argument *a fortiori* that she should be prohibited by reason of his being permitted to her on the count of the writ of divorce which applies to her?” [The foregoing is the best I can do with Y.’s language. T.’s formulation, supplemented by B., as follows, is clearer: “**Now if the widow, who is subject to a less stringent rule, is prohibited from marrying someone who is permitted to her [by the husband’s condition, namely, the priest], a divorcee, who is subject to a more stringent rule, surely should be prohibited from marrying anyone who is permitted to her [as a married woman]!** B. Git. 83a: “Seeing then that she would be forbidden to the priest *qua* divorcee, though this involves but a minor transgression, should she not all the more as a married woman, which is more serious, be forbidden to all men!” Thus we have learned that this is not *cutting off*] [T. Git. 7:4D].
- [Q] “Another matter. Lo, if he had said to her, ‘Lo, you are permitted to marry anyone except for So-and-so,’ and she went and married someone else, and she had children with him and he died, and then she went and married that man whom the first husband had originally prohibited – will her children from the second husband not turn out to be *mamzers?*”
- [R] [Eliezer’s rule] maintains that a writ of divorce will not permit [her to marry the man whom] the first husband had prohibited [but the death of the second husband will] do so, as we noted above].
- [S] [Rejecting Aqiba’s view,] said R. Shimi, “Do we find in the case [50b] of a woman that to begin with people are not liable on her account on the count of violating the law against adultery, but at the end they are liable on her account for violating the law against adultery? [So Q’s argument is null.]”
- [T] Said to him R. Mana, “To what may this case be likened? To someone who said to his wife, ‘Lo, this is your writ of divorce on condition that you have sexual relations with Mr. So-and-so.’ To begin with, that man is prohibited from having sexual relations with her. But if he transgressed and did have sexual relations with her, the writ of divorce is validated retrospectively.”

- [II:1 A] What should he do in such a circumstance? He should take it back from her and go and give it to her again, and say to her, “Lo, you are permitted to marry any man.” But if he wrote the stipulation into the body of the document, even if he went and blotted it out, the writ remains invalid:]** [With reference to M. 9:1E,] said R. Yohanan, “The law accords with the view of R. Simeon b. Eleazar.”
- [B] For R. Simeon b. Eleazar said, “A writ of divorce is valid only if the husband will state when he hands it over, ‘Lo, this is your writ of divorce.’”
- [II:2 A]** R. Jacob bar Aha in the name of R. Yannai, “[With respect to such an invalid writ of divorce as is described at M. 9:1F-H,] even the stench of an invalidation [by reason of being a divorced woman, who may not marry into the priesthood] does not apply to this woman.”
- [B] Kahana said, “That is to say, they did not scruple in this regard. For if you say that they did scruple that it might be a valid writ, [then the act of giving it may be taken into account]. [But if so, why take it back, as at M. 9:1E?] While it is yet in her hand, if he said to her, ‘Lo, you are permitted to marry any one,’ [it should be a valid writ].”
- [C] Said R. Aha, “That is to say that they did scruple [about the divorce, so that she may not marry a priest, in line with M. 9:1E]. For if you say that they did not scruple, then, since he has the power to divorce her, let him divorce her, [and why must he take that writ back, as at M. 9:1E]?”
- [D] Said R. Zeira, Shila bar Binah taught, “In any case in which in the writ is written a stipulation, ‘on condition that ...,’ the writ is invalid.
- [E] “So in any case in which he handed it over on a stipulation, the writ is invalid.”

9:2

- [A] [If the husband said,] “Lo, you are permitted to any man, except for my father, and your father, my brother, your brother, a slave, or a gentile,”**
- [B] or any man to whom she cannot become betrothed –**
- [C] it is valid.**

[D] “Lo, you are permitted to any man, except, in the case of a widow, to a high priest, in the case of a divorcee or a woman who has undergone the rite of halisah to an ordinary priest, a mamzer-girl or a Netin-girl to an Israelite, an Israelite-girl to a mamzer or to a Netin,”

[E] or any man to whom she can become betrothed, even though it is in transgression [for her to do so],

[F] it is invalid.

[G] The text of the writ of divorce [is as follows]:

[H] “Lo, you are permitted to any man.”

[I] R. Judah says, “[In Aramaic:] Let this be from me your writ of divorce, letter of dismissal, and deed of liberation, that you may marry anyone you want.”

[J] The text of a writ of emancipation [is as follows]:

[K] “Lo, you are free, lo, you are your own [possession]” [cf. Deut. 21:14].

[I:1 A] R. Aha said, “[The reason for the rule of M. 9:2A is that the Scripture has referred to] ‘cutting off.’ The Torah has applied the conception of cutting off only to a case of a sexual relationship which is subject to a valid marital tie [excluding those listed at M].”

[II:1 A] Said R. Mana, “[As to M. 9:2I,] That is so only if he will not say, ‘And it is appropriate [DYN, instead of DN].”

[B] R. Mana raised the question, “[If the husband said,] ‘Lo, you are in your own domain,’ [what is the meaning]?” [This question is not answered.]

[III:1 A] [With reference to M. 9:2K,] said R. Yosé b. R. Bun, “He has to say, ‘Lo, you are wholly free. Lo, you belong to yourself.”

[B] *The Mishnah-law has said the same, “Lo, you are free, lo, you are your own possession.”*

9:3

[A] There are three writs of divorce which are invalid,

[B] but if the wife [subsequently] remarried [on the strength of those documents],

[C] the offspring [nonetheless] is valid.

[D] [If he wrote in his own handwriting, but there are no witnesses on it;

[E] there are witnesses on it, but it is not dated;

[F] it is dated, but there is only a single witness –

[G] lo, these are three kinds of invalid writs of divorce,

[H] but if the wife [subsequently] remarried,

[I] the offspring is valid.

[I:1 A] [What follows serves M. Yeb. 3:9: **And in every case in which the betrothal or divorce of the deceased brother is subject to doubt, the co-wives (listed at M. Yeb. 1:1) perform the rite of removing the shoe and do not enter into levirate marriage. What is a case of doubt concerning betrothal? If he threw her a token of betrothal – it is a matter of doubt whether it landed nearer to him or nearer to her – this is a case in which there is doubt concerning betrothal. And a case of doubt concerning a writ of divorce? If one wrote the writ of divorce in his own hand, but there are no witnesses to attest the document –, if there are witnesses to attest the document, but it is not dated –, if it is dated, but it contains the attestation of only a single witness – this is a case in which the divorce is subject to doubt, just as at 9:3.] We do not have here a case of a writ of divorce of doubtful validity, but a fully valid writ of divorce! [We shall now have a case of a writ of doubtful validity.]**

[B] What would be a matter of doubt concerning betrothal? *It would be along the lines of that which we have learned there in the Mishnah: **If he threw her a token of betrothal – it is a matter of doubt whether it landed nearer to him or nearer to her – this is a case in which there is doubt concerning betrothal.***

[C] [Along these same lines,] If he threw her a writ of divorce – it is a matter of doubt whether it landed nearer to her or nearer to him – this would be a case in which there is doubt concerning a writ of divorce.

[I:2 A] R. Yohanan in the name of R. Halapta of Hawah, “And in all cases [listed at M. Git. 9:3D-F], if she remarried on the strength of the writ, she should not go forth, so as not to call into question the genealogical status of her children [by the second marriage].”

[B] [If one’s daughter was married to his brother, and the brother issued a writ of divorce under the conditions listed at M. Git. 9:3F, and if his daughter [the brother’s wife] remarried [anyone in the] market with such a writ of divorce, she should not go forth. This produces the result that her co-wife is subject to levirate marriage with her father [should the brother, her husband, have died childless]. [Since at the time of the brother’s death, the man’s daughter no longer was married to the brother, the co-wife may now enter into levirate marriage with the father.]

[C] If her co-wife [in the conditions specified at E] remarries on the strength of such a writ of divorce [given to the other wife, that is, the husband's niece], she should go forth. [That is, If the deceased, who was uncle of his wife, has issued such a writ of divorce to the wife who was his niece, hence daughter of the levir, and her co-wife remarried, assuming that such a writ of divorce was not valid and therefore that she was free to marry anyone else, since her co-wife was prohibited to marry the levir, the co-wife's father, in line with M. Yeb. 1:1, then the co-wife should go forth. Why? Her co-wife, daughter of the levir, in fact had been properly divorced. Consequently she herself is subject to marriage with the levir. This simply states a second time what E has already said.]

[D] If his daughter married his brother on the strength of a writ of divorce of such a character, she [too] should go forth. [Now we refer to yet another brother, who has entered into levirate marriage with the daughter. In fact this girl was one whom his brother had properly divorced. Consequently he may not marry her. She goes forth.]

[E] If her co-wife married his brother on the strength of such a writ of divorce, even if it was to her father, she should not go forth. [The reason is the same as already established. There is yet another brother. He has entered into levirate marriage with the co-wife. We do not maintain that, since the daughter married the second brother, this woman was not subject to levirate marriage. On the contrary, the writ of divorce issued to the daughter was valid. This co-wife then is subject to levirate marriage. The marriage is valid.]

[II:1 A] **[If he wrote in his own handwriting, but there are no witnesses on it; there are witnesses on it, but it is not dated; it is dated, but there is only a single witness – lo, these are three kinds of invalid writs of divorce:]***It was taught:* On the strength of these three sorts of writs of divorce, [the wife] collects [funds owing in settlement of her marriage contract] from unindentured property, but she may not collect from indentured property [as would be the case if the writ of divorce were wholly valid].

[B] *Said R. Ba,* “*That which you have stated* applies in a case in which the deed was not confirmed as is in the hand of the creditor. [That is, the debtor does not confirm that it is a valid deed.]

[C] (Following PM's emendations:) “But if the deed was confirmed as is in the hand of the creditor, [so that the debtor agreed that the debt was valid], one may collect [from indentured property].”

[D] *R. Yosé raised the question, “If the deed was not confirmed as is in the hand of the creditor, then the creditor should not collect even from unindentured property.*

[E] “But we must interpret the rule to apply to a case in which the deed was confirmed as is in the hand of the creditor.”

[F] In that case, why may collection not be effected from indentured property?

[G] Said R. Bisna, “It is on account of possible conspiracy [in which the debtor will sell his property to a third party, and then the creditor will take it back from that party]. [Consequently, the third party will have been defrauded.]”

[H] Said R. Abun, “It is because, in fact, it is an invalid writ.

[I] “Up to this point we have dealt with a case in which the elder borrowed money, and the elder also indentured his property. But if the elder had borrowed money, while the son and heir indentured the property, do you have the possibility to maintain that collection cannot be effected because of a possible conspiracy?”

[J] “No. It is because the writ in fact is invalid.

[K] “And here too it is because the writ in fact is invalid.”

[L] Said R. Abun, “And lo, it has been taught: ‘Also with regard to the writs of divorce issued to women the law is the same.’

[M] “Under such circumstances can you say that it is because of a possible conspiracy? No. It is because the writ itself is invalid. Here too the writ itself is invalid.”

[II:2 A] **[If he wrote in his own handwriting, but there are no witnesses on it; there are witnesses on it, but it is not dated; it is dated, but there is only a single witness – lo, these are three kinds of invalid writs of divorce:]** R. Yohanan in the name of R. Yannai: “And all of them [listed at M. 9:3F] are [valid only if they are] in the handwriting of the husband.”

[B] R. Eleazar raised the question: “But we have witnesses [at 1. 9:3E], so what need do we have for the husband’s own handwriting [since the witnesses validate the writ anyhow?”

[C] R. Jeremiah in the name of Rab: “And all of them [listed at M. 9:3F] are in the handwriting of the husband, except for the one bearing the

signatures of witnesses [in which case the writ is valid even if the husband did not write it].”

[D] Said R. Hamnuna, “As to these [at M. 9:3F], they have brought a penalty on themselves, since they agreed to witness a writ which bears no date. [That is why, in M. 9:3F, we require that the writ be in the handwriting of the husband, as Jeremiah has implied.]”

[II:3 A] R. Ba bar Hamnuna, R. Ada bar Aha in the name of Rab: “[M. 9:3F’s omitting other sorts of invalid traits of a writ, e.g., the date of some empire other than the applicable one, the absence of the requisite number of witnesses, and the like, means that] the passage of the Mishnah accords with the view of R. Meir. [Had their faults been present, he would have declared the offspring to be a mamzer.]”

[B] *Why is it necessary to say so?*

[C] *Said R. Mana, “Since R. Huna said in the name of Rab: ‘This entire chapter follows the view of R. Meir, except for the case in which one changed his name and her name, the name of his town and the name of her town’ M. 8:5],*

[D] *“so that you should not reason that, while the former passage follows the view of R. Meir, the latter one accords with the view of rabbis, accordingly it was necessary to state that the present passage too accords with the position of R. Meir.”*

[E] *Said R. Yosé, “Since Rab and Samuel both maintain that the law accords with R. Eleazar, so that you should not maintain that here too [that is the case], it was necessary to observe that here the Mishnah’s statement accords with the view of R. Meir.”*

9:4

[A] **R. Eleazar says, “Even though there are no witnesses on it [the document itself] but he handed it over to her in the presence of witnesses,**

[B] **“it is valid.**

[C] **“And she collects [her marriage contract] from mortgaged property.**

[D] **“For witnesses sign the writ of divorce only for the good order of the world.”**

[I:1 A] *Both Rab and Samuel say, “The law is in accord with the view of R. Eleazar.”*

[I:2 A] R. Yohanan in the name of R. Yannai, “In the view of sages, such a writ [lacking signatures of witnesses] is invalid (and in no way is the woman deemed to have been divorced, e.g., for purposes of marrying into the priesthood).”

[B] *A case came before R. Yohanan. It dealt with the wife of a priest [and if the writ were deemed valid at all, she could not then go back and live with him]. He proposed to rule in accord with R. Yannai. When he heard that Rab and Samuel differ, when a case came before him involving even a mere Israelite, [he would validate the writ].*

[C] R. Joshua b. Levi said, “In the opinion of all parties, it is valid.”

[D] And lo, [the tradition we have cited says,] R. Eleazar said, “It is valid.” And rabbis say, “It is invalid.”

[E] *What is the difference between them?* [It is not having to do with the validity of the writ at all. Rather,] R. Eleazar said, “It is valid, and one may collect on the strength of such a writ from indentured property.”

[F] And sages say, “It is valid, but one may collect on the strength of such a writ only from indentured property.”

9:5

[A] **Two [with identical names] who sent [to their wives, also bearing identical names] two writs of divorce [which were] identical, and which were mixed up –**

[B] **one gives both of them to this one and both of them to that one.**

[C] **Therefore if one of them was lost, lo, the second one is null.**

[I:1 A] *R. Eliezer b. R. Yosé raised the question before R. Yosé, “Just as you maintain that a single writ of divorce is invalid when it serves two different women, along these same lines is it the case that two writs of divorce are invalid when addressed to two women?”*

[B] *He said to him, “And that is indeed so.”*

[C] He said to him, “**And lo, we have learned: Two who sent two writs of divorce which were identical, and which were mixed – one gives both of them to this one and both of them to that one [M. 9:5A-B].** [Consequently, two writs of divorce addressed to two women are valid.]”

[D] [He said to him,] “In that case, this one was written for the sake of this woman, and that one was written for the sake of that woman. It is

merely the fact that they got mixed up which has caused the difficulty. But here, [at M. Git. 3:1], this one was not written for the sake of this woman, and that one was not written for the sake of that one woman. Once it is given to her, it is as if it were prepared for her sake at the outset.”

9:6

[A] **Five who wrote jointly in one [and the same] bill of divorce,**

[B] **“Mr. So-and-so divorces Mrs. Such-and-such,” “Mr. So-and-so divorces Mrs. Such-and-such,” [..., and so on, five times],**

[C] **and there are witnesses below –**

[D] **all of them are valid.**

[E] **And let it be given over to each one.**

[F] **[If] the formula was written [anew in full] for each of them,**

[G] **and there are witnesses below –**

[H] **that with which the names of the witnesses are read is valid.**

[I:1 A] Said R. Yohanan in the name of R. Yannai, “[With regard to M. 9:6: **Five who wrote jointly in a single bill of divorce, ‘Mr. So-and-so divorces Mrs. Such-and-such,’ (five times), and there are witnesses below – all of them are valid, and let the writ be given over to each woman in succession. If the formula was written anew in full for each of them, and there are witnesses below, that with which the names of the witnesses are read is valid.** Now on this pericope, the following is added: If one of them has written,] ‘And I inquire after the welfare of Mr. So-and-so,’ [we] assume [that the witnesses] have signed [the document covering] everything [which is in it, because of the use of the word *and*. If on the other hand, it is written,] ‘I inquire after the welfare of Mr. So-and-so,’ [the witness] has signed [the document] only with regard to this last statement. [Consequently, the inclusion of the *and* is crucial. In the absence of the use of *and*, the witness has signed the document only to testify that the person who sent it intended to ask after the welfare of Mr. So-and-so and the witnesses do not have in mind the rest of the document, to which they do not bear witness at all.]”

[B] R. Simeon b. Laqish said, “[Even if it is written at the end of the document,] ‘I inquire after the welfare of Mr. So-and-so’ [without space], [nonetheless] we assume [that the witnesses at the end] have signed the document to bear witness to everything written in it.”

- [C] [Now in the stated document,] what is a case [in which one] has covered all [of the women at once]?
- [D] R. Yohanan said, “Mr. So-and-so divorces Mrs. So-and-so, and Mr. Such-and-such, Mrs. Such-and-such.”
- [E] [In the stated document,] what is a case [in which one] has covered all [of the women at once]?
- [F] R. Simeon b. Laqish said, “We, Mr. So-and-so, and Mr. So-and-so, divorce our wives, from such-and-such a place.”
- [G] Said R. Zeira, “R. Yohanan [surely] concedes that if the document makes mention of the divorce of each woman individually, that one has to give a copy, suitably witnessed, to each woman. [That is, if the document says, ‘Mr. So-and-so divorces Mrs. So-and-so, and Mr. Such-and-such divorces Mrs. Such-and-such,’ each party must receive a copy of the document with the necessary legal language and suitably witnessed. Yohanan maintains that the use of *and* serves to generalize only in a case in which the scribe writes, Mr. So-and-so divorces Mrs. So-and-so, without repeating the language, *divorces.*.]”

[H] *The full extent of the position of R. Yohanan [that so long as the matter of divorce is not made explicit for each woman, we have a general statement covering all of them altogether] is to be seen in the following:*

[I] **[If one said,] “Let what I enjoy of this one’s be qorban, and of that one’s be qorban,” they require a loosing of the vow for each and every one of them [M. Ned. 9:7H].** [Each vow is deemed distinct. Had the man not stated, “*qorban,*” in each instance, it would have been deemed a single vow and then required only one act of loosening of the vow.]

[J] *Said R. Yosé, “The following passage of the Mishnah supports the position of R. Yohanan:*

[K] “If the formula was written anew in full for each of them, and there are witnesses below, that with which the names of the witnesses are read is valid [M. Git. 9:5IK].”

[L] [With regard to the following statement:] “If five people laid claim on a man all together, it is a collective case and the man is liable for only one offering. But [if they did so] individually, he would be liable on account of each oath,” the words of R. Meir. R. Judah says, “[If he said,] ‘I swear [that I have nothing] of yours, and not of yours, and not of

yours,' he is liable on the count of each oath [for he has made use of the and, which distinguishes one oath from the next and makes all of them distinct], Samuel said, "A case treated as individual by R. Meir [so that the man is liable on the count of each vow] is treated as collective by R. Judah [so that the man is liable for one offering covering the whole of the series of vows]. [For Meir deems the absence of the conjunction to differentiate the vows, and Judah deems the presence of the conjunction to differentiate the vows.] And a case treated as individual by R. Judah is treated as collective by R. Meir [for precisely the same reason]."

[M] *R. Samuel in the name of R. Zeira: "The statement of rabbis [Yohanan, above] confirms the view that that case treated as individual by R. Meir is not the case treated as collective by R. Judah [so Zeira differs from Samuel, and, as we see, it is specifically with regard to Judah's position:]*

[N] *"For R. Yohanan said in the name of R. Yannai [authorities who concur with Judah], [‘If one of them has written,] “And I inquire after the welfare of Mr. So-and-so,” [we] assume [that the witnesses] have signed [the document covering] everything which is in it, [because of the use of the word and. If on the other hand, it is written,] “I inquire after the welfare of Mr. So-and-so,” [the witnesses] have signed [the document] only with regard to this last statement. Now if you [50c] maintain that that case treated as distinct by R. Meir is treated as collective by R. Judah, then [if one had said, “[Without and] I inquire after the welfare of Mr. So-and-so,” we assume that the witness has signed the document covering everything which is in it.”*

[O] *What is the outcome [of the present inquiry]?*

[P] *Said R. Yosé, "The present pericope of the Mishnah in fact indicates that a case treated as individual by R. Judah is not treated as collective by R. Meir, for we have learned: R. Meir says, ‘Even if he had said, Wheat and barley and spelt,’ he is liable on each and every count [M. Shebu. 5:4K]. [It is Judah who deems the use of and to be disjunctive, and here Meir regards the repetition of and to indicate that we have a distinct vow for each item.] And a person does not make use of the*

word, even if, unless he concurs with that which has been previously stated. [It follows that Meir deems the use of and to be disjunctive, just as does Judah, and he concurs with Judah. This is against the view of Samuel.]”

[Q] *What is the outcome [of the present inquiry]?*

[R] Said R. Hanina, “In the opinion of R. Meir, Whether the man had said, ‘Wheat and barley and spelt [in general],’ or whether he had said, ‘A grain of wheat, a grain of barley, a grain of spelt,’ we may have either a case in which everything specified forms a single collective, or a case in which each item is deemed distinct from the others [depending on whether or not the conjunction has been used].

[S] “Likewise: in the opinion of R. Judah, If one has specified, ‘Wheat, and barley, and spelt,’ we may have a collective, or we may have distinct vows. If the man had said, ‘Wheat, barley, spelt,’ it is a collective statement without further specification [in which case there is liability to only a single offering if the vow should prove false].”

9:7

[A] **Two writs of divorce which one wrote side by side,**

[B] **and [the signatures of] two witnesses/ [written in] Hebrew, run from under this one [on the right] to under that one [on the left],**

[C] **and [the signatures of] two witnesses [written in] Greek, run from under this one [left] to under that one [right],**

[D] **that with which the first witnesses’ [signatures] are read is valid.**

[E] **[If the signatures of] one, [written in Hebrew], and one [written in] Greek, one [written in] Hebrew and one witness [written in Greek] run from under this one to under that one,**

[F] **both of them are invalid.**

[I:1 A] **[If the witnesses signed two [or three] lines below the body of the text, it is invalid. [If they signed] closer than this [to the body of the text], it is valid [T. B.B. 11:10].**

[I:2 A] **Simeon bar Ba in the name of R. Yohanan: “If one has set aside those two lines for some other matter, [the document is null] even if it is any**

small item at all. [That is, no other item may intervene between the body of the text and the signatures of the witnesses.]”

- [B] *Said R. Samuel b. R. Isaac, “The Mishnah itself has said so: **If the signature of one is written in Hebrew and one in Greek, one in Hebrew and one in Greek, running from under this [writ] to that one, both of them are invalid [M. 9:7E-F]**, for does the Hebrew one on top of the Greek not deal with some other matter [than the one with which the document is meant to serve]. [This proves the point of B]”*
- [C] [As to I.A, above, signing two or three lines below the body of the text,] said R. Mana, “If one began to sign [at least] at the end of the second line [below the body of the text], and completed his signature at the end of the fourth, it is valid.”
- [D] **How much may the names of the witnesses be distant from the body of the writ for the writ to be valid?**
- [E] **“Sufficient so that they may be read with it [the body of the text],” the words of Rabbi.**
- [F] **R. Simeon b. Eleazar says, “The space of a single line.”**
- [G] **R. Doseitai b. R. Yannai says, “The space taken up by the signatures of the two witnesses” [T. Git. 7:11F].**
- [H] By what script do they make the stated estimate?
- [I] R. Yosa in the name of R. Shobetai: “The size of the signatures of the witnesses. [That is, the letters LK LK are written according to the way in which the witnesses write those letters.”
- [J] R. Abbahu said in the name of R. Isaac bar Haqola, “[They estimate the appropriate distance between two lines by providing a space] so that, [on the adjacent lines, the words] LK LK [may be written one on top of the other without actually touching].” [The Hebrew letters L and K extend above and below the lines respectively.]
- [K] *R. Jeremiah raised the question before R. Zeira: “[If in the signatures of the witnesses is no L or K,] then is the signature of Yosé b. Yannai equivalent to the signature of Saul b. Barukh?”*
- [L] He said to him, “That is certainly so. On that account it is necessary [to indicate that] the signature of Yosé b. Yannai is tantamount to the signature of Saul b. Barukh.”

- [I:3 A]** A writ of divorce on which there is an erasure, or an interlinear insertion, [if this was] in the body [of the document], is invalid.
- [B] [If this is] not in the body of the document, it is valid.
- [C] If one restored it [the erasure] at the bottom, even in the body of the document, it is valid [T. Git. 7:8].
- [D] *Both R. Jonah and R. Yosé say, “It is necessary to restore two lines in the body of the text [should there be that much blank between the text and the signatures of the witnesses].”*
- [E] R. Zeira in the name of Rab: “It is necessary to make mention of the subject-matter of the writ along with [such a restored set of lines, e.g., on the last line].”
- [F] R. Ba in the name of Rab: “[Even if one did not make mention of the subject-matter of the writ along with [such a restored set of lines, it is nonetheless valid].”
- [G] *The opinions assigned to R. Ba are at variance with one another. There R. Ba has stated in the name of R. Jeremiah, “If invalid witnesses sign a writ before the valid ones do, [that is, near the text of the document,] they do not have the effect of setting the valid testimony at an unacceptable distance from the body of the writ itself, for these invalid witnesses are included only to confirm the validity of the writ of divorce.” [Thus we are in general concerned that the valid witnesses should not be set two or more lines below the body of the text.] And here he has said this [that it does not matter whether the witnesses sign a few lines below the body of the text].*
- [H] *There he spoke in the name of R. Jeremiah, while here he spoke in the name of Rab.*
- [I:4 A]** [If the debtor] called into question the validity of the signatures of the witnesses and the validity of the signatures of the judges, [these have to be verified].
- [B] R. Ba in the name of R. Judah: “[That is] so, for if he had wanted to confirm the writ through the handwriting of the witnesses, it is deemed validated; if he wanted to do so through the handwriting of the judges, it is deemed validated.”
- [C] [Said R. Ba,] “I maintain that even with the valid signature of a single witness and a single judge, the writ is validated.”

[D] Said R. Mana, “And that is so. For if one wanted to validate the writ even through the handwriting of one party, he does so.”

- [I:5 A] [If the debtor] gave permission to the scribe to write a bond, and to the signatories to sign it, [and they delayed and did not do so in that very same day,]
- [B] R. Ba in the name of R. Jeremiah, “The witnesses have to write, ‘This loan took place on the first of Nisan, but we delayed the matter.’ [The consideration here is that the creditor will collect the debt prior to Tishré of that year, claim the bond is lost and write out a receipt for the debtor, and afterward he may produce the bond at its date and claim that the debtor has taken out a new loan.]”
- [I:6 A] R. Zeira in the name of R. Hamnuna: “The confirmation of judges for a bond may be written even a number of lines below the text of the bond and the document still will be valid.”
- [B] Rab said, “The judges have to write, ‘We have confirmed the bond in the presence of Mr. Such-and-such and Mr. So-and-so.’”
- [C] “Why is that so? It is so that it will not be easy to set up a conspiracy against the man.”
- [D] If that is the case, then they should write even the day and the time of day and the place.
- [E] *A court decree came forth from Rab’s court, and it was not written in that way.*
- [F] Said R. Haggai, “The judges must know the identity of those who are judged before them. For there was a case, and people produced a forged judges’ validation, [since the judges did not know the identity of the person for whom they wrote the document].”

9:8

- [A] [If] one left over part [of the text of] the writ of divorce and wrote it on the second page,
- [B] and the witnesses are below,
- [C] it is valid.
- [D] [If] the witnesses signed at the top of the page, on the side, or on the backside, in the case of an unfolded writ of divorce,
- [E] it is invalid.
- [F] [If] one joined the top of this [writ of divorce] alongside the top of that writ of divorce,

- [G] and the witnesses are in the middle,
- [H] both of them are invalid.
- [I] [If he joined] the bottom of this one with the bottom of that one, with the witnesses in the middle,
- [J] that with which the names of the witnesses are read [alone] is valid.
- [K] [If he joined] the head of this one alongside the bottom of that one, with the witnesses in the middle,
- [L] that with which the witnesses' names are read at the end is valid.
- [M] A writ of divorce which one wrote in Hebrew with its witnesses' signing the Greek,
- [N] [or which he wrote in] Greek, with its witnesses' signing in Hebrew,
- [O] [or which] one witness [signed] in Hebrew and one in Greek,
- [P] [or which] the scribe wrote which one witness [signed, with the scribe as the second witness],
- [Q] is valid.
- [R] [If it was written,] "Mr. So-and-so, a witness," it is valid.
- [S] "The son of Mr. So-and-so, a witness," it is valid.
- [T] "Mr. So-and-so, son of Mr. So-and-so," but he did not write, "a witness," it is valid.
- [U] And thus did the scrupulous in Jerusalem do.
- [V] [If] he wrote [only] his family name and her family name, it is valid.
- [I:1 A] [As to M. 9:8A,] what did he leave out?
- [B] Said R. Yosé b. R. Bun, "For example, ' ... it is confirmed, valid, and clear.'"
- [C] Now where such a writ is invalid, it is in the case of one which is unfolded, but in the case of one which is folded, it will be valid,
- [D] on the condition that it be written on the back of the same document.
- [I:2 A] Rab said, "Judges sign the writ, even though they do not know how to read it [if it is in a language they cannot read]."
- [B] "But witnesses sign a writ only if they know how to read what is in it."
- [C] He said, "May something bad happen to me, if I have ever done such a thing in my life [as to sign a writ which I could not read]!"

- [D] Said R. Haggai before R. Yosé, “A document written in Greek never came before Rab for him to validate solely on the basis of its signatures.”
- [E] *The Mishnah’s law stands at variance with the view of Rab: A writ of divorce which one wrote in Hebrew with its witnesses’ signing in Greek or which he wrote in Greek with its witnesses’ signing in Hebrew, or which one witness signed in Hebrew and one in Greek ... is valid [M. 9:8M-Q]. [So C is wrong.]*
- [F] Interpret the Mishnah to speak of a case in which the judges could read [the language] but in which they did not know how to write [it].
- [G] Furthermore, if they knew both languages, they may sign in whichever one they prefer.
- [II:1 A] *Thus does the Mishnah also hold: If the scribe wrote [and] one witness signed, with the scribe as the second witness, it is valid. If it was written, “Mr. So-and-so a witness,” it is valid. “The son of Mr. So-and-so, a witness,” it is valid. “Mr. So-and-so, son of Mr. So-and-so,” but he did not write, “a witness,” it is valid [M. 9:8P-T].*
- [B] Said R. Eleazar, “This rule [validating the signature even if the fact that it is a witness that the person has signed is omitted] represents the opinion of all parties.”
- [C] Said R. Yohanan, “It represents only the view of R. Judah [who requires that the fact that the person has signed as a witness be made explicit].”
- [D] *Said R. Yosé, “Do not draw the conclusion from what R. Yohanan has stated that he differs. [That is, Yohanan’s insistence that it is the view only of Judah should not be interpreted to mean that, in general, the regnant view is that of sages.] He has replied to [Eleazar] in a manner consistent with [Eleazar’s] overall theory.*
- [E] *Is it not [Yosé’s] master, [Jeremiah,] who has said in the name of R. Zeira, “Since it is not common for people to have the same name, [the fact that the man has taken the trouble to give his father’s name indicates that he wants to be sure he can be identified, if need be, to validate the writ. Consequently, even if he did not write, ‘A witness,’ after his name, we do maintain that it was for the purpose of serving as a witness that the man had signed his name.]”*
- [III:1 A] **If he wrote only his name and her family name, it is valid [M. 9:8V].**

- [B] R. Abbahu in the name of R. Yohanán, “Even if he wrote only his sign [not his name], it is valid.”
- [C] R. Abbahu signed with an *alef*.
- [D] R. Hisda signed with a *Samekh*.
- [E] Samuel signed [by drawing] a palm-branch.

9:9

[A] **A writ of divorce imposed by a court –**

[B] **in the case of an Israelite court, it is valid.**

[C] **And in the case of a gentile court, it is invalid.**

[D] **In the case of gentiles, they beat him and say to him, “Do what the Israelites tell you to do,” and it is valid.**

[I:1 A] Samuel said, “The writ [of M. 9:9C] is invalid, but it renders the woman invalid to marry into the priesthood [as a divorcee].”

[I:2 A] Samuel said, “They force [the issuance of a writ of divorce only in the case of those whose marriage is] invalid.”

[B] Samuel said, “They force the issuance of a writ of divorce only in the case in which a widow is married to a high priest, or a divorcee or a woman who has performed the rite of removing the shoe has married an ordinary priest.”

[C] *And have we not learned [at M. Yeb. 9:3]: [In what concerns] the secondary grade of forbidden relations [they force the husband to divorce the wife]?*

[D] *It was not in regard to that matter that Samuel made his statement.*

[E] *And have we not learned [at M. Ned. 7:1]: **He who imposes a vow upon his wife not to derive benefit from him – for thirty days, he may set up someone to support her. From that point, he must divorce her and pay off her marriage settlement.***

[F] Thus we learn that he must divorce her. But have we learned from that law that they force him to do so?

[I:3 A] R. Jeremiah in the name of Rab: “In the case of a writ drawn up by an Israelite who was forced to do so by gentiles, it is invalid. [The initiative must come from an Israelite court.]

[B] “[Even if it was a case in which] he had said, ‘I shall not maintain or support her,’ [in which case an Israelite court must force him to divorce her,] [such a writ is invalid, unless the Israelite court instructed the gentile court to force the Israelite to issue the writ of divorce].”

[C] *R. Hiyyah taught*, “[In the case of a writ in which] gentiles were forced by Israelites [to compel the writing of the writ] it is valid,

[D] “[even if the Israelite said], ‘I shall continue to maintain her.’”

[E] *Said R. Yosé*, “*The Mishnah itself has made the same point: In the case of gentiles, they beat him and say to him, ‘Do what the Israelites tell you to do,’ and it is valid [M. 9:9D].*”

[I:4 A] R. Hiyya bar Ashi in the name of Issi, “He who says, ‘I shall not maintain or support her,’ – they force him to divorce her.”

[B] *R. Jeremiah raised the question before R. Abbahu*, “And do they force him to divorce her?” –

[C] *He said to him*, “And do I still have to deal with that matter? If they force the husband to issue a divorce even if he has a bad odor, is it not an argument a fortiori that they do so by reason of preserving her livelihood [since he refuses to support her]?”

[D] R. Hezekiah came, R. Jacob bar Aha, R. Yosa in the name of R. Yohanan: “As to him who says, ‘I shall not maintain or support her,’ they tell him, ‘Either maintain or support her or free her.’”

9:10

[A] [If] the word goes around town, “She is betrothed,” –lo, she is [deemed] betrothed.

[B] “She is divorced,” –lo, she is [deemed] divorced,

[C] on condition that there should not be some reason to doubt it.

[D] And what would be a reason to doubt it?

[E] “Mr. So-and-so has divorced his wife conditionally.”

[F] “He tossed her her tokens of betrothal –it is a matter of doubt whether it landed nearer to him or nearer to her” –

[G] lo, these are grounds for doubt.

[I:1 A] R. Yosa in the name of R. Yohanan, “[It is not a rumor in general which is taken into account. But in this case] the candles were flickering [at a banquet celebrating the betrothal], and people were

sitting around and talking [and someone said ‘So-and-so betrothed Such-and-Such today].’”

[B] *R. Zeira objected before R. Yosa, “And lo, we have learned: **If the word goes around town, ‘She is betrothed,’ lo, she is deemed betrothed. ‘She is divorced,’ – lo, she is deemed divorced [M. 9:10A-B].** Now can you really say that we deal with a case in which the candles were flickering [at a banquet]? [There is a divorce subject to the same rule.]”*

[C] No. People were [only] sitting around and talking. *Here, by contrast, people sitting around talking [about the issuance of the writ of divorce]. [That would suffice. We do not require independent evidence, e.g., in the form of the kindling of candles for a banquet.]*

[I:2 A] R. Yosa in the name of R. Yohanan: “If the word was investigated and turned out to come from women or children, the word is null.”

[B] Rab said, “They are permitted [depending upon such a rumor] only in a case in which one witness quotes some other. [That is, someone says, ‘I heard from various people, all of them now abroad, that such-and-such has happened.’ In this case we cannot go to the original witnesses, but we accept the testimony.]”

9:11

[A] The House of Shammai say, “A man should divorce his wife only because he has grounds for it in unchastity,

[B] “since it is said, ‘Because he has found in her indecency in anything’” (Deut. 24:1).

[C] And the House of Hillel say, “Even if she spoiled his dish,

[D] “since it is said, ‘Because he has found in her indecency in anything’”

[E] R. Aqiba says, “Even if he found someone else prettier than she,

[F] “since it is said, ‘And it shall be if she find no favor in his eyes’” (Deut. 24:1).

[I:1 A] *Lo, it has been taught:* The House of Shammai say, “I know only that a writ of divorce is issued on the grounds of unchastity. How do we know that if-the wife goes out in public with her head unkempt, with her shoulders bare, with her arms uncovered, [the husband may divorce her]?”

[B] “Scripture says, ‘Because he has found in her indecency in anything.’”

- [C] How do the House of Hillel interpret the proof-text important to the House of Shammai?
- [D] [The language, “indecent,” is used] so that you may not say, “She who goes forth because of unchastity is forbidden [to remarry], but if it is because of some other reason, she is permitted to do so.”
- [E] *Said R. Shila of Kepar Tamerata, “The following verse of Scripture poses a problem to the view of the House of Shammai: ‘... then her former husband, who sent her away, may not take her again to be his wife’ (Deut. 24:4). [Why make this statement, if the sole grounds for divorce are unchastity? Then the law needs no further specification.] Now how shall we interpret that statement? [From the Shammaites’ viewpoint,] if it is intended to render her prohibited to him, lo, she already is prohibited to him. But its purpose is to impose upon the husband a negative commandment [not to remarry her].”*
- [I:2 A] It is written, “Also for her who is sick with her impurity; that is, for anyone, male or female, who has a discharge” (Lev. 15:33) –
- [B] The former elders would rule, “Let the rule be that in her menstrual period she should not put blue on her eyes or make up her face until she enters water [for the rite of purification].”
- [C] Said to them R. Aqiba, “Is there any proof from that verse? [If so, she will be hated by him during her period, if she may not put on make-up at that time.] If that is the case, then she herself will make herself ugly, and he will contemplate divorcing her.”
- [D] *Now the ruling of sages accords with the view of the House of Shammai [since in any event the husband will not divorce her, there being no permissible grounds], while the position of R. Aqiba conforms to that of the House of Hillel.*

CHAPTER TEN

THE STRUCTURE OF YERUSHALMI GITTIN

Whether or not the Talmud of the Land of Israel is carefully organized in large-scale, recurrent structures and guided by a program that we may call systematic forms the principal question addressed by an academic commentary. The preceding chapters therefore have pointed toward the presentation set forth here. By “structure” I mean, a clearly-articulated pattern that governs the location of fully-spelled out statements. By “system,” I mean, a well-crafted and coherent set of ideas that explain the social order of the community addressed by the writers of a document, a social philosophy, a theory of the way of life, world view, and character of the social entity formed by a given social group. I see a collective, anonymous, and political document, such as the one before us, as a statement to, and about, the way in which people should organize their lives and govern their actions. At issue then in any document such as the remarkable one before us is simple: does this piece of writing present information or a program, facts to whom it may concern, or a philosophically and aesthetically cogent statement about how things should be? The connection between structure and system is plain to see. From the way in which people consistently frame their thoughts, we move to the world that, in saying things in one way rather than in some other, they wish to imagine. Modes of formulating thought adumbrate modes of imagining the world in which people wish to live, to which they address these thoughts.

If the document exhibits structure and sets forth a system, then it is accessible to questions of rationality. We may ask about the statement that its framers or compilers wished to make by putting the document together as they did. But if we discern no structure and perceive no systematic inquiry or governing points of analysis, then all we find here is inert and miscellaneous information, facts but no propositions, arguments, viewpoints. Now as a matter of fact the Talmud of the Land of Israel commonly finds itself represented as lacking organization and exhibiting a certain episodic and notional character. That view moreover characterizes the reading and representation of the document by learned and experienced scholars, who have devoted their entire lives to Talmud study and exegesis. It must follow that upon the advocate of the contrary view – the one

implicit in the representation of the document for academic analysis – rests the burden of proof. I set forth the allegation that the Talmud of the Land of Israel exhibits a structure and follows a system and therefore exhibits a commonly-intelligible rationality. The claim to write an academic commentary explicitly states that proposition. For the tractate before us, I have therefore to adduce evidence and argument.

I maintain that through the normal procedures of reasoned analysis we may discern in the tractate a well-crafted structure. I hold that the structure made manifest, we may further identify the purpose and perspective, the governing system of thought and argument, of those who collected and arranged the tractate's composites and put them together in the way in which we now have them. By "structure" I mean, how is a document organized? and by "system," what do the compilers of the document propose to accomplish in producing this complete, organized piece of writing? The answers to both questions derive from a simple outline of the tractate as a whole, underscoring the types of compositions and composites of which it is comprised. Such an outline tells us what is principal and what subordinate, and how each unit – composition formed into composites, composites formed into a complete statement – holds together and also fits with other units, fore and aft. The purpose of the outline then is to identify the character of each component of the whole, and to specify its purpose or statement. The former information permits us to describe the document's structure, the latter, its system.

While the idea of simply outlining a Talmud-tractate beginning to end may seem obvious, I have never made such an outline before, nor has anyone else. (I have provided complete outlines for the Mishnah and for the Tosefta in relationship to the Mishnah, and, not always in outline form, for the Midrash-compilations of late antiquity as well) Yet, as we shall now see, the character of the outline dictates all further analytical initiatives. Specifically, when we follow the layout of the whole, we readily see the principles of organization that govern. These same guidelines on organizing discourse point also to the character of what is organized: complete units of thought, with a beginning, middle, and end, often made up of smaller, equally complete units of thought. The former we know as composites, the latter as compositions.

Identifying and classifying the components of the tractate – the composites, the compositions of which they are made up – we see clearly how the document coheres: the plan and program worked out from beginning to end. When we define that plan and program, we identify the facts of a pattern that permit us to say in a specific and concrete way precisely what the compilers of the tractate intended to accomplish. The structure realizes the system, the program of analysis and thought that takes the form of the presentation we have before us. From what people do, meaning, the way in which they formulate their ideas and organized

them into cogent statements, we discern what they proposed to do, meaning, the intellectual goals that they set for themselves.

These goals – the received document they wished to examine, the questions that they brought to that document – realized in the layout and construction of their writing, dictate the points of uniformity and persistence that throughout come to the surface. How people lay out their ideas guides us into what they wished to find out and set forth in their writing, and that constitutes the system that defined the work they set out to accomplish. We move from how people speak to the system that the mode of discourse means to express, in the theory that modes of speech or writing convey modes of thought and inquiry.

We move from the act of thought and its written result backward to the theory of thinking, which is, by definition, an act of social consequence. We therefore turn to the matter of intention that provokes reflection and produces a system of inquiry. That statement does not mean to imply I begin with the premise of order, which sustains the thesis of a prior system that defines the order. To the contrary, the possibility of forming a coherent outline out of the data we have examined defines the first test of whether or not the document exhibits a structure and realizes a system. So everything depends upon the possibility of outlining the writing, from which all else flows. If we can see the order and demonstrate that the allegation of order rests on ample evidence, then we may proceed to describe the structure that gives expression to the order, and the system that the structure sustains.

The present work undertakes the exegesis of exegesis, for the Yerushalmi, like its counterpart in the one of Babylonia, is laid out as a commentary to the Mishnah. That obvious fact defined the character of my academic commentary, since we have already faced the reality that our tractate is something other than a commentary, though it surely encompasses one. The problems that captured my attention derived from the deeper question of how people make connections and draw conclusions. To ask about how people make connections means that we identify a problem – otherwise we should not have to ask – and what precipitated the problem here has been how a composition or a composite fits into its context, when the context is defined by the tasks of Mishnah-commentary, and the composition or composite clearly does not comment on the Mishnah-passage that is subjected to comment.

The experience of analyzing the document with the question of cogency and coherence in mind therefore yields a simple recognition. Viewed whole, the tractate contains no gibberish but only completed units of thought, sentences formed into intelligible thought and self-contained in that we require no further information to understand those sentences, beginning to end. The tractate organizes these statements as commentary to the Mishnah. But large tracts of the writing do not comment on the Mishnah in the way in which other, still larger

tracts do. Then how the former fit together with the latter frames the single most urgent question of structure and system that I can identify.

Since we have already examined enormous composites that find their cogency in an other than exegetical program, alongside composites that hold together by appeal to a common, prior, coherent statement – the Mishnah-sentences at hand – what justifies my insistence that an outline of the document, resting on the premise that we deal with a Mishnah-commentary, govern all further description? To begin with, the very possibility of outlining this tractate derives from the simple fact that the framers have given to their document the form of a commentary to the Mishnah. It is in the structure of the Mishnah-tractate that they locate everything together that they wished to compile. We know that is the fact because the Mishnah-tractate defines the order of topics and the sequence of problems.

Relationships to the Mishnah are readily discerned; a paragraph stands at the head of a unit of thought; even without the full citation of the paragraph, we should find our way back to the Mishnah because at the head of numerous compositions, laid out in sequence one to the next, clauses of the Mishnah-paragraph are cited in so many words or alluded to in an unmistakable way. So without printing the entire Mishnah-paragraph at the head, we should know that the received code formed the fundamental structure because so many compositions cite and gloss sentences of the Mishnah-paragraph and are set forth in sequence dictated by the order of sentences of said Mishnah-paragraph. Internal evidence alone suffices, then, to demonstrate that the structure of the tractate rests upon the Mishnah-tractate cited and discussed here. Not only so, but the sentences of the Mishnah-paragraphs of our tractate are discussed in no other place in the entire Talmud of the Land of Israel in the sequence and systematic exegetical framework in which they are set forth here; elsewhere we may find bits or pieces, but only here, the entirety of the tractate.

That statement requires one qualification, and that further leads us to the analytical task of our outline. While the entire Mishnah-tractate of treated here is cited in the Talmud of the Land of Israel, the framers of the Talmud of the Land of Israel by no means find themselves required to say something about every word, every sentence, every paragraph. On the contrary, they discuss only what they choose to discuss, and glide without comment by large stretches of the tractate. A process of selectivity, which requires description and analysis, has told the compilers of the Talmud of the Land of Israel's composites and the authors of its compositions (This statement requires refinement. I do not know that all available compositions have been reproduced, and that the work of authors of compositions of Mishnah-exegesis intended for a talmud is fully exposed in the document as we have it. That is not only something we cannot demonstrate – we do not have compositions that were not used, only the ones that were – but something that

we must regard as unlikely on the face of matters. All we may say is positive: the character of the compositions that address Mishnah-exegesis tells us about the concerns of the writers of those compositions, but we cannot claim to outline all of their concerns, on the one side, or to explain why they chose not to work on other Mishnah-sentences besides the ones treated here. But as to the program of the compositors, that is another matter: from the choices that they made (out of a corpus we cannot begin to imagine or invent for ourselves) we may describe with great accuracy the kinds of materials they wished to include and the shape and structure they set forth out of those materials. We know what they did, and that permits us to investigate why they did what they did. What we cannot know is what they did not do, or why they chose not to do what they did not do. People familiar with the character of speculation and criticism in Talmudic studies will understand why I have to spell out these rather commonplace observations. I lay out an argument based on evidence, not on the silences of evidence, or on the absence of evidence – that alone.) what demands attention, and what does not. Our outline has therefore to signal not only what passage of the Mishnah-tractate is discussed, but also what is not discussed, and we require a general theory to explain the principles of selection (“making connections, drawing conclusions” meaning, to begin with, making selections). For that purpose, in the outline, I reproduce the entirety of a Mishnah-paragraph that stands at the head of a Talmudic composite, and I underscore those sentences that are addressed, so highlighting also those that are not.

It follows that the same evidence that justifies identifying the Mishnah-tractate as the structure (therefore also the foundation of the system) of Yerushalmi-tractate before us also presents puzzles for considerable reflection. The exegesis of Mishnah-exegesis is only one of these. Another concerns the purpose of introducing into the document enormous compositions and composites that clearly hold together around a shared topic or proposition, e.g., my appendix on one theme or another, my elaborate footnote providing information that is not required but merely useful, and the like. My earlier characterization of composites as appendices and footnotes signalled the fact that the framers of the document chose a not-entirely satisfactory way of setting out the materials they wished to include here, for large components of the tractate do not contribute to Mishnah-exegesis in any way at all. If these intrusions of other-than-exegetical compositions were proportionately modest, or of topical composites negligible in size, we might dismiss them as appendages, not structural components that bear much of the weight of the edifice as a whole. Indeed, the language that I chose for identifying and defining these composites – footnotes, appendices, and the like – bore the implication that what is not Mishnah-commentary also is extrinsic to the Talmud of the Land of Israel’s structure and system.

But that language served only for the occasion. In fact, the outline before us will show that the compositions are large and ambitious, the composites formidable

and defining. Any description of the tractate's structure that dismisses as mere accretions or intrusions so large a proportion of the whole misleads. Any notion that "footnotes" and "appendices" impede exposition and disrupt thought, contribute extraneous information or form tacked-on appendages – any such notion begs the question: then why fill up so much space with such purposeless information? The right way is to ask whether the document's topical composites play a role in the re-presentation of the Mishnah-tractate by the compilers of the Talmud of the Land of Israel. We have therefore to test two hypotheses:

1. the topical composites ("appendices," "footnotes") do belong and serve the compilers' purpose

or

2. the topical composites do not participate in the re-presentation of the Mishnah-tractate by Yerushalmi and do not belong because they add nothing and change nothing.

The two hypotheses may be tested against the evidence framed in response to a single question: is this topical composite necessary? The answer to that question lies in our asking, what happens to the reading of the Mishnah-tractate in light of the topical composites that would not happen were we to read the same tractate without them? The outline that follows systematically raises that question, with results specified in due course. It suffices here to state the simple result of our reading of the tractate, start to finish: the question of structure, therefore also that of system, rests upon the position we identify for that massive component of the tractate that comprises not Mishnah-commentary but free-standing compositions and composites of compositions formed for a purpose other than Mishnah-commentary.

The principal rubrics are given in small caps. The outline takes as its principal rubrics two large-scale organizing principles.

The first is the divisions of the Mishnah-tractate to which the Talmud of the Land of Israel-tractate serves as a commentary. That simple fact validates the claim that the tractate exhibits a fully-articulated structure. But the outline must also underscore that the Mishnah-tractate provides both more and less than the paramount outline of the Talmud of the Land of Israel-tractate. It is more because sentences in the Mishnah-tractate are not analyzed at all. These untreated Mishnah-sentences are given in bold face lower case caps, like the rest of the Mishnah, but then are specified by underlining and enclosure in square brackets.

Second, it is less because the structure of the tractate accommodates large composites that address topics not defined by the Mishnah-tractate. That brings us to the second of the two large-scale modes of holding together both sustained analytical exercises and also large sets of compositions formed into cogent

composites. These are treated also as major units and are indicated by Roman numerals, alongside the Mishnah-paragraphs themselves; they are also signified in small caps. But the principal rubrics that do not focus on Mishnah-commentary but on free-standing topics or propositions or problems are not given in boldface type. Consequently, for the purposes of a coherent outline we have to identify as autonomous entries in our outline those important composites that treat themes or topics not contributed by the Mishnah-tractate.

I. YERUSHALMI GITTIN 1:1

[A] **HE WHO DELIVERS A WRIT OF DIVORCE FROM OVERSEAS MUST STATE, “IN MY PRESENCE IT WAS WRITTEN, AND IN MY PRESENCE IT WAS SIGNED.” RABBAN GAMALIEL SAYS, “ALSO: HE WHO DELIVERS [A WRIT OF DIVORCE] FROM REQEM OR FROM HEGER [MUST MAKE A SIMILAR DECLARATION].”**”

1. **I:1:** Now here is a problem. In the case of one who brings a deed of gift from overseas, does he have to state, “Before me it was written and before me it was signed”? [Why is the rule more strict for writs of divorce?] R. Joshua b. Levi said, “The case [of writs of divorce] is different, for [overseas] they are not expert in the details of preparing writs of divorce [properly].” Said R. Yohanan, “It is a lenient ruling which [sages] have provided for her, that she should not sit an abandoned wife [unable to remarry].”
2. **I:2:** [If, along with the writ of divorce,] the document contained a deed of gift, and the messenger stated, “Before me it was written and before me it was signed,” [do we maintain that,] since [the husband’s] complaint is null so far as the writ of divorce is concerned, his complaint also is null so far as the writ of donation is concerned? Or do we rule that, while the husband’s complaint is null so far as the writ of divorce is concerned, his complaint remains valid so far as the writ of donation is concerned?
3. **I:3:** He who delivers a writ of divorce from overseas must state, “In my presence it was written by day, and in my presence it was signed by day.”
4. **I:4:** “In my presence it was written especially for her, and in my presence it was signed especially for her.”
5. **I:5:** The question was raised before R. Yohanan, “Does he [who brings a writ of divorce from overseas] need to know the names of the

witnesses when they sign the document?” [That is, need he know personally that the witnesses are Israelites, not gentiles?]

a. I:6: What is the rule [as to writing the writ of divorce overseas]?
R. Bibi in the name of R. Assi, “One must write it in the Jewish meeting place [where Jews have their own jurisdiction].. If there is no Jewish meetinghouse there, it must be done in the synagogue. If there is no synagogue, one collects ten men.

- 6.** I:7: And if [the messenger] did not state, “It was written by day and it was signed by day,” “It was written especially for her and it was signed especially for her,” [what is the law?]
- 7.** I:8: R. Ba in the name of Rab, R. Zeira in the name of Abba bar Hana, “Two who brought a writ of divorce do not have to state, ‘Before us it was written, and before us it was signed.’” R. Yosé b. Yosé in the name of R. Yohanan: “It is necessary that they do so.”
- 8.** I:9: If he handed over her writ of divorce, then took it from her and threw it into the sea or river, and later on said to her, “It was a blank piece of paper,” or “It was a canceled lien,” he does not have the power to invalidate her [if she has remarried]. R. Bun bar Hiyya raised the question before R. Zeira, “He does not have the power to invalidate the document. Who then has the power to invalidate it? [If he does not know what was written in it, no one else will!]”
- 9.** I:10: R. Jeremiah raised the question, “If one wrote it in the Land of Israel but signed it overseas and went to give it to her overseas, but did not find her overseas, and came and found her in the Land of Israel, he must say to her, ‘In my presence it was written and in my presence it was signed,’ because he has written it in the Land but signed it abroad. But if it had been written in the Land of Israel and signed in the Land of Israel, and he had gone to deliver it to her abroad, but did not find her, and then came and found her in the Land of Israel, he does not have to state, ‘In my presence it was written and in my presence it was signed.’”
- 10.** I:11: R. Ezra raised the question before R. Mana, “A man and a woman who were holding on to a writ of divorce – She says, ‘I have acquired ownership thereof’ – And he says, ‘You have not acquired ownership thereof’ – [what is the law? Whose claim is accepted?]”

[B] **R. ELIEZER SAYS, “EVEN FROM KEFAR LUDIM TO LUD.” AND SAGES SAY, “HE MUST STATE, ‘IN MY PRESENCE IT WAS WRITTEN, AND IN MY PRESENCE IT WAS SIGNED,’ ONLY IN THE CASE OF HIM WHO DELIVERS A WRIT OF DIVORCE FROM**

OVERSEAS, AND HIM WHO TAKES [ONE ABROAD].” AND HE WHO DELIVERS [A WRIT OF DIVORCE] FROM ONE OVERSEAS PROVINCE TO ANOTHER MUST STATE, “IN MY PRESENCE IT WAS WRITTEN, AND IN MY PRESENCE IT WAS SIGNED.”

1. **II:1:** R. Eliezer objected to rabbis [= M. 1:1C], “Just as you maintain [M. 1:1F]: He who brings a writ of divorce from one province to another overseas has to say, ‘In my presence it was written, and in my presence it was signed,’ so I maintain that he who brings a writ from one province to another in the Land of Israel has to say, ‘In my presence it was written and in my presence it was signed.’”

[C] **RABBAN SIMEON B. GAMALIEL SAYS, “EVEN [IF HE BRINGS ONE] FROM ONE JURISDICTION TO ANOTHER [IN THE SAME TOWN.]”**

1. **III:1:** If it was a single jurisdiction [M. 1:1G] and it was divided into two, one does not have to say, “In my presence it was written and in my presence it was signed,” and so is the rule for a jurisdiction which was in two separate parts and was joined into one.

II. YERUSHALMI GITTIN 1:2

[A] **R. JUDAH SAYS, “FROM REQEM TO [THE COUNTRY] EAST [OF REQEM] – AND REQEM IS EQUIVALENT TO [TERRITORY] EAST [OF REQEM]. FROM ASKELON AND SOUTHWARD, AND ASKELON IS EQUIVALENT TO [TERRITORY] SOUTH [OF ASKELON]:”**

1. **I:1:** R. Yohanan said to the Sepphorean [authorities], “You say in the name of R. Hanina, ‘Also he who brings a writ from Babylonia to here does not have to state, “In my presence it was written and in my presence it was signed.”’ But I say that he does have to make that statement. For it is in accord with the Mishnah’s own teaching: R. Judah says, ‘From Reqem to the country east of Reqem, and Reqem is equivalent to territory east of Reqem’ [M. 1:2A]. Now even if you maintain that others disagreed with R. Judah, holding that Reqem is not equivalent to territory east of Reqem, can you possibly maintain that [he who brings a writ] from Babylonia to here [would fall within the territory of Reqem]?”
 - a. **I:2:** Rab said, “We [in Babylonia] declared ourselves equivalent to the Land of Israel so far as writs of divorce are concerned.” Samuel said, “Even [he who brings a writ] from one neighborhood to another [must make the required declaration to validate the writ].”

b. I:3: All concur that if [the husband] came and issued a complaint [against the validity of the writ], his complaint is null. [That is, if it is a locale in which such a statement is not required, and the husband issues a complaint against the writ, his statement is disregarded. To this point the law is clear for a case in which the wife had already remarried when the husband issued his complaint. But if he issued his complaint prior to her remarriage, and then she remarried, [what is the law]?

i. I:4: [At I:2F we have noted the view of Meir that one who violates rules set up by scribes must be divorced, and her offspring are deemed *mamzers*. Now we deal with the issue of whether or not the law accords with his view.] R. Jacob bar Ada bar Atelai in the name of R. Eleazar: “The law accords with R. Meir in matters involving writs of divorce.”

[B] FROM AKKO AND NORTHWARD, AND AKKO IS EQUIVALENT TO TERRITORY NORTH OF AKKO.” R. MEIR SAYS, “AKKO IS EQUIVALENT TO THE LAND OF ISRAEL SO FAR AS WRITS OF DIVORCE ARE CONCERNED.”

1. **II:1:** R. Hiyya, R. Ba said, “[Since one who sells his slave to an owner who will take the slave abroad must emancipate the slave, rather than permit him to leave the Land of Israel,] he who sells his slave to an owner domiciled in Acre – the slave has gone forth to freedom, [since Acre is outside of the Land of Israel].”

[C] TOPICAL APPENDIX ON CONDITIONS IN WHICH DISCIPLES MAY GIVE DECISIONS

1. **II:2:** R. Huna in the name of R. Huna said, “A disciple who gave a decision, even in accord with the decided law – his instruction is null.”

2. **II:3:** It was taught: A disciple who gave instruction in the presence of his master is liable to the death penalty.

[D] REVERSION TO THE EXPOSITION OF THE MISHNAH-RULE

1. **II:4:** Rabbi was in Acre. He saw someone standing in the area on the other side of the bridge [toward the territory of the city itself]. He said to him, “Are you not the son of Mr. So-and-so, a priest? And is your father not a priest? [Why then are you contracting uncleanness by standing in foreign soil?]” [So here Acre is deemed not part of the Land of Israel.]

1. **II:1:** As to the towns that are at the border of Sepphoris, on the side of Acre, and the towns at the border of Acre, toward Sepphoris how do you treat them?

III. YERUSHALMI GITTIN 1:3

[A] **HE WHO DELIVERS A WRIT OF DIVORCE IN THE LAND OF ISRAEL DOES NOT HAVE TO STATE, “IN MY PRESENCE IT WAS WRITTEN, AND IN MY PRESENCE IT WAS SIGNED.” IF THERE ARE DISPUTANTS AGAINST [THE VALIDITY OF THE WRIT], IT IS TO BE CONFIRMED BY ITS SIGNATURES.**

1. **I:1:** [As to M. 1:3B, If there are disputants against [the validity of the writ], it is to be confirmed by its signatures,] who has brought complaint?
 - a. **I:2:** [As to a complaint on the part of the husband, if the messenger has said, “In my presence it was written, in my presence it was signed,” that protects the wife against the husband’s complaint. Now with regard to what detail of the writ is a complaint no longer valid?] R. Yudan asked, “Up to now, we have dealt with a complaint pertinent to a matter external to the body of the writ itself. But if there is a complaint as to the body of the writ itself [and not as to the manner of its preparation and delivery], there is a dispute between R. Yohanan and rabbis over there.

[B] **HE WHO DELIVERS A WRIT OF DIVORCE FROM OVERSEAS AND CANNOT SAY, “IN MY PRESENCE IT WAS WRITTEN, AND IN MY PRESENCE IT WAS SIGNED,” IF THERE ARE WITNESSES [INSCRIBED] ON IT — IT IS TO BE CONFIRMED BY ITS SIGNATURES. ALL THE SAME ARE WRITS OF DIVORCE FOR WOMEN AND WRITS OF EMANCIPATION FOR SLAVES: THEY HAVE TREATED IN THE SAME WAY THE ONE WHO TAKES [IT] AND THE ONE WHO DELIVERS IT. THIS IS ONE OF THE WAYS IN WHICH WRITS OF DIVORCE FOR WOMEN AND WRITS OF EMANCIPATION FOR SLAVES ARE TREATED AS EQUIVALENT.**

1. **II:1:** It has been taught: He who delivers a writ of divorce from overseas, and it was not written in his presence, and it was not signed in his presence, lo, this one sends it back to its place, and he calls a court in session for that matter, and has it confirmed through its signatures. Then he delivers it [again], and states, “I am an agent of a court” [T. Qid. 1:11].

IV. YERUSHALMI GITTIN 1:4

[A] ANY SORT OF WRIT ON WHICH THERE IS A SAMARITAN WITNESS IS INVALID, EXCEPT FOR WRITS OF DIVORCE FOR WOMEN AND WRITS OF EMANCIPATION FOR SLAVES. M'SH S: THEY BROUGHT BEFORE RABBAN GAMALIEL IN KEPAR OTENAI THE WRIT OF DIVORCE OF A WOMAN, AND THE WITNESSES THEREON WERE SAMARITAN WITNESSES, AND HE DID DECLARE IT VALID.

1. I:1: As regards monetary matters [Samaritans] are suspect, and, [consequently,] as regards their testimony in monetary matters they are deemed invalid [witnesses]. They are not deemed suspect in regard to observing the laws of forbidden connections. And testimony in capital cases is equivalent to testimony in cases involving prohibited connections. [Samaritan testimony is accepted in capital cases.]
 - a. I:2: A writ bearing four signatures of witnesses, the first two of which turn out to be relatives or otherwise invalid – the writ is valid, and is to be confirmed by the remainder of the signatures [the valid ones] [cf. T. Git. 7:15]. But should this not be treated as a document on which the witnesses' signatures are distant from the body of the text itself, [so that it is possible that the testimony was signed before, or separate from, the writing of the document which the witnesses attest, in which case] the document is invalid?
2. I:3: On what account are Samaritans invalid? Said R. Yohanan, "It is because they converted to Judaism only by reason of fear of lions [in Samaria]."

[B] ALL DOCUMENTS WHICH ARE DRAWN UP IN GENTILE REGISTRIES, EVEN IF THEIR SIGNATURES ARE GENTILES, ARE VALID, EXCEPT FOR WRITS OF DIVORCE FOR WOMEN AND WRITS OF EMANCIPATION FOR SLAVES. R. SIMEON SAYS, "ALSO: THESE ARE VALID. THEY HAVE BEEN MENTIONED [IN THIS REGARD] ONLY WHEN THEY HAVE BEEN PREPARED BY UNAUTHORIZED PEOPLE [AND NOT AUTHORIZED JUDGES]."

1. II:1: Said R. Aha, "A lenient rule has been applied to documents which are drawn up in gentile registries" [M. 1:4D].
2. II:2: A writ was produced in Bet Shean, the signatories on which were two gentiles. R. Yosé says, "There was a dispute in this matter between R. Yohanan and R. Simeon b. Laqish.

V. YERUSHALMI GITTIN 1:5

[A] HE WHO SAYS, “GIVE THIS WRIT OF DIVORCE TO MY WIFE, AND THIS WRIT OF EMANCIPATION TO MY SLAVE,” “IF HE WANTED TO RETRACT IN EITHER CASE, HE MAY RETRACT,” THE WORDS OF R. MEIR. AND SAGES SAY, “[THAT IS THE CASE] FOR WRITS OF DIVORCE FOR WOMEN, BUT NOT FOR WRITS OF EMANCIPATION FOR SLAVES. FOR THEY ACQUIRE AN ADVANTAGE FOR ANOTHER PERSON NOT IN HIS PRESENCE, BUT THEY ACT TO HIS DISADVANTAGE ONLY IN HIS PRESENCE. FOR IF HE WANTED NOT TO SUPPORT HIS SLAVE, HE HAS THE RIGHT TO MAKE SUCH A DECISION. [BUT IF HE WANTED] NOT TO SUPPORT HIS WIFE, HE HAS NO RIGHT [TO MAKE SUCH A DECISION].”

1. **I:1:** In every [other] context you maintain that the language, “Give,” is equivalent to the language, “Take.” But here you hold that “Give” means “acquire in behalf of [the donee],” [as at M. 1:5E, “They acquire an advantage...”].

[B] HE [MEIR] SAID TO THEM, “BUT LO, HE INVALIDATES HIS SLAVE FROM EATING HEAVE OFFERING, JUST AS HE INVALIDATES HIS WIFE FROM EATING HEAVE OFFERING!” THEY SAID TO HIM, “BUT THAT IS BECAUSE HE IS HIS CHATTEL [SO HE HAS THE RIGHT TO DO SO TO HIS SLAVE, BUT NOT TO HIS WIFE].”

1. **II:1:** R. Meir says, “It is a disadvantage, whether to this one or to that one.” And sages say, “It is an advantage for the slave, and a disadvantage for the woman.”
 - a. **II:2:** R. Hiyya bar Ba said that R. Yohanan raised the question: “Now take note. If it was the slave of a prominent man, emancipation would be a disadvantage to him.” Associates say that R. Yohanan raised the question: “Take note, if she was the wife of a repulsive man, lo, it would be an advantage to such a woman.”

[C] HE WHO SAYS, “GIVE THIS WRIT OF DIVORCE TO MY WIFE AND THIS WRIT OF EMANCIPATION TO MY SLAVE,” AND WHO THEN DIED — THEY [TO WHOM HE GAVE THE CHARGE] SHOULD NOT GIVE OVER THE DOCUMENTS AFTER HIS DEATH. [IF HE SAID,] “GIVE A MANEH TO MR. SO-AND-SO,” AND THEN HE DIED, LET THEM GIVE OVER THE MONEY AFTER THE MAN’S DEATH.

1. **III:1:** He who says, “I made Mr. So-and-so, my slave, a free man,” “I am making him a free man,” and, “Lo, he is a free man,” “Lo he is a free man.” “Let him be made a free man” — [T. B.B. 9:14A-E] — the slave] has acquired [ownership of himself and is free.
2. **III:2:** [If he said,] “Let him be made a free man [in the future]” — Rabbi says, “He has acquired [possession of himself.” And sages say, “He has not acquired possession of himself.” “Give this writ of

emancipation to my slave” and then he died – Rabbi says, “He has not made acquisition [of himself and is free].” And sages say, “He has acquired himself. But they force the heirs to carry out the statement of the decedent” [T. B.B. 9:14F-H].

3. **III:3:** He who says, “Let all of my possessions be given over to So-and-so, a priest,” and among the possessions were slaves, even though the donee said, “I do not want them,” lo, these have the right to eat food in the status of heave offering. Rabban Simeon b. Gamaliel says, “Since he has said, ‘I do not want them,’ the heirs [of the donor] acquire ownership of them.”
4. **III:4:** He who says, “Give this maneh to So-and-so, which I owe him,” “Give this maneh to So-and-so, a bailment which he has in my hands,” “Take this maneh to so-and-so, a bailment which he has in my hands,” if he wanted to retract, he may not retract. And he is responsible to replace it should it be lost, up to that point that he [to whom it is owing] receives that which belongs to him [T. Qid. 1:6].
5. **III:5:** [He who says,] “Take this *maneh* to so-and-so,” “Give this *maneh* to so-and-so,” if he wanted to retract, he may retract. [If he went and found him dead, let him return the money to [the one who gave it]. If he [the one to whom the money is given] should die, let him hand over the money to the heirs [of the one who originally gave it] [T. Qid. 1:7]. [He who said,] “Receive this *maneh* in behalf of so-and-so,” “Acquire this gift in behalf of so-and-so,” “Receive this writ of gift for so-and-so,” “Acquire this writ of gift for so-and-so,” if he wanted to retract, he may not retract. [If he went and found him dead, let him give it to the heirs. But if after the death of the donee he made acquisition, he should restore it to the heirs [of the donor], for they do not acquire an advantage for a deceased person once death has taken place [T. Qid. 1:8].
6. **III:6:** As to one who forgave a note for his fellow – R. Hiyya and R. Mana – one said, “He has forgiven the debt,” and the other said, “He has not forgiven the debt until he hands over the note to his fellow.”
7. **III:7:** [If he said,] “Carry this *maneh* to so-and-so,” “Take this to so-and-so,” “Let this *maneh* for so-and-so be in your hand,” and he died, if the heirs [of the sender] wanted to force him [not to deliver it], they cannot do so. And one need not say, in the case of one who says, “Acquire possession for him,” or who says, “Receive it for him” [that the rule is the same] [T. Qid. 1:9].

VI. YERUSHALMI GITTIN 2:1

- [A] HE WHO DELIVERS A WRIT OF DIVORCE FROM OVERSEAS AND SAID, “IN MY PRESENCE IT WAS WRITTEN,” BUT NOT, “IN MY PRESENCE IT WAS SIGNED,” “IN MY PRESENCE IT WAS SIGNED,” BUT NOT, “IN MY PRESENCE IT WAS WRITTEN:”
1. **I:1:** There is] no problem [in explaining why if the agent says,] “In my presence it was written,” but not, “In my presence it was signed,” [the writ should be invalid]. But if the agent says, “In my presence it was signed,” but not, “In my presence it was written,” [why should the writ be invalid]? For is not the confirmation of a writ of divorce only through its signatories? The agent has properly testified as to that aspect of the preparation of the document.
 2. **I:2:** R. Yosé raised the question: “If the agent stated, ‘In my presence it was written, and in my presence it was signed, but it was left alone in the domain of the owner between the time that it was written and the time that it was signed,’ [what is the law?] [Do we scruple that the husband may have exchanged the original writ with some other?]”
- [B] “IN MY PRESENCE THE WHOLE OF IT WAS WRITTEN, BUT IN MY PRESENCE ONLY PART OF IT WAS SIGNED,” “IN MY PRESENCE PART OF IT WAS WRITTEN, BUT IN MY PRESENCE THE WHOLE OF IT WAS SIGNED,” IT IS INVALID. [IF] ONE SAYS, “IN MY PRESENCE IT WAS WRITTEN,” AND ONE SAYS, “IN MY PRESENCE IT WAS SIGNED,” IT IS INVALID.
1. **II:1:** R. Eleazar said R. Abin raised the question: “[With respect to M. 2: 1C: ‘In my presence the whole of it was written, but in my presence only part of it was signed,’ it is invalid: If the messenger gave testimony], ‘In my presence it was written, and in my presence it was signed by one witness,’ and two others testify concerning the signature of the second witness on the writ, [what is the law?] [Do we elide the two sorts of testimony, so that the writ is validated? Or do we maintain that the testimony is of different sorts, and so is null?]”
 2. **II:2:** If the writ of divorce was signed by four, and the agent said, “In my presence it was written, and in my presence it was signed by two witnesses. As to these other two, I have not got the slightest idea what they are doing here”
- [C] [IF] TWO SAY, “IN OUR PRESENCE IT WAS WRITTEN,” AND ONE SAYS, “IN MY PRESENCE IT WAS SIGNED,” IT IS INVALID. AND R. JUDAH DECLARES IT VALID.

- III:1:** Said R. Ammi, “They differ in a case in which the writ is produced by the one [who says, ‘In my presence it was signed,’ for the agent does not testify that he saw the preparation but only the signing]. But in the case of a writ produced by another party [besides the one who says, ‘In my presence it was signed,’ that is, he witnesses to the preparation brought the writ], the rabbis concur that it is a valid writ. [Now we have two witnesses to the validity of the writ; that is, the two who brought it also saw its preparation. With two witnesses, the declaration is not required. The writ is confirmed directly, by their testimony.]”

[D] [IF] ONE SAYS, “IN MY PRESENCE IT WAS WRITTEN,” AND TWO SAY, “IN OUR PRESENCE, IT WAS SIGNED,” IT IS VALID.

- IV:1:** [With regard to the rule, If one says, “In my presence it was written,” and two say, “In our presence it was signed,” it is valid,] R. Yosa in the name of R. Yohanan: “That is so in the case of a writ which he produces who testifies to the writing. He is believed as equivalent to two. But if it is produced by the witnesses to the signing, that is null. [They did not see the writing.]”

VII. YERUSHALMI GITTIN 2:2

[A] [IF] IT WAS WRITTEN BY DAY AND SIGNED BY DAY,... BY NIGHT AND SIGNED BY NIGHT,... BY NIGHT AND SIGNED BY DAY [ON THE NEXT MORNING] IT IS VALID.

- I:1:** Said R. Yohanan, “It is invalid [when improperly written by day and signed by night] because of the consideration of deriving benefit from the usufruct [of the wife’s *melog-property*]. [Should the husband sell it between the one point and the other, the judge may deprive the purchaser of that property, on the theory that the divorce took place at the earlier time and the husband’s control of the property thus ceased prior to the time at which it actually did come to an end.]”

[B] [IF IT WAS WRITTEN] BY DAY AND SIGNED BY NIGHT, IT IS INVALID. **R. SIMEON DECLARES IT VALID. FOR R. SIMEON DID RULE, “ALL WRITS WHICH WERE WRITTEN BY DAY AND SIGNED BY NIGHT ARE INVALID, EXCEPT FOR WRITS OF DIVORCE FOR WOMEN.”**

- II:1:** Said R. Yohanan, “R. Simeon did not rule [that it is valid (M. 2:2F)] except in the case of a signing on that same night. But if it took place on the next day, also R. Simeon will concur [that the writ is invalid].” R. Simeon b. Laqish said, “There is no difference between a

signing by night or a signing on the following day or even after some time, [for Simeon will validate in all such cases].’

2. **II:2:** If one said to ten men, “Sign this writ of divorce,” and some of them signed it that day, and the rest of them on the next – R. Simeon b. Laqish said, “It is valid, and the reason for [the signing on the part of the others is a stipulation [that should some be unfit, the others will make up the difference].” R. Yohanan said, “It is invalid, unless all of them should sign it on the very same day.”

VIII. YERUSHALMI GITTIN 2:3

[A] WITH ALL SORTS OF THINGS DO THEY WRITE [A WRIT OF DIVORCE]: WITH INK, CAUSTIC, RED DYE, GUM, COPPERAS, OR WITH ANYTHING WHICH LASTS. THEY DO NOT WRITE [A WRIT OF DIVORCE] WITH LIQUIDS, OR FRUIT JUICE, OR WITH ANYTHING WHICH DOES NOT LAST.

1. **I:1:** “... and he writes her [a bill of divorce and puts it in her hand and sends her out of his house...]” (Deut. 24:1) and not [when he] incises [the letters with a knife]. “... and he writes...” – and not when he forms letters by dropping that is, by forming the letters dot by dot]. “... and he writes...” – not when he pours. “... and he writes...” – not when he incises.
2. **I:2:** Said R. Hiyya bar Ba, “The Easterners are very clever. When one of them wants to send a confidential letter to his fellow, he writes it in a solution of gallnut, and the recipient of the letter pours over it untanned ink which settles on the writing.”

[B] ON ANYTHING DO THEY WRITE [A WRIT OF DIVORCE], ON AN OLIVE LEAF:

1. **II:1:** [With reference to M. 2:3F:] he who cuts an inscription in leather in the form of writing – it is a valid writ of divorce.

[C] THE HORN OF A COW, (BUT HE GIVES THE WOMAN THE COW):

1. **III:1:** “Lo, this is your writ of divorce, on the stipulation that you give it back to me” – it is invalid.”... on the stipulation that you return it to me” – it is valid.
2. **III:2:** [If] a hide was torn, it is valid. [If] it was torn [accidentally], it is invalid. [If there is in it a tear made by a court, it is invalid] [T. Git. 2:2B-D].

3. **III:3:** On the horn of a cow (but he gives the woman the cow) [M. 2:3H]. The Mishnah speaks of a case in which he said to her, “Lo, this is your writ of divorce.” But if he had said to her, “Lo, this is your writ of divorce, and the rest [of the cow] serves [in payment for] your marriage settlement,” she is in the position of simultaneously receiving both her writ of divorce and payment for her marriage settlement.

[D] **ON THE HAND OF A SLAVE, (BUT HE GIVES THE WOMAN THE SLAVE). R. YOSÉ THE GALILEAN SAYS, “THEY DO NOT WRITE [A WRIT OF DIVORCE] ON ANYTHING THAT IS ALIVE:”**

1. **IV:1:** what is the Scriptural basis for the ruling of R. Yosé the Galilean? What is the basis for the ruling of rabbis

[E] **OR ON FOODSTUFFS.”**

1. **V:1:** R. Ba in the name of R. Meyyasha, “And the dispute [about whether it is all right if written on the horn of a deer (M. 2:3H)] applies if he wrote it on the bony inside of the horn. But if he should write it on the pithy hollow part of the horn, it is as if it were cut off [from the horn], and it is valid [in the view of all].”

- a. **V:2:** *R. Jonah raised the question:* “Is the rule also the same in the case of rendering seed susceptible to uncleanness [that is, by watering the seed, in line with Lev. 11:34, 37]? [That is, the law holds that water falls on seed, and the owner of the seed approves, then the seed is rendered susceptible to uncleanness. Yosé deems an animate being to be in the status of that part of it which is attached to the ground and so insusceptible to uncleanness. Does he maintain that with regard to rendering seed susceptible to uncleanness, an animate creature also is deemed to be attached to the ground? The rule is that if when the water – e.g., rain – was falling, one gave thought to utilizing it for his own purposes, then that water imparts susceptibility, as explained. If he gave thought to utilizing the water only for what is still attached to the ground, however – then the water does not impart susceptibility to what it hits thereafter which is not attached to the ground. Now the question is, If one gave thought to utilizing the rain for the beast, and it fell from the beast to harvested produce, is the produce rendered susceptible to uncleanness by that water?]”

IX. YERUSHALMI GITTIN 2:4

[A] **THEY DO NOT WRITE [A WRIT OF DIVORCE] ON SOMETHING WHICH IS ATTACHED TO THE GROUND. [IF] ONE WROTE IT ON SOMETHING ATTACHED TO THE GROUND, THEN PLUCKED IT UP, SIGNED IT, AND GAVE IT TO HER, IT IS VALID. R. JUDAH DECLARES IT INVALID, UNLESS BOTH WRITING IT AND SIGNING IT ARE [NOT] ON SOMETHING WHICH IS PLUCKED UP FROM THE GROUND.**

1. **I:1:** This ruling [at M. 2:4A] does not differ from the view of R. Yohanan. For: R. Yohanan said, “If one has written the passage in the document which makes it binding [the names and operative language] on the upper portion, it is valid.” R. Simeon b. Laqish said, “If he wrote the operative language on the lower portion, it is invalid.”
2. **I:2:** Samuel bar Abba raised the question: “If he wrote it and signed it on that which was detached from the ground, and then attached it to the ground and again detached it and gave it to her, what is the view of R. Judah in such a case?”
3. **I:3:** R. Eleazar said that R. Abin raised the question: “If one wrote it when it was detached from the ground, attached it, then detached it again, and had it signed and gave it to her, what do rabbis say in such a case?”

[B] **R. JUDAH B. BETERA SAYS, “THEY DO NOT WRITE ON PAPYRUS FROM WHICH OTHER WRITING HAS BEEN ERASED, OR ON A HIDE WHICH HAS NOT BEEN PREPARED, FOR THESE CAN BE FALSIFIED. AND SAGES DECLARE VALID.**

1. **II:1:** Said R. Eleazar, “Is it the case that [Judah b. Betera and rabbis] differ in regard to writs of divorce, but as regards other sorts of deeds, also R. Judah will concur [= M. 2:4D G]? [Is the rule more stringent here?]”

X. YERUSHALMI GITTIN 2:5

[A] **ALL ARE VALID FOR THE WRITING OF A WRIT OF DIVORCE, EVEN A DEAF-MUTE, AN IDIOT, OR A MINOR. A WOMAN MAY WRITE HER OWN WRIT OF DIVORCE, AND A MAN MAY WRITE HIS QUITTANCE [A RECEIPT FOR THE PAYMENT OF THE MARRIAGE CONTRACT], FOR THE CONFIRMATION OF THE WRIT OF DIVORCE IS SOLELY THROUGH ITS SIGNATURES [OF THE WITNESSES]. ALL ARE VALID FOR**

DELIVERING A WRIT OF DIVORCE, EXCEPT FOR A DEAF-MUTE, AN IDIOT, AND A MINOR, A BLIND MAN, AND A GENTILE.

1. **I:1:** R. Huna said, “And [the rule] applies when there is a person of sound senses supervising him.” R. Yohanan said, “And has it not been written, ‘And he will write for her’ – that is, it must be written with that particular woman in mind.” [Having an adult supervise does not solve this problem.]

XI. YERUSHALMI GITTIN 2:6

[A] [If] A MINOR [WHO MAY NOT ACT AS AN AGENT] RECEIVED [THE WRIT OF DIVORCE FROM THE HUSBAND,] AND THEN [BEFORE HE HAD DELIVERED THAT WRIT TO THE WIFE] PASSED THE POINT OF MATURITY, A DEAF-MUTE AND HE REGAINED THE POWER OF SPEECH, A BLIND MAN AND HE REGAINED THE POWER OF SIGHT, AN IDIOT AND HE REGAINED HIS SENSES, A GENTILE AND HE CONVERTED, [THE WRIT REMAINS] INVALID. BUT [IF IT WAS RECEIVED FROM THE HUSBAND] BY ONE OF SOUND SENSES WHO THEN LOST THE POWER OF SPEECH AND THEN RETAINED HIS SENSES, BY ONE WHO HAD THE POWER OF SIGHT AND WHO WAS BLINDED BUT THEN RECOVERED THE POWER OF SIGHT, BY ONE WHO WAS SANE AND THEN BECAME INSANE AND REGAINED HIS SANITY, IT IS VALID. THIS IS THE GENERAL PRINCIPLE: IN ANY CASE IN WHICH THE AGENT AT THE OUTSET AND AT THE END WAS IN FULL COMMAND OF HIS SENSES, IT IS VALID.

1. **I:1:** A case came before R. Immi of a slave who had delivered a writ of divorce, [and he declared it] valid. Said to him R. Abba, “And did not R. Hiyya teach: ‘A slave who brought a writ of divorce – it is invalid’?”

XII. YERUSHALMI GITTIN 2:7

[A] EVEN WOMEN WHO ARE NOT DEEMED TRUSTWORTHY TO STATE, “HER HUSBAND HAS DIED” [M. YEB. 15:4], ARE DEEMED TRUSTWORTHY TO DELIVER HER WRIT OF DIVORCE: HER MOTHER-IN-LAW, THE DAUGHTER OF HER MOTHER-IN-LAW, HER CO-WIFE, HER HUSBAND’S BROTHER’S WIFE, AND HER HUSBAND’S DAUGHTER. WHAT IS THE DIFFERENCE BETWEEN [TESTIFYING WHEN DELIVERING A WRIT OF] DIVORCE AND [TESTIFYING THAT THE HUSBAND HAS] DIED? FOR THE WRITING SERVES AS AMPLE EVIDENCE [IN THE CASE OF A WRIT OF DIVORCE]. A WOMAN HERSELF DELIVERS HER WRIT OF DIVORCE [FROM ABROAD], ON CONDITION THAT SHE MUST STATE, “IN MY PRESENCE IT WAS WRITTEN, AND IN MY PRESENCE IT WAS SIGNED.”

1. **I:1:** And it is not on the basis of what she says that we believe her, [for she must state...]. For if she did not say “In my presence it was written, and in my presence it was signed,” would you still permit the woman to remarry?
2. **I:2:** Take note, if the woman lived for ten years in Rome and got married [why does she have to testify as at M. 2:7]? [Is she not divorced?]

XIII. YERUSHALMI GITTIN 3:1

[A] ANY WRIT OF DIVORCE WHICH IS WRITTEN NOT FOR THE SAKE OF THIS PARTICULAR WOMAN [FOR WHOM IT IS INTENDED] IS INVALID. **HOW SO? [IF]** ONE WAS PASSING THROUGH THE MARKET AND HEARD THE VOICE OF SCRIBES DICTATING [TO STUDENTS], “**MR. SO-AND-SO IS DIVORCING MRS. SO-AND-SO FROM SUCH-AND-SUCH A PLACE,**” AND SAID, “**WHY, THIS IS MY NAME AND THE NAME OF MY WIFE**” – IT IS INVALID THEREWITH TO EFFECT A DIVORCE. **MOREOVER: [IF]** ONE WROTE A WRIT OF DIVORCE FOR DIVORCING HIS WIFE THEREWITH AND THEN CHANGED HIS MIND. [AND] A FELLOW-TOWNSMAN FOUND IT AND SAID TO HIM, “**MY NAME IS THE SAME AS YOURS, AND MY WIFE’S NAME IS THE SAME AS YOUR WIFE’S NAME,**” – IT IS INVALID THEREWITH TO EFFECT A DIVORCE. **MOREOVER: [IF]** ONE HAD TWO WIVES, AND THEIR NAMES WERE THE SAME, [IF] HE WROTE A WRIT OF DIVORCE TO DIVORCE THEREWITH THE ELDER, HE SHALL NOT DIVORCE THE YOUNGER WITH IT. **MOREOVER:**

1. **I:1:** Who were the ones dictating? The schoolteachers. What is the meaning of “moreover”? There the document was not prepared for use as a writ of divorce, while here, the document was prepared for use as a writ of divorce. What is the meaning of “moreover”? There the writ was not prepared either for his sake or for hers, but here it was written for his sake even though it was not written for hers.
2. **I:2:** Rab said, “All of the wives involved in cases of defective divorce documents, M. 3:1, are not invalid [for marriage into the priesthood, should the present husband die], except for the last one, for that sort of writ renders a woman invalid [for marriage into the priesthood].” Issi said, “All of them [the divorce documents mentioned in the Mishnah] leave a woman invalid [for marriage into the priesthood], except for the first, which does not leave a woman invalid [for marriage into the priesthood].”

3. **I:3:** R. Eleazar asked, “As to a deed of betrothal which one has written not for the sake [of the woman to whom it is presented], what is the law as to the betrothal’s taking effect for [the woman to whom he gave the writ]?”

[B] [If] HE SAID TO A SCRIBE, “WRITE FOR WHICHEVER ONE I SHALL DECIDE TO DIVORCE,” IT IS INVALID THEREWITH TO DIVORCE A WOMAN.

1. **II:1:** R. Eleazar bar Yosé raised the following question before R. Yosé: “That is to say that a single writ of divorce is invalid for use with two different wives. Along these same lines, are two writs of divorce invalid for use with two wives [who have the same name]?”

XIV. YERUSHALMI GITTIN 3:2

[A] HE WHO WRITES OUT BLANK COPIES OF WRITS OF DIVORCE MUST LEAVE A SPACE FOR THE NAME OF THE MAN, FOR THE NAME OF THE WOMAN, AND FOR THE DATE. [If HE DOES SO] FOR BONDS OF INDEBTEDNESS, HE MUST LEAVE A SPACE FOR THE LENDER, THE BORROWER, THE SUM OF MONEY, AND THE DATE:

1. **I:1:** R. Yohanan said, “If one has filled in the operative language into a blank copy of a writ of divorce, the writ is valid.” R. Simeon b. Laqish said, “If one has filled in the operative language into a blank copy of a writ of divorce, the writ is invalid.”

- a. **I:2:** There is a question for R. Yohanan: If he has written the operative language with the formula of the writ, in such a case will sages declare the writ to be valid? [Surely not.] R. Jeremiah in the name of R. Zeira: “From the rule governing that which invalidates the writ, you may derive the rule governing that which validates it. If he has written the whole of it for the sake of that particular woman, but the name of the man and the name of the woman not for the sake of that particular woman, is it possible that it would not be invalid? [Obviously not. This is an invalid mode of preparing the writ.] [But along these same lines, if he wrote the whole of it not for the sake of that particular woman, but the name of the man and the name of the woman for that particular woman, it is valid.”

[B] [If HE DOES SO] FOR DEEDS OF SALE, HE MUST LEAVE A SPACE FOR THE PURCHASER, THE SELLER, THE SUM OF MONEY, THE FIELD, AND THE DATE FOR GOOD ORDER.

1. **II:1:** What is the meaning of for good order [M. 3:2D]?

[C] **R. JUDAH DECLARES INVALID IN THE CASE OF ALL [SUCH BLANK COPIES OF WRITS]. R. ELEAZAR DECLARES VALID IN THE CASE OF ALL OF THEM, EXCEPT IN THE CASE OF WRITS OF DIVORCE FOR WOMEN, SINCE IT IS SAID, “AND HE SHALL WRITE FOR HER” (DEUT. 24:1) EXPRESSLY FOR HER.**

1. **III:1:** R. Zeira, R. Huna in the name of Rab: “The law accords with R. Judah in regard to writs of divorce, and with R. Eliezer with regard to all other deeds.”

XV. YERUSHALMI GITTIN 3:3

[A] **HE WHO IS BRINGING A WRIT OF DIVORCE AND LOST IT – [IF] HE FOUND IT ON THE SPOT, IT IS VALID. AND IF NOT, IT IS INVALID. [IF] HE FOUND IT IN A SACHEL OR A BAG, IF HE RECOGNIZES IT, IT IS VALID. HE WHO IS BRINGING A WRIT OF DIVORCE AND LEFT [THE HUSBAND] AGED OR SICK HANDS IT OVER TO THE WOMAN IN THE ASSUMPTION THAT [THE HUSBAND] IS [STILL] ALIVE. AN ISRAELITE GIRL MARRIED TO A PRIEST, AND HER HUSBAND WENT OVERSEAS, EATS HEAVE OFFERING IN THE ASSUMPTION THAT [HER HUSBAND] IS ALIVE. HE WHO SENDS HIS SIN OFFERING FROM OVERSEAS – THEY OFFER IT UP IN THE ASSUMPTION THAT HE IS ALIVE.**

1. **I:1:** What is the meaning of “on the spot”?
 - a. **I:2:** What is the law if a gentile went by [who is unlikely to be carrying a writ of divorce]?
2. **I:3:** Bar Qappara taught, “Even if one left him at the age of one hundred years and took another hundred years to make the trip, one hands over the writ to her in the assumption that the husband is alive.”

XVI. YERUSHALMI GITTIN 3:4

[A] **THREE THINGS DID R. ELEAZAR B. PARTA SAY BEFORE SAGES AND THEY CONFIRMED HIS OPINION: CONCERNING [THOSE WHO LIVE IN] A CITY SURROUNDED BY A BESIEGING FORCE, [THOSE WHO ARE ABOARD] A STORM-TOSSED SHIP, AND HE WHO GOES OUT TO JUDGMENT – THAT THEY ARE ASSUMED TO BE ALIVE. BUT [THOSE IN] A TOWN CONQUERED IN A SIEGE, A SHIP LOST AT SEA, AND HE WHO GOES FORTH TO BE PUT TO DEATH – THEY APPLY TO THEM THE STRINGENT RULES APPLICABLE TO THE LIVING AND THE STRINGENT RULES APPLICABLE TO THE DEAD: AN ISRAELITE GIRL MARRIED TO A PRIEST, OR A PRIEST-GIRL MARRIED TO AN ISRAELITE [IN CASES LIKE THESE] DOES NOT EAT HEAVE OFFERING.**

1. **I:1:** What is a besieging force?
2. **I:2:** And three more [cases] did they add [to M. 3:4]: [if] a wild beast was mauling him, or a river was sweeping him away, or a house fell on him – they apply to him the strict rulings applicable to the living and the strict ruling applicable to the dead [T. Git. 2:12A-D].

XVII. YERUSHALMI GITTIN 3:5

[A] HE WHO BRINGS A WRIT OF DIVORCE IN THE LAND OF ISRAEL AND GOT SICK – LO, THIS ONE SENDS IT ON BY MEANS OF SOMEONE ELSE. BUT IF HE [THE HUSBAND] HAD SAID TO HIM, “GET FROM HER SUCH-AND-SUCH AN OBJECT,” HE SHOULD NOT SEND IT BY MEANS OF SOMEONE ELSE, FOR IT IS NOT THE WISH [OF THE HUSBAND] THAT HIS BAILMENT SHOULD FALL INTO SOMEONE ELSE’S HANDS.

1. **I:1:** [The reason that an agent may hand over his agency] is that he fell ill. Lo, if he did not fall ill, he may not do so.
 - a. **I:2:** Does the same rule apply in delivering tokens of betrothal? [Surely – and why not?]

XVIII. YERUSHALMI GITTIN 3:6

[A] HE WHO BRINGS A WRIT OF DIVORCE FROM OVERSEAS AND GOT SICK APPOINTS A COURT AND SENDS [THE WRIT, WITH SOMEONE ELSE]. AND HE SAYS IN THEIR PRESENCE, “IN MY PRESENCE IT WAS WRITTEN, AND IN MY PRESENCE IT WAS SIGNED.” AND THE LATTER DOES NOT HAVE TO SAY, “IN MY PRESENCE IT WAS WRITTEN, AND IN MY PRESENCE IT WAS SIGNED.” BUT HE MERELY STATES, “I AM THE AGENT OF A COURT.”

1. **I:1:** Said R. Mana, “[It is obvious that the first agent must say what M. 3:6C calls for. Why does this require specification?] It is necessary to say so, for this applies to one who already has reached the land of Israel.
2. **I:2:** What if the second agent also got sick?
3. **I:3:** Does the agent have to hand over to the second one all of the matters which the master has sent along with him to do?

XIX. YERUSHALMI GITTIN 3:7

[A] HE WHO LENDS MONEY TO A PRIEST OR TO A LEVITE OR TO A POOR MAN SO THAT HE MAY SET APART [WHAT WOULD BE] THEIR [SHARE AS HEAVE OFFERING, TITHE, OR POORMAN'S TITHE, RESPECTIVELY, ALL SELL THE HEAVE OFFERING TO ANOTHER PRIEST OR EAT THE TITHE OR POORMAN'S TITHE, IN COMPENSATION FOR THIS LOAN], SEPARATES THE PRODUCE IN THEIR BEHALF IN THE ASSUMPTION THAT THEY ARE ALIVE.

1. **I:1:** R. Abbahu in the name of R. Simeon b. Laqish: “This rule [which pays no heed to the fact that the priest has not yet made acquisition of the offerings but assigns him their value without their actually entering his hand] follows the principle of R. Yosé. For we have learned there: R. Yosé says, ‘Any [animal] the exchange of which is in the hand of a priest is free of the obligation to priestly gifts.’ R. Meir declares liable [to priestly gifts] [M. Bekh. 2:8H-J]. [At issue is a case of two sheep, one of which had given birth and one which had not, which bore two males. One is for the owner, and one for the priest. The former’s firstling is liable for the priestly gifts. Yosé exempts the beast’s owner from handing over the priestly parts of the beast when he slaughters it. Meir’s view is that since we do not know whether it is a firstling, in which case the whole of it belongs to the priest, or if it is not a firstling, it is liable for the separation of priestly gifts. Yosé maintains that since the priest has in hand one firstling, that is, the counterpart or the exchange of this beast, they have treated the one the priest does *not* own as equivalent to the one he does own. In the case of the Mishnah’s rule before us, we treat the money the priest has received as payment for a debt he already owed to him – the offering – and we regard the arrangement explained at M. 3:7A as a valid arrangement for paying the priest what is owing to him.]”
2. **I:2:** R. Abbahu in the name of R. Yohanan: “The Mishnah speaks of priests and Levites who are the ordinary recipients of the man’s tithes and heave offering.”
3. **I:3:** A case along these lines came before R. Immi: A priest or a Levite who owed money to an Israelite said to him, “Designate as heave offering these crops as my share [of the tithes or offerings,] on account of my debt to you and use that to pay off the debt.”

[B] AND HE DOES NOT TAKE ACCOUNT OF THE POSSIBILITY THAT THE PRIEST HAS DIED, OR THE LEVITE, OR THAT THE POOR MAN HAS GOTTEN RICH.

1. **II:1:** As to what does one not scruple?

[C] [IF] THEY DIED, HE HAS TO GET PERMISSION FROM [THEIR] HEIRS [TO CONTINUE IN THIS WAY TO COLLECT WHAT IS OWING].

1. **III:1:** R. Hiyya bar Uqbah in the name of R. Yosé in the name of R. Haninah: “The Mishnah speaks of heirs who are priests or Levites. But as to heirs of poor men, a poor man [by definition] leaves no estate.”
2. **III:2:** That is to say that [the borrower] has the right to retract.

[D] IF HE LENT THEM THIS MONEY IN THE PRESENCE OF A COURT, HE DOES NOT HAVE TO GET PERMISSION FROM THE HEIRS.

1. **IV:1:** Does this not stand at variance with the view of Rab, for Rab said, “An inheritance is like indentured property.”

XX. YERUSHALMI GITTIN 3:8

[A] HE WHO PUT ASIDE PRODUCE, SO THAT HE MAY SET APART HEAVE OFFERING AND TITHES ON ITS ACCOUNT [RECKONING THAT IT WILL SERVE FOR THESE PURPOSES],... COINS, SO THAT HE MAY SET APART SECOND-TITHE ON ITS ACCOUNT, HE DESIGNATES PRODUCE [AS UNCONSECRATED] RELYING UPON [THE COINS] IN THE ASSUMPTION THAT THEY REMAIN AVAILABLE. “IF THEY GOT LOST, LO, THIS ONE TAKES ACCOUNT OF THE POSSIBILITY THAT THEY WERE LOST [ONLY] DURING THE PRECEDING TWENTY-FOUR HOURS,” THE WORDS OF R. ELEAZAR [B. SHAMMUA].

1. **I:1:** [If one takes account of only the preceding twenty-four hours (M. 3:8D),] R. Eleazar b. Antigonos in the name of R. Eliezer b. Yannai [said], “That is to say that [one takes account of spoilage only for the preceding twenty-four hours of the last day [prior to examination] alone.”
2. **I:2:** There we have learned: He who purchases wine from Samaritans [in a situation in which he cannot presently separate tithes, but wishes to drink the wine, says, “Two logs... which I shall separate, behold, these are made heave offering, and the following ten logs are made first tithe, and the following nine logs are made second tithes.” — He then regards the wine as unconsecrated produce and drinks it] [M. Dem. 7:4]. It was taught: R. Yosé and R. Simeon prohibited such a procedure, lest the skin break [losing the one he has designed as tithes] and so it turn out that retroactively he drank untithed wine [T. Dem.

8:7]. And this Mishnah-passage [M. 3:8C] does not accord with R. Yosé and R. Simeon.

[B] R. JUDAH SAYS, “AT THREE SEASONS THEY EXAMINE WINE: AT THE TIME OF THE EAST WIND AFTER THE FESTIVAL [OF SUKKOT], WHEN THE BERRIES FIRST APPEAR, AND WHEN THE JUICE ENTERS UNRIPE GRAPES.”

- 1. II:1:** As to wine in one’s press, one designates it as tithed and relies on it [as having constituted the tax for other wine] in the assumption that it is sound wine for forty days. R. Judah says, “Up to the turning of the season.”
- 2. II:2:** R. Simeon raised the question: “If the forty days have passed, and he did not check up on the wine, and two or three days went by, and then he came and found that the wine had turned, is it deemed to have turned to vinegar retrospectively, or is it deemed so only for the time to come?”
- 3. II:3:** If [one intended to designate a given jar of wine as heave offering for a larger number of jars], and he examined a jar planning to designate it as heave offering [and to drink other jugs of wine as properly tithed], he may continue to rely on that jug of wine for three days as certainly good wine. From that point onward it is subject to doubt [whether it is good wine and hence serviceable for the other jugs]. [That is, later on the wine turns out to be sour. We do not know whether wine drunk in the intervening days, between the time at which the jug was opened and its wine was found sound and the time at which the jug was rechecked and found to have been properly tithed. So, as stated here, for three days, it was deemed certainly good wine, and thereafter it was subject to doubt. We now ask the meaning of this statement.]
- 4. II:4:** R. Hiyya bar Vava asked, “If one came at the end of the week and found that the wine had turned to vinegar, is it a case in which it is clear that the wine had turned earlier, in which case the wine treated as tithed on the basis of the present cask is now discovered not to have been tithed]? Or do we rule that only from this point onward [this keg of wine, now vinegar, no longer serves as heave offering]?” [This question is not answered.]
- 5. II:5:** [With reference to M. Git. 3:8E: At three seasons they examine wine..., R. Qerispai asked, “Do they examine the wine every year, or only once every three years [at the specified seasons]?”

XXI. YERUSHALMI GITTIN 4:1

[A] HE WHO SENDS A WRIT OF DIVORCE TO HIS WIFE, AND OVERTOOK THE MESSENGER, OR WHO SENT A MESSENGER AFTER HIM, AND SAID TO HIM, “THE WRIT OF DIVORCE WHICH I GAVE YOU IS NULL,” – LO, THIS IS NULL. [IF] HE [THE HUSBAND] GOT TO HIS WIFE FIRST, OR [IF] HE SENT A MESSENGER TO HER, AND SAID TO HER, “THE WRIT OF DIVORCE WHICH I SENT TO YOU IS NULL,” LO, THIS IS NULL. IF [THIS TOOK PLACE] AFTER THE WRIT OF DIVORCE REACHED HER POSSESSION, HE NO LONGER HAS THE POWER TO ANNUL IT.

1. **I:1:** The statement of the Mishnah stands at variance with the view of R. Yohanan [since it requires the husband to tell the agent directly that the writ of divorce is null]. For [to the contrary] R. Yohanan has said, “A man may nullify his agent’s task merely through a verbal declaration [made to others. There is no need to speak directly to the agent.]”
2. **I:2:** If one has appointed an agent to bring the writ of divorce, he must hand it over to the wife before two witnesses, and the agent does not count as one of the two. If the agent went to nullify the writ of divorce, he has to do so before two witnesses, and the agent counts as one of the two.
3. **I:3:** If the messenger got sick, how do you treat the matter? Is the law for the delivery of a writ of divorce the same as the law for delivering the tokens of betrothal?

XXII. YERUSHALMI GITTIN 4:2

[A] AT FIRST [THE HUSBAND] WOULD SET UP A COURT IN SOME OTHER PLACE AND ANNUL [THE WRIT OF DIVORCE]. RABBAN GAMALIEL ORDAINED THAT PEOPLE SHOULD NOT DO SO,

1. **I:1:** Does not [M. 4:2A, which indicates that the husband may verbally nullify instructions he has given to an agent] contradict the position of R. Simeon b. Laqish? For R. Simeon b. Laqish said, “A man may not verbally nullify instructions he has given to an agent” [while at M. 4:2A he does just that].

[B] FOR THE GOOD ORDER OF THE WORLD.

1. **II:1:** They say in the name of R. Simeon b. Laqish, “It is so that the wife should not turn out to produce mamzers [by remarrying when, in fact, she has not been divorced].” And there are those who say in the name of R. Simeon b. Laqish, “It is so that the woman may not have to remain an abandoned wife, [not divorced and not wed.]”
2. **II:2:** [If after Gamaliel’s ordinance, the husband nonetheless] transgressed and nullified the writ of divorce without the wife’s knowledge, what is the law?

[C] **AT FIRST HE USED TO CHANGE HIS NAME AND HER NAME, THE NAME OF HIS TOWN AND THE NAME OF HER TOWN [THAT IS, TO GIVE AN ADOPTED NAME]. AND RABBAN GAMALIEL ORDAINED THAT ONE SHOULD WRITE, “MR. SO-AND-SO, AND WHATEVER ALIAS HE HAS,” “MRS. SO-AND-SO, AND WHATEVER ALIAS SHE HAS,” FOR THE GOOD ORDER OF THE WORLD.**

1. **III:1:** Take note of a case in which his name was Reuben, and he gave his name as Simeon in another place – [how can he issue a writ of divorce]? That is why it was necessary to write, “I, Mr. So-and-so, and every other name which I have.”
2. **III:2:** There we have learned: They write out a writ of divorce for a man, even though his wife is not with him, and a quittance for the wife [acknowledging payment of the marriage-settlement], even though her husband is not with her, on condition that the scribe knows them and the husband pays the scribe fee [M. B.B. 10:3A]. Said R. Abba, “It is necessary [in the case of a writ of divorce or a quittance] that he know both of them.” Said R. La, “It is necessary that he know the husband in the case of preparing a writ of divorce, and the wife in the case of preparing a receipt.”
 - a. **III:3:** R. Abun bar Hiyya raised the question to Rabbi: “Take note that [if the scribe does not know the wife in a divorce-case] what if the husband brought along a different woman and made use of the writ of divorce prepared on that occasion to divorce her? [She will go and remarry on the strength of that writ, which, in fact, was prepared for a different woman. That is why the scribe should know both the husband and the wife for whom he is preparing the writ.]”
 - b. **III:4:** The Mishnah’s statement stands at variance with the view of R. Abba: At first he used to change his name and her name, the name of his town and the name of her town [M. 4:2D]. Now if we deal with a scribe who knows [the couple], how is it necessary to ordain against their changing their names? The Mishnah-law

stands at variance with the view of R. Illi: And Rabban Gamaliel ordained that one should write, “Mr. So-and-so and whatever alias he has,” “Mrs. So-and-so, and whatever alias she has” for the good order of the world [M. 4:2E]. [Now if the scribe does not know the woman when writing a writ of divorce, as La said at C, how can the ordinance cover her? The ordinance surely is concerned that the woman, as well as the man, be known to the scribe.]

XXIII. YERUSHALMI GITTIN 4:3

[A] A WIDOW COLLECTS [HER MARRIAGE CONTRACT] FROM THE ESTATE OF THE ORPHANS ONLY BY MEANS OF AN OATH [THAT SHE HAD NOT COLLECTED WHAT WAS OWING TO HER]. THEY HELD BACK FROM IMPOSING THE OATH ON HER. RABBAN SIMEON B. GAMALIEL ORDAINED THAT SHE SHOULD TAKE ANY VOW THE HEIRS WANTED AND COLLECT HER MARRIAGE CONTRACT.

- 1. I:1:** At first they would take an oath falsely and end up burying their children, in line with that which is said, “On account of vain [oaths] I have smitten your children” (Jer. 2:30).
- 2. I:2:** If [after the ordinance] the widow transgressed and took a vow – R. Huna said, “If she has taken a vow, she has taken a vow [and collects her marriage-settlement].”
 - a. I:3:** Rab said to his daughter-in-law [when his son died], “Were I not a liberal-minded person, even the kerchief on your head would belong to me [since in assessing what is owing on the marriage-settlement, they take account even of the clothing of the widow and credit that as part-payment for what is coming to her].” Samuel said, “She acquires ownership of clothing which she is wearing, [and that is not included in the assessment of what she has received toward settlement of her marriage contract].”

[B] THE WITNESSES SIGN THE WRIT OF DIVORCE FOR THE GOOD ORDER OF THE WORLD.

- 1. II:1:** R. Huna said, “On what account did they ordain writing a date in a writ of divorce? It was because of an incident which took place.”

[C] HILLEL THE ELDER ORDAINED THE PROZBOL, FOR THE GOOD ORDER OF THE WORLD.

- 1. III:1:** R. Huna stated a question before R. Jacob bar Aha [with reference to Hillel’s ordinance circumventing the remission of debts in the seventh year by means of the *prozbol*, M. 4:3F], “In accord with

him who says that collecting tithes [in the time of the Second Temple] is on the authority of scribes [but not required on the authority of the Torah, with the further supposition that the seventh year applies on that same authority, there is no problem]. [Hillel simply has set aside a ruling of scribes.] But in accord with him who says that collecting tithes [in the time of the Second Temple] is on the authority of the Torah, [with the further supposition that the seventh year applies on that same authority,] has Hillel made an ordinance contrary to the laws of the Torah?"

- a. III:2: "And this is the manner of release: every creditor shall release..." (Deut. 15:2) – Rabbi says, "There are two references to release, one to the year of release, the other to the jubilee year. When the Jubilee is in force, the year of release applies on the authority of the Torah. When Jubilees have ceased, the year of release applies only because of the authority of scribes."

XXIV. YERUSHALMI GITTIN 4:4

[A] A SLAVE WHO WAS TAKEN CAPTIVE, AND THEY REDEEMED HIM – IF AS A SLAVE, HE IS TO BE KEPT AS A SLAVE; IF A FREEMAN, HE IS NOT TO BE ENSLAVED. RABBAN SIMEON B. GAMALIEL SAYS, "ONE WAY OR THE OTHER, HE IS TO BE ENSLAVED."

1. **I:1:** R. Abbahu in the name of Hezekiah: "In accord with the strict logic of the law, even if he was redeemed as a slave, he should not be kept as a slave [that is, by the one who redeemed him, the second owner, since the first owner, the one from whom he was taken, has not yet despaired of recovering ownership]. [Consequently, he is not available for subjugation to the one who redeems him, since he belongs to someone else.] And why did they say that he is to be kept as a slave? So that the slave should not try to run away [to be captured and later try to free himself from the kidnappers. [He knows that, one way or the other, he will be kept as a slave, so he has no reason to run away from his master.]] R. Ila in the name of R. Yosa, "In accord with the strict logic of the law, even if he was redeemed as a free man, he should be kept as a slave [for his original owner, as at A]. And why did they say that he should not be kept as a slave? So as not to give rise to suspicion about free men. [People may hesitate to redeem them.]"
2. **I:2:** R. Simon in the name of R. Joshua b. Levi, Yosé b. Saul in the name of Rabbi: "He who despairs of regaining ownership of his slave [and subsequently recovers him] has not got the right to make him a

slave again, and must write a writ of emancipation. [Once he despairs, he is no longer the owner.]”

3. **I:3:** I know that [a slave] goes [free] because of the loss of a tooth or an eye. How do I know that he goes free by wearing a freed man’s cap or by being freed through a declaration before a court, or at a general proclamation of the government? Scripture states, “He shall let the slave go free” (Ex. 21:26 on any count.
4. **I:4:** A proselyte who died, whose estate Israelites took over – if there were slaves in the estate, whether adult or minor, they go forth to freedom. [They are freed when the owner dies, prior to Israelite entry into the property.] Abba Saul says, “The adults go forth to freedom, but the minors do not go forth to freedom.” Why? Because they went forth when the master died, [and whoever grabbed them then owns them].”
5. **I:5:** R. Haninah in the name of R. Ishmael b. R. Yosé: “A slave who married a free woman in his master’s presence has gone forth to freedom.”

[B] A SLAVE WHO WAS MADE OVER AS SECURITY FOR A DEBT BY HIS MASTER TO OTHERS AND WHOM THE MASTER [THEN] FREED – LEGALLY, THE SLAVE IS NOT LIABLE FOR ANYTHING. BUT FOR THE GOOD ORDER OF THE WORLD, THEY FORCE HIS MASTER TO FREE HIM. [AND HE [THE SLAVE] WRITES A BOND FOR HIS PURCHASE-PRICE. RABBAN SIMEON B. GAMALIEL SAYS, “ONLY HE WRITES [A BOND] WHO FREES HIM.”

1. **II:1:** Which master freed him?
2. **II:2:** The rabbis of Caesarea say in the name of R. Bisa, “The view of Rabban Simeon b. Gamaliel is in line with that of R. Meir.

XXV. YERUSHALMI GITTIN 4:5

[A] “HE WHO IS HALF-SLAVE AND HALF-FREE WORKS FOR HIS MASTER ONE DAY AND FOR HIMSELF ONE DAY,” THE WORDS OF THE HOUSE OF HILLEL. SAID TO THEM THE HOUSE OF SHAMMAI, “YOU HAVE TAKEN GOOD CARE OF HIS MASTER, BUT OF HIMSELF YOU HAVE NOT TAKE CARE. TO MARRY A SLAVE-GIRL IS NOT POSSIBLE, [FOR HALF OF HIM AFTER ALL IS FREE]. TO MARRY] A FREE WOMAN IS NOT POSSIBLE, [FOR HALF OF HIM AFTER ALL IS A SLAVE]. SHALL HE REFRAIN? BUT WAS NOT THE WORLD MADE ONLY FOR PROCREATION, AS IT IS SAID, ‘HE CREATED IT NOT A WASTE, HE FORMED IT TO

BE INHABITED' (Is. 45:18). BUT: FOR THE GOOD ORDER OF THE WORLD, THEY FORCE HIS MASTER TO FREE HIM. AND HE [THE SLAVE] WRITES HIM A BOND COVERING HALF HIS VALUE." AND THE HOUSE OF HILLEL REVERTED TO TEACH IN ACCORD WITH THE OPINION OF THE HOUSE OF SHAMMAI.

1. **I:1:** How is it possible to produce someone who is half-slave and half-free?
2. **I:2:** There we have learned: They do not take wives on the intermediate days of a festival [M.M.Q.1:4]. Simeon bar Abba in the name of R. Yohanan, "It is because [people will hold up weddings until the festival, and so have one meal for the two events, the festival and the wedding]. [Consequently, they will postpone marriages and so] nullify the act of procreation [for the interval]."

XXVI. YERUSHALMI GITTIN 4:6

[A] **HE WHO SELLS HIS SLAVES TO A GENTILE, OR TO SOMEONE WHO LIVES ABROAD – [THE SLAVE] HAS GONE FORTH A FREE MAN.**

1. **I:1:** [If one sells a slave] to a gentile, even in the Land of Israel, [the slave goes forth to freedom, since the gentile will not permit the slave to observe the commandments]. Who frees him? The former master pays the price for him, and the latter declares him free. And abroad, even [if he sold him to] an Israelite, [the slave goes free].
2. **I:2:** He who sells his slave abroad – he has gone forth free. And he needs a writ of emancipation from his second master. Rabban Simeon b. Gamaliel says, "Under some circumstances, he has gone forth free, and under some circumstances, he has not gone forth free. "How so? In the case of Mr. So-and-so, son of So-and-so, (saying,) 'I have sold my slave to Mr. So-and-so of Antioch,' the slave has gone forth free. But [if he said, 'I have sold my slave] to So-and-so of Antioch, who is living in Lydda,' he has not gone forth free." [If one has inherited slaves abroad, before they have entered his domain in the land, he is permitted to sell them abroad. [If a slave went abroad with his master [to Syria] [in this instance if the master sold him there, lo, this one is deemed sold. A slave who went with his master [planning] to return – they force him to return. But if it is not to return [to the Land], they do not force him to return. His slave who fled abroad – his master has not got the right to sell him abroad [but must bring him back to the Land] [T. A.Z. 3:18-19].

3. **I:3:** If a slave fled from the Land to abroad [and then came back], R. Josiah in the name of R. Hiyya the Elder said, “It is permitted [to return him].” R. Hoshaiyah the Elder said, “It is permitted [to send him back abroad].” R. Marinos, son of R. Hoshaiyah the Elder, said, “It is forbidden.”
4. **I:4:** [With reference to M. 4:6B: He who sells his slave to someone who lives abroad,] if he made a stipulation with him [that it is only for a limited period, why should he not be] permitted to do so [so that the slave would not go free]?

[B] THEY DO NOT REDEEM CAPTIVES FOR MORE THAN THEY ARE WORTH, FOR THE GOOD ORDER OF THE WORLD. AND THEY DO NOT HELP CAPTIVES TO FLEE, FOR THE GOOD ORDER OF THE WORLD. RABBAN SIMEON B. GAMALIEL SAYS, “FOR THE GOOD ORDER OF CAPTIVES.”

1. **II:1:** It is so that they will not tie them up.

[C] AND THEY DO NOT PURCHASE SCROLLS, TEFILLIN, OR MEZUZOT FROM GENTILES FOR MORE THAN THEY ARE WORTH, FOR THE GOOD ORDER OF THE WORLD.

1. **III:1:** It has been taught: They do not purchase from a gentile scrolls, phylacteries, and mezuzot [T. A.Z. 3:6B]. And lo it has been taught: M'SH B: A gentile was writing scrolls in Sidon, and the case came before sages. They ruled, “It is permitted to purchase [them] from him” [T. A. Z. 3:7A-B].

XXVII. YERUSHALMI GITTIN 4:7

[A] HE WHO PUTS HIS WIFE AWAY BECAUSE SHE HAS A BAD NAME SHOULD NOT TAKE HER BACK. [IF HE DID SO] BECAUSE OF A VOW [WHICH SHE HAD MADE], HE SHOULD NOT TAKE HER BACK. R. JUDAH SAYS, “[IF IT WAS ON ACCOUNT OF] ANY SORT OF VOW WHICH IS PUBLICLY KNOWN, HE SHOULD NOT TAKE HER BACK. BUT [IF IT WAS ON ACCOUNT OF] A VOW WHICH IS NOT PUBLICLY KNOWN, HE MAY TAKE HER BACK.” R. MEIR SAYS, “[IF IT IS ON ACCOUNT OF] ANY SORT OF VOW WHICH REQUIRES THE INVESTIGATION OF A SAGE [FOR ITS ABSOLUTION], HE SHOULD NOT TAKE HER BACK. [IF IT IS ANY SORT OF] VOW WHICH DOES NOT REQUIRE THE INVESTIGATION OF A SAGE, HE MAY TAKE HER BACK.”

1. **I:1:** On what account did they rule, He who puts away his wife because she has a bad name should not take her back [M. 4:7A]? For [if one puts away his wife because of her having a bad name, and then

she is married to someone else and produces a child, and afterward the things said about the first wife turn out to be a joke – [if he said, “If I had known that these things were a joke, even if someone had given me a hundred manehs, I should never have divorced her” – then, if he has the power to nullify the divorce] the writ of divorce turns out to be invalid, and the offspring [of the second marriage] to be a mamzer [T. Git. 3:5J-M].

[B] SAID R. ELEAZAR, “THIS LATTER CASE WAS PROHIBITED ONLY BECAUSE OF THE FORMER.” SAID R. YOSÉ BAR JUDAH, “**M’SH B: IN SIDON A MAN SAID TO HIS WIFE, ‘QONAM IF I DO NOT DIVORCE YOU,’ AND HE DIVORCED HER. BUT SAGES PERMITTED HIM TO TAKE HER BACK, FOR THE GOOD ORDER OF THE WORLD.**”

- 1.** **II:1:** “In the strict logic of the law, it should have been the case that even if it was a vow which requires the investigation of a sage, he should be able to remarry her, for a sage uproots the vow as if it had never been in place. On what account did they prohibit [remarriage in the case of a vow which does not require the investigation of a sage? It is because of a vow which requires the investigation of a sage.”

XXVIII. YERUSHALMI GITTIN 4:8

[A] HE WHO DIVORCES HIS WIFE BECAUSE OF STERILITY – R. JUDAH SAYS, “HE MAY NOT REMARRY HER.” AND SAGES SAY, “HE MAY REMARRY HER.” [IF SHE WAS MARRIED TO SOMEONE ELSE AND HAD CHILDREN BY HIM, AND SHE THEN CLAIMS PAYMENT FOR HER MARRIAGE CONTRACT – SAID R. JUDAH, “THEY SAY TO HER, ‘YOUR SILENCE IS BETTER FOR YOU THAN YOUR TALKING.’”

- 1.** **I:1:** On what account did they rule, “He who divorces his wife because of sterility may not remarry her”? For lo, he who divorces his wife because of sterility and she went and married someone else, and she produced children with him, and [the first husband] said, “If I had known that my wife could give birth to children, if someone had given me a hundred manehs for my wife, I should not have been willing to divorce her” – it will turn out to be an invalid writ of divorce, and the offspring of the second marriage will be deemed in the status of a mamzer.

XXIX. YERUSHALMI GITTIN 4:9

[A] **HE WHO SELLS HIMSELF AND HIS CHILDREN TO A GENTILE — THEY DO NOT REDEEM HIM, BUT THEY DO REDEEM THE CHILDREN AFTER THEIR FATHER’S DEATH.**

1. **I:1:** The Mishnah [at M. 4:9A-B] speaks of one who repeatedly has sold himself. But if he sold himself for the first time, they do redeem him.

[B] **HE WHO SELLS HIS FIELD TO A GENTILE AND AN ISRAELITE WENT AND PURCHASED IT FROM HIM — THE PURCHASER BRINGS THE FIRST FRUITS, ON ACCOUNT OF THE GOOD ORDER OF THE WORLD.**

1. **II:1:** The ruling of the Mishnah [at M. 4:9E] represents the view of R. Meir. For R. Meir has said, “An idolater has no power of acquisition of real estate in the Land of Israel in such wise as to exempt the real estate from the obligation of tithing. [That is why, M. 4:9D, the Israelite purchaser cannot deem the land exempt from the obligation of tithes, even though a gentile has owned it before.]” R. Judah and R. Simeon say, “An idolater does have the power of acquisition of real estate in the Land of Israel in such wise as to exempt the real estate from the obligation of tithing.”
2. **II:2:** If one has acquired a field when the Jubilee year is in operation, [which is a purchase only of the usufruct — R. Ila said, “He has acquired the land.” Abba bar Mamel said, “He has not acquired the land.”

XXX. YERUSHALMI GITTIN 5:1

[A] **AS TO DAMAGES, THEY PAY COMPENSATION OUT OF THE HIGHEST QUALITY [REAL ESTATE, AND A DEBT, OUT OF MIDDLING QUALITY [REAL ESTATE], AND THE MARRIAGE CONTRACT OF A WOMAN, OUT OF THE POOREST QUALITY [REAL ESTATE]. R. SIMEON B. GAMALIEL SAYS, “ALSO: THE MARRIAGE CONTRACT OF A WOMAN, OUT OF MIDDLING QUALITY [REAL ESTATE].”**

1. **I:1:** It is an argument a fortiori that [compensation for damages done] to that which has been declared holy [is paid out of real estate of the highest quality].
2. **I:2:** R. Hiyya taught: Compensation for damages and half damages... do people collect from indentured property [T. Ket. 2:2A-B].

3. **I:3:** [“When a man causes a field or vineyard to be grazed over, or lets his beast loose and it feeds on another man’s field, he shall make restitution] from the best in his own field and in his own vineyard” (Ex. 22:5). “His field” – excluding that which is indentured to others [which is no longer his]. “And his vineyard” – excluding that which has been consecrated to Heaven.
4. **I:4:** “His field” excluding movables. “And his vineyard” excluding that which is going to be acquired by him, deemed as if he has already taken possession of it.
5. **I:5:** “[Property in accord with] ‘the best in his own field and in his own vineyard’ (Ex. 22:5) – that is, by the criterion of the property of the party which is responsible for the injury,” the words of R. Ishmael. R. Aqiba says, “... the best in his own field and in his own vineyard’ – that is, by the criterion of the property of the injured party.”
6. **I:6:** For what reason then does R. Aqiba maintain that as to damages, they pay compensation for them out of the highest quality real estate? There is no basis for it in Scripture. It is by reason of an ordinance [for the welfare of society].
7. **I:7:** R. Simai interpreted the following verse: “‘And the man [to whom you make the loan shall bring the pledge out to you]’ (Deut. 24:11 this refers to a court officer. For if the lender should go in, lo, he will take the finest sort of thing, and if the borrower should go in, he will take the meanest. Hence the agent of the court goes in and takes an object of average value.”
8. **I:8:** The following matter is self-evident: A loan which has been passed in court over the debtor’s denial does not fall under the law of the release in the Sabbatical year. A decreed obligation which has been converted into a loan [the defendant giving his note in settlement] is subject to release in the seventh year.
9. **I:9:** [If there is available only real property of the best quality, all of them [those owed damages, debts, marriage contracts] collect what is due them from property of the best quality. [If there is available only] property of middling quality, all of them collect what is due them from property of middling quality. [If there is available only] property of poor quality, all of them collect what is due them from property of poor quality. [If there is] property of the best and of middling quality, then compensation for damages is collected from property of the best quality, and compensation for a debt and for the marriage contract is collected from property of middling quality. [If there is] property of the

best and of the poorest quality, then compensation for damages is collected from property of the best quality, and compensation for a debt and for the marriage contract is collected from property of the poorest quality. [If there is available only] property of middling and of poorest quality, then compensation for damages and for debts is collected from property of middling quality, and compensation for the marriage contract is collected from property of poor quality [T. Ket. 12:3F-K].

[B] AND THE MARRIAGE CONTRACT OF A WOMAN IS COLLECTED FROM PROPERTY OF THE POOREST QUALITY:

- 1. II:1:** Said R. Jeremiah, “This has been taught only in respect to the payment of the maneh [or] the two hundred zuz [as the case may be to a widow or a virgin at the time of marriage]. But as to a marriage settlement, in addition of a thousand denars, this is collected from real estate of middling quality.” And R. Yosé says, “Even the marriage settlement of a thousand denars is collected only from real estate of the poorest quality.”

XXXI. YERUSHALMI GITTIN 5:2

[A] THEY DO NOT EXACT PAYMENT FROM MORTGAGED PROPERTY IN A CASE IN WHICH THERE ALSO IS UNENCUMBERED PROPERTY. EVEN IF IT IS OF THE POOREST QUALITY.

- 1. I:1:** R. Yohanan in the name of R. Yannai, “They exact payment from the property of an estate only in the case of a bond in which usury is eating up the estate.” And there are those who say, “Also in the case of paying off the marriage settlement of a wife.”

[B] THEY EXACT PAYMENT FROM THE PROPERTY OF AN ESTATE [“ORPHANS”] ONLY FROM THE POOREST QUALITY [REAL ESTATE].

- 1. II:1:** has it not been taught: If the son took the place of the father, as to damages, they assess them from land of the highest quality, and for a creditor, from land of intermediate quality, and for payment of the marriage settlement of a woman, from land of the poorest quality?

XXXII. YERUSHALMI GITTIN 5:3

[A] THEY DO NOT EXACT FROM MORTGAGED PROPERTY INDEMNITY FOR USUFRUCT OR FOR IMPROVEMENTS MADE ON LAND, OR FOR THE MAINTENANCE OF A WIDOW OR DAUGHTERS, FOR THE GOOD ORDER OF THE WORLD.

1. **I:1:** Said R. Hanina, “It is because there is no limit to [the matters listed at M. 5:3A].”
2. **I:2:** [If Reuben] stole a field from Simeon and sold it to Levi, and Simeon came and snatched it back from Levi, Levi collects the principle from indentured property belonging to Reuben, and Simeon collects the value of the usufruct from indentured property belonging to Reuben. If Levi went and improved the value of the property, Levi collects the principle from the indentured property belonging to Reuben, and he collects the value of his improvements from the unindentured property belonging to Simeon.
3. **I:3:** Reuben stole a field from Simeon and sold it to Levi, and Levi went and gave it as a gift to Judah, and Simeon came and snatched it back from Judah – Judah [has no right to] go [for compensation] to Levi, for it had been a gift. Levi has every right to seek compensation from Reuben, for [the field had been] sold [to him by Reuben]. But had it not been given away by him as a gift? He has the right to claim, “I wanted to give it as a gift, and then he would pay me back for the favor.” Reuben stole a field from Simeon, who gave it as a gift to Levi. Then Levi went and sold it to Judah. Simeon came and snatched it back from Judah. Judah turns to Levi for compensation, for he had sold it to him. Levi may not then go and collect from Reuben, for he had received it from him as a gift.
4. **I:4:** What is the law [M. 5:3A] as to collecting support [for daughters for a dowry] from indentured property [when there is a fixed value assigned to the dowry]? [That is, after the father died, the brothers took the property and mortgaged it. May the daughters collect their dowry from this mortgaged property, retrieving it for that purpose from the possession of the purchaser?]
5. **I:5:** A court decree was issued to Sippor daughter of Absalom: “R. Simeon and R. Jacob bar Idi in the name of R. Simeon bar Ba, ‘I and our rabbis have issued a writ for collecting support for this woman from movables [disposed of by her husband, who has divorced her], in accord with customary practice in her place of residence.’”

[B] HE WHO FINDS A LOST OBJECT IS NOT SUBJECTED TO AN OATH, FOR THE GOOD ORDER OF THE WORLD.

- 1. II:1:** [As to M. 5:3: He who finds a lost object is not subjected to an oath, for the good order of the world:] *There we have learned:* A maneh belonging to my father you have in your hand” – “He has nothing in my hand but fifty denars – he is exempt [from an oath] for the defendant is in the status of one who returns lost property [M. Shebu. 6: 1P-R]. Said R. Eleazar, “This is an ordinance which they have ordained for such a case, just as they have made an ordinance in the case of one who restores a lost object. For we have learned: He who finds a lost object is not subjected to an oath, for the good order of the world.”
- 2. II:2:** Said R. Ba, “The Mishnah speaks of a case in which he said to him, ‘I found two oxen of mine,’ But if he had said, ‘I found two oxen of yours, and I returned them to you,’ and the other party says to him, ‘You returned to me only one,’ it is not for such a case that the rabbis have made the stated ordinance. [Here there must be an oath.]”

XXXIII. YERUSHALMI GITTIN 5:4

[A] ORPHANS WHO BOARDED WITH A HOUSEHOLDER, OR FOR WHOM THEIR FATHER APPOINTED A GUARDIAN – HE [WHO PROVIDES FOR THEIR KEEP] IS LIABLE TO SEPARATE TITHE FROM THEIR PRODUCE:

- 1. I:1:** [“So shall] you [also present an offering to the Lord”] (Num. 18:28 “You,” thus excluding partners. “You” – thus excluding guardians. “You” – thus excluding he who sets aside heave offering out of produce which does not belong to him. “You,” thus excluding partners. Yet [contrary to E] have we not learned: If partners have set aside heave-offering [that which they have set aside as heave-offering is validly done] [M. Ter. 3:3]? But here [where partners may validly separate heave-offering] we speak of the great heave-offering, [that is, set aside first of all, two percent of the whole, and given to the priest,] and there [where they may not] we speak of heave-offering of tithe [separated from the first tithe by the Levite and handed over to the priest, for that is the topic of Num. 18:28]. But has the law governing setting aside great heave-offering not been learned from the law governing setting aside heave-offering of tithe? But here we speak of theory, there of practice. “You” – thus excluding guardians. But it has been taught: Orphans who boarded with a householder, or for whom their father appointed a guardian – he who provides for their

keep is liable to separate tithe from their produce [M. 5:4A]. Associates say, “The one rule applies to permanent guardians [who tithe], the other to temporary ones [who do not].”

2. **I:2:** Said R. Yohanan, “To begin with they appoint a guardian not to incur liability in behalf of [an orphan] but to gain advantage [in his behalf. But if the guardian should incur a liability [as at M. B.Q. 4:4D], it is a valid act.” R. Yosé b. Haninah said, “Whether to begin with or after the fact, they do not appoint a guardian for orphans either to gain an advantage for them or to incur a liability for them.”
3. **I:3:** [An ox belonging to orphans which is presently in the possession of a guardian which went out and] did damage – what is the law [as to exacting payment]? [Does the compensation come from the guardian’s own property?] R. Yohanan said, “The compensation is exacted from the property of the orphans, [for if you rule that it comes from the guardian, then no one will ever agree to be appointed a guardian].” R. Yosé b. Haninah said, “It is paid by the guardian.”

[B] A GUARDIAN WHOM A FATHER OF ORPHANS HAS APPOINTED IS TO BE SUBJECTED TO AN OATH. [IF] A COURT APPOINTED HIM, HE IS NOT SUBJECTED TO AN OATH. ABBA SAUL SAYS, “MATTERS ARE REVERSED.”

1. **II:1:** A guardian whom the father of orphans has appointed is to be subjected to an oath, for the [father] would not usually investigate [the qualifications of the guardian]. If a court appointed him, he is not subjected to an oath, for the court would usually investigate [the qualifications of the publicly appointed guardian]. Abba Saul says, “Matters are reversed.”

XXXIV. YERUSHALMI GITTIN 5:5

[A] HE WHO IMPARTED UNCLEANNESS [TO THE CLEAN FOOD OF SOMEONE ELSE], AND HE WHO MIXED HEAVE-OFFERING INTO THE PRODUCE OF SOMEONE ELSE, AND HE WHO MIXED ALL OTHER’S WINE WITH LIBATION-WINE – IF HE DID SO INADVERTENTLY, HE IS EXEMPT [FROM PUNISHMENT]. AND IF HE DID SO DELIBERATELY, HE IS LIABLE. AND PRIESTS WHO DELIBERATELY IMPARTED THE STATUS OF REFUSE TO A SACRIFICE IN THE SANCTUARY ARE LIABLE.

1. **I:1:** [=Y. B.Q. 9:3 IV] R. Yudan did not go into the schoolhouse. He came across R. Mana, saying to him, “What new point was made in school today?” He said to him, “Thus did R. Yosé say, ‘He who renders the produce of his fellow unclean is not deemed as if he has done a concrete deed.’ [That is, he who imparts uncleanness to the

foods of his fellow prepared in conditions of cleanness, is exempt from making restitution, since this is a sort of damage without a perceptible material mark.]” He replied, “Now is this point not explicitly stated in a well-known pericope of Mishnah: Heave-offering and it became unclean [M. B.Q. 9:3E]?”

2. **I:2:** If one who was not an expert judged a case, declaring the liable person to be free of liability, declaring the person free of liability to be liable, declaring what is clean to be unclean, declaring what is unclean to be clean – what he has done is done. But he has to pay restitution from his own funds [M. Bekh. 4:4A-F]. “The reason he has to pay compensation,”] R. Jeremiah said in the name of Rab, “is that he has [taken a dead creeping thing] and with his own hand brought it into contact with the food being prepared in conditions of cleanness. [This is a case of doing so deliberately, and that is why he has to pay, in line with M. Git. 5: SB.]” So too did Samuel say, “We deal with a case in which he has taken a dead creeping thing and with his own hand brought it into contact with the food being prepared in conditions of cleanness.”
3. **I:3:** To this point the rule applies in a case in which the man who did so assumed that the produce was not consecrated [M. 5:5A]. But if he knew that it was in the status of heave-offering, but assumed that it was permitted to impart uncleanness to it [what is the law]? [It is too deemed to be true inadvertence, since the deed was done deliberately, but in the assumption that it was a permitted deed?]
4. **I:4:** [With reference to M. 5:5A, And he who mixed another’s wine with libation-wine:] R. Huna in the name of Rab: “That rule applies to a case in which he mixed the wine into wine which had already served as a libation wine.”
5. **I:5:** He who imparted uncleanness to the clean food of someone else and he who mixed heave-offering into the produce of someone else, and he who mixed another’s wine with libation-wine if he did so inadvertently, he is exempt from punishment. And if he did so deliberately, he is liable [M. 5:5A]. Said R. Yohanán, “It is by reason of an extra-legal penalty.”

XXXV. YERUSHALMI GITTIN 5:6

[A] TESTIFIED R. YOHANAN B. GUDEGGEDAH CONCERNING A DEAF-MUTE, WHOSE FATHER MARRIED HER OFF, THAT [IF SHE SHOULD BE DIVORCED], SHE GOES FORTH WITH A WRIT OF DIVORCE:

1. **I:1:** With reference to M. Yeb. 14:1K-N, 14:2: Said R. Yohanan b. Nuri, “On what account does a woman who became a deaf-mute go forth, but a man who became a deaf-mute does not put away his wife by a writ of divorce?” They said to him “The man who divorces his wife is not equivalent to a woman who receives a divorce. For a woman goes forth willingly or unwillingly. But a man puts his wife away only willingly.” R. Yohanan b. Gudeggedah testified concerning a deaf-mute whose father married her off, that [if she should be divorced], she goes forth with a writ of divorce. They said to him [Yohanan b. Nuri], “This too follows the same rule,” R. Hananiah raised the question before R. Hila, “The stated rule [of Yohanan b. Gudeggedah] makes sense with regard to a woman of sound senses, [for she is married with her own will and consent, without the intervention of a third party, and in the case of divorce, likewise, a writ is received by her alone,] so that she goes forth whether willingly or unwillingly.

[B] AND CONCERNING A MINOR ISRAELITE GIRL WHO WAS MARRIED TO A PRIEST, THAT SHE EATS HEAVE-OFFERING, AND IF SHE DIED, HER HUSBAND INHERITS HER ESTATE:

1. **II:1:** Said R. Yohanan, “For what reason did they state, ‘A minor Israelite girl who was married to a priest eats heave-offering’? It is so that everyone will want to marry her, because of her charm [since she will be well-fed and not scrawny].”

[C] AND CONCERNING A STOLEN BEAM WHICH ONE BUILT INTO HIS HOUSE, THAT THE ORIGINAL OWNER COLLECTS ITS VALUE — ON ACCOUNT OF THE GOOD ORDER OF THOSE WHO REPENT:

1. **III:1:** He who steals a beam and builds it into his house — the House of Shammai says, “Let him tear down the whole house and take out [and return] the beam.” And the House of Hillel says, “One reckons how much it is worth and pays the value of it to the owner, for the sake of the welfare of those who repent” [T. B.Q. 10:5]. Said R. Eleazar, “They differ with regard to one who has stolen a beam which had been planed. But if he stole it and planed it himself, then all agree] it is only monetary compensation which he owes to him.”

[D] AND CONCERNING A STOLEN SIN OFFERING, THAT WAS NOT PUBLICLY KNOWN, THAT IT EFFECTS ATONEMENT — FOR THE GOOD ORDER OF THE ALTAR.

- 1. IV:1:** Ulla bar Ishmael [said], “In strict logic the rule should have been that even if [the stolen sin offering was not publicly known to have been stolen], it should not effect atonement. And why did they rule that it does effect atonement? So that the altar should never be left desolate [without sacrifices on it].” R. Simeon b. Laqish said, “In accord with strict logic, even if it was publicly known, it should effect atonement. And why have they said that it does not effect atonement? So that the altar will not receive stolen goods.”

XXXVI. YERUSHALMI GITTIN 5:7

[A] THE LAW CONCERNING THE USURPING OCCUPANT DID NOT APPLY IN JUDAH IN THE CASE OF THOSE SLAIN IN THE WAR. FROM THE TIME OF THOSE SLAIN IN THE WAR AND THENCEFORWARD THE LAW OF THE USURPING OCCUPANT DID APPLY.

- 1. I:1:** In the beginning [the Romans] decreed oppression against Judah, for they had a tradition in their hands from their forefathers that Judah had slain Esau, for it is written, “Your hand shall be on the neck of your enemies” (Gen. 49:8). Now they went and subjugated [the Jews] and took their fields and sold them to others. Then the original householders came and seized the fields. The land was tied up in the hands of the usurping occupants. People refrained from buying land. They ordained that the law of the usurping occupant should not apply in Judea.
- 2. I:2:** Under what circumstances? In the case of those who were slain before the war in the time of the war. But to those who were slain in the war and thenceforward, the law of the usurping occupant does apply [M. 5:6B] [T. Git. 3:10]. Now are those slain before the war not equivalent to those slain after it? [There is no danger of war at either point. Why is the law of the usurper suspended?]
- 3. I:3:** It was taught: Sharecroppers, tenant-farmers, and guardians are not subject to the law of the usurping occupant. He who takes over a field in payment of a debt, and he who does so] in payment of a debt payable in installment they are not subject to the law of the usurping occupant. As to the collection of the debt payable in installments itself: they wait for the owner [to redeem it] for twelve months [T. Git. 3:1 1A).

[B] HOW [DOES THE LAW APPLY]? [IF] ONE PURCHASED A PROPERTY [FIRST] FROM THE USURPING OCCUPANT AND [THEN] WENT AND [ALSO] PURCHASED IT FROM THE HOUSEHOLDER, HIS PURCHASE IS NULL. [IF HE PURCHASED IT FIRST] FROM THE HOUSEHOLDER AND [THEN] WENT AND PURCHASED IT FROM THE USURPING OCCUPANT, HIS PURCHASE IS CONFIRMED. [IF] A MAN PURCHASED IT FROM A MAN AND THEN WENT AND PURCHASED IT FROM A WOMAN, HIS PURCHASE IS NULL. [IF] HE PURCHASED IT FROM A WOMAN AND THEN WENT AND PURCHASED IT FROM A MAN, HIS PURCHASE IS CONFIRMED. THIS IS THE FIRST MISHNAH. THE COURT AFTER THEM RULED: HE WHO PURCHASES A PROPERTY FROM A USURPING OCCUPANT PAYS THE OWNER A FOURTH OF THE VALUE.

- 1. II:1:** [With reference to M. 5:7G-H, If a man purchased it from a man and then went and purchased it from a woman, his purchase is null. If he purchased it from a woman and then went and purchased it from a man, his purchase is confirmed] up to now we have assumed we dealt with a case in which there are two deeds of sale [one provided by the woman, the other by the man]. But if there was only a single deed of sale [signed by the wife as well as the husband, what is the law]?

[C] UNDER WHAT CIRCUMSTANCES? WHEN HE [THE ORIGINAL OWNER] HAS NOT GOT THE MEANS TO BUY IT. BUT [IF] HE HAS GOT THE MEANS TO BUY IT, HE TAKES PRECEDENCE OVER ALL OTHER PEOPLE.

- 1. III:1:** [As to M. 5:7K-M: Under what circumstances? When the original owner has not got the means to buy it. But if he has got the means to buy it, he takes precedence over all other people, we have the following conflicting claims. The owner says that he had the means to buy the field when the other party purchased it from the usurper. He therefore has the right to purchase it now. The one who bought it from the usurper has not acquired legitimate rights of ownership to the field. That one says that when the usurper put the field up for sale, the original owner did not have the means to buy it. Thus:] They say, “We had the means to buy it.” The purchaser says, “That was not so.” Said R. Yosé, “Under all circumstances the field belongs in the presumptive ownership of the original owner. For he who wishes to extract something from his fellow bears the burden of proof.”

[D] RABBI CALLED A COURT INTO SESSION AND THEY VOTED, THAT IF THE PROPERTY HAD REMAINED IN THE HANDS OF THE USURPING OCCUPANT FOR TWELVE MONTHS, WHOEVER COMES FIRST HAS THE RIGHT TO PURCHASE IT. BUT HE PAYS THE OWNER A QUARTER OF THE VALUE.

- 1. IV:1:** Rab said, “I was there the day that they voted. There is no difference between paying the quarter of the price in real estate or in ready cash [a fifth of the value of the field].”

XXXVII. YERUSHALMI GITTIN 5:8

[A] A DEAF-MUTE MAKES SIGNS AND RECEIVES SIGNS. AND BEN BETERAH SAYS, “HE COMMUNICATES BY MOVEMENTS OF THE MOUTH AND RECEIVES COMMUNICATION BY MOVEMENTS OF THE MOUTH,” IN THE CASE OF MOVABLES. AND AS TO LITTLE CHILDREN: THEIR PURCHASE IS VALID AND THEIR SALE IS VALID IN THE CASE OF MOVABLES.

1. I:1: Ben Beterah says, “He communicates by movements of the mouth and receives communication by movements of the mouth [M 5:8B] and so hires workers or is hired out as a worker.”
2. I:2: The word “little children” [given in Aramaic] is the same as the Greek word for “little children.”
3. I:3: “[The reason that they may do business,]” said R. Yohanan, “is so that they may support themselves.”

XXXVIII. YERUSHALMI GITTIN 5:9

[A] AND THESE RULES DID THEY STATE IN THE INTERESTS OF PEACE: A PRIEST READS FIRST, AND AFTERWARD A LEVITE, AND AFTERWARD AN ISRAELITE, IN THE INTERESTS OF PEACE.

1. I:1: *In the view* of the following saying of R. Simeon b. Yohai, [the rule of M. 5:9B] derives from the teaching of the Torah [and is not a mere rabbinical ordinance]. For R. Simeon b. Yohai taught, “And Moses wrote this law, and gave it to the priests the sons of Levi’ and afterward ‘to all the elders of Israel’” (Deut. 31:9). In the view of the following saying of R. Joshua b. Levi, it derives from the authority of scribes [and not from the Torah]. For R. Joshua b. Levi said, “I never said a blessing before a priest, nor did I ever let an Israelite say a blessing before [me].” In the view of the following saying of R. Haninah it derives from the authority of scribes. For R. Haninah said, “A town which is inhabited entirely by priests an Israelite says the blessing first, to keep the peace.”
2. I:2: R. Ahi and R. Tanhum bar Hiyya in the name of R. Simlai: “A town which is inhabited wholly by priests all of them raise their hands [to say the priestly blessing].”

- a. I:3: Said R. Hisda, “And it is necessary that the one who reads for the community [at the time of the priestly blessing] be an Israelite.”

[B] THEY PREPARE AN ERUB IN THE HOUSE WHERE IT WAS FIRST PLACED, IN THE INTERESTS OF PEACE.

1. **II:1:** Said R. Abin, “The Mishnah speaks [even] of setting it in the room in which it has always been placed.”

[C] A WELL NEAREST TO THE STREAM IS FILLED FIRST, IN THE INTERESTS OF PEACE.

1. **III:1:** And that rule applies when the water-course flows naturally by it. Samuel said, “Even if it is at the side.”

[D] SOMETHING FOUND BY A DEAF-MUTE, AN IDIOT, AND A MINOR IS SUBJECT TO THE RULE AGAINST STEALING, IN THE INTERESTS OF PEACE. R. YOSÉ SAYS, “IT IS STEALING BEYOND ANY DOUBT.”

1. **IV:1:** There they say in the name of R. Nahman bar Jacob, “Anyone to whom they give a pebble, and he takes it, a nut, and he throws it out – he who takes property from him is like him who takes it out of the garbage heap. If they gave him a nut and he takes it, a pebble and he throws it away, someone who takes from him commits theft, in the interests of peace [= M. 5:9G]. If one gives him a nut and a pebble, and he takes them and puts them away and produces them later on, taking from him is an act of theft, pure and simple.” Such a one effects acquisition for himself but not for someone else. Rab Huna says, “Just as he effects acquisition for himself, so he effects acquisition for someone else.”

2. **IV:2:** R. Abbahu in the name of R. Yohanan, “That which you have stated [that we deal with stealing beyond any doubt, M. 5:9F] applies to the matter of retrieving the object from the one who has stolen it from the minor. But as to imposing on a thief in such circumstances the requirement to bring an offering or to take an oath, all parties concur that there is such a requirement only in the case of a minor who has produced two pubic hairs.”

- a. **IV:3:** The issue is whether a minor can effect an act of ownership. We have explained, in accord with R. Nahman bar Jacob, that there are several possibilities, now spelled out.] But as to the rabbis over here [who hold that the minor cannot effect ownership for himself, as we shall see, that is not the case]. R. Yosé raised the question, “If so, then even for himself he should not be able to make acquisition. For it is said, ‘[If a man delivers] to his neighbor’ (Ex.

22:7) that is, an act of donation is valid only when the giver is of the status of his neighbor.”

[E] **TRAPS FOR WILD BEASTS, FOWL, AND FISH ARE SUBJECT TO THE RULES AGAINST STEALING, IN THE INTERESTS OF PEACE. R. YOSÉ SAYS, “IT IS STEALING BEYOND ANY DOUBT.”**

1. **V:1:** That which you have said [in disagreement with R. Yosé] applies to large traps. But as to small ones, it is as if they are in the man’s house [and rabbis here will agree that it is theft, pure and simple].

[F] **A POOR MAN BEATING THE TOP OF AN OLIVE TREE — WHAT IS UNDER IT [THE TREE] IS SUBJECT TO THE RULE AGAINST STEALING, IN THE INTERESTS OF PEACE. R. YOSÉ SAYS, “IT IS STEALING BEYOND ANY DOUBT.”**

1. **VI:1:** That which you have said [at which there is a difference of opinion] applies to the ones on the ground. But as to the ones which he picks with his hand, his hand effects acquisition for him.

[G] **THEY DO NOT PREVENT POOR GENTILES FROM COLLECTING PRODUCE UNDER THE LAWS OF GLEANINGS, THE FORGOTTEN SHEAF, AND THE CORNER OF THE FIELD, IN THE INTERESTS OF PEACE.**

1. **VII:1:** It was taught: A city in which Israelites and gentiles live the collectors of funds for the support of the poor collect equally from Israelites and from gentiles, for the sake of peace. They provide support for the poor of the gentiles along with the poor of Israel, for the sake of peace [T. Git. 3:13]. They make a lament for and bury gentile dead, for the sake of peace. They express condolences to gentile mourners, for the sake of peace [T. Git. 3:14].
2. **VII:2:** A weaver asked R. Immi, “As to the feast day of gentiles, what is the law?” Now [Immi] was thinking that he would permit them to celebrate, in the interests of peace.

XXXIX. YERUSHALMI GITTIN 5:10

[A] **A WOMAN LENDS A SIFTER, SIEVE, HANDMILL, OR OVEN TO HER NEIGHBOR WHO IS SUSPECTED OF TRANSGRESSING THE LAW OF THE SEVENTH YEAR, BUT SHE SHOULD NOT WINNOW OR GRIND WHEAT WITH HER. THE WIFE OF A HABER LENDS THE WIFE OF AN AM HAARES A SIFTER AND SIEVE:**

1. **I:1:** [With reference to M. 5:10A-B, A woman lends a sifter, sieve, handmill, or oven to her neighbor who is suspected of transgressing the law of the Seventh Year, but she should not winnow or grind wheat

with her,] R. Zeira raised the question before R. Mana, “[May we say that] the Mishnah deals with a case in which the request is not made explicit, but if it is spelled out [that the woman wishes to use the sifter or sieve with the utensils, it is forbidden]?”

2. **I:2:** R. Pinhas raised the question, “Upon whom have sages imposed this penalty? Is it both upon those who sow in the Sabbatical Year and also on those who consume produce thereof, or [only] on those who sow but not on those who merely consume the produce of the Sabbatical Year?”

[B] SHE SIFTS, WINNOWS, GRINDS, AND SIFTS WHEAT WITH HER. BUT ONCE SHE HAS Poured water into the flour, she may not come near her, for they do not give assistance to transgressors. AND ALL OF THESE RULES THEY STATED ONLY IN THE INTERESTS OF PEACE:

1. **II:1:** There we have learned: A baker who was working in a state of cultic uncleanness they do not knead dough or roll it out with him [M. A.Z. 4:9]. And in this regard it was taught, They do not sift or winnow with him. And yet you say this [M. 5:10D]: She sifts, winnows...?

[C] THEY GIVE ASSISTANCE TO GENTILES IN THE SEVENTH YEAR, BUT NOT ISRAELITES. AND THEY INQUIRE AFTER THEIR WELFARE, IN THE INTERESTS OF PEACE.

1. **III:1:** As to M.5:10H: They give assistance to gentiles,] R.Hiyya and R. Immi – one said, “One may say to him, ‘Plough well, and I shall buy from you after the year of release,’” and the other said, “Good success” As to the one who said, “Plough well, and I shall buy the grain from you after the year of release” – what do they say when they greet them? “Good fortune!” And in the view of him who said, “To a gentile, [one says,] ‘Good fortune,’” how do they greet Israelites? “Peace be unto you.”

XL. YERUSHALMI GITTIN 6:1

[A] HE WHO SAYS, “RECEIVE THIS WRIT OF DIVORCE FOR MY WIFE,” OR, “TAKE THIS WRIT OF DIVORCE TO MY WIFE,” IF HE WANTED TO RETRACT, MAY RETRACT.

1. **I:1:** In all other contexts you treat the language, “Receive,” as equivalent to, “Acquire ownership.” But here you treat the language, “Receive,” as equivalent to saying, “Bring.” [That accounts for the fact that, at M. 6:1A the husband may retract.]

2. **I:2:** R. Nahman bar Jacob said, “If the woman said, ‘Bring me my writ of divorce,’ but the agent went to the husband and said to him, ‘Your wife said to me, Receive my writ of divorce for me,’ even though the writ actually came into the woman’s possession, it is not a valid writ of divorce. For the husband supposed that it was at the instance of the messenger that the woman is divorced, but the wife is divorced only at her own instance. [The husband has relied upon what the agent said, and that is not what the wife has specified.]”
3. **I:3:** R. Huna in the name of Rab: “A woman may not appoint an agent to receive her writ of divorce [and so acquire ownership thereof in her behalf from the messenger of her husband. [The husband will regard such a procedure as demeaning and will not approve it.]”
4. **I:4:** R. Huna said, “The man is treated as the messenger of the husband and the messenger of the wife” that is, where the husband said, “Take the writ,” and the wife said, “Receive it,” the messenger serves both]. Said Assi, “In any case in which the ruling is that the messenger serves both the husband and the wife, she is both divorced and not divorced.” [That is, if the writ should not reach the wife before the husband died, we do not know the conditions under which the messenger was appointed, and hence the woman’s status is in doubt. Accordingly, should the husband have died childless, the wife performs the rite of removing the shoe with the levir, but she does not enter into levirate marriage with him.]
5. **I:5:** [He who says,] “Bring a writ of divorce of my wife,” “... a writ of divorce of your daughter,” “... a writ of divorce of your sister,” and he went and gave it to her, it is invalid. If they said to him, “Shall we write a writ of divorce for your wife,” “Here is a writ of divorce for my wife,” “... a writ of divorce for your daughter,” “... a writ of divorce for your sister,” and he went and delivered it to her, it is valid [T. Git. 4:2IK.]

[B] THE WOMAN WHO SAID, “RECEIVE MY WRIT OF DIVORCE IN MY BEHALF” – IF HE [THE HUSBAND] WANTED TO RETRACT, HE MAY NOT RETRACT. THEREFORE IF THE HUSBAND SAID TO HIM, “I DO NOT WANT YOU TO RECEIVE IT FOR HER, BUT BRING AND GIVE IT TO HER,” IF HE WANTED TO RETRACT, HE MAY RETRACT. RABBAN SIMEON B. GAMALIEL SAYS, “ALSO: SHE WHO SAYS, ‘FETCH MY WRIT OF DIVORCE FOR ME,’ IF HE WANTED TO RETRACT, HE MAY NOT RETRACT.”

1. **I:1:** Said R. Haninah, “The law is in accord with the position of Rabban Simeon b. Gamaliel.

XLI. YERUSHALMI GITTIN 6:2

- [A] **THE WOMAN WHO SAID, “RECEIVE MY WRIT OF DIVORCE IN MY BEHALF,”**
REQUIRES TWO SETS OF WITNESSES: TWO WHO SAY, “IN OUR PRESENCE SHE
MADE THE STATEMENT,” AND TWO WHO SAY, “IN OUR PRESENCE HE [THE
MESSENGER] RECEIVED AND TORE IT UP.” EVEN IF THE FIRST SET OF
WITNESSES ARE THE SAME AS THE SECOND SET OF WITNESSES, OR THERE WAS
ONE OF THE FIRST SET OF WITNESSES AND ANOTHER IN THE SECOND SET OF
WITNESSES WITH ONE JOINED WITH EACH OF THEM.
- I:1:** Two who say, “In our presence she made the statement,” and two
who say, “In our presence the messenger received and tore it up” [M.
6:2C-D] – [why should this be the case]? [Surely the messenger]
concedes [that he received the writ]. [That is why the messenger] joins
with the other witness!
- [B] **A BETROTHED GIRL – SHE AND HER FATHER RECEIVE HER WRIT OF DIVORCE.**
SAID R. JUDAH, “TWO HANDS TOGETHER DO NOT MAKE ACQUISITION
SIMULTANEOUSLY. BUT HER FATHER RECEIVES HER WRIT OF DIVORCE ALONE.”
- II:1:** R. Simeon b. Laqish said, “Just as the argument [of Judah and the
anonymous statement] applies to writs of divorce, so it also applies to
betrothals.” Said R. Yohanan, “All parties concur in the case of
receiving tokens of betrothal that the father betroths the daughter, and
she does not betroth herself.”
 - II:2:** Associates say, “The dispute [between Yohanan and Simeon
b. Laqish] concerns a courtyard and the matter of four cubits.” R.
Yohanan said, “A minor-girl may own a courtyard and four cubits
of public domain [for receiving her writ of divorce, should it be
thrown to her; or she controls the four cubits about herself in the
public domain, and therein she may effect ownership of her writ of
divorce]. [Otherwise there is no “hand” to receive the writ.]” R.
Simeon b. Laqish said, “A minor-girl may not own a courtyard of
four cubits in the public domain for receiving the writ of divorce,
[should it be thrown to her].”
- [C] **AND ANY GIRL WHO IS NOT ABLE TO KEEP WATCH OVER HER WRIT OF DIVORCE**
CANNOT BE DIVORCED. A MINOR GIRL WHO SAID, “RECEIVE MY WRIT OF
DIVORCE FOR ME” – IT IS NOT A VALID WRIT OF DIVORCE UNTIL IT REACHES
HER HAND. THEREFORE IF THE HUSBAND WANTED TO RETRACT, HE MAY
RETRACT, FOR A MINOR CANNOT APPOINT A VALID MESSENGER. BUT IF THE
GIRL’S FATHER SAID TO HIM, “GO AND RECEIVE MY DAUGHTER’S WRIT OF

DIVORCE IN HER BEHALF,” IF HE [THE HUSBAND] WANTED TO RETRACT, HE MAY NOT RETRACT.

1. **III:1:** Once the girl is married, she [receives the writ of divorce,] not her father. If she is a minor, her father [receives the writ of divorce,] not she. If she is a minor who got married, either she or her father [receive her writ of divorce.] If she has sufficient maturity, she [receives it,] not her father.

XLII. YERUSHALMI GITTIN 6:3

[A] **HE WHO SAYS, “GIVE THIS WRIT OF DIVORCE TO MY WIFE IN SUCH-AND-SUCH A PLACE,” AND [THE MESSENGER] DELIVERED IT TO HER IN SOME OTHER PLACE — IT IS INVALID. [IF HE SAID,] “LO, SHE IS IN SUCH-AND-SUCH A PLACE,” AND HE GAVE IT TO HER IN SOME OTHER PLACE, IT IS VALID. THE WOMAN WHO SAID, “RECEIVE MY WRIT OF DIVORCE FOR ME IN SUCH-AND-SUCH A PLACE,” AND [THE MESSENGER] RECEIVED IT FOR HER IN SOME OTHER PLACE — IT IS INVALID. R. ELEAZAR DECLARES IT VALID. “BRING ME MY WRIT OF DIVORCE FROM SUCH-AND-SUCH A PLACE,” AND HE BROUGHT IT TO HER FROM SOME OTHER PLACE — IT IS VALID.**

1. **I:1:** The opening clause of the Mishnah-passage, [M. 6:3A-D,] is not in accord with R. Eleazar’s view [either]. [He would regard the writ as valid.] For R. Eleazar says, “Under all circumstances the woman is deemed to have been validly divorced, unless he says to the messenger, ‘Divorce her only in such-and-such a place,’ [and the messenger delivered the writ elsewhere]. [In that case the woman is not divorced.]”

XLIII. YERUSHALMI GITTIN 6:4

[A] [IF SHE SAID,] “BRING ME MY WRIT OF DIVORCE,” SHE CONTINUES TO HAVE THE RIGHT TO EAT FOOD IN THE STATUS OF HEAVE-OFFERING UNTIL THE WRIT OF DIVORCE REACHES HER HAND. “RECEIVE MY WRIT OF DIVORCE IN MY BEHALF,” SHE IS PROHIBITED FROM EATING FOOD IN THE STATUS OF HEAVE OFFERING FROM THAT POINT. “RECEIVE MY WRIT OF DIVORCE FOR ME IN SUCH-AND-SUCH A PLACE,” SHE CONTINUES TO HAVE THE RIGHT TO EAT FOOD IN THE STATUS OF HEAVE-OFFERING UNTIL [THE MESSENGER WITH A WRIT OF DIVORCE] REACHES THAT PLACE. **R. ELEAZAR PROHIBITS [HER FROM EATING FOOD IN THE STATUS OF HEAVE-OFFERING] FORTHWITH.**

1. **I:1:** What is the reason for the position of R. Eleazar [M. 6:4D]?
2. **I:2:** There we have learned: He who says to one who is not trustworthy in the matter of tithing, “Purchase for me from someone who is trustworthy, or from someone who separates tithes,” the agent is not believed. [If the sender says, “Purchase for me from so-and-so,” behold, this one is believed [M. Demai 4:5A-D]. In this regard it was taught: R. Yosé says, “Even if he said to him, ‘From So-and-so,’ he is not believed, unless he said to him, ‘Buy, and I shall pay for it.’” What is the reason for R. Yosé’s ruling? I say that he found someone else closer than he, and purchased from him [cf. T. Dem. 5:3E-I]. Now would it appear that the position of R. Eleazar accords with that of R. Yosé, and that of R. Yosé accords with that of R. Eleazar?

XLIV. YERUSHALMI GITTIN 6:5

- [A] **HE WHO SAYS, “WRITE A WRIT OF DIVORCE AND GIVE IT TO MY WIFE,” “DIVORCE HER,” “WRITE A LETTER AND GIVE IT TO HER,”** LO, THESE [TO WHOM HE SPOKE] SHOULD WRITE AND GIVE IT TO HER. [IF HE SAID,] “**FREE HER,” “FEED HER,” “DO WHAT IS CUSTOMARY FOR HER,” “DO WHAT IS APPROPRIATE FOR HER,”** HE HAS SAID NOTHING WHATSOEVER.
1. **I:1:** He who says, “Banish her,” is as if he said, “Issue a writ of divorce to her.” “Free her...,” “Feed her...,” “Do what is customary for her...,” “Do what is appropriate for her...,” – he has said nothing whatsoever. I say that he had in mind merely providing food for her.
- [B] **AT FIRST THEY RULED, “HE WHO GOES OUT IN CHAINS AND SAID, “WRITE A WRIT OF DIVORCE FOR MY WIFE,” – LO, THESE SHOULD WRITE AND DELIVER IT TO HER.”** THEY REVERTED TO RULE, “**ALSO: HE WHO IS TAKING LEAVE BY SEA OR GOING FORTH IN A CARAVAN [MAY GIVE THE SAME VALID INSTRUCTIONS.]”** R. SIMEON SHEZURI SAYS, “**ALSO: HE WHO IS DYING”**
1. **II:1:** [As to M. 6:5J] said R. Mana, “It is not the end of the matter that if he goes out in chains by reason of danger to life, but even if he goes out in chains by reason of a monetary claim, [one should do the same].
 2. **II:2:** R. Eleazar asked, “Is a gift made by such a one deemed to be a gift in contemplation of death?”
 - a. **II:3:** As in the following case: Genibah was taken out to be put to death. He declared, “Let a zuz worth of wine be given to R. Abuna of Kepar Panayya,” but it was not given to him. They took account of the position of Rab, for Rab said, “An inheritance is governed

by the laws applying to indentured property. Just as a loan secured only by verbal testimony of witnesses may not be collected from indentured property, so it is not collected from an inheritance.”

3. **II:4:** It was taught [in regard to M. 6:5J-L:] Also he who is sick.
5. **II:5:** R. Jacob bar Idi in the name of R. Jonathan: “The law accords with the view of R. Simeon Shezuri in the case of one who is dying.”

XLV. YERUSHALMI GITTIN 6:6

[A] HE WHO HAD BEEN CAST INTO A PIT AND SAID, “WHOEVER HEARS MY VOICE – LET HIM WRITE A WRIT OF DIVORCE FOR HIS [MY] WIFE” – LO, THESE SHOULD WRITE AND DELIVER IT TO HER. A HEALTHY MAN WHO SAID, “WRITE A WRIT OF DIVORCE FOR MY WIFE” – HIS INTENTION WAS TO TEASE HER.

1. **I:1:** Said R. Haninah, “The rule [of M. 6:6A-B] applies in a case in which people saw the shadow of a man [so that they know that the voice was not a shade.”
 - a. **I:2:** There we have learned: They testify as to the identity of a corpse if they have seen it only by the light of a lamp or of the moon, and they allow a woman to remarry only on the basis of evidence given by an echo [that her husband has died] [M. Yeb. 16:6]. And R. Jonathan said, “And those rules apply in a case in which people saw the shadow of a man.” R. Aha bar Haninah in the name of R. Haninah, “That which you have said applies to a case in a field. But as to what happens in a town, even though people did not see the shadow of a man, [the evidence is acceptable].” And have we not learned: He who had been cast into a pit [and said, “Whoever hears my voice – let him write a writ of divorce for my wife” – lo, these should write and deliver it to her] [M. 6:6A-B]? And R. Jonathan said, “And that rule applies in a case in which people have seen the shadow of a man, [and it is assumed that the pit is in a town].”

[B] M'SH B: A HEALTHY MAN SAID, “WRITE A WRIT OF DIVORCE FOR MY WIFE,” AND THEN WENT UP TO THE ROOFTOP AND FELL OVER AND DIED. SAID RABBAN SIMEON B. GAMALIEL, “SAID SAGES ‘IF HE FELL BECAUSE OF HIS OWN ACTION, LO, THIS IS A WRIT OF DIVORCE. IF THE WIND PUSHED HIM OFF, IT IS NOT WRIT OF DIVORCE.’”

1. **II:1:** If it is a matter of doubt whether or not he fell because of his own action or whether the wind pushed him off [in line with M. 6:6F], [what is the law]?

[C] **FREE-STANDING COMPOSITION ON THE PROBLEM OF INTENTIONALITY**

1. **II:2:** If one slaughtered a beast intending to toss its blood to the honor of an idol or to burn up its sacrificial fat to the honor of an idol – R. Yohanan said, “Improper intention invalidates [the act of slaughter].” R. Simeon b. Laqish says, “Improper intention does not invalidate.”

XLVI. YERUSHALMI GITTIN 6:7

[A] [If] HE SAID TO TWO MEN, “GIVE A WRIT OF DIVORCE TO MY WIFE,” OR TO THREE, “WRITE A WRIT OF DIVORCE AND GIVE IT TO MY WIFE,” LO, THESE SHOULD WRITE AND GIVE IT TO HER. “[If] HE SAID TO THREE, ‘GIVE A WRIT OF DIVORCE TO MY WIFE,’ LO, THESE SHOULD SAY TO OTHERS TO WRITE IT, BECAUSE HE HAS APPOINTED THEM A COURT,” THE WORDS OF **R. MEIR**. THIS RULING DID **R. HANINA OF ONO** BRING BACK FROM PRISON, “I HAVE RECEIVED THE RULING IN THE CASE OF ONE WHO SAYS TO THREE MEN, ‘GIVE A WRIT OF DIVORCE TO MY WIFE,’ THAT THEY SHOULD SAY TO OTHER TO WRITE IT, BECAUSE HE HAS APPOINTED THEM AS A COURT.” SAID **R. YOSÉ**, “WE OBSERVED TO THE MESSENGER, ‘WE TOO HAVE RECEIVED A RULING: EVEN IF HE SAID TO THE HIGH COURT IN JERUSALEM, ‘GIVE A WRIT OF DIVORCE TO MY WIFE,’ THEY SHOULD LEARN [HOW TO DO IT] AND WRITE AND DELIVER IT.”

1. **I:1:** The opening clauses of the rule of] the Mishnah, [M. 6:7A, represent the view] of R. Meir [that the two should write the writ themselves and give it to the wife, since in the second clause, we deal with his saying the same to three].
2. **I:2:** R. Hillel bar Wallas raised the question before Rabbi, “Why did they rule, ‘The law is in accord with R. Yosé’?”

[B] IF HE SAID TO TEN MEN, “WRITE A WRIT OF DIVORCE FOR MY WIFE,” ONE SHOULD WRITE IT, AND TWO SHOULD SIGN IT AS WITNESSES. [If he said,] “ALL OF YOU WRITE IT,” ONE OF THEM WRITES IT, AND ALL OF THEM SIGN IT. THEREFORE IF ONE OF THEM DIED, LO, THIS IS AN INVALID WRIT OF DIVORCE.

1. **II:1:** If he said to ten men, “Give a writ of divorce to my wife,” one of them takes it [to her] in behalf of all of them. [If he said,] “All of you take it,” one of them hands it over in the presence of all of them.

Therefore if one of them died, lo, this is an invalid writ of divorce [cf. M. 6:7G-I] [T. Git. 4:13].

XLVII. YERUSHALMI GITTIN 7:1

[A] HE WHO WAS SEIZED BY DELIRIUM AND SAID, “WRITE A WRIT OF DIVORCE FOR MY WIFE,” HAS SAID NOTHING WHATSOEVER.

- 1. I:1:** The mark that one is an idiot is shown by his going out at night, sleeping overnight in a cemetery, tearing his clothing, and losing what people give him. R. Huna said, “But [the category is invoked only if] all of these traits apply to a person.” R. Yohanan said, “Even if one of these traits is present, [it is a sign of insanity].”
- 2. I:2:** As to delirium, none of these traits is present. What is delirium? R. Yosé said, “One who is confused in mind.”

[B] [IF] HE SAID, “WRITE A WRIT OF DIVORCE FOR MY WIFE,” AND [THEN] DELIRIUM SEIZED HIM, AND THEN HE WENT AND SAID, “DO NOT WRITE” – HIS SECOND STATEMENT IS NOTHING

- 1. II:1:** With regard to M.7:1B, If he said, “Write a writ of divorce for my wife,” and [then] delirium seized him, and then he went and said, “Do not write,” his second statement is nothing:] R. Jacob bar Aha said, “There is a dispute between R. Yohanan and R. Simeon b. Laqish. R. Yohanan said, ‘Even while he still suffers from the delirium, they write out the writ of divorce and give it to his wife.’ R. Simeon b. Laqish said, ‘They do so when he is lucid.’”
 - a. II:2** If the husband handed over the wife’s writ of divorce and said, “Let it be your divorce only tomorrow,” and then he was afflicted with delirium –

[B] THERE IS A DISPUTE OF R. YOHANAN AND R. SIMEON B. LAQISH. [THE LATTER WILL NOT REGARD IT AS VALID IF HE IS NOT IN COMMAND OF HIS SENSES AT THE TIME IT BECOMES EFFECTIVE.]

[C] [IF] HE LOST THE POWER OF SPEECH, AND THEY SAID TO HIM, “SHALL WE WRITE A WRIT OF DIVORCE FOR YOUR WIFE,” AND HE NODDED HIS HEAD:

- 1. III:1:** said R. Abba Mari, “We deal with a deaf-mute, and a deaf-mute cannot appoint a messenger.” R. Yosé b. R. Bun said, “We deal with a healthy person [who lost his powers of speech and hearing.]”

[D] THEY TEST HIM THREE TIMES. IF HE SAID FOR NO, “NO,” AND FOR YES, “YES,”
LO, THESE SHOULD WRITE AND DELIVER THE WRIT OF DIVORCE TO HIS WIFE.

1. **IV:1:** Why is it not a writ of divorce [without the procedure of M. 7:1E-F]? I say that he was going over his deeds.
2. **IV:2:** *And so it has been taught:* Under what circumstances? When he lost the power of speech while he had otherwise been perfectly healthy. But if he had lost the power of speech while he was in any case very sick, it is sufficient for him to do it one time. But that is on condition that they alternate the questions for him.

XLVIII. YERUSHALMI GITTIN 7:2

[A] [IF] THEY SAID TO HIM, “SHALL WE WRITE A WRIT OF DIVORCE FOR YOUR WIFE,”
AND HE SAID TO THEM, “WRITE,” [IF] THEY THEN INSTRUCTED A SCRIBE AND
HE WROTE IT, AND WITNESSES AND THEY SIGNED IT, EVEN THOUGH THEY
WROTE IT AND SIGNED IT AND DELIVERED IT TO HIM, AND HE WENT AND
HANDED IT OVER TO HER, LO, THIS WRIT OF DIVORCE IS NULL, UNLESS HE
HIMSELF SAYS TO THE SCRIBE, “WRITE,” AND TO THE WITNESSES, “SIGN.”

1. **I:1:** If he had said, “Say to Mr. So-and-so that he should write the writ of divorce, and to Mr. Such-and-such and Mr. So-and-so that they should sign it,” [what is the law]? [M.’s case has the man tell the messenger to write, but only the messenger instructs the scribe. But what if the husband had made it explicit that he wanted these particular people to do the work? Are not the people assigned as agents for this particular purpose?]
2. **I:2:** There is no problem in the law as phrased by the Mishnah, when he spoke to agents, and the instructed witnesses to sign [M. 7:2B], [for they did not hear these instructions from the husband]. But if they gave instructions to a scribe and he wrote, [why should the writ be invalid?]

XLIX. YERUSHALMI GITTIN 7:3

[A] [IF HE SAID,] “THIS IS YOUR WRIT OF DIVORCE IF I DIE,” “THIS IS YOUR WRIT OF DIVORCE IF I DIE FROM THIS AILMENT,” “THIS IS YOUR WRIT OF DIVORCE EFFECTIVE AFTER DEATH,” HE HAS SAID NOTHING. [IF HE SAID, “THIS IS YOUR WRIT OF DIVORCE] EFFECTIVE TODAY IF I DIE,” “EFFECTIVE NOW IF I DIE,”
LO, THIS IS A VALID WRIT OF DIVORCE. [IF HE SAID, “LO THIS IS YOUR WRIT OF DIVORCE] EFFECTIVE NOW AND AFTER DEATH,” IT IS A WRIT OF DIVORCE

AND NOT A WRIT OF DIVORCE. IF HE DIES, [THE WIDOW] PERFORMS THE RITE OF HALISAH BUT DOES NOT ENTER INTO LEVIRATE MARRIAGE.

- 1.** **I:1:** “This is your writ of divorce if I die...,” “This is your writ of divorce [if I die] from this illness,” “This is your writ of divorce after I die” – he has said nothing [cf. M. 7:3A-D]. Our rabbis have said, “Lo, this is a valid writ of divorce.”
- 2.** **I:2:** [As to the rabbis’ approving the writ of divorce issued with the stated language,] what is the law as to the wife’s being permitted to remarry? [At issue is a writ of divorce issued by the man, in which he says, “Lo, this is your writ of divorce, if I do not return between this date and twelve months hence”; the husband died during that period. It is not deemed a writ of divorce. Now Rabbi and his court permitted the woman to remarry without undergoing the rite of removing the shoe, when the husband died childless, on grounds that it was a valid writ. The question now is whether or not the wife is permitted to remarry upon news of the husband’s death or must wait until the end of the year.] R. Haggai said, “She is permitted to remarry [right away].” R. Yosé said, “She is prohibited from remarrying. I say that perhaps a miracle took place and he survived. She has to wait out the twelve months.”
- 3.** **I:3:** [If the husband said,] “From today, if I die,” “From now, if I die” – lo, that is a valid writ of divorce. “From today and after I die,” – it is not a valid writ of divorce. Said R. Yudan, “[There is a discussion on this matter between] rabbis and our Rabbi.
- 4.** **I:4:** There we have learned: He who writes over his property to his sons has to write, “From today and after death,” the words of R. Judah. R. Yosé says, “He does not have to do so” [M. B.B. 8:7A-C]. What is the reason for the position of R. Yosé? The date of the deed provides adequate testimony about it.
- 5.** **I:5:** The same law applies to a writ of emancipation. “Lo, this is your writ of emancipation from now, to take effect after thirty days” – in the opinion of Rabbi, lo, this is a valid writ. In the opinion of rabbis, it is not a valid writ.
- 6.** **I:6:** The same rule applies to an ownerless field: “My field is declared ownerless from this date, effective in thirty days” – in the opinion of Rabbi, it is regarded as ownerless. In the opinion of sages, it is not ownerless.

7. **I:7:** The rule as to Holy Things: All parties concur that one's word of mouth [dedication of an object to the Most High] is equivalent to his handing over an object to an ordinary person.

L. YERUSHALMI GITTIN 7:4

- [A] [IF HE SAID,] “THIS IS YOUR WRIT OF DIVORCE EFFECTIVE TODAY IF I DIE FROM THIS ILLNESS,” AND THEN HE AROSE AND WENT ABOUT IN THE MARKET, THEN FELL ILL AND DIED — THEY MAKE AN ESTIMATE OF HIS SITUATION. IF HE DIED ON ACCOUNT OF THE FIRST AILMENT, LO, THIS IS A VALID WRIT OF DIVORCE. AND IF NOT, IT IS NOT A VALID WRIT OF DIVORCE.**
1. **I:1:** [If the sick man] ate a large meal of beans, [we do not maintain that it was the meal that killed him, but] it is as one who has died from that same illness [and not from some other cause].
 2. **I:2:** “This is your writ of divorce effective today if I die from this illness,” if a house fell on him, or a snake bit him, it is not a writ of divorce. For he did not die of that particular ailment.
- [B] [IN THE CASE OF SUCH A WRIT,] THE WIFE SHOULD NOT AFTERWARD CONTINUE TOGETHER WITH HIM EXCEPT IN THE PRESENCE OF WITNESSES:**
1. **II:1:** it was taught, “Even in the case of a dying man, [the wife may not be alone with him].”
- [C] EVEN A SLAVE, EVEN A GIRL-SERVANT, EXCEPT FOR HER OWN SLAVE-GIRL, BECAUSE SHE IS SHAMELESS BEFORE HER SLAVE-GIRL:**
1. **III:1:** [With regard to M. 7:4E,] a slave and a slave-girl are believed. [How is this possible? There are] witnesses, who know that when the wife was alone with the husband, there was a slave or a slave-girl in the room.
 2. **III:2:** But if two people saw her continue alone with him, she does require a second writ of divorce from him. [If only one person saw it, she does not require a second writ of divorce from him. [If one saw it in the morning and one at twilight — this was an actual case, and R. Eleazar b. Tadaï came and asked sages, who ruled, “It is only a single witness [at a time], and she does not require a second writ of divorce from him” [T. Git. 5:4/5].
 - a. **III:3:** [If the wife was alone with him for] sufficient time to have sexual relations, they scruple in that regard that there has been an

act of sexual relations, but they do not scruple that there has been a betrothal. R. Yosé b. R. Judah says, “They also scruple in that regard by reason of an act of betrothal.”

[D] WHAT IS HER STATUS IN THOSE DAYS? R. JUDAH SAYS, “SHE IS IN THE STATUS OF A MARRIED WOMAN IN EVERY RESPECT.” R. YOSÉ SAYS, “SHE IS DIVORCED BUT NOT DIVORCED.”

- 1. IV:1:** [With regard to M. 7:4H, Judah maintains she is a married woman in all regards,] for what purpose [is she so regarded]?
 - a. IV:2:** The opinions assigned to R. Judah are at variance with one another. There he says that death is commonplace, and here he says that death is not commonplace [and since we do not assume the husband is apt to die any time, she is deemed fully married, at M. 7:4H].
- 2. IV:3:** [As to the one who said, “This is a writ of divorce effective today if I die from this illness” – what is the law if another man] had sexual relations with her? [What sort of offering is called for, one which indicates a sin has surely been committed, since she is a married woman, or one which takes account of the possibility that no sin may – in the end – turn out to have been committed, since the husband may die and retroactively she will have been divorced?]

LI. YERUSHALMI GITTIN 7:5

[A] “LO, IS YOUR WRIT OF DIVORCE ON CONDITION THAT YOU PAY ME TWO HUNDRED ZUZ,” LO, THIS ONE IS DIVORCED, AND SHE SHOULD PAY THE MONEY. “... ON CONDITION THAT YOU PAY ME WITHIN THIRTY DAYS FROM NOW,” IF SHE PAID HIM DURING THE PERIOD OF THIRTY DAYS, SHE IS DIVORCED. AND IF NOT, SHE IS NOT DIVORCED.

- 1. I:1:** It is taught: “Lo, this is your writ of divorce, on condition that you pay me two hundred zuz” [T. 7:5A], and he died, if she paid the money, she is not subject to the levir. And if not, she is subject to the levir. Rabban Simeon b. Gamaliel says, “Let her pay the money to his father or his brothers or to one of the heirs” [T. Git. 5:5A-D], and she will be exempt from the rite of removing the shoe or from levirate marriage.

[B] SAID RABBAN SIMEON B. GAMALIEL, M'SH B: “IN SIDON THERE WAS A MAN WHO SAID TO HIS WIFE, ‘LO, THIS IS YOUR WRIT OF DIVORCE, ON CONDITION

THAT YOU GIVE ME MY CLOAK,⁷ BUT THE CLOAK GOT LOST. SAGES RULED, 'LET HER PAY HIM ITS VALUE.'

- I:1:** With reference to M. 7:5E's sages' ruling that she pays the value of the cloak,] said R. Yudan, "We deal with a case in which it was lost by accident. [Had the cloak been lost through her negligence, she would have had to supply a new cloak. In law she would not have to pay for the value of the cloak in the present case, except for the stipulation made by the husband in connection with the writ of divorce.] They have treated the case as one in which an unpaid bailee stipulates that he will be exempt from an oath [in the case of a loss]."

LII. YERUSHALMI GITTIN 7:6

[A] "LO, THIS IS YOUR WRIT OF DIVORCE ON CONDITION THAT YOU SERVE MY FATHER" **Ð** "...ON CONDITION THAT YOU GIVE SUCK TO MY SON" **Ð** HOW LONG MUST SHE GIVE SUCK TO HIM [FOR THE WRIT TO REMAIN VALID]? **TWO YEARS. R. JUDAH SAYS, "EIGHTEEN MONTHS." IF THE SON DIED, OR THE FATHER DIED, LO, THIS IS A VALID WRIT OF DIVORCE. [IF HE SAID,] "LO, THIS IS YOUR WRIT OF DIVORCE ON CONDITION THAT YOU SERVE MY FATHER FOR TWO YEARS," "ON CONDITION THAT YOU GIVE SUCK TO MY SON FOR TWO YEARS," IF THE SON DIED, OR IF THE FATHER DIED, OR IF THE FATHER SAID, "I DON'T WANT HER TO SERVE ME," [IF THIS IS] NOT BECAUSE OF PROVOCATION [ON THE WOMAN'S PART], IT IS NOT A WRIT OF DIVORCE. RABBAN SIMEON B. GAMALIEL SAYS, "SUCH A WRIT IS A VALID WRIT OF DIVORCE." A GENERAL PRINCIPLE DID RABBAN SIMEON B. GAMALIEL SAY, "IN THE CASE OF ANY HINDRANCE WHICH DOES NOT COME FROM HER Ð LO, THIS IS A VALID WRIT OF DIVORCE."**

- I:1:** Said R. Hiyya b. R. Ba, "When he is alive, the condition is such that the wife must serve the father or child as much as is needed. After death, even if she did not give suck as much as was necessary, or even if she did not serve him as much as was necessary but only for a brief moment, or even if she gave suck to the infant only for a brief moment [the writ of divorce is valid.]" Rabban Simeon b. Gamaliel said, "When he is alive, even if she did not give suck as much as was necessary, or even if she did not serve him as much as was necessary but only for a brief moment, or even if she gave suck to the infant only for a brief moment [the writ of divorce is valid.] After he has died, even if she did not serve the father or nurse the child at all, [the writ of divorce is valid.]"

2. **I:2:** R. Abbahu in the name of R. Yohanan: “This is the formula of a writ [bearing stipulations] for betrothal: ‘I, So-and-so, betroth you, So-and-so, on condition that I give you such-and-such a sum, and on the condition that I marry you on a certain day, and if that day comes and I do not marry you, then I shall have no claim on you.’” [If that day came and he did not marry her] through no fault of his own [by an unavoidable accident] – R. Yohanan said, “The accident is as if he did not make happen, [and the betrothal now is null, so she is a free agent].” R. Simeon b. Laqish said, “The accident is as if he most certainly did make it happen happen, [and the betrothal remains valid, because the man did not meet his condition solely by reason of circumstances beyond his control].”
3. **I:3:** Someone paid in advance to a canal barge operator, but the canal went dry [so the bargeman could not transport the produce to market]. The case came before R. Nahman bar Jacob. [The defendant claimed,] “Here is the barge, bring me the canal,” [and Nahman accepted the plea.]
4. **I:4:** If the woman herself cut off her nipple, it is as if she caused the hindrance. If someone else cut it off, this is a hindrance that does not come about on her account.

LIII. YERUSHALMI GITTIN 7:7

[A] “**LO, THIS IS YOUR WRIT OF DIVORCE, IF I DO NOT RETURN WITHIN THIRTY DAYS,**” AND HE WAS GOING FROM **JUDAH TO GALILEE, [IF] HE REACHED ANTIPATRIS AND CAME HOME, HIS CONDITION IS NULL. “LO, THIS IS YOUR WRIT OF DIVORCE, IF I DO NOT RETURN WITHIN THIRTY DAYS,**” AND HE WAS GOING FROM **GALILEE TO JUDAH, [IF] HE REACHED KEPAR OTENAI AND CAME HOME, HIS CONDITION IS NULL. “LO, THIS IS YOUR WRIT OF DIVORCE, IF I DO NOT RETURN WITHIN THIRTY DAYS,**” AND HE WAS GOING OVERSEAS, [IF] HE REACHED **AKKO AND CAME HOME, HIS CONDITION IS NULL.**

1. **I:1:** What is the point of the stipulation?

[B] “**LO, THIS IS YOUR WRIT OF DIVORCE IF I REMAIN AWAY FROM YOUR PRESENCE FOR THIRTY DAYS,**” IF HE WAS COMING AND GOING, COMING AND GOING, SINCE HE DID NOT CONTINUE TOGETHER WITH HER, **LO, THIS IS A WRIT OF DIVORCE.**

1. **II:1:** he is forbidden to be alone with her from the time of the writing of the divorce. For he may remain away from her presence for thirty

days, and that will validate the writ, and if in the interval they have sexual relations, her writ of divorce will be older than her child.

LIV. YERUSHALMI GITTIN 7:8

[A] “**Lo, this is your writ of divorce, if I do not come back within twelve months,**” and he died within twelve months, it is no writ of divorce. “**Lo, this is your writ of divorce effective now, if I do not come back here in twelve months,**” and he died within twelve months, **lo,** this is a valid writ of divorce. “**If I do not come back within twelve months, write and hand over a writ of divorce to my wife**” — [IF] they wrote a writ of divorce during twelve months and handed it over at the end of the twelve months, it is not a valid writ of divorce. “**Write and hand over a writ of divorce to my wife, if I do not return within twelve months,**” [IF] they wrote it during the twelve months and handed it over after twelve months, it is not a valid writ of divorce. **R. Yosé says, “In such a situation it is a valid writ of divorce.”** [IF] they wrote a writ of divorce after twelve months and handed it over after twelve months, and then he died, if the writ of divorce came before death, **lo,** it is a valid writ of divorce. **But if the death came before the writ of divorce, it is not a valid writ of divorce. And if the facts are not known, this is the case of which they have said, “She is divorced and not divorced.”**

1. **I:1:** What is the operative consideration behind the ruling of R. Yosé? Is it because he made reference to writing the writ of divorce before he stated the condition?
2. **I:2:** R. Hiyya the Elder raised the question before Rabbi, “Lo, this is your writ of divorce, to take effect after the Festival [of Tabernacles] — [when does the writ take effect, how long after the Festival?]”
 - a. **I:3:** R. Zeira raised this question before R. Yosa, “If someone said, ‘Qonam be wine that I taste at the conclusion of the Sabbath...’?”

LV. YERUSHALMI GITTIN 8:1

[A] **He who threw a writ of divorce to his wife, and she was in her own house or in her own courtyard — lo, this one is divorced. [If] he threw it to her in his house or in his courtyard, even if it [the writ] is with her in bed, she is not divorced:**

1. **I:1:** "... And he writes her [a bill of divorce] and puts it in her hand..." (Deut. 24:1). I know only that [if the writ of divorce is put] into her hand, [it is a suitable transfer of ownership]. [If he puts it] into her garden or courtyard, how do I know [that that too is a valid act of delivery]? Scripture says, "And he will put..." "and he will put..." [two times, at Deut. 24:1 and at Deut. 24:3]. Up to this point we have proved the matter in accord with R. Aqiba. As to the proof in accord with the exegetical methods of R. Ishmael: R. Ishmael taught: "'And he took possession of all of his land from his hand, and up to the Arnon' (Num. 21:24). Now did he take it from his hand? But what is the meaning of 'from his hand'? It was from his domain. [Here too, reference to 'her hand' means her domain.]"

2. **I:2:** Now are not her garden and courtyard regarded as indentured to the husband who has the right of usufruct thereof? [What the wife acquires is acquired by the husband. How can she acquire the writ through her domain?] Said R. Joshua in the name of R. Yannai: "[We deal with a case in which] he writes to her, 'I have no claim on your property.' [In this case she can effect acquisition in her garden or courtyard.]" R. Isaac bar Haqolah in the name of R. Hoshaiyah: "Even if he did not write to her, 'I have no claim on your property,' [she nonetheless effects acquisition of her writ of divorce through its coming into her courtyard]."

a. **I:3:** If both he and she inherited property, even if he wrote [that he had no claim on her], it is as if he had not written [such a deed of gift]. [The property which comes to them in partnership is not covered by the statement that he relinquishes all claim on her property. This was not in his mind.]

4. **I:4:** R. Jeremiah raised the question: "If he threw the writ of divorce to her in a courtyard which does not belong to either one of them, what is the law?"

[B] **[IF IN THIS LATTER CASE HE THREW IT] INTO HER BOSOM OR INTO HER BASKET, SHE IS DIVORCED.**

1. **I:1:** Ulla bar Ishmael said, "It never entered the husband's mind to acquire ownership of her basket [on which account it remains her property and domain]."

LVI. YERUSHALMI GITTIN 8:2

[A] [If] HE SAID TO HER, “TAKE THIS BOND OF INDEBTEDNESS,” OR IF SHE FOUND IT BEHIND HIM AND READ IT, AND LO, IT IS HER WRIT OF DIVORCE, IT IS NOT A VALID WRIT OF DIVORCE — UNTIL HE SAYS TO HER, “HERE IS YOUR WRIT OF DIVORCE.” [If] HE PUT IT INTO HER HAND WHILE SHE IS SLEEPING, [THEN] SHE WOKE UP, READ IT, AND LO, IT IS HER WRIT OF DIVORCE, IT IS NOT A VALID WRIT OF DIVORCE — UNTIL HE WILL SAY TO HER, “HERE IS YOUR WRIT OF DIVORCE.”

1. I:1: Said R. Yohanan, “The Mishnah’s rule represents the principle of R. Simeon b. Eleazar.” For R. Simeon b. Eleazar says, “It is never a valid writ of divorce unless the husband says to the wife when he hands over the document, ‘Lo, this is your writ of divorce.’”

[B] [If] SHE WAS STANDING IN A PUBLIC PLACE AND HE THREW IT TO HER, [If] IT IS NEARER TO HER, SHE IS DIVORCED. [If] IT IS NEARER TO HIM, SHE IS NOT DIVORCED. [If] IT IS EXACTLY HALF WAY, SHE IS DIVORCED AND NOT DIVORCED.

1. II:1: What is the measure of “near” [as at M. 8:2I, J]?
2. II:2: It is taught: R. Eleazar says, “Even if it is nearer to her than to him, if a dog came along and took it [the writ of divorce], she is not divorced. But if not, she is divorced” [cf. M. 8:2H-K, T. Git. 6:1A-D].

LVII. YERUSHALMI GITTIN 8:3

[A] AND SO IS THE RULE WITH REGARD TO BETROTHALS, AND SO IS THE RULE WITH REGARD TO DEBT. [If] THE CREDITOR SAID TO HIM, “THROW ME [WHAT YOU OWE] ME [AS A DEBT], AND HE THREW IT TO HIM, [If] IT IS CLOSER TO THE LENDER, THE BORROWER HAS THE ADVANTAGE. [If] IT IS CLOSER TO THE BORROWER, THE BORROWER IS LIABLE. [If] IT IS EXACTLY IN-BETWEEN, BOTH OF THEM DIVIDE [THE SUM, SHOULD IT BE LOST].

1. I:1: R. Simeon b. Laqish in the name of Abba Kohen Bardela: “A person acquires ownership of a lost object [when it is] within four cubits [of that person].”
 - a. I:2: Gloss of the foregoing. With reference to the proposition that a person acquires ownership of a lost object when it is within four cubits of himself,] R. Jacob bar Idi objected before R. Simeon b.

Laqish, “Have we not learned: If one saw a lost object and fell on it, and someone else came along and grabbed it, this one who grabbed it has acquired possession of it [M. B.M. 1:4AB]? [Why should the former party not have acquired ownership?]”

2. **I:3:** R. Yosa in the name of R. Yohanan, “This rule with regard to acquisition of a writ of divorce [that the four cubits within which the woman stands are deemed her domain for the purposes of effecting ownership of the writ] does not apply to the transfer of a gift.”
3. **I:4:** R. Abin in the name of Hezekiah: “[With regard to the law that the woman is divorced and not divorced, the purpose of the law is to deal with] the fee paid to the scribe. [If the writ is lost and a new one has to be written, under these conditions the wife has to pay half of the cost.]”

[B] **[IF THE WIFE]** WAS STANDING ON THE ROOFTOP AND HE THREW IT TO HER, ONCE IT HAS REACHED THE AIRSPACE OF THE ROOF, LO, THIS WOMAN IS DIVORCED. **[IF]** HE IS ABOVE AND SHE IS BELOW AND HE THREW IT TO HER, ONCE IT HAS LEFT THE DOMAIN OF THE ROOF, EVEN IF IT SHOULD BE BLOTTED OUT OR BURNED, LO, THIS WOMAN IS DIVORCED.

1. **II:1:** Said R. Eleazar, “[With reference to M. 8:3G-L, the wife standing on the rooftop,] the Mishnah deals with a rooftop surrounded by a parapet.” And the law applies to a case in which the writ has fallen into the contained airspace of the parapet.
2. **II:2:** R. Ammi in the name of R. Yohanan: “[As to M. 8:3I, he is above and she below, once it leaves the domain of the roof, the writ is regarded as having fallen into the wife’s domain,] that law applies when the writ has fallen into the airspace of the partition [of the courtyard in which the wife is standing].”

L VIII. YERUSHALMI GITTIN 8:4

[A] **THE HOUSE OF SHAMMAI SAY, “A MAN DISMISSES HIS WIFE WITH AN OLD WRIT OF DIVORCE.” AND THE HOUSE OF HILLEL PROHIBIT IT. AND WHAT IS AN OLD WRIT OF DIVORCE? IT IS ANY WRIT OF DIVORCE, AFTER THE WRITING OF WHICH THE MAN CONTINUED ALONE WITH HER.**

1. **I:1:** R. Judah in the name of Samuel: “And in the case of all of them, if they were married [on the strength of an old writ of divorce], she

should not go forth [from the second husband], so as not to bring calumny on her children [by the second marriage].”

2. **I:2:** We have learned, [It is any writ of divorce,] after the writing of which the man continued alone with her [M. 8:4D]. There are Tannaim who teach, “After he gave it to her.”

LIX. YERUSHALMI GITTIN 8:5

[A] [If] HE WROTE [THE WRIT OF DIVORCE DATING IT] ACCORDING TO AN ERA WHICH IS NOT APPLICABLE, ACCORDING TO THE ERA OF THE MEDES, ACCORDING TO THE ERA OF THE GREEKS, ACCORDING TO THE BUILDING OF THE TEMPLE, ACCORDING TO THE DESTRUCTION OF THE TEMPLE, [IF] HE WAS IN THE EAST AND WROTE, “IN THE WEST,” IN THE WEST AND WROTE, “IN THE EAST,” SHE GOES FORTH FROM THIS ONE [WHOM SHE MARRIED ON THE STRENGTH OF THE DIVORCE FROM THE FORMER HUSBAND] AND FROM THAT ONE [THE FIRST HUSBAND]. AND SHE REQUIRES A WRIT OF DIVORCE FROM THIS ONE AND FROM THAT ONE. AND SHE HAS NO CLAIM ON THE PAYMENT OF HER MARRIAGE CONTRACT, OR ON THE USUFRUCT [OF MELOG-PROPERTY], OR TO ALIMONY, OR TO INDEMNITY [FOR LOSS ON HER MELOG-PROPERTY], EITHER AGAINST THIS ONE OR AGAINST THAT ONE. IF SHE COLLECTED [SUCH PAYMENT] FROM THIS ONE OR FROM THAT ONE, SHE MUST RETURN WHAT SHE HAS COLLECTED. AND THE OFFSPRING FROM EITHER MARRIAGE IS A MAMZER. AND NEITHER ONE NOR THE OTHER CONTRACTS UNCLEANNES FOR HER [IF THEY ARE PRIESTS, AND SHE SHOULD DIE AND REQUIRE BURIAL]. AND NEITHER ONE NOR THE OTHER GAINS POSSESSION OF WHAT SHE MAY FIND, OR OF THE FRUIT OF HER LABOR, OR IS VESTED WITH THE RIGHT TO ABROGATE HER VOWS. [If] SHE WAS AN ISRAELITE-GIRL, SHE IS INVALIDATED FROM MARRYING INTO THE PRIESTHOOD. [If SHE WAS] A LEVITE-GIRL, [SHE IS INVALIDATED] FROM EATING TITHE. [If SHE WAS] A PRIEST-GIRL, SHE IS INVALIDATED FROM EATING HEAVE-OFFERING. AND THE HEIRS NEITHER OF THIS ONE NOR OF THAT ONE INHERIT HER MARRIAGE CONTRACT. AND IF THEY DIED, THE BROTHERS OF THIS ONE AND THE BROTHERS OF THAT ONE PERFORM THE RITE OF HALISAH BUT DO NOT ENTER INTO LEVIRATE MARRIAGE. [If] HE CHANGED HIS NAME OR HER NAME, THE NAME OF HIS TOWN OR THE NAME OF HER TOWN, SHE GOES FORTH FROM THIS ONE AND FROM THAT ONE. AND ALL THESE [ABOVE] CONDITIONS APPLY TO HER. ALL THOSE PROHIBITED RELATIONSHIPS OF WHICH THEY HAVE SAID THAT THEIR CO-WIVES ARE PERMITTED [TO REMARRY WITHOUT LEVIRATE MARRIAGE], [IF] THESE CO-WIVES WENT AND GOT MARRIED AND THIS [WOMAN WHO IS IN A PROHIBITED RELATIONSHIP] TURNS OUT TO BE BARREN — SHE GOES FORTH FROM THIS ONE AND FROM THAT ONE. AND ALL THE ABOVE CONDITIONS APPLY.

1. **I:1:** R. Yohanan in the name of R. Yannai: “They treated the offspring as a mamzer because of the danger [to the Israelites if they should date their documents in a way which indicates disloyalty to the ruler].”
2. **I:2:** R. Huna in the name of Rab: “This entire pericope accords with the view of R. Meir [who invalidates a writ of divorce which varies from the norm], except for the clause about changing his name and her name, the name of his town or the name of her town [M. 8:5R-T]. [In that regard even sages concur that the writ is invalid.]”

LX. YERUSHALMI GITTIN 8:6

[A] HE WHO MARRIES HIS DECEASED CHILDLESS BROTHER’S WIDOW, AND HER CO-WIFE WENT OFF AND MARRIED SOMEONE ELSE, AND THIS ONE TURNED OUT TO BE BARREN – SHE [THE CO-WIFE] GOES FORTH FROM THIS ONE AND THAT ONE. AND ALL THE ABOVE CONDITIONS APPLY.

1. **I:1:** [The childless deceased brother’s widow] should not have gotten married [to another party] but should rather have entered into levirate marriage [with a surviving brother].
2. **I:2:** R. Jeremiah says, “This one [the levir] performs the rite of removing the shoe, and that one [the husband, that is, the man she has married] preserves the marriage [as is].” R. Judah bar Pazzi in the name of R. Yohanan, “She must go forth.”

LXI. YERUSHALMI GITTIN 8:7

[A] [IF] THE SCRIBE WROTE A WRIT OF DIVORCE FOR THE MAN AND A QUITTANCE [RECEIPT GIVEN TO THE HUSBAND FOR HER MARRIAGE CONTRACT PAYMENT] FOR THE WOMAN, AND HE ERRED AND GAVE THE WRIT OF DIVORCE TO THE WOMAN AND THE QUITTANCE TO THE MAN, AND THEY THEN EXCHANGED THEM FOR ONE ANOTHER, AND [IF] AFTER A WHILE, LO, THE WRIT OF DIVORCE TURNS UP IN THE HAND OF THE MAN, AND THE QUITTANCE IN THE HAND OF THE WOMAN – SHE GOES FORTH FROM THIS ONE AND FROM THAT ONE. AND ALL THE ABOVE CONDITIONS APPLY.

1. **I:1:** How shall we interpret the present case? If we deal with a case in which it is known that the scribe erred, then even R. Eleazar will concur. If it is a case in which there was no error [in which the scribe says that he knows he did not err], then even sages will concur [that

the first husband has not got the right to break up the marriage of the second].

[B] R. ELEAZAR SAYS, “IF IT TURNED UP ON THE SPOT, THIS IS NOT A WRIT OF DIVORCE. IF AFTER A WHILE IT TURNED UP, LO, THIS IS A VALID WRIT OF DIVORCE. IT IS NOT WITHIN THE POWER OF THE FIRST HUSBAND TO RENDER VOID THE RIGHT OF THE SECOND.”

- 1. II:1:** What is the meaning of “on the spot”? R. Zeira says, “Up to the point at which the woman was betrothed [by someone else].” R. Isaac bar Haqolah said, “Up to the point at which the wife remarries.”

LXII. YERUSHALMI GITTIN 8:8

[A] [IF] HE WROTE [A WRIT OF DIVORCE] TO DIVORCE HIS WIFE AND CHANGED HIS MIND, THE HOUSE OF SHAMMAI SAY, “HE HAS INVALIDATED HER FROM MARRYING INTO THE PRIESTHOOD.” AND THE HOUSE OF HILLEL SAY, “EVEN THOUGH HE GAVE IT TO HER ON A CONDITION, AND THE CONDITION WAS NOT CARRIED OUT [SO THAT SHE IS NOT DIVORCED], HE HAS NOT INVALIDATED HER FROM MARRYING INTO THE PRIESTHOOD.”

- 1. I:1:** R. Yohanan in the name of R. Yannai, “[With regard to the view of the House of Hillel,] there is no relationship whatever to the priestly genealogy [in the wholly invalid writ at hand]. And a court will not declare her contaminated so far as the priesthood is concerned.
- 2. I:2:** She who commits a lewd act with her son – the House of Shammai declare her invalid [for marriage into the priesthood]. And the House of Hillel declare her valid [since no act of sexual relations has taken place].

LXIII. YERUSHALMI GITTIN 8:9

[A] HE WHO DIVORCED HIS WIFE AND SPENT A NIGHT WITH HER IN AN INN – THE HOUSE OF SHAMMAI SAY, “SHE DOES NOT REQUIRE A SECOND WRIT OF DIVORCE FROM HIM.” AND THE HOUSE OF HILLEL SAY, “SHE REQUIRES A SECOND WRIT OF DIVORCE FROM HIM.” UNDER WHAT CIRCUMSTANCES? WHEN SHE WAS DIVORCED FOLLOWING CONSUMMATION OF THE MARRIAGE. BUT THEY CONCUR IN THE CASE OF ONE DIVORCED AFTER BETROTHAL ALONE, THAT SHE DOES NOT REQUIRE A SECOND WRIT OF DIVORCE FROM HIM. FOR HE IS NOT YET SHAMELESS BEFORE HER. IF HE MARRIED HER ON THE STRENGTH OF [HER HAVING BEEN DIVORCED FROM A FORMER HUSBAND] BY A “BALD”

[THAT IS, DEFECTIVELY WITNESSED] WRIT OF DIVORCE, SHE GOES FOR FROM THIS ONE AND FROM THAT ONE. AND ALL THE ABOVE CONDITIONS APPLY.

1. **I:1:** Said R. Mana, “The House of Shammai are consistent with views of theirs stated elsewhere, and the House of Hillel are consistent with views of theirs stated elsewhere. The House of Shammai, who say that a man puts away his wife with an old writ of divorce, maintain that [in the present case] she does not require a second writ of divorce from him. And the House of Hillel, who maintain that he does not put away his wife with an old writ of divorce, likewise hold that she does require a second writ of divorce from him.”
2. **I:2:** He who divorces his wife – she should not live alongside him either in the same courtyard or in the same locale. If the courtyard belonged to the wife, the man moves out. If it belonged to the husband, the wife moves out. If it belonged to both of them, who moves out because of the other?

LXIV. YERUSHALMI GITTIN 8:10

[A] AS TO “BALD” [THAT IS, DEFECTIVELY WITNESSED] WRIT OF DIVORCE:

1. **I:1:** And how do we know that there is a document which is folded [and another which is unfolded]? Said R. Immi. “‘Then I took the sealed deed of purchase, containing the terms and conditions, and the open copy...’ (Jer. 32: 11). ‘The sealed deed of purchase’ – this is the folded document. ‘... and the open copy...,’ – this is the unfolded one which is within the folded one. ‘... the terms and conditions...’ – [what is the difference] between the one [unfolded] and the other folded]?”
2. **I:2:** R. Ba in the name of R. Judah: “In an unfolded document its witnesses [sign] along its breadth. In a folded document, its witnesses sign along its length.” Said R. Idi, “The witnesses sign between one fold and another, and that is on condition that it is above [on the upper of the two sides of the fold].”

[B] [REVERTING TO M. 8:9H-I:] IF HE MARRIED HER ON THE STRENGTH OF HER HAVING BEEN DIVORCED FROM A FORMER HUSBAND BY A “BALD” WRIT OF DIVORCE, SHE GOES FORTH FROM THIS ONE AND FROM THAT ONE, AND ALL THE ABOVE CONDITIONS APPLY:

1. **II:1:** Said R. Yohanan, “She need not go forth [if there are too few witnesses]. [In line with M. 8:10, it is possible to complete the necessary number of witnesses and so validate the writ.]”

[C] “ALL COMPLETE IT,” THE WORDS OF **BEN NANNOS**. **R. AQIBA** SAYS, “**ONLY THEY COMPLETE IT WHO ARE RELATIVES SUITABLE TO GIVE TESTIMONY UNDER SOME OTHER CIRCUMSTANCE.**” **WHAT IS “BALD” [DEFECTIVELY WITNESSED] WRIT OF DIVORCE? ONE THAT HAS MORE FOLDS THAN WITNESSES.**

1. **III:1:** Said R. Yohanan, “The Mishnah-pericope [at M. 8:10, which permits completing the necessary witnessing to the writ by any sort of witness] speaks of a case in which one witness is lacking [e.g., on a writ on which there are more folds than witnesses]. [If more than that are lacking, then one must be valid as a witness for each one who is invalid.]”

2. **III:2:** R. Mana raised the question, “Up to this point, we have dealt with a case in which the invalid witnesses sign together [as a group]. [In such an instance the writ is not validated. For we may end up validating it solely on the basis of the group of invalid witnesses, or we may deem the effective testimony to be two valid and one invalid witness. The court may not realize the error.] But what if the invalid witnesses signed in alternation with valid ones?”

[D] **WHAT IS “BALD” [DEFECTIVELY WITNESSED] WRIT OF DIVORCE? ONE THAT HAS MORE FOLDS THAN WITNESSES:**

1. **IV:1:** If there were nine folds [and only five witnesses], leaving four folds lacking the signature of a witness, may one unfold two of the folds and have witnesses sign on the other two folds, to complete the necessary testimony without having more folds than witnesses? Or do we rule that two witnesses are worthless on a folded writ?
2. **IV:2:** How shall we interpret the dispute of Hananiah b. Gamaliel and sages [at M. B.B. 10:1, where Hananiah b. Gamaliel says, “One which is folded, on the inside of which witnesses signed their names, is valid, because one can unfold it.” Sages’ contrary view is that if witnesses signed the back of an unfolded document, or if the witnesses signed the front of a folded document, the document is invalid]? If it is a case in which they folded the document and signed on the inside, all parties concur that it can be flattened out [and treated as an unfolded document]. If we deal with a case in which they folded it and then signed on the outside, all parties concur that one cannot flatten it out and treat it as an unfolded document.

3. **IV:3:** [Again with reference to 1. B.B. 10:1C-F: Hananiah b. Gamaliel says, “One which is folded, on the inside of which its witnesses signed their names, is valid, because one can unfold it,] Rabbi replied with the intention of supporting the position of R. Hananiah b. Gamaliel, “The body of a document indicates its character, that is, whether the document is unfolded or is not unfolded.”
- a. **IV:4:** The law has been taught here [that a defectively witnessed writ of divorce is invalid, M. 8:9], and the law has been taught there [at M. B.B. 10:1, that a folded writ which was improperly prepared is invalid. Now why is it necessary to teach the law in two different contexts?]

LXV. YERUSHALMI GITTIN 9:1

- [A] **HE WHO DIVORCES HIS WIFE AND SAID TO HER, “LO, YOU ARE PERMITTED [TO MARRY] ANY MAN EXCEPT FOR SO-AND-SO” – R. ELIEZER PERMITS [THE WOMAN TO BE DIVORCED ON SUCH A CONDITION]. AND SAGES FORBID IT. WHAT SHOULD HE DO [IN SUCH A CIRCUMSTANCE]? HE SHOULD TAKE IT BACK FROM HER AND GO AND GIVE IT TO HER AGAIN, AND SAY TO HER, “LO, YOU ARE PERMITTED TO MARRY ANY MAN.” BUT IF HE WROTE [THE STIPULATION] INTO THE BODY OF THE DOCUMENT, EVEN IF HE WENT AND BLOTTED IT OUT, [THE WRIT REMAINS] INVALID.**
1. **I:1:** Said R. Illi, “The Scriptural basis for the position of R. Eliezer is this: ‘... and she departs out of his house, and if she goes and becomes another man’s wife...’ (Deut. 24:1-2). Even if he has permitted her to marry only one other man, it is a valid writ of divorce.” What is the Scriptural basis for the position of rabbis?
2. **I:2:** After R. Eliezer’s death, four elders came together to reply to the teachings of R. Eliezer. These were R. Eleazar b. Azariah, R. Yosé the Galilean, R. Tarfon, and R. Aqiba.
- [B] **WHAT SHOULD HE DO [IN SUCH A CIRCUMSTANCE]? HE SHOULD TAKE IT BACK FROM HER AND GO AND GIVE IT TO HER AGAIN, AND SAY TO HER, “LO, YOU ARE PERMITTED TO MARRY ANY MAN.” BUT IF HE WROTE [THE STIPULATION] INTO THE BODY OF THE DOCUMENT, EVEN IF HE WENT AND BLOTTED IT OUT, [THE WRIT REMAINS] INVALID.**
1. **II:1:** [With reference to M. 9:1E,] said R. Yohanan, “The law accords with the view of R. Simeon b. Eleazar.” For R. Simeon b. Eleazar said,

“A writ of divorce is valid only if the husband will state when he hands it over, ‘Lo, this is your writ of divorce.’”

2. **II:2:** R. Jacob bar Aha in the name of R. Yannai, “[With respect to such an invalid writ of divorce as is described at M. 9:1F-H,] even the stench of an invalidation [by reason of being a divorced woman, who may not marry into the priesthood] does not apply to this woman.” Kahana said, “That is to say, they did not scruple in this regard. For if you say that they did scruple that it might be a valid writ, [then the act of giving it may be taken into account]. [But if so, why take it back, as at M. 9:1E?] While it is yet in her hand, if he said to her, ‘Lo, you are permitted to marry any one,’ [it should be a valid writ].”

LXVI. YERUSHALMI GITTIN 9:2

[A] [IF THE HUSBAND SAID,] “**LO, YOU ARE PERMITTED TO ANY MAN, EXCEPT FOR MY FATHER, AND YOUR FATHER, MY BROTHER, YOUR BROTHER, A SLAVE, OR A GENTILE,**” OR ANY MAN TO WHOM SHE CANNOT BECOME BETROTHED — IT IS VALID. “**LO, YOU ARE PERMITTED TO ANY MAN, EXCEPT, IN THE CASE OF A WIDOW, TO A HIGH PRIEST, IN THE CASE OF A DIVORCEE OR A WOMAN WHO HAS UNDERGONE THE RITE OF HALISAH TO AN ORDINARY PRIEST, A MAMZER-GIRL OR A NETIN-GIRL TO AN ISRAELITE, AN ISRAELITE-GIRL TO A MAMZER OR TO A NETIN,**” OR ANY MAN TO WHOM SHE CAN BECOME BETROTHED, EVEN THOUGH IT IS IN TRANSGRESSION [FOR HER TO DO SO], IT IS INVALID. THE TEXT OF THE WRIT OF DIVORCE [IS AS FOLLOWS]: “**LO, YOU ARE PERMITTED TO ANY MAN.**”

1. **I:1:** R. Aha said, “[The reason for the rule of M. 9:2A is that the Scripture has referred to] ‘cutting off.’ The Torah has applied the conception of cutting off only to a case of a sexual relationship which is subject to a valid marital tie [excluding those listed at M].”

[B] **R. JUDAH SAYS,** “[IN ARAMAIC:] **LET THIS BE FROM ME YOUR WRIT OF DIVORCE, LETTER OF DISMISSAL, AND DEED OF LIBERATION, THAT YOU MAY MARRY ANYONE YOU WANT.**”

1. **II:1:** Said R. Mana, “[As to M. 9:2I,] That is so only if he will not say, ‘And it is appropriate [DYN, instead of DN].”

[C] **THE TEXT OF A WRIT OF EMANCIPATION [IS AS FOLLOWS]:** “**LO, YOU ARE FREE, LO, YOU ARE YOUR OWN [POSSESSION]**” [CF. **DEUT. 21:14**].

1. **III:1:** [With reference to M. 9:2K,] said R. Yosé b. R. Bun, “He has to say, ‘Lo, you are wholly free. Lo, you belong to yourself.’”

LXVII. YERUSHALMI GITTIN 9:3

[A] **THERE ARE THREE WRITS OF DIVORCE WHICH ARE INVALID, BUT IF THE WIFE [SUBSEQUENTLY] REMARRIED [ON THE STRENGTH OF THOSE DOCUMENTS], THE OFFSPRING [NONETHELESS] IS VALID.**

1. **I:1:** What follows serves M. Yeb. 3:9: And in every case in which the betrothal or divorce of the deceased brother is subject to doubt, the co-wives (listed at M. Yeb. 1:1) perform the rite of removing the shoe and do not enter into levirate marriage. What is a case of doubt concerning betrothal? If he threw her a token of betrothal – it is a matter of doubt whether it landed nearer to him or nearer to her – this is a case in which there is doubt concerning betrothal. And a case of doubt concerning a writ of divorce? If one wrote the writ of divorce in his own hand, but there are no witnesses to attest the document – , if there are witnesses to attest the document, but it is not dated – ,if it is dated, but it contains the attestation of only a single witness – this is a case in which the divorce is subject to doubt, just as at. 9:3.] We do not have here a case of a writ of divorce of doubtful validity, but a fully valid writ of divorce! [We shall now have a case of a writ of doubtful validity.] What would be a matter of doubt concerning betrothal? If he threw her a token of betrothal – it is a matter of doubt whether it landed nearer to him or nearer to her – this is a case in which there is doubt concerning betrothal. Along these same lines,] If he threw her a writ of divorce – it is a matter of doubt whether it landed nearer to her or nearer to him – this would be a case in which there is doubt concerning a writ of divorce.

- a. I:2: R. Yohanan in the name of R. Halapta of Hawah, “And in all cases [listed at M. Git. 9:3D-F], if she remarried on the strength of the writ, she should not go forth, so as not to call into question the genealogical status of her children [by the second marriage].”

[B] **[IF HE WROTE IN HIS OWN HANDWRITING, BUT THERE ARE NO WITNESSES ON IT; THERE ARE WITNESSES ON IT, BUT IT IS NOT DATED; IT IS DATED, BUT THERE IS ONLY A SINGLE WITNESS – LO, THESE ARE THREE KINDS OF INVALID WRITS OF DIVORCE, BUT IF THE WIFE [SUBSEQUENTLY] REMARRIED, THE OFFSPRING IS VALID.**

1. **II:1:** It was taught: On the strength of these three sorts of writs of divorce, [the wife] collects [funds owing in settlement of her marriage contract] from unindentured property, but she may not collect from

indentured property [as would be the case if the writ of divorce were wholly valid].

2. **II:2:** R. Yohanan in the name of R. Yannai: “And all of them [listed at M. 9:3F] are [valid only if they are] in the handwriting of the husband.” R. Jeremiah in the name of Rab: “And all of them [listed at M. 9:3F] are in the handwriting of the husband, except for the one bearing the signatures of witnesses [in which case the writ is valid even if the husband did not write it].”
3. **II:3:** R. Ba bar Hamnuna, R. Ada bar Aha in the name of Rab: “[M. 9:3F]’s omitting other sorts of invalid traits of a writ, e.g., the date of some empire other than the applicable one, the absence of the requisite number of witnesses, and the like, means that] the passage of the Mishnah accords with the view of R. Meir. [Had their faults been present, he would have declared the offspring to be a mamzer.]”

LXVIII. YERUSHALMI GITTIN 9:4

[A] R. ELEAZAR SAYS, “EVEN THOUGH THERE ARE NO WITNESSES ON IT [THE DOCUMENT ITSELF] BUT HE HANDED IT OVER TO HER IN THE PRESENCE OF WITNESSES, IT IS VALID. AND SHE COLLECTS [HER MARRIAGE CONTRACT] FROM MORTGAGED PROPERTY. FOR WITNESSES SIGN THE WRIT OF DIVORCE ONLY FOR THE GOOD ORDER OF THE WORLD.”

1. **I:1:** Both Rab and Samuel say, “The law is in accord with the view of R. Eleazar.”
2. **I:2:** R. Yohanan in the name of R. Yannai, “In the view of sages, such a writ [lacking signatures of witnesses] is invalid (and in no way is the woman deemed to have been divorced, e.g., for purposes of marrying into the priesthood).”

LXIX. YERUSHALMI GITTIN 9:5

[A] TWO [WITH IDENTICAL NAMES] WHO SENT [TO THEIR WIVES, ALSO BEARING IDENTICAL NAMES] TWO WRITS OF DIVORCE [WHICH WERE] IDENTICAL, AND WHICH WERE MIXED UP — ONE GIVES BOTH OF THEM TO THIS ONE AND BOTH OF THEM TO THAT ONE. THEREFORE IF ONE OF THEM WAS LOST, LO, THE SECOND ONE IS NULL.

1. **I:1:** R. Eliezer b. R. Yosé raised the question before R. Yosé, “Just as you maintain that a single writ of divorce is invalid when it serves two different women, along these same lines is it the case that two writs of divorce are invalid when addressed to two women? And lo, we have learned: Two who sent two writs of divorce which were identical, and which were mixed – one gives both of them to this one and both of them to that one [M. 9:5A-B]. [Consequently, two writs of divorce addressed to two women are valid.]”

LXX. YERUSHALMI GITTIN 9:6

[A] **FIVE WHO WROTE JOINTLY IN ONE [AND THE SAME] BILL OF DIVORCE, “MR. SO-AND-SO DIVORCES MRS. SUCH-AND-SUCH,” “MR. SO-AND-SO DIVORCES MRS. SUCH-AND-SUCH,” [...], AND SO ON, FIVE TIMES], AND THERE ARE WITNESSES BELOW – ALL OF THEM ARE VALID. AND LET IT BE GIVEN OVER TO EACH ONE. [IF] THE FORMULA WAS WRITTEN [ANEW IN FULL] FOR EACH OF THEM, AND THERE ARE WITNESSES BELOW – THAT WITH WHICH THE NAMES OF THE WITNESSES ARE READ IS VALID.**

1. **I:1:** Said R. Yohanan in the name of R. Yannai, “If one of them has written,] ‘And I inquire after the welfare of Mr. So-and-so,’ [we] assume [that the witnesses] have signed [the document covering] everything [which is in it, because of the use of the word and. If on the other hand, it is written,] ‘I inquire after the welfare of Mr. So-and-so,’ [the witness] has signed [the document] only with regard to this last statement. [Consequently, the inclusion of the and is crucial. In the absence of the use of and, the witness has signed the document only to testify that the person who sent it intended to ask after the welfare of Mr. So-and-so and the witnesses do not have in mind the rest of the document, to which they do not bear witness at all.]” R. Simeon b. Laqish said, “[Even if it is written at the end of the document,] ‘I inquire after the welfare of Mr. So-and-so’ [without space], [nonetheless] we assume [that the witnesses at the end] have signed the document to bear witness to everything written in it.”

LXXI. YERUSHALMI GITTIN 9:7

[A] **TWO WRITS OF DIVORCE WHICH ONE WROTE SIDE BY SIDE, AND [THE SIGNATURES OF] TWO WITNESSES [WRITTEN IN] HEBREW, RUN FROM UNDER THIS ONE [ON THE RIGHT] TO UNDER THAT ONE [ON THE LEFT], AND [THE SIGNATURES OF]**

TWO WITNESSES [WRITTEN IN] GREEK, RUN FROM UNDER THIS ONE [LEFT] TO UNDER THAT ONE [RIGHT], THAT WITH WHICH THE FIRST WITNESSES' [SIGNATURES] ARE READ IS VALID. [IF THE SIGNATURES OF] ONE, [WRITTEN IN HEBREW], AND ONE [WRITTEN IN] GREEK, ONE [WRITTEN IN] HEBREW AND ONE WITNESS [WRITTEN IN GREEK] RUN FROM UNDER THIS ONE TO UNDER THAT ONE, BOTH OF THEM ARE INVALID.

1. **I:1:** [If the witnesses signed two [or three] lines below the body of the text, it is invalid. [If they signed] closer than this [to the body of the text], it is valid [T. B.B. 11:10].
2. **I:2:** Simeon bar Ba in the name of R. Yohanan: “If one has set aside those two lines for some other matter, [the document is null] even if it is any small item at all. [That is, no other item may intervene between the body of the text and the signatures of the witnesses.]”
3. **I:3:** A writ of divorce on which there is an erasure, or an interlinear insertion, [if this was] in the body [of the document], is invalid. [If this is] not in the body of the document, it is valid. If one restored it [the erasure] at the bottom, even in the body of the document, it is valid [T. Git. 7:8].
4. **I:4:** [If the debtor] called into question the validity of the signatures of the witnesses and the validity of the signatures of the judges, [these have to be verified].
5. **I:5:** If the debtor] gave permission to the scribe to write a bond, and to the signatories to sign it, [and they delayed and did not do so in that very same day,] R. Ba in the name of R. Jeremiah, “The witnesses have to write, ‘This loan took place on the first of Nisan, but we delayed the matter.’ [The consideration here is that the creditor will collect the debt prior to Tishré of that year, claim the bond is lost and write out a receipt for the debtor, and afterward he may produce the bond at its date and claim that the debtor has taken out a new loan.]”
6. **I:6:** R. Zeira in the name of R. Hamnuna: “The confirmation of judges for a bond may be written even a number of lines below the text of the bond and the document still will be valid.”

LXXII. YERUSHALMI GITTIN 9:8

[A] [IF] ONE LEFT OVER PART [OF THE TEXT OF] THE WRIT OF DIVORCE AND WROTE IT ON THE SECOND PAGE, AND THE WITNESSES ARE BELOW, IT IS VALID. [IF] THE

WITNESSES SIGNED AT THE TOP OF THE PAGE, ON THE SIDE, OR ON THE BACKSIDE, IN THE CASE OF AN UNFOLDED WRIT OF DIVORCE, IT IS INVALID. [IF] ONE JOINED THE TOP OF THIS [WRIT OF DIVORCE] ALONGSIDE THE TOP OF THAT WRIT OF DIVORCE, AND THE WITNESSES ARE IN THE MIDDLE, BOTH OF THEM ARE INVALID. [IF HE JOINED] THE BOTTOM OF THIS ONE WITH THE BOTTOM OF THAT ONE, WITH THE WITNESSES IN THE MIDDLE, THAT WITH WHICH THE NAMES OF THE WITNESSES ARE READ [ALONE] IS VALID. [IF HE JOINED] THE HEAD OF THIS ONE ALONGSIDE THE BOTTOM OF THAT ONE, WITH THE WITNESSES IN THE MIDDLE, THAT WITH WHICH THE WITNESSES' NAMES ARE READ AT THE END IS VALID. A WRIT OF DIVORCE WHICH ONE WROTE IN HEBREW WITH ITS WITNESSES' SIGNING THE GREEK, [OR WHICH HE WROTE IN] GREEK, WITH ITS WITNESSES' SIGNING IN HEBREW, [OR WHICH] ONE WITNESS [SIGNED] IN HEBREW AND ONE IN GREEK –

1. **I:1:** As to M. 9:8A,) what did he leave out? Said R. Yosé b. R. Bun, “For example, ‘... it is confirmed, valid, and clear.’”
2. **I:2:** Rab said, “Judges sign the writ, even though they do not know how to read it [if it is in a language they cannot read]. But witnesses sign a writ only if they know how to read what is in it.”

[B] [OR WHICH] THE SCRIBE WROTE WHICH ONE WITNESS [SIGNED, WITH THE SCRIBE AS THE SECOND WITNESS], IS VALID. [IF IT WAS WRITTEN,] “MR. SO-AND-SO, A WITNESS,” IT IS VALID. “THE SON OF MR. SO-AND-SO, A WITNESS,” IT IS VALID. “MR. SO-AND-SO, SON OF MR. SO-AND-SO,” BUT HE DID NOT WRITE, “A WITNESS,” IT IS VALID. AND THUS DID THE SCRUPULOUS IN JERUSALEM DO.

1. **II:1:** Said R. Eleazar, “This rule [validating the signature even if the fact that it is a witness that the person has signed is omitted] represents the opinion of all parties.” Said R. Yohanan, “It represents only the view of R. Judah [who requires that the fact that the person has signed as a witness be made explicit].”

[C] [IF] HE WROTE [ONLY] HIS FAMILY NAME AND HER FAMILY NAME, IT IS VALID.

1. **III:1:** R. Abbahu in the name of R. Yohanan, “Even if he wrote only his sign [not his name], it is valid.”

LXXIII. YERUSHALMI GITTIN 9:9

[A] A WRIT OF DIVORCE IMPOSED BY A COURT — IN THE CASE OF AN ISRAELITE COURT, IT IS VALID. AND IN THE CASE OF A GENTILE COURT, IT IS INVALID. IN THE CASE OF GENTILES, THEY BEAT HIM AND SAY TO HIM, “DO WHAT THE ISRAELITES TELL YOU TO DO,” AND IT IS VALID.

1. **I:1:** Samuel said, “The writ [of M. 9:9C] is invalid, but it renders the woman invalid to marry into the priesthood [as a divorcee].”
2. **I:2:** Samuel said, “They force [the issuance of a writ of divorce only in the case of those whose marriage is] invalid.”
3. **I:3:** R. Jeremiah in the name of Rab: “In the case of a writ drawn up by an Israelite who was forced to do so by gentiles, it is invalid. [The initiative must come from an Israelite court.] [Even if it was a case in which] he had said, ‘I shall not maintain or support her,’ [in which case an Israelite court must force him to divorce her,] [such a writ is invalid, unless the Israelite court instructed the gentile court to force the Israelite to issue the writ of divorce].”
4. **I:4:** R. Hiyya bar Ashi in the name of Issi, “He who says, ‘I shall not maintain or support her,’ – they force him to divorce her.”

LXXIV. YERUSHALMI GITTIN 9:10

[A] [If] THE WORD GOES AROUND TOWN, “SHE IS BETROTHED,” – LO, SHE IS [DEEMED] BETROTHED. “SHE IS DIVORCED,” – LO, SHE IS [DEEMED] DIVORCED, ON CONDITION THAT THERE SHOULD NOT BE SOME REASON TO DOUBT IT. AND WHAT WOULD BE A REASON TO DOUBT IT? “MR. SO-AND-SO HAS DIVORCED HIS WIFE CONDITIONALLY.” “HE TOSSED HER HER TOKENS OF BETROTHAL – IT IS A MATTER OF DOUBT WHETHER IT LANDED NEARER TO HIM OR NEARER TO HER” – LO, THESE ARE GROUNDS FOR DOUBT.

1. **I:1:** R. Yosa in the name of R. Yohanan, “[It is not a rumor in general which is taken into account. But in this case] the candles were flickering [at a banquet celebrating the betrothal], and people were sitting around and talking [and someone said ‘So-and-so betrothed Such-and-Such today].”
2. **I:2:** R. Yosa in the name of R. Yohanan: “If the word was investigated and turned out to come from women or children, the word is null.” Rab said, “They are permitted [depending upon such a rumor] only in a case in which one witness quotes some other. [That is, someone says, ‘I heard from various people, all of them now abroad, that such-and-such has happened.’ In this case we cannot go to the original witnesses, but we accept the testimony.]”

LXXV. YERUSHALMI GITTIN 9:11

[A] THE HOUSE OF SHAMMAI SAY, “A MAN SHOULD DIVORCE HIS WIFE ONLY BECAUSE HE HAS GROUNDS FOR IT IN UNCHASTITY, SINCE IT IS SAID, ‘BECAUSE HE HAS FOUND IN HER INDECENCY IN ANYTHING’” (DEUT. 24:1). AND THE HOUSE OF HILLEL SAY, “EVEN IF SHE SPOILED HIS DISH, SINCE IT IS SAID, ‘BECAUSE HE HAS FOUND IN HER INDECENCY IN ANYTHING’” R. AQIBA SAYS, “EVEN IF HE FOUND SOMEONE ELSE PRETTIER THAN SHE, SINCE IT IS SAID, ‘AND IT SHALL BE IF SHE FIND NO FAVOR IN HIS EYES’” (DEUT. 24:1).

1. **I:1:** Lo, it has been taught: The House of Shammai say, “I know only that a writ of divorce is issued on the grounds of unchastity. How do we know that if-the wife goes out in public with her head unkempt, with her shoulders bare, with her arms uncovered, [the husband may divorce her]? Scripture says, ‘Because he has found in her indecency in anything.’” How do the House of Hillel interpret the proof-text important to the House of Shammai?
2. **I:2:** It is written, “Also for her who is sick with her impurity; that is, for anyone, male or female, who has a discharge” (Lev. 15:33) – The former elders would rule, “Let the rule be that in her menstrual period she should not put blue on her eyes or make up her face until she enters water [for the rite of purification].” Said to them R. Aqiba, “Is there any proof from that verse? [If so, she will be hated by him during her period, if she may not put on make-up at that time.] If that is the case, then she herself will make herself ugly, and he will contemplate divorcing her.”

TRACTATE

QIDDUSHIN

The formation of the family of the household begins with the act of betrothal, *qiddushin*, which, in the context of the halakhah, means we deal with the sanctification of a woman to a particular man. The act of betrothal forms a particular detail of the larger theory of how a man acquires title to, or possession of, persons or property of various classifications. That constitutes the this-worldly side of the halakhah; the transcendent part emerges with the result: the sanctification of the relationship between a particular woman and a particular man, so that she is consecrated to him and to no other. The upshot is, just as a farmer acquired a slave or an ox or real estate, so he effected possession of, gained title to, a woman. But while the slave or ox or field could never be called “consecrated” to that particular farmer—the language of sanctification never operates in such transactions—the act of acquisition of a woman also transformed the relationship of the woman not only to that man who acquired her but also transformed her relationship to all other men.

The woman to begin with is deemed by the Torah to form a property belonging to her father, to be transferred to the ownership of her husband. In that regard, the governing analogy for the acquisition of a woman as consecrated wife derives from the rules of the transfer of title to property. But the woman must concur in the transaction, and that separates her from all others subject to the ownership—the free-will—of others. And there is a second difference. The language that is used here, the language of sanctification, derives from the Temple, and when we speak of sanctifying or consecrating a woman to a specific man, we are using the language of the altar, which speaks of sanctifying an animal to the altar for a particular purpose.

The unique relationship of the woman to the man finds its counterpart in the unique relationship of the animal designated (“consecrated”) to the altar by a farmer in expiation of a particular sin. That animal could serve only as a sin-offering, and it could expiate only the particular sin the farmer had in mind to atone. But that intense specificity cannot characterize, e.g., possession of a given slave, who could be rented out to others, or title to a particular piece of real estate, available for share-cropping. A still more striking difference emerges in every line of the halakhah. The ox, the real estate, and the slave are transferred willy-nilly;

no act of will on their part intervenes. But a woman can be consecrated to a particular man only by an act of agreement, her will forming the foundation of the entire transaction. So while without an act of assent a lamb is consecrated by the farmer and so made holy to the altar, only her full and un-coerced agreement will consecrate a woman to a man. The woman is partner in the process of her own sanctification, in a way in which no other classification of persons or property participates in the process of his, her, or its transfer from ownership to ownership.

I. Betrothals

- A.** Rules of acquisition of persons and property
- B.** Procedures of betrothal: agency, value, stipulations
- C.** Impaired betrothal
- D.** Stipulations
- E.** Cases of doubt

II. Castes for the purposes of marriage

- A.** The status of the offspring of impaired marriages (y. *Qidd.* 3:12–13)
- B.** Castes and marriage between castes
- C.** Cases of doubt (y. *Qidd.* 4:8–11)

YERUSHALMI QIDDUSHIN

CHAPTER ONE

1:1

[58b] [A] A woman is acquired [as a wife] in three ways, and acquires [freedom for] herself [as a free agent] in two ways.

[B] She is acquired through money, a writ, or sexual intercourse.

[C] Through money:

[D] The House of Shammai say, "For a denar or what is worth a denar."

[E] And the House of Hillel say, "For a perutah or what is worth a perutah."

[F] And how much is a perutah?

[G] One-eighth of an Italian issar.

[H] And she acquires herself through a writ of divorce or through the husband's death.

[I] The deceased childless brother's widow is acquired through an act of sexual relations.

[J] And acquires [freedom for] herself through a rite of removing the shoe or through the levir's death.

[I.1 A] [Supply: A woman is acquired as a wife in three ways, and acquires freedom for herself as a free agent in two ways. She is acquired through money, a writ, or sexual intercourse:] *The meaning of the language of the Mishnah [at M. 1:1B] is [that a woman is acquired] either through money, or through a writ, or through sexual intercourse, [but all three are not required for such a transaction].*

[B] *And so too did R. Hiyya teach as a Tannaite formulation, "It is not the end of the matter that all three are involved, but even through any one of them [the transaction is carried out]."*

[I:2 A] **She is acquired through money [writ, or sexual intercourse]:** How do we know [on the basis of Scripture the rule that one of the three media suffices]?

- [B] “If any man takes a wife” (Deut. 22:13) tells us that a woman is acquired through money.
- [C] Through sexual relations: How do we know [that item on the basis of Scripture]?
- [D] “And goes in to her [having sexual relations with her]” (Deut. 22:13) tells us that a woman is acquired through sexual relations.
- [E] I should then have reached the conclusion that the transaction is effected both through this means and through that [together].
- [F] How do I know that money effects acquisition without sexual relations, or that sexual relations effect acquisition without money?
- [G] R. Abbahu in the name of R. Yohanan: “It is written, ‘If a man is found lying with a woman who has had sexual relations with her husband’ (Deut. 22:22).
- [H] “Now take note: Even if the man has acquired her only through sexual relations, the Torah has decreed that he who has sexual relations thereafter is [guilty of having sexual relations with a married woman and is subject to the death penalty through] strangling.”
- [I] [No, that reading will not suffice. For] it is not the end of the matter that [the sexual relations take place] in the normal manner. But even [if the husband had sexual relations] not in the normal manner, [the woman is deemed fully wed to him].
- [J] [The following statement will indicate that the cited verse serves the purpose of proving that sexual relations not in the normal manner have the same effect. Consequently, the proof for F remains to be adduced.] R. Abbahu in the name of R. Yohanan: “The verse is required to indicate that sexual relations not in the normal manner [effect acquisition of the woman. If you maintain [to the contrary] that the verse refers to a relationship effected through sexual relations in the normal manner, why should Scripture refer to a woman ‘who has had sexual relations with her husband’? Even someone else [than the husband] may [through an act of normal sexual relations] render her ‘a woman who has had sexual relations.’”
- [K] *As what we have learned there in the Mishnah: **If two men had sexual relations with a betrothed girl in succession, the first is liable to be put to death by stoning, and the second by strangling [M. San. 7:9].*** “[The latter has had sexual relations with a non-virgin who has the legal status of one “who has had sexual relations with her husband,” although it is not her husband. [See M. San. 11:1.]”

- [L] *Thus we have learned that sexual relations without payment of a money fee [effect acquisition of the woman].*
- [M] **Payment of money without sexual relations**, whence in Scripture?
- [N] “And if he does not do these three things for her, she shall go out for nothing, without payment of money” (Ex. 21:11). “If he takes another wife to himself ...” (Ex. 21:10).
- [O] Just as the woman [slave girl] mentioned first involves a money payment, so the woman [wife] mentioned second involves a money payment. [That is, in context the acquisition is through payment of money.]
- [P] As to presentation of a writ of betrothal without the other media for entering the status of betrothal: “[When a man takes a wife and marries her, if then she finds no favor in his eyes because he has found some indecency in her,] and he writes her a bill of divorce and puts it in her hand and sends her out of his house, and if she goes and becomes another man’s wife ...” (Deut. 24:1, 2). The “becoming” [another man’s wife] is so joined to the sending forth. Just as the sending forth is through a writ, so the “becoming ‘ [another man’s wife] is through a writ.
- [I.3 A] [Why is it necessary to adduce evidence via a verse of Scripture, if the logical argument of an argument a fortiori could produce the same result? We shall now see the answer:] Said R. Abin, “And Hezekiah taught: ‘When a man takes a wife’ (Deut. 24:1) tells us that a woman is acquired through a money payment.
- [B] “Now, it is a matter of logical argument, if a Hebrew slave girl, who is not acquired through sexual relations, is acquired through a money payment [Ex. 21:7: ‘When a man sells his daughter’], this one, who may be acquired through sexual relations, is it not reasonable to suppose that she should be acquired through a money payment?
- [C] “The childless brother-in-law’s widow will prove [to the contrary], for she indeed is acquired through an act of sexual relations, but she is not acquired through a money payment. [So there is no anomaly in the case of B, hence no argument a fortiori.]
- [D] “This one too should cause no surprise, that even though she is acquired through sexual relations, [on the analogy with the childless sister-in-law] she still is not acquired through a money payment.
- [E] “Accordingly, Scripture is required to state, ‘When a man takes a wife’ – indicating that she is acquired through a money payment.

- [F] “‘And has sexual relations with her’ – indicating that she is acquired through an act of sexual relations.
- [G] “Now is it not logical to argue as follows: If the childless widow, who is not acquired through a money payment, is acquired through an act of sexual relations, this one, who is acquired through a money payment, is it not logical that she should also be acquired through an act of sexual relations?
- [H] “The Hebrew slave girl proves to the contrary. For she is acquired through a money payment and is not acquired through an act of sexual relations.
- [I] “This one too should cause no surprise, for even though she is acquired through a money payment, she is not to be acquired through an act of sexual relations.
- [J] “Accordingly, Scripture is required to state, ‘When a man takes a wife’ – indicating that she is acquired through a money payment.
- [K] “‘And has sexual relations with her’ – indicating that she is acquired through an act of sexual relations.
- [L] “As to a writ: Now if a payment of money, which does not have the power to free the woman from her husband, has the power to bring her under the domain of her husband, a writ, which does have the power to take her out of his domain – is it not logical that it should also have the power to bring her into his domain?
- [M] “No, if you have stated that rule in regard to a money payment, which has the power to remove what has been sanctified from consecrated status through redemption [substitution], will you say the same of a writ, which does not have the power to redeem what has been consecrated and so remove it from its consecrated status?
- [N] “The argument a fortiori has been shattered, and, accordingly, you must return to Scripture.
- [O] “So it was necessary for Scripture to state: ‘When a man takes a wife and marries her, if then she finds no favor in his eyes because he has found some indecency in her, and he writes her a bill of divorce and puts it in her hand and sends her out of his house, and she departs out of his house, and if she goes and becomes another man’s wife ...’ (Deut. 24:1, 2).

- [P] “The ‘becoming’ [another man’s wife] thus is joined to the sending forth. Just as the sending forth is through a writ, so the becoming another man’s wife is through a writ.”
- [I.4 A] Said R. Yudan, “It is possible to construct an argument a fortiori that a free woman may be acquired through an act of usucaption [in this context: through performing an act of service that a wife is expected to perform for the husband].
- [B] “[The argument rests upon the mode of acquisition of a Canaanite slave girl, which is through usucaption.] Now if, in the case of a Canaanite slave girl, who is not acquired through sexual relations, the girl is acquired through usucaption, this one, who is acquired through an act of sexual relations – is it not logical that she should be acquired through usucaption?
- [C] “Accordingly, scripture is required to state, ‘When a man takes a wife and has sexual relations with her’ (Deut. 24:1), meaning, it is through sexual relations that this one is acquired, and she is not acquired through usucaption.
- [D] “[Similarly] we may construct an argument a fortiori in the case of a Canaanite slave girl that she should be acquired through an act of sexual relations.
- [E] “Now it is a matter of logic. If a free woman, who is not acquired through usucaption, is acquired through an act of sexual relations, this one, who is acquired through usucaption, is it not logical that she should be acquired through an act of sexual relations?
- [F] “Accordingly, Scripture is required to state, ‘As for your male and female slaves whom you may have, you may buy male and female slaves from the nations that are round about you.... You may bequeath them to your sons after you, to inherit as a possession forever’ (Lev. 25 ~ 46).
- [G] “It is through usucaption that a Canaanite slave girl is acquired, and she is not acquired through an act of sexual relations.”
- [I.5. A] Lo, we have now proved that a **woman is acquired as a wife in three ways ... through money, writ, or sexual intercourse** [see M. I:1B].
- [B] Up to now we have dealt with Israelites. [What is the law as to] gentiles?

- [C] R. Abbahu in the name of R. Eleazar: “It is written ‘Behold, you are a dead man, because of the woman whom you have taken; for she has had sexual relations with her husband’ (Gen. 20:3).
- [D] “For those who are acquired through sexual relations are they liable [for having sexual relations with a married woman], but they are not liable [for having sexual relations with] those who are [merely] betrothed.”
- [I.6 A]** The ruling of R. Eleazar states the matter with this qualification: “And that is the rule if he has had the intention of acquiring her as his betrothed through the act of sexual relations. But the rule of Samuel states the matter with this qualification: “And that is the rule even if he did not have the intention of acquiring her as his betrothed through the act of sexual relations.”
- [B] For said R. Jonah in the name of Samuel, “If a whore is standing at the window, and two men had sexual relations with her, the first is not put to death, while the second is put to death on account of the first [who through the act of sexual relations has acquired the woman as his wife, even though he did not intend to do so].”
- [C] Now did the former party actually intend through his act of sexual relations to acquire the whore as his wife? [Obviously not!]
- [D] “‘No man of you shall approach any one near of kin to him to uncover a nakedness’ (Lev. 18:6).
- [E] “Why does Scripture say, ‘No man’ [‘man,’ appearing twice in the verse]? It is to place under the jurisdiction of the laws of the nations gentiles who have had sexual relations with the connections prohibited to gentiles, and to place under the jurisdiction of the laws of Israel [58c] gentiles who have had sexual relations with the connections prohibited to Israelites.
- [F] Said R. Eleazar, “Among all of them, you have only a betrothed Israelite woman [for whom a gentile is liable].
- [G] “[That is to say,] if a gentile had sexual relations with an Israelite woman who is betrothed, he is liable. If he had sexual relations with a gentile woman who was betrothed, he is exempt.
- [H] “Now if he had sexual relations with a betrothed Israelite woman, on what count is he liable? Is it under their laws or under the laws of Israel? If you say that they are tried under Israelite law, then they must be subject to the testimony of two witnesses, to the judgment of twenty-three judges, to appropriate admonition, and, if guilty, to

execution through stoning. If you say that they are tried under gentile law, then they must be subject to the testimony of only one witness, to the judgment of only one judge, to no admonition, and, if guilty, to execution through decapitation by a sword.”

[I.7A.] R. Judah bar Pazzi adds, “[They are put to death] through strangulation, by reason of that very verse [cited at D-E].

[B] “What is the scriptural basis for this position?” ‘Whoever sheds the blood of man, by man his blood shall be shed’ (Gen. 9:6)– [and this is through strangulation.”

[C] “If you say that they are tried under Israelite law, then if he converted, he remains liable.].

[D] “If you say that they are tried under gentile law, then if he converted he becomes exempt.”

[E] For R. Haninah said, “If a Noahide cursed [God] and converted he is exempt, because his status under the law has changed.”

[I.8 A] R. Eleazar in the name of R. Haninah said, “How do we know that Noahides are subject to admonition to avoid prohibited connections as are Israelites?

[B] “‘Therefore ... a man cleaves to his wife’ (Gen. 2:24)– and not to his fellow’s wife [and this pertains to Adam and his descendants, meaning, everybody, not just Israelites].

[C] “‘Therefore ... a man cleaves to his wife’ – and not to a male, or to a beast.”

[I.9A]. Samuel, R. Abbahu, R. Eleazar in the name of R. Haninah: “A Noahide who had sexual relations with his wife not in the usual way is put to death.

[B] “What is the scriptural basis for that view? ‘Therefore ... a man cleaves to his wife and they become one flesh’ (Gen. 2:24)–

[C] “It is to be at the place at which the two of them become one

[I.10 A] R. Yosé raised the question, “Sexual contact with a male– what is the law?

[B] “Sexual contact with a beast– what is the law?

[C] “Now all prohibited sexual relations were derived from the prohibition of having sexual relations with a menstruating woman. That covering a male or a beast likewise derives from the same analogy.”

[D] Now up to now we have raised the question concerning Israelites. What is the law regarding gentiles?

[E] Said R. Mana, “Is it not from [the exegesis of the verse,] ‘And he will cleave to his wife’ – and not to the wife of his fellow? [That is, ‘cleaving’] in any manner [is forbidden].”

[F] Similarly, [there is also a prohibition of any sexual contact] with a male or an animal.

- [I.11 A] Lo, we have learned that gentiles are not subject to the laws of consecrating a woman as betrothed [through money. What about their being subject to the laws of divorce?
- [B] R. Judah b. Pazzi and R. Hanin in the name of R. Huna the Elder of Sepphoris: “The law is this: either they are not subject to the law of divorce at all, or [unlike Israelite practice] each issues a writ of divorce to the other.”
- [C] [Maintaining that they are not subject to the law of divorce at all,] R. Yohanan of Sepphoris. R. Aha, R. Hinena in the name of R. Samuel bar Nahman: “‘For I hate divorce, says the Lord, the God of Israel’ (Mal. 2:16). Among Israelites I have framed the law of divorce, and I have not given the law of divorce to the nations of the world.”
- [D] R. Hananiah in the name of R. Pinhas: “The entire pericope makes use of the language ‘the Lord of Hosts,’ while here it uses the language ‘the God of Israel.’ This is to teach you that the Holy One, blessed be he, has designated the use of his name in regard to divorces only with respect to Israelites alone.”
- [E] *A statement of R. Hiyya the Elder implies that [in his view] gentiles are not subject to the law of divorce. For R. Hiyya taught as a Tannaite formulation, “A gentile ... who divorced her, and the both of them [the first husband and the woman] converted to Judaism, I do not invoke the rule, “Then her former husband, who sent her away, may not take her again [to be his wife]” (Deut. 24:4). [The rule is not applied because she is not regarded as having been divorced by him to begin with, when they both were gentiles].”*

- [F] *And so too it has been taught as a Tannaite rule: A case came before Rabbi, and he declared it valid for [the husband to remarry her].*
- [II.1 A] **With a writ:** *That is to say, with a writ that is not worth a perutah. But as to a writ that is worth a perutah, it is tantamount to money.*
- [B] *This is in line with what R. Hiyya taught as a Tannaite formulation: It is not the end of the matter that it may be done with a writ that is worth a perutah. For is it not the fact that a woman is betrothed with anything worth a perutah. But **even if one wrote it on a shard or on wastepaper [both of which have a value less than a perutah], and he gave it to her, lo, this one is consecrated** [T. Qid. 1:2].*
- [II.2 A] If he wrote [a writ of divorce] on something from which one may not derive benefit at all, [what is the law]? Is one deemed divorced or not?
- [B] *R. Hanin cited a Tannaite formulation: a case came before Rabbi, and he ruled, “Lo, this one is validly divorced.”*
- [C] R Eliezer said, “She is not divorced.”
- [D] *[Now as to the use of such a thing for betrothal,] said R. Zeira, “Rabbis were at variance on this issue.*
- [E] *“The one who said ‘She is not betrothed with such a thing’ maintains that she also may not be divorced with such a thing.*
- [F] *“And the one who said ‘She may be betrothed’ also maintains that she may be divorced therewith.”*
- [G] *Colleagues say [that such an analogy is null, for you cannot compare the law governing betrothal with the law governing divorce, and so they rule] to the strict side.*
- [II.3 A] *R. Yosé raised the question, “What is the meaning of ‘ruling to the strict side’?*
- [B] *“[Shall we say that] she will not be betrothed [by such a writ] but she may be divorced by such a writ, and that is the meaning of ‘rule to the strict side’?*
- [C] *“Or do we maintain that she is not divorced [by such a writ] but she may be betrothed [by it], and that is ‘ruling to the strict side’?” [This is not worked out.]*
- [D] What is the law in the present matter [of betrothals]?
- [E] *The rabbis of Caesarea in the name of R. Jacob bar Aha [maintain that there really is no dispute at all:] “The one who said that she*

may be divorced is of the opinion that it is permitted to betroth with a document written on material from which the scribes prohibited benefit.

[F] *“The one who said that she may not be divorced is of the opinion that it is prohibited to betroth with a document written on material from which the Torah prohibited benefit, but the scribes permitted such betrothal.”*

[G] *If you say so, does this statement not stand at variance with what Rab has said?*

[H] For Rab said, “In the view of R. Meir, ‘He who effects a betrothal by handing over leaven [worth a perutah] from the sixth hour and onward [on the fourteenth of Nisan when, in point of fact, Israelites no longer may derive benefit from leaven, but this by ruling of scribes, not by the Torah’s law] has done nothing whatever’” [Now if the prohibition is merely on the basis of scribes’ ruling, then the betrothal should be valid.]

[I] *There [in the case of handing over leaven] it is with the object itself that the man effects betrothal. Now leaven from the sixth hour and onward is worthless, [and that is why the betrothal is null]. But here it is with the conditions stated in the writ that the man has effected the betrothal.*

[J] If that is the case, then even if it is with something from which benefit is prohibited by the Torah, [why] should the woman [not] be betrothed? What difference is there between such a thing and a writ that is not worth a perutah?

[K] There [in the case of a writ composed on something that may not be utilized at all] the material is not suitable for completing the value of the perutah, [for it is totally worthless,] while here [in the case of something not worth a perutah but with some slight value] the material is suitable for completing the value of the perutah. [It is offensive to give a woman something with no worth whatever, and on that account the materials forbidden for Israelite use or enjoyment may not be used at all.]

[III.1 A] [SUPPLY::THE HOUSE OF SHAMMAI SAY, “FOR A DENAR OR WHAT IS WORTH A DENAR.” AND THE HOUSE OF HILLEL SAY, “FOR A PERUTAH OR WHAT IS WORTH A PERUTAH:”] *There we have learned in the Mishnah: An oath imposed by judges is imposed if the claim is at least for two pieces of silver, and the concession on the part of the defendant is that he*

owes at least a perutah's worth [M. Shebu. 6:IA]. As to the claim: The House of Shammai say. '[Money means] a maah.'" And the House of Hillel say, "Two maahs."

- [B] *The opinions assigned to the House of Shammai are at variance with one another. For there [at M. Qid. 1:1] the House of Shammai maintain that "money" means a denar, and here they say it means a maah. The opinions assigned to the House of Hillel are at variance, for there [at M. Qid. 1:1] they say "money" means a perutah, and here they say that it means two maahs.*
- [C] R. Jacob bar Aha in the name of R. Haninah: "The House of Shammai derive [their position] by analogy to the rule governing the selling of a Hebrew slave girl. Just as the operative price at the original sale of such a girl is a denar, so betrothal affecting her is for a denar. The House of Hillel derive their position from the law governing the payoff [in redeeming such a girl. Just as the operative price at the payoff [in redeeming] her is a perutah, so betrothal affecting her is for a perutah."

[III.2 A.] *What is the scriptural basis for the position of the House of Shammai?*

- [B] It is said, "[And if he does not do these three things for her,] she shall go out for nothing, without payment of money" (Ex.
- [C] Now do we not know that it is without payment of money? Why then should Scripture state, "Without payment of money"?
- [D] It is on the basis of this that we learn that she is sold for a sum of money greater than the minimum sum understood by the word "money." And how much is that? It is a denar.
- [E] Or perhaps "money" refers to a perutah, and "more than a minimum sum of money" would then mean two perutahs?
- [F] The smallest value of a minted coin is a maah.
- [G] In that case, let it be a maah?
- [H] R. Bun in the name of R. Judah bar Pazzi: "The reason is that if she wishes to work off what she owes, she deducts [from the debt] at the rate of a maah a year and goes free."
- [I] And let her deduct at the rate of a perutah.
- [J] Said R. Bun, "Take note. If she wanted to deduct what is owing on her debt at the beginning of the sixth [and final] year of service, then the sum owing at the beginning of her calculation would be a

perutah, and the sum owing at the end of that same process of deducting from the debt will be a perutah. [That anomaly must be avoided.]

[K] “Rather at the beginning of the last year, her debt will be a maah, and at the end she will deduct a perutah.”

[L] *What is the basis for the position of the House of Hillel?*

[M] On the basis of the fact that at the end of the process of deduction from the original debt, a perutah remains, you know that the sum required for betrothing her also is a perutah.

[N] If at the end [of the process of working off the debt over a six year period], there remains only what is worth a perutah, is it possible to suppose that she does not deduct that amount and go forth free? [Obviously not.]

[O] Accordingly, just as the sum owing at the end of the six-year period of deduction is a perutah, so the sum required for betrothing her is a perutah.

[III.3 A.] *The opinions imputed to the House of Hillel are at variance.* It is written, “If a man delivers to his neighbor money or goods to keep [and it is stolen out of the man’s house . . . if the thief is not found the owner of the house shall approach the judges to show whether he has put his hand to his neighbor’s goods]” (Ex. 22:7-8). Now if [the language, money or goods] is used to indicate that a court need not trouble with a claim of less than a perutah in value, it already is stated, “and thereby become guilty” (Lev. 6:7)– excluding what is worth less than a perutah. Accordingly, why does Scripture specify “money”? On the basis of that statement we derive the fact that at issue is more than a minimum sum of money. And how much is more than a minimum sum of money? It is two maahs. Or perhaps a minimum sum of money is a perutah, and more than a minimum sum of money would be two perutahs? The smallest minted coin is a maah. So let it be a maah. “Or goods” [stated in the plural] means two. So in the case of “money” it must be two [coins].

[B] *How do the House of Shammai interpret the passage, “or goods”?*

[C] *It is in line with the following, as it has been taught as a Tannaite formulation:* R. Nathan says, “ ‘or goods’ seems to encompass under the law even clay pots.”

[D] Samuel said, “If one has laid claim for two needles, and the bailee confesses that he received one of them, he is liable for an oath.”

[E] Said R. Hinena, “And that ruling applies if the two were worth two perutahs, so that the claim should be for at least a perutah, and the concession should cover an object worth at least a perutah.”

[F] *And this accords with the position of the House of Shammai, who do not derive the rule governing “money” from that governing “goods.”*

[G] *But in accord with the view of the House of Hillel, who do derive the rule governing “money” [58d] from that governing “goods,” just as “goods” must be two, so “money” must be two. Along these same lines, just as “money” refers to two maahs, so “goods” refers to what is worth two maahs.*

[III.4 A] Even though the House of Shammai and the House of Hillel disputed concerning the co-wives, concerning sisters, concerning the married woman, concerning a superannuated writ of divorce, concerning the one who betroths a woman with something of the value of a perutah, and concerning the one who divorces his wife and spends a night with her in an inn, the House of Shammai did not refrain from taking wives among the women of the House of Hillel, and the House of Hillel from the House of Shammai [M. Yeb. 1:41]. But they behaved toward one another truthfully, and there was peace between them, since it is said, “They loved truth and peace” (Zech. 8:19) [T. Yeb. 1:10].

[B] *There is the matter of the genealogically illegitimate status of children between them, and yet you say this? [Incredible!] What would be a practical case?*

[C] *If a girl was betrothed to the first man with what is worth a perutah, and to the second with what is worth a denar, in the opinion of the House of Shammai, she is betrothed to the second man, and any offspring she has by the first are deemed illegitimate. In the opinion of the House of Hillel, she is betrothed to the first man, and any offspring she has by the second are deemed illegitimate.*

[D] R. Jacob bar Aha in the name of R. Yohanan: “The House of Shammai concede to the House of Hillel as to the stringent side of things.”

[E] *On the strength of that concurrence, the House of Shammai may marry women from the House of Hillel, for [the latter] concede [the position of the former]. But the House of Hillel should not marry women from the House of Shammai, for [the latter indeed still] do not concede [their position].*

- [F] R. Yohanan in the name of R. Yannai: “Both these and these behaved in accord with the law. [That is why they could intermarry.]”
- [G] *If they behaved in accord with the law, then note the following:*
[Said R. Judah b. Betera, “There is the following precedent: A trough of Jehu was in Jerusalem, and it was perforated with a hole as large as the spout of a water skin. And everything that required preparation in conditions of cleanness in Jerusalem was prepared depending upon it for immersion.] And the House of Shammai sent and broke it down. For the House of Shammai say, ‘Until the greater part of the object is broken down, it still is regarded as a utensil’” [M. Miq. 4:5P-S].
- [H] [The story, cited to indicate that the House of Hillel did not indeed adopt the stringent position of the House of Shammai in the conduct of the law, does not prove its point. For] R. Yosé b. R. Bun said, “Before the case came to the House of Hillel, the House of Shammai [had reason to] object [to the condition of the trough]. Once the case came to the House of Hillel, the House of Shammai had no [further reason to] object. [That is. once the matter was brought to the attention of the house that took the less stringent position, it changed its ways.]”
- [I] *Said R. Abba Meri, “And that is right. What do we learn as the Tannaite formulation? That they declared unclean all the clean things prepared relying on the purification power of the trough in the past. But not from this time onward [that is, once the case came to the House of Hillel (following Pené Moshe at Yeb., ibid.).]”*
- [J] *R. Yosé b. R. Bun said, “Rab and Samuel differed. One of them said, ‘These and those conducted themselves in accord with the law,’ and the other one said, ‘These conducted themselves in accord with their view of the law, and those conducted themselves in accord with their view of the law.’”*
- [K] *[As to this latter view,] there is the matter of the genealogically illegitimate status of children between them, and yet you say this [that they both intermarried and also followed diverse views of the law]? [Incredible!]*
- [L] The Omnipresent watched out for them, and a practical case [involving illegitimacy] never actually took place.
- [M] *It has been taught as a Tannaite formulation: [Under all circumstances the law is in accord with the House of Hillel.]*

[N] **To be sure, he who wants to impose a stricter rule on himself, to follow the law in accord with the opinion of the House of Shammai and in accord with the House of Hillel— concerning such a one, Scripture says, ‘The fool walks in darkness’ (Qoh. 2:1).**

[O] **He who holds by the lenient rulings of the House of Shammai and the lenient rulings of the House of Hillel is out-and-out evil.**

[P] **But if it is to be in accord with the teachings of the House of Shammai, then let it be in accord with both their lenient rulings and their strict rulings.**

[Q] **And if it is to be in accord with the teachings of the House of Hillel, then let it be in accord with both their lenient rulings and their strict rulings [T. Suk. 2:3K-O].**

[R] *What you have stated [about following the opinions of both houses one way or the other] applies before the echo went forth [and declared the law to accord with the House of Hillel]. Once the echo had gone forth [saying,] “In all circumstances the law accords with the position of the House of Hillel, and whoever violates the position of the House of Hillel is liable to the death penalty,” [that statement no longer applied].*

[S] *It was taught as a Tannaite formulation: The echo went forth and declared, “These and those are both the words of God. But the law still accords with the position of the House of Hillel.”*

[T] Where did the echo go forth?

[U] R. Bibi in the name of R. Yohanan: “In Yavneh did the echo go forth.”

[IV.1 A] And how much is a perutah? One-eighth of an Italian issar [M. 1:IF-G].

[B] *It is taught as a Tannaite statement: [A perutah of which they have spoken is one out of eight perutahs to an issar]; an issar is one **twenty-fourth of a** denar [T. B.B. 5:11]. A silver denar is one twenty-fourth of a gold denar.*

[C] *R. Hiyya taught as a Tannaite formulation [in the Tosefta’s version,] “A sela **is four** denars. “**Six silver maahs are a denar. A silver maah***

is two pondions. A pondion **is two issars.** An issar is two mismasin. A mismas is two quntronin. A quntron is two perutahs.”

[D] Said R. Zeira, “[n the days of R. Simai and our rabbis, the declared that the perutah was one out of twenty-four to a maah.”

[E] **And Rabban Simeon b. Gamaliel stated as a Tannaite rule, “The perutah of which they have spoken is one of six perutahs to the issar. There are three hadrasin to a maah, two hanassin to a hadras, two shemanin to a hannas, two perutahs to a shemen” [T. B.B. 5:1].** So it comes out that there are one out of twenty-four to a maah.

[IV.2 A.] R. Haninah and R. Mana:

[B] *R. Haninah says, “As to copper perutahs, they stand at their assigned value [without rising or falling, contrary to the views given just now that Simai and our rabbis added to their value]. But silver [issars] may decrease or increase in value.”*

[C] *R. Mana says, “[Issars made out of] silver stand in their assigned value. [Perutahs made out of] copper may increase or decrease in value.”*

[D] *In the view of R. Haninah, in all circumstances six women may be betrothed with a single issar [since it is worth six perutahs at all times].*

[E] *In the opinion of R. Mana, sometimes it will be six, sometimes eight.*

[IV.3 A.] *Hilpai said, “Set me down at the shore of the river; if I cannot demonstrate that whatever is said in the Mishnah of R. Hiyya [the Tosefta] may in fact be derived from our Mishnah, then throw me into the river.”*

[B] *They said to him, “And lo, R. Hiyya taught as a Tannaite formulation, ‘A sela is four denars.’”*

[C] *He said to them, “So too have we learned in the Mishnah: **How much may a sela be defective and still not fall under the rule of fraud? R. Meir says, “Four issars at an issar to a denar [M. B.M. 4:5A-B]. [That is one twenty-fourth of a sela, for a denar is six maahs, and a maah is four issars, so it is one twenty-fourth. Four denars make up a sela.]”***

[D] *They said to him, “And has not R. Hiyya taught: ‘Six maahs are a denar’?”*

[E] *He said to them, “So we learn in our Mishnah: **Over reaching is an overcharge of four pieces of silver out of twenty-four pieces of silver to the sela, one sixth of the purchase price [M. B.M. 4:3A-B]. [So a denar is six maahs.]”***

[F] *They said to him, “And has not R. Hiyya taught: ‘**Two pondions make up a maah?’**”*

[G] *He said to them, “So we learn in our Mishnah: **If one sanctified a field two or three years before the Jubilee, he gives a sela and a pondion for each year [M. Ar. 7:11]. [There are forty-eight pondions to a sela, twenty-four maahs to a sela. so two pondions to a maah.]”***

[H] *They said to him, “And has not R. Hiyya taught: ‘**Two issars make up a pondion’?**”*

[I] *He said to them, ‘So we learn in our Mishnah: **He who sets aside an issar [in the status of second tithe and takes it to Jerusalem] and ate [as second-tithe produce purchased] against half of its value, and then went to another area [in Jerusalem], and lo, [an Issar] is worth a pondion. [That is, twice its previous value, so that the money- remaining is worth a full issar of produce he eats against its value as second-tithe produce worth another issar [M. M.S. 4:6A-C] [So an issar is worth two pondions.]”***

[J] *They said to him. “And has not R. Hiyya taught: ‘**Two mismasin are an issar; two quntronim are a mismas; two perutahs are a quntron’?**”*

[K] *He said to them, “So we learn in our Mishnah: **And how much is a perutah? One-eighth of an Italian issar [M. Qid. 1:1F-G].”***

[V.1 A] **And she acquires herself through a writ of divorce [M. 1:1H].**

[B] This is in line with what is written, “and he writes her a bill of divorce” (Deut. 24:2).

[C] **Or through the death of the husband [M. 1:1H].**

[D] This is in line with what is written, “or if the latter husband dies, who took her to be his wife” (Deut. 24:3).

[E] *That proves that the death of the second husband [frees her to remarry]. How do we know that the death of the first husband does so as well [in context]?*

- [F] Now if in the case of the second husband, whose [death] does not constitute an ample release [of the woman, since she still may not remarry the original husband, who had divorced her], you say that death permits [her to remarry] the first husband, who has the power to release her more fully – is it not a matter of logic that his death should also permit her to remarry?
- [G] *Said R. Huna. ‘Scripture itself has said that the death of the husband permits the wife to remarry. For it is written. ‘If brothers dwell together. and one of them dies and has no son. the wife of the dead shall not be married outside the family to a stranger. Deut. 25:5). Lo. if he does have a son, his death frees [the wife to marry anyone she wants].’*
- [H] Said R. Yosé b. R. Bun, “If you say that death does not permit the wife to remarry, *then how shall we declare that a widow is prohibited [only] to a high priest, or a divorcée or a woman who has undergone the rite of removing the shoe [Deut. 25:1ff.] to an ordinary priest? [For lo, the widow would be prohibited from marrying anyone, not merely a high priest, as Scripture specifies.]*”
- [I] [Objecting to this argument regarding the widow and the high priest,] said R. Yohanan bar Mareh, “Interpret [the rule of the widow’s not marrying the high priest] to apply [solely] to the case of a deceased childless brother’s widow. [That is, such a childless widow may not marry her brother-in-law when he is high priest. She is permitted to the other levirate brothers and prohibited to all others. Accordingly, the attempted proof need not stand.]”

[VI.1 A] [SUPPLY: THE DECEASED CHILDLESS BROTHER’S WIDOW IS ACQUIRED THROUGH AN ACT OF SEXUAL RELATIONS, WE TURN TO THE EXEGESIS OF DEUT. 25:5: “HER HUSBAND’S BROTHER SHALL GO IN TO HER, AND TAKE HER AS HIS WIFE, AND PERFORM THE DUTY OF A HUSBAND’S BROTHER TO HER.”] “Her husband’s brother shall go in to her” – this is the act of sexual relations. “And he shall take her as his wife – this refers to the act of bespeaking [that is, he says to her, “Behold you are sanctified to me.]” [For the levirate marriage, bespeaking is the equivalent to an act of betrothal in an ordinary marriage.]

- [B] May one say that, just as the act of sexual relations completes the transaction of acquiring her as a wife, so the act of bespeaking [by itself] also will accomplish the thing [so that the levir inherits his brother’s property]?
- [C] Scripture states, “[take her as his wife] and perform the duty of a husband’s brother to her” [meaning, even after he has taken her as his

wife through betrothal, he remains in the status of the husband's brother and must have sexual relations and does not accomplish the marriage merely by an act of betrothal]. The entire passage, therefore, indicates that, as to the levir, the act of sexual relations completes acquisition of the widow as his wife, and mere bespeaking does not complete the acquisition of the woman as his wife.

[D] If so, what value is there in the act of bespeaking at all?

[E] It serves to betroth her, as against the claim of the other brothers.

[F] R. Simeon says, "Bespeaking either fully effects acquisition or does not." [Thus the foregoing position is rejected.]

[G] *What is the scriptural basis for R. Simeon's position?*

[H] "Her husband's brother shall go in to her" – this refers to an act of sexual relations.

[I] "And take her as a wife" – this refers to an act of bespeaking.

[J] [So the two are comparable, with the result that] just as an act of sexual relations effects complete possession of her as his wife, so does the act of bespeaking completely effect her acquisition as his wife.

[K] Or "her husband's brother shall go in to her" and lo, "he takes her as a wife," with the result that the act of bespeaking has no standing in her regard at all.

[L] R. Eleazar b. Arakh said, "The act of bespeaking effects a complete acquisition in the case of the childless brother's widow."

[M] *What is the scriptural basis for R. Eleazar b. Arakh's position?*

[N] "and take her as his wife" – lo, it is tantamount to the act of betrothing a woman.

[O] Just as in the case of betrothing a woman, one effects total possession, so in the case of a deceased childless brother's widow, also the act of bespeaking [which is the parallel, as explained above] effects total possession.

[P] What is "bespeaking"?

[Q] **If the brother says, "Lo, you are sanctified to me by money," or "by something worth money" [T. Yeb. 2:1].**

[VI.1 A] [SUPPLY: M. 1:1J: THE DECEASED CHILDLESS BROTHER'S WIDOW ACQUIRES FREEDOM FOR HERSELF THROUGH A RITE OF REMOVING THE SHOE OMITTS REFERENCE TO THE ACT OF A CO-WIFE. YET IF THE CO-WIFE GOES THROUGH THE RITE, THE OTHER CO-WIVES ARE EXEMPT. ACCORDINGLY,] *R. Isaac asked, "And why do we not say that that is the case, whether it is the act of removing the shoe done by herself or by her co-wife?"*

[B] He reverted and said, "*We learn in the Mishnah, 'through a rite of removing the shoe,'* and not 'through her rite of removing the shoe'. So here the meaning is that it is sufficient whether it is her rite of removing the shoe or whether it is the rite performed by her co-wife."

[C] And lo, we have learned, **The deceased childless brother's widow is acquired through an act of sexual relations [M. 1:2].** *Now do you have the possibility of ruling that that is the case whether it is an act of sexual relations with her or an act of sexual relations with her co-wife? [Obviously not!]* So the Mishnah pericope speaks [only] of the case where there is only one surviving childless widow. Why did [R. Isaac] ask about a case of two surviving childless widows [when our Mishnah deals with only one]?"

THE BETROTHED SLAVE-GIRL: HOW DOES SHE GO FORTH?

[VI.2 A] *R. Samuel bar R. Isaac asked, "As to a betrothed slave girl ['If a man lies carnally with a woman who is a slave, betrothed to another man and not yet ransomed or given her freedom, an inquiry shall be held [an inquiry is also understood to mean that a flogging takes place]. They shall not be put to death, because she was not free; but he shall bring a guilt offering for himself to the Lord' (Lev. 19:20-21)], by what means does she acquire full ownership of herself, to be exempt from a flogging, and her lover from a guilt offering?"*

[B] *It is self-evident that she does not go forth by means of a writ of divorce. For R. Hiyya in the name of R. Yohanan said, "He who is half slave and half free – if he betrothed a woman, they do not scruple as to his act of betrothal, and, along these same lines, if he divorced a woman, they do not scruple as to his act of divorce. [Accordingly, an act of divorce is meaningless in this case.]"*

[C] *It is self-evident that she goes forth when her husband dies. This is in line with what R. Yosé said in the name of R. Yohanan, "Aqilas the proselyte translated before R. Aqiba, 'and she is a slave, betrothed to another man' as 'laid by a man' [hence the act of sexual relations has made the owner into her husband, and therefore when he dies she no longer is subject to flogging and the like]."*

- [D] *This is in line with what you say*, “[And the woman took and spread a covering over the well’s mouth and scattered grain” (2 Sam. 17:19).
- [E] [Along these same lines] said R. Hiyya in the name of R. Yohanan, “So too did R. Eleazar b. R. Simeon explain the matter before sages: ‘and she is a slave, betrothed to another man’ as laid by a man.’
- [F] *“This is in line with what you say*, “[Crush a fool in a mortar with a pestle] along with crushed grain.””
- [VL3 A] What is the law as to her acquiring ownership of herself at the death of her master or at the completion of the six years?
- [B] *What is the force of this question? Is it in accord with the view of R. Aqiba? [Surely not.]* For R. Aqiba said, “Scripture speaks of a case in which she is half slave and half free, betrothed to a free boy. [In such a case what bearing does the death of the master have upon her status?]” *But in the view of R. Ishmael, it is a serious question.* For R. Ishmael said, “Scripture speaks of a Canaanite slave girl married to a Hebrew slave.” The issue then is whether the marriage has standing under the law of the Torah.
- [C] “If his master gives him a wife” (Ex. 21:4) [indicates that the marriage most certainly does have standing under the law of the Torah]. [So this is hardly an urgent question!]
- [D] *No, the question remains pressing:* What is the law as to her acquiring full ownership of herself when her master dies or the six years are fulfilled, *in accord with the view of him who said that* a Hebrew slave does not serve the heir [of his original master]? [The matter is not spelled out further (cf. Pené Moshe).]

1:2

- [A] **A Hebrew slave is acquired through money or a writ.**
- [B] **And acquires himself through the passage of years. by the Jubilee year. or by deduction from the purchase price [redeeming himself at his outstanding value (Lev. 25:50-51)].**
- [C] **The Hebrew slave girl has an advantage over him.**
- [D] **For she acquires herself [in addition~ through the appearance of tokens [of puberty].**
- [E] **The slave whose ear is pierced is acquired through an act of piercing the ear (Ex. 21:5).**
- [F] **And he acquires himself by the Jubilee or by the death of the master.**

- [I.1 A] [A Hebrew slave is acquired through money or a writ:] It is written. “If your brother, a Hebrew man, or a Hebrew woman, is sold to you, he shall serve you six years, and in the seventh year you shall let him go free from you” (Deut. 15:12). Scripture treats in the same context a Hebrew man and woman. Just as the Hebrew woman is acquired through money or a writ, so a Hebrew man is acquired through money or a writ.
- [B] *The proposition that that is through money poses no problems, for it is said, “she shall go out for nothing, without payment of money” (Ex. 21:11). But whence do we know that that applies also to a writ?*
- [C] We derive the rule for the Hebrew woman servant from a free woman, and the rule for a Hebrew man servant derives from that for a Hebrew woman servant.
- [D] It turns out that what derives from one proposition serves to teach the rule for another.
- [E] *To this point we have proved the proposition in accord with R. Akiba, who indeed concurs that what derives from one proposition may then serve to teach the rule for another. But as to R. Ishmael, who does not concur that what derives from one proposition may then serve to teach the rule for another, [how do we prove that a Hebrew manservant is acquired through a writ]?*
- [F] *The following Tannaite teaching is available: R. Ishmael teaches in regard to this statement, “freedom has not been given to her” (Lev. 19:20), “You shall let him go free from you” (Deut. 15:12). [The latter is interpreted in the light of the former.]*
- [G] *Now in all [other] contexts R. Ishmael does not concur that what derives from one proposition may then serve to teach the rule for another, and yet here [at J] he does indeed hold that view.*
- [H] *It was taught in the name of a sage. “How does R. Ishmael prove [that a writ is applicable to the Hebrew manservant]?” “‘Sending forth’ is stated at Deut. 15 2, and also ‘sending’ is stated at Deut. 24:1. Just as ‘sending forth’ stated in regard to a divorce means that it is done through a writ, so the ‘sending forth’ stated in regard to the slave means that it is done through a writ.”*
- [I] *[But the issue is not the same.] The two cases are dissimilar. For in the case of the divorce of the woman, the writ serves to give her full possession of herself. But here the writ serves to give possession of the*

Hebrew slave to others. [The proposition is to prove that a Hebrew man is acquired through a writ, and that has not been proved.~

- [J] Said R. Mattenaiah, “The use of the language of sale will prove the case. [‘If your brother ... is sold to you’ (Deut. 15:12); ‘If your brother becomes poor and sells part of his property’ (Lev. 25:25).] Just as ‘sale’ stated in the latter case involves use of a Writ, so the language of ‘sale’ used here involves use of a writ.”
- [K] Or, perhaps may one argue, just as in the case of a field acquisition may be made through usucaption, so in the case of the slave, it may be through usucaption?
- [L] [There is a better mode of proof of the besought proposition.] Said R. Hiyya bar Ada, “A Hebrew man and a Hebrew woman are subject to one and the same law.”
- [I.2 A] **Through money.** [“If there are still many years according to them he shall refund out of] the price paid for him [the price for his redemption]” (Lev. 25:51).
- [B] through the payment of money he is redeemed [from the owner, in line with the cited verse], and he is not redeemed through handing over grain or goods.
- [C] *In all other contexts you treat what is worth money as tantamount to ready cash, but here you do not treat what is worth money as tantamount to ready cash.*
- [D] *Said R. Abba Meri, “The present case is to be treated differently, for Scripture itself twice mentioned ‘price’ (Lev. 25:51).*
- [E].Also said R. Hiyya bar Adda, “He will concur that, if the slave sought to deduct from the purchase price, he may do so and go forth free even by means of paying grain or goods.”
- [F] *Said R. Yudan, father of R. Mattenaiah, “What you have stated applies to a case in which one has not estimated their value [grain, goods], but if one has estimated their value, they are deemed tantamount to money.”*
- [I.3 A] **Through a writ:** Said R. Abbahu, “This is by means of a writ covering the money that has been paid over. Lo, it is not to be with a writ of gift [of himself to the master], lest the slave retract his gift of himself to the master.”
- [B] But if that is the case, then perhaps even in the case of a writ covering money that has been paid over, the slave has the power to retract.

- [C] [What was said at A was actually,] “Perhaps a year of famine may come, and the master may retract [on the purchase].” [Consequently, a writ of sale covering funds paid over must be made out, to prevent the master from retracting at will.]
- [I.4 A] The language of sale is this: “I, Mr. So-and-so, have sold my daughter to Mr. Such-and-such.”
- [B] The language of betrothal is this: “I, Mr. So-and-so, have betrothed my daughter to Mr. Such-and-such.”
- [C] *R. Haggai raised the question before R. Yosé:* “[If] one reversed the language and said, ‘I, Mr. So-and-so, have purchased the daughter of Mr. Such-and-such,’ ‘I, Mr. So-and-so, have betrothed the daughter of Mr. Such-and-such,’ [what is the law]?”
- [D] He said to him, “That means nothing. But if he used the language of sale for the language of betrothal, or the language of betrothal for the language of sale, he has done nothing whatever.”
- [II.1 A] **[And acquires himself through the passage of years. by the Jubilee year. or by deduction from the purchase price [redeeming himself at his outstanding value:]** It is written. “When you buy a Hebrew slave, he shall serve six years, and in the seventh he shall go out free, for nothing” (Ex. 2 1).
- [B] Is it possible to suppose that he goes forth at the end of the sixth year?
- [C] Scripture says, “And in the seventh he shall go out free.”
- [D] Is it possible to suppose that he will go forth at the end of the seventh year?
- [E] Scripture says, “Six years shall he serve.”
- [F] How then is this to be?
- [G] He works all six years and goes forth at the beginning of the seventh.
- [H] And as to this reference to the seventh year, he goes out at the seventh year of his own sale, not at the seventh year [the year of release] of the world at large.
- [I] You say that he goes forth at the seventh year of his own sale. But perhaps it is at the seventh year of the world at large?
- U] When Scripture states, “He shall serve for six years,” lo, six full years of service are specified.

[K] How then am I to interpret “And in the seventh he shall go out

[L] He goes forth in the seventh year of his own sale, but not in the seventh year of the world at large.

[M] *Might I say the very opposite [that Scripture really does refer to the seventh year, the year of release, and not the seventh year of the man’s personal status as a slave]?*

[N] R. Zeira in the name of R. Huna, “‘And in the seventh year’ is written.”

[II.2 A] [As a separate argument for the same basic proposition,] said R. Huna, “If you maintain that it is the seventh year at large [and not the seventh year of service of the individual slave], then when the Jubilee year comes along, what sort of slave is it going to release, [since all of them will be free in accord with the previous seven years of release, every seventh year].”

[B] *Said R. Yohanan bar Mareh, “That is in accord with the position of him who said, ‘The Jubilee year does not count among the years of the septennate’ [but is in addition to them, thus it is the fiftieth year of the cycle]. But in accord with the position of him who said, ‘The Jubilee year does count among the years of the septennate’ [serving as the first year of the coming seven-year cycle], there are times in which the Jubilee year will come in the middle of the years of the septennate, [in which case the question raised at O is a valid one, since there will be slaves to free].”*

[C] *The rabbis of Caesarea moreover point out, “Even in accord with the one who said, ‘The Jubilee year does not count among the years of the septennate,’ we can still answer the argument: For the seventh year will serve to free ordinary slaves, and the Jubilee year will serve to free slaves who have had their ears pierced and so remained permanently with their masters.”*

[II.3 A] How do I know that one is freed in the seventh year even though he got sick [and has not worked all six years]?

[B] Scripture says, “And in the seventh year he shall go out free, for nothing.”

[C] Is it possible to suppose that that applies even to a case in which he fled?

[D] Scripture says, “Six years he shall work.”

- [E] Why do you encompass this one [who fell ill, for he too is freed] and exclude that one [who fled]?
- [F] After Scripture used encompassing language, it used exclusive language. Accordingly, I encompass this one [who fell ill] who remains in his domain and exclude that one who is not in the owner's domain."
- [G] *R. Bun bar Hiyya said R. Hoshaiah raised the question: "I see no problem in the case of one who was ill and later fled, that he serves out the required six years. But if he fled and afterward he fell ill [what is the rule]? [Do we say that since he fled at the outset he must make up the years? Or perhaps he may claim that even if he were with the master, he would not have been able to work.]"*
- [H] *Said R. Hiyya bar Ada, "Let us derive the answer from the following: **She who rebels against her husband by declining to have sexual relations with him]**– **they deduct from her marriage contract seven denars a week [M. Ket. 5:7]. They write for him a writ of rebellion as a charge against her marriage contract. In this regard R. Hiyya taught as a Tannaite formulation, '[Even in the case of] a menstruating woman. a sick woman, a betrothed girl, and a deceased childless brother's widow– they write for him a writ of rebellion as a charge against her marriage contract.'** Now how do we interpret this matter? If it was a case in which she rebelled against him [refusing to have sexual relations], and she is already in her menstrual period, it is the Torah that has required her to rebel against him. *But thus must we interpret the matter:* It is a case in which she rebelled against him [refusing to have sexual relations] before her menstrual period had begun. Now [the argument continues], when in fact she comes to her menstrual period, she is no longer in a position to rebel, and yet you say that [nonetheless] he writes such a writ of rebellion against her marriage contract. Here too [by analogy], if the slave fled [when he was well] and afterward fell ill, he still must make up the years he has not served. *For the master has the right to say to him, 'If you had been with me, you would not have gotten sick.'*"*
- [I] Said R. Hinena, "Even in regard to the first case [in which the slave got sick, then fled], the same ruling applies. If the slave got sick and then fled, he must complete the six years, *for the master has the right to say to him, 'If you had been with me, you would have been healed more rapidly.'*"

[II.4 A] **And he acquires himself through the passage of years [by the Jubilee Year, or by deduction from the purchase price, redeeming**

himself at his outstanding value]. [This is in line with Lev. 25:50-52: “He shall reckon with him who bought him from the year when he sold himself to him until the year of Jubilee, and the price of his release shall be according to the number of years; the time he was with his owner shall be rated as the time of a hired servant. If there are still many years, according to them he shall refund out of the price paid for him the price for his redemption. If there remain but a few years until the year of Jubilee, he shall make a reckoning with him; according to the years of service due from him he shall refund the money for his redemption.”]

[B] *There is a Tannaite authority who teaches:* “He may be sold for less than six years, but he may not be sold for more than six years.”

[C] *There is a Tannaite authority who teaches:* “He may not be sold either for [59b] less than six years or for more than six years.”

[D] *Said R. Jeremiah, “The reason for the former Tannaite authority’s view is that* there are times that he is sold two or three years before the Jubilee year, and the Jubilee year comes along and removes him [from the domain of the master] willy-nilly.”

[II:5 A] **By the Jubilee year:** As it is written, “He shall be released in the year of the Jubilee” (Lev. 25:54).

[II:6 A] **Or by deduction from the purchase price:** As it is written, “If there are still many years, according to them he shall refund out of the price paid for him the price for his redemption. If there remain but a few years until the year of Jubilee, he shall make a reckoning with him; according to the years of service due from him he shall refund the money for his redemption” (Lev. 25:51-52).

[II:7 A] Now do we not know that if there are many years, there are not a few remaining, and if there are few, there are not many? [Why does the same proposition require repetition?]

[B] Said R. Hila, “There are times that the money owing on the years remaining is greater than the value of the man as a slave, and there are times that the money owing for the years remaining is less than the value of the man as a slave.

[C] “How do you know that if the man was sold at the rate of a maneh [a hundred zuz] per year of service, and he has increased in value, so that lo, he now is worth two hundred zuz per year of service, how do you know that he reckons with him only at the rate of a maneh per year of service [as yet remaining]?”

- [D] “Scripture states, ‘out of the money that he was bought for.’
- [E] “How do you know that if the man was sold at the rate of two hundred zuz per year of service, and he fell in value, and now is worth a maneh, how do you know that he reckons with him only at the rate of a maneh per year of service [as yet remaining]?”
- [F] “Scripture states, ‘according to his years of service due from him he shall refund the money for his redemption.’
- [G] ‘We have thus derived the rule in the case of an Israelite sold to a gentile that, when he is redeemed, he has the upper hand.’
- [H] How do we learn that in the case of one sold to an Israelite, when he is redeemed, he also has the upper hand?
- [I] The word “hired servant” is used in both contexts [sold to an Israelite: Lev. 25:40; to a gentile: Lev. 25:53], serving the purpose of establishing a common rule for both.
- [J] Just as the use of the word “hired servant” stated in the context of gentile ownership means that, when he is redeemed, he has the upper hand, so the use of the word “hired servant” in the Israelite setting means that when he is redeemed, he has the upper hand.
- [K] Rabbi says, “Why does Scripture repeat the word ‘He will redeem him’ three times? It is to encompass all acts of redemption, requiring that each of them follow the same procedures, [thus proving that when the slave is redeemed from an Israelite he also has the upper hand].”

- [II.8 A] “And if he is not redeemed by these [means, then he shall be released in the year of Jubilee, he and his children with him]” (Lev. 25:54).
- [B] R. Yosé the Galilean says, “By these [relatives (Lev. 25:49ff).] it is for freedom, or [if he is redeemed] by anyone else it is for subjugation [purchased for further service].”
- [C] R. Aqiba says, “By these [relatives] it is for subjugation, or by any one else it is for freedom.”
- [D] [What is at issue in this dispute?] R. Abbahu in the name of R. Yohanan: “Now both of them interpret a single verse of Scripture: ‘And if he is not redeemed by these’ – R. Yosé the Galilean interprets the verse, ‘And if he is not redeemed by these [relatives] but by others, then he remains in service [to the master until the Jubilee] and then goes free. R. Aqiba interprets the verse, ‘But if he is not redeemed by

(himself]’ but by relatives he serves out the years until the Jubilee and then goes free.”

- [E] But as to the opinion of sages [in the same matter], R. Yosa in the name of R. Yohanan. “Whether he is redeemed by these [relatives] or by others, it is for freedom.”
- [F] *And so too has it been taught as a Tannaite formulation:* “or if his hand should turn up [sufficient funds], he will be redeemed” (Lev. 25:9)–
- [G] “if his own hand turns up sufficient means for his redemption”. Just as if his own hand turns up sufficient means, [he is freed and does not serve others], so if the hand of others [turns up sufficient means for his redemption], it is for his own benefit [and not so that he may then be subjugated to them].
- [H] [Now to explain the position of those who say that he is redeemed in order to complete the term of service:] R. Jacob bar Aha in the name of R. Yohanan, “In the view of him who says, ‘It is to subjugation,’ [it is so that] he completes the original term of service and then goes forth [but does not serve another six years].”
- [I] *And has it not been taught as a Tannaite formulation:* If after he has been redeemed [he is re-subjugated], lo, it is as if he is sold to him? He is subjugated [for the six-year term of service] and then goes forth.
- [J] *Said R. Abba Meri, “The proper reading here is not that* he is subjugated [for the whole term of six years] and then goes free, but rather, ‘He completes the original term of service and then goes free.”
- [K] If his relatives wanted to redeem him from the first purchaser, they have that right. [If he is redeemed from the first purchaser and] the relatives wanted to redeem him from the redeemer, they do not have that right.
- [M] *R. Yosa in the name of R. Yohanan, “That statement accords with the view of him who said, ‘by these [relatives]’ means that he is redeemed for freedom, but by any other person he is taken over into a new term of service.”*

[II.9 A] *Samuel bar Abba raised the question before R. Yosa, “Here [in regard to redeeming the slave] it is written, ‘He shall reckon with him ... from the year when he sold himself to him until the year of Jubilee’ (Lev. 25:50) and [in regard to redeeming an inherited field*

that one has consecrated, it is written, “Then the priest] shall reckon [the money value for it according to the years that remain until the year of Jubilee, and a deduction shall be made from your valuation]’ (Lev. 27:23). Now here [in the case of redeeming a slave] you take account of months as well as years, when he goes forth [so that if it is the middle of the year, half of the year is deemed to count as part of the term of service, but when the field is assessed by the priest, only whole years are taken into account (cf. M. Ar. 7:1)]. [What is the difference?]”

[B] He said to him, “The present case is different, for the Torah has treated the slave in the context of the hired hand. Just as the latter reckons months and completes his term of service, so this one also reckons months as well as years and completes his term of service.”

[III.1 A] **[The Hebrew slave girl has an advantage over him. For she acquires herself in addition through the appearance of tokens of puberty [M. 1:1C-D]]** “She shall go out for nothing, without payment of money” (Ex. 21:11).

[B] “For nothing” – refers to the time of pubescence.

[C] “Without payment of money” – refers to the tokens of maturity.

[D] And why should the law not refer to only one of them?

[E] If it had referred to only one of them, I might have maintained, “If she goes forth through the appearance of the signs of puberty, all the more so will she go forth at the time of pubescence.” If so, I would have maintained, the time of pubescence is the only time at which she goes forth, and not the time at which she produces signs of puberty.

[F] Now logic would suggest as follows: Since she leaves the domain of the father and leaves the domain of the master, just as from the domain of the father she goes forth only when she has produced the signs of puberty, also from the domain of the master she should go forth only when she produces signs of puberty.

[G] *On that account it was necessary to state:*

[H] “For nothing” – refers to the time of pubescence.

[I] “Without a payment of money” – refers to the signs of puberty.

[J] And perhaps matters are just the opposite [so that “she will go forth for nothing” refers to the period of twelve and a bit more in which she is a girl, and “without a payment” refers to the time at which she has reached puberty]?

[K] R. Tanhuma in the name of R. Huna: “‘Without money’ – In any context in which the father receives money, the master does not receive money.”

[III.2 A] “[If she does not please her master,] who has designated her for himself, then he shall let her be redeemed” (Ex. 21:8):

[B] “This teaches that he may not designate her for himself unless there is sufficient time left in the day for redeeming her. [That is, the labor on this very last day of her term of service must still be worth at least a perutah, so that she could be designated to him by means of the deduction of that amount of money.] [The consequence is that] in the remaining labor to be done by her there must be a value of a perutah, so that in the deduction applying to her, there will be a value of a perutah,” the words of R. Yosé b. R. Judah.

[C] And sages say, “He may designate her all day long, down to the very last rays of the sun.”

[D] Said R. Hiyya bar Ada, “All concur in the case of [redeeming] a Hebrew slave that this may be done only so long as there remains the sum of a perutah [to be worked off]. [If such a sum is yet owing, he may be redeemed therefrom. Otherwise the process does not apply.]”

[E] Well did R. Yosé b. R. Judah rule [that betrothal takes place only if there is sufficient time left in the day for labor of a value of a perutah to be remitted by the owner, thus constituting the sum owing to the girl for her betrothal].

[F] *What is the reason of the rabbis?* [For what constitutes the sum of betrothal, on the strength of which the owner designates the girl as his betrothed?] There is no issue of money, nor is there an issue of the value of her labor [at the end of that last day]. So with what does the owner designate her [and betroth her]?

[G] Said R. Zeira. “He designates her by a mere oral declaration, [which suffices].”

[H] *R. Hoshaiyah taught as a Tannaite rule:* “How does he designate her? He says to her before two witnesses, ‘Lo. you are designated unto me [as my betrothed].’”

[I] *In the opinion of R. Yosé b. R. Judah* it is only at the end of the transaction that [whatever] money [is left over from the period of service] is given to her for the purposes or designation [as his betrothed].

- [J] *In the opinion of the rabbis* from the very beginning of the transaction [when the girl was sold by her father to the owner], the money was handed over for the purposes of designation [and hence betrothal]. [That is why. so far as they are concerned, whether or not there is sufficient time left in the day for her to work off a perutah, which is forgiven her in exchange for the designation as betrothed, the rabbis deem her betrothed. The betrothal money was paid out as the original price for the girl.]
- [K] *What is the practical difference between the two?*
- [L] It is ownership of the fruits of her labor. *The one who said that* at the end the money is given over to her for the purposes of designation, [that is, R. Yosé b. R. Judah,] maintains that the usufruct of her labor belongs to the master [and not to her father]. [She is deemed married like any other woman.] *The one who said that* from the very outset the money is given over to her for the purposes of designation maintains that the usufruct of her labor belongs to her father. [If the master designates her at the end of the six years, it does not matter, since the original sum paid to the father covered the money owing for the designation as the betrothed of the master. Whatever work she does after the six years are over produces benefit to the father, since she is not deemed normally wed to the master. She returns to the domain of the father and is not deemed wed to the master. The effect of the designation is to betroth her, not to effect a complete marital bond.]
- [M] *Even in accord with the one who said that* from the very outset the money is given over to her for the purposes of designation, the usufruct of her labor belongs to her husband. [Why?] [Because] he is in the status of one who says to a woman, “Lo, you are betrothed to me on condition that the usufruct of your labor belongs to me [even while you are merely betrothed to me, not in a fully consummated union]. [Consequently, even in this position one may maintain the same position as is given to one in the contrary view.]
- [N] If the master was married to her sister [in which case he was not permitted to marry her as well], and the sister died, *the one who said that* only at the end is the money given over to her for the purposes of designation [betrothal] will maintain that she requires the payment of another sum of money [to accomplish the designation as the master’s betrothed, since in any event she was not suitable to marry him while the sister was alive, so no funds have been transferred for this purpose]. [*But in the view of the one who said that* from the very outset the money is given over to her for the purposes of designation, she does not have to be given another sum of money, [because we

deem the money originally paid over to serve retroactively as the betrothal payment].

[O] *[No, that proposition is rejected:] Even in accord with the one who said that from the very outset the money is given over to her for the purposes of designation, she still has to be given another sum of money, [because we certainly do not deem the money originally paid over to serve retroactively as the betrothal payment]. Why? Because all parties concur that a betrothal is not valid in the case of a prohibited connection. [That is, if while the sister is yet alive the master should betroth the girl, the betrothal is null, since while the sister is alive there is no possibility of betrothing her; hence there is also no possibility of a retroactive interpretation of the money originally paid as having served for purposes of designation as the master's betrothed.]*

[P] *Does R. Yosé b. R. Judah maintain the view that this act of designation that takes place here [at the end of the six years of labor, in which there is yet enough time for the girl to perform a perutah's worth of labor, as explained above] enjoys the status of a betrothal as authorized by the laws of the Torah?*

[Q] *Said R. Abun "R. Yosé b. R. Judah is of the same view as R. Simeon b. Eleazar, as we have learned in the following Tannaite formulation: **He who says to a woman, "Lo, you are betrothed to me through my bailment that you have in your hand," [if] she went off and found that it had been stolen or had gotten lost, if there was left in her possession something worth a perutah, she is betrothed, and if not, she is not betrothed. [But if it concerned] a loan, even though there was something worth a perutah left in her possession, she is not betrothed. R. Simeon b. Eleazar says in the name of R. Meir, "A loan is equivalent to a bailment. If there remained in her hand something worth a perutah, she is betrothed. And if not, she is not betrothed"** [T. Qid. 3:1]. Just as R. Simeon b. Eleazar treats a loan as equivalent to a bailment, so R. Yosé b. R. Judah treats funds paid for the girl for purposes of designation as equivalent to a loan."*

[III:3 A] "If he designates her for his son, [he shall deal with her as a daughter]" (Ex. 21:9).

[B] He designates her for his son, but he does not designate her for his brother.

[C] And let him be free to designate her for his brother, on the basis of the following argument a fortiori: Now if in the case of the son, who does

not stand in his stead for purposes of the rite of removing the shoe or for levirate marriage, lo, he designates her for him, his brother, who does stand in his stead for purposes of the rite of removing the shoe and for levirate marriage – is it not logical that he should be free to designate her for him?

[D] No. If you have stated the rule in regard to the son, who stands in his stead in regard to a field received as an inheritance (M. Arakh 7:2), will you say the same of his brother, who does not stand in his stead in regard to a field received as an inheritance? Since he does not stand in his stead in that regard, it is not logical that he should be free to designate her for him. Accordingly, Scripture states, “And if he designates her for his son,” meaning, for his son he designates her, and he may not designate her for his brother.

[III.4 A] “And if he designates her for his son” – and he may not designate her for his son’s son. *Samuel bar Abba raised the question before R. Zeira: “In the law dealing with inheritances you treat the son of the son as equivalent to the son. But here you do not treat the son of the son as equivalent to the son.”*

[B] *R. Zeira said, “To whoever can explain this matter to me, I shall give a glass of spiced wine!”*

[C] *R. Nahum answered, “Lo, [59c] in connection with inheritances, you treat the brother as equivalent to the son, and all other relatives as equivalent to the son, and so, likewise, you treat the son of the son as equivalent to the son.*

[D] “But here, in a case in which you have not treated the brother as equivalent to the son, and all other relatives as equivalent to the son, there is hardly much reason to treat the son of the son as equivalent to the son.”

[E] *The rabbis of Caesarea objected: “Lo, in the matter of the priest’s becoming unclean for a deceased relative, you have treated a brother as equivalent to the son, and all other relatives [listed, for whom the priest may become unclean with corpse uncleanness required in burying the deceased] likewise are treated as equivalent to the son. But you do not treat the son of the son as equivalent to the son.”*

[F] *They said, “There goes the cup of spiced wine” [since Zeira now did not owe it to Nahum].*

[III.5 A] “If he designates her for his son” (Ex. 21:9) – It must be with the son’s knowledge and consent.

- [B] *Said R. Yohanan, “There is no requirement here for the son’s knowledge and consent.”*
- [C] *Said R. Jacob bar Aha, “There is indeed a requirement here for the son’s knowledge and consent, along the lines of the position of R. Yosé b. R. Judah [at III.2S. The money the father got at the outset was for selling the girl, not for purposes of betrothing her. It follows that if there is to be a betrothal it comes later on, hence with the girl’s agreement. Likewise, if the father wishes to betroth her to his son, it must be with the son’s agreement.]”*
- [D] *Said R. Samuel b. bar Abedoma, “Even if you say that this is in accord with the view of R. Yosé b. R. Judah, there is no need for advance knowledge and consent, “For cannot the son be a minor [who has no legal right of knowledge and consent, since the verse simply says ‘son’ with no qualifications (following Pené Moshe)].”*
- [III.6 A] “If he designates her for his son” (Ex. 21:9)– it must be with the son’s knowledge and consent.
- [B] R. Yohanan said, “He designates her, whether for his adult son or his minor son, whether with his knowledge and consent or not with his knowledge and consent.”
- [C] R. Simeon b. Laqish said, “He designates her only for his adult son, for it must be done with the son’s knowledge and consent [and a minor legally has neither].”
- [D] [Both views will be tested against the following:] A son who is nine years and one day old [who is married to a woman and dies] turns [that woman] into a widow [so far as her being prohibited to marry] a high priest; or [if he divorces his wife or performs the rite of removing the shoe with his sister-in-law], he turns [that woman] into a divorcée or a woman who has removed the shoe [so far as her being prohibited to marry] an ordinary priest [is concerned]. [Consequently, he is deemed for the present purposes to be a husband.] *Now so far as R. Yohanan is concerned, who interprets that statement to apply to a case in which the father has designated a slave girl as the betrothed for his son, there is no problem. We deal here with an act of designation in which the son has a right of acquisition in the woman. Consequently, under the stated conditions, on his account the woman may be deemed a widow so far as marriage to a high priest is concerned, or a divorcée or a woman who has carried out the rite of removing the shoe so far as being married to an ordinary priest is concerned. As to the view of R. Simeon b. Laqish, will he interpret the matter to speak of a case in which the son was married [in an ordinary way]? Then the woman*

should be exempt from the status of a woman who has performed the rite of removing the shoe and from the requirement of levirate marriage. For have we not learned the following: If a nine-year-old married a woman and died [without children], lo, this woman is exempt [from levirate marriage, since the marriage of a nine-year-old is null. So Yohanan can interpret the cited passage, but by Simeon b. Laqish, who maintains that there is no possibility- of designating the slave girl as the wife of a minor, how is the passage to be interpreted?].

[E] *Said R. Abin, "The view of R. Simeon b. Laqish accords with the position of R. Yosé b. R. Judah [in the following dispute]. For so it has been taught as a Tannaite statement: A son nine years and one day old up to twelve years and one day old who produced two pubic hairs or two hairs under the arm, lo, this [set of hairs] is deemed nothing but a mole [and he is not regarded as mature]. R. Yosé b. R. Judah says, "Lo, these are regarded as valid signs of puberty, and he is deemed an adult."*

[F] R. Jacob b. R. Bun in the name of R. Yosé b. Haninah [explaining Yosé's position]: "And that applies when the signs appeared at a time appropriate for producing signs of puberty [in the twelfth year]."

[G] *R. Yosé raised the question: "If the signs of puberty appeared during such a period, is he deemed an adult retroactively or only from now on."*

[H] R. Abun: "It is obvious that it is retroactively that he is treated as an adult, all the more so from now on."

[I] *[The reason this was obvious to Abun is] that he interpreted this statement of R. Simeon b. Laqish in accord with the position of R. Yosé b. R. Judah. [That is, Simeon b. Laqish accords with Yosé b. R. Judah and maintains that a boy nine years and one day old who dies turns his wife into a widow so far as marriage to a high priest is concerned. We have then a case in which the signs of puberty appeared at a later age; retroactively he is deemed to be an adult. Accordingly, it is obvious that Simeon b. Laqish and Yosé will regard the puberty signs as retroactively effective. As to explaining D, Simeon b. Laqish does so in this wise.*

[J] *And why does R. Yosé not interpret the matter of R. Simeon b. Laqish in accord with the position of R. Yosé b. R. Judah?*

[K] *Said R. Mana, "Because he was troubled by this problem. R. Yosé wanted to know, if the puberty signs appeared at the right time, whether retroactively he is deemed to be an adult, or only from now on. Now in this case, it poses no problem as to his turning his wife into a widow, but how can he turn her into a divorcée [for a minor may not give a writ of divorce]?" One may interpret the case to be one in which he had sexual relations and gave her a writ of divorce, or gave one when he became an adult. In the case of her becoming a widow who has removed the shoe on his account. interpret the case in which he had sexual relations with his wife~ then died, and his brother had performed the rite of removing the shoe with his widow. So on account of his brother, she entered the status of a woman with whom the rite of removing the shoe had been performed. If that is the case, then why not invoke the same rule in the case of a boy less than nine years old [who later had intercourse and divorced his wife]?"*

[L] *Said R. Samuel b. Abodema, "And that is indeed correct. [It does apply.] But since [the Tannaite authority] wished to phrase the entire set of statements to concern a nine-year-old, he treated this particular case also in terms of a nine-year-old."*

[M] R. Judah bar Pazzi in the name of R. Joshua b. Levi, "R. Yosé b. R. Judah derived the facts from Ahaz, for it has been taught: Ahaz fathered a son at the age of nine; Haran at the age of six; Caleb at the age of ten."

[N] And this is in accord with him who maintains that Caleb son of Hesron is the same as Caleb the son of Yefuneh [cf. B. San. 69a].

[III:7 A] "If the father of the girl sold her to this one [in line with Ex. 21:7-11] and betrothed her to someone else, the father has ridiculed the master, [for what he has done is valid in both cases,]" the words of R. Yosé b. R. Judah.

[B] And the sages say, "The father has not ridiculed the master [who has every right to designate the girl as his betrothed, despite the father's deed with the other party]. [Sages maintain that by selling the girl he

has accepted betrothal money, and consequently his betrothal to another party was null.]”

- [C] [The theory of Yosé b. R. Judah is this:] The master is in the position of one who says to a woman, “Lo, you are betrothed to me after thirty days.” Now if someone says to a woman, “Lo, you are betrothed to me after thirty days,” and someone else came along and betrothed her during the thirty days, is it possible that she is not betrothed to the second party? [Obviously not. She certainly is betrothed to the second party, for there is no intervening rite of betrothal.]
- [D] [The theory of rabbis is this:] If he said to her, “Lo, you are betrothed to me from this point, effective in thirty days.” and someone else came along and betrothed her during the period of thirty days, is it possible that she is not betrothed to the two of them [by reason of doubt]? [Obviously not. She is betrothed and yet prohibited to both parties by reason of doubt.] [Now the betrothal effected by the master’s designation of the girl to be his wife] is already [effective] whenever he wishes [to consummate the marriage]. [Accordingly, it is parallel to the case outlined just now, betrothal on condition. For the rabbis maintain that the money originally paid over also serves as betrothal money.]
- [E] All concur, to be sure, that if the father actually had married the girl off, he has ridiculed the master, [who can do nothing about it].

[III:8 A] “When a man sells his daughter as a slave” (Ex. 21:7)–

- [B] “Solely as a slave. This teaches that he has the right to sell her to the master and to stipulate with him that it is on condition that he not have the right to designate her as his betrothed,” the words of R. Meir.
- [C] And sages say, “In so stating, he has done nothing whatever, for he has made a stipulation contrary to what is written in the Torah, and whoever stipulates contrary to what is written in the Torah– what he has stipulated is null.”
- [D] *Now does R. Meir not concur that* whoever stipulates contrary to what is written in the Torah – what he has stipulated is null?
- [E] *He maintains that* one’s stipulation is null if it is not possible for him to carry it out without actually violating the rules of the Torah. But in the present case it is possible for him to carry it out in the end. [For the owner is not obligated by the Torah to designate the girl as his betrothed at all. Meir thus maintains that such a stipulation is valid. So

this one has every possibility of carrying out the stipulation in the end without violating the Torah.]

- [F] *And do rabbis [vis-a-vis Meir] not maintain that a stipulation is valid if it is possible for him to carry it out in the end without violating the Torah?*
- [G] *They concur that a stipulation is valid [if it is contrary to the Torah] so long as it is possible for him to carry it out in the end without violating the Torah. [But that is the case in which the stipulation deals with] a monetary matter, [while the present stipulation deals with] a matter covering the person herself.*
- [H] *Now lo, it is taught: as a Tannaite rule: “A man marries a woman and stipulates with her that it is on condition that he not have the obligation to provide for her food, clothing, or marital rights” [Ex. 21:10]. Now that poses no problem as to food or clothing. But marital rights do affect the body [the person herself].*
- [I] Said R. Hiyya bar Ada, “Interpret the passage to speak of a minor girl.”
- [J] *As to the Tannaite authority who maintains that the stipulation is null, how does he interpret the reference to selling her for a slave girl?*
- [K] He maintains that the father] may sell her if she is a widow to a high priest, and if she is a divorcée or a woman who has undergone the rite of removing the shoe to an ordinary priest, [and the purpose of the specification “for a slave” is to indicate that that is permitted].
- [L] *And how does the other Tannaite authority interpret the specification “for a slave,” [since he holds, as we shall see, that a man may not sell his daughter as a slave girl after he has sold her for marriage, since from that view, one may not interpret the matter to apply to selling the girl as a widow to a high priest, for, in this Tannaite authority’s view, once she was married and widowed, the father may not sell her anyway]?*
- [M] Said R. Yosé b. R. Bun, “Interpret the statement to apply to a case in which the girl was widowed out of the status of merely being betrothed.”
- [N] *But has it not been taught [in a passage that can speak only of the status of betrothal, not of a fully consummated marriage]: “A man may sell his daughter for marriage [and if she became widowed or divorced] he may do so again [provided she is still a minor].” Similarly, he may sell her as a slave girl, [and if she was a minor when*

receiving her freedom through the end of the six year period or the Jubilee year or her master's death] he may do so again. He may sell her for a slave girl, [and if she became free] he may sell her for marriage. However, he may not sell her as a slave girl after he had already sold her for marriage.

- [O] *Said R. Yohanan, "There are two opinions. The one who holds that the passage refers to the father's selling her only as a slave girl, and that our case refers to a widow sold to a high priest [and consequently she cannot marry the high priest], maintains that the father may sell her as a slave girl after she has been married [and, as we see, widowed after being merely betrothed]. The one who holds that the passage does not speak of a widow's being sold to a high priest also does not concur that the father has the right to sell the girl as a slave girl after she has been married."*
- [P] *Then how does this second party interpret the language of Scripture, "as a slave girl"?*
- [Q] *Said R. Mattenaiah, "Interpret the passage to a case in which he was married to her sister. [Scripture thus indicates that the father may sell the girl to a man who already has married the girl's sister, since he sells her as a slave girl and not for the purpose of designation as the master's betrothed.]"*
- [R] *R. Simeon b. Yohai taught as a Tannaite statement, "Just as the father may not sell the girl as a slave girl after she has been married, so he may not sell her as a slave girl after she already has been sold as a slave girl."*
- [S] *What is the scriptural basis for the position of R. Simeon b. Yohai?*
- [T] *"...since he has dealt faithlessly with her" (Ex. 21:8). One time he has the opportunity to deal faithlessly with her, and he does not have the opportunity to deal faithlessly with her a second time.*
- [V] *How do rabbis [who do not concur with Simeon's position] interpret this proof text as adduced in evidence by Simeon b. Yohai, "since he has dealt faithlessly with her"?*
- [W] *Once [the master] has spread his cloak over her [and had sexual relations with her], the father has no further domain over her.*

[III:9 A] R. Simeon b. Laqish raised the question before R. Yohanan: “A Hebrew slave girl should go forth if she is wed [to someone other than the master, going forth at that point from the domain of the master]. This position is based upon an argument a fortiori. Now if the appearance of the signs of puberty, which do not remove her from the domain of the father, lo, do remove her from the domain of the master, the fact that she is married, which does remove her from the domain of the father— is it not a matter of logic that it should also remove her from the domain of the master?”

[B] He said to him, “I know only what the Mishnah states: **The Hebrew slave girl has an advantage over him, for she acquires herself through the appearance of tokens of puberty [M. 1:2CD]– [that and no more].**”

[III:10 A] Bar Pedaiah said, “A Hebrew slave girl goes forth at the death of her master.”

[B] What is the scriptural basis for that view?

[C] “And to your bondwoman you shall do likewise” (Deut. 15:17). And it is written, “He shall be your bondman forever” (Deut. 15:17). Scripture thereby links the rule covering the Hebrew slave girl to the slave whose ear is pierced. Just as the slave whose ear is pierced goes free at the death of his master, so the Hebrew slave girl goes free at the death of her master.”

[D] *And this teaching of Bar Pedaiah accords with what the following Tannaite authority taught, for it has been taught as a Tannaite formulation: A Hebrew slave boy serves the son and does not serve the daughter. A Hebrew slave girl serves neither the daughter nor the son (following QE).*

[E] *There is a Tannaite authority who teaches, “Whether it is a Hebrew slave girl or a Hebrew slave boy, they do not serve either the son or the daughter [but go free at the death of the master].”*

[F] *How does that Tannaite authority interpret the language of Scripture, “And to your bondwoman you shall do likewise” (Deut. 15:17)?*

[G] *He interprets that language to apply to the matter of sending forth the slave well supplied [(“And when you let him go free from you, you shall not let him go empty-handed; you shall furnish him liberally out of your flock, out of your threshing floor, and out of your winepress,” (Deut. 15:13) – That is,*

when the slave girl goes forth, she too should be liberally supplied by the master.]

[H] *For it has been taught:* These are the ones whom one supplies liberally when they go forth: he who goes forth at the end of his years of service and at the Jubilee, and the Hebrew slave girl who acquires possession of herself through the appearance of puberty signs. But he who goes forth by deducting [what is owing] or at the death of the master – they do not supply these liberally.

[III:11 A] It is written, “And his master shall bring him to the judges, and he shall bring him to the door or the doorpost” (Ex. 21:6).

[B] How is this possible?

[C] The slave who was sold by a court is subject to the statement, “And his master will bring him to the judges.”

[D] And the one who sells himself is subject to the statement, “And he shall bring him to the door.”

[E] *R. Ammi raised the question:* “It is self-evident that, as to the one who is sold by a court, the court writes out [59d] his writ for him. But as to the one who sells himself, who writes out the writ for him?” [This question is not answered.]

[III:12 A] It is written, “It shall not seem hard to you, when you let him go free from you; for at half the cost of a hired servant he has served you six years” (Deut. 15:18).

[B] A hired hand works by day but does not work by night.

[C] A Hebrew slave works by day and by night.

[D] It is written, “He shall not rule with harshness over him in your sight” (Lev. 15:53), and yet you say this?

[E] *R. Ammi in the name of R. Yohanan:* “His master marries off a Canaanite woman to him, so he turns out to work by day and by night [fathering children for the master by night].”

[F] *R. Ba bar Mamel raised the question before R. Ammi:* “But take note. What if he purchased a priest? [He then could not marry a Canaanite woman.]”

[G] He said to him. “And is an Israelite not released from the general prohibition [against such marriages]? [Likewise a priest in these circumstances is no different.]”

[H] *When R. Ba bar Mamel heard this, he retracted.*

- [IV:1 A] [Supply: **THE SLAVE WHOSE EAR IS PIERCED IS ACQUIRED THROUGH AN ACT OF PIERCING THE EAR (EX. 21:5). AND HE ACQUIRES HIMSELF BY THE JUBILEE OR BY THE DEATH OF THE MASTER:]** R. Judah b. R. Bun interpreted this word: “The lobe of the ear is pierced so that, should the slave be a priest, he is not invalidated for service.
- [B] R. Meir says, “He was pierced at the gristle [cartilage forming the ear].”
- [C] On this basis R. Meir did say, “A priest is not to have his ear pierced [as a slave], lest he thereby be blemished and so be invalidated for the Temple service.”
- [D] [But why should that be a problem?] Let the gristle be pierced with a hole less than the size of a vetch, [which will not be a blemish].
- [E] Perhaps it may become a hole the size of a vetch [and so blemish the priest].
- [F] So let him be pierced with a hole the size of a vetch, [and what difference does that make]?
- [G] The Torah has said, “And he shall return to his property ‘ (Lev. 25:27) – That means, he must return whole [and not blemished].
- [H] Now would he have his ear pierced, unless he had a wife and children [and, it follows, that that applies even to a priest, who is also given a Canaanite woman].
- [IV:2 A] “With an awl” (Ex. 21:6): I know that one may use only an awl. How do I know that it may be done with a wooden prick. thorn, or shard of glass?
- [B] Scripture says, “And he will pierce” [by whatever means].
- [C] Up to this point [we have answered the question] in accord with R. Aqiba[’s mode of exegesis]. How does R. Ishmael answer the same question.]
- [D] *R. Ishmael taught as a Tannaite formulation:* “In three places the practical law supersedes the biblical text. and in one the legitimate interpretation of the text [ignoring the rules of interpretation]. The Torah has said, ‘in a book’ (Deut. 24:1), and the practical law says that on anything that is uprooted from the ground [a writ of divorce may be written]. The Torah has said, ‘With dirt’ [the blood is to be covered up] (Lev. 17:13), but the practical law requires that it be done with

anything in which seeds will grow. The Torah has said, ‘With an awl,’ but the practical law permits use of a wooden prick, thorn, or shard of glass. And in one place the legitimate interpretation of the text: [R. Ishmael taught] ‘And it shall be on the seventh day he shall shave all his hair (Lev. 14:9)’ – a generalization; ‘of his head and his beard and his eyebrows’ – a particularization; ‘even all his hair he shall shave off’ – generalization. Where there is a general proposition followed by a particular specification and again followed by a general proposition, only what is like the particulars is included. This then tells you, ‘Just as the particularization refers explicitly to a place on the body on which hair is gathered together and is visible, so I know only that every place on the body where hair is gathered together and is visible is to be shaved off. But the law rules: ‘He should shave him as [smooth as] a gourd.’”

- [IV:3 A] “With an awl”: Just as an awl is made of metal so anything made of metal [will serve].
- [B] Rabbi says, “This refers to a large spit.”
- [C] R. Yosé b. R. Judah says, “This refers to a chisel.”
- [D] “And he shall bring him to the door” (Ex. 21:6). Is it possible to suppose that that is the case even if the door is lying [on the ground]?
- [E] “Scripture says, ‘Or to the doorpost’ (Ex. 21:6).
- [F] “Just as the doorpost is standing, so the door must be standing. It is a matter of shame to the slave and a matter of shame to a family.”
- [IV:4 A] It was taught as a Tannaite formulation: R. Eliezer b. Jacob says, “Why is it that he is brought to the door? It is because it is through [blood placed over the lintel on the] door that [the Israelites] went forth from slavery to freedom.”
- [IV:5 A] His disciples asked Rabban Yohanan b. Zakkai, “Why is it that this slave has his ear pierced, rather than any other of his limbs?”
- [B] He said to them, “The ear, which heard from Mount Sinai, ‘You will have no other gods before me’ (Ex. 20:3), and yet this one broke off the yoke of the kingdom of Heaven and accepted upon itself the yoke of flesh and blood –
- [C] “the ear which heard before Mount Sinai, ‘For to me the people of Israel are slaves, they are my slaves whom I brought forth out of the land of Egypt: I am the Lord your God’ (Lev. 25:55), yet this one went and got another master for himself–

[D] “therefore let the ear come and be pierced, for it has not observed the things it heard.”

[IV:6 A] “His ear” [(Ex. 21:6) is stated here, and] “his ear” [is stated elsewhere (Lev. 14:14)] –

[B] just as “his ear” stated later on refers to the right ear, so “his ear” stated here is the right ear.

[C] “But if, saying, the slave says ...” (Ex. 21:5). Two speeches are under discussion, one at the end of the sixth year of service, the other at the beginning of the seventh year –

[D] one at the end of the sixth year of service, while he is still in his period of service, and one at the beginning of the seventh year – [the phrase] “I will not go out free” [supposes that he could if he wishes, and that occurs only at the beginning of the seventh year].

[E] “I love my master, my wife, and my children” (Ex. 21:5). This teaches that he does not have his ear pierced before he has a wife and children, and before his master has a wife and children,

[F] before he has come to love his master, and his master to love him,

[G] before the master’s possessions are greatly blessed on his account, as it is said, “since he fares well with you” (Deut. 15:16).

[IV:7 A] And he acquires ownership of himself at the Jubilee [M. 1:2F]: As it is written, “He shall be released in the year of the Jubilee, he and his children with him” (Lev. 25:54),

[B] or at the death of the master: As it is written, “And he shall be your bondman forever” (Deut. 15:16) – for the “forever” of the master.

1:3

[A] **A Canaanite slave [that is, any non-Israelite slave] is acquired through money, through a writ, and through usucaption. And he acquires himself through money paid by others or through a writ [of indebtedness] taken on by himself, “the words of R. Meir.**

[B] **And sages say, “Also: by money paid by himself or by a writ taken on by others, on condition that the money belongs to others.”**

[I.1 A] It is written, “[As to Canaanite slaves] you may bequeath them to your sons after you, to inherit as a possession forever; you may make slaves of them” (Lev. 25:46).

- [B] Acquisition of slaves thereby is treated under the same rubric as inherited real estate.
- [C] Just as inherited real estate is acquired through money, writ, or usucaption, so a Canaanite slave is acquired through money, writ, or usucaption.
- [D] How do we know that inherited real estate itself is acquired through money, writ, or usucaption?
- [E] It is written, “Fields will be bought for money, deeds will be signed and sealed and witnessed” (Jer. 32:44) –
- [F] “And signed and sealed and witnessed” – “signed and sealed” refers to witnesses to a writ; “witnessed” refers to witnesses to usucaption.
- [G] Or perhaps these latter serve as witnesses to the writ?
- [H] Since it already is written, “And signed and sealed,” [which must mean a writ, the other witnesses are to usucaption].

[II:2 A] [Another reading of the same verse of Scripture:] R. Yosa in the name of R. Mana, R. Tanhum, R. Abbahu in the name of R. Yohanah: “Real estate is not acquired for less than a perutah.”

[B] *What is the scriptural basis for that statement?*

[C] “Fields will be bought for money” [and less than a perutah is not deemed money].

[D] Now [Yohanah] disputes what R. Haninah said: “All references to shekels in the Torah are to selas; in the Prophets, to litras, and in the Writings to qintin. “ [Thus Jeremiah refers to twenty-five selas = a litra.]

[E] Said R. Judah bar Pazzi, “That is except for the shekels of Ephron, which are qintin [a hundred selas].”

[F] *What is the scriptural basis for this statement?*

[G] “For the full price let him give it to me” (Gen. 23:9~ [and “full price” implies the larger coin].

[H] But the cases are not similar. There [Jer. 32:44] it is written “money,” but here it is written “shekels.”

[I] *They objected,* “Lo, there is the case of the rapist [Deut. 22:28], and lo, in that case what is written is only ‘money,’ and do you

say it refers to shekels? [So there is a dispute even when ‘money’ stands by itself.]”

[J] *The statement that land is acquired only through usucaption] is not in accord with the view of R. Eliezer.*

[K] *For R. Eliezer said, “If one merely traversed the field, he has acquired it [without usucaption].”*

[L] *For it has been taught as a Tannaite statement: “If one traversed a field lengthwise and breadthwise, he has acquired it up to the place in which he has walked,” the words of R. Eliezer.*

[M] And sages say, “He acquires it only once he effects possession through usucaption.”

[N] All concur in the case of one who sells a path to his fellow, that once he has walked in it, he has acquired it.

[O] What is the scriptural basis for that position [of Eliezer]?

[P] “Arise, walk through the length and the breadth of the land, for I will give it to you” (Gen. 13:17).

[I:3 A] *There are Mishnah rules that maintain slaves are equivalent to real estate; there are Mishnah passages that maintain they are equivalent to movables; and there are Mishnah passages that maintain they are neither like real estate nor like movables.*

[B] *A Mishnah passage that treats slaves as equivalent to real estate is what we have learned there: **Title by usucaption to houses, cisterns, trenches, vaults, dovecotes, bathhouses, olive presses, irrigated field, and slaves, [and whatever brings a regular return, is gained by usucaption during three complete years] [M. B. B. 3:1].***

[C] *A Mishnah passage that treats slaves as not equivalent to real estate is in line with what we have learned there (following QE): **How is usucaption [established in the case of] slaves? [If] he [the slave] tied on his [the master’s] sandal, or loosened his sandal, or carried clothes after him to the bathhouse, lo, this is usucaption. [If] he lifted him up [the slave lifted the master up] – R. Simeon says, ‘You have no act of usucaption more effective than that!’ [T. Qid. 1:5].***

[D] *What rabbis have stated implies that slaves are equivalent to movables. For R. Yosé said in the name of rabbis, “No lien applies to*

one who makes a gift [unless it is made explicit]. They do not exact payment from a debtor's slaves as they do from his real estate. [That is, slaves cannot be treated as mortgaged for payment of a debt.]

[E] *Said R. Mana to R. Shimi, "Who are these rabbis?"*

[F] *He said to him, "They are R. Isaac and R. Immi."*

[G] *[The following case shows that fact:] A widow seized a slave girl as payment for her marriage settlement. R. Isaac ruled, "Since she has seized her, she is properly seized, [and the action is valid]. [But that is not the case at the outset, and hence, in general, the slave is not equivalent to real estate.]"*

[I] *R. Immi took the slave away from her, for she thought that the slave belonged to her, and she was not hers [for the collection of her outstanding marriage settlement]. [The slave is in the status of movables, not real estate.]*

[J] *Slaves are not equivalent to real estate, for it has been taught: [If one sold] real estate and slaves to someone, when he has taken possession of the real estate, [he has not taken possession of the slaves]. Now if you maintain that slaves are in the status of real estate, once the purchaser has taken possession of the real estate, he should be deemed to have taken possession of the slaves.*

[K] *For R. Yosa in the name of R. Yohanan has said, "If someone had two fields, one in Judah and one in Galilee, and the purchaser took possession of this one in Judah, intending also to acquire ownership of that one in Galilee, or if he took possession of that one in Galilee, [60a] intending to take possession of this one in Judah, he has acquired possession thereof. [Consequently, by taking possession of one piece of real estate, one may take possession of all the real estate. But in the cited case, taking possession of real estate has no effect upon ownership of the slaves, which therefore are not equivalent to real estate.]"*

[L] *They are not equivalent to movables: If you say that slaves are equivalent to movables, once the purchaser has acquired possession of real estate, he should have acquired possession of the slaves.*

[M] *For we have learned there: If one has to take an oath in regard to movables, the oath may be extended to real estate as well, [and movables are acquired along with real estate].*

[II:1 A] Through money [paid by others] [M. 1:3B]:

- [B] R. Jeremiah said, “[It is money paid] by another party to his master.”
- [C] Lo, if it is money paid by his master to someone else, there is no [freedom for the slave]. [Meir’s view is that it is a disadvantage to the slave to go out to freedom. If a third party gives money to the master, then by accepting the money the master makes the slave accept his freedom. The third party thus does not impose an unwanted disadvantage on the slave. But if the master should give money to others, he cannot on that account force the slave to leave his service.]
- [D] [Differing from this view,] said R. Zeira, “Even if it is payment from his master to another party. For what this third party takes from the master is for the slave himself.”
- [II:2 A] *R. Jeremiah raised the question before R. Zeira, “If someone said, ‘Here is this money, on account of which your field should go forth to freedom,’ [what is the ruling]? [That is, someone had a field on a mortgage from a borrower. A third party offered him money, here is money, so that the field may go into the hands of the borrower. This is without the borrower’s knowledge.]”*
- [B] He said to him, “It has gone forth. [One may transfer a benefit to someone in the beneficiary’s absence.]”
- [C] ““...that your field may go forth to the status of ownerless property”?”
- [D] He said to him, “It has not gone forth.”
- [E] “What is the difference between this language and that?”
- [F] “The use of the former language imputes ownership to some intelligent party [the borrower] aware of the transaction, but the use of the latter language does not impute ownership to some intelligent party aware of the transaction.”
- [G] “Take note of this: What if it was a deaf-mute?”
- [H] He said to him, “It applies to a man [even a deaf-mute].”
- [I] “Take note: What if it was a minor?”
- [J] He said to him, “He will grow up.”
- [II:3 A] *Said R. Yohanan, “That which R. Zeira [II:1D] has said accords with the view of R. Simeon b. Eleazar, for it has been taught:*
- [B] **R. Simeon b. Eleazar said in the name of R. Meir, “Also: through a writ of indebtedness taken by others. but not taken by himself” [vs. M. 1:3C] [T. Qid. 1:6].** [For the slave cannot make

acquisition in his own behalf.] What is the meaning of the language, “through a writ of indebtedness taken on by others, but not taken on by himself?” Is it not that his master gives a writ to others so that his slave will go forth to freedom? Here too his master gives money to others that his slave may go forth to freedom [C].

[II:4 A] **[One who is half slave and half free works for his master one day and for himself the next (M. Git. 4:5A).]** *Said R. Abun, “This accords with Rabbi.*

[B] “For Rabbi has said, ‘A man emancipates half of his slave.’”

[C] *And do rabbis not hold that a man emancipates half of his slave?*

[D] They agree that that is the case when it is a slave owned by partners, but in the case of a slave wholly owned by one man, *it is different*. For it is as if he has passed a writ of emancipation from the right hand [of the slave] to the left [and that means nothing].

[E] *In Rabbi’s view is it not as if he has passed a writ of emancipation from his right hand to his left hand?*

[F] *He concurs in that principle*. But here he effects acquisition through another’s intervention.

[G] *And do rabbis not concur that he acquires ownership of himself by means of another party?*

[H] *Rabbis maintain that he who is suitable to acquire for himself, [that is, a writ of emancipation,] is suitable for others to acquire in his behalf, and he who is not suitable to acquire in his own behalf is not suitable for others to acquire in his behalf.*

[I] Rabbi says, “Even though it is not suitable for him to acquire in his own behalf, it is suitable for others to acquire in his behalf.”

[II:5 A] [If a slave] picked up a lost object and said, “It is with the stipulation that I acquire ownership of it, and not my master,” [what is the law]? [Do we say,] despite his wishes, he and his master [hence, his master] acquire ownership of the object, or is it that he has acquired ownership and not his master?

[B] *Let us derive the answer from the following case: He who was prohibited by vow from imparting any benefit to his son-in-law, but who wants to give his daughter some money says to her, ‘Lo, this money is given to you as a gift, on condition that your husband has no right to it, but you dispose of it for your own personal use’ [M. Ned. 11:8]. In this regard it was taught, “[He must*

say,] ‘It is not yours [except for your personal use]. [You do not acquire ownership of this money, except what you actually use.]’”

- [C] *Said R. Zeira, “Who taught, [He must add,] ‘And it is not yours’? It is R. Meir. For R. Meir treats the hand of the slave as the hand of the master.”*
- [D] In the case of a gift [the law] is in accord with the view of R. Meir, that the hand of the wife is tantamount to the hand of the husband. But as regards a lost object, will the law accord with rabbis? [All the more so should the law accord with Meir, as at M. Ned.]
- [E] *Said R. Zeira before R. Mana, “The case [of M. Ned. 11:8] is different [from the present one], for it is a case in which she has made acquisition with the knowledge and consent of another party [namely, the father].”*
- [F] He said to him, “Is it not an argument a fortiori: Now if, in the cited case in which she has made acquisition with the knowledge and consent of another party, namely, her father, you maintain that when the woman makes acquisition her husband makes acquisition, here, in a case in which he makes acquisition in his own behalf [without third-party intervention], is it not all the more so the case that when the slave makes acquisition, his master should acquire the object? [That is, in the case of the slave, there is no question of the intervention of a donor. that is. the father..All the more so should the master enjoy ownership of whatever the slave finds.]”
- [II:6 A] *[In listing the means by which a slave goes free], why do we not learn that he also goes free at the loss of limbs that do not grow back?*
- [B] *Said R. Yohanan b. Mareh, “It is because there is a dispute about the matter. Specifically, there is a Tannaite authority who teaches that [if he loses his limbs] he still requires a writ of emancipation from the master, and there is a Tannaite authority who teaches that, in that circumstance, he does not require a writ of emancipation from his master.”*
- [II.7 A] *It is self-evident that a slave receives a gift from someone else for someone else, from someone else for his master [who acquires the object as soon as it hits the hand of the slave], but not from his master for himself, [for whatever the master gives him remains the property of the master]. But as to what comes from another party to the slave himself there is a dispute between R. Meir and sages.*

- [B] “If someone says to him, ‘Here is some money for you, on condition that your master has no right to it,’ once the slave has acquired possession of the money, the owner has acquired possession of it,” the words of R. Meir.
- [C] And sages say, “The slave acquires ownership of the money, and the master does not acquire the ownership of it.”
- [D] *What is a problem is this:* What about a gift from the master to a third party? Just as the slave acquires possession of an object from a third party in behalf of his master, so does the slave acquire ownership of the object from his master for a third party?
- [E] *Let us derive the answer from the following:* **He who borrowed a cow and the one who lent it sent it along with his son. slave. or messenger. or with the son, slave, or messenger of the borrower. and it died, the borrower is exempt. If the borrower had said to him, “Send it with your son, ““your slave, ““your messenger. “ the borrower is liable [M. B.M. 2:3].** Does this [latter clause] not indicate that the slave made acquisition of the object from his master in behalf of the other party? [Indeed it does.]
- [F] Said R. Eleazar. “Interpret the passage to speak only of a Hebrew slave, [in which case the question is not answered at all].”
- [G] *Said R. Yohanan. “Lo, you may as well interpret the passage to apply to a case in which it was a Canaanite slave. But interpret the passage to speak of a case in which the lender said to him, ‘Open the gate for it, and it will follow along on its own.’ For we have learned that he who led a cow, or drew it, or called it and it came after him, is liable for what happens to the cow just as if he had borrowed it (see Pené Moshe).*
- [H] *R. Zeira derived from the following passage that the slave does not acquire ownership from his master in behalf of a third party: “‘But one may not impart ownership of a meal of commingling by means of his minor son or daughter, or by means of his male or female Canaanite slaves, for their hand is tantamount to his hand.’ Does that not indicate that a slave cannot impart ownership from his master in behalf of a third party?”*
- [I] Interpret the cited statement to accord [solely] with the position of R. Meir, for R. Meir treats the hand of a slave as tantamount to the hand of his master.

[J] *And has it not been taught:* He may impart ownership of a meal of commingling by means of] his wife? [It cannot therefore be R. Meir,] for R. Meir treats the hand of a wife as equivalent to the hand of her husband.

[K] *R. Haninah in the name of R. Pinhas: “Interpret the matter in accord with the following Tannaite authority, who taught: **One’s wife does not redeem in his behalf produce in the status of second tithe. ‘One’s wife redeems on his behalf produce in the status of second tithe [without paying the added fifth],’ according to the words of R. Simeon b. Eleazar in the name of R. Meir [T. M.S. 4:7D-E]. Now this Tannaite authority of the views of R. Meir treats the hand of the slave as the hand of his master, but not the hand of the wife as the hand of her husband, [so Meir may stand behind the cited law].”***

[II:8 A] R. Zeira and R. Hiyya in the name of R. Yohanan: “It appears that the slave should acquire ownership of a writ of emancipation [for his fellow slave], for he does have a right to a writ of emancipation. But he should not acquire a writ of divorce of a woman [to deliver for her husband], for he is not subject to the laws of a writ of divorce of a woman. *If you say that the Tannaite teaching [that follows disputes this point, I shall answer that objection]:* ‘Lo, you are a slave, but your offspring is free’ – if she was pregnant, she makes acquisition of the writ of emancipation for the fetus’ – [so how can she acquire the writ for the fetus?] – they have treated the fetus as one of her limbs, [and she may receive such a writ for herself].”

[B] R. Ba bar Hiyya in the name of R. Yohanan, “It appears that a slave may receive a writ of emancipation [for his fellow slave], but not [if they belong to] the same [master] – *if you say that the Tannaite teaching has already made the same point* – ‘Lo, you are a slave, but your offspring is free,’ if she was pregnant she acquires the writ of emancipation for her fetus – they have treated the fetus as one of her limbs.”

[II:9 A] “As to Madame So-and-so, my slave girl, I issue a writ to her, so that she could not be subjugated as a slave [after I die]” – [are the heirs bound by that statement]?

[B] *R. Eleazar and R. Simeon b. Yaqim brought a case to R. Yohanan. He said, “He has not got the power to encumber his heirs.”*

[C] What is her children’s status?

[D] They are slaves.

[E] What did he then allow her [in so stating]?

[F] The right to retain the usufruct of her own labor.

[G] *R. Abba and R. Yosé both maintain that is the view of Rabbi.*
For Rabbi said, “A man may free half of his slave.”

[H] If one wrote over all of his property to two of his slaves simultaneously, both of them go forth to freedom, and each of them has to free the other.

[I] R. Judah in the name of Samuel, R. Abbahu in the name of R. Yohanan, “That statement follows the view of Rabbi, for Rabbi has said, ‘A man frees half of his slave.’ [Each slave owns half of himself and half of the other.]”

[J] Said R. Zeira to R. Ba, “Does that not imply that a slave may acquire ownership of an object in behalf of a third party?”

[K] He said to him, “What are you thinking~ It is that after they have acquired ownership of the property [including half of each other], they go forth to freedom? But that is not so. It is simultaneously that the slaves and the property go forth to freedom.”

[II:10 A] “Lo, you are free, but your offspring is a slave” –

[B] “Her offspring is in the same status as she is,” the words of R. Yosé the Galilean.

[C] And sages say, “He has not done a thing.”

[D] Said R. Eleazar, “So did R. Hoshaiyah, father of the Mishnah explain the matter [of C]: “Both of them are deemed to be free.” [The language of A frees mother and child.]

[E] R. Immi in the name of R. Yohanan: “Both of them are regarded as slaves.”

[F] *In the opinion of R. Yohanan, it is understandable that there is a dispute [of Yosé and sages]. But in the opinion of R. Eleazar, why should there be a dispute? But thus is the law to be taught:*

[G] “his statement is valid,” the words of R. Yosé the Galilean.

[H] And sages say, “He has accomplished nothing at all.”

[K] *What is the meaning of* “He has accomplished nothing at all”?

[L] *Said R. Eleazar, “Thus did R. Hoshaiiah, father of the Mishnah, explain the matter: ‘Both of them are free.’”*

[M] R. Ammi in the name of R. Yohanan: “Both of them are slaves.”

[N] And it accords with Rabbi, for Rabbi has said, “A man frees half of his slave.”

1:4

[A] “Large cattle are acquired through delivery, and small cattle through lifting up.” the words of R. Meir and R. Eleazar.

[B] And sages say: “Small cattle are acquired through an act of drawing.”

[I:1 A] R. Huna said, “Delivering a beast does not transfer ownership in regard to the estate of a proselyte.”

[I:2 A] R. Hezekiah. R. Ba, R. Eleazar asked. “If one had ten camels tied one to the other, if one handed over to [the purchaser] the reins of one of them, [60b] has he acquired all of them, or has he acquired only that one that he handed over to him alone?”

[B] R. Hisda said, “If one said, ‘Draw this beast to acquire ownership of it,’ he has acquired ownership thereof. ‘in order to acquire ownership of its offspring,’ he has not acquired ownership of it. [Drawing the beast has no effect on the status of the offspring.] ‘of it and its offspring,’ he has acquired them.”

[C] [Replying:] He who says to his fellow, “Draw this beast so that you will acquire its burden,” is it possible that he has not acquired ownership of it? [Likewise, he should effect acquisition.]

[D] *Said R. Yosé, “That applies* when the beast was not pregnant. But if it was pregnant, they have treated [the offspring] as equivalent to a burden.”

[I:3 A] [=Y. A.Z. 5:10I] R. Abba, R. Huna in the name of Rab, “He who draws a skin of wine from his fellow [without having agreed on a price for it with him], and the skin was torn [so that the wine poured out] – the man does not owe him for it [because he had not made an agreement on its price, and therefore the purchaser had not come to a decision to acquire the skin, and the skin of wine did not yet pass into the domain of the prospective purchaser].”

[B] Said R. Yosé b. R. Bun, “Therefore it was necessary to teach [this obvious rule, A, to indicate that,] even if the prospective purchaser should bring the skin into his own stall, [he is not liable should the skin break,] for his intention in doing so was only so that other people should not make acquisition of the skin. [But it still has not fallen into his domain. Until a price has been agreed upon, the skin does not belong to the prospective purchaser (just as is indicated at M. A.Z. 5:10A-B).]”

[C] What is the law regarding the skin of wine’s having [automatically] been acquired by him at the lowest price [prevailing in the market at that time, even though there has been no agreement on any price at all]? [Do we say that, if he could have gotten the wine for the lowest prevailing price, he would have accepted it for that price? Or do we say that, since the skin of wine has not yet entered the prospective purchaser’s domain, he is exempt of all liability for the wine?”

[D] *Said R. Haggai in the name of R. Yosé, “The Mishnah itself has laid down the law that it is not [presumptively] acquired by the prospective purchaser for the lowest prevailing price. For we have learned in the Mishnah there: **He who sells wine to a gentile and agreed on a price before he had measured the wine out – proceeds paid for it are permitted. If he had measured it out before he had fixed its price, proceeds paid for it are prohibited [M.A.Z. 5:10A-C].*** Now if you maintain that one should regard [the wine] as [presumptively] acquired by the prospective purchaser at the lowest prevailing price, then even a case in which he measured it out before he agreed upon a price should be treated as equivalent to a case in which he had agreed to a price before he had measured out the wine, [so that even in the case raised above, C,] the proceeds should be permitted. [For what difference will it make whether a price has been agreed upon, if we maintain that there is a putative price, that is, the lowest prevailing price in the market, which the prospective purchaser is assumed to be willing to accept under all conditions?”]

[I:4 A] *Samuel said, “He who picked up a chicken [to examine it for possible purchase], and it flew off – is he liable for it? [Do we hold the purchaser liable?”]*

[B] [In raising the question of liability, rather than requiring him to go and try to find the chicken again,] *said R. Samuel bar Abodema, “That is applicable to Tyre and its surrounding towns or to Caesarea and its surrounding towns, [which are so large that we*

cannot expect someone to go looking for the chicken]. But as to this area~ it is the practice to go look for the lost object until it tires itself, and then he will find it and return it to the owner.”

[I:5 A] R. Simeon b. Laqish in the name of R. Yannai, “He who sells a flock to his fellow – once he has handed over to him the bellwether, [the purchaser] has acquired ownership of it.”

[B] What is the meaning of “bellwether”?

[C] *Some say it is the staff. some say the shepherd’s pipe, and some say it is the leaders of the flock.*

[I:6 A] R. Jacob bar Aha, R. Simeon b. Abba in the name of R. Joshua b. Levi, “He who sells a cistern to his fellow, once he has handed over to him the bucket [belonging to the cistern]– the purchaser has acquired ownership.”

[I:7 A] R. Ammi in the name of R. Yohanan: “He who sells a house to his fellow, once he has piled up his possessions in it, [he has acquired it].”

[B] *R. Judah b. Pazzi raised the question:* “If he handed over the key to him, what is the law?”

[C] *Said R. Zechariah, son-in-law of R. Levi, “It is a dispute between R. Simeon and sages. For we have learned there: **He who gives over his key to an am-haares– the house is clean, for he gave him only the charge of guarding the key [M. Toh. 7:IE-F]. It was taught as a Tannaite formulation [in this connection]:** R. Simeon declares the house unclean [so it is giving over charge of the house].”*

[I:8 A] R. Abbahu in the name of R. Simeon b. Levi: “He who sells the tithes of his field to his fellow has done nothing whatever [since at the moment of sale the tithes are not yet in being and subject to sale].

[B] “... the offspring of his slave girl to his fellow has done nothing.

[C] “the fetus of his cow to his fellow has done nothing.

[D] “the contained air space of a ruin to his fellow has done nothing.

[E] “But he sells his field and leaves out of the sale its tithes, sells the slave girl and retains ownership of the offspring, sells his cow and retains ownership of its offspring, sells his ruin and retains ownership of its contained air space.”

[F] How is it possible for someone to sell the air space of his ruin anyway

[G] *Interpret the case to speak of one in which* he says to him, ‘Remove something from this ruin so that you may acquire one tenth of it’ [for added space required by the purchaser, e.g., for a balcony].

[H] And in the case of real estate, here [in the case of tithes], he says, “Remove something from the ground so that you may acquire one-tenth of what is in it.”

[I:9 A] R. Samuel, R. Zeira, R. Hiyya bar Ashi in the name of Rab: “An act of drawing a beast does not effect acquisition thereof in a courtyard that does not belong to both the buyer and the seller.”

[B] *R. Hiyya taught this teaching, which differs:* “In what circumstances have they ruled that movables are acquired through an act of drawing them? In the public domain, or in a courtyard that does not belong to the two of them. But if it is in the domain of the purchaser, once he has agreed to the purchase, he has acquired ownership. [If it is] in the domain of the seller, the purchaser has not effected acquisition until he raises the beast up off the ground or until he draws it and takes it outside the limits of the domain of the owners. [If it is] in the domain of one in whose hands [movables] were left as a bailment, he has not made acquisition until he effects ownership of them, or until he hires a place for himself [in that property, in which he then acquires them].”

[II:1 A] **And sages say, “Small cattle are acquired through an act of drawing” [M. 1:4B].**

[B] *What is the scriptural basis for the position of the rabbis?*

[C] “Draw and take a lamb for your families” (Ex. 12:3).

[D] This is in accord with that incident in which R. Judah set a question: “A large beast – how does it get acquired?”

[E] He said to him, “By being delivered.”

[F] *He said to him, “And does not the Mishnah explicitly state: **large cattle are acquired through delivery** [M. 1: 1A]? But there is a Tannaite authority who teaches the matter in the reverse.”*

SET OF JUDAH/ELEAZAR RULINGS, INCLUDING A SECONDARY PROVISION ON THE TRANSFER OF RESPONSIBILITY FOR A BEAST WITHIN A BAILMENT:

- [II:2 A] [1] R. Judah asked R. Eleazar, “A firstborn son who was injured [with a death-causing injury] during thirty days after birth, [does the father owe the priest redemption money]?”
- [B] He said to him, “It is as if it has died, and the owner [father] is exempt from paying the five selas owing for the son.”
- [C] [2] R. Judah sent and asked R. Eleazar, “An afterbirth, part of which went forth on one day, and part on the next— [how are the two days counted in line with Lev. 12]?”
- [D] He said to him, “If it is as to the blood of purifying, one should count from the former of the two days, and if it is for unclean blood, one begins counting from the latter of the two days.”
- [E] *Said R. Mattenaiah, “That rule you state applies when the offspring did not come forth with it. But if the offspring came forth with it, whether it is as to the blood of purifying or as to blood of uncleanness, one begins counting only from the moment the offspring itself came out.”*
- [F] [3] R. Judah sent to R. Eleazar, “A bailiff who handed over his bailment to another bailiff, [what is the law if an accident should happen to the bailment]?”
- [G] He said to him, “The first is liable.”
- [H] R. Yohanan said, “The first is liable.”
- [I] R. Simeon b. Laqish said, “The second is liable.”
- [J] [As at Y. Ket. 9:5:] ***There we have learned: He who rents a cow from his fellow, and then lent it to someone else, and the cow died of natural causes— let the one who rented it take an oath that it died of natural causes, and the one who borrowed it then pays compensation to the one who rented it, [not to the owner]. Said R. Yosé, “How should this one get to do business with the other one’s cow? But the funds paid for the cow are to return to the owner” [M. B.Q. 3:2].***
- [K] R. Ila in the name of R. Yannai, “And that rule applies in a case in which, to begin with, he gave the man permission to lend the cow out, but if he did not give him permission to lend the cow~ it is not in such a case that the rule applies.”
- [L] *And so too did R. Hiyya teach as a Tannaite formulation: **One who borrows has no right to lend out, and one who hires has no right to rent out, and one who borrows has no right to rent out, and one***

who hires has no right to lend out, and the one with whom these things are left as a bailment has no right to leave them as a bailment with someone else, unless the householder [who owns the objects] has given him permission to do so [T. B.M. 3:1].

[M] And in all cases in which they changed the conditions of guardianship without the knowledge and consent of the owner, they are liable. But as to a borrower, even if he did not change the conditions agreed to by the owner, he is liable. [So why say, in all cases?]

[N] *It is on this account that we have learned there: An unpaid bailee may stipulate that he will be exempt from having to take an oath, and a borrower that he will be exempt from having to pay restitution [M. B.M. 7:10F-H]. [The rule] comes to say to you, “Even if [a borrower] made a stipulation that he will be exempt, he remains liable.”*

[O] If [M. B.Q. 3:2] he sought to impose an oath on the borrower, must he take an oath in line with the following: **If he wrote to her, “I have no right to impose a vow or an oath on you, “ he has not got the right to impose an oath on her. But he does impose an oath upon her heirs and those who are her legal agents [M. Ket. 9:5].** That is to say that if he wished to impose an oath on the borrower [of M. B.Q. 3:2], he has the right to impose an oath on him [since he falls within his domain].

[P] Then the rule covering that case [M. B.Q. 3:2] derives from the present case [M. Ket. 9:5], and the rule covering the present case derives from the rule covering that one. The rule covering that case derives from the present case: If he wanted to impose an oath on the borrower. he may impose an oath on him. [but then he may not impose an oath on the one who rented the beast]. [That follows M. Ket.’s rule that he may impose an oath on the heirs but not on the woman herself.] The rule covering the present case derives from the rule covering that one: If he wanted to impose an oath on the woman, he may not impose an oath on her.

[Q] *Said R. Haninah, “You have no need to derive the rule covering that case [of M. B.Q. 3:2] from this one. [It is obvious that the woman may not be subjected to an oath, for the man himself has freed her from that obligation anyway. Why turn to the other cases to prove this obvious proposition?] Rather, there is a need to derive the rule covering the case [at M. Ket.] from this other. In regard to what R. Hila said in the name of R. Yannai: ‘And that rule applies in a case in which, to begin with, he gave the man*

permission to lend the cow out, but if he did not give him permission to lend the cow, it is not in such a case that the rule applies.’ Here too the man has given permission for the woman’s sons to serve as guardians.”

[R] [Reverting to M. B.Q. 3:2:] Said R. Yosé, “The one who rents the beast has to pay the owner of the beast a fee so long as it is rented out to him, [even though the one who rents the beast has lent it to a third party].”

[S] *R. Zeira asked R. Abuna, “If the owner borrowed the beast [that they had rented out to this other party] and then it died, [do they have to pay the one who rented the beast out, in line with the sages’ position at M. B.Q. 3:2]?”*

[T] *He said to him, “Indeed so do we rule, and even if the owner ate.”*

[U] Said R. Yosé bar Abun, “If they ate it! But they ate what belongs to themselves!”

[V] *R. Zeira raised the question before R. Yosa, ‘How do we decide such a case?’*

[W] *He said to him, “[We follow the majority.] Here we have two against four [so the second party is liable, since Eleazar, Yohanan, Yannai, and Hiyya all maintain that is so]. [The borrower has no right to lend out the beast, so the original guardian is liable.] The law follows the majority.”*

[X] *He said to him, “We have only two against two, for R. Eleazar is the disciple of R. Hiyya the Great, and R. Yohanan is the disciple of R. Yannai.”*

[Y] R. Judah sent and asked R. Eleazar, “Brothers who divided their father’s estate, and afterward one of them entered into levirate marriage with the deceased brother’s widow [whose husband had been dead at the time of the division— do we maintain that the levir has abandoned his claim on the brother’s share in the estate]? For does he retain his claim on his brother’s share?”

[Z] He said to him, “As they divide the entire property, so they divide the property of the- deceased brother [equally, and the levir does not get the deceased brother’s share].”

[AA] *Ulla bar Ishmael said, “Who can understand the ruling of R. Eleazar, [which is not spelled out and explained]? For there is no difference even in a case in which they had divided the estate, and afterward one of them had entered into levirate marriage [60c]. [Here the levir certainly lays no claim to a larger share in the estate.] Nor would it matter if he had entered into levirate marriage and afterward divided the estate. In both cases all of them take an equal share in the estate of their father.*

[BB] *“So why did he answer him without further specification?”*

[CC] He said to him, “To the question he asked the other party answered, and not to any other question.”

[DD] *And why did he not ask the question [about the reverse order of events]?*

[EE] It is in line with what R. Abina said in the name of R. Assi: “A firstborn son who took a share in his father’s estate like an ordinary son – it may be assumed that he has given up his claim to a double portion. [Likewise the case would be obvious that if there were a general division of the estate, and then the levir entered into marriage, he did not wish to claim the share of the deceased brother at all.]”

[FF] R. Judah sent and asked R. Eleazar, “Brothers who divided their father’s estate – [what do they include when they estimate the total value of the estate]? [Does this include their clothing and that of their families, already received from the father?]”

[GG] He said to him, “They divide [the value of] what is on them, but they do not divide the value of what is on their sons and daughters.”

[HH] R. Immi says, “He who appraises his wife’s garments brings that appraisal [of expensive garments provided for his wife] to the common pot and divides it up.

[II] “He who makes jewelry for his wife – they do not put the value into the common pot and divide it up. [That is her own property, not part of the estate to be appraised.]

[JJ] “That applies to what may be used on an ordinary day. But as to what is used on a festival, they bring the value into the common pot and divide it up.”

[KK] R. Mana said, “Garments used for a festival are appraised, and the value is divided as part of the estate. Garments used for the Sabbath pose a problem.”

[LL] *To R. Abin it was self-evident that, whether the garments were for a festival or for the Sabbath, they appraise their value and contribute it to the common pot and divide it up.*

[MM] *R. Zeira asked before R. Mana, “As to those glass utensils, [what is the law about dividing them up among the heirs]?”*

[NN] He said to him, “You are known to have plenty of glass utensils.”

[OO] [Zeira] said to him, “They bring them and divide up their value as part of the estate.”

[PP] R. Judah sent and asked R. Eleazar, “What is the law as to collecting a debt from the debtor’s slaves, as one does from his real estate?”

[QQ] He said to him, “They collect a debt from slaves as from real estate.”

[RR] *R. Eleazar instructed the members of the house of R. Yannai to collect a debt from slaves as from real estate.*

[SS] R. Judah sent and asked R. Eleazar, “As to the thug, thief, and robber, [how are they forced to effect repayment]? [Does the owner have to accept the carcass or the broken shards of his original beast or object, or do the thief, robber and thug have to pay the value of these objects and keep the carcass or the broken shards?]”

[TT] He said to him, ‘It is to be assumed that the owner does not have to be troubled with the dead beast.’

[UU] And how do we know that the owner does not have to be troubled with the dead beast?

[VV] Said R. Ba bar Mamel, “‘If the beast is alive, he will pay back double indemnity’ (Ex. 22:1). The meaning is, ‘He pays a live beast, and not a dead beast.’”

[WW] Now that applies to a case of thievery. What about a case of robbery?

[XX] Said R. Abun, “‘He shall restore what he took by robbery’ (Lev. 6:4)— in its original condition.”

1:5

- [A] **Property that serves as security [real estate] is acquired through money, writ. or usucaption.**
- [B] **And that which does not serve as security [movables] is acquired only by an act of drawing [from one place to another].**
- [C] **Property that does not serve as security is acquired along with property that serves as security through money, writ, or usucaption.**
- [D] **And property that does not serve as security imposes the need for an oath on property that serves as security.**

[I.1 A] At first they would effect acquisition by removing the shoe. *in accord with what is written*, “Now this was the custom in former times in Israel [concerning redeeming and exchanging: to confirm a transaction the one drew off his sandal and gave it to the other, and this was the manner of attesting in Israel]” (Ruth 4:7).

[B] Who removed the shoe?

[C] *There they say, [that] Rab and Levi [ruled on the matter].*

[D] One said, “It was the purchaser,” and the other said, “It was the seller.”

[E] *Now this disagreement accords with the dispute in the following:*

[F] *For it is taught:* Boaz gave [the shoe] to the next of kin.

[G] R. Judah says, “The next of kin gave it to Boaz.”

[H] Then they went and effected transfer of ownership through a rite of cutting off, [which took note of the alienation of an inherited property to an outsider].

[I] What is this rite of cutting off?

[J] When someone would sell an inherited property, his relatives would bring jugs and fill them with parched corn and nuts and break them before the children, and the children would collect the parched corn and nuts and say, “Mr. So-and-so has been cut off from his inherited property.” When he would regain the property [e.g., at the Jubilee or through prior redemption], they would perform the same rite and say, “Mr. So-and-so has gotten back to his inherited property.”

[K] [This same rite was performed in another case of alienation, for] said R. Yosah b. R. Bun. “Also he who married a woman who was unworthy for his status – his relatives would bring jugs and fill them with parched corn and nuts and break them before the children, and the children would collect the parched corn and nuts and say, ‘Mr.. So-and-so is cut off from his family.’ When he would divorce the woman. they would perform the same rite and say, ‘Mr. So-and-so has gotten back to his family.’”

[L] They finally went and established that **transfer of ownership would be effected through money, writ. or usucaption [M. 1:5A].**

- [I.2 A] **With money:** as it is written, “Fields will be bought for money, deeds will be signed and sealed and witnessed” (Jer. 32:44).
- [B] “And signed and sealed and witnessed” – “signed and sealed” refers to witnesses to a writ; and “witnessed” refers to witnesses to usucaption.
- [C] Or perhaps these latter serve as witnesses to the writ?
- [D] Since it is already written, “And signed and sealed,” [which must mean a writ, the other witnesses are to usucaption].
- [I:3 A] R. Yosa in the name of R. Mana, R. Tanhum, R. Abbahu in the name of R. Yohanan: “Real estate is not acquired for less than a perutah.”
- [B] *What is the scriptural basis for that statement?*
- [C] “Fields will be bought for money” [and less than a perutah is not deemed money].
- [D] [Yohanan] *disputes what R. Haninah said*, “All references to shekels in the Torah are to selas; in the Prophets, to litras; and in the Writings to qintrin.” [Thus Jeremiah refers to twenty-five selas = a litra.] That is, except for the shekels of Ephron, [which are qintrin, a hundred selas].”
- [E] *What is the scriptural basis for this statement?* “For the full price let him give it to me” (Gen. 23:9) [and “full price” implies the larger coin].
- [F] *But the cases are not similar. There [Jer. 32:44] it is written “money,” but here it is written “shekels.”*

- [G] *They objected*, “Lo, there is the case of the rapist [Deut. 22:28], and lo, in that case what is written is only ‘money,’ and do you say it refers to shekels? [So there is a dispute even when ‘money’ stands by itself.]”
- [I:4 A] [The statement that land is acquired only through usucaption] is not in accord with the view of R. Eliezer.
- [B] For R. Eliezer said, “If one merely traversed the field, he has acquired it [without usucaption].”
- [C] *For it has been taught on Tannaite authority*: “If one traversed a field lengthwise and breadthwise, he has acquired it up to the place in which he has walked,” the words of R. Eliezer.
- [D] And sages say, “He acquired it only once he effects possession through usucaption.”
- [E] All concur in the case of one who sells a path to his fellow, that once he has walked in it, he has acquired it.
- [F] *What is the scriptural basis for that position [of Eliezer]?*
- [G] “Arise, walk through the length and the breadth of the land, for I will give it to you” (Gen. 13:17).
- [II.1 A] **Through a writ**: *R. Jeremiah contemplated ruling*, “This refers to a deed [of gift], [a writ] not on condition that money be paid over, but in the case of a writ on condition that money be paid over, the purchaser has not acquired the property until he has actually paid out the money.”
- [B] *Both R. Jonah and R. Yosé say*, “Even if he has not paid over the stated sum of money, the purchaser has acquired ownership of the field.”
- [C] *The following Tannaite teaching supports the position of R. Yohanan and R. Yosé*: **If one has sold to the purchaser ten fields, once he has effected ownership through usucaption of one of them, [if the funds have been paid over], he has acquired ownership through usucaption of all of them. But if he had paid him the purchase price of only one of them, or if he wrote over to him the deed of only one of them, he has acquired ownership of only that field which he sold to him alone [T. B.B. 2:11]**. Now is a deed of ownership written over without the payment of money? Now if you that is the case in which he paid over the money for all of the fields, note that we read, “the purchase price of only one of them.” So it is either one way or the other [as Jonah and Yosé have said].
- [D] Through money: R. Ba contemplated ruling, “With money, on condition that he not write a deed of ownership, but if it is with money

on condition that he write a deed of ownership, the purchaser acquires the field only when the seller writes out the deed of ownership.”

[E] *[As above,] R. Jonah and Yosé differ.*

[F] *The position of R. Ba accords with the position of Samuel, and the position of R. Huna [stated below] accords with the position of R. Yohanan.*

[G] *The position of R. Ba accords with the position of Samuel:*

[H] Samuel asked R. Huna, “If one was slaughtering a beast and was occupied with some other matter, and so did not slaughter the beast as Holy Things, [what is the law?]”

[I] He said to him, “It is written, ‘[And when you sacrifice a sacrifice to the Lord, you shall sacrifice it] so that you may be accepted’ (Lev. 22:29). This then excludes one who is busy with other things, [in which case the act of slaughter is null].”

[J] [Samuel again asked,] “If one wrote a deed of gift using the language of acquisition [or sale], [what is the law?]”

[K] *He said to him, “He made him ride on two horses [he gave him a doubly strengthened document].”*

[L] *R. Ba stated that Samuel did not accept that decision.*

[M] *What is the meaning of the language, “He made him ride on two white horses”?*

[N] *They thought to rule, “He brings two crazy horses, and they set him on the two of them, so that one horse pulls in one direction, and the other goes in the other direction. The driver turns out to gain nothing. [This does no good at all for the document.]”*

[O] R. Yosé of Malehayya said. “It strengthens his position in two respects. First, there is a lien in the case of a sale, but no lien in the case of a gift, [so using the language of sale rather than gift is to the recipient’s advantage].

[P] “Second, in the case of a sale. the seller has not sold everything [since there are restrictions on what is automatically included in the sale of a house], while in the case of a gift, the giver gives all.”

[Q] *Now as to R. Huna, [who maintains that the intention is to improve the position], as R. Yohanan has said, we derive the rule from the following case:*

[R] When a certain man was dying, he said, "Let all my property be given to Mr. So-and-so." Then he went and said, "Let it be written over in a deed and given to him."

[S] *[The problem is whether the testator's intention is to give the property over only through a deed. But such a deed is invalid after the testator's death. So] R. Eleazar and R. Simeon b. Yaqim brought the case to R. Yohanan.*

[T] He ruled, "If he made that statement in order to impart ownership to him, all concur that the donee has acquired ownership. If he made that statement in order to give him ownership through a deed, all concur that a man does not impart ownership through a deed after death. [What a dying man says is deemed done. Hence if the statement was merely to strengthen the donee's claim on the property, it was valid as soon as it was made. But if the statement was to do the whole transfer by deed, then as soon as the man died the instructions he gave on drawing up the deed are null.]"

[U] Who will tell [us] what the statement meant?

[V] Interpret the case to involve witnesses who knew the answer.

[W] Then take note: What if there are no witnesses who know the man's intention?

[X] In that case, said R. Yosé, "In all circumstances the field remains in the possession of its owner, and he who wishes to extract property from his fellow bears the burden of proof."

[III:1 A] How do we know that **property that does not serve as security is acquired along with property that serves as security through money, writ, or usucaption [M. 1:5C]**?

[B] *R. Yosé in the name of Hezekiah, both R. Jonah and R. Hananiah says in the name of Hezekiah: 'It is written, "Their father gave them great gifts, of silver, gold, and valuable possessions, together with fortified cities in Judah' (2 Chr. 21:3)."*

- [C] *That proof serves in a case in which the real estate and movables were in a single location. If the real estate was in one place and the movables elsewhere, [how do we know that the same rule applies]?*
- [D] *Said R. Bun b. Hiyya, “Let us derive the answer to that question from the following case: **Said R. Eliezer, “Ma’aseh B: There was a man from Meron in Jerusalem, who had a great many movables, and he wanted to give them as a gift [60d]. They said to him, ‘You are not able to do so, because you have no real property.’ He went and bought a single rock near Jerusalem and said, ‘The northern part of this [rock], and with it a hundred sheep and a hundred jugs of wine, are handed over to Mr. So-and-so. The southern part of this [rock], and with it a hundred sheep and a hundred jugs of wine, are handed over to Mr. Such-and-such. The eastern part of this [rock], and with it a hundred sheep and a hundred jugs of wine, are handed over to Mr. So-and-so.’ And sages confirmed what he had said” [T. B.B. 10:12F-G].***
- [E] *Said R. Haninah before R. Mana, “Now was he not dying? [So this would be a special case.] For in all situations a person transfers ownership of property only in writing, and here it was permitted to do so even orally, in all situations; and likewise: in all situations a person may not transfer ownership unless the real property and movables were in a single location, and here even with the real estate in one place and the property in another, he could transfer ownership. [But this, then, would be a special case.]”*
- [F] *R. Mana said to him, “It does not accord only with the view of R. Eliezer. For does it make a difference to R. Eliezer whether he is dying or healthy? For the rule applied by R. Eliezer to a dying man is applied by rabbis to a healthy man.”*
- [G] *He said to him, “Indeed so. The rule applying to a dying man in the view of R. Eliezer is the same as the rule applied by rabbis to a healthy man.”*
- [H] *There we have learned: **R. Aqiba says, “A plot of ground, however small, is subject to the laws of Peah and firstfruits; a prozbol may be written on its security, and along with it movables may be acquired by money, writ, or usucaption” (M. Pe. 3:6).***
- [I] *A plot of ground, however small— what is it good for? [It is useless, and one certainly cannot pile up on a tiny plot all the movables one may transfer. Consequently, it is assumed by*

Aqiba that one may transfer movables along with property, even though the movables are not situated on the property.]

[J] Said R. Mattenaiah, “Interpret the rule to speak of a plot of ground on which there was a single stalk of corn, with a pearl hidden in it.”

[III:2 A] R. Yosa in the name of R. Yohanah: “If someone had two fields, one in Judah and one in Galilee, and the purchaser took possession of this one in Judah, intending also to acquire ownership of that one in Galilee, or if he took possession of that one in Galilee, intending to take possession of this one in Judah, he has acquired possession thereof. But in the case of property belonging to a proselyte, he has not effected acquisition [of a second piece of land by taking ownership of the first], even if there is no boundary between the two pieces of land except a narrow path.”

[B] *R. Zeira asked before R. Yosa*, “If one intended to acquire the land from a narrow path and below it, [what is the law?]” [This question is not answered.]

[C] R. Hisda said, “As to the property of a proselyte, if one took possession of the northern part on the stipulation that he also acquires possession of the southern part, or of the southern part on condition that he acquires possession of the northern part, but he had no intention of acquiring the land in the middle, he has not made acquisition of the northern and southern parts of the property – until he also will have the intention of effecting ownership of the land in the middle.”

[D] *The following Tannaite teaching stands at variance with this statement of R. Hisda: A proselyte who died, and the property of whom Israelites took over – he who seizes possession of real estate is liable for all the tithes owing therefrom]. He who seizes possession of what is harvested from the ground is exempt from obligation for all tithes. He who seizes possession of the unharvested crop is liable to provide the gifts of the gleanings, forgotten sheaf, and corner of the field for the poor but exempt from having to hand over the tithes [T. Pe. 2:10].* Now is there no air space intervening between one sheaf and another? [Now Hisda should say that if one has taken the standing crop it should be null, since he has no part of the real estate. Now in this case there is space between the sheaves. Therefore he should have obligations of gleaning, forgotten sheaf, and the corner of the field.

[E] *There we have learned the following rule: **If one bought flax from his fellow, he has acquired possession of it only after he has moved it from one place to another. If it was still ungathered, and he harvested any of it at all, he has acquired possession of all of it*** [M. B.B. 5:73.]

[F] Samuel ruled, “He has acquired only that stalk alone.”

[G] *And have we not learned, “**If it was still ungathered, and he harvested any of it at all, he has acquired possession of all of it**”?*

[H] *Said R. Yosé, “R. Abodema, the emigrée, interpreted the matter as follows: ‘Samuel concurs in the case of the property of a proselyte [that one acquires only that stalk alone that one has plucked]. [But in ordinary transfers of a crop of flax, the rule is as given at M. He would be in agreement with Hisda that if there is a space between one sheaf and another, only the sheaf actually seized has been acquired.]”*

[III:3 A] *R. Yohanan raised the question, “As to movables, what is the law on their being acquired by being dragged [rather than being lifted up]?”*

[B] *Said R. Ba bar Mamel, “His question concerns hard hides, [which are difficult to lift up], but as to soft hides, one makes acquisition of them only after he raises them up.”*

[C] *The following Tannaite teaching stands at variance with the position of R. Ba bar Mamel: “He who steals a man’s purse and takes it out of private domain on the Sabbath is liable [to pay compensation, even though there is the rule that one is not liable both to the death penalty, for violating the Sabbath, and also to paying monetary compensation for the same felony]. The reason is that he had already established liability through his act of theft of the purse before he had violated the sanctity of the Sabbath [by removing the purse from private domain]. [By merely lifting up the purse, he effected acquisition thereof.] But if he was dragging the purse and so removing it from private domain, he is exempt from paying compensation, for the penalty of death and the liability to pay compensation coincidentally apply to the felon.” Lo, if the penalty of death and the liability to pay compensation had not coincidentally applied to him, he would have been liable [and that is because, as indicated, he would have effected acquisition merely through dragging the purse]. [This then differs from Ba b. Mamel’s view that dragging effects acquisition only when the object is too heavy to lift.]*

[D] *Said R. Mattenaiah, “Interpret the rule to apply to a case of very heavy purses, which usually are dragged and not lifted up.”*

[IV:1 A] [Supply: **And property that does not serve as security imposes the need for an oath on property that serves as security:**] whence did they derive the law that an oath’s applicability may be extended from the thing that precipitates it to yet other considerations?

[B] It is from the law of the accused wife: **“Amen “ [she says, I have not committed adultery with] this particular man, and “Amen, “ [I have not committed adultery with] any other man. [So the oath, precipitated in connection with the named lover, then is extended to cover all other lovers, so that she is claiming never to have committed adultery with anyone. even though the original oath was on account of the named man only] [M. Sot. 2:5C].**

[C] *That covers matters that are suitable to be subjected to the oath. What about matters that are not suitable to be subjected to an oath [being covered along with those that are]?*

[D] *Said R. Yosé b. R. Bun, ‘We derive the answer from the following: “Amen that I have not gone aside while betrothed, married. awaiting levirate marriage, or wholly taken in levirate marriage “ [M. Sot. 2:5D]. Now are the betrothed woman and the one awaiting levirate marriage suitable to be subject to such an oath? [Clearly they are not.] Yet you say that they assign the oath to that status, and here too they assign the oath to cover other than the original and appropriate matters for which the oath has been called.*

[IV:2 A] [“Then the Lord make you an execration and an oath among your people” (Num. 5:21).] *There is a Tannaite authority who teaches, “Just as the accused wife is subject to the execration and the oath, so all those who take an oath are subject to an execration and an oath.” And there is a Tannaite authority who teaches, “To this one applies the execration and the oath, and to all others who take an oath do not apply both the execration and the oath.”*

[B] *Now they proposed to state: “The one who holds that just as this one is subject to an execration and an oath, so all those who are subjected to oaths are subject to an execration and an oath” is reasonable, [since quite consistently, he will derive from the laws of the oath imposed on the accused wife all the details affecting those who take oaths in general].*

[C] *But the one who said, “This one is subject to an execration and an oath, but to all others who take an oath do not apply both the*

execration and the oath,” there is a problem. For from the laws of the accused wife such a person derives the rule of applying the oath to matters not originally covered by it, but from those laws he does not derive the rule that the execration and the oath apply [in general]. [So he is inconsistent.]

- [D] *There is a Tannaite authority who teaches, “Just as the accused wife is subject to saying ‘Amen, Amen’ two times, so all those who take oaths are subject to saying ‘Amen, Amen’ two times.”*
- [E] *Then there is a Tannaite authority who teaches, “The accused wife is subject to saying ‘Amen’ ‘Amen,’ two times, but all others who take an oath are not subject to saying ‘Amen, Amen’ two times.”*
- [F] *Now they proposed to state, “The one who holds that just as this one is subject to saying ‘Amen, Amen’ two times, so all those who are subjected to oaths are subject to saying ‘Amen, Amen’ two times, is consistent with the view that we transfer the oath from one matter to some other matter, [for the reason given above].*
- [G] “But the one who said, ‘This one is subject to saying “Amen, Amen” two times, but all others who take an oath are not subject to saying “Amen, Amen” two times,’ *there is a problem.*
- [H] “Have they not derived the rule about applying the oath to matters not originally covered by it from the accused wife? Now it appears that, so far as deriving the rule of applying the oath to matters not covered by it, they do so from the accused wife, but as to the other case, they do not do so.

1:6A-D

- [A] **Whatever is used as payment for something else once this one has effected acquisition thereof, the other has become liable for what is given in exchange.**
- [B] **How so? If one exchanged an ox for a cow, or an ass for an ox, once this one has effected acquisition, the other has become liable for what is given in exchange.**
- [C] **The right of the Most High is effected through money, and the right of ordinary folk through usucaption.**
- [D] **One’s word of mouth [dedication of an object] to the Most High is equivalent to one’s act of delivery to an ordinary person.**
- [I:1 A] *There we have learned in the Mishnah: This is the general rule: All movable property effects acquisition of all other movable property [M. B.M. 4:1].*

- [B] R. Ba, R. Huna in the name of Rab: “Even a whole pile of merchandise [that has not been evaluated item by item serves in exchange for some other pile of merchandise].”
- [C] Said to him R. Eleazar, “We have learned only: **Whatever is used as payment for something else**, and this implies something that is subject to assessment.”
- [D] The opinion of R. Huna accords with that of R. Yohanan, and R. Eleazar is consistent with views held by him elsewhere.
- [E] [To understand what follows, we must begin with a passage quoted only later in the unfolding of the argument, M. Bekh. 9:3: What is purchased or what is given to someone as a gift is exempt from the law to tithe cattle. Brothers in partnership who are liable to a surcharge [in paying the shekel (explained below)] are exempt from tithe of cattle. And those who are liable to tithe of cattle are exempt from the surcharge. If they acquired cattle from the property of the estate of their father, they are liable, and if not, they are exempt. If they divided the estate and then went and formed a partnership, they are liable to surcharge and exempt from tithe of cattle. Now when someone pays a half shekel to the Temple, he is liable to a surcharge, to cover the cost of changing the money for the Temple’s purposes. Individuals are liable to a half-shekel plus the surcharge. The issue is whether the brothers, like other partners, together give the Temple tax of a half-shekel, paying a whole shekel to the Temple. If so, they pay the surcharge over and above the shekel; they are deemed two strangers, not joint owners of the estate. Now if they are regarded as strangers, then they are exempt from tithing herds they jointly own. Why? Because of the opening statement: What is purchased— for example, in the formation of a partnership— is exempt. At issue therefore is the point at which they form their partnership. If they form the partnership before the division of the estate, they are liable to tithe the cattle. Hence they are exempt from the surcharge, since they are deemed one entity (joint heirs). If they form the partnership after the division of the estate, when all the cattle have entered their respective domains, they are exempt from tithing offspring born to their partnership, and, as is obvious, they are also liable to pay the surcharge as individuals in a re-formed partnership. So the critical point will be when the partnership is formed and whether, in its formation, the contribution of each party is assessed for purposes of forming the partnership. The discussion commences with the citation of M. Sheq. 1:7’s statement on this same matter:] *For we*

have learned there: **Brothers who are partners who are liable to the surcharge are exempt from tithe of cattle. But when they are liable to tithe of cattle, they are exempt from the surcharge [M. Sheq. 1:7].** [What has happened, as is clear, is that the brothers take their share in the estate, then go and form a partnership to tend their cattle together. Then they are true partners, so they are liable to pay the surcharge, but, as we know, they are not liable to tithe the shared herd. If, by contrast, they have not yet divided the estate, they are not partners but are deemed one corporate body. The herd, undivided, is liable to the tithe as it was when the father owned it. But they also do not pay the surcharge. Now Eleazar will gloss this statement in such wise as to restate his established principle, that any sort of valid commercial exchange requires an assessment of the goods introduced into the exchange.]

[F] Said R. Eleazar, “[The rule that, once they have divided the estate and formed a partnership, they are liable to the surcharge but exempt from the tithing of their herd] applies when they divide up and contribute to the partnership lambs for rams and rams for lambs. [Why? Because in this case there has been a proper appraisal of the value of the contribution of each to the partnership. In that case we do not allege that this party has contributed what was already his. That is, when the father died each brother acquired ownership of half of all the lambs and half of all the rams. If there is a division of diverse types of animals, there must be an appraisal, since it cannot be done on a one-for one basis. Then we have a true partnership, and the offspring of the herd belong to partners and are not subject to tithe. The herd itself is exempt, since it is deemed to have been purchased (appraised, exchanged), in line with M. Bekh. 9:1A. So the need to appraise the division to each brother sets the herd into the status of something that has been purchased.]

[G] “But [Eleazar continues] if they split up lambs for lambs and rams for rams, it is as if the herd in common were contributed from the very outset. That is, all we have is the inheritance of each brother, joined together as it always was in their father’s domain. When they formed their partnership, they did not establish a new entity but re-formed the existing one. There is no need to appraise the whole, so the status of a purchase and trade has not been established. When the herd comes to the tithing season, the beasts are not in the status of something that has been purchased. Accordingly, we have no true partnership here. Tithing is required. Then, as we know, the surcharge on the shekel paid to the Temple will not apply.]”

[H] Said R. Yohanan, “But even if one party contributed lambs against another party’s lambs, or rams against rams, they remain in the status of purchasers, [and the beasts, purchased beasts, so, as we know, the conception of F is not invoked. It follows that, from Yohanan’s viewpoint, an appraisal of the value of the division to each is not required. Mere exchange suffices to establish that we have a new entity, created by the exchange of each party for a share in the whole herd]. *For we have learned there: What is purchased or what is given to one as a gift is exempt from the law to tithe cattle. Brothers in partnership who are liable to a surcharge are exempt from tithe of cattle. And those who are liable to tithe of cattle are exempt from the surcharge. If they acquired cattle from the property of the estate of their father, they are liable. And if not, they are exempt. If they divided the estate and then went and formed a partnership, they are liable to surcharge and exempt from tithe of cattle [M. Bekh. 9:3].*”

[I:2 A] R. Ba in the name of R. Judah in the name of Samuel: “If this party has a cow and that party has an ass, and they exchanged what belongs to this party for what belongs to that party, and what belongs to that party for what belongs to this party, if the owner of the ass drew [and so acquired] the cow, and the owner of the cow came to draw the ass and it turned out that the ass had died, the owner of the ass has to bring proof that his ass was alive at the time that the owner of the ass had drawn the cow. For whoever wishes to extract property from his fellow bears the burden of proof, except in a case of an exchange. [That is, here the owner of the ass wishes to keep the cow and must bring proof.] *And whoever does not grasp this matter knows nothing at all in the laws of torts.*”

[B] *Said R. Zeira, “But I don’t grasp this at all!”*

[C] *Said R. Ba to R. Zeira, “The following Mishnah pericope differs from the rule of Samuel: **If there were blemishes while she was yet in her father’s house, the father [who holds a lien for the marriage settlement] must bring proof that after she was betrothed, these blemishes made their appearance on her [M. Qid. 7:8A-B].** But does not the husband also have to bring proof to extract the money he paid for betrothal festivities from the domain of the father?”*

[D] *The disciples of R. Jonah said, “Interpret the law to speak of a case where the festivity funds are a small sum [not equivalent to the marriage settlement, so the husband is not the principal plaintiff]. [The father wants to collect the marriage settlement, so he must bring proof. This contradicts Samuel’s position.]”*

[E] *Now when R. Huna, R. Phineas, and R. Hezekiah went up to inquire after the welfare of R. Joseph, to study with him, they said to him, “The following Mishnah pericope supports the position of Samuel: **If she had entered the domain of the husband, then the husband has to bring proof that, before she was betrothed, these blemishes were on her body [M. Ket. 7:8C].** And it is not the father who has to bring proof to extract the money owing on the marriage settlement [owed by the husband] from the domain of the husband.”*

[F] *He said to them, “Does Samuel not agree that, if the owner of the cow had drawn the ass, he has to bring proof? And this one, since he has married the girl, it is as if he has drawn the beast and acquired ownership of it, [so there is no support for Samuel’s view at all]. So he has to bring proof that these blemishes were on her before she entered his domain.”*

[I:3 A] R. Ada bar Ahva in the name of Rab: “If he had sold him the cow for money [and the debt is not yet paid] –

[B] *“[the debtor] avoided payment [DHQ] –*

[C] *“He said to him, ‘Give me the money’–*

[D] [61a] *“He said to him, ‘What do you want to do with it?’–*

[E] *“He said to him, ‘To buy an ass’–*

[F] *“If the owner of the cow drew an ass [from the debtor], the cow would not now be acquired [for it had been acquired at the earlier transaction, and the debtor merely owes the creditor money].”*

[G] What is the law as to the ass’s being acquired [without its being drawn that is, do we now view the ass as an exchange for the cow]?

[H] R. Ba said, “It has been acquired.”

[I] R. Yosé says, “It has not been acquired.”

[J] *R. Ba assumed that it was a case of an exchange, but it was not a case of an exchange.*

[I:4 A] R. Mana in the name of R. Yosé, “There are times that the beginning of the purchase is assigned to this party, and the beginning of the purchase is assigned to that party [and no acquisition is effected, as will be explained]. *What would be a concrete case?* If one sold him a cow for money, and he left [the money] with a money changer. On the next day he found him standing [to collect the money]. [Translation

follows Leiden MS and Epstein 6:1, p. 3]. *He said to him, 'What are you doing, standing here?' He said to him, 'I want my money.'* *He said to him, 'What do you want to do with it?' He said to him, 'Buy an ass.'* *He said to him, 'Here is an ass before you.'* *If this one drew it, that party has not made acquisition. If that party drew it, this party has not made acquisition. But this party effects acquisition for himself, and that party effects acquisition for himself. [The debt did not cover the entire cost of the purchase of the ass. It is not a debt by reason of the prior sale. So acquisition in no way falls under the law of exchange, M. 1:6E-F.]*"

[II:1 A] The right of the Most High is effected through money [M. Qid. 1:6G]– how so?

[B] The Temple treasurer who paid over coins of the Sanctuary for movables– the Sanctuary has made acquisition wherever [the movables] may be.

[C] But in the case of an ordinary person, he has not made acquisition until he will have drawn [the object] [T. Qid. 1:9C-E],

[D] as it is said, “The earth is the Lord’s and the fullness thereof, the world and those that dwell therein” (Ps. 24:1).

[III:1 A] One’s word of mouth [dedication of an object] to ~he Most High is equivalent to one’s act of delivery to an ordinary person [M. 1:6H].

[B] How so?

[C] If one has purchased a cow from the sanctuary for two hundred zuz and did not suffice to bring the two hundred zuz before the price of the cow fell to a maneh [a hundred], he pays two hundred.

[D] That illustrates the statement, One’s word of mouth to the Most High is equivalent to an act of delivery to an ordinary person.

[E] [If he purchased] a cow from the sanctuary for a maneh, and did not suffice to bring the maneh before the price went up to two hundred, he brings the two hundred.

[F] This is in line with what is written, “And he shall add a fifth of the valuation in money to it, and it shall be his” (Lev. 27:15).

[G] If he has added, lo, it is his, and if not, it is not his.

[H] One's word of mouth [dedication of an object to the Most High is equivalent to one's act of delivery to an ordinary person [M. Qid. I.6H]– how so?

[I] [If one said,] “This ox is sanctified [‘WLH],” “This house is sanctified [QRBN]”– even if it is at the end of the world, the Sanctuary has made acquisition wherever it is situated, as it is written, “The earth is the Lord’s and the fullness thereof.” But in the case of an ordinary person, he makes acquisition only when he effects ownership through usucaption [T. Qid. I: 9F-H].

1:7

[A] For every commandment concerning the son to which the father is subject– men are liable, and women are exempt.

[B] And for every commandment concerning the father to which the son is subject, men and women are equally liable.

[C] For every positive commandment dependent upon time, men are liable, and women are exempt.

[D] And for every positive commandment not dependent upon time, men and women are equally liable.

[E] For every negative commandment, whether dependent upon time or not dependent upon time, men and women are equally liable.

[F] except for “not marring the corners of the beard, not rounding the corners of the head “ (Lev. 19:27~, “and not becoming unclean because of the dead “ (Lev. 21:1).

[G] [The cultic rules of] laving on of hands, waving, drawing near, taking the handful. burning the incense, breaking the neck of a bird, sprinkling, and receiving [the blood]

[H] apply to men and not to women.

[I] except in the case of a meal offering of an accused wife and of a Nazirite girl, which they wave.

[I. A] What is a commandment pertaining to the father concerning the son [M. 1:7A]?

[B] To circumcise him, to redeem him, and to teach him Torah, and to teach him a trade, and to marry him off to a girl.

[C] And R. Aqiba says, “Also to teach him how to swim” [T. Qid. 1:1 1E-G].

- [D] To circumcise him, in line with the following verse of Scripture: “And on the eighth day the flesh of his foreskin shall be circumcised” (Lev. 12:3).
- [E] To redeem him, in line with the following verse of Scripture: “Every first born of man among your sons you shall redeem” (Ex. 13:13).
- [F] To teach him Torah, in line with the following verse of Scripture: “And you shall teach them to your children [talking of them when you are sitting in your house, and when you are walking by the way, and when you lie down, and when you rise]” (Deut. 11:19).
- [G] To teach him a trade: R. Ishmael taught, “[I call heaven and earth to witness against you this day, that I have set before you life and death, blessing and curse;] therefore choose life. [that you and your descendants may live]” (Deut. 30:19).
- [H] “This [refers to] learning a trade.”
- [I] To marry him off to a girl, in line with the following verse of Scripture: “[Only take heed, and keep your soul diligently, lest you forget the things which your eyes have seen, and lest they depart from your heart all the days of your life;] make them known to your children and your children’s children” (Deut. 4:9).
- [J] In what circumstances do you have the merit [of seeing] children and grandchildren? When you marry your children off when they are young.
- [K] **R. Aqiba says, “Also to teach him how to swim,”** in line with the following verse of Scripture: “[I call heaven and earth to witness against you this day, that I have set before you life and death, blessing and curse; therefore choose life,] that you and your descendants may live” (Deut. 30:19).
- [I:2 A] What [is the status of the statement about the father’s obligations]? Is it a supererogatory religious duty, or are these absolute requirements, [which a person is compelled to carry out, with special reference to marrying off the son]?
- [B] *Let us derive the answer from the following case:*
- [C] *Bar Tarimah came to R. Immi. He said to him, “Persuade father to get me a wife.”*
- [D] *He went and tried to persuade him, but the father was not agreeable [to the project].*

[E] *That is to say that it is a mere religious duty, for if you say that it was an absolute requirement, he should have forced him to comply.*

[F] How do we know that, if his father did not do his duty, the son is liable to do it for himself?

[G] Scripture states, “Every firstborn of man among your sons you shall redeem.”

[H] “You shall be circumcised [in the flesh of your foreskin, and it shall be a sign of the covenant between me and you]” (Gen. 17:11).

[I] “And you shall teach them to your children.”

[J] “And make them known to your children.”

[K] “That you and your descendants may live.”

[I:3 A] *There we have learned: **the father endows his child with beauty, strength, riches, wisdom. and length of years** [M. Ed. 2:9].*

[B] How do we know beauty?

[C] “Let thy work be manifest to thy servants, [and thy glorious power to their children]” (Ps. 90:17).

[D] Strength: “His descendants will be mighty in the land; [the generation of the upright will be blessed]” (Ps. 112:2).

[E] Riches: “I have been young and now I am old; yet I have not seen the righteous forsaken or his children begging bread” (Ps. 37:25).

[F] Wisdom: “And you shall teach them to your children, speaking of them ...” (Deut. 11:19).

[G] Years: “That your days and the days of your children may be multiplied in the land which the Lord swore to your fathers to give them” (Deut. 11:20).

[H] And just as the father endows his children with five traits, so the children are liable to him in five regards, and these are they: food, drink, clothing, shoes, and guidance.

[I] This is in line with what is written, “May it fall upon the head of Joab, [and upon all his father’s house; and may the house of Joab never be without] one who has a discharge, or who is leprous, or who holds a spindle, or who is slain by the sword, or who lacks bread” (2 Sam. 3:29).

[J] “One who has a discharge” is weak.

[K] “One who is leprous” is abandoned [on account of ugliness].

[L] “One who holds a spindle” is feebleminded.

[M] “Who is slain by the sword” is short-lived.

[N] “Who lacks bread” is poor.

[I:4 A] *When Solomon came to kill Joab, [Joab] said to him, “Your father made five evil decrees against me [those at 2 Sam. 3:29]. You accept them, and I shall accept the death penalty from you. Solomon accepted them, and all of them were fulfilled in the house of David.”*

[B] “One who has a discharge” applies to Rehoboam: “And King Rehoboam made haste to mount his chariot, to flee to Jerusalem” (1 Kings 12:18).

[C] There is he who says he had a discharge, and there is he who says he was spoiled.

[D] As to “a leper,” this is Uzziah: ‘And King Uzziah was a leper to the day of his death, [and being a leper dwelt in a separate house, for he was excluded from the house of the Lord]’ (2 Chr. 26:21).

[E] “One who holds a spindle” applies to Joash: “[Though the army of the Syrians had come with few men, the Lord delivered into their hand a very great army, because they had forsaken the Lord, the God of their fathers.] Thus they executed judgment on Joash” (2 Chr. 24:24).

[F] R. Ishmael taught, “This teaches that they set up against him sadists, who had never known a woman in their lives, and they inflicted suffering on him as they inflict suffering on a woman.”

[G] This is in line with what is written, “The pride of Israel testifies to his face; [Israel and Ephraim shall stumble in his guilt; Judah also shall stumble with them]” (Hos. 5:5). [The meaning is,] they tormented the pride of Israel in his face.

[H] “One who is slain by the sword” refers to Josiah, in line with the following verse of Scripture: “And the archers shot King Josiah; [and the king said to his servants, ‘Take me away, for I am badly wounded’]” (2 Chr. 35:23).

[I] R. Yohanan says, “This teaches that they made his body into a sieve.”

[J] R. Ishmael taught, “Three hundred arrows did they shoot into the anointed of the Lord.”

[K] “Who lacks bread” refers to Jehoiachin, as it is written, “[And every day of his life he dined regularly at the king’s table;] and for his allowance, a regular allowance was given him [by the king, every day a portion, as long as he lived]” (2 Kings 25:30).

[I:5 A] *There we have learned: If [before the start of the Sabbath] they began, they do not interrupt the process* [M. Shab. 1:5].

[B] What is the point at which the bath begins?

[C] R. Zeriqan in the name of R. Haninah: “Once he has removed his belt.”

[D] Rab said, “Once he has removed his sandal.”

[E] *R. Joshua b. Levi would hear the lesson of his grandson every Friday afternoon. One time he forgot and went into the bath of Tiberias. Now he was leaning on the shoulder of R. Hiyya b. Ba. He remembered while he was in the bath [that he had not heard the child’s lesson] and he went out of the bath. What happened?*

[F] *R. Daromi said, “It was this way. R. Eleazar b. Yosé said, ‘He had already removed his garments.’”*

[G] *Said to him R. Hiyya bar Ba, “Did not Rabbi teach us, ‘If before the start of the Sabbath they began, they do not interrupt?’”*

[H] He said to him, “Hiyya, my son, is it a small thing in your eyes that whoever hears a passage of Torah from his grandson is as if he hears it from Mount Sinai? *What is the scriptural basis for this statement?* ‘Make them known to your children and your children’s children – how on the day that you stood before the Lord your God at Horeb’ (Deut. 4:9-10). That is to say, ‘It is like the day on which you stood before the Lord your God at Horeb.’”

[I:6 A] R. Hezekiah b. R. Jeremiah, R. Hiyya in the name of R. Yohanan: “If you can trace the authority behind a tradition to Moses, do so, and if not, put the first [name you hear] first, and the last last.”

[B] Giddul said, “Whoever says a tradition in the name of the one who said it should see himself as if the one who is the authority for the tradition is standing before him.”

[C] What is the scriptural basis for that statement?

[D] “Surely a man goes about as a shadow! [Surely for nought are they in turmoil] man heaps up, and knows not who will gather]”

[E] “Many a man proclaims his own loyalty, but a faithful man who can find?” (Prov. 20:6).

[F] *This refers to R. Zeira, for R. Zeira said, “We pay no attention to the traditions of R. Sheshet, [which he says in the names of those who originally said them,] because he is blind [and may err in identifying the voices].”*

[G] *And R. Zeira said to R. Yosa. “Do you know Bar Pedaiah. that you cite traditions in his name?”*

[H] *He said to him, “R. Yohanan said them in his name.”*

[I] *Said R. Zeira to R. Ba, bar Zabeda, “Does my lord know Rab, that you cite traditions in his name?”*

[J] *He said to him, “R. Ada bar Ahva said them in his name.”*

[II:1 A] Every commandment concerning the father to which the son is liable [M. 1:7B]:

[B] What is the way one expresses reverence for the father?

[C] He does not sit in his place or speak in his place, he does not contradict him.

[D] And what is the form of honor owing to the father?

[E] Giving him food to eat and something to drink and clothing him and covering him and taking him out and bringing him in and washing his face, his hands, and his feet [T. Qid. 1:1 IB].

[F] *Whose [food and the like must be given to the father]? [Does the son have to provide it?]*

[G] *Hunah bar Hiyya said, “It is the old man’s.”*

[H] *And there are those who wish to say, “It is his [the son’s].”*

[I] *Did not R. Abbahu say in the name of R. Yosé b. R. Haninah, “How do we know that even if the father said to him, ‘Throw this purse into the sea,’ the son must listen to him?” [So the son bears unlimited obligations.]*

[J] *That applies to a case in which the father has another such purse, and in which the son gives pleasure to the father by doing what he wants.*

- [II:2 A] **All the same are husband [61b] and wife, but the husband has sufficient means to do these things [for the aged parent], and the wife does not have sufficient means to do them, or others have power over her [T. Qid. 1:1].**
- [B] If the daughter was widowed or divorced, she enters the status of one who has sufficient means to carry out what is required.
- [II:3 A] To what extent does the requirement of honoring the father and mother extend?
- [B] He [Eleazar, Y. Pe. 1:1] said to them, “Are you asking me? Go and ask Damah b. Netinah. He was the chief of the *patroboule* of his town. One time his mother was slapping him before the entire council, and the slipper she was beating him with fell from her hand, and he got down and gave it back to her, so that she would not be upset.”
- [C] Said R. Hezekiah, “He was a gentile from Ashkelon, and head of the *patroboule* of his town. Now if there was a stone on which his father had sat, he would never sit on it. When [his father] died, he made the stone into his god.”
- [D] One time the Benjamin-jewel in the high priest’s breastplate was lost [cf. Jastrow, p. 601]. *They said, “Who has one as fine as that one? They said that Damah b. Netinah had one. They went to him and made a deal with him to buy it for a hundred denars. He went to get it for them, and he found that his father was sleeping [on the box containing the jewel].*
- [E] *And some say that the key to the box was on the finger of his father, and some say that his foot was stretched out over the jewel cask.*
- [F] *He went down to them and said, “I can’t bring it to you.” They said, “Perhaps it is because he wants more money.” They raised the price to two hundred, then to a thousand. Once his father woke up from his sleep, he went up and got the jewel for them.*
- [G] *They wanted to pay him what they had offered at the end, but he would not accept the money from them. He said, “Shall I sell you [at a price] the honor I pay to my father? I shall not derive benefit by reason of the honor I pay to my father.”*
- [H] How did the Holy One, blessed be he, reward him?

[I] Said R. Yosé b. R. Bun, “That very night his cow produced a red cow, and the Israelites paid him its weight in gold and weighed it [for use for producing purification water in line with

[J] Said R. Shabbetai, “It is written, ‘[The Almighty – we cannot find him; he is great in power and justice,] and abundant righteousness he will not violate’ (Job 37:23). The Holy One, blessed be he, will not long delay the reward that IS coming to gentiles for the good they do.”

[II:4 A] The mother of R. Tarfon went down to take a walk in her courtyard on the Sabbath, and her slipper fell off, and R. Tarfon went and placed his two hands under the soles of her feet, so that she could walk on them until she got to her couch.

[B] One time sages went to call on him. She said to them, “Pray for Tarfon, my son, who pays me altogether too much honor.”

[C] *They said to her, “What does he do for you?” She repeated the story to them.*

[D] *They said to her, “Even if he did a thousand times more than this, he still would not have paid even half of the honor of which the Torah has spoken.”*

[II:5 A] The mother of R. Ishmael went and complained to the rabbis about him. She said, “Rebuke Ishmael, my son, because he does not pay respect to me.”

[B] At that moment the faces of our rabbis grew dark. They said, “Is it at all possible that R. Ishmael does not pay honor to his parents?”

[C] They said to her, “What did he do to you?”

[D] She said, “When he comes home from the council house, I want to wash his feet in water and drink the water, and he does not let me do it.”

[E] They said, “Since that is what she deems to be the honor she wants for herself, that indeed is just the kind of honor he must pay to her.”

[F] Said R. Mana, “Well do the millers say, ‘Everyone’s merit is in his own basket.’ [That is, there is a different way of doing good for every man (following Pené Moshe and Jastrow).] The mother of R. Tarfon said one thing to them, and they responded thus, and the mother of R. Ishmael said something else to them, and they responded so.”

[II:6 A] *R. Zeira was distressed, saying, “Would that I had a father and a mother, whom I might honor, and so inherit the Garden of Eden.” When he heard these two teachings [about Tarfon and Ishmael], he said, “Blessed be the All-Merciful, that I have no father and mother. I could not behave either like R. Tarfon or like R. Ishmael.”*

[B] Said R. Abin, “I am exempt from the requirement of honoring father and mother.”

[C] They say that when his mother became pregnant, his father died, and when his mother gave birth, she died.

[II:7 A] There is he who feeds his father fattened [birds] and inherits Gehenna. and there is he who ties his father to the millstones [to pull them] and inherits the Garden of Eden.

[B] How does one feed his father fattened [birds] and inherit Gehenna? *There was a man who gave his father fattened chickens to eat. One time the father said to him, “My son, how do you come by these things?” He said to him, “Old man, eat and shut up, just like dogs that eat and shut up.” So he turns out to feed his father fattened [birds] and to inherit Gehenna.*

[C] How does he tie his father to the millstones and inherit the Garden of Eden? *There was a man who was a miller, pulling the stones. The government orders came to the millers [for the corvée]. He said to him, “Father, go and pull the wheel in my place. If the [labor for the government] should be dishonorable, it is better that I do it and not you, and if there should be floggings, it is better that I get them and not you.” So he turns out to tie his father to the millstones and inherits the Garden of Eden.*

[II:8 A] “Every one of you shall revere his mother and his father, [and you shall keep my Sabbaths]” (Lev. 19:3).

[B] And it is said, “You shall fear the Lord your God; [you shall serve him and swear by his name]” (Deut. 6:13).

[C] Scripture so compares the reverence owing to father and mother to the reverence owing to the Omnipresent.

[D] It is said, “Whoever curses his father or his mother shall be put to death” (Ex. 21:17).

[E] And it is said, “[And say to the people of Israel,] ‘Whoever curses his God shall bear his sin’” (Lev. 25: IS).

[F] Scripture so compares the penalty for cursing the father and mother to the penalty for cursing the Omnipresent.

[G] But it is not possible to introduce the matter of smiting Heaven.

[H] But these [C, F] are reasonable, for the three of them are partners.

[II:9 A] What is the way one expresses reverence for the father? He does not sit in his place or speak in his place, he does not contradict him.

[B] And what is the form of honor owing to the father?

[C] **Giving him food to eat, something to drink, clothing him, and covering him and taking him out and bringing him in and washing his face, his hands, and his feet** [T. Qid. 1:1 1B].

[D] *Whose [food and the like must be given to the father]? [Does the son have to provide it?]*

[E] Huna bar Hiyya said [that the father must supply what is needed for himself].

[F] *The following saying of R. Hiyya bar Ba differs, for R. Hiyya bar Ba [said], “R. Judah, son of the daughter of R. Simeon b. Yohai taught that R. Simeon b. Yohai taught: ‘Great is the honor owing to father and mother, for the Holy One, blessed be he, gave preference to it, even over the honor owing to God.’ Here is stated, ‘Honor your father and mother, [that your days may be long in the land which the Lord your God gives you]’ (Ex. 20:12). And elsewhere it is stated, ‘Honor the Lord with your substance [and with the firstfruits of all your produce]’ (Prov. 3:9). How then do you honor God? It is with your substance. You set aside gleanings, the forgotten sheaf, and the corner of the field. You set aside heave offering and first tithe, second tithe and poor man’s tithe, dough offering, you make a tabernacle [for the festival of Sukkot], and take a lulab, a shofar, phylacteries and show fringes, feed the hungry and give drink to the thirsty. Now if you have enough, you are liable for all these things, and if you do not have, you are not liable for any one of them. But when it comes to the matter of honoring father, and mother, whether you have sufficient or whether you do not have, you must honor your father and mother, even if you have to go begging at doorways.”*

[II:10 A] R. Aha in the name of R. Abba bar Kahana, “It is written, ‘She does not take heed to the path of life. her ways wander and she does not know it’ (Prov. 5:6). The Holy One, blessed be he, took [and kept to himself] the reward that is coming to those who carry out their

religious duties, so that they should do them in true faith [and without expecting a reward].”

- [B] R. Aha in the name of R. Isaac, “‘Keep your heart with all vigilance; for from it flows the springs of life’ (Prov. 4:23). [The meaning is this:] ‘As to all the things about which I spoke to you in the Torah, keep [and do them all], for you do not know from which of them the springs of life will flow to you.’”
- [C] Said R. Abba bar Kahana, “The Scripture has compared the easiest of all the religious duties to the most difficult of them all. The easiest of them all is sending forth the dam from the fledglings. The most difficult of them all is honoring father and mother. Yet in regard to both of them, the same reward is specified: ‘that your days may be long.’”
- [D] Said R. Abun, “Now if in respect to a matter that is tantamount to paying back a debt [that is, the debt one owes one’s father and mother], it is written, ‘[You shall walk in all the way which the Lord your God has commanded you, that you may live,] and that it may go well with you, and that you may live long in the land which you shall possess’ (Deut. 5:33), as to a matter that involves a loss of money and endangerment to life [as some religious duties may require], how much the more so [will there be the reward of long life].”
- [E] Said R. Levi and an [unnamed] rabbi. “A matter that is tantamount to paying back a debt is still greater than a matter that is not tantamount to paying back a debt.”
- [F] *It was taught as a Tannaite rule:* R. Simeon b. Yohai says. “Just as the reward that is coming for doing the two of them is equivalent, so the punishment applying to not doing the two of them is the same: ‘The eye that mocks a father and scorns to obey a mother will be picked out by the ravens of the valley and eaten by the vultures’ (Prov. 30:17). The eye that has ridiculed the notion of honoring the father and mother and that scorns [61c] the duty of not taking the dam with the fledglings. ‘will be picked out by the ravens of the valley’: Let the raven come, which is cruel, come and pluck it, but not derive benefit from it. ‘and eaten by the vultures’: Let the vulture come, which is merciful, and eat it and derive benefit from it.”
- [G] *R. Yannai and R. Jonathan were in session. Someone came and kissed the feet of R. Jonathan. R. Yannai said to him, “What is the meaning of this [honor that] he pays you today?”*

[H] *[Jonathan] said to him, “One time he came to complain to me about his son, so that the son would support him. I said to him to go to the synagogue and get some people to rebuke him [and tell him to support his father].”*

[I] *[Yannai] said to him, “And why did you not force [the son to do so, by court order]?”*

[J] *He said to him, “And do they force [children to do so]?”*

[K] *[Yannai] said to him, “And are you still [in doubt about] that?”*

[L] *They say that R. Jonathan reverted and established the tradition on the matter in his [Yannai’s] name.*

[M] *[So too did] R. Jacob bar Aha come [and give evidence].*

[N] R. Samuel b. Nahman said in the name of R. Jonathan that they force the son to support the father.

[O] Said R. Yosé, “Would that all the traditions I know were so clear and self-evident to me as this one, that they do force the son to support the father.”

[III:1 A] What is a positive commandment dependent upon the time [of year, for which men are liable and women are exempt] [M. Qid. 1:7C]?

[B] For example, building the sukkah, taking the lulab, putting on tefillin.

[C] What is a positive commandment not dependent upon the time [of year] [M. Qid. 1:7D]?

[D] For example, restoring lost property to its rightful owner, sending forth the bird, building a parapet, and putting on siset [show-fringes].

[E] R. Simeon declares women exempt from the requirement of wearing siset [show-fringes], because it is a positive commandment dependent upon time [T. Qid. 1:10].

[F] Said to them R. Simeon, “Do you not concur with me that it is a positive commandment dependent upon time? For lo, one’s nightgown is exempt from the requirement of having siset.”

[G] *Said R. Hila, “The reasoning behind the position of the rabbis is that if [the garment] was designated by him for use by day and by night, it would be liable for siset.”*

- [III:2 A] Said R. Eleazar, “The Passover offering to be prepared for women is a matter of optional performance, [and even so] if they set aside the restrictions of the Sabbath.”
- [B] R. Jacob bar Aha in the name of R. Eleazar, “The Passover offerings to be prepared for women and slaves are a matter of optional performance.”
- [C] Then [shall we say] all the more so do they override the restrictions of the Sabbath on their account? [Obviously not.] That is the status of unleavened bread prepared for them?
- [D] He said to him, “It is an obligation.”
- [E] R. Zeira said, “That is subject to dispute.”
- [F] R. Hila said, “That is a matter of unanimous opinion.”
- [G] *There is a Tannaite teaching that supports the position of this party, and there is a Tannaite teaching that supports the position of that party.*
- [H] *There is a Tannaite teaching that supports the position of R Zeira. **Lettuce, unleavened bread, and the Passover lamb— on the first night, [eating them] is an obligation. And on the other days, it is optional matter. R. Simeon says, “For men it is an obligation, and for women it is an optional matter” [T. Pisha 2:22].***
- [I] *The following Tannaite teaching supports the position of R. Hila: It is said, “You shall eat no leavened bread with it; seven days you shall eat it with unleavened bread, the bread of affliction— [for you came out of the land of Egypt in hurried flight— that all the days of your life you may remember the day when you came out of the land of Egypt]” (Deut. 16:3). One who is subject to the requirement not to eat leaven, lo, he is subject to the positive requirement of eating unleavened bread. Now lo, since women are subject to the negative commandment of not eating leaven, lo, they are subject to the positive commandment of eating unleavened bread.*
- [J] *Now we have learned: **For every positive commandment dependent upon the time, men are liable, and women are exempt [M. 1:7C].** [That would seem to contradict the conclusion just now reached, since the positive commandment of eating unleavened bread depends upon the time of year.]*

[K] Said R. Mana, “A more strict rule applies to a positive commandment that comes in the wake of a negative commandment.”

[III:3 A] [What follows relates to M. Hal. 4:11, which states, **Joseph the Priest also brought his sons and household to keep the Lesser Passover (Num. 9:10ff.) in Jerusalem, and they turned him back, lest it should be established as an obligation.**]

[B] *Now this accords with the view of him who says, “The Passover offering of women [‘his household’] is an optional matter.”* [Offering the Passover offering on the first Passover is an optional matter. On the second Passover they turned him back. Why? For on the second Passover women do not make the offering at all (E). That is, to do it at its normal time is optional, and to do it at the later time is not permitted at all.]

[C] *It was taught as a Tannaite rule: “[The woman’s obligation on the first Passover is firm, and therefore] a woman prepares the Passover offering on the first Passover for herself, and on the second, she is ancillary to others [but shares their Passover offering]. [But it is optional for her to observe the second Passover, if she has missed the first one,]”* the words of R. Meir.

[D] R. Yosé says, “A woman prepares the Passover offering on the second Passover for herself [as a matter of obligation]. It is hardly necessary to specify that she does the same on the first.”

[E] R. Eleazar b. Simeon says, “A woman prepares the Passover offering on the first Passover as an ancillary matter [joining in the Passover offering done for males], and she does not prepare a Passover offering on the second Passover, [should she miss the first one,] at all.”

[F] *What is the scriptural basis for the position of R. Meir [C]?*

[G] “Tell all the congregation of Israel that on the tenth day of this month they shall take every man a lamb according to their fathers’ houses, [a lamb for a household]” (Ex. 12:2). [House is understood to mean

wife.] Then, if they wished, [they do it] for the wife,
[who has the right to do it for herself].

[H] *What is the scriptural basis for the position of R. Yosé?*

[I] “A lamb according to their fathers’ houses” – all the
more so for his house [his wife].

[J] What is the scriptural basis for the position of R.
Eleazar b. R. Simeon?

[K] “Man” – not a woman.

[L] How do the other rabbis interpret the language “man”?

[M] “Man” – not a minor.

[N] Said R. Jonah, “Even in accord with the one who
said that it is an obligation [for a woman to keep the
Passover the first time around, B], the present case
is different.

[O] “For the matter was based on a limited
consideration: So that the matter [as done by Joseph
the Priest] should not be established as an
obligation.”

[IV:1 A] Except for not marring the corners of the beard. not rounding the corners of the head [Lev. 19:27], and not becoming unclean because of the dead [Lev. 21:1].

[B] Issi says, “[Women are also not liable for transgressing the prohibition of] ‘They shall not make bald spots upon their heads.’”

[C] *What is the scriptural basis for this?* “They shall not make bald spots upon their heads nor shave off the edges of their beards” [Lev. 21:5].

[D] One who is subject to the negative commandment against marring the corners of the beard is subject to the prohibition of a bald spot.

[E] Women, who have no beards, are exempt from the negative commandment regarding a bald spot.

[F] And there is yet a further matter: “Sons” not daughters.

[IV:2 A] Said R. Eleazar, “Women are liable not to make a bald spot.”

[B] *What is the scriptural basis for this position?*

- [C] “For you are a holy people to the Lord your God, [and the Lord has chosen you to be a people for his own possession, out of all the peoples that are on the face of the earth]” (Deut. 14:2).
- [D] All the same are men and women.
- [E] How does R. Eleazar interpret the reference to “sons”?
- [F] When Israel does the will of the Holy One, blessed be he, they are called his children, and when Israel does not do the will of the Holy One, blessed be he, they are not called his children.
- [G] *Rab instructed the members of the household of R. Ahi, R. Hamnuna gave instructions to the associates: “Tell your wives that when they are standing before the deceased, they should not tear out their hair, so that they should not produce a bald spot, [which they are forbidden to do, just like men].”*

[IV:3 A] *How large is a bald spot?*

[B] *There is a Tannaite authority who teaches, “Any size at all.”*

[C] *And there is a Tannaite authority who teaches, “The size of a bean.”*

[D] *One who says it is of any size at all derives that from the language “bald spot,” which indicates any size at all.*

[E] *One who says it is the size of a bean proves it as follows: “Bald spot” is mentioned in two different contexts, both in regard to the present prohibition and in respect to the appearance of leprosy [Lev. 13:12]. Just as “bald spot” stated later is one the size of a bean. so the one here is the size of a bean.*

[F] R. Yosé bar Mamel: “A priest girl is permitted to go abroad.”

[G] What is the scriptural basis for that position?

[H] [Lev. 21:1 says,] “Say to the priests,” and not to the priest girls.

[I] [That must be the case,] for if you do not say so, shall we conclude that, since she is subject to the general decree, she should not go abroad? If you say so, you turn out to set aside the entire chapter dealing with the matter of uncleanness. [Women in general are not subject to the prohibitions of uncleanness in the Temple cult, for they do not participate in the cult. So the proposed conclusion is the only possible one.]

[V:1 A] [With reference to M. 1:7I: Except in the case of a meal of offering of an accused wife and of a Nazirite girl, which they wave:] The priest puts his hand under hers and she waves [the offering].

[B] Is that not a disgrace [that the priest should touch the woman]?

[C] He brings a cloth.

[D] But it will not sufficiently interpose.

[E] They bring an old priest.

[F] And even if you say it is a young priest [that poses no problem], for concupiscence will not be troublesome for that brief moment.

[G] *R. Hiyya taught as a Tannaite rule:* “If the accused wife has no arms, two priests come and wave the offering in her behalf.”

1:8

[A] Every commandment that is dependent upon the Land applies only in the Land,

[B] and that which does not depend upon the Land applies both in the Land and outside the Land, except for orlah and mixed seeds [Lev. 19:23, 19:19].

[C] R. Eliezer says, “Also: Except for [the prohibition against eating] new [produce before the omer is waved on the sixteenth of Nisan] [Lev. 23:14].”

[I:1 A] It is written, “These are the statutes and ordinances that you shall be careful to do in the land that the Lord, the God of your fathers, has given you to possess, all the days that you live upon the earth” (Deut. 12:1).

[B] In the Land you are obligated to do them, but you are not obligated abroad.

[C] To this point we rule that commandments that depend upon the Land apply only in the Land. Is it possible to maintain that even commandments that do not depend upon the Land should apply also only in the Land?

[D] Scripture states, “Take heed lest your heart be deceived, [and you turn aside and serve other gods and worship them,] and the anger of the Lord be kindled against you” (Deut. 11:16).

- [E] “You shall therefore lay up these words of mine in your heart and in your soul” (Deut. 11:18).
- [F] Even when you are exiles, “You shall therefore bind up these words of mine upon your heart and in your soul.”
- [G] [Since the cited verse reads, “And you shall bind them as a sign upon your hands and they shall be as frontlets between your eyes, and you shall teach them to your children” (Deut. 11:18),] what do you derive from the verse? It is, for example, putting on phylacteries and studying Torah.
- [H] Accordingly, just as putting on phylacteries and studying Torah, which do not depend upon being in the Land, apply both in the Land and abroad, so also every matter that does not depend upon being in the Land should apply both in the Land and abroad.
- [I] If that is so, then when they are redeemed they should be exempt [from doing them].
- [J] It is written, “And all the assembly of those who had returned from the captivity made booths and dwelt in the booths, for from the days of Jeshua the son of Nun to that day the people of Israel had not done so. And there was very great rejoicing” (Neh. 8:17).
- [K] Why Jeshua [lacking the expected H]? [Not YHWS’ but YS’.]
- [L] It was Scripture’s way of impairing the honor owing to one righteous man who was in his grave on account of the honor owing to another righteous man in his day.
- [M] [It is on account of the honor owing to a righteous man in his time, namely:] The Scripture has compared the coming of the Israelites to the Land in the time of Ezra to the coming of the Israelites to the Land in the time of Joshua.
- [N] Just as when they came in the time of Joshua, they had been exempt from the religious requirement [of obligations tied to the land of Israel], but they became liable to do so, so when they came in the time of Ezra they had been exempt from the religious requirement [of obligations tied to the land of Israel] His tabernacle, and they now became liable to do so. [Now since the verse observes that they did not do so in Ezra’s time but did do so in Nehemiah’s, it follows that, to avoid dishonoring Ezra, they impaired the honor owing to Joshua and so dropped a letter from his name.]

- [O] On what grounds did they become liable?
- [P] R. Yosé b. R. Haninah said, “It was on the strength of the teaching of the Torah that they became liable.”
- [Q] *This is in line with what is written*, “And the Lord your God will bring you into the land which your fathers possessed, that you may possess it; [and he will make you more prosperous and numerous than your fathers]” (Deut. 30:5).
- [R] The Scripture thereby has compared your inheriting the Land to the inheriting of the Land by your fathers.
- [S] Just as inheriting the Land on the part of the fathers was on the basis of the Torah’s teaching, so your inheriting the Land likewise is on the basis of the Torah’s teaching.
- [T] “He will make you more prosperous and numerous than your fathers” (Deut. 30: 5). They had been exempt, and they became liable, so too you had been exempt, and now you have become liable.
- [U] As to your fathers, they had not been subject to the yoke of the kingdom, but you, even though you are subject to the yoke of the kingdom [are in a different situation, for] your fathers became liable only after fourteen years, seven while they conquered the Land and seven while they divided it, but you are liable as soon as you buy a piece of Land.
- [V] Said R. Eleazar, “They accepted the requirement to separate tithes on their own initiative.”
- [M] *What is the scriptural basis for this position?*
- [X] “Because of all this we make a firm covenant and write it, [and our princes, our Levites, and our priests set their seal to it]” (Neh. 10:1).
- [Y] And how does R. Eleazar interpret the following verse: “[We obligate ourselves to bring the firstfruits of our ground and the firstfruits of all fruit of every tree, year by year, to the house of the Lord; also to bring to the house of our God, the firstborn of our sons and of our cattle, as it is written in the law,] and the firstlings of our herds and of our flocks” (Neh. 10:36-37).
- [Z] [61d] Since they accepted responsibility for matters for which they were not liable, even as to matters for which they were liable, the Omnipresent credited it to them as if they had accepted the obligation on their own initiative.

[AA] How does R. Yosé b. R. Haninah interpret the verse, “Because of all this we make a firm covenant and write it” (Neh. 10:1)?

[BB] Since they accepted their responsibilities in a willing spirit, the Omnipresent credited it to them as if they had accepted the obligation to separate tithes on their own initiative.

[CC] How does R. Eleazar interpret the verse, “more than your fathers”?

[DD] He interprets it to speak of the world to come.

[EE] For R. Helbo, Simeon bar Ba in the name of R. Yohanan: “Your fathers inherited the Land from seven peoples, but you are destined to inherit the Land from ten peoples.”

[FF] *Who are the other three?*

[GG] “[To your descendants I give this land, from the river of Egypt to the great river, the river Euphrates,] the land of the Kenites, the Kenizzites, the Kadmonites, [the Hittites, the Perizzites, the Rephaim, the Amorites, the Canaanites, the Gergashites, and the Jebusites]” (Gen. 15:18-21).

[HH] R. Judah said, “The Shalmaites, the Arabs, and the Nabateans.”

[II] R. Simeon said, “Asia, Aspamaea, and Damascus.”

[JJ] R. Eliezer b. Jacob says, “Asia, Carthage, and Thrace [following Jastrow].”

[KK] Rabbi says, “Edom, Moab, and the beginning of the area of the Ammonites.”

[LL] “more than your fathers.” As to your fathers, even though they were redeemed, they once more went and were subjected, but as to you, once you have been redeemed, you will never again be subjugated.

[MM] *What is the scriptural proof for that statement?*

[NN] “Ask now and see, can a man bear a child?” (Jer. 30:6).

[OO] Just as a male cannot give birth, so you, once you have been redeemed you will never again be subjugated.

[II:1 A] **Except for orlah and mixed seeds. R. Eliezer says, “Also: Except for the prohibition against eating new produce before the omer is waved on the sixteenth of Nisan” [Lev. 23:14] [M. 1:8C-D].**

[B] *What is the scriptural basis for the position of R. Eliezer?*

- [C] “[And you shall eat neither bread nor grain parched or fresh until this same day, until you have brought the offering of your God: it is a statute forever throughout your generations] in all your dwellings” [Lev. 23:14]– whether in the land or abroad.
- [D] *How do rabbis interpret “in all your dwellings”?*
- [E] *They apply it to the rule governing new produce deriving from the land of Israel that is taken outside the boundaries of the land. [Such produce may not be eaten before the omer.]*
- [F] R. Yonah raised the question, “And why do we not learn, ‘Also dough offering’?”
- [G] Said to him R. Yosé, “We have learned the rule governing only matters ~hat apply to Israelites’ crops and also to gentiles’ [crops]. But separating dough offering applies to Israelites’ [food] and not to gentiles’.”
- [H] *What is the scriptural basis for that statement?*
- [I] “Of the first of your coarse meal you shall present a cake as an offering; [as an offering from the threshing floor, so shall you present it]” (Num. 15:20)– and not the first of gentiles’ coarse meal.

1:9

- [A] **Whoever does a single commandment– they do well for him and lengthen his days. And he inherits the Land.**
- [B] **And whoever does not do a single commandment– they do not do well for him and do not lengthen his days. And he does not inherit the Land.**
- [C] **Whoever has learning in Scripture, Mishnah, and right conduct will not quickly sin, since it is said, And a threefold cord is not quickly broken (Qoh. 4:12).**
- [D] **And whoever does not have learning in Scripture, Mishnah, and right conduct has no share in society.**
- [I:1 A] **Lo, whoever sits and does not commit a transgression– they pay him a reward like that of him who does a commandment [M. Mak. 3:15]. And you say this [that one must do it]?**
- [B] *But thus do we interpret the matter:* [It speaks of a case in which one has] an even number [of credits and debits, in which case, by doing a

single commandment, he is given the additional credit he needs to incline the balance in his favor].

- [I:2 A] **Whoever does a single commandment— they do well for him and lengthen his days and his years, and he inherits the Land [M. Qid. 1:10A-B].**
- [B] **And whoever commits a single transgression— they do ill to him and cut off his days, and he does not inherit the Land [T. Qid. 1:13].**
- [I:3 A] There we have learned, **Lo, whoever sits and does not commit a transgression— they pay him a reward like that of him who does a commandment.**
- [B] Said R. Zeira, “This speaks of someone who had the opportunity to do something that may or may not be a transgression, and who did not do it.”
- [C] Said R. Yosé b. R. Bun, “This speaks of someone who designated for himself a given religious duty and never in his life transgressed it.”
- [D] *What would be examples of such a thing?*
- [E] Said R. Mar Uqban, “For example, honoring father and mother.”
- [F] Said R. Mana, “‘Blessed are those whose way is blameless, who walk in the law of the Lord’ (Ps. 119:1). [They are] like those who walk in the law of the Lord.”
- [G] Said R. Abun, “‘Who also do no wrong, but walk in his ways.’ It is as if they walk in his ways.”
- [I:4 A] R. Yosé b. R. Bun, “What is the meaning of the following verse of Scripture: ‘Blessed is the man who walks not in the counsel of the wicked’ (Ps. 1:1)? Since he did not walk in the counsel of the wicked, it is as if he walked in the council of the righteous.”
- [B] *Ben Azzai interpreted the following verse:* “‘Dead flies make the perfumer’s ointment give off an evil odor’ (Qoh. 10:1).
- [C] “Now will a single dead fly not make the perfumer’s ointment give off an evil odor? [Of course it will.] Now this one, because he did a single sin, he has lost all the merit that was in his possession.”
- [D] *So did R. Aqiba interpret the following verse:* “‘Therefore Sheol has enlarged its appetite and opened its mouth beyond measure’ (Is. 5:14).

- [E] “‘Beyond measures’ is not written here, but rather, ‘beyond measure.’ This may be compared to a person who did not have in his hand a single religious duty to incline the balance in his favor.”
- [F] What you say applies to the world to come. But as to this world, even if 999 angels argue against him and a single angel argues for him, the Holy One, blessed be he, inclines the balance in his favor.
- [G] *And what is the scriptural basis for that statement?*
- [H] “If there be for him an angel, a mediator, one of the thousand, to declare to man what is right for him; and he is gracious to him, and says, ‘Deliver him from going down into the pit, I have found a ransom’” (Job 33:23-24).
- [I] Said R. Yohanan, “If you hear a teaching of R. Eliezer, son of R. Yosé the Galilean, incline your ear like a water clock and listen carefully.”
- [J] For R. Yohanan said, “R. Eliezer, son of R. Yosé the Galilean, says, ‘Even if 999 angels argue against a person, and a single angel argues in his favor, the Holy One, blessed be he, inclines the scales in his favor.’”
- [K] “And that is not the end of the matter as to that angel. But even if 999 aspects of the argument of that single angel argue against a man, but a single aspect of his case of that single angel argues in favor, the Holy One, blessed be he, still inclines the scales in favor of the accused.”
- [L] What is the scriptural basis for that statement? “‘If there be for him an angel.’ One of the thousand” is not written, but rather “one part of the thousand,” meaning one-thousandth of the aspects of the arguments of that single angel.
- [M] What is written immediately following? “And he is gracious to him and says. ‘Deliver him from going down into the pit, I have found a ransom.’”
- [N] “Deliver him” through the atonement of suffering.
- [O] “I have found a ransom” – he has found a ransom for himself.
- [P] What you have said applies in this world, but as to the world to come, if the man has a larger measure of merits, he inherits the Garden of Eden, and if he has a larger measure of transgressions, he inherits Gehenna.
- [Q] If they were equally balanced?
- [R] R. Yosé b. Haninah said, “forgiving sin” (Mic. 7:18).

[S] R. Abbahu said, “It is written, ‘forgiving’” (Mic. 7:18).

[T] What does the Holy One, blessed be he, do?

[U] He snatches one of his bad deeds, so that his good deeds outweigh the balance.

[V] Said R. Eleazar, “ ‘To thee, O Lord, belongs steadfast love, for thou dost requite a man according to his work’ (Ps. 62:12).

[W] “And if he has no works you give them to him out of your own store.”

[X] *That is the opinion of R. Eleazar, for* R. Eleazar said
“ ‘Abundant in mercy’ (Ex. 34:6) teaches that he inclines the scale in favor of mercy.”

[II:1 A] [With reference to the statement, **Whoever has learning in Scripture, Mishnah, and right conduct will not quickly sin, since it is said, And a threefold cord is not quickly broken (Qoh. 4:12). And whoever does not have learning in Scripture, Mishnah, and right conduct has no share in society:**] R. Jeremiah said R. Samuel b. Isaac raised the question, “ ‘Righteousness guards him whose way is upright, but sin overthrows the wicked’ (Prov. 13:6).

[B] “ ‘Misfortune pursues sinners, but prosperity rewards the righteous’ (Prov. 13:21). ‘He will guard the feet of his faithful ones, but the wicked shall be cut off in darkness’ (1 Sam. 2:9). ‘Toward the scornful he is scornful, but to the humble he shows favor. The wise will inherit honor, but fools exalt disgrace’ (Prov. 3:34-35). Now is it possible that they build up the fence and lock the gates [so that the Holy One helps the sinner to sin]? It is thus, that they build up the fence and lock the gate.”

[C] But thus did R. Jeremiah say in the name of R. Samuel bar R. Isaac, “ [If] a man keeps himself from transgression one time, then a second and a third time, the Holy One, blessed be he, keeps him from transgressing further; as it is said, ‘Behold, God does all these things twice, three times, with a man, to bring his soul from the pit, that he may see the light of life’” (Job 33:29).

[D] Said R. Zeira, “And that is on condition that the man not go back upon himself and repeat what he has done: ‘A threefold cord is not broken forever’ (Qoh. 4:12) is not written, but rather ‘A threefold cord is not quickly broken.’ But if you apply pressure to it, it will snap.”

[E] R. Huna in the name of R. Abbahu: “The Holy One, blessed be he – before him there [truly] is no such thing as forgetting. But it is as if, on account of Israel, he becomes forgetful, for it is said, ‘Who is a God like thee, forgiving sin, and passing over transgression, for the remnant of his inheritance?’ (Mic. 7:18).”

[F] It is written *ns*’ [i.e., forgetting sin].

[G] And so David said, “You did forgive the iniquity of your people; you did pardon all their sin. Selah” (Ps. 85:2).

YERUSHALMI QIDDUSHIN

CHAPTER TWO

2:1

- [A] [62a] A man effects betrothal on his own or through his agent.
- [B] A woman becomes betrothed on her own or through her agent.
- [C] A man betroths his daughter when she is a girl on his own or through his agent.
- [D] He who says to a woman, “Be betrothed to me for this date, be betrothed to me with this,” if [either] one of them is of the value of a perutah, she is betrothed, and if not, she is not betrothed.
- [E] “By this, and by this, and by this” – if all of them together are worth a perutah, she is betrothed, and if not, she is not betrothed.
- [F] [If] she was eating them one by one, she is not betrothed, unless one of them is worth a perutah.

- [I:1 A] How on the basis of Scripture do we know that a man’s agent is equivalent to himself?
- [B] Said R. Eleazar, “‘Then the whole assembly of the congregation of Israel shall kill it [the Passover lamb] at dusk’ (Ex. 12:6). Now do all of them slaughter it? And is it not so that only one actually slaughters it in behalf of all of them? But on this basis we learn that a man’s agent is equivalent to himself [so that what the agent does is as if the man himself did it].”
- [C] *And from which [verse] do you know this?* “They shall take every man a lamb according to their fathers’ houses, a lamb for a household” (Ex. 12:3). Now did all of them take a lamb? And is it not so that only one of them takes it in behalf of all of them? But on this basis we learn that a man’s agent is equivalent to himself.
- [D] Said R. Yosé, “[A second proof text, Ex. 12:3, is necessary, for the first proof text given above, Ex. 12:6, is not acceptable, since] that case is different. For a man may slaughter the Passover offering of his fellow without the latter’s knowledge or consent.”

[E] If you say that a man may designate a lamb as a Passover offering for his fellow without the latter's knowledge and consent, [that is not so, for] he may not do this (I.E-J follows Pené Moshe and QE).

[F] For R. Zeira said in the name of R. Eleazar, "A man may slaughter the Passover offering of his fellow without his knowledge and consent, but he may not designate it without his knowledge and consent."

[I:2 A] The House of Shammai say, "An agent does not count as a witness [since a man cannot be his own witness, so the agent who goes to betroth a girl cannot also serve as witness to the betrothal]."

[B] The House of Hillel say, "An agent does count as a witness."

[C] *What would be a practical case illustrative of this matter?*

[D] If the man sent off two [E, F, following, require here: *three*].

[E] [See T. Qid. 1:1A-C, to which what follows must refer: **He who gives permission to three men to effect an act of betrothal for him with a woman – R. Nathan says, "The House of Shammai say, 'Two may serve as witnesses, and one as an agent.' And the House of Hillel say, 'All three of them are agents, and they have not got the power to serve as witnesses.'**"] *In the opinion of the House of Shammai, we have an agent and two witnesses. In the opinion of the House of Hillel, all three of them are in the status of agents, and all three of them are in the status of witnesses.*

[F] [With regard to the opinion of the House of Hillel that the agent may serve as a witness to the betrothal,] said R. Abun bar Hiyya, "That view appears sound in a case in which he betrothed her with a writ. But if he betrothed her with the donation of money, then the agent becomes an interested party in his testimony."

[G] Said R. Yosé, "Since the Torah has accepted his credibility at all, [in the view of the House of Hillel] even if he betrothed her with a donation of money, he is not deemed to be an interested party in regard to his testimony."

[H] *Said R. Ba, "A case came before Rab, and he treated an agent as a witness."*

[I] *Someone deposited his casks of wine in the cellar of his fellow, and the latter later denied the bailment. Said R. Phineas, "The case came before R. Jeremiah, and he treated the depositor's agent as a witness, [the witness being the stevedore who had*

carried the casks, thus also the depositor's agent in making the bailment], and he required the bailee to take an oath because of the testimony of the stevedore."

- [I:3 A] *There are Tannaitic authorities that teach, "The agent of a man is like himself."*
- [B] *There are those that teach, "The agent of a man is not like himself."*
- [C] "And if he exchanges it, then both it and that for which it is exchanged shall be holy" (Lev. 27:33). "If he nullifies it, he will nullify ..." (Num. 30:16). [The husband's agent may nullify the vows of the wife.]
- [D] *[Here it is specified in two instances that a man's agent does act in his behalf. That indicates that in all other instances he does not. On that account] they considered ruling that a man's agent would not be like himself, since the Scripture has limited the principle to the two specified cases.*
- [E] "He shall lay his hand upon the head of his burnt offering" (Lev. 1:4), not through the hand of his son or through the hand of his servant or through the hand of his agent, [but he personally must do it].
- [F] *Accordingly, they considered ruling that in normal circumstances a man's agent is like himself, but Scripture explicitly excluded this case.*
- [G] "And his master shall pierce his ear with an awl" (Ex. 21:6) – his master and not his son, his master and not his agent.
- [H] *Accordingly, they considered ruling that in normal circumstances a man's agent is like himself, but Scripture explicitly excluded this case.*
- [I] *There is a Tannaite authority who teaches, "And he shall pierce" [with the use of the word and] signifying that within the rule is encompassed the agent as well.*
- [J] *Up to this point the matter has been treated in accord with the principles of exegesis of R. Aqiba. But what about R. Ishmael's approach to this same matter?*
- [K] "His master" means that included in the statement is anyone who exercises the authority vested in his master.
- [II:1 A] [With reference to the rule, **A man betroths his daughter when she is a girl on his own or through his agent:**] *There we have learned: As to a girl who was in the status of [mere] betrothal, [not in a fully consummated union,] she or her father may receive her bill of*

divorce. R. Judah says, “Two hands together cannot take possession, but her father alone receives the bill of divorce” [M. Git. 6:2].

- [B] R. Simeon b. Laqish said, “As there is a dispute about receiving her writ of divorce, so there is a dispute about her receiving the tokens of betrothal.”
- [C] Said R. Yohanan, “All [62b] concur as to receiving tokens of betrothal that her father has the sole right to betroth her. [At the divorce, she reenters the father’s domain; at the betrothal, she leaves it.]”
- [D] R. Simeon b. Laqish agrees in respect to marriage that she does not have the power to marry herself off and so to cause her father to lose the right to the usufruct of her labor.
- [E] *In the opinion of R. Yohanan*, she does not have the right to form an independent opinion against that of her father [i.e., she is not yet at the legal age of consent to betroth herself], and she also does not have the right to appoint an agent.
- [F] *In the opinion of R. Simeon b. Laqish*, she does have the right to form an independent opinion against that of her father, and she also has the right to appoint an agent.
- [G] *The following statement in the Mishnah stands at variance with the position of R. Yohanan: **A man effects betrothal on his own or through his agent. A woman becomes betrothed on her own or through her agent** [M. 2: IA-B].*
- [H] *Interpret the passage to speak of an adult [not a minor, who would conform to Yohanan’s view].*
- [I] *And have we not learned: **A minor who said, “Receive my writ of divorce for me” – it is not a valid writ of divorce until it reaches her domain** [M. Git. 6:2] [because she cannot appoint an agent]? [That applies for a minor. Therefore a girl twelve years six months and a day old *has* got the right to appoint an agent.]*
- [J] *Interpret the implication of the cited rule to apply to an orphan girl, [but if there is a living father, a girl (not a minor) also may appoint an agent].*
- [K] *And have we not learned: **If the father said to an agent, ‘Go, receive my daughter’s writ of divorce,’ if [the father] wanted to retract, he may not retract** [M. Git. 6:2] [because the agent is validly*

appointed and serves as the father would serve? Accordingly, in the cited passage at M. Git. 6:2, the girl does have a father!

- [L] *Interpret the Mishnah passage to apply to diverse cases. The former passage speaks of an orphan; the latter speaks of a girl who has a father.*
- [M] *The Mishnah pericope before us stands at variance with the position of R. Simeon b. Laqish: **A man betroths his daughter when she is a girl on his own or through his agent [M. 2:1C].** [But the passage fails to say that she may do so directly or through her agent, as Simeon b. Laqish would maintain.]*
- [N] *Interpret the passage to express the view of R. Judah, for R. Judah says, “Two hands together cannot take possession, but her father alone receives the writ of divorce, “ [and the dispute pertains to betrothal as much as to divorce].*
- [O] *And R. Yosé said, “One of the rabbis left the meetinghouse and said, ‘[All the rabbis] concur in practical law in the position of R. Yohanan.’”*
- [P] *And was this a reliable report?*
- [Q] *It was not necessary merely to rely on him, [for it was a matter of being close to the point of the decision itself]. [His report of the proceedings of the meeting was as direct] as catching a fish from the lake and throwing it into the frying pan [Jastrow 1:530].*
- [II:2 A] R. Hamnuna in the name of R. Assi: “A minor who betrothed herself – [when she produces] two pubic hairs [as signs of maturity and wishes now to exercise the right of refusal, and so to nullify the marriage] –
- [B] “her father exercises the right of refusal in her behalf, and she may not do so.”
- [C] *This does not accord with the view of either R. Yohanan or R. Simeon b. Laqish.*
- [D] *If the law [as formulated by Hamnuna] were to accord with R. Yohanan, there should be no right of refusal at all, [since there is no need to exercise such a right]. [The girl’s act of betrothal was null at the outset.]*
- [E] *If the law [as formulated by Hamnuna] were to accord with R. Simeon b. Laqish, the original marriage has standing by the law of the Torah [and consequently the father should have no right to*

intervene and exercise the right of refusal]. [It is a valid marriage. Only the girl has that right.]

[F] *No, the statement [of Hammuna] accords solely with the view of R. Yohanan. Now even though R. Yohanan has said, “All parties concur in the case of betrothal that her father has the sole right to betroth her,” there is no problem, for in this case he agrees that the father may exercise the right of refusal in her behalf. [The marriage, once contracted and consummated, was valid to the extent that there must be an exercise of the right of refusal.]*

[II:3 A] R. Ba bar Kahana and R. Jacob bar Idi in the name of R. Joshua b. Levi: “If he betrothed [the minor daughter] with the father’s knowledge and consent and then married her without the father’s knowledge and consent –

[B] “this was a case, and the father came and took her away from her marriage canopy [and nullified the wedding].”

[C] *It was clear to R. Jacob bar Aha in the name of R. Joshua that R. Joshua b. Levi differs with R. Simeon b. Laqish, [who maintains that the girl can betroth herself validly, while he maintains that she may not do so, as the cited case indicated].*

[D] *[No, that is not so.] He does not differ. What R. Simeon b. Laqish said there is that she does not have the power to marry herself off and so to cause her father to lose the usufruct of her labor.*

[E] So too here R. Joshua b. Levi has said that she does not have the power to marry herself off and so to cause her father to lose the usufruct of her labor. [But the father nonetheless has the duty to exercise the right of refusal if she should marry herself off.]

[F] R. Abba bar Kahana brought the case in which R. Jacob bar Idi in the name of R. Joshua b. Levi stated, “If she betrothed herself without her father’s knowledge and consent and married herself off without his knowledge and consent –

[G] “this was a case, and her father came and totally uprooted her act of betrothal.”

[II:4 A] [We turn to the case of a priest, who, when validly married to an ordinary Israelite girl, confers upon her the right to eat food in the status of heave offering. The problem is whether these various cases of

betrothal serve as sufficient cause to confer that right, in the theory that she is sufficiently married to the priest to gain it.] If she was betrothed with the father's knowledge and consent and married not with his knowledge and consent, what is the law as to her eating food in the status of heave offering?

[B] Rab said, "She does eat it."

[C] Samuel said, "She does not eat it."

[D] *Said R. Mana, "The reasoning of Rab is that, since she was betrothed with his knowledge and consent, the prevailing assumption is that she was also married with his knowledge and consent, [and so she may eat food in the status of heave offering, as a validly married woman]."*

[E] *Said R. Yosé b. R. Bun, "The reasoning of Rab is that, in accord with the earlier version of the Mishnah's law, an Israelite girl who is betrothed validly gains the right to eat food in the status of heave offering."*

[F] *What is the difference between these two explanations of Rab's view?*

[G] *It concerns the disposition of the usufruct of her labor.*

[H] *In the opinion of R. Mana's explanation of Rab's position, the usufruct of her labor is assigned to her husband.*

[I] *In the opinion of R. Yosé b. R. Bun's explanation of Rab's view, the usufruct of her labor belongs to her father.*

[J] If she dies, then, who inherits her estate?

[K] *In the opinion of R. Mana's view of Rab's position, her husband inherits her estate.*

[L] *In the opinion of R. Yosé b. R. Bun's explanation of Rab's view, if she should die, her father again inherits her estate [for the same reason in both instances, namely, he does not deem this a valid marriage, but deems her right to eat heave offering only a special case].*

[M] [Nevertheless] R. Yosé b. R. Bun came [and declared that] according to Rab, if she should die, her husband will inherit.

[N] [If a priest] betrothed her without the father's knowledge and consent and married her without his knowledge and consent, what is the law as to her eating food in the status of heave offering?

[O] Samuel said, “She does have the right to eat food in the status of heave offering.”

[P] *Now look here!* If he had betrothed her with the father’s knowledge and consent and married her without it, Samuel said, “She does not eat food in the status of heave offering.” Now here will he say that she does so?

[Q] Samuel treats her now as in the status of an orphan [because, by his total silence at both sequences in the marriage relationship, the father indicates that he does not care what is going on].

[III:1 A] He who says to a woman, “Be betrothed to me for this date, [be betrothed to me with this, “if either one of them is of the value of a perutah, she is betrothed, and if not, she is not betrothed. [“By this and by this and by this” – if all of them together are worth a perutah, she is betrothed, and if not, she is not betrothed:

[B] The entire passage of the Mishnah speaks of a case in which she said, “I do not want this one, but that one,” “I do not want that one, but this one” [because, in that case, each must be worth a *perutah*. [But if she did not so specify, then if all of them add up to the requisite value, she is betrothed.]

[III:2 A] “By this and by this and by this.”

[B] *What Tannaite authority emphasizes that one must repeat the and?*

[C] It is R. Judah.

[D] But in accord with R. Meir, even if she had said, “Either ... or ...” she would still be betrothed [cf. M. Shebu. 5:3, cited and discussed below at IV:4].

[IV:1 A] If she was eating them one by one, she is not betrothed unless one of them is worth a perutah] [M. 2:1D-I]: R. Jeremiah in the name of Rab: “Be betrothed to me on the strength of this *sela*, with the betrothal to take effect after thirty days” – [if] she uses up the *sela* during the thirty days, lo, this one is nonetheless betrothed.”

[B] Also R. Simeon b. Eleazar [cited below] concurs in this case, for what is the difference between this case and the case of a loan?

[C] A loan may not be handed over for the purpose of betrothal. [So if it is used, nothing is given.] As to a token of betrothal, it is given over for that purpose [being consumed] from the first instance, [but a loan is not].

- [D] *And lo, we have learned, **If she was eating them one by one, she is not betrothed, unless one of them is worth a perutah** [M. 2:1H-I]? But on the basis of A, even if there is not an object worth a *perutah*, she should be deemed betrothed.*
- [E] *Interpret it to speak of the first clause [“Be betrothed ... for this,” in which case it must be worth a *perutah*.*
- [F] *If it speaks of the first clause, in that regard have we learned: **If she was eating them one by one, she is not betrothed unless one of them was worth a perutah.** [This is specific to eating them up, but G would apply even if they were all available.]*
- [G] *Said R. Eleazar, “It follows the view of R. Simeon b. Eleazar, [that is, we deal with the latter clause; but if he says, ‘with this or this,’ the betrothal is postponed until the end,] for it has been taught: **He who says to a woman, ~’Lo, you are betrothed to me through my bailment that you have in your hand,**” if she went off and found that it had been stolen or had gotten lost, if there was left in her possession something worth a *perutah*, she is betrothed, and if not, she is not betrothed. But if it concerned a loan, even though there was something worth a *perutah* left in her possession, she is not betrothed. R. Simeon b. Eleazar says in the name of R. Meir, “A loan is equivalent to a bailment. If there remained in her hand something worth a *perutah*, she is betrothed, and if not, she is not betrothed” [T. Qid. 3:14] [cf. Y. Qid. 1:2XI].*
- [H] *Said R. Eleazar, “The view of R. Simeon b. Eleazar accords with the view of R. Meir. [Simeon does not speak of a loan in general. In such a case there is no dispute. A loan is handed over to be used. No one imagines the money will be available at the time the betrothal takes effect. The man has proposed to betroth her with the benefit he gains from giving her the loan. Therefore even if nothing is left even of the value of a *perutah*, she is betrothed. In the case of a bailment, the man intended to betroth her with something that is in hand, for a bailment is not handed over to be used. Therefore if there is something worth a *perutah* left, she is betrothed. In this case R. Simeon b. Eleazar treats a loan as equivalent to a bailment.] Just as R. Meir has said, “Whoever varies from the assignment given to him by the owner is called a thief” [because, by doing something other than what he was charged to do, he has acquired possession of the object], so R. Simeon b. Eleazar has said here, “Whoever varies in his dealing with a bailment from the assignment given to him by the owner is called a thief.”*

[I] For [R. Eleazar] explains [the opinion of R. Simeon b. Eleazar] to speak of a case of a loan, in which case the lender said, “Buy me wheat,” but the borrower bought him barley. [In such a case, the barley went up in value. The profit goes to the common pot. Now the borrower takes his half of the profit and proposes to betroth the woman with that sum. He says to her, “Lo, you are betrothed to me on the strength of the loan of yours that I have.” In such a case we require that there be at least the value of a *perutah*, for in this case the loan was not handed over to be spent. This loan is nothing other than a bailment. That accounts for Simeon b. Eleazar’s reasoning.]

[J] [Now the Talmud asks about this item:] And do they effect betrothal with a stolen object? [This is not dealt with.]

[K] [*In this regard,*] R. Yosé raised the question: “One may understand a case in which a man gave what was worth a *perutah* against a loan of a *denar*. But will he give over what is worth a *perutah* on the loan of what is worth a *perutah*?”

[IV:2 A] *There is a Tannaite authority who teaches,* “They do betroth with what is stolen.”

[B] *There is a Tannaite authority who teaches,* “They do not betroth with what is stolen.”

[C] Said R. Mana, “He who said that they do betroth with what is stolen speaks of a stolen object that he has the power to retrieve from the thief’s possession. He who said that they do not betroth *with* a stolen object speaks of a stolen object that *he* does not have the power to retrieve from the domain of the thief.”

[D] R. Yosé b. R. Bun in the name of R. Samuel bar R. Isaac, “*He who said that they betroth with a stolen object speaks of a stolen object that the owner has despaired of recovering,* [so it becomes part of the domain of the thief, who then may make use of it].

[E] “*And one who said that they do not betroth by means of a stolen object speaks of a stolen object that the owner has not despaired of recovering.*”

[IV:3 A] [Reverting to IV:1:] R. Abbahu in the name of R. Yohanan [*said*], “*The cited passage speaks of a case in which he said to her, ‘with the bailment that I [now] have in your possession. But if he said to her,*

‘With everything I left as a bailment in your hand,’ she is not deemed betrothed, unless all of it is available.”

- [B] What is the difference between this case and a loan?
- [C] A loan is handed over to be spent, but this is not handed over to be spent.
- [D] *And have we not learned: If she was eating them one by one, she is not betrothed, unless one of them is worth a perutah* [M. Qid. 2:1H-I]?
- [E] On this basis, even if there was one left worth a *perutah*, she should not be betrothed, unless all of them are available!
- [F] *Interpret the passage to speak of the first clause.*
- [G] *But if it speaks of the first clause, in that regard have we learned: If she was eating them one by one, she is not betrothed unless one of them is worth a perutah.*
- [H] *Said R. Abun, “Did we not propose ruling, Who taught that each and must be specified? It is R. Judah.”*

[IV:4 A] Said R. Yohanan [with regard to M. Shebu. 5:4F: “Give me wheat and barley and spelt that I have in your hand,” and so forth, which we attribute to Judah], “In the opinion of R. Judah, you may have a case in which the several items are treated together, so that one is liable for a single offering [62c] [in the case of a violated oath of bailment], while you may have a case in which they are treated individually, so that one is liable for three offerings. [The important difference is in the use of and. If someone says, ‘Wheat and barley and spelt,’ then we have liability on three separate counts. If the man said, ‘Wheat, barley, spelt,’ then the three are treated as one. It is Judah who deems the use of and to differentiate among the items on a list, and the absence of and to prevent their differentiation.]”

- [B] Just as he has said there, “When they are treated collectively, he is subject to a single offering, and if they are specified individually, he is liable to three offerings, so he has said here, When they are treated as a group, they form a single object of value for the purposes of betrothal, but if they are specified individually, they constitute three distinct objects for evaluation for purposes of betrothal.

[IV:5 A] “Be betrothed to me through this *sela*,” and she said, “Toss it into the lake or into the river” – she is not betrothed.

- [B] “Give it to a poor man” – lo, this one is betrothed.

[C] Now in this latter case, nothing actually entered her domain, and yet here you say she is betrothed, and there [A] you say she is not betrothed?

[D] R. Abbahu in the name of R. Yohanan: “She wants to be betrothed and [with the benefit she derives] by seeing him do a good deed to the poor man [on account of her].”

[E] *Said R. R Phineas, “And that is in accord either with R. Zeira or with R. Ila, for it has been taught as a Tannaite rule: **A person may say to his workers, ‘Go and get yourselves some food with this denar,’ go and get yourselves some wine with this denar – they do not scruple because of tithes or violating the rules governing the seventh year, or the prohibition of wine used for libation wine. But if he had said to them “Go and , lo, this one then must take account of tithes or violating the rules governing the seventh year, or the prohibition of wine used for libation wine** [T. A.Z. 7:10M-O].* Said R. Zeira, ‘The storekeeper is treated as the agent of the house holder to assign title of the goods to the worker.’ Said R. Ila, ‘The worker acquires title in behalf of the householder from the storekeeper and then he goes and acquires title for himself.’ Now here too, in accord with the position of R. Zeira, the husband is treated as the agent of the proposed bride to assign ownership of the money to the poor man. And from the statement of R. Ila it would follow, the poor person acquires title for the woman from the prospective groom, and then he goes and acquires title in his own behalf.”

[F] “If the storekeeper was deaf, in the opinion of R. Zeira, one does not take account of his participation, for an act of agency cannot be assigned to a deaf-mute. In the opinion of R. Ila, one does take account of that possibility.

[G] “If the worker was a deaf mute, in the view of R. Ila one does not take account of his action, for there is no acquisition of title for a deaf mute, and in the view of R. Zeira one does take account of that situation.”

[IV:6 A] If one grabbed a *sela* from a woman’s hand and gave it back to her and, when he was giving it back, said to her, “Lo, you are betrothed to me” – lo, this one is betrothed.

[B] Now with what, in fact, did he betroth her?

[C] R. Haggai in the name of R. Pedat, “She wants to be betrothed to him, and have him owe her a *sela*.”

[D] Said R. Yosé, “If you had said that of a utensil, it would have made sense. [She would accept another utensil for this one.] But as to a sela [coin], is it usually exchanged? [It is no different from any other.]”

[IV:7. A] “Collect this *sela* for me” –

[B] and at the moment at which it was given over, he said to her, “Lo, you are betrothed to me” –

[C] lo, this woman is betrothed.

[D] [If this happened] after she has taken it from his hand, [however,] if she agrees, then she is betrothed, but if she does not agree, she is not betrothed.

[E] “Here is this *sela* I owe you,”

[F] [if] at the moment of giving it over, he said to her, “Lo, you are betrothed to me,”

[G] if she concurs, she is betrothed, and if she does not concur, she is not betrothed.

[H] [If it was] after she has taken it from him, even though both of them concur, she is not betrothed.

[I] “Be betrothed to me with the *sela* of mine that is in your hand” – she is not betrothed.

[J] What should he do? He should take it from her and then go and give it back to her and say to her, “Lo, you are betrothed to me” [T. Qid. 2:7].

[IV:8 A] “Be betrothed to me with this *maneh*,” and it turns out to lack a *denar* – she is not betrothed [since she expected a whole *maneh*].

[B] If there was a counterfeit *denar* in it, lo, this woman is betrothed, on condition that he exchange the counterfeit for a valid coin.

[C] If he was counting out the coins one by one into her hand, she has the right to retract until he completes counting out the entire sum.

[D] R. Eleazar says, “She is betrothed on the strength of the first coin he counts out, and the rest is subject to stipulation that it be paid over.”

[E] R. Yohanan said, “She is betrothed when he completes counting out all of the promised funds.”

[F] *They say [on the strength of his decision in the following case] that R. Yohanan retracted this ruling.*

[G] *Someone gave a pledge to his fellow [for a purchase], and the latter denied having it.*

[H] *R. Ba, and R. Hila, and R. Jacob bar Aha, all three of them say, “It was flax-seed, and he had paid over part of the money.”*

[I] *The case came before R. Yohanan, [since the seller retracted]. He said to him, “Either give him his entire purchase, or subject him to the oath, ‘He who exacted vengeance, [an oath taken in such a case in which one goes back on his word].’”*

[J] *R. Hiyya bar Joseph said, “Either give him the value of his pledge, or place him under the oath, ‘He who exacted vengeance.’”*

[K] *R. Hiyya bar Joseph concurs with R. Yohanan in the case of a purchase agreement, which is not usually completed in bits and pieces – for example, in the case of the purchase of a cow or a cloak, [if one left a deposit, he has acquired the whole].*

[L] *But may a woman be subjected to a purchase agreement carried out in parts? [Surely not. Once one paid part of the betrothal money, he has acquired the woman; D, not E.]*

[M] *R. Haggai and R. Judah both say, “A purchase agreement may be carried out in parts, but a woman is not usually acquired in bits and pieces.”*

2:2

[A] **“Be betrothed to me for this cup of wine, “ and it turns out to be honey –**

[B] **“of honey,” and it turns out to be wine,**

[C] **“with this silver denar,” and it turns out to be gold,**

[D] **“with this gold one,” and it turns out to be silver –**

[E] **“on condition that I am rich,” and he turns out to be poor,~**

[F] **“on condition that I am poor,” and he turns out to be rich –**

[G] **she is not betrothed.**

[H] **R. Simeon says, “If he deceived her to [her] advantage, she is betrothed.”**

[I] **“on condition that I am a priest,” and he turns out to be a Levite,**

[J] **“on condition that I am a Levite,” and he turns out to be a priest,**

- [K] “a Netin,” and he turns out to be a mamzer,
 [L] “a mamzer,” and he turns out to be a Netin,
 [M] “a town-dweller,” and he turns out to be a villager,
 [N] “a villager,” and he turns out to be a town-dweller,
 [O] “on condition that my house is near the bath,” and it turns out to be far away,
 [P] “far,” and it turns out to be near;
 [Q] “on condition that I have a daughter or a slave girl who is a hairdresser,” and he has none,
 [R] “on condition that I have none,” and he has one;
 [S] “on condition that I have no children,” and he has;
 [T] “on condition that he has,” and he has none –
 [U] in the case of all of them, even though she says, “In my heart I wanted to become betrothed to him despite that fact,” she is not betrothed.
 [V] And so is the rule if she deceived him.
- [I:1 A] [Tosefta’s version:] “Be betrothed to me with this cup,” if the value of the cup and of what is in it is *a perutah*, she is betrothed, and if not, she is not betrothed.
- [B] And she has acquired both it and what is in it.
- [C] “With what is in the cup,”
- [D] if what is in it is worth *a perutah*, she is betrothed, and if not, she is not betrothed.
- [E] And she has acquired only what is in it alone [T. Qid. 2:3].
- [II:1 A] R. Simeon says, “If he deceived her to her advantage, she is betrothed” [M. 2:2H].
- [B] R. Yohanan said, “R. Simeon concurs that if he deceived her about an advantage as to genealogy, she is not betrothed.”
- [C] *Said R. Yosa, “The Mishnah itself has made the same point: On condition that I am a priest, “and he turns out to be a Levite [etc.] [M. 2:21].”*
- [III:1 A] [[I] “on condition that I am a priest,” and he turns out to be a Levite, “on condition that I am a Levite,” and he turns out to be a priest:] *Now there is no problem in the case in which he claimed to be a priest and turns out to be a Levite, [that she is not betrothed].*

[B] [But if he claimed to be] a Levite and he turned out to be a priest, [why is it the fact that there too she is not betrothed]?

[C] For she has the right to say, “I do not want his superior airs to lord it over me.”

[IV:1 A] *It poses no problem to explain why if he claims to be a villager and he turns out to be a town-dweller*, that she should not be betrothed.

[B] [But if he claimed to be] **a town-dweller and turns out to be a villager**, [there *too* she is not betrothed, for] she has the right to say, “I prefer to live in privacy.”

[V:1 A] **“On condition that my house is near the bath,” and it turns out to be far away [M. 2:2].** *It poses no problem to explain why if he claims his house is near the bath and it turns out to be far away* [that she should not be betrothed].

[B] But if he said it was far, and it turns out to be near [there too she is not betrothed, for] she has the right to say, “I wanted to have exercise going to and coming from the bath.”

[VI:1 A] **“On condition that I have a daughter or a slave girl who is a hairdresser, “ and he has none** poses no problem [that she should not be betrothed].

[B] **On condition that he has one and he has none –**

[C] Take note of the possibility that he has one at the other end of the world!

[D] *Said R. Ba bar Mamel, “Thus [is the meaning of] the passage: A daughter to do your hair, and a maid to serve you.”*

2:3

[A] **He who says to his messenger. “Go and betroth Miss So-and-so for me, in such-and-such a place,”**

[B] **and he went and betrothed her for him in some other place,**

[C] **she is not betrothed.**

[D] [If he said,] **“lo, she is in such-and-such a place,”**

[E] **and he betrothed her in some other place,**

[F] **lo, she is betrothed.**

[I:1 A] *The Mishnah does not conform to the view of R. Eleazar.*

[B] For R. Eleazar [says], “In all circumstances she is deemed to be betrothed, unless he said to her, ‘Do not betroth her for me except in such-and-such a place,’ and he went and betrothed her in some other place.”

[II.1 A] [If he said, “Lo, she is in such-and-such a place, “[I] lo, she is betrothed [M. 2:3D-F].

[B] Here even R. Eleazar will concede that she is betrothed, for he merely indicates the place where she is.

[C] *Further, even rabbis [who differ on this point in regard to delivering a writ of divorce] concede here* that she is betrothed, for he merely indicates the place where she is.

2:4

[A] He who betroths a woman on condition that she is not encumbered by vows, and she turns out to be encumbered by vows – she is not betrothed.

[B] [If] he married her without specifying and she turned out to be encumbered by vows, she goes forth without collecting her marriage contract.

[C] ... on condition that there are no blemishes on her, and she turns out to have blemishes, she is not betrothed.

[D] [If] he married her without specifying and she turned out to have blemishes, she goes forth without collecting her marriage contract.

[E] All blemishes that invalidate priests [from serving in the Temple] invalidate women.

[I:1 A] *We have learned [from the passage above] what sort of blemishes apply, but what sort of vows are under discussion here?*

[B] R. Yohanan in the name of R. Simeon b. Yosedeq: **“Of what sort of vows did they speak? For example, if she vowed not to eat meat, not to drink wine, and not to wear stylish clothing”** [T. Ket. 7:8I].

[C] Said R. Zeira, “Such as fine flax garments from Beth Shean. They are stylish clothing.”

[I:2 A] Said R. Yosé, “The Mishnah speaks of a case in which he said to her, ‘on condition that you are not subject to vows.’ But if he had said to her, ‘on condition that no vow applies to you [at all],’ then even if she had taken a vow not to eat carobs, that is in the status of a vow, [and she is not betrothed].”

- [I:3 A] **If she went to a sage and he released her vow, lo, this one confirms the marriage, [she is betrothed].**
- [B] **If she went to a physician and he healed her, lo, this woman is not betrothed [T. Ket. 7:8D, F].**
- [C] What is the difference between an elder and a physician?
- [D] An elder plucks up the vow by its roots [as if it had never applied].
- [E] A physician heals her only from this moment onward.
- [F] *There is a Tannaite authority who teaches:* Even if she went to an elder and he released her vow, she is not betrothed.
- [G] *That version of the passage accords with R. Eliezer [I], for we have learned there:* **[R. Eliezer says, “They forbade the one only because of the other” [M. Git. 4:7].** [The case involves divorcing a woman because of a vow. Meir maintains that for any vow that had to be brought to a sage, he may not take her back, but for any that did not have to be brought to a sage but is to be nullified by the husband, he may take her back. Eliezer says the one that did not have to be brought to a sage is forbidden because of the other. In the latter case one need not scruple that he may say, “If I had known that a sage could revoke the vow, I should not have divorced her.” In such a case, we prohibit his remarrying her after the divorce. Now a vow not brought to a sage for remission will not present such a danger.]
- [H] Said R. Eliezer, “It was reasonable that because of a vow that required the inquiry of a sage [she should be permitted to return to the husband], for a sage plucks up the vow by the roots [as if it had never applied at all]. And why did they prohibit a vow that requires the inquiry of a sage? Because of the vow that does not require inquiry of a sage.”
- [II:1 A] **[... on condition that there are no blemishes on her, and she turns out to have blemishes, she is not betrothed:]** *There is a Tannaite authority who teaches,* “[Since, M. 2:4A-C, **she is not betrothed,**] she is permitted to marry without a writ of divorce. [There is no aspect of betrothal whatever.]” *And there is a Tannaite authority who teaches,* “She is prohibited from remarrying without a writ of divorce.”
- [B] *They proposed to say,* “He who says that she is permitted to remarry without a writ of divorce is R. Eliezer, [who holds one does not want his wife to go to court]. And he who says that she is forbidden to remarry without a writ of divorce is rabbis [vis-a-vis Eliezer].”

- [C] *The whole of the passage expresses the view of rabbis. He who said that she is permitted to remarry without a writ of divorce [maintains that] since [62d] she knows that if she should go to an elder, he will release her vow for her, then she will not go to him, and on that account she is permitted to remarry without a writ of divorce. [There is nothing to fear.]*
- [D] *What is the reason of him who said that she is prohibited from remarrying without a writ of divorce?*
- [E] *It is so that she will not go to an elder and have him release her vow, and the act of betrothal will be retroactively valid, with the result that her children [from the second marriage] will enter the status of illegitimacy. On that account it is forbidden for her to remarry without a writ of divorce.*

[III:1 A] If he married her without further specification –

- [B] *R. Simeon b. Laqish said, “The Mishnah [at M. Qid. 2:4 and M. Ket. 7:7: **He who betrothed a woman on condition that she is not subject to any vows, and she was found to be subject to a vow – her betrothal is not valid. If he married her without stipulation, and she turned out to be under a vow, she is divorced without payment of her marriage settlement**] speaks of a case in which he betrothed her on a stipulation [that there be no vows] but married her without further stipulation.*
- [C] *“But if he betrothed her without stipulation and married her without stipulation. she does have a right to collect her marriage settlement.”*
- [D] *R. Yohanan said, “Even if he betrothed her without stipulation and married her without stipulation, she has no right to collect her marriage settlement.”*
- [E] *And said R. Hiyya in the name of R. Yohanan, “She has to receive a writ of divorce from him, even if he betrothed her on the stipulation [that there be no vows] and married her without that same stipulation.*
- [F] *R. Zeira raised the question before R. Mana, “If he betrothed her without stipulation and divorced her when she was merely betrothed to him, what does R. Simeon b. Laqish say in such a case?”*
- [G] *Let us derive the answer from the following: **If there were blemishes on her while she was yet in her father’s house, her father has to bring proof [M. Ket. 7:7].***

- [H] Lo, if he brought proof, she has a right to collect her marriage contract [so, B-C, Simeon will concur].
- [I] *Why do you say we deal with a case in which he betrothed her without stipulation and divorced her when she was merely betrothed to him?* [Maybe it is a case in which he betrothed with a stipulation, and thereafter blemishes appeared. She does collect.]
- [J] [What follows indicates that the cited clause, H, deals with betrothal without stipulation, while she is *yet at home*.] **In what circumstances? In the case of blemishes that are on hidden places. But in the case of blemishes that are out in the open, he does not have the right to make such a claim [M. Ket. 7:7].**
- [K] But if it was a case of stipulation [that there be none, then even in the case of blemishes that are out in the open, he has a right to make such a claim. [So this proves the contrary.]
- [L] *The associates said before R. Yosa, “Note what follows, and it will stand at variance with R. Simeon b. Laqish:*
- [M] **“If she had entered the domain of the husband, the husband has to bring proof.**
- [N] “Lo, if the husband brought proof, she has no claim on a marriage settlement.
- [O] *“How then can R. Simeon b. Laqish say that she has a right to her marriage settlement?”*
- [P] *R. Kohen in the name of rabbis of Caesarea: “The Mishnah speaks of a case in which he married her but did not consummate the wedding. What R. Simeon b. Laqish said applies to a case in which he married her and did consummate the marriage. I claim that he accepted her condition when he had sexual relations with her.”*
- [IV:1 A] **All blemishes that invalidate priests from serving in the Temple invalidate women.**
- [B] **In addition to them in the case of women are bad breath, a sweaty odor, and a mole that has no hair on it [T. Ket. 7:9].**
- [C] R. Hama bar Uqbah in the name of R. Yosé b. Haninah: “They taught that detail with regard to the facial skin.”
- [D] *And have we not learned, “In what circumstances? In the case of blemishes that are not visible. But in the case of blemishes that are*

out in the open, he has no right to make such a claim “ [M. Ket. 7:7]?”

[E] Now is this not one of the blemishes that would be out in the open?

[F] *Interpret the rule to speak of a case in which she hid it under the cap on her head.*

[IV:2 A] *It was taught: A mole that has hair on it, whether large or small, whether on the body or the face – lo, this is a blemish.*

[B] And one that has no hair on it, if on the face, it is deemed a blemish; if on the body, it is not deemed a blemish.

[C] Under what conditions?

[D] In the case of a small one.

[E] But in the case of a large one, whether it is on the body or on the face, lo, this is deemed a blemish.

[F] How large is a large one?

[G] R. Simeon b. Gamaliel says, “As large as an Italian *issar*.”

[H] *R. Eleazar in the name of R. Haninah, “For example the Gordian [denar].”*

[I] They estimated its size at a half of a small gold coin [of any measure].

[IV:3 A] R. Redipah, Jonah, R. Jeremiah asked, “A bald woman, with a line of hair running along her head from ear to ear – [is this a blemish in a woman]?”

[B] *They proposed to derive the answer from the following: **In addition to them in the case of women are bad breath, a sweaty body odor, and a mole that has no hair on it** [T. Ket. 7:9]. Now a bald spot has not been mentioned at all. So they proposed to rule that it is not deemed a blemish.*

[C] *R. Samuel son of R. Yosa b. R. Bun in the name of R. Nisa, “It is indeed a blemish. The Mishnah rule teaches only something that is ugly on this one [priest] and on that one [woman], not those that are a blemish on this one and not a blemish on that one. But as to something which is an adornment on this one and a blemish on that one, for example, a bald spot – even if it is a blemish, it was not included in the teaching. You should know that that is the case, for lo, there is the case of a beard, and lo, it is an adornment for a man but a blemish for a*

woman. And we have not learned the tradition: ‘In addition to them in a woman is a beard.’ Lo, there is the matter of breasts, which are an adornment for a woman and a blemish for a man. And they did not teach, ‘In addition to them in the case of a man are breasts.’”

2:5

- [A] He who betroths two women with something worth a perutah,
[B] or one woman with something worth less than a perutah,
[C] even though he sent along [additional] presents afterward,
[D] she is not betrothed,
[E] since he sent the presents later on only because of the original act of betrothal, which was null].
[F] And so in the case of a minor who betrothed a woman.

[I:1 A] [Tosefta’s version] He who betroths a woman in error, or with something of less than the value of a perutah (M. 2:5B), and so a minor who effected an act of betrothal (M. 2:6F) – even though he sent along presents afterward, she is not betrothed. For it was on account of the original act of betrothal that he sent the gifts (M. 2:5C-E.)] But if he had an act of sexual relations, he has acquired [the woman as his wife]. R. Simeon b. Judah says in the name of R. Simeon, “Even though he had sexual relations, he has not acquired her. For the act of sexual relations was only on the strength of the original act of betrothal, [which was null]” [T. Qid. 4:4].

[B] If he has made acquisition, [in what regard is the betrothal valid]?

[C] R. Hiyya in the name of R. Yohanan: “The husband has made acquisition as to the strict side of things. [He has to issue a writ of divorce. Yet if another should betroth her in the meantime, he too has to issue a writ of divorce.]”

[D] R. Hiyya in the name of R. Yohanan: “In the case of any stipulation that involves a concrete deed at the outset, the woman is deemed betrothed as to the strict side of the matter.”

[E] *R. Mana raised the question before R. Yudan, “Who is the Tannaite authority who maintains that in the case of any stipulation in which a concrete deed is required at the outset, the stipulation is null? It is not in accord with R. Simeon, [for he would maintain that we take account of the strict side of things and so require a writ of divorce].”*

[F] R. Yudan in the name of R. Yohanan: “The woman is deemed betrothed as to the strict side of things.”

[G] *What would be a concrete case illustrative of this matter?*

[H] “Lo, I betroth you through an act of sexual relations, on the stipulation that it will rain.”

[I] If it rained, she is betrothed.

[J] And if not, she is not betrothed.

[I:2 A] R. Hiyya in the name of R. Yohanan, “As to betrothal effected through forgiving a loan, we impose the strict rule [as explained above].

[B] “As to a transfer of real estate through forgiving a loan, the buyer has not effected acquisition in that way.

[C] “As to movables [if one proposed to forgive a loan in exchange for the payment of movables, there being no transfer of funds at all, if the seller retracted the agreement], they do not place him under the curse, ‘He who exacted vengeance.’”

[D] If the purchaser sought to insist on his original purchase, and the seller retracted, what is the law?

[E] *Let us derive the answer from the following:*

[F] **[He said to him, “Give me my wheat, for I want to sell it and buy wine with the proceeds” – and he said to him, “Lo, your wheat is reckoned against me for thirty denars,] and lo, you have a claim of wine on me,” but he has no wine [M. B.M. 5. IJ-L) – [the transaction is null]. [And as to effecting acquisition, that too is denied.] But lo, if he does have wine, lo, this party is liable [to hand over the wine].**

[G] R. Hiyya taught: “If he has wine, he is liable to hand it over to him. [So the seller has no right to retract at this point.]”

[I:3 A] R. Samuel bar R. Isaac sent and reported over there, “You people should know that R. Hiyya in the name of R. Yohanan has given instruction: Betrothals effected through forgiving a loan are subject to a strict ruling of the law.”

[B] *Now R. Zeira was distressed. Why? Because they imposed a strict rule on themselves [that the betrothal was null],*

and [Yohanan] in this way assigned them a more lenient rule.

[C] *Said R. Yosé b. R. Bun, “They had formerly followed a lenient ruling [deeming the betrothal to be entirely sound], and he imposed a strict rule on them, so that now, if a second party should come and betroth the woman, the betrothal of the second party would be deemed valid.”*

[D] *Said R. Yudan b. R. Hanan, “In the case of the possibility of a violation of the laws of prohibited connections, take the route that is not the prohibited connection, [and so regard the woman as betrothed in such wise as to require a writ of divorce].”*

2:6

[A] He who simultaneously betroths a woman and her daughter,

[B] or a woman and her sister –

[C] they are not betrothed.

[D] WM'SH B: Five women, including two sisters, and one gathered a basket of figs, and they were theirs, but it was Seventh Year produce. And [someone] said, “Lo, all of you are betrothed to me in virtue of this basket [of fruit],” and one of them accepted [the proposal] for all of them –

[E] And sages ruled, “The sisters [in the group of five] are not betrothed.”

[I:1 A] Said R. Hiyya bar Ba, “From the cited case [M. 2:6D-E], you derive five rules.

[B] “You derive the rule that five women may be betrothed simultaneously [by one man];

[C] “that a woman may accept a token of betrothal for herself and for her friend;

[D] “that they effect a betrothal with a stolen object;

[E] “that they effect betrothal through produce that is subject to transgression;

[F] “and that betrothals do not take effect for the same man among women who are prohibited connections.”

[I:2 A] Said R. Eleazar, “In the case of sisters, he has not effected betrothal. But in the case of making sin offerings, he has effected expiation.”

- [B] *What would be a practical example?*
- [C] If one has slaughtered two animals designated as sin offerings for the sake of [a sin requiring] a single sin offering [e.g., two animals were designated and slaughtered for a single sin], the altar selects the one that is suitable for it, [and] both of them are prohibited as to eating.
- [D] If he slaughtered two guilt offerings [in the same circumstances] for the sake of a single act requiring a guilt offering, the altar selects the one that is suitable for it [and] both of them are prohibited as to eating.
- [E] R. Zeira in the name of R. Yohanan: “If he slaughtered the first not for its proper purpose [in which case it was invalid], and the second for its proper purpose, he has effected atonement.
- [F] “Now the first one, slaughtered not for its own name, is valid [for eating] by reason of the impact of the one slaughtered for its proper purpose, which came afterward. [Consequently, the former is retroactively validated.]”
- [G] **If one has slaughtered the first for its proper purpose and the second not, then if the former has effected atonement, for what has the second come to effect atonement? For any uncleanness that takes effect between one and the other** [T. Shebu. 1:2].
[Here too the expiation is the same.]
- [H] And in the case of the Passover offering, it has not effected atonement.
- [I] For the Passover offering is brought only for providing meat to eat.
- [J] And this is not in accord with R. Nathan, for R. Nathan said, “They carry out their obligation [for a Passover offering] with the sprinkling of the blood, even without eating the meat of the offering.”

2:7

- [A] **He [who was a priest] who betroths a woman with his share [of the priestly gifts], whether they were Most Holy Things or Lesser Holy Things –**
- [B] **she is not betrothed.**
- [C] **[If one did so] with food in the status of second tithe,**
- [D] **“whether inadvertently or deliberately, he has not effected betrothal,” the words of R. Meir.**

- [E] R. Judah says, “If he did so inadvertently, he has not effected betrothal. If he did so deliberately, he has effected betrothal.”
- [F] And in the case of what has been dedicated:
- [G] “If he did so deliberately, he has effected betrothal, and if he did so inadvertently, he has not effected betrothal,” the words of R. Meir.
- [H] R. Judah says. “If he did so inadvertently, he has effected betrothal. If he did so deliberately, he has not effected betrothal.”
- [I:1 A] [He who was a priest who betroths a woman with his share of the priestly gifts, whether they were Most Holy Things or Lesser Holy Things – she is not betrothed:] R. Eleazar says, “[M. 2:7A-B] represents the opinion of all parties [including Judah, below].”
- [B] R. Yohanan says, “The matter is subject to dispute [and M. 2:7A-B is only Meir’s view].”
- [I:2 A] *There we have learned:* As to **the firstling: priests [freely] sell it when the animal is unblemished and alive; or when the animal is blemished, whether it is alive or slaughtered And they give it as a token of betrothal to women [M. M. S. 1:2D-F].** [Firstlings are not consecrated. They are the personal property of the priest, who may do anything he wants with them. The priest may sell a living firstling, but not a slaughtered one. Why? The slaughtered firstling produces blood for the altar and fatty parts for a burnt offering. So when the priest slaughters it, he is no longer free to dispose of it at will. He may sell a living one, but not a slaughtered one. If the firstling was blemished, however, it cannot be used for the altar. Consequently there is no offering; the priest is free to do as he wants with it (Haas, pp. 18-19).]
- [B] R. Judah b. Pazzi in the name of R. Joshua b. Levi: “[When an unblemished firstling is used for betrothing a woman, it is] one that is living, not slaughtered. [But if it has been slaughtered, it cannot be used for that purpose, for the reasons explained above.]”
- [C] [Since the tithes of cattle may not be sold or used as a token of betrothal,] R. Judah bar Pazzi said, “R. Meir derives the rule covering all Holy Things from that governing tithes of cattle. Just as tithes of cattle may not be used for betrothing a woman, so as to all Holy Things, they may not be used for betrothing a woman [as at M. 2:7A]. R. Judah derives the rule governing all Holy Things from the firstling. Just as firstling may be used for betrothing a woman, so as to all Holy Things, they may be used for betrothing a woman. [This then indicates that Yohanan, B, is right in insisting that the matter is subject to dispute.]”

[D] *The theory assigned to Judah bar Pazzi is self-contradictory. There [at F], he [63a] has said that whether it is alive or slaughtered, it may be used for betrothing a woman, and here, [at D,] he has said that when it is alive it may be used, but not when it is slaughtered.*

[E] *There he speaks in his own name [at F], while here [D], he speaks in the name of R. Joshua b. Levi.*

[F] *Even if you maintain that both here and there he speaks in his own name, when he says that one may betroth a woman with Holy Things, he speaks of doing so with the living beast, with the part of the beast that will fall to the priest after the beast is slaughtered.*

[G] *What is the scriptural basis behind the position of R. Joshua b. Levi?*

[J] “But their flesh shall be yours, as the breast that is waved and as the right thigh are yours” (Num. 18:18).

[K] *What is the scriptural basis behind the position of R. Judah b. Pazzi?*

[L] “Yours” – even after it is slaughtered.

[M] *How does R. Joshua b. Levi interpret the language “and it will be yours”?*

[N] It serves to encompass a rule stated with regard to another “being” entirely – namely, that it must be fully consumed over a period of two days and the intervening night.

[I:3 A] *There we have learned: **The dough offering of an am haares, and unconsecrated produce mixed with heave offering, and produce that is purchased with coins of second tithe, and the residue of meal offerings, are exempt from tithing as demai produce (M. Dem. 1:3E-F).*** [If we are not sure they already have been tithed, Holy Things are exempt from tithing. The first two and last items are eaten only by priests; there is no reason to worry. Produce purchased in Jerusalem with second tithe money must be eaten in Jerusalem; the Israelite eats it like a priest eating Holy Things in the Temple, in a state of cleanness. Just as a priest does not have to designate second tithe from doubtfully tithed Holy Things, so the pilgrim does not have to do so with doubtfully tithed produce purchased in Jerusalem. The produce in any case is holy (Sarason, *Demai*, pp. 3S-36).]

- [B] *It was taught:* And in the case of all of them in which he has designated part of the produce as heave offering of tithe [given to the priest] or as second tithe, what he has done is valid.
- [C] R. Eleazar says, “That is so except in the case of the residue of the meal offerings, [from which no such tithes are taken anyway.]”
- [D] R. Jeremiah said, “And as to the rest, there is a dispute [between Meir and Judah].”
- [E] *R. Yosé raised the question:* “What dispute? [It cannot involve the residue of meal offerings.] *If we deal with R. Meir* [of M. 2:7C-D], [who holds that second tithe belongs to the Most High, just as does the remnant of the meal offerings], second tithe and residue of the meal offerings are in the same category, and consequently one has done nothing at all. *If we deal with R. Judah*, [who maintains that a priest may effect betrothal with his share of Holy Things], what he has done is valid [since he disposes of his own share, as he would of Holy Things].”

[I:4 A] *Said R. Mana, “I went to Caesarea and I heard R. Hezekiah in session, teaching:* **‘He who betroths a woman with his share of Most Holy Things or Lesser Holy Things – she is not betrothed.**”

- [B] “R. Eleazar says, “That statement represents the opinion of all parties.”
- [C] “R. Yohanan says, “The matter is subject to dispute.””
- [D] “*And I said to him, ‘From whom did you hear this statement?’*”
- [E] “He said to me, ‘From R. Jeremiah.’”
- [F] “*And I said to him, ‘That is well, for he heard what R. Eleazar stated, namely,* R. Eleazar said, “It is the view of all parties, while he said it was subject to dispute.””
- [G] “*R. Yosé, who did not hear that statement, raised the question, for he has said, ‘What dispute? If we deal with R. Meir,* [he holds that second tithe belongs to the Most High, just as does the remnant of the meal offerings], second tithe and residue of the meal offering are in the same category, and consequently one has done nothing at all; *if we deal with R. Judah,* [who maintains that one may effect betrothal with his share of Holy Things], what he has done is valid.””

[H] *When R. Meir died, R. Judah issued a decree and said, “Let the disciples of R. Meir not come here.”*

[I] *Sumkhos forced his way in.*

[J] [Sumkhos] said, “**He who betroths a woman with Most Holy Things** – and does a woman enter the courtyard, where such Most Holy Things would be taken[?]?”

[K] [Judah] said to him, “We deal with a case in which she was betrothed through an agent.”

[L] With what did he actually betroth her?

[M] R. Eleazar said, “With the corpus itself.”

[N] R. Yohanan said, “With the benefit of deriving satisfaction from it [by disposing of it to someone of her choice].”

[O] *But there is no dispute here. What R. Eleazar said, speaking of the corpus itself, in fact treats the benefit we assume she derives from [disposing of the meat, which she herself cannot eat].*

[I:5 A] R. Hezekiah, R. Bibi in the name of R. Eleazar: “They betroth a woman with money set aside for redemption of produce in the status of second tithe. [The produce itself is holy and cannot be used. The money can.]”

[I:6 A] [He who betroths a woman] with food in the status of second tithe – R. Abbahu in the name of R. Yohanan, “[If the produce was used inadvertently, the act is null, since] it never entered his mind to transgress the teachings of the Torah. [Consequently, had he known it was second tithe, he would not have used the money for a betrothal gift. That is why, M. 2:7E, R. Judah says, “If he did so inadvertently, he has not effected betrothal. If he did so deliberately, he has effected betrothal, she is not betrothed; it is an act done under a false view of the facts and so null.]”

[B] Said R. Zeira, “[The matter of inadvertence applies in the same way both with regard to second tithe and with regard to that which has been consecrated]. In one case it never entered his mind, and in the other it never entered her mind [as will now be explained in respect to second tithe and that which has been consecrated].”

[C] [We shall now explain to which party the status of that which has been consecrated matters.] Said R. Jonah, “The use of that which has been

consecrated never entered his mind [since he would not willingly profane what is holy], and the use of second tithe never entered her mind [and she would not have accepted it knowingly, to avoid the trip to Jerusalem].”

[D] Said R. Abin, “The matter of that which had been consecrated never entered his mind and never entered her mind. Second tithe entered his mind but never entered her mind.”

[II:1 A] [As to Meir’s reason, M. 2:7G, **And in the case of what has been dedicated: “If he did so deliberately, he has effected betrothal, and if he did so inadvertently, he has not effected betrothal,” the words of R. Meir. R. Judah says. “If he did so inadvertently, he has effected betrothal. If he did so deliberately, he has not effected betrothal”**]:] R. Yosé in the name of R. Pedaiah: “As to that which had been consecrated that one deliberately [used for secular purposes, e.g., betrothal], it enters the status of unconsecrated food without undergoing a prior process of redemption. [Hence the betrothal is valid.]”

[B] *Lo, it has been taught*, “Inadvertently” (Lev. 5:15) – excluding that which is subject to deliberate action.

[C] *What you have said applies* to the added fifth and to the offering [required at Lev. 5:14ff.], but as to its leaving the status of consecration, one may deliberately [not merely inadvertently] take it out of that status.

[D] R. Hama bar Uqba in the name of R. Yosé b. Haninah, “Excluded are peace offerings, [which] go forth to the status of unconsecrated food without a prior process of redemption.

[E] “Lo, it has been taught, ‘Of my Holy Things’ (Lev. 5:15) – not *all* of my Holy Things.”

[F] *What you have said applies* to the added fifth and to an offering.

[G] Lo, as to leaving consecrated status, one [deliberately] removes it from that status.

[II:2 A] *There we have learned*: **Cattle that are found between Jerusalem and as far as Migdal Eder, or in that same distance in all directions [– males are regarded as having been designated whole offerings, and females as having been designated peace offerings] [M. Sheq. 7:4].**

- [B] R. Hoshaiiah the Elder said, “The point is that one redeems these beasts and brings the designated offerings with the proceeds.”
- [C] Said to him R. Yohanan, “Do they say to a man, ‘Go and commit sacrilege with Holy Things’? [Hoshaiiah’s procedure is sacrilegious!] But in the case of each one [of the wandering beasts] they follow the majority: Males are regarded as [in general] having been designated whole offerings, and females as having been designated peace offerings.”
- [D] And do not peace offerings derive both from males and from females? [So that is no solution. Then what does he do.?
- [E] He removes them to a status of being unconsecrated and then goes and declares them to be burnt offerings.
- [F] *And it is a problem:* Is a peace offering [following Pené Moshe] offered as a burnt offering?
- [G] Said R. Haninah, “It is a stipulation of the court concerning those [peace offerings] that are left over that they are offered as burnt offerings.”
- [H] Said R. Yosé to R. Jacob bar Aha, “And is this then not done deliberately?”
- [I] He said to him, “Since it is a stipulation of the court, it is not regarded as deliberate violation of the law.”
- [J] Said R. Zeira, “This is in line with what you say there: ‘It is a stipulation of the court that beasts that are lost [and then found] are offered as burnt offerings.’”

2:8

[A] He who betrothed a woman with orlah-fruit, with fruit that was subject to the prohibition against mixed seeds in a vineyard, with an ox that was to be stoned, with a heifer whose neck was to be broken, with birds set aside for the offering of a mesora, with the hair of a Nazir, with the firstborn of an ass, with meat mixed with milk, with unconsecrated animals [meat] that had been slaughtered in the courtyard of the Temple –

[B] she is not betrothed.

[C] [If] he sold them off and betrothed a woman with the money received in exchange for them, she is betrothed.

[I:1 A] As to the firstborn of an ass –

- [B] R. Eleazar said, “They betroth a woman with it.”
- [C] R. Yohanan said, “They do not betroth a woman with it.”
- [D] R. Immi in the name of R. Eleazar: “As to the firstborn of an ass, they betroth a woman with it.
- [E] “This is based on an argument a fortiori:
- [F] “Now if a firstling, which one does not remove from prohibitions affecting it [since it cannot be redeemed] while it is alive, you say that they betroth a woman with it [M. 2:7], this one, which one does remove from prohibitions affecting it while it is alive, is it not an argument a fortiori?”
- [G] *What is the difference between them [B, C]?*
- [H] If one went and redeemed it without the knowledge and consent of the owner –
- [I] R. Eleazar said, “It is not regarded as redeemed. [It is the property of the owner. The redemption can be done only by the owner.]”
- [J] R. Yohanan said, “It is regarded as redeemed. It is not used for betrothal, for it is not the property of the owner.]”
- [K] *The following Tannaitic statement supports the position of R. Eleazar and stands at variance with him.*
- [L] *The Tannaitic statement supports R. Eleazar:* He who steals the first born of an ass belonging to his fellow is liable to pay double indemnity [since it is private property]. [That does not apply otherwise.]
- [M] *And the latter part of the same passage stands at variance with him:*
- [N] For even though he has no claim to it now, he will have a claim to it later on [and that indicates it is not now private property].
- [O] *The Mishnah is at variance with R. Eleazar:*
- [P] As to the firstborn of an ass, they do not betroth a woman with it [so it is not the property of the owner].**
- [Q] *R. Eleazar interprets that statement to apply to the firstborn of an ass after its neck has been broken.*
- [R] For R. Eleazar said, “All concur that after the neck is broken, it is not subject to redemption [and no benefit is derived therefrom].”

- [S] As to the firstborn of an ass, they do not betroth a woman with it.
- [T] And R. Simeon permits doing so.
- [U] *This stands at variance with R. Eleazar [B] in two aspects.*
- [V] If [it speaks of a case, S,] in which it is alive. it stands at variance with the position of rabbis.
- [W] If it speaks of the case after the ass has its neck broken, it stands at variance with R. Simeon.
- [X] *R. Haninah in the name of R. Yudan: "Interpret the matter to apply to a case in which it is dead. Here R. Simeon permits.*
- [Y] "But if one has broken its neck, it is forbidden for use or benefit.
- [Z] "[How so?] The breaking of the neck is referred to in two contexts [Deut. 21:4 and Ex. 13:13 (34:20~)].
- [AA] "Just as the breaking of the neck mentioned later on speaks of a case in which one must break the neck, bury it, and the beast is prohibited for benefit,
- [BB] "so the breaking of the neck stated here means that one breaks the neck and it is prohibited for use or benefit."
- [CC] *In the opinion of R. Eliezer, it poses no problems.* While it is alive he regarded it as permitted. [The proof] has to be [adduced to show it is] forbidden after its neck has been broken.
- [DD] *In the opinion of R. Yohanan, however, the problem is this:* If it is forbidden when it is alive, is it not an argument a fortiori that it should be forbidden after its neck is broken? [What need for AA-BB's proof]
- [EE] *R. Jacob bar Aha in the name of R. Yohanan, R. Zeira in the name of rabbis: "In the view of rabbis, it is necessary, so that you should not say, since the Torah has treated in the same context [and thus provided a means for comparison] breaking its neck and redeeming it, just as when one redeems it it goes forth to the status of an unconsecrated beast, so when one breaks its neck it goes into the status of an unconsecrated beast. [Accordingly, AA-BB are necessary.]"*
- [FF] Do we then find a matter that, when it is raised up [redeemed] goes forth to an unconsecrated status and yet is prohibited for benefit or use [when it is alive]?

[GG] *They objected*, “Lo, there is the matter of untithed produce subject to the poor man’s tithe.

[HH] “Lo, when one raises it up [redeems it], it goes forth to the status of unconsecrated food, [yet it may not be utilized prior].

[II] “For R. Ba bar Huna said in the name of Rabbi, ‘He who eats his produce when it has not had poor man’s tithe removed is liable to the death penalty.’”

[JJ] *Rabbis of Caesarea in the name of R. Jeremiah*: Thus do the sages answer R. Simeon, “Do we find a matter that requires redemption yet is permitted for use and benefit [prior]?”

[KK] They replied, “Lo, there is the firstborn of man, which requires redemption yet is permitted for use and benefit.”

[II:2 A] If one sold them off and betrothed a woman with the money received in exchange for them, she is betrothed [M. 2:8C].

[B] R. Haggai in the name of R. Zeira, “This applies when the produce is not [in hand and so subject to their sanctity in their stead].”

[C] Said R. Haninah, “That is to say that they do not betroth with a stolen object.”

2:9

[A] He who consecrated a woman with food in the status of heave offering, tithes, or gifts [to be given to the priest, purification water, purification ash –

[B] lo, this woman is betrothed,

[C] and even if he is an Israelite.

[I:1 A] R. Yosé b. Haninah said, “A man hands over his tithes in exchange for a favor for his own benefit.”

[B] R. Yohanan said, “A man does not do so.”

[C] *What is the scriptural basis for R. Yosé b. [63b] Haninah’s view?*

[D] “And every man’s Holy Things shall be his” (Num. 5:10).

[E] *And how does R. Yohanan interpret that verse?*

[F] “They will be his” – Let him give them to anyone he wills.

- [G] *The Mishnah stands at variance with the statement of R. Yosé b. Haninah: “Qonam if priests or Levites will derive benefit from me – they take his priestly and Levitical offerings against his will [M. Ned. 11:3].*
- [H] *Interpret it to apply to him who says, “I do not want to give any sort of priestly gift at all.” You should know that that is the case, for we have learned: If he said, “Qonam if these particular priests or these particular Levites derive benefit from me, “ they hand over his tithes and offerings to others.*
- [I] *The following Tannaitic teaching stands at variance with R. Yohanan: He who says, “Here is a sela, and hand over this firstling to the son of my daughter, who is a priest” [it is allowed].*
- [J] *Interpret it to apply to a case in which he wants to give it to two priests, and the son of his daughter is one of them, and he says to him, “Here is this sela, and give the whole of it to the son of my daughter, who is a priest.”*
- [K] *They asked before R. Zeira, “[The stated case clearly involves an Israelite speaking to another Israelite. But is it prohibited if it is] a priest speaking to an Israelite?”*
- [L] [He said to them,] “Rabbi prohibits [even in such a case].”
- [M] *What R. Yosé said [in the same matter] he did not tell them.*
- [N] R. Hezekiah in the name of R. Aha, “Thus did he say to them: In the opinion of R. Yosé b. Haninah, A priest to an Israelite [it also is forbidden].
- [O] “Why is it forbidden?
- [P] “Is it not because of appearances?
- [Q] “So too R. Yohanan maintains that in the case of an Israelite to an Israelite [such a transaction] is forbidden for appearances’ sake, [so Yohanan has an answer too].”
- [R] Said R. Yosé bar Bun, “What we have here is nothing less than the profanation of God’s name, and will you maintain that it is prohibited merely because of appearances?!”
- [S] *And further note the following: Priests and Levites who assist in the threshing floors – they do not give them heave offering or tithe,*
- [T] and if one has given it to them, lo, this one has profaned it!

[U] “The priests shall not profane the holy things of the people of Israel, which they offer to the Lord” (Lev. 22:15).

[V] And they indeed profane them.

[W] Thus they have said: That which they have designated as heave offering [in such a case] is not heave offering, nor as tithes, tithes, and that which they have declared consecrated is not holy.

[X] And concerning them the Scripture has said, “Its heads give judgment for a bribe, its priests teach for hire, its prophets divine for money” (Mic. 3:11).

[Y] And the Omnipresent brings on them three punishments.

[Z] That is in line with what is written: “Therefore because of you Zion shall be plowed as a field; Jerusalem shall become a heap of ruins; and the mountain of the house a wooded height” (Mic. 3:12).

[AA] *The Mishnah stands at variance with the position of R.*

Yohanan: He who betrothed a woman with food in the status of heave offering or tithe, or gifts to be given to the priest or with purification water, lo, this woman is betrothed, even if he is an Israelite. [So one may betroth and so derive benefit from his tithes, for if that is not so, with what does he betroth?]

[BB] Interpret the passage to speak of heave offerings he inherited from the father of his mother, who was a priest [and not that which he has set aside for his own crop’s heave offering].

YERUSHALMI QIDDUSHIN

CHAPTER THREE

3:1

- [A] [63c] He who says to his fellow, “Go and betroth Miss So-and-so for me,” and he went and betrothed her for himself –
- [B] she is betrothed [to the second party]
- [C] And so: He who says to a woman, “Lo, you are betrothed to me after thirty days [have passed],” and someone else came along and betrothed her during the thirty days –
- [D] she is betrothed to the second party.
- [E] [If] it is an Israelite girl betrothed to a priest, she may eat heave offering.
- [F] [If he said,] “as of now and after thirty days,” and someone else came along and betrothed her during the thirty days,
- [G] she is betrothed and not betrothed.
- [H] [If it is either] an Israelite girl betrothed to a priest, or a priest girl betrothed to an Israelite, she should not eat heave offering.
- [I:1 A] *It was taught* [in Tosefta’s version]: A creditor and an heir, one of whom went ahead and took over movable goods – lo, this one is prompt and rewarded on that account.
- [B] He who says to his fellow, “Go and betroth for me Miss So-and-so,”
- [C] [if] he [the fellow] then went and betrothed her for himself –
- [D] [or if he said to his fellow,] “Go and buy me such-and-such an item,” [if] he went and bought it *for* himself,
- [E] what he has done is done. But he has behaved deceitfully [T. Yeb. 4:4D-G].
- [F] *R. Zeira would curse him who saw his fellow making a purchase and who bid the price up.*

[G] Said R. Abun in the name of R. Zeira, “Also in regard to him who seizes ownerless property [that his friend was planning to take], did rabbis assign the verse: ‘He who withholds kindness from a friend forsakes the fear of the Almighty’” (Job 6:14).

- [I:2 A] [If] one was not appointed as an agent in the presence of witnesses,
[B] he says, “I betrothed her for myself,”
[C] and she says, “It Was to the first [the one who sent him],”
[D] the second is in the position of one who says to a woman, “I betrothed you to me.” while she says, “You did not betroth me,”
[E] while she is in the position of the one who says to the first, “You betrothed me,” while he says, “I did not betroth you.”
[F] If she says, “I really do not know [which of the two was the one to whom I was betrothed]” –
[G] the assumption is that it was to the second party.
[H] If one was appointed as an agent in the presence of witnesses,
[I] he says, “For myself do I betroth her,”
[J] and she says, “It was ~o the first [who sent you to me],”
[K] it is assumed that she was betrothed to the first.
[L] If she said, “I do not know,” both of them give a writ of divorce.
[M] But if they wanted. one of them gives a writ of divorce and the other marries her.

[II:1 A] [With reference to **And so: He who says to a woman, “Lo, you are betrothed to me after thirty days [have passed],” and someone else came along and betrothed her during the thirty days – she is betrothed to the second party,**] therefore if the second party died during the thirty days or divorced her [within the stated period], the betrothal of the first party applies to her after the thirty-day period has passed. If [the first party] died after thirty days had passed, or did not divorce her, the act of betrothal of the first party does not apply.

- [B] *This is in line with what R. Hiyya taught as a Tannaite formulation:* “In the case of any stipulation that may be carried out [within the stated conditions], even though it may fall null afterward, lo, the girl is betrothed. And in the case of any stipulation that is null at the time of the betrothal, even though it may be carried out afterward, she is not

betrothed. [So all cases are decided on the basis of the condition prevailing at the time of betrothal.]”

[II:2 A] R. Abbahu in the name of R. Yohanan: “[If someone said,] ‘Lo, this will be a burnt offering after thirty days have passed,’ and he sold it within the period of thirty days, lo, it is deemed to have been sold, [since it is not yet consecrated]. [If during the stated period,] he declared it consecrated [in some other connection than as a burnt offering], lo, it is deemed to be consecrated. [If] he went and repurchased it during the thirty days, the original consecration applies to it as a burnt offering. [If] he repurchased it after thirty days, the consecration of the beast as a burnt offering no longer applies to it.”

[B] In this regard, then, a burnt offering is not parallel to a woman’s [betrothal]. [For in the case of the woman, the original betrothal, should it become valid, is valid automatically while, as we see, in the case of the beast designated as a burnt offering, if the man repurchased it during the thirty days, and it is in his domain at the end of the period, then it is a burnt offering, but not otherwise.]

[C] *How is a woman’s betrothal similar to the case of the burnt offering?* [Is she not similar in that the act of betrothal of the first party should not be valid after thirty days, if the second party should die during the thirty days?]

[D] Said R. Hiyya bar Ada, “Interpret the rule to apply to a case in which the second party died and had a brother. Since she is subject to marriage to the levir, the act of betrothal of the original party cannot apply, [since she is now not free to marry him anyway].”

[E] *How is the case of the burnt offering similar to that of the woman?* [That is, even though the original owner of the beast sold it, when he gets it back after the thirty days the first act of consecration remains valid.]

[F] Said R. Mattenaiah, “Interpret the statement to apply to a case in which one has sanctified a beast that bears a permanent blemish [so not the animal but the proceeds of its sale are what is consecrated]. [The proceeds must be paid.]”

[G] *R. Bun bar Hiyya asked before R. Zeira, “There you have stated: A mere statement [of donating an object] to the Most High is equivalent to the act of actually drawing*

[an object and so acquiring it] in regard to an ordinary person [M. 1:6]. And here you say this, [that after thirty days, the act of consecration does not apply]?”

[H] *He said to him, “In that instance we speak of a case in which one has made a statement that is valid as soon as it is made, while here we deal with a statement that takes effect only after thirty days.”*

[II:3 A] R. Abbahu in the name of R. Yohanan: “‘Lo, this beast will be a burnt offering for thirty days,’ – throughout the thirty days it is in the status of a burnt offering. Once thirty days have passed, it automatically reverts to the status of an unconsecrated beast.”

[B] What about the laws of sacrilege applying to it during the thirty days?

[C] R. Yohanan said, “The laws of sacrilege obviously apply to it.”

[D] R. Zeira and R. Hila both say, “It is doubtful whether the laws of sacrilege apply to it.”

[E] “Lo, you are betrothed to me for thirty days” – lo, this one is betrothed [permanently].

[F] What is the difference between that which has been consecrated and a woman’s betrothal?

[G] We find that that which has been consecrated goes forth [from its status of consecration at the end of the stated period,] without an act of redemption, while we do not find that a woman leaves her status [as a betrothed woman without a writ of divorce.

[H] Where do we indeed find that that which is consecrated goes forth from its status of consecration without an act of redemption?

[I] *It is in accord with R. Simeon [in the following pericope: **If the Jubilee arrived and a field was not reclaimed by the original owner, “the priests enter into possession of it but pay its price, the words of R. Judah. R. Simeon says, “they enter into possession of it, and they do not pay its price [M. Ar 7:4A-C].** [So here we deal with a field that has been consecrated but not redeemed by anyone*

allowed to do so. S'meon says the priests take possession without paying the Temple its value Thus the dedicated field leaves the Temple's domain and it is not in fact redeemed.

[J] *Said R. Yosé b. R. Bun, "Interpret the matter in line with the opinion of all parties and deal with a field that has been purchased [not one that has been inherited. [Such a field leaves the Temple's domain without a redemption payment]."*

[II:4 A] "Lo, this is your writ of divorce for thirty says" – this is not a writ of divorce that severs the relationship [so it is null].

[B] *Said R. Isaac bar Eleazar, "What you have said applies to a case in which the husband betrothed her with a donation of money. But if he betrothed her with a writ, since the effectiveness of a writ of betrothal derives solely by analogy to a writ of divorce, just as, in the case of a writ of divorce [for reasons just now stated], she is not divorced by a document valid for thirty days], so, in the case of a writ of betrothal she is not betrothed [by a writ valid for thirty days]."*

[C] *R. Abbahu in the name of R. Yohanan: "[If someone said,] 'Lo, this will be a burnt offering after thirty days have passed and he sold it within the period of thirty days, lo, it is not deemed to have been sold.*

[D] "If during the stated period he declared consecrated [in some other connection than as a burnt offering lo, it is not deemed consecrated."

[E] *For what purpose [did he consecrate it only after thirty days, if he cannot sell it in the meantime]?*

[F] He said to him, "'In the period after thirty days,' so that in the meantime he would leave himself the right to shear and work the beast."

[G] "Uproot something from this field, so that it [i.e., the field] will be acquired by you after thirty days" –

[H] if then he sold the field during the period of thirty days, it is not deemed to have been sold.

- [I] If he consecrated it during that period, it is not consecrated.
- [J] *For what purpose [did he make the original statement]?*
- [K] He said to him, “For the period after thirty days,” to leave himself the usufruct [in the meantime].
- [L] “Here is a *sela*, with which you should give me ownership of your field after thirty days” –
- [M] if [the owner] sold it during a period of the thirty days [to someone else], it is not sold.
- [N] Now what is the difference between this case and that involving the woman, [who indeed can retract during the interval]?
- [O] But teach: “If he has sold it, lo, it is regarded as having been sold.”
- [II:5 A]** “Here is this money, which will purchase your slave for me at the end of thirty days” –
- [B] *there is a Tannaite authority who teaches that the former party [the original owner] is subject to the rule of “a day or two.”* [Ex. 21:20-21: “When a man strikes his slave ... with a rod and the slave dies under his hand, he shall be punished. But if the slave survives a day or two, he is not to be punished; for the slave is his money.”]
- [C] *There is a Tannaite authority who teaches that the latter party [the purchaser] is subject to the rule of “a day or two.”*
- [D] *There is a Tannaite authority who teaches that neither one of them is subject to the rule of “a day or two.”*
- [E] *There is a Tannaite authority who teaches that both of them are subject to the rule of “a day or two.”*
- [F] *He who said that the first party is subject to the rule of “a day or two” interprets the clause “and he dies under his hand [in his domain].”*
- [G] *He who said that the second party is subject to the rule of “a day or two” interprets the clause “for the slave is his money.”*

[H] *The one who said*, “This party and that party are subject to the rule of ‘a day or two,’” sees the first in the light of “and he dies under his hand,” and the second in the light of “for the slave is his money.”

[I] *The one who said*, “Neither this party nor that party is subject to the rule of ‘a day or two’” excludes the first party, because he is not “his money,” and excludes the second party, because he is not “under his hand.”

[III:1 A] If it was an Israelite girl betrothed to a priest, she may eat heave offering [M. 3: IE].

[B] *There is a Tannaite authority who teaches*, “She may not eat heave offering.”

[C] *R. Hila said*, “*The one who said*, ‘She may eat heave offering,’ speaks of a case in which the second party is a priest. *And he who said*, ‘She may not eat heave offering,’ deals with a case in which the second party is not a priest.”

[IV:1 A] If he said, “as of now and after thirty days,” and someone else came along and betrothed her during the thirty days, she is betrothed and not betrothed [M. 3:1F]:

[B] R. Abbahu in the name of R. Yohanan: “Even the acts of betrothal of a hundred different men are valid in her case [if each should issue such a conditional betrothal, leaving room for the action of another].”

[C] Said R. Eleazar, “This is why it is necessary [to indicate in M. 3:1F, for] even if the second one betrothed her with an act of complete betrothal, [the first party retains a claim, so that she is in an ambiguous status].”

[D] *R. Isaac bar Tabelai raised the question before R. Eleazar*, “What do you prefer? [Why is she not wholly betrothed to the second party?] What the first party has acquired in her, he has acquired [but that is only after thirty days], and as to the rest the second party has come and completed an act of betrothal?”

[E] He said to him, “So is it your wish to introduce the matter of forbidden relationships? It is the fact that in the matter of any woman who is not now subject to the acquisition of a man, it is possible for even a hundred acts of betrothal to take effect in her case.”

[IV:2 A] A certain disciple raised the question before R Zeira: “If he [who had stipulated betrothal as of the time after thirty days had passed] gave her

[the signs of betrothal at dawn. with the stipulation of actually divorcing her at night [what is the law]. [Do we now assign the second party complete possession of the girl, on grounds that the first has given up his last remnant of a claim? Or do we maintain that since the first had not yet betrothed her, he also has not got the right to divorce her?]]”

- [B] A [disciple named] David contemplated ruling, “in any measure at all, the second party now acquires her.”
- [C] Said R. Zeira, “[Not so.] At the end of the thirty days he effects a complete acquisition of this woman. [The first party’s divorce is not effective before his betrothal takes effect.]
- [D] “But if the second party completed his act of acquisition I apply to her the verse, ‘Her first husband, who divorced her, will not be able again to take her as a wife, Deut. 4:1, [since the divorce has validity to that extent].
- [E] “If both of them were priests or the two are brothers, both are prohibited. [If the second party divorced her too, both are now forbidden to remarry her. Each is subject to the prohibition against marrying his brother’s divorced wife.]”

- [IV:3 A]** [If] there were three brothers, and two of them betrothed her, [one saying, “As of now and after thirty days,” and the other, forthwith within that period.] and died childless, [is she married to two men and hence exempt from the levirate connection]?
- [B] *This is in line with what R. Hiyya taught:* The wife of a single deceased childless brother is taken in levirate marriage, and not the wife of two deceased childless brothers. [So they are both deemed wed to her.]
 - [C] If there were two brothers and both of them betrothed her, and one of them died – what is the status of the second as to his being permitted to take her as his wife?
 - [D] What do you wish to say in this matter? What the surviving brother originally acquired, he has acquired, and the rest of the right to this woman has fallen to him by reason of his brother’s death.
 - [E] R. Yudan bar Pazzi said, “He is prohibited to marry her.”
 - [F] Said R. Yosé, “The reason of R. Judah bar Pazzi is this: ‘The case of any deceased childless brother’s widow who is not wholly within a levirate relation is judged on the count of a prohibited connection in

regard to that part of her married to the second brother.’ [That is, she is partly wed to the levir already, and partly in the status of a levirate relation, by reason of the deceased brother. This ambiguous status is to be resolved.] And a woman who stands in a prohibited relationship frees her cowife from levirate marriage.”

[G] Said R. Haninah, “That is so. [For] R. Judah bar Pazzi said, ‘Did she not come to him only because of his brother? But to his brother she is forbidden, so to him is she permitted?’ [Hardly.]”

[V:1 A] If it is either an Israelite girl betrothed to a priest, or a priest girl betrothed to an Israelite, she should not eat heave offering [M. 3:1H].

[B] The reason it was necessary to teach this rule is to indicate that that is the case even if the second party is a priest.

3:2

[A] He who says to a woman, “Behold, you are betrothed to me, on condition that I pay you two hundred zuz” –

[B] lo, this woman is betrothed, and he must pay [her what he has promised].

[C] “on condition that I pay you within the next thirty days,” and he paid her during the thirty days, she is betrothed.

[D] And if not, she is not betrothed.

[E] “on condition that I have two hundred zuz,” lo, this woman is betrothed, and [if] he has that sum.

[F] “on condition that I shall show you two hundred zuz,”

[G] lo, this woman is betrothed, and [if] he will show her that sum.

[H] But if he showed her the money on the table of a money changer, she is not betrothed.

[I:1 A] *There we have learned:* “Lo, this is your writ of divorce on condition that you pay me two hundred zuz,” lo, this one is divorced, and she should pay the money [M. Git. 7:5A- B].

[B] [If] she did not have time to pay the money before he died,

[C] *it was taught:* **Rabban Simeon b. Gamaliel says, “She pays the money to his father or his brothers, so that she is exempt from the obligation of levirate marriage [should the husband have died childless]” [T. Git. 5: SD].**

[D] So is the law with regard to betrothals:

- [E] He who says to a woman, “Behold, you are betrothed to me, on condition that I pay you two hundred zuz,”
- [F] [if the man died before the money was paid,] in accord with Rabban Simeon b. Gamaliel, his father or brothers pay her off, so that she is subject to the rite of removing the shoe or to levirate marriage.
- [I:2 A] R. Abbahu in the name of R. Yohanan: “This is the formula of a writ [bearing stipulations] for betrothal: *‘I, So-and-so, betroth you, So-and-so, on condition that I give you such-and-such a sum, and on the condition that I marry you on a certain day, and if that day comes and I do not marry you, then I shall have no claim on you.’*”
- [B] [If that day came and he did not marry her] through no fault of his own [by an unavoidable accident] –
- [C] *R. Yohanan said, “The accident is as if he did not make happen, [and the betrothal now is null, so she is a free agent].”*
- [D] *R. Simeon b. Laqish said, “The accident is as if he most certainly did make it happen happen, [and the betrothal remains valid, because the man did not meet his condition solely by reason of circumstances beyond his control].”*
- [E] *In the opinion of R. Simeon b. Laqish, how is it necessary to prepare the writ of betrothal [to avoid such a situation]?*
- [F] *[The woman should write,] “If the day comes, and you have not married me, I shall have no claim against you at all.”* [For the act of betrothal depends upon the agreement of both parties, and to avoid the situation of unavoidable constraint the woman too must concede that if the marriage does not take place she has no further claims on the man. Otherwise her rights will have been violated, if we accept the claim of an unavoidable nullification of the entire transaction, working in favor of the man.]
- [G] *When R. Yohanan was dying, he instructed his daughters to conduct themselves in accord with R. Simeon b. Laqish. He said, “Perhaps a court will come along and maintain the law in accord with him, so that [my] heirs will turn out to be illegitimate. [That is, a court may rule in accord with Simeon b. Laqish that a claim of unavoidable accident is acceptable; hence the girls would be betrothed in Simeon’s view. This will avoid a case in which, if they should accept another token of betrothal, without the first betrothal’s being nullified, their children would be illegitimate.]”*

- [I:3 A]** [If,] once the time came [for the marriage,] the prospective husband claims, “I gave [what I promised in the writ of betrothal],” while she claims, “I have not received [what he promised]” –
- [B] R. Abun said, “Since he seeks to retrieve the writ of betrothal from the woman, it is his task to bring proof. [She wishes to stand by the document; that is to say, the condition has not been met, so she is not betrothed. All she wants is to nullify the transaction.]”
- [C] *Then take note of the case in which there is no such document!* [In that case who brings proof, since he made the condition orally, and now he does not seek to retrieve a document of any sort?]
- [D] Said R. Yosé, “Since he seeks to render her prohibited to marry anyone else, it still is his task to bring proof.”
- [E] [What if] they got married during the time specified by the writ of betrothal? [Is he believed when he says that he has given her what he specified, at the appropriate time, that is, before he married her?]
- [F] *Such a case came before R. Abbahu. He ruled, “Go, pay.”*
- [G] The husband said to him, “Rabbi, [according to your ruling, I never met the stipulated condition, and accordingly] I have not even acquired this woman as my wife at all, and yet you tell me, ‘Go, pay’?”
- [H] Said R. Abbahu, “In my whole life, this is the only man who ever made a fool of me.”
- [I] [Abbahu] retracted and ruled, “If [the husband] retracted, he still must pay, [so he has not got the right to retract,] and if the wife retracted, she must pay.”
- [J] *Now is this not precisely his ruling at the outset [before the man’s clever argument]?*
- [K] He treated the matter as a court action. [Since he married her, the stipulation no longer is in effect, but he must carry it out.]
- [I:4 A]** The proper ordering of the writ [bearing stipulations] for betrothal is this: One witness is chosen by the groom, and one is chosen by the bride, and the two of them select yet a third witness, so that there may be two witnesses for this party, and two witnesses for that party.
- [B] [When we said that the husband has to bring proof concerning the nullification of the writ of betrothal,] that applies in a case in which both parties do not concur [in the nullification of the marital agreement by reason of failure to carry out the stipulation].

[C] But if the two of them concur, the two of them have the power to uproot the transaction of betrothal [if they choose].

[D] *Let us take up this parallel:* [Under discussion in the following is M. Yeb. 13:12: **If during thirty days a deceased brother's wife said (of the levir), "I have not had sexual relations with him," they force him to submit to the rite of removing the shoe. If she so claimed after thirty days, they ask him to do so. But if he admitted it, they force him to do so, even after twelve months.** Now if, after thirty days,] he says, "I had sexual relations with her," and she says, "I have not had sexual relations with him,"

[E] even though he retracted and claimed, "I did not have sexual relations with her,"

[F] he does not have the power to make such a claim, for in the first place he claimed, "I did have sexual relations with her."

[G] But if at the outset he said, "I did not have sexual relations with her," both of them have the power to uproot the prevailing assumption [by reason of their agreement]. [So too in the case we have just dealt with in regard to betrothals, when the two of them concur, they have the power to uproot the betrothal, and we do not maintain that a person is assumed to have carried out his stipulation.]

[I:5 A] If one witness was selected by the husband and one witness was selected by the bride, and the husband signed with his own signature as well –

[B] R. Abbahu said, "It is a valid writ. [There is no further need to verify his signature. The writ is valid, and if its condition is met, the betrothal is sustained. If not, she is free.]"

[C] R. Ba said, "We have a totally effective betrothal. [There is no consideration of the writ at all. Even if the stipulation is not met, the woman is betrothed.]

[D] "For I maintain that [at the outset the husband had in mind a totally valid betrothal.] [Now he has signed it] with the intention of making it a writ and invalidating it so that] he can marry the girl's sister, [instead of her, simply by not carrying out the condition set in the writ]. [Accordingly, he is using the actually invalid writ to invalidate the betrothal.]"

[I:6 A] [The writ is valid only if it represents] the knowledge and consent of the groom and the knowledge and consent of the bride.

- [B] If in his opinion it was a conditional writ, but in her opinion it was an act of betrothal –
- [C] R. Haninah said, “It is a writ of betrothal, [and its conditions must be met].”
- [D] R. Haggai in the name of R. Zeira said, “It is a case of valid betrothal. [That is so despite the fact that the husband insists it was merely a stipulation, which has not been met].”
- [E] *R. Haninah took up the debate with R. Haggai.*
- [F] *R. Hila said to him, “Offer persuasive arguments to Haggai, for Haggai is a reasonable person.”*
- [G] *R. Zeira said, “In Adar I R. Hila died. In Adar II a case came before R. Haninah the associates of the rabbis, who wanted to retract and rule in accord with Haggai [and so to prohibit the groom from marrying the female relatives of the bride, on grounds that the betrothal was completely valid].”*
- [H] *Said to him R. Samuel bar Immi, “Did not R. Hila tell you quite properly to take up the argument with Haggai, because Haggai is a reasonable person? [Now you yourself retract and rule in accord with his view!]”*
- [I] *Said R. Haggai, “The Mishnah supports his [my] position: **[He who says to a woman, ‘I have betrothed you,’ and she says, ‘You did not betroth me,’ he is prohibited to marry her relatives, but she is permitted to marry his relatives.]** If she says, ‘You betrothed me,’ and he says, ‘I did not betroth you,’ he is permitted to marry her relatives, and she is prohibited from marrying his relatives [M. 3:10A-E]. [What this means is that, with a writ such as is under discussion, we do not maintain that the betrothal is valid and complete.]”*
- [J] *R. Boreqai objected before R. Mana, “Now is the rule the same in the case of a writ?!”*
- [K] He said to him, “Such a writ is not a source of doubt. But either you have a writ [whose condition has not been met, in which case the betrothal is null], or you have a complete act of betrothal.”

- [I:7 A] If one has betrothed a woman by means of a writ [and carried out the conditions specified therein], lo, this represents a complete act of betrothal.
- [B] If he has divorced in that same writ, [saying, “If I carry out the stipulation, you will be betrothed, and if not, you will be divorced,” do we regard that statement as a valid writ of divorce, in such a wise that she is prohibited, as a divorcée, from marrying a priest]?
- [C] *The disciples of R. Jonah ruled*, “She has been touched by a writ of divorce [and may not marry a priest, even though it is not a fully valid act of divorce at all, since she has never been married].”
- [D] R. Jonah said, “She has not been touched by a writ of divorce.”
- [E] *When R. Jonah died, his disciples accepted his ruling.*
- [F] *They maintained*, “[If the stipulation was not met, and she was not married,] after thirty days, she goes forth without a writ of divorce, so how can you maintain that a writ of divorce has touched her? But a writ of divorce has not touched her.”
- [I:8 A] [If the prospective groom died childless] within the period specified by the writ of betrothal [in line with the case given above, in which the father or brothers wish now to arrange a levirate marriage with her] –
- [B] R. Abbahu said, “She is permitted to remarry.”
- [C] R. Ba said, “She is prohibited from remarrying [so as to give her late husband’s brothers a chance to carry out the stipulation and to take her in levirate marriage].”
- [D] *R. Mana asked the members of the father’s house of R. Yosé*, “*How does your master usually rule?*”
- [E] He said to him, “When the remaining time is substantial, he rules, ‘Go and remarry immediately if you like.’ When the time is little, he rules, ‘What difference does it make to you if you wait a short time.’”
- [I:9 A] If there was an agent, appointed orally [and not with witnesses to betroth a woman] with a writ of conditional betrothal, and the agent says that it was a conditional act of betrothal, while the woman says it was a complete and final act of betrothal –
- [B] R. Mana says, “It is a case of a conditional writ.”
- [C] R. Ba said, “It is a complete act of betrothal.”

[D] *And rabbis take account of the position of R. Mana. [If someone else should betroth her once the stipulation has not been carried out, the second betrothal is deemed valid.]*

3:3

[A] **“... on condition that I have a kor’s space of land,”**

[B] **lo, this woman is betrothed, and if he has it.**

[C] **“on condition that I have that land in such-and-such a place,”**

[D] **if he has it in that place, she is betrothed, and if not, she is not betrothed.**

[E] **“on condition that I show you a kor’s space of land,”**

[F] **lo, this woman is betrothed, and [if] he will show it to her.**

[G] **But if he showed her in a plain [land that was not his], she is not betrothed.**

[H] **R. Meir says, “Any condition that is not stated as is the condition of the sons of Gad and the sons of Reuben, [that is, in both negative and positive formulations], is no condition,**

[I] **“since it says, ‘And Moses said to them, If the children of Gad and the children of Reuben will pass over’ (Num. 39:29). And it is written, ‘And if they will not pass over armed’” (Num. 32:20).**

[J] **R. Hananiah b. Gamaliel says, “The matter had to be stated in just that way, for if nor, it would have been implied that even in the Land of Canaan they would not inherit land.”**

[I:1 A] *R. Hananiah son of R. Hillel raised the question: “If someone said, ‘My son, So-and-so, will do such-and-such a thing, and then receive such-and-such an object, and my other sons will inherit my estate, [do we say, as Hananiah has argued, M. 3:3J,] if he did it, he receives [his share of the estate], and if he did not do it, he does not receive [his share of the estate]? [Hardly. The point is that if he does what he is told, he receives something beyond his share of the estate. This then poses a problem to the reasoning of Hananiah.]”*

[B] **No, the case of inheriting the land is different, for it is written,”[This is the land which you shall inherit by lot, which the Lord has commanded] to give to the nine tribes and to the half-tribe” (Num. 34:13). [The implication is that if the other tribes do not cross the river, they will not have their share in the Land, just as Hananiah has said.]**

[C] *So it is as if he said, “My son, So-and-so, will do such-and-such and take such-and-such an object, and the rest of my sons will inherit my*

property. *If he did what he was told, he takes what he was promised, and if he did not do it, he does not take what was promised, neither on this side [the object] nor on that [that is, the share in the estate].*”

[I:2 A] *There we have learned: A man stipulates concerning his erub [and says, “If gentiles come from the east, my erub is at the west. If they come from the west, my erub is at the east. If they come from both directions, then to the place I shall choose shall I go. If they come from neither side, lo, I am in the status of the other people of my town”]* [M. Erub. 3:5A-D].

[B] *Thus does the Mishnah teach: A man stipulates concerning his erubs [that is, he has to leave two, one in one direction, one in the other].*

[C] *Said R. Eleazar, “Who is the Tannaite authority who framed the passage in the language, ‘If they came ... and if they did not come’? It is R. Meir.”*

[D] *Which R. Meir?*

[E] *The Associates say, “It is R. Meir of [tractate] Qiddushin, for it has been taught:*

[F] *“He who says to a woman, Lo, you are betrothed on condition that it rain –*

[G] *“if it rained, she is betrothed, and if not, she is not betrothed.*

[H] *“R. Meir says, “Whether or not it rained, she is betrothed, unless he should state his condition twice [once positively, one negatively].”*

[I] [64a] *“All concur that if he said, “after it has rained,” if it had rained, she is betrothed, and if it did not, she is not betrothed.””*

[J] R. Yosé said, “It is the R. Meir of Erubin.

[K] *“For we have learned there, If it is a matter of doubt, R. Meir and R. Judah say, Lo, this is the case of an ass driver and a camel driver [trying to lead an ass and a camel at the same time, with one driven from the back, the other led from the front, so that no progress is possible at all]” [M. Erub. 3:4H-I]. [The issue is resolution of doubt, not the doubled stipulation, and, in Erubin, Meir rules strictly.]*

[L] Said R. Yosé, “R. Meir gave this ruling [at M. Erub. 3:4] only in order to invoke the strict side of things.”

[M] Said R. Mana, “And that is so [that we should rule strictly]. In the case of his *erub* he does not make acquisition of a place for the Sabbath rest, for he did not make acquisition of his *erub*. He is also not in the status of the other townsfolk where he lives, for he has contemplated movement separate from that of his fellow townsfolk.

[N] “*And in this case [Meir likewise chooses the strict ruling:] to the first party she is not betrothed, for it did not rain, and to the second she is not betrothed, for the first party did not express the condition two times, one positively, one negatively [and hence the situation is unclear].*”

[O] *R. Haggai asked before R. Yosé, “That [clause] ‘And if they will not’ [Num. 32:33 is actually the same as the clause ‘For we will not [inherit with them’ (Num. 32:19). Therefore there was no need for Moses to make the statement unless for purposes of repeating the condition in both its positive and its negative forms].*

[P] He said to him, “That case is different, for the Land was before them, and he wanted to take it out of their power.”

[I:3 A] *R. Judah bar Sisin, R. Judah bar Pazzi in the name of R. Aha, “With respect to the conditional writ of betrothal, they followed the theory of R. Meir of tractate Qiddushin. [The stipulation is stated positively and negatively.]”*

[B] *R. Hananiah, associate of the rabbis, raised the question: “Why do I have to maintain that that is solely the view of R. Meir? Even in accord with rabbis [it would be the law].*

[C] “No. Did not R. Abbahu state in the name of R. Yohanan, *‘The proper text of the conditional writ of betrothal is this: “I Mr. So-and-so, betroth you, Miss Such-and-such, daughter of Mr. So-and-such, on condition that I give you such-and-such a sum and take you in marriage by such-and-such a day, and if that time comes and I have not married you, I shall have no claim whatever on you.*

[D] ““And let him say, “On condition,” so that he not have to repeat the stipulation.”

[E] If he had not stated the condition twice, how will the act of betrothal be nullified [if the condition is not met]? [So all parties concur when it comes to betrothals.]”

[F] *Said R. Yosé b. R. Bun, “In all cases R. Meir maintains the view that the implications of a negative statement encompass a positive one, but here he does not maintain that view.”*

[G] *Said R. Mattenaiah, “A stricter rule applies in the case of forbidden marital connections.”*

3:4

[A] **He who betroths a woman and said, “I was thinking that she is a priest, and lo, she is a Levite,”**

[B] **“a Levite, and lo, she is a priest,”**

[C] **“a poor girl, and lo, she is a rich girl,”**

[D] **“a rich girl, and lo, she is a poor girl,”**

[E] **lo, she, is betrothed,**

[F] **for she has not deceived him.**

[I:1 A] R. Eleazar said, “She is betrothed, even as [she would be if the betrothal] was before witnesses.”

[B] R. Samuel in the name of R. Zeira, “She is betrothed [only] so far as the strict side of things is concerned [requiring a writ of divorce].”

[I:2 A] R. Jacob bar Aha in the name of R. Immi, “If Reuben owed money to Simeon, and assigned to him what Levi was owing to him [Reuben], and Levi lost his money, Reuben does not owe Simeon money.”

[B] *That statement you made applies when they did not practice deception [in a conspiracy against Simeon]. But if they practiced deception, he remains liable.*

[C] *It is in line with this case: People who make a circuit and buy on credit and assigned the merchant to pay the creditor –*

[D] *the merchant got up early and fled –*

[E] *the case came before R. Mana.*

[F] *He said, “If the debt was a small one [they should have collected it], and so they are at fault. If the debt is a large one, then it is usual for traders to travel from place to place.”*

[G] *A man confronted his fellow in the market. He said to him, “Give me the ladle I left with you.”*

[H] *He said to him, “Give me the money I left with you.”*

- [I] *He said to him, "Give me the ladle and take your money."*
- [J] *The case came before R. Mana. He ruled, "You have conceded his claim for money [K], and he has not conceded your claim for the ladle. Go and give him his money."*
- [K] *Said R. Jacob bar Aha, "R. Mana concedes that he said that is not the law, but it was so that he would not deny the claim that he is not owed a ladle."*
- [L] *Someone owed his fellow a hundred denars in a note. He sent fifty with an agent, with instructions, "If he does not give you the note, do not give him a thing."*
- [M] *The case came before R. Immi. He said, "Go and give him, for we know [that the debt is only half paid off]."*
- [N] *Take note, what if [Immi] died?*
- [O] *They give him a court declaration [to prove that he was forced to give over the note and that he still owes half the debt to his fellow].*
- [P] *[What if] one has made acquisition in behalf of his fellow [of money owing to him, and the other party wants to take the money back]?*
- [Q] *Rabbis of this place [the Holy Land] say that if he made acquisition, he made acquisition [and does not return it].*
- [R] *R. Dosetai b. R. Yannai and R. Yosé b. Kepar went down to collect money over there for the associates. [After they collected money,] people spoke ill of them, saying they did not want to give them a thing. The donors came and demanded the money back. They said to them, "We already have acquired possession of it."*
- [S] *[Delete: They said to them, And whence?] They said to them, "We want you to undertake a careful [charge of the money and make it up if it is lost]."*
- [T] *They said to them, "We are unpaid guardians [and will not agree]."*

- [U] *They went to R. Dosetai b. R. Yannai. He said to them, "Here it all is."*
- [V] *They took R. Yosé b. Kepar and tied him up and took it away from him.*
- [W] *When they came up here, he came before his father and said to him, "See what your son has done to me!"*
- [X] *He said to him, "What did he do to you?"*
- [Y] *He said to him, "If he had agreed with me, they would not have taken a thing from us."*
- [Z] *He said to him, "Why did you do so?"*
- [AA] *He said to him, "I saw that they were a completely unanimous court, and their Adam's apples a cubit high, and they speak from their bellies, and my brother Yosé was tied up, and the strap was rising and falling on him, and I said to myself, 'Is it possible that father has another Dosetai besides me at home?'"*
- [BB] *Said R. Haggai, "What you say applies to him who cannot resist [and so is forced to return the money]. But in the case of one who can resist we take [the money] from this one and give it to that one."*
- [CC] *He who forgives a note to his fellow –*
- [DD] *R. Hananiah, R. Mana: one said, "It is forgiven."*
- [EE] *The other said, "It is not forgiven until he returns the writ."*

3:5

- [A] **He who says to a woman, "Lo, you are betrothed to me after I convert to Judaism," or, "after you convert,"**
- [B] **"after I am freed," or, "after you are freed,"**
- [C] **"after your husband dies" or "after your sister dies,"**
- [D] **"after your levir will perform the rite of removing the shoe,"**
- [E] **she is not betrothed.**

[F] **And so:**

[G] **He who says to his fellow, “If your wife produces a daughter, lo, she [the daughter] is betrothed to me,”**

[H] **she is not betrothed.**

[I] **[But if the wife of his fellow was pregnant and the fetus is discernible, his statement is validated].**

[J] **[And if she produced a daughter, she [the daughter] is betrothed].**

[I:1 A] *They asked before R. Yohanan, “What is the difference between this case [outlined in the Mishnah] and the following: ‘He who says, “Lo, this produce is designated as heave offering for this crop, now in the ground, when it is harvested” [lo, it is deemed a valid act of separation, and the produce is deemed heave offering when the condition is met].’”*

[B] *He said to them, “There he has the power to harvest the crop, but here he does not have the power of emancipation, [and consequently the decision is not his to begin with].”*

[C] *R. Pas objected, “But what if it was his own serving girl [to whom he made the statement, and he does have the power to free her]?”*

[D] *Said R. Ba bar Mamel, “When she is freed, she gets a mind of her own [she may change her opinion, and she has every right to make her decision then]. [Otherwise she is subject to coercion.]”*

[I:2 A] *R. Hoshaiah the Elder and R. Yudan the Patriarch were in session. They said, “Let us discuss a topic having to do with betrothals.”*

[B] *[Someone asked,] “He who says to a woman, ‘Here is this *perutah*, so that you will be betrothed to me as soon as I divorce you,’ what is the law?”*

[C] *They burst out laughing, got up and walked out.*

[D] *Said R. Yosé, “And why did they laugh? Did not R. Ba bar Mamel say, ‘When she is freed, she gets a mind of her own’? Here too, when she is divorced, she gets a mind of her own [and may change her opinion].*

[E] *“Now if you want to raise a question, here is a question [deriving from the case that follows]:*

[F] *“Someone was going to betroth a woman. His fellow got there first and said to her, ‘You should know that that man who is coming to betroth you is ill tempered. He will certainly divorce you some day. So here is a *perutah*, with which you will be betrothed to me when he*

divorces you.’ Now what is the law in such a case? [At present she is a free agent, so she has the right to make up her mind. But perhaps once the coming marriage takes effect, she no longer can be expected to persist in her original view.]” [This is not completed.]

[I:3 A] *There we learn:* [**He who says,**] “**Lo, these plants are qorban, if they are not cut down,**” “**This cloak is qorban, if it is not burned**” – **they are subject to redemption.** [**Lo, these plants are qorban until they are cut down,**” “**This cloak is qorban until it is burned**” – **they are not subject to redemption (M. Ned. 3:5).** In the former instance, the plants or cloak are sanctified when the man says they are *qorban*. They may be redeemed. In the latter they cannot be redeemed so long as they are not cut down, that is, so long as they have not yet been consecrated]. Is the act of consecration valid retroactively, [or it is valid only for the time from now on?

[B] What difference does it make?

[C] A case in which one has derived benefit from the objects. If you say that he has sanctified the plants retroactively, then, should he have enjoyed benefit, he will have committed an act of sacrilege.

[D] If you say it is only from now on, then if in the past he has derived benefit from the plants, he has not committed an act of sacrilege. [This question is not answered.]

[E] Hezekiah said, “[With reference to ‘until they are cut down, they are not subject to redemption,’] if he redeemed them, they revert to their status as consecrated [and must be redeemed.]”

[F] R. Yohanan said, “If he redeemed them, they are redeemed.”

[G] *The Mishnah’s clear language stands at variance with R.*

Yohanan: They are not subject to redemption.

[H] *Interpret it to mean that once they are cut down they are not subject to redemption [that is, they do not require it].*

[I] Said R. Yosé, “That which Hezekiah has said [E] applies to a case in which he himself has redeemed them.

[J] “But if a third party redeemed them, all elements of consecration are removed from them. [Whatever the original owner said is null.]”

[I:4 A] *The opinions assigned to R. Yosé are at variance with one another. There he has said, “If he redeemed them, all elements of sanctification are removed from them.” And here he has*

said, “If she married someone else, the betrothal [consecration of the original party is not removed from her. [Why should there be any doubt? The one who gave her the money for betrothal following her divorce should have no claim to her at all.]

[B] *No, [that is so]. He had a [different] question, pertaining to a case in which he gave her two perutahs, one already, and one for when he will divorce her. [With the former he betrothed her for now, with the other for after she will be divorced.] What is the law pertaining to that case? [This question is not answered.]*

- [II:1 A] **[“after your levir will perform the rite of removing the shoe:”]**
Said R. Yannai, “Thirty and some odd elders voted: ‘How do we know that an act of betrothal does not take effect in the case of a deceased childless brother’s widow?’
- [B] “Scripture says, ‘She shall not be married outside the family to a stranger’ (Deut. 25:5).
- [C] “‘That is to say, a marital relationship will not be established with a stranger.’”
- [D] *Said to him R. Yohanan, “And has not the Mishnah itself made this matter perfectly plain: ‘after your levir will perform the rite of removing the shoe – she is not betrothed” [M. 3:5D-E].*
- [E] *R. Yannai praised him, citing the following verses: “Those who lavish gold from the purse ...” (Is. 46:6). “My son, keep sound wisdom and discretion; let them not escape from your sight” (Prov. 3:21). “Be wise, my son, and make my heart glad, that I may answer him who reproaches me” (Prov. 2:11). “Give instruction to a wise man, and he will be still wiser” (Prov. 9:9). “The wise man also may hear and increase in learning” (Prov. 1:5).*
- [F] *Said to him R. Simeon b. Laqish. “After all these words of praise, he still could interpret the passage [M. 3:5D-E] in line with the view of R. Aqiba.*
- [G] “For R. Aqiba says, ‘An illegitimate child can come from a deceased childless brother’s widow [for there is no possibility of betrothing the widow, just as the Mishnah has said].’”
- [H] *Samuel said, “In our humble opinion, she requires a writ of divorce from him [of M. 3:5D-E]. ‘*

[II:2 A] *Said R. Yosé b. R. Bun, “The Mishnah passage states, ‘after your levir will perform the rite of removing the shoe.’ But if he had said, ‘After your levir will die,’ lo, this woman would have been betrothed.”*

[III:1 A] [And so he who says to his fellow, “If your wife produces a daughter, lo, she is betrothed to me,”] *R. Hiyya taught: “A girl one day old may be betrothed by money. A girl three years and one day old [64b] may be betrothed through an act of sexual relations.”*

[B] *Said R. Mana, “The Mishnah itself has made the same statement: And so he who says to his fellow, “If your wife produces a daughter, lo, she is betrothed to me,” she is not betrothed. Lo, that is because as yet the girl is not in existence. But if she were in existence, lo, she would be betrothed [even at birth].”*

3:6

[A] He who says to a woman, “Lo, you are betrothed to me, on condition that I speak in your behalf to the government,” or, “That I work for you as a laborer,”

[B] [if] he spoke in her behalf to the government or worked for her as a laborer, she is betrothed.

[C] And if not, she is not betrothed.

[D] “... on condition that her father will concur,”

[E] [If] her father concurred, she is betrothed. And if not, she is not betrothed.

[F] [If] the father died, lo, this woman is betrothed.

[G] [If] the son died, they instruct the father to state that he does not concur.

[I:1 A] Rab said, “The Mishnah speaks of a case in which he gave her something worth a *perutah*.”

[B] *R. Immi raised the question before Rabbi, “Now in all cases is it not so that we deal with a case in which he gave her something of the value of a *perutah*? But this is the meaning of the passage: ‘through the value of my speaking in your behalf of the government,’ if he spoke in her behalf to the value of a *perutah*, she is betrothed, and if not, she is not betrothed. ‘through the act of labor I shall do in your behalf,’ if he worked in her behalf to the value of a *perutah*, she is betrothed, and if not, she is not betrothed. ‘on condition that I shall work for you,’ ‘on condition that I shall labor for you tomorrow,’ ‘if he did work in her behalf value to the extent of a*

perutah, she is betrothed, and if not she is not betrothed' [T. Qid. 3:2N-K]. R. Ba in the name of Rab: "And that is the case when she set aside a *selā* for him in a cupboard [as his fee]."

[C] *With what did he then betroth her?*

[D] *This is in line with what we have learned there: **Whatever is used as payment for something else – once this one has effected acquisition thereof, the other has become liable for what is given in exchange** [M. Qid. 1:6A-C]. [Once he did the job, he acquired the money]*

[II.1 A] **"on condition that father will concur" – if father concurred, she is betrothed, and if not, she is not betrothed [M. 3:6D-E].**

[B] If there is no explicit statement on the father's part, the father is assumed not to concur.

[C] **If the father died, lo, this woman is betrothed.**

[D] If there is no explicit statement on the father's part, the father is assumed to concur.

[E] **If the son died, they instruct the father to state that he does not concur [M 3:6G]**

[F] If there is no explicit statement on the father's part the father is assumed to concur.

[G] Said R. Yohanan to R. Yannai, "And is there a Mishnah passage that [has its two halves contradict each other]?"

[H] *He said to him "And to humble Yannai do you raise a problem having to do with betrothals?"* R. Yannai went and interpreted the passage as follows: **'On condition that father will concur' – if father concurred, she is betrothed, and if not she is not betrothed** – this applies in a case in which he said, 'On the stipulation that he will say so,' and he has not said so. **If the father died, lo, this woman is betrothed** – it is as if he has said [he approved]. **If the son died, they instruct the father to state that he does not concur.** It is as if he had said [he does not concur]."

[I] *Said R. Zeira to R. Yosé, "Can R. Yannai interpret the Mishnah passage any way he wants?"*

[J] *He said to him, "Yes. Thus did R. Simeon b. Levi state, 'Rabbi did not hesitate to state a generalization in one place, and a particular expression thereof in another.'"*

[K] *Said R. Yosé, “The Mishnah itself has made that clear: ‘on condition that I have a kor’s area of ground’ is a generalization; ‘in a particular place’ is a limitation on the foregoing statement.”*

3:7

[A] **“I have betrothed my daughter, but I don’t know to whom I have betrothed her,”**

[B] **and someone came along and said, “I have betrothed her,”**

[C] **he is believed.**

[D] [If] **to us one said, “I betrothed her,” and [at the same time], that one said, “I betrothed her,” both of them give her a writ of divorce.**

[E] **But if they wanted, one of them gives her a writ of divorce and one of them consummates the marriage.**

[I:1 A] **[“I have betrothed my daughter, but I don’t know to whom I have betrothed her,” and someone came along and said, “I have betrothed her,” he is believed.:] *What is the meaning of “he is believed”***

[B] Samuel said, “He is believed so far as his having to issue a writ of divorce is concerned.”

[C] Assi said, “He is believed and so has the right to consummate the marriage.”

[D] R. Huna in the name of Rab said, “He is believed and so has the right to consummate the marriage.”

[E] R. Yohanan said, “While he is believed so as to have the right to consummate the marriage, they do not derive from that case the rule for another.”

[F] *What is the meaning of “they do not derive from that case the rule for another”?*

[G] “One of my fields have I sold, and I do not know to whom I have sold it.”

[H] One party came and said, “I have purchased it” –

[I] he has not got the power to say so.

[J] So too in betrothals:

[K] **“I have betrothed one of my daughters, and I do not know to whom I have betrothed her,”**

[L] and someone came along and said, “I have betrothed her,”

[M] he has not got the power [to do so].

[N] *The following Mishnah passage stands at variance with the view of Rab [D]:* **He who brings a writ of divorce from overseas and stated, “In my presence it was written, and in my presence it was signed,” he may not marry his wife [whose divorce he brought] [M. Yeb. 2:11].**

[O] *There* the woman is confirmed as a man’s wife before all parties. *But here* she is not confirmed as a man’s wife except before two.

[P] When the two come and say, “This is the one [not the claimant] who has betrothed her,” [then he may not consummate the marriage]. But otherwise he is believed.]

[Q] *The Mishnah stands at variance with the view of Samuel:* **If this one said, “I betroth her,” and at the same time that one said, “I betroth her,” both of them give her a writ of divorce. But if they wanted, one of them gives her a writ of divorce, and one of them consummates the marriage [M. 3:7D-E].**

[R] [The passage surely does not mean that the only effect is to have the duty of issuing a writ of divorce.] *Interpret the stated case to apply* when the father says, “To one of these two did I betroth her, but I do not know to which one of them.”

[II:1 A] **[But if they wanted, one of them gives her a writ of divorce and one of them consummates the marriage:]** R. Zeira, R. Yosé in the name of R. Yohanan, “If one of them [at M. 3:7E] went ahead and consummated the marriage, they do not remove the woman from his power.”

[B] *That rule you have stated applies in a case in which* one party says, “I betroth her,” and another party says, “I betroth her,;” and one of them went ahead and consummated the marriage [before the other issued a writ of divorce~.

[C] But if he had said, “I betroth her” and consummated the marriage [I.D, and another party came and said, “I betroth her,” the latter has not got the power now to remove her from the domain of the former.

[D] *And so it has been taught: If after he has consummated the marriage, another party came and said, “I betrothed her;” he has not got the power [to upset the existing marriage [T. Qid. 4:10D-E].*

3:8

[A] **“I have betrothed my daughter” –**

[B] **“I have betrothed her and I have accepted her writ of divorce when she was a minor,”**

[C] **and lo. she is yet a minor –**

[D] **he is believed.**

[E] **“betrothed her and I accepted her writ of divorce when she was a minor,” and lo, she is now an adult –**

[F] **he is not believed.**

[G] **“She was taken captive and I redeemed her,” whether she is a minor or whether she is an adult,**

[H] **He is not believed**

[I] **He who said at the moment of his death, “I have children,” is believed.**

[J] **If he said, “I have brothers,” he is not believed.**

[K] **He who betroths his daughter without specification [of which one, – those past girlhood are not taken into account.**

[I:1 A] [If a man said,] **“I betrothed my daughter,” the minors are subject to his statement, but the adults are not subject to his statement.**

[B] **“My daughter has been betrothed,” – the adults are subject to his statement, but the minors are not subject to his statement.**

[C] **“I received the writ of divorce for my daughter” – the minors are subject to his statement, but the adults are not subject to his statement.**

[D] **My daughter has been divorced” –**

[E] **the minors are not subject to his statement [T. Qid 4:11].**

[F] [If he said,] **“I gave her in betrothal to one of those who is invalid for her, he is believed.**

[G] **I gave her in a consummated marriage to one of those who is invalid for her,” he is not believed.**

[II:1 A] **She was taken captive and I redeemed her” [M. 3:8G],**

- [B] or, “She was invalidated by one of those who are invalid for her”
–
- [C] he has not got the power to prohibit her [from marrying a priest] [T. Qid 4:12A-C].
- [D] *This is in line with the following passage of the Mishnah: He who said at the moment of his death, “I have children,” is believed. [If he said,] “I have brothers,” he is not believed [so as to impose on her the requirement of a levirate connection] [M. 3:8I-J].*
- [E] Rab said, “Since he has the power to divorce her at that moment, he is believed.
- [F] *A ruling of Samuel implies so.*
- [G] *A certain Persian [Israelite], when he was dying, said to them, “Give a writ of divorce to that man’s wife.”*
- [H] *They said to him, “And why? Is it because of your poor [surviving, childless] brother?” [He said nothing. No writ of divorce was issued.]*
- [I] *When he died the case came before R. Samuel. He ruled, “Since he has the power to divorce her, he is believed.”*
- [J] R. Yohanan said, “He is not believed.”
- [K] *Ulla went down there [to Babylonia] and said in the name of R. Yohanan [that he is not believed], and they joined with him: “What if he was a priest,” [they asked,] [who was unwilling to divorce her lest he recover and be unable to remarry her]?*
- [II:2 A] Rab said, “He who betroths a woman before a single witness has done nothing.”
- [B] *R. Sheshet objected, and lo, the Mishnah law differs from you: “**You have betrothed me,**” and he says. “**I did not betroth you,**” he is permitted to marry her relatives, and she is prohibited from marrying his relatives [M. 3:10D-E]. [Thus the individual is believed on her own account.*
- [C] *They say that this was the way the case went:*
- [D] Simeon bar Ba brought a writ of divorce and gave it to a woman in the presence of a single witness.
- [E] *The case came before R. Yohanan, who ruled, “A single witness is null in the case involving a married woman. Did not R. Hiyya bar Assi say*

in the name of R. Assi, 'A single witness's testimony in the case of a married woman is absolutely worthless'?"

[F] Samuel said, "He who betroths a woman without prior negotiation is flogged. But the betrothal is valid."

[G] Mar Uqba in the name of Samuel said three things: He who betroths without prior negotiation is flogged. He who has sexual relations with his engaged wife in his father-in-law's house is flogged. He who mistreats the agent of a court is flogged."

3:9

[A] **He who has two groups of daughters by two wives [in succession and who said,**

[B] **"I have betrothed my oldest daughter, but I do not know whether it is the oldest of the older group or the oldest of the younger group, or the youngest of the older group, who is also older than the oldest of the younger group" –**

[C] **"all of them are prohibited [to marry without a writ of divorce], except for the youngest of the younger group," the words of R. Meir.**

[D] **R. Yosé says, "They are all permitted, except for the oldest of the older group."**

[E] **I betrothed my youngest daughter, but I do not know whether it was the youngest of the younger group, or the youngest of the older group, or the oldest of the younger group, who is younger than the youngest of the older group " –**

[F] **"all of them are prohibited except for the oldest of the older group," the words of R. Meir.**

[G] **R. Yosé says, "All of them are permitted, except for the youngest of the younger group."**

[I:1 A] R. Hama said, "We deal with two women, each with two daughters [thus eliminating the possibility of girls in the middle.]"

[B] *Said R. Jacob bar Aha, "For example, I who have two daughters from each of two wives."*

[I:2 A] *The Mishnah passage speaks of a man who has two groups of daughters from two wives. But if he had only one group, if he had said, "The oldest," he has betrothed only the oldest, and if he had said, "The youngest," he has betrothed only the youngest.*

- [I:3 A] *There we have learned: With reference to one who says, “Qonam if I taste wine to Passover,” he is prohibited until it comes. If he said, “Until it will be Passover,” he is prohibited until it is over. If he said, “Until before Passover” – R. Meir says, “He is prohibited until it comes. “ R. Yosé says, “He is prohibited until it is over” [M. Ned. 8:2].*
- [B] *R. Jeremiah raised the question before R. Zeira, “The opinions imputed to R. Meir are at variance. The opinions imputed to R. Yosé are at variance. There [at M. Qid. 3:9A-C] [Yosé’s opinion is that one does not use language that subjects his own situation to doubt, therefore he meant] to exclude all the older daughters except for the very oldest] or [at E-G] to exclude all the youngest daughters [except for the very youngest]. Yet here he has said this [that one will use language in a way that raises doubts about his meaning. [And so too for Meir: there he has someone using language that leads to doubt, and here he denies that that is likely.]”*
- [C] He said to him, “**When Ben Azzai and Ben Zoma died, the truly conscientious masters perished [M. Sot. 9:15].** No conscientious disciple arose until Jeremiah [who saw the almond tree (Jer. 1:12)]” [a sarcastic remark].
- [D] *Said R. Ba son of R. Hiyya bar Vava, “Why in the world did he deal sarcastically with him? Did not the world’s mountains [that is, the great scholars] ask this? Did not R. Eleazar raise the same question before R. Yohanan: ‘The opinions imputed to R. Meir are at variance with one another’?*
- [E] *He replied to him, ‘That is not so. It is the readings of the Mishnah that pose the problem. [That is, the attributions are opposite what they should be.]”*
- [F] *And it has been taught so in the house of Rabbi: “Until before Passover” – R. Meir says, “Until it is over.” R. Yosé says, “Until it comes.”*
- [G] *[He said to him,] “We are attempting to explain the language, ‘up to before,’ and you say this?” [That is, the issue is the use of language itself, not whether one will make use of language that yields doubts about his status.]*
- [H] *Said R. Zeira, “The dispute really does deal with how language is used, for R. Yosé understands ‘D LPNY PSH to mean not ‘Until just before Passover’ but] in the Nabataean language ‘Until Passover will pass.”*

[I] *Said R. Abin [64c], “All concur that in regard to Passover he is permitted [who uses the cited language]. What is under dispute is the use of language, ‘up to half [the period of preparation for] Passover [that is, fifteen days].’ One party maintains that it means, ‘Until it comes,’ and the other party, ‘Until it is over.’”*

3:10

[A] **He who says to a woman, “I have betrothed you,”**

[B] **and she says, “You did not betroth me,”**

[C] **he is prohibited to marry her relatives, but she is permitted to marry his relatives.**

[D] [If] **she says, “You betrothed me,” and he says, “I did not betroth you,”**

[E] **he is permitted to marry her relatives, and she is prohibited from marrying his relatives.**

[F] **“I betrothed you,”**

[G] **and she says, “You betrothed only my daughter,”**

[H] **he is prohibited from marrying the relatives of the older woman, and the older woman is permitted to marry his relatives.**

[I] **He is permitted to marry the relatives of the young girl, and the young Girl is permitted to marry his relatives.**

[I:1 A] *Said R. Yosé, “It is reasonable to suppose that [with regard to M. 3:10F-I] R. Meir will not differ [even though in general Meir imposes a strict ruling in matters of betrothal]. [Overall we should suppose all parties will be prohibited. But here the mother is not believed to testify about her daughter and so prohibit the daughter from marrying all of the man’s relatives.]”*

[B] *Said R. Mana, “The very essence of the case argues that he would disagree here too, [as he does at M. 3:9]. If there [at M. 3:9], [in which there are several doubts concerning who is considered older and younger, for] in each group there are “younger” and “older” [and there is thus ample reason why a man would not use language that places him in a situation of doubt], here, in which all parties are older than the youngest or younger than the oldest, is it not an argument a fortiori that R. Meir should disagree as well?”*

3:11

[A] **“I have betrothed your daughter,”**

[B] **and she says, “You betrothed only me,”**

[C] he is prohibited to marry the relatives of the girl, and the girl is permitted to marry his relatives.

[D] He is permitted to marry the relatives of the older woman, but the older woman is prohibited from marrying his relatives.

[I:1 A] R. Huna said, “They persuade him to give a writ of divorce, [to the one who says he betrothed her,] and they force him to pay out a monetary penalty, [that is, to pay out the marriage settlement as well, if he had already given the writ of divorce]. Note that if he was an associate [knowledgeable in the law], knowing that he had to give a writ of divorce and pay a monetary penalty as well, if he went and married her sister, they remove the sister [whom he had certainly married] by reason of [the sister whom he] may or may not [have married]. [Even if he did what the law required, he still is penalized, along the lines of what is clarified is the consequence of the condition of doubt in which the man has found himself. The law imposes every possible penalty.]”

3:12

[A] In any situation in which there is a valid betrothal and no commission of a transgression, the offspring follows the status of the male.

[B] What is such a situation?

[C] It is the situation in which a priest girl, a Levite girl, or an Israelite girl was married to a priest, a Levite, or an Israelite.

[D] And any situation in which there is a valid betrothal but there also is the commission of a transgression, the offspring follows the status of the impaired [inferior] party.

[E] And what is such a situation?

[F] It is a widow married to a high priest, a divorcée or woman who has undergone the rite of removing the shoe married to an ordinary priest, a mamzer girl or a Netin girl married to an Israelite, an Israelite girl married to a mamzer or a Netin.

[G] And in any situation in which a woman has no right to enter betrothal with this man but has the right to enter into betrothal with others, the offspring is a mamzer.

[H] What is such a situation?

[I] Thus is a man who had sexual relations with any of those women prohibited to him by the Torah.

[J] But any situation in which a woman has no right to enter into betrothal with this man or with any other man – the offspring is in her status.

[K] **And what is such a situation?**

[L] **It is the offspring of a slave girl or a gentile girl.**

- [I:1 A] *R. Simeon b. Laqish raised the question before R. Yohanan:* “Lo, in the case of a proselyte who married a *mamzer* girl, lo, there the betrothal is valid, and there is no transgression of the law, but the offspring follows the status of the impaired party in the pair [and is a *mamzer*]” [vs. M. 3:12A].
- [B] He said to him, “In every [present] context in which Rabbi taught [a general law], he supplied its specific interpretation [alongside]: **What is such a situation? It is the situation in which a priest girl, a Levite girl, or an Israelite girl was married to a priest, a Levite, or an Israelite [M. 3:1 2B-C].**”
- [C] *R. Abin inferred the answer to the same question on the basis of the latter part of the same clause:* **And any situation in which there is a valid betrothal but there also is the commission of a transgression, the offspring follows the status of the impaired party. [His version follows, D-E.]**
- [D] *R. Simeon b. Laqish raised the question before R. Yohanan:* “Lo, in the case of a proselyte who married a *mamzer* girl, lo, there the betrothal is valid, and there is no transgression of the law, but the offspring follows the status of the impaired party in the pair [and is a *mamzer*].”
- [E] *He said to him,* “In every context in which Rabbi taught a general law], he supplied the specific interpretation [alongside: **And what is such a situation? It is a widow married to a high priest, a divorcée, or a woman who has undergone the rite of removing the shoe married to an ordinary priest, a mamzer girl or a Netin girl married to an Israelite, an Israelite girl married to a mamzer or a Netin [M. 3:12E-F].** [These *are* the ones *that* follow the stated law.]”
- [F] *They objected:* “Lo, an impaired priest who married an Israelite girl – lo, there is a valid act of betrothal, and there is no transgression. Yet the offspring follows the status of the impaired party of the pair of them.
- [G] “Lo. there is he who remarries a woman he has divorced after she was married to another man. Lo, there is a valid act of betrothal, and while there is a transgression [of Deut. 24:1], yet the offspring is valid.
- [H] “For R. Hiyya has said in the name of R. Yohanan, ‘He who remarries a woman whom he has divorced after she has married someone else – her daughter is valid for marriage into the priesthood.’ What is the

scriptural basis for that view? ‘She is an abomination’ (Deut. 24:1), but her children are not.”

[I:2 A] R. Yosé b. R. Bun in the name of Rab: “A proselyte and a freed slave and an impaired priest are permitted to marry a priest.

[B] *What is the reason for this view?*

[C] Men who are valid are admonished against marrying women who are invalid, and women who are invalid are admonished against marrying men who are valid, but not women who are valid against marrying men who are invalid, nor men who are valid against marrying women who are invalid.

[D] *And has it not been taught: “They should not marry”* [stated two times] (Lev. 21:7), meaning, even a woman is admonished in regard to a man.

[E] That is to say, not that valid women are warned against marrying invalid men, but rather, invalid women are warned against marrying valid men. [Cf. M. Yeb. 9:1 and Pené Moshe, ad loc.]

[I:3 A] *A proselyte came before R. Yosa. He said to him, “What is the law as to my marrying a mamzer girl?”*

[B] *He said to him, “It is permitted.”*

[C] *He went and asked R. Judah. He said to him, “It is permitted. But you should know that the children of that man [you] will be mamzers before Heaven.”*

[D] *He went back to R. Yosa and said to him, “Now surely you know that was the law! Why did you grant me permission in the first place?”*

[E] *He said to him, “What you asked me I answered.”*

[F] *Said R. Yosa, “A proselyte is comparable to cotton. If you want to weave it [together] with wool, it is permitted; or with flax, it is permitted.”*

[II:1 A] **[It is a widow married to a high priest, a divorcée or woman who has undergone the rite of removing the shoe married to an ordinary priest, a mamzer girl or a Netin girl married to an Israelite, an Israelite girl married to a mamzer or a Netin:]** *One may have no difficulty explaining why an Israelite girl who married a mamzer or a Netin [should produce offspring who follow the status of the impaired party (M. 3:12F)], since it is written, “No mamzer shall enter the assembly of the Lord” (Deut. 23:3).*

- [B] Why does Scripture say, “He should not enter”? That is, to invalidate his offspring.
- [C] Said R. Abbahu, “What is the meaning of the word mamzer? It refers to a blemish [mum] [deriving from] an outsider [zar], [and the impairment is forever].”
- [D] Now this differs from what R. Judah bar Pazzi said, “‘God gives the desolate a home to dwell in’ (Ps. 68:6).
- [E] “Even if there is a mamzer at one end of the world, and a mamzer girl at the other end of the world, the Holy One, blessed be he, brings them and pairs them up.”

[II:2 A] R. Huna said, “A mamzer does not live more than thirty days.”

[B] *In the time of R. Berekhiah a Babylonian came up here, and it was known of him that he was a mamzer. He said to him, “Rabbi, give me [charity].”*

[C] *He said to him, “Tomorrow you will appear in the congregation, and I shall provide you something from the community chest.”*

[D] *He came and went into session and gave a lesson. When he had finished the lesson, he said to them, “Brethren, provide for this one, who is a mamzer.”*

[E] *When the congregation had gone out, he said to him, “Rabbi, I asked you for sustenance for this life, and you have deprived that man [me] of life for time to come.”*

[F] *He said to him, “I have given you your very life. For R. Ba in the name of R. Huna in the name of Rab stated, ‘A mamzer lives only thirty days. In what circumstances? When the matter is not known. But if the matter is public, he lives a good long life.’”*

[II:3 A] *When R. Zeira came up here, he heard people saying, “mamzer” and “mamzer girl.” He said to them, “Why is this? Lo, note what R. Huna stated, for R. Huna said, ‘A mamzer does not live more than thirty days.’”*

[B] *Said R. Uqba bar Aha, “I was with him when R. Ba, R. Huna in the name of Rab stated, ‘A mamzer does not live more than thirty days. [And he added:] In what circumstances? When the matter is not known. But if the matter is known, he may live a good long life.’”*

[II:4 A] *It was taught: A gentile or a slave who had sexual relations with an Israelite girl – the offspring is a mamzer.*

- [B] R. Simeon b. Judah says in the name of R. Simeon, “The offspring is not a *mamzer*, for a *mamzer* derives only from a woman who is prohibited to marry the husband by reason of a prohibited connection, and on account of which one is liable to extirpation [cf. M. 3:12G].”
- [C] And both of them interpret the same verse of Scripture:
- [D] “A man shall not take his father’s wife, nor shall he uncover her who is his father’s” (Deut. 22:30).
- [E] *R. Meir interprets the cited verse as follows:* “Just as the wife of the father is characterized by the fact that he has no possibility of betrothing her at all, [and if he has sexual relations with her], the offspring is a *mamzer*, so whoever has no possibility of betrothing a woman [and has sexual relations with her] – the offspring is a *mamzer*.”
- [F] *R. Simeon b. Judah interprets the verse as follows:* “Just as the wife of the father is characterized by the fact that she has no possibility of being betrothed to him, but she may be betrothed to others, then, if he has sexual relations with her,] the offspring is a *mamzer*, so the gentile and the slave are excluded, for they have no possibility of betrothing either this one or any other Israelite woman.”
- [G] *R. Samuel bar Abba objected concerning what was taught first:*
 “Lo, there is the case of the deceased childless brother’s wife who [before levirate marriage or performing the rite of removing the shoe] committed adultery. Lo, she has no possibility of betrothal, either with this one or with anyone else, and yet the offspring is valid.”
- [II:5 A] R. Yannai in the name of Rabbi: “A gentile or a slave who has sexual relations with an Israelite girl – the offspring is a *mamzer*.”
- [B] Both R. Yohanan and R. Simeon b. Laqish say, “The offspring is a *mamzer*.”
- [C] R. Jacob bar Aha, R. Simeon bar Abba, R. Joshua b. Levi in the name of R. Yannai b. Rabbi, “The offspring is not valid but not invalid but sullied.”
- [D] R. Jonathan went up with R. Yudah the Patriarch to the Hot Springs of Gader and gave the instruction there, “The offspring is entirely valid.”
- [E] *Said R. Zeira, “Now with reference to that offspring – as it goes along, it ascends in status! Rabbi declared his son to be sullied, but the son of his son he declared valid.”*

[F] R. Ba bar Zabeda instructed, “In the opinion of all rabbis the offspring is valid.”

[G] R. Bibi said before R. Zeira in the name of R. Hanina, “The offspring is valid.”

[H] *Said R. Zeira, “If we have to depend on this item, there is no ground for deriving a practical decision, for it was only a mere rumor that was reported, that he had given such a decision.”*

[I] *Said R. Hezekiah, “I know the beginning and end of the matter.”*

[J] *R. Hama bar Hanina was fixing to go up to the Hot Springs of Geder. He came to his father. He said to him, ‘Note that there are there some of those who are invalid, so don’t get involved with them!’*

[II:6 A] Even though R. Simeon b. Judah said in the name of R. Simeon b. Yohai, “A gentile or a slave who had sexual relations with an Israelite girl – the offspring is valid,” he concedes that if it was a daughter, she is invalid to marry a priest.

[B] Even though R. Joshua said, “He who has sexual relations with his sister – the offspring is valid,” he concedes that if [64d] she was a female, she is invalid to marry into the priesthood.

[C] Someone came to Rab. He said to him, “What is the law if his mother conceived him with an Aramaean?”

[D] He said to him, “He is valid.”

[E] Said to him R. Hama bar Guria, “Pick up your feet and get out before Samuel comes and declares you invalid!”

[F] Even though Rab said, “A gentile or a slave who had sexual relations with an Israelite girl – the offspring is valid,” he concedes that if she was a daughter, she is invalid from marrying into the priesthood.

[II:7 A] Said R. Jacob bar Aha, “*It was taught there:* He who declares invalid, declares [the offspring] invalid even when it came from a girl who was unmarried, and he who declares the offspring valid declares it valid even in the case of a married woman.”

[B] *R. Tanhum bar Papa sent and asked R. Yosé about two cases that came from Alexandria, one involving [a slave and] a woman who was not betrothed or married, and another involving [a slave and] a married woman.*

- [C] In the case of the married woman, he sent and wrote to him, “A mamzer shall not enter the congregation of the Lord” (Deut. 23:2). In the case of the unmarried woman he sent and wrote to him, “It appears that you are not careful about holy Israelite girls.”
- [D] *He said to R. Mana, “Take and sign the letters [indicating that you endorse this view].” He signed them.*
- [E] *He said to R. Berekhiah, “Take and sign the document,” but he did not agree to do so.*
- [F] *When they arose from their session, R. Mana left with R. Berekhiah. He said to him, “Why did you not sign the letter?”*
- [G] *He said to him, “Did not R. Jacob bar Aha state, ‘There they taught: He who declares invalid [in such a case] invalidates even in the case of an unmarried woman, and he who declares valid in such a case declares valid even in the case of a married woman.’”*
- [H] *He said to him, “Blessed be the All Merciful, that I did not hear that teaching. For if I had heard that teaching, I should never have signed the letter, and they then would have said [seeing that my signature was lacking] that the disciple [Mana] differs from his master [Yosé].”*
- [I] *Said Mar Uqban, “Thus was it stated: ‘He who declares invalid declares invalid in the case of an unmarried woman, and he who declares valid declares valid in the case of an unmarried woman. But with respect to the case of a married woman nothing at all was said.’”*
- [J] *In the evening [Berekiah] came back and wanted to sign the letter.*
- [K] *[Yosé] said to him, “It is not here, [since it has been sent off].”*
- [L] *Said R. Hiyya bar Ba, “He went to Tyre.”*
- [M] *He came to R. Yohanan. He said to him, “What case do you have in hand?”*
- [N] *He said to him, “A proselyte who was circumcised but had not yet immersed himself, [who had sexual relations with a Jewish girl – what is the status of the offspring]?”*
- [O] *He said to him, “And why did you not deal with him [and invalidate the offspring]?”*
- [P] *He said to him, “R. Joshua b. Levi let him be. It was just as well that he so acted in not dealing with him, [since if it was a gentile, the offspring is valid].”*

[Q] *The opinions cited in the name of R. Joshua b. Levi are at variance with one another. There R. Jacob bar Aha, R. Simeon bar Ba, R. Joshua b. Levi in the name of R. Gamaliel b. Rabbi: “The offspring is neither valid nor invalid but unfit.” And here he has said this [that it is valid]!*

[R] *And has it not been taught: A proselyte who was circumcised and not immersed, immersed and not circumcised – by “all things are decided by whether he is circumcised,” the words of R. Eliezer.*

[S] R. Joshua says, “Also the matter of immersion is required.”

[T] *But R. Joshua b. Levi is in accord with what Bar Qappara taught.*

[U] For Bar Qappara taught, “A proselyte who was circumcised but not yet immersed I who had sexual relations with an Israelite girl] – lo, this [offspring] is valid.”

[V] For there is no proselyte who has not immersed for his nocturnal emission, [and this satisfies the requirement of immersion for conversion].

[W] *And it is questionable whether immersion for an uncleanness of a minor sort serves to clean him from uncleanness of a major sort, [that is, that of a gentile!].*

[X] Said R. Yosé b. R. Bun, “Since both this one and that one are for the sake of the holiness of Israel, it does go to his credit.”

[III:1 A] And what is such a situation? It is the offspring of a slave girl or a gentile girl [M. 3:12K-L].

[B] *There we have learned: [He who has a son from any source exempts his wife from levirate marriage and he is his son in all respects] except for he who has [a son] from a slave girl or a gentile woman [M. Yeb. 2:6].*

[C] A slave girl, for it is said, “And the woman and offspring will remain with her master” (Ex. 21:4).

[D] As to a gentile woman:

[E] R. Yohanan in the name of R. Simeon b. Yohai, “It is written, ‘You shall not intermarry with them. You shall not give your daughter to his son’ (Deut. 7:3).

[F] “And it is written, ‘For he will mislead your son from following after me’

- [G] “Your son from an Israelite male is called ‘your son,’ but your son from a gentile woman [and an Israelite man] is not deemed ‘your son,’ but rather, ‘her son.’”
- [H] *Jacob of Kepar Naborayya went to Tyre. They came and asked him, “What is the law as to circumcising on the Sabbath the son of an Aramaean woman [and an Israelite man]?”*
- [I] *He considered permitting them to do so, on the basis of the verse of Scripture, “Who registered themselves by families, by fathers’ houses” Num. 1:18). [So the father, not the mother, is what is decisive.]*
- [J] *R. Haggai heard and said, “Let him come and be flogged.”*
- [K] He said to him, “On what basis will you flog me?”
- [L] He said to him, “On the basis of the following verse: ‘Therefore let us make a covenant with our God to put away all these wives and their children’” (Ezra 10:3).
- [M] He said to him, “And on the basis of a tradition [of the prophets and not a law of the Pentateuch itself] are you proposing to flog me?”
- [N] He said to him, “‘and let be done according to the Torah’” (Ezra 10:3).
- [O] He said to him, “From which Pentateuchal verse [do you derive that]?”
- [P] He said to him, “It derives from what R. Yohanan stated in the name of R. Simeon b. Yohai, ‘You will not intermarry with them’” [E-G].
- [Q] He said to him, “Carry out your flogging, for it is better to take it [now and not err in the future (Pené Moshe at M. Yeb. 2:6)].”

3:13

- [A] **R. Tarfon says, “Mamzers can be purified [from their state].**
- [B] **“How so?**
- [C] **“A mamzer who married a slave girl –**
- [D] **“the offspring is a slave girl.**
- [E] **“[If] he then freed him the son turns out to be a free man.”**

- [F] **R. Eliezer says, “Lo, this is a slave who also is in the status of a mamzer.**
- [I:1 A] *Thus does the Mishnah maintain: A mamzer is permitted to marry a slave girl.*
- [B] R. Judah in the name of Samuel: “The law follows R. Tarfon.”
- [C] *R. Simlai so instructed in Antioch, R. Simai so instructed in Kepar Saporawa, “The law accords with R. Tarfon.”*
- [I:2 A] ***It was taught: R. Meir did say, “There are a husband and a wife who produce five castes.***
- [B] **“How so?**
- [C] **“A gentile man who has a slave boy and a slave girl, and they have two children, and one of them converted –**
- [D] **“Lo, (1) one is a proselyte and (2) one is a gentile.**
- [E] **“[If] their master converted and converted the slaves, and they then produced a son, then (3) the offspring is a slave” [T. Qid. 5:11].**
- [F] *R. Zeira said, “That is to say, a gentile who had sexual relations with a slave girl and produced a son – “the offspring is a slave.”*
- [G] **“If the slave girl is freed, and that slave boy had sexual relations with her, and they produced a son, (4) the son is a mamzer.**
- [H] **“And [if] both of them are freed,**
- [I] **“and they produced a son,**
- [J] **“then the son is a (5) freed slave [T. Qid. 5:12].**
- [K] **“There is he who sells his father to pay her marriage contract to his mother.**
- [L] **“How so?**
- [M] **“He who has a slave boy and a slave girl, and they produced a**
- [N] **“He freed his slave girl and married her, and wrote over his property to her son.**
- [O] **“Then it is he who sells his father and pays his mother her marriage contract” [T. Qid. 5:13].**

- [P] R. Meir says, “*Mamzers will* never be clean in the world to come, for it is said, ‘A mongrel people [mamzer] shall dwell in Ashdod’ (Zech. 9:6). They will bring mud to mud and thorns to thorns.”
- [Q] [In the Tosefta’s version] “*Netins* and mamzers will be clean in the world to come,” the words of R. Yosé.
- [R] R. Meir says, “They will not be clean.”
- [S] Said to him R. Yosé, “But has it not truly been said, ‘I will sprinkle clean water upon you, and you shall be clean’?”
- [T] Said to him R. Meir, ““And you shall be clean from [some of] all your uncleannesses, and from all your idols will cleanse you.””
- [U] Said to him R. Yosé, “Had it said, ‘...all your uncleannesses and from all your idols,’ and then nothing more, I should have ruled in accord with your view. Why then does Scripture say, ‘I will cleanse you’? It means, Even from the *Netins* and the mamzers” [T. Qid. 5:4].
- [V] R. Huna in the name of R. Joseph: “The law is not in accord with R. Yosé as to the world to come.”

YERUSHALMI QIDDUSHIN

CHAPTER FOUR

4:1

[A] [65a] Ten castes came up from Babylonia: priests, Levites, Israelites, impaired priests, converts, and freed slaves, mamzers, Netins, “silenced ones” [shetuqi], and foundlings.

[B] Priests, Levites, and Israelites are permitted to marry among one another.

[C] Levites, Israelites, impaired priests, converts, and freed slaves are permitted to marry among one another.

[D] Converts, freed slaves, mamzers, Netins, “silenced ones,” and foundlings are permitted to marry among one another.

[I:1 A] **Priests, Levites, and Israelites [are permitted to marry among one another] [M. 4:1A]** – in line with the verse: “And there went up also to Jerusalem, in the seventh year of Artaxerxes the king, some of the people of Israel, and some of the priests and Levites, and singers and gatekeepers, and the temple servants” (Ezra 7:7).

[II:1 A] **[Levites, Israelites,] impaired priests, [converts, and freed slaves are permitted to marry among one another]:** “Also, of the sons of the priests: the sons of Habaiah, the sons of Hakkoz, [and the sons of Barzillai (... the Gileadite, and was called by their name)]. These sought their registration among those enrolled in the genealogies, but were not found there, and so were excluded from the priesthood [as unclean]” (Ezra 2:61-62).

[II:2 A] “The governor told them [that they were not to partake of the Most Holy Food]” (Ezra 2:63).

[B] Why was he called, “the governor (HTRST)”? Because they permitted (HTYRW) him to drink wine.

[C] Hatarshata: “Now I was the cupbearer to the king” (Neh. 1:11).

[D] “That they were not to partake of the Most Holy Food” (Ezra 2:63).

[E] But may they eat Holy Things set aside in the provinces [e.g., heave offering]?

[F] Said R. Yosé, “Great is the established right [that one enjoys]. Since there [in exile] they had an established right to eat [Holy Things], so here they may do so.”

[G] *[Doing so] there poses no problems in line with what is written there: “Set up waymarks for [65b] yourself, [make yourself guideposts]” (Jer. 31:21). But what do you have to say about the prevailing situation here?*

[H] *It is in line with the view of him who said, “They accepted tithes on their own.”*

[II:3 A] “[The governor told them they were not to partake of the Most Holy Food] until there should be a priest to consult Urim and Thummim” (Ezra 2:63).

[B] Now were the Urim and Thummim available at that time in the period of the Second Temple?

[C] But it was like what someone says, “until the dead will live!” “until David’s son will come!” [That is, maybe then but not just now.]

[II:4 A] [Also, of the sons of the priests: the sons of Habaiah, the sons of Hakkoz, and the sons of Barzillai, who had taken a wife from the daughters of Barzillai, the Gileadite, and was called by their name. These sought their registration among those enrolled in the genealogies, but they were not found there, and so they were excluded from the priesthood as unclean” (Ezra 2:61-62).] As to these daughters of Barzillai, did they convert for the sake of Heaven, or did they convert not for the sake of Heaven?

[B] If you say that they converted for the sake of Heaven, then they should be permitted to eat Most Holy Things, and if you say that they did not convert for the sake of Heaven, then even Holy Things set apart in the provinces they should not eat.

[C] But even if you say that they converted for the sake of Heaven, is not a convert girl deemed like a whore, so far as the priesthood is concerned?

[D] Interpret the case to mean that they were not the daughters but the daughters of the daughters.

[E] But are the daughters of the daughters not in the status of full-fledged Israelites? For this is in line with the view of R. Simeon, for R. Simeon said, “A convert girl who converted at an age of less than three years and one day old [is valid for marrying into the priesthood].”

[F] [No, we deal with daughters of daughters, and they were rejected because] at the time of conversion they were not of an age of knowledge and consent for immersion, or it was after [their mother] immersed her.

[G] Now when she goes and immerses for the sake of the sanctification of Israel [conversion], each is deemed a convert on her own, [not by reason of maternal action], and a convert is deemed no better than a whore when it comes to marrying into the priesthood.

[II:5 A] He who converts for the sake of love [of a Jew], whether a man because of a woman, or a woman because of a man,

[B] and so too those who converted in order to enter Israelite royal service,

[C] and so too those who converted out of fear of the lions [that is, the Samaritans],

[D] and so too the converts in the time of Mordecai and Esther [who converted out of fear] – they do not accept them.

[E] Rab said, “In law they are converts, and they do not repel them as they repel converts at the outset, but they accept them and must welcome them kindly, in the possibility that it was for the sake of Heaven.”

[III:1 A] **Converts, freed slaves, mamzers, Netins, “silenced ones,” and foundlings are permitted to marry among one another [M. 4: 1]:** *In line with this verse:* “[It was eaten by the people of Israel who had returned from exile, and also by everyone who had joined them] and separated himself from the pollutions of the peoples of the land [to worship the Lord, the God of Israel]” (Ezra 6:21).

[B] **Freed slaves:** In line with this verse: “The Temple servants ...” (Neh. 7:46).

[C] **Mamzers:** Said R. Simon, “It is written, ‘The following were those who came up from Telmelah, Telharsha’ (Neh. 7:61). ‘From Tel Melah’ – this is Babylonia. ‘Telharsha’ – this refers to the silenced ones and foundlings. ‘Cherub’ (Neh. 7:61) – this refers to the

mamzers. Those youths [RWBYN] who followed their eyes. ‘Addon’ – the ones who say there is no justice and no lord.”

[D] *R. Hezekiah interprets the language [of Addon]:* “These are the one who followed their eyes and said, ‘There is no justice and no judge [~YN DYYN].”

[E] “And Immer” (Neh. 7:61) – for they exchanged (HYMRW) God for their evil deeds.

[F] *R. Abun in the name of R. Phineas:* “They made themselves conspicuous [for their lechery] like the border [‘YMR] [on] a cloak.”

[G] *R. Levi in the name of R. Simeon b. Laqish,* “They were worthy of being turned into a hill of salt (Tel melah), but the attribute of divine justice kept silence for them [and the place was known as Tel harasha] [HRS = silence].”

[III:2 A] **Supply: Netinim:]** *R. Immi in the name of R. Joshua b. Levi taught,* “It was on account of the following verse: ‘But Joshua made them [WYTNM] that day hewers of wood and drawers of water for the congregation [and for the altar of the Lord]” (Josh. 9:27).

[B] *One may well understand [his making them hewers of wood and drawers of water] for the congregation. But why “for the altar of the Lord”?*

[C] But Joshua hung them up on the wall. He said, “I shall neither bring them near nor send them out. But he who is destined to build the chosen house – him whom he decides to draw near, he will draw near, to put out, he will put out.”

[D] David came along and sent them out, as it is said, “[So the king called the Gibeonites.] Now the Gibeonites were not of the people of Israel, [but a remnant of the Amorites]” (2 Sam. 21:2).

[E] And why did he send them out? It was on the following count: “Now there was a famine in the days of David for three years, [and David sought the face of the Lord. And the Lord said, ‘There is bloodguilt on Saul and on his house, because he put the Gibeonites to death]” (2 Sam. 21:1).

[F] David said, “It is on account of four sins that the rain is withheld: for the sins of idolatry, fornication, bloodshed, and publicly pledging charity but not paying it.”

- [G] How do we know that the sin of idolatry [is involved]? “Take heed lest your heart be deceived [and you turn aside and serve other gods and worship them]” (Deut. 11:16).
- [H] What is written thereafter? “And the anger of the Lord be kindled against you, and he shut up the heavens, so that there be no rain” (Deut. 11:17).
- [I] How do we know that the sin of fornication is involved? “You have polluted the land with your vile harlotry” (Jer. 3:2).
- [J] What is the punishment for that matter? “Therefore the showers have been withheld, and the spring rain has not come” (Jer. 3:3).
- [K] On account of murder? “[You shall not thus pollute the land in which you live;] for blood pollutes the land” (Num. 35:33).
- [L] As to the sin of publicly pledging to give to charity and not giving? “Like clouds and wind without rain is a man who boasts of a gift he does not give” (Prov. 25:14).
- [M] Now David investigated all his contemporaries and he found not one of them. He turned to inquire of the Urim and Thummim. That is in line with the following verse of Scripture: “[Now there was a great famine in the days of David for three years, year after year;] and David sought the face of the Lord” (2 Sam. 21 1) – through the Urim and Thummim.
- [N] Said R. Eleazar, “It is written, ‘Seek the Lord, all you humble of the land, who do his commands’ (Zeph. 2:3). *What is the meaning of ‘who do his commands’?* That he simultaneously judges while [seeking his good] works.”
- [O] “And the Lord said, ‘There is bloodguilt on Saul and on his house’” (2 Sam. 21:1).
- [P] “In regard to Saul, for you did not behave mercifully with him [for you did not mourn him].”
- [Q] “And on his house” because he killed the Gibeonites.
- [R] David sent and called them, “What is between you and the house of Saul?”
- [S] They said to him, “It was because he killed seven men of us, two hewers of wood, two drawers of water, an instructor, a teacher, and a beadle.”

[T] *He said to them, “What do you want to do then?”*

[U] They said to him, “Let seven of his sons be given to us, that we may hang them up before the Lord at Gibeon on the mountain of the Lord” (2 Sam. 21:6).

[V] He said to them, “What benefit will you have if they are killed? Take silver and gold.”

[W] And they said, “We have no claim of silver against Saul and his house.”

[X] *David thought to himself, “Perhaps they are afraid to speak freely before one another.”*

[Y] *So he took them off, one by one, and persuaded each one by himself, and said to him, “What benefit will you have if they are killed? Take silver and gold [as a ransom].”*

[Z] And each said, “We have no claim of silver against Saul and his house.” “I do not have” is written.

[AA] Then David said, “There were three good gifts that the Holy One, blessed be he, gave to Israel: forgiving people, bashful people, and kindly people.”

[BB] “Forgiving people,” whence [in Scripture]? “[None of the devoted things shall cleave to your hand; that the Lord may turn from the fierceness of his anger] and show you mercy” (Deut. 13:18).

[CC] “Bashful people.” whence [in Scripture]? “[And Moses said to the people, ‘Do not fear for God has come to prove you,] and that the fear of him may be before your eyes, [that you may not sin]” (Ex. 20:20). This is a mark of a bashful person, who will not readily sin. And as to whoever is not bashful, it is a matter of absolute certainty that his forefathers did not stand before Mount Sinai.

[DD] “Kindly people,” whence [in Scripture]? “[And because you hearken to these ordinances, and keep and do them,] the Lord your God will keep with you the covenant and the steadfast love [which he swore to your fathers to keep]” (Deut. 7:12).

[EE] Now as to these, not one of them is master of these virtues. He went and declared them to be put away [from Israel], as it is said, “And the Gibeonites are not members of the children of Israel.”

[FF] So too Ezra declared them to be put away, as it is said, “But the Temple servants lived on Ophel, [and Ziha and Gishpa were over the Temple servants]” (Neh. 11:21).

[GG] So too in the future the Holy One, blessed be he, will put them far off, as it is written, “And the workers of the city, [from all the tribes of Israel,] shall till it” (Ez. 48:19).

[HH] It is written, “And the king said, ‘I will give them.’ [But the king spared Mephibosheth, the son of Saul’s son Jonathan, because of the oath of the Lord which was between them, between David and Jonathan the son of Saul.] The king took the two sons of Rizpah the daughter of Aiah, whom she bore to Saul, Armoni and Mephibosheth” (2 Sam. 21:6-8).

[II] “And Michal the daughter of Saul had no child to the day of her death” (2 Sam. 6:23). And yet you say this?

[JJ] But on this basis you must conclude that they were really the sons of Merab, and since Michal raised them they were called by her name.

[KK] “And he gave them into the hands of the Gibeonites, and they hanged them on the mountain before the Lord, and the seven of them perished together” (2 Sam. 21:9).

[LL] [The word is spelled with a Y but read] without a Y [so one person was left out].

[MM] This refers to Mephibosheth, son of Jonathan, son of Saul, who was a man great in Torah. David proposed to save his life from their power.

[NN] David said, “Lo, I shall have them pass before the altar. To whomever the altar extends sanctuary, lo, he will belong to me.”

[OO] He had them pass by the altar and he prayed for him, and the altar went and received him [extended him sanctuary].

[PP] That is in line with the following verse of Scripture: “I cry to God Most High, to God who fulfills his purpose for me” (Ps. 57:2).

[QQ] For the Holy One, blessed be he, concurred with David.

[RR] “They were put to death in the first days of harvest [at the beginning of the barley harvest]” (2 Sam. 21:9).

[SS] It is written, “the barley harvest.”

[TT] “Then Rizpah, the daughter of Aiah, took sackcloth, and spread it for herself on the rock, [from the beginning of harvest until a rain fell upon them from the heavens; and she did not allow the birds of the air to come upon them by day, or the beasts of the field by night]” (2 Sam. 21:10).

[UU] What is the meaning of “on the rock”?

[VV] Said R. Hoshaiiah, “For she was reciting the verse, ‘The Rock, his way is perfect’” (Deut. 32:4).

[WW] R. Abba bar Zimna in the name of R. Hoshaiiah:
“Greater is the sanctification of God’s name than the profanation of God’s name. With respect to the profanation of God’s name, it is written, ‘His body shall not remain all night upon the tree, [but you shall bury him the same day, for a hanged man is accursed by God]’ (Deut. 21:23).

[XX] “And with respect to the sanctification of God’s name, it is written, ‘[They were put to death] in the first days of the harvest’” (2 Sam. 21:9).

[YY] “until rain fell upon them” – this teaches that they were hung from the sixteenth of Nisan to the seventh of Marcheshvan, and passersby would say, “What sort of sin did these people do [65c] that the ordinary application of the rule of justice has been so drastically changed?”

[ZZ] And they answered, “It was because they laid hands on people who converted but had not been formally admitted.”

[AAA] They said, “Now if in behalf of these, who did not convert for the sake of Heaven, see how the Holy One, blessed be he, has exacted vengeance for their blood, he who converts for the sake of Heaven – how much the more so!”

[BBB] Many proselytes converted at that time.

[CCC] This is in line with what is written: “Then Solomon took a census of all the converts who were in the land of Israel.... Seventy thousand of them he assigned to bear burdens, eighty thousand to quarry in the hill country, and three thousand six hundred as overseers to make the people work” (2 Chr. 2:17-18).

[DDD] R. Huna said, “In the time of R. Eleazar b. Azariah they sought to draw them near [and declare them valid Israelites for purposes of marriage].”

[EEE] *R. Huna corrected the formulation of that statement:*
“It was in the time of R. Eleazar.”

[FFF] They said, “Who will declare clean the portion of the altar? [That is, they are permanently assigned to it.]”

[GGG] That is to say that Joshua [not David] put them far off.

[HHH] Even if you say that Joshua put them away, did he not put away only in regard to marrying an Israelite?

[III] If you say that it is by reason of being slaves, then he who has sexual relations with a *Netin* girl – she should have no claim to a fame on that account, *and yet we have learned: He who has sexual relations with a Netin girl – she has every right to collect a fine from him [M. Ket. 3:1].*

[JJJ] Said R. Eleazar, “He cursed them as the serpent is cursed, as it is said, ‘And now, you are cursed’ (Josh. 9:23). And it is written, ‘But the men of Israel said to the Hivites ...’ (Josh. 9. 7). Now were they Hivites? [No, they were Gibeonites.] But they acted like snakes (HYWY).”

[KKK] [The snake] said, “I know that the Holy One, blessed be he, said, ‘for in the day that you eat of it you shall die’ (Gen. 2:17). But lo, I shall go and deceive them, and they will eat it and suffer punishment, and I shall inherit the whole world for myself.”

[LLL] So too did they do. They said, “We know that the Holy One, blessed be he, has said to Israel, ‘You shall utterly destroy them, the Hittites and the Amorites, the Canaanites and the Perizzites, the Hivites and the Jebusites, as the Lord your god has commanded’ (Deut. 20:17). And it is written, ‘You shall make no covenant with them’ (Deut. 7:2). We shall go and deceive them, and they will make a covenant with us. Then what can possibly happen? If they kill us, they will have violated their oath. If they keep us alive, they will have violated

the decree. One way or the other, they will be punished, but we shall inherit the land.”

- [III:3 A] R. Nahman bar Jacob said, “They accept converts from the Cordyeniens and from the Tadmor [Palmyrenes].”
- [B] R. Abbahu in the name of R. Yohanan, “The Mishnah passage has also said that converts from Palmyra are valid, *for we have learned there: All bloodstained cloths that come from Reqem are clean [M. Nid. 7:2]* . That indicates that converts from Palmyra are valid.”
- [C] R. Jacob bar Aha said, “It is a tradition: *R. Haninah, R. Joshua b. Levi – one declares them valid [to enter the congregation], and one declares that one receives them [as proselytes]. The one who says they are valid also will receive them, but the one who receives them will not declare them valid.*”
- [III:4 A] R. Yosé b. R. Bun in the name of R. Nahman: “Babylonia, for the purposes of genealogy, extends to the Yazzoq canal.”
- [B] *R. Yosé b. R. Bun said, “Rab and Samuel: One said, ‘to the Yazzoq canal,’ and the other said, ‘to the Yoanni canal.’”*
- [C] Said R. Judah, “Mesopotamia is equivalent to the Exile [Babylonia] for purposes of genealogy.”
- [D] Said R. Haninah b. Beroqah in the name of R. Judah: “As to the Mesenians, they had no scruple concerning them except by reason of the possibility that there were impaired priests among them.
- [E] “The priests that are over there were not scrupulous about not marrying divorced women.”
- [F] *There they say: Mesene is dead [as to genealogy]; Medea is sick. Elam and Gobaya are dying. The Province by the Sea is the blue thread [the finest area] of Babylonia, and Shunya, Gobaya, and Susraya are the blue thread of the Province by the Sea.*”
- [III:5 A] [At issue is the interpretation of the following verses: “No *mamzer* shall enter the assembly of the Lord; even to the tenth generation none of his descendants shall enter the assembly of the Lord” (Deut. 23:2), and “No Ammonite or Moabite shall enter the assembly of the Lord; even to the tenth generation none belonging to them shall enter the assembly of the Lord forever” (Deut. 23:3).] R. Jacob bar Aha in the

name of R. Josiah: “The eleventh generation of a *mamzer*, in accord with R. Simeon, is valid.

[B] “*For he does not interpret the language ‘tenth’ and ‘tenth’ [as the basis for analogy between the two cases. That is, Deut. 23:2 does not say, ‘forever,’ while Deut. 23:3 does. The former stops with the tenth generation.]*”

[III:6 A] *It was taught:* R. Eleazar b. R. Simeon says, “As to the eleventh generation produced from a *mamzer*, the males still are forbidden, but the females are valid.”

[D] *R. Samuel b. R. Yosé b. R. Bun declared, “What R. Eleazar b. R. Simeon has said accords with the view of R. Meir.*

[E] “For R. Meir has said, ‘It is an analogy in which all the elements apply.’ [That is, the rule for the *mamzer* follows that of the Ammonite and Moabite in all regards.]

[F] “So did R. Eleazar b. R. Simeon say, “It is an analogy in which all the elements apply.

[G] “Just as below with the Ammonites and Moabites], the males are forbidden and the females permitted, so here the males are forbidden and the females permitted.”

[H] If that is so, then perhaps even forthwith [they will be permitted]?

[I] No, that applies only from the tenth generation and thereafter.

[III:7 A] They asked R. Eliezer, “As to the eleventh generation of a *mamzer*, what is the law?”

[B] He said to them, “Bring me the third generation and I shall declare it clean.”

[C] *What is the basis of R. Eliezer’s position? It is because the mamzer does not live a long life [and produce children].*

[D] *And what R. Eliezer has said accords with the view of R. Haninah, for R. Haninah has said, “Once every sixty or seventy years the Holy One, blessed be he, brings a pestilence into the world and wipes out all the mamzers, but it takes with them valid people, so as not to publicize the sins [of the sinners].”*

[E] *And that accords with what R. Levi said in the name of R. Simeon b. Laqish: ““In the place where the burnt offering is killed shall the sin offering be killed before the Lord’ (Lev. 6:25).*

[F] “This is so as not to publicize the sinner.”

[G] “And yet he is wise and brings disaster, [he does not call back his words]” (Is. 31:2).

[H] Is it not reasonable to say, “And also he is wise and *brings good?*”

[I] But it is phrased as it is to teach you that even the evil that the Holy One, blessed be he, brings to the world, in wisdom does he bring it.

[J] “[And yet he is wise and brings disaster,] he does not call back his words, but will arise against the house of the evildoers, and against the helpers of those who work iniquity” (Is. 31:2).

[K] R. Huna said, “A mamzer does not live more than thirty days.”

[L] *When R. Zeira came up here, he heard people saying, “mamzer” and “mamzer girl.” He said to them, “Why is this? Lo, note what R. Huna stated, for R. Huna said, ‘A mamzer does not live more than thirty days.’”*

[M] Said R. Jacob bar Aha, “I was with you when R. Abba, R. Huna in the name of Rab stated, ‘A mamzer does not live more than thirty days. [And he added:] In what circumstances? When the matter is not known. But if the matter is known, he may live a good long life.’”

[III:8 A] R. Yosa in the name of R. Yohanan: “Also in the age to come, the Holy One, blessed be he, will have to deal [NZQQ] only with the tribe of Levi.”

[B] *What is the scriptural basis for that statement?*

[C] “He will sit as a refiner and purifier of silver, and he will purify the sons of Levi and refine [ZQQ] them like silver and gold, [till they present right offerings to the Lord]” (Mal. 3:3).

[D] Said R. Zeira, “It is like a man who drinks from a clean cup. [The other tribes will be left with their impurities.]”

[E] Said R. Hoshaiah, “Since we are Levites, shall we lose out?”

[F] Said R. Hanina son of R. Abbahu, “Also in the age to come the Holy One, blessed be he, will do justice with them.”

[G] *What is the scriptural basis for that statement?*

[H] “[He will sit as a refiner and purifier of silver, and he will purify the sons of Levi and refine them like silver and gold,] till they present right offerings to the Lord” (Mal. 3:3).

[III:9 A] Said R. Yohanan, “As to any family in which some invalidity has been submerged, they do not check too carefully about it.”

[B] *Said R. Simeon b. Laqish, “The Mishnah itself has made the same point: **The family of Beth Seripa was in the land beyond Jordan, and Ben Zion removed it afar by force, and yet another family was here, and Ben Zion brought it near by force [M. Ed. 8:7].** But sages did not seek to reveal who they were. But sages hand over the information to their sons and disciples two times every seven years.”*

[C] Said R. Yohanan, “By the Temple service! I know who they are, but what should we do? For the great men of the generation are mixed up with them.”

[D] Said R. Joshua b. Levi, “Pashhur ben Immer had five thousand slaves, and all of them were mixed up with the high priesthood, and they account for the arrogant among the priesthood.”

[E] Said R. Eliezer, “The principal designation of the priests’ usurpation is indicated in the following verse: [‘Yet let no one contend, and let none accuse,] for with you is my contention, O priest”” (Hos. 4:4).

[F] Said R. Abbahu, “Thirteen towns were mixed up among the Samaritans in the time of the Persecution.”

[G] They said that one of them was Eden Ramashaah.

[III:10 A] [With reference to the statement, **Converts, freed slaves, mamzers, Netins, “silenced ones,” and foundlings are permitted to marry among one another,**] *Said R. Haninah, “The Mishnah-rule is not in accord with what R. Judah has said, [since he does not permit proselytes and mamzers to intermarry,] because R. Judah has said that they form four congregations: the congregation of priests, the congregation of Levites, the congregation of Israelites, and the congregation of proselytes.”*

[B] *They objected to R. Judah, “And lo, it is written, ‘He whose testicles are crushed or whose male member is cut off shall not enter the assembly of the Lord’” (Deut. 23:1). They are invalid by reason of the condition of their bodies, [not genealogy].*

- [C] And has it not been written, “The children of the third generation that are born to them [an Edomite or an Egyptian] may enter the assembly of the Lord” (Deut. 23:8)? They are subject to an affirmative commandment.
- [D] *And rabbis say*, “They are three congregations: the congregation of priests, the congregations of Levites, the congregation of Israelites.”
- [E] This derives from the three times in which the language “He shall not come” is utilized.

4:2

[A] **And what are “silenced ones”?**

[B] **Any who knows the identity of his mother but does not know the identity of his father.**

[C] **And foundlings?**

[D] **Any who was discovered in the market and knows neither his father nor his mother.**

[E] **Abba Saul did call a “silenced one” [shetuqi] “one who is to be examined” [beduqi].**

[I:1 A] Who are **foundlings**?

[B] The ones whom you must examine.

[C] The brother of R. Judah bar Zabedi in the name of Rabbi: “As to an infant, so long as he is abandoned [65d] in the marketplace, either his father or his mother may give testimony [as to his valid origins]. Once he has been taken out of the marketplace, there must be two valid witnesses in the matter. His father and his mother are equivalent to two witnesses.”

[D] *Rabbis of Caesarea in the name of R. Hisda*: “What you have said applies to an infant who does not crawl, but in the case of an infant who crawls, there must be two valid witnesses. His father and his mother are equivalent to two witnesses.”

[E] *Now this is in line with that which R. Yannai said*, “As to calves and foals that jump about, there is no presumption [as to ownership].”

[I:2 A] R. Ba in the name of R. Hisda “There are three who are believed on the spot: the midwife, a caravan trader, and one who declares her fellow-women to be clean, [taking responsibility for a drop of blood and declaring that it is hers].”

- [B] As to the midwife: “[And when she was in labor, one put out a hand;] and the midwife took and bound on his hand a scarlet thread, saying, ‘This came out first’” (Gen. 38:28).
- [C] As to a caravan trader: It is in line with what R. Abba, brother of R. Judah bar Zabedi said in the name of Rab: “As to an infant, so long as he is abandoned in the marketplace, either his father or his mother may give testimony [as to his valid origins]. Once he has been taken out of the marketplace, there must be two valid witnesses in the matter. And his father and his mother are equivalent to two witnesses.”
- [D] And she who declares her fellow-women to be clean:
- [E] *This is in line with what we learn there:* **Three women who were sleeping in one bed, and blood was found under one of them – they all are unclean. If one of them examined herself and found that she was unclean – she is unclean, and the other two of them are clean [M. Nid. 9:4A-C].**
- [F] Said R. Ba, “And that is on condition that she [who is declared to be unclean] examined herself in the succeeding twenty-four hours [and found that she was unclean].”

4:3

- [A] **All those who are forbidden to enter into the congregation are permitted to marry one another.**
- [B] **R. Judah prohibits.**
- [C] **R. Eliezer says, “Those who are of certain status are permitted to intermarry with others who are of certain status.**
- [D] **“Those who are of certain status and those who are of doubtful status, those who are of doubtful status and those who are of certain status, those who are of doubtful status and those who are of doubtful status –**
- [E] **“it is prohibited.”**
- [F] **And who are those who are of doubtful status?**
- [G] **The “silenced one,” the foundling, and the Samaritan.**
- [I:1 A] [With reference to Deut. 23:1: “He whose testicles are crushed or whose male member is cut off shall not enter the assembly of the Lord,”) R. Jeremiah said, “[All who are subject to] the general law [of being prohibited to enter the congregation, whether the invalidation derives from the condition of their bodies or from genealogy, are

permitted to marry one another]. [Therefore] an Israelite whose male member has been cut off is permitted to marry a *mamzer* girl.”

[B] Said R. Yosé, “Only if he is invalid by reason of genealogy. If he is invalid by reason of the condition of his body, it is not in such a case that he may marry a *mamzer* girl.”

[C] *Support for the position of R. Yosé is found in the following, which R. Hilqiah, R. Simon in the name of R. Joshua b. Levi stated: “They taught this rule only in the case of an Israelite suffering from the loss of the penis. But as to a priest suffering from the loss of the penis, he may not [marry a mamzer girl].”*

[D] *This is in line with what you say there: If he is certainly a priest, he is invalid from marrying a convert. Here too, if he is certainly an Israelite, he is forbidden to marry a mamzer girl.*

[II:1 A] **[R. Judah prohibits:]** In the opinion of R. Judah [M. 4:3B], may a *mamzer* not marry [even] a *mamzer* girl?

[B] Let us derive the answer from what R. Immi stated. R. Jacob Gabeilayya taught before R. Yohanan, R. Isaac bar Tabelai in the name of R. Simeon b. Laqish, “In the opinion of R. Judah, a *mamzer* may not marry a *mamzer* girl, so that *mamzers* should cease to exist in the world.”

[C] *Along these same lines, may an Ammonite [convert] not marry an Ammonite woman?*

[D] Said R. Yosé b. R. Bun, “Only in the opinion of rabbis it is necessary to raise that question [since they do not regard proselytes as a congregation, so if he does not marry an Ammonite, he may marry a proselyte]. For, as to R. Judah, he maintains that mere proselytes are part of the congregation of the Lord.”

[E] [Reverting to C:] He cannot marry an Ammonite girl, since she is in the status, as to him, of one who belongs to the congregation of the Lord.

[F] He cannot marry an Egyptian girl, since in respect to her he is in the status of a member of the congregation of the Lord.

[G] Said R. Mattenaiah, “They free a slave girl for him.”

[H] And along these same lines, should an Egyptian [convert] not marry an Egyptian woman [convert]?

[I] *Let us derive the answer from the following:* R. Abbahu taught before R. Yohanan: **[In the Tosefta's version: An Egyptian man who married an Egyptian woman, an Edomite man who married an Edomite woman – the first generation and the second are prohibited from entering the congregation, but the third is permitted.]**

[J] Said R. Judah, “Benjamin, an Egyptian proselyte, was among the disciples of R. Aqiba.

[K] “He said, ‘I am an Egyptian proselyte, and I married a woman who was an Egyptian proselyte. Lo, I am planning to arrange a marriage for my son with a woman who is the daughter of an Egyptian proselyte woman, so that the son of my son will be permitted to enter the congregation, since it is said, “[You shall not abhor an Edomite, for he is your brother; you shall not abhor an Egyptian, because you were a sojourner in his land.] The children of the third generation that are born to them may enter the congregation.””

[L] “Said to him R. Aqiba, ‘Benjamin, you have erred in this law. After Sennacherib came up and made a mixture of all the nations, the Ammonites and Moabites no longer are found in their original location, and the Egyptians and the Edomites are no longer found in their original location. But an Ammonite man marries an Egyptian woman, and an Egyptian man marries an Ammonite woman, and one of all these names any one of an the families of the earth, and one of the families of an the earth names any one of these” [T. Qid. 5:4].

[III:1 A] [R. Eliezer says, “Those who are of certain status are permitted to intermarry with others who are of certain status. Those who are of certain status and those who are of doubtful status, those who are of doubtful status and those who are of certain status, those who are of doubtful status and those who are of doubtful status – it is prohibited:”] R. Judah in the name of Rab: “The law is in accord with R. Eliezer following the sages.”

[III:2 A] R. Jeremiah in the name of R. Samuel bar R. Isaac, “It is written, ‘No mamzer shall enter the assembly of the Lord’ (Deut. 23:2). He does not enter into that congregation in which status is certain, but he does come into a congregation whose status is subject to doubt [M. 1 3D-E].”

[III:3 A] *There we have learned:* **[He who enters into levirate marriage with his deceased childless brother's widow, and it turns out that she is**

pregnant and she gives birth, when the offspring is viable, he must put her away, and both man and woman are liable for a sacrifice. If the offspring is not viable, he may confirm the marriage.] If it is a matter of doubt whether the offspring is born at nine months, therefore assigned to the first husband, or born at seven months, therefore assigned to the second, he must put her away. But the offspring is valid. And both of them are liable for a suspensive guilt offering [M. Yeb. 4:2].

- [B] *It was taught:* The first of two such offspring is suitable to be made high priest, but the second is deemed a *mamzer* by reason of doubt. R. Eliezer b. Jacob says, “The second is not a *mamzer* by reason of doubt” [T. Yeb. 6:2I-J].
- [C] R. Eliezer b. Jacob concurs in the case of a child that may or may not be a Samaritan, or that may or may not be of impaired priestly stock; [these are treated as equivalent to others in doubt].
- [D] *This is in line with what we have learned there:* Ten castes came up from Babylonia [M. Qid. 4:1A] [including silenced ones, foundlings, and *mamzers* as separate castes].
- [E] In the opinion of R. Eliezer b. Jacob, they are eight [treating those three as one]. In the opinion of Rabban Gamaliel and R. Eliezer they are nine, [since the silenced ones is not in their view a separate caste]. In the opinion of rabbis they are ten [M. Qid. 4:1A].

4:4

- [A] He who marries a priest girl has to investigate her [genealogy] for four [generations, via the] mothers, who are eight:
- [B] her mother, and the mother of her mother, and the mother of the father of her mother, and her mother, and the mother of her father, and her mother, and the mother of the father of her father, and her mother.
- [C] And in the case of a Levite girl and an Israelite girl, they add onto them yet another [generation for genealogical inquiry].
- [I:1 A] *Said R. Yohanan:* “The passage represents the view of R. Meir.”
- [B] *For it has been taught:* What is a mixture [of proselytes or people of impaired priestly stock, which produces a girl suitable for marriage to an Israelite but invalid for marriage into the priesthood]? Any girl in whom is no trace of ancestry of a Netin or a *mamzer* or servants of the kings. R. Meir says, “I heard that any girl who bears no trace of ancestry of a Netin, a *mamzer*, or a

servant of the kings, do they permit to marry [even] into the priesthood” [T. Qid. 5:2].

[C] But as to a family in which some invalid genealogy has been mixed up –

[D] R. Meir says, “One examines the family genealogy four generations on the mother’s side and then she may marry into the priesthood.”

[E] And sages say, “One investigates the genealogy without limit.”

[F] Rab said, “This [M. 4:4] represents the opinion of R. Meir. But sages say, ‘One does investigate the sort of family from which one marries into the priesthood, and [if the investigation turns up such a family], one may then marry into the priesthood.’”

[I:2 A] Under whose authority does one conduct the examination [on whom does one rely]?

[B] R. Haggai in the name of R. Josiah: “One investigates through his female relatives.”

[C] *Rabbi saw an old man coming. He said to him, “Do they marry into the priesthood from that seed [family]?”*

[D] *He said to him, “Yes.”*

[E] *And he married on his testimony.*

[F] Rab said to Hiyya, his son, “Go down one rank [generation] and marry a woman [after that inspection].”

[G] *Said R. Idi, “The following saying is frequently cited by the rabbis: ‘But if the woman has not defiled herself and is clean, then she shall be free and shall conceive children’ (Num. 5:28).*

[H] “Since she has not been found unclean, she is clean.”

[I] And this is not in the manner of Judah b. Pappos, who would lock the door before his wife [and not permit her to go out by herself].

[J] *They said to him, “Were your fathers accustomed to act in such a way? [You yourself are subject to doubt, if you do not trust your wife.]”*

[K] *A priest came to R. Yohanan. He said to him, “I have carried out the teaching of the Mishnah. I*

married a woman who was a priest, and I examined her genealogy through four [generations on the female sides, which are eight.]”

[L] *He said to him, “If the family’s root was smitten, who would have informed you anyway?”*

[II:1 A] And in the case of a Levite girl and an Israelite girl, they add on to them yet another generation for genealogical inquiry:

[B] Does it not turn out that the rule is more strict for Israelites than for priests?

[C] Said R. Yosé b. R. Bun, “either for an Israelite nor for a priest [is an inquiry a strict legal necessity, but] it is a penalty the sages have imposed on them so that a man would stay within his tribe and his family. [This made it easier to marry within the family than otherwise.]”

4:5

[A] They do not carry a genealogical inquiry backward from [proof that one’s priestly ancestor has served] at the altar,

[B] nor from [proof that one’s Levitical ancestor has served] on the platform,

[C] and from [proof that one’s learned ancestor has served] in the Sanhedrin.

[D] And all those whose fathers are known to have held office as public officials or as charity collectors – they marry them into the priesthood, and it is not necessary to conduct an inquiry.

[E] R. Yosé says, “Also: He who was signed as a witness in the ancient archives in Sepphoris.”

[F] R. Hanina b. Antigonos says, “Also: Whoever was recorded in the king’s army.”

[I:1 A] It is written, “You may indeed set as king over you [him whom the Lord your God will choose]” (Deut. 17:15).

[B] I know that the law [that genealogical searches are required] encompasses only the king. How do I know that I should include those who hold office as public officials or as charity collectors, judges’ scribes and those who carry out the flogging of a court?

[C] Scripture says, “One from among your brethren you shall set as king over you” (Deut. 17:15).

- [D] Anyone you appoint over you should be only one of those who are the select among your brethren.
- [I:2 A] R. Samuel bar Nahman in the name of R. Jonathan: “It is written, ‘[All of these were men of Asher, heads of fathers’ houses, approved, mighty warriors, chiefs of the princes.] Their number enrolled by genealogies, for service in war, [was twenty-six thousand men]’ (1 Chr. 7:10). The merit deriving from their correct genealogy stands up for them in war.”
- [B] That proof is merely from tradition. How do we know it from the teachings of the Torah?
- [C] “No bastard shall enter the assembly of the Lord” (Deut. 23:2).
- [D] “He whose testicles are crushed or whose male member is cut off shall not enter the assembly of the Lord” (Deut. 23:1).
- [E] What is written thereafter? “When you go forth against your enemies ...” (Deut. 23:9).

4:6

- [A] **The daughter of a male of impaired priestly stock is invalid for marriage into the priesthood for all time.**
- [B] **An Israelite who married a woman of impaired priestly stock – his daughter is valid for marriage into the priesthood.**
- [C] **A man of impaired priestly stock who married an Israelite girl – his daughter is invalid for marriage into the priesthood.**
- [D] **R. Judah says, “The daughter of a male proselyte is equivalent to the daughter of a male of impaired priestly stock.”**
- [E] **R. Eliezer b. Jacob says, “An Israelite who married a female proselyte – his daughter is suitable for marriage into the priesthood.**
- [F] **“And a proselyte who married an Israelite girl – his daughter is valid for marriage into the priesthood.**
- [G] **“But a male proselyte who married a female proselyte – his daughter is invalid for marriage into the priesthood.**
- [H] **“All the same are proselytes and freed slaves, even down to ten generations the daughters cannot marry into the priesthood –**
- [I] **“unless the mother is an Israelite.”**
- [J] **R. Yosé says, “Also: A proselyte who married a female proselyte: his daughter is valid for marriage into the priesthood.”**

- [I:1 A] R. Hamnuna in the name of Rab: “[In line with M. 4:6A] the daughter of the daughter of the daughter [is prohibited] for all time. [That is, once the first daughter is born from the male impaired priest, the entire sequence in the female line is unfit for marriage into the priesthood.]”
- [B] With reference to (Lev. 21:4), “He shall not defile himself as a husband among his people and so profane himself,” and (Lev. 21:1) None of them shall defile himself for the dead among his people,”] R. Yohanan in the name of R. Ishmael [said], “‘Among his people:’ Just as ‘among his people’ stated above [with regard to contracting uncleanness], the males are forbidden [to contract uncleanness] but the females are permitted, so ‘among his people’ stated here means that the males are forbidden and the females are permitted.” [The implications of this are stated presently.]”
- [C] *What is the difference between [Rab and Yohanan-Ishmael]?*
- [D] A priest who had sexual relations with a divorcée and produced a son, and the son went and produced a son and a daughter –
- [E] *In the opinion of Rab*, as to the son [an impaired priest] and the daughter of the son, or the daughter and the daughter of the daughter, she is forbidden [for all time, even if the granddaughter’s father is an Israelite].
- [F] *In the opinion of R. Yohanan*, the daughter of his son is forbidden; the daughter of his daughter is permitted [to marry a priest]. [The taint of the impaired priest passes only through the male line. Once an Israelite intervenes as the father, by marrying the daughter of a profaned priest, the daughter of such a union is fit to marry a priest.]
- [G] *The Mishnah stands at variance with the position of Rab: An Israelite who married a woman of impaired priestly stock – his daughter is valid for marriage into the priesthood [M. 4:6B].*
- [H] Interpret the passage to speak of an impaired priestly woman [not born so, but become so via marriage into the] priesthood. [That is, a priest had sexual relations with a divorcée. This same woman then had a daughter from an Israelite. She is suitable to marry a priest. But the daughter of the daughter of an impaired priest is invalid. In the present case the woman was rendered impaired, but when she married an Israelite, her child’s status is no longer affected by what had happened to her in a prior liaison.]

[I] *The Mishnah stands at variance with the position of R.*

Yohanan: R. Judah says, “The daughter of a male proselyte is equivalent to the daughter of a male of impaired priestly stock” [M. 4:6D].

[J] Interpret the passage to mean that R. Judah has come only to amplify [the law]. [The passage is taken to mean that the generally held view is that the daughter of a male of impaired priestly stock is forbidden for all time, through all successive generations. The reply then is that Judah proposes to add his own opinion to that of the general authority, but we do not know what the consensus of the sages actually is on that question.] Had he said, “The daughter of an impaired priest is equivalent to the daughter of a proselyte,” you would have stated a valid objection. [In that case, the two types are deemed entirely equivalent to one another.]

[I:2 A] *Once R. Hoshaiiah the Great and R. Judah the Patriarch were in session. R. Yohanan ran in and whispered into the ear of R. Hoshaiiah the Elder, “A priest with crushed testicles (Deut. 23) what is the law as to his marrying the daughter of proselytes?”*

[B] [Judah the Patriarch] said to him, “What did he say to you?”

[C] *He said to him, “Something the carpenter, son of a carpenter [a learned son of a learned man], would not be able to answer. He did not speak to me about a proselyte woman, who in respect to him [a priest] has the status of a prostitute, nor did he ask me about the daughter of an Israelite, who would be in the status of an impaired priestly woman [if she were to be married to him]. He has asked [66a] me only about the daughter of proselytes!”*

[D] But is not the daughter of proselytes like any other Israelite [and prohibited to such a priest, since by his act of intercourse, he impairs her for the priestly caste, and hence he may not confirm such a marriage either]?

[E] *Interpret the question in accord with the position of R. Judah, for R. Judah says, “The daughter of a male proselyte is equivalent to the daughter of a male of impaired priestly stock” [M. 4:6D]. [Such a woman then is not equivalent to an Israelite, in line with I.F.]*

[I:3 A] A priest who had sexual relations with a divorcée and produced a daughter, [who then is in the status of an impaired priest girl], and the daughter [with a valid Israelite then produced a daughter – what is [the status of the granddaughter]? [May she marry a priest?]

[B] R. Hinnena and R. Mana, one of them said, “She is valid [for marrying into the priesthood].”

[C] And the other said, “She is invalid.”

[D] The one who ruled that she is valid objected to the one who ruled that she is invalid: “[In line with M. 4:6A-B], the daughter of an impaired male priest is not able to marry into the priesthood.” But is this one not born of an Israelite? What then invalidates her [in line with M. 4:6B, following the reading at Y. Yeb. 8:2]?

[II:1 A] **R. Eliezer b. Jacob says, “[An Israelite who married a female proselyte – his daughter is suitable for marriage into the priesthood]” [M. 4:6Eff.]**

[B] *There we have learned:* **R. Eliezer b. Jacob says, “A woman who is the offspring of proselytes may not marry into the priesthood, unless her mother was an Israelite. It is all the same whether she is the child of proselytes or freed slaves, even down to the tenth generation: she may marry into the priesthood only if her mother was an Israelite” [M. Bik. 1:5].**

[C] Now all of those [to be cited below] interpret a single verse of Scripture:

[D] “[They shall not marry a widow or a divorced woman,] but only a virgin of the stock of the house of Israel, [or a widow who is the widow of a priest]” (Ez. 44:22).

[E] R. Judah says, “The requirement is that her father be an Israelite.”

[F] R. Eliezer b. Jacob says, “The requirement is that either her father or her mother be an Israelite.”

[G] R. Yosé says, “The requirement is that she be born within the sanctification of Israel, [and that encompasses the two proselyte parents].”

[H] R. Simeon says, “The requirement is that her [age of] virginity [that is, three years] occur within the sanctity of Israel.”

[I] *It was taught [along these same lines] in the name of R. Simeon, “A girl who converted at the age of less than three years and one day is valid for marriage into the priesthood.”*

[J] *What is the scriptural basis for this view?* “But all the young girls who have not known man by lying with him, keep alive for yourselves” (Num. 31:18).

[K] And Phineas [a priest was with them, [and hence they are valid for marriage into the priesthood, since he was a priest].

[L] *How do rabbis interpret “keep alive for yourselves”?* To them it says that they should keep them alive for themselves as slave boys and slave girls.

[M] R. Yosa, R. Yosa in the name of R. Yohanan, R. Jonah, R. Hiyya in the name of R. Yohanan: “The law is in accord with the position of R. Yosé.”

[N] Hanin bar Ba in the name of Rab: “The law is in accord with the opinion of R. Yosé.”

[O] But the priests for their part acted in accord with R. Eliezer b. Jacob.

[P] *A priest married the daughter of proselytes. The case came before R. Abbahu, and he had him put down on the flogging chair [to flog the priest]. Said to him R. Bib, “Did not my master teach us, ‘The law is in accord with R. Yosé’?”*

[Q] He said to him, “And do not the priests, for their part, act in accord with R. Eliezer b. Jacob?”

[R] He said to him, “Rabbi, do they flog because of violation of a mere custom, [which does not have the status of law]?”

[S] *He said to him, “If so, you will appear as if you have won me over [not to flog him], and I shall let him loose from the flogging post.”*

[T] *After the priest got up, he said to him, “Rabbi, since the strap has been released, I too am permitted [to marry such a woman].”*

[II:2 A] R. Jacob bar Idi in the name of R. Joshua b. Levi: M'SH B: “There was a family in the south, about which there were suspicions [as to its status in the priestly genealogy]. Rabbi sent Rominos to examine it. He examined the family and discovered that its grandmother had converted to Judaism at an age of less than three years and one day, so he declared the family fit for the priesthood.”

[B] R. Hoshaiiah said, “They declared it fit in accord with the view of R. Simeon.”

- [C] Said R. Zeira, “In the present case it is in accord with the opinion of all parties.”
- [D] *For R. Zeira in the name of R. Ada bar Aha said, R. Yudan presented it in the name of Rab, R. Abbahu in the name of R. Yohanan:* “The offspring of an adult woman [with a high priest] is valid [on the basis of the following interpretation of Scripture]. It is a negative commandment that emerges from a positive one: And he shall take a wife in her virginity” (Lev. 21:13) – not a mature woman [who is no longer a virgin]. Any negative commandment that emerges from a positive one is deemed a positive commandment, [and an impaired child derives only from those who have violated a *negative* commandment, not those who have violated a positive one]. [Consequently the daughter is valid to marry a priest.] And along these same lines: [A high priest] shall take a wife in her virginity” (Lev. 21:13) – not a convert to Judaism. Any negative commandment that emerges from a positive one is deemed a positive commandment.”
- [E] R. Hoshaiah objected, “Lo, there is the case of the second generation of an Egyptian family [of proselytes] [Deut. 23:7] – lo, it is subject to a negative commandment that emerges from a positive one and is deemed a positive commandment [and yet, in this case, if a priest should marry an Egyptian proselyte of the second generation, nonetheless the offspring are in the status of impaired priests].”
- [F] R. Hoshaiah retracted and said, “A positive commandment concerning an Israelite is not equivalent to a positive commandment addressed to priests. A positive commandment involving an Israelite yields a prohibition applicable to all. A positive commandment involving priests yields a prohibition for priests but a case permitted to Levites and Israelites.”

4:7

- [A] **He who says, “This, my son, is a mamzer” is not believed.**
- [B] **And even if both parties say concerning the fetus in the mother’s womb, “It is a mamzer,” they are not believed.**
- [C] **R. Judah says, “They are believed.”**
- [I:1 A] *There we have learned:* He who says, “This is my son,” is believed.
- [B] R. Abbahu in the name of R. Yohanan, “That is to give him [a share in the father’s inheritance,] but not to take from him [the estate of another party who claims him as a son].”

- [C] *Said R. Yosé, “Is that [B] not a blatant statement of the Mishnah itself: **And even if both parties say concerning the fetus in the mother’s womb, ‘It is a mamzer,’ they are not believed**” [M. 4:7B]?*
- [D] *Perhaps the statement was made in line with the position of R. Judah, for **R. Judah says, “They are believed.”***
- [E] In that regard R. Abbahu in the name of R. Yohanan, “That is to give him [a share in the inheritance], but not to take from him [as above].”
- [F] *Said R. Hezekiah, “It is yet another passage in Tannaitic teaching:*
- [G] *““But he shall acknowledge the firstborn, the son of the disliked, [by giving him a double portion of all that he has, for he is the issue of his strength; the right of the firstborn is his]’ (Deut. 21:17).*
- [H] *“If he was assumed to be his son, and when the father was dying, he said that he is not his son, he is not believed.*
- [I] *“If he was assumed not to be his son, and when he was dying, he said, ‘He is my son,’ he is believed.”*
- [J] *There is a Tannaite authority who teaches in the former instance that he is believed.*
- [K] *R. Hezekiah, R. Zeriqan, in the name of R. Huna: “If they assumed that he was the son of his maidservant, he is believed.”*
- [I:2 A] If he was standing by the tax collectors and he said, “He is my son,” and then he went and said, “He is my slave,” he is believed. [He wanted to avoid taxes on the slave.]
- [B] If he said, “He is my slave,” and then went and said, “He is my son,” he is not believed.
- [C] *There is a Tannaite authority who teaches, “He is believed.”*
- [D] *Said R. Mana, “This would be, for example, those Samaritans who turn their sons into slaves.”*
- [II:1 A] [**R. Judah says, “They are believed”:**] *It was taught: He is believed about an adult and not about a minor.*
- [B] Who is an adult?
- [C] *R. Zeira said, “Any who has his own wife and children.”*

[D] R. Abbahu in the name of R. Yohanán, “Whoever has a wife.”

[E] *A Tannaitic teaching stands at variance with the position of R. Abbahu:* “A proselyte who was circumcised but had not yet immersed and who had children and who said, ‘I have been circumcised but not yet immersed,’ he is believed and they immerse him on the Sabbath. [Therefore even if he had sons he is believed to invalidate himself.]”

[F] On what account [do they immerse on the Sabbath]? For cleanness.

[G] As to the words of R. Judah, how does R. Abbahu interpret that statement?

[H] *He interpreted it under the principle,* What difference does it make? [That is, the proselyte requires only circumcision. There is no reason not to immerse him on the Sabbath. What difference does it make? (Cf. Pené Moshe.)]

4:8

[A] He who gave the power to his agent to accept tokens of betrothal for his daughter, but then he himself went and betrothed her –

[B] if his came first. his act of betrothal is valid.

[C] And if those of his agent came first, his act of betrothal is valid.

[D] And if it is not known [which came first], both parties give a writ of divorce.

[E] But if they wanted, one of them gives a writ of divorce, and one consummates the marriage.

[F] And so: A woman who gave the power to her agent to accept tokens of betrothal in her behalf, and then she herself went and accepted tokens of betrothal in her own behalf –

[G] if hers came first, her act of betrothal is valid.

[H] And if those of her agent came first, his act of betrothal is valid.

[I] And if it is not known [which of them came first], both parties give a writ of divorce.

[J] But if they wanted, one of them gives a writ of divorce and one of them consummates the marriage.

[I:1 A] *Does this [M. 4:8B-C] not stand at variance with R. Yohanán, for R. Yohanán said, “A man may orally nullify his assignment to an agent”?* [Why then cannot he do so here?]

- [B] *Interpret it as consistent with that statement, but it is a stricter rule that applies in the case of prohibited marital connections.*
- [C] *R. Yosa b. R. Bun interpreted this tradition to pertain to what is said in the latter part of the clause: **And so a woman who gave the power to her agent to accept tokens of betrothal in her behalf, and then she herself went and accepted tokens of betrothal in her own behalf [M. 4:8F].***
- [D] *Now does this not stand at variance with R. Yohanan, for R. Yohanan said, “A man may orally nullify his assignment as an agent”?*
- [E] *Interpret it as consistent with that statement, but it is a stricter rule that applies in the case of prohibited marital connections.*

4:9

- [A] **He who went along with his wife overseas, and he and his wife and children came home.**
 - [B] **and he said, “The woman who went abroad with me, lo, this is she, and these are her children” –**
 - [C] **he does not have to bring proof concerning the woman or the children.**
 - [D] **[If he said,] “She died, and these are her children,”**
 - [E] **he does bring proof about the children.**
 - [F] **But he does not bring proof about the woman.**
- [I:1 A] R. Abbahu in the name of R. Yohanan, “The man and his wife have they treated as equivalent to two witnesses [as to the status of their children].
- [B] “It is in the presumption that a woman will not remain silent in regard [66b] to the children of her co-wife [claiming them for her own].”
 - [C] *R. Abbahu interpreted this tradition to pertain to this tradition the latter clause: **I married a woman overseas. Lo, this is she, and these are her children [he brings proof about the woman, but not about the children] [M. 4:10A-B].***
 - [D] R. Abbahu in the name of R. Yohanan, “The man and his wife have they treated as equivalent to two witnesses.
 - [E] “It is in the presumption that a woman will not remain silent in regard to the children of her cowife.”

4:10

[A] [If he said,] “I married a woman overseas. Lo, this is she, and these are her children,”

[B] he brings proof concerning the woman, but he does not have to bring proof concerning the children.

[C] “she died, and these are her children,” he has to bring proof concerning the woman and the children.

[I:1 A] *It was taught:* A man and a woman who came from overseas –

[B] he says, “This is my wife,” and she says, “He is my husband –

[C] on their account they do not put to death [a man who has sexual relations with her] by reason of her being a married woman.

[D] [If] the presumption [concerning them is precisely what they have claimed], then they do put to death on their account [a man who has sexual relations with the wife] on grounds that she is a married woman.

[E] And how much of a presumption is required? [How long must they live together to establish such a presumption that they are married?]

[F] Jonah, R. Ba, R. Hiyya in the name of R. Yohanan: “For thirty days.”

[I:2 A] *There we learn:* **A child [who is unclean] who is found at the side of dough, and dough is in his hand – R. Meir declares [the rest of the dough] clean, and sages declare unclean, for it is [the presumption that it is] the way of the child to slap dough [M. Toh. 3:8A-D].**

[B] And do they burn dough that was meant to be kept in a state of cleanness merely on the presumption that it was made unclean, [without firm proof]?

[C] *R. Yosé in the name of R. Zeira, “R. Yohanan and R. Simeon b. Laqish differed on this very matter. R. Yohanan said, ‘They put to death on the strength of the prevailing assumption [that the couple is married].’ R. Simeon b. Laqish said, ‘They do not put to death on the basis of the prevailing assumption [that the couple is married].’”*

[D] *R. Yosé b. R. Bun in the name of R. Zeira: “All parties concur that they do put to death on the basis of the prevailing assumption. Concerning what is there any disagreement at all? It is concerning*

burning [food that is to be kept in a state of cleanness, should it become unclean, and should the evidence derive solely from the prevailing assumption, not the hard facts of the particular case]. R. Yohanan said, ‘They put to death on the strength of the prevailing assumption, but they do not burn [what appears to have been made unclean solely] on the basis of the prevailing assumption.’ And R. Simeon b. Laqish says, ‘Just as they put to death on the strength of the prevailing assumption, so they burn what appears to have been made unclean solely on the evidence of a prevailing assumption.’”

- [E] And how do we know from Scripture that they put to death on the strength of the prevailing assumption?
- [F] R. Samuel b. R. Yosé b. R. Bun said, “It is written, ‘Whoever strikes his father or his mother shall be put to death’ (Ex. 21:15).
- [G] “Now is it absolutely certain that this one is his father? And is it not merely the prevailing assumption that it is his father? And yet you say they put him to death. Here too they put to death on the basis of the prevailing assumption.”

[I:3 A] *It was taught [regarding M. 4:10D]:* If he brought proof concerning the adults, he must [also] bring proof concerning the minors.

[B] *With regard to what matter has this been taught?*

[C] Said R. Yonah, “I say, perhaps she was divorced in the interval [between producing the older children and producing the younger ones].”

4:11

- [A] **A man should not remain alone with two women, but a woman may remain alone with two men.**
- [B] **R. Simeon says, “Also: One may stay alone with two women, when his wife is with him.**
- [C] **“And he sleeps with them in the same inn,**
- [D] **“because his wife keeps watch over him.”**
- [E] **A man may stay alone with his mother or with his daughter.**
- [F] **And he sleeps with them with flesh touching**
- [G] **But if they [the son who is with the mother, the daughter with the father] grew up, this one sleeps in her garment, and that one sleeps in his garment.**
- [H] **An unmarried man may not learn [the trade of] scribes.**

[I] or may a woman learn [the trade of] scribes.

[J] R. Eliezer says, “Also: He who has no wife may not learn [the trade of] scribes.”

[K] R. Judah says, “An unmarried man may not herd cattle.

[L] “And two unmarried men may not sleep in the same cloak.”

[M] And sages permit.

[N] Whoever has business with women should not be alone with women.

[O] And a man should not teach his son a trade he has to practice among women.

[P] R. Meir says, “A man should always teach his son a clean and easy trade. And let him pray and ask for mercy from him to whom belong riches and possessions.

[Q] “For there is no trade that does not involve poverty or wealth.

[R] “For poverty does not come from one’s trade, nor does wealth come from one’s trade.

[S] [“But all is in accord with a man’s merit.”]

[T] R. Simeon b. Eleazar says, “Have you ever seen a wild beast or a bird that has a trade? Yet they get along without difficulty. and were they not created only to serve me? And I was created to serve my Master. So is it not logical that I should get along without difficulty? But I have done evil and ruined my livelihood.”

[U] Abba Gurion of Saidon says in the name of Abba Saul, “A man should not teach his son to be an ass driver, a camel driver, a barber, a sailor, [a potter,] a herdsman, or a shopkeeper. For their trade is the trade of thieves.”

[V] R. Judah says in his name, “Most ass drivers are evil, most camel drivers are decent, most sailors are saintly, the best among physicians is going to Gehenna, and the best of butchers is a partner of Amalek.”

[I:1 A] [A man should not remain alone with two women, but a woman may remain alone with two men. R. Simeon says, “Also: One may stay alone with two women, when his wife is with him. And he sleeps with them in the same inn, because his wife keeps watch over him:”] Said R. Abin, “In what circumstances [M. 4:1A]? In the case of honorable males. But in the case of unruly ones, she should not be the only woman, even among a hundred men.”

- [I:2 A] *It has been taught: A boy one day old ... lo, he is deemed by his father and mother and all his relatives as a complete bridegroom [M. Nid. 5:3M].*
- [B] It is not the end of that matter that it is a boy one day old, but even if his head and the greater part of his body came forth alive [he is not considered nonviable, and mourning is required for him], and then he is carried [to the grave] in his mother's bosom.
- [C] He is carried [to the grave] in the bosom. And he may be buried by a single woman and two men [without violating the rule at hand].
- [C] Abba Saul says, "Also one man and two women."
- [D] *It is reasonable to suppose that R. Simeon [M. 4:1 IB] concurs with Abba Saul. But Abba Saul will not concur with R. Simeon.* For sexual desire is uncommon in a graveyard.
- [II:1 A] **[A man may stay alone with his mother or with his daughter. And he sleeps with them with flesh touching But if they [the son who is with the mother, the daughter with the father] grew up, this one sleeps in her garment, and that one sleeps in his garment:]** [The rule of M. 4:11E-G derives from Scripture. For] R. Yohanan in the name of R. Simeon b. Yohai: "If your brother, the son of your mother, or your daughter, or the wife of your bosom, or your friend who is as your own soul, entices you, saying, Let us go and serve other gods, which neither you nor your fathers have known' (Deut. 13:6) – Your mother, in private. Your daughter, in private."
- [C] A man may stay alone with his mother, and live with her,
- [D] with his daughter and live with her,
- [E] with his sister, but he may not live with her,
- [II:2 A] **And he sleeps with them with flesh touching.**
- [B] *It was taught:* R. Halapta b. Saul taught, "As to the daughter with the father, [he may do so] until the daughter is three years and one day old.
- [C] "As to the son with the mother – [she may do so] until he is nine years and one day old."
- [II:3 A] **If they grew up, this one sleeps in her garment, and that one sleeps in his garment [M. 4:11G].**
- [B] *It was taught:* Two who were sleeping in one bed – this one covers up with his own garment and recites the Shema,

- [C] and that one covers up in his own garment and recites the Shema.
- [D] If they were his minor son or daughter, it is permitted.
- [E] There they say: As to a man and his wife, it is permitted.
- [F] R. Jacob bar Aha in the name of R. Eleazar, “It was necessary to raise the question with regard to a man and his wife.”

[III:1 A] An unmarried man should not learn [the trade of] scribes, nor may a woman learn [the trade of] scribes [M. 4:11H-I].

- [B] *It was taught:* R. Eleazar says, “Also he who has a wife and children but they are not with him in that place should not learn [the trade of] scribes.”
- [C] *R. Yudan b. R. Ishmael [said], “One teacher did it this way [bringing his wife].”*

[IV:1 A] R. Judah says, “An unmarried man may not herd cattle, and two unmarried men may not sleep in the same cloak. “ And sages permit [M. 4:11K-M]:

- [B] *Well did R. Judah rule.*
- [C] *What is the reason behind the position of rabbis [M. 4:11M]?*
- [D] Heaven forbid, Israelites were never suspect of having sexual relations either with another man or with a beast!
- [E] *And have we not learned: An unmarried man should not learn [the trade of] scribes?*
- [F] It is because [the child’s] mother comes with him, or his sister comes with him.

[V:1 A] A man should not teach his son a trade he has to practice among women [M. 4:11/0] .

- [B] *It was taught:* A man should not teach his son to be an ass driver, a camel driver, a barber, a potter, a wagon driver, a shepherd, or a storekeeper, because these trades are the trades of thieves.

[VI:1 A] Abba Gurion of Saidon says in the name of Abba Saul: “Most ass drivers are evil. Most camel drivers are decent. Most sailors are saintly:”

- [B] “Most mamzers are intelligent; most slaves are arrogant. Most sons of high genealogy are humble. Most sons look like the brothers of their mothers.”

[VII:1 A] “The best among physicians is going to Gehenna. The best of butchers is a partner of Amalek” [M. 4:11 V].

[B] R. Simeon b. Yohai taught, “The best among sorcerers – split his head. The most suitable among women is a sorceress.”

[G] Happy is he who does the will of the Omnipresent.

[H] R. Meir says, “One way or another a man will make a living. Happy is he who sees his parents in a noble trade. Woe to him who sees his parents in an ignoble trade.”

[VIII:1 A] R. Meir says, “A man should always teach his son a clean and easy trade.

[B] “What should he do? Let him try to teach his son a simple trade, and let him pray and ask for mercy from him to whom belongs riches and possessions. **For there is no trade that does not involve poverty or wealth. But all is in accord with a man ‘s merit.**”

[VIII:2 A] [R. Simeon b. Eleazar says, “Have you ever seen a wild beast or a bird that has a trade? Yet they get along without difficulty. and were they not created only to serve me? And I was created to serve my Master. So is it not logical that I should get along without difficulty? But I have done evil and ruined my livelihood:”]

[Tosefta’s version:] R. Simeon b. Eleazar in the name of R. Meir: “In your whole life, did you ever see a lion working as a porter, a deer working as a fruit picker, a fox working as a storekeeper, a wolf selling pots, a domestic beast or a wild beast or a bird that had a trade?

[B] “Now these are created only to work for me, and I was made only to work for my Master.

[C] “Now is there not an argument a fortiori: Now if these. who were created only to work for me, lo. they get along without difficulty, I, who have been created to work for my Master – is it not reasonable that I too should make a living without anguish!

[D] “But I have done evil and ruined my livelihood” [M. 4:11T] [T. Qid. 5:15].

4:12

[A] R. Nehorai says, “I should lay aside every trade in the world and teach my son only Torah.

[B] “For a man eats its fruits in this world, and the principal remains for the world to come.

[C] “But other trades are not that way.

[D] “When a man gets sick or old or has pains and cannot do his job, lo, he dies of starvation.

[E] “But with Torah it is not that way.

[F] “But it keeps him from all evil when he is young, and it gives him a future and a hope when he is old.

[G] “Concerning his youth, what does it say? ‘They who wait upon the Lord shall renew their strength’ (Is. 40:31). And concerning his old age, what does it say? ‘They shall still bring forth fruit in old age’ (Ps. 92:14).

[H] “And so it says with regard to the patriarch Abraham, may he rest in peace, ‘And Abraham was old and well along in years, and the Lord blessed Abraham in all things’ (Gen. 24:1).

[I] “We find that the patriarch Abraham kept the entire Torah even before it was revealed, since it says, ‘Since Abraham obeyed my voice and kept my charge, my commandments, my statutes, and my laws’” (Gen. 26:5).

[I:1 A] R. Nehorai says, “I should lay aside every trade in the world and teach my son only Torah.

[B] “For they eat the fruit of labor in Torah in this world, but the principal remains for the world to come.

[C] “For every sort of trade there is in the world serves a man only when he is young, when he yet has his strength

[D] “But when he falls ill or grows old or has pains, and does not work any more, in the end does he die of starvation.

[E] “But Torah is not so. But it honors him and keeps a man from all evil when he is young and gives him a future and a hope when he is old. When he is young, what does it say? ‘They who wait upon the Lord shall renew their strength’ (Is. 40:31). And concerning his old age, what does it say? ‘They shall still bring forth fruit in old age’ (Ps. 92:14) [T. Qid. 5:16].

[I:2 A] And so you find with regard to Abraham, our father, that he kept the Torah even before it had come into the world,

[B] as it is said, “because Abraham obeyed my voice and kept my charge, my commandments, my statutes, and my Torahs” (Gen. 26:5).

[C] So also [the Torah] made him great and blessed him when he was young, and gave him a future and a hope when he was old.

[D] When he was young, what does it say?

[E] “Now Abraham was very rich in cattle, in silver, and in gold”

[F] And when he was old, what does it say?

[G] “Now Abraham was old, well along in years, and the Lord had blessed Abraham in all things” (Gen. 24:1).

[I:3 A] R. Hezekiah, R. Kohen in the name of Rab: “It is forbidden to live in a city in which there are no physician, no bath, and no court administering floggings and imprisoning people.”

[B] Said R. Yosé b. R. Bun, “Also it is forbidden to live in a town in which there is no vegetable garden.”

[C] R. Hezekiah, R. Kohen in the name of Rab: “In the future a man is going to have to give an account of himself for everything that his eye saw and he did not eat.”

[D] *R. Eleazar took account of this teaching and set aside funds to purchase every species at least once a year.*

CHAPTER FIVE

THE STRUCTURE OF YERUSHALMI QIDDUSHIN

Whether or not the Talmud of the Land of Israel is carefully organized in large-scale, recurrent structures and guided by a program that we may call systematic forms the principal question addressed by an academic commentary. The preceding chapters therefore have pointed toward the presentation set forth here. By “structure” I mean, a clearly-articulated pattern that governs the location of fully-spelled out statements. By “system,” I mean, a well-crafted and coherent set of ideas that explain the social order of the community addressed by the writers of a document, a social philosophy, a theory of the way of life, world view, and character of the social entity formed by a given social group. I see a collective, anonymous, and political document, such as the one before us, as a statement to, and about, the way in which people should organize their lives and govern their actions. At issue then in any document such as the remarkable one before us is simple: does this piece of writing present information or a program, facts to whom it may concern, or a philosophically and aesthetically cogent statement about how things should be? The connection between structure and system is plain to see. From the way in which people consistently frame their thoughts, we move to the world that, in saying things in one way rather than in some other, they wish to imagine. Modes of formulating thought adumbrate modes of imagining the world in which people wish to live, to which they address these thoughts.

If the document exhibits structure and sets forth a system, then it is accessible to questions of rationality. We may ask about the statement that its framers or compilers wished to make by putting the document together as they did. But if we discern no structure and perceive no systematic inquiry or governing points of analysis, then all we find here is inert and miscellaneous information, facts but no propositions, arguments, viewpoints. Now as a matter of fact the Talmud of the Land of Israel commonly finds itself represented as lacking organization and exhibiting a certain episodic and notional character. That view moreover characterizes the reading and representation of the document by learned and experienced scholars, who have devoted their entire lives to Talmud study and

exegesis. It must follow that upon the advocate of the contrary view – the one implicit in the representation of the document for academic analysis – rests the burden of proof. I set forth the allegation that the Talmud of the Land of Israel exhibits a structure and follows a system and therefore exhibits a commonly-intelligible rationality. The claim to write an academic commentary explicitly states that proposition. For the tractate before us, I have therefore to adduce evidence and argument.

I maintain that through the normal procedures of reasoned analysis we may discern in the tractate a well-crafted structure. I hold that the structure made manifest, we may further identify the purpose and perspective, the governing system of thought and argument, of those who collected and arranged the tractate's composites and put them together in the way in which we now have them. By "structure" I mean, how is a document organized? and by "system," what do the compilers of the document propose to accomplish in producing this complete, organized piece of writing? The answers to both questions derive from a simple outline of the tractate as a whole, underscoring the types of compositions and composites of which it is comprised. Such an outline tells us what is principal and what subordinate, and how each unit – composition formed into composites, composites formed into a complete statement – holds together and also fits with other units, fore and aft. The purpose of the outline then is to identify the character of each component of the whole, and to specify its purpose or statement. The former information permits us to describe the document's structure, the latter, its system.

While the idea of simply outlining a Talmud-tractate beginning to end may seem obvious, I have never made such an outline before, nor has anyone else. (I have provided complete outlines for the Mishnah and for the Tosefta in relationship to the Mishnah, and, not always in outline form, for the Midrash-compilations of late antiquity as well) Yet, as we shall now see, the character of the outline dictates all further analytical initiatives. Specifically, when we follow the layout of the whole, we readily see the principles of organization that govern. These same guidelines on organizing discourse point also to the character of what is organized: complete units of thought, with a beginning, middle, and end, often made up of smaller, equally complete units of thought. The former we know as composites, the latter as compositions.

Identifying and classifying the components of the tractate – the composites, the compositions of which they are made up – we see clearly how the document coheres: the plan and program worked out from beginning to end. When we define that plan and program, we identify the facts of a pattern that permit us to say in a specific and concrete way precisely what the compilers of the tractate intended to accomplish. The structure realizes the system, the program of analysis and thought that takes the form of the presentation we have before us. From what people do, meaning, the way in which they formulate their ideas and organized

them into cogent statements, we discern what they proposed to do, meaning, the intellectual goals that they set for themselves.

These goals – the received document they wished to examine, the questions that they brought to that document – realized in the layout and construction of their writing, dictate the points of uniformity and persistence that throughout come to the surface. How people lay out their ideas guides us into what they wished to find out and set forth in their writing, and that constitutes the system that defined the work they set out to accomplish. We move from how people speak to the system that the mode of discourse means to express, in the theory that modes of speech or writing convey modes of thought and inquiry.

We move from the act of thought and its written result backward to the theory of thinking, which is, by definition, an act of social consequence. We therefore turn to the matter of intention that provokes reflection and produces a system of inquiry. That statement does not mean to imply I begin with the premise of order, which sustains the thesis of a prior system that defines the order. To the contrary, the possibility of forming a coherent outline out of the data we have examined defines the first test of whether or not the document exhibits a structure and realizes a system. So everything depends upon the possibility of outlining the writing, from which all else flows. If we can see the order and demonstrate that the allegation of order rests on ample evidence, then we may proceed to describe the structure that gives expression to the order, and the system that the structure sustains.

The present work undertakes the exegesis of exegesis, for the Yerushalmi, like its counterpart in the one of Babylonia, is laid out as a commentary to the Mishnah. That obvious fact defined the character of my academic commentary, since we have already faced the reality that our tractate is something other than a commentary, though it surely encompasses one. The problems that captured my attention derived from the deeper question of how people make connections and draw conclusions. To ask about how people make connections means that we identify a problem – otherwise we should not have to ask – and what precipitated the problem here has been how a composition or a composite fits into its context, when the context is defined by the tasks of Mishnah-commentary, and the composition or composite clearly does not comment on the Mishnah-passage that is subjected to comment.

The experience of analyzing the document with the question of cogency and coherence in mind therefore yields a simple recognition. Viewed whole, the tractate contains no gibberish but only completed units of thought, sentences formed into intelligible thought and self-contained in that we require no further information to understand those sentences, beginning to end. The tractate organizes these statements as commentary to the Mishnah. But large tracts of the writing do not comment on the Mishnah in the way in which other, still larger

tracts do. Then how the former fit together with the latter frames the single most urgent question of structure and system that I can identify.

Since we have already examined enormous composites that find their cogency in an other than exegetical program, alongside composites that hold together by appeal to a common, prior, coherent statement – the Mishnah-sentences at hand – what justifies my insistence that an outline of the document, resting on the premise that we deal with a Mishnah-commentary, govern all further description? To begin with, the very possibility of outlining this tractate derives from the simple fact that the framers have given to their document the form of a commentary to the Mishnah. It is in the structure of the Mishnah-tractate that they locate everything together that they wished to compile. We know that is the fact because the Mishnah-tractate defines the order of topics and the sequence of problems.

Relationships to the Mishnah are readily discerned; a paragraph stands at the head of a unit of thought; even without the full citation of the paragraph, we should find our way back to the Mishnah because at the head of numerous compositions, laid out in sequence one to the next, clauses of the Mishnah-paragraph are cited in so many words or alluded to in an unmistakable way. So without printing the entire Mishnah-paragraph at the head, we should know that the received code formed the fundamental structure because so many compositions cite and gloss sentences of the Mishnah-paragraph and are set forth in sequence dictated by the order of sentences of said Mishnah-paragraph. Internal evidence alone suffices, then, to demonstrate that the structure of the tractate rests upon the Mishnah-tractate cited and discussed here. Not only so, but the sentences of the Mishnah-paragraphs of our tractate are discussed in no other place in the entire Talmud of the Land of Israel in the sequence and systematic exegetical framework in which they are set forth here; elsewhere we may find bits or pieces, but only here, the entirety of the tractate.

That statement requires one qualification, and that further leads us to the analytical task of our outline. While the entire Mishnah-tractate of treated here is cited in the Talmud of the Land of Israel, the framers of the Talmud of the Land of Israel by no means find themselves required to say something about every word, every sentence, every paragraph. On the contrary, they discuss only what they choose to discuss, and glide without comment by large stretches of the tractate. A process of selectivity, which requires description and analysis, has told the compilers of the Talmud of the Land of Israel's composites and the authors of its compositions (This statement requires refinement. I do not know that all available compositions have been reproduced, and that the work of authors of compositions of Mishnah-exegesis intended for a talmud is fully exposed in the document as we have it. That is not only something we cannot demonstrate – we do not have compositions that were not used, only the ones that were – but something that we must regard as unlikely on the face of matters. All we may say is positive: the character of the compositions that address Mishnah-exegesis tells us about the concerns of the

writers of those compositions, but we cannot claim to outline all of their concerns, on the one side, or to explain why they chose not to work on other Mishnah-sentences besides the ones treated here. But as to the program of the compositors, that is another matter: from the choices that they made (out of a corpus we cannot begin to imagine or invent for ourselves) we may describe with great accuracy the kinds of materials they wished to include and the shape and structure they set forth out of those materials. We know what they did, and that permits us to investigate why they did what they did. What we cannot know is what they did not do, or why they chose not to do what they did not do. People familiar with the character of speculation and criticism in Talmudic studies will understand why I have to spell out these rather commonplace observations. I lay out an argument based on evidence, not on the silences of evidence, or on the absence of evidence – that alone.) what demands attention, and what does not. Our outline has therefore to signal not only what passage of the Mishnah-tractate is discussed, but also what is not discussed, and we require a general theory to explain the principles of selection (“making connections, drawing conclusions” meaning, to begin with, making selections). For that purpose, in the outline, I reproduce the entirety of a Mishnah-paragraph that stands at the head of a Talmudic composite, and I underscore those sentences that are addressed, so highlighting also those that are not.

It follows that the same evidence that justifies identifying the Mishnah-tractate as the structure (therefore also the foundation of the system) of Yerushalmi-tractate before us also presents puzzles for considerable reflection. The exegesis of Mishnah-exegesis is only one of these. Another concerns the purpose of introducing into the document enormous compositions and composites that clearly hold together around a shared topic or proposition, e.g., my appendix on one theme or another, my elaborate footnote providing information that is not required but merely useful, and the like. My earlier characterization of composites as appendices and footnotes signalled the fact that the framers of the document chose a not-entirely satisfactory way of setting out the materials they wished to include here, for large components of the tractate do not contribute to Mishnah-exegesis in any way at all. If these intrusions of other-than-exegetical compositions were proportionately modest, or of topical composites negligible in size, we might dismiss them as appendages, not structural components that bear much of the weight of the edifice as a whole. Indeed, the language that I chose for identifying and defining these composites – footnotes, appendices, and the like – bore the implication that what is not Mishnah-commentary also is extrinsic to the Talmud of the Land of Israel’s structure and system.

But that language served only for the occasion. In fact, the outline before us will show that the compositions are large and ambitious, the composites formidable and defining. Any description of the tractate’s structure that dismisses as mere accretions or intrusions so large a proportion of the whole misleads. Any notion that “footnotes” and “appendices” impede exposition and disrupt thought, contribute extraneous information or form tacked-on appendages – any such notion begs the question: then why fill up so much space with such purposeless information? The right way is to ask whether the document’s topical composites

play a role in the re-presentation of the Mishnah-tractate by the compilers of the Talmud of the Land of Israel. We have therefore to test two hypotheses:

1. the topical composites (“appendices,” “footnotes”) do belong and serve the compilers’ purpose

or

2. the topical composites do not participate in the re-presentation of the Mishnah-tractate by Yerushalmi and do not belong because they add nothing and change nothing.

The two hypotheses may be tested against the evidence framed in response to a single question: is this topical composite necessary? The answer to that question lies in our asking, what happens to the reading of the Mishnah-tractate in light of the topical composites that would not happen were we to read the same tractate without them? The outline that follows systematically raises that question, with results specified in due course. It suffices here to state the simple result of our reading of the tractate, start to finish: the question of structure, therefore also that of system, rests upon the position we identify for that massive component of the tractate that comprises not Mishnah-commentary but free-standing compositions and composites of compositions formed for a purpose other than Mishnah-commentary.

The principal rubrics are given in small caps. The outline takes as its principal rubrics two large-scale organizing principles.

The first is the divisions of the Mishnah-tractate to which the Talmud of the Land of Israel-tractate serves as a commentary. That simple fact validates the claim that the tractate exhibits a fully-articulated structure. But the outline must also underscore that the Mishnah-tractate provides both more and less than the paramount outline of the Talmud of the Land of Israel-tractate. It is more because sentences in the Mishnah-tractate are not analyzed at all. These untreated Mishnah-sentences are given in bold face lower case caps, like the rest of the Mishnah, but then are specified by underlining and enclosure in square brackets.

Second, it is less because the structure of the tractate accommodates large composites that address topics not defined by the Mishnah-tractate. That brings us to the second of the two large-scale modes of holding together both sustained analytical exercises and also large sets of compositions formed into cogent composites. These are treated also as major units and are indicated by Roman numerals, alongside the Mishnah-paragraphs themselves; they are also signified in small caps. But the principal rubrics that do not focus on Mishnah-commentary but on free-standing topics or propositions or problems are not given in boldface type. Consequently, for the purposes of a coherent outline we have to identify as

autonomous entries in our outline those important composites that treat themes or topics not contributed by the Mishnah-tractate.

I. YERUSHALMI QIDDUSHIN 1:1

[A] A WOMAN IS ACQUIRED [AS A WIFE] IN THREE WAYS, AND ACQUIRES [FREEDOM FOR] HERSELF [AS A FREE AGENT] IN TWO WAYS. SHE IS ACQUIRED THROUGH MONEY, A WRIT, OR SEXUAL INTERCOURSE:

1. **I:1:**The meaning of the language of the Mishnah [at M. 1: 1B] is [that a woman is acquired] either through money, or through a writ, or through sexual intercourse, [but all three are not required for such a transaction].
2. **I:2:** She is acquired through money [writ, or sexual intercourse]: How do we know [that rule on the basis of Scripture]? “If any man takes a wife” (Deut. 22:13) tells us that a woman is acquired through money. Through sexual relations: How do we know [that item on the basis of Scripture]? “And goes in to her [having sexual relations with her]” (Deut. 22:13) tells us that a woman is acquired through sexual relations. I should then have reached the conclusion that the transaction is effected both through this means and through that [together]. How do I know that money effects acquisition without sexual relations, or that sexual relations effect acquisition without money?
3. **I:3:** Said R. Abin, “And Hezekiah taught: ‘When a man takes a wife’ (Deut. 24:1) tells us that a woman is acquired through a money payment. Now, it is a matter of logical argument, if a Hebrew slave girl, who is not acquired through sexual relations, is acquired through a money payment [Ex. 21:7: ‘When a man sells his daughter’], this one, who may be acquired through sexual relations, is it not reasonable to suppose that she should be acquired through a money payment? The childless brother-in-law’s widow will prove [to the contrary], for she indeed is acquired through an act of sexual relations, but she is not acquired through a money payment. This one too should cause no surprise, that even though she is acquired through sexual relations, [on the analogy with the childless sister-in-law] she still is not acquired through a money payment. Accordingly, Scripture is required to state, ‘When a man takes a wife’ – indicating that she is acquired through a money payment.”

- a. I:4: Said R. Yudan, “It is possible to construct an argument a fortiori that a free woman may be acquired through an act of usucaption [in this context: through performing an act of service that a wife is expected to perform for the husband].

4. I:5: Lo, we have now proved that a woman is acquired as a wife in three ways... through money, writ, or sexual intercourse: Up to now we have dealt with Israelites. What is the law as to gentiles? R. Abbahu in the name of R. Eleazar: “It is written ‘Behold, you are a dead man, because of the woman whom you have taken; for she has had sexual relations with her husband’ (Gen. 20:3). For those who are acquired through sexual relations are they liable [for having sexual relations with a married woman], but they are not liable [for having sexual relations with] those who are [merely] betrothed.”

- a. I:6: The ruling of R. Eleazar states the matter with this qualification: “And that is the rule if he has had the intention of acquiring her as his betrothed through the act of sexual relations. But the rule of Samuel states the matter with this qualification: “And that is the rule even if he did not have the intention of acquiring her as his betrothed through the act of sexual relations.”

- i. I:7: R. Judah bar Pazzi adds, “[They are put to death] through strangulation, by reason of that very verse

- A. 1:8: R. Eleazar in the name of R. Haninah said, “How do we know that Noahides are subject to admonition to avoid prohibited connections as are Israelites?”

- B. I:9: Samuel, R. Abbahu, R. Eleazar in the name of R. Haninah: “A Noahide who had sexual relations with his wife not in the usual way is put to death.

- ii. I:10: R. Yosé raised the question, “Sexual contact with a male— what is the law? Sexual contact with a beast— what is the law? Now all prohibited sexual relations were derived from the prohibition of having sexual relations with a menstruating woman. That covering a male or a beast likewise derives from the same analogy.” Now up to now we have raised the question concerning Israelites. What is the law regarding gentiles?

5. I:11: Reversion to the issue of I:5: Lo, we have learned that gentiles are not subject to the laws of consecrating a woman as betrothed [through money. What about their being subject to the laws of divorce?

1. **II:1:** With a writ: That is to say, with a writ that is not worth a perutah. But as to a writ that is worth a perutah, it is tantamount to money.
2. **II:2:** If he wrote [a writ of divorce] on something from which one may not derive benefit at all, [what is the law]? Is one deemed divorced or not? Now as to the use of such a thing for betrothal,] said R. Zeira, “Rabbis were at variance on this issue.”
 - a. **II:3:** Gloss of a detail of the foregoing

[C] **THE HOUSE OF SHAMMAI SAY, “FOR A DENAR OR WHAT IS WORTH A DENAR.” AND THE HOUSE OF HILLEL SAY, “FOR A PERUTAH OR WHAT IS WORTH A PERUTAH.”**

1. **III:1:** There we have learned in the Mishnah: An oath imposed by judges is imposed if the claim is at least for two pieces of silver, and the concession on the part of the defendant is that he owes at least a perutah’s worth [M. Shebu. 6:1A]. As to the claim: The House of Shammai say. “[Money means] a maah.” And the House of Hillel say, “Two maahs. The opinions assigned to the House of Shammai are at variance with one another, so too those of the House of Hillel.
2. **III:2:** What is the scriptural basis for the position of the House of Shammai? So too of the House of Hillel?
3. **III:3:** The opinions imputed to the House of Hillel are at variance.
4. **III:4:** Even though the House of Shammai and the House of Hillel disputed concerning the co-wives, concerning sisters, concerning the married woman, concerning a superannuated writ of divorce, concerning the one who betroths a woman with something of the value of a perutah, and concerning the one who divorces his wife and spends a night with her in an inn, the House of Shammai did not refrain from taking wives among the women of the House of Hillel, and the House of Hillel from the House of Shammai [M. Yeb. 1:41]. But they behaved toward one another truthfully, and there was peace between them, since it is said, “They loved truth and peace” (Zech. 8:19) [T. Yeb. 1:10].

[D] **AND HOW MUCH IS A PERUTAH? ONE-EIGHTH OF AN ITALIAN ISSAR.**

1. **IV:1:** *It is taught as a Tannaite statement:* [A perutah of which they have spoken is one out of eight perutahs to an issar]; an issar is one twenty-fourth of a denar [T. B.B. 5:11]. A silver denar is one twenty-fourth of a gold denar. R. Hiyya taught [in the Tosefta’s version,] “A sela is four denars. “Six silver maahs are a denar. A silver maah is two

pondions. A pondion is two issars. An issar is two mismasin. A mismas is two quntronin. A quntron is two perutahs.”

2. **IV:2:** R. Haninah and R. Mana: R. Haninah says, “As to copper perutahs, they stand at their assigned value [without rising or falling, contrary to the views given just now that Simai and our rabbis added to their value]. But silver [issars] may decrease or increase in value.” R. Mana says, “[Issars made out of] silver stand in their assigned value. [Perutahs made out of] copper may increase or decrease in value.”

- a. **IV:3:** Hilpai said, “Set me down at the shore of the river; if I cannot demonstrate that whatever is said in the Mishnah of R. Hiyya [the Tosefta] may in fact be derived from our Mishnah, then throw me into the river.”

[E] AND SHE ACQUIRES HERSELF THROUGH A WRIT OF DIVORCE OR THROUGH THE HUSBAND’S DEATH.

1. **V:1:** This is in line with what is written, “and he writes her a bill of divorce” (Deut. 24:2). Or through the death of the husband [M. 1:1H]. This is in line with what is written, “or if the latter husband dies, who took her to be his wife” (Deut. 24:3). That proves that the death of the second husband [frees her to remarry]. How do we know that the death of the first husband does so as well [in context]?

[F] THE DECEASED CHILDLESS BROTHER’S WIDOW IS ACQUIRED THROUGH AN ACT OF SEXUAL RELATIONS. AND ACQUIRES [FREEDOM FOR] HERSELF THROUGH A RITE OF REMOVING THE SHOE OR THROUGH THE LEVIR’S DEATH.

1. **VI:1:** R. Isaac asked, “And why do we not say that that is the case, whether it is the act of removing the shoe done by herself or by her co-wife?”

[G] THE BETROTHED SLAVE-GIRL: HOW DOES SHE GO FORTH?

1. **VI:2:** *R. Samuel bar R. Isaac* asked, “As to a betrothed slave girl [‘If a man lies carnally with a woman who is a slave, betrothed to another man and not yet ransomed or given her freedom, an inquiry shall be held [an inquiry is also understood to mean that a flogging takes place]. They shall not be put to death, because she was not free; but he shall bring a guilt offering for himself to the Lord’ (Lev. 19:20-21)], by what means does she acquire full ownership of herself, to be exempt from a flogging, and her lover from a guilt offering?”
2. **VI:3:** What is the law as to her acquiring ownership of herself at the death of her master or at the completion of the six years?

II. YERUSHALMI QIDDUSHIN 1:2

[A] A HEBREW SLAVE IS ACQUIRED THROUGH MONEY OR A WRIT.

- I:1:** It is written. “If your brother, a Hebrew man, or a Hebrew woman, is sold to you, he shall serve you six years, and in the seventh year you shall let him go free from you” (Deut. 15:12). Scripture treats in the same context a Hebrew man and woman. Just as the Hebrew woman is acquired through money or a writ, so a Hebrew man is acquired through money or a writ.
- I:2:** Through money. [“If there are still many years according to them he shall refund out of] the price paid for him [the price for his redemption]” (Lev. 25:51). through the payment of money he is redeemed [from the owner, in line with the cited verse], and he is not redeemed through handing over grain or goods.
- I:3:** Through a writ: Said R. Abbahu, “This is by means of a writ covering the money that has been paid over. Lo, it is not to be with a writ of gift [of himself to the master], lest the slave retract his gift of himself to the master.”
- I:4:** The language of sale is this: “I, Mr. So-and-so, have sold my daughter to Mr. Such-and-such.” The language of betrothal is this: “I, Mr. So-and-so, have betrothed my daughter to Mr. Such-and-such.”

[B] AND ACQUIRES HIMSELF THROUGH THE PASSAGE OF YEARS. BY THE JUBILEE YEAR. OR BY DEDUCTION FROM THE PURCHASE PRICE [REDEEMING HIMSELF AT HIS OUTSTANDING VALUE (LEV. 25:50-51)].

- II:1:** It is written. “When you buy a Hebrew slave, he shall serve six years, and in the seventh he shall go out free, for nothing” (Ex. 2:1). Is it possible to suppose that he goes forth at the end of the sixth year? Scripture says, “And in the seventh he shall go out free.” Is it possible to suppose that he will go forth at the end of the seventh year? Scripture says, “Six years shall he serve.” How then is this to be? He works all six years and goes forth at the beginning of the seventh.
- II:2:** [As a separate argument for the same basic proposition,] said R. Huna, “If you maintain that it is the seventh year at large [and not the seventh year of service of the individual slave], then when the Jubilee year comes along, what sort of slave is it going to release, [since all of

them will be free in accord with the previous seven years of release, every seventh year].”

3. **II:3:** How do I know that one is freed in the seventh year even though he has not worked all six years? Scripture says, “And in the seventh year he shall go out free, for nothing.” Is it possible to suppose that that applies even to a case in which he fled? Scripture says, “Six years he shall work.” Why do you encompass this one [who fell ill, for he too is freed] and exclude that one [who fled]? After Scripture used encompassing language, it used exclusive language. Accordingly, I encompass this one [who fell ill] who remains in his domain and exclude that one who is not in the owner’s domain.”
4. **II:4:** And he acquires himself through the passage of years [by the Jubilee Year, or by deduction from the purchase price, redeeming himself at his outstanding value]. [This is in line with Lev. 25:50-52: “He shall reckon with him who bought him from the year when he sold himself to him until the year of Jubilee, and the price of his release shall be according to the number of years; the time he was with his owner shall be rated as the time of a hired servant. If there are still many years, according to them he shall refund out of the price paid for him the price for his redemption. If there remain but a few years until the year of Jubilee, he shall make a reckoning with him; according to the years of service due from him he shall refund the money for his redemption.”]
5. **II:5:** By the Jubilee year: As it is written, “He shall be released in the year of the Jubilee” (Lev. 25:54).
6. **II:6:** Or by deduction from the purchase price: As it is written, “If there are still many years, according to them he shall refund out of the price paid for him the price for his redemption. If there remain but a few years until the year of Jubilee, he shall make a reckoning with him; according to the years of service due from him he shall refund the money for his redemption” (Lev. 25:51-52).
 - a. **II:7:** Now do we not know that if there are many years, there are not a few remaining, and if there are few, there are not many? [Why does the same proposition require repetition?] Said R. Hila, “There are times that the money owing on the years remaining is greater than the value of the man as a slave, and there are times that the money owing for the years remaining is less than the value of the man as a slave.

7. **II:8:** “And if he is not redeemed by these [means, then he shall be released in the year of Jubilee, he and his children with him]” (Lev. 25:54). R. Yosé the Galilean says, “By these [relatives (Lev. 25:49ff.) it is for freedom, or [if he is redeemed] by anyone else it is for subjugation [purchased for further service].” R. Aqiba says, “By these [relatives] it is for subjugation, or by any one else it is for freedom.”
8. **II:9:** Samuel bar Abba raised the question before R. Yosa, “Here [in regard to redeeming the slave] it is written, ‘He shall reckon with him... from the year when he sold himself to him until the year of Jubilee’ (Lev. 25:50) and [in regard to redeeming an inherited field that one has consecrated, it is written, ‘Then the priest] shall reckon [the money value for it according to the years that remain until the year of Jubilee, and a deduction shall be made from your valuation]’ (Lev. 27:23). Now here [in the case of redeeming a slave] you take account of months as well as years, when he goes forth [so that if it is the middle of the year, half of the year is deemed to count as part of the term of service, but when the field is assessed by the priest, only whole years are taken into account (cf. M. Ar. 7:1)]. [What is the difference?]

[C] **THE HEBREW SLAVE GIRL HAS AN ADVANTAGE OVER HIM. FOR SHE ACQUIRES HERSELF [IN ADDITION] THROUGH THE APPEARANCE OF TOKENS [OF PUBERTY].**

1. **III:1:** “She shall go out for nothing, without payment of money” (Ex. 21:11). “For nothing” – refers to the time of pubescence. “Without payment of money” – refers to the tokens of maturity. And why should the law not refer to only one of them? If it had referred to only one of them, I might have maintained, “If she goes forth through the appearance of the signs of puberty, all the more so will she go forth at the time of pubescence.” If so, I would have maintained, the time of pubescence is the only time at which she goes forth, and not the time at which she produces signs of puberty.
2. **III:2:** “[If she does not please her master,] who has designated her for himself, then he shall let her be redeemed” (Ex. 21:8): “This is teaches that he may not designate her for himself unless there is sufficient time left in the day for redeeming her. [That is, the labor on this very last day of her term of service must still be worth at least a perutah, so that she could be designated to him by means of the deduction of that amount of money.] [The consequence is that] in the remaining labor to be done by her there must be a value of a perutah, so that in the deduction applying to her, there will be a value of a perutah,” the

words of R. Yosé b. R. Judah. And sages say, “He may designate her all day long, down to the very last rays of the sun.”

3. **III:3:** “If he designates her for his son, [he shall deal with her as a daughter]” (Ex. 21:9). He designates her for his son, but he does not designate her for his brother. And let him be free to designate her for his brother, on the basis of the following argument a fortiori: Now if in the case of the son, who does not stand in his stead for purposes of the rite of removing the shoe or for levirate marriage, lo, he designates her for him, his brother, who does stand in his stead for purposes of the rite of removing the shoe and for levirate marriage— is it not logical that he should be free to designate her for him? No. If you have stated the rule in regard to the son, who stands in his stead in regard to a field received as an inheritance (M. Arakh 7:2), will you say the same of his brother, who does not stand in his stead in regard to a field received as an inheritance? Since he does not stand in his stead in that regard, it is not logical that he should be free to designate her for him. Accordingly, Scripture states, “And if he designates her for his son,” meaning, for his son he designates her, and he may not designate her for his brother.
4. **III:4:** “And if he designates her for his son” – and he may not designate her for his son’s son. Samuel bar Abba raised the question before R. Zeira: “In the law dealing with inheritances you treat the son of the son as equivalent to the son. But here you do not treat the son of the son as equivalent to the son.”
5. **III:5:** “If he designates her for his son” (Ex. 21:9) – It must be with the son’s knowledge and consent. Said R. Yohanan, “There is no requirement here for the son’s knowledge and consent.” Said R. Jacob bar Aha, “There is indeed a requirement here for the son’s knowledge and consent, along the lines of the position of R. Yosé b. R. Judah.”
6. **III:6:** “If he designates her for his son” (Ex. 21:9)– it must be with the son’s knowledge and consent. R. Yohanan said, “He designates her, whether for his adult son or his minor son, whether with his knowledge and consent or not with his knowledge and consent.” R. Simeon b. Laqish said, “He designates her only for his adult son, for it must be done with the son’s knowledge and consent [and a minor legally has neither].”
7. **III:7:** “If the father of the girl sold her to this one [in line with Ex. 21:7-11] and betrothed her to someone else, the father has ridiculed the master, [for what he has done is valid in both cases,]” the words of R.

Yosé b. R. Judah. And the sages say, “The father has not ridiculed the master [who has every right to designate the girl as his betrothed, despite the father’s deed with the other party]. [Sages maintain that by selling the girl he has accepted betrothal money, and consequently his betrothal to another party was null.]”

8. **III:8:** “When a man sells his daughter as a slave” (Ex. 21:7)– “Solely as a slave. This teaches that he has the right to sell her to the master and to stipulate with him that it is on condition that he not have the right to designate her as his betrothed,” the words of R. Meir. And sages say, “In so stating, he has done nothing whatever, for he has made a stipulation contrary to what is written in the Torah, and whoever stipulates contrary to what is written in the Torah– what he has stipulated is null.”
9. **III:9:** R. Simeon b. Laqish raised the question before R. Yohanan: “A Hebrew slave girl should go forth if she is wed [to someone other than the master, going forth at that point from the domain of the master]. This position is based upon an argument a fortiori. Now if the appearance of the signs of puberty, which do not remove her from the domain of the father, do remove her from the domain of the master, the fact that she is married, which does remove her from the domain of the father– is it not a matter of logic that it should also remove her from the domain of the master?”
10. **III:10:** Bar Pedaiah said, “A Hebrew slave girl goes forth at the death of her master.” What is the scriptural basis for that view? “And to your bondwoman you shall do likewise” (Deut. 15:17). And it is written, “He shall be your bondman forever” (Deut. 15:17). Scripture thereby links the rule covering the Hebrew slave girl to the slave whose ear is pierced. Just as the slave whose ear is pierced goes free at the death of his master, so the Hebrew slave girl goes free at the death of her master.”
11. **III:11:** It is written, “And his master shall bring him to the judges, and he shall bring him to the door or the doorpost” (Ex. 21:6). How is this possible? The slave who was sold by a court is subject to the statement, “And his master will bring him to the judges.” And the one who sells himself is subject to the statement, “And he shall bring him to the door.”
12. **III:12:** It is written, “It shall not seem hard to you, when you let him go free from you; for at half the cost of a hired servant he has served

you six years” (Deut. 15:18). A hired hand works by day but does not work by night. A Hebrew slave works by day and by night.

- [D] THE SLAVE WHOSE EAR IS PIERCED IS ACQUIRED THROUGH AN ACT OF PIERCING THE EAR (EX. 21:5). AND HE ACQUIRES HIMSELF BY THE JUBILEE OR BY THE DEATH OF THE MASTER.**
- 1. IV:1:** R. Judah b. R. Bun interpreted this word: “The lobe of the ear is pierced so that, should the slave be a priest, he is not invalidated for service. R. Meir says, “He was pierced at the gristle [cartilage forming the ear].”
 - 2. IV:2:** “With an awl” (Ex. 21:6): I know that one may use only an awl. How do I know that it may be done with a wooden prick, thorn, or shard of glass? Scripture says, “And he will pierce” [by whatever means]. Up to this point [we have answered the question] in accord with R. Aqiba[’s mode of exegesis]. How does R. Ishmael answer the same question?
 - 3. IV:3:** “With an awl”: Just as an awl is made of metal so anything made of metal [will serve]. Rabbi says, “This refers to a large spit.” R. Yosé b. R. Judah says, “This refers to a chisel.”
 - 4. IV:4:** It was taught as a Tannaite formulation: R. Eliezer b. Jacob says, “Why is it that he is brought to the door? It is because it is through [blood placed over the lintel on the] door that [the Israelites] went forth from slavery to freedom.”
 - 5. IV:5:** His disciples asked Rabban Yohanan b. Zakkai, “Why is it that this slave has his ear pierced, rather than any other of his limbs?”
 - 6. IV:6:** “His ear” [(Ex. 21:6) is stated here, and] “his ear” [is stated elsewhere (Lev. 14:14)]– just as “his ear” stated later on refers to the right ear, so “his ear” stated here is the right ear.
 - 7. IV:7:** And he acquires ownership of himself at the Jubilee [M. 1:2F]: As it is written, “He shall be released in the year of the Jubilee, he and his children with him” (Lev. 25:54), or at the death of the master: As it is written, “And he shall be your bondman forever” (Deut. 15:16)– for the “ever” of the master.

III. YERUSHALMI QIDDUSHIN 1:3

[A] A CANAANITE SLAVE [THAT IS, ANY NON-ISRAELITE SLAVE] IS ACQUIRED THROUGH MONEY, THROUGH A WRIT, AND THROUGH USUCAPTION. AND HE ACQUIRES HIMSELF [THROUGH MONEY PAID BY OTHERS]:

1. **I:1:** It is written, “[As to Canaanite slaves] you may bequeath them to your sons after you, to inherit as a possession forever; you may make slaves of them” (Lev. 25:46). Acquisition of slaves thereby is treated under the same rubric as inherited real estate. Just as inherited real estate is acquired through money, writ, or usucaption, so a Canaanite slave is acquired through money, writ, or usucaption.
 - a. **I:2:** Another reading of the same verse of Scripture:] R. Yosa in the name of R. Mana, R. Tanhum, R. Abbahu in the name of R. Yohanán: “Real estate is not acquired for less than a perutah.” What is the scriptural basis for that statement? “Fields will be bought for money” [and less than a perutah is not deemed money].
2. **I:3:** There are Mishnah rules that maintain slaves are equivalent to real estate; there are Mishnah passages that maintain they are equivalent to movables; and there are Mishnah passages that maintain they are neither like real estate nor like movables.

[B] “...THROUGH MONEY PAID BY OTHERS OR THROUGH A WRIT [OF INDEBTEDNESS] TAKEN ON BY HIMSELF,” THE WORDS OF R. MEIR. AND SAGES SAY, “ALSO BY MONEY PAID BY HIMSELF OR BY A WRIT TAKEN ON BY OTHERS, ON CONDITION THAT THE MONEY BELONGS TO OTHERS.”

1. **II:1:** R. Jeremiah said, “[It is money paid] by another party to his master.” Lo, if it is money paid by his master to someone else, there is no [freedom for the slave]. [Meir’s view is that it is a disadvantage to the slave to go out to freedom. If a third party gives money to the master, then by accepting the money the master makes the slave accept his freedom. The third party thus does not impose an unwanted disadvantage on the slave. But if the master should give money to others, he cannot on that account force the slave to leave his service.] [Differing from this view,] said R. Zeira, “Even if it is payment from his master to another party. For what this third party takes from the master is for the slave himself.”
 - a. **II:2:** R. Jeremiah raised the question before R. Zeira, “If someone said, ‘Here is this money, on account of which your field should go

forth to freedom,' [what is the ruling]? [That is, someone had a field on a mortgage from a borrower. A third party offered him money, here is money, so that the field may go into the hands of the borrower. This is without the borrower's knowledge.]”

b. II:3: Said R. Yohanan, “That which R. Zeira [II:1D] has said accords with the view of R. Simeon b. Eleazar,

2. **II:4:** [One who is half slave and half free works for his master one day and for himself the next (M. Git. 4:5A).] Said R. Abun, “This accords with Rabbi. “For Rabbi has said, ‘A man emancipates half of his slave.’”
3. **II:5:** [If a slave] picked up a lost object and said, “It is with the stipulation that I acquire ownership of it, and not my master,” [what is the law]? [Do we say,] despite his wishes, he and his master [hence, his master] acquire ownership of the object, or is it that he has acquired ownership and not his master?
4. **II:6:** [In listing the means by which a slave goes free], why do we not learn that he also goes free at the loss of limbs that do not grow back?
5. **II:7:** It is self-evident that a slave receives a gift from someone else for someone else, from someone else for his master [who acquires the object as soon as it hits the hand of the slave], but not from his master for himself, [for whatever the master gives him remains the property of the master]. But as to what comes from another party to the slave himself there is a dispute between R. Meir and sages.
6. **II:8:** R. Zeira and R. Hiyya in the name of R. Yohanan: “It appears that the slave should acquire ownership of a writ of emancipation [for his fellow slave], for he does have a right to a writ of emancipation. But he should not acquire a writ of divorce of a woman [to deliver for her husband], for he is not subject to the laws of a writ of divorce of a woman. f you say that the Tannaite teaching [that follows disputes this point, I shall answer that objection]: ‘Lo, you are a slave, but your offspring is free’ – if she was pregnant, she makes acquisition of the writ of emancipation for the fetus’ – [so how can she acquire the writ for the fetus?] – they have treated the fetus as one of her limbs, [and she may receive such a writ for herself].”
7. **II:9:** As to Madame So-and-so, my slave girl, I issue a writ to her, so that she could not be subjugated as a slave [after I die]” – [are the heirs bound by that statement]? R. Eleazar and R. Simeon b. Yaqim

brought a case to R. Yohanan. He said, “He has not got the power to encumber his heirs.”

8. **II:10:** “Lo, you are free, but your offspring is a slave” – “Her offspring is in the same status as she is,” the words of R. Yosé the Galilean. And sages say, “He has not done a thing.”

IV. YERUSHALMI QIDDUSHIN 1:4

[A] “**LARGE CATTLE ARE ACQUIRED THROUGH DELIVERY, AND SMALL CATTLE THROUGH LIFTING UP.**” THE WORDS OF **R. MEIR** AND **R. ELEAZAR.**

1. **I:1:** R. Huna said, “Delivering a beast does not transfer ownership in regard to the estate of a proselyte.”
2. **I:2:** R. Hezekiah. R. Ba, R. Eleazar asked. “If one had ten camels tied one to the other, if one handed over to [the purchaser] the reins of one of them, [60b] has he acquired all of them, or has he acquired only that one that he handed over to him alone?”
3. **I:3:** [=Y. A.Z. 5:10I] R. Abba, R. Huna in the name of Rab, “He who draws a skin of wine from his fellow [without having agreed on a price for it with him], and the skin was torn [so that the wine poured out] – the man does not owe him for it [because he had not made an agreement on its price, and therefore the purchaser had not come to a decision to acquire the skin, and the skin of wine did not yet pass into the domain of the prospective purchaser].”
4. **I:4:** Samuel said, “He who picked up a chicken [to examine it for possible purchase], and it flew off – is he liable for it? [Do we hold the purchaser liable?]”
5. **I:5:** R. Simeon b. Laqish in the name of R. Yannai, “He who sells a flock to his fellow – once he has handed over to him the bellwether, [the purchaser] has acquired ownership of it.”
6. **I:6:** R. Jacob bar Aha, R. Simeon b. Abba in the name of R. Joshua b. Levi, “He who sells a cistern to his fellow, once he has handed over to him the bucket [belonging to the cistern] – the purchaser has acquired ownership.”
7. **I:7:** R. Ammi in the name of R. Yohanan: “He who sells a house to his fellow, once he has piled up his possessions in it, [he has acquired it].”

- 8.** **I:8:** R. Abbahu in the name of R. Simeon b. Levi: “He who sells the tithes of his field to his fellow has done nothing whatever [since at the moment of sale the tithes are not yet in being and subject to sale].”
- 9.** **I:9:** R. Samuel, R. Zeira, R. Hiyya bar Ashi in the name of Rab: “An act of drawing a beast does not effect acquisition thereof in a courtyard that does not belong to both the buyer and the seller.”
- [B] AND SAGES SAY: “SMALL CATTLE ARE ACQUIRED THROUGH AN ACT OF DRAWING.”**
- 1.** **II:1:** What is the scriptural basis for the position of the rabbis?
- [C] SET OF JUDAH/ELEAZAR RULINGS, INCLUDING A SECONDARY PROVISION ON THE TRANSFER OF RESPONSIBILITY FOR A BEAST WITHIN A BAILMENT:**
- 1.** **II:2:** R. Judah asked R. Eleazar, “A firstborn son who was injured [with a death-causing injury] during thirty days after birth, [does the father owe the priest redemption money]?” R. Judah sent and asked R. Eleazar, “An afterbirth, part of which went forth on one day, and part on the next— [how are the two days counted in line with Lev. 12]?” R. Judah sent to R. Eleazar, “A bailiff who handed over his bailment to another bailiff, [what is the law if an accident should happen to the bailment]?”

V. YERUSHALMI QIDDUSHIN 1:5

- [A] PROPERTY THAT SERVES AS SECURITY [REAL ESTATE] IS ACQUIRED THROUGH MONEY:**
- 1.** **I:1:** At first they would effect acquisition by removing the shoe. Then they went and effected transfer of ownership through a rite of cutting off, [which took note of the alienation of an inherited property to an outsider].
- 2.** **I:2:** With money: as it is written, “Fields will be bought for money, deeds will be signed and sealed and witnessed” (Jer. 32:44). “And signed and sealed and witnessed”— “signed and sealed” refers to witnesses to a writ; and “witnessed” refers to witnesses to usucaption.
- 3.** **I:3:** R. Yosa in the name of R. Mana, R. Tanhum, R. Abbahu in the name of R. Yohanan: “Real estate is not acquired for less than a perutah.”

4. **I:4:** [The statement that land is acquired only through usucaption] is not in accord with the view of R. Eliezer.

[B] WRIT:

1. **II:1:** Through a writ: R. Jeremiah contemplated ruling, “This refers to a deed [of gift], [a writ] not on condition that money be paid over, but in the case of a writ on condition that money be paid over, the purchaser has not acquired the property until he has actually paid out the money.” Both R. Jonah and R. Yosé say, “Even if he has not paid over the stated sum of money, the purchaser has acquired ownership of the field.” Through money: R. Ba contemplated ruling, “With money, on condition that he not write a deed of ownership, but if it is with money on condition that he write a deed of ownership, the purchaser acquires the field only when the seller writes out the deed of ownership.” [As above,] R. Jonah and Yosé differ.

[C] OR USUCAPTION, AND THAT WHICH DOES NOT SERVE AS SECURITY [MOVABLES] IS ACQUIRED ONLY BY AN ACT OF DRAWING [FROM ONE PLACE TO ANOTHER:

1. **III:1:** How do we know that property that does not serve as security is acquired along with property that serves as security through money, writ, or usucaption [M. 1:5C]? R. Yosé in the name of Hezekiah, both R. Jonah and R. Hananiah says in the name of Hezekiah: ‘It is written, ‘Their father gave them great gifts, of silver, gold, and valuable possessions, together with fortified cities in Judah’ (2 Chr. 21:3).”
- a. **III:2:** R. Yosa in the name of R. Yohanan: “If someone had two fields, one in Judah and one in Galilee, and the purchaser took possession of this one in Judah, intending also to acquire ownership of that one in Galilee, or if he took possession of that one in Galilee, intending to take possession of this one in Judah, he has acquired possession thereof. But in the case of property belonging to a proselyte, he has not effected acquisition [of a second piece of land by taking ownership of the first], even if there is no boundary between the two pieces of land except a narrow path.”
2. **III:3:** R. Yohanan raised the question, “As to movables, what is the law on their being acquired by being dragged [rather than being lifted up]?”

[D] PROPERTY THAT DOES NOT SERVE AS SECURITY IS ACQUIRED ALONG WITH PROPERTY THAT SERVES AS SECURITY THROUGH MONEY, WRIT, OR

USUCAPTION, AND PROPERTY THAT DOES NOT SERVE AS SECURITY IMPOSES THE NEED FOR AN OATH ON PROPERTY THAT SERVES AS SECURITY.

1. **IV:1:** Whence did they derive the law that an oath's applicability may be extended from the thing that precipitates it to yet other considerations? It is from the law of the accused wife:
 - a. **IV:2:** "Then the Lord make you an execration and an oath among your people" (Num. 5:21). There is a Tannaite authority who teaches, "Just as the accused wife is subject to the execration and the oath, so all those who take an oath are subject to an execration and an oath." And there is a Tannaite authority who teaches, "To this one applies the execration and the oath, and to all others who take an oath do not apply both the execration and the oath."

VI. YERUSHALMI QIDDUSHIN 1:6

[A] WHATEVER IS USED AS PAYMENT FOR SOMETHING ELSE, ONCE THIS ONE HAS EFFECTED ACQUISITION THEREOF THE OTHER HAS BECOME LIABLE FOR WHAT IS GIVEN IN EXCHANGE. HOW SO? IF ONE EXCHANGED AN OX FOR A COW, OR AN ASS FOR AN OX, ONCE THIS ONE HAS EFFECTED ACQUISITION, THE OTHER HAS BECOME LIABLE FOR WHAT IS GIVEN IN EXCHANGE.

1. **I:1:** There we have learned in the Mishnah: This is the general rule: All movable property effects acquisition of all other movable property [M. B.M. 4:1]. R. Ba, R. Huna in the name of Rab: "Even a whole pile of merchandise [that has not been evaluated item by item serves in exchange for some other pile of merchandise]." Said to him R. Eleazar, "We have learned only: Whatever is used as payment for something else, and this implies something that is subject to assessment."
2. **I:2:** R. Ba in the name of R. Judah in the name of Samuel: "If this party has a cow and that party has an ass, and they exchanged what belongs to this party for what belongs to that party, and what belongs to that party for what belongs to this party, if the owner of the ass drew [and so acquired] the cow, and the owner of the cow came to draw the ass and it turned out that the ass had died, the owner of the ass has to bring proof that his ass was alive at the time that the owner of the ass had drawn the cow. For whoever wishes to extract property from his fellow bears the burden of proof, except in a case of an exchange. [That is, here the owner of the ass wishes to keep the cow and must

bring proof.] And whoever does not grasp this matter knows nothing at all in the laws of torts.”

3. **I:3:** R. Ada bar Ahva in the name of Rab: “If he had sold him the cow for money [and the debt is not yet paid] – [the debtor] avoided payment [DHQ] – He said to him, ‘Give me the money’ – He said to him, ‘What do you want to do with it?’ – He said to him, ‘To buy an ass’ – If the owner of the cow drew an ass [from the debtor], the cow would not now be acquired [for it had been acquired at the earlier transaction, and the debtor merely owes the creditor money].” What is the law as to the ass’s being acquired [without its being drawn that is, do we now view the ass as an exchange for the cow]?
4. **I:4:** R. Mana in the name of R. Yosé, “There are times that the beginning of the purchase is assigned to this party, and the beginning of the purchase is assigned to that party [and no acquisition is effected, as will be explained]. What would be a concrete case? If one sold him a cow for money, and he left [the money] with a money changer. On the next day he found him standing [to collect the money]. He said to him, ‘What are you doing, standing here?’ He said to him, ‘I want my money.’ He said to him, ‘What do you want to do with it?’ He said to him, ‘Buy an ass.’ He said to him, ‘Here is an ass before you.’ If this one drew it. that party has not made acquisition. If that party drew it, this party has not made acquisition. But this party effects acquisition for himself, and that party effects acquisition for himself.

[B] THE RIGHT OF THE MOST HIGH IS EFFECTED THROUGH MONEY, AND THE RIGHT OF ORDINARY FOLK THROUGH USUCAPTION.

1. **II:1:** The right of the Most High is effected through money [M. Qid. 1:6G]– how so? The Temple treasurer who paid over coins of the Sanctuary for movables– the Sanctuary has made acquisition wherever [the movables] may be. But in the case of an ordinary person, he has not made acquisition until he will have drawn [the object] [T. Qid. 1:9C-E],

[C] ONE’S WORD OF MOUTH [DEDICATION OF AN OBJECT] TO THE MOST HIGH IS EQUIVALENT TO ONE’S ACT OF DELIVERY TO AN ORDINARY PERSON.

1. **III:1:** One’s word of mouth [dedication of an object] to the Most High is equivalent to one’s act of delivery to an ordinary person [M. 1:6H]. How so? If one has purchased a cow from the sanctuary for two hundred zuz and did not suffice to bring the two hundred zuz before the price of the cow fell to a maneh [a hundred], he pays two hundred.

That illustrates the statement, One's word of mouth to the Most High is equivalent to an act of delivery to an ordinary person.

VII. YERUSHALMI QIDDUSHIN 1:7

[A] FOR EVERY COMMANDMENT CONCERNING THE SON TO WHICH THE FATHER IS SUBJECT— MEN ARE LIABLE, AND WOMEN ARE EXEMPT.

1. **I:1:** What is a commandment pertaining to the father concerning the son [M. 1:7A]? To circumcise him, to redeem him, and to teach him Torah, and to teach him a trade, and to marry him off to a girl. And R. Aqiba says, "Also to teach him how to swim" [T. Qid. 1:1 1E-G].
2. **I:2:** What [is the status of the statement about the father's obligations]? Is it a supererogatory religious duty, or are these absolute requirements, [which a person is compelled to carry out, with special reference to marrying off the son]?
3. **I:3:** There we have learned: the father endows his child with beauty, strength, riches, wisdom. and length of years [M. Ed. 2:9]. How do we know beauty? "Let thy work be manifest to thy servants, [and thy glorious power to their children]" (Ps. 90:17). Strength: "His descendants will be mighty in the land; [the generation of the upright will be blessed]" (Ps. 112:2). Riches: "I have been young and now I am old; yet I have not seen the righteous forsaken or his children begging bread" (Ps. 37:25). And just as the father endows his children with five traits, so the children are liable to him in five regards, and these are they: food, drink, clothing, shoes, and guidance.
 - a. **I:4:** Secondary expansion on the proof-text introduced in the foregoing.
4. **I:5:** There we have learned: If [before the start of the Sabbath] they began, they do not interrupt the process] [M. Shab. 1:5]. R. Joshua b. Levi would hear the lesson of his grandson every Friday afternoon. One time he forgot and went into the bath of Tiberias. Now he was leaning on the shoulder of R. Hiyya b. Ba. He remembered while he was in the bath [that he had not heard the child's lesson] and he went out of the bath. What happened? Said to him R. Hiyya bar Ba, "Did not Rabbi teach us, 'If before the start of the Sabbath they began, they do not interrupt?'" He said to him, "Hiyya, my son, is it a small thing in your eyes that whoever hears a passage of Torah from his grandson is as if he hears it from Mount Sinai? What is the scriptural basis for this

statement? ‘Make them known to your children and your children’s children— how on the day that you stood before the Lord your God at Horeb’ (Deut. 4:9-10). That is to say, ‘It is like the day on which you stood before the Lord your God at Horeb.’”

- a. I:6: R. Hezekiah b. R. Jeremiah, R. Hiyya in the name of R. Yohanan: “If you can trace the authority behind a tradition to Moses, do so, and if not, put the first [name you hear] first, and the last last.”

[B] AND FOR EVERY COMMANDMENT CONCERNING THE FATHER TO WHICH THE SON IS SUBJECT, MEN AND WOMEN ARE EQUALLY LIABLE.

1. **II:1:** What is the way one expresses reverence for the father? He does not sit in his place or speak in his place, he does not contradict him. And what is the form of honor owing to the father? Giving him food to eat and something to drink and clothing him and covering him and taking him out and bringing him in and washing his face, his hands, and his feet [T. Qid. 1:1 IB].
2. **II:2:** All the same are husband [61b] and wife, but the husband has sufficient means to do these things [for the aged parent], and the wife does not have sufficient means to do them, or others have power over her [T. Qid. 1:1].
3. **II:3:** To what extent does the requirement of honoring the father and mother extend? He said to them, “Are you asking me? Go and ask Damah b. Netinah. He was the chief of the *patroboule* of his town. One time his mother was slapping him before the entire council, and the slipper she was beating him with fell from her hand, and he got down and gave it back to her, so that she would not be upset.”
4. **II:4:** The mother of R. Tarfon went down to take a walk in her courtyard on the Sabbath, and her slipper fell off, and R. Tarfon went and placed his two hands under the soles of her feet, so that she could walk on them until she got to her couch.
5. **II:5:** The mother of R. Ishmael went and complained to the rabbi’s about him. She said, “Rebuke Ishmael, my son, because he does not pay respect to me.”
 - a. II:6: R. Zeira was distressed, saying, “Would that I had a father and a mother, whom I might honor, and so inherit the Garden of Eden.” When he heard these two teachings [about Tarfon and Ishmael], he said, “Blessed be the All-Merciful, that I have no father and

mother. I could not behave either like R. Tarfon or like R. Ishmael.”

6. **II:7:** There is he who feeds his father fattened [birds] and inherits Gehenna. and there is he who ties his father to the millstones [to pull them] and inherits the Garden of Eden.
7. **II:8:** “Every one of you shall revere his mother and his father, [and you shall keep my Sabbaths]” (Lev. 19:3). And it is said, “You shall fear the Lord your God; [you shall serve him and swear by his name]” (Deut. 6:13). Scripture so compares the reverence owing to father and mother to the reverence owing to the Omnipresent.
8. **II:9:** What is the way one expresses reverence for the father? He does not sit in his place or speak in his place, he does not contradict him. And what is the form of honor owing to the father? Giving him food to eat, something to drink, clothing him, and covering him and taking him out and bringing him in and washing his face, his hands, and his feet [T. Qid. 1:1 1B].
9. **II:10:** R. Aha in the name of R. Abba bar Kahana, “It is written, ‘She does not take heed to the path of life. her ways wander and she does not know it’ (Prov. 5:6). The Holy One, blessed be he, took [and kept to himself] the reward that is coming to those who carry out their religious duties, so that they should do them in true faith [and without expecting a reward].” Said R. Abba bar Kahana, “The Scripture has compared the easiest of all the religious duties to the most difficult of them all. The easiest of them all is sending forth the dam from the fledglings. The most difficult of them all is honoring father and mother. Yet in regard to both of them, the same reward is specified: ‘that your days may be long.’”

[C] **FOR EVERY POSITIVE COMMANDMENT DEPENDENT UPON TIME, MEN ARE LIABLE, AND WOMEN ARE EXEMPT.**

1. **III:1:** What is a positive commandment dependent upon the time [of year, for which men are liable and women are exempt] [M. Qid. 1:7C]? For example, building the sukkah, taking the lulab, putting on tefillin. What is a positive commandment not dependent upon the time [of year] [M. Qid. 1:7D]? For example, restoring lost property to its rightful owner, sending forth the bird, building a parapet, and putting on show-fringes. R. Simeon declares women exempt from the requirement of wearing show-fringes [show-fringes], because it is a positive commandment dependent upon time [T. Qid. 1:10].

2. **III:2:** Said R. Eleazar, “The Passover offering to be prepared for women is a matter of optional performance, [and even so] if they set aside the restrictions of the Sabbath.” R. Jacob bar Aha in the name of R. Eleazar, “The Passover offerings to be prepared for women and slaves are a matter of optional performance.”

- a. **III:3:** [What follows relates to M. Hal. 4:11, which states, Joseph the Priest also brought his sons and household to keep the Lesser Passover (Num. 9:10ff.) in Jerusalem, and they turned him back, lest it should be established as an obligation.] Now this accords with the view of him who says, “The Passover offering of women [‘his household’] is an optional matter.” [Offering the Passover offering on the first Passover is an optional matter. On the second Passover they turned him back. Why? For on the second Passover women do not make the offering at all. That is, to do it at its normal time is optional, and to do it at the later time is not permitted at all.]

[D] AND FOR EVERY POSITIVE COMMANDMENT NOT DEPENDENT UPON TIME, MEN AND WOMEN ARE EQUALLY LIABLE. FOR EVERY NEGATIVE COMMANDMENT, WHETHER DEPENDENT UPON TIME OR NOT DEPENDENT UPON TIME, MEN AND WOMEN ARE EQUALLY LIABLE, EXCEPT FOR “NOT MARRING THE CORNERS OF THE BEARD, NOT ROUNDING THE CORNERS OF THE HEAD” (LEV. 19:27)B, “AND NOT BECOMING UNCLEAN BECAUSE OF THE DEAD” (LEV. 21:1).

1. **IV:1:** Issi says, “[Women are also not liable for transgressing the prohibition of] ‘They shall not make bald spots upon their heads.’” What is the scriptural basis for this? “They shall not make bald spots upon their heads nor shave off the edges of their beards” [Lev. 21:5]. One who is subject to the negative commandment against marring the corners of the beard is subject to the prohibition of a bald spot. Women, who have no beards, are exempt from the negative commandment regarding a bald spot.

2. **IV:2:** Said R. Eleazar, “Women are liable not to make a bald spot.”

- a. **IV:3:** How large is a bald spot?

[F] [THE CULTIC RULES OF] LAVING ON OF HANDS, WAVING, DRAWING NEAR, TAKING THE HANDFUL. BURNING THE INCENSE, BREAKING THE NECK OF A BIRD, SPRINKLING, AND RECEIVING [THE BLOOD] APPLY TO MEN AND NOT TO WOMEN, EXCEPT IN THE CASE OF A MEAL OFFERING OF AN ACCUSED WIFE AND OF A NAZIRITE GIRL, WHICH THEY WAVE.

- V:1:** Except in the case of a meal of offering of an accused wife and of a Nazirite girl, which they wave: The priest puts his hand under hers and she waves [the offering]. Is that not a disgrace [that the priest should touch the woman]? He brings a cloth. But it will not sufficiently interpose. They bring an old priest. And even if you say it is a young priest [that poses no problem], for concupiscence will not be troublesome for that brief moment.

VIII. YERUSHALMI QIDDUSHIN 1:8

[A] EVERY COMMANDMENT THAT IS DEPENDENT UPON THE LAND APPLIES ONLY IN THE LAND, AND THAT WHICH DOES NOT DEPEND UPON THE LAND APPLIES BOTH IN THE LAND AND OUTSIDE THE LAND:

- I:1:** It is written, “These are the statutes and ordinances that you shall be careful to do in the land that the Lord, the God of your fathers, has given you to possess, all the days that you live upon the earth” (Deut. 12:1). In the Land you are obligated to do them, but you are not obligated abroad. To this point we rule that commandments that depend upon the Land apply only in the Land. Is it possible to maintain that even commandments that do not depend upon the Land should apply also only in the Land? Scripture states, “Take heed lest your heart be deceived, [and you turn aside and serve other gods and worship them,] and the anger of the Lord be kindled against you” (Deut. 11:16). “You shall therefore lay up these words of mine in your heart and in your soul” (Deut. 11:18). Even when you are exiles, “You shall therefore bind up these words of mine upon your heart and in your soul.”

[B] EXCEPT FOR ORLAH AND MIXED SEEDS [LEV. 19:23, 19:19]. R. ELIEZER SAYS, “ALSO: EXCEPT FOR [THE PROHIBITION AGAINST EATING] NEW [PRODUCE BEFORE THE OMER IS WAVED ON THE SIXTEENTH OF NISAN] [LEV. 23:14].”

- I:1:** What is the scriptural basis for the position of R. Eliezer? “[And you shall eat neither bread nor grain parched or fresh until this same day, until you have brought the offering of your God: it is a statute forever throughout your generations] in all your dwellings” [Lev. 23:14]— whether in the land or abroad. How do rabbis interpret “in all your dwellings”? They apply it to the rule governing new produce deriving from the land of Israel that is taken outside the boundaries of the land. [Such produce may not be eaten before the omer.]

IX. YERUSHALMI QIDDUSHIN 1:9

[A] **WHOEVER DOES A SINGLE COMMANDMENT— THEY DO WELL FOR HIM AND LENGTHEN HIS DAYS. AND HE INHERITS THE LAND. AND WHOEVER DOES NOT DO A SINGLE COMMANDMENT— THEY DO NOT DO WELL FOR HIM AND DO NOT LENGTHEN HIS DAYS. AND HE DOES NOT INHERIT THE LAND.**

- I:1:** Lo, whoever sits and does not commit a transgression— they pay him a reward like that of him who does a commandment [M. Mak. 3:15]. And you say this [that one must do it]?
- I:2:** Whoever does a single commandment— they do well for him and lengthen his days and his years, and he inherits the Land [M. Qid. 1:10A-B]. And whoever commits a single transgression— they do ill to him and cut off his days, and he does not inherit the Land [T. Qid. 1:13].
- I:3:** There we have learned, Lo, whoever sits and does not commit a transgression— they pay him a reward like that of him who does a commandment. Said R. Zeira, “This speaks of someone who had the opportunity to do something that may or may not be a transgression, and who did not do it.” Said R. Yosé b. R. Bun, “This speaks of someone who designated for himself a given religious duty and never in his life transgressed it.”
- I:4:** R. Yosé b. R. Bun, “What is the meaning of the following verse of Scripture: ‘Blessed is the man who walks not in the counsel of the wicked’ (Ps. 1:1)? Since he did not walk in the counsel of the wicked, it is as if he walked in the council of the righteous.”

[B] **WHOEVER HAS LEARNING IN SCRIPTURE, MISHNAH, AND RIGHT CONDUCT WILL NOT QUICKLY SIN, SINCE IT IS SAID, AND A THREEFOLD CORD IS NOT QUICKLY BROKEN (QOH. 4:12). AND WHOEVER DOES NOT HAVE LEARNING IN SCRIPTURE, MISHNAH, AND RIGHT CONDUCT HAS NO SHARE IN SOCIETY.**

- II:1:** R. Jeremiah said R. Samuel b. Isaac raised the question, “‘Righteousness guards him whose way is upright, but sin overthrows the wicked’ (Prov. 13:6). ‘Misfortune pursues sinners, but prosperity rewards the righteous’ (Prov. 13:21). ‘He will guard the feet of his faithful ones, but the wicked shall be cut off in darkness’ (1 Sam. 2:9). ‘Toward the scorners he is scornful, but to the humble he shows favor. The wise will inherit honor, but fools exalt disgrace’ (Prov. 3:34-35).

Now is it possible that they build up the fence and lock the gates [so that the Holy One helps the sinner to sin]?

X. YERUSHALMI QIDDUSHIN 2:1

[A] A MAN EFFECTS BETROTHAL ON HIS OWN OR THROUGH HIS AGENT. A WOMAN BECOMES BETROTHED ON HER OWN OR THROUGH HER AGENT.

1. **I:1:** How on the basis of Scripture do we know that a man's agent is equivalent to himself? Said R. Eleazar, "Then the whole assembly of the congregation of Israel shall kill it [the Passover lamb] at dusk' (Ex. 12:6). Now do all of them slaughter it? And is it not so that only one actually slaughters it in behalf of all of them? But on this basis we learn that a man's agent is equivalent to himself [so that what the agent does is as if the man himself did it]."
2. **I:2:** The House of Shammai say, "An agent does not count as a witness [since a man cannot be his own witness, so the agent who goes to betroth a girl cannot also serve as witness to the betrothal]." The House of Hillel say, "An agent does count as a witness."
3. **I:3:** There are Tannaitic authorities that teach, "The agent of a man is like himself." There are those that teach, "The agent of a man is not like himself."

[B] A MAN BETROTHS HIS DAUGHTER WHEN SHE IS A GIRL ON HIS OWN OR THROUGH HIS AGENT.

1. **II:1:** There we have learned: As to a girl who was in the status of [mere] betrothal, [not in a fully consummated union,] she or her father may receive her bill of divorce. R. Judah says, "Two hands together cannot take possession, but her father alone receives the bill of divorce" [M. Git. 6:2]. R. Simeon b. Laqish said, "As there is a dispute about receiving her writ of divorce, so there is a dispute about her receiving the tokens of betrothal." Said R. Yohanan, "All [62b] concur as to receiving tokens of betrothal that her father has the sole right to betroth her. [At the divorce, she reenters the father's domain; at the betrothal, she leaves it.]"
2. **II:2:** R. Hammuna in the name of R. Assi: "A minor who betrothed herself – [when she produces] two pubic hairs [as signs of maturity and wishes now to exercise the right of refusal, and so to nullify the

marriage] – her father exercises the right of refusal in her behalf, and she may not do so.”

- a. II:3: R. Ba bar Kahana and R. Jacob bar Idi in the name of R. Joshua b. Levi: “If he betrothed [the minor daughter] with the father’s knowledge and consent and then married her without the father’s knowledge and consent – this was a case, and the father came and took her away from her marriage canopy [and nullified the wedding].”

3. II:4: If she was betrothed with the father’s knowledge and consent and married not with his knowledge and consent, what is the law as to her eating food in the status of heave offering? Rab said, “She does eat it.” Samuel said, “She does not eat it.”

[C] HE WHO SAYS TO A WOMAN, “BE BETROTHED TO ME FOR THIS DATE, BE BETROTHED TO ME WITH THIS,” IF [EITHER] ONE OF THEM IS OF THE VALUE OF A PERUTAH, SHE IS BETROTHED, AND IF NOT, SHE IS NOT BETROTHED. “BY THIS, AND BY THIS, AND BY THIS” – IF ALL OF THEM TOGETHER ARE WORTH A PERUTAH, SHE IS BETROTHED, AND IF NOT, SHE IS NOT BETROTHED. [IF] SHE WAS EATING THEM ONE BY ONE, SHE IS NOT BETROTHED. UNLESS ONE OF THEM IS WORTH A PERUTAH.

1. III:1: The entire passage of the Mishnah speaks of a case in which she said, “I do not want this one, but that one,” “I do not want that one, but this one” [because, in that case, each must be worth a perutah. [But if she did not so specify, then if all of them add up to the requisite value, she is betrothed.]
2. III:2: “By this and by this and by this.” What Tannaite authority emphasizes that one must repeat the *and*? It is R. Judah.

[D] IF SHE WAS EATING THEM ONE BY ONE, SHE IS NOT BETROTHED UNLESS ONE OF THEM IS WORTH A PERUTAH] [M. 2:1D-I]:

1. IV:1: R. Jeremiah in the name of Rab: “Be betrothed to me on the strength of this *sela*, with the betrothal to take effect after thirty days” – [if] she uses up the *sela* during the thirty days, lo, this one is nonetheless betrothed.” Also R. Simeon b. Eleazar [cited below] concurs in this case, for what is the difference between this case and the case of a loan? A loan may not be handed over for the purpose of betrothal. [So if it is used, nothing is given.] As to a token of betrothal, it is given over for that purpose [being consumed] from the first instance, [but a loan is not].

- a. IV:2: There is a Tannaite authority who teaches, “They do betroth with what is stolen.” There is a Tannaite authority who teaches, “They do not betroth with what is stolen.” Said R. Mana, “He who said that they do betroth with what is stolen speaks of a stolen object that he has the power to retrieve from the thief’s possession. He who said that they do not betroth with a stolen object speaks of a stolen object that he does not have the power to retrieve from the domain of the thief.”
- b. IV:3: [Reverting to IV:1:] R. Abbahu in the name of R. Yohanan [said], “The cited passage speaks of a case in which he said to her, ‘with the bailment that I [now] have in your possession. But if he said to her, ‘With everything I left as a bailment in your hand,’ she is not deemed betrothed, unless all of it is available.”

- 2. IV:4: Said R. Yohanan [with regard to M. Shebu. 5:4F: “Give me wheat and barley and spelt that I have in your hand,” and so forth, which we attribute to Judah], “In the opinion of R. Judah, you may have a case in which the several items are treated together, so that one is liable for a single offering [62c] [in the case of a violated oath of bailment], while you may have a case in which they are treated individually, so that one is liable for three offerings. [The important difference is in the use of and. If someone says, ‘Wheat and barley and spelt,’ then we have liability on three separate counts. If the man said, ‘Wheat, barley, spelt,’ then the three are treated as one. It is Judah who deems the use of and to differentiate among the items on a list, and the absence of and to prevent their differentiation.]”
- 3. IV:5: “Be betrothed to me through this *sela*,” and she said, “Toss it into the lake or into the river” – she is not betrothed. “Give it to a poor man” – lo, this one is betrothed. Now in this latter case, nothing actually entered her domain, and yet here you say she is betrothed, and there you say she is not betrothed?
- 4. IV:6: If one grabbed a *sela* from a woman’s hand and gave it back to her and, when he was giving it back, said to her, “Lo, you are betrothed to me” – lo, this one is betrothed.
- 5. IV:7: “Collect this *sela* for me” – and at the moment at which it was given over, he said to her, “Lo, you are betrothed to me” – lo, this woman is betrothed.
- 6. IV:8: “Be betrothed to me with this *maneh*,” and it turns out to lack a *denar* – she is not betrothed [since she expected a whole *maneh*]. If there was a counterfeit *denar* in it, lo, this woman is betrothed, on

condition that he exchange the counterfeit for a valid coin. If he was counting out the coins one by one into her hand, she has the right to retract until he completes counting out the entire sum. R. Eleazar says, “She is betrothed on the strength of the first coin he counts out, and the rest is subject to stipulation that it be paid over.” R. Yohanan said, “She is betrothed when he completes counting out all of the promised funds.”

XI. YERUSHALMI QIDDUSHIN 2:2

- [A] **“BE BETROTHED TO ME FOR THIS CUP OF WINE,” AND IT TURNS OUT TO BE HONEY – “OF HONEY,” AND IT TURNS OUT TO BE WINE, “WITH THIS SILVER DENAR, “AND IT TURNS OUT TO BE GOLD, “WITH THIS GOLD ONE,” AND IT TURNS OUT TO BE SILVER – “ON CONDITION THAT I AM RICH,” AND HE TURNS OUT TO BE POOR, “ON CONDITION THAT I AM POOR,” AND HE TURNS OUT TO BE RICH – SHE IS NOT BETROTHED.**
1. **I:1:** “Be betrothed to me with this cup,” if the value of the cup and of what is in it is a *perutah*, she is betrothed, and if not, she is not betrothed. And she has acquired both it and what is in it. “With what is in the cup,” if what is in it is worth a *perutah*, she is betrothed, and if not, she is not betrothed. And she has acquired only what is in it alone [T. Qid. 2:3].
- [B] **R. SIMEON SAYS, “IF HE DECEIVED HER TO [HER] ADVANTAGE, SHE IS BETROTHED.”**
1. **II:1:** R. Yohanan said, “R. Simeon concurs that if he deceived her about an advantage as to genealogy, she is not betrothed.”
- [C] **“ON CONDITION THAT I AM A PRIEST,” AND HE TURNS OUT TO BE A LEVITE, “ON CONDITION THAT I AM A LEVITE,” AND HE TURNS OUT TO BE A PRIEST:**
1. **III:1:** Now there is no problem in the case in which he claimed to be a priest and turns out to be a Levite, [that she is not betrothed]. [But if he claimed to be] a Levite and he turned out to be a priest, [why is it the fact that there too she is not betrothed]?
- [D] **“A NETIN,” AND HE TURNS OUT TO BE A MAMZER, “A MAMZER,” AND HE TURNS OUT TO BE A NETIN, “A TOWN-DWELLER,” AND HE TURNS OUT TO BE A VILLAGER, “A VILLAGER,” AND HE TURNS OUT TO BE A TOWN-DWELLER:**
1. **IV:1:** It poses no problem to explain why if he claims to be a villager and he turns out to be a town-dweller, that she should not be betrothed.

[E] “ON CONDITION THAT MY HOUSE IS NEAR THE BATH,” AND IT TURNS OUT TO BE FAR AWAY, “FAR,” AND IT TURNS OUT TO BE NEAR:

1. **V:1:** It poses no problem to explain why if he claims his house is near the bath and it turns out to be far away [that she should not be betrothed]. But if he said it was far, and it turns out to be near [there too she is not betrothed, for] she has the right to say, “I wanted to have exercise going to and coming from the bath.”

[F] “ON CONDITION THAT I HAVE A DAUGHTER OR A SLAVE GIRL WHO IS A HAIRDRESSER,” AND HE HAS NONE: “ON CONDITION THAT I HAVE NONE,” AND HE HAS ONE; “ON CONDITION THAT I HAVE NO CHILDREN,” AND HE HAS; “ON CONDITION THAT HE HAS,” AND HE HAS NONE — IN THE CASE OF ALL OF THEM, EVEN THOUGH SHE SAYS, “IN MY HEART I WANTED TO BECOME BETROTHED TO HIM DESPITE THAT FACT,” SHE IS NOT BETROTHED. AND SO IS THE RULE IF SHE DECEIVED HIM.

1. **VI:1:** Take note of the possibility that he has one at the other end of the world!

XII. YERUSHALMI QIDDUSHIN 2:3

[A] HE WHO SAYS TO HIS MESSENGER. “GO AND BETROTH MISS SO-AND-SO FOR ME, IN SUCH-AND-SUCH A PLACE,” AND HE WENT AND BETROTHED HER FOR HIM IN SOME OTHER PLACE, SHE IS NOT BETROTHED.

1. **I:1:** The Mishnah does not conform to the view of R. Eleazar. For R. Eleazar [says], “In all circumstances she is deemed to be betrothed, unless he said to her, ‘Do not betroth her for me except in such-and-such a place,’ and he went and betrothed her in some other place.”

[B] [IF HE SAID,] “LO, SHE IS IN SUCH-AND-SUCH A PLACE,” AND HE BETROTHED HER IN SOME OTHER PLACE, LO, SHE IS BETROTHED.

1. **II:1:** Here even R. Eleazar will concede that she is betrothed, for he merely indicates the place where she is.

XIII. YERUSHALMI QIDDUSHIN 2:4

[A] HE WHO BETROTHS A WOMAN ON CONDITION THAT SHE IS NOT ENCUMBERED BY VOWS, AND SHE TURNS OUT TO BE ENCUMBERED BY VOWS — SHE IS NOT BETROTHED. [IF] HE MARRIED HER WITHOUT SPECIFYING AND SHE TURNED OUT

TO BE ENCUMBERED BY VOWS, SHE GOES FORTH WITHOUT COLLECTING HER MARRIAGE CONTRACT.

- I:1:** We have learned [from the passage above] what sort of blemishes apply, but what sort of vows are under discussion here?
- I:2:** Said R. Yosé, “The Mishnah speaks of a case in which he said to her, ‘on condition that you are not subject to vows.’ But if he had said to her, ‘on condition that no vow applies to you [at all],’ then even if she had taken a vow not to eat carobs, that is in the status of a vow, [and she is not betrothed].”
- I:3:** If she went to a sage and he released her vow, lo, this one confirms the marriage, [she is betrothed]. If she went to a physician and he healed her, lo, this woman is not betrothed [T. Ket. 7:8D, F].

[B] ... ON CONDITION THAT THERE ARE NO BLEMISHES ON HER, AND SHE TURNS OUT TO HAVE BLEMISHES, SHE IS NOT BETROTHED.

- II:1:** There is a Tannaite authority who teaches, “[Since, M. 2:4A-C, she is not betrothed,] she is permitted to marry without a writ of divorce. [There is no aspect of betrothal whatever.]” And there is a Tannaite authority who teaches, “She is prohibited from remarrying without a writ of divorce.”

[C] [If] HE MARRIED HER WITHOUT SPECIFYING AND SHE TURNED OUT TO HAVE BLEMISHES, SHE GOES FORTH WITHOUT COLLECTING HER MARRIAGE CONTRACT.

- III:1:** R. Simeon b. Laqish said, “The Mishnah [at M. Qid. 2:4 and M. Ket. 7:7: He who betrothed a woman on condition that she is not subject to any vows, and she was found to be subject to a vow – her betrothal is not valid. If he married her without stipulation, and she turned out to be under a vow, she is divorced without payment of her marriage settlement] speaks of a case in which he betrothed her on a stipulation [that there be no vows] but married her without further stipulation. But if he betrothed her without stipulation and married her without stipulation. she does have a right to collect her marriage settlement.” R. Yohanan said, “Even if he betrothed her without stipulation and married her without stipulation, she has no right to collect her marriage settlement.”

[D] ALL BLEMISHES THAT INVALIDATE PRIESTS [FROM SERVING IN THE TEMPLE] INVALIDATE WOMEN.

1. **IV:1:** In addition to them in the case of women are bad breath, a sweaty odor, and a mole that has no hair on it [T. Ket. 7:9].
2. **IV:2:** It was taught: A mole that has hair on it, whether large or small, whether on the body or the face – lo, this is a blemish. And one that has no hair on it, if on the face, it is deemed a blemish; if on the body, it is not deemed a blemish.
3. **IV:3:** R. Redipah, Jonah, R. Jeremiah asked, “A bald woman, with a line of hair running along her head from ear to ear – [is this a blemish in a woman]?”

XIV. YERUSHALMI QIDDUSHIN 2:5

[A] **HE WHO BETROTHS TWO WOMEN WITH SOMETHING WORTH A PERUTAH, OR ONE WOMAN WITH SOMETHING WORTH LESS THAN A PERUTAH, EVEN THOUGH HE SENT ALONG [ADDITIONAL] PRESENTS AFTERWARD, SHE IS NOT BETROTHED, SINCE HE SENT THE PRESENTS LATER ON ONLY BECAUSE OF THE ORIGINAL ACT OF BETROTHAL, WHICH WAS NULL]. AND SO IN THE CASE OF A MINOR WHO BETROTHED A WOMAN.**

1. **I:1:** He who betroths a woman in error, or with something of less than the value of a perutah (M. 2:5B), and so a minor who effected an act of betrothal (M. 2:6F) – even though he sent along presents afterward, she is not betrothed. For it was on account of the original act of betrothal that he sent the gifts (M. 2:5C-E.)] But if he had an act of sexual relations, he has acquired [the woman as his wife]. R. Simeon b. Judah says in the name of R. Simeon, “Even though he had sexual relations, he has not acquired her. For the act of sexual relations was only on the strength of the original act of betrothal, [which was null]” [T. Qid. 4:4]. If he has made acquisition, [in what regard is the betrothal valid]? R. Hiyya in the name of R. Yohanan: “The husband has made acquisition as to the strict side of things. [He has to issue a writ of divorce. Yet if another should betroth her in the meantime, he too has to issue a writ of divorce.]”
 - a. **I:2:** R. Hiyya in the name of R. Yohanan, “As to betrothal effected through forgiving a loan, we impose the strict rule [as explained above]. As to a transfer of real estate through forgiving a loan, the buyer has not effected acquisition in that way. As to movables [if one proposed to forgive a loan in exchange for the payment of movables, there being no transfer of funds at all, if the seller

retracted the agreement], they do not place him under the curse, 'He who exacted vengeance.'”

- b. I:3: Further on Hiyya/Yohanan: *R. Samuel bar R. Isaac sent and reported over there, “You people should know that R. Hiyya in the name of R. Yohanan has given instruction: Betrothals effected through forgiving a loan are subject to a strict ruling of the law.”*

XV. YERUSHALMI QIDDUSHIN 2:6

[A] **HE WHO SIMULTANEOUSLY BETROTHS A WOMAN AND HER DAUGHTER, OR A WOMAN AND HER SISTER – THEY ARE NOT BETROTHED. WM'SH B: FIVE WOMEN, INCLUDING TWO SISTERS, AND ONE GATHERED A BASKET OF FIGS, AND THEY WERE THEIRS, BUT IT WAS SEVENTH YEAR PRODUCE. AND [SOMEONE] SAID, “LO, ALL OF YOU ARE BETROTHED TO ME IN VIRTUE OF THIS BASKET [OF FRUIT],” AND ONE OF THEM ACCEPTED [THE PROPOSAL] FOR ALL OF THEM – AND SAGES RULED, “THE SISTERS [IN THE GROUP OF FIVE] ARE NOT BETROTHED.”**

1. **I:1:** Said R. Hiyya bar Ba, “From the cited case [M. 2:6D-E], you derive five rules. You derive the rule that five women may be betrothed simultaneously [by one man]; that a woman may accept a token of betrothal for herself and for her friend; that they effect a betrothal with a stolen object; that they effect betrothal through produce that is subject to transgression; and that betrothals do not take effect for the same man among women who are prohibited connections.”
2. **I:2:** Said R. Eleazar, “In the case of sisters, he has not effected betrothal. But in the case of making sin offerings, he has effected expiation.”

XVI. YERUSHALMI QIDDUSHIN 2:7

[A] **HE [WHO WAS A PRIEST] WHO BETROTHS A WOMAN WITH HIS SHARE [OF THE PRIESTLY GIFTS], WHETHER THEY WERE MOST HOLY THINGS OR LESSER HOLY THINGS – SHE IS NOT BETROTHED. [IF ONE DID SO] WITH FOOD IN THE STATUS OF SECOND TITHE, “WHETHER INADVERTENTLY OR DELIBERATELY, HE HAS NOT EFFECTED BETROTHAL,” THE WORDS OF R. MEIR. R. JUDAH SAYS, “IF HE DID SO INADVERTENTLY, HE HAS NOT EFFECTED BETROTHAL. IF HE DID SO DELIBERATELY, HE HAS EFFECTED BETROTHAL.”**

- 1.** **I:1:** R. Eleazar says, “[M. 2:7A-B] represents the opinion of all parties [including Judah, below].” R. Yohanan says, “The matter is subject to dispute [and M. 2:7A-B is only Meir’s view].”
 - a.** I:2: There we have learned: As to the firstling: priests [freely] sell it when the animal is unblemished and alive; or when the animal is blemished, whether it is alive or slaughtered And they give it as a token of betrothal to women [M. M. S. 1:2D-F]. Judah b. Pazzi in the name of R. Joshua b. Levi: “[When an unblemished firstling is used for betrothing a woman, it is] one that is living, not slaughtered. [But if it has been slaughtered, it cannot be used for that purpose.]” [Since the tithe of cattle may not be sold or used as a token of betrothal,] R. Judah bar Pazzi said, “R. Meir derives the rule covering all Holy Things from that governing tithe of cattle. Just as tithe of cattle may not be used for betrothing a woman, so as to all Holy Things, they may not be used for betrothing a woman [as at M. 2:7A]. R. Judah derives the rule governing all Holy Things from the firstling. Just as firstling may be used for betrothing a woman, so as to all Holy Things, they may be used for betrothing a woman. [This then indicates that Yohanan, B, is right in insisting that the matter is subject to dispute.]”
 - b.** I:3: There we have learned: The dough offering of an am haares, and unconsecrated produce mixed with heave offering, and produce that is purchased with coins of second tithe, and the residue of meal offerings, are exempt from tithing as demai produce (M. Dem. 1:3E-F). It was taught: And in the case of all of them in which he has designated part of the produce as heave offering of tithe [given to the priest] or as second tithe, what he has done is valid. R. Eleazar says, “That is so except in the case of the residue of the meal offerings, [from which no such tithes are taken anyway.” R. Jeremiah said, “And as to the rest, there is a dispute [between Meir and Judah].”
 - I.** I:4: Said R. Mana, “I went to Caesarea and I heard R. Hezekiah in session, teaching: ‘He who betroths a woman with his share of Most Holy Things or Lesser Holy Things – she is not betrothed. R. Eleazar says, “That statement represents the opinion of all parties. R. Yohanan says, “The matter is subject to dispute. And I said to him, ‘From whom did you hear this statement?’ He said to me, ‘From R. Jeremiah.’”
- 2.** **I:5:** R. Hezekiah, R. Bibi in the name of R. Eleazar: “They betroth a woman with money set aside for redemption of produce in the status of

second tithe. [The produce itself is holy and cannot be used. The money can.]”

3. **I:6:** [He who betroths a woman] with food in the status of second tithe – R. Abbahu in the name of R. Yohanan, “[If the produce was used inadvertently, the act is null, since] it never entered his mind to transgress the teachings of the Torah. [Consequently, had he known it was second tithe, he would not have used the money for a betrothal gift. That is why, M. 2:7E, R. Judah says, “If he did so inadvertently, he has not effected betrothal. If he did so deliberately, he has effected betrothal, she is not betrothed; it is an act done under a false view of the facts and so null.]”

[B] **AND IN THE CASE OF WHAT HAS BEEN DEDICATED: “IF HE DID SO DELIBERATELY, HE HAS EFFECTED BETROTHAL, AND IF HE DID SO INADVERTENTLY, HE HAS NOT EFFECTED BETROTHAL,” THE WORDS OF R. MEIR. R. JUDAH SAYS. “IF HE DID SO INADVERTENTLY, HE HAS EFFECTED BETROTHAL. IF HE DID SO DELIBERATELY, HE HAS NOT EFFECTED BETROTHAL.”**

1. **I:1:** R. Yosé in the name of R. Pedaiah: “As to that which had been consecrated that one deliberately [used for secular purposes, e.g., betrothal], it enters the status of unconsecrated food without undergoing a prior process of redemption. [Hence the betrothal is valid.]”
2. **I:2:** There we have learned: Cattle that are found between Jerusalem and as far as Migdal Eder, or in that same distance in all directions [– males are regarded as having been designated whole offerings, and females as having been designated peace offerings] [M. Sheq. 7:4]. R. Hoshaiiah the Elder said, “The point is that one redeems these beasts and brings the designated offerings with the proceeds.” Said to him R. Yohanan, “Do they say to a man, ‘Go and commit sacrilege with Holy Things’? [Hoshaiiah’s procedure is sacrilegious!]”

XVII. YERUSHALMI QIDDUSHIN 2:8

[A] **HE WHO BETROTHED A WOMAN WITH ORLAH-FRUIT, WITH FRUIT THAT WAS SUBJECT TO THE PROHIBITION AGAINST MIXED SEEDS IN A VINEYARD, WITH AN OX THAT WAS TO BE STONED, WITH A HEIFER WHOSE NECK WAS TO BE BROKEN, WITH BIRDS SET ASIDE FOR THE OFFERING OF A MESORA, WITH THE HAIR OF A NAZIR, WITH THE FIRSTBORN OF AN ASS, WITH MEAT MIXED WITH MILK, WITH UNCONSECRATED ANIMALS [MEAT] THAT HAD BEEN SLAUGHTERED IN THE COURTYARD OF THE TEMPLE – SHE IS NOT BETROTHED:**

1. **I:1:** As to the firstborn of an ass – R. Eleazar said, “They betroth a woman with it.” R. Yohanan said, “They do not betroth a woman with it.”
- [B]** **[If]** HE SOLD THEM OFF AND BETROTHED A WOMAN WITH THE MONEY RECEIVED IN EXCHANGE FOR THEM, SHE IS BETROTHED.
2. **II:2:** R. Haggai in the name of R. Zeira, “This applies when the produce is not [in hand and so subject to their sanctity in their stead].”

XVIII. YERUSHALMI QIDDUSHIN 2:9

- [A]** HE WHO CONSECRATED A WOMAN WITH FOOD IN THE STATUS OF HEAVE OFFERING, OR WITH TITHES, OR GIFTS [TO BE GIVEN TO THE PRIEST, PURIFICATION WATER, PURIFICATION ASH – LO, THIS WOMAN IS BETROTHED, AND EVEN IF HE IS AN ISRAELITE.
1. **I:1:** R. Yosé b. Haninah said, “A man hands over his tithes in exchange for a favor for his own benefit.” R. Yohanan said, “A man does not do so.”

XIX. YERUSHALMI QIDDUSHIN 3:1

- [A]** HE WHO SAYS TO HIS FELLOW, “GO AND BETROTH MISS SO-AND-SO FOR ME,” AND HE WENT AND BETROTHED HER FOR HIMSELF – SHE IS BETROTHED [TO THE SECOND PARTY]
1. **I:1:** It was taught [in Tosefta’s version]: A creditor and an heir, one of whom went ahead and took over movable goods – lo, this one is prompt and rewarded on that account. He who says to his fellow, “Go and betroth for me Miss So-and-so,” [if] he [the fellow] then went and betrothed her for himself – [or if he said to his fellow,] “Go and buy me such-and-such an item,” [if] he went and bought it for himself, what he has done is done. But he has behaved deceitfully [T. Yeb. 4:4D-G].
 2. **I:2:** One was not appointed as an agent in the presence of witnesses, he says, “I betrothed her for myself,” and she says, “It Was to the first [the one who sent him],” the second is in the position of one who says to a woman, “I betrothed you to me.” while she says, “You did not betroth me,” while she is in the position of the one who says to the first, “You betrothed me,” while he says, “I did not betroth you.”

[B] AND SO: HE WHO SAYS TO A WOMAN, “LO, YOU ARE BETROTHED TO ME AFTER THIRTY DAYS [HAVE PASSED],” AND SOMEONE ELSE CAME ALONG AND BETROTHED HER DURING THE THIRTY DAYS – SHE IS BETROTHED TO THE SECOND PARTY.

- 1. II:1:** With reference to And so: He who says to a woman, “Lo, you are betrothed to me after thirty days [have passed],” and someone else came along and betrothed her during the thirty days – she is betrothed to the second party,] therefore if the second party died during the thirty days or divorced her [within the stated period], the betrothal of the first party applies to her after the thirty-day period has passed. If [the first party] died after thirty days had passed, or did not divorce her, the act of betrothal of the first party does not apply.
 - a. II:2:** R. Abbahu in the name of R. Yohanan: “[If someone said,] ‘Lo, this will be a burnt offering after thirty days have passed,’ and he sold it within the period of thirty days, lo, it is deemed to have been sold, [since it is not yet consecrated]. [If during the stated period,] he declared it consecrated [in some other connection than as a burnt offering], lo, it is deemed to be consecrated. [If] he went and repurchased it during the thirty days, the original consecration applies to it as a burnt offering. [If] he repurchased it after thirty days, the consecration of the beast as a burnt offering no longer applies to it.”
 - i. II:3:** R. Abbahu in the name of R. Yohanan: “‘Lo, this beast will be a burnt offering for thirty days,’ – throughout the thirty days it is in the status of a burnt offering. Once thirty days have passed, it automatically reverts to the status of an unconsecrated beast.” What about the laws of sacrilege applying to it during the thirty days?
 - II. II:4:** “Lo, this is your writ of divorce for thirty days” – this is not a writ of divorce that severs the relationship [so it is null]. Said R. Isaac bar Eleazar, “What you have said applies to a case in which the husband betrothed her with a donation of money. But if he betrothed her with a writ, since the effectiveness of a writ of betrothal derives solely by analogy to a writ of divorce, just as, in the case of a writ of divorce [for reasons just now stated], she is not divorced by a document valid for thirty days], so, in the case of a writ of betrothal she is not betrothed [by a writ valid for thirty days].”
 - III. II:5:** Here is this money, which will purchase your slave for me at the end of thirty days” – there is a Tannaite authority who

teaches that the former party [the original owner] is subject to the rule of “a day or two.” [Ex. 21:20-21: “When a man strikes his slave... with a rod and the slave dies under his hand, he shall be punished. But if the slave survives a day or two, he is not to be punished; for the slave is his money.”] There is a Tannaite authority who teaches that the latter party [the purchaser] is subject to the rule of “a day or two.” There is a Tannaite authority who teaches that neither one of them is subject to the rule of “a day or two.” There is a Tannaite authority who teaches that both of them are subject to the rule of “a day or two.”

[C] [If] IT IS AN ISRAELITE GIRL BETROTHED TO A PRIEST, SHE MAY EAT HEAVE OFFERING.

- 1. III:1:** There is a Tannaite authority who teaches, “She may not eat heave offering.”

[D] [If HE SAID,] “AS OF NOW AND AFTER THIRTY DAYS,” AND SOMEONE ELSE CAME ALONG AND BETROTHED HER DURING THE THIRTY DAYS, SHE IS BETROTHED AND NOT BETROTHED.

- 1. IV:1:** R. Abbahu in the name of R. Yohanan: “Even the acts of betrothal of a hundred different men are valid in her case [if each should issue such a conditional betrothal, leaving room for the action of another].”
- 2. IV:2:** A certain disciple raised the question before R Zeira: “If he [who had stipulated betrothal as of the time after thirty days had passed] gave her [the signs of betrothal at dawn. with the stipulation of actually divorcing her at night [what is the law]. [Do we now assign the second party complete possession of the girl, on grounds that the first has given up his last remnant of a claim? Or do we maintain that since the first had not yet betrothed her, he also has not got the right to divorce her?].”
- 3. IV:3:** [If] there were three brothers. and two of them betrothed her. [one saying, “As of now and after thirty days,” and the other. forthwith within that period.] and died childless. [is she married to two men and hence exempt from the levirate connection]?

[E] [If IT IS EITHER] AN ISRAELITE GIRL BETROTHED TO A PRIEST, OR A PRIEST GIRL BETROTHED TO AN ISRAELITE, SHE SHOULD NOT EAT HEAVE OFFERING.

- 1. I:1:** The reason it was necessary to teach this rule is to indicate that that is the case even if the second party is a priest.

XX. YERUSHALMI QIDDUSHIN 3:2

[A] HE WHO SAYS TO A WOMAN, “BEHOLD, YOU ARE BETROTHED TO ME, ON CONDITION THAT I PAY YOU TWO HUNDRED ZUZ” – LO, THIS WOMAN IS BETROTHED, AND HE MUST PAY [HER WHAT HE HAS PROMISED].

“ON CONDITION THAT I PAY YOU WITHIN THE NEXT THIRTY DAYS,” AND HE PAID HER DURING THE THIRTY DAYS, SHE IS BETROTHED. AND IF NOT, SHE IS NOT BETROTHED.

“ON CONDITION THAT I HAVE TWO HUNDRED ZUZ,” LO, THIS WOMAN IS BETROTHED, AND [IF] HE HAS THAT SUM.

“ON CONDITION THAT I SHALL SHOW YOU TWO HUNDRED ZUZ,” LO, THIS WOMAN IS BETROTHED, AND [IF] HE WILL SHOW HER THAT SUM. BUT IF HE SHOWED HER THE MONEY ON THE TABLE OF A MONEY CHANGER, SHE IS NOT BETROTHED.

1. **I:1:** There we have learned: “Lo, this is your writ of divorce on condition that you pay me two hundred zuz,” lo, this one is divorced, and she should pay the money [M. Git. 7:5A- B]. [If] she did not have time to pay the money before he died, it was taught: Rabban Simeon b. Gamaliel says, “She pays the money to his father or his brothers, so that she is exempt from the obligation of levirate marriage [should the husband have died childless]” [T. Git. 5:5D]. So is the law with regard to betrothals
2. **I:2:** R. Abbahu in the name of R. Yohanan: “This is the formula of a writ [bearing stipulations] for betrothal: ‘I, So-and-so, betroth you, So-and-so, on condition that I give you such-and-such a sum, and on the condition that I marry you on a certain day, and if that day comes and I do not marry you, then I shall have no claim on you.’”
3. **I:3:** [If,] once the time came [for the marriage,] the prospective husband claims, “I gave [what I promised in the writ of betrothal],” while she claims, “I have not received [what he promised]” – R. Abun said, “Since he seeks to retrieve the writ of betrothal from the woman, it is his task to bring proof. [She wishes to stand by the document; that is to say, the condition has not been met, so she is not betrothed. All she wants is to nullify the transaction.]”
4. **I:4:** The proper ordering of the writ [bearing stipulations] for betrothal is this: One witness is chosen by the groom, and one is chosen by the bride, and the two of them select yet a third witness, so that there may be two witnesses for this party, and two witnesses for that party.

5. **I:5:** If one witness was selected by the husband and one witness was selected by the bride, and the husband signed with his own signature as well – R. Abbahu said, “It is a valid writ. [There is no further need to verify his signature. The writ is valid, and if its condition is met, the betrothal is sustained. If not, she is free.]” R. Ba said, “We have a totally effective betrothal. [There is no consideration of the writ at all. Even if the stipulation is not met, the woman is betrothed.]”
6. **I:6:** [The writ is valid only if it represents] the knowledge and consent of the groom and the knowledge and consent of the bride. If in his opinion it was a conditional writ, but in her opinion it was an act of betrothal –
7. **I:7:** If one has betrothed a woman by means of a writ [and carried out the conditions specified therein], lo, this represents a complete act of betrothal. If he has divorced in that same writ, [saying, “If I carry out the stipulation, you will be betrothed, and if not, you will be divorced,”] do we regard that statement as a valid writ of divorce, in such a wise that she is prohibited, as a divorcée, from marrying a priest]?
8. **I:8:** If the prospective groom died childless within the period specified by the writ of betrothal [in line with the case given above, I.F, in which the father or brothers wish now to arrange a levirate marriage with her] – R. Abbahu said, “She is permitted to remarry.” R. Ba said, “She is prohibited from remarrying [so as to give her late husband’s brothers a chance to carry out the stipulation and to take her in levirate marriage].”
9. **I:9:** If there was an agent, appointed orally [and not with witnesses to betroth a woman] with a writ of conditional betrothal, and the agent says that it was a conditional act of betrothal, while the woman says it was a complete and final act of betrothal – [B] R. Mana says, “It is a case of a conditional writ.” R. Ba said, “It is a complete act of betrothal.”

XXI. YERUSHALMI QIDDUSHIN 3:3

- [A] “... ON CONDITION THAT **I** HAVE A KOR’S SPACE OF LAND,” LO, THIS WOMAN IS BETROTHED, AND IF HE HAS IT. “ON CONDITION THAT **I** HAVE THAT LAND IN SUCH-AND-SUCH A PLACE,” IF HE HAS IT IN THAT PLACE, SHE IS BETROTHED, AND IF NOT, SHE IS NOT BETROTHED. “ON CONDITION THAT **I** SHOW YOU A KOR’S SPACE OF LAND,” LO, THIS WOMAN IS BETROTHED, AND [IF] HE WILL

SHOW IT TO HER. BUT IF HE SHOWED HER IN A PLAIN [LAND THAT WAS NOT HIS], SHE IS NOT BETROTHED.

[B] R. MEIR SAYS, “ANY CONDITION THAT IS NOT STATED AS IS THE CONDITION OF THE SONS OF GAD AND THE SONS OF REUBEN, [THAT IS, IN BOTH NEGATIVE AND POSITIVE FORMULATIONS], IS NO CONDITION, SINCE IT SAYS, ‘AND MOSES SAID TO THEM, IF THE CHILDREN OF GAD AND THE CHILDREN OF REUBEN WILL PASS OVER’ (NUM. 39:29). AND IT IS WRITTEN, ‘AND IF THEY WILL NOT PASS OVER ARMED’” (NUM. 32:20). R. HANANIAH B. GAMALIEL SAYS, “THE MATTER HAD TO BE STATED IN JUST THAT WAY, FOR IF NOT, IT WOULD HAVE BEEN IMPLIED THAT EVEN IN THE LAND OF CANAAN THEY WOULD NOT INHERIT LAND.”

1. I:1: R. Hananiah son of R. Hillel raised the question: “If someone said, ‘My son, So-and-so, will do such-and-such a thing, and then receive such-and-such an object, and my other sons will inherit my estate, [do we say, as Hananiah has argued, M. 3:3J,] *if he did it, he receives [his share of the estate], and if he did not do it, he does not receive [his share of the estate]*? [Hardly. The point is that if he does what he is told, he receives something beyond his share of the estate. This then poses a problem to the reasoning of Hananiah.]”
2. I:2: There we have learned: A man stipulates concerning his erub [and says, “If gentiles come from the east, my erub is at the west. If they come from the west, my erub is at the east. If they come from both directions, then to the place I shall choose shall I go. If they come from neither side, lo, I am in the status of the other people of my town”] [M. Erub. 3:5A-D]. Thus does the Mishnah teach: A man stipulates concerning his erubs [that is, he has to leave two, one in one direction, one in the other]. Said R. Eleazar, “Who is the Tannaite authority who framed the passage in the language, ‘If they came... and if they did not come’? It is R. Meir.” Which R. Meir?
3. I:3: R. Judah bar Sisin, R. Judah bar Pazzi in the name of R. Aha, “With respect to the conditional writ of betrothal, they followed the theory of R. Meir of tractate Qiddushin. [The stipulation is stated positively and negatively.]” R. Hananiah, associate of the rabbis, raised the question: “Why do I have to maintain that that is solely the view of R. Meir? Even in accord with rabbis [it would be the law].

XXII. YERUSHALMI QIDDUSHIN 3:4

[A] HE WHO BETROTHS A WOMAN AND SAID, “I WAS THINKING THAT SHE IS A PRIEST, AND LO, SHE IS A LEVITE,” “A LEVITE, AND LO, SHE IS A PRIEST,” “A POOR GIRL, AND LO, SHE IS A RICH GIRL,” “A RICH GIRL, AND LO, SHE IS A POOR GIRL,” LO, SHE IS BETROTHED, FOR SHE HAS NOT DECEIVED HIM.

1. I:1: R. Eleazar said, “She is betrothed, even as [she would be if the betrothal] was before witnesses.” R. Samuel in the name of R. Zeira, “She is betrothed [only] so far as the strict side of things is concerned [requiring a writ of divorce].”
2. I:2: R. Jacob bar Aha in the name of R. Immi, “If Reuben owed money to Simeon, and assigned to him what Levi was owing to him [Reuben], and Levi lost his money, Reuben does not owe Simeon money.”

XXIII. YERUSHALMI QIDDUSHIN 3:5

[A] HE WHO SAYS TO A WOMAN, “LO, YOU ARE BETROTHED TO ME AFTER I CONVERT TO JUDAISM,” OR, “AFTER YOU CONVERT,” “AFTER I AM FREED,” OR, “AFTER YOU ARE FREED,” “AFTER YOUR HUSBAND DIES” OR “AFTER YOUR SISTER DIES,”

1. I:1: They asked before R. Yohanan, “What is the difference between this case [outlined in the Mishnah] and the following: ‘He who says, “Lo, this produce is designated as heave offering for this crop, now in the ground, when it is harvested” [lo, it is deemed a valid act of separation, and the produce is deemed heave offering when the condition is met].”
 - a. I:2: R. Hoshaiah the Elder and R. Yudan the Patriarch were in session. They said, “Let us discuss a topic having to do with betrothals.” [Someone asked,] “He who says to a woman, ‘Here is this perutah, so that you will be betrothed to me as soon as I divorce you,’ what is the law? They burst out laughing, got up and walked out.
2. I:3: There we learn: [He who says,] “Lo, these plants are qorban, if they are not cut down,” “This cloak is qorban, if it is not burned” – they are subject to redemption. [“Lo, these plants are qorban until they are cut down,” “This cloak is qorban until it is burned” – they are not

subject to redemption (M. Ned. 3:5). In the former instance, the plants or cloak are sanctified when the man says they are qorban. They may be redeemed. In the latter they cannot be redeemed so long as they are not cut down, that is, so long as they have not yet been consecrated]. Is the act of consecration valid retroactively, [or it is valid only for the time from now on?

a. I:4: Gloss of a secondary detail of the foregoing.

[B] “AFTER YOUR LEVIR WILL PERFORM THE RITE OF REMOVING THE SHOE,” SHE IS NOT BETROTHED.

1. II:1: [“after your levir will perform the rite of removing the shoe:”] Said R. Yannai, “Thirty and some odd elders voted: ‘How do we know that an act of betrothal does not take effect in the case of a deceased childless brother’s widow?’

[C] “SCRIPTURE SAYS, ‘SHE SHALL NOT BE MARRIED OUTSIDE THE FAMILY TO A STRANGER’ (DEUT. 25:5). THAT IS TO SAY, A MARITAL RELATIONSHIP WILL NOT BE ESTABLISHED WITH A STRANGER.” SAID TO HIM R. YOHANAN, “AND HAS NOT THE MISHNAH ITSELF MADE THIS MATTER PERFECTLY PLAIN: ‘AFTER YOUR LEVIR WILL PERFORM THE RITE OF REMOVING THE SHOE — SHE IS NOT BETROTHED’” [M. 3:5D-E].

2. II:2: Said R. Yosé b. R. Bun, “The Mishnah passage states, ‘after your levir will perform the rite of removing the shoe.’ But if he had said, ‘After your levir will die,’ lo, this woman would have been betrothed.”

[D] AND SO: HE WHO SAYS TO HIS FELLOW, “IF YOUR WIFE PRODUCES A DAUGHTER, LO, SHE [THE DAUGHTER] IS BETROTHED TO ME,” SHE IS NOT BETROTHED. [BUT IF THE WIFE OF HIS FELLOW WAS PREGNANT AND THE FETUS IS DISCERNIBLE, HIS STATEMENT IS VALIDATED]. [AND IF SHE PRODUCED A DAUGHTER, SHE [THE DAUGHTER] IS BETROTHED].

1. III:1: [And so he who says to his fellow, “If your wife produces a daughter, lo, she is betrothed to me,” she is not betrothed.:] R. Hiyya taught: “A girl one day old may be betrothed by money. A girl three years and one day old may be betrothed through an act of sexual relations.”

XXIV. YERUSHALMI QIDDUSHIN 3:6

[A] HE WHO SAYS TO A WOMAN, “LO, YOU ARE BETROTHED TO ME, ON CONDITION THAT I SPEAK IN YOUR BEHALF TO THE GOVERNMENT,” OR, “THAT I WORK

FOR YOU AS A LABORER,” [IF] HE SPOKE IN HER BEHALF TO THE GOVERNMENT OR WORKED FOR HER AS A LABORER, SHE IS BETROTHED. AND IF NOT, SHE IS NOT BETROTHED.

1. **I:1:** Rab said, “The Mishnah speaks of a case in which he gave her something worth a perutah.”

[B] “... ON CONDITION THAT HER FATHER WILL CONCUR,” [IF] HER FATHER CONCURRED, SHE IS BETROTHED. AND IF NOT, SHE IS NOT BETROTHED. [IF] THE FATHER DIED, LO, THIS WOMAN IS BETROTHED. [IF] THE SON DIED, THEY INSTRUCT THE FATHER TO STATE THAT HE DOES NOT CONCUR.

1. **II:1:** If there is no explicit statement on the father’s part, the father is assumed not to concur. If the father died, lo, this woman is betrothed. If there is no explicit statement on the father’s part, the father is assumed to concur. If the son died, they instruct the father to state that he does not concur [M 3:6G] If there is no explicit statement on the father’s part the father is assumed to concur

XXV. YERUSHALMI QIDDUSHIN 3:7

[A] “I HAVE BETROTHED MY DAUGHTER, BUT I DON’T KNOW TO WHOM I HAVE BETROTHED HER,” AND SOMEONE CAME ALONG AND SAID, “I HAVE BETROTHED HER,” HE IS BELIEVED.] [IF] TO US ONE SAID, “I BETROTHED HER,” AND [AT THE SAME TIME], THAT ONE SAID, “I BETROTHED HER,” BOTH OF THEM GIVE HER A WRIT OF DIVORCE.

1. **I:1:** What is the meaning of “he is believed” Samuel said, “He is believed so far as his having to issue a writ of divorce is concerned.” Assi said, “He is believed and so has the right to consummate the marriage.” R. Huna in the name of Rab said, “He is believed and so has the right to consummate the marriage.” R. Yohanan said, “While he is believed so as to have the right to consummate the marriage, they do not derive from that case the rule for another.”

[B] BUT IF THEY WANTED, ONE OF THEM GIVES HER A WRIT OF DIVORCE AND ONE OF THEM CONSUMMATES THE MARRIAGE.

1. **II:1:** R. Zeira, R. Yosé in the name of R. Yohanan, “If one of them [at M. 3:7E] went ahead and consummated the marriage, they do not remove the woman from his power.”

XXVI. YERUSHALMI QIDDUSHIN 3:8

[A] **“I HAVE BETROTHED MY DAUGHTER,” “I HAVE BETROTHED HER AND I HAVE ACCEPTED HER WRIT OF DIVORCE WHEN SHE WAS A MINOR,” AND LO. SHE IS YET A MINOR — HE IS BELIEVED. “I HAVE BETROTHED HER AND I ACCEPTED HER WRIT OF DIVORCE WHEN SHE WAS A MINOR,” AND LO, SHE IS NOW AN ADULT — HE IS NOT BELIEVED.**

1. **I:1:** [If a man said,] “I betrothed my daughter,” the minors are subject to his statement, but the adults are not subject to his statement. “My daughter has been betrothed,” – the adults are subject to his statement, but the minors are not subject to his statement. “I received the writ of divorce for my daughter” – the minors are subject to his statement, but the adults are not subject to his statement. My daughter has been divorced” – the minors are not subject to his statement [T. Qid 4:11]

[B] **SHE WAS TAKEN CAPTIVE AND I REDEEMED HER,” WHETHER SHE IS A MINOR OR WHETHER SHE IS AN ADULT, HE IS NOT BELIEVED. HE WHO SAID AT THE MOMENT OF HIS DEATH, “I HAVE CHILDREN,” IS BELIEVED. IF HE SAID, “I HAVE BROTHERS,” HE IS NOT BELIEVED. HE WHO BETROTHS HIS DAUGHTER WITHOUT SPECIFICATION [OF WHICH ONE, — THOSE PAST GIRLHOOD ARE NOT TAKEN INTO ACCOUNT.**

1. **II:1:** or, “She was invalidated by one of those who are invalid for her” – he has not got the power to prohibit her [from marrying a priest] [T. Qid 4:12A-C].
2. **II:2:** Rab said, “He who betroths a woman before a single witness has done nothing.” R. Sheshet objected, and lo, the Mishnah law differs from you: “You have betrothed me.” and he says. “I did not betroth you,” he is permitted to marry her relatives, and she is prohibited from marrying his relatives [M. 3:10D-E]. Thus the individual is believed on her own account.

XXVII. YERUSHALMI QIDDUSHIN 3:9

[A] **HE WHO HAS TWO GROUPS OF DAUGHTERS BY TWO WIVES [IN SUCCESSION AND WHO SAID, “I HAVE BETROTHED MY OLDEST DAUGHTER, BUT I DO NOT KNOW WHETHER IT IS THE OLDEST OF THE OLDER GROUP OR THE OLDEST OF THE YOUNGER GROUP, OR THE YOUNGEST OF THE OLDER GROUP, WHO IS ALSO**

OLDER THAN THE OLDEST OF THE YOUNGER GROUP” – “ALL OF THEM ARE PROHIBITED [TO MARRY WITHOUT A WRIT OF DIVORCE], EXCEPT FOR THE YOUNGEST OF THE YOUNGER GROUP,” THE WORDS OF R. MEIR. R. YOSÉ SAYS, “THEY ARE ALL PERMITTED, EXCEPT FOR THE OLDEST OF THE OLDER GROUP. “I BETROTHED MY YOUNGEST DAUGHTER, BUT I DO NOT KNOW WHETHER IT WAS THE YOUNGEST OF THE YOUNGER GROUP, OR THE YOUNGEST OF THE OLDER GROUP, OR THE OLDEST OF THE YOUNGER GROUP, WHO IS YOUNGER THAN THE YOUNGEST OF THE OLDER GROUP” – “ALL OF THEM ARE PROHIBITED EXCEPT FOR THE OLDEST OF THE OLDER GROUP,” THE WORDS OF R. MEIR. R. YOSÉ SAYS, “ALL OF THEM ARE PERMITTED, EXCEPT FOR THE YOUNGEST OF THE YOUNGER GROUP.”

1. **I:1:** R. Hama said, “We deal with two women, each with two daughters [thus eliminating the possibility of girls in the middle.”
2. **I:2:** The Mishnah passage speaks of a man who has two groups of daughters from two wives. But if he had only one group, if he had said, “The oldest,” he has betrothed only the oldest, and if he had said, “The youngest,” he has betrothed only the youngest.
3. **I:3:** There we have learned: With reference to one who says, “Qonam if I taste wine to Passover,” he is prohibited until it comes. If he said, “Until it will be Passover,” he is prohibited until it is over. If he said, “Until before Passover” – R. Meir says, “He is prohibited until it comes.” R. Yosé says, “He is prohibited until it is over” [M. Ned. 8:2]. R. Jeremiah raised the question before R. Zeira, “The opinions imputed to R. Meir are at variance. The opinions imputed to R. Yosé are at variance. There [at M. Qid. 3:9A-C] [Yosé’s opinion is that one does not use language that subjects his own situation to doubt, therefore he meant] to exclude all the older daughters except for the very oldest] or [at E-G] to exclude all the youngest daughters [except for the very youngest]. Yet here he has said this [that one will use language in a way that raises doubts about his meaning. [And so too for Meir: there he has someone using language that leads to doubt, and here he denies that that is likely.]”

XXVIII. YERUSHALMI QIDDUSHIN 3:10

- [A] **HE WHO SAYS TO A WOMAN, “I HAVE BETROTHED YOU,” AND SHE SAYS, “YOU DID NOT BETROTH ME,” HE IS PROHIBITED TO MARRY HER RELATIVES, BUT SHE IS PERMITTED TO MARRY HIS RELATIVES. [IF] SHE SAYS, “YOU BETROTHED ME,” AND HE SAYS, “I DID NOT BETROTH YOU,” HE IS PERMITTED TO MARRY HER RELATIVES, AND SHE IS PROHIBITED FROM MARRYING HIS RELATIVES. “I**

BETROTHED YOU,” AND SHE SAYS, “YOU BETROTHED ONLY MY DAUGHTER,” HE IS PROHIBITED FROM MARRYING THE RELATIVES OF THE OLDER WOMAN, AND THE OLDER WOMAN IS PERMITTED TO MARRY HIS RELATIVES. HE IS PERMITTED TO MARRY THE RELATIVES OF THE YOUNG GIRL, AND THE YOUNG GIRL IS PERMITTED TO MARRY HIS RELATIVES.

1. **I:1:** Said R. Yosé, “It is reasonable to suppose that [with regard to M. 3:10F-I] R. Meir will not differ [even though in general Meir imposes a strict ruling in matters of betrothal]. [Overall we should suppose all parties will be prohibited. But here the mother is not believed to testify about her daughter and so prohibit the daughter from marrying all of the man’s relatives.]”

XXIX. YERUSHALMI QIDDUSHIN 3:11

[A] “I HAVE BETROTHED YOUR DAUGHTER,” AND SHE SAYS, “YOU BETROTHED ONLY ME,” HE IS PROHIBITED TO MARRY THE RELATIVES OF THE GIRL, AND THE GIRL IS PERMITTED TO MARRY HIS RELATIVES. HE IS PERMITTED TO MARRY THE RELATIVES OF THE OLDER WOMAN, BUT THE OLDER WOMAN IS PROHIBITED FROM MARRYING HIS RELATIVES.

1. **I:1:** R. Huna said, “They persuade him to give a writ of divorce, [to the one who says he betrothed her,] and they force him to pay out a monetary penalty, [that is, to pay out the marriage settlement as well, if he had already given the writ of divorce].

XXX. YERUSHALMI QIDDUSHIN 3:12

[A] IN ANY SITUATION IN WHICH THERE IS A VALID BETROTHAL AND NO COMMISSION OF A TRANSGRESSION, THE OFFSPRING FOLLOWS THE STATUS OF THE MALE. WHAT IS SUCH A SITUATION? IT IS THE SITUATION IN WHICH A PRIEST GIRL, A LEVITE GIRL, OR AN ISRAELITE GIRL WAS MARRIED TO A PRIEST, A LEVITE, OR AN ISRAELITE.

1. **I:1:** R. Simeon b. Laqish raised the question before R. Yohanan: “Lo, in the case of a proselyte who married a mamzer girl, lo, there the betrothal is valid, and there is no transgression of the law, but the offspring follows the status of the impaired party in the pair [and is a mamzer]” [vs. M. 3:12A]. He said to him, “In every [present] context in which Rabbi taught [a general law], he supplied its specific interpretation [alongside]: **What is such a situation? It is the**

situation in which a priest girl, a Levite girl, or an Israelite girl was married to a priest, a Levite, or an Israelite [M. 3:1 2B-C].”

2. **I:2:** R. Yosé b. R. Bun in the name of Rab: “A proselyte and a freed slave and an impaired priest are permitted to marry a priest.
 - a. **I:3:** A proselyte came before R. Yosa. He said to him, “What is the law as to my marrying a mamzer girl?”

[B] AND ANY SITUATION IN WHICH THERE IS A VALID BETROTHAL BUT THERE ALSO IS THE COMMISSION OF A TRANSGRESSION, THE OFFSPRING FOLLOWS THE STATUS OF THE IMPAIRED [INFERIOR] PARTY. AND WHAT IS SUCH A SITUATION? IT IS A WIDOW MARRIED TO A HIGH PRIEST, A DIVORCÉE OR WOMAN WHO HAS UNDERGONE THE RITE OF REMOVING THE SHOE MARRIED TO AN ORDINARY PRIEST, A MAMZER GIRL OR A NETIN GIRL MARRIED TO AN ISRAELITE, AN ISRAELITE GIRL MARRIED TO A MAMZER OR A NETIN. AND IN ANY SITUATION IN WHICH A WOMAN HAS NO RIGHT TO ENTER BETROTHAL WITH THIS MAN BUT HAS THE RIGHT TO ENTER INTO BETROTHAL WITH OTHERS, THE OFFSPRING IS A MAMZER. WHAT IS SUCH A SITUATION? THUS IS A MAN WHO HAD SEXUAL RELATIONS WITH ANY OF THOSE WOMEN PROHIBITED TO HIM BY THE TORAH. BUT ANY SITUATION IN WHICH A WOMAN HAS NO RIGHT TO ENTER INTO BETROTHAL WITH THIS MAN OR WITH ANY OTHER MAN — THE OFFSPRING IS IN HER STATUS.

1. **II:1:** in girl married to an Israelite, an Israelite girl married to a mamzer or a Netin:] One may have no difficulty explaining why an Israelite girl who married a mamzer or a Netin [should produce offspring who follow the status of the impaired party (M. 3:12F)], since it is written, “No mamzer shall enter the assembly of the Lord” (Deut. 23:3). Why does Scripture say, “He should not enter”? That is, to invalidate his offspring.
2. **II:2:** R. Huna said, “A mamzer does not live more than thirty days.”
3. **II:3:** When R. Zeira came up here, he heard people saying, “mamzer” and “mamzer girl.” He said to them, “Why is this? Lo, note what R. Huna stated, for R. Huna said, ‘A mamzer does not live more than thirty days.’”
4. **II:4:** It was taught: A gentile or a slave who had sexual relations with an Israelite girl — the offspring is a mamzer.
5. **II:5:** R. Yannai in the name of Rabbi: “A gentile or a slave who has sexual relations with an Israelite girl — the offspring is a mamzer.” Both R. Yohanan and R. Simeon b. Laqish say, “The offspring is a

mamzer.” R. Jacob bar Aha, R. Simeon bar Abba, R. Joshua b. Levi in the name of R. Yannai b. Rabbi, “The offspring is not valid but not invalid but sullied.”

6. **II:6:** Even though R. Simeon b. Judah said in the name of R. Simeon b. Yohai, “A gentile or a slave who had sexual relations with an Israelite girl – the offspring is valid,” he concedes that if it was a daughter, she is invalid to marry a priest. Even though R. Joshua said, “He who has sexual relations with his sister – the offspring is valid,” he concedes that if [64d] she was a female, she is invalid to marry into the priesthood.
7. **II:7:** Said R. Jacob bar Aha, “*It was taught there:* He who declares invalid, declares [the offspring] invalid even when it came from a girl who was unmarried, and he who declares the offspring valid declares it valid even in the case of a married woman.”

[C] **AND WHAT IS SUCH A SITUATION? IT IS THE OFFSPRING OF A SLAVE GIRL OR A GENTILE GIRL.**

1. **III:1:** There we have learned: [He who has a son from any source exempts his wife from levirate marriage and he is his son in all respects] except for he who has [a son] from a slave girl or a gentile woman [M. Yeb. 2:6]. A slave girl, for it is said, “And the woman and offspring will remain with her master” (Ex. 21:4). As to a gentile woman: R. Yohanan in the name of R. Simeon b. Yohai, “It is written, ‘You shall not intermarry with them. You shall not give your daughter to his son’ (Deut. 7:3). ‘And it is written, ‘For he will mislead your son from following after me’ – Your son from an Israelite male is called ‘your son,’ but your son from a gentile woman [and an Israelite man] is not deemed ‘your son,’ but rather, ‘her son.’”

XXXI. YERUSHALMI QIDDUSHIN 3:13

[A] **R. TARFON SAYS, “MAMZERS CAN BE PURIFIED [FROM THEIR STATE]. HOW SO? A MAMZER WHO MARRIED A SLAVE GIRL – THE OFFSPRING IS A SLAVE GIRL. [IF] HE THEN FREED HIM THE SON TURNS OUT TO BE A FREE MAN.” R. ELIEZER SAYS, “LO, THIS IS A SLAVE WHO ALSO IS IN THE STATUS OF A MAMZER.**

1. **I:1:** Thus does the Mishnah maintain: A mamzer is permitted to marry a slave girl. R. Judah in the name of Samuel: “The law follows R. Tarfon.”

2. **I:2:** It was taught: R. Meir did say, “There are a husband and a wife who produce five castes. How so? A gentile man who has a slave boy and a slave girl, and they have two children, and one of them converted – Lo, (1) one is a proselyte and (2) one is a gentile. [If] their master converted and converted the slaves, and they then produced a son, then (3) the offspring is a slave” [T. Qid. 5:11].

XXXII. YERUSHALMI QIDDUSHIN 4:1

[A] TEN CASTES CAME UP FROM BABYLONIA: PRIESTS, LEVITES, ISRAELITES, IMPAIRED PRIESTS, CONVERTS, AND FREED SLAVES, MAMZERS, NETINS, “SILENCED ONES” [SHETUQI], AND FOUNDLINGS. PRIESTS, LEVITES, AND ISRAELITES ARE PERMITTED TO MARRY AMONG ONE ANOTHER.

1. **I:1:** Priests, Levites, and Israelites [are permitted to marry among one another] [M. 4:1A] – in line with the verse: “And there went up also to Jerusalem, in the seventh year of Artaxerxes the king, some of the people of Israel, and some of the priests and Levites, and singers and gatekeepers, and the temple servants” (Ezra 7:7).

[B] LEVITES, ISRAELITES, IMPAIRED PRIESTS, CONVERTS, AND FREED SLAVES ARE PERMITTED TO MARRY AMONG ONE ANOTHER:

1. **II:1:** Levites, Israelites, impaired priests, converts, and freed slaves are permitted to marry among one another: “Also, of the sons of the priests: the sons of Habaiah, the sons of Hakkoz, [and the sons of Barzillai (... the Gileadite, and was called by their name)]. These sought their registration among those enrolled in the genealogies, but were not found there, and so were excluded from the priesthood [as unclean]” (Ezra 2:61-62).

a. II:2: Further exegesis of Ezra 3:63.

b. II:3: Further exegesis of Ezra 3:63.

c. II:4: Further exegesis of Ezra 3:63.

2. **II:5:** He who converts for the sake of love [of a Jew], whether a man because of a woman, or a woman because of a man, and so too those who converted in order to enter Israelite royal service, and so too those who converted out of fear of the lions [that is, the Samaritans], and so too the converts in the time of Mordecai and Esther [who converted out of fear] – they do not accept them.

[C] CONVERTS, FREED SLAVES, MAMZERS, NETINS, “SILENCED ONES,” AND
FOUNDINGS ARE PERMITTED TO MARRY AMONG ONE ANOTHER.

1. **III:1:** In line with this verse: “[It was eaten by the people of Israel who had returned from exile, and also by everyone who had joined them] and separated himself from the pollutions of the peoples of the land [to worship the Lord, the God of Israel]” (Ezra 6:21). Freed slaves: In line with this verse: “The Temple servants...” (Neh. 7:46). Mamzers: Said R. Simon, “It is written, ‘The following were those who came up from Telmelah, Telharsha’ (Neh. 7:61). ‘From Tel Melah’ – this is Babylonia. ‘Telharsha’ – this refers to the silenced ones and foundlings. ‘Cherub’ (Neh. 7:61) – this refers to the mamzers. Those youths who followed their eyes. ‘Addon’ – the ones who say there is no justice and no lord.
2. **III:2:** Netinim: R. Immi in the name of R. Joshua b. Levi taught, “It was on account of the following verse: ‘But Joshua made them [WYTNM] that day hewers of wood and drawers of water for the congregation [and for the altar of the Lord]” (Josh. 9:27).
3. **III:3:** R. Nahman bar Jacob said, “They accept converts from the Cordyenians and from the Tadmor [Palmyrenes].”
4. **III:4:** R. Yosé b. R. Bun in the name of R. Nahman: “Babylonia, for the purposes of genealogy, extends to the Yazzoq canal.”
5. **III:5:** [At issue is the interpretation of the following verses: “No mamzer shall enter the assembly of the Lord; even to the tenth generation none of his descendants shall enter the assembly of the Lord” (Deut. 23:2), and “No Ammonite or Moabite shall enter the assembly of the Lord; even to the tenth generation none belonging to them shall enter the assembly of the Lord forever” (Deut. 23:3).] R. Jacob bar Aha in the name of R. Josiah: “The eleventh generation of a mamzer, in accord with R. Simeon, is valid. For he does not interpret the language ‘tenth’ and ‘tenth’ [as the basis for analogy between the two cases. That is, Deut. 23:2 does not say, ‘forever,’ while Deut. 23:3 does. The former stops with the tenth generation.]”
6. **III:6:** It was taught: R. Eleazar b. R. Simeon says, “As to the eleventh generation produced from a mamzer, the males still are forbidden, but the females are valid.”
7. **III:7:** They asked R. Eliezer, “As to the eleventh generation of a *mamzer*, what is the law?”

8. **III:8:** R. Yosa in the name of R. Yohanan: “Also in the age to come, the Holy One, blessed be he, will have to deal [NZQQ] only with the tribe of Levi.”
9. **III:9:** Said R. Yohanan, “As to any family in which some invalidity has been submerged, they do not check too carefully about it.”
10. **III:10:** [With reference to the statement, Converts, freed slaves, mamzers, Netins, “silenced ones,” and foundlings are permitted to marry among one another,] Said R. Haninah, “The Mishnah [M. 4:1D] is not in accord with what R. Judah has said, [since he does not permit proselytes and mamzers to intermarry,] because R. Judah has said that they form four congregations: the congregation of priests, the congregation of Levites, the congregation of Israelites, and the congregation of proselytes.”

XXXIII. YERUSHALMI QIDDUSHIN 4:2

[A] AND WHAT ARE “SILENCED ONES”? ANY WHO KNOWS THE IDENTITY OF HIS MOTHER BUT DOES NOT KNOW THE IDENTITY OF HIS FATHER, AND FOUNDLINGS? ANY WHO WAS DISCOVERED IN THE MARKET AND KNOWS NEITHER HIS FATHER NOR HIS MOTHER. ABBA SAUL DID CALL A “SILENCED ONE” [SHETUQI] “ONE WHO IS TO BE “EXAMINED” [BEDUQI].

1. **I:1:** Who are foundlings? The ones whom you must examine.
2. **I:2:** R. Ba in the name of R. Hisda “There are three who are believed on the spot: the midwife, a caravan trader, and one who declares her fellow-women to be clean, [taking responsibility for a drop of blood and declaring that it is hers].”

XXXIV. YERUSHALMI QIDDUSHIN 4:3

[A] ALL THOSE WHO ARE FORBIDDEN TO ENTER INTO THE CONGREGATION ARE PERMITTED TO MARRY ONE ANOTHER.

1. **I:1:** [With reference to Deut. 23:1: “He whose testicles are crushed or whose male member is cut off shall not enter the assembly of the Lord,] R. Jeremiah said, “[All who are subject to] the general law [of being prohibited to enter the congregation, whether the invalidation derives from the condition of their bodies or from genealogy, are permitted to marry one another]. [Therefore] an Israelite whose male

member has been cut off is permitted to marry a mamzer girl.” Said R. Yosé, “Only if he is invalid by reason of genealogy. If he is invalid by reason of the condition of his body, it is not in such a case that he may marry a mamzer girl.”

[B] R. JUDAH PROHIBITS.

- 1. II:1:** In the opinion of R. Judah, may a mamzer not marry [even] a mamzer girl?

[C] R. ELIEZER SAYS, “THOSE WHO ARE OF CERTAIN STATUS ARE PERMITTED TO INTERMARRY WITH OTHERS WHO ARE OF CERTAIN STATUS. THOSE WHO ARE OF CERTAIN STATUS AND THOSE WHO ARE OF DOUBTFUL STATUS, THOSE WHO ARE OF DOUBTFUL STATUS AND THOSE WHO ARE OF CERTAIN STATUS, THOSE WHO ARE OF DOUBTFUL STATUS AND THOSE WHO ARE OF DOUBTFUL STATUS — IT IS PROHIBITED.”, AND WHO ARE THOSE WHO ARE OF DOUBTFUL STATUS? THE “SILENCED ONE,” THE FOUNDLING, AND THE SAMARITAN.

- 1. III:1:** R. Judah in the name of Rab: “The law is in accord with R. Eliezer following the sages.”
- 2. III:2:** R. Jeremiah in the name of R. Samuel bar R. Isaac, “It is written, ‘No mamzer shall enter the assembly of the Lord’ (Deut. 23:2). He does not enter into that congregation in which status is certain, but he does come into a congregation whose status is subject to doubt [M. 1 3D-E].”
- 3. III:3:** There we have learned: [He who enters into levirate marriage with his deceased childless brother’s widow, and it turns out that she is pregnant and she gives birth, when the offspring is viable, he must put her away, and both man and woman are liable for a sacrifice. If the offspring is not viable, he may confirm the marriage.] If it is a matter of doubt whether the offspring is born at nine months, therefore assigned to the first husband, or born at seven months, therefore assigned to the second, he must put her away. But the offspring is valid. And both of them are liable for a suspensive guilt offering [M. Yeb. 4:2]. It was taught: The first of two such offspring is suitable to be made high priest, but the second is deemed a mamzer by reason of doubt. R. Eliezer b. Jacob says, “The second is not a mamzer by reason of doubt” [T. Yeb. 6:2I-J]. R. Eliezer b. Jacob concurs in the case of a child that may or may not be a Samaritan, or that may or may not be of impaired priestly stock; [these are treated as equivalent to others in doubt]. This is in line with what we have learned there: Ten castes came up from Babylonia [M. Qid. 4: 1A] [including silenced ones, foundlings, and mamzers as separate castes].

XXXV. YERUSHALMI QIDDUSHIN 4:4

[A] HE WHO MARRIES A PRIEST GIRL HAS TO INVESTIGATE HER [GENEALOGY] FOR FOUR [GENERATIONS, VIA THE] MOTHERS, WHO ARE EIGHT: HER MOTHER, AND THE MOTHER OF HER MOTHER, AND THE MOTHER OF THE FATHER OF HER MOTHER, AND HER MOTHER, AND THE MOTHER OF HER FATHER, AND HER MOTHER, AND THE MOTHER OF THE FATHER OF HER FATHER, AND HER MOTHER:

1. I:1: Said R. Yohanan: “The passage represents the view of R. Meir.” For it has been taught: What is a mixture [of proselytes or people of impaired priestly stock, which produces a girl suitable for marriage to an Israelite but invalid for marriage into the priesthood]? Any girl in whom is no trace of ancestry of a Netin or a mamzer or servants of the kings. R. Meir says, “I heard that any girl who bears no trace of ancestry of a Netin, a mamzer, or a servant of the kings, do they permit to marry [even] into the priesthood” [T. Qid. 5:2].

2. I:2: Under whose authority does one conduct the examination [on whom does one rely]?

[B] AND IN THE CASE OF A LEVITE GIRL AND AN ISRAELITE GIRL, THEY ADD ONTO THEM YET ANOTHER [GENERATION FOR GENEALOGICAL INQUIRY].

1. II:1: Does it not turn out that the rule is more strict for Israelites than or priests?

XXXVI. YERUSHALMI QIDDUSHIN 4:5

[A] THEY DO NOT CARRY A GENEALOGICAL INQUIRY BACKWARD FROM [PROOF THAT ONE’S PRIESTLY ANCESTOR HAS SERVED] AT THE ALTAR, NOR FROM [PROOF THAT ONE’S LEVITICAL ANCESTOR HAS SERVED] ON THE PLATFORM, AND FROM [PROOF THAT ONE’S LEARNED ANCESTOR HAS SERVED] IN THE SANHEDRIN. AND ALL THOSE WHOSE FATHERS ARE KNOWN TO HAVE HELD OFFICE AS PUBLIC OFFICIALS OR AS CHARITY COLLECTORS — THEY MARRY THEM INTO THE PRIESTHOOD, AND IT IS NOT NECESSARY TO CONDUCT AN INQUIRY. R. YOSÉ SAYS, “ALSO: HE WHO WAS SIGNED AS A WITNESS IN THE ANCIENT ARCHIVES IN SEPPHORIS.” R. HANINA B. ANTIGONOS SAYS, “ALSO: WHOEVER WAS RECORDED IN THE KING’S ARMY.”

1. I:1: It is written, “You may indeed set as king over you [him whom the Lord your God will choose]” (Deut. 17:15). I know that the law [that

genealogical searches are required] encompasses only the king. How do I know that I should include those who hold office as public officials or as charity collectors, judges' scribes and those who carry out the flogging of a court? Scripture says, "One from among your brethren you shall set as king over you" (Deut. 17:15). Anyone you appoint over you should be only one of those who are the select among your brethren.

2. **I:2:** R. Samuel bar Nahman in the name of R. Jonathan: "It is written, '[All of these were men of Asher, heads of fathers' houses, approved, mighty warriors, chiefs of the princes.] Their number enrolled by genealogies, for service in war, [was twenty-six thousand men]' (1 Chr. 7:10). The merit deriving from their correct genealogy stands up for them in war." That proof is merely from tradition. How do we know it from the teachings of the Torah?

XXXVII. YERUSHALMI QIDDUSHIN 4:6

[A] THE DAUGHTER OF A MALE OF IMPAIRED PRIESTLY STOCK IS INVALID FOR MARRIAGE INTO THE PRIESTHOOD FOR ALL TIME. AN ISRAELITE WHO MARRIED A WOMAN OF IMPAIRED PRIESTLY STOCK — HIS DAUGHTER IS VALID FOR MARRIAGE INTO THE PRIESTHOOD. A MAN OF IMPAIRED PRIESTLY STOCK WHO MARRIED AN ISRAELITE GIRL — HIS DAUGHTER IS INVALID FOR MARRIAGE INTO THE PRIESTHOOD. R. JUDAH SAYS, "THE DAUGHTER OF A MALE PROSELYTE IS EQUIVALENT TO THE DAUGHTER OF A MALE OF IMPAIRED PRIESTLY STOCK."

1. **I:1:** R. Hamnuna in the name of Rab: "[In line with M. 4:6A] the daughter of the daughter of the daughter [is prohibited] for all time. [That is, once the first daughter is born from the male impaired priest, the entire sequence in the female line is unfit for marriage into the priesthood.]" With reference to Lev. 21:4, "He shall not defile himself as a husband among his people and so profane himself," and (Lev. 21:1) None of them shall defile himself for the dead among his people,"] R. Yohanan in the name of R. Ishmael [said], "'Among his people': Just as 'among his people' stated above [with regard to contracting uncleanness], the males are forbidden [to contract uncleanness] but the females are permitted, so 'among his people' stated here means that the males are forbidden and the females are permitted.
2. **I:2:** R. Hoshaiiah the Great and R. Judah the Patriarch were in session. R. Yohanan ran in and whispered into the ear of R. Hoshaiiah the

Great: “A priest with crushed testicles (Deut. 23) what is the law as to his marrying the daughter of proselytes?”

3. **I:3:** A priest who had sexual relations with a divorcée and produced a daughter, [who then is in the status of an impaired priest girl], and the daughter [with a valid Israelite then produced a daughter – what is [the status of the granddaughter]? [May she marry a priest?]

[B] **R. ELIEZER B. JACOB SAYS, “AN ISRAELITE WHO MARRIED A FEMALE PROSELYTE – HIS DAUGHTER IS SUITABLE FOR MARRIAGE INTO THE PRIESTHOOD. AND A PROSELYTE WHO MARRIED AN ISRAELITE GIRL – HIS DAUGHTER IS VALID FOR MARRIAGE INTO THE PRIESTHOOD. BUT A MALE PROSELYTE WHO MARRIED A FEMALE PROSELYTE – HIS DAUGHTER IS INVALID FOR MARRIAGE INTO THE PRIESTHOOD. ALL THE SAME ARE PROSELYTES AND FREED SLAVES, EVEN DOWN TO TEN GENERATIONS THE DAUGHTERS CANNOT MARRY INTO THE PRIESTHOOD – UNLESS THE MOTHER IS AN ISRAELITE.” R. YOSÉ SAYS, “ALSO: A PROSELYTE WHO MARRIED A FEMALE PROSELYTE: HIS DAUGHTER IS VALID FOR MARRIAGE INTO THE PRIESTHOOD.”**

1. **II:1:** There we have learned: R. Eliezer b. Jacob says, “A woman who is the offspring of proselytes may not marry into the priesthood, unless her mother was an Israelite. It is all the same whether she is the child of proselytes or freed slaves, even down to the tenth generation: she may marry into the priesthood only if her mother was an Israelite” [M. Bik. 1:5]. Now all of those [to be cited below] interpret a single verse of Scripture: “[They shall not marry a widow or a divorced woman,] but only a virgin of the stock of the house of Israel, [or a widow who is the widow of a priest]” (Ez. 44:22). R. Judah says, “The requirement is that her father be an Israelite.” R. Eliezer b. Jacob says, “The requirement is that either her father or her mother be an Israelite.” R. Yosé says, “The requirement is that she be born within the sanctification of Israel, [and that encompasses the two proselyte parents].” R. Simeon says, “The requirement is that her [age of] virginity [that is, three years] occur within the sanctity of Israel.”

2. **II:2:** R. Jacob bar Idi in the name of R. Joshua b. Levi: M'SH B: “There was a family in the south, about which there were suspicions [as to its status in the priestly genealogy]. Rabbi sent Rominos to examine it. He examined the family and discovered that its grandmother had converted to Judaism at an age of less than three years and one day, so he declared the family fit for the priesthood.”

XXXVIII. YERUSHALMI QIDDUSHIN 4:7

[A] **HE WHO SAYS, “THIS, MY SON, IS A MAMZER” IS NOT BELIEVED. AND EVEN IF BOTH PARTIES SAY CONCERNING THE FETUS IN THE MOTHER’S WOMB, “IT IS A MAMZER,” THEY ARE NOT BELIEVED.**

- I:1:** There we have learned: He who says, “This is my son,” is believed. R. Abbahu in the name of R. Yohanan, “That is to give him [a share in the father’s inheritance,] but not to take from him [the estate of another party who claims him as a son].”
- I:2:** If he was standing by the tax collectors and he said, “He is my son,” and then he went and said, “He is my slave,” he is believed. [He wanted to avoid taxes on the slave. I

[B] **R. JUDAH SAYS, “THEY ARE BELIEVED.”**

- II:1:** It was taught: He is believed about an adult and not about a minor.

XXXIX. YERUSHALMI QIDDUSHIN 4:8

[A] **HE WHO GAVE THE POWER TO HIS AGENT TO ACCEPT TOKENS OF BETROTHAL FOR HIS DAUGHTER, BUT THEN HE HIMSELF WENT AND BETROTHED HER — IF HIS CAME FIRST. HIS ACT OF BETROTHAL IS VALID. AND IF THOSE OF HIS AGENT CAME FIRST, HIS ACT OF BETROTHAL IS VALID. AND IF IT IS NOT KNOWN [WHICH CAME FIRST], BOTH PARTIES GIVE A WRIT OF DIVORCE. BUT IF THEY WANTED, ONE OF THEM GIVES A WRIT OF DIVORCE, AND ONE CONSUMMATES THE MARRIAGE. AND SO: A WOMAN WHO GAVE THE POWER TO HER AGENT TO ACCEPT TOKENS OF BETROTHAL IN HER BEHALF, AND THEN SHE HERSELF WENT AND ACCEPTED TOKENS OF BETROTHAL IN HER OWN BEHALF — IF HERS CAME FIRST, HER ACT OF BETROTHAL IS VALID. AND IF THOSE OF HER AGENT CAME FIRST, HIS ACT OF BETROTHAL IS VALID. AND IF IT IS NOT KNOWN [WHICH OF THEM CAME FIRST], BOTH PARTIES GIVE A WRIT OF DIVORCE. BUT IF THEY WANTED, ONE OF THEM GIVES A WRIT OF DIVORCE AND ONE OF THEM CONSUMMATES THE MARRIAGE.**

- I:1:** Does this [M. 4:8B-C] not stand at variance with R. Yohanan, for R. Yohanan said, “A man may orally nullify his assignment to an agent”? [Why then cannot he do so here?] Interpret it as consistent with that statement, but it is a stricter rule that applies in the case of prohibited marital connections.

XL. YERUSHALMI QIDDUSHIN 4:9

[A] **HE WHO WENT ALONG WITH HIS WIFE OVERSEAS, AND HE AND HIS WIFE AND CHILDREN CAME HOME AND HE SAID, “THE WOMAN WHO WENT ABROAD WITH ME, LO, THIS IS SHE, AND THESE ARE HER CHILDREN” – HE DOES NOT HAVE TO BRING PROOF CONCERNING THE WOMAN OR THE CHILDREN. [IF HE SAID,] “SHE DIED, AND THESE ARE HER CHILDREN,” HE DOES BRING PROOF ABOUT THE CHILDREN. BUT HE DOES NOT BRING PROOF ABOUT THE WOMAN.**

- 1. I:1:** R. Abbahu in the name of R. Yohanan, “The man and his wife have they treated as equivalent to two witnesses [as to the status of their children]. It is in the presumption that a woman will not remain silent in regard [66b] to the children of her cowife [claiming them for her own].

XLI. YERUSHALMI QIDDUSHIN 4:10

[A] **[IF HE SAID,] “I MARRIED A WOMAN OVERSEAS. LO, THIS IS SHE, AND THESE ARE HER CHILDREN,” HE BRINGS PROOF CONCERNING THE WOMAN, BUT HE DOES NOT HAVE TO BRING PROOF CONCERNING THE CHILDREN. “SHE DIED, AND THESE ARE HER CHILDREN,” HE HAS TO BRING PROOF CONCERNING THE WOMAN AND THE CHILDREN.**

- 1. I:1:** It was taught: A man and a woman who came from overseas – he says, “This is my wife,” and she says, “He is my husband – on their account they do not put to death [a man who has sexual relations with her] by reason of her being a married woman. [If] the presumption [concerning them is precisely what they have claimed], then they do put to death on their account [a man who has sexual relations with the wife] on grounds that she is a married woman.
- 2. I:2:** There we learn: A child [who is unclean] who is found at the side of dough, and dough is in his hand – R. Meir declares [the rest of the dough] clean, and sages declare unclean, for it is [the presumption that it is] the way of the child to slap dough [M. Toh. 3:8A-D]. And do they burn dough that was meant to be kept in a state of cleanness merely on the presumption that it was made unclean, [without firm proof]?
- 3. I:3:** It was taught [regarding M. 4:10D]: If he brought proof concerning the adults, he must [also] bring proof concerning the minors.

XLII. YERUSHALMI QIDDUSHIN 4:11

- [A] **A MAN SHOULD NOT REMAIN ALONE WITH TWO WOMEN, BUT A WOMAN MAY REMAIN ALONE WITH TWO MEN. R. SIMEON SAYS, “ALSO: ONE MAY STAY ALONE WITH TWO WOMEN, WHEN HIS WIFE IS WITH HIM. AND HE SLEEPS WITH THEM IN THE SAME INN, BECAUSE HIS WIFE KEEPS WATCH OVER HIM.”**
- I:1:** Said R. Abin, “In what circumstances [M. 4:1A]? In the case of honorable males. But in the case of unruly ones, she should not be the only woman, even among a hundred men.”
 - I:2:** It has been taught: A boy one day old... lo, he is deemed by his father and mother and all his relatives as a complete bridegroom [M. Nid. 5:3M]. It is not the end of that matter that it is a boy one day old, but even if his head and the greater part of his body came forth alive [he is not considered nonviable, and mourning is required for him], and then he is carried [to the grave] in his mother’s bosom.
- [B] **A MAN MAY STAY ALONE WITH HIS MOTHER OR WITH HIS DAUGHTER. AND HE SLEEPS WITH THEM WITH FLESH TOUCHING. BUT IF THEY [THE SON WHO IS WITH THE MOTHER, THE DAUGHTER WITH THE FATHER] GREW UP, THIS ONE SLEEPS IN HER GARMENT, AND THAT ONE SLEEPS IN HIS GARMENT.**
- II:1:** R. Yohanan in the name of R. Simeon b. Yohai: “If your brother, the son of your mother, or your daughter, or the wife of your bosom, or your friend who is as your own soul, entices you, saying, Let us go and serve other gods, which neither you nor your fathers have known’ (Deut. 13:6) – Your mother, in private. Your daughter, in private.”
 - II:2:** It was taught: R. Halapta b. Saul taught, “As to the daughter with the father, [he may do so] until the daughter is three years and one day old. As to the son with the mother – [she may do so] until he is nine years and one day old.”
 - II:3:** It was taught: Two who were sleeping in one bed – this one covers up with his own garment and recites the Shema, and that one covers up in his own garment and recites the Shema.
- [C] **AN UNMARRIED MAN MAY NOT LEARN [THE TRADE OF] SCRIBES. NOR MAY A WOMAN LEARN [THE TRADE OF] SCRIBES. R. ELIEZER SAYS, “ALSO: HE WHO HAS NO WIFE MAY NOT LEARN [THE TRADE OF] SCRIBES.”**

1. **III:1:** It was taught: R. Eleazar says, “Also he who has a wife and children but they are not with him in that place should not learn [the trade of] scribes.”
- [D] **R. JUDAH SAYS, “AN UNMARRIED MAN MAY NOT HERD CATTLE. AND TWO UNMARRIED MEN MAY NOT SLEEP IN THE SAME CLOAK.” AND SAGES PERMIT.**
1. **IV:1:** Well did R. Judah rule. What is the reason behind the position of rabbis [
- [E] **WHOEVER HAS BUSINESS WITH WOMEN SHOULD NOT BE ALONE WITH WOMEN. AND A MAN SHOULD NOT TEACH HIS SON A TRADE HE HAS TO PRACTICE AMONG WOMEN.**
1. **V:1:** It was taught: A man should not teach his son to be an ass driver, a camel driver, a barber, a potter, a wagon driver, a shepherd, or a storekeeper, because these trades are the trades of thieves.
- [F] **R. SIMEON B. ELEAZAR SAYS, “HAVE YOU EVER SEEN A WILD BEAST OR A BIRD THAT HAS A TRADE? YET THEY GET ALONG WITHOUT DIFFICULTY. AND WERE THEY NOT CREATED ONLY TO SERVE ME? AND I WAS CREATED TO SERVE MY MASTER. SO IS IT NOT LOGICAL THAT I SHOULD GET ALONG WITHOUT DIFFICULTY? BUT I HAVE DONE EVIL AND RUINED MY LIVELIHOOD.” ABBA GURION OF SAIDON SAYS IN THE NAME OF ABBA SAUL, “A MAN SHOULD NOT TEACH HIS SON TO BE AN ASS DRIVER, A CAMEL DRIVER, A BARBER, A SAILOR, [A POTTER,] A HERDSMAN, OR A SHOPKEEPER. FOR THEIR TRADE IS THE TRADE OF THIEVES.”**
1. **VI:1:** “Most mamzers are intelligent; most slaves are arrogant. Most sons of true nobility are humble. Lost sons look like the brothers of their mothers.”
- [G] **R. JUDAH SAYS IN HIS NAME, “MOST ASS DRIVERS ARE EVIL, MOST CAMEL DRIVERS ARE DECENT, MOST SAILORS ARE SAINTLY, THE BEST AMONG PHYSICIANS IS GOING TO GEHENNA, AND THE BEST OF BUTCHERS IS A PARTNER OF AMALEK.”**
1. **VII:1:** R. Simeon b. Yohai taught, “The best among sorcerers – split his head. The most suitable among women is a sorceress.”
- [H] **R. MEIR SAYS, “A MAN SHOULD ALWAYS TEACH HIS SON A CLEAN AND EASY TRADE. AND LET HIM PRAY AND ASK FOR MERCY FROM HIM TO WHOM BELONG RICHES AND POSSESSIONS. FOR THERE IS NO TRADE THAT DOES NOT INVOLVE POVERTY OR WEALTH. FOR POVERTY DOES NOT COME FROM ONE’S TRADE, NOR DOES WEALTH COME FROM ONE’S TRADE. BUT ALL IS IN ACCORD WITH A MAN’S MERIT.”]**

1. **VIII:1:** “What should he do? Let him try to teach his son a simple trade, and let him pray and ask for mercy from him to whom belongs riches and possessions. For there is no trade that does not involve poverty or wealth. But all is in accord with a man ‘s merit.”
2. **VIII:2:** [D] “Now these are created only to work for me, and I was made only to work for my Master. Now is there not an argument a fortiori: Now if these. who were created only to work for me. lo. they get along without difficulty, I, who have been created to work for my Master – is it not reasonable that I too should make a living without anguish! But I have done evil and ruined my livelihood.”

XLIII. YERUSHALMI QIDDUSHIN 4:12

[A] **R. NEHORAI SAYS, “I SHOULD LAY ASIDE EVERY TRADE IN THE WORLD AND TEACH MY SON ONLY TORAH. FOR A MAN EATS ITS FRUITS IN THIS WORLD, AND THE PRINCIPAL REMAINS FOR THE WORLD TO COME. BUT OTHER TRADES ARE NOT THAT WAY. WHEN A MAN GETS SICK OR OLD OR HAS PAINS AND CANNOT DO HIS JOB, LO, HE DIES OF STARVATION. BUT WITH TORAH IT IS NOT THAT WAY. BUT IT KEEPS HIM FROM ALL EVIL WHEN HE IS YOUNG, AND IT GIVES HIM A FUTURE AND A HOPE WHEN HE IS OLD. CONCERNING HIS YOUTH, WHAT HE DOES IT SAY? ‘THEY WHO WAIT UPON THE LORD SHALL RENEW THEIR STRENGTH ‘ (Is. 40:31). AND CONCERNING HIS OLD AGE, WHAT DOES IT SAY? ‘THEY SHALL STILL BRING FORTH FRUIT IN OLD AGE’ (Ps. 92:14). AND SO IT SAYS WITH REGARD TO THE PATRIARCH ABRAHAM, MAY HE REST IN PEACE, ‘AND ABRAHAM WAS OLD AND WELL ALONG IN YEARS, AND THE LORD BLESSED ABRAHAM IN ALL THINGS’ (GEN. 24:1). WE FIND THAT THE PATRIARCH ABRAHAM KEPT THE ENTIRE TORAH EVEN BEFORE IT WAS REVEALED, SINCE IT SAYS, ‘SINCE ABRAHAM OBEYED MY VOICE AND KEPT MY CHARGE, MY COMMANDMENTS, MY STATUTES, AND MY LAWS’” (GEN. 26:5).**

1. **I:1:** R. Nehorai says, “I should lay aside every trade in the world and teach my son only Torah. For they eat the fruit of labor in Torah in this world, but the principal remains for the world to come. For every sort of trade there is in the world serves a man only when he is young, when he yet has his strength. But when he falls ill or grows old or has pains, and does not work any more, in the end does he die of starvation. But Torah is not so. But it honors him and keeps a man from all evil when he is young and gives him a future and a hope when he is old. When he is young, what does it say? ‘They who wait upon the Lord shall renew their strength’ (Is. 40:31). And concerning his old

age, what does it say? ‘They shall still bring forth fruit in old age’ (Ps. 92:14) [T. Qid. 5:16].

- 2.** **I:2:** And so you find with regard to Abraham, our father, that he kept the Torah even before it had come into the world, as it is said, “because Abraham obeyed my voice and kept my charge, my commandments, my statutes, and my Torahs” (Gen. 26:5).
- 3.** **I:3:** R. Hezekiah, R. Kohen in the name of Rab: “It is forbidden to live in a city in which there are no physician, no bath, and no court administering floggings and imprisoning people.”

TRACTATE

BABA QAMMA

Baba Qamma, *Baba Mesia*, and *Baba Batra*, ten chapters each and thirty in all, form a single, unfolding, and coherent statement, half (*Baba Qamma*'s ten chapters and the first five chapters of *Baba Mesia*) devoted to repairing damages done to the political economy of society by chattel and persons, the other half (the second five chapters of *Baba Mesia* and *Baba Batra*'s ten chapters) to maintaining the perfection of equitable relationships. To interpret that statement, we have to stand back and see the three tractates as a whole; then the several dimensions of discourse will emerge. When we survey the entire construction of the three Babas, what we see is a simple set of eight units. They move from abnormal to normal events, identified in the outline below as I:a–d, followed by II:e–h (found in the translation and commentary as I.–IV. and V.–VIII.). The whole begins with damages done by chattels or by persons, thefts, and other sorts of conversion of the property of others, with special attention to how we restore to a state of normality the property and person of the injured party. The first section (I:a–d below) runs through the whole of *Baba Qamma* and half way through *Baba Mesia*, to *m. B.M.* 5:11. The second half of the three tractates then shifts to normal transactions, not those involving torts and damages: labor relationships, rentals and bailments, real estate transactions, inheritances and estates (II:e–h below). Then the whole produces two complementary constructions, first abnormal or illicit, the second normal or licit transactions. That is shown by the correspondence of unit I:d below, illicit commercial transactions (overcharge and usury) to unit II:g below, licit commercial transactions (the legal transfer of goods, unstipulated conditions) and how they are enforced. This plan furthermore explains why we treat bailments twice, at unit I:c below, damages to bailments, and then at unit II:e below, responsibilities of the bailee. The former fits into the larger structure of law on the restoration of the balance of the social order (here, the value possessed by parties to the transaction at the outset, equitably distributed at the end), the latter, that on the preservation of the same order. Here, in brief is the picture of the whole:

I. Illicit transactions; restoring order

Baba Qamma (B.Q.)

- a. Damage by chattels (*B.Q.* 1:1–6:6)
- b. Damages done by persons (*B.Q.* 7:1–10:10)

Baba Mesia (B.M.)

- c. The disposition of other peoples' possessions; bailments (*B.M.* 1:1–3:12)
- d. Illicit commercial transactions: overcharge, misrepresentation, usury (*B. M.* 4:1–5:11)

II. Licit transactions; preserving order

- e. Hiring workers. Rentals and bailments (*B.M.* 6:1–8:3)

Baba Mesia (B.M.)

Baba Batra (B.B.)

- f. Real estate (*B.M.* 8:4–10:6; *B.B.* 1:1–5:5)

Baba Batra (B.B.)

- g. Licit commercial transactions (*B.B.* 5:6–7:4)
- h. Inheritances and wills. Other commercial and legal documents (*B.B.* 8:1–10:8)

When in *Baba Qamma* speaking of damages, the halakhah, initially stated by the Mishnah in the terms of injury and misappropriation, takes as its principal concern the restoration of the fortune of victims of assault or robbery. In its account of damages inflicted by chattel and persons, the native category defined by tractate *Baba Qamma* incorporates facts supplied by Scripture but frames the topic in its own way. *Baba Qamma* takes as its task the exposition of how the victim of assault or robbery is to be returned to his prior condition, the thug or thief not gaining.

I. Damage by chattels

- A. The fundamental rules of assessing damages when the cause is one's property, animate or inanimate
- B. Damages done by chattels in the public domain
- C. Damages done by the ox
- D. Damages done by the pit
- E. Damages done by the crop-destroying beast
- F. Damages done by fire

II. Damages done by persons

- A. Penalties for the theft of an ox or a sheep
- B. Penalties for abuse of the Land
- C. Penalties for assault

D. Penalties for damages done by persons to property; restoring what is stolen

YERUSHALMI BABA QAMMA

CHAPTER ONE

1:1

[A] [2a] [There are] four generative causes of damages: (1) ox (Ex. 21:35-36), (2) pit (Ex. 21:33), (3) crop-destroying beast (Ex. 22:4), and (4) conflagration (Ex. 22:5).

[B] [The definitive characteristic] of the ox is not equivalent to that of the crop-destroying beast;

[C] nor is that of the crop-destroying beast equivalent to that of the ox;

[D] nor are this one and that one, which are animate, equivalent to fire, which is inanimate;

[E] nor are this one and that one, which usually [get up and] go and do damage, equivalent to a pit, which does not usually [get up and] go and do damage.

[F] What they have in common is that they customarily do damage and taking care of them is your responsibility.

[G] And when one [of them] has caused damage, the [owner] of that which causes the damage is liable to pay compensation for damage out of the best of his land (Ex. 22:4).

[I:1 A] [When the Mishnah pericope refers to] **an ox**, it means [damage done by the] horn, as it is written, “If a man’s ox gores his neighbor’s ox” (Ex. 21:28).

[B] *To this point [we speak of]* an ox not known to gore. How do we know that [the law applies to] an ox which was an attested danger?

[C] “But if the ox has been accustomed to gore in the past, [and its owner has been warned but has not kept it in, and it kills a man ...]” (Ex. 21:29).

[I:2 A] **The pit:** “When a man leaves a pit open, or when a man digs a pit and does not cover it, and an ox or an ass falls into it, the owner of the pit shall make it good” (Ex. 21:34).

- [I:3 A] **Crop-destroying beast:** “When a man causes a field or vineyard [to be grazed over, or lets his beast loose and it feeds in an other man’s field, he shall make restitution from the best in his own field ...]” (Ex. 22:5).
- [B] “Or lets his beast loose” (Ex. 22:5) – this [refers to damage done by] trampling [on the part of the beast],
- [C] as it is written, “... who let the feet of the ox and ass range free” (Is. 32:20).
- [D] And it is written, “I will remove its hedge, and it shall be devoured” (Is. 5:5) – this refers to [damage done by the ravages of the beast’s] tooth [in devouring the field].
- [E] “I will break down its wall, and it shall be trampled down” (Is. 5:5) – this refers to [damage done by the trampling on the part of the beast’s] foot.
- [I:4 A] **And conflagration.** as it is written, “When fire breaks out and catches in thorns [so that the stacked grain or the standing grain or the field is consumed, he that kindled the fire shall make full restitution]” (Ex. 22:6).
- [I:5 A] *We have learned in our Mishnah, There are four generative causes of damage, while R. Hiyya has taught:*
- [B] **There are thirteen generative causes [categories] of damage:**
- [C] **ox, pit, destroying beast, conflagration [M. B.Q. 1:1A],**
- [D] **unpaid bailee, borrower, paid bailee, renter,**
- [E] **injury, pain, medical costs, loss of income, indignity: If one has inflicted on another person all five (kinds of damage), he pays him for all five. [If he inflicted] only four kinds, he pays him for four. [If he inflicted] only three kinds, he pays him for three. [If he inflicted] only two kinds, he pays him for two. [If he inflicted] only one kind, he pays him for one [T. B.Q. 9:1].**
- [F] [The reason that Rabbi, at M. B.Q. 1:1, referred only to four generative causes of damages, rather than all thirteen] you may say, is that *here we learn the rule* covering damage caused by a man’s negligence [that is, damage not done by a person directly, but by his chattels, which he has not properly guarded].
- [G] [On the other hand,] *what R. Hiyya taught* [at the cited pericope of the Tosefta] covers all kinds of damage, whether they derive from

one's negligence in connection with his chattels, or whether they derive from one's own doing.

- [I:6 A] *R. Haggai raised the following question: "How do we learn that **there are four generative causes of damage**?"*
- [B] "If all [kinds of damage which pertain to an ox's doing] are stated with regard to an ox, we should learn that there are three, [not four, generative causes of damage, because ox and crop-destroying beast will constitute a single generative category] .
- [C] "And if all [kinds of damage which pertain to an ox] are not stated [as a single category], we should learn that there are five, [since damage done by the horn is treated in Scripture as an individual item and is not categorized as in the Mishnah]. [There should then be ox, pit, tooth, foot, and conflagration.]"
- [D] *But just as the matters were laid out in the verses of Scripture [specified at M. 1:1A], so they were laid out in the formulation of the Mishnah pericope before us.*
- [I:7 A] The secondary categories of horn are **butting. pushing. biting. lying down, and kicking [M. B. Q. 1:4B].**
- [B] *R. Isaac raised the question: "Pushing and butting constitute the principal ways in which an ox does damage [and are explicitly noted in Scripture], and do you deem them to be merely secondary categories?"*
- [C] But the list begins with what is principal and concludes with what is secondary.
- [I:8 A] The secondary categories of **pit** –
- [B] *The whole of the third chapter which we have learned in the tractate Damages [that is, the present tractate, dealing with torts] is devoted to that subject.*
- [C] *Rabbi taught, "If one left a burning coal in the public domain, and someone else came along with a flask in his hand, and his garments got burned, and his flask broke – [the one who caused this mess] is liable for the flask on the count of 'pit,' and for the clothing on the count of 'fire.'"*
- [I:9 A] The secondary categories of **foot** –
- [B] *It has been taught: **A beast which on its own entered private domain and did damage [M. B.Q. 2:2E]***

- [C] with its foreleg, hind-leg, or horn,
- [D] with the yoke which is on it, the saddlebag which is on it, the pack which is on its back, or with the wagon which it is pulling –
- [E] [the owner] pays the full value of the damage which has been done.
- [F] He who causes damage in neutral domain [neither public nor private] pays the full value of the damage which has been done [T. B.Q. 1:6].
- [I:10 A] The secondary categories of tooth –
- [B] *They proposed to maintain* [that, as in the following examples, when a beast ate up what it does not usually eat, it is deemed an instance of a secondary category, while when a beast ate up what it does usually eat, it is an instance of a primary category of tooth]. [The former is illustrated in the following examples:]
- [C] a cow eating barley, an ass eating horse-beans, a dog [2b] licking oil, a pig eating a piece of meat – *all would then constitute examples of secondary categories of tooth [since these are not the usual things which such animals eat].*
- [D] *Said R. Isaac, “In fact, all of them constitute principal in stances of tooth [and not secondary categories and derivatives].”*
- [E] *And lo, we have learned [the same view as Isaac, as follows]:*
- [F] Secondary categories of tooth: When a beast trampled on a skin filled with oil, and derived benefit from the oil’s anointing of its body.
- [G] *This is in line with that which you say there: The tooth eats, and the body derives benefit, so here, the body derives benefit [and therefore this is a case of a derivative of tooth].*
- [I:11 A] *R. Jeremiah raised the following question: “If a beast was going along and pulling up grass [to clear its way, but was not eating the grass,] what is the law? [Do we deem the damage to constitute a derivative of foot, since it takes place as the beast walks along, or is it a derivative of tooth because it is done by the beast’s eating? It then would constitute a case of deriving benefit without actually eating the produce.]”*
- [B] Said R. Yosé, “What [is the problem]? [We have a solution from the following fact:] If one left a coal in the public do main, [the liability covers] the area in which it spreads and does damage. [The area of

immediate, not secondary, damage is what the person bears as his liability. Consequently, the liability extends only to the point of initial harm. In the case of the beast likewise, we apply that principle and so deal with the character of the cause of the initial damage – and that is foot, not tooth!”

- [C] *How so?* [Why is this so obvious a solution? The very fact governing the liability for the coal in public domain itself is subject to doubt.]
- [D] Said R. Yosé b. R. Bun, “Interpret the case [of fire] to be similar to one who puts a knife down near the public domain. *Just as you say there*, the fire touches one side and the whole of the area is damaged, *so here* [in the case of the knife], a man touches one side and is injured by the whole of it. [That is to say, even though the knife is only on one side of the public domain, the one who laid it down is liable for all of the area subject to damage done by the knife by reason of the place at which it was laid down. This is parallel to the liability for fire for the entire area which the fire can reach. As to the original question, once more it is clear that we are guided by the criterion of the initial source, or range, of damage, and it is the foot, not the tooth.]”
- [E] [A similar case, solving the same problem, was said by] R. Yosé b. R. Bun in the name of R. Levi [deriving the answer to A from *pit*, rather than fire]: “A pit full of water, and a little lamb fell in, and the water went into its ears and the whole of the kid was ruined – here too the whole of it was ruined [and the liability in the case of the lamb is because of the water, the initial source of damage, and hence, on the account of the pit].”
- [F] *R. Jeremiah raised the question*: “If a beast was going along and was uprooting grass by its body and its horn, what is the law? [Under what rubric do we fit this kind of damage?]”
- [G] [If we employ as the operative criterion its use of the horn,] then this is a difference [from the usual way in which the horn does damage, and hence the liability cannot be for full damages, but only for half damages].
- [H] [If we employ as the operative criterion its use of the body,] then it is the usual way in which [the ox does damage, so we have nothing other than a secondary derivative of foot]. [This question is not answered.]

[I:12 A] [M. 1:1 appears to be verbose in repeating the point of B at C, and the question is why the Tannaite authority must refer both to the difference of ox from beast and beast from ox.] R. Bun bar Hiyya in the name of

R. Samuel bar R. Isaac, “If ‘ox’ had not been mentioned, might I have derived the rule governing the ox from that governing the pit?”

- [B] “Just as in the case of the pit, which does not usually get up and go and do damage, one is liable to pay compensation, an ox, which usually does go along and do damage, is it not an argument a fortiori that I should be liable to pay compensation for such damage?”
- [C] “[No, that is not possible, for,] to the contrary: Now if an owner of a pit [which causes damage] pays full compensation, so an ox should [always] pay full compensation. [But that is not true.]
- [D] “Or perhaps: If an ox pays half damages [under certain circumstances], so the owner of a pit should pay half damages. [That too is untrue.]
- [E] “Thus if the category of ox had not been mentioned, I might have derived the rule governing the ox from the rule governing the pit.
- [F] “Or if the pit had not been mentioned, I might have learned the law governing the pit from the law governing the ox. [And had I done so, I should have erred, as is now clear. Consequently, it was necessary to specify both items, as the Mishnah does.]”
- [G] *[The further question is raised: Why was it necessary to specify either one of them? That is,] Why did the Tannaite authority here teach these items?*
- [H] *It is because [he wanted to show that] there are many rules [and distinctions which pertain to them, so as to show the richness and complexity of the Torah].*
- [I] Likewise: The rules governing a seat are not the same as those governing the couch, and the rules governing the couch are not the same as those governing the seat. [This would be another example of the interest in indicating the complexity and richness of the law, even though there are not so many differences as between the ox and the pit. These items now will be shown to differ from one another.]
- [J] Now the statement “The laws governing the seat are not like the laws governing the couch” is valid, for if a seat to be subject to uncleanness must have the minimum space of a handbreadth, will a couch be rendered unclean only if it is of the size of four handbreadths? [Obviously not.]
- [K] Because a couch is rendered unclean only if it is of the minimal size of four handbreadths, will a seat be made unclean when it is

only a handbreadth? [Obviously not. That proposition about the seat cannot have derived from the one about the couch, and hence both of them had to be made explicit.]

[L] If the statement concerning the couch had not been made, I might [in error] have learned the rule governing the couch from the seat.

[M] Had the rule governing the seat not been made explicit, I might [in error] have learned the rule governing the seat from the rule governing the couch.

[N] *And why have the differences been taught here at all?*

[O] *It is to show that there is the possibility of teaching many complicated rules and distinctions.*

[P] Along these same lines: The pericope governing the oil lamps is not like the pericope governing the sending forth of the unclean. [Each begins, “Command ... and they did so....”]

[Q] And the pericope covering the sending forth of the unclean is not like the pericope covering the lamps.

[R] If the pericope covering the sending forth of the unclean had not been stated, might I have learned the pericope of the sending forth of the unclean from the pericope of the lamps? [Assuredly not.]

[S] And why have the two of them taught in this context?

[T] *[It is because there is the possibility of specifying] many [differences and] distinctions, once again showing the subtlety and richness of the law.*

[U] The common characteristic pertaining to them is that they are subject to a commandment applying both forthwith and for coming generations.

[V] So too [is to be specified] any passage which is subject to a commandment both for the present and for coming generations.

[I:13 A] Said R. La, “It was necessary to state each of them explicitly [referring to Ex. 21:28ff. dealing with numerous modes of damage, which might have been derived through logical process].

[B] “In the case of the ox [Ex. 21:36], it teaches that the owner [of the injured ox] must take charge of the corpse of the beast,

[C] “since it is said, ‘[If it is known that the ox has been accustomed to gore in the past, and its owner has not kept it in, he shall pay ox for ox,] and the dead beast shall be his’ (Ex. 21:36). [This applies in various cases of damages.]

[D] “But it is written with regard to the pit, ‘[When a man leaves a pit open ... the owner of the pit shall make it good; he shall give money to its owner,] and the dead beast shall be his’ “ (Ex. 21:34). [This is not necessary in line with C, with a proof of the same proposition. It excludes the following:]

[E] *R. Ishmael taught*, “Real estate is excluded, for it is not deemed movables. [If one dug a pit near the public domain to make the foundation for a wall, and the road was damaged thereby, there is no compensation for this damage to real estate, as distinct from movables.]”

[F] “Man is excluded, for he has no benefit from his death.

[G] “‘And the fire’ – this teaches concerning all of them that one is liable for what happens accidentally.”

[II:1 A] When one of them has caused damage, the owner of that which causes the damage is liable to pay compensation for the damage out of the best of his land [M. B.Q. 1:1G]:

[B] [This point is obvious, so there must be another purpose in the above statement.] Said R. Yosé, “*That is to say*, one who did injury to his fellow first, even though then he himself became injured, remains liable.

[C] “[This is in line with] that which is written, ‘He who kills a beast shall make it good’” (Lev. 24:21).

[D] Said R. Hanina, “‘He who kills a beast shall make it good’ – namely, the difference [between the value of the carcass of the beast and the damage which the owner of the beast has sustained] will be paid [by the owner of the beast which has done the damage].”

[E] Bar Pedaiah said, “‘If it is torn by beasts, let him bring it as evidence; he shall not make restitution for what has been torn’ (Ex. 22:13). [That is to say, the torn beast is given to the injured party, who sells it, and the difference between what he receives and the original value of his beast is what the owner of the beast which has done the damage has to pay.]”

- [F] *Said R. Nisa, “There was need for that which R. Hanina stated, and need also for that which Bar Pedaiah has stated.*
- [G] *“If the matter of R. Hanina had been stated, but the teaching of Bar Pedaiah had not been stated, I should then have concluded that on the count of having, through one’s negligence, made the injury possible, the owner pays nothing. Solely for the damage itself does he pay the difference [between the specified compensation and the value of the beast’s carcass, as explained]. It was, therefore, necessary to teach in addition that which Bar Pedaiah has said.*
- [H] *“If the matter of Bar Pedaiah was stated, and that which R. Hanina has said had not been reported, I might have reached the conclusion that on account of having, through one’s negligence, made the injury possible, one pays the difference between the value of the carcass and the assessed damages, and on the count of the damages themselves, one pays total compensation.*
- [I] *“It follows that it was necessary for the statement of R. Hanina to be given, and it also was necessary for the statement of Bar Pedaiah to be reported.”*

- [II:2 A]** Rab Judah said in the name of Samuel, “They do not make an estimate of the value of an object in the case either of theft or of robbery or in the case of the loss of a borrowed object [but in all cases, restitution covers the full value of the damaged article in its original condition]. [The owner need not accept the article or carcass and sell it, receiving the difference between the proceeds and the value of the lost object or beast.]
- [B] “But in the case of damages [under discussion here, such an estimate is made].
- [C] “But [Judah continues] I say also in the case of the loss of a borrowed object do they make an estimate of the value of the loss [and the borrower does not have to pay the original cost of the object when it was new].
- [D] “And Abba agrees with me.”
- [E] *Now who is this Abba? It is Rab, or is it Abba bar Abbuha?*
- [F] Said R. Hisda, “What is central [2c] is treated as peripheral! [Obviously it is Rab, and the mode of referring to him as Abba is insulting.]”

[G] Rab Judah in the name of Samuel: “They do not make an estimate of the value of the loss in the case either of theft or of robbery or in the case of a borrowed object, but [they do so only] for damages.

[H] “And losses incurred in the case of bailees are deemed to be in the same status as those incurred in damages.”

[I] *Rab Judah sent and asked R. Eleazar*, “As to the case of accident, theft, and robbery, what is the law about estimating the value [and not paying the cost of the object when it was new]?”

[J] He said to him, “They do not make an estimate in the case [only] of theft or robbery.”

[K] And how do we know that they do not make an estimate in such cases?

[L] Said Rabbah bar Mamel, “ ‘If the stolen beast is found alive in his possession, whether it is an ox or an ass or a sheep, he shall pay double’ (Ex. 22:4) and not in the case of a *dead* beast. [In this case the owner does not have to accept the carcass and then take the difference between its value and the amount of the damage he has suffered].”

[M] *Up to this point* we have shown that that applies in the case of theft.

[N] How do we know that the same is so in the case of robber?

[O] Said R. Abin, “ ‘He shall restore what he took by robbery’ (Lev. 6:4) [that is, as the object was when it was stolen, and not through an estimate of the value of the carcass subtracted from the estimate of the total damage he has suffered]. [The injured party need not go through such a procedure in the case of theft or robbery.]”

1:2

[A] In the case of anything of which I am liable to take care, I am deemed to render possible whatever damage it may do.

[B] [If] I am deemed to have rendered possible part of the damage it may do,

[C] **I am liable for compensation as if [I have] made possible all of the damage it may do.**

[D] **(1) Property which is not subject to the law of sacrilege, (2) property belonging to members of the covenant [Israelites], (3) property that is held in ownership,**

[E] **and that is located in any place other than in the domain which is in the ownership of the one who has caused the damage,**

[F] **or in the domain which is shared by the one who suffers injury and the one who causes injury –**

[G] **when one has caused damage [under any of the aforelisted circumstances] ,**

[H] **[the owner of] that one which has caused the damage is liable to pay compensation for damage out of the best of his land.**

[I:1 A] *R. Hiyya taught: This [M. 1:2A] refers to an ox or a pit [T. B.Q. 1:1B].*

[B] *And as to fire, has nothing been taught?*

[C] Said R. Jeremiah, “Fire [does not count] as a damage which a person has [merely] rendered possible [since it is not regarded as his property in the way in which an ox or a pit are the man’s property]. [It is rather deemed a direct result of his action, e.g., as his shooting an arrow, and not an indirect result, e.g., of his negligence, as at M. 1:2A.]”

[D] Said R. Yosé, “Now if it is the case that fire [does not count] as a damage a person has [merely] rendered possible, then must the person responsible for it [in the direct sense just now explained, as in shooting an arrow] receive warning [not to injure his fellow through fire] and, [if he rejects the advice and does cause injury], will the miscreant then be flogged in accord with this position?” [The question is not answered.]

[E] *What is the upshot of the matter?*

[F] Fire is deemed not among damages a person has [merely] rendered possible [for the reason stated at C], and one is liable on its account [for causing direct injury] on the counts of injury, pain, compensation for medical care, lost time, and humiliation [as would anyone who has directly injured his fellow by his own deed].

- [II:1 A] **[If] I am deemed to have rendered possible part of the damage it may do, I am liable for compensation as if [I have] made possible all of the damage it may do –**
- [B] **This refers to a pit [T. B.Q. 1:1D].**
- [C] For it has been taught: **If one has dug nine handbreadths, but someone else came along and dug the last handbreadth, [the latter] is liable [cf. M. B.Q. 5:5H-I].**
- [D] **Rabbi says, “[We impose liability] upon the first so far as damages are concerned, and on the last one so far as the death [caused by the hole] is concerned” [T. B.Q. 6:8].**
- [E] *Said R. Isaac, “So does the Tannaitic teaching read: ‘We impose liability upon the last so far as death caused by the hole is concerned, but upon the two of them so far as damages are concerned.’”*
- [F] **If one has dug a hole ten handbreadths deep, and someone else came along and plastered and cemented it [T. B.Q. 6:9A],**
- [G] **both of them are liable.**
- [H] Now because this one has plastered and cemented it, should he be liable?
- [I] It is a case in which he said to him, “Put plaster on this house and then acquire it. [Accordingly, the mortarer has acquired the house and hence is liable for damages done in its regard.]
- [J] *This is in line with that which R. Ammi said in the name of R. Eleazar, “Acts of guardianship which effect acquisition are tantamount to acts of guardianship which impose responsibility for damage [on the acquired property].”*
- [K] Said R. Simon, “[You need not assign ownership to the mortarer]. We deal with a case in which the first party dug the hole in loose soil [which could not have killed anyone falling into it, but the plaster or mortar hardened the soil and so the fall became lethal].”
- [L] *For it has been taught: [If] one person had dug ten hand breadths, another dug twenty, another dug a hundred, and another dug two hundred, all of them are liable [T. B.Q. 6:9D].*
- [M] **And what is the measure of a pit so as to cause injury?**
- [N] **Any depth at all.**

[O] **And to cause death?**

[P] **Ten handbreadths [M. B.Q. 5:5H].**

[Q] **Sumkhos says, “As to its depth, three handbreadths, and as to its width and breadth, four.”**

[R] **R. Eleazar Haqqappar says, “[the depth to cause death is] the height of the one who falls into the pit” [T. B.Q. 6:12].**

[S] What is the measure of the height of the one who falls in?

[T] It may be even a chicken, even a camel.

[III:1 A] Property which is not subject to the law of Sacrilege [is liable if damages is caused thereby (M. B.Q. 1:2D)]:

[B] [At issue is the status of Holy Things which are not subject to the law of Sacrilege, and what requires explanation is why damage caused by chattels of that character is subject to compensation. We now ask whether this sort of property is not carried in the wake of property which is subject to the law of Sacrilege and so subject to the same conditions:] *It has been taught:* This kind of property follows along with property which is subject to sacrilege. [Why then does the Mishnah hold the stated position?]

[C] R. Judah in the name of Samuel: “[The law before us] follows the viewpoint of R. Yosé the Galilean.”

[D] *For it has been taught,* “[The Lord said to Moses, ‘If any one sins and commits an act of Sacrilege against the Lord [by deceiving his neighbor in a matter of deposit ...]’ “ (Lev. 6:1).

[E] R. Yosé says, “[The construction before us] serves to encompass Lesser Holy Things [and to treat them as the property of the owner]. [Consequently, the rule under discussion treats Lesser Holy Things outside of the range of the law concerning all Holy Things and deems the owner responsible for what these types of chattel do.]”

[F] Ben Azzai says, “It serves to encompass [even] peace offerings.”

[G] Abba Yosé ben Dosetai says, “Ben Azzai’s intent was only to speak of a firstling alone [to deem the firstling subject to the law of Sacrilege].”

[H] *What is the difference between these views of Ben Azzai’s position?*

[I] *He who says* [the laws of Sacrilege apply to] peace offerings will all the more so [deem] the tithe [of firstlings] to be subject to the laws of Sacrilege.

[J] *But he who says* [the laws of Sacrilege apply to] the tithe [of the firstlings] – but as to peace offerings, [the laws of Sacrilege] do not [apply].

[K]] R. Simeon says, “All the same are both Most Holy Things and Lesser Holy Things.

[L] “In the case of Holy Things which one is liable to make up should they be lost, I apply the statement, ‘deceiving his neighbor.’

[M] “In the case of Holy Things which one is not liable to make up should they be lost, I apply the statement, against the Lord, and deceiving his neighbor [cf. M. Shebu. 6:5].

[N] R. Huna said, “All the same are both valid and invalid Holy Things: In the case of Holy Things which one is liable to make up if they should be lost, even if they belong to the Lord, I apply the statement ‘deceiving his neighbor’; and to those which one is not liable to make up should they be lost, I apply the statement, ‘against the Lord and he has deceived,’ and not, ‘... against his neighbor, and he has deceived.’”

[IV:1 A] Property belonging to members of the covenant [Israelites] –

[B] This excludes an Israelite ox that gored an idolater’s ox.

[C] **Property belonging:**

[D] and not ownerless property.

[E] **And that is located in any place other than in the domain which is in the ownership of the one whose beast has caused the damage –**

[F] in which case the one whose beast has caused the damage is exempt from paying compensation.

[G] [The laws do apply] in domain which is shared by the one who suffers injury and the one who causes injury [that is, to clarify F] .

[H] *Said R. Jeremiah, “If the Tannaite authority [of this Mishnah pericope] had taught, **And that is located in any place other than in the domain which is in the ownership of the one whose beast has caused the damage,** and then said no more, I might have reached [the correct conclusion that] all the same is the rule applying to a courtyard in which both partners are partners, and the one applying to an area*

belonging to neither one of them – in both instances, the owner of the ox is liable.

- [I] **“Why then did the Tannaite authority find it necessary to teach, **And that is located in any place other than in the domain which is in the ownership of the one whose beast has caused the damage?****”
- [J] “It is to encompass within the law the unpaid bailee, the borrower, the paid bailee, and the one who hires the beast. [If the ox of one of these is injured by an ox which he has taken over as a bailment, the owner of the ox which has done the injury is exempt from having to pay compensation. Liability for damages has been taken over by the bailee.]”
- [K] *Said R. Yosé, “Since the Tannaite authority has taught, ‘**And that is located in any place other than in the domain which is in the ownership of the one whose beast has caused the damage,***
- [L] “do we not know that they do apply in domain which is shared by the one who suffers injury and the one who causes injury [= G]? [Obviously, as above, the laws will apply in such a kind of domain.]
- [M] **“Why then did the Tannaite authority teach ‘[that the laws apply **And that is located in any place other than in the domain which is in the ownership of the one whose beast has caused the damage****
- [N] “But it is to exclude [from domain in which compensation must be paid] a courtyard which belongs to neither one of them [contrary to H].”
- [O] [*Indeed, along these same lines there is a dispute among sayings bearing Tannaitic authority:*] *There are Tannaim who teach, A courtyard belonging to both parties is an area in which liability is incurred [for damages done by one partner’s ox], and a courtyard belonging to neither one of them is an area in which one is exempt.*
- [P] *And there are Tannaim who teach:* Even a courtyard which does not belong to the two of them is an area in which liability is incurred [for damages done by one’s ox].
- [Q] *The one who has said that one is liable for damage done in a courtyard belonging to partners while damage done in a courtyard which does not belong to the two of them is not subject to compensation*
- [R] [will cite the following verse of Scripture,] as it is written, “... the best of *his* field” (Ex. 22:5) [that is, the field of the injured party].

[One has to compensate by providing land of the quality of the best property of the injured party. This may well apply to land held in common. Hence there is compensation to be paid for damage done by the ox owned by one partner to the ox owned by another partner in the same domain.]

[S] *The one who said*, One is liable for damage done even in a courtyard which does not belong to either one of them,

[T] [will cite the following verse of Scripture,] as it is written, “ ‘When a man causes a field ... to be grazed over’ ” (Ex. 22:5), [that is,] a field whatever its ownership [will be an area in which one is liable to pay damages, and that will then include damage done in ground owned neither by the one who causes, nor the one who suffers, injury].

[U] R. Yosa in the name of R. Yohanan, “[For damage done] in a courtyard owned by partners one is liable.”

[V] *Said R. Yosa*, “*I shall introduce that which has been taught by R. Hoshaiiah [to show the character of the law on the present subject.]*”

[W] [Given as in the Tosefta:] **Four general principles did R. Simeon b. Eleazar state in connection with damages:**

[X] **“In any situation in which the injured party has domain and the party responsible for the injury does not have domain, [the party responsible for the injury] is liable to pay the full damages [for injury he has caused] [cf. M. B.Q. 1:2E].**

[Y] **“[If] the party responsible for the injury [has domain] and the injured party does not, [the former] is exempt from all [obligation for compensation for damage] [= M. B.Q. 1:2E].**

[Z] **“[If] this one and that one [both enjoy rights of domain] [M. B.Q. 1:2F],**

[AA] **“for instance, a courtyard belonging to partners or a valley [=M. B.Q. 1:1P],**

[BB] **“as to damage done by tooth or leg, [the party responsible for the injury] is exempt [= M. B.Q. 2:2F, 2:5H].**

[CC] **“As to damage done by goring, pushing, biting, lying down or kicking [M. B.Q. 1:4B = 2:5B],**

[DD] “a beast which is an attested danger [imposes upon the owner the obligation to] pay full damages, and one which had been deemed harmless [imposes upon the owner the obligation to] pay half damages.

[EE] “In any situation in which neither this party nor that party has domain,

[FF] “for example, a courtyard which belongs to neither party,

[GG] “for damage done by tooth or leg, [the owner] pays full damages,

[HH] “and as to damage done by goring, pushing, biting, lying down, or kicking,

[II] “a beast which is an attested danger [imposes upon the owner the obligation to] pay full damages, and one which had been deemed harmless [imposes upon the owner the obligation to] pay half damages” [T. B.Q. 1:9].

1:3

[A] Assessment [of the compensation for an injury to be paid] is in terms of ready cash [but may be paid in kind – that is,] in what is worth money.

[B] [Assessment of the compensation for an injury to be paid is] before a court.

[C] [Assessment of the compensation for an injury to be paid is] on the basis of evidence given by witnesses who are freemen and members of the covenant.

[D] Women fall into the category of [parties to suits concerning] damages.

[E] And the one who suffers damages and the one who causes damages [may share] in the compensation.

[I:1 A] They do not rule, Let the cow be handed over for the cloak [it has damaged], and the cloak for the cow.

[B] But they estimate their value [Tosefta: in ready cash] in court.

[II:1 A] In goods of value –

[B] this teaches that the court makes an evaluation only of immovable property.

- [C] [If] there is movable property which has been seized by the one who has been injured, they make an estimate in settlement of his claim from that property.
- [III:1 A] Before a court –
- [B] this teaches that one is not liable [to pay compensation] before he gets his hearing in court.
- [IV:1 A] [Assessment of the compensation for an injury to be paid is] on the basis of evidence given by witnesses who are freemen and members of the covenant –
- [B] this teaches that in any matter which is of the character of a fine [in that compensation for exact damages is not paid], one does not pay compensation on the basis of his own testimony.
- [IV:2 A] [Assessment of the compensation for an injury to be paid is] on the basis of evidence given by witnesses who are freemen and members of the covenant.
- [B] excluding gentiles, slaves, and those who are ineligible to give testimony [in an Israelite court] [T. B.Q. 1:2].
- [V:1 A] Women fall into the category of [parties to suits concerning] damages.
- [B] even though Scripture spoke only in regard to men, in the end one includes women [in the present matter] [T. B.Q. 1:3].
- [C] *R. Ishmael taught*, “‘These are the laws which you will lay before them’ (Ex. 21:1) [meaning, before both women and men].”
- [VI:1 A] And the one who suffers damage and the one who causes damage [may share] in the compensation.
- [B] They provide compensation for half of the loss incurred.
- [C] On this basis [we rule that] they divide up the value of the loss .
- [D] [And] on this basis [we rule that] one party loses half of the value of the loss [which he has caused], and the other party also loses half of the value of the damage [which he has suffered].

1:4

- [A] [There are] five [deemed] harmless, and five [deemed] attested dangers.

[B] A domesticated beast is not regarded as an attested danger in regard to [1] butting, (2) pushing, (3) biting, (4) lying down, or (5) kicking.

[C] (1) A tooth is deemed an attested danger in regard to eating what is suitable for [eating].

[D] (2) The leg is deemed an attested danger in regard to breaking something as it walks along.

[E] (3) And an ox which is an attested danger [so far as goring is concerned];

[F] (4) and an ox which causes damage in the domain of the one who is injured;

[G] and (5) man.

[I:1 A] Said R. Yohanan, “[Since the rule deems an ox who causes damage in the domain of the injured party to fall into the status of an attested danger,] it accords with the view of R. Tarfon [at M. 2:7].

[B] “For [if the injury is done] in the domain of the injured party, R. Tarfon says, ‘One pays the whole value of the damage caused thereby.’

[C] “And sages say, ‘Half of the value of the damage.’”

1:5

[A] (1) A wolf, (2) lion, (3) bear, (4) leopard, (5) panther, and (6) a serpent – lo, these are attested dangers.

[B] R. Eliezer says, “When they are trained, they are not attested dangers.

[C] “But the serpent is always an attested danger.”

[D] What is the difference between what is deemed harmless and an attested danger?

[E] But if that which is deemed harmless [causes damage], [the owner] pays half of the value of the damage which has been caused,

[F] [with liability limited to the value of the] carcass [of the beast which has caused the damage].

[G] But [if that which is] an attested danger [causes damage], [the owner] pays the whole of the value of the damage which has been caused from the best property [he may own, and his liability is by no means limited to the value of the animal which has done the damage].

[I:1 A] *It was taught, R. Meir says, “Also the striped hyena”* [T. B.Q. 1:4B].

[B] Said R. Yosé b. R. Abin, “R. Meir made this statement only of a male striped hyena, for there are times at which he is as strong as a lion.”

YERUSHALMI BABA QAMMA

CHAPTER TWO

2:1

- [A] How is the leg deemed an attested danger in regard to breaking something as it walks along [M. 1:4D]?
- [B] A domesticated beast is an attested danger to go along in the normal way and to break [something].
- [C] [But if] it was kicking,
- [D] or if pebbles were scattered from under its feet and it [thereby] broke utensils –
- [E] [the owner] pays half of the value of the damages [caused by his ox].
- [F] [If] it stepped on a utensil and broke it,
- [G] and [the utensil] fell on another utensil and broke it,
- [H] for the first [the owner] pays the full value of the damage.
- [I] But for the second he pays half of the value of the damage.

- [I:1 A] And is it not usual [for the ox] to scatter pebbles [as it walks along]? [Why then should there be only half damages?]
- [B] Said R. Ammi, “[The law applies to a case in which] a utensil was in someone’s hands [in which case such an accident would be unusual]. [It takes place in the domain of the injured party – his hands – and damages are to be paid.]
- [C] “But if the pot was lying on the road, since this was located where it was with all due right, and that one walked there with all due right, [the owner of the ox] is exempt [from having to pay any compensation at all].”
- [D] Rabban bar Mamal said, “[We deal with a case] in which there are two paths, one with grass and pebbles, and one without grass and pebbles. The ox ignored the one without grass and pebbles and went on the one in which there is grass and pebbles. [This is an unusual variation in what was to be expected.]

- [E] “[In such a case,] even if [the pot] is located in the public domain, [the owner of the ox is] exempt [from having to pay compensation for the pot].” [Even though the ox has changed the normal course and gone into the path with the grass and pebbles, the owner is exempt, just as he is at C. This then illustrates the extent to which the owner of the ox has the right to drive it in a public way” (cf. Pené Moshe for another approach to D-E)].
- [F] [Up to now we have deemed damage done by pebbles kicked by an ox to be in the category of secondary, not primary, sorts of damage. This then is not compensated as is damage caused, e.g., by the ox itself, through its “leg” – that is, a primary source of damage. On that account we distinguished between payment of half damages, and paying no damages at all, in private and public domain, respectively. We have not imposed full damages, as we do at M. 2:1A. But that view of the effects of the beast’s walking along is not universally shared, for, as we shall now see, one authority deems what is done as an indirect effect, namely, kicking pebbles, with the pebbles doing the damage, to be inconsequential so far as the proposed distinction is concerned.] R. Eleazar says, “In the case of any matter which is effected outside of the body of the ox itself [as in the case of the damage done by pebbles], sages have made no distinction whatever between a private and public domain so far as payment of a half ransom [that is, half damages] is concerned. [The owner of the beast pays half damages wherever the damages take place. If the ox should kill someone, the owner pays a half ransom as well.]”
- [G] [Once the language of ransom and half ransom is used, we raise the question of criminal penalties, and so we must ask,] What is the law in regard to damage done outside of the beast’s body, then, as to the beast’s being given proper warning? [That is, do we invoke the procedure of giving testimony three times that the beast is apt to do damage in this way, as we do in general in declaring a beast to be an attested danger? The base of comparison is that, in line with Eleazar’s view, the owner pays half damages, so the beast is deemed harmless until it is declared an attested danger. So we invoke the procedures for so declaring.]
- [H] R. Zeira said, “It does get [the proper warning, in the established procedure of three acts of testimony that it is wont to kick pebbles].”
- [I] R. Ila said, “It does not receive [the benefit of that procedure].”

[J] *Said R. Zeira, “The following Tannaitic tradition is at variance with his position:*

[K] **“A beast which was rubbing itself [against a wall. and the wall] fell on a man.**

[L] **“[if] it had the intention to hit another beast. I: but /it hit a man.**

[M] **“[to gore] a gentile. But an Israelite.**

[N] **“an untimely birth but gored a viable infant [M. B. Q. 4:6A]. [the owner] is liable to the ransom payment, [but the beast] is exempt from the death penalty [T. B.Q. 4:6G-J].**

[O] “Now does a ransom apply at all to a beast deemed harmless? [Obviously not. Hence the pericope presupposes that we deal with a beast which is an attested danger, and such a beast will have been warned through the normal procedure. So, as Zeira has maintained, we do invoke the process of three acts of testimony as to the nature of the beast.]”

[P] [*We shall now show that the cited passage need not differ from the basic view of Ila.*] *And even in the view of R. Ila, the passage is not at variance.*

[Q] And why should the beast be deemed exempt from the death penalty? [Because there had been no process of warning. So Ila is at home with this pericope.]

[R] It had indeed been warned as to pushing down walls, but when it pushed down this wall, no one was there [to prevent it]. [That is why there is no death penalty, not because there had been no process of warning and declaring the beast to be an attested danger.]

[I:2 A] Said R. Eleazar, “If a beast dropped dung [which did damage in the domain of the injured party], the owner pays full damages. [This must be deemed a usual way for the beast to do damages, not a variation from ordinary practice which would invoke the clause for half damages.]

[B] “For if you say otherwise, then will you want the owner to walk along behind his beast carrying a shovel? [If such damage takes place in public domain, the owner is exempt. If it takes place in the domain of the injured party, the owner of the ox pays full damages, as he does when the damage is caused in the usual way. This then indicates that

damage done by that which is outside of the beast's body, like pebbles, is subject to compensation.]”

[C] *That rule which you have stated applies in a case in which it is not normal for the beast to do so [in unusual quantities], but if it was the beast's normal way to do so, the owner indeed must carry along a shovel.*

[I:3 A] *R. Hoshaiah the Elder and R. Yudan the Patriarch were in session. R. Ba bar Mamal came in and asked, “When it switches its tail, like those asses [which flick off flies that way] – what is the law? [Is this deemed a secondary effect in the primary category of horn, or is this simply not normal behavior and if it happens in the public domain and causes damage, the owner would be exempt?]”*

[B] *They did not give any answer at all.*

[C] *Afterward R. Hoshaiah the Elder said to him, “If we do not rule [that it is a normal form of behavior for the beast], we shall have to require the owner to walk along holding the tail of the beast.”*

[D] *That rule which you state applies to a case in which it is not usual for the beast to switch about with its tail, but if it is the normal behavior of the beast to switch about with its tail, he indeed does have to walk along holding its tail.*

[E] *And what was obvious to them all was that full damages need not be paid [since this is normal for the beast, and in the public domain damage done in this way need not be compensated]. [If it is a variation from the normal behavior of the beast, half damages will be paid, and the damage indeed is deemed to fall into the category of horn.]*

[F] *What R. Ba bar Mamal] was asking concerned half damages. [If this was a variation in the normal behavior of the beast, do half damages have to be paid, or even in such a case, in which the beast switches about more than usual, do we say that it is still usual behavior, and, accordingly, damage caused in the public domain does not have to be compensated? This question then is not answered.]*

[II:1 A] **If it stepped on a utensil and broke it, [and the utensil fell on another utensil and broke it, for the first the owner pays the full value of the damage. But for the second he pays half of the value of the damage [T. B.Q. 2:1F-D].**

- [B] [*Recognizing the distinction between foot and pebbles, as is expressed in the cited law,*] *R. Jeremiah raised the question:* “If [in the domain of the injured party] it stepped on a skin full of oil, for the skin he pays full damages, and for the oil, he pays half damages.
- [C] “If there was a tray lying there, with a flask on it, and the beast stepped on the tray, in consequence of which the glass flask was broken, for the tray the owner pays full damages, and for the glass he pays half damages.
- [D] “If [again, to state an obvious fact], two trays, one on top of the other, and the beast stepped on them – for the top one he pays full damages, and for the bottom one he pays half damages.
- [E] “[The question troubling me is this one:] If there was a tray lying in the public domain, and the ox stepped on it, and it shattered and the sherds went and did damage in a private domain,
- [F] “in accord with which [domain] do you make your decision? Is it in accord with the place at which the ox stepped on the tray, [that is, in the public domain, in which case there is no compensation,] or is it in accord with the location of that which was broken?”
- [G] “*If you say that* the operative criterion is the location of the object which was stepped on, the owner is exempt.
- [H] “if you invoke the criterion of the place in which the damage took place, the owner is liable.” [This question is not answered.]

2:2

- [A] **Fowl are an attested danger to go along in the normal way and to break [something].**
- [B] **[If] a fowl had its feet entangled,**
- [C] **or if it was scratching and thereby broke utensils,**
- [D] **[the owner] pays only half of the value of the damage [his fowl has caused].**
- [I:1 A] R. Huna said, “[The rule of M. 2:2B, D] applies in a case in which the feet became entangled on their own. [In that case, it was an unforeseeable accident, and the owner pays half damages.]
- [B] “But if the owner himself had entangled the claws, he must pay full compensation [for any damage done thereby].”
- [I:2 A] *It was taught:* **Fowl which were scratching at dough or at pieces of fruit,**

- [B] or which pecked –
- [C] [the owner] pays half damages.
- [D] [If] they scratched dirt onto dough or onto pieces of fruit, [the owner] pays full damages.
- [E] [If] they were pecking at the rope of a well-bucket, and [in consequence it was weakened and] fell and broke, [the owner] pays full damages.
- [F] [If] it fell and broke and furthermore broke another utensil [alongside],
- [G] for the first, [the owner] pays full damages, and for the second, [3a] [he pays half damages] [cf. M. 2:3F] [T. B.Q. 2:1A- G].
- [H] [As to E, if the chickens pecked at the rope of a bucket and it fell and broke, the owner pays full damages, why should he not pay only half damages?] For is [the owner] not in the position of one who digs a well in one place, and [the well] causes damage in some other? [The bucket broke on its own, not through any direct deed of the chicken. As only indirect cause of the damage, the chicken should not impose on its owner liability for more than half damages.]
- [I] Said R. Yosé b. R. Bun, “Since it is usual for such a bucket to fall only into that particular well, it is as if it is its well. [The bucket was suspended and ready to fall as soon as its rope should break. The operative criterion is the situation pre-ailing at the outset, and that criterion is readily invoked here.]”
- [I:3 A] *It has been taught: Fowl which went down into a vegetable patch and broke young shoots and chopped off leaves [of the plants][the owner] pays full damages.*
- [B] Sumkhos says, “For the chopping off [of the leaves], he pays full damages, but for the breakage he pays only half damages.”
- [C] A fowl which was flying from one place to another, and did damage [en route][if the damage was done] by its body, [the owner] pays full damages.
- [D] [If it did damage] by the wind stirred up by its wings, [the owner] pays half damages.
- [E] Sumkhos says, “Full damages” [T. B.Q. 2:1H-L].
- [F] If it pecked at one’s utensils and broke them, [the owner] pays full damages.

2:3

[A] **How is the tooth deemed an attested danger in regard to eating what is suitable for [eating] [M. 1:4C]?**

[B] **An ox is an attested danger to eat fruit and vegetables.**

[C] **[If, however,] it ate [a piece of] clothing or utensils, [the owner] pays half of the value of the damage it has caused.**

[D] **Under what circumstances?**

[E] **[When this takes place] in the domain of the injured party.**

[F] **But [if it takes place] in the public domain, he is exempt.**

[G] **But if it [the ox] derived benefit [from damage done in public domain], [the owner] pays for the value of what [his ox] has enjoyed.**

[I:1 A] [To what does the statement, M. 2:3D-G, “Under what circumstances” apply?] R. Simeon b. Laqish said, “It applies to the first clause. [If, in the public domain, a beast ate what it usually eats, the owner pays nothing. But if, even in the public domain, it ate clothing or utensils, the owner is liable because people commonly leave things in the public domain, and the owner of the beast has the responsibility to watch out for such unusual events.]”

[B] R. Yohanan said, “It applies to the entire pericope [including the consumption of unusual items, such as clothing or utensils]. If someone left clothing or utensils in the public domain, the owner of the beast is exempt, because it is not common to leave such things in public domain.]”

[C] *The opinions imputed to R. Simeon b. Laqish are in conflict.*

[D] *There R. Simeon b. Laqish has said in the name of R. Hoshaiiah, “[If] an ox stood still and ate produce which was stacked in piles, [the owner] is liable.” [Hence the owner of the beast is liable if the beast eats what it usually eats in the public domain. The Mishnah makes no distinction between the beast’s doing so while walking along and while standing still.]*

[E] *And here he has said that [the owner is exempt if the beast eats produce in the public domain, on the grounds that that is common].*

[F] *They said, “There he spoke in the name of R. Hoshaiiah, while here he speaks in his own name.”*

[I:2 A] *A statement that R. Simeon b. Laqish said: “[If there were two beasts in the public domain, one walking, one crouched, and] the one which*

was walking along butted the one which was crouching, [the owner] is exempt [because the one which was crouching bore responsibility for changing the normal procedure, and it is not normal for a beast to crouch in public domain].”

- [B] *A statement which R. Yohanan said:* “[If] the one which was walking along butted the one which was crouching, [the owner] is liable.” [The owner of the crouching beast still may ask, “Who gave your beast the right to butt mine?”]
- [C] [And, Yohanan further will maintain,] it is not the end of the matter that if the one which was walking along butts the one which was crouching, or the one which was crouching butts the one which was walking along, [the owner of the aggressor is liable].
- [D] [But even if the two of them were walking along], and one of those which was walking along butted the other which was walking along, [the owner is liable on the same grounds, namely, while both beasts had every right to be where they were, there is no right for one beast to butt the other].
- [E] [Dealing with these same matters in behalf of Simeon b. Laqish,] R. Ammi said, “R. Simeon b. Laqish’s position applies only to a case in which a beast which was walking along butted a beast which was crouching, in which case [the owner] is exempt.
- [F] “But if a beast which was crouching butted one which was walking along, or one which was walking along butted another which was walking along, [the owner in either case] will be liable.”
- [G] *R. Hoshaiiah taught,* “In all cases, [the owner] is exempt.”
- [H] *The basis for R. Hoshaiiah’s position is that* liability to injury done by an ox’s horn does not apply in public domain anyhow. [Pené Moshe prefers to read: “This is not a case of damage done by an ox’s horn in the public domain.”]
- [I] Rab said, “If the beast stood still [in the public domain] and ate up produce which was lying in piles –
- [J] “now they have made a lenient rule in the case of tooth, in which case an ox walking along consumed produce lying in piles [and so] standing [still],
- [K] “while they have made a more stringent rule in the case of damage done by the horn,

[L] “in which a beast which was walking along has butted a beast which was standing still. [That is, the beast which was walking along does not impose liability on its owner for produce eaten by the way. In this regard a more stringent rule applies to damage done by the beast’s horn than to that done by the beast’s tooth, since if the beast walking along butted one lying down, the owner is liable, while, as we saw, in the case of tooth, the owner is exempt. If, to be sure, the beast had stood still and eaten produce, also in the case of damage done by tooth, the owner is liable.]”

[M] Ilfai remarked, “If the beast had stood still and eaten the produce which was lying in piles, [the owner] would be liable.

[N] “Now they have made a lenient rule in the case of tooth, in that if the beast which was walking along ate produce which was lying around, the owner is exempt from paying damages.

[O] “But a more stringent rule applies in the case of damage done by the horn when a beast which was walking along butted another beast which was walking along [and the owner in this case would be liable to damages].”

2:4

[A] How does he pay for the benefit of what [his ox] has enjoyed?

[B] [If] it ate something in the midst of the marketplace, he pays for the value of what it has enjoyed.

[C] [If it ate] from the sides of the marketplace, he pays for the value of the damage that [the ox] has caused.

[D] [If he ate] from [what is located at] the doorway of a store, the owner pays for the value of what it has enjoyed.

[E] [If it ate] from [what is located] inside the store, the owner pays for the value of the damages that it has caused.

[I:1 A] Rab said, “[If] the beast twisted its neck about and ate, [the owner] pays for the value of the damage which the beast has caused.”

[B] *And have we not learned, If it ate from what is located at the door of a store, the owner pays the value of what it has enjoyed. If it ate from what is inside the store, the owner pays the value of the damage that it has caused [M. 2:4E]?* [It follows that, in the former

case, the beast has twisted its neck about and eaten from what is at the door pays, yet it pays only for the value of what it has enjoyed, not for the value of the damage it has caused.]

[C] *How then [does Rab explain this case]?*

[D] Said R. Yosé b. R. Bun, “Apply the law of the Mishnah to a case in which an ass was going along, bearing a load of lambs. When the lambs passed by, they stuck out their necks and ate what was at the doorway of the shop. The owner, accordingly, pays for what they have enjoyed. If they ate from what is inside the store, the owner pays the value of the damage that they have caused.”

[I:2 A] Rab said, “[If an ox] ate barley, the owner pays the cost of straw [since he may claim that, while barley is an appropriate food for the ox, still he feeds his ox straw, not barley.]”

[B] *Now has not R. Hiyya taught in disagreement with this view: Therefore if it ate wheat, which is bad for it, lo, this one[‘s owner] is exempt [from making restitution] [T. B.Q. 1:7F].*

[C] **If the beast changed [its normal mode of behavior] and ate, one pays the value of the damage which it has caused.**

[D] **[If] one’s basket was thrown over his back in the public domain [and] a cow stretched out its mouth into it and ate from it,**

[E] **[the owner of the cow] pays the value of the damage it has done.**

[F] **Fodder which one placed at the door of a store, half of it inside and half of it outside –**

[G] **[if] a cow put its mouth into it and ate [what is in it], lo, [the owner of] this one is exempt [T. B.Q. 1:7I-L].**

2:5

[A] **The dog or the goat that jumped from the top of the roof and broke utensils –**

[B] **[the owner] pays the full value of the damage [they have caused], because they are attested dangers.**

[C] **The dog which took a cake [to which a cinder adhered] and went to standing grain, ate the cake, and set the stack on fire –**

[D] **for the cake the owner pays full damages,**

[E] **but for the standing grain he pays only for half of the damages [his dog has caused].**

[I:1 A] *There are Tannaim who teach [that M. 2:5A] should read, “jumped,” and there are Tannaim who teach that it should read, “fell,” [so that even if the dog or goat should fall by accident, the owner should pay full damages].*

[B] *Said R. Yohanan, “The way in which the Mishnah pericope should be read is ‘which jumped.’ ‘which fell ...’ does not apply [in that the owner is not liable if it was an accident].”*

[II:1 A] **The dog which took a cake [to which a cinder adhered] and went to standing grain, ate the cake, and set the stack on fire:**

[B] R. Simeon b. Laqish said, “[The owner of the dog pays damages for the grain] only if the dog carried the flame from one stalk to the next. [Since the fire does not belong to the owner of the dog, it is only the direct action of the dog, not the indirect action of the fire, for which the owner bears responsibility. Only when the dog has directly caused the burning of each stalk is the owner of the dog liable to pay compensation.]”

[C] R. Yohanan said, “The case is treated as if one had thrown an arrow from one place to another. [That is, the owner is liable for what the fire does as if the fire were his arrow; if the dog lit one part of the field and the flames went their way, the dog’s owner is liable for the whole field.]”

[D] *Said R. Isaac bar Tabelai, “The Mishnah-pericope that follows supports the view of R. Simeon b. Laqish [that the liability is for the first stalk only]:*

[E] **“If a kid was tied up to a barn, and a slave-boy was nearby, and they were burned up along with the barn, [the one who set the fire] is liable [for the kid]. If a slave-boy was tied up to it, and a kid was nearby, and these were burned along with it, he is exempt [for the slave-boy] [M. B.Q. 6:5D-E].** [In the former case it is as if the man set fire to the kid itself. He is not liable to the death penalty, since the slave should have run away. In the latter case the man is liable for the slave and exempt for the kid. Why? The slave is tied up to the barn and is killed. The man is liable on that count to the death penalty. Now if it is a liability such as is incurred by throwing an arrow, he should be liable to the secondary effects of his actions as well, and we see that that is not the case. This supports Simeon.]”

[F] [But why is there responsibility for the death of the slave? It should be only when the man set fire to the place at which the slave was tied up. Then he would be deemed to have set fire to him. But that is not the

rule before us. Accordingly, Yohanan finds support and would claim,] If you maintain that it is not as if one has thrown an arrow from one place to another, then on account of the first sheaf he should be liable to the death penalty [for this is the stalk which killed the slave]; and on account of all the others [in sequence] he should be liable to make monetary compensation. [But it must be that he is liable at one and the same time to the death penalty on account of the slave and also to monetary compensation. Since they apply at once, we set aside the lesser penalty in favor of the greater penalty, in consequence of which the man who set the fire is liable to the death penalty but pays no monetary claim.]

[G] *Said R. Yosé, “And we may derive further support [for the position of R. Yohanan] from the following: **If one set fire to a shock of grain on the Sabbath – the owner is liable [to pa- monetary compensation]. But he who set fire to a shock of grain on the Sabbath is exempt [from monetary compensation], because he is subject to liability for his life [T. B.Q. 3:10H-J].** If you maintain that it is not as if one had thrown an arrow from one place to another, then [after the man has incurred the death penalty] let him be as one upon whom, thereafter, liability to monetary compensation has further applied, and let him be liable to pay compensation thereafter.”*

[II:2 A] *A man brought out the goods of his shop on a cow. An ass came by and broke [the goods]. The case came before R. Isaac bar Tabelai. He said to him, “He does not owe you a thing, and not only so, but if the beast was injured, you are liable to pay compensation for his injury [since the other party had every right to use the public way.]”*

2:6

[A] **What is [the definition of] a harmless [animal], and what is [the definition of] one which is an attested danger?**

[B] **“An attested danger is any one about which people have given testimony for three days. And a harmless one is that which has refrained [from doing damage] on three days,”** the words of R. Judah.

[C] **R. Meir says, “An attested danger is one against which people have given testimony for three times. And a harmless one is any which children can touch without its goring them.”**

[I:1 A] [Under discussion is Ex. 21:29: “When an ox gores a man or a woman to death, the ox shall be stoned, and its flesh shall not be eaten; but the owner of the ox shall be clear. But if the ox has been accustomed to

gore from yesterday or the day before, and its owner has been warned but has not kept it in, and it kills a man or a woman, the ox shall be stoned, and its owner also shall be put to death.”] *What is the Scriptural basis for the position of R. Judah?*

- [B] “Yesterday or the day before” [for Judah means that we deal with a sequence of three days].
- [C] *How does R. Meir interpret this same language, “Yesterday or the day before”?*
- [D] He understands it to apply to a case in which the acts of goring were separated in time. Thus if the ox went out on the first day and gored someone, went out on the second day and did not gore, on the third day and gored, it is not deemed an ox which is an attested danger – until it has gored someone on three successive days.
- [I:2 A] [If an ox] went out on the first day and gored other oxen, on the second day and gored dogs, on the third day and gored pigs,
- [B] on account of these three different sorts of animals on three successive days, what is the law as to declaring the ox to be an attested danger? [This question is not answered.]
- [I:3 A] If an ox] went out on the first day and gored, on the second day did not go out at all, and on the third day went out and gored: –
- [B] [*in raising this question*] *we have come to the dispute between R. Ada bar Ahva and R. Huna, who argue as follows:*
- [C] A girl approaching her menstrual period who examined herself on the first day and found that she was unclean, on the second day did not examine herself at all, and on the third day examined herself and found that she was unclean –
- [D] R. Ada bar Ahva in the name of Rab: “She is confirmed as a menstruating woman [a *zabah*].”
- [E] R. Huna in the name of Rab said, “She is subject to doubt as to whether or not she is in her menstrual period [a *zabah*].”
- [F] *Said R. Huna, “I was there at the beginning, and I was there at the end, and I was there in the middle [on the three occasions on which Rab expressed an opinion on this subject].*
- [G] “Now the question was addressed to Rab, and he ruled, ‘It is a matter of doubt.’

- [H] “Then the question again was addressed to Rab, and he ruled, ‘It is a matter of certainty [that she is unclean].’
- [I] “And then again he ruled, ‘It is subject to doubt.’
- [J] “*Rab Ada bar Ahva was there only when Rab said, ‘It is a matter of certainty.’*”
- [I:4 A]** R. Jeremiah in the name of Rab: “The law is in accord with R. Meir in the case of a beast deemed harmless, and in accord with R. Judah in regard to giving warning (to declare a beast an attested danger).”
- [B] *For it has been taught:*
- [C] An ox which gored three times on one day is not deemed an attested danger. [This accords with Judah’s view.]
- [D] Why then does Scripture state, “Yesterday or the day before”?
- [E] If the animal should revert [to not goring] on three successive days, it is deemed to be harmless. [This again accords with Judah’s view.]
- [F] *Now we were considering to rule that the law should accord with R. Huna, who maintained that the same principle [applied to] both sorts of beast [harmless, attested danger]. [It would follow that the law accords with Judah’s view of both types of beast.]*
- [G] R. Jeremiah in the name of Rab: “The law accords with R. Meir in the case of an animal deemed harmless, and in accord with R. Judah in the case of an animal deemed an attested danger” [thus not following Huna].

2:7

- [A] An ox which causes damage in the domain of the one who is injured [M. 1:4F] – how so?**
- [B] [If] it gored, pushed, bit, lay down, or kicked [M. 1:4B],**
- [C] in the public domain,**
- [D] [the owner] pays half of the value of the damages [the ox has caused].**
- [E] [If it did so] in the domain of the injured party,**
- [F] R. Tarfon says, “[The owner pays] the full value [of the damages the ox has caused].”**
- [G] And sages say, “Half of the value.”**

[H] Said to them R. Tarfon, “Now in a case in which [the law] deals leniently, namely, with damage caused by tooth or foot in the public domain, in which case [the owner] is exempt [M. 2:2F], [the law nonetheless] has dealt strictly with them in the domain of the injured party, so that [the owner] has to pay the full value of the damages [caused by his ox] [M. 2:2E];

[I] “in a place in which, to begin with, the law has dealt strictly, namely, in the case of damage done by the horn [goring] in the public domain, so that [the owner] has to pay half-damages, is it not logical that we should now impose a strict rule on that same matter when the damage takes place in the domain of the injured party, so that he should have to pay full damages?”

[J] They said to him, “It is sufficient for the inferred law to be as strict as that from which it is inferred.

[K] “Now just as when the damage done by the horn takes place in the public domain, the owner pays half-damages, so [if it takes place] in the domain of the injured party, the owner pays half-damages.”

[L] He said to them, “I shall not derive [25A] the law for the damage caused by the horn [by analogy to] another case of damages caused by the horn. I shall derive the law covering damage caused by the horn from the law of damage caused by the foot.

[M] “Now if in a situation in which [the law] ruled leniently, namely, in respect to the damage caused by tooth and foot in the public domain, the law has nonetheless imposed a stringent rule in the case of damage caused by the horn;

[N] “in a situation in which the law has imposed a stringent rule, namely, in the case of damage caused by the tooth and the foot, when the injury takes place in the domain of the injured party, is it not reasonable that we should impose a strict rule in the case of damage caused by the horn?”

[O] They said to him, “It is sufficient for the inferred law to be as strict as that from which it is inferred.

[P] “Just as when the damage takes place in the public domain, the owner pays half-damages, so when the damage takes place in the domain of the injured party, the owner pays half-damages.”

[I:1 A] Said R. Yohanan, “The rule [at M. B.Q. 1:4] is that of R. Tarfon.”

[B] For in the case of damage done in the domain of the injured party.

[C] R. Tarfon says. “One pays full value [of the damage].”

[D] And sages say, “One pays half of the value [of the damage].”

2:8

[A] Man is perpetually an attested danger –

[B] whether [what is done is done] inadvertently or deliberately,

[C] whether man is awake or asleep.

[D] [If] he blinded the eye of his fellow or broke his utensils, he pays the full value of the damage he has caused.

[I:1 A] Said R. Isaac, “The Mishnah speaks of a case in which both of them were asleep. But if one of them was asleep, and his fellow came to sleep next to him, this one who came to sleep next to him is deemed the attested danger [and the one who went to sleep assuming he was by himself is presumed to have been harmless].”

YERUSHALMI BABA QAMMA

CHAPTER THREE

3:1

[A] He who leaves a jug in the public domain,

[B] and someone else came along and stumbled on it and broke it –

[C] [the one who broke it] is exempt.

[D] And if [the one who broke it] was injured by it, the owner of the barrel is liable [to pay damages for] his injury.

[I:1 A] And is it not usual for people to leave utensils in the public way, [so why should the one who broke it be exempt from paying compensation]?

[B] Rab said, “We deal with a case in which the utensil fills up the entire public domain.

[C] “But if it does not fill up the entire public way, [then we invoke the principle,] is it not usual for people to leave utensils in the public way? [So one who walks along must take care not to break them, and since this person has broken the utensil, he would indeed be liable.]”

[D] Samuel said, “It is a case in which either the utensil fills up the entire public way, or in which the utensil is set at a corner [and the one who broke it did not see it, so he could not be blamed].”

[E] Said R. Eleazar, “Even if it does not fill up the entire public way, [one is nonetheless exempt from breaking it,] for [what choice does he have]? If he should take up from this place and move it to another, lo, it is in the status of a pit [which he himself has made, and consequently, he would be liable for damages caused by it]. [Consequently, one is not liable for breaking it, even if it does not fill up the entire public way, for he has no choice.]

[F] “And even if it was not set at a corner, [the one who breaks it is not liable, for] it indeed is not usual for people to leave utensils in the public way.”

- [I:2 A] If the pot filled up the entire public way, [what should a passerby do]?
- [B] If he should take it from here and move it over there, the pot is deemed tantamount to a pit [which he has dug].
- [C] So should he take a stick and break it?
- [D] Or should he push by it, and if it breaks, it breaks [on its own]?
- [E] *Let us derive the answer from the following:*
- [F] **An ox which mounted its fellow, and the owner of the one beneath came along and pulled [his beast] out [from underneath],**
- [G] **or if it pulled itself off,**
- [H] **and fell and died –**
- [I] **[the owner of the ox underneath] is exempt.**
- [J] **[If] he pushed him, and [the ox] fell and died, [the owner of the ox underneath] is liable [T. B.Q. 3:6G-K].**
- [K] *[Now the issue may be drawn, whether a person takes the law into his own hands, e.g., by breaking the jar. In the case just now cited, the owner] has no right to say [to the man who had pulled the beast out from underneath], “If you had left him, I should have been glad to pay you the cost of the damage you would have suffered” [and it follows that the man had every right to follow the procedure outlined at F].*
- [L] *[Now that is not entirely parallel.] For [the one who had saved his ox at the cost of the other] has the right to say to him, “If I had left your ass, you would have paid me only half of the value of the damages I would have suffered.”*
- [M] Now take note of the possibility that it was an attested danger [so full damages would have been paid]!
- [N] The owner of the beast which has died has no power to make the other party go into court with him.
- [O] If one left [3c] a jug in the public way, and someone else came along and left another near it, and the first party came along to take his,
- [P] if he should remove [the other jug] from here and put it elsewhere, it is tantamount to a pit.
- [Q] So should he take a stick and break it?

[R] Or should he push by it, and if it breaks, it breaks?

[S] *Let us derive the answer from the following:*

[T] An ox which mounted its fellow, and the owner of the one below came along and pulled his beast out from underneath:

[U] if before it had mounted, he pulled it out, and the ox fell down and died, the one who did so [and saved his property] is exempt.

[V] If he pushed it off and it fell and died, he is liable. [That is, the owner pulled his ox away before the other ox mounted up; he in no way bears responsibility for the death of the other ox, nor can he be accused of saving his own capital at the expense of the other party's. Clearly, then, there is a distinction to be drawn between saving one's property at the expense of someone else when the damage already has been done, and doing so when it has not yet been done. If the damage has been done, one may not necessarily injure one's fellow.. If the damage has not been done, one may save himself at the cost of his fellow so that he will not suffer any damage at all.]

[W] Said R. Yosé, "One may then derive from that conception the following rule: If one saw a water channel overflowing and coming into one's field, before the water has reached one's field, one has the right to direct the water elsewhere. Once the water has come into one's field, he has no right to direct the water elsewhere."

[X] *As to the chrysargyron [a gold and silver tax levied by Constantine the Great], before that tax is arranged, it is permitted to say to the officers, "This man is my fellow trader." When it has been arranged [and is being collected], it is not permitted [because it would injure the person omitted in the list without alleviating the burden of others]. It is permissible to bribe the quartermaster [to let you off] before the Romans enter [the place], but not after that [when one man's release from having to billet soldiers is a direct injury to the other inhabitants] [Jastrow, p. 65a].*

[I:3 A] If one left one's stone in the public way, and someone else came and left another near it, and a third party came along and stumbled on this one and struck against the other, who is liable for the injury which he has suffered? Is it the former or the latter?

[B] *Let us derive the answer from the following:*

[C] An ox which pushed its fellow, and the latter fell into a pit,

- [D] the owner of the ox [which did the pushing] is liable, and the owner of the pit is exempt.
- [E] [Differing from this view,] R. Nathan says, “In the case of an ox which was an attested danger, this party pays half the damages, and that party pays half the damages.
- [F] “In the case of an ox which had been deemed harmless, the owner of the pit pays two parts of the damages [half of the whole], and the owner of the ox one quarter. [That is, the former pays half of what is coming from him, the latter half of what is coming from him. The owner of the ox pays half of half damages, hence a quarter. The owner of the well pays half of the complete damages, since he would be liable for the whole damages if he were the sole cause.]”
- [G] *Said R. Hanina, “Thus is the proper Tannaitic tradition:*
- [H] “The owner of the pit pays three parts of the damages, and the owner of the ox pays a quarter.”
- [I] If one left his stone in public domain, and the wind came along and blew it into private domain, and someone else came along and stumbled on it,
- [J] what is the law as to his being liable to make up the damage suffered by him? [The owner of private property claims he has done nothing to be liable.]
- [K] If one left his stone in the public domain, and another party came along and stumbled against it and kicked it into private domain, and another party came along and stumbled against it,
- [L] what is the law as to his being liable to pay for the injury he has suffered? [The whole incident began with one’s leaving his stone in the public domain.]
- [I:4 A]** Said R. Yohanan, “If one left his stone and his bundle in the public domain, and someone else came along and stumbled on them, with a flask in his hand [which broke],
- [B] “whether he stumbled on the stone and was struck against the ground, and whether he struck the stone and stumbled on the ground,
- [C] “he is liable for the injuries suffered by the man, but exempt for the damage done to the flask. [The stone is a pit, and one is liable for injuries caused thereby.]”
- [D] *The following is an opinion which R. Yohanan has stated:*

[E] As to a pit which has caused damage, one is exempt for damage done to utensils.

[F] But if he struck [the flask] against the ground, then for damage done to the flask he is liable as well. [The ground is not in the generic category of a pit.]

3:2

[A] [If] his jug was broken in the public domain,

[B] and someone slipped on the water,

[C] or was hurt by the sherds,

[D] he is liable.

[E] R. Judah says, “In [a case in which he did so] deliberately, he is liable, and in [a case in which he did] not [do so] deliberately, he is exempt.”

[I:1 A] R. Eleazar said, “The dispute [between Judah and the sages] concerns damage done at the time of falling [that is, the sages maintain that if someone stumbled, for damage done by the sherds when he was falling the owner of the jug is at fault, and Judah does not].

[B] “But if it was after the time that he fell [and broke the jug] all parties concur that [the owner of the jug] is liable [for damage done by the sherds].”

[C] R. Yohanan said, “The argument applies to the situation prevailing both at the time that the man stumbled and thereafter [not only at the former point].”

[D] *R. Yohanan objected to R. Eleazar*, “If for damage which took place at the time that the man was falling, he is exempt, is it not an argument a fortiori that the same should apply after he has fallen down? [The man should have been careful with what was in his hand, so that it not fall and cause damage. But here Judah declares him exempt. After he has fallen down, he surely should be exempt, for what can he now have done?]”

[E] “And why should he be exempt at the time of falling down, for a person declares ownerless that which causes injury to him in the public domain? [Now while, in general, one retains responsibility in such a case, in the present instance, it was an accident. All the more so will he be exempt, after he has fallen down, on account of damage done by the flask which has fallen from his hand. It must follow, in Yohanan’s

view, that the dispute between Judah and the sages applies at all stages in the transaction.]

[F] *There is a Tannaitic teaching which supports this party, and there is a Tannaitic teaching which supports that party.*

[G] *For it has been taught* [providing the Tosefta's version rather than the Yerushalmi's]: **[If one's jug or jar broke in public domain, and someone else came along and was injured by it, lo, [the owner of the jug or jar] is liable. R. Judah declares him exempt, for taking care of it is not his obligation.] R. Judah concedes to the sages in the case of one who left his stone or his jar in the public way, and someone else came along and was injured by it,**

[H] lo, [the owner of the stone or jar] is liable,

[I] because taking care of it is his obligation [T. B.Q. 2:4A-H].

[J] [Again following the Tosefta:] **[If] someone was walking along with a basket of straw and a bundle of thorns in the public way,**

[K] and someone else came along and was injured by them,

[L] lo, [the owner] is liable.

[M] R. Judah declares him exempt,

[N] for Israelite towns have been given only for [use by] such a person [T. B.Q. 2:6F-J]. [Yerushalmi: For it was with this stipulation that Joshua gave Israel the land as an inheritance.]

[O] Lo, if Joshua had not made that stipulation in giving the Land to Israel, [the jug owner] would have been liable. [That is, the logic of the law would indeed impose liability in the case of one who knowingly created a nuisance in the public domain as at in the Mishnah.

[P] *In the view of R. Yohanan* [in whose view, Judah declares the man exempt for what happens after he has fallen down, since the nuisance was not deliberately created at the outset, the man is exempt]. [But if the man] deliberately [planned to retain possession of] the sherds [of the jug, he is liable for damage done by them].

[Q] *In the view of R. Eleazar,* [who holds that Judah declares the man liable for what happens after he fell down, the intention applies to]

deliberately [preserving a nuisance] to cause damage [in the public domain].

[I:2 A] *R. Zira and R. La both maintain that R. Judah concurs with the sages in the case of one who declares ownerless in the public domain an ox of his which has gored. [That is, the man remains liable for whatever damages the ox will do later on.]*

[B] For damage caused by a nuisance at rest is not the same as damage caused by a source of damage which is moving about [so constituting a clear and present danger to the public welfare].

3:3

[A] He who pours water out into the public domain,

[B] and someone else was injured on it,

[C] is liable [to pay compensation for] his injury.

[D] He who put away thorns or glass,

[E] and he who makes his fence out of thorns,

[F] and a fence which fell into the public way –

[G] and others were injured by them –

[H] he is liable [to pay compensation for] their injury.

[I:1 A] *R. Huna said, “It is when one struck the ground [because of slipping on the water, that the one who poured out the water is liable to pay damages]. Truly, if the other’s garments were damaged, he is liable [for their being muddied up].”*

[B] *Rab said, “Even if the other’s garments were damaged, he is exempt .”*

[C] *In the theory of Rab, in the case of a pit which causes damage, one is exempt for damage done to utensils [and liable only for what is done to a person].*

[I:2 A] **He who put away thorns and glass into the wall of his fellow,**

[B] and the owner of the wall came along and tore it down,

[C] and someone else came along and was injured by them,

[D] lo, this [the first] one [nonetheless] is liable.

[E] The pious men of old would put away [thorns] in fields be longing to themselves and dig a hole for them three handbreadths deep, so that the plough would not stumble on them [T. B.Q. 2:6A-E].

[II:1 A] He who makes his fence out of thorns [M. 3:3E]:

[B] Said R. Yohanan, “[With reference to the dispute above, in which Judah takes the position that if one has not deliberately caused the damage, he may declare property of his which has caused damage to be ownerless, so that he will be free from further liability for damage caused by that property,] one may interpret the rule here to express the opinion of all parties [including that of Judah]. For we deal with a case in which one has set the thorns or glass to jut out of the fence [and consequently, one is liable for injuries caused by such a fence, a position in which, in the stated case, Judah may concur].”

[C] *R. Bun bar Hiyya raised the question before R. Zeira: “And why do we not interpret the Mishnah pericope in line with the view of R. Yosé b. R. Judah, who has stated that three things which are near the public domain are deemed to be in the status of that public domain? [That is, it is as if the one who put these things near the public domain has put them right into the public domain, and that accounts for the rule at M. 3:3E, thus without reference to the theory of Yohanan vis-a-vis Judah.]”*

[D] *He said to him, “Now why don’t you approve the possibility that R. Yohanan lays forth for you, which is to interpret the rule in line with the viewpoint of all parties, [not merely Yosé b. R. Judah,] and to apply to the case of one who sets up the thorns so that they jut out?”*

[III:1 A] And a fence which fell into the public way –

[B] *R. Abbahu in the name of R. Simeon b. Laqish said, “This rule accords with the position of R. Meir.*

[C] “For R. Meir has said, ‘Whatever does damage not through actual deed [nonetheless] incurs liability [for the owner].’”

[D] *This was stated in the following connection:*

[E] If they gave him time to cut down n the tree or to tear down the wall. and they fell down during that interval. the owner is exempt. If they fell down after that time, the owner is liable [M. B.M. 10:4H-K].

[F] And how much of an interval is meant?

[G] *R. Hoshaiah taught, “Thirty days.”*

3:4

[A] He who brings out his straw and stubble into the public domain to turn them into manure,

[B] and someone else was injured on them –

[C] is liable [to pay compensation for] his injury.

[D] But whoever grabs them first effects possession of them.

[E] Rabban Simeon b. Gamaliel says, “All those who disrupt the public domain and thereby caused injury are liable to pay compensation.

[F] “And whoever grabs [what they left out in the public domain] first effects possession of them.”

[G] He who heaps up cattle dung in the public domain

[H] and someone else was injured by it –

[I] he is liable [to pay compensation for] his injury.

[I:1 A] [As to the statement of M. 3:4F: **And whoever grabs [what they left out in the public domain] first effects possession of them**] of what has he effected possession?

[B] Members of the house of R. ‘Yannai say, “He has effected possession of the increase in their value [which has taken place in the public domain, but not of the straw and stubble itself]. [The penalty imposed by the law is to discourage leaving such things in the public domain.]”

[C] Samuel said, “He has effected possession of the straw or stubble itself.”

[I:2 A] Hezekiah said, “And that [effective act of acquisition] applies in the case in which one has turned the straw or stubble over in order to effect possession thereof.” [The superior version of this pericope is at Y. Dem. 3:3. I translate what is given here, but the interpretation of the passage should be consulted at the principal version.]

[B] *The statement of Hezekiah implies that* movables are acquired through one’s turning them over [which involves raising them up, the normal mode of effecting ownership].

[C] But what is the law as to movables’ being acquired by being dragged [to the person who effects ownership of them]?

[D] Said R. Bun bar Hiyya, “It would appear that that would be the rule in the case of stiff sheets and hides [which are difficult to lift up], but in the case of soft hides, one will not effect acquisition until he raises up [the hide].”

[E] *Said R. Aha, “Is this question not [also] to be dealt with in accord with the theory of rabbis? [We shall now see that in a quite separate matter of law, rabbis also take up the question of effecting acquisition through dragging, rather than lifting up. We now return to this other matter of law, and, in a moment, see the pertinent rule and how it answers the question before us.]”*

[F] A rebellious and incorrigible son – what is the law as to his being liable for double indemnity for stealing the first time [for in this case he will not be liable to the death penalty]? [The reason is that until he has had suitable admonition and flogging, he is not liable to the death penalty. Since he is not liable to the death penalty, is he then liable to paying financial compensation at all?]

[G] Or perhaps, since he is subject to an admonition which ultimately will lead to the death penalty, he may then not be liable [for financial penalties even now]?

[H] *Let us derive the answer from the following [when we reach S, below]:*

[I] He who steals the purse of his fellow and took it out [of his domain] on the Sabbath, lo, this person is liable,

[J] for he already had become obligated on account of the theft of the wallet before it had gone forth. [If he was dragging it along and so removed it from the domain of the other, he is exempt since he did not make acquisition of the purse before he had also and simultaneously violated the Sabbath] [T. B.Q. 9:19].

[K] Now is he not subject to admonition of being liable to the death penalty, yet you do maintain that he is liable?

[L] Here too, even though he is subject to the admonition of being liable to the death penalty, he should be liable.

[M] *Said R. Yannai bar Ishmael, “R. Hoshaiah has taught this law in accord with his own theory,*

[N] *“for it has been taught:*

[O] ““He who takes an object out, even though he did not put it down, is liable.”

[P] *“Here too, he who takes it out, even though he has not taken it planning to carry it out, is liable.*

[Q] “For the admonition pertaining to him comes into effect only at the moment of his taking the object out of [the private domain].”

[R] *It was taught: If he was dragging it along and so removed it from the domain of the other, he is exempt, since the death penalty and the obligation to pay compensation apply to him coincidentally.*

[S] Lo, if the two of them had not applied to him coincidentally, he would then be liable to make recompense. [The question with which we began this irrelevant discussion is now answered. According to the view of rabbis, dragging the object does effect acquisition, for they take for granted that, once he has dragged the object out of the domain of the owner, he has acquired ownership of it for himself. But the discussion proceeds along the path set for it, not along that which brought us to it.]

[T] *Said R. Yosé b. R. Bun, “Apply the rule to a case in which there were these large pouches, which are usually acquired through being dragged. It then would follow that there are no implications whatsoever in the cited passage”*

[I:3 A] [What follows depends upon a prior discussion at Y. Shab. 1:1. R. Yosé in the name of R. Yohanan says, “He who takes an object out from the private domain to the public domain on the Sabbath is liable only when he puts the object down.” R. Jacob bar Aha in the name of R. Yohanan: “Unless he takes it up and puts it down.” R. Zeira raised the question, “Is that ‘until he takes the object in order to put it down’? If he took the object planning to eat it and changed his mind and decided to put it down, should he not be liable?” So R. Zeira asks whether the intent of the statement, “until he takes it and puts it down,” means, “until he takes it at the outset in order to carry it out and put it down,” thus excluding the possibility of taking the object with one intent and doing this other, prohibited action with it. Now if that is Yohanan’s intent, then he differs from R. Hoshaiiah in two respects. First, Hoshaiiah’s position is that one who merely takes the object without then setting it down is culpable, while Yohanan requires some concrete action. Yohanan maintains that one must intend the prohibited action at the outset. Now at this point we introduce other pericopae to refute or support the position outlined by Yohanan and his opposition.] *They objected, “Lo, there is a pericope of Mishnah which in some aspects*

confutes and in some supports R. Yohanan, in some aspects confutes, and in some supports, R. Simeon b. Laqish.”

[B] There is he who performs a single act of eating and is liable on that account for four sin offerings and a guilt offering:

[C] An unclean [lay] person who ate forbidden fat, which also was remnant. deriving from Holy Things, on the Day of Atonement.”

[D] R. Meir says, “If it was the Sabbath and he took it out [of the Temple] on the Sabbath [he would be liable for yet a fifth].”

[E] They said to him. “That is not [3d] of the same sort [as the others]” [M. Ker. 3:1].

[F] Here is the aspect in which [M. Ker. 3:4] confutes and supports the position of R. Yohanan:

[G] If he took it out on the Sabbath – there is [no question of] putting it down. [If there is no need to put the object down, then walking along is tantamount to setting the object at rest, so far as the Sabbath is concerned. Now the sages do not concede Meir’s view, and this constitutes support for Yohanan vis-a-vis Hoshaiiah .]

[H] And why did they say, “It is not of the same sort of violation”?

[I] Here is the aspect in which the teaching [at E] confutes and supports the position of R. Simeon b. Laqish:

[J] If he took it out on the Day of Atonement, he should be exempt [from monetary liability, since he is subject to the death penalty]. [Simeon b. Laqish’s item has nothing to do with what has gone before. It involves the effect of admonition for diverse sins, e.g., violation of two different ordinances. Simeon b. Laqish maintains that if one is warned for a sin which is punished with the death penalty, he is not subject to warning for a sin subject to flogging. At M. Ker. 3:4, we speak of the Sabbath, not the Day of Atonement. Omission of the latter signifies support for Simeon b. Laqish’s position (cf. Pené Moshe for further discussion).]

[K] *[None of this follows, for,] said R. Yosé b. R. Bun, “The passage conforms to the position of R. Meir in the tradition of R. Aqiba,” as it has been taught: “*

[L] How do we know concerning a Day of Atonement which coincides with the Sabbath, on which one inadvertently performed an act of labor – how do we know that one is liable for this on its own, and for that on its own?

[M] Scripture says, “‘It is the Sabbath’ (Lev. 16:31) it is the Day of Atonement. [They are separate categories,]” the words of R. Aqiba.

[N] R. Ishmael says, “One is liable on only a single count.”

3:5

[A] Two pot sellers who were going along, one after another,

[B] and the first of them stumbled and fell down,

[C] and the second stumbled over the first –

[D] the first one is liable [to pay compensation for] the injuries of the second.

[E] This one comes along with his jar, and that one comes along with his beam –

[F] [if] the jar of this one was broken by the beam of that one,

[G] [the owner of the beam] is exempt,

[H] for this one has every right to walk along [in the street], and that one has every right to walk along [in the same street].

[I:1 A] *[With reference to M. 3:5A-D,] R. Yohanan raised the question “What is the law as to giving the first party time to get up [before holding him responsible for the damage suffered by the second party]?”*

[B] *Said R. Yosé, “[This is not the question raised by Yohanan. For] it is perfectly obvious to R. Yohanan that one must give the first party time in which to get up.*

[C] *“[This is what was troubling to him.] Is it not reasonable for the second party not [to have time to get up] for yet a further [person]? What is the law as to allowing the second party time to get up [before holding him liable for damage done to a third party]? [That is, if the second party, who stumbled against the first, should fall down, and a third party should stumble against the second, do we provide time for the second party to get up? Shall we then reason that since the second*

party saw the first party fall down, he should have waited and stood aside, so he is not fully able to claim it was an accident that he fell down. Accordingly, he is not given time to get up, but is forthwith liable for what happens to a third party. Or shall we reason that it was an accident, just as it was in the case of the first party, and, accordingly, we assign him that same consideration that we have accorded to the first part?]"

- [D] *Let us derive the answer to this question [given at I, T] from the following:*
- [E] **[Two] pot-sellers who were going along, one after another,**
- [F] **the first of them stumbled and fell town,**
- [G] **and the second stumbled over the first [M. 3:4A-C]**
- [H] **his fellow came and stumbled on him and fell**
- [I] **the first one pays [compensation for damage] to the second, and the second pays to the third.**
- [J] **If it was [only] on account of the first that they fell down,**
- [K] **the first pays [compensation] to all of them.**
- [L] **And they are liable for damage done to a man, but exempt for damage done to utensils.**
- [M] **And if they warned one another [to be careful], lo, they are exempt [T. B.Q. 2:8].**
- [N] **Ass-drivers going after one another –**
- [O] **[Yerushalmi here repeats F-K. Then:] the first of them stumbled and fell down,**
- [P] **and his fellow came along and stumbled on him and fell down,**
- [Q] **and his fellow came along and stumbled on him and fell down –**
- [R] **even if they are a hundred –**
- [S] **all of them are liable [to pay damages] [T. B.Q. 2:9A-F].**
- [T] *There are Tannaim who teach, “All of them are exempt” [which is the Tosefta’s reading]. [The answer to the question with which we began is at I, that is, the first pays to the second, the second to the third. The first and second thus are subject to the same law, which means that the same consideration accorded to number one is given to number two.]*

- [U] *Said R. La, “[There is no dispute between S and T]. He who maintains that they are liable deals with a case in which their masters made them kneel down.*
- [V] “If they fell down – there is no claim of damage’s being caused by an accident in the case of beasts. [After they fell down and stumbled, the owners were there. But they did not lift them up again. Having left them as they were, they are liable. But if they stumbled because they had simply fallen down, they are exempt.]”
- [I:2 A] Asses, the legs of one of which were infirm – they are not permitted to set him aside [pass him].**
- [B] If he fell down, they have the right to pass him.**
- [C] What is the meaning of, “having the right to pass him”?**
- [D] They step over him and go by.**
- [E] [If] one of them was loaded and one of them was mounted, they set aside the one which was loaded in favor of the one which was mounted.**
- [F] [If] one of them was mounted and one of them was unburdened, they set aside the one which is unburdened in favor of the one which is mounted.**
- [G] [If] two of them were carrying burdens, two of them were mounted, and two of them were unburdened,**
- [H] they make a compromise agreement among themselves.**
- [I] And so is the rule governing two wagons [or] boats which were coming toward one another,**
- [J] one of them unloaded, and one of them loaded –**
- [K] they set aside the one which is unloaded in favor of the one which is bearing a burden.**
- [L] [If] both of them were unloaded, or both of them were carrying cargo, they make a compromise between themselves [T. B.Q. 2:10].**
- [N] He who enters a bathhouse gives the right of way [literally: respect] to the one who leaves.**
- [O] And he who leaves a privy gives the right of way to him who enters.**
- [II:1 A] This one comes along with his jar. and that one comes along with his beam [M. 3:5E] –**

- [B] *R. Zeira raised the question, “If they varied from the normal and established practice and caused damage [e.g., if the beam was unusually long, or the jar unusually heavy, so there was no possibility of avoiding damage], what is the law? [Do we say that since there has been a variation in accepted practice, he is liable? Or perhaps every one has an equal right, under all circumstances?]”*
- [C] *Let us derive the answer from the following:*
- [D] [Tosefta’s version:] **Five people who sat down on a bench, which broke –**
- [E] **all of them are liable to pay [compensation for the bench].**
- [F] **But if it was on account of the last one [alone] that it broke, the last one must pay damages in behalf of them all [T. B.Q. 2:9L-N].** [Thus if one party varied from the normal practice, he is liable while if all parties followed a single, accepted practice, all bear liability. The answer to the question is at F.]

3:6

- [A] **[If] the one carrying the beam was coming first, and the one carrying the jar was following behind,**
- [B] **[if] the jar was broken on the beam,**
- [C] **(1) the one carrying the beam is exempt.**
- [D] **(2) But if the one carrying the beam stopped short, he is liable.**
- [E] **(3) And if he said to the one carrying the jar, “Wait up!” he is exempt.**
- [F] **[If] the one carrying the jar was first, and the one carrying the beam was following behind,**
- [G] **[if] the jar was broken on the beam,**
- [H] **(1) [the one carrying the beam] is liable.**
- [I] **(2) But if the one carrying the jar stopped short, [the one carrying the beam] is exempt.**
- [J] **(3) And if he said to the one carrying the beam, “Wait up!” he is liable.**
- [K] **And so is the rule in the case of this one coming along carrying his flame, and that one coming along carrying his flax.**
- [I:1 A] Did not Rab state, “[The liability is incurred] when he filled up the entire public way”?
- [B] Now does this one [carrying the beam] fill up the entire public way [that he should be liable]?

[C] He said, “Since he has stood still, he is treated as tantamount to a corner. [That is, the one carrying the pot is not responsible, since he cannot see the other party or know when he will stop walking. Consequently, the one carrying the beam has to warn the other party, and he is liable for not having done so.]”

3:7

[A] **Two who were going along in the public domain,**

[B] **one was running, the other ambling,**

[C] **or both of them running,**

[D] **and they injured one another –**

[E] **both of them are exempt.**

[I:1 A] **Yosé the Babylonian says, “If one was running in the public way and injured someone, he is liable.**

[B] **“For he has varied from the normal course of conduct.**

[C] **“If it was the eve of the Sabbath toward dusk, he is exempt, [since that is the usual way in which people behave at that time]” [T.. B.Q. 2:11G-H].**

[D] They say, “Yosé the Babylonian is the same person as Yosé b. Judah, Yosé the Small [as well].”

[E] Why is he called, “the small”?

[F] For he was the least [and last] of the pious men.”

3:8

[A] **He who chops wood in private property, and [the chips] injured someone in public domain,**

[B] **in public domain, and [the chips] injured someone in private property,**

[C] **in private property, and [the chips] injured someone in someone else’s private property –**

[D] **he is liable.**

[I:1 A] Said R. Yosé b. Hanina, “If one was standing and chopping wood in his courtyard, and a worker came in to collect his salary, and a chip flew off and injured him, [the householder] is liable, but if he should die, [the householder] does not go into exile.”

- [B] *And did not R. Hiyya teach*, “He is exempt [from having to pay compensation]”?
- [C] *There is no dispute.*
- [D] *What R. Yosé has said applies to a case in which the householder saw the worker [and should have taken precautions].*
- [E] *And what R. Hiyya has said applies to a case in which he did not see him, [in which case there was no way for him to take precautions].*
- [F] If it is a case in which he did not see him, since he has said to him, “Come in,” he is liable [in any event].
- [G] *And did not R. Hiyya teach that [even in this case], he is exempt?*
- [H] Since he has said to him, “Come in,” [the worker] has to watch out for himself.
- [I] *And there are those who wish to say*, Since he said to him, “Come in,” the courtyard is treated as if it belongs to the two of them as partners.
- [J] *This then is in line with that which R. Yohanan has said in the name of R. Yannai*, “Partners [in a courtyard] acquire ownership from one another in the joint tenancy of the courtyard,
- [K] “and they are liable one for injuries he has caused in the case of the other, and the other for injuries he has caused in the case of the one.”

- [I:2 A]** Did not Rab say, “[The one who causes the damage is liable] in a case in which he fills up the entire public domain”?
- [B] Now does this one [in the courtyard] fill up the entire [public] domain?
- [C] One may say, Since it is routine for him to walk about in the courtyard, it is as if he fills up the entire courtyard [on which account he is liable for damage done therein].

3:9

- [A] Two oxen [generally deemed] harmless which injured one another –**
[B] [the owner] pays half-damages for the excess [of the value of the injury done by the less injured to the more injured ox].

- [C] [If] both of them were attested dangers, [the owner] pays full damages for the excess [of the injury done by the less injured to the more injured ox].
- [D] [If] one was deemed harmless and one an attested danger, [if] it was an ox which was an attested danger [which injured] an ox deemed harmless, [the owner] pays full damages for the excess.
- [E] [If] it was the ox deemed harmless [which injured] the one which was an attested danger, [the owner] pays half-damages for the excess.
- [F] And so is the rule for two men who injured one another: they pay full damages for the excess [of the injury done by the less injured to the more injured man].
- [G] [If it was a case of] a man who injured an ox which was an attested danger, or an ox which was an attested danger which injured a man, one pays full damages for the excess [of the injury done by the one to the other].
- [H] [If it was] a man [who injured] an ox deemed harmless, or an ox deemed harmless [which injured] a man –
- [I] [if it was] the man [who injured] the ox deemed harmless, he pays full damages for the excess.
- [J] [If it was] the ox deemed harmless [which injured] the man, one pays half-damages for the excess.
- [K] R. Aqiba says, “Also: An ox deemed harmless [which injured] a man – [the owner] pays full damages for the excess.”
- [L] An ox [deemed harmless] worth a maneh [a hundred zuz] which gored an ox worth two hundred [zuz],
- [M] and the carcass [of the latter] is worth nothing –
- [N] [the owner of the ox which is gored and worthless] takes the ox [worth a maneh, which did the goring].
- [I:1 A] An ox [deemed harmless] worth *a maneh* [a hundred zuz] which gored an ox worth two hundred [zuz],
- [B] and the carcass [of the latter] is worth nothing –
- [C] [the owner of the ox which is gored and worthless] takes the ox [worth a *maneh*, which did the goring].
- [D] [If] it died or diminished in value, [the owner of the gored ox] has nothing.

- [I:2 A]** [Following the Tosefta, supply:] **How does one pay half damages for the excess [of the value of the injury done by the less injured to the more injured one].**
- [B]** **An ox which is worth a maneh [a hundred zuz] which gored an ox worth two hundred zuz –**
- [C]** **they both lost fifty zuz in value –**
- [D]** **[but] the latter [of the two oxen which gored one another] lost [better: gained] in value another three golden denars [in addition]**
- [E]** **[the owner of] the latter pays [the owner of] the former a half a golden denar.**
- [F]** **An ox worth two hundred zuz which gored an ox worth two hundred zuz and did fifty zuz damage –**
- [G]** **the animal which had been gored gained in value, so that it was worth four hundred zuz –**
- [H]** **but if [the former ox] had not done injury to it, it would have been worth eight hundred zuz –**
- [I]** **now, if before the case came to court, the gored ox gained in value,**
- [J]** **the owner has a claim only for the value of the ox as it stood at the time of its being injured.**
- [K]** **And if it was after the case came to court that it diminished in value,**
- [L]** **the owner has a claim only for the value of the ox as it stood at the time the case came to court.**
- [M]** *Said R. La, “Thus does the Tannaitic statement teach: [If] the value of the ox which had done the injury improved before the case came to court, [the owner of the gored ox] has a claim only in accord with the value of the defendant at the time of its inflicting the injury.*
- [N]** **“[But if] after the case came to court, it increased in value,**
- [O]** **“[the owner of the gored ox] has a claim only on the value of the defendant as it stood at the time the case came to court” [T. B.Q. 3:5A-O].**
- [I:3 A]** **What is the Scriptural basis for the opinion of R. Meir?**

- [B] Scripture states, “They shall sell the live ox and divide the proceeds of it” (Ex. 21:35).
- [C] And how does R. Judah interpret the verse of Scripture, “And the dead one also they shall divide”?
- [D] On this basis [we know] that this one loses half of the value of the damage he has suffered, and that one loses half the value of the damage he has caused.

3:10

[A] There is he who is liable for the deed of his ox and exempt on account of his own deed, exempt for the deed of his ox and liable on account of his own deed.

[B] His ox which inflicted embarrassment – [the owner] is exempt.

[C] But he who inflicted embarrassment is liable.

[D] His ox which blinded the eye of his slave or knocked out his tooth – [the owner] is exempt.

[E] But he who blinded the eye of his slave or knocked out his tooth is liable.

[F] (1) His ox which injured his father or his mother – [the owner] is liable.

[G] But he who injured his father and his mother is exempt.

[H] His ox which set fire to a shock of grain on the Sabbath – [the owner] is liable.

[I] But he who set fire to a shock of grain on the Sabbath is exempt

[J] because he is subject to liability for his life.

[I:1 A] [With regard to acts of labor on the Sabbath,] Ben Pedaiah said, “All acts of destruction [on the Sabbath] are exempt from punishment [for violating the Sabbath], except for the act of setting a fire and that of inflicting an injury.”

[B] Said R. Yohanan, “In the case of one who sets a fire [on the Sabbath], one is liable only if he needs the ashes.

[C] “And as to inflicting an injury on the Sabbath, one is liable only if he needs the blood.”

[D] *And have we not learned, His ox [which set fire to a shock of grain on the Sabbath – the other is liable]?*

[E] [Yohanan has said that that is the case only if he needs the ashes. Does the ox fit?] In the case of his ox's [kindling a fire], he may also need the ashes.

3:11

[A] **An ox which was running after another ox, and [that latter ox] was injured –**

[B] **this one claims, “Your ox did the injury,”**

[C] **and that one claims, “Not so, but it was hit by a stone” –**

[D] **he who wants to exact [compensation] from his fellow bears the burden of proof.**

[E] **If two [oxen] were running after one [ox] –**

[F] **this one says, “Your ox did the damage,”**

[G] **and that one says, “Your ox did the damage” –**

[H] **both of them are exempt.**

[I] **[But] if both of them belonged to the same man, both of them [oxen] are liable [to pay compensation].**

[J] **[If] one of them was big and one little –**

[K] **the one whose ox has suffered an injury says, “The big one did the damage,” but the one who is responsible for the damage says, “Not so, but the little one did the damage” –**

[L] **one of them was deemed harmless, and one was an attested danger –**

[M] **the one whose ox has suffered an injury says, “The one which was the attested danger has done the damage,” but the one who is responsible for the damage says, “Not so, but the one which had been deemed harmless did the damage” –**

[N] **he who wants to exact [compensation] from his fellow bears the burden of proof.**

[O] **[If] those [oxen] that were injured were two, one big and one small,**

[P] **and those [oxen] responsible for the injuries were two, one big and one small –**

[Q] **the one whose ox was injured says, “The big one did the damage to the big one, and the little one to the little one,”**

[R] **and the one responsible for the damage says, “Not so, but the big one injured the little one, and the little one injured the big one” –**

[S] **one of them was deemed harmless and one was an attested danger –**

[T] **the one whose ox has suffered an injury says, “The one which was the attested danger did the damage to the big ox, and the one which had been deemed harmless did the damage to the little ox,”**

[U] **and the one responsible for the damage says, “Not so, but the one which had been deemed harmless injured the big ox, and the one which had been an attested danger injured the little one” –**

[V] **he who wants to exact [compensation] from his fellow bears the burden of proof.**

[I:1 A] *R. Yudan raised the question: “As to this appearance in court [in which one party claims that the large beast had done the damage, and to the other party says that the smaller beast had done it], what is the law?” [Do we maintain that the one who conceded the smaller one had done the goring has to pay at least for what he has conceded? Or do we say that the claim was for one thing, the concession for some other, so he need not pay at all?]*

[B] *Let us derive the answer from the following:*

[C] **Two men who threw two stones and who broke two jars,**

[D] **one containing wine and one containing oil –**

[E] **this one says, “[I broke] the one containing wine,”**

[F] **and that one says, “[I broke] the one containing wine,” –**

[G] **they pay compensation for the one containing wine.**

[H] **[If one of the jugs] was full and the other was empty,**

[I] **this one says, “[I broke] the empty one,”**

[J] **and that one says, “[I broke] the empty one,”**

[K] **they pay compensation for the empty one.**

[L] **[If] they broke only one jug,**

[M] **this one says to him, “You broke it,”**

[N] **and that one says to him, “You broke it,”**

[O] **both of them are exempt [from having to pay compensation] [T. B.Q. 3:7WW-III].**

YERUSHALMI BABA QAMMA

CHAPTER FOUR

4:1

- [A] “An ox [deemed harmless] which gored four or five oxen one after the other,
- [B] “[first] pays compensation to the last among them.
- [C] “If there is excess [value received from the proceeds of the ox which has done the goring], one goes on to the one before it.
- [D] “If there still is excess value, one goes on to the one which is before that one.
- [E] “The last [of the claim thus] is the one which is given the advantage,” the words of R. Meir.
- [F] R. Simeon says, “An ox [deemed harmless] worth two hundred [zuz] which gored an ox which was worth two hundred [zuz],
- [G] “and the carcass [of the gored ox] is worth nothing –
- [H] “this one takes a maneh [a hundred zuz], and that one takes a maneh.
- [I] “[If] it gored another ox, worth two hundred [zuz], the last one takes a hundred zuz and as to the one before it – this one takes fifty zuz, and that one takes fifty zuz.
- [J] “[If] it gored yet another ox worth two hundred, the last one takes a hundred zuz,
- [K] “and the one before it, fifty zuz, and the first two [each] take a golden denar [twenty-five zuz].”
- [I:1 A] Said R. Yannai, “[The reasoning of R. Meir [who rules that the latest claim is the one which is given the advantage,] is that [that claimant] comes against the defendant with a two-sided argument:
- [B] “[From any viewpoint I should not lose the payment of half of the damage I have suffered.] For how do you wish [to lay matters out]?
- [C] “[The last victim thus says to the one before,] ‘If the beast belongs to you, then you must give it to me.

- [D] “If the beast does not belong to you, then hand it over to me, so that I may collect from *its* carcass what is owing to me [anyhow].”
- [E] “For did not R. Eleazar say, ‘Taking precautions for what has caused damage [to a person] is tantamount to taking precautions for [the person’s] own possessions’?” [So the previous holder is responsible, not the original owner of the beast. That is, if one has suffered damage, and, in compensation, has been given the beast that caused the damage, he is then liable for damages caused thereby, just as he is liable for damages caused by his own property or possessions.]” [Cf. M. 1:2 “Acts of guardianship which effect acquisition are tantamount to acts of guardianship which impose responsibility for damages.” The net effect is the same, and the Hebrew words translated are identical, but the context requires a slight variation, as indicated here, in translation.]
- [F] Said to him R. Yudan, “And has he handed over [the beast] to him [in compensation] for his injuries? And is it not merely in the status of a pledge in his possession [covering the cost of the injury, which will be paid in due course?] [Consequently, the (prior) holder of the beast is not liable for injuries caused by it. He is in the status of a paid bailee.]”
- [I:2 A] [What follows reverts to M. 3:9P-V, the dispute of Meir and Judah. The connection between that dispute and the one between Meir and Simeon becomes clear in a moment. Since Meir appears at both pericopae, the interest will be in linking Judah’s view at M. 3:9 to Simeon’s at M. 4:1. That is the exercise before us.] What is the difference of opinion [between Meir and Judah, as explained]? [The focus is on Judah’s statement, “You have carried out the verse which says, ‘Then they shall sell the live ox and divide its proceeds.’ But you have not yet carried out the verse which says, ‘And the dead one also they shall divide.’” For both assign to each party 125 zuz.]
- [B] R. Yohanan said, “The right of consecrating the [surviving] ox is subject to dispute between them.
- [C] “*In the opinion of R. Judah*, the first party has the right to consecrate the beast, *and in the opinion of R. Meir* both of them have the right to consecrate it. [Judah has the owner of the ox which did the damage take half of the value of the carcass. The owner of the victim has no right of ownership to the surviving ox, which serves only as the point at which he collects what is owing to him. It follows that the owner of the ox which has done the damage has the right to consecrate the beast, since he owns the ox. The other has only a lien. Meir maintains that the injured party has so strong a lien on the surviving beast that he

owns it as much as does the other. Accordingly, both parties together must concur in declaring the beast to be consecrated.]

- [D] “If it increased in value, *in the opinion of R. Judah*, the increase is assigned to the first party [the original owner of the beast which has done the goring]. *In the opinion of R. Meir* the increase is assigned to both [of them].
- [E] “If it worked for a wage, *in the opinion of R. Judah* the wage goes to the first part-. *In the opinion of R. Meir*, it is assigned to both of them.
- [F] “If it gained in price, *in the opinion of R. Judah* the increase is assigned to the first party. *In the opinion of R. Meir* it is assigned to both of them.” [The reasoning is consistent throughout.]
- [G] [We now come to the point of contact with the present pericope of the Mishnah.] Said R. Yohanan, “What R. Judah has said and what R. Simeon has said are one and the same thing. [Both concur that the owner of the ox which was the victim enjoys rights to the surviving ox only if an act of acquisition is carried out. Otherwise, as we see, the surviving ox is assigned to the ownership only of the original owner, who, to be sure, has to pay damages to the victim, amounting to half the value of the surviving ox.]
- [H] “Just as R. Judah said, ‘He effects an act of acquisition,’ so R. Simeon said, ‘He effects an act of acquisition.’
- [I] “[Clarifying this comparison,] But [the two nonetheless will differ]. For R. Judah said, ‘He effects an act of acquisition of the surviving beast, just as he does the carcass of the dead one [thus collecting half of the value of the surviving beast and half of the value of the deceased]. [In both instances we deal with collecting a debt like any other. The owner of the victim has no rights of ownership to the ox which has done the damage.]’
- [J] “R. Simeon, on the other hand, maintains that [the owner of the victim] has effected ownership of the carcass alone. [That is, the rights to the surviving beast are only on account of what is owing on the deceased one. Consequently, Simeon will ultimately concur with Meir that both have the right severally, not only jointly, to consecrate the beast.]”

[I:3 A] We have learned there [M. Ket. 10:4]: He who was married to three wives and died, the marriage contract of this one was a maneh, and that of the next two hundred zuz, and that of the last three hundred – and there is there only a maneh – they

divide it equally. [If] there are two hundred, the one who is owed a maneh takes fifty, and the ones who are owed two hundred and three hundred each take three golden denars [seventy-five zuz each]. [If] there were three hundred zuz there, the one who claims a maneh takes fifty zuz, and the one who claims two hundred takes a maneh, and the one who claims three hundred zuz takes six gold denars [one hundred fifty zuz]. And so [three who put their money into] a single purse – if the capital in the end was too little or too much, so would they divide up what was available. [That is, if there are 300, the one who claims 100 takes 50, and so on. The basic idea is that when we have only 100 zuz, all parties claim it. When we have 200, then the first claimant, who was owed only 100 to begin with has no claim to the second, and drops out. When we have 300, the first woman retains a claim only to 100, the second, only to 200, and the third woman gets the whole third, 100 zuz. Thus in the first instance, we give each woman a third. In the second case, we split up the second 100 (so, for the three, 50, 75, 75). In the third case, we give 50, then 100 (that is, half of the second 100 zuz), and 150 (half of the second 100 zuz and all of the third 100 zuz).]

[B] Said R. Bun, “It would appear to me that [when they divide up equally] it is because they have purchased a large pearl [*so that the one who contributed the smallest sum*] may say, ‘If I had not contributed my denars, you would have been unable to purchase anything [of much value]. [The larger capital made possible whatever profits, since the higher price goes to the more perfect pearl.]’

[C] “But if they had purchased something which is routinely divided, they put the profits in the middle and divide them up [in proper proportion]. [Only when the smallest sum has made possible the entire deal is the claim divided as stated. Otherwise, it must be divided in proportion to the invested capital, since there is no reason to assign to the smaller investor a share in the profits greater than the proportion of capital which he put in at the outset.]”

[D] R. Eleazar said, “Even in the case of the purchase of some thing which may be routinely divided, [the smaller investor gets a larger share, as specified]. [*For he*] has the right to claim, ‘Your capital is sizable. Hence you do business slowly. capital is small. I turn over my capital rapidly and make as

much as you do [by the greater velocity of trade].’ [So the division is equal under all circumstances.]”

[E] *Up to this point we have dealt with a case in which the trade is domestic. [The outlays for the partnership are then minimal.]*

[F] *But if the trade is located in Rome, [can the smaller partner make the same claim]? [After all, the capital is tied up in a distant venture. **Yes indeed! He] does have the right to claim, “Your capital is sizable. Hence you do business slowly. my capital is small. I turn over my capital rapidly [keeping it] here [in the local market] and make as much as you do [by the greater velocity of trade].”***

[I:4 A] It has been taught: Three who put their money into one purse, which was stolen from them, bring what is left to the middle and divide it up [in proportion to the capital originally invested] [T. Ket. 10:4A-B].

[B] *And has it not been taught [to the contrary, that the division is equal, not proportional]: **If they had [contributed] stones [e.g., a house collapsed], and they were stolen, they assign the loss equally half to each partner** [without regard to the proportion each had given of the original investment in the house]?*

[C] *Said R. Shimi, “The stones are large. **One hardly knows whether a stone was taken from this party or whether it was taken from that party.***

[D] *“By reason of doubt, half [of what is left] is assigned to this party, and half to that.*

[E] *“But in the case of small stones, when it is possible to meld them together, then each party takes in proportion to what he had originally contributed.”*

[F] *What makes you say that we are dealing with what has been stolen? Perhaps we are dealing only with what remains [of the stones of the house]? [But in the case of what has been stolen, by reason of doubt the loss is assigned in equal proportions.]*

[G] *Said R. Yosef b. R. Bun, “And even if you do maintain that we are dealing with the stones which are stolen, it still turns out that the rule of justice is smitten.*

[H] *“For take note: If this one had put in fifty, and that one had put in one hundred and fifty, and fifty were stolen, then the one who had put in fifty surely makes a profit, since he loses nothing at all. [That is why one has always to divide the loss in proportion to the original investment.]”*

[I:5 A] *There we have learned [since the present Talmud derives from Y. Ket. 10:4, it refers to the pericope before us as one from another location]: “**[If] it gored yet another ox worth two hundred, the last one takes a hundred zuz, and the one before it, fifty zuz, and the first two [each] take a golden denar [twenty-five zuz].**” [All are deemed partners, and this is how the loss is assigned to each, in accord with the proportion of the capital which each has contributed.]*

[B] R. Samuel in the name of R. Zeira, *“And so is the rule for dividing profits [if partners have invested in a common sum of capital in accord with the stated proportions].”*

[C] *Said R. Yosé, “This statement of R. Zira stands at variance with that which R. Eleazar [has said, since Eleazar insists that the division is even, no matter the capital each has put in].”*

[D] *Said R. Mani, “I raised the question before R. Yudan [concerning the clear difference of opinion between M. 4:1J-K, cited above, A, and the position of Eleazar, just now mentioned].*

[E] *“He said to me, ‘Does not R. Eleazar concur that if they stipulated among themselves at the outset [that the division would be proportionate], this party collects in accord with his proportion of the invested capital, and that party takes a share in the profits in accord with his share in the invested capital [He assuredly does concur.] Now in the case of oxen, we deem such a stipulation, even when not made explicit, to be in effect. [Consequently, Eleazar need have no difficulty concurring with the cited pericope of the Mishnah.]”*

[F] *[Continuing this account, Mani says,] “I went and said the same before R. Yosé.*

[G] *“He said to me, ‘There is an explicit tradition that R. Eleazar indeed differs [from R. Zeira in this matter].’*

[H] “R. Eleazar says, ‘When the matter is left without further explication, they divide up the matter equally [thus in contradiction to the cited pericope of the Mishnah.]’

[I] “R. Zeira said, ‘When the matter is left without further explication, each party takes his share of the profits in proportion to the capital which he originally invested.’”

4:2

[A] **An ox which is an attested danger as to its own species, but not an attested danger as to what is not its own species –**

[B] **[or] an attested danger as to man, but not an attested danger as to beast,**

[C] **[or] an attested danger to small [beasts] but not an attested danger as to large ones –**

[D] **for injuries done to that for which it is an attested danger, [the owner] pays full damages,**

[E] **and for injuries done to that for which it is not an attested danger, he pays half-damages.**

[F] **They said before R. Judah, “Lo, what if it was an attested danger for Sabbaths but not an attested danger for ordinary days?”**

[G] **He said to them, “For damage done on Sabbaths [the owner] pays full damages,**

[H] **“and for damage done on ordinary days [the owner] pays half-damages.”**

[I] **When is it then deemed to be harmless? When it refrains [from doing damages] for three successive Sabbaths.**

[I:1 A] **[or an attested danger as to man, but not an attested danger as to beast]** Once the ox has killed a single man, is he not an attested danger? [How then should there be an occasion for the ox to be declared an attested danger, since it is put to death for killing one man, and we do not wait for it to kill three?]

[B] Rab said, “We deal with a case in which an ox killed three idolaters [on account of whom it is not put to death, and hence it could be declared an attested danger].”

[C] R. Yosé b. Haninah said, “We deal with a case in which the ox has engaged in three acts of pursuit, and they estimate that in the act of pursuit there is sufficient force to gore [and kill a man]. [Even in such

a case, the ox would not be deemed an attested danger to beasts, but only to man, as M. 4:2B surmises.]”

- [I:2 A] [Cf. Y. 2:6, which is reproduced here verbatim.] Now if an ox went out on Sunday and gored an ox, on Monday and gored a dog, on Tuesday and gored a pig, on account of the three kinds of animal which it has gored on three successive days, what is the law as to declaring it an attested danger? [This question is not answered.]
- [B] If an ox went out on the first day and gored, on the second did not go out at all, and on the third day went out and gored –
- [C] [*in raising this question*] we have come to the dispute of R. Ada bar Ahva and R. Huna, who argue as follows:
- [D] A girl approaching her menstrual period who examined herself on the first day and found she was unclean, on the second day did not examine herself at all, and on the third day examined herself and found that she was unclean –
- [E] R. Ada bar Ahva in the name of Rab: “She is confirmed as a menstruating woman [a *zabah*].”
- [F] R. Huna in the name of Rab said, “She is subject to doubt as to whether or not she is in her menstrual period.”
- [G] *Said R. Huna, “I was there at the beginning, I was there at the end, and I was there in the middle [on the three occasions on which Rab expressed an opinion on this subject].*
- [H] “*Now the question was addressed to Rab, and he ruled, ‘It is a matter of doubt.’*”
- [I] “*Then the question again was addressed to Rab, and he ruled, ‘It is a matter of certainty [that she is unclean].’*”
- [J] “*And then again he ruled, ‘It is subject to doubt.’*”
- [K] “*R. Ada bar Ahva was there only when Rab said, ‘It is a matter of certainty’ [but did not hear his other opinions, which are definitive].*
- [L] R. Jeremiah in the name of Rab: “The law [at Y. 2:6] is in accord with R. Meir in the case of a beast deemed harmless, and in accord with R. Judah in regard to a warning [to declare a beast an attested danger].”
- [II:1 A] *We reflected, What is the reason of R. Judah [at M. 4:2G, I]?*

[B] Since he sees people dressed in clean clothing, he will once again react differently [from the way he does when he sees people dressed in ordinary days' clothing].

4:3

[A] **An ox of an Israelite which gored an ox belonging to the sanctuary –**

[B] **or an ox belonging to the sanctuary which gored an ox belonging to an Israelite –**

[C] **[the owner] is exempt,**

[D] **since it is said, “The ox belonging to his neighbor” (Ex. 21:35) – and not an ox belonging to the sanctuary.**

[E] **An ox belonging to an Israelite which gored an ox belonging to a gentile –**

[F] **[the Israelite owner] is exempt.**

[G] **And one of a gentile which gored one of an Israelite –**

[H] **whether it is harmless or an attested danger, [the gentile owner] pays full damages.**

[I:1 A] Rab said, “‘He looked and loosened the nations’ (Habakkuk 3:6) – he loosened [restrictions protecting] idolaters’ capital.”

[B] Hezekiah said, “‘... and shone forth from Mount Paran’ (Deut. 33:2) – he turned his face against the idolaters.”

[C] R. Yosé b. Haninah said, “He brought them down from possession of their property” (cf. Habakkuk 3:3).

[I:2 A] R. Abbahu in the name of R. Yohanan said, “It is in accord with their law [that there is no difference between an ox deemed harmless and one which is an attested danger].”

[B] *Said R. La, “It was not stated in this connection, but in connection with the following, which R. Hiyya taught: **An ox belonging to an idolater which gored an ox belonging to another idolater, his fellow –***

[C] **“even if he accepted upon himself judgment in accord with Israelite law,**

[D] **“whether the ox was deemed harmless or an attested danger, he must pay compensation for the full cost of the damages suffered by the victim.**

[E] *“It is in this connection that R. Abbahu in the name of R. Yohanan stated, ‘It is in accord with their laws.’”*

[I:3 A] M'SH S: The Government sent two officers to study Torah from Rabban Gamaliel. They studied with him Scripture, Mishnah, Talmud, laws, and lore. At the end they said to him, “The whole of your Torah is beautiful and praiseworthy, except for these two rules which you state:

[B] **An Israelite girl should not serve as a midwife to a gentile woman, because she serves to bring forth a child for the service of idolatry. But a gentile woman may serve as a midwife to an Israelite girl. An Israelite girl should not give suck to the child of a gentile woman. But a gentile woman may give suck to the child of an Israelite girl, when it is by permission [M. A.Z. 2:1G-L]**

[C] “What is stolen from an Israelite is prohibited, but from a gentile is permitted.”

[D] At that moment Rabban Gamaliel issued a decree against stealing from a gentile, declaring it forbidden because of the profanation of God’s name.

[E] **“An ox belonging to an Israelite which gored an ox belonging to a gentile – [the Israelite owner] is exempt. And one of a gentile which gored one of an Israelite – whether it is harmless or an attested danger, [the gentile owner] pays full damages.**

[F] “This matter, too, we cannot concede [to be just].”

[G] Even so, they had not reached the Ladder of Tyre before they had forgotten everything they learned.

4:4

[A] **An ox of a person of sound senses which gored an ox belonging to a deaf-mute, an idiot, or a minor –**

[B] **[the owner] is liable.**

[C] **But one of a deaf-mute, idiot, or minor which gored an ox belonging to a person of sound senses – [the owner] is exempt.**

[D] **[As to] the ox of a deaf-mute, idiot, or minor, the court appoints a guardian for them, and they bring testimony against [the ox, to have it declared an attested danger] to the guardian.**

[E] **[If] the deaf-mute gained capacity to hear, the idiot regained his senses, or the minor reached maturity,**

- [F] “[an ox belonging to one of them which had been declared an attested danger] has returned to its status of being deemed harmless,” the words of R. Meir.
- [G] Yosé says, “Lo, it remains in its established status.”
- [H] An ox belonging to the stadium [trained to fight other oxen or men] is not liable to the death penalty,
- [I] since it is said, “When it will gore,” (Ex. 21:28) and not, “When others will cause it to gore.”
- [I:1 A] *The meaning of the Mishnah pericope is, “An ox belonging to a deaf-mute,” “an ox belonging to an idiot,” “an ox belonging to a minor.”*
- [B] [Since we note that an ox belonging to one of these which gored leaves the owner exempt, we note that there is a contradiction in the provision for setting up a guardian,] *for lo, we have learned, [As to] the ox of a deaf-mute, idiot, or minor, the court appoints a guardian for them, and they bring testimony against [the ox, to have it declared an attested danger] to the guardian.*
- [C] In this regard, we speak of a case in which warning was given before the guardian, but then they hand over the ox to the owner [which explains why we speak both of a guardian and of the exemption from liability of the minor-owner].
- [D] If they gave testimony before the owner, and handed the ox over to a guardian, what is the law [as to liability]?
- [E] *Let us derive the rule from the following:*
- [F] [If] one had borrowed it in the assumption that it was harm less and it turned out to be an attested danger, [however], the owner pays half damages, and the borrower is exempt.
- [G] [If a] warning [attesting the animal as dangerous] was made in the presence of the borrower, and afterward [the borrower] gave it back to the owner,
- [H] the owner pays half damages, and the borrower pays half damages [T. B.Q. 5:4E]. [The assumption is that the above rule follows the theory of Meir, that the shift in domain governing the beast effects a shift in the liability accruing on the part of the beast, and this comes clear at H. But note that the Yerushalmi has a somewhat different reading for this passage from the Tosefta, which is reproduced here.]
- [I] Said R. Eleazar, “The passage accords with the theory of R. Yosé, for R. Yosé said, ‘Lo, it remains in its imputed status.’ [Hence even if it is

declared an attested danger in a different domain, the return to the domain of the owner makes no difference, and the beast remains subject to the status imputed to it. The shift from the owner to the guardian makes no difference.]”

- [J] If the passage accords with R. Yosé, then he should be required to pay all the damages [and not only half of them]. [Accordingly, the cited passage cannot accord with Yosé.]
- [K] We deal with a case] in which he borrowed the beast assuming that it was harmless [and that assumption governs what he has to pay].
- [L] If it was in the assumption that the beast was harmless, he should not have to pay a thing.
- [M] We deal with a case in which the man knew that it was wont to gore [even though it was not yet declared dangerous].
- [I:2 A] *It has been taught on Tannaite authority: [If] it committed manslaughter in his domain, and afterward he handed it back to the owner,*
- [B] **if before the court process concerning it was complete, he had handed it back to the owner, he is exempt.**
- [C] **[If] after the court process concerning it was complete, he had handed it back to the owner, he is liable.**
- [D] **R. Jacob says, “Also: if he handed it back to the owner after its court process was complete but before it was stoned, he is exempt” [T. B.Q. 5:4F-I].**
- [I:3 A] Said R. Yohanan, “To begin with they appoint a guardian not to incur liability in behalf of [an orphan] but to gain advantage [in his behalf]. But if the guardian should incur a liability [as at M. 4:4D], it is a valid act.”
- [B] R. Yosé b. Haninah said, “Whether to begin with or after the fact, they do not appoint a guardian for orphans either to gain an advantage for them or to incur a liability for them.”
- [C] *The Mishnah passage before us differs from R. Yosé b. Haninah’s view:*
- [D] **The court appoints a guardian for them, and they bring testimony against [the ox to have it declared an attested danger] to the guardian [. M 1D]**

[E] He said to them, “The case of an ox is special, since it must be prevented from going out and injuring people.”

- [I:4 A] An ox belonging to orphans which is presently in the possession of a guardian which went out and did damage – what is the law [as to exacting payment]? [Does the compensation come from the guardian’s own property?]
- [B] R. Yohanan said, “The compensation is exacted from the property of the orphans, for if you rule that it comes from the guardian, then no one will ever agree to be appointed a guardian.”
- [C] R. Yosé b. Haninah said, “It is paid by the guardian.”
- [D] *And the ruling of R. Yosé b. Haninah accords with the position of Abba Saul, while that of R. Yohanan accords with the view of rabbis, for we have learned there:*
- [E] **A guardian whom a father of orphans has appointed is to be subjected to an oath If a court appointed him. he is not subjected to an oath**
- [F] If the court appointed him, he is not subjected to an oath, for the court carefully examines his qualifications [at the outset].
- [G] **Abba Saul says. “Matters are reversed “ [M. Git 5:~D-F] A guardian whom the father of the orphans has appointed is not subjected to an oath,**
- [H] for he wants [him] to do a favor [for him]. [That is, the father deans this a service, on which account the guardian is exempted from taking an oath.]
- [I] If a court appointed him, he is subjected to an oath, for people are willing to give a great deal so as to be publicly regarded as reliable. [Now we see that Yosé b. Haninah accords with the theory of Abba Saul.]

- [II:1 A] Said Abba bar R. Huna, “[In the light of M. 4:4H, **An ox belonging to the stadium is not liable to the death penalty,**] one may draw the conclusion that he who incites his neighbor’s ox to go and commit mayhem is liable for the injuries caused thereby. [The ox of the stadium is exempt as regards the death penalty, but liable for property damages, and the rest follows.]”

4:5

- [A] **An ox which gored a man, who died –**

[B] [if it was] an attested danger, [the owner] pays a ransom price [of the value of the deceased].

[C] But [if it was deemed] harmless, he is exempt from paying the ransom price.

[D] And in this case and in that case, [the oxen] are liable to the death penalty.

[E] And so is the rule [if it killed] a little boy or girl [son, daughter: Ex. 21:31].

[F] [If] it gored a boy slave or a girl slave, [the owner] pays thirty selas [Ex. 21:32],

[G] whether [the slave] was worth a maneh or a single denar.

[I:1 A] *It was taught:* “[When an ox gores a man or a woman to death, the ox shall be stoned, and its flesh shall not be eaten;] but the owner of the ox shall be clear. [But if the ox has been accustomed to gore in the past, and its owner has been warned but has not kept it in, and it kills a man or a woman, the ox shall be stoned and its owner shall be put to death. If a ransom is laid on him, then he shall give for the redemption of his life whatever is laid upon him’ (Ex. 21:28-30).] [The owner shall be clear of having to pay even] half of the assigned ransom,” the words of R. Eliezer [= M. 4:5C].

[B] Said to him R. Aqiba, “Rabbi! Is it not so that [the ox which gored is] first taken to be stoned, which is the more stringent penalty? [The Scripture cannot possibly mean merely that he is exempt from paying a half ransom in the case of the ox deemed harmless, since that is self-evident. If the ox is stoned, whence _ ill come the funds for a half ransom? Since in the case of an ox deemed harmless, the funds derive from the sale of the beast, and since this beast is not available for that purpose, Scripture cannot possibly intend such an obvious fact as has been presented at A.]”

[C] He said to him, “No. I referred only [in my interpretation to the case stated at M. 4:5F]: **If it had intended to kill another beast but killed a man, a gentile but killed an Israelite. an untimely birth but killed a viable infant the owner is exempt** [I might have thought that, since in the present case, there is no penalty of stoning, then the owner sells the beast and pays off half of the value of the one who has been killed. Scripture in forms us that that is not the case.]”

[D] *Instead of questioning the position of R. Eliezer, let [Aqiba] question his own position* [for he maintains that the cited verse indicates the fact that the owner is exempt from paying for the value of the slave]. [Now why should a verse of Scripture be required to make that point, since

the same reasoning which leads to the position of B leads to the conclusion – without Scripture’s information – that, since there is no possibility of selling the ox, which is stoned, there also is no issue of paying damages for the slave which has been gored?]

- [E] Said R. Miasha, “Interpret the statement [in accord with Aqiba] to apply to a case in which [the owner of the ox] went ahead and slaughtered the beast [and sold the meat]. [Here, where there are funds available, we might have supposed that in the case of a beast deemed harmless, the owner pays half of the ransom. Scripture hence informs us that even where funds are available that is not the case.]”
- [F] *There are those who wish to say that once [Aqiba] had learned the following from R. Eliezer, “Lo, I referred in interpretation of the case [since at F, **If it had intended to kill another beast but has killed a man. a gentile bur killed an Israelite. an untimely birth but killed a viable infant. the ox. is exempt,** [he then did not care to present the interpretation of Scripture cited above].*
- [G] *In that case, how does R. Aqiba interpret the verse, “But the owner of the ox shall be clear” (Ex. 22:28)?*
- [H] He is clear of having to pay the value of the slave.
- [I] *And does R. Aqiba not maintain that he is clear of having to pay half ransom?*
- [J] [The verse does not deal with an ox deemed harmless.] “If ransom is laid on him” (Ex. 21:30) speaks of an ox which was an attested danger.
- [K] *And does not R. Eliezer maintain that he is clear of having to pay the price of the slave?*
- [L] Here it is stated, “The ox will be stoned” (Ex. 21:29), and, further on, it is stated, “The ox will be stoned” (Ex. 21:32).
- [M] Just as the ox to which reference is made later on is an ox which was an attested danger [4c], so the ox subject to stoning referred to here is an ox which was an attested danger.
- [N] And [here too] is it not written, “The ox surely shall be stoned” (Ex. 21:28) [with reference to an ox deemed harmless]?
- [O] It is best to derive the law covering an ox which is to be stoned from a statement referring to an ox which is to be stoned (= Ex. 21:29, 32), and let not the law be derived from a reference to an ox which will surely be stoned (Ex. 21:28).

[I:2 A] *Said R. Yosa, “I heard a teaching of R. Samuel b. R. Isaac in this regard, but I am not sure what it is that I heard.”*

[B] *Said to him R. Zeira, “Perhaps this is what it is: At the outset Scripture speaks only of an ox deemed harmless [= Ex. 21:28].*

[C] *“The Scripture then went and made explicit reference to the ox which was an attested danger’s being subject to ransom [Ex. 21:29-30].*

[D] *“The Scripture went and made explicit reference to both of their being liable to pay compensation for the damages which they have caused [= Ex. 21:31-32].*

[E] *“Is it possible to maintain that just as the Scripture made explicit reference to the liability for their paying compensation for damages [at Ex. 21:29-30], so it made explicit that the owner must pay for the value of the slave [Ex. 21:32]?”*

[F] *“Scripture says, ‘And the owner of the ox is clear’ – clear of paying the value of the slave [in the case of the ox deemed harmless]. [The two sorts of beast are not treated the same way in this regard.]”*

[I:3 A] *Said R. La, “In every other place you impose a stricter rule on the case involving a slave than on anyone else.*

[B] *“For even if it is a slave afflicted with boils, one has to pay thirty *selas* if he kills him [no matter his actual value]. [Here perhaps an ox deemed innocent should also pay in the case of a slave? Hence the need for Aqiba’s exegesis.]*

[C] *“I might then have said, ‘Also in the case of his father and his mother the rule is so.’”*

[D] *“Therefore Scripture says, ‘And the owner of the ox is clear’ – clear of paying compensation for the offspring.*

[E] *“In all places you impose a stricter rule on the ox which is an attested danger than on the one which is deemed harmless. But here you impose a stricter rule on the ox deemed harmless than the one which is an attested danger [as explained at B].*

[F] *“But this is the rule: Men who do not act deliberately nonetheless are liable.*

- [G] “Oxen which do not act deliberately are exempt from liability [M. 4:6].
- [H] “Lo, if they did intend [to do what they did], who would the. be liable?
- [I] “Scripture says, ‘And the owner of the ox will be clear’ – of having to pay for the value of the offspring.”
- [J] *Another teaching is as follows:*
- [K] “And the owner of the ox is clear” – clear of paying the value of the offspring.
- [L] And is it not written, “When men strive together, [and hurt a woman with child, so that there is a miscarriage, and yet no harm follows, the one who hurt her shall be fined, according as the woman’s husband shall lay upon him; and he shall pay as the judges determine]” (Ex. 21:22)
- [M] when men strive together, and not oxen.
- [N] *Said R. Haggai, “So too is the teaching of the following Tannaitic tradition:*
- [O] “Men [who kill] unintentionally are liable on that account, while oxen who kill unintentionally are exempt [from liability on that account].
- [P] “Lo, if they had done what they did intentional y would they be liable?
- [Q] “Scripture says, ‘And the owner of the ox will be clear’ – clear of the value of the offspring.”
- [R] “And is it not written, ‘When men strive together’ (Ex. 21:22) [and also] “When men quarrel, and one strikes the other with a stone or with his fist and the man does not die but keeps his bed, then if the man rises again and walks abroad with his staff, he that struck him shall be clear” (Ex. 21:19)?
- [S] “Now is not striving together pretty much the same thing as quarreling? [What leads Scripture to change its word choices?]
- [T] “If you wish to argue, Just as in the later passage, we deal with a case of intentional assault, so here we deal

with a case of intentional assault, [perhaps to the contrary,] just as here we deal with a case of unintentional assault, so later we deal with a case of unintentional assault!”

[U] *What is the solution then?*

[V] *It is in line with that which R. Samuel bar R. Isaac said, “At the outset, Scripture speaks only of an ox deemed harmless. The Scripture then went and made explicit reference to the ox which was an attested danger’s being subject to ransom. The Scripture went and made explicit to both of their being liable to pay compensation for the damages which they have caused.”*

[I:4 A] How do we know that the injuries done to the slave must be compensated?

[B] Scripture says, “If it gores a man’s son or daughter, he shall be dealt with according to this same rule. And if the ox gores a slave, male or female, the owner shall give to their master thirty shekels of silver, and the ox shall be stoned” (Ex. 21:31-32).

[C] *R. Hiyya bar Vava and R. Samuel bar R. Isaac: One of them said, “Let not what is added [in compensation] be greater than the principal [the actual value of the slave].”*

[D] *And the other one said, “He pays him all the value of the damage which his ox has caused [no matter if this is out of proportion to the value of the slave].”*

4:6

[A] **An ox which was rubbing itself against a wall,**

[B] **and [the wall] fell on a man,**

[C] **[if] it had intended to kill (1) another beast, but killed a man,**

[D] **(2) a gentile but killed an Israelite,**

[E] **(3) an untimely birth but killed a viable infant –**

[F] **[the ox] is exempt.**

[I:1 A] “And he who kills a man [shall be put to death]” (Lev. 24:17).

[B] This is meant to encompass one who hits another, in which blow there is sufficient force to cause death; [e.g., if two people hit a man in succession, the latter, whose blow has caused the death, is culpable].

[C] *There are Tannaim who teach*, “Even if there is not sufficient force to cause death by the blow,” [on the part of the latter person, but there is on the part of the former, then the latter is liable as well (Pené Moshe)]

[D] Said R. La, “And even if there is sufficient force [in the blow of the former] to cause death, but another person came along and actually administered the coup de grace, the one [the latter] who actually killed the man is liable.”

[I:2 A] “And if [the ox] kills a man or a woman ...” (Ex. 21:29 Just as a man bequeaths to his children the funds coming to him in compensation for his injuries, so a woman bequeaths to her children the funds coming to her in compensation for her injuries.

[B] And does not a husband inherit from his wife [these same funds]?

[C] Said R. Simeon b. Laqish, “Thus did R. Hoshaiiah, father of the Mishnah, explain the matter: ‘The teaching concerns a ransom, which is paid after death. [The husband does not inherit that money, because the wife has not made acquisition of the funds while yet alive. The ransom, after all, is collectible only after the victim has died. The upshot is that a husband does not inherit from a wife what is going to be received as if it already has been received.]’”

[I:3 A] *It was taught*: He who sells an ox to his fellow, and the ox turned out to be wont to gore –

[B] Rab said, “It is a sale made in error [and null].”

[C] And Samuel said, “[The seller] has the right to claim, ‘I sold it to you for slaughter’ [and did not misrepresent the matter].”

[I:4 A] “If a ransom is laid on him [whose ox kills a man], then he shall give for the redemption of his life [whatever is laid upon him]” (Ex. 21:30).

[B] *There are Tannaim who teach*, Reference is made to the life of the party responsible for the injury [the life of the owner of the ox]. [This is without regard to the value of the victim. The whole of it then is deemed to be a fine, not monetary compensation for damages.]

[C] *There are Tannaim who teach*, Reference is made to the life of the party which has suffered the injury.

- [D] *He who says that* reference is made to the life of the victim [will rule as follows:]
- [E] If the first party [e.g., the ox] gave a blow sufficient to cause death, and the second party came along and confused the victim [who expired forthwith] –
- [F] *if you say*, the consideration of recompense for injuries governs the entire transaction, [that is, both parties have caused the injury, the first having given him a death blow, and the second having hastened the actual death; then, if we assess the value in terms of the life of the victim,] the first party pays the value of the damages [as does the owner of an ox which injured a man, but plays no role in the ransom, since the man did not die through his action directly]. Then the second party pays the ransom, [as a separate transaction, having caused the death].
- [G] *If, by contrast, you rule that* the consideration of recompense for injuries does not govern the entire transaction, then the first party pays the ransom, and the second party is exempt.
- [H] *Now in accord with the view of the one who maintains that* the ransom is to redeem the life of the one responsible for the damage,
- [I] *if you say that* consideration of recompense for injuries governs the entire transaction, then the first party pays for the injuries, and the second party is exempt.
- [J] *If you rule that* the consideration of recompense for injuries does not govern the entire transaction, then both parties are exempt.

4:7

- [A] (1) **An ox belonging to a woman, (2) an ox belonging to orphans, (3) an ox belonging to a guardian, (4) an ox of the wilderness, (5) an ox belonging to the sanctuary, (6) an ox belonging to a proselyte who died lacking heirs –**
- [B] **Lo, these [oxen] are liable to the death penalty.**
- [C] **Judah says, “(4) An ox of the wilderness, (5) an ox belonging to the sanctuary, and (6) the ox of a proselyte who died are exempt from liability to the death penalty,**
- [D] **“for they are not subject to a particular owner.”**
- [I:1 A] What is the Scriptural basis for the position of R. Judah?

[B] “[But if the ox has been accustomed to gore in the past, and] its owner has been warned but has not kept it in” (Ex. 21:29).

[C] These oxen have no owners when it comes to **injuries which** they inflict.

[I:2 A] *R. Hoshaiah taught*, “As regards injuries which they inflict, R. Meir declares them liable, and R. Judah declares them exempt.”

[B] What is the rule as to ransom?

[C] R. Pedat in the name of R. Hoshaiah: “All concur in the matter of ransom that the beast is liable.”

[D] *There are those who say*, R. Yohanan in the name of R. Yannai: “Just as they differ as regards compensation for injuries inflicted by the ox, so they differ as regards ransom.”

[E] *R. Jeremiah asked before R. Zeira*, “How shall we act in a practical case?”

[F] He said to him, “In accord with the view of R. Hoshaiah: ‘So far as compensation for damages is concerned, R. Meir declares liable, and R. Judah declares exempt. Lo, as regards the ransom, all parties concur [that the beast is] liable.’”

4:8

[A] An ox which goes forth to be stoned, and which the owner [then] declared to be sanctified is not deemed to have been sanctified.

[B] [If] one has slaughtered it, its meat is prohibited (Ex. 21:28).

[C] But if before the court process had been completed the owner declared it sanctified, it is deemed sanctified.

[D] And [if] one had slaughtered it, its meat is permitted.

[I:1 A] *It was taught:*

[B] An ox which was going forth to be stoned, and the witnesses against it turned out to be perjurers –

[C] R. Yohanan said, “Whoever grabbed the ox first has acquired possession of it [since it is ownerless].”

[D] R. Simeon b. Laqish said, “It is a case in which it has been deemed ownerless by reason of an error [and it remains the property of the original owner].”

[E] And so in the case of a slave who was going forth to be executed, and the witnesses against him turned out to be perjurers –

[F] R. Yohanan said, “He has acquired ownership of himself.”

[G] R Simeon b Laqish said. “It is a case in which the owner has in error given up ownership out of despair [and that is not a valid act on the part of the owner, who then retains possession of the slave]”

4:9

[A] [If] one had handed it over to an unpaid bailee,

[B] or to a borrower,

[C] to a paid bailee,

[D] or to a renter,

[E] they take the place [and assume the liabilities] of the owner.

[F] [For an ox deemed an] attested danger [one of these] pays full damages, and [for one] deemed harmless [he] pays half-damages.

[G] [If] the owner tied it up with a halter,

[H] or locked it up in a proper way,

[I] and it went out and did damage –

[J] “All the same are an animal deemed harmless and one which is an attested danger –

[K] “[the owner] is liable,” the words of R. Meir.

[L] R. Judah says, “[The owner of an animal deemed] harmless is liable, but one regarded as an attested danger is exempt,

[M] “since it is said, ‘And it has been testified to its owner, but he did not keep him in’ (Ex. 21:29) –

[N] “but this one has been kept in.”

[O] R. Eliezer says, “The only appropriate ‘keeping in’ for such an animal [as is an attested danger] is the knife.”

[I:1 A] [At issue is whether the character of the guardianship of an ordinary beast must be routine or extraordinary. As we shall now see, Meir maintains that a perfectly routine watch over the beast suffices, and one need not take extraordinary measures. Judah holds that one must take exceptional measures to prevent a beast from getting out and causing damages. The former then compares what is required from the owner to what is required from an unpaid bailee, and the latter, from a paid bailee, whose liabilities are more severe. When, in Meir’s view, Scripture requires the owner to guard the beast which is an attested

danger, then, in the case of keeping the beast from doing damage to others, Scripture insists on the highest quality of guardianship, and that is why Meir holds the man responsible, in the theory that Scripture has imposed a more stringent rule than would otherwise prevail. Judah, by contrast, regards the intrusion of Scripture as rendering more lenient what is by logic a more strict rule. Hence if one has provided the necessary precautions, as in the case of an attested danger, no further liability will be incurred, this by Scriptural decree. So Scripture intervenes and removes liability in the case of the beast declared an attested danger, which accounts for the distinction of M.. 4:9L-M. This is expressed in the following somewhat abbreviated language:] Said R. Eleazar, “In the view of R. Meir, the sort of precautions to be taken against the beast’s doing damage is equivalent to the sort of precautions to be supplied by an unpaid bailee [whose liabilities are minimal].

- [B] “In the view of R. Judah, the sort of precautions to be taken against the beast’s doing damage is equivalent to the sort of precautions to be supplied by a paid bailee [whose liabilities are encompassing, and who must hence provide substantially more protection].”
- [C] Said R. Eleazar, “In the opinion of R. Meir, if one has handed an ox over to an unpaid bailee, if the ox then went out and did damage, [the bailee] is exempt. If the ox went and was torn [and so died of its injuries and could not be used by Israelites for their food], [the bailee] is exempt.
- [D] “If he handed the ox over to a paid bailee, if the ox went out and did damage, the bailee is liable. If it went out and was torn, he is exempt. [When the Mishnah then states, **they take the place [and assume the liabilities] of the owner**, it is solely in a case in which the bailee has not carried out his responsibilities but has transgressed them in some way. The paid bailee of course has to provide excellent precautions, and hence if the beast goes and does damage, the bailee is then liable.]”
- [E] Said R. Eleazar, “In the view of R. Judah, if one has handed over an ox which is an attested danger to an unpaid bailee, and the ox went out and did damage, [the bailee] is liable. If it went out and was torn, [the bailee] is exempt.
- [F] “If he handed it over to a paid bailee, if the ox then went out and did damage, the bailee is liable. If it went out and was torn, the bailee is liable. opinion, has imposed a less lenient rule on the owner. But as to an unpaid bailee, if he has an at tested danger on his hands, and did not

take exceptional pre cautions, he will be liable, since the Scriptural leniency does not apply to the unpaid bailee. As to the paid bailee, he bears liability on all counts.]”

- [II:1 A] As to M. 4:9/O, **R. Eliezer says, “The only appropriate ‘keeping in’ for such an animal [as is an attested danger] is the knife,”**] said R. Eleazar, “And is this beast not guarded? And yet the Torah has declared him liable [hence, the sort of control which is required in fact is slaughtering the dangerous beast]. [No sort of precautions suffice, and the meaning of the Scripture when it says, ‘He shall not guard him’ is that mere precautions are not enough!]”
- [B] Said R. Eleazar, “With regard to any act of guardianship of which the Torah has spoken, even if one has surrounded the beast with an iron wall, they take account only of what is done to the corpus of the ox itself. [That is to say, the only form of appropriate guardianship is killing the beast.]”
- [C] [The Talmud then comments:] Therefore they make an assessment of the matter. If they deem the beast to be suitable for guardianship [and he went forth and did damage, the owner is] exempt, [since he was not under court order to slaughter the beast].
- [D] But if not, [that is, if the court did not estimate that the beast might be guarded, but the owner attempted to take ample precautions, nonetheless, if the beast goes out and does damage, the owner] is liable.

YERUSHALMI BABA QAMMA

CHAPTER FIVE

5:1

[A] An ox [deemed harmless] which gored a cow [which died] and her newly born calf was found [dead] beside her –

[B] and it is not known whether, before it gored her, she gave birth, or after it gored her, she gave birth –

[C] [the owner of the ox] pays half-damages for the cow, and quarter-damages for the offspring.

[D] And so, too, a cow [deemed harmless] which gored an ox, and her newly born young was found beside her,

[E] and it is not known whether before she gored, she gave birth, or after she gored, she gave birth –

[F] [the owner of the cow] pays half-damages from the corpus of the cow, and a quarter-damages from the corpus of the offspring.

[I:1 A] Now do all cows miscarry?

[B] We should follow the pattern of the majority and maintain that after being gored the cow aborted. [Most cows do not miscarry. In this case it surely was because of being gored that the cow lost the calf, and so the owner of the ox should have to pay half damages for the calf (M. 5:1A).]

[C] [The reason that we exact quarter damages, not half damages for the calf,] is that in monetary cases [the sages] did not follow strict justice, so imposing the rule applicable to the majority, but rather they imposed the rule applicable to the minority [and hence, in this case, we have a matter of doubt, on which account only quarter damages are exacted].

[D] Said R. Yosé, “In yet another monetary case they did indeed follow strict justice, imposing the rule applicable to the majority, *as we have learned*:

[E] “R. Aha said, ‘In the case of a camel in heat among other camels, and a dead camel was found at its side, it is taken as certainty that that camel killed the other.’”

[II:1 A] [As to M. 5:1F, If the owner of the cow pays half damages from the corpus of the cow, and quarter damages from the corpus of the offspring, then the owner of the ox which was gored gets three-quarter damages. Yet the cow was deemed harmless, so the owner of the ox which was gored gets only half damages,] *said R. Yannai*, “*Thus is the meaning of the law of the Mishnah*: ‘[We deal with a case in which the cow which gored is owned by one party, and the offspring is owned by another. Accordingly,] the owner of the cow pays half damages from the corpus of the cow, and the owner of the offspring pays the owner of the cow a quarter [of what the latter had paid to the owner of the victim].’”

[B] Said R. Yosé, “This party [the owner of the cow pays half, and that party [the owner of the offspring] pays half.”

[C] *What is the difference in outcome between these two opinions?*

[D] A case in which the offspring died.

[E] *In the view of the one who says*, “He pays half of the damages for the cow, and a quarter of the damages for the offspring, *this party pays for the damage for which he bears responsibility, and that party pays for the damage for which he bears responsibility.*

[F] *In the opinion of the one who says*, “The owner of the cow pays half damages from the corpus of the cow, and the owner of the offspring pays the owner of the cow a quarter [of what the latter has paid to the owner of the victim,]” *this one pays for the damage for which he bears responsibility, and that party [owner of the offspring] says to him*, “*You surely don’t want this [corpus of the offspring]! Take what is there before you, [for that is precisely what you get, and nothing more].*”

[III:1 A] **And so too a cow which gored an ox, and her new-born young was found beside her:**

[B] *R. Bun bar Kahana raised the question before R. Immi*: “Because it is subject to doubt [that we do not know whether or not the offspring had been born, the victim collects first of all from the corpus of the cow which did the goring]. [Then he goes to the owner of the offspring to collect his share.]

- [C] “But if it were a matter of certainty [that after the calf was born, the goring took place, and we know for sure that the cow gored and the newborn calf also gored (!)], then does this party [owner of the cow] pay half damages, and that party [owner of the offspring] pay half damages? [So will the owner of the gored ox collect whole damages, when his ox has been gored by two cows which were deemed harmless prior to the goring?]
- [D] “Am I supposed to rule thus: in a case in which one party owns the foot of a cow, and another party owns all the rest of the cow, this party pays half of the damages, and that party pays half of the damages?!”
- [E] *He said to him, “The Mishnah deals with a case in which a cow which is an attested danger has done the goring.”* [This is impossible, in the light of M. 5:1F, and Pené Moshe therefore emends to: “The Mishnah deals with a case (in which indeed the law) stands exactly (as you state).” What follows then explains this statement.]
- [F] “If one party states, ‘Its foot is sold to you,’ he has sold half the beast to the other party.
- [G] “‘Its other foot is sold to you,’ he has sold half of the remaining half.” [Likewise, if one party owns the foot, he owns half the beast, and that is the answer to D. Then E is, as Pené Moshe says, a confirmation that that is indeed the law, on the basis of the rule of F.]

[III:2 A] *Said R. Simeon b. Laqish, “All of these traditions are to be assigned to the authority of Levi [and not to the authority of the Tosefta, which belongs to Hiyya, or to the corpus of external Tannaite teachings which belongs to Hoshaiyah, and, consequently, we pay no heed to these teachings in any case].”*

5:2

- [A] (1) **The potter who brought his pots into the courtyard of the householder without permission,**
- [B] **and the beast of the householder broke them –**
- [C] **[the householder] is exempt.**
- [D] (2) **And if [the beast] was injured on them,**
- [E] **the owner of the pots is liable.**
- [F] (3) **If [however], he brought them in with permission,**
- [G] **the owner of the courtyard is liable,**

[I:1 A] **[If] he brought his pots into the courtyard of a householder without permission:**

- [B] and an ox came from some other locale [also] without permission, and broke them,
- [C] [the owner of the courtyard] is exempt.
- [D] And if he was injured by them, the owner of the pots is exempt [T. B.Q. 5:10].
- [E] *That is to say*, that for damages done by the horn, one is exempt in the case of a tort in a courtyard which does not belong to both [the party suffering the damages and the owner of the ox which has done the damages].

5:3

- [A] (1) [If] he brought his produce into the courtyard of the householder without permission,
- [B] and the beast of the householder ate them up,
- [C] [the householder] is exempt.
- [D] (2) And if [the beast] was injured by them, the owner of the produce is liable.
- [E] (3) But if he brought them in with permission, the owner of the courtyard is liable.
- [I:1 A] [If] he brought his produce into the courtyard of the householder without permission,
- [B] and an ox from some other location came along and ate them up, [the householder] is exempt
- [C] And if he was injured by them, the owner of the produce is exempt [T. B.Q. 5:11].
- [D] *That is to say*, that for damages done by the tooth, one is exempt in the case of a tort in a courtyard which does not belong to both [the party suffering the damages and the owner of the ox which has done the damages]. [Cf. Y. B.Q. 1:2 for the opposite view.]

5:4

- [A] (1) [If] he brought his ox into the courtyard of a householder without [47B] permission,
- [B] and the ox of the householder gored it,
- [C] or the dog of the householder bit it,
- [D] [the householder] is exempt.

- [E] (2) [If] that [ox] gored the ox of the householder,
 [F] [the owner] is liable.
- [G] [If] it fell into his well and polluted its water, [the owner of the ox] is liable.
- [H] [If] his father or son was in [the well and was killed], [the owner of the ox] pays ransom money.
- [I] (3) But if he brought it in with permission, the owner of the courtyard is liable.
- [J] Rabbi says, “In all cases [the householder] is liable only if he undertakes upon himself to guard the ox.”
- [I:1 A] [If] one brought his ox into the courtyard of a householder without [Pené Moshe: with] permission,
 [B] and an ox came from some other locale [also] without permission and gored, butted, bit, lay down, or kicked –
 [C] R. Meir says, “[The owner of the latter] pays full damages.”
 [D] And sages say, “For damage done by tooth or foot, [the owner] pays full damages. For goring, butting, biting, lying down, or kicking, the owner of a beast which was an attested danger [also] pays full damages. But the owner of a beast which was deemed harmless pays [only] half damages” [T. B.Q. 5:9].
 [E] [These damages are paid] from real estate of prime quality.
 [F] R. Judah in the name of Samuel: “The law accords with the opinion of Rabbi.”
 [G] R. Zeira said, “The law accords with the opinion of Rabbi.”
 [H] Said R. Jeremiah, “All parties concur in the case of a house that [the householder is assumed to have stated to the owner of the ox,] ‘Bring him in, and I shall take care of him for you.’ [Hence the condition invoked by Rabbi always pertains. The householder can be assumed to have full knowledge of what happens in his own house.]
 [I] “All parties concur in the case of a field that [the householder is assumed to have stated to the owner of the ox,] ‘Bring him in, and you take care of him for yourself.’ [The householder cannot promise to watch out for what happens in the field.]
 [J] “*In regard to what context do we find a dispute?* It is in the setting of a courtyard.

[K] “Rabbi says, ‘A courtyard is deemed equivalent to a field,’ [and unless the householder specifically takes responsibility, he is exempt].

[L] “And the sages say, ‘A courtyard is equivalent to a house.’”

[I:2 A] *There we have learned: He who stacks sheaves in the field of his fellow without permission. and the beast of the owner of the field ate them up – the owner of the field is exempt [M. 6:3C]*
[But if he did so with permission, the owner of the field is liable (M. 6:3) Now here Rabbi does not introduce his qualification.]

[B] But are sheaves in the field equivalent to utensils in the house?
[Obviously not, so why should Rabbi have to insist that the liability is incurred only when the householder has explicitly taken upon himself to keep watch over the sheaves? The oxen in the field surely are expected to munch on the grain there.]

[C] Said R. Yosé b. R. Bun, “Interpret the law [of the Mishnah to apply to a case in which] *there is a locked gate in the field [so the sheaves in the field indeed are equivalent to utensils in the house, and the question then stands]. [We must assume that the householder has taken upon himself to guard the sheaves, and otherwise he is not liable.]*”

5:5

[A] An ox which was intending [to gore] its fellow, but hit a woman, and her offspring came forth [as a miscarriage] –

[B] [the owner of the ox] is exempt from paying compensation for the offspring.

[C] And a man who was intending [to hit] his fellow but hit a woman, and her offspring came forth [dead],

[D] pays compensation for the offspring.

[E] How does one assess compensation for offspring?

[F] They make an estimate of the woman’s value before she gave birth, and how much she is worth now.

[G] Said Rabban Simeon b. Gamaliel, “If so, once a woman gives birth, she should gain in value!”

[H] “But: They make an estimate of the offspring’s value.”

[I] And one pays the husband (Ex. 21:22).

[J] But if she does not have a husband, [the owner of the ox] pays the [husband’s] heirs.

[K] **[If] she was a slave girl who was freed, or a convert, [the man] is exempt [from paying compensation].**

[I:1 A] **An ox which intended to gore its fellow:** Lo, if it intended to gore the woman, will [the owner of the ox] be liable [to pay compensation for the offspring]? [But Scripture speaks of a man's liability, not an ox's, to pay compensation for the offspring.]

[B] And there is [in fact] no difference between its intending to gore its fellow, and its intending to gore a [5a] woman.

[C] Then why has the tradition been formulated as it has here, [that is, intending to gore its fellow, when, even if it intended to gore the woman and did gore the woman, the owner will be exempt from paying compensation for the miscarriage]?

[D] *Said Abba bar R. Hanan, "It is because of the part of the Mishnah pericope which follows:*

[E] **A man who intended to hit his fellow but hit a woman. and her offspring came forth pays compensation n for the offspring.** [Had he intended to hit the woman and done so, he would be liable to the death penalty, not to payment of monetary compensation.]”

[I:2 A] *It was taught:* He who says to his fellow, “A slave-girl of childbearing age I sell to you” –

[B] [the fact that she is yet able to bear] children increases her value.

[C] Rabban Simeon b. Gamaliel says, “[The purchaser of a breeding slave] may say, ‘It is my creation’ [damages for injury to the slave's embryo belong to him].”

[I:3 A] It is written, “When men strive together and hurt a woman with child so that there is a miscarriage, and yet no harm follows, the one who hurt her shall be fined ...” (Ex. 21:22).

[B] Abba Yosé b. Hanan says, “From the basic meaning of Scripture's statement ‘And there is a miscarriage,’ do I not know that she is with child?

[C] “Why then is it specified that she is with child?

[D] “Scripture so states to indicate that one is liable only if he hits her in the belly [‘the place of her offspring’].”

[E] Lo, if he hit her on the palm of her hand or on the sole of her foot, he will be exempt.

- [F] “He shall be fined according as the woman’s husband shall lay upon him” (Ex. 21:22).
- [G] May I then apply that verse even to a case in which the pregnancy does not derive from him?
- [H] Scripture says, “... with child.”
- [I] It so means to indicate that the guilty party pays only to the father of the foetus.
- [J] R. Uqba raised the question, “If one had sexual relations with his mother or had sexual relations with his sister, is he deemed to be the father of the embryo [to whom compensation is paid]?”
- [K] Scripture says, “Husband,” meaning, one who is worthy of being called the husband.
- [L] This then excludes these, who cannot be deemed worthy of being called a husband.
- [I:4 A] R. Yosa in the name of R. Yohanan: “Foetuses [in the womb of a serving girl] do not go forth to freedom [if they lose] a tooth or an eye [at the master’s doing].”
- [B] One can understand that that is the case for a tooth [because there is no possible case in which the foetus can have a tooth].
- [C] But why should there not be the possibility of the foetus’s being deemed free if by the action of the master it loses its] eye?
- [D] *Said R. Yosé b. R. Bun, “The meaning of the Tannaitic teaching is that the foetus does not go free at the loss of the tooth or eye of the mother.”*

5:6

- [A] He who digs a pit in private domain and opens it into public domain,**
- [B] or in public domain and opens it into private domain,**
- [C] or in private domain and opens it into private domain belonging to someone else,**
- [D] is liable [for damage done by the pit].**
- [E] He who digs a pit in public domain, and an ox or an ass fell into it and died, is liable.**
- [F] It is all the same whether one digs a pit, a trench, cavern, ditches, or channels – he is liable.**

[G] If so, then why is it written in particular, “A pit” (Ex. 21:33)?

[H] Just as a pit under discussion is one which is sufficiently deep so as to cause death, namely, ten handbreadths in depth, so anything which is sufficiently deep so as to cause death will be at least ten handbreadths in depth.

[I] [If] they were less than ten handbreadths in depth and an ox or an ass fell into it and died, [the owner] is exempt.

[J] But if they were injured in it, he is liable.

[I:1 A] It is written, “When a man leaves a pit open, or when a man digs a pit and does not cover it, [and an ox or an ass falls into it, the owner of the pit shall make it good]” (Ex. 21:33-34).

[B] [The repeated reference to pit means that] all the same are pits so far as causing damage and so far as causing death are concerned.

[C] Said R. Isaac, “All the same are a pit so far as causing damage and a pit so far as causing death. Both of them are encompassed in a single verse of Scripture [‘and an ox or an ass falls into it’].

[D] “[The purpose of the repetition noted at B is different,. namely,] when [Scripture] comes [to speak] of a pit which causes death, you must rule that [in such a case] one is exempt [from paying compensation] for utensils [destroyed in the fall].

[E] “And when [Scripture] comes [to speak] of a pit which causes [only] damage, you must rule that one is liable for [paying compensation for] utensils [damaged in the fall].”

[F] I know that liability pertains only when one has personally dug the pit [and failed to take necessary precautions].

[G] If one purchased it, inherited it, received it as a gift, how do I know [that one retains full liability].

[H] “Or when a man digs a pit.”

[II:1 A] [He who digs a pit in the private domain and opens it into the public domain:] Now does one have the right [to dig a pit in the public domain and to] abandon property of his which causes injuries in the public domain? [The implication read into the clause of the Mishnah is that if one actually digs the pit in the public domain and declares it ownerless, he then would be exempt from liability. Now why should that be so? Does he have the right to abandon ...?]

[B] [That is the wrong inference to make. In fact] R. Yosé b. R. Bun said, “One should interpret the passage in line with the view of R. Yosé b.

R. Judah, who has said, “Three things which are near [the public] domain are deemed equivalent to [the public] domain” [cf. Y. 3:3].

- [II:2 A]** *R. Mana raised the question:* “What is the law as to treating the measurement for depth as applicable to a height? [That is, if one sets up an obstacle ten handbreadths high, and one is injured on it, is one liable under the law of ‘pit’? Or is the liability only on account of digging a hole, but not on account of setting up a pillar?]”
- [B] *Now how shall we imagine such a case as is covered by this question?*
- [C] If it is a case in which it is set up above, one will see it [and must take care not to bump into it]. [It is not similar to a pit, for people do not routinely have to watch out for a pit as they walk in the way.]
- [D] It is one in which one comes along [upon the high place] from beneath. [This question is not answered.]

5:7

- [A] A pit belonging to two partners –**
[B] one of them passed by it and did not cover it,
[C] and the second one also did not cover it –
[D] the second one is liable.
[E] [If] the first one covered it up, and the second one came along and found it uncovered and did not cover it up.
[F] the second one is liable.
[G] [If] he covered it up in a proper way, and an ox or an ass fell into it and died, he is exempt.
[H] [If] he did not cover it up in the proper way and an ox or an ass fell into it and died, he is liable.
[I] [If] it fell forward [not into the pit] because of the sound of the digging, [the owner of the pit] is liable.
[J] [If] it fell backward [not into the pit] because of the sound of the digging, [the owner of the pit] is exempt.
[K] [If] an ox carrying its trappings fell into it and they were broken, an ass and its trappings and they were split,
[L] [the owner of the pit] is liable for the beast but exempt for the trappings.
[M] [If] an ox belonging to a deaf-mute, an idiot, or a minor fell into it, [the owner] is liable.

[N] **[If] a little boy or girl, a slave boy or a slave girl [fell into it], he is exempt [from paying a ransom].**

[I:1 A] How is it possible for a pit to belong to two partners? [If it is located in the public domain, then only the one who completed the digging of the pit bears responsibility for it.]

[B] Said R. Yannai, “Apply the law to a case in which both of the men set in the final stone [and hence, simultaneously, both incurred responsibility for the pit].”

[C] And why not interpret the law to apply to a case in which this party dug ten handbreadths of the pit, and that party dug ten handbreadths of the pit?

[D] *The reason is that [the person who asked the question at A] wished to interpret the case in regard to a pit ten handbreadths deep, belonging to two partners.*

[I:2 A] **If one of them passed by and did not cover. and the second one also did not cover it – the second one is liable:**

[B] [What if the first party learns that the pit was uncovered?] R. Ba bar Bizna, R. Yosa in the name of R. Yohanan: “They give [the first party] an interval of time in which to cut cedars of Lebanon [and to cover up the pit]. [If after that interval he fails to do so, then he too bears full liability along with the second party.]”

[C] *There is in this ruling a strict and a lenient possibility.*

[D] There may be a case in which one is near Lebanon [and hence has only a little time,] and there may be a case in which one is far from Lebanon [and hence has a great deal of time in which to cover up the pit].

[II:1 A] **If one covered it up in a proper way:**

[B] What would constitute a proper way of covering it up?

[C] *The answer is accord with that which we have learned there:*

[D] It is such **that a wagon loaded with stones can go over it [B.B 3:8]**

[III:1 A] **[If it fell because of the sound of the digging, the owner of the pit is liable:** Said R. Yannai, “[If the beast fell] into the pit, whether it fell forward or whether it fell backward, he is exempt.

[B] “If it fell outside of the pit, if it fell forward he is exempt.

[C] “If it fell backward, he is liable.”

[IV:1 A] If an ox carrying its trappings fell into the pit and they were broken. an ass and its trappings and they were split, the owner of the pit is liable for the beast but exempt for the trappings:

[B] Samuel said, “[The owner of the pit is exempt from paying damages for the trappings in a case] in which the trappings were torn [damaged] by reason of the [overheated] air space of the pit, but if they struck the ground, he is liable. [Samuel thus maintains that one is liable for the trappings when they were damaged by the ground of the pit itself, and that position is based on an acute reading of the Mishnah’s explication of *and its trappings*,. which must mean to imply the stated distinction.]”

[C] *R. Yohanan and R. Simeon b. Laqish both maintain*, “Even if the trappings struck the ground, the owner of the pit is exempt. [For what breaks] in falling has the Torah declared the owner of the pit to be exempt. [The Torah refers to an ox or an ass, thus excluding its trappings.]”

[IV:2 A] “And an ox or an ass falls into it” (Ex. 21:33)

[B] “An ox,” and not **an ox and its trappings**;

[C] “an ass,” and not **an ass and its trappings**.

[D] For it might have been logical to argue as follows:

[E] Now if in the case of a pit capable of causing injury [but not death, when less than the stated depth], one is exempt from the death penalty [if the pit should cause death] but liable for utensils [destroyed therein],

[F] in the case of a pit ten handbreadths deep, on account of a death in which one is liable, is it not logical that one should also be liable on account of utensils broken therein?

[G] Scripture for that reason must state, “And an ox or an ass falls into it,” to make the point:

[H] “an ox,” and not an ox and its trappings;

[I] “an ass,” and not an ass and its trappings.

[V:1 A] If an ox belonging to a deaf-mute, idiot, or minor fell into it. the owner is liable:

[B] *Said R. Eleazar*, “*Thus is the actual meaning of the Mishnah’s statement*: If it is an ox which is a deaf-mute, or an ox which is deranged, the owner is liable.

[C] “But if it is an ox in full command of its senses, [the owner of the pit is exempt from liability, since the ox is expected to watch where it walks].”

[VI:1 A] **If a little boy or girl, a slave-boy or a slave-girl, fell into it. the owner is exempt:**

[B] [for Scripture speaks of the owner of the pit’s then owning the carcass, and to these there is no such applicable cause (cf. T. B.Q. 6:14H)].

5:8

[A] **All the same are an ox and all other beasts so far as (1) falling into a pit, (2) keeping apart from Mount Sinai (Ex. 19:12), (3) paying a double indemnity [in the case of theft, Ex. 22:7], (4) the returning of that which is lost (Deut. 22:3, Ex. 23:4) (5), unloading (Ex. 23:5), (6) muzzling (Deut. 25:4), (7) hybridization (Lev. 19:19, Deut. 22:10), and the (8) Sabbath (Ex. 20:10, Deut. 5:14).**

[B] **And so, too, are wild beasts and fowl subject to the same laws.**

[C] **If so, why is an ox or an ass specified? But Scripture speaks in terms of prevailing conditions.**

[I:1 A] As to **falling into a pit:** “And an ox or an ass falls into it” (Ex. 21 :33)

[B] As to **keep apart from Mount Sinai:** “Whether beast or man, he shall not live” (Ex. 19:13).

[C] As to a **double indemnity:** “Whether it is for ox, or ass, [or sheep] ...” (Ex. 22:9).

[D] As to **returning that which is lost:** “[If you meet your enemy’s ox or his ass going astray,] you shall bring it back to him (Ex. 23:4).

[E] As to **unloading:** “[If you see the ass of one who hates you lying under its burden,] you shall refrain from leaving [him with it]” (Ex. 23:5).

[F] As to **muzzling:** “*You* shall not muzzle an ox in its treading” (Deut. 25:4).

[G] As to **hybridization:** “You shall not let your cattle breed with a different kind” (Lev. 19:19).

[H] As to **the Sabbath:** “that your ox or your ass ... may rest ...” (Deut. 5:14).

[II:1 A] **And so too are wild beasts and fowl subject to the same laws:**

- [B] Samuel said, “A duck which lives in the sea and one which is domesticated are deemed heterogeneous [‘mixed’ vis-[^]-vis one another].”
- [C] *Said R. Yosé, “The Tannaitic teaching does not maintain that position, except with regard to **an ox with a wild ox, an ass with a wild ass, which are deemed ‘mixed’ with one another.**”*
- [D] *R. Simeon b. Laqish said, “Indeed an explicit pericope of Mishnah has Rabbi taught [to that effect]: **And so too are wild beasts and fowl subject to the same laws**”*
- [E] *Said R. Yohanan, “And I have learned a teaching of the House of Levi: **‘Chicken and pheasant, chicken and peacock, although resembling one another, are heterogeneous birds’ [T. Kil. 1:8].**”*

YERUSHALMI BABA QAMMA

CHAPTER SIX

6:1

- [A] He who brings a flock into a fold and shut the gate before it as required,
[B] but [the flock] got out and did damage,
[C] is exempt.
[D] [If] he did not shut the gate before it as required,
[E] and [the flock] got out and did damage,
[F] he is liable.
[G] [If the fence] was broken down by night,
[H] or thugs broke it down,
[I] and [the flock] got out and did damage,
[J] he is exempt.
[K] [If] the thugs took [the flock] out, [and the flock did damage], the thugs are liable.

- [I:1 A] R. La in the name of R. Yannai, “This rule is subject to dispute. [We have a minimum sort of precaution taken at A, namely, a gate which will stand before an ordinary wind, but not before a major blast. This view accords only with the position of Judah, at Y. 4:9. Here too Judah will concur with the Mishnah’s rule, but his opposition demands a more solid sort of precaution than is given here.]”
- [B] R. Eleazar says, “It represents the opinion of all parties [inclusive of Meir at Y. 4:9].”
- [C] *Said R. La, “It is more reasonable that the position of R. Eleazar is correct [and not that of Yannai, which he himself cited].*
- [D] “For lo, taking precautions to guard the beast is written not with reference to the corpus of the beast, [e.g., its feeding itself or trampling a field], but with reference to its horn. [The Torah has demanded the

best sort of precautions that the beast not gore. But as to damage done by tooth and foot, the Torah has required a lesser sort of guardianship, and hence here Meir may and will concur that the routine precautions described here suffice.]”

[E] *What is the disposition of the matter?*

[F] R. Simeon b. Laqish said, “The rule is subject to dispute [as explained above].”

[G] R. Eleazar said, “The rule of the Mishnah represents the opinion of all parties.”

[H] *And there are those who say, [The rule of the Mishnah] represents the position of R. Eliezer b. Jacob, who has said, “One way or the other, he is exempt from liability:”* [Reference here is made to T. B.Q. 5:7, as follows: **An ox which broke the halter and went out and did injury – “if it had been deemed harmless, (the owner) is exempt. If had been an attested danger, he is liable,”** the words of R. Meir (vs. M. B.Q. 4:9J-K). R. Judah says, “If it had been deemed harmless, he is liable, but if it had been deemed an attested danger, he is exempt” (M. B.Q. 4:9L). R. Eliezer b. Jacob says, “This one and that one are exempt, since it is said, **And its master not guard him. But this one has been kept in (and is deemed to have been guarded).**”]

- [I:2 A] Up to this point we have dealt with a case in which the field in which the flock was kept was closed in on all four sides.
- [B] If it was fenced in on three sides and open on the fourth and the flock got out on the side which was breached, what is the law?
- [C] *Let us derive the answer to that question from the following:*
- [D] **[If] the wall fell down because of earthquakes or because of heavy rains,**
- [E] **if it had been properly built,**
- [F] **[the owner] is exempt [for damage it may do].**
- [G] **But if not, he is liable [cf. M. B.M. 10:4F-G] [T. B.M. 11:7].** [Now the question raised was whether because at the outset the owner has acted wrongly, even though at the end the flock got out by accident, he is deemed liable, or perhaps because it was an accident, we ignore his liability at the outset. The cited passage has a properly built wall.]

[H] Now is this law actually necessary and not self-evident?

[I] It must then deal with a case in which three walls also fell down, and not merely the weak fourth wall, which were sturdier than the fourth wall, [which also fell down]. [If all the walls were properly built and fell by an act of nature, the owner is exempt. But if one of them was faulty, the owner must be liable, despite the fact that it was an act of nature. The same applies to the cited case.]

[I:3 A] *It has been taught as a Tannaite statement: R. Joshua says, “Four do not have to pay compensation on the basis of law, but Heaven will forgive them only if they do [voluntarily] pay compensation!*

[B] **“He who knows testimony regarding his fellow and does not give evidence is not liable on the basis of law to pay him compensation.**

[C] **“But Heaven will not forgive him until he does pay compensation.**

[D] **“[If] one has hired false witnesses, if one has given testimony and collected a fee,**

[E] **“he is not liable on the basis of law to pay compensation, but Heaven will not forgive him until he does pay compensation.**

[F] **“He who shoves grain in front of a brush fire, he who opens a gate before beast –**

[G] **“they are not liable on the basis of law to pay compensation, but Heaven will not forgive them until they do pay compensation” [T. Shebu.. 3:1J-3:3B].**

[II:1 A] **If thugs took the flock out and the flock did damage. the thugs are liable:**

[B] Said R. Hoshaiyah, “That applies when they took the flock out to steal it.

[C] “But if they took it out merely to destroy the flock [not intending to effect ownership of the flock], they are exempt [since they are not responsible, as owners, for damage done by the flock].”

6:2

[A] [If] he left it in the sun,

[B] [or if] he handed it over to a deaf-mute, idiot, or minor,

[C] and [the flock] got out and did damage,

[D] he is liable.

- [E] [If] he handed it over to a shepherd, the shepherd takes the place of the owner [as to liability].
- [F] [If the flock] [accidentally] fell into a vegetable patch and derived benefit [from the produce], [the owner must] pay compensation [only] for the value of the benefit [derived by the flock].
- [G] [If the flock] went down in the normal way and did damage, [the owner must] pay compensation for the [actual] damage which [the flock] inflicted.
- [H] How does [the owner] pay compensation for the [actual] damage which [the flock] inflicted?
- [I] They make an estimate of the value of a seah area of land in that field, as to how much it had been worth and how much it now is worth.
- [J] R. Simeon says, “[If the flock] consumed ripe produce, [the owner] pays compensation for ripe produce.
- [K] “[If the flock destroyed] a seah [of ripe produce], [he must pay for] a seah; if two seahs, two seahs.”
- [I:1 A] *It was taught:* A shepherd who hands over his flock to another shepherd –
- [B] the first is liable, and the second is exempt [T. B.Q. 6:20].
- [C] [Differing from that statement,] both Rab and R. Simeon b. Laqish maintain, “Since he handed it over to a person of sound senses, he is exempt [from liability for damages done thereafter].”
- [II:1 A] **If he handed it over to a shepherd. the shepherd takes the place of the owner as to liability. If the flock accidentally fell into a vegetable patch and derived benefit from the produce the owner must pay compensation only for the value of the benefit derived by the flock [M. 6:2E-F]**
- [B] R. Huna said, “[The rule that the owner pays only for the benefit of what has been enjoyed applies solely] to a case in which the flock fell onto grass [and so damaged it accidentally]. But if the flock stood still and pastured [on the grass, in the normal way], the owner pays compensation for the actual damage which the flock inflicted.”
- [III:1 A] **[If the flock went down in the normal way and did damage. the owner must pay compensation for the actual damage which the flock inflicted [M. 1:6G]**
- [B] R. Yosé b. R. Haninah said, “For damage done to that [furrow, in particular], the owner of the flock is exempt. But for damage done to any other furrow, he is liable. [That is the case even if the flock stood

and pastured, because for that furrow in particular, the flock's presence in any case was by accident. But if afterward the flock moved on, the owner pays full damages.]”

- [C] Both R. Yohanan and R. Simeon b. Laqish say, “Even if the flock pastured throughout the whole field, the owner is exempt.
- [D] “Under no circumstances is the owner of the flock liable unless the flock moves from the field [into which it has fallen] into the public way, and then enters some other field from the public way. In any other case but one in which the flock crosses a public way into another field, we deem the flock to have entered the first field by accident.]”
- [E] Now if the flock accidentally fell into one vegetable patch and from there wandered into another vegetable patch, what is the law? [The flock to begin with did not accidentally fall into this second patch.]
- [F] *In the view of R. Yosé b. Haninah, who maintains that* if the flock fell into a single field [furrow], it is exempt from liability, [obviously] it will be liable for a field nearby [far beyond the original furrow]. [The exemption on account of accident is limited to what happens on the very spot into which the flock falls (= D).
- [G] *In the opinion of R. Yohanan and R. Simeon b. Laqish, who maintain that* even if the flock pastured in the entire field, the owner remains exempt, under no circumstances is the owner of the flock liable unless the flock will move from the field into which it has fallen into the public way, and then enter some other field from the public way. [Accordingly, moving from field to field, the flock provokes no liability for the damage it does.]
- [H] [There is,] rather, [a more interesting question:] If the flock fell pell-mell in an area in which it is suitable merely to descend, [so suffering an accident not caused by the terrain at all, do we deem this an accident, in which case the owner pays only what the flock has enjoyed]? [Or do we deem it preventable, in which case the owner pays for the damage the flock has actually done?]
- [I] [Along these same lines,] if the flock descended [in a normal way, and not through accident] into an area in which it is suitable to fall [by accident, that is, an area in which the terrain is conducive to an accident, the flock has gone down in the usual way, and hence, perhaps the owner should be liable for damage done, not merely for benefit derived]. Or perhaps the character of the terrain governs.]

- [J] *Said R. Yosé b. Haninah, “The Mishnah itself answers this question. [It uses the language of ‘fell’ at 1M1. 6:2F, and ‘went down in the normal way’ at M. 6:2G. Accordingly, we go by the criterion of the manner in which the flock has reached the crop, and not the character of the terrain. If the flock fell in, it was an accident, and if it descended in a normal way, it is not an accident and was preventable.]”*
- [K] But [the real question is this:] If the flock fell into a place in which it was suitable to fall, [do we deem it as comparable to a case of] falling into a place in which it was suitable to go down [in the normal way]? [The Mishnah deals with a case in which the flock fell into a patch into which it was suitable to go down normally. That is, M. 6:2G deals with such a place, and hence, we suppose that 1M. 6:2F deals with the same sort of place. If the flock fell into such an area, the owner pays for what the flock enjoyed; if it went down normally, the owner pays for all damage done. If the flock went down normally into an area in which it was appropriate to fall, there is no problem. So the problem concerns only the area in which the terrain was rough, not the character of the flock’s descent.]
- [L] *[Indeed, we seek a single governing criterion. For] the answer to the one question depends upon the answer to the other, and the answer to the other question depends upon the answer to the one.*
- [M] *The answer to the one question depends upon the answer to the other, for one then will pay only for the benefit one has received.*
- [N] *The answer to the other question depends upon the answer to the one, for one then will pay for the damage one has caused. [On the one side, what difference does the terrain matter, since the criterion is how the flock entered the patch? In any event the flock has derived benefit and must pay for that. Or, on the other side, the principal criterion is the character of the terrain, which governs whether or not we deal with a preventable accident.]*

[III:2 A] *It has been taught as a Tannaite statement: [Tosefta’s version:] They do not make an estimate of the value of damage done in the measure of a qab’s area, because that increases the advantage.*

[B] *Nor in the area of a kor, because that diminishes it.*

[C] *But they make an estimate of the value of a seah area of land in that field as to how – much it had been worth and how much it now is worth [M. 6:2I]*

- [D] **R. Simeon b. Judah says in the name of R. Simeon [Yerushalmi: Said R. Judah,] “Under what circumstances?**
- [E] **“In a case in which [the flock] ate the stems of figs or cut off the branches of vines.**
- [F] **“But if it ate unripe dates or grapes, they regard it as if it were fully ripened produce” [cf. M. 6:2J].**
- [G] **R. Judah says in the name of R. Aqiba, “[If the flock] ate up fully ripened produce, they pay for fully ripened produce; if it ate shoots, as shoots do they estimate their value.**
- [H] **“[If it ate] the shoots themselves, they make an estimate of its value as a seah area [of land devoted to that produce].”**
- [I] **R. Simeon b. Judah says in the name of R. Aqiba, “[If the sprouts] had reached a third of their growth, they make an estimate of their value as if they are shoots” [T. B.Q. 6:21].**
- [J] *Members of the House of R. Yannai say, “They estimate an area the size of a tarqab in a ratio of sixty tarqabs.”*
- [K] **R. Yosé b. R. Haninah says, “They estimate the value of a stalk in a ratio of sixty stalks.”**
- [L] *Someone stole a palm flower. The case came before Samuel. He instructed him, “Go and make an estimate of its value in relationship to a palm tree. [That is, how much was the tree worth with, and without, the palm flower.]”*
- [M] *Said R. Yosé b. R. Bun, “It was a cluster of dates which had fully ripened, [and so Samuel had the estimate made in relationship to the tree as a whole, along the lines of M. 6:2I].”*

6:3

- [A] **He who stacks sheaves in the field of his fellow without permission,**
- [B] **and the beast of the owner of the field ate them up –**
- [C] **[the owner of the field] is exempt.**
- [D] **And [if] it was injured by them, the owner of the sheaves is liable.**
- [E] **But if he had put his sheaves there with permission, the owner of the field is liable,**
- [I:1 A] **Said R. Isaac, “Sheaves in the field are in the same status as utensils in the house.”**

[B] Said R. Yosé b. R. Bun, “Interpret the Mishnah to speak of a case in which the field is closed up.”

6:4

[A] **He who causes a fire to break out through the action of a deaf-mute, idiot, or minor, is exempt from punishment under the laws of man, but liable to punishment under the laws of heaven.**

[B] [If] he did so through the action of a person of sound senses, the person of sound senses is liable.

[C] [If] one person brought the flame, then another person brought the wood, the one who brings the wood is liable.

[D] [If] one person brought the wood and the other person then brought the flame, the one who brought the flame is liable.

[E] [If] a third party came along and fanned the fire, the one who fanned the flame is liable.

[F] [If] the wind fanned the flame, all of them are exempt.

[I:1 A] Hezekiah said, “[The rule of M. 6:4A] applies to a case in which one gave [a deaf-mute, idiot, or minor] a coal [belonging to a third party]. But if he gave him a live flame, he is liable.”

[B] Said R. Yohanan, “A hot coal is no different from a flame.”

[C] *Now the following poses a problem to the position of Hezekiah* [who maintains that the Mishnah speaks of a case in which the hot coal belongs to a third party]: If someone saw a hot coal belonging to his fellow rolling along, and does not extinguish it, is it possible that he will not be exempt [from liability for damage caused by the coal]? [Obviously he is exempt! Now why should M. 6:4A deem a person to be liable under the laws of Heaven in the parallel case before us? The owner of the coal should be liable.]

[D] Interpret the law to speak of a case in which one handed over to him a hot coal which had been abandoned and was ownerless.

[E] Or one may also say the same of handing over a flame, and consequently, there is no necessary conclusion to be drawn from this case at all.

[II:1 A] [With reference to M. 6:4E,] there are Tannaim who use the word “fanned,” and there are Tannaim who use the word “blew.”

[B] *He who uses the word “fanned”* cites the following verse of Scripture: “... in a flame of fire ...” (Ex. 3:2).

[C] *He who uses the word “blew”* cites the following verse of Scripture: “there is in my heart ... a burning fire ...” (Jer. 20:9).

[III:1 A] If the wind fanned the flame. lo. all of them are exempt [M. 6:1F]

- [B] *There they say*, “The Mishnah speaks of a case of an unusually high wind, responsible for unforeseeable accidents.
- [C] “But in the case of a wind which is customary, they remain liable.”
- [D] *Both R. Yohanan and R. Simeon b. Laqish say*, “Even in the case of a wind which is customary, they are exempt, for there are times that such a wind comes, and there are times that it does not come [and consequently, they could not have taken precautions].”

6:5

[A] He who causes a fire to break out, which consumed wood, stones, or dirt, is liable,

[B] since it is said, “If fire breaks out and catches in thorns so that the sheaves of wheat or the standing grain or the field be consumed, he that kindled the fire shall surely make restitution” (Ex. 22:6).

[C] [If the fire] crossed a fence four handbreadths high or a road or a stream, [the one who started it] is exempt.

- [I:1 A]** Now what is distinctive about thorns (Ex. 22:6) is that they are apt to catch on fire.
- [B] So I know that one is liable only in the case of something which is apt to catch on fire.
- [C] Scripture accordingly states, “Sheaves.”
- [D] Or perhaps, what is distinctive about sheaves is that they are plucked up from the ground.
- [E] So I know only that one is liable for a fire which burns something which is plucked up from the ground.
- [F] Accordingly, Scripture states, “Standing corn,” [which is yet in the ground].
- [G] Or: What is distinctive about these things which have been mentioned is that they are apt to catch on fire.
- [H] So I know only that something which is apt to catch on fire [imposes liability if one should kindle it].

- [I] If one has fanned his flame and scorched stones belonging to someone – how do I know [that he is liable]?
- [J] Scripture accordingly is required to state, "... or the field."
- [K] Then let the Author of the passage speak of thorns, standing corn, and a field, and not make mention of sheaves [for I-J obviate the need for B C].
- [L] *In the view of R. Judah*, it is valid [to include "sheaves"], for he has said [at M. 6:7, below], that one pays for whatever is located in the field [and reference to "sheaves" proves his point].
- [M] *But in the view of the rabbis, who have stated that* one pays only for a stack of wheat or a field of barley, for what purpose is the word "field" mentioned, and for what purpose is the word "sheaf" mentioned? [This question is not answered.]

[II:1 A] If the fire crossed a fence four handbreadths high, or a road or a stream, the one who started it is exempt:

- [B] Said Rabbah, "The Mishnah speaks of a fire which unexpectedly blazes up and spreads, but in the case of a creeping fire, all parties concur that he is liable."
- [C] R. Yohanan says, "The Mishnah speaks of a case of a creeping fire, but in the case of a fire which unexpectedly blazes up and spreads, all parties agree that he is exempt."

6:6

- [A] **He who makes a fire on his own property – how far may it spread [so that he remains liable for damage which it does]?**
- [B] R. Eleazar b. Azariah says, "They regard [the fire] as if it were in the middle of a kor's area of land."
- [C] R. Eliezer says, "Sixteen cubits, like a public road."
- [D] R. Aqiba says, "Fifty cubits."
- [E] R. Simeon says, "'He that kindled the fire shall surely make restitution' (Ex. 22:5) – all accords with the character of the fire itself."

[I:1 A] M'SH S: A conflagration crossed (up to) the Jordan, which was hard [T. B.Q. 6:22M].

- [B] **[He who makes a fire on his own property –] how far may it spread [so that he remains liable for damage which it does, in line with M. 6:5C]?**

- [C] R. Eliezer says, “Sixteen cubits, like a public road
- [D] When it is windy, thirty cubits.”
- [E] R. Judah says, ‘Thirty cubits.
- [F] “When it is windy, fifty cubits.”
- [G] R. Aqiba says “Fifty cubits
- [H] “When it is windy, three hundred cubits.”
- [I] M’SH B: In Arab a flame jumped more than three hundred cubits and did damage [Tosefta’s version].
- [J] Under what circumstances [do we invoke M. 6:5C]?
- [K] When it jumped over.
- [L] But if it was going along and smoldering, or there were pieces of wood located there, even over a space of up to a mil, lo, this one [who originally made it] is liable [T. B.Q. 6:22L, N-P].
- [M] [If the fire] crossed a stream, a fence, or a rivulet, any of which is eight cubits wide,
- [N] he is exempt [T. B.Q. 6:22].

6:7

- [A] He who sets fire to a stack of grain, and there were utensils in it, which burned up –
- [B] R. Judah says, “[The one who lit the fire] pays compensation for what is [concealed] in [the stack].”
- [C] And sages say, “He pays only for a stack of wheat or barley [such as was visible].”
- [D] [If] a kid was tied up to [a barn], and a slave boy was nearby, and [they] got burned along with [the barn], he is liable [for the kid and the barn].
- [E] [If] a slave boy was tied up to it, and a kid was nearby, and [these] got burned along with it, he is exempt [for the slave boy, since he does not pay compensation, being subject to trial for his life].
- [F] And sages concede to R. Judah in the case of him who sets fire to a large building, that he pays compensation for everything which is in it.
- [G] For it certainly is normal for people to leave things in their houses.

- [I:1 A] R. Abbahu in the name of R. Yohanan, “[Even though the sages differ from Judah and do not agree that that the one who set the fire pays for what is found in the stack of grain,] the sages concede to R. Judah in regard to utensils used for the harvest, which are ordinarily put away inside a stack of wheat, [that one is liable for a fire which destroyed them].”
- [I:2 A] *The opinions attributed to R. Judah are contradictory.* [Reference is made to M.. Peah. 6:9: **What is stored up in the ground such as arum, garlic, and onions, R Judah says. “They are not regarded as a Forgotten Sheaf” The sages say, “They are regarded as a Forgotten Sheaf”** Judah then deems the law of the Forgotten Sheaf not to apply to what is stored away. The sages say the law does apply.] So, there he says, “[The law] excludes what is stored away [which is not subject to the law],” while here he has said, “The law encompasses that which is hidden” [at M. 6:7B].
- [B] [In answer to this question, we point out that Judah has special grounds for the position maintained here. For] does not R. Judah interpret the language pertinent here, “Sheaves” (Ex. 22:6)? Now for what purpose is that language used? “Sheaves” means that one is liable to pay compensation for whatever is located therein [cf. Y. 6:5].
- [C] *The opinions attributed to sages are contradictory.* There they say that the law includes what is stored away [which is subject to the law], while here they have said that the law excludes that which is hidden [at M. 6:7C].
- [D] [The answer to this question is supplied at the parallel, Y. Pe. 6:9: Scripture speaks of either the standing grain or the field: Just as the field is in sight, so whatever is in sight is subject to liability in the case of fire. But here, in regard to the Forgotten Sheaf, we explain the words chosen by Scripture as follows: “Your field,” meaning, what is in sight, thus excluding what is stored away; “Your harvest,” once more referring to what is in sight, excluding what is stored away. Now we have one exclusionary clause following another, the significance of which can only be to serve to encompass, hence, to include within the framework of that law that which is stored away. Thus the question raised at F has been answered. What we deal with is a Scriptural decree, distinct from all logical considerations.]
- [E] Now did not R. Abbahu state in the name of R. Yohanan [at A, above], “The sages concede to R. Judah in regard to utensils used in the harvest, which are ordinarily put away inside a stack of grain, [that one is liable for a fire which destroyed them]”? [Now if in general one is

not liable for utensils stored away which have been burned, then why should the sages make such a concession? After all, these utensils have been stored away and should fall under the general law, not under the particular concession having to do with the Forgotten Sheaf 1

[F] [Hoshaiah will now shift the grounds of argument to a separate issue. To understand his statement, we follow Pené Moshe's explanation of it. Scripture speaks of one who kindles a fire on his own property. The rabbis declare such a person exempt, even in the case of utensils which it is normal to store away in a sheaf of grain. Where the sages make their concession to Judah's view is in the case of one who sets a fire in someone else's property. There they will maintain that he is exempt in the case of destruction of utensils not normally stored away in a granary, but liable in the case of utensils which are expected to be found there. But the point at issue is distinct. It concerns whether or not there are witnesses to what is in the now-destroyed sheaf of grain. In Hoshaiah's opinion, Judah's view is that the party who set the fire bears unlimited liability and so must pay compensation for whatever the other party claims was in the stack. This claim must be laid against the arsonist through an oath. That is so whether or not there are witnesses to the facts of the matter. The law is that the victim of a theft takes an oath as to what was stolen and collects, and so too here. The sages maintain that, in the case of utensils not usually located in such a place, that principle is not to be applied. Even with an oath, the victim collects nothing at all. For utensils to be expected in such a place, the victim takes an oath and collects what is coming to him. So at issue in the dispute between Judah and the sages is a case involving the following conditions: (1) one sets a fire in the field of his neighbor; (2) utensils not usually stored away in sheaves of grain are burned up. The basis of the dispute is that sages maintain that, in such a case, the provision that the victim of a theft takes an oath and collects that he claims does not apply to the victim of arson. Hence the consideration of exemption in the case of what is stored away, which does apply at the outset, is irrelevant. It is on that basis that Hoshaiah's statement is to be understood.] Said R. Hoshaiah, "The dispute concerns a case in which there are no witnesses [to the claim that one has stored up such objects in the stack of grain]. But if there are witnesses, all parties concur with R. Judah [that the objects which were stored there must be paid for]."

[G] *So it has been taught: [If] the stack was of wheat, and it was covered with barley, or if the stack was of barley, and it was covered with wheat,*

[H] *he pays only for [the value as if the whole were] barley [T. B.Q. 6:24G-H].* [The rabbis, who concur in this ruling, thus agree that if something is stored away – covered up – the arsonist is liable, if it is something which one should have expected to be stored away, that is, barley under wheat. The issue of storage in the heap of grain is in fact not what is operative. Rather, it is the simple fact that one has every right to suppose one crop is used to protect the other, since that is standard practice.]

[I] [What follows is a case illustrative of the basic principle of imposing an oath in regard to what is reasonable, not in regard to what is unusual, i.e., the sages' position. What is important in the story is its illustration of the sages' position, namely, (1) there are no witnesses to the matter; and (2) we deal with things one would not usually store away in such a condition. Here there is no question of an oath or of collecting what one claims under oath. So the sages' view is illustrated in the following precedent:] *Someone deposited with his fellow a sack which was tied up. Some accident happened to it. One party claimed, "It was full of junk." The other party claimed, "It was full of silk." Lo, this party [who had left the sack] takes an oath and collects [what he has claimed].*

[J] *R. Yohanan raised the question: "What is the law [as to taking an oath] in a case in which a party claimed for himself something which is unlikely to be his [parallel to the foregoing discussion]?"*

[K] *Let us derive the answer from the following case:*

[L] *The tenant-farmer of Bar Ziza deposited with Bar Ziza a litra of gold. Both Bar Ziza and his tenant-farmer died. The case came before R. Ishmael b. R. Yosé. He ruled, "Who doesn't know that whatever is in the possession of the tenant-farmer of Bar Ziza in fact belongs to Bar Ziza? Let the property be given to the estate of Bar Ziza."*

[M] *Now Bar Ziza had both grown-up children and minors. [Ishmael] ruled, "Let half of the bailment be handed over immediately to the adults, and the other half be held for the minors and given to them when they*

have reached maturity.” Thereafter R. Ishmael b. R. Yosé died.

[N] *The case [on appeal] then came before R. Hiyya. He ruled, “From the fact [that the sharecropper seemed too poor,] nothing at all is to be inferred. There are people who do not show off. Let the property be handed over to the children of the sharecropper. “*

[O] *The bailee informed Hiyya that half of the bailment already had been handed over to the children of Bar Ziza.*

[P] *He said to him, “What you have handed over at the instruction of the court has been validly handed over, and what you now hand over at the instruction of the court likewise do you validly hand over.”*

[Q] *What is the law as to the estate of the tenant-farmer’s laying claim on the estate of Bar Ziza to hand over what [the adult heirs] had received?*

[R] *They have the power to reply to them, “What has been done on the instructions of a court has been validly done.”*

[S] *What is the law as to the minor children of Bar Ziza saying to the grown-ups, “Let us share in half of what you have”?*

[T] *The adults can say to them, “It is a chance find which has come our way, and we owe you nothing.”*

[U] [Concurring in this view,] said R. Isaac, “There is no claim against the adults on the part of the minors. But it is as if a gift has been given to the adults” [cf. Y. Shebu. 7:2].

6:8

[A] A spark which flew out from under the hammer and did damage –

[B] [the smith] is liable.

[C] A camel which was carrying flax and passed by in the public way, and the flax it was carrying got poked into a store and caught fire from the lamp of the storekeeper and set fire to the building –

[D] the owner of the camel is liable.

[E] [If] the storekeeper had left his lamp outside, the storekeeper is liable.

[F] R. Judah says, “In the case of a lamp for Hanukkah, he is exempt.”

[I:1 A] *It was taught:* R. Judah says, “In the case of a lamp for Hanukkah, he is exempt –

[B] “for he left it here by right.”

[C] And sages say, “One way or the other, he is liable.

[D] “For example, those who spread sukkah roofing over the doorways of their shops in the public way on the Festival [of Tabernacles] even though they do so by right, [if] someone came along and was injured on them, lo this [storekeeper] is liable” [T. B.Q. 6:28].

YERUSHALMI BABA QAMMA

CHAPTER SEVEN

7:1

- [A] More encompassing is the rule covering payment of twofold restitution than the rule covering payment of fourfold or fivefold restitution.
- [B] For the rule covering twofold restitution applies to something whether animate or inanimate.
- [C] But the rule covering fourfold or fivefold restitution applies only to an ox or a sheep alone,
- [D] since it says, “If a man shall steal an ox or a sheep and kill it or sell it, he shall pay five oxen for an ox and four sheep for a sheep” (Ex. 22:1 [21:37]).
- [E] The one who steals from a thief does not pay twofold restitution.
- [F] And the one who slaughters or sells what is stolen does not pay fourfold or fivefold restitution.
- [I:1 A] Now whence do you derive evidence [from Scripture, that one pays double indemnity for theft of an inanimate object [M. 7:1B]?
- [B] “[If the stolen beast] is found [alive in his possession, whether it is an ox or an ass or a sheep, he shall pay double]” (Ex. 22:4)
- [C] I know only that the double indemnity applies to the theft of an ox, ass, or sheep.
- [D] Now when it says “alive,” it serves to encompass under the same provision of the law all animate creatures.
- [E] “Stolen” then serves to encompass within the provisions of the law also chattels.
- [F] Now why [should Scripture specify] ox, ass, and sheep?
- [G] If it is to apply the law to that which may serve for the purposes of the altar, Scripture should refer only to ox and sheep.

[H] *R. Ishmael taught*, “In this way is excluded double indemnity for the theft of real estate, which does not constitute chattels.

[I] “In this way is excluded double indemnity for the theft of slaves, of which one has [not ownership but only] usufruct.

[J] “In this way is excluded double indemnity for the theft of deeds, in which you have only the advantage of proof of a claim.”

[I:2 A] *R. Abbahu raised the following question*: “Why have we not learned in the present pericope of Mishnah that the rule of double indemnity applies to one who lays a claim of theft in the case of property held in bailment or owned with a partner, while the rule of four- or fivefold payment does not apply in such cases? [That is, if one has received a bailment and claimed that it was stolen, while it was not stolen, then he has to pay double indemnity, but in the case of an ox or a sheep, not fourfold or fivefold charges. So too in the case of property held in partnership, if one partner falsely claims that the property was stolen, he pays double indemnity, but not fourfold or fivefold charges. Now why has the Mishnah’s law (M. 7:1A-D) not alluded to these two matters also?]”

[B] *It was taught*, “[If a man delivers to his neighbor money or goods to keep, and it is stolen] out of the man’s house” (Ex. 22:7) [is the meaning of the exclusion, liability incurred for stealing from the man’s house] but not from the woman’s house]? [Obviously not! Clearly the exclusionary effect is “stolen from the man’s house” – and not from the house of one who has borrowed the object. In such a case the thief – the bailee – will not have to pay double indemnity, but only to restore the object.]

[C] The very fundamental context here deals not with one’s fellow but rather with one who has borrowed the thing, and will you say this? [In fact, the borrower must pay double indemnity, and that is the meaning of the Scripture’s statement of the law. What is stolen from the house of an unpaid bailee must be compensated at the rate of double indemnity.]

[II:1 A] **The one who steals from a thief does not pay twofold restitution. and the one who slaughters or sells a beast stolen by another party does not pay fourfold or fivefold restitution [M. 7:1E-F]**

[B] If one stole [a beast], and it was stolen from him, and the owners caught the second thief,

- [C] and the second party took an oath to the owner [that he had not stolen the beast, and afterward he confessed that he had done so, he certainly does not have to pay twofold damages, in line with M. 7:1E]. [But does he have to pay fourfold or fivefold restitution, if he falsely swore that he had not slaughtered and sold the meat of the beast? Clearly, the answer to that question governs whether or not the thief, who took a false oath, has to bring an offering to atone for the sin of having taken a false oath. For if he took the oath but did not save himself any liabilities, then the oath is null and there is no need to expiate the false oath.]
- [D] If you maintain that the owner does collect [the stated indemnities] from the second thief, then the second thief, upon confessing the false oath, must bring an offering for having taken a false oath.
- [E] If you say the owner does not collect [the stated indemnities] from the second thief, then the second thief does not have to bring an offering for having taken a false oath.
- [F] If, again, one stole, and the beast was stolen from him, and the second thief determined to return the animal,
- [G] if you say that he should return the beast to the owner, then, on some occasions, there is the possibility that [the owner] will not inform the original thief [but will go and lay claim against him anyhow].
- [H] If you say that he should return the beast to the first thief, then on some occasions there is the possibility that he will not inform the original owner, [and so he will be defrauded of the animal] .
- [I] What should he do?
- [J] He should return the beast to the owner in the presence of the original thief.

7:2

- [A] [If] one stole [an ox or a sheep] on the evidence of two witnesses,**
[B] and [was convicted of having] slaughtered or sold on the basis of their testimony,
[C] or on the basis of the testimony of two other witnesses,
[D] he pays fourfold or fivefold restitution.
- [E] (1) [If] he stole or sold [an ox or a sheep] on the Sabbath,**
[F] (2) stole and sold [an ox or a sheep] for idolatrous purposes,
[G] (3) stole and slaughtered [an ox or a sheep] on the Day of Atonement,

[H] (4) stole [an ox or a sheep] belonging to his father and slaughtered or sold it, and afterward his father died,

[I] (5) stole and slaughtered, and afterward consecrated [an ox or a sheep],

[J] he pays fourfold or fivefold restitution.

[K] (1) [If] he stole and slaughtered [an ox or a sheep] for use in healing or for food for dogs,

[L] (2) he who [steals and] slaughters [an ox or a sheep] which turns out to be terefah,

[M] (3) he who slaughters unconsecrated beasts in the Temple courtyard

–

[N] he pays fourfold or fivefold restitution.

[O] R. Simeon declares him exempt in these last two matters.

[I:1 A] [R. Yohanan said, “In a case in which there is the penalty of flogging and also the necessity of making restitution, one makes restitution and does not suffer the flogging.”] And did R. Abbahu say in the name of R. Yohanan, “If one deliberately ate prohibited fat but was in error as to the requirement of bringing an offering [for doing so, namely, he thought he did not have to bring a sin offering],

[B] “they admonish him [as to the forbidden fat], and he also brings an offering [since he was in error as to the requirement of the offering]. [Consequently he is subject to liability for two distinct modes of punishment. Why then can Yohanan have said that one pays recompense and is spared the flogging?]”

[C] R. Bun bar Hiyya in the name of R. Samuel bar Isaac, “When Scripture says, ‘... in proportion to his offense ...’ (Deut. 25:2) [one is flogged for one offense, not for two].

[D] “In a case in which two separate matters are handed over to the court for trial, take up one of them, leaving the other to be handed over to Heaven. [That is, if the penalty is extirpation, which is inflicted by Heaven, the earthly court still imposes financial penalties of other sorts, e.g., an offering. One brings an offering for what has been done in error, even where there is the penalty of extirpation for what has been done deliberately.]”

7:3

[A] [If] one stole [an ox or a sheep] on the evidence of two witnesses,

[B] and [was convicted of having] slaughtered or sold [it] on the basis of their testimony,

[C] and they turned out to be false witnesses,

[D] they pay full restitution.

[E] [If] he stole on the evidence of two witnesses,

[F] and [was convicted of having] slaughtered or sold it on the basis of the testimony of two other witnesses,

[G] [and] these and those turn out to be false witnesses,

[H] the first pair of witnesses pays twofold restitution, and the second pair of witnesses pays threefold restitution.

[I] [If] the latter pair of witnesses turn out to be false witnesses, he pays twofold restitution, and they pay threefold restitution.

[J] [If] one of the latter pair of witnesses turns out to be false, the evidence of the second one is null.

[K] [If] one of the first pair of witnesses turns out to be false, the entire testimony is null.

[L] For if there is no culpable act of stealing, there is no culpable act of slaughtering or selling.

[I:1 A] *Said R. Zeira, “That is to say, A witness proved to be a perjurer is deemed to have given invalid testimony in court only at the point at which the witness himself is proved to be invalid. [That is to say, if the witness is shown to be a perjurer, from that point onward he is invalid. Then, retrospectively, all the testimony he gave, even before the point at which he was proved to be perjured, also is deemed null. The invalidation is personal.]”*

[B] Interpret the matter to deal with a case of the witnesses’ giving warning. [The witness must state, “I warned him not to do so and so.”] Now Zeira deals with the matter of warning and testimony, in the following terms. We have a case in which the act of theft took place on one day, the act of slaughter or sale, on another day. Now even though these actions took place at different times, the Mishnah does not take account of such differences. The witnesses give evidence in a single act of testimony, even though they speak of different times or days on which the several culpable deeds took place. Consequently, they will have to pay full compensation, should they be proved to be perjurers, e.g., in the matter of slaughter or sale. The proof of perjury thus is deemed to cover the entire testimony, and that is Zeira’s observation. From the moment at which the testimony is invalidated, whatever is said thereafter is deemed null as well. Consequently, if the witnesses

are shown to be perjurers as regards the theft of the beast, their testimony as regards its slaughter or sale is of no effect to begin with. They will not be assessed damages in that regard. At the point at which they gave evidence about slaughter or sale, the witnesses no longer were valid witnesses at all.]

- [C] *And so it has been taught: Said R. Yosé, “Under what circumstances? That is so in the case of two acts of testimony, and in the case of two acts of warning* [as explained above]. [That is to say, a witness is deemed to be invalid from the moment at which he has proved invalid, and whatever he says about the case is null and of no effect.] **But if it is a single act of testimony** [as in the case of Zeira’s discussion here], **then testimony, part of which is invalidated, is entirely null [with the consequence that Zeira’s position is effective, as explained] [T. B.Q. 7:23].**
- [D] What is the meaning of this statement about nullifying part of a statement in evidence’s serving to invalidate the entire statement?
- [E] If the witnesses were standing and testifying against a man that on the tenth of Nisan he had stolen an ox, on the eleventh of Nisan he had slaughtered or sold it, [and] on the fifteenth of Nisan they were shown to be perjurers, [that is, they were not in a situation in which they could have known what the accused had done at all,] all the testimony which they had given in regard to the man’s actions from the tenth of Nisan to the fifteenth of Nisan retroactively is deemed null and void. [Since the witnesses testified all at once on these several actions, the entire testimony is deemed null, even though the witnesses spoke of what had been done on different days. It will follow that the witnesses do not pay compensation for their false testimony as to theft, let alone for their false testimony as to slaughter or sale. Once they were proved perjurers, nothing they said is deemed to have had consequences at all (cf. Pené Moshe).]
- [F] Said R. Ba bar Mamal, “Interpret the statement to apply to a case in which the witnesses were testifying against the accused with regard to a single town. [That is, the testimony was that the felonies had been committed in a single place, not that they happened on successive days. Yosé’s view is that, if the witnesses can be shown to have been in some other place at the time at which they allege one of the acts of felony to have been committed, then their allegations with regard to the rest of those acts are null. For they will have been shown to have been elsewhere at the time, on a given day, on which one of the deeds was done, and whatever they say about the other deeds will then be null as well.]

[G] “*And there is no further implication to be drawn from that fact.* [All parties concur that, as to evidence concerning what happened beyond that point at which the perjurers are shown to have given false evidence, such evidence is null. As to what they have said about events prior to the act about which they are shown to have been incapable of giving testimony, however, no inference is to be drawn whatsoever from the stated ruling. Obviously, since all of the testimony concerned events in a given place, nullification of part of it effectively invalidates the whole of it, since these witnesses cannot have seen any part of the events about which they claim to have knowledge.]”

[H] *And thus it has been taught that the first set of witnesses is the same as the last, [as in the following]:*

[I] [Tosefta’s version:] **If one held a field in usucaption in the presence of two for one year, in the presence of two in the second year, and in the presence of two in the third year, lo, these constitute three distinct acts of testimony, and they count as a single act of witness when the evidence is proved false. If the testimony of the first group proved false, lo, one has in his possession [valid evidence about] two years. If the second group proved false, lo, he has in his possession [valid evidence about] one year. If the third group proved false, he has nothing whatever in hand. If the first group and the last group are the same, and they turn out to be false witnesses, if the testimony which turned out to be false concerned the first year, he has nothing at all in hand. If it concerned the second year, lo, he has [valid evidence about] one year in hand. If it concerned the third year, lo, he has valid evidence about two years in hand [T. B.B. 2:9].** [The point of the cited case at T. B.B. 2:9 is that even though the testimony on the first year of usucaption was false, when there is further testimony about later years, that is valid. Thus evidence given concerning events from the point and onward at which the evidence in the case is proved fraudulent is unacceptable. But evidence given concerning what has happened prior to the point at which the testimony is null still is valid. Consequently, while the man may not have testimony affecting the second year, he still has valid evidence regarding the first year. It follows that the whole of the testimony is not nullified retroactively, but only part of it. This brings us to the Talmud’s response, as follows.]

[J] [6a] [The cases really are not parallel. For] what sort of case can we imagine?

[K] It is is a case in which the testimony involved a single town, *no implications can be drawn from that fact.*

[L] So this statement treats only a case in which there were several acts of testimony, [that is, in which there were many acts of giving evidence]. [Each act of testimony governs a single year and is deemed distinct from the others. One can, after all, testify to events of one year and not of some other. The three properly validated years of usucaption then are joined together. It follows that evidence will be acceptable for one year, not nullified by evidence governing some other, later year of the cycle. But evidence as to theft and slaughter or sale concerns a single, continuous process.]

[II:1 A] [*Now with reference to the statement at M. B.Q. 7:3E, F, concerning conviction of theft on the basis of the evidence of two witnesses, and conviction of having slaughtered on the basis of the evidence of two other witnesses,*] up to now we have dealt with a case in which the witnesses concerning theft and those concerning slaughter came simultaneously.

[B] But if the witnesses concerning theft came and [the judges] did not accept their testimony [through some technical flaw], and afterward witnesses concerning slaughter came along, [and the court] said to them, “You should know that witnesses concerning theft have already come to court, but [the judges] have not accepted them, and it is solely on your account that we shall now accept their testimony as well” –

[C] then, if the witnesses concerning slaughter turn out to be perjurers, they pay compensation also in behalf of the witnesses to the matter of theft [for their evidence alone is what has had the effect of imposing liability on the accused both for the theft and for the slaughter].

[D] *R. Hezekiah did not state matters in that way.*

[E] Rather as follows [did he describe the issue]:

[F] “Up to now we have dealt with a case in which the witnesses to the theft and the witnesses to the slaughter came [simultaneously] .

[G] “But if the witnesses to the slaughter came, and [the court] did not accept their [testimony], and then the witnesses to the theft came,

[H] “and [the judge] said to them, ‘You should know that witnesses to slaughter have come along, but we did not accept their [testimony], and it is solely on your account that we now accept their testimony as well,’

7:4

- [A] [If] one [was convicted of a charge that he] stole [an ox or a sheep] on the evidence of two witnesses and of having slaughtered or sold [the ox or sheep] on the basis of only one,
- [B] or on the basis of the evidence of his own [confession],
- [C] he pays twofold restitution and does not pay fourfold or fivefold restitution.
- [D] (1) [If] he stole and slaughtered on the Sabbath,
- [E] (2) stole and slaughtered for idolatrous purposes,
- [F] (3) stole from his father's [herd of oxen or sheep] and then his father died and afterward he slaughtered or sold [the beast],
- [G] (4) stole and then consecrated [the animal] and afterward slaughtered or sold it,
- [H] he pays twofold restitution and does not pay fourfold or fivefold restitution.
- [I] R. Simeon says, "For Holy Things for the replacement, if lost, of which he bears responsibility does he pay fourfold or fivefold restitution.
- [J] And for those for the replacement, if lost, of which he bears no responsibility, he is exempt."

- [I:1 A] [R. Yohanan said, "In a case in which there is the penalty of flogging and also the necessity of making restitution, one makes restitution and does not suffer the flogging."] And did not R. Abbahu say in the name of R. Yohanan, "If one deliberately ate prohibited fat but was in error as to the requirement of bringing an offering [for doing so, namely, a sin offering],
- [B] "they admonish him [as to the forbidden fat], and he also brings an offering [since he was in error as to the requirement of the offering?]" Consequently he is subject to liability for two distinct modes of punishment. Why then can Yohanan have said that one pays recompense and is spared the flogging?]
- [C] [Supply: R. Bun bar Hiyya in the name of R. Samuel bar Isaac, "When Scripture says, '... in proportion to his offense ...' (Deut. 25:2) a felon is flogged for one offense, not for two]. [In a case in which two separate matters are handed over to the court for trial, take up one of them, leaving the other to be handed over to Heaven." That is, if the penalty is extirpation, which is inflicted by Heaven, the earthly court still imposes financial penalties or other sorts, e.g., an offering. One

brings an offering for what has been done in error, even where there is the penalty of extirpation for what has been done deliberately.]

- [I:2 A] Who has taught [that if one stole, then consecrated an animal and afterward slaughtered or sold it, he pays twofold restitution, but not fourfold or fivefold restitution as he would if he had sold the beast]? [This then implies that for consecrating the beast, he is not liable as if he had sold it. There is then a difference between consecrating a beast to God and selling a beast to an ordinary person. There has been no act of sale when there was an act of consecration.]
- [B] It is R. Simeon's view, [in line with M. 7:4I-J, that is, since he remains liable to make up the beast if he should lose it – e.g., if he had designated the beast he had stolen to pay off some vow he had made – it is not deemed to have been sold]. [To be sure, he remains liable for twofold compensation vis-a-vis the original owner's claim on the beast, but not for slaughter and sale, as explained.]
- [C] For **R. Simeon says, "For Holy Things for the replacement if loss of which he bears responsibility does he pay fourfold or fivefold restitution, and for those for replacement. of loss of which he bears no responsibility, he is exempt."**
- [I:3 A] R. Justus b. R. Matun raised the following question: "He who redeems a basket of produce which has been sanctified from the Temple treasurer, [and the basket of produce has not yet been rendered liable for separation of tithes therefrom] –
- [B] "what is the law as to the basket's being deemed totally untithed, as to the liability for the separation of tithes? [That is, if one purchases a basket of produce, the produce automatically becomes liable to tithes. Now the man has not purchased this fruit, but he has redeemed it. Is the act of redemption tantamount to an act of purchase for the present purpose?]"
- [C] *R. Simeon b. Laqish objected [to this question]. "Now we have learned, **If one stole, then consecrated, and afterward slaughtered or sold the beast, he pays twofold restitution but does not pay fourfold or fivefold restitution [M. 7:~G-H].*** [Consecration is not tantamount to sale.]
- [D] "*Just as you rule there, 'He who consecrates a beast is not in the status of one who sells it,'*

- [E] “*so here*: ‘He who redeems produce likewise is not in the status of one who purchases it, [so the entire transaction with the Temple is in no way equivalent to a sale or a purchase].’”
- [F] *Now there is another statement* of R. Simeon b. Laqish which implies that selling is equivalent to redemption, [contradicting the position held by him here].
- [G] [In that other context, his meaning is that] it is appropriate to; him to redeem and consume [the produce under discussion there] [cf. Pené Moshe].
- [I:4 A]** Said R. Eleazar, “[If witnesses] saw him slaughter a black ox i a forest, it may be assumed that it is stolen [since he slaughtered the beast in secret]. [Consequently, they assume that there is reason to do so, which is that he had stolen it.]”
- [B] But perhaps one may say that he saw the beast crouching, and slaughtered it, but had not in fact stolen it from the owner]. [Consequently, he will not be liable for fourfold or fivefold indemnity.]
- [C] Interpret the statement to refer to a case in which the witnesses saw the man leading the beast [and hence have good reason to suppose he had stolen it].
- [I:5 A]** There is a rule covering slaughtering the beast which does not apply to selling it,
- [B] and there is a rule covering selling the beast, which does not apply to slaughtering it.
- [C] He who slaughters the beast on the Sabbath is liable [to the death penalty, so is exempt from fines].
- [D] He who sells the beast on the Sabbath is exempt [from the death penalty].
- [E] Said R. Yannai b. R. Ishmael, “We have a case in which the act of sale imposes liability [to the death penalty for violating] the Sabbath.
- [F] “Note the following possibility:
- [G] “He who says to his fellow, ‘Pick it up from the ground and acquire it,’ has he not made acquisition of it? [Picking up the beast on the Sabbath imposes the death penalty.]”
- [H] Said R. Yosé b. R. Bun, “It is the act of picking up the object which imposes liability on the man, and not the act of sale itself.”

7:5

- [A] (1) [If] one sold [all] but one hundredth part of [a stolen ox or sheep],
[B] (2) or if [the thief already] owned a share of it,
[C] (3) he who slaughters [an ox or a sheep] and it turns out to be made into carrion by his own hand,
[D] (4) he who pierces [the windpipe],
[E] (5) and he who tears out [its gullet] pays twofold restitution and does not pay fourfold or fivefold restitution.
[F] [If] (1) he stole it in the owner's domain but slaughtered or sold it outside of his domain,
[G] or (2) [if] he stole it outside of his domain and slaughtered or sold it in his domain,
[H] or (3) if he stole and slaughtered or sold it outside of his domain,
[I] he pays fourfold or fivefold restitution.
[J] But if he stole and slaughtered or sold it [wholly] in his domain, he is exempt.

- [I:1 A] *R. Zeira raised the question, "If the thief sold off the beast by halves [thus at the outset leaving himself part of it, then he sold off another part], what is the law? [Is it tantamount to having sold the entire beast? Or do we compare the part which at the outset, he did not sell, to the part he has held back for himself at M. 7:5A?] [Along these same lines, if] he sold half of the beast to this party, and half of it to that party, what is the law?"*
- [B] *Let us derive the answer from the following: [Following the Tosefta's, not the Yerushalmi's text:] [If the thief] sold [an ox or a sheep], except for its foreleg, except for its hind-leg, except for its horn, or except for its fleece, he nonetheless must pay fourfold or fivefold restitution [cf. M. 7:5A].*
- [C] **R. Simeon b. Eleazar says, "[If he sold it] except for its fore leg or except for its hind-leg, he pays twofold restitution.**
- [D] **"[If he sold it] except for its horn or fleece, he pays twofold restitution as well as fourfold or fivefold restitution."**
- [E] **R. Meir says, "[If he sold an ox or a sheep] except for some part of the beast on which life depends, he pays twofold restitution.**
- [F] **"[If he sold it] except for some part of the beast on which life does not depend, he pays fourfold or fivefold restitution" [T. B.Q. 7:18].**

7:6

[A] [If the thief] was dragging [a sheep or ox] out [of the owner's domain], but it died in the domain of the owner,

[B] he is exempt.

[C] [If] he lifted it up or removed it from the domain of the owner and then it died, he is liable.

[D] [If] he handed it over for (1) the firstborn-offering at the birth of his son,

[E] or (2) to a creditor,

[F] to (3) an unpaid bailee,

[G] or (4) to a borrower,

[H] or (5) to a paid bailee,

[I] or (6) to a renter,

[J] and [one of these] was dragging it away, and it died in the domain of the owner,

[K] he is exempt.

[L] [If] he raised it up or removed it from the domain of the owner and then it died, he is liable.

[I:1 A] *Said R. Mana, "Whoever will explain this matter to me – I shall carry his clothes after him to the bathhouse: What is the meaning of 'exempt' [M. 7:6K]? Is he 'exempt,' having paid off his debt? Or is he deemed 'exempt' from punishment by reason of the theft?"*

7:7

[A] They do not rear small cattle in the Land of Israel,

[B] but they do rear them in Syria and in the wastelands which are in the Land of Israel.

[C] They do not rear chickens in Jerusalem, on account of the Holy Things,

[D] nor do priests [rear chickens] anywhere in the Land of Israel, because of the [necessity to preserve] the cleanness [of heave-offering and certain other foods that are handed over to the priests].

[E] They do not rear pigs anywhere.

[F] A person should not rear a dog, unless it is kept tied up by a chain.

[G] They do not set traps for pigeons, unless they are thirty ris from a settlement.

- [I:1 A] Said R. Ba, “An example [of a wasteland (M. 7:7B) would be] Mehir, which is sixteen *mil* by sixteen *mil*.”
- [I:2 A] ***It is taught: They do not rear chickens in Jerusalem. on account of Holy Things. nor do priests rear chickens anywhere in the Land of Israel. because of the necessity to preserve the cleanness of heave offering and other portions handed over as consecrated rations to the priests.***
- [B] May one also say that the same rule applies [to Israelites] in Jerusalem?
- [C] *Or perhaps this is in accord with that which R. Joshua b. Levi said, “‘Jerusalem, built as a city which is bound firmly together, to which the tribes go up, the tribes of the Lord’ (Ps. 122:3-4).*
- [D] “It is the city which joins all Israelites together to one another [in the same status]. [All are believed concerning the purity of foods.]”
- [I:3 A] It is written, “And these are unclean to you” (Lev. 11:31).
- [B] Why does Scripture then say, “They shall be unclean to you” (Lev. 11:35)?
- [C] [It is to indicate the following:] All the same are the prohibition of actually eating these things and the prohibition against deriving benefit from them, [which accounts for M. 7:7E].
- [D] As to anything which is prohibited to Israelites by the decree of the sages, it is permitted to engage in trade with such a thing.
- [E] And lo, there is the ass [which Israelites buy and sell].
- [F] It is raised to do its work.
- [G] And lo, there is the camel?
- [H] It is raised to do its work.
- [II:1 A] **A person should not rear a dog unless it is kept tied up to a chain:**
- [B] Said R. Yosé b. R. Haninah. “Whoever raises a bad dog in his property – concerning him Scripture says, ‘He who withholds a kindness from a friend forsakes the fear of the Almighty’ (Job 6:14).”
- [III:1 A] **They do nor set traps for pigeons unless it is thirty ris from a settlement [M. 7:7G]**
- [B] And elsewhere [Y. B.B. 2:5] you say that it is fifty cubits

- [C] Said R. Yosé b. R. Bun, “As for feeding, the pigeons feed for fifty cubits.
- [D] “As for flying around, they fly even four *mils.*”

YERUSHALMI BABA QAMMA

CHAPTER EIGHT

8:1

[A] He who injures his fellow is liable to [compensate] him on five counts:

[B] (1) Injury, (2) pain, (3) medical costs, (4) loss of income [lit.: loss of time], and (5) indignity.

[C] For injury: How so?

[D] [If] one has blinded his eye, cut off his hand, broken his leg, they regard him as a slave up for sale in the market and make an estimate of how much he was worth beforehand [when whole], and how much he is now worth.

[E] Pain:

[F] [If] he burned him with a spit or a nail,

[G] and even on his fingernail, a place in which [the injury] does not leave a lasting wound,

[H] they assess how much a man in his status is willing to take to suffer pain of that sort.

[I:1 A] *It was taught:* [If] one has inflicted on another person all five [kinds of damage], he pays him for all five.

[B] [If he inflicted] only four kinds, he pays him for four.

[C] [If he inflicted] only three kinds, he pays him for three.

[D] [If he inflicted] only two kinds, he pays him for two.

[E] [If he inflicted] only one kind, he pays him for one [T. B.Q. 9:1].

[F] How so?

[G] [If] he hit him on his hand and cut it off, he pays all five kinds of compensation: for injury, pain, medical costs, loss of income, and indignity.

[H] [If] he hit him on his hand and it swelled up, he pays him four: pain, medical costs, loss of income, and indignity.

[I] [If] he hit him on his head and it swelled up, he pays him three: pain, medical costs, and loss of income.

[J] [If] he hit him on a part of the body which is not visible, he pays him two: pain and medical costs.

[K] In the case of hitting his book which is in his hand, he pays him only compensation for the humiliation.

[I:2 A] *R. Jeremiah raised the following question: “If he cut off his hand, and then went and cut off the hand higher up [on the stump], what is the law as to his paying him compensation for the pain the first time? [There was no court assessment the first time around.]”*

[I:3 A] It is written, “An eye for an eye, a tooth for a tooth” (Ex. 21 :24).

[B] And in another passage, Scripture states, “Your eye shall not pity him” (Deut. 19:13).

[C] [One passage refers to inadvertent, the other to deliberate, action:] All the same then are he who acts inadvertently and he who acts deliberately [in that both pay monetary compensation].

[D] Let the law be stated for the one who does so inadvertently, and let it not be stated for the one who acts deliberately.

[E] For if the rule [of monetary compensation] is given in the case of one who acts inadvertently and not stated in the case of the one who acts deliberately, I should then reason as follows:

[F] One who acts inadvertently pays money compensation. Will the one who acts deliberately then pay nothing at all? [Obviously not.]

[G] It was necessary to state the rule for both the one who acts deliberately and the one who acts inadvertently.

[I:4 A] If one who was blind and blinded the eye of another party,

[B] or if he was crippled in hand and cut off the hand of another party,

[C] how in this case will the passage be carried out, “And you shall do to him as he conspired to do to his fellow” (Deut. 19:19)?

[D] This fact tells us that one pays compensation only in monetary form.

[I:5 A] As to pain:

- [B] If he struck him with a spit or a nail, even on his fingernail, a place in which one makes no wound, [is he liable]?
- [C] [Indeed so, for] it is written, “Burn for burn” (Ex. 21:25).
- [I:6 A] [As to the “wound” to which Scripture refers,] *how so?*
- [B] If it is a case in which he pierced his skin and produced blood, it already is “Injury for injury” (Ex. 21:24).
- [C] Why does Scripture state “wound”?
- [D] But it is to cover the case of his burning him with a spit on the palm of his hand and it swelled up,
- [E] or on the sole of his foot and it swelled up,
- [F] or if he put on him snow or ice, on a place on which the wound is not visible,
- [G] he is liable to provide healing for him [even where there is no injury but only pain].
- [II:1 A] They make an estimate [at M. 8:1H] of how much one of such status is willing to take to suffer such pain.
- [B] Said R. Zeira, “They examine a man and say to him, ‘*How much do you want to give so people will not inflict such pain on you?*’
- [C] “*Whatever he says, do they give to him.*”
- [D] Said Mar Uqba, “**How much does a man wish to take** is the language of the Mishnah, and do you state matters in this way?
- [E] “*But it is thus: They examine a man, and say to him, ‘How much do you want to take, so people will inflict pain on you,’ and whatever he says is what they give him.*”
- [II:2 A] *It has been taught: Ben Azzai says, “They make up to him the food he has lost” [cf. T. B.Q. 9:3J].*
- [B] What is the meaning of “making up the food”?
- [C] [*If he should claim,*] “*Beforehand I would eat lentils and vegetables, but now I am willing to eat only eggs and chickens,*” whatever he wants [*the party which is liable*] has to give to him.
- [D] Said R. Yosé bar Jacob, “*In the case of a Roman [soldier] who got sick, he does not go into battle again until he eats what he*

has missed from day to day because of his illness [and so recovers his full strength by eating the meals he lost].”

8:2

[A] **Medical costs:**

[B] **[If] he hit him, he is liable to provide for his medical care.**

[C] **[If] sores arise on him, if [they are] on account of the blow, he is liable; [but if] they are not on account of the blow, he is exempt.**

[D] **[If] the wound got better and opened up again, got better and opened up again, he remains liable to provide for his medical care.**

[E] **[If the wound] properly healed, he is no longer liable to provide medical care for him.**

[I:1 A] *R. Jeremiah raised the following question: “If ulcers grew around the wound, and opened up because of the wound – [e.g., because of the bandages, ulcers developed, and got better but then opened up because of the wound] – what is the law? [Do we blame the ulcers on the treatment afforded to the wound and deem them the fault of the physician? Or are they part of the liability of the one who hit the man?]”*

[B] Since it is written, “He shall have him thoroughly healed” (Ex. 21:19) [we know] that if he disobeyed the doctor, [the guilty party is no longer liable for damages]. [Then we conclude that, here by tying on the bandages too tightly and so causing the ulcers, the physician of the injured party bears responsibility for the ulcers, and the guilty party is not liable to compensate him for their treatment.]

[C] There is another teaching [pertinent to this same verse], “He shall have him thoroughly healed,”

[D] namely, if the wound became scabby, he is liable to provide medical care.

[I:2 A] *It was taught: R. Yosé b. R. Judah says, “If ulcers grew up around the wound, even though the wound opened up, the one who hit the man is liable to provide healing for him, but he is not liable to pay him [additional] compensation for being unemployed.”*

[B] R. Simeon says, “It was a novel point which Scripture made when it said that he should pay both compensation for time lost from work and also compensation for medical costs [and so, just so long as he must pay the one, he must pay the other, as it is said,] ‘Only he shall pay for

the loss of his time, and he shall have him thoroughly healed' (Ex. 21:19)."

8:3

[A] Loss of income:

[B] They regard him [in estimating income] as if he is a keeper of a cucumber field,

[C] for [the defendant] already has paid off the value of his hand or his leg.

[D] Indignity:

[E] All [is assessed] in accord with the status of the one who inflicts the indignity and the one who suffers the indignity.

[F] He who inflicts indignity on one who is naked,

[G] he who inflicts indignity on one who is blind,

[H] or he who inflicts indignity on one who is asleep

[I] is liable.

[J] But one who is sleeping who inflicted indignity is exempt [on that count].

[K] [If] he fell from the roof and did injury and also inflicted indignity,

[L] he is liable for the injury [he has inflicted] but exempt from the indignity,

[M] as it is said, "And she puts forth her hand and grabs him by the balls" (Deut. 25:11).

[N] One is liable on the count of indignity only if he intended [to inflict indignity].

[I:1 A] *Here you say, "They regard him, in estimating income, as if he is a keeper of a cucumber field."*

[B] *Yet there [at T. B.Q. 9:3B-C] you say, "If he made a maneh a day, he pays him a maneh. If he made a sela a day, he pays him a sela."*

[C] *Said R. Isaac, "There are two different criteria by which to estimate the loss of income.*

[D] *"[Citing T. B.Q. 9:2B-F:] [If] he hit him and cut off his hand, hit him and cut off his leg, they do not regard him as if he makes a sela a day, or as if he makes a maneh a day. But they regard him as if he is a cripple who serves as a keeper of a cucumber field, for in any event he has already paid off the value of the hand or the leg.*

[E] “If, on the other hand, he burned him with a spit on the palm of his hand and it swelled up, or on the sole of his foot and it swelled up, or if he put on him snow or ice, on a place on which the wound is not visible, he is liable to provide healing for him, [but he pays off time lost at the rate which he was accustomed to earn].”

[I:2 A] *It was taught:* [“When men fight with one another, and the wife of the one draws near to rescue her husband from the hand of him who is beating him, and] puts out her hand [and seizes him by the private parts, then you shall cut off her hand; your eye shall have no pity]” (Deut. 25:11-12) –

[B] but [this rule does] not [apply to] the wife of a court officer [who has done so in this context: if the fight takes place while he is carrying out the orders of the court].

[C] *Another Tannaitic authority teaches* “... and she puts forth her hand ...,” to encompass even the wife of a court officer.

[D] *The one who teaches that* “... and she put forth her hand ...” does not apply to the wife of an officer of the court maintains that that is the case when the court officer has smitten the other party under the authority of the court.

[E] *The one who maintains that* it does encompass the wife of the officer of the court maintains that that is the case when he hit the other party not under the authority of the court.

[F] *It was taught:* This rule does not apply to the wife of the second party [should she come after the wife of the first party has intervened].

8:4

[A] **This rule is more strict in the case of man than in the case of an ox.**

[B] **For a man pays compensation for injury, pain, medical costs, loss of income, and indignity;**

[C] **and he pays compensation for the offspring (Ex. 21:22).**

[D] **But [the owner of] an ox pays compensation only for the injury.**

[E] **And he is exempt from liability to pay compensation for the offspring.**

[F] **He who hits his father or his mother but did not make a wound on them,**

[G] **or he who injures his fellow on the Day of Atonement**

[H] **is liable on all counts.**

[I] He who injures a Hebrew slave is liable on all counts, except for loss of time,

[J] when he belongs to him [who did the damage].

[K] He who injures a Canaanite slave belonging to other people is liable on all counts.

[L] R. Judah says, “Slaves are not subject to compensation for indignity.”

[I:1 A] [With reference to Ex. 21:26-27: “When a man strikes the eye of his slave, ... and destroys it, he shall let the slave go free for his eye’s sake. If he knocks out the tooth of his slave, ... he shall let the slave go free for the tooth’s sake.”] *it was taught:*

[B] Witnesses who stated, “We testify concerning Mr. So-and-so, that he has blinded both eyes of his slave simultaneously,”

[C] “he has knocked out two of his teeth simultaneously,” –

[D] the master pays nothing to the slave at all [but sends him forth free].

[E] [If they testified that he had done so] one after another, the slave goes forth to freedom on account of the first, and the master pays him compensation for the loss of the second. [This is continued at Y. 8:5.]

[F] *R. Abbahu in the name of R. Yohanan, “[Since reference is made to compensation,] that is to say that they estimate compensation for slaves for indignity as well.”*

[I:2 A] R. La in the name of R. Yohanan: ““He who consecrates the work of his own hands – whatever he makes is deemed to have been sanctified.’

[B] “He went and taught, ‘He who consecrates the work of his slave’s hands – he deducts from what the slave makes the cost of feeding him, but the rest is deemed consecrated.’”

[C] *Now here you say, “The rest is deemed consecrated,” and there you have said, “the whole of what he makes is consecrated.”* [Why is no provision made for supporting the free Israelite, as provision is made for supporting the slave?]

[D] Said R. Aha, “Israelites are commanded to provide food for free people more than they are required to provide for slaves, [and consequently the free man will find support through charity, while the slave would not].”

[E] Did not R. Yohanan state, “He who cuts off the hand of his fellow’s slave – the master of the slave collects compensation [6c] for the

injury, pain, healing, time lost, and indignity, and the slave himself will then be supported from charity funds”? [So D is contradicted.]

[F] Said R. Aha, “Israelites are commanded to support slaves who have been injured, more than they have been commanded to support slaves who are whole in body [and consequently, in the present instance, the slave will be supported from charity funds].”

[G] *Now did not R. Yohanan eat meat and give the same to his slave, drink wine and give the same to his slave? And he cited in his own regard the following verse of Scripture: “Did not he who made me in the womb make him?” (Job 31:15) [This proves that Israelites are obligated to support even healthy slaves.]*

[H] They replied, “So far as strict law is concerned, that is the case, but in accord with the requirements of mercy, one must support even healthy slaves.”

8:5

[A] **A deaf-mute, idiot, and minor – meeting up with them is a bad thing.**

[B] **He who injures them is liable.**

[C] **But they who injure other people are exempt.**

[D] **A slave and a woman meeting up with them is a bad thing.**

[E] **He who injures them is liable.**

[F] **And they who injure other people are exempt.**

[G] **But they pay compensation after an interval:**

[H] **[if] the woman is divorced, the slave freed, they become liable to pay compensation.**

[I] **He who hits his father or his mother and did make a wound on them,**

[J] **and he who injures his fellow on the Sabbath**

[K] **is exempt on all counts,**

[L] **for he is put on trial for his life.**

[M] **And he who injures a Canaanite slave belonging to himself is exempt on all counts.**

[I:1 A] *It was taught:* **The witnesses who testified, “We give evidence that Mr. So-and-so blinded the eye of his slave and afterward he knocked out his tooth,”**

[B] **and so the master says,**

[C] **and who turned out to be perjurer –**

- [D] they pay compensation to the slave.
- [E] [If they said,] "... he knocked out his tooth and afterward he blinded his eye,"
- [F] And so the slave says,
- [G] and they turned out to be perjurers
- [H] they pay to the master.
- [I] [If they said,] "He blinded both of them at once," or "He knocked out both of them at once,"
- [J] and others came and said, "Not so, but it was two of them in succession,"
- [K] and they turned out to be perjurers –
- [L] they pay to the slave.
- [M] [If they said,] "He blinded both of them one after the other, or knocked out both of them one after the other,"
- [N,'] and others came along and said, "Not so, but he did both of them at once,"
- [O] and they turned out to be perjurers –
- [P] they pay to the master.
- [Q] He blinded the eye of his slave, and lo, he is yet subject to him and working for him –
- [R] and they turn out to be perjurers
- [S] they pay both the value of the slave and of the blinding to the master [T. Mak. 1:4-5].
- [T] [With reference to I-L,] On the basis of what sort of incident will they be able to give such testimony? [How will witnesses know that the master has blinded both eyes at once? They would not, and it would then follow that in such testimony they do not deprive the slave of anything.]
- [U] *Said R. Nisah, "It would be in a case in which the witnesses stated the following: 'We give testimony against Mr. So-and-so that [his slave] fell into his hands whole and come forth injured in two aspects [e.g., both eyes].'*

[V] “In such a case, the slave goes forth on account of the first injury, and the master pays compensation on account of the second.”

8:6

[A] He who boxes the ear of his fellow pays him a sela.

[B] R. Judah says in the name of R. Yosé the Galilean, “A maneh.”

[C] [If] he smacked him, he pays him two hundred zuz.

[D] [If] it is with the back of his hand, he pays him four hundred zuz.

[E] [If] he (1) tore at his ear, (2) pulled his hair, (3) spit, and the spit hit him, (4) pulled off his cloak, (5) pulled apart the hairdo of a woman in the marketplace,

[F] he pays four hundred zuz.

[G] This is the governing principle: Everything is in accord with one’s station.

[H] Said R. Aqiba, “Even the poorest Israelites do they regard as gentle folk who have lost their fortunes.

[I]”For they are the children of Abraham, Isaac, and Jacob.”

[J] There was a case in which someone pulled apart the hairdo of a woman in the marketplace.

[K] She came before R. Aqiba, who required him to pay her four hundred zuz.

[L] He said to him, “Rabbi, give me time [to pay her off].”

[M] He gave him time.

[N] He caught her standing at the door of her courtyard and broke a jar of oil in front of her, containing no more than an issar’s worth of oil. She let down her hair and mopped up the oil and put her hand [with the oil] on her hair [so making use of that small quantity of oil].

[O] Now he had set witnesses up against her. Then he came before R. Aqiba.

[P] He said to him, “Rabbi, to a woman such as this am I to pay off four hundred zuz?”

[Q] He said to him, “You have no claim whatsoever.

[R] “He who does injury to himself, even though he has no right to do so, is exempt.

[S] “But others who did injury to him are liable.

[T] **“He who cuts down his own shoots, even though he has no right, is exempt.**

[U] **“Others who cut down his shoots are liable.”**

[I:1 A] *R. Qarni taught, “[The fine for kicking] with the foot is one sela, for kneeling, three, for a hard blow with the fist, fifteen selas “*

[B] Someone taught in the name of R. Simeon b. Laqish, “He who humiliates a sage pays him the full compensation to be paid for his humiliation.”

[C] *Someone lost his temper with R. Judah b. Hanina. The case came before R. Simeon b. Laqish. He imposed on him a fine of a litra of gold.*

[II:1 A] **If one spit, and the spit hit him [M. 8:6E]:** to what extent do we speak of the spit’s reaching [the person who was spat upon]?

[B] To his body, to his garments.

[C] But: If he spit and the spit did not reach the person – what then is the law?

[D] Said R. Yosé, “It is in line with the following rule: He who humiliates his person with mere words is exempt from paying any sort of compensation.”

[III:1 A] [**“He who cuts down his own shoots, even though he has no right, is exempt. Others who cut down his shoots are liable:”**] *R. Abbahu taught before R. Yohanan, “If one party claims, ‘You have killed my ox,’ ‘You have cut down my plants,’ and the other party says, ‘I do not know whether or not I did so,’ the latter is liable.”*

[B] *He said to him, “Where did you learn these things, founded on neither Scripture nor tradition?”*

[C] *He said to him, “I am the one who erred, but this is how they say the rule: ‘We give testimony against Mr. So-and-so, that he has killed the ox belonging to Mr. So-and-so,’ and the other party says, ‘I know nothing about it’ – the latter is liable. [The claim is supported by witnesses, which makes the difference.]”*

8:7

[A] **Even though [the defendant] pays off [the plaintiff], he is not forgiven until he seeks [forgiveness] from [the plaintiff],**

[B] since it is said, “Now restore the man’s wife...and he will pray for you” (Gen. 20:7).

[C] And how do we know that the one who is supposed to forgive should not be churlish?

[D] Since it is said, “And Abraham prayed to God, and God healed Abimelekh” (Gen. 20:17).

[I:1 A] *It was taught:* R. Judah says in the name of Rabban Gamaliel, “Lo, it says, ‘None of the devoted things shall cleave to your hand; that the Lord may turn from the fierceness of his anger,] and show you mercy, and have compassion on you, and multiply you, [as he swore to your fathers]’ (Deut. 13:17).

[B] “Let this sign be in your hand.

[C] “So long as you are merciful, He will have mercy on you” [T. B.Q. 9:30].

[D] “When you are not merciful, the Omnipresent will not have mercy on you.”

[E] Rab said, “Someone who offended his fellow, and sought forgiveness from him, but the latter did not accept [his apology], should set up a whole line of people to go and seek his forgiveness,

[F] “as it is said, ‘That he may turn man aside from his deed, and cut off pride from man’ (Job 33:17).

[G] “And if he does so, what is written concerning him?”

[H] “‘He keeps back his soul from the Pit, his life from perishing by the sword’” (Job 33:18).

[II:1 A] [And how do we know that the one who is supposed to forgive should not be churlish?] Said R. Yosa, “That which you have stated [at M. 8:7C] applies in a case in which he has not ruined his reputation. But if he has ruined his reputation, he cannot ever gain forgiveness.”

8:8

[A] He who says, “Blind my eye,”

[B]”Cut off my hand,”

[C] “Break my leg” –

[D] [the one who does so] is liable.

- [E] [If he added,] “...on condition of being exempt,” [the one who does so] is liable [anyhow].
- [F] “Tear my cloak,”
- [G] “Break my jar” –
- [H] [the one who does so] is liable.
- [I] [If he added,] “...on condition of being exempt,” [the one who does so] is exempt.
- [J] “Do it to Mr. So-and-so, on condition of being exempt,”
- [K] he [who does so] is liable, whether this is to his person or to his property.
- [I:1 A] He who says, “Blind my eye, which is doing me harm,”
- [B] “Cut off my hand, which is doing me harm,” –
- [C] [the one who does so] is liable [T. B.Q. 9:32].
- [D] If he replies, “... on condition that I am exempt from penalty,” he [nonetheless] is liable.
- [I:2 A] Said R. Eleazar, “If he answered with a Yes which is like a No, *then the stated rule of the Tannaitic tradition does apply.*”
- [B] “But if he answered with a Yes which is really a Yes, he is exempt.”
- [C] *The statement of R. Eleazar is on account of the shame brought on the family of the person by such a procedure [that is, if he deliberately has his property damaged, his family will be ashamed].*
- [D] *R. Simeon b. Laqish said, “The cited Tannaitic tradition deals with a case in which the Yes is truly a Yes. But in the case of Yes which is really a No, he is liable.”*
- [E] *The statement of R. Simeon b. Laqish implies that they assign payment for indignity even to the relatives of the person who has suffered the indignity.*
- [I:3 A] [If] gentiles forced an Israelite, and he took away the possessions of his fellow in his very presence, he is exempt.
- [B] [But if on his own volition] he took them and handed them over to them, lo, this person is liable [T. B.Q. 9:33].
- [C] *Said R. Yosé, “That ruling which you have cited applies to a case in which he said to him to hand over money, without further explanation.*

[D] “But if he said to him, ‘Hand over the money of So-and-so,’ even if he took it from him and handed it over by force, he still is exempt.”

YERUSHALMI BABA QAMMA

CHAPTER NINE

9:1

[A] [He who steals wood and made it into utensils,

[B] wool and made it into clothing,

[C] pays [compensation in accord with the value of the wood or wool] at the time of the theft.

[D] [If] he stole a pregnant cow and it gave birth,

[E] a ewe heavy with wool [needing shearing], and he sheared it –

[F] he pays the value of a cow which is about to give birth, or of a ewe which is about to be sheared.

[G] [If] he stole a cow, and it got pregnant while with him and gave birth,

[H] a ewe, and it became heavy [with wool] while with him, and he sheared,

[I] he pays [compensation in accord with the value of the cow or ewe] at the time of the theft.

[J] This is the governing principle:

[K] All robbers pay compensation [in accord with the value of the stolen object] at the time of the theft.

[I:1 A] [Reference is made to T. B.Q. 10:2, as follows: [If] he stole wool and bleached it, thread and he bleached it, flax and he washed it, stones and he smoothed them down, he pays compensation [in accord with their value] at the time of the theft (M. B.Q. 9:1A-C; T. B.Q. 10:2). At the passage of Tosefta just now cited,] you maintain that bleaching the wool, [without further processing thereof,] constitutes an act of changing [the condition of the wool sufficient so that he acquires the wool and so pays compensation in accord merely with the value at the time of the theft], while here [at M. 9:1B] you maintain that merely bleaching the wool does not constitute an act of changing [the condition of the wool].

- [B] When you rule that bleaching the wool constitutes a change in its condition, it is when one has made it into flakes [hatcheled it],
- [C] and when you rule that bleaching the wool does not constitute a change in its condition, it is when one [has not made it into flakes but] left it as is.
- [D] We find that cleansing of wool is sometimes done without hatcheling it, but is hatcheling ever done without previous washing [for the Tosefta implies that that too is possible, which then makes B impossible as the Tosefta's reason]?
- [E] Said R. Judah, "It is a lenient ruling which the sages have made in reference to the thief, that he may pay compensation for what he has stolen, in this case, in accord with the value at the time of the theft.
- [F] "If one stole a fresh hide and bleached it – do you have the possibility of ruling that we deal with a case in which he hatcheled it?"
- [G] "This is yet another lenient rule that sages have made for the robber, so that he may pay compensation for the object as of the value at the time that he stole the object."
- [I:2 A] He who steals a beam and built it into his house –**
- [B] **the House of Shammai say, "Let him tear down the whole house and take out [and return the beam.]"**
- [C] **And the House of Hillel say, "One reckons how much it is worth and pays the value of it to the owner,**
- [D] **"for the sake of the welfare of those who repent" [T. B.Q. 10:5].**
- [I:3 A] He who goes down into the ruin which belongs to his fellow and builds it up without permission –**
- [B] **they make an estimate [of the matter],**
- [C] **and his hand is underneath [i.e., the advantage belongs to the owner of the ruin].**
- [D] **He who goes down with permission –**
- [E] **they make an estimate [of the matter],**
- [F] **And his hand is now on top [T. B.Q. 10:7].**
- [G] If [having gone down without permission,] he wanted to take his stone and wood, they pay no attention to him.

[H] R. Jacob bar Aha in the name of R. Joshua b. Levi, “This is in order to protect the continued Israelite occupation of the Land of Israel.”

[I] R. Nahman bar Isaac asked [in regard to the foregoing opinion that the man may not take away his stones and wood], “If he had gone into his fellow’s ruin for an hour and unpacked his sack for a while, and then wanted to take up his burden once more and leave, is it possible that they would pay no attention to him? [Obviously he is within his rights. Why can he not take up his stones and wood here?]”

[J] When he had heard that which R. Jacob bar Aha in the name of R. Joshua b. Levi said, “This is in order to protect the continued Israelite occupation of the Land of Israel,” he said, “That is so.”

[K] But: [Nahman continues:] “If one built in a place which is not suitable for building [e.g., the public domain], or planted in a place in which it is not suitable for planting” –

[L] Rab said, “[If he did so without permission,] they make an estimate for him. But they practice deception and pay no attention to what he built or planted, and people may go into that spot in the dry season on account of the heat, and in the rainy season on account of the rain.”

[M] *He said to him, “And lo, you have learned, ‘They make an estimate for him, and his hand is on the bottom [because he built without right].’”*

[II:1 A] Said R. La, “That [M. 9:1D] is to say, If one stole a fat cow and it lost weight, the robber must make amends in accord with the value of a fat cow.”

[B] Said R. Hisda, “That [M. 9:1G] is to say, If he stole a scrawny cow and it grew fat, he returns to him the cow as it then is; because it became pregnant with him and gave birth, he pays back the value of the cow at the time of the theft.”

[III:1 A] Who taught this statement [M. 9:1J-K]?

[B] It is R. Jacob.

[C] *For it has been taught:*

[D] **This is the governing principle [which R. Jacob stated:] “Anything which is stolen, which is available, and [the robber] in no way has changed it from its original condition – [the thief may] say to him, ‘Lo, there is your property before you. ‘**

[E] **“But if in some way he changed it from its original condition, he pays [compensation in accord with the value] at the time of the robbery.**

[F] **“The thief under all circumstances pays compensation in accord with the value at the time of the theft” [T. B.Q. 10:4N].**

9:2

[A] [If] he stole a beast and it got old,

[B] slaves and they got old,

[C] he pays [compensation for them in accord with their value] at the time of the theft.

[D] R. Meir says, **“In the case of slaves, he may say to him, ‘Here is what is yours before you!’”**

[I:1 A] R. Huna said, “That is so [M. 9:2A] when one stole a calf and it grew into an ox. [Then he pays the compensation for a young beast.]

[B] “But if one stole an ox and it grew old, he may say to him, ‘Lo, there is yours before you.’ [This is to be lenient.]”

[C] Samuel said, “Even if he stole a calf and it grew into an ox, may he say to him, ‘Lo, there is yours before you!’ [Why apply the lenient provision so inconsistently?]”

[D] [Concurring with Huna,] R. Qarna taught, “And even if he stole a calf and it grew into an ox, slaughtered it and sold the meat, he pays fourfold and fivefold damages assessed against the value of the calf.”

[E] Said the father of Samuel bar Ammi in the name of R. Judah, “The law is in accord with the opinion of R. Meir.”

9:3

[A] [If] he stole (1) a coin and it got cracked,

[B] (2) pieces of fruit and they turned rotten,

[C] (3) wine and it turned into vinegar,

[D] he pays [compensation for them in accord with their value] at the time of the theft.

[E] [If he stole] (1) a coin, and it was declared invalid, (2) heave-offering, and it became unclean, (3) leaven, and the festival of Passover passed [making it no longer available for Israelite use], (4) a beast, and a transgression was committed upon it, or (5) [a beast] which was invalidated for use on the altar, or (6) which was going forth to be stoned,

[F] [the robber] says to him, “Here is what is yours right in front of you!”

[I:1 A] R. Huna said, “[The rule of M. 9:3A, a coin became cracked] applies to a case in which the state declared the coin [which was cracked] to be invalid.”

[B] Samuel said, “It applies to a case in which the coin was actually cracked.”

[I:2 A] R. Judah b. Pazzi in the name of R. Yosé bar Haninah, “[The rule of M. 9:3B, pieces of fruit turned rotten] applies to a case in which they were rotted by moths.

[B] “But if they were rotted by worms, they are deemed perfectly good pieces of produce [since there will be good parts left].”

[I:3 A] R. Huna said, “[The rule of M. 9:3A, a coin got cracked] applies to a coin which the empire declared invalid.

[B] “But if the local province declared it invalid, [the thief] says to him, ‘Lo, there is yours before you.’”

[C] Samuel said, “Even if the empire declared it invalid, he may say to him, ‘Lo, there is yours before you.’”

[II:1 A] R. Yudan did not go into the schoolhouse. He came across R. Mana, saying to him, “What new point was made in school today?”

[B] He said to him such and so, [specifically, following Y. Git. 5:5 “Thus did R. Yosé say, ‘He who renders the produce of his fellow unclean is not deemed as if he has done a concrete deed.’ [That is, he who imparts uncleanness to the foods prepared in conditions of cleanness of his fellow is exempt from making restitution, since this is a sort of damage without a perceptible material mark.]”

[C] He replied, “Now is this point not explicitly stated in a well-known pericope of Mishnah: **Heave offering and it became unclean [M. 9:3E]?**”

[D] He said to him, “Interpret that statement to apply to a case in which the heave offering became unclean on its own [without the actual deed of

the thief], [in which case there are no implications whatever for the present problem, and so what Yosé has stated really is a fresh point].”

- [II:2 A]** Hilpai said, “[With reference to M. 9:3, there can be a case in which the thief has to return usable leaven. It would be, specifically,] a case in which the thief took an oath to the victim prior to Passover [that he had not stolen the leavened food]. [Then he confessed that he had done so. Now at the time at which he took the oath, the leaven was permissible. The obligation incurred under the oath is to return that to which the oath has referred. Consequently] after Passover he must pay him back leavened food in good shape, [and permissible for Israelite use].”
- [B] *Said R. Mana, “I went to Caesarea, and I looked up R. Hezekiah, who interprets the law in the name of R. Jacob bar Aha, to see whether there may be anyone who differs from the position of Hilpai and maintains that one does not pay back leavened food in good shape.”*
- [C] All parties concur in the case of leavened food [under the present conditions] that the thief pays back leaven in good shape [and permissible for Israelite use].

9:4

- [A] [If] one gave [something] to craftsmen to repair, and they spoiled [the object], they are liable to pay compensation.**
- [B] [If] he gave to a joiner a box, chest, or cupboard to repair, and he spoiled it, he is liable to pay compensation.**
- [C] A builder who took upon himself to destroy a wall, and who smashed the rocks or did damage is liable to pay compensation.**
- [D] [If] he was tearing down the wall on one side, and it fell down on the other side, he is exempt.**
- [E] But if it is because of the blow [which he gave it], he is liable.**
- [I:1 A]** [Explaining why the craftsman has to pay the full value of the box, chest, or cupboard, rather than simply the value of the materials, prior to their assembly into a box, chest, or cupboard,] R. Huna said, “That rule applies to a case in which the craftsman knocked in the last nail, so as to acquire ownership of the other party’s utensils [and at that point he becomes liable to pay the value of the entire utensil, should it be spoiled].”

9:5

[A] He who hands over wool to a dyer, and the [dye in the] cauldron burned it, [the dyer] pays the value of the wool.

[B] [If] he dyed it in a bad color,

[C] if [the wool] increased in value more than the outlay [of the dyer],

[D] [the owner of the wool] pays him the money he has laid out in the process of dyeing.

[E] But if the outlay of the dyer is greater than the increase in value of the wool,

[F] [the owner] pays him back only the value of the improvement.

[G] [If he gave wool to a dyer] to dye it red, and he dyed it black,

[H] [or] to dye it black, and he dyed it red –

[I] R. Meir says, “[The dyer] pays him back the value of his wool.”

[J] R. Judah says, “If the increase in value is greater than the outlay for the process of dyeing, [the owner] pays him back the outlay for the process of dyeing.

[K] “And if the outlay for the process of dyeing is greater than the increase in the value of the wool, [the dyer] pays him only the increase in value of the wool.”

[I:1 A] [With regard to M. 9 5A, **the cauldron burned the wool,**] R. Huna said, “That is the case if the dyes burned the wool. But if the cauldron burned the wool, the dyer says to him, ‘Lo, there is yours before you.’ [If the dyes did the burning, then the dyer is responsible for using inferior ones. But if it was the cauldron, then the dyer bears no responsibility for having done things improperly.]”

[B] Samuel said, “Even if the dyes burned the wool, may the dyer say to him, ‘Lo, there is yours before you’? [The dyer may claim that, like the cauldron, there are the dyes he always uses. The result in this case was not his fault, since the dyes usually do no such damage. The stated distinction is rejected. The dyer is liable on all scores.]”

[II:1 A] [With reference to M. 9 5J, **If the increase in value is greater than the outlay for the process of dying. the owner pays him back the outlay for the process of rinsing:** what is the meaning of, “**If the increase in value is greater than the outlay for the process of dyeing**”][That question is raised in the assumption that the customer gave the dyer dyes which he was to use, and the dyer changed the agreement and used other dyes. How do we calculate the costs of the outlay and the profit? The main consideration is that if the dyer had

used the dyes he was given, it is possible that the profit would have been much larger.]

[B] A person gave his fellow five kinds of wool, five kinds of dyes, and a fee of ten *manehs*. [That is, the fee for the wood and workers and the dyer's labor would be ten *litras*, five for the outlay, and five for the dyer's fee.]

[C] He said to him, "Dye it red," but he dyed it black.

[D] He said to him, "If you had dyed it red, it would have been worth twenty-five *manehs*. Now that you have dyed it black, it is worth only twenty *manehs*. You then lose what is coming to you [the five *manehs*], and I am not going to lose what is coming to me," [since he now has received the five *manehs* he lost by the dyer's error]. [The dyer collects only the five *manehs* which he has laid out for workers and wood.]

[II:2 A] [The foregoing case indicates that if an agent did not carry out his agency, he loses the fee for his work, in accord with the profit which the original party would have made had the agent done his job properly, and the original party loses nothing, for,] said R. Jonah, "You may infer from the preceding case [the following rule]:

[B] "Someone gave his fellow eight denars to buy him wheat in Tiberias, and he bought wheat from Sepphoris.

[C] "He said to him, 'Had you bought me wheat from Tiberias, it would have been a measure of twenty-five modii. Now that you have bought it from Sepphoris, it is a measure of only [7a] twenty modii. [The rate per modius was less in Tiberias.]

[D] "'You lose what is coming to you, and I am not going to lose what is mine!'"

[E] *It was taught: He who hands over money to his fellow to buy produce for half the profits –*

[F] **[with instructions] to buy wheat, and he bought barley,**

[G] **barley and he bought wheat –**

[H] **the hand [of the one who did the buying] is underneath.**

[I] **If the price went down, the loss is assigned to him.**

[J] If the price went up, the gain is assigned to him.

[K] And another version of the same Tannaitic tradition reads [as at T. B.M. 4:20F:] **But if the price went up, the gain is assigned to the common fund [to be divided equally].**

[L] [It is now taken for granted that this second version (K) belongs to Judah. Hence it is asked:] What is the reason for the position of R. Judah? [Why does the one who supplied the capital share in the profits when the agent has not done his bidding?]

[M] [Could it be that] the seller of the produce intended to pass ownership only to the owner of the money? [Obviously not. In fact the seller of the produce passed it to the agent, and never knew the entrepreneur!]

[N] In that case, Why should the agent not take a share with him [under all circumstances, profit or loss]?

[O] [The reason that the agent gets nothing when the price did not go up is that] it is prohibited to derive benefit from one's fellow [where he did not acquire part of the deal at the outset].

[P] In any event [let us now point out the following:] Even if the original entrepreneur had said to him to buy him wheat, and the agent had bought him wheat, may one still claim that the seller of the produce intended to pass ownership only to the one who owned the capital? [Obviously not!]

[Q] Now when he said to him to buy wheat and he bought barley, are we going to say that the seller intended to pass ownership only to the purchaser [the agent]? [Surely we are going to say just that, with the result that] we confirm what is in the agent's possession. [So in the end, we still have to distinguish between doing what the original entrepreneur has ordered, and doing something other than was ordered. We have yet to show the difference in the two cases.]

[R] Said R. Nisa, "When the agent carried out his agency, did the seller of the produce not intend to pass ownership to the entrepreneur?" [Of course he did.]

[S] When the agent did not carry out his agency, now he still intended to pass ownership to the purchaser [the agent]. Thus the agent acquired ownership of the barley.

[T] In that case, why should [the entrepreneur] share with him?

[U] [The reply is this:] Since the agent has profited from the capital of an entrepreneur, he must share with him.

[V] *Samuel bar Ba objected in the presence of R. Yohanan: “And have we not learned:*

[W] “All the same are the one who sanctifies his property and the one who pledges his own valuation:

[X] “He has no claim either on his wife’s garment or on his children’s garment, or on dyed clothes which he dyed for them, or on new shoes which he bought for them [M. Ar. 6:5A-B]? [These things belong to the wife and children. Now when the dyer dyed the clothes or made the shoes, he did not know about the wife or children. How then did they acquire ownership of them? Likewise here, how does the capitalist ever acquire ownership of what is purchased by the agent with his money, if the farmer does not know the capitalist and intend to pass ownership to him?]]”

[Y] He said to him, “Now did the man, when he pledged his own Valuation or consecrated his property, even think that he was including his wife’s and children’s clothing and shoes at all? Surely not. So this case is entirely different from the one before us.

[Z] “For have we not learned: He who says, ‘My Valuation is incumbent on me’ – once he has said, ‘My Valuation is incumbent on me,’ he has set upon himself a debt of only fifty selas’ [cf. M. Ar. 3:1F] [and this is without regard to what the man actually had in mind]? [So what difference does it make whether the man had or did not have a given stipulation in mind?]]”

[AA] [Nonetheless, we do assume that the man has the right to stipulate what is in mind, as in the following instances:] He who says, “My Valuation is incumbent on me, on condition that the pledge in payment for the Valuation not encompass what is on my wife and children” – [that statement stands].

[Cf. Pené Moshe for the problems of this passage's reading.]

[BB] R. Nisa in the name of R. Bun bar Hiyya, “He who says, ‘My Valuation is incumbent on me, on condition that the pledge in payment for the Valuation not encompass a certain object’ — they do not exact as part of the pledge in payment for the Valuation that object.”

[CC] R. Hoshaiah in the name of Samuel bar Abba, “That is to say that they do not estimate for purposes of Valuations movable property on the basis of the law of the Torah. [The Valuation payment, so far as the law of the Torah is concerned, comes] only from real estate. [But] rather, by reason of the decrees of the sages [they do encompass a valuation also of the man's chattels].”

9:6

- [A] He who stole something from his fellow worth only a perutah,
[B] and took an oath to him [that he had stolen nothing, but then wants to make restitution],
[C] must take it to him, even all the way to Media.
[D] He should not give it to his son or his agent, but he may hand it over to an agent appointed by a court.
[E] And if [the victim] died, [the robber] restores [the object] to his estate.
[F] [If the thief] paid him back the principal but did not pay the Added Fifth,
[G] [if the victim] forgave him the value of the principal but did not forgive him the value of the Added Fifth,
[H] [if] he forgave him for this and for that, except for something less a perutah out of the principal,
[I] he need not take it back to him.
[J] [If] he [the thief] gave him back the Added Fifth and did not hand over the principal,
[K] [if the victim] forgave him the Added Fifth but did not forgive him the principal,

- [L] forgave him for this and for that, except for an amount of the principal that added up to a perutah,
- [M] then he has to go after him [to make restitution, wherever he may be].
- [N] [If] he paid him back the principal but swore [falsely] to him about the Added Fifth [and then confessed],
- [O] lo, this one pays back an Added Fifth for the Added Fifth,
- [P] [and so is the rule] until the value of the principal [of the Added Fifth] becomes less than a perutah in value.
- [Q] And so [is the rule] in the case of a bailment.
- [R] For it is written, “In a matter of deposit or of bargain or of robbery, or if he has oppressed his neighbor or has found that which was lost, dealing falsely therein and swearing to a lie” (Lev. 6:2-3) –
- [S] lo, this one pays back the principal, an Added Fifth, and a guilt-offering.
- [I:1 A] [As to the statement of M. 9:6P, **until the value of the principal becomes less than a perutah in value**], this is the meaning of the Mishnah’s statement: Until the value of the final added fifth is less than a *perutah*.
- [B] Said R. Jonathan [disagreeing with this view], “Now in giving over the added fifth, is the added fifth turned into part of the principal?”
- [C] We treat it as equivalent to the principal only on the occasion of testimony and on the occasion of an offering.

9:7

- [A] [If one said], “Where is my bailment?”
- [B] he said to him, “It got lost.”
- [C] “I impose an oath on you!”
- [D] And he said, “Amen.”
- [E] Then witnesses come along and give testimony against him that he had eaten it up –
- [F] he pays back the principal.
- [G] [If] he had confessed on his own, he pays back the principal, the Added Fifth, and a guilt-offering.
- [H] Where is my bailment?”
- [I] He said to him, “It was stolen.”
- [J] “I impose an oath on you!”

- [K] And he said, “Amen” –
- [L] Then witnesses come along and testify against him that he stole it,
- [M] he pays twofold restitution.
- [N] [If] he had confessed on his own, he pays the principal, an Added Fifth, and a guilt-offering.
- [O] He who steals from his father and takes an oath to him, and then [the father] dies –
- [P] lo, this one pays back the principal and an Added Fifth to his [father’s other] sons or brothers [and brings the guilt-offering].
- [Q] But if he does not want to do so or does not have that to pay back,
- [R] he takes out a loan,
- [S] and the creditors come along and collect what is owing.
- [I:1 A] They do not accept bailments from women, slaves, or minors.
- [B] [If] one has accepted a bailment from a woman, he must return it to the woman.
- [C] [If the woman] died, he must return it to her husband.
- [D] [If] he accepted a bailment from a slave, he must return it to the slave.
- [E] [If the slave] died, he must return it to his master.
- [F] [If] he accepted a bailment from a minor, he sets up a trust for him.
- [G] [If] he died, he returns it to his father.
- [H] And in all of these cases, [if] they said at the moment of death, “Let my bailment be given to so-and-so, to whom they belong,”
- [I] let that which has been spelled out be done in accord with the explanation thereby given [T. B.Q. 11:1].
- [J] R. Zebid in the name of R. Ba bar Mamel: “And that is the case [that the instructions are carried out] only if [the will is made] before witnesses.”
- [K] [The rule of H-I] is in accord with the following:
- [L] The wife of R. Ba bar Hana, when she was dying, said, “This nose-ring belongs to my daughter.”
- [M] And her husband said. “That is not so, but it belongs to me”

[N] The case came before Rab.

[O] He ruled, “It is not common for someone to lie when dying.”

9:8

[A] **He who says to his son, “Qonam! You will not derive benefit from anything that is mine!” –**

[B] **if the father died, the son may inherit him.**

[C] **[But if he had specified that the vow applied] in life and after death, if the father died, the son may not inherit him.**

[D] **And he must return [what he has of the father’s] to his sons or to his brothers.**

[E] **And if he does not have that to repay, he takes out a loan,**

[F] **and the creditors come along and collect what is owing.**

[I:1 A] Said R. Jeremiah, “Note how we have learned here:

[B] **“He who says to his son ‘Qonam! You will not derive benefit from anything that is mine’ – if the father died, the son may inherit him. But if he had specified that the vow applied in life and after death. if the father died. the son may not inherit him”**

[C] Now has it not been taught [in a parallel tradition]: “If he said,] ‘In my lifetime,’ if he dies, the son may inherit him?”

[D] “If he said, ‘When I die,’ if he died, the son still may inherit him.

[E] “[If he said,] ‘In my lifetime and after my death,’ if he died, the son may not inherit him. [Thus, according to the cited tradition, if the father said merely, ‘After death,’ the son still inherits. Only if the father specified, ‘In my lifetime and after my death,’ is the son not to inherit. This then contradicts the version of the Mishnah.]”

[F] Now what is the difference between this case, in which he specified the matter item by item, and the other case, in which he specified both matters at once? [That is, if he said, “After death,” by itself, the son does inherit, while if he said, “In my life and after my death,” he does not. There really is no difference in accord with the reasoning of the cited version, since even if he used both formulas – “In life, after death” – still the property is not in the father’s control after death. Hence the distinction is based on no difference, and the extra-Mishnaic version is undependable.]

[I:2 A] Both R. Jeremiah and R. Yosé b. Haninah say, “[If a man said, ‘Qonam be this house! I shall not enter it in life or in death,’ as soon as

he has said, ‘this house,’ he has prohibited it for his own use, whether while alive or after death.”

- [B] Said R. Yosé, “Have we learned in the tractate of Neziqin [the present tractate] what we have not learned in the tractate of Nedarim [Vows]?”
- [C] “If he said, ‘*Qonam* be any benefit to be gained from these possessions of mine so far as he is concerned, both while I am alive and after I die,’ once he has said, ‘these,’ he has rendered them prohibited for that person, both while he is alive and after he is dead. [The use of the word ‘these’ contains the implication that it is both in life and after death.]”

9:9

- [A] **He who steals from a proselyte and takes a [false] oath to him, and then [the proselyte] dies –**
- [B] **lo, this person pays the principal and Added Fifth to the priests,**
- [C] **and the guilt-offering to the altar,**
- [D] **since it is said, “But if the man has no kinsman to whom restitution may be made for the guilt, the restitution for guilt which is made unto the Lord shall be the priest’s, beside the ram of atonement whereby atonement shall be made for him” (Num. 5:8).**
- [E] **[If the thief] was bringing up the money and the guilt-offering [in line with A-D], and he died,**
- [F] **the money is to be given to his [the thief’s] sons.**
- [G] **And the guilt-offering is set out to pasture until it suffers a disfiguring blemish, then it is sold, and the money received for it falls to the chest for the purchase of a freewill-offering.**
- [H] **If he [who had stolen from a proselyte] had paid over the money to the men of the priestly watch on duty, and then [the thief] died,**
- [I] **the heirs cannot retrieve the funds from their possession,**
- [J] **since it is said, “Whatsoever any man gives to the priest shall be his” (Num. 5:10).**
- [I:1 A] Hilpai and R. Yosé bar Haninah said, “It is the teaching of R. Yosé the Galilean.” [Yerushalmi now gives a severely abbreviated version of the following passage, which conforms to the Tosefta’s.]
- [B] **R. Yosé the Galilean expounded: “Concerning whom does Scripture speak?**

- [C] “Concerning him who robs from a proselyte and was going up to Jerusalem,
- [D] “with his coins and his guilt offering in his hand,
- [E] “and he found him and assigned them to him as a loan,
- [F] “[and] he brought his guilt offering, and afterward the proselyte died –
- [G] “[the thief] has carried out his obligation.
- [H] “[If] he did not suffice to bring his guilt offering before the proselyte died, lo, this one has to bring a guilt offering.
- [I] “But as to the coins, he has acquired title to them.”
- [J] And the sages say, “He has done nothing whatsoever, unless he gives them to him and goes and takes them back from him” [T. B.Q. 10:16].
- [K] R. Aqiba expounded when he came from Ziprin:
- [L] “He who robs from a proselyte and took a [false] oath to him,
- [M] “and he was going up to Jerusalem,
- [N] “with his coins and his guilt offering in his hand,
- [O] “and he died on the day,
- [P] “the money is to be given to his sons
- [Q].the the animal designated as a guilt offering is set out to pasture until it is disfigured.
- [R] “and it is sold. and the proceeds received for it are to fall to the fund for a free-will offering [M. 9:9F-G].
- [S] “as it is said, ‘But if the man has no kinsman to whom restitution may be made for the wrong, the restitution for the wrong shall go to the Lord for the priest,] in addition to the ram of atonement with which atonement is made for him’ (Num. 5:8).
- [T] “This applies to him who requires atonement,
- [U] “thus excluding this one, who does not require atonement [any more] [T. B.Q. 10:17].”

[V] Rab and R. Simeon b. Laqish say, “The Mishnah passage represents the view of R. Aqiba, who has said that [the funds which are owing] must be returned under all circumstances. [The debt for the loan must be given back, even though the proselyte transformed the theft into a loan before he died. The thief is not permitted after the proselyte’s death to keep what he has stolen, and we still require the return of what was] stolen.”

9:10

[A] **[If] he gave the money to the priestly watch of Jehoiarib [which is prior], and the guilt-offering to the priestly watch of Jedaiah [which is later], he has carried out his obligation.**

[B] **[If he gave] the guilt-offering to the priestly watch of Jehoiarib and the money to the priestly watch of Jedaiah,**

[C] **if the guilt-offering is yet available, the family of Jedaiah should offer it up.**

[D] **And if not, he should go and bring another guilt-offering.**

[E] **For he who brings back what he had stolen before he brought his guilt-offering has fulfilled his obligation.**

[F] **But if he brought his guilt-offering before he brought back what he had stolen, he has not fulfilled his obligation.**

[G] **[If] he handed over the principal but did not hand over the Added Fifth, the Added Fifth does not stand in the way [of offering the guilt-offering and so completing his obligation].**

[I:1 A] [The entire passage follows Pené Moshe’s reconstruction.] [Referring to T. B.Q. 10:18, cited below] R. Hezekiah said, “They differ concerning a sequence of two weeks.”

[B] R. Yosé said, “They dispute concerning [a sequence which took place in] a single week.”

[C] [Let us now turn to the passage of the Tosefta to which the foregoing has referred:]

[D] **[If he gave the guilt offering to the priestly watch of Jehoiarib and the money to the priestly watch of Jedaiah,]**

[E] **“let him go and hand over the money after the guilt offering,” the words of R. Judah.**

[F] **And the sages say, “The guilt offering comes [only] after the money [is restored].”**

- [G] **Said Rabbi, “If the rule is in accord with the opinion of R. Judah, then the family of Jehoiarib will offer up the guilt offering, but it will not secure atonement for the guilty party.**
- [H] **“So if the guilt offering is yet available, let the money be returned by the family of Jedaiah to the family of Jehoiarib.**
- [I] **“The family of Jehoiarib should then offer up the guilt offering, so that atonement may be secured for him.**
- [J] **“[If] the time of the priestly watch of Jehoiarib has passed,**
- [K] **“let the guilt offering be returned by the children of Jehoiarib to the children of Jedaiah.**
- [L] **“Then the children of Jedaiah will offer up the guilt offering, so that atonement may be secured for him.”**
- [M] **If he brought his guilt offering but did not restore the thing which he had stolen,**
- [N] **one should not stir the blood [keeping it valid] until he restores the thing that he had stolen.**
- [O] **But let its appearance [of the now-slaughtered guilt offering] be allowed to become disfigured, and let it go out to the place of burning] [T. B.Q. 10:18].** [Let us now return to the dispute introduced at the outset. Hezekiah maintains that under dispute is a case in which each watch received the offering during the watch of its fellow, that is, Jehoiarib in the watch of Jedaiah, and vice versa. Yosé maintains that the case has one watch receive the offering during the time at which its fellow is in charge, and the other receives it during its rightful period.]
- [P] That is to say [in the opinion of all parties] the men of a given watch who made acquisition of something not during the watch time to which they are assigned [but during that of their fellow] – they extract what they have received from their possession. [This will be explained below.]
- [Q] *He who maintains that* the dispute concerns what took place in two weeks will hold that if he gave the money to the priestly watch of Jehoiarib during the watch of Jedaiah, and the animal set aside for the guilt offering to Jedaiah in the priestly watch of Jehoiarib, he has carried out his obligation. [This is explained below.]
- [R] *He who maintains that* the dispute concerns a single week [in which one party enjoys the rights of the serving watch, and the other does

not] will hold that if one gave the money to the watch of Jehoiarib during the watch of Jedaiah, and the guilt offering to Jedaiah during the watch of Jehoiarib, he has not carried out his obligation. [This is in contrast to Q, above.]

[S] [Let us now return to the dispute and explain its elements, following Pené Moshe point by point. Hezekiah (A) deals with I.D: One gave the money to Jehoiarib in the watch of Jedaiah (M.. 9:10A), and so he has carried out his obligation. He gave the guilt offering to Jedaiah during the watch of Jehoiarib. Even though each has received not during its week in charge of the altar what was coming to it, each acquires ownership of what it now has. We now come to F. The guilt offering has gone to the watch of Jehoiarib in the watch of Jedaiah, and the money to Jedaiah in the watch of Jehoiarib. The money is returned after the guilt offering, so Judah (E). That is, Jedaiah is fined for taking the money during the period in which it was not in charge. The money is returned after the guilt offering is offered – not in the right order. But no penalty is exacted from Jehoiarib by Judah. There always was the possibility of holding off on the offering until the right order – money/offering – was followed. Hence, by waiting, Jehoiarib offers the offering when it should be offered, at its own time. The money is given to Jehoiarib, and after it is handed over, the same watch offers the animal, in the right order. The rabbis vis-3-vis Judah impose a fine on both parties, each of which has violated the proper order. Rabbi (at Gff.), then explains the consequences of Judah's position, as now spelled out. This brings us to P, above. All parties concur that if a watch took possession of property during a week in which said watch was not in charge of the altar, it has to give up that property. That general agreement is clear, since the only dispute concerns who suffers a penalty when both parties have accepted the property during a time in which neither one was in charge of the altar. So much for the interpretation of the dispute if we think that it concerns a time at which neither party was in command – that is, “the two weeks” of Hezekiah (A).]

[T] [We now come to the position of Yosé (B) that one party is in command of the altar, the other not, and each accepts property, so only one party has accepted property not coming to it at the time at which the property was given we now turn to that matter.] In the view of one who says that the dispute concerns a single week [as just now explained, if one gave the money to

Jehoiarib in the priestly watch of Jedaiah, and the guilt offering to Jedaiah in the priestly watch of Jedaiah, he has fulfilled his obligation, and there is no reason to impose a penalty on either party, since the offerings were made in the right order]. [If he gave the money to Jehoiarib during the priestly watch of Jedaiah and the guilt offering to Jedaiah in the priestly watch of Jehoiarib, he has not fulfilled his obligation. [That is, as at D-E above, the money has to be given back after the guilt offering is offered up. The sages reject this view. Now at issue is this: Judah imposes a fine on the watch of Jedaiah for not following the right order, by accepting the money after the guilt offering was offered up. The order has been reversed, and the money is taken from them. There is no reason to fine the house of Jehoiarib, however, since it can have waited for the money to be given.]

[U] That is to say, [in the opinion of all parties] the men of a given watch who made acquisition of an offering during their proper watch – they do not extract what they have received from their possession.

[V] And if the watch of the children of Jehoiarib has passed: [now did not the watch of Jehoiarib not take what it did during Jedaiah's watch]?

[W] Thus one must explain the meaning of the Mishnah passage:

[X] Now if it should come about that [the men of Jehoiarib] should wait for a number of days [and the animal is not offered, and their turn should come up again in its proper time, at that point] they gain full ownership to the rights of the guilt offering which they have.

[Y] If however they do not offer it up even now, then they do not enjoy the merit of the atonement [which was coming to them, because they waited too long].

[Z] Then they take the money from the children of Jedaiah to the children of Jehoiarib, and the children of Jehoiada offer up the guilt offering and attain atonement through it for themselves.

[AA] That is to say, men of a given watch who acquired possession of a given offering during their rightful period in command of the altar, and who tarried and did not offer it up – they extract that offering from their possession [as has just now been illustrated].

YERUSHALMI BABA QAMMA

CHAPTER TEN

10:1

- [A] He who steals [food] and feeds [what he stole] to his children, or left it to them –
- [B] they are exempt from making restitution.
- [C] But if it remained something which could serve as security [for example, subject to a mortgage, that is, real estate], they are liable to make restitution.
- [D] They do not change money from the chest of the excise collectors or from the fund of the tax farmers.
- [E] And they do not take from them contributions to charity.
- [F] But one may take [from them contributions for charity] when the funds are] from [the collector's] own home or from the marketplace.
- [I:1 A] An Israelite who lends money to his fellow on interest and then repented is liable to return [to him the interest he has collected].
- [B] [If] he died and left [the money] to his children, the children do not have to return [the money he collected at interest].
- [C] And in such a case it is said, “[Though he heap up silver like dust, and pile up clothing like clay;] he may pile it up, but they just will wear it, and the innocent will divide the silver” (Job 27:17).
- [D] But if their father had left them a cow, a field, a cloak or any sort of object for which he bore responsibility [for replacement, should the object be lost],
- [E] they are liable to return such an object,
- [F] for the honor of their father [T. B.Q. 5:25-26].
- [G] That is, people will say, “This one has gone and derived benefit from stolen property.”

- [II:1 A] **But if it was something for which he bore responsibility [that is, to make up the thing, should it be lost], they are liable to make restitution [M. 10:1C].**
- [B] What is “something for which he bore responsibility”?
- [C] R. Jonathan says, “It is a case in which he left them real estate.”
- [D] R. Simeon b. Laqish said, “It is a case in which he left them the thing which he had stolen.”
- [II:2 A] Rab said, “The law governing an inheritance is the same as the law governing indentured property. [That is, one who lends money on the basis of an oral agreement cannot collect what is owing to him from mortgaged property owned by the borrower, and, likewise, he cannot collect from property which the heir has received from an estate. This is now spelled out:]
- [B] “Just as one who lends money on the security only of witnesses cannot collect from mortgaged property, so he cannot collect from the heirs [to the borrower’s estate].”
- [C] Samuel said, “Now one may provide an exegesis for that rule: He may not collect from mortgaged property. Lo, from property which is encumbered he indeed may collect [on the basis of the testimony of witnesses, without a written bond].”
- [D] Now does [M. 10:10C, **But if it was something for which he bore responsibility, they are liable to make restitution**] not contradict that which Rab has stated [for here we see that the heirs do have to give back stolen real estate]?
- [E] Rab has said, “The law governing an inheritance is the same as the law governing an indentured property.
- [F] “Just as one who lends money on the security only of witnesses cannot collect from mortgaged property, so he cannot collect from the heirs [to the borrower’s estate].”
- [G] Interpret the passage of the Mishnah to speak of a case in which he left them real estate [in line with Jonathan’s view, above].
- [H] And even in regard to Samuel, the cited passage does not stand at variance.
- [I] Has not Samuel said, “Now one may provide an exegesis for that rule: He may not collect from mortgaged property. Lo, from property which

is unencumbered he may collect,” [for in this regard the right of the heir is not equivalent to the right of the purchaser]?

[J] He will interpret the statement [of the Mishnah in line with R. Simeon b. Laqish, that is, in a case in which the father left the heirs] the stolen object itself. [They must return that object. So, when the Mishnah rule states that they are not obligated to return it, it is where the stolen object no longer is available.]

[II:3 A] If one stole a cloak and gave it to a second party –

[B] R. Eleazar in the name of R. Hiyya said, “They extract it from the possession of the first party [who stole it], but not from the other party [to whom he gave it].”

[C] R. Yohanan said in the name of R. Yannai, “They extract it also from the possession of the other party [to whom he gave it].”

[D] R. Ba bar Mamel said, “Also R. Hiyya is in accord with R. Yohanan’s opinion,

[E] “for R. Hiyya said, ‘They extract it also from the possession of the other party.’”

[F] [This is in line with the following passage, which shows us Ba bar Mamel’s reason for assigning the stated view to Hiyya, who stands behind the Tosefta:] [If] one’s utensils were exchanged [with those of someone else] in the house of the craftsman,

[G] one is permitted to make use of them.

[H] But this person should go and seek the return of his utensils.

[I] [If the mix-up occurred] in a house of mourning or a house of celebration, one is not permitted to make use of them.

[J] But in any case one should go immediately and seek the return of his utensils [T. B.Q. 10:22D-H]. [Clearly, Hiyya’s rule, as given here, has the other party come and take his utensils from the one who actually has them. So he will concur that if one has given utensils to someone else, that other person must give them up. The claim is against the other party, not against the craftsman.]

[K] [This case does not prove that Hiyya concurs with Yohanan at all, in the view of the following:] Said R. Ba bar Hanah, “R. Hiyya, my friend, interpreted this case only in regard to such a one as Bar Qora,

[L] “for in his case, whoever takes utensils from him takes them with full permission, and whoever leaves utensils with him leaves them with full permission. [That is, the reason behind the Tosefta’s law, that people may make use of the utensils, is that, in this case, all is done with permission. The craftsman has handed over the utensils willingly and has given permission in behalf of the owner, who has told him to sell the object or to exchange it. When the owner comes to collect the object, it may be because he regrets his decision and now does not want to exchange or sell the object. That is why the other party has not yet acquired ownership of the utensil and has to return it. In the case of a thief, the party to whom he transferred the object has no way of knowing that the object was stolen. In such a case, Hiyya may not hold him responsible to return the object.]”

[II:4 A] Thieves who came by night, and then determined to repent, are liable to restore what they stole.

[B] If only one of them determined to repent, he is liable to restore his portion.

[C] And if he was the one who took the property out of the house and handed it over to the others, then he is obligated to pay in behalf of all of them [T. B.Q. 10:39].

[II:5 A] [Following the Tosefta’s version:] He who robs and feeds his minor children [cf. M. 10:1A],

[B] his Canaanite boy-slave or girl-slave –

[C] they are exempt from paying restitution. [Yerushalmi’s version: He who robs and feeds his children, whether adult or minor, they are exempt from having to pay restitution. If he left it to them, whether adult or minor, they are liable to do so. Sumkhos says, “The elders are liable, the minors are exempt.”]

[D] [If] he left them something which is subject to a mortgage, they are liable to make restitution [M. 10:1C]. [Tosefta’s version:]

[E] But if they said, “We do not know what reckoning father made with you [at the hour of his death],” they are exempt from liability to make restitution [T. B.Q. 10:21].

[F] R. Ba bar Mamel objected: “Take note that if the father haD left them real estate, they surely do not have the power to r tort, ‘We do not

know what reckoning father made with to the hour of his death' [in light of M. 10: 1C].”

[G] R. Hammuna objected, “Take note. If the theft was well known, they surely do not have the power to retort, ‘We do not know what reckoning father made with you at the hour his death.’”

[H] R. Sheshet objected, “Even if a case is brought against the minors in court, what have you got to say? [This presupposes Yerushalmi’s version of A-C.]”

[I] [In regard to the theft that was well known,] said R. Mana, “Interpret the rule to apply to a case in which they said, “We do not know what reckoning father made with you.”

[J] “We know full well that father had some sort of deal with y in this matter, but we really do not know what came out of trial or what reckoning was made [and hence, even if the thing was well known, the heirs have the right to claim that some sort of settlement had been reached].”

10:2

[A] [If] excise collectors took one’s ass and gave him another ass,

[B] [if] thugs took his garment and gave him another garment,

[C] lo, these are his,

[D] because the original owners have given up hope of getting them back.

[E] He who saves something from a river, from a raid, or from thugs,

[F] if the owner has given up hope of getting them back, lo, these belong to him.

[G] And so a swarm of bees:

[H] If the owner had given up hope of getting it back, lo, this belongs to him.

[I] Said R. Yohanan b. Beroqah, “A woman or minor is believed to testify, ‘From this place did this swarm go forth.’”

[J] And one may walk through the field of his fellow to get back his swarm of bees.

[K] But if he did damage, he pays compensation for the damage which he did.

[L] But he may not cut off a branch of his tree [to retrieve the swarm, even] on condition that he pay damages for it.

- [M] **R. Ishmael, son of R. Yohanan b. Beroqah, says, “Also, he cuts down the branch and pays damages for it.”**
- [I:1 A] It was taught [in the Tosefta’s version] **And so did R. Simeon b. Eleazar say, “He who rescues something from the mouth of a lion, wolf, or bear,**
- [B] **“or from a riptide in the sea, or a sudden surge of a river –**
- [C] **“and he who finds something in a large plaza or campground –**
- [D] **“lo, these are deemed forthwith to be his,**
- [E] **“for the owner despairs [of ever getting them back]” [T. B.M. 2:2].**
- [II:1 A] **[And so a swarm of bees: If the owner had given up hope of getting it back, lo, this belongs to him [M. B.Q. 10:2G-H]]:**
- [B] R. Hinena bar Papa in the name of R. Yohanan: “[The statement of R. Yohanan b. Beroqah that a woman or minor is believed, at] M. [10:2I] applies to a case in which one party stole the swarm when it was swarming or flying about [and the thief enticed the swarm to settle in his hive].
- [C] “And that is so when it is on the spot [when they actually saw the course of the swarm and reported it right away].
- [D] “But if the [usually unacceptable] witnesses went and then came back [to give testimony, that later testimony is null,] for I say, ‘It is because of fright or enticement that they have said what they have said.’”
- [III:1 A] **R. Ishmael b. R. Yohanan b. Beroqa says, “It is a condition imposed by the court [and everywhere valid] that one may cut down the branch [of his tree] and save his swarm of bees [M. 10:2L-M].**
- [B] **“For it was on condition [7c] that one have that right that Joshua allowed the Israelites to inherit the land” [T. B.Q. 10:27].**

10:3

- [A] **He who recognizes his utensils or his books in someone else’s possession,**
- [B] **and a report of theft had gone forth in the town –**
- [C] **the purchaser takes an oath to him specifying how much he had paid and takes [the price in compensation from the original owner, and gives back the property].**

[D] And if not, [the original owner] has not got the power [to get his property back].

[E] For I say, “[The original owner] sold them to someone else, and this one [lawfully] bought them from that other person.”

[I:1 A] Said R. Ba bar Mamel, “In true logic, he should not have to take an oath [as at M. 10:3C].

[B] “And why have they ruled that he must take an oath [that he purchased the utensils or books for such and such an amount]?

[C] “So as to discourage householders from getting involved with thieves.”

[I:2 A] R. Joshua b. Levi said, “The law applies to a case in which the report was widespread that this one’s books had been stolen.”

[B] Rab said, “And that rule, that people must know about the theft, applies only to a case in which he brings forth proof that [the one who had originally sold the property] had spent the night with him [so that we do not have to take account of the possibility that he had sold the objects and now announces that they are stolen].”

[C] Assi said, “If the one who sold the property claims, ‘I purchased it from so-and-so, [who is no longer in town],’ he is believed.”

[D] A case of this kind came before R. Nisa, and he did not accept that statement.

[E] Is it because he differs from the position of Assi?

[F] No. That particular man is a known liar, and on that account he did not accept his statement.

10:4

[A] This one is coming along with his jar of wine,

[B] and that one is coming along with his jug of honey –

[C] the jug of honey cracked –

[D] and this one poured out his wine and saved the honey in his jar –

[E] he has a claim only for his wages.

[F] And if he said, “I’ll save yours if you pay me back for mine,”

[G] [the owner of the honey] is liable to pay him back.

[I:1 A] Two who were in the wilderness,

[B] and in the hand of one of them was a jar of water,

- [C] while in the hand of the other was a jar of honey,
- [D] [if] the jar of water cracked,
- [E] it is a condition imposed by the court that this one should pour out his honey and save the water of his fellow.
- [F] And when he reaches a settled area, he pays him back the value of his honey.
- [G] For water preserves life in the wilderness, and honey does not preserve life in the wilderness [T. B.Q. 10:28].
- [I:2 A] A worker and a poor man who climbed a tree and broke off the branch –
 - [B] if they climbed up on a place on which people are usually going to climb,
 - [C] they are exempt.
 - [D] And if not, they are liable [T. B.Q. 10:29].

10:5

- [A] [If] the river swept away his ass and the ass of his fellow,
- [B] his being worth a maneh and his fellow's worth two hundred [zuz] [twice as much],
- [C] [if] he then left his own and saved that of his fellow,
- [D] he has a claim only for his wages.
- [E] But if he said, "I'll save yours, if you pay me back for mine,"
- [F] [the owner of the better ass] is liable to pay him back.
- [I:1 A] *It was taught:* If he left his own to save that of his fellow,
 - [B] but his fellow's property emerged on its own [without the help of the other],
 - [C] the fellow does not owe him a thing.
 - [D] But if he left his own property to save that of his fellow, and his own property emerged on its own, what is the law governing his claim, "I had given up hope of saving my property," [and since it therefore was lost to me, you owe me compensation for it]? [The stipulated payment must be given. What then if he claims, "I did not despair of recovering it"? May he retrieve the property from a third party who has found it?]

[E] *Let us derive the answer [to this second question] from the following:*

[F] If the river swept away one's ass, and he was crying out,

[G] R. Simeon b. Laqish said, "So long as he is crying out, he has not despaired of recovering the ass."

[H] R. Yohanan said, "It is presumed that he has despaired [of recovering the ass, and we pay no attention to him]."

10:6

[A] **He who stole a field from his fellow,**

[B] **and bandits seized it from him –**

[C] **if it is a blow [from which the whole] district [suffered],**

[D] **he may say to him, "Lo, there is yours before you."**

[E] **But if it is because [of the deeds] of the thief [in particular],**

[F] **he is liable to replace it for him with another field.**

[G] **[If] a river swept it away, he may say to him, "Lo, there is yours before you."**

[H] **He who (1) stole something from his fellow, or (2) borrowed something from him, or (3) with whom the latter deposited something,**

[I] **in a settled area –**

[J] **may not return it to him in the wilderness.**

[K] **[If it was] on the stipulation that he was going to go forth to the wilderness,**

[L] **he may return it to him in the wilderness.**

[I:1 A] Said R. Yohanan, "And have they not ruled: 'Real estate is n subject to theft'? So why have they said, **He is liable to replace it for him with another field?**"

[B] It is a penalty which they imposed upon him.

[I:2 A] If bandits seized it from the thief on account of the deeds of the victim of thievery, what is the law as to the victim's saying to the thief, "In any event, give me mine back, and whoever wants can come and seize it from me"?

[B] R. Joshua b. Levi said, "A man is not seized in behalf of his fellow except in the case of the corvée and head tax, [and in such cases, the man has to pay and has not got any choice, so the party for whom he

paid has to pay him back. But, in general, the other party need not repay what the man who was pressured to pay has handed over, because the man for whom payment was given may claim that he could have made a better deal on his own, and hence he does not have to repay a thing.]”

[C] Rab said, “The one who was forced to pay has the right to say ‘You got rid of your burdens through me,’ [and hence you have to compensate me].”

10:7

[A] **He who says to his fellow, “I have stolen from you...,”**

[B] **“You have lent something to me...,”**

[C] **“You have deposited something with me...,”**

[D] **“and I don’t know whether or not I returned [the object] to you”**

[E] **is liable to pay him restitution.**

[F] **But if he said to him, “I don’t know whether I stole something from you,”**

[G] **“...whether you lent me something,”**

[H] **“...whether you deposited something with me,”**

[I] **he is exempt from paying restitution.**

[I:1 A] [Since, to begin with, the victim has not laid claim on the one who addresses his fellow here.] R. Yohanán said, “The law applies to one who proposes to carry out his obligations to Heaven.”

[B] “I stole something from you,” “You lent money to me,” “You left a bailment with me,” and “I returned these to you” –

[C] and the other party said, “I know nothing about it” –

[D] *R. Jeremiah contemplated ruling*, “[Here] he is liable by law to make it up to him.”

[E] *R. Yosé contemplated ruling*, “This is another case in which he merely has to carry out his obligation to Heaven [but by law, is required to do nothing, as with Yohanán’s case at A].”

[F] “I took money out of my pocket and gave it to you,” and the other party says, “I know nothing about it” –

[G] R. Huna said, “They say to him, ‘You may not know, but he surely does know’ [and hence, the money must be paid back].”

10:8

- [A] He who steals a lamb from a flock and [unbeknownst to the owner] returned it,
[B] and it died or was stolen again,
[C] is liable to make it up.
[D] [If] the owner did not know either that it had been stolen or that it had been returned,
[E] and he counted up the flock and it was complete,
[F] then [the thief] is exempt.

- [I:1 A] Said R. Yohanan, “If the owner knew about the theft, they must be informed about the return of the beast. If they did not know about the theft, they need be informed about the return [which surely is what M. 10:8A implies].”
- [B] R. Simeon b. Laqish said, “Even though they did not know about the theft, they must be informed about the return of the beast. [They must take special precautions with a flock which has suffered a theft, to keep the sheep together.]”
- [C] Said R. Eleazar, “If the stolen beast was as distinguishable as a bellwether, it is not necessary to inform the owner that it has been returned, [since he will know anyhow].”
- [D] What is a bellwether?
- [E] Some say, “It is the shepherd’s staff.”
- [F] Some say, “It is the shepherd’s pipe.”
- [G] Some say, “It is a large ram.”

10:9

- [A] They do not purchase from herdsmen wool, milk, or kids,
[B] or from watchmen of an orchard wood or fruit.
[C] But they purchase clothing of wool from women in Judah,
[D] flax clothing in Galilee,
[E] and calves in Sharon.
[F] And in all cases in which [the sellers] say to hide them away,
[G] it is prohibited [to make such a purchase].
[H] They purchase eggs and chickens in every locale.

- [I:1 A]** It was taught: **They do not accept bailments from women, slaves, or minors.**
- [B]** **[If] one has accepted a bailment from a woman, he must return it to the woman.**
- [C]** **[If the woman] died, he must return it to her husband.**
- [D]** **[If] he accepted a bailment from a slave, he must return it to the slave.**
- [E]** **[If the slave] died, he must return it to his master.**
- [F]** **[If] he accepted a bailment from a minor, he sets up a trust for him.**
- [G]** **[If] he died, he returns it to his father [T. B.Q. 11:1].**

10:10

- [A]** **Shreds of wool which the laundryman pulls out – lo, these belong to him.**
- [B]** **And those which the wool comber pulls out – lo, they belong to the householder.**
- [C]** **The laundryman pulls out three threads, and they are his.**
- [D]** **But more than this – lo, they belong to the householder.**
- [E]** **If they were black [threads] on a white [surface], he takes all, and they are his.**
- [I:1 A]** Abba Hoshaiyah of Teriyya was a laundryman. He made himself a garment from only one kind of wool, so that people should not say, “He is wearing ours! [That is, he is clothed in bits an pieces of many kinds of wool, which he had pulled out of our clothes and woven into his own.]”

10:11

- [A]** **A tailor who left over a thread sufficient for sewing,**
- [B]** **or a piece of cloth three by three fingerbreadths –**
- [C]** **lo, these belong to the householder.**
- [D]** **What the carpenter takes off the plane – lo, these are his.**
- [E]** **But [what he takes off] with a hatchet belongs to the householder.**
- [F]** **And if he was working in the household of the householder, even the sawdust belongs to the householder.**

- [I:1 A] [As to how much thread is sufficient for sewing (M. 10:11A):] R. Hiyya taught, “The length of the needle.”
- [B] Members of the house of R. Hiyya interpret it as twice the length of the needle.
- [C] Bar Qappara taught, “The length of thread needed for drawing through the cloth.”
- [D] Members of the house of R. Yannai interpret it as the length thread needed for drawing the needle.
- [E] Now do they differ from R. Hiyya, who taught, “The length the needle”?
- [F] [No, the members of the houses explain what the masters have said.] The members of the house of R. Yannai explain that it is twice the length of the needle [to which reference is made].
- [G] *And so as to that which Bar Qappara has taught*, “The length of thread needed for drawing through the cloth,” the members of the house of R. Yannai explain that it means, “Twice the length of thread needed for drawing through the cloth. [That is, in both cases, drawing the needle one way, then the other.]”

CHAPTER ELEVEN

THE STRUCTURE OF YERUSHALMI BABA QAMMA

Whether or not the Talmud of the Land of Israel is carefully organized in large-scale, recurrent structures and guided by a program that we may call systematic forms the principal question addressed by an academic commentary. The preceding chapters therefore have pointed toward the presentation set forth here. By “structure” I mean, a clearly-articulated pattern that governs the location of fully-spelled out statements. By “system,” I mean, a well-crafted and coherent set of ideas that explain the social order of the community addressed by the writers of a document, a social philosophy, a theory of the way of life, world view, and character of the social entity formed by a given social group. I see a collective, anonymous, and political document, such as the one before us, as a statement to, and about, the way in which people should organize their lives and govern their actions. At issue then in any document such as the remarkable one before us is simple: does this piece of writing present information or a program, facts to whom it may concern, or a philosophically and aesthetically cogent statement about how things should be? The connection between structure and system is plain to see. From the way in which people consistently frame their thoughts, we move to the world that, in saying things in one way rather than in some other, they wish to imagine. Modes of formulating thought adumbrate modes of imagining the world in which people wish to live, to which they address these thoughts.

If the document exhibits structure and sets forth a system, then it is accessible to questions of rationality. We may ask about the statement that its framers or compilers wished to make by putting the document together as they did. But if we discern no structure and perceive no systematic inquiry or governing points of analysis, then all we find here is inert and miscellaneous information, facts but no propositions, arguments, viewpoints. Now as a matter of fact the Talmud of the Land of Israel commonly finds itself represented as lacking organization and exhibiting a certain episodic and notional character. That view moreover characterizes the reading and representation of the document by learned and experienced scholars, who have devoted their entire lives to Talmud study and

exegesis. It must follow that upon the advocate of the contrary view – the one implicit in the representation of the document for academic analysis – rests the burden of proof. I set forth the allegation that the Talmud of the Land of Israel exhibits a structure and follows a system and therefore exhibits a commonly-intelligible rationality. The claim to write an academic commentary explicitly states that proposition. For the tractate before us, I have therefore to adduce evidence and argument.

I maintain that through the normal procedures of reasoned analysis we may discern in the tractate a well-crafted structure. I hold that the structure made manifest, we may further identify the purpose and perspective, the governing system of thought and argument, of those who collected and arranged the tractate's composites and put them together in the way in which we now have them. By "structure" I mean, how is a document organized? and by "system," what do the compilers of the document propose to accomplish in producing this complete, organized piece of writing? The answers to both questions derive from a simple outline of the tractate as a whole, underscoring the types of compositions and composites of which it is comprised. Such an outline tells us what is principal and what subordinate, and how each unit – composition formed into composites, composites formed into a complete statement – holds together and also fits with other units, fore and aft. The purpose of the outline then is to identify the character of each component of the whole, and to specify its purpose or statement. The former information permits us to describe the document's structure, the latter, its system.

While the idea of simply outlining a Talmud-tractate beginning to end may seem obvious, I have never made such an outline before, nor has anyone else. (I have provided complete outlines for the Mishnah and for the Tosefta in relationship to the Mishnah, and, not always in outline form, for the Midrash-compilations of late antiquity as well) Yet, as we shall now see, the character of the outline dictates all further analytical initiatives. Specifically, when we follow the layout of the whole, we readily see the principles of organization that govern. These same guidelines on organizing discourse point also to the character of what is organized: complete units of thought, with a beginning, middle, and end, often made up of smaller, equally complete units of thought. The former we know as composites, the latter as compositions.

Identifying and classifying the components of the tractate – the composites, the compositions of which they are made up – we see clearly how the document coheres: the plan and program worked out from beginning to end. When we define that plan and program, we identify the facts of a pattern that permit us to say in a specific and concrete way precisely what the compilers of the tractate intended to accomplish. The structure realizes the system, the program of analysis and thought that takes the form of the presentation we have before us. From what people do, meaning, the way in which they formulate their ideas and organized

them into cogent statements, we discern what they proposed to do, meaning, the intellectual goals that they set for themselves.

These goals – the received document they wished to examine, the questions that they brought to that document – realized in the layout and construction of their writing, dictate the points of uniformity and persistence that throughout come to the surface. How people lay out their ideas guides us into what they wished to find out and set forth in their writing, and that constitutes the system that defined the work they set out to accomplish. We move from how people speak to the system that the mode of discourse means to express, in the theory that modes of speech or writing convey modes of thought and inquiry.

We move from the act of thought and its written result backward to the theory of thinking, which is, by definition, an act of social consequence. We therefore turn to the matter of intention that provokes reflection and produces a system of inquiry. That statement does not mean to imply I begin with the premise of order, which sustains the thesis of a prior system that defines the order. To the contrary, the possibility of forming a coherent outline out of the data we have examined defines the first test of whether or not the document exhibits a structure and realizes a system. So everything depends upon the possibility of outlining the writing, from which all else flows. If we can see the order and demonstrate that the allegation of order rests on ample evidence, then we may proceed to describe the structure that gives expression to the order, and the system that the structure sustains.

The present work undertakes the exegesis of exegesis, for the Yerushalmi, like its counterpart in the one of Babylonia, is laid out as a commentary to the Mishnah. That obvious fact defined the character of my academic commentary, since we have already faced the reality that our tractate is something other than a commentary, though it surely encompasses one. The problems that captured my attention derived from the deeper question of how people make connections and draw conclusions. To ask about how people make connections means that we identify a problem – otherwise we should not have to ask – and what precipitated the problem here has been how a composition or a composite fits into its context, when the context is defined by the tasks of Mishnah-commentary, and the composition or composite clearly does not comment on the Mishnah-passage that is subjected to comment.

The experience of analyzing the document with the question of cogency and coherence in mind therefore yields a simple recognition. Viewed whole, the tractate contains no gibberish but only completed units of thought, sentences formed into intelligible thought and self-contained in that we require no further information to understand those sentences, beginning to end. The tractate organizes these statements as commentary to the Mishnah. But large tracts of the writing do not comment on the Mishnah in the way in which other, still larger

tracts do. Then how the former fit together with the latter frames the single most urgent question of structure and system that I can identify.

Since we have already examined enormous composites that find their cogency in an other than exegetical program, alongside composites that hold together by appeal to a common, prior, coherent statement – the Mishnah-sentences at hand – what justifies my insistence that an outline of the document, resting on the premise that we deal with a Mishnah-commentary, govern all further description? To begin with, the very possibility of outlining this tractate derives from the simple fact that the framers have given to their document the form of a commentary to the Mishnah. It is in the structure of the Mishnah-tractate that they locate everything together that they wished to compile. We know that is the fact because the Mishnah-tractate defines the order of topics and the sequence of problems.

Relationships to the Mishnah are readily discerned; a paragraph stands at the head of a unit of thought; even without the full citation of the paragraph, we should find our way back to the Mishnah because at the head of numerous compositions, laid out in sequence one to the next, clauses of the Mishnah-paragraph are cited in so many words or alluded to in an unmistakable way. So without printing the entire Mishnah-paragraph at the head, we should know that the received code formed the fundamental structure because so many compositions cite and gloss sentences of the Mishnah-paragraph and are set forth in sequence dictated by the order of sentences of said Mishnah-paragraph. Internal evidence alone suffices, then, to demonstrate that the structure of the tractate rests upon the Mishnah-tractate cited and discussed here. Not only so, but the sentences of the Mishnah-paragraphs of our tractate are discussed in no other place in the entire Talmud of the Land of Israel in the sequence and systematic exegetical framework in which they are set forth here; elsewhere we may find bits or pieces, but only here, the entirety of the tractate.

That statement requires one qualification, and that further leads us to the analytical task of our outline. While the entire Mishnah-tractate of treated here is cited in the Talmud of the Land of Israel, the framers of the Talmud of the Land of Israel by no means find themselves required to say something about every word, every sentence, every paragraph. On the contrary, they discuss only what they choose to discuss, and glide without comment by large stretches of the tractate. A process of selectivity, which requires description and analysis, has told the compilers of the Talmud of the Land of Israel's composites and the authors of its compositions (This statement requires refinement. I do not know that all available compositions have been reproduced, and that the work of authors of compositions of Mishnah-exegesis intended for a talmud is fully exposed in the document as we have it. That is not only something we cannot demonstrate – we do not have compositions that were not used, only the ones that were – but something that we must regard as unlikely on the face of matters. All we may say is positive: the character of the compositions that address Mishnah-exegesis tells us about the concerns of the

writers of those compositions, but we cannot claim to outline all of their concerns, on the one side, or to explain why they chose not to work on other Mishnah-sentences besides the ones treated here. But as to the program of the compositors, that is another matter: from the choices that they made (out of a corpus we cannot begin to imagine or invent for ourselves) we may describe with great accuracy the kinds of materials they wished to include and the shape and structure they set forth out of those materials. We know what they did, and that permits us to investigate why they did what they did. What we cannot know is what they did not do, or why they chose not to do what they did not do. People familiar with the character of speculation and criticism in Talmudic studies will understand why I have to spell out these rather commonplace observations. I lay out an argument based on evidence, not on the silences of evidence, or on the absence of evidence – that alone.) what demands attention, and what does not. Our outline has therefore to signal not only what passage of the Mishnah-tractate is discussed, but also what is not discussed, and we require a general theory to explain the principles of selection (“making connections, drawing conclusions” meaning, to begin with, making selections). For that purpose, in the outline, I reproduce the entirety of a Mishnah-paragraph that stands at the head of a Talmudic composite, and I underscore those sentences that are addressed, so highlighting also those that are not.

It follows that the same evidence that justifies identifying the Mishnah-tractate as the structure (therefore also the foundation of the system) of Yerushalmi-tractate before us also presents puzzles for considerable reflection. The exegesis of Mishnah-exegesis is only one of these. Another concerns the purpose of introducing into the document enormous compositions and composites that clearly hold together around a shared topic or proposition, e.g., my appendix on one theme or another, my elaborate footnote providing information that is not required but merely useful, and the like. My earlier characterization of composites as appendices and footnotes signalled the fact that the framers of the document chose a not-entirely satisfactory way of setting out the materials they wished to include here, for large components of the tractate do not contribute to Mishnah-exegesis in any way at all. If these intrusions of other-than-exegetical compositions were proportionately modest, or of topical composites negligible in size, we might dismiss them as appendages, not structural components that bear much of the weight of the edifice as a whole. Indeed, the language that I chose for identifying and defining these composites – footnotes, appendices, and the like – bore the implication that what is not Mishnah-commentary also is extrinsic to the Talmud of the Land of Israel’s structure and system.

But that language served only for the occasion. In fact, the outline before us will show that the compositions are large and ambitious, the composites formidable and defining. Any description of the tractate’s structure that dismisses as mere accretions or intrusions so large a proportion of the whole misleads. Any notion that “footnotes” and “appendices” impede exposition and disrupt thought, contribute extraneous information or form tacked-on appendages – any such notion begs the question: then why fill up so much space with such purposeless information? The right way is to ask whether the document’s topical composites

play a role in the re-presentation of the Mishnah-tractate by the compilers of the Talmud of the Land of Israel. We have therefore to test two hypotheses:

1. the topical composites (“appendices,” “footnotes”) do belong and serve the compilers’ purpose

or

2. the topical composites do not participate in the re-presentation of the Mishnah-tractate by Yerushalmi and do not belong because they add nothing and change nothing.

The two hypotheses may be tested against the evidence framed in response to a single question: is this topical composite necessary? The answer to that question lies in our asking, what happens to the reading of the Mishnah-tractate in light of the topical composites that would not happen were we to read the same tractate without them? The outline that follows systematically raises that question, with results specified in due course. It suffices here to state the simple result of our reading of the tractate, start to finish: the question of structure, therefore also that of system, rests upon the position we identify for that massive component of the tractate that comprises not Mishnah-commentary but free-standing compositions and composites of compositions formed for a purpose other than Mishnah-commentary.

The principal rubrics are given in small caps. The outline takes as its principal rubrics two large-scale organizing principles.

The first is the divisions of the Mishnah-tractate to which the Talmud of the Land of Israel-tractate serves as a commentary. That simple fact validates the claim that the tractate exhibits a fully-articulated structure. But the outline must also underscore that the Mishnah-tractate provides both more and less than the paramount outline of the Talmud of the Land of Israel-tractate. It is more because sentences in the Mishnah-tractate are not analyzed at all. These untreated Mishnah-sentences are given in bold face lower case caps, like the rest of the Mishnah, but then are specified by underlining and enclosure in square brackets.

Second, it is less because the structure of the tractate accommodates large composites that address topics not defined by the Mishnah-tractate. That brings us to the second of the two large-scale modes of holding together both sustained analytical exercises and also large sets of compositions formed into cogent composites. These are treated also as major units and are indicated by Roman numerals, alongside the Mishnah-paragraphs themselves; they are also signified in small caps. But the principal rubrics that do not focus on Mishnah-commentary but on free-standing topics or propositions or problems are not given in boldface type. Consequently, for the purposes of a coherent outline we have to identify as

autonomous entries in our outline those important composites that treat themes or topics not contributed by the Mishnah-tractate.

I. YERUSHALMI BABA QAMMA 1:1

[A] [THERE ARE] FOUR GENERATIVE CAUSES OF DAMAGE: (1) OX (EX. 21:35-36), (2) PIT (EX. 21:33), (3) CROP-DESTROYING BEAST (EX. 22:4), AND (4) CONFLAGRATION (EX. 22:5). [THE DEFINITIVE CHARACTERISTIC] OF THE OX IS NOT EQUIVALENT TO THAT OF THE CROP-DESTROYING BEAST; NOR IS THAT OF THE CROP-DESTROYING BEAST EQUIVALENT TO THAT OF THE OX; NOR ARE THIS ONE AND THAT ONE, WHICH ARE ANIMATE, EQUIVALENT TO FIRE, WHICH IS NOT ANIMATE; NOR ARE THIS ONE AND THAT ONE, WHICH USUALLY [GET UP AND] GO AND DO DAMAGE, EQUIVALENT TO A PIT, WHICH DOES NOT USUALLY [GET UP AND] GO AND DO DAMAGE. WHAT THEY HAVE IN COMMON IS THAT THEY CUSTOMARILY DO DAMAGE AND TAKING CARE OF THEM IS YOUR RESPONSIBILITY:

1. **I:1:** When the Mishnah pericope refers to] an ox, it means [damage done by the] horn, as it is written, “If a man’s ox gores his neighbor’s ox” (Ex. 21:28).
2. **I:2:** The pit: “When a man leaves a pit open, or when a man digs a pit and does not cover it, and an ox or an ass falls into it, the owner of the pit shall make it good” (Ex. 21:34).
3. **I:3:** Crop-destroying beast: “When a man causes a field or vineyard [to be grazed over, or lets his beast loose and it feeds in an other man’s field, he shall make restitution from the best in his own field...]” (Ex. 22:5).
4. **I:4:** And conflagration. as it is written, “When fire breaks out and catches in thorns [so that the stacked grain or the standing grain or the field is consumed, he that kindled the fire shall make full restitution]” (Ex. 22:6).
5. **I:5:** We have learned in our Mishnah, There are four generative causes of damage, while R. Hiyya has taught: There are thirteen generative causes [categories] of damage: ox, pit, destroying beast, conflagration [M. B.Q. 1:1A], unpaid bailee, borrower, paid bailee, renter, injury, pain, medical costs, loss of income, indignity: If one has inflicted on another person all five (kinds of damage), he pays him for all five. (If he inflicted) only four kinds, he pays him for four. (If he inflicted) only three kinds, he pays him for three. (If he inflicted) only two kinds, he

pays him for two. (If he inflicted) only one kind, he pays him for one] [T. B.Q. 9:1].

- 6. I:6:** R. Haggai raised the following question: “How do we learn that there are four generative causes of damage? If all [kinds of damage which pertain to an ox’s doing] are stated with regard to an ox, we should learn that there are three, [not four, generative causes of damage, because ox and crop-destroying beast will constitute a single generative category]. And if all [kinds of damage which pertain to an ox] are not stated [as a single category], we should learn that there are five, [since damage done by the horn is treated in Scripture as an individual item and is not categorized as in the Mishnah]. [There should then be ox, pit, tooth, foot, and conflagration.]”
- 7. I:7:** The secondary categories of horn are butting. pushing. biting. lying down, and kicking [M. B. Q. 1:4B]. R. Isaac raised the question: “Pushing and butting constitute the principal ways in which an ox does damage [and are explicitly noted in Scripture], and do you deem them to be merely secondary categories?”
- 8. I:8:** The secondary categories of pit – The whole of the third chapter which we have learned in the tractate Damages [that is, the present tractate, dealing with torts] is devoted to that subject.
- 9. I:9:** The secondary categories of foot – It has been taught: A beast which on its own entered private domain and did damage [M. B.Q. 2:2E] with its foreleg, hind-leg, or horn, with the yoke which is on it, the saddlebag which is on it, the pack which is on its back, or with the wagon which it is pulling – [the owner] pays the full value of the damage which has been done. He who causes damage in neutral domain [neither public nor private] pays the full value of the damage which has been done [T. B.Q. 1:6].
- 10. I:10:** The secondary categories of tooth – They proposed to maintain [that, as in the following examples, when a beast ate up what it does not usually eat, it is deemed an instance of a secondary category, while when a beast ate up what it does usually eat, it is an instance of a primary category of tooth].
- 11. I:11:** R. Jeremiah raised the following question: “If a beast was going along and pulling up grass [to clear its way, but was not eating the grass,] what is the law? [Do we deem the damage to constitute a derivative of foot, since it takes place as the beast walks along, or is it a derivative of tooth because it is done by the beast’s eating? It then

would constitute a case of deriving benefit without actually eating the produce.]”

- 12. I:12:** [M. 1:1 appears to be verbose in repeating the point of B at C, and the question is why the Tannaite authority must refer both to the difference of ox from beast and beast from ox.] R. Bun bar Hiyya in the name of R. Samuel bar R. Isaac, “If ‘ox’ had not been mentioned, might I have derived the rule governing the ox from that governing the pit? “Just as in the case of the pit, which does not usually get up and go and do damage, one is liable to pay compensation, an ox, which usually does go along and do damage, is it not an argument a fortiori that I should be liable to pay compensation for such damage? “[No, that is not possible, for,] to the contrary: Now if an owner of a pit [which causes damage] pays full compensation, so an ox should [always] pay full compensation. [But that is not true.] “Or perhaps: If an ox pays half damages [under certain circumstances], so the owner of a pit should pay half damages. [That too is untrue.] “Thus if the category of ox had not been mentioned, I might have derived the rule governing the ox from the rule governing the pit. “Or if the pit had not been mentioned, I might have learned the law governing the pit from the law governing the ox. [And had I done so, I should have erred, as is now clear. Consequently, it was necessary to specify both items, as the Mishnah does.]”

- a. I:13:** Said R. La, “It was necessary to state each of them explicitly [referring to Ex. 21:28. dealing with numerous modes of damage, which might have been derived through logical process]. In the case of the ox [Ex. 21:36], it teaches that the owner [of the injured ox] must take charge of the corpse of the beast, since it is said, ‘[If it is known that the ox has been accustomed to gore in the past, and its owner has not kept it in, he shall pay ox for ox,] and the dead beast shall be his’ (Ex. 21:36). [This applies in various cases of damages.] But it is written with regard to the pit, ‘[When a man leaves a pit open... the owner of the pit shall make it good; he shall give money to its owner,] and the dead beast shall be his’” (Ex. 21:34).

[B] AND WHEN ONE [OF THEM] HAS CAUSED DAMAGE, THE [OWNER] OF THAT WHICH CAUSES THE DAMAGE IS LIABLE TO PAY COMPENSATION FOR DAMAGE OUT OF THE BEST OF HIS LAND (EX. 22:4).

- 1. II:1:** [This point is obvious, so there must be another purpose in the above statement.] Said R. Yosé, “That is to say, one who did injury to his fellow first, even though then he himself became injured, remains

liable. [This is in line with] that which is written, ‘He who kills a beast shall make it good’” (Lev. 24:21).

2. **II:2:** Rab Judah said in the name of Samuel, “They do not make an estimate of the value of an object in the case either of theft or of robbery or in the case of the loss of a borrowed object [but in all cases, restitution covers the full value of the damaged article in its original condition]. [The owner need not accept the article or carcass and sell it, receiving the difference between the proceeds and the value of the lost object or beast.] “But in the case of damages [under discussion here, such an estimate is made]. “But [Judah continues] I say also in the case of the loss of a borrowed object do they make an estimate of the value of the loss [and the borrower does not have to pay the original cost of the object when it was new]. “And Abba agrees with me.”

II. YERUSHALMI BABA QAMMA 1:2

[A] IN THE CASE OF ANYTHING OF WHICH I AM LIABLE TO TAKE CARE, I AM DEEMED TO RENDER POSSIBLE WHATEVER DAMAGE IT MAY DO.

1. **I:1:** R. Hiyya taught: This [M. 1:2A] refers to an ox or a pit [T. B.Q. 1:1B]. And as to fire, has nothing been taught?

[B] [If] I AM DEEMED TO HAVE RENDERED POSSIBLE PART OF THE DAMAGE IT MAY DO, I AM LIABLE FOR COMPENSATION AS IF [I HAVE] MADE POSSIBLE ALL OF THE DAMAGE IT MAY DO.

1. **II:1:** [If] I am deemed to have rendered possible part of the damage it may do, I am liable for compensation as if [I have] made possible all of the damage it may do – This refers to a pit [T. B.Q. 1:1D]. For it has been taught: If one has dug nine handbreadths, but someone else came along and dug the last handbreadth, [the latter] is liable [cf. M. B.Q. 5:5H-I]. Rabbi says, “[We impose liability] upon the first so far as damages are concerned, and on the last one so far as the death [caused by the hole] is concerned” [T. B.Q. 6:8]. Said R. Isaac, “So does the Tannaitic teaching read: ‘We impose liability upon the last so far as death caused by the hole is concerned, but upon the two of them so far as damages are concerned.’” If one has dug a hole ten handbreadths deep, and someone else came along and plastered and cemented it [T. B.Q. 6:9A], both of them are liable.

[C] PROPERTY WHICH IS NOT SUBJECT TO THE LAW OF SACRILEGE:

- 1. III:1:** [At issue is the status of Holy Things which are not subject to the law of Sacrilege, and what requires explanation is why damage caused by chattels of that character is subject to compensation. We now ask whether this sort of property is not carried in the wake of property which is subject to the law of Sacrilege and so subject to the same conditions:] It has been taught: This kind of property follows along with property which is subject to sacrilege. [Why then does the Mishnah hold the stated position?]

[D] PROPERTY BELONGING TO MEMBERS OF THE COVENANT [ISRAELITES], (3)
PROPERTY THAT IS HELD IN OWNERSHIP, AND THAT IS LOCATED IN ANY PLACE OTHER THAN IN THE DOMAIN WHICH IS IN THE OWNERSHIP OF THE ONE WHO HAS CAUSED THE DAMAGE, OR IN THE DOMAIN WHICH IS SHARED BY THE ONE WHO SUFFERS INJURY AND THE ONE WHO CAUSES INJURY — WHEN ONE HAS CAUSED DAMAGE [UNDER ANY OF THE AFORELISTED CIRCUMSTANCES], [THE OWNER OF] THAT ONE WHICH HAS CAUSED THE DAMAGE IS LIABLE TO PAY COMPENSATION FOR DAMAGE OUT OF THE BEST OF HIS LAND.

- 1. IV:1:** Property belonging to members of the covenant [Israelites] — This excludes an Israelite ox that gored an idolater's ox. Property belonging: and not ownerless property. And that is located in any place other than in the domain which is in the ownership of the one whose beast has caused the damage — in which case the one whose beast has caused the damage is exempt from paying compensation. [The laws do apply] in domain which is shared by the one who suffers injury and the one who causes injury

III. YERUSHALMI BABA QAMMA 1:3

[A] ASSESSMENT [OF THE COMPENSATION FOR AN INJURY TO BE PAID] IS IN TERMS OF READY CASH [BUT MAY BE PAID IN KIND — THAT IS,]

- 1. I:1:** They do not rule, Let the cow be handed over for the cloak [it has damaged], and the cloak for the cow. But they estimate their value [Tosefta: in ready cash] in court.

[B] IN WHAT IS WORTH MONEY.

- 1. II:1:** this teaches that the court makes an evaluation only of immovable property. [If] there is movable property which has been seized by the one who has been injured, they make an estimate in settlement of his claim from that property.

- [C] [ASSESSMENT OF THE COMPENSATION FOR AN INJURY TO BE PAID IS] BEFORE A COURT.
1. III:1: Before a court –his teaches that one is not liable [to pay compensation] before he gets his hearing in court.
- [D] [ASSESSMENT OF THE COMPENSATION FOR AN INJURY TO BE PAID IS] ON THE BASIS OF EVIDENCE GIVEN BY WITNESSES WHO ARE FREEMEN AND MEMBERS OF THE COVENANT.
1. IV:1: [Assessment of the compensation for an injury to be paid is] on the basis of evidence given by witnesses who are freemen and members of the covenant – this teaches that in any matter which is of the character of a fine [in that compensation for exact damages is not paid], one does not pay compensation on the basis of his own testimony.
 2. IV:2: [Assessment of the compensation for an injury to be paid is] on the basis of evidence given by witnesses who are freemen and members of the covenant. excluding gentiles, slaves, and those who are ineligible to give testimony [in an Israelite court] [T. B.Q. 1:2].
- [E] WOMEN FALL INTO THE CATEGORY OF [PARTIES TO SUITS CONCERNING] DAMAGES.
1. V:1: Women fall into the category of [parties to suits concerning] damages. even though Scripture spoke only in regard to men, in the end one includes women [in the present matter] [T. B.Q. 1:3].
- [F] AND THE ONE WHO SUFFERS DAMAGES AND THE ONE WHO CAUSES DAMAGES [MAY SHARE] IN THE COMPENSATION.
1. VI:1: They provide compensation for half of the loss incurred. On this basis [we rule that] they divide up the value of the loss. [And] on this basis [we rule that] one party loses half of the value of the loss [which he has caused], and the other party also loses half of the value of the damage [which he has suffered].

IV. YERUSHALMI BABA QAMMA 1:4

- [A] [THERE ARE] FIVE [DEEMED] HARMLESS, AND FIVE [DEEMED] ATTESTED DANGERS. A DOMESTICATED BEAST IS NOT REGARDED AS AN ATTESTED DANGER IN REGARD TO (1) BUTTING, (2) PUSHING, (3) BITING, (4) LYING DOWN, OR (5) KICKING. (1) A TOOTH IS DEEMED AN ATTESTED DANGER IN REGARD TO EATING WHAT IS SUITABLE FOR [EATING]. (2) THE LEG IS DEEMED AN

ATTESTED DANGER IN REGARD TO BREAKING SOMETHING AS IT WALKS ALONG. (3) AND AN OX WHICH IS AN ATTESTED DANGER [SO FAR AS GORING IS CONCERNED]; (4) AND AN OX WHICH CAUSES DAMAGE IN THE DOMAIN OF THE ONE WHO IS INJURED; AND (5) MAN.

1. **I:1:** Said R. Yohanan, “[Since the rule deems an ox who causes damage in the domain of the injured party to fall into the status of an attested danger,] it accords with the view of R. Tarfon [at M. 2:7]. For [if the injury is done] in the domain of the injured party, R. Tarfon says, ‘One pays the whole value of the damage caused thereby.’ And sages say, ‘Half of the value of the damage.’”

V. YERUSHALMI BABA QAMMA 1:5

[A] (1) A WOLF, (2) LION, (3) BEAR, (4) LEOPARD, (5) PANTHER, AND (6) A SERPENT – LO, THESE ARE ATTESTED DANGERS. R. ELIEZER SAYS, “WHEN THEY ARE TRAINED, THEY ARE NOT ATTESTED DANGERS. “BUT THE SERPENT IS ALWAYS AN ATTESTED DANGER.” WHAT IS THE DIFFERENCE BETWEEN WHAT IS DEEMED HARMLESS AND AN ATTESTED DANGER? BUT IF THAT WHICH IS DEEMED HARMLESS [CAUSES DAMAGE], [THE OWNER] PAYS HALF OF THE VALUE OF THE DAMAGE WHICH HAS BEEN CAUSED, [WITH LIABILITY LIMITED TO THE VALUE OF THE] CARCASS [OF THE BEAST WHICH HAS CAUSED THE DAMAGE]. BUT [IF THAT WHICH IS] AN ATTESTED DANGER [CAUSES DAMAGE], [THE OWNER] PAYS THE WHOLE OF THE VALUE OF THE DAMAGE WHICH HAS BEEN CAUSED FROM THE BEST PROPERTY [HE MAY OWN, AND HIS LIABILITY IS BY NO MEANS LIMITED TO THE VALUE OF THE ANIMAL WHICH HAS DONE THE DAMAGE].

1. **I:1:** It was taught, R. Meir says, “Also the striped hyena” [T. B.Q. 1:4B]. Said R. Yosé b. R. Abin, “R. Meir made this statement only of a male striped hyena, for there are times at which he is as strong as a lion.”

VI. YERUSHALMI BABA QAMMA 2:1

[A] HOW IS THE LEG DEEMED AN ATTESTED DANGER IN REGARD TO BREAKING SOMETHING AS IT WALKS ALONG? A DOMESTICATED BEAST IS AN ATTESTED DANGER TO GO ALONG IN THE NORMAL WAY AND TO BREAK [SOMETHING]. [BUT IF] IT WAS KICKING, OR IF PEBBLES WERE SCATTERED FROM UNDER ITS FEET AND IT [THEREBY] BROKE UTENSILS – [THE OWNER] PAYS HALF OF THE VALUE OF THE DAMAGES [CAUSED BY HIS OX].

1. **I:1:** And is it not usual [for the ox] to scatter pebbles [as it walks along]? [Why then should there be only half damages?] Said R. Ammi, “[The law applies to a case in which] a utensil was in someone’s hands [in which case such an accident would be unusual]. [It takes place in the domain of the injured party – his hands – and damages are to be paid.] But if the pot was lying on the road, since this was located where it was with all due right, and that one walked there with all due right, [the owner of the ox] is exempt [from having to pay any compensation at all].” Rabban bar Mamal said, “[We deal with a case] in which there are two paths, one with grass and pebbles, and one without grass and pebbles. The ox ignored the one without grass and pebbles and went on the one in which there is grass and pebbles. [This is an unusual variation in what was to be expected.] [In such a case,] even if [the pot] is located in the public domain, [the owner of the ox is] exempt [from having to pay compensation for the pot].”
2. **I:2:** Said R. Eleazar, “If a beast dropped dung [which did damage in the domain of the injured party], the owner pays full damages. [This must be deemed a usual way for the beast to do damages, not a variation from ordinary practice which would invoke the clause for half damages.] For if you say otherwise, then will you want the owner to walk along behind his beast carrying a shovel? [If such damage takes place in public domain, the owner is exempt. If it takes place in the domain of the injured party, the owner of the ox pays full damages, as he does when the damage is caused in the usual way. This then indicates that damage done by that which is outside of the beast’s body, like pebbles, is subject to compensation.] “
3. **I:3:** R. Hoshaiyah the Elder and R. Yudan the Patriarch were in session. R. Ba bar Mamal came in and asked, “When it switches its tail, like those asses [which flick off flies that way] – what is the law? [Is this deemed a secondary effect in the primary category of horn, or is this simply not normal behavior and if it happens in the public domain and causes damage, the owner would be exempt?]”

[B] [If] IT STEPPED ON A UTENSIL AND BROKE IT, AND [THE UTENSIL] FELL ON ANOTHER UTENSIL AND BROKE IT, FOR THE FIRST [THE OWNER] PAYS THE FULL VALUE OF THE DAMAGE.

1. **II:1:** [Recognizing the distinction between foot and pebbles, as is expressed in the cited law,] R. Jeremiah raised the question: “If [in the domain of the injured party] it stepped on a skin full of oil, for the skin he pays full damages, and for the oil, he pays half damages. If there was a tray lying there, with a flask on it, and the beast stepped on the

tray, in consequence of which the glass flask was broken, for the tray the owner pays full damages, and for the glass he pays half damages. If [again, to state an obvious fact], two trays, one on top of the other, and the beast stepped on them – for the top one he pays full damages, and for the bottom one he pays half damages. [The question troubling me is this one:] If there was a tray lying in the public domain, and the ox stepped on it, and it shattered and the sherds went and did damage in a private domain, in accord with which [domain] do you make your decision? Is it in accord with the place at which the ox stepped on the tray, [that is, in the public domain, in which case there is no compensation,] or is it in accord with the location of that which was broken?”

VII. YERUSHALMI BABA QAMMA 2:2

[A] FOWL ARE AN ATTESTED DANGER TO GO ALONG IN THE NORMAL WAY AND TO BREAK [SOMETHING]. [IF] A FOWL HAD ITS FEET ENTANGLED, OR IF IT WAS SCRATCHING AND THEREBY BROKE UTENSILS, [THE OWNER] PAYS ONLY HALF OF THE VALUE OF THE DAMAGE [HIS FOWL HAS CAUSED]:

- 1. I:1:** Said R. Huna, “[The rule of M. 2:2B, D] applies in a case in which the feet became entangled on their own. [In that case, it was an unforeseeable accident, and the owner pays half damages.] But if the owner himself had entangled the claws, he must pay full compensation [for any damage done thereby].”
- 2. I:2:** It was taught: Fowl which were scratching at dough or at pieces of fruit, or which pecked – [the owner] pays half damages. [If] they scratched dirt onto dough or onto pieces of fruit, [the owner] pays full damages. [If] they were pecking at the rope of a well-bucket, and [in consequence it was weakened and] fell and broke, [the owner] pays full damages. [If] it fell and broke and furthermore broke another utensil [alongside], for the first, [the owner] pays full damages, and for the second, [he pays half damages] [cf. M. 2:3F] [T. B.Q. 2:1A- G].
- 3. I:3:** It has been taught: Fowl which went down into a vegetable patch and broke young shoots and chopped off leaves [of the plants] [the owner] pays full damages. Sumkhos says, “For the chopping off [of the leaves], he pays full damages, but for the breakage he pays only half damages.” A fowl which was flying from one place to another, and did damage [en route – [if the damage was done] by its body, [the owner] pays full damages. [If it did damage] by the wind stirred up by its

wings, [the owner] pays half damages. Sumkhos says, “Full damages” [T. B.Q. 2:1H-L].

VIII. YERUSHALMI BABA QAMMA 2:3

[A] **HOW IS THE TOOTH DEEMED AN ATTESTED DANGER IN REGARD TO EATING WHAT IS SUITABLE FOR [EATING] [M. 1:4C]? AN OX IS AN ATTESTED DANGER TO EAT FRUIT AND VEGETABLES. [IF, HOWEVER,] IT ATE [A PIECE OF] CLOTHING OR UTENSILS, [THE OWNER] PAYS HALF OF THE VALUE OF THE DAMAGE IT HAS CAUSED. UNDER WHAT CIRCUMSTANCES? [WHEN THIS TAKES PLACE] IN THE DOMAIN OF THE INJURED PARTY. BUT [IF IT TAKES PLACE] IN THE PUBLIC DOMAIN, HE IS EXEMPT. BUT IF IT [THE OX] DERIVED BENEFIT [FROM DAMAGE DONE IN PUBLIC DOMAIN], [THE OWNER] PAYS FOR THE VALUE OF WHAT [HIS OX] HAS ENJOYED:**

- 1.** **I:1:** [To what does the statement, M. 2:3D-G, “Under what circumstances” apply?] R. Simeon b. Laqish said, “It applies to the first clause. [If, in the public domain, a beast ate what it usually eats, the owner pays nothing. But if, even in the public domain, it ate clothing or utensils, the owner is liable because people commonly leave things in the public domain, and the owner of the beast has the responsibility to watch out for such unusual events.]” R. Yohanan said, “It applies to the entire pericope [including the consumption of unusual items, such as clothing or utensils]. If someone left clothing or utensils in the public domain, the owner of the beast is exempt, because it is not common to leave such things in public domain.]”
- 2.** **I:2:** A statement that R. Simeon b. Laqish said: “[If there were two beasts in the public domain, one walking, one crouched, and] the one which was walking along butted the one which was crouching, [the owner] is exempt [because the one which was crouching bore responsibility for changing the normal procedure, and it is not normal for a beast to crouch in public domain].” A statement which R. Yohanan said: “[If] the one which was walking along butted the one which was crouching, [the owner] is liable.” [The owner of the crouching beast still may ask, “Who gave your beast the right to butt mine?”] [And, Yohanan further will maintain,] it is not the end of the matter that if the one which was walking along butts the one which was crouching, or the one which was crouching butts the one which was walking along, [the owner of the aggressor is liable]. [But even if the two of them were walking along], and one of those which was

walking along butted the other which was walking along, [the owner is liable on the same grounds.]

IX. YERUSHALMI BABA QAMMA 2:4

[A] **HOW DOES HE PAY FOR THE BENEFIT OF WHAT [HIS OX] HAS ENJOYED? [IF IT ATE SOMETHING IN THE MIDST OF THE MARKETPLACE, HE PAYS FOR THE VALUE OF WHAT IT HAS ENJOYED. [IF IT ATE] FROM THE SIDES OF THE MARKETPLACE, HE PAYS FOR THE VALUE OF THE DAMAGE THAT [THE OX] HAS CAUSED. [IF HE ATE] FROM [WHAT IS LOCATED AT] THE DOORWAY OF A STORE, THE OWNER PAYS FOR THE VALUE OF WHAT IT HAS ENJOYED. [IF IT ATE] FROM [WHAT IS LOCATED] INSIDE THE STORE, THE OWNER PAYS FOR THE VALUE OF THE DAMAGES THAT IT HAS CAUSED.**

1. **I:1:** Rab said, “[If] the beast twisted its neck about and ate, [the owner] pays for the value of the damage which the beast has caused.”
2. **I:2:** Rab said, “[If an ox] ate barley, the owner pays the cost of straw [since he may claim that, while barley is an appropriate food for the ox, still he feeds his ox straw, not barley.]”

X. YERUSHALMI BABA QAMMA 2:5

[A] **THE DOG OR THE GOAT THAT JUMPED FROM THE TOP OF THE ROOF AND BROKE UTENSILS – [THE OWNER] PAYS THE FULL VALUE OF THE DAMAGE [THEY HAVE CAUSED], BECAUSE THEY ARE ATTESTED DANGERS.**

1. **I:1:** There are Tannaim who teach [that M. 2:5A] should read, “jumped,” and there are Tannaim who teach that it should read, “fell,” [so that even if the dog or goat should fall by accident, the owner should pay full damages].

[B] **THE DOG WHICH TOOK A CAKE [TO WHICH A CINDER ADHERED] AND WENT TO STANDING GRAIN, ATE THE CAKE, AND SET THE STACK ON FIRE – FOR THE CAKE THE OWNER PAYS FULL DAMAGES, BUT FOR THE STANDING GRAIN HE PAYS ONLY FOR HALF OF THE DAMAGES [HIS DOG HAS CAUSED].**

1. **II:1:** The dog which took a cake [to which a cinder adhered] and went to standing grain, ate the cake, and set the stack on fire: R. Simeon b. Laqish said, “[The owner of the dog pays damages for the grain] only if the dog carried the flame from one stalk to the next. [Since the fire does not belong to the owner of the dog, it is only the direct action of

the dog, not the indirect action of the fire, for which the owner bears responsibility. Only when the dog has directly caused the burning of each stalk is the owner of the dog liable to pay compensation.]” R. Yohanan said, “The case is treated as if one had thrown an arrow from one place to another. [That is, the owner is liable for what the fire does as if the fire were his arrow; if the dog lit one part of the field and the flames went their way, the dog’s owner is liable for the whole field.]”

2. **II:2:** A man brought out the goods of his shop on a cow. An ass came by and broke [the goods]. The case came before R. Isaac bar Tabelai. He said to him, “He does not owe you a thing, and not only so, but if the beast was injured, you are liable to pay compensation for his injury [since the other party had every right to use the public way.]”

XI. YERUSHALMI BABA QAMMA 2:6

[A] WHAT IS [THE DEFINITION OF] A HARMLESS [ANIMAL], AND WHAT IS [THE DEFINITION OF] ONE WHICH IS AN ATTESTED DANGER? “AN ATTESTED DANGER IS ANY ONE ABOUT WHICH PEOPLE HAVE GIVEN TESTIMONY FOR THREE DAYS. AND A HARMLESS ONE IS THAT WHICH HAS REFRAINED [FROM DOING DAMAGE] ON THREE DAYS,” THE WORDS OF R. JUDAH. R. MEIR SAYS, “AN ATTESTED DANGER IS ONE AGAINST WHICH PEOPLE HAVE GIVEN TESTIMONY FOR THREE TIMES. AND A HARMLESS ONE IS ANY WHICH CHILDREN CAN TOUCH WITHOUT ITS GORING THEM.”

1. **I:1:** [Under discussion is Ex. 21:29: “When an ox gores a man or a woman to death, the ox shall be stoned, and its flesh shall not be eaten; but the owner of the ox shall be clear. But if the ox has been accustomed to gore from yesterday or the day before, and its owner has been warned but has not kept it in, and it kills a man or a woman, the ox shall be stoned, and its owner also shall be put to death.”] What is the Scriptural basis for the position of R. Judah?
2. **I:2:** [If an ox] went out on the first day and gored other oxen, on the second day and gored dogs, on the third day and gored pigs, on account of these three different sorts of animals on three successive days, what is the law as to declaring the ox to be an attested danger? [This question is not answered.]
3. **I:3:** If an ox] went out on the first day and gored, on the second day did not go out at all, and on the third day went out and gored: – [in raising this question] we have come to the dispute between R. Ada bar Ahva and R. Huna, who argue as follows: A girl approaching her

menstrual period who examined herself on the first day and found that she was unclean, on the second day did not examine herself at all, and on the third day examined herself and found that she was unclean – R. Ada bar Ahva in the name of Rab: “She is confirmed as a menstruating woman [a zabah].” R. Huna in the name of Rab said, “She is subject to doubt as to whether or not she is in her menstrual period [a zabah].”

4. **I:4:** R. Jeremiah in the name of Rab: “The law is in accord with R. Meir in the case of a beast deemed harmless, and in accord with R. Judah in regard to giving warning (to declare a beast an attested danger).”]

XII. YERUSHALMI BABA QAMMA 2:7

[A] AN OX WHICH CAUSES DAMAGE IN THE DOMAIN OF THE ONE WHO IS INJURED [M. 1:4F] – HOW SO? [IF] IT GORED, PUSHED, BIT, LAY DOWN, OR KICKED [M. 1:4B], IN THE PUBLIC DOMAIN, [THE OWNER] PAYS HALF OF THE VALUE OF THE DAMAGES [THE OX HAS CAUSED]. [IF IT DID SO] IN THE DOMAIN OF THE INJURED PARTY, R. TARFON SAYS, “[THE OWNER PAYS] THE FULL VALUE [OF THE DAMAGES THE OX HAS CAUSED].” AND SAGES SAY, “HALF OF THE VALUE.” SAID TO THEM R. TARFON, “NOW IN A CASE IN WHICH [THE LAW] DEALS LENIENTLY, NAMELY, WITH DAMAGE CAUSED BY TOOTH OR FOOT IN THE PUBLIC DOMAIN, IN WHICH CASE [THE OWNER] IS EXEMPT [M. 2:2F], [THE LAW NONETHELESS] HAS DEALT STRICTLY WITH THEM IN THE DOMAIN OF THE INJURED PARTY, SO THAT [THE OWNER] HAS TO PAY THE FULL VALUE OF THE DAMAGES [CAUSED BY HIS OX] [M. 2:2E]; IN A PLACE IN WHICH, TO BEGIN WITH, THE LAW HAS DEALT STRICTLY, NAMELY, IN THE CASE OF DAMAGE DONE BY THE HORN [GORING] IN THE PUBLIC DOMAIN, SO THAT [THE OWNER] HAS TO PAY HALF-DAMAGES, IS IT NOT LOGICAL THAT WE SHOULD NOW IMPOSE A STRICT RULE ON THAT SAME MATTER WHEN THE DAMAGE TAKES PLACE IN THE DOMAIN OF THE INJURED PARTY, SO THAT HE SHOULD HAVE TO PAY FULL DAMAGES?” THEY SAID TO HIM, “IT IS SUFFICIENT FOR THE INFERRED LAW TO BE AS STRICT AS THAT FROM WHICH IT IS INFERRED. NOW JUST AS WHEN THE DAMAGE DONE BY THE HORN TAKES PLACE IN THE PUBLIC DOMAIN, THE OWNER PAYS HALF-DAMAGES, SO [IF IT TAKES PLACE] IN THE DOMAIN OF THE INJURED PARTY, THE OWNER PAYS HALF-DAMAGES.” HE SAID TO THEM, “I SHALL NOT DERIVE THE LAW FOR THE DAMAGE CAUSED BY THE HORN [BY ANALOGY TO] ANOTHER CASE OF DAMAGES CAUSED BY THE HORN. I SHALL DERIVE THE LAW COVERING DAMAGE CAUSED BY THE HORN FROM THE LAW OF DAMAGE CAUSED BY THE FOOT. NOW IF IN A SITUATION IN WHICH [THE LAW] RULED LENIENTLY, NAMELY, IN RESPECT TO THE DAMAGE CAUSED BY TOOTH AND FOOT IN THE

PUBLIC DOMAIN, THE LAW HAS NONETHELESS IMPOSED A STRINGENT RULE IN THE CASE OF DAMAGE CAUSED BY THE HORN; IN A SITUATION IN WHICH THE LAW HAS IMPOSED A STRINGENT RULE, NAMELY, IN THE CASE OF DAMAGE CAUSED BY THE TOOTH AND THE FOOT, WHEN THE INJURY TAKES PLACE IN THE DOMAIN OF THE INJURED PARTY, IS IT NOT REASONABLE THAT WE SHOULD IMPOSE A STRICT RULE IN THE CASE OF DAMAGE CAUSED BY THE HORN?" THEY SAID TO HIM, "IT IS SUFFICIENT FOR THE INFERRED LAW TO BE AS STRICT AS THAT FROM WHICH IT IS INFERRED. "JUST AS WHEN THE DAMAGE TAKES PLACE IN THE PUBLIC DOMAIN, THE OWNER PAYS HALF-DAMAGES, SO WHEN THE DAMAGE TAKES PLACE IN THE DOMAIN OF THE INJURED PARTY, THE OWNER PAYS HALF-DAMAGES."

1. **I:1:** Said R. Yohanan, "The rule [at M. B.Q. 1:4] is that of R. Tarfon." For in the case of damage done in the domain of the injured party.]

XIII. YERUSHALMI BABA QAMMA 2:8

[A] **MAN IS PERPETUALLY AN ATTESTED DANGER — WHETHER [WHAT IS DONE IS DONE] INADVERTENTLY OR DELIBERATELY, WHETHER MAN IS AWAKE OR ASLEEP. [IF] HE BLINDED THE EYE OF HIS FELLOW OR BROKE HIS UTENSILS, HE PAYS THE FULL VALUE OF THE DAMAGE HE HAS CAUSED.**

1. **I:1:** Said R. Isaac, "The Mishnah speaks of a case in which both of them were asleep. But if one of them was asleep, and his fellow came to sleep next to him, this one who came to sleep next to him is deemed the attested danger [and the one who went to sleep assuming he was by himself is presumed to have been harmless]."

XIV. YERUSHALMI BABA QAMMA 3:1

[A] **HE WHO LEAVES A JUG IN THE PUBLIC DOMAIN, AND SOMEONE ELSE CAME ALONG AND STUMBLED ON IT AND BROKE IT — [THE ONE WHO BROKE IT] IS EXEMPT. AND IF [THE ONE WHO BROKE IT] WAS INJURED BY IT, THE OWNER OF THE BARREL IS LIABLE [TO PAY DAMAGES FOR] HIS INJURY.**

1. **I:1:** And is it not usual for people to leave utensils in the public way, [so why should the one who broke it be exempt from paying compensation]?
2. **I:2:** If the pot filled up the entire public way, [what should a passerby do]? If he should take it from here and move it over there, the pot is

deemed tantamount to a pit [which he has dug]. So should he take a stick and break it? Or should he push by it, and if it breaks, it breaks [on it own]?

3. **I:3:** If one left one's stone in the public way, and someone else came and left another near it, and a third party came along and stumbled on this one and struck against the other, who is liable for the injury which he has suffered? Is it the former or the latter?
4. **I:4:** Said R. Yohanan, "If one left his stone and his bundle in the public domain, and someone else came along and stumbled on them, with a flask in his hand [which broke], whether he stumbled on the stone and was struck against the ground, and whether he struck the stone and stumbled on the ground, he is liable for the injuries suffered by the man, but exempt for the damage done to the flask. [The stone is a pit, and one is liable for injuries caused thereby.]"

XV. YERUSHALMI BABA QAMMA 3:2

[A] [IF] HIS JUG WAS BROKEN IN THE PUBLIC DOMAIN, AND SOMEONE SLIPPED ON THE WATER, OR WAS HURT BY THE SHERDS, HE IS LIABLE. R. JUDAH SAYS, "IN [A CASE IN WHICH HE DID SO] DELIBERATELY, HE IS LIABLE, AND IN [A CASE IN WHICH HE DID] NOT [DO SO] DELIBERATELY, HE IS EXEMPT."

1. **I:1:** R. Eleazar said, "The dispute [between Judah and the sages] concerns damage done at the time of falling [that is, the sages maintain that if someone stumbled, for damage done by the sherds when he was falling the owner of the jug is at fault, and Judah does not]. But if it was after the time that he fell [and broke the jug] all parties concur that [the owner of the jug] is liable [for damage done by the sherds]." R. Yohanan said, "The argument applies to the situation pre vailing both at the time that the man stumbled and thereafter [not only at the former point]."
2. **I:2:** R. Zeira and R. La both maintain that R. Judah concurs with the sages in the case of one who declares ownerless in the public domain an ox of his which has gored. [That is, the man re mains liable for whatever damages the ox will do later on.]

XVI. YERUSHALMI BABA QAMMA 3:3

[A] **HE WHO POURS WATER OUT INTO THE PUBLIC DOMAIN, AND SOMEONE ELSE WAS INJURED ON IT, IS LIABLE [TO PAY COMPENSATION FOR] HIS INJURY. HE WHO PUT AWAY THORNS OR GLASS:**

1. **I:1:** R. Huna said, “It is when one struck the ground [because of slipping on the water, that the one who poured out the water is liable to pay damages]. Truly, if the other’s garments were damaged, he is liable [for their being muddied up].” Rab said, “Even if the other’s garments were damaged, he is exempt.”
2. **I:2:** He who put away thorns and glass into the wall of his fellow, and the owner of the wall came along and tore it down, and someone else came along and was injured by them, lo, this [the first] one [nonetheless] is liable. The pious men of old would put away [thorns] in fields be longing to themselves and dig a hole for them three handbreadths deep, so that the plough would not stumble on them [T. B.Q. 2:6A- E].

[B] **AND HE WHO MAKES HIS FENCE OUT OF THORNS:**

1. **II:1:** Said R. Yohanan, “[With reference to the dispute above, in which Judah takes the position that if one has not deliberately caused the damage, he may declare property of his which has caused damage to be ownerless, so that he will be free from further liability for damage caused by that property,] one may interpret the rule here to express the opinion of all parties [including that of Judah]. For we deal with a case in which one has set the thorns or glass to jut out of the fence [and consequently, one is liable for injuries caused by such a fence, a position in which, in the stated case, Judah may concur].”

[C] **AND A FENCE WHICH FELL INTO THE PUBLIC WAY — AND OTHERS WERE INJURED BY THEM — HE IS LIABLE [TO PAY COMPENSATION FOR] THEIR INJURY.**

1. **III:1:** R. Abbahu in the name of R. Simeon b. Laqish said, “This rule accords with the position of R. Meir. For R. Meir has said, ‘Whatever does damage not through actual deed [nonetheless] incurs liability [for the owner].’”

XVII. YERUSHALMI BABA QAMMA 3:4

[A] **HE WHO BRINGS OUT HIS STRAW AND STUBBLE INTO THE PUBLIC DOMAIN TO TURN THEM INTO MANURE, AND SOMEONE ELSE WAS INJURED ON THEM IS LIABLE [TO PAY COMPENSATION FOR] HIS INJURY. BUT WHOEVER GRABS THEM FIRST EFFECTS POSSESSION OF THEM. RABBAN SIMEON B. GAMALIEL SAYS, “ALL THOSE WHO DISRUPT THE PUBLIC DOMAIN AND THEREBY CAUSED INJURY ARE LIABLE TO PAY COMPENSATION. AND WHOEVER GRABS [WHAT THEY LEFT OUT IN THE PUBLIC DOMAIN] FIRST EFFECTS POSSESSION OF THEM.” HE WHO HEAPS UP CATTLE DUNG IN THE PUBLIC DOMAIN AND SOMEONE ELSE WAS INJURED BY IT — HE IS LIABLE [TO PAY COMPENSATION FOR] HIS INJURY.**

1. **I:1:** [As to the statement of M. 3:4F: And whoever grabs [what they left out in the public domain] first effects possession of them] of what has he effected possession?
2. **I:2:** Hezekiah said, “And that [effective act of acquisition] applies in the case in which one has turned the straw or stubble over in order to effect possession thereof.”
 - a. **I:3:** R. Yosé in the name of R. Yohanan says, “He who takes an object out from the private domain to the public domain on the Sabbath is liable only when he puts the object down.” R. Jacob bar Aha in the name of R. Yohanan: “Unless he takes it up and puts it down.” R. Zeira raised the question, “Is that ‘until he takes the object in order to put it down’? If he took the object planning to eat it and changed his mind and decided to put it down, should he not be liable?” So R. Zeira asks whether the intent of the statement, “until he takes it and puts it down,” means, “until he takes it at the outset in order to carry it out and put it down,” thus excluding the possibility of taking the object with one intent and doing this other, prohibited action with it. Now if that is Yohanan’s intent, then he differs from R. Hoshaiiah in two respects. First, Hoshaiiah’s position is that one who merely takes the object without then setting it down is culpable, while Yohanan requires some concrete action. Yohanan maintains that one must intend the prohibited action at the outset. Now at this point we introduce other pericopae to refute or support the position outlined by Yohanan and his opposition.] They objected, “Lo, there is a pericope of Mishnah which in some aspects confutes and in some supports R. Yohanan, in some aspects confutes, and in some supports, R. Simeon b. Laqish.” There is he who performs a single act of eating and is

liable on that account for four sin offerings and a guilt offering: An unclean [lay] person who ate forbidden fat, which also was remnant. deriving from Holy Things, on the Day of Atonement.” R. Meir says, “If it was the Sabbath and he took it out [of the Temple] on the Sabbath [he would be liable for yet a fifth].” They said to him. “That is not of the same sort [as the others]” [M. Ker. 3:1].

XVIII. YERUSHALMI BABA QAMMA 3:5

[A] TWO POT SELLERS WHO WERE GOING ALONG, ONE AFTER ANOTHER, AND THE FIRST OF THEM STUMBLED AND FELL DOWN, AND THE SECOND STUMBLED OVER THE FIRST — THE FIRST ONE IS LIABLE [TO PAY COMPENSATION FOR] THE INJURIES OF THE SECOND:

- 1. I:1:** [With reference to M. 3:5A-D,] R. Yohanan raised the question “Is it not reasonable for the second party not [to have time to get up] for yet a further [person]? What is the law as to allowing the second party time to get up [before holding him liable for damage done to a third party]? [That is, if the second party, who stumbled against the first, should fall down, and a third party should stumble against the second, do we provide time for the second party to get up? Shall we then reason that since the second party saw the first party fall down, he should have waited and stood aside, so he is not fully able to claim it was an accident that he fell down. Accordingly, he is not given time to get up, but is forthwith liable for what happens to a third party. Or shall we reason that it was an accident, just as it was in the case of the first party, and, accordingly, we assign him that same consideration that we have accorded to the first party?]”
- 2. I:2:** Asses, the legs of one of which were infirm — they are not permitted to set him aside [pass him]. If he fell down, they have the right to pass him. What is the meaning of, “having the right to pass him”? They step over him and go by. [If] one of them was loaded and one of them was mounted, they set aside the one which was loaded in favor of the one which was mounted. [If] one of them was mounted and one of them was unburdened, they set aside the one which is unburdened in favor of the one which is mounted. [If] two of them were carrying burdens, two of them were mounted, and two of them were unburdened, they make a compromise agreement among themselves. And so is the rule governing two wagons [or] boats which were coming toward one another, one of them unloaded, and one of

them loaded – they set aside the one which is unloaded in favor of the one which is bearing a burden. [If] both of them were unloaded, or both of them were carrying cargo, they make a compromise between themselves [T. B.Q. 2:10].

[B] **THIS ONE COMES ALONG WITH HIS JAR, AND THAT ONE COMES ALONG WITH HIS BEAM – [IF] THE JAR OF THIS ONE WAS BROKEN BY THE BEAM OF THAT ONE, [THE OWNER OF THE BEAM] IS EXEMPT, FOR THIS ONE HAS EVERY RIGHT TO WALK ALONG [IN THE STREET], AND THAT ONE HAS EVERY RIGHT TO WALK ALONG [IN THE SAME STREET]:**

- 1.** **II:1:** R. Zeira raised the question, “If they varied from the normal and established practice and caused damage [e.g., if the beam was unusually long, or the jar unusually heavy, so there was no possibility of avoiding damage], what is the law? [Do we say that since there has been a variation in accepted practice, he is liable? Or perhaps every one has an equal right, under all circumstances?]”

XIX. YERUSHALMI BABA QAMMA 3:6

[A] **[IF] THE ONE CARRYING THE BEAM WAS COMING FIRST, AND THE ONE CARRYING THE JAR WAS FOLLOWING BEHIND, [IF] THE JAR WAS BROKEN ON THE BEAM, (1) THE ONE CARRYING THE BEAM IS EXEMPT. (2) BUT IF THE ONE CARRYING THE BEAM STOPPED SHORT, HE IS LIABLE. (3) AND IF HE SAID TO THE ONE CARRYING THE JAR, “WAIT UP!” HE IS EXEMPT. [IF] THE ONE CARRYING THE JAR WAS FIRST, AND THE ONE CARRYING THE BEAM WAS FOLLOWING BEHIND, [IF] THE JAR WAS BROKEN ON THE BEAM, (1) [THE ONE CARRYING THE BEAM] IS LIABLE. (2) BUT IF THE ONE CARRYING THE JAR STOPPED SHORT, [THE ONE CARRYING THE BEAM] IS EXEMPT. (3) AND IF HE SAID TO THE ONE CARRYING THE BEAM, “WAIT UP!” HE IS LIABLE. AND SO IS THE RULE IN THE CASE OF THIS ONE COMING ALONG CARRYING HIS FLAME, AND THAT ONE COMING ALONG CARRYING HIS FLAX.**

- 1.** **I:1:** Did not Rab state, “[The liability is incurred] when he filled up the entire public way”? Now does this one [carrying the beam] fill up the entire public way [that he should be liable]?

XX. YERUSHALMI BABA QAMMA 3:7

[A] TWO WHO WERE GOING ALONG IN THE PUBLIC DOMAIN, ONE WAS RUNNING, THE OTHER AMBLING, OR BOTH OF THEM RUNNING, AND THEY INJURED ONE ANOTHER — BOTH OF THEM ARE EXEMPT.

1. **I:1:** Yosé the Babylonian says, “If one was running in the public way and injured someone, he is liable. For he has varied from the normal course of conduct. If it was the eve of the Sabbath toward dusk, he is exempt, [since that is the usual way in which people behave at that time]” [T. B.Q. 2:11G-H].

XXI. YERUSHALMI BABA QAMMA 3:8

[A] HE WHO CHOPS WOOD IN PRIVATE PROPERTY, AND [THE CHIPS] INJURED SOMEONE IN PUBLIC DOMAIN, IN PUBLIC DOMAIN, AND [THE CHIPS] INJURED SOMEONE IN PRIVATE PROPERTY, IN PRIVATE PROPERTY, AND [THE CHIPS] INJURED SOMEONE IN SOMEONE ELSE’S PRIVATE PROPERTY — HE IS LIABLE.

1. **I:1:** Said R. Yosé b. Hanina, “If one was standing and chopping wood in his courtyard, and a worker came in to collect his salary, and a chip flew off and injured him, [the householder] is liable, but if he should die, [the householder] does not go into exile.”
2. **I:2:** Did not Rab say, “[The one who causes the damage is liable] in a case in which he fills up the entire public domain”? Now does this one [in the courtyard] fill up the entire [public] domain?

XXII. YERUSHALMI BABA QAMMA 3:9

[A] TWO OXEN [GENERALLY DEEMED] HARMLESS WHICH INJURED ONE ANOTHER — [THE OWNER] PAYS HALF-DAMAGES FOR THE EXCESS [OF THE VALUE OF THE INJURY DONE BY THE LESS INJURED TO THE MORE INJURED OX]. [IF] BOTH OF THEM WERE ATTESTED DANGERS, [THE OWNER] PAYS FULL DAMAGES FOR THE EXCESS [OF THE INJURY DONE BY THE LESS INJURED TO THE MORE INJURED OX]. [IF] ONE WAS DEEMED HARMLESS AND ONE AN ATTESTED DANGER, [IF] IT WAS AN OX WHICH WAS AN ATTESTED DANGER [WHICH INJURED] AN OX DEEMED HARMLESS, [THE OWNER] PAYS FULL DAMAGES FOR THE EXCESS. [IF] IT WAS THE OX DEEMED HARMLESS [WHICH INJURED] THE ONE WHICH WAS AN

ATTESTED DANGER, [THE OWNER] PAYS HALF-DAMAGES FOR THE EXCESS. AND SO IS THE RULE FOR TWO MEN WHO INJURED ONE ANOTHER: THEY PAY FULL DAMAGES FOR THE EXCESS [OF THE INJURY DONE BY THE LESS INJURED TO THE MORE INJURED MAN]. [IF IT WAS A CASE OF] A MAN WHO INJURED AN OX WHICH WAS AN ATTESTED DANGER, OR AN OX WHICH WAS AN ATTESTED DANGER WHICH INJURED A MAN, ONE PAYS FULL DAMAGES FOR THE EXCESS [OF THE INJURY DONE BY THE ONE TO THE OTHER]. [IF IT WAS] A MAN [WHO INJURED] AN OX DEEMED HARMLESS, OR AN OX DEEMED HARMLESS [WHICH INJURED] A MAN – [IF IT WAS] THE MAN [WHO INJURED] THE OX DEEMED HARMLESS, HE PAYS FULL DAMAGES FOR THE EXCESS. [IF IT WAS] THE OX DEEMED HARMLESS [WHICH INJURED] THE MAN, ONE PAYS HALF-DAMAGES FOR THE EXCESS. R. AQIBA SAYS, “ALSO: AN OX DEEMED HARMLESS [WHICH INJURED] A MAN – [THE OWNER] PAYS FULL DAMAGES FOR THE EXCESS.” AN OX [DEEMED HARMLESS] WORTH A MANEH [A HUNDRED ZUZ] WHICH GORED AN OX WORTH TWO HUNDRED [ZUZ], AND THE CARCASS [OF THE LATTER] IS WORTH NOTHING – [THE OWNER OF THE OX WHICH IS GORED AND WORTHLESS] TAKES THE OX [WORTH A MANEH, WHICH DID THE GORING].

1. **I:1:** An ox [deemed harmless] worth *a maneh* [a hundred zuz] which gored an ox worth two hundred [zuz], and the carcass [of the latter] is worth nothing – [the owner of the ox which is gored and worthless] takes the ox [worth a *maneh*, which did the goring]. [If] it died or diminished in value, [the owner of the gored ox] has nothing.
2. **I:2:** How does one pay half damages for the excess [of the value of the injury done by the less injured to the more injured one]. An ox which is worth a maneh [a hundred zuz] which gored an ox worth two hundred zuz – they both lost fifty zuz in value – [but] the latter [of the two oxen which gored one another] lost [better: gained] in value another three golden denars [in addition] [the owner of] the latter pays [the owner of] the former a half a golden denar. An ox worth two hundred zuz which gored an ox worth two hundred zuz and did fifty zuz damage – the animal which had been gored gained in value, so that it was worth four hundred zuz – but if [the former ox] had not done injury to it, it would have been worth eight hundred zuz – now, if before the case came to court, the gored ox gained in value, the owner has a claim only for the value of the ox as it stood at the time of its being injured. And if it was after the case came to court that it diminished in value, the owner has a claim only for the value of the ox as it stood at the time the case came to court.
3. **I:3:** What is the Scriptural basis for the opinion of R. Meir? Scripture states, “They shall sell the live ox and divide the proceeds of it” (Ex. 21:35). And how does R. Judah interpret the verse of Scripture, “And

the dead one also they shall divide”? On this basis [we know] that this one loses half of the value of the damage he has suffered, and that one loses half the value of the damage he has caused.

XXIII. YERUSHALMI BABA QAMMA 3:10

[A] **THERE IS HE WHO IS LIABLE FOR THE DEED OF HIS OX AND EXEMPT ON ACCOUNT OF HIS OWN DEED, EXEMPT FOR THE DEED OF HIS OX AND LIABLE ON ACCOUNT OF HIS OWN DEED. HIS OX WHICH INFLICTED EMBARRASSMENT – [THE OWNER] IS EXEMPT. BUT HE WHO INFLICTED EMBARRASSMENT IS LIABLE. HIS OX WHICH BLINDED THE EYE OF HIS SLAVE OR KNOCKED OUT HIS TOOTH – [THE OWNER] IS EXEMPT. BUT HE WHO BLINDED THE EYE OF HIS SLAVE OR KNOCKED OUT HIS TOOTH IS LIABLE. (1) HIS OX WHICH INJURED HIS FATHER OR HIS MOTHER – [THE OWNER] IS LIABLE. BUT HE WHO INJURED HIS FATHER AND HIS MOTHER IS EXEMPT. HIS OX WHICH SET FIRE TO A SHOCK OF GRAIN ON THE SABBATH – [THE OWNER] IS LIABLE. BUT HE WHO SET FIRE TO A SHOCK OF GRAIN ON THE SABBATH IS EXEMPT BECAUSE HE IS SUBJECT TO LIABILITY FOR HIS LIFE:**

- 1. I:1:** [With regard to acts of labor on the Sabbath,] Ben Pedaiah said, “All acts of destruction [on the Sabbath] are exempt from punishment [for violating the Sabbath], except for the act of setting a fire and that of inflicting an injury.” Said R. Yohanan, “In the case of one who sets a fire [on the Sabbath], one is liable only if he needs the ashes. And as to inflicting an injury on the Sabbath, one is liable only if he needs the blood.”

XXIV. YERUSHALMI BABA QAMMA 3:11

[A] **AN OX WHICH WAS RUNNING AFTER ANOTHER OX, AND [THAT LATTER OX] WAS INJURED – THIS ONE CLAIMS, “YOUR OX DID THE INJURY,” AND THAT ONE CLAIMS, “NOT SO, BUT IT WAS HIT BY A STONE” – HE WHO WANTS TO EXACT [COMPENSATION] FROM HIS FELLOW BEARS THE BURDEN OF PROOF. IF TWO [OXEN] WERE RUNNING AFTER ONE [OX] – THIS ONE SAYS, “YOUR OX DID THE DAMAGE,” AND THAT ONE SAYS, “YOUR OX DID THE DAMAGE” – BOTH OF THEM ARE EXEMPT. [BUT] IF BOTH OF THEM BELONGED TO THE SAME MAN, BOTH OF THEM [OXEN] ARE LIABLE [TO PAY COMPENSATION]. [IF] ONE OF THEM WAS BIG AND ONE LITTLE – THE ONE WHOSE OX HAS SUFFERED AN INJURY SAYS, “THE BIG ONE DID THE DAMAGE,” BUT THE ONE WHO IS RESPONSIBLE FOR THE DAMAGE SAYS, “NOT SO, BUT THE LITTLE ONE DID THE DAMAGE” – ONE OF THEM WAS DEEMED HARMLESS, AND ONE WAS AN**

ATTESTED DANGER — THE ONE WHOSE OX HAS SUFFERED AN INJURY SAYS, “THE ONE WHICH WAS THE ATTESTED DANGER HAS DONE THE DAMAGE,” BUT THE ONE WHO IS RESPONSIBLE FOR THE DAMAGE SAYS, “NOT SO, BUT THE ONE WHICH HAD BEEN DEEMED HARMLESS DID THE DAMAGE” — HE WHO WANTS TO EXACT [COMPENSATION] FROM HIS FELLOW BEARS THE BURDEN OF PROOF. [IF] THOSE [OXEN] THAT WERE INJURED WERE TWO, ONE BIG AND ONE SMALL, AND THOSE [OXEN] RESPONSIBLE FOR THE INJURIES WERE TWO, ONE BIG AND ONE SMALL — THE ONE WHOSE OX WAS INJURED SAYS, “THE BIG ONE DID THE DAMAGE TO THE BIG ONE, AND THE LITTLE ONE TO THE LITTLE ONE,” AND THE ONE RESPONSIBLE FOR THE DAMAGE SAYS, “NOT SO, BUT THE BIG ONE INJURED THE LITTLE ONE, AND THE LITTLE ONE INJURED THE BIG ONE” — ONE OF THEM WAS DEEMED HARMLESS AND ONE WAS AN ATTESTED DANGER — THE ONE WHOSE OX HAS SUFFERED AN INJURY SAYS, “THE ONE WHICH WAS THE ATTESTED DANGER DID THE DAMAGE TO THE BIG OX, AND THE ONE WHICH HAD BEEN DEEMED HARMLESS DID THE DAMAGE TO THE LITTLE OX,” AND THE ONE RESPONSIBLE FOR THE DAMAGE SAYS, “NOT SO, BUT THE ONE WHICH HAD BEEN DEEMED HARMLESS INJURED THE BIG OX, AND THE ONE WHICH HAD BEEN AN ATTESTED DANGER INJURED THE LITTLE ONE” — HE WHO WANTS TO EXACT [COMPENSATION] FROM HIS FELLOW BEARS THE BURDEN OF PROOF.

1. **I:1:** R. Yudan raised the question: “As to this appearance in court [in which one party claims that the large beast had done the damage, and to the other party says that the smaller beast had done it], what is the law?” [Do we maintain that the one who conceded the smaller one had done the goring has to pay at least for what he has conceded? Or do we say that the claim was for one thing, the concession for some other, so he need not pay at all?]

XXV. YERUSHALMI BABA QAMMA 4:1

- [A] “AN OX [DEEMED HARMLESS] WHICH GORED FOUR OR FIVE OXEN ONE AFTER THE OTHER, [FIRST] PAYS COMPENSATION TO THE LAST AMONG THEM. IF THERE IS EXCESS [VALUE RECEIVED FROM THE PROCEEDS OF THE OX WHICH HAS DONE THE GORING], ONE GOES ON TO THE ONE BEFORE IT. IF THERE STILL IS EXCESS VALUE, ONE GOES ON TO THE ONE WHICH IS BEFORE THAT ONE. THE LAST [OF THE CLAIM THUS] IS THE ONE WHICH IS GIVEN THE ADVANTAGE,” THE WORDS OF R. MEIR. R. SIMEON SAYS, “AN OX [DEEMED HARMLESS] WORTH TWO HUNDRED [ZUZ] WHICH GORED AN OX WHICH WAS WORTH TWO HUNDRED [ZUZ], AND THE CARCASS [OF THE GORED OX] IS WORTH NOTHING — THIS ONE TAKES A MANEH [A HUNDRED ZUZ], AND THAT ONE TAKES A MANEH. [IF] IT GORED ANOTHER OX, WORTH TWO HUNDRED [ZUZ], THE LAST ONE TAKES A HUNDRED ZUZ AND AS TO THE ONE BEFORE IT — THIS ONE TAKES FIFTY ZUZ,

AND THAT ONE TAKES FIFTY ZUZ. [IF] IT GORED YET ANOTHER OX WORTH TWO HUNDRED, THE LAST ONE TAKES A HUNDRED ZUZ, AND THE ONE BEFORE IT, FIFTY ZUZ, AND THE FIRST TWO [EACH] TAKE A GOLDEN DENAR [TWENTY-FIVE ZUZ].”

1. **I:1:** Said R. Yannai, “[The reasoning of R. Meir [who rules that the latest claim is the one which is given the advantage,] is that [that claimant] comes with a two-sided argument: [From any viewpoint I should not lose the payment of half of the damage I have suffered.] For how do you wish [to lay matters out]? [The last victim thus says to the one before,] ‘If the beast belongs to you, then you must give it to me. ‘If the beast does not belong to you, then hand it over to me, so that I may collect from *its* carcass what is owing to me [anyhow].”
2. **I:2:** With reference to M. 3:9P-V, the dispute of Meir and Judah. The connection between that dispute and the one between Meir and Simeon is as follows: Said R. Yohanan, “What R. Judah has said and what R. Simeon has said are one and the same thing. [Both concur that the owner of the ox which was the victim enjoys rights to the surviving ox only if an act of acquisition is carried out. Otherwise, as we see, the surviving ox is assigned to the ownership only of the original owner, who, to be sure, has to pay damages to the victim, amounting to half the value of the surviving ox.] Just as R. Judah said, ‘He effects an act of acquisition,’ so R. Simeon said, ‘He effects an act of acquisition.”
 - a. **I:3:** We have learned there [M. Ket. 10:4]: He who was married to three wives and died, the marriage contract of this one was a maneh, and that of the next two hundred zuz, and that of the last three hundred – and there is there only a maneh – they divide it equally. [If] there are two hundred, the one who is owed a maneh takes fifty, and the ones who are owed two hundred and three hundred each take three golden denars [seventy-five zuz each]. [If] there were three hundred zuz there, the one who claims a maneh takes fifty zuz, and the one who claims two hundred takes a maneh, and the one who claims three hundred zuz takes six gold denars [one hundred fifty zuz]. And so [three who put their money into] a single purse – if the capital in the end was too little or too much, so would they divide up what was available. [That is, if there are 300, the one who claims 100 takes 50, and so on. The basic idea is that when we have only 100 zuz, all parties claim it. When we have 200, then the first claimant, who was owed only 100 to begin with has no claim to the second, and drops out. When we have 300, the first woman retains a claim only to 100, the second, only to 200, and the third woman gets the whole third, 100 zuz. Thus in the first

instance, we give each woman a third. In the second case, we split up the second 100 (so, for the three, 50, 75, 75). In the third case, we give 50, then 100 (that is, half of the second 100 zuz), and 150 (half of the second 100 zuz and all of the third 100 zuz).] Said R. Bun, “It would appear to me that [when they divide up equally] it is because they have purchased a large pearl [so that the one who contributed the smallest sum] may say, ‘If I had not contributed my denars, you would have been unable to purchase anything [of much value]. [The larger capital made possible whatever profits, since the higher price goes to the more perfect pearl.]’ But if they had purchased something which is routinely divided, they put the profits in the middle and divide them up [in proper proportion]. [Only when the smallest sum has made possible the entire deal is the claim divided as stated. Otherwise, it must be divided in proportion to the invested capital, since there is no reason to assign to the smaller investor a share in the profits greater than the proportion of capital which he put in at the outset.]”

- b. I:4: It has been taught: Three who put their money into one purse, which was stolen from them, bring what is left to the middle and divide it up [in proportion to the capital originally invested] [T. Ket. 10:4A-B]. And has it not been taught [to the contrary, that the division is equal, not proportional]: If they had [contributed] stones [e.g., a house collapsed], and they were stolen, they assign the loss equally half to each partner [without regard to the proportion each had given of the original investment in the house]?
- c. I:5: There we have learned [since the present Talmud derives from Y. Ket. 10:4, it refers to the pericope before us as one from another location]: “[If] it gored yet another ox worth two hundred, the last one takes a hundred zuz, and the one before it, fifty zuz, and the first two [each] take a golden denar [twenty-five zuz].” [All are deemed partners, and this is how the loss is assigned to each, in accord with the proportion of the capital which each has contributed.]

XXVI. YERUSHALMI BABA QAMMA 4:2

[A] AN OX WHICH IS AN ATTESTED DANGER AS TO ITS OWN SPECIES, BUT NOT AN ATTESTED DANGER AS TO WHAT IS NOT ITS OWN SPECIES — [OR] AN ATTESTED DANGER AS TO MAN, BUT NOT AN ATTESTED DANGER AS TO BEAST, [OR] AN ATTESTED DANGER TO SMALL [BEASTS] BUT NOT AN ATTESTED DANGER AS TO LARGE ONES — FOR INJURIES DONE TO THAT FOR WHICH IT IS AN ATTESTED

DANGER, [THE OWNER] PAYS FULL DAMAGES, AND FOR INJURIES DONE TO THAT FOR WHICH IT IS NOT AN ATTESTED DANGER, HE PAYS HALF-DAMAGES. THEY SAID BEFORE R. JUDAH, “LO, WHAT IF IT WAS AN ATTESTED DANGER FOR SABBATHS BUT NOT AN ATTESTED DANGER FOR ORDINARY DAYS?”

1. **I:1:** [or an attested danger as to man, but not an attested danger as to beast] Once the ox has killed a single man, is he not an at tested danger? [How then should there be an occasion for the ox to be declared an attested danger, since it is put to death for killing one man, and we do not wait for it to kill three?]
2. **I:2:** Now if an ox went out on Sunday and gored an ox, on Monday and gored a dog, on Tuesday and gored a pig, on account of the three kinds of animal which it has gored on three successive days, what is the law as to declaring it an attested danger? [This question is not answered.] If an ox went out on the first day and gored, on the second did not go out at all, and on the third day went out and gored – [in raising this question] we have come to the dispute of R. Ada bar Ahva and R. Huna.

[B] **HE SAID TO THEM, “FOR DAMAGE DONE ON SABBATHS [THE OWNER] PAYS FULL DAMAGES, AND FOR DAMAGE DONE ON ORDINARY DAYS [THE OWNER] PAYS HALF-DAMAGES.” WHEN IS IT THEN DEEMED TO BE HARMLESS? WHEN IT REFRAINS [FROM DOING DAMAGES] FOR THREE SUCCESSIVE SABBATHS.**

1. **II:1:** We reflected, What is the reason of R. Judah [at M. 4:2G, I]?

XXVII. YERUSHALMI BABA QAMMA 4:3

[A] **AN OX OF AN ISRAELITE WHICH GORED AN OX BELONGING TO THE SANCTUARY – OR AN OX BELONGING TO THE SANCTUARY WHICH GORED AN OX BELONGING TO AN ISRAELITE – [THE OWNER] IS EXEMPT, SINCE IT IS SAID, “THE OX BELONGING TO HIS NEIGHBOR” (EX. 21:35) – AND NOT AN OX BELONGING TO THE SANCTUARY. AN OX BELONGING TO AN ISRAELITE WHICH GORED AN OX BELONGING TO A GENTILE – [THE ISRAELITE OWNER] IS EXEMPT. AND ONE OF A GENTILE WHICH GORED ONE OF AN ISRAELITE – WHETHER IT IS HARMLESS OR AN ATTESTED DANGER, [THE GENTILE OWNER] PAYS FULL DAMAGES.**

1. **I:1:** Rab said, “‘He looked and loosened the nations’ (Habakkuk 3:6) – he loosened [restrictions protecting] idolaters’ capital.” Hezekiah said, “‘... and shone forth from Mount Paran’ (Deut. 33:2) – he turned his face against the idolaters.”

2. **I:2:** R. Abbahu in the name of R. Yohanan said, “It is in accord with their law [that there is no difference between an ox deemed harmless and one which is an attested danger].”
3. **I:3:** M’SH S: The Government sent two officers to study Torah from Rabban Gamaliel. They studied with him Scripture, Mishnah, Talmud, laws, and lore. At the end they said to him, “The whole of your Torah is beautiful and praiseworthy, except for these two rules which you state: An Israelite girl should not serve as a midwife to a gentile woman, because she serves to bring forth a child for the service of idolatry. But a gentile woman may serve as a midwife to an Israelite girl. An Israelite girl should not give suck to the child of a gentile woman. But a gentile woman may give suck to the child of an Israelite girl, when it is by permission [M. A.Z. 2:1G-L] “What is stolen from an Israelite is prohibited, but from a gentile is permitted.” At that moment Rabban Gamaliel issued a decree against stealing from a gentile, declaring it forbidden because of the profanation of God’s name. ““An ox belonging to an Israelite which gored an ox belonging to a gentile – [the Israelite owner] is exempt. And one of a gentile which gored one of an Israelite – whether it is harmless or an attested danger, [the gentile owner] pays full damages. “This matter, too, we cannot concede [to be just].” Even so, they had not reached the Ladder of Tyre before they had forgotten everything they learned.

XXVIII. YERUSHALMI BABA QAMMA 4:4

[A] AN OX OF A PERSON OF SOUND SENSES WHICH GORED AN OX BELONGING TO A DEAF-MUTE, AN IDIOT, OR A MINOR – [THE OWNER] IS LIABLE. BUT ONE OF A DEAF-MUTE, IDIOT, OR MINOR WHICH GORED AN OX BELONGING TO A PERSON OF SOUND SENSES – [THE OWNER] IS EXEMPT. [AS TO] THE OX OF A DEAF-MUTE, IDIOT, OR MINOR, THE COURT APPOINTS A GUARDIAN FOR THEM, AND THEY BRING TESTIMONY AGAINST [THE OX, TO HAVE IT DECLARED AN ATTESTED DANGER] TO THE GUARDIAN. [IF] THE DEAF-MUTE GAINED CAPACITY TO HEAR, THE IDIOT REGAINED HIS SENSES, OR THE MINOR REACHED MATURITY, “[AN OX BELONGING TO ONE OF THEM WHICH HAD BEEN DECLARED AN ATTESTED DANGER] HAS RETURNED TO ITS STATUS OF BEING DEEMED HARMLESS,” THE WORDS OF R. MEIR. YOSÉ SAYS, “LO, IT REMAINS IN ITS ESTABLISHED STATUS.”

1. **I:1:** The meaning of the Mishnah pericope is, “An ox belonging to a deaf-mute,” “an ox belonging to an idiot,” “an ox belonging to a minor.”

2. **I:2:** [If] it committed manslaughter in his domain, and afterward he handed it back to the owner, if before the court process concerning it was complete, he had handed it back to the owner, he is exempt. [If] after the court process concerning it was complete, he had handed it back to the owner, he is liable. R. Jacob says, “Also: if he handed it back to the owner after its court process was complete but before it was stoned, he is exempt” [T. B.Q. 5:4F-I].
 3. **I:3:** Said R. Yohanan, “To begin with they appoint a guardian not to incur liability in behalf of [an orphan] but to gain advantage [in his behalf]. But if the guardian should incur a liability [as at M. 4:4D], it is a valid act.” R. Yosé b. Haninah said, “Whether to begin with or after the fact, they do not appoint a guardian for orphans either to gain an advantage for them or to incur a liability for them.”
 4. **I:4:** An ox belonging to orphans which is presently in the possession of a guardian which went out and did damage – what is the law [as to exacting payment]? [Does the compensation come from the guardian’s own property?] R. Yohanan said, “The compensation is exacted from the property of the orphans, for if you rule that it comes from the guardian, then no one will ever agree to be appointed a guardian.” R. Yosé b. Haninah said, “It is paid by the guardian.”
- [B] AN OX BELONGING TO THE STADIUM [TRAINED TO FIGHT OTHER OXEN OR MEN] IS NOT LIABLE TO THE DEATH PENALTY, SINCE IT IS SAID, “WHEN IT WILL GORE,” (EX. 21:28) AND NOT, “WHEN OTHERS WILL CAUSE IT TO GORE.”**
1. **II:1:** Said Abba bar R. Huna, “[In the light of M. 4:4H, An ox belonging to the stadium is not liable to the death penalty.] one may draw the conclusion that he who incites his neighbor’s ox to go and commit mayhem is liable for the injuries caused thereby. [The ox of the stadium is exempt as regards the death penalty, but liable for property damages, and the rest follows.]

XXIX. YERUSHALMI BABA QAMMA 4:5

- [A] AN OX WHICH GORED A MAN, WHO DIED – [IF IT WAS] AN ATTESTED DANGER, [THE OWNER] PAYS A RANSOM PRICE [OF THE VALUE OF THE DECEASED]. BUT [IF IT WAS DEEMED] HARMLESS, HE IS EXEMPT FROM PAYING THE RANSOM PRICE. AND IN THIS CASE AND IN THAT CASE, [THE OXEN] ARE LIABLE TO THE DEATH PENALTY. AND SO IS THE RULE [IF IT KILLED] A LITTLE BOY OR GIRL [SON, DAUGHTER: EX. 21:31]. [IF] IT GORED A BOY SLAVE OR A GIRL SLAVE,**

[THE OWNER] PAYS THIRTY SELAS [Ex. 21:32], WHETHER [THE SLAVE] WAS WORTH A MANEH OR A SINGLE DENAR.

1. **I:1:** It was taught: “[When an ox gores a man or a woman to death, the ox shall be stoned, and its flesh shall not be eaten;] but the owner of the ox shall be clear. [But if the ox has been accustomed to gore in the past, and its owner has been warned but has not kept it in, and it kills a man or a woman, the ox shall be stoned and its owner shall be put to death. If a ransom is laid on him, then he shall give for the redemption of his life whatever is laid upon him’ (Ex. 21:28-30).] [The owner shall be clear of having to pay even] half of the assigned ransom,” the words of R. Eliezer [= M. 4:5C]. Said to him R. Aqiba, “Rabbi! Is it not so that [the ox which gored is] first taken to be stoned, which is the more stringent penalty? [The Scripture cannot possibly mean merely that he is exempt from paying a half ransom in the case of the ox deemed harmless, since that is self-evident. If the ox is stoned, whence will come the funds for a half ransom? Since in the case of an ox deemed harmless, the funds derive from the sale of the beast, and since this beast is not available for that purpose, Scripture cannot possibly intend such an obvious fact as has been presented at A.]”
 - a. **I:2:** Said R. Yosa, “I heard a teaching of R. Samuel b. R. Isaac in this regard, but I am not sure what it is that I heard.” Said to him R. Zeira, “Perhaps this is what it is: At the outset Scripture speaks only of an ox deemed harmless [= Ex. 21:28]. “The Scripture then went and made explicit reference to the ox which was an attested danger’s being subject to ransom [Ex. 21 :29-30].The Scripture went and made explicit reference to both of their being liable to pay compensation for the damages which they have caused [= Ex. 21:31-32]. Is it possible to maintain that just as the Scripture made explicit reference to the liability for their paying compensation for damages [at Ex. 21:29-30], so it made explicit that the owner must pay for the value of the slave [Ex. 21:32]? Scripture says, ‘And the owner of the ox is clear’ – clear of paying the value of the slave [in the case of the ox deemed harmless]. [The two sorts of beast are not treated the same way in this regard.]”
 - i. **I:3:** Said R. La, “In every other place you impose a stricter rule on the case involving a slave than on anyone else. For even if it is a slave afflicted with boils, one has to pay thirty selas if he kills him [no matter his actual value]. [Here perhaps an ox deemed innocent should also pay in the case of a slave? Hence the need for Aqiba’s exegesis.]”

- II. I:4: How do we know that the injuries done to the slave must be compensated?

XXX. YERUSHALMI BABA QAMMA 4:6

[A] AN OX WHICH WAS RUBBING ITSELF AGAINST A WALL, AND [THE WALL] FELL ON A MAN, [IF] IT HAD INTENDED TO KILL (1) ANOTHER BEAST, BUT KILLED A MAN, (2) A GENTILE BUT KILLED AN ISRAELITE, (3) AN UNTIMELY BIRTH BUT KILLED A VIABLE INFANT – [THE OX] IS EXEMPT.

1. **I:1:** And he who kills a man [shall be put to death]” (Lev. 24:17). This is meant to encompass one who hits another, in which blow there is sufficient force to cause death; [e.g., if two people hit a man in succession, the latter, whose blow has caused the death, is culpable].
2. **I:2:** “And if [the ox] kills a man or a woman...” (Ex. 21:29 Just as a man bequeaths to his children the funds coming to him in compensation for his injuries, so a woman bequeaths to her children the funds coming to her in compensation for her injuries.
3. **I:3:** It was taught: He who sells an ox to his fellow, and the ox turned out to be wont to gore – Rab said, “It is a sale made in error [and null].” And Samuel said, “[The seller] has the right to claim, ‘I sold it to you for slaughter’ [and did not misrepresent the matter].”
4. **I:4:** “If a ransom is laid on him [whose ox kills a man], then he shall give for the redemption of his life [whatever is laid upon him]” (Ex. 21:30). There are Tannaim who teach, Reference is made to the life of the party responsible for the injury [the life of the owner of the ox]. [This is without regard to the value of the victim. The whole of it then is deemed to be a fine, not monetary compensation for damages.] There are Tannaim who teach, Reference is made to the life of the party which has suffered the injury.

XXXI. YERUSHALMI BABA QAMMA 4:7

[A] (1) AN OX BELONGING TO A WOMAN, (2) AN OX BELONGING TO ORPHANS, (3) AN OX BELONGING TO A GUARDIAN, (4) AN OX OF THE WILDERNESS, (5) AN OX BELONGING TO THE SANCTUARY, (6) AN OX BELONGING TO A PROSELYTE WHO DIED LACKING HEIRS – LO, THESE [OXEN] ARE LIABLE TO THE DEATH PENALTY. JUDAH SAYS, “(4) AN OX OF THE WILDERNESS, (5) AN OX

BELONGING TO THE SANCTUARY, AND (6) THE OX OF A PROSELYTE WHO DIED ARE EXEMPT FROM LIABILITY TO THE DEATH PENALTY, “FOR THEY ARE NOT SUBJECT TO A PARTICULAR OWNER.”

1. **I:1:** What is the Scriptural basis for the position of R. Judah?
2. **I:2:** R. Hoshaiiah taught, “As regards injuries which they inflict, R. Meir declares them liable, and R. Judah declares them exempt.”

XXXII. YERUSHALMI BABA QAMMA 4:8

[A] AN OX WHICH GOES FORTH TO BE STONED, AND WHICH THE OWNER [THEN] DECLARED TO BE SANCTIFIED IS NOT DEEMED TO HAVE BEEN SANCTIFIED. **[IF]** ONE HAS SLAUGHTERED IT, ITS MEAT IS PROHIBITED (**EX. 21:28**). **BUT IF** BEFORE THE COURT PROCESS HAD BEEN COMPLETED THE OWNER DECLARED IT SANCTIFIED, IT IS DEEMED SANCTIFIED. **AND [IF]** ONE HAD SLAUGHTERED IT, ITS MEAT IS PERMITTED.

1. **I:1:** It was taught: An ox which was going forth to be stoned, and the witnesses against it turned out to be perjurers – R. Yohanan said, “Whoever grabbed the ox first has acquired possession of it [since it is ownerless].” R. Simeon b. Laqish said, “It is a case in which it has been deemed ownerless by reason of an error [and it remains the property of the original owner].”

XXXIII. YERUSHALMI BABA QAMMA 4:9

[A] **[IF]** ONE HAD HANDED IT OVER TO AN UNPAID BAILEE, OR TO A BORROWER, TO A PAID BAILEE, OR TO A RENTER, THEY TAKE THE PLACE [AND ASSUME THE LIABILITIES] OF THE OWNER. **[FOR AN OX DEEMED AN]** ATTESTED DANGER **[ONE OF THESE]** PAYS FULL DAMAGES, AND **[FOR ONE]** DEEMED HARMLESS **[HE]** PAYS HALF-DAMAGES. **[IF]** THE OWNER TIED IT UP WITH A HALTER, OR LOCKED IT UP IN A PROPER WAY, AND IT WENT OUT AND DID DAMAGE – “**ALL THE SAME ARE AN ANIMAL DEEMED HARMLESS AND ONE WHICH IS AN ATTESTED DANGER – “[THE OWNER] IS LIABLE,” THE WORDS OF R. MEIR. JUDAH SAYS, “[THE OWNER OF AN ANIMAL DEEMED] HARMLESS IS LIABLE, BUT ONE REGARDED AS AN ATTESTED DANGER IS EXEMPT, “SINCE IT IS SAID, ‘AND IT HAS BEEN TESTIFIED TO ITS OWNER, BUT HE DID NOT KEEP HIM IN’ (EX. 21:29) – “BUT THIS ONE HAS BEEN KEPT IN.”**

1. **I:1:** [At issue is whether the character of the guardianship of an ordinary beast must be routine or extraordinary. As we shall now see,

Meir maintains that a perfectly routine watch over the beast suffices, and one need not take extraordinary measures. Judah holds that one must take exceptional measures to prevent a beast from getting out and causing damages. The former then compares what is required from the owner to what is required from an unpaid bailee, and the latter, from a paid bailee, whose liabilities are more severe. When, in Meir's view, Scripture requires the owner to guard the beast which is an attested danger, then, in the case of keeping the beast from doing damage to others, Scripture insists on the highest quality of guardianship, and that is why Meir holds the man responsible, in the theory that Scripture has imposed a more stringent rule than would otherwise prevail. Judah, by contrast, regards the intrusion of Scripture as rendering more lenient what is by logic a more strict rule. Hence if one has provided the necessary precautions, as in the case of an attested danger, no further liability will be incurred, this by Scriptural decree. So Scripture intervenes and removes liability in the case of the beast declared an attested danger, which accounts for the distinction of M.. 4:9L-M. This is expressed in the following somewhat abbreviated language:] Said R. Eleazar, "In the view of R. Meir, the sort of precautions to be taken against the beast's doing damage is equivalent to the sort of precautions to be supplied by an unpaid bailee [whose liabilities are minimal]. In the view of R. Judah, the sort of precautions to be taken against the beast's doing damage is equivalent to the sort of precautions to be supplied by a paid bailee [whose liabilities are encompassing, and who must hence provide substantially more protection]."

[B] R. ELIEZER SAYS, "THE ONLY APPROPRIATE 'KEEPING IN' FOR SUCH AN ANIMAL [AS IS AN ATTESTED DANGER] IS THE KNIFE."

- 1. II:1:** Said R. Eleazar, "And is this beast not guarded? And yet the Torah has declared him liable [hence, the sort of control which is required in fact is slaughtering the dangerous beast]. [No sort of precautions suffice, and the meaning of the Scripture when it says, 'He shall not guard him' is that mere precautions are not enough!]"

XXXIV. YERUSHALMI BABA QAMMA 5:1

[A] AN OX [DEEMED HARMLESS] WHICH GORED A COW [WHICH DIED] AND HER NEWLY BORN CALF WAS FOUND [DEAD] BESIDE HER — AND IT IS NOT KNOWN WHETHER, BEFORE IT GORED HER, SHE GAVE BIRTH, OR AFTER IT GORED HER, SHE GAVE BIRTH — [THE OWNER OF THE OX] PAYS HALF-DAMAGES FOR THE COW, AND QUARTER-DAMAGES FOR THE OFFSPRING.

1. **I:1:** Now do all cows miscarry? We should follow the pattern of the majority and maintain that after being gored the cow aborted. [Most cows do not miscarry. In this case it surely was because of being gored that the cow lost the calf, and so the owner of the ox should have to pay half damages for the calf (M. 5:1A).]

[B] [THE OWNER OF THE COW] PAYS HALF-DAMAGES FROM THE CORPUS OF THE COW, AND A QUARTER-DAMAGES FROM THE CORPUS OF THE OFFSPRING.

1. **II:1:** [As to M. 5:1F, If the owner of the cow pays half damages from the corpus of the cow, and quarter damages from the corpus of the offspring, then the owner of the ox which was gored gets three-quarter damages. Yet the cow was deemed harmless, so the owner of the ox which was gored gets only half damages,] said R. Yannai, “Thus is the meaning of the law of the Mishnah: ‘[We deal with a case in which the cow which gored is owned by one party, and the offspring is owned by another. Accordingly,] the owner of the cow pays half damages from the corpus of the cow, and the owner of the offspring pays the owner of the cow a quarter [of what the latter had paid to the owner of the victim].’”

[C] AND SO, TOO, A COW [DEEMED HARMLESS] WHICH GORED AN OX, AND HER NEWLY BORN YOUNG WAS FOUND BESIDE HER, AND IT IS NOT KNOWN WHETHER BEFORE SHE GORED, SHE GAVE BIRTH, OR AFTER SHE GORED, SHE GAVE BIRTH –

1. **III:1:** R. Bun bar Kahana raised the question before R. Immi: “Because it is subject to doubt [that we do not know whether or not the offspring had been born, the victim collects first of all from the corpus of the cow which did the goring]. [Then he goes to the owner of the offspring to collect his share.] But if it were a matter of certainty [that after the calf was born, the goring took place, and we know for sure that the cow gored and the newborn calf also gored (!)], then does this party [owner of the cow] pay half damages, and that party [owner of the offspring] pay half damages? [So will the owner of the gored ox collect whole damages, when his ox has been gored by two cows which were deemed harmless prior to the goring?] Am I supposed to rule thus: in a case in which one party owns the foot of a cow, and another party owns all the rest of the cow, this party pays half of the damages, and that party pays half of the damages?!”

- a. **III:2:** Said R. Simeon b. Laqish, “All of these traditions are to be assigned to the authority of Levi [and not to the authority of the Tosefta, which belongs to Hiyya, or to the corpus of external Tannaite teachings which belongs to Hoshaiyah, and, consequently, we pay no heed to these teachings in any case].”

XXXV. YERUSHALMI BABA QAMMA 5:2

[A] (1) THE POTTER WHO BROUGHT HIS POTS INTO THE COURTYARD OF THE HOUSEHOLDER WITHOUT PERMISSION, AND THE BEAST OF THE HOUSEHOLDER BROKE THEM — [THE HOUSEHOLDER] IS EXEMPT. (2) AND IF [THE BEAST] WAS INJURED ON THEM, THE OWNER OF THE POTS IS LIABLE. (3) IF [HOWEVER], HE BROUGHT THEM IN WITH PERMISSION, THE OWNER OF THE COURTYARD IS LIABLE,

1. I:1: [If] he brought his pots into the courtyard of a householder without permission, and an ox came from some other locale [also] without permission, and broke them, [the owner of the courtyard] is exempt. And if he was injured by them, the owner of the pots is exempt [T. B.Q. 5:10].

XXXVI. YERUSHALMI BABA QAMMA 5:3

[A] (1) [IF] HE BROUGHT HIS PRODUCE INTO THE COURTYARD OF THE HOUSEHOLDER WITHOUT PERMISSION, AND THE BEAST OF THE HOUSEHOLDER ATE THEM UP, [THE HOUSEHOLDER] IS EXEMPT. (2) AND IF [THE BEAST] WAS INJURED BY THEM, THE OWNER OF THE PRODUCE IS LIABLE. (3) BUT IF HE BROUGHT THEM IN WITH PERMISSION, THE OWNER OF THE COURTYARD IS LIABLE. AND AN OX CAME FROM SOME OTHER LOCALE AND ATE THEM UP, HE IS EXEMPT. AND IF HE WAS INJURED BY THEM, THE OWNER OF THE PRODUCE IS EXEMPT

1. I:1: [If] he brought his produce into the courtyard of the householder without permission, and an ox from some other location came along and ate them up, [the householder] is exempt And if he was injured by them, the owner of the produce is exempt [T. B.Q. 5:11].

XXXVII. YERUSHALMI BABA QAMMA 5:4

[A] (1) [IF] HE BROUGHT HIS OX INTO THE COURTYARD OF A HOUSEHOLDER WITHOUT PERMISSION, AND THE OX OF THE HOUSEHOLDER GORED IT, OR THE DOG OF THE HOUSEHOLDER BIT IT, [THE HOUSEHOLDER] IS EXEMPT. (2) [IF] THAT [OX] GORED THE OX OF THE HOUSEHOLDER, [THE OWNER] IS LIABLE. [IF] IT FELL INTO HIS WELL AND POLLUTED ITS WATER, [THE OWNER OF THE OX] IS LIABLE. [IF] HIS FATHER OR SON WAS IN [THE WELL AND WAS KILLED], [THE OWNER OF THE OX] PAYS RANSOM MONEY. (3) BUT IF HE BROUGHT IT IN WITH PERMISSION, THE OWNER OF THE COURTYARD IS LIABLE. RABBI SAYS, “IN ALL

CASES [THE HOUSEHOLDER] IS LIABLE ONLY IF HE UNDERTAKES UPON HIMSELF TO GUARD THE OX.”

1. **I:1:** [If] one brought his ox into the courtyard of a householder with permission, and an ox came from some other locale [also] without permission and gored, butted, bit, lay down, or kicked – R. Meir says, “[The owner of the latter] pays full damages.” And sages say, “For damage done by tooth or foot, [the owner] pays full damages. For goring, butting, biting, lying down, or kicking, the owner of a beast which was an attested danger [also] pays full damages. But the owner of a beast which was deemed harmless pays [only] half damages” [T. B.Q. 5:9].
 - a. **I:2:** There we have learned: He who stacks sheaves in the field of his fellow without permission. and the beast of the owner of the field ate them up – the owner of the field is exempt [M. 6:3C] [But if he did so with permission, the owner of the field is liable (M. 6:3) Now here Rabbi does not introduce his qualification.] But are sheaves in the field equivalent to utensils in the house? [Obviously not, so why should Rabbi have to insist that the liability is incurred only when the householder has explicitly taken upon himself to keep watch over the sheaves? The oxen in the field surely are expected to munch on the grain there.]

XXXVIII. YERUSHALMI BABA QAMMA 5:5

[A] AN OX WHICH WAS INTENDING [TO GORE] ITS FELLOW, BUT HIT A WOMAN, AND HER OFFSPRING CAME FORTH [AS A MISCARRIAGE] – [THE OWNER OF THE OX] IS EXEMPT FROM PAYING COMPENSATION FOR THE OFFSPRING. AND A MAN WHO WAS INTENDING [TO HIT] HIS FELLOW BUT HIT A WOMAN, AND HER OFFSPRING CAME FORTH [DEAD], PAYS COMPENSATION FOR THE OFFSPRING. HOW DOES ONE ASSESS COMPENSATION FOR OFFSPRING? THEY MAKE AN ESTIMATE OF THE WOMAN’S VALUE BEFORE SHE GAVE BIRTH, AND HOW MUCH SHE IS WORTH NOW. SAID RABBAN SIMEON B. GAMALIEL, “IF SO, ONCE A WOMAN GIVES BIRTH, SHE SHOULD GAIN IN VALUE!” “BUT: THEY MAKE AN ESTIMATE OF THE OFFSPRING’S VALUE.” AND ONE PAYS THE HUSBAND (EX. 21:22). BUT IF SHE DOES NOT HAVE A HUSBAND, [THE OWNER OF THE OX] PAYS THE [HUSBAND’S] HEIRS. [IF] SHE WAS A SLAVE GIRL WHO WAS FREED, OR A CONVERT, [THE MAN] IS EXEMPT [FROM PAYING COMPENSATION].

1. **I:1:** An ox which intended to gore its fellow: Lo, if it intended to gore the woman, will [the owner of the ox] be liable [to pay compensation for the offspring]? [But Scripture speaks of a man’s liability, not an

ox's, to pay compensation for the offspring.] And there is [in fact] no difference between its intending to gore its fellow, and its intending to gore a woman. Then why has the tradition been formulated as it has here, [that is, intending to gore its fellow –., when, even if it intended to gore the woman and did gore the woman, the owner will be exempt from paying compensation for the miscarriage]?

2. **I:2:** It was taught: He who says to his fellow, “A slave-girl of childbearing age I sell to you” – [the fact that she is yet able to bear children increases her value. Rabban Simeon b. Gamaliel says, “[The purchaser of a breeding slave] may say, ‘It is my creation’ [damages for injury to the slave’s embryo belong to him].”
3. **I:3:** It is written, “When men strive together and hurt a woman with child so that there is a miscarriage, and yet no harm follows, the one who hurt her shall be fined...” (Ex. 21:22). Abba Yosé b. Hanan says, “From the basic meaning of Scripture’s statement ‘And there is a miscarriage,’ do I not know that she is with child? “Why then is it specified that she is with child? “Scripture so states to indicate that one is liable only if he hits her in the belly [‘the place of her offspring’].”
4. **I:4:** R. Yosa in the name of R. Yohanán: “Foetuses [in the womb of a serving girl] do not go forth to freedom [if they lose] a tooth or an eye [at the master’s doing].”

XXXIX. YERUSHALMI BABA QAMMA 5:6

[A] HE WHO DIGS A PIT IN PRIVATE DOMAIN AND OPENS IT INTO PUBLIC DOMAIN, OR IN PUBLIC DOMAIN AND OPENS IT INTO PRIVATE DOMAIN, OR IN PRIVATE DOMAIN AND OPENS IT INTO PRIVATE DOMAIN BELONGING TO SOMEONE ELSE, IS LIABLE [FOR DAMAGE DONE BY THE PIT].

1. **I:1:** It is written, “When a man leaves a pit open, or when a man digs a pit and does not cover it, [and an ox or an ass falls into it, the owner of the pit shall make it good]” (Ex. 21:33-34). [The repeated reference to pit means that] all the same are pits so far as causing damage and so far as causing death are concerned.

[B] HE WHO DIGS A PIT IN PUBLIC DOMAIN, AND AN OX OR AN ASS FELL INTO IT AND DIED, IS LIABLE. IT IS ALL THE SAME WHETHER ONE DIGS A PIT, A TRENCH, CAVERN, DITCHES, OR CHANNELS – HE IS LIABLE. IF SO, THEN WHY IS IT WRITTEN IN PARTICULAR, “A PIT” (EX. 21:33)? JUST AS A PIT UNDER DISCUSSION IS ONE WHICH IS SUFFICIENTLY DEEP SO AS TO CAUSE DEATH, NAMELY, TEN HANDBREADTHS IN DEPTH, SO ANYTHING WHICH IS SUFFICIENTLY

DEEP SO AS TO CAUSE DEATH WILL BE AT LEAST TEN HANDBREADTHS IN DEPTH. [IF] THEY WERE LESS THAN TEN HANDBREADTHS IN DEPTH AND AN OX OR AN ASS FELL INTO IT AND DIED, [THE OWNER] IS EXEMPT. BUT IF THEY WERE INJURED IN IT, HE IS LIABLE.

- 1.** **II:1:** Now does one have the right [to dig a pit in the public domain and to] abandon property of his which causes injuries in the public domain? [The implication read into the clause of the Mishnah is that if one actually digs the pit in the public domain and declares it ownerless, he then would be exempt from liability. Now why should that be so? Does he have the right to abandon...?]
- 2.** **II:2:** R. Mana raised the question: “What is the law as to treating the measurement for depth as applicable to a height? [That is, if one sets up an obstacle ten handbreadths high, and one is injured on it, is one liable under the law of ‘pit’? Or is the liability only on account of digging a hole, but not on account of setting up a pillar?]”

XL. YERUSHALMI BABA QAMMA 5:7

[A] A PIT BELONGING TO TWO PARTNERS — ONE OF THEM PASSED BY IT AND DID NOT COVER IT, AND THE SECOND ONE ALSO DID NOT COVER IT — THE SECOND ONE IS LIABLE. [IF] THE FIRST ONE COVERED IT UP, AND THE SECOND ONE CAME ALONG AND FOUND IT UNCOVERED AND DID NOT COVER IT UP. THE SECOND ONE IS LIABLE.

- 1.** **I:1:** How is it possible for a pit to belong to two partners? [If it is located in the public domain, then only the one who completed the digging of the pit bears responsibility for it.]
- 2.** **I:2:** If one of them passed by and did not cover. and the second one also did not cover it — the second one is liable: [What if the first party learns that the pit was uncovered?] R. Ba bar Bizna, R. Yosa in the name of R. Yohanán: “They give [the first party] an interval of time in which to cut cedars of Lebanon [and to cover up the pit]. [If after that interval he fails to do so, then he too bears full liability along with the second party.]”

[B] [IF] HE COVERED IT UP IN A PROPER WAY, AND AN OX OR AN ASS FELL INTO IT AND DIED, HE IS EXEMPT. [IF] HE DID NOT COVER IT UP IN THE PROPER WAY AND AN OX OR AN ASS FELL INTO IT AND DIED, HE IS LIABLE.

- 1.** **II:1:** What would constitute a proper way of covering it up?

[C] [If] IT FELL FORWARD [NOT INTO THE PIT] BECAUSE OF THE SOUND OF THE DIGGING, [THE OWNER OF THE PIT] IS LIABLE. [If] IT FELL BACKWARD [NOT INTO THE PIT] BECAUSE OF THE SOUND OF THE DIGGING, [THE OWNER OF THE PIT] IS EXEMPT.

1. **III:1:** [If it fell because of the sound of the digging, the owner of the pit is liable: Said R. Yannai, “[If the beast fell] into the pit, whether it fell forward or whether it fell backward, he is exempt. If it fell outside of the pit, if it fell forward he is exempt. If it fell backward, he is liable.”

[D] [If] AN OX CARRYING ITS TRAPPINGS FELL INTO IT AND THEY WERE BROKEN, AN ASS AND ITS TRAPPINGS AND THEY WERE SPLIT, [THE OWNER OF THE PIT] IS LIABLE FOR THE BEAST BUT EXEMPT FOR THE TRAPPINGS.

1. **IV:1:** Samuel said, “[The owner of the pit is exempt from paying damages for the trappings in a case] in which the trappings were torn [damaged] by reason of the [overheated] air space of the pit, but if they struck the ground, he is liable. [Samuel thus maintains that one is liable for the trappings when they were damaged by the ground of the pit itself, and that position is based on an acute reading of the Mishnah’s explication of *and its* trappings, which must mean to imply the stated distinction.]” R. Yohanan and R. Simeon b. Laqish both maintain, “Even if the trappings struck the ground, the owner of the pit is exempt. [For what breaks] in falling has the Torah declared the owner of the pit to be exempt. [The Torah refers to [an ox or an ass, thus excluding its trappings.]”
2. **IV:2:** “And an ox or an ass falls into it” (Ex. 21:33 “An ox,” and not an ox and its trappings; “an ass,” and not an ass and its trappings.

[E] [If] AN OX BELONGING TO A DEAF-MUTE, AN IDIOT, OR A MINOR FELL INTO IT, [THE OWNER] IS LIABLE.

1. **V:1:** Said R. Eleazar, “Thus is the actual meaning of the Mishnah’s statement: If it is an ox which is a deaf-mute, or an ox which is deranged, the owner is liable. But if it is an ox in full command of its senses, [the owner of the pit is exempt from liability, since the ox is expected to watch where it walks].”

[F] [If] A LITTLE BOY OR GIRL, A SLAVE BOY OR A SLAVE GIRL [FELL INTO IT], HE IS EXEMPT [FROM PAYING A RANSOM].

1. **VI:1:** [for Scripture speaks of the owner of the pit’s then owning the carcass, and to these there is no such applicable cause (cf. T. B.Q. 6:14H)]

XLI. YERUSHALMI BABA QAMMA 5:8

[A] ALL THE SAME ARE AN OX AND ALL OTHER BEASTS SO FAR AS (1) FALLING INTO A PIT, (2) KEEPING APART FROM MOUNT SINAI (EX. 19:12), (3) PAYING A DOUBLE INDEMNITY [IN THE CASE OF THEFT, EX. 22:7], (4) THE RETURNING OF THAT WHICH IS LOST (DEUT. 22:3, EX. 23:4) (5), UNLOADING (EX. 23:5), (6) MUZZLING (DEUT. 25:4), (7) HYBRIDIZATION (LEV. 19:19, DEUT. 22:10), AND THE (8) SABBATH (EX. 20:10, DEUT. 5:14).

1. **I:1:** As to falling into a pit: “And an ox or an ass falls into it” (Ex. 21:33). As to keep apart from Mount Sinai: “Whether beast or man, he shall not live” (Ex. 19:13). As to a double indemnity! “Whether it is for ox, or ass, [or sheep]...” (Ex. 22:9). As to returning that which is lost: “[If you meet your enemy’s ox or his ass going astray,] you shall bring it back to him (Ex. 23:4). As to unloading: “[If you see the ass of one who hates you lying under its burden,] you shall refrain from leaving [him with it]” (Ex. 23:5). As to muzzling: “You shall not muzzle an ox in its treading” (Deut. 25:4). As to hybridization: “You shall not let your cattle breed with a different kind” (Lev. 19:19). As to the Sabbath: “that your ox or your ass... may rest...” (Deut. 5:14).

[B] AND SO, TOO, ARE WILD BEASTS AND FOWL SUBJECT TO THE SAME LAWS. **IF SO, WHY IS AN OX OR AN ASS SPECIFIED? BUT SCRIPTURE SPEAKS IN TERMS OF PREVAILING CONDITIONS.**

1. **II:1:** Samuel said, “A duck which lives in the sea and one which is domesticated are deemed heterogeneous [‘mixed’ vis-[^]-vis one another].” Said R. Yosé, “The Tannaitic teaching does not maintain that position, except with regard to an ox with a wild ox, an ass with a wild ass, which are deemed ‘mixed’ with one another.” R. Simeon b. Laqish said, “Indeed an explicit pericope of Mishnah has Rabbi taught [to that effect]:..And so too are wild beasts and fowl subject to the same laws”

XLII. YERUSHALMI BABA QAMMA 6:1

[A] HE WHO BRINGS A FLOCK INTO A FOLD AND SHUT THE GATE BEFORE IT AS REQUIRED, BUT [THE FLOCK] GOT OUT AND DID DAMAGE, IS EXEMPT. **[IF] HE DID NOT SHUT THE GATE BEFORE IT AS REQUIRED, AND [THE FLOCK] GOT OUT AND DID DAMAGE, HE IS LIABLE. [IF THE FENCE] WAS BROKEN DOWN BY NIGHT,**

OR THUGS BROKE IT DOWN, AND [THE FLOCK] GOT OUT AND DID DAMAGE, HE IS EXEMPT.

1. **I:1:** R. La in the name of R. Yannai, “This rule is subject to dispute. [We have a minimum sort of precaution taken at A, namely, a gate which will stand before an ordinary wind, but not before a major blast. This view accords only with the position of Judah, at Y. 4:9. Here too Judah will concur with the Mishnah’s rule, but his opposition demands a more solid sort of precaution than is given here.]” R. Eleazar says, “It represents the opinion of all parties [inclusive of Meir at Y. 4:9].”
2. **I:2:** Up to this point we have dealt with a case in which the field in which the flock was kept was closed in on all four sides. If it was fenced in on three sides and open on the fourth and the flock got out on the side which was breached, what is the law?
3. **I:3:** It has been taught as a Tannaite statement: R. Joshua says, “Four do not have to pay compensation on the basis of law, but Heaven will forgive them only if they do [voluntarily] pay compensation! He who knows testimony regarding his fellow and does not give evidence is not liable on the basis of law to pay him compensation. But Heaven will not forgive him until he does pay compensation. [If] one has hired false witnesses, if one has given testimony and collected a fee, he is not liable on the basis of law to pay compensation, but Heaven will not forgive him until he does pay compensation. He who shoves grain in front of a brush fire, he who opens a gate before beast – they are not liable on the basis of law to pay compensation, but Heaven will not forgive them until they do pay compensation” [T. Shebu. 3:1J-3:3B].

[B] [If] THE THUGS TOOK [THE FLOCK] OUT, [AND THE FLOCK DID DAMAGE], THE THUGS ARE LIABLE.

1. Said R. Hoshaiiah, “That applies when they took the flock out to steal it. But if they took it out merely to destroy the flock [not intending to effect ownership of the flock], they are exempt [since they are not responsible, as owners, for damage done by the flock].”

XLIII. YERUSHALMI BABA QAMMA 6:2

[A] [If] HE LEFT IT IN THE SUN, [OR IF] HE HANDED IT OVER TO A DEAF-MUTE, IDIOT, OR MINOR, AND [THE FLOCK] GOT OUT AND DID DAMAGE, HE IS LIABLE.

- I:1:** It was taught: A shepherd who hands over his flock to another shepherd – the first is liable, and the second is exempt [T. B.Q. 6:20].

[B] **[IF]** HE HANDED IT OVER TO A SHEPHERD, THE SHEPHERD TAKES THE PLACE OF THE OWNER **[AS TO LIABILITY]**. **[IF THE FLOCK]** **[ACCIDENTALLY]** FELL INTO A VEGETABLE PATCH AND DERIVED BENEFIT **[FROM THE PRODUCE]**, **[THE OWNER MUST]** PAY COMPENSATION **[ONLY]** FOR THE VALUE OF THE BENEFIT **[DERIVED BY THE FLOCK]**.

- II:1:** R. Huna said, “[The rule that the owner pays only for the benefit of what has been enjoyed applies solely] to a case in which the flock fell onto grass [and so damaged it accidentally]. But if the flock stood still and pastured [on the grass, in the normal way], the owner pays compensation for the actual damage which the flock inflicted.”

[C] **[IF THE FLOCK]** WENT DOWN IN THE NORMAL WAY AND DID DAMAGE, **[THE OWNER MUST]** PAY COMPENSATION FOR THE **[ACTUAL]** DAMAGE WHICH **[THE FLOCK]** INFLICTED. **HOW DOES [THE OWNER] PAY COMPENSATION FOR THE [ACTUAL] DAMAGE WHICH [THE FLOCK] INFLICTED? THEY MAKE AN ESTIMATE OF THE VALUE OF A SEAH AREA OF LAND IN THAT FIELD, AS TO HOW MUCH IT HAD BEEN WORTH AND HOW MUCH IT NOW IS WORTH. R. SIMEON SAYS, “[IF THE FLOCK] CONSUMED RIPE PRODUCE, [THE OWNER] PAYS COMPENSATION FOR RIPE PRODUCE. “[IF THE FLOCK DESTROYED] A SEAH [OF RIPE PRODUCE], [HE MUST PAY FOR] A SEAH; IF TWO SEAHS, TWO SEAHS.”**

- III:1:** R. Yosé b. R. Haninah said, “For damage done to that [furrow, in particular], the owner of the flock is exempt. But for damage done to any other furrow, he is liable. [That is the case even if the flock stood and pastured, because for that furrow in particular, the flock’s presence in any case was by accident. But if afterward the flock moved on, the owner pays full damages.]” Both R. Yohanan and R. Simeon b. Laqish say, “Even if the flock pastured throughout the whole field, the owner is exempt. Under no circumstances is the owner of the flock liable unless the flock moves from the field [into which it has fallen] into the public way, and then enters some other field from the public way. In any other case but one in which the flock crosses a public way into another field, we deem the flock to have entered the first field by accident.]”

- III:2:** It has been taught as a Tannaite statement: [Tosefta’s version:] They do not make an estimate of the value of damage done in the measure of a qab’s area, because that increases the advantage. Nor in the area of a kor, because that diminishes it. But they make an estimate of the value of a seah area of land in that field as to how – much it had been worth and how much it now is worth [M. 6:2I] R. Simeon b.

Judah says in the name of R. Simeon [Yerushalmi: Said R. Judah,] “Under what circumstances? “In a case in which [the flock] ate the stems of figs or cut off the branches of vines. “But if it ate unripe dates or grapes, they regard it as if it were fully ripened produce” [cf. M. 6:2J]. R. Judah says in the name of R. Aqiba, “[If the flock] ate up fully ripened produce, they pay for fully ripened produce; if it ate shoots, as shoots do they estimate their value. “[If it ate] the shoots themselves, they make an estimate of its value as a seah area [of land devoted to that produce].” R. Simeon b. Judah says in the name of R. Aqiba, “[If the sprouts] had reached a third of their growth, they make an estimate of their value as if they are shoots” [T. B.Q. 6:21].

XLIV. YERUSHALMI BABA QAMMA 6:3

[A] HE WHO STACKS SHEAVES IN THE FIELD OF HIS FELLOW WITHOUT PERMISSION, AND THE BEAST OF THE OWNER OF THE FIELD ATE THEM UP — [THE OWNER OF THE FIELD] IS EXEMPT. AND [IF] IT WAS INJURED BY THEM, THE OWNER OF THE SHEAVES IS LIABLE. BUT IF HE HAD PUT HIS SHEAVES THERE WITH PERMISSION, THE OWNER OF THE FIELD IS LIABLE,

- 1. I:1:** Said R. Isaac, “Sheaves in the field are in the same status as utensils in the house.”

XLV. YERUSHALMI BABA QAMMA 6:4

[A] HE WHO CAUSES A FIRE TO BREAK OUT THROUGH THE ACTION OF A DEAF-MUTE, IDIOT, OR MINOR, IS EXEMPT FROM PUNISHMENT UNDER THE LAWS OF MAN, BUT LIABLE TO PUNISHMENT UNDER THE LAWS OF HEAVEN. [IF] HE DID SO THROUGH THE ACTION OF A PERSON OF SOUND SENSES, THE PERSON OF SOUND SENSES IS LIABLE. [IF] ONE PERSON BROUGHT THE FLAME, THEN ANOTHER PERSON BROUGHT THE WOOD, THE ONE WHO BRINGS THE WOOD IS LIABLE. [IF] ONE PERSON BROUGHT THE WOOD AND THE OTHER PERSON THEN BROUGHT THE FLAME, THE ONE WHO BROUGHT THE FLAME IS LIABLE.

- 1. I:1:** Hezekiah said, “[The rule of M. 6:4A] applies to a case in which one gave [a deaf-mute, idiot, or minor] a coal [belonging to a third party]. But if he gave him a live flame, he is liable.” Said R. Yohanan, “A hot coal is no different from a flame.”

[B] [IF] A THIRD PARTY CAME ALONG AND FANNED THE FIRE, THE ONE WHO FANNED THE FLAME IS LIABLE.

1. **II:1:** [With reference to M. 6:4E,] there are Tannaim who use the word “fanned,” and there are Tannaim who use the word “blew.”

[C] **[IF] THE WIND FANNED THE FLAME, ALL OF THEM ARE EXEMPT.**

1. **III:1:** There they say, “The Mishnah speaks of a case of an unusually high wind, responsible for unforeseeable accidents. But in the case of a wind which is customary, they remain liable.” Both R. Yohanan and R. Simeon b. Laqish say, “Even in the case of a wind which is customary, they are exempt, for there are times that such a wind comes, and there are times that it does not come [and consequently, they could not have taken precautions].”

XLVI. YERUSHALMI BABA QAMMA 6:5

[A] **HE WHO CAUSES A FIRE TO BREAK OUT, WHICH CONSUMED WOOD, STONES, OR DIRT, IS LIABLE, SINCE IT IS SAID, “IF FIRE BREAKS OUT AND CATCHES IN THORNS SO THAT THE SHEAVES OF WHEAT OR THE STANDING GRAIN OR THE FIELD BE CONSUMED, HE THAT KINDLED THE FIRE SHALL SURELY MAKE RESTITUTION” (EX. 22:6).**

1. **I:1:** Now what is distinctive about thorns (Ex. 22:6) is that they are apt to catch on fire. So I know that one is liable only in the case of something which is apt to catch on fire. Scripture accordingly states, “Sheaves.” Or perhaps, what is distinctive about sheaves is that they are plucked up from the ground. So I know only that one is liable for a fire which burns something which is plucked up from the ground. Accordingly, Scripture states, “Standing corn,” [which is yet in the ground]. Or: What is distinctive about these things which have been mentioned is that they are apt to catch on fire. So I know only that something which is apt to catch on fire [imposes liability if one should kindle it]. If one has fanned his flame and scorched stones belonging to someone – how do I know [that he is liable]? Scripture accordingly is required to state, “... or the field.”

[B] **[IF THE FIRE] CROSSED A FENCE FOUR HANDBREADTHS HIGH OR A ROAD OR A STREAM, [THE ONE WHO STARTED IT] IS EXEMPT.**

1. **II:1:** Said Rabbah, “The Mishnah speaks of a fire which unexpectedly blazes up and spreads, but in the case of a creeping fire, all parties concur that he is liable.” R. Yohanan says, “The Mishnah speaks of a case of a creeping fire, but in the case of a fire which unexpectedly blazes up and spreads, all parties agree that he is exempt.”

XLVII. YERUSHALMI BABA QAMMA 6:6

[A] HE WHO MAKES A FIRE ON HIS OWN PROPERTY — HOW FAR MAY IT SPREAD [SO THAT HE REMAINS LIABLE FOR DAMAGE WHICH IT DOES]? R. ELEAZAR B. AZARIAH SAYS, “THEY REGARD [THE FIRE] AS IF IT WERE IN THE MIDDLE OF A KOR’S AREA OF LAND.” R. ELIEZER SAYS, “SIXTEEN CUBITS, LIKE A PUBLIC ROAD.” R. AQIBA SAYS, “FIFTY CUBITS.” R. SIMEON SAYS, “‘HE THAT KINDLED THE FIRE SHALL SURELY MAKE RESTITUTION’ (EX. 22:5) — ALL ACCORDS WITH THE CHARACTER OF THE FIRE ITSELF.”

1. I:1: M’SH S: A conflagration crossed (up to) the Jordan, which was hard [T. B.Q. 6:22M]. [He who makes a fire on his own property! —] how far may it spread [so that he remains liable for damage which it does, in line with M. 6:5C]? R. Eliezer says, “Sixteen cubits, like a public road When it is windy, thirty cubits.” R. Judah says, “Thirty cubits. “When it is windy, fifty cubits.” R. Aqiba says “Fifty! cubits “When it is windy, three hundred cubits.” M’SH B: In Arab a flame jumped more than three hundred cubits and did damage [Tosefta’s version]. Under what circumstances [do we invoke M. 6:5C]? When it jumped over.] But if it was going along and smoldering, or there were pieces of wood located there, even over a space of up to a mil, lo, this one [who originally made it] is liable [T. B.Q. 6:22L, N-P]. [If the fire] crossed a stream, a fence, or a rivulet, any of which is eight cubits wide, he is exempt [T. B.Q. 6:22].

XLVIII. YERUSHALMI BABA QAMMA 6:7

[A] HE WHO SETS FIRE TO A STACK OF GRAIN, AND THERE WERE UTENSILS IN IT, WHICH BURNED UP — R. JUDAH SAYS, “[THE ONE WHO LIT THE FIRE] PAYS COMPENSATION FOR WHAT IS [CONCEALED] IN [THE STACK].” AND SAGES SAY, “HE PAYS ONLY FOR A STACK OF WHEAT OR BARLEY [SUCH AS WAS VISIBLE].” [IF] A KID WAS TIED UP TO [A BARN], AND A SLAVE BOY WAS NEARBY, AND [THEY] GOT BURNED ALONG WITH [THE BARN], HE IS LIABLE [FOR THE KID AND THE BARN]. [IF] A SLAVE BOY WAS TIED UP TO IT, AND A KID WAS NEARBY, AND [THESE] GOT BURNED ALONG WITH IT, HE IS EXEMPT [FOR THE SLAVE BOY, SINCE HE DOES NOT PAY COMPENSATION, BEING SUBJECT TO TRIAL FOR HIS LIFE]. AND SAGES CONCEDE TO R. JUDAH IN THE CASE OF HIM WHO SETS FIRE TO A LARGE BUILDING, THAT HE PAYS COMPENSATION FOR EVERYTHING WHICH IS IN IT. FOR IT CERTAINLY IS NORMAL FOR PEOPLE TO LEAVE THINGS IN THEIR HOUSES.

1. **I:1:** R. Abbahu in the name of R. Yohanan, “[Even though the sages differ from Judah and do not agree that that the one who set the fire pays for what is found in the stack of grain,] the sages concede to R. Judah in regard to utensils used for the harvest, which are ordinarily put away inside a stack of wheat, [that one is liable for a fire which destroyed them].”
 - a. **I:2:** The opinions attributed to R. Judah are contradictory. [Reference is made to M.. Peah. 6:9: What is stored up in the ground such as arum, garlic, and onions, R Judah says. “They are not regarded as a Forgotten Sheaf” The sages says: “They are regarded as a Forgotten Sheaf” Judah then deems the law of the Forgotten Sheaf not to apply to what is stored away. The sages say the law does apply.] So, there he says, “[The law] excludes what is stored away [which is not subject to the law,]” while here he has said, “The law encompasses that which is hidden” [at M. 6:7B].

XLIX. YERUSHALMI BABA QAMMA 6:8

[A] A SPARK WHICH FLEW OUT FROM UNDER THE HAMMER AND DID DAMAGE — [THE SMITH] IS LIABLE. A CAMEL WHICH WAS CARRYING FLAX AND PASSED BY IN THE PUBLIC WAY, AND THE FLAX IT WAS CARRYING GOT POKED INTO A STORE AND CAUGHT FIRE FROM THE LAMP OF THE STOREKEEPER AND SET FIRE TO THE BUILDING — THE OWNER OF THE CAMEL IS LIABLE. [IF] THE STOREKEEPER HAD LEFT HIS LAMP OUTSIDE, THE STOREKEEPER IS LIABLE. **R. JUDAH SAYS, “IN THE CASE OF A LAMP FOR HANUKKAH, HE IS EXEMPT.”**

1. **I:1:** It was taught: R. Judah says, “In the case of a lamp for Hanukkah, he is exempt — “for he left it here by right.” And sages say, “One way or the other, he is liable. “For example, those who spread sukkah roofing over the doorways of their shops in the public way on the Festival [of Tabernacles] even though they do so by right, [if] someone came along and was injured on them, lo this [storekeeper] is liable” [T. B.Q. 6:28].

L. YERUSHALMI BABA QAMMA 7:1

[A] MORE ENCOMPASSING IS THE RULE COVERING PAYMENT OF TWOFOLD RESTITUTION THAN THE RULE COVERING PAYMENT OF FOURFOLD OR FIVEFOLD RESTITUTION. FOR THE RULE COVERING TWOFOLD RESTITUTION APPLIES TO SOMETHING WHETHER ANIMATE OR INANIMATE. **BUT THE RULE COVERING FOURFOLD OR**

FIVEFOLD RESTITUTION APPLIES ONLY TO AN OX OR A SHEEP ALONE, SINCE IT SAYS, “IF A MAN SHALL STEAL AN OX OR A SHEEP AND KILL IT OR SELL IT, HE SHALL PAY FIVE OXEN FOR AN OX AND FOUR SHEEP FOR A SHEEP” (EX. 22:1).

1. **I:1:** Now whence do you derive evidence [from Scripture, that one pays double indemnity for theft of an inanimate object [M. 7:1B)]? “[If the stolen beast] is found [alive in his possession, whether it is an ox or an ass or a sheep, he shall pay double]” (Ex. 22:4) I know only that the double indemnity applies to the theft of an ox, ass, or sheep. Now when it says “alive,” it serves to encompass under the same provision of the law all animate creatures. “Stolen” then serves to encompass within the provisions of the law also chattels. Now why [should Scripture specify] ox, ass, and sheep? If it is to apply the law to that which may serve for the purposes of the altar, Scripture should refer only to ox and sheep.
2. **I:2:** R. Abbahu raised the following question: “Why have we not learned in the present pericope of Mishnah that the rule of double indemnity applies to one who lays a claim of theft in the case of property held in bailment or owned with a partner, while the rule of four- or fivefold payment does not apply in such cases? [That is, if one has received a bailment and claimed that it was stolen, while it was not stolen, then he has to pay double indemnity, but in the case of an ox or a sheep, not fourfold or fivefold charges. So too in the case of property held in partnership, if one partner falsely claims that the property was stolen, he pays double indemnity, but not fourfold or fivefold charges. Now why has the Mishnah’s law (M. 7:1A-D) not alluded to these two matters also?]”

[B] THE ONE WHO STEALS FROM A THIEF DOES NOT PAY TWOFOLD RESTITUTION. AND THE ONE WHO SLAUGHTERS OR SELLS WHAT IS STOLEN DOES NOT PAY FOURFOLD OR FIVEFOLD RESTITUTION.

1. **II:1:** If one stole [a beast], and it was stolen from him, and the owners caught the second thief, and the second party took an oath to the owner [that he had not stolen the beast, and afterward he confessed that he had done so, he certainly does not have to pay twofold damages, in line with M. 7:1E]. [But does he have to pay fourfold or fivefold restitution, if he falsely swore that he had not slaughtered and sold the meat of the beast? Clearly, the answer to that question governs whether or not the thief, who took a false oath, has to bring an offering to atone for the sin of having taken a false oath. For if he took the oath but did not save himself any liabilities, then the oath is null and there is no need to expiate the false oath.]

LI. YERUSHALMI BABA QAMMA 7:2

[A] [If] ONE STOLE [AN OX OR A SHEEP] ON THE EVIDENCE OF TWO WITNESSES, AND [WAS CONVICTED OF HAVING] SLAUGHTERED OR SOLD ON THE BASIS OF THEIR TESTIMONY, OR ON THE BASIS OF THE TESTIMONY OF TWO OTHER WITNESSES, HE PAYS FOURFOLD OR FIVEFOLD RESTITUTION. (1) [If] HE STOLE OR SOLD [AN OX OR A SHEEP] ON THE SABBATH, (2) STOLE AND SOLD [AN OX OR A SHEEP] FOR IDOLATROUS PURPOSES, (3) STOLE AND SLAUGHTERED [AN OX OR A SHEEP] ON THE DAY OF ATONEMENT, (4) STOLE [AN OX OR A SHEEP] BELONGING TO HIS FATHER AND SLAUGHTERED OR SOLD IT, AND AFTERWARD HIS FATHER DIED, (5) STOLE AND SLAUGHTERED, AND AFTERWARD CONSECRATED [AN OX OR A SHEEP], HE PAYS FOURFOLD OR FIVEFOLD RESTITUTION. (1) [If] HE STOLE AND SLAUGHTERED [AN OX OR A SHEEP] FOR USE IN HEALING OR FOR FOOD FOR DOGS, (2) HE WHO [STEALS AND] SLAUGHTERS [AN OX OR A SHEEP] WHICH TURNS OUT TO BE TEREFAH, (3) HE WHO SLAUGHTERS UNCONSECRATED BEASTS IN THE TEMPLE COURTYARD — HE PAYS FOURFOLD OR FIVEFOLD RESTITUTION. R. SIMEON DECLARES HIM EXEMPT IN THESE LAST TWO MATTERS.

1. I:1: [R. Yohanan said, “In a case in which there is the penalty of flogging and also the necessity of making restitution, one makes restitution and does not suffer the flogging.”] And did R. Abbahu say in the name of R. Yohanan, “If one deliberately ate prohibited fat but was in error as to the requirement of bringing an offering [for doing so, namely, he thought he did not have to bring a sin offering], they admonish him [as to the forbidden fat], and he also brings an offering [since he was in error as to the requirement of the offering]. [Consequently he is subject to liability for two distinct modes of punishment. Why then can Yohanan have said that one pays recompense and is spared the flogging?]”

LII. YERUSHALMI BABA QAMMA 7:3

[A] [If] ONE STOLE [AN OX OR A SHEEP] ON THE EVIDENCE OF TWO WITNESSES, AND [WAS CONVICTED OF HAVING] SLAUGHTERED OR SOLD [IT] ON THE BASIS OF THEIR TESTIMONY, AND THEY TURNED OUT TO BE FALSE WITNESSES, THEY PAY FULL RESTITUTION.

1. I:1: Said R. Zeira, “That is to say, A witness proved to be a perjurer is deemed to have given invalid testimony in court only at the point at

which the witness himself is proved to be invalid. [That is to say, if the witness is shown to be a perjurer, from that point onward he is invalid. Then, retrospectively, all the testimony he gave, even before the point at which he was proved to be perjured, also is deemed null. The invalidation is personal.]”

[B] [If] HE STOLE ON THE EVIDENCE OF TWO WITNESSES, AND [WAS CONVICTED OF HAVING] SLAUGHTERED OR SOLD IT ON THE BASIS OF THE TESTIMONY OF TWO OTHER WITNESSES, [AND] THESE AND THOSE TURN OUT TO BE FALSE WITNESSES, THE FIRST PAIR OF WITNESSES PAYS TWOFOLD RESTITUTION, AND THE SECOND PAIR OF WITNESSES PAYS THREEFOLD RESTITUTION. [If] THE LATTER PAIR OF WITNESSES TURN OUT TO BE FALSE WITNESSES, HE PAYS TWOFOLD RESTITUTION, AND THEY PAY THREEFOLD RESTITUTION. [If] ONE OF THE LATTER PAIR OF WITNESSES TURNS OUT TO BE FALSE, THE EVIDENCE OF THE SECOND ONE IS NULL. [If] ONE OF THE FIRST PAIR OF WITNESSES TURNS OUT TO BE FALSE, THE ENTIRE TESTIMONY IS NULL. FOR IF THERE IS NO CULPABLE ACT OF STEALING, THERE IS NO CULPABLE ACT OF SLAUGHTERING OR SELLING.

- 1. II:1:** [Now with reference to the statement at M. B.Q. 7:3E, F, concerning conviction of theft on the basis of the evidence of two witnesses, and conviction of having slaughtered on the basis of the evidence of two other witnesses,] up to now we have dealt with a case in which the witnesses concerning theft and those concerning slaughter came simultaneously. But if the witnesses concerning theft came and [the judges] did not accept their testimony [through some technical flaw], and afterward witnesses concerning slaughter came along, [and the court] said to them, “You should know that witnesses concerning theft have already come to court, but [the judges] have not accepted them, and it is solely on your account that we shall now accept their testimony as well” – then, if the witnesses concerning slaughter turn out to be perjurers, they pay compensation also in behalf of the witnesses to the matter of theft [for their evidence alone is what has had the effect of imposing liability on the accused both for the theft and for the slaughter].

LIII. YERUSHALMI BABA QAMMA 7:4

[A] [If] ONE [WAS CONVICTED OF A CHARGE THAT HE] STOLE [AN OX OR A SHEEP] ON THE EVIDENCE OF TWO WITNESSES AND OF HAVING SLAUGHTERED OR SOLD [THE OX OR SHEEP] ON THE BASIS OF ONLY ONE, OR ON THE BASIS OF THE EVIDENCE OF HIS OWN [CONFESSION], HE PAYS TWOFOLD RESTITUTION AND

DOES NOT PAY FOURFOLD OR FIVEFOLD RESTITUTION. (1) [IF] HE STOLE AND SLAUGHTERED ON THE SABBATH, (2) STOLE AND SLAUGHTERED FOR IDOLATROUS PURPOSES, (3) STOLE FROM HIS FATHER'S [HERD OF OXEN OR SHEEP] AND THEN HIS FATHER DIED AND AFTERWARD HE SLAUGHTERED OR SOLD [THE BEAST], (4) STOLE AND THEN CONSECRATED [THE ANIMAL] AND AFTERWARD SLAUGHTERED OR SOLD IT, HE PAYS TWOFOLD RESTITUTION AND DOES NOT PAY FOURFOLD OR FIVEFOLD RESTITUTION. R. SIMEON SAYS, "FOR HOLY THINGS FOR THE REPLACEMENT, IF LOST, OF WHICH HE BEARS RESPONSIBILITY DOES HE PAY FOURFOLD OR FIVEFOLD RESTITUTION. AND FOR THOSE FOR THE REPLACEMENT, IF LOST, OF WHICH HE BEARS NO RESPONSIBILITY, HE IS EXEMPT."

1. **I:1:** [R. Yohanan said, "In a case in which there is the penalty of flogging and also the necessity of making restitution, one makes restitution and does not suffer the flogging."] And did not R. Abbahu say in the name of R. Yohanan, "If one deliberately ate prohibited fat but was in error as to the requirement of bringing an offering [for doing so, namely, a sin offering], they admonish him [as to the forbidden fat], and he also brings an offering [since he was in error as to the requirement of the offering?]" Consequently he is subject to liability for two distinct modes of punishment. Why then can Yohanan have said that one pays recompense and is spared the flogging?]
2. **I:2:** Who has taught [that if one stole, then consecrated an animal and afterward slaughtered or sold it, he pays twofold restitution, but not fourfold or fivefold restitution as he would if he had sold the beast]? [This then implies that for consecrating the beast, he is not liable as if he had sold it. There is then a difference between consecrating a beast to God and selling a beast to an ordinary person. There has been no act of sale when there was an act of consecration.]
3. **I:3:** R. Justus b. R. Matun raised the following question: "He who redeems a basket of produce which has been sanctified from the Temple treasurer, [and the basket of produce has not yet been rendered liable for separation of tithes therefrom] – what is the law as to the basket's being deemed totally untithed, as to the liability for the separation of tithes? [That is, if one purchases a basket of produce, the produce automatically becomes liable to tithes. Now the man has not purchased this fruit, but he has redeemed it. Is the act of redemption tantamount to an act of purchase for the present purpose?]"
4. **I:4:** Said R. Eleazar, "[If witnesses] saw him slaughter a black ox i a forest, it may be assumed that it is stolen [since he slaughtered the

beast in secret]. [Consequently, they assume that there is reason to do so, which is that he had stolen it.]”

- 5.** **I:5:** There is a rule covering slaughtering the beast which does not apply to selling it, and there is a rule covering selling the beast, which does not apply to slaughtering it. He who slaughters the beast on the Sabbath is liable [to the death penalty, so is exempt from fines]. He who sells the beast on the Sabbath is exempt [from the death penalty].

LIV. YERUSHALMI BABA QAMMA 7:5

[A] (1) **[IF]** ONE SOLD **[ALL]** BUT ONE HUNDREDTH PART OF **[A STOLEN OX OR SHEEP]**, (2) OR IF **[THE THIEF ALREADY]** OWNED A SHARE OF IT, (3) HE WHO SLAUGHTERS **[AN OX OR A SHEEP]** AND IT TURNS OUT TO BE MADE INTO CARRION BY HIS OWN HAND, (4) HE WHO PIERCES **[THE WINDPIPE]**, (5) AND HE WHO TEARS OUT **[ITS GULLET]** PAYS TWOFOLD RESTITUTION AND DOES NOT PAY FOURFOLD OR FIVEFOLD RESTITUTION. **[IF]** (1) HE STOLE IT IN THE OWNER'S DOMAIN BUT SLAUGHTERED OR SOLD IT OUTSIDE OF HIS DOMAIN, OR (2) **[IF]** HE STOLE IT OUTSIDE OF HIS DOMAIN AND SLAUGHTERED OR SOLD IT IN HIS DOMAIN, OR (3) IF HE STOLE AND SLAUGHTERED OR SOLD IT OUTSIDE OF HIS DOMAIN, HE PAYS FOURFOLD OR FIVEFOLD RESTITUTION. **BUT IF HE STOLE AND SLAUGHTERED OR SOLD IT [WHOLLY] IN HIS DOMAIN, HE IS EXEMPT.**

- 1.** **I:1:** There is a rule covering slaughtering the beast which does not apply to selling it, and there is a rule covering selling the beast, which does not apply to slaughtering it. He who slaughters the beast on the Sabbath is liable [to the death penalty, so is exempt from fines]. He who sells the beast on the Sabbath is exempt [from the death penalty].

LIV. YERUSHALMI BABA QAMMA 7:6

[A] **[IF THE THIEF]** WAS DRAGGING **[A SHEEP OR OX]** OUT **[OF THE OWNER'S DOMAIN]**, BUT IT DIED IN THE DOMAIN OF THE OWNER, HE IS EXEMPT. **[IF]** HE LIFTED IT UP OR REMOVED IT FROM THE DOMAIN OF THE OWNER AND THEN IT DIED, HE IS LIABLE. **[IF]** HE HANDED IT OVER FOR (1) THE FIRSTBORN-OFFERING AT THE BIRTH OF HIS SON, OR (2) TO A CREDITOR, TO (3) AN UNPAID BAILEE, OR (4) TO A BORROWER, OR (5) TO A PAID BAILEE, OR (6) TO A RENTER, AND **[ONE OF THESE]** WAS DRAGGING IT AWAY, AND IT DIED IN THE DOMAIN OF THE OWNER, HE IS EXEMPT. **[IF]** HE RAISED IT UP OR REMOVED IT FROM THE DOMAIN OF THE OWNER AND THEN IT DIED, HE IS LIABLE.

1. **I:1:** Said R. Mana, “Whoever will explain this matter to me – I shall carry his clothes after him to the bathhouse: What is the meaning of ‘exempt’ [M. 7:6K]? Is he ‘exempt,’ having paid off his debt? Or is he deemed ‘exempt’ from punishment by reason of the theft?”

LVI. YERUSHALMI BABA QAMMA 7:7

[A] THEY DO NOT REAR SMALL CATTLE IN THE LAND OF ISRAEL, BUT THEY DO REAR THEM IN SYRIA AND IN THE WASTELANDS WHICH ARE IN THE LAND OF ISRAEL. THEY DO NOT REAR CHICKENS IN JERUSALEM, ON ACCOUNT OF THE HOLY THINGS, NOR DO PRIESTS [REAR CHICKENS] ANYWHERE IN THE LAND OF ISRAEL, BECAUSE OF THE [NECESSITY TO PRESERVE] THE CLEANNES [OF HEAVE-OFFERING AND CERTAIN OTHER FOODS THAT ARE HANDED OVER TO THE PRIESTS]. THEY DO NOT REAR PIGS ANYWHERE:

1. **I:1:** Said R. Ba, “An example [of a wasteland (M. 7:7B) would be] Mehir, which is sixteen mil by sixteen mil.”
2. **I:2:** It is taught: They do not rear chickens in Jerusalem. on account of Holy! Things. nor do priests rear chickens anywhere in the Land of Israel. because of the necessity to preserve the cleanness of heave offering and other portions handed over as consecrated rations to the priests. May one also say that the same rule applies [to Israelites] in Jerusalem?
3. **I:3:** It is written, “And these are unclean to you” (Lev. 11:31). Why does Scripture then say, “They shall be unclean to you” (Lev. 11:35)? [It is to indicate the following:] All the same are the prohibition of actually eating these things and the prohibition against deriving benefit from them, [which accounts for M. 7:7E].

[B] A PERSON SHOULD NOT REAR A DOG, UNLESS IT IS KEPT TIED UP BY A CHAIN.

1. **II:1:** Said R. Yosé b. R. Haninah. “Whoever raises a bad dog in his property – concerning him Scripture says, ‘He who withholds a kindness from a friend forsakes the fear of the Almighty’” (Job 6:14).

[C] THEY DO NOT SET TRAPS FOR PIGEONS, UNLESS THEY ARE THIRTY RIS FROM A SETTLEMENT.

1. **III:1:** And elsewhere [Y. B.B. 2:5] you say that it is fifty cubits Said R. Yosé b. R. Bun, “As for feeding, the pigeons feed for fifty cubits. As for flying around, they fly even four mils.”

LVII. YERUSHALMI BABA QAMMA 8:1

[A] **HE WHO INJURES HIS FELLOW IS LIABLE TO [COMPENSATE] HIM ON FIVE COUNTS: (1) INJURY, (2) PAIN, (3) MEDICAL COSTS, (4) LOSS OF INCOME [LIT.: LOSS OF TIME], AND (5) INDIGNITY. FOR INJURY: HOW SO? [IF] ONE HAS BLINDED HIS EYE, CUT OFF HIS HAND, BROKEN HIS LEG, THEY REGARD HIM AS A SLAVE UP FOR SALE IN THE MARKET AND MAKE AN ESTIMATE OF HOW MUCH HE WAS WORTH BEFOREHAND [WHEN WHOLE], AND HOW MUCH HE IS NOW WORTH. PAIN: [IF] HE BURNED HIM WITH A SPIT OR A NAIL, AND EVEN ON HIS FINGERNAIL, A PLACE IN WHICH [THE INJURY] DOES NOT LEAVE A LASTING WOUND:**

1. **I:1:** It was taught: [If] one has inflicted on another person all five [kinds of damage], he pays him for all five. [If he inflicted] only four kinds, he pays him for four. [If he inflicted] only three kinds, he pays him for three. [If he inflicted] only two kinds, he pays him for two. [If he inflicted] only one kind, he pays him for one [T. B.Q. 9:1].
2. **I:2:** R. Jeremiah raised the following question: “If he cut off his hand, and then went and cut off the hand higher up [on the stump], what is the law as to his paying him compensation for the pain the first time? [There was no court assessment the first time around.]”
3. **I:3:** It is written, “An eye for an eye, a tooth for a tooth” (Ex. 21 :24). And in another passage, Scripture states, “Your eye shall not pity him” (Deut. 19:13). [One passage refers to inadvertent, the other to deliberate, action:] All the same then are he who acts inadvertently and he who acts deliberately [in that both pay monetary compensation].
4. **I:4:** If one who was blind and blinded the eye of another party, or if he was crippled in hand and cut off the hand of another party, how in this case will the passage be carried out, “And you shall do to him as he conspired to do to his fellow” (Deut. 19:19)? This fact tells us that one pays compensation only in monetary form.
5. **I:5:** As to pain: If he struck him with a spit or a nail, even on his fingernail, a place in which one makes no wound, [is he liable]?
6. **I:6:** [As to the “wound” to which Scripture refers,] how so? [As to the “wound” to which Scripture refers,] how so? If it is a case in which he pierced his skin and produced blood, it already is “Injury for injury” (Ex. 21:24). Why does Scripture state “wound”? But it is to cover the case of his burning him with a spit on the palm of his hand

and it swelled up, or on the sole of his foot and it swelled up, or if he put on him snow or ice, on a place on which the wound is not visible, he is liable to provide healing for him [even where there is no injury but only pain].

[B] THEY ASSESS HOW MUCH A MAN IN HIS STATUS IS WILLING TO TAKE TO SUFFER PAIN OF THAT SORT.

- 1. II:1:** They make an estimate [at M. 8:1H] of how much one of such status is willing to take to suffer such pain. Said R. Zeira, “They examine a man and say to him, ‘How much do you want to give so people will not inflict such pain on you? Whatever he says, do they give to him.’”
- 2. II:2:** It has been taught: Ben Azzai says, “They make up to him the food he has lost” [cf. T. B.Q. 9:3J].

LVIII. YERUSHALMI BABA QAMMA 8:2

[A] MEDICAL COSTS: [IF] HE HIT HIM, HE IS LIABLE TO PROVIDE FOR HIS MEDICAL CARE. [IF] SORES ARISE ON HIM, IF [THEY ARE] ON ACCOUNT OF THE BLOW, HE IS LIABLE; [BUT IF] THEY ARE NOT ON ACCOUNT OF THE BLOW, HE IS EXEMPT. [IF] THE WOUND GOT BETTER AND OPENED UP AGAIN, GOT BETTER AND OPENED UP AGAIN, HE REMAINS LIABLE TO PROVIDE FOR HIS MEDICAL CARE. [IF THE WOUND] PROPERLY HEALED, HE IS NO LONGER LIABLE TO PROVIDE MEDICAL CARE FOR HIM:

- 1. I:1:** R. Jeremiah raised the following question: “If ulcers grew around the wound, and opened up because of the wound – [e.g., because of the bandages, ulcers developed, and got better but then opened up because of the wound] – what is the law? [Do we blame the ulcers on the treatment afforded to the wound and deem them the fault of the physician? Or are they part of the liability of the one who hit the man?]”
- 2. I:2:** It was taught: R. Yosé b. R. Judah says, “If ulcers grew up around the wound, even though the wound opened up, the one who hit the man is liable to provide healing for him, but he is not liable to pay him [additional] compensation for being unemployed.”

LIX. YERUSHALMI BABA QAMMA 8:3

[A] **LOSS OF INCOME: THEY REGARD HIM [IN ESTIMATING INCOME] AS IF HE IS A KEEPER OF A CUCUMBER FIELD, FOR [THE DEFENDANT] ALREADY HAS PAID OFF THE VALUE OF HIS HAND OR HIS LEG. INDIGNITY: ALL [IS ASSESSED] IN ACCORD WITH THE STATUS OF THE ONE WHO INFLECTS THE INDIGNITY AND THE ONE WHO SUFFERS THE INDIGNITY. HE WHO INFLECTS INDIGNITY ON ONE WHO IS NAKED, HE WHO INFLECTS INDIGNITY ON ONE WHO IS BLIND, OR HE WHO INFLECTS INDIGNITY ON ONE WHO IS ASLEEP IS LIABLE. BUT ONE WHO IS SLEEPING WHO INFLECTED INDIGNITY IS EXEMPT [ON THAT COUNT]. [IF] HE FELL FROM THE ROOF AND DID INJURY AND ALSO INFLECTED INDIGNITY, HE IS LIABLE FOR THE INJURY [HE HAS INFLECTED] BUT EXEMPT FROM THE INDIGNITY, AS IT IS SAID, “AND SHE PUTS FORTH HER HAND AND GRABS HIM BY THE BALLS” (DEUT. 25:11). ONE IS LIABLE ON THE COUNT OF INDIGNITY ONLY IF HE INTENDED [TO INFLECT INDIGNITY].**

1. **I:1:** Here you say, “They regard him, in estimating income, as if he is a keeper of a cucumber field.” Yet there [at T. B.Q. 9:3B-C] you say, “If he made a maneh a day, he pays him a maneh. If he made a sela a day, he pays him a sela.”
2. **I:2:** It was taught: [“When men fight with one another, and the wife of the one draws near to rescue her husband from the hand of him who is beating him, and] puts out her hand [and seizes him by the private parts, then you shall cut off her hand; your eye shall have no pity]” (Deut. 25:11-12) – but [this rule does] not [apply to] the wife of a court officer [who has done so in this context: if the fight takes place while he is carrying out the orders of the court].

LX. YERUSHALMI BABA QAMMA 8:4

[A] **THIS RULE IS MORE STRICT IN THE CASE OF MAN THAN IN THE CASE OF AN OX. FOR A MAN PAYS COMPENSATION FOR INJURY, PAIN, MEDICAL COSTS, LOSS OF INCOME, AND INDIGNITY; AND HE PAYS COMPENSATION FOR THE OFFSPRING (EX. 21:22). BUT [THE OWNER OF] AN OX PAYS COMPENSATION ONLY FOR THE INJURY. AND HE IS EXEMPT FROM LIABILITY TO PAY COMPENSATION FOR THE OFFSPRING. HE WHO HITS HIS FATHER OR HIS MOTHER BUT DID NOT MAKE A WOUND ON THEM, OR HE WHO INJURES HIS FELLOW ON THE DAY OF ATONEMENT IS LIABLE ON ALL COUNTS. HE WHO INJURES A HEBREW SLAVE IS LIABLE ON ALL COUNTS, EXCEPT FOR LOSS OF TIME, WHEN HE BELONGS TO HIM**

[WHO DID THE DAMAGE]. **HE WHO INJURES A CANAANITE SLAVE BELONGING TO OTHER PEOPLE IS LIABLE ON ALL COUNTS. R. JUDAH SAYS, “SLAVES ARE NOT SUBJECT TO COMPENSATION FOR INDIGNITY.”**

- 1. I:1:** [With reference to Ex. 21:26-27: “When a man strikes the eye of his slave,... and destroys it, he shall let the slave go free for his eye’s sake. If he knocks out the tooth of his slave,... he shall let the slave go free for the tooth’s sake.”] It was taught: Witnesses who stated, “We testify concerning Mr. So-and-so, that he has blinded both eyes of his slave simultaneously,” “he has knocked out two of his teeth simultaneously,” – the master pays nothing to the slave at all [but sends him forth free]. [If they testified that he had done so] one after another, the slave goes forth to freedom on account of the first, and the master pays him compensation for the loss of the second.
- 2. I:2:** R. La in the name of R. Yohanan: “‘He who consecrates the work of his own hands – whatever he makes is deemed to have been sanctified.’ He went and taught, ‘He who consecrates the work of his slave’s hands – he deducts from what the slave makes the cost of feeding him, but the rest is deemed consecrated.’” Now here you say, “The rest is deemed consecrated,” and there you have said, “the whole of what he makes is consecrated.” [Why is no provision made for supporting the free Israelite, as provision is made for supporting the slave?]

LXI. YERUSHALMI BABA QAMMA 8:5

[A] **A DEAF-MUTE, IDIOT, AND MINOR – MEETING UP WITH THEM IS A BAD THING. HE WHO INJURES THEM IS LIABLE. BUT THEY WHO INJURE OTHER PEOPLE ARE EXEMPT. A SLAVE AND A WOMAN MEETING UP WITH THEM IS A BAD THING. HE WHO INJURES THEM IS LIABLE. AND THEY WHO INJURE OTHER PEOPLE ARE EXEMPT. BUT THEY PAY COMPENSATION AFTER AN INTERVAL: [IF] THE WOMAN IS DIVORCED, THE SLAVE FREED, THEY BECOME LIABLE TO PAY COMPENSATION. HE WHO HITS HIS FATHER OR HIS MOTHER AND DID MAKE A WOUND ON THEM, AND HE WHO INJURES HIS FELLOW ON THE SABBATH IS EXEMPT ON ALL COUNTS, FOR HE IS PUT ON TRIAL FOR HIS LIFE. AND HE WHO INJURES A CANAANITE SLAVE BELONGING TO HIMSELF IS EXEMPT ON ALL COUNTS.**

- 1. I:1:** It was taught: The witnesses who testified, “We give evidence that Mr. So-and-so blinded the eye of his slave and afterward he knocked out his tooth,” and so the master says, and who turned out to be perjurer, they pay compensation to the slave. [If they said,] “... he knocked out his tooth and afterward he blinded his eye,” And so the

slave says, and they turned out to be perjurer, they pay to the master. [If they said,] “He blinded both of them at once,” or “He knocked out both of them at once,” and others came and said, “Not so, but it was two of them in succession,” and they turned out to be perjurers – they pay to the slave. [If they said,] “He blinded both of them one after the other, or knocked out both of them one after the other,”] and others came along and said, “Not so, but he did both of them at once,” and they turned out to be perjurers – they pay to the master. He blinded the eye of his slave, and lo, he is yet subject to him and working for him – and they turn out to be perjurer they pay both the value of the slave and of the blinding to the master [T. Mak. 1:45].

LXII. YERUSHALMI BABA QAMMA 8:6

[A] HE WHO BOXES THE EAR OF HIS FELLOW PAYS HIM A SELA. R. JUDAH SAYS IN THE NAME OF R. YOSÉ THE GALILEAN, “A MANEH.” [IF] HE SMACKED HIM, HE PAYS HIM TWO HUNDRED ZUZ. [IF] IT IS WITH THE BACK OF HIS HAND, HE PAYS HIM FOUR HUNDRED ZUZ. [IF] HE (1) TORE AT HIS EAR, (2) PULLED HIS HAIR:

- 1. I:1:** R. Qarni taught, “[The fine for kicking] with the foot is one *sela*, for kneeing, three, for a hard blow with the fist, fifteen *selas* “

[B] (3) SPIT, AND THE SPIT HIT HIM, (4) PULLED OFF HIS CLOAK, (5) PULLED APART THE HAIRDO OF A WOMAN IN THE MARKETPLACE, HE PAYS FOUR HUNDRED ZUZ. THIS IS THE GOVERNING PRINCIPLE: EVERYTHING IS IN ACCORD WITH ONE’S STATION. SAID R. AQIBA, “EVEN THE POOREST ISRAELITES DO THEY REGARD AS GENTLE FOLK WHO HAVE LOST THEIR FORTUNES. FOR THEY ARE THE CHILDREN OF ABRAHAM, ISAAC, AND JACOB.” THERE WAS A CASE IN WHICH SOMEONE PULLED APART THE HAIRDO OF A WOMAN IN THE MARKETPLACE. SHE CAME BEFORE R. AQIBA, WHO REQUIRED HIM TO PAY HER FOUR HUNDRED ZUZ. HE SAID TO HIM, “RABBI, GIVE ME TIME [TO PAY HER OFF].” HE GAVE HIM TIME. HE CAUGHT HER STANDING AT THE DOOR OF HER COURTYARD AND BROKE A JAR OF OIL IN FRONT OF HER, CONTAINING NO MORE THAN AN ISSAR’S WORTH OF OIL. SHE LET DOWN HER HAIR AND MOPPED UP THE OIL AND PUT HER HAND [WITH THE OIL] ON HER HAIR [SO MAKING USE OF THAT SMALL QUANTITY OF OIL]. NOW HE HAD SET WITNESSES UP AGAINST HER. THEN HE CAME BEFORE R. AQIBA. HE SAID TO HIM, “RABBI, TO A WOMAN SUCH AS THIS AM I TO PAY OFF FOUR HUNDRED ZUZ?” HE SAID TO HIM, “YOU HAVE NO CLAIM WHATSOEVER.”

- 1. II:1:** If one spit. and the spit hit him [M. 8:6E]: to what extent do we speak of the spit’s reaching [the person who was spat upon]?

[C] **HE WHO DOES INJURY TO HIMSELF, EVEN THOUGH HE HAS NO RIGHT TO DO SO, IS EXEMPT. BUT OTHERS WHO DID INJURY TO HIM ARE LIABLE. HE WHO CUTS DOWN HIS OWN SHOOTS, EVEN THOUGH HE HAS NO RIGHT, IS EXEMPT. OTHERS WHO CUT DOWN HIS SHOOTS ARE LIABLE.”**

1. **III:1:** R. Abbahu taught before R. Yohanan, “If one party claims, ‘You have killed my ox,’ ‘You have cut down my plants,’ and the other party says, ‘I do not know whether or not I did so,’ the latter is liable.”

LXIII. YERUSHALMI BABA QAMMA 8:7

[A] **EVEN THOUGH [THE DEFENDANT] PAYS OFF [THE PLAINTIFF], HE IS NOT FORGIVEN UNTIL HE SEEKS [FORGIVENESS] FROM [THE PLAINTIFF], SINCE IT IS SAID, “NOW RESTORE THE MAN’S WIFE...AND HE WILL PRAY FOR YOU” (GEN. 20:7). AND HOW DO WE KNOW THAT THE ONE WHO IS SUPPOSED TO FORGIVE SHOULD NOT BE CHURLISH? SINCE IT IS SAID, “AND ABRAHAM PRAYED TO GOD, AND GOD HEALED ABIMELEKH” (GEN. 20:17).**

1. **I:1:** It was taught: R. Judah says in the name of Rabban Gamaliel, “Lo, it says, ‘None of the devoted things shall cleave to your hand; that the Lord may turn from the fierceness of his anger,] and show you mercy, and have compassion on you, and multiply you, [as he swore to your fathers]’ (Deut. 13:17). Let this sign be in your hand. So long as you are merciful, He will have mercy on you” [T. B.Q. 9:30].

[B] **AND HOW DO WE KNOW THAT THE ONE WHO IS SUPPOSED TO FORGIVE SHOULD NOT BE CHURLISH?**

1. **II:1:** Said R. Yosa, “That which you have stated [at M. 8:7C] applies in a case in which he has not ruined his reputation. But if he has ruined his reputation, he cannot ever gain forgiveness.”

LXIV. YERUSHALMI BABA QAMMA 8:8

[A] **HE WHO SAYS, “BLIND MY EYE,” “CUT OFF MY HAND,” “BREAK MY LEG” – [THE ONE WHO DOES SO] IS LIABLE. [IF HE ADDED,] “...ON CONDITION OF BEING EXEMPT,” [THE ONE WHO DOES SO] IS LIABLE [ANYHOW]. “TEAR MY CLOAK,” “BREAK MY JAR” – [THE ONE WHO DOES SO] IS LIABLE. [IF HE ADDED,] “...ON CONDITION OF BEING EXEMPT,” [THE ONE WHO DOES SO] IS EXEMPT. “DO IT TO MR. SO-AND-SO, ON CONDITION OF BEING EXEMPT,” HE [WHO DOES SO] IS LIABLE, WHETHER THIS IS TO HIS PERSON OR TO HIS PROPERTY.**

1. **I:1:** He who says, “Blind my eye, which is doing me harm,” “Cut off my hand, which is doing me harm,” – [the one who does so] is liable [T. B.Q. 9:32].
2. **I:2:** Said R. Eleazar, “If he answered with a Yes which is like a No, then the stated rule of the Tannaitic tradition does apply. But if he answered with a Yes which is really a Yes, he is exempt.”
3. **I:3:** [If] gentiles forced an Israelite, and he took away the possessions of his fellow in his very presence, he is exempt. [But if on his own volition] he took them and handed them over to them, lo, this person is liable [T. B.Q. 9:33].

LXV. YERUSHALMI BABA QAMMA 9:1

[A] [HE WHO STEALS WOOD AND MADE IT INTO UTENSILS, WOOL AND MADE IT INTO CLOTHING, PAYS [COMPENSATION IN ACCORD WITH THE VALUE OF THE WOOD OR WOOL] AT THE TIME OF THE THEFT.

1. **I:1:** [Reference is made to T. B.Q. 10:2, as follows: [If] he stole wool and bleached it, thread and he bleached it, flax and he washed it, stones and he smoothed them down, he pays compensation [in accord with their value] at the time of the theft (M. B.Q. 9:1A-C; T. B.Q. 10:2). At the passage of Tosefta just now cited,] you maintain that bleaching the wool, [without further processing thereof,] constitutes an act of changing [the condition of the wool sufficient so that he acquires the wool and so pays compensation in accord merely with the value at the time of the theft], while here [at M. 9:1B] you maintain that merely bleaching the wool does not constitute an act of changing [the condition of the wool]. When you rule that bleaching the wool constitutes a change in its condition, it is when one has made it into flakes [hatched it], and when you rule that bleaching the wool does not constitute a change in its condition, it is when one [has not made it into flakes but] left it as is.
2. **I:2:** He who steals a beam and built it into his house – the House of Shammai say, “Let him tear down the whole house and take out [and return the beam.” And the House of Hillel say, “One reckons how much it is worth and pays the value of it to the owner, “for the sake of the welfare of those who repent” [T. B.Q. 10:5].
3. **I:3:** He who goes down into the ruin which belongs to his fellow and builds it up without permission – they make an estimate [of the

matter], and his hand is underneath [i.e., the advantage belongs to the owner of the ruin]. He who goes down with permission – they make an estimate [of the matter], And his hand is now on top [T. B.Q. 10:7].

[B] **[IF]** HE STOLE A PREGNANT COW AND IT GAVE BIRTH, A EWE HEAVY WITH WOOL [NEEDING SHEARING], AND HE SHEARED IT – HE PAYS THE VALUE OF A COW WHICH IS ABOUT TO GIVE BIRTH, OR OF A EWE WHICH IS ABOUT TO BE SHEARED. **[IF]** HE STOLE A COW, AND IT GOT PREGNANT WHILE WITH HIM AND GAVE BIRTH, A EWE, AND IT BECAME HEAVY [WITH WOOL] WHILE WITH HIM, AND HE SHEARED, HE PAYS [COMPENSATION IN ACCORD WITH THE VALUE OF THE COW OR EWE] AT THE TIME OF THE THEFT.

1. **II:1:** Said R. La, “That [M. 9:1D] is to say, If one stole a fat cow and it lost weight, the robber must make amends in accord with the value of a fat cow.”

[B] SAID R. HISDA, “THAT [M. 9:1G] IS TO SAY, IF HE STOLE A SCRAWNY COW AND IT GREW FAT, HE RETURNS TO HIM THE COW AS IT THEN IS; BECAUSE IT BECAME PREGNANT WITH HIM AND GAVE BIRTH, HE PAYS BACK THE VALUE OF THE COW AT THE TIME OF THE THEFT.”

[C] THIS IS THE GOVERNING PRINCIPLE: ALL ROBBERS PAY COMPENSATION [IN ACCORD WITH THE VALUE OF THE STOLEN OBJECT] AT THE TIME OF THE THEFT.

1. **III:1:** Who taught this statement [M. 9:1J-K]?

LXVI. YERUSHALMI BABA QAMMA 9:2

[A] **[IF]** HE STOLE A BEAST AND IT GOT OLD, SLAVES AND THEY GOT OLD, HE PAYS [COMPENSATION FOR THEM IN ACCORD WITH THEIR VALUE] AT THE TIME OF THE THEFT. **R. MEIR** SAYS, “IN THE CASE OF SLAVES, HE MAY SAY TO HIM, ‘HERE IS WHAT IS YOURS BEFORE YOU!’”

1. **I:1:** R. Huna said, “That is so [M. 9:2A] when one stole a calf and it grew into an ox. [Then he pays the compensation for a young beast.] But if one stole an ox and it grew old, he may say to him, ‘Lo, there is yours before you.’ [This is to be lenient.]”

LXVII. YERUSHALMI BABA QAMMA 9:3

- [A] [If] HE STOLE (1) A COIN AND IT GOT CRACKED,- (2) PIECES OF FRUIT AND THEY TURNED ROTTEN, (3) WINE AND IT TURNED INTO VINEGAR, HE PAYS [COMPENSATION FOR THEM IN ACCORD WITH THEIR VALUE] AT THE TIME OF THE THEFT.
1. I:1: R. Huna said, “[The rule of M. 9:3A, a coin became cracked] applies to a case in which the state declared the coin [which was cracked] to be invalid.”
 2. I:2: R. Judah b. Pazzi in the name of R. Yosé bar Haninah, “[The rule of M. 9:3B, pieces of fruit turned rotten] applies to a case in which they were rotted by moths. But if they were rotted by worms, they are deemed perfectly good pieces of produce [since there will be good parts left].”
 3. I:3: R. Huna said, “[The rule of M. 9:3A, a coin got cracked] applies to a coin which the empire declared invalid. But if the local province declared it invalid, [the thief] says to him, ‘Lo, there is yours before you.’” Samuel said, “Even if the empire declared it invalid, he may say to him, ‘Lo, there is yours before you.’”
- [B] [If HE STOLE] (1) A COIN, AND IT WAS DECLARED INVALID, (2) HEAVE-OFFERING, AND IT BECAME UNCLEAN, (3) LEAVEN, AND THE FESTIVAL OF PASSOVER PASSED [MAKING IT NO LONGER AVAILABLE FOR ISRAELITE USE], (4) A BEAST, AND A TRANSGRESSION WAS COMMITTED UPON IT, OR (5) [A BEAST] WHICH WAS INVALIDATED FOR USE ON THE ALTAR, OR (6) WHICH WAS GOING FORTH TO BE STONED, [THE ROBBER] SAYS TO HIM, “HERE IS WHAT IS YOURS RIGHT IN FRONT OF YOU!”
1. II:1: R. Yudan did not go into the schoolhouse. He came across R. Mana, saying to him, “What new point was made in school today?” He said to him such and so, [specifically, following Y. Git. 5:5 “Thus did R. Yosé say, ‘He who renders the produce of his fellow unclean is not deemed as if he has done a concrete deed].’ [That is, he who imparts uncleanness to the foods prepared in conditions of cleanness of his fellow is exempt from making restitution, since this is a sort of damage without a perceptible material mark.]” He replied, “Now is this point not explicitly stated in a well-known pericope of Mishnah: Heave offering and it became unclean [M. 9:3E]?”

2. **II:2:** Hilpai said, “[With reference to M. 9:3, there can be a case in which the thief has to return usable leaven. It would be, specifically,] a case in which the thief took an oath to the victim prior to Passover [that he had not stolen the leavened food]. [Then he confessed that he had done so. Now at the time at which he took the oath, the leaven was permissible. The obligation incurred under the oath is to return that to which the oath has referred. Consequently] after Passover he must pay him back leavened food in good shape, [and permissible for Israelite use].”

LXVIII. YERUSHALMI BABA QAMMA 9:4

[A] [If] ONE GAVE [SOMETHING] TO CRAFTSMEN TO REPAIR, AND THEY SPOILED [THE OBJECT], THEY ARE LIABLE TO PAY COMPENSATION. [If] HE GAVE TO A JOINER A BOX, CHEST, OR CUPBOARD TO REPAIR, AND HE SPOILED IT, HE IS LIABLE TO PAY COMPENSATION. A BUILDER WHO TOOK UPON HIMSELF TO DESTROY A WALL, AND WHO SMASHED THE ROCKS OR DID DAMAGE IS LIABLE TO PAY COMPENSATION. [If] HE WAS TEARING DOWN THE WALL ON ONE SIDE, AND IT FELL DOWN ON THE OTHER SIDE, HE IS EXEMPT. BUT IF IT IS BECAUSE OF THE BLOW [WHICH HE GAVE IT], HE IS LIABLE.

1. **I:1:** [Explaining why the craftsman has to pay the full value of the box, chest, or cupboard, rather than simply the value of the materials, prior to their assembly into a box, chest, or cupboard,] R. Huna said, “That rule applies to a case in which the craftsman knocked in the last nail, so as to acquire ownership of the other party’s utensils [and at that point he becomes liable to pay the value of the entire utensil, should it be spoiled].”

LXIX. YERUSHALMI BABA QAMMA 9:5

[A] HE WHO HANDS OVER WOOL TO A DYER, AND THE [DYE IN THE] CAULDRON BURNED IT, [THE DYER] PAYS THE VALUE OF THE WOOL. [If] HE DYED IT IN A BAD COLOR, IF [THE WOOL] INCREASED IN VALUE MORE THAN THE OUTLAY [OF THE DYER], [THE OWNER OF THE WOOL] PAYS HIM THE MONEY HE HAS LAID OUT IN THE PROCESS OF DYEING. BUT IF THE OUTLAY OF THE DYER IS GREATER THAN THE INCREASE IN VALUE OF THE WOOL, [THE OWNER] PAYS HIM BACK ONLY THE VALUE OF THE IMPROVEMENT. [If HE GAVE WOOL TO A DYER] TO DYE IT RED, AND HE DYED IT BLACK, [OR] TO DYE IT BLACK, AND HE DYED IT RED — R. MEIR SAYS, “[THE DYER] PAYS HIM BACK THE VALUE OF HIS WOOL.”

1. **I:1:** [With regard to M. 9 5A, the cauldron burned the wool,] R. Huna said, “That is the case if the dyes burned the wool. But if the cauldron burned the wool, the dyer says to him, ‘Lo, there is yours before you.’ [If the dyes did the burning, then the dyer is responsible for using inferior ones. But if it was the cauldron, then the dyer bears no responsibility for having done things improperly.]”

[B] **R. JUDAH SAYS, “IF THE INCREASE IN VALUE IS GREATER THAN THE OUTLAY FOR THE PROCESS OF DYEING, [THE OWNER] PAYS HIM BACK THE OUTLAY FOR THE PROCESS OF DYEING. AND IF THE OUTLAY FOR THE PROCESS OF DYEING IS GREATER THAN THE INCREASE IN THE VALUE OF THE WOOL, [THE DYER] PAYS HIM ONLY THE INCREASE IN VALUE OF THE WOOL.”**

1. **II:1:** With reference to M. 9 5J, If the increase in value is greater than the outlay for the process of dying. the owner pays him back the outlay for the process of rinsing: what is the meaning of, “If the increase in value is greater than the outlay for the process of dyeing” [That question is raised in the assumption that the customer gave the dyer dyes which he was to use, and the dyer changed the agreement and used other dyes. How do we calculate the costs of the outlay and the profit? The main consideration is that if the dyer had used the dyes he was given, it is possible that the profit would have been much larger.]

- a. **II:2:** [The foregoing case indicates that if an agent did not carry out his agency, he loses the fee for his work, in accord with the profit which the original party would have made had the agent done his job properly, and the original party loses nothing, for,] said R. Jonah, “You may infer from the preceding case [the following rule].

LXX. YERUSHALMI BABA QAMMA 9:6

[A] **HE WHO STOLE SOMETHING FROM HIS FELLOW WORTH ONLY A PERUTAH, AND TOOK AN OATH TO HIM [THAT HE HAD STOLEN NOTHING, BUT THEN WANTS TO MAKE RESTITUTION], MUST TAKE IT TO HIM, EVEN ALL THE WAY TO MEDIA. HE SHOULD NOT GIVE IT TO HIS SON OR HIS AGENT, BUT HE MAY HAND IT OVER TO AN AGENT APPOINTED BY A COURT. AND IF [THE VICTIM] DIED, [THE ROBBER] RESTORES [THE OBJECT] TO HIS ESTATE. [IF THE THIEF] PAID HIM BACK THE PRINCIPAL BUT DID NOT PAY THE ADDED FIFTH, [IF THE VICTIM] FORGAVE HIM THE VALUE OF THE PRINCIPAL BUT DID NOT FORGIVE HIM THE VALUE OF THE ADDED FIFTH, [IF] HE FORGAVE HIM FOR THIS AND FOR THAT, EXCEPT FOR SOMETHING LESS A PERUTAH OUT OF THE PRINCIPAL, HE NEED NOT TAKE IT BACK TO HIM. [IF] HE [THE THIEF] GAVE HIM BACK THE ADDED**

FIFTH AND DID NOT HAND OVER THE PRINCIPAL, [IF THE VICTIM] FORGAVE HIM THE ADDED FIFTH BUT DID NOT FORGIVE HIM THE PRINCIPAL, FORGAVE HIM FOR THIS AND FOR THAT, EXCEPT FOR AN AMOUNT OF THE PRINCIPAL THAT ADDED UP TO A PERUTAH, THEN HE HAS TO GO AFTER HIM [TO MAKE RESTITUTION, WHEREVER HE MAY BE]. [IF] HE PAID HIM BACK THE PRINCIPAL BUT SWORE [FALSELY] TO HIM ABOUT THE ADDED FIFTH [AND THEN CONFESSED], LO, THIS ONE PAYS BACK AN ADDED FIFTH FOR THE ADDED FIFTH, [AND SO IS THE RULE] UNTIL THE VALUE OF THE PRINCIPAL [OF THE ADDED FIFTH] BECOMES LESS THAN A PERUTAH IN VALUE. AND SO [IS THE RULE] IN THE CASE OF A BAILMENT. FOR IT IS WRITTEN, “IN A MATTER OF DEPOSIT OR OF BARGAIN OR OF ROBBERY, OR IF HE HAS OPPRESSED HIS NEIGHBOR OR HAS FOUND THAT WHICH WAS LOST, DEALING FALSELY THEREIN AND SWEARING TO A LIE” (LEV. 6:2-3) – LO, THIS ONE PAYS BACK THE PRINCIPAL, AN ADDED FIFTH, AND A GUILT-OFFERING.

1. I:1: [As to the statement of M. 9:6P, until the value of the principal becomes less than a perutah in value], this is the meaning of the Mishnah’s statement: Until the value of the final added fifth is less than a perutah.

LXXI. YERUSHALMI BABA QAMMA 9:7

[A] [IF ONE SAID], “WHERE IS MY BAILMENT?” HE SAID TO HIM, “IT GOT LOST.” “I IMPOSE AN OATH ON YOU!” AND HE SAID, “AMEN.” THEN WITNESSES COME ALONG AND GIVE TESTIMONY AGAINST HIM THAT HE HAD EATEN IT UP – HE PAYS BACK THE PRINCIPAL. [IF] HE HAD CONFESSED ON HIS OWN, HE PAYS BACK THE PRINCIPAL, THE ADDED FIFTH, AND A GUILT-OFFERING. WHERE IS MY BAILMENT?” HE SAID TO HIM, “IT WAS STOLEN.” “I IMPOSE AN OATH ON YOU!” AND HE SAID, “AMEN” – THEN WITNESSES COME ALONG AND TESTIFY AGAINST HIM THAT HE STOLE IT, HE PAYS TWOFOLD RESTITUTION. [IF] HE HAD CONFESSED ON HIS OWN, HE PAYS THE PRINCIPAL, AN ADDED FIFTH, AND A GUILT-OFFERING. HE WHO STEALS FROM HIS FATHER AND TAKES AN OATH TO HIM, AND THEN [THE FATHER] DIES – LO, THIS ONE PAYS BACK THE PRINCIPAL AND AN ADDED FIFTH TO HIS [FATHER’S OTHER] SONS OR BROTHERS [AND BRINGS THE GUILT-OFFERING]. BUT IF HE DOES NOT WANT TO DO SO OR DOES NOT HAVE THAT TO PAY BACK, HE TAKES OUT A LOAN, AND THE CREDITORS COME ALONG AND COLLECT WHAT IS OWING.

1. I:1: They do not accept bailments from women, slaves, or minors. [If] one has accepted a bailment from a woman, he must return it to the woman. [If the woman] died, he must return it to her husband. [If] he accepted a bailment from a slave, he must return it to the slave. [If the

slave] died, he must return it to his master. [If] he accepted a bailment from a minor, he sets up a trust for him. [If] he died, he returns it to his father. And in all of these cases, [if] they said at the moment of death, “Let my bailment be given to so-and-so, to whom they belong,” let that which has been spelled out be done in accord with the explanation thereby given [T. B.Q. 11:1].

LXXII. YERUSHALMI BABA QAMMA 9:8

[A] HE WHO SAYS TO HIS SON, “QONAM! YOU WILL NOT DERIVE BENEFIT FROM ANYTHING THAT IS MINE!” – IF THE FATHER DIED, THE SON MAY INHERIT HIM. [BUT IF HE HAD SPECIFIED THAT THE VOW APPLIED] IN LIFE AND AFTER DEATH, IF THE FATHER DIED, THE SON MAY NOT INHERIT HIM. AND HE MUST RETURN [WHAT HE HAS OF THE FATHER’S] TO HIS SONS OR TO HIS BROTHERS. AND IF HE DOES NOT HAVE THAT TO REPAY, HE TAKES OUT A LOAN, AND THE CREDITORS COME ALONG AND COLLECT WHAT IS OWING.

1. I:1: Said R. Jeremiah, “Note how we have learned here: “He who says to his son ‘Qonam! You will not derive benefit from anything that is mine’ – if the father died, the son may inherit him. But if he had specified that the vow applied in life and after death. if the father died. the son may not inherit him” Now has it not been taught [in a parallel tradition]: “If he said,] ‘In my lifetime,’ if he dies, the son may inherit him? “If he said, ‘When I die,’ if he died, the son still may inherit him. “[If he said,] ‘In my lifetime and after my death,’ if he died, the son may not inherit him. [Thus, according to the cited tradition, if the father said merely, ‘After death,’ the son still inherits. Only if the father specified, ‘In my lifetime and after my death,’ is the son not to inherit. This then contradicts the version of the Mishnah.]”
2. I:2: Both R. Jeremiah and R. Yosé b. Haninah say, “[If a man said, ‘Qonam be this house! I shall not enter it in life or in death,’ as soon as he has said, ‘this house,’ he has prohibited it for his own use, whether while alive or after death.”

LXXIII. YERUSHALMI BABA QAMMA 9:9

[A] HE WHO STEALS FROM A PROSELYTE AND TAKES A [FALSE] OATH TO HIM, AND THEN [THE PROSELYTE] DIES – LO, THIS PERSON PAYS THE PRINCIPAL AND ADDED FIFTH TO THE PRIESTS, AND THE GUILT-OFFERING TO THE ALTAR, SINCE IT IS SAID, “BUT IF THE MAN HAS NO KINSMAN TO WHOM RESTITUTION

MAY BE MADE FOR THE GUILT, THE RESTITUTION FOR GUILT WHICH IS MADE UNTO THE LORD SHALL BE THE PRIEST'S, BESIDE THE RAM OF ATONEMENT WHEREBY ATONEMENT SHALL BE MADE FOR HIM" (NUM. 5:8). [IF THE THIEF] WAS BRINGING UP THE MONEY AND THE GUILT-OFFERING [IN LINE WITH A-D], AND HE DIED, THE MONEY IS TO BE GIVEN TO HIS [THE THIEF'S] SONS. AND THE GUILT-OFFERING IS SET OUT TO PASTURE UNTIL IT SUFFERS A DISFIGURING BLEMISH, THEN IT IS SOLD, AND THE MONEY RECEIVED FOR IT FALLS TO THE CHEST FOR THE PURCHASE OF A FREEWILL-OFFERING. IF HE [WHO HAD STOLEN FROM A PROSELYTE] HAD PAID OVER THE MONEY TO THE MEN OF THE PRIESTLY WATCH ON DUTY, AND THEN [THE THIEF] DIED, THE HEIRS CANNOT RETRIEVE THE FUNDS FROM THEIR POSSESSION, SINCE IT IS SAID, "WHATSOEVER ANY MAN GIVES TO THE PRIEST SHALL BE HIS" (NUM. 5:10).

1. **I:1:** Hilpai and R. Yosé bar Haninah said, "It is the teaching of R. Yosé the Galilean." Rab and R. Simeon b. Laqish say, "The Mishnah passage represents the view of R. Aqiba, who has said that [the funds which are owing] must be returned under all circumstances. [The debt for the loan must be given back, even though the proselyte transformed the theft into a loan before he died. The thief is not permitted after the proselyte's death to keep what he has stolen, and we still require the return of what was] stolen."

LXXIV. YERUSHALMI BABA QAMMA 9:10

[A] [IF] HE GAVE THE MONEY TO THE PRIESTLY WATCH OF JEHOIARIB [WHICH IS PRIOR], AND THE GUILT-OFFERING TO THE PRIESTLY WATCH OF JEDAIAH [WHICH IS LATER], HE HAS CARRIED OUT HIS OBLIGATION. [IF HE GAVE] THE GUILT-OFFERING TO THE PRIESTLY WATCH OF JEHOIARIB AND THE MONEY TO THE PRIESTLY WATCH OF JEDAIAH, IF THE GUILT-OFFERING IS YET AVAILABLE, THE FAMILY OF JEDAIAH SHOULD OFFER IT UP. AND IF NOT, HE SHOULD GO AND BRING ANOTHER GUILT-OFFERING. FOR HE WHO BRINGS BACK WHAT HE HAD STOLEN BEFORE HE BROUGHT HIS GUILT-OFFERING HAS FULFILLED HIS OBLIGATION. BUT IF HE BROUGHT HIS GUILT-OFFERING BEFORE HE BROUGHT BACK WHAT HE HAD STOLEN, HE HAS NOT FULFILLED HIS OBLIGATION. [IF] HE HANDED OVER THE PRINCIPAL BUT DID NOT HAND OVER THE ADDED FIFTH, THE ADDED FIFTH DOES NOT STAND IN THE WAY [OF OFFERING THE GUILT-OFFERING AND SO COMPLETING HIS OBLIGATION].

1. **I:1:** [Referring to T. B.Q. 10:18, cited below] R. Hezekiah said, "They differ concerning a sequence of two weeks." R. Yosé said, "They dispute concerning [a sequence which took place in] a single week."

LXXV. YERUSHALMI BABA QAMMA 10:1

[A] HE WHO STEALS [FOOD] AND FEEDS [WHAT HE STOLE] TO HIS CHILDREN, OR LEFT IT TO THEM — THEY ARE EXEMPT FROM MAKING RESTITUTION.

- 1. I:1:** An Israelite who lends money to his fellow on interest and then repented is liable to return [to him the interest he has collected]. [If] he died and left [the money] to his children, the children do not have to return [the money he collected at interest]. And in such a case it is said, “[Though he heap up silver like dust, and pile up clothing like clay;] he may pile it up, but they just will wear it, and the innocent will divide the silver” (Job 27:17). But if their father had left them a cow, a field, a cloak or any sort of object for which he bore responsibility [for replacement, should the object be lost], they are liable to return such an object, for the honor of their father [T. B.Q. 5:25-26].

[B] BUT IF IT REMAINED SOMETHING WHICH COULD SERVE AS SECURITY [FOR EXAMPLE, SUBJECT TO A MORTGAGE, THAT IS, REAL ESTATE], THEY ARE LIABLE TO MAKE RESTITUTION. THEY DO NOT CHANGE MONEY FROM THE CHEST OF THE EXCISE COLLECTORS OR FROM THE FUND OF THE TAX FARMERS. AND THEY DO NOT TAKE FROM THEM CONTRIBUTIONS TO CHARITY. BUT ONE MAY TAKE [FROM THEM CONTRIBUTIONS FOR CHARITY] WHEN THE FUNDS ARE FROM [THE COLLECTOR’S] OWN HOME OR FROM THE MARKETPLACE.

- 1. II:1:** What is “something for which he bore responsibility”?
- 2. II:2:** Rab said, “The law governing an inheritance is the same as the law governing indentured property. [That is, one who lends money on the basis of an oral agreement cannot collect what is owing to him from mortgaged property owned by the borrower, and, likewise, he cannot collect from property which the heir has received from an estate. This is now spelled out:] Just as one who lends money on the security only of witnesses cannot collect from mortgaged property, so he cannot collect from the heirs [to the borrower’s estate].” Samuel said, “Now one may provide an exegesis for that rule: He may not collect from mortgaged property. Lo, from property which is encumbered he indeed may collect [on the basis of the testimony of witnesses, without a written bond].”
- 3. II:3:** If one stole a cloak and gave it to a second party – R. Eleazar in the name of R. Hiyya said, “They extract it from the possession of the first party [who stole it], but not from the other party [to whom he gave

it].” R. Yohanan said in the name of R. Yannai, “They extract it also from the possession of the other party [to whom he gave it].”

4. **II:4:** Thieves who came by night, and then determined to repent, are liable to restore what they stole. If only one of them determined to repent, he is liable to restore his portion. And if he was the one who took the property out of the house and handed it over to the others, then he is obligated to pay in behalf of all of them [T. B.Q. 10:39].
5. **II:5:** He who robs and feeds his minor children [cf. M. 10:1A], his Canaanite boy-slave or girl-slave – they are exempt from paying restitution. [Yerushalmi’s version: He who robs and feeds his children, whether adult or minor, they are exempt from having to pay restitution. If he left it to them, whether adult or minor, they are liable to do so. Sumkhos says, “The elders are liable, the minors are exempt.”] [If] he left them something which is subject to a mortgage, they are liable to make restitution [M. 10:1C]. [Tosefta’s version:] But if they said, “We do not know what reckoning father made with you [at the hour of his death],” they are exempt from liability to make restitution [T. B.Q. 10:21].

LXXVI. YERUSHALMI BABA QAMMA 10:2

- [A] [If] EXCISE COLLECTORS TOOK ONE’S ASS AND GAVE HIM ANOTHER ASS, [If] THUGS TOOK HIS GARMENT AND GAVE HIM ANOTHER GARMENT, LO, THESE ARE HIS, BECAUSE THE ORIGINAL OWNERS HAVE GIVEN UP HOPE OF GETTING THEM BACK. HE WHO SAVES SOMETHING FROM A RIVER, FROM A RAID, OR FROM THUGS, IF THE OWNER HAS GIVEN UP HOPE OF GETTING THEM BACK, LO, THESE BELONG TO HIM.
1. **I:1:** And so did R. Simeon b. Eleazar say, “He who rescues something from the mouth of a lion, wolf, or bear, “or from a riptide in the sea, or a sudden surge of a river – “and he who finds something in a large plaza or campground – “lo, these are deemed forthwith to be his, “for the owner despairs [of ever getting them back]” [T. B.M. 2:2].
- [B] AND SO A SWARM OF BEES: IF THE OWNER HAD GIVEN UP HOPE OF GETTING IT BACK, LO, THIS BELONGS TO HIM. SAID R. YOHANAN B. BEROQAH, “A WOMAN OR MINOR IS BELIEVED TO TESTIFY, ‘FROM THIS PLACE DID THIS SWARM GO FORTH.’” AND ONE MAY WALK THROUGH THE FIELD OF HIS FELLOW TO GET BACK HIS SWARM OF BEES. BUT IF HE DID DAMAGE, HE PAYS COMPENSATION FOR THE DAMAGE WHICH HE DID. BUT HE MAY NOT CUT OFF A

BRANCH OF HIS TREE [TO RETRIEVE THE SWARM, EVEN] ON CONDITION THAT HE PAY DAMAGES FOR IT.

- 1.** **II:1:** Hinena bar Papa in the name of R. Yohanan: “[The statement of R. Yohanan b. Beroqah that a woman or minor is believed, at] M. [10:2I] applies to a case in which one party stole the swarm when it was swarming or flying about [and the thief enticed the swarm to settle in his hive]. “And that is so when it is on the spot [when they actually saw the course of the swarm and reported it right away]. “But if the [usually unacceptable] witnesses went and then came back [to give testimony, that later testimony is null,] for I say, ‘It is because of fright or enticement that they have said what they have said.’”

[C] **R. ISHMAEL, SON OF R. YOHANAN B. BEROQAH, SAYS, “ALSO, HE CUTS DOWN THE BRANCH AND PAYS DAMAGES FOR IT.”**

- 1.** **III:1:** “For it was on condition [7c] that one have that right that Joshua allowed the Israelites to inherit the land” [T. B.Q. 10:27].

LXXVII. YERUSHALMI BABA QAMMA 10:3

[A] **HE WHO RECOGNIZES HIS UTENSILS OR HIS BOOKS IN SOMEONE ELSE’S POSSESSION, AND A REPORT OF THEFT HAD GONE FORTH IN THE TOWN — THE PURCHASER TAKES AN OATH TO HIM SPECIFYING HOW MUCH HE HAD PAID AND TAKES [THE PRICE IN COMPENSATION FROM THE ORIGINAL OWNER, AND GIVES BACK THE PROPERTY]. AND IF NOT, [THE ORIGINAL OWNER] HAS NOT GOT THE POWER [TO GET HIS PROPERTY BACK]. FOR I SAY, “[THE ORIGINAL OWNER] SOLD THEM TO SOMEONE ELSE, AND THIS ONE [LAWFULLY] BOUGHT THEM FROM THAT OTHER PERSON.”**

- 1.** **I:1:** Said R. Ba bar Mamel, “In true logic, he should not have to take an oath [as at M. 10:3C]. And why have they ruled that he must take an oath [that he purchased the utensils or books for such and such an amount]? So as to discourage householders from getting involved with thieves.”
- 2.** **I:2:** R. Joshua b. Levi said, “The law applies to a case in which the report was widespread that this one’s books had been stolen.”

LXXVIII. YERUSHALMI BABA QAMMA 10:4

[A] THIS ONE IS COMING ALONG WITH HIS JAR OF WINE, AND THAT ONE IS COMING ALONG WITH HIS JUG OF HONEY — THE JUG OF HONEY CRACKED — AND THIS ONE Poured OUT HIS WINE AND SAVED THE HONEY IN HIS JAR — HE HAS A CLAIM ONLY FOR HIS WAGES. AND IF HE SAID, “I’LL SAVE YOURS IF YOU PAY ME BACK FOR MINE,” [THE OWNER OF THE HONEY] IS LIABLE TO PAY HIM BACK.

1. **I:1:** Two who were in the wilderness, and in the hand of one of them was a jar of water, while in the hand of the other was a jar of honey, [if] the jar of water cracked, it is a condition imposed by the court that this one should pour out his honey and save the water of his fellow. And when he reaches a settled area, he pays him back the value of his honey. For water preserves life in the wilderness, and honey does not preserve life in the wilderness [T. B.Q. 10:28].
2. **I:2:** A worker and a poor man who climbed a tree and broke off the branch — if they climbed up on a place on which people are usually going to climb, they are exempt. And if not, they are liable [T. B.Q. 10:29].

LXXIX. YERUSHALMI BABA QAMMA 10:5

[A] [If] THE RIVER SWEEPED AWAY HIS ASS AND THE ASS OF HIS FELLOW, HIS BEING WORTH A MANEH AND HIS FELLOW’S WORTH TWO HUNDRED [ZUZ] [TWICE AS MUCH], [If] HE THEN LEFT HIS OWN AND SAVED THAT OF HIS FELLOW, HE HAS A CLAIM ONLY FOR HIS WAGES. BUT IF HE SAID, “I’LL SAVE YOURS, IF YOU PAY ME BACK FOR MINE,” [THE OWNER OF THE BETTER ASS] IS LIABLE TO PAY HIM BACK.

1. **I:1:** It was taught: If he left his own to save that of his fellow, but his fellow’s property emerged on its own [without the help of the other], the fellow does not owe him a thing. But if he left his own property to save that of his fellow, and his own property emerged on its own, what is the law governing his claim, “I had given up hope of saving my property,” [and since it therefore was lost to me, you owe me compensation for it]? [The stipulated payment must be given. What then if he claims, “I did not despair of recovering it”? May he retrieve the property from a third party who has found it?]

LXXX. YERUSHALMI BABA QAMMA 10:6

[A] HE WHO STOLE A FIELD FROM HIS FELLOW, AND BANDITS SEIZED IT FROM HIM — IF IT IS A BLOW [FROM WHICH THE WHOLE] DISTRICT [SUFFERED], HE MAY SAY TO HIM, “LO, THERE IS YOURS BEFORE YOU.” BUT IF IT IS BECAUSE [OF THE DEEDS] OF THE THIEF [IN PARTICULAR], HE IS LIABLE TO REPLACE IT FOR HIM WITH ANOTHER FIELD. [IF] A RIVER SWEEPED IT AWAY, HE MAY SAY TO HIM, “LO, THERE IS YOURS BEFORE YOU.” HE WHO (1) STOLE SOMETHING FROM HIS FELLOW, OR (2) BORROWED SOMETHING FROM HIM, OR (3) WITH WHOM THE LATTER DEPOSITED SOMETHING, IN A SETTLED AREA — MAY NOT RETURN IT TO HIM IN THE WILDERNESS. [IF IT WAS] ON THE STIPULATION THAT HE WAS GOING TO GO FORTH TO THE WILDERNESS, HE MAY RETURN IT TO HIM IN THE WILDERNESS.

1. I:1: Said R. Yohanan, “And have they not ruled: ‘Real estate is n subject to theft’? So why have they said, He is liable to replace it for him with another field?”
2. I:2: If bandits seized it from the thief on account of the deeds of the victim of thievery, what is the law as to the victim’s saying to the thief, “In any event, give me mine back, and whoever wants can come and seize it from me”?

LXXXI. YERUSHALMI BABA QAMMA 10:7

[A] HE WHO SAYS TO HIS FELLOW, “I HAVE STOLEN FROM YOU...,” “YOU HAVE LENT SOMETHING TO ME...,” “YOU HAVE DEPOSITED SOMETHING WITH ME...,” “AND I DON’T KNOW WHETHER OR NOT I RETURNED [THE OBJECT] TO YOU” IS LIABLE TO PAY HIM RESTITUTION. BUT IF HE SAID TO HIM, “I DON’T KNOW WHETHER I STOLE SOMETHING FROM YOU,” “...WHETHER YOU LENT ME SOMETHING,” “...WHETHER YOU DEPOSITED SOMETHING WITH ME,” HE IS EXEMPT FROM PAYING RESTITUTION.

1. I:1: [Since, to begin with, the victim has not laid claim on the one who addresses his fellow here.] R. Yohanan said, “The law applies to one who proposes to carry out his obligations to Heaven.” “I stole something from you,” “You lent money to me,” “You left a bailment with me,” and “I returned these to you” — and the other party said, “I know nothing about it” — R. Jeremiah contemplated ruling, “[Here] he is liable by law to make it up to him.”

LXXXII. YERUSHALMI BABA QAMMA 10:8

[A] HE WHO STEALS A LAMB FROM A FLOCK AND [UNBEKNOWNST TO THE OWNER] RETURNED IT, AND IT DIED OR WAS STOLEN AGAIN, IS LIABLE TO MAKE IT UP. [IF] THE OWNER DID NOT KNOW EITHER THAT IT HAD BEEN STOLEN OR THAT IT HAD BEEN RETURNED, AND HE COUNTED UP THE FLOCK AND IT WAS COMPLETE, THEN [THE THIEF] IS EXEMPT.

1. I:1: Said R. Yohanan, “If the owner knew about the theft, they must be informed about the return of the beast. If they did n(know about the theft, they need be informed about the return [which surely is what M. 10:8A implies].” R. Simeon b. Laqish said, “Even though they did not know about the theft, they must be informed about the return of the beast. [They must take special precautions with a flock which has suffered a theft, to keep the sheep together.]” Said R. Eleazar, “If the stolen beast was as distinguishable as a bellwether, it is not necessary to inform the owner that it ha been returned, [since he will know anyhow].”

LXXXIII. YERUSHALMI BABA QAMMA 10:9

[A] THEY DO NOT PURCHASE FROM HERDSMEN WOOL, MILK, OR KIDS, OR FROM WATCHMEN OF AN ORCHARD WOOD OR FRUIT. BUT THEY PURCHASE CLOTHING OF WOOL FROM WOMEN IN JUDAH, FLAX CLOTHING IN GALILEE, AND CALVES IN SHARON. AND IN ALL CASES IN WHICH [THE SELLERS] SAY TO HIDE THEM AWAY, IT IS PROHIBITED [TO MAKE SUCH A PURCHASE]. THEY PURCHASE EGGS AND CHICKENS IN EVERY LOCALE.

1. I:1: It was taught: They do not accept bailments from women, slaves, or minors. [If] one has accepted a bailment from a woman, he must return it to the woman. [If the woman] died, he must return it to her husband. [If] he accepted a bailment from a slave, he must return it to the slave. [If the slave] died, he must return it to his master. [If] he accepted a bailment from a minor, he sets up a trust for him. [If] he died, he returns it to his father [T. B.Q. 11:1].

LXXXIV. YERUSHALMI BABA QAMMA 10:10

[A] SHREDS OF WOOL WHICH THE LAUNDRYMAN PULLS OUT — LO, THESE BELONG TO HIM. AND THOSE WHICH THE WOOL COMBER PULLS OUT — LO, THEY BELONG

TO THE HOUSEHOLDER. THE LAUNDRYMAN PULLS OUT THREE THREADS, AND THEY ARE HIS. BUT MORE THAN THIS — LO, THEY BELONG TO THE HOUSEHOLDER. IF THEY WERE BLACK [THREADS] ON A WHITE [SURFACE], HE TAKES ALL, AND THEY ARE HIS.

1. **I:1:** Abba Hoshaiyah of Teriyya was a laundryman. He made himself a garment from only one kind of wool, so that people should not say, “He is wearing ours! [That is, he is clothed in bits and pieces of many kinds of wool, which he had pulled out of our clothes and woven into his own.]”

LXXXV. YERUSHALMI BABA QAMMA 10:11

[A] A TAILOR WHO LEFT OVER A THREAD SUFFICIENT FOR SEWING, OR A PIECE OF CLOTH THREE BY THREE FINGERBREATHS — LO, THESE BELONG TO THE HOUSEHOLDER. WHAT THE CARPENTER TAKES OFF THE PLANE — LO, THESE ARE HIS. BUT [WHAT HE TAKES OFF] WITH A HATCHET BELONGS TO THE HOUSEHOLDER. AND IF HE WAS WORKING IN THE HOUSEHOLD OF THE HOUSEHOLDER, EVEN THE SAWDUST BELONGS TO THE HOUSEHOLDER.

1. **I:1:** [As to how much thread is sufficient for sewing (M. 10:11A):] R. Hiyya taught, “The length of the needle.”

TRACTATE

BABA MESIA

Baba Mesia both sets forth information about the topics at hand and also works out a theoretical concern through the presentation of those topics. That concern focuses upon the attitude of parties to a conflict or transaction. To what extent does the intentionality of attitude of a participant in an exchange govern, and to what extent do immutable rules override the will of the individual?

First, in certain situations of conflict, we take full account of the attitude of all parties. When two persons claim ownership of the same object, because both have grabbed it at the same moment, because one has lost what the other has found, or because one has accepted responsibility in proportion to the other's inveiglement (good will, a fee, and so on), then intentionality reigns supreme. That is to say, we settle the conflict by a weighing or a matching of wills. The Torah requires fairness, and, no other considerations' intervening, all parties have a say on what is equitable.

That said, the willingness of two persons, e.g., a buyer and seller, to come to an agreement is set aside by other considerations. The will of those transacting an agreement cannot overcome the law of the Torah. The Torah prohibits usury—the concept of distributive economics that inherent in an exchange is a set valuation, which valuation the participants may not set aside. A theory of static wealth comes into play when we maintain that true value inheres in things. God's will overrides man's, and what God does not want, man cannot legitimate merely by an act of will, even in an exchange involving mutual consent. Intentionality or attitude—willingness to evaluate at a higher or lower value than the intrinsic one—no longer enter into the disposition of a transaction. Because God's will outweighs man's will, intentionality plays no part in settling these transactions.

The third understanding is that established custom modifies intentionality, in that people are assumed to conform to a common norm. In exchanges not of conflict nor of fixed value but of service, attitude or intentionality is subordinated to expectations that are broadly accepted. Intentionality plays its part, but idiosyncrasy does not, and we do not impute to an individual an intention or expectation that diverges from the norm. The parties may willingly enter a valid agreement to exchange service—work, rental of property, and the like—but their agreement cannot violate fixed procedures, any more than a buyer and seller may

ignore true value. Custom in intangible relationships matches inherent worth in tangible ones.

What emerges from the presentation of *Baba Mesia*, therefore, is a coherent exercise on the three dimensions of will or intentionality: where man's will defines the norm, where God's will overrides man's will, and where custom and the social norm enter into the assessment of man's will and turn out to exclude unarticulated idiosyncrasy. Later on we shall see how *Baba Batra* works on yet another aspect of intentionality, cases in which intentionality is simply irrelevant to transactions of a certain order. Then we eliminate all consideration of individual preference or will. That completes the picture.

- I.** The disposition of other peoples' possessions
 - A.** Conflicting claims on lost objects
 - B.** Returning an object to the original owner
 - C.** Rules of bailment

- II.** Commercial transactions
 - A.** Overcharge and misrepresentation
 - B.** Usury

- III.** Hiring workers. Rentals and bailments
 - A.** The mutual obligations of worker and employer
 - B.** Rentals
 - C.** Bailments: the special case of depositing materials with craftsmen
 - D.** The mutual obligations of worker and employer
 - E.** Bailments

- IV.** Real estate
 - A.** Prologue
 - B.** Landlord-tenant relationships
 - C.** The landlord's relationships with a tenant-farmer or a sharecropper
 - D.** Paying laborers promptly. Taking a pledge
 - E.** Joint holders of a common property

YERUSHALMI BABA

MESIA CHAPTER ONE

1:1

[A] [7d] Two [in court lay hold of a .cloak –

[B] This one says, “I found it!” –

[C] And that one says, “I found it!” –

[D] This one says, “It’s all mine!” –

[E] And that one says. “It’s all mine”–

[F] This one takes an oath that he has no less a share of it than half.

[G] and that one takes an oath that he has no less a share of it than half .

[H] And they divide it up.

[I] This one says, “It’s all mine!”

[J] And that one says, ‘Half of it is mine!’

[K] The one who says, “It’s all mine” takes an oath that he has no less a share of it than three parts.

[L] And the one who says, “Half or it is mine,” takes an oath that he has no less a share of it than a fourth part.

[M] This one then takes three shares, and that one rakes the fourth.

[I:1 A] [The following is a paraphrase of T Shebu. 5: 3, which is as follows: **If the plaintiff was claiming a maneh in the presence of a court, and the defendant denied it, and two witnesses came and gave testimony that he owes him fifty zuz, lo, this one pays (fifty zuz) and is exempt from the requirement of taking an oath. But if there was only a single witness who was giving evidence against him, lo, this one takes an oath covering the whole amount.**] *It was taught:* A man who said to his fellow, “Give me the maneh which you owe me!”

[B] The other said to him, “It never happened!”

[C] The lender went and brought witnesses that he owes him fifty zuz.

[D] [Concerning the foregoing case,] R. Hiyya the Elder said, “The admission by witnesses [that the man owes the money] is tantamount to his own admission [that he owes part of the debt, namely, the fifty zuz which the witnesses say has been lent out of the hundred claimed by the creditor],

[E] “and consequently, the borrower must take an oath covering the remainder [of what has been claimed by the creditor].”

[F] R. Yohanan said, “The admission by witnesses is by no means tantamount to his own admission which would produce the consequence that the borrower must taken an oath covering the remainder [and he need not do so].”

[G] Said Rabbi, “The position of R. Hiyya the Elder derives from **Two in court lay hold of a cloak** [M. B.M. 1:1A-H]. Since the man is holding onto half of [the cloak], it is as if he brought witnesses to court that half of it belongs to him.

[H] “And you then rule that he takes an oath [as at M. 1:1F, G] and retains possession of the half in his hand. Now this case before us is similar to that case. [Possession of the cloak is deemed parallel to having witnesses to ownership thereof.]”

[I] *Rabbah bar Mamal and R. Amram introduced the following issue of Rab into [the present discussion]:* [Rab] said to [R. Hiyya], “Do they then not hand over an oath [for swearing by] someone suspect of lying [under oath!] [For the debtor of T. Shebu. 5:3, cited above, has alleged that he owes nothing. The witnesses prove that he is a liar. How then can he take an oath covering the remainder, since he is a known perjurer?]”

[J] He said to him, “Even a statement using the language of an oath [but omitting the operative clauses] they do not hand over to him.”

[II:1 A] [With reference to M. 1:1F, G: **This one takes an oath that he has no less a share of it than half ...** ,] how does he then swear? [What sort of language is used here? For the claim is that the man owns not less than half of the cloak. Even if the man owns none of the cloak, he can make that statement without in fact lying under oath, since, indeed, he does not own less than half, for he owns none of it.]

[B] R. Huna said, “‘By an oath! I have a right to it. and I own no less of it than part worth a perutah.’ [By using this language, the problem of A is avoided. These are meaningful statements.]”

[II:2 A] Said R. Yohanan, “If from this matter [that the parallel to M. B.M. 1:1 is decisive], you prove that an oath is required, then it is an oath [at M. B.M. 1:1] which has been ordained as a remedy [by the rabbis]. Each party may take that same oath. Why should they not divide the claimed cloak without taking any oath at all insofar as their actual possession is the equivalent of witnesses to their claim. Accordingly, the case of M. B.. 1 is not pertinent to the matter under discussion at T. Shebu. 5:3 at all, with the consequence that the claim of Rabbi is not valid.]”

[II:3 A] *It was taught: Two who were laying hold of a document [bond] –*

[B] **This one says, “It is mine, and I lost it!”**

[C] **And that one says, “It was in my possession, and I already paid you for it!” –**

[D] **“Let the document be confirmed through the signatures of the witnesses which it bears,” the words of Rabbi.**

[E] **And Rabban Simeon b. Gamaliel says, “Let them divide it the money] between them” [T. B.M. 1:15].** [Rabbi’s position is that the former admits that he has written the bond and it is necessary to confirm the bond. If the creditor is able to do so, he has a valid claim and divides up the money covered by the bond. If not. the creditor has no share in the proceeds of the bond. Simeon b. Gamaliel’s position is that it is not necessary even to confirm the bond; in any event the claimants divide the funds at issue.]

[F] R. Eleazar said, “All follows the circumstance of which of the claimants holds the part on which the witnesses have signed their names. [The party holding the part of the bond containing the confirmation by witnesses is the one who wins the case.]”

[G] *Said R. Hisda, “If you accept this view, you accord with the position of R. Simeon [b. Gamaliel]. [But Rabbi will want the witnesses to confirm the bond in court.]”*

[II:4 A] **This one says, “It’s all mine!”**

[B] **And that one says, “A third of it is mine!”**

[C] **The one who says, “It’s all mine” takes an oath that he has no less of a share of it than five parts.**

[D] **And the one who says, “A third of it is mine!” takes an oath that he has no less of a share of it than a sixth [part].**

[E] **The governing principles of the matter: One is subjected to an oath only up to one-half of his claimed share alone [T. B.M. 1:2].**

1:2

[A] **Two were riding on a beast,**

[B] **or one was riding and one was leading it –**

[C] **This one says, “It’s all mine!” –**

[D] **and that one says, “It’s all mine!” –**

[E] **This one takes an oath that he has no less a share of it than half,**

[F] **and that one takes an oath that he has no less a share of it than half.**

[G] **And they divide it.**

[H] **But when they concede [that they found it together] or have witnesses to prove it, they divide it without taking an oath.**

[I:1 A] *Said R. Huna, “There it is taught:*

[B] “A woman who was riding along on a beast, with two men leading it,

[C] “[and she comes to court and claims,] ‘These are my slaves, and the ass and its burden belong to me,’

[D] “while this one says, ‘This is my wife, and the other man is my slave, and the ass and its burden are mine,’

[E] “and the other party claims, ‘This is my wife, and the other man is my slave, and the ass and its burden are mine’ –

[F] “she requires a writ of divorce from each of the men, and she must also declare both of them free men.

[G] “And both of them issue writs of emancipation to one another.

[H] “And as to the ass and its burden, all three of them lay an equal claim [and divide it up].”

1:3

[A] [If] **one was riding on a beast and saw a lost object,**

[B] **and said to his fellow, “Give it to me,”**

[C] **[but the other] took it and said, “I take possession of it” –**

[D] **[the latter] has acquired possession of it.**

[E] **If after he gave it over [to the one riding on the beast], he said, “I acquired possession of it first, “**

[F] he has said nothing whatsoever.

- [I:1 A] [As to the dispute between Yohanan and Simeon b. Laqish, in which Yohanan maintains that someone may acquire possession for his fellow of a lost object if he lifts up the object on behalf of his fellow, and so he thereby imparts ownership of the object to his fellow, while Simeon b. Laqish maintains that someone may not do so,] *said R. Isaac, “The present law does not contain an inference on that dispute, either in its opening clause [M. 1:3A-D], or in its closing clause [M. 1:3E-F].*
- [B] **“[If] one was riding on a beast and saw a lost object and said to his fellow, Give it to me,’ but the other took it and said, ‘I take possession of it – the latter has acquired possession of it.**
- [C] “If he had said to him, ‘Acquire possession of it on my behalf’ [rather than using the language, ‘give it to me,'] he would thereby have acquired it. [For with this other language, he would have appointed him his agent to acquire the object. In the case – “Give it to me” – then, even though the latter had lifted it up at the rider’s behest there was no demand that the agent acquire it for the rider. Therefore, the latter might nonetheless have had the power to go and acquire ownership of the object for himself. On the other hand, if the rider had said to him, ‘Acquire possession of it for *me*,’ the latter would have acquired possession for the one riding on the ass forthwith. But that is not the language of the present pericope, so it is irrelevant to the cited dispute.]
- [D] *“It follows [and one may construct a similar argument for the latter part of the pericope], that the passage does not contain an inference on that dispute, either in its opening clause. or in its closing clause.”*

1:4

- [A] **[If] he saw a lost object and fell on it, and someone else came along and grabbed it,**
- [B] **this one who grabbed it has acquired possession of it.**
- [C] **[If] he saw [people] running after a lost object –**
- [D] **after a deer with a broken leg, pigeons which could not fly,**
- [E] **and he said, “My field has effected possession for me,”**
- [F] **it has effected possession for him.**
- [G] **[If] the deer was running along normally, or [if] the pigeons were flying,**
- [H] **and he said, “My field has effected possession for me, “**

[I] he has said nothing whatsoever.

- [I:1 A] R. Simeon b. Laqish said [in the name of] Abba Kohen Bardela, “A man acquires ownership of a lost object within four cubits [of where he stands].”
- [B] R. Yohanan said, “That statement applies to a case in which [the lost object] falls into the man’s hand [so that he has effective control thereof].”
- [C] *The following pericope of the Mishnah stands at variance with the position of R. Simeon b. Laqish:*
- [D] **If one of the poor took part of the peah offering and threw it over the rest [so asserting that he owned it], none of it belongs to him. [If he fell down on it or spread his cloak over it, it must be taken away from him (M. Pe. 4:3).]** [The poor man has no right to the peah offering, even though it is within four cubits of where he stands. This then contradicts Simeon b. Laqish.]
- [E] He replied, “[Apply the stated passage of the Mishnah] to a case in which the man failed to say, ‘Let it be acquired for me by the four cubits [of public domain] which are mine.’”
- [F] *Now take note of the concluding passage: **If he fell down on it or spread his cloak over it, it must be taken away from him.*** [Consequently, he has not acquired ownership, even though his physical action surely states his desire to acquire ownership, which you have alleged is lacking at E.]
- [G] This is yet a further case in which he failed to say, “Let it be acquired for me by the four cubits [of public domain] which are mine.” [Even in such a case, the same requirement applies and has not been met.]
- [H] *And has not R. Hiyya taught:* “Two [poor men] who were arguing about possession of a sheaf, and a poor man came along and grabbed it from before them – he has acquired possession of it.”
- [I] It is yet another case in which he failed to say, “Let it be acquired for me by the four cubits [of public domain] which are mine.”
- [J] *And have we not learned in the Mishnah: **If he saw a lost object and fell on it, and someone else came along and grabbed it, this one who grabbed it has acquired possession of it [M. 1:4A-B].***
- [K] It is yet another case in which he failed to say, “Let it be acquired for me by the four cubits [of public domain] which are mine.”

[L] *And have we not learned in the Mishnah: If a woman was standing in a public place and her husband threw a writ of divorce to her, if it lands nearer to her, she is divorced. If it lands nearer to him, she is not divorced. If it lands exactly half way between, she is divorced and not divorced [M. Git. 8:2H-K].* [This passage is defective here and is to be consulted at Y. Git. 8:3.] [What follows belongs solely to Y. Git. 8:3:] Hezekiah said, “The Mishnah [just now cited] pertains to [who pays; the fee of the scribe.]”

[M] [Replying to the one who says that the four cubits of a person do not acquire ownership for him] they objected, “And is it not written, ‘and in my poverty I have provided for the house of the Lord a hundred thousand talents of gold, a million talents of silver and bronze and iron beyond weighing, for there is so much of it; timber and stone too I have provided. To these you must add’ (I Chron. 22) . [Now how can David refer to himself as poor if he has made available so much wealth to the Temple] Now how is that possible? If these things were set in his hand. he is rich. If they were not set in his hand, can someone consecrate what does not belong to him at all? One must then conclude that [he retained ownership of what he had given because] it was located within four cubits of where he was standing, [and on that account he could consecrate all these things to the Temple]. [It must then follow that a man acquires ownership within four cubits of where he stands.]”

[N] Said R. Abin, “What is the meaning of ‘... in my poverty’? It is that there is no such thing as wealth before Him who spoke and brought the world into being.”

[O] Another matter: He would fast and consecrate even his very food to Heaven.

[I:2 A] *It has been taught: He who says, “Let my house effect possession for me of any lost object which falls into it today”*

[B] **has said nothing whatsoever.**

[C] **But if any sort of lost object should turn up for him, his words are confined [T. B.M. 1:4].**

[D] *This is in line with the following:*

[E] *The tenant-farmer of R. Ba bar Mina climbed a palm tree. [8a] He found fledglings and took them. He went and asked Rab. He said to him nothing at all. He went and asked R. Ba bar Mina. He said to him,*

“It was a problem for us, and yet you bring them to me. You should enjoy the profit of what you have found.”

1:5

[A] Things found by one’s minor son or daughter,

[B] things found by his Canaanite slave or bondwoman,

[C] things found by his wife –

[D] lo, they belong to him.

[E] Things found by his adult son or daughter,

[F] things found by his Hebrew slave or bondwoman,

[G] things found by his wife whom he has divorced, even though he has not yet paid other marriage-settlement –

[H] lo, they belong to them.

[I:1 A] Said R. Yohanan, “[The rule of M 1:5E] applies when they are not dependent on him. But if they were dependent on their father, things which they find belong to him.”

[I:2 A] R. Simeon b. Laqish said, “A person does not acquire in behalf of his fellow ownership of an object which he finds.”

[B] *Said R. La, “It is not that R. Simeon said so [explicitly]; rather he found a problem in regard to that position, on account of the following teaching which R. Hoshaiiah taught: ‘He who hires a worker to do any sort of work – what the worker finds belongs to the householder.’”*

[C] In this regard said R. Simeon b. Laqish. “Shall someone who has the right to retract from his agreement [as a worker may do] – have what he finds belong to his master? [Surely not.” From this question, in any event, it follows that a person does not acquire in behalf of his fellow ownership of an object which he finds. This question, according to R. La, is the source.]

[I:3 A] What is the difference between one’s Hebrew slave or bondwoman and his Canaanite slave or bondwoman?

[B] Said R. Yohanan, “As to his Hebrew slave or bondwoman, since [the employer; has not got the right to change him from doing his agreed-upon kind of work, what he finds belongs to himself. As to his Canaanite slave or bondwoman, since [the employer does have the right to change him from the work he is doing [to some other kind of work], what they find belongs to their master.”

- [C] *They objected:* “Lo, there is his wife. Now he has not got the right to change her from her agreed-upon labor [done in his behalf], and yet what she finds belongs to him.
- [D] *“For we have learned there: ‘The husband may force the wife to work in wool, but he may not force her to work in some other material’* (cf. M. Ket. 5:5). [So the wife’s labor is not in the husband’s power.]”
- [E] Said R. Ba bar Mina and R. Yosa in the name of R. Yohanan, “Another reason applies to the wife.”
- [F] What is the other reason which applies to the wife?
- [G] R. Haggai said, “It is [to avoid] strife.”
- [H] R. Yosa says, “It is so [hat the wife should not swipe her husband’s goods and claim that they are things which she has found.”
- [I] Restoring from the parallel at Y. Ket. 6:1.] Take note of the case in which someone else gave her a gift. [Could she not claim equally well that property she has taken from her husband and claimed as her own in fact is a gift? Why have sages accomplished a thing in declaring that what a wife finds belongs to her husband, so as to protect the husband’s property]
- [J] If it is a gift, people will hear about it [while with reference to what she finds, people will not hear about it].
- [K] They objected: “What if it is before witnesses [that she finds the object? [That is also going to be known, just as is the gift.]”
- [L] They prohibited her keeping what she finds before witnesses. because of what she finds not before witnesses.

[II:1 A] Things found by his wife whom he has divorced [M. 1:5G] –

- [B] R. Yosena in the name of R. Aha: “A man who divorced his wife and has not paid off her marriage-settlement is liable to support her until he pays off the very last perutah.”
- [C] *Said R. Yosé, “The Mishnah itself makes the same statement: **Things found by his wife whom he has divorced. even though he has not paid off her marriage-settlement – lo. they belong to her**].*
- [D] Said R. Hoshaiah, “This is so that you should not conclude that since he is liable to support her until he pays off the very last perutah, let an object she may find belong to him.

[E] *“It is on this account that the Mishnah makes the statement which it makes.”*

1:6

[A] [If] one found bonds of indebtedness,

[B] “if they record a lien on [the debtor’s real] property, he should not return them.

[C] “For a court will exact payment on the strength of them [even from third parties who have purchased from the debtor].

[D] “If they do not record a lien on property, he should return them,

[E] “for a court will not exact payment on the strength of them,” the words of R. Meir.

[F] .And sages say, “One way or the other, he should not return them.

[G] “For a court will exact payment on the strength of them.”

[I:1 A] *It was taught in the name of R. Meir, “Whether it is a bond which contains a lien on the debtor’s real property, or a bond which does not contain a lien on the debtor’s real property, one may collect [what is owing from unencumbered property of the debtor.” [This formulation calls into question Meir’s reasoning at M. 1:6C-E. for surely the holder of the bond will be able to collect, and yet the bond may have been paid off already. So the same opportunity to pervert justice exists in either type of bond, so far as unencumbered property is concerned.]*

[B] *In the opinion of R. Meir. for what purpose [then should one return the bond [in a case in which the bond contains no lien on the debtor’s real property]? To wrap over the mouth of and ask? [That is, the bond is worthless.]*

[I:2 A] [At issue in the following dispute is whether a loan made only before witnesses, and not secured by a bond, is collectible from the heirs of the borrower.] Rab said, “Property coming to the heir is in the status of indentured property [which cannot be extracted from the heir on the basis of a loan owed by the deceased and attested solely by witnesses, not by a bond]. [One who lends on the evidence of mere witnesses cannot collect from heirs of the debtor what is owing to the creditor.] Just as one who lends money merely before witnesses cannot collect the debt from indentured property, so he cannot collect the debt from heirs of the debtor.”

[B] Samuel said, “From indentured property [falling to the heirs] one indeed cannot collect [what is owing on a loan made merely before witnesses. Lo, from unindentured property [falling to the heirs from

the debtor] one may indeed collect a loan made merely before witnesses.” [Samuel has elsewhere maintained that one who makes a loan attested solely by witnesses does collect from unindentured property, and that would include property which has passed from the debtor to his heirs. Yet in the present context, vis-[^]-vis Meir, we note, one does not collect from unencumbered property in the same circumstance. That is the force of the following question:] *Now here you say one collects, and there you say one does not collect!* One who has encumbered himself in part is not the same is one who has not encumbered himself at all. [The bond lacking any sort of lien, of which Meir speaks. is not a bond at all. that is why there can be no collection therefrom, even of unencumbered property.]

[I:3 A] [Returning to the explanation of Meir’s position,] R. Eleazar said, “[The reason one does not return a bond in which there is a lien on the borrower’s property is that I take account of this possibility:] the scribe has written the bond for the borrower to effect a loan, but he has indeed not yet effected the loan. [and the lender named in the bond may then collect as of the date of the bond, even though he has lent nothing as yet].”

[B] Said R. Eleazar, “If, then, the debtor concurs, one may indeed return the bond to the creditor.”

[C] Said R. Eleazar, “If there is presumptive evidence [for instance, court confirmation] that this bond has been in the possession of the lender, lo, one should indeed return the bond.”

[D] *But these three rules contradict one another.* [The Talmud now does not spell out why that is so.]

[II:1 A] **And sages say, ‘One way or the other, he should nor return them’ [M. 1:6F].**

[B] R. Abbahu in the name of R. Yohanan, “It is to prevent a possible conspiracy [between the creditor and debtor]. [The debtor may sell his real estate to a third party, and the creditor will then extract the property from the third party on the strength of the bond.]”

[C] R. Yosa in the name of R. Yohanan: “If it was dated for that very day, one may return the bond [since there will hardly be time for such a conspiracy to do its work].”

1:7

[A] [If] he found writs of divorce for women, writs of emancipation for slaves, wills, deeds of gift, or receipts for the payment of marriage-settlements,

[B] lo, he should not return them.

[C] For I maintain, ‘They were written out but [then the one [who is answerable] for them changed his mind and decided not to hand them over.’”

[I:1 A] *It was taught:* If one found writs of divorce and also marriage contracts, lo, this one should return them.

[B] [The principal concern of his contrary position is that the documents were prepared, but then the person who had them written changed his mind and decided not to hand them over. But in the present case, the documents, found together, bear the mark incised by a court that they have been delivered. Accordingly, there is no reason to suppose that someone has changed his mind.] And in the case of the marriage contract, is it not a presumption [that it has been paid, if found with the writ of divorce and properly marked by the court as having been paid]?

[I:2 A] A bond on the strength of which one has taken out a loan, but which indicates also that the loan has been paid, one may not return [to write out a second loan] so that the lender may collect with it, because of thereby weakening the hold of purchasers [of the encumbered property, since the creditor, who has been paid, may use the bond to extract from purchasers of the debtor’s property land which they have bought, claiming that it was indentured, as proved by the bond].

[B] R. Yosa in the name of R. Yohanan: ‘And that consideration applies even to the very day [on which the documents are dated].’”

[C] [Taking note of what is given above, I:6] *R. Zira raised the question before R. Yosa, “Here you say, ‘And that consideration applies even to the very day [on which the document is dated],’ while above you have said, ‘And if it is dated for that same day, one may return it, [since the presumed conspiracy will not have been able to become effective].’”*

[D] He said to him “Is it common for a man to borrow and pay back on the same day?! [It is not, and that is why the rule will not result in a conspiracy. People will know what has happened.]

[E] “But it is common for a man to pay back and then to borrow on the same day. [That is why the same bond should not be returned, as above.]”

[F] *[As to protecting the rights of the purchasers of the debtor's property, above, C,] R. Haggai asked before R. Yosa, "How do we not have the date, the witnesses, and the lender? What consideration applies in regard to not weakening the hold of purchasers of the encumbered property? [Clearly, what is attested in the bond is the original loan; the encumbered property is indeed owing, first to the lender, and only second to the purchasers. So why is their right in any way diminished? It is to begin with a weak hold on the property they have bought.]"*

[G] He said to him, "[The ruling applies to a case in which on the second go around there is] no explicit stipulation that his property is encumbered [for the payment of the loan]. [Accordingly, in the first loan, in which there is such an explicit stipulation, the borrower will go and seize the property which has been sold, and the purchasers will lose it, even though that first loan has been forgiven or paid off. The purchasers' rights should be unaffected by the second loan, where there is no explicit stipulation of encumbrance, and if the bond is returned, they will be weakened.]"

[H] And some say, "It is a case in which the witnesses have not signed for that loan [that is, the first loan is not secured by the bond signed by witnesses]. [The reason is that even before the witnesses came to sign the bond, that debtor paid off the debt represented thereby – that is, on the same day. One then should not make it possible for the bond to be used for a second loan PM).]"

1:8

[A] **[If] one found documents of evaluation, letters of alimony, deeds confirming a halisah-rite or the exercise of the right of refusal, deeds of arbitration, or any document which is prepared in a court,**

[B] lo, this one should return [them].

[C] [If] he found them [wrapped up] in a satchel or a case,

[D] a bundle of documents, or a package of documents,

[E] lo, this one should return [them].

[F] How many are in a package of documents?

[G] Three tied together.

[H] Rabban Simeon b. Gamaliel, "[If one found a document which involved] a single individual who borrowed from three persons, he should return it to the borrower.

- [I] “[But if the document concerned] three borrowers from a single individual, he should return it to the lender. “
- [J] [If] he found a document among those belonging to him, and he does not know what it is,
- [K] let it lie there until Elijah comes.
- [L] If [however] there were codicils along with them, let him act in accord with what is written in the codicils.
- [I:1 A] [With reference to M. 1:8A, **or any document which is prepared in a court,**] R. Jeremiah in the name of Rab: “If it was a court-confirmation of a bond, lo, this one should return it.”
- [B] R. Hama, father of R. Hoshaiyah, said, “The greatest judges of the communities in exile are equivalent to *the* mere fledglings among the judges in the Land of Israel.”
- [I:2 A] R. Hamnuna said, “If the bond was *written out* on the first of Nisan, but the actual loan was transferred on the tenth of Nisan, they must write in the bond, ‘Even though we have written the bond on the first of Nisan, in fact the decision was reached to hand over the money on the tenth of Nisan.’”
- [II:1 A] [**If there were codicils along with them, let him act in accord with what is written in the codicils:**] R. Jeremiah in the name of Rab: “A codicil [receipt of payment] which is found in the possession of the creditor, in the handwriting of the creditor, is invalid. For I say that the creditor was occupied with his bonds [and made a note on one of them].”
- [B] Lo, if it comes from someone else, is it valid?
- [C] R. Isaac bar Nahman in the name of Samuel: “A codicil is never valid unless it is found in the possession of the creditor in the handwriting of the debtor.”
- [D] *And has it not been taught: Heirs of an estate collect debts owing to the deceased only through an oath: “We swear that father gave us no instructions in this matter, father said nothing to us about it, and we did not find among his bonds evidence that this bond had been paid off”* [M. Shebu. 7:7 E-F]?
- [E] Lo, if such evidence is found, it is deemed to have been paid off.
- [F] *How shall we interpret this Mishnah pericope?*

[G] Said R. Yosé b. R. Bun, “Interpret it to apply to a will, for a man is unlikely to call his will into question [and hence any codicil is apt to be valid].

YERUSHALMI BABA MESIA

CHAPTER TWO

2:1

[A] Which lost items belong to the finder [finders-keepers], and which ones is he [who found them] liable to proclaim [in the lost-and-found]?

[B] These lost items are his [the finder's]:

[C] “[if] he found (1) pieces of fruit scattered about, (2) coins scattered about, (3) small sheaves in the public domain, (4) cakes of figs, (5) bakers’ loaves, (6) strings of fish, (7) pieces of meat, (8) wool shearings [as they come] from the country [of origin], (9) stalks of flax, or (10) tongues of purple – lo, these are his,” the words of R. Meir.

[I:1 A] [Since the operative criterion in M. 2:1 is that, with undistinguished items such as these, the owner takes for granted he will not recover them and so despairs of them, thus giving up his rights of ownership to them, we now ask:] Whence do we know the law of the owner’s despair [of recovering his property constitutes relinquishing *rights* of ownership and declaring the property to be ownerless, hence available to whoever finds it] from the Torah?

[B] R. Yohanan in the name of R. Simeon b. Yehosedeq: “‘And so you shall do with his ass; so you shall do with his garment; so you shall do with any lost thing of your brother’s, which he loses and you find; you may not withhold your help’ (Deut. 22:3) –

[C] “That which is [perceived as] lost by him and found by you are you liable to proclaim [as having been found]” and that which is not [perceived as] lost by him [because he has given up hope of recovering it anyhow] and found by you, you are not liable to proclaim.

[D] “This then excludes that for which the owner has despaired, which is lost to him and to any one.”

- [I:2 A] *It was taught: [If] one has found small sheaves in private domain, he is liable to make proclamation.*
- [B] [If] he has found small sheaves in public domain, he is not liable to make proclamation [cf. M. 2:1C].
- [C] [If he found] stacks of grain, whether in private domain or in public domain,
- [D] he is liable to make proclamation [T. B.M. 2:5].
- [E] As to cakes of figs [declared by M. 2:1C to belong to the finder] –
- [F] *in this regard, you may say that we speak of large cakes [which lack all mark by which they may be identified].*
- [G] *But as to small cakes of figs, [such as those] which come from Bosrah, one is liable to make proclamation, because they bear the marks of coming from some particular place [and hence may be identified by the owner].*
- [H] [If one found] pieces of meat, among which was a piece of liver or kidney, one is liable to make proclamation.
- [I] [If one found] strings of fish, among which was green-fish or a white mullet, one is liable to make proclamation.

2:2

- [A] **And R. Judah says, “Anything which has an unusual trait is he liable to proclaim.**
- [B] “How so?
- [C] “**If he found a fig-cake with a potsherd inside it, a loaf with coins in it.”**
- [D] **R. Simeon b. Eleazar says, “Any new merchandise [lacking an identification mark] he is not liable to proclaim.”**
- [I:1 A] [As to M. 2:2C,] it was taught: “[The identifying mark] must be inserted into [the object, as evidence that the owner has deliberately placed this mark]. [If it is merely set on top, it might have fallen accidentally and would not then constitute an unusual trait of some kind.]”
- [B] *Here you say that the rule applies when the identifying mark is inserted into the object, and yet there you say that the identifying mark may be placed on it. [This is in line with T. B.M. 2:4: **If one has written something on a sherd and put it on the mouth of a jar, on***

paper and put it on the mouth of a circle of dried figs, the finder is liable to make proclamation.

- [C] *When you state that the identifying mark must be inserted into the object [with deliberation], it is in the case of that which is found in public domain.*
- [D] *When you state that the identifying mark may be placed on the object [and not necessarily inserted therein,] it is in the case of that which is found in private domain.*
- [E] *And even if it is located in public domain, if it is placed on the object, must I conclude that it merely happened to fall on the object?! [Why cannot I hold that even in this circumstance it is a distinguishing mark, inserted by the owner?]*

[II:1 A] R. Simeon b. Eleazar says, “Any new merchandise he is not liable to proclaim” [M. 2:2D].

- [B] *Said R. Yohanan, “And it has been taught in this connection:*
- [C] **“Now what is meant by new merchandise?**
- [D] **“Poles, needles, pins, and axes strung together” [T. B.M. 2:1B-C].**
- [E] *The professional memorizer of traditions who served R. Isaac bar Tabelai found a web wrapped up in a cloak. He came before R. Isaac, who instructed him in accord with the statement of R. Simeon B. Eleazar in the present pericope of the Mishnah.*
- [F] *The professional memorizer of traditions who served R. Yohanan found a web wrapped up in a cloak. He came before R. Yohanan, who said to him, “Where did you find it, in a small alley or in the piazza [of public domain]?”*
- [G] *For he wanted to settle the case in accord with [his view of the interpretation of] R. Simeon b. Eleazar’s statement in the Mishnah pericope, [that is, in the light of the cited statement of the Tosefta, II C-D above. introduced by Yohanan himself].*

2:3

[A] And which ones is he liable to proclaim?

- [B] **[If] he found (1) pieces of fruit in a utensil or a utensil as is, (2) coins in a purse or a purse as is, (3) piles of fruit, (4) piles of coins, (5) three coins, one on top of the other, (6) small sheaves in private domain, (7) homemade loaves, (8) wool shearings as they come from the craftsman’s shop, (9) jars of wine, or (10) jars of oil –**

[C] lo, these is he liable to proclaim.

- [I:1 A] [As to having to proclaim finding piles of coins, three coins on top of one another, M. 2:3B,] R. Judah says, “Three coins issued under three different monarches.”
- [B] Said R. Eleazar, ‘And even if all three of them are issued by a single monarch, but if they are arranged by size [largest on the bottom, smallest on the top, one is liable to make a proclamation, since it is not likely that they have fallen in proper order like this].
- [C] “Thus if they belong to three kings and are not arranged by size. or even if all of them come from a single monarch, but they are arranged by size, [one is liable to proclaim having found them].”
- [D] *Said R. Yohanan, “If they were arranged in a pyramidal pile, one is not liable [8c] to make proclamation.”*
- [E] (What is the meaning of “a pyramidal pile”? It is in the manner as goods are stored up in an enclosure belonging to three persons.)
- [F] “Since one does not know to whom to return [these coins], he is not liable to make proclamation.”
- [G] *Said R. Yosé, “You may derive [from the following story that it need not be three, but even two such arrangements of coins need not be returned, in line with F:] Someone was walking behind R. Halafta. A denar fell from him. Since he did not know to whom to return it, he is not liable to make proclamation.”*
- [H] *Simeon b. Ba was walking behind R. Eleazar. A denar fell from him. Simeon bar Ba held it out to him. [Eleazar] said to him, “I had already despaired [of getting it back, and you may keep it].”*
- [I] *They said that R. Eleazar intended only to give R. Simeon b. Ba the benefit of the coin, because he was impoverished, [but in general the law would not be so].*

2:4

[A] [If] behind a fence or a hedge one found pigeons tied together,

[B] or on paths in fields,

[C] lo, this one should not touch them.

[D] [If] he found a utensil in a dung heap,

[E] if it is covered up, he should not touch it.

- [F] If it is uncovered, he takes it but must proclaim [that he has found it].
- [G] [If] he found it in a pile of debris or in an old wall, lo, these belong to him.
- [H] [If] he found it in a new wall,
- [I] if it is located from its midpoint and outward, it is his.
- [J] If it is located from its midpoint and inward, it belongs to the householder.
- [K] If he had rented [the house] to others,
- [L] even [if he found it] in the house,
- [M] lo, these are his.

[I:1 A] [As to the pigeons tied together at M. 2:4A,] R. Judah said, “That is on condition that the pigeons are tied together at their wing-tips. [This is the ordinary sort of tying them together. Any other bond would be deemed a special mark, and the rule will not apply.]”

[B] *R. Ba bar Zabeda found an ass with its burden [of a leather skin], and he took it. He went and asked Rab. He said to him, “You did not do right.”*

[C] *He said to him, “Shall I return it?”*

[D] *He said to him, “No. For I rule that the owner came and looked for it, but, not finding it, despaired of getting it back [and so gave up ownership, which you now enjoy].”*

- [I:2 A] *It was taught:* [If] one found an object on a dung-heap,
- [B] he is liable to make proclamation.
- [C] For it is usual for a dung-heap to be cleared away [T. B. M. 2:11].
- [D] [If] one found an object in a pile or in an old wall,
- [E] lo, these things which he finds are his [M. 2:3G].
- [F] For he can say to [any claimant], “They come from the time of the Amorites” [T. B.M. 2:12].
- [I:3 A] *It was taught:* [If] he found [an object] between the boards [at the threshold of the doorway to the house],
- [B] [if the object was located] from the door-jamb and outward, it belongs to [the finder]. If it was located from the door-jamb and inward, it belongs to the householder.

- [C] [If] one found an object in a hole or new wall, if the object was located from the mid-point and outward, it belongs to [the finder]. [If the object was located] from the mid-point and inward [toward the inside of the house], it belongs to the householder (M. 2:3H-J.) [If the wall or hole] was open wholly outward, even if the object was located from the mid-point toward the inside of the house, it belongs to the finder.
- [D] [If the wall or hole] was open wholly inward, even if the object was located from the mid-point toward the outside of the house, it belongs to the householder [T. B.M. 2:13].
- [E] If he had rented the house to others, even if he found it in the house, lo, these are his [M. 2:4K-M].
- [I:4 A] [With reference to the following statements of Simeon b. Eleazar at T. B.M. 2:1, 2]:**R. Simeon b. Eleazar concedes in the case of new merchandise which has been used [that] one is liable to make a proclamation [that he has found it and will return it upon proper identification] (M. 2:1G). And so did R. Simeon b. Eleazar say, “He who rescues something from the mouth of a lion, a wolf, or a bear, or from a rip-tide in the sea or a sudden surge of a river – and he who finds something in a large plaza or parade ground – lo, these are deemed forthwith to be his, for the owner despairs [of ever getting it back,]” R. Jeremiah said, “There is a dispute concerning what is found in an inn. [In such a case, Simeon will take the position conceded by him. There will then be a dispute in the public piazza such as T. indicates.] But as to what is found in a courtyard, all parties concur that one is liable to make proclamation.”**
- [B] *Said R. Yosé, “In a case involving a courtyard they are in disagreement. But as to an inn, all parties concur that the object belongs to the one who finds it.”*

2:5

- [A] [If] he found [utensils] in a store, lo, these are his.
- [B] [If a utensil was located] between the counter and the storekeeper, it belongs to the storekeeper.
- [C] [If he found them] in front of the money changer, lo, they are his.
- [D] [If he found them] between the stool [of the money changer] and the money changer, lo, these belong to the money changer.
- [E] He who purchases produce from his fellow,
- [F] or sent produce to his fellow,

[G] [if] he found coins among the produce, lo, these are his.

[H] If there they were bound together, he takes [the money] but proclaims [that he has found it].

[I] Also a garment was covered among all of these things [which one must proclaim, listed at Dt. 22:1-3: “You shall not see your brother’s ox or his sheep go astray and withhold your help from them; you shall take them back to your brother. And if he is not hear you or if you do not know him, you shall bring it home to your house, and it shall be with you until your brother seeks it; then you shall restore it to him; and so you shall do with his ass; so you shall do with his garment; so you shall do with any lost thing of your brother’s which he loses and you find; you may not withhold your help”].

[J] [So] why was it singled out?

[K] To use it for an analogy, to tell you:

[L] Just as a garment exhibits distinctive traits, in that it has special marks of identification, and it has someone to claim it,

[M] so for everything which has special marks and which has someone to claim

[N] one is liable to make proclamation.

[I:1 A] Said R. Eleazar, “[When the Mishnah states that if the money is found between the stool of the moneychanger and the person, the money belongs to the moneychanger, it means also to state that if the money is found] on the stool itself, it belongs to him:

[B] “if it is found on the counter, it belongs to the storekeeper.”

[I:2 A] *Simeon b. Shetah was employed in flax [to support himself]. His disciples said to him, ‘Rabbi, remove [this work] from yourself. and we shall buy for you an ass, and you will not have to work so much.’”*

[B] *They went and brought him an ass from a Saracen. Hanging on it was a pearl.*

[C] *They came to him and told him, ‘From now on you do not have to work any more.’”*

[D] *He said to them, “Why?”*

[E] *They told him, “We bought you an ass from a Saracen, and hanging on it was a pearl.”*

[F] *He said to them, “Did its master know about it?”*

- [G] *They said to them, “No.”*
- [H] *He said to them, “Go, and return it.”*
- [I] *Did not R. Huna Bibi bar Goslon in the name of Rab state, “They replied before Rabbi, ‘Even in accord with the one who has said, ‘Stealing from an idolator is prohibited.’ all parties concur that it is permitted [to retain] what he has lost. [Accordingly why did Simeon b. Shetah return the pearl?]”*
- [J] *[He replied,] “Now do you think that Simeon b. Shetah was a barbarian? More than Simeon b. Shetah wanted all the money in the world, he wanted to hear the gentile; say, ‘Blessed be the God of the Jews.’”*
- [K] *And whence did he [learn that such a thing was possible*
- [L] *From the following story which R. Haninah tells:*
- [M] *Some old rabbis bought a pile of wheat from some soldiers, and found in it a pouch filled with money, and they returned it to them. The soldiers said, “Blessed be the God of the Jews.”*
- [N] *[Restoring the text following PM:] Abba Oshaiah was a laundryman [in a bathhouse]. The queen came to wash there and lost her jewels and gold pieces. He found them and returned them to her.*
- [O] *She said, ‘They are yours [for you have acquired possession of them]. As to me, what are these worth to me? I have many which are even better than these.’*
- [P] *He said to her, ‘The Torah has decreed that we should return [what we find].’*
- [Q] *She said, “Blessed be the God of the Jews.”*
- [R] *R. Samuel bar Suseretai went to Rome. The queen had lost her jewelry. He found it. A proclamation went forth through the city: “Whoever returns her jewelry in thirty days will receive thus and so. [If he returns it] after thirty days, his head will be cut off.”*
- [S] *He did not return the jewelry within thirty days. After thirty days, he returned it to her.*
- [T] *She said to him, “Weren’t you in town?”*
- [U] *He said to her, “Yes [I was here].”*

[V] *She said to him, “And didn’t you hear the proclamation?”*

[W] *He said to her, “Yes [I heard it].”*

[X] *She said to him, “And what did it say?”*

[Y] *He said to her. that it said, ‘Whoever returns her jewelry in thirty days will receive thus-and-so. [If he returns it] after thirty days. his head will be cut off.’”*

[Z] *She said to him, “And why didn’t you return it within thirty days?”*

[AA] *“So that people should not say, ‘It was because I was afraid of you that I did so.’ But it was because I fear the All-Merciful.”*

[BB] *She said to him. “Blessed be the God of the Jews.”*

[CC] *Alexander of Macedon went to the king of Qasya [who resides behind the Dark Mountains].. He showed him that he had a “great deal of gold and silver. [Alexander] said to him, “I don t need your gold and your silver. I came only to see your customs, how you distribute [alms], how you judge [cases].”*

[DD] *While he was chatting with him; someone came with a case against his fellow. He had bought a piece of a field with its rubbish dump. and he had found a trove of money in it.*

[EE] *The one who had bought the property said, “I bought a junk pile; a trove I didn’t buy.”*

[FF] *The one who had sold the property said, “A junk pile and everything in it is what I sold you.”*

[GG] *While they were arguing with one another, the king said to one of them, “Do you have a male child?”*

[HH] *He said to him, “Yes.”*

[II] *He said to his fellow, “Do you have a female child?”*

[JJ] *He said to him, “Yes.”*

[KK] *He said to them, “Let this one marry that one, and let the treasure-trove belong to the two of them.”*

[LL] *[Alexander] began to laugh.*

[MM] *He said to him, “Now why are you laughing? Didn’t I judge the case properly?”*

[NN] *He said to him, “If such a case came before you, how would you have judged it?”*

[OO] *He said to him, “We should have killed both this one and that one, and kept the treasure for the king.”*

[PP] *He said to him, “Do you people love gold all that much?”*

[QQ] *He made a banquet for him and laid out before him gold loaves and gold chickens.*

[RR] *[Alexander] said to him, ‘Can I eat the gold?’*

[SS] *He said to him, “May that man’s soul be struck down. You don’t eat gold? Then why do you love it so much?”*

[TT] *[The King of Qasya] said to him, “Does the sun shine in your land?”*

[UU] *[Alexander] said to him, “Yes.”*

[VV] *“Does it rain in your land?”*

[WW] *He said to him, “Yes.”*

[XX] *He said to him, “In your town is there some sort of small beast?”*

[YY] *He said to him. “Yes.’*

[ZZ] *“Then may the soul of that man be smitten! You live only by the merit of that small beast. since it is written, ‘Man and beast do you save. O Lord’ (Ps. 36:6).”*

2:6

[A] And for how long is one liable to make proclamation [of having found a lost object]?

[B] “Until his neighbors are informed about it,” the words of R. Meir.

[C] R. Judah says, “Until three festivals [have gone by].

[D] “And for seven days after the final festival, so that one may have three days to go home and three days to come back and one day on which to proclaim [that he has lost the object].”

- [I:1 A] *It was taught:* **At the outset they would make proclamation for three successive festivals, and after the final festival for seven days,**
- [B] **so that one may have three days to go home, three days to come back, and one day on which to proclaim the lost object [M. 2:6C-D].**
- [C] **After the Temple was destroyed, they made the rule that one should make proclamation for an object which has been found for thirty days.**
- [D] **And from the time of danger onward, they made the rule that one should merely inform his neighbors and relatives and acquaintances and townsfolk..**
- [E] **And that is enough [T. B.M. 2:17].**

2:7

- [A] **[If a claimant] has described what he has lost but not specified its special marks, one should not give it to him.**
- [B] **And as to a [known] deceiver, even though he has specified its special marks, one should not give it to him,**
- [C] **as it is said, “Until your brother seeks concerning it “(Dt. 22:2) –**
- [D] **until you will examine your brother to find out whether or not he is deceiver.**
- [I:1 A] **Who is the sort of habitual deceiver [who must be closely investigated]?**
- [B] *It is the sort of person who pretends to return someone’s lost property, and thereby benefits vastly.*
- [C] *Now how does such a person benefit vastly?*
- [D] *People see how he returns their lost property, so [trusting him], they deposit their goods with him, and he takes the whole lot and departs.*
- [E] *There are those [who define the deceiver in a more obvious way,] saying that he is one who goes to the synagogue and hears a lost object described, and goes to another synagogue and reports on a lost object conforming to that description, and [when it is reported], he goes and grabs it for himself.*

2:8

- [A] Any sort of thing which is able to perform labor and which eats [is to be kept by the finder and is to] perform labor and [in exchange is allowed to] eat.
- [B] And something which does not perform labor but which [nonetheless has to be] fed is to be sold,
- [C] as it is said, “You will return it to him” (Dt. 22:2).
- [D] Pay attention to how to return it to him!
- [E] What is the rule covering the proceeds?
- [F] R. Tarfon says, “Let [the finder] make use of them. Therefore, if something happens to them, he is liable to make them up.”
- [G] R. Aqiba says, “He should not make use of them. Therefore, if something happens to them, he is not liable to make them up.”
- [I:1 A] *It was taught:* Return the lost beast in such wise that] a calf should not eat up [the capital represented by the other] calves [of the owner], a sheep. the sheep; a chicken, the chickens likewise .
- [B] *There was a case involving a man who found five calves, and he sold them off to feed them [without working them] so that in the end only one was left.*
- [II:1 A] [With reference to .M. 2:8E-G,] R. Judah in the name of Rab: “The law is in accord with R. Tarfon in the case of an animal bearing distinguishing characteristics [in which case the owner will surely seek the animal out].”
- [B] R. Ba and R. Judah in the name of Rab: “There was a case, and Rabbi ruled in accord with R. Tarfon in the case of an animal bearing distinguishing characteristics.”
- [II:2 A] R. Judah said, [8d] ‘Disciples of sages do not have to indicate distinguishing characteristics.’”
- [II:3 A] Said R. Huna, “All concur that if [one found] a pouch of money, he should not touch it. [Tarfon and Aqiba agree that in this case the finder leaves the money alone and does not make use of it.]”
- [II:4 A] *Judah son of Rabbi went to the synagogue. He left his sandals and they disappeared. He said, “Had I not gone to the synagogue, my sandals would not have disappeared. [The place is full of deceivers, who pretend to pray but come to steal.]”*

[B] [The following does not belong here. Cf. Y. Naz. 7:1 at which the question is raised concerning whether one is permitted to contract uncleanness in order to learn Torah.] *R. Yosé sat down to teach, and a source of corpse uncleanness came into the synagogue. To those who left, he said nothing, and to those who remained, he said nothing* [since he was unsure of the answer to the stated question PM].

2:9

[A] [If] he found scrolls, he reads in them once every thirty days.

[B] If he does not know how to read, he [at least] unrolls them.

[C] But he should not [commence to] learn [a subject] in them to begin with, nor should someone else read alongside him.

[D] [If] he found a piece of clothing, he should shake it out once every thirty days,

[E] and spread it out as needed –

[F] but not to show off.

[G] Of utensils of silver and of copper one makes use –

[H] for their own good

[I] but not to wear them out.

[J] Utensils of gold and of glass he should not touch until Elijah comes.

[K] [If] he found a sack or large basket or anything which he would not usually pick up,

[L] lo, this one does not [have to lower himself and] pick it up.

[I:1 A] *It was taught:* [If] one found scrolls, he reads in them once every thirty days [M. 2:9A]. If he does not know how to read, he unrolls them [M. 2:9A-B].

[B] But one should not read the weekly lection and go over it again.

[C] Nor should one read in them and translate it into Aramaic.

[D3] And three people should not read in a single volume.

[E] And one should not open a scroll up more than three columns.

[F] [Sumkhos says,] “Under what circumstances? “In the case of new ones, only once every thirty days.

[G] “And in the case of old ones, once every twelve months” [T. B.M. 2:21]

- [I:2 A] As to utensils of silver, one may make use of them for cold but not for hot liquids,**
- [B] because [hot liquids] blacken them [vs. M. 2:8J].**
- [C] Utensils of copper one uses for hot liquids, but not on fire,**
- [D] because it wears them out [cf. M. 2:8I].**
- [E] Shovels and axes one makes use of for something soft, but not for something hard.**
- [F] With a shovel one shovels mortar.**
- [G] He dries it off and leaves it in its place.**
- [H] With an ax one chops wood,**
- [I] but not stone-palm-wood or olive-wood.**
- [J] And just as you specify these rules with regard to a lost object, so these rules apply with regard to a bailment.**
- [K] He who deposits a garment with his fellow –**
- [L] [the latter] must shake it out once in thirty days.**
- [M] [He spreads it out for its need, not for his own honor (M. 2:8D-E).] If [the bailment] was large, one takes wages [paid to workers to assist in the work] [T. B.M. 2:22].**

2:10

- [A] What is lost property?**
- [B] [If] one found an ass or a cow grazing by the way,**
- [C] this is not lost property.**
- [D] [If he found] an ass with its trappings upset,**
- [E] a cow running in the vineyards,**
- [F] lo, this is lost property.**
- [G] [If] one returned it and it ran away, returned it and it ran away,**
- [H] even four or five times,**
- [I] he is liable [to continue to] return it,**
- [J] since it is said, “You shall surely bring them back [to your brother]” (Dt. 22:1).**
- [K] [If] he lost [work] time [to the value of] a *sela*, he may not say to him, “Give me a *sela*.”**

[L] But he pays him a salary [for his lost time] calculated at the rate paid to an unemployed worker.

[M] If there is a court there, he may stipulate before the court [for compensation for lost time].

[N] If there is no court there, before whom may he make such a stipulation?

[O] His own [welfare] takes precedence.

[P] [If he found it loose] in a stable, he is not liable [to return] it.

[Q] [If he found it] in the public domain, he is liable to take care of it.

[R] And if it was a graveyard, [and if he was a priest or a Nazirite] he should not contract corpse uncleanness on its account.

[S] If his father said to him, “Contract corpse uncleanness,”

[T] or if [under normal circumstances] he said to him, “Don’t return it,”

[U] he should not obey him.

[V] [If] he unloaded it and loaded it up again, unloaded it and loaded it up again,

[W] even four or five times,

[X] he is liable [to continue to do so],

[Y] for it is written, “You will surely help with him” (Ex. 23:5).

[Z] [If] he went and sat down, and said, “Since the religious duty is yours, if you want to unload it, go unload it,”

[AA] the other is exempt [from doing a thing].

[BB] For it is written, “With him.”

[CC] If the owner was old or sick, he is liable.

[DD] It is a religious duty enjoined by the Torah to unload the beast, but not to load it up.

[EE] R. Simeon says, “Also: to load it up.”

[FF] R. Yosé the Galilean says, “If there was on the beast more than its proper load, he is not obligated to [the owner],

[GG] “since it is said, ‘Under its burden’ –

[HH] “a burden which it can endure.”

[I:1 A] *In every other circumstance you rule that a positive commandment takes precedence over a negative one, but here [with reference to M. 2:10, in which the positive duty of honoring the father is set aside by the negative duty of not hiding from one’s fellow in need], you*

maintain that a positive commandment does not take precedence over a negative one.

[B] This case is different, because both he and his father are liable to honor the Omnipresent.

[I:2 A] *It was taught:* “Crouching” – and not a habitually recalcitrant beast [that is, one helps once, but not many times].

[B] *And it also is taught:* “**He helps him unload it even a hundred times**” [T. B.M. 2:24G-H]. [A contradicts B.]

[C] When you say, “Crouching – and not a habitually recalcitrant beast,” it is in a case in which it throws itself down.

[D] And when you say, “He helps him unload it even a hundred times,” it is [in a *case of a* genuine overload, that is,] under actual duress.

[E] **“If you meet [your enemy’s ox or his ass going astray, you shall bring it back to him. If you see the ass of one who hates you lying under its burden, you shall refrain from leaving him with it. You shall help him lift it up]” (Ex. 23:4-5).**

[F] **Is it possible that the meaning is one must actually bump into [meet] him?**

[G] **Scripture states ‘If you [merely] see....’**

[H] **If it is a matter of seeing him, is it possible to suppose that applies even at a distance of a hundred *mils*?**

[I] **Scripture therefore says, “If you meet.”**

[J] **How so?**

[K] **Sages have given a measure for this: one out of seven and a half of a mil, that is, a ris [T. B.M. 2:25J].**

[I:3 A] “You shall surely help him” – this is the act of unloading.

[B] “You shall help him lift it up” – this is reloading it [vs. sages, M. 2:10DD].

[C] R. Simeon b. Yohai says, “Just as helping him unload is a religious duty imposed by the Torah, so helping him load it up is a religious duty imposed by the Torah” [M. 2:10EE].

[D] If there is an ass belonging to an Israelite and a burden [to be reloaded] belonging to an idolater, all parties concur that one first unloads the *Israelite’s* ass, then one *reloads* the idolater’s.

- [E] If there is an ass belonging to an idolater and a burden of an Israelite awaiting reloading, in accord with the opinion of sages one is not obligated either to unload the one or to reload the other.
- [F] In accord with the opinion of R. Simeon, one unloads the one but need not reload the other.

2:11

- [A] **[If one has to choose between seeking] what he has lost and what his father has lost,**
- [B] **his own takes precedence.**
- [C] **[If he has to choose between seeking] what he has lost and what his master has lost,**
- [D] **his own takes precedence.**
- [E] **[If he has to choose between seeking] what his father has lost and what his master has lost, that of his master takes precedence.**
- [F] **For his father brought him into this world.**
- [G] **But his master, who has taught him wisdom, will bring him into the life of the world to come.**
- [H] **But if his father is a sage, that of his father takes precedence.**
- [I] **[If] his father and his master were carrying heavy burdens, he removes that of his master, and afterward removes that of his father.**
- [J] **[If] his father and his master were taken captive,**
- [K] **he ransoms his master, and afterward he ransoms his father.**
- [L] **But if his father is a sage, he ransoms his father, and afterward he ransoms his master.**
- [I:1 A] **It was *taught*: Who is one's master?**
- [B] **The one who has taught him wisdom, [and not the master who has taught him a trade].**
- [C] **[And who is this?] "It is anyone who started him off first," the words of R. Meir. [T. B.M. 2:30D has: R. Meir says, "It is his master who has taught him wisdom, and not his master who has taught him Scripture."]**
- [D] **R. Judah says, "It is anyone from whom he has gained the greater part of his learning."**

[E] **R. Yosé says, “It is anyone who has enlightened his eyes in his repetition of traditions” [T. B.M. 2:30].**

[F] Rab takes the view of R. Meir; R. Yohanan, of R. Judah; Samuel, of R. Yosé.

[G] Rab takes the view of R. Meir: *A certain man started Rab off in his studies, and when Rab heard that he had died, he tore his garment on his account [as a sign of mourning, even though Rab had studied with him only at the outset of his education].*

[H] *R. Yohanan takes the view of R. Judah: R. Yohanan was going up from Tiberias to Sepphoris. He saw someone coming down from there. He said to him, “What do you hear in town [in Sepphoris]?”*

[I] *He said to him, “A rabbi has died, and everyone in town is running about arranging for his burial.”*

[J] *R. Yohanan knew that it was R. Hanina. So he sent and brought his best Sabbath garments and tore them [as a sign of mourning].*

[K] *Now has it not been taught: .Any act of tearing which is not done at the moment of most intense grief is not a valid act of tearing [in mourning]? [It must be spontaneous.]*

[L] *R. Yohanan wanted to do it in a big way, because [Hanina] had been his master, and he honored him.*

[M] *Nonetheless, we still do not know whether R. Yohanan did it this way because he had been his master, or because it was simply bad news [that the head of the court had died, and even if Hanina had not been his master, Yohanan would have behaved in the same way].*

[N] *From the following story about R. Hiyya bar Va (Ba, Abba) in Sepphoris [we find the answer]. [Hiyya] saw everyone running about. He said, “Why is everyone running about?”*

[O] *They said to him, “R. Yohanan is in session and expounding [Torah] in the schoolhouse of R. Benaiah, and everyone is running to hear him.”*

[P] *[Hiyya, who had been Yohanan’s principal master, said,] “Blessed is the All-Merciful, who allowed me to*

see everyone running to hear [my disciple, Yohanan], while I am yet alive.” [This indicates that Yohanan, for his part, had studied principally not with Hanina but with Hiyya, as we shall now see.]

[Q] *“Now I have taught him all matters of aggadah, except for Proverbs and Qohelet.”*

[R] *This indicates that one [must tear his garment in mourning] for each encounter of discipleship [with a teacher, not merely with the principal teacher]. [Consequently, Yohanan is not in accord with Judah. He tore his garments at Hanina’s death because of the bad news that the head of the Sepphoris court had died, not because Hanina had been his principal teacher.]*

[S] Samuel accords with the position of R. Yosé

[T] *There was a man who had taught Samuel to only [the following passage in Mishnah-tractate Tamid 3:6E: **and as for the two keys, one was thrust into the lock as Far as the armpit, and the other opened the door forthwith.** (Now what is the meaning of; One goes down into the lock as far as its armpit? That it would go down tor a cubit before it would open the door.) [Cf. Y. Hor. 3:4].*

[U] *Now when he heard that he had died, he tore his garments on his account.*

YERUSHALMI BABA MESIA

CHAPTER THREE

3:1

[A] He who deposits with his fellow a beast or utensils,

[B] and they were stolen or lost,

[C] [if the bailee] made restitution and was unwilling to take an oath –

[D] for they have said, “An unpaid bailee takes an oath and thereby carries out his obligation [without paying compensation for the loss of the bailment]” –

[E] [if then] the thief was found,

[F] [the thief] pays twofold restitution.

[G] [If] he had slaughtered or sold the beast, he pays fourfold or fivefold restitution.

[H] To whom does he pay restitution?

[I] To him with whom the bailment was left.

[J] [If the bailee] took an oath and did not want to pay compensation,

[K] [if] the thief was found,

[L] he pays twofold restitution.

[M] [If he slaughtered or sold the beast, he pays fourfold or fivefold restitution.

[N] To whom does he pay restitution?

[O] To the owner of the bailment.

[I:1 A] *Whence do you bring evidence [for the proposition that in a case in which the bailee pays compensation, he is given the double indemnity which is collected from the thief]?*

[B] “[If a man steals an ox or a sheep and kills it or sells it, he shall pay five oxen for an ox, and four sheep for a sheep. He shall make restitution; if he has nothing, then he shall be sold for his theft.] If the

stolen beast is found alive in his possession, [whether it is an ox or an ass or a sheep, he shall pay double]" (Ex. 22:1-4).

- [C] Now do we not already know [from Ex. 22:7] that if the thief is found, he will pay a double indemnity?
- [D] So why does Scripture state, "He shall pay double"?
- [E] If it does not apply to the matter at hand, then treat it as referring to a further matter, [that is, if it does not mean the thief pays a double indemnity to the one from whom he stole, which we know from other references, then treat the point of application as that before us]. [For the rules governing bailments state, "If a man delivers to his neighbor money or goods to keep, and it is stolen out of the man's house, then, if the thief is found, he shall pay double" (Ex. 22:7).]
- [F] Rabbi went into the session of R. Yudan [to hear his lesson]. He stated the preceding exegesis in his presence.
- [G] *He said to him, "Take note of the second half of the pericope of Mishnah: **If the bailee took an oath and did not want to pay compensation, if the thief was found, he pays twofold restitution. If he slaughtered or sold the beast, he pays fourfold or fivefold restitution. To whom does he pay restitution? To the owner of the bailment [M. 3:1J-O].*** [If the Torah law assigns to the bailee the right to the double indemnity paid by the thief, why should the thief not pay to the bailee in the present case also?] Let him pay to him with whom the bailment was left!"
- [H] R. Nissa in the name of R. Jonah: "'[If the stolen beast is found] alive [in his possession, whether it is an ox or an ass or a sheep,] he shall pay double' (Ex. 22:4). [Now 'alive' is taken to mean the principal, that is the beast. It follows that] to the place to which the principal goes, there the double indemnity goes. [It follows that if the principal – the beast itself – goes to the bailee, the double indemnity does also. If the beast is assigned to the owner, the double indemnity goes to the owner. The antecedent proof then is null, and the present proof explains both halves of M.'s statement.]"
- [II:1 A] R. Yohanan, R. Eleazar, and R. Nissa add in the name of R. Yosé b. Haninah: "[With reference to M. 3:1C, the bailee's actually making restitution,] it is not the end of the matter that if the bailee actually made restitution, he will get the double indemnity. But even if he accepted responsibility for making restitution, it is as if he has already done so [and the law stated by M. is invoked]."

[II:2 A] [If] he said, “I shall pay,” we take account of the possibility that he had laid hands on the critter [and indeed is willing to pay because he wants to keep it]. [So he has to take an oath that it does not presently stand within his domain.]

[B] [If] he said, “I’ll take an oath,” and then he saw that they were going to assign to him oaths covering other matters [which he did not wish to accept], and then he went and said, “I’ll pay” [so as not to have to take an oath], they take account [of the oaths which were to be added]. [He either takes an oath covering all matters, or he pays compensation for the other claims on which he refused to take an oath.]

[C] [Disagreeing with B,] said R. Yosé, “The Torah has imposed an oath upon him not to treat him strictly but to treat him leniently, so that, if he wanted to pay, he pays, and if he wanted to take an oath, he takes an oath.” [So, if the bailee refuses to swear, he may pay the original claim against him.]

[II:3 A] If he had witnesses to the fact that the beast had been forcibly stolen [not by reason of the negligence of the bailee], then the bailee is exempt [even] from taking an oath [which is no longer necessary]. [Now in such a case, if the thief is found, to whom does he pay the double indemnity? Is this as if the bailee has paid for the beast or not?]

[B] *It is a case of this sort concerning which* R. Eleazar stated, “He who has sold to someone else the right to collect fines which are owing to him has done nothing whatsoever.”

[C] If there were witnesses that the beast had been stolen through the negligence of the bailee, lo, the bailee is subject to having to pay restitution. If then the stolen beast is found, to whom does the thief pay the double indemnity [since the beast has been compensated for by the bailee]? Is it to the first, to the second, or to the two of them? [This question is not answered.]

3:2

[A] He who rents a cow from his fellow, and then lent it to someone else,

[B] and it died of natural causes –

[C] let the one who rented it take an oath that it died of natural causes,

[D] and the one who borrowed it then pays compensation to the one who rented it out.

[E] Said R. Yosé, “How should this one do business with his fellow’s cow?

[F] “But [the funds paid for] the cow are to return to the owner.”

- [I:1 A] Now does the [one who rented the cow] have the right to lend it out [to someone else, without the owner’s knowledge and consent]?
- [B] *And has not R. Hiyya taught as follows:*
- [C] **One who borrows has no right to lend out,**
- [D] **and one who rents has no right to rent out,**
- [E] **and one who borrows has no right to rent out,**
- [F] **and one who rents has no right to lend out,**
- [G] **And the one with whom these things are left as a bailment has no right to leave them as a bailment with someone else,**
- [H] **unless the householder [who owns the objects] has given him permission to do so [T. B.M. 3:1].**
- [I] R. La in the name of R. Yannai: “[The present rule] applies to a case in which one has given him the right to rent it out.”

[J] [What follows is pertinent only to M. Ket. 9:4:] And the present rule applies to a case in which one gave him the right to set up a guardian. [This matter is explained in its own context.]

- [I:2 A] R. Abbahu asked, “[Does the loan have to be to someone else (M. 3:2A) to set in motion M.’s rule?] If the owner borrowed it from the one who had rented it, and the beast died of natural causes, does the one who borrowed it [the actual owner] then pay for the beast to the one who had rented it [and then lent it back to the owner]?”
- [B] [The one who answers says, “Yes, the one who has borrowed it – the actual owner – does have to pay the one who had rented it for the beast.”]
- [C] If so, then even if [the actual owner of the beast] had eaten the beast, [does he have to pay to the one who had rented it]?!]
- [D] Said R. Abina, “When the owner ate it, he ate his own beast!”
- [E] **Said R. Yosé, “How should this one do business with his fellow’s cow? But the funds paid for the cow are to be returned to the owner” (M. 3:2E-F).**

3:3

- [A] [If] one said to two people, “I stole a maneh [a hundred zuz] from one of you and I do not know from which one of you it was.”

[B] “The father of one of you deposited a maneh with me, and I do not know the father of which one of you it was,”

[C] [he] pays off a maneh to this one and a maneh to that one,

[D] for he has admitted it on his own.

[E] Two who deposited something with one person, this one leaving a maneh, and that one leaving two hundred [zuz] –

[F] this one says, “Mine is the deposit of two hundred [zuz],”

[G] and that one says, “Mine is the deposit of two hundred [zuz]” –

[H] he pays off a maneh to this one, and a maneh to that one,

[I] and the rest is left until Elijah comes.

[J] Said R. Yosé, “If so, what has the deceiver actually lost?”

[K] “But leave the whole sum until Elijah comes [and no one will be paid off].

[L] And so is the rule for two utensils, one worth a maneh, and one worth a thousand zuz –

[M] this one says, “The better one is mine,”

[N] and that one says, “The better one is mine”

[O] he gives the smaller one to one of them.

[P] And from the [funds received from the sale of] the larger one, he gives the cost of a smaller one to the other party.

[Q] And the rest of the money [received for the sale of the larger one] is left until Elijah comes.

[R] Said R. Yosé, “If so, what has the deceiver actually lost?”

[S] “But leave the whole [sum received for the sale of both utensils) until Elijah comes.”

[I:1 A] [What follows depends upon M. Yeb. 15:7J-M: If one stole from one of five men, and does not know from which one of them he stole, and each one of them says, “From me did he steal,” “he leaves that which he stole among them and takes his leave,” the words of R. Tarfon. R. Aqiba says, “This is not the way to remove him from the toils of transgression, but he pays the value of that which he has stolen to each and every one of them. “ The same dispute applies to cases of betrothal and loan as well as bailment here. Now the requirement of M. 3:3A- D that one give a maneh to each one of the men accords with the view of Aqiba, but not with that of Tarfon. Rejecting this view and maintaining that even Tarfon may concur,] R. Abbahu in the name of R. Yohanan [said], “Here we have a case in which the matter is contested, there we have a case in which it is not

contested. [That is, when the owner claims that the man owes the money, and the man denies it, we rule that each one of the five cannot extract the object from the man, so he leaves it and goes his way, in Tarfon's view. But here the claimants do not contest the matter. The man himself has confessed, so M. 3:3A, 'I stole....' M. 3:3D is explicit: He confessed. Consequently, in this case Tarfon may concur that, having confessed on his own~ the thief pays off each possible victim of his action.]”

- [B] [Maintaining the same view but for a different reason,] R. Yosa in the name of R. Yohanan: “Here we have a case in which witnesses know about the matter, and there we have a case in which witnesses do not know about the matter. [In one case witnesses know about the theft but not about the person to whom the object belongs. In such a case Tarfon will concede that he must provide the object to each claimant or possible victim. At M. Yeb. 15:7 the situation is the opposite.]”
- [C] R. Jeremiah in the name of Rab: “Here we have a case in which one takes an oath, there we have a case in which one has not taken an oath.” [This is explained presently.]
- [D] *There they say in Rab's name:* “There it is a case in which one has taken an oath, here it is a case in which one has not taken an oath. [Where the man has taken an oath and then confessed, M. 3:3D, Tarfon will concur that he must pay off each possible victim, as at the present pericope. But where he has taken no oath, M. Yeb. 15:7. Tarfon will not assign compensation to all possible victims.]”
- [E] *R. Jeremiah raised the question,* “If it is a case in which he has taken an oath, then he should have shut up.”
- [F] [*In asking this question,*] *R. Jeremiah wished to say that* he should have shut up and not confessed. [Even if he had taken no oath, the net result would be the same. The entire matter rests upon his confession, not upon the oath, as at M. 3:3D.]
- [G] *R. Yosa wished to say that* he should have shut up and not taken an oath at all. [That is, what Jeremiah meant to ask is not what F has said was in his mind, but rather what Yosa has said he was thinking. At the present pericope we have a case in which there was no claimant; the man confessed on his own. So what sort of oath is called for?]
- [H] R. Yohanan said, “If it is a case in which he took an oath, he should have appointed an agent of the court [to whom he will hand over the stolen object]. [The agent then will dispose of it as he sees fit. By

handing over the maneh, he has carried out his obligation and he surely need not pay back more than he stole and confessed to have stolen.]”

[I] *R. Yohanan conceived that* [the law permitting this procedure involves] an agent of the court whom the thief appointed to dispose of the stolen object].

[J] *Other Tannaim teach that* it is an agent of the court whom the victim of the theft appointed, and not an agent of the court whom the thief appointed. [This would then differ from Yohanan, since his objection is based on the possibility that the thief may appoint the agent *to* dispose of the stolen property.]

[K] [What follows pertains *to* the materials of Y. Yeb. 15:19/ M. 15:7:] *Said R. Ila*, “*We also have learned*, ‘[R. Tarfon differs from R. Aqiba] in regard to theft, sexual relations, and a loan’ [that is, other cases along the lines of the case of the theft which is before us]. [In all the others as well, Tarfon and Aqiba differ along the lines on which they differ as to the theft.]”

[L] All concur [however] in the case of bailment in the Mishnah, which states: **he has said to two people, “I stole a maneh from one of you, and I do not know from which one of you it was.”** [etc., “because he confessed on his own.”] [That is, Tarfon concurs here, as we said at A].

3:4

[A] **He who deposits produce with his fellow**

[B] **even if it is going to go to waste –**

[C] **[the fellow] should not touch it.**

[D] **Rabban Simeon b. Gamaliel says, “He sells them in the presence of a court,**

[E] **“for he is in the position of one who thereby restores what is lost to its rightful owner.”**

[I:1 A] [Explaining the reason of Simeon b. Gamaliel, M. 3:4D-E,] said R. Abbahu, “If you say that [even though] they are going to waste, he should not touch the produce, he might even go so far as to cause them [to be ruined, and then disclaim responsibility on the basis of the prohibition against touching the produce].”

[B] R. Aha bar Jacob in the name of R. Yohanan, R. Abbahu in the name of R. Yohanan, “The law is in accord with the view of Rabban Simeon b. Gamaliel.”

[C] *That derives from the story as follows: R. Yohanan of Hiquq deposited with R. Hiyya the Elder a sack filled with leavened goods. [Prior to Passover] he came and asked Rabbi [what to do with the leaven, since if it remains in Israelite ownership during Passover, it becomes prohibited]. He instructed him, "Let it be sold on the authority of a court at the time of removal [of leaven]." [This indicates that the Rabbi deems the law to accord with Simeon b. Gamaliel's view.]*

[D] *A man deposited with R. [9b] Hiyya bar Ashi a barrel of preserves consisting of sour hulk, bread crusts, and salt. He came and asked Rab [what to do before Passover with this leavened product]. He instructed him, "Let it be sold on the authority of a court at the time of removal [of leaven]."*

3:5

[A] **He who deposits produce with his fellow –**

[B] **lo, this one [with whom the bailment is left, when returning it,] may exact [from the owner the following] deductions [due to natural depletion of the produce]:**

[C] **(1) for wheat and rice, nine *qabs* and a half for a *kor*;**

[D] **(2) for barley and durra, nine *qabs* to a *kor*;**

[E] **(3) for spelt and linseed, three *seahs* to a *kor***

[F] **All is relative to the quantity, all is relative to the time [it is left].**

[G] **Said R. Yohanan b. Nuri, "But what difference does [quantity or time] make to mice? Will they not eat [plenty] whether it is from a large volume or a small volume of grain?"**

[H] **"But he may not exact from the owner the stated reductions,**

[I] **"except from a single *kor* alone."**

[J] **R. Judah says, "If it was a large volume of produce, he may not exact from the owner the stated reductions,**

[K] **"for it increases [in bulk as it is stored away]."**

[L] **He exacts [a reduction] of a sixth for wine.**

[M] **R. Judah says, "A fifth."**

[N] **He exacts [reduction] of three logs of oil per hundred –**

[O] **a *log* and a half for the sediment, and a *log* and a half for absorption [into the walls of the clay jars].**

[P] **If it was refined oil, he may not exact a reduction for the sediment.**

[Q] **If the jars were old, he may not exact a reduction for absorption.**

[R] **R. Judah says, “Also: He who sells refined oil to his fellow through the year –**

[S] **“lo, [the latter] must accept upon himself [agree to] a reduction of a log and a half per hundred because of sediment.”**

[I:1 A] Said R. Ammi, “They taught this rule [to apply] to the time of harvest [at which time if the bailment is left in one volume, one deducts the volume to be returned.] [But if it is the rainy season, there is no deduction in volume, since, indeed, the volume of grain then expands.]”

[B] *There they say, “[The answer to Yohanan b. Nuri indeed is this:] ‘Those mice are wicked, when they see a large volume of grain, they call their friends to eat with them.’”*

[C] R. Yohanan [of our place, explains the sages’ reply to Yohanan b. Nuri differently: “They [the mice] waste and scatter [the grains when there is a lot of it].”

[II:1 A] **He exacts a reduction of a sixth for wine. R. Judah says, “A fifth” [M. 3L-M].**

[B] [There is universal agreement that Judah’s position, M. 3:SR-S, applies] said R. Oshaiah, when he did not say to him, “I shall supply you with refined oil throughout the year.” But if he had said to him so, then he is liable to supply him with refined oil, [and the purchaser need not accept a reduction of a log and a half per hundred because of sediment. This is the view of sages against Judah, who says his rule applies in all cases.

3:6

[A] **He who deposits a jar with his fellow,**

[B] **and the owner did not specify a place for it,**

[C] **and [someone] moved it and it was broken –**

[D] **if in the midst of his handling it, it was broken,**

[E] **[and if he moved it to make use of it] for his own needs, he is liable.**

[F] **[If he moved it] for its needs, he is exempt.**

[G] **If after he had put it down, it was broken,**

[H] **whether he had moved it for his own needs or for its needs, he is exempt.**

[I] **[If] the owner specified a place for it,**

[J] **and [someone] moved it and it was broken –**

[K] whether it was in the midst of his handling it or whether it was after he had put it down,

[L] [if he had moved it] for his own needs, he is liable.

[M] [But if he had moved it] for its needs, he is exempt.

[I:1 A] [To understand what follows, we begin with T. B.Q. 10:33:] **He who steals a lamb from the flock and returned it to the flock, and afterward the entire flock was stolen, if he had informed the owner, or they had counted [the sheep], he is exempt. And if not, he is liable (M. B.Q. 10:8). He who steals a jug from a cellar and returned it to the cellar, and afterward all the jugs in the cellar were stolen, if he had informed the owner [that he had returned the jug], he is exempt. And if not, he is liable.** The second needed fact is the point at M. 3:6D-E vs. F, that is, the difference between moving the jar for his needs, and moving it for its needs when the jar breaks while being moved. Again, if after he had put it down it was broken, whether it was moved for his needs or its needs, he is exempt. He has the right to move the jug, even without the knowledge of the owner that his jar is being moved, a contrast to T.'s case. This is in line with the following:] For did not R. Eleazar say, "To what is the matter likened? To a case in which one steals a jar from the cellar of his fellow. Even though the owner did not know that the theft had taken place, they have to inform him when the jar is returned. [Here too should we not have the knowledge and consent of the owner, without which one is liable in the stated circumstances?]"

[B] One must reply: This case [before us at M. 3:6] is entirely different, for here the householder has domain over the jar [so on what basis does Eleazar make the stated comparison to begin with]?!

[C] Said R. Eleazar, "There is one who says that the bailee has domain over the jug." [Once he moved it, it falls within his domain, just as if he were a thief; that is, he has moved it for his own convenience. That is why the two matters – M. 3:6 and T. B.Q. 10:33 – are deemed parallel.]

[D] [Now as to the second case. the owner has specified a place; the bailee moved it and it was broken. If he moved it for his own needs, he is liable, for its needs, he is exempt. Now] what is the meaning of "for its needs" when the jug's owner has specified a place for it?

[E] That is to say, when he had the jar in the place specified by the owner. But if [it breaks when] it is in some other place, whether it is [moved] for its needs or whether it is for his convenience, he is liable. [That is, so long as the jar is in some place not specified by the owner, whatever

happens, the bailee is liable. If he moved it for his own needs, he is liable, because he has no right to move it at all. If he moved it from its place for its needs, but then returned it to that place, then, but only then, he will be exempt, as at M. 3:6M.]

[F] *And there are those of us who say that the bailee has no right over the jar at all, and there is no difference, whether the jar is located in the place in which the owner has specified or in some other place; if he moved it for his own convenience, he is liable, and if for its needs, he is exempt [and the distinction offered at E is not valid].*

3:7

[A] **He who deposits coins with his fellow –**

[B] **[if the latter] (1) wrapped them up and threw them over his shoulder,**

[C] **(2) gave them over to his minor son or daughter,**

[D] **or (3) locked them up in an inadequate way,**

[E] **he is liable [to make them up if they are lost] ,**

[F] **because he did not take care of them the way people usually take care [of things].**

[G] **But if he did take care of them the way people usually take care of things,**

[H] **he is exempt.**

[I:1 A] *Said R. Yosé, “And you may infer from the law of the Mishnah the following: If a man put goods [on a stall] in the market in charge of his neighbor, and [the latter] left them in charge of his minor son or daughter, and they were stolen or lost, he is not liable,*

[B] *“for I say, ‘has he not given them as goods on exhibit in the market [and so the bailee was not bound to lock them up?’”*

[I:2 A] Under what circumstances have they ruled: An unpaid bailee takes an oath [that he has not violated his trust] and quits?

[B] When he has carried out his guardianship in an adequate way, as people generally take care of bailments.

[C] If he locked up the goods in an adequate way,

[D] tied up a beast in an adequate way,

[E] put coins in his pouch, bound them in his kerchief, and put them before him,

[F] or if he put them in a chest, box, or cupboard –

- [G] if the money was stolen or lost.
- [H] he is liable to take an oath and is exempt from having to make restitution.
- [I] And if there are witnesses available that he has done things property, even from an oath is he exempt.
- [J] If he locked up the goods in an inadequate way,
- [K] tied up a beast in an inadequate way,
- [L] tossed the coins over his shoulder,
- [M] or put them up on the roof of his house,
- [N] and the bailments were stolen, he is liable to make restitution.
- [O] If he put them in a place in which he was accustomed to put his own possessions, if it was suitable for taking care of a bailment, he is exempt.
- [P] And if not, he is liable.

3:8

- [A] He who deposits coins with a money changer –**
- [B] if they are wrapped up, [the money changer] should not make use of them.**
- [C] Therefore if they got lost, he is not liable to make them up [as an unpaid bailee (M. 2:7)].**
- [D] [If they were] loose, he may make use of them.**
- [E] Therefore if they got lost, he is liable to make them up.**
- [F] [He who deposits coins] with a householder,**
- [G] whether they are wrapped up or whether they are loose –**
- [H] [the householder] should not make use of them.**
- [I] Therefore if they got lost, he is not liable to make them up.**
- [J] “The storekeeper is in the classification of [and so subject to the same rule as] the householder,” the words of R. Meir.**
- [K] R. Judah says, “The storekeeper is in the classification of [and so subject to the same rule as] the money changer.”**

[I:1 A] R. Huna said R. Jeremiah raised the question: “What is the meaning of ‘wrapped up’?”

- [B] “Is it required to string together the coins through their seal, or may they be wrapped up not with a cord tying them together through the seal?”
- [C] “If you say the coins must be tied together with a cord running through the seal of the coin, then if the coins are not tied together in that way, it is permitted [to make use of them in line with M. 3:8D-E].”
- [D] “If you say that they need not be tied together with a cord through the seal of the coin, then all the more so [may one not make use of the coins if they are] tied together with a cord through the seal.”

3:9

[A] **He who makes improper use of a bailment –**

[B] **The House of Shammai say, “He suffers a disadvantage, whether the value rises or falls.”**

[C] **The House of Hillel say, “[He restores the bailment] as it was at the moment at which he took it out [to use it for his own purposes].”**

[D] **R. Aqiba says, “[He restores it as it was] at the moment at which it was claimed.”**

[E] **He who expresses [in the presence of witnesses] the intention of making use of a bailment –**

[F] **the House of Shammai say, “He is liable [for any damage done to the bailment, as if he had made use of it].”**

[G] **And the House of Hillel say, “He is liable [for damages incurred] only when he will actually make use of the bailment,**

[H] **“since it is said, ‘If he has not put his hand to his neighbor’s property’ (Ex. 22:7).”**

[I] **[If] he tipped over the jug and took a quarter-log of liquid from it, and it broke –**

[J] **he pays only the value of the quarter-log he has actually removed.**

[K] **But if he raised it up [so making acquisition of it], and took a quarter-log of liquid from it and it broke,**

[L] **he pays the value of the whole jug.**

[I:1 A] *The meaning of the Mishnah[’s statement at M. 3:9D is, R. Aqiba says, “He restores it as it was at the moment at which it was claimed] in court.”*

[B] R. Jeremiah in the name of Rab: “The law is in accord with the position of R. Aqiba, [even] though the House of Hillel differs from his view.”

[C] *R. Bun bar Hiyya: “There was a case, and Rabbi ruled in accord with the position of R. Aqiba.”*

[D] Said R. Hoshaiyah, “[That is the case] when there are no witnesses [to the value of the object at the time at which the bailee misappropriated the bailment]. But if there are witnesses [to its value], *all parties agree* with the position of R. Aqiba.”

[E] *A case came before R. Nissa, and he ruled in accord with the opinion of R. Aqiba.*

[II:1 A] *What is the Scriptural basis for the opinion of the House of Shammai [that one who expresses the intention of making use of a bailment is liable for any damage done to it, as if he had made use of it (M. 3:9E-F)]?*

[B] “For every breach of trust ...” (Ex. 22:9) – [even one merely in intention].

[C] *And how do the House of Hillel deal with the cited verse, “For every breach of trust”?*

[D] One might suppose that the law applies only to the [bailee] himself. [If his slave or his agent does the deed, how do we know that he is liable? Scripture states, “For every breach of trust” – even if it is by a man bailee’s agent, he is liable.

YERUSHALMI BABA MESIA

CHAPTER FOUR

4:1

- [A] (1) [Yerushalmi: Silver acquires gold. Bavli:] Gold acquires silver, but silver does not acquire gold.
- [B] (2) Copper acquires silver, but silver does not acquire copper.
- [C] (3) Bad coins acquire good coins, but good coins do not acquire bad coins.
- [D] (4) A coin lacking a mint mark acquires a minted coin, but a minted coin does not acquire a coin lacking a mint mark.
- [E] (5) Movable goods acquire coins, but coins do not acquire movable goods.
- [F] This is the governing principle: All sorts of movable objects effect acquisition of one another.

[I:1 A] This is the summary principle of the matter: Whatever is of lesser value than its fellow effects acquisition of its fellow [when it is drawn or lifted up].

[I:2 A] *Said R. Hiyya bar Ashi, "Who taught this Mishnah [that silver acquires gold]?"*

[B] It was R. Simeon, son of Rabbi.

[C] *His father said to him, "Retract, and teach as follows: 'Gold acquires silver'"* [as is the reading in the printed Mishnah today, and in the Babylonian Talmud].

[D] *He said to him, "I am not willing to retract. For while you were at the height of your powers, you taught it to me as follows: 'Silver acquires gold.'"*

[E] *The implication of what Rabbi has said is that gold is in the status of a commodity [produce].*

[F] *We have a Mishnah teaching which states, “Silver is in the status of a commodity.”*

[G] *The daughter of R. Hiyya the Elder lent Rab [golden] denars. She came and asked her father [how to collect the debt, since in the meantime, gold had risen in value vis-^{^-}vis silver]. He said to her, “Take from him good and substantial denars [of the same weight as those you lent].”*

[H] *From the daughter of R. Hiyya, shall we learn [that gold is deemed a commodity]? [Perhaps there was some other consideration which led to Hiyya’s advising her as he did.]*

[I] *Said R. Idi, “Also Abba, father of Samuel, raised the question before Rabbi: ‘What is the law as to lending [golden] denars for the return of [the same weight in golden] denars?’ He said to him, ‘It is permitted [to do so].”*

[J] *Said R. Jacob bar Aha, “Also R. Yohanan and R. Simeon b. Laqish both say that it is permitted to lend [golden] denars for the return of the [same weight in golden] denars.”*

[K] *To lend money on a qarat against a qarat [counting qarats in place of denars] is permitted. To lend money on laqan [a small copper coin] against a laqan [counting laqans in place of denars] is forbidden. [One returns gold by the measure by which it was sold, as a commodity.]*

[II:1 A] **[This is the governing principle: All sorts of movable objects effect acquisition of one another:]** *There we have learned: Whatever is used as payment for something else – once this one has effected acquisition [thereof], the other has become liable for what is given in exchange. [How so? If one exchanged an ox for a cow, or an ass for an ox, once this one has effected acquisition, the other has become liable for what is given in exchange [M. Qid. 1:6A F]*

[B] *Said R. Yohanan, “This rule has been taught only in the case of an [exchange of] an ox for a cow, or an ass for an ox. Lo, [if it is] a heap [of one commodity] for a heap of another commodity, one has not made acquisition. [We require assessment of the value of commodities or movables at the time of the acquisition. If there is a heap, since there will not have been an accurate evaluation, the rule of exchange given at M. Qid. 1:6 does not apply.]”*

[C] *R. Jeremiah in the name of Rab: “Even if it is a heap [of one commodity] for a heap of another, one has made acquisition. [What is*

excluded at M. 1:6 is only coinage. But heaps of commodities fall within the stated rule. Any sort of movables which may be estimated in value surely may be exchanged in the stated manner. It is not common to estimate the value of coinage; it is common to estimate the value of movables. The point of contact to our pericope of M. is now clear.]”

- [D] R. Abba bar Minah in the name of Rab: “He who exchanges one bundle for another has acquired possession [= C].”
- [E] R. Zira, R. Judah in the name of Samuel: “If this party has a cow, and that party has an ass, and they exchanged one for the other, and the owner of the ass has drawn [and so acquired ownership of] the cow, and the owner of the cow came to draw the ass, and found that it had a broken leg – it is incumbent on the owner of the ass to bring evidence that the ass was whole and . complete at the time at which he drew [the cow].” [The point illustrated is M. Qid. 1:6: **Once this one has effected possession, the other one has become liable for what is given in exchange for it.** Even though, in general, he who wishes to extract an object from his fellow has to bring proof, this case is different, for the doubt affects the very principle that a transfer of ownership has taken place.]
- [F] *He who does not grasp the reasoning in this case does not grasp anything at all about the reasoning of the laws of Damages.*
- [G] *Said R. Zira, “I do not grasp the reasoning of this case, so I suppose I do not grasp anything about the reasoning of the laws of Damages.”*
- [H] **“If there were blemishes on her while she was yet in her father’s house, the father must bring proof that after she was betrothed these blemishes made their appearance on her, so that the husband’s field has been flooded]. [If she had entered the domain of the husband, then the husband has to bring proof that before she was betrothed, these blemishes were on her body, so that his purchase was made in error,”** the words of R. Meir. And sages say, **“Under what circumstances? In the case of blemishes on the hidden parts of her body, but in the case of blemishes which are on the parts of her body to be seen by the naked eye, he has no such claim”** (M. Ket. 7:8AD). That is, if the father wishes to collect the marriage settlement at the stage of a cancelled betrothal, the husband having refused to go on with the wedding, the father must bring the stated evidence. If the collection of the marriage settlement follows the consummation of the marriage, the husband has to bring the stated evidence. As with the ruling of Samuel, just as the matter of doubt comes about in the

domain of the owner of the ass, so here – the person in whose domain the matter of doubt appears is the one who has to bring evidence. But this will shortly be revised.]

[I] *R. Huna, R. Phineas, R. Hezekiah went up to R. Yosé to torment him with difficult questions [thus: LGDP]. They cited this passage to him, [deeming it to present a problem to the position of Samuel]. [How so? Samuel's position appears to be that the one who has possession – the one who has the ass, the father – has to bring proof for his case, since there is doubt as to whether the transaction ever actually took place. The cited Mishnah has the father bring proof, but, in line with what has been imputed to Samuel, the husband should have to do so, since he is the one who presently holds on to the funds for paying off the marriage settlement. So the cited passage poses a problem to Samuel.]*

[J] *He said to them, "Cite the latter part of the same pericope of the Mishnah:*

[K] **"If she had entered the domain of the husband, then the husband has to bring proof..."** Now should it not be the father who has to bring proof? And do you then say that the husband has to bring proof? Also here, the husband has to bring proof. [This part of the discussion is truncated and the full version will be seen at Y. Qid. 1:6.]

[L] If the owner of the ass drew the cow to him, the cow has not been acquired. What is the rule as to the acquisition of the ass? [The full context for the above question is to be consulted at Y. Qid. 1:6. To state it briefly, the force of the question before us is this: One has sold a cow for cash, and the other party still owes the cash. The one who sold the cow pressured the other party so as to collect what was owing to him. He said to him, "Give me the money you owe." The other party said, "What do you want to do with the money?" The creditor replied that he wanted to purchase an ass. The debtor then agreed to give him an ass in exchange for the cash debt. Then the owner of the cow drew the ass. The cow has not yet been acquired. Why not? Because acquisition of the cow is not part of this transaction in exchange for the ass. The cow had been acquired earlier. The purchaser of the cow owed money, not an ass. The question then is whether the debt for the sale is owing, if the ass has not yet been drawn and acquired. Do we invoke the rule of exchange at the time of the purchase? Or do we maintain that the debt is a general obligation, not subject to exchange?

So the question is, as to the ass, what is the law about its being acquired?]

[M] R. Ba said, “He has acquired it. [The debt is equivalent to an object of exchange.]”

[N] R. Yosa said, “He has not acquired it. [The debt acquired through a sale does not serve as an exchange for transfer of ownership, like a debt produced through a loan.]”

[O] *Said R. Mana, “There is here an aspect in which [R. Ba] will concur with R. Yosé [as the following case indicates:]”*

[P] If someone said to his fellow, “I’m trying to sell my cow”
–

[Q] He said to him, “For how much?”

[R] He said to him, “For eight denars.”

[S] *He went and brought him to a moneychanger [to have him pay for the cow].*

[T] *In the morning he passed by and found him standing there.*

[U] *He said to him, “What are you doing here?”*

[V] *He said to him, “I want to take the denars which you set aside for me.”*

[W] *He said to him, “What do you want to buy with them?”*

[X] *He said to him, “An ass.”*

[Y] He said to him, “Your ass is with me. Go and draw it to you [so effecting acquisition of title to the beast]” –

[Z] If one has drawn this one, the other has not acquired ownership of the other.

[AA] If that one has drawn this [money], the other has not acquired this [ass].

[BB] But each one is acquired only through the actual acquisition on *his own* part of what is purchased [the ass or the money]. The transfer of ownership must be effected by each side. There is no exchange, until the one party acquires the actual ass through drawing it, and so the other. [Here Ba must agree with Yosé, that no transfer of ownership takes place, merely at an exchange of money.

The transaction of T severs the original exchange, and there is no further debt owed by the purchaser of the cow. There is no occasion for an exchange beyond that point, unlike the conception of M. Qid. 1:6.]

4:2

[A] **How so?**

[B] **[If the buyer] had drawn produce into his possession but not yet paid over the coins,**

[C] **he [nonetheless] cannot retract.**

[D] **[If] he had paid over the coins but had not yet drawn the produce into his possession, he has the power to retract.**

[E] **Truly have they said:**

[F] **He who exacted punishment from the men of the Generation of the Flood and the Generation of the Dispersion is destined to exact punishment from him who does not keep his word.**

[G] **R. Simeon says, “Whoever has the money in his hand – his hand is on top.”**

[I:1 A] [With reference to M. 4:2F,] R. Aha said, “It is written, ‘For the earth was filled with violence’ (Gen. 6:I 1). What was the character of this violence of theirs [which is not the same as outright thievery]?”

[B] *“Someone would go out carrying a basket full of lupines, and people would carefully swipe less than a perutah’s value, that is, an amount which could not be recovered in a court action, [because it was less than the minimum value set for culpability for thievery.]”*

[C] Said R. Hiyya bar Va, “The use of the word ‘great’ in connection both with the evil of man before the flood and also in regard to the evil of Sodom serves to link the two: The deeds of the one were like the deeds of the other.”

[I:2 A] Said R. Haninah, “The law is in accord with R. Simeon.”

[B] But not all parties concur in that view.

[C] R. Jeremiah in the name of Rab: “There was a case, and Rabbi gave his decision in accord with the view of R. Simeon.”

[D] *R. Hiyya bar Joseph handed over a denar to a salt merchant for salt. The latter party retracted [as salt went up in price]. He said to him, “Do you not know that a scythe will cut into your thigh: **He who exacted punishment from the men of the Generation of the Flood***

is destined to exact punishment from him who does not keep his word [M. 4:2F].”

[E] *A man handed over money for silk. [The seller] retracted. The case came before R. Hiyya bar Joseph and R. Yohanan. R. Hiyya bar Joseph said, “Either give him [silk] of the value of what he has left as a pledge, [in advance of the purchase, which was not the entire purchase price], or submit to the curse, ‘He who exacted punishment....’”*

[F] R. Yohanan ruled, “Either give him all which he has purchased, or accept the curse, ‘He who exacted punishment....’”

[G] R. La said, “[In E] it was a (case of a real) pledge. R. Zira said, [In E] it was a part of the purchase price which he had already paid over to him.”

[H] R. Hiyya bar Joseph concurs with R. Yohanan in the case of a purchase [that the entire purchase must be handed over, as Yohanan has ruled], in which it is not customary to make a purchase by halves, as in the case of a cow or a cloak. [That is, the reference to a pledge is not figurative. What we have in this case of Hiyya’s is a pledge. That is, the purchaser left a pledge covering the purchase, and that is what is at issue. Hiyya maintains that the pledge did not effect the purchase, and Yohanan holds that it did. But under some circumstances Hiyya will not differ from Yohanan.]

[I] R. Jacob bar Idi, R. Abbahu in the name of R. Yohanan: “A ring does not serve as a pledge [to guarantee a purchase].”

[I:3 A] Whoever does business through a mere verbal agreement [that is, without an exchange of actual money] – they do not impose upon him the curse, “He who exacted punishment.”

[B] R. Jacob bar Zabedi, R. Abbahu in the name of R. Yohanan: “If one said that he would give a gift to his fellow, [9d] and then proposed to retract – he retracts [and this is without consequences].”

[C] [The parallel version asks whether this is a yes which is a yes, and a no which is a no, as it should be. The answer is,] That rule applies as follows. When he made the statement, he has to say that it is said sincerely, and not as a deception. But if afterward he retracts, he retracts.

[D] *That which you have stated [about the right to retract] applies to a poor man [from whom the recipient did not expect to receive the gift anyhow]. But if it was a rich man, it is treated as a vow.*

[E] *Rab instructed his servant, “When I tell you to give a gift, if it is a poor man, give it to him right away [since I cannot retract anyhow]. But if it is a rich man, check with me a second time.”*

[F] *Rabban Yohanan gave denars to his relations for oil. The oil went up in price. He came and asked R. Yannai [since the relatives would not hand over the oil].*

[G] He said to him, “As far as the law of the Torah is concerned, coins do effect acquisition. And why have they said, ‘Coins do not effect acquisition’? So that the seller may not say to the buyer who has paid over money, ‘Your wheat has already burned up in the storage room.’” [Yohanan, therefore cannot force the relatives to uphold their agreement.]

[H] R. Samuel bar Soseretai in the name of R. Abbahu: “If he said to him, ‘Your wheat burned up in the storehouse,’ he is believed.”

[I] *R. Isaac raised the question, “How in any event shall we interpret this case [that the issue of credibility enters in at all]? If it is a case in which his coins have effected ownership for him, then his own wheat is what was burned in the storage house.*

[J] “And if it is a case in which his own money did not effect acquisition of the wheat, then what was burned belonged in any event to the other party. [So what is the pertinence of the category of believing the man?]”

[I:4 A] R. Simon, in the name of R. Joshua b. Levi: “Someone gave to his fellow ten denars. [This was an advance payment on a rental of a house, meant to pay the cost of fixing up the house. The agreement then was that the rental on the house would be raised to cover the advance investment, to the tune of a hundred denars over a period of years.]

[B] *“If he then said, ‘You owe me a hundred denars by reason of the house,’ it is a permitted agreement.*

[C] *“If he said so in regard to a vineyard, it is not permitted.”*

- [D] [In the former case it does not smack of usury, since the money is invested in the house, which then is worth a higher rental than before. In the latter case] what is the difference between a house and a vineyard?
- [E] A house is not likely to fall. A vineyard is likely to fall down. [Therefore, the raised “rental fee” is viewed as payment for the advance of the money to improve the vineyard and not as a fee paid for the long-term benefits accrued from an improved vineyard. This is usury.]
- [F] [The concern has been for consideration of usury. But we now note that we learn rules of effecting acquisition as well.] *Said R. Yosé, “You infer from the stated rule the following: If someone gave to his fellow ten denars, saying to him, ‘This is so that you will provide me with a hundred barrels of wine,’ once [the merchant] has laid hands on the money, to make use of it, he has to provide him with that which he has purchased [and may not go back on the agreement]. [Now the money itself does not effect possession. In the case of money handed over for an investment, however, once the recipient makes use of the money, he cannot retract on this agreement. The distinction above is only in regard to the prohibition of usury, but in regard to the basic agreement, it is valid and no retraction is permitted.]”*
- [I:5 A] R. Simeon b. Laqish said, “... you shall acquire from your neighbor ...” (Lev. 25:15) –
- [B] “From your neighbor you must effect an act of acquisition through drawing the object to you, and you need not effect an act of acquisition through drawing the object to you from the hand of a gentile.”
- [C] *In the view of R. Simeon b. Laqish, [who maintains that merely transferring money does not effect ownership], on what account is one subjected to the curse, “He who exacted punishment ...”?*
- [D] *Said R. Yosé b. R. Bun, “It will be in accord with the following Tannaite authority, who taught:*
- [E] **“He who does business by verbal agreement is not subjected to the curse, He who exacted punishment (T. B.M. 3:14).** [That is, if one does business only verbally, without an exchange of coins, there is no issue of invoking the curse. But if there is an exchange of coins, all parties concur that the curse applies.]”

4:3

[A] Fraud [overreaching] is an overcharge of four pieces of silver out of twenty-four pieces of silver to the sela –

[B] one-sixth of the purchase price.

[C] For how long is it permitted to retract [in the case of fraud]?

[D] So long as it takes to show [the article] to a merchant or a relative.

[E] R. Tarfon gave instructions in Lud:

[F] “Fraud is an overcharge of eight pieces of silver to a sela –

[G] “one-third of the purchase price.”

[H] So the merchants of Lud rejoiced.

[I] He said to them, “All day long it is permitted to retract.”

[J] They said to him, “Let R. Tarfon leave us where we were.”

[K] And they reverted to conduct themselves in accord with the ruling of sages.

[L] All the same are the buyer and the seller: both are subject to the law of fraud.

[M] Just as fraud applies to an ordinary person, so it applies to a merchant.

[N] R. Judah says, “Fraud does not apply to a merchant [who cannot lay claim to having been defrauded].”

[O] He who has been subjected [to fraud] – his hand is on top.

[P] [If] he wanted, he says to him, “Return my money.”

[Q] [Or, if he wanted, he says to him,] “Give me back the amount of the fraud.”

[I:1 A] Rab said, “[The assessment of fraud at a sixth overcharge] is exact. [We deem fraud to be an overcharge of a sixth of the true value of an object.]”

[B] *R. Yohanan said, “It is not an exact [proportion of the true value of the object]. [It would apply to the price paid for the object, not only to the true value of the object.]”*

[C] Rab said, “Whoever does business on condition that there be no claim of overcharge against him – a claim of overcharge may be laid against him.”

[I:2 A] *It was taught, “The item which has been on sale is deemed acquired [by the purchaser, even in a case of overcharge or fraud]. [The purchaser] returns the amount by which he had defrauded the*

merchant,” the words of R. Judah the Patriarch. [This is in line with T., which follows.]

- [B] *R. Levi taught:* “Overcharging is a perutah (lowest-valued coin). [Y.’s brief allusion is to the following pericope [T. B.M. 3:16]:**He who has been subjected to fraud – his hand is on top [M. 4:3]. How so? [If] one sold to him a shirt worth five for six – the hand of the purchaser is on top. [If] he wants, he says to him, “Give me [my] selas [back].” [If] he wants, he says to him, “Here’s your money, and give me back my shirt.” But if he had said to him, “Sell me a shirt worth six for five,” the hand of the seller is on top. [If] he wants, he says to him, “Give me a sela.” And if he wants, he says to him, “Here’s your shirt, and give me back my money.” Rabbi says, “Under all circumstances the hand of the seller is on top.”**”]
- [C] R. Yohanan said, “The purchase is null entirely.”
- [D] [T.’s case has a shirt worth six sold for five. The seller then has a claim on one zuz out of five, or a fifth. If a shirt worth five was sold for six, the purchaser has a claim of the return of a zuz, that is, a sixth of what he paid. So the issue before us is whether we go by the value of the object, or by the value of the funds transferred in the transaction. That is what] *Kahana asked before Rab:* “When the merchant suffers an overcharge. it is an overcharge of a fifth. When the purchaser suffers an overcharge, it is an overcharge of a sixth.”
- [E] [Rab] said to him, “[We go by the value of the item which is purchased. The meaning of the former of the two statements then is that] the value of the item joined with the overcharge leaves the overcharge at a sixth [just as in the latter of the two statements]. [What we have is a sixth figured exclusive of the item, as against a sixth figured inclusive of the item. So there is no problem.]”
- [F] [Why should the purchaser be able to return the object in the case of an overcharge? For if] one has sold an object worth five for six, [*the merchant*] *has the right to say to him, “You lost a denar? Here is your denar [so there is no overcharge at all, and you must keep the object].” [So why should the purchaser have a choice about the matter?]*
- [G] *Said R. Zira, “[The purchaser] has the right to say, ‘It is not in accord with my dignity for people to say, Mr. So-and-so defrauded you.’”*
- [H] *And some say, “It is not in accord with my dignity to wear a garment worth only five denars.”*

[I] [*Providing yet another reason for the possibility of such a retraction on the goods,*] R. Yohanan, R. Eleazar, and R. Hoshaiah say, “What is the reason for this teaching? [The purchaser] may say, ‘I knew that it was not worth more than five denars. But because I needed it right away, I gave six denars. [Now I am no longer pressed.] Take what is yours, and give me back what is mine.’”

[I:3 A] [If] one sold an object worth five for six, and did not complete the transaction before the price of the object went up to seven [so that the purchaser now wishes to complete the purchase] –

[B] R. Jacob bar Idi, R. Abbahu in the name of R. Yohanan: “Just as the transaction is null for this party [that is, the purchaser, who had the right to nullify it because of the overcharge], so it is null for that party [the merchant].”

[C] *It was taught elsewhere: There are four rules in the case of those who sell:*

[D] [If] one has sold good wheat and it turns out to be bad, the purchaser has the power to retract.

[E] [If one has sold] bad wheat and it turns out to be good, the seller has the power to retract.

[F] [If he has claimed to sell] bad wheat, and it turns out to be bad,

[G] [or if he claimed to sell] good wheat and it turns out to be good,

[H] neither one of them has the power to retract [M. B.B. 5:6A-F].

[I] *Said R. Yosé b. R. Bun, “And this is in accord with the following Tannaite authority: He who does business by verbal agreement – they do not subject him to the curse, ‘He who exacted punishment.’”*

4:4

[A] How much may a sela be defective and [still] not fall under the rule of fraud?

[B] R. Meir says, “Four issars, at an issar to a denar”

[C] R. Judah says, “Four pondions, at a pondion to a denar “

[D] R. Simeon says, “Eight pondions, at two pondions to a denar.”

- [I:1 A] *It was taught:* If it is of more [weight] than that, one [would have the right to] put it into circulation [T. B.M. 3:17].
- [B] A sela – up to a sheqel.
- [C] And a denar – up to a quarter.
- [D] [If it weighs] less than this, even by an issar, one is not permitted to put it into circulation [T. B.M. 3:18].
- [E] If one put forth a sela lacking a mint mark [as to its value], it circulates at the value of a sela, and in exchange for a minted coin, it is worth only a sheqel. [This is only a guess, and I can make no sense of the rest at all. PM does not comment, and MH is not clear to me. The passage is not in T., which now continues.]
- [F] One may not sell it either to a merchant [M. 4:11],
- [G] or to a highwayman or to a thug,
- [H] for they deceive others thereby [M. 4:11L] .
- [I] But one may pierce it and hang it around the neck of his son.
- [J] Under what circumstances [M. 4:6]?
- [K] In the case of denars and selas [of silver],
- [L] But in the case of golden denars, or copper coins, they would put them into circulation at their full value.
- [M] And just as you rule in the case of unconsecrated food,
- [N] so you must rule in the case of produce in the status of second tithe.
- [O] And this is on condition that one not intend to practice fraud in [regard to second tithe (cf. M. 4:6F-H) [T. B.M. 3:19].

4:5

- [A] How long is it permitted to return [a defective sela]?
- [B] In large towns, for the length of time it takes to show to a money changer.
- [C] And in villages, up to the eve of the Sabbath.
- [D] If [the one who gave it] recognizes it, even after twelve months he is to accept it from him.

- [E] But [if the one who gave the coin refuses to take it back], he has no valid claim against the other except resentment.
- [F] He may give it for produce in the status of second tithe, [for easy transportation to Jerusalem],
- [G] and need not scruple,
- [H] for it is only churlishness [to refuse a slightly depreciated coin].
- [I] Defrauding [through overreaching] involves [an overcharge of] four pieces of silver [for what one has bought for a sela] [=one sixth over true value].
- [J] And a claim [involving a court-imposed oath] must be [for a claim of at least] two silver [ma'ahs].
- [K] An admission must be for at least what is worth a perutah.
- [L] There are five [kinds of rules involving] that which is worth a perutah:
- [M] (1) An admission must be for at least what is worth a perutah.
- [N] (2) A woman is betrothed for that which is worth a perutah.
- [O] (3) He who derives use to the value of a perutah from that which belongs to the sanctuary has committed sacrilege.
- [P] (4) He who finds that which is worth a perutah is liable to make proclamation.
- [Q] (5) He who steals from his fellow something to the value of a perutah and takes [a false] oath to the contrary [and then confesses his crime] must bring it after him, even to Media.
- [R] There are five instances in which an added fifth applies:
- [S] (1) He who eats (1) heave offering, (2) heave offering of tithe, (3) heave offering of tithe taken from doubtfully tithed produce, (4) dough offering, and (5) first fruits, adds a fifth [to the value of the principal, when he makes restitution].
- [T] He who redeems [pays coins to bring to Jerusalem in place of] produce deriving from a fourth-year planting or from his second tithe adds a fifth.
- [U] He who redeems that which he has consecrated adds a fifth.
- [V] He who derives benefit to the extent of a perutah from that which has been consecrated [when he makes restitution] adds a fifth.
- [W] He who steals from his fellow that which is worth a perutah and takes a [false] oath to him [when he wishes to confess and effect restitution] adds a fifth.

[I:1 A] [The context is M. M.S. 2:6 (Haas, *Maaser Sheni*, pp. 52-53), as follows: **A sela which is second tithe and an unconsecrated one which were confused [such that the consecrated coin could not be identified – he brings a sela ‘s worth of copper coins and says, “The sela which is second tithe, wherever it may be, is deconsecrated with these coins.” And after consecrating the copper coins, he selects the finer coin between the two selas, and deconsecrates the copper coins with it. For they have ruled, “They deconsecrate silver with copper only out of necessity. But if they do deconsecrate silver with copper, it may not remain so, but they must immediately deconsecrate the copper coins with silver coins.”** In this context,] Hezekiah said, “When one changes it in Jerusalem, he makes use of the coin of better quality. If he should come to deconsecrate the money in the provinces, he does so with the coin of poorer quality.”

[B] *And have we not learned, And after deconsecrating the copper coins, he selects the finer coin between the two selas and deconsecrates the copper coins with it?* But let him select the coin of poorer quality and deal with that one. [That is, why does he first have to go through this two-stage process, first using a coin of poorer quality, then one of better quality?]

[C] *They said, “The case here is different, for the coin is in the supposition of having been second tithe. [That is, one of the coins is certainly in the status of second tithe, and that one cannot be deconsecrated by means of the other of the two coins which have been mixed up.]”*

[D] *[This is in line with the following (M. 4:5F-H):] He may exchange such a coin for produce in the status of second tithe, and need not scruple, for it is only churlishness [to refuse a slightly depreciated coin, used in the provinces for deconsecrating produce in the status of second tithe].*

[II:1 A] [With reference to M. 4:5U] Jacob bar Zabedi, R. Yohanan in the name of R. Simon, “And as to any sort of produce in the status of second tithe, the principle of which is not worth a *perutah*, one does not include an added fifth.” R. Yohanan in the name of R. Yannai: “[Regarding] any produce in the status of second tithe whose additional fifth does not come to the value of a *perutah*, one need not include an added fifth.”

[B] *Now there is a Tannaitic passage which supports the position of this one, and there is a similar passage which supports the position of that one.*

- [C] *For it has been taught:* One sets aside a tithe thereof, except in the case of that which is worth less than a perutah.
- [D] *That is to say,* [tithe is owing only] if the principle is worth a perutah.
- [E] *Another Tannaite authority teaches:* One sets aside its added fifth, except when it is worth less than a perutah.
- [F] *That is to say,* except when the added fifth [not the principle] is worth less than a perutah.
- [G] *Said Rabin bar Mamal, “The Mishnah does not accord with this position, and it does not accord with that position:*
- [H] *“For we have learned, **There are five kinds of rules involving that which is worth a perutah [M. 4:5L], and we do not learn, “... unless the principle is worth a perutah.”***
- [I] *“And we have learned, **There are five instances in which an added fifth applies [M. 4:5R], and we do not learn, “... unless the added fifth will be worth at least a perutah.”***

4:6

- [A] **These are matters which are not subject to a claim of fraud [on account of overcharge]:**
- [B] **(1) slaves, (2) bills of indebtedness [which are discounted and sold], (3) real estate, and (4) that which has been consecrated.**
- [C] **They are not subject to twofold restitution,**
- [D] **nor [in the case of a consecrated ox or sheep] to fourfold or fivefold restitution.**
- [E] **An unpaid bailee is not required to take an oath [on their account, that he has not inflicted damage].**
- [F] **And a paid bailee does not have to pay compensation [on their account, if they are stolen or lost].**
- [G] **R. Simeon says, “Holy Things for which one is liable for replacement [should they be lost] are subject to a claim of fraud on account of overcharge.**
- [H] **“Holy Things for which one is not liable for replacement [should they be lost] are not subject to a claim of fraud on account of overcharge.”**
- [I] **R. Judah says, “Also: He who sells a scroll of the Torah, a beast, or a pearl –**

[J] “they are not subject to a claim of fraud by reason of overcharge.”

[K] They said to him, “They have specified only these [of B].”

[I:1 A] *It was taught:* R. Judah says, “Also: [He who sells] a scroll of the Torah, a beast, or a pearl – they are not subject to a claim of fraud by reason of overcharge [M. 4:6IJ] .

[B] “A scroll of the Torah, because it is beyond price;

[C] “a beast or a pearl, because a person wants to buy them for a match with their pair [and therefore there is no ,’imit to what he is going to be willing to pay].”

[D] They said to ,him, “But is it not so that every sort of object a man wants to match up with its pair?”

[E] R. Judah b. Betera says, “A horse, a battle ax, and a [good] sword in time of war are not subject to a claim of fraud by reason of overcharge” [T. B.M. 3:24].

4:7

[A] Just as a claim of fraud applies to buying and selling

[B] so a claim of fraud applies to spoken words.

[C] One may not say to [a storekeeper], “How much is this object?” knowing that he does not want to buy it.

[D] If there was a penitent, one may not say to him, “Remember what you used to do!”

[E] If he was a child of proselytes, one may not say to him, “Remember what your folks used to do!”

[F] For it is said, And a proselyte you shall not wrong nor oppress (Ex. 22:20).

[G] They do not commingle one sort of produce with another sort of produce,

[H] even new and new [produce, plucked in the same growing season],

[I] and it goes without saying, new with old.

[J] To be sure, in the case of wine they have permitted commingling strong with weak,

[K] because it improves it.

[L] They do not commingle the lees of wine with wine.

[M] But one may hand over [to a purchaser] the lees [of the wine he is buying].

[N] He whose wine got mixed with water may not sell it in a store,

[O] unless he informs [the purchaser],

[P] nor to a merchant,

[Q] even though he informs him.

[R] For [the latter buys it] only to deceive others thereby.

[S] In a place in which it is the custom to put water in wine,

[T] one may dilute it.

[U] A merchant purchases grain from five threshing floors and puts it [all] into one storage-bin,

[V] [wine] from five wine-presses and puts it into a single storage-jar

[W] on condition that he not intend to commingle [wine of diverse quality for the purpose of fraud].

[X] R. Judah says, “A storekeeper should not hand out parched corn and nuts to little children, because in that way he makes it their habit [to buy from] him.”

[Y] But sages permit.

[Z] And he should not cut the prevailing price.

[AA] But sages say, “[If he does so], his memory will be blessed.”

[BB] “He should not sift crushed beans,” the words of Abba Saul.

[CC] And sages permit.

[DD] But they concede that he should not sift them [solely] at the entry of the storage bin,

[EE] for he would do so only to create a false picture [of the quality of what is in the bin].

[FF] They do not beautify [what they sell] – either man, beast, or utensils.

[I:1 A] *R. Abedoma the sailor was steeping his sails in water to improve their appearance.*

[B] *R. Jacob bar Aha said to him, “And have we not learned, **They do not beautify [what is up for sale (M. 4:7EE)]?**”*

[C] *Is that to say that it is permitted to beautify food [which is up for sale, since at issue here are utensils]? [Obviously not.]*

[D] *R. Zira was in business in flax. He came to R. Abbahu. He asked him, “Am I permitted to beautify what I am making?”*

- [E] *He said to him, “Go and do things as you know how. [The prohibition does not apply to newly manufactured goods.]”*
- [F] *R. Abbahu was engaged in weaving fine veils. He came and asked R. Yosé b. Haninah, saying to him, “What are we allowed to do with those veils? [May we improve their appearance?]”*
- [G] *He said to him, “Go and do things as you know how.”*
- [H] *R. Rabbah marked with red paint the water pipe of a bath [to decorate it].*
- [I] *R. Jacob of Amesonía taught, “What is the meaning of ‘not beautifying’?”*
- [J] *“That they not say to you, ‘Beautify [and paint] yourself [red].”*

YERUSHALMI BABA

MESIA CHAPTER FIVE

5:1

[A] What is interest, and what is increase [which is tantamount to taking interest]?

[B] What is interest?

[C] He who lends a sela [which is four denars] for [a return of] five denars,

[D] two seahs of wheat for [a return of] three – because he bites [off too much].

[E] And what is increase?

[F] He who increases [profits] [in commerce] in kind.

[G] How so?

[H] [If] one purchases from another wheat at a price of a golden denar [=25 denars] for a kor, which [was then] the prevailing price, and [then wheat] went up to thirty denars.

[I] [If] he said to him, “Give me my wheat, for I want to sell it and buy wine with the proceeds” –

[J] [and] he said to him, “Lo, your wheat is reckoned against me for thirty denars, and lo, you have [a claim of] wine on me” –

[K] but he has no wine.

[L] He who lends money to his fellow should not live in his courtyard for free.

[M] Nor should he rent [a place] from him for less [than the prevailing rate],

[N] for that is [tantamount to] usury.

[I:1 A] Said R. Yannai, “This [form of usury, described at M. 5:1C, D, if it should be paid out, then] is exacted [from the usurer] at the judges’ [order].”

[B] *They asked before R. Yohanan*, “As to usurious interest, what is the law as to its being exacted [from the one who has received it] at the judges’ [order]?”

[C] He said to him, “If from this man [you exact what he has unlawfully gained], then we shall leave not a thing in the estates of the great nobles of the Land of Israel.”

[D] R. Yohanan concedes [however], that a usurious loan secured by a bond does not encumber the other party [to pay the interest specified in the bond].

[E] R. Yohanan concedes that if the bond is existent, one collects on the strength of it [for the principal, not for the interest].

[I:2 A] What is increase [M. 5:1A]?

[B] *It was taught: An Israelite who lent money on usurious terms to another Israelite –*

[C] **“He may not collect either the principal or the interest,” the words of R. Meir.**

[D] **And sages say, “He collects the principal but not the interest” [cf. T. B.M. 5:22].**

[I:3 A] It is written, “You shall not lend him your money at interest, nor give him your food for increase” (Lev. 25:37).

[B] I know only that interest applies to money, and increase to produce.

[C] That interest may apply to produce, and increase to money, whence [on the basis of the Torah] do we know?

[D] Scripture says, “Take no interest from him or increase” (Lev. 25:36).

[E] Interest thereby is linked to increase and increase to interest.

[F] Just as interest applies to money, so increase applies to money. Just as increase applies to produce, so interest applies to produce.

[II:1 A] **If one purchases from another wheat for a price of a golden denar for a kor, which was then the prevailing price:**

[B] Said R. Ba bar Kahana, “The prevailing price was suitable for both parties. If it was less than this, *woe to the seller!* If it was more than this, *woe to the buyer!*” [So the price under discussion is median.]

[III:1 A] **If he said to him, “Give me my wheat, for I want to sell it [and buy wine with the proceeds]” and the other said to him, “Lo, your**

wheat is reckoned against me for thirty denars, and lo, you have a claim of wine on me” – but he has no wine [M. 5:1J-L]. [Now the implication here is that if the other had had wine, he would have handed it over. Accordingly, under that circumstance it would have been a permitted arrangement. Yet at this moment the debtor receives nothing from the creditor. On this basis we must ask,] On what basis would [the creditor] acquire ownership [of the wine, if it were available]?

[B] *R. Nahman b. Jacob wished to say that [the debtor] is liable to provide his fellow [with the wine]. [That is to say, he who purchases something in exchange for a debt which the seller owes to the purchaser enjoys ownership of that which the seller is supposed to provide. The wine is as if it were in the domain of the creditor (purchaser) from the moment of the loan, and hence, if the wine is available to the debtor (vendor’, and if the wine increased in price, the increase occurs in the creditor’s domain.]”*

[IV:1 A] He who lends money to his fellow [should not live in his courtyard for free, nor should he rent a place from him for less than the prevailing rate, for that is tantamount to usury:

[B] *A man lent money to his fellow. The latter let him space in his building. Later on the borrower said to the lender, “Pay me the rent for my building.”*

[C] *The lender said to him, “Give me back my money. [I had assumed you would not charge me rent so long as my money was in your hands.]”*

[D] *The case came before R. Ba bar .Mina. He ruled, “Now does [the lender] get what he had imagined was free [merely because he assumed it]? [Obviously not! He was wrong and has no claim at all.]”*

[IV:2 A] It has been taught: There are practices that are both usurious and permitted [as not usurious].

[B] How so? One purchases the [right to collect the] loans of his fellow [10b] at a discount,

[C] and his writs of indebtedness [owed to him by others] at a discount, and need not scruple as to usury.

[D] There are matters which are not regarded as usurious, but are nonetheless prohibited because of the possibility of deception for the practice of usury.

[E] How so?

[F] [Following T.'s reading:] [If] he said to him, “Lend me a maneh,”

[G] [and the other] said to him, “I don’t have a maneh, but take twenty seahs of grain,”

[H] even though the other went and purchased it back from him for twenty-four,

[I] this does not constitute usury.

[J] But such a practice is prohibited because of the possibility of deception for the practice of usury [T. B.M. 4:3].

[K] [Reverting to the discussion interrupted by the Tosefta’s pericope:] *The debtor said to him, “You need not [engage in litigation]. Just pay the fee for the space occupied by your goods, or a fee for movers to remove it, and here is your money.”*

[L] [Interpreting this claim on the part of the debtor,] R. La said, “It is that he wants him to pay off the cost of [saving him the trouble of having to move by deducting from the debt the specified fee of] troubling [to remove his goods].”

[M] [Concurring that there is a deduction from what is owed,] R. Zira said, “[The debtor] is treated as if he is renting [the creditor] a building at a good rental, [and to avoid the stench of usury, the creditor must be obliged to pay a fine fee for use of the space].”

5:2

[A] One may effect an increase in the rent charge [not paid in advance], but not the purchase price [not paid in advance].

[B] How so? [If] one rented his courtyard to him and said to him, “If you pay me now [in advance], lo, it’s yours for ten selas a year,

[C] “but if [you pay me] by the month, it’s a sela a month” –

[D] it is permitted.

[E] [But if] he sold his field to him and said to him, “If you pay me the entire sum now, lo, it’s yours for a thousand zuz.

[F] “But if you pay me at the time of the harvest, it’s twelve maneh [1,200 zuz]” –

[G] it is forbidden.

[H] [If] one sold him a field, and [the other] paid him part of the price,

[I] and [the vendor] said to him, “Whenever you want, bring me the rest of the money, and [then] take yours [the field]” –

[J] it is forbidden.

[K] [If] one lent him money on the security of his field and said to him, “If you do not pay me by this date three years hence, lo, it is mine” –

[L] lo, it is his.

[M] And thus did Boethus b. Zonin do, on instruction of sages.

[I:1 A] *It was taught:* He who sells his field to his fellow and said to him,

[B] [that he does so] on condition that he should be a sharecropper in it,

[C] or that he should be a partner in it,

[D] or “... that the tithes should be mine,”

[E] or “... that when you sell it, you sell it to me for this same price,”

[F] or “... whenever I want, I’ll pay the stipulated price and take the field back” –

[G] it is permitted [T. B.M. 4:4].

[H] [If] one had a debt of ready cash and [conditionally] wrote over his field as a sale –

[I] when the seller [himself] makes use of the usufruct,

[J] it is permitted.

[K] But [when] the purchaser makes use of the usufruct,

[L] it is prohibited.

[M] R. Judah says, “One way or the other, it is permitted.”

[N] Said R. Judah, “Thus was the practice of Boethus b. Zonin on the instructions of Eleazar b. Azariah.”

[O] They said to him, “How is there proof from that fact?”

[P] “But the seller enjoys the usufruct” [T. B.M. 4:2].

[I:2 A] *R. Yohanan, R. Eleazar, and R. Hoshaiyah state,* “R. Judah derives his position from the law governing the transfer of property in the case of a walled city, *as it has been taught:* He who sells a house among the houses in walled cities – lo, this one may redeem the house forthwith, or he may redeem it at any time in

the next twelve months. Lo, this is a kind of usury which is not usury” M. Ar. 9:3A-C].

[B] *Another Tannaite authority teaches as follows: “Lo, this is indeed usury, but the Torah has permitted [this kind of usury].”*

[C] *He who said, “Lo, this is a kind of usury which is not usury,” is R. Meir.*

[D] *And he who said, “Lo, this is indeed usury, but the Torah has permitted this kind of usury,” is R. Judah. [The usury involved at M. Ar. 9:3 is that the seller (original owner) pays back the money paid for the house, should he choose to redeem or repurchase it.e. without deducting what he should have received as a monthly rental. Consequently, the present owner is in the position outlined at the present pericope of M.: the purchaser (present owner) of the house serves as the creditor, and receives the use of the house in exchange for the use of his money from the time of the sale to the time of redemption, thus usury. But it is not usury, because it is associated with a sale, not with a loan. Now in the present context, sages are assumed to be Meir. As we see, his position is outlined here. Judah’s position is that it is not necessarily going to be a usurious agreement, for we do not know for sure that the seller of the field will redeem it. It is therefore a usurious arrangement so long as the sale is incomplete by virtue of the possible redemption, but one the Torah has permitted.]*

[E] *Said R. Idi, “When I came up from the Exile, I happened upon a case which was in litigation before R. Ammi: ‘Lo, this is usury which is not usury.’”*

[F] *Said R. Hezekiah, “They stated only: ‘This is a kind of usury which the Torah has permitted.’*

[G] *“Lo, here [in the case of a house in a walled city] the Torah has permitted it.*

[H] *“In other circumstances, it is not [permitted].”*

[I] *Even so, R. Ammi paid no attention. He ruled, “The house is best maintained when people live there [and keep it repaired].” [That is, Ammi deemed the fact that the house was occupied to be to the benefit of the original owner who now is repurchasing his home. While the purchaser lived there for free, he still benefited the original owner in the months between the sale*

and the redemption. On this basis, Ammi permitted the original owner's repurchase of the house at full price without a deduction for the use of the house.]

5:3

- [A] They set up a storekeeper for half the profit,
- [B] or give him money to purchase merchandise [for sale] at [the return of the capital plus] half the profit,
- [C] only if one [in addition] pays him a wage as a worker.
- [D] They set the hens [of another person to hatch one's own eggs] in exchange for half the profit,
- [E] and assess [and commission another person to rear] calves or foals for half the profit,
- [F] only if one pays him a salary for his labor and his upkeep.
- [G] But [without fixed assessment] they accept calves or foals [for rearing] for half the profits,
- [H] and they raise them until they are a third grown –
- [I] and as to an ass, until it can carry [a burden], [at which point profits are shared].

[I:1 A] [Explaining the meaning of setting up a storekeeper for half the profit, M. 5:3A, and similar such arrangements:] *A man lends his fellow money, saying to him, "Take two denars as your wage, and what [the remainder] produces will be yours and mine [equally divided]."*

- [I:2 A]** *It was taught: He who hands over money to his fellow to buy produce for half the profits,*
- [B]** *and in the end [the latter] said to him, "I didn't buy anything" –*
 - [C]** *[the former] has no stronger claim on him than a mere complaint.*
 - [D]** *But if there are witnesses [to the fact that] the latter had actually bought and sold,*
 - [E]** *they exact [the proceeds and the return of capital] from him by force [T. B.M. 4:22].*
 - [F]** *He who hands over money to his fellow to buy produce for half the profits,*
 - [G]** *and one of them wanted to leave the money where it is [for future commercial transactions] –*

- [H] his fellow has the right to stop him [and to insist on keeping the terms of the original agreement alone].
- [I] [Y. omits: R. Judah says,] “If it was the year prior to the seventh year, it is [Y.: not] permitted to do so,
- [J] “for to begin with the two of them purchased them only for that purpose” [T. B.M. 4:18].
- [K] He who hands over money to his fellow to buy produce for half the profits
- [L] and said to him, “Here is a maneh [for your share,]”
- [M] and he is not able to give a detailed accounting –
- [N] lo, it is prohibited.
- [O] [If] he saw that produce had gone up in price and said to him,
- [P] [Y. omits: “Here is a maneh,” and he is able to give a detailed accounting –]
- [Q] lo, it is permitted [T. B.M. 4:17].
- [R] He who hands over money to his fellow to buy produce for half the profits –
- [S] the one who does the purchasing has the right to buy that same kind [both with his own money and with the common funds],
- [T] and when he sells, he may not sell the entire amount all at once,
- [U] but [the gram purchased with] this fund by itself,
- [V] and [the grain purchased with] that fund by itself [T. B.M. 4:21D-H].
- [M] He who hands over money to his fellow to buy produce for half the profits –
- [X] the one who does the purchasing has the right to buy anything he wants,
- [Y] except that he is not to buy clothing or wood with the money [T. B.M. 4:21A-C].
- [Z] *Said R. Isaac, “[The rule that if the latter did nothing, the former has only a complaint], is to say, he who keeps his fellow’s capital idle – the latter has no stronger claim on him than a mere complaint [for wasting the potential profit accruing to his capital].”*

[AA] He who keeps his fellow's field idle is liable to make it up to him.

[BB] He who keeps his fellow's ship or store idle – what is the law?
[The question is not answered.]

- [I:3 A] **This one was bringing produce from a place in which it was expensive to a place in which it was cheap,**
- [B] **and one said to him, “Hand them over to me, and I will provide you with others in the place in which they are expensive in accord with the lower price, out of produce which I have,” –**
- [C] [Following T.'s version:] **if he has produce in that place, it is permitted [since it is not speculation on lines of increase].**
- [D] **But if he does not have, it is prohibited [T. B.M. ~:8A- D]. [Y.'s version: If it is on the condition that the bearer make up any loss, the donor is prohibited, the recipient permitted. (It is not in the status of a loan, since the recipient bears the potential loss.)]**
- [E] **If one was bringing a bundle from one place to another,**
- [F] **and he said to him, “Hand it over to me, and I shall hand it over just as you hand it over to me in such-and-such a place,”**
- [G] **in a case in which the responsibility [to replace the bundle if it is lost,] is the donor's,**
- [H] **it is permitted.**
- [I] **But [if such responsibility devolves on the one] who receives it, it is prohibited [T. B.M. 4:7].**
- [J] **But ass-drivers may accept [orders for] produce from a householder and put it up for sale in a place in which it is expensive,**
- [K] **[Y. omits:] paying the cheaper price to the householder,**
- [L] **and they do not have to scruple [about the prohibition on interest] [T. 4:8E-G].**
- [M] R Judah bar Pazzi: [“The rule governing the ass-drivers] applies to a case in which they go to a place in which they routinely come and go in one day.” [In such a case, the ass-drivers are fully liable for loss.]

- [N] R. Huna said, “[The ass-driver] serves as the agent [of the householder, and so the householder must retain ownership of, and liability for the loss of the produce].”
- [O] And thus they reply to Huna, “An agent who suffers an accident is liable for what happens by accident. [So the ass-driver is liable to make it up if it is lost.]”
- [P] [But that is not so! If he] suffers an accident, he is exempt for making up the damages caused by accident, [is he not?]
- [Q] No. [That is not always the case at all.] There are times in which one who is an unpaid bailee stipulates that he shall be as one who borrows [an object, and as such he is liable for what happens to the bailment, even by accident].
- [R] *And so too did R. Hoshaiiah teach [in regard to an agent]: Just as he is liable [to make it up if there is a loss for all of it, so he is liable for part of it.*
- [S] *Now what is then the relevance of bringing it [i.e., R. Hoshaiiah’s teaching]?*
- [T] *There* [in the case of an agent, one brings the money of the person who sent him and purchases produce at whatever price, even] in accord with the highest rate.
- [U] *But here* [in the case of the ass-drivers, they stipulate that they will supply produce] at the lowest available price, [and it is on that stipulation that the investor pays out capital in advance. The ass-drivers profit from the difference between the money sent out by the investor and the price at which the ass-drivers purchase the goods. If they were held responsible to make up the loss, if there should be a loss en route to or from the market, then the investor’s “loan” would be considered usurious. Therefore, the investor must bear the responsibility for loss (PM).]

5:4

- [A] They assess [and put out for rearing] a cow, an ass, or anything which works for its keep,**
- [B] for half the profits.**
- [C] In a locale in which they are accustomed to divide up the offspring forthwith, they divide it forthwith.**
- [D] In a place in which they are accustomed to raise the offspring, they raise.**

[E] Rabban Simeon b. Gamaliel says, “They assess [and put out] a calf with its dam, a foal with its dam.”

[F] (And) one may pay increased rent [in exchange for a loan for the improvement of] one’s field,

[G] and one need not scruple by reason of interest.

[I:1 A] *It has been taught:* One assesses [and takes for rearing] from his fellow a beast, on the stipulation of providing him with a calf or a shearing [in the case of a sheep] once a year;

[B] chickens, on the stipulation of providing ten eggs a month.

[C] She who assesses [and takes over] chickens [for rearing] from her fellow woman takes care of the chicks so long as they need their mother [T. B.M. 5:5].

[I:2 A] He who assesses and takes over the rearing of a beast from his fellow – how long is he liable to] take care of it?

[B] In the case of small cattle, for thirty days.

[C] In the case of large cattle, fifty days.

[D] R. Yosé says, “In the case of small cattle, three months,

[E] “because they take a great deal of tending.”

[F] Beyond this [time] in the case of all of them, if it was the share of the householder,

[G] one makes an assessment for him.

[H] and they should not vary from the prevailing practice of the province [T. B.M.. 5:7].

[I] What is the meaning of, If it was the share of the householder, one makes an assessment for him?

[J] *Someone gives his fellow a hundred denars. They produce a profit of twenty denars. This one takes half, and the other half goes to the householder [who lent the funds]. The half of the householder then is deemed part of the principal. [As the partnership continues, the capitalist’s share of the earlier profit enters into the capital of the partnership, so the other partner does business with this profit.]*

[K] *Will people agree to such an arrangement?*

[L] *Rather they engage in the business of the partnership, and only at the end do they divide up the net profits. [At that point the*

partnership is dissolved, and the capitalist takes his half of the profits.

- [M] He who undertakes to care for a beast – how long is he responsible to make up the loss [should there be any]?
- [N] In the case of unclean beast, twelve months.
- [O] In the case of man, twenty-four months [T. 5:5D-E].
- [I:3 A] In a place in which it is customary to pay for the wages for carrying the coin [used for profiteering], they pay.
- [B] For a beast – they pay.
- [C] And they should not vary from the prevailing practice of the province.
- [D] Rabban Simeon b. Gamaliel says, “They put out a calf with its dam, a foal with its dam [M. 5:5E],
- [E] “and even though one pays out a fee for carrying the coin.
- [F] “And one does not scruple because of the possible violation of laws against taking or paying interest” [T. B.M. 5:6].
- [I:3 A] He who assesses [and takes over the rearing of] a unclean beast from his fellow – how long is he liable to take care of it in the case of offspring?
- [B] Sumkhos says, “In the case of corralled beasts [small ones], twelve months.
- [C] “In the case of asses, twenty-four months.”
- [D] And if [the rancher] laid claim upon him [for his share] during the stated time, they effect an assessment. If it is afterward, they do not effect an assessment.
- [E] But the care to be given during the first year is not equivalent to that which is to be given in the second year [T. B.M. 5:8].
- [I:4 A] He who assesses [and takes over the rearing of] a beast from his fellow [Y. needlessly adds: is (liable) for no less than twelve months].
- [B] [If the beast] died through willful negligence,
- [C] he pays its entire value.

- [D] [If it did] not die through willful negligence,
- [E] he pays half.
- [F] [Y. omits: For thus does he state in writing to him, “If it dies through willful negligence, I shall pay its entire value; if it dies not through willful negligence, I shall pay half” (T. B.M. 5:10).] [Y. adds: How so?]
- [G] [If] he assessed it [and took over the rearing] when it was worth a maneh and it increased in value so that, lo, it is now worth two hundred zuz –
- [H] [if] it died through willful negligence, he pays six golden denars.
- [I] [If it died] not through willful negligence, he pays only fifty zuz [T. B.M. 5:11].
- [J] [Y. omits: If he assessed it and took over the rearing when it was worth a maneh, and it] decreased in value so that, lo, it is now worth only fifty zuz,
- [K] if it died through willful negligence, he pays three golden denars.
- [L] [If it died] not through willful negligence, he pays fifty zuz [T. B.M. 5:12].
- [I:5 A] He who assesses [and takes over the care of] a beast from his fellow
- [B] does not tend it less than twelve months.
- [C] If he had worked with it throughout the dry season and wants to sell it off in the rainy season,
- [D] [the original owner] has the power to stop him [Y.: They force him to feed it throughout the rainy season].
- [E] [T. adds:] so that he works with it throughout the rainy season as well [T. B.M. 5:9].
- [F] [Y. adds:] If he fed it through the rainy season, and [the owner] wants to sell it off in the dry season [at which point it is worth more], they force him to work it throughout the dry season. [The agreement is for no less than twelve months, covering both seasons.]
- [I:6 A] *It was taught:* Rabban Simeon b. Gamaliel says, “... They pay increased rent [in exchange for a loan for the improvement of] one’s field” and need not scruple, etc. [M. 5:4F-G].

- [B] “How so?
- [C] “[If] one has accepted the tenancy of a field in exchange for ten kors of wheat, and then said to him, ‘Give me two hundred denars [Y.: one sela], [Y. omits:] and I shall fertilize it,
- [D] “and then I’ll [10C] pay you twelve kors [of wheat] in a year’s time’ [Y.: at harvest time] –
- [E] “it is permitted” [T. B.M. 5:13A-E].
- [F] R. Yohanan said, ‘It is because the field may be made more bountiful [thereby, so the higher fee is an investment].’
- [G] R. Simeon b. Laqish said, “He is tantamount to renting out the field to him at a higher fee.”
- [H] *What is the difference between them?*
- [I] It is whether a similar arrangement is possible in the case of a shop and a ship.
- [J] *He who says that* it is because the field may be made more bountiful maintains that they also pay increased rent in exchange for a loan for the improvement of one’s shop, ship, [or anything which does not earn its keep].
- [K] *The one who says that* it is tantamount to renting out the field to him at a higher fee maintains that one may not pay increased rent in exchange for a loan for the improvement of one’s shop or ship [since this involves nothing other than usury]. [There is no substantive increase in the value of the shop or ship, and the increased profit through trade is not taken into account.]
- [L] *Said R. Jacob bar Aha, “This argument was stated explicitly:* R. Yohanan said, ‘They do pay increased rent for a shop or a ship,’ and R. Simeon b. Laqish said, ‘They do not pay increased rent for a shop or a ship.’”
- [M] *The following Tannaitic teaching supports the position of R. Simeon b. Laqish: **But they may not pay increased rent [in exchange for a loan for the improvement of] one’s ship, shop, or anything which does not earn its keep [T. B.M. 5:13F].***

5:5

[A] They do not accept from an Israelite a flock on “iron terms” [that the one who tends the flock shares the proceeds of the flock but restores the full value of the flock as it was when it was handed over to him, so that the other is “near to profit and far from loss”],

[B] because this is interest.

[C] But they do accept a flock on “iron terms” from gentiles.

[D] And they borrow from them and lend to them on terms of interest.

[E] And so is the rule for the resident alien.

[F] An Israelite may lend out the capital of a gentile on the say-so of the gentile,

[G] but not on the say-so of an Israelite. [If the gentile had borrowed money from an Israelite, one may not lend it out on interest with the Israelite’s knowledge and consent.]

[I:1 A] Now what is the meaning of an “iron sheep” contract?

[B] [If there were a hundred sheep, and he said to him, “Lo, they are counted against your account for a hundred golden denars, and the offspring and the shearing belong to you, and if they die, you are liable to make them up to me, and you must pay over to me a sela for each and every one at the end” –

[C] it is prohibited [T. B.M. 5:14D-F].

[I:2 A] [Since the present rule, M. 5:5A, deems the flock to fall within the domain of the recipient thereof – the second party to the transaction – who thus is prohibited from accepting the flock on “iron terms,” we must inquire as to the theory of a parallel case, M. Bekh. 2:4, which deems the flock on these terms to remain within the domain of the donor of the flock – the first party to the transaction. Thus] *R. Jeremiah raised the question, “There [at M. Bekh. 2:4, which states* **He who receives under contract to raise and share in the profits a flock from a gentile on iron terms – the offspring are exempt from the law of the firstling**, since a gentile is a partner in the undertaking], you state that the iron flock remains in the domain of the first party to the transaction [the gentile donor],

[B] “while here [at M. 5:5A-B], you deem the iron flock to fall into the responsibility of the second party to the transaction [the Israelite recipient]. [Why the difference?]”

- [C] *Said R. Yosé, “There, because the principal return goes to the first party to the transaction, the offspring of the flock are deemed to fall within the domain of the first party.*
- [D] *“While here, since the principal return of the transaction falls to the second party to the transaction [who retains full responsibility for the dam], the offspring thereof likewise are assigned to the second party to the transaction.”*
- [E] *R. Jeremiah raised the question, “There [at M. 5:3, at which it is prohibited to share fifty-fifty in the cost of raising a flock. unless the rancher is paid for his labor], you maintain that if a paid bailee bears the responsibility to make up losses caused by unavoidable accidents, the transaction is prohibited. [That is, if the factor or contractor bears the burden of making up losses. he must be paid, beyond his half of the profits, for his labor. Otherwise it is a usurious relationship. In that case the factor or contractor is deemed in the status of a paid bailee, who makes up losses. That is then why it is a prohibited relationship, because of usury of the unpaid salary.]*

[F] *“While here, [at M. 5:5 ,] [even though one does not pay a wage,] you say that a paid bailee who is liable for making up losses caused by unavoidable accidents has entered a permitted relationship. [That is, it is permitted to accept an agreement along the specified lines. PM: If the recipient agreed to total liability for loss, but accepted no profit, this would be permitted.]”*

[G] *No, [there is no problem]. There are occasions in which an unpaid bailee stipulates that he will be in the status of a borrower [who is under the stated rule] [cf. M. 5:3 m.M-Q]. [That is to say, the difference between the suppositions operative at the two different rules is explained in terms of a different contractual relationship. One may accept a less beneficial relationship, as indicated.]*

[II:1 A] And they borrow from them and lend to them on terms of interest [M. 5:5D].

[B] [And so is the rule for the resident alien (M. 5:5E).]

[C] *Rabbi said, “A sojourner to which reference is made in regard to a Hebrew slave – I do not know the meaning of that reference.” [The context is defined by two verses, Lev. 25:39-40, which states, “And if your brother becomes poor beside you, and sells himself to you, you shall not make him serve as a slave: he shall be with you as a hired servant and as a sojourner”; and Lev. 25:47, “If a stranger or sojourner with you becomes rich, and your brother beside him becomes poor and*

sells himself to the stranger or sojourner with you....” The latter reference then is to a resident alien, not a proselyte. Rabbi does not know by what right the former buys a Hebrew slave at all.]

[D] “Nor do I know the meaning of ‘sojourner’ which is stated with reference to usury.” [One may not take interest from him, according to M. 5:5E, but not according to Lev. 25:35-36.]

[III:1 A] An Israelite may lend out the capital of a gentile on the say-so of the gentile, but nor on the say-so of an Israelite (M. 5:5F-G) .

[B] An Israelite who borrowed money from a gentile and wants to pay it back to him –

[C] [if] his fellow came upon him and said to him, “Give it to me, and I’ll hand it over for you [on the same terms] just as you would hand it over to him” –

[D] it is prohibited.

[E] But if he made this request from the gentile, it is permitted [T. B.M. 5:16].

[F] A gentile who borrowed money from an Israelite and wants to pay it back to him –

[G] [If] another Israelite came upon him and said to him, “Give them to me just as you would have given them to him” [Y.: “and I shall pay him interest”] – it is permitted.

[H] But if he made this request from the Israelite, it is prohibited [T. B.M. 5:17].

[I] Said R. Yosé, “And that is the case if he made this request of an Israelite.”

[III:2 A] [The following is T.’s version:] “An Israelite who borrowed money from a gentile – or a gentile who borrowed money from an Israelite –

[B] “and [the gentile] converted [to Judaism], whether he encumbered him with the loan before he converted or whether he encumbered him with the loan after he converted –

[C] “one collects the principal, but does not collect the interest,” the words of R. Meir.

[D] R. Yosé says, “An Israelite who borrowed money from a gentile and [the gentile] converted,

[E] **“whether he encumbered him with the loan before he converted or whether he did not encumber him with the loan prior to the conversion**

[F] **“[the convert] collects the principal and also collects the interest.”**

[G] **[But if he made the loan] after he converted, he collects the principal but in no way has a right to collect the interest [T. B.M. 5:21].**

[H] Bar Qappara said, “[Under all circumstances, whenever the loan took place in relationship to the conversion,] he collects both the principal and the interest.”

[I] *Said R. Jacob bar Aha, “The reason of Bar Qappara is that, since you deprive him of the right to collect interest, he will turn into a dishonest convert. [That is; he will have a motive to return to his former cult, since he was used, prior to conversion, to collecting interest.]”*

[III:3 A] A man borrows money from his wife and children on usurious terms.

[B] But thereby he teaches them to practice usury [T. B.M. 5:15].

[C] Said Rab, “For example, I [may make a usurious agreement] with Rabbah bar bar Hanna, and Rabbah bar bar Hannah with me, [because we are relatives.]”

[III:4 A] An Israelite is not permitted to borrow a *sheqel* and to lend out a *sela*.

[B] But a gentile is permitted to borrow a *sheqel* and to lend out a *sela* [T. B.M. 5:15].

[C] [If] an Israelite borrows from a gentile, and a gentile borrows from an Israelite,

[D] the Israelite may serve as a guarantor of the loan [of the gentile, on interest],

[E] and need not scruple about to violating the prohibition against usury] [T. B.M. 5:20E-G].

[F] An Israelite who is made a guardian for the estate of a gentile, or a bailiff,

[G] is permitted to lend out money of his on interest.

- [H] And a gentile who is made guardian of the estate of an Israelite or a bailiff
- [I] is prohibited from lending out money of his on interest [T. B.M. 5:20A-D].
- [J] Money belonging to an Israelite left as a bailment with a gentile –
- [K] it is permitted [for the latter] to lend the money out on interest.
- [L] But that of a gentile left as a bailment with an Israelite –
- [M] it is prohibited [for the latter] to lend the money out on interest. [Y. gives L-M, then J-K.]
- [N] This is the governing principle:
- [O] In any case in which the deposited funds fall under the responsibility of an Israelite [to be made up should they be lost], [usury] is prohibited.
- [P] In any case in which the deposited funds fall under the responsibility of a gentile [to be made up should they be lost], [usury] is permitted [T. B.M. 5:19].

5:6

- [A] They do not strike a bargain for the price of produce before the market price is announced.
- [B] [Once] the market price is announced, they strike a bargain,
- [C] for even though this one does not have [the produce for delivery], another one will have it [so this is not trading in futures].
- [D] [If] one was the first among the reapers [of a given crop], he may strike a bargain with him
- [E] for (1) grain [already] stacked [on the threshing floor],
- [F] or for (2) a basket of grapes,
- [G] or for (3) a vat of olives,
- [H] or for (4) the clay balls of a potter,
- [I] or for (5) lime as soon as the limestone has sunk in the kiln.
- [J] And one strikes a bargain for the price of manure every day of the year [since the rate of production is constant].
- [K] R. Yosé says, “They do not strike a bargain for manure before the manure is on the dung heap.”
- [L] And sages permit.

- [M] And one may strike a price at the height [of the market, the cheapest rate prevailing at the time of delivery].
- [N] R. Judah says, “Even though one has not made a bargain at the cheapest rate [prevailing at the time of delivery], one may say to him, ‘Give it to me at such-and-such a rate, or give me back my money.’”
- [O] A man may lend his tenant farmers wheat [to be repaid in] wheat, [if] it is for seed,
- [P] but not [if it is] for food,
- [Q] For Rabban Gamaliel would lend his tenant farmers wheat [to be repaid in] wheat [when it was used] for seed.
- [R] [If one lent the wheat when the price was] high and [wheat] became cheap,
- [S] [or if he lent the wheat when the price was] cheap and [wheat] became expensive,
- [T] he would collect from them at the cheapest price,
- [U] not because that is what the law requires,
- [V] but because he wished to impose a strict rule upon himself.
- [I:1 A] What is the law as to striking a bargain for the price of produce set in the Saracens’ market [that is, a market held at irregular times]?
- [B] R. Yohanan said, “They strike a bargain [under the stated circumstance]. “
- [C] R. Simeon b. Laqish said, “They do not strike a bargain.”
- [D] *R. Bun bar Hiyya asked before R. Zira, “Is it not reasonable to suppose that R. Simeon b. Laqish will concede to R. Yohanan’s view in the case of striking a bargain for the price set in the Saracens’ market in Sepphoris, which is an ongoing market.”*
- [E] *Said R. Bun bar Kahana, “Now I am perplexed at how the rabbis differ. Is the dispute concerning striking a bargain for the price of produce in exchange for produce, or produce in exchange for money, or granting a loan in exchange for produce [to be handed over at the presently prevailing price]?”*
- [F] *Said R. Jeremiah, “As to a loan there is an argument. [That is, we have a loan of a seah of wheat in exchange for a seah of wheat to be paid back later on. The value of the produce to be returned accords with the presently prevailing price. Since the borrower pays back the same amount of produce, there can be an argument*

in line with M. 5:1, increase. Yohanan says this is permitted, since the price follows the prevailing one, in accord with M. 5. 6B. Simeon b. Laqish differs, since he does not agree that it IS as if the borrower can get the produce in the market anyhow.]

[G] “But as to striking a bargain in terms of cash, *all parties concur that* it is forbidden. [Since the borrower will repay in cash, there IS the possibility of his repaying in a different volume of produce, to be purchased with the cash, from that volume which he lent earlier. For the prevailing price may shift. If the lender were to return produce for produce, there would not be this same problem.”

[H] *Said R. Yosé, “As to striking a bargain, there is a dispute, but as to a loan [to be made in produce and paid back in cash], all parties concur that it is permitted.”*

[I:2 A] The house of R. Yannai say, “They strike a price for the price of fodder.”

[B] R. Yosé b. Haninah says, “Also for that of loaves of honey.”

[C] R. Yohanan says, “As to all the villages near Tiberias, once a price is struck in Tiberias, all of them follow and strike their price in relationship to that.”

[II:1 A] If one was the first among the reapers [of a given crop], he may strike a bargain with him for grain already stacked on the threshing-floor:

[B] Rab said, “If the crop was lacking a single stage in its processing, it is permitted to strike a bargain for the price.

[C] “If it was lacking a number of stages in its processing, one does not strike a bargain for the price thereof.”

[D] R. Yohanan and R. Simeon b. Laqish both say, “Even if it is lacking in a number of stages in its processing, they do strike a bargain for the price.”

[E] *And this Mishnah pericope differs from Rab: “If one was among the first among the reapers....”*

[II:2 A] *Abba bar Zamina gave a denar to the baker and bought bread from him at the lowest prevailing price throughout the year.*

[B] *Now Rab did not approve this arrangement [seeing it as payment for waiting for repayment for the money].*

- [C] *R. Hiyya the Elder had some flax. Ass-drivers came to buy it from him. He said to them, “I was not thinking of selling now, but rather at the time at which the crop is more abundant [and demand greater].”*
- [D] *They said to him, “Sell it to us now, in accord with the price which you will get if you sell it later when the crop is more abundant.”*
- [E] *He came and asked Rabbi.*
- [F] He said to him, “It is forbidden [for this looks as if he is being paid for waiting on repayment of funds].”
- [G] *He went out and placed it (Rabbi’s ruling) in his Mishnah [collection]. And thus was taught: **[If] one owed [to another] money and came to buy from him in produce at the threshing floor, and he said to him, “Go and calculate the amount for me following the prevailing market price, and I’ll provide it for you over the next twelve months” – lo, this is usury [cf. M. B.M. 5:1/I-L]. And this is not equivalent to an issar which just happens to come to him. PM adds: But if he came to him and said to him, “Lend me a kor of wheat, and I’ll pay you back in accord with the price prevailing at the time at which you sell it,” it is permitted [and is not deemed to smack of usury] [T. 4:23]. [PM reads: **prohibited**, in line with the case just now cited. The concluding part is what pertains.]***
- [H] *Said Rab, “My uncle, R. Hiyya, concurs that if they had given him [produce] and he had already acquired [it, so that the produce went down in price while in the purchaser’s possession], it is permitted [and he may pay them the previously prevailing price].*
- [I] *“[So too if one] pays in advance [for the produce, after the price was announced], and he acquires [the produce] later on [in accord with the agreed-upon price, which is going to be lower than the later price, that too is] permitted, [in line with M. 5:6A-C].*
- [J] *“But if one effects acquisition now and pays later on, it is forbidden. [That is the case which Hiyya prohibits, in line with the concluding passage of T. according to PM.]”*

[II:3 A] *R. Eleazar gave some money to someone, saying to him, “What the capital produces between now and Hanukkah will be mine. From then on, I have no claim on you. If they diminish in value or increase in value, the whole is against your account [whether profit or loss; just return the original capital].”*

[B] *He wanted to hand back the money after Hanukkah, but [Eleazar] would not concur. R. Eleazar scrupled that the man not be deemed near for profit [getting a small share thereof] and far from loss [getting a large share thereof]. [Eleazar wanted to be sure that the man made a decent profit for his efforts.]*

[C] *And so it has been taught: **He who hands over money to his fellow to buy produce for half the profits***

[D] *and said to him, “Near [a small share] for loss and far [a large share] for profit” –*

[E] *it is permitted in regard to usury.*

[F] *And this is the practice of truly righteous men.*

[G] *[If he said,] “Near for profit and far for loss,”*

[H] *it is prohibited by reason of usury.*

[I] *And this is the practice of truly wicked men.*

[J] *“Near for one thing and for the other,”*

[K] *“Far for one thing and for the other,”*

[L] *it is permitted in regard to usury.*

[M] *And that is the practice of everybody [T. B.M. 4:16].*

[N] *R. Isaac handed money over to someone, wanting to do with him as R. Eleazar had done [taking the profit for a limited time, and then allowing the man to take full responsibility for the funds but to enjoy the profit for the rest of the time], but the man did not accept that arrangement.*

[O] *Kahana gave forty denars to someone. [The latter] bought flax with them. The flax went up in price. [Kahana] came and asked Rab how to handle the*

transaction. He said to him, “Go and collect from him forty large kors [that is, he has to hand over to you either the flax or the price of the flax].”

[P] Rabbi sought to permit an arrangement by which the creditor advances money on a shipload, at his own risk in case of shipwreck, [so the full burden of loss lies solely with the capitalist, while the manager gains a share in the profit]. [This was deemed usury,] but R. Ishmael b. R. Yosé did not permit him to do so.

[Q] *There are those who say that R. Ishmael b. R. Yosé sought to permit it, and Rabbi did not permit him.*

[R] *What is this arrangement?*

[S] *Such as those who advance the money with which to buy to those who sail [to do business] at the races at a share in the profits of two or three sextarii for each modius.*

[T] This is not usury, but rather deaf [silent] usury [a sale on time at a price higher than the seller would take if he sold for cash]. [Or: selling goods to be carried at the seller’s risk to the dearer market, with the proceeds to be paid on the merchant’s return.]

[III:1 A] Both R. Yosé [who says, “**They do not strike a bargain for manure before the manure is on the dung heap**” (M. 5:6K)] and R. Eleazar b. Azariah say the same thing, for we have learned there:

[B] **If one has only a little manure, he may place it on the field and go on adding to it. R. Eleazar b. Azariah forbids this, unless it is heaped in a particular location three handbreadths above or below ground level, or laid on rocky ground (M. Shebiit 3:3).** [Eleazar’s thinking is this: We do not take for granted that the man will find manure. Having a minimal quantity, he will leave the manure only on that one place and so appear to be manuring his field in the Sabbatical Year. If it is clearly indicated that he is making manure piles and not manuring the field, he is permitted to make such piles. Both Yosé and Eleazar, therefore, decline to take for granted that large supplies of manure are routinely available. Both say the same thing.]

5:7

- [A] A man should not say to his fellow, “Lend me a kor of wheat, and I’ll pay you back at [a kor of wheat] at threshing time.”
- [B] But he says to him, “Lend it to me until my son comes [bringing me wheat] “,
- [C] or, “... until I find the key”
- [D] Hillel prohibits [even this procedure].
- [E] And so does Hillel say, “A woman should not lend a loaf of bread to her girl friend unless she states its value in money.
- [F] “For the price of wheat may go up, and the two women will turn out to be involved in a transaction of usury.”
- [I.A] *It was taught*, A man should not say to his fellow, “Lend me a kor of wheat, and I’ll pay you back a kor of wheat at threshing time” [M. 5:7A].
- [B] Lo, if it is for two or three weeks, it is permitted.
- [II:1 A] And Hillel prohibits.
- [B] Samuel said, “The law is in accord with Hillel.”

5:8

- [A] A man [may] say to his fellow, “Weed with me, and I’ll weed with you,”
- [B] “Hoe with me, and I’ll hoe with you.”
- [C] But he [may] not say to him, “Weed with me, and I’ll hoe with you,”
- [D] “Hoe with me, and I’ll weed with you.”
- [E] All the days of the dry season are deemed equivalent to one another.
- [F] All the days of the rainy season are deemed equivalent to one another.
- [G] One should not say to him, “Plough with me in the dry season, and I’ll plough with you in the rainy season.”
- [H] Rabban Gamaliel says, “There is usury paid in advance, and there is usury paid at the end.
- [I]”How so?
- [J] “[If] one wanted to take a loan from someone and so sent him [a present] and said, ‘This is so that you’ll make a loan to me,’ –
- [K] “this is usury paid in advance.

[L] “[If] one took a loan from someone and paid him back the money and [then] sent [a gift] to him and said, ‘This is for your money, which was useless [to you] when it was in my hands,’ –

[M] “this is usury paid afterward.”

[N] R. Simeon says, “There is usury paid in words.

[O] “One may not say to him, ‘You should know that so-and-so from such-and-such a place is on his way.’”

[P] These [who participate in a loan on interest] violate a negative commandment:

[Q] (1) the lender, (2) borrower, (3) guarantor, and (4) witnesses.

[R] Sages say, “Also (5) the scribe.”

[S] (1) They violate the negative commandment, “You will not give [him] your money upon usury” (Lev. 25:37).

[T] (2) And [they violate the negative command], “You will not take usury from him” (Lev. 25:36).

[U] (3) And [they violate the negative command], “You shall not be a creditor to him” (Ex. 22:25).

[V] (4) And [they violate the negative command], “Nor shall you lay upon him usury” (Ex. 22:25).

[W] (5) And they violate the negative command, “You shall not put a stumbling block before the blind, but you shall fear your God. I am the Lord” (Lev. 19:14)

[I:1 A] Said R. Yosé, “Come and see how blind are the eyes of those who lend at usurious rates.

[B] “A man calls his fellow an idol worshipper, one who has unlawful sexual relations, a shedder of blood,

[C] “and hounds him to deprive him of a livelihood.

[D] “Then this one brings a scribe, pen, ink, document, and witnesses,

[E] “and says to them, ‘Come and write concerning him that he has denied the Omnipresent [T.: no share in the One who commanded concerning usury].’

[F] [Y. lacks: “And he writes the document and registers it in the archives [of the gentiles]

[G] “and so denies Him who spoke and thereby brought the world into being, blessed be He.]

- [H] **“Thus you have learned that those who lend at usurious rates deny the principle [of divine authority].”**
- [I] **R. Simeon b. Eleazar says, “More than denying the principle do they deny [T.: More than they make they lose].**
- [J] **“For they make the Torah into a fraud,**
- [K] **“and Moses into a fool.**
- [L] **“They say, ‘Now if Moses knew how much we would make, he would never have written [the prohibition of usury!’”**
- [M] **R. Aqiba says, “Usury is hard, for even a favor may be usury.**
- [N] **“Lo, if he decided to buy vegetables from him in the marketplace [to whom he owed money], even though he paid him the money which was owing, lo, this favor constitutes usury.”**
- [O] **R. Simeon says, “Usury is hard,**
- [P] **“for even a very greeting is a matter of usury.**
- [Q] **“How so?**
- [R] **“This one never greeted the other in his entire life, until he had to borrow money from him. Now he rushes to greet him.**
- [S] **“So this is a greeting which is usury” [cf. M 5:8N] [T. B.M. 6:17].**
- [T] **And so did Simeon b. Eleazar say, “Whoever has money and does not put it out at usurious rates –**
- [U] **“concerning him does Scripture say, ‘... who does not put out his money at interest, and does not take a bribe against the innocent. He who does these things shall never be moved’ (Ps. 15:5).**
- [V] **[Y. lacks: “Thus you have learned that those who lend money at usurious rates tremble and pass away from the world.”]**
- [M] **Said R. Samuel bar Immi,] “Now just what this trembling is I do not know.”**
- [X] **[But Solomon came and explained,]
“But it is along the lines of that which is said,
‘Rescue those who are being taken away to death; hold back those who are stumbling to the slaughter’” (Prov 24:11) [T. B M. 6:18].**

YERUSHALMI BABA MESIA

CHAPTER SIX

6:1

- [A] He who hires craftsmen,
[B] and one party deceived the other –
[C] one has no claim on the other party except a complaint [which is not subject to legal recourse].
[D] [If] one hired an ass driver or wagon driver to bring porters and pipes for a bride or a corpse,
[E] or workers to take his flax out of the steep,
[F] or anything which goes to waste [if there is a delay],
[G] and [the workers] went back on their word-
[H] in a situation in which there is no one else [available for hire],
[I] he hires others at their expense,
[J] or he deceives them [by promising to pay more and then not paying up more than his originally stipulated commitment].

- [I:1 A] What is the meaning of “one party deceived the other”?
[B] *“Come and work with me,” [says one craftsman to another, the former being employed by a householder].*
[C] *“The work [which you will perform] with me is worth five denars.”*
[D] *Then they found that the work was worth ten denars.*
[E] *“Come and work with me, and you will have ten days of work,”*
[F] *and they went and found only five days of work.*
[G] What is the meaning of “the householder deceived them”?

[H] *“Come and work with your fellow-workers, for they are doing work worth ten denars,” and the workers found that the work was worth only five denars.*

[I] *“Come and work with your fellows, and the job will last for five days,” and they came and found it was a job for ten days.*

[II:1 A] Under what circumstances [does M. 6:1C apply]?

[B] **When the ass-drivers did not go at all.**

[C] **But [if] he hired ass-drivers, [and] they came but he did not find [grain],**

[D] **or [if] he hired workers to weed a field and they came and found his field wet [and not suitable for weeding],**

[E] **he pays them wages for making the round trip.**

[F] **And one who comes bearing a burden is not equivalent to one who comes empty-handed.**

[G] **And one who actually does the work is not equivalent to one who sits and does nothing [T. B .M. 7:IE -K].** [Y. continues: nor is one who sits in the shade equivalent to one who sits in the sun.]

[H] *R. Hiyya the Elder hired ass-drivers to fetch his flax. They went and found the flax still in the steep. He said to them, “Go and pay them their full salary, but say to them, ‘Not that I am obliged to pay your salary, but I, Hiyya, am generous to you.’”*

[II:2 A] Under what circumstances?

[B] **In a case in which they did not begin [the work].**

[C] **[Y. lacks: But if they had actually begun the work, lo, they make an estimate for him (of how much work actually had been done).**

[D] **How so?]**

[E] **[If] one undertook [for the householder] to cut down his standing grain for two selas,**

[F] **[and] he had cut down half of it and left half of it,**

[G] **[or if he undertook] to weave a cloak for two selas,**

[H] **and had woven half of it and had left half of it –**

[I] **lo, these make an estimate for him.**

[J] **How do they make an estimate for him?**

[K] **[If] what he had made was worth six denars, they hand over to him a sela [four denars], or he completes his work [and gets the originally stipulated two selas].**

[L] **And if it was worth a sela, they hand over to him a sela.**

[M] **R. Dosa says, “They make an estimate of the value of what is going to be made.**

[N] **“If that which was going to be made was worth five denars, they give him a sheqel, [two denars], or he finishes the work.**

[O] **“And if it was worth a sheqel, they give him a sheqel” [T. B.M. 7:1L-Z].**

[P] R. Zira in the name of R. Huna, R. Binah, R. Jeremiah in the name of Rab: “The law is in accord with the opinion of R. Dosa.”

[II:3 A] Under [11a] what circumstances?

[B] **in the case of something which does not go to waste.**

[C] **But in the case of something which goes to waste [if there is a delay] [M. 6:1F],**

[D] **he hires others at their expense,**

[E] **or deceives them [by promising to pay more and then not giving more than his originally stipulated commitment] [M. 6:1J].**

[F] **[Y. lacks:] How so?**

[G] **He says to [the worker], “I agreed to pay you a *sela*. Lo, I’m going to give you two.”**

[H] **[Y. lacks: He goes and hires workers from another location, then comes and takes the money from this party and hands it over to that party [T. B.M. 7:1AA-HH].**

[I] Said R. Ila, “But that is on condition that it is only up to the salary [originally promised to the worker who failed to show up].

[J] “But that is on condition that it is limited to the salary to be paid for that entire day [that is, the worker gets paid for what he has already done, but loses the remainder of his promised salary for that day],

[K] “or up to the salary for that hour of labor.”

[II:4 A] Under what circumstances?

- [B] In a situation in which he comes to an agreement with him while he cannot find others to hire.
- [C] But if he saw ass-drivers coming along,
- [D] [the worker] says to him, “Go and hire one of these for yourself.”
- [E] And he has no claim on the other party except a complaint [T. B.M. 7:1II-MM].
- [F] He who hires a boat,
- [G] and it unloaded his goods in the middle of the wharf
- [H] has no claim against it except a complaint [T. B.M. 7:2].

6:2

- [A] He who hires craftsmen and they retracted –
- [B] their hand is on the bottom.
- [C] If the householder retracts,
- [D] his hand is on the bottom.
- [E] Whoever changes [the original terms of the agreement] –
- [F] his hand is on the bottom.
- [G] And whoever retracts –
- [H] his hand is on the bottom.

- [I:1 A] [The reason that a worker may retract is this:] Rab said, “‘For to me the people of Israel are slaves; they are my slaves whom I brought forth out of the land of Egypt; I am the Lord your God’ (Lev. 25:55).”
- [B] “Israelites do not buy one another. [M. then refers to a free man. He has no right to retract, and if he does, M. 6:2B follows.]”
- [C] Said R. Yohanan, “The Mishnah refers to a Hebrew slave [who has no right to retract]. [But a free man has the right to retract without penalty].”
- [D] *In the opinion of Rab*, both a worker and a householder have the right to retract.
- [E] *In the opinion of R. Yohanan*, a worker has the right to retract, but a householder does not have the right to retract.

6:3

- [A] He who rents out an ass to drive it through hill country but drove it through a valley,
- [B] to drive it through a valley but drove it through the hill country,
- [C] even though this route is ten miles and that route is ten miles,
- [D] and [the ass] died –
- [E] [the one who rented it is] liable.
- [F] He who rents out an ass to drive it through hill country, but he drove it through a valley.
- [G] if it slipped, is exempt.
- [H] But if it suffered heat prostration, he is liable.
- [I] [If he hired it out] to drive it through a valley, but he drove it through hill country,
- [J] if it slipped, he is liable.
- [K] And if it suffered heat prostration, he is exempt.
- [L] But if it was on account of the elevation, he is liable.
- [M] He who rents out an ass, and it went blind or was seized for royal service –
- [N] [the one who provided it has the right to] say to [the one who rented it], “Here’s yours right before you” [and he need not replace it for the stated period].
- [O] [If] it died or broke a leg,
- [P] [the one who provided it out] is liable to provide him with another ass.
- [Q] He who hires a cow to plough in the hill country but ploughed in the valley,
- [R] if the plough-share was broken,
- [S] is exempt.
- [T] [If he hired the cow to plough] in the valley and ploughed in the hill country,
- [U] if the plough-share was broken,
- [V] he is liable.
- [W] [If he hired a cow to] thresh pulse and he threshed grain,
- [X] [if the cow slipped and fell],
- [Y] he is exempt.
- [Z] [If he hired it] to thresh grain and he threshed pulse,
- [AA] [if the cow slipped and fell],

[BB] he is liable,

[CC] because pulse is slippery.

[I:1 A] *It is reasonable to state that* [if one rented the beast for use in the mountain, but] he used it in the valley, [that the one who made use of it should be liable, since we may say that the poor air in the valley caused the beast to expire under its burden].

[B] But [why should one be liable if he rented the beast for use] in a valley, but he brought it up to the mountain? [Here the air is good, and it was an improvement in the conditions of utilization of the beast. So how are we to account for this latter rule?]

[C] R. Simeon b. Yaqim said, “It is a case in which the beast expired because of the air, [for it was unused to the thinner air of the heights].”

[D] R. Dosetai b. Yannai said, “It is a case in which a snake bit it, [and that would not likely have happened in the valley].”

[E] R. Yohanan said, “The Mishnah pericope represents the view of R. Meir, who said, ‘Whoever changes the conditions agreed to by the householder [who rented out the beast] is deemed a robber.’”

[II:1 A] If one rented out an ass, and it went blind [M. 6:3F] – for lightning struck [the ass, affecting the eyesight].

[III:1 A] Or it was seized for royal service [M. 6:3F].

[B] *There are Tannaim who teach*, “Seizure for royal service is tantamount to the death of the beast, [and one who rented it out has to supply another].”

[C] *And there are Tannaim who teach*, “The one who supplied it may say to him, ‘Here is yours before you,’ [and need not supply another ass, as at M.].”

[D] [There is no dispute:] *The one who taught*, “Seizure for royal service is tantamount to the death of the beast,” [nonetheless requires the provider of the beast to supply another one, in a case in which he] could have sought some accommodation [with the state, to retain his ass, but he failed to do so]. [He therefore bears responsibility for the matter. But if there was no such possibility, then it was an accident. The one who provided the ass then may say to the other, just as at M. 6:3G, the loss belongs to the one who utilizes the ass. That is why C and D do not dispute but speak of different circumstances.]

[E] *And the one who taught*, “He who supplied it may say to him, ‘Here’s yours before you,’” speaks of a case in which one cannot seek an

accommodation [as just now explained at E]. [So there is no dispute between either the two interpreters of M. or among them and M.]

[III:2 A] *It was taught: R. Simeon b. Eleazar says, “If it was in its normal course that it was seized, [the one who rented it out] is not liable to provide him with another ass.*

[B] “[If it was] not in its normal course [that it was seized, the one who rented it out] is liable to provide him with another ass” [T. B.M. 7:7/I-J].

[C] [When, in Simeon’s view, one is not liable to provide another ass,] said R. Abbahu in the name of R. Yosé b. Haninah, “[It is in the case of] seizure of the beast for royal service [while it is] on a path. [In that case, the one who supplied the beast] is not liable to supply him with another ass.

[D] “[But if it took place] in a forum [basilica], he is liable to supply him with another ass.”

[E] *R. Abbahu in the name of R. Yosé bar Haninah: “If one hired the beast to go from here to Lud, and [the royal seizures were taking place along that same route, so the beast] was seized for royal purposes in Lud, one is not liable to supply him with another ass.*

[F] “[If] one hired out the beast to go from here to Lud, and the beast was seized for royal service on the road to Tyre, one is liable to provide him with another ass. [Since the procedure was to take the ass until another became available, in the former case, one will soon get the ass back, while in the latter, he will not soon get it back.]”

[IV:1 A] *If it died or broke a leg, the one who provided it is liable to provide him with another ass [M. 6:3H-I].*

[B] R. Yohanan said, “[That is so when the one who rented it had specified,] ‘an ass,’ without further explanation. But if he had said to him, ‘This particular ass,’ *then the one who had provided it has the right to say to him, “This is the one you wanted. Bring it before us.’* [The one who had utilized the ass now has no claim on the other party.]”

[C] Said R. Huna, “[In a case in which one rented the ass without further specification, and the ass died, the one who had rented it out] is liable to take care of [the corpse of the beast] in the place [in which it collapsed and died]. [He sells the beast as is. Then he has the right to use the proceeds to hire another one.]”

[D] Said R. Zira, “If in disposing of the corpse, there will be a sufficient return so that the one who had used it may hire out a small ass, the one who had provided it is not liable to provide him with another ass, and if not, he is liable to provide him with another ass.”

[E] Said R. Huna, “If the corpse of the beast produces a sufficient sum when it is sold for the one who had rented the beast to buy a small ass, the one who had provided the beast is not liable to supply him with another ass, and if not, he is liable to supply him with another ass.”

6:4

[A] **He who hired an ass to carry wheat on it and he carried barley on it [B] is liable.**

[C] **[If he hired it to carry] wheat and carried straw on it, [D] he is liable,**

[E] **since the [greater] bulk is hard to carry.**

[F] **[If he hired it] to carry a letekh of wheat and it carried a letekh of barley, he is exempt.**

[G] **But if he added to its burden, he is liable.**

[H] **And how much does he add to its burden so as to be liable?**

[I] **Sumkhos says in the name of R. Meir, “A seah for a camel, and three qabs for an ass.”**

[I:1 A] *It was taught:* **And how much does he add to its burden so as to be liable?**

[B] **Sumkhos says in the name of R. Meir, “A qab for a porter [one that carries on his shoulder], three seahs for a wagon, and as to a boat, in accord with dimensions” [M. 6:5G-I] [T. B.M. 7:10].**

[I:2 A] **A caravan which was passing through the wilderness,**

[B] **and a band of brigands fell on it and seized [a ransom] –**

[C] **they make a reckoning in accord with the property loss, and they do not make a reckoning in accord with the number of people.**

[D] **But if they had sent out a pathfinder before them,**

[E] **they also make a reckoning of the number of people.**

[F] **But in any event they do not vary from the accepted practice governing those who travel in caravans [T. B.M. 7:13].**

- [G] A boat which was coming along in the sea and a storm hit it, so that they had to unload some of the cargo –
- [H] they make a reckoning in accord with the property loss, and they do not make a reckoning in accord with the number of people.
- [I] But in any event they do not vary from the accepted practice of sailors.
- [J] But he who rents out to his fellow a boat or a wagon –
- [K] they reckon the cost in accord both with the burden and with the number of people to be carried.
- [L] But they do not reckon the cost in accord with [one's property's capacity to pay] [T. B.M. 7:14].
- [I:3 A] A caravan which was traveling along in the wilderness,
- [B] and a troop of brigands attacked it,
- [C] and one of them went and saved [the property] –
- [D] what he saved, he has saved for the common fund [of all participants].
- [E] But if he made a stipulation with them in a court, what he has saved he has saved for his own possession.
- [F] Ass-drivers who were going along the way,
- [G] and a band of thugs attacked them,
- [H] and one of them went and saved [the property] –
- [I] what he has saved, he has saved for the common fund [of all participants].
- [J] But if they had given him domain, what he has saved he has saved for his own possession.
- [K] Partners whom tax farmers forgave part of their taxes –
- [L] what they have remitted falls to the common fund shared by both parties.
- [M] But if [the tax collectors] declared, “It is for Mr. So-and-so that we have remitted the taxes,”
- [N] then what they have remitted falls to the advantage of [Mr. So-and-so] [T. B.M. 8:25].

- [O] As to tax farmers and tax collectors, doing penitence is difficult.
- [P] They return [what they can to those whom they] recognize.
- [Q] And of the rest [of the taxes they propose to hand back], they make use for the public good [T. B.M. 8:26].

6:5

- [A] All craftsmen are in the status of paid bailees [responsible for both negligence and theft].
- [B] But any of them who said, “Take what is yours and pay me off [because the job is done]” [enters the status of] an unpaid bailee [responsible for negligence but not theft].
- [C] [If one person said to another], “You keep watch for me, and I’ll keep watch for you,” [both are] in the status of a paid bailee.
- [D] “Keep watch for me,”
- [E] and the other said to him, “Leave it down before me,”
- [F] [the latter] is [in the status of] unpaid bailee.
- [G] [If one made] a loan and took a pledge, he is in the status [as to care of the pledge] of a paid bailee.
- [H] R. Judah says, “[If] he lent him money, he is in the status of an unpaid bailee.
- [I] “[If] he lent him produce, he is in the status of a paid bailee.”
- [J] Abba Saul says, “It is permitted for a person to put out on hire a pledge left by a poor man,
- [K] “and so reduce [the debt] on its account little by little,
- [L] “for he is like one who gives back what someone has lost.”
- [I:1 A] *An agreement allowing the creditor the use of a pledged object [in place of interest on the loan] constitutes usury [cf. M. 6:5J-L].*
- [II:1 A] Samuel said, “[The rule of M. 6:5E] applies in a case in which he said to him. ‘Put it down before me.’
- [B] “But if he had said to him, ‘Put it down before yourself,’ he is neither an unpaid bailee nor a paid bailee. [There is no agreement at all.]”
- [III:1 A] [As to the reasoning of Judah, M. 6:5H, **If he lent him produce, he is in the status of a paid bailee in respect to the pledge,**] said R. Yohanan, “Someone is glad to give an amount of money and to sell off his produce through [receiving] a pledge.”

[B] [Explaining this statement by Yohanan,] R. Abbahu said in the name of R. Yosé b. Haninah, “A man is glad to give any amount of money and sell his produce to someone who will gain his trust for postponed payment by means of a pledge.”

6:6

[A] **[The bailee] who moves a jar from one place to another and broke it,**

[B] **whether he is an unpaid bailee or a paid bailee,**

[C] **must take an oath [that the jar was broken by accident and not through his willful negligence, and so he is exempt from having to make it up].**

[D] **R. Eliezer says, “In either case he is to take an oath.**

[E] **“But I wonder whether either this one or that one can in fact take a [valid] oath.”**

[I:1 A] *R. Nehemiah taught,* “A potter gave his pots to someone [who received a fee, but who broke the pots].

[B] “The potter took his cloak [as compensation].

[C] “The other party came before R. Yosé bar Haninah.

[D] “He said to him, ‘Go and say to the potter, ‘So you will walk in the way of good men’ (Prov. 2:20).

[E] “He went and cited the verse of Scripture to the potter, who returned his cloak.

[F] “[Yosé] then asked him, ‘And did he pay your fee in addition?’

[G] “He said to him, ‘No.’

[H] “He said to him, ‘Go and say to the potter, ‘And keep to the paths of the righteous’ (Prov. 2:20).

[I] “He did so and the potter paid him his fee as well.”

YERUSHALMI BABA MESIA

CHAPTER SEVEN

7:1

[A] He who hires [day] workers and told them to start work early or to stay late –

[B] in a place in which they are accustomed not to start work early or not to stay late,

[C] he has no right to force them to do so.

[D] In a place in which they are accustomed to provide a meal, he must provide a meal.

[E] [In a place in which they are accustomed] to make do with a sweet,

[F] he provides it.

[G] Everything accords with the practice of the province.

[H] M'SH B: R. Yohanan b. Matya said to his son, “Go, hire workers for us.”

[I] He went and made an agreement with them for food [without further specification].

[J] Now when he came to his father, [the father] said to him, “My son, even if you should make for them a meal like one of Solomon in his day, you will not have carried out your obligation to them.

[K] “For they are children of Abraham, Isaac, and Jacob.

[L] “But before they begin work, go and tell them, ‘[Work for us] on condition that you have a claim on me [as to food] only for a piece of bread and pulse alone.’ “

[M] Rabban Simeon b. Gamaliel says, “He had no need to specify that in so many words.

[N] “Everything [in any case] accords with the practice of the province.”

[I:1 A] [In regard to M. 7:1A-C,] said R. Hoshaiyah, “That is to say that what is customary overrides what is statutory.”

- [B] [Along these same lines, since we follow the customary practice of the region, no need exists to prove what is owing or not owing. Consequently,] said R. Immi, “Everyone who proposes to collect from his fellow bears the burden of proof, except in this case [in which, not proof of an agreement, but mere reference to the prevailing practice.”
- [C] The workers of Tiberias do not begin work early or leave late.
- [D] The workers of Beth Maon begin work early and leave late.
- [E] The workers of Tiberias who went up for employment in Beth Maon are employed according to the conditions prevailing in Beth Maon.
- [F] The workers of Beth Maon who went down for employment in Tiberias are employed according to the prevailing conditions in Tiberias.
- [G] *Now if someone went up from Tiberias to hire workers in Beth Maon, he has the right to say to them, “Now did you imagine that I did not find workers in Tiberias [that I have come up here]? That is not the case. But it is because I hear about you that you go to work early and stay late; on that account I came up here to hire you.”*
- [H] As to a place in which a prevailing practice has not yet been established –
- [I] Judah b. Boni, R. Ammi, R. Judah: “It is a stipulation imposed by the court that starting work early should depend on the wishes of the workers, and staying late should depend on the wishes of the householder.”
- [J] *What is the Scriptural basis for that position?*
- [K] “Thou makest darkness, and it is night, when all the beasts of the forest come forth. the young lions roar for their prey, seeking their good from God. When the sun rises, they get them away and lie down in their dens. Man goes forth to his work and to his labor until the evening” (Ps. 104:20-23).
- [L] As to Fridays [the eve of the Sabbath], both starting early in the morning and working late depend upon the wishes of the householder.
- [M] To what extent [do the workers stay late]?

[N] To the extent of drawing water, roasting a fish, and lighting the lamp [for the Sabbath]. [That is, the workers must be sent home in time to do these things for themselves before sundown.]

[II:1 A] *In the opinion of R. Yohanan b. Matya [M. 7:1H], a man who went to consecrate a woman from some other location has to stipulate with her [every detail of what is expected], saying to her, ‘It is on condition that you perform such and so acts of labor, and that you eat such and so types of food.’”*

7:2

[A] And these [have the right to] eat [the produce on which they work] by [right accorded to them in] the Torah:

[B] he who works on what is as yet unplucked [may eat from the produce] at the end of the time of processing;

[C] [and he who works] on plucked produce [may eat from the produce] before processing is done;

[D] [in both instances solely] in regard to what grows from the ground.

[E] But these do not [have the right to] eat [the produce on which they labor] by [right accorded to them in] the Torah:

[F] he who works on what is as yet unplucked, before the end of the time of processing;

[G] [and he who works] on plucked produce after the processing is done,

[H] [in both instances solely] in regard to what does not grow from the ground.

[I] [If] one was working with his hands but not with his feet,

[J] with his feet but not with his hands,

[K] even [carrying] with his shoulder,

[L] lo, he [has the right to] eat [the produce on which he is working].

[M] R. Yosé b. R. Judah says, “[He may eat the produce on which he is working] only if he works with both his hands and his feet.”

[I:1 A] Said R. La, “‘When you go into your neighbor’s vineyard, you may eat your fill of grapes ...’ (Deut. 23:24).

[B] “Now would it enter your mind that one might eat wood or stones~ Why does the Scripture refer to grapes?

[C] “It is to say that one should not [take time] to scale off figs or to suck out grapes [T. 8:9B-C].”

- [II:1 A] If one was working with his hands but not with his feet [M. 7:2I].**
- [B] Said R. La, “It is written, ‘When you go into your neighbor’s standing grain, you may pluck the ears with your hand, but you shall not put a sickle to your neighbor’s standing grain’ (Deut. 23:25).”
- [II:2 A] It was taught: [If one works] with his hands or gathers [packs down] with his foot, even if he just carries on his shoulders [he is entitled to eat of the produce in which he works].**
- [B] [Referring to Deut. 25:4, You shall not muzzle an ox when it treads out grain,] R. Yosé b. R. Judah says, “[Just as treading out grain is special, as something which] it does with its forelegs, its hind-legs, and its body,
- [C] “so is excluded one who works with his hands but not his legs,
- [D] “or with his legs but not his body.”
- [E] R. Yosé b. R. Judah says, “Just as treading out grain is special, in that it involves something which grows from the earth,
- [F] “so are excluded one who milks a cow, beats milk, or makes cheese – things which do not grow from the earth.
- [G] “Just as treading out grain is special, in that it is something whose work is not completed,
- [H] “so is excluded wine, once one has skimmed it and it has flowed down into the vat [T.: one who separates (clumps of) dates and figs, a matter on which work is complete so far as tithes are concerned]” [T. B.M. 8:7],
- [I] [and] one who separates dates and one who separates figs – things the processing of which is complete.
- [J] “Just as treading out grain is special, in that it is something, [the work on which is not completed,] so far as tithes are concerned –
- [K] “so are excluded he who is engaged in kneading, cutting [the dough], and baking –
- [L] “things [on which the work is completed, and these workers have no right to eat], so far as tithes are concerned” [T. B.M. 8:7].

7:3

- [A] [If the laborer] was working on figs, he [has] not [got the right to] eat grapes.

- [B] [If he was working] on grapes, he [has] not [got the right to] eat figs.
- [C] But [he does have the right to] refrain [from eating] until he gets to the best produce and then [to exercise his right to] eat.
- [D] And in all instances they have said [that he may eat from the produce on which he is laboring] only in the time of work.
- [E] But on grounds of restoring lost property to the owner, they have said [in addition]:
- [F] Workers [have the right to] eat as they go from furrow to furrow [even though they do not then work],
- [G] and when they are coming back from the press [so saving time for the employer];
- [H] and in the case of an ass [nibbling on straw in its load], when it is being unloaded.
- [I:1 A] Said R. La, “It is written, ‘When you go into your neighbor’s vineyard, you may eat your fill of grapes, as many as you wish.’
- [B] “So what is there to eat in a vineyard, if not grapes?
- [C] “It is to teach you that when a worker is working in grapes, he should not nibble on [nearby] figs.”

7:4

- [A] A worker [has the right to] eat cucumbers, even to a denar’s worth,
- [B] or dates, even to a denar’s worth.
- [C] R. Eleazar Hisma says, “A worker should not eat more than the value of his wages.”
- [D] But sages permit.
- [E] But they instruct the man not to be a glutton and thereby slam the door in his own face [to future employment].
- [F] A man makes a deal [with the householder not to exercise his right to eat produce on which he is working] in behalf of himself, his adult son, or daughter,
- [G] in behalf of his adult manservant or woman-servant,
- [H] in behalf of his wife,
- [I] because [they can exercise] sound judgment [and keep the terms of the agreement].
- [J] But he may not make a deal in behalf of his minor son or daughter,
- [K] in behalf of his minor boy servant or girl servant,

[L] or in behalf of his beast,

[M] because [they can] not [exercise] sound judgment [and keep the terms of the agreement].

[I:1 A] R. Eleazar b. Antigonos says in the name of R. Yannai, “That is to say [M. 7:4B], ‘A worker may eat more than the value of his wages.’”

[B] *And there are those who say,* “R. Yohanan in the name of R. Yannai: ‘That same passage is to say that a worker may eat the first grape-cluster and the last grape-cluster.’”

7:5

[A] He who hires workers to work in his fourth-year plantings [the produce of which is to be eaten not at random but only in Jerusalem or to be redeemed for money to be brought up to Jerusalem (Lev. 19:24)]

[B] lo, these do not [have the right to] eat.

[C] If [in advance] he did not inform them [of the character of the produce and the prohibitions affecting it], he [has to] redeem the produce and [permit them to] eat [of it].

[D] [If] his fig cakes split up,

[E] his jars [of wine] burst open [while yet untithed, and workers are hired to repress the figs and re-bottle the wine],

[F] lo, these do not [have the right to] eat [them].

[G] If he did not inform them [that the produce on which they would be working was untithed and therefore not available for their random consumption],

[H] he has to tithe [the produce] and [allow them to] eat [of it].

[I:1 A] Anything the like of which has not yet reached the time for obligation [11c] to tithing,

[B] but some other sort of prohibition affects it –

[C] [if the householder] hired [the worker] without making explanations [as to the prohibited status of the food in which he would be laboring], he has to redeem [the produce] and allow the worker to eat it,

[D] [or] tithe [the produce] and [so] allow the worker to eat it.

[E] But if he made an agreement with him [that he would forego his right to eat while he worked in the field],

- [F] lo, this one is not to eat anything at all.
- [G] Anything the like of which has reached the time for obligation to tithing,
- [H] but some other sort of permitted aspect affects it –
- [I] [if the householder] hired [the worker] without making explanations [as to the status of the food in which he would be laboring],
- [J] lo, this [worker] is not to eat [at all].
- [K] But if [the householder] made an agreement with him [the worker] that he would provide food], lo, this one has the right to eat [T. B.M. 8:7M-W].

7:6

- [A] Those who keep watch over produce [have the right to] eat [it] by the laws of the province,
- [B] but not by [what is commanded in] the Torah.
- [C] There are four classes of bailees:
- [D] (1) an unpaid bailee,
- [E] (2) a borrower,
- [F] (3) a paid bailee,
- [G] (4) and a lessee.
- [H] (1) [In the case of damage to the bailment], an unpaid bailee takes an oath in all [cases of loss or damage and bears no liability whatsoever] [M. 3:1].
- [I] (2) [In the case of damage to the bailment], the borrower pays in all circumstances [of damages to a bailment].
- [J] (3, 4) [In the case of damage to the bailment], the paid bailee and the lessee take an oath [that they have not been negligent]
- [K] concerning [a beast which has suffered] a broken bone, or which has been driven away, or which has died [Ex. 22:9].
- [L] But they pay compensation for the one which was lost or stolen.

[I:1 A] *Said R. Huna, “The Mishnah pericope [M. 7:6A-B3, refers to those who [merely] guard produce. But as to those who keep watch over vegetable patches and orchards, their right to eat produce is guaranteed by the law of the Torah.”*

- [B] *Samuel said, “The Mishnah pericope speaks of those who keep watch over vegetable patches and orchards.*
- [C] “But those who [merely~ guard produce have not got the right to eat, either by the law of the Torah or by the laws of the province.”
- [D] *R. Hiyya taught [a tradition] and it supports R. Huna’s position: “And the priest will be unclean until the evening’ (Num. 19:7) – to encompass watchmen [of the red cow], that they should impart uncleanness to their clothing. [Thus whoever is involved in the process is deemed part of the process, even the watchmen. Huna’s view would find support in this view of the role of the guards or watchmen.]”*

7:7

- [A] **A single wolf does not count as an unavoidable accident.**
- [B] **Two wolves are regarded as an unavoidable accident.**
- [C] **R. Judah says, “In a time that wolves come in packs, even a single wolf is an unavoidable accident.”**
- [D] **Two dogs do not count as an unavoidable accident.**
- [E] **Yadua the Babylonian says in the name of R. Meir, “[If] they come from one direction, they do not count as an unavoidable accident.**
- [F] **”If they come from two directions, they count as an unavoidable accident.”**
- [G] **A thug – lo, he counts as an unavoidable accident.**
- [H] **(1) A lion, (2) wolf, (3) leopard, (4) panther, or (5) snake – lo, these count as an unavoidable accident.**
- [I] **Under what circumstances?**
- [J] **When they come along on their own.**
- [K] **But if he took [the sheep] to a place in which there were bands of wild animals or thugs,**
- [L] **these do not constitute unavoidable accidents.**
- [M] **[If a beast] died of natural causes, lo, this counts as an unavoidable accident.**
- [N] **[If] one caused it distress and it died [e.g., of cold or hunger], this does not count as an unavoidable accident.**
- [O] **[If] it went up to the top of a crag and fell down, lo, this is an unavoidable accident.**
- [P] **[If] he brought it up to the top of a crag and it fell down and died,**

- [Q] it is not an unavoidable accident.
- [R] An unpaid bailee may stipulate that he is exempt from [having to take] an oath,
- [S] and a borrower, that he is exempt from having to pay compensation,
- [T] and a paid bailee and a hirer, that they are exempt from [having to take] an oath or from having to pay compensation.
- [U] Whoever exacts a stipulation contrary to what is written in the Torah – his stipulation is null.
- [V] And any stipulation which requires an antecedent action – that stipulation is null.
- [W] But any condition which can be carried out in the end and is stipulated as a condition in the beginning – that stipulation is valid.
- [I:1 A] *It was taught:* Whoever makes a stipulation contrary to what is written in the Torah, if it is a stipulation in regard to a monetary matter – his stipulation stands.
- [B] [If it concerns] something which is not a matter of property, his stipulation is null [T. Qid. 3:8B-C].
- [C] How so? If he said to a woman, lo, you are betrothed to me on condition that you have no claim against me for food, clothing and sex,” lo, this woman is betrothed. [T adds: and his stipulation stands] [but his condition is null].
- [D] [If he said,] “... if I die, that you not be subjected to Levirate marriage” – lo, this woman is betrothed, but his condition is null. [For he has made a stipulation contrary to what is written in the Torah, and whoever makes a stipulation contrary to what is written in the Torah – his stipulation is null] [T. Qid. 3:7].
- [E] A general principle did R. Judah b. Tema state: “Any condition which it is not possible for her to carry out, and which he stated as a condition to her, he has intended only by way of exaggeration,
- [F] “whether he said it orally or in a document.
- [G] “Any condition which is confirmed when stated orally is confirmed when stated in a document, and any condition which is not confirmed when stated orally is not confirmed when stated in a document” [T. Git. 5:12D-G].
- [H] Kefar Otenai is in Galilee. Antipatris is in Judah.

[I] As to the area between them, they assign it to its more stringent status [T. Git. 5:7A-B].

YERUSHALMI BABA MESIA

CHAPTER EIGHT

8:1

[A] He who borrows a cow,
[B] and (1) borrowed [the service] of its owner with it,
[C] or (2) hired its owner with it –
[D] [or] (1) borrowed [the service] of the owner,
[E] or (2) hired him,
[F] and afterward borrowed the cow [too],
[G] and [the cow] died –
[H] [the borrower] is exempt,
[I] since it is said, “If the owner is with it, he shall not pay compensation” (Ex. 22:14).
[J] But [if] he borrowed the cow,
[K] and afterward (1) borrowed [the service] of the owner,
[L] or (2) hired him,
[M] and [the cow] died,
[N] [the borrower] is liable,
[O] since it is said, “If the owner is not with it, he shall certainly pay compensation” (Ex. 22:13).

- [I:1 A] Said R. Illa, “Since it is stated, ‘He shall certainly pay compensation,’ do we know that if the owner is with the cow, he need not pay compensation?”
- [B] “Why therefore does Scripture [find it necessary to state], ‘If the owner is not with it, he shall pay compensation’?”
- [C] “But [Scripture states this in order to teach that] once one has borrowed the cow [11d] and not borrowed [the services of] its owner along with it, even though the owner may be ploughing beside the cow

[laboring for someone else], if the cow should die, the borrower is liable.”

[II:1 A] “But: if one has borrowed the cow and afterward borrowed its owner or hired him, and the cow should die, the borrower is liable.” [M. 8:1J-N]

[B] Said R. La, “Since it is stated, ‘If its owner is with it, he shall not pay compensation,’ do I not know that if the owner is not with the cow, he certainly pays compensation?”

[C] “Why therefore does Scripture [find it necessary to state,] ‘If its owner is not with it, he shall surely pay compensation’?”

[D] “[Scripture states this in order to teach, But once one has borrowed the cow and hired the owner with it, even though the owner should then be ploughing in some other place, if the cow dies, the borrower is exempt [for the owner is deemed at hand, even if physically elsewhere].”

8:2

[A] He who borrows a cow –

[B] [if] he borrowed it for half a day and hired it for half a day,

[C] [or] borrowed it for one day and hired it for the next day,

[D] [or] borrowed one [cow] and hired another –

[E] and [the cow] died –

[F] the lender says [D], (1) “The borrowed one died” –

[G] (2) “On the day [C] on which it was borrowed, it died” –

[H] (3) “At the time [B] that it was borrowed, it died,” –

[I] and the [borrower] says, “I don’t know” –

[J] [the borrower] is liable.

[K] The hirer [lessee] says, (1) “The hired one died,”

[L] (2) “On the day on which it was hired, it died,”

[M] (3) “at the time that it was hired, it died”

[N] and the other party says, “I don’t know” –

[O] [the hirer] is exempt.

[P] [If] this party claims that the borrowed one [died],

[Q] and that party claims that the hired one [died],

[R] the one who rents it is to take an oath that the rented one died.

[S] [If] this one says, “I don’t know,” and that one says, “I don’t know,”

[T] then let them divide [the loss].

- [I:1 A]** What [if the beast] died in the intervening night? [That is, one has borrowed it for one day and then hired it for the next. If it dies that night, do we maintain that the conditions of borrowing have ceased at dusk, and, even though the beast has not been returned to its owner, it is as if it is in the owner's domain? Or does the beast remain in the status of one which has been borrowed?]
- [B] *There are those who rule*, It is usual for cows to spend the night with their owners, but this one, because the borrower has rented it for another day and kept it with him, has not gone back to its owner, and so it is deemed as a borrowed cow, in which case the man is liable.
- [C] *And there are those who rule*, It is not usual for a cow to spend the night with its owner, *and* this one is in the status [now] of one which has been rented, and so he is exempt [from having to make restitution].

8:3

[A] He who borrowed a cow,

[B] and [the one who lent it out] sent it along with his son, slave, or messenger,

[C] or with the son, slave, or messenger of the borrower –

[D] and it died –

[E] [the borrower) is exempt.

[F] If the borrower had said to him, “Send it with my son,” “... my slave,” “...my messenger,”

[G] or “... with your son,” “... with your slave,” “... with your messenger,”

[H] or if the lender had said to him, “Lo, I’m sending it to you with my son, “my ... slave,” “My ... messenger”

[I] or “... with your son,” “... your slave,” “... your messenger,”

[J] and the borrower said, “Send it along,”

[K] and he did send it along, but it died,

[L] [the borrower] is liable.

[M] And so is the rule as to returning the beast.

- [I:1 A]** *It was taught:* [The borrower said to the cow owner,] “Lend me your cow for ten days, and you be lent to me yourself for the first five days,”

- [B] [if then the cow] died in the latter period, it is deemed to have died while subject to the indenture of the former period, [and the borrower is exempt from paying compensation, in line with M. 8:1].
- [C] [If he said], “Lend me your cow for after ten days [during which ten-day period, the cow owner himself had been lent to the borrower],
- [D] and the old lady [who owned the cow] said to him, “It is [a weak cow, and it is] as if it is already dead,”
- [E] [then if the cow should die, it is deemed to have died while subject] to the indenture of the latter period, [so that even if the owner was already employed with the borrower before the cow came on the scene, the borrower is responsible to pay compensation for the deceased cow]. [We do not maintain in this case that the cow was with the owner.]
- [F] [If the borrower had said,] “Lend me your cow, and I shall be lent to you,”
- [G] “Lend me your cow, and come and work with me,”
- [H] “Lend me your spade, and come and weed with me,”
- [I] “Lend me your dish, and come and eat with me,”
- [J] if one had borrowed it from the superintendent of the well, from the steward, or from the town clerk [of the householder],
- [K] and it died,
- [L] it is as if the owner was with the cow [and the borrower need not pay]. [These are agents of the owner.]

8:4

- [A] He who exchanges a cow for an ass,**
- [B] and [the cowl produced offspring,**
- [C] and so, too: he who sells his girl slave and she gave birth –**
- [D] this one says, “It was before I made the sale,”**
- [E] and that one says, “It was after I made the purchase” –**
- [F] let them divide the proceeds.**
- [G] [If] he had two slaves, one big and one little,**
- [H] or two fields, one big and one little –**
- [I] the purchaser says, “I bought the big one,”**

[J] and the other one says, “I don’t know” –
[K] [the purchaser] has acquired the big [slave].
[L] The seller says, “I sold the little one,”
[M] and the other says, “I don’t know” –
[N] [the latter] has a claim only on the little one,
[O] lo, this one says, “The big one,”
[P] and that one says, “The little one”-
[Q] let the seller take an oath that it was the little one which he had sold.
[R] This one says, “I don’t know”
[S] and that one says, “I don’t know” –
[T] let them divide up [the difference].

[I:1 A] [As to M. 8:4/0-Q, in which the seller takes an oath and gets his way,] R. Yohanan said, “This [case] thus excludes the opinion of Sumkhos, who maintains that in all matters of doubt, [the contending parties] divide [the disputed object].”

[B] Said R. La, “Interpret the case under discussion [to be not one of total doubt, but one in which] this party says, ‘I am certain,’ and that party says, ‘I am certain.’ [Here there is no doubt, but rather conflicting claims. In this case there is either proof on the one side, or an oath on the other. Accordingly, Sumkhos’s generalization stands.]”

[C] *R. Yosé raised the question* [against R. La,] “If it is a case in which this one says, ‘I am certain,’ and that one says, ‘I am certain,’ it is in such a case that R. Yohanan stated that this then excludes the opinion of Sumkhos. [So La’s view of how Yohanan’s statement and Sumkhos’s position may be harmonized is faulty.]”

8:5

[A] He who sells olive trees for firewood and [before they had been chopped down], they produced fruit which yielded less than a quarter-[log] of olive oil to a seah –

[B] lo, this belongs to the owner of the olive trees [not to the owner of the land, who sold only the trees, not the ground].

[C] [If] they produced a quarter-[log] of oil for a seah,

[D] this one says, “My olive trees made it,”

[E] and that one says, “My ground made it” –

[F] let them divide it up.

[G] [If] the river overflowed one's olive trees and set them down in the field of his fellow [where they bore fruit],

[H] this one says, "My olive trees made it,"

[I] and that one says, "My ground made it"

[J] Let them divide it up.

[I:1 A] *R. Yohanan raised the question, "[With respect to the case in which the river overflowed one's olive trees and set them down in the field of his fellow,] if the trees actually thrived [on the new soil], what is their status? [May not the owner of the land on which they now are located claim that the large crop is due to his land? Hence had he planted them, he would have enjoyed their fruit.]"*

[B] R. Huna said, "The Mishnah speaks of a case in which they were transplanted with their own clumps of dirt [so the owner of the land on which they now are located cannot make such a claim]."

[C] R. Yosé b. Hanina says, "[Yohanan will concur that the trees were transplanted with their clumps of dirt]. The issue between them is the disposition of the olive trees vis-a-vis the status of fruit produced in the first three years of planting. [Yohanan's view is that for the first three years the two parties divide the produce since the original owner's clumps of earth spare the field owner the loss incurred by the prohibition on use of the first three years' yield after a tree's planting (see Lev. 19:23). Thereafter it is assigned to the landowner. Huna maintains that the two share forever.]"

8:6

[A] He who rents a house to his fellow [without a lease] –

[B] in the rainy season, from the Festival to Passover. he has not got the right to evict him.

[C] And in the dry season, [he may evict him if he gives] thirty days' [notice].

[D] And in the case of large towns,

[E] all the same are the dry season and the rainy season,

[F] [he must give notice of] twelve months.

[G] And in the case of stores,

[H] all the same are small towns and large cities,

[I] [he must give notice of] twelve months.

[J] Rabban Simeon b. Gamaliel says, "In the case of a store rented to bakers or dyers, [he must give notice of] three years."

- [I:1 A] *It was taught:* Now in all these cases in which they have said, “Thirty days,” or [when they said], “Twelve months,”
- [B] it is not that the tenant may dwell there for [only] thirty days, and not that the tenant may dwell there for [only] twelve months.
- [C] But [the landlord] has to give him notice thirty days in advance, or give him notice twelve months in advance.
- [D] So far as winepress is concerned, [there may not be eviction] throughout the time of the vintage.
- [E] So far as an olive-press is concerned, [there may not be an eviction] throughout the season of the olive pressing.
- [F] As to a pottery, there may not be a notice of less than twelve months.
- [G] Said R. Yosé, “Under what circumstances?”
- [H] “In the case of those who work in black clay.
- [I] “But as to those who work in white clay,
- [J] “he may gather up his store of pottery and pull out” [T. B.M. 8:27].

8:7

- [A] He who rents out a house to his fellow –
- [B] he who rents it out is liable [to provide] (1) a door, (2) bolt, and (3) lock,
- [C] and anything which is made by a craftsman.
- [D] But as to anything which is not made by a craftsman,
- [E] the one who rents the house makes it [for himself].
- [F] Shit [left in a rented courtyard by cattle belonging to a third party] is assigned to the householder.
- [G] The renter has a claim only on the refuse of an oven or stove alone.
- [I:1 A] *R. Isaac bar Haqola ruled:* “The mezuzah is deemed something made by a craftsman [M. 8:7B-C].”

8:8

- [A] He who rents out a house to his fellow for a year –
- [B] [if] the year was intercalated [and received an extra month of Adar],

- [C] it is intercalated to the advantage of the tenant.
- [D] [If] he rented it to him by the month,
- [E] [if] the year was intercalated,
- [F] it is intercalated to the advantage of the landlord.
- [G] **M'SH B: In Sepphoris a person hired a bathhouse from his fellow for twelve golden [denars] per year, at the rate of one golden denar per month [and the year was intercalated].**
- [H] **The case came before Rabban Simeon b. Gamaliel and before R. Yosé.**
- [I] **They ruled, “Let them divide the month added by the intercalation of the year.”**
- [I:1 A] *Now what [was the circumstance in which they ruled, Let them divide the fee covering the added month]?*
- [B] If it is a case in which *the* landlord comes to collect at the end of the month, [it is as if] he had already collected [the rent. The renter need not pay].
- [C] If it is a case in which he comes at the beginning of the month, [the landlord] may say, “*Get out [if you don't want to pay].*”
- [D] *Samuel said, “The Mishnah case then speaks of a claim laid at the middle of the month.”*
- [E] *Rab said, “The law here favors the landlord.”*
- [F] *Said R. La, “We may interpret [Rab's opinion] only in the light of that which Ben Nannos has stated, ‘The formula used at the end substitutes for the formula used at the outset.’ [Thus the law will favor the landlord, since the agreement was ‘twelve per year,’ then, ‘at the rate of one per month.’ So the latter formula replaces the former, in which case the landlord wins the suit.]”*

8:9

- [A] **He who rents out a house to his fellow,**
- [B] **and [the house] fell down,**
- [C] **is liable to provide him with [another] house.**
- [D] [If] **it was a small house, he may not make it large.**
- [E] [If] **it was a large house, he may not make it small.**
- [F] [If] **it was a single-family dwelling, he may not make it a duplex.**
- [G] [If] **it was a duplex, he may not make it a single-family dwelling.**

[H] He may not provide fewer windows [than had been in the house which fell down] nor more windows,

[I] except with the concurrence of both parties.

- [I:1 A]** The reason that the house must be replaced just as it was rented out:] R. Simeon b. Laqish said, “It is that we have a case in which, [when the house was originally rented,] the landlord undertook to provide the tenant with precisely that which he went and showed him.”
- [B] R. Yohanan said, “It is a case in which he actually stipulated to him, ‘A house like this one am I going to rent to you.’”
- [I:2 A]** Now he who rents out a house to his fellow and then proposed to sell it [during the rental period, to a third party] –
- [B] Said R. Ammi, “It was not with the stipulation that the owner should die from hunger [that the agreement was made]. [If the owner needs to sell the house in order to support himself and his family, he has that right.]”
- [C] *Both R. Zira and R. Hela rule,* “Under all circumstances it is deemed acquired by the new purchaser.
- [D] *“But the landlord [who has sold the house] says [to the purchaser], ‘Let him be, for it is available to the tenant until his lease has run out.’”*
- [E] *A case came before R. Nisi, who did not accept [the position of Zira and Hela].*
- [F] *Why did he differ from them?*
- [G] *They say, The house in question was assigned as a pledge to a certain Roman. [If the landlord could not sell it right away and so redeem it from the gentile, the house would have fallen into the ownership of the gentile.] It was on that account that he ruled in accord with R. Ammi [that the sale must be consummated forthwith].*

YERUSHALMI BABA MESIA

CHAPTER NINE

9:1

[A] He who leases a field from his fellow [as tenant farmer or sharecropper],

[B] in a place in which they are accustomed to cut [the crops], he must cut them.

[C] [If the custom is] to uproot [the crops], he must uproot them.

[D] [If the custom is] to plough after [reaping and so to turn the soil], he must plough.

[E] All is in accord with the prevailing custom of the province.

[F] Just as they split up the grain, so they split up the straw and stubble.

[G] Just as they split up the wine, so they split up the [dead] branches and reed props.

[H] And both [parties to the agreement] must provide reed props.

[I:1 A] If it was a place in which they are accustomed to cut [the crops], and he pulled them up [instead],

[B] the landowner may say to him, “You laid it bare, but I want it to be cut down, with a stubble left to hold the soil.”

[C] If it was customary to pull up the crop, and the tenant cut it instead, they say to him, “You go out with the manure. [I want a clean field, free of stubble.]”

[I:2 A] *It was taught:* He who leases a field from his fellow harvests the crop, makes it into sheaves, threshes, winnows, and sifts it.

[B] The measurers, the diggers, the bailiffs, and the town clerks come and collect [their fees] from the common [stack of wheat, before the division of the crop between landlord and tenant].

[C] The superintendent of the well, the bath-master, the barber [the freight-ship captain],

- [D] when they come because of the householder, they collect their fee from the wherewithal of the householder.
- [E] When they come because of the tenant, they collect their fee from the wherewithal of the tenant.
- [F] And they do not vary from the accepted practice of the province [T. B.M. 9:14].

9:2

- [A] He who leases a field from his fellow,
- [B] which is an irrigated field,
- [C] or an orchard field –
- [D] [if] the water source went dry,
- [E] or the trees were cut down,
- [F] [the tenant] may not deduct [the damages] from the rental.
- [G] If he had said to him, “Lease me this irrigated field,” or “... this orchard field,”
- [H] and the water source went dry,
- [I] or the trees were cut down,
- [J] [the tenant] may deduct [the damages] from the rental.

[I:1 A] [As to M. 9 2A-F], said R. Isaac, “That rule applies to a case in which the spring completely dried up.

[B] But if it were two stages deep, and if one digs three, it will produce water,

[C] “the landlord has the right to say to him, ‘Work on it, and it will provide sufficient water.’”

[II:1 A] **If the tree was cut down [M. 9:2I].**

[B] Said R. Isaac, “The stated rule [M. 9:2I-J] applies in a case in which the entire orchard was cut down.

[C] “But if there remained in the field a planting of ten trees in a *seah*’s space of ground,

[D] “the landlord has the right to say to him, ‘Before they were crowded and did not produce much [fruit].

[E] “ ‘But now they are spread out and will produce much [fruit].’”

9:3

[A] He who [as a sharecropper] leases a field from his fellow and then lets it lie fallow –

[B] they make an estimate of how much [the field] is suitable to produce,

[C] [and the tenant] pays [that amount] to [the landlord].

[D] For thus does he write to him [in the writ of occupancy or lease],

[E] “If I let the field lie fallow and do not work it, I shall make it up to you at its highest rate of yield.”

[I:1 A] *Said R. Isaac, “That is to say, He who keeps his fellow’s capital idle – the latter has no stronger claim on him than a complaint [for wasting the potential profit accruing to the capital, now left idle].*

[B] “He who keeps his fellow’s field idle is liable to make it up to him.

[C] “He who keeps his fellow’s ship or shop idle – what is the law?”

9:4

[A] He who leases a field from his fellow and did not want to weed it,

[B] and said [to the landlord], “What difference does it make to you? I’m going to give you the rental anyhow!” –

[C] they pay no attention to [his claim].

[D] For the [landlord] has the right to say to him, “Tomorrow you’re going to leave this field, and it’s going to give me nothing but weeds!”

[E] He who leases a field from his fellow,

[F] and it did not produce [a crop],

[G] if there was in it [nonetheless sufficient growth] to produce a heap [of grain],

[H] [the lessee] is liable to tend it.

[I] Said R. Judah, “What sort of measure is ‘a heap’?”

[J] “But: if [the field yields only] so much [grain as had been] sown [there, for re-seeding next year, he is liable to tend it].”

[I:1 A] How much [is the measure of] **Sufficient to produce a heap of grain [M. 9:4G]**?

[B] R. Jacob bar Idi in the name of R. Joshua b. Levi, “Provided that it is sufficient to hold up the winnowing shovel.”

- [C] R. Abbahu in the name of R. Yosé b. Haninah, “And that is provided that its handle [alone] is above [the pile] [That is,] the grain should cover the lower side of the shovel.”
- [D] R. Joshua b. Levi said, “[The heap of grain should be] over and above the expenses of this party [i.e., either the owner or tenant].”
- [E] R. Yosé b. Harinah says, “Over and above the expenses of this party and of that party [i.e., both the owner and tenant].”
- [F] Said R. Abbahu, “‘The amount of a fall’ [means] the amount of seed that falls in it [the field].”

9:5

[A] He who leases a field from his fellow,

[B] and locusts ate it up,

[C] or it was blighted –

[D] if it is a disaster affecting the entire province,

[E] he may deduct [the damages] from his rental.

[F] If it is not a disaster affecting the entire province,

[G] he may not deduct it from his rental.

[H] R. Judah says, “If he had leased it for a [fixed] cash payment, whether or not [it was a disaster affecting the entire province] he may not deduct [the damages] from his rental.

[I:1 A] [As to the general blight referred to at M. 9:5C,] R. Huna said, “[It is deemed a general calamity] when the fields were blighted in that entire direction.”

[B] Simeon bar Vava in the name of R. Yohanan, “And the stated rule applies in a case in which one had actually sown the field [prior to the blight or locusts].

[C] *“For [the landlord] has the right to say to the [tenant-farmer], ‘If you had planted the field, it might have produced a large crop, [part of which would have survived the blight].”*

[D] Now take note: There were other fields [which were planted and were blighted and so produced no crop]. [So how can he make such a claim?]

[E] *But he has the right to say to him, “The Holy One, blessed be he, is long-suffering with the evil, [and God may have shown mercy and*

protected his field, so that while one field was blighted, another was spared].”

[F] If there were other fields, and they were smitten, [it would indicate that the stated claim is null].

[G] *He has the right to say to him, “To this extent I was liable [and so my fields were smitten]. But beyond this point, I was not liable [and consequently, my moral condition would have led to the sparing of my fields from the blight, since I should have been amply punished for my sins by what happened to the fields of mine which were blighted].”*

9:6

[A] **He who leases a field from his fellow**

[B] **[in return] for ten kors of wheat a year,**

[C] **[if the field was] smitten [and produced poor-quality grain],**

[D] **[the tenant] pays him off [from produce grown] in [the field].**

[E] **[If] the grain which it produced was of good quality,**

[F] **he [has] not [got the right to] say to him, “Lo, I’m going to buy [you grain] in the marketplace.”**

[G] **But he pays him off [with produce grown] in [the field].**

[I:1 A] *It was taught: “He who leases a field from an Israelite separates [heave offering and] tithes and gives to him [his portion from the tithed produce],” the words of R. Meir.*

[B] [Supply: R. Judah says,] **“If he gave him produce of the same field and of the Same kind as was contracted, he separates only heave offering and gives to him his portion, from which only heave offering has been separated. But if he gave him produce of a different field or of a different kind, he separates tithes and gives to him his portion from the tithed produce.”**

[C] **And sages say, “U he gave him produce of the same field, whether of a different kind or the same kind, he separates only heave offering and dues to him his portion, from which only heave offering has been separated, but if he gave him produce of a different field, whether of the same kind or a different kind, he separates tithes and gives to him his portion from the tithed produce” [T. Demai 6:5R-W].**

9:7

- [A] He who leases a field from his fellow
- [B] to sow barley in it
- [C] may not sow it with wheat.
- [D] [If he leased it to sow] wheat,
- [E] he may sow it with barley.
- [F] Rabban Simeon b. Gamaliel prohibits [doing so].
- [G] [If he leased it to sow] grain he may not sow it with pulse,
- [H] [to sow] pulse, he may sow it with grain.
- [I] Rabban Simeon b. Gamaliel prohibits [doing so].

- [I:1 A] *[Addressing the question to Simeon b. Gamaliel, we ask:] One may readily understand the rule that if one has leased the field to sow] barley in it, one may nor sow it with wheat [M. 9:7A-C].*
- [B] *But [if one leased the field to sow] wheat, [why] may he not sow it with barley [in the view of Simeon b. Gamaliel]? Does this follow R. La or the view of all parties?*
- [C] In a locale in which barley does not produce twice the yield of wheat. But in a locale in which barley produces twice the yield of wheat, one has the right to sow the field in barley. [To understand what is said just now, we must review M. Dem. 6:1-2: **He who sharecrops a field for an Israelite, gentile, or Samaritan, receiving for his work a fixed percentage of the total yield, divides the produce in their presence. He who leases a field from an Israelite, paying the owner a fixed amount of produce, regardless of the total yield, – separates only heave offering from the whole and then gives the owner his rental, from tithed produce. The owner retains dominion and responsibility. Said R. Judah, “Under what circumstances? In the case in which the tenant farmer gave the owner produce of the same field from which he had contracted to give him and of the same land that he had contracted to give him. Bur if he gave him produce of a different field or of a different kind, he separates tithes and then gives to him his rental from the tithed produce.” He who leases a field from a gentile separates heave offering and tithes and then gives to him his rental from the tithed produce** (Richard S. Sarason, *Demai*, pp. 204-5). The field remains in the domain of the landowner in the case of sharecropping, since the landowner shares in the risk. But in the case of the tenant farmer, who pays a fixed proportion, the field is deemed the responsibility of the

tenant farmer. Judah then is understood to explain the rule for sharecropping, not to differ from it, when he says that when the tenant farmer gives produce from the contracted field and type of produce, the owner then bears responsibility for the produce. Judah holds that the owner has contracted to receive a specific kind of produce from a specific kind. If the tenant pays the fixed rental with produce of a different kind or from a different field, he separates all tithes from it, not simply heave offering, since he now pays from his own produce (Sarason, p. 206). Now T. 6:5, cited above and assigned to Hiyya, has sages maintain that if the produce is from the same field, whatever the character of the produce contracted for, he separates only heave offering and gives him his portion. The owner bears responsibility to complete the tithing process. If it is produce of a different field, whatever the sort of produce, the worker separates tithes and hands over fully tithed produce. Now the pericope of M. is deemed to follow the position of Simeon b. Gamaliel, while Hiyya accords with sages. Before explaining why, we proceed to the next stage. Simeon b. Gamaliel's position applies] thus as stated above: in a locale in which barley does not produce twice the yield of wheat. But in a locale in which barley produces twice the yield of wheat, one has the right to sow the field in barley. [Now the issue is whether the agreement covers the specific type of produce and field, or the general yield and any field. Simeon b. Gamaliel maintains that we pay close attention to the character of the produce covered by the agreement. That is why, if the agreement is to sow the field wheat, one may not sow it barley. Along these same lines, if one hands over produce of a different kind from the sort he undertook to sow and raise in the field, he has to give all the requisite tithes. The agreement covered the specific sort of produce only. But if one paid out produce of that field, produce of the character anticipated by the owner, then he may hand over produce which is not tithed, and the owner goes and tithes it as usual since this is what the owner expected. As to Hiyya's position, that all follows the origin of the produce in a given field, but not the particular character of the produce, if the produce comes from the field, the owner does not pay attention to what it is. Then, following sages in the present pericope, the owner will accept the different produce from his own field, when it is to his advantage. This brings us to the proposition that the opinion of Simeon b. Gamaliel applies when the differential between the crops is negligible. But if the differential is great, then the landowner will accept the much-increased yield of barley, even though he did not contract for it originally. For further discussion, cf. PM ad loc.]

9:8

- [A] He who leases a field from his fellow
- [B] for a period of only a few years
- [C] may not sow it with flax.
- [D] And he has no [right] to [cut] beams from a sycamore.
- [E] [If] he leased it from him for seven years,
- [F] in the first year he may sow it with flax.
- [G] And he has [every right] to [cut] beams from a sycamore.

- [I:1 A] [The Talmud's discussion pertains to T. 9:3G-L, which is as follows: **He who leases a field from his fellow to sow it with wheat may not sow it with barley** (cf. M. 9:8F). **If he leased it to sow barley, he may not sow flax.** U **he leased it to sow flax, he may not sow barley.** If he leased it to sow barley, he may not sow wheat. If he leased it to sow wheat, he may not sow flax. If he leased it to sow flax, he may not sow wheat.] *One may well understand* that [if he took the field to sow] wheat, he should not sow it in flax.
- [B] But if he took it to sow it in flax, why should he not sow it in wheat?
- [C] Flax exhausts the land for three years, *and do you rule in this way?*
- [D] R. Menahem, brother of R. Gurion, offered the following explanation before R. La, “[The case involves a field which last year had been sown in flax]. It is better to sow flax after a crop of flax, but not to sow a crop of barley after a crop of barley. [The owner has no intention to sow anything else in the field anyhow.]”

9:9

- [A] He who leases a field from his fellow
- [B] for one septennate
- [C] at the rate of seven hundred zuz –
- [D] the Seventh Year counts [in the] number [of years].
- [E] [If] he leased it from him for seven years at the rate of seven hundred zuz,
- [F] the Seventh Year does not count [in the] number [of years].

- [I:1 A] *It was taught:* He who leases a field from his fellow,
- [B] [if] he sowed it in the first year and the seed did not sprout,
- [C] they force him to sow it a second year.

- [D] [If] he sowed it a second year and the seed did not sprout,
[E] they do not force him to sow it a third year [T. B.M. 9:14A-E].

[F] *Said R. Simeon b. Laqish, "That rule which you have stated applies to a field which was not tested in the past. [That is, this field was fallow, and there was no record of how it produced.] But in regard to a field which had been tested in the past, they force him to sow it for a third year [since it is subject to the assumption that the field produces, and that prevailing assumption concerning this field must be honored until negated three times.]"*

9:10

- [A] (1) A day worker collects his wage any time of the night.
[B] (2) And a night worker collects his wage any time of the day.
[C] (3) A worker by the hour collects his wage any time of the night or day.
[D] A worker hired by the week, a worker hired by the month, a worker hired by the year, a worker hired by the septennate –
[E] [if] he completed [his period of labor] by day, collects any time that day.
[F] [If] he completed his period of labor by night,
[G] he collects his wage any time during the rest of that night and the following day.

[I:1 A] As to the worker hired by the hour,] Samuel said, "[If the employer has not paid him by] the next day, he transgresses on his account on the count of, 'You shall give him hire on the day [he earns it, before the sun goes down, because he is poor]' (Deut. 24:15)."

- [B] [To understand what follows, we must take account of T. B.M. 10:3: **He who holds back the wages of a hired hand transgresses on account of five negative commandments: 1) because of not oppressing, because of not stealing, 2) because of the verses which say, 3) "The wages of a hired worker will not abide with you all night until morning"** (Lev. 19:13), and 4) 'You shall give him hire on the day he earns it, 5) before the sun goes down, because he is poor' (Deut. 24:15).] R. Dosa says, "[You yourself maintain that] the night and the day constitute a single day, [on which account an hourly worker hired by night may collect all that night and the following day. In that case, how can you explain the view [of T. cited just now, that one who holds back the wages of a hired hand] transgresses on account of five negative commandments? [How can you set up a case in which

these five counts are violated? For lo, according to you, ‘You shall give him his hire on the day he earns it, before the sun goes down,’ refers to a single twenty-four hour period. Further, you claim this verse refers to an hourly worker by night. The same question will then pertain to an hourly worker by day. In all cases, there is a twenty-four hour period of grace. Why should the cited passage of Tosefta deem the day and the night to constitute two separate periods and to define two separate counts for violation?]

[C] [Y. answers]: If [a problem exists] because of the [need] to apply all the relevant biblical verses then interpret the rule [of T.] to apply to an hourly worker hired by day and by night, who has the right to collect that entire night and that entire day.

[D] *And so it is taught: A worker hired by the hour by day collects his wage any time of the day. One hired by the hour by night collects any time that night. A worker hired by the hour by day and by night collects his wage any time of the night [12b] and and the following day [T. B.M. 10:2A-B].* [This then yields a violation both by day and by night.]

9:11

[A] **All the same are a fee to be paid to a human being, a fee to be paid for use of a beast, and a fee to be paid for the rental of utensils:**

[B] [each is] subject to the rule, **“In his day you shall give him his fee” (Dt. 24:15).**

[C] [each is] subject to the rule, **“The wages of a hired worker will not abide with you at night until the morning” (Lev. 19:13).**

[D] Under what circumstances?

[E] When [the worker] has laid claim [on his wages].

[F] [If] he did not lay claim [on his wages], [the employer] does not transgress [the biblical requirement].

[G] [If the employer] gave him a draft on a storekeeper or money changer,

[H] [the employer] does not transgress [the biblical requirement].

[I] An employee –

[J] [if he claimed his salary] within the stated time

[K] takes an oath [that he has not been paid] and collects his salary.

[L] [If] the stated time has passed [and he did not collect his salary],

[M] he does not take an oath and collect his salary.

[N] **But if there are witnesses that he had [in fact] laid claim [for his salary],**

[O] **lo, this one takes an oath and collects his salary.**

[P] **A resident alien is subject to the rule, “In his day you shall give him his fee” (Dt. 24:15) [since Dt. 24:14 refers to the alien].**

[Q] **But he is not subject to the rule, “The wages of a hired worker will not abide with you all night until morning.”**

[I:1 A] [With reference to M. 9:11A-C] it is written, “You shall not oppress a hired servant who is poor and needy, whether he is one of your brethren or one of the sojourners who are in your land within your towns; you shall give him his hire on the day he earns it, before the sun goes down” (Deut. 24:14-15).

[B] “You shall not oppress a hired servant who is poor and needy ... among your brethren” – this refers to an Israelite.

[C] “Or one of the sojourners” – this refers to a righteous proselyte.

[D] “In your land” – this serves to encompass beasts and slaves.

[E] “In your towns” – this serves to encompass movables.

[I:2 A] *It was taught:* **Is it possible that [if the employer] gave him a draft on a storekeeper or moneychanger [M. 9:11G], the employer should transgress on his account?**

[B] **He does not transgress, but they are subject to transgressing on his account [the rule against keeping back wages, if they do not pay up]. But [the employer] does not transgress [the biblical requirement]. [T. continues: And if he stipulated with him at the outset in this regard that the wages would be deposited as specified, then even they are not subject to transgressing the biblical law on his account. And if he told someone to pay him, this one and that one are not liable to transgressing the law on his account] [T. B.M. 10:5].**

[II:1 A] **Under what circumstances? When the worker has laid claim on his wages. If he did not lay claim on his wages, the employer does not transgress the biblical requirement [should he fail to pay up] [M. 9:11D-F].**

[B] **An employee, if he claimed his salary within the stated time, takes an oath that he has not been paid and collects his salary [M. 9:11K].**

- [C] Said R. Simeon b. Laqish, “It is in a case in which he said to him, ‘I have already paid you,’ that the oath is required.
- [D] “But if he said to him, ‘I shall *pay you* tomorrow,’ and afterward he said to him, ‘I have already paid you,’ then he is not believed at all, [and no oath is required of the worker, who collects forthwith].”
- [E] R. Yosé b. Haninah says, “But even on the next day, if he said to him, ‘I paid you already,’ he indeed is believed, [and the oath in that case is required of the householder that he already has paid].”

[II:2 A] It is written, “You shall not oppress your neighbor or rob him. [The wages of a hired servant shall not remain with you all night...]”(Lev. 19:13).

- [B] This then excludes a resident alien.

9:12

[A] He who lends money to his fellow should exact a pledge from him only in court,

[B] And [the agent of the court] should not go into his house to take his pledge,

[C] as it is said, “You will stand outside” (Dt. 24:11).

[D] [If the borrower] had two utensils, [the lender] takes one and leaves one.

[E] And he returns [his] pillow by night, and plough by day.

[F] But if [the debtor] died, [the creditor] does not return [the objects] to the estate.

[G] Rabban Simeon b. Gamaliel says, “Even to [the borrower] himself he returns [the object] only for thirty days.

[H] “After thirty days [have passed], he may sell [the objects], with the permission of the court.”

[I:1 A] It is written with regard to [paying compensation for] damages that [the victim] collects [compensation] from the best quality of land,

[B] as it is said, “[When a man causes a field or vineyard to be grazed over, or lets his beast loose and it feeds in another man’s field,] he shall make restitution from the best in his own field” (Ex. 22:5).

[C] It is written in regard to collection of a loan that one collects from real estate of the average quality [as is explained at G-I],

[D] as it is said, "... and the man to whom you make the loan shall bring the pledge out to you" (Deut. 24:11).

[E] [What follows is irrelevant here] The rule governing real estate is derived from that covering pledges.

[F] And along these same lines, let the rule governing pledges be derived from that governing real estate.)

[G] R. Simai explained, "As a matter of a law of the Torah, the court officer must go in and collect an object of average value.

[H] "For if the lender should go in, lo, he will take the finest sort of thing, and if the borrower should go in, he will take the meanest.

[I] "Hence the agent of the court goes in and takes an object of average value."

[J] [Differing from Simai] *R. Ishmael taught*, "As a matter of Torah law, the borrower should go in, as it is said, 'And the man to whom you make the loan shall bring the pledge out to you' (Deut. 24:11). [But the sages ordained otherwise.]"

[K] Said R. La, "*It was taught there*, 'You shall take a pledge' (Ex. 22:25) – in court [and even so, 'You shall restore it to him when the sun goes down].

[L] "How do we know that one [must return a pledge even if one did not exact it] in court?

[M] "Scripture says, 'If you take your neighbor's garment in pledge'" (Ex. 22:25).

[I:2 A] He who lends money to his fellow has no right [personally] to exact a pledge from him.

[B] And if he has exacted a pledge from him, he has to give it back.

[C] And he thereby transgresses on every count which applies [T. B.M. 10:2].

[D] Said R. La, "He caused himself [to become] liable for every count which applies [by taking the pledge personally, rather than in court, should he not return the pledge as required by the Torah]."

[I:3 A] If one has exacted a pledge and gone and returned it to him, the measure of justice is for him to collect [the debt] from indentured property [that is, from the pledge itself].

- [B] **But if he returns it to him, for what purpose does he exact a pledge? [He has no protection if he has no right to hold on to the pledge.]**
- [C] **[Explaining [the value of taking the pledge], Rabbi says, “I say, lest the Sabbatical year come and release the debt, or, lest the debtor die and the movables remain in the possession of the heirs [who then may not pay up]” [T. B.M. 10:9G-H].**
- [I:4 A] *It was taught:* At night one exacts as a pledge a garment worn by day, and by day, a garment worn by night.
- [B] And by day one returns a garment worn by day, and by night one returns a garment worn by night.
- [C] A pillow and a blanket which one generally uses as a cover by night one exacts as a pledge by day and returns by night.
- [D] A spade and a plough which one generally works by day one exacts as a pledge by night and returns by day.
- [E] *Said R. La,* “*Sometimes you interpret that verse, [‘You shall restore it to him] before the sun goes down; [for that is his only covering, it is his mantle for his body; in what else shall he sleep?’ (Ex. 22:25 - 7)] –*
- [F] “‘Before the sun will shine on it,’
- [G] “*And on occasion you interpret the passage, ‘Before the sun sets on it’ [thus accounting for A, B, above].*
- [H] “For it is written, ‘You shall restore to him the pledge when the sun goes down’ (Deut. 24:13) – with sunrise.
- [I] “‘You shall restore it to him before the sun goes down’ (Ex. 22:26) – at sunset. [Thus there are references to return the object at sunrise and at sunset, covering the two possibilities.]”

9:13

- [A] From a widow, whether poor or rich, they do not take a pledge,
- [B] since it is said, “You will not take a widow’s garment as a pledge” (Dt. 24:17).
- [C] He who seizes millstones transgresses a negative commandment, and is liable on the count of taking two distinct utensils,

[D] since it is said, “He shall not take the mill and the upper millstone as a pledge” (Dt. 24:6).

[E] And not concerning a mill and the upper millstone alone did they speak,

[F] but concerning any utensil with which they prepare food,

[G] as it is said, “For he seizes a man’s life as a pledge” (Dt. 24:6).

[I:1 A] *It was taught, “From a widow, whether poor or rich,” one has no right to take a pledge [M. 9:13A],*

[B] **“since it is said, ‘You will not take a widow’s garment as a pledge’ (Deut. 24.17) –**

[C] **“all the same are a poor one and a rich one,” the words of R. Meir [T.: Judah].**

[D] **R. Judah [T.:Simeon] says, “From a poor widow one has no right to exact a pledge.**

[E] **“But from a rich widow one takes a pledge and does not give it back [night by night],**

[F] **“lest this one start coming and going to her house, and give her a bad name” [T. B.M. 10:10].**

[I:2 A] [If] one has taken as a pledge a pair of scissors belonging to a barber,

[B] he is liable on account of this part of it by itself and on account of that part of it by itself,

[C] [T. adds:] since it is said, “You shall not take the mill and the upper millstone as a pledge” (Deut. 24:6). Just as a mill and an upper millstone are distinctive in that they constitute two distinct utensils which do work as one, and one is liable on account of this part by itself and on account of that part by itself, so he who exacts as a pledge two utensils which do work as one is liable on account of this part by itself and on account of that part by itself. (If) one had five millstones, he has no right to take as a pledge even one of them.

[D] But if he exacted as a pledge only one of them, he is liable on account of taking only that one alone [as a pledge].

[E] He who takes as a pledge a yoke for cows transgresses on account of this part by itself and on account of that part of it by itself.

[F] If he exacted as a pledge only one of them, he transgresses only on account of one of them alone.

YERUSHALMI BABA MESIA

CHAPTER TEN

10:1

[A] A house and an upper story belonging to two people that fell down –

[B] the two of them divide the wood, stone, and mortar.

[C] And they take account of which stones are more likely to have been broken [and assign them to the likely owner of them].

[D] If one of them recognized some of the stones belonging to him,

[E] he takes them,

[F] but they count as part of his share in the reckoning.

[I:1 A] *It was taught:* If the house tumbled inward like a furnace, the constituents of the upstairs room are those which are more likely to have been broken [and are assigned to the owner of the upper story].

[B] [If] the house tumbled outward, the constituents of the downstairs part of the house are those which are more likely to have been broken [and are assigned to the owner of the downstairs].

[II:1 A] **If one of them recognized some of the stones belonging to him, he takes them, but they count as part of his share in the reckoning [M. 10:1D-F].**

[B] Said R. Hoshaiyah, “That is to say, the claim of one party [in the absence of a counterclaim of the other party, who simply says, ‘I do not know the facts of the matter,’] takes precedence.”

[II:2 A] *There we have learned:* **One hundred parts of untithed produce and one hundred parts of tithed produce which became mixed together, and one wishes to separate heave offering of the tithe from the mixture for its untithed part – he takes from the mixture one hundred and one parts. One hundred parts of untithed produce and one hundred parts of first tithe which became mixed together, and one wishes to separate heave offering of the tithe from the mixture for both the untithed produce and**

the first tithe – he rakes from the mixture one hundred and one parts (M. Dem. 7:7A-D), [Sarason, *Demai*, p. 260, explains: “We must be certain that the hundredth part which we separate comes from the untithed portion of the mixture. For this reason we remove one hundred and one parts, one hundred parts equivalent to the amount of tithed produce in the mixture, and a single part as heave offering of the tithe for the untithed portion, which now certainly comes from that portion.” In the second case, “We have a mixture of a hundred parts of first tithe, viz., from which heave offering of the tithe has not yet been removed, and one hundred parts of untithed produce. We wish to separate heave offering of the tithe from the mixture, and again remove one hundred and one parts, viz., an amount equivalent to all of the first tithe and one part as heave offering of the tithe from the untithed produce. The hundred and one parts are given to the priest.”]

[B] [Explaining the reason for A,] said R. Yosé, “If you rule that he removes one hundred parts, I must point out [that it is possible that] all of the unconsecrated produce has come up in his hand, and that [the hundred parts he has removed] remain in their status as untithed produce.

[C] “So he takes a hundred and one parts, so as to set apart heave offering and heave offering of the tithe from the untithed produce” [just as Sarason has spelled out above].

[II:3 A] *[As to the one who bears the responsibility for] laying the foundations*
–

[B] R. Zeira said, “The one who lives on the ground floor is liable to put them down. [The one who lives upstairs may say to him,] ‘You are obligated to bear the weight of my house.’”

[C] R. La said, “The one who lives above [has to lay down the foundations].”

[D] *Builders state, “Both of them require the foundations.”*

[E] *And the following statement supports the position of the builders:*

[F] [If the building] was above the courtyard of his fellow,

[G] [the owner of the upper building] may not say to [the owner of the lower, when they build a wall between their houses], “Lo, I’m going to provide plaster with him from the level of my courtyard and above it.”

[H] But he supplies plaster with him from below to above [the entire height of the common wall].

[I] [If the building] lay above the roof of another one, [the owner of the higher building] in no way is obligated [to share in the costs of a wall between his building and the one below] [T. B.M. 11:4].

[J] *Said R. Yosé b. R. Bun, “Interpret the case to deal with houses of the sort which are built in Baishan, in which they cannot build the lower story until they build the upper story. [In such a case, the upper story rests upon the foundations and the owner must pay the cost.]”*

10:2

[A] A house and an upper story belonging to two people –

[B] [if the floor of] the upper room was broken,

[C] and the householder does not want to repair it,

[D] lo, the owner of the upper story goes down and lives downstairs,

[E] until [the other] will repair the upper story for him.

[F] R. Yosé says, “The one who lives below supplies the beams, and the one who lives above supplies the plaster.”

[I:1 A] *It was taught:* If the place on which the oven stood broke through [and the householder, living below, does not want to repair it], the tenant may move downstairs.

[B] If the place of the double-stove broke through, the tenant may do likewise.

[C] *But [the householder, downstairs,] may say to the tenant, “[For the purpose of going up to your flat,] make a ladder for yourself, so that you do not have to come in and go out of my house all the time.”*

[II:1 A] R. Yosé says, “The one who lives below supplies the beams, and the one who lives above supplies the plaster” [M. 10:2F].

[B] R. Yusta in the name of R. Simeon b. Laqish, “The one living below supplies the beams and the boards, and the one living above supplies the plaster.”

[C] What sort of plaster?

[D] R. Jacob bar Aha in the name of R. Eleazar, “Thick plaster.”

[E] R. Abbahu in the name of R. Eleazar, “Middling plaster.”

[F] [At issue is the amount of protection to be afforded by the plaster against slops on the floor of the upper room, so as to prevent them from seeping through to the lower room. It is assumed that the upstairs tenant pours slops onto the floor.] They [E] have said [that he supplies plaster of middling consistency] only in a case in which the upper tenant merely rinses out glasses.

[G] *But if he wanted to wash clothing [upstairs],*

[H] then even R. Abbahu in the name of R. Eleazar would concur that he must supply thick plaster.

[I] *R. Haninah instructed the residents of Sepphoris that both of them should supply both the beams and the planks, for they have to bring up their asses carrying their produce up there, [and so a very strong ceiling is required].*

10:3

[A] A house and an upper story belonging to two people which fell down

—

[B] [if] the resident of the upper story told the householder [of the lower story] to rebuild,

[C] but he does not want to rebuild,

[D] lo, the resident of the upper story rebuilds the lower story and lives there,

[E] until the other party compensates him for what he has spent.

[F] R. Judah says, “Also: [if so,] this one is [then] living in his fellow’s [housing]. [So in the end] he will have to pay him rent.

[G] “But the resident of the upper story builds both the house and the upper room,

[H] “and he puts a roof on the upper story,

[I]”and he lives in the lower story,

[J] “until the other party compensates him for what he has spent.”

[I:1 A] Now if the owner of the lower story wants to rebuild, and the owner of the upper story does not want to do so,

[B] what is the law as to his saying to him, “Cover us. [That is, provide the necessary foundations and parapet.]”

[C] *Let us derive the answer to that question from the following passage:*

- [D] [If] the ruined building of one party stood alongside the vegetable patch of his fellow,
- [E] and [the latter] went and built a fence [for his] patch without the other's agreement,
- [F] they assign to [the owner of the ruined building his share in] the cost of the wall,
- [G] fully in accord with the manner in which [the gardener] has built up the wall [T. B.M. 11:4A-D].
- [H] *That is to say*, He does not have the right to *say* to him, "Cover us from the side."
- [I] Now just as he does not have the right to *say* to him, "Cover us from the side," so he does not have the right to *say* to him, "Cover us from the top."

10:4

- [A] **And so too: An olive press which is built into a rock,**
- [B] **and a garden is on top of it [on its roof, above],**
- [C] **and [the roof] was broken –**
- [D] **lo, the owner of the garden [has the right to] go down and sow the area below,**
- [E] **until the other party will rebuild vaulting for his olive press.**
- [F] **The wall or the tree which fell down into public domain and inflicted injury –**
- [G] **[the owner] is exempt from having to pay compensation.**
- [H] **[If] they gave him time to cut down the tree or to tear down the wall,**
- [I] **and they fell down during that interval,**
- [J] **[the owner] is exempt.**
- [K] **[If they fell down] after that time, [the owner] is liable.**
- [I:1 A] Said R. Eleazar, "(M'SH B) There was a grapevine which was overhanging a neighbor's peach tree, and the peach tree was split [so it no longer held up the grapevine].
- [B] "The case came before R. Hiyya the Elder, who instructed [the owner of the peach tree, who was the defendant], 'Go and provide him with another peach tree [for his vine].'"

[C] *Said to him [Eleazar] R. Yohanan, “Now is this [contrary] rule not explicitly stated in the Mishnah: **And so too: An olive-press which is built into a rock, and a garden is on top of it, and the roof was broken – lo, the owner of the garden has the right to go down and sow the area below, until the other party rebuilds the vaulting for his olive-press? (M. 10:4A-E).***

[D] “[From this rule] we infer that they do not force [the owner of the olive-press to provide the repair,] and now has R. Hiyya taught that they do force him to do so?”

[E] *We may say, there is in fact no dispute.*

[F] *The one who rules that they force the householder [to restore the damaged facility] holds that opinion in a case in which he is present in court. The one who holds that they do not force [the householder to restore the facility] maintains such a view when he is not standing there in court [and in fact cannot be forced to do so, having let the area].*

[II:1 A] **If they gave him time to cut down [the tree or tear down the wall, and they fell down during that interval, the owner is exempt (M. 10:4H-J)].**

[B] And how much time is under discussion?

[C] R. Hoshaiyah said, “**Thirty days**” [T. B..11:7G-H].

10:5

[A] **He whose wall was near the garden of his fellow, and it was damaged [and fell down] –**

[B] **and [the owner of the garden] said to him, “Clear out your stones”**

[C] **but the other said to him, “They’re yours!” –**

[D] **they pay no attention to [the latter].**

[E] **[But if] after the other party had accepted [the ownership of the stones] upon himself,**

[F] **[the original owner of the wall] said to him, “Here’s what you laid out! Now I’ll take mine!” –**

[G] **they do not pay attention to [the former].**

[H] **He who hires a worker to work with him in chopped straw and stubble,**

[I] **and [the worker] said to him, “Pay me my wage,”**

- [J] and [the employer] said to him, “Take what you’ve made for your wage!” –
- [K] they do not pay attention to [the employer].
- [L] But [if,] after [the worker] had accepted [the proposition),
- [M] [the employer] said to him, “Here’s your salary, and now I’ll take mine!” –
- [N] they do not pay attention to [the employer].
- [O] He who brings out his manure to the public domain –
- [P] while one party pitches it out, the other party must be bringing it in to manure his field.
- [Q] They do not soak clay in the public domain,
- [R] and they do not make bricks.
- [S] And they knead clay in the public way,
- [T] but not bricks.
- [U] He who builds in the public way –
- [V] while one party brings stones, the builder must make use of them in
- [W] And if one has inflicted injury, he must pay for the damages he has caused.
- [X] Rabban Simeon b. Gamaliel says, “Also: He may prepare for doing his work [on site in the public way] for thirty days [before the actual work of building].”
- [I:1 A] *It was taught:* A person may take out his manure and pile it up at the door of his house in the public way –
- [B] [if this is] to take it out to manure with it.
- [C] [But if it was] to keep it there, lo, this is prohibited.
- [D] [If] another party came along and was injured by it, [the owner] is liable.
- [E] R. Judah says, “At the time of fertilizing [the fields], a man may take out his manure and pile it up at the door of his house in the public way,
- [F] “so that it will be pulverized by the feet of man and beast,
- [G] “for thirty days.
- [H] “For it was on that very stipulation that Joshua caused the Israelites to inherit the land” [T. B.M. 11:8].

- [I] A person may bring dirt and pile it up at the door of his house in the public way to knead it into mortar.
- [J] [But if it is] to keep it there, lo, this is prohibited.
- [K] And if another party came along and was injured by it,
- [L] lo, this person is liable.
- [M] And he should not knead the mortar on one side and build on the other side.
- [N] But he should knead on the side at which he builds [T. B.M. 11:6].
- [O] A person may bring along his stones and unload them in the public way at the door of his house,
- [P] in order to bring them up to the top layer [of the wall].
- [Q] But if it is to leave them there, lo, this is prohibited.
- [R] And if someone else came along and was injured on them,
- [S] lo, this one is liable.
- [T] [If] the stonecutter had handed them over to a camel driver,
- [U] the camel driver is liable.
- [V] [If he had handed them over to] a stonecutter, the stonecutter is liable.
- [M] [If] the stonecutter [had handed them over] to a porter, the porter is liable.
- [X] [if this is] to take it out to manure with it.
- [Y] [But if it was] to keep it there, lo, this is prohibited.
- [ZZ] [If] another party came along and was injured by it, [the owner] is liable.
- [AA] R. Judah says, “At the time of fertilizing [the fields], a man may take out his manure and pile it up at the door of his house in the public way,
- [BB] “so that it will be pulverized by the feet of man and beast,
- [CC] “for thirty days.
- [DD] “For it was on that very stipulation that Joshua caused the Israelites to inherit the land” [T. B.M. 11:8].

[EE] A person may bring dirt and pile it up at the door of his house in the public way to knead it into mortar.

[FF] [But if it is] to keep it there, lo, this is prohibited.

[GG] And if another party came along and was injured by it,

[HH] lo, this person is liable.

[II] And he should not knead the mortar on one side and build on the other side.

[JJ] But he should knead on the side at which he builds [T. B.M. 11:6].

[KK] A person may bring along his stones and unload them in the public way at the door of his house,

[LL] in order to bring them up to the top layer [of the wall].

[MM] But if it is to leave them there, lo, this is prohibited.

[NN] And if someone else came along and was injured on them,

[OO] lo, this one is liable.

[PP] [If] the stonecutter had handed them over to a camel driver,

[QQ] the camel driver is liable.

[RR] [If he had handed them over to] a stonecutter, the stonecutter is liable.

[SS] [If] the stonecutter [had handed them over] to a porter, the porter is liable.

[TT] [If] he had brought them up to the top layer [of the wall] and they fell down,

[UU] all of them are liable.

[VV] [If] the camel driver handed them over to a stonecutter, and someone was injured by them,

[WW] whether by a stone or by a chip of the stone,

[XX] the stonecutter is liable.

[YY] [If] the stonecutter [had handed them over] to the porter, and one was injured by a chip *of* a stone,

[ZZ] the stonecutter is liable.

[AAA] [If one was injured] by a stone,
[BBB] the porter [is liable].
[CCC] [If the load of stones] was set down on the top layer [of the wall],
[DDD] or if one was testing [its foundations],
[EEE] and it fell down,
[FFF] the architect is liable [T. B.M. 11:5].

10:6

[A] Two [terraced] gardens, one above the other –

[B] and vegetables between them –

[C] R. Meir says, “[They belong to the garden] on top.”

[D] R. Judah says, “[They belong to the garden] below.”

[E] Said R. Meir, “If the one on top wants to take away his dirt, there will not be any vegetables there.”

[F] Said R. Judah, “If the one on the bottom wants to fill up his garden with dirt, there won’t be any vegetables there.”

[G] Said R. Meir, “Since each party can stop the other, they consider from whence the vegetables derive sustenance [which is from the dirt (E)].”

[H] Said R. Simeon, “Any [vegetables] which the one on top can reach out and pick – lo, these are his.

[I:1 A] What should they actually do [in deciding such a case]?

[B] Ephraim in the name of R. Simeon b. Laqish said, “Let them divide up [the vegetables].”

[II:1 A] [Said R. Simeon, “Any vegetables which the one on top can reach out and pick – lo, these are his” [M. 10:6H].

[B] *Students of the school of R. Yannai* said, “[Any vegetables they can reach] up to ten handbreadths.”

[C] R. Yohanan said in the name of R. Yannai, “And that is on condition that one not stretch himself out, [for he may only reach out in the normal way].”

[II:2 A] If a wall between two properties collapsed –

[B] Rab and Samuel –

- [C] one of them said, “Half belongs to this party, and half to that party.”
- [D] And the other one said, “The whole of it belongs to this party, and the whole of it to that party.”
- [E] *What is the difference between these two positions [and to what does the dispute pertain]?*
- [F] It concerns [specifically] one’s finding a lost object.
- [G] *The one who said, “Half belongs to this party and half belongs to that party” will rule that if the object was found from the midpoint and beyond, it goes to this party, and if it is found from the midpoint and beyond [in the other direction], it goes to that party.*
- [H] *And in the view of the one who said, “The whole of it is assigned to this party, and the whole of it is assigned to that party,” he who finds the object acquires possession of it [wherever, in the intervening space, he may find it].*

CHAPTER ELEVEN

THE STRUCTURE OF YERUSHALMI BABA MESIA

Whether or not the Talmud of the Land of Israel is carefully organized in large-scale, recurrent structures and guided by a program that we may call systematic forms the principal question addressed by an academic commentary. The preceding chapters therefore have pointed toward the presentation set forth here. By “structure” I mean, a clearly-articulated pattern that governs the location of fully-spelled out statements. By “system,” I mean, a well-crafted and coherent set of ideas that explain the social order of the community addressed by the writers of a document, a social philosophy, a theory of the way of life, world view, and character of the social entity formed by a given social group. I see a collective, anonymous, and political document, such as the one before us, as a statement to, and about, the way in which people should organize their lives and govern their actions. At issue then in any document such as the remarkable one before us is simple: does this piece of writing present information or a program, facts to whom it may concern, or a philosophically and aesthetically cogent statement about how things should be? The connection between structure and system is plain to see. From the way in which people consistently frame their thoughts, we move to the world that, in saying things in one way rather than in some other, they wish to imagine. Modes of formulating thought adumbrate modes of imagining the world in which people wish to live, to which they address these thoughts.

If the document exhibits structure and sets forth a system, then it is accessible to questions of rationality. We may ask about the statement that its framers or compilers wished to make by putting the document together as they did. But if we discern no structure and perceive no systematic inquiry or governing points of analysis, then all we find here is inert and miscellaneous information, facts but no propositions, arguments, viewpoints. Now as a matter of fact the Talmud of the Land of Israel commonly finds itself represented as lacking organization and exhibiting a certain episodic and notional character. That view moreover characterizes the reading and representation of the document by learned and experienced scholars, who have devoted their entire lives to Talmud study and

exegesis. It must follow that upon the advocate of the contrary view – the one implicit in the representation of the document for academic analysis – rests the burden of proof. I set forth the allegation that the Talmud of the Land of Israel exhibits a structure and follows a system and therefore exhibits a commonly-intelligible rationality. The claim to write an academic commentary explicitly states that proposition. For the tractate before us, I have therefore to adduce evidence and argument.

I maintain that through the normal procedures of reasoned analysis we may discern in the tractate a well-crafted structure. I hold that the structure made manifest, we may further identify the purpose and perspective, the governing system of thought and argument, of those who collected and arranged the tractate's composites and put them together in the way in which we now have them. By "structure" I mean, how is a document organized? and by "system," what do the compilers of the document propose to accomplish in producing this complete, organized piece of writing? The answers to both questions derive from a simple outline of the tractate as a whole, underscoring the types of compositions and composites of which it is comprised. Such an outline tells us what is principal and what subordinate, and how each unit – composition formed into composites, composites formed into a complete statement – holds together and also fits with other units, fore and aft. The purpose of the outline then is to identify the character of each component of the whole, and to specify its purpose or statement. The former information permits us to describe the document's structure, the latter, its system.

While the idea of simply outlining a Talmud-tractate beginning to end may seem obvious, I have never made such an outline before, nor has anyone else. (I have provided complete outlines for the Mishnah and for the Tosefta in relationship to the Mishnah, and, not always in outline form, for the Midrash-compilations of late antiquity as well) Yet, as we shall now see, the character of the outline dictates all further analytical initiatives. Specifically, when we follow the layout of the whole, we readily see the principles of organization that govern. These same guidelines on organizing discourse point also to the character of what is organized: complete units of thought, with a beginning, middle, and end, often made up of smaller, equally complete units of thought. The former we know as composites, the latter as compositions.

Identifying and classifying the components of the tractate – the composites, the compositions of which they are made up – we see clearly how the document coheres: the plan and program worked out from beginning to end. When we define that plan and program, we identify the facts of a pattern that permit us to say in a specific and concrete way precisely what the compilers of the tractate intended to accomplish. The structure realizes the system, the program of analysis and thought that takes the form of the presentation we have before us. From what

people do, meaning, the way in which they formulate their ideas and organized them into cogent statements, we discern what they proposed to do, meaning, the intellectual goals that they set for themselves.

These goals – the received document they wished to examine, the questions that they brought to that document – realized in the layout and construction of their writing, dictate the points of uniformity and persistence that throughout come to the surface. How people lay out their ideas guides us into what they wished to find out and set forth in their writing, and that constitutes the system that defined the work they set out to accomplish. We move from how people speak to the system that the mode of discourse means to express, in the theory that modes of speech or writing convey modes of thought and inquiry.

We move from the act of thought and its written result backward to the theory of thinking, which is, by definition, an act of social consequence. We therefore turn to the matter of intention that provokes reflection and produces a system of inquiry. That statement does not mean to imply I begin with the premise of order, which sustains the thesis of a prior system that defines the order. To the contrary, the possibility of forming a coherent outline out of the data we have examined defines the first test of whether or not the document exhibits a structure and realizes a system. So everything depends upon the possibility of outlining the writing, from which all else flows. If we can see the order and demonstrate that the allegation of order rests on ample evidence, then we may proceed to describe the structure that gives expression to the order, and the system that the structure sustains.

The present work undertakes the exegesis of exegesis, for the Yerushalmi, like its counterpart in the one of Babylonia, is laid out as a commentary to the Mishnah. That obvious fact defined the character of my academic commentary, since we have already faced the reality that our tractate is something other than a commentary, though it surely encompasses one. The problems that captured my attention derived from the deeper question of how people make connections and draw conclusions. To ask about how people make connections means that we identify a problem – otherwise we should not have to ask – and what precipitated the problem here has been how a composition or a composite fits into its context, when the context is defined by the tasks of Mishnah-commentary, and the composition or composite clearly does not comment on the Mishnah-passage that is subjected to comment.

The experience of analyzing the document with the question of cogency and coherence in mind therefore yields a simple recognition. Viewed whole, the tractate contains no gibberish but only completed units of thought, sentences formed into intelligible thought and self-contained in that we require no further information to understand those sentences, beginning to end. The tractate organizes these statements as commentary to the Mishnah. But large tracts of the

writing do not comment on the Mishnah in the way in which other, still larger tracts do. Then how the former fit together with the latter frames the single most urgent question of structure and system that I can identify.

Since we have already examined enormous composites that find their cogency in an other than exegetical program, alongside composites that hold together by appeal to a common, prior, coherent statement – the Mishnah-sentences at hand – what justifies my insistence that an outline of the document, resting on the premise that we deal with a Mishnah-commentary, govern all further description? To begin with, the very possibility of outlining this tractate derives from the simple fact that the framers have given to their document the form of a commentary to the Mishnah. It is in the structure of the Mishnah-tractate that they locate everything together that they wished to compile. We know that is the fact because the Mishnah-tractate defines the order of topics and the sequence of problems.

Relationships to the Mishnah are readily discerned; a paragraph stands at the head of a unit of thought; even without the full citation of the paragraph, we should find our way back to the Mishnah because at the head of numerous compositions, laid out in sequence one to the next, clauses of the Mishnah-paragraph are cited in so many words or alluded to in an unmistakable way. So without printing the entire Mishnah-paragraph at the head, we should know that the received code formed the fundamental structure because so many compositions cite and gloss sentences of the Mishnah-paragraph and are set forth in sequence dictated by the order of sentences of said Mishnah-paragraph. Internal evidence alone suffices, then, to demonstrate that the structure of the tractate rests upon the Mishnah-tractate cited and discussed here. Not only so, but the sentences of the Mishnah-paragraphs of our tractate are discussed in no other place in the entire Talmud of the Land of Israel in the sequence and systematic exegetical framework in which they are set forth here; elsewhere we may find bits or pieces, but only here, the entirety of the tractate.

That statement requires one qualification, and that further leads us to the analytical task of our outline. While the entire Mishnah-tractate of treated here is cited in the Talmud of the Land of Israel, the framers of the Talmud of the Land of Israel by no means find themselves required to say something about every word, every sentence, every paragraph. On the contrary, they discuss only what they choose to discuss, and glide without comment by large stretches of the tractate. A process of selectivity, which requires description and analysis, has told the compilers of the Talmud of the Land of Israel's composites and the authors of its compositions (This statement requires refinement. I do not know that all available compositions have been reproduced, and that the work of authors of compositions of Mishnah-exegesis intended for a talmud is fully exposed in the document as we have it. That is not only something we cannot demonstrate – we do not have

compositions that were not used, only the ones that were – but something that we must regard as unlikely on the face of matters. All we may say is positive: the character of the compositions that address Mishnah-exegesis tells us about the concerns of the writers of those compositions, but we cannot claim to outline all of their concerns, on the one side, or to explain why they chose not to work on other Mishnah-sentences besides the ones treated here. But as to the program of the compositors, that is another matter: from the choices that they made (out of a corpus we cannot begin to imagine or invent for ourselves) we may describe with great accuracy the kinds of materials they wished to include and the shape and structure they set forth out of those materials. We know what they did, and that permits us to investigate why they did what they did. What we cannot know is what they did not do, or why they chose not to do what they did not do. People familiar with the character of speculation and criticism in Talmudic studies will understand why I have to spell out these rather commonplace observations. I lay out an argument based on evidence, not on the silences of evidence, or on the absence of evidence – that alone.) what demands attention, and what does not. Our outline has therefore to signal not only what passage of the Mishnah-tractate is discussed, but also what is not discussed, and we require a general theory to explain the principles of selection (“making connections, drawing conclusions” meaning, to begin with, making selections). For that purpose, in the outline, I reproduce the entirety of a Mishnah-paragraph that stands at the head of a Talmudic composite, and I underscore those sentences that are addressed, so highlighting also those that are not.

It follows that the same evidence that justifies identifying the Mishnah-tractate as the structure (therefore also the foundation of the system) of Yerushalmi-tractate before us also presents puzzles for considerable reflection. The exegesis of Mishnah-exegesis is only one of these. Another concerns the purpose of introducing into the document enormous compositions and composites that clearly hold together around a shared topic or proposition, e.g., my appendix on one theme or another, my elaborate footnote providing information that is not required but merely useful, and the like. My earlier characterization of composites as appendices and footnotes signalled the fact that the framers of the document chose a not-entirely satisfactory way of setting out the materials they wished to include here, for large components of the tractate do not contribute to Mishnah-exegesis in any way at all. If these intrusions of other-than-exegetical compositions were proportionately modest, or of topical composites negligible in size, we might dismiss them as appendages, not structural components that bear much of the weight of the edifice as a whole. Indeed, the language that I chose for identifying and defining these composites – footnotes, appendices, and the like – bore the implication that what is not Mishnah-commentary also is extrinsic to the Talmud of the Land of Israel’s structure and system.

But that language served only for the occasion. In fact, the outline before us will show that the compositions are large and ambitious, the composites formidable and defining. Any description of the tractate's structure that dismisses as mere accretions or intrusions so large a proportion of the whole misleads. Any notion that "footnotes" and "appendices" impede exposition and disrupt thought, contribute extraneous information or form tacked-on appendages – any such notion begs the question: then why fill up so much space with such purposeless information? The right way is to ask whether the document's topical composites play a role in the re-presentation of the Mishnah-tractate by the compilers of the Talmud of the Land of Israel. We have therefore to test two hypotheses:

1. the topical composites ("appendices," "footnotes") do belong and serve the compilers' purpose

or

2. the topical composites do not participate in the re-presentation of the Mishnah-tractate by Yerushalmi and do not belong because they add nothing and change nothing.

The two hypotheses may be tested against the evidence framed in response to a single question: is this topical composite necessary? The answer to that question lies in our asking, what happens to the reading of the Mishnah-tractate in light of the topical composites that would not happen were we to read the same tractate without them? The outline that follows systematically raises that question, with results specified in due course. It suffices here to state the simple result of our reading of the tractate, start to finish: the question of structure, therefore also that of system, rests upon the position we identify for that massive component of the tractate that comprises not Mishnah-commentary but free-standing compositions and composites of compositions formed for a purpose other than Mishnah-commentary.

The principal rubrics are given in small caps. The outline takes as its principal rubrics two large-scale organizing principles.

The first is the divisions of the Mishnah-tractate to which the Talmud of the Land of Israel-tractate serves as a commentary. That simple fact validates the claim that the tractate exhibits a fully-articulated structure. But the outline must also underscore that the Mishnah-tractate provides both more and less than the paramount outline of the Talmud of the Land of Israel-tractate. It is more because sentences in the Mishnah-tractate are not analyzed at all. These untreated Mishnah-sentences are given in bold face lower case caps, like the rest of the Mishnah, but then are specified by underlining and enclosure in square brackets.

Second, it is less because the structure of the tractate accommodates large composites that address topics not defined by the Mishnah-tractate. That brings us

to the second of the two large-scale modes of holding together both sustained analytical exercises and also large sets of compositions formed into cogent composites. These are treated also as major units and are indicated by Roman numerals, alongside the Mishnah-paragraphs themselves; they are also signified in small caps. But the principal rubrics that do not focus on Mishnah-commentary but on free-standing topics or propositions or problems are not given in boldface type. Consequently, for the purposes of a coherent outline we have to identify as autonomous entries in our outline those important composites that treat themes or topics not contributed by the Mishnah-tractate.

I. YERUSHALMI BABA MESIA 1:1

[A] TWO [IN COURT LAY HOLD OF A.CLOAK – THIS ONE SAYS, “I FOUND IT!” – AND THAT ONE SAYS, “I FOUND IT!” – THIS ONE SAYS, “IT’S ALL MINE!” – AND THAT ONE SAYS. “IT’S ALL MINE ‘ –

1. **I:1:** It was taught: A man who said to his fellow, “Give me the maneh which you owe me!” The other said to him, “It never happened!” The lender went and brought witnesses that he owes him fifty zuz.... [Concerning the foregoing case,] R. Hiyya the Elder said, “The admission by witnesses [that the man owes the money] is tantamount to his own admission [that he owes part of the debt, namely, the fifty zuz which the witnesses say has been lent out of the hundred claimed by the creditor], “and consequently, the borrower must take an oath covering the remainder [of what has been claimed by the creditor].” R. Yohanan said, “The admission by witnesses is by no means tantamount to his own admission which would produce the consequence that the borrower must taken an oath covering the remainder [and he need not do so].”

[B] THIS ONE TAKES AN OATH THAT HE HAS NO LESS A SHARE OF IT THAN HALF. AND THAT ONE TAKES AN OATH THAT HE HAS NO LESS A SHARE OF IT THAN HALF. AND THEY DIVIDE IT UP. THIS ONE SAYS, “IT’S ALL MINE!” AND THAT ONE SAYS, “HALF OF IT IS MINE!” THE ONE WHO SAYS, “IT’S ALL MINE ‘TAKES AN OATH THAT HE HAS NO LESS A SHARE OF IT THAN THREE PARTS. AND THE ONE WHO SAYS, “HALF OR IT IS MINE,” TAKES AN OATH THAT HE HAS NO LESS A SHARE OF IT THAN A FOURTH PART. THIS ONE THEN TAKES THREE SHARES, AND THAT ONE RAKES THE FOURTH.

1. **II:1:** how does he then swear? [What sort of language is used here? For the claim is that the man owns not less than half of the cloak. Even if the man owns none of the cloak, he can make that statement without

in fact lying under oath, since, indeed, he does not own less than half, for he owns none of it.]

2. **II:2:** Said R. Yohanán, “If from this matter [that the parallel to M. B.M. 1:1 is decisive], you prove that an oath is required, then it is an oath [at M. B.M. 1:1] which has been ordained as a remedy [by the rabbis]. Each party may take that same oath. Why should they not divide the claimed cloak without taking any oath at all insofar as their actual possession is the equivalent of witnesses to their claim. Accordingly, the case of M. B. 1:1 is not pertinent to the matter under discussion at T. Shebu. 5:3 at all, with the consequence that the claim of Rabbi is not valid.]”
3. **II:3:** It was taught: Two who were laying hold of a document [bond] – This one says, “It is mine, and I lost it!” And that one says, “It was in my possession, and I already paid you for it!” – “Let the document be confirmed through the signatures of the witnesses which it bears,” the words of Rabbi. And (Rabban Simeon b.) Gamaliel says, “Let them divide it the money] between them” [T. B.M. 1:15].
4. **II:4:** This one says, “It’s all mine!” And that one says, “A third of it is mine!” The one who says, “It’s all mine” takes an oath that he has no less of a share of it than five parts. And the one who says, “A third of it is mine!” takes an oath that he has no less of a share of it than a sixth [part]. The governing principles of the matter: One is subjected to an oath only up to one-half of his claimed share alone [T. B.M. 1:2].

II. YERUSHALMI BABA MESIA 1:2

[A] **TWO WERE RIDING ON A BEAST, OR ONE WAS RIDING AND ONE WAS LEADING IT – THIS ONE SAYS, “IT’S ALL MINE!” – AND THAT ONE SAYS, “IT’S ALL MINE!” – THIS ONE TAKES AN OATH THAT HE HAS NO LESS A SHARE OF IT THAN HALF, AND THAT ONE TAKES AN OATH THAT HE HAS NO LESS A SHARE OF IT THAN HALF. AND THEY DIVIDE IT. BUT WHEN THEY CONCEDE [THAT THEY FOUND IT TOGETHER] OR HAVE WITNESSES TO PROVE IT, THEY DIVIDE IT WITHOUT TAKING AN OATH.**

1. **I:1:** Said R. Huna, “There it is taught: A woman who was riding along on a beast, with two men leading it, [and she comes to court and claims,] ‘These are my slaves, and the ass and its burden belong to me,’ while this one says, ‘This is my wife, and the other man is my slave, and the ass and its burden are mine,’ and the other party claims, ‘This is my wife, and the other man is my slave, and the ass and its

burden are mine' – she requires a writ of divorce from each of the men, and she must also declare both of them free men. And both of them issue writs of emancipation to one another. And as to the ass and its burden, all three of them lay an equal claim [and divide it up].”

III. YERUSHALMI BABA MESIA 1:3

[A] [IF] ONE WAS RIDING ON A BEAST AND SAW A LOST OBJECT, AND SAID TO HIS FELLOW, “GIVE IT TO ME,” [BUT THE OTHER] TOOK IT AND SAID, “I TAKE POSSESSION OF IT” – [THE LATTER] HAS ACQUIRED POSSESSION OF IT. IF AFTER HE GAVE IT OVER [TO THE ONE RIDING ON THE BEAST], HE SAID, “I ACQUIRED POSSESSION OF IT FIRST,” HE HAS SAID NOTHING WHATSOEVER.

1. **I:1:** [As to the dispute between Yohanan and Simeon b. Laqish, in which Yohanan maintains that someone may acquire possession for his fellow of a lost object if he lifts up the object on behalf of his fellow, and so he thereby imparts ownership of the object to his fellow, while Simeon b. Laqish maintains that someone may not do so,] said R. Isaac, “The present law does not contain an inference on that dispute, either in its opening clause [M. 1:3A-D], or in its closing clause [M. 1:3E-F].

IV. YERUSHALMI BABA MESIA 1:4

[A] [IF] HE SAW A LOST OBJECT AND FELL ON IT, AND SOMEONE ELSE CAME ALONG AND GRABBED IT, THIS ONE WHO GRABBED IT HAS ACQUIRED POSSESSION OF IT. [IF] HE SAW [PEOPLE] RUNNING AFTER A LOST OBJECT – AFTER A DEER WITH A BROKEN LEG, PIGEONS WHICH COULD NOT FLY, AND HE SAID, “MY FIELD HAS EFFECTED POSSESSION FOR ME,” IT HAS EFFECTED POSSESSION FOR HIM. [IF] THE DEER WAS RUNNING ALONG NORMALLY, OR [IF] THE PIGEONS WERE FLYING, AND HE SAID, “MY FIELD HAS EFFECTED POSSESSION FOR ME,” HE HAS SAID NOTHING WHATSOEVER.

1. **I:1:** R. Simeon b. Laqish said [in the name of] Abba Kohen Bardela, “A man acquires ownership of a lost object within four cubits [of where he stands].” R. Yohanan said, “That statement applies to a case in which [the lost object] falls into the man’s hand [so that he has effective control thereof].”
2. **I:2:** It has been taught: He who says, “Let my house effect possession for me of any lost object which falls into it today” has said nothing

whatsoever. But if any sort of lost object should turn up for him, his words are confined [T. B.M. 1:4].

V. YERUSHALMI BABA MESIA 1:5

[A] **THINGS WHICH ARE FOUND BY ONE'S MINOR SON OR DAUGHTER, THINGS WHICH ARE FOUND BY HIS CANAANITE SLAVE OR BONDWOMAN, THINGS FOUND BY HIS WIFE — LO, THEY BELONG TO HIM. THINGS FOUND BY HIS ADULT SON OR DAUGHTER, THINGS FOUND BY HIS HEBREW SLAVE OR BONDWOMAN :**

- 1.** **I:1:** Said R. Yohanan, “[The rule of M 1:5E] applies when they are not dependent on him. But if they were dependent on their father, things which they find belong to him.”
- 2.** **I:2:** R. Simeon b. Laqish said, “A person does not acquire in behalf of his fellow ownership of an object which he finds.”
- 3.** **I:3:** What is the difference between one's Hebrew slave or bondswoman and his Canaanite slave or bondswoman?

[B] **THINGS FOUND BY HIS WIFE WHOM HE HAS DIVORCED, EVEN THOUGH HE HAS NOT YET PAID OTHER MARRIAGE-SETTLEMENT — LO, THEY BELONG TO THEM.**

- 1.** **II:1:** R. Yosena in the name of R. Aha: “A man who divorced his wife and has not paid off her marriage-settlement is liable to support her until he pays off the very last perutah.”

VI. YERUSHALMI BABA MESIA 1:6

[A] **[IF] ONE FOUND BONDS OF INDEBTEDNESS, “IF THEY RECORD A LIEN ON [THE DEBTOR'S REAL] PROPERTY, HE SHOULD NOT RETURN THEM. FOR A COURT WILL EXACT PAYMENT ON THE STRENGTH OF THEM [EVEN FROM THIRD PARTIES WHO HAVE PURCHASED FROM THE DEBTOR]. IF THEY DO NOT RECORD A LIEN ON PROPERTY, HE SHOULD RETURN THEM, FOR A COURT WILL NOT EXACT PAYMENT ON THE STRENGTH OF THEM,” THE WORDS OF R. MEIR.**

- 1.** **I:1:** It was taught in the name of R. Meir, “Whether it is a bond which contains a lien on the debtor's real property, or a bond which does not contain a lien on the debtor's real property, one may collect [what is owing from unencumbered property of the debtor.] [This formulation calls into question Meir's reasoning at M. 1:6C-E. for surely the holder of the bond will be able to collect, and yet the bond may have been

paid off already. So the same opportunity to pervert justice exists in either type of bond, so far as unencumbered property is concerned.]

- a. I:2: [At issue in the following dispute is whether a loan made only before witnesses, and not secured by a bond, is collectible from the heirs of the borrower.] Rab said, “Property coming to the heir is in the status of indentured property [which cannot be extracted from the heir on the basis of a loan owed by the deceased and attested solely by witnesses, not by a bond]. [One who lends on the evidence of mere witnesses cannot collect from heirs of the debtor what is owing to the creditor.] Just as one who lends money merely before witnesses cannot collect the debt from indentured property, so he cannot collect the debt from heirs of the debtor.” Samuel said, “From indentured property [falling to the heirs] one indeed cannot collect [what is owing on a loan made merely before witnesses. Lo, from unindentured property [falling to the heirs from the debtor] one may indeed collect a loan made merely before witnesses.” [Samuel has elsewhere maintained that one who makes a loan attested solely by witnesses does collect from unindentured property, and that would include property which has passed from the debtor to his heirs. Yet in the present context, vis-a-vis Meir, we note, one does not collect from unencumbered property in the same circumstance. That is the force of the following question:] Now here you say one collects, and there you say one does not collect! One who has encumbered himself in part is not the same as one who has not encumbered himself at all. [The bond lacking any sort of lien, of which Meir speaks. is not a bond at all. that is why there can be no collection therefrom, even of unencumbered property.]
- b. I:3: [Returning to the explanation of Meir’s position,] R. Eleazar said, “[The reason one does not return a bond in which there is a lien on the borrower’s property is that I take account of this possibility:] the scribe has written the bond for the borrower to effect a loan, but he has indeed not yet effected the loan. [and the lender named in the bond may then collect as of the date of the bond, even though he has lent nothing as yet].”

[B] AND SAGES SAY, “ONE WAY OR THE OTHER, HE SHOULD NOT RETURN THEM. “FOR A COURT WILL EXACT PAYMENT ON THE STRENGTH OF THEM.”

- 1. II:1:** [B] R. Abbahu in the name of R. Yohanan, “It is to prevent a possible conspiracy [between the creditor and debtor]. [The debtor may sell his real estate to a third party, and the creditor will then extract the property from the third party on the strength of the bond.]”

R. Yosa in the name of R. Yohanan: “If it was dated for that very day, one may return the bond [since there will hardly be time for such a conspiracy to do its work].”

VII. YERUSHALMI BABA MESIA 1:7

[A] [If] HE FOUND WRITS OF DIVORCE FOR WOMEN, WRITS OF EMANCIPATION TOR SLAVES, WILLS, DEEDS OF GIFT, OR RECEIPTS TOR THE PAYMENT OF MANAGE- SETTLEMENTS, LO, HE SHOULD NOR RETURN THEM. FOR I MAINTAIN, ‘THEY WERE WRITTEN OUR, BUT [THEN THE ONE [WHO IS ANSWERABLE] FOR THEM CHANGED HIS MIND AND DECIDED NOR TO HAND THEM OVER.’”

1. **I:1:** It was taught: If one found writs of divorce and also marriage contacts, lo, this one should return them.
2. **I:2:** A bond on the strength of which one has taken out a loan, but which indicates also that the loan has been paid, one may not return [to write out a second loan] so that the lender may collect with it, because of thereby weakening the hold of purchasers [of the encumbered property, since the creditor, who has been paid, may use the bond to extract from purchasers of the debtor’s property land which they have bought, claiming that it was indentured, as proved by the bond].

VIII. YERUSHALMI BABA MESIA 1:8

[A] [If] ONE FOUND DOCUMENTS OF EVALUATION, LETTERS OF ALIMONY, DEEDS CONFIRMING A HALISAH-RITE OR THE EXERCISE OF THE RIGHT OF REFUSAL, DEEDS OF ARBITRATION, OR ANY DOCUMENT WHICH IS PREPARED IN A COURT, LO, THIS ONE SHOULD RETURN [THEM]. [If] HE FOUND THEM [WRAPPED UP] IN A SACHEL OR A CASE, A BUNDLE OF DOCUMENTS, OR A PACKAGE OF DOCUMENTS, LO, THIS ONE SHOULD RETURN [THEM]. HOW MANY ARE IN A PACKAGE OF DOCUMENTS? THREE TIED TOGETHER. RABBAN SIMEON B. GAMALIEL, “[If one found a document which involved] A SINGLE INDIVIDUAL WHO BORROWED FROM THREE PERSONS, HE SHOULD RETURN IT TO THE BORROWER. “[But if the document concerned] THREE BORROWERS FROM A SINGLE INDIVIDUAL, HE SHOULD RETURN IT TO THE LENDER.” [If] HE FOUND A DOCUMENT AMONG THOSE BELONGING TO HIM, AND HE DOES NOT KNOW WHAT IT IS, LET IT LIE THERE UNTIL ELIJAH COMES.

1. **I:1:** [With reference to M. 1:8A, or any document which is prepared in a court,] R. Jeremiah in the name of Rab: “If it was a court-confirmation of a bond, lo, this one should return it.”
2. **I:2:** R. Hamnuna said, “If the bond was written out on the first of Nisan, but the actual loan was transferred on the tenth of Nisan, they must write in the bond, ‘Even though we have written the bond on the first of Nisan, in fact the decision was reached to hand over the money on the tenth of Nisan.’”

[B] IF [HOWEVER] THERE WERE CODICILS ALONG WITH THEM, LET HIM ACT IN ACCORD WITH WHAT IS WRITTEN IN THE CODICILS.

1. **II:1:** R. Jeremiah in the name of Rab: “A codicil [receipt of payment] which is found in the possession of the creditor, in the handwriting of the creditor, is invalid. For I say that the creditor was occupied with his bonds [and made a note on one of them].”

IX. YERUSHALMI BABA MESIA 2:1

[A] WHICH LOST ITEMS BELONG TO THE FINDER [FINDERS-KEEPERS], AND WHICH ONES IS HE [WHO FOUND THEM] LIABLE TO PROCLAIM [IN THE LOST-AND-FOUND]? THESE LOST ITEMS ARE HIS [THE FINDER’S]: [IF] HE FOUND (1) PIECES OF FRUIT SCATTERED ABOUT, (2) COINS SCATTERED ABOUT, (3) SMALL SHEAVES IN THE PUBLIC DOMAIN, (4) CAKES OF FIGS, (5) BAKERS’ LOAVES, (6) STRINGS OF FISH, (7) PIECES OF MEAT, (8) WOOL SHEARINGS [AS THEY COME] FROM THE COUNTRY [OF ORIGIN], (9) STALKS OF FLAX, OR (10) TONGUES OF PURPLE – LO, THESE ARE HIS,” THE WORDS OF R. MEIR.

1. **I:1:** [Since the operative criterion in M. 2:1 is that, with undistinguished items such as these, the owner takes for granted he will not recover them and so despairs of them, thus giving up his rights of ownership to them, we now ask:] Whence do we know the law of the owner’s despair [of recovering his property constitutes relinquishing *rights* of ownership and declaring the property to be ownerless, hence available to whoever finds it] from the Torah?
2. **I:2:** It was taught: [If] one has found small sheaves in private domain, he is liable to make proclamation. [If] he has found small sheaves in public domain, he is not liable to make proclamation [cf. M. 2:1C]. [If he found] stacks of grain, whether in private domain or in public domain, he is liable to make proclamation [T. B.M. 2:5].

X. YERUSHALMI BABA MESIA 2:2

[A] AND R. JUDAH SAYS, “ANYTHING WHICH HAS AN UNUSUAL TRAIT IS HE LIABLE TO PROCLAIM. “HOW SO? IF HE FOUND A FIG-CAKE WITH A POTSHERD INSIDE IT, A LOAF WITH COINS IN IT.”

1. I:1: [As to M. 2:2C,] it was taught: “[The identifying mark] must be inserted into [the object, as evidence that the owner has deliberately placed this mark]. [If it is merely set on top, it might have fallen accidentally and would not then constitute an unusual trait of some kind.]”

[B] R. SIMEON B. ELEAZAR SAYS, “ANY NEW MERCHANDISE [LACKING AN IDENTIFICATION MARK] HE IS NOT LIABLE TO PROCLAIM.”

1. II:1: Said R. Yohanan, “And it has been taught in this connection: Now what is meant by new merchandise? Poles, needles, pins, and axes strung together” [T. B.M. 2:1B-C].

XI. YERUSHALMI BABA MESIA 2:3

[A] AND WHICH ONES IS HE LIABLE TO PROCLAIM? [IF] HE FOUND (1) PIECES OF FRUIT IN A UTENSIL OR A UTENSIL AS IS, (2) COINS IN A PURSE OR A PURSE AS IS, (3) PILES OF FRUIT, (4) PILES OF COINS, (5) THREE COINS, ONE ON TOP OF THE OTHER, (6) SMALL SHEAVES IN PRIVATE DOMAIN, (7) HOMEMADE LOAVES, (8) WOOL SHEARINGS AS THEY COME FROM THE CRAFTSMAN’S SHOP, (9) JARS OF WINE, OR (10) JARS OF OIL — LO, THESE IS HE LIABLE TO PROCLAIM.

1. I:1: [As to having to proclaim finding piles of coins, three coins on top of one another, M. 2:3B,] R. Judah says, “Three coins issued under three different monarches.” Said R. Eleazar, ‘And even if all three of them are issued by a single monarch, but if they are arranged by size [largest on the bottom, smallest on the top, one is liable to make a proclamation, since it is not likely that they have fallen in proper order like this]. “Thus if they belong to three kings and are not arranged by size. or even if all of them come from a single monarch, but they are arranged by size, [one is liable to proclaim having found them].” Said R. Yohanan, “If they were arranged in a pyramidal pile, one is not liable to make proclamation.”

XII. YERUSHALMI BABA MESIA 2:4

[A] [If] BEHIND A FENCE OR A HEDGE ONE FOUND PIGEONS TIED TOGETHER, OR ON PATHS IN FIELDS, LO, THIS ONE SHOULD NOT TOUCH THEM. [If] HE FOUND A UTENSIL IN A DUNG HEAP, IF IT IS COVERED UP, HE SHOULD NOT TOUCH IT. If IT IS UNCOVERED, HE TAKES IT BUT MUST PROCLAIM [THAT HE HAS FOUND IT]. [If] HE FOUND IT IN A PILE OF DEBRIS OR IN AN OLD WALL, LO, THESE BELONG TO HIM. [If] HE FOUND IT IN A NEW WALL, IF IT IS LOCATED FROM ITS MIDPOINT AND OUTWARD, IT IS HIS. If IT IS LOCATED FROM ITS MIDPOINT AND INWARD, IT BELONGS TO THE HOUSEHOLDER. If HE HAD RENTED [THE HOUSE] TO OTHERS, EVEN [IF HE FOUND IT] IN THE HOUSE, LO, THESE ARE HIS.

- 1.** **I:1:** [As to the pigeons tied together at M. 2:4A,] R. Judah said, “That is on condition that the pigeons are tied together at their wing-tips. [This is the ordinary sort of tying them together. Any other bond would be deemed a special mark, and the rule will not apply.]”
- 2.** **I:2:** It was taught: [If] one found an object on a dung-heap, he is liable to make proclamation. For it is usual for a dung-heap to be cleared away [T. B. M. 2:11]. [If] one found an object in a pile or in an old wall, lo, these things which he finds are his [M. 2:3G]. For he can say to [any claimant], “They come from the time of the Amorites” [T. B.M. 2:12].
- 3.** **I:3:** It was taught: [If] he found [an object] between the boards [at the threshold of the doorway to the house], [if the object was located] from the door-jamb and outward, it belongs to [the finder]. If it was located from the door-jamb and inward, it belongs to the householder. [If] one found an object in a hole or new wall, if the object was located from the mid-point and outward, it belongs to [the finder]. [If the object was located] from the mid-point and inward [toward the inside of the house], it belongs to the householder (M. 2:3H-J.) [If the wall or hole] was open wholly outward, even if the object was located from the mid-point toward the inside of the house, it belongs to the finder. [If the wall or hole] was open wholly inward, even if the object was located from the mid-point toward the outside of the house, it belongs to the householder [T. B.M. 2:13]. If he had rented the house to others, even if he found it in the house, lo, these are his [M. 2:4K-M].
- 4.** **I:4:** [With reference to the following statements of Simeon b. Eleazar at T. B.M. 2:1, 2]:R. Simeon b. Eleazar concedes in the case of new merchandise which has been used [that] one is liable to make a

proclamation [that he has found it and will return it upon proper identification] (M. 2:1G). And so did R. Simeon b. Eleazar say, “He who rescues something from the mouth of a lion, a wolf, or a bear, or from a rip-tide in the sea or a sudden surge of a river – and he who finds something in a large plaza or parade ground – lo, these are deemed forthwith to be his, for the owner despairs [of ever getting it back,]” R. Jeremiah said, “There is a dispute concerning what is found in an inn. [In such a case, Simeon will take the position conceded by him. There will then be a dispute in the public piazza such as T. indicates.] But as to what is found in a courtyard, all parties concur that one is liable to make proclamation.”

XIII. YERUSHALMI BABA MESIA 2:5

[A] [IF] HE FOUND [UTENSILS] IN A STORE, LO, THESE ARE HIS. [IF A UTENSIL WAS LOCATED] BETWEEN THE COUNTER AND THE STOREKEEPER, IT BELONGS TO THE STOREKEEPER. [IF HE FOUND THEM] IN FRONT OF THE MONEY CHANGER, LO, THEY ARE HIS. [IF HE FOUND THEM] BETWEEN THE STOOL [OF THE MONEY CHANGER] AND THE MONEY CHANGER, LO, THESE BELONG TO THE MONEY CHANGER. HE WHO PURCHASES PRODUCE FROM HIS FELLOW, OR SENT PRODUCE TO HIS FELLOW, [IF] HE FOUND COINS AMONG THE PRODUCE, LO, THESE ARE HIS. IF THERE THEY WERE BOUND TOGETHER, HE TAKES [THE MONEY] BUT PROCLAIMS [THAT HE HAS FOUND IT]. ALSO A GARMENT WAS COVERED AMONG ALL OF THESE THINGS [WHICH ONE MUST PROCLAIM, LISTED AT Dt. 22:1-3: “YOU SHALL NOT SEE YOUR BROTHER’S OX OR HIS SHEEP GO ASTRAY AND WITHHOLD YOUR HELP FROM THEM; YOU SHALL TAKE THEM BACK TO YOUR BROTHER. AND IF HE IS NOT HEAR YOU OR IF YOU DO NOT KNOW HIM, YOU SHALL BRING IT HOME TO YOUR HOUSE, AND IT SHALL BE WITH YOU UNTIL YOUR BROTHER SEEKS IT; THEN YOU SHALL RESTORE IT TO HIM; AND SO YOU SHALL DO WITH HIS ASS; SO YOU SHALL DO WITH HIS GARMENT; SO YOU SHALL DO WITH ANY LOST THING OF YOUR BROTHER’S WHICH HE LOSES AND YOU FIND; YOU MAY NOT WITHHOLD YOUR HELP”]. [So] WHY WAS IT SINGLED OUT? TO USE IT FOR AN ANALOGY, TO TELL YOU: JUST AS A GARMENT EXHIBITS DISTINCTIVE TRAITS, IN THAT IT HAS SPECIAL MARKS OF IDENTIFICATION, AND IT HAS SOMEONE TO CLAIM IT, SO FOR EVERYTHING WHICH HAS SPECIAL MARKS AND WHICH HAS SOMEONE TO CLAIM ONE IS LIABLE TO MAKE PROCLAMATION.

- 1. I:1:** Said R. Eleazar, “[When the Mishnah states that if the money is found between the stool of the moneychanger and the person, the money belongs to the moneychanger, it means also to state that if the

money is found] on the stool itself, it belongs to him: if it is found on the counter, it belongs to the storekeeper.”

2. **I:2:** Story about returning what has been lost by a gentile.

XIV. YERUSHALMI BABA MESIA 2:6

[A] **AND FOR HOW LONG IS ONE LIABLE TO MAKE PROCLAMATION [OF HAVING FOUND A LOST OBJECT]? UNTIL HIS NEIGHBORS ARE INFORMED ABOUT IT,” THE WORDS OF R. MEIR. R. JUDAH SAYS, “UNTIL THREE FESTIVALS [HAVE GONE BY]. AND FOR SEVEN DAYS AFTER THE FINAL FESTIVAL, SO THAT ONE MAY HAVE THREE DAYS TO GO HOME AND THREE DAYS TO COME BACK AND ONE DAY ON WHICH TO PROCLAIM [THAT HE HAS LOST THE OBJECT].”**

1. **I:1:** It was taught: At the outset they would make proclamation for three successive festivals, and after the final festival for seven days, so that one may have three days to go home, three days to come back, and one day on which to proclaim the lost object [M. 2:6C-D]. After the Temple was destroyed, they made the rule that one should make proclamation for an object which has been found for thirty days. And from the time of danger onward, they made the rule that one should merely inform his neighbors and relatives and acquaintances and townfolk.. And that is enough [T. B.M. 2:17].

XV. YERUSHALMI BABA MESIA 2:7

[A] **[IF A CLAIMANT] HAS DESCRIBED WHAT HE HAS LOST BUT NOT SPECIFIED ITS SPECIAL MARKS, ONE SHOULD NOT GIVE IT TO HIM. AND AS TO A [KNOWN] DECEIVER, EVEN THOUGH HE HAS SPECIFIED ITS SPECIAL MARKS, ONE SHOULD NOT GIVE IT TO HIM, AS IT IS SAID, “UNTIL YOUR BROTHER SEEKS CONCERNING IT “(Dt. 22:2) – UNTIL YOU WILL EXAMINE YOUR BROTHER TO FIND OUT WHETHER OR NOT HE IS DECEIVER.**

1. **I:1:** Who is the sort of habitual deceiver [who must be closely investigated]?

XVI. YERUSHALMI BABA MESIA 2:8

[A] **ANY SORT OF THING WHICH IS ABLE TO PERFORM LABOR AND WHICH EATS [IS TO BE KEPT BY THE FINDER AND IS TO] PERFORM LABOR AND [IN EXCHANGE IS**

ALLOWED TO] EAT. AND SOMETHING WHICH DOES NOT PERFORM LABOR BUT WHICH [NONETHELESS HAS TO BE] FED IS TO BE SOLD, AS IT IS SAID, “YOU WILL RETURN IT TO HIM” (Dt. 22:2). PAY ATTENTION TO HOW TO RETURN IT TO HIM!

1. **II:1:** It was taught: Return the lost beast in such wise that] a calf should not eat up [the capital represented by the other] calves [of the owner], a sheep, the sheep; a chicken, the chickens likewise.

[B] **WHAT IS THE RULE COVERING THE PROCEEDS? R. TARFON SAYS, “LET [THE FINDER] MAKE USE OF THEM. THEREFORE, IF SOMETHING HAPPENS TO THEM, HE IS LIABLE TO MAKE THEM UP.” R. AQIBA SAYS, “HE SHOULD NOT MAKE USE OF THEM. THEREFORE, IF SOMETHING HAPPENS TO THEM, HE IS NOT LIABLE TO MAKE THEM UP.”**

1. **II:1:** [With reference to M. 2:8E-G,] R. Judah in the name of Rab: “The law is in accord with R. Tarfon in the case of an animal bearing distinguishing characteristics [in which case the owner will surely seek the animal out].”
2. **II:2:** R. Judah said, “Disciples of sages do not have to indicate distinguishing characteristics.”
3. **II:3:** Said R. Huna, “All concur that if [one found] a pouch of money, he should not touch it. [Tarfon and Aqiba agree that in this case the finder leaves the money alone and does not make use of it.]”
4. **II:4:** Judah son of Rabbi went to the synagogue. He left his sandals and they disappeared. He said, “Had I not gone to the synagogue, my sandals would not have disappeared. [The place is full of deceivers, who pretend to pray but come to steal.]”

XVII. YERUSHALMI BABA MESIA 2:9

[A] [IF] HE FOUND SCROLLS, HE READS IN THEM ONCE EVERY THIRTY DAYS. IF HE DOES NOT KNOW HOW TO READ, HE [AT LEAST] UNROLLS THEM. BUT HE SHOULD NOT [COMMENCE TO] LEARN [A SUBJECT] IN THEM TO BEGIN WITH, NOR SHOULD SOMEONE ELSE READ ALONGSIDE HIM. [IF] HE FOUND A PIECE OF CLOTHING, HE SHOULD SHAKE IT OUT ONCE EVERY THIRTY DAYS, AND SPREAD IT OUT AS NEEDED — BUT NOT TO SHOW OFF. OF UTENSILS OF SILVER AND OF COPPER ONE MAKES USE — FOR THEIR OWN GOOD BUT NOT TO WEAR THEM OUT. UTENSILS OF GOLD AND OF GLASS HE SHOULD NOT TOUCH UNTIL ELIJAH COMES. [IF] HE FOUND A SACK OR LARGE BASKET OR ANYTHING WHICH HE

WOULD NOT USUALLY PICK UP, LO, THIS ONE DOES NOT [HAVE TO LOWER HIMSELF AND] PICK IT UP.

1. **I:1:** It was taught: [If] one found scrolls, he reads in them once every thirty days [M. 2:9A]. If he does not know how to read, he unrolls them [M. 2: 9A-B]. But one should not read the weekly lection and go over it again. Nor should one read in them and translate it into Aramaic. [D3 And three people should not read in a single volume. And one should not open a scroll up more than three columns. [Sumkhos says,] “Under what circumstances? “In the case of new ones, only once every thirty days. “And in the case of old ones, once every twelve months” [T. B.M. 2:21]
2. **I:2:** As to utensils of silver, one may make use of them for cold but not for hot liquids, because [hot liquids] blacken them [vs. M. 2:8J]. Utensils of copper one uses for hot liquids, but not on fire, because it wears them out [cf. M. 2:8I]. Shovels and axes one makes use of for something soft, but not for something hard. With a shovel one shovels mortar. He dries it off and leaves it in its place. With an ax one chops wood, but not stone-palm-wood or olive-wood. And just as you specify these rules with regard to a lost object, so these rules apply with regard to a bailment. He who deposits a garment with his fellow – [the latter] must shake it out once in thirty days. [He spreads it out for its need, not for his own honor (M. 2:8D-E).] If [the bailment] was large, one takes wages [paid to workers to assist in the work] [T. B.M. 2:22].

XVIII. YERUSHALMI BABA MESIA 2:10

[A] **WHAT IS LOST PROPERTY? [IF] ONE FOUND AN ASS OR A COW GRAZING BY THE WAY, THIS IS NOT LOST PROPERTY. [IF HE FOUND] AN ASS WITH ITS TRAPPINGS UPSET, A COW RUNNING IN THE VINEYARDS, LO, THIS IS LOST PROPERTY. [IF] ONE RETURNED IT AND IT RAN AWAY, RETURNED IT AND IT RAN AWAY, EVEN FOUR OR FIVE TIMES, HE IS LIABLE [TO CONTINUE TO] RETURN IT, SINCE IT IS SAID, “YOU SHALL SURELY BRING THEM BACK [TO YOUR BROTHER]” (Dt. 22:1). [IF] HE LOST [WORK] TIME [TO THE VALUE OF] A SELA, HE MAY NOT SAY TO HIM, “GIVE ME A SELA.” BUT HE PAYS HIM A SALARY [FOR HIS LOST TIME] CALCULATED AT THE RATE PAID TO AN UNEMPLOYED WORKER. IF THERE IS A COURT THERE, HE MAY STIPULATE BEFORE THE COURT [FOR COMPENSATION FOR LOST TIME]. IF THERE IS NO COURT THERE, BEFORE WHOM MAY HE MAKE SUCH A STIPULATION? HIS OWN [WELFARE] TAKES PRECEDENCE. [IF HE FOUND IT LOOSE] IN A STABLE, HE IS NOT LIABLE [TO RETURN] IT. [IF HE FOUND IT] IN THE PUBLIC DOMAIN, HE IS LIABLE TO TAKE**

CARE OF IT. AND IF IT WAS A GRAVEYARD, [AND IF HE WAS A PRIEST OR A NAZIRITE] HE SHOULD NOT CONTRACT CORPSE UNCLEANNESS ON ITS ACCOUNT. IF HIS FATHER SAID TO HIM, “CONTRACT CORPSE UNCLEANNESS,” OR IF [UNDER NORMAL CIRCUMSTANCES] HE SAID TO HIM, “DON’T RETURN IT,” HE SHOULD NOT OBEY HIM. [IF] HE UNLOADED IT AND LOADED IT UP AGAIN, UNLOADED IT AND LOADED IT UP AGAIN, EVEN FOUR OR FIVE TIMES, HE IS LIABLE [TO CONTINUE TO DO SO], FOR IT IS WRITTEN, “YOU WILL SURELY HELP WITH HIM” (EX. 23:5). [IF] HE WENT AND SAT DOWN, AND SAID, “SINCE THE RELIGIOUS DUTY IS YOURS, IF YOU WANT TO UNLOAD IT, GO UNLOAD IT,” THE OTHER IS EXEMPT [FROM DOING A THING]. FOR IT IS WRITTEN, “WITH HIM.” IF THE OWNER WAS OLD OR SICK, HE IS LIABLE. IT IS A RELIGIOUS DUTY ENJOINED BY THE TORAH TO UNLOAD THE BEAST, BUT NOT TO LOAD IT UP. R. SIMEON SAYS, “ALSO: TO LOAD IT UP.” R. YOSÉ THE GALILEAN SAYS, “IF THERE WAS ON THE BEAST MORE THAN ITS PROPER LOAD, HE IS NOT OBLIGATED TO [THE OWNER], “SINCE IT IS SAID, ‘UNDER ITS BURDEN’ – “A BURDEN WHICH IT CAN ENDURE.”

1. **I:1:** In every other circumstance you rule that a positive commandment takes precedence over a negative one, but here [with reference to M. 2:10, in which the positive duty of honoring the father is set aside by the negative duty of not hiding from one’s fellow in need], you maintain that a positive commandment does not take precedence over a negative one.
2. **I:2:** It was taught: “Crouching” – and not a habitually recalcitrant beast [that is, one helps once, but not many times]. And it also is taught: “He helps him unload it even a hundred times” [T. B.M. 2:24G-H].
3. **I:3:** “You shall surely help him” – this is the act of unloading. “You shall help him lift it up” – this is reloading it [vs. sages, M. 2:10DD]. R. Simeon b. Yohai says, “Just as helping him unload is a religious duty imposed by the Torah, so helping him load it up is a religious duty imposed by the Torah” [M. 2:10EE].

XIX. YERUSHALMI BABA MESIA 2:11

[A] [IF ONE HAS TO CHOOSE BETWEEN SEEKING] WHAT HE HAS LOST AND WHAT HIS FATHER HAS LOST, HIS OWN TAKES PRECEDENCE. [IF HE HAS TO CHOOSE BETWEEN SEEKING] WHAT HE HAS LOST AND WHAT HIS MASTER HAS LOST, HIS OWN TAKES PRECEDENCE. [IF HE HAS TO CHOOSE BETWEEN SEEKING] WHAT HIS FATHER HAS LOST AND WHAT HIS MASTER HAS LOST, THAT OF HIS MASTER TAKES PRECEDENCE. FOR HIS FATHER BROUGHT HIM INTO THIS WORLD. BUT

HIS MASTER, WHO HAS TAUGHT HIM WISDOM, WILL BRING HIM INTO THE LIFE OF THE WORLD TO COME. **B**UT IF HIS FATHER IS A SAGE, THAT OF HIS FATHER TAKES PRECEDENCE. **[I**F] HIS FATHER AND HIS MASTER WERE CARRYING HEAVY BURDENS, HE REMOVES THAT OF HIS MASTER, AND AFTERWARD REMOVES THAT OF HIS FATHER. **[I**F] HIS FATHER AND HIS MASTER WERE TAKEN CAPTIVE, HE RANSOMS HIS MASTER, AND AFTERWARD HE RANSOMS HIS FATHER. **B**UT IF HIS FATHER IS A SAGE, HE RANSOMS HIS FATHER, AND AFTERWARD HE RANSOMS HIS MASTER.

1. **I:1:** It was taught: Who is one's master? The one who has taught him wisdom, [and not the master who has taught him a trade]. [And who is this?] "It is anyone who started him off first," the words of R. Meir. [T. B.M. 2:30D has: R. Meir says, "It is his master who has taught him wisdom, and not his master who has taught him Scripture."] R. Judah says, "It is anyone from whom he has gained the greater part of his learning." R. Yosé says, "It is anyone who has enlightened his eyes in his repetition of traditions" [T. B.M. 2:30].

XX. YERUSHALMI BABA MESIA 3:1

[A] **H**E WHO DEPOSITS WITH HIS FELLOW A BEAST OR UTENSILS, AND THEY WERE STOLEN OR LOST,

1. **I:1:** Whence do you bring evidence [for the proposition that in a case in which the bailee pays compensation, he is given the double indemnity which is collected from the thief]? "[If a man steals an ox or a sheep and kills it or sells it, he shall pay five oxen for an ox, and four sheep for a sheep. He shall make restitution; if he has nothing, then he shall be sold for his theft. If the stolen beast is found alive in his possession, [whether it is an ox or an ass or a sheep, he shall pay double]" (Ex. 22:1-4). Now do we not already know [from Ex. 22:7] that if the thief is found, he will pay a double indemnity? So why does Scripture state, "He shall pay double"? If it does not apply to the matter at hand, then treat it as referring to a further matter, [that is, if it does not mean the thief pays a double indemnity to the one from whom he stole, which we know from other references, then treat the point of application as that before us]. [For the rules governing bailments state, "If a man delivers to his neighbor money or goods to keep, and it is stolen out of the man's house, then, if the thief is found, he shall pay double" (Ex. 22:7).]

[B] **[I**F THE BAILEE] MADE RESTITUTION AND WAS UNWILLING TO TAKE AN OATH — (FOR THEY HAVE SAID, "AN UNPAID BAILEE TAKES AN OATH AND THEREBY

CARRIES OUT HIS OBLIGATION [WITHOUT PAYING COMPENSATION FOR THE LOSS OF THE BAILMENT])” – [IF THEN] THE THIEF WAS FOUND, [THE THIEF] PAYS TWOFOLD RESTITUTION. [IF] HE HAD SLAUGHTERED OR SOLD THE BEAST, HE PAYS FOURFOLD OR FIVEFOLD RESTITUTION. TO WHOM DOES HE PAY RESTITUTION? TO HIM WITH WHOM THE BAILMENT WAS LEFT. [IF THE BAILEE] TOOK AN OATH AND DID NOT WANT TO PAY COMPENSATION, [IF] THE THIEF WAS FOUND, HE PAYS TWOFOLD RESTITUTION. [IF HE SLAUGHTERED OR SOLD THE BEAST, HE PAYS FOURFOLD OR FIVEFOLD RESTITUTION. TO WHOM DOES HE PAY RESTITUTION? TO THE OWNER OF THE BAILMENT.

1. **II:1:** R. Yohanan, R. Eleazar, and R. Nissa add in the name of R. Yosé b. Haninah: “[With reference to M. 3:1C, the bailee’s actually making restitution,] it is not the end of the matter that if the bailee actually made restitution, he will get the double indemnity. But even if he accepted responsibility for making restitution, it is as if he has already done so [and the law stated by M. is invoked].”
2. **II:2:** [If] he said, “I shall pay,” we take account of the possibility that he had laid hands on the critter [and indeed is willing to pay because he wants to keep it]. [So he has to take an oath that it does not presently stand within his domain.] [If] he said, “I’ll take an oath,” and then he saw that they were going to assign to him oaths covering other matters [which he did not wish to accept], and then he went and said, “I’ll pay” [so as not to have to take an oath], they take account [of the oaths which were to be added]. [He either takes an oath covering all matters, or he pays compensation for the other claims on which he refused to take an oath.]
3. **II:3:** If he had witnesses to the fact that the beast had been stolen, then the bailee is exempt [even] from taking an oath [which is no longer necessary]. [Now in such a case, if the thief is found, to whom does he pay the double indemnity? Is this as if the bailee has paid for the beast or not?]

XXI. YERUSHALMI BABA MESIA 3:2

[A] **HE WHO RENTS A COW FROM HIS FELLOW, AND THEN LENT IT TO SOMEONE ELSE, AND IT DIED OF NATURAL CAUSES — LET THE ONE WHO RENTED IT TAKE AN OATH THAT IT DIED OF NATURAL CAUSES, AND THE ONE WHO BORROWED IT THEN PAYS COMPENSATION TO THE ONE WHO RENTED IT OUT. SAID R. YOSÉ, “HOW SHOULD THIS ONE DO BUSINESS WITH HIS FELLOW’S COW? “BUT [THE FUNDS PAID FOR] THE COW ARE TO RETURN TO THE OWNER.”**

1. **I:1:** Now does the [one who rented the cow] have the right to lend it out [to someone else, without the owner's knowledge and consent]?
2. **I:2:** R. Abbahu asked, “[Does the loan have to be to someone else (M. 3:2A) to set in motion M.’s rule?] If the owner borrowed it from the one who had rented it, and the beast died of natural causes, does the one who borrowed it [the actual owner] then pay for the beast to the one who had rented it [and then lent it back to the owner]?”

XXII. YERUSHALMI BABA MESIA 3:3

[A] [If] ONE SAID TO TWO PEOPLE, “I STOLE A MANEH [A HUNDRED ZUZ] FROM ONE OF YOU AND I DO NOT KNOW FROM WHICH ONE OF YOU IT WAS.” “THE FATHER OF ONE OF YOU DEPOSITED A MANEH WITH ME, AND I DO NOT KNOW THE FATHER OF WHICH ONE OF YOU IT WAS,” [HE] PAYS OFF A MANEH TO THIS ONE AND A MANEH TO THAT ONE, FOR HE HAS ADMITTED IT ON HIS OWN. TWO WHO DEPOSITED SOMETHING WITH ONE PERSON, THIS ONE LEAVING A MANEH, AND THAT ONE LEAVING TWO HUNDRED [ZUZ] – THIS ONE SAYS, “MINE IS THE DEPOSIT OF TWO HUNDRED [ZUZ],” AND THAT ONE SAYS, “MINE IS THE DEPOSIT OF TWO HUNDRED [ZUZ]” – HE PAYS OFF A MANEH TO THIS ONE, AND A MANEH TO THAT ONE, AND THE REST IS LEFT UNTIL ELLIJAH COMES. SAID R. YOSÉ, “IF SO, WHAT HAS THE DECEIVER ACTUALLY LOST? “BUT LEAVE THE WHOLE SUM UNTIL ELLIJAH COMES [AND NO ONE WILL BE PAID OFF]. AND SO IS THE RULE FOR TWO UTENSILS, ONE WORTH A MANEH, AND ONE WORTH A THOUSAND ZUZ – THIS ONE SAYS, “THE BETTER ONE IS MINE,” AND THAT ONE SAYS, “THE BETTER ONE IS MINE” – HE GIVES THE SMALLER ONE TO ONE OF THEM. AND FROM THE [FUNDS RECEIVED FROM THE SALE OF] THE LARGER ONE, HE GIVES THE COST OF A SMALLER ONE TO THE OTHER PARTY. AND THE REST OF THE MONEY [RECEIVED FOR THE SALE OF THE LARGER ONE] IS LEFT UNTIL ELLIJAH COMES. SAID R. YOSÉ, “IF SO, WHAT HAS THE DECEIVER ACTUALLY LOST? “BUT LEAVE THE WHOLE [SUM RECEIVED FOR THE SALE OF BOTH UTENSILS) UNTIL ELLIJAH COMES.”

1. **I:1:** [What follows depends upon M. Yeb. 15:7J-M: If one stole from one of five men, and does not know from which one of them he stole, and each one of them says, “From me did he steal,” “he leaves that which he stole among them and takes his leave,” the words of R. Tarfon. R. Aqiba says, “This is not the way to remove him from the toils of transgression, but he pays the value of that which he has stolen to each and every one of them. “The same dispute applies to cases of betrothal and loan as well as bailment here. Now the requirement of M. 3:3A- D that one give a maneh to each one of the men accords with

the view of Aqiba, but not with that of Tarfon. Rejecting this view and maintaining that even Tarfon may concur,] R. Abbahu in the name of R. Yohanán [said], “Here we have a case in which the matter is contested, there we have a case in which it is not contested. [That is, when the owner claims that the man owes the money, and the man denies it, we rule that each one of the five cannot extract the object from the man, so he leaves it and goes his way, in Tarfon’s view. But here the claimants do not contest the matter. The man himself has confessed, so M. 3:3A, ‘I stole....’ M. 3:3D is explicit: He confessed. Consequently, in this case Tarfon may concur that, having confessed on his own, the thief pays off each possible victim of his action.]”

XXIII. YERUSHALMI BABA MESIA 3:4

[A] **HE WHO DEPOSITS PRODUCE WITH HIS FELLOW EVEN IF IT IS GOING TO GO TO WASTE — [THE FELLOW] SHOULD NOT TOUCH IT. RABBAN SIMEON B. GAMALIEL SAYS, “HE SELLS THEM IN THE PRESENCE OF A COURT, “FOR HE IS IN THE POSITION OF ONE WHO THEREBY RESTORES WHAT IS LOST TO ITS RIGHTFUL OWNER.”**

1. **I:1:** [Explaining the reason of Simeon b. Gamaliel, M. 3:4D-E,] said R. Abbahu, “If you say that [even though] they are going to waste, he should not touch the produce, he might even go so far as to cause them [to be ruined, and then disclaim responsibility on the basis of the prohibition against touching the produce].”

XXIV. YERUSHALMI BABA MESIA 3:5

[A] **HE WHO DEPOSITS PRODUCE WITH HIS FELLOW — LO, THIS ONE [WITH WHOM THE BAILMENT IS LEFT, WHEN RETURNING IT,] MAY EXACT [FROM THE OWNER THE FOLLOWING] DEDUCTIONS [DUE TO NATURAL DEPLETION OF THE PRODUCE]: (1) FOR WHEAT AND RICE, NINE QABS AND A HALF FOR A KOR; (2) FOR BARLEY AND DURRA, NINE QABS TO A KOR; (3) FOR SPELT AND LINSEED, THREE SEAHs TO A KOR ALL IS RELATIVE TO THE QUANTITY, ALL IS RELATIVE TO THE TIME [IT IS LEFT]. SAID R. YOHANAN B. NURI, “BUT WHAT DIFFERENCE DOES [QUANTITY OR TIME] MAKE TO MICE? WILL THEY NOT EAT [PLENTY] WHETHER IT IS FROM A LARGE VOLUME OR A SMALL VOLUME OF GRAIN? “BUT HE MAY NOT EXACT FROM THE OWNER THE STATED REDUCTIONS, “EXCEPT FROM A SINGLE KOR ALONE.” R. JUDAH SAYS, “IF IT WAS A LARGE VOLUME OF PRODUCE, HE MAY NOT EXACT FROM THE OWNER THE STATED REDUCTIONS, “FOR IT INCREASES [IN BULK AS IT IS STORED AWAY].”**

1. **I:1:** Said R. Ammi, “They taught this rule [to apply] to the time of harvest [at which time if the bailment is left in one volume, one deducts the volume to be returned.] [But if it is the rainy season, there is no deduction in volume, since, indeed, the volume of grain then expands.]”

[B] **HE EXACTS [A REDUCTION] OF A SIXTH FOR WINE. R. JUDAH SAYS, “A FIFTH.” HE EXACTS [REDUCTION] OF THREE LOGS OF OIL PER HUNDRED — A LOG AND A HALF FOR THE SEDIMENT, AND A LOG AND A HALF FOR ABSORPTION [INTO THE WALLS OF THE CLAY JARS]. IF IT WAS REFINED OIL, HE MAY NOT EXACT A REDUCTION FOR THE SEDIMENT. IF THE JARS WERE OLD, HE MAY NOT EXACT A REDUCTION FOR ABSORPTION. R. JUDAH SAYS, “ALSO: HE WHO SELLS REFINED OIL TO HIS FELLOW THROUGH THE YEAR — LO, [THE LATTER] MUST ACCEPT UPON HIMSELF [AGREE TO] A REDUCTION OF A LOG AND A HALF PER HUNDRED BECAUSE OF SEDIMENT.”**

1. **II:1:** [There is universal agreement that Judah’s position, M. 3:SR-S, applies] said R. Oshaiah, when he did not say to him, “I shall supply you with refined oil throughout the year.” But if he had said to him so, then he is liable to supply him with refined oil, [and the purchaser need not accept a reduction of a log and a half per hundred because of sediment. This is the view of sages against Judah, who says his rule applies in all cases.

XXV. YERUSHALMI BABA MESIA 3:6

[A] **HE WHO DEPOSITS A JAR WITH HIS FELLOW, AND THE OWNER DID NOT SPECIFY A PLACE FOR IT, AND [SOMEONE] MOVED IT AND IT WAS BROKEN — IF IN THE MIDST OF HIS HANDLING IT, IT WAS BROKEN, [AND IF HE MOVED IT TO MAKE USE OF IT] FOR HIS OWN NEEDS, HE IS LIABLE. [IF HE MOVED IT] FOR ITS NEEDS, HE IS EXEMPT. IF AFTER HE HAD PUT IT DOWN, IT WAS BROKEN, WHETHER HE HAD MOVED IT FOR HIS OWN NEEDS OR FOR ITS NEEDS, HE IS EXEMPT. [IF] THE OWNER SPECIFIED A PLACE FOR IT, AND [SOMEONE] MOVED IT AND IT WAS BROKEN — WHETHER IT WAS IN THE MIDST OF HIS HANDLING IT OR WHETHER IT WAS AFTER HE HAD PUT IT DOWN, [IF HE HAD MOVED IT] FOR HIS OWN NEEDS, HE IS LIABLE. [BUT IF HE HAD MOVED IT] FOR ITS NEEDS, HE IS EXEMPT.**

1. **I:1:** [To understand what follows, we begin with T. B.Q. 10:33:] He who steals a lamb from the flock and returned it to the flock, and afterward the entire flock was stolen, if he had informed the owner, or they had counted [the sheep], he is exempt. And if not, he is liable (M. B.Q. 10:8). He who steals a jug from a cellar and returned it to the

cellar, and afterward all the jugs in the cellar were stolen, if he had informed the owner [that he had returned the jug], he is exempt. And if not, he is liable. The second needed fact is the point at M. 3:6D-E vs. F, that is, the difference between moving the jar for his needs, and moving it for its needs when the jar breaks while being moved. Again, if after he had put it down it was broken, whether it was moved for his needs or its needs, he is exempt. He has the right to move the jug, even without the knowledge of the owner that his jar is being moved, a contrast to T.'s case. This is in line with the following:] For did not R. Eleazar say, "To what is the matter likened? To a case in which one steals a jar from the cellar of his fellow. Even though the owner did not know that the theft had taken place, they have to inform him when the jar is returned. [Here too should we not have the knowledge and consent of the owner, without which one is liable in the stated circumstances?]"

XXVI. YERUSHALMI BABA MESIA 3:7

[A] HE WHO DEPOSITS COINS WITH HIS FELLOW — [IF THE LATTER] (1) WRAPPED THEM UP AND THREW THEM OVER HIS SHOULDER, (2) GAVE THEM OVER TO HIS MINOR SON OR DAUGHTER, OR (3) LOCKED THEM UP IN AN INADEQUATE WAY, HE IS LIABLE [TO MAKE THEM UP IF THEY ARE LOST], BECAUSE HE DID NOT TAKE CARE OF THEM THE WAY PEOPLE USUALLY TAKE CARE [OF THINGS]. BUT IF HE DID TAKE CARE OF THEM THE WAY PEOPLE USUALLY TAKE CARE OF THINGS, HE IS EXEMPT.

- 1.** **I:1:** Said R. Yosé, "And you may infer from the law of the Mishnah the following: If a man put goods [on a stall] in the market in charge of his neighbor, and [the latter] left them in charge of his minor son or daughter, and they were stolen or lost, he is not liable, for I say, 'has he not given them as goods on exhibit in the market [and so the bailee was not bound to lock them up?]"
- 2.** **I:2:** Under what circumstances have they ruled: An unpaid bailee takes an oath [that he has not violated his trust] and quits? When he has carried out his guardianship in an adequate way, as people generally take care of bailments. If he locked up the goods in an adequate way, tied up a beast in an adequate way, put coins in his pouch, bound them in his kerchief, and put them before him, or if he put them in a chest, box, or cupboard — if the money was stolen or lost. he is liable to take an oath and is exempt from having to make restitution.

XXVII. YERUSHALMI BABA MESIA 3:8

[A] **HE WHO DEPOSITS COINS WITH A MONEY CHANGER — IF THEY ARE WRAPPED UP, [THE MONEY CHANGER] SHOULD NOT MAKE USE OF THEM. THEREFORE IF THEY GOT LOST, HE IS NOT LIABLE TO MAKE THEM UP [AS AN UNPAID BAILEE (M. 2:7)]. [IF THEY WERE] LOOSE, HE MAY MAKE USE OF THEM. THEREFORE IF THEY GOT LOST, HE IS LIABLE TO MAKE THEM UP. [HE WHO DEPOSITS COINS] WITH A HOUSEHOLDER, WHETHER THEY ARE WRAPPED UP OR WHETHER THEY ARE LOOSE — [THE HOUSEHOLDER] SHOULD NOT MAKE USE OF THEM. THEREFORE IF THEY GOT LOST, HE IS NOT LIABLE TO MAKE THEM UP. “THE STOREKEEPER IS IN THE CLASSIFICATION OF [AND SO SUBJECT TO THE SAME RULE AS] THE HOUSEHOLDER,” THE WORDS OF R. MEIR. R. JUDAH SAYS, “THE STOREKEEPER IS IN THE CLASSIFICATION OF [AND SO SUBJECT TO THE SAME RULE AS] THE MONEY CHANGER.”**

1. **I:1:** R. Huna said R. Jeremiah raised the question: “What is the meaning of ‘wrapped up’? Is it required to string together the coins through their seal, or may they be wrapped up not with a cord tying them together through the seal? If you say the coins must be tied together with a cord running through the seal of the coin, then if the coins are not tied together in that way, it is permitted [to make use of them in line with M. 3:8D-E]. If you say that they need not be tied together with a cord through the seal of the coin, then all the more so [may one not make use of the coins if they are] tied together with a cord through the seal.”

XXVIII. YERUSHALMI BABA MESIA 3:9

[A] **HE WHO MAKES IMPROPER USE OF A BAILMENT — THE HOUSE OF SHAMMAI SAY, “HE SUFFERS A DISADVANTAGE, WHETHER THE VALUE RISES OR FALLS.” THE HOUSE OF HILLEL SAY, “[HE RESTORES THE BAILMENT] AS IT WAS AT THE MOMENT AT WHICH HE TOOK IT OUT [TO USE IT FOR HIS OWN PURPOSES].” R. AQIBA SAYS, “[HE RESTORES IT AS IT WAS] AT THE MOMENT AT WHICH IT WAS CLAIMED.”**

1. **I:1:** The meaning of the Mishnah’s statement at M. 3:9D is, R. Aqiba says, “He restores it as it was at the moment at which it was claimed] in court.”

[B] **HE WHO EXPRESSES [IN THE PRESENCE OF WITNESSES] THE INTENTION OF MAKING USE OF A BAILMENT — THE HOUSE OF SHAMMAI SAY, “HE IS LIABLE [FOR**

ANY DAMAGE DONE TO THE BAILMENT, AS IF HE HAD MADE USE OF IT].” AND THE HOUSE OF HILLEL SAY, “HE IS LIABLE [FOR DAMAGES INCURRED] ONLY WHEN HE WILL ACTUALLY MAKE USE OF THE BAILMENT, “SINCE IT IS SAID, ‘IF HE HAS NOT PUT HIS HAND TO HIS NEIGHBOR’S PROPERTY’ (EX. 22:7).” [IF HE TIPPED OVER THE JUG AND TOOK A QUARTER-LOG OF LIQUID FROM IT, AND IT BROKE — HE PAYS ONLY THE VALUE OF THE QUARTER-LOG HE HAS ACTUALLY REMOVED. BUT IF HE RAISED IT UP [SO MAKING ACQUISITION OF IT], AND TOOK A QUARTER-LOG OF LIQUID FROM IT AND IT BROKE, HE PAYS THE VALUE OF THE WHOLE JUG.

1. **II:1:** What is the Scriptural basis for the opinion of the House of Shammai [that one who expresses the intention of making use of a bailment is liable for any damage done to it, as if he had made use of it (M. 3:9E-F)]?

XXIX. YERUSHALMI BABA MESIA 4:1

[A] (1) GOLD ACQUIRES SILVER, BUT SILVER DOES NOT ACQUIRE GOLD. (2) COPPER ACQUIRES SILVER, BUT SILVER DOES NOT ACQUIRE COPPER. (3) BAD COINS ACQUIRE GOOD COINS, BUT GOOD COINS DO NOT ACQUIRE BAD COINS. (4) A COIN LACKING A MINT MARK ACQUIRES A MINTED COIN, BUT A MINTED COIN DOES NOT ACQUIRE A COIN LACKING A MINT MARK. (5) MOVABLE GOODS ACQUIRE COINS, BUT COINS DO NOT ACQUIRE MOVABLE GOODS.

1. **I:1:** This is the summary principle of the matter: Whatever is of lesser value than its fellow effects acquisition of its fellow [when it is drawn or lifted up].
2. **I:2:** Said R. Hiyya bar Ashi, “Who taught this Mishnah [that silver acquires gold]?”

[B] THIS IS THE GOVERNING PRINCIPLE: ALL SORTS OF MOVABLE OBJECTS EFFECT ACQUISITION OF ONE ANOTHER.

1. **II:1:** There we have learned: Whatever is used as payment for something else – once this one has effected acquisition [thereof], the other has become liable for what is given in exchange. [How so? If one exchanged an ox for a cow, or an ass for an ox, once this one has effected acquisition, the other has become liable for what is given in exchange (M. Qid. 1:6A F). This is relevant to M. 1F.] Said R. Yohanan, “This rule has been taught only in the case of an [exchange of] an ox for a cow, or an ass for an ox. Lo, [if it is] a heap [of one commodity] for a heap of another commodity, one has not made

acquisition. [We require assessment of the value of commodities or movables at the time of the acquisition. If there is a heap, since there will not have been an accurate evaluation, the rule of exchange given at M. Qid. 1:6 does not apply.]” R. Jeremiah in the name of Rab: “Even if it is a heap [of one commodity] for a heap of another, one has made acquisition. [What is excluded at M. 1:6 is only coinage. But heaps of commodities fall within the stated rule. Any sort of movables which may be estimated in value surely may be exchanged in the stated manner. It is not common to estimate the value of coinage; it is common to estimate the value of movables. The point of contact to our pericope of M. is now clear.]”

XXX. YERUSHALMI BABA MESIA 4:2

- [A] **HOW SO? [IF THE BUYER] HAD DRAWN PRODUCE INTO HIS POSSESSION BUT NOT YET PAID OVER THE COINS, HE [NONETHELESS] CANNOT RETRACT. [IF] HE HAD PAID OVER THE COINS BUT HAD NOT YET DRAWN THE PRODUCE INTO HIS POSSESSION, HE HAS THE POWER TO RETRACT. TRULY HAVE THEY SAID: HE WHO EXACTED PUNISHMENT FROM THE MEN OF THE GENERATION OF THE FLOOD AND THE GENERATION OF THE DISPERSION IS DESTINED TO EXACT PUNISHMENT FROM HIM WHO DOES NOT KEEP HIS WORD. R. SIMEON SAYS, “WHOEVER HAS THE MONEY IN HIS HAND — HIS HAND IS ON TOP.”**
1. **I:1:** [With reference to M. 4:2F,] R. Aha said, “It is written, ‘For the earth was filled with violence’ (Gen. 6:1 1). What was the character of this violence of theirs [which is not the same as outright thievery]?”
 2. **I:2:** Said R. Haninah, “The law is in accord with R. Simeon.” But not all parties concur in that view.
 3. **I:3:** Whoever does business through a mere verbal agreement [that is, without an exchange of actual money] — they do not impose upon him the curse, “He who exacted punishment.” R. Jacob bar Zabedi, R. Abbahu in the name of R. Yohanan: “If one said that he would give a gift to his fellow, and then proposed to retract — he retracts [and this is without consequences].”
 4. **I:4:** R. Simon, in the name of R. Joshua b. Levi: “Someone gave to his fellow ten denars. [This was an advance payment on a rental of a house, meant to pay the cost of fixing up the house. The agreement then was that the rental on the house would be raised to cover the advance investment, to the tune of a hundred denars over a period of years.] If he then said, ‘You owe me a hundred denars by reason of the

house,' it is a permitted agreement. If he said so in regard to a vineyard, it is not permitted.”

- 5.** **I:5:** R. Simeon b. Laqish said, “... you shall acquire from your neighbor...” (Lev. 25:15) – From your neighbor you must effect an act of acquisition through drawing the object to you, and you need not effect an act of acquisition through drawing the object to you from the hand of a gentile.”

XXXI. YERUSHALMI BABA MESIA 4:3

[A] **FRAUD [OVERREACHING] IS AN OVERCHARGE OF FOUR PIECES OF SILVER OUT OF TWENTY-FOUR PIECES OF SILVER TO THE SELA – ONE-SIXTH OF THE PURCHASE PRICE. FOR HOW LONG IS IT PERMITTED TO RETRACT [IN THE CASE OF FRAUD]? SO LONG AS IT TAKES TO SHOW [THE ARTICLE] TO A MERCHANT OR A RELATIVE. R. TARFON GAVE INSTRUCTIONS IN LUD: “FRAUD IS AN OVERCHARGE OF EIGHT PIECES OF SILVER TO A SELA – “ONE-THIRD OF THE PURCHASE PRICE.” SO THE MERCHANTS OF LUD REJOICED. HE SAID TO THEM, “ALL DAY LONG IT IS PERMITTED TO RETRACT.” THEY SAID TO HIM, “LET R. TARFON LEAVE US WHERE WE WERE.” AND THEY REVERTED TO CONDUCT THEMSELVES IN ACCORD WITH THE RULING OF SAGES. ALL THE SAME ARE THE BUYER AND THE SELLER: BOTH ARE SUBJECT TO THE LAW OF FRAUD. JUST AS FRAUD APPLIES TO AN ORDINARY PERSON, SO IT APPLIES TO A MERCHANT. R. JUDAH SAYS, “FRAUD DOES NOT APPLY TO A MERCHANT [WHO CANNOT LAY CLAIM TO HAVING BEEN DEFRAUDED].” HE WHO HAS BEEN SUBJECTED [TO FRAUD] – HIS HAND IS ON TOP. [IF] HE WANTED, HE SAYS TO HIM, “RETURN MY MONEY.” [OR, IF HE WANTED, HE SAYS TO HIM,] “GIVE ME BACK THE AMOUNT OF THE FRAUD.”**

- 1.** **I:1:** Rab said, “[The assessment of fraud at a sixth overcharge] is exact. [We deem fraud to be an overcharge of a sixth of the true value of an object.]” R. Yohanan said, “It is not an exact [proportion of the true value of the object]. [It would apply to the price paid for the object, not only to the true value of the object.]” Rab said, “Whoever does business on condition that there be no claim of overcharge against him – a claim of overcharge may be laid against him.”
- 2.** **I:2:** It was taught, “The item which has been on sale is deemed acquired [by the purchaser, even in a case of overcharge or fraud]. [The purchaser] returns the amount by which he had defrauded the merchant,” the words of R. Judah the Patriarch. [This is in line with T., which follows.] R. Levi taught: “Overcharging is a perutah (lowest-valued coin). [Y.’s brief allusion is to the following pericope [T. B.M.

3:16]:He who has been subjected to fraud – his hand is on top [M. 4:30]. How so? [If] one sold to him a shirt worth five for six – the hand of the purchaser is on top. [If] he wants, he says to him, “Give me [my] selas [back].” [If] he wants, he says to him, “Here’s your money, and give me back my shirt.” But if he had said to him, “Sell me a shirt worth six for five,” the hand of the seller is on top. [If] he wants, he says to him, “Give me a sela.” And if he wants, he says to him, “Here’s your shirt, and give me back my money.” Rabbi says, “Under all circumstances the hand of the seller is on top.”]

- 3.** **I:3:** [If] one sold an object worth five for six, and did not complete the transaction before the price of the object went up to seven [so that the purchaser now wishes to complete the purchase] – R. Jacob bar Idi, R. Abbahu in the name of R. Yohanan: “Just as the transaction is null for this party [that is, the purchaser, who had the right to nullify it because of the overcharge], so it is null for that party [the merchant].”

XXXII. YERUSHALMI BABA MESIA 4:4

[A] **HOW MUCH MAY A SELA BE DEFECTIVE AND [STILL] NOT FALL UNDER THE RULE OF FRAUD? R. MEIR SAYS, “FOUR ISSARS, AT AN ISSAR TO A DENAR” R. JUDAH SAYS, “FOUR PONDIONS, AT A PONDION TO A DENAR” R. SIMEON SAYS, “EIGHT PONDIONS, AT TWO PONDIONS TO A DENAR.”**

- 1.** **I:1:** It was taught: If it is of more [weight] than that, one [would have the right to] put it into circulation [T. B.M. 3:17]. A sela – up to a sheqel. And a denar – up to a quarter. [If it weighs] less than this, even by an issar, one is not permitted to put it into circulation [T. B.M. 3:18]. One may not sell it either to a merchant [M. 4:11], or to a highwayman or to a thug, for they deceive others thereby [M. 4:11L]. But one may pierce it and hang it around the neck of his son. Under what circumstances [M. 4:6]? In the case of denars and selas [of silver], But in the case of golden denars, or copper coins, they would put them into circulation at their full value. And just as you rule in the case of unconsecrated food, so you must rule in the case of produce in the status of second tithe. And this is on condition that one not intend to practice fraud in [regard to second tithe (cf. M. 4:6F-H) [T. B.M. 3:19].

XXXIII. YERUSHALMI BABA MESIA 4:5

[A] **H**OW LONG IS IT PERMITTED TO RETURN [A DEFECTIVE SELA]? IN LARGE TOWNS, FOR THE LENGTH OF TIME IT TAKES TO SHOW TO A MONEY CHANGER. AND IN VILLAGES, UP TO THE EVE OF THE **S**ABBATH. IF [THE ONE WHO GAVE IT] RECOGNIZES IT, EVEN AFTER TWELVE MONTHS HE IS TO ACCEPT IT FROM HIM. **B**UT [IF THE ONE WHO GAVE THE COIN REFUSES TO TAKE IT BACK], HE HAS NO VALID CLAIM AGAINST THE OTHER EXCEPT RESENTMENT. **H**E MAY GIVE IT FOR PRODUCE IN THE STATUS OF SECOND TITHE, [FOR EASY TRANSPORTATION TO **J**ERUSALEM], AND NEED NOT SCRUPLE, FOR IT IS ONLY CHURLISHNESS [TO REFUSE A SLIGHTLY DEPRECIATED COIN]. **D**EFAUDING [THROUGH OVERREACHING] INVOLVES [AN OVERCHARGE OF] FOUR PIECES OF SILVER [FOR WHAT ONE HAS BOUGHT FOR A SELA] [=ONE SIXTH OVER TRUE VALUE]. AND A CLAIM [INVOLVING A COURT-IMPOSED OATH] MUST BE [FOR A CLAIM OF AT LEAST] TWO SILVER MA'AHs. AN ADMISSION MUST BE FOR AT LEAST WHAT IS WORTH A PERUTAH. **T**HERE ARE FIVE [KINDS OF RULES INVOLVING] THAT WHICH IS WORTH A PERUTAH: (1) AN ADMISSION MUST BE FOR AT LEAST WHAT IS WORTH A PERUTAH. (2) A WOMAN IS BETROTHED FOR THAT WHICH IS WORTH A PERUTAH. (3) **H**E WHO DERIVES USE TO THE VALUE OF A PERUTAH FROM THAT WHICH BELONGS TO THE SANCTUARY HAS COMMITTED SACRILEGE. (4) **H**E WHO FINDS THAT WHICH IS WORTH A PERUTAH IS LIABLE TO MAKE PROCLAMATION. (5) **H**E WHO STEALS FROM HIS FELLOW SOMETHING TO THE VALUE OF A PERUTAH AND TAKES [A FALSE] OATH TO THE CONTRARY [AND THEN CONFESSES HIS CRIME] MUST BRING IT AFTER HIM, EVEN TO **M**EDIA. **T**HERE ARE FIVE INSTANCES IN WHICH AN ADDED FIFTH APPLIES: (1) **H**E WHO EATS (1) HEAVE OFFERING, (2) HEAVE OFFERING OF TITHE, (3) HEAVE OFFERING OF TITHE TAKEN FROM DOUBTFULLY TITHED PRODUCE, (4) DOUGH OFFERING, AND (5) FIRST FRUITS, ADDS A FIFTH [TO THE VALUE OF THE PRINCIPAL, WHEN HE MAKES RESTITUTION]. **H**E WHO REDEEMS [PAYS COINS TO BRING TO **J**ERUSALEM IN PLACE OF] PRODUCE DERIVING FROM A FOURTH-YEAR PLANTING OR FROM HIS SECOND TITHE ADDS A FIFTH.

1. **I:1:** [The context is M. M.S. 2:6 (Haas, Maaser Sheni, pp. 52 53), as follows: A sela which is second tithe and an unconsecrated one which were confused [such that the consecrated coin could not be identified – he brings a sela's worth of copper coins and says, "The sela which is second tithe, wherever it may be, is deconsecrated with these coins." And after consecrating the copper coins, he selects the finer coin between the two selas, and deconsecrates the copper coins with it. For they have ruled, "They deconsecrate silver with copper only out of necessity. But if they do deconsecrate silver with copper, it may not remain so, but they must immediately deconsecrate the copper coins with silver coins." In this context,] Hezekiah said, "When one changes it in Jerusalem, he makes use of the coin of better quality. If he should

come to deconsecrate the money in the provinces, he does so with the coin of poorer quality.”

[B] HE WHO REDEEMS THAT WHICH HE HAS CONSECRATED ADDS A FIFTH. HE WHO DERIVES BENEFIT TO THE EXTENT OF A PERUTAH FROM THAT WHICH HAS BEEN CONSECRATED [WHEN HE MAKES RESTITUTION] ADDS A FIFTH. HE WHO STEALS FROM HIS FELLOW THAT WHICH IS WORTH A PERUTAH AND TAKES A [FALSE] OATH TO HIM [WHEN HE WISHES TO CONFESS AND EFFECT RESTITUTION] ADDS A FIFTH.

- 1. II:1:** [With reference to M. 4:5U] Jacob bar Zabedi, R. Yohanan in the name of R. Simon, “And as to any sort of produce in the status of second tithe, the principle of which is not worth a perutah, one does not include an added fifth.” R. Yohanan in the name of R. Yannai: “[Regarding] any produce in the status of second tithe whose additional fifth does not come to the value of a perutah, one need not include an added fifth.”

XXXIV. YERUSHALMI BABA MESIA 4:6

[A] THESE ARE MATTERS WHICH ARE NOT SUBJECT TO A CLAIM OF FRAUD [ON ACCOUNT OF OVERCHARGE]: (1) SLAVES, (2) BILLS OF INDEBTEDNESS [WHICH ARE DISCOUNTED AND SOLD], (3) REAL ESTATE, AND (4) THAT WHICH HAS BEEN CONSECRATED. THEY ARE NOT SUBJECT TO TWOFOLD RESTITUTION, NOR [IN THE CASE OF A CONSECRATED OX OR SHEEP] TO FOURFOLD OR FIVEFOLD RESTITUTION. AN UNPAID BAILEE IS NOT REQUIRED TO TAKE AN OATH [ON THEIR ACCOUNT, THAT HE HAS NOT INFLICTED DAMAGE]. AND A PAID BAILEE DOES NOT HAVE TO PAY COMPENSATION [ON THEIR ACCOUNT, IF THEY ARE STOLEN OR LOST]. R. SIMEON SAYS, “HOLY THINGS FOR WHICH ONE IS LIABLE FOR REPLACEMENT [SHOULD THEY BE LOST] ARE SUBJECT TO A CLAIM OF FRAUD ON ACCOUNT OF OVERCHARGE. “HOLY THINGS FOR WHICH ONE IS NOT LIABLE FOR REPLACEMENT [SHOULD THEY BE LOST] ARE NOT SUBJECT TO A CLAIM OF FRAUD ON ACCOUNT OF OVERCHARGE” R. JUDAH SAYS, “ALSO: HE WHO SELLS A SCROLL OF THE TORAH, A BEAST, OR A PEARL – “THEY ARE NOT SUBJECT TO A CLAIM OF FRAUD BY REASON OF OVERCHARGE.” THEY SAID TO HIM, “THEY HAVE SPECIFIED ONLY THESE.”

- 1. I:1:** It was taught: R. Judah says, “Also: [He who sells] a scroll of the Torah, a beast, or a pearl – they are not subject to a claim of fraud by reason of overcharge [M. 4:6I-J]. “A scroll of the Torah, because it is beyond price; “a beast or a pearl, because a person wants to buy them for a match with their pair [and therefore there is no limit to what he is going to be willing to pay].” They said to him, “But is it not so that

every sort of object a man wants to match up with its pair?” R. Judah b. Betera says, “A horse, a battle ax, and a [good] sword in time of war are not subject to a claim of fraud by reason of overcharge” [T. B.M. 3:24].

XXXV. YERUSHALMI BABA MESIA 4:7

[A] JUST AS A CLAIM OF FRAUD APPLIES TO BUYING AND SELLING SO A CLAIM OF FRAUD APPLIES TO SPOKEN WORDS. **ONE** MAY NOT SAY TO [A STOREKEEPER], “**HOW MUCH IS THIS OBJECT?**” KNOWING THAT HE DOES NOT WANT TO BUY IT. **IF** THERE WAS A PENITENT, ONE MAY NOT SAY TO HIM, “**REMEMBER WHAT YOU USED TO DO!**” **IF** HE WAS A CHILD OF PROSELYTES, ONE MAY NOT SAY TO HIM, “**REMEMBER WHAT YOUR FOLKS USED TO DO!**” **FOR** IT IS SAID, **AND A PROSELYTE YOU SHALL NOT WRONG NOR OPPRESS (EX. 22:20).** **THEY** DO NOT COMMINGLE ONE SORT OF PRODUCE WITH ANOTHER SORT OF PRODUCE, EVEN NEW AND NEW [PRODUCE, PLUCKED IN THE SAME GROWING SEASON], AND IT GOES WITHOUT SAYING, NEW WITH OLD. **TO** BE SURE, IN THE CASE OF WINE **THEY** HAVE PERMITTED COMMINGLING STRONG WITH WEAK, BECAUSE IT IMPROVES IT. **THEY** DO NOT COMMINGLE THE LEES OF WINE WITH WINE. **BUT** ONE MAY HAND OVER [TO A PURCHASER] THE LEES [OF THE WINE HE IS BUYING]. **HE** WHOSE WINE GOT MIXED WITH WATER MAY NOT SELL IT IN A STORE, UNLESS HE INFORMS [THE PURCHASER], NOR TO A MERCHANT, EVEN THOUGH HE INFORMS HIM. **FOR** [THE LATTER BUYS IT] ONLY TO DECEIVE OTHERS THEREBY. **IN** A PLACE IN WHICH IT IS THE CUSTOM TO PUT WATER IN WINE, ONE MAY DILUTE IT. **A** MERCHANT PURCHASES GRAIN FROM FIVE THRESHING FLOORS AND PUTS IT [ALL] INTO ONE STORAGE-BIN, [WINE] FROM FIVE WINE-PRESSES AND PUTS IT INTO A SINGLE STORAGE-JAR ON CONDITION THAT HE NOT INTEND TO COMMINGLE [WINE OF DIVERSE QUALITY FOR THE PURPOSE OF FRAUD]. **R. JUDAH** SAYS, “**A STOREKEEPER SHOULD NOT HAND OUT PARCHED CORN AND NUTS TO LITTLE CHILDREN, BECAUSE IN THAT WAY HE MAKES IT THEIR HABIT [TO BUY FROM] HIM.**” **BUT** SAGES PERMIT. **AND** HE SHOULD NOT CUT THE PREVAILING PRICE. **BUT** SAGES SAY, “[**IF HE DOES SO**], HIS MEMORY WILL BE BLESSED.” “**HE SHOULD NOT SIFT CRUSHED BEANS,**” THE WORDS OF **ABBA SAUL.** **AND** SAGES PERMIT. **BUT** THEY CONCEDE THAT HE SHOULD NOT SIFT THEM [SOLELY] AT THE ENTRY OF THE STORAGE BIN, FOR HE WOULD DO SO ONLY TO CREATE A FALSE PICTURE [OF THE QUALITY OF WHAT IS IN THE BIN]. **THEY** DO NOT BEAUTIFY [WHAT THEY SELL] — EITHER MAN, BEAST, OR UTENSILS.

- 1.** **I:1:** R. Abedoma the sailor was steeping his sails in water to improve their appearance. R. Jacob bar Aha said to him, “And have we not learned, They do not beautify [what is up for sale (M. 4:7EE)]?” Is that

to say that it is permitted to beautify food [which is up for sale, since at issue here are utensils]? [Obviously not.]

XXXVI. YERUSHALMI BABA MESIA 5:1

- [A] **WHAT IS INTEREST, AND WHAT IS INCREASE [WHICH IS TANTAMOUNT TO TAKING INTEREST]? WHAT IS INTEREST? HE WHO LENDS A SELA [WHICH IS FOUR DENARS] FOR [A RETURN OF] FIVE DENARS, TWO SEAHs OF WHEAT FOR [A RETURN OF] THREE – BECAUSE HE BITES [OFF TOO MUCH]. AND WHAT IS INCREASE? HE WHO INCREASES [PROFITS] [IN COMMERCE] IN KIND. HOW SO?**
- I:1:** Said R. Yannai, “This [form of usury, described at M. 5:1C, D] Is exacted [from the usurer] at the judges’ [order].”
 - I:2:** What is increase [M. 5:1A]?
 - I:3:** It is written, “You shall not lend him your money at interest, nor give him your food for increase” (Lev. 25:37). I know only that interest applies to money, and increase to produce. That interest may apply to produce, and increase to money, whence do we know? Scripture says, “Take no interest from him or increase” (Lev. 25:36). Interest thereby is linked to increase and increase to interest. Just as interest applies to money, so increase applies to money. Just as increase applies to produce, so interest applies to produce.
- [B] **[IF] ONE PURCHASES FROM ANOTHER WHEAT AT A PRICE OF A GOLDEN DENAR [25 DENARS] FOR A KOR, WHICH [WAS THEN] THE PREVAILING PRICE, AND [THEN WHEAT] WENT UP TO THIRTY DENARS.**
- II:1:** Said R. Ba bar Kahana, “The prevailing price was suitable for both parties. If it was less than this, woe to the seller! If it was more than this, woe to the buyer!” [So the price under discussion is median.]
- [C] **[IF] HE SAID TO HIM, “GIVE ME MY WHEAT, FOR I WANT TO SELL IT AND BUY WINE WITH THE PROCEEDS” ([AND] HE SAID TO HIM, “LO, YOUR WHEAT IS RECKONED AGAINST ME FOR THIRTY DENARS, AND LO, YOU HAVE [A CLAIM OF] WINE ON ME” – BUT HE HAS NO WINE.**
- III:1:** [Now the implication here is that if the other had had wine, he would have handed it over. Accordingly, under that circumstance it would have been a permitted arrangement. Yet at this moment the debtor receives nothing from the creditor. On this basis we must ask,] On what basis would [the creditor] acquire ownership [of the wine, if it were available]?

[D] HE WHO LENDS MONEY TO HIS FELLOW SHOULD NOT LIVE IN HIS COURTYARD FOR FREE. NOR SHOULD HE RENT [A PLACE] FROM HIM FOR LESS [THAN THE PREVAILING RATE], FOR THAT IS [TANTAMOUNT TO] USURY.

1. **IV:1:** A man lent money to his fellow. The latter let him space in his building. Later on the borrower said to the lender, “Pay me the rent for my building.” The lender said to him, “Give me back my money. [I had assumed you would not charge me rent so long as my money was in your hands.]” The case came before R. Ba bar.Mina. He ruled, “Now does [the lender] get what he had imagined was free [merely because he assumed it]? [Obviously not! He was wrong and has no claim at all.]”
2. **IV:2:** It has been taught: There are practices which are both usurious and permitted [not usurious]. How so? One purchases the [right to collect the] loans of his fellow at a discount, and his writs of indebtedness [owed to him by others] at a discount, and need not scruple as to usury. There are matters which are not regarded as usurious, but are nonetheless prohibited because of the possibility of deception for the practice of usury. How so? [If] he said to him, “Lend me a maneh,” [and the other] said to him, “I don’t have a maneh, but take twenty seahs of grain,” even though the other went and purchased it back from him for twenty-four, this does not constitute usury. But such a practice is prohibited because of the possibility of deception for the practice of usury [T. B.M. 4:3].

XXXVII. YERUSHALMI BABA MESIA 5:2

[A] ONE MAY EFFECT AN INCREASE IN THE RENT CHARGE [NOT PAID IN ADVANCE], BUT NOT THE PURCHASE PRICE [NOT PAID IN ADVANCE]. HOW SO? [IF] ONE RENTED HIS COURTYARD TO HIM AND SAID TO HIM, “IF YOU PAY ME NOW [IN ADVANCE], LO, IT’S YOURS FOR TEN SELAS A YEAR, “BUT IF [YOU PAY ME] BY THE MONTH, IT’S A SELA A MONTH” – IT IS PERMITTED. [BUT IF] HE SOLD HIS FIELD TO HIM AND SAID TO HIM, “IF YOU PAY ME THE ENTIRE SUM NOW, LO, IT’S YOURS FOR A THOUSAND ZUZ. “BUT IF YOU PAY ME AT THE TIME OF THE HARVEST, IT’S TWELVE MANEH [1,200 ZUZ]” – IT IS FORBIDDEN. [IF] ONE SOLD HIM A FIELD, AND [THE OTHER] PAID HIM PART OF THE PRICE, AND [THE VENDOR] SAID TO HIM, “WHENEVER YOU WANT, BRING ME THE REST OF THE MONEY, AND [THEN] TAKE YOURS [THE FIELD]” – IT IS FORBIDDEN. [IF] ONE LENT HIM MONEY ON THE SECURITY OF HIS FIELD AND SAID TO HIM, “IF YOU DO NOT PAY ME BY THIS DATE THREE YEARS HENCE, LO, IT IS MINE” – LO, IT IS HIS. AND THUS DID BOETHUS B. ZONIN DO, ON INSTRUCTION OF SAGES.

1. **I:1:** It has been taught: There are practices which are both usurious and permitted [not usurious]. How so? One purchases the [right to collect the] loans of his fellow at a discount, and his writs of indebtedness [owed to him by others] at a discount, and need not scruple as to usury. There are matters which are not regarded as usurious, but are nonetheless prohibited because of the possibility of deception for the practice of usury. How so? [Following T.'s reading:] [If] he said to him, "Lend me a maneh," [and the other] said to him, "I don't have a maneh, but take twenty seahs of grain," even though the other went and purchased it back from him for twenty-four, this does not constitute usury. But such a practice is prohibited because of the possibility of deception for the practice of usury [T. B.M. 4:3].
 - a. **I:2:** Gloss of the foregoing.

XXXVIII. YERUSHALMI BABA MESIA 5:3

[A] THEY SET UP A STOREKEEPER FOR HALF THE PROFIT, OR GIVE HIM MONEY TO PURCHASE MERCHANDISE [FOR SALE] AT [THE RETURN OF THE CAPITAL PLUS] HALF THE PROFIT, ONLY IF ONE [IN ADDITION] PAYS HIM A WAGE AS A WORKER. THEY SET THE HENS [OF ANOTHER PERSON TO HATCH ONE'S OWN EGGS] IN EXCHANGE FOR HALF THE PROFIT, AND ASSESS [AND COMMISSION ANOTHER PERSON TO REAR] CALVES OR FOALS FOR HALF THE PROFIT, ONLY IF ONE PAYS HIM A SALARY FOR HIS LABOR AND HIS UPKEEP. BUT [WITHOUT FIXED ASSESSMENT] THEY ACCEPT CALVES OR FOALS [FOR REARING] FOR HALF THE PROFITS, AND THEY RAISE THEM UNTIL THEY ARE A THIRD GROWN — AND AS TO AN ASS, UNTIL IT CAN CARRY [A BURDEN], [AT WHICH POINT PROFITS ARE SHARED].

1. **I:1:** [Explaining the meaning of setting up a storekeeper for half the profit, M. 5:3A, and similar such arrangements:] A man lends his fellow money, saying to him, "Take two *denars* as your wage, and what [the remainder] produces will be yours and mine [equally divided]."
2. **I:2:** It was taught: He who hands over money to his fellow to buy produce for half the profits, and in the end [the latter] said to him, "I didn't buy anything" — [the former] has no stronger claim on him than a mere complaint. But if there are witnesses [to the fact that] the latter had actually bought and sold, they exact [the proceeds and the return of capital] from him by force [T. B.M. 4:22]. He who hands over money to his fellow to buy produce for half the profits, and one of them wanted to leave the money where it is [for future commercial

transactions] – his fellow has the right to stop him [and to insist on keeping the terms of the original agreement alone]. [Y. omits: R. Judah says,] “If it was the year prior to the seventh year, it is [Y.: not] permitted to do so, “for to begin with the two of them purchased them only for that purpose” [T. B.M. 4:18]. He who hands over money to his fellow to buy produce for half the profits and said to him, “Here is a maneh [for your share,]” and he is not able to give a detailed accounting – lo, it is prohibited. [If] he saw that produce had gone up in price and said to him, lo, it is permitted [T. B.M. 4:17]. He who hands over money to his fellow to buy produce for half the profits – the one who does the purchasing has the right to buy that same kind [both with his own money and with the common funds], and when he sells, he may not sell the entire amount all at once, but [the gram purchased with] this fund by itself, and [the grain purchased with] that fund by itself [T. B.M. 4:21D-H]. He who hands over money to his fellow to buy produce for half the profits – the one who does the purchasing has the right to buy anything he wants, except that he is not to buy clothing or wood with the money [T. B.M. 4:21A-C].

- 3. I:3:** This one was bringing produce from a place in which it was expensive to a place in which it was cheap, and one said to him, “Hand them over to me, and I will provide you with others in the place in which they are expensive in accord with the lower price, out of produce which I have,” – [Following T.’s version:] if he has produce in that place, it is permitted [since it is not speculation on lines of increase]. But if he does not have, it is prohibited [T. B.M. 4:8A- D]. [Y.’s version: If it is on the condition that the bearer make up any loss, the donor is prohibited, the recipient permitted. (It is not in the status of a loan, since the recipient bears the potential loss.)] If one was bringing a bundle from one place to another, and he said to him, “Hand it over to me, and I shall hand it over just as you hand it over to me in such-and-such a place,” in a case in which the responsibility [to replace the bundle if it is lost,] is the donor’s, it is permitted. But [if such responsibility devolves on the one] who receives it, it is prohibited [T. B.M. 4:7]. But ass-drivers may accept [orders for] produce from a householder and put it up for sale in a place in which it is expensive, [Y. omits:] paying the cheaper price to the householder, and they do not have to scruple [about the prohibition on interest] [T. 4:8E-G].

XXXIX. YERUSHALMI BABA MESIA 5:4

[A] THEY ASSESS [AND PUT OUT FOR REARING] A COW, AN ASS, OR ANYTHING WHICH WORKS FOR ITS KEEP, FOR HALF THE PROFITS. IN A LOCALE IN WHICH THEY ARE ACCUSTOMED TO DIVIDE UP THE OFFSPRING FORTHWITH, THEY DIVIDE IT FORTHWITH. IN A PLACE IN WHICH THEY ARE ACCUSTOMED TO RAISE THE OFFSPRING, THEY RAISE. RABBAN SIMEON B. GAMALIEL SAYS, “THEY ASSESS [AND PUT OUT] A CALF WITH ITS DAM, A FOAL WITH ITS DAM.” (AND) ONE MAY PAY INCREASED RENT [IN EXCHANGE FOR A LOAN FOR THE IMPROVEMENT OF] ONE’S FIELD, AND ONE NEED NOT SCRUPLE BY REASON OF INTEREST.

- 1.** **I:1:** It has been taught: One assesses [and takes for rearing] from his fellow a beast, on the stipulation of providing him with a calf or a shearing [in the case of a sheep] once a year; chickens, on the stipulation of providing ten eggs a month. She who assesses [and takes over] chickens [for rearing] from her fellow woman takes care of the chicks so long as they need their mother [T. B.M. 5:5]. A]
- 2.** **I:2:** He who assesses and takes over the rearing of a beast from his fellow – how long is he liable to] take care of it? In the case of small cattle, for thirty days. In the case of large cattle, fifty days. R. Yosé says, “In the case of small cattle, three months, “because they take a great deal of tending.” Beyond this [time] in the case of all of them, if it was the share of the householder, one makes an assessment for him. and they should not vary from the prevailing practice of the province [T. B.M.. 5:7].
- 3.** **I:3:** He who assesses [and takes over the rearing of] a unclean beast from his fellow – how long is he liable to take care of it in the case of offspring? Sumkhos says, “In the case of corralled beasts [small ones], twelve months. “In the case of asses, twenty-four months.” And if [the rancher] laid claim upon him [for his share] during the stated time, they effect an assessment. If it is afterward, they do not effect an assessment. But the care to be given during the first year is not equivalent to that which is to be given in the second year [T. B.M. 5:8].
- 4.** **I:4:** He who assesses [and takes over the rearing of] a beast from his fellow [Y. needlessly adds: is (liable) for no less than twelve months]. [If the beast] died through willful negligence, he pays its entire value. [If it did] not die through willful negligence, he pays half. [Y. omits: For thus does he state in writing to him, “If it dies through willful negligence, I shall pay its entire value; if it dies not through willful negligence, I shall pay half” (T. B.M. 5:10).] [Y. adds: How so?] [If]

he assessed it [and took over the rearing] when it was worth a maneh and it increased in value so that, lo, it is now worth two hundred zuz – [if] it died through willful negligence, he pays six golden denars. [If it died] not through willful negligence, he pays only fifty zuz [T. B..M. 5:11].

5. **I:5:** He who assesses [and takes over the care of] a beast from his fellow does not tend it less than twelve months. If he had worked with it throughout the dry season and wants to sell it off in the rainy season, [the original owner] has the power to stop him [Y.: They force him to feed it throughout the rainy season]. [T. adds:] so that he works with it throughout the rainy season as well [T. B.M. 5:9].
6. **I:6:** It was taught: Rabban Simeon b. Gamaliel says, “...They pay increased rent [in exchange for a loan for the improvement of] one’s field” and need not scruple, etc. [M. 5:4F-G]. “How so? “[If] one has accepted the tenancy of a field in exchange for ten kors of wheat, and then said to him, ‘Give me two hundred denars [Y.: one sela], [Y. omits:] and I shall fertilize it, and then I’ll pay you twelve kors [of wheat] in a year’s time’ [Y.: at harvest time]” – “it is permitted” [T. B.M. 5:13A-E].

XL. YERUSHALMI BABA MESIA 5:5

[A] THEY DO NOT ACCEPT FROM AN ISRAELITE A FLOCK ON “IRON TERMS” [THAT THE ONE WHO TENDS THE FLOCK SHARES THE PROCEEDS OF THE FLOCK BUT RESTORES THE FULL VALUE OF THE FLOCK AS IT WAS WHEN IT WAS HANDED OVER TO HIM, SO THAT THE OTHER IS “NEAR TO PROFIT AND FAR FROM LOSS”], BECAUSE THIS IS INTEREST. BUT THEY DO ACCEPT A FLOCK ON “IRON TERMS” FROM GENTILES.

1. **I:1:** Now what is the meaning of an “iron sheep” contract? [If there were a hundred sheep, and he said to him, “Lo, they are counted against your account for a hundred golden denars, and the offspring and the shearing belong to you, and if they die, you are liable to make them up to me, and you must pay over to me a sela for each and every one at the end” – it is prohibited [T. B.M. 5:14D-F].
2. **I:2:** [Since the present rule, M. 5:5A, deems the flock to fall within the domain of the recipient thereof – the second party to the transaction – who thus is prohibited from accepting the flock on “iron terms,” we must inquire as to the theory of a parallel case, M. Bekh. 2:4, which deems the flock on these terms to remain within the domain of the

donor of the flock – the first party to the transaction. Thus] R. Jeremiah raised the question, “There [at M. Bekh. 2:4, which states He who receives under contract to raise and share in the profits a flock from a gentile on iron terms – the offspring are exempt from the law of the firstling, since a gentile is a partner in the undertaking], you state that the iron flock remains in the domain of the first party to the transaction [the gentile donor], while here [at M. 5:5A-B], you deem the iron flock to fall into the responsibility of the second party to the transaction [the Israelite recipient]. [Why the difference?]”

[B] AND THEY BORROW FROM THEM AND LEND TO THEM ON TERMS OF INTEREST. AND SO IS THE RULE FOR THE RESIDENT ALIEN.

- 1. II:1:** Rabbi said, “A sojourner to which reference is made in regard to a Hebrew slave – I do not know the meaning of that reference.” [The context is defined by two verses, Lev. 25:39-40, which states, “And if your brother becomes poor beside you, and sells himself to you, you shall not make him serve as a slave: he shall be with you as a hired servant and as a sojourner”; and Lev. 25:47, “If a stranger or sojourner with you becomes rich, and your brother beside him becomes poor and sells himself to the stranger or sojourner with you...” The latter reference then is to a resident alien, not a proselyte. Rabbi does not know by what right the former buys a Hebrew slave at all.] Nor do I know the meaning of ‘sojourner’ which is stated with reference to usury. [One may not take interest from him, according to M. 5:5E, but not according to Lev. 25:35-36.]

[C] AN ISRAELITE MAY LEND OUT THE CAPITAL OF A GENTILE ON THE SAY-SO OF THE GENTILE, BUT NOT ON THE SAY-SO OF AN ISRAELITE. [IF THE GENTILE HAD BORROWED MONEY FROM AN ISRAELITE, ONE MAY NOT LEND IT OUT ON INTEREST WITH THE ISRAELITE’S KNOWLEDGE AND CONSENT.]

- 1. III:1:** An Israelite may lend out the capital of a gentile on the say-so of the gentile, but not on the say-so of an Israelite (M. 5:5F-G). An Israelite who borrowed money from a gentile and wants to pay it back to him – [if] his fellow came upon him and said to him, “Give it to me, and I’ll hand it over for you [on the same terms] just as you would hand it over to him” – it is prohibited. But if he made this request from the gentile, it is permitted [T. B.M. 5:16]. A gentile who borrowed money from an Israelite and wants to pay it back to him – [If] another Israelite came upon him and said to him, “Give them to me just as you would have given them to him” [Y.: “and I shall pay him interest”] – it is permitted. But if he made this request from the Israelite, it is prohibited [T. B.M. 5:17].

2. **III:2:** “An Israelite who borrowed money from a gentile – or a gentile who borrowed money from an Israelite – “and [the gentile] converted [to Judaism], whether he encumbered him with the loan before he converted or whether he encumbered him with the loan after he converted – “one collects the principal, but does not collect the interest,” the words of R. Meir. R. Yosé says, “An Israelite who borrowed money from a gentile and [the gentile] converted, “whether he encumbered him with the loan before he converted or whether he did not encumber him with the loan prior to the conversion “[the convert] collects the principal and also collects the interest.” [But if he made the loan] after he converted, he collects the principal but in no way has a right to collect the interest [T. B.M. 5:21]
3. **III:3:** A man borrows money from his wife and children on usurious terms. But thereby he teaches them to practice usury [T. B.M. 5:15]
4. **III:4:** An Israelite is not permitted to borrow a sheqel and to lend out a sela. But a gentile is permitted to borrow a sheqel and to lend out a sela [T. B.M. 5:15]. [If] an Israelite borrows from a gentile, and a gentile borrows from an Israelite, the Israelite may serve as a guarantor of the loan [of the gentile, on interest], and need not scruple about to violating the prohibition against usury] [T. B.M. 5:20E-G]. An Israelite who is made a guardian for the estate of a gentile, or a bailiff, is permitted to lend out money of his on interest. And a gentile who is made guardian of the estate of an Israelite or a bailiff is prohibited from lending out money of his on interest [T. B.M. 5:20A-D]. Money belonging to an Israelite left as a bailment with a gentile – it is permitted [for the latter] to lend the money out on interest. But that of a gentile left as a bailment with an Israelite – it is prohibited [for the latter] to lend the money out on interest. This is the governing principle: In any case in which the deposited funds fall under the responsibility of an Israelite [to be made up should they be lost], [usury] is prohibited. In any case in which the deposited funds fall under the responsibility of a gentile [to be made up should they be lost], [usury] is permitted IT. B.M. 5:19].

XLI. YERUSHALMI BABA MESIA 5:6

[A] THEY DO NOT STRIKE A BARGAIN FOR THE PRICE OF PRODUCE BEFORE THE MARKET PRICE IS ANNOUNCED. [ONCE] THE MARKET PRICE IS ANNOUNCED, THEY STRIKE A BARGAIN, FOR EVEN THOUGH THIS ONE DOES NOT HAVE [THE

PRODUCE FOR DELIVERY], ANOTHER ONE WILL HAVE IT [SO THIS IS NOT TRADING IN FUTURES].

1. **I:1:** What is the law as to striking a bargain for the price of produce set in the Saracens' market [that is, a market held at irregular times]? R. Yohanan said, "They strike a bargain [under the stated circumstance]." R. Simeon b. Laqish said, "They do not strike a bargain."

a. **I:2:** The house of R. Yannai say, "They strike a price for the price of fodder."

[B] **[If] ONE WAS THE FIRST AMONG THE REAPERS [OF A GIVEN CROP], HE MAY STRIKE A BARGAIN WITH HIM FOR (1) GRAIN [ALREADY] STACKED [ON THE THRESHING FLOOR], OR FOR (2) A BASKET OF GRAPES, OR FOR (3) A VAT OF OLIVES, OR FOR (4) THE CLAY BALLS OF A POTTER, OR FOR (5) LIME AS SOON AS THE LIMESTONE HAS SUNK IN THE KILN. AND ONE STRIKES A BARGAIN FOR THE PRICE OF MANURE EVERY DAY OF THE YEAR [SINCE THE RATE OF PRODUCTION IS CONSTANT].**

1. **II:1:** Rab said, "If the crop was lacking a single stage in its processing, it is permitted to strike a bargain for the price. If it was lacking a number of stages in its processing, one does not strike a bargain for the price thereof." R. Yohanan and R. Simeon b. Laqish both say, "Even if it is lacking in a number of stages in its processing, they do strike a bargain for the price."

a. **II:2:** Abba bar Zamina gave a denar to the baker and bought bread from him at the lowest prevailing price throughout the year. Now Rab did not approve this arrangement [seeing it as payment for waiting for repayment for the money].

b. **II:3:** R. Eleazar gave some money to someone, saying to him, "What the capital produces between now and Hanukkah will be mine. From then on, I have no claim on you. If they diminish in value or increase in value, the whole is against your account [whether profit or loss; just return the original capital]."

[C] **R. YOSÉ SAYS, "THEY DO NOT STRIKE A BARGAIN FOR MANURE BEFORE THE MANURE IS ON THE DUNG HEAP." AND SAGES PERMIT. AND ONE MAY STRIKE A PRICE AT THE HEIGHT [OF THE MARKET, THE CHEAPEST RATE PREVAILING AT THE TIME OF DELIVERY]. R. JUDAH SAYS, "EVEN THOUGH ONE HAS NOT MADE A BARGAIN AT THE CHEAPEST RATE [PREVAILING AT THE TIME OF DELIVERY], ONE MAY SAY TO HIM, 'GIVE IT TO ME AT SUCH-AND-SUCH A RATE, OR GIVE ME BACK MY MONEY.'" A MAN MAY LEND HIS TENANT FARMERS WHEAT [TO BE REPAID IN] WHEAT, [IF] IT IS FOR SEED, BUT NOT [IF IT IS] FOR FOOD, FOR RABBAN GAMALIEL WOULD LEND HIS TENANT FARMERS WHEAT [TO BE REPAID**

IN] WHEAT [WHEN IT WAS USED] FOR SEED. [IF ONE LENT THE WHEAT WHEN THE PRICE WAS] HIGH AND [WHEAT] BECAME CHEAP, [OR IF HE LENT THE WHEAT WHEN THE PRICE WAS] CHEAP AND [WHEAT] BECAME EXPENSIVE, HE WOULD COLLECT FROM THEM AT THE CHEAPEST PRICE, NOT BECAUSE THAT IS WHAT THE LAW REQUIRES, BUT BECAUSE HE WISHED TO IMPOSE A STRICT RULE UPON HIMSELF.

1. **III:1:** Both R. Yosé [who says, “They do not strike a bargain for manure before the manure is on the dung heap” (M. 5:6K)] and R. Eleazar b. Azariah say the same thing, for we have learned there: If one has only a little manure, he may place it on the field and go on adding to it. R. Eleazar b. Azariah forbids this, unless it is heaped in a particular location three handbreadths above or below ground level, or laid on rocky ground (M. Shebiit 3:3).

XLII. YERUSHALMI BABA MESIA 5:7

[A] A MAN SHOULD NOT SAY TO HIS FELLOW, “LEND ME A KOR OF WHEAT, AND I’LL PAY YOU BACK AT [A KOR OF WHEAT] AT THRESHING TIME.” BUT HE SAYS TO HIM, “LEND IT TO ME UNTIL MY SON COMES [BRINGING ME WHEAT]”, OR, “... UNTIL I FIND THE KEY”

1. **I:1:** It was taught, A man should not say to his fellow, “Lend me a kor of wheat, and I’ll pay you back a kor of wheat at threshing time” [M. 5: 7A]. Lo, if it is for two or three weeks, it is permitted.

[B] HILLEL PROHIBITS [EVEN THIS PROCEDURE]. AND SO DOES HILLEL SAY, “A WOMAN SHOULD NOT LEND A LOAF OF BREAD TO HER GIRL FRIEND UNLESS SHE STATES ITS VALUE IN MONEY. “FOR THE PRICE OF WHEAT MAY GO UP, AND THE TWO WOMEN WILL TURN OUT TO BE INVOLVED IN A TRANSACTION OF USURY.”

2. **II:2:** Samuel said, “The law is in accord with Hillel.”

XLIII. YERUSHALMI BABA MESIA 5:8

[A] A MAN [MAY] SAY TO HIS FELLOW, “WEED WITH ME, AND I’LL WEED WITH YOU,” “HOE WITH ME, AND I’LL HOE WITH YOU.” BUT HE [MAY] NOT SAY TO HIM, “WEED WITH ME, AND I’LL HOE WITH YOU,” “HOE WITH ME, AND I’LL WEED WITH YOU.” ALL THE DAYS OF THE DRY SEASON ARE DEEMED EQUIVALENT TO ONE ANOTHER. ALL THE DAYS OF THE RAINY SEASON ARE DEEMED EQUIVALENT TO ONE ANOTHER. ONE SHOULD NOT SAY TO HIM, “PLOUGH WITH ME IN THE

DRY SEASON, AND I'LL PLOUGH WITH YOU IN THE RAINY SEASON.” RABBAN GAMALIEL SAYS, “THERE IS USURY PAID IN ADVANCE, AND THERE IS USURY PAID AT THE END. “HOW SO? “[IF] ONE WANTED TO TAKE A LOAN FROM SOMEONE AND SO SENT HIM [A PRESENT] AND SAID, ‘THIS IS SO THAT YOU’LL MAKE A LOAN TO ME,’ – “THIS IS USURY PAID IN ADVANCE. “[IF] ONE TOOK A LOAN FROM SOMEONE AND PAID HIM BACK THE MONEY AND [THEN] SENT [A GIFT] TO HIM AND SAID, ‘THIS IS FOR YOUR MONEY, WHICH WAS USELESS [TO YOU] WHEN IT WAS IN MY HANDS,’ – “THIS IS USURY PAID AFTERWARD.” R. SIMEON SAYS, “THERE IS USURY PAID IN WORDS. “ONE MAY NOT SAY TO HIM, ‘YOU SHOULD KNOW THAT SO-AND-SO FROM SUCH-AND-SUCH A PLACE IS ON HIS WAY.’” THESE [WHO PARTICIPATE IN A LOAN ON INTEREST] VIOLATE A NEGATIVE COMMANDMENT: (1) THE LENDER, (2) BORROWER, (3) GUARANTOR, AND (4) WITNESSES. SAGES SAY, “ALSO (5) THE SCRIBE.” (1) THEY VIOLATE THE NEGATIVE COMMANDMENT, “YOU WILL NOT GIVE [HIM] YOUR MONEY UPON USURY” (LEV. 25:37). (2) AND [THEY VIOLATE THE NEGATIVE COMMAND], “YOU WILL NOT TAKE USURY FROM HIM” (LEV. 25:36). (3) AND [THEY VIOLATE THE NEGATIVE COMMAND], “YOU SHALL NOT BE A CREDITOR TO HIM” (EX, 22:25). (4) AND [THEY VIOLATE THE NEGATIVE COMMAND], “NOR SHALL YOU LAY UPON HIM USURY” (EX. 22:25). (5) AND THEY VIOLATE THE NEGATIVE COMMAND, “YOU SHALL NOT PUT A STUMBLING BLOCK BEFORE THE BLIND, BUT YOU SHALL FEAR YOUR GOD. I AM THE LORD” (LEV. 19:14)

1. I:1: Said R. Yosé, “Come and see how blind are the eyes of those who lend at usurious rates. “A man calls his fellow an idol worshipper, one who has unlawful sexual relations, a shedder of blood, “and hounds him to deprive him of a livelihood. “Then this one brings a scribe, pen, ink, document, and witnesses, “and says to them, ‘Come and write concerning him that he has denied the Omnipresent [T.: no share in the One who commanded concerning usury].’ [Y. lacks: “And he writes the document and registers it in the archives [of the gentiles] “and so denies Him who *spoke* and thereby brought the world into being, blessed be He.] “Thus you have learned that those who lend at usurious rates deny the principle [of divine authority].” R. Simeon b. Eleazar says, “More than denying the principle do they deny [T.: More than they make they lose]. For they make the Torah into a fraud, and Moses into a fool. They say, ‘Now if Moses knew how much we would make, he would never have written [the prohibition of usury!’” R. Aqiba says, “Usury is hard, for even a favor may be usury. “Lo, if he decided to buy vegetables from him in the marketplace [to whom he owed money], even though he paid him the money which was owing, lo, this favor constitutes usury.” R. Simeon says, “Usury is hard, “for even a very greeting is a matter of usury. “How so? “This one never

greeted the other in his entire life, until he had to borrow money from him. Now he rushes to greet him. “So this is a greeting which is usury” [cf. M 5:8N] [T. B.M. 6:17].

XLIV. YERUSHALMI BABA MESIA 6:1

[A] HE WHO HIRES CRAFTSMEN, AND ONE PARTY DECEIVED THE OTHER –

- 1. I:1:** What is the meaning of “one party deceived the other”? “Come and work with me,” [says one craftsman to another, the former being employed by a householder]. “The work [which you will perform] with me is worth five *denars*.” Then they found that the work was worth ten denars. “Come and work with me, and you will have ten days of work,” and they went and found only five days of work. What is the meaning of “the householder deceived them”? “Come and work with your fellow-workers, for they are doing work worth ten denars,” and the workers found that the work was worth only five denars. “Come and work with your fellows, and the job will last for five days,” and they came and found it was a job for ten days.

[B] ONE HAS NO CLAIM ON THE OTHER PARTY EXCEPT A COMPLAINT [WHICH IS NOT SUBJECT TO LEGAL RECOURSE]. [If] ONE HIRED AN ASS DRIVER OR WAGON DRIVER TO BRING PORTERS AND PIPES FOR A BRIDE OR A CORPSE, OR WORKERS TO TAKE HIS FLAX OUT OF THE STEEP, OR ANYTHING WHICH GOES TO WASTE [IF THERE IS A DELAY], AND [THE WORKERS] WENT BACK ON THEIR WORD – IN A SITUATION IN WHICH THERE IS NO ONE ELSE [AVAILABLE FOR HIRE], HE HIRES OTHERS AT THEIR EXPENSE, OR HE DECEIVES THEM [BY PROMISING TO PAY MORE AND THEN NOT PAYING UP MORE THAN HIS ORIGINALLY STIPULATED COMMITMENT].

- 1. II:1:** Under what circumstances [does M. 6:1C apply]? When the ass-drivers did not go at all. But [if] he hired ass-drivers, [and] they came but he did not find [grain], or [if] he hired workers to weed a field and they came and found his field wet [and not suitable for weeding], he pays them wages for making the round trip. And one who comes bearing a burden is not equivalent to one who comes empty-handed. And one who actually does the work is not equivalent to one who sits and does nothing [T. B.M. 7:1E -K].
- 2. II:2:** Under what circumstances? In a case in which they did not begin [the work]. [Y. lacks: But if they had actually begun the work, lo, they make an estimate for him (of how much work actually had been done). How so?] [If] one undertook [for the householder] to cut down his

standing grain for two selas, [and] he had cut down half of it and left half of it, [or if he undertook] to weave a cloak for two selas, and had woven half of it and had left half of it – lo, these make an estimate for him. How do they make an estimate for him? [If] what he had made was worth six denars, they hand over to him a sela [four denars], or he completes his work [and gets the originally stipulated two selas]. And if it was worth a sela, they hand over to him a sela. R. Dosa says, “They make an estimate of the value of what is going to be made. “If that which was going to be made was worth five denars, they give him a sheqel, [two denars], or he finishes the work. “And if it was worth a sheqel, they give him a sheqel” [T. B.M. 7:1L-Z].

3. **II:3:** Under what circumstances? in the case of something which does not go to waste. But in the case of something which goes to waste [if there is a delay] [M. 6:1F], he hires others at their expense, or deceives them [by promising to pay more and then not giving more than his originally stipulated commitment] [M. 6:1J]. How so? He says to [the worker], “I agreed to pay you a *sela*. Lo, I’m going to give you two.” He goes and hires workers from another location, then comes and~takes the money from this party and hands it over to that party [T. B.M. 7:1AA-HH].
4. **II:4:** Under what circumstances? In a situation in which he comes to an agreement with him while he cannot find others to hire. But if he saw ass-drivers coming along, [the worker] says to him, “Go and hire one of these for yourself.” And he has no claim on the other party except a complaint [T. B.M. 7:1II-MM]. He who hires a boat, and it unloaded his goods in the middle of the wharf has no claim against it except a complaint [T. B.M. 7:2].

XLV. YERUSHALMI BABA MESIA 6:2

[A] HE WHO HIRES CRAFTSMEN AND THEY RETRACTED — THEIR HAND IS ON THE BOTTOM. IF THE HOUSEHOLDER RETRACTS, HIS HAND IS ON THE BOTTOM. WHOEVER CHANGES [THE ORIGINAL TERMS OF THE AGREEMENT] — HIS HAND IS ON THE BOTTOM. AND WHOEVER RETRACTS — HIS HAND IS ON THE BOTTOM.

1. **I:1:** [The reason that a worker may retract is this:] Rab said, “‘For to me the people of Israel are slaves; they are my slaves whom I brought forth out of the land of Egypt; I am the Lord your God’ (Lev. 25:55). Israelites do not buy one another. [M. then refers to a free man. He has no right to retract, and if he does, M. 6:2B follows.]”

XLVI. YERUSHALMI BABA MESIA 6:3

[A] **HE** WHO RENTS OUT AN ASS TO DRIVE IT THROUGH HILL COUNTRY BUT DROVE IT THROUGH A VALLEY, TO DRIVE IT THROUGH A VALLEY BUT DROVE IT THROUGH THE HILL COUNTRY, EVEN THOUGH THIS ROUTE IS TEN MILS AND THAT ROUTE IS TEN MILS, AND [THE ASS] DIED — [THE ONE WHO RENTED IT IS] LIABLE. **HE** WHO RENTS OUT AN ASS TO DRIVE IT THROUGH HILL COUNTRY, BUT HE DROVE IT THROUGH A VALLEY. IF IT SLIPPED, IS EXEMPT. **BUT** IF IT SUFFERED HEAT PROSTRATION, HE IS LIABLE. [IF HE HIRED IT OUT] TO DRIVE IT THROUGH A VALLEY, BUT HE DROVE IT THROUGH HILL COUNTRY, IF IT SLIPPED, HE IS LIABLE. **AND** IF IT SUFFERED HEAT PROSTRATION, HE IS EXEMPT. **BUT** IF IT WAS ON ACCOUNT OF THE ELEVATION, HE IS LIABLE.

1. **I:1:** It is reasonable to state that [if one rented the beast for use in the mountain, but] he used it in the valley, [that the one who made use of it should be liable, since we may say that the poor air in the valley caused the beast to expire under its burden]. But [why should one be liable if he rented the beast for use] in a valley, but he brought it up to the mountain? [Here the air is good, and it was an improvement in the conditions of utilization of the beast. So how are we to account for this latter rule?]

[B] **HE** WHO RENTS OUT AN ASS, AND IT WENT BLIND

1. **II:1:** for lightning struck [the ass, affecting the eyesight].

[C] **OR** WAS SEIZED FOR ROYAL SERVICE — [THE ONE WHO PROVIDED IT HAS THE RIGHT TO] SAY TO [THE ONE WHO RENTED IT], “**HERE’S YOURS RIGHT BEFORE YOU**” [AND HE NEED NOT REPLACE IT FOR THE STATED PERIOD].

1. **III:1:** Or it was seized for royal service [M. 6:3F]. There are Tannaim who teach, “Seizure for royal service is tantamount to the death of the beast, [and one who rented it out has to supply another].” And there are Tannaim who teach, “The one who supplied it m
2. **III:2:** It was taught: R. Simeon b. Eleazar says, “If it was in its normal course that it was seized, [the one who rented it out] is not liable to provide him with another ass. [If it was] not in its normal course [that it was seized, the one who rented it out] is liable to provide him with another ass” [T. B.M. 7:7/I-J].

[D] [IF] IT DIED OR BROKE A LEG, [THE ONE WHO PROVIDED IT OUT] IS LIABLE TO PROVIDE HIM WITH ANOTHER ASS. **HE** WHO HIRES A COW TO PLOUGH IN THE HILL COUNTRY BUT PLOUGHED IN THE VALLEY, IF THE PLOUGH-SHARE WAS

BROKEN, IS EXEMPT. [IF HE HIRED THE COW TO PLOUGH] IN THE VALLEY AND PLOUGHED IN THE HILL COUNTRY, IF THE PLOUGH-SHARE WAS BROKEN, HE IS LIABLE. [IF HE HIRED A COW TO] THRESH PULSE AND HE THRESHED GRAIN, [IF THE COW SLIPPED AND FELL], HE IS EXEMPT. [IF HE HIRED IT] TO THRESH GRAIN AND HE THRESHED PULSE, [IF THE COW SLIPPED AND FELL], HE IS LIABLE, BECAUSE PULSE IS SLIPPERY.

1. **IV:1:** R. Yohanan said, “[That is so when the one who rented *it* had specified,] ‘an ass,’ without further explanation. But if he had said to him, ‘This particular ass,’ then the one who had provided it has the right to say to him, ‘This is the one you wanted. Bring it before us.’ [The one who had utilized the ass now has no claim on the other party.]”

XLVII. YERUSHALMI BABA MESIA 6:4

[A] **HE WHO HIRED AN ASS TO CARRY WHEAT ON IT AND HE CARRIED BARLEY ON IT IS LIABLE. [IF HE HIRED IT TO CARRY] WHEAT AND CARRIED STRAW ON IT, HE IS LIABLE, SINCE THE [GREATER] BULK IS HARD TO CARRY. [IF HE HIRED IT] TO CARRY A LETEKH OF WHEAT AND IT CARRIED A LETEKH OF BARLEY, HE IS EXEMPT. BUT IF HE ADDED TO ITS BURDEN, HE IS LIABLE. AND HOW MUCH DOES HE ADD TO ITS BURDEN SO AS TO BE LIABLE? SUMKHOS SAYS IN THE NAME OF R. MEIR, “A SEAH FOR A CAMEL, AND THREE QABS FOR AN ASS.”**

1. **I:1:** And how much does he add to its burden so as to be liable? Sumkhos says in the name of R. Meir, “A qab for a porter [one that carries on his shoulder], three seahs for a wagon, and as to a boat, in accord with dimensions” [M. 6:SG-I] [T. B.M. 7:10].
2. **I:2:** A caravan which was passing through the wilderness, and a band of brigands fell on it and seized [a ransom] – they make a reckoning in accord with the property loss, and they do not make a reckoning in accord with the number of people. But if they had sent out a pathfinder before them, they also make a reckoning of the number of people. But in any event they do not vary from the accepted practice governing those who travel in caravans [T. B.M. 7:13]. A boat which was coming along in the sea and a storm hit it, so that they had to unload some of the cargo – they make a reckoning in accord with the property loss, and they do not make a reckoning in accord with the number of people. But in any event they do not vary from the accepted practice of sailors. But he who rents out to his fellow a boat or a wagon – they reckon the cost in accord both with the burden and with the number of people

to be carried. But they do not reckon the cost in accord with [one's property's capacity to pay] [T. B.M. 7:14].

- 3.** **I:3:** A caravan which was traveling along in the wilderness, and a troop of brigands attacked it, and one of them went and saved [the property] – what he saved, he has saved for the common fund [of all participants]. But if he made a stipulation with them in a court, what he has saved he has saved for his own possession. Ass-drivers who were going along the way, and a band of thugs attacked them, and one of them went and saved [the property] – what he has saved, he has saved for the common fund [of all participants]. But if they had given him domain, what he has saved he has saved for his own possession. Partners whom tax farmers forgave part of their taxes – what they have remitted falls to the common fund shared by both parties. But if [the tax collectors] declared, “It is for Mr. So-and-so that we have remitted the taxes,” then what they have remitted falls to the advantage of [Mr. So-and-so] [T. B.M. 8:25]. As to tax farmers and tax collectors, doing penitence is difficult. They return [what they can to those whom they] recognize. And of the rest [of the taxes they propose to hand back], they make use for the public good [T. B.M. 8:26].

XLVIII. YERUSHALMI BABA MESIA 6:5

[A] **ALL CRAFTSMEN ARE IN THE STATUS OF PAID BAILEES [RESPONSIBLE FOR BOTH NEGLIGENCE AND THEFT]. BUT ANY OF THEM WHO SAID, “TAKE WHAT IS YOURS AND PAY ME OFF [BECAUSE THE JOB IS DONE]” [ENTERS THE STATUS OF] AN UNPAID BAILEE [RESPONSIBLE FOR NEGLIGENCE BUT NOT THEFT]. [IF ONE PERSON SAID TO ANOTHER], “YOU KEEP WATCH FOR ME, AND I’LL KEEP WATCH FOR YOU,” [BOTH ARE] IN THE STATUS OF A PAID BAILEE.**

- 1.** **I:1:** An agreement allowing the creditor the use of a pledged object [in place of interest on the loan] constitutes usury [cf. M. 6:5J-L].

[B] **“KEEP WATCH FOR ME,” AND THE OTHER SAID TO HIM, “LEAVE IT DOWN BEFORE ME,” [THE LATTER] IS [IN THE STATUS OF] UNPAID BAILEE. [IF ONE MADE] A LOAN AND TOOK A PLEDGE, HE IS IN THE STATUS [AS TO CARE OF THE PLEDGE] OF A PAID BAILEE. R. JUDAH SAYS, “[IF] HE LENT HIM MONEY, HE IS IN THE STATUS OF AN UNPAID BAILEE.**

- 1.** **II:1:** Samuel said, “[The rule of M. 6:5E] applies in a case in which he said to him, ‘Put it down before me.’ But if he had said to him, ‘Put it down before yourself,’ he is neither an unpaid bailee nor a paid bailee. [There is no agreement at all.]”

[C] [IF] HE LENT HIM PRODUCE, HE IS IN THE STATUS OF A PAID BAILEE.” ABBA SAUL SAYS, “IT IS PERMITTED FOR A PERSON TO PUT OUT ON HIRE A PLEDGE LEFT BY A POOR MAN, “AND SO REDUCE [THE DEBT] ON ITS ACCOUNT LITTLE BY LITTLE, “FOR HE IS LIKE ONE WHO GIVES BACK WHAT SOMEONE HAS LOST.”

1. **III:1:** [As to the reasoning of Judah, M. 6:5H, If he lent him produce, he is in the status of a paid bailee in respect to the pledge,] said R. Yohanan, “Someone is glad to give an amount of money and to sell off his produce through [receiving] a pledge.”

XLIX. YERUSHALMI BABA MESIA 6:6

[A] [THE BAILEE] WHO MOVES A JAR FROM ONE PLACE TO ANOTHER AND BROKE IT, WHETHER HE IS AN UNPAID BAILEE OR A PAID BAILEE, MUST TAKE AN OATH [THAT THE JAR WAS BROKEN BY ACCIDENT AND NOT THROUGH HIS WILLFUL NEGLIGENCE, AND SO HE IS EXEMPT FROM HAVING TO MAKE IT UP]. **R.** ELIEZER SAYS, “IN EITHER CASE HE IS TO TAKE AN OATH. “BUT I WONDER WHETHER EITHER THIS ONE OR THAT ONE CAN IN FACT TAKE A [VALID] OATH.”

1. **I:1:** R. Nehemiah taught, “A potter gave his pots to someone [who received a fee, but who broke the pots]. The potter took his cloak [as compensation]. The other party came before R. Yosé bar Haninah. He said to him, ‘Go and say to the potter, ‘So you will walk in the way of good men’ (Prov. 2:20). He went and cited the verse of Scripture to the potter, who returned his cloak. Yosé] then asked him, ‘And did he pay your fee in addition?’ He said to him, ‘No.’ He said to him, ‘Go and say to the potter, ‘And keep to the paths of the righteous’ (Prov. 2:20). He did so and the potter paid him his fee as well.”

L. YERUSHALMI BABA MESIA 7:1

[A] HE WHO HIRES [DAY] WORKERS AND TOLD THEM TO START WORK EARLY OR TO STAY LATE — IN A PLACE IN WHICH THEY ARE ACCUSTOMED NOT TO START WORK EARLY OR NOT TO STAY LATE, HE HAS NO RIGHT TO FORCE THEM TO DO SO. IN A PLACE IN WHICH THEY ARE ACCUSTOMED TO PROVIDE A MEAL, HE MUST PROVIDE A MEAL.[IN A PLACE IN WHICH THEY ARE ACCUSTOMED] TO MAKE DO WITH A SWEET, HE PROVIDES IT. EVERYTHING ACCORDS WITH THE PRACTICE OF THE PROVINCE.

1. **I:1:** [In regard to M. 7:1A-C,] said R. Hoshaiiah, “That is to say that what is customary overrides what is statutory.” [Along these same

lines, since we follow the customary practice of the region, no need exists to prove what is owing or not owing. Consequently,] said R. Immi, “Everyone who proposes to collect from his fellow bears the burden of proof, except in this case [in which, not proof of an agreement, but mere reference to the prevailing practice.”

[B] **M'SH B: R. YOHANAN B. MATYA SAID TO HIS SON, “GO, HIRE WORKERS FOR US.” HE WENT AND MADE AN AGREEMENT WITH THEM FOR FOOD [WITHOUT FURTHER SPECIFICATION]. NOW WHEN HE CAME TO HIS FATHER, [THE FATHER] SAID TO HIM, “MY SON, EVEN IF YOU SHOULD MAKE FOR THEM A MEAL LIKE ONE OF SOLOMON IN HIS DAY, YOU WILL NOT HAVE CARRIED OUT YOUR OBLIGATION TO THEM. “FOR THEY ARE CHILDREN OF ABRAHAM, ISAAC, AND JACOB. “BUT BEFORE THEY BEGIN WORK, GO AND TELL THEM, ‘[WORK FOR US] ON CONDITION THAT YOU HAVE A CLAIM ON ME [AS TO FOOD] ONLY FOR A PIECE OF BREAD AND PULSE ALONE.’” RABBAN SIMEON B. GAMALIEL SAYS, “HE HAD NO NEED TO SPECIFY THAT IN SO MANY WORDS. “EVERYTHING [IN ANY CASE] ACCORDS WITH THE PRACTICE OF THE PROVINCE.”**

1. **II:1:** In the opinion of R. Yohanan b. Matya [M. 7:1H], a man who went to consecrate a woman from some other location has to stipulate with her [every detail of what is expected], saying to her, ‘It is on condition that you perform such and so acts of labor, and that you eat such and so types of food.’”

LI. YERUSHALMI BABA MESIA 7:2

[A] **AND THESE [HAVE THE RIGHT TO] EAT [THE PRODUCE ON WHICH THEY WORK] BY [RIGHT ACCORDED TO THEM IN] THE TORAH: HE WHO WORKS ON WHAT IS AS YET UNPLUCKED [MAY EAT FROM THE PRODUCE] AT THE END OF THE TIME OF PROCESSING; [AND HE WHO WORKS] ON PLUCKED PRODUCE [MAY EAT FROM THE PRODUCE] BEFORE PROCESSING IS DONE; [IN BOTH INSTANCES SOLELY] IN REGARD TO WHAT GROWS FROM THE GROUND. BUT THESE DO NOT [HAVE THE RIGHT TO] EAT [THE PRODUCE ON WHICH THEY LABOR] BY [RIGHT ACCORDED TO THEM IN] THE TORAH: HE WHO WORKS ON WHAT IS AS YET UNPLUCKED, BEFORE THE END OF THE TIME OF PROCESSING; [AND HE WHO WORKS] ON PLUCKED PRODUCE AFTER THE PROCESSING IS DONE, [IN BOTH INSTANCES SOLELY] IN REGARD TO WHAT DOES NOT GROW FROM THE GROUND.**

1. **I:1:** Said R. La, “‘When you go into your neighbor’s vineyard, you may eat your fill of grapes...’ (Deut. 23:24). Now would it enter your mind that one might eat wood or stones. Why does the Scripture refer to grapes? It is to say that one should not [take time] to scale off figs or to suck out grapes [T. 8:9B-C].”

[B] **[IF]** ONE WAS WORKING WITH HIS HANDS BUT NOT WITH HIS FEET, WITH HIS FEET BUT NOT WITH HIS HANDS, EVEN **[CARRYING]** WITH HIS SHOULDER, LO, HE **[HAS THE RIGHT TO]** EAT **[THE PRODUCE ON WHICH HE IS WORKING]**. **R. YOSÉ B. R. JUDAH** SAYS, “**[HE MAY EAT THE PRODUCE ON WHICH HE IS WORKING]** ONLY IF HE WORKS WITH BOTH HIS HANDS AND HIS FEET.”

1. **II:1:** Said R. La, “It is written, ‘When you go into your neighbor’s standing grain, you may pluck the ears with your hand, but you shall not put a sickle to your neighbor’s standing grain’ (Deut. 23:25).”
2. **II:2:** It was taught: **[If one works]** with his hands or gathers **[packs down]** with his foot, even if he just carries on his shoulders **[he is entitled to eat of the produce in which he works]**. **[Referring to Deut. 25:4, You shall not muzzle an ox when it treads out grain,]** **R. Yosé b. R. Judah** says, “**[Just as treading out grain is special, as something which] it does with its fore-legs, its hind-legs, and its body, so is excluded one who works with his hands but not his legs, or with his legs but not his body.**” **R. Yosé b. R. Judah** says, “**Just as treading out grain is special, in that it involves something which grows from the earth, so are excluded one who milks a cow, beats milk, or makes cheese – things which do not grow from the earth. Just as treading out grain is special, in that it is something whose work is not completed, so is excluded wine, once one has skimmed it and it has flowed down into the vat [T.: one who separates (clumps of) dates and figs, a matter on which work is complete so far as tithes are concerned]**” **[T. B.M. 8:7]**, **[and] one who separates dates and one who separates figs – things the processing of which is complete. Just as treading out grain is special, in that it is something, [the work on which is not completed,] so far as tithes are concerned – so are excluded he who is engaged in kneading, cutting [the dough], and baking – things [on which the work is completed, and these workers have no right to eat], so far as tithes are concerned**” **[T. B.M. 8:7]**.

LII. YERUSHALMI BABA MESIA 7:3

[A] **[IF THE LABORER]** WAS WORKING ON FIGS, HE **[HAS]** NOT **[GOT THE RIGHT TO]** EAT GRAPES. **[IF HE WAS WORKING]** ON GRAPES, HE **[HAS]** NOT **[GOT THE RIGHT TO]** EAT FIGS. **BUT [HE DOES HAVE THE RIGHT TO] REFRAIN [FROM EATING] UNTIL HE GETS TO THE BEST PRODUCE AND THEN [TO EXERCISE HIS RIGHT TO] EAT. AND IN ALL INSTANCES THEY HAVE SAID [THAT HE MAY EAT FROM THE PRODUCE ON WHICH HE IS LABORING] ONLY IN THE TIME OF WORK. BUT ON GROUNDS OF RESTORING LOST PROPERTY TO THE OWNER, THEY HAVE SAID [IN**

ADDITION]: WORKERS [HAVE THE RIGHT TO] EAT AS THEY GO FROM FURROW TO FURROW [EVEN THOUGH THEY DO NOT THEN WORK], AND WHEN THEY ARE COMING BACK FROM THE PRESS [SO SAVING TIME FOR THE EMPLOYER]; AND IN THE CASE OF AN ASS [NIBBLING ON STRAW IN ITS LOAD], WHEN IT IS BEING UNLOADED.

1. **I:1:** Said R. La, “It is written, ‘When you go into your neighbor’s vineyard, you may eat your fill of grapes, as many as you wish.’ So what is there to eat in a vineyard, if not grapes? It is to teach you that when a worker is working in grapes, he should not nibble on [nearby] figs.”

LIII. YERUSHALMI BABA MESIA 7:4

[A] [IF THE LABORER] WAS WORKING ON FIGS, HE [HAS] NOT [GOT THE RIGHT TO] EAT GRAPES. [IF HE WAS WORKING] ON GRAPES, HE [HAS] NOT [GOT THE RIGHT TO] EAT FIGS. BUT [HE DOES HAVE THE RIGHT TO] REFRAIN [FROM EATING] UNTIL HE GETS TO THE BEST PRODUCE AND THEN [TO EXERCISE HIS RIGHT TO] EAT. AND IN ALL INSTANCES THEY HAVE SAID [THAT HE MAY EAT FROM THE PRODUCE ON WHICH HE IS LABORING] ONLY IN THE TIME OF WORK. BUT ON GROUNDS OF RESTORING LOST PROPERTY TO THE OWNER, THEY HAVE SAID [IN ADDITION]: WORKERS [HAVE THE RIGHT TO] EAT AS THEY GO FROM FURROW TO FURROW [EVEN THOUGH THEY DO NOT THEN WORK], AND WHEN THEY ARE COMING BACK FROM THE PRESS [SO SAVING TIME FOR THE EMPLOYER]; AND IN THE CASE OF AN ASS [NIBBLING ON STRAW IN ITS LOAD], WHEN IT IS BEING UNLOADED.

1. **I:1:** R. Eleazar b. Antigonos says in the name of R. Yannai, “That is to say [M. 7:4B], ‘A worker may eat more than the value of his wages.’”

LIV. YERUSHALMI BABA MESIA 7:5

[A] HE WHO HIRES WORKERS TO WORK IN HIS FOURTH-YEAR PLANTINGS [THE PRODUCE OF WHICH IS TO BE EATEN NOT AT RANDOM BUT ONLY IN JERUSALEM OR TO BE REDEEMED FOR MONEY TO BE BROUGHT UP TO JERUSALEM (LEV. 19:24)] LO, THESE DO NOT [HAVE THE RIGHT TO] EAT. IF [IN ADVANCE] HE DID NOT INFORM THEM [OF THE CHARACTER OF THE PRODUCE AND THE PROHIBITIONS AFFECTING IT], HE [HAS TO] REDEEM THE PRODUCE AND [PERMIT THEM TO] EAT [OF IT]. [IF] HIS FIG CAKES SPLIT UP, [E] HIS JARS [OF WINE] BURST OPEN [WHILE YET UNTITHED, AND WORKERS ARE HIRED TO REPRESS THE FIGS AND RE-BOTTLE THE WINE], LO, THESE DO NOT [HAVE THE

RIGHT TO] EAT [THEM]. IF HE DID NOT INFORM THEM [THAT THE PRODUCE ON WHICH THEY WOULD BE WORKING WAS UNTITHED AND THEREFORE NOT AVAILABLE FOR THEIR RANDOM CONSUMPTION], HE HAS TO TITHE [THE PRODUCE] AND [ALLOW THEM TO] EAT [OF IT].

- 1. I:1:** Anything the like of which has not yet reached the time for obligation to tithing, but some other sort of prohibition affects it – [if the householder] hired [the worker] without making explanations [as to the prohibited status of the food in which he would be laboring], he has to redeem [the produce] and allow the worker to eat it, [or] tithe [the produce] and [so] allow the worker to eat it. But if he made an agreement with him [that he would forego his right to eat while he worked in the field], lo, this one is not to eat anything at all. Anything the like of which has reached the time for obligation to tithing, but some other sort of permitted aspect affects it – [if the householder] hired [the worker] without making explanations [as to the status of the food in which he would be laboring], lo, this [worker] is not to eat [at all]. But if [the householder] made an agreement with him [the worker] that he would provide food], lo, this one has the right to eat [T. B.M. 8:7M-W].

LV. YERUSHALMI BABA MESIA 7:6

[A] THOSE WHO KEEP WATCH OVER PRODUCE [HAVE THE RIGHT TO] EAT [IT] BY THE LAWS OF THE PROVINCE, BUT NOT BY [WHAT IS COMMANDED IN] THE TORAH. THERE ARE FOUR CLASSES OF BAILEES: (1) AN UNPAID BAILEE, (2) A BORROWER, (3) A PAID BAILEE, (4) AND A LESSEE. (1) [IN THE CASE OF DAMAGE TO THE BAILMENT], AN UNPAID BAILEE TAKES AN OATH IN ALL [CASES OF LOSS OR DAMAGE AND BEARS NO LIABILITY WHATSOEVER] [M. 3:1]. (2) [IN THE CASE OF DAMAGE TO THE BAILMENT], THE BORROWER PAYS IN ALL CIRCUMSTANCES [OF DAMAGES TO A BAILMENT]. (3, 4) [IN THE CASE OF DAMAGE TO THE BAILMENT], THE PAID BAILEE AND THE LESSEE TAKE AN OATH [THAT THEY HAVE NOT BEEN NEGLIGENT] CONCERNING [A BEAST WHICH HAS SUFFERED] A BROKEN BONE, OR WHICH HAS BEEN DRIVEN AWAY, OR WHICH HAS DIED [EX. 22:9]. BUT THEY PAY COMPENSATION FOR THE ONE WHICH WAS LOST OR STOLEN.

- 1. I:1:** Said R. Huna, “The Mishnah pericope [M. 7:6A-B3, refers to those who [merely] guard produce. But as to those who keep watch over vegetable patches and orchards, their right to eat produce is guaranteed by the law of the Torah.” Samuel said, “The Mishnah pericope speaks of those who keep watch over vegetable patches and

orchards. But those who [merely~ guard produce have not got the right to eat, either by the law of the Torah or by the laws of the province.”

LVI. YERUSHALMI BABA MESIA 7:7

[A] A SINGLE WOLF DOES NOT COUNT AS AN UNAVOIDABLE ACCIDENT. TWO WOLVES ARE REGARDED AS AN UNAVOIDABLE ACCIDENT. R. JUDAH SAYS, “IN A TIME THAT WOLVES COME IN PACKS, EVEN A SINGLE WOLF IS AN UNAVOIDABLE ACCIDENT.” TWO DOGS DO NOT COUNT AS AN UNAVOIDABLE ACCIDENT. YADUA THE BABYLONIAN SAYS IN THE NAME OF R. MEIR, “[IF] THEY COME FROM ONE DIRECTION, THEY DO NOT COUNT AS AN UNAVOIDABLE ACCIDENT. “IF THEY COME FROM TWO DIRECTIONS, THEY COUNT AS AN UNAVOIDABLE ACCIDENT.” THUG — LO, HE COUNTS AS AN UNAVOIDABLE ACCIDENT. (1) A LION, (2) WOLF, (3) LEOPARD, (4) PANTHER, OR (5) SNAKE — LO, THESE COUNT AS AN UNAVOIDABLE ACCIDENT. UNDER WHAT CIRCUMSTANCES? WHEN THEY COME ALONG ON THEIR OWN. BUT IF HE TOOK [THE SHEEP] TO A PLACE IN WHICH THERE WERE BANDS OF WILD ANIMALS OR THUGS, THESE DO NOT CONSTITUTE UNAVOIDABLE ACCIDENTS. [IF A BEAST] DIED OF NATURAL CAUSES, LO, THIS COUNTS AS AN UNAVOIDABLE ACCIDENT. [IF] ONE CAUSED IT DISTRESS AND IT DIED [E.G., OF COLD OR HUNGER], THIS DOES NOT COUNT AS AN UNAVOIDABLE ACCIDENT. [IF] IT WENT UP TO THE TOP OF A CRAG AND FELL DOWN, LO, THIS IS AN UNAVOIDABLE ACCIDENT. [IF] HE BROUGHT IT UP TO THE TOP OF A CRAG AND IT FELL DOWN AND DIED, IT IS NOT AN UNAVOIDABLE ACCIDENT. AN UNPAID BAILEE MAY STIPULATE THAT HE IS EXEMPT FROM [HAVING TO TAKE] AN OATH, AND A BORROWER, THAT HE IS EXEMPT FROM HAVING TO PAY COMPENSATION, AND A PAID BAILEE AND A HIRER, THAT THEY ARE EXEMPT FROM [HAVING TO TAKE] AN OATH OR FROM HAVING TO PAY COMPENSATION. WHOEVER EXACTS A STIPULATION CONTRARY TO WHAT IS WRITTEN IN THE TORAH — HIS STIPULATION IS NULL. AND ANY STIPULATION WHICH REQUIRES AN ANTECEDENT ACTION — THAT STIPULATION IS NULL. BUT ANY CONDITION WHICH CAN BE CARRIED OUT IN THE END AND IS STIPULATED AS A CONDITION IN THE BEGINNING — THAT STIPULATION IS VALID.

1. **I:1:** It was taught: Whoever makes a stipulation contrary to what is written in the Torah, if it is a stipulation in regard to a monetary matter — his stipulation stands. [If it concerns] something which is not a matter of property, his stipulation is null [T. Qid. 3:8B-C]. How so? If he said to a woman, lo, you are betrothed to me on condition that you have no claim against me for food, clothing and sex,” lo, this woman is betrothed. [T adds: and his stipulation stands] [but his condition is null]. [If he said,] “... if I die, that you not be subjected to Levirate

marriage” – lo, this woman is betrothed, but his condition is null. [For he has made a stipulation contrary to what is written in the Torah, and whoever makes a stipulation contrary to what is written in the Torah – his stipulation is null] [T. Qid. 3:7]. A general principle did R. Judah b. Tema state: “Any condition which it is not possible for her to carry out, and which he stated as a condition to her, he has intended only by way of exaggeration, “whether he said it orally or in a document. “Any condition which is confirmed when stated orally is confirmed when stated in a document, and any condition which is not confirmed when stated orally is not confirmed when stated in a document” [T. Git. 5:12D-G]. Kefar Otenai is in Galilee. Antipatris is in Judah. As to the area between them, they assign it to its more stringent status [T. Git. 5:7A-B].

LVII. YERUSHALMI BABA MESIA 8:1

[A] HE WHO BORROWS A COW, AND (1) BORROWED [THE SERVICE] OF ITS OWNER WITH IT, OR (2) HIRED ITS OWNER WITH IT – [OR] (1) BORROWED [THE SERVICE] OF THE OWNER, OR (2) HIRED HIM, AND AFTERWARD BORROWED THE COW [TOO], AND [THE COW] DIED – [THE BORROWER] IS EXEMPT, SINCE IT IS SAID, “IF THE OWNER IS WITH IT, HE SHALL NOT PAY COMPENSATION” (EX. 22:14).

1. **I:1:** Said R. Illa, “Since it is stated, ‘He shall certainly pay compensation,’ do we know that if the owner is with the cow, he need not pay compensation? Why therefore does Scripture [find it necessary to state], ‘If the owner is not with it, he shall pay compensation’? But [Scripture states this in order to teach that] once one has borrowed the cow and not borrowed [the services of] its owner along with it, even though the owner may be ploughing beside the cow [laboring for someone else], if the cow should die, the borrower is liable.”

[B] BUT [IF] HE BORROWED THE COW, AND AFTERWARD (1) BORROWED [THE SERVICE] OF THE OWNER, OR (2) HIRED HIM, AND [THE COW] DIED, [THE BORROWER] IS LIABLE, SINCE IT IS SAID, “IF THE OWNER IS NOT WITH IT, HE SHALL CERTAINLY PAY COMPENSATION” (EX. 22:13).

1. **II:1:** Said R. La, “Since it is stated, ‘If its owner is with it, he shall not pay compensation,’ do I not know that if the owner is not with the cow, he certainly pays compensation? Why therefore does Scripture [find it necessary to state.] ‘If its owner is not with it, he shall surely pay compensation’? [Scripture states this in order to teach, But once one has borrowed the cow and hired the owner with it, even though the

owner should then be ploughing in some other place, if the cow dies, the borrower is exempt [for the owner is deemed at hand, even if physically elsewhere].”

LVIII. YERUSHALMI BABA MESIA 8:2

[A] **HE WHO BORROWS A COW — [IF] HE BORROWED IT FOR HALF A DAY AND HIRED IT FOR HALF A DAY, [OR] BORROWED IT FOR ONE DAY AND HIRED IT FOR THE NEXT DAY, [OR] BORROWED ONE [COW] AND HIRED ANOTHER — AND [THE COW] DIED — THE LENDER SAYS (1) “THE BORROWED ONE DIED” — (2) “ON THE DAY ON WHICH IT WAS BORROWED, IT DIED” (3) “AT THE TIME THAT IT WAS BORROWED, IT DIED,” — AND THE [BORROWER] SAYS, “I DON’T KNOW” — [THE BORROWER] IS LIABLE. THE HIRER [LESSEE] SAYS, (1) “THE HIRED ONE DIED,” (2) “ON THE DAY ON WHICH IT WAS HIRED, IT DIED,” (3) “AT THE TIME THAT IT WAS HIRED, IT DIED” AND THE OTHER PARTY SAYS, “I DON’T KNOW” — [THE HIRER] IS EXEMPT. [IF] THIS PARTY CLAIMS THAT THE BORROWED ONE [DIED], AND THAT PARTY CLAIMS THAT THE HIRED ONE [DIED], THE ONE WHO RENTS IT IS TO TAKE AN OATH THAT THE RENTED ONE DIED. [IF] THIS ONE SAYS, “I DON’T KNOW,” AND THAT ONE SAYS, “I DON’T KNOW,” THEN LET THEM DIVIDE [THE LOSS]:**

- 1. I:1:** What [if the beast] died in the intervening night? [That is, one has borrowed it for one day and then hired it for the next. If it dies that night, do we maintain that the conditions of borrowing have ceased at dusk, and, even though the beast has not been returned to its owner, it is as if it is in the owner’s domain? Or does the beast remain in the status of one which has been borrowed?]

LIX. YERUSHALMI BABA MESIA 8:3

[A] **HE WHO BORROWED A COW, AND [THE ONE WHO LENT IT OUT] SENT IT ALONG WITH HIS SON, SLAVE, OR MESSENGER, OR WITH THE SON, SLAVE, OR MESSENGER OF THE BORROWER — AND IT DIED — [THE BORROWER] IS EXEMPT. IF THE BORROWER HAD SAID TO HIM, “SEND IT WITH MY SON,” “... MY SLAVE,” “...MY MESSENGER,” OR “... WITH YOUR SON,” “... WITH YOUR SLAVE,” “... WITH YOUR MESSENGER,” OR IF THE LENDER HAD SAID TO HIM, “LO, I’M SENDING IT TO YOU WITH MY SON, “MY... SLAVE,” “MY... MESSENGER” OR “... WITH YOUR SON,” “... YOUR SLAVE,” “... YOUR MESSENGER,” AND THE BORROWER SAID, “SEND IT ALONG,” AND HE DID SEND IT ALONG, BUT IT DIED, [THE BORROWER] IS LIABLE. AND SO IS THE RULE AS TO RETURNING THE BEAST.**

1. **I:1:** SERVING M. 8:1: It was taught: [The borrower said to the cow owner,] “Lend me your cow for ten days, and you be lent to me yourself for the first five days,” [if then the cow] died in the latter period, it is deemed to have died while subject to the indenture of the former period, [and the borrower is exempt from paying compensation, in line with M. 8:1]. [If he said], “Lend me your cow for after ten days [during which ten-day period, the cow owner himself had been lent to the borrower], and the old lady [who owned the cow] said to him, “It is [a weak cow, and it is] as if it is already dead,” [then if the cow should die, it is deemed to have died while subject] to the indenture of the latter period, [so that even if the owner was already employed with the borrower before the cow came on the scene, the borrower is responsible to pay compensation for the deceased cow]. [We do not maintain in this case that the cow was with the owner.]

LX. YERUSHALMI BABA MESIA 8:4

[A] **HE WHO EXCHANGES A COW FOR AN ASS, AND [THE COWL PRODUCED OFFSPRING, AND SO, TOO: HE WHO SELLS HIS GIRL SLAVE AND SHE GAVE BIRTH — THIS ONE SAYS, “IT WAS BEFORE I MADE THE SALE,” AND THAT ONE SAYS, “IT WAS AFTER I MADE THE PURCHASE” — LET THEM DIVIDE THE PROCEEDS. [IF] HE HAD TWO SLAVES, ONE BIG AND ONE LITTLE, OR TWO FIELDS, ONE BIG AND ONE LITTLE — THE PURCHASER SAYS, “I BOUGHT THE BIG ONE,” AND THE OTHER ONE SAYS, “I DON’T KNOW” — [THE PURCHASER] HAS ACQUIRED THE BIG [SLAVE]. THE SELLER SAYS, “I SOLD THE LITTLE ONE,” AND THE OTHER SAYS, “I DON’T KNOW” — [THE LATTER] HAS A CLAIM ONLY ON THE LITTLE ONE, LO, THIS ONE SAYS, “THE BIG ONE,” AND THAT ONE SAYS, “THE LITTLE ONE” (LET THE SELLER TAKE AN OATH THAT IT WAS THE LITTLE ONE WHICH HE HAD SOLD. THIS ONE SAYS, “I DON’T KNOW” AND THAT ONE SAYS, “I DON’T KNOW” — LET THEM DIVIDE UP [THE DIFFERENCE].**

1. **I:1:** [As to M. 8:4/0-Q, in which the seller takes an oath and gets his way,] R. Yohanan said, “This [case] thus excludes the opinion of Sumkhos, who maintains that in all matters of doubt, [the contending parties] divide [the disputed object].”

Said R. La, “Interpret the case under discussion [to be not one of total doubt, but one in which] this party says, ‘I am certain,’ and that party says, ‘I am certain.’ [Here there is no doubt, but rather conflicting claims. In this case there is either proof on the one side, or an oath on the other. Accordingly, Sumkhos’s generalization stands.]”

LXI. YERUSHALMI BABA MESIA 8:5

[A] HE WHO SELLS OLIVE TREES FOR FIREWOOD AND [BEFORE THEY HAD BEEN CHOPPED DOWN], THEY PRODUCED FRUIT WHICH YIELDED LESS THAN A QUARTER-[LOG] OF OLIVE OIL TO A SEAH — LO, THIS BELONGS TO THE OWNER OF THE OLIVE TREES [NOT TO THE OWNER OF THE LAND, WHO SOLD ONLY THE TREES, NOT THE GROUND]. [IF] THEY PRODUCED A QUARTER-[LOG] OF OIL FOR A SEAH, THIS ONE SAYS, “MY OLIVE TREES MADE IT,” AND THAT ONE SAYS, “MY GROUND MADE IT” — LET THEM DIVIDE IT UP. [IF] THE RIVER OVERFLOWED ONE’S OLIVE TREES AND SET THEM DOWN IN THE FIELD OF HIS FELLOW [WHERE THEY BORE FRUIT], THIS ONE SAYS, “MY OLIVE TREES MADE IT,” AND THAT ONE SAYS, “MY GROUND MADE IT” LET THEM DIVIDE IT UP.

1. I:1: R. Yohanan raised the question, “[With respect to the case in which the river overflowed one’s olive trees and set them down in the field of his fellow,] if the trees actually thrived [on the new soil], what is their status? [May not the owner of the land on which they now are located claim that the large crop is due to his land? Hence had he planted them, he would have enjoyed their fruit.]” R. Huna said, “The Mishnah speaks of a case in which they were transplanted with their own clumps of dirt [so the owner of the land on which they now are located cannot make such a claim].”

LXII. YERUSHALMI BABA MESIA 8:6

[A] HE WHO RENTS A HOUSE TO HIS FELLOW [WITHOUT A LEASE] — IN THE RAINY SEASON, FROM THE FESTIVAL TO PASSOVER. HE HAS NOT GOT THE RIGHT TO EVICT HIM. AND IN THE DRY SEASON, [HE MAY EVICT HIM IF HE GIVES] THIRTY DAYS’ [NOTICE]. AND IN THE CASE OF LARGE TOWNS, ALL THE SAME ARE THE DRY SEASON AND THE RAINY SEASON, [HE MUST GIVE NOTICE OF] TWELVE MONTHS. AND IN THE CASE OF STORES, ALL THE SAME ARE SMALL TOWNS AND LARGE CITIES, [HE MUST GIVE NOTICE OF] TWELVE MONTHS. RABBAN SIMEON B. GAMALIEL SAYS, “IN THE CASE OF A STORE RENTED TO BAKERS OR DYERS, [HE MUST GIVE NOTICE OF] THREE YEARS.”

1. I:1: It was taught: Now in all these cases in which they have said, “Thirty days,” or [when they said], “Twelve months,” it is not that the tenant may dwell there for [only] thirty days, and not that the tenant may dwell there for [only] twelve months. But [the landlord] has to give him notice thirty days in advance, or give him notice twelve months in advance. So far as winepress is concerned, [there may not be eviction] throughout the time of the vintage. So far as an olive-press is

concerned, [there may not be an eviction] throughout the season of the olive pressing. As to a pottery, there may not be a notice of less than twelve months. Said R. Yosé, “Under what circumstances? “In the case of those who work in black clay. But as to those who work in white clay, “he may gather up his store of pottery and pull out” [T. B.M. 8:27].

LXIII. YERUSHALMI BABA MESIA 8:7

[A] HE WHO RENTS OUT A HOUSE TO HIS FELLOW — HE WHO RENTS IT OUT IS LIABLE [TO PROVIDE] (1) A DOOR, (2) BOLT, AND (3) LOCK, AND ANYTHING WHICH IS MADE BY A CRAFTSMAN. BUT AS TO ANYTHING WHICH IS NOT MADE BY A CRAFTSMAN, THE ONE WHO RENTS THE HOUSE MAKES IT [FOR HIMSELF]. SHIT [LEFT IN A RENTED COURTYARD BY CATTLE BELONGING TO A THIRD PARTY] IS ASSIGNED TO THE HOUSEHOLDER. THE RENTER HAS A CLAIM ONLY ON THE REFUSE OF AN OVEN OR STOVE ALONE.

- 1. I:1:** R. Isaac bar Haqola ruled: “The mezuzah is deemed something made by a craftsman [M. 8:7B-C].”

LXIV. YERUSHALMI BABA MESIA 8:8

[A] HE WHO RENTS OUT A HOUSE TO HIS FELLOW FOR A YEAR — [IF] THE YEAR WAS INTERCALATED [AND RECEIVED AN EXTRA MONTH OF ADAR], IT IS INTERCALATED TO THE ADVANTAGE OF THE TENANT. [IF] HE RENTED IT TO HIM BY THE MONTH, [IF] THE YEAR WAS INTERCALATED, IT IS INTERCALATED TO THE ADVANTAGE OF THE LANDLORD. M'SH B: IN SEPPHORIS A PERSON HIRED A BATHHOUSE FROM HIS FELLOW FOR TWELVE GOLDEN [DENARS] PER YEAR, AT THE RATE OF ONE GOLDEN DENAR PER MONTH [AND THE YEAR WAS INTERCALATED]. THE CASE CAME BEFORE RABBAN SIMEON B. GAMALIEL AND BEFORE R. YOSÉ. THEY RULED, “LET THEM DIVIDE THE MONTH ADDED BY THE INTERCALATION OF THE YEAR.”

- 1. I:1:** Now what [was the circumstance in which they ruled, Let them divide the fee covering the added month]? If it is a case in which the landlord comes to collect at the end of the month, [it is as if] he had already collected [the rent. The renter need not pay]. If it is a case in which he comes at the beginning of the month, [the landlord] may say, “Get out [if you don't want to pay].”

LXV. YERUSHALMI BABA MESIA 8:9

[A] HE WHO RENTS OUT A HOUSE TO HIS FELLOW, AND [THE HOUSE] FELL DOWN, IS LIABLE TO PROVIDE HIM WITH [ANOTHER] HOUSE. [IF] IT WAS A SMALL HOUSE, HE MAY NOT MAKE IT LARGE. [IF] IT WAS A LARGE HOUSE, HE MAY NOT MAKE IT SMALL. [IF] IT WAS A SINGLE-FAMILY DWELLING, HE MAY NOT MAKE IT A DUPLEX. [IF] IT WAS A DUPLEX, HE MAY NOT MAKE IT A SINGLE-FAMILY DWELLING. HE MAY NOT PROVIDE FEWER WINDOWS [THAN HAD BEEN IN THE HOUSE WHICH FELL DOWN] NOR MORE WINDOWS, EXCEPT WITH THE CONCURRENCE OF BOTH PARTIES.

1. **I:1:** The reason that the house must be replaced just as it was rented out:] R. Simeon b. Laqish said, “It is that we have a case in which, [when the house was originally rented,] the landlord undertook to provide the tenant with precisely that which he went and showed him.” R. Yohanan said, “It is a case in which he actually stipulated to him, ‘A house like this one am I going to rent to you.’”
2. **I:2:** Now he who rents out a house to his fellow and then proposed to sell it [during the rental period, to a third party] – Said R. Ammi, “It was not with the stipulation that the owner should die from hunger [that the agreement was made]. [If the owner needs to sell the house in order to support himself and his family, he has that right.]” Both R. Zira and R. Hela say, “Under all circumstances it is deemed acquired by the new purchaser. But the landlord [who has sold the house] says [to the purchaser], ‘Let him be, for it is available to the tenant until his lease has run out.’”

LXVI. YERUSHALMI BABA MESIA 9:1

[A] HE WHO LEASES A FIELD FROM HIS FELLOW [AS TENANT FARMER OR SHARECROPPER], IN A PLACE IN WHICH THEY ARE ACCUSTOMED TO CUT [THE CROPS], HE MUST CUT THEM. [IF THE CUSTOM IS] TO UPROOT [THE CROPS], HE MUST UPROOT THEM. [IF THE CUSTOM IS] TO PLOUGH AFTER [REAPING AND SO TO TURN THE SOIL], HE MUST PLOUGH. ALL IS IN ACCORD WITH THE PREVAILING CUSTOM OF THE PROVINCE. JUST AS THEY SPLIT UP THE GRAIN, SO THEY SPLIT UP THE STRAW AND STUBBLE. JUST AS THEY SPLIT UP THE WINE, SO THEY SPLIT UP [103B] THE [DEAD] BRANCHES AND REED PROPS. AND BOTH [PARTIES TO THE AGREEMENT] MUST PROVIDE REED PROPS.

1. **I:1:** If it was a place in which they are accustomed to cut [the crops], and he pulled them up [instead], the landowner may say to him, “You laid it bare, but I want it to be cut down, with a stubble left to hold the soil.” If it was customary to pull up the crop, and the tenant cut it instead, they say to him, “You go out with the manure. [I want a clean field, free of stubble.]”
2. **I:2:** It was taught: He who leases a field from his fellow harvests the crop, makes it into sheaves, threshes, winnows, and sifts it.

The measurers, the diggers, the bailiffs, and the town clerks come and collect [their fees] from the common [stack of wheat, before the division of the crop between landlord and tenant]. The superintendent of the well, the bath-master, the barber [the freight-ship captain], when they come because of the householder, they collect their fee from the wherewithal of the householder. When they come because of the tenant, they collect their fee from the wherewithal of the tenant. And they do not vary from the accepted practice of the province [T. B.M. 9:14].

LXVII. YERUSHALMI BABA MESIA 9:2

- [A] **HE WHO LEASES A FIELD FROM HIS FELLOW, WHICH IS AN IRRIGATED FIELD, OR AN ORCHARD FIELD – [IF] THE WATER SOURCE WENT DRY, OR THE TREES WERE CUT DOWN, [THE TENANT] MAY NOT DEDUCT [THE DAMAGES] FROM THE RENTAL.**
1. **I:1:** [As to M. 9 2A-F], said R. Isaac, “That rule applies to a case in which the spring completely dried up. But if it were two stages deep, and if one digs three, it will produce water, the landlord has the right to say to him, ‘Work on it, and it will provide sufficient water.’”
- [B] **IF HE HAD SAID TO HIM, “LEASE ME THIS IRRIGATED FIELD,” OR “... THIS ORCHARD FIELD,” AND THE WATER SOURCE WENT DRY, OR THE TREES WERE CUT DOWN, [THE TENANT] MAY DEDUCT [THE DAMAGES] FROM THE RENTAL.**
1. **II:1:** Said R. Isaac, “The stated rule [M. 9:2I-J] applies in a case in which the entire orchard was cut down. But if there remained in the field a planting of ten trees in a *seah*’s space of ground, the landlord has the right to say to him, ‘Before they were crowded and did not produce much [fruit]. But now they are spread out and will produce much [fruit].’”

LXVIII. YERUSHALMI BABA MESIA 9:3

[A] HE WHO [AS A SHARECROPPER] LEASES A FIELD FROM HIS FELLOW AND THEN LETS IT LIE FALLOW — THEY MAKE AN ESTIMATE OF HOW MUCH [THE FIELD] IS SUITABLE TO PRODUCE, [AND THE TENANT] PAYS [THAT AMOUNT] TO [THE LANDLORD]. FOR THUS DOES HE WRITE TO HIM [IN THE WRIT OF OCCUPANCY OR LEASE], “IF I LET THE FIELD LIE FALLOW AND DO NOT WORK IT, I SHALL MAKE IT UP TO YOU AT ITS HIGHEST RATE OF YIELD.”

1. I:1: Said R. Isaac, “That is to say, He who keeps his fellow’s capital idle — the latter has no stronger claim on him than a complaint [for wasting the potential profit accruing to the capital, now left idle]. He who keeps his fellow’s field idle is liable to make it up to him. He who keeps his fellow’s ship or shop idle — what is the law?”

LXIX. YERUSHALMI BABA MESIA 9:4

[A] HE WHO LEASES A FIELD FROM HIS FELLOW AND DID NOT WANT TO WEED IT, AND SAID [TO THE LANDLORD], “WHAT DIFFERENCE DOES IT MAKE TO YOU? I’M GOING TO GIVE YOU THE RENTAL ANYHOW!” — THEY PAY NO ATTENTION TO [HIS CLAIM]. FOR THE [LANDLORD] HAS THE RIGHT TO SAY TO HIM, “TOMORROW YOU’RE GOING TO LEAVE THIS FIELD, AND IT’S GOING TO GIVE ME NOTHING BUT WEEDS!” HE WHO LEASES A FIELD FROM HIS FELLOW, AND IT DID NOT PRODUCE [A CROP], IF THERE WAS IN IT [NONETHELESS SUFFICIENT GROWTH] TO PRODUCE A HEAP [OF GRAIN], [THE LESSEE] IS LIABLE TO TEND IT. SAID R. JUDAH, “WHAT SORT OF MEASURE IS ‘A HEAP’? “BUT: IF [THE FIELD YIELDS ONLY] SO MUCH [GRAIN AS HAD BEEN] SOWN [THERE, FOR RE-SEEDING NEXT YEAR, HE IS LIABLE TO TEND IT].”

1. I:1: How much [is the measure of] Sufficient to produce a heap of grain [M. 9:4G]?

LXX. YERUSHALMI BABA MESIA 9:5

[A] HE WHO LEASES A FIELD FROM HIS FELLOW, AND LOCUSTS ATE IT UP, OR IT WAS BLIGHTED — IF IT IS A DISASTER AFFECTING THE ENTIRE PROVINCE, HE MAY DEDUCT [THE DAMAGES] FROM HIS RENTAL. IF IT IS NOT A DISASTER AFFECTING THE ENTIRE PROVINCE, HE MAY NOT DEDUCT IT FROM HIS RENTAL. R. JUDAH SAYS, “IF HE HAD LEASED IT FOR A [FIXED] CASH PAYMENT, WHETHER OR NOT [IT WAS A DISASTER AFFECTING THE ENTIRE PROVINCE] HE MAY NOT DEDUCT [THE DAMAGES] FROM HIS RENTAL.

1. **I:1:** [As to the general blight referred to at M. 9:5C,] R. Huna said, “[It is deemed a general calamity] when the fields were blighted in that entire direction.” Simeon bar Va in the name of R. Yohanan, “And the stated rule applies in a case in which one had actually sown the field [prior to the blight or locusts]. For [the landlord] has the right to say to the [tenant-farmer], ‘If you had planted the field, it might have produced a large crop, [part of which would have survived the blight].’”

LXXI. YERUSHALMI BABA MESIA 9:6

[A] **HE WHO LEASES A FIELD FROM HIS FELLOW [IN RETURN] FOR TEN KORS OF WHEAT A YEAR, [IF THE FIELD WAS] SMITTEN [AND PRODUCED POOR-QUALITY GRAIN], [THE TENANT] PAYS HIM OFF [FROM PRODUCE GROWN] IN [THE FIELD]. [IF] THE GRAIN WHICH IT PRODUCED WAS OF GOOD QUALITY, HE [HAS] NOT [GOT THE RIGHT TO] SAY TO HIM, “LO, I’M GOING TO BUY [YOU GRAIN] IN THE MARKETPLACE.” BUT HE PAYS HIM OFF [WITH PRODUCE GROWN] IN [THE FIELD].**

1. **I:1:** It was taught: “He who leases a field from an Israelite separates [heave offering and] tithes and gives to him [his portion from the tithed produce],” the words of R. Meir. [Supply: R. Judah says,] “If he gave him produce of the same field and of the Same kind as was contracted, he separates only heave offering and gives to him his portion, from which only heave offering has been separated. But if he gave him produce of a different field or of a different kind, he separates tithes and gives to him his portion from the tithed produce.” And sages say, “U he gave him produce of the same field, whether of a different kind or the same kind, he separates only heave offering and dues to him his portion, from which only heave offering has been separated, but if he gave him produce of a different field, whether of the same kind or a different kind, he separates tithes and gives to him his portion from the tithed produce” [T. Demai 6:5R-W].

LXXII. YERUSHALMI BABA MESIA 9:7

[A] **HE WHO LEASES A FIELD FROM HIS FELLOW TO SOW BARLEY IN IT MAY NOT SOW IT WITH WHEAT. [IF HE LEASED IT TO SOW] WHEAT, HE MAY SOW IT WITH BARLEY. RABBAN SIMEON B. GAMALIEL PROHIBITS [DOING SO]. [IF HE LEASED**

IT TO SOW] GRAIN HE MAY NOT SOW IT WITH PULSE, [TO SOW] PULSE, HE MAY SOW IT WITH GRAIN. RABBAN SIMEON B. GAMALIEL PROHIBITS [DOING SO].

1. **I:1:** [Addressing the question to Simeon b. Gamaliel, we ask:] One may readily understand the rule that if one has leased the field to sow] barley in it, one may not sow it with wheat [M. 9:7A-C]. But [if one leased the field to sow] wheat, [why] may he not sow it with barley [in the view of Simeon b. Gamaliel]? Does this follow R. La or the view of all parties?

LXXIII. YERUSHALMI BABA MESIA 9:8

[A] **HE** WHO LEASES A FIELD FROM HIS FELLOW FOR A PERIOD OF ONLY A FEW YEARS MAY NOT SOW IT WITH FLAX. AND HE HAS NO [RIGHT] TO [CUT] BEAMS FROM A SYCAMORE. [IF] HE LEASED IT FROM HIM FOR SEVEN YEARS, IN THE FIRST YEAR HE MAY SOW IT WITH FLAX. AND HE HAS [EVERY RIGHT] TO [CUT] BEAMS FROM A SYCAMORE.

1. **I:1:** [The Talmud's discussion pertains to T. 9:3G-L, which is as follows: He who leases a field from his fellow to sow it with wheat may not sow it with barley (cf. M. 9:8F). If he leased it to sow barley, he may not sow flax. U he leased it to sow flax, he may not sow barley. If he leased it to sow barley, he may not sow wheat. If he leased it to sow wheat, he may not sow flax. If he leased it to sow flax, he may not sow wheat.] One may well understand that [if he took the field to sow] wheat, he should not sow it in flax. But if he took it to sow it in flax, why should he not sow it in wheat? Flax exhausts the land for three years, and do you rule in this way?

LXXIV. YERUSHALMI BABA MESIA 9:9

[A] **HE** WHO LEASES A FIELD FROM HIS FELLOW FOR ONE SEPTENNATE AT THE RATE OF SEVEN HUNDRED ZUZ — THE SEVENTH YEAR COUNTS [IN THE] NUMBER [OF YEARS]. [IF] HE LEASED IT FROM HIM FOR SEVEN YEARS AT THE RATE OF SEVEN HUNDRED ZUZ, THE SEVENTH YEAR DOES NOT COUNT [IN THE] NUMBER [OF YEARS].

1. **I:1:** It was taught: He who leases a field from his fellow, [if] he sowed it in the first year and the seed did not sprout, they force him to sow it a second year. [If] he sowed it a second year and the seed did not sprout, they do not force him to sow it a third year [T. B.M. 9:14A-E].

LXXV. YERUSHALMI BABA MESIA 9:10

[A] (1) A DAY WORKER COLLECTS HIS WAGE ANY TIME OF THE NIGHT. (2) AND A NIGHT WORKER COLLECTS HIS WAGE ANY TIME OF THE DAY. (3) A WORKER BY THE HOUR COLLECTS HIS WAGE ANY TIME OF THE NIGHT OR DAY. A WORKER HIRED BY THE WEEK, A WORKER HIRED BY THE MONTH, A WORKER HIRED BY THE YEAR, A WORKER HIRED BY THE SEPTENNATE – [IF] HE COMPLETED [HIS PERIOD OF LABOR] BY DAY, COLLECTS ANY TIME THAT DAY. [IF] HE COMPLETED HIS PERIOD OF LABOR BY NIGHT, HE COLLECTS HIS WAGE ANY TIME DURING THE REST OF THAT NIGHT AND THE FOLLOWING DAY.

1. I:1: As to the worker hired by the hour,] Samuel said, “[If the employer has not paid him by] the next day, he transgresses on his account on the count of, ‘You shall give him hire on the day [he earns it, before the sun goes down, because he is poor]’ (Deut. 24:15).”

LXXVI. YERUSHALMI BABA MESIA 9:11

[A] ALL THE SAME ARE A FEE TO BE PAID TO A HUMAN BEING, A FEE TO BE PAID FOR USE OF A BEAST, AND A FEE TO BE PAID FOR THE RENTAL OF UTENSILS: [EACH IS] SUBJECT TO THE RULE, “IN HIS DAY YOU SHALL GIVE HIM HIS FEE” (Dt. 24:15). [EACH IS] SUBJECT TO THE RULE, “THE WAGES OF A HIRED WORKER WILL NOT ABIDE WITH YOU AT NIGHT UNTIL THE MORNING” (Lev. 19:13).

1. I:1: [With reference to M. 9:11A-C] it is written, “You shall not oppress a hired servant who is poor and needy, whether he is one of your brethren or one of the sojourners who are in your land within your towns; you shall give him his hire on the day he earns it, before the sun goes down” (Deut. 24:14-15). “You shall not oppress a hired servant who is poor and needy... among your brethren” – this refers to an Israelite. “Or one of the sojourners” – this refers to a righteous proselyte. “In your land” – this serves to encompass beasts and slaves. “In your towns” – this serves to encompass movables.
2. I:2: It was taught: Is it possible that [if the employer] gave him a draft on a storekeeper or moneychanger [M. 9:11G], the employer should transgress on his account? He does not transgress, but they are subject to transgressing on his account [the rule against keeping back wages, if they do not pay up]. But [the employer] does not transgress [the biblical requirement]. [T. continues: And if he stipulated with him at the outset in this regard that the wages would be deposited as

specified, then even they are not subject to transgressing the biblical law on his account. And if he told someone to pay him, this one and that one are not liable to transgressing the law on his account] [T. B.M. 10:5].

[B] UNDER WHAT CIRCUMSTANCES? WHEN [THE WORKER] HAS LAID CLAIM [ON HIS WAGES]. [IF] HE DID NOT LAY CLAIM [ON HIS WAGES], [THE EMPLOYER] DOES NOT TRANSGRESS [THE BIBLICAL REQUIREMENT]. [IF THE EMPLOYER] GAVE HIM A DRAFT ON A STOREKEEPER OR MONEY CHANGER, [THE EMPLOYER] DOES NOT TRANSGRESS [THE BIBLICAL REQUIREMENT]. AN EMPLOYEE – [IF HE CLAIMED HIS SALARY] WITHIN THE STATED TIME TAKES AN OATH [THAT HE HAS NOT BEEN PAID] AND COLLECTS HIS SALARY. [IF] THE STATED TIME HAS PASSED [AND HE DID NOT COLLECT HIS SALARY], HE DOES NOT TAKE AN OATH AND COLLECT HIS SALARY. BUT IF THERE ARE WITNESSES THAT HE HAD [IN FACT] LAID CLAIM [FOR HIS SALARY], LO, THIS ONE TAKES AN OATH AND COLLECTS HIS SALARY. A RESIDENT ALIEN IS SUBJECT TO THE RULE, “IN HIS DAY YOU SHALL GIVE HIM HIS FEE” (Dt. 24:15) [SINCE Dt. 24:14 REFERS TO THE ALIEN]. BUT HE IS NOT SUBJECT TO THE RULE, “THE WAGES OF A HIRED WORKER WILL NOT ABIDE WITH YOU ALL NIGHT UNTIL MORNING.”

- 1. II:1:** Said R. Simeon b. Laqish, “It is in a case in which he said to him, ‘I have already paid you,’ that the oath is required. But if he said to him, ‘I shall *pay you* tomorrow,’ and afterward he said to him, ‘I have already paid you,’ then he is not believed at all, [and no oath is required of the worker, who collects forthwith].” R. Yosé b. Haninah says, “But even on the next day, if he said to him, ‘I paid you already,’ he indeed is believed, [and the oath in that case is required of the householder that he already has paid].”
- 2. II:2:** It is written, “You shall not oppress your neighbor or rob him. [The wages of a hired servant shall not remain with you all night...]”(Lev. 19:13). This then excludes a resident alien.

LXXVII. YERUSHALMI BABA MESIA 9:12

[A] HE WHO LENDS MONEY TO HIS FELLOW SHOULD EXACT A PLEDGE FROM HIM ONLY IN COURT, AND [THE AGENT OF THE COURT] SHOULD NOT GO INTO HIS HOUSE TO TAKE HIS PLEDGE, AS IT IS SAID, “YOU WILL STAND OUTSIDE” (Dt. 24:11). [IF THE BORROWER] HAD TWO UTENSILS, [THE LENDER] TAKES ONE AND LEAVES ONE. AND HE RETURNS [HIS] PILLOW BY NIGHT, AND PLOUGH BY DAY. BUT IF [THE DEBTOR] DIED, [THE CREDITOR] DOES NOT RETURN [THE OBJECTS] TO THE ESTATE. RABBAN SIMEON B. GAMALIEL SAYS, “EVEN TO [THE BORROWER] HIMSELF HE RETURNS [THE OBJECT] ONLY FOR THIRTY DAYS.

“AFTER THIRTY DAYS [HAVE PASSED], HE MAY SELL [THE OBJECTS], WITH THE PERMISSION OF THE COURT.”

1. **I:1:** It is written with regard to [paying compensation for] damages that [the victim] collects [compensation] from the best quality of land, as it is said, “[When a man causes a field or vineyard to be grazed over, or lets his beast loose and it feeds in another man’s field,] he shall make restitution from the best in his own field” (Ex. 22:5). It is written in regard to collection of a loan that one collects from real estate of the average quality [as is explained at G-I], as it is said, “... and the man to whom you make the loan shall bring the pledge out to you” (Deut. 24:11).
2. **I:2:** He who lends money to his fellow has no right [personally] to exact a pledge from him. And if he has exacted a pledge from him, he has to give it back. And he thereby transgresses on every count which applies [T. B.M. 10:2].
3. **I:3:** If one has exacted a pledge and gone and returned it to him, the measure of justice is for him to collect [the debt] from indentured property [that is, from the pledge itself]. [B] But if he returns it to him, for what purpose does he exact a pledge? [He has no protection if he has no right to hold on to the pledge.] [C] [Explaining [the value of taking the pledge], Rabbi says, “I say, lest the Sabbatical year come and release the debt, or, lest the debtor die and the movables remain in the possession of the heirs [who then may not pay up]” [T. B.M. 10:9G-H].
4. **I:4:** It was taught: At night one exacts as a pledge a garment worn by day, and by day, a garment worn by night. And by day one returns a garment worn by day, and by night one returns a garment worn by night. A pillow and a blanket which one generally uses as a cover by night one exacts as a pledge by day and returns by night. A spade and a plough which one generally works by day one exacts as a pledge by night and returns by day.

LXXVIII. YERUSHALMI BABA MESIA 9:13

[A] FROM A WIDOW, WHETHER POOR OR RICH, THEY DO NOT TAKE A PLEDGE, SINCE IT IS SAID, “YOU WILL NOT TAKE A WIDOW’S GARMENT AS A PLEDGE” (Dt. 24:17). HE WHO SEIZES MILLSTONES TRANSGRESSES A NEGATIVE COMMANDMENT, AND IS LIABLE ON THE COUNT OF TAKING TWO DISTINCT UTENSILS, SINCE IT IS SAID, “HE SHALL NOT TAKE THE MILL AND THE UPPER

MILLSTONE AS A PLEDGE” (Dt. 24:6). AND NOT CONCERNING A MILL AND THE UPPER MILLSTONE ALONE DID THEY SPEAK, BUT CONCERNING ANY UTENSIL WITH WHICH THEY PREPARE FOOD, AS IT IS SAID, “FOR HE SEIZES A MAN’S LIFE AS A PLEDGE” (Dt. 24:6).

1. **I:1:** It was taught, “From a widow, whether poor or rich,” one has no right to take a pledge [M. 9:13A], since it is said, ‘You will not take a widow’s garment as a pledge’ (Deut. 24.17) – all the same are a poor one and a rich one,” the words of R. Meir [T.: Judah]. R. Judah [T.: Simeon] says, “From a poor widow one has no right to exact a pledge. But from a rich widow one takes a pledge and does not give it back [night by night], lest this one start coming and going to her house, and give her a bad name” [T. B.M. 10:10].
2. **I:2:** [If] one has taken as a pledge a pair of scissors belonging to a barber, he is liable on account of this part of it by itself and on account of that part of it by itself, “You shall not take the mill and the upper millstone as a pledge” (Deut. 24:6). Just as a mill and an upper millstone are distinctive in that they constitute two distinct utensils which do work as one, and one is liable on account of this part by itself and on account of that part by itself, so he who exacts as a pledge two utensils which do work as one is liable on account of this part by itself and on account of that part by itself. (If) one had five millstones, he has no right to take as a pledge even one of them.]

LXXIX. YERUSHALMI BABA MESIA 10:1

[A] **A HOUSE AND AN UPPER STORY BELONGING TO TWO PEOPLE THAT FELL DOWN – THE TWO OF THEM DIVIDE THE WOOD, STONE, AND MORTAR. AND THEY TAKE ACCOUNT OF WHICH STONES ARE MORE LIKELY TO HAVE BEEN BROKEN [AND ASSIGN THEM TO THE LIKELY OWNER OF THEM].**

1. **I:1:** It was taught: If the house tumbled inward like a furnace, the constituents of the upstairs room are those which are more likely to have been broken [and are assigned to the owner of the upper story]. [If] the house tumbled outward, the constituents of the downstairs part of the house are those which are more likely to have been broken [and are assigned to the owner of the downstairs].

[B] **IF ONE OF THEM RECOGNIZED SOME OF THE STONES BELONGING TO HIM, HE TAKES THEM, BUT THEY COUNT AS PART OF HIS SHARE IN THE RECKONING.**

1. **II:1:** Said R. Hoshaiyah, “That is to say, the claim of one party [in *the* absence of a counterclaim of the other party, who simply says, ‘I do not know the facts of the matter,’] takes precedence.”
2. **II:2:** There we have learned: One hundred parts of untithed produce and one hundred parts of tithed produce which became mixed together, and one wishes to separate heave offering of the tithe from the mixture for its untithed part – he takes from the mixture one hundred and one parts. One hundred parts of untithed produce and one hundred parts of first tithe which became mixed together, and one wishes to separate heave offering of the tithe from the mixture for both the untithed produce and the first tithe – he rakes from the mixture one hundred and one parts (M. Dem. 7:7A-D). [Explaining the reason,] said R. Yosé, “If you rule that he removes one hundred parts, I must point out [that it is possible that] all of the unconsecrated produce has come up in his hand, and that [the hundred parts he has removed] remain in their status as untithed produce. So he takes a hundred and one parts, so as to set apart heave offering and heave offering of the tithe from the untithed produce.”
3. **II:3:** [As to the one who bears the responsibility for] laying the foundations – R. Zeira said, “The one who lives on the ground floor is liable to put them down. [The one who lives upstairs may say to him,] ‘You are obligated to bear the weight of my house.’” R. La said, “The one who lives above [has to lay down the foundations].”

LXXX. YERUSHALMI BABA MESIA 10:2

[A] A HOUSE AND AN UPPER STORY BELONGING TO TWO PEOPLE – [IF THE FLOOR OF] THE UPPER ROOM WAS BROKEN, AND THE HOUSEHOLDER DOES NOT WANT TO REPAIR IT, LO, THE OWNER OF THE UPPER STORY GOES DOWN AND LIVES DOWNSTAIRS, UNTIL [THE OTHER] WILL REPAIR THE UPPER STORY FOR HIM:

1. **I:1:** It was taught: If the place on which the oven stood broke through [and the householder, living below, does not want to repair it], the tenant may move downstairs. If the place of the double-stove broke through, the tenant may do likewise. But [the householder, downstairs,] may say to the tenant, “[For the purpose of going up to your flat,] make a ladder for yourself, so that you do not have to come in and go out of my house all the time.”

[B] R. YOSÉ SAYS, “THE ONE WHO LIVES BELOW SUPPLIES THE BEAMS, AND THE ONE WHO LIVES ABOVE SUPPLIES THE PLASTER.”

1. **II:1:** R. Yusta in the name of R. Simeon b. Laqish, “The one living below supplies the beams and the boards, and the one living above supplies the plaster.”

LXXXI. YERUSHALMI BABA MESIA 10:3

[A] **A HOUSE AND AN UPPER STORY BELONGING TO TWO PEOPLE WHICH FELL DOWN — [IF] THE RESIDENT OF THE UPPER STORY TOLD THE HOUSEHOLDER [OF THE LOWER STORY] TO REBUILD, BUT HE DOES NOT WANT TO REBUILD, LO, THE RESIDENT OF THE UPPER STORY REBUILDS THE LOWER STORY AND LIVES THERE, UNTIL THE OTHER PARTY COMPENSATES HIM FOR WHAT HE HAS SPENT. R. JUDAH SAYS, “ALSO: [IF SO,] THIS ONE IS [THEN] LIVING IN HIS FELLOW’S [HOUSING]. [SO IN THE END] HE WILL HAVE TO PAY HIM RENT. “BUT THE RESIDENT OF THE UPPER STORY BUILDS BOTH THE HOUSE AND THE UPPER ROOM, “AND HE PUTS A ROOF ON THE UPPER STORY, “AND HE LIVES IN THE LOWER STORY, “UNTIL THE OTHER PARTY COMPENSATES HIM FOR WHAT HE HAS SPENT.”**

1. **I:1:** Now if the owner of the lower story wants to rebuild, and the owner of the upper story does not want to do so, what is the law as to his saying to him, “Cover us. [That is, provide the necessary foundations and parapet.]”

LXXXII. YERUSHALMI BABA MESIA 10:4

[A] **AND SO TOO: AN OLIVE PRESS WHICH IS BUILT INTO A ROCK, AND A GARDEN IS ON TOP OF IT [ON ITS ROOF, ABOVE], AND [THE ROOF] WAS BROKEN — LO, THE OWNER OF THE GARDEN [HAS THE RIGHT TO] GO DOWN AND SOW THE AREA BELOW, UNTIL THE OTHER PARTY WILL REBUILD VAULTING FOR HIS OLIVE PRESS. THE WALL OR THE TREE WHICH FELL DOWN INTO PUBLIC DOMAIN AND INFLECTED INJURY — [THE OWNER] IS EXEMPT FROM HAVING TO PAY COMPENSATION:**

1. **I:1:** Said R. Eleazar, “(M’SH B) There was a grapevine which was overhanging a neighbor’s peach tree, and the peach tree was split [so it no longer held up the grapevine]. The case came before R. Hiyya the Elder, who instructed [the owner of the peach tree, who was the defendant], ‘Go and provide him with another peach tree [for his vine].’”

[B] **[If]** THEY GAVE HIM TIME TO CUT DOWN THE TREE OR TO TEAR DOWN THE WALL, AND THEY FELL DOWN DURING THAT INTERVAL, **[THE OWNER]** IS EXEMPT. **[If THEY FELL DOWN]** AFTER THAT TIME, **[THE OWNER]** IS LIABLE.

1. **II:1:** And how much time is under discussion? R. Hoshaiah said, “Thirty days” [T. B.M. 11:7G-H].

LXXXIII. YERUSHALMI BABA MESIA 10:5

[A] **HE** WHOSE WALL WAS NEAR THE GARDEN OF HIS FELLOW, AND IT WAS DAMAGED **[AND FELL DOWN]** — AND **[THE OWNER OF THE GARDEN]** SAID TO HIM, “**CLEAR OUT YOUR STONES!**” BUT THE OTHER SAID TO HIM, “**THEY’RE YOURS!**” — THEY PAY NO ATTENTION TO **[THE LATTER]**. **[BUT IF]** AFTER THE OTHER PARTY HAD ACCEPTED **[THE OWNERSHIP OF THE STONES]** UPON HIMSELF, **[THE ORIGINAL OWNER OF THE WALL]** SAID TO HIM, “**HERE’S WHAT YOU LAID OUT! NOW I’LL TAKE MINE!**” — THEY DO NOT PAY ATTENTION TO **[THE FORMER]**. **HE** WHO HIRES A WORKER TO WORK WITH HIM IN CHOPPED STRAW AND STUBBLE, AND **[THE WORKER]** SAID TO HIM, “**PAY ME MY WAGE,**” AND **[THE EMPLOYER]** SAID TO HIM, “**TAKE WHAT YOU’VE MADE FOR YOUR WAGE!**” — THEY DO NOT PAY ATTENTION TO **[THE EMPLOYER]**. **BUT [IF,]** AFTER **[THE WORKER]** HAD ACCEPTED **[THE PROPOSITION]**, **[THE EMPLOYER]** SAID TO HIM, “**HERE’S YOUR SALARY, AND NOW I’LL TAKE MINE!**” — THEY DO NOT PAY ATTENTION TO **[THE EMPLOYER]**. **HE** WHO BRINGS OUT HIS MANURE TO THE PUBLIC DOMAIN — WHILE ONE PARTY PITCHES IT OUT, THE OTHER PARTY MUST BE BRINGING IT IN TO MANURE HIS FIELD. **THEY** DO NOT SOAK CLAY IN THE PUBLIC DOMAIN, AND THEY DO NOT MAKE BRICKS. **AND** THEY KNEAD CLAY IN THE PUBLIC WAY, BUT NOT BRICKS. **HE** WHO BUILDS IN THE PUBLIC WAY — WHILE ONE PARTY BRINGS STONES, THE BUILDER MUST MAKE USE OF THEM IN **AND** IF ONE HAS INFLICTED INJURY, HE MUST PAY FOR THE DAMAGES HE HAS CAUSED. **RABBAN SIMEON B. GAMALIEL** SAYS, “**ALSO: HE** MAY PREPARE FOR DOING HIS WORK **[ON SITE IN THE PUBLIC WAY]** FOR THIRTY DAYS **[BEFORE THE ACTUAL WORK OF BUILDING].**”

1. **I:1:** It was taught: A person may take out his manure and pile it up at the door of his house in the public way — [if this is] to take it out to manure with it. [But if it was] to keep it there, lo, this is prohibited. [If] another party came along and was injured by it, [the owner] is liable. R. Judah says, “At the time of fertilizing [the fields], a man may take out his manure and pile it up at the door of his house in the public way, “so that it will be pulverized by the feet of man and beast, “for thirty days. “For it was on that very stipulation that Joshua caused the Israelites to inherit the land” [T. B.M. 11:8]. A person may bring dirt and pile it up at the door of his house in the public way to knead it into

mortar. [But if it is] to keep it there, lo, this is prohibited. And if another party came along and was injured by it, lo, this person is liable. And he should not knead the mortar on one side and build on the other side. But he should knead on the side at which he builds [T. B.M. 11:6].

LXXXIV. YERUSHALMI BABA MESIA 10:6

- [A] TWO [TERRACED] GARDENS, ONE ABOVE THE OTHER — AND VEGETABLES BETWEEN THEM — R. MEIR SAYS, “[THEY BELONG TO THE GARDEN] ON TOP.” R. JUDAH SAYS, “[THEY BELONG TO THE GARDEN] BELOW.” SAID R. MEIR, “IF THE ONE ON TOP WANTS TO TAKE AWAY HIS DIRT, THERE WILL NOT BE ANY VEGETABLES THERE.” SAID R. JUDAH, “IF THE ONE ON THE BOTTOM WANTS TO FILL UP HIS GARDEN WITH DIRT, THERE WON’T BE ANY VEGETABLES THERE.” SAID R. MEIR, “SINCE EACH PARTY CAN STOP THE OTHER, THEY CONSIDER FROM WHENCE THE VEGETABLES DERIVE SUSTENANCE [WHICH IS FROM THE DIRT].”
1. I:1: What should they actually do [in deciding such a case]? Ephraim in the name of R. Simeon b. Laqish said, “Let them divide up [the vegetables].”
- [B] SAID R. SIMEON, “ANY [VEGETABLES] WHICH THE ONE ON TOP CAN REACH OUT AND PICK — LO, THESE ARE HIS.
1. II:1: Students of the school of R. Yannai said, “[Any vegetables they can reach] up to ten handbreadths.”
 2. II:2: If a wall between two properties collapsed — Rab and Samuel — one of them said, “Half belongs to this party, and half to that party.” And the other one said, “The whole of it belongs to this party, and the whole of it to that party.”

TRACTATE

BABA BATRA

Baba Batra begins in the middle of *Baba Mesia*'s concluding topical unit, the rules governing joint holders of a property. It proceeds to further licit real estate transactions: not infringing the property rights of others; establishing title through usucapion (right to property by uninterrupted possession); and transferring real estate and movables through sale. The next major section turns to licit commercial transactions and unstated stipulations in commercial transactions. The final unit turns to inheritances and wills and other commercial documents.

I. Real estate (continued)

- A. Joint holders of a common property (continuing *Baba Mesia*)
- B. Not infringing upon the property rights of others
- C. Establishing title to a field through usucapion
- D. Transferring real estate and movables through sale

II. Licit commercial transactions

- A. Conditions of irrevocable transfer of goods
- B. Unstated stipulations in commercial transactions (*B.B.* 6:1–7:4)

III. Inheritances and wills. Other commercial and legal documents

- A. Inheritance
- B. The preparation and confirmation of commercial documents, e.g., writs of debt
- C. Concluding miscellany

The whole of *Baba Qamma* takes up the results of wicked intentionality, an act of will that takes the form of malice, on the one side, or flagrant neglect of one's duties, on the other. The rules of *Baba Mesia* address the situations in which intentionality plays a role, is excluded as irrelevant, and may or may not enter into the adjudication of a situation of conflict. And the topics treated in *Baba Batra* in common take account of the idiosyncrasy of intentionality and exclude private interest from intervening in customary arrangements.

We here complete the Yerushalmi's exposition of the civil law in the *Babas*. Seeing the civil law as a whole yields perspective. The opening unit—*Baba Qamma* and the first half of *Baba Mesia*—takes the more difficult labor of

restoring the perfection of the social order, the closing unit, the rest of *Baba Mesia* and *Baba Batra*, the easier one of maintaining it. How do sages accomplish their statement in the matter of restoring order and value? Through their exposition of Scripture's laws of injury and misappropriation and through their formulation of their own, much more elaborate topical program for the civil order and the resolution of conflict at home, sages expose the rationality and order that inheres in the episodic rules of Scripture.

YERUSHALMI BABA BATRA

CHAPTER ONE

1:1

[A] Joint holders to a courtyard who wanted to make a partition in the courtyard

[B] build the wall in the middle.

[C] In a place in which they are accustomed to build it of (1) unshaped stones, (2) hewn stones, (3) half-bricks, or (4) whole bricks,

[D] they build it [of that sort of material].

[E] All accords with the custom of the province.

[F] [If they make it] of (1) unhewn stones,

[G] this one contributes [a space of] three handbreadths [of his share of the courtyard], and that one supplies [a space of] three handbreadths.

[H] [If they build it] of (2) hewn stones, this one supplies two handbreadths and a half [of space], and that one supplies two handbreadths and a half [of space].

[I] [If they build it] of (3) half-bricks, this one supplies two handbreadths [of space], and that one supplies two handbreadths [of space].

[J] [If they build it out of] (4) whole bricks, this one supplies a handbreadth and a half, and that one supplies a handbreadth and a half.

[K] Therefore, if the wall should fall down, the location [on which it had stood] and the stones belong to both parties.

[I:1 A] [12d] [*Since the present rule takes for granted that a division may be effected in any sort of courtyard,*] *how is it that we have learned elsewhere: They do not divide up a courtyard unless there will be an area of four cubits by four cubits for this one, and four cubits by four cubits for that one [M. 1:6A]? [Our rule does not recognize such a qualification.]*

[B] [To this evident contradiction between the present rule, as interpreted in the stated supposition at A, and the cited passage] *one may reply, there* [we deal with a case] in which the two partners do not concur. *But here* we deal with a case in which both of them concur [so it does not matter whether there is the requisite minimum of space produced for each party to the division, since both parties concur in whatever they will receive].

[C] *And even if you maintain that [in the present] instance we deal with a case in which* the two parties do not concur, [if] this one wills [a division], they force the other party [to carry out the division]. [If] that one wishes [a division of the courtyard], they force this one to [accept it].

[D] Said R. Yohanan, “They enforce [the will of one party upon both partners] in the case of [the division of courtyards, but they do not enforce [the will of one party upon both partners] in the case of [the division of] roofs.”

[E] *R. Nissah contemplated ruling* [that this statement of Yohanan, that the will of one party is not imposed upon the other in the case of a division] applies in the case of a courtyard which is located above the roof, but in the case of a roof which is above the courtyard, they do impose [the will of one upon both parties].

[F] *R. Yohanan contemplated ruling* [that it is in the case of a] courtyard which is above the roof that they impose [the will of one upon both], but in the case of a roof which is above the courtyard, they do not do so. [So Nissah’s surmise is contrary to Yohanan’s qualification of C.]

1:2

[A] **And so is the rule in the case of a garden:**

[B] **in a place in which it is customary to build a fence, they require [a recalcitrant owner] to do so.**

[C] **But in a valley, in a place in which it is not customary to build a fence, they do not require him to do so.**

[D] **But if he wants, he may withdraw inside his own portion [of the property] and build it.**

[E] **And he places the facing of the wall outside of [the fence] [on the side of the neighbor, indicating his ownership].**

[F] Therefore, if the wall should fall down, the location [on which it had stood] and the stones are his.

[G] If they had made it with the consent of both parties,

[H] they build the wall in the middle.

[I] They place the facing of the wall on this side and on that side.

[J] Therefore, if the fence should fall down, the location [on which it had stood] and the stones belong to both parties.

[I:1 A] *It was taught:* In the case of a garden [vegetable patch],

[B] whether it is a place in which it is customary to build a fence [cf. M. 1:2B], or whether it is a place in which it is not customary to build a fence,

[C] they force [a recalcitrant owner to build a fence if the partner so desires].

[D] But as to a valley, in a place in which it is customary to build a fence, they force [the recalcitrant partner to build a fence], while **in a place in which it is not customary to build a fence**, they do not force [him to participate in the project].

1:3

[A] He whose [land] surrounds that of his fellow on three sides,

[B] and who made a fence on the first, second, and third sides –

[C] they do not require [the other party to share in the expense of building the walls].

[D] R. Yosé says, “If he built a fence on the fourth side, they assign to him [his share in the case of] all [three other fences].”

[E] The wall of a courtyard which fell down –

[F] they require [each partner in the courtyard] to [help] build it up to a height of four cubits.

[G] [Each one is] assumed to have given, until one brings proof that the other has not contributed to the cost.

[H] [If the fence was built] four cubits and higher, they do not require [a joint holder in the courtyard to contribute to the expenses].

[I] [If the one who did not contribute] built another wall near [the restored one] [planning to roof over the intervening space],

[J] even though he did not [actually] put a roof on it,

[K] they assign him [his share in the cost of the] whole [other wall].

[L] [He is now] assumed not to have contributed to the cost, until he brings proof that he has contributed to the cost.

[I:1 A] [With reference to M. 1:3A-C, the neighbor's not being required to share in the expense of building the walls, which the Talmud takes to mean that if the one who built the three walls went and completed the fourth, they would impose the cost-sharing on the neighbor,] R. Huna said, "That [implication is valid] on the condition that it is at the time that he built [the three, that he also built the fourth].

[B] *"Thus if he had built it with stone, he [must build the fourth wall] also with stone [if he wishes to impose half of the cost on the neighbor]."*

[C] *"But here if he had built it with stone and [later on] he went and built [the fourth wall] with bricks, [so that the wall is not so strong as it should be if it were all of stone,] should he be able to collect [from the neighbor his share of the cost] as if the wall had been built with stone, and then whenever it should fall down, he will rebuild it!?"*
[Obviously, in Huna's view, that is not possible. Hence his original statement, A-B, must be sound.]

[II:1 A] R. Yosé says, "If the neighbor went and built a fence on the fourth side. they assign to him [his share in the cost of all three other fences]" [M. 1:3D].

[B] R. Huna said, "They assign to him the amount of the basic [cost] of the walls on the other three sides [not just of the fourth]."

[III:1 A] [The wall of a courtyard which fell down – they require each partner to help build it up to a height of four cubits.] [This is to the extent of its height [of four cubits].

[B] As to its length?

[C] Said R. Nissah, "The wall of a courtyard is made only to afford protection [privacy] for him [as a measure of the property of the owner, hence there is no specified minimum as to the length of the wall which must be reconstructed]. [It must be such as to block off the view of the other party to the courtyard and so afford privacy.]"

[D] [That statement would then imply a view contrary to M. 1:3J, for] *they seem to imply that* if he wanted to roof over the space, he does not do so [since the wall under discussion is not adequate for that purpose]. [Hence there is no basis for saying that if one did roof over the space between the wall restored by one party and the new wall built by the other, the latter must share in the cost of the whole other wall (PM).]

[E] Said R. Yosé b. R. Bun, “Interpret the rule [to apply to a case in which one put up a roof by extending it] from the beams [of his own property, without actually laying it down on the wall built by the other party, and it is to such a case that the statement at D would pertain].”

1:4

[A] They force [a joint holder in the courtyard to contribute to] the building of a gatehouse and a door for the courtyard.

[B] Rabban Simeon b. Gamaliel says, “Not all courtyards are suitable for a gatehouse.”

[C] They force [each joint holder to contribute to] the building of a wall, gates, and a bolt for the town.

[D] Rabban Simeon b. Gamaliel says, “Not all towns are suitable for a wall.”

[E] How long must one be in a town to be deemed equivalent to all other townsmen?

[F] Twelve months.

[G] [If] one has purchased a permanent residence, lo, he is equivalent to all the other townsmen forthwith.

[I:1 A] *Said R. La, “[As to the reasoning of Simeon b. Gamaliel that not all courtyards need a gate or are suitable for one,] it is normal for someone who makes a good living to build himself a gate, [but that would not be suitable for the poor], as it is said, ‘A rich man’s wealth is his strong city, and like a high wall protecting him’ (Prov. 18:11).”*

[II:1 A] *It was taught, “If one remained [in a town] thirty days, lo, he is deemed equivalent to all other townsmen [cf. M. 1:4E] – as to [taking alms from, or giving to] the common fund.*

[B] “As to garments, six months.

[C] “As to [being subject to] town taxes and fines, twelve months.”

[D] Now is it only after all of these other things [apply to the man] that he becomes liable to town taxes and fines at the end of twelve months?

[E] Said R. Yosé b. R. Bun, “As to providing grain for the poor for the Passover, whether it is to collect food [as a poor man], or whether it is to contribute [as a rich man], [it is an obligation which applies at the end of twelve months].”

1:5

- [A] They do not divide up a courtyard unless there will remain [an area of] four cubits [by four cubits] for this one, and four cubits [by four cubits] for that one;
- [B] nor [do they divide up] a field, unless there will remain nine qabs' space of ground for this one, and nine qabs' space for that one.
- [C] R. Judah says, "Unless there will be nine half-qabs of space for this one, and nine half-qabs of space for that one."
- [D] Nor [do they divide up] a vegetable patch unless there will be a half-qab of space for this one and a half-qab of space for that one.
- [E] R. Aqiba says, "A quarter-qab's space."
- [F] Nor [do they divide up] (1) a banquet hall, (2) watchtower, (3) dovecote, (4) cloak; (5) bathhouse, or (6) olive press,
- [G] unless there will be sufficient space for this one and sufficient space for that one [to make some reasonable use of his share].
- [H] This is the operative principle: Whatever may be divided and [retain] its original designation do they divide.
- [I] But if not, they do not divide [such an object].
- [J] Under what circumstances? When both parties do not concur.
- [K] But if both parties concur,
- [L] even if the measurements are less than specified,
- [M] they divide [the area].
- [N] But as to Sacred Scriptures, even though both parties concur, they do not divide them.
- [I:1 A] Said R. Yohanan, "The four [13a] cubits of which they have spoken [at M. 1:5A] are exclusive of the four cubits assigned to the doorways."
- [B] *And Bar Qappara taught likewise:* "They do not divide up a courtyard unless it contains eight cubits for this party, and eight cubits for that."
- [C] Said R. Yohanan, "The four cubits of which they have spoken are not necessarily such that they are permanently acquired by one of the parties, but rather a sufficient space so that he may tie up his beast for a while and undo its load."
- [D] [*Objecting to this statement,*] R. Jonathan raised the question: "Now did they speak of four cubits only in such wise that the man may tie up his beast for a while and undo its load? [Surely the implication of the

statement that four cubits must be available is that the person must have permanent ownership of the space.]”

[E] *We find that it was taught: Also in regard to the space around a cistern, it is assigned four cubits [T. B.M. 11:5A].*

[F] *The members of the house of Yannai said, “Also with regard to a chicken coop, it is assigned four cubits space round about.”*

[I:2 A] R. Yohanan in the name of R. Benaiah: “In the case of all courtyards owned in partnership, one partner may object to what the other does in the courtyard, except for doing laundry, so as to preserve the dignity of Israelite women [that they be able to wash their garments in the courtyard and not in a public place].”

[B] *Said R. Mattanaiah, “That rule which you have stated applies solely to a place in which women do the laundry, but in a place in which men do the laundry, it is not in such [a context that the rule pertains].*

[C] *“[Furthermore] that which you have said, namely, ‘... except for doing laundry, so as to preserve the dignity of Israelite women,’ [applies elsewhere in the courtyard,] but in the four cubits which belong solely to the individual, he has the right to object [to their doing laundry, and they must do it elsewhere in the courtyard].*

[D] *“And as to that which you have stated, ‘In the case of all courtyards owned in partnership, one partner may object to what the other does ...,’ that applies to the entire courtyard except for the four cubits which belong to the other party, in which area the partner may not object to what the other does.*

[E] *“But if the area was sloping [toward the partner’s property], even in the four cubits belonging solely to the other party, the partner has every right to object [to what is done], because he has the power to claim against him, ‘You pour out [slops] in your area, but it rolls down into mine.’”*

[F] R. Yohanan in the name of R. Eleazar b. R. Simeon: “He who does not want to contribute to a common symbolic meal [for joining property together for purposes of carrying about a whole, jointly owned area on the Sabbath] – they go into his house and extract a contribution to the common symbolic meal, even against his will.”

[G] *For lo, it is taught, “And [if] he does not wish to contribute to the symbolic meal, [in a case in which] he does not object, they go into his house and take a contribution for the symbolic meal by force, because he does not object. But if he should object, that is not the rule.”*

[H] *And it has been taught along these same lines: Partners in an alleyway may force one another to construct a site piece and cross piece for toe alleyway [to constitute it a single territory for purposes of carrying about on the Sabbath] [T. B.M. 11:18].*

[I] Said R. Yosé b. R. Bun, “It is not really that he does not wish to contribute to the symbolic meal. *But out of pure spite, he is unwilling to contribute to the symbolic meal.*”

[I:3 A] R. Huna said, “A courtyard is divided according to its entries. [The point is that if there are three doors, the owner of two owns two-thirds of the courtyard.]”

[B] Said R. Hisda, “The teaching applies for purposes of dividing up the manure. [But each doorway entitles the owner only to four cubits.]”

[I:4 A] *And so it was taught:* [Tosefta’s version] **Manure which is found in the courtyard is divided in proportion to the doorways.**

[B] **And that which is found in a colonnade belongs to everybody [T. B.M. 11:12].**

[C] **[Five] courtyards which make use of a single gutter, and the gutter was destroyed –**

[D] **all of them pay for the repairs along with the first.**

[E] **If the first repairs the part used for himself,**

[F] **the rest pay the cost along with the second.**

[G] **If the second repairs the part used for himself,**

[H] **the last of them pays the cost by himself along with all of them [T. B.M. 11:20].**

[I] **Five stories of a courtyard make use of a single gutter [house], and the gutter broke –**

[J] **all of them pay the cost with the one at the bottom [of the gutter].**

[K] **But the one at the bottom may pay the cost of fencing it by himself [for his own use];**

[L] **and all the rest of them pay the cost of repairing it with the second party;**

[M] **but the second may repair it by himself.**

[N] **The one at the very top of all of them repairs it for his own use,**

[O] **but also shares in the costs of repairing it with all of the other [T. B.M. 11:21].**

[P] If they were made to catch the rain water, they have the right to object to their use for doing laundry.

[Q] If they were made for doing laundry, they have not got the power to object to their use for collecting rain water.

[II:1 A] But as to Sacred Scriptures, even though both parties concur, they do not divide them [M. 1:5N].

[B] Said R. Hoshaiiah, “That rule applies, for example, to scrolls containing both Psalms and Chronicles. But if they are scrolls containing only Psalms, they may divide them.”

[C] Said R. Uqbah, “Even if they are scrolls containing only Psalms, they may not divide them,

[D] “for, since they do not divide the Scroll, these parties may come and read the passages along with those, and those parties may come and read the passages along with these.”

YERUSHALMI BABA

BATRA CHAPTER TWO

2:1

- [A] One may not dig (1) a cistern near the cistern of his fellow,
[B] nor (2) a ditch, (3) cave, (4) water channel, or (5) laundry pool,
[C] unless one set it three handbreadths away from the wall of his fellow,
[D] and plastered it with plaster [to retain the water].
[E] They set (1) olive refuse, (2) manure, (3) salt, (4) lime, or (5) stones
three handbreadths from the wall of one's fellow,
[F] and plaster it with plaster.
[G] They set (1) seeds, (2) a plough, and (3) urine three handbreadths
from a wall.
[H] And they set (1) a hand mill three handbreadths from the lower
millstone, which is four from the upper millstone;
[I] and (2) the oven so that the wall is three handbreadths from the belly
of the oven, or four from the rim.

- [I:1 A] [13b] *Thus is the meaning of the Mishnah [at M. 2:1C-D], And plastered it with plaster, [that is to say:]*
- [B] If one plastered it with plaster, [it may be set back] by any distance at all.
- [C] If he did not plaster it with plaster, [then he must set it back by three handbreadths].
- [D] [Evidence for this matter is derived] *from the following: They set back olive refuse, manure, salt, lime, or stones, three handbreadths from the wall of one's fellow, or plaster it with plaster [M. 2:1E-F].*
- [I:2 A] *Here you maintain that it is because rocks give out heat, and there you maintain that they do not give out heat. [That is, one must keep the*

rocks back from the wall because they give out heat. Yet on the list of objects in which one may not keep food warm on the Sabbath by reason of their imparting or giving out heat, not merely preserving it, rocks are not included. Consequently the power of rocks to give out heat is treated differently here from , M. Shab. 4:1ff.]

[B] Said R. Yosé, “Here and there rocks most certainly do not give out heat. [Then why are they listed here?] It is because rocks near a wall make the ground around them loose and weaken the earth of the wall [that the rule is stated here as it is, and that is the principal consideration].”

[I:3 A] *It was taught: In the case of what is a granite [not pebble] wall, lo, it is permitted [to urinate on the wall (T. B.B. 1:4D)].*

[B] Now under what circumstances do we invoke this rule? [The following case is pertinent:]

[C] *R. Yohanan went out of the synagogue. and urinated [poured out water] at the back of a wall.*

[D] *Now we do not know whether it was because it was a granite wall, or because he was in pain and could not keep it in.*

[II:1 A] *[Now as to the separation of the hand mill from the wall by three handbreadths from the lower millstone, which is four from the upper] that rule covers the hand mill used over there [in Babylonia].*

[B] *But as to the hand mill such as we use. it must be three from the wheel, which are four from the framework under the millstone.*

[III:1 A] **And the oven, so that the wall is three handbreadths from the belly of the oven, which is four from the rim [M. 2:11I]:**

[B] R. Judah b. Pazzi said. “From the outer rim and inward.”

[C] And rabbis say, ‘From the inner rim and outward.’”

[D] If it was made in the shape of a dovecote, what is the rule [as to whether three handbreadths suffice]?

[E] *Let us derive the answer from the following:*

[F] **A person should not set up an oven in a room unless there is a space of four cubits above it. If he was setting it up in the upper story, there has to be a layer of plaster under it three handbreadths thick, and in the case of a stove, a handbreadth thick [M. 2:2A-C].**

[G] Now is not an oven shaped like a dovecote, *and you then may say*, whether above or below, a handbreadth suffices?

[H] *Here too*: whether above or below, three handbreadths suffice. [We do not differentiate among the parts of the oven in the shape of a dovecote.]

2:2

[A] **A person should not set up an oven in a room,**

[B] **unless there is a space of four cubits above it.**

[C] [If] **he was setting it up in the upper story, there has to be a layer of plaster under it three handbreadths thick,**

[D] **and in the case of a stove, a handbreadth thick.**

[E] **And if it did damage, [the owner of the oven] has to pay for the damage.**

[F] **R. Simeon says, “All of these measures have been stated only so that if [the object] inflicted damage, [the owner] is exempt from paying compensation [if the stated measures have been observed].”**

[I:1 A] *It was taught*, “And not an oven belonging to a blacksmith [unless it is given the appropriate space to avoid damage to the neighbor’s house].”

[B] *R. Qarna taught*, “If it was, for example, [an oven such as serves] a refiner or a blacksmith, it is permitted [if it was located there] to begin with [before the other party built his house].”

[II:1 A] [With reference to M. 2:2E, if it did damage, the owner has to pay, the question now is raised:] What about [damage done] to the dwelling opposite [one’s oven]? [Is the owner of the oven liable to pay for damage done not in the house in which the oven is set up?]

[B] R. Aha said, “All the more so does the rule apply to damage done by an oven to a house opposite.”

[II:2 A] Said R. Jonathan, “He who causes damage does not enjoy the benefit of the claim of usucaption. [That is, the claim that, since the other party suffered the damage for many years, he has reconciled himself to it. No matter when the injured party lays claim, even after years of damage. he is to be compensated.]”

[B] *R. Joshua says*, “*Rabbis in particular forewarn in the case of a continuing cloud of smoke [issuing from a stove]. [The one who causes the smoke cannot lay claim that the others have accepted the nuisance and need not be compensated.]”*

[C] *This is in accord with the following: A woman would make a fire out of coals underneath the house of R. Ilpa. He wanted to prevent her from doing so. The case came before R. Nassah. He said, "They made the rule only in the case of a continuing cloud of smoke, [while in this case, it is only an occasional nuisance, so one may not prevent the woman from making the fire]."*

2:3

[A] **A person should not open a bake shop or a dyer's shop under the granary of his fellow,**

[B] **nor a cattle stall.**

[C] **To be sure, in the case of wine they permitted doing so,**

[D] **but not [building] a cattle stall [under the wine cellar].**

[E] **As to a shop in the courtyard,**

[F] **a person may object and tell [the shopkeeper], "I cannot sleep because of the noise of people coming in and the noise of people going out."**

[G] **One may [however] make utensils [and] go out and sell them in the market.**

[H] **Truly one has not got the power to object and to say, "I cannot sleep because of the noise of the hammer,**

[I] **"the noise of the millstones,**

[J] **"or the noise of the children."**

[I:1 A] *R. Jacob bar Aha drove a pastry seller from one portico to another [that is, forced him to move away].*

[B] *There was a pastry seller [who] opened [a store] under [the dwelling of] R. Abedomi, brother of R. Yosé. R. Aha passed by and did not object [to the opening of the store].*

[C] *[R. Abedomi] said, "Rabbis pass by and do not object [to this store]!"*

[D] *R. Aha grew angry with him. R. Abedomi, brother of R. Yosé grew sick. He became yet sicker.*

[E] *R. Yosé came up to call on him. He said, "I shall go and raise the question with [Aha]."*

[F] *He went and spoke, and the court [on which Aha sat] gave instructions to have pity on him and to prepare burial shrouds for him [which was a sign that Aha had made his peace with the brother].*

[G] *A man sold off his entire courtyard, leaving for himself one porch only. He would go up and sit there. The case came before R. Jonah b. R. Yosé.*

[H] *They ruled, “You do not have the right to go up and sit on the porch and watch [the owner] go in and come out of his house.”*

[I] *A man sold off half of his courtyard. He left for himself one bread shop [already resident in the courtyard]. The case came before R. Jonah and R. Yosé. They ruled, “You are the one who came to him. He never came to you.”*

[J] *And so it was taught: **If the stall or the shop was there before the granary, [the owner of the granary] has not got the power to object [T. B.B. 1:4G].***

[I:2 A] *It was taught: To be sure, in the case of wine they permitted, even though [the heat] diminishes the wine in volume, it improves its quality.*

[B] *When R. Hoshaiah heard this teaching, he put his wine onto the roof of the bathhouse. His wine soured. He said, “The Mishnah caused me to err.” [Later, he stated,] “It’s not that the Mishnah caused me to err. But the odor of the bathhouse soured the wine.”*

[I:3 A] **[If the bake- or dyer’s shop or cattle stall was there before the storehouse [was built, M. 2:3A], one has not got the power to stop him and to say, “I cannot sleep because of the noise of the hammer or because of the bad smell or because of the noise of the children” (M. 2:3H). As to one’s neighbor in a nearby courtyard, however, one may not force him to desist from annoying practices. Rabban Simeon b. Gamaliel says, “In the case of one’s neighbor, one may force him to desist from annoying practices”] [T. B.B. 1:4].**

[B] *It was taught: But [if he wanted to rent the store or the stall] to his neighbor, once he has accepted the agreement, he has not got the power to retract. [That is, once one such shop is accepted by the others in the court, they cannot object to someone else’s running the same sort of shop.]*

[C] Rabban Simeon b. Gamaliel says, “Even if he has accepted the arrangement, [another resident] still has the power to retract [his acceptance of the shop].

[D] *“For he has the right to say m him, ‘Those who used to come to you will come and go here asking for you when they do not find you, and they will cause much more traffic for us.’”*

[E] *[As to the case, If the shop was there before the storehouse,] R. Haninah and R. Mana – One said, “What is the law as to his neighbor’s [retracting his agreement] when he has rented out his house to him?*

[F] “Once he has accepted the agreement, he cannot retract.”

[G] *R. Huna said, “What is the law as to his neighbor’s opening a store?*

[H] “Once he has accepted the agreement, he cannot retract.”

[I] *This position of Rabban b. Gamaliel [B] is in accord with the view of R. Meir.*

[J] *For we have learned there:*

[K] And in the case of all of them, said R. Meir, “Even though the husband stipulated with the wife [that he has a given repulsive trait], she has the power to claim, ‘I thought that I could take it, but I cannot take it’” [M. Ket. 7:10].

[II:1 A] Truly one has not got the power to object and to say, “I cannot sleep because of the noise of the hammer, the noise of the millstones, or the noise of the children” [M. B.B. 2:3H-J].

[B] *These who teach children to write and reckon – their neighbors have the right to object [to their doing so in the common courtyard].*

[C] *For he has the power to say to him, “They will come and go looking for you and not find you, and they will cause much more traffic for us.”*

[D] *These Sepphoreans objected to one another in regard to the stench of a dung-heap.*

[E] *R. Abimi bar Tobi gave instructions to put a dung-heap [or: loom] between one wall and another wall.*

[F] *R. Isaac bar Haqilah gave instruction to a lumber mill to set [the sawing] from the wall of his property at a distance of four cubits.*

[G] *Said R. Yosé b. R. Bun, “These pillars which are shaky – it is from the force of the sawing that they are shaky.*

[H] *“The wall of the tannery [is so shaky that] from the roar of a Persian lion it will fall down.”*

2:4

[A] **He whose wall was near the wall of his fellow**

[B] **may not build another wall next to it,**

[C] **unless he sets it four cubits back.**

[D] **[And if he builds a wall opposite his fellow's] windows, whether it is higher, lower, or opposite them,**

[E] **[he must set it back by] four cubits.**

[I:1 A] [With reference to M. 2:4A-C,] *the members of the house of R. Yannai say, "Concerning those who come to settle in a new town does the Mishnah speak [in requiring space between one wall and another, for the constant passage of people will tread down the ground by the wall and so strengthen its foundations]. [In an old town this strengthening process already has been completed]"*

[B] [13c] Said R. La, "It is with regard to a solid wall *that the Mishnah speaks.*"

[C] Said R. Yosé, "It is with regard to a Sodomite wall [a wall which may not have windows looking into the adjoining lot] *that the Mishnah speaks [at M. 2:4A-C].*"

[D] *Said R. Yosé b. R. Bun, "The language of the Mishnah pericope itself indicates that that is the case [that the wall of A-C has no windows looking into the adjoining lot],*

[E] "for lo, it then says, **And if he builds a wall opposite his fellow's windows, whether it is higher, lower, or opposite them, he must set it back by four cubits** [thus indicating that the earlier clause addresses a wall not opposite the fellow's window]."

[I:2 A] **They set a wall four cubits away from windows,**

[B] **above [and] on the sides, so that one will not see in;**

[C] **below, so that one will not peek in;**

[D] **and opposite, so that it will not cast a shadow [on the win. dows] [T. B.B. 1:5].**

[E] *And so it has been taught: They set a wall at a distance from a window by the measure of the height of the window.*

2:5

[A] They set [one's] ladder four cubits away from the dovecote [of one's neighbor],

[B] so that the marten will not jump in [to the dovecote].

[C] And [they set back] a wall from [one's neighbor's] roof gutter by four cubits,

[D] so that [the neighbor] will be able to set up his ladder [to clean out his gutter].

[E] They set up a dovecote fifty cubits away from a town.

[F] And one should not set up a dovecote in his own domain, unless he has fifty cubits of space in every direction.

[G] R. Judah says, "Four kors of space of ground,

[H] "the length of the flight of a pigeon."

[I] But if he had bought it [and it was built in that place],

[J] even if it was only a quarter-qab of space,

[K] lo, he retains his established right.

[I:1 A] *Said R. Eleazar, "That rule which you have stated [at M. 2:5A-B], applies to a ladder at the right [of the dovecote]. But [as to a ladder set up] at the left side, one sets it up right on the spot."*

[I:2 A] *Here you maintain that fifty cubits [is the space covered by a pigeon], while there [at M. B.Q. 7:7:They may not set snares for pigeons unless it be thirty ris from an inhabited place] you hold that it is a matter of thirty ris.*

[B] Said R. Yosé b. R. Bun, "As to the matter of feeding, a pigeon feeds in an area of fifty cubits. As to the matter of flying about, a pigeon flies about even up to four mils."

2:6

[A] A fallen pigeon which is found within fifty cubits –

[B] lo, it belongs to the owner of the dovecote.

[C] [If it is found] outside of a fifty-cubit range,

[D] lo, it belongs to the one who finds it.

[E] [If] it was found between two dovecotes,

[F] [If it was] nearer to this one, it belongs to him,

[G] and [if it was] nearer to the other one, it belongs to him,

[H] and [if it was] exactly in between, the two of them divide it up.

[I:1 A] *As to the rule of M. 2:6E-H,] that rule which you have stated applies in a case in which the public way does not come between the two of them.*

[B] But if the public way goes between the two of them, it is not in such a case [that the rule applies]. [In this case, it need not be assigned to one or the other of the owners of the doves but rather to someone who has passed by. That person despairs of recovering the pigeon and hence the one who finds it may keep it.]

[C] *We derive each rule from the other case.*

[D] [With reference to the case of finding a purse of money in an inn in which three or more are located, we assign the purse to the one who finds it, in the theory that the owner must despair of retrieving it]. [*Now*] *we derive [that rule] from the present case [in which the public way intervenes] [cf. B.M. 2:4].*

[E] But if they were two [in the inn], then the finder must announce [what he has found and attempt to discover the true owner], [since in that case, as in the rule of Mishnah before us, there is no reason to suppose that the original owner has given up hope of finding the lost object]. [One or the other of the two owns the purse.]

[F] *And the rule pertaining to the [case of the inn, C], is derived from the present case: If they were three, the found object belongs to the one who has found it [for the owner gives up hope of recovering it].*

2:7-8

[A] They keep a tree twenty-five cubits from a town,

[B] and in the case of a carob or a sycamore, fifty cubits.

[C] Abba Saul says, “In the case of any sort of tree which produces no fruit, fifty cubits.”

[D] If the town was there first, one cuts down the tree and pays no compensation.

[E] And if the tree came first, one cuts down the tree but pays compensation.

[F] [If it is a matter of] doubt whether this came first or that came first,

[G] one cuts down the tree and pays no compensation.

[H] They set a permanent threshing floor fifty cubits from a town.

- [I] **A person should not build a permanent threshing floor on his own property,**
 [J] **unless he owns fifty cubits of space in all directions.**
 [K] **And he sets it some distance away from the crops of his fellow and from his ploughed land,**
 [L] **so that it will not cause damage.**

- [I:1 A] [Is the reason that they keep trees away from towns] that it stands and casts a shadow,
 [B] or is it that it is bad for the climate?
 [C] *What is the practical difference between these two proposed reasons?*
 [D] It would be a case in which a tree stood within one's own property.
 [E] *If you say that* the reason is that it stands and casts a shadow, then a tree in one's property is permitted.
 [F] *But if you say that* it is because it is bad for the climate, then even a tree in one's own property is forbidden.

2:9

- [A] **They put carrion, graves, and tanneries at least fifty cubits away from a town.**
 [B] **They make a tannery only at the east side of a town.**
 [C] **R. Aqiba says, "In any side of it one may set it up,**
 [D] **"except for the west side.**
 [E] **"But one must in any event set it fifty cubits away [from the town]."**
- [I:1 A] [With reference to Aqiba's statement that one may set a tannery in any direction except on the west side of the town,] R. Abbahu in the name of R. Yohanan: "[The fifty cubits of legal distance from the inhabited place are counted from the end of the town] to the place where he flays the carcass."
 [B] *Members of the household of R. Yannai say, "It is from the place at which one may stand and smell the stench of the tannery."*
 [C] *So too was it taught: R. Aqiba says, "In any side of it one may set it up [namely, a tannery] [M. 2:9C],*
 [D] **"and he sets it fifty cubits away,**
 [E] **"except for the west side,**

[F] “because [the wind] is constant” [T. B.B. 1:8].

[G] *R. Mana was traveling with people afflicted with boils. Abbayye said to him, “Do not walk at his east side but at his west side.”*

2:10

[A] They set up a pool for steeping flax away from a vegetable patch,

[B] leeks away from onions,

[C] and a mustard plant away from bees.

[D] R. Yosé permits in the case of a mustard plant.

[I:1 A] *It was taught:* They keep onions away from leeks [as well as leeks away from onions, M. 2:9B].

[B] But R. Eleazar b. R. Simeon permits [planting onions near leeks].

[C] *Said R. Jacob b. Dosai, “[In fact, there is no disagreement between M. 2:9B and 1A]. From that which is stated in the Mishnah [we derive the rule that] just as this one is kept apart from that one, so that one is kept apart from this one, [since the damage is mutual].”*

[I:2 A] R. Abbahu in the name of R. Yosé b. Haninah: “The reason [for M. 2:9C’s rule is that] the mouth of the bees is bitter, and [when the bees come and eat honey], they will ruin the honey [through the mustard seed which they have absorbed]. [So the mustard does damage to honey.]”

2:11

[A] They set up a tree twenty-five cubits away from a cistern,

[B] and in the case of a carob and a sycamore tree, fifty cubits,

[C] whether higher [than the cistern] or on the same level.

[D] If the cistern was there first, one cuts down the tree and pays the value.

[E] If the tree was there first, one may not cut down the tree.

[F] [If it is a matter of] doubt whether this was there first or that was there first,

[G] one may not cut it down.

[H] R. Yosé says, “Even though the cistern was there before the tree, one may not cut down [the tree],

[I] “for this one has every right to dig within his domain, and that one has every right to plant a tree within his domain.”

[J] A person may not plant a tree near his fellow’s field,

[K] unless he set it four cubits away from [the other’s field].

[L] All the same are vines or any other tree.

[M] [If] there was a fence in between, this one plants near the wall on one side, and that one plants near the wall on the other side.

[N] [If] the roots of one’s [tree] extended into the domain of the other,

[O] one may cut them away down to three handbreadths,

[P] so that they will not hinder the plough.

[Q] [If] one was digging a cistern, ditch, or cave,

[R] he may cut off the roots as far as he digs down,

[S] and the wood is his.

[I:1 A] *R. Jacob bar Idi in the name of R. Joshua b. Levi: “The reason behind the position of the rabbis [at M. 2:10D, that if the cistern was there first, one cuts down the tree] is that the possibility for habitation of the world depends upon cisterns.”*

[B] Simeon bar Vava said in the name of R. Yohanan: “Thus did R. Yosé [M. 2:10H] reply to sages: ‘*Just as you maintain that the possibility for habitation of the world depends upon cisterns, so I maintain that the possibility for habitation of the world depends upon trees.*’”

[I:2 A] [With reference to M. Bik. 1:1: **So too he who sinks a shoot from a tree planted in another’s domain or the public domain so that it grows in his own domain does not bring first fruits, the reason is that the fruits do not derive wholly from land belonging to that farmer. R. Judah says, “Such a one may bring them.”** In the exposition of that matter the following discussion is presented. The full details will be laid out in that context.] Said R. Yosé, “And well did he say so.

[B] “For if one rules that the matter of roots are the principal consideration in regard to the obligation to bringing first fruits [so that if one does not have complete ownership of the ground in which the roots are growing, he need not bring first fruits deriving from that tree], then a man will never be able to bring first fruits, for the roots of this tree extend into the roots of that one, and vice versa. [Accordingly, the principal consideration cannot be sole ownership of the entire area in which the roots are growing.]”

[C] On that account said R. Yosa in the name of R. Yohanah: "The question of the location of the roots so far as the obligation to bring first fruits is null."

2:12

[A] A tree which stretches over into the field of one's fellow –

[B] one cuts it away [to a height measured] as far as one reaches by an ox goad held over the plough,

[C] and, in the case of a carob and a sycamore, according to the measure of the plumb line [right at the boundary].

[D] In the case of an irrigated field, [he may cut away] any sort of tree by the measure of the plumb line [right at the boundary].

[E] Abba Saul says, "In the case of any tree which yields no fruit, [one may cut away] by the measure of the plumb line [right at the boundary]."

[F] [In the case of] a tree which extends into the public domain,

[G] one cuts [the branches] so that a camel may pass underneath with its rider.

[H] R. Judah says, "A camel carrying flax or bundles of branches of vine rods."

[I] R. Simeon says, "Every tree [is to be cut away] in accord with the measure of a plumb line, because of [the possibility of overshadowing a passing corpse and spreading] uncleanness."

[I:1 A] *R. Jonathan was an exemplary judge. He had as a neighbor an Aramaean [pagan], who lived cheek by jowl in the field and in the village. Now R. Jonathan had a tree planted [so that it overshadowed the property] of the Aramaean. A case along the lines [of the situation prevailing for Jonathan and his Aramaean neighbor] came before [Jonathan].*

[B] *He said to them, "Go and come back tomorrow."*

[C] *Now the Aramaean thought to himself, "It is on my account that he made no ruling. Tomorrow I shall go and chop off the branches which overshadow my property on my own, and I shall see how he decides the other case. If he judges other people but does not apply the judgment to himself, he is not a decent person."*

[D] *At evening R. Jonathan sent instructions to his carpenter, saying, "Go, cut off the part of the tree which is overshadowing the Aramaean's land."*

- [E] *In the morning, the litigant came before R. Jonathan. He said to him, “Go, cut the branches which arc overhanging into your land.”*
- [F] *The Aramaean then said to him, “And what is the law about your branches?”*
- [G] *He said to him, “Go and see how my branches are treated in your property [for they already had been cut off].”*
- [H] *He went out and saw the pruning which had taken place, and he said, “Blessed be the God of the Jews.”*
- [I] *A certain woman [having a case before Jonathan] brought him a present of figs. He said to her, “By your leave, if you brought them in uncovered, bring them out uncovered, and if you brought them in covered up, bring them out covered up, so that people won’t say that you brought in money, when you in fact brought a gift of figs [which in any case I shall not accept].”*
- [J] *R. Haninah came to visit R. Jonathan in his garden, and he [i.e., Jonathan] brought him figs to eat. When he went out he saw that [elsewhere in the garden] he had white Bath Sheba figs [that is, figs of a far higher quality].*
- [K] *He said to him, “Now why did you not feed me some of these [which are of better quality]?”*
- [L] *He said to him, “They arc my son’s.”*
- [M] *R. Haninah had scruples about taking them without permission from the son and so committing an act of theft against him.*
- [I:2 A] *R. Yosa in the name of R. Yohanan, “The law is in accord with R. Simeon [at M. 2::12I].”*
- [B] *R. Hiyya in the name of R. Yohanan: “Everyone concurs that the law is in accord with R. Simeon.”*

YERUSHALMI BABA BATRA

CHAPTER THREE

3:1

[A] [Title by] usucaption of (1) houses, (2) cisterns, (3) trenches, (4) caves, (5) dovecotes, (6) bathhouses, (7) olive presses, (8) irrigated fields, (9) slaves,

[B] and anything which continually produces a yield –

[C] title by usucaption applying to them is three years,

[D] from day to day [that is, three full years].

[E] A field which relies on rain – [title by] usucaption for it is three years,

[F] not from day to day.

[I:1 A] [13d] How do we know that ownership through usucaption [is established through three years of unharassed occupancy]?

[B] Said R. Yohanan, “We have heard from those who go to Usha: ‘They have derived the rule from the analogy of an ox which is an attested danger [after three distinct episodes of goring]. [Likewise, once three years have passed without objection from the putative owner, the right of ownership through usucaption is established].’”

[C] [*Objecting to this claim,*] said R. Yosé, “Who holds the position that an ox is declared an attested danger only if it has gored on three distinct days? Is it not [only] R. Judah? [But R. Meir maintains that the three gorings may be on a single day, and were the analogy drawn to his view, the full period of usucaption would be a single year.]”

[D] [Indeed, the analogy is solely to Judah’s position in the present context. We shall see that it is Judah’s view which prevails overall] *for we have learned there:* **Said R. Judah, “They specified a period of three years only so that one may be located in Ispamia, and [thus] one may hold possession for a year, [and in the second year] people will go and inform [the owner] over the period of a year, and [the owner] may return in the third year [M. B.B. 3:3E].**

- [I:2 A] Simeon bar Vava in the name of R. Yohanan: “He who sells a house to his fellow – once he has handed the key over to him, [the purchaser] has acquired possession of the house.”
- [B] R. Ammi in the name of R. Yohanan: “He who sells a house to his fellow, once [the purchaser] has stored produce in the house, he has acquired possession of it.”
- [C] Said R. Samuel bar R. Isaac, “But this is on condition that the produce is of a sort which is suitable for storage.”
- [D] R. Yohanan in the name of R. Yannai: “He who sells a cistern to his fellow, once he has handed over to him the bucket, [the purchaser] has acquired possession of it.”
- [E] R. Joshua b. Levi in the name of R. Simeon b. Laqish: “He who sells a flock to his fellow, once he has handed over to him the leading implements, the purchaser has acquired possession of it.”
- [F] *What is the meaning of “leading implements”?*
- [G] *There are those who say it is the staff; there are those who say it is the pipe; and there are those who say it is the bellwether.*
- [H] R. Simeon b. Laqish in the name of Bar Qappara: “He who sells a grave to his fellow – once the latter has buried one corpse in one of the niches, it is a mark of presumptive possession of the whole niche area.
- [I] “If he has buried three corpses in three niches, it is a mark of presumptive possession of the entire grave area.”

[II:1 A] And slaves [M. 3:1A]:

- [B] R. Simon, brother of R. Judah bar Zabedi, in the name of Rab: “As to an infant, so long as it is lying in the market place, its father or mother may give testimony [as to its genealogical status]. Once it has been taken out of the market place [as a foundling], it is necessary for two witnesses to give evidence as to its genealogical status. And its father and its mother are treated as two witnesses.”
- [C] Said R. Abbahu, “And a man [the father] is suspect of stating concerning one who is not his son that he is his son,
- [D] *“lest such a statement may have been made in regard to the property owned by a proselyte [which is deemed ownerless]. [A man’s claim that the man is his son thus can produce a material*

benefit, since the man then may inherit the property of the proselyte.]”

- [E] He [Simon] said to him, “Lo, all our rabbis in the Exile give testimony concerning us that thus have we heard from R. Ada bar Abbahu, said R. Hisda, ‘*That which you have said* applies to an infant which does not crawl about [leave the place where it was put down].’
- [F] “But in the case of an infant which can leave the place in which it is put down, [the father and mother are not accepted as witnesses].”
- [G] *This is in line with that which* R. Yohanan said, “Calves and foals which leap about from place to place are not subject to acquisition through usucaption.”
- [III:1 A] R. Yosa in the name of R. Yohanan: “Two fields which are part of the estate of a proselyte, with a pathway between them – if one has uprooted [weeds or branches] from one of them [intending] to acquire the other field and not to acquire the pathway –
- [B] “the field [from which he removed the weeds] is acquired, but the other field is not.”
- [C] *R. Zira raised the question before R. Yosa:* “If one intended to effect acquisition of the path and that which is below it [what is the law]?”
- [D] Said R. Hisda, “As to the estate of a proselyte, if one has gathered weeds at the northern part of a field intending to acquire the southern part of the field but not the part in the middle – the northern part of the field he has acquired, the southern part he has not acquired.”
- [E] *There we have learned:* **He who purchases flax from his fellow – lo, this one has not acquired possession until he will move it from one place to another. But if it was attached to the ground and he has plucked any small quantity of it, he has acquired possession [M. B.B. 5:7].**
- [F] Samuel said, “He has acquired only what he has plucked up.”
- [G] *Said R. Abedoma, the emigrant,* “*This statement [of Samuel’s] was made with reference to the estate of a proselyte.*”
- [H] *R. Hisda, said R. Isaac,* “*Because you do not wish to say that this [M. B.B. 5:7] poses a problem to Samuel, you state that the rule treats a case involving the estate of a proselyte.*”

[I] R. Hisda said, “If one has drawn this beast intending to acquire it, he has acquired it. If he did so in order to acquire its offspring, he has acquired them. If he did so in order to acquire it and its offspring, he has not effected acquisition.”

[J] *Said R. Nissah, “That rule which you have stated applies to a case in which it was not pregnant. But if it was pregnant, they have treated the fetus as equivalent to one of its limbs [and it is acquired].”*

[K] *And has it not been taught:*

[L] He who sells the fetus in his beast to his fellow has done nothing at all [contrary to J]?

[M] If he sold the fetus of his maidservant to his fellow, he has done nothing at all.

[N] If he sold the tithes of his field to his fellow, he has done nothing whatsoever.

[O] If he sold the air space of his ruined house to his fellow, he has done nothing whatsoever.

[P] But he sells him his beast and leaves the fetus for himself.

[Q] He sells him the maidservant and leaves the fetus for himself.

[R] He sells him his field and leaves the tithes for himself.

[S] He sells him his ruined house and leaves the air space for himself.

[III:2 A] R. Ba in the name of R. Hisda, “There are three who are believed if they give testimony forthwith [upon the matter about which they testify]: A midwife, a caravan [which finds a foundling], and she who declares her fellow women to be clean [by taking responsibility for a drop of blood].”

[B] The midwife – when she is yet seated at the travelling stool.

[C] *This is in line with the following verse of Scripture: “And the midwife took and bound [14a] on his hand a scarlet thread, saying, ‘This came out first’” (Gen. 38:28).*

[D] A caravan –

[E] *This is in accord with that which was stated by R. Simon, brother of R. Judah bar Zabedi in the name of Rab: “As to an infant, so*

long as it is lying in the market place, its father or mother may give testimony as to its genealogical status. Once it has been taken out of the market place [as a foundling], it is necessary for two witnesses to give evidence as to its genealogical status. And its father and mother are treated as two witnesses.”

[F] A woman who gives testimony that her fellow women are clean –

[G] *This is in line with that which we have learned there: **Three women who were sleeping in one bed, and blood was found under one of them – all of them are unclean. [If] one of them examined herself and found herself unclean, she alone is unclean, and the two others are clean [M. Nid. 9:4].***

[H] Said R. Ba, “And this is on condition that it is within a period of twenty-four hours [from the discovery of the original menstrual blood].”

3:2

[A] R. Ishmael says, “**Three months in the first year, three in the last, and twelve months in between – lo, eighteen months [suffices].**”

[B] R. Aqiba says, “**A month in the first year, a month in the last, and twelve months in the middle, lo, fourteen months.**”

[C] Said R. Ishmael, “**Under what circumstances?**”

[D] “**In the case of a grain field.**”

[E] “**But in the case of a tree-planted field [an orchard], [if] one has brought in the [grape crop], collected the olives, and gathered the [fig] harvest,**

[F] “**lo, these [three harvests] count as three years.**”

[I:1 A] Samuel said, “This represents the view of R. Ishmael and R. Aqiba.

[B] “But sages say, ‘[Ownership through usucaption is established only through] three years of harvesting the grain, three years of vintaging the grapes, three years of cutting the olives.’”

[C] Rab said, “This represents the view of R. Ishmael and R. Aqiba.

[D] “But sages say, ‘[Ownership through usucaption is established only through] three full years [‘from day to day’].”

[E] R. Samuel bar Nahman in the name of R. Jonathan: “Just as they differ here, so they differ with regard to the three years referred to by Elijah [in which there will not be dew or rain]. [At issue is whether three complete years or three seasons is meant.]”

[F] Said R. Hanina, “The years counted for the prohibition of the produce of an orchard in the first three years of its planting *is the practical difference between the opinions expressed here*. [That is, do we count three full years, as sages would say, or three harvest-seasons, which may be considerably less than three full years?]”

3:3

[A] **There are three regions so far as securing title through usucaption [is concerned]: Judah, Transjordan, and Galilee.**

[B] **[If] one was located in Judea, and [someone else] took possession of his property in Galilee,**

[C] **[or] was in Galilee, and someone took possession [of his property] in Judea, it is not an effective act of securing title through usucaption**

[D] **unless [the owner] is with [the squatter in the same province].**

[E] **Said R. Judah, “They specified a period of three years only so that one may be located in Ispamia, and one may hold possession for a year, people will go and inform [the owner] over the period of a year, and he may return in the third year.”**

[I:1 A] Rab said, “[The rule that usucaption is effective only if the owner is in the same province with the squatter] was taught only with reference to times of upheaval [in which transportation is interrupted].”

[B] Rab said, “Acquisition of property through usucaption does not apply in the case of a [landowner] who fled [his property], nor does the mode of usucaption apply from one country to another [that is, when the owner is in a different country from his land].”

[C] Samuel said, “Acquisition of property through usucaption does apply in the case of a [landowner] who fled [his property], and it does apply from one country to another [as explained at B].”

[D] *Said R. Nahman bar R. Isaac, “Scripture supports that which Samuel has said, ‘So the king appointed an official for her, saying, Restore all that was hers, together with all the produce of the fields from the day that she left the land until now’ (2 Kings 8:6). [She had fled to the land of the Philistines, and her property had been seized by squatters during that time. Since the king had to restore the property, it indicates that usucaption may be effected of the property of one who has fled.]”*

[E] [With reference to the inapplicability of usucaption in a case in which the owner is in another province, M. 3:3E,] said R.

Eleazar, “And even in the case of two hyparchies, for instance, Shelumi and Nabiro, with the Jordan between them, and with the owner standing there and able to see someone taking possession of his field and taking possession of his property – the squatter does not effect ownership through usucaption until the original owner is with him in that same city or province.”

- [I:2 A] Rab said, “The principal action effecting usucaption is harvesting the produce. [That is, the testimony of the witnesses must be that they have seen the squatter harvest the produce of the field.] “
- [B] And does not Rab concur that if one weeds and hoes [the field, that too constitutes an act of usucaption]? [C] Rab certainly does concede that if one weeds and hoes the field, [it does constitute an act of usucaption].
- [D] *What then is the meaning of Rab’s statement, “The principal action effecting usucaption is harvesting the produce”?*
- [E] It is that if witnesses have seen the squatter plowing, reaping, making sheaves, threshing, sifting, but did not see him bring the produce in, that does not constitute a valid statement of evidence of usucaption. The only such valid evidence constitutes bringing in the produce.
- [F] Rab said, “The principal action involved in the rite of removing the shoe [of the brother-in-law who declines to marry his childless brother’s widow] is the loosing of the straps [of the sandal.”
- [G] Now did not R. Ba in the name of R. Judah, state, [and also] R. Zeriqa presented the same teaching in the name of Rab: “In the opinion of sages. if the Levirate sister-in-law removed the shoe but did not spit, spit but did not remove the shoe, her rite of removing the shoe is not valid – until she will both remove the shoe and also spit”? [Consequently, the afore-cited statement contradicts the present view that the principal action is not alone in removing the shoe.]”
- [H] Rab certainly does concede that [the rite is not valid] until one has both removed the shoe and spit.
- [I] *What then is the meaning of Rab’s statement, “The principal action involved in the rite of removing the shoe is the loosing of the straps of the sandal”?* [In this text the question is not answered.]

- [I:3 A] R. Yosé b. Haninah asked R. Yohanan, “[If the owner of a property] enters a complaint [against the squatter], what is the law as to his having to do so before a court?”
- [B] R. Yosé in the name of R. Yohanan: “[If] one raises a complaint, he does not have to do so before a court.”
- [C] *There are those who teach [the aforesaid matter as follows:*
- [D] R. Yosé b. R. Haninah asked the disciples of R. Yohanan, “[If the owner of a property raises a complaint [against the squatter], what is the law as to his having to do so before a court?”
- [E] R. Hiyya in the name of R. Yohanan: “[If] one raises a complaint, he must do so before a court.”
- [F] Samuel said, “Even if one has raised a complaint with [the squatter] before the workers, that constitutes a valid act of complaint.”
- [G] And does one have to enter a complaint for each of the three years [at the outset, or, if the property is held over a long period of years, must the complaint be entered annually even after the first three years’ complaints]?
- [H] *Gidul bar Minyamin had a case [in which he had entered a complaint for the first three years only]. The judges of his case were Hilqiah bar Tobi, R. Huna, and Hiyya bar Rab. Hiyya bar Rab said to them, “Thus did father say: ‘Once he has entered a complaint against [the squatter] for the first three years, he does not again have to enter a complaint against him.’”*
- [I] *And so it has been taught:*
- [J] [If] one enjoyed the usufruct of a field for six years,**
- [K] and [the other party] complained against him for the first three years [of his usucaption] –**
- [L] and at the end, the holder of the field said to him, “But you yourself sold it to me,” “You yourself gave it to me as a gift” [M. 3:4F] – this does not effect ownership through usucaption.**
- [M] [If it is] by reason of his original complaint, he has not secured title through usucaption [T. B.B. 2:4].**

[N] For any act of usucaption which is not accompanied by a claim of legitimate ownership, is no act of usucaption.

[O] Samuel said, “If this is [how the law is to be established], we are not going to leave the possibility of growing produce in the Land of Israel [since squatters will have no chance to improve the land, but will lose out even after many years].”

3:4

[A] Any act of usucaption [along] with which [there] is no claim [on the property being utilized] is no act of securing title through usucaption.

[B] How so?

[C] [If] he said to him, “What are you doing on my property,”

[D] and the other party answered him, “But no one ever said a thing to me!” –

[E] This is no act of securing title through usucaption.

[F] [If he answered,] “For you sold it to me,” “You gave it to me as a gift,” “Your father sold it to me,” “Your father gave it to me as a gift” –

[G] Lo, this is a valid act of securing title through usucaption.

[H] He who holds possession because of an inheritance [from the previous owner] requires no further claim [in his own behalf].

[I:1 A] But he who holds possession because of an inheritance, while requiring no further legitimating claim in his own behalf,] does have to effect usucaption [through utilizing the property for a period of three years].

[I:2 A] [At M. Ket. 1:6-8, Joshua takes the position that the defendant must bring proof for her claim. For example, if a woman claimed to have lost the tokens of virginity through an accident, and the husband said she had had sexual relations with someone, Gamaliel and Eliezer accept the woman’s claim, while Joshua states, “We do not rely on her word. She must be presumed to have suffered intercourse before betrothal unless she can bring proof for her claim.” At M. Ket. 2:2, in this same context, we find the following, cited only in part in our text:] *There we are taught: But R. Joshua concedes that if a person said to his fellow, “This field [belonged to your father and I bought it from him,” he may be believed, for the mouth that prohibited is the mouth that permitted].* [The man volunteered the information

that the claimant's father did own the property, but then claims that he had purchased it. If we accept the former claim, we accept the latter. In elucidation of M. B.B. 3:4F's claim and the matter of inheritance, M. B.B. 3:4H, this discussion now unfolds.]

[B] *Here is [an illustration of the matter].* Reuben enjoys the usufruct of a field, in the assumption that it belongs to him. Simeon produces witnesses that his father died while in possession of the field. They remove the field from the possession of Reuben and hand it over to Simeon.

[C] But if Reuben went and brought witnesses that [Simeon's] father had not died while in possession of the field [then the claim of Simeon is null].

[D] *Said R. Nahman bar Jacob, "I am the one who took it away from Reuben. I am the one who will return it to him."*

[E] [Disagreeing with this view that the court must act afresh,] Rab said, "When you handed it over, you handed it over at the instruction of a court. From that time on, he who wishes to exact property from his fellow must bring evidence in behalf of his claim [and it is therefore Reuben's task to prove that he owns the field, for the deed of the court is effective until Reuben proves otherwise]."

[F] But who indicates [who is the one who has to bring proof, since each party now has two valid witnesses to his claim]?

[G] Said R. Ba, "Witnesses to the situation prevailing at the time of death indicate [which party is in presumptive possession of the property]. [Simeon has to find witnesses to indicate that his father had owned the field at the time of his death]."

[H] But [should you not] take note of the case in which there are no witnesses who are informed [of the situation prevailing at the time of death]?

[I] Said R. Yosé, "The field under all circumstances remains in the presumptive possession of its owner. Henceforward, he who wishes to exact property from his fellow must bring evidence in behalf of his claim."

3:5

[A] (1) **Craftsmen, partners, sharecroppers, and trustees are not able to secure title through usucaption.**

[B] (2) **A husband has no claim of usucaption in his wife's property,**

- [C] (3) nor does a wife have a claim of usucaption in her husband's property,
- [D] (4) nor a father in his son's property,
- [E] (5) nor a son in his father's property.
- [F] Under what circumstances?
- [G] In the case of one who effects possession through usucaption.
- [H] But in the case of one who gives a gift,
- [I] or of brothers who divide an estate,
- [J] and of one who seizes the property of a proselyte,
- [K] [if] one has locked up, walled in, or broken down in any measure at all –
- [L] Lo, this constitutes securing a claim through usucaption.
- [I:1 A] Partners [M. 3:5A]:
- [B] Samuel said, “A partner’ *does not belong here* [on Mishnah’s list].”
- [C] Does not a partner effect title through usucaption?
- [D] Did not Samuel say, “A partner who goes down [into a field] and sows [a crop] is as one who sows a crop with the owner’s permission [so he is not in the status of one who can effect possession through usucaption].”
- [E] *That which you say, that* a partner who went down and sowed a crop is in the status of one who sows with permission, pertains to a case in which the partner is standing there.
- [F] *And that which you say, that* the partner does have a claim of usucaption, pertains to a case in which the other partner is not standing there.
- [G] *What does [Samuel] introduce [into the Mishnah] in place of [the partner]?*
- [H] Craftsmen and thieves are not able to secure title through usucaption.
- [I] [The following is an example, in the Tosefta’s version:] **Craftsmen are not able to effect title through usucaption. How so?** [If] **one saw his utensils at a laundryman’s shop,**
- [J] **or his slave at a craftsman’s shop,**

[K] [If the laundryman or the craftsman] said to him, “You sold them to me,” or, “You gave them to me as a gift,”

[L] it is not a valid claim of title through usucaption [craftsmen are not able to secure title merely by having use of an object, since it is assumed that utensils are left with them for the owner’s benefit, and the owner need not protest in order to retain his rights of ownership.]

[M] [If he said,] “You told me to sell them,” or, “You told me to give them away as a gift,”

[N] lo, this constitutes a valid claim of effecting title through usucaption [T. B.B. 2:6].

[II:1 A] Sharecroppers [M. 3:5A]:

[B] R. Huna said, “[That statement] applies to a sharecropper with a permanent arrangement [who cannot establish a claim of ownership through usucaption].

[C] “But as to a sharecropper for a limited period, he can establish a claim of ownership through usucaption.”

[D] *Both R. Yohanan and R. Simeon b. Laqish rule*, “Even a share cropper for a limited period cannot establish claim of ownership through usucaption.

[E] “For [the owner] of the field may claim, ‘I had satisfaction [from his tenancy], so I left him on the field [for many years].’”

[F] *There [in Babylonia] they say*, “A sharecropper cannot establish a claim of ownership through usucaption.

[G] “The son of a sharecropper can establish a claim of ownership through usucaption.”

[H] Both R. Yohanan and R. Simeon b. Laqish say, “Neither a sharecropper nor the son of a sharecropper can establish a claim of ownership through usucaption.

[I] “For the owner of the field may say, ‘I had satisfaction from his father’s tenancy, so I left his son on the land.’”

[J] For R. Yohanan said, “A sharecropper who put another share cropper on the land – the latter cannot establish a claim of ownership through usucaption.

[K] “For it is routine for a sharecropper to introduce another sharecropper to tend the land.”

[III:1 A] Truly: a man who oversees the property of his wife has the power to establish the claim of ownership through usucaption, for it is routine for husbands to oversee the possessions of their wives.

[B] A husband has no claim of usucaption in his wife’s property [M. 3:5B].

[C] That rule applies during the lifetime of his wife. But after her death, he has a claim of usucaption in his wife’s property.

[D] Nor does a wife have a claim of usucaption in her husband’s property [M. 3:5C].

[E] That is true during his lifetime. But after death, she does have such a claim.

[F] Nor does a father have a claim of usucaption in his son’s property [M. 3:5D].

[G] That is true during his lifetime. But after his death, he does have such a claim.

[H] Nor does a son in i.us father’s property [M. 3:5E].

[I] That is true during his lifetime. But after his death, he does have such a claim.

[IV:1 A] [If one has locked up a beast, walled in a field, or broken down a wall, in any measure at all, lo, this constitutes securing a claim through usucaption (M. 3:5K-L).] Rab said, “That applies when one fills in a break in the wall to less than ten handbreadths in breadth, or adds to it so that it is ten handbreadths in height [and so completes the wall].”

[B] Samuel said, “Even if one has broken down a place which is not suitable for an opening, or walled in a place which is not suitable for shutting up, lo, this establishes the right of ownership through usucaption.”

[C] *For has it not been taught:* He who sells something to his fellow, and the purchaser carries and does not take possession of the object,

[D] if then the seller goes and takes possession of the object,

[E] does the act of taking possession nullify the sale or the gift?

3:6

- [A] [If] two were testifying for another party that he has enjoyed the usufruct of the property for three years,
- [B] and they turn out to be false witnesses,
- [C] they must pay to [the original owner] full restitution (Deut. 19:19).
- [D] [If] two witnesses [testify] concerning the first year, two concerning the second, and two concerning the third –
- [E] They divide up [the costs of restitution] among themselves.
- [F] Three brothers, and another party joins together with [each of] them.
- [G] Lo, these constitute three distinct acts of testimony,
- [H] and they count as a single act of witness when the evidence is proved false.

- [I:1 A] [The former owner] said to him, “What are you doing in my property?”
- [B] [The other replied,] “I have a claim for the field established through [three] years of usucaption.”
- [C] And [the squatter] went and brought witnesses that he indeed had a claim on the field for the requisite years of usucaption.
- [D] Then the [other party] went and secured the proof of perjury for the witnesses [brought by the squatter] –
- [E] lo, this one [the squatter] gives him back the field and value of the produce that he had consumed over a period of three years [and this explains the compensation required at M. 3:6C].
- [I:2 A] [The following statement is relevant to M. B.Q. 7:3 and should not be cited here at all:] Said R. Zira, “That is to say, A perjured witness is not invalidated in court.” [This matter is dealt with *ad loc.*]

3:7

- [A] What are [usages] that are effective in the securing of title through usucaption, and what are [usages] that are not effective in the securing of title through usucaption?
- [B] [If] one put (1) cattle in a courtyard, (2) an oven, (3) double stove, (4) millstone, (5) raised chickens, or (6) put his manure, in a courtyard –
- [C] this is not an effective mode of securing title through usucaption.
- [D] But [If] (1) he made a partition for his beast ten handbreadths high,

[E] and so, too, (2) for an oven; so, too, (3) for a double stove; so, too, (4) for a millstone –

[F] [If] (5) he brought his chickens into the house,

[G] or (6) made a place for his manure three handbreadths deep or three handbreadths high –

[H] Lo, this is an effective mode of securing title through usucaption.

[I:1 A] Said R. Eleazar, “Partners are accustomed to permit one another [to do as they like] with chickens.”

[B] *Said R. Yosé, “The Mishnah has not taken [14b] that position. But: If two partners made a vow not to benefit from one another, each is forbidden to put [in the courtyard] a millstone or an oven or to rear chickens” [M. Ned. 5:1]. [This item is truncated and fully clear only at M. Ned. 5:1.]*

[I:2 A] Said R. Eleazar, “Tending chickens in a courtyard which does not belong to one – lo, this is a means of securing ownership through usucaption.”

[B] Said R. Yosé, “And that is fair enough. What is your choice? If he has a right to raise his chickens there, lo, this one has done so. And if he does not have the right to raise his chickens there [but has done so anyhow], lo, this is a valid means of securing ownership through usucaption.”

3:8

[A] The right to place a gutter spout does not [impart title through] usucaption [so that the spout still may be moved], but the place on which it discharges does impart title through usucaption [so that the place must be left for its present purpose].

[B] A gutter does [impart title through] usucaption.

[C] An Egyptian ladder does not [impart title through] usucaption, but a Tyrian ladder does [impart title through] usucaption.

[D] An Egyptian window does not [impart title through] usucaption, but a Tyrian window does [impart title through] usucaption.

[E] What is an Egyptian window? Any through which the head of a human being cannot squeeze.

[F] R. Judah says, “If it has a frame, even though a human being’s head cannot squeeze through, it does [impart title through] usucaption.”

[I:1 A] R. Simeon b. Laqish said, “[A gutter-spout does not impart title through usucaption so that the spout still may be moved], so far as

lengthening or broadening it. [The *owner* of the courtyard *can* prevent the owner of the gutter-spout from broadening or lengthening the spout, which would take up more space than the spout presently uses.]”

[B] R. Yohanan said, “[There is no title] for that entire direction [one particular end of the gutter] [so that the owner of the courtyard may shift the direction in which the spout pours out its water, and the owner of the waterspout cannot insist that the spout must pour out the waters only in its original direction]. [But the owner of the courtyard cannot wholly remove the waterspout.]”

[C] *For have we not learned:* The place on which the gutter-spout debouches has a permitted domain of four cubits [into which it may routinely discharge]?

[D] Now can you claim that that domain is limited to a single direction [end of the gutter]? [Obviously not!] [E] [Referring once more to Yohanan’s statement,] **A gutter-spout does not impart title through usucaption** – in that entire direction [since it does not matter to the owner of the spout in which direction the spout debouches].

[F] *And so has it been taught:* [Tosefta’s version] **The place of the gutter-spout in the courtyard is not subject to a claim of ownership through usucaption. The place onto which the gutter spout discharges is subject to a claim of ownership through usucaption [T. B.B. 2:13].**

[II:1 A] [As to the Egyptian ladder,] the members of the House of R. Yannai said, “A ladder of three or less rungs is considered a stool [not a ladder].”

[B] *Said R. La in the name of the members of the House of R. Yannai, “This statement was made in regard to the issue of in cleanness [that is, up to three rungs, it is deemed a stool and receives uncleanness as does any other stool].”*

[C] *R. Hezekiah in the name of members of the house of R. Yannai, “It was for the matter of effecting possession through usucaption that this statement was made [thus defining the ladder for the purpose of M. 3:8C].”*

[D] *R. Yosé in the name of the members of the House of R. Yannai: “It was for the matter of the Sabbath that this statement was made. [That is, a ladder serves to diminish the statutory height of a wall between two*

courtyards, so that, if the wall is deemed less than ten handbreadths, it is not a partition, and it may be reversed. Accordingly, if it is of the requisite height, it will serve to diminish the height of the wall, but if it is less than that height, it is not deemed a ladder at all.]”

[II:2 A] [The concluding passage is relevant to M. 3:8D. What follows depends upon Y. Yeb. 12:3, as follows: What is the law as to breaking open an Egyptian window into a courtyard belonging to partners, at a height of more than four cubits? He said to him, “Do we thus rule, that the other party has the right to shut off fresh air from his nostrils?” (Obviously not!) Surely the man has a right to open what amounts to an air hole, without the other party’s being able to prohibit him from doing so.] [In this matter,] said R. Hoshaiiah, “They have stated this rule [that one may open an air hole at a height above four cubits from the ground] only with reference to a courtyard. But as to roofs, even a hole higher than four cubits off the ground (the other partners to the courtyard must approve, and they have a right to) prevent [one’s making such a hole].”

[B] *R. Oshaiah heard this ruling, and he was displeased. He said, “I have stated a tradition, and it was not reported in my name! [So did I state matters, just as above:] “They have stated this rule only with reference to a courtyard, but as to roofs, even a hole higher than four cubits off the ground [the other partners to the courtyard must approve, and they have a right to] prevent [one’s making such a hole].”*

3:9

[A] A projection [if it extends] a handbreadth [or more] does [impart title through] usucaption,

[B] [and concomitantly,] one has the power to protest [its being made].

[C] [If it projects] less than a handbreadth, it is not subject to [imparting title through] usucaption,

[D] and one has not got the power to protest [its being made].

[I:1 A] R. La in the name of R. Yannai, “A projection which extends outward by a handbreadth – one may widen it as much as he wants along the length of the projection.”

[B] As to broadening it – how much [may one do so]?

[C] Nathan son of R. Hoshaiiah: “Sufficient to divide his house [from his neighbor’s (cf. PM)].”

3:10

- [A] A person should not open his windows into the courtyard of which he is one of the jointholders.
- [B] [If] he purchased a house in another courtyard [which adjoins the one in which he is living],
- [C] he may not make an opening into the courtyard of which he is one of the jointholders.
- [D] [If] he built an upper story on his house, he should not make an opening for it into a courtyard of which he is one of the jointholders.
- [E] But if he wanted, he may build a [new] room inside of his house,
- [F] or he builds an upper story on top of his house,
- [G] and he makes an opening for it into his house.
- [H] One should not open up in a courtyard of which he is one of the jointholders a doorway opposite the doorway [of another resident],
- [I] or a window opposite [another's] window.
- [J] [If] it was small, he should not enlarge it.
- [K] [If it was] a single one, he should not make it into two.
- [L] But he may open into the public domain a doorway opposite [another's] doorway [in the public domain],
- [M] or a window opposite [another's] window [in the public domain].
- [N] If it was small, he may enlarge it.
- [O] If it was a single one, he may make it into two.

[I:1 A] [The inquiry is into the status of an alleyway, and the mode of inquiry is to seek implications in Mishnah's language pertinent to that intermediate space, between the outside and the inner courtyard. At issue are M. 3:10C and M. 3:10L, the former concerning the courtyard, the latter, the outside world.] *Here you say* that [opening] a door opposite a door is permitted [namely, at M. 3:10L], *and there you say that* [opening] a door opposite a doorway is prohibited [namely, at M. 3:10C].

- [B] [*Now the implication of*] *that which you have said [in the former instance is that it is], permitted to do so in an alleyway, and [the implication of] that which you have said [in the latter instance is that it is], forbidden to do so in an alleyway. [In the setting of the courtyard, it is forbidden to open up a new doorway; hence in an alleyway it is*

permitted to do so. In the setting of the outer street, it is permitted to open up a new doorway; hence in an alleyway it is prohibited to do so.]

[C] *Now has it not been taught: **Just as joint residents of a courtyard have the power to object [to what happens in] the courtyard, so residents of a common alleyway have the power to object [to what] one another may do in the alleyway shared among them [T. B.B. 2:15D-E].***

[D] Said R. La, “Here [in the passage in which the implication is that it is permitted to open a doorway into an alley] it is when the party living opposite has assented, and there [in the passage in which the implication that it is forbidden to do so] it is when the party living opposite has not assented [to one’s opening a new doorway opposite his].”

[I:2 A] [What follows takes up the passage of T. 2:15F-O, immediately following the Tosefta passage cited at 1C. The passage under discussion is as follows: **[If] one has built a bathhouse next to the bathhouse of his fellow, or a store next to the store of his fellow – [the owner of the bathhouse or store next door] cannot prevent him [from doing so], saying to him, “You have brought ruin on me.” For the former may say to him, “Just as you do on your property, so I have every right to on mine.” [If] one’s rainwater was pouring off into the garden of his fellow, and the latter went and stopped it up, one has the right to prevent him from doing so, unless he lets him know in which direction he is going to let it down.** Now we notice that the rule for the bathhouse, or store, is different from the rule covering rainwater pouring off into the garden of his fellow. One cannot go and stop up the flow, and the difference between the right of the neighbor in the former instance and the one in the present instance has now m be explained.] R. Yohanan said, “The rule applying to the garden is different [from the one applying to the bathhouse or store, in which case one may not start a new bath-house or store], because [the garden] is an area permitted for [this sort of] rutting. [So both parties are equally permitted to do the one deed but not the other.]”

[B] Said R. Nissah, “And ruins are not allowed to be rebuilt. [That is, one cannot rebuild a fallen house in his courtyard and open up a doorway opposite an existing doorway. Along the lines of the cited passage, the other party may say that he too will want to build up a ruined house, but if the one party does so now, then the other party will be unable to

open up a door later on. Consequently, both parties have the power to prohibit one another's deeds equally, just as Tosefta says.]"

- [II:1 A] Said R. Jacob, bar Aha, "*It was taught over there [in Babylonia]: 'He who opens up a window in a wall of his courtyard in the presence of his fellow does so to a space of four cubits, opening up the wall with his left hand and sealing the hole with the right.'* [That is, he must seal it immediately, since the fellow objects.]"
- [B] Now note what you have said, that if the fellow was present – [which must mean that the fellow said nothing and did not object]!
- [C] [*No, that is not the meaning. The neighbor*] *has the power to claim, "I wanted [to see you] working hard [and troubling yourself for nought, for you were going to have to seal it up anyhow]."*
- [D] [*If the neighbor even handed him the stone [for the work, so assisting him], [the neighbor still can claim that he never approved the opening of the window]. [He has] the power to claim, "I was ridiculing you [and playing a joke, since I knew you'd have to close the window up anyhow]."*

[II:2 A] **Five doors, one inside the other – the measure [to indicate whether or not uncleanness may flow through the hole] is the size of a drill. [Cf. T. Ah. 14:1C. Note T. Ah. 14:1A: A door which one made for light – its measure is the size of a drill.]**

- [B] This statement supports the position of those who say, "Those who build a window open to the outside – [such a window] is made only to bring in light."
- [C] Since it has no permanent claim [to be left where it is], it does not serve to introduce uncleanness [to the house, if a corpse should be lying under the outside roof near the window].

3:12

- [A] **They do not hollow out a space under the public domain –**
- [B] **Cisterns, ditches, or caves.**
- [C] **R. Eliezer permits,**
- [D] **[if it is so strong that] a wagon can go over it carrying stones.**
- [E] **They do not extend projections and balconies over the public domain.**
- [F] **But if one wanted, he brings in [his wall] into his own property and then projects [a balcony].**

[G] [If] one has purchased a courtyard, and in it are projections and balconies, lo, this one retains his right [to keep them as they are].

[I:1 A] [With reference to M. 3 :11G,] if the projections or balconies fell down and one wants to reconstruct them –

[B] R. Yohanan said, “He has given up his right to do so [and is deemed to have handed the space back to the public way].”

[C] R. Simeon b. Laqish said, “He has not given up that right.”

[D] *Now there is a Mishnah passage which supports the position of this party, and there is a Mishnah passage which supports the position of that party.*

[E] *The Mishnah passage which supports the position of R. Yohanan is as follows:*

[F] He who had a public way passing through his field and who took it away and gave [the public another path] along the side – what he has given he has given, but what was his does not pass back to him [M. B.B. 6:7A-D].

[G] *The Mishnah passage which supports the position of R. Simeon b. Laqish is as follows:*

[H] [If] one has purchased a courtyard, and in it are projections and balconies, lo, this one retains his right [to keep them as they are [M. 3:11G].

YERUSHALMI BABA BATRA

CHAPTER FOUR

4:1

- [A] He who sells a house has not sold (1) the extension,
[B] even though [the extension] opens into [the house],
[C] (2) the room behind [the house],
[D] nor (3) the roof, if it has a parapet ten handbreadths high.
[E] R. Judah says, “If it has the shape of a door, even though it is not ten handbreadths high, it is not [deemed to have been] sold.”

[I:1 A] [14c] R. Nahum in the name of R. Hiyya bar Ba, “The rule [that the extension is not sold along with the house] applies in a case in which it is four cubits by four cubits with a height of ten cubits .

[B] “And it applies only if it is roofed over and sealed off.”

[C] *Said to them R. Zira, “And did R. Hiyya bar Abba provide for you this entire interpretation of the passage?”*

[II:1 A] **Nor the roof, if it has a parapet ten handbreadths high [M. 4:1D]:**

[B] Is this the end of the matter [that there must be] a parapet? If the back walls of houses surrounded the area, [or] if there were pillars and posts on top of them, [would this also not constitute an adequate partition to indicate that the roof area is distinct from the house]?

[C] *Let us derive the answer to that question from the following:*

[D] **R. Judah says, “If it has the shape of a door, even though it is not ten handbreadths high, it is not deemed to have been sold” [M. 4:1E], [and the pillars do form the shape of a door].**

[E] They said, “And that [sages’ position at M. 4:1D] is so if there is a parapet ten handbreadths high.”

4:2

- [A] Nor [has he sold] (4) the cistern,
 [B] or (5) the cellar,
 [C] even though he wrote him [in the deed], “The depth and height.”
 [D] “But [the seller] has to purchase [from the buyer] a right-of-way [to the cistern or the cellar,” the words of R. Aqiba.
 [E] And sages say, “He does not have to purchase a right-of-way.”
 [F] and R. Aqiba concedes that when [the seller] said, “Except for these,” he does not have to purchase a right-of-way for himself.
 [G] [If the seller] sold [the cistern or cellar] to someone else,
 [H] R. Aqiba says, “[The new purchaser] does not have to buy a right-of-way for himself.”
 [I] And sages say, “He has to buy a right-of-way for himself.”
- [I:1 A] [If in the end one does not acquire the cistern or cellar,] for what purpose does one write, “The depth and height” [M. 4:2C]?
 [B] So that if [the purchaser] wishes to lower [the cellar], he may lower it; if he wishes to raise it, he may raise it [T. B.B. 3:IH-J].
- [I:2 A] Rabbah bar R. Huna in the name of Rab: “The law is in accord with R. Aqiba before us, for he is [the anonymous] rabbis [in a saving involving] R. Hiyya. [Aqiba maintains that one sells in a liberal spirit.]”
 [B] R. Zeira. R. Jeremiah in the name of Rab: “The law is in accord with R. Aqiba vis-[^]-vis R. Hiyya,
 [C] “for he is ‘the rabbis’ of the Babylonians’ [version of the matter].”
 [D] *There they say*, “Admon and R. Aqiba. [Both of them say the same thing, for at M. Ket. 13:7, Admon follows the principle of Aqiba that if a right-of-way is lost through disuse, one need not purchase a right-of-way].”
 [E] [Disagreeing with this view,] said R. La, “They differ from one another when there has been no prior specification [of a right-of-way, that is, as in the case before us]. [Admon will allow the right-of-way only where there had been one already set forth, which then was lost due to lack of use. But where there is no such right-of-way established, Admon need not concur with Aqiba’s generous position.]
 [F] *Now how shall we interpret this matter [to show that La, E, is right]?*

[G] If it is certain that there is already a right-of-way, all parties concur that it is not necessary for him to purchase a right-of-way.

[H] If it is certain that there is no right-of-way, all parties concur that he has to purchase a right-of-way.

[I] *But thus must we interpret the matter:* In a case in which the matter has not been made explicit –

[J] R. Aqiba says, “He does not have to purchase a right-of-way.”

[K] And sages say, “He has to purchase a right-of-way.”

4:3

[A] **He who sells a house has sold the door but not the key.**

[B] **He has sold a permanent mortar but not a movable one.**

[C] **He has sold the convex millstone but not the concave millstone,**

[D] **nor the oven or the double stove.**

[E] **When he said to him [in the deed], “It and everything which is in it”** **עד**

[F] **Lo, all of them are sold.**

[I:1 A] *Thus is the meaning of the .Mishnah’s rule:* **He has sold the millstone which is hollowed out [of bedrock] but not the convex millstone [T. B.B. 3:1B-C].**

4:4

[A] **He who sells a courtyard has sold the houses, cisterns, trenches, and caves,**

[B] **but not the movables.**

[C] **If he said to him, “It and everything which is in it,”**

[D] **lo, all of them are sold.**

[E] **One way or the other, he has not sold him the bathhouse or the olive press which are in it.**

[F] **R. Eliezer says, “He who sells the courtyard has sold only the open space of the courtyard.”**

[I:1 A] R. Isaac asked, “*In the view of rabbis [vis-a-vis Eliezer], if one has sold the courtyard without further specification, has he sold the houses, cisterns, trenches, and caves therein but not the movables, or has he also sold the movables?”*

- [B] *R. Isaac asked, “In the view of R. Eliezer, if one has sold the courtyard without further specification, he has sold him only the open space of the courtyard.*
- [C] *“If then he had said to him, ‘... it and whatever is in it,’ has he sold him the houses, cisterns, trenches, and caves, but not the movables, or has he also sold the movables?”*
- [D] *Said R. Yohanan, “[Assuredly, M. 4:4A-B deals with a case in which one has sold the courtyard without further specification.] For I shall bring evidence for that view from the following statement of the house of Levi: ‘If there were there courtyards open toward the inner space, they are deemed to have been sold. If they were open outward, they are not deemed to have been sold. If they opened both inward and outward, these and those are deemed to have been sold.’ [This rule surely deals with a sale without further specification, for otherwise the question before the framer of the statement is not comprehensible. Had there been specification, surely the answer to the question dealt with here would have been known.]”*

4:5

- [A] **He who sells an olive press has sold the vat, grindstone, and posts.**
- [B] **But he has not sold the pressing boards, wheel, or beam.**
- [C] **If he said, “It and everything which is in it,”**
- [D] **all of them are sold.**
- [E] **R. Eliezer says, “He who sells an olive press has sold the beam.”**
- [I:1 A] The very definitive characteristic of this object is that if it has no beam, it is not to be called an olive-press – and yet you say this [that he has not sold the beam, M. 4:5B]!
- [B] *Who has formulated this passage? It is R. Eleazar, for it has been taught in the name of R. Eleazar:*
- [C] [Tosefta’s version] **He who sells an olive-press has sold the moulds, tanks, press beams, and lower millstones.**
- [D] **But he has not sold the sacks, the packing bags, or the upper millstones.**
- [E] **But if he had said to him, “It and everything which is in it I sell to you,” lo, all of them are sold [M. 4:5C- D].**

- [F] But even though he has said to him, “It and everything which is in it,” he has not sold to him the cistern, ditch, extensions, cellars or caves which are in it.
- [G] But if he said to him, “It and everything which is in it I sell to you,”
- [H] lo, all of them are sold.

4:6

- [A] He who sells a bathhouse has not sold the boards, benches, or hangings.
- [B] If he said, “It and everything which is in it,”
- [C] lo, all of them are sold.
- [D] One way or the other, he has not sold the water jugs or woodsheds.
- [I:1 A] *It was taught:* [Tosefta’s version] He who sells a bathhouse has sold the inner rooms, the outer rooms, the kettle room, the towel room, and the dressing room.
- [B] But he has not sold the kettles, the towels, or the [clothes] cupboards which are in it.
- [C] R. Simeon b. Eleazar says, “The place of the gatekeeper is sold. The dressing room is not sold.”
- [D] But if he said to him, “It and everything which is in it I sell to you,” lo, all of them are sold [M. 4:6B-C].
- [E] And even though he said to him, “It and everything which is in it I sell to you,”
- [F] he has not sold to him the water channels from which [the bathhouse] derives [water], whether [those used] in the dry season or the rainy season,
- [G] and also not the woodshed [M. 4:6D].
- [H] But if he had said to him, “The bathhouse and everything which is needed for making use of it do I sell to you,”
- [I] all of them are sold [T. B.B. 3:3].

4:7

- [A] He who sells a town has sold the houses, cisterns, ditches, caves, bathhouses, dovecotes, olive presses, and irrigated fields

[B] but not the movables

[C] If he said to him, “It and everything which is in it,”

[D] even though there are cattle and slaves in it,

[E] lo, all of them are sold.

[F] Rabban Simeon b. Gamaliel says, “He who sells a town has sold the town guard.”

[I:1 A] *It was taught:*

[B] [Tosefta’s version] He who sells a town –

[C] Rabban Simeon b. Gamaliel [T. R. Judah] says, “The town guard (SNTR) is sold along with it [cf. M. 4:7F].

[D] “But the town clerk (‘WNQLMWS) is not sold along with it.”

[E] But if he had said to him, “It and everything which is in it I sell you,”

[F] all of them are sold.

[G] And even though he had said to him, “It and everything which is in it I sell to you,”

[H] he has not sold him outlying parts or suburbs,

[I] or the thickets which are set apart by themselves,

[J] or the vivarium for wild beasts, fowl, and fish [T. B.B. 3:5].

[K] “Outlying parts” are valleys outside of town.

[L] “Suburbs” are outlying villages.

[M] As to the parts at the sea or river,

[N] *some Tannaite authorities teach that they are sold, and some, that they are not sold.*

[O] Said R. Hisda, “[There is no dispute among the Tannaite authorities.] The one who said that they are sold refers to the area within the town limits, and the one who said that they are not sold refers to the area beyond the town limits.”

4:8

- [A] He who sells a field has sold (1) the stones which are needed for it [Simon: which are used in it], (2) the canes in the vineyard which are needed for it, and (3) the crop which is yet unplucked up from the ground;
- [B] [He also has sold:] (4) a partition of reeds which covers less than a quarter-qab of space of ground, (5) the watchman's house which is not fastened down with mortar, (6) the carob which was not grafted, and (7) the young sycamores.
- [C] But he has not sold (1) the stones which are not needed for it, (2) the canes in the vineyard which are not needed for it, (3) the crop which has already been plucked up from the ground.
- [D] If he had said to him, "It and everything which is in it,"
- [E] lo, all of them are sold.
- [F] One way or the other, he has not sold to him (4) a partition of reeds which covers a quarter-qab of space of ground, (5) a watchman's house which is fastened down with mortar, (6) a carob which was grafted, and (7) cropped sycamores.
- [G] (8) A cistern, (9) winepress, or (10) dovecote,
- [H] whether they are lying waste or in use.
- [I] "And [the seller] needs to purchase [from the buyer] a right-of-way," the words of R. Aqiba.
- [J] And sages say, "He does not have to."
- [K] And R. Aqiba concedes that, when [the seller] said to him, "Except for these," he does not have to buy himself a right-of-way.
- [L] [If] he sold them to someone else,
- [M] R. Aqiba says, "[The new purchaser] does not have to buy a right-of-way for himself."
- [N] And sages say, "He has to buy a right-of-way for himself."
- [O] Under what circumstances?
- [P] In the case of one who sells [the aforelisted properties].
- [Q] But in the case of one who gives these things as a gift,
- [R] he [willingly] hands over all of them [in a liberal spirit].
- [S] Brothers who divided [an estate] –
- [T] Once they have acquired possession of a field, they have acquired possession of all of them [and no longer may retract] –

- [U] He who lays hold [through usucaption, seeking title] of the property of a deceased proselyte [lacking Israelite heirs],
- [V] once he has acquired possession of a field, has acquired possession of all of them.
- [W] He who declares a field sanctified has declared all of them sanctified.
- [X] Simeon says, “He who declares a field sanctified has declared sanctified only the carob which is grafted, and cropped sycamores.”
- [I:1 A] [As to the canes in the vineyard which are needed for it,] *members of the house of R. Yannai* say, “[The reference is] to those which are divided up among the vines. [Those are the ones deemed sold, since they are needed for the vines.]”
- [I:2 A] R. Hiyya the Elder asked, “If there were there unattached posts [to be] cut, [are all of them needful]?”
- [B] R. Isaac bar Tabelai asked, “If there were there [in a house] unattached sheets of marble for walls, [are they needful]?”
- [C] R. Yudan bar R. Ishmael asked, “If there were there unattached bricks for windows, [are they needful]?”
- [I:3 A] R. Hiyya in the name of R. Yohanan: “If there is there a furrow six by six, bearing its own distinctive name [e.g., deemed separate from the other furrows of a field], it is not sold.”
- [I:4 A] Said R. Yohanan, “He who buys a cropped sycamore in the field of his fellow – [such a case is subject] to the dispute of R. Ishmael b. R. Yosé and rabbis.
- [B] “R. Ishmael b. R. Yosé says, ‘He also has purchased the ground [on which the sycamore is standing, as in the case of buying three trees].’
- [C] “And rabbis [14d] say, ‘He has not purchased the ground [on which the sycamore is standing].’”
- [D] R. Hiyya bar Vava asked, “If one sold him an entire field, but left for himself a cropped sycamore –
- [E] “*in the view of R. Ishmael b. R. Yosé*, the seller has retained ownership of the land [on which the tree is standing] [PM].
- [F] “*In the opinion of rabbis*, he has not acquired the land [thereon].”
- [G] R. Isaac bar Tabelai asked, “If one has sold to him, ‘Every tree and the olive tree in such and such a place’ – are all of the

olive trees which are located in that place deemed to have been sold?”

[H] [With reference to having sold with a field a partition of reeds which covers less than a quarter-qab of space of ground, M. 4:8B,] R. Yudan bar Ishmael asked, “He who purchases three sets of reeds [less than a quarter-qab of space of ground], has he purchased also the largest cedar tree in the Land of Israel? [That is, even though the reed partition is less than the specified size, if there were within that area a very large tree, would we deem the tree to have been sold, despite its size and distinctiveness]?”

[II:1 A] Under what circumstances? In the case of one who sells the afore-listed properties. But in the case of one who gives a gift, he willingly hands over all of them [M. 4:8/O-R]:

[B] And what is the difference between selling and giving as a gift?

[C] R. Ba bar Tabelai in the name of Rab: “For it is the way of one who gives a gift to give in a liberal spirit.”

[D] R. Samuel bar Nahman in the name of R. Jonathan: “For it is the way of one who purchases to pay close attention to detail.”

[E] What is the practical difference between these two [explanations]?

[F] It is the case of one who consecrates [a property].

[G] He who says that it is the way of one who gives a gift to give in a liberal spirit holds that he who consecrates property does so in a liberal spirit as well.

[H] And one who says that it is the way of one who purchases to pay close attention to detail – will he hold the same in the case of one who consecrates property? [For the recipient of a gift or the Temple treasurer is not apt to look too closely at the gift.] [This question is not answered, and the text breaks off here.]

[II:2 A] [Supply, following PM: R. Eleazar asked, Does the distinction between selling and giving, at M. 4:8 apply to all the cases in such wise that the dispute about purchasing a right-of-way, between Aqiba and sages, pertains to every item in the antecedent catalogue? Or does the distinction between selling and giving apply only to the items listed at the outset, M. 4:8A-B, in which case, in *these* cases only, there is a dispute about purchasing a right-of-way? That is, at the outset we list various items not sold along with a field. We further have the dispute

about whether or not one has to purchase a right-of-way. Now do we hold that if one has sold the stated items, one does have to purchase a right-of-way, while if one gives them as a gift, one does not have to purchase a right-of-way? Or perhaps the distinction between purchasing and acquiring as a gift applies only to the items listed at the outset. Then that distinction has nothing to do with whether or not one must purchase a right-of-way.] Let us derive the answer from the following:

[B] Brothers who divided an inheritance – each has [to purchase] a right-of-way from the other. [From this it follows that the division does not take place in a liberal spirit. And yet here the context is property acquired as a gift. It follows that the distinction between purchase and gift applies only to the matters listed at the outset of M. 4:8 .]

[C] *And there are those who wish to say, “Thus said R. Eleazar: ‘**Brothers who divided an estate – once they have acquired possession of a field, they have acquired possession of all of them**’ [M. 4:8S-T], [so that Eleazar himself answers his question]. [Citing the pericope in the Mishnah indicates that property received as a gift does not come in a liberal spirit.]”*

[III:1 A] **He who lays hold of the property of a deceased proselyte [lacking Israelite heirs], once he has acquired possession of a field, he has acquired possession of all of them. He who declares a field sanctified has declared all of them sanctified. R. Simeon says, “He who declares a field sanctified has declared sanctified only the carob which is grafted and cropped sycamores” [M. 4:8U-X].**

[B] [The reason for the position of R. Simeon] is that they draw sustenance from ground which has been consecrated [so they too are deemed consecrated].

[C] Is the reason that he has left himself a path? [That is, is it Simeon’s position that he has declared the property consecrated only in a niggardly spirit? He has left himself a right-of-way in the field. So in fact it is only the carob and sycamore that he has consecrated. This is for the reason just now stated, namely, because they derive sustenance from the consecrated field. Or does R. Simeon maintain that, by consecrating these trees, he has in fact consecrated the field and has left himself no right-of-way in the field at all?]

[D] Is it only if he has not left himself a right of way in the field?! [How can that be a consideration? The trees still draw sustenance from somewhere!]

[E] But the reason is only that they draw sustenance from the consecrated field [and that is the sole pertinent reason].

YERUSHALMI BABA BATRA

CHAPTER FIVE

5:1

- [A] He who sells a ship has sold (1) the mast, (2) sail, and (3) anchor,
[B] and whatever steers it.
[C] But he has not sold (1) the slaves, (2) packing bags, or (3) lading.
[D] And if [the seller] had said to [the buyer] “It and everything which is in it,” lo, all of them are sold.
[E] (1) [If] he sold the wagon, he has not sold the mules.
[F] (2) [If] he sold the mules, he has not sold the wagon.
[G] (3) [If] he sold the yoke, he has not sold the oxen.
[H] (4) [If] he sold the oxen, he has not sold the yoke.
[I] R. Judah says, “The price tells all.”
[J] How so?
[K] [If] he said to him, “Sell me your yoke for two hundred zuz,”
[L] the facts are perfectly clear,
[M] for there is no yoke worth two hundred zuz.
[N] And sages say, “The price proves nothing.”
[O] He who sells an ass has not sold its trappings.
[P] Nahum the Mede says, “He has sold its trappings.”
[Q] R. Judah says, “Sometimes they are sold, and sometimes they are not sold.”
[R] “How so?”
[S] “[If] there was an ass before him, with its trappings on it, and he said to him, ‘Sell me this ass of yours,’
[T] ‘lo, its trappings are sold.
[U] “[If he had said, ‘Sell me] that ass of yours’ – its trappings are not sold.”

- [V] (1) **He who sells an ass has sold the foal.**
- [W] (2) **[If] he sold the cow, he has not sold its offspring.**
- [X] (3) **[If] he sold a dung heap, he has sold the dung on it.**
- [Y] (4) **[If] he sold a cistern, he has sold its water.**
- [Z] (5) **[If] he sold a beehive, he has sold the bees.**
- [AA] (6) **[If] he has sold the dovecote, he has sold the pigeons.**
- [BB] [(1) **He who purchases “the fruit of a dovecote” from his fellow lets go the first pair that are hatched.**
- [CC] (2) **[If he bought] “the fruit of a beehive,” he takes three swarms, and then [the seller] makes the rest sterile.**
- [DD] (3) **[If he bought] honeycombs, he leaves two honeycombs**
- [EE] (4) **[If he bought] olive trees to cut down, he leaves two shoots.**
- [I:1 A] [15a] [Tosefta’s version] *It was taught: He who sells a ship has sold the wooden implements and the water tank on it.*
- [B] **But he has not sold the deck cabins, the anchor [vs. M. B.B. 5:1A], the yard, or the lighter.**
- [C] **Sumkhos says, “He has sold the lighter” [T. B.B. 4:1A-C].**
- [I:2 A] The unstipulated conditions [which apply to transactions even when not made explicit] laid down by Joshua –
- [B] R. Levi b. Biri in the name of R. Joshua b. Levi: “[They are] four [in all].”
- [C] People may gather grass anywhere, except for a field of fenugreek, which is prohibited as theft.
- [D] *There we have learned: [If in a crop of grain aftergrowths of wood sprang up – so too in the place of threshing floors if many kinds sprang up;] so too if fenugreek made weeds to spring up, he is not bound to weed them out. [But if he has weeded them or cropped them, they say to him, “Uproot them all, except for one kind,” so as to avoid violating the law against mixed seeds” (M. Kil. 2:5).]*
- [E] *Thus does the cited Mishnah state, that they do not obligate the man to uproot them [because these grasses are destructive and will be uprooted in any event].*
- [F] Now in accord with the stipulation imputed to Joshua, it was stated, “People may gather grass anywhere, except for a field of fenugreek, which is prohibited as theft.”

[G] And now there is a statement that one does not want that sort of grass at all. [Hence there is a contradiction between the two rules.]

[H] *Thus one may say*, “There [in the case of Joshua’s stipulation], it is a case in which one sowed them for spikes, while here [at M. Kil. 2:5], it is a case in which one sowed them for seed.”

[I] Now do you wish to say that Joshua made a stipulation covering people who violate the law [for at M. Kil. 2:5, the grasses in fact constitute mixed seeds, so too in the other field, and, in the latter instance, Joshua has provided a remedy so that people will not steal the grasses? But they should not be there to begin with!]

[J] R. Samuel bar Nahman in the name of R. Jonathan: “It is a case in which the man plans to pluck them, and it is as if they have been uprooted and lie before him. [Of course, the man will ultimately pluck them, and does not want to keep them in the field. One should not collect grasses from such a field, since the owner wants them for himself and will not preserve a situation of mixed seeds in his field.]”

[K] And why not say the same thing in the case of mixed seeds in a vineyard? [That is, if there are mixed seeds in a vineyard] they too should be forbidden by reason of theft, since the man wants them and certainly will pluck them, and consequently they are treated as if they have already have been plucked out of the vineyard. The answer is, that is indeed the case.]

[L] For R. Yannai has said, “All growths are prohibited, except for those which grow up in an uncultivated field, a fallow field, a vineyard, and a field planted in with seed.

[M] “In an uncultivated field – because the owner pays no attention to the growth anyhow.

[N] “In a fallow field – because the owner wants to prepare the field for plowing anyhow.

[O] “In a vineyard – so that the presence of the mixed seeds will not prohibit use of the vineyard [and hence wants them removed = K].

[P] “In a field planted with seed – for the owner does not want the growths anyhow.

[Q] “And if you say that he wants them, then they are deemed to have been plucked up and laid before him anyhow.”

[R] *There we have learned: He who removes a corpse in the first in stance lying in usual fashion takes it and the earth affected by it. [If he found two, he removes them and the earth surrounding them. If he found three, if there are between one and the other from four to eight cubits, lo, this is deemed a graveyard (M. Naz. 9:3A-E).]*

[S] Said R. Hisda, “That is to say that in the case of a neglected corpse, one is permitted to move it from its place.

[T] “*For we have learned, He removes it and the earth affected by it.*”

[U] And how much [dirt does one remove]?

[V] R. Samuel in the name of R. Jonathan: “Up to three fingerbreadths, the place to which the dripping blood [from the corpse] descends.”

[W] *Said R. Zeira, “It is not reasonable. [That is, the conclusion drawn from the cited pericope by Hisda is wrong.]*

[X] “For it is prohibited to move a neglected corpse. For if you say that it is permitted to move it, these [the three referred to later on in the same passage] – since they cause the loss of the entire field, is it not an argument a fortiori that it is permitted to move them [from their place]? [But that is not the provision of the Mishnah-pericope!]

[Y] “*Hence, what was clear to the master who taught the cited passage is that it is prohibited to move a neglected corpse from its place. On that account it was necessary to teach the law [that if one did so, he also removes the dirt around the corpse]. [But one is not permitted to do so (PM).]*”

[Z] *Said R. Hisda, “The Mishnah before us accords with the opinion of the one who maintains that it is permitted to move a neglected corpse.*

[AA] “But I say that [in the present case], the corpse was buried in a private path [with permission of the owner of the path, and the corpse would be moved later on].”

[BB] And why should we hesitate to say that it was a neglected corpse?

[CC] [The answer is that] neglected corpses are not commonly found lying around.

[DD] [We now return to the stipulations assigned to the authority of Joshua, A.] [It is permitted] for people to traverse private paths from the harvest time until the time at which the latter rains fall.

[EE] And anywhere people may take plants for themselves, except olives and grapes –

[FF] in the case of an olive plant, from the newest of the new and the oldest of the old [in which case it is not yet productive or is past producing, so it is permitted to take growths].

[GG] But in the case of an olive plant in the shape of a whip even in the case of the newest of the new, it is prohibited to do so.

[HH] R. Tanhum of Kefar Gavan in the name of R. Eleazar b. R. Yosé: “They are four [stipulations, = A].

[II] (1) “They gather grass anywhere, on condition that one does not pull up the grass by the roots.

[JJ] (2) “And people may relieve themselves on the other side of a wall [anywhere].”

[KK] R. Eleazar b. R. Yosé in the name of R. Tanhum: “That applies to a place in which one may sneeze without being heard [but in a more populated area, one may not relieve himself].”

[LL] (3) “And they may pasture a flock in forest, even a flock belonging to the tribe of Judah in the territory of the tribe of Naftali.

[MM] “And they assign to Naftali a complete strip of land south of the lake, as it is said, ‘O Naftali, satisfied with favor and full of the blessing of the Lord, possess the lake and the south’ [Deut. 33:23],” the words of R. Yosé the Galilean.

[NN] R. Aqiba says, “The reference to the sea here is to the sea of Samkho, and the reference to the south refers to the sea of Tiberias [and it has nothing to do with a strip of land south of the sea].”

[OO] (4) And people may walk along the sides of the road [in a field to avoid the center of the road when there is traffic on it].

[PP] R. Judah in the name of Rab: “Even if it is a field full of saffron [which is very costly and valuable].”

[QQ] Does one have to pay for damages done thereby or not?

[RR] *From that which R. Judah said, “Even if it is a field full of saffron,” one may conclude that one indeed has to pay damages.*

[SS] Said R. La, “Since R. Judah said, ‘Even if it is a field full of saffron,’ *one must infer that one does not have to pay damages.*”

[TT] And one cannot go too far into the field.

[UU] *And we derive that inference from the following [story]:*

[VV] M'SH B Rabban Gamaliel and R. Joshua were walking along the way, and they saw Judah b. Pappos drawing near and coming toward them. Said Rabban Gamaliel to R. Joshua, “Who is this person who is showing off his piety by pointing to himself?”

[WW] He said to him, “It is Judah b. Pappos. Whatever he does is for the sake of Heaven.” [One need not try to avoid him, he is an honest man.]

[I:3 A] R. Samuel in the name of R. Jonathan: “He who wants to build a town at the outset – they assign to him four paths, in four directions [as a right-of-way].”

[B] *R. Haninah raised the question before R. Mana, “What is the meaning of this requirement that he be assigned a right of way in all four points of the compass? Is it [in breadth] from four cubits to eight or from eight to sixteen?”*

[C] He said to him, “It is from eight to sixteen, so that two wagons can pass side by side going in opposite directions.”

5:2

[A] **He who buys two trees in his fellow's field,**

[B] **(1) lo, this party has not bought the ground [on which they are growing].**

[C] **R. Meir says, “He has bought the ground.”**

[D] **(2) [If] they grew up, [the landowner] may not trim them.**

[E] **(3) What sprouts from the stem belongs to [the purchaser],**

[F] **[but what sprouts] from the roots belongs to the owner of the land.**

[G] **(4) And if [the trees] died, [the owner of the trees] has no [claim on the] land.**

[H] (1) [If] he bought three, he has [also] bought the ground [on which they are growing].

[I] (2) [If] they grew up, [the landowner] may trim them.

[J] (3) And what sprouts both from the stem and from the roots belongs to [the purchaser].

[K] (4) And if they died, he has a claim on the land.

[I:1 A] *Members of the house of R. Yannai say, “That which is in the shade – this is the root. That which is open to the sun – this is the stem” [M. 5:2E-F].*

[B] R. Hama bar Uqbah in the name of R. Yosé: “That which grows up from its roots and from its stem – this is assigned the status of the root.

[C] “That which grows up from its stem and not from its roots – this is assigned the status of the tree.”

[II:1 A] Said R. Yohanan, “He who purchases three trees [M. 5:2H] has purchased the land between them, under them, and outside of them to the breadth of a tree trimmer and his basket.”

[B] Said R. Eleazar, “He does not have a right of way, [and yet] does he have a claim on land around the tree to the breadth of the space required for a tree trimmer and his basket?”

5:3

[A] (1) He who sells the head [in the case of] large cattle has not sold the feet.

[B] (2) [If] he sold the feet, he has not sold the head.

[C] (3) [If] he sold the lungs, he has not sold the liver.

[D] (4) [If] he sold the liver, he has not sold the lungs.

[E] But in the case of a small beast,

[F] (1) [if] he has sold the head, he has sold the feet.

[G] (2) [If] he has sold the feet, he has not sold the head.

[H] (3) [If] he has sold the lungs, he has sold the liver.

[I] [If] he has sold the liver, he has not sold the lungs.

[I:1 A] R. Isaac asked, “If one has sold half the head [of a small beast, M. 5:3E-F], has he sold half the feet?”

[B] “If he sold half the lungs, has he sold half the liver?”

[C] [Delete: If he sold half the lungs –]

[D] *Let us derive the answer to this question from the following:*

[E] **If one sold him the hand as it is [not by weight] and the head as it is and the intestines as they are, he gives them to a priest. And he does not deduct from what he pays the butcher the cost thereof [T. Hul. 9:8; cf. M. Hul. 10:3H]. If he purchased it from him by weight, he gives them to the priest. But he deducts their value from what he pays the butcher [M. Hul. 10:3I].** [Now if you maintain that if one has sold half the head, he has not sold half the feet, why should the cited passage differentiate between purchase as is and purchase by weight? Even if purchased as is, we could deduct the value from the price, e.g., if one has sold the shoulder with the foot or the cheeks with the head or the maw with the intestines. It must follow that if one has sold him half the head, he also has sold half the feet (PM).]

5:4

[A] **There are four rules in the case of those who sell:**

[B] **[If] one has sold good wheat and it turns out to be bad, the purchaser has the power to retract.**

[C] **[If one has sold] bad wheat and it turns out to be good, the seller has the power to retract.**

[D] **[If he has claimed to sell] bad wheat, and it turns out to be bad,**

[E] **[or if he claimed to sell] good wheat and it turns out to be good,**

[F] **neither one of them has the power to retract.**

[G] **[If one sold it as] (1) dark-colored, and it turns out to be white,**

[H] **white, and it turned out to be dark,**

[I] **(2) olive wood, and it turned out to be sycamore [wood],**

[J] **sycamore wood, and it turned out to be olive wood,**

[K] **(3) wine, and it turned out to be vinegar,**

[L] **vinegar, and it turned out to be wine,**

[M] **both parties have the power to retract.**

[N] **He who sells produce to his fellow –**

[O] **[If the buyer] drew it but did not measure it, he has acquired possession of it.**

[P] **[If] he measured it but did not draw it [to himself], he has not acquired possession.**

- [Q] If he was smart, he will rent the place [in which the produce is located].
- [R] He who purchases flax from his fellow –
- [S] Lo, this one has not acquired possession until he will move it from one place to another.
- [T] But if it was attached to the ground and he has plucked any small quantity of it, he has acquired possession.
- [U] He who sells wine or oil to his fellow,
- [V] and [the price] rose or fell,
- [W] if this took place before the measure had been filled up, [the price advantage goes] to the seller.
- [X] [If this took place] after the measure had been filled up, [the price advantage goes] to the purchaser.
- [Y] And if there was a middleman between them,
- [Z] [and] the jar was broken,
- [AA] it is broken [to the disadvantage of] the middleman.
- [BB] [After emptying the measure], [the seller] is liable to let three drops drip [further into the utensil of the buyer].
- [CC] [If thereafter] he turned the measure over and drained it, lo [what is drained off] goes to the seller.
- [DD] But the shopkeeper is not liable to let three more drops drip.
- [EE] R. Judah says, “[If it is] the eve of the Sabbath at dusk, he is exempt.”
- [I:1 A] [With reference to M. 5:4W:if this took place before the measure had been filled up, [the price advantage goes] to the seller. [If this took place] after the measure had been filled up, [the price advantage goes] to the purchaser:] How so? [Why is the point of filling up the measure a criterion at all?]
- [B] If the measure belonged to the seller. the profit presumptively is assigned to the seller.
- [C] If it belonged to the purchaser. the profit presumptively belongs to the purchaser. [and this is the case even if the measure has been tilled up].
- [D] *R. Judah in the name of Samuel. R. La in the name of R. Judah b. Rabbi: ‘Thus does the Mishnah speak. namely, of a case in which the measure belonged to a third party.’*

[II:1 A] *It has been taught:* **R. Judah says, “[If it is] the eve of the Sabbath at dusk, he is exempt,”** because it is a matter of choice [that he let three more drops drip].

[B] And sages say. “One way or the other. he is liable [since it is not a matter of choice].”

[II:2 A] What is the reason [that. if the jar was broken. it is broken to the disadvantage of the middleman]?

[B] Said R. Yudan. “If it was rented out. it came for its rent (Ex. 22:14).” [That is. the middleman is in the status of a paid bailee and so is liable if the measure is broken.]

5:5

[A] He who sends his child to the storekeeper with a pondion in his hand,
[B] and [the storekeeper] measured out for him an issar’s worth of oil
[half a pondion] and give him an issar [in change],

[C] and [the child] broke the flask or lost the issar [of change] –

[D] the storekeeper is liable [to make it up].

[E] R. Judah declares him exempt,

[F] for it was with the stipulation [that the father will bear liability] that he had sent him.

[G] But sages [A-D] concur with R. Judah, that when the flask was in the child’s hand, and the storekeeper measured out [oil] into it, the storekeeper is exempt.

[H] A wholesaler must clean off his measures once every thirty days,

[I] and a householder once every twelve months.

[J] Rabban Simeon b. Gamaliel says, “Matters are just the opposite.”

[K] The storekeeper (1) cleans off his measures twice a week, (2) polishes his weights once a week, and (3) cleans his scales after each and every weighing.

[L] Said Rabban Simeon b. Gamaliel, “Under what circumstances?

[M] “In the case of liquid measures.

[N] “But in the case of dry measures, it is not necessary.”

[O] And [a shopkeeper] is liable to let the scales go down by a handbreadth [to the buyer’s advantage].

[P] [If] he was measuring out for him exactly, he has to give him an overweight –

[Q] One part in ten for liquid measure,

[R] one part in twenty for dry measure.

[S] In a place in which they are accustomed to measure with small measures, one must not measure with large measures;

[T] With large ones, one must not measure with small;

[U] [In a place in which it is customary] to smooth down [what is in the measure], one should not heap it up;

[V] To heap it up, one should not smooth it down.

[I:1 A] Said R. Ba bar.Samal, [Regarding the relationship between the measures by tenths at M. 5:5Q-S and the measure of an excess of a handbreadth at M. 5:5P], when one is weighing out produce by tenths. one is liable [as the counterpart to let the scales down by a handbreadth [to the buyer's advantage]. [So the one measure is tantamount to the other.]

[I:2 A] It is written. "You shall do no wrong in judgment. in measures of length. weight or quantity or shall have just balances. just weight, just ephah, and a just hin: [I am the Lord your God who brought you out of the land of Egypt]" (Lev. 19:35-6).

[B] On the basis of the cited passage. sages have stated. "In any religious duty, alongside of which the reward for doing so is specified, a court is not responsible [for the enforcement of that religious duty]. [For the individual merely gives up the specified reward as penalty for not doing the specified duty.]"

[C] "You shall not have in your bag two kinds of weights, a large and a small. A full and just weight you shall have, a full and just measure you shall have ..." (Deut. 25:13-15) – meaning that you should appoint a market supervisor to oversee such a matter. [So the court does have to supervise the enforcement of the law], and yet you say what has been said above?

[D] *Said R. Bun bar Hiyya, "This is the meaning of the cited passage. In the case of any religious duty, the reward of which is specified alongside, a court is not punished on account [of neglecting to enforce that religious duty]. [But the court nonetheless is responsible for enforcing it.]"*

[E] *The exilarch appointed Rab as market supervisor. [15b] Rab enforced the law in regard to measures but not in regard to weights. The exilarch threw him into prison. Rab Qarna came to him.*

- [F] [Rab] said to him, “The market supervisor of which [sages] have spoken is one for measures and not for weights.”
- [G] *He said to him, “And lo, you have taught, ‘The market supervisor oversees both measures and weights.’”*
- [H] *He said to him, “Go and instruct them: ‘The market supervisor of which they have spoken is for measures and not for weights.’”*
- [I] *He went and said to them, “Here is someone who teaches the law as a preserve of Ahina-dates [late and inferior ones], and yet they throw him into prison!”*

YERUSHALMI BABA BATRA

CHAPTER SIX

6:1

- [A] He who sells produce [consisting of grain] to his fellow [not specifying whether it is for food or for seed],
- [B] and they did not sprout,
- [C] and even if it was flax seed,
- [D] he is not liable to make it up.
- [E] Rabban Simeon b. Gamaliel says, “[If he sold] garden seed which is not suitable for eating, he is liable to make it up.”
- [F] He who sells produce to his fellow –
- [G] lo, [the buyer] must agree to receive a quarter-qab of spoiled produce per seah.
- [H] (1) [If he bought] figs, he must agree to accept ten maggoty ones per hundred.
- [I] (2) [If he bought] a cellar of wine, he must agree to accept ten sour jars per hundred.
- [J] (3) [If he bought] jars in Sharon, he must agree to accept ten faulty ones per hundred.
- [K] He who sells wine to his fellow that went sour, is not liable to make it up.
- [L] But if it was known that his wine would turn sour, lo, this is deemed a purchase made in error [and null].
- [M] And if he had said to him, “I’m selling you spiced wine,”
- [N] he is liable to guarantee it [and make it up if it goes sour] up to Pentecost.
- [O] [If he said it is] old [wine, it must be] last year’s.
- [P] [If he said it is] vintage old [it must be] from the year before last.

[I:1 A] *It was taught: He who sells produce to his fellow, and [the seed] did not sprout, and even if it was flax seed is not liable to make it up [M. 6:1A-D],*

[B] but if he had stipulated with him at the outset that it was for seed, he is liable to make it up.

[C] What does [the vendor] pay out in compensation to him?

[D] The cost of the seed.

[E] *And there are those who say, “He pays him the cost of his outlay [in planting the seed in addition to the cost of the seed].”*

[I:2 A] *In the present instance, we note, one accepts a [quarter- qab of spoiled produce per seah] [M. 6:1G],*

[B] *while there one must remove it [at M. Kil. 2:1: **If in a seah of seed there is a quarter-qab of another kind, this must be lessened**]. [Accordingly, the quarter-qab per seah is not deemed null in the much larger quantity, but is taken into account. Here it is null.]*

[C] *In the present case, one accepts maggoty ones, but there, one deals with another kind entirely.*

[D] *Here one accepts the maggoty ones upon delivery [not transported from one place to another]. [That is, e.g., wine is poured out from top to bottom, and the buyer gets what is poured out. But in the other case, the seed is deemed to have gotten mixed up] as the produce was moved from place to place.*

[E] *In the present context, R. Simeon agrees [to the rule, since he is not cited as differing from the stated rule], while there [at M. Kil. 2:1] **R. Simeon says, “They are two distinct kinds and are not deemed to join together.”** [Simeon invokes the rule at M. Kil. 2:1 only if the seeds are of a single variety. But here he concedes that if the refuse is of some other variety, it still is deemed null. The solution to all these contrasts is simply that the rules governing mixed seeds are more strict than those governing the sale of produce in the present setting.]*

[I:3 A] R. Hiyya bar Ba asked, “A seah of produce in the status of heave offering which fell into a hundred in the status of unconsecrated food [PM] –

[B] “As to a priest and an Israelite –

[C] “what is the law governing their dividing the return [on the seed]? [The heave offering is deemed null in a mixture of one hundred and

one parts of unconsecrated food to one of heave offering. One has to remove a *seah* in the status of heave offering from the mixture and give it to a priest. If then one did not do so but planted the entire mixture, then what comes up from the seed containing heave offering is deemed to be produce in the status of unconsecrated food. But now we ask whether one has to hand over to a priest the profit accruing to that *seah* in proportion to the whole crop, or whether it is deemed null entirely. So we want to know whether the priest has any claim on the profit of the mixture of seed in the status of heave offering with ordinary seed when it produces a crop.]

- [D] R. Isaac bar Tabelai asked, “A *seah* of wheat which fell into a hundred [*seahs*] of barley –
- [E] “as to a seller and a buyer –
- [F] “what is the law governing their dividing the remainder?” [In this case, one has sold a hundred *seahs* of barley. A single *seah* of wheat, which is of greater value, has fallen into the barley. Does the purchaser have to return to the seller the extra *seah*, which the seller did not sell to him? And if so, does he return it to him from this mixture, or does he have to go and give back only wheat? Now the purchaser may say, “I do not want your wheat.” Is the vendor then supposed to go and pick out the grains of wheat, which are now mixed with the barley? So the question is whether they then divide the remainder, that is, the extra *seah* of wheat which has fallen in.]
- [G] Said R. Bun bar Hiyya, “*Let us derive the answer to the question from the following rule:*
- [H] “‘He who picks out pebbles from the sheaves of his fellow is liable to appease him [by making up the cost].’ [He has to pay in proportion to the wheat sheaves, which are diminished in volume by his picking out the refuse, for he thereby diminishes the volume of the sheaves and hence deprives the owner of what he can have sold them for. The purchaser has, after all, to accept a quarter-qab of such refuse per *seah*. But the one who has picked up the refuse cannot put it back into the sheaves, since it would be a deliberate act of adulteration. This yields the principle that what is mixed together in the sheaves is deemed part of the sheaves, of the same character as the sheaves themselves. Now, to deal with our problem, when a *seah* of wheat is mixed up with a sheaf of barley, one cannot pick out the wheat. So the wheat is deemed of the same species as the rest of what is in the sheaf, namely, the barley. The owner of the barley returns a *seah* of the sheaf as is.]”

[I] R. Bun bar Kahana said, “This applies to a case in which one says, ‘Make it into a pile and I shall buy it.’ But if they were in a pile at the outset, *it is not in such a case [that one has to pay back a seah at all]*. [Since this is the condition in which the sheaves were sold anyhow, the purchaser need return nothing. This is what he assumed he had bought all along.]”

[I:4 A] *It was taught: [R. Simeon b. Eleazar says,] “‘A hundred jars I am selling to you’ – he is liable to hand over to him wine as good as the average wine which is sold in that locale” [T. B.B. 6:8].*

[B] “A hundred jars of wine I’m selling to you” –

[C] **he is liable to hand over to him wine as good as the bulk of wine sold in that particular shop.**

[D] [If he said to him,] “These hundred jars I’m selling to you,”

[E] **even if it is vinegar,**

[F] **it belongs to [the purchaser, who cannot retract] [T. B.B. 6:9].**

[G] **[He who sells wine to his fellow, and it went sour, is not liable to make it up] [M. 6:1K].**

[H] [Said] R. Hiyya bar Vava: “This applies in a case in which the jugs belonged to the purchaser. [The vendor] may say to him, ‘I sold it to you for drinking [and you should not have kept it in your jugs for so long.]’”

[I:5 A] If [one intended to designate a given jar of wine as heave offering for a larger number of jars], and he examined a jar planning to designate it as heave offering [and to drink other jugs of wine as properly tithed], he may continue to rely on that jug of wine for three days as certainly good wine.

[B] From that point onward [15c] it is subject to doubt [whether it is good wine and hence serviceable for the other jugs]. [That is, later on the wine turns out to be sour. We do not know whether wine drunk in the intervening days, between the time at which the jug was opened and its wine was found sound and the time at which the jug was rechecked and found to have turned, has been properly tithed. So, as stated here, for three days it was deemed certainly good wine, and thereafter it was subject to doubt. We now ask the meaning of this statement.]

[C] R. Simon in the name of R. Joshua b. Levi: “For the first three days it was certainly wine. For the last days it was certainly vinegar. The intervening days are subject to doubt [just as explained at B].”

- [D] *Said R. Abbahu, "I have heard this tradition from him [Joshua b. Levi, but I do not know] how one acts in a concrete case, for R. Yohanan has said, 'Up to three days it is certainly wine, and thereafter, it is subject to doubt.'" [Consequently, there are two conflicting views of the meaning of B.]*
- [E] *R. La in the name of R. Eleazar, R. Yasa in the name of rabbis who go up to the schoolhouse and hear matters of advice [stated] a similar case involving a needle:*
- [F] *"It is in accord with the following statement of R. Joshua b. Levi: 'In the case of a jug in which a smooth needle has been lost, and one came along and found it rusty – [when it is in good shape, it is subject to uncleanness, and hence assumed to be unclean, and when it is rusty, it is not subject to uncleanness at all as a useless object].'*
- [G] *"R. Simeon in the name of R. Joshua b. Levi: '[If it is found] in the first three days [after it was lost in the jug], it is deemed certainly to have been unclean [not rusty]. If it is found in the last three days, it is deemed certainly to have been clean [rusty and useless]. The middle days are subject to doubt.'*
- [H] *"Said R. Abbahu, 'I also heard this teaching from him, but what is there to be done [in practice], for R. Yohanan has said, 'Up to the first three days, it is certainly unclean. From that time forward, it is subject to doubt.'"*
- [I:6 A] [What follows depends upon M. Git. 3:8: **He who put aside produce so that he may designate heave offering and tithes on its account, reckoning that this produce will serve for these purposes, utilizes produce as tithed relying upon what he has designated as heave offering, in the assumption that the latter remains available. R. Judah says, "At three seasons they examine wine to see that it remains suitable. At the time of the east wind after the Festival of Tabernacles, when the berries first appear, and when the juice enters the unripe grapes. Now at Y. Git. 3:8, it is further stated, "As to wine from a man's press, they designate it as heave offering and rely on it in the assumption that it remains good wine for forty days." R. Judah says, "Up to the season for the inspection of wine." It is in this context that the following discussion takes place. Now our Talmud proceeds as follows:] R. Hiyya bar Vava asked, "If one came at the end of the week and found that the wine had turned to vinegar, is it a case in which it is clear [that the wine had turned earlier, in which case the wine treated as tithed on the basis of the present cask is now discovered not to have been tithed]? Or do we rule that only from this**

point onward [this keg of wine, now vinegar, no longer serves as heave offering]?” [This question is not answered.]

[B] R. Isaac asked, “If the season [for examining wine] passed during the forty days [specified at A], [which takes precedence]? [Do we deem the wine to be inspected in less than forty days, since the season for inspection specified by Judah has come due? Or do we wait for the passage of the forty days?] Has the power of the inspection season nullified the effect of the forty days, or has the power of the forty days nullified the effect of the inspection season?” [This question is not answered.]

[C] [With reference to M. Git. 3:8E: **At three seasons they examine wine ...**, as cited above, A,] R. Qerispai asked, “Do they examine the wine every year, or only once every three years [at the specified seasons]?”

[D] *Let us derive the answer from the following:* He who sells his wine, guaranteeing that it will last for a year, must *make* it good if it turns sour *before* the Festival [of Tabernacles]. [It follows that one must inspect the wine once a year.]

[E] *Said R. Yudan, “Interpret [the statement, D, however, in line with] the example of these Galileans, who harvest the grapes of their vineyards only after the Festival [of Tabernacles]. [It would follow from this example that the antecedent year, D, ends with the Festival. Consequently,] one may infer nothing at all [from the stated rule].”*

[F] *In that case, whence shall we derive the answer to the question [at C]?*

[G] *Let us derive it from the following:*

[H] **If he said it was old wine, it must be last year’s. If he said it is vintage-old, it must be from the year before last [M. 6:1 / O-P].**

[I] May we then not say that it is because of a single tasting?
[Hence one has to examine and taste the wine at the specified seasons, and it is on that account that one must make up the wine if it goes sour. Three full years may be subject to the guarantee. Consequently, one must inspect the wine every year, not once in three years.]

[J] What [does he have to open and taste, if he has many such jars of wine]?

[K] He examines a single jar [if he has many, and that suffices].

[L] Do all of them depend upon that one jar?

[M] Rather he examines all of the jars.

[N] Will they not turn sour if he opens them all?

[O] *Said R. Shimi, "There are men who can feel a jar at the top and know what is inside it."*

6:2

[A] **"He who sells a piece of property to his fellow for building a house,**

[B] **"and so, he who contracts with his fellow to build a nuptial house for his son or a widow's manse for his daughter –**

[C] **"[The contractor] builds it four cubits by six," the words of R. Aqiba.**

[D] **R. Ishmael says, "That would be little more than a cattle shed!"**

[E] **(1) He who wants to build a cattle shed builds it four cubits by six.**

[F] **(2) [If he wants to build] a small house, it is six by eight.**

[G] **(3) [If he wants to build] a large house, it is eight by ten.**

[H] **(4) [If he wants to build] a hall, it is ten by ten.**

[I] **The height is [the sum of] half its length and half its breadth.**

[J] **Proof of the matter is the sanctuary [1 Kgs. 6:17:40 x 20 x 30].**

[K] **Rabban Simeon b. Gamaliel says, "Is everything [supposed to be] in accord with the way in which the sanctuary is built?"**

[I:1 A] *It was taught, [If he says, "I sell you] a centenar," he must hand over to him an area twelve cubits by twelve [T. B.B. 6:24].*

[I:2 A] R. Hamnuna the scribe asked R. Haninah, "One verse in Scripture says, 'It was thirty cubits high' (1 Kings 6:2), and yet another verse of Scripture states, 'It was twenty cubits high'" (1 Kings 6:20).

[B] *But [the latter] had heard no tradition [on this contradiction,] nor did he say a thing to him.*

[C] He raised the same question to R. Jeremiah.

[D] [Jeremiah] said to him, "From the ground to the top was thirty cubits, and from the Holy of Holies in the Temple to the top was twenty cubits."

- [E] Said R. Abbahu, “He tears down the Holy of Holies! The Holy of Holies [itself] stood from the very ground to the beams, as it is written, ‘He lined the walls of the house on the inside with boards of cedar; from the floor of the house to the rafters of the ceiling, he covered them on the inside with wood... He built twenty cubits of the rear of the house with boards of cedar from the floor to the rafters, and he built this within as an inner sanctuary, as the most holy place’ (1 Kings 6:15-16).
- [F] “Rather, from the ground upward was a space of thirty cubits. From the cherub upward was a space of twenty cubits.”
- [G] Said R. Tanhuma, “There is a narrative tradition that the place of the Holy of Holies [that is, the bodies of the cherubs] does not count.”
- [H] Said R. Levi, “Nor does the place of the ark count.”
- [I] Said R. Levi, “And it has been taught likewise in the name of R. Judah b. R. Ilai, ‘The ark stands in the middle and divides the entire space for ten cubits in all directions.’”

6:3

- [A] **He who has a cistern behind his fellow’s house goes in when people usually go in and goes out when people usually go out.**
- [B] **And he may not bring his cattle in and water them from his cistern.**
- [C] **But he draws water and waters them outside.**
- [D] **This party makes himself a lock, and that party makes himself a lock.**
- [E] **He who has a vegetable patch behind the vegetable patch of his fellow goes in when people usually go in and goes out when people usually go out.**
- [F] **And he does not bring in merchants.**
- [G] **And he may not go in to it through another field.**
- [H] **And [the owner of] the outer [patch] sows seeds on the pathway.**
- [I] **[If others] have given him a path on the side with the knowledge and consent of both parties,**
- [J] **he goes in whenever he wants and goes out whenever he wants and brings merchants in with him.**
- [K] **But he may not go in through another field.**
- [L] **And neither one of them has the right to sow seed [on the path].**
- [I:1 A] With reference to M. 6:3L: **Neither one of them has the right to sow seed on the path given to the man by others,** *it was taught:* The

owner of the outside path may not sow seed on the path. for the other party may say to him. “I want to go in from below. [and if you sow seed on the path. I won’t be able to].”

[B] And the owner of the inner garden may not sow seed on the path, *because the other party says to him*. “You will spare your [garden. that is. the pathway]. and then trample mine [in order to get into your garden].”

6:4

[A] **He who had a public way passing through his field,**

[B] **and who took it away and gave [the public another path] along the side,**

[C] **what he has given he has given.**

[D] **But what is his does not pass to him.**

[E] (1) **A private way is four cubits wide.**

[F] (2) **A public way is sixteen cubits wide.**

[G] (3) **An imperial road is without limit.**

[H] (4) **A path to the grave is without limit.**

[I] (5) **A place for halting [and mourning] –**

[J] **The judges of Sepphoris said, “It should be four qabs of space.”**

[K] **He who sells a piece of property to his fellow for making a [family] grave –**

[L] **And so, he who receives [a piece of property] from his fellow for making a [family] grave –**

[M] **[The contractor] makes the central space of the vault four cubits by six,**

[N] **and he opens in it eight niches,**

[O] **three on one side, three on the other side, and two at the end.**

[P] **And the niches are to be four cubits long, seven cubits high, and six cubits broad.**

[Q] **R. Simeon says, “[The contractor] makes the inside of the vault six cubits by eight,**

[R] **“and he opens in it thirteen niches:**

[S] **“four on one side, four on the other side, three at the end, and one at [facing] the right of the door, and one at [facing] the left of the door.**

[T] **“And [the contractor] makes a courtyard at the mouth of the vault, six by six –**

[U] **“Space for the bier and those who bear it.”**

[V] **And he opens in [the courtyard] two other vaults, one on one side, and one on the other.**

[W] **R. Simeon says, “Four, in all four directions.”**

[X] **Rabban Simeon b. Gamaliel says, “All depends on the nature of the rock.”**

[I:1 A] [With reference to M. 6:4S: Four on one side, four on the other side, three at the end, one at the right of the door, one at the left of the door, where does the contractor make these two by the door? There is no space for them.] R. Hiyya bar Joseph said, “He makes them like door bolts. [That is, he makes the chamber like an upright bolt, placing the body in upright positions.]”

[B] Said to him R. Yohanan, “And is it not so that even dogs are not buried in such a way?”

[C] “What does he do?”

[D] “He builds them inside as if they are on the outside. [That is, he sets them into the corner.]”

[E] Will not those which are alongside touch them?

[F] One will not touch the other. Those on one side will be above, and those on the other, below. [He digs the niches at different levels.]

YERUSHALMI BABA BATRA

CHAPTER SEVEN

7:1

[A] He who says to his fellow, “I am selling you a kor’s area of arable land –

[B] [if] there were there crevices ten handbreadths deep,

[C] or rocks ten handbreadths high,

[D] they are not measured with [the area].

[E] [If they were] less than [the stated measurements],

[F] They are measured with [the area]

[G] And if he said to him, “Approximately a kor’s area of arable land [I am selling to you],”

[H] even if there were there crevices more than ten handbreadths deep, or rocks more than ten handbreadths high,

[I] lo, they are measured with [the area].

[I:1 A] [As to measuring crevices or rocks, M. 7:1E-F,] R. Yosa in the name of R. Yohanan: “But this is on condition that they form the smaller part of his field [not more than four *qabs*];

[B] “[and that they be] swallowed up in the [field, not concentrated in some one area].

[C] “And in the case of a rock which is of the measure of a quarter-qab in area, it is not measured with it.”

[D] That [rock less than ten handbreadths] which is in the middle [of the field] is measured, that which is at the side is not measured [with the field for sale].

[E] What is meant by the side, and what is meant by the center?

[F] *Members of the house of Yannai said*, “Any area which is circumambulated by the plow is the center. Any area which is not circumambulated by the plow – this is the side.”

[G] [With reference to I.B, the defects in the land must be scattered about,] R. Yosé in the name of R. Yohanan came [and explained], “If the greater part of [the rock] was at one side, so that, if it should be scattered about, it would constitute the smaller part of the field, it is measured with [the field].”

[I:2 A] [As to M. 7:1B, C, as to crevices ten handbreadths deep, or rocks ten handbreadths high,] how broad may they be [for that dimension has not been specified]?

[B] R. Haggai said, “Up to four cubits.”

[C] R. Yosé b. R. Bun said, “Up to ten handbreadths.”

[D] Now if there was in the field a crevice ten handbreadths deep, but not four [broad], what is the law?

[E] *Let us derive the law from the following statement:*

[F] R. [15d] Yosa in the name of R. Yohanan said, “But this is on condition that they form the smaller part of his field, and that they be swallowed up in the field, and in the case of a rock which is a quarter-qab in area, it is not measured with it.

[G] “If it was divided in half, it is measured with it. [Therefore the measurements which are given are precise, and if the crevice was ten handbreadths deep but not four broad, it is not measured with the field as a whole when it is sold.]”

[H] Further it is stated, “If the greater part of it was at one side, so that, if it should be scattered about, it would constitute the smaller part of the field, it is (not) measured with the field.”

[I:3 A] If there was in the field an elongated crevice, which spread over a quarter-qab of the field [is it measured with the field]?

[B] R. Hiyya bar Vava asked, “If it was shaped in a crooked way [not straight], it is measured with it?

[C] “If not, [is it not measured with it]?”

[D] R. Yudan bar Ishmael asked, “If it was shaped like a sheet of marble, it is measured with it. If not, [is it not measured with it]?”

[E] R. Isaac bar Tabelai asked, “If it was shaped like a throne, is it measured from the side of its seat, or from the side of its back?”

[I:4 A] R. Huna in the name of R. Hiyya in the name of R. Yohanan: “And the rule applies [to begin with] only if there is a quarter-qab of arable earth

left [and if not, then these items in any event will not be measured within the field which has been sold].”

7:2

[A] [If he said to him,] “A kor’s area of arable land I am selling to you, as measured by a rope,”

[B] [if he gave him] any less, [the purchaser] may deduct [the difference].

[C] [If he gave him] any more, [the purchaser] must return [cash or additional land].

[D] If he said, “Whether less or more,”

[E] even if he gave him a quarter-qab’s space less for a seah’s area, or a quarter qab’s space more for a seah’s area,

[F] it belongs to [the purchaser].

[G] [If it was more] than this, let him make a reckoning.

[H] What does he pay back to him?

[I] Cash.

[J] But if he wanted, he gives him back land.

[K] And why have they said, “He pays back cash”?

[L] To improve the claim of the seller,

[M] for if he left in a field [of a kor’s space] nine qabs of space,

[N] or in a vegetable patch, an area of a half-qab –

[O] (in the opinion of R. Aqiba, a quarter-qab –)

[P] [the buyer] will pay him back in land [and not money].

[Q] And not only the quarter-qab of area alone does he return, but all the extra land.

[I:1 A] *Here you say*, “[If he said, ‘Whether less or more, even if he gave him a quarter-qab’s space less for a seah’s area, or a quarter-qab’s space more for a seah’s area,] it belongs to the purchaser’ [M. 7:2D-F].”

[B] *And there you say*, “And not only the quarter-qab of area alone does he return, but all the extra land [M. 7:2Q].” [The supposition at A is that, under all circumstances, the quarter-qab remains with the purchaser, and it is only the excess over that area which is subject to the reckoning. Now in the second passage, it says that the quarter-qab is returned, as well as the extra land. Consequently, the two clauses appear to contradict one another.]

[C] Thus one may say: “[M. 7:2Q applies above as well as below, so that the rule about returning the quarter-qab of area is to be read into M.

7:2D-F as well. The point is that] since you remove the transaction from being subject to the present rule and apply to it the measurement of the rope [= M. 7:2D-F], you return the land in accord with the measurement of the rope.”

7:3

- [A] “[If he said], ‘I am selling you [a kor’s space of ground] measured by a rope, whether it is less or more,’
- [B] “[the use of the expression] less or more nullifies the reference to measuring by a rope.
- [C] “[If he said, ‘I am selling you a kor’s space of ground], more or less, measured by a rope,’
- [D] “[the use of the expression] measured by a rope nullifies the reference to less or more,” the words of Ben Nannos.
- [E] [If he said, “I will sell you a kor’s area of ground as measured] by its marks and boundaries,” and the difference [between the space thus measured and a kor] was less than a sixth, it belongs to [the purchaser] [=the sale is confirmed].
- [F] [If it was] more than a sixth, the purchaser deducts [the difference from the price].
- [I:1 A] *R. Hiyya taught:* “He who sells a boy slave to his fellow, and the slave turns out to be a thief or swindler, he belongs to [the purchaser].
- [B] “Or if he joined a band of thugs or was under sentence of death from the government, lo, this is a purchase made in error” [T. B.B. 4:7A-B].
- [II:1 A] R. Huna said, “The excess of the sixth itself does he deduct.” [Cf. M. 7:3F.]

7:4

- [A] He who says to his fellow, “Half a field I am selling to you” –
- [B] they divide [the field] between them [into portions of equal value],
- [C] and [the purchaser] takes a half of his field.
- [D] [If he said], “The half of it in the south I am selling to you,”
- [E] they divide between them [the field into portions of equal value],
- [F] and [the purchaser] takes the half at the south.

[G] And [the seller] accepts [responsibility for providing ground for] the place in which the fence is to be located, and for large and small ditches.

[H] How large is a large ditch? Six handbreadths.

[I] And a small ditch? Three.

- [I:1 A]** *It was taught:* He who says to his fellow, “A half field I am selling to you, and Mr. So-and-So surrounds you[r property], and Mr. So-and-So surrounds you[r property], and half of [the field of] Mr. So-and-So surrounds you[r property], [thus specifying the borders of the field]” – [how does he give him the half field]?
- [B]** R. Huna and R. Judah and R. Jeremiah –
- [C]** one said, “He hands over to him a field shaped like a box.”
- [D]** And one said to him, “He hands over to him a field shaped like a strip.”
- [E]** And one said, “He hands over to him a field shaped like a ribbon.”

YERUSHALMI BABA BATRA

CHAPTER EIGHT

8:1

- [A] There are those who inherit and bequeath, there are those who inherit but do not bequeath, bequeath but do not inherit, do not inherit and do not bequeath.
- [B] These inherit and bequeath:
- [C] the father as to the sons, the sons as to the father; and brothers from the same father [but a different mother], [as to one another] inherit from and bequeath [to one another].
- [D] The man as to his mother, the man as to his wife, and the sons of sisters inherit from, but do not bequeath [to, one another].
- [E] The woman as to her sons, the woman as to her husband, and the brothers of the mother bequeath to, but do not inherit [from one another].
- [F] Brothers from the same mother do not inherit from, and do not bequeath [to one another].
- [G] The order of [the passing of an] inheritance is thus:
- [H] If a man dies and had no son, then you shall cause his inheritance to pass to his daughter (Num. 27:8) –
- [I] the son takes precedence over the daughter,
- [J] and all the offspring of the son take precedence over the daughter.
- [K] The daughter takes precedence over [surviving] brothers.
- [L] The offspring of the daughter take precedence over the brothers.
- [M] The [decendent's] brothers take precedence over the father's brothers.
The offspring of the brothers take precedence over the father's brothers.
- [N] This is the governing principle:

[O] Whoever takes precedence in inheritance – his offspring [also] take precedence.

[P] The father takes precedence over all [the father's] offspring [if none is a direct offspring of the deceased].

[I:1 A] It is written, “If a man dies and had no sons, then you shall cause his inheritance to pass to his daughter” (Num. 27:8).

[B] *R. Ishmael taught*, “Scripture has treated this particular case of inheritance differently [16a] from all other matters of inheritance which are listed in the Torah [in the same context].

[C] “For in the case of all the others, it is written, ‘And you shall give ...,’ while in this case it is written, ‘You shall cause to pass...’

[D] “It is passing from the normal course of the law for the daughter to inherit.”

[E] The sages of gentiles say, “The son and daughter are equal [when it comes to inheritance].”

[F] *For they interpret the language of Scripture as follows:*

[G] “... and had no son,” meaning, if he indeed had a son, then the son and the daughter inherit on equal terms.

[H] *The [sages of Israel] objected*, “And lo, it is written, ‘And if he has no daughter, then you shall give his inheritance to his brothers’ (Num. 27:9).

[I] “Lo, if he should have a daughter, then both of them, namely, the [daughter and the brothers, by your reasoning] should inherit on equal terms [too]!

[J] “Now you [pagan sages] concur that ‘... if he has no son’ [means, then, but only then, the daughter inherits]. Here too, it means if there is no heir [then, but only then, the brothers inherit]. [Your own reasoning thus supports our reading, not yours, of the cited passages of Scripture.]”

[K] The Sadducees [who take the same position as the pagan sages] argue as follows: “The daughter of the son and the daughter should be equivalent to one another.”

[L] *For they interpret the passages as follows:* “Now if the daughter of the son, who inherits on the strength of my son, will inherit me, my daughter, who inherits on the strength of

direct relationship to me – is it not a matter of logic that she too should inherit me [along with the son’s daughter]?”

[M] They said to them, “No. If you have stated that the daughter of the son inherits, who does so only through a stronger claim than the brothers of the father, will you say so in the case of the daughter, who inherits solely through her standing in relationship to the deceased [grandfather]. [For you concur that, if there are brothers, she will not inherit a thing. That is, the granddaughter inherits where the deceased has left no sons, but she inherits over the deceased’s brothers. The daughter will not inherit where the deceased has left sons. So the daughter is in a less privileged position than the granddaughter.]”

[I:2 A] [How do we know that a man, as to his mother, inherits but does not bequeath? (M. 8:1D)] Scripture states, “And every daughter who possesses an inheritance in any tribe [of the people of Israel shall be wife to one of the family of the tribe of her father, so that every one of the people of Israel may possess the inheritance of his fathers]. [So no inheritance shall be transferred from one tribe to another]” (Num. 36:8-9).

[B] And how is it possible for a daughter to receive an inheritance from two different tribes? But interpret the passage to speak of a woman whose father comes from one tribe, and whose mother from another.

[I:3 A] Up to this point [we have proved from Scripture only that] the son inherits the father. What about the father’s inheriting from the son [in precedence to the sons of the deceased son]?

[B] Now if the son, who inherits only on the strength of the father, lo, he is his heir, the father, on whose strength the son stands – is it not a logical consequence that he should inherit [the son, before the other sons of the same father gain an inheritance from their deceased brother]?

[C] [Now you may not then ask why the father also should not take precedence in the estate of his son over the deceased’s own son, for] Scripture has said, “Relation” – meaning that a relative, namely the deceased’s son, takes precedence [over the deceased’s father].

[I:4 A] Up to this point we have proved only that the daughter [inherits her mother’s estate]. How do we know that a son inherits his mother’s estate?

- [B] Now if the daughter, who has an inferior claim on the estate of her father, has a superior claim on the estate of her mother, a son, who has a superior claim on the estate of his father, is it not logical that he should have a superior claim on the estate of his mother?
- [C] It turns out that the right of the daughter to inherit the mother's estate derives from Scripture [II.A], and the right of the son to inherit the mother's estate derives from an argument a fortiori.
- [I:5 A] Does the son take precedence over the daughter [in the estate of the mother, as he does in the estate of the father]?
- [B] R. Simeon b. Eleazar says in the name of R. Zekhariah b. Haqqassab "So did R. Simeon b. Judah say in the name of R. Simeon, 'The son and the daughter are all the same in respect to the trib[al claim] of the mother. [They have an equal claim of inheritance on the estate of the mother].'"
- [C] R. Malokh in the name of R. Joshua b. Levi: "The law is in accord with R. Zekhariah."
- [D] *R. Yannai of Cappodocia had a case [in which there was an estate involving a son and a daughter with the inheritance of their mother], and the judges were R. Huna, R. Judah b. Pazzi, and R. Aha.*
- [E] Said to them R. Aha, "Our brethren abroad are mediocre, and they err in the law. *Further, they rely upon the statement of R. Malokh in the name of R. Joshua b. Levi, but that statement is false.*
- [F] "Thus did R. Simeon [state] in the name of R. Joshua b. Levi, 'The law is not in accord with the position of R. Zekhariah. And R. Ba, son of R. Hiyya in the name of R. Yohanan: 'The law is not in accord with the position of R. Zekhariah b. Haqqassab.'"
- [G] R. Eleazar, father of R. Isaac bar Nahman, in the name of R. Hoshaiah: "The law is not in accord with R. Zekhariah."
- [H] *R. Yannai and R. Yohanan were in session. R. Yudan the Patriarch came and asked, "And every daughter who possesses an inheritance in any tribe ...' – what is the law [as to the son's taking precedence over the daughter]?"*
- [I] He said to him, "[The very verse you have cited proves that that is indeed the case]. The tribe of the father [and hence the right of inheritance and bequeathal] is compared to the tribe of the mother, with the consequence that, just as the father's tribe does not bequeath property to the daughter when there is a son available, so

the tribe of the mother should not bequeath property to the daughter where there is a son available.”

[J] [Yudan answered,] “Or perhaps one may argue the opposite:

[K] “Just as in the case of the tribe of the mother’s bequeathing property to the daughter when the son is yet available, so the tribe of the father should bequeath property to the daughter even where there is a son to inherit the property.”

[L] *Said to him R. Yohanan, “Let’s get out of here. This man does not want to listen to the teachings of the Torah.*

[M] “[Now how do we know that] **a man [inherits] his mother’s estate, and that a man [inherits] his wife’s estate [M. 8:1D]?**

[N] “Is it not the same rule for a case involving the man and his mother and the man and his wife? [We learn that a man inherits his mother from the cited verse (Num. 36:8). The Torah does not want property moved from tribe to tribe. So for the same reason that a man inherits his mother, a man will inherit his wife’s estate and vice versa.]”

[I:6 A] *R. Isaac wanted to state the meaning of the verse and could not find it. He stated the following law:*

[B] “It is taught: ‘The son ...,’ I know only the son. As to the son of the daughter – how do I know [that he too inherits the grandfather’s estate]? Scripture says, ‘... Son ...’ [That is, a son] from any source [even from the daughter].

[C] “‘Daughter ...,’ I know only that the daughter [inherits]. The son of the daughter, the daughter of the son, the daughter of the daughter. the son of the daughter s ion – how do I know [that she inherits?

[D] Scripture says, “His daughter” – that is, his daughter from any source.

[E] Brothers – I know only that brothers [inherit]. How lo I know that the sons of brothers, the daughters of brothers, the sons of daughters brothers [inherit also]?

[F] Scripture says. to his near relation. – under all circumstances.

8:2

[A] The daughters of Zelophehad took three portions of the inheritance: (1) the portion of their father [Num. 27:7], who was among those who had gone forth from Egypt, and (2-3) his share along with his brothers from the property of Hephher [their father's father]:

[B] for Zelophehad was a firstborn, receiving two portions.

[I:1 A] The daughters of Zelophehad said before Moses, our rabbi, “If we are truly the daughters of Zelophehad, let us inherit the estate of our father. If we are not the daughters of Zelophehad, then let our mother enter into Levirate marriage [as a childless widow].”

[B] Forthwith: “Moses brought their case before the Lord” (Num. 27:5)

[C] The Holy One, blessed be he, said to him, “‘The daughters of Zelophehad are right; you shall give them possession of an inheritance among their father’s brethren and cause the inheritance of their father to pass to them’ (Num. 27:7). Give them real estate, give them movables, give them their father’s portion among the brothers of their father.”

[I:2 A] R. Josiah said, “Among those who had gone forth from Egypt the Land was divided up,

[B] “for it is written, ‘[But the land shall be divided by lot;] according to the names of the tribes of their fathers shall they inherit’ (Num. 26:55).

[C] “If so, why does Scripture state, ‘To *these* [the land shall be divided for inheritance according to the number of names’ (Num. 26:53)]?”

[D] “But it is on account of [the intent to exclude] the women and children [from the division of the Land].”

[E] R. Yohanan said, “Among those who actually came to the Land was the Land divided up,

[F] “for it is written, ‘To these the land shall be divided [for inheritance according to the number of names]’ (Num. 26:53).

[G] “If so, why does Scripture state, ‘[But the land shall be divided by lot;] according to the names of the tribes of their fathers shall they inherit’ (Num. 26:55)?

[H] “The act of inheritance at hand is different from all other inheritances in the world.

- [I] “For in the case of all other inheritances in the world the living inherit the estates of the deceased, but here, the dead inherit the estates of the living. [That is, the deceased, who went forth from Egypt, are represented by their descendants. The deceased are assigned shares. This is illustrated below, X-Z].”
- [I:3 A] *It was taught:* R. Joshua b. Qorha says, “Among those who had come forth from Egypt and among those who were present on the plains of Moab was the Land divided.
- [B] “How so?
- [C] “He who was among those who had gone forth from Egypt and also was among those present on the plains of Moab took two portions.
- [D] “He who was among those who had gone forth from Egypt but was not present on the plains of Moab,
- [E] “and he who was present on the plains of Moab but was not among those who had gone forth from Egypt
- [F] “took a single portion.”
- [G] “The daughters of Zelophehad then took five portions [vs. M. 8:2A]: their portion with those who had gone forth from Egypt; their portion with those who were present at the plains of Moab; the one who was firstborn took two portions; and the portion of their father among the brothers of their father.”
- [H] *Said R. Yosé, “The Mishnah itself does not say so [= M. 8:2A].*
But: ‘You shall give them a possession of an inheritance among their father’s brethren and cause the inheritance of their father to pass to them’ (Num. 27:7).
- [I] *“This is in line with that which is written: ‘Thus there fell to Manasseh ten portions ... [because the daughters of Manasseh received an inheritance along with his sons]”* (Joshua 17:5-6).
- [J] [Reverting to Joshua b. Qorha’s thesis:] Joshua and Caleb took three portions, their portion with those who had gone forth from Egypt, their portion with those who were present on the plains of Moab, and they also took the portion of the spies.
- [K] *This is in line with that which is written: “But Joshua, the son of Nun, and Caleb, the son of Jephunneh, remained alive, of those men who went to spy out the land”* (Num. 14:38).

- [L] But the portion of those who had complained against the Land and of the congregation of Korach fell into the common pot.
- [M] And their children because of the merit of the father of their father and mother [did not die].
- [N] *This is in line with that which is written: “And the children of Korach did not die” (Num. 2611).*
- [O] Rabbi drew a simile, [saying,] “To what is the matter to be likened? It is similar to the case of **two brothers in partnership, who went forth from Egypt. This one had nine sons, and that one had one son. They inherited an estate of ten kors. Each one of them takes a letekh.**
- [P] **“They returned them to their fathers who divided them up. It turned out that this one’s son took half, and the sons of that one take half [just as at 1, above]” [T. B.B. 7:9].”**

[Q] R. Dosetai b. Judah drew a simile, [saying,] “To what is the matter to be likened? It is similar to the case of two brothers, priests in partnership, who were awaiting [the priestly dues] at the threshing floor. This one had nine sons, and that one had one son. They received ten *qabs* [of grain] and returned them to their fathers, who divided them. It turns out that the son of this one takes half and the sons of that one half.”

- [II:1 A] [To M. 8:2B: **“The firstborn received two portions,”**] *R. Yohanan objected, “And I will bring you into the land of your forefathers which I swore to give to Abraham, to Isaac, and to Jacob; I will give it to you for a possession’ (Exod. 6:8).*
- [B] “If it is spoken of as a gift, then why is it spoken of as an inheritance, and if it is spoken of as an inheritance, why is it spoken of as a gift?”
- [C] “But after it was given to them as a gift, he went and gave it to them as an inheritance [thus invoking the rule of the double portion to the firstborn].”
- [D] Said R. Hoshaiyah, “In any case in which the word inheritance is used, it is language of doubt [and Moses was in doubt].”
- [E] *And they objected, “Now lo, it is written, ‘... as an inheritance for the assembly of Jacob’ (Deut. 33:4). [Is this a statement of doubt]?”*
- [F] *He said, “There is no matter of doubt greater than this [‘When Moses commanded us as a law, as an inheritance for the assembly of Jacob],*

for after one labors much in the law, he finds the whole of it to be a mass of doubts.”

8:3

- [A] All the same are the son and the daughter as to matters of inheritance,
- [B] except that the son takes a double portion in the estate of the father [Dt. 21:17].
- [C] [The son] does not take a double portion in the estate of the mother.
- [D] The daughters are supported by the father’s estate and are not supported by the mother’s estate.
- [I:1 A] It is written. ‘... he shall acknowledge the firstborn, by giving him a double portion of all that he has ...’ Deut. 21:17).
- [B] How so?
- [C] He does not receive as an inheritance a portion of property which is to tall due to the father’s estate as he does of property which is already in the full possession of the father’s estate.
- [D] How so?
- [E] **If the father dies in the lifetime of the father’s father, the first born son takes a double portion in the estate of his father, but he does not take a double portion in the estate of the father’s father.**
- [F] **But if his father was a firstborn, just as he takes a portion in the estate of his father, so he takes a portion in the estate of the father of the father [T B B 7:71**
- [G] [Explaining the rule of F.] R. Simeon b Laqish in the name of Abba bar Daliah, ‘The word *judgment* is used with reference to the double portion, [16b] and the word *judgment* is used with reference to the rules of inheritance.
- [H] Just as in the matter of the rules of inheritance. you regard the son as if he were alive. to take [tor the son s children] a share of the estate of his father. so with regard to the matter of the double portion, you regard the son as if he were alive too so that [the grandson, the surviving heir] takes a double portion in the estate of his father. ‘

8:4

- [A] **He who says, “So-and-so, my firstborn son, is not to receive a double portion,”**

[B] “So-and-so, my son, is not to inherit along with his brothers,”

[C] has said absolutely nothing.

[D] For he has made a stipulation contrary to what is written in the Torah.

[E] He who divides his estate among his sons by a verbal [donation],

[F] [and] gave a larger portion to one and a smaller portion to another, or treated the firstborn as equivalent to all the others –

[G] his statement is valid.

[H] But if he had said, “By reason of an inheritance [the aforesaid arrangements are made],”

[I] he has said nothing whatsoever.

[J] [If] he had written, whether at the beginning, middle, or end, [that these things are handed over] as a gift, his statement is valid.

[I:1 A] R. La [in a case] divided the firstborn’s portion equally among brothers.

[B] *Said to them R. Haggai, “And is it not an explicit statement of the Torah: ‘He may not treat the son of the loved as the firstborn [in preference to the son of the disliked, who is the firstborn; but he shall acknowledge the firstborn, the son of the disliked, by giving him a double portion of all that he has]’ (Deut. 21:16-17)?”*

[C] Said R. Eleazar, “By the Temple service! He most certainly can do so. For has he not got the right to do so [cf. PM]?”

[D] “If so, he may simply [give the donation] as a gift [and not under the laws of the firstborn’s right to get a double portion in the inheritance].” [That is what happened at the case at A]

[II:1 A] **If he had written, whether at the beginning, middle or end, [that the property was transmitted] as a gift, his statement is valid [M. 8:4J].**

[B] Said R. Hoshaiiah, “[Examples for the foregoing statement would be as follows:] ‘Let my property be given to Mr. So-and-so as an inheritance which I have caused him to inherit...’

[C] “‘Let Mr. So-and-so inherit the gift which I have given him...’

[D] “‘Let Mr. Such-and-such inherit the inheritance which I have given him ...’; [in all these cases, the use of the language of donation is adequate to remove the transaction from the laws of inheritance].”

- [II:2 A] “Write a gift over such-and-such a field, or to Mr. So-and-so...” [The case is a dying man, who said, “Let all my property be given to So-and-so, and then he went and said, “Write it over and give it...”]
- [B] *R. Eleazar and R. Simeon b. Yaqim brought the case before R. Yohanan [for they were not sure how to decide the case]. [Was the intent to transmit ownership through the document? But a documentary donation is invalid after death.]*
- [C] He [R. Yohanan] said to them, “If it was for the purpose merely of making a written note of the transaction, then write the document and hand over the property to him [since the property is not transmitted via acquisition of the document].
- [D] “But if it was to give the man ownership of the property through the written document, everyone concurs that a man does not give possession through a written document after the donor has died.”
- [II:3 A] Samuel asked R. Huna, “A deed of gift in which the language used is that of a sale – what is the law?”
- [B] *He said, “He has hitched [his wagon] to two wild horses [pulling in opposite directions]. [The wagon stands still. The man gains nothing.]”*
- [C] *[Explaining the simile just now used,] said R. Hezekiah, “They have said only: Bring two white horses and hitch them to a wagon. This one goes his way, and that one goes that way, and it turns out that the wagon will not move a step.”*

8:5

- [A] **He who says, “Mr. So-and-so will inherit me,” in a case in which he has a daughter,**
- [B] **“My daughter will inherit me,” in a case in which he has a son,**
- [C] **has said nothing whatsoever.**
- [D] **For he has made a stipulation contrary to what is written in the Torah.**
- [E] **R. Yohanan b. Beroqah says, “If he made such a statement concerning someone who is suitable for receiving an inheritance from him, his statement is valid.**
- [F] **“But [if he made such a statement] concerning someone who is not suitable for receiving an inheritance from him, his statement is null.”**

- [I:1 A] Said R. Yohanan, “R. Yohanan ben Beroqah’s statement [T. 8:5E-F] applies only in a case in which the man spoke of one son among others or one daughter among others [cf. T. B.B. 7:18].
- [B] “But [if he spoke of] **a daughter among [surviving] brothers [of the deceased], or a brother[‘s inheriting the estate in place of] daughters [T. B.B. 7:18]**, [it was] not [to such a case that he addressed his statement].”
- [C] Said R. Yohanan, “The law accords with the position of R. Yohanan b. Beroqah.”
- [D] *Rabbi asked R. Nathan bar Ba [a question].*
- [E] *He said, “Thus is the question:*
- [F] *“What is the reason of R. Yohanan b. Beroqah’s ruling?”*
- [G] *R. Zeira said, “Thus is the question:*
- [H] *“Why did they say, ‘The law is in accord with the position of R. Yohanan b. Beroqah?’”*
- [I] [Nathan] said to [Rabbi], “Now did you yourself not teach us so: **[If] he did not write for her, “Male children which you will have with me will inherit the proceeds of your marriage contract, in addition to their share with their other brothers,” he nonetheless is liable [to pay over the proceeds of the marriage contract to the woman’s sons], for this is [in all events] an unstated condition imposed by the court [M. Ket. 4:10]**? They inherit [the proceeds of the mother’s marriage contract, no matter what the husband does. Here we have a case of one son among the others, and in line with what Rabbi has taught at M. Ket. 4:10, the language of inheritance is used and yet one son gets a larger share. Consequently, Rabbi must concur that the father has the power to give an inheritance to one son over others.]”
- [J] [Rabbi] said to [Nathan], “They will take [as a gift, that larger share which is coming to them]. [But as to inheritances, the law is not the same.]”
- [K] *He said to him, “And even in accord with the one who said, ‘They will inherit’ [as specified under the laws of inheritance, not of donation], nonetheless, the power of the court suffices [to revise the law in the present case from what it is in other cases]. [Hence*

the cited case is not pertinent to the original question,” so Rabbi replies to Nathan.]

[L] *“This is in line with that which you say there: A man does not impart ownership of his property by using the language of donation. Here he does impart ownership [in that wise].*

[M] *“And similarly, A man does not impart ownership through the language of inheritance, but here he does so. [So what we have here is a special case, subject to its own logic.]”*

[I:2 A] *There we have learned: [If a husband wrote for his wife, “I have no right nor claim to your property, to its usufruct, to the usufruct of its usufruct, during your lifetime and after your death, “ he neither has the usufruct in her lifetime, nor, if she dies, does he inherit her.] Rabban Simeon b. Gamaliel says, “If she died, he should in any event inherit her, because he has made a stipulation against what is written in the Torah (which is that the husband inherits his wife’s estate), [and whoever makes a stipulation against what is written in the Torah – his stipulation is null]” [M. Ket. 9:1K-O].*

[B] R. Jeremiah in the name of Rab, “[The law follows Simeon in inheritances] because he has made a stipulation against that which is written in the Torah, and he who makes a stipulation against that which is written in the Torah – his stipulation is null.”

[C] This is subject to the condition that it is not a matter of monetary rights. But here [with regard to her estate] we deal with a matter of monetary rights.

[D] *What is the reason of Rab [who declares the law to accord with the position of Simeon b. Gamaliel]?*

[E] It is because it is at the end [after her death] that he acquires [the estate]. [The acquisition is through the stipulation of the court, and it is not the husband’s prerogative to give up what the court stipulates in all cases.]

[F] Said R. Yohanan, “The law is in accord with the position of Rabban Simeon b. Gamaliel.”

[G] For R. Yohanan said, “If a woman [in any circumstances] should sell or give away her property, in law what she has done should be valid.

[H] “Why then did sages maintain that her act of sale is null?

[I] “So that a woman should not sell her husband’s property and claim, ‘They are mine.’ [But in the end, as Rab says, the husband does get the wife’s property.]”

[J] *R. Yustini had a case before Rabbis, and they found for his antagonist. [The rabbis supported the view that the husband who nullifies his claim on his wife’s estate loses out.]*

[K] *He appealed to R. Simeon b. Laqish.*

[L] *He said, “Go, possess what is yours [since the law follows Simeon b. Gamaliel].”*

[M] *R. Jeremiah raised the question before R. Zira, “[In accord with what authority did the rabbis who decided against Yustini rule]? Rab said, ‘In the end he acquires possession of them.’ Said R. Yohanan, ‘The law is in accord with the position of Rabban Simeon b. Gamaliel.’ R. Simeon b. Laqish said, ‘Go, possess what is yours.’ So who are these rabbis?!”*

[N] *They are the rabbis vis-à-vis the case of R. Yustini!*

- [I:3 A] “... and he shall inherit it ...” (Num. 27:11). [The husband inherits his wife’s estate, as a matter of Torah law, and she does not inherit his estate].
- [B] Is it possible to maintain that just as the husband inherits the wife’s estate, so she inherits his?
- [C] Scripture says, “... it ...,” meaning, he inherits her, she does not inherit him.
- [D] Said R. Yohanan, “In the view of sages [who differ from Simeon b. Gamaliel at M. Ket. 9:1], her father inherits her or her brother inherits her [since the husband has dealt himself out of the estate].”
- [E] *R. Ba bar Mamal objected, “If you maintain that the husband inherits his wife’s estate as a matter of Torah law, then he should also inherit in the case of the death of his betrothed [in the case of the death of a betrothed woman in a marriage which has not yet been consummated].”*
- [F] “[*The answer to this question*] is in line with that which you read in Scripture: [‘None of (the priests) shall defile himself for the dead among his people, except for] his nearest [of kin, ... or his virgin sister, who is near to him because she has had no husband ...]’ (Lev.

21:1-3) – for her and not for his divorced wife or betrothed wife [whom he has not yet wed].”

[G] *Along these same lines*, he inherits the one who is near to him, and not the one who is merely betrothed to him.

[H] *R. Hammuna objected*, “If you say that a wife does not inherit her husband as a matter of Torah law [as is the view of sages at M. Ket. 9:1],

[I] “then the husband should inherit from the wife’s estate in property which is going to come to her in the future, just as much as in property which is already subject to her ownership, [and that is not the case].”

[J] Said R. Yosé, “Thus did Rabbi teach: ‘The husband does not take a portion in property which is going to come to the wife as he does in property which is already subject to her possession.’”

[K] Said R. Yosé b. R. Bun, “[This is no problem]. Lo, in the case of the firstborn, whose inheritance is in accord with the law of the Torah – he does not inherit in property which is going to come to him [that double portion] as he does in property which is already within the possession of the father’s estate.”

[L] *Said R. Isaac*, “*And those who write as a clause, ‘The right of inheritance does not apply if there are no children in this marriage in which case the wife’s property returns to the father’s estate’* – this is a condition regarding monetary matters, and this stipulation is valid. [Only a stipulation as to the body is invalid.]”

[M] “And Segub was the father of Jair, who had twenty-three cities in the land of Gilead” (1 Chron. 2:22).

[N] Now where did Jair get cities in the land of Gilead?

[O] But he married a woman among the daughters of Manasseh, and she died, and he inherited her estate.

[P] Now if you say that the inheritance of the wife is not a matter of Torah law, we should say, “And Segub had ...” But it says, “And Jair had ...” [since he inherited his wife’s property].

[Q] *And along these same lines*:

[R] “And Eleazar the son of Aaron died, and they buried him at Gibeah, the town of Phinehas his son, which had been given him in the hill country of Ephraim” (Josh. 24:33).

[S] Now how did Phinehas get property in the hill country of Ephraim?

[T] But he married a woman among the daughters of Ephraim and he inherited her estate.

[U] Now if you say, “The inheritance of the wife is not a matter of Torah law,” then we should say, “And Eleazar had ...,” but in fact it says, and “Phinehas had ...”

8:6

[A] **He who writes over his property to others and left out his sons –**

[B] **what he has done is done.**

[C] **But sages are not pleased with him.**

[D] **Rabban Simeon b. Gamaliel says, “If his sons were not behaving properly, his memory is for a blessing.”**

[I:1 A] Said R. Ba bar Mamal, “**He who writes over his property to others and left out his sons –**

[B] “concerning such a person does Scripture say, ‘and whose iniquities are upon their bones ...’” (Ezek. 32:27).

[C] *There is the following story: A man deposited his property with R. Ba bar Mamal.*

[D] *He said to him, “If my children should be worthy, give them half, and take half for yourself.”*

[E] *His children came and took their half.*

[F] *After a while they came and wanted to contend with him [for the other half].*

[G] *He said to them, “Did your father not say to me only, ‘If my children are worthy, give them half and take half’?”*

[H] *“Now since you people have behaved badly, give me back the half which I have already given to you!”*

8:7

[A] He who says, “This is my son,” is believed.

[B] [If he said], “This is my brother,” he is not believed,

[C] and [the latter] shares with him in his portion [of the father’s estate]

–

[D] [If the brother whose status is in doubt] died, the property is to go back to its original source.

[E] [If] he received property from some other source, his brothers are to inherit with him.

[F] He who died, and a will was found tied to his thigh –

[G] lo, this is nothing whatsoever.

[H] [If he had delivered it and] granted possession through it to another person,

[I] whether this is one of his heirs or not one of his heirs,

[J] his statement is confirmed.

[I:1 A] [If people] took for granted concerning someone that he was his son, and at the time of his death, the [putative father] said, “He is not my son,”

[B] he is not believed.

[C] [If] people took for granted concerning someone that he was not his son, and n the time of [the man’s] death, he said, “He is my son,”

[D] he is believed [M. 8:6A].

[E] [U] he was standing among tax collectors and said, “He is my son,” and then he went and said, “He is my slave,” he is believed.

[F] [If] he said, “He is my slave,” and then he went and said, “He is my son,” he is not believed [T. B.B. 8:3].

[G] *There are Tannaite authorities who teach that he is believed.*

[H] *Said R. Manna, “For instance, these people of Napta who frequently enslave their children, [and at F it may be true that he is his son].”*

[I:2 A] He who writes over his property to someone else, who was a priest,

[B] and included were slaves,

- [C] even though the other party said, “I don’t want them,”
- [D] lo, these eat heave offering.
- [E] **Rabban Simeon b. Gamaliel says, “Once he has said, ‘I don’t want them,’ the heirs [of the first party have acquired possession of them]” [T. B.B. 8:1].**
- [F] Said R. La, “They differ when the matter is not subject to prior specification.
- [G] *“How shall we interpret the matter?”*
- [H] “If it is a matter of certainty that he wants them, then all parties concur that his slaves eat food in the status of heave offering.
- [I] “And if it is a matter of certainty that he does not want them, then all parties concur that his heirs have acquired possession of them.
- [J] *“But we must interpret the dispute to apply to a case in which the matter is lacking explication, [so we do not know the facts of the matter].*
- [K] *“Now rabbis maintain that, at the outset, he wanted them, and now he does not want them.*
- [L] “Rabban Simeon b. Gamaliel says that since he said, ‘I do not want them,’ the heirs have acquired possession of them.”
- [I:3 A] *It was taught:* Rabban Simeon b. Gamaliel says, “A will may nullify a will. [That is, if one wrote his property over to one party, then he wrote the property to some other, the latter acquires possession of the property.]
- [B] “But a gift does not nullify a gift [so in the parallel case, the first party retains possession].”
- [C] *R. Abba bar Hanah, R. Yohanan, and R. Simeon b. Laqish – all three say, “In any case in which, if a person [who was dying and made a written donation] should get better and be able to retract his will, he has the right also to retract a gift which he has given.”*
- [D] *The sister of R. Honia wrote her property to R. Honia. She fell into need and sold the property to her husband. When she had died, he came and wanted to raise the issue with him [with the deed of gift].*
- [E] *He said to him, “Now why did you not lay claim on me when she was alive?”*

[F] *He said to him, "I did not want to bother her."*

[G] *Even so, R. Ammi retrieved the property [and restored it to the husband, since she had the right to retract the gift].*

8:8

[A] **"He who writes over his property to his sons has to write, 'From today and after death,'" the words of R. Judah.**

[B] **R. Yosé says, "He does not have [to do so]."**

[C] **He who writes over his property to his son [to take effect] after his death –**

[D] **the father cannot sell the property, because it is written over to the son,**

[E] **and the son cannot sell the property, because it is [yet] in the domain of the father.**

[F] **[If] the father sold [it], the property is sold until he dies.**

[G] **[If] the son sold the property, the purchaser has no right whatever in the property until the father dies.**

[H] **The father harvests the crops and gives the usufruct to anyone whom he wants.**

[I] **And whatever he left already harvested – lo, it belongs to his heirs.**

[I:1 A] *R. Simeon b. Yaqim [16c] brought a case before R. Yohanán: "[If one writes,] 'From today and after death,' his act of donation is valid, [while if one writes in a writ of divorce,] 'From today and after death,' the writ of divorce is null. [What is the difference?]"*

[B] *Associates say that he answered him as follows: "That is not the proper way. [It is inconsistent that the same formula should be illegal in the case of a letter of divorce and legal in the case of a donation (Jastrow, p. 57b).]"*

[C] *Said R. Yosé b. R. Bun, "He answered him as follows: 'The law governing writs of divorce is not the same as the law governing donations.'"*

[D] *[Explaining what Yosé b. R. Bun has just said,] R. La stated, "In the case of a donation, if the donor wrote, 'From today it is a gift,' it is clear what purpose he served in so writing, 'After death.' Namely, his intent was to reserve for himself the usufruct [until he died, at which point the property passes into the hands of the donee].*

[E] “But in the case of a writ of divorce, if the husband wrote, ‘From this day,’ it is an act of cutting the relationship. Then for what purpose did this man write in the document, ‘After death’? It was to reserve for himself rights to her body, [and this does not constitute a complete ‘cutting off’ or writ of divorce, and indeed expresses the husband’s retraction of what he originally wrote]. [Consequently, the writ is nullified by his language.]”

[F] *Said R. Bun bar Kahana before R. La,* “Perhaps the intent was to reserve for himself the income earned by her labor?”

[G] He said to him, “We find no case in which a woman is married to one man [namely, the person whom she will remarry later on] while the income earned by her labor assigned to some other man [namely, her former husband]!”

[H] *R. Zira supported this position and declared him to be one of the builders of the Torah.*

[I:2 A] [Tosefta’s version] **He who says, “I made my slave, Tabi, a free man,”**

[B] **“I make him a free man,”**

[C] **“I am making him a free man,”**

[D] **and, “Lo, he is a free man,”**

[E] **“Lo, he is a free man,” – “Lo, he has made acquisition of himself**
–

[F] (R. Hiyya in the name of R. Yohanan, “On condition that there be a deed [prepared in one of these formulas].”)

[G] **“Let him be made a free man” –**

[H] **Rabbi says, “He has made acquisition [of himself and is free].”**

[I] **And sages say, “He has not acquired himself” [T. B.B. 914].**

[J] **He who says, “I gave such-and-such a field to Mr. So-and-so,”**

[K] **“I gave it to him,”**

[L] **“It is given to him,”**

[M] **“Let it be his,”**

[N] **“Lo, it is his” –**

[O] **“Let Mr. So-and-so take part of my possessions,”**

- [P] **“It is to be handed over to him as a gift” –**
- [Q] **Rabbi says, “He has made acquisition of it.”**
- [R] **And sages say, “He has not make acquisition of it.”**
- [S] **“But they force the heirs to carry out the *diatimon* [=statement of the decedent]” [T. B.B. 9:13].**
- [T] **It was taught: Rabban Simeon b. Gamaliel says, “He who writes a will in a foreign language – lo, this has the status of a gift” [T. B.B. 9:14I].**
- [U] R. Hanin in the name of R. Joshua b. Levi: “I have called upon all those who are masters of languages to find out the meaning of *diatimon*, and no one said a thing to me about it.”
- [V] **He who says, “Let my property be given to so-and-so. If he should tie, then to such-and-such. If he should die, then to such-and-so” –**
- [M] **the first-named takes precedence.**
- [X] **If the second-named should die in the lifetime of the first, the first enjoys the usufruct, and when he dies, the property goes back to the heirs of the donor.**
- [Y] **If the third-named should die in the lifetime of the second, the first-named enjoys the usufruct, but when he dies, the property is returned to the heirs of the donor.**
- [Z] **U the second-named and the third-named should tie in the lifetime of the first, the first enjoys the usufruct, “and he acquires ownership of the real estate [which he has the right to sell],” the words of Rabbi.**
- [AA] **Rabban Simeon b. Gamaliel says, “The first has the right to the usufruct alone [T. B.B. 8:4] [but he may not sell the land].”**
- [BB] Hezekiah said, “The law is in accord with Rabbi.”
- [CC] Said R. Yannai, “Rabbi concurs that [the first] does not give over this property under the law of gifts in contemplation of death. [That is, even though Rabbi says the first party may sell the land, he concurs that he cannot give the land away under the provisions of the law of gifts in contemplation of death. Why not? The property under that law passes after death. But at the point at which the man dies, the second party in the line of succession already has acquired ownership of the land. Accordingly, in this instance the law of gifts

in contemplation of death is null, having been set aside by the special circumstances of the original donation.]”

[DD] Said R. Yohanan, “Nor does it fall into the category of the gift of a healthy person. [The man cannot give away the property either. The original donor gave him the property for his benefit, and not for the purposes of transfer to a third party.]”

[EE] *That is in line with the following case:*

[FF] *A woman deeded her property as a gift to a certain person. She fell into need and sold her property to her husband. R. Hiyya bar Madaya brought the case before R. Yosé [with the following argument]: “Did not R. Yannai say, ‘Rabbi concurs that the first does not give over this property under the law of gifts in contemplation of death’? [That is, the woman was in the status of the first of the sequence of recipients. In Rabbi’s view, such a person has the right to ownership of the property itself, and, consequently, just as, if the man should sell the property, it is a valid sale, so here too, if the woman disposed of the property, it is valid.]”*

[GG] [Yosé] said to [Hiyya], “R. Yohanan [holds] that it also does not fall into the category of the gift of a healthy person [so the woman cannot dispose of the property in any wise but must keep it and derive benefit from it throughout her lifetime]. [Consequently, she cannot dispose of it at all through a donation. Ha gift of the property was null.]”

[HH] “In the case of this woman, since her husband was liable to provide her maintenance, her deed does not fall into the category of the gift in contemplation of death. [During her lifetime she cannot dispose of the property, since it is indentured to the husband. She cannot sell it for her own needs, since the husband provides for her. Hence any disposition of the land falls after death, at which point the husband takes precedence over someone to whom she might have proposed to give or sell the land. The prior transaction was null.]”

[II] *Up to this point we have assumed that the husband was providing for her, as he was liable to do, bread and legumes. But is he obligated if she wanted chicken! [If then she should want what the husband is not obligated to provide, she may then sell the property for her own benefit, and the foregoing argument does not pertain.]*

[JJ] *This is in line with that which we have learned:* The first party enjoys the usufruct and may purchase real estate, [that is, with the usufruct; the first party may use the proceeds for whatever he needs]. [Here too, the woman may do so.]

[KK] *That is to say,* She may then sell the real estate and buy herself a burial plot [so she may indeed make use of the property and usufruct in any way she likes].

[LL] Said R. Yosé, “And those who write [in a marriage contract] a clause to provide even for most expensive foods [write in a valid clause, which is enforceable].”

[MM] *Said R. Jacob b. Aha,* “*It is taught there:* A burial plot is in the status of appropriate maintenance. As you say there, one may sell the land to buy food, so here, one may sell the land to buy a burial place.” [Cf. PM for the reading translated here.]

[NN] *Said R. Yosé,* “*And those who write as a clause,* ‘The right of inheritance does not apply if there are no children in this marriage’ [in which case the wife’s property returns to the father’s estate] – this is a condition regarding property, *and this stipulation is valid.*”

8:9

[A] [If] he left adult and minor sons, the adults may not take care of themselves [from the estate] at the expense of the minor sons,

[B] nor may the minor sons support themselves [out of the estate] at the expense of the adult sons.

[C] But they divide the estate equally.

[D] If the adult sons got married [at the expense of the estate], the minor sons [in due course] may marry [at the expense of the estate].

[E] But if the minor sons said, “Lo, we are going to get married just as you did [while father was still alive]” –

[F] they pay no heed to them.

[G] But what the father gave to them he has given.

[H] [If] he left adult and minor daughters, the adults may not take care of themselves [from the estate] at the expense of the minor daughters,

[I] nor may the minors support themselves [from the estate] at the expense of the adult daughters.

[J] But they divide the estate equally.

[K] If the adult daughters got married [at the expense of the estate], the minor daughters may get married [at the expense of the estate] –

[L] And if the minor daughters said, “Lo, we are going to get married just as you got married [while father was still alive],”

[M] they pay no heed to them.

[N] This rule is more strict in regard to daughters than to sons.

[O] For the daughters are supported at the disadvantage of the sons [M. 9:1], but they are not supported at the disadvantage of [other] daughters.

[I:1 A] *R. Jeremiah asked the following question before R. Zira: “If the older ones took a hundred jugs of wine, worth twenty denars, do the minors take a hundred jugs of wine, worth [only] ten denars?”*

[B] *He said to him, “Just as these have taken [wine of a given value], so the others take [wine of a given value].”*

YERUSHALMI BABA BATRA

CHAPTER NINE

9:1

[A] He who died and left sons and daughters –

[B] when the estate is large, the sons inherit, and the daughters are supported [by the estate].

[C] [If] the estate is small, the daughters are supported, and sons go begging at [people's] doors.

[D] Admon says, “Merely because I am male, do I have to lose out?”

[E] Said Rabban Gamaliel, “I concur in the opinion of Admon.”

- [I:1 A] [16d] *This is the meaning of the Mishnah: The daughters are supported [for their needs for food, but not clothing, a dowry, and the like], and the sons go begging at peoples' doors [M. 9:1C].*
- [B] R. Jeremiah in the name of Rab: “[The rule of M. 9:1B is invoked] when there are ample resources for maintaining [both sons and daughters] for twelve months.”
- [C] Samuel said, “That [view, that maintenance is for twelve months,] is the opinion of Rabban Gamaliel bar Rabbi. But sages say, ‘[The estate is deemed sufficient only if it can support the children] until they reach maturity or until they are married.’”
- [D] *And there is in this ruling a lenient side [for the other heirs to the estate], and there also is a strict side.*
- [E] Sometimes they may be near the age of maturity [which is to the advantage of the other heirs], and sometimes they may be distant from the age of maturity.
- [I:2 A] *They asked before R. Hiyya bar Vava, “What tradition from R. Yohanan do you have?”*
- [B] *He said to them, “I have no tradition whatever from him in this matter, except for that which Nathan bar Hoshaiiah raised before R. Yohanan:*

‘If there was available adequate food for these and for those for twelve months, and the property diminished in value [so that the estate turns out to be unable to support them, as originally estimated], [what is the law]?’

[C] “He said to him, ‘Since they began [receiving support from the estate] with permission, they have begun [and continue to receive such support as the estate can provide through the remaining period, even if it is less than the full twelve months].’”

[I:3 A] [What is the law if the estate was estimated to be incapable of supporting the heirs for a year and then increased in value and turned out to be suitable for that purpose?] R. Haninah and R. Mana –

[B] *one of them said*, “And the rule [that the children be supported] applies only if there is sufficient [value in the estate from beginning to] end [to maintain them] for twelve months.”

[C] *And the other said*, “Even if at the outset there is not sufficient value in the estate to support both these and those for twelve months, but the estate grew in value so that there is sufficient value to maintain these and those for twelve months, the estate does indeed support them.”

[D] [R. Hisda asked, “If there was not available sufficient food for twelve months, but the property rose in value, what is the law?”]

[E] *Said R. Ammi*, “*The Babylonians derive the answer from the following*:

[F] “‘If the heirs went and sold [off part of the estate], they have sold off what belongs to them [so the property of the estate is deemed to belong to them].’

[G] “All the more so if the estate should be greater in value [than what is needed for the support of the orphans for twelve months], should they divide up [what is in excess of what is required].”

[H] [Following PM:] If there were insufficient resources for the estate for maintaining the orphans for twelve months, what is the law as to the sons saying to the daughters, “Take what is coming to you and go forth”? [Can the sons tell them that they will buy out their share in the estate, and the daughters must then leave the property?]

[I] *Said R. Abedomi*, “*Let us derive the answer from the following: [He who was married to two wives, who died, and afterward he died, and the orphans claim the marriage settlement owing to their mother’s estate, and there are there funds to pay for only two*

marriage settlements – they divide the estate equally. If there was there an excess of a single denar over the necessary funds, these collect the marriage settlement owing to their mother’s estate, and those collect the marriage settlement owing to their mother’s estate.] If [the orphans] said, “We reckon the value of the estate of our father at one denar more” so that they may collect the marriage settlement owing to their mother, they do not listen to them, but they make an estimate of the value of the property in court (M. Ket. 10:2). [Here too they do not allow the male heirs to buy out the interest of the female heirs. A court assesses the worth of the estate, and if the estate will not support the heirs for twelve months, the entire estate goes to the female heirs.]”

- [I:4 A] *R. Hisda raised the question:* “If there was sufficient food for these and those for twelve months, but, in addition, there was a widow to support, what is the law [as to the widow’s diminishing the estimated resources of the estate]?”
- [B] “Now is this rule, *which you have stated*, that the estate be sufficient to support these and those for twelve months, reckoned in addition to the obligation of paying off the marriage contract of the widow, in addition to the support of the daughters, in addition to paying off a debt secured by a deed, in addition to paying off a debt before witnesses, and in addition to the costs of burial?”
- [C] The widow and the daughters are equivalent to one another; the widow and the sons are equivalent to one another. [Each is supported at the estate’s expense.]
- [D] The claim of the widow does not override the claims of the daughters, and the claim of the daughters does not override the claim of the widow. [This then has answered the question.]
- [E] There are cases in which the claim of the widow does override the claim of the daughters as well as the sons. [Her claim is prior, and she collects what is owing, with the result that the estate is diminished so the male and female heirs receive less.]
- [F] Just as the widow’s claim overrides the claim of the daughters as well as the sons, so will the widow’s claim not override the claim of the sons [alone, even when there are no daughters to support]?
- [G] The reason [that she cannot lay claim to override the claim of the sons] is that she is able to lay claim to her marriage settlement and thereby to cause the loss of her claim of support. [That is, if she receives her marriage settlement, then she does not have a claim for further support

from the estate. So her claim for support is limited. But there is a widow, male heirs, and female heirs, since, to begin with, the daughters are supported by the estate only by reason of a remedy supplied by sages, when the widow claims her marriage settlement, it is with that same authority, namely, the sages. The sons' right to inherit is secured by the higher authority of the Torah (PM).]

[H] *This is in line with the following [which shows that a claim for settlement of the marriage contract ends the right of support]:*

[I] *The widow of R. Shobetai was wasting the assets of the estate [by spending too much on her own maintenance]. The children came and approached R. Eleazar. He said to them, "What can we do for you? You are a foolish people, [you have no remedy against her]."*

[J] *When they went out, they said, "As to her marriage settlement, what should we do?"*

[K] *Someone told them, "Pretend to sell some of the estate's property, and she will come and lay claim for her marriage settlement, on account of which she will lose the claim of support from the estate."*

[L] *After some days she came and approached R. Eleazar. He said to her, "May a curse come upon me, if I said a thing to them."*

[M] *[He said,] "Now what can I do for you, and it is a blow of deceivers [Pharisees] that has struck you."*

[I:5 A] R. Hananel in the name of R. Zeira in the name of Abba bar Jeremiah: "Two rulings did Hanan lay down, and the law is in accord with his opinion.

[B] "Seven rulings did Admon lay down, and the law is not in accord with his opinion."

[C] *R. Ba bar Zabeda in the name of R. Isaac b. Haqulah, "In every place at which we have learned, 'Said Rabban Gamaliel, I concur in the opinion of Admon,' the law in fact is in accord with Admon."*

9:2

[A] [If] he left sons and daughters and one whose sexual traits were not clearly defined,

[B] when the estate is large, the males push him over onto the females,

[C] [If] the estate is small, the females push him over onto the males.

[D] He who says, "If my wife bears a male, he will get a maneh," –

[E] [if] she bore a male, he gets a maneh.

[F] [If he said, “If she bears] a female, [she will get] two hundred [zuz],”

[G] [if] she bore a female, she gets two hundred [zuz].

[H] [If he said, “If she bears] a male, [he will get] a maneh, if [she bears] a female, [she will get] two hundred [zuz],”

[I] if she bore a male and a female, the male gets a maneh, and the female [gets] two hundred [zuz].

[J] [If] she bore a child whose sexual traits were not clearly defined, he gets nothing.

[K] If he said, “Whatever my wife bears will get [a maneh],” lo, this one gets [a maneh].

[L] And if there is no heir but that [child lacking defined sexual traits], he inherits the entire estate.

[I:1 A] [Tosefta’s version] *It was taught: He who says, “He who informs me that my wife has given birth to a male gets two hundred, [or if she gave birth] to a female, he gets a maneh” –*

[B] [if] she gave birth to a male, [the messenger] gets two hundred.

[C] [If she gave birth to] a female, he gets a *maneh*.

[D] [If she gave birth to] a male and a female, the messenger gets only a maneh [T. B.B. 9:5].

[E] Said R. Mana, “The anguish of the news about the daughter nullifies the joy of *the news* about the *son*.”

[I:2 A] Samuel said, “They impute ownership to a fetus.”

[B] R. Eleazar said, “They do not impute ownership to a fetus.”

[C] *The following is at variance with the opinion of R. Eleazar:*

[D] A proselyte who died, and the property of whom Israelites plundered [in the assumption that he had no legal heir], and it became known that he had a son, or that his wife was pregnant – all of them are liable to return the property [so the fetus inherits].

[E] If they returned the property, and afterward the son died, or his wife aborted, he who holds the property at the last has acquired rightful ownership of it.

[F] Does he who had ownership at the outset acquire rightful ownership or not? [This fetus, after all, died.]

[G] Interpret the matter as his having given up the right of ownership by reason of despair. [That is, the one who held the property at the outset took for granted he would not then get it back, because of the fetus; so he gave up his right to it.]

[H] And even in accord with Samuel he does not differ in this case [which differs from his statement above, for the reason stated at G].

[I] Or perhaps even at the end, one should not acquire rightful possession any longer because of his despairing [of retaining ownership of the property of the proselyte, since he does not know whether or not there has been a viable heir]? [This objection is not answered.]

9:3

[A] **[If] he left adult and minor sons –**

[B] **[if] the adults improved the value of the estate,**

[C] **the increase in value is in the middle [shared by all heirs].**

[D] **If they had said, “See what father has left us. Lo, we are going to work it and [from that] we shall enjoy the usufruct,”**

[E] **the increase in value is theirs.**

[F] **And so in the case of a woman who improved the value of the estate –**

[G] **the increase in value is in the middle.**

[H] **If she had said, “See what my husband has left me! Lo, I am going to work and enjoy the usufruct,”**

[I] **the increase in value is hers.**

[I:1 A] Said R. La, “[That (M. 9:3D) is the case only] if they made their statement before a court.”

[B] *Members of the house of R. Yannai said*, “Even [if the adult heirs added] a clay utensil [to the estate, the minors have a share in it.]”

[C] Rab said, “Even [if they contributed] a basket, even a spade [the minors enjoy their share therein].”

[D] R. Hiyya taught, “Even a needle, even a tightly sealed jar.”

[I:2 A] Said R. Haninah, “He who marries off his son in a house – [the son] has acquired possession of the house.”

[B] R. Hoshaiyah taught, “[He has acquired possession of the house] but not the movables therein.”

[C] R. La divided the hall between himself and his son.

[D] *R. Haggai raised the following question of R. Yosé: “If the bridal chamber was in the bedroom [of his father’s house], and [the father] made the wedding meal for him in the dining room, what is the law [as to the son’s acquiring ownership of the whole area]?”*

[E] *He said to him, “Will [the son] not see the father and throw him out? [The location of the bridal chamber is the main thing, and that is what the son gets.]”*

[I:3 A] R. Joshua b. Levi said, “They divide up [the estate] for the minor [heirs] in behalf of the adults [who wish to be separate]. But [the question is], [17a] [if] the minors went and found something of greater value [which the adults had gotten], and then objected [to the division], [what is the law]?”

[B] R. Abbahu said, “[The adults] take an oath [to the minors that there was nothing of value beyond what had been divided].”

[C] Said R. Mana, “Whoever lays claim against his fellow bears the burden of proof, except in this case.”

[D] R. Hiyya the Elder said, “In general, brothers are regarded as partners down into the third generation [unless there is a court action as at M. 9:3].”

[E] Said R. Rabbah bar Abun, “So did R. Hamnuna teach.”

[I:4 A] Said R. Ammi, “A son who was observed [to do business] on his own during the father’s lifetime – what he has acquired he has acquired for himself [and not for the father’s estate, after death].”

[B] *This is in line with the following case:*

[C] *A man became a scribe [at the expense of the father, who had paid the tuition for his studies]. His brothers wanted to divide [his salary with him]. The case came before R. Ammi. He said, “Thus do we rule: ‘A person who found an object – do his brothers share it with him?’ [Obviously not. And the same rule governs here; it was the good fortune of the scribe.]”*

[D] *A man went out on a mission [for a salary]. His brothers wanted to divide [his salary] with him. The case came before R. Ammi. He said, “Thus do we rule: ‘A man who went out and made his living as a bandit – do his brothers share [his booty] with him?’”*

[E] *R. Horaina, brother of R. Samuel bar Suseretai – his brother wanted to divide up [what each party was making, that is, form a common pot of their earnings or profits]. He said to him, “Alexander, my brother, you know that our father left us two thousand. [You yourself know what father left us. There were only two thousand of his. Whatever there is in addition is what I myself earned when father was alive, and it is mine, not part of the estate.]”*

[II:1 A] And so in the case of a woman [M. 9:3F-I].

[B] Said R. La, “[That is the case only if] she made that statement before a court.”

9:4

[A] Brothers who were jointholders [in an inherited estate], one of whom fell into public office –

[B] [the charge or benefit] fell to the common fund.

[C] [If] he became ill and was healed, the healing is at his own expense.

[D] Brothers, some of whom made a present as groomsmen [at their father’s expense] while their father was alive,

[E] [and after the father’s death] the groomsmen’s gift returned to them,

[F] it has returned to the common fund.

[G] For the groomsmen’s gift [is deemed a loan and] is recoverable in court.

[H] But he who sends his fellow jugs of wine and oil [in his father’s lifetime] –

[I] they are not recoverable in court,

[J] because they count as a charitable deed.

[I:1 A] [Tosefta’s version] *It was taught:* Brothers, one of whom was appointed royal commissioner –

[B] if it was on account of his ownership of property held in common that he fell into this office,

[C] they collect [the losses of the office] from the common fund.

[D] But if it was on his own account that he fell,

[E] they collect [the losses of the office] from the householder himself [T. B.B. 10:5].

[F] *This is in line with the following:*

[G] *R. Nahman bar Samuel bar Nahman was drafted for service on the council (boulé) [and wished to charge the heavy expenses to the common estate]. The case came before R. Ammi. He ruled, “If it was because of the property of Nahman that he has been drafted, then let it be paid out for him from his own property. And if not, let it be paid out from the common fund.”*

[II:1 A] If he fell ill and was healed, the healing is at the expense of the common fund [cf. M. 9:4C].

[B] *It was taught: Rabban Simeon b. Gamaliel says, “In the case of any ailment involving medical care at fixed cost – she is healed at the expense of her marriage settlement. But as to [ongoing] medical care of unlimited cost – lo, that is equivalent to any other aspect of her everyday support [and the husband pays] [T. Ket. 4:5I].*

[C] *This is in line with the following:*

[D] *A relative of R. Simeon bar Vava had eye trouble. She came before R. Yohanan [to claim support from her husband]. He said to her, “Has your physician set a fixed price for his treatment? If he has set a fixed price, then the cost comes from your dowry. If he has not set a fixed price for the treatment, then your husband must pay for the cost of the treatment.”*

[E] [Yohanan has thus shown the alternatives to the plaintiff, thus hinting to her as to an appropriate answer. This is poor judicial practice,] *for have we not learned, “Do not behave like advocates”?*

[F] And [note] that which R. Haggai in the name of R. Joshua b. Levi [said], “It is forbidden to reveal one’s decision to an individual, [surely he should not have told her what he did].”

[G] [*In reply*] *one may say: R. Yohanan knew that she was an honest woman, on which account he told her [what choices lay before him as judge].*

[H] [*Furthermore,*] *if the woman’s husband claimed that the physician had stipulated a fixed fee for his services, and she claimed that the physician had not done so, to which party do we listen? Is it not to the husband [who can stipulate a fixed fee anyhow]?*

[I] *Said R. Mattenaiah, “That which you have said [at F] applies to him whom the judgment will not favor. But as to him whom the judgment will favor, one may inform him of the matter.”*

9:5

[A] He who sends gifts to his father-in-law's household –

[B] [if] he sent gifts worth a hundred manehs and he there ate a wedding feast of even a denar –

[C] [if he divorced his wife], [the gifts] are not recoverable.

[D] [If he did not eat a wedding feast at all], lo, they are recoverable.

[E] [If the husband] had sent many gifts, which were to be returned with her to her husband's house, lo, they are recoverable.

[F] [If he had sent] few gifts, which she was to use in her father's house, they are not recoverable.

[I:1 A] Someone sent to his betrothed substantial gifts. *His relatives said to him, "Don't you eat a thing there." He went and paid no heed to them and ate. Then the house fell down, and [the relatives of the betrothed] acquired possession of the whole [of the gift which he had sent].*

[B] Someone sent to his betrothed twenty-four wagon-loads of various kinds of leek plants between Passover and Pentecost.

[C] *And what troubled the rabbis was only where he had gotten the seed for flax and olives.*

[I:2 A] *R. Perida paid his respects to R. Judah the Patriarch by sending him two kinds of radishes between the New Year and the Fast. Now it was at the end of the Sabbatical Year, and [radishes were so abundant] that one could taste in them [the flavor of the scent deriving from their having been carried by a camel].*

[B] *Rabbi said to him, "Are they not still forbidden [as produce of the Seventh Year]? Are they not the stubble of the field [growing in that year, which may not be eaten]?"*

[C] *He said to him, "At the end of the Sabbatical Year were they sown."*

[D] *Forthwith Rabbi permitted purchasing produce immediately at the end of the Sabbatical Year [without waiting until the crops of the year following the Sabbatical Year had begun to appear on the market].*

9:6

[A] A dying man who wrote over all his property to others [as a gift] but left himself a piece of land of any size whatever –

[B] his gift is valid.

[C] [If] he did not leave himself a piece of land of any size whatever,

[D] his gift is not valid.

[E] [If] he did not write [in the deed of gift], “...who lies dying,”

[F] [and if, after recovery, he wishes to reclaim his property], [so] he says he had been dying,

[G] and [the recipients] say, “He had been healthy” –

[H] “he has to bring proof that he had been dying,” the words of R. Meir.

[I] And sages say, “He who lays claim against his fellow bears the burden of proof.”

[I:1 A] R. Jeremiah in the name of Rab: “[If] he left himself movables, he has done nothing whatsoever.

[B] “But if he left himself ready cash and purchased real estate with it, it is as if he left himself a piece of real estate.”

[C] *As to that which you say, If he left himself a piece of land of any size whatever, his gift is valid – even if he did not recover.*

[D] **If he did not leave himself a piece of land of any size whatever, his gift is not valid – even if he recovered.**

[E] *This [fact, that if the man was dying, the property is transferred under the stated condition] is in line with that which R. Yohanan said in the name of R. Yannai: “They have treated the verbal declaration of a dying man as equivalent in force to the deed of a healthy man who wrote a deed of gift and handed over the property, [in that, in the former case, a formal act of acquisition is not required for ownership to be deemed to have been transferred].”*

[F] [Now that rule applies] if the man died from the very disease from which he was suffering [when he made his statement]. [But if he got better, then the statement is not one of a dying man, and the rule cannot be invoked.]

[G] Someone who suddenly fell sick, who divided his estate, whether on an ordinary day or on the Sabbath – what he has done is confirmed.

[H] But if he was a healthy person, [his statements are **null**] **until he** writes in the deed, “[for transfer] through money, deed, or usucaption.”

[II:1 A] [We now consider a case parallel to the one at M. 9:6 E-I, namely, whether we decide a case by reference to the facts now prevailing, or to those prevailing at the time of the event. The issue is the resolution of doubt, with special reference to an area the status of which changes. We know that a case of doubt involving uncleanness affecting public domain is resolved in a lenient way, and we assume that cleanness

prevails. A case of doubt involving uncleanness affecting private domain is resolved in a strict way, and we assume that uncleanness prevails. There is a domain which at one season is deemed to fall into public domain, at the other, private domain, namely, a valley, which in the dry season – when people walk there – is held to be public domain, and in the rainy season, private. The relevance of this problem to the present case will be clear in a moment.] Said R. Yohanan, “[If] there was a case of uncleanness as a matter of doubt affecting a valley –

[B] “whether this took place in the dry season or the rainy season –

[C] “there is a dispute between R. Meir and sages.

[D] “[The dispute works as follows:] [if] one comes to inquire [of a sage as to the disposition of the case] in the dry season, they receive the inquiry in accord with the rule prevailing at the dry season. If it is in the rainy season, they receive the inquiry in accord with the rule prevailing at the rainy season. [This then would accord with Meir’s view at M. 9:6H, since the man is now healthy and has to prove the situation prevailing earlier was different from that prevailing now. The sages’ view is readily reconstructed].”

[E] Said R. Yohanan, “But that is on the condition that [the question on the rainy season is brought] on days near the rainy season [and not many months later].”

[II:2 A] R. Yannai in the name of Rab: “The claim of the one who has a deed [which requires interpretation] is subordinated, [and the language of the deed is interpreted in favor of the claim of the defendant].”

[B] *Said to him R. Yohanan, “And does not the Mishnah make this same point: If he did not write in the deed of gift, ‘who lies dying, and he says that he had been dying’ [M. 9:6E-F]?”*

[C] R. Yannai then praised [R. Yohanan, for proving that his position is supported by M.]: ““Those who lavish gold from the purse’ (Isa. 46:6). ‘My son, keep sound wisdom and discretion; let them not escape from your sight’” (Prov 3:21).

[D] *A youth sold his property, and the case came before R. Hiyya bar Joseph and R. Yohanan, [since the relatives claimed that he sold the property as a minor and had no power to do so].*

[E] R. Hiyya bar Joseph ruled, “The prevailing supposition is that [the witnesses signed the deed] for a person of mature mind, [and the purchaser of the property has the advantage].”

[F] R. Yohanan ruled, “Since [the purchaser] has come to remove property from the family, it is his burden to bring proof [that the youth was of mature capacities when he made the sale of his property].”

[G] Says R. Yohanan, “[In general] the claim of the one who has a deed is superior.” [This is explained presently, since it contradicts A-B, above.]

[H] *R. Yosa asked before R. Yohanan*, “Now what [is to be done, if that is the case, with the following] statement of Rab(bi), for Rab(bi) said, ‘The claim of the one who holds the deed is subordinated.’”

[I] He said to him, “It is the opinion of all parties that the claim of the one who holds a deed is superior.”

[J] “*Now how can you say so? [For we have just made the following statement:] The case came before R. Hiyya bar Joseph, who ruled, ‘The prevailing supposition is that the witnesses signed the deed for a person of mature mind, and the purchaser of the property [who holds the deed] has the advantage.’ But R. Yohanan ruled, ‘Since the purchaser has come to remove property from the family, it is his burden to bring proof.’ [Hence the purchaser, who holds the deed, is at a disadvantage.]*”

[K] *He said to him, “I never said that.”*

[L] *Said R. Zira before R. Yosa, “Now even if R. Yohanan wants to deny [what is attributed to him] – did not R. Yannai [PM] state in the name of Rab(bi): ‘The claim of the one who has a deed is subordinated’?”*

[M] *Said to him R. Yohanan, “And does not the Mishnah make this same point ...?”*

[N] But [it is not a problem after all]. [Yohanan made his statement only to indicate that] sages accord with the view of Rab(bi). [But that is not his view of the decided law.]

[O] R. Jeremiah in the name of Rab: “The law is in accord with the position of R. Meir.”

[II:3 A] *Samuel said, “The Mishnah has things reversed.”*

[B] *What is the meaning of this statement that the Mishnah has things reversed?*

- [C] *The older associates say, “Witnesses [are required by M. 9:6H-I]. [That is, the witnesses to the deed are interrogated as to the condition of the man who dictated the deed.]”*
- [D] *The younger associates say, “Witnesses are null, [and the testimony of those who have signed the deed is not solicited].”*
- [E] *Do they then dispute about the value of the testimony of the witnesses to the deed? [Why should there be such a dispute?]*
- [F] Said R. Aha, “[The one who issued the deed rejects the witnesses:] ‘Since to begin with I instructed you to write, ‘... who lies dying ... ,’ and you did not write it, you are liars,’ [and the donor therefore declines to accept their testimony, one way or the other].”

9:7

- [A] **He who verbally divides his property [“by word of mouth”] –**
- [B] **R. Eliezer says, “All the same are a healthy man and a man whose life is endangered –**
- [C] **“property for which there is security is acquired through money, a document, and usucaption.**
- [D] **“And that for which there is no security is acquired only through being drawn [into the possession of the one who acquires it].”**
- [E] **They said to him, “M’SH B: The mother of the sons of Rokhel was sick and said, ‘Give my veil to my daughter,’ and it was worth twelve maneh. And she died, and they carried out her statement.”**
- [F] **He said to them, “As to the sons of Rokhel, may their mother bury them.”**
- [I:1 A] *Up to this point we have dealt with a case in which the movables and the real estate are in the same location.*
- [B] *But what if the movables are in one place and the real estate in some other? [How then is acquisition to be effected? Must the movables be located on the real property which is transferred?]*
- [C] *Said R. Bun, “Let us derive the answer to that question from the following:*
- [D] *[Tosefta’s version] Said R. Eliezer, “M’SH B: There was a man from Meron in Jerusalem, who had a great many movables, and he wanted to give them [as a gift]. They said to him, ‘You are not able to do so, [because you have no real property].l What did he do? He went and bought a single rock near Jerusalem, and said,*

‘The northern part of this [rock], and with it a hundred sheep and a hundred jugs of wine, are handed over to Mr. So-and-so. The southern part of this [rock], and with it a hundred sheep and a hundred jugs of wine, are handed over to Mr. Such-and-such. The eastern part of this rock, and with it, a hundred sheep and a hundred jugs of wine are handed over to Mr. So-and-so.’

- [E] **“The case came before sages, and sages confirmed what he had said” [T. B.B. 10:12].** [It follows from this story that the movables do not have to be located within the bounds of the real estate which is transferred.]
- [F] *Said R. Hananiah before R. Mana*, “Now was he not a dying man? [Eliezer cites the case, after all, for his argument that a dying man transfers ownership not verbally but only through the proper and established procedures. But the case then does not answer the question with which it has been cited to deal, because the rules pertinent to gifts in contemplation of death cannot be invoked in other contexts entirely, such as the one before us.]
- [G] “For under all circumstances a man transfers ownership only through a document, while here, he does so even verbally;
- [H] “[and, further,] in all other circumstances a person transfers ownership only when the real estate and the movables are located in a single place, while here, the real estate is in one location, while the movables are in another. [Consequently, as we said, this story does not prove the case.]”
- [I] He said to him, “And is it not a case involving R. Eliezer? Is there any difference between the two cases, for the laws governing the dying person, in the view of R. Eliezer, are the same as the laws governing a healthy person, in the view of the rabbis. [Consequently, the same law applies to the one and to the other, and, it follows, we may indeed derive the law governing the transfer of movables along with real estate in some other location.]”
- [J] [17b] He said to him, “[Yes, that is so]. The law governing a dying person in the view of R. Eliezer is the same as the law governing a healthy person in the view of rabbis, [and consequently the results of this inquiry are precisely as stated above].”
- [K] *There we have learned: R. Aqiba says, “Real estate of any size whatsoever is liable to the laws of peah and first fruits; a prozbol can be written on its security, and along with it movables can be acquired by money, writ, or usucaption” [M. Pe. 3:6].* [Aqiba’s

statement indicates that movables need not be located on the property, since a piece of land of very small size is involved in his statement, and this then would be further evidence in behalf of the proposition under discussion.]

[L] [Denying this conclusion,] said R. Mattenaiah, “But apply [Aqiba’s statement] to the case of a space of ground sufficient for a single stalk of corn, under which a pearl is buried, [and it would not then follow that Aqiba in general maintains that the movables need not be located on the real property which is transferred; he may as well address the case described here, and no further conclusions are to be drawn].”

[II:1 A] Said R. Yosé b. R. Bun, “[With regard to M. 9:7E-F,] Hila wanted to curse them, because they sow saffron in a vineyard.”

9:8

[A] **R. Eliezer says, “If [he gave verbal instructions] on the Sabbath, his statement is confirmed,**

[B] **“because he is not able to write down [his will].**

[C] **“But not [if it took place] on a weekday.”**

[D] **R. Joshua says, “If they have stated this rule for the Sabbath, all the more so that it applies on a weekday.”**

[E] **Similarly:**

[F] **“Others may effect possession for a minor, but they do not effect possession for an adult,” the words of R. Eliezer.**

[G] **R. Joshua says, “If they have said so of a minor, all the more so does the rule apply to an adult.”**

[I:1 A] *There are Tannaim who teach matters the opposite [namely, if the verbal will is made on an ordinary weekday, it is valid, but not on the Sabbath].*

[B] [*Supporting the present reading,*] *R. Joshua b. Levi said, “Thus does the Mishnah read: **If they have stated this rule for the Sabbath, all the more so should it apply on a weekday** [and consequently, the reading before us is the only possible one].”*

[C] *There are Tannaim who teach the opposite [at F].*

[D] [*Supporting the present reading,*] *R. Joshua b. Levi said, “Thus does the Mishnah read: **If they have said so of a minor, all the more so does the rule apply to an adult,** [with the same consequence as at B].”*

9:9

[A] [If] the house fell on him and on his father,

[B] or on him and on those whom he inherits,

[C] and he was liable for the settlement of his wife's marriage contract and for payment of a debt –

[D] the heirs of the father claim, “The son died first, and afterward the father died,” –

[E] the creditors claim, “The father died first, and then the son” –

[F] The House of Shammai say, “Let them share [the son's estate].”

[G] And the House of Hillel say, “The property remains in its former status [in the hands of those who inherit the father].”

[H] [[If] the house fell on him and on his wife,

[I] the heirs of the husband say, “The wife died first, and afterward the husband died” –

[J] the heirs of the wife say, “The husband died first, and afterward the wife died” –

[K] the House of Shammai say, “Let them divide.”

[L] And the House of Hillel say, “The property remains in its former status.

[M] “The [money for the] marriage settlement remains in the hands of the heirs of the husband.

[N] “[But] the property which goes into the marriage with her and goes out of the marriage with her [at the value at which it was assessed to begin with] is assigned to the possession of the heirs of the father [of the wife].”

[O] [If] the house fell on him and on his mother –

[P] these and those parties agree that they divide it.

[Q] Said R. Aqiba, “I concur in this case that the property remains in its former status.”

[R] Ben Azzai said to him, “Concerning the points of difference we are distressed.

[S] “Will you now come to bring disagreement on the points on which they are in agreement?”

[I:1 A] Said R. Samuel b. R. Isaac, “That is to say that [by using “you,” rather than, “our rabbi,]” Ben Azzai [speaks] as both a colleague and disciple to R. Aqiba.”

YERUSHALMI BABA BATRA

CHAPTER TEN

10:1

- [A] An unfolded document [has] the signatures within [at the bottom of a single page of writing].
- [B] And one which is folded has the signatures behind [each fold].
- [C] An unfolded document, on which its witnesses signed at the back,
- [D] or a folded document, on which its witnesses signed on the inside
- [E] both of them are invalid.
- [F] R. Hananiah b. Gamaliel says, “One which is folded, on the inside of which its witnesses signed their names, is valid,
- [G] “because one can unfold it.”
- [H] Rabban Simeon b. Gamaliel says, “Everything is in accord with local custom.”
- [I:1 A] [17c] And how on the basis of Scripture do we know that there is a document which is folded [and another which is unfolded]?
- [B] Said R. Immi, “‘Then I took the sealed deed of purchase, containing the terms and conditions, and the open copy ...’ (Jer. 32:11).
- [C] “‘The sealed deed of purchase’ – this is the folded document.
- [D] “‘... and the open copy ...,’ – this is the unfolded one which is within the folded one.
- [E] “‘... the terms and conditions ...’ – [what is the difference] between the one [unfolded] and the other [folded]?
- [F] “But: This one bears two [witnesses], and the other, three [M. 10:2].
- [G] “In this one the witnesses sign on the inside, and in the other, on the outside.”

[H] [Answering A,] *And the rabbis of Caesarea say*, ““Then I took the sealed deed of purchase, containing the terms and conditions, and the open copy ...’

[I] “‘The deed of purchase’ – this is the unfolded one.

[J] “‘The sealed one’ – this is the folded one.

[K] “‘And the open copy’ – this is the unfolded one which is within the folded one.

[L] “‘The terms and conditions ...’ – [what is the difference] between the one and the other?

[M] “But: This one bears two [witnesses], and the other, three.

[N] “In this one the witnesses sign on the inside, and in the other, on the outside.”

[O] R. Idi in the name of R. Jeremiah: “The law covering the folded document is as follows:

[P] “One writes the name of the lender, the name of the borrower, the name of the witnesses, and the date.

[Q] “He then folds it and goes and writes the same thing below.”

- [I:2 A]** [Translating the version of Y. Git. 8:10:] R. Ba in the name of R. Judah: “In an unfolded document its witnesses [sign] along its breadth. In a folded document, its witnesses sign along its length.”
- [B] Said R. Idi, “The witnesses sign between one fold and another, and that is on condition that it is above [on the upper of the two sides of the fold].”
- [C] And should we not take into consideration the possibility of counterfeit [in the case of a folded document, if the witnesses sign at the top and between the folds but not at the bottom]?
- [D] Said R. Huna in reply, “The witnesses never sign the document at the bottom until they read what is written in it on the top:
- [E] “‘I, So-and-so, son of Such-and-such, accept upon me responsibility for all which is written in this document above.’”
- [I:3 A]** R. Ba in the name of R. Jeremiah: “The names of the witnesses must be two lines below the body of the text of the document.”
- [B] R. Idi in the name of R. Jeremiah: “In a folded document, the names of the witnesses are written lengthwise.

- [C] “In an unfolded document the names of the witnesses are writ ten breadthwise, one inside and one outside.”
- [D] [Following PM, we delete: “*How does one carry it out?*”]
- [I:4 A] Said R. Mana, “How do the witnesses sign in the case of a writ of divorce which is folded?”
- [B] Said R. Huna, “Between each fold, and that is on condition that it be at the top [of the fold].”
- [C] Said R. Idi, “And that is on condition that between the name of the witnesses and the writ itself should not be a space of two lines.”
- [D] Simeon bar Vava in the name of R. Yohanan: “If one has set aside those two lines for some other matter, [the document is null] even if it is any small item at all. [That is, no other item may intervene between the body of the text and the signatures of the witnesses.]”
- [E] *Said R. Samuel b. R. Isaac, “The Mishnah itself has said so:*
- [F] **“If the signature of one is written in Hebrew and one in Greek, one in Hebrew and one in Greek, running from under this [writ] to that one, both of them are invalid [M. Git. 9:6E-F],**
- [G] “for do they not deal with some other matter [than the one with which the document is meant to serve]? [This proves the point of H]
- [H] [Tosefta’s version] **[If the witnesses signed two or three lines below the body of the text, it is invalid. (If they signed) closer than this (to the body of the text), it is valid.] And how far [may their names appear] below the text [of the document] for the document to be valid?**
- [I] **“Sufficient so that [their names] may be read right along with the text,” the words of Rabbi.**
- [J] **R. Simeon b. Eleazar says, “The distance of one line.”**
- [K] **R. Dosetai b. R. Yannai says, “The distance of the signatures of two witnesses” [T. B.B. 11:10].**
- [L] R. Jeremiah said in the name of Rab, “They estimate [the appropriate distance between two lines by providing a space so that, on the adjacent lines, the letters LK LK [may be written one on top of the other without actually touching].”
- [M] By what script do they make the stated estimate?

[N] R. Yosa in the name of R. Shobetai: “The size of the signatures of the witnesses. [That is, the letters LK LK are written according to the way in which the witnesses write those letters.]”

[O] Hezekiah said, “But that is on condition that the result is a lenient decision.

[P] “So if the signature of the witnesses is small, and the writing is large [that is, the writing of the body of the document], they follow the size of the large script. If the signature of the witnesses is large and the writing is small, they follow the small script. [A counterfeiter will want to reproduce the style of the witnesses (PM).]”

[Q] Said R. Isaac, “If the name is one such as Yosé b. Yannai [lacking the letters LK], they make the estimate so that the words MLK [King] and BN MLK (Prince) [may be written on top of one another without the K’s touching one another].”

[R] Said R. Idi in the name of R. Jeremiah, “One has to keep a space between the body of a document and an erasure [on the same parchment, that is, a palimpsest] a distance of two lines [so that the scribe writes and the witnesses sign on the space on which there is no prior writing, to avoid the possibility of erasing yet another time and writing whatever one likes].”

[S] Said R. Isaac, “That rule applies [not only to a folded document, in which, to begin with, the witnesses sign on the outside, but even to] an unfolded one.”

- [I:5 A]** Rab said, “If there is an erasure or an interlinear insertion in a document – this is [subject to] its confirmation. [That is, one has to write at the end of the document that such-and-such a word has been erased, or such-and-such a letter has been inserted.
- [B] R. Abbahu in the name of R. Isaac b. Haqqola: “Whatever you can assign to an erasure should be assigned to the erasure.”
- [C] What is the meaning of this statement, “Whatever can be assigned to the erasure”?
- [D] Yosé the fuller, son-in-law of R. Yosah, in the name of R. Yosah, “A codicil is written above, [which states, in a deed of betrothal, ‘I betroth you on the condition that I may marry you on a certain day, and if that day arrives and I do not marry you, I shall have no claim on you,'] and a codicil is erased below.

[E] “I maintain in interpreting this document that they decided to complete the transaction as a final act of betrothal of the woman. There then was no stipulation or condition attached to the writ. They then erased it.] *So as not to disturb the document, they simply erased the codicil.* [This is an example of assigning to an erasure whatever one can. In this case the stipulation was ultimately rejected and so erased, with the result that the codicil described is deemed to have been rejected and nullified by the erasure. The document thus attests to a formal, final act of betrothal.]”

[F] *And rabbis take into consideration not disturbing the document [and so gave instructions not to make interlinear insertions in the documents, if these can be avoided].*

[G] *A bill of indebtedness went from R. Huna [who did not make a decision on its validity] to R. Shimi, on which the word ogdoe [of the Greek word, ogdoeconta, eighty] was erased, but conta was clear.*

[H] *Said R. Shimi to R. Huna, “Go and see the lowest numeral in Greek with which conta is combined.”*

[I] *He said, “It is triaconta [thirty].”*

[J] *When the party had left, he said, “That man intended to make ‘thirty’ by the erasure and lost twenty [the original being fifty, penteconta].”*

[I:6 A] [With reference to M. 10:1C-F: **Hananiah b. Gamaliel says, “One which is folded, on the inside of which its witnesses signed their names, is valid, because one can unfold it,”**] Rabbi replied with the intention of supporting the position of R. Hananiah b. Gamaliel, “The body of a document indicates its character, that is, whether the document is unfolded or is not folded.”

[B] What is the meaning of “the body of the document”?

[C] Said R. Ba, “It is that which Huna said: ‘The witnesses never sign the document at the bottom until they read what is written in it on the top: I, So-and-so, son of Such-and-such, accept upon me responsibility for all which is written in this document above.’ [This is what is written in the body of a folded document, which then cannot be confused with an unfolded one.]”

[D] *Now has it not been taught:* The formula of deeds is thus [that is, precisely the language Huna says]. [That formula will appear in an unfolded, as much as in a folded, writ. Consequently, the body of

the document will not indicate the character thereof, folded or unfolded.]

[E] Said R. Mani, “[The cited tradition is:] ‘The formula of folded deeds [only] is thus,’ [and the presence of that formula proves precisely what Rabbi says it proves, since it can be only in a folded document].”

[F] Said R. Abin, “And even if you say that the unfolded and the folded documents are alike [in containing the cited language], in an unfolded document, the absence of that language disqualifies a document, but in a folded one, the absence of that language does not constitute a disqualification. [So the proof does not hold.]”

[G] R. Judah says, “It is as if one has added to the required law [of making up such a document]. [The body of the document will not prove that it is an unfolded or a folded document. Even if we find the language which would signify that it is a folded document, one may say that it was originally an unfolded document, but the writer added language beyond what the law requires. It would be comparable to adding to the number of witnesses.] [That is to say,] an unfolded document has two witnesses, and a folded one has three, but they have [taken an unfolded document and had] three witnesses [sign it, even though that is not required by the law].

[H] “[Or it would be tantamount to taking] a document which was unfolded on the inside and folded at the outside [that is, conformed to the rules governing the unfolded deed on the inside, and to the rules governing the folded deed at the outside], and they made the witnesses sign on both the inside and the outside. [Consequently, these are mere improvements on the document and will not signify the original character thereof. So Hananiah b. Gamaliel’s position is not to be supported as Rabbi has attempted to do.]”

10:2

[A] An unfolded document – its witnesses are two.

[B] And a folded one – its witnesses are three.

[C] An unfolded one in which there is a single witness,

[D] and a folded one in which there are two witnesses –

[E] both of them are invalid.

- [F] [If] there was written in a bond of indebtedness, “A hundred zuz, which are twenty selas,” [the creditor] has a claim on only twenty selas [even though a hundred zuz are twenty-five selas].
- [G] [If it is written,] “A hundred zuz which are thirty selas,” he has a claim only on a maneh [a hundred zuz], [since a hundred zuz are twenty-five selas].
- [H] “Silver zuzim which are ...,” and the rest was blotted out –
- [I] there is a claim for no less than two.
- [J] “Silver selas which are ...,” and the rest was blotted out – there is a claim of no less than two.
- [K] “Darics which are ...,” and the rest was blotted out – there is a claim for no less than two.
- [I:1 A] *It was taught*, [If in a document is written,] “... zuzim, which are ...,” and the rest is blotted out –
- [B] [the lender claims] five, and the other party says that they are only two [which he owes], [does this constitute concession of part of a claim, entailing an oath covering the rest of it?]
- [C] *There they say*, Ben Azzai and R. Aqiba –
- [D] *one said*, “He pays two, and takes an oath covering the rest.”
- [E] *And the other said*, “Since, had he conceded nothing whatsoever, he would have received only two, the borrower takes an oath only covering the sum which he concedes. [Since the deed conforms to the statement of the borrower, there is no substantive concession whatsoever.]”

10:3

- [A] [If] written at the top is, “a maneh,” and at the bottom, “two hundred zuz,”
- [B] or at the top, “two hundred [zuz],” and at the bottom, “maneh” –
- [C] all follows what is written at the bottom.
- [D] If so, why do they write the upper figure at all?
- [E] So that if one letter from the lower figure is blotted out, one may learn [infer] from the upper figure.
- [I:1 A] *It was taught*: Under all circumstances what is written be low may learn [be inferred] from what is written above [M. 10:2E];
- [B] in the case of a folded writ, from a single sign, not from two signs,

- [C] whether Hanan or Hanani, whether Anan or Anani,
[D] on the strength of a single mark they confirm it,
[E] and on the strength of two marks they do not confirm it [T. B.B. 11:4].

[F] R. Isaac asked, “[If] above it is written, Hanan, and below, Nani [a diminutive], what is the law?”

[G] “Do we infer what belongs below from what is written above, [and hence assign the debt to Hanan, or in this case do we learn what belongs above from what is written below, [and hence assign the debt to] Nani?” [This question is not answered.]

10:4

- [A] They write out a writ of divorce for a man, even though his wife is not with him.
[B] And a quittance for the wife, even though her husband is not with her,
[C] on condition that [the scribe] knows them.
[D] And the husband pays the fee.
[E] They write a writ of indebtedness for the borrower, even though the lender is not with him,
[F] but they do not write a writ for the lender, unless the borrower is with him.
[G] The borrower pays the scribe’s fee.
[H] They write a writ of sale to the seller, even though the buyer is not with him.
[I] But they do not write a writ of sale for the purchaser, unless the seller is with him.
[J] And the purchaser pays the scribe’s fee.
[K] They write the documents of betrothal and marriage only with the knowledge and consent of both parties.
[L] And the husband pays the scribe’s fee.
[M] They write documents of tenancy and sharecropping only with the knowledge and consent of both parties.
[N] And the tenant pays the scribe’s fee.

[O] They write documents of arbitration or any document drawn up before a court only with the knowledge and consent of both litigants.

[P] And both litigants pay the scribe's fee.

[Q] Rabban Simeon b. Gamaliel says, "They write two for the two parties, one copy for each."

[I:1 A] Said R. Ba, "[With reference to M. 10:1C,] [the scribe] has to know both of them [when writing the writ of divorce for the wife, he must know her as well as the husband; when writing the quittance for the husband, he must know him as well as the wife]."

[B] Said R. La, "He must know the husband when he is writing the writ of divorce for him [to give to the wife], and the wife when he is writing her quittance [to be given to the husband, but in the former case he need not know the wife, and in the latter, the husband]."

[C] *The Mishnah stands at variance with the position of R. Ba:* "[At first he used to change his name and her name, the name of his town and the name of her town] [that is, given an adopted name]. And Rabban Gamaliel the Elder ordained that one should write, "Mr. So-and-so and whatever alias he may have," "Mrs. So-and-so and whatever alias she may have," for the good order of the world [M. Git. 4:2]. [If the scribe knows both of them, then why should he change their names? He would not agree to do so if he knew them. La can deal with this passage, since, so far as he is concerned, the scribe need not know the woman. So there was need to make sure the woman's name was not changed, and, along the way, the ordinance covered the husband as well.]

[D] *And even in accord with the view of R. La, the cited pericope of Mishnah poses no problems:* **At first he used to change his name and her name, the name of his town and the name of her town** [and La can explain this statement, as noted above].

10:5

[A] He who paid part of a debt which he owed and who deposited the bond with a third party,

[B] and said to him, "If I have not given you [what I still owe the lender] between now and such-and-such a date, give [the creditor] his bond of indebtedness,"

[C] [if] the time came, and he has not paid,

[D] R. Yosé says, "He should hand it over."

[E] **And R. Judah says, “He should not hand it over.”**

[F] **He whose writ of indebtedness was blotted out –**

[G] **witnesses give testimony about it,**

[H] **and he comes to a court, and they draw up this confirmation:**

[I] **“Mr. So-and-so, son of So-and-so – bond of indebtedness was blotted out on such-and-such a day, and Mr. So-and-so and Mr. Such-and-such are his witnesses.”**

[I:1 A] *It has been taught:* As to a promise made with the condition of a forfeit in case of a failure to fulfill the promise –

[B] R. Abbahu orders collection on the strength of such a document.

[C] Aha also orders collection.

[D] Ammi also orders collection.

[E] Jonah and R. Yosé do not order collection.

[F] Said R. Mana, “Even though R. Yosé declares sureties of this sort to be not collectible, he does concede that they are collectible in the case of those who indenture their sons to a trade [because the livelihood of men requires such a measure].”

[II:1 A] [With regard to the rule, **He whose writ of indebtedness was blotted out – witnesses give testimony about it, and he comes to a court, and they draw up this confirmation: “Mr. So-and-so, son of So-and-so – bond of indebtedness was blotted out on such-and-such a day, and Mr. So-and-so and Mr. Such-and-such are his witnesses:”**] Said R. Uqba, “The stated rule applies also to documents covering marriage settlements.”

[B] Members of the house hold of Levi state, “He who says, ‘My deed has been lost [not merely blotted out]’ – the court draws up a confirmation of the original document.”

[C] *It was taught:* Rabban Simeon b. Gamaliel says, “Even in the case of writs of arbitration in which each party agrees to have the case arbitrated by judges on whom they will agree, a court provides a confirmation of the original document.”

10:6

[A] **He who had paid off part of his debt –**

[B] **R. Judah says, “He should exchange [the bond for another one, in which what is now owing is specified].”**

- [C] R. Yosé says, “[The creditor] should write him a receipt.”
- [D] Said R. Judah, “It turns out that this one has to guard his receipt from rats.”
- [E] Said to him R. Yosé, “That’s good for him, so long as the right of the other party has not been damaged.”
- [I:1 A] As to M. 10:6B, he should exchange the bond for another one,] Rab said, “The court provides a confirmation for him.”
- [B] R. Hiyya taught, “It is not the court alone that provides a confirmation for him, but even the witnesses to the original document may do so.”
- [C] Said R. Jeremiah, “Had Rab heard this teaching, he would not have made the statement that he did, requiring that the court alone supply the confirmation].”
- [I:2 A] The text of the confirmation is as follows: For instance, they say the following, “I, Mr. So-and-so, son of Mr. Such-and-such, borrow from you, Mr. So-and-so. And Mr. Such-and-so serves as surety for this loan.”
- [B] Rab said, “He must mention the date of the first document in the second one.”
- [C] And Samuel said, “He does not have to mention the date of the first document in the second.”
- [D] R. Yohanan raised the question of whether one has to mention the date of the first document in the second in light of this statement of R. Yosé: **“That’s good for him, so long as the right of the other party has not been damaged.”** [This would then protect the right of the lender to collect the debt by seizing property sold by the borrower to others between the time of the first deed and the second, since the earlier date of the actual loan still is easily provided. Now if one indeed has to include the date of the first deed in the second, as Rab holds, why then should Yosé have made the cited statement?]

10:7

- [A] **Two brothers –**
- [B] **one poor, one rich –**
- [C] **and their father left them a bathhouse and an olive press –**
- [D] **[if the father] had built them to rent them out –**
- [E] **the rent is held in common.**
- [F] **[If] he made them for his own use,**

[G] lo, the rich one says to the poor one, “You buy slaves, and let them bathe in the bath house.”

[H] Or: “You buy olives, and come and prepare them in the olive press.”

[I] Two who were in the same town –

[J] The name of one was Joseph b. Simeon, and the name of the other was Joseph b. Simeon,

[K] they cannot produce a writ of indebtedness against one another,

[L] nor can a third party produce a writ of indebtedness against either one of them.

[M] [If] among the documents of one of them is found a writ of Joseph b. Simeon which has been paid off, the writs of both of them are deemed to have been paid off.

[N] What should they do?

[O] Let them write down the names of the third generation

[P] And if all three [generations’] names are alike, let them write a description.

[Q] And if the descriptions are alike, let them write, “Priest.”

[R] He who says to his son, “There is a bond of indebtedness among my documents which has been paid, and I do not know which one of them it is” – all of his bonds are deemed to have been paid off.

[S] [If] two were found applying to a single [debtor],

[T] the larger one is deemed to have been paid, and the smaller one is not deemed to have been paid.

[I:1 A] *It was taught:* The concern for paying off a deed covering a large sum of money is not the same as that for paying off a deed covering a small sum of money. [The former is likely to be paid off first.]

10:8

[A] He who lends money to his fellow on the strength of a guarantor may not collect from the guarantor.

[B] But if he had said, “[Lo, I lend to you] on condition that I may collect from whichever party I wish,” he may then collect from the guarantor.

[C] Rabban Simeon b. Gamaliel says, “If the debtor has property, one way or the other, he should not collect from the guarantor.”

[I:1 A] R. Abbahu in the name of R. Yohanan, “[As to the dispute of M. 10:8B, C,] When the borrower has property, [the lender collects from

him]. But if the borrower has no property, he may collect from the guarantor.

[B] **“And if he had said, ‘Lo, I lend to you on condition that I may collect from whichever party I wish, ‘ he may then collect from the guarantor,**

[C] “even if the borrower has property.”

[I:2 A] *There they say, “In every case the law is in accord with the position of Rabban Simeon b. Gamaliel, except for the matter of the pledge [the present rule]; the case of Sidon [M. Git. ~:5]; and the matter of bringing proof after a trial is concluded [M. San. 3:8].”*

[B] They say, “That fact is so for only what he says in the Mishnah of ours, [but not in an external tradition (*baraita*)].”

[C] R. Ammi bar Qorha in the name of Rab: “And why have they said that in every case the law is in accord with the position of Rabban Simeon b. Gamaliel? For he would state decided law as presented by his court [and not only his private opinion].”

10:9

[A] **And so along these same lines did Rabban Simeon b. Gamaliel say, “He who was guarantor for a woman as to her marriage settlement, and her husband divorced her –**

[B] **“[in the case of a divorce] let the husband vow not to derive benefit from her,**

[C] **“lest they make a conspiracy to defraud this one of his property,**

[D] **“and [the husband] then remarry his wife.”**

[I:1 A] *The father-in-law of the daughter of R. Haggai was guarantor for the marriage contract for the daughter of R. Haggai. Now she treated his property wastefully, [so her husband wanted to divorce her]. The case came before R. Aha. He said, “The husband has to vow not to derive benefit from her [= M. 10:9B].”*

[B] Said R. Yosé, “He does not have to vow not to derive benefit from her.” [Yosé does not suspect the husband and wife of conspiracy against the guarantor of the marriage settlement.]

[C] *Associates say before R. Yosé, “And what will happen if the husband again goes and marries her? Will not her debtors come and seize the property [of the guarantor of the marriage settlement, in settlement of her debts owing to them]?”*

[D] *He replied, “[What difference does it make? If he does not remarry her, in any case they may transfer the property to movables [which are not subject to collection by the creditors], or they will treat the property as an ‘iron flock’ [which the woman cannot squander away]. Accordingly, the creditors will not find anything to seize.]”*

[E] *The case nonetheless was settled in accord with the view of R. Aha.*

10:10

[A] **He who lends money to his fellow on the security of a bond of indebtedness collects what is owing to him from mortgaged property.**

[B] (1) **[But if he had lent to him on the security of] witnesses, he collects only from unindentured property.**

[C] [(2) [If] he produced against him [the debtor’s] note of hand [as evidence] that he owes him [money],

[D] **he collects from unindentured property.**

[E] (3) **He who signs as guarantor below the [signature of] bonds of indebtedness – [the creditor] collects [only] from unindentured property.**

[F] **A case came before R. Ishmael, and he ruled, “He may collect from unindentured property.”**

[G] **Said to him Ben Nannos, “He collects neither from mortgaged property nor from unindentured property.”**

[H] **He said to him, “Why?”**

[I] **He said to him, “He who seizes someone by the throat [who owes him money] in the market, and his fellow came upon him and said to him, ‘Let him go’ – [the latter] is exempt [from having to guarantee the loan],**

[J] **“since it was not in reliance upon him that the creditor had lent [the debtor] the money in the first place.”**

[K] **“But who is the guarantor who is liable [to pay if the debtor does not do so]?”**

[L] **“[One who says,] ‘Lend him money, and I’ll pay you back’ –**

[M] **“he is liable.**

[N] **“For it was in reliance upon him that he had lent [the debtor] the money in the first place.”**

- [O] Said R. Ishmael, “He who wants to get smart had best get busy with commercial law.
- [P] “For you have no specialty in the Torah greater than those laws.
- [Q] “For they are like an ever-bubbling spring.
- [R] “He who wants to get busy with commercial law had best serve [as disciple of] Simeon b. Nannos.”
- [I:1 A] [With reference to M. Sheb. 10:5: **A predated prozbul is valid, but a postdated one is invalid. A predated bond is not valid, but a postdated bond is valid.** At Y. Sheb. 10:3, R. Yohanan said, “It is totally invalid (and not collectible). R. Simeon b. Laqish said, ‘It is treated as valid only from the point at which it was actually *written*’ but it is in fact collectible. Concurring with the position of Simeon b. Laqish,] R. Huna said, “The predating is invalid, but the deed is valid [and may be collected].”
- [B] *Now have we not learned in the Mishnah: **A predated prozbul is valid, but a postdated one is invalid** [so far as the later date, but it is valid so far as protecting the right of the creditor to collect his debts contracted prior to the correct date of the document]? [This then supports Huna’s view.]*
- [C] *That which you have assigned to R. Huna is in accord with R. Eleazar. And so said R. Simeon b. Yaqim, “That which is assigned to R. Huna is in accord with R. Eleazar who said, ‘Even though there are no witnesses [on the writ of divorce], but they handed it over to her in the presence of witnesses, the writ of divorce is valid, and the wife may collect her marriage settlement from mortgaged property. For witnesses sign on the writ of divorce only for the good order of the world.’”*
- [D] *Now how [is this matter of the predated deed to be dealt with]?*
- [E] If we deal with a case in which the witnesses denied their testimony, the one who denied his testimony is as if he were not present, and does the writ remain valid in any event?
- [F] “But we deal with a witness who did not deny their testimony. [Then that testimony remains valid.]”
- [G] “But lo, R. Simeon b. Laqish said, ‘They have treated the witnesses who have signed on a deed as those whose testimony has been carefully tested in court.’” [So if the deed is valid, it is for Eleazar’s reason at C.]

[H] *[As to R. Simeon b. Laqish's position, who concurs with R. Huna that they count only from the actually writing of the writ, and that the writ may be used to collect a deed from its correct date,] what is then the rule?*

[I] *We deal with a case involving those who say the following: "I, Mr. So-and-so, son of Mr. Such-and-such, have borrowed from Mr. So-and-so, and Mr. Such-and-such is guarantor." [There is no need of testimony in this case.]*

[J] Rab said, "He has to make mention of the date of the first writ on the second."

[K] And Samuel said, "He does not have to make mention of the date of the first writ deed on the second."

[L] Rab and Samuel –

[M] Rab is in accord with R. Yohanan, and Samuel is in accord with R. Simeon b. Laqish.

[II:1 A] R. Yosa in the name of R. Yohanan said, "Even though R. Ishmael has praised Ben Nannos for his exposition, the law is not in accord with Ben Nannos."

[B] Simeon bar Vava in the name of R. Yohanan: "Even in the case of one who is being strangled in the market place, the law is in accord with R. Ishmael."

[C] *Said R. Yosé, "And you derive from that rule the following: Another one came along and said, 'Leave him alone, and I'll give you what he owes.' Does the creditor collect from the latter, and from the other does he not collect?"*

CHAPTER ELEVEN

THE STRUCTURE OF YERUSHALMI BABA BATRA

Whether or not the Talmud of the Land of Israel is carefully organized in large-scale, recurrent structures and guided by a program that we may call systematic forms the principal question addressed by an academic commentary. The preceding chapters therefore have pointed toward the presentation set forth here. By “structure” I mean, a clearly-articulated pattern that governs the location of fully-spelled out statements. By “system,” I mean, a well-crafted and coherent set of ideas that explain the social order of the community addressed by the writers of a document, a social philosophy, a theory of the way of life, world view, and character of the social entity formed by a given social group. I see a collective, anonymous, and political document, such as the one before us, as a statement to, and about, the way in which people should organize their lives and govern their actions. At issue then in any document such as the remarkable one before us is simple: does this piece of writing present information or a program, facts to whom it may concern, or a philosophically and aesthetically cogent statement about how things should be? The connection between structure and system is plain to see. From the way in which people consistently frame their thoughts, we move to the world that, in saying things in one way rather than in some other, they wish to imagine. Modes of formulating thought adumbrate modes of imagining the world in which people wish to live, to which they address these thoughts.

If the document exhibits structure and sets forth a system, then it is accessible to questions of rationality. We may ask about the statement that its framers or compilers wished to make by putting the document together as they did. But if we discern no structure and perceive no systematic inquiry or governing points of analysis, then all we find here is inert and miscellaneous information, facts but no propositions, arguments, viewpoints. Now as a matter of fact the Talmud of the Land of Israel commonly finds itself represented as lacking organization and exhibiting a certain episodic and notional character. That view moreover characterizes the reading and representation of the document by learned and experienced scholars, who have devoted their entire lives to Talmud study and

exegesis. It must follow that upon the advocate of the contrary view – the one implicit in the representation of the document for academic analysis – rests the burden of proof. I set forth the allegation that the Talmud of the Land of Israel exhibits a structure and follows a system and therefore exhibits a commonly-intelligible rationality. The claim to write an academic commentary explicitly states that proposition. For the tractate before us, I have therefore to adduce evidence and argument.

I maintain that through the normal procedures of reasoned analysis we may discern in the tractate a well-crafted structure. I hold that the structure made manifest, we may further identify the purpose and perspective, the governing system of thought and argument, of those who collected and arranged the tractate's composites and put them together in the way in which we now have them. By "structure" I mean, how is a document organized? and by "system," what do the compilers of the document propose to accomplish in producing this complete, organized piece of writing? The answers to both questions derive from a simple outline of the tractate as a whole, underscoring the types of compositions and composites of which it is comprised. Such an outline tells us what is principal and what subordinate, and how each unit – composition formed into composites, composites formed into a complete statement – holds together and also fits with other units, fore and aft. The purpose of the outline then is to identify the character of each component of the whole, and to specify its purpose or statement. The former information permits us to describe the document's structure, the latter, its system.

While the idea of simply outlining a Talmud-tractate beginning to end may seem obvious, I have never made such an outline before, nor has anyone else. (I have provided complete outlines for the Mishnah and for the Tosefta in relationship to the Mishnah, and, not always in outline form, for the Midrash-compilations of late antiquity as well) Yet, as we shall now see, the character of the outline dictates all further analytical initiatives. Specifically, when we follow the layout of the whole, we readily see the principles of organization that govern. These same guidelines on organizing discourse point also to the character of what is organized: complete units of thought, with a beginning, middle, and end, often made up of smaller, equally complete units of thought. The former we know as composites, the latter as compositions.

Identifying and classifying the components of the tractate – the composites, the compositions of which they are made up – we see clearly how the document coheres: the plan and program worked out from beginning to end. When we define that plan and program, we identify the facts of a pattern that permit us to say in a specific and concrete way precisely what the compilers of the tractate intended to accomplish. The structure realizes the system, the program of analysis and thought that takes the form of the presentation we have before us. From what people do, meaning, the way in which they formulate their ideas and organized

them into cogent statements, we discern what they proposed to do, meaning, the intellectual goals that they set for themselves.

These goals – the received document they wished to examine, the questions that they brought to that document – realized in the layout and construction of their writing, dictate the points of uniformity and persistence that throughout come to the surface. How people lay out their ideas guides us into what they wished to find out and set forth in their writing, and that constitutes the system that defined the work they set out to accomplish. We move from how people speak to the system that the mode of discourse means to express, in the theory that modes of speech or writing convey modes of thought and inquiry.

We move from the act of thought and its written result backward to the theory of thinking, which is, by definition, an act of social consequence. We therefore turn to the matter of intention that provokes reflection and produces a system of inquiry. That statement does not mean to imply I begin with the premise of order, which sustains the thesis of a prior system that defines the order. To the contrary, the possibility of forming a coherent outline out of the data we have examined defines the first test of whether or not the document exhibits a structure and realizes a system. So everything depends upon the possibility of outlining the writing, from which all else flows. If we can see the order and demonstrate that the allegation of order rests on ample evidence, then we may proceed to describe the structure that gives expression to the order, and the system that the structure sustains.

The present work undertakes the exegesis of exegesis, for the Yerushalmi, like its counterpart in the one of Babylonia, is laid out as a commentary to the Mishnah. That obvious fact defined the character of my academic commentary, since we have already faced the reality that our tractate is something other than a commentary, though it surely encompasses one. The problems that captured my attention derived from the deeper question of how people make connections and draw conclusions. To ask about how people make connections means that we identify a problem – otherwise we should not have to ask – and what precipitated the problem here has been how a composition or a composite fits into its context, when the context is defined by the tasks of Mishnah-commentary, and the composition or composite clearly does not comment on the Mishnah-passage that is subjected to comment.

The experience of analyzing the document with the question of cogency and coherence in mind therefore yields a simple recognition. Viewed whole, the tractate contains no gibberish but only completed units of thought, sentences formed into intelligible thought and self-contained in that we require no further information to understand those sentences, beginning to end. The tractate organizes these statements as commentary to the Mishnah. But large tracts of the writing do not comment on the Mishnah in the way in which other, still larger

tracts do. Then how the former fit together with the latter frames the single most urgent question of structure and system that I can identify.

Since we have already examined enormous composites that find their cogency in an other than exegetical program, alongside composites that hold together by appeal to a common, prior, coherent statement – the Mishnah-sentences at hand – what justifies my insistence that an outline of the document, resting on the premise that we deal with a Mishnah-commentary, govern all further description? To begin with, the very possibility of outlining this tractate derives from the simple fact that the framers have given to their document the form of a commentary to the Mishnah. It is in the structure of the Mishnah-tractate that they locate everything together that they wished to compile. We know that is the fact because the Mishnah-tractate defines the order of topics and the sequence of problems.

Relationships to the Mishnah are readily discerned; a paragraph stands at the head of a unit of thought; even without the full citation of the paragraph, we should find our way back to the Mishnah because at the head of numerous compositions, laid out in sequence one to the next, clauses of the Mishnah-paragraph are cited in so many words or alluded to in an unmistakable way. So without printing the entire Mishnah-paragraph at the head, we should know that the received code formed the fundamental structure because so many compositions cite and gloss sentences of the Mishnah-paragraph and are set forth in sequence dictated by the order of sentences of said Mishnah-paragraph. Internal evidence alone suffices, then, to demonstrate that the structure of the tractate rests upon the Mishnah-tractate cited and discussed here. Not only so, but the sentences of the Mishnah-paragraphs of our tractate are discussed in no other place in the entire Talmud of the Land of Israel in the sequence and systematic exegetical framework in which they are set forth here; elsewhere we may find bits or pieces, but only here, the entirety of the tractate.

That statement requires one qualification, and that further leads us to the analytical task of our outline. While the entire Mishnah-tractate of treated here is cited in the Talmud of the Land of Israel, the framers of the Talmud of the Land of Israel by no means find themselves required to say something about every word, every sentence, every paragraph. On the contrary, they discuss only what they choose to discuss, and glide without comment by large stretches of the tractate. A process of selectivity, which requires description and analysis, has told the compilers of the Talmud of the Land of Israel's composites and the authors of its compositions (This statement requires refinement. I do not know that all available compositions have been reproduced, and that the work of authors of compositions of Mishnah-exegesis intended for a talmud is fully exposed in the document as we have it. That is not only something we cannot demonstrate – we do not have compositions that were not used, only the ones that were – but something that we must regard as unlikely on the face of matters. All we may say is positive: the character of the compositions that address Mishnah-exegesis tells us about the concerns of the

writers of those compositions, but we cannot claim to outline all of their concerns, on the one side, or to explain why they chose not to work on other Mishnah-sentences besides the ones treated here. But as to the program of the compositors, that is another matter: from the choices that they made (out of a corpus we cannot begin to imagine or invent for ourselves) we may describe with great accuracy the kinds of materials they wished to include and the shape and structure they set forth out of those materials. We know what they did, and that permits us to investigate why they did what they did. What we cannot know is what they did not do, or why they chose not to do what they did not do. People familiar with the character of speculation and criticism in Talmudic studies will understand why I have to spell out these rather commonplace observations. I lay out an argument based on evidence, not on the silences of evidence, or on the absence of evidence – that alone.) what demands attention, and what does not. Our outline has therefore to signal not only what passage of the Mishnah-tractate is discussed, but also what is not discussed, and we require a general theory to explain the principles of selection (“making connections, drawing conclusions” meaning, to begin with, making selections). For that purpose, in the outline, I reproduce the entirety of a Mishnah-paragraph that stands at the head of a Talmudic composite, and I underscore those sentences that are addressed, so highlighting also those that are not.

It follows that the same evidence that justifies identifying the Mishnah-tractate as the structure (therefore also the foundation of the system) of Yerushalmi-tractate before us also presents puzzles for considerable reflection. The exegesis of Mishnah-exegesis is only one of these. Another concerns the purpose of introducing into the document enormous compositions and composites that clearly hold together around a shared topic or proposition, e.g., my appendix on one theme or another, my elaborate footnote providing information that is not required but merely useful, and the like. My earlier characterization of composites as appendices and footnotes signalled the fact that the framers of the document chose a not-entirely satisfactory way of setting out the materials they wished to include here, for large components of the tractate do not contribute to Mishnah-exegesis in any way at all. If these intrusions of other-than-exegetical compositions were proportionately modest, or of topical composites negligible in size, we might dismiss them as appendages, not structural components that bear much of the weight of the edifice as a whole. Indeed, the language that I chose for identifying and defining these composites – footnotes, appendices, and the like – bore the implication that what is not Mishnah-commentary also is extrinsic to the Talmud of the Land of Israel’s structure and system.

But that language served only for the occasion. In fact, the outline before us will show that the compositions are large and ambitious, the composites formidable and defining. Any description of the tractate’s structure that dismisses as mere accretions or intrusions so large a proportion of the whole misleads. Any notion that “footnotes” and “appendices” impede exposition and disrupt thought, contribute extraneous information or form tacked-on appendages – any such notion begs the question: then why fill up so much space with such purposeless information? The right way is to ask whether the document’s topical composites

play a role in the re-presentation of the Mishnah-tractate by the compilers of the Talmud of the Land of Israel. We have therefore to test two hypotheses:

1. the topical composites (“appendices,” “footnotes”) do belong and serve the compilers’ purpose

or

2. the topical composites do not participate in the re-presentation of the Mishnah-tractate by Yerushalmi and do not belong because they add nothing and change nothing.

The two hypotheses may be tested against the evidence framed in response to a single question: is this topical composite necessary? The answer to that question lies in our asking, what happens to the reading of the Mishnah-tractate in light of the topical composites that would not happen were we to read the same tractate without them? The outline that follows systematically raises that question, with results specified in due course. It suffices here to state the simple result of our reading of the tractate, start to finish: the question of structure, therefore also that of system, rests upon the position we identify for that massive component of the tractate that comprises not Mishnah-commentary but free-standing compositions and composites of compositions formed for a purpose other than Mishnah-commentary.

The principal rubrics are given in small caps. The outline takes as its principal rubrics two large-scale organizing principles.

The first is the divisions of the Mishnah-tractate to which the Talmud of the Land of Israel-tractate serves as a commentary. That simple fact validates the claim that the tractate exhibits a fully-articulated structure. But the outline must also underscore that the Mishnah-tractate provides both more and less than the paramount outline of the Talmud of the Land of Israel-tractate. It is more because sentences in the Mishnah-tractate are not analyzed at all. These untreated Mishnah-sentences are given in bold face lower case caps, like the rest of the Mishnah, but then are specified by underlining and enclosure in square brackets.

Second, it is less because the structure of the tractate accommodates large composites that address topics not defined by the Mishnah-tractate. That brings us to the second of the two large-scale modes of holding together both sustained analytical exercises and also large sets of compositions formed into cogent composites. These are treated also as major units and are indicated by Roman numerals, alongside the Mishnah-paragraphs themselves; they are also signified in small caps. But the principal rubrics that do not focus on Mishnah-commentary but on free-standing topics or propositions or problems are not given in boldface type. Consequently, for the purposes of a coherent outline we have to identify as

autonomous entries in our outline those important composites that treat themes or topics not contributed by the Mishnah-tractate.

I. YERUSHALMI BABA BATRA 1:1

[A] **JOINT HOLDERS TO A COURTYARD WHO WANTED TO MAKE A PARTITION IN THE COURTYARD BUILD THE WALL IN THE MIDDLE. IN A PLACE IN WHICH THEY ARE ACCUSTOMED TO BUILD IT OF (1) UNSHAPED STONES, (2) HEWN STONES, (3) HALF-BRICKS, OR (4) WHOLE BRICKS, THEY BUILD IT [OF THAT SORT OF MATERIAL]. ALL ACCORDS WITH THE CUSTOM OF THE PROVINCE. [IF THEY MAKE IT] OF (1) UNHEWN STONES, THIS ONE CONTRIBUTES [A SPACE OF] THREE HANDBREADTHS [OF HIS SHARE OF THE COURTYARD], AND THAT ONE SUPPLIES [A SPACE OF] THREE HANDBREADTHS. [IF THEY BUILD IT] OF (2) HEWN STONES, THIS ONE SUPPLIES TWO HANDBREADTHS AND A HALF [OF SPACE], AND THAT ONE SUPPLIES TWO HANDBREADTHS AND A HALF [OF SPACE]. [IF THEY BUILD IT] OF (3) HALF-BRICKS, THIS ONE SUPPLIES TWO HANDBREADTHS [OF SPACE], AND THAT ONE SUPPLIES TWO HANDBREADTHS [OF SPACE]. [IF THEY BUILD IT OUT OF] (4) WHOLE BRICKS, THIS ONE SUPPLIES A HANDBREADTH AND A HALF, AND THAT ONE SUPPLIES A HANDBREADTH AND A HALF. THEREFORE, IF THE WALL SHOULD FALL DOWN, THE LOCATION [ON WHICH IT HAD STOOD] AND THE STONES BELONG TO BOTH PARTIES.**

1. **I:1:** [Since the present rule takes for granted that a division may be effected in any sort of courtyard,] how is it that we have learned elsewhere: They do not divide up a courtyard unless there will be an area of four cubits by four cubits for this one, and four cubits by four cubits for that one [M. 1:6A]? [Our rule does not recognize such a qualification.] [To this evident contradiction between the present rule, as interpreted in the stated supposition at A, and the cited passage] one may reply, there [we deal with a case] in which the two partners do not concur. But here we deal with a case in which both of them concur [so it does not matter whether there is the requisite minimum of space produced for each party to the division, since both parties concur in whatever they will receive].

II. YERUSHALMI BABA BATRA 1:2

[A] **AND SO IS THE RULE IN THE CASE OF A GARDEN: IN A PLACE IN WHICH IT IS CUSTOMARY TO BUILD A FENCE, THEY REQUIRE [A RECALCITRANT OWNER] TO DO SO. BUT IN A VALLEY, IN A PLACE IN WHICH IT IS NOT CUSTOMARY TO BUILD A FENCE, THEY DO NOT REQUIRE HIM TO DO SO. BUT IF HE WANTS, HE**

MAY WITHDRAW INSIDE HIS OWN PORTION [OF THE PROPERTY] AND BUILD IT. AND HE PLACES THE FACING OF THE WALL OUTSIDE OF [THE FENCE] [ON THE SIDE OF THE NEIGHBOR, INDICATING HIS OWNERSHIP]. THEREFORE, IF THE WALL SHOULD FALL DOWN, THE LOCATION [ON WHICH IT HAD STOOD] AND THE STONES ARE HIS. IF THEY HAD MADE IT WITH THE CONSENT OF BOTH PARTIES, THEY BUILD THE WALL IN THE MIDDLE. THEY PLACE THE FACING OF THE WALL ON THIS SIDE AND ON THAT SIDE. THEREFORE, IF THE FENCE SHOULD FALL DOWN, THE LOCATION [ON WHICH IT HAD STOOD] AND THE STONES BELONG TO BOTH PARTIES.

1. **I:1:** It was taught: In the case of a garden [vegetable patch], whether it is a place in which it is customary to build a fence [cf. M. 1:2B], or whether it is a place in which it is not customary to build a fence, they force [a recalcitrant owner to build a fence if the partner so desires]. But as to a valley, in a place in which it is customary to build a fence, they force [the recalcitrant partner to build a fence], while in a place in which it is not customary to build a fence, they do not force [him to participate in the project].

III. YERUSHALMI BABA BATRA 1:3

[A] **HE** WHOSE [LAND] SURROUNDS THAT OF HIS FELLOW ON THREE SIDES, AND WHO MADE A FENCE ON THE FIRST, SECOND, AND THIRD SIDES — THEY DO NOT REQUIRE [THE OTHER PARTY TO SHARE IN THE EXPENSE OF BUILDING THE WALLS].

1. **I:1:** [With reference to M. 1:3A-C, the neighbor's not being required to share in the expense of building the walls, which the Talmud takes to mean that if the one who built the three walls went and completed the fourth, they would impose the cost-sharing on the neighbor,] R. Huna said, "That [implication is valid] on the condition that it is at the time that he built [the three, that he also built the fourth]. Thus if he had built it with stone, he [must build the fourth wall] also with stone [if he wishes to impose half of the cost on the neighbor]. But here if he had built it with stone and [later on] he went and built [the fourth wall] with bricks, [so that the wall is not so strong as it should be if it were all of stone,] should he be able to collect [from the neighbor his share of the cost] as if the wall had been built with stone, and then whenever it should fall down, he will rebuild it!?" [Obviously, in Huna's view, that is not possible. Hence his original statement, A-B, must be sound.]

[B] **R. YOSÉ** SAYS, "IF HE BUILT A FENCE ON THE FOURTH SIDE, THEY ASSIGN TO HIM [HIS SHARE IN THE CASE OF] ALL [THREE OTHER FENCES]."

1. **II:1:** R. Huna said, “They assign to him the amount of the basic [cost] of the walls on the other three sides [not just of the fourth].”

[C] **THE WALL OF A COURTYARD WHICH FELL DOWN – THEY REQUIRE [EACH PARTNER IN THE COURTYARD] TO [HELP] BUILD IT UP TO A HEIGHT OF FOUR CUBITS. [EACH ONE IS] ASSUMED TO HAVE GIVEN, UNTIL ONE BRINGS PROOF THAT THE OTHER HAS NOT CONTRIBUTED TO THE COST. [IF THE FENCE WAS BUILT] FOUR CUBITS AND HIGHER, THEY DO NOT REQUIRE [A JOINT HOLDER IN THE COURTYARD TO CONTRIBUTE TO THE EXPENSES]. [IF THE ONE WHO DID NOT CONTRIBUTE] BUILT ANOTHER WALL NEAR [THE RESTORED ONE] [PLANNING TO ROOF OVER THE INTERVENING SPACE], EVEN THOUGH HE DID NOT [ACTUALLY] PUT A ROOF ON IT, THEY ASSIGN HIM [HIS SHARE IN THE COST OF THE] WHOLE [OTHER WALL]. [HE IS NOW] ASSUMED NOT TO HAVE CONTRIBUTED TO THE COST, UNTIL HE BRINGS PROOF THAT HE HAS CONTRIBUTED TO THE COST.**

1. **III:1:** As to its length? Said R. Nissah, “The wall of a courtyard is made only to afford protection [privacy] for him [as a measure of the property of the owner, hence there is no specified minimum as to the length of the wall which must be reconstructed]. [It must be such as to block off the view of the other party to the courtyard and so afford privacy.]”

IV. YERUSHALMI BABA BATRA 1:4

[A] **THEY FORCE [A JOINT HOLDER IN THE COURTYARD TO CONTRIBUTE TO] THE BUILDING OF A GATEHOUSE AND A DOOR FOR THE COURTYARD. RABBAN SIMEON B. GAMALIEL SAYS, “NOT ALL COURTYARDS ARE SUITABLE FOR A GATEHOUSE.” THEY FORCE [EACH JOINT HOLDER TO CONTRIBUTE TO] THE BUILDING OF A WALL, GATES, AND A BOLT FOR THE TOWN. RABBAN SIMEON B. GAMALIEL SAYS, “NOT ALL TOWNS ARE SUITABLE FOR A WALL.”**

1. **I:1:** Said R. La, “[As to the reasoning of Simeon b. Gamaliel that not all courtyards need a gate or are suitable for one,] it is normal for someone who makes a good living to build himself a gate, [but that would not be suitable for the poor], as it is said, ‘A rich man’s wealth is his strong city, and like a high wall protecting him’ (Prov. 18 :11).”

[B] **HOW LONG MUST ONE BE IN A TOWN TO BE DEEMED EQUIVALENT TO ALL OTHER TOWNSFOLK? TWELVE MONTHS. [IF] ONE HAS PURCHASED A PERMANENT RESIDENCE, LO, HE IS EQUIVALENT TO ALL THE OTHER TOWNSFOLK FORTHWITH.**

1. **II:1:** It was taught, “If one remained [in a town] thirty days, lo, he is deemed equivalent to all other townsmen [cf. M. 1:4E] – as to [taking alms from, or giving to] the common fund. As to garments, six months. As to [being subject to] town taxes and fines, twelve months.”

V. YERUSHALMI BABA BATRA 1:5

[A] **THEY DO NOT DIVIDE UP A COURTYARD UNLESS THERE WILL REMAIN [AN AREA OF] FOUR CUBITS [BY FOUR CUBITS] FOR THIS ONE, AND FOUR CUBITS [BY FOUR CUBITS] FOR THAT ONE; NOR [DO THEY DIVIDE UP] A FIELD, UNLESS THERE WILL REMAIN NINE QABS’ SPACE OF GROUND FOR THIS ONE, AND NINE QABS’ SPACE FOR THAT ONE. R. JUDAH SAYS, “UNLESS THERE WILL BE NINE HALF-QABS OF SPACE FOR THIS ONE, AND NINE HALF-QABS OF SPACE FOR THAT ONE.” NOR [DO THEY DIVIDE UP] A VEGETABLE PATCH UNLESS THERE WILL BE A HALF-QAB OF SPACE FOR THIS ONE AND A HALF-QAB OF SPACE FOR THAT ONE. R. AQIBA SAYS, “A QUARTER-QAB’S SPACE.” NOR [DO THEY DIVIDE UP] (1) A BANQUET HALL, (2) WATCHTOWER, (3) DOVECOTE, (4) CLOAK; (5) BATHHOUSE, OR (6) OLIVE PRESS, UNLESS THERE WILL BE SUFFICIENT SPACE FOR THIS ONE AND SUFFICIENT SPACE FOR THAT ONE [TO MAKE SOME REASONABLE USE OF HIS SHARE]. THIS IS THE OPERATIVE PRINCIPLE: WHATEVER MAY BE DIVIDED AND [RETAIN] ITS ORIGINAL DESIGNATION DO THEY DIVIDE. BUT IF NOT, THEY DO NOT DIVIDE [SUCH AN OBJECT]. UNDER WHAT CIRCUMSTANCES? WHEN BOTH PARTIES DO NOT CONCUR. BUT IF BOTH PARTIES CONCUR, EVEN IF THE MEASUREMENTS ARE LESS THAN SPECIFIED, THEY DIVIDE [THE AREA].**

1. **I:1:** Said R. Yohanan, “The four cubits of which they have spoken [at M. 1:5A] are exclusive of the four cubits assigned to the doorways.” And Bar Qappara taught likewise: “They do not divide up a courtyard unless it contains eight cubits for this party, and eight cubits for that.”
2. **I:2:** R. Yohanan in the name of R. Benaiah: “In the case of all courtyards owned in partnership, one partner may object to what the other does in the courtyard, except for doing laundry, so as to preserve the dignity of Israelite women [that they be able to wash their garments in the courtyard and not in a public place].” Said R. Mattaniah, “That rule which you have stated applies solely to a place in which women do the laundry, but in a place in which men do the laundry, it is not in such [a context that the rule pertains]. [Furthermore.] that which you have said, namely, ‘... except for doing laundry, so as to preserve the dignity of Israelite women,’ [applies elsewhere in the courtyard,] but in the four cubits which belong solely to the individual, he has the right to

object [to their doing laundry, and they must do it elsewhere in the courtyard]. And as to that which you have stated, ‘In the case of all courtyards owned in partnership, one partner may object to what the other does...,’ that applies to the entire courtyard except for the four cubits which belong to the other party, in which area the partner may not object to what the other does. But if the area was sloping [toward the partner’s property], even in the four cubits belonging solely to the other party, the partner has every right to object [to what is done], because he has the power to claim against him, ‘You pour out [slops] in your area, but it rolls down into mine.’”

3. **I:3:** R. Huna said, “A courtyard is divided according to its entries. [The point is that if there are three doors, the owner of two owns two-thirds of the courtyard.]” Said R. Hisda, “The teaching applies for purposes of dividing up the manure. [But each doorway entitles the owner only to four cubits.]”
4. **I:4:** And so it was taught: [Tosefta’s version] Manure which is found in the courtyard is divided in proportion to the doorways. And that which is found in a colonnade belongs to everybody [T. B.M. 11:12]. [Five] courtyards which make use of a single gutter, and the gutter was destroyed – all of them pay for the repairs along with the first. If the first repairs the part used for himself, the rest pay the cost along with the second. If the second repairs the part used for himself, the last of them pays the cost by himself along with all of them [T. B.M. 11:20]. Five stories of a courtyard make use of a single gutter [house], and the gutter broke – all of them pay the cost with the one at the bottom [of the gutter]. But the one at the bottom may pay the cost of fencing it by himself [for his own use]; and all the rest of them pay the cost of repairing it with the second party; but the second may repair it by himself. The one at the very top of all of them repairs it for his own use, but also shares in the costs of repairing it with all of the other [T. B.M. 11:21].

[B] BUT AS TO SACRED SCRIPTURES, EVEN THOUGH BOTH PARTIES CONCUR, THEY DO NOT DIVIDE THEM.

1. **II:1:** Said R. Hoshaiyah, “That rule applies, for example, to scrolls containing both Psalms and Chronicles. But if they are scrolls containing only Psalms, they may divide them.” Said R. Uqbah, “Even if they are scrolls containing only Psalms, they may not divide them, for, since they do not divide the Scroll, these parties may come and read the passages along with those, and those parties may come and read the passages along with these.”

VI. YERUSHALMI BABA BATRA 2:1

[A] ONE MAY NOT DIG (1) A CISTERN NEAR THE CISTERN OF HIS FELLOW, NOR (2) A DITCH, (3) CAVE, (4) WATER CHANNEL, OR (5) LAUNDRY POOL, UNLESS ONE SET IT THREE HANDBREADTHS AWAY FROM THE WALL OF HIS FELLOW, AND PLASTERED IT WITH PLASTER [TO RETAIN THE WATER]. THEY SET (1) OLIVE REFUSE, (2) MANURE, (3) SALT, (4) LIME, OR (5) STONES THREE HANDBREADTHS FROM THE WALL OF ONE'S FELLOW, AND PLASTER IT WITH PLASTER. THEY SET (1) SEEDS, (2) A PLOUGH, AND (3) URINE THREE HANDBREADTHS FROM A WALL:

1. **I:1:** Thus is the meaning of the Mishnah [at M. 2:1C-D], And plastered it with plaster, [that is to say:] If one plastered it with plaster, [it may be set back] by any distance at all. If he did not plaster it with plaster, [then he must set it back by three handbreadths].
2. **I:2:** Here you maintain that it is because rocks give out heat, and there you maintain that they do not give out heat. [That is, one must keep the rocks back from the wall because they give out heat. Yet on the list of objects in which one may not keep food warm on the Sabbath by reason of their imparting or giving out heat, not merely preserving it, rocks are not included. Consequently the power of rocks to give out heat is treated differently here from, M. Shab. 4:1ff.]
3. **I:3:** It was taught: In the case of what is a granite [not pebble] wall, lo, it is permitted [to urinate on the wall (T. B.B. 1:4D)]. Now under what circumstances do we invoke this rule?

[B] AND THEY SET (1) A HAND MILL THREE HANDBREADTHS FROM THE LOWER MILLSTONE, WHICH IS FOUR FROM THE UPPER MILLSTONE:

1. **II:1:** [Now as to the separation of the hand mill from the wall by three handbreadths from the lower millstone, which is four from the upper] that rule covers the hand mill used over there [in Babylonia]. But as to the hand mill such as we use. it must be three from the wheel, which are four from the framework under the millstone.

[C] AND (2) THE OVEN SO THAT THE WALL IS THREE HANDBREADTHS FROM THE BELLY OF THE OVEN, OR FOUR FROM THE RIM:

1. **III:1:** R. Judah b. Pazzi said. "From the outer rim and inward." And rabbis say, 'From the inner rim and outward.'" If it was made in the

shape of a dovecote, what is the rule [as to whether three handbreadths suffice]?

VII. YERUSHALMI BABA BATRA 2:2

- [A] A PERSON SHOULD NOT SET UP AN OVEN IN A ROOM, UNLESS THERE IS A SPACE OF FOUR CUBITS ABOVE IT. [IF] HE WAS SETTING IT UP IN THE UPPER STORY, THERE HAS TO BE A LAYER OF PLASTER UNDER IT THREE HANDBREADTHS THICK, AND IN THE CASE OF A STOVE, A HANDBREADTH THICK:
1. **I:1:** It was taught, “And not an oven belonging to a blacksmith [unless it is given the appropriate space to avoid damage to the neighbor’s house].”
- [B] AND IF IT DID DAMAGE, [THE OWNER OF THE OVEN] HAS TO PAY FOR THE DAMAGE. R. SIMEON SAYS, “ALL OF THESE MEASURES HAVE BEEN STATED ONLY SO THAT IF [THE OBJECT] INFLICTED DAMAGE, [THE OWNER] IS EXEMPT FROM PAYING COMPENSATION [IF THE STATED MEASURES HAVE BEEN OBSERVED].”
1. **II:1:** [With reference to M. 2:2E, if it did damage, the owner has to pay, the question now is raised:] What about [damage done] to the dwelling opposite [one’s oven]? [Is the owner of the oven liable to pay for damage done not in the house in which the oven is set up?]
 2. **II:2:** Said R. Jonathan, “He who causes damage does not enjoy the benefit of the claim of usucaption. [That is, the claim that, since the other party suffered the damage for many years, he has reconciled himself to it. No matter when the injured party lays claim, even after years of damage. he is to be compensated.]”

VIII. YERUSHALMI BABA BATRA 2:3

- [A] A PERSON SHOULD NOT OPEN A BAKE SHOP OR A DYER’S SHOP UNDER THE GRANARY OF HIS FELLOW, NOR A CATTLE STALL. TO BE SURE, IN THE CASE OF WINE THEY PERMITTED DOING SO, BUT NOT [BUILDING] A CATTLE STALL [UNDER THE WINE CELLAR]. AS TO A SHOP IN THE COURTYARD, A PERSON MAY OBJECT AND TELL [THE SHOPKEEPER], “I CANNOT SLEEP BECAUSE OF THE NOISE OF PEOPLE COMING IN AND THE NOISE OF PEOPLE GOING OUT.” ONE MAY [HOWEVER] MAKE UTENSILS [AND] GO OUT AND SELL THEM IN THE MARKET:

1. **I:1:** R. Jacob bar Aha drove a pastry seller from one portico to another [that is, forced him to move away]. There was a pastry seller [who] opened [a store] under [the dwelling of] R. Abedomi, brother of R. Yosé. R. Aha passed by and did not object [to the opening of the store]. [R. Abedomi] said, “Rabbis pass by and do not object [to this store]!” R. Aha grew angry with him. R. Abedomi, brother of R. Yosé grew sick. He became yet sicker. R. Yosé came up to call on him. He said, “I shall go and raise the question with [Aha].” He went and spoke, and the court [on which Aha sat] gave instructions to have pity on him and to prepare burial shrouds for him [which was a sign that Aha had made his peace with the brother].
2. **I:2:** It was taught: To be sure, in the case of wine they permitted, even though [the heat] diminishes the wine in volume, it improves its quality.
3. **I:3:** [If the bake- or dyer’s shop or cattle stall was there before the storehouse [was built, M. 2:3A], one has not got the power to stop him and to say, “I cannot sleep because of the noise of the hammer or because of the bad smell or because of the noise of the children” (M. 2:3H). As to one’s neighbor in a nearby courtyard, however, one may not force him to desist from annoying practices. Rabban Simeon b. Gamaliel says, “In the case of one’s neighbor, one may force him to desist from annoying practices”] [T. B.B. 1:4]. It was taught: But [if he wanted to rent the store or the stall] to his neighbor, once he has accepted the agreement, he has not got the power to retract. [That is, once one such shop is accepted by the others in the court, they cannot object to someone else’s running the same sort of shop.] Rabban Simeon b. Gamaliel says, “Even if he has accepted the arrangement, [another resident] still has the power to retract [his acceptance of the shop]. For he has the right to say m him, ‘Those who used to come to you will come and go here asking for you when they do not find you, and they will cause much more traffic for us.’”

[B] TRULY ONE HAS NOT GOT THE POWER TO OBJECT AND TO SAY, “I CANNOT SLEEP BECAUSE OF THE NOISE OF THE HAMMER, “THE NOISE OF THE MILLSTONES, “OR THE NOISE OF THE CHILDREN.”

1. **II:1:** These who teach children to write and reckon – their neighbors have the right to object [to their doing so in the common courtyard].For he has the power to say to him, “They will come and go looking for you and not find you, and they will cause much more traffic for us.”

IX. YERUSHALMI BABA BATRA 2:4

[A] HE WHOSE WALL WAS NEAR THE WALL OF HIS FELLOW MAY NOT BUILD ANOTHER WALL NEXT TO IT, UNLESS HE SETS IT FOUR CUBITS BACK. [AND IF HE BUILDS A WALL OPPOSITE HIS FELLOW'S] WINDOWS, WHETHER IT IS HIGHER, LOWER, OR OPPOSITE THEM, [HE MUST SET IT BACK BY] FOUR CUBITS.

1. **I:1:** [With reference to M. 2:4A-C,] the members of the house of R. Yannai say, "Concerning those who come to settle in *a* new town does the Mishnah speak [in requiring space between one wall and another, for the constant passage of people will tread down the ground by the wall and so strengthen its foundations]. [In an old town this strengthening process already has been completed]" Said R. La, "It is with regard to a solid wall that the Mishnah speaks." Said R. Yosé, "It is with regard to a Sodomite wall [a wall which may not have windows looking into the adjoining lot] that the Mishnah speaks [at M. 2:4A-C]."
2. **I:2:** They set a wall four cubits away from windows, above [and] on the sides, so that one will not see in; below, so that one will not peek in; and opposite, so that it will not cast a shadow [on the windows] [T. B.B. 1:5].

X. YERUSHALMI BABA BATRA 2:5

[A] THEY SET [ONE'S] LADDER FOUR CUBITS AWAY FROM THE DOVECOTE [OF ONE'S NEIGHBOR], SO THAT THE MARTEN WILL NOT JUMP IN [TO THE DOVECOTE]. AND [THEY SET BACK] A WALL FROM [ONE'S NEIGHBOR'S] ROOF GUTTER BY FOUR CUBITS, SO THAT [THE NEIGHBOR] WILL BE ABLE TO SET UP HIS LADDER [TO CLEAN OUT HIS GUTTER]. THEY SET UP A DOVECOTE FIFTY CUBITS AWAY FROM A TOWN. AND ONE SHOULD NOT SET UP A DOVECOTE IN HIS OWN DOMAIN, UNLESS HE HAS FIFTY CUBITS OF SPACE IN EVERY DIRECTION. **R.** JUDAH SAYS, "FOUR KORS OF SPACE OF GROUND, "THE LENGTH OF THE FLIGHT OF A PIGEON." BUT IF HE HAD BOUGHT IT [AND IT WAS BUILT IN THAT PLACE], EVEN IF IT WAS ONLY A QUARTER-QAB OF SPACE, LO, HE RETAINS HIS ESTABLISHED RIGHT.

1. **I:1:** Said R. Eleazar, "That rule which you have stated [at M. 2:5A-B], applies to a ladder at the right [of the dovecote]. But [as to a ladder set up] at the left side, one sets it up right on the spot."

2. **I:2:** Here you maintain that fifty cubits [is the space covered by a pigeon], while there [at M. B.Q. 7:7: They may not set snares for pigeons unless it be thirty ris from an inhabited place] you hold that it is a matter of thirty ris.

XI. YERUSHALMI BABA BATRA 2:6

[A] **A FALLEN PIGEON WHICH IS FOUND WITHIN FIFTY CUBITS — LO, IT BELONGS TO THE OWNER OF THE DOVECOTE. [IF IT IS FOUND] OUTSIDE OF A FIFTY-CUBIT RANGE, LO, IT BELONGS TO THE ONE WHO FINDS IT. [IF] IT WAS FOUND BETWEEN TWO DOVECOTES, [IF IT WAS] NEARER TO THIS ONE, IT BELONGS TO HIM, AND [IF IT WAS] NEARER TO THE OTHER ONE, IT BELONGS TO HIM, AND [IF IT WAS] EXACTLY IN BETWEEN, THE TWO OF THEM DIVIDE IT UP:**

1. **I:1:** As to the rule of M. 2:6E-H,] that rule which you have stated applies in a case in which the public way does not come between the two of them. But if the public way goes between the two of them, it is not in such a case [that the rule applies]. [In this case, it need not be assigned to one or the other of the owners of the dovecotes but rather to someone who has passed by. That person despairs of recovering the pigeon and hence the one who finds it may keep it.]

XII. YERUSHALMI BABA BATRA 2:7-8

[A] **THEY KEEP A TREE TWENTY-FIVE CUBITS FROM A TOWN, AND IN THE CASE OF A CAROB OR A SYCAMORE, FIFTY CUBITS. ABBA SAUL SAYS, “IN THE CASE OF ANY SORT OF TREE WHICH PRODUCES NO FRUIT, FIFTY CUBITS.” IF THE TOWN WAS THERE FIRST, ONE CUTS DOWN THE TREE AND PAYS NO COMPENSATION. AND IF THE TREE CAME FIRST, ONE CUTS DOWN THE TREE BUT PAYS COMPENSATION. [IF IT IS A MATTER OF] DOUBT WHETHER THIS CAME FIRST OR THAT CAME FIRST, ONE CUTS DOWN THE TREE AND PAYS NO COMPENSATION. THEY SET A PERMANENT THRESHING FLOOR FIFTY CUBITS FROM A TOWN. A PERSON SHOULD NOT BUILD A PERMANENT THRESHING FLOOR ON HIS OWN PROPERTY, UNLESS HE OWNS FIFTY CUBITS OF SPACE IN ALL DIRECTIONS. AND HE SETS IT SOME DISTANCE AWAY FROM THE CROPS OF HIS FELLOW AND FROM HIS PLOUGHED LAND, SO THAT IT WILL NOT CAUSE DAMAGE.**

1. **I:1:** [Is the reason that they keep trees away from towns] that it stands and casts a shadow, or is it that it is bad for the climate?

XIII. YERUSHALMI BABA BATRA 2:9

[A] **THEY PUT CARRION, GRAVES, AND TANNERIES AT LEAST FIFTY CUBITS AWAY FROM A TOWN. THEY MAKE A TANNERY ONLY AT THE EAST SIDE OF A TOWN. R. AQIBA SAYS, “IN ANY SIDE OF IT ONE MAY SET IT UP, “EXCEPT FOR THE WEST SIDE. “BUT ONE MUST IN ANY EVENT SET IT FIFTY CUBITS AWAY [FROM THE TOWN].”**

1. **I:1:** [With reference to Aqiba’s statement that one may set a tannery in any direction except on the west side of the town,] R. Abbahu in the name of R. Yohanah: “[The fifty cubits of legal distance from the inhabited place are counted from the end of the town] to the place where he flays the carcass.” Members of the household of R. Yannai say, “It is from the place at which one may stand and smell the stench of the tannery.”

XIV. YERUSHALMI BABA BATRA 2:10

[A] **THEY SET UP A POOL FOR STEEPING FLAX AWAY FROM A VEGETABLE PATCH, LEEKS AWAY FROM ONIONS, AND A MUSTARD PLANT AWAY FROM BEES. R. YOSÉ PERMITS IN THE CASE OF A MUSTARD PLANT.**

1. **I:1:** It was taught: They keep onions away from leeks [as well as leeks away from onions, M. 2:9B]. But R. Eleazar b. R. Simeon permits [planting onions near leeks]. Said R. Jacob b. Dosai, “[In fact, there is no disagreement between M. 2:9B and 1A]. From that which is stated in the Mishnah [we derive the rule that] just as this one is kept apart from that one, so that one is kept apart from this one, [since the damage is mutual].”
2. **I:2:** R. Abbahu in the name of R. Yosé b. Haninah: “The reason [for M. 2:9C’s rule is that] the mouth of the bees is bitter, and [when the bees come and eat honey], they will ruin the honey [through the mustard seed which they have absorbed]. [So the mustard does damage to honey.]”

XV. YERUSHALMI BABA BATRA 2:11

[A] THEY SET UP A TREE TWENTY-FIVE CUBITS AWAY FROM A CISTERN, AND IN THE CASE OF A CAROB AND A SYCAMORE TREE, FIFTY CUBITS, WHETHER HIGHER [THAN THE CISTERN] OR ON THE SAME LEVEL. IF THE CISTERN WAS THERE FIRST, ONE CUTS DOWN THE TREE AND PAYS THE VALUE. IF THE TREE WAS THERE FIRST, ONE MAY NOT CUT DOWN THE TREE. [IF IT IS A MATTER OF] DOUBT WHETHER THIS WAS THERE FIRST OR THAT WAS THERE FIRST, ONE MAY NOT CUT IT DOWN. R. YOSÉ SAYS, “EVEN THOUGH THE CISTERN WAS THERE BEFORE THE TREE, ONE MAY NOT CUT DOWN [THE TREE], “FOR THIS ONE HAS EVERY RIGHT TO DIG WITHIN HIS DOMAIN, AND THAT ONE HAS EVERY RIGHT TO PLANT A TREE WITHIN HIS DOMAIN.” A PERSON MAY NOT PLANT A TREE NEAR HIS FELLOW’S FIELD, UNLESS HE SET IT FOUR CUBITS AWAY FROM [THE OTHER’S FIELD]. ALL THE SAME ARE VINES OR ANY OTHER TREE. [IF] THERE WAS A FENCE IN BETWEEN, THIS ONE PLANTS NEAR THE WALL ON ONE SIDE, AND THAT ONE PLANTS NEAR THE WALL ON THE OTHER SIDE. [IF] THE ROOTS OF ONE’S [TREE] EXTENDED INTO THE DOMAIN OF THE OTHER, ONE MAY CUT THEM AWAY DOWN TO THREE HANDBREADTHS, SO THAT THEY WILL NOT HINDER THE PLOUGH. [IF] ONE WAS DIGGING A CISTERN, DITCH, OR CAVE, HE MAY CUT OFF THE ROOTS AS FAR AS HE DIGS DOWN, AND THE WOOD IS HIS.

1. **I:1:** R. Jacob bar Idi in the name of R. Joshua b. Levi: “The reason behind the position of the rabbis [at M. 2:10D, that if the cistern was there first, one cuts down the tree] is that the possibility for habitation of the world depends upon cisterns.”
2. **I:2:** [With reference to M. Bik. 1:1: So too he who sinks a shoot from a tree planted in another’s domain or the public domain so that it grows in his own domain does not bring first fruits, the reason is that the fruits do not derive wholly from land belonging to that farmer. R. Judah says, “Such a one may bring them.” In the exposition of that matter the following discussion is presented. The full details will be laid out in that context.] Said R. Yosé, “And well did he say so. For if one rules that the matter of roots are the principal consideration in regard to the obligation to bringing first fruits [so that if one does not have complete ownership of the ground in which the roots are growing, he need not bring first fruits deriving from that tree], then a man will never be able to bring first fruits, for the roots of this tree extend into the roots of that one, and vice versa. [Accordingly, the principal consideration cannot be sole ownership of the entire area in which the roots are growing.]”

XVI. YERUSHALMI BABA BATRA 2:12

[A] A TREE WHICH STRETCHES OVER INTO THE FIELD OF ONE'S FELLOW — ONE CUTS IT AWAY [TO A HEIGHT MEASURED] AS FAR AS ONE REACHES BY AN OX GOAD HELD OVER THE PLOUGH, AND, IN THE CASE OF A CAROB AND A SYCAMORE, ACCORDING TO THE MEASURE OF THE PLUMB LINE [RIGHT AT THE BOUNDARY]. IN THE CASE OF AN IRRIGATED FIELD, [HE MAY CUT AWAY] ANY SORT OF TREE BY THE MEASURE OF THE PLUMB LINE [RIGHT AT THE BOUNDARY]. ABBA SAUL SAYS, "IN THE CASE OF ANY TREE WHICH YIELDS NO FRUIT, [ONE MAY CUT AWAY] BY THE MEASURE OF THE PLUMB LINE [RIGHT AT THE BOUNDARY]." [IN THE CASE OF] A TREE WHICH EXTENDS INTO THE PUBLIC DOMAIN, ONE CUTS [THE BRANCHES] SO THAT A CAMEL MAY PASS UNDERNEATH WITH ITS RIDER. R. JUDAH SAYS, "A CAMEL CARRYING FLAX OR BUNDLES OF BRANCHES OF VINE RODS." R. SIMEON SAYS, "EVERY TREE [IS TO BE CUT AWAY] IN ACCORD WITH THE MEASURE OF A PLUMB LINE, "BECAUSE OF [THE POSSIBILITY OF OVERSHADOWING A PASSING CORPSE AND SPREADING] UNCLEANNES."

1. **I:1:** R. Jonathan was an exemplary judge. He had as a neighbor an Aramaean [pagan], who lived cheek by jowl in the field and in the village. Now R. Jonathan had a tree planted [so that it overshadowed the property] of the Aramaean. A case along the lines [of the situation prevailing for Jonathan and his Aramaean neighbor] came before [Jonathan]. He said to them, "Go and come back tomorrow." Now the Aramaean thought to himself, "It is on my account that he made no ruling. Tomorrow I shall go and chop off the branches which overshadow my property on my own, and I shall see how he decides the other case. If he judges other people but does not apply the judgment to himself, he is not a decent person." At evening R. Jonathan sent instructions to his carpenter, saying, "Go, cut off the part of the tree which is overshadowing the Aramaean's land." In the morning, the litigant came before R. Jonathan. He said to him, "Go, cut the branches which are overhanging into your land." The Aramaean then said to him, "And what is the law about your branches?" He said to him, "Go and see how my branches are treated in your property [for they already had been cut off]." He went out and saw the pruning which had taken place, and he said, "Blessed be the God of the Jews."

XVII. YERUSHALMI BABA BATRA 3:1

[A] [TITLE BY] USUCAPTION OF (1) HOUSES, (2) CISTERNS, (3) TRENCHES, (4) CAVES, (5) DOVECOTES, (6) BATHHOUSES, (7) OLIVE PRESSES, (8) IRRIGATED FIELDS:

- 1. I:1:** How do we know that ownership through usucaption [is established through three years of unharassed occupancy]? Said R. Yohanan, “We have heard from those who go to Usha: ‘They have derived the rule from the analogy of an ox which is an attested danger [after three distinct episodes of goring]. [Likewise, once three years have passed without objection from the putative owner, the right of ownership through usucaption is established].”
- 2. I:2:** Simeon bar Vava in the name of R. Yohanan: “He who sells a house to his fellow – once he has handed the key over to him, [the purchaser] has acquired possession of the house.” R. Ammi in the name of R. Yohanan: “He who sells a house to his fellow, once [the purchaser] has stored produce in the house, he has acquired possession of it.”

[B] (9) SLAVES:

- 1. II:1:** R. Simon, brother of R. Judah bar Zabedi, in the name of Rab: “As to an infant, so long as it is lying in the market place, its father or mother may give testimony [as to its genealogical status]. Once it has been taken out of the market place [as a foundling], it is necessary for two witnesses to give evidence as to its genealogical status. And its father and its mother are treated as two witnesses.” Said R. Abbahu, “And a man [the father] is suspect of stating concerning one who is not his son that he is his son, lest such a statement may have been made in regard to the property owned by a proselyte [which is deemed ownerless]. [A man’s claim that the man is his son thus can produce a material benefit, since the man then may inherit the property of the proselyte.]”

[C] AND ANYTHING WHICH CONTINUALLY PRODUCES A YIELD – TITLE BY USUCAPTION APPLYING TO THEM IS THREE YEARS, FROM DAY TO DAY [THAT IS, THREE FULL YEARS]. A FIELD WHICH RELIES ON RAIN – [TITLE BY] USUCAPTION FOR IT IS THREE YEARS, NOT FROM DAY TO DAY:

- 1. III:1:** R. Yosa in the name of R. Yohanan: “Two fields which are part of the estate of a proselyte, with a pathway between them – if one has uprooted [weeds or branches] from one of them [intending] to acquire

the other field and not to acquire the pathway – he field [from which he removed the weeds] is acquired, but the other field is not.” R. Zira raised the question before R. Yosa: “If one intended to effect acquisition of the path and that which is below it [what is the law]?” Said R. Hisda, “As to the estate of a proselyte, if one has gathered weeds at the northern part of a field intending to acquire the southern part of the field but not the part in the middle – the northern part of the field he has acquired, the southern part he has not acquired.”

2. **III:2:** R. Ba in the name of R. Hisda, “There are three who are believed if they give testimony forthwith [upon the matter about which they testify]: A midwife, a caravan [which finds a foundling], and she who declares her fellow women to be clean [by taking responsibility for a drop of blood].”

XVIII. YERUSHALMI BABA BATRA 3:2

[A] **R. ISHMAEL SAYS, “THREE MONTHS IN THE FIRST YEAR, THREE IN THE LAST, AND TWELVE MONTHS IN BETWEEN – LO, EIGHTEEN MONTHS [SUFFICES].” R. AQIBA SAYS, “A MONTH IN THE FIRST YEAR, A MONTH IN THE LAST, AND TWELVE MONTHS IN THE MIDDLE, LO, FOURTEEN MONTHS.” SAID R. ISHMAEL, “UNDER WHAT CIRCUMSTANCES?” IN THE CASE OF A GRAIN FIELD. “BUT IN THE CASE OF A TREE-PLANTED FIELD [AN ORCHARD], [IF] ONE HAS BROUGHT IN THE [GRAPE CROP], COLLECTED THE OLIVES, AND GATHERED THE [FIG] HARVEST, “LO, THESE [THREE HARVESTS] COUNT AS THREE YEARS.”**

1. **I:1:** Samuel said, “This represents the view of R. Ishmael and R. Aqiba. But sages say, ‘[Ownership through usucaption is established only through] three years of harvesting the grain, three years of vintaging the grapes, three years of cutting the olives.’” Rab said, “This represents the view of R. Ishmael and R. Aqiba. But sages say, ‘[Ownership through usucaption is established only through] three full years [‘from day to day’].”

XIX. YERUSHALMI BABA BATRA 3:3

[A] **THERE ARE THREE REGIONS SO FAR AS SECURING TITLE THROUGH USUCAPTION [IS CONCERNED]: JUDAH, TRANSJORDAN, AND GALILEE. [IF] ONE WAS LOCATED IN JUDEA, AND [SOMEONE ELSE] TOOK POSSESSION OF HIS PROPERTY IN GALILEE, [OR] WAS IN GALILEE, AND SOMEONE TOOK POSSESSION [OF HIS PROPERTY] IN JUDEA, IT IS NOT AN EFFECTIVE ACT OF SECURING TITLE**

THROUGH USUCAPTION UNLESS [THE OWNER] IS WITH [THE SQUATTER IN THE SAME PROVINCE]. SAID R. JUDAH, "THEY SPECIFIED A PERIOD OF THREE YEARS ONLY SO THAT ONE MAY BE LOCATED IN ISPAMIA, AND ONE MAY HOLD POSSESSION FOR A YEAR, PEOPLE WILL GO AND INFORM [THE OWNER] OVER THE PERIOD OF A YEAR, AND HE MAY RETURN IN THE THIRD YEAR."

1. **I:1:** Rab said, "[The rule that usucaption is effective only if the owner is in the same province with the squatter] was taught only with reference to times of upheaval [in which transportation is interrupted]." Rab said, "Acquisition of property through usucaption does not apply in the case of a [landowner] who fled [his property], nor does the mode of usucaption apply from one country to another [that is, when the owner is in a different country from his land]." Samuel said, "Acquisition of property through usucaption does apply in the case of a [landowner] who fled [his property], and it does apply from one country to another."
2. **I:2:** Rab said, "The principal action effecting usucaption is harvesting the produce. [That is, the testimony of the witnesses must be that they have seen the squatter harvest the produce of the field.]" Rab said, "The principal action involved in the rite of removing the shoe [of the brother-in-law who declines to marry his childless brother's widow] is the loosing of the straps [of the sandal.]"
3. **I:3:** R. Yosé b. Haninah asked R. Yohanan, "[If the owner of a property] enters a complaint [against the squatter], what is the law as to his having to do so before a court?" R. Yosé in the name of R. Yohanan: "[If] one raises a complaint, he does not have to do so before a court." And does one have to enter a complaint for each of the three years [at the outset, or, if the property is held over a long period of years, must the complaint be entered annually even after the first three years' complaints]?

XX. YERUSHALMI BABA BATRA 3:4

- [A] ANY ACT OF USUCAPTION [ALONG] WITH WHICH [THERE] IS NO CLAIM [ON THE PROPERTY BEING UTILIZED] IS NO ACT OF SECURING TITLE THROUGH USUCAPTION. HOW SO? [IF] HE SAID TO HIM, "WHAT ARE YOU DOING ON MY PROPERTY," AND THE OTHER PARTY ANSWERED HIM, "BUT NO ONE EVER SAID A THING TO ME!" – THIS IS NO ACT OF SECURING TITLE THROUGH USUCAPTION. [IF HE ANSWERED,] "FOR YOU SOLD IT TO ME," "YOU GAVE IT TO ME AS A GIFT," "YOUR FATHER SOLD IT TO ME," "YOUR FATHER GAVE IT TO ME AS A GIFT" – LO, THIS IS A VALID ACT OF SECURING TITLE THROUGH

USUCAPTION. **HE WHO HOLDS POSSESSION BECAUSE OF AN INHERITANCE [FROM THE PREVIOUS OWNER] REQUIRES NO FURTHER CLAIM [IN HIS OWN BEHALF]:**

1. **I:1:** But he who holds possession because of an inheritance, while requiring no further legitimating claim in his own behalf,] does have to effect usucaption [through utilizing the property for a period of three years].
2. **I:2:** [At M. Ket. 1:6-8, Joshua takes the position that the defendant must bring proof for her claim. For example, if a woman claimed to have lost the tokens of virginity through an accident, and the husband said she had had sexual relations with someone, Gamaliel and Eliezer accept the woman's claim, while Joshua states, "We do not rely on her word. She must be presumed to have suffered intercourse before betrothal unless she can bring proof for her claim." At M. Ket. 2:2, in this same context, we find the following, cited only in part in our text:] *There we are taught:* But R. Joshua concedes that if a person said to his fellow, "This field [belonged to your father and I bought it from him,]" he may be believed, for the mouth that prohibited is the mouth that permitted]. [The man volunteered the information that the claimant's father did own the property, but then claims that he had purchased it. If we accept the former claim, we accept the latter. In elucidation of M. B.B. 3:4F's claim and the matter of inheritance, M. B.B. 3:4H, this discussion now unfolds.] Here is [an illustration of the matter]. Reuben enjoys the usufruct of a field, in the assumption that it belongs to him. Simeon produces witnesses that his father died while in possession of the field. They remove the field from the possession of Reuben and hand it over to Simeon.

XXI. YERUSHALMI BABA BATRA 3:5

[A] (1) CRAFTSMEN, PARTNERS:

1. **I:1:** Samuel said, "'A partner' does not belong here [on Mishnah's list]." Does not a partner effect title through usucaption? Did not Samuel say, "A partner who goes down [into a field] and sows [a crop] is as one who sows a crop with the owner's permission [so he is not in the status of one who can effect possession through usucaption]."

[B] SHARECROPPERS, AND TRUSTEES ARE NOT ABLE TO SECURE TITLE THROUGH USUCAPTION.

1. **I:1:** R. Huna said, “[That statement] applies to a sharecropper with a permanent arrangement [who cannot establish a claim of ownership through usucaption]. But as to a sharecropper for a limited period, he can establish a claim of ownership through usucaption.” Both R. Yohanan and R. Simeon b. Laqish say, “Even a share cropper for a limited period cannot establish claim of ownership through usucaption.” For [the owner] of the field may claim, ‘I had satisfaction [from his tenancy], so I left him on the field [for many years].’”

[C] (2) **A HUSBAND HAS NO CLAIM OF USUCAPTION IN HIS WIFE’S PROPERTY, (3) NOR DOES A WIFE HAVE A CLAIM OF USUCAPTION IN HER HUSBAND’S PROPERTY, (4) NOR A FATHER IN HIS SON’S PROPERTY, (5) NOR A SON IN HIS FATHER’S PROPERTY. UNDER WHAT CIRCUMSTANCES? IN THE CASE OF ONE WHO EFFECTS POSSESSION THROUGH USUCAPTION. BUT IN THE CASE OF ONE WHO GIVES A GIFT, OR OF BROTHERS WHO DIVIDE AN ESTATE, AND OF ONE WHO SEIZES THE PROPERTY OF A PROSELYTE:**

1. **I:1:** Truly: a man who oversees the property of his wife has the power to establish the claim of ownership through usucaption, for it is routine for husbands to oversee the possessions of their wives. A husband has no claim of usucaption in his wife’s property [M. 3:5B]. That rule applies during the lifetime of his wife. But after her death, he has a claim of usucaption in his wife’s property. Nor does a wife have a claim of usucaption in her husband’s property [M. 3:5C]. That is true during his lifetime. But after death, she does have such a claim. Nor does a father have a claim of usucaption in his son’s property [M. 3:5D]. That is true during his lifetime. But after his death, he does have such a claim. Nor does a son in i.us father’s property [M. 3:5E]. That is true during his lifetime. But after his death, he does have such a claim.

[D] [IF] **ONE HAS LOCKED UP, WALLED IN, OR BROKEN DOWN IN ANY MEASURE AT ALL – LO, THIS CONSTITUTES SECURING A CLAIM THROUGH USUCAPTION.**

1. **I:1:** Rab said, “That applies when one fills in a break in the wall to less than ten handbreadths in breadth, or adds to it so that it is ten handbreadths in height [and so completes the wall].” Samuel said, “Even if one has broken down a place which is not suitable for an opening, or walled in a place which is not suitable for shutting up, lo, this establishes the right of ownership through usucaption.”

XXII. YERUSHALMI BABA BATRA 3:6

[A] [If] TWO WERE TESTIFYING FOR ANOTHER PARTY THAT HE HAS ENJOYED THE USUFRUCT OF THE PROPERTY FOR THREE YEARS, AND THEY TURN OUT TO BE FALSE WITNESSES, THEY MUST PAY TO [THE ORIGINAL OWNER] FULL RESTITUTION (DEUT. 19:19). [If] TWO WITNESSES [TESTIFY] CONCERNING THE FIRST YEAR, TWO CONCERNING THE SECOND, AND TWO CONCERNING THE THIRD – THEY DIVIDE UP [THE COSTS OF RESTITUTION] AMONG THEMSELVES. THREE BROTHERS, AND ANOTHER PARTY JOINS TOGETHER WITH [EACH OF] THEM LO, THESE CONSTITUTE THREE DISTINCT ACTS OF TESTIMONY, AND THEY COUNT AS A SINGLE ACT OF WITNESS WHEN THE EVIDENCE IS PROVED FALSE:

1. I:1: The former owner] said to him, “What are you doing in my property?” [The other replied,] “I have a claim for the field established through [three] years of usucaption.” And [the squatter] went and brought witnesses that he indeed had a claim on the field for the requisite years of usucaption. Then the [other party] went and secured the proof of perjury for the witnesses [brought by the squatter] – lo, this one [the squatter] gives him back the field and value of the produce that he had consumed over a period of three years [and this explains the compensation required at M. 3:6C].
2. I:2: [The following statement is relevant to M. B.Q. 7:3 and should not be cited here at all:] Said R. Zira, “That is to say, A perjured witness is not invalidated in court.”

XXIII. YERUSHALMI BABA BATRA 3:7

[A] WHAT ARE [USAGES] THAT ARE EFFECTIVE IN THE SECURING OF TITLE THROUGH USUCAPTION, AND WHAT ARE [USAGES] THAT ARE NOT EFFECTIVE IN THE SECURING OF TITLE THROUGH USUCAPTION? [If] ONE PUT (1) CATTLE IN A COURTYARD, (2) AN OVEN, (3) DOUBLE STOVE, (4) MILLSTONE, (5) RAISED CHICKENS, OR (6) PUT HIS MANURE, IN A COURTYARD – THIS IS NOT AN EFFECTIVE MODE OF SECURING TITLE THROUGH USUCAPTION. BUT [If] (1) HE MADE A PARTITION FOR HIS BEAST TEN HANDBREADTHS HIGH, AND SO, TOO, (2) FOR AN OVEN; SO, TOO, (3) FOR A DOUBLE STOVE; SO, TOO, (4) FOR A MILLSTONE – [If] (5) HE BROUGHT HIS CHICKENS INTO THE HOUSE, OR (6) MADE A PLACE FOR HIS MANURE THREE HANDBREADTHS DEEP OR THREE HANDBREADTHS HIGH – LO, THIS IS AN EFFECTIVE MODE OF SECURING TITLE THROUGH USUCAPTION.

1. **I:1:** Said R. Eleazar, “Partners are accustomed to permit one another [to do as they like] with chickens.” Said R. Yosé, “The Mishnah has not taken that position. But: If two partners made a vow not to benefit from one another each is forbidden to put [in the courtyard] a millstone or an oven or to rear chickens” [M. Ned. 5 :1]. [This item is truncated and fully clear only at M. Ned. 5:1.]
2. **I:2:** aid R. Eleazar, “Tending chickens in a courtyard which does not belong to one – lo, this is a means of securing ownership through usucaption.” Said R. Yosé, “And that is fair enough. What is your choice? If he has a right to raise his chickens there, lo, this one has done so. And if he does not have the right to raise his chickens there [but has done so anyhow], lo, this is a valid means of securing ownership through usucaption.”

XXIV. YERUSHALMI BABA BATRA 3:8

- [A] **THE RIGHT TO PLACE A GUTTER SPOUT DOES NOT [IMPART TITLE THROUGH] USUCAPTION [SO THAT THE SPOUT STILL MAY BE MOVED], BUT THE PLACE ON WHICH IT DISCHARGES DOES IMPART TITLE THROUGH USUCAPTION [SO THAT THE PLACE MUST BE LEFT FOR ITS PRESENT PURPOSE]. A GUTTER DOES [IMPART TITLE THROUGH] USUCAPTION.**
1. **I:1:** R. Simeon b. Laqish said, “[A gutter-spout does not impart title through usucaption so that the spout still may be moved], so far as lengthening or broadening it. [The *owner* of the courtyard *can* prevent the owner of the gutter-spout from broadening or lengthening the spout, which would take up more space than the spout presently uses.]” R. Yohanan said, “[There is no title] for that entire direction [one particular end of the gutter] [so that the owner of the courtyard may shift the direction in which the spout pours out its water, and the owner of the waterspout cannot insist that the spout must pour out the waters only in its original direction]. [But the owner of the courtyard cannot wholly remove the waterspout.]”
- [B] **AN EGYPTIAN LADDER DOES NOT [IMPART TITLE THROUGH] USUCAPTION, BUT A TYRIAN LADDER DOES [IMPART TITLE THROUGH] USUCAPTION. AN EGYPTIAN WINDOW DOES NOT [IMPART TITLE THROUGH] USUCAPTION, BUT A TYRIAN WINDOW DOES [IMPART TITLE THROUGH] USUCAPTION. WHAT IS AN EGYPTIAN WINDOW? ANY THROUGH WHICH THE HEAD OF A HUMAN BEING CANNOT SQUEEZE. R. JUDAH SAYS, “IF IT HAS A FRAME, EVEN THOUGH A HUMAN BEING’S HEAD CANNOT SQUEEZE THROUGH, IT DOES [IMPART TITLE THROUGH] USUCAPTION.”**

1. **I:1:** [As to the Egyptian ladder,] the members of the House of R. Yannai said, “A ladder of three or less rungs is considered a stool [not a ladder].” Said R. La in the name of the members of the House of R. Yannai, “This statement was made in regard to the issue of in cleanness [that is, up to three rungs, it is deemed a stool and receives uncleanness as does any other stool].”

2. **I:2:** The concluding passage is relevant to M. 3:8D. What follows depends upon Y. Yeb. 12:3, as follows: What is the law as to breaking open an Egyptian window into a courtyard belonging to partners, at a height of more than four cubits? He said to him, “Do we thus rule, that the other party has the right to shut off fresh air from his nostrils?” (Obviously not!) Surely the man has a right to open what amounts to an air hole, without the other party’s being able to prohibit him from doing so.] [In this matter,] said R. Hoshaiiah, “They have stated this rule [that one may open an air hole at a height above four cubits from the ground] only with reference to a courtyard. But as to roofs, even a hole higher than four cubits off the ground (the other partners to the courtyard must approve, and they have a right to) prevent [one’s making such a hole].” R. Oshaiah heard this ruling, and he was displeased. He said, “I have stated a tradition, and it was not reported in my name! [So did I state matters, just as above:] ‘They have stated this rule only with reference to a courtyard, but as to roofs, even a hole higher than four cubits off the ground [the other partners to the courtyard must approve, and they have a right to] prevent [one’s making such a hole].’”

XXV. YERUSHALMI BABA BATRA 3:9

[A] A PROJECTION [IF IT EXTENDS] A HANDBREADTH [OR MORE] DOES [IMPART TITLE THROUGH] USUCAPTION, [AND CONCOMITANTLY,] ONE HAS THE POWER TO PROTEST [ITS BEING MADE]. IF IT PROJECTS] LESS THAN A HANDBREADTH, IT IS NOT SUBJECT TO [IMPARTING TITLE THROUGH] USUCAPTION, AND ONE HAS NOT GOT THE POWER TO PROTEST [ITS BEING MADE].

1. **I:1:** R. La in the name of R. Yannai, “A projection which extends outward by a handbreadth – one may widen it as much as he wants along the length of the projection.”

XXVI. YERUSHALMI BABA BATRA 3:10

[A] A PERSON SHOULD NOT OPEN HIS WINDOWS INTO THE COURTYARD OF WHICH HE IS ONE OF THE JOINTHOLDERS. [IF] HE PURCHASED A HOUSE IN ANOTHER COURTYARD [WHICH ADJOINS THE ONE IN WHICH HE IS LIVING], HE MAY NOT MAKE AN OPENING INTO THE COURTYARD OF WHICH HE IS ONE OF THE JOINTHOLDERS. [IF] HE BUILT AN UPPER STORY ON HIS HOUSE, HE SHOULD NOT MAKE AN OPENING FOR IT INTO A COURTYARD OF WHICH HE IS ONE OF THE JOINTHOLDERS. BUT IF HE WANTED, HE MAY BUILD A [NEW] ROOM INSIDE OF HIS HOUSE, OR HE BUILDS AN UPPER STORY ON TOP OF HIS HOUSE, AND HE MAKES AN OPENING FOR IT INTO HIS HOUSE.

1. I:1: [THE inquiry is into the status of an alleyway, and the mode of inquiry is to seek implications in Mishnah's language pertinent to that intermediate space, between the outside and the inner courtyard. At issue are M. 3:10C and M. 3:10L, the former concerning the courtyard, the latter, the outside world.] Here you say that [opening] a door opposite a door is permitted [namely, at M. 3:10L], and there you say that [opening] a door opposite a doorway is prohibited [namely, at M. 3:10C]. [Now the implication of] that which you have said [in the former instance is that it is] permitted to do so in an alleyway, and [the implication of] that which you have said [in the latter instance is that it is] forbidden to do so in an alleyway. [In the setting of the courtyard, it is forbidden to open up a new doorway; hence in an alleyway it is permitted to do so. In the setting of the outer street, it is permitted to open up a new doorway; hence in an alleyway it is prohibited to do so.]
- a. I:2: What follows takes up the passage of T. 2 :15F-O, immediately following the Tosefta passage cited at 1C. The passage under discussion is as follows: [If] one has built a bathhouse next to the bathhouse of his fellow, or a store next to the store of his fellow – [the owner of the bathhouse or store next door] cannot prevent him [from doing so], saying to him, “You have brought ruin on me.” For the former may say to him, “Just as you do on your property, so I have every right to on mine.” [If] one's rainwater was pouring off into the garden of his fellow, and the latter went and stopped it up, one has the right to prevent him from doing so, unless he lets him know in which direction he is going to let it down. Now we notice that the rule for the bathhouse, or store, is different from the rule covering rainwater pouring off into the garden of his fellow. One cannot go and stop up the flow, and the difference between the right of the neighbor in the former instance and the one in the

present instance has now m be explained.] R. Yohanan said, “The rule applying to the garden is different [from the one applying to the bathhouse or store, in which case one may not start a new bathhouse or store], because [the garden] is an area permitted for [this sort of] rutting. [So both parties are equally permitted to do the one deed but not the other.]”

[B] ONE SHOULD NOT OPEN UP IN A COURTYARD OF WHICH HE IS ONE OF THE JOINTHOLDERS A DOORWAY OPPOSITE THE DOORWAY [OF ANOTHER RESIDENT], OR A WINDOW OPPOSITE [ANOTHER’S] WINDOW. [IF] IT WAS SMALL, HE SHOULD NOT ENLARGE IT. [IF IT WAS] A SINGLE ONE, HE SHOULD NOT MAKE IT INTO TWO. BUT HE MAY OPEN INTO THE PUBLIC DOMAIN A DOORWAY OPPOSITE [ANOTHER’S] DOORWAY [IN THE PUBLIC DOMAIN], OR A WINDOW OPPOSITE [ANOTHER’S] WINDOW [IN THE PUBLIC DOMAIN]. IF IT WAS SMALL, HE MAY ENLARGE IT. IF IT WAS A SINGLE ONE, HE MAY MAKE IT INTO TWO.

- 1. II:1:** Said R. Jacob, bar Aha, “It was taught over there [in Babylonia]: ‘He who opens up a window in a wall of his courtyard in the presence of his fellow does so to a space of four cubits, opening up the wall with his left hand and sealing the hole with the right.’ [That is, he must seal it immediately, since the fellow objects.]” Now note what you have said, that if the fellow was present – [which must mean that the fellow said nothing and did not object]!
- 2. II:2:** Five doors, one inside the other – the measure [to indicate whether or not uncleanness may flow through the hole] is the size of a drill. [Cf. T. Ah. 14:1C. Note T. Ah. 14:1A: A door which one made for light – its measure is the size of a drill.] This statement supports the position of those who say, “Those who build a window open to the outside – [such a window] is made only to bring in light.”

XXVII. YERUSHALMI BABA BATRA 3:11

[A] THEY DO NOT HOLLOW OUT A SPACE UNDER THE PUBLIC DOMAIN – CISTERNS, DITCHES, OR CAVES. R. ELIEZER PERMITS, [IF IT IS SO STRONG THAT] A WAGON CAN GO OVER IT CARRYING STONES. THEY DO NOT EXTEND PROJECTIONS AND BALCONIES OVER THE PUBLIC DOMAIN. BUT IF ONE WANTED, HE BRINGS IN [HIS WALL] INTO HIS OWN PROPERTY AND THEN PROJECTS [A BALCONY]. [IF] ONE HAS PURCHASED A COURTYARD, AND IN IT ARE PROJECTIONS AND BALCONIES, LO, THIS ONE RETAINS HIS RIGHT [TO KEEP THEM AS THEY ARE]:

- I:1:** [With reference to M. 3 :11G,] if the projections or balconies fell down and one wants to reconstruct them – R. Yohanan said, “He has given up his right to do so [and is deemed to have handed the space back to the public way].” R. Simeon b. Laqish said, “He has not given up that right.”

XXVIII. YERUSHALMI BABA BATRA 4:1

- [A] HE WHO SELLS A HOUSE HAS NOT SOLD (1) THE EXTENSION, EVEN THOUGH [THE EXTENSION] OPENS INTO [THE HOUSE], (2) THE ROOM BEHIND [THE HOUSE],**
- I:1:** R. Nahum in the name of R. Hiyya bar Ba, “The rule [that the extension is not sold along with the house] applies in a case in which it is four cubits by four cubits with a height of ten cubits. And it applies only if it is roofed over and sealed off.”
- [B] NOR (3) THE ROOF, IF IT HAS A PARAPET TEN HANDBREADTHS HIGH. R. JUDAH SAYS, “IF IT HAS THE SHAPE OF A DOOR, EVEN THOUGH IT IS NOT TEN HANDBREADTHS HIGH, IT IS NOT [DEEMED TO HAVE BEEN] SOLD.”**
- II:1:** Is this the end of the matter [that there must be] a parapet? If the back walls of houses surrounded the area, [or] if there were pillars and posts on top of them, [would this also not constitute an adequate partition to indicate that the roof area is distinct from the house]?

XXIX. YERUSHALMI BABA BATRA 4:2

- [A] NOR [HAS HE SOLD] (4) THE CISTERN, OR (5) THE CELLAR, EVEN THOUGH HE WROTE HIM [IN THE DEED], “THE DEPTH AND HEIGHT.” “BUT [THE SELLER] HAS TO PURCHASE [FROM THE BUYER] A RIGHT-OF-WAY [TO THE CISTERN OR THE CELLAR,]” THE WORDS OF R. AQIBA. AND SAGES SAY, “HE DOES NOT HAVE TO PURCHASE A RIGHT-OF-WAY.” AND R. AQIBA CONCEDES THAT WHEN [THE SELLER] SAID, “EXCEPT FOR THESE,” HE DOES NOT HAVE TO PURCHASE A RIGHT-OF-WAY FOR HIMSELF. [IF THE SELLER] SOLD [THE CISTERN OR CELLAR] TO SOMEONE ELSE, R. AQIBA SAYS, “[THE NEW PURCHASER] DOES NOT HAVE TO BUY A RIGHT-OF-WAY FOR HIMSELF.” AND SAGES SAY, “HE HAS TO BUY A RIGHT-OF-WAY FOR HIMSELF.”**
- I:1:** [If in the end one does not acquire the cistern or cellar,] for what purpose does one write, “The depth and height” [M. 4:2C]? So that if [the purchaser] wishes to lower [the cellar], he may lower it; if he wishes to raise it, he may raise it [T. B.B. 3:IH-J].

2. **I:2:** Rabbah bar R. Huna in the name of Rab: “The law is in accord with R. Aqiba before us, for he is [the anonymous] rabbi [in a saving involving] R. Hiyya. [Aqiba maintains that one sells in a liberal spirit.]” R. Zeira. R. Jeremiah in the name of Rab: “The law is in accord with R. Aqiba vis-a-vis R. Hiyya, for he is ‘the rabbi’ of the Babylonians’ [version of the matter].” There they say, “Admon and R. Aqiba. [Both of them say the same thing, for at M. Ket. 13:7, Admon follows the principle of Aqiba that if a right-of-way is lost through disuse, one need not purchase a right-of-way].”

XXX. YERUSHALMI BABA BATRA 4:3

[A] **HE WHO SELLS A HOUSE HAS SOLD THE DOOR BUT NOT THE KEY. HE HAS SOLD A PERMANENT MORTAR BUT NOT A MOVABLE ONE. HE HAS SOLD THE CONVEX MILLSTONE BUT NOT THE CONCAVE MILLSTONE, NOR THE OVEN OR THE DOUBLE STOVE. WHEN HE SAID TO HIM [IN THE DEED], “IT AND EVERYTHING WHICH IS IN IT” (LO, ALL OF THEM ARE SOLD.**

1. **I:1:** Thus is the meaning of the Mishnah’s rule: He has sold the millstone which is hollowed out [of bedrock] but not the convex millstone [T. B.B. 3:1B-C].

XXXI. YERUSHALMI BABA BATRA 4:4

[A] **HE WHO SELLS A COURTYARD HAS SOLD THE HOUSES, CISTERNS, TRENCHES, AND CAVES, BUT NOT THE MOVABLES. IF HE SAID TO HIM, “IT AND EVERYTHING WHICH IS IN IT,” LO, ALL OF THEM ARE SOLD. ONE WAY OR THE OTHER, HE HAS NOT SOLD HIM THE BATHHOUSE OR THE OLIVE PRESS WHICH ARE IN IT. R. ELIEZER SAYS, “HE WHO SELLS THE COURTYARD HAS SOLD ONLY THE OPEN SPACE OF THE COURTYARD.”**

1. **I:1:** R. Isaac asked, “In the view of rabbi [vis-a-vis Eliezer], if one has sold the courtyard without further specification, has he sold the houses, cisterns, trenches, and caves therein but not the movables, or has he also sold the movables?” R. Isaac asked, “In the view of R. Eliezer, “If one has sold the courtyard without further specification, he has sold him only the open space of the courtyard. If then he had said to him, ‘...it and whatever is in it,’ has he sold him the houses, cisterns, trenches, and caves, but not the movables, or has he also sold the movables?”

XXXII. YERUSHALMI BABA BATRA 4:5

[A] **HE WHO SELLS AN OLIVE PRESS HAS SOLD THE VAT, GRINDSTONE, AND POSTS. BUT HE HAS NOT SOLD THE PRESSING BOARDS, WHEEL, OR BEAM. IF HE SAID, “IT AND EVERYTHING WHICH IS IN IT,” ALL OF THEM ARE SOLD. R. ELIEZER SAYS, “HE WHO SELLS AN OLIVE PRESS HAS SOLD THE BEAM.”**

1. **I:1:** The very definitive characteristic of this object is that if it has no beam, it is not to be called an olive-press – and yet you say this [that he has not sold the beam, M. 4:5B]! Who has formulated this passage? It is R. Eleazar, for it has been taught in the name of R. Eleazar: [Tosefta’s version] He who sells an olive-press has sold the moulds, tanks, press beams, and lower millstones. But he has not sold the sacks, the packing bags, or the upper millstones. But if he had said to him, “It and everything which is in it I sell to you,” lo, all of them are sold [M. 4:5C- D]. But even though he has said to him, “It and everything which is in it,” he has not sold to him the cistern, ditch, extensions, cellars or caves which are in it. But if he said to him, “It and everything which is in it I sell to you,” lo, all of them are sold.

XXXIII. YERUSHALMI BABA BATRA 4:6

[A] **HE WHO SELLS A BATHHOUSE HAS NOT SOLD THE BOARDS, BENCHES, OR HANGINGS. IF HE SAID, “IT AND EVERYTHING WHICH IS IN IT,” LO, ALL OF THEM ARE SOLD. ONE WAY OR THE OTHER, HE HAS NOT SOLD THE WATER JUGS OR WOODSHEDS.**

1. **I:1:** It was taught: [Tosefta’s version] He who sells a bathhouse has sold the inner rooms, the outer rooms, the kettle room, the towel room, and the dressing room. But he has not sold the kettles, the towels, or the [clothes] cupboards which are in it. R. Simeon b. Eleazar says, “The place of the gatekeeper is sold. The dressing room is not sold.” But if he said to him, “It and everything which is in it I sell to you,” lo, all of them are sold [M. 4:6B-C]. And even though he said to him, “It and everything which is in it I sell to you,” he has not sold to him the water channels from which [the bathhouse] derives [water], whether [those used] in the dry season or the rainy season, and also not the woodshed [M. 4:6D]. But if he had said to him, “The bathhouse and everything which is needed for making use of it do I sell to you,” all of them are sold [T. B.B. 3:3].

XXXIV. YERUSHALMI BABA BATRA 4:7

[A] HE WHO SELLS A TOWN HAS SOLD THE HOUSES, CISTERNS, DITCHES, CAVES, BATHHOUSES, DOVECOTES, OLIVE PRESSES, AND IRRIGATED FIELDS BUT NOT THE MOVABLES IF HE SAID TO HIM, “IT AND EVERYTHING WHICH IS IN IT,” EVEN THOUGH THERE ARE CATTLE AND SLAVES IN IT, LO, ALL OF THEM ARE SOLD. RABBAN SIMEON B. GAMALIEL SAYS, “HE WHO SELLS A TOWN HAS SOLD THE TOWN GUARD.”

1. I:1: It was taught: [Tosefta’s version] He who sells a town – Rabban Simeon b. Gamaliel [T. R. Judah] says, “The town guard (SNTR) is sold along with it [cf. M. 4:7F]. “But the town clerk (‘WNQLMWS) is not sold along with it.” But if he had said to him, “It and everything which is in it I sell you,” all of them are sold. And even though he had said to him, “It and everything which is in it I sell to you,” he has not sold him outlying parts or suburbs, or the thickets which are set apart by themselves, or the vivarium for wild beasts, fowl, and fish [T. B.B. 3:5].

XXXV. YERUSHALMI BABA BATRA 4:8

[A] HE WHO SELLS A FIELD HAS SOLD (1) THE STONES WHICH ARE NEEDED FOR IT [SIMON: WHICH ARE USED IN IT], (2) THE CANES IN THE VINEYARD WHICH ARE NEEDED FOR IT, AND (3) THE CROP WHICH IS YET UNPLUCKED UP FROM THE GROUND; [HE ALSO HAS SOLD:] (4) A PARTITION OF REEDS WHICH COVERS LESS THAN A QUARTER-QAB OF SPACE OF GROUND, (5) THE WATCHMAN’S HOUSE WHICH IS NOT FASTENED DOWN WITH MORTAR, (6) THE CAROB WHICH WAS NOT GRAFTED, AND (7) THE YOUNG SYCAMORES. BUT HE HAS NOT SOLD (1) THE STONES WHICH ARE NOT NEEDED FOR IT, (2) THE CANES IN THE VINEYARD WHICH ARE NOT NEEDED FOR IT, (3) THE CROP WHICH HAS ALREADY BEEN PLUCKED UP FROM THE GROUND. IF HE HAD SAID TO HIM, “IT AND EVERYTHING WHICH IS IN IT,” LO, ALL OF THEM ARE SOLD. ONE WAY OR THE OTHER, HE HAS NOT SOLD TO HIM (4) A PARTITION OF REEDS WHICH COVERS A QUARTER-QAB OF SPACE OF GROUND, (5) A WATCHMAN’S HOUSE WHICH IS FASTENED DOWN WITH MORTAR, (6) A CAROB WHICH WAS GRAFTED, AND (7) CROPPED SYCAMORES. (8) A CISTERN, (9) WINEPRESS, OR (10) DOVECOTE, WHETHER THEY ARE LYING WASTE OR IN USE. “AND [THE SELLER] NEEDS TO PURCHASE [FROM THE BUYER] A RIGHT-OF-WAY,” THE WORDS OF R. AQIBA. AND SAGES SAY, “HE DOES NOT HAVE TO.” AND R. AQIBA CONCEDES THAT, WHEN [THE SELLER] SAID TO HIM, “EXCEPT FOR THESE,” HE DOES NOT HAVE TO BUY HIMSELF A RIGHT-OF-WAY. [IF] HE SOLD THEM TO SOMEONE ELSE, R.

AQIBA SAYS, “[THE NEW PURCHASER] DOES NOT HAVE TO BUY A RIGHT-OF-WAY FOR HIMSELF.” AND SAGES SAY, “HE HAS TO BUY A RIGHT-OF-WAY FOR HIMSELF.”

1. **I:1:** [As to the canes in the vineyard which are needed for it,] *members* of the house of R. Yannai say, “[The reference is] to those which are divided up among the vines. [Those are the ones deemed sold, since they are needed for the vines.]”
2. **I:2:** R. Hiyya the Elder asked, “If there were there unattached posts [to be] cut, [are all of them needful]?” R. Isaac bar Tabelai asked, “If there were there [in a house] unattached sheets of marble for walls, [are they needful]?” R. Yudan bar R. Ishmael asked, “If there were there unattached bricks for windows, [are they needful]?”
3. **I:3:** R. Hiyya in the name of R. Yohanan: “If there is there a furrow six by six, bearing its own distinctive name [e.g., deemed separate from the other furrows of a field], it is not sold.”
4. **I:4:** Said R. Yohanan, “He who buys a cropped sycamore in the field of his fellow – [such a case is subject] to the dispute of R. Ishmael b. R. Yosé and rabbis. R. Ishmael b. R. Yosé says, ‘He also has purchased the ground [on which the sycamore is standing, as in the case of buying three trees].’ And rabbis say, ‘He has not purchased the ground [on which the sycamore is standing].’”

[B] UNDER WHAT CIRCUMSTANCES? IN THE CASE OF ONE WHO SELLS [THE AFORELISTED PROPERTIES]. BUT IN THE CASE OF ONE WHO GIVES THESE THINGS AS A GIFT, HE [WILLINGLY] HANDS OVER ALL OF THEM [IN A LIBERAL SPIRIT]. BROTHERS WHO DIVIDED [AN ESTATE] – ONCE THEY HAVE ACQUIRED POSSESSION OF A FIELD, THEY HAVE ACQUIRED POSSESSION OF ALL OF THEM [AND NO LONGER MAY RETRACT]:

1. **II:1:** And what is the difference between selling and giving as a gift? R. Ba bar Tabelai in the name of Rab: “For it is the way of one who gives a gift to give in a liberal spirit.” R. Samuel bar Nahman in the name of R. Jonathan: “For it is the way of one who purchases to pay close attention to detail.”
2. **II:2:** [R. Eleazar asked, Does the distinction between selling and giving, at M. 4:8 apply to all the cases in such wise that the dispute about purchasing a right-of-way, between Aqiba and sages, pertains to every item in the antecedent catalogue? Or does the distinction between selling and giving apply only to the items listed at the outset, M. 4:8A-B, in which case, in these cases only, there is a dispute about

purchasing a right-of-way? That is, at the outset we list various items not sold along with a field. We further have the dispute about whether or not one has to purchase a right-of-way. Now do we hold that if one has sold the stated items, one does have to purchase a right-of-way, while if one gives them as a gift, one does not have to purchase a right-of-way? Or perhaps the distinction between purchasing and acquiring as a gift applies only to the items listed at the outset. Then that distinction has nothing to do with whether or not one must purchase a right-of-way.] Let us derive the answer from the following: Brothers who divided an inheritance – each has [to purchase] a right-of-way from the other. [From this it follows that the division does not take place in a liberal spirit. And yet here the context is property acquired as a gift. It follows that the distinction between purchase and gift applies only to the matters listed at the outset of M. 4:8.]

[C] **HE WHO LAYS HOLD [THROUGH USUCAPTION, SEEKING TITLE] OF THE PROPERTY OF A DECEASED PROSELYTE [LACKING ISRAELITE HEIRS], ONCE HE HAS ACQUIRED POSSESSION OF A FIELD, HAS ACQUIRED POSSESSION OF ALL OF THEM. HE WHO DECLARES A FIELD SANCTIFIED HAS DECLARED ALL OF THEM SANCTIFIED. SIMEON SAYS, “HE WHO DECLARES A FIELD SANCTIFIED HAS DECLARED SANCTIFIED ONLY THE CAROB WHICH IS GRAFTED, AND CROPPED SYCAMORES.”**

1. **I:1:** [The reason for the position of R. Simeon] is that they draw sustenance from ground which has been consecrated [so they too are deemed consecrated]. Is the reason that he has left himself a path? [That is, is it Simeon’s position that he has declared the property consecrated only in a niggardly spirit? He has left himself a right-of-way in the field. So in fact it is only the carob and sycamore that he has consecrated. This is for the reason just now stated, namely, because they derive sustenance from the consecrated field. Or does R. Simeon maintain that, by consecrating these trees, he has in fact consecrated the field and has left himself no right-of-way in the field at all?]

XXXVI. YERUSHALMI BABA BATRA 5:1

[A] **HE WHO SELLS A SHIP HAS SOLD (1) THE MAST, (2) SAIL, AND (3) ANCHOR, AND WHATEVER STEERS IT. BUT HE HAS NOT SOLD (1) THE SLAVES, (2) PACKING BAGS, OR (3) LADING. AND IF [THE SELLER] HAD SAID TO [THE BUYER] “IT AND EVERYTHING WHICH IS IN IT,” LO, ALL OF THEM ARE SOLD. (1) [IF] HE SOLD THE WAGON, HE HAS NOT SOLD THE MULES. (2) [IF] HE SOLD THE MULES, HE HAS NOT SOLD THE WAGON. (3) [IF] HE SOLD THE YOKE, HE HAS NOT SOLD THE OXEN. (4) [IF] HE SOLD THE OXEN, HE HAS NOT SOLD THE YOKE. R. JUDAH SAYS, “THE PRICE TELLS ALL.” HOW SO? [IF] HE SAID TO HIM, “SELL**

ME YOUR YOKE FOR TWO HUNDRED ZUZ,” THE FACTS ARE PERFECTLY CLEAR, FOR THERE IS NO YOKE WORTH TWO HUNDRED ZUZ. AND SAGES SAY, “THE PRICE PROVES NOTHING.” HE WHO SELLS AN ASS HAS NOT SOLD ITS TRAPPINGS. NAHUM THE MEDE SAYS, “HE HAS SOLD ITS TRAPPINGS.” R. JUDAH SAYS, “SOMETIMES THEY ARE SOLD, AND SOMETIMES THEY ARE NOT SOLD.” “HOW SO? “[IF] THERE WAS AN ASS BEFORE HIM, WITH ITS TRAPPINGS ON IT, AND HE SAID TO HIM, ‘SELL ME THIS ASS OF YOURS,’ “LO, ITS TRAPPINGS ARE SOLD. “[IF HE HAD SAID, ‘SELL ME] THAT ASS OF YOUR’ ITS TRAPPINGS ARE NOT SOLD.” (1) HE WHO SELLS AN ASS HAS SOLD THE FOAL. (2) [IF] HE SOLD THE COW, HE HAS NOT SOLD ITS OFFSPRING. (3) [IF] HE SOLD A DUNG HEAP, HE HAS SOLD THE DUNG ON IT. (4) [IF] HE SOLD A CISTERN, HE HAS SOLD ITS WATER. (5) [IF] HE SOLD A BEEHIVE, HE HAS SOLD THE BEES. (6) [IF] HE HAS SOLD THE DOVECOTE, HE HAS SOLD THE PIGEONS. [(1) HE WHO PURCHASES “THE FRUIT OF A DOVECOTE” FROM HIS FELLOW LETS GO THE FIRST PAIR THAT ARE HATCHED. (2) [IF HE BOUGHT] “THE FRUIT OF A BEEHIVE,” HE TAKES THREE SWARMS, AND THEN [THE SELLER] MAKES THE REST STERILE. (3) [IF HE BOUGHT] HONEYCOMBS, HE LEAVES TWO HONEYCOMBS (4) [IF HE BOUGHT] OLIVE TREES TO CUT DOWN, HE LEAVES TWO SHOOTS.

1. **I:1:** [Tosefta’s version] It was taught: He who sells a ship has sold the wooden implements and the water tank on it. But he has not sold the deck cabins, the anchor, the yard, or the lighter. Sumkhos says, “He has sold the lighter” [T. B.B. 4:1A-C].
2. **I:2:** The unstipulated conditions [which apply to transactions even when not made explicit] laid down by Joshua – R. Levi b. Biri in the name of R. Joshua b. Levi: “[They are] four [in all].” People may gather grass anywhere, except for a field of fenugreek, which is prohibited as theft. There we have learned: [If in a crop of grain aftergrowths of wood sprang up – so too in the place of threshing floors if many kinds sprang up;] so too if fenugreek made weeds to spring up, he is not bound to weed them out. [But if he has weeded them or cropped them, they say to him, “Uproot them all, except for one kind,” so as to avoid violating the law against mixed seeds” (M. Kil. 2:5).] Thus does the cited Mishnah state, that they do not obligate the man to uproot them [because these grasses are destructive and will be uprooted in any event]. Now in accord with the stipulation imputed to Joshua, it was stated, “People may gather grass anywhere, except for a field of fenugreek, which is prohibited as theft.” And now there is a statement that one does not want that sort of grass at all. [Hence there is a contradiction between the two rules.]

3. **I:3:** R. Samuel in the name of R. Jonathan: “He who wants to build a town at the outset – they assign to him four paths, in four directions [as a right-of-way].” R. Haninah raised the question before R. Mana, “What is the meaning of this requirement that he be assigned a right of way in all four points of the compass? Is it [in breadth] from four cubits to eight or from eight to sixteen?”

XXXVII. YERUSHALMI BABA BATRA 5:2

[A] **HE WHO BUYS TWO TREES IN HIS FELLOW’S FIELD, (1) LO, THIS PARTY HAS NOT BOUGHT THE GROUND [ON WHICH THEY ARE GROWING]. R. MEIR SAYS, “HE HAS BOUGHT THE GROUND.” (2) [IF] THEY GREW UP, [THE LANDOWNER] MAY NOT TRIM THEM. (3) WHAT SPROUTS FROM THE STEM BELONGS TO [THE PURCHASER], [BUT WHAT SPROUTS] FROM THE ROOTS BELONGS TO THE OWNER OF THE LAND. (4) AND IF [THE TREES] DIED, [THE OWNER OF THE TREES] HAS NO [CLAIM ON THE] LAND.**

1. **I:1:** Members of the house of R. Yannai say, “That which is in the shade – this is the root. That which is open to the sun – this is the stem” [M. 5:2E-F]. R. Hama bar Uqbah in the name of R. Yosé: “That which grows up from its roots and from its stem – this is assigned the status of the root. That which grows up from its stem and not from its roots – this is assigned the status of the tree.”

[B] **[IF] HE BOUGHT THREE, HE HAS [ALSO] BOUGHT THE GROUND [ON WHICH THEY ARE GROWING]. (2) [IF] THEY GREW UP, [THE LANDOWNER] MAY TRIM THEM. (3) AND WHAT SPROUTS BOTH FROM THE STEM AND FROM THE ROOTS BELONGS TO [THE PURCHASER]. (4) AND IF THEY DIED, HE HAS A CLAIM ON THE LAND.**

1. **I:1:** Said R. Yohanan, “He who purchases three trees [M. 5:2H] has purchased the land between them, under them, and outside of them to the breadth of a tree trimmer and his basket.” Said R. Eleazar, “He does not have a right of way, [and yet] does he have a claim on land around the tree to the breadth of the space required for a tree trimmer and his basket?”

XXXVIII. YERUSHALMI BABA BATRA 5:3

[A] **(1) HE WHO SELLS THE HEAD [IN THE CASE OF] LARGE CATTLE HAS NOT SOLD THE FEET. (2) [IF] HE SOLD THE FEET, HE HAS NOT SOLD THE HEAD. (3) [IF] HE SOLD THE LUNGS, HE HAS NOT SOLD THE LIVER. (4) [IF] HE SOLD THE LIVER,**

HE HAS NOT SOLD THE LUNGS. BUT IN THE CASE OF A SMALL BEAST, (1) [IF] HE HAS SOLD THE HEAD, HE HAS SOLD THE FEET. (2) [IF] HE HAS SOLD THE FEET, HE HAS NOT SOLD THE HEAD. (3) [IF] HE HAS SOLD THE LUNGS, HE HAS SOLD THE LIVER. [IF] HE HAS SOLD THE LIVER, HE HAS NOT SOLD THE LUNGS:

1. **I:1:** R. Isaac asked, “If one has sold half the head [of a small beast, M. 5:3E-F], has he sold half the feet? If he sold half the lungs, has he sold half the liver?”

XXXIX. YERUSHALMI BABA BATRA 5:4

- [A] **THERE ARE FOUR RULES IN THE CASE OF THOSE WHO SELL: [IF] ONE HAS SOLD GOOD WHEAT AND IT TURNS OUT TO BE BAD, THE PURCHASER HAS THE POWER TO RETRACT. [IF ONE HAS SOLD] BAD WHEAT AND IT TURNS OUT TO BE GOOD, THE SELLER HAS THE POWER TO RETRACT. [IF HE HAS CLAIMED TO SELL] BAD WHEAT, AND IT TURNS OUT TO BE BAD, [OR IF HE CLAIMED TO SELL] GOOD WHEAT AND IT TURNS OUT TO BE GOOD, NEITHER ONE OF THEM HAS THE POWER TO RETRACT. [IF ONE SOLD IT AS] (1) DARK-COLORED, AND IT TURNS OUT TO BE WHITE, WHITE, AND IT TURNED OUT TO BE DARK, (2) OLIVE WOOD, AND IT TURNED OUT TO BE SYCAMORE [WOOD], SYCAMORE WOOD, AND IT TURNED OUT TO BE OLIVE WOOD, (3) WINE, AND IT TURNED OUT TO BE VINEGAR, VINEGAR, AND IT TURNED OUT TO BE WINE, BOTH PARTIES HAVE THE POWER TO RETRACT. HE WHO SELLS PRODUCE TO HIS FELLOW – [IF THE BUYER] DREW IT BUT DID NOT MEASURE IT, HE HAS ACQUIRED POSSESSION OF IT. [IF] HE MEASURED IT BUT DID NOT DRAW IT [TO HIMSELF], HE HAS NOT ACQUIRED POSSESSION. IF HE WAS SMART, HE WILL RENT THE PLACE [IN WHICH THE PRODUCE IS LOCATED]. HE WHO PURCHASES FLAX FROM HIS FELLOW – LO, THIS ONE HAS NOT ACQUIRED POSSESSION UNTIL HE WILL MOVE IT FROM ONE PLACE TO ANOTHER. BUT IF IT WAS ATTACHED TO THE GROUND AND HE HAS PLUCKED ANY SMALL QUANTITY OF IT, HE HAS ACQUIRED POSSESSION. HE WHO SELLS WINE OR OIL TO HIS FELLOW, AND [THE PRICE] ROSE OR FELL, IF THIS TOOK PLACE BEFORE THE MEASURE HAD BEEN FILLED UP, [THE PRICE ADVANTAGE GOES] TO THE SELLER. [IF THIS TOOK PLACE] AFTER THE MEASURE HAD BEEN FILLED UP, [THE PRICE ADVANTAGE GOES] TO THE PURCHASER. AND IF THERE WAS A MIDDLEMAN BETWEEN THEM, [AND] THE JAR WAS BROKEN, IT IS BROKEN [TO THE DISADVANTAGE OF] THE MIDDLEMAN. [AFTER EMPTYING THE MEASURE], [THE SELLER] IS LIABLE TO LET THREE DROPS DRIP [FURTHER INTO THE UTENSIL OF THE BUYER]. [IF THEREAFTER] HE TURNED THE MEASURE OVER AND DRAINED IT, LO [WHAT IS DRAINED OFF] GOES TO THE SELLER. BUT THE SHOPKEEPER IS NOT LIABLE TO LET THREE MORE DROPS DRIP.**

1. **I:1:** [With reference to M. 5:4W] if this took place before the measure had been filled up, [the price advantage goes] to the seller. [If this took place] after the measure had been filled up, [the price advantage goes] to the purchaser:] How so? [Why is the point of filling up the measure a criterion at all?] If the measure belonged to the seller. the profit presumptively is assigned to the seller. If it belonged to the purchaser. the profit presumptively belongs to the purchaser. [and this is the case even if the measure has been tilled up].

[B] **R. JUDAH SAYS, “[IF IT IS] THE EVE OF THE SABBATH AT DUSK, HE IS EXEMPT.”**

1. **II:1:** R. Judah says, “[If it is] the eve of the Sabbath at dusk, he is exempt,” because it is a matter of choice [that he let three more drops drip]. And sages say. “One way or the other. he is liable [since it is not a matter of choice].”
2. **II:2:** What is the reason [that. if the jar was broken. it is broken to the disadvantage of the middleman]? Said R. Yudan. “If it was rented out. it came for its rent (Ex. 22:14).” [That is. the middleman is in the status of a paid bailee and so is liable if the measure is broken.]

XL. YERUSHALMI BABA BATRA 5:5

[A] **HE WHO SENDS HIS CHILD TO THE STOREKEEPER WITH A PONDION IN HIS HAND, AND [THE STOREKEEPER] MEASURED OUT FOR HIM AN ISSAR’S WORTH OF OIL [HALF A PONDION] AND GIVE HIM AN ISSAR [IN CHANGE], AND [THE CHILD] BROKE THE FLASK OR LOST THE ISSAR [OF CHANGE] – THE STOREKEEPER IS LIABLE [TO MAKE IT UP]. R. JUDAH DECLARES HIM EXEMPT, FOR IT WAS WITH THE STIPULATION [THAT THE FATHER WILL BEAR LIABILITY] THAT HE HAD SENT HIM. BUT SAGES [A-D] CONCUR WITH R. JUDAH, THAT WHEN THE FLASK WAS IN THE CHILD’S HAND, AND THE STOREKEEPER MEASURED OUT [OIL] INTO IT, THE STOREKEEPER IS EXEMPT. A WHOLESALER MUST CLEAN OFF HIS MEASURES ONCE EVERY THIRTY DAYS, AND A HOUSEHOLDER ONCE EVERY TWELVE MONTHS. RABBAN SIMEON B. GAMALIEL SAYS, “MATTERS ARE JUST THE OPPOSITE.” THE STOREKEEPER (1) CLEANS OFF HIS MEASURES TWICE A WEEK, (2) POLISHES HIS WEIGHTS ONCE A WEEK, AND (3) CLEANS HIS SCALES AFTER EACH AND EVERY WEIGHING. SAID RABBAN SIMEON B. GAMALIEL, “UNDER WHAT CIRCUMSTANCES?” IN THE CASE OF LIQUID MEASURES. “BUT IN THE CASE OF DRY MEASURES, IT IS NOT NECESSARY.” AND [A SHOPKEEPER] IS LIABLE TO LET THE SCALES GO DOWN BY A HANDBREADTH [TO THE BUYER’S ADVANTAGE]. [IF] HE WAS MEASURING OUT FOR HIM EXACTLY, HE HAS TO GIVE HIM AN OVERWEIGHT – ONE PART IN TEN FOR LIQUID MEASURE, ONE PART IN TWENTY FOR DRY MEASURE. IN A PLACE IN WHICH THEY ARE**

ACCUSTOMED TO MEASURE WITH SMALL MEASURES, ONE MUST NOT MEASURE WITH LARGE MEASURES; WITH LARGE ONES, ONE MUST NOT MEASURE WITH SMALL; [IN A PLACE IN WHICH IT IS CUSTOMARY] TO SMOOTH DOWN [WHAT IS IN THE MEASURE], ONE SHOULD NOT HEAP IT UP; TO HEAP IT UP, ONE SHOULD NOT SMOOTH IT DOWN.

1. **I:1:** Said R. Ba bar.Samal, [Regarding the relationship between the measures by tenths at M. 5:5Q-S and the measure of an excess of a handbreadth at M. 5:5P], when one is weighing out produce by tenths. one is liable [as the counterpart to let the scales down by a handbreadth [to the buyer's advantage]. [So the one measure is tantamount to the other.]
2. **I:2:** It is written. "You shall do no wrong in judgment. in measures of length. weight or quantity or shall have just balances. just weight, just ephah. and a just hin: [I am the Lord your God who brought you out of the land of Egypt" (Lev. 19:35-6). On the basis of the cited passage. sages have stated. "In any religious duty, alongside of which the reward for doing so is specified, a court is not responsible [for the enforcement of that religious duty]. [For the individual merely gives up the specified reward as penalty for not doing the specified duty.]" "You shall not have in your bag two kinds of weights, a large and a small. A full and just weight you shall have, a full and just measure you shall have..." (Deut. 25:13-15) – meaning that you should appoint a market supervisor to oversee such a matter. [So the court does have to supervise the enforcement of the law], and yet you say what has been said above? Said R. Bun bar Hiyya, "This is the meaning of the cited passage. In the case of any religious duty, the reward of which is specified alongside, a court is not punished on account [of neglecting to enforce that religious duty]. But the court nonetheless is responsible for enforcing it."

XLI. YERUSHALMI BABA BATRA 6:1

[A] **HE WHO SELLS PRODUCE [CONSISTING OF GRAIN] TO HIS FELLOW [NOT SPECIFYING WHETHER IT IS FOR FOOD OR FOR SEED], AND THEY DID NOT SPROUT, AND EVEN IF IT WAS FLAX SEED, HE IS NOT LIABLE TO MAKE IT UP. RABBAN SIMEON B. GAMALIEL SAYS, "[IF HE SOLD] GARDEN SEED WHICH IS NOT SUITABLE FOR EATING, HE IS LIABLE TO MAKE IT UP."** **HE WHO SELLS PRODUCE TO HIS FELLOW – LO, [THE BUYER] MUST AGREE TO RECEIVE A QUARTER-QAB OF SPOILED PRODUCE PER SEAH. (1) [IF HE BOUGHT] FIGS, HE MUST AGREE TO ACCEPT TEN MAGGOTY ONES PER HUNDRED. (2) [IF HE BOUGHT] A CELLAR OF**

WINE, HE MUST AGREE TO ACCEPT TEN SOUR JARS PER HUNDRED. (3) [IF HE BOUGHT] JARS IN SHARON, HE MUST AGREE TO ACCEPT TEN FAULTY ONES PER HUNDRED. HE WHO SELLS WINE TO HIS FELLOW THAT WENT SOUR, IS NOT LIABLE TO MAKE IT UP. BUT IF IT WAS KNOWN THAT HIS WINE WOULD TURN SOUR, LO, THIS IS DEEMED A PURCHASE MADE IN ERROR [AND NULL]. AND IF HE HAD SAID TO HIM, “I’M SELLING YOU SPICED WINE,” HE IS LIABLE TO GUARANTEE IT [AND MAKE IT UP IF IT GOES SOUR] UP TO PENTECOST. [IF HE SAID IT IS] OLD [WINE, IT MUST BE] LAST YEAR’S. [IF HE SAID IT IS] VINTAGE OLD [IT MUST BE] FROM THE YEAR BEFORE LAST.

1. **I:1:** It was taught: He who sells produce to his fellow, and [the seed] did not sprout, and even if it was flax seed is not liable to make it up [M. 6:1A- D], but if he had stipulated with him at the outset that it was for seed, he is liable to make it up. What does [the vendor] pay out in compensation to him? The cost of the seed.
2. **I:2:** In the present instance, we note, one accepts a [quarter- qab of spoiled produce per seah] [M. 6:1G], while there one must remove it [at M. Kil. 2:1: If in a seah of seed there is a quarter-qab of another kind, this must be lessened]. [Accordingly, the quarter-qab per seah is not deemed null in the much larger quantity, but is taken into account. Here it is null.]
3. **I:3:** R. Hiyya bar Ba asked, “A seah of produce in the status of heave offering which fell into a hundred in the status of unconsecrated food [PM] – As to a priest and an Israelite – what is the law governing their dividing the return [on the seed]? [The heave offering is deemed null in a mixture of one hundred and one parts of unconsecrated food to one of heave offering. One has to remove a seah in the status of heave offering from the mixture and give it to a priest. If then one did not do so but planted the entire mixture, then what comes up from the seed containing heave offering is deemed to be produce in the status of unconsecrated food. But now we ask whether one has to hand over to a priest the profit accruing to that seah in proportion to the whole crop, or whether it is deemed null entirely. So we want to know whether the priest has any claim on the profit of the mixture.]
4. **I:4:** It was taught: [R. Simeon b. Eleazar says,] “‘A hundred jars I am selling to you’ – he is liable to hand over to him wine as good as the average wine which is sold in that locale” [T. B.B. 6:8]. “‘A hundred jars of wine I’m selling to you’ – he is liable to hand over to him wine as good as the bulk of wine sold in that particular shop. [If he said to him,] “‘These hundred jars I’m selling to you,’ even if it is vinegar, it belongs to [the purchaser, who cannot retract] [T. B.B. 6:9].

[He who sells wine to his fellow, and it went sour, is not liable to make it up] [M. 6:1K].

- 5. I:5:** If [one intended to designate a given jar of wine as heave offering for a larger number of jars], and he examined a jar planning to designate it as heave offering [and to drink other jugs of wine as properly tithed], he may continue to rely on that jug of wine for three days as certainly good wine. From that point onward it is subject to doubt [whether it is good wine and hence serviceable for the other jugs]. [That is, later on the wine turns out to be sour. We do not know whether wine drunk in the intervening days, between the time at which the jug was opened and its wine was found sound and the time at which the jug was rechecked and found to have turned, has been properly tithed. So, as stated here, for three days it was deemed certainly good wine, and thereafter it was subject to doubt. We now ask the meaning of this statement.]
- 6. I:6:** [What follows depends upon M. Git. 3:8: He who put aside produce so that he may designate heave offering and tithes on its account, reckoning that this produce will serve for these purposes, utilizes produce as tithed relying upon what he has designated as heave offering, in the assumption that the latter remains available. R. Judah says, “At three seasons they examine wine (to see that it remains suitable). At the time of the east wind after the Festival [of Tabernacles], when the berries first appear, and when the juice enters the unripe grapes. Now at Y. Git. 3:8, it is further stated, “As to wine from a man’s press, they designate it as heave offering and rely on it in the assumption that it remains good wine for forty days.” R. Judah says, “Up to the season for the inspection of wine.” It is in this context that the following discussion takes place.] R. Hiyya bar Vava asked, “If one came at the end of the week and found that the wine had turned to vinegar, is it a case in which it is clear [that the wine had turned earlier, in which case the wine treated as tithed on the basis of the present cask is now discovered not to have been tithed]? Or do we rule that only from this point onward [this keg of wine, now vinegar, no longer serves as heave offering]?” [This question is not answered.] R. Isaac asked, “If the season [for examining wine] passed during the forty days [specified at A], [which takes precedence]? [Do we deem the wine to be inspected in less than forty days, since the season for inspection specified by Judah has come due? Or do we wait for the passage of the forty days?] Has the power of the inspection season nullified the effect of the forty days, or has the power of the forty days nullified the effect of the inspection season?” [This question is not answered.]

XLII. YERUSHALMI BABA BATRA 6:2

[A] **“HE WHO SELLS A PIECE OF PROPERTY TO HIS FELLOW FOR BUILDING A HOUSE, “AND SO, HE WHO CONTRACTS WITH HIS FELLOW TO BUILD A NUPTIAL HOUSE FOR HIS SON OR A WIDOW’S MANSE FOR HIS DAUGHTER — “[THE CONTRACTOR] BUILDS IT FOUR CUBITS BY SIX,” THE WORDS OF R. AQIBA. R. ISHMAEL SAYS, “THAT WOULD BE LITTLE MORE THAN A CATTLE SHED!” (1) HE WHO WANTS TO BUILD A CATTLE SHED BUILDS IT FOUR CUBITS BY SIX. (2) [IF HE WANTS TO BUILD] A SMALL HOUSE, IT IS SIX BY EIGHT. (3) [IF HE WANTS TO BUILD] A LARGE HOUSE, IT IS EIGHT BY TEN. (4) [IF HE WANTS TO BUILD] A HALL, IT IS TEN BY TEN. THE HEIGHT IS [THE SUM OF] HALF ITS LENGTH AND HALF ITS BREADTH. PROOF OF THE MATTER IS THE SANCTUARY [1 KGS. 6:17: 40 X 20 X 30]. RABBAN SIMEON B. GAMALIEL SAYS, “IS EVERYTHING [SUPPOSED TO BE] IN ACCORD WITH THE WAY IN WHICH THE SANCTUARY IS BUILT?”**

1. **I:1:** It was taught, [If he says, “I sell you] a centenar,” he must hand over to him an area twelve cubits by twelve [T. B.B. 6:24].
2. **I:2:** R. Hamnuna the scribe asked R. Haninah, “One verse in Scripture says, ‘It was thirty cubits high’ (1 Kings 6:2), and yet another verse of Scripture states, ‘It was twenty cubits high’” (1 Kings 6:20). But [the latter] had heard no tradition [on this contradiction,] nor did he say a thing to him. He raised the same question to R. Jeremiah. [Jeremiah] said to him, “From the ground to the top was thirty cubits, and from the Holy of Holies in the Temple to the top was twenty cubits.”

XLIII. YERUSHALMI BABA BATRA 6:3

[A] **HE WHO HAS A CISTERN BEHIND HIS FELLOW’S HOUSE GOES IN WHEN PEOPLE USUALLY GO IN AND GOES OUT WHEN PEOPLE USUALLY GO OUT. AND HE MAY NOT BRING HIS CATTLE IN AND WATER THEM FROM HIS CISTERN. BUT HE DRAWS WATER AND WATERS THEM OUTSIDE. THIS PARTY MAKES HIMSELF A LOCK, AND THAT PARTY MAKES HIMSELF A LOCK. HE WHO HAS A VEGETABLE PATCH BEHIND THE VEGETABLE PATCH OF HIS FELLOW GOES IN WHEN PEOPLE USUALLY GO IN AND GOES OUT WHEN PEOPLE USUALLY GO OUT. AND HE DOES NOT BRING IN MERCHANTS. AND HE MAY NOT GO IN TO IT THROUGH ANOTHER FIELD. AND [THE OWNER OF] THE OUTER [PATCH] SOWS SEEDS ON THE PATHWAY. [IF OTHERS] HAVE GIVEN HIM A PATH ON THE SIDE WITH THE KNOWLEDGE AND CONSENT OF BOTH PARTIES, HE GOES IN WHENEVER HE**

WANTS AND GOES OUT WHENEVER HE WANTS AND BRINGS MERCHANTS IN WITH HIM. BUT HE MAY NOT GO IN THROUGH ANOTHER FIELD. AND NEITHER ONE OF THEM HAS THE RIGHT TO SOW SEED [ON THE PATH]:

1. **I:1:** With reference to M. 6:3L: Neither one of them has the right to sow seed on the path given to the man by others,] *it was taught:* The owner of the outside path may not sow seed on the path. for the other party may say to him. “I want to go in from below. [and if you sow seed on the path. I won’t be able to].” And the owner of the inner garden may not sow seed on the path, because the other party says to him. You will spare your [garden. that Is. the pathway]. and then trample mine [in order to get in to your garden].

XLIV. YERUSHALMI BABA BATRA 6:4

[A] **HE WHO HAD A PUBLIC WAY PASSING THROUGH HIS FIELD, AND WHO TOOK IT AWAY AND GAVE [THE PUBLIC ANOTHER PATH] ALONG THE SIDE, WHAT HE HAS GIVEN HE HAS GIVEN. BUT WHAT IS HIS DOES NOT PASS TO HIM. (1) A PRIVATE WAY IS FOUR CUBITS WIDE. (2) A PUBLIC WAY IS SIXTEEN CUBITS WIDE. (3) AN IMPERIAL ROAD IS WITHOUT LIMIT. (4) A PATH TO THE GRAVE IS WITHOUT LIMIT. (5) A PLACE FOR HALTING [AND MOURNING] – THE JUDGES OF SEPPHORIS SAID, “IT SHOULD BE FOUR QABS OF SPACE.” HE WHO SELLS A PIECE OF PROPERTY TO HIS FELLOW FOR MAKING A [FAMILY] GRAVE – AND SO, HE WHO RECEIVES [A PIECE OF PROPERTY] FROM HIS FELLOW FOR MAKING A [FAMILY] GRAVE – [THE CONTRACTOR] MAKES THE CENTRAL SPACE OF THE VAULT FOUR CUBITS BY SIX, AND HE OPENS IN IT EIGHT NICHES, THREE ON ONE SIDE, THREE ON THE OTHER SIDE, AND TWO AT THE END. AND THE NICHES ARE TO BE FOUR CUBITS LONG, SEVEN CUBITS HIGH, AND SIX CUBITS BROAD. R. SIMEON SAYS, “[THE CONTRACTOR] MAKES THE INSIDE OF THE VAULT SIX CUBITS BY EIGHT, “AND HE OPENS IN IT THIRTEEN NICHES: “FOUR ON ONE SIDE, FOUR ON THE OTHER SIDE, THREE AT THE END, AND ONE AT [FACING] THE RIGHT OF THE DOOR, AND ONE AT [FACING] THE LEFT OF THE DOOR. “AND [THE CONTRACTOR] MAKES A COURTYARD AT THE MOUTH OF THE VAULT, SIX BY SIX – “SPACE FOR THE BIER AND THOSE WHO BEAR IT.” AND HE OPENS IN [THE COURTYARD] TWO OTHER VAULTS, ONE ON ONE SIDE, AND ONE ON THE OTHER. R. SIMEON SAYS, “FOUR, IN ALL FOUR DIRECTIONS.” RABBAN SIMEON B. GAMALIEL SAYS, “ALL DEPENDS ON THE NATURE OF THE ROCK.”**

1. **I:1:** [With reference to M. 6:4S: Four on one side, four on the other side, three at the end, one at the right of the door, one at the left of the door, where does the contractor make these two by the door? There is no space for them.] R. Hiyya bar Joseph said, “He makes them like

door bolts. [That is, he makes the chamber like an upright bolt, placing the body in upright positions.]” Said to him R. Yohanan, “And is it not so that even dogs are not buried in such a way? “What does he do? “He builds them inside as if they are on the outside. [That is, he sets them into the corner.]” Will not those which are alongside touch them? One will not touch the other. Those on one side will be above, and those on the other, below. [He digs the niches at different levels.]

XLV. YERUSHALMI BABA BATRA 7:1

[A] HE WHO SAYS TO HIS FELLOW, “I AM SELLING YOU A KOR’S AREA OF ARABLE LAND – [IF] THERE WERE THERE CREVICES TEN HANDBREADTHS DEEP, OR ROCKS TEN HANDBREADTHS HIGH, THEY ARE NOT MEASURED WITH [THE AREA]. [IF THEY WERE] LESS THAN [THE STATED MEASUREMENTS], THEY ARE MEASURED WITH [THE AREA] AND IF HE SAID TO HIM, “APPROXIMATELY A KOR’S AREA OF ARABLE LAND [I AM SELLING TO YOU],” EVEN IF THERE WERE THERE CREVICES MORE THAN TEN HANDBREADTHS DEEP, OR ROCKS MORE THAN TEN HANDBREADTHS HIGH, LO, THEY ARE MEASURED WITH [THE AREA].

- 1.** **I:1:** [As to measuring crevices or rocks, M. 7:1E-F,] R. Yosa in the name of R. Yohanan: “But this is on condition that they form the smaller part of his field [not more than four *qabs*]; [and that they be] swallowed up in the [field, not concentrated in some one area]. And in the case of a rock which is of the measure of a quarter-qab in area, it is not measured with it.”
- 2.** **I:2:** [As to M. 7:1B, C, as to crevices ten handbreadths deep, or rocks ten handbreadths high,] how broad may they be [for that dimension has not been specified]? R. Haggai said, “Up to four cubits.” R. Yosé b. R. Bun said, “Up to ten handbreadths.” Now if there was in the field a crevice ten handbreadths deep, but not four [broad], what is the law?
- 3.** **I:3:** If there was in the field an elongated crevice, which spread over a quarter-qab of the field [is it measured with the field]? R. Hiyya bar Vava asked, “If it was shaped in a crooked way [not straight], it is measured with it? “If not, [is it not measured with it]?” R. Yudan bar Ishmael asked, “If it was shaped like a sheet of marble, it is measured with it. If not, [is it not measured with it]?” R. Isaac bar Tabelai asked, “If it was shaped like a throne, is it measured from the side of its seat, or from the side of its back?”
- 4.** **I:4:** R. Huna in the name of R. Hiyya in the name of R. Yohanan: “And the rule applies [to begin with] only if there is a quarter-qab of

arable earth left [and if not, then these items in any event will not be measured within the field which has been sold].”

XLVI. YERUSHALMI BABA BATRA 7:2

[A] [IF HE SAID TO HIM,] “A KOR’S AREA OF ARABLE LAND I AM SELLING TO YOU, AS MEASURED BY A ROPE,” [IF HE GAVE HIM] ANY LESS, [THE PURCHASER] MAY DEDUCT [THE DIFFERENCE]. [IF HE GAVE HIM] ANY MORE, [THE PURCHASER] MUST RETURN [CASH OR ADDITIONAL LAND]. IF HE SAID, “WHETHER LESS OR MORE,” EVEN IF HE GAVE HIM A QUARTER-QAB’S SPACE LESS FOR A SEAH’S AREA, OR A QUARTER QAB’S SPACE MORE FOR A SEAH’S AREA, IT BELONGS TO [THE PURCHASER]. [IF IT WAS MORE] THAN THIS, LET HIM MAKE A RECKONING. WHAT DOES HE PAY BACK TO HIM? CASH. BUT IF HE WANTED, HE GIVES HIM BACK LAND. AND WHY HAVE THEY SAID, “HE PAYS BACK CASH”? TO IMPROVE THE CLAIM OF THE SELLER, FOR IF HE LEFT IN A FIELD [OF A KOR’S SPACE] NINE QABS OF SPACE, OR IN A VEGETABLE PATCH, AN AREA OF A HALF-QAB — (IN THE OPINION OF R. AQIBA, A QUARTER-QAB —) [THE BUYER] WILL PAY HIM BACK IN LAND [AND NOT MONEY]. AND NOT ONLY THE QUARTER-QAB OF AREA ALONE DOES HE RETURN, BUT ALL THE EXTRA LAND.

1. I:1: Here you say, “[If he said, ‘Whether less or more, even if he gave him a *quarter-qab*’s space less for a *seah*’s area, or a quarter-qab’s space more for a *seah*’s area,] it belongs to the purchaser’ [M. 7:2D-F].” And there you say, “And not only the quarter-qab of *area* alone does he return, but all the extra land [M. 7:2Q].” [The supposition at A is that, under all circumstances, the quarter-qab remains with the purchaser, and it is only the excess over that area which is subject to the reckoning. Now in the second passage, it says that the quarter-qab is returned, as well as the extra land. Consequently, the two clauses appear to contradict one another.] Thus one may say: “[M. 7:2Q applies above as well as below, so that the rule about returning the quarter-qab of area is to be read into M. 7:2D-F as well. The point is that] since you remove the transaction from being subject to the present rule and apply to it the measurement of the rope [= M. 7:2D-F], you return the land in accord with the measurement of the rope.”

XLVII. YERUSHALMI BABA BATRA 7:3

[A] “[IF HE SAID], ‘I AM SELLING YOU [A KOR’S SPACE OF GROUND] MEASURED BY A ROPE, WHETHER IT IS LESS OR MORE,’”[THE USE OF THE EXPRESSION] LESS OR MORE NULLIFIES THE REFERENCE TO MEASURING BY A ROPE.”[IF HE SAID, ‘I

AM SELLING YOU A KOR'S SPACE OF GROUND], MORE OR LESS, MEASURED BY A ROPE,"[THE USE OF THE EXPRESSION] MEASURED BY A ROPE NULLIFIES THE REFERENCE TO LESS OR MORE," THE WORDS OF BEN NANNOS.[IF HE SAID, "I WILL SELL YOU A KOR'S AREA OF GROUND AS MEASURED] BY ITS MARKS AND BOUNDARIES," AND THE DIFFERENCE [BETWEEN THE SPACE THUS MEASURED AND A KOR] WAS LESS THAN A SIXTH, IT BELONGS TO [THE PURCHASER] [=THE SALE IS CONFIRMED]

1. **I:1:** R. Hiyya taught: "He who sells a boy slave to his fellow, and the slave turns out to be a thief or swindler, he belongs to [the purchaser]. Or if he joined a band of thugs or was under sentence of death from the government, lo, this is a purchase made in error" [T. B.B. 4:7A-B].

[B] [IF IT WAS] MORE THAN A SIXTH, THE PURCHASER DEDUCTS [THE DIFFERENCE FROM THE PRICE].

1. **II:1:** R. Huna said, "The excess of the sixth itself does he deduct." [Cf. M. 7:3F.]

XLVIII. YERUSHALMI BABA BATRA 7:4

[A] **HE WHO SAYS TO HIS FELLOW, "HALF A FIELD I AM SELLING TO YOU" – THEY DIVIDE [THE FIELD] BETWEEN THEM [INTO PORTIONS OF EQUAL VALUE], AND [THE PURCHASER] TAKES A HALF OF HIS FIELD. [IF HE SAID], "THE HALF OF IT IN THE SOUTH I AM SELLING TO YOU," THEY DIVIDE BETWEEN THEM [THE FIELD INTO PORTIONS OF EQUAL VALUE], AND [THE PURCHASER] TAKES THE HALF AT THE SOUTH. AND [THE SELLER] ACCEPTS [RESPONSIBILITY FOR PROVIDING GROUND FOR] THE PLACE IN WHICH THE FENCE IS TO BE LOCATED, AND FOR LARGE AND SMALL DITCHES. HOW LARGE IS A LARGE DITCH? SIX HANDBREADTHS. AND A SMALL DITCH? THREE.**

1. **I:1:** It was taught: He who says to his fellow, "A half field I am selling to you, and Mr. So-and-So surrounds you[r property], and Mr. So-and-So surrounds you[r property], and half of [the field of] Mr. So-and-So surrounds you[r property], [thus specifying the borders of the field]" – [how does he give him the half field]? R. Huna and R. Judah and R. Jeremiah – one said, "He hands over to him a field shaped like a box." And one said to him, "He hands over to him a field shaped like a strip." And one said, "He hands over to him a field shaped like a ribbon."

XLIX. YERUSHALMI BABA BATRA 8:1

[A] THERE ARE THOSE WHO INHERIT AND BEQUEATH, THERE ARE THOSE WHO INHERIT BUT DO NOT BEQUEATH, BEQUEATH BUT DO NOT INHERIT, DO NOT INHERIT AND DO NOT BEQUEATH. THESE INHERIT AND BEQUEATH: THE FATHER AS TO THE SONS, THE SONS AS TO THE FATHER; AND BROTHERS FROM THE SAME FATHER [BUT A DIFFERENT MOTHER], [AS TO ONE ANOTHER] INHERIT FROM AND BEQUEATH [TO ONE ANOTHER]. THE MAN AS TO HIS MOTHER, THE MAN AS TO HIS WIFE, AND THE SONS OF SISTERS INHERIT FROM, BUT DO NOT BEQUEATH [TO, ONE ANOTHER]. THE WOMAN AS TO HER SONS, THE WOMAN AS TO HER HUSBAND, AND THE BROTHERS OF THE MOTHER BEQUEATH TO, BUT DO NOT INHERIT [FROM ONE ANOTHER]. BROTHERS FROM THE SAME MOTHER DO NOT INHERIT FROM, AND DO NOT BEQUEATH [TO ONE ANOTHER]. THE ORDER OF [THE PASSING OF AN] INHERITANCE IS THUS: IF A MAN DIES AND HAD NO SON, THEN YOU SHALL CAUSE HIS INHERITANCE TO PASS TO HIS DAUGHTER (NUM. 27:8) — THE SON TAKES PRECEDENCE OVER THE DAUGHTER, AND ALL THE OFFSPRING OF THE SON TAKE PRECEDENCE OVER THE DAUGHTER. THE DAUGHTER TAKES PRECEDENCE OVER [SURVIVING] BROTHERS. THE OFFSPRING OF THE DAUGHTER TAKE PRECEDENCE OVER THE BROTHERS. THE [DECEDENT’S] BROTHERS TAKE PRECEDENCE OVER THE FATHER’S BROTHERS. THE OFFSPRING OF THE BROTHERS TAKE PRECEDENCE OVER THE FATHER’S BROTHERS. THIS IS THE GOVERNING PRINCIPLE: WHOEVER TAKES PRECEDENCE IN INHERITANCE — HIS OFFSPRING [ALSO] TAKE PRECEDENCE. THE FATHER TAKES PRECEDENCE OVER ALL [THE FATHER’S] OFFSPRING [IF NONE IS A DIRECT OFFSPRING OF THE DECEASED].

- 1. I:1:** It is written, “If a man dies and had no sons, then you shall cause his inheritance to pass to his daughter” (Num. 27:8). R. Ishmael taught, “Scripture has treated this particular case of inheritance differently from all other matters of inheritance which are listed in the Torah [in the same context]. “For in the case of all the others, it is written, ‘And you shall give...’ while in this case it is written, ‘You shall cause to pass...’ “It is passing from the normal course of the law for the daughter to inherit.” The sages of gentiles say, “The son and daughter are equal [when it comes to inheritance].” For they interpret the language of Scripture as follows: “... and had no son,” meaning, if he indeed had a son, then the son and the daughter inherit on equal terms. The [sages of Israel] objected, “And lo, it is written, ‘And if he has no daughter, then you shall give his inheritance to his brothers’ (Num. 27:9). “Lo, if he should have a daughter, then both of them, namely, the [daughter and the brothers, by your reasoning] should inherit on equal terms [too]! “Now you [pagan sages] concur that ‘... if he has no

son' [means, then, but only then, the daughter inherits]. Here too, it means if there is no heir [then, but only then, the brothers inherit]. [Your own reasoning thus supports our reading, not yours, of the cited passages of Scripture.]”

2. **I:2:** [How do we know that a man, as to his mother, inherits but does not bequeath? (M. 8:1D)] Scripture states, “And every daughter who possesses an inheritance in any tribe [of the people of Israel shall be wife to one of the family of the tribe of her father, so that every one of the people of Israel may possess the inheritance of his fathers]. [So no inheritance shall be transferred from one tribe to another]” (Num. 36:8-9). And how is it possible for a daughter to receive an inheritance from two different tribes? But interpret the passage to speak of a woman whose father comes from one tribe, and whose mother from another.
3. **I:3:** Up to this point [we have proved from Scripture only that] the son inherits the father. What about the father’s inheriting from the son [in precedence to the sons of the deceased son]? Now if the son, who inherits only on the strength of the father, lo, he is his heir, the father, on whose strength the son stands – is it not a logical consequence that he should inherit [the son, before the other sons of the same father gain an inheritance from their deceased brother]? [Now you may not then ask why the father also should not take precedence in the estate of his son over the deceased’s own son, for] Scripture has said, “Relation” – meaning that a relative, namely the deceased’s son, takes precedence [over the deceased’s father].
4. **I:4:** Up to this point we have proved only that the daughter [inherits her mother’s estate]. How do we know that a son inherits his mother’s estate? Now if the daughter, who has an inferior claim on the estate of her father, has a superior claim on the estate of her mother, a son, who has a superior claim on the estate of his father, is it not logical that he should have a superior claim on the estate of his mother? It turns out that the right of the daughter to inherit the mother’s estate derives from Scripture [II.A], and the right of the son to inherit the mother’s estate derives from an argument a fortiori.
5. **I:5:** Does the son take precedence over the daughter [in the estate of the mother, as he does in the estate of the father]? R. Simeon b. Eleazar says in the name of R. Zekhariah b. Haqqassab “So did R. Simeon b. Judah say in the name of R. Simeon, ‘The son and the daughter are all the same in respect to the trib[al claim] of the mother. [They have an equal claim of inheritance on the estate of the

mother].” R. Malokh in the name of R. Joshua b. Levi: “The law is in accord with R. Zekhariah.”

- 6. I:6:** R. Isaac wanted to state the meaning of the verse and could not find it. He stated the following law: “It is taught: ‘The son...,’ I know only the son. As to the son of the daughter – how do I know [that he too inherits the grandfather’s estate]? Scripture says, ‘... Son...’ [That is, a son] from any source [even from the daughter]. “‘Daughter...,’ I know only that the daughter [inherits]. The son of the daughter, the daughter of the son, the daughter of the daughter. the son of the daughter s ion – how do I know [that she inherits? Scripture says, “His daughter” – that is, his daughter from any source. Brothers – I know only that brothers [inherit]. How lo I know that the sons of brothers, the daughters of brothers, the sons of daughters brothers [inherit also]? Scripture says. to his near relation. – under all circumstances.

L. YERUSHALMI BABA BATRA 8:2

[A] THE DAUGHTERS OF ZELOPHEHAD TOOK THREE PORTIONS OF THE INHERITANCE: (1) THE PORTION OF THEIR FATHER [NUM. 27:7], WHO WAS AMONG THOSE WHO HAD GONE FORTH FROM EGYPT, AND (2-3) HIS SHARE ALONG WITH HIS BROTHERS FROM THE PROPERTY OF HEPHER [THEIR FATHER’S FATHER]:

- 1. I:1:** The daughters of Zelophehad said before Moses, our rabbi, “If we are truly the daughters of Zelophehad, let us inherit the estate of our father. If we are not the daughters of Zelophehad, then let our mother enter into Levirate marriage [as a childless widow].” Forthwith: “Moses brought their case before the Lord” (Num. 27:5) The Holy One, blessed be he, said to him, ““The daughters of Zelophehad are right; you shall give them possession of an inheritance among their father’s brethren and cause the inheritance of their father to pass to them’ (Num. 27:7). Give them real estate, give them movables, give them their father’s portion, among the brothers of their father.”
- 2. I:2:** R. Hoshaiiah said, “Among those who had gone forth from Egypt the Land was divided up, “for it is written, [‘But the land shall be divided by lot;] according to the names of the tribes of their fathers shall they inherit’ (Num. 26:55). “If so, why does Scripture state, ‘To these [the land shall be divided for inheritance according to the number of names’ (Num. 26:53)]? “But it is on account of [the intent to exclude] the women and children [from the division of the Land].” R. Yohanan said, “Among those who actually came to the Land was the

Land divided up, “for it is written, ‘To these the land shall be divided [for inheritance according to the number of names]’ (Num. 26:53). “If so, why does Scripture state, ‘[But the land shall be divided by lot]; according to the names of the tribes of their fathers shall they inherit’ (Num. 26:55)? “The act of inheritance at hand is different from all other inheritances in the world. “For in the case of all other inheritances in the world the living inherit the estates of the deceased, but here, the dead inherit the estates of the living. [That is, the deceased, who went forth from Egypt, are represented by their descendants. The deceased are assigned shares. This is illustrated below, X-Z].”

1. **I:3:** It was taught: R. Joshua b. Qorha says, “Among those who had come forth from Egypt and among those who were present on the plains of Moab was the Land divided. How so? He who was among those who had gone forth from Egypt and also was among those present on the plains of Moab took two portions. He who was among those who had gone forth from Egypt but was not present on the plains of Moab, and he who was present on the plains of Moab but was not among those who had gone forth from Egypt took a single portion. The daughters of Zelophehad then took five portions [vs. M. 8:2A]: their portion with those who had gone forth from Egypt; their portion with those who were present at the plains of Moab; the one who was firstborn took two portions; and the portion of their father among the brothers of their father.”

[B] FOR ZELOPHEHAD WAS A FIRSTBORN, RECEIVING TWO PORTIONS.

1. **II:1:** R. Yohanan objected, “‘And I will bring you into the land of your forefathers which I swore to give to Abraham, to Isaac, and to Jacob; I will give it to you for a possession’ (Exod. 6:8). “If it is spoken of as a gift, then why is it spoken of as an inheritance, and if it is spoken of as an inheritance, why is it spoken of as a gift? “But after it was given to them as a gift, he went and gave it to them as an inheritance [thus invoking the rule of the double portion to the firstborn].” Said R. Hoshaiiah, “In any case in which the word inheritance is used, it is language of doubt [and Moses was in doubt].”

LJ. YERUSHALMI BABA BATRA 8:3

[A] ALL THE SAME ARE THE SON AND THE DAUGHTER AS TO MATTERS OF INHERITANCE, EXCEPT THAT THE SON TAKES A DOUBLE PORTION IN THE ESTATE OF THE FATHER [Dt. 21:17]. [THE SON] DOES NOT TAKE A DOUBLE PORTION IN THE

ESTATE OF THE MOTHER. THE DAUGHTERS ARE SUPPORTED BY THE FATHER'S ESTATE AND ARE NOT SUPPORTED BY THE MOTHER'S ESTATE:

- 1. I:1:** It is written. ‘... he shall acknowledge the firstborn, by giving him a double portion of all that he has...’ (Deut. 21:17). How so? He does not receive as an inheritance a portion of property which is to fall due to the father’s estate as he does of property which is already in the full possession of the father’s estate. How so? If the father dies in the lifetime of the father’s father, the first born son takes a double portion in the estate of his father, but he does not take a double portion in the estate of the father’s father. But if his father was a firstborn, just as he takes a portion in the estate of his father, so he takes a portion in the estate of the father of the father [T B B 7:7].

LII. YERUSHALMI BABA BATRA 8:4

[A] HE WHO SAYS, “SO-AND-SO, MY FIRSTBORN SON, IS NOT TO RECEIVE A DOUBLE PORTION,” “SO-AND-SO, MY SON, IS NOT TO INHERIT ALONG WITH HIS BROTHERS,” HAS SAID ABSOLUTELY NOTHING. FOR HE HAS MADE A STIPULATION CONTRARY TO WHAT IS WRITTEN IN THE TORAH. HE WHO DIVIDES HIS ESTATE AMONG HIS SONS BY A VERBAL [DONATION], [AND] GAVE A LARGER PORTION TO ONE AND A SMALLER PORTION TO ANOTHER, OR TREATED THE FIRSTBORN AS EQUIVALENT TO ALL THE OTHERS — HIS STATEMENT IS VALID. BUT IF HE HAD SAID, “BY REASON OF AN INHERITANCE [THE AFORESTATED ARRANGEMENTS ARE MADE],” HE HAS SAID NOTHING WHATSOEVER.

- 1. I:1:** La [in a case] divided the firstborn’s portion equally among brothers. Said to them R. Haggai, “And is it not an explicit statement of the Torah: ‘He may not treat the son of the loved as the firstborn [in preference to the son of the disliked, who is the firstborn; but he shall acknowledge the firstborn, the son of the disliked, by giving him a double portion of all that he has]’ (Deut. 21:16-17)?” Said R. Eleazar, “By the Temple service! He most certainly can do so. For has he not got the right to do so [cf. PM]? “If so, he may simply [give the donation] as a gift [and not under the laws of the firstborn’s right to get a double portion in the inheritance].” [That is what happened at the case at 1.A]

[B] [IF] HE HAD WRITTEN, WHETHER AT THE BEGINNING, MIDDLE, OR END, [THAT THESE THINGS ARE HANDED OVER] AS A GIFT, HIS STATEMENT IS VALID.

1. **II:1:** If he had written, whether at the beginning, middle or end, [that the property was transmitted] as a gift, his statement is valid [M. 8:4J]. Said R. Hoshaiah, “[Examples for the foregoing statement would be as follows:] ‘Let my property be given to Mr. So-and-so as an inheritance which I have caused him to inherit...’ ‘Let Mr. So-and-so inherit the gift which I have given him...’ ‘‘Let Mr. Such-and-such inherit the inheritance which I have given him...’; [in all these cases, the use of the language of donation is adequate to remove the transaction from the laws of inheritance].”

2. **II:2:** “Write a gift over such-and-such a field, or to Mr. So-and-so...” [The case is a dying man, who said, “Let all my property be given to So-and-so, and then he went and said, “Write it over and give it...”] R. Eleazar and R. Simeon b. Yaqim brought the case before R. Yohanan [for they were not sure how to decide the case]. [Was the intent to transmit ownership through the document? But a documentary donation is invalid after death.] He [R. Yohanan] said to them, “If it was for the purpose merely of making a written note of the transaction, then write the document and hand over the property to him [since the property is not transmitted via acquisition of the document]. “But if it was to give the man ownership of the property through the written document, everyone concurs that a man does not give possession through a written document after the donor has died.”

3. **II:3:** Samuel asked R. Huna, “A deed of gift in which the language used is that of a sale – what is the law?” He said, “He has hitched [his wagon] to two wild horses [pulling in opposite directions]. [The wagon stands still. The man gains nothing.]”

LIII. YERUSHALMI BABA BATRA 8:5

[A] **HE WHO SAYS, “MR. SO-AND-SO WILL INHERIT ME,” IN A CASE IN WHICH HE HAS A DAUGHTER, “MY DAUGHTER WILL INHERIT ME,” IN A CASE IN WHICH HE HAS A SON, HAS SAID NOTHING WHATSOEVER. FOR HE HAS MADE A STIPULATION CONTRARY TO WHAT IS WRITTEN IN THE TORAH. R. YOHANAN B. BEROQAH SAYS, “IF HE MADE SUCH A STATEMENT CONCERNING SOMEONE WHO IS SUITABLE FOR RECEIVING AN INHERITANCE FROM HIM, HIS STATEMENT IS VALID. “BUT [IF HE MADE SUCH A STATEMENT] CONCERNING SOMEONE WHO IS NOT SUITABLE FOR RECEIVING AN INHERITANCE FROM HIM, HIS STATEMENT IS NULL.”**

1. **I:1:** Said R. Yohanan, “R. Yohanan ben Beroqah’s statement [T. 8:5E-F] applies only in a case in which the man spoke of one son among others or one daughter among others [cf. T. B.B. 7:18]. But [if he spoke of] a daughter among [surviving] brothers [of the deceased], or a brother[’s inheriting the estate in place of] daughters [T. B.B. 7:18], [it was] not [to such a case that he addressed his statement].” Said R. Yohanan, “The law accords with the position of R. Yohanan b. Beroqah.”
2. **I:2:** There we have learned: [If a husband wrote for his wife, “I have no right nor claim to your property, to its usufruct, to the usufruct of its usufruct, during your lifetime and after your death,” he neither has the usufruct in her lifetime, nor, if she dies, does he inherit her.] Rabban Simeon b. Gamaliel says, “If she died, he should in any event inherit her, because he has made a stipulation against what is written in the Torah (which is that the husband inherits his wife’s estate), [and whoever makes a stipulation against what is written in the Torah – his stipulation is null]” [M. Ket. 9:1K-O]. R. Jeremiah in the name of Rab, “[The law follows Simeon in inheritances] because he has made a stipulation against that which is written in the Torah, and he who makes a stipulation against that which is written in the Torah – his stipulation is null.” This is subject to the condition that it is not a matter of monetary rights. But here [with regard to her estate] we deal with a matter of monetary rights.
3. **I:3:** “... and he shall inherit it...” (Num. 27:11). [The husband inherits his wife’s estate, as a matter of Torah law, and she does not inherit his estate]. Is it possible to maintain that just as the husband inherits the wife’s estate, so she inherits his? Scripture says, “... it...,” meaning, he inherits her, she does not inherit him. Said R. Yohanan, “In the view of sages [who differ from Simeon b. Gamaliel at M. Ket. 9:1], her father inherits her or her brother inherits her [since the husband has dealt himself out of the estate].” R. Ba bar Mamal objected, “If you maintain that the husband inherits his wife’s estate as a matter of Torah law, then he should also inherit in the case of the death of his betrothed [in the case of the death of a betrothed woman in a marriage which has not yet been consummated].” “[The answer to this question] is in line with that which you read in Scripture: [‘None of (the priests) shall defile himself for the dead among his people, except for] his nearest [of kin,... or his virgin sister, who is near to him because she has had no husband...]’ (Lev. 21:1-3) – for her and not for his divorced wife or betrothed wife [whom he has not yet wed].”

LIV. YERUSHALMI BABA BATRA 8:6

[A] HE WHO WRITES OVER HIS PROPERTY TO OTHERS AND LEFT OUT HIS SONS — WHAT HE HAS DONE IS DONE. BUT SAGES ARE NOT PLEASED WITH HIM. RABBAN SIMEON B. GAMALIEL SAYS, “IF HIS SONS WERE NOT BEHAVING PROPERLY, HIS MEMORY IS FOR A BLESSING.”

1. I:1: Said R. Ba bar Mamal, “He who writes over his property to others and left out his sons — concerning such a person does Scripture say, ‘and whose iniquities are upon their bones...’” (Ezek. 32:27).

LV. YERUSHALMI BABA BATRA 8:7

[A] HE WHO SAYS, “THIS IS MY SON,” IS BELIEVED. [IF HE SAID], “THIS IS MY BROTHER,” HE IS NOT BELIEVED, AND [THE LATTER] SHARES WITH HIM IN HIS PORTION [OF THE FATHER’S ESTATE] — [IF THE BROTHER WHOSE STATUS IS IN DOUBT] DIED, THE PROPERTY IS TO GO BACK TO ITS ORIGINAL SOURCE. [IF] HE RECEIVED PROPERTY FROM SOME OTHER SOURCE, HIS BROTHERS ARE TO INHERIT WITH HIM. HE WHO DIED, AND A WILL WAS FOUND TIED TO HIS THIGH — LO, THIS IS NOTHING WHATSOEVER. [IF HE HAD DELIVERED IT AND] GRANTED POSSESSION THROUGH IT TO ANOTHER PERSON, WHETHER THIS IS ONE OF HIS HEIRS OR NOT ONE OF HIS HEIRS, HIS STATEMENT IS CONFIRMED:

1. I:1: [If people] took for granted concerning someone that he was his son, and at the time of his death, the [putative father] said, “He is not my son,” he is not believed. [If] people took for granted concerning someone that he was not his son, and in the time of [the man’s] death, he said, “He is my son,” he is believed [M. 8:6A]. [U] he was standing among tax collectors and said, “He is my son,” and then he went and said, “He is my slave,” he is believed. [If] he said, “He is my slave,” and then he went and said, “He is my son,” he is not believed [T. B.B. 8:3].
2. I:2: He who writes over his property to someone else, who was a priest, and included were slaves, even though the other party said, “I don’t want them,” lo, these eat heave offering. Rabban Simeon b. Gamaliel says, “Once he has said, ‘I don’t want them,’ the heirs [of the first party have acquired possession of them” [T. B.B. 8:1].
3. I:3: It was taught: Rabban Simeon b. Gamaliel says, “A will may nullify a will. [That is, if one wrote his property over to one party, then

he wrote the property to some other, the latter acquires possession of the property.] But a gift does not nullify a gift [so in the parallel case, the first party retains possession].” R. Abba bar Hanah, R. Yohanah, and R. Simeon b. Laqish – all three say, “In any case in which, if a person [who was dying and made a written donation] should get better and be able to retract his will, he has the right also to retract a gift which he has given.”

LVI. YERUSHALMI BABA BATRA 8:8

[A] “**HE WHO WRITES OVER HIS PROPERTY TO HIS SONS HAS TO WRITE, ‘FROM TODAY AND AFTER DEATH,’**” THE WORDS OF **R. JUDAH. R. YOSÉ SAYS, “HE DOES NOT HAVE [TO DO SO].” HE WHO WRITES OVER HIS PROPERTY TO HIS SON [TO TAKE EFFECT] AFTER HIS DEATH – THE FATHER CANNOT SELL THE PROPERTY, BECAUSE IT IS WRITTEN OVER TO THE SON, AND THE SON CANNOT SELL THE PROPERTY, BECAUSE IT IS [YET] IN THE DOMAIN OF THE FATHER. [IF] THE FATHER SOLD [IT], THE PROPERTY IS SOLD UNTIL HE DIES. [IF] THE SON SOLD THE PROPERTY, THE PURCHASER HAS NO RIGHT WHATEVER IN THE PROPERTY UNTIL THE FATHER DIES. THE FATHER HARVESTS THE CROPS AND GIVES THE USUFRUCT TO ANYONE WHOM HE WANTS. AND WHATEVER HE LEFT ALREADY HARVESTED – LO, IT BELONGS TO HIS HEIRS.**

1. **I:1:** R. Simeon b. Yaqim brought a problem before R. Yohanah: “[If one writes,] ‘From today and after death,’ his act of donation is valid, [while if one writes in a writ of divorce,] ‘From today and after death,’ the writ of divorce is null. [What is the difference?]” Associates say that he answered him as follows: “That is not the proper way. [It is inconsistent that the same formula should be illegal in the case of a letter of divorce and legal in the case of a donation]” Said R. Yosé b. R. Bun, “He answered him as follows: ‘The law governing writs of divorce is not the same as the law governing donations.’”
-] 2. **I:2:** He who says, “I made my slave, Tabi, a free man,” “I make him a free man,” “I am making him a free man,” and, “Lo, he is a free man,” “Lo, he is a free man,” – “Lo, he has made acquisition of himself – “Let him be made a free man” – Rabbi says, “He has made acquisition [of himself and is free].” And sages say, “He has not acquired himself” [T. B.B. 914]. He who says, “I gave such-and-such a field to Mr. So-and-so,” “I gave it to him,” “It is given to him,” “Let it be his,” “Lo, it is his” – “Let Mr. So-and-so take part of my possessions,” “It is to be handed over to him as a gift” – Rabbi says, “He has made acquisition of it.” And sages say, “He has not make

acquisition of it.” “But they force the heirs to carry out the statement of the decedent” [T. B.B. 9:13]. It was taught: Rabban Simeon b. Gamaliel says, “He who writes a will in a foreign language – lo, this has the status of a gift” [T. B.B. 9:14I]. He who says, “Let my property be given to so-and-so. If he should die, then to such-and-such. If he should die, then to such-and-so” – the first-named takes precedence. If the second-named should die in the lifetime of the first, the first enjoys the usufruct, and when he dies, the property goes back to the heirs of the donor. If the third-named should die in the lifetime of the second, the first-named enjoys the usufruct, but when he dies, the property is returned to the heirs of the donor. U the second-named and the third-named should tie in the lifetime of the first, the first enjoys the usufruct, “and he acquires ownership of the real estate [which he has the right to sell],” the words of Rabbi. Rabban Simeon b. Gamaliel says, “The first has the right to the usufruct alone [T. B.B. 8:4] [but he may not sell the land].”

LVII. YERUSHALMI BABA BATRA 8:9

[A] [If] HE LEFT ADULT AND MINOR SONS, THE ADULTS MAY NOT TAKE CARE OF THEMSELVES [FROM THE ESTATE] AT THE EXPENSE OF THE MINOR SONS, NOR MAY THE MINOR SONS SUPPORT THEMSELVES [OUT OF THE ESTATE] AT THE EXPENSE OF THE ADULT SONS. BUT THEY DIVIDE THE ESTATE EQUALLY. IF THE ADULT SONS GOT MARRIED [AT THE EXPENSE OF THE ESTATE], THE MINOR SONS [IN DUE COURSE] MAY MARRY [AT THE EXPENSE OF THE ESTATE]. BUT IF THE MINOR SONS SAID, “LO, WE ARE GOING TO GET MARRIED JUST AS YOU DID [WHILE FATHER WAS STILL ALIVE]” – THEY PAY NO HEED TO THEM. BUT WHAT THE FATHER GAVE TO THEM HE HAS GIVEN. [If] HE LEFT ADULT AND MINOR DAUGHTERS, THE ADULTS MAY NOT TAKE CARE OF THEMSELVES [FROM THE ESTATE] AT THE EXPENSE OF THE MINOR DAUGHTERS, NOR MAY THE MINORS SUPPORT THEMSELVES [FROM THE ESTATE] AT THE EXPENSE OF THE ADULT DAUGHTERS. BUT THEY DIVIDE THE ESTATE EQUALLY. IF THE ADULT DAUGHTERS GOT MARRIED [AT THE EXPENSE OF THE ESTATE], THE MINOR DAUGHTERS MAY GET MARRIED [AT THE EXPENSE OF THE ESTATE] – AND IF THE MINOR DAUGHTERS SAID, “LO, WE ARE GOING TO GET MARRIED JUST AS YOU GOT MARRIED [WHILE FATHER WAS STILL ALIVE],” THEY PAY NO HEED TO THEM. THIS RULE IS MORE STRICT IN REGARD TO DAUGHTERS THAN TO SONS. FOR THE DAUGHTERS ARE SUPPORTED AT THE DISADVANTAGE OF THE SONS, BUT THEY ARE NOT SUPPORTED AT THE DISADVANTAGE OF [OTHER] DAUGHTERS.

1. **I:1:** R. Jeremiah asked the following question before R. Zira: “If the older ones took a hundred jugs of wine, worth twenty denars, do the minors take a hundred jugs of wine, worth [only] ten denars?” He said to him, “Just as these have taken [wine of a given value], so the others take [wine of a given value].”

LVIII. YERUSHALMI BABA BATRA 9:1

[A] HE WHO DIED AND LEFT SONS AND DAUGHTERS — WHEN THE ESTATE IS LARGE, THE SONS INHERIT, AND THE DAUGHTERS ARE SUPPORTED [BY THE ESTATE]. [IF] THE ESTATE IS SMALL, THE DAUGHTERS ARE SUPPORTED, AND SONS GO BEGGING AT [PEOPLE’S] DOORS. ADMON SAYS, “MERELY BECAUSE I AM MALE, DO I HAVE TO LOSE OUT?” SAID RABBAN GAMALIEL, “I CONCUR IN THE OPINION OF ADMON.”

1. **I:1:** Thus is the meaning of the Mishnah: The daughters are supported [for their needs for food, but not clothing, a dowry, and the like], and the sons go begging at peoples’ doors [M. 9:1C]. R. Jeremiah in the name of Rab: “[The rule of M. 9: IB is invoked] when there are ample resources for maintaining [both sons and daughters] for twelve months.” Samuel said, “That [view, that maintenance is for twelve months,] is the opinion of Rabban Gamaliel bar Rabbi. But sages say, ‘[The estate is deemed sufficient only if it can support the children] until they reach maturity or until they are married.’”
2. **I:2:** They asked before R. Hiyya bar Vava, “What tradition from R. Yohanán do you have?” He said to them, “I have no tradition whatever from him in this matter, except for that which Nathan bar Hoshaiáh raised before R. Yohanán: ‘If there was available adequate food for these and for those for twelve months, and the property diminished in value [so that the estate turns out to be unable to support them, as originally estimated], [what is the law]?’ He said to him, ‘Since they began [receiving support from the estate] with permission, they have begun [and continue to receive such support as the estate can provide through the remaining period, even if it is less than the full twelve months].’”
3. **I:3:** [What is the law if the estate was estimated to be incapable of supporting the heirs for a year and then increased in value and turned out to be suitable for that purpose?] R. Haninah and R. Mana — one of them said, “And the rule [that the children be supported] applies only if there is sufficient [value in the estate from beginning to] end [to

maintain them] for twelve months.” And the other said, “Even if at the outset there is not sufficient value in the estate to support both these and those for twelve months, but the estate grew in value so that there is sufficient value to maintain these and those for twelve months, the estate does indeed support them.”

4. **I:4:** R. Hisda raised the question: “If there was sufficient food for these and those for twelve months, but, in addition, there was a widow to support, what is the law [as to the widow’s diminishing the estimated resources of the estate]? Now is this rule, which you have stated, that the estate be sufficient to support these and those for twelve months, reckoned in addition to the obligation of paying off the marriage contract of the widow, in addition to the support of the daughters, in addition to paying off a debt secured by a deed, in addition to paying off a debt before witnesses, and in addition to the costs of burial?”
5. **I:5:** R. Hananel in the name of R. Zeira in the name of Abba bar Jeremiah: “Two rulings did Hanan lay down, and the law is in accord with his opinion. Seven rulings did Admon lay down, and the law is not in accord with his opinion.”
6. **I:6:** Samuel said, “They impute ownership to a fetus.” R. Eleazar said, “They do not impute ownership to a fetus.” The following is at variance with the opinion of R. Eleazar: A proselyte who died, and the property of whom Israelites plundered [in the assumption that he had no legal heir], and it became known that he had a son, or that his wife was pregnant – all of them are liable to return the property [so the fetus inherits]. If they returned the property, and afterward the son died, or his wife aborted, he who holds the property at the last has acquired rightful ownership of it. Does he who had ownership at the outset acquire rightful ownership or not? [This fetus, after all, died.] Interpret the matter as his having given up the right of ownership by reason of despair. [That is, the one who held the property at the outset took for granted he would not then get it back, because of the fetus; so he gave up his right to it.]

LIX. YERUSHALMI BABA BATRA 9:2

- [A] [If] HE LEFT SONS AND DAUGHTERS AND ONE WHOSE SEXUAL TRAITS WERE NOT CLEARLY DEFINED, WHEN THE ESTATE IS LARGE, THE MALES PUSH HIM OVER ONTO THE FEMALES, [If] THE ESTATE IS SMALL, THE FEMALES PUSH HIM OVER ONTO THE MALES. HE WHO SAYS, “IF MY WIFE BEARS A MALE, HE WILL GET A

MANEH,” – [IF] SHE BORE A MALE, HE GETS A MANEH. [IF HE SAID, “IF SHE BEARS] A FEMALE, [SHE WILL GET] TWO HUNDRED [ZUZ],” [IF] SHE BORE A FEMALE, SHE GETS TWO HUNDRED [ZUZ]. [IF HE SAID, “IF SHE BEARS] A MALE, [HE WILL GET] A MANEH, IF [SHE BEARS] A FEMALE, [SHE WILL GET] TWO HUNDRED [ZUZ],” IF SHE BORE A MALE AND A FEMALE, THE MALE GETS A MANEH, AND THE FEMALE [GETS] TWO HUNDRED [ZUZ]. [IF] SHE BORE A CHILD WHOSE SEXUAL TRAITS WERE NOT CLEARLY DEFINED, HE GETS NOTHING. IF HE SAID, “WHATEVER MY WIFE BEARS WILL GET [A MANEH],” LO, THIS ONE GETS [A MANEH]. AND IF THERE IS NO HEIR BUT THAT [CHILD LACKING DEFINED SEXUAL TRAITS], HE INHERITS THE ENTIRE ESTATE.

1. **I:1:** He who says, “He who informs me that my wife has given birth to a male gets two hundred, [or if she gave birth] to a female, he gets a *maneh*” – [if] she gave birth to a male, [the messenger] gets two hundred. [If she gave birth to] a female, he gets a *maneh*. [If she gave birth to] a male and a female, the messenger gets only a *maneh* [T. B.B. 9:5].

LX. YERUSHALMI BABA BATRA 9:3

[A] [IF] HE LEFT ADULT AND MINOR SONS – [IF] THE ADULTS IMPROVED THE VALUE OF THE ESTATE, THE INCREASE IN VALUE IS IN THE MIDDLE [SHARED BY ALL HEIRS]. IF THEY HAD SAID, “SEE WHAT FATHER HAS LEFT US. LO, WE ARE GOING TO WORK IT AND [FROM THAT] WE SHALL ENJOY THE USUFRUCT,” THE INCREASE IN VALUE IS THEIRS:

1. **I:1:** Said R. La, “[That (=M. 9:3D) is the case only] if they made their statement before a court.” Members of the house of R. Yannai said, “Even [if the adult heirs added] a clay utensil [to the estate, the minors have a share in it.]” Rab said, “Even [if they contributed] a basket, even a spade [the minors enjoy their share therein].”
2. **I:2:** Said R. Haninah, “He who marries off his son in a house – [the son] has acquired possession of the house.” R. Hoshaiyah taught, “[He has acquired possession of the house] but not the movables therein.”
3. **I:3:** R. Joshua b. Levi said, “They divide up [the estate] for the minor [heirs] in behalf of the adults [who wish to be separate]. But [the question is], [if] the minors went and found something of greater value [which the adults had gotten], and then objected [to the division], [what is the law]?” R. Abbahu said, “[The adults] take an oath [to the minors that there was nothing of value beyond what had been

divided].” Said R. Mana, “Whoever lays claim against his fellow bears the burden of proof, except in this case.”

- I:4:** Said R. Ammi, “A son who was observed [to do business] on his own during the father’s lifetime – what he has acquired he has acquired for himself [and not for the father’s estate, after death].”

[B] **AND SO IN THE CASE OF A WOMAN WHO IMPROVED THE VALUE OF THE ESTATE – THE INCREASE IN VALUE IS IN THE MIDDLE. IF SHE HAD SAID, “SEE WHAT MY HUSBAND HAS LEFT ME! LO, I AM GOING TO WORK AND ENJOY THE USUFRUCT,” THE INCREASE IN VALUE IS HERS.**

- II:1:** [Said R. La, “[That is the case only if] she made that statement before a court.”

LXI. YERUSHALMI BABA BATRA 9:4

[A] **BROTHERS WHO WERE JOINTHOLDERS [IN AN INHERITED ESTATE], ONE OF WHOM FELL INTO PUBLIC OFFICE – [THE CHARGE OR BENEFIT] FELL TO THE COMMON FUND.**

- I:1:** Brothers, one of whom was appointed royal commissioner – if it was on account of his ownership of property held in common that he fell into this office, they collect [the losses of the office] from the common fund. But if it was on his own account that he fell, they collect [the losses of the office] from the householder himself [M. 9:A-B, T. B.B. 10:5]

[B] **[IF] HE BECAME ILL AND WAS HEALED, THE HEALING IS AT HIS OWN EXPENSE. BROTHERS, SOME OF WHOM MADE A PRESENT AS GROOMSMEN [AT THEIR FATHER’S EXPENSE] WHILE THEIR FATHER WAS ALIVE, [AND AFTER THE FATHER’S DEATH] THE GROOMSMEN’S GIFT RETURNED TO THEM, IT HAS RETURNED TO THE COMMON FUND. FOR THE GROOMSMEN’S GIFT [IS DEEMED A LOAN AND] IS RECOVERABLE IN COURT. BUT HE WHO SENDS HIS FELLOW JUGS OF WINE AND OIL [IN HIS FATHER’S LIFETIME] – THEY ARE NOT RECOVERABLE IN COURT, BECAUSE THEY COUNT AS A CHARITABLE DEED.**

- II:2:** Rabban Simeon b. Gamaliel says, “In the case of any ailment involving medical care at fixed cost – she is healed at the expense of her marriage settlement. But as to [ongoing] medical care of unlimited cost – lo, that is equivalent to any other aspect of her everyday support [and the husband pays].

LXII. YERUSHALMI BABA BATRA 9:5

[A] HE WHO SENDS GIFTS TO HIS FATHER-IN-LAW'S HOUSEHOLD — [IF] HE SENT GIFTS WORTH A HUNDRED MANEHS AND HE THERE ATE A WEDDING FEAST OF EVEN A DENAR — [IF HE DIVORCED HIS WIFE], [THE GIFTS] ARE NOT RECOVERABLE. [IF HE DID NOT EAT A WEDDING FEAST AT ALL], LO, THEY ARE RECOVERABLE. [IF THE HUSBAND] HAD SENT MANY GIFTS, WHICH WERE TO BE RETURNED WITH HER TO HER HUSBAND'S HOUSE, LO, THEY ARE RECOVERABLE. [IF HE HAD SENT] FEW GIFTS, WHICH SHE WAS TO USE IN HER FATHER'S HOUSE, THEY ARE NOT RECOVERABLE.

1. I:1: Someone sent to his betrothed substantial gifts. His relatives said to him, "Don't you eat a thing there." He went and paid no heed to them and ate. Then the house fell down, and [the relatives of the betrothed] acquired possession of the whole [of the gift which he had sent].
2. I:2: R. Perida paid his respects to R. Judah the Patriarch by sending him two kinds of radishes between the New Year and the Fast. Now it was at the end of the Sabbatical Year, and [radishes were so abundant] that one could taste in them [the flavor of the scent deriving from their having been carried by a camel].

LXIII. YERUSHALMI BABA BATRA 9:6

[A] A DYING MAN WHO WROTE OVER ALL HIS PROPERTY TO OTHERS [AS A GIFT] BUT LEFT HIMSELF A PIECE OF LAND OF ANY SIZE WHATEVER — HIS GIFT IS VALID. [IF] HE DID NOT LEAVE HIMSELF A PIECE OF LAND OF ANY SIZE WHATEVER, HIS GIFT IS NOT VALID.

1. I:1: R. Jeremiah in the name of Rab: "[If] he left himself movables, he has done nothing whatsoever. "But if he left himself ready cash and purchased real estate with it, it is as if he left himself a piece of real estate." As to that which you say, If he left himself a piece of land of any size whatever, his gift is valid — even if he did not recover. If he did not leave himself a piece of land of any size whatever, his gift is not valid — even if he recovered.

[B] [IF] HE DID NOT WRITE [IN THE DEED OF GIFT], "...WHO LIES DYING," [AND IF, AFTER RECOVERY, HE WISHES TO RECLAIM HIS PROPERTY], [SO] HE SAYS HE HAD BEEN DYING, AND [THE RECIPIENTS] SAY, "HE HAD BEEN HEALTHY" —

“HE HAS TO BRING PROOF THAT HE HAD BEEN DYING,” THE WORDS OF R. MEIR. AND SAGES SAY, “HE WHO LAYS CLAIM AGAINST HIS FELLOW BEARS THE BURDEN OF PROOF.”

- 1. II:1:** [We now consider a case parallel to the one at M. 9:6 E-I, namely, whether we decide a case by reference to the facts now prevailing, or to those prevailing at the time of the event. The issue is the resolution of doubt, with special reference to an area the status of which changes. We know that a case of doubt involving uncleanness affecting public domain is resolved in a lenient way, and we assume that cleanness prevails. A case of doubt involving uncleanness affecting private domain is resolved in a strict way, and we assume that uncleanness prevails. There is a domain which at one season is deemed to fall into public domain, at the other, private domain, namely, a valley, which in the dry season – when people walk there – is held to be public domain, and in the rainy season, private. The relevance of this problem to the present case will be clear in a moment.] Said R. Yohanan, “[If] there was a case of uncleanness as a matter of doubt affecting a valley – whether this took place in the dry season or the rainy season – there is a dispute between R. Meir and sages.”
- 2. II:2:** R. Yannai in the name of Rab: “The claim of the one who has a deed [which requires interpretation] is subordinated, [and the language of the deed is interpreted in favor of the claim of the defendant].” Said to him R. Yohanan, “And does not the Mishnah make this same point: If he did not write in the deed of gift, ‘who lies dying, and he says that he had been dying... ‘ [M. 9:6E-F]?” R. Yannai then praised [R. Yohanan, for proving that his position is supported by M.]: “‘Those who lavish gold from the purse’ (Isa. 46:6). ‘My son, keep sound wisdom and discretion; let them not escape from your sight’” (Prov 3:21).
- 3. II:3:** Samuel said, “The Mishnah has things reversed.” What is the meaning of this statement that the Mishnah has things reversed? The older associates say, “Witnesses [are required by M. 9:6H - I]. [That is, the witnesses to the deed are interrogated as to the condition of the man who dictated the deed.]” The younger associates say, “Witnesses are null, [and the testimony of those who have signed the deed is not solicited].”

LXIV. YERUSHALMI BABA BATRA 9:7

[A] HE WHO VERBALLY DIVIDES HIS PROPERTY [“BY WORD OF MOUTH”] – R. ELIEZER SAYS, “ALL THE SAME ARE A HEALTHY MAN AND A MAN WHOSE LIFE IS ENDANGERED – “PROPERTY FOR WHICH THERE IS SECURITY IS ACQUIRED THROUGH MONEY, A DOCUMENT, AND USUCAPTION. “AND THAT FOR WHICH THERE IS NO SECURITY IS ACQUIRED ONLY THROUGH BEING DRAWN [INTO THE POSSESSION OF THE ONE WHO ACQUIRES IT].” THEY SAID TO HIM, “M’SH B: THE MOTHER OF THE SONS OF ROKHEL WAS SICK AND SAID, ‘GIVE MY VEIL TO MY DAUGHTER,’ AND IT WAS WORTH TWELVE MANEH:

1. I:1: Up to this point we have dealt with a case in which the movables and the real estate are in the same location. But what if the movables are in one place and the real estate in some other? [How then is acquisition to be effected? Must the movables be located on the real property which is transferred?] Said R. Bun, “Let us derive the answer to that question from the following: Said R. Eliezer, “M’SH B: There was a man from Meron in Jerusalem, who had a great many movables, and he wanted to give them [as a gift]. They said to him, ‘You are not able to do so, [because you have no real property].’ What did he do? He went and bought a single rock near Jerusalem, and said, ‘The northern part of this [rock], and with it a hundred sheep and a hundred jugs of wine, are handed over to Mr. So-and-so. The southern part of this [rock], and with it a hundred sheep and a hundred jugs of wine, are handed over to Mr. Such-and-such. The eastern part of this rock, and with it, a hundred sheep and a hundred jugs of wine are handed over to Mr. So-and-so.’ “The case came before sages, and sages confirmed what he had said” [T. B.B. 10:12].

[B] AND SHE DIED, AND THEY CARRIED OUT HER STATEMENT.” HE SAID TO THEM, “AS TO THE SONS OF ROKHEL, MAY THEIR MOTHER BURY THEM.”

1. II:1: Said R. Yosé b. R. Bun, “[With regard to M. 9:7E-F,] Hila wanted to curse them, because they sow saffron in a vineyard.”

LXV. YERUSHALMI BABA BATRA 9:8

[A] R. ELIEZER SAYS, “IF [HE GAVE VERBAL INSTRUCTIONS] ON THE SABBATH, HIS STATEMENT IS CONFIRMED, “BECAUSE HE IS NOT ABLE TO WRITE DOWN [HIS WILL]. “BUT NOT [IF IT TOOK PLACE] ON A WEEKDAY.” R. JOSHUA SAYS, “IF THEY HAVE STATED THIS RULE FOR THE SABBATH, ALL THE MORE SO THAT IT

APPLIES ON A WEEKDAY.” SIMILARLY: “OTHERS MAY EFFECT POSSESSION FOR A MINOR, BUT THEY DO NOT EFFECT POSSESSION FOR AN ADULT,” THE WORDS OF R. ELIEZER. R. JOSHUA SAYS, “IF THEY HAVE SAID SO OF A MINOR, ALL THE MORE SO DOES THE RULE APPLY TO AN ADULT.”

1. **I:1:** There are Tannaim who teach matters the opposite [namely, if the verbal will is made on an ordinary weekday, it is valid, but not on the Sabbath]. [Supporting the present reading,] R. Joshua b. Levi said, “Thus does the Mishnah read: If they have stated this rule for the Sabbath, all the more so should it apply on a weekday [and consequently, the reading before us is the only possible one].” There are Tannaim who teach the opposite. [Supporting the present reading,] R. Joshua b. Levi said, “Thus does the Mishnah read: If they have said so of a minor, all the more so does the rule apply to an adult.”

LXVI. YERUSHALMI BABA BATRA 9:9

- [A] [IF] THE HOUSE FELL ON HIM AND ON HIS FATHER, OR ON HIM AND ON THOSE WHOM HE INHERITS, AND HE WAS LIABLE FOR THE SETTLEMENT OF HIS WIFE’S MARRIAGE CONTRACT AND FOR PAYMENT OF A DEBT — THE HEIRS OF THE FATHER CLAIM, “THE SON DIED FIRST, AND AFTERWARD THE FATHER DIED,” — THE CREDITORS CLAIM, “THE FATHER DIED FIRST, AND THEN THE SON” — THE HOUSE OF SHAMMAI SAY, “LET THEM SHARE [THE SON’S ESTATE].” AND THE HOUSE OF HILLEL SAY, “THE PROPERTY REMAINS IN ITS FORMER STATUS [IN THE HANDS OF THOSE WHO INHERIT THE FATHER].” [[IF] THE HOUSE FELL ON HIM AND ON HIS WIFE, THE HEIRS OF THE HUSBAND SAY, “THE WIFE DIED FIRST, AND AFTERWARD THE HUSBAND DIED” — THE HEIRS OF THE WIFE SAY, “THE HUSBAND DIED FIRST, AND AFTERWARD THE WIFE DIED” — THE HOUSE OF SHAMMAI SAY, “LET THEM DIVIDE.” AND THE HOUSE OF HILLEL SAY, “THE PROPERTY REMAINS IN ITS FORMER STATUS. “THE [MONEY FOR THE] MARRIAGE SETTLEMENT REMAINS IN THE HANDS OF THE HEIRS OF THE HUSBAND. “[BUT] THE PROPERTY WHICH GOES INTO THE MARRIAGE WITH HER AND GOES OUT OF THE MARRIAGE WITH HER [AT THE VALUE AT WHICH IT WAS ASSESSED TO BEGIN WITH] IS ASSIGNED TO THE POSSESSION OF THE HEIRS OF THE FATHER [OF THE WIFE].” [IF] THE HOUSE FELL ON HIM AND ON HIS MOTHER — THESE AND THOSE PARTIES AGREE THAT THEY DIVIDE IT. SAID R. AQIBA, “I CONCUR IN THIS CASE THAT THE PROPERTY REMAINS IN ITS FORMER STATUS.” BEN AZZAI SAID TO HIM, “CONCERNING THE POINTS OF DIFFERENCE WE ARE DISTRESSED. “WILL YOU NOW COME TO BRING DISAGREEMENT ON THE POINTS ON WHICH THEY ARE IN AGREEMENT?”

1. **I:1:** Said R. Samuel b. R. Isaac, “That is to say that [by using “you,” rather than, “our rabbi,]” Ben Azzai [speaks] as both a colleague and disciple to R. Aqiba.”

LXVII. YERUSHALMI BABA BATRA 10:1

[A] AN UNFOLDED DOCUMENT [HAS] THE SIGNATURES WITHIN [AT THE BOTTOM OF A SINGLE PAGE OF WRITING]. AND ONE WHICH IS FOLDED HAS THE SIGNATURES BEHIND [EACH FOLD]. AN UNFOLDED DOCUMENT, ON WHICH ITS WITNESSES SIGNED AT THE BACK, OR A FOLDED DOCUMENT, ON WHICH ITS WITNESSES SIGNED ON THE INSIDE BOTH OF THEM ARE INVALID. **R. HANANIAH B. GAMALIEL SAYS, “ONE WHICH IS FOLDED, ON THE INSIDE OF WHICH ITS WITNESSES SIGNED THEIR NAMES, IS VALID, “BECAUSE ONE CAN UNFOLD IT.” RABBAN SIMEON B. GAMALIEL SAYS, “EVERYTHING IS IN ACCORD WITH LOCAL CUSTOM.”**

1. **I:1:** And how on the basis of Scripture do we know that there is a document which is folded [and another which is unfolded]? Said R. Immi, “Then I took the sealed deed of purchase, containing the terms and conditions, and the open copy...’ (Jer. 32:I 1). “‘The sealed deed of purchase’ – this is the folded document. “‘... and the open copy...,’ – this is the unfolded one which is within the folded one. “‘... the terms and conditions...’ – [what is the difference] between the one [unfolded] and the other [folded]? “But: This one bears two [witnesses], and the other, three [M. 10:2]. “In this one the witnesses sign on the inside, and in the other, on the outside.”
2. **I:2:** Ba in the name of R. Judah: “In an unfolded document its witnesses [sign] along its breadth. In a folded document, its witnesses sign along its length.” Said R. Idi, “The witnesses sign between one fold and another, and that is on condition that it is above [on the upper of the two sides of the fold].” And should we not take into consideration the possibility of counterfeit [in the case of a folded document, if the witnesses sign at the top and between the folds but not at the bottom]? Said R. Huna in reply, “The witnesses never sign the document at the bottom until they read what is written in it on the top: “I, So-and-so, son of Such-and-such, accept upon me responsibility for all which is written in this document above.”
3. **I:3:** R. Ba in the name of R. Jeremiah: “The names of the witnesses must be two lines below the body of the text of the document.” R. Idi in the name of R. Jeremiah: “In a folded document, the names of the

witnesses are written lengthwise. In an unfolded document the names of the witnesses are written breadthwise, one inside and one outside.”

- 4.** **I:4:** Said R. Mana, “How do the witnesses sign in the case of a writ of divorce which is folded?” Said R. Huna, “Between each fold, and that is on condition that it be at the top [of the fold].” Said R. Idi, “And that is on condition that between the name of the witnesses and the writ itself should not be a space of two lines.” Simeon bar Vava in the name of R. Yohanan: “If one has set aside those two lines for some other matter, [the document is null] even if it is any small item at all. [That is, no other item may intervene between the body of the text and the signatures of the witnesses.]” [If the witnesses signed two or three lines below the body of the text, it is invalid. (If they signed) closer than this (to the body of the text), it is valid.] And how far [may their names appear] below the text [of the document] for the document to be valid?” Sufficient so that [their names] may be read right along with the text,” the words of Rabbi R. Simeon b. Eleazar says, “The distance of one line.” R. Dostai b. R. Yannai says, “The distance of the signatures of two witnesses” [T. B.B. 11:10].
- 5.** **I:5:** Rab said, “If there is an erasure or an interlinear insertion in a document – this is [subject to] its confirmation. [That is, one has to write at the end of the document that such-and-such a word has been erased, or such-and-such a letter has been inserted. Abbahu in the name of R. Isaac b. Haqqola: “Whatever you can assign to an erasure should be assigned to the erasure. “What is the meaning of this statement, “Whatever can be assigned to the erasure”? Yosé the fuller, son-in-law of R. Yosah, in the name of R. Yosah, “A codicil is written above, [which states, in a deed of betrothal, ‘I betroth you on the condition that I may marry you on a certain day, and if that day arrives and I do not marry you, I shall have no claim on you,'] and a codicil is erased below. I maintain in interpreting this document that they decided to complete the transaction as a final act of betrothal of the woman. There then was no stipulation or condition attached to the writ. They then erased it.] So as not to disturb the document, they simply erased the codicil. [This is an example of assigning to an erasure whatever one can. In this case the stipulation was ultimately rejected and so erased, with the result that the codicil described is deemed to have been rejected and nullified by the erasure. The document thus attests to a formal, final act of betrothal.]”
- 6.** **I:6:** [With reference to M. 10:1C-F: Hananiah b. Gamaliel says, “One which is folded, on the inside of which its witnesses signed their names, is valid, because one can unfold it,]” Rabbi replied with the

intention of supporting the position of R. Hananiah b. Gamaliel, “The body of a document indicates its character, that is, whether the document is unfolded or is not folded.”

LXVIII. YERUSHALMI BABA BATRA 10:2

[A] AN UNFOLDED DOCUMENT — ITS WITNESSES ARE TWO. AND A FOLDED ONE — ITS WITNESSES ARE THREE. AN UNFOLDED ONE IN WHICH THERE IS A SINGLE WITNESS, AND A FOLDED ONE IN WHICH THERE ARE TWO WITNESSES — BOTH OF THEM ARE INVALID. [IF] THERE WAS WRITTEN IN A BOND OF INDEBTEDNESS, “A HUNDRED ZUZ, WHICH ARE TWENTY SELAS,” [THE CREDITOR] HAS A CLAIM ON ONLY TWENTY SELAS [EVEN THOUGH A HUNDRED ZUZ ARE TWENTY-FIVE SELAS]. [IF IT IS WRITTEN,] “A HUNDRED ZUZ WHICH ARE THIRTY SELAS,” HE HAS A CLAIM ONLY ON A MANEH [A HUNDRED ZUZ], [SINCE A HUNDRED ZUZ ARE TWENTY-FIVE SELAS]. “SILVER ZUZIM WHICH ARE...,” AND THE REST WAS BLOTTED OUT — THERE IS A CLAIM FOR NO LESS THAN TWO. “SILVER SELAS WHICH ARE...,” AND THE REST WAS BLOTTED OUT — THERE IS A CLAIM OF NO LESS THAN TWO. “DARICS WHICH ARE...,” AND THE REST WAS BLOTTED OUT — THERE IS A CLAIM FOR NO LESS THAN TWO.

1. **I:1:** It was taught, [If in a document is written,] “... zuzim, which are...,” and the rest is blotted out — [the lender claims] five, and the other party says that they are only two [which he owes], [does this constitute concession of part of a claim, entailing an oath covering the rest of it?] There they say, Ben Azzai and R. Aqiba — one said, “He pays two, and takes an oath covering the rest.” And the other said, “Since, had he conceded nothing whatsoever, he would have received only two, the borrower takes an oath only covering the sum which he concedes. [Since the deed conforms to the statement of the borrower, there is no substantive concession whatsoever.]”

LXIX. YERUSHALMI BABA BATRA 10:3

[A] [IF] WRITTEN AT THE TOP IS, “A MANEH,” AND AT THE BOTTOM, “TWO HUNDRED ZUZ,” - OR AT THE TOP, “TWO HUNDRED [ZUZ],” AND AT THE BOTTOM, “MANEH” — ALL FOLLOWS WHAT IS WRITTEN AT THE BOTTOM. IF SO, WHY DO THEY WRITE THE UPPER FIGURE AT ALL? SO THAT IF ONE LETTER FROM THE LOWER FIGURE IS BLOTTED OUT, ONE MAY LEARN [INFER] FROM THE UPPER FIGURE.

- I:1:** It was taught: Under all circumstances what is written below may learn [be inferred] from what is written above [M. 10:2E]; in the case of a folded writ, from a single sign, not from two signs, whether Hanan or Hanani, whether Anan or Anani, on the strength of a single mark they confirm it, and on the strength of two marks they do not confirm it [T. B.B. 11:4].

LXX. YERUSHALMI BABA BATRA 10:4

[A] THEY WRITE OUT A WRIT OF DIVORCE FOR A MAN, EVEN THOUGH HIS WIFE IS NOT WITH HIM. AND A QUITTANCE FOR THE WIFE, EVEN THOUGH HER HUSBAND IS NOT WITH HER, ON CONDITION THAT [THE SCRIBE] KNOWS THEM. AND THE HUSBAND PAYS THE FEE. THEY WRITE A WRIT OF INDEBTEDNESS FOR THE BORROWER, EVEN THOUGH THE LENDER IS NOT WITH HIM, BUT THEY DO NOT WRITE A WRIT FOR THE LENDER, UNLESS THE BORROWER IS WITH HIM. THE BORROWER PAYS THE SCRIBE'S FEE. THEY WRITE A WRIT OF SALE TO THE SELLER, EVEN THOUGH THE BUYER IS NOT WITH HIM. BUT THEY DO NOT WRITE A WRIT OF SALE FOR THE PURCHASER, UNLESS THE SELLER IS WITH HIM. AND THE PURCHASER PAYS THE SCRIBE'S FEE. THEY WRITE THE DOCUMENTS OF BETHROTHAL AND MARRIAGE ONLY WITH THE KNOWLEDGE AND CONSENT OF BOTH PARTIES. AND THE HUSBAND PAYS THE SCRIBE'S FEE. THEY WRITE DOCUMENTS OF TENANCY AND SHARECROPPING ONLY WITH THE KNOWLEDGE AND CONSENT OF BOTH PARTIES. AND THE TENANT PAYS THE SCRIBE'S FEE. THEY WRITE DOCUMENTS OF ARBITRATION OR ANY DOCUMENT DRAWN UP BEFORE A COURT ONLY WITH THE KNOWLEDGE AND CONSENT OF BOTH LITIGANTS. AND BOTH LITIGANTS PAY THE SCRIBE'S FEE. RABBAN SIMEON B. GAMALIEL SAYS, "THEY WRITE TWO FOR THE TWO PARTIES, ONE COPY FOR EACH."

- I:1:** Said R. Ba, "[With reference to M. 10:1C,] [the scribe] has to know both of them [when writing the writ of divorce for the wife, he must know her as well as the husband; when writing the quittance for the husband, he must know him as well as the wife]." Said R. La, "He must know the husband when he is writing the writ of divorce for him [to give to the wife], and the wife when he is writing her quittance [to be given to the husband, but in the former case he need not know the wife, and in the latter, the husband]."

LXXI. YERUSHALMI BABA BATRA 10:5

[A] HE WHO PAID PART OF A DEBT WHICH HE OWED AND WHO DEPOSITED THE BOND WITH A THIRD PARTY, AND SAID TO HIM, “IF I HAVE NOT GIVEN YOU [WHAT I STILL OWE THE LENDER] BETWEEN NOW AND SUCH-AND-SUCH A DATE, GIVE [THE CREDITOR] HIS BOND OF INDEBTEDNESS,” [IF] THE TIME CAME, AND HE HAS NOT PAID, R. YOSÉ SAYS, “HE SHOULD HAND IT OVER.” AND R. JUDAH SAYS, “HE SHOULD NOT HAND IT OVER.”

1. I:1: It has been taught: As to a promise made with the condition of a forfeit in case of a failure to fulfill the promise – R. Abbahu orders collection on the strength of such a document. R. Aha also orders collection. R. Ammi also orders collection. R. Jonah and R. Yosé do not order collection.

[B] HE WHOSE WRIT OF INDEBTEDNESS WAS BLOTTED OUT – WITNESSES GIVE TESTIMONY ABOUT IT, AND HE COMES TO A COURT, AND THEY DRAW UP THIS CONFIRMATION: “MR. SO-AND-SO, SON OF SO-AND-SO – BOND OF INDEBTEDNESS WAS BLOTTED OUT ON SUCH-AND-SUCH A DAY, AND MR. SO-AND-SO AND MR. SUCH-AND-SUCH ARE HIS WITNESSES.”

1. II:1: Said R. Uqba, “The stated rule applies also to documents covering marriage settlements.” Members of the house hold of Levi state, “He who says, ‘My deed has been lost [not merely blotted out]’ – the court draws up a confirmation of the original document.”

LXXII. YERUSHALMI BABA BATRA 10:6

[A] HE WHO HAD PAID OFF PART OF HIS DEBT – R. JUDAH SAYS, “HE SHOULD EXCHANGE [THE BOND FOR ANOTHER ONE, IN WHICH WHAT IS NOW OWING IS SPECIFIED].” R. YOSÉ SAYS, “[THE CREDITOR] SHOULD WRITE HIM A RECEIPT.” SAID R. JUDAH, “IT TURNS OUT THAT THIS ONE HAS TO GUARD HIS RECEIPT FROM RATS.” SAID TO HIM R. YOSÉ, “THAT’S GOOD FOR HIM, SO LONG AS THE RIGHT OF THE OTHER PARTY HAS NOT BEEN DAMAGED.”

1. I:1: As to M. 10:6B, he should exchange the bond for another one.] Rab said, “They court provides a comnfirmation for him.” R. Hiyya taught, “It is not the court alone that provides a confirmation for him, but even the witnesses to the original document may do so.”

2. **I:2:** The text of the confirmation is as follows: For instance, they say the following, “I, Mr. So-and-so, son of Mr. Such-and-such, borrow from you, Mr. So-and-so. And Mr. Such-and-so serves as surety for this loan.” Rab said, “He must mention the date of the first document in the second one.” And Samuel said, “He does not have to mention the date of the first document in the second.”

LXXIII. YERUSHALMI BABA BATRA 10:7

[A] **TWO BROTHERS — ONE POOR, ONE RICH — AND THEIR FATHER LEFT THEM A BATHHOUSE AND AN OLIVE PRESS — [IF THE FATHER] HAD BUILT THEM TO RENT THEM OUT — THE RENT IS HELD IN COMMON. [IF] HE MADE THEM FOR HIS OWN USE, LO, THE RICH ONE SAYS TO THE POOR ONE, “YOU BUY SLAVES, AND LET THEM BATHE IN THE BATH HOUSE.” OR: “YOU BUY OLIVES, AND COME AND PREPARE THEM IN THE OLIVE PRESS.” TWO WHO WERE IN THE SAME TOWN — THE NAME OF ONE WAS JOSEPH B. SIMEON, AND THE NAME OF THE OTHER WAS JOSEPH B. SIMEON, THEY CANNOT PRODUCE A WRIT OF INDEBTEDNESS AGAINST ONE ANOTHER, NOR CAN A THIRD PARTY PRODUCE A WRIT OF INDEBTEDNESS AGAINST EITHER ONE OF THEM. [IF] AMONG THE DOCUMENTS OF ONE OF THEM IS FOUND A WRIT OF JOSEPH B. SIMEON WHICH HAS BEEN PAID OFF, THE WRITS OF BOTH OF THEM ARE DEEMED TO HAVE BEEN PAID OFF. WHAT SHOULD THEY DO? LET THEM WRITE DOWN THE NAMES OF THE THIRD GENERATION AND IF ALL THREE [GENERATIONS’] NAMES ARE ALIKE, LET THEM WRITE A DESCRIPTION. AND IF THE DESCRIPTIONS ARE ALIKE, LET THEM WRITE, “PRIEST.” HE WHO SAYS TO HIS SON, “THERE IS A BOND OF INDEBTEDNESS AMONG MY DOCUMENTS WHICH HAS BEEN PAID, AND I DO NOT KNOW WHICH ONE OF THEM IT IS” — ALL OF HIS BONDS ARE DEEMED TO HAVE BEEN PAID OFF. [IF] TWO WERE FOUND APPLYING TO A SINGLE [DEBTOR], THE LARGER ONE IS DEEMED TO HAVE BEEN PAID, AND THE SMALLER ONE IS NOT DEEMED TO HAVE BEEN PAID.**

1. **I:1:** It was taught: The concern for paying off a deed covering a *large* sum of money is not the *same* as that for paying off a deed covering a small sum of money. [The former is likely to be paid off first.]

LXXIV. YERUSHALMI BABA BATRA 10:8

[A] **HE WHO LENDS MONEY TO HIS FELLOW ON THE STRENGTH OF A GUARANTOR MAY NOT COLLECT FROM THE GUARANTOR. BUT IF HE HAD SAID, “[LO, I LEND TO YOU] ON CONDITION THAT I MAY COLLECT FROM WHICHEVER PARTY I WISH,” HE MAY THEN COLLECT FROM THE GUARANTOR. RABBAN SIMEON B.**

GAMALIEL SAYS, “IF THE DEBTOR HAS PROPERTY, ONE WAY OR THE OTHER, HE

- 1. I:1:** R. Abbahu in the name of R. Yohanan, “[As to the dispute of M. 10:8B, C,] When the borrower has property, [the lender collects from him]. But if the borrower has no property, he may collect from the guarantor. And if he had said, ‘Lo, I lend to you on condition that I may collect from whichever party I wish,’ he may then collect from the guarantor, even if the borrower has property.”
- 2. I:2:** There they say, “In every case the law is in accord with the position of Rabban Simeon b. Gamaliel, except for the matter of the pledge [the present rule]; the case of Sidon; and the matter of bringing proof after a trial is concluded.”

LXXV. YERUSHALMI BABA BATRA 10:9

[A] AND SO DID RABBAN SIMEON B. GAMALIEL SAY, “HE WHO WAS GUARANTOR FOR A WOMAN AS TO HER MARRIAGE SETTLEMENT, AND HER HUSBAND DIVORCED HER – “[IN THE CASE OF A DIVORCE] LET THE HUSBAND VOW NOT TO DERIVE BENEFIT FROM HER, “LEST THEY MAKE A CONSPIRACY TO DEFRAUD THIS ONE OF HIS PROPERTY, “AND [THE HUSBAND] THEN REMARRY HIS WIFE.”

- 1. I:1:** The father-in-law of the daughter of R. Haggai was guarantor for the marriage contract for the daughter of R. Haggai. Now she treated his property wastefully, [so her husband wanted to divorce her]. The case came before R. Aha. He said, “The husband has to vow not to derive benefit from her [= M. 10:9B].” Said R. Yosé, “He does not have to vow not to derive benefit from her.” [Yosé does not suspect the husband and wife of conspiracy against the guarantor of the marriage settlement.]

LXXVI. YERUSHALMI BABA BATRA 10:10

[A] HE WHO LENDS MONEY TO HIS FELLOW ON THE SECURITY OF A BOND OF INDEBTEDNESS COLLECTS WHAT IS OWING TO HIM FROM MORTGAGED PROPERTY. (1) [BUT IF HE HAD LENT TO HIM ON THE SECURITY OF] WITNESSES, HE COLLECTS ONLY FROM UNINDENTURED PROPERTY. [(2) [IF] HE PRODUCED AGAINST HIM [THE DEBTOR’S] NOTE OF HAND [AS EVIDENCE] THAT HE OWES HIM [MONEY], HE COLLECTS FROM UNINDENTURED PROPERTY. (3) HE WHO SIGNS AS GUARANTOR BELOW THE [SIGNATURE OF] BONDS OF

INDEBTEDNESS — [THE CREDITOR] COLLECTS [ONLY] FROM UNINDENTURED PROPERTY. A CASE CAME BEFORE R. ISHMAEL, AND HE RULED, “HE MAY COLLECT FROM UNINDENTURED PROPERTY.” SAID TO HIM BEN NANNOS, “HE COLLECTS NEITHER FROM MORTGAGED PROPERTY NOR FROM UNINDENTURED PROPERTY.” HE SAID TO HIM, “WHY?” HE SAID TO HIM, “HE WHO SEIZES SOMEONE BY THE THROAT [WHO OWES HIM MONEY] IN THE MARKET, AND HIS FELLOW CAME UPON HIM AND SAID TO HIM, ‘LET HIM GO’ — [THE LATTER] IS EXEMPT [FROM HAVING TO GUARANTEE THE LOAN], “SINCE IT WAS NOT IN RELIANCE UPON HIM THAT THE CREDITOR HAD LENT [THE DEBTOR] THE MONEY IN THE FIRST PLACE.” “BUT WHO IS THE GUARANTOR WHO IS LIABLE [TO PAY IF THE DEBTOR DOES NOT DO SO]? “[ONE WHO SAYS,] ‘LEND HIM MONEY, AND I’LL PAY YOU BACK” — HE IS LIABLE. “FOR IT WAS IN RELIANCE UPON HIM THAT HE HAD LENT [THE DEBTOR] THE MONEY IN THE FIRST PLACE.”

1. **I:1:** [With reference to M. Sheb. 10:5: A predated prozbul is valid, but a postdated one is invalid. A predated bond is not valid, but a postdated bond is valid. At Y. Sheb. 10:3, R. Yohanan said, “It is totally invalid (and not collectible). R. Simeon b. Laqish said, ‘It is treated as valid only from the point at which it was actually written’ but it is in fact collectible.] [Concurring with the position of Simeon b. Laqish,] R. Huna said, “The predating is invalid, but the deed is valid [and may be collected].” Now have we not learned in the Mishnah: A predated prozbul is valid, but a postdated one is invalid [so far as the later date, but it is valid so far as protecting the right of the creditor to collect his debts contracted prior to the correct date of the document]? [This then supports Huna’s view.]

[B] SAID R. ISHMAEL, “HE WHO WANTS TO GET SMART HAD BEST GET BUSY WITH COMMERCIAL LAW. “FOR YOU HAVE NO SPECIALTY IN THE TORAH GREATER THAN THOSE LAWS. “FOR THEY ARE LIKE AN EVER-BUBBLING SPRING. “HE WHO WANTS TO GET BUSY WITH COMMERCIAL LAW HAD BEST SERVE [AS DISCIPLE OF] SIMEON B. NANNOS.”

1. **II:1:** R. Yosa in the name of R. Yohanan said, “Even though R. Ishmael has praised Ben Nannos for his exposition, the law is not in accord with Ben Nannos.”

TRACTATE

SANHEDRIN

The halakhah set forth in the tractate *Sanhedrin* deals with the organization of the Israelite government and courts and the punishments administered thereby. The court system is set forth in the Mishnah's statement of matters at 1:1–5:5, the death-penalty at *m. Sanh.* 6:1–11:6, with extra-judicial penalties at *m. Sanh.* 9:5–6 and 10:1–6. The penalties other than capital are set forth in tractate *Makkot*, covering perjury (with variable penalties), banishment, and flogging. While Scripture supplies many facts, the Oral Torah organizes and lays matters out in its own way. Where the Written Torah does not provide information that sages deem logical and necessary, they make things up for themselves. Where verses of Scripture play a role in the halakhic statement of matters, they are cited in context. The details of the organization of the court system do not derive from the Written Torah, nor are the specificities of the death penalty supplied there. The contribution of the Torah is therefore episodic. Deuteronomy 16:18–20 specifies appointing judges. An appellate system is provided for; “If any case arises requiring decision between one kind of homicide and another, one kind of legal right and another, or one kind of assault and another, any case within your towns which is too difficult for you, then you shall arise and go up to the place which the Lord your God will choose...” (Deut 17:8–13). The death penalty for murder is specified (Num 35:30) on the testimony of two or three witnesses (Deut 17:6–7). The comparison of the high priest and the king at *m. Sanh.* 2:1–5 rests on Lev. 21:10–12 for the high priest and Deut 17:14–20 for the king. The death penalty involving hanging the body on a tree until night, but with burial the same day is found at Deut 21:22–23 and the stubborn and rebellious son at Deut 21:18–21. The city that is wiped out because of idolatry is treated at Deut 13:12–18. The upshot is that at specific topics, Scripture, cited here and there, contributes facts, but the shape and program of the tractate as a whole is not to be predicted on the basis of the Written Torah.

Promising an account of the courts and their procedures in adjudicating both property and capital cases, the halakhah in detail delivers a systematic exercise to show how the various sins or crimes defined by Scripture are hierarchized, leading to the climax—the worst possible penalty—of denial of a portion in the world to come, which is to say, life eternal beyond the grave

I. The court system

- A.** Various kinds of courts and their jurisdiction
- B.** The heads of the Israelite nation and the court system
- C.** The procedures of the court system: property cases

II. The death penalty

- A.** Stoning
- B.** The four modes of execution that lie in the power of the court and how they are administered
- C.** Stoning
- D.** Burning or decapitation
- E.** Strangulation
- F.** Extra-judicial punishment
- G.** Death at the hands of heaven: denial of eternal life

YERUSHALMI SANHEDRIN

CHAPTER ONE

1:1

[A] [17d] (1) Property cases [are decided] by three [judges];

[B] (2) those concerning theft and damages, before three;

[C] (3) [cases involving] compensation for full-damages, half-damages [Ex. 21:35], twofold restitution [Ex. 22:3], fourfold and fivefold restitution [Ex. 21:37], by three;

[D] (4) “cases involving him who rapes [Deut. 32:28-29], him who seduces [Ex. 22:15-16], and him who brings forth an evil name (Deut. 22:19), by three,” the words of R. Meir.

[E] And sages say, “He who brings forth an evil name is [tried] before twenty-three, for there may be a capital case.”

[I:1 A] [18a] *And whence shall we produce evidence from Scripture [for the factual statement of M. 1:1A]?*

[B] “‘And these things shall be for a statute and ordinance’ (Num. 35:29).

[C] “On the basis of this verse I draw the conclusion that [the reference to both statute and ordinance bears this meaning:] careful cross-examination of witnesses is required not only for capital cases but also for property ones.

[D] “And then how do we know that property cases require three judges [and not twenty-three, as in the case of capital cases]?”

[E] “‘The owner of the house shall come near to the judges’ (Ex. 22:8) – thus encompassing one judge.

[F] “‘The case of both parties shall come before the judges’ (Ex. 22:9) – thus encompassing a second judge.

[G] “‘... he whom the judges shall condemn shall pay’ (Ex. 22:9-1) – here is yet a third,” the words of R. Josiah.

[H] R. Jonathan says, “The first [of the three verses] appears at the outset, and further exegetical meanings cannot be imputed to a verse in such a position [which is required simply to provide the information stated therein, as distinct from the later expressions of essentially the same idea]. [These later ones may serve to supply additional information, beyond the facts they contain, because they are superfluous in regard to their primary statements of facts.]

[I] “But: ‘... before the judges,’ – lo, one judge is required.

[J] “‘... whom the judges shall condemn’ – lo, two judges.

[K] “Now a court cannot be made up of an even number of judges, so they add yet a third judge, so that there are three in all on the court.”

[L] Rabbi says, “The Scripture speaks of a plural of two [‘judges’].

[M] “You claim that the Scripture speaks of a plural. Perhaps it refers to only one?”

[N] “When the Scripture says, ‘... whom the judges shall condemn,’ Scripture states only that [thus providing for two judges]. Since there cannot be a court made up of an even number of judges, they add to the court yet a third, so lo, there are three judges.”

[O] *R. Abbahu raised the question*, “Now in accord with Rabbi, monetary cases should be decided by a court of five judges [for he has had two judges subject to discussion in the cited verses, above, J, and so there are two relevant verses, thus four judges, plus a fifth to create an odd number, hence five in all]. In this way the decision will be reached by three judges.”

[P] *[Along these same lines] the following is available: R. Hezekiah taught*, “Since the Torah has given instructions to carry out the death penalty at the decision of a majority, and to carry out the death penalty at the evidence of witnesses, just as there must be two witnesses, so too there must be a majority of two [to reach the decision, so four].

[Q] “Since you cannot have a court of an even number of judges, they must add to the court yet one more, so there will be five [judges].”

[II:1 A] Are not theft and damages [M. 1:1B] the same thing?

[B] *The following is available: R. Simeon b. Yohai taught*, “‘And these are the ordinances which you shall set before them’ (Ex. 21:1).

[C] “Now [*the purpose of the authority of who has treated property cases disjunctively, and not as a single group,*] is to interpret the meaning of Scripture. [*First come property cases, as at Ex. 21:2, buying a Hebrew slave, then come cases of theft and damages, damages at Ex. 21:12ff. and theft at Ex. 22:1ff.*.]”

[D] *This verse is in accord with the position of R. Yosé bar Halaftha [who interprets the cited verse to mean that the judge must decide a case solely on the basis of the evidence in hand, as in the following case].*

[E] *Two people came to him for judgment. They said to him, “It is on the condition that you render a judgment in accord with the law of the Torah.”*

[F] *He said to them, “I don’t know what you mean by a ‘judgment in accord with the law of the Torah,’ [but I shall judge by what you testify before me]. And may He who understands what is in peoples’ mind exact punishment from those men [you if you are guilty]. You must accept what I shall instruct you.”*

[G] *R. Aqiba, when someone came to him for judgment, would say to him, “Know before whom you stand, before Him who spoke and brought the world into being, as it is said, ‘And both parties who have the controversy shall come before the Lord’ (Deut. 19:17) – and not merely before Aqiba ben Joseph!”*

[II:2 A] *It was taught: Forty years before the destruction of the Temple the right to judge capital cases was withdrawn, and it was in the days of Simeon b. Shatah that the right to judge property cases was withdrawn.*

[B] *Said R. Simeon b. Yohai, “Blessed be the All-merciful that I am not a sage required to make court decisions.”*

[II:3 A] *Samuel said, “Two who rendered a decision – their decision stands, but they are called a presumptuous court.”*

[B] *R. Yohanan and R. Simeon b. Laqish – both of them teach: “Even if two reached a decision, their decision does not stand.”*

[II:4 A] *There we have learned: [If] one [person who was not an expert] judged a case, declaring the liable person to be free of liability, declaring the person free of liability to be liable, declaring what is clean to be unclean, declaring what is unclean to be clean, what he has done is done. But he pays restitution from his own funds [M. Bekh. 4:4F].*

- [B] R. Ba in the name of R. Abbahu: “This applies when the parties to the dispute said to him, ‘Lo, you are acceptable to us like two judges.’”
- [C] *How shall we explain this statement?*
- [D] If it is as a case in which one erred and made a decision based on his own reasoning [rather than the law of the Torah], in such a case do we hold that what is done is valid? [Obviously, not.]
- [E] If it is a case in which he erred even though he judged them in accord with the law of the Torah, in such a case must he pay compensation from his own house? [Obviously not.]
- [F] R. Ba in the name of R. Abbahu said, “It is a case in which they have said to him, ‘Lo, you are acceptable to us as the equivalent of three judges, on condition that you render a judgment in accord with the law of the Torah.’ But the man erred and made his decision on the basis of his own reasoning. What he has done is valid, because he has erred and made a decision on the basis of his own ruling. He must pay compensation out of his own property, for he dared to take upon himself the authority to give a judgement on his own in the case of a court decision based on Torah law.”
- [G] *For we have learned: **Do not judge all by yourself, for only One judges all by Himself (Abot 4:8).***
- [H] Said R. Judah b. Pazzi, “Even the Holy One, blessed be He, does not give a decision all by himself, as it is said, ‘And Micaiah said, “Therefore hear the word of the Lord: I saw the Lord sitting on his throne, and all the host of heaven standing beside him on his right hand and on his left” (1 Kings 22:19).’ These favor acquittal, and those favor conviction.”
- [I] Even though [God] does not judge all by himself, he seals the decree all by himself, as it is said, “But I will tell you what is inscribed in the book of truth: there is none who contends by my side against these except Michael, your prince” (Daniel 10:21f.).
- [J] Said R. Yohanan, “Under no circumstances does the Holy One do a thing in his world without consulting with the heavenly court.”
- [K] *What is the Scriptural basis of this statement?*
- [L] “And the word was true, and it was a great host” (Dan. 10:1).
- [M] Under what circumstances is the seal of the Holy One, blessed be He, truth? It is when he consults with the heavenly court.

[N] Said R. Eleazar, “Each passage in which it is stated, ‘and the Lord,’ means that at hand are He and his court.

[O] “And the meaning of the matter is indicated by the principal source [describing the Lord and his court]: ‘And the Lord has spoken evil concerning you’ (1 Kings 22:23 and 2 Chron. 18:22). [That is, the court exacts justice, rather than dispensing mercy.]”

[P] What is the seal of the Holy One, blessed be He?

[Q] R. Bibi in the name of R. Reuben: “It is truth.”

[R] What is the meaning of “truth”?

[S] Said R. Bun, “It is that He is the living God and the everlasting King” (Jer. 10:10).

[T] *Said R. Simeon b. Laqish, “An alef stands at the beginning of the alphabet, a mem stands at the middle, and a tav stands at the end [both of the word and of the alphabet] to indicate, ‘I am the first,’ for I did not accept dominion by anyone else’s authority. ‘And besides me there is no god’ (Is. 44:6), for I have no colleague. ‘And I am the last’ [Is. 44:6, in different order], for in the end I shall not hand over [dominion] to another.”*

- [II:5 A] *R. Ba and R. Benjamin b. Yaphet had a case in the court of R. Isaac, and the decision went in favor of R. Benjamin. R. Ba came and wanted to cause trouble with R. Ammi [because R. Isaac had decided the case all by himself]. [R. Ammi] instructed him that an expert who sat down and gave a decision – his decision is valid.*
- [B] *R. Abbahu would go into session all by himself, as a judge in the synagogue at the gate of Caesarea. His disciples said to him, “And has not Rabbi taught us, ‘Do not judge all by yourself?’”*
- [C] *He said to them, “Since [people] see that I sit as a judge all by myself and [nonetheless] come to me, it is as if they accepted me [as a single judge to decide] their [case].”*
- [D] *And thus also has it been taught: “Under what [18b] circumstances [may one not judge all by himself]? When [the litigants] did not accept [the individual as sole judge] for their [case]. But if they did accept [the individual as sole judge] for their [case], it is proper even for an individual to judge all by himself.”*

[E] *R. Yohanan went to have a case judged before R. Hiyya the Elder. [Hiyya] seated a disciple with him [so as not to judge all by himself].*

[F] *But has it not been taught: **A father and his son, a master and his disciple – both of them are numbered as a single person [T. San. 7:2/0].***

[G] *We say that in this case it is an associate and a disciple, as in the case of R. Eleazar and R. Yohanan [in which case both count].*

[H] *A court decision went forth from the court of Rab, when he was judging all by himself; from R. Aha, when he was judging all by himself; from R. Jonah and R. Yosé, when they were judging all by themselves.*

[I] *There we have learned: **He who rakes payment for judging – his judgments are null [M. Bekh. :6].***

[J] *The meaning of the Mishnah law is this: **If one is suspect of collecting a salary in order to judge, [his judgments are null]. [But if he accepts a salary only for the loss of time to earn a living, that is acceptable.] (T. Bekh. 3:8.)***

[K] *A man came to seek a judgment before R. Huna. [Huna] said to him, “Bring me someone to till around my palm tree.”*

[L] *R. Huna was an ox herder, and he had evidence to give in behalf of someone in a suit. He said to him, “Come and give testimony in my behalf.” He replied, “Pay me a salary [which I shall lose].”*

[M] *And thus it has been taught: **They do pay a fee to a judge for his time, and a fee to the witness for his time [T. Bekh. 3:8C].***

[II:6 A] *A man deliberately rendered a priest [cultically] unclean. The case came before R. Isaac, and he ordered the man to provide unconsecrated food for the priest to eat [since he could not eat cheaper food, in the status of heave offering, which he normally ate, by reason of his cultic uncleanness].*

[B] *[The disciples] supposed that [the man] might deduct the cost of food in the status of heave offering from the penalty, [since the priest would have paid that lesser cost in any event]. [This would constitute a mediated agreement, which accounts for what follows.]*

- [C] *It was taught:* R. Eleazar, son of R. Yosé the Galilean, said, “He who arbitrates a case [after judgment has been passed, as at B] – lo, this one] sins.
- [D] “And whoever praises the arbitrator – lo, this one is as if he curses the Omnipresent,
- [E] “as it is said, ‘He who blesses the arbitrator blasphemes the Lord’ (Ps. 10:3).
- [F] “But let justice pierce the mountain.”
- [G] And so did Moses [say, “Let justice pierce the mountain”].
- [H] But Aaron would make peace between one person and another, as it is said, “He walked with me in peace and uprightness” (Mal. 2:6).
- [I] *It is taught:* R. Eleazar b. Jacob said, “Why does Scripture say, ‘He who blesses a robber blasphemes the Lord’?”
- [J] “They made an analogy. To what is the matter to be compared? To someone who stole a *seah* of wheat, ground it into wheat, baked it into bread, and separated dough offering from the bread [for the priest], and then fed the bread to his children. How is such a person to say a blessing. It is no blessing but a curse” [T. San. 1:2].
- [K] R. Meir says, “Why does Scripture say, ‘He who praises the one who gets unlawful benefit (bose’a) blasphemes the Lord’?”
–
- [L] “These are the brothers of Joseph, who said, ‘What profit (besa’) do we have if we kill our brother’ (Gen. 37:26).”
- [M] R. Joshua b. Qorha says, “It is a religious duty to arbitrate, as it is said, ‘Execute the judgment of truth and peace in your gates’ (Zech. 8:16).
- [N] “Now is it not so that in any case in which there is a judgment of truth, there is no peace, and in any case in which there is peace, there is no judgment of truth?”
- [O] “So what is the judgment of truth which also contains peace?”
- [P] “You have to say, This is arbitration” [T. San. 1:3].
- [Q] (Rabbi says,) “[If] one has judged a case, declaring the guiltless to be guiltless and imposing liability on the guilty party,

- [R] **“Scripture credits him for he has done charity with the one who is liable,**
- [S] **“for he removes the stolen goods from his possession.**
- [T] **“And he does justice to the innocent party, for he restores to him what belongs to him” [T. San. 1:5].**
- [U] Said R. Abbahu, “Judgment is mentioned twice in the same passage: [‘You shall not be partial in judgment; you shall not be afraid before man, for judgment belongs to God’ (Deut. 1:17).] [This indicates that there are two sorts of judgment, one a decision, one arbitration. Thus:] ‘Execute the judgment of truth and peace in your gates’ (Zech. 8:16).”
- [V] *R. Zechariah asked before R. Ammi, “Do they carry out the law in practice in accord with the opinion of this Tannaite authority [who maintains that it is a religious duty to arbitrate]?”*
- [W] *It was taught: R. Simeon b. Menassia says, “Sometimes one should arbitrate, and sometimes he should not arbitrate.*
- [X] **“How so?**
- [Y] **“Two who came before someone to judge [their case]**
- [Z] **“before he has heard what they have to say,**
- [AA] **“or if he has heard what they have to say but does not know in which direction the case should turn,**
- [BB] **“he has the right to say to them, ‘Go out and seek arbitration.’**
- [CC] **“But once he has heard what they have to say and knows in which direction the case should turn,**
- [DD] **“he has no right to say to them, ‘Go out and seek arbitration.’**
- [EE] **“Just as it is written, ‘The beginning of strife is as when one lets out water; therefore, before the matter is laid bare, leave off contention’ (Prov. 17:14)**
- [FF] **“Before the ruling is clear, you are free to abandon it.**

[GG] “Once the decision is clear, you do not have the right to abandon it” (T. San. 1:6).

[HH] R. Mattenaiah said, “Also arbitration requires [the judge to] make up his mind.”

[II] R. Judah b. Laqish would say, “Two who came before someone for judgment –

[JJ] “one strong and one weak –

[KK] “before one has heard what they have to say,

[LL] “or if one has heard what they have to say but does not yet know in which direction the case should turn,

[MM] “he has the right to say to them, ‘I am not going to be subject to you [and to take your case],’

[NN] “lest the weaker [Talmud: stronger] party turn out to be liable, and the stronger one go after him [Talmud: the stronger become his enemy].

[OO] “But once he has heard what they have to say and knows in which direction the case should turn,

[PP] “he has not got the right to say to them, ‘I am not going to be subject to you [and to take your case].’

[QQ] “For it is said, ‘You shall not be afraid before man, for judgment is God’s’ (Deut. 1:17)” [T. San. 1:7].

[II:7 A] Said R. Joshua b. Qorha, “[How do we know that] if one was sitting before a judge and knew something for the case of the poor man and something against the case of the rich man, you are not free to keep silent?

[B] “Scripture says, ‘You shall not be afraid before man, for judgment is God’s’ (Deut. 1:17).

[C] “Do not hold back what you have to say because of man” [T. San. 1:8].

[II:8 A] The judges should know Whom they judge, and before Whom they judge, and Who it is Who judges with them.

[B] And the witnesses should know about Whom they give testimony, and before Whom they give testimony, and with Whom they give

testimony, and Who it is Who is a witness with them. It is He who spoke and brought the world into being,

[C] since it is said, “Then both the men between whom the controversy is shall stand before the Lord” (Deut. 19:17).

[D] And it is said, “God stands in the congregation of God and in the midst of judges he judges” (Ps. 82:1).

[E] And so does Jehoshaphat say to the judges, “Consider what you do, for you judge not for man but for God” (2 Chron. 19:6).

[F] Now is it possible for mortal man to judge his creator?

[G] But the Holy One, blessed be He, said, “It was I who declared [on the New Year] that Reuben should have a hundred *denars*. and that Simeon should have nothing. Yet you have taken them from this one and [in false judgment] hand them over to that one! It is my task to pay him and to exact payment from that man [who causes a miscarriage of justice].”

[H] It was taught: Rabban Simeon b. Gamaliel says, “Just as judgment is by three [judges], so arbitration is by three arbitrators.

[I] “The force of arbitration is greater than the force of a court decision.

[J] “How so?

[K] “Two who made a judgment have the power to retract. Two who effected an arbitration do not have the power to react” [T. San. 1:9].

[III:1 A] “Cases involving him who rapes, seduces, [and brings forth an evil name, by three judges, “ the words of R. Meir. And sages say, “He who brings forth an evil name is tried before twenty-three, for there may be a capital case].”

[B] *R. Mana said, “The dispute concerns a betrothed maiden. [If she is found guilty,] R. Meir says, ‘She loses the right to collect her marriage settlement on the decision of a court of three judges, and she is put to death by stoning on the decision of a court of twenty-three.’ And sages say, ‘in the same court in which she is condemned to death by stoning, there she is sentenced to the loss of the right to collect her marriage settlement.’*

[C] “But as to one who brings forth an evil name, all parties concur that in the same court in which perjurers are sentenced to death by stoning,

there the husband is condemned to be flogged and to pay a hundred *selas*. [So the Mishnah rule refers not to the court which will try the man, but to the one which will try the woman. The husband's trial is both separate and later. First comes that of the woman, and her trial court is what is subject to discussion. Meir surely could not refer to a case of seduction, in which case the woman is on trial for her life.]”

- [D] *Said to him R. Yosé b. R. Bun, “Lo, the Mishnah pericope has been taught with its own division, and you divide it in your own way. Rather, [as the layout of M. makes clear,] the division of opinion [between R. Meir and sages] concerns one who brings forth an evil name. R. Meir maintains, ‘The husband is sentenced to flogging and to pay a fine of a hundred selas by a court made up of three judges. If witnesses [are on trial for perjury in such a case], they are sentenced to death by the decision of a court of twenty-three judges.’ And sages teach that in the court in which the witnesses are sentenced to death by stoning, there the husband is tried for the penalty of flogging and for paying a fine of a hundred selas.*
- [E] “But as to a betrothed maiden, all parties concur that in the court in which she is tried on the count of stoning, there she is tried on the count of losing the claim of her marriage settlement.”
- [F] *Now the view of R. Mana is in accord with the opinion of R. Zeira, and the opinion of R. Yosé b. R. Bun is in accord with the opinion of R. Abbahu. [That is, there is a parallel to the dispute concerning whether the trial of the accused and that of the perjured witnesses takes place before an equivalent court, or whether there will be different courts for the different cases, one of three, the other of twenty-three, as the prospective penalty will require. This is as follows:]*
- [G] R. Abbahu raised the question, “As to an ox which is brought to trial under penalty of stoning, in accord with the view of R. Meir should the owner be sentenced to pay the monetary fine by the decision of a court of three judges and the ox be sentenced to stoning by the decision of a court of twenty-three?”
- [H] Said to him R. Yosé b. R. Bun, “The trial of an ox which is to be stoned is wholly a matter of a property claim. But the Scripture’s decree is that it should be stoned [and consequently, the court should consist of only three judges, and that is for a trial on both counts, compensation and stoning].”

1:2

- [A] (5) [Cases involving the penalty of] flogging [Deut. 25:2-3] are [tried] before [a court made up of] three judges.
- [B] In the name of R. Ishmael they said, “Before twenty-three.”
- [C] (6) [The decision to] intercalate the month is before three.
- [D] (7) “[The decision to] intercalate the year is before three,” the words of R. Meir.
- [E] Rabban Simeon b. Gamaliel says, “With three do they begin, with five [more] they debate the matter, and they reach a final decision with seven [more] [judges].
- [F] “But if they reached a decision [to intercalate the year] with three judges, [the year is] intercalated.”
- [G] (8) “The laying of hands [on a community sacrifice] by elders and the breaking of the heifer’s neck [Deut. 21:1-9] are done by three judges,” the words of R. Simeon.
- [H] R. Judah says, “By five.”
- [I] (9) The rite of removal of the shoe [breaking the levirate bond] (Deut. 25:7-9) and the exercise of the right of refusal are done before three judges.
- [J] (10) [The evaluation of] fruit of fourth-year plantings [which is to be redeemed [(Lev. 19:23-25)] and of second tithe (Deut. 14:22-26) whose value is not known is done before three judges.
- [K] (11) Assessment of the value, [for purposes of redemption,] of things which have been consecrated is done before three judges.
- [L] (12) [Property pledged as security for] vows of valuation, in the case of movables, is evaluated by three [judges].
- [M] R. Judah says, “One of them must be a priest.”
- [N] And [evaluation of property pledged as security for vows for valuation] in the case of real estate is done by nine and a priest.
- [O] And so for [the valuation-vow covering] men.
- [P] (1) Cases involving the death penalty are judged before twenty-three judges.
- [Q] (2) The beast who commits or is subjected to an act of sexual relations with a human being is judged by twenty-three,
- [R] since it is said, “And you will kill the woman and the beast” (Lev. 20:16).
- [S] and it says, “And the beast you will slay” (Lev. 20:15).

[T] (3) An ox which is to be stoned is judged by twenty-three,

[U] since it is said, “And the ox will be stoned, and also its master will be put to death” (Ex. 21:29).

[V] Just as [the case of the master], leading to the death-penalty, [is adjudged], so is the [case of] the ox, [leading to] the death-penalty.

[W] The wolf, lion, bear, panther, leopard, and snake a capital case affecting them is judged by twenty-three.

[X] R. Eliezer says, “Whoever kills them first acquires merit.”

[Y] R. Aqiba says, “Their capital case is judged by twenty three.”

[I:1 A] *R. Abbahu raised the question* [with regard to the view of Ishmael that cases involving flogging are to be before not three judges but twenty-three, M. 1:2B], whether [the reason of Ishmael] might be that cases involving the penalty of flogging are before twenty-three judges, since there are occasions on which the convicted party may die from the flogging.

[B] On this account, lo, there is a capital crime [under judgment, hence requiring twenty-three judges].

[II:1 A] *Bar Qappara derived [the Scriptural basis] for all of the [number of judges required to intercalate the year, in Simeon b. Gamaliel’s opinion, M. 1:2E-F], from the following:*

[B] “‘May the Lord bless you and keep you’ (Num. 6:24) – on this basis, we learn that they begin the process of intercalating the month with a court of three judges.

[C] “‘The Lord make his face to shine upon you and be gracious to you’ (Num. 6:25) – on this basis, we learn that they discuss the matter among five judges.

[D] “‘The Lord lift up his countenance upon you and give you peace’ (Num. 6:26) – on this basis, we learn that they complete the transaction with seven judges.”

[E] *R. Joshua b. Levi derived [the Scriptural basis] for all of the [number of judges required to intercalate the year, in Simeon b. Gamaliel’s opinion, M. 1:2E-F], from the following:*

[F] “‘And the captain of the guard took the three keepers of the threshold,’ (2 Kings 25:18) – on this basis, we learn that they begin with three judges.

[G] “‘And five men of the king’s council,’ (2 Kings 25:19) on this basis, we learn that they discuss the matter with five.

[H] “‘And the captain of the guard took seven men of the king’s council’ (Jer. 52:24-25) – on this basis, we learn that they complete the transaction with seven judges.”

[I] Said R. Jonathan, “On the following basis, we learn that the great Sanhedrin for the entire people of Israel [is made up of seventy judges]:

[J] “‘And the captain of the guard took Seraiah, the chief priest, and Zephaniah, the second priest’ (Jer. 52:24) two;

[K] “‘and seven men of the king’s council’ (Jer. 52:25) – nine;

[L] ‘and sixty men of the people of the land’ (Jer. 52:25) – seventy, except for one;

[M] “‘and from the city he took an officer’ (Jer. 52:25) – seventy.”

[N] *Now there is a Tannaite authority who teaches that the court is made up of seventy-one:*

[O] “And the captain of the guard took the three keepers of the threshold”; “and seven men of the king’s council”; “and sixty [18c] of the men of the people of the land” (Jer. 52:25); “and from the city he took an officer” (Jer. 52:25) – seventy-one.

[P] Now why do they call [the officer] one who has been cut [“eunuch”]?

[Q] For he cuts deep into the heart of the law.

[R] We notice that one verse refers to five men of the king’s council (2 Kings 25:19), and another verse refers to seven men of the king’s council (Jer. 52:25).

[S] The latter makes provision also for the scribes of the judges.

[II:2 A] [When the month is intercalated on the thirty-first day,] in fact there is no intercalation of the month [there being no proclamation to that effect, but merely] the sanctification of the new month.

[II:3 A] Samuel said, “The sanctification of the new month takes place in an assembly of no fewer than ten.”

[B] Associates [of the court, that is, apprentice judges] – what is the law as to their being counted for the sanctification of the new month?

- [C] *R. Hoshaiah said, “When I was an apprentice, R. Samuel bar R. Isaac brought me in for the sanctification of the new month, but I do not know whether [in court] I counted in the required number or not.”*
- [D] *It is self-evident that he did not count [since if he did, he would have known].*
- [E] *What the reason was [is at issue].*
- [F] *Is it because he was [Samuel’s] son-in-law [and therefore a relative and not suited to sit on the same court]? Or is it because apprentices do not enter into the court of those required for the sanctification of the new month?*
- [G] *Said R. Kahana, “I was an apprentice, and R. Tanhum bar Hiyya brought me up for the sanctification of the new month, and I did count toward the required number.”*
- [H] *This indicates that apprentices do enter into the count of those required for the sanctification of the new month.*
- [I] *What is the law as to including apprentices in the count of those required for the intercalation of a new month into the year?*
- [J] *Let us derive the answer to that question from the following.*
- [K] *An incident happened with Rabban Gamaliel who said, “Let them call for me seven elders to the upper room. But eight came in.”*
- [L] *He said, “Who is the one who came in without permission?”*
- [M] *Samuel the Small arose and said, “I came in without permission. I had need of asking a question about a matter of law, so I came in to ask about it.”*
- [N] *Rabban Gamaliel said to him, “Now as to Eldad and Medad, whom all Israel knows that they are two, I have said that you are one of them [and of their status, so surely you are worthy to intercalate the years].”*
- [O] *Nonetheless, in fact they did not intercalate the year that day. The reason is that they differed on laws connected with the right, and so they intercalated the year on the following day.*

[II:4 A] *It was taught:* A Sanhedrin which witnessed someone commit a murder –

- [B] *there is a Tannaite authority who teaches:* Two serve as witnesses and give testimony before the remainder [of the court].
- [C] *There is a Tannaite authority who teaches:* All of them are witnesses and give testimony before [a court made up of] others.
- [D] R. Judah bar Pazzi in the name of R. Zeira: “Just as they differ in this case, so they differ in regard to witnessing the new moon [if the entire court witnessed the new moon].”
- [E] [*The reason that the latter authority rejects having the court serve as judges is that*] one party may stand up [and give testimony] and take his seat, and another may do the same [so that the court in fact serves as both witness and judge].
- [F] But the present case [of witnessing the new moon] is different, for in any event a witness cannot serve as a judge.
- [G] [*Parallel to these matters,*] R. Huna knew evidence in the case of a certain man. The man came to judgment before R. Huna and denied [the claim of the other, even while R. Huna had evidence in behalf of that claim].
- [H] Said R. Samuel bar R. Isaac, “Since you know that R. Huna is a great man, you deny [the case concerning which he has contrary testimony].
- [I] “What is the law as to his going and giving testimony concerning you before a different court?”
- [J] Said to him R. Huna, “And do they do such a thing?”
- [K] He answered him, “Yes.”
- [L] Then R. Huna exempted himself from that case and went and gave evidence [in that case] before another court.
- [II:5 A] R. Simeon b. Yohai taught, “‘And you will sanctify the fiftieth year’ (Lev. 25:10). Years do you sanctify, and not months.”
- [B] *And have we not learned [in the following Mishnah]: The head of the court declares, “It is sanctified”?* (M. R.H. 2:7A).
- [C] What is the meaning of “it is sanctified”? It is confirmed [without the court’s declaration].
- [D] *It was taught: “For the sanctification of the month, they begin with the senior member of the court”* [= T. San. 7:2].

[E] *Said R. Hiyya bar Ada, “The Mishnah itself has said the same: ‘The head of the court declares, ‘It is sanctified.’”*

[II:6 A] *It was taught: For the intercalation of the year, they begin [with the opinion of] the one sitting on the side.*

[B] *Said R. Zebida, “But that household below [the patriarchate] is not accustomed to do so.”*

[C] *Now has [that household] not heard that which R. Hiyya bar Mareh, R. Jonah, R. Ba bar Hiyya in the name of R. Yohanan, have said: “For the intercalation of the month they begin from the senior judge. For the intercalation of the year, they begin from the side”?*

[D] *Now, further, R. Yohanan entered the court, and he was the youngest of all of them. They said to him, “Say, ‘Lo, the year is sanctified in its intercalation.’ He said, ‘Lo, the year is sanctified in its intercalation.’”*

[E] *Said R. Jonathan, “Notice the language which the son of the blacksmith [Yohanan] has taught us. If he had said ‘in its fullness,’ I should have said that the reference is to the eleven days by which the solar year is longer than the lunar year. But by saying ‘in its intercalation,’ he indicates that the sages have added thirty days to the year.”*

[F] *R. Jacob bar Aha, R Yosa in the name of R. Yohanan: “For purposes of intercalation, they follow the order in which judges were appointed [to the court].*

[G] *“For purposes of [study in] the meetinghouse, they follow the order of those who are better able [to teach the law].”*

[H] *And that is the case when everyone has the power to speak in his own place and to complete [his statement in sequence after the one who spoke before him].*

[I] *For instance: R. Haninah opened the discourse, R. Yohanan and R. Simeon b. Laqish completed it. R. Ba bar Zabedi opened the discourse, R. Yosa and R. Ammi completed it. R. Haggai opened the discourse, R. Jonah and R. Yosé completed it.”*

[J] *R. Kahana was appointed [to the court] before R. Jacob bar Aha, but R. Jacob bar Aha came in before him for purposes of the vote on intercalation.*

[K] *[Kahana] said, “So the master responsible for the teaching [that they follow the order in which they were appointed to the court (K)], does not carry it out?!”*

- [L] *R. Hiyya bar Va was standing and saying his prayer. R. Kahana came in and stood behind him and prayed. R. Hiyya completed the prayer but could not take his seat because he did not want to pass in front of the other [who was still praying]. R. Kahana began to tarry at his prayer. Once he finished, the other said to him, “Is that your (pl.) customary behavior, to cause trouble for your master?”*
- [M] *He said to him, “Rabbi, I come from the house of Eli, concerning whom it is written, ‘Therefore I swear to the house of Eli that the iniquity of Eli’s house shall not be expiated by sacrifice or offering for ever’ (1 Sam. 3:14). That is to say, through sacrifice and offering it will not be expiated, but it will be expiated through prayer.”*
- [N] *He prayed in his behalf, and the latter had the merit of living so long that his fingernails turned red like those of an infant.*
- [O] *They gave an old man precedence over R. Simeon b. Laqish in the intercalation of the year [who was unworthy of that privilege], and [at the end] they removed him from their gate. [Simeon] said, “Thus may be their reward [that is, it serves them right, that they put that unqualified man in before me].”*
- [P] *Now did they not hear that account which R. Qeripeseda told in the name of R. Yohanan:*
- [Q] *M’S H W: Three herdsmen intercalated the year [so why did the court expel the unqualified elder?].*
- [R] *One of them said, “[If] the early and late sowing sprout together, [the month is Adar].”*
- [S] *One of them said, “[If the morning] frost is strong enough to kill an ox, but at noon the ox [lies] in the shade of the fig tree and scratches its hide, [then it is Adar. If not, it is not Adar].”*
- [T] *One of them said, “[When the strong] east wind is blowing and your breath can overcome it, [it is Adar. If not, it is not Adar].”*
- [U] *Now we see that, in that particular year, none of these signs was discerned, yet they intercalated the year by reason of [the herdsmen’s] statements.*

[V] Said R. Helbo, “Now did the court [actually] concur with their [decision]?”

[W] “And did not R. Zeira say, ‘[And the rule that intercalation is called for] applies when all [judges] concur on a single ground [for invoking intercalation, and not for three distinct reasons]’?”

[X] *Since each [set of signs of intercalation] coincided with the others, it was as if all of them concurred on the basis of a single ground [for the intercalation].*

[Y] *[Returning to the point at which we began, namely, R. Simeon b. Laqish’s pique at being excluded from the court by the presence of an unqualified person,] why is it that R. Simeon b. Laqish took umbrage at such a matter?*

[Z] *He scrupled concerning that which R. Eleazar said, for R. Eleazar said, “My hand shall be against the prophets who see delusive visions and who give lying divinations; [they shall not be in the council of my people, nor be enrolled in the register of the house of Israel, nor shall they enter the land of Israel]’ (Ez. 13:9).*

[AA] “‘They will not be in the council of my people’ – this refers to intercalation.

[BB] “‘Nor be enrolled in the register of the house of Israel’ – this refers to appointment [to a court].

[CC] “‘Nor shall they enter the land of Israel’ – this refers to the Land of Israel.”

[DD] *R. Eleazar, when he came up here [from Babylonia to the Holy Land], he said, “Lo, I have [attained] one [of the specified rights in Ezekiel’s statement].”*

[EE] *When they appointed him [to a court], he said, “Lo, I have attained the second.”*

[FF] *When he joined the court for the purpose of intercalation, he said, “Lo, I have attained the third.”*

[II:7 A] **[R. Eliezer b. Sadoq says, “If the moon did not appear at its proper time, they need not declare it sanctified, since Heaven already has sanctified it” (M. R.H. 2:7)].** R. Ba bar Zabeda in the name of Rab: “The reason for the opinion of R. Eliezer b. R. Sadoq is

[that] when the court above sees that the court below sanctify the month, they too sanctify it.”

[B] R. Eliezer in the name of R. Hanina: M'SH B: Twenty-four villages' [representatives], from the domain of Rabbi, came together to intercalate the year in Lud. The evil eye entered them, and all of them died on a single occasion. From that time they removed the intercalation of the year from Judah and permanently established the rite in Galilee.

[C] *They considered removing even the declaration [of the intercalation, from Judea to Galilee].*

[D] Said to them R. Simon, “Shall we then not leave in the land of Judea even a memorial [to the rite]?”

[E] And lo, we find that they declared the year to be sanctified in Baalat [in Judea].”

[F] *Now as to that town of Baalat – sometimes it is included in the frontiers of Judea, and sometimes in Dan. Specifically: Alteqa, Gibaton, and Baalat, lo, they belong to Dan. Baalah, Iyyim, and Esem, lo, they belong to Judea.*

[G] Now, lo, do we not find that they sanctified the year in Baalah?

[H] *One must say, the houses are in the territory of Judea, but the fields are in the territory of Dan.*

[I] *R. Jeremiah raised the question before R. Zeira, “Now is not Lud itself in the territory of Judea [so why do they have to make reference to a precedent for the rite in some other location]?”*

[J] He said to him, “Yes.”

[K] “And on what account do they not intercalate [the year] in that town of Lud?”

[L] He said to him, “Because the people there are arrogant and ignorant of Torah.”

[M] *He turned around and saw [rabbis from Lud standing behind him, specifically,] R. [18d] Aha and R. Judah b. Pazzi.*

[N] *He said to him, “Now what have you done? You have treated rabbis discourteously.”*

- [II:8 A] On account of three signs do they intercalate the year, because of the [premature state of] the grain, because of the [condition of the] produce of the tree[s], and because of the lateness of the spring] equinox.**
- [B] On account of two of these they will intercalate the year, but on account of only one of them they will not intercalate the year.**
- [C] But if they declared the year to be intercalated, lo, this is deemed intercalated.**
- [D] If the premature state of the grain was one of them, they would rejoice.**
- [E] R. Simeon b. Gamaliel says, “Also on account of the [lateness of the spring] equinox” [T. San. 2:2].**
- [F] On account of [evidence of conditions in] three regions do they intercalate the year: Judea, TransJordan, and Galilee.**
- [G] On account of [evidence produced in] two of them they intercalate the year, but on account of [evidence deriving from only] one of them they do not intercalate the year.**
- [H] But if they declared the year to be intercalated, lo, this is [Y.: not] deemed intercalated.**
- [I] And if the land of Judea was one of the two regions, they would rejoice,**
- [J] because of the first fruits of grain which would [have to] come from there [for the altar] [T. San. 2:3].**
- [K] They do not intercalate the year by reason of cold or rain, and if they did intercalate the year on such an account, lo, it is not intercalated.**
- [L] They do not intercalate the year because [the season of the] kids, lambs, or pigeons has not yet come, or because of the condition of the sucking lamb.**
- [M] But in the case of all of them, they regard it as a support [for intercalating] the year.**
- [N] But if they declared the year to be intercalated [on the basis of their condition], lo, this is deemed intercalated [T. San. 2:4].**

[O] **R. Yannai says in the name of R. [Simeon b.] Gamaliel who said [in Aramaic], “The pigeons are tender and the spring lambs thin,**

[P] **“and it is proper in my view [and in that of my colleagues], so I have added thirty days to this year” [T. San. 2:5].**

[Q] *It was taught, R. Judah said: M'SH B: Rabban Gamaliel and sages were in session on the steps of the Temple.*

[R] **And Yohanan, that scribe, was before them.**

[S] **Rabban Gamaliel said to [Yohanan], “Write:**

[T] **“[In Aramaic:] ‘To our brethren, residents of the upper south and residents of the lower south, May your peace increase! We inform you that the time for the removal has come, to set apart the tithes from the sheaves of grain.’**

[U] **“[In Aramaic:] ‘To our brethren, residents of Upper Galilee and residents of Lower Galilee, May your peace increase! I inform you that the time for the removal has come, to set apart the tithes from the olive vats.’**

[V] **“[In Aramaic:] ‘To our brethren, residents of the Exile of Babylonia, and residents of the Exile of Media, and of all the other Exiles of Israel, May your peace increase! We inform you that the pigeons are still tender, the lambs are thin, and the spring-tide has not yet come. So, as it is proper in my view and in the view of my colleagues, we have added thirty days to this year” [T. San. 2:6].**

[W] **They intercalate the year only if the equinox is distant by the better part of a month.**

[X] **And how much is the better part of a month? Sixteen days.**

[Y] **R. Judah says, “Two thirds of a month, twenty-one days” [T. San. 2:7].**

[Z] *Said R. Samuel bar Nahman, “[The opinion stated at W-X] applies if the ‘omer [of new grain] is offered on the end of Nisan [that is, within Nisan] in which the day marking the passage of the seasons falls.”*

[AA] *Said R. Yosé, “Up to Passover. [The cited authority requires that the day marking the conclusion of the previous season be before Passover.]”*

[BB] Said R. Mattenaiah [with regard to R. Judah's opinion, Y, above], "And [Judah's rule] applies if one should take up the *lulab* [in celebration of Tabernacles] by the end of Tishré m which the day marking the passage of the seasons falls."

[CC] They do not intercalate the year by less than a month or by more than a month.

[DD] And if they intercalated it [by less or by more than a month], it is not deemed to have been intercalated [T. San. 2:8].

[EE] They do not intercalate the year either in the case of the Seventh Year or in the case of the year after the Seventh Year. And if they did so, lo, this is intercalated.

[FF] When are they accustomed to intercalate the year? In the year before the Seventh Year [T. San. 2:9].

[GG] *Said R. Zeira in the name of R. Abbahu, "This statement which has been made [that they do not intercalate the year in the Seventh Year] applies to the case before Rabbi permitted purchasing vegetables from abroad for use in the land. But once Rabbi had permitted purchasing vegetables from abroad for use in the land, there was no longer any difference between the Seventh Year and the other years of the septennate."*

[HH] [As to the statement, T. San. 2:9, that they do not intercalate the year in a time of famine,] R. Meir says, "Lo, Scripture says, 'And there came a man from Baal Shalisha, and he brought the man of God bread of the first fruits, twenty loaves of barley, and fresh ears of corn in his sack' (2 Kings 4:42). [And is it not so that there is no place in which the produce ripens earlier in the land of Israel than in Baal Shalisha? And even so, only that species which he had brought to the man of God had ripened. Is it possible that he brought it before the "omer had been offered (the sixteenth of Nisan, so allowing the consumption of the new year for the first time)? Scripture says, 'And he said, Give to the people, so

that they may eat' (2 Kings 4:43).] So it follows that the year was suitable for intercalation.

[II] “Now why did Elisha not intercalate it?

[JJ] “Because it was a year of famine, and the whole people was running around to the threshing floors” [T. San. 2:9].

[KK] *There is a Tannaite authority who teaches, They do not intercalate the year when there is uncleanness.*

[LL] R. Yosé says, “They do so. For so we find that Hezekiah the King intercalated the year when there was uncleanness, for it is said, ‘For a multitude of the people, even the men of Ephraim and Manasseh, Issachar and Zebulun, had not cleaned themselves, yet they ate the Passover otherwise than it is written. For Hezekiah prayed for them, saying, The good Lord pardon every one’ (2 Chron. 30:18)” [T. San. 2:10].

[MM] R. Simeon says, “Even though they intercalated the month of Nisan, treated as intercalated is only the month of Adar. [That is, they do intercalate by reason of uncleanness, but this is done only in Adar.]”

[NN] R. Simeon b. Judah says in the name of R. Simeon, “Hezekiah made the congregation celebrate a second Passover” [T. San. 2:11].

[OO] *There is a Tannaite authority who teaches:* “They do intercalate the year because of uncleanness.”

[PP] *There is a Tannaite authority who teaches:* “They do not intercalate the year [on that account].”

[QQ] *Now the one who says that they do not intercalate the year [on that account] derives proof for his position from [the cited verse].*”They ate the Passover not in accordance with what is written.” [So Hezekiah prayed for

forgiveness, because he had intercalated the year by reason of uncleanness.]

[RR] *And the one who says that they do intercalate the year [on account of uncleanness} how does he interpret [the cited verse], “Not in accordance with what is written”?* [Hezekiah prayed for forgiveness] because he had intercalated the year in Nisan, and they intercalate the year only in Adar.

[SS] *Now this view [that the year was intercalated by reason of uncleanness affecting the people prior to Passover] accords with that which R. Simon bar Zebid said, “The skull of Arnon the Jebusite they found beneath the altar [of the Temple].”*

[TT] “[For Hezekiah had prayed for them, saying, ‘The good Lord pardon every one who] sets his heart to seek God, [the Lord the God of his fathers, even though not according to the sanctuary’s rules of cleanness]” (2 Chron. 30:19) and to do and to teach in Israel ordinances and judgments.

[UU] [Now what is the meaning of this reference to “not according to the sanctuary’s rules of cleanness”?] R. Simon bar Zebid and R. Samuel bar Nahman –

[VV] *one said, “Even though he carried out any number [of deeds] for the sake of the cleanness of Holy Things, he did not fully carry out what is required for the cleanness of Holy Things.”*

[WW] *And the other said, “Even an those many good deeds which people do for the sake of the cleanness of Holy Things – one does not thereby carry out the obligation involved in attaining the cleanness of Holy Things.”*

[XX] It is written, “They began to sanctify on the first day of the first month, and on the eighth day of the month they came to

the vestibule of the Lord; then for eight days they sanctified the house of the Lord, and on the sixteenth day of the first month they finished” (2 Chron. 29:17).

[YY] Now is it not so that in a single day they were able to bum every idol which was there, [so why did it take so many days to clean and sanctify the Temple]?

[ZZ] Said R. Idi, “Because of the Chaldean idols which had been engraved with vermilion.”

[AAA] Six things did King Hezekiah do. In three of them [sages] agreed with him, and in three of them they did not agree with him.

[BBB] He dragged his father’s bones on a rope bier, he pulverized the brazen serpent, and he hid away the notebook of remedies and they agreed with him.

[CCC] He closed off the waters of Upper Gihon, he cut [the gold off] the doors of the Temple, and he intercalated the month of Nisan in Nisan itself [calling Nisan the second Adar after Nisan had already begun], and they did not agree with what he had done.

[II:9 A] They do not intercalate the year prior to the New Year, and if they did so, the year is not deemed intercalated.

[B] But if it is a matter of urgency [e.g., because people fear they will not be able to do so later], they do intercalate the year immediately after New Year.

[C] Nonetheless, intercalated is only the month of Adar [T. San. 2:7].

[D] Rabbi says, “Nisan has never been intercalated [that is, the new moon of Nisan has never been designated on the thirty-first day of Adar].”

[E] *And have not we learned:*

[F] [How so for the heave offering of sheqels?

- [G] **All public offerings are offered on the first of Nisan.]**
- [H] **If the new [sheqels] come on time, [(the public offerings) are offered (from beasts purchased from) the new (heave offering of the sheqels)].**
- [I] **And if not, they are offered (from beasts purchased) from the old (heave offering of the sheqels)] [T. R.H. 1:4 = T. Sheq. 2:7].** [The point is that the money for the purchase of the public offerings on the first of Nisan should come from newly contributed funds. Now if the new funds come in on time, they are used. The assumption then is that the money comes in on the thirtieth day, in which case that money is used for beasts to be offered on the next day. If they intercalated the month and treated the new moon of Nisan as the thirty-first day of Adar, the daily whole offering of that date would come from the newly contributed funds. If not, they would use the funds contributed in the prior year. What this set of rules indicates in any event is that there are occasions on which the new moon of Nisan will be celebrated on the thirty-first of Adar, and this is stated as, “If”]
- [J] [But that proves nothing. For it says,] “If it should come” But it never came in that way.
- [K] Rab said, “Tishré has never been intercalated [that is, beginning on the thirty-first day of Elul].”
- [L] *And have we not learned:* **[If a man slaughtered a heifer and divided it among purchasers on the first day of the eighth year,] if the month was intercalated, [the debt incurred by them who buy the meat is canceled; but if the month was not intercalated it is not canceled (M. Sheb. 10:2)].** [As above, I, this would indicate that it is possible that Tishré indeed was intercalated.]
- [M] [But that proves nothing. For it says,] “If it should come” But it never came in that way.
- [N] **Now when they sanctified the year in Usha, on the first day R. Ishmael b. R. Yohanan b. Beroqah passed [before the ark] and said it in accord with the view of R. Yohanan b. Nun.**
- [O] **Said Rabban Simeon b. Gamaliel, “That was not the custom which we followed in Yabneh.”**

[P] **On the second day R. Hanina, son of R. Yosé the Galilean passed [before the ark] and said the prayer in accordance with the opinion of R. Aqiba.**

[Q] **Then said Rabban Simeon b. Gamaliel, “Now that was the custom which we followed in Yabneh!” [T. R.H. 2:11].**

[R] *Now thus it is taught that they declared [the day] holy on the first and on the second [and this calls into question Rab’s statement that Tishré has never been intercalated].*

[S] R Zeira in the name of R. Hisdai: “That year things were miscalculated.”

[T] What is the meaning of “in the first,” and “in the second

[U] Raba in the name of Rab: “In the first year, in the second year.”

[V] *And has it not been taught: **They declared it sanctified on the first day on the second; day?** [So the above answer is impossible.]*

[II:10 A] [If the court] declared the month to be sanctified before its proper time or after its intercalation, is it possible that the month should be deemed sanctified?

[B] Scripture states, “[The appointed feasts of the Lord] which [you shall proclaim as holy convocations, my appointed feasts, are these]” (Lev. 23:2).

[C] That is, these are my appointed feasts, these others are not my appointed feasts. [So if one has sanctified the new month] prior to its proper time, on the twenty-ninth day, or after its intercalation, on the thirty-second day of the month, [it is not sanctified].

[D] Now how do we know that they in any event intercalate the year on account of those who dwell in Exile but have not yet reached their homes and so cannot carry out the Passover at the right time]?

[E] Scripture states, “Say to the people of Israel, The appointed feasts [of the Lord which you shall proclaim as holy convocations]” (Lev. 23:2).

[F] that is to say, “Declare appointed feasts in such a way that all Israelites may carry them out.”

[G] Said R. Samuel bar Nahman, “And that is so that the Israelites may reach the Euphrates River [en route home].”

[II:11 A] They intercalate the year only in Judah,

[B] and if they intercalated it [in Galilee], lo, it is deemed to have been intercalated.

[C] Hananiah of [19a] Ono gave testimony [before Rabban Gamaliel] that if they cannot intercalate the year in Judah, they intercalate the year in Galilee, and it is deemed to have been intercalated [T. San. 2:13].

[D] They do not intercalate the year abroad, and if they did so, it is not intercalated.

[E] *Now you see that* in Galilee they do not intercalate. So that they intercalate abroad [hardly seems likely].

[F] [The point is this]: In Galilee they do not intercalate the year. And if they did so, it indeed is intercalated. Abroad they do not intercalate, and if they did so, it is not intercalated.

[G] [This rule applies] when they are able to intercalate in the Land of Israel.

[H] But if they are not able to intercalate in the Land of Israel, then they do intercalate the year abroad.

[II:12 A] Jeremiah intercalated the year abroad. Ezekiel intercalated the year abroad. Baruch b. Neriah intercalated the year abroad. Hananiah, nephew of R. Joshua, intercalated the year abroad.

[B] Rabbi sent him three letters with R. Isaac and R. Nathan.

[C] In one he wrote, “To his holiness, Hananiah.”

[D] And in one he wrote, “The lambs that you have left behind have become rams.”

[E] And in one he wrote, “If you do not accept our authority, go out to the thorny wilderness, and there you be the slaughterer [of the sacrifice], with Nehunyon, the sprinkler [of blood upon the altar].”

[F] *He read the first and did obeisance, the second and did likewise. But when he read the third, he wanted to disgrace the messengers.*

[G] *They said to him, “You cannot, for you have already treated us with honor.”*

[H] R. Isaac stood up and read in the Torah, “These are the festivals of Hananiah, the nephew of R. Joshua.”

- [I] He said, “‘These are the festivals of the Lord’ (Lev 23:4) [is what is written].”
- [J] *He replied, “They are with us, [and your calendar is not legitimate, because you have intercalated abroad, and that is not to be done].”*
- [K] R. Nathan arose and read in the prophetic passage, “For from Babylonia will Torah go forth, and the word of the Lord from Nehar Pegod.”
- [L] They said to him, “[It is written,] ‘For from Zion will Torah go forth, and the word of the Lord from Jerusalem’” (Is. 2:3).
- [M] *He said to them, “[The Torah is] with us. [Your decrees are not authoritative.]”*
- [N] *[Hananiah] went and complained about them to R. Judah b. Batera in Nisibis. He said to them, “‘After them after them’ [meaning, one must accept the authority of the majority].”*
- [O] *He said to him, “Do I not know what is over there? What tells me that they are masters of calculating [the calendar] like me? Since they are not so well informed as I am in calculating the calendar, let them listen to what I say.”*
- [P] *[He replied,] “And since they [now] are masters of calculation as much as you, you must listen to them.”*
- [Q] *He rose up and mounted his horse.*
- [R] *Places which he reached, he reached, [and there he retracted his intercalation,] and the ones he did not reach observed the holy days in error.*
- [S] It is written, “[These are the words of the letter which Jeremiah the prophet sent from Jerusalem] to the rest of the elders of the exiles” (Jer. 29:1).
- [T] Said the Holy One, blessed be He, “The elders of the exile are most valuable to me. [Yet] more beloved to me is the smallest circle which is located in the Land of Israel, more than a great Sanhedrin located outside of the land.”
- [U] It is written, “... and the craftsmen and the smiths, one thousand” (2 Kings 24:16) and you say this! [Namely, how can you say that the smallest circle in the Land is more beloved than the important Sanhedrin abroad? The craftsmen and smiths are assumed to be disciples of sages, and they are many and important in Babylonia.]

[V] R. Berekhiah in the name of R. Helbo and rabbis:

[W] R. Berekhiah in the name of R. Helbo said, “The craftsmen were one thousand, and the smiths one thousand in number.”

[X] And rabbis say, “All of them together added up to a thousand.”

[Y] R. Berekhiah in the name of Rabbi: “These are apprentices [to the courts].”

[Z] And rabbis say, “They are councillors.”

[II:13 A] R. Hoshaiah, when he would receive testimony [concerning the new moon] would do so very graciously. He would say to them, “You must realize how important is the testimony which you provide, how great a sum of money for rental of houses depends on your evidence.”

[B] *Said R. Abuna, “And if so, then even capital cases [depend on the testimony of the witnesses to the new moon].*

[C] “[For example:] In the case of a girl three years and one day old, if someone has sexual relations with her [if she is betrothed], lo, this one is subject to the death penalty by stoning. But if the court should decide to intercalate the month, and such a one should have sexual relationships with the same girl [now not yet three years and one day old], he is not subject to the death penalty by stoning.”

[D] Said R. Abin, “‘I cry to God Most High, to God who fulfills his purpose for me’ (Ps. 57:2). As to a girl three years and one day old, if the court decides to intercalate [the month or the year], the signs of virginity return, and if not, the signs of virginity do not return.”

[III:1 A] **“The laying of hands [on a community sacrifice] by elders and the breaking of the heifer’s neck are done by three judges,” the words of R. Simeon. R. Judah says, “By five” [M. San. 1:2G-H].**

[B] *What is the Scriptural basis for the opinion of R. Simeon? [Scripture specifies,]*

[C] “And [the elders] shall lay on hands” (Lev. 4:15). So there are two [elders], and since there cannot be a court with an even number of judges, they add to their number one more, lo, three.

[D] *What is the Scriptural basis for the position of R. Judah?*

[E] “And (they) shall lay hands” – two.

[F] “... the elders” – two.

- [G] There cannot be a court with an even number of judges, so they add one more to their number, lo, five in all.
- [H] *Now with reference to the heifer whose neck is broken, what is the Scriptural basis for the position of R. Judah?*
- [I] [“... then your elders and your judges shall come forth” (Deut. 21:2).]
- [J] “Your elders” are two, and “your judges” are two, and there cannot be a court with an even number of judges, so they add one more to their number, lo, five in all.
- [K] *And what is the Scriptural basis for the position of R. Simeon?*
- [L] “Your elders and your judges” are two, and there cannot be a court with an even number of judges, so they add to their number yet one more, lo, three.
- [M] Said Rabbi, “The opinion of R. Judah appears preferable in the case of the heifer whose neck is broken, *for he does not effect an exegesis for ‘And they shall go forth’* And the opinion of R. Simeon appears preferable in the case of laying hands on a sacrificial beast, *for he does not effect an exegesis for ‘... and (they) ‘shall lay hands’*”
- [N] *If you say that the position of R. Judah is preferable in the case of the heifer whose neck is broken, then, just as he effects an exegesis for “... and they will lay hands,” let him effect an exegesis for “... and they will go forth”*
- [O] Then it will turn out that you will say, “And they will go forth” – two.”Your elders,” two, and “your judges,” two. There cannot be a court with an even number of judges, so they add one more – lo, seven in all.
- [P] How does R. Simeon interpret the language, “Your elders and your judges”?
- [Q] This refers to “your elders” who also are your judges.
- [R] *It was taught:* R. Eliezer b. Jacob said, ““Your elders’ – this refers to the high court. ‘And your judges’ – this refers to the king and high priest.”
- [S] It was taught: Ordination (SMYKWT) requires three judges.
- [T] Is not laying on of hands (SMYKH) the same as ordination (SMYKWT)?

[U] There [in Babylon] they call appointment to a court “ordination.”

[V] Said R. Ba, “At first each one would appoint his own disciples [to the court]. For example, R. Yohanán b. Zakkai appointed R. Eliezer and R. Joshua; R. Joshua appointed R. Aqiba; and R. Aqiba, R. Meir and R. Simeon.”

[W] He said, “Let R. Meir take his seat first.”

[X] R. Simeon’s face turned pale.

[Y] R. Aqiba said to him, “Let it be enough for you that I and your Creator recognize your powers.”

[III:2 A] They went and paid honor to “this house” [the patriarchate].

[B] They made the rule, “A court which made an appointment without the knowledge and consent of the patriarch – the act of appointment is null.

[C] “And a patriarch who made an appointment without the knowledge and consent of the court – his appointment is valid.”

[D] They reverted and made the rule that the court should make an appointment only with the knowledge and consent of the patriarch, and that the patriarch should make an appointment only with the knowledge and consent of the court.

[IV:1 A] [*With regard to M. 1:2I,*] *it was taught:* **At first they would write a deed of halisah: In session of Mr. So-and-so and Mr. Such-and-such, Mrs. So-and-so, daughter of Mr. So-and-so, carried out the rite of halisah with Mr. So-and-so, son of Mr. So-and-so, in our presence. She came before us, removed his sandal from his right foot, spat before him a drop of spit which could be seen by us on the ground, and stated, “Thus will it be done to the man who does not build the house of his brother” Deut. 25:9 [= T. Yeb. 12:15].**

[B] [*With regard to M. 1:2I,*] *it was taught:* **At first they would write a document of the exercise of the right of refusal: In the presence of Mr. So-and-so and Mr. Such-and-such, Mrs. So-and-so, daughter of Mr. So-and-so, effected the right of refusal of Mr. So-and-so, son of Mr. So-and-so. In our presence [she stated], “I do not want him. I will not stay with him. I do not want to be married to him” [= T. Yeb. 13:1].**

[V:1 A] [*With regard to M. San. 1:2J, K,*] said R. Yohanán: “A consecrated item which one had redeemed for more than its true value – lo, this is

redeemed. But produce in the status of second tithe which one has redeemed for more than its true value – lo, this is not redeemed.”

[B] What is the difference between that which has been consecrated and produce in the status of second tithe?

[C] Said R. La, “For that which has been consecrated, there is a demand, while for produce in the status of second tithe, there is no demand.”

[D] *R. Jonah raised the question, “This reason is valid from the viewpoint of one who said that it is not in the status of the man’s property. But in accord with the opinion of the one who says, ‘It is indeed in the status of the man’s property,’ what is the difference between that which has been consecrated and that produce in the status of a second tithe?”*

[E] Said R. Yosé, “Now has the answer not been given already: ‘For that which has been consecrated there is a demand, while for produce in the status of second tithe there is no demand’!”

[F] *R. Zeira raised the question before R. Ammi, “If we should examine that man, if he should say, ‘That was not my intent,’ what is the law?”*

[G] He said to him, “When he is examined, [we accept what he says, but if he is not examined, we invoke the stated criterion] .”

[H] Said R. Yohanan, “A consecrated object which one has redeemed, and for which one did not add the required added fifth – lo, this is deemed redeemed. But as to produce in the status of second tithe which one redeemed and for which one did not add the added fifth, lo, it is not deemed to have been redeemed.”

[I] What is the difference between produce in the status of second tithe and a consecrated object?

[J] Said R. La, “For it is common for a man to be generous about things which he has consecrated.”

[K] *R. Jonah raised the question: “Now that answer is from the viewpoint of the one who said that it is not in the status of the man’s own property. But in accord with the one who said that it is in the status of one’s own property, what is the difference between a consecrated object and second tithe?” [That is to say, if one says that second tithe belongs*

to the Most High, then on that account the man did not add the fifth, so as not to increase the amount of funds which must be spent in Jerusalem. But if one says that the produce in the status of second tithe, belongs to the farmer, why should he not add the money? Whatever he gave is for the sake of redeeming the produce. The answer is the same:]

[L] Said R. Yosé, “Now have you not already stated a reason, that it is common for a man to be generous about things which he has consecrated?”

[VI:1 A] **[Assessment of the value [19b] for purposes of redemption] of things which have been consecrated is done before three judges (M. San. 1:3K). [Property pledged as security, for vows of valuation, in the case of movables. is evaluated by three judges and in the case of real estate it is done by nine and a priest (M. San. 1:2L-N). Note also M. Meg. 1:3J-K: And in the case of assessing the value for redemption of dedicated immovable property, the assessment is made by nine and a priest; in the case of the valuation vow of man, the law is the same.]**

[B] [Following the text supplied by PM:] *This rule [that we require for immovable property nine and a priest] applies* when one has consecrated his field itself.

[C] But if one has said, “The *value* of my field is incumbent upon me,” what is the law? [Do we invoke the analogy of the law covering valuations of movables, on the basis of his dedicating funds? Or do we deem the language to encumber actual real estate which must be assessed?]

[D] *Let us derive the law from the following: [Property pledged as security for] vows of valuation, in the case of movables, is evaluated by three judges (M. San. 1:2L).*

[E] Now, by definition, is there such a thing as valuation vows which do not cover movables? [Obviously not, since those vows, by definition, cover persons or movables. So the stated language covers a statement such as, “The value of my field is incumbent upon me.”]

[F] R. Jacob bar Aha, R. Simeon bar Va in the name of R. Haninah: “He who says, ‘My valuation is incumbent upon me,’ and one came to arrange for his [payment]: If from real estate – they assess the value in a court of ten. But if the valuation is to be paid from movables, it is with a court of three.”

[G] [From the foregoing statement, we draw the following inference:]
He who says, “My valuation is incumbent on me” is not in the status of him who says, “The valuation of my field is incumbent on me.”

[H] But if he said, “Lo, incumbent on me is a *maneh* for the sanctuary,” they assess [whatever he presents in payment] in a court of three.

[I] But if he should get rich, they assess him for all he can pay.

[VI:2 A] *It was taught:* Slaves, bonds, and movables are not subject to a deed of inspection [issued by a court announcing the sale of these items in order to attract bidders and so discover an exact market value for such items. Such a deed is issued to provide advance notice of the forthcoming auction, thirty days for property accruing to orphans, sixty days for property accruing to the sanctuary. But no such deed is announced in the stated types of property].

[B] R. Judah b. Pazzi said, “It is an announcement.”

[C] [The reason that these three items are not publicly advertised prior to auction,] Ulla bar Ishmael said, “is this: In the case of slaves, that they not flee; in the cases of bonds and movables, that they not be stolen [under the pretext of advance inspection].”

[D] *R. Ba bar Kahana raised the question before R. Yosé:* “Does this rule not imply that slaves are to be redeemed by the assessment of three judges [for slaves are in the status of movables in general, so that slaves will not hear they are to be sold, and so flee]?”

[E] He said to him, “Yes.”

[F] [He said to him,] “*And yet we have learned: Immovable property is assessed by nine and a priest, and in the case of man, the law is the same (M. San. 1:2N-O; M. Meg. 4:3J-K).* [So ten, not three, are required.]”

[G] *He said to him, “But here the reference is to a free man [who is subject to valuation, and not to a slave. A slave will be evaluated by three].”*

[H] [With reference to M. Ket. 11:SA-B, **If the estimate of the value made by judges was a sixth too little or a sixth too much, their act of sale is void. Rabban Simeon b. Gamaliel says. “Their act of sale is confirmed...,”** Hananiah bar Shelameh said in the name of Rab.] A case came before Rabbi,

and he considered applying the law in accord with the position of rabbis.

[I] “Said to him R. Eleazar b. Parta, son of the son of R. Eleazar b. Parta, ‘Rabbi! Did you not teach us in the name of your forefathers, *But if they issued a deed of inspection, [the sale is valid]?* [That is, Rabbi’s forefather, Simeon b. Gamaliel, took the position that whether or not there is a deed of inspection, the sale is valid. Rabbis’ position, then, is as stated.]’

[J] “He said to him, ‘Yes.’

[K] “And he retracted and decided the case in accord with the position of R. [Simeon b.] Gamaliel.”

[VII:1 A] Cases involving the death penalty are judged before twenty-three judges [M. San. 1:2P].

- [B] R. Abbahu asked, “As to an ox which is to be stoned, in accord with the opinion of R. Meir [who assesses with a court of three judges penalties involving fines], should the monetary fine be imposed by a court of three judges, but a decision as to stoning by a court of twenty-three judges?”
- [C] Said to him R. Yosé b. R. Bun, “A case of an ox on trial for stoning is wholly a case involving monetary damages. But it is Scripture’s decree that the ox should be stoned.”
- [D] Agentos the hegemon asked R. Yohanan b. Zakkai, “‘The ox will be stoned, and also its master will die’ (Ex. 21:29) – [what has the ox done to be liable to the death penalty]?”
- [E] He said to him, “The accomplice of a brigand is like a brigand [and also culpable].”
- [F] When he had left, his disciples said to him, “Rabbi, this one you drove away with a mere reed. But what have you got to say to us?”
- [G] He said to them, “It is written, ‘The ox will be stoned, and also its master will die.’ The death of the ox must be like the death of the master, for the death of the master is tied to the death of the ox.
- [H] “Just as the master is tried by a process of careful investigation of the testimony against him and in a court of twenty-three judges, so the death of the ox will come about through a trial characterized by careful investigation of the testimony against the ox and in a court of twenty-three judges.”

1:3

- [A] (1) They judge a tribe, a false prophet [Deut. 18:20], and a high priest, only on the instructions of a court of seventy-one members.
- [B] (2) They bring forth [the army] to wage a war fought by choice only on the instructions of a court of seventy-one.
- [C] (3) They make additions to the city [of Jerusalem] and to the courtyards [of the Temple] only on the instructions of a court of seventy-one.
- [D] (4) They set up sanhedrins for the tribes only on the instructions of a court of seventy-one.
- [E] (5) They declare a city to be “an apostate City” [Deut. 13:12ff.] only on the instructions of a court of seventy-one.
- [F] And they do not declare a city to be “an Apostate city” on the frontier,
- [G] [nor do they declare] three [in one locale] to be apostate cities,
- [H] but they do so in the case of one or two.

- [I:1 A] *One should take note of the following:* two individuals [namely, the false prophet and the high priest] are not judged [by an ordinary court]. Is it not an argument a *fortiori* that an entire tribe [should not be judged by an ordinary court, but only by one of seventy-one members]?
- [B] *Said R. Mattenaiah, “The Mishnah pericope refers to the patriarch of a tribe [and not a whole tribe, for that is an obvious fact]. [The point is that the patriarch of a tribe is judged only by a Sanhedrin with seventy-one members.]”*
- [C] *Said R. Eliezer, “The Mishnah speaks of a tract of forest between the territory of two tribes [and makes the point that, if there is a suit involving such territory, then even though it is a property case, it is settled by a court of seventy-one, just as, to begin with, the Land was divided up in accord with the instructions of such a court].”*
- [I:2 A] Said R. Zira, “‘Presumptuously’ [“The man who acts presumptuously, by not obeying the priest shall die” (Deut. 17:12)] is stated in one context, and ‘presumptuously’ [“But the prophet who presumes to speak a word in my name which I have not commanded him to speak, the prophet has spoken it presumptuously” (Deut. 18:20, 22)] is stated in another context.
- [B] “Just as in the reference to presumptuousness in the latter passage Scripture speaks of a false prophet, so in the reference to

presumptuousness in the former passage, Scripture speaks of a false prophet.”

- [C] Said R. Hezekiah, “‘Speaking’ is mentioned in the one context [‘According to the instructions which they give you, and according to the decision which they pronounce to you, you shall do’ (Deut. 17:11)], and later on it is stated, ‘... when a prophet speaks in the name of the Lord’ (Deut. 18:22).
- [D] “Just as in the latter usage Scripture speaks of a false prophet, so in the former instance, the same usage indicates that Scripture speaks of a false prophet.”

[II:1 A] They bring forth the army to wage an optional war only on the instructions of a court of seventy-one [M. San. 1:3B]. [They make additions to the city only on the instruction of a court of seventy-one [M. San. 1:3C].] [The following serves M Sheb. 2:2F: They add to the city and courtyards only on the instructions of the king and prophet, the Urim and Thummim, and the Sanhedrin of seventy-one members, with two thank offerings and singing. The court goes along with the two than. offerings behind them, and all the Israelites after them. The one offered inside is eaten, and the one offered outside is burned. And any area which is not treated wholly in this way (with the proper rites) – he who enters that area – they are not liable on that account.]

- [B] R. Judah says, “At the outset [of designating the holy Found of Jerusalem], ‘So David went up at Gad’s word’ (2 Sam. 24:19) – thus the king and prophet [of M. Sheb. 2:2].
- [C] “‘Then Solomon began to build the house of the Lord in Jerusalem on Mount Moriah, where the Lord had appeared [to David his father]’ (2 Chron. 3:1:3) – thus the Urim and Thummim.
- [D] “‘To David, his father’ – this refers to the Sanhedrin.
- [E] “‘Ask your father, and he will show you your elders, and they will tell you’ (Deut. 32:7) [this refers to consecrating the new territory] with song.
- [F] “‘And after them went Hoshaiah and half of the princes of Judah’ (Neh. 12:32) [this refers to the requirement of bringing] thank offerings.”
- [G] “And I appointed two great companies which gave thanks and went in procession. One went to the right upon the wall to the Dung Gate (Neh. 12:31).”

- [H] Said R. Samuel bar Yudan, “Why is it written, ‘moved in procession’ (MHLKWT), not ‘walked in procession’ (THLWKWT)? The meaning is that the thank offerings were carried by another person [and did not go on foot].”
- [I] *R. Huna bar Hiyya in the name of Rab derived from the Torah itself [proof that the king, prophet, Urim and Thummim, and Sanhedrin are required to add to the city]:* “According to all that I show you concerning the pattern of the tabernacle, and of all its furniture, so you shall make it” (Ex. 25:9).
- [J] “Thus you shall make it” – for generations to come.
- [K] “Moses stands for the king and prophet.
- [L] “And Aaron stands for the Urim and Thummim.
- [M] “‘And the Lord said to Moses, Gather for me seventy men of the elders of Israel’ (Num. 11:16) – this refers to the Sanhedrin.
- [N] “‘Ask your father and he will show you your elders, and they will tell you’ (Deut. 32:7) – [this refers to consecrating the new territory] with song.
- [O] “‘And after them went Hoshaiiah and half of the princes of Judah’ (Neh. 12:32) – [this refers to the requirement of bringing] thank offerings.
- [P] “‘And I appointed two great companies which gave thanks and went in procession. One went to the right upon the wall to the Dung Gate’ (Neh. 12:31).”
- [Q] Said R. Samuel bar Yudan, “Why is it written, ‘moved in procession’ and not, ‘walked in procession’? The meaning is that the thank offerings were carried by another person [and did not go on foot].”
- [R] How were they borne?
- [S] R. Hiyya the Elder and R. Simeon bar R. Rabbina – *one said*, “One opposite the other,” *and the other said*, “One behind another.”
- [T] Both of them interpret the same biblical verse: “The other company of those who gave thanks went to the left and I followed them” (Neh. 12:38).
- [U]] *The one who says* they came opposite one another [cites as evidence]: “They are dwelling opposite me” (Num. 22:5).

[V] *The one who says they came one after another* [cites as evidence]: “He shall wring its head from behind its neck” (Lev. 5:8).

[W] *The one who says that they came toward one another* maintains that it so happened that every place was atoned for with a single thank offering.

[X] *The one who said they came one after the other* maintains that it turned out that every place was atoned for through two thank offerings.

[Y] *The one who maintains that they came one after the other finds no difficulty in that which we have learned: **The inner one [nearest the court] is eaten, and the outer one is burned*** [T. San. 3:4E].

[Z] *But the one who maintains that they came toward one another* – which of the two thank offerings will be the inner one?

[AA] It is the one which is the nearer to the house [the Temple].

[BB] R. Yosa in the name of R. Yohanan: “At the instruction of a prophet is the thank offering [offered on the occasion of the consecration of the city] to be eaten.

[CC] Said R. Zira, “There we learn: ‘If the prophet is here, then what need have I for the Urim and Thummim?’”

[DD] *He found it taught:* R. Judah says, “There is need for Urim and Thummim.”

[II:2 A] *Said R. Abbahu, “R. Yohanan and R. Simeon b. Laqish differed.*

[B] “*One said, ‘First they build, then they consecrate.’*”

[C] “*The other said, ‘First they consecrate, then they build.’*”

[D] *As to the view of him who said, “First they build and then they consecrate”* – do they not regard the walls [of the Temple] as if they were burnt offerings [so how will it be possible to continue the building process once the Temple has been consecrated]?

[II:3 A] [If] they wished to add to the courtyards, with what [offerings] do they [commemorate] the additions?

[B] With two loaves of [leavened] bread.

- [C] And do they consecrate [Temple space] on a festival day? [Where will they get leavened bread?]
- [D] But: it is done with the show bread [after it is removed from the altar].
- [E] And do they consecrate on the Sabbath [when that bread is put out]?
- [F] But: it is done by night.
- [G] But do they consecrate by night?
- [H] Said R. Yosé b. R. Bun, “[They consecrate] with a meal offering which is baked in the oven [which may be eaten in the courtyard] .”
- [I] *This view is suitable* for the case in which they came up from the Exile, in which case they made an offering, and afterward they consecrated the Temple.
- [J] But when they entered the Land, how did they consecrate?
- [K] Said R. Yosé b. R. Bun, “With two thank offerings which come from Nob and Gibeon.”

[II:4 A] Abba Saul says, “There were two valleys in Jerusalem, a lower one and an upper one.

- [B] “The lower one was sanctified with all these procedures, but the upper one was not sanctified.**
- [C] “And when the Exiles came up, without a king, without Urim, without Thummim, in the lower one, which had been consecrated completely, the people of the land would eat Lesser Holy Things and second tithe, and associates would eat Lesser Holy Things but not second tithe.**
- [D] “And in the upper one, which had not been consecrated completely, the people of the land would eat Lesser Holy Things and not second tithe, while the associates [would eat] neither Lesser Holy Things nor second tithe.**
- [E] “And on what account did they not sanctify it? Because it was a weak point in Jerusalem, and it was easily conquered” [T. San. 3:4].**

[III:1 A] They set up sanhedrins for the tribes only [on the instructions of a court of seventy-one] [T. San. 1:3D].

[B] Scripture says, “[You shall appoint judges and officers in all your towns which the Lord your God gives you, according] to your tribes; and they shall judge the people” (Deut. 16:18).

[IV:1 A] They declare a city to be an apostate city, etc. (M. San. 1:3EH).

[B] *R. Yohanan in the name of R. Hoshaiiah: “There are three authorities [who differ in this regard].*

[C] *“One said, ‘One they do declare to be apostate, two they do not declare to be apostate’ (cf. M. San. 1:3F-H).*

[D] *“Another said, ‘Those that are contiguous they declare apostate cities, those that are scattered about they do not declare apostate cities.’*

[E] *“And the third said, ‘Those that are scattered they do not declare apostate cities at all, lest gentiles break in and enter the Land of Israel.’”*

[F] [19c] *And there is he who proposes to state, “Lest the enemy break in and it will come to depopulation.”*

1:4

[A] The great sanhedrin was [made up] of seventy-one members,

[B] and the small one was twenty-three.

[C] And how do we know that the great sanhedrin was to have seventy-one members?

[D] Since it is said, “Gather to me seventy men of the elders of Israel” (Nm. 11:16).

[E] Since Moses was in addition to them, [lo, there were seventy one.]

[F] R. Judah says, “It is seventy.”

[G] And how do we know that a small one is twenty-three?

[H] Since it is said, “The congregation shall judge, and The congregation shall deliver” (Num. 35:24, 25) –

[I] one congregation judges, and one congregation saves – thus there are twenty.

[J] And how do we know that a congregation is ten? Since it is said, “how long shall I bear with this evil congregation [of the ten spies]” (Num. 14:27) – excluding Joshua and Caleb.

[K] And how do we know that we should add three more?

[L] From the implication of that which is said, “You shall not follow after the many to do evil” (Ex:23:20), I derive the inference that I should be with them to do good.

[M] If so, why is it said, “After the many to do evil”?

[N] Your verdict of acquittal is not equivalent to your verdict of guilt.

[O] Your verdict of acquittal may be on the vote of a majority of one, but your vote for guilt must be by a majority of two.

[P] Since there cannot be a court of an even number of members [twenty-two], they add yet another – thus twenty-three.

[Q] And how many residents must there be in a town so that it may be suitable for a sanhedrin?

[R] One hundred-twenty.

[S] R. Nehemiah says, “Two hundred and thirty, equivalent in number to the chiefs of groups of ten [Ex. 18:21].”

[I:1 A] R. Ba, R. Yosa in the name of R. Yohanan: “Here it is stated, ‘Congregation’ (Num. 35:24, 25), and there it is stated, ‘How long shall I bear with this evil congregation’ (Num. 14:27).

[B] “Just as ‘congregation’ referred to at the latter point is made up of ten individuals, so ‘congregation’ referred to at the former likewise is made up of ten individuals.”

[C] Said R. Simon, “Here it is written, ‘within,’ [“And I shall be sanctified within the people of Israel” (Lev. 22:32),] and there it is written, ‘within,’ [“Thus the sons of Israel came to buy among (‘within’) the others who came” (Gen. 42:5)].

[D] “Just as ‘within’ stated in the latter context refers to ten, so ‘within’ stated in the former refers to ten.”

[E] *Said to him R. Yosa b. R. Bun, “If from the usage of ‘within’ you wish to derive the matter, then there are many usages of ‘within’ which refer to more than ten.*

[F] “But here (Lev. 22:32), ‘sons of Israel’ is mentioned, and elsewhere, ‘sons of Israel’ is mentioned. Just as ‘sons of Israel’ stated there, ‘And the sons of Israel came to buy’ (Gen. 42:5), refers to ten, so here the same language refers to ten.”

[II:1 A] *And how do we know that we should add three more, etc. [M. San. 1:4K]:*

[B] *It was taught: Said Rabban R. Simeon b. Gamaliel, “At first only priests, Levites, or Israelites suitable for marriage into the*

priesthood would sign as witnesses on the marriage contracts of women.”

- [C] Said R. Yosé, “At first there were dissensions in Israel only in the court of seventy in the hewn-stone chamber [in Jerusalem].
- [D] “And there were other courts of twenty-three in the various towns of the Land of Israel, and there were other courts of three judges each in Jerusalem, one on the Temple mount, and one on the Rampart.
- [E] “[If] someone needed to know what the law is, he would go to the court in his town.
- [F] (“[If] there was no court in his town, he would go to the court in the town nearest his.)
- [G] “If they had heard the law, they told him. If not, he and the most distinguished member of that court would come on to the court which was nearest to his town.
- [H] “If they had heard the law, they told them. And if not, they and the most distinguished member of that group would come to the court which was on the Temple mount.
- [I] “If they had heard, they told them, and if not, these and those would go to the high court which was on the Rampart.
- [J] “If they had heard, they told them, and if not, these and those would go to the high court which was in the hewn-stone chamber.”
- [K] For from there Torah spreads forth over all Israel, as it is said, “Then you shall do according to what they declare to you from that place which the Lord will choose” (Deut. 17:10).
- [L] “The court which was in the hewn-stone chamber, even though it consists of seventy-one members, may not fall below twenty-three.
- [M] “[If] one of them had to go out, he looks around to see whether there would be twenty-three left [after he departs]. If there would be twenty-three left he goes out, and if not, he does not go out –
- [N] “unless there would be twenty-three left.
- [O] “And there they remained in session from the time of the daily whole offering of the morning until the time of the daily whole offering at twilight.

- [P] **“On Sabbaths and on festivals they came only to the study house which was on the Temple mount.**
- [Q] **“[If] a question was brought before them, if they had heard the answer, they told them.**
- [R] **“If not, they stand for a vote.**
- [S] **“[If] those who declare innocent turn out to form the majority, they declared the man innocent. [If] those who declare guilty form the majority, they declared the man guilty.**
- [T] **“[If] those who declare unclean turn out to form the majority, they declared the matter unclean. [If] those who declare the matter clean form the majority, they declared the matter clean.**
- [U] **“From there did the law go forth and circulate in Israel.**
- [V] **“From the time that the disciples of Shammai and Hillel who had not served their masters so much as was necessary become numerous, dissensions became many in Israel.**
- [M] **“And from there they send for and examine everyone who is wise, prudent, fearful of sin, and good of repute, in whom people found pleasure.**
- [X] **(“They make him a judge in his town.)**
- [Y] **“Once he has been made a judge in his town, they promote him and seat him on the Rampart’s court, and from there they promote him and seat him in the court of the hewn-stone chamber.”**
- [II:2 A] **The Sanhedrin was arranged like the half of a round threshing floor so that all might see one another. [M. San. 4:3A]:**
- [B] **Said R. Eleazar b. R. Sadoq, “When Rabban Gamaliel sat in session in Yavneh, my father and his brother were at his right hand, and elders were at his left hand.”**
- [C] **And why does one sit at the right hand of an elder? Because of the honor due an elder [T. San. 8:1].**
- [II:3 A] **And how many are the judges of Israel? They are 78,600 [calculated as follows]:**
- [B] **Heads of thousands are six hundred.**
- [C] **Heads of hundreds are six thousand.**

- [D] Heads of troops of fifty are twelve thousand.
- [E] Heads of troops of ten are sixty thousand.
- [F] It thus turns out that the judges of Israel [heads of all units] are seventy-eight thousand six hundred.

[III:1 A] What is the reason of R. Nehemiah [who says, “Two hundred and them, equivalent in number to the heads of groups of ten”] [M. San. 1:4S].

- [B] It is so that there should be in the town a court of twenty-three judges [one out of ten male residents]: those who are on trial, the witnesses against them, witnesses capable of proving that the witnesses are perjurers, witnesses capable of proving that those witnesses themselves are perjurers, the chief of the court, their scribes, and a beadle.
- [C] And what is the reason of rabbis [who say that the town should have a minimum of one hundred twenty male residents]?
- [D] It is so that there should be twelve sanhedrins for the twelve tribes.

[IV:1 A] And Moses was in addition to them (M. San. 1:4E):

- [B] Moses carried out a wise arrangement when the Holy One, blessed be He, said to him, “Number all the first-born males of the people of Israel, from a month old and upward, taking their number by names. And you shall take the Levites for me instead of all the first-born among the people of Israel. And all the first-born males were twenty-two thousand two hundred and seventy-three. And for the redemption of the two hundred and seventy-three of the first-born of the people of Israel, over and above the number of the male Levites, you shall take five *shekels* apiece” (Num. 3:4-47, *pass.*).
- [C] He reflected, “Who will accept upon himself the burden of handing over five *shekels* a head?”
- [D] What did he do? He took twenty-two thousand slips and wrote on them, “Son of Levi.” And on two hundred seventy-three he wrote, “Five *shekels*.”
- [E] He put them into an urn.
- [F] He said to the people, “Come and take your slips.”
- [G] To whoever turned up in his hand, “Son of Levi,” he would say, “A son of Levi already has redeemed you.”

- [H] And to whoever turned up in his hand, “Five *shekels*,” he would say, “What can I do for you? It is from Heaven.”
- [I] *R. Judah and R. Nehemiah – one Tannaite authority said to his fellow* [complaining against this procedure]: “[Still there would be conflict, so:] ‘If you have written me as “Levi,” I would have succeeded.’ [That is, the two hundred seventy-three complained that if ‘Levi’ had been written, they would have succeeded in the drawing. Since only twenty-two thousand slips were marked, ‘Levi,’ they have lost out. So Moses did not succeed in avoiding conflict.]”
- [J] But thus did he do: He took twenty-two thousand slips and wrote “Levi” on each of them, and two hundred seventy-three and wrote on them, “Levi,” and on two hundred seventy-three, he wrote, “Five shekels.”
- [K] He then put them into the urn.
- [L] He said to them, “Come and pick your slip.”
- [M] To whoever turned up in his hand, “Levi,” he said, “Levi already has redeemed you.”
- [N] And to whoever turned up in his hand, “Five shekels,” he would say, “What can I do for you? It is from Heaven.”
- [O] *A second time one Tannaite authority objected to his fellow*: “Take note, for [what if] all of them came up, ‘Levi’!”
- [P] He replied, “It was a miracle, and the differently marked slips came up alternately.”
- [Q] *Said R. Samuel, “In the opinion of the latter Tannaite authority, it was a miracle. In the opinion of the former Tannaite authority, it was no miracle.”*
- [R] [*Abbahu*] *said to him, “In the opinion of all, the matter was miraculous, and they came up alternately.”*
- [S] Antoninus the *Hegemon* asked Rabban Yohanan ben Zakkai, “In general [when numbered all together] they were found wanting, but in detail [when added up one by one] they were found excessive.”
- [T] He said to him, “Those three hundred extras were the first-born sons of the priesthood, and the holy [that is, the first-born Levite] cannot redeem the holy [that is, the first-born non-Levite].” [This is spelled out at Num. R. 3:14, trans. J. J. Slotki, as follows: “At the command of the Lord, by their families, all males from a month old

and upward, were twenty and two thousand” (Num. 3:39). you will find that the tribe of Levi, in the detailed numbering, consisted of twenty-two thousand and three hundred. For there were three families – Gershon, Kohath, and Merari. Now if you take each family separately and compute the figures in it – seven thousand and five hundred for Gershon, eight thousand and six hundred for Kohath, six thousand and two hundred for Merari – the total for all amounts to twenty-two thousand and three hundred. Yet when the Levites were counted all together, their numbers are given as twenty-two thousand. Where were the three hundred? The detailed numbers were in fact given in order to make known how many there were in each family. But a sum total of twenty-two thousand, a reduction of three hundred from the real figure, is given because this numbering was in order to compare them with the number of first-born for the purposes of redeeming the first-born Israelites. He deducted from their number three hundred who were first-born belonging to the Levites, because one first-born cannot redeem another first-born. For this reason there are twenty-two thousand and three hundred in the numbering of the families, and twenty-two thousand in the total used for the redemption of the first-born Israelites.]

[U] Along these same lines: “And the Lord said to Moses, ‘Gather for me seventy men of the elders of Israel’” (Num. 11:16).

[V] Said Moses, “If I take six from each tribe, I shall have seventy-two in hand.

[W] “If I take ten from six tribes and two from five, which tribe will agree to be diminished in such a way?”

[X] What did he do?

[Y] He took seventy slips and wrote on them, “Elder,” and two he left blank, and he put them into an urn.

[Z] He said to them, “Come and pick your slip.”

[AA] To whoever turned up in his hand a slip marked, “Elder,” he would say, “They have chosen you in Heaven.”

[BB] And to whoever turned up in his hand a blank slip, he would say, “What can I do for you? It is from Heaven.”

[CC] *R. Judah and R. Nehemiah: One Tannaite authority objected to his colleagues, “[Moses did not succeed in*

avoiding strife. For the claim still could be made,] ‘If you had written “Elder” for me, I should have succeeded too.’

[DD] “But this is what he did. He took seventy-two slips and wrote on them, ‘Elder,’ and two blank ones, and he put them into an urn.

[EE] “He said to them, ‘Come and take your slip.’

[FF] “To whoever turned up in his hand a slip marked, ‘Elder,’ he said, ‘They have indeed chosen you in Heaven.’

[GG] “To whoever turned up in his hand a blank slip, he would say, ‘What can I do for you? It is from Heaven.’” [HH] Objected one Tannaite authority to his fellows: “But what if all of them came up marked, ‘Elder’?”

[HH] He said to him, “It was a miracle, and the ballots came up in alternate order [so that two blank ones were chosen].”

[II] *Said R. Samuel, “I argued before R. Abbahu, ‘In the opinion of the latter Tannaite authority, it was a miracle. In the opinion of the former Tannaite authority, it was no miracle.’”*

[JJ] He said to him, “It indeed was a [19d] miracle. They came up in alternate order.”

[IV:2 A] [The translation which follows is by Baruch A. Levine:] Antoninus the Hegemon engaged in polemics with Rabban Yohanan ben Zakkai: “Either your teacher Moses was an embezzler or he was inexpert in keeping accounts, for it is written, ‘[The silver of those of the community who were recorded came to one hundred talents and seventeen hundred seventy-five sheqels by the sanctuary weight] a half-sheqel a head [half a sheqel by the sanctuary weight, for each one who was entered in the records]’ (Ex. 38:25-26). Now if you reckon the centenarius as one hundred libras, Moses misappropriated one-sixth [of the silver], and if you reckon the centenarius at sixty libras, as is normal, he misappropriated one half.” [The regular talent was sixty minas, or fifteen hundred sheqels, or three thousand half-sheqels. Thus, the approximately six hundred thousand half-sheqels is equal to two hundred talents. But Scripture states that approximately one hundred talents were reported. Therefore half the silver was not reported.

At one hundred minas to the talent, the misappropriation would have amounted to one-sixth of the silver, since at that rate a talent was equal to twenty-five hundred sheqels, five thousand half-sheqels. Thus $100 \times 5,000 = 500,000$, which leaves the silver collected for 100,000 people unreported. For the population, see Ex. 38:26].

[B] Rabban Yohanan ben Zakkai replied, “Moses our teacher was a trustworthy treasurer and expert in keeping accounts. And,” he continued, “is it not written, ‘And the copper from the wave offering was seventy talents and twenty-four hundred sheqels’ (Ex. 38:29)? Observe that these twenty-four hundred sheqels amount to ninety-six libras. [One libra is twenty-five sheqels], and yet Scripture did not convert them into libras [which would have been convenient].” [This is taken as proof that these libras did not have the usual weight of twenty-five sheqels each, but twice that weight, which was the standard of the sanctuary. Otherwise they would have been converted. Now if the sanctuary weight was indeed twice the regular standards, Moses misappropriated nothing whatsoever.]

[C] To this the Hegemon countered, “[The reason Scripture did not convert the sheqels into libras is] that the centenarii do not amount to a talent. But if you insist that they do, [I maintain that Scripture was interested only in the round total of seventy talents and therefore did not convert the relatively small amount of twenty-four hundred sheqels]. Moses thus misappropriated half.” [At sixty libras per centenarius, twenty-four hundred sheqels would amount to one talent and nine hundred sheqels. At one hundred libras per centenarius, twenty-four hundred would not amount to a full talent, which would be twenty-five hundred sheqels.]

[D] Rabban Yohanan ben Zakkai replied, “Is it not written, ‘And of the one thousand seven hundred seventy-five [sheqels] he made hooks for the posts’ (Ex. 38:28)? You observe that these sheqels amount to seventy-one libras, yet Scripture reported them specifically as sheqels [and did not convert them into libras].”

[E] [The Hegemon repeated his earlier objection] saving to Rabban Yohanan ben Zakkai, “It is because the

centenani did not amount to a talent. Moses was [consequently] guilty of misappropriation.” [At one hundred libras per centenanus, twenty-five hundred sheqels would amount to a full talent, and here we have only one thousand seven hundred seventy-five.]

[F] Rabban Yohanan ben Zakkai argued further, “Is it not written, ‘The sheqel is twenty gerah, and twenty and twenty-five and fifteen shekels are one mina for your purposes’ (Ezek. 45:12)? The Holy One, blessed be He, ordained a talent of twice the regular weight.” [The usual mina (= libra) amounts to twenty-five sheqels, but the sanctuary weight of a mina in the Torah was fifty sheqels. In Ezekiel’s time, ten sheqels were added, making sixty.]

[G] The Hegemon finally conceded, “Verily, [Moses your teacher] was a trusted treasurer and expert in keeping accounts.”

YERUSHALMI SANHEDRIN

CHAPTER TWO

2:1

[A] A high priest judges, and [others] judge him;

[B] gives testimony, and [others] give testimony about him;

[C] performs the rite of removing the shoe [Deut. 25:7-9], and [others] perform the rite of removing the shoe with his wife.

[D] [Others] enter levirate marriage with his wife, but he does not enter into levirate marriage,

[E] because he is prohibited to marry a widow.

[F] [If] he suffers a death [in his family], he does not follow the bier.

[G] “But when [the bearers of the bier] are not visible, he is visible; when they are visible, he is not.

[H] “And he goes with them to the city gate,” the words of R. Meir.

[I] R. Judah says, “He never leaves the sanctuary,

[J] “since it says, ‘Nor shall he go out of the sanctuary’ (Lev. 21:12).”

[I:1 A] *It is understandable that he judges others.*

[B] But as to others judging him, [is it appropriate to his station?]

[C] Let him appoint a mandatory.

[D] Now take note: What if he has to take an oath?

[E] Can the mandatory take an oath for his client?

[I:2 A] Property cases involving [a high priest] – in how large a court is the trial conducted?

[B] With a court of twenty-three judges.

[C] *Let us demonstrate that fact from the following:*

[D] **A king does not sit in the sanhedrin, nor do a king and a high priest join in the court session for intercalation [T. San. 2:15].**

- [E] [*In this regard,*] R. Haninah and R. Mana – one of them said, “The king does not take a seat on the Sanhedrin, on account of suspicion [of influencing the other judges].
- [F] “Nor does he take a seat in a session for intercalation, because of suspicion [that it is in the government’s interest to intercalate the year].
- [G] “And a king and a high priest do not take a seat for intercalation, for it is not appropriate to the station of the king [or the high priest] to take a seat with seven judges.”
- [H] *Now look here:* If it is not appropriate to his station to take a seat with seven judges, is it not an argument *a fortiori* that he should not [be judged] by three? *That is why one must say,* Property cases involving him are tried in a court of twenty-three.
- [I:3 A] [What follows is verbatim at M. Hor. 3:1:] Said R. Eleazar, “A high priest who sinned – they administer lashes to him, but they do not remove him from his high office.”
- [B] Said R. Mana, “It is written, ‘For the consecration of the anointing oil of his God is upon him: I am the Lord’ (Lev. 21: 12).
- [C] [Here omitted:] (“That is as if to say: ‘Just as I [stand firm] in my high office, so Aaron [stands firm] in his high office.’”
- [D] [Here omitted:] (Said R. Abun, “‘He shall be holy to you [for I the Lord who sanctify you am holy]’ (Lev. 21:8).)
- [E] “That is as if to say, ‘Just as I [stand firm] in my consecration, so Aaron [stands firm] in his consecration.’”
- [F] R. Haninah Ketobah, R. Aha in the name of R. Simeon b. Laqish: “An anointed priest who sinned – they administer lashes to him [by the judgment of a court of three judges].
- [G] “*If you rule that* it is by the decision of a court of twenty-three judges [that the lashes are administered], it turns out that his ascension [to high office] is descent [to public humiliation, since if he sins he is publicly humiliated by a sizable court].”
- [I:4 A] R. Simeon b. Laqish said, “A ruler who sinned – they administer lashes to him by the decision of a court of three judges.”
- [B] What is the law as to restoring him to office?
- [C] Said R. Haggai, “By Moses! *If we put him back into office, he will kill us!*”

- [D] *R. Judah the Patriarch heard this ruling [of R. Simeon b. Laqish's] and was outraged. He sent a troop of Goths to arrest R. Simeon b. Laqish. [R. Simeon b. Laqish] fled to the Tower, and, some say, it was to Kefar Hittayya.*
- [E] *The next day R. Yohanan went up to the meetinghouse, and R. Judah the Patriarch went up to the meetinghouse. He said to him, "Why does my master not state a teaching of Torah?"*
- [F] *[Yohanan] began to clap with one [20a] hand [only].*
- [G] *[Judah the Patriarch] said to him, "Now do people clap with only one hand?"*
- [H] *He said to him, "No, nor is Ben Laqish here [and just as one cannot clap with one hand only, so I cannot teach Torah if my colleague, Simeon b. Laqish, is absent]."*
- [I] *[Judah] said to him, "Then where is he hidden?"*
- [J] *He said to him, "In a certain tower."*
- [K] *He said to him, "You and I shall go out to greet him tomorrow."*
- [L] *R. Yohanan sent word to R. Simeon b. Laqish, "Get a teaching of Torah ready, because the patriarch is coming over to see you."*
- [M] *[Simeon b. Laqish] came forth to receive them and said, "The example which you [Judah] set is to be compared to the paradigm of your Creator. For when the All-Merciful came forth to redeem Israel [from Egypt], he did not send a messenger or an angel, but the Holy One, blessed be He, himself came forth, as it is said, 'For I will pass through the Land of Egypt that night' (Ex. 12:12) – and not only so, but he and his entire retinue.*
- [N] *[Here omitted:] ([““What other people on earth is like thy people Israel, whom God went to redeem to be his people’ (2 Sam. 7:23).] ‘Whom God went’ (sing.) is not written here, but ‘Whom God went’ (plural) [– meaning, he and all his retinue].”)*
- [O] *[Judah the Patriarch] said to him, "Now why in the world did you see fit to teach this particular statement [that a ruler who sinned is subject to lashes]?"*
- [P] *He said to him, "Now did you really think that because I was afraid of you, I would hold back the teaching of the All-Merciful? [And lo, citing 1 Sam. 2:23f.,] R. Samuel b. R. Isaac said, '[Why*

do you do such things? For I hear of your evil dealings from all the people.] No, my sons, it is no good report [that I hear the people of the Lord spreading abroad]. [Here omitted:] (If a man sins against a man, God will mediate for him but if a man sins against the Lord, who can intercede for him? But they would not listen to the voice of their father, for it was the will of the Lord to slay them' (1 Sam. 2:23-25). [When] the people of the Lord spread about [an evil report about a man], they remove him [even though he is the patriarch].”)

- [I:5 A] [The reference to tearing above in M. Hor. 3:3A is at issue: **high priest rears his garment [on the death of a close relative] below [at the bottom hem]. and an ordinary one, above [at the hem of his garment nearest his shoulder].**] R. Eleazar in the name of Kahana: “‘Above’ means above the binding [therefore separating the binding], and ‘below’ means below the binding [therefore not separating the binding].”
- [B] R. Yohanan said.” ‘Below’ means what it says, literally [near the ground].”
- [C] *R. Yohanan went up to visit R. Hanina. When he was yet on the road, he heard that he had died. He sent word and said to send to him his best Sabbath garment, and [he went and] tore it [in mourning on account of this news]. [Thus he holds that one tears a garment at the demise of someone who is not a close relative.]*
- [D] *R. Yohanan differs from R. Yudan in two matters. [First, that he maintains one has to tear the garment as a sign of mourning for any master who has died, not merely for the one from whom one learned most; second, that one does the tear above the binding.]*
- [E] *The teaching of R. Eleazar in the name of Kahana is in accord with R. Judah [who does not distinguish among relationships to the deceased].*
- [F] *And if he is in accord with R. Judah, [the high priest] should not perform the act of tearing at all [since R. Judah holds that “any tear which does not separate the binding is a worthless act of tearing” (I), and R. Eleazar holds that “‘below’ means below the binding” (A)].*
- [G] *This [Mishnah] deals with the [death of] his father or mother and follows the view of R. Meir, for it has been taught in a Tannaitic teaching:*

[H] “For no dead does he undo the binding, except for his father and his mother,” the words of R. Meir.

[I] R. Judah says, “Any tear which does not separate the binding, lo, this is a worthless act of tearing.”

[J] *What is the rule [for the high priest]?*

[K] It is a more strict ruling in the case of the high priest, that he should not undo the binding, [but he rips through the fabric].

[I:6 A] The high priest makes an offering while he is in the status of one who has yet to bury a close relative, but he does not eat [the priestly portion],” the words of R. Meir (M. Hor. 3:3B; T. Zeb. 11:3).

[B] **R. Judah says, “That entire day.”**

[C] **R. Simeon says, “He completes all the act of sacrifice which is his responsibility and then he goes along [and leaves the altar].”**

[D] The difference between the view of R. Meir and R. Simeon *is one point*, [specifically: in Simeon’s view, when the priest hears the news, while he is performing the rite, that a close relative has died, he completes the entire rite for which he is responsible. But if he has not begun the rite, he should not do so. And after he has completed the rite, he should not begin another. In Meir’s view, he may carry on an act of service, without condition.]

[E] The difference between the view of R. Judah and R. Simeon *is one point*, [specifically: in Judah’s view, the priest makes offerings that entire day, while in Simeon’s, once he has completed the rite in which he is involved, he leaves the altar.]

[F] The difference between the view of R. Meir and R. Judah is [whether or not the priest who has not yet buried his close relative] enters [the Temple at all. Meir maintains that if he has not gone out of the sanctuary, he is permitted to make an offering. But if he has gone out, he does not enter the sanctuary. Judah maintains that that entire day the priest is permitted even to enter the sanctuary and to undertake offerings.]

[G] R. Jacob bar Disai [says, “Whether or not the priest at the altar] interrupts [his act of service] is what is at issue between [Meir and Simeon].”

- [H] R. Meir says, “[If, when the priest heard the news], he was inside, he would go out [of the sanctuary]. [If] he was outside [the sanctuary], he would [not] go back in.”
- [I] R. Judah says, “[If, when he heard the news, the priest] was inside, he would go in [and, for the entire day on which he heard, carry out an act of service, as is his right], but if he was outside, he would not go in [to perform an act of service].”
- [J] **R. Simeon says, “He completes all the act of service which is his responsibility and then he goes along.”**
- [K] R. Yosé b. R. Bun in the name of R. Huna: “The following Mishnah saying [belongs] to R. Simeon: “‘And from the sanctuary he will not go forth’ (Lev. 21:12) [with [the bearers of the bier] he does not go forth, but he does go forth after them.”
- [L] **“When [the bearers of the bier] are not visible, he is visible, when they are visible, he is nor. And he goes with them to the city gate, “ the words of R. Meir.**
- [M] **R. Judah says, “He never leaves the sanctuary, since it says, ‘Nor shall he go out of the sanctuary’ (Lev. 21:12)” [M. San. 2:1G-N].**
- [N] If he did go out, he should not come back.
- [O] R. Abbahu in the name of R. Eleazar: “The word ‘mourning’ applies only to the corpse alone, as it is written, ‘And her gates shall lament and mourn’ (Is. 3:26).”
- [P] *Hiyya bar Adda replied*, “And is it not written, ‘The fishermen shall mourn and lament’ (Is. 19:8)?”
- [Q] *Said R. Hanina*, “*So does the Mishnah [teach, that] the consideration of uncleanness by reason of mourning applies only on the account of the corpse [and not on account of hearing of the death. The day of the death, along with the night, imposes the status of the one who has yet to bury his close relative].*”
- [R] *It has been taught in a Tannaitic tradition*: At what point does the status of the one who has yet to bury his close relative apply?
- [S] “It applies from the moment of death to the moment of burial,” the words of Rabbi.

[T] And sages say, “It applies for that entire day [on which the deceased dies].”

[U] *You may then discern both a lenient and a strict side to the ruling of Rabbi, and a lenient and a strict side to the ruling of rabbis.*

[V] *What is the difference between their two positions [for strict and lenient rulings]?*

[W] If one dies and is buried at the proper time –

[X] in accord with the position of rabbis the mourner [in such a case] is subject to prohibitions applying to mourning for that entire day. In accord with the position of Rabbi the mourner is subject to prohibitions only in the period of the day down to that hour [of burial] alone.

[Y] If one dies and is buried three days later –

[Z] *in accord with the opinion of rabbis*, the prohibitions applying to the mourner are valid throughout that entire day [but not for the next two].

[AA] *In accord with the position of Rabbi*, the prohibitions applying to the mourners pertain for all three days.

[BB] *R. Abbahu came [to teach] in the name of R. Yohanan, [and] R. Hisda – both of them teach: “Rabbi concurs with sages that the prohibition applies only to that day alone.”*

[CC] *That is in accord with the following teaching on Tannaitic authority: Rabbi says, “You should know that the status of first-day mourning by the authority of the Torah does not apply to the night, for lo, they have said, ‘A first-day mourner may immerse and eat his Passover offering in the evening [of the fifteenth of Nisan, having suffered a bereavement on the fourteenth].’”*

[DD] And lo, they have said that the laws of first-day mourning do apply by the authority of the Torah!

[EE] R. Yosé b. R. Bun in the name of R. Huna, “You may solve the contradiction by referring [Rabbi’s ruling, M] to the case in which the [death was during the day and] burial took place in the last rays of sunlight [and Rabbi, M, holds that to that following night the status of first-day mourning does not apply by the authority of the Torah].”

2:2

[A] **And when he gives comfort to others**

[B] **the accepted practice is for all the people to pass one after another, and the appointed [prefect of the priests] stands between him and the people.**

[C] **And when he receives consolation from others,**

[D] **all the people say to him, “Let us be your atonement.”**

[E] **And he says to them, “May you be blessed by Heaven.”**

[F] **And when they provide him with the funeral meal,**

[G] **all the people sit on the ground, while he sits on a stool.**

[I:1 A] *[The statement at M. San. 2:2G] implies: A stool is not subject to the law of mourners’ overturning the bed.*

[B] *[But that is not necessarily so. For] the high priest [to begin with] is subject to that requirement of overturning the bed [and, it follows, no conclusion can be drawn from M.].*

[I:2 A] *It was taught: They do not bring out the deceased [for burial] at a time near the hour of reciting the Shema. unless they did so an hour earlier or an hour later, so that people may recite the Shema and say the Prayer.*

[B] *And have we not learned: **When they have buried the dead and returned, [if they can begin the Shema and finish it before reaching the row of mourners, they begin it: but if they cannot, they do not begin it [M. Ber. 3:2].*** [Thus they do bring out the deceased for burial at a time quite close to that for reciting the *Shema*.]

[C] *Interpret [the cited pericope of Mishnah] to deal with a case in which the people thought that they had ample time for burying the corpse but turned out not to have ample time for that purpose [prior to the time for reciting the Shema].*

[D] *It is taught: The person who states the eulogy and all who are involved in the eulogy interrupt [their labor] for the purpose of reciting the Shema, but do not do so for saying the Prayer. M'SH W: Our rabbis interrupted for the purposes of reciting the Shema and saying the Prayer (T. Ber. 2:11).*

[E] *Now have we not learned, If they can begin and finish...? [As above, B. Now here we have them interrupt the eulogy!]*

[F] *The Mishnah refers to the first day [of the death, on which they are exempt from saying the Shema], and the Tosefta pericope to the second [day after death, on which they are liable to say the Shema].*

[G] Said R. Samuel bar Abedoma, “This one who entered the synagogue and found the people standing [and saying] the prayer, if he knows that he can complete the Prayer before the messenger of the congregation [who repeats the whole in behalf of the congregation] will begin to answer, ‘Amen,’ [to the Prayer of the community], he may say the Prayer, and if not, he should not say the Prayer.”

[H] To which “Amen” is reference made?

[I] *Two Amoras differ in this regard.*

[J] *One said, “To the Amen which follows, ‘The Holy God.’”*

[K] *And the other said, “to the Amen which follows, ‘Who hears prayer’ on an ordinary day.”*

[I:3 A] *It was taught: R. Judah says, “If there is only a single row [of mourners], those who are standing as a gesture of respect are liable [to say the Shema], and those who are standing as a gesture of mourning are exempt [from the obligation to say the Shema]. If they proceed to the eulogy, those who see the face [of the mourners] are exempt [from having to say the Shema,] and those who do not see their face are liable [T. Ber. 2:11].*

[B] *Note that which we have learned: When he gives comfort to others, the accepted practice is for all the people to pass after one another, and the appointed [prefect of the priests] stands between him and the people [T. San. 3:3A-B].*

[C] This is in accord with the earlier practice [Mishnah] [to be cited below].

[D] *And as to that which we have learned: [Of those who stand in the role of mourners], the ones on the inner line are exempt from*

reciting the Shema. and the ones on the outer row are liable [M. Ber. 3:2] –

[E] this is in accord with the later Mishnah [to be cited below].

[F] Said R. Haninah, “At first [the former Mishnah = B], the families would stand and the mourners would pass before them. R. Yosé ordained that the families would pass and the mourners would stand still [the later Mishnah = D].”

[G] Said R. Samuel of Sofafta, “The matters were restored to their original condition.”

2:3

[A] The king does not judge, and [others] do not judge him;

[B] does not give testimony, and [others] do not give testimony about him;

[C] does not perform the rite of removing the shoe, and others do not perform the rite of removing the shoe with his wife;

[D] does not enter into levirate marriage, nor [do his brother] enter levirate marriage with his wife.

[E] R. Judah says, “If he wanted to perform the rite of removing the shoe or to enter into levirate marriage, his memory is a blessing.”

[F] They said to him, “They pay no attention to him [if he expressed the wish to do so].”

[G] [Others] do not marry his widow.

[H] R. Judah says, “A king may marry the widow of a king.

[I] “For so we find in the case of David, that he married the widow of Saul,

[J] “For it is said, ‘And I gave you your master’s house and your master’s wives into your embrace’ (II Sam. 12:8).”

[I:1 A] [The king] does not judge [M. San. 2:3]. And has it not been written: “[So David reigned over all Israel;] and David administered justice and equity to all his people” (2 Sam. 8:15).

[B] And yet do you say [that the king does not judge]?

[C] [From this verse of Scripture, we draw the following picture:] He would indeed judge a case, declaring the innocent party to be innocent, the guilty party to be guilty. But if the guilty party was poor, he would give him [the funds needed for his penalty] out of his own property. Thus he turned out doing justice for this one [who won the case] and doing charity for that one [who had lost it].

- [D] Rabbi says, “[If] a judge judged a case, declaring the innocent party to be innocent, and the guilty party to be guilty, [the cited verse of Scripture indicates that] the Omnipresent credits it to him as if he had done an act of charity with the guilty party, for he has taken out of the possession of the guilty party that which he has stolen.”
- [II:1 A] **And [others] do not judge him [M. San. 2:3A].** This is in line with the verse [in the Psalm of David], “From thee [alone] let my vindication come!” (Ps. 17:2).
- [B] R. Isaac in the name of Rabbi: “King and people are judged before Him every day, as it is said, ‘and may he do justice for his servant and justice for his people Israel, as each day requires’ (1 Kings 8:59).”
- [III:1 A] **R. Judah says, “If he wanted to perform the rite of removing the shoe or to enter into levirate marriage, his memory is a blessing” [M. San. 2:3E].**
- [B] They said to him, “If you rule in this way, you turn out to diminish the honor owing to the king.”
- [IV:1 A] **Others do not marry the widow [M. San. 2:3G] or the woman divorced by a king.**
- [B] This is by reason of that which is said: “So [David’s concubines] were shut up until the day of their death, living as if in widowhood” (2 Sam. 20:3).
- [C] R. Yudah bar Pazzi in the name of R. Pazzi in the name of R. Yohanan: “This teaches that David [treating them as forbidden though in law they were not] would have them dressed and adorned and brought before him every day, and he would say to his libido, ‘Do you lust after something forbidden to you?’ By your life! I shall now make you lust for something which is permitted to you.”
- [D] Rabbis of Caesarea say, “They were in fact forbidden [20b] to him [and it was not merely that he treated the women whom Absalom had raped as forbidden to him, but the law deemed them prohibited].
- [E] “For if a utensil belonging to an ordinary man used by an ordinary man is prohibited for use of a king, a utensil belonging to a king which was used by an ordinary man – is it not an argument *a fortiori* that the king should be forbidden to make use of it?”
- [V:1 A] **R. Judah says, “The king may marry the widow of a king. For we find in the case of David that he married widows of Saul, for it is**

said, ‘And I gave you your master’s house and your master’s wives into your embrace’ (2 Sam. 12:8)” [M. San. 2:3H-N].

[B] This refers to Rispah, Abigail, and Bath Sheba.

[V:2 A] [The reference to Abigail, 1 Sam. 25, calls to mind Nabal and his origins:] Hezron had three sons, as it is written, “The sons of Hezron that were born to him: Yerahmeel, Ram, and Kelubai” (1 Chron. 2:9)

[B] The first [son] was Yerahmeel, but he married a gentile woman to be crowned through her [royal ancestry], as it is written, “Yerahmeel also had another wife, whose name was Atarah [crown]” (1 Chron. 2:26).

[C] “She was the mother of Onam” (1 Chron. 2:26), for she brought mourning (aninah) into his household.

[D] “Ram was the father of Amminadab, and Amminadab was the father of Nahshon, [prince of the sons of Judah]. Nahshon was the father of Salma, Salma of Boaz, [Boaz of Obed, Obed of Jesse]” (1 Chron. 2:1-12). And Boaz married Ruth.

[E] Lo, Nadab came from Kelubai.

[F] Nabal said, “In all Israel there is no son better than I.”

[G] This is in line with that which is written, “And there was a man in Maon, whose business was in Carmel. The man was very rich” (1 Sam. 25:2).

[H] Now he was a Kelubaite (1 Sam. 25:3), for he came from Kelubai.

[V:3 A] “David heard in the wilderness that Nabal was shearing [his sheep. So David sent ten young men; and David said to the young men, ‘Go up to Carmel, and go to Nabal, and greet him in my name]. And thus shall you salute the living one: ‘Peace be to you, [and peace be to your house, and peace be to all that you have]’” (1 Sam. 25:46).

[B] Said R. Yusta bar Shunam, “They became a whole camp.”

[C] “And Nabal answered David’s servants, [‘Who is David?']” (1 Sam. 25:10).

[D] How do we know that in **capital cases they begin from the side [the youngest members of the court]** [M. San. 4:2]?

[E] Samuel the Elder taught before R. Aha: “‘And David said to his men, [Gird every man his sword, and every man girded on his sword, and David also girded on his sword]’ (1 Sam. 25:13).”
David thus is the last to express his opinion.]

- [F] “‘And he railed at them’ (1 Sam. 25:14) – what is the meaning of ‘And he railed at them’?”
- [G] “He incited them with words.”
- [H] “Now therefore know this and consider what you should do; [for evil is determined against our master and against all his house, and he is so ill-natured that one cannot speak to him]” (1 Sam. 25:17).
- [I] “And as she rode on the ass behold, David and his men came down toward her;] and she met them” (1 Sam. 25:20).
- [J] She showed her thigh, and they followed out of desire for her.
- [K] “‘... she met them’ – all of them had [involuntary] ejaculations.”
- [L] “Now David said, ‘Surely in vain have I guarded [all that this fellow has in the wilderness and he has returned me evil for good. God do so to the enemies of David if by morning I leave so much as] one who pisses against the wall of all who belong to him’” (1 Sam. 25:21-22).
- [M] [This reference to one who pisses on a wall is to a dog.] Now what place is there for referring to a dog, who pisses on the wall? The meaning is that even a dog will get no pity.
- [N] “When Abigail saw David, she made haste, and alighted from the ass, and fell before David on her face, and bowed to the ground]” (1 Sam. 25:23).
- [O] She said to him, “My lord, David, as to me, what have I done? And my children – what have they done? My cattle – what have they done?”
- [P] He said to her, “It is because [Nabal] has cursed the kingdom of David.”
- [Q] He said to him, “And are you [now] a king?”
- [R] He said to her, “And has not Samuel anointed me as king?”
- [S] She said to him, “Our lord Saul’s coinage still is in circulation.”
- [T] “But I your handmaid” (1 Sam. 25:25) – this teaches that he demanded to have sexual relations with her.
- [U] Forthwith she removed her stained [sanitary napkin] and showed it to him [indicating that she was in her menses and forbidden to have sexual relations on that account].
- [V] He said to her, “Can one examine stains at night?”

- [M] They said to him, “And let your ears hear what your mouth speaks. They do not examine sanitary napkins by night – and do they judge capital cases by night [as David was judging Nabal]!”
- [X] He said to her, “The trial concerning him was complete while it was still day.”
- [Y] She said to him, “[And when the Lord has done to my lord according to all the good that he has spoken concerning you my lord shall have no causes of grief, [for pangs of conscience, for having shed blood without cause]” (1 Sam. 25)
- [Z] Said R. Eliezer, “There were indeed doubts [riddles] there.”
- [AA] R. Levi was reviewing this pericope. R. Zeira told the associates, “Go and listen to R. Zeira, for it is not possible that he will lay out the pericope without saying something fresh about
- [BB] Someone went in and told them that that was not so.
- [CC] R. Zeira heard and said, “Even in matters of biblical stories there is the possibility of saying something fresh:
- [DD] “‘... have no doubts’ – that is, there were indeed causes [riddles] there.”
- [EE] [Continuing Abigail’s speech to David:] “When word of your cause of grief goes forth, people will say about you, ‘You are a murderer (1 Sam. 25:31), and you are destined to fall (*ibid.*) into sin, specifically to err through the wife of a man. It is better that there should be but one such case, and not two.
- [FF] “A much greater sin is going to come against you than this one. Do not bring this one along with the one which is coming.
- [GG] “For having shed blood” (1 Sam. 25:31) – “You are going to rule over all Israel, and people will say about you, ‘He was a murderer.’
- [HH] “And that which you say, ‘Whoever curses the dominion of the house of David is subject to the death penalty,’
- [II] “but you still have no throne.”
- [JJ] “[And when the Lord has dealt well with my lord], then remember your handmaid” (1 Sam. 25:31).
- [KK] This indicates that she treated herself as available [to David by referring to herself as his handmaid], and since she treated herself as available, Scripture itself treated her as diminished.

[LL] For in every other passage you read, “Abigail,” but in this one: “And David said to Avigal” (1 Sam. 25:32).

[MM] “And David said, ‘Blessed be your discretion, and blessed be you, who have kept me this day from blood-guilt’” (1 Sam. 25:33) – in two senses, in the sense of the blood of menstruation, and in the sense of bloodshed [for she kept him from both kinds of blood-guilt].

2:4

[A] **[If] [the king] suffers a death in his family, he does not leave the gate of his palace.**

[B] **R. Judah says, “If he wants to go out after the bier, he goes out,**

[C] **“for thus we find in the case of David, that he went out after the bier of Abner,**

[D] **“since it is said, ‘And King David followed the bier’ (2 Sam. 3:31).”**

[E] **They said to him, “This action was only to appease the people.”**

[F] **And when they provide him with the funeral meal, all the people sit on the ground, while he sits on a couch.**

[I:1 A] *Does [M. San. 2:4F] indicate that a couch is subject to the rule of overturning as a sign of mourning?*

[B] *The king is not subject to the rule of overturning the bed [and therefore the passage does not prove the case, one way or the other].*

[I:2 A] *There is a Tannaite authority who teaches that the women go first [in the mourning procession], and the men after them.*

[B] *And there is a Tannaite authority who teaches that the men go first, and the women afterward.*

[C] *The one who said that the women go first invokes as the reason that they caused death to come into the world.*

[D] *The one who said that men go first invokes the reason that it is to preserve the honor of Israelite women, so that people should not stare at them.*

[E] **Now is it not written “And King David followed the bier” (7 Sam. 3:31). They said to him, “This action was only to appease the people”.[M. San.2:4D-E].**

[F] *Once he appeased the women, he went and appeased the men [in the view of A].*

[G] *Or: Once he appeased the men, he went and appeased the women [in the view of B].*

[I:3 A] “And David returned [to bless his household. But Michal the daughter of Saul came out to meet David, and said, ‘How the king of Israel honored himself today, uncovering himself today before the eyes of his servants’ maids, as one of the vulgar fellows shamelessly uncovers himself!’]” (2 Sam. 6:20).

[B] What is the meaning of “one of the vulgar fellows”?

[C] Said R. Ba bar Kahana, “The most vulgar of them all – this is a dancer!”

[D] She said to him, “Today the glory of father’s house was revealed.”

[E] They said about Saul’s house that [they were so modest] that their heel and their toe never saw [their privy parts].

[F] *This is in line with that which is written*, “And he came to the sheepfolds [by the way, where there was a cave; and Saul went in to relieve himself]” (1 Sam. 24:3).

[G] R. Bun bar R. Eleazar: “It was a sheepfold within yet another sheepfold.”

[H] “And Saul went in to relieve himself” [“cover his feet”]: [David] saw him lower his garments slightly and excrete slightly [as needed].

[I] [David] said, “Cursed be anyone who lays a hand on such modesty.”

[J] *This is in line with that which he said to him*, “Lo, this day your eyes have seen [how the Lord gave you today into my hand in the cave; and some bade me kill you, but it spared you]” (1 Sam. 24:10).

[K] It is not written, “I spared you,” but “It spared you” – that is, “Your own modesty is what spared you.”

[L] And David said to Michal, “But by the maids of whom you have spoken, by them I shall be held in honor” (2 Sam. 6:22).

[M] For they are not handmaidens (‘amahot), but mothers (‘immahot).

[N] And how was Michal punished? “And Michal the daughter of Saul had no child to the day of her death” (2 Sam. 6:23).

- [O] And is it now not written, "... and the sixth was Ithream of Eglah, David's wife" (2 Sam. 3:5)?
- [P] She lowed like a cow (Eglah) and expired [giving birth on the day of her death].
- [Q] You have no Israelite who so lowered himself in order to do religious deeds more than did David.
- [R] On what account did he lower himself for the sake of religious deeds?
- [S] For the people were staring at the ark and dying, as it is written, "And he slew some of the men of Beth Shemesh, [because they looked into the ark of the Lord; he slew seventy men, and fifty thousand men, of them, and the people mourned because the Lord had made a great slaughter among the people]" (1 Sam. 6:19).
- [T] R. Haninah and R. Mana: one said, "And he smote of the people seventy men' – this refers to the Sanhedrin.
- [U] "And fifty thousand men' – for they were comparable in worth to fifty thousand men."
- [V] And one of them said, "He smote of the people seventy men' – this is the Sanhedrin.
- [W] "And fifty thousand' – the ordinary people as well."
- [X] It is written, "A song of ascents of David: O Lord, my heart is not lifted up" (Ps. 131:1)"when Samuel anointed me."
- [Y] "My eyes are not raised too high" (Ps. 131:1) – "when I slew Goliath."
- [Z] "And I do not occupy myself with things too great [or too marvelous for me]" (Ps. 131:1)" – when I brought the ark up."
- [AA] "Or too wondrous for me" – "when they put me back on my throne."
- [BB] "But I have calmed and quieted my soul, like a child quieted at its mother's breast" (Ps. 131:2)" – "Like a child which gives up goes down from its mother's belly, so my soul is humbled for me."

2:5

[A] [The king] calls out [the army to wage] a war fought by choice on the instructions of a court of seventy-one.

[B] He [may exercise the right to] open a road for himself, and [others] may not stop him.

[C] The royal road has no required measure.

[D] All the people plunder and lay before him [what they have grabbed], and he takes the first portion.

[I:1 A] [The rule of M. San. 2:5A is in line with] that which is written, “At his word they shall go out, and at his word they shall come in, [both he and all the people of Israel with him, the whole congregation]” (Num. 27:21).

[II:1 A] He [may exercise the right of eminent domain in order to] open a road for himself and others may not stop him [... and he takes the first portion] (M. San. 2:5B-D).

[B] This is in line with that which is written, “And the people drove those cattle before him, and said, “This is David’s spoil”” (1 Sam. 30:20).

[II:2 A] “He was with David at Pas-dammim, [when the Philistines were gathered there for battle. There was a plot of ground full of barley, and the men fled from the Philistines. But he took his stand in the midst of the plot and defended it, and slew the Philistines; and the Lord saved them by a great victory]” (1 Chron. 11:13-14). [Note also 2 Sam. 23:11f.: “And next to him was Shammah, the son of Agee the Hararite. The Philistines gathered together at Lehi, where there was a plot of ground full of lentils; and the men fled from the Philistines. But he took his stand in the midst of the plot and defended it, and slew the Philistines; and the Lord wrought a great victory.”]

[B] R. Yohanan said, “It was a field as red as blood [so the place-name is taken literally].”

[C] And R. Samuel said, “[It was so called] for from that place the penalties ceased [as will be explained below].”

[D] “When the Philistines were gathered [there for battle, there was a plot of ground full of barley.” R. Jacob of Keper Hanan said, “They were lentils, but their buds were as fine as those of barley [which accounts for the divergence between 1 Chron. 11:12 and 2 Sam. 23:11].”

[E] Said R. Levi, “This refers to the Philistines, who came standing up straight like barley, but retreated bent over like lentils.”

- [F] One Scripture says, “There was a plot of ground full of barley” (1 Chron. 11:13), and it is written, “... full of lentils” (2 Sam. 23:11).
- [G] [20c] R. Samuel bar Nahman said, “The event took place in a single year, and there were two fields there, one of barley, the other of lentils.”
- [H] [To understand the following, we must refer to 2 Sam. 23:15-16: “And David longed and said, ‘O that someone would give me water to drink from the well of Bethlehem which is by the gate!’ And the three mighty men broke through the host of the Philistines and drew water out of the well of Bethlehem that was by the gate.” Now “water” here is understood to mean “learning,” “gate” the rabbinical court, and David is thus understood to require instruction. At issue is the battlefield in which the Philistines had hidden themselves, that is, as at Pasdammim. What troubled David now is at issue.] David found it quite obvious that he might destroy the field of grain and pay its cost (DMYM).
- [I] *Could it be obvious to him that he might destroy the field and not pay its cost [to its Israelite owners]? [It is not permissible to rescue oneself by destroying someone else’s property, unless one pays compensation. So that cannot be at issue at all.]*
- [J] [If he did have to pay, as he realized, then what he wanted to know “at the gate” was] which of them to destroy, and for which of the two to pay compensation [since he did not wish to destroy both fields such as, at G, Samuel posits were there].
- [K] [These are then the choices] between the one of lentils and the one of barley.
- [L] The one of lentils is food for man, and the one of barley is food for beast. The one of lentils is not liable, when turned into flour, for a dough offering, and the one of barley is liable, when turned into flour, for dough offering. As to lentils, the *omer* is not taken therefrom; as to barley the *omer* is taken therefrom. [So these are the three choices before David, and since there were two fields, he wanted to know which to burn and for which to pay compensation.]
- [M] [This entire picture of the character of the battlefield is rejected by rabbis,] for rabbis say, “There was one field, but the incident took place [twice, in a period of] two years [and hence, in one year, it was planted with one crop, in the other year, the other].

[N] “David then should have learned from the rule prevailing in the preceding year. But they do not derive a rule from one year to the next.”

[O] One verse states, “They took their stand in the midst of the plot and defended it” (1 Chron. 11:14).

[P] And the other Scripture states, “... and he defended it” (2 Sam. 23:12).

[Q] What this teaches is that he restored the field to its owner, and it was as precious to him as a field planted with saffron.

[II:3 A] It is written, “And David said longingly, ‘O that some one would give me water to drink from the well of Bethlehem [which is by the gate]’” (1 Chron. 11:17).

[B] R. Hiyya bar Ba said, “He required a teaching of law.”

[C] “Then the three mighty men broke through [the camp of the Philistines]” (1 Chron. 11:18).

[D] Why three? Because the law is not decisively laid down by fewer than three.

[E] “But David would not drink of it; [he poured it out to the Lord. and said, ‘Far be it from me before my God that I should do this. Shall I drink the lifeblood of these men? For at the risk of their lives they brought it’]” (1 Chron. 11:18-19).

[F] David did not want the law to be laid down in his own name.

[G] “He poured it out to the Lord” – establishing [the decision] as [an unattributed] teaching for the generations [so that the law should be authoritative and so be cited anonymously].

[H] [Delete:] **He may exercise the right of eminent domain in order to open a road for himself and others may not stop him.**

[I] Bar Qappara said, “It was the festival of Sukkot, and the occasion was the water offering on the altar, and it was a time in which high places were permitted [before the centralization of the cult in Jerusalem]. [So the view that David required a legal teaching is not accepted; it was literally water which David wanted and got.]”

[J] “And three mighty men broke through” – Why three? One was to kill [the Philistines]; the second was to clear away the bodies; and the third [avoiding the corpse-uncleanness] was to bring the flask for water in a state of cultic cleanness.

[K] One version of the story states, "... He poured it out to the Lord" (1 Chron. 11:18).

[L] And the other version of the story states, "He spilled it" (2 Sam. 23:16).

[M] The one which states "spilled" supports the view of R. Hiyya bar Ba [who treats the story as figurative], and the one which stated, "poured it out to the Lord" supports the picture of Bar Qappara [who treats it as a literal account].

[N] Huna in the name of R. Yosé, "David required information on the laws covering captives."

[O] R. Simeon b. Rabbi says, "What he thirsted after was the building of the house for the sanctuary [the Temple]."

2:6

[A] **"He should not multiply wives to himself" (Deut. 17:17) – only eighteen.**

[B] **R Judah says, "He may have as many as he wants, so long as they do not entice him [to abandon the Lord (Deut. 7:4)]."**

[C] **R. Simeon says, "Even if there is only one who entices him [to abandon the Lord] – lo, this one should not marry her."**

[D] **If so, why is it said, "He should not multiply wives to himself"?**

[E] **Even though they should be like Abigail [1 Sam. 25:3].**

[F] **"He should not multiply horses to himself" (Deut. 17:16) – only enough for his chariot.**

[G] **"Neither shall he greatly multiply to himself silver and gold" (Deut. 17:16) – only enough to pay his army.**

[H] **"And he writes out a scroll of the Torah for himself" (Deut. 17:17)**

[I] **When he goes to war, he takes it out with him; when he comes back, he brings it back with him; when he is in session in court, it is with him; when he is reclining, it is before him,**

[J] **as it is said, "And it shall be with him, and he shall read in it all the days of his life" (Deut. 17:19).**

[K] **[Others may] not ride on his horse, sit on his throne, handle his scepter.**

[L] **And [others may] not watch him while he is getting a haircut, or while he is nude, or in the bath-house,**

[M] since it is said, “You shall surely set him as king over you” (Deut. 17:15) – that reverence for him will be upon you.

[I:1 A] R. Kahana: “The limitation to eighteen wives is by reason of the following: ‘And the sixth, Ithream, of Eglah, David’s wife. These were born to David in Hebron (2 Sam. 3:5) – and what is stated further on? ‘I would add to you as much more’ (2 Sam. 12:8). [This indicates that there would be yet two more groups of six wives, eighteen in all].”

[II:1 A] **He should not multiply horses to himself” (Dt. 17:16) – only enough for his chariot (M. San. 2:6F):**

[B] This is in line with the following: “And David hamstringed all the chariot horses, but left enough for a hundred chariots” (2 Sam. 8:4).

[III:1 A] **“Neither shall he greatly multiply to himself silver and gold” (Dt. 17:17) – only enough to pay his army [M. San. 2:6G]:**

[B] R. Joshua b. Levi said, “But that provides solely for the wages for a given year alone [and not wages for several consecutive years].”

[III:2 A] Said R. Aha, Said Solomon, ‘I said of laughter, it is mad (Qoh 2:2). Three things the attribute of justice ridiculed, and I profaned:

[B] “‘He should not multiply wives to himself’ (Deut. 17:17).

[C] “And it is written, ‘Now King Solomon loved many foreign women’ (1 Kings 11:1).” [This pericope resumes below, I.]

[D] R. Simeon b. Yohai said, “He loved them literally, that is, he fornicated with them.”

[E] Hananiah, nephew of R. Joshua, says, “[He actually married them and violated the precept,] ‘You shall not marry with them’ (Deut. 7:3).”

[F] R. Yosé says, “It was to draw them to the teachings of Torah and to bring them under the wings of the Indwelling Presence of God.”

[G] R. Eliezer says, “It was by reason of the following verse: ‘Did not Solomon king of Israel sin on account of such women? nevertheless foreign women made even him to sin’ (Neh. 13:26).”

[H] *It turns out that R. Simeon b. Yohai, Hananiah, and R. Eliezer maintain one viewpoint, and R. Yosé differs from all three of them.*

[I] “‘He should not multiply horses to himself’ (Deut. 17:16).

[J] “And it is written, ‘Solomon had forty thousand stalls of horses for his chariots and twelve thousand horsemen’ (1 Kings 4:26).

- [K] “They were unemployed, [there being peace in Solomon’s days].
- [L] “But one who is not a king is permitted in these [that is, having many wives and horses, and much gold and silver].
- [M] “And it is written, ‘And the king made silver to be in Jerusalem as stones’ (1 Kings 10:27).”
- [N] Was none of them stolen?
- [O] Said R. Yosé b. Haninah, “They were stones of a measure of ten cubits or eight cubits, and so they were [too large to be so stolen].”
- [P] R. Simeon b. Yohai taught, “Even the weights in the time of Solomon were not of silver but of gold.”
- [Q] What is the Scriptural basis for this statement? “None was of silver; it was accounted as nothing in the days of Solomon” (1 Kings 10:21).
- [R] It is written, “I said of laughter, ‘It is mad’ (Qoh. 2:2).”
- [S] Said the Holy One, blessed be He, to Solomon, “What is this crown [doing] on your head? Get off my throne.”
- [T] R. Yosé b. Hanina said, “At that moment an angel came down and took the appearance of Solomon and removed Solomon from his throne and took the seat in his stead.”
- [U] Solomon went around the synagogues and schoolhouses, saying, “I, Qohelet, have been king over Israel in Jerusalem” (Qoh. 1:12).
- [V] But they showed him the king sitting in his basilica, and [said to him,] “Do you say, ‘I Qohelet’?” And they beat him with reeds and placed before him a dish of grits.
- [W] At that moment he wept and said, “This was my portion from all my labor” (Qoh. 2:10).
- [X] *There are those who say they beat him with a staff, and there are those who say they beat him with a reed, and some say that they beat him with a belt of knotted rope.*
- [Y] Now who caused Solomon’s downfall [that is, who was his adversary]?

[Z] Said R. Joshua b. Levi, “It was the yud in the word, ‘increase’ (YRBH) which served as his adversary.”

[AA] *R. Simeon b. Yohai taught*, “The book of Deuteronomy went up and spread itself out before the Holy one, blessed be He.

[BB] “It said before him, ‘Lord of the world! You have written in your Torah that any covenant part of which is null is wholly nullified.’

[CC] “Now lo, Solomon wishes to uproot a yud [as above] of mine.’

[DD] “Said to him the Holy One, blessed be He, ‘Solomon and a thousand like him will be null, but not one word of yours will be nullified.’

[EE] R. Huna in the name of R. Aha: “The yud which the Holy One, blessed be he, removed from our matriarch, Sarah, [when her name was changed from Sarai,] half of it was given to Sarah, and half of it was given to Abraham.”

[FF] *R. Hoshaiah taught*, “The yud went up and prostrated itself before the Holy One, blessed be he, and said, ‘Lord of the world! You have uprooted me from the name of that righteous woman!’

[GG] “The Holy One, blessed be he, said to him, ‘Go forth. In the past you were set in the name of a woman, and at the end of the name [Sarai]. By your life, I am going to put you in the name of a male, and at the beginning of the name.’”

[HH] This is in line with that which is written, “And Moses called Hoshea b. Nun, ‘Joshua’” (Num. 13:16).

[IV:1 A] And he writes for himself a scroll of the Torah (Deut. 17:18) –

[B] for his own use, that he not have to make use of the one of his fathers, but rather of his own [T. San. 4:7].

[C] And they correct his scroll by comparing it to the scroll of the Temple courtyard, on the authority of the Sanhedrin of seventy-one members.

- [V:1 A] **When he goes forth to war, it goes with him, as it is said, “And it shall be with him, and he shall read in it all the days of his life” (Deut. 17:19) [Cf. M. San. 2:6I-J].**
- [B] **Lo, it is a matter of an argument a fortiori: Now if a king of Israel, who is taken up with the needs of Israel, is told, “And he shall read in it all the days of his life,” an ordinary person, how much the more so [must he read in the Torah all the days of his life].**
- [C] **Along these same lines, concerning Joshua it is written, “This book of the law shall not depart out of your mouth, but you shall meditate on it day and night” Joshua 1:8).**
- [D] **Lo, it is a matter of an argument a fortiori: Now if Joshua, who is taken up with the needs of Israel, is told, “You shall meditate in it day and night,” an ordinary person, how much more so [must he meditate in the Torah all the days of his life] [T. San. 4:8-9].**
- [VI:1 A] **A king of Israel: Others may not ride on his horse. sit on his throne, or handle his crown. scepter (M. San. 2:6K), or any other of his possessions.**
- [B] **And when he dies, all of them are to be burned in the presence of his corpse, as it is said, “You shall die in peace. And as spices were burned for your fathers, the former kings, who were here before you, so men shall burn spices for you and lament for you” (Jer. 34:5).**
- [VII:1 A] **And others may not see him while he is nude, or when he is getting a haircut, or in the bathhouse {M. San. 2:6L}:**
- [B] **This is in line with the following verse” “Your eyes will see the king in his beauty” (Is. 33:17).**
- [VII:2 A] *R. Hanina went up to R. Yudan the Patriarch. He came out to greet him dressed in his undershirt.*
- [B] *He said to him, “Go and put on your woolen cloak, on the grounds of ‘Your eyes will see the king in his beauty’ (Is. 33:17).”*
- [C] *Yohanan went up to call on R. Yudan the Patriarch. He came out to receive him wearing a shirt made of cotton.*
- [D] *He said to him, “Go and put on your woolen cloak, on the grounds of ‘Your eyes will see the king in his beauty’ (Is. 33:17).”*
- [E] *When R. Yohanan was leaving, R. Yudan the Patriarch said to him, “Bring refreshment for the mourner [bring good cheer].”*

[F] *He said to him, "Send and get Menahem, the cake baker, for it is written, 'The teaching of kindness is on her tongue' (Prov. 31:26)."*

[G] *As he was leaving, Yohanan saw R. Haninah bar Sisi chopping wood.*

[H] *He said to him, "Rabbi, this occupation is not consonant with your status."*

[I] *He said to him, "What shall I do? For I have no one who serves me as a disciple."*

[J] *He said to him, "If you have no one to serve you as a disciple, you should not accept upon yourself appointment to a court."*

[VII:3 A] *Yosé Meoni interpreted the following verse in the synagogue in Tiberias: "'Hear this, Priests' (Hos. 5:1) – why do you not labor in the Torah? Have not the twenty-four priestly gifts been given to you?"*

[B] *"They said to him, 'Nothing at all has been given to us.'*

[C] [20d] *"And give heed, O House of Israel!" (Hos. 5:1).*

[D] *"Why do you not give the priests the twenty-four gifts concerning which you have been commanded at Sinai?"*

[E] *"They said to him, 'The king takes them all.'*

[F] *"Hearken, O house of the king! For the judgment pertains to you' (Hos. 5:1).*

[G] *"To you have I said, 'And this shall be the priests' due from the people, from those offering a sacrifice: they shall give to the priest the shoulder, the two cheeks, and the stomach' (Deut. 18:3).*

[H] *"I am going to take my seat with them in court and to make a decision concerning them and blot them [the kings] out of the world. "*

[I] *R. Yudan the Patriarch heard [about this attack on the rulers] and was angry.*

[J] *[Yosé] feared and fled.*

[K] *R. Yohanan and R. Simeon b. Laqish went up to make peace with [the Patriarch].*

[L] *They said to him, "Rabbi, he is a great man."*

[M] *He said to them, "Is it possible that concerning everything which I ask of him, he will reply to me?"*

- [N] *They said to him, “Yes.” [So Yosé was called back.]*
- [O] [The Patriarch] said to [Yosé], “What is the meaning of that which is written: ‘For their mother has played the harlot’ (Hos. 2:5)?
- [P] “Is it possible that our matriarch, Sarah, was a whore?”
- [Q] He said to him, “As is the daughter, so is her mother.
- [R] “As is the mother, so is the daughter.
- [S] “As is the generation, so is the patriarch.
- [T] “As is the patriarch, so is the generation.
- [U] “As is the altar, so are its priests.”
- [V] Kahana said likewise: “As is the garden, so is the gardener.”
- [M] *He said to them, “Is it not enough for him that he dishonors me one time not in my presence, but also in my presence he does so these three times!”*
- [X] *He said to him, “What is the meaning of that which is written, ‘Behold, everyone who uses proverbs will use this proverb about you, ‘Like mother, like daughter’ (Ez. 16:44).*
- [Y] “Now was our matriarch, Leah, a whore?
- [Z] “As it is written, ‘And Dinah went out’ (Gen. 34:1) [like a whore, thus reflecting on her mother]”
- [AA] He said to him, ‘It is in accord with that which is written, ‘And Leah went out to meet him’ (Gen. 30:16).
- [BB] “They compared one going out to the other [and Leah went out to meet her husband, and Dinah learned from this that it was all right to go out, so she went out to meet the daughters of the land, but got raped].” [This was an acceptable reply to Yudan.]
- [VII:4 A]** *R. Hezekiah was going along the way. A Samaritan met him. He said to him, “Rabbi, are you the rabbi of the Jews?”*
- [B] *He said to him, “Yes.”*
- [C] *He said to him, “Note what is written, ‘You will surely set a king over you’ (Deut. 17:15) [and not a rabbi].*
- [D] “It is not written ‘I shall set,’ but ‘You shall set,’ for you yourself set him over you.”

YERUSHALMI SANHEDRIN

CHAPTER THREE

3:1

[A] Property-cases are [decided by] three [judges] [M. 1:1A].

[B] This litigant chooses one [judge], and that litigant chooses one judge, and then the two of the [litigants] choose one more,” the words of R. Meir.

[C] And sages say, “The two judges choose one more.”

[I:1 A] [The basic theory,] said R. Zira, is that, since the litigant chooses the judge, he takes for granted that his choice will seek out cause in his own behalf.

[B] *What is the reasoning of R. Meir [who maintains that the third judge is chosen with the knowledge and consent of the litigants]?*

[C] It is so that the third (lit., three) of them will be chosen with the concurrence [of the litigants].

[D] *What is the reasoning of rabbis [who do not require the knowledge and consent of the litigants]?*

[E] *[One party will say to the other,] “You have not got the power to choose and seat the one of your choice. Rather, you and I will choose and seat one of our choice.” [Thus there can be no end to the matter.]*

[F] *But there is a problem to the position of sages [who exclude the intervention of the litigants]: if one of the two judges who choose the third judge should die [and the litigant whose choice has died should choose a replacement, it turns out that the third judge will have been chosen with the knowledge and consent of the two litigants]. [For the new judge has had no role in choosing him. So the third judge will remain on the court, even though the newly chosen judge does not concur in the matter. It must follow that the litigants must agree (PM).] It turns out that*

all three judges have been selected with the knowledge and consent of the litigants.

3:2

[A] **“This party has the right to invalidate the judge chosen by that one, and that party has the right to invalidate the judge chosen by this one,”** the words of R. Meir.

[B] **And sages say, “Under what circumstances?**

[C] **“When he brings evidence about them, that they are relatives or otherwise invalid.**

[D] **“But if they are valid [judges] or court-certified experts, he has not got the power to invalidate them.”**

[I:1 A] *Thus the Mishnah teaches that this one may invalidate the judge chosen by the other. Lo, [he then may not invalidate] the judge he himself has chosen [even though he has reason to retract].*

[B] R. Simeon b. Laqish said, “R. Meir’s rule applies to court archives in Syria [made up of amateurs]. But lo, to courts set up in accord with the law of the Torah [made up of experts], [what he has said does] not [apply]. [The archive courts are made up of unqualified people, not experts. If they are experts, then Meir concurs that there can be no disqualification. Thus he agrees with M. 3:2B-D.]”

[C] R. Yohanan said, “Even in the case of courts set up in accord with the law of the Torah [and made up of experts, Meir maintains the same position]. [Thus he differs from M. 3:2B-D.]”

[I:2 A] Thus do they say: Two men had a case in Antioch. One of them said to his fellow, “That which R. Yohanan will rule [in this case] do I accept for myself.”

[B] R. Yohanan heard and ruled: “He does not have the power to compel his antagonist [to go to Tiberias for the trial]. But [the court in Antioch] will hear the claims of both parties there. Then if there is need, they may write up the particulars of the case and send the case to the rabbis.”

[I:3 A] [C] R. Eleazar said, “This one says, ‘In Tiberias,’ and that one says, ‘In Sepphoris’ – they accept the position of the one who said, ‘In Tiberias.’”

[B] [With regard to the statement of Meir, M. 3:2A,] may this one continue to invalidate the judges whom the other brings?

[C] Said R. Zira, “The rule has been taught with reference to a supererogatory court [made up of amateurs].”

[D] *Said R. La, “And as to that which R. Eleazar has stated, ‘This one says, ‘In Tiberias,’ and that one says, ‘In Sepphoris’ – they accept the position of the one who said, ‘In Tiberias’ – that statement applies to a case in which the two live in the same neighborhood in town, [so that] from here to there [for both parties] will be the same distance, e.g., of seven mils or of nine mils.’”*

[E] *Said R. Yosé, “You may derive from the law a further consideration. If there are two men at litigation with one another in Tiberias, and this one says, ‘In the major court,’ and the other one says, ‘In the minor court’ [of the same town], they accept the statement of the one who said, ‘In the major court.’”*

3:3

[A] **“This party invalidates the witnesses brought by that one, and that party invalidates the witnesses brought by this one,”** the words of R. Meir.

[B] And sages say, **“Under what circumstances?”**

[C] **“What he brings evidence about them, that they are relatives or otherwise invalid.**

[D] **“But if they are valid [to serve as witnesses], he has not got the power to invalidate them.”**

[I:1 A] *R. Simeon b. Laqish said, “Thus the Mishnah [concerning Meir, M. 3:3A] teaches: ‘His witness’ [one of those brought by the antagonist]. Lo, two of his witnesses [one may not invalidate].”*

[B] R. Yohanan said, “Even the two witnesses he has brought [may the antagonist invalidate].”

[C] *This is in line with that which is taught:*

[D] **Under all circumstances they continue adding judges until the court process has been completed. And the witnesses too may retract [their originally stated position until the court process has been completed]. Once the court process has been completed, they cannot retract [T. San. 6:4]. [This shows one may invalidate both witnesses of the other party prior to judgment.]**

[E] R. Yohanan concedes that if there are there only those witnesses, they [the contrary litigants] cannot invalidate them [since now the action is against the essence of the case of the other party].

[F] Said R. Zeira, “And he and an outsider [from the marketplace] may join together to invalidate this testimony [if the latter, not party to the case, does have testimony against the witness himself].”

[G] *R. Hanina raised the question:* “[How is it possible to invalidate a single witness, even in the event that the contrary litigant has access to other witnesses? Will this not permit one party to the dispute to invalidate the essence of the case of the other, prior to hearing what is at issue? For even if a single witness has not got the power to impose on the defendant a monetary claim,] he does have the power to require him to take an oath.” [Now this question applies to Yohanan and Simeon b. Laqish, but in context, it is addressed to Zeira: Even if the intent is to invalidate only a single witness, how can we permit this procedure?]

[H] Said R. Zeira, “As to one invalid to give testimony, he must be invalidated in court. As to a relative, it is not necessary to invalidate him in court. [In the case under discussion, it is necessary to invalidate the witness solely on factual grounds that he is a relative. If the evidence against the proposed witness deals with the suitability of the man to testify at all, not merely with the fact of his relationship, then the action must be taken in court and with proper judicial safeguards. Consequently, we do not have a case in which one party invalidates the essence of the case of the other.]”

[I:2 A] [With reference to the following passage of **T. San. 6:3K-P: And how many do they add? Step by step, two at a time. [When] they add to the judges, [if] they rule, “He is innocent,” he is innocent. If they rule, “He is guilty,” he is guilty. [If] one says, “He is innocent,” and one says, “I don’t know,” they add to the judges, for up to that point the court has been evenly divided. [If] one says, “He is liable,” and one says, “He is innocent,” and one says, “I don’t have an opinion,” they add to the judges, for up to now they have added only one judge at a time (T. San. 6:3K-P). Under all circumstances they continue adding judges until the court process has been completed (T. San. 6:4A),**] said Raba bar Buna in the name of Rab, “[They add to the court only when one ruled for one party, one for the other, and one declined to rule. When they added the same situation pertained. But if to begin with two have ruled for one party and one for the other, and when they added to the court, one ruled for one party

and one declined to rule, there now are three judges who hold a single position. Consequently,] when three [concur], it is the completion of the trial, [and a decision has been reached].”

3:4

[A] **“If one litigant said to the other, ‘I accept my father as reliable,’ ‘I accept your father as reliable,’ ‘I accept as reliable three herdsmen [to serve as judges],”**

[B] **R. Meir says, “He has the power to retract.”**

[C] **And sages say, “He has not got the power to retract.”**

[D] [If] **one owed an oath to his fellow, and his fellow said, “[Instead of an oath], take a vow to me by the life of your head,”**

[E] **R. Meir says, “He has the power to retract.”**

[F] **And sages say, “He has not got the power to retract.”**

[I:1 A] [If] one said to him, “Your father is acceptable to me” [and if] he accepted [his father as witness or judge] before two individuals, he has the power to retract.

[B] If he did so before three, he does not have the power to retract [in the opinion of sages, for the three constitute a court].

[I:2 A] Samuel said, “[The dispute of the Mishnah pericope] applies in a case in which one has not taken the disputed object from one party and given it to the other. But if one has taken it from one party and given it to the other, the one who made the statement no longer has the power to retract, [for the transaction has been completed in the transfer of the disputed object, and the winning party has effected possession of the object]. [Even Meir now must concur that there can be no further retraction.]”

[B] Both R. Yohanan and R. Simeon b. Laqish said, “Even if [the court] has taken [the disputed object] from this party and given it to that party, [in Meir’s view] he can retract.”

[I:3 A] **[WM’S H B: Someone owed his fellow an oath in court and] vowed to him by the life of a certain object, and [the person to whom the oath was owed] accepted it [T. San. 6:5M] the latter can retract. [The vow is null.]**

[I:4 A] [“The argument of Meir and sages applies,]” said R. Hiyya bar Ba, “in a case in which [the plaintiff] said to [the defendant], ‘Let your father say to me, And I have no claim against you.’ But if [the defendant] said to [the plaintiff], ‘Let your father say, And I accept upon me,’ it is

a mere pretext which he gave since he wanted [the father] to concur with [the defendant]. [That is, the claimant says, ‘If your father says that matters are thus-and-so, then I have no further claim against you. But if the defendant said to him, ‘Let your father say that matters are such-and-so, as you have stated,’ this is of no weight at all. The defendant merely hoped the father would support his case, not the son’s case; the statement of the defendant then has no bearing.]”

[B] R. Yosé b. Haninah said, “And even if [the plaintiff] said, ‘Let your father say so, and I shall accept [your claim] against me,’ [that statement is null,] for we do not find valid testimony which a relative may give [in any such case at all]. [So the whole is null.]”

3:5

[A] And these are those who are invalid [to serve as witnesses or judges]:

[B] he who plays dice; he who loans money on interest; those who race pigeons; and those who do business in the produce of the Seventh Year.

[C] Said R. Simeon, “In the beginning they called them, ‘Those who gather Seventh Year produce.’ When oppressors became many [who collected taxes in the Seventh Year], they reverted to call them, ‘Those who do business in the produce of the Seventh Year.’”

[D] Said R. Judah, “Under what circumstances? When [the aforementioned (B)] have only that as their profession. But if they have a profession other than that, they are valid [to serve as witnesses or judges].”

[I:1 A] These are they who are invalid [M. San. 3:5A]: He who plays dice [M. San. 3:5B(1)] –

[B] this refers to one who plays with blocks of wood.

[C] All the same are one who plays with blocks of wood, and one who plays with nutshells or pomegranate shells –

[D] under no circumstances do they accept the testimony of such a person unless he undertakes to break his blocks of wood and to carry out a complete reformation.

[II:1 A] One who lends on interest [M. San. 3:5B(2)] do they not accept [as a witness] unless he tears up bonds of indebtedness owing to him, and [undertakes] to carry out a complete reformation.

[III:1 A] Those who race pigeons [M. San. 3:5B(3)] –

[B] this refers to one who trains pigeons.

[C] All the same are the one who trains pigeons and the one who trains any other sort of domesticated beast, wild beast, or bird –

[D] under no circumstances do they accept the testimony of such a person unless he undertakes to break his stages (or rinse) and to carry out a complete reformation.

[IV:1 A] Those who do business in the produce of the Seventh Year [M. San. 3:5B] – this is a merchant in the produce of the Seventh Year.

[B] What is such a merchant? This is one who sits idle during the other six years of the septennate. Once the Seventh Year comes, he begins to do business in produce of the Seventh Year.

[C] Under no circumstances do they accept such a person until another year of release arrives, and one may test him and find that he has reformed himself completely.

[D] *It was taught: R. Yosé [says], “Two septennates.”*

[E] R. Nehemiah says, “It must be a reform through property, not merely a reform through what he has said.

[F] “How so?

[G] “[He must say,] ‘These two hundred *denars* I collected from the sale of produce of transgression.’ Then [he must] hand them out to the poor” [T. San. 5:2].

[IV:2 A] They added to the list of those named-above shepherds, thugs, robbers, and anyone with a shady reputation in financial matters. Their testimony is null.

[B] Said R. Abbahu, “This applies to shepherds of small cattle [but not large ones].”

[C] *R. Huna said, “Who taught that pigeon racers [are unacceptable as witnesses]?” It is R. Eliezer, as it has been taught, pigeon racers are invalid as witnesses [M. Ed. 2:7].*

[D] *Said R. Mana in the presence of R. Yosé, “And further, is this teaching in respect to Sanhedrin also in accord [only] with R. Eliezer?”*

[E] He said to him, “It is the opinion of all parties, in the present matter [of oaths].”

[F] Said R. Yosé, “We knew that such a one was invalid to serve as a witness in a monetary case. Concerning what did [R. Eliezer] come to give testimony? But just as he is invalid to give testimony in a monetary case, so he is invalid to give testimony in a capital case.

[G] “And witnesses to the appearance of the new moon are in the status of witnesses to capital cases.”

[H] *For we have learned:*

[I] This is the general principle: In the case of any sort of testimony which a woman is not valid to give, also they are not valid to give [M. R. H. 1:8].

[J] *Who taught this rule? It is the rabbis [since Eliezer cannot concur].*

[K] *Now do the rabbis accord with R. Eliezer? Do they teach in accord with his opinion and differ from him?*

[L] *R. Jonah said, in the name of R. Huna: “The entire passage is in accord with the opinion of R. Eliezer [who concurs that at M. San. 3:5B and M. Sheb 7:4C d M 1:8 may testify of matters about which women may testify].”*

[M] *The disputes of these [Eliezer, rabbis] are parallel to the disputes of those [Yosé, Meir], as it has been taught:*

[N] “A witness [shown to have conspired against another party and so to have] perjured [himself] is invalid for giving evidence in every matter covered by the Torah,” the words of R. Meir.

[O] Said R. Yosé, “Under what circumstances? When such a person has been perjured in a capital case.

[P] “But if he was perjured in a case involving a monetary claim, he is invalid only for the purpose of giving that particular testimony alone” [T. Mak. 1:11].

[Q] *Now the opinion of R. Yosé is in accord with that of rabbis, and the opinion of R. Meir is in accord with that of R. Eliezer.*

[V:1 A] Said R. Simeon. ‘In the beginning they called them, ‘Those who gather Seventh Year produce. ‘ When oppressors became many [who collected taxes in the Seventh Year], they reverted to call them. ‘Those who do business in the produce of the Seventh Year.’” Said R. Judah, “Under what circumstances? When they have only that as their profession. But if they have a profession

other than that. they are valid [to serve as witnesses or judges]” [M. San. 3:5C-D].

- [B] *What would be a concrete example [of Judah’s position]?*
- [C] **It is one who sits idle during the other six years of the septennate. Once the Seventh Year comes, he stretches out his hands and legs and does business in produce of the Seventh Year [T. San. 5:2K].**
- [D] [But] if he has yet another profession, he is valid, and [only] if not is he invalid.
- [E] But if he carried out his own profession through all the years of the septennate, and once the Seventh Year arrives, he then stretches out his hands and does business in produce of the Seventh Year, even though such a person has no other profession [in the Seventh Year itself], he [too] is valid.
- [F] R. Ba bar Zabeda, R. Abbahu in the name of R. Eleazar: “The law is in accord with the opinion of R. Judah in the present pericope of the Mishnah [M. San. 3:5D].”
- [G] *R. Ba bar Zabeda was praised because he stated this tradition in the name of someone [Abbahu] who was younger than he.*
- [H] *R. Hiyya taught this tradition [of Judah’s views] in a strict way [as we shall now see].*
- [I] *What would be a concrete example [of a strict ruling]?*
- [J] [If] one was sitting and occupied [21b] with his normal profession all the years of the septennate, and [only] once the Seventh Year began, he began to stretch out his hands and do business in the produce of the Seventh Year, even though he has some other profession along with [this activity], he is invalid [for giving testimony].
- [K] [What follows is dependent on M. Sheb. 4:2: **A field that has been cleared of thorns in the Seventh Year may be sown in the eighth year; but one that has been prepared or used by cattle may not be sown in the eighth year.** Now in that context it is stated that sages permitted ploughing once in the Sabbatical Year to pay taxes, but if one did so two times, he then is penalized by sages and not permitted to sow in the eighth year. In this context it is stated:] *Is it not in this case that R. Ba bar Zabeda, R. Abbahu in the name of R. Eleazar, said, “The law is in accord with R. Judah of the Mishnah [that one is invalid as a witness if he has no other profession]”? In R. Hiyya’s view he is always invalid. It must follow that sages did not permit on any*

occasion that one do business with produce of the Seventh Year. Why is it stated here that the field has been prepared or improved as a special case? There is no need for such a specification (PM)].

[L] *There [they praised] R. Ba bar Zabeda who stated the tradition in the name of one who is younger than he. Therefore that is the law. Here too the law should be the same.*

[M] *Said R. Yosé b. R. Bun, “There the government did not force [the people to farm in the Seventh Year], but here they did force them [to farm in the Seventh Year in order to pay taxes]. [Where the person who does business in the produce of the Seventh Year is prohibited from testifying is a case in which the government did not force him to do what he was doing. But where he is permitted to testify, it is because he had no choice. Then sages permitted one sowing, for purposes of raising crops to pay taxes.]”*

[N] *When the government first became oppressive, R. Yannai gave instructions that the people might plough one time. There was an apostate to idolatry, who transgressed the laws of the Seventh Year. When he saw them throw up the ploughed clods, he said to them, “Oh! that perversion of the law! You have been given permission to plough [in the Sabbatical Year, because of the government’s edict], but have you been permitted to throw up the ploughed clods?” [Cf. Jastrow I.328B, s.v. H’SSTW.]*

[O] *[As to Yannai’s permitting the people to plough in the Seventh Year.] said R. Jacob bar Zabedi, “I asked before R. Abbahu, ‘Did not Zeira and R. Yohanan in the name of R. Yannai say, [or] R. Yohanan in the name of R. Simeon b. Yehosedeq: “They voted in the upper room of the house of Nitze in Lud:*

[P] *““In regard to the Torah, how do we know that if an idolater should say to an Israelite to transgress any one of all of the religious duties which are stated in the Torah, except for idolatry, fornication, and murder, that he should transgress and not be put to death?”*

[Q] *““Now that rule applies to some matter which is done in private.*

[R] *““But if it is a matter of public desecration, then even for the most minor religious duty one should not obey him. [So how could Yannai have permitted the people to plough in the Seventh Year?]*

[S] ““For example, there is the case of Papus and Lulianos, his brother, to whom they gave water in a colored glass flask [bearing an idol’s name], and they did not accept it from them.””

[T] [Yannai] said, “[*The case is different here. For*] they do not have in mind to force the Jews to commit apostasy [which is not the issue], but solely to pay taxes. [In such a case it is permitted publicly to violate the laws of the Torah.]”

[U] How many are present for the case to involve public desecration?

[V] *Rabbis of Caesarea* say, “Ten, as it is written, ‘I will be sanctified among the people of Israel’ (Lev. 22:32).”

[W] *They saw R. Bina the Younger running after an ass on the Sabbath [at the instance of idolaters].*

[X] *R. Yonah and R. Yosé gave instructions to bake bread for Ursicinus on the Sabbath.*

[Y] Said R. Mani, “I asked before R. Jonah, ‘Father, now did not R. Zeira, R. Yohanan in the name of R. Yannai, R. Jeremiah, R. Yohanan in the name of R. Simeon b. Yehosedeq say: “They voted in the upper room of the house of Nitzeq, etc. [as above].”’ [So how can you permit Jews to bake bread in public on the Sabbath?]”

[Z] *He did not intend to force them to apostatize; he intended only to eat warm bread.*

[AA] How many are present for the case to involve public desecration?

[BB] *Rabbis of Caesarea* say, “Ten, as it is written, ‘I will be sanctified among the people of Israel’ (Lev. 22:32).”

[CC] *R. Abuna raised the question to R. Ammi:* “As to idolaters, what is the law as to their being commanded to sanctify the Name?”

[DD] He said to him, “I will be sanctified among the people of Israel’ (Lev. 22:32). Israelites are commanded to sanctify God’s name, and idolaters are not commanded to sanctify God’s name.”

[EE] *R. Nisi in the name of R. Eleazar derived the same rule from the following: “‘In this matter may the Lord pardon your servant [Naaman]: [when my master goes into the house of Rimmon to worship there, and I bow myself in the house of Rimmon, when I bow myself in the house of Rimmon, the Lord pardon your servant in this matter]’ (2 Kings 5:18).*

[FF] “This indicates that Israelites are commanded concerning the sanctification of God’s name [through not publicly or privately practicing idolatry, as in the cited instance], but idolaters are not commanded concerning the sanctification of God’s name.”

[GG] *R. Ba bar Zamina was employed in sewing clothes by someone in Rome. [The Roman] brought him carrion meat.*

[HH] *He said to him, “Eat.”*

[II] *He said to him, “I am not going to eat.”*

[JJ] *He said to him, “Eat, or I’ll kill you.”*

[KK] *He said to him, “If you want to kill me, kill me, but I’m not going to eat carrion meat.”*

[LL] *He said to him, “Who told you [that my intention was to test you], for had you eaten the meat, I would have killed you. If you are going to be a Jew, be a Jew. If you are going to be a Roman, be a Roman [Aramaean].”*

[MM] *Said R. Mana, “Had R. Ba bar Zamina heard the teaching of the rabbis, [who said that it is all right to transgress in private,] he would have eaten in this case.”*

[NN] As to clearing a field in the Seventh Year in this time, [in which case the rabbis’ applied penalty that one who does so in the Seventh Year is penalized and may not sow in it in the year after the Seventh Year,] what is the law? [That is, does the rule of sages still apply?]

[OO] *R. Jeremiah thought to say, “Once the [Roman] law is annulled, then the rabbis’ decree also is nullified.”*

[PP] *R. Yosé thought to say, “The decree of the rabbis remains valid indefinitely, until another court will be called into session and nullify it.”*

[QQ] *And similarly the [two authorities, Jeremiah and Yosé, differ in the following case]:*

[RR] *At what point does one effect acquisition of produce of his in the Seventh Year?*

[SS] *R. Jeremiah thought to say, “Once he has put the produce into his baskets.”*

[TT] *R. Yosé thought to say, “Even if they are put into his baskets, he has not acquired possession of them. For he will be thinking that at that point they belong to him, but they do not belong to him at all.”*

[UU] *When Perocles came to Sepphoris, R. Mana instructed the bakers to put out [bread] in the marketplace on the Sabbath.*

[VV] *Rabbis of Naveh gave instructions [to the bakers] to bake leavened bread on Passover.*

[WW] *Said R. Yosé b. R. Bun, ““Keep I the king’s command, and because of your sacred oath be not dismayed’ (Qoh. 8:2) – the command of the King of kings do I keep, who said to me at Sinai, “I am the Lord your God”” (Ex. 20:2).*

[XX] *“And as to that commandment, ‘You shall have no other gods before me,’ this refers to the oath of God: ‘You shall not take the name of the Lord your God in vain.”*

[YY] *[As to the name of Nebuchadnezzar: In all other matters you are king, as to taxes and corvées, but in this matter, you are] like an empty pot [and] the barking [of a dog]. That man [you] and a dog are equal [to us, for we do not obey you].*

[V:2 A] **R. Judah in the name of Rab:** “The law is in accord with R. Judah.”

3:6

[A] **And these are relatives [prohibited from serving as one's witnesses or judges]: (1) one's father, (2) brother, (3) father's brother, (4) mother's brother, (5) sister's husband, (6) father's sister's husband, (7) mother's sister's husband, (8) mother's husband, (9) father-in-law, and (10) wife's sister's husband –**

[B] **they, their sons, and their sons-in-law;**

[C] **but the step-son only [but not the step-son's offspring].**

[D] **Said R. Yosé, “This is the version of R. Aqiba. But the earlier version [is as follows]:**

[E] **“His uncle, the son of his uncle [Lev. 25:49] and anyone who stands to inherit him [M. B.B. 8:1].”**

[F] **And anyone who is related to him at that time,**

[G] **[If] one was a relative but ceased to be related, lo, that person is valid.**

[H] **R. Judah says, “Even if his daughter died, if he has sons from her, lo, [the son-in-law] is deemed a relative.**

[I:1 A] *Since we have learned that his brother [is deemed invalid as a relative], what need is there to teach, “The brother of his father”?*

[B] It is to indicate that [included as relatives are] the son and son-in-law of the son-in-law of his father's brother.

[C] *Since we have learned that the brother of his father [is deemed invalid as a relative], what need is there to teach, “The brother of his mother”?*

[D] It is to indicate that [included as relatives are] the son and the son-in-law of the son-in-law of his mother's brother.

[E] *Since we have learned that the husband of his sister [is deemed invalid as a relative], what need is there to teach, “The husband of his father's sister”?*

[F] It is to indicate that [included as relatives are] the son and the son-in-law of the son-in-law of the husband of his father's sister.

[G] *Since we have learned that the husband of his father's sister [is deemed invalid as a relative], what need is there to teach, “The husband of his mother's sister”?*

[H] It is to indicate that [included as relatives are] the son and the son-in-law of the son-in-law of the husband of his mother's sister.

- [I:2 A] *But we have learned, **The stepson only** [M. San. 3:6C].* [This would exclude the stepson's wife, who may testify.]
- [B] Rab said, "If the son-in-law of his mother-in-law is forbidden, the husband and his stepdaughter all the more so [are forbidden]." [Since the father-in-law and son-in-law are forbidden, and since a woman is in the status of her husband, then the son-in-law of his father-in-law also is forbidden. This then would include the son-in-law from the first husband. That is, the husband's daughter by another woman and the wife's daughter from another husband are married to two men. One then is the son-in-law of the mother-in-law of the other, even though the wives are merely related as stepdaughters. Nonetheless, the two men may not testify in one another's behalf (PM).]"
- [C] [That is not the case.] Interpret the rule to speak of a case in which the woman has sons and sons-in-law from his father-in-
- [I:3 A] As to the wife's sister's husband [of M. 3:6A(10)], *there is a Tannaite authority who teaches that his sons and sons-in-law also are prohibited to serve as witnesses.*
- [B] *There is a Tannaite authority who teaches that his sons and sons-in-law are permitted to serve as witnesses.*
- [C] *The one who maintains that the sons and sons-in-law are subject to the prohibition of testimony regards them as deriving from the sister of his wife [and hence are related through the mother].*
- [D] *The one who maintains that the sons and sons-in-law are not subject to the prohibition of testimony regards them as deriving from some other source [than the sister of his wife]. [That is, they are the children of some other woman entirely who married his wife's sister's husband.]*
- [I:4 A] *Rab went out to look over a property held as a pledge by R. Hiyya the Elder. He passed through a certain place and found R. Yohanan in session and raised the following question: "We have learned, **The stepson only**. What is the law as to the wife of the stepson? [Is she valid to testify, in light of Mishnah's statement?] What is the law as to the husband of one's stepdaughter? Do we maintain that a woman is in the status of her husband, and a husband is in the status of his wife? [In this case the wife of the stepson or husband of the stepdaughter also is prohibited from testifying.] And the matter was settled that, indeed, the wife of his stepson is in the status of his stepson, [or] the husband is in the status of the wife [and what is excluded by Mishnah's language is the sons and sons-in-law of the stepson]."*

- [I:5 A] *R. Hisda raised the question: “What is the law concerning the third generation’s being permitted to testify in respect to the wife of the first generation?”*
- [B] “As to Moses, what is the law as to his being permitted to testify concerning the wife of Phineas [his grandson] [and, further, do we invoke the rule that the wife is in the status of the husband in the third generation as in the first]?”
- [C] R. Simeon b. Laqish said, “They accept the testimony of the second and third generation when it is out of necessity.”
- [D] R. Yohanan said, “Even if there is ample [testimony, that of the named parties also is acceptable].”

- [II:1 A] **[If one was a relative but deceased, that person is valid [M. San. 3:6G]:** *This is in line with the following case: The wife’s sister’s husband of R. Huna had a suit against a certain person. [The former wife’s sister’s husband of Huna] said, “Whatever R. Huna says I accept [as valid evidence in this case].”*
- [B] *R. Huna heard and said the same.* [That is, he maintained the same position, that he was then valid to testify for his former wife’s sister’s husband.]
- [C] “[For,” he continued,] “I know that just as they said that that rule applies to the earlier generation [e.g., if one’s daughter had died,] so it applies to the later generation [e.g., if the wife’s sister’s husband becomes free to testify in behalf of his former wife’s sister’s brother.”
- [D] R. Jeremiah in the name of Rab: “The law is in accord with the statement of R. Judah [at M. San. 3:6H, that is, contrary to C, the foregoing statement].”

3:7

- [A] **“One known to be a friend and one known to be an enemy –**
- [B] **“one known to be a friend – this is the one who served as his groomsman;**
- [C] **“One known to be an enemy – this is one who has not spoken with him for three days by reason of outrage.”**
- [D] **They said to [Judah], “Israelites are not suspect for such a factor.”**
- [I:1 A] R. Tablai, R. Abina in the name of Rab: “[The law covering the groomsman applies not only on the day of the wedding, but also]

throughout the seven days of the wedding celebration. [For that period the groomsman may not testify. But thereafter he may do so.]”

3:8

- [A] **How do they test the witnesses?**
- [B] **They bring them into the room and admonish them.**
- [C] **Then they take everyone out and keep back the most important of the group.**
- [D] **And they say to him, “Explain: How do you know that this one owes money to that one.”**
- [E] **If he said, “He told me, ‘I owe him,’ ‘So-and-so told me that he owes him,” he has said nothing whatsoever,**
- [F] **unless he says, “In our presence he admitted to him that he owes him two hundred zuz.”**
- [I:1 A] [With regard to M. San. 3:8E, F,] R. Yosé in the name of R. Yohanan: “If [the defendant] clearly intended to hand on solid testimony [as to his guilt, not merely a remark made casually], then the testimony to that effect given by witnesses indeed is valid.”
- [I:2 A] **How do they carry out a judgment?**
- [B] **The judges seat themselves, and the litigants remain standing before them.**
- [C] **Whoever brings claim against his fellow is the one who opens the proceedings [T. San. 6:3],**
- [D] as it is said, “... Whoever has a complaint, let him go to them [Aaron and Hur, as judges]” (Ex. 24:14).
- [E] And how do we know that the one who lays claim against his fellow bears the burden of proof?
- [F] R. Qerispa in the name of R. Hananiah b. Gamaliel: “‘... let him go to them,’ [meaning,] Let him bring his evidence to them.”
- [G] *R. Yohanan raised the question*, “In the case of a childless sister-in-law, who brings claim against whom?”
- [H] *R. Eleazar replied*, “And is it not written, ‘... then the brother’s wife shall go up to the gate to the elders’ (Deut. 25:7)?”
- [I] R. Yohanan said, “Well did R. Eleazar teach one.”

- [J] [Resuming A-C] R. Berekhiah and R. Helbo, R. Ba in the name of R. Yannai: “The plaintiff makes his claim, and the defendant replies, and then the judge makes his decision.”
- [K] Said R. Simon, “The judge has to rehearse the claims [of the plaintiff and the defendant], as it is said, ‘Then the king said, “The one says, ‘This is my son that is alive, and your son is dead’; [and the other says, ‘No, but your son is dead, and my son is the living one]’”’ (1 Kings 3:23).”
- [I:3 A] [21c] *R. Huna, when he would see witnesses using identical language, would undertake a strict examination. And when he did so, it turned out that he was right [that there had been a prior rehearsal on what the witnesses were to say].*
- [B] *R. Huna would ridicule a judge who [began the proceedings, e.g., by asking,] “Do you accept the testimony of one witness?” But [he maintained that the litigants] must open the proceedings.*
- [C] *R. Huna, when he knew reason to acquit someone in court, and [the litigant] could not properly present his argument, he [R. Huna] would argue for [the litigant] – on the basis of “Open your mouth for the dumb, for the rights of all who are left desolate; open your mouth, judge righteously” (Prov. 31:9).*
- [I:4 A] R. Abbahu in the name of R. Yohanan: “He who hides his witnesses behind a wall [to entrap another party] has not accomplished anything.”
- [B] *It is in line with the following: There was a man who wanted to join at a banquet.*
- [C] *[The host] said to him, “Will you give me what you owe me?”*
- [D] *He said to him, “Yes.”*
- [E] *After they got up from the banquet, [the unwanted guest] said to him, “I don’t owe you anything at all.”*
- [F] *[The host] said to him, “I have witnesses [that you confessed to the debt].”*
- [G] *[The defendant] said to him, “I only said that because I didn’t want to ruin your banquet.”*
- [H] *The case came before R. Ammi, who ruled, “This is in line with that which R. Yohanan has stated, ‘He who hides his witnesses behind a wall has not accomplished anything.’”*

3:9

- [A] And afterward they bring in the second and test him in the same way.
- [B] If their testimony checks out, they discuss the matter.
- [C] [If] two [judges] say, “He is innocent,” and one says, “He is guilty,” he is innocent.
- [D] [If] two say, “He is guilty,” and one says, “He is innocent,” he is guilty.
- [E] [If] one says, “He is innocent,” and one says, “He is guilty,” –
- [F] or even if two declare him innocent and two declare him guilty –
- [G] but one of them says, “I don’t know,”
- [H] they have to add judges.

- [I:1 A] The smallest number of goats (Lev. 16:5: “Two male goats for a sin offering”) is two. Why then does Scripture specify “two”? To indicate that the two of them should be equivalent to one another.
- [B] The smallest number of lambs (Lev. 14:10) is two. Why then does Scripture specify “two”? To indicate that the two of them should be equivalent to one another.
- [C] The smallest number of birds is two. Why then does Scripture specify “two” [“two living clean birds” (Lev. 14:4)]? To indicate that the two of them should be equivalent to one another.
- [D] The smallest number of trumpets (Num. 10:2) is two. Why then does Scripture specify “two”? To indicate that the two of them should be equivalent to one another.
- [E] [The foregoing is relevant because of the following:] *R. Haggai objected to R. Yasa*, “And is it not written, ‘If a malicious witness raises against any man to accuse him of wrongdoing, then both parties to the dispute shall appear before the Lord’ (Deut. 19:16-17)?
- [F] “Shall we now say: ‘The smallest number of men is two’? Why then does Scripture specify, ‘the two parties’? Is it to say that both of them must be equivalent to one another? But has it not been written [to the contrary, indicating that they need not be equivalent to one another], ‘You shall not pervert the justice due to the sojourner or to the fatherless’ (Deut. 24:17)? Lo, a sojourner may enter into a case with one who is not a sojourner, an orphan enters into a case with one who is not an orphan.
- [G] “If so, why has it been written, ‘two’?

- [H] “It is a superfluous word, left available for drawing an analogy therefrom or for constructing an argument on the foundation of similarities.
- [I] “[This argument, specifically, is as follows:] Here it is stated, ‘two,’ and below it says, ‘Now two men remained in the camp, one named Eldad, and the other named Medad, and the spirit rested upon them’ (Num. 11:26).
- [J] “Just as in the cited passage the reference is to men, not women, so here [with regard to testimony] the meaning is to permit [two] men, but not women or children [to testify].
- [K] “Thus we have learned that a woman does not judge or give testimony in court.”
- [L] R. Yosé b. R. Bun in the name of R. Joseph: “Here ‘two’ is said, and elsewhere ‘two’ is said.
- [M] “Just as elsewhere, the meaning is that by the evidence of two witnesses a case is decided (Deut. 19:15), so here, on the basis of two witnesses a case is decided.
- [N] “If so, why does Scripture specify, ‘Two’?”
- [O] “The meaning is that [they must be treated equally, so] one may not stand while the other is sitting, one may not state his case as is fitting, while the other is told, ‘Cut it short.’”
- [P] Said R. Judah, “I heard that if the judge wanted to have the two of them sit down together, he may do so.”**
- [Q] R. Ishmael says, “They say to him, ‘Dress just as the other party is dressed, or give him garments equivalent to yours’” [T. San. 6:2H-J].**
- [R] Said R. Ba in the name of R. Huna, “The witnesses have to stand when they give testimony, since it is said, ‘And the two parties to the dispute shall stand before the Lord’ (Deut. 19: 17).”
- [S; R. Jeremiah in the name of R. Abbahu: “Also those who are subject to trial must stand when they receive the judgment pertaining to them, since it said, ‘Then both parties to the dispute shall appear before the Lord’ (Deut. 19:17).”

[I:2 A] It is written, “The fathers shall not be put to death for the children” (Deut. 24:16).

- [B] And has it not also been stated, “Every man shall be put to death for his own sin” (Dt. 24:16)?
- [C] Why does Scripture then state, “The fathers shall not be put to death for the children” (Dt. 24:16)?
- [D] The fathers shall not be put to death by the testimony of the children, and the children shall not be put to death by the testimony of the fathers.
- [E] How then do we know further that witnesses may not be related to the litigants, and how do we know that witnesses may not be related to one another [M. 3:6)?
- [F] Take note that, if they should be declared to be conspiring witnesses, is it not by their own testimony that they are put to death [in which case relatives turn out to testify against one another, which is not permitted)?
- [G] And how do we know that witnesses may not be related to the judges?
- [H] Take note that if one of the witnesses is declared a conspiratorial witness, is he put to death before his fellow also is so declared: [Of course not.] If you say so, will he not be put to death by his testimony? [That is, judges will turn out to inflict the death penalty on their own relatives.]
- [I] And how do we know that the judges may not be related to one another?
- [J] The Torah has declared that one should be put to death on the testimony of witnesses, and one should be put to death at the decision of judges. Just as witnesses may not be related to one another, so judges may not be related to one another.
- [K] I know that these rules apply only to fathers and children. How do I know that they apply to other relationships?
- [L] Said R. Zeira, “‘And children’ – the use of the ‘and’ serves to encompass other relatives.”
- [M] This explanation works for R. Aqiba [who deems the use of the word ‘and’ to bear meaning, as indicated]. How is the question to be answered within the exegetical techniques associated with the name of R. Ishmael?
- [N] *R. Ishmael teaches*, “‘Then the congregation shall judge...then the congregation shall rescue’ (Num. 35:24, 25) – [This rule teaches that

the congregation] may not be made up of relatives either of the one who has administered the blow or the one who has received it.”

[O] Said R. Yosé, “If you say so [that the court may be related to the one receiving the blow], you turn out to rule that a court may be made up of avengers of the blood [and Num. 35:24 clearly differentiates between the court and the avenger of the blood].”

[P] “On this basis we learn that the judges may not be related to the accused.”

[Q] And how do we know that the witnesses may not be related to the accused?

[R] The Torah has said that one should administer the death penalty on the testimony of witnesses, and one should administer the death penalty on the testimony of judges. Just as judges may not be related to the accused, so the witnesses may not be related to the accused.

[S] And how do we know that the witnesses may not be related to one another?

[T] Take note that if they should be declared conspiring witnesses, is it not by their now testimony that they are put to death?

[I:3 A] [The law governing an oath of testimony applies to men and nor to women, to those who are not related and not to those who are related,] to those who are suitable to bear witness, and not to those who are not suitable to bear witness [M. Sheb. 4:1A].

[B] This is in line with that which is said, “If he does not speak, he shall bear his iniquity” (Lev. 5:1).

[C] [This applies to] him who gives evidence, so that his fellow will have to pay out money. It thus excludes one who is unfit to give testimony, for even if he does tell what he knows, his fellow is not going to have to pay out money.

[D] **Before a court [and not before a court:]** This excludes the case of a single witness [without a corroborating witness], in a case in which they said to him, “Lo, you are acceptable for us as two witnesses.”

[E] Is it possible to suppose that, in the stated case, such a one should be liable [to the oath of testimony]?

[F] Scripture has stated, “... whether he has seen or come to know the matter, yet does not speak” (Lev. 5:5) – this refers to one who is

suitable to give testimony valid by the law of the Torah, excluding a lone witness, who is not valid to give testimony by the law of the Torah.

[G] **And not before a court:** “If he does not speak, he shall bear his iniquity” (Lev. 5:5) – [the oath thus applies to] the one who reports what he has seen and [his fellow] pays what he owes, excluding a case outside of a court, in which even if one reports what he knows, his fellow is not going to have to pay out compensation.

[H] And how do we know that the law applies to two witnesses? Scripture says, “And he a witness,” lo, here are two witnesses.

[I] And this is in accord with *R. Ishmael*,

[J] for *R. Ishmael* has said, “In any case in which it is written in the Torah, ‘Witness,’ without further explanation, lo, under discussion in fact are two witnesses, unless Scripture informs you explicitly that it means to speak of only a single witness.” *Thus it is found to be taught as a Tannaite rule that two witnesses [to be liable].*

[K] As to a single witness [who swears he has no knowledge], what is the law as to declaring him liable for taking a rash oath?

[L] Is it possible to say so? Since it is possible to join another witness to his testimony and to impose on [both of them] liability for an oath of testimony, how can you [ever] impose upon him liability for a rash oath?

[M] [Along these same lines,] what is the law as to imposing liability upon a relative for a rash oath [since he cannot testify in court].

[N] [*Is the answer to this question*] in line with the following, which *R. Ba bar Samuel* stated, “[If one said,] ‘I swear that Mr. So-and-so has given a *maneh* to Mr. So-and-so,’ and it turns out that he never gave him the money [he is exempt from liability, for the oath was invalid], since he has not got the power to speak about the future [in an oath], he also has not got the power to speak about what has happened in the past”? [So the answer to M is negative, since the relative cannot govern matters in the future.]

[O] Or [is the answer to the question raised in line with the following]?

[P] If one said to him, “Where is my ox, “ and he said to him, “I do not know what you ‘re talking about,” and the case was that the ox had died or broken its leg or been captured or been lost, “I impose an oath on you,” and the other said, “Amen,” – the latter is exempt [from punishment for having taken a false oath] [M. Shebu. 8:2].

[Q] Rab said, “He is exempt by reason of taking a false oath of bailment, but he is liable by reason of taking a rash oath.” [Likewise the answer to M is affirmative.]

[R] Said R. Yohanan, “Since it is a religious duty to appease him, he is not liable on the count of having taken a rash oath.”

[S] *In the view of Rab*, is it not a religious duty to appease his fellow? One appeases him by telling the truth, but he does not appease him by a lie.

[T] [Concurring that where there is no oath of testimony, there still is a rash oath, which has been violated and must be expiated,] *R. Ishmael taught*, “... he shall. bear his iniquity’ (Lev. 5:1) [by bringing] an offering.”

[U] How do we know that [the denial nonetheless must take place] before a court [even in the case of a relative or someone else who is not suitable for testimony in court]?

[V] *We derive the matter from* “telling.”

[W] [That is to say,] just as “telling” in this context [Lev. 5:1] involves doing so in court, so “telling” mentioned in connection with the rebellious elder [Deut. 17:9] involves doing so in court.

[I:4 A] (As to the following:) The evidence of witnesses is not combined [so that we have the testimony of two witnesses] unless the two of them saw the incident simultaneously –

[B] R. Joshua b. Qorha says, “Even if they saw it sequentially.”

- [C] R. Jeremiah in the name of Rab: “Sages concede to R. Joshua b. Qorha in the matter of witnesses to the claim of one to be the firstborn, and in the case of witnesses to the claim of one to have established rights of ownership through usucaption, [that successive, not simultaneous, witness, is acceptable].”
- [D] R. Ba in the name of R. Jeremiah: “Also in the case of testimony as to the presence of the signs [of puberty] the fact is the same.
- [E] *This is indeed self-evident.* [If] one says, “I saw two hairs in his privy parts,” and the other said, “I saw two hairs on his body” [the two statements are not acceptable as joined testimony that the person is now mature (PM)].
- [F] [If] one says, “I saw a single hair on his p }ivvy parts,” and one says, “I saw a single hair on his belly,” it is as nothing [the statements are not acceptable as joined testimony] – is it not so that all the more so [we deem one statement regarding] his privy parts and one [regarding] his body [as unacceptable for joined testimony] (PM).
- [G] [If] two say, “We saw a single hair on his privy parts,” and two say, “We saw a single hair on his belly” –
- [H] R. Yosé and R. Hoshaiyah [21d] bar R. Shimi – one said, “He is unfit [not yet mature],” and the other said, “He is fit.”
- [I] *The one who said that he is unfit deems the testimony to be equivalent to that of one who testifies concerning the appearance of only part of the required sign [of maturity]. The one who said he is valid [maintains], “I say that [there were two, but one of them] may have fallen out.”*
- [J] [If] one party says, “I saw two hairs on his privy parts,” and one says, “I saw two hairs on his belly,”
- [K] R. Ba said, “In the opinion of all parties, he is now valid, [since there is sure evidence that there are the requisite two pubic hairs].”
- [L] Said R. Haggai, “In the opinion of all parties he is invalid.”
- [M] R. Yosé says, “The matter is still subject to dispute.”
- [N] *Said R. [Yosé] to R. Haggai, “Lo, R. Yudan [my student] ruled in accord with my view of the matter.”*
- [O] *He said to him, “Now since I differ from his master, all the more so do I disagree with him!”*

[P] Said R. Mana, “R. Haggai’s ruling is quite sound. For if we have a bond that bears four seals, and one party gives testimony concerning two of them, while another gives testimony concerning two of them, and someone cavils at the bond, *is* he bond of any value whatsoever? [Hardly!] For does require the validation of two witnesses? *Here* too, each sign of maturity requires the validation of two witnesses.”

[Q] R. Hinena derived the same facts from the case of attesting to the full use and enjoyment of a property throughout the years of usucaption [to which testimony must brought]. [That is, if one wishes to establish the claim of title through usucaption, he must bring evidence that he has held and used the property for the requisite number of years.] ‘Now, if one witnesses testified that he had enjoyed usucaption for the first, second, and third years, and another witnesses that he had enjoyed usucaption for the fourth, fifth, and sixth years, is it possible that such joined testimony is worth a third? Is it not the fact that each year of usucaption must be attested by two witnesses? Here too, each sign of maturity just be attested and validated by two witnesses.”

[I:5 A] [In regard to Joshua b. Qorha’s view, I:4C, that the evidence of witnesses is combined even if they saw the matter to which they testify only sequentially, note the following:] They accept the testimony of witnesses only when they come at the same time and testify in the same proceeding.

[B] R. Nathan Says, “They accept the testimony of the first, and when the second comes, they accept his testimony as well.”

[C] *When R. Jonathan was in session, he asked, “Is it possible that anyone here has heard that the law accords with the teaching of R. Nathan?”*

[D] Said to him R. Yosé bar Haninah, “Lo, R. Simeon b. Yaqim has.”

[E] *He said to him, “Go up forward.”*

[F] *Once he had gotten up, he said to him, “Have you heard that the law accords with the teaching of R. Nathan?”*

[G] *He said to him, “I have heard: R. Joshua b. Qorha concurs with the position of R. Nathan.”*

[H] *He said to him, “Now is that what we needed? [That is obvious. If Joshua b. Qorha does not require the witnesses to see the fact at the same time, he obviously will not expect them to testify at the same time.]*

[I] *He said to him further, “But R. Yosé bar Hanina intended only to bring R. Simeon b. Yaqim forward, since he is a great man [and he wanted to be sure that he got full recognition such as was coming to him].*

[I:6 A] *R. Hisda raised the question, “What is the law as to accepting the testimony of witnesses not in the presence of a litigant?”*

[B] *R. Yosé in the name of R. Shabbetai: “They accept the testimony of witnesses not in the presence of a litigant, and they issue a court decree. If thereafter he comes and objects, his objections may be sustained. [That is, the court then hears his contrary evidence and may act on it.]”*

[C] *In the case of a man whom the court summoned three times but who did not come to court –*

[D] *R. Joshua said, “They accept contrary testimony in the absence of that litigant, and they issue a court decree.”*

[E] *This is in line with the following: Kahana died and left his estate to R. Josiah. R. Eleazar accepted testimony in behalf of Josiah in Josiah’s absence and issued a decree favoring R. Josiah. And not only so, but Kahana left sacred scrolls.*

[F] *R. Eleazar wrote to the heirs, “Scrolls of which the Land of Israel has established possession do they not remove from the Land and take abroad. [The scrolls may not be taken overseas to heirs living abroad.]”*

[G] *R. Nisi in the name of R. Eleazar: “If one wrote them on condition that he take them abroad, he may take them abroad.”*

[H] *R. Hiyya bar Ba raised the question before R. Yosé, “What is the law as to taking them abroad?”*

[I] *He said to him, “Are you raising this question to me because of a concrete case?”*

[J] *He said to him, “No.”*

[K] *And R. Zeira [sic] was displeased that he had not raised the question in order to make a practical decision, for he indeed knew what one must rule.*

[L] *R. Jeremiah had a matter under litigation with someone, and the court accepted testimony in the absence of R. Jeremiah, and they declared R. Jeremiah to be liable [and decided against him].*

[M] *R. Jeremiah was sitting and sorrowful: "Is it possible that they accept testimony in the absence of a litigant?"*

[N] *R. Huna, R. Pinhas, R. Hezekiah [delete: HWQWQ] did not go into the schoolhouse for the lesson on that day. R. Huna made his way in and found R. Jeremiah in a state of sorrow, and [Jeremiah] said to him, "Is it possible that they accept testimony in the absence of a litigant, even if the litigant is there with them in the same town?"*

[O] *He said to him, "I have seen that the rabbis indeed hold that position."*

3:10

[A] **[When] they have completed the matter, they bring them back in.**

[B] **The chief judge says, "Mr. So-and-so, you are innocent," "Mr. So-and-so, you are guilty."**

[C] **Now how do we know that when one of the judges leave [the court], he may not say, "I think he is innocent, but my colleagues think he is guilty, so what can I do? For my colleagues have the votes!"**

[D] **Concerning such a person, it is said, "You shall not go up and down as a talebearer among your people" (Lev. 19:16).**

[E] **And it is said, "He who goes about as a talebearer and reveals secrets, [but he that is faithful conceals the matter]" (Prov. 11:13).**

[I:1 A] Said R. Yohanan, "They force a judge who has taken the position that the accused is guilty to sign the decree of innocence with them, [if that is the position of the majority]."

[B] R. Simeon b. Laqish said, "The judge who deems the accused to be guilty writes, 'Guilty,' and the judge who deems the accused to be innocent writes, 'Innocent.'"

[C] *The Mishnah pericope [surely] stands at variance with the position of R. Simeon b. Laqish: **How do we know that when one of the judges***

leaves the court, he may not say, “I think he is innocent, but my colleagues think he is guilty”? [M. San. 3:10C].

- [D] *Now how does R. Yohanan deal with this same matter? [That is, why does he require all the judges to sign the decision, even if they differed from it?]*
- [E] *[If a judge does not sign with them, people will assume that he did not concur.] [So Yohanan makes provision] so that there will not be anyone to say, “If I had my choice, I would have declared So-and-so to be innocent, but they did not let me do so.*
- [F] *What is the reasoning of R. Simeon b. Laqish?*
- [G] *[The minority judge makes provision,] “so that someone else should not come along and maintain the same view as I do, [but since I have signed the decree, contrary to my views,] he will think that even [I], So-and-so, was there on the court, and even he erred in this same matter.” [So Simeon b. Laqish allows a judge to keep the record straight as to his opinions.]*

3:11

- [A] **So long as [a litigant] brings proof, he may reverse the ruling.**
- [B] **[If] they had said to him, “All the evidence which you have, bring between this date and thirty days from now,”**
- [C] **[if] he found evidence during the thirty-day-period, he may reverse the ruling.**
- [D] **[If he found evidence] after the thirty-day-period, he may not reverse the ruling.**
- [E] **Said Rabban Simeon b. Gamaliel, “What should this party do, who could not find the evidence during the thirty-day-period, but found it after thirty days?”**
- [I:1 A] Said R. Oshaiah, “[As to the comparison of this rule, dealing with a case in which the judges are in doubt as to their decision and are willing to consider further evidence, with the situation prevailing when one of the judges cannot make up his mind, in which case they add to the court, we may ask why they do not add to the court here as well.] *There* [where they add to the court, it is because] it is possible for them to add judges in pairs, *but here* it is not possible to add more judges [since the full complement has been reached]. [Consequently further evidence is admissible.]”

[B] *R. Yohanan and R. Laqish both teach that even here it is possible to add to the court. [for they hold that the point of adding judges is not the need of the available judges for more decisive evidence, as Oshaiah thinks. It is that the judges differ as to the legal principles. Here the sole doubt is as to the evidence, not as to the legal principles.]*

3:12

[A] [If] they had said to him, “Bring witnesses,”

[B] and he said, “I don’t have witnesses,”

[C] [if] they had said, “Bring proof,”

[D] and he said, “I don’t have proof”

[E] and after a time he brought proof, or he found witnesses –

[F] this is of no weight whatsoever.

[G] Said Rabban Simeon b. Gamaliel, “What should this party do, who did not even know that he had witnesses on his side but found witnesses? Or who did not even know that he had proof, but who found proof?”

[H] [If] they had said to him, “Bring witnesses,”

[I] and he said, “I have no witnesses,”

[J] “Bring proof,” and he said, “I have no proof,”

[K] [If] he saw that he would be declared liable in court and said, “Let Mr. So-and-so and Mr. Such-and-such [now] come along and give evidence in my behalf,”

[L] or if [on the spot] he brought proof out of his pocket –

[M] lo, this is of no weight whatsoever

[I:1 A] *R. Yohanan in the name of R. Hoshaiah [said, “There are] three masters [who differ on the interpretation of this rule].*

[B] “One said, ‘At any time at which one brings proof, he may reverse the decision.’

[C] “One said, ‘If he brought contrary evidence in thirty days, he may reverse the decision. If he did so after thirty days, he cannot do so.’

[D] “And one said, ‘Under no circumstances can he overturn the judgment, unless he brings proof that he had no knowledge at all [at the time of the trial, that this further evidence in his behalf was available].’”

[E] *And [with reference to the position of C.] have we not learned: Rabban Simeon b. Gamaliel said, “What should this party do, who did not even know that he had witnesses on his side, but found*

witnesses? Or who did not even know that he had proof, but found proof?” [M. San. 3:12G].

[F] [With regard to the position of D, that the litigant had no prior knowledge of the availability of the evidence which he now wishes to introduce,] R. La and R. Zira – One said, “This evidence may be introduced unless the other party can disprove the evidence. [The evidence may be presented, so long as the other party cannot disprove it.]”

[G] The other said, “This evidence may be introduced unless the other party [merely] denies the evidence. [Once the other party points out that he has no pertinent evidence, the losing party cannot reverse the court decision.]”

[I:2 A] *R. Levi had a case with a litigant in a matter of houses, and they came to court before R. Eleazar.*

[B] *After the trial was over, he brought evidence.*

[C] [Eleazar] asked R. Yohanan, who said to him, “So long as he brings proof, he may reverse the decision.”

[D] *Abemakhis had a litigation with someone concerning millstones, and they came to court before R. Eleazar. After the trial was over, he brought witnesses.*

[E] [Eleazar again] asked R. Yohanan, who said to him, “Are you still [in doubt] about this matter? So long as he brings proof, he may reverse the decision.”

[F] *Now why was it necessary to cite two cases?*

[G] *In the case of R. Levi, the court decision had not yet been issued, while in the case of R. Abemakhis, the court decision had already been issued, [so these were two quite separate situations].*

[I:3 A] As to the court’s validation [of a document in which the signature of the witnesses and judges are not recognized], what is the law as to requiring court action? [That is, do we have to validate all the signatures on a bond before a court, or perhaps, since the bond itself has been validated, it is not necessary to revalidate all the signatures.]

[B] R. Hoshaiyah in the name of Samuel, R. Benai in the name of Samuel:

[C] *One said, “It must be validated either through the signatures of the witnesses or through the signatures of the judges.”*

[D] *And one said*, “It may be validated even by the signature of one witness and a single judge.” [So both require revalidation of some of the signatures. But a witness and a judge join together for purposes of validation.]

YERUSHALMI SANHEDRIN

CHAPTER FOUR

4:1

[A] The same [laws] apply to property cases and capital cases with respect to examination and interrogation [of witnesses],

[B] as it is said, “You will have one law” (Lev. 24:22).

[C] What is the difference between property cases and capital cases?

[D] Property cases [are tried] by three [judges], and capital cases by twenty-three.

[E] In property cases they begin [argument] with the case either for acquittal or for conviction, while in capital cases they begin only with the case for acquittal, and not with the case for conviction.

[I:1 A] Said R. Yohanan, “In order to protect an Israelite’s assets, they say [to a witness in a property case], ‘How do you know that this one owes to that one?’” [This explains why witnesses are cross-examined in property cases.]

[B] *R. Hiyya bar Ba raised the question before R. Yosé, “How do they apply the law in practice?”*

[C] He said to him, it is in accord with R. Yohanan. For R. Yohanan said, ‘In order to protect Israel’s assets, they say [to a witness in a property case], ‘How do you know that this one owes money to that one?’”

[I:2 A] Zeira bar Hinena in the name of R. Haninah, and R. Judah: one said, “‘... Then you shall inquire and make search and ask diligently’ (Deut. 13:14). [That is why there must be a careful cross-examination.]”

[B] And the other said, “‘Justice, justice will you pursue’ (Deut. 16:20). [That is why there need not be so careful a cross-examination, so long as justice is done.]”

[C] Lo, how are [the two conflicting verses to be interpreted]?

[D] If you see that [solely through close cross-examination] the decision will go forth in accord with the truth, then execute a full cross-examination into it, and if not, then justify [straighten] it out [without elaborate cross-examination, which is not needed].

[E] *When R. Huna would see witnesses using identical language, he would undertake a strict examination. And when he did so, it turned out that he was right [that there had been a prior rehearsal on what the witnesses were to say].*

[I:3 A] How do they begin the argument with the case for acquittal?

[B] [Judges] say, “Is it possible that this man killed someone?”

[C] *Said R. Yosé, “If so, [the court itself will disrupt the case. For] one of the witnesses may say that he has arguments in favor of acquittal, and his fellow will come along and support him, in which case the testimony is amply supported. If you say so, does it come out that you impose guilt on the judges themselves [for disrupting the case]?”*

[D] And are there witnesses for such a liar? [That is, if a witness turns around and repudiates his original testimony and declares the man innocent, will yet a second party support such a reversion?]

[I:4 A] Said R. Yohanan, “Whoever does not know how to argue through one hundred arguments that a dead creeping thing is clean and that it is unclean has not got the right to begin the argument for acquittal at all.”

[B] How do they construct such an argument in regard to a dead creeping thing?

[C] Said R. Yannai, “[An example of an argument to prove that a dead creeping thing is cultically clean is as follows:] Now if a snake, which kills, is clean, a mouse, which does not have the power to kill, all the more so should be cultically clean.

[D] “Or, turning matters around: a mouse, which cannot kill, is cultically unclean. A snake, which can kill, all the more so should be cultically unclean.”

[E] *Replied R. Pinhas, “Lo, there is the scorpion, which kills, and lo, it is clean. [So this argument is null.]”*

[F] *It is found to be taught:* He said, “The snake is in the same category as the scorpion.”

[G] Said Rabbi, “R. Meir had an advanced disciple, who could bring arguments to prove a hundred times over that a dead creeping thing was clean and also that it was unclean.”

[H] *They say that that disciple did not know how to teach [anything of substance, but only to create fanciful arguments].*

[I] *Said R. Jacob bar Disai, “That disciple was cut off from Mount Sinai [and did not receive a share in the revelation of the Torah].”*

4:2

[A] In property cases they decide by a majority of one, whether for acquittal or for conviction, while in capital cases they decide by a majority of one for acquittal, but only with a majority of two [judges] for conviction.

[I:1 A] Said R. Yannai, “If the Torah were handed down cut-and-dried [so that there were no possibility for disagreement in reasoning about the law and no need to make up one’s mind], [the world] would not have a leg to stand on.”

[B] What is the Scriptural basis for that statement?

[C] “And the Lord spoke to Moses,” [telling him the diverse arguments relevant to each law (PM)].

[D] [Moses] said to him, “Lord of the World! Teach me the [practical] law [so that there will be no doubts about it].”

[E] He said to him, “... follow the majority to incline the law’ [to a decision, that is, make a decision in the law by a majority of the judges’ opinions] (Ex. 23:2).

[F] “[If] those who declare innocent form the majority, declare the accused innocent. [If] those who declare the accused to be guilty, declare him to be guilty.”

[G] [This is] so that the Torah may be expounded in forty-nine ways on the side of a decision of uncleanness, and in forty-nine ways in favor of a decision of cleanness. [“Now if I reveal the law to you in all its finality, there will be no possibility for such a range of argument.”] [And forty-nine is the] numerical equivalent of WDGLW [Song of Songs 2:4].

[H] And so it says, “The promises of the Lord are promises that are pure, silver refined in a furnace on the ground, purified seven

times seven” (Ps. 12:6). [That is why there must be forty-nine arguments, G.]

[I] And it says, “Rightly do they love you” (Song of Songs 1:4). [In argument to work out a right decision, they express their love for God.]

4:3

[A] In property cases they reverse the decision whether in favor of acquittal or in favor of conviction, while in capital cases they reverse the decision so as to favor acquittal, but they do not reverse the decision so as to favor conviction.

- [I:1 A] Lo, if one went forth from court having been declared innocent, and they found reasons for finding him guilty, might I suppose that they should bring him back into court?
- [B] Scripture says, “One who has been found righteous you must not put to death” (Ex. 23:7).
- [C] Lo, if he went forth from court having been declared guilty, and they found grounds for finding him innocent, might I suppose that they should not bring him back into court?
- [D] Scripture says, [22b] “Do not slay the innocent” (Ex. 23:7).
- [E] “Is it possible that if he should turn out to be righteous in your court, he also will be righteous in my court?”
- [F] Scripture says, “For I will not acquit the wicked [even if you do]” (Ex. 23:7).
- [I:2 A] Said R. Isaac, “R. Yosé said to me, ‘[Under certain circumstances], there is no difference [between the two kinds of decisions]. For if he was declared innocent by a [gross] error, they indeed do bring him back to court.’”
- [B] *R. Ammi raised the question before R. Yohanan:* “And even in the case of an adulterer and an adulteress?”
- [C] *He said to him, “Your patch is peeling off. [That is, your ignorance is revealed in such a question. Of course the law applies in such a case.]”*

4:4

[A] **In property cases all [judges and even disciples] argue either for acquittal or conviction. In capital cases all argue for acquittal, but all do not argue for conviction.**

[B] **In property cases one who argues for conviction may argue for acquittal, and one who argues for acquittal may also argue for conviction. In capital cases the one who argues for conviction may argue for acquittal, but the one who argues for acquittal has not got the power to retract and to argue for conviction.**

[I:1 A] Rabbi said, “[But the rule that people may not switch sides applies] only in a case in which what is now lacking is [merely the reading of the verdict,] saying ‘So-and-so, You are innocent,’ or ‘... you are guilty.’”

[B] “But if they lacked yet the full working out of the arguments in the case, it is not in such a case [that a judge is forbidden from switching sides].”

[C] R. Yosé b. Haninah said, “Even if they are still lacking in the full working out of the arguments in the case, in such a case a judge is forbidden from 9 sides [once he has spoken].”

4:5

[A] **In property cases they try the case by day and complete it by night. In capital cases they try the case by day and complete it [the following] day.**

[I:1 A] What is the source of this rule [that the completion of a property case may take place after dark]?

[B] “And let them judge the people at all times” (Ex. 18:22).

[C] And is it [possible to interpret the verse only] with reference to that which already has taken place, [that is, to assume that the verse speaks of completing the trial and giving the decision after dark on the same day on which the trial has taken place]? [Perhaps it speaks of commencing a trial, not completing the court process.]

[D] *Said R. Samuel bar R. Isaac, “Thus does the Mishnah law [intend to teach], that if the judges erred and reached a decision by night, the decision is valid, [for] it is taught, ‘And let them judge the people at all times.’”*

[E] *He said [to him], “That indeed is a valid explanation” (PM).*

4:6

[A] **In property cases they come to a final decision on the same day [as the trial itself], whether it is for acquittal or conviction. In capital cases they come to a final decision for acquittal on the same day, but on the following day for conviction.**

[B] **(Therefore they do not judge [capital cases] either on the eve of the Sabbath or on the eve of a festival.)**

[I:1 A] *It was taught:* **A witness does not give an argument either for acquittal or for conviction [cf. M. San. 5:4C] [T. 9:4C].**

[B] How do we know it?

[C] As it is said, “And [one witness will not [suffice to] give testimony [to put the accused] to death” (Num. 35:30).

[D] And how do we know that he may not give arguments either for acquittal or conviction?

[E] Scripture says, “And [he] will not [suffice to] give testimony [to put the accused] to death” (Num. 35:30).

[F] [Giving a reason based on law, not Scripture.] R. Simeon b. Laqish said, “There are times at which a person will see himself in danger of being rendered a perjured witness, [and to avoid that possibility,] he will exaggerate his evidence so that the accused is not put to death [thus avoiding the possibility that he too] in danger of perjury, may be put to death]. [Consequently, the witness has a vested interest in acquitting the man, and, it follows] he may not give arguments of that character.]”

[II:1 A] And how do we know [M. San. 4:6C] that we require two consecutive days [for the completion of a capital trial]?

[B] R. Hezekiah, R. Ahi in the name of R. Abbahu: “It is forbidden to undertake a trial for a property case on a Friday.”

[C] *Now the following Mishnah is at variance with this statement:*
Therefore they do not judge capital cases either on the eve of the Sabbath or on the eve of a festival [M. San. 4:6C].

[D] Lo, property cases may be tried [on those days]!

[E] *And R. Hiyya [also] taught so:* “They judge property cases on the eve of the Sabbath, but they do not judge capital cases on the eve of the Sabbath.”

- [F] He [B's authority] said, "The one rule is for purposes of legal theory, but the other governs what is actually done. [Hiyya's statement is the legal theory. But if such a case is tried on a Friday, it is not retried]."
- [G] And let the court try the accused on a Friday, complete the court process and issue the decision on the Sabbath, and put the convicted criminal to death on Sunday.
- [H] If you rule in that way, it turns out that the man's trial is prolonged, [and this constitutes torture to the accused, which is not permitted].
- [I] *R. Simeon b. Laqish raised the question:* "Then let him be judged on the Sabbath, and let the decision be reached on the Sabbath, and let him be put to death on the Sabbath.
- [J] "Now if the conduct of the Temple cult overrides the Sabbath, carrying out the religious duty of executing the murderer surely should override the Sabbath, for it is said, 'But if a man willfully attacks another to kill him treacherously, you shall take him from my altar, that he may die' (Ex. 21:14). [Thus the judgment of the murderer overrides the sanctity of the priestly labor at the altar.]
- [K] "Now since the Temple liturgy overrides [the Sabbath], is it not logical that the religious duty of executing the murderer will override the Sabbath?"
- [L] R. La in the name of R. Yannai, "On the basis of the following verse of Scripture we may prove that courts are not to go into session on the Sabbath.
- [M] "*What is the relevant verse?*
- [N] "Here it is said, '[You shall kindle no fire] in all your habitations on the Sabbath day' (Ex. 35:3).
- [O] "Further on it is said, 'And these things shall be for a statute and ordinance to you throughout your generations in all your dwellings' (Num. 35:29).
- [P] "Just as, later on, Scripture speaks of a court, so here Scripture speaks of a court [and so the verse at Ex. 35:3 indicates that one should not carry out the business of the court on the Sabbath]."

4:7

- [A] In cases involving questions of uncleanness and cleanness they begin [voting] from the eldest. In capital cases they begin from the side [with the youngest].
- [B] All are valid to engage in the judgment of property cases, but all are not valid to engage in the judgment of capital cases,
- [C] except for priests, Levites, and Israelites who are suitable to marry into the priesthood.

- [I:1 A] Rabbi says, “‘Do not answer in a suit (RYB)’ (Ex. 23:2) – It is written, RB [meaning, Rab:] One should not answer after the master but before him [so that, in capital cases, the younger judges will be able to exercise independent judgment only if they speak before the master has given his opinion].”
- [B] R. Yosé b. Haninah said, “‘Do not answer in a suit’ – RB is written, meaning, One should not answer before the master but only after him [in monetary cases].”

[C] Rab said, “Do not answer, even after a hundred”

[delete: the words of R. Pinhas].

- [I:2 A] *R. Hilqiah in the name of R. Simon: “R. Yohanan and R. Simeon b. Laqish differed.*
- [B] “One said, ‘Our conduct of trials is like their conduct of trials.’
- [C] “And the other said, ‘Our conduct of trials is not like their conduct of trials.’”
- [D] *The one who said, “Our conduct of trials is like their conduct of trials,” has no problems.*

[E] *But the one who said, “Our conduct of trials is not like their conduct of trials,” [must interpret the meaning of] the following verse: “Then Judah said to his brothers, [‘What profit is it if we slay our brother and conceal his blood?']” (Gen. 37:26). [Thus Judah spoke first, even though he was not the oldest brother. This was before the Torah was given, so in what is deemed a capital case, it is merely a matter of reason that they do not begin from the eldest.] “Then Memucan said in the presence of the king and the princes” (Est. 1:16). [Here too Memucan spoke first in the trial of Vashti. Thus in biblical times they did begin in capital cases with the youngest – Memucan being the last mentioned – and it is indeed a matter of reason to do so. Now if one says that in biblical*

times the law was different from what it became, how are these verses to be explained? For they indicate that the practice was the same, and that is because it is reasonable and obvious.]

[F] [The person who holds that the way we conduct trials is not like the way they conducted trials explains these verses as follows:] They saw the correctness of the opinion of Judah, they saw the correctness of the opinion of Memucan.

[I:3 A] And how do we know that in capital cases they begin from the side [with the youngest]?

[B] *Samuel the Elder taught before R. Aha:* ““And David said to his men, “Every man gird on his sword!” [David also girded on his sword]’ (1 Sam. 25:13). And afterward they went into session concerning Nabal. [David came last in the discussion.]”

[C] R. Tema bar Pappias in the name of R. Hoshaiiah: “Also in a case involving the invalidation of a family [for marriage into the priesthood] they begin on the side.”

[II:1 A] **All are valid to judge property cases [M. San. 4:7B].**

[B] R. Judah says, “Even mamzerim.”

[C] [Delete: R. Judah says, “They do not apply the law punctiliously in the case of libation-wine.”]

[II:2 A] It is written, “You shall not be partial to a poor man in *his* suit” (Ex. 23:6) [so a majority of two is required].

[B] In his suit you do not show partiality, but you show partiality in the case of an ox [who may be convicted by a majority of only one vote].

[C] R. Abbahu in the name of R. Yohanan, “But that is so only in regard to the differences between property cases and capital cases. [The ox is tried by twenty-three judges, but in all other ways it is a property case.]”

[II:3 A] *And how many are the [differences between capital and property procedures]?*

[B] *We have learned,* They are nine [such as are listed in the present pericopae of the Mishnah].

[C] *R. Hiyya taught,* “They are eleven.”

[D] *And what are the two additional ones [added by Hiyya]?*

[E] **A eunuch and whoever has never had children is valid to judge property cases but not capital cases [T. San. 7:2A].**

[F] R. Abbahu in the name of R. Yohanan: “Also one who is younger than twenty, and who has not yet produced two pubic hairs, is valid to judge property cases and not capital cases, and he may sit in on the case involving an ox.”

[G] R. Yosé b. Haninah said, “They are thirteen.”

[H] *What are the additional two?*

[I] They judge two property cases in a single day, **and they do not judge two capital cases in a single day.**

[J] Said R. Abin, “**And even the case of an adulterer and an adulteress**” [T. San. 7:2A-B].

4:9

[A] **The sanhedrin was [arranged in the shape of a half of a round threshing-floor [that is, as an amphitheater],**

[B] **so that [the judges] should see one another,**

[C] **And two judges’ clerks stand before them, one at the right and one at the left.**

[D] **And they write down the arguments of those who vote to acquit and of those who vote to convict.**

[E] **R. Judah says, “Three: One writes the opinion of those who vote to acquit, one writes the opinion of those who vote to convict, and the third writes the opinions both of those who vote to acquit and of those who vote to convict.”**

[F] **And three rows of disciples of sages sit before them.**

[G] **Each and every one knows his place.**

[H] **[If] they found need to ordain [a disciple to serve on the court],**

[I] **they ordained one who was sitting in the first row.**

[J] **[Then] one who was sitting in the second row joins the first row, and one who was sitting in the third row moves up to the second row.**

[K] **And they select for themselves someone else from the crowd and set him in the third row.**

[L] **[The new disciple] did not take a seat in the place of the first party [who had now joined in the court] but in the place that was appropriate for him [at the end of the third row].**

- [I:1 A] R. Ba bar Yasa in the name of R. Yohanán: “Here ‘Congregation’ is stated, and there ‘Congregation’ is stated” (Num. 35:24, 14:27) [proving that a court has twenty-three members].”
- [B] Rab introduced this [same proof text in the context of the present] Mishnah pericope [to explain M. 4:8H-L, that is, adding to the court when there was need].
- [II:1 A] *The Mishnah has stated, “Be a tail to lions, and not a head of foxes” [M Abot 3:15].*
- [B] The proverb says, “Be a head of foxes, not a tail to lions.”
- [C] *For we have learned, “If they found need to ordain a disciple to serve on the court. they ordained one who was sitting in the first row ‘ [M. San. 4:8H-I].*

4:9

- [A] **How do they admonish witnesses in capital cases?**
- [B] **They would bring them in and admonish them [as follows]: “Perhaps it is your intention to give testimony on the basis of supposition, hearsay, or of what one witness has told another;**
- [C] **“[for you may be thinking], ‘We heard it from a reliable person’”**
- [D] **“Or, you may not know that in the end we are going to interrogate you with appropriate tests of interrogation and examination.**
- [E] **“You should know that the laws governing a trial for property cases are different from the laws governing a trial for capital cases.**
- [F] **“In the case of a trial for property-cases, a person pays money and achieves atonement for himself. In capital cases [the accused’s] blood and the blood of all those who were destined to be born from him [who was wrongfully convicted] are held against him [who testifies falsely] to the end of time.**
- [G] **“For so we find in the case of Cain who slew his brother, as it is said, ‘The bloods of your brother cry’ (Gen. 4:10).**
- [H] **“It does not say, ‘The blood of your brother,’ but, ‘The bloods of your brother’ – his blood and the blood of all those who were destined to be born from him.”**
- [I] **Another matter: ‘The bloods of your brother’ – for his blood was spattered on trees and stones.**
- [J] **Therefore man was created alone, to teach you that whoever destroys a single Israelite soul is deemed by Scripture as if he had destroyed a whole world.**

- [K] And whoever saves a single Israelite soul is deemed by Scripture as if he had saved a whole world.
- [L] And it was also for the sake of peace among people, so that someone should not say to his fellow, “My father is greater than your father.”
- [M] And it was also on account of the minim, so that the minim should not say, “There are many domains in Heaven.”
- [N] And to portray the grandeur of the Holy One, blessed be He. For a person mints many coins with a single seal, and they are all alike one another, But the King of kings of kings, the Holy One, blessed be He, minted all human beings with that seal of his with which he made the first person, yet not one of them is like anyone else. Therefore everyone is obligated to maintain, “On my account the world was created.”
- [O] Now perhaps you [witnesses] would like now to say, [37B] “What business have we got with this trouble?”
- [P] But it already has been written, “He being a witness, whether he has seen or known, if he does not speak it, then he shall bear his iniquity” (Lev. 5:1).
- [Q] And perhaps you might want to claim, “What business is it of ours to convict this man of a capital crime?”
- [R] But has it not already been said, “When the wicked perish there is rejoicing” (Prov. 11:10).
- [I:1 A] What is considered “supposition” [M. San. 4:9B]?
- [B] So that [the witnesses] should not say, “We saw him running after his fellow, with a sword in his hand. [The victim] ran in front of him into a ruin, and then the other went after him into the ruin. We went in after them and found the victim slain [on the floor]. We saw him leaving with a knife in the hand [of the murderer], dripping blood.”
- [C] [Y. omits:] Now lest you say, “If not, then who killed him?”{you must be admonished that this is not valid evidence}.
- [D] Said Simeon b. Shatah, “May I [not] see consolation, if I did not see someone run after his fellow, [with a sword in his hand,] and [the pursued man] went before him into a ruin, and the [pursuer] ran in after him, and then I came in right after him, and found [the victim] slain, and this one was leaving with a knife in the hand of the murderer, dripping blood, and I said to him, ‘[You evil person! Who killed this one?]
- May I [not] see consolation [if I did

not see him (run in here)]. [Either] you killed him [or I did!] But what can I do to you? For your blood is not handed over to me. [For lo, the Torah has said, ‘At the testimony of two witnesses, or at the testimony of three witnesses, shall he who is on trial for his life be put to death’ (Deut. 17:6).]

- [E] “But He who knows the thoughts of man will exact punishment from that man.’
- [F] “He did not move from the spot before a snake bit him, and he died” [T. San. 8:3].
- [G] A man was created one and alone,
- [H] because of [proud] families, so that families should not quarrel with one another. For if now, that they come from one father, they quarrel with one another, if they were from two, how much more so! [Cf. M. 4:5L].
- [I] [And why was he created one and alone in the world?] So that the righteous should not say, “We are the sons of the righteous one,” and so that the evil ones should not say, “We are the sons of the evil one.” [Because of the thieves and robbers. And if now, that he was created one and alone, people steal and rob, had there been two, how much the more so!] [T. San. 8:4].
- [J] Another matter: Why was he created one and alone?
- [K] To portray the grandeur of the king of the kings of kings. blessed be he [M. San. 4:9N].
- [L] For with a single seal he created all seals and not one is like the other [Tosefta: from a single seal all those many (diverse) seals have come forth],
- [M] as it is said, “It is changed as clay under the seal, and all these things stand forth as in a garment” (Job 38:14) [M. 4:9N, T. San 8:5].
- [N] And on what account are faces not like one another?
- [O] [Talmud: On account of imposters,]
- [P] so no one should jump into his neighbor’s field or jump in bed with his neighbor’s wife,
- [Q] [Talmud omits: as it is said, “And from the wicked their light is withheld and the strong arm is broken” (Job. 38:15).]

- [R] **It was taught: R. Meir says, “The omnipresent has varied people in three aspects: [22a] appearance, intelligence, and voice –**
- [S] **“appearance and intelligence, because of robbers and thieves, and voice, because of the possibilities of licentiousness” [T. San. 8:6].**
- [T] **R. Isaac said, “Even dates and wheat are unlike one another.”**
- [U] **The [first] man was created on the eve of the Sabbath so that he might immediately take up the doing of a religious duty [T. San. 8:8D].**
- [V] **Another matter: Why was he created last? [So that he might enter the banquet at once with everything ready for him.]**
- [M] **They have made a parable: To what is the matter comparable?**
- [X] **To a king who built a palace and dedicated it and prepared meal and [only] afterward invited the guests.**
- [Y] **[And so Scripture says,] “The wisest of women has built her house” (Prov. 9:1).**
- [Z] **This refers to the Holy One, blessed be he, who built his world [in seven days] by wisdom, as it is said, “The Lord through wisdom founded the world” (Prov. 3:19).**
- [AA] **“She has hewn out her seven pillars” (Prov. 9:1) – these are the seven days of creation.**
- [BB] **“She has killed her beasts and mixed her wine” (Prov. 9:2 these are the oceans, rivers, deserts, and all the other things which the world needs.**
- [CC] **[And afterward: “She has sent forth her maidens, she cries on the high places of the city], ‘Who is simple – let him turn in hither, [and he who is void of understanding]’ (Prov. 9:4) – these refer to Adam and Eve [T. San. 8:9].**
- [II:1 A] **And perhaps you might want to claim. “What business is it of ours to convict this man of a capital crime?” [M. San. 4:9Q].**
- [B] **It is written, “And about sunset a cry went through the army” (1 Kings 22:36).**
- [C] **What is this cry (HRYNH)?**
- [D] **Lo, it is a song (HRY RYNH), [as it is said, “When the wicked perish, there is a song” (Prov. 11:10).**

- [E] But, on the contrary, it also is said, “That they should praise (PM) as they went out before the army [and say, ‘Give thanks unto the Lord, for his mercy endures for ever’]” (2 Chron. 20:21).
- [F] [Omitting the words, “for he is good,”] is to teach you that even the downfall of the wicked is no joy before the Omnipresent.

YERUSHALMI SANHEDRIN

CHAPTER FIVE

5:1

[A] They interrogated [the witness] with seven points of interrogation:

[B] (1) In what septennate? (2) In what year? (3) In what month? (4) On what day of the month? (5) On what day [of the week]? (6) At what time? (7) In what place?

[C] R. Yosé says, “(1) On what day? (2) At what time? (3) In what place? (4) Do you know him? (5) Did you warn him [of the consequences of his deed]?”

[D] [In case of] one who worships an idol: Whom did he worship, and with what did he worship [the idol]?

[I:1 A] *We do not learn in the Mishnah pericope [that they ask concerning] which Jubilee?*

[B] But the Jubilee is uncommon [coming only once in fifty years, and if someone committed an act of murder in one Jubilee, it would be unlikely that the witnesses would wait fifty years to testify].

[C] [*But*] *there is also a tradition which teaches: R. Simeon b. Yohai says, “Also. ‘In which Jubilee?’”*

[D] *And we may explain this inquiry to apply in a year in which one Jubilee is beginning and another ending.*

[I:2 A] How do we know that there are to be seven points of interrogation?

[B] Samuel the Elder taught before R. Aha: “‘Then you shall inquire [1], and make search [2], and ask [3] diligently [4], and behold [5], if it be true [6] and certain [7] [that such an abominable thing has been done]’ (Deut. 13:14). [The seven words in the verse thus signify seven points of interrogation.]”

[C] *He said to him, “You should not continue counting words in the same verse [or you will have an eighth, namely, thing].*

[D] “Rather: ‘Then you shall inquire, and make search, and ask diligently’ (Deut. 13:14) [yielding four]; and ‘... and it is told you and you hear it, then you shall inquire diligently’ (Deut. 17:4), [yielding three more, both in the case of idolatry].

[E] “The use of ‘diligently’ in both instances serves to establish an analogy between them and to permit invoking each usage in all contexts: hearing, asking, inquiring, and making a search.”

[F] *R. Isaac raised the question [whether all seven points of interrogation are invariably required, for lo, if] they caught a thug in Tiberias, [they may have occasion to] say, “[We saw] this one killed, and that one do the killing.” [In such a case, what need is there for all these points of interrogation?]*

[G] And how do we then know that in such a case all seven points of interrogation are required [anyhow]?

[H] Issi said, “[The reason is that] so long as these witnesses might be perjured [by the interrogation of the seven elements and they are not so interrogated], the accused killer cannot be put to death on their testimony. Accordingly, the questions must be addressed to the witnesses, to make sure that they cannot be subjected to the charge of perjury. That is so, even if the act of murder took place on that very day and in their presence; still they must be shown to be honest witnesses, and that is what Scripture requires before the death penalty may be invoked.]”

[I:3 A] [Do the interrogators also ask,] “Do you know whether he was an idolater or an Israelite?”

[B] *Let us derive the answer from the following:* R. Yohanan said, “If he was killed between Tiberias and Sepphoris, it is taken for granted that he was an Israelite. [Accordingly, the character of the deceased also is to be established.]”

[II:1 A] **“Did you warn him [of [he consequences of his deed]?” [M. San. 5:1].**

[B] And how do we know [that the Torah requires] an act of warning [of the consequences of the deed]?

[C] Samuel bar Nahman in the name of R. Jonathan: “‘If a man takes his sister, a daughter of his father or a daughter of his mother, and sees her nakedness, and she sees his nakedness, it is a shameful thing’ (Lev. 20:17). [The reference to “seeing” indicates that the matter depends

upon the prior act of others' seeing the man in action and warning him of the consequent death penalty.]”

[D] [The reference to *hesed*, translated, “shameful thing” or “act of love,” as the context requires, calls to mind a different context entirely.] Said R. Bun, “Cain married his sister, Abel married his sister, [so how can it be deemed a shameful thing]?”

[E] [God answers:] “It was an act of love (*hesed*) which I did with the former generations, through whom the world would be built up: ‘For I said, “The world will be built upon merciful love” (Ps. 89:2).”

[II:2 A] [Yet another answer to the question of the biblical basis for the requirement of a warning is as follows:] *It was taught: R. Simeon b. Yohai says, “On the evidence of two witnesses or of three witnesses he that is to die (lit., the dead one) shall be put to death’ (Deut. 17:6).*

[B] “Now can a ‘dead one’ die? [Of course not. So the reference is to the one engaged in the act of murder, and it is] to inform him by what form of the death penalty he will be put to death [if he should engage in the contemplated action, and that is the meaning of ‘warning.’”

[II:2 A] *It was taught: R. Judah b. R. Ilai says, “But if a man willfully attacks another to kill him knowledgeably’ (Ex. 21:14 that the witness must make him knowledgeable about what mode of the death penalty [he will suffer, should he engage in the contemplated action].”*

[B] If the form of death [22d] for the crime about to be committed was a severe one, and the witnesses gave warning of a form of the death penalty which was a lenient one, *the accused has the right to claim that, had he known that the form of death for the proposed crime was so severe, he would never have done such a thing. [That is self-evident.]*

[C] [But what is the law if] the form of death was a lenient one, and they warned him that the form of death was a more severe one?

[D] *In the theory of R. Judah b. R. Ilai, who maintains that the witnesses must make the man knowledgeable about what form of death he will suffer if he commits the contemplated action, [the man cannot claim what he may say in the contrary situation]. [He knows about the death penalty and commits the deed. He has no further defense in this aspect.]*

- [E] [If] they warn him and he was silent,
- [F] or if they warn him and he nods his head,
- [G] even though he says, “I know” –
- [H] he is exempt –
- [I] unless he will say, “I know it, and it is with that very stipulation that I am doing what I am doing!” [T. San. 11:2].
- [J] [If] they saw him killing somebody, and said to him, “You should know that that man is subject to the [divine] covenant, and it is said, ‘Whoever sheds the blood of man by man shall his blood be shed’ (Gen. 9:6)
- [K] even though he said, “I know it” –
- [L] he is exempt,
- [M] unless he says, “I know, and it is with that very stipulation that I am doing what I am doing!” [T. San. 11:4].
- [N] [If] they saw him profaning the Sabbath,
- [O] [and] said to him, “You should know that it is the Sabbath today, and Scripture says, ‘Those who profane it will certainly die’ (Ex. 31:14)” –
- [P] even though he said, “I know” –
- [Q] he is exempt,
- [R] unless he says, “I know, and it is with that very stipulation that I am doing what I am doing!” [T. San. 11:3].
- [II:4 A] R. Hiyya bar Gamda asked, “One who gathers wood – on what count is he liable [for violating the Sabbath]? Is it because he plucks up the wood, or is it on the count of harvesting?”
- [B] *Let us learn the answer from the following verse:* “While the people of Israel were in the wilderness, they found a man gathering sticks on the Sabbath” (Num. 15:32).
- [C] This teaches that they found him plucking up twigs from the ground.
- [D] R. Hiyya bar Gamda asked, “One who gathers wood – by what form of capital punishment is he put to death? It is by stoning. [That they found out from Heaven. So how could they have warned him?]”

[E] *Let us derive the answer from the following:*

[F] [The reason that they brought the case to Moses, who awaited a message from the Lord, which was that the man should be stoned (Num. 15:35)], was that they knew that he was to be executed, but did not know how he was put to death. [It follows that warning of the particular form of the death penalty is not required.]

[G] *The following teaching is to be found: R. Hiyya taught, “The Lord said to Moses, ‘Bring out of the camp him who cursed; and let all who heard him lay their hands upon his head, and let all the congregation stone him’ (Lev. 24:1-14).*

[H] “How was he to be put to death? Through stoning.”

[III:1 A] “Whom did he worship? And with what did he worship [an idol]?”[M. San. S:ID].

[B] “Whom did he worship,” Peor or Mercury?

[C] “And with what did he carry out the act of worship?” Was it with the act of worship paid to such an idol? Or was it with the act of worship normally paid to the Most High?

[D] *Let us derive the answer from the following:*

[E] M'SH S: Two witnesses came and stated, “We saw this one performing an act of worship to an idol, but we do not know whether it was Peor or Mercury.” [The testimony was valid, so we need not know what act was carried out, or to which idol.]

[F] [Now in accord with your reasoning,] do they judge the accused on both counts, and declare him innocent on whichever count he turns out to be innocent?

5:2

[A] The more they expand the interrogation, the more is one to be praised.

[B] The precedent is as follows: Ben Zakkai examined a witness as to the character of the stalks of figs [under which the incident took place].

[C] What is the difference between interrogation [about the date, time, and place] and examination [about the circumstances]?

[D] In the case of interrogation, [if] one witness says, “I don’t know the answer,” the testimony of the witness is null.

[E] **[In the case of] examination, [if] one of the witnesses says, “I don’t know,” or even if both of them say, “We don’t know,” their testimony nonetheless stands.**

[F] **All the same are interrogation and examination: When [the witnesses] contradict one another, their testimony is null.**

[I:1 A] [With regard to a violation of the Sabbath, Yohanan ben Zakkai interrogated the witnesses who testified that one had gathered dates:]
“With what did he collect them?”

[B] “With their stems he collected them.”

[C] “With what did he eat them?”

[D] “With their pits did he eat them.”

[I:2 A] *There we learned:*

[B] **He concerning whom two groups of witnesses gave testimony –**

[C] **these testified that he took a vow to be a Nazir for two spells.**

[D] **and those testify that he took a vow to be a Nazir for five spells –**

[E] **The House of Shammai say, “The testimony is at variance, and no Naziriteship applies here at all.”**

[F] **And the House of Hillel say, “In the sum of five are two spells, so let him serve out two spells of Naziriteship” [M. Naz. 3:7].**

[G] Rab said, “As to a general number [the Houses] are in disagreement, [that is, as to whether he has taken the Nazirite vow at all]. But as to a specific number, all parties agree that (the testimony is at variance). [Following the versions of Y. Yeb. 5 5, Naz. 3:7: the sum of five includes two, as at M.

[H] R. Yohanan said, “As to spelling out the number of vows there is a difference of opinion, but as to a general number all parties concur that (within the general principle of five spells of Naziriteship there are two upon which all parties concur). [Following the parallels: the testimony is at variance.]”

[I] *What is meant by the “general number,” and what is meant by ‘counting out the number of specific vows’ [the man is supposed to have taken]? [Examples of each are as follows:]*

[J] The general number – One party has said, “Two,” and one party has said, “Five.”

- [K] Counting out the number of vows one by one is when one said, “One, two, “ and the other said, “Three, four, [five].”
- [L] Rab said, “If the essence of the testimony is contradicted, the testimony is not null.”
- [M] And R. Yohanan said, “If the essence of the testimony is contradicted, the testimony has been nullified.”
- [N] All parties concede, however, [that] if testimony has been contradicted in its nonessentials [that is, in elements occurring after the essential part of the testimony,] the testimony [of the first set of witnesses] is not nullified.
- [O] *The full extent of the position taken by R. Yohanan is seen in the following case:*
- [P] For R. Ba bar Hiyya in the name of R. Yohanan: “The assumption [that a loan has taken place is] confirmed [by testimony] that one has counted out [coins].
- [Q] “If this witness says, ‘From the pocket did he count out the money,’ and that one says, ‘From the pouch did he count out the money,’
- [R] “we have a case in which a testimony is contradicted in its essentials [within the same pair of witnesses, who thus do not agree]. [This is null.]”
- [S] Here even Rab concedes that the testimony is null.
- [T] Concerning what do they differ?
- [U] Concerning a case in which there were two groups of witnesses.
- [V] [If] One states, “From the pocket did he count out the money,” and the other says, “From the the pouch did he count out the money.”
- [W] Here we have a case in which testimony is contradicted in its essentials. The effect of the testimony [in Yohanan’s view] is null.
- [X] But in the view of Rab, the effect of the testimony is not null.
- [Y] If one witness says, “Into his vest did he count out the money,” and the other says, “Into his wallet,”

[Z] in the opinion of all parties, the testimony is contradicted in its nonessentials and therefore the testimony is not nullified. [This testimony is not about the essence of the case.]

[AA] If one party says, “With a sword did he kill him,” and the other party says, “With a staff did he kill him,” we have a case in which testimony has been contradicted on its essentials [just as in a property case, so in a capital one].

[BB] Even Rab concedes that the effect of the entire testimony is null.

[CC] *In what regard did they differ?*

[DD] In a case in which there were two sets of two witnesses:

[EE] One group says, “With a sword,” and the other says, “With a staff”

[FF] Here we have a case in which the testimony has been contradicted in its essentials, and the effect of the testimony is null.

[GG] But in the view of Rab, the effect of the testimony is not null.

[HH] One witness says, “[The murderer] turned toward the north [to flee],” and the other witness says, “He turned toward the south.” In the opinion of all parties, the testimony [of one group] has been contradicted in its nonessentials and the testimony has not been nullified.

[II] *The full force of Rab’s opinion is indicated in the following, which we have learned there:*

[JJ] [If one woman says, “He died,” and one says, “He was killed,” R. Meir says, “Since they contradict one another [in details of their testimony], lo, these women may not remarry.”] R. Judah and R. Simeon says, “Since this one and that one are in agreement that he is not alive, they may remarry” [M. Yeb. 15:5D].

[KK] *Now did he not hear that which R. Eleazar said, “R. Judah and R. Simeon concur in the matter of witnesses [that where they contradict one another in essentials their testimony is null]?”*

[LL] If so, what is the difference between such contradiction when it comes from witnesses and the same when it comes from co-wives?

[MM] They did not treat the statement of a co-wife concerning her fellow-wife as of any consequence whatsoever.

[NN] *Said R. Yohanan, “If R. Eleazar made such a statement, he heard it from me and said it.”*

[OO] *The Mishnah pericope is at variance with the position of Rab: **All the same are interrogation and examination in the following regard: When the witnesses contradict one another, their testimony is null [M. San. 5:7F].*** [Rab does not deem it invariably null, as we have seen.]

[PP] Now how does Rab interpret that passage [which contradicts his position]?

[QQ] *Said R. Mana, “Rab interprets the Mishnah rule to speak of a case in which one witness contradicts another [but not in which a set of witnesses contradicts another such set in some minor detail].”*

[RR] *Said R. Abin, “Even if you interpret the passage to speak of contradictions between one set of witnesses and another, still Rab will be able to deal with the matter. For a capital case is subject to a different rule, since it is said, ‘Justice, and only justice, will you pursue’” (Deut. 16:20). [Thus capital trials are subject to a different set of rules of evidence from those applicable in property cases of which Rab spoke above at L.]*

5:3

[A] [If] one [of the witnesses] says, “It was on the second of the month,” and one of the witnesses says, “It was on the third of the month,” their testimony stands,

[B] for one of them may know about the intercalation of the month, and the other one may not know about the intercalation of the month.

[C] [if] one of them says, “On the third,” and one of them says, “On the fifth,” their testimony is null.

[D] [If] one of them says, “At two,” and one of them says, “At three,” their testimony stands.

[E] [If] one of them says, “At three,” and one of them says, “At five,” their testimony is null.

[F] R. Judah says, “It stands.”

[G] [If] one of them says, “At five,” and one of them says, “At seven,” their testimony is null.

[H] For at five the sun is at the east, and at seven the sun is at the west.

[I:1 A] To what extent [do we attribute an error to one’s not having known that the month was intercalated (M. San. 5:3B)]?

[B] R. Yasa in the name of R. Yohanan: “Up to the greater part of the month.”

[C] Said R. Yohanan, “For instance, these villagers [who are uninformed about the intercalation, would fall under the stated rule].”

[D] And sages say, “They are nothing out of the ordinary [but all fall under the rule].”

[E] *And said R. Yasa, “Take me for example! For in my entire life I have never said the Additional Prayer [of the New Month], when I did not know when the new month commences [exactly]” (PM).*

[I:2 A] [The following discussion takes for granted knowledge of **M. Pes. 1:4: R. Meir says, “They eat leaven throughout the fifth hour on the fourteenth of Nisan (the eve of Passover), and they burn it at the beginning of the sixth hour.”** And **R. Judah says, “They eat leaven through the fourth hour, keep it in suspense throughout the fifth hour, and burn it at the beginning of the sixth hour.** [Now what is the issue between the two?] R. Meir says, “From the sixth hour and beyond

[leaven is prohibited] by reason of [the scribes'] decree [but not the law of the Torah].”

[B] R. Judah says, “[The prohibition of leaven] from the sixth hour onward is by reason of the authority of the Torah. [That is why they may eat leaven only up to the end of the fourth hour, to make sure the Torah law is not violated.]”

[C] *What is the Scriptural basis for R. Meir's position?* “But on the first day you shall put away leaven out of your houses” (Ex. 12:15).

[D] Is it possible that that requirement [to remove leaven] applies only when night falls?

[E] Scripture states, “But”

[F] The intention is to make a sharp distinction.

[G] How so?

[H] Apply the prohibition at least one hour prior to sunset.

[I] *What is the Scriptural basis for the position of R. Judah?*

[J] “But on the first day” refers to the fourteenth of Nisan [not the fifteenth].

[K] Is it possible that this applies to the whole of the day?

[L] Scripture states, “But”

[M] The meaning is to divide the day: half of that day is for the eating of leaven, and the other half is for the eating of unleavened bread.

[N] *The opinion attributed to R. Meir contradicts [another which is assigned to him, for] there he has said, “But” serves to encompass [and expand the range of the law to the hour before dark], while he here maintains that the function of “But” is to limit and serve as an exclusionary phrase.*

[O] Said R. Samuel bar Abudimi, “It serves to exclude that which does not fall under the category of leavening. [One may eat leaven on the fourteenth.]”

[P] R. Meir says, ““You shall eat no leavened bread with it’ (Deut. 16:3) – this applies [only] to the

eating of it [which must be without leaven at hand].”

[Q] R. Judah says, ““You shall eat no leavened bread with it’ – this applies to preparing it [that is, even preparing the Passover must be done without leaven at hand].”

[R] R. Judah maintains that there is both a positive and a negative commandment pertaining to eating leaven [and that there is] a positive and negative commandment pertaining to removing the leaven.

[S] The positive commandment concerning eating the leavened bread is as follows: “Seven days you shall eat with it unleavened bread” (Deut. 16:3) – not leaven.

[T] Any negative commandment which derives from the force of a positive one is deemed itself to be a positive one.

[U] And the negative commandment concerning eating it is as follows:

[V] “You shall eat no leavened bread with it” (Deut. 16:3).

[W] The positive commandment having to do with removing leaven is as follows: “But on the first day you shall put away leaven out of your houses” (Ex. 12:15).

[X] The negative commandment having to do with removing leaven is as follows: “For seven days no leaven shall be found in your houses” (Ex. 12:19).

[Y] It is said “From six hours and beyond is prohibited] by reason of the decrees of sages.

[Z] Thus the seventh hour is prohibited as a fence around the law. But why should the sixth also be forbid

[AA] It is because of building a fence as well.

[BB] And is a fence built around a fence?

[CC] But the sixth hour may be confused with the seventh.

[DD] R. Judah says, “From five hours and beyond, [leaven is prohibited] by reason of the decree of Sages. Thus the sixth hour is prohibited as a fence around the law. But why should the fifth also be forbidden. It is because of building a fence as well. And is there a fence built around a fence. But the fifth hour may be confused with the seventh.”

[EE] *The opinions assigned to R. Judah appear to be contradictory.*

[FF] There he has said, “The fifth hour is not going to be confused with the seventh,” and here he has said, “The fifth hour may be confused with the seventh.” [The fifth hour is forbidden for eating leaven. It may be confused with the seventh – vs. M. San. 5:3G-H.]

[GG] Said R. Yosé, “There [at Passover] the matter is handed over to women, and they may be slovenly, while here the matter is handed over to the court, and they are punctilious.”

[HH] Said R. Yosé b. R. Bun, “There it is the beginning of the fifth hour and the end of the seventh; there it is the end of the fifth hour and the beginning of the seventh. [In the case of testimony, one witness says the event was at the beginning of the fifth hour, the other, at the end of the seventh. There is ample evidence as to the difference between these two times, so the witnesses contradict one another. With regard to leaven and Passover, if people may eat leaven at the fifth hour, they may do so at the end of the hour. The difference between the end of the fifth hour and the beginning of the seventh is not so obvious and visible.]”

[II] *And thus it is taught:* The beginning of the fifth hour is when the sun is in the east, and the end of the seventh is when the sun is in the west. The sun never turns westward until the end of the seventh hour [cf. M. San. 5:3HI].

5:4

[A] **And afterward they bring in the second witness and examine him.**

[B] **If their statements check out, they begin the argument in favor of acquittal.**

[C] **[If] one of the witnesses said, “I have something to say in favor of acquittal,”**

[D] **or [if] one of the disciples said, “I have something to say in favor of conviction,”**

[E] **they shut him up.**

[F] **[If] one of the disciples said, “I have something to say in favor of acquittal,” they promote him and seat him among the [judges], and he did not go down from that position that entire day.**

[G] **If there is substance in what he says, they pay attention to him.**

[H] **And even if [the accused] said, “I have something to say in my own behalf,” they pay attention to him,**

[I] **so long as there is substance in what he has to say.**

[I:1 A] *It is taught:* **[If] they found him innocent, they sent him away. If not, they postpone judging him until the next day [M. San. 5:5A].**

[B] **[23a] They come together in pairs and would not eat very much or drink wine that entire day, and they would discuss the matter all that night [M. San. 5:5B].**

[C] **And the next day they would get up and come [to court] [M. 5:5C].**

[D] **The court officers call on each one, “Judge] So-and-so and Judge] Such-and-such.”**

[E] **[If Judge So-and-so answers,] “I held him guilty, and now I hold him guilty,” “I held him innocent, and now I hold him innocent,” “I held him guilty, and now I hold him innocent,” they accept that statement [cf. M. 5:5D].**

[F] **“I held him innocent, and now I hold him guilty” [Tosefta: they do not accept that statement] [cf. M. 5:5F].**

- [G] **“I held him guilty, and now I hold him innocent” – they accept that statement.**
- [H] **“I held him guilty, and now I hold him guilty” [cf. M. 5:5E] – they said to him, “Explain your opinion first.”**
- [I] *It is taught:* [If] **one of those who had held him innocent made a mistake in his opinion, the scribes of the court remind him [M. 5:5G].**
- [J] **If one of those who hold the accused guilty erred, the scribes of the judges do not remind him.**
- [K] **But they say to him, “Explain your opinion afresh” [T. San. 9:1].**
- [I:2 A] Said R. La, “On what account do they write down the words of the one who argues in favor of innocence? It is because of the one who argues in favor of guilt, lest [the former] become confused [and lose track of the reasons in favor of acquittal].”
- [B] *Thus if he confuses something, the scribes remind him, “This is what you said, this is not what you said.”*
- [C] *If so, the case should require two days [of hearings] [to make provision for fresh argument, as at B].*
- [D] It will turn out that the case will grow stale, [and the accused will be subjected to unnecessary distress by the delay in the trial].
- [E] R. Yosé b. R. Bun said, [The scribes write down what is said in favor of innocence not on account of the one who argues in favor of guilt, but] because of the one who argues in favor of innocence [himself, to preserve the fresh arguments he has supplied].

5:5

- [A] **If they found him innocent, they sent him away. If not, they postpone judging him till the next day.**
- [B] **They would go off in pairs and would not eat very much or drink wine that entire day, and they would discuss the matter all that night.**
- [C] **And the next day they would get up and come to court.**
- [D] **The one who favors acquittal says, “I declared him innocent [yesterday], and I stand my ground and declare him innocent today.”**

[E] And the one who declares him guilty says, “I declared him guilty [yesterday] and I stand my ground and declare him guilty today.”

[F] The one who argues in favor of guilt may [now] argue in favor of acquittal, but the one who argues in favor of innocence may not now go and argue in favor of guilt.

[G] [If] they made an error in some matter, the two judges’ clerks remind them [of what had been said].

[H] If they now found him innocent, they sent him off.

[I] And if not, they arise for a vote.

[J] [If] twelve vote for acquittal and eleven vote for conviction, he is acquitted.

[K] [If] twelve vote for conviction and eleven vote for acquittal,

[L] and even if eleven vote for acquittal and eleven vote for conviction,

[M] but one says, “I have no opinion,”

[N] and even if twenty-two vote for acquittal or vote for conviction,

[O] but one says, “I have no opinion,

[P] they add to the number of the judges.

[Q] How many do they add? Two by two, until there are seventy-one.

[R] [If] thirty-six vote for acquittal and thirty-five vote for conviction, he is acquitted.

[S] [If] thirty six vote for conviction and thirty-five vote for acquittal, they debate the matter, until one of those who votes for conviction accepts the arguments of those who vote for acquittal.

[I:1 A] [If one of the disciples said, “I have an argument to offer in favor of acquittal,” they receive him in a friendly way, and promote him and seat him among the (judges) (M. San. 5:4D, T. San. 9:3). If the accused said, “I have something to say in behalf of my own innocence, “ they pay attention to him (M. 5:4F). If he said, “I have something to say in favor of my own conviction,” they emphatically shut him up. A witness does not give an argument either for acquittal or for conviction (M. 5:4C). R. Yosé b. R. Judah says, “He may argue in favor of acquittal, but he may not argue in favor of conviction” (T. San. 9:4).] [In connection with this passage,] *it was taught*: [In regard to the view of Yosé b. R. Judah that a witness may argue in favor of acquittal,] If one of the witnesses said, “I have an argument for acquittal,” and his fellow came along and supported his argument, which of these do they appoint [to the court, as they do with disciples]?

- [B] Is it the first or the second or both of them?
- [C] *Let us derive the answer from the following statement of R. Yohanan: “And him who was acquitted on the basis of his own arguments do they not seat on the court as a judge.*
- [D] **“For lo, if he was acquitted on the basis of his own arguments, he turns out to be both a witness and a judge, and a witness cannot be made into a judge in the same trial.”**
- [E] **In property cases they say, “The case is clear.” In capital cases they do not say, “The case is clear.” And the most prominent of the judges say, “The case is clear.” [T. San. 7:6A-B].**

[I:2 A] *It was taught:* In what regard do they add judges to the court?

- [B] It is so that, if two of the first judges declare the accused to be innocent, and one of the second pair concurs that he is innocent, the decision may be reached by three judges [out of the five now on the court]. [The one who declares he has no opinion is treated as if he is not present. That is the case even if one of the two additional judges also declares that he has no opinion.]
- [C] R. La said, “[If one of the two additional judges also says he has no opinion, that is not acceptable,] since it appears that the decision ultimately has been reached with four judges. They do not reach a decision in the case with only three judges. [So they have to add two more judges (PM).]”
- [D] Said R. Yosé, “From the aforestated argument [B], we infer the following: If three judged a case and reached a decision, and one of them then died, they sign the court decree with the two surviving judge’s names, and they write therein, ‘Even though we have written up the decree with two judges, it was with three that we reached the decision.’”
- [E] *Said R. Haggai, “The Mishnah itself has made the same point: ‘[This is the formula of the prozbul: ‘I affirm to you, the judges in such and such a locale, that, in regard to any debt due to me, I shall collect it whenever I wish.]’ And the judges sign below, or the witnesses [M.Sheb. 10:2]. [Thus even though the case came to the court of three, it is sufficient for two to sign the court decree.]”*
- [F] Now do they truly derive the rule covering a court case from the one covering the *prozbul* [which is, after all, a special remedy for a special problem]?

[G] [*Indeed we do, for*] *it is taught*, One does learn the rule covering an ordinary court case from the rule covering the *prozbul*.

[II:1 A] **[In regard to M. San. 5:5S: One of these two votes for conviction accepts the arguments of those who vote for acquittal, if [in the end] one did not accept [those arguments], [how do we decide the case and resolve it finally]?**

[B] R. Yohanan said, “The accused is dismissed as innocent.”

[C] R. Simeon b. Laqish said, “He is guilty.”

[D] Said to him R. Yohanan, “Now is he not innocent? And why do the two parties argue back and forth [as specified in Mishnah]? It is so that the court procedure should not appear to people to be in a state of confusion. [Consequently, they attempt to reach a decision. It is in hope that a final decision in favor of innocence can be reached in an orderly way. But, lacking such a result, the accused is still deemed innocent until voted guilty.]”

YERUSHALMI SANHEDRIN

CHAPTER SIX

6:1

- [A] [When] the trial is over, [and the felon is convicted], they take him out to stone him.
- [B] The place of stoning was well outside the court, as it is said, “Bring forth him who cursed [to a place outside the camp]” (Lev. 24:14).
- [C] One person stands at the door of the courthouse, with flags in his hand, and a horseman is some distance from him, so that he is able to see him.
- [D] [If] one [of the judges] said, “I have something to say in favor of acquittal,” the one [at the door] waves the flags, and the horseman races off and stops [the execution].
- [E] And even if [the convicted party] says, “I have something to say in favor of my own acquittal,” they bring him back,
- [F] even four or five times,
- [G] so long as there is substance in what he has to say.

- [I:1 A] *The Mishnah pericope accords with either Rabbi or sages in regard to the provision to be made in the case of a town populated by gentiles [when it states that the one who is stoned must be taken outside the court, including one who has committed idolatry]. [They stone him in the place in which he performed the act of worship. But if it was a gentile town, they stone him at the door of the Israelite court.]*
- [B] *For it has been taught: “[If there is found among you a man or woman who has gone and served other gods then you shall bring forth to] your gates [that man or woman and you shall stone that man or woman to death with stones.]”*
- [C] Rabbi says, “‘Your gates’ (Deut. 17:5) means in the gate of the city in which the man has been found.

- [D] “You say so. But perhaps it refers only to the gate by which he was judged [that is, in which the court was in session]?”
- [E] “Here it is stated, ‘In your gates,’ and elsewhere it is stated, ‘In your gates’: ‘If there is found among you in one of your gates a man or a woman who does what is evil in the sight of the Lord and has gone and served other gods and worshipped them then you shall bring forth to your gates that man or woman and you shall stone’ (Deut. 17:2ff.).
- [F] “Just as ‘your gates’ stated above [where the crime has been committed] speaks of the gate of the city in which the act of worship took place, so ‘your gates’ mentioned below (Deut. 17:5) refers to the gates of the city where the act has taken place.”
- [G] *And rabbis say*, “‘In your gates’ refers to the gate at which the person is judged.
- [H] “You say so. But perhaps it refers only to the gate at which the person was located when the act was done?”
- [I] “Here ‘your gates’ is said, and later on, it is stated, ‘Then you shall bring forth to your gates [that man or woman who has done this evil thing, and you shall stone that man or woman to death with stones]’ (Deut. 17:5).
- [J] “Just as ‘gates’ stated later refers to the gate at which the man or woman was judged, so ‘gates’ which is stated here refers to the gate at which he is judged.”

[II:1 A] [With regard to M. 6:1E-G,] said R. Yohanan, **“At the beginning, whether there is or is not substance in what the accused says, they pay attention to him.**

[B] **“Later on, if there is substance in what he says, they pay attention to him, and if not, they do not pay attention to him” [T. San. 9:4].**

[C] *They say*, “And that rule [of M. San. 6:1G] applies in a case in which, in his later statements, there is substance.”

[D] Hezekiah raised the question, “Lo, if he was going out to be put to death and was struck dumb, do we say that if he had not been struck dumb, if he had something to say in his own behalf, [he would have said it]?”

[E] *R. Yohanan heard this and stated*, “Lo, that is the question of an ass.

[F] “*But thus is the question:*

[G] “Lo, if he was going forth to be put to death, and he said, ‘I have something to say in my own behalf,’ and then he was struck dumb, do we say that if he had not been struck dumb, if he had something to say in his own behalf, [he clearly would have said it]?”

[H] *He said, “That is truly a worthwhile question [but it is not answered].”*

6:2

[A] **[If] they then found him innocent, they dismiss him,**

[B] **And if not, he goes out to be stoned.**

[C] **And a herald goes before him, crying out, “Mr. So-and-so, son of Mr. So-and-so, is going out to be stoned because he committed such-and-such a transgression, and Mr. So-and-so and Mr. So-and-so are the witnesses against him. Now anyone who knows grounds for acquittal – let him come and speak in his behalf!”**

[I:1 A] *It was taught:*

B] An ox which was going forth to be stoned, and the witnesses against it turned out to be perjurers –

[C] R. Yohanan said, “Whoever grabbed the ox first has acquired possession of it [since it is ownerless].”

[D] R. Simeon b. Laqish said, “It is a case in which it has been declared ownerless in error, [and it remains the property of the original owner].”

[E] And so in the case of a slave who was going forth to be stoned, and its owner declared him to be consecrated [to the Temple] –

[F] R. Yohanan said, “[If he then was found to be innocent,] he has acquired ownership of himself.”

[G] R. Simeon b. Laqish said, “It is a case in which the owner has in error given up ownership out of despair, [and that is not a valid act on the part of the owner, who then retains possession of the slave].”

6:3

[A] **[When] he was ten cubits from the place of stoning, they say to him, “Confess,” for it is usual for those about to be put to death to confess.**

[B] **For whoever confesses has a share in the world to come.**

[C] For so we find concerning Achan, to whom Joshua said, “My son, I pray you, give glory to the Lord, the God of Israel, and confess to him, [and tell me now what you have done; hide it not from me.] And Achan answered Joshua and said, Truly have I sinned against the Lord, the God of Israel, and thus and thus I have done” (Josh. 7:19). And how do we know that his confession achieved atonement for him? For it is said, “And Joshua said, Why have you troubled us? The Lord will trouble you this day” (Josh. 7:25) – This day you will be troubled, but you will not be troubled in the world to come.

[D] And if he does not know how to confess, they say to him, “Say as follows: ‘Let my death be atonement for all of my transgressions.’”

[E] R. Judah says, “If he knew that he had been subjected to perjury, he says, ‘Let my death by atonement for all my sins, except for this particular sin [of which I have been convicted by false testimony]!’”

[F] They said to him, “If so, then everyone is going to say that, so as to clear himself.”

[I:1 A] You find that: when Achan committed sacrilege, Joshua began to attempt to appease the Holy One, blessed be he, saying to him, “Lord of the world, ‘Tell me who this man is who committed sacrilege.’”

[B] He said to him, “I am not going to inform on any creature, and not only so, but if I did so, I should turn out to commit an act of slander.

[C] “But go and arrange the Israelites in their tribes, and cast lots on them.

[D] “Forthwith, I shall produce him.”

[E] *This is in line with that which is written*, “So Joshua rose early in the morning and brought Israel near, tribe by tribe, and the tribe of Judah was taken; and he brought near the families of Judah, and the family of the Zerahites was taken; and he brought near the family of the Zerahites man by man, and Zabdi was taken; and he brought near his household man by man, and Achan the son of Carmi, son of Zabi, son of Zerah of the tribe of Judah, was taken” (Josh. 7:1-18).

[F] Achan said to him, “Are you going to seize me by a mere lot? In this entire generation, there are only two who are truly faithful, you and Phineas. Cast lots between yourselves, and one of you will be trapped by the lot!

- [G] “Not only so, but your teacher, Moses, died only thirty or forty days ago. Now did not Moses, our rabbi, teach us, ‘By the testimony of two witnesses [will the accused be put to death]’ (Deut. 17:6)?”
- [H] “Now have you already begun to err?”
- [I] At that moment Joshua foresaw through the Holy Spirit that he would eventually divide up the Land of Israel by lots.
- [J] *That is in line with the following verse of Scripture:* “Joshua cast lots for them in Shiloh before the Lord; and there Joshua apportioned the land to the people of Israel, to each his portion” (Josh. 18:10).
- [K] [So Joshua reasoned:] “Will you then say on this basis that we are giving a bad name by casting lots?”
- [L] “And not only so, but if the lots now are confirmed, then all Israelites will say, ‘The lots were confirmed in a capital case, all the more so in property cases [e.g., such as in the division of the Land].’ But if the lots now are nullified, then all the Israelites will say, ‘In a capital case the lots were nullified, all the more so in property cases!’”
- [M] At that moment Joshua began to try to mollify Achan.
- [N] So he imposed an oath on him by the God of Israel and said to him, “‘My son, give glory to the Lord God of Israel and render praise to him; and tell me now what you have done; do not hide it from me.’ And Achan answered Joshua, ‘Of a truth I have sinned against the Lord God of Israel, and this and that are what I did’ (Josh. 17:1-20).”
- [O] What is the meaning of “of a truth”? It means, “truthfully.”
- [P] [*Joshua*] *said to him, “Now note, I asked of you only one matter, but you answered me in two regards [saying, “This and that”].*
- [Q] He said to him, “I was the one who committed sacrilege against the herem of Midian and against the herem of Jericho.”
- [R] Said R. Tanhuma, “In the case of four herems did he commit sacrilege: in the case of the herem of Canaan, the King of Arad; in the case of the herem of Sihon and Og; in the case of the herem of Midian; and in the case of the herem of Jericho.”
- [I:2 A] And how do we know that his confession achieved atonement for him [M. San. 6:3C]?**
- [B] As it is said, “The sons of Zerah: Zimri, Ethan, Heman, Calcol, and Dara, five in all; the sons of Carmi: Achar, the troubler of Israel, who

transgressed in the matter of the devoted thing; and Ethan's son was Azariah" (I Chron. 2:6-7).

[C] Said R. Joshua b. Levi, "Zimri really is Achan, but Achan did the deed of Zimri."

[D] R. Samuel bar Nahman said, "Heman is Achan: In truth (*amanah*) I have sinned."

[E] "'Five in all:'

[F] "And do I not know that they are five?"

[G] "But it is meant to teach that also Achan has a share in the world to come.

[II:1 A] M'SH B: A person was going out to be put to death. They said to him, "Say, 'May my death be atonement for all my sins.'"

[B] He said, "May my death be atonement for all my sins, e.except for this particular sin, if I actually committed it, let it not be forgiven to me, and let the court of Israel be innocent. [But I did not commit it, and they, not I, are guilty.]"

[C] Now when the matter came to sages, their eyes ran with tears. They gave thought to bringing him back. But if so there is no end to the matter."But lo, his blood is on the neck of the witnesses" [T. San. 9:51.

[II:2 A] Said R. Judah b. Tabbari, "May I [not] see consolation if I did not put a false witness to death, for they would say that the false witness is not put to death until the accused is put to death, as it is said, 'A soul for a soul' (Ex. 21:23)."

[B] Said to him Simeon b. Shatah, "May I not see consolation if it is not attributed to you as if you have shed innocent blood, [for behold, the Torah has said, 'At the testimony of two or three witnesses the accused will be put to death' (Deut. 17:6). Just as there must be two witnesses, so also the two false witnesses cannot be punished unless both of them are punished.]"

[C] At that moment he undertook not to teach except upon the authority of Simeon b. Shatah (cf. T. San. 6:6).

[D] The hands of Simeon b. Shatah were heated [he was severe in executing judgment]. A conspiracy of scoffers came, saying, "Take counsel. Let us testify against his son and kill him."

- [E] *They gave testimony against him, and he was tried and condemned to death. When he went forth to be executed, they said to him, “My lord, we lied.” His father wanted to bring him back. The son said to him, “Father if you seek to bring salvation by your hand, make me as a threshold.”*
- [F] M'SH B: A certain saintly man was walking along the way, and he saw two men having sexual relations with a female dog [23c].
They said, “We know that he is a saintly man, and he will go and testify against us and our master, David, will put us to death.
- [G] *“But let us move first and give testimony against him.”*
- [H] *They testified against him and he was tried and condemned to death.*
- [I] That is the meaning of that which David said, “Deliver my soul from the sword, my life from the power of the dog! (Ps. 22:20).”
- [J] “From the sword” – from the sword of Uriah.
- [K] “From a dog” – from the dog of the holy man.
- [L] *R. Judah b. Pazzi went to go up to the schoolhouse, and he saw two men having sexual relations with one another. They said to him, “Rabbi, please take note that you are one and we are two, [so your testimony against us will be null in any event].”*

6:4

- [A] **[When] he was four cubits from the place of stoning, they remove his clothes.**
- [B] **“In the case of a man, they cover him up in front, and in the case of a woman, they cover her up in front and behind,” the words of R. Judah.**
- [C] **And sages say, “A man is stoned naked, but a woman is not stoned naked.”**
- [I:1 A] *The opinions imputed to R. Judah are contradictory.*
- [B] There [M. Sot. 1:5] he has said, **“If her hair is beautiful, one did not loosen it,”** and he here says this [that the woman is stoned naked, so he is not of one mind about allowing a prurient situation].

- [C] Here in any event the woman is going to die. But there [with regard to the accused wife] if she is found to be clean [and not an adulteress], the young priests will lust for her.
- [D] *The opinion imputed to rabbis is confused. There they say, “The man is stoned naked, but the woman is not stoned naked,” and here [M. Sot. 1:5] they say this [that the woman’s hair is loosed].*
- [E] Thus: “And you will love your neighbor as yourself” (Lev. 19:18) – means, choose for your neighbor [who is convicted and sentenced to death] an easy mode of execution [so the woman is not needlessly ashamed].
- [F] But here [in the case of the accused wife]: “... that all the women may take warning and not commit lewdness as you have done” (Ez. 23:48).

6:5

- [A] **The place of stoning was twice the height of a man.**
- [B] **One of the witnesses would push him over from the hips, so [hard] that he turned upward [in his fall].**
- [C] **He turned him over on his hips again [to see whether he had died].**
- [D] **[If] he had died thereby, that sufficed.**
- [E] **If not, the second [witness] would take a stone and put it on his heart.**
- [F] **[If] he died thereby, it sufficed.**
- [G] **And if not, stoning him is [the duty] of all Israelites, as it is said, “The hand of the witnesses shall be first upon him to put him to death, and afterward the hand of all the people” (Deut. 17:7).**
- [I:1 A] ***It was taught: And the height of the one who falls – lo, three [T. San. 9:6].***
- [B] Lo, you say, “The height of the one who is falling, lo, three.”
- [C] But in the case of the pit which causes injury, you say, “Up to ten handbreadths”? [**Just as a pit to be reckoned as causing death must be ten handbreadths deep, so must all others be of the same height (M. B. Q. 5:5).** Why so much more of a height in this case?]
- [D] The distance required to do damage is not the same for the one who falls knowingly and the one who falls unknowingly.
- [I:2 A] ***R. Jonathan b. Hali, R. Abudimi son of the daughter of R. Tabi in the name of R. Josiah: “Those who throw an ox down with full force [in the slaughterhouse] – in such a case, there is no consideration of the***

possibility of shattering the limbs, [and the animal is validly slaughtered].”

[B] *In the time of R. Pinhas they threw down an ox with force.*

[C] *He said to them, “By your lives, release it [and see whether it has been injured by being thrown down].”*

[D] *They let it up, and it got up and fled.*

[E] He said, “Blessed is he who chose the sages and their teachings. For it has been said, ‘Those who throw down an ox with full force – there is no consideration of the possibility of shattering the limbs.’”

- [I:3 A] And how do we know that [a felon] requires stoning?
- [B] As it is said, “He will certainly be stoned [or shot]” (Ex.
- [C] And how do we know that he must be pushed off [a height]?
- [D] As it is said, “... he will certainly be shot.”
- [E] And how do we know that there must be two acts of pushing
- [F] As it is said, “... be shot”

6:6

- [A] **“All those who are stoned are hung on a tree [afterward],” the words of R. Eliezer.**
- [B] **And sages say, “Only the blasphemer and the one who worships an idol are hung.”**
- [C] **“As to a man, they hang him facing the people, and as to a woman, her face is toward the tree,” the words of R. Eliezer.**
- [D] **And sages say, “The man is hung, but the woman is not hung.”**
- [E] **Said to them R. Eliezer, “And did not Simeon b. Shetah hang women in Ashkelon?”**
- [F] **They said to him, “He hung eighty women, and they do not judge even two on a single day.”**
- [I:1 A] *What is the reasoning of R. Eliezer [who holds that all who are stoned are afterward hung on a tree]?*
- [B] Now just as the blasphemer, who is stoned, is hung (Deut. 21:23), so I encompass all others who are stoned, that they too are to be hung.
- [C] *What is the reasoning of rabbis?*

[D] Just as the blasphemer, because he struck out at the fundamental principle, is hung, so I encompass all those who have struck out at the fundamental principle, that they too should be hung.

[II:1 A] [*With reference to Simeon b. Shatah, M. San. 6:6E,*] *there is a Tannaite authority who teaches that Judah b. Tabbai was patriarch, and there is a Tannaite authority who teaches that Simeon b. Shatah was patriarch.*

[B] *He who says that Judah b. Tabbai was patriarch finds support in the following incident about Alexandria.*

[C] The men of Jerusalem wanted to appoint Judah b. Tabbai as patriarch in Jerusalem. He fled and went to Alexandria. The men of Jerusalem would write, “From Jerusalem, the great, to Alexandria, the small: ‘How long will my betrothed dwell with you, while I am left a deserted wife on his account?’”

[D] He departed, coming in a boat.

[E] *He who says Simeon b. Shatah was patriarch finds support in the following incident about Ashqelon.*

[F] *There were two holy men in Ashqelon, who would eat together, drink together, and study Torah together. One of them died, and he was not properly mourned.*

[G] *But when Bar Maayan, the village tax collector died, the whole town took time off to mourn him.*

[H] *The surviving holy man began to weep saying, “Woe, for [the enemies of] Israel will have nothing.”*

[I] [*The deceased holy man*] *appeared to him in a dream, and said to him, “Do not despise the sons of your Lord. This one did one sin, and the other one did one good deed, and it went well for [the latter on earth, so while on earth I was punished for my one sin, he was rewarded for his one good deed].”*

[J] *Now what was the culpable act which the holy man had done?*

[K] *Heaven forefend! He committed no culpable act in his entire life. But one time he put on the phylactery of the head before that of the hand [which was in error].*

[L] *Now what was the meritorious deed which Bar Maayan the village tax collector had done?*

- [M] *Heaven forefend! He never did a meritorious deed in his life. But one time he made a banquet for the councillors of his town but they did not come. He said, "Let the poor come and eat the food, so that it not go to waste."*
- [N] *There are, moreover, those who say that he was traveling along the road with a loaf of bread under his arm, and it fell. A poor man went and picked it up, and the tax collector said nothing to him so as not to embarrass him.*
- [O] *After a few days the holy man saw his fellow in a dream] walking among gardens, orchards, and fountains of water. He saw Bar Maayan the village tax collector with his tongue hanging out by a river. He wanted to reach the river but he could not reach it.*
- [P] *He saw Miriam, the daughter of 'LY BSLYM [Jastrow: the leek-like sprouts of onions], hanging by the nipples of her breasts. Some say that the pin of the gate of Gehenna was fastened to her ear.*
- [Q] *He said to them, "How long will things be this way?"*
- [R] *They said to him, "Until Simeon b. Shatah will come, and we shall remove it from her ear and set it in his ear!"*
- [S] *He said to him, "And what is his crime?"*
- [T] *They said to him, "Because he vowed, 'If I am made patriarch, I shall kill off all the witches,' and lo, he has been made patriarch, but he has not killed off the witches. Lo, there are eighty witches in a cave of Ashqelon, doing destruction to the world, so go and tell him."*
- [U] *He said to him, "He is a great man, and he will not believe."*
- [V] *He said to him, "He is humble, go and he will believe you. Now if he does not believe you, do this as your sign before him: Put your hand in your eye and remove [your eye], and hold it in your hand." He took out his eye and put it in his hand. They said to put it back, and he put it back next to the other.*
- [W] *He went and reported the incident to him. He wanted to do the sign for him, but he would not allow him to do so.*
- [X] *[Simeon] said to him, "I know you are a holy man. Furthermore, I did not say publicly [that I would uproot witchcraft], but I only thought about it [so I know that your knowledge comes from Heaven]."*

[Y] *Now that day it was raining. Simeon b. Shetah took with him eighty young men and dressed them in eighty clean cloaks. He took with them eighty new pots. He said to them, "When I whistle once, put on your garments. When I whistle a second time, all of you come out at once."*

[Z] *When he came to the mouth of the cave, he said, "Hello, hello! Open up for me. I am one of yours."*

[AA] *When he came in, one of them said something and produced bread. One of them said something and produced cooked food. One of them said something and produced wine. They said to him, "And what can you do?"*

[BB] *He said to them, "I can whistle twice and produce eighty handsome young men, dressed in clean clothes, who will have pleasure with you and give you pleasure too."*

[CC] *They said to him, "We want them! We want them!"*

[DD] *He whistled once, and they put on their clean clothes. He whistled a second time, and they all came out at once. He signaled to them, "Each of you pick a partner and lift her up off the ground."*

[EE] *At that point what the witch could do would not work. He said to the one who produced bread, "Bring forth bread," but she produced none. He said, "Take her and crucify her."*

[FF] *"Bring forth cooked food," but she could not produce, and he said, "Take her and crucify her."*

[GG] *"Bring forth wine," and she could not do it, and he said, "Take her and crucify her."*

[HH] *And so did he to all of them.*

[II] *This is the background of that which we have learned: **Eighty women did Simeon b. Shatah hang in Ashqelon. They do not judge two capital cases on the same day, but the times required it.***

6:7

[A] **How do they hang him?**

[B] **They drive a post into the ground, and a beam juts out from it, and they tie together his two hands, and thus do they hang him.**

[C] **R. Yosé says, “The post leans against a wall, and then one suspends him the way butchers do it.”**

[D] **And they untie him forthwith.**

[E] **And if he is left overnight, one transgresses a negative commandment on his account, as it is said, “His body shall not remain all night on the tree, but you will surely bury him on the same day, for he who is hanged is a curse against God” (Deut. 21:23).**

[F] **that is to say, On what account has this one been hung? Because he cursed the Name, so the Name of Heaven turned out to be profaned.**

[I:1 A] *It was taught:* R. Eliezer b. Jacob says, “The rule governing the one who disgraces the divine name is more strict than the one covering the one who blasphemes, and the rule governing the one who blasphemes is more strict than the one who disgraces the divine name.

[B] “In regard to the one who blasphemes, it is written, ‘His body shall not remain all night on the tree,’ while in regard to the one who disgraces the divine name it is written, ‘Then Rizpah, the daughter of Aiah, took sackcloth, and spread it for herself on the rock, from the beginning of harvest until rain fell upon them from the heavens [thus leaving out the bones of Saul and Jonathan]’ (2 Sam. 21:10). [So a more strict rule covers the bones of the blasphemer.]

[C] “This teaches that they were hung from the sixteenth of Nisan until the seventh of Marheshvan.”

[I:2 A] [The cited verse, 2 Sam. 21:10, is in the context of the complaint of the Gibeonites to David, because Saul had put them to death, despite the oath to spare them taken in the time of Joshua. Consequently, a repertoire of materials on the Gibeonites follows.] It is written, “But Joshua made them that day hewers of wood and drawers of water for the congregation and for the altar of the Lord” (Josh. 9:27).

[B] *There is no difficulty understanding* why he made them serve the congregation. But as to the altar of the Lord – [what is the reason for such a reference, there being no such altar in Joshua’s time]?

[C] But Joshua kept them in a state of suspense. He said, “I shall neither drive them away nor bring them near. But he who is destined in time to come to build the chosen house – the one whom he wishes to draw near will he draw near, and the one whom [23d] he wishes to put far he will put far.”

[D] And David came along and put them away.

- [E] “Now the Gibeonites were not of the people of Israel” (2 Sam. 21:2).
- [F] Why did he put them afar off?
- [G] Because: “Now there was a famine in the days of David for three years; [and David sought the face of the Lord]” (2 Sam. 21:1).
- [H] Said David, “It is on account of three things that rain will be held back: idolatry, fornication, and murder.
- [I] “Idolatry, as it is written, ‘Take heed lest your heart be deceived, and you turn aside and serve other gods and worship them (Deut. 11:16), and adjacent to this verse: ‘And the anger of the Lord be kindled against you, and he shut up the heavens, so that there be no rain’ (Deut. 11:17).
- [J] “Fornication, as it is written, ‘Therefore the showers have been withheld, and the spring rain has not come; yet you have a harlot’s brow’ (Jer. 3:3).
- [K] “Murder, as it is written, ‘For blood pollutes the land’ (Num. 35:33).”
- [L] *And there are those who say*, “Also one who publicly pledges to give to charity but fails to carry out his pledge, as it is written, ‘Like clouds and wind without rain is a man who boasts of a gift he does not give’” (Prov. 25:14).
- [M] Now [in inquiring as to the reason for the drought and famine], David made inquiry into all his doings, and he did not find any reason. He addressed his question to the Urim and Thummim. This is in line with that which is written, “And David sought the face of the Lord” (2 Sam. 21:1).
- [N] Said R. Eleazar, “It is written, ‘Seek the Lord, all you humble of the land, who do his commands’” (Zeph. 2:3).
- [O] “And the Lord said, ‘There is blood-guilt on account of Saul and on his house, because he put the Gibeonites to death’” (2 Sam. 21:1).
- [P] “On account of Saul” – because you did not properly bury him.
- [Q] “And on account of the blood-guilt on his house, because he put the Gibeonites to death.”
- [R] So David sent and called them and said to them, “What is between you and the house of Saul?”

- [S] They said to him, “It is because he killed seven of us, two hewers of wood, two drawers of water, a scribe, a teacher, and a beadle.”
- [T] *He said to them, “And what do you now want?”*
- [U] They said to him, “Let seven of his sons be given to us, so that we may hang them up before the Lord at Gibeon on the mountain of the Lord” (2 Sam. 21:6).
- [V] *He said to them, “Now what pleasure do you have if you kill them? Take silver and gold for yourselves.”*
- [W] They said to him, “We don’t want anything to do with silver and gold from Saul and his house.”
- [X] *He said, “Perhaps some of them are ashamed before others to accept such a ransom.”*
- [Y] *So he took each one of them and tried to win him over by himself, but none of them went along with him. This in line with the following verse of Scripture, “It is not a matter of silver and gold between us and Saul or his house” (1 Sam. 21:4). Between me [individually]” is written.*
- [Z] At that moment David said, “The Holy One, blessed be he, gave to Israel three good qualities: modesty, kindness, and caring.
- [AA] “Modesty, as it is said, ‘And Moses said to the people, Do not fear; for God has come to prove you, and that the fear of Him may be before your eyes, that you may not sin’ (Ex. 20:20).
- [BB] “Kindness, as it is written, ‘... so that He will show you mercy, and have compassion on you, and multiply you, as he swore to your fathers’ (Deut. 13:17).
- [CC] “Caring, as it is said, ‘Know therefore that the Lord your God is God, the faithful God who keeps covenant and steadfast love’ (Deut. 7:9).
- [DD] “Now these, by contrast, do not exhibit any one of these traits.”
- [EE] So he set them afar from the Israelites: “Now the Gibeonites were not of the people of Israel” (2 Sam. 21:2).
- [FF] Furthermore, Ezra came along and put them away: “But the temple servants [Nethinim] lived in Ophel; and Ziha and Gishpa were in charge of the temple servants” (Neh. 11:21).

[GG] And furthermore in the age to come the Holy One, blessed be he, will set them apart, as it is written, “And the workers of the city, from all the tribes of Israel, shall till (‘BD) it” (Ez. 48:19).

[HH] They will perish (‘BD) from among all the tribes of Israel.

[II] “And the king said, ‘I will give them’” (2 Sam. 21:6).

[JJ] “The king took the two sons of Rizpah the daughter of Aiah, whom she bore to Saul, Armoni and Mephibosheth; and the five sons of Merab the daughter of Saul, whom she bore to Adriel the son of Barzillai the Meholathite; and he gave them into the hands of the Gibeonites, and they hanged them” (2 Sam. 21:9).

[KK] “And Michal the daughter of Saul had no child to the day of her death’ (2 Sam. 6:23).

[LL] So she had no child, and how can you say this?

[MM] On the basis you must say that they were really the children of Merab, and Michal raised them, so they bore her name.

[NN] “And he gave them into the hands of the Gibeonites, and they hanged them on the mountain before the Lord, and the seven of them perished together” (2 Sam. 21:9).

[OO] “It is written, ‘Seven times’ – lacking one.”

[PP] This is Mephibosheth, for whom David prayed, and the altar afforded him protection.

[QQ] He said to [the Gibeonites], “Lo, I shall make them pass before the altar. Anyone of them to whom the altar affords protection – lo, that one belongs to [the altar, and not to you].”

[RR] It was because Mephibosheth was great in learning in the Torah before the altar, so it afforded him protection.

[SS] Said R. Abin, “I cry to God Most High, to God who fulfills his purpose for me. He will send from heaven and save me, he will put to shame those who trample me’ (Ps. 57:2-3).

[TT] “‘... for me,’ because the Holy One, blessed be he, concurred with David.”

[UU] “They were put to death in the first days of harvest, at the beginning of barley harvest” (2 Sam. 21:9).

[VV] “Then Rizpah the daughter of Aiah took sackcloth, and spread it for herself on the rock, from the beginning of harvest until rain fell upon them from the heavens” (2 Sam. 21:10).

[WW] What is the meaning of “on the rock”?

[XX] Said R. Oshaiah, “For she recited the verse: ‘The Rock, his work is perfect; for all his ways are justice’” (Deut. 32:4).

[YY] R. Ba bar Zamina in the name of R. Hoshaiyah: “Greater is the sanctification of the divine name than the profanation of the divine name.

[ZZ] “In regard to the profanation of the divine name, it is written, ‘His body shall not remain all night on the tree’ (Deut. 21:23).

[AAA] “In regard to the sanctification of the divine name, it is written, “And they hung until rain fell upon them”” (2 Sam. 21:10).

[BBB] This teaches that they were hung from the sixteenth of Nisan to the seventeenth of Marheshvan, and passersby would say “What son of sin did these men do, that the attribute of divine justice should be so egregiously enforced against them?”

[CCC] And people said to them, “It is because they did harm to proselytes who are subject to the protection of a curse.”

[DDD] Now it is a matter of an argument a fortiori: If these [Gibeonites], who did not convert with a proper motive [for the sake of Heaven], the Holy One, blessed be he, exacted vengeance for their death, those who convert out of purity of motive, how much the more so [will the Holy One, blessed be he, avenge their blood, if it is wrongfully spilled].

[EEE] Many were converted on that day, as it is said, “Then Solomon took a census of all the aliens who were in the land of Israel, after the census of them which David his father had taken; and there were found a hundred and

fifty-three thousand six hundred. Seventy thousand of them he assigned to bear burdens, eighty thousand to quarry in the hill country, and three thousand six hundred as overseers to make the people work” (2 Chron. 2:17-18).

6:8

[A] Said R. Meir, “When a person is distressed, what words does the Presence of God say? As it were: ‘My head is in pain, my arm is in pain’.

[B] “If thus is the Omnipresent distressed on account of the blood of the wicked when it is shed, how much the more so on account of the blood of the righteous!”

[I:1 A] *We have learned, “[My head is too heavy]” [qlyny]*

[B] *And there are Tannaite authorities who teach the tradition in the language, “It is too heavy for me” [ql’ny; a slight variation in language, not in meaning (PM)].*

[C] *He who said, “It is too heavy for me” reads only, “It is weighty.”*

[D] *He who said, “It is too heavy for me” reads only, “I am burdened.”*

[I:2 A] *R. Meir is not in accord with the Mishnah (6:7F) which [interprets “a curse against God” of Deut. 21:23 as referring to a blasphemer and that, therefore,] if the blasphemer [is left overnight on the tree] one transgresses a negative commandment. [R. Meir must be in disagreement with this, since he interprets ‘ a curse’ of Deut. 21:23 to mean “It is too heavy for me.”]*

6:9

[A] **And not this only, have [sages] said, but whoever allows his deceased to stay unburied overnight transgresses a negative commandment.**

[B] **But [if] one kept [a corpse] overnight for its own honor, [e.g.,] to bring a bier for it and shrouds, he does not transgress on its account.**

[C] **And they did not bury [the felon] in the burial grounds of his ancestors.**

[D] **But there were two graveyards made ready for the use of the court, one for those who were beheaded or strangled, and one for those who were stoned or burned.**

- [I:1 A]** *It was taught:* He who moves a bier from place to place is not subject to [the rite of mourning required when] one gathers bones [of an ancestor for secondary burial]. [Merely moving the bier is not part of the reburial process. So new fresh rites of mourning are not required, e.g., for that day only.]
- [B] *Said R. Aha,* “*That statement which you have laid down applies to a bier made of marble. But as to one made of wood [in which case there will have been putrefaction of the bier itself], the person is subject to [carry out rites of mourning involved when] one gathers bones [of an ancestor for secondary burial].*”
- [C] *Said R. Yosé,* “*Even in the case of a bier made of wood, [there is no consideration of the rite of mourning required when one] gathers bones [of an ancestor for secondary burial].*”
- [I:2 A]** What constitutes the act of gathering bones [for secondary burial]?
- [B] They carry the skeleton, wrapped in sheets, from one place to another.
- [C] *And so it has been taught:* Gathering up the bones means that one collects the bones once the flesh has putrefied.
- [I:3 A]** *It was taught,* Merely hearing about the secondary collection and burial of the bones of an ancestor does not impose [upon a relative] the obligation of mourning on that day.
- [B] *Said R. Haggai,* “*That is so if one heard a day later. But if one heard on the same day that the bones were collected, then merely hearing about the collection of the bones of an ancestor does impose the obligation to carry out the rites of mourning on that day.*”
- [I:4 A]** *Nichomachi taught before R. Zeira,* “*There is no lower limit [to the number of bones which must be collected in a case of] the gathering of bones [for secondary burial, so that even if only a few bones have been collected, the rites of mourning are invoked] .*”
- [B] *R. Mani instructed R. La of Kapra* to make a tear in his garments and to go into mourning, in line with the view of R. Aha.
- [C] but not to undergo cultic uncleanness [if he was a priest, that is, he is not to become unclean to collect his father’s bones], in accord with the view of R. Yosé.
- [D] *It was taught:* [The rite of mourning applies] in a case of gathering the bones [even when one has merely] heard [about the secondary burial].

[E] What is the gathering of bones? He who collects bone by bone, once the flesh has putrefied [thus carries out the rite of gathering of bones for secondary burial].

[F] *It was taught:* As to a case of gathering of the bones, one does not say in that connection lamentations of obsequies, nor does one state the blessing due to mourners, nor does one express the consolation due to mourners.

[G] What is the blessing due to mourners?

[H] It is that said in the synagogue.

[I] What is the consolation due to mourners?

[J] It is that which is said when passing in line before the mourners.

[K] *It was taught:* A mourner says something to them.

[L] What does one say?

[M] Rabbis of Caesarea say, "One expresses praises [of the deceased]."

6:10

[A] When the flesh had rotted, they [they do] collect the bones and bury them in their appropriate place.

[B] And the relatives [of the felon] come and inquire after the welfare of the judges and of the witness.

[C] As if to say, "We have nothing against you, for you judged honestly."

[D] And they did not go into mourning.

[E] But they observe a private grief, for grief is only in the heart.

[I:1 A] *It was taught:* At first they would collect the bones and bury them in mounds [as in a pauper's grave]. When the flesh had putrefied, they would collect the bones and bury them in cedar chests.

[B] On that day the mourner would engage in the rite of mourning. The next day he would rejoice, saying that his ancestors would free him from the rigors of judgment.

[II:1 A] Not only so [with regard to M. 6:9D, there were two graveyards, one for those beheaded or strangled, the other for those stoned or burned], but they would bury them by themselves the ones stoned with the ones burned to death, the ones beheaded with the ones strangled.

[B] That is in line with that which David says, “Sweep me not away with sinners, nor my life with bloodthirsty men” (Ps.

[C] “With sinners” [refers to] those stoned and burned to death.

[D] “With bloodthirsty men” [refers to] those who are beheaded and strangled.

[II:2 A] *R. Abbahu was bereaved. One of his children had passed away from him. R. Jonah and R. Yasi went up [to comfort him]. When they called on him, out of reverence for him, they did not express to him a word of Torah. He said to them, “May the rabbis express a word of Torah?”*

[B] *They said to him, “Let our master teach us.”*

[C] He said to them, “Now if in regard to the government below, in which there is no reliability, [but only] lying, deceit, favoritism, and bribe-taking –

[D] “which is here today and gone tomorrow –

[E] “if concerning that government, it is said, **And the relatives [24a] of [he felon come and inquire after [he welfare of the judges and of the witnesses, as if to say, ‘We have nothing against you. tor you judged honestly,’**

[F] “in regard to the government above, in which there is reliability, no lying, deceit, favoritism, or bribe taking –

[G] “and which endures forever and for all eternity –

[H] “all the more so are we obligated to accept upon ourselves the just decree [of that heavenly government].”

[I] And it says, “That the Lord may show you mercy, and have compassion on you” (Deut. 13:17).

YERUSHALMI SANHEDRIN

CHAPTER SEVEN

7:1

- [A] Four modes of execution were assigned to the court, [listed in order of severity]:
- [B] (1) stoning, (2) burning, (3) decapitation, and (4) strangulation.
- [C] R. Simeon says, “(2) Burning, (1) stoning, (4) strangulation, and (3) decapitation” [M. 9:3].
- [D] This [procedure considered in Chapter Six,] is [how] the religious requirement of stoning [is carried out].
- [I:1 A] But to the civil regime was given over only death by the sword alone [T. San. 9:10B].
- [B] How do we know that stoning [is a mode of execution that is valid in Israel]?
- [C] “And you shall stone that man or woman to death with stones” (Deut. 17:5).
- [D] Burning?
- [E] As it is said, “[If a man takes a wife and her mother also, it is wickedness;] they shall be burned with fire, both he and they” (Lev. 20:14).
- [F] Decapitation?
- [G] Here it is said, “... he will be punished” (Ex. 21:20), and there it is said, “And I shall bring a punishing sword upon you, that shall execute punishment” (Lev. 26:25).
- [H] Just as punishment stated in the latter verse involves use of the sword, so punishment stated in the former one involves use of the sword.
- [I] *As to strangling, however, it is not found [in Scripture].*

[J] You may state matters as follows: As to any reference to the death penalty which is required in the Torah without further specification, you are not permitted to impose a severe mode of execution, but only to impose a lenient mode of execution, and sages have designated strangulation as that lenient mode of execution.

- [I:2 A] R. Simeon says, “Burning is more severe than stoning,” and sages teach that stoning is more severe than burning.
- [B] R. Simeon says, “Strangulation is more severe than decapitation,” and rabbis teach that decapitation is more severe than strangling [M. San. 7:1B, C].
- [C] [What follows takes for granted knowledge of these verses: “And the daughter of any priest, if she profanes herself by playing the harlot, profanes her father; she shall be put to death” (Lev. 21:9); “But if the thing is true, that the tokens of virginity were not found in the young woman, then they shall bring out the young woman to the door of her father’s house, and the men of her city shall stone her to death with stones, because she has wrought folly in Israel by playing the harlot in her father’s house” (Deut. 22:21); “If there is a betrothed virgin, and a man meets her in the city and lies with her, then you shall bring them both out to the gate and stone them to death with stones” (Deut. 22:24.) R. Simeon points to the fact that whoever is subject to the death penalty as the daughter of a priest [who has committed adultery, whether betrothed or married] is subject to the death penalty through burning. [Since the betrothed daughter of a priest who has committed adultery is subjected to burning and not to stoning, as is a betrothed daughter of an Israelite who has committed adultery, it follows that burning is the more severe punishment. For the priest is subject to more severe rules.]
- [D] But rabbis point out that whoever is subject to the death penalty as a *betrothed* daughter of an Israelite or a priest is subject to stoning. [The daughter of a priest who commits adultery when she is married, alone is subject to the penalty of burning. It is only the married daughter of a priest who has committed adultery who is subjected to burning, while the betrothed one is stoned. Since that is the case, stoning is more severe, for it is specified in a special most grave case. In normal cases, then, burning is the penalty. What is treated as special is more severe, as indicated.]
- [E] R. Simeon argues as follows: “Note that in the case of the daughter of a priest, the Torah has imposed a strict ruling in the case of a betrothed

daughter of a priest [who has committed adultery], for she is put to death through burning. The Scripture nonetheless has imposed a lenient rule in the case of a married daughter of a priest, for she is put to death through stoning, by contrast, upon the daughter of an Israelite to begin with the Torah has imposed a lenient form of death, namely, through stoning. Then is it not logical that we should impose a lenient rule if she is a married woman and has committed adultery: she should be put to death through decapitation?”

[F] And rabbis argue in this wise: “Note that upon the betrothed daughter of an Israelite [convicted of adultery] the Torah has imposed a more strict ruling, for she is put to death through stoning. Yet in the case of a married woman, daughter of an Israelite, [who has committed adultery] the Torah has imposed the more lenient rule that she is put to death through burning. Then to the daughter of a priest [convicted of adultery] the Torah has applied a lenient rule, for she is put to death through burning. It is not reasonable that we should impose upon her an easy form of death if she is married [and commits adultery], that she should be put to death through strangulation?”

[I:3 A] R. Abbahu in the name of R. Yosé b. Haninah: “In any case in which [a woman who has committed adultery is put to death in a way] more lenient than her father would be put to death [for incest with his daughter, that is, in the case of an Israelite’s daughter, who is married and commits adultery], her punishment is burning,

[B] “then [in the case of a priest’s daughter], her punishment is the same as that of her father, which is burning;

[C] “and [if she should commit incest] with her father-in-law, the punishment is execution through stoning.”

[D] [“And the daughter of any priest, if she profanes herself by playing the harlot,] profanes her father; she shall be burned with fire” (Lev. 21:9).

[E] R. Eliezer says, “If she committed incest with her father, she is put to death through burning; if she did so with her father-in-law, she is put to death through stoning” [as at B C].

[F] She [of D] is put to death through burning, but her lover is not put to death through burning.

[G] She is put to death through burning, but those who falsely conspire to put her to death and turn out to be perjured witnesses are not put to death through burning [as at M. 11:6H].

- [I:4 A] [In Tosefta's wording:] **All perjurers and illicit lovers go and suffer the form of death which they had brought on their victim; if it was for stoning, they are stoned; if it was for burning, they were burned.**
- [B] **Under what circumstances? When they are in the same status as the victim, so as to be subject to that same mode of execution:]**
- [C] **if the death penalty attached to the crime is stoning, the accused is stoned, and the witnesses are stoned;**
- [D] **if it was to burning, the victim is burned, and they are burned;**
- [E] **if it was to be strangulation, the victim is strangled, they are burned, but she is stranded.**
- [F] **But here [M. 11:6H], he is subject to the death penalty through burning, while the perjurers are killed through strangulation [T. San. 14:17].**
- [I:5 A] R. Abbahu in the name of R. Yosé b. Haninah, "Rabbis point to the following argument [that strangulation is more severe:]
- [B] "The men of the town which is to be destroyed for collective idolatry originally were in the generality of idolaters, and so were to be subject to stoning [as at Deut. 13:9-10: 'You shall kill him you shall stone him to death with stones']
- [C] "But they were made an exception and subjected to a more lenient form of the death penalty, which is burning [Deut. 13:16: 'You shall gather all its spoil and burn the city and all its spoil.'].
- [D] "It is not sufficient for you that you treat them as an exception and impose judgment in accord with the easiest of forms of the death penalty, which is burning.
- [E] "But you should then treat the inhabitants as still more of an exception and subject them to the easiest form of the death penalty, which is strangulation."
- [F] R. Simeon points to the following argument:
- [G] "A false prophet in fact should subject to the general rule governing all idolaters, that is, to be put to death with burning.
- [H] "He was treated as an exception and subjected to the death penalty through the most lenient of modes of death penalty, through stoning.

- [I] “It should not be sufficient for you that you treat him as an exception and impose upon him the death penalty through stoning.
- [J] “But you should treat him as still more of an exception and impose upon them the most lenient of the death penalties, which is decapitation.”
- [K] *R. Samuel bar Suseretai in the name of R. Abbahu shifts the grounds of argument:*
- [L] “Rabbis point to the following argument: The false prophet was in the general category of idolatry, to be put to death through stoning.
- [M] “He was treated as an exception and so judged in accord with the most lenient of the forms of execution, which is through burning.
- [N] “It is not sufficient for you that you treat him as an exception and impose the death penalty of burning, but you treat him as still more of an exception and impose upon him the most lenient of the modes of execution, which is strangulation.
- [O] “R. Simeon points to the following argument:
- [P] “The inhabitants of a city which is collectively guilty of idolatry were in the generality of idolatry and so to be put to death through burning.
- [Q] “They were treated as an exception so as to impose upon them the death penalty which is most lenient among them all, which is stoning.
- [R] “It is not enough for you to do so, but you treat them as still more of an exception and impose upon them the most lenient mode of execution of all, which is decapitation.”

7:2

- [A] **The religious requirement of burning [is carried out as follows]:**
- [B] **They would bury him up to his armpits in manure, and put a towel of hard material inside one of soft material, and wrap it around his neck.**
- [C] **This [witness] pulls it to him from one side, and that witness pulls it to him at the other side, until he opens up his mouth.**
- [D] **And one kindles a wick and throws it into his mouth, and it goes down into his bowels and burns his intestines.**

- [E] **R. Judah says, “Also this one: if he died at their hands [through strangulation], they will not have carried out the religious requirement of burning [in the proper manner].**
- [F] **“But: They open his mouth with tongs, against his will, kindle a wick, and throw it into his mouth, and it goes down into his bowels and burns his intestines.”**
- [G] **Said R. Eleazar b. Sadoq, “There was the case of a priest who committed adultery.**
- [H] **“And they put bundles of twigs around her and burned her.”**
- [I] **They said to him, “It was because the court of that time was not expert [in the law].”**
- [I:1 A] And [why not] put a towel of hard material [around his neck] all by itself [instead of wrapping it in soft cloth]?
- [B] They say: So that the man may not die [when the towel is tightened to force his mouth open].
- [C] For so we find that when Hezekiah stopped up the outlet of the water of Upper Gihon, he did so with soft materials [so as to absorb the water].
- [I:2 A] *Said R. Qerispai in the name of R. Yohanan, “The Mishnah [at M. 7:2C, regarding the wick] speaks of a wick of tin.”*
- [B] What is a wick of tin?
- [C] *Rabbis of Caesarea say, “A mixture of lead and cassiterum.”*
- [D] *Said R. Yosé b. R. Bun, “This is in accord with the one who said that **one kindles the wick and throws it into the mouth [of the criminal] [M. 7:2D]. But in accord with the one who says that it flows down into his intestines **and burns the intestines [M. 7:2D], the Mishnah speaks of a wick soaked in oil.”*****
- [I:3 A] *It is taught: Forty years before the Temple was destroyed, the right to judge capital cases was taken away from Israelite courts.*
- [B] In the time of R. Simeon b. Shatah, the right to judge property cases was taken away from Israelite courts.
- [C] *Said R. Simeon b. Yohai, “Blessed is the All Merciful, for I am not sufficiently wise to make such decisions [in any event].”*
- [II:1 A] **Said R. Eleazar b. Sadoq, “I was a child and riding on my father’s shoulders, and I saw a priest’s daughter who had committed**

adultery, and they put bundles of twigs around her and burned her [M. 7:2H].”

[B] They said to him, “You were a child, and children don’t give testimony” [T. San. 9:11].

[C] When he saw that affair, he was not less than ten years old.

[D] When he [left home and] went with his master, he was no less than thirty years old.

[E] For it is not the way of a great man to go with someone less than thirty years old.

[F] *It is taught thus:* Said Rabbi, “There is the precedent for I came with R. Eleazar b. R. Sadoq from Bet Simon, and we nibbled at dates and grapes outside of the sukkah.”

7:3

[A] The religious requirement of decapitation [is carried out as follows]:

[B] They would cut off his head with a sword,

[C] just as the government does.

[D] R. Judah says, “This is disgusting.

[E] “But they put his head on a block and chop it off with an ax.”

[F] They said to him, “There is no form of death more disgusting than this one.”

[I:1 A] R. Judah concedes that **there is no more disgusting form of execution than this one.**

[B] Nonetheless, the Torah has said, “You shall not walk in their statutes” (Lev. 18:3) [in consequence of which one must do the killing in a way opposite that of M. 7:3B-C].

[I:2 A] *Said R. Yohanan, “And thus is it too taught:*

[B] “‘The murderer shall be put to death’ (Num. 35:17) – with that which he put the victim to death.

[C] “Is it possible that, if he put him to death with a sword, the murderer should be put to death with a sword, or if with a staff, with a staff?

[D] “It is stated here, ‘... here he will be punished’ (Ex. 21:20), and there it is said, ‘And I shall bring a punishing sword upon you, that shall execute punishment’ (Lev. 26:25). Just as punishment stated in the

latter context involves use of the sword, so punishment stated in the former one involves use of the sword [only].

- [E] “Is it possible that one should remove [the head] from between the shoulders?”
- [F] “Here it is stated, ‘And you will wipe out evil from your midst’ (Deut. 17:7), and later on it is stated, ‘You will wipe out innocent blood from your midst’ (Deut. 21:9).
- [G] “We thus have reference to both removal and to breaking the neck.
- [H] “Just as removal stated below involves a blow at the base of the neck, so too a blow at the base of the neck is required here.
- [I] “Just as breaking the neck stated later involves actually severing the head from the neck, so here too it involves severing the head from the neck.”

7:4

[A] The religious requirement of strangulation [is carried out as follows:]

[B] They would bury him in manure up to his armpits, and put a towel of hard material inside one of soft material, and wrap it around his neck.

[C] This [witness] pulls it to him from one side, and that witness pulls it to him at the other side,

[D] until he perishes.

[I:1 A] *As to strangling, it is not found in Scripture.*

[B] “You may state matters as follows As to any reference without further specification to the death penalty which is required in the Torah, you are not permitted to draw it out, to impose a severe mode of execution, but only to impose a lenient mode of execution, and sages have designated strangulation as the execution,” [24c] the words of R. Josiah.

[C] Said to him R Jonathan, “It is not because it is a more lenient mode of execution, but it is stated without further specification, and in the case of any form of the death penalty that is stated without further specification, you are not permitted to impose a more severe mode of execution but only a more lenient mode of execution.”

[I:2 A] Thus do you describe the mode of strangulation: This [witness] pulls it to him from one side, and that witness pulls it to him at the other side, until he perishes.

- [B] *Kahana raised this question before Rab, “There you say, ‘This one pulls it to him from one side and that one pulls it to him from the other side’ (M. Zabim 3:2), and here you say, This [witness] pulls it to him from one side, and that witness pulls it to him at the other side.”*
- [C] *He said to him “There, this one stands in front of him and that one behind him, while here, this one stands on the one side and that one stands at the other side.”*

7:5

- [A] **These are [the felons] who are put to death by stoning:**
- [B] **He who has sexual relations with his mother, with the wife of his father, with his daughter-in-law, with a male, and with a cow;**
- [C] **and the women who brings an ox on top of herself;**
- [D] **and he who blasphemes, he who performs an act of worship for an idol, he who gives of his seed to Molech, he who is a familiar spirit, and he who is a soothsayer;**
- [E] **he who profanes the Sabbath,**
- [F] **he who curses his father or his mother.**
- [G] **he who has sexual relations with a betrothed maiden,**
- [H] **he who beguiles [entices a whole town to idolatry],**
- [I] **a sorcerer,**
- [J] **and a stubborn and incorrigible son.**

[I:1 A] [The materials which follow are relevant to M. Ker. 1:1, which is as follows: **Thirty-six transgressions subject to extirpation are in the Torah: He who has sexual relations with his mother, his father’s wife, and his daughter-m-law; he who has sexual relations with a male or a beast, and the woman who has sexual relations with a beast he who blasphemes, he who performs an act of blasphemous worship, he who gives his seed to Molech. he who has a familiar spirit, he who profanes the Sabbath]** Now it was necessary to specify [that there are thirty-six such transgressions] to indicate that if one carried all of them out in a single spell of inadvertence, he is liable on each and every count.

- [B] But if one carried them out in two spells of inadvertence, [what is the law]?

- [C] For even if one had intercourse with a [forbidden] woman and went and did so a second time, [in two spells of inadvertence,] he is liable for each act of sexual relations.
- [D] *R. Simeon son of R. Hillel b. Pazzi raised the question before R. Hillel b. Pazzi: "The Mishnah pericope speaks of violation of the law with a single woman who is prohibited on a number of different counts.*
- [E] "But if there were many women [prohibited on a single count or one woman and many spells of inadvertence, do we consider the man's multiple transgressions as a single spell of inadvertence?" (PM).
- [F] He said to him, "That is why it was necessary [to specify the thirty-six counts of M. Ker. 1:1, so to indicate that even if it was] in a single spell of inadvertence, [one is liable on each and every count]."
- [G] [*And we derive the same basic conception from*] *the dispute which follows:*
- [H] [If the male partner committed many acts of forbidden intercourse, e.g., with a menstruating woman or a close relative,] in a single spell of inadvertence, but the female partner [did so] in many distinct spells of inadvertence [because she knew and then forgot and then again remembered that she was menstruating or was related],
- [I] R. Yohanan said, "He is liable to bring a single offering, but she is liable to bring five [offerings covering the five distinct spells of inadvertence]."
- [J] R. Simeon b. Laqish said, "Just as he brings only a single offering, so she brings only a single offering." [It follows that both Yohanan and Simeon concur that we do make distinctions among spells of inadvertence, if there is call to do so, in line with F.]
- [K] [Continuing the line of F, it was indeed necessary to specify the thirty-six counts under which one may be liable,] so that you may not say that they treat cases of transgression with many different women or [one woman] and many different spells of inadvertence, as if they were subject to a single spell of inadvertence [with the false result] that one will be liable on only a single count. On this account it is necessary to state that one is liable on each and every count.
- [I:2 A] *R. Bun bar Hiyya said, "R. Ishmael taught as follows:*
- [B] "'You shall not practice augury or witchcraft' (Lev. 19:26).

- [C] “Now are not augury and witchcraft subject to the same general prohibition [of magic]? They have been treated as distinct [and requiring specification] so as to make distinctions therein, [and so to indicate that one is punishable on each count].”
- [D] [In a case where [the general rule] is stated with the punishment of extirpation and a specific instance [is also stated with the punishment of] extirpation, *in the view of R. Yohanan, we deal with a generalization followed by a specification* [so that whatever is stated in the specification limits what is implied by the generalization, a conception which will now be spelled out. This conception is spelled out as follows:]
- [E] For R. Abbahu stated in the name of R. Yohanan: “‘For whoever shall do any of these abominations, the persons that do them shall be cut off from among their people’ (Lev. 18:29) [with reference to the prohibited sexual unions, e.g., son and mother or stepmother].
- [F] “Now was the man’s sister not within the general principle [by which consanguineous marriages are prohibited]? [And why was the union of brother and sister specified, at Lev. 18:9?] It was treated as a specific item in order to effect a differentiation among the various categories of prohibited unions contained within the generalization [and so to indicate that one is punishable on each count]. [This then indicates that if one has violated the entire range of rules against consanguineous marriages in a single spell of inadvertence, he is liable on each count.]”
- [G] *R. Eliezer objected*, “And it is not written, ‘You shall not uncover the nakedness of your mother’s sister you shall not uncover the nakedness of your father’s sister’ (Lev. 18:12, 13)? [Why should these items be treated specifically, since they are covered by the same general principle? What rule – by the same mode of exegesis – does Yohanan impute here?]”
- [H] He said to him, “They were specified explicitly for a specific purpose. It is to make the rule that one is liable for reaching even the first stage of sexual connection [and not fully consummating the sexual act].”
- [I] [He replied, “But that same rule, H, is available elsewhere.] For is it not written, ‘If a man lies with a woman having her menstrual period and uncovers her nakedness, he has made naked her fountain, and she has uncovered the fountain of her blood; both of them shall be cut off from among their people’ (Lev. 20:18)? [Now this would seem superfluous in the light of

- [J] He said to him, “They were specified explicitly for a specific purpose. It is to make the rule that one is liable for reaching even the first stage of sexual connection.
- [K] “[It was to make a very specific point, specifically, so that] you should not maintain that position that, since one is liable in the case of a menstruating woman only on the count of the uncleanness involved, even in the primary sexual connection, in such a case one should not treat the one who begins the sexual relationship as equivalent in guilt to the one who fully consummates it. On this account it was necessary to make the entire matter specific. [So Yohanan’s exegetical principle stands.]”
- [L] And is it not written: “If a man lies with his uncle’s wife, he has uncovered his uncle’s nakedness” (Lev. 20:20)? [Does this not repeat Lev. 18:14: “You shall not uncover the nakedness of your father’s brother”?]
- [M] He said to him, “They were specified explicitly for a specific purpose. It is to indicate the punishment of dying childless.”
- [N] *For said R. Yudan, “In any place in which it is said, ‘They shall be childless’ [as at Lev. 20:21: “If a man takes his brother’s wife, it is impurity; he has uncovered his brother’s nakedness, they shall die childless”], they shall live without children.*
- [O] *“And in any place in which it is said, ‘They shall die childless’ [as at, “If a man lies with his uncle’s wife they shall die childless” (Lev. 20:20)], it means that they shall bury their children.”*
- [P] Said R. Yosé, “Reference to ‘his aunt’ was necessary. It is stated explicitly rather than as part of a general rule in order to exclude the wife of his brother on his mother’s side [whom one may marry].”
- [Q] *What is the Scriptural basis for that statement?*
- [R] Here “his aunt” is stated [Lev. 20:20], and there, “Either his uncle or the son of his uncle will redeem him” (Lev. 25:49).
- [S] Just as “his uncle” to which reference is made later on refers specifically to the brother of his father on his father’s side [and not in the female line], so “his aunt” to which reference is made in this context refers to his father’s brother’s wife, on his father’s side [and not on his mother’s side]. [Consanguinity in the female line is limited, as at P.]

[T] Also the prohibition of the wife of his brother is to be derived by analogy to the prohibition of his aunt.

[U] Now just as the case of the aunt to which reference is made later means specifically the wife of the father's brother on the father's side, so the matter of the wife of his brother to which reference is made here refers to the wife of his brother on his father's side.

[V] *Up to now [the interpretation of the several verses has accorded with the exegetical theory] of R. Aqiba [who derives (1) the law concerning the aunt by analogy, and (2) the law covering the wife of his brother by analogy from the law covering his aunt].*

[W] But what is to be said from the viewpoint of R. Ishmael?

[X] *R. Ishmael taught: "Here reference is made to the wife of his brother, and below, reference is made as follows: 'If a man takes his brother's wife, it is [menstrual] impurity' (Lev. 20:21).*

[Y] "Just as, in the case of such an impurity, there is a point at which one is permitted [to have sexual relations] after the woman has been prohibited from having sexual relations, so also with regard to the wife of one's brother there may be a period in which one may have sexual relations [after the time at which one may not, e.g., if the husband dies without children].

[Z] "Excluded from the rule then is the wife of his brother on his mother's side, in which there is no point at which one is permitted to have sexual relations after the woman has been prohibited to him by reason of her marriage to his brother [for even if the husband dies childless in this case, there is no levirate marriage]."

[AA] [Yohanan says that the sister is specified for the stated reason, we now ask:] *And lo, R. Yohanan must confront this same question himself, and how does he bring evidence for the stated proposition [that there are distinct counts on which one is liable? For, after all, there has been solid objection to his original proof for that proposition in context].*

[BB] R. Abbahu in the name of R. Eleazar in the name of R. Hoshaiyah: "In a case in which we have two negative

commandments and a single penalty of extirpation [stated in context], the specification of the negative commandments serves the purpose of treating the penalty of extirpation as divided and so applicable to each of the negative commandments [and thus, as above, there will be liability on a number of distinct counts].”

[CC] *What is the Scriptural basis for this position?*

[DD] “It shall not be poured upon the bodies of ordinary men, and you shall make no other like it in composition” (Ex. 30:32).

[EE] And it is written, “Whoever compounds any like it or whoever puts any of it on an outsider shall be cut off from his people”

[FF] Thus we have two negative commandments [DD and EE] but only a single statement regarding extirpation [EE]. The function of the two explicit negative statements is to effect a differentiation within the penalty of extirpation and so to apply the penalty of extirpation to one who violates either one of the two negative rules.

[GG] [(Restoring the text for GG and HH from Y. Shab. 7:2:) Now since that fact is to be derived from the above proof,] why does Yohanan have [to derive the same proposition from the verses with which he has dealt earlier]?

[HH] How does R. Yohanan deal with this matter? Scripture (Lev. 18:29) speaks of men and the reference to “his sister” serves the purpose of applying that same general principle to all cases involving women.

[II] And doesn't R. Eleazar hold this rule too?

[JJ] He derives it from “None of you shall approach [anyone near of kin to him” (Lev. 18:6)] which implies both male and female.

[KK] And how does R. Yohanan treat this verse?

[LL] He explained it, but it isn't clear.

[MM] *Now further did Samuel b. Abba raise the question before R. Zeira, “[With reference to the following verses the question is raised. Lev. 7:20: ‘But the person who eats of the flesh of the sacrifice of the Lord’s peace offerings while an uncleanness is on him – that person shall be cut off from his people.’ Now the prohibition of eating peace offerings in a state of uncleanness is part of the general principle of preserving the cleanness of all offerings. It is treated explicitly here. But at Lev. 22:3 it is part of the following general rule: ‘If any one of all your descendants throughout your generations approaches the Holy Things, which the people of Israel dedicate to the Lord, while he has an uncleanness, that person shall be cut off from my presence. Thus we have two verses which prohibit eating Holy Things while in a state of uncleanness. So the reference to peace offerings has a specific purpose. It would then – by the stated reasoning – be the purpose of indicating that if inadvertently one ate a variety of Holy Things in a single spell of inadvertence, he will be liable on the count of each distinct sort of Holy Things. This is the proposition now to be stated:] Now peace offerings have been specified explicitly and is the purpose to impose a distinction on all varieties of Holy Things eaten in a state of uncleanness, [and so impose liability on each count, as stated above]?”*

[NN] He said to him, “It was made explicit for a distinctive purpose. [Holy Things in the form of peace offerings] are mentioned explicitly in order to exclude [from the stated rule] Holy Things given for the upkeep of the Lord’s house,

[OO] “and to make the point that people are not liable in the case of Holy Things given for the upkeep of the house on the count of violating the rule of refuse, remnant, and uncleanness, [so that if one should keep those Holy Things too long or eat them in a state of uncleanness, he is not liable].”

[PP] “[*Continuing Zeira’s statement:*] *Now is that rule not stated explicitly in the Mishnah, as follows:*

Things consecrated for the altar join together with one another [for making up the requisite quantity to be subject to] the law of sacrilege, and to impose liability on their account for transgression of the laws of refuse, remnant, and uncleanness [M. Me. 4:1A-B],

[QQ] “which is not the case of things consecrated for the upkeep of the house.

[RR] “Since they do join together, they are not subject to the distinctions made above, [but one is liable on a single count for the whole lot of them].”

[SS] Said R. Haninah, “[What sort of proof derives from the cited Mishnah? It itself poses problems.] For it was necessary to derive the stated proof. For otherwise why should they not be deemed distinct from one another and not to be joined together?”

- [I:3 A] Where we have a general rule stated affirmatively, and a specific instance of the rule expressed negatively [how do we interpret the matter, and for what purpose]?
- [B] *In the opinion of R. Eleazar*, you have a case of a general rule followed by a specific explication of the general rule [which limits the general rule], [as illustrated in the following dispute]:
- [C] R. Eleazar says, “People receive a flogging on the count of ploughing in the Sabbatical Year.”
- [D] R. Yohanan said, “People receive a flogging on the count of ploughing in the Sabbatical Year.”
- [E] What is the Scriptural basis for the position of R. Eleazar?
- [F] “In the seventh year there shall be a Sabbath of solemn rest for the Land, a Sabbath to the Lord” (Lev. 25:4).
- [G] “You shall not sow your field or prune your vineyard” (Lev. 25:4).
- [H] The former represents a general statement, the latter a specific explication of the general statement.
- [I] Sowing and pruning were part of the general rule, and why are they explicitly stated? It is to build an analogy on them and to rule as follows: Just as sowing and pruning are distinctive in that they

represent work on the land and on trees, so I prohibit only acts of labor which represent work on the land or on trees. [Now this would encompass ploughing.]

[J] How does R. Yohanan treat the verses?

[K] You have two distinct acts of labor, and they are two matters which have been treated as distinctive as apart from the general rule which covers them. It is for the purpose of making a distinction [and indicating that, if one does both of them in a single act of inadvertence, he is liable on the count of each]. [The purpose then is not to encompass ploughing as a forbidden act of labor in the Sabbatical Year.]

[L] In the opinion of R. Eleazar, are they not treated as distinct acts of labor [so one would not be liable on the count of each, as explained]?

[M] But surely he should treat them as distinct actions, for on the count of each of which one should be liable.

[N] *While he holds that* they are not treated as distinct acts, but they do serve to provide a lesson [as specified above, covering other actions which are going to be prohibited, e.g., ploughing].

[O] [*Now we turn to R. Yohanan and ask,*] *In the view of R. Yohanan* do they not serve to provide further lessons [about other acts of labor which, like them and sharing their traits, will be forbidden]?

[P] The rule is different here [on which case we cannot derive further lessons], for we have a case in which the general rule is expressed in affirmative language, while the specification illustrative of the rule is expressed in negative language,

[Q] and a commandment stated in affirmative language does not serve to impart lessons concerning a commandment stated in negative language, nor does a commandment stated in negative language teach lessons concerning a commandment stated in affirmative language.

[R] *In the opinion of R. Eleazar,* a commandment stated in affirmative language does teach lessons concerning commandments stated in negative language,

[S] but a commandment stated in negative language does not teach lessons concerning a commandment stated in affirmative language.

[T] *Now in accord with the position of R. Yohanan, we have no problem.* It is permitted in the Sabbatical Year to dig wells, caves, and caverns [for this is not a prohibited act of agricultural labor in the Sabbatical Year].

[U] *But in the opinion of R. Eleazar,* what is the law as to digging wells, caves, and caverns [given that ploughing is prohibited]?

[V] Just as the [cited verses] do not teach lessons for one another for matters subject to a prohibition, so they do not provide lessons concerning matters which are permitted [so far as Yohanan is concerned]. [But so far as Eleazar is concerned, it will be permitted to dig.]

[W] *Said R. Ba Qartegenah: “The Scriptural basis for the position of R. Yohanan [that ploughing is permitted in the Sabbatical Year] is as follows:*

[X] “‘Six years you shall sow your field’ (Lev. 25:3) – not in the Seventh Year.

[Y] “‘Six years you shall prune your vineyard and gather in its fruits’ (Lev. 25:3) – not in the Seventh Year.

[Z] “Any negative commandment which is derived from an affirmative statement is deemed itself to be an affirmative statement, and [one who violates it] has violated an affirmative statement. [But it is permitted to plough.]”

[AA] R. Jeremiah said, “One thereby violates an affirmative statement.”

[BB] R. Yosé says, “Even the consideration of an affirmative commandment is not present in such a case, [and the prohibition of ploughing does not derive from the Torah].”

[CC] And is it not fully spelled out: “There shall be a Sabbath of solemn rest for the Land, a Sabbath to the Lord” (Lev. 25:4)?

[DD] This serves the purpose [of imposing the penalty of flogging] on those who violate the negative rules of the Sabbatical Year during the additional period [added on to the Sabbatical Year, in which time the negative rules also apply]. [That is, during a number of months prior to the advent of the Sabbath Year, certain acts of agricultural labor may not be carried out because the benefit therefrom will be felt in the Sabbatical Year itself.]

[EE] [*There is a Tannaite teaching as follows:*] “Is it possible they should be flogged on account of the addition?” [Of course not.]

[FF] *R. Yohanan explains the teaching as follows:*

[GG] Is it possible that people should be flogged on the count of ploughing in the Seventh Year [which is in “addition” to the sowing and pruning mentioned in the verse]? [Surely not.]

[HH] (*Lo,*) *R. Eleazar explains the teaching as follows:* [24d] Is it possible that people should be flogged for violating the prohibitions stated in the first two chapters [of Tractate Shebi’it which deal with the additional period added on to the Sabbatical Year]? [Surely not.]

[II] *There is a Tannaite authority who teaches, “And six years you should sow your field, and six years you should prune your vineyard,” and there is a Tannaite authority who repeats the tradition, “You should not sow you should not prune....”*

[JJ] *The one who said, “Six years” supports the position of R. Yohanan, and the one who said, “... your field you should not sow” supports the position of R. Eleazar.*

[KK] *The following pericope supports [should be: contradicts] the position of R. Eleazar:*

[LL] [“Take heed lest you offer your burnt offerings at every place that you see; but at the place which the Lord will choose in one of your tribes, there you shall offer your burnt offerings, and there you shall do all that I am commanding you” (Deut. 12:14).] “Take heed” – stated as a negative commandment.

[MM] “Lest” – stated as a negative commandment.

[NN] And it is written, “There you shall offer your burnt offerings

[OO] “There you shall offer up” – this refers to the offering up.

[PP] “And there you shall do” – this refers to the act of slaughtering the beast and sprinkling the blood.

[QQ] Just as the act of offering up is stated in affirmative language, and lo, it also is subject to a negative commandment, so the acts of slaughtering the beast and sprinkling the blood, which are stated in affirmative language, should be subject to a negative commandment as well. [So we have a negative commandment deriving from one phrased in affirmative language. The net result is contrary to Eleazar’s exegetical position at S-T.]

[RR] *Since it is written*, “There you shall offer up and there you shall do,” lo, if it were not written, “There you shall offer up and there you shall do,”

[SS] you would *not* have a case in which a religious commandment stated in affirmative language teaches concerning one stated in negative language,

[TT] and one stated in negative language does not teach any rules governing one expressed in affirmative language [as is Yohanan s

view at Q-R]. [The affirmative and negative rules do not have a bearing on one another, exactly as Yohanan maintains.]

[UU] *Now how does R. Yohanan [should be: Eleazar] deal with this same matter?*

[VV] *So that you should not interpret the matter as you do in regard to the Sabbath law:*

[WW] If one has dug a hole, ploughed a furrow, and dug a ditch, he should be liable on only a single count [treating all as part of a single category of labor].

[XX] *And similarly* if one has slaughtered a beast and offered it up he should be liable on only a single count.

[YY] Accordingly it was necessary to state matters as they are stated, so that one will be liable on each count by itself [as Scripture specifies].

[I:4 A] R. Zeira, R. Hiyya bar Ashi in the name of Kahana: “He who plants in the Sabbatical Year is liable on the count of sowing.”

[B] R. Zeira says, “He who prunes is equivalent to him who sows.”

[C] If one sowed and pruned on the Sabbath –

[D] *In the opinion of Kahana*, he is liable on two counts [that is, for planting, and pruning is a distinct act of labor from sowing].

[E] *In the opinion of R. Zeira*, he is liable on only one count.

[F] Has not R. Zeira stated that he who prunes is like him who sows? And did he not say that he who sows is like him who prunes?

[G] All acts were subject to the same general rule prohibiting sowing, and pruning was treated as a special case and made explicit [at Lev. 25:4], to impose a strict rule on pruning.

[H] And since pruning has been treated as a special case and a more strict rule has been applied to it, do you then exempt the man on the count of sowing? [Obviously not.]

[I] It must follow that there is no difference between planting and pruning on the Sabbath *whether in the opinion of R. Kahana, or of Zeira*: One is liable on two distinct counts.

7:6

- [A] **He who has sexual relations with his mother is liable on her account because of her being his mother and because of her being his father's wife [Lev. 18:6-7, 20:11].**
- [B] **R. Judah says, "He is liable only on account of her being his mother alone."**
- [C] **He who has sexual relations with his father's wife is liable on her account because of her being his father's wife and because of her being a married woman,**
- [D] **whether this is in the lifetime of his father or after the death of his father,**
- [E] **whether she is only betrothed or already married [to the father].**
- [F] **He who has sexual relations with his daughter-in-law is liable on her account because of her being his daughter-in-law and because of her being another man's wife,**
- [G] **whether this is in the lifetime of his son or after the death of his son [Lev. 20:12,**
- [H] **whether she is only betrothed or already married [to the son].**
- [I:1 A] Whence in Scripture do we derive a warning against having sexual relations with one's mother?
- [B] "You shall not uncover the nakedness of your mother" (Lev. 18:7).
- [C] Whence in Scripture do we derive that the penalty is extirpation?
- [D] "For whoever shall do any of these abominations – the persons that do them shall be cut off from among their people" (Lev. 18:29).
- [E] Whence in Scripture do we derive a warning against having sexual relations with one's father's wife?
- [F] "You shall not uncover the nakedness of your father's wife" (Lev. 18:8). Whence in Scripture do we derive that the penalty is extirpation? "For whoever shall do any of these abominations" (Lev. 18:29).
- [G] Whence in Scripture do we derive a [court-administered] penalty?

- [H] “The man who lies with his father’s wife has uncovered his father’s nakedness; both of them shall be put to death, their blood is upon them” (Lev. 20:11).
- [I] Whence in Scripture do we derive a warning against having sexual relations with one’s daughter-in-law?
- [J] “You shall not uncover the nakedness of your daughter-in-law” (Lev. 18:15).
- [K] Whence in Scripture do we derive that the penalty is extirpation?
- [L] “For whoever shall do any of these abominations – the persons that do them shall be cut off from among their people” (Lev. 18:29).
- [M] Whence in Scripture do we derive a [court-administered] penalty?
- [N] “If a man lies with his daughter-in-law, both of them shall be put to death; they have committed incest, their blood is upon them” (Lev. 20:12).
- [I:2 A]** [*The consideration that one is liable on two counts, expressed at M. San. 7:6A, C, F*] is stated here, and it also is stated in tractate Keritot [in connection with the obligation to bring a sin offering for inadvertently committing such an act].
- [B] *It makes sense to state matters in that way in tractate Keritot*, for one may bring a sin offering and go and bring yet another sin offering.
- [C] But in the context of Sanhedrin [which deals with the death penalty], do you have the option of stating that one is stoned and goes and is stoned yet a second time?!
- [D] *Said R. Yudan father of R. Mattanaiah, “It is for the purpose of effecting a warning that the matter is taught.*
- [E] “That is to say, if others warned the man on the count of having sexual relations with a married woman, he will be flogged [if he disregards their warning], and if it was on the count of her being his mother, he will be flogged on that count. [So the principal consideration here has to do with appropriate warning.]”
- [F] And let them warn him on the count of a married woman [and why should he not be liable also, if it is his mother, on the count of another man’s wife]?
- [G] Said R. Abin, “Interpret the Mishnah pericope to speak of an unmarried woman.”

[I:3 A] *There we have learned the following:*

[B] R. Judah says, “If his mother was not a suitable wife to his father [by reason of a genealogical impairment], he is liable on only one count [for the marriage is null by reason of said impairment].”

[C] Lo, if she was a suitable wife for his father, he is liable on two counts [contrary to M. 7:6B]!

[D] R. Abbahu in the name of R. Yohanan: “There is no difference [from Judah’s viewpoint] whether his mother was a suitable wife to his father or not. He is liable on only one count.”

[E] *What is the Scriptural basis for R. Yohanan’s view [of Judah’s opinion]?*

[F] “She is your mother” (Lev. 18:7) – on account of his mother you impose liability on him. The entire passage is directed to the mother, [so there is no difference whether it was a legitimate marriage or otherwise].

[G] *R. Bun bar Hiyya raised the question before R. Zeira: “Why did R. Yohanan [F] seize upon the count of the mother and ignore the count of the married woman?”*

[H] He said to him, “The reason is that he concurs with R. Ishmael, for R. Ishmael interpreted the passage as follows:

[I] “‘The nakedness of your father,’ (Lev. 18:7) Scripture speaks of the male [in prohibiting having sexual relations with the father].

[J] “Now is not the father in the category of the male? [That is, why is he made a specific subject of the law? The prohibition is general.]”

[K] *But it is to impose upon the malefactor liability on two counts, as it is taught:*

[L] He who has sexual relations with his father is liable on two counts; [first, because he is the father; second, because he is male].

[M] *Then why should we not learn [at the opening line of tractate Keritot 1:1]: Thirty-seven [rather than thirty-six] counts of extirpation are listed in the Torah [thus encompassing the one just now stated]?*

[N] R. Mana said, “Whatever comes under the count of [sexual relations with a] male is included in a single count.”

- [I:4 A] “You shall not uncover the nakedness of your father’s wife” (Lev. 18:8).
- [B] Scripture speaks of the father’s wife.
- [C] “... the nakedness of your mother” (Lev. 18:7) – this is the mother married to his father.
- [D] What about his mother not married to his father? [That is, if the father has raped a woman, how do we know that the son may not marry her?]
- [E] “She is your mother, you shall not uncover her nakedness” (Lev. 18:7).
- [F] *How does R. Aqiba deal with this matter [since, as we shall see, he interprets the verse differently, below, J-K]?*
- [G] He interprets it to speak of the situation prevailing after death [that is, after the father dies, one still may not have sexual relations with the woman].
- [H] *And does R. Ishmael not maintain the same view?*
- [I] “It is your father’s nakedness” (Lev. 18:8) – and that is the case whether he is alive or after his death.
- [J] [As noted at F,] R. Aqiba interprets [“You shall not uncover] the nakedness of your father, [which is the nakedness of your mother; she is your mother, you shall not uncover her nakedness” (Lev. 18:7)] to mean that Scripture speaks of the wife of the father [who is not the son’s mother].
- [K] “... the nakedness of your mother” – this refers to his mother who is the wife of the father.
- [L] How do we know that it is prohibited to have relationships with his mother who is not the wife of his father?
- [M] “She is your mother, you shall not uncover her nakedness.” [So differing from Ishmael, Aqiba holds that Scripture does not speak of not having sexual relations with the father, but rather of not having sexual relations with his wife.]
- [N] *How does R. Ishmael interpret these same passages, [since he too must make sense of the reference to “she is your mother,” for which Aqiba satisfactorily accounts]? [How does Ishmael*

prove that there is a prohibition of sexual relations with his mother, wife of his father, and his mother, not the wife of his father?]

[O] He interprets the Scripture to speak of the situation prevailing after the father's death, [and he interprets the passage to mean that even after the father's death, the son may not marry the father's wife].

[P] *And does not R. Aqiba maintain the same view* [in which case how does he demonstrate that one may not have sexual relations with the woman the father has raped]?

[Q] [Indeed, that is the case:] "... the nakedness of your father," "... the nakedness of your mother"

[R] Now just as "your father" encompasses anyone who is your father, whether for the purposes of inflicting punishment or of giving a warning against the contemplated union, so reference to "your mother" encompasses all cases of "your mother," whether it is for purposes of punishment, or of giving a warning against the contemplated union. [Thus, anyone in the status of one's mother is covered in the same Scriptural statements, by analogy as specified.]

[S] [Zeira's statement that Judah concurs with Ishmael in the interpretation of Lev. 18:7, indicating that one is liable on a distinct count for having sexual relations with one's father,] *it is likely that only R. Judah interprets these verses [as stated], for he does not maintain that if it is his mother who is his father's wife, a verse must be available for exegetical purposes to prove that proposition [since in any case there is no guilt on that count, apart from her being a married woman].*

[T] *For he requires the verses for the following exegesis:* "... the nakedness of your father," "... the nakedness of your mother"

[U] Now just as your father encompasses anyone who is your father, whether for the purposes of inflicting punishment or of giving a warning against the contemplated union, so reference to "your mother" encompasses all cases of "your mother," whether it is for purposes of punishment or of giving a warning against the contemplated union. [That is, Judah does not require the verse to demonstrate that one is

liable on the count of one's mother, in addition to being liable on the count of a married woman, since he does not deem one guilty on two counts, as the Mishnah has stated. But he does have to provide an exegetical basis for the stated positions, just as does Aqiba.]

[V] *Said R. Zeira, "That is to say that they derive a lesson from an argument by analogy, even when the verse utilized for the proposed analogy is available for that purpose in only one aspect, [because it serves some other exegetical purpose in some other aspect]. [The cited verse is required to prove that the Scripture speaks of marital relations, and not, as Ishmael maintains, relations with males. Nonetheless, as we see the verse is further utilized for the proposed purpose.]"*

[W] *Said to him R. Yudan, "Is that not self-evident to R. Aqiba, who said, "One may construct an argument to the verses used for that purpose, but are used for some other exegetical proof.*

- [I:5 A] *R. Jeremiah raised the question: "He who has sexual relations with his mother – what is the law as to his being liable on the count [in addition] of having relations with a married woman?"*
- [B] *Now look here: If someone else had sexual relations with her, he would be liable on the count of having relations with a married? In the case of her son, is it not an argument a fortiori?!*
- [C] *R. Yosé objected, "No, indeed! An outsider – lo, he is liable on the count of having sexual relations with her, but her son is not [specified in Mishnah] as liable on the count of having sexual relations with a married woman [but with his father's wife]."*
- [D] *Indeed, it has been taught: Also in the case of relationships prohibited by reason of consanguinity the law is the same.*
- [E] *If a woman is one's mother-in-law and also a married woman, you hold him accountable on the count of her being his mother-in-law.*
- [F] *If a woman is his sister and a married woman, you hold him accountable on the count of her being his sister.*
- [G] *[If a woman is] his sister and a married woman, you hold him liable on the count of her being his si*

- [H] To allow the man to avoid liability on the more severe count and to hold him accountable on the less severe one *is something that you cannot do,*
- [I] *for it has been taught: He who has sexual relations with his the count of her being his sister and her being his father’s wife’s daughter*
- [J] **R. Yosé b. R. Judah says, “He who has sexual relations with his sister is liable only on one count [her being his sister] alone,**
- [K] **“and so he who has sexual relations with his daughter-in-law” [T. San. 10:2].**
- [L] *R. Jeremiah, R. Abbahu in the name of R. Yohanan: The position of R. Yosé b. R. Judah accords with the theory of R. Judah his father [at M. 7:6B].*
- [M] “Just as R. Judah holds one accountable on one count, so R. Yosé b. R. Judah holds one accountable on one count.”
- [N] *R. Jeremiah, R. Abbahu in the name of R. Yohanan rejected their earlier theory: “R. Yosé b. R. Judah does not accord with the theory of R. Judah his father.”*
- [O] [R. Yosé b. R. Judah may concur with the rabbis of the Mishnah pericope, for] there [in the Mishnah] one will be guilty of having sexual relations with his mother, even when she is not also the wife of his father, or one may be guilty of having sexual relations with the wife of his father, even though it is not also his mother. [So he may concur with the Mishnah’s sages.]
- [P] “But here we find a case in which one is the daughter of the wife of his father, without her also being his sister, and he would be permitted to marry her. [So in the Mishnah each one is prohibited on a distinct count. In such cases Yosé may concur that one is liable on two distinct counts. But here we do not find a case in which the daughter of the wife of the father would be prohibited at all, if she is not his sister *in addition*. So here there is a single count of liability.]”

7:7

- [A] **He who has sexual relations with a male [Lev. 20:13, 15-16], or with a cow, and the woman who brings an ox on top of herself.**
- [B] **if the human being has committed a sin, what sin has the beast committed?**

- [C] **But because a human being has offended through it, therefore the Scripture has said, “Let it be stoned.”**
- [D] **Another matter: So that the beast should not amble through the market place, with people saying, “This is the one on account of which Mr. So-and-so got himself stoned.”**
- [I:1 A] [25a] Whence do we derive a [Scriptural] warning against having sexual relations with a male?
- [B] “You shall not lie with a male as with a woman; it is an abomination” (Lev. 18:22).
- [C] How do we derive [from Scripture] that the penalty is extirpation?
- [D] “For whoever shall do any of these abomination, the persons that do them shall be cut off from among their people” (Lev. 18:29).
- [E] How do we derive a [court-administered] penalty [for such a deed]?
- [F] “If a man lies with a male as with a woman, both of them have committed an abomination; they shall be put to death, their blood is upon them” (Lev. 20:13).
- [G] You derive the penalty that “their blood is upon them” from the statement that “their blood is upon them” [stated with regard to the one who turns to mediums and wizards]. [Just as stoning applies to the latter, so it applies to those under discussion here.]
- [H] Up to this point proof has been adduced for the one who effects the act of intercourse. How do we know that the one upon whom it is committed also is covered by the law?
- [I] “You shall not lie with a man as with a woman” (Lev. 18:22) – read “you shall not be lain with,” [thus reading the verb in the passive].
- [J] *Up to this point proof has been adduced in accord with the exegetical principles of R. Aqiba* [who derives from the cited verse a warning against being the one upon whom sexual relations are practiced].
- [K] As to R. Ishmael [how does he derive the same lesson]?
- [L] “There shall be no cult prostitute of the sons of Israel” (Deut. 23:17).
- [M] How, in accord with R. Ishmael, do we derive from the Torah the penalty of extirpation applying to the one with whom sexual relations are practiced?

[N] R. Jeremiah in the name of R. Abbahu: “‘Cult prostitute’ is stated here [as indicated], and further on it says, “And there also were male cult prostitutes in the land. They did according to all the abominations of the nations which the Lord drove out before the people of Israel’ (1 Kings 14:24). One then derives the rule governing cult prostitutes from cult prostitutes, and the rule for abominations from the rule [at Lev. 18:27] for abominations [thus invoking Lev. 18:29, as above].”

[O] R. Hiyya bar Ada in the name of R. Haninah: “One derives the rule governing an abomination from that covering an abomination.”

[P] *Said R. Yosé b. R. Bun, “The following Tannaite tradition makes the same point:*

[Q] “‘If a man lies with a male as with a woman, both of them have committed an abomination; they shall be put to death, their blood is upon them’ (Lev. 20:13).

[R] “Both of them are subject to the death penalty through stoning, both of them are subject to a warning, both of them are subject to the penalty of extirpation.”

[S] Whence in the Torah do we derive warning against having sexual relations with a beast?

[T] “And you shall not lie with any beast and defile yourself with it” (Lev. 18:23).

[U] The penalty of extirpation – whence do we derive it?

[V] “For whoever shall do any of these abominations, the persons that do them shall be cut off from among their people” (Lev. 18:29).

[M] A [court-administered] penalty – whence do we derive it?

[X] “If a man lies with a beast, he shall be put to death; and you shall kill the beast. [If a woman approaches any beast and lies with it, you shall kill the woman and the beast; they shall be put to death, their blood is upon them]” (Lev. 20:15-16).

[Y] You derive the penalty that [their blood is upon them] from the statement that “their blood is upon them” [as at G].

[Z] *Up to this point proof has been adduced in accord with the exegetical principles of R. Aqiba.*

[AA] As to R. Ishmael?

- [BB] *R. Ishmael derives the rule from its appropriate source [at Deut. 23:17, cited above], and R. Aqiba from its appropriate source.*
- [CC] *As to the penalty of extirpation applying to the one with whom the beast has sexual relations in the view of R. Ishmael, we find no proof [for that proposition from the Torah].*
- [DD] *As to a [court-administered] penalty applying to the one who is victim of an act of bestiality, in the opinion of R. Ishmael and in that of R. Aqiba, there is no proof from Scripture. [For in the earlier instance the construction is based on the recurrence of the word “abomination,” but that is not available here. An effort now will be made to provide such a proof.]*
- [EE] [Ishmael’s proof is now given:] Now it is written, “[Whoever lies with a beast shall be put to death]. Whoever sacrifices to any god, save to the Lord only, shall be utterly destroyed” (Ex. 22:20).
- [FF] Just as this one [who sacrifices to any god] is put to death through stoning and is subject to extirpation, so this other one [mentioned in the immediately preceding verse about lying with a beast] is put to death through stoning and is subject to the penalty of extirpation. [This is the proof besought at DD.]
- [GG] *What is the difference between these two [modes of exegesis, Z vs. AA, EE-FF]?*
- [HH] The one who performs an act of sexual relations with a male and is subjected to an act of sexual relations by the male –
- [II] *in the opinion of R. Ishmael, he is liable on two counts, and in the opinion of R. Aqiba, he is liable on only one count.*
- [JJ] He who had sexual relations with a beast and who was the object of sexual relations from a beast, *in the opinion of both R. Aqiba and R. Ishmael, is liable on two counts.*
- [KK] He who has sexual relations with a male and with a beast is liable on two counts.
- [LL] He who is the object of sexual relations by a male and by a beast is liable on two counts.
- [MM] He who has sexual relations with two males at the same time – since they are liable on his account on two counts, so he is liable on two counts.

[NN] If one is the object of sexual relations by two males at one time, since they are subject to liability on his account for two counts, so he is liable on two counts.

[I:2 A] *It was taught:* In the case of sexual relations between males, the law has not treated the minor as equivalent to an adult [so if the one upon whom the act is committed is younger than three years and one day old, it is null]. In the case of a beast, the law has treated the minor as equivalent to the fully grown beast.

[B] Said R. Eleazar, “One is not liable in the case of sexual relations between males unless the one upon whom the act is committed is three years and one day old or older” (PM).

[I:3 A] [*Reverting to the proof texts of I:1,*] R. Bun bar Hiyya raised the question of R. Zeira, “Why did R. Ishmael and R. Aqiba make distinctions in regard to sexual relations with a male and with a beast, while in regard to all other forms of illicit sexual relations they made no such distinctions, [but derived the law from a single set of verses]? [So in the present instances we do not maintain that the one who has sexual relations and the one upon whom the sexual act is committed are subject to a single general rule, such as applies to all other cases of sexual misdeed.]”

[B] He said to him, “[The reason is] that in regard to all other forms of illicit sexual relations there is a general and inclusive reference to ‘anyone near of kin’ (Lev. 18:6) [which is taken to be a general and encompassing rule], while in the present cases there is no such reference to ‘anyone.’ [The reference, ‘None of you shall approach anyone near of kin to him to uncover nakedness’ does not cover the acts under discussion, and that is why distinct proofs are required for the items under discussion.]”

[C] *They objected:* “Lo, there is the case of the menstruating woman, concerning whom, ‘anyone near of kin’ [of Lev. 18:6] does not apply, and have they provided distinct proofs for that matter as well? [Obviously not. The one who has sexual relations with a menstruating woman and the woman herself are subject to the same law, and there is no distinct proof for that adduced by either Ishmael or Aqiba.]”

[D] R. Jeremiah in the name of R. Abbahu: “Since ‘drawing near’ is stated in both contexts [‘You shall not draw near a woman to uncover her nakedness while she is in her menstrual uncleanness’ (Lev. 18:19), and, ‘None of you shall draw near anyone near of kin to him to

uncover nakedness' (Lev. 18:6)], it is as if all of the rules pertaining here apply there, and all of the rules pertaining there apply here.”

[E] R. Hiyya bar Ada in the name of R. Hanina: “‘You shall not approach a woman to uncover her nakedness while she is in her menstrual uncleanness’ (Lev. 18:19) [which applies to the male]. [But how do we know that the female also is subject to the same warning?]”

[F] Said R. Yosé b. R. Bun, “She is subject to the warning not to draw near, she is subject to the warning not to be made naked.”

[I:4 A] Whence do we derive from Scripture a warning that a woman should not have sexual relations with a beast?

[B] “Neither shall any woman give herself to a beast to lie with it; it is perversion” (Lev. 18:23).

[C] Whence do we derive from Scripture the punishment of extirpation?

[D] “For whoever shall do any of these abominations, the persons that do them shall be cut off from among their people” (Lev. 18:29).

[E] Whence do we derive a [court-administered] punishment?

[F] “If a woman approaches any beast and lies with it, you shall kill the woman and the beast; they shall be put to death, their blood is upon them” (Lev. 20:16).

[G] You derive the penalty of death from the penalty of death, the mode of execution through stoning from the mode of execution through stoning specified elsewhere, and “their blood is upon them” from “their blood is upon them.”

[II:1 A] [With reference to M. 7:7C-D,] *R. Ba bar Mamel raised the question:* “Take note. If a man had sexual relations with a beast in a spell of inadvertence, lo, the beast is stoned on the man’s account, but the man is exempt from stoning, [and this indicates that the principal consideration in this matter is M. 7:7D’s reasoning, namely, avoiding unnecessary embarrassment to the man].”

[B] *R. Simeon raised the question:* “Take note. If a man ploughed with a beast on the Sabbath, lo, he is stoned to death on account of the beast, but the beast is exempt [in consequence of which the principal consideration in this matter is M. 7:7C’s reasoning] .”

[C] [*In fact, the principal consideration is disgrace to man, and*] you have only the saying of *R. Samuel bar R. Isaac:* “‘With their silver and gold

they made idols, for his destruction’ (Hos. 8:4). It is not written, ‘... for their destruction,’ but ‘... for his destruction.’

[D] *“This is exemplified in one’s saying, ‘May the bones of Mr. So-and-so be crushed, who has enticed his son to evil conduct.’ [And this applies only in a case of deliberate misdeed. Here too we speak of deliberate misdeed, in which case the beast is stoned, and the matter of ploughing with the beast on the Sabbath is irrelevant, for there is no shame brought to man in that case by the deed of the beast.]”*

7:8

[A] **He who blasphemes [M. 7:4D1] [Lev. 24:10] is liable only when he has fully pronounced the divine Name.**

[B] **Said R. Joshua b. Qorha, “On every day of a trial they examine the witnesses with a substituted name, [such as], ‘May Yosé smite Yosé.’**

[C] **“[Once] the trial is over, they would not put him to death [on the basis of evidence given] with the substituted euphemism, but they clear the court and ask the most important of the witnesses, saying to him, ‘Say, what exactly did you hear [in detail]?’**

[D] **“And he says what he heard.**

[E] **“And the judges stand on their feet and tear their clothing, and never sew them back up.**

[F] **“And the second witness says, ‘Also I [heard] what he heard.’**

[G] **“And the third witness says, ‘Also I [heard] what he heard.’”**

[I:1 A] Whence in Scripture do we find a warning against blaspheming?

[B] “You shall not revile God [nor curse a ruler of your people]” (Ex. 22:28).

[C] Whence in Scripture do we find that the penalty is extirpation?

[D] “Whoever curses his God shall bear his sin. [He who blasphemes the name of the Lord shall be put to death; all the congregation shall stone him; the sojourner as well as the native, when he blasphemes the Name, shall be put to death]” (Lev. 24: 15-16).

[E] Whence do we find a [court-administered] penalty?

[F] “He who blasphemes the name of the Lord shall be put to death.”

[G] And how are these same propositions adduced in accord with the exegetical methods of R. Ishmael?

- [H] For R. Ishmael said, “The Scripture speaks of the judges [who are not to be cursed or blasphemed].
- [I] “If Scripture warns against cursing the judges, is it not an argument a *fortiori* that there should be a warning against cursing God with euphemisms.
- [J] “If for cursing God with euphemisms one suffers the penalty of extirpation, if one does so with the fully expressed Name of God, is it not an argument a *fortiori* [that the penalty should be extirpation]?”
- [I:2 A] *There are Tannaim who teach that there is a warning and extirpation because of cursing God with euphemisms, and for cursing with the fully expressed Name of God one is subject to the death penalty.*
- [B] *And there are Tannaim who teach that, on account of cursing with euphemisms, one is subject to a warning, and for cursing with the fully expressed name of God, one is subject to the death penalty and extirpation.*
- [C] *He who said that on account of using euphemisms there is a warning and penalty of extirpation [adduces in evidence]: “You will not revile God,” and further: “Whoever curses his God shall bear his sin,” [meaning that he is subject] to extirpation.*
- [D] And in regard to making use in a curse of the fully expressed Name, that one is subject to the death penalty: “He who blasphemes the name of God shall be put to death.”
- [E] *And he who teaches that on account of making use of euphemisms one is subject to a warning adduces in evidence: “You will not revile God.” And as to not using the fully expressed divine name, one is liable for the death penalty and for extirpation: “Whoever curses his God shall bear his sin,” and “He who blasphemes the name of God shall be put to death.”*
- [I:3 A] [Since Joshua b. Qorha says that they make use of a substituted name, M. 7:8B,] R. Jeremiah in the name of R. Samuel bar R. Isaac [said], “That is to say that they judge a case on the basis of doubt.”
- [B] *What would be a practical case?*
- [C] If so-and-so killed someone, let him be put on trial before the witnesses against him come to court.
- [D] *R. Yosé said to him, “Now do they seize someone in the marketplace and disgrace him?”*

[E] *But thus it is:* “So-and-so killed someone, and lo, there are witnesses against him that he killed someone. Let him then be arrested even before the witnesses against him come.”

[II:1 A] [With reference to M. 7:8C, “Say what exactly did you hear in detail”]. Do they say to him, “Curse God”?

[B] But: “That name which I said in your presence, that is the one which he cursed, and with that one did he curse.”

[C] And the witnesses do not have to tear their garments, for they already did so at the moment at which they heard the man express the curse in the first place.

[III:1 A] [With reference to M. 7:8E, the judges stand on their feet,] R. Simeon b. Laqish said, “On the basis of this rule, we learn that judges who have accepted testimony stand, for their decision now is final.”

[B] *You derive from the Mishnah pericope six rules:*

[C] *You derive from it that rule which R. Samuel bar R. Isaac stated.*

[D] *And you derive from it that rule which R. Simeon b. Laqish has stated.*

[E] *And you derive from it: He who hears from one who hears [a profanation of God’s name] is liable to tear his garments.*

[F] *And you derive from this pericope of Mishnah the rule that if a witness gave his testimony, the second, corroborating witness, may say, “Also I testify as does he,” and the third says, “Also I testify as does he.”*

[G] *And you derive from this pericope of the Mishnah the rule that this is one of the tears which they do not sew up.*

[H] *And you derive from the Mishnah pericope the rule that since they knew in the first place that it would be the fully expressed divine name, one has to tear his garments [when he hears it expressed].*

[I] *R. Hiyya said, “R. Yasa raised the question [regarding E]: ‘We have learned: **And a herald goes before him, crying out, “Mr. So-and-so, son of Mr. So-and-so, is going out to be stoned, because he committed such-and-such a transgression, and Mr. So-and-so and Mr. So-and-so are the witnesses against him. He who knows grounds for acquittal – let him come and testify in his behalf!”*** [M. San. 6:2C]. [So will everyone in town make a tear?!]

[J] *We have heard that one who hears from the one who hears also has to tear his garment [but not third-hand].*

[K] We have heard, He who hears from the one who hears, and the one who hears from the one who hears, also has to tear his garment [but not fourth hand].

[III:2 A] What is the law as to tearing one's garment because he has heard the name of God cursed by a Gentile?

[B] *Let us derive the law from the following:*

[C] "When King Hezekiah heard the words of Rabshakeh, he tore his clothes and covered himself with sackcloth" (2 Kings 19:1).

[D] What is the law as to tearing one's clothes on hearing the curse of an [25b] idolater [of the name of God]?

[E] *He who says that Rabshakeh was an idolater holds that they do tear their clothes at the blasphemy of an idolater.*

[F] *One who said that he was an Israelite holds that they do not tear their clothes when an idolater curses God.*

[G] *R. Hoshaiah taught: "All the same is the law for one who hears the cursing of the divine name on the part of an Israelite and one who hears the cursing of the divine name on the part of an idolater: one is liable to tear one's clothes."*

[H] *What is the Scriptural basis for that statement?*

[I] "The word of the Lord came to Jeremiah: 'Behold, I am the Lord, the God of all flesh; is anything too hard for me?'" (Jeremiah)

[III:3 A] What is the law as to tearing one's garments in this time?

[B] R. Yosé, R. Jeremiah in the name of R. Hiyya bar Ba, R. Hezekiah, R. Jeremiah in the name of R. Yohanan: "Once blasphemers became many, they have ceased from tearing their garments upon hearing blasphemy."

[III:4 A] What is the law as to tearing one's garments at this time upon hearing God cursed through euphemisms?

[B] *Let us derive the answer to that question from the following:*

[C] *R. Simeon b. Laqish was riding along on the road. A Samaritan crossed his path, and was cursing, and [Simeon] tore his clothes, and again the Samaritan cursed, and again [Simeon] tore his clothes.*

[D] *Simeon got off his ass and gave the Samaritan a punch in the heart.*

- [E] *He said to him, “Son of Samaria – does your mother have enough new clothes to give me [for your causing me to tear mine]?”*
- [F] *From this story it is clear that they do tear their clothing when they hear God cursed through euphemisms, and they also do tear their clothing at this time after the destruction of the Temple.*

7:9

- [A] **He who performs an act of worship for an idol [M. 7:4D] –**
- [B] **all the same are the one who performs an act of service, who [actually] sacrifices, who offers up incense, who pours out a libation offering, who bows down,**
- [C] **and the one who accepts it upon himself as a god, saying to it, “You are my god.”**
- [D] **But the one who hugs it, kisses it, polishes it, sweeps it, and washes it,**
- [E] **anoints it, puts clothing on it, and puts shows on it, [merely] transgresses a negative commandment [Ex. 20:5].**
- [F] **He who takes a vow in its name, and he who carries out a vow made in its name transgress a negative commandment [Ex. 23:13].**
- [G] **He who uncovers himself to Baal Peor [is stoned, for] this is how one performs an act of service to it.**
- [H] **He who tosses a pebble at Merkolis [Hermes] [is stoned, for] this is how one performs an act of service to it.**
- [I:1 A] Whence in Scripture do we find a warning against worshipping idols?
- [B] “You shall not make for yourself a graven image; you shall not bow down to them or serve them” (Ex. 20:45).
- [C] Whence do we derive that the penalty is extirpation?
- [D] “But the person who does anything with a high hand reviles the Lord, and that person shall be cut off” (Num. 15:30).
- [E] Now do the cited verses of Scripture not refer to one who blasphemes, [and not to an idolater]?
- [F] [Blasphemers and idolaters are equivalent to one another,] like a man who says to his fellow, “You have scraped out the whole plate and left nothing on it,” [likewise the idolater completes what the blasphemer starts].
- [G] There is a parable [illustrating this same point]. R. Simeon b. Eleazar says, “It is comparable to two people sitting with a plate of beans

between them. One of them stuck out his hand and scraped off the whole plate and left nothing on it. So are the blasphemer and the idolater: he leaves not a single religious duty after him.”

[H] Whence do we derive a [court-administered] punishment?

[I] “If there is found a man or woman who has gone and served other gods, then you shall bring forth to your gates that man or woman who has done this evil thing, and you shall stone that man or woman to death with stones” (Deut. 17:2-5).

[J] “you shall not serve them” (Ex. 20:4) – [since the commandment refers to them,] I might have supposed that one is liable only once he has served all of the idols in the world.

[K] On this account, Scripture states, “You shall not bow down to them” (Ex. 20:5).

[L] “Bowing down” was part of the general prohibition, and why was it explicitly specified? It was to draw an analogy to it, as follows:

[M] Just as bowing down is distinctive in that it is done as a single action [before an idol at a time], and people are liable on its account for that action alone, so I encompass every individual deed, on which account people are liable for a single action alone.

[N] Even though R. Simeon b. Eleazar has said, “[If] one sacrificed, offered incense, and poured out a libation offering, in a single spell of inadvertence, he is liable on only one count,” he concedes that if one has worshipped an idol in the correct way in which it is worshipped, in the way in which the Most High is worshipped, for example, through an act of worshipful prostration, he is liable on each count. [This is because Scripture specifies worship and prostration as distinct, forbidden acts, so each is culpable by itself.]

[II:1 A] [With reference to M. 7:9G, H, liability for a normal act of service,] *when R. Samuel said in the name of R. Zeira*, “‘So they shall no more slay their sacrifices for satyrs, after whom they play the harlot’ (Lev. 17:7). [This indicates that one is liable even for an act of worship of an idol which is not normal,]’ he said to him, ‘*You have come to a verse applicable to Holy Things and not applicable to the purpose for which you have cited it*. [So proof for Mishnah’s view is not in that verse.]”

[B] R Yasa in the name of R. Yohanan: “[If] one has sacrificed to an idol a blemished lamb, he is liable.”

[C] *On what basis [does he rule as he does]?*

[D] It is in accord with that which R. Hela said: “‘You shall hew down the graven images of their gods and destroy their name out of that place.’] You shall not do so to the Lord your God’ (Deut. 12:3 4). Whatever you may not do for the Lord your God [and you may not slaughter a blemished beast to the Lord, so that would constitute an act of service to an idol].”

[E] [Delete through F:] R. Bun bar Hiyya raised the question before R. Zeira: “‘You shall not serve them’ (Ex. 20:5) is a general rule. ‘You shall not bow down to them’ (Ex. 20:5) is a particular example of the general rule. ‘You shall not bow down to any other god’ (Ex. 34:14) – Scripture has gone and stated yet a further general rule.

[F] “Thus we have a general rule, a particular example of the general rule, and yet a further general rule. Nothing is encompassed by the general rule except for what is specified by the particular example of the general rule. [In consequence only bowing down to an idol is punishable.]” [This passage is corrupt (cf. PM).]

[G] *R. Bun bar Kahana raised the following question before R. Hela:* “‘You shall not serve them’ (Ex. 20:5) is a general rule. ‘Whoever sacrifices to any god, [save to the Lord only,] shall be utterly destroyed’ (Ex. 22:20) is a specific example of what is covered by the general rule. ‘Save to the Lord only’ – Scripture has gone and stated a further general rule, [meaning one may not worship an idol in any manner whatsoever].

[H] “Thus we have a general rule, a particular example of the general rule, and yet a further, general rule.

[I] “All sorts of actions were covered by the general rule. Thus Scripture has gone and encompassed [under the general prohibition even one who merely] hugs and kisses [an idol] [M. San. 7:9D].”

[J] He said to him, “In what regard was bowing down specified? Is it not to indicate as to itself that it is a concrete deed? [In fact] hugging and bowing down are not concrete deeds and bowing down *is* made explicit to indicate that it is prohibited, even though it is not a concrete deed]. [But other merely symbolic actions are not culpable, contrary to the view of G-E]”

- [II:2 A]** How do we know from Scripture that he who says to it, “You are my god,” [is culpable]?
- [B] *R. Abun in the name of rabbis from over there [in Babylonia]: “They have made for themselves a molten calf and have worshipped it and sacrificed to it and said, ‘These are your gods, O Israel, who brought you up out of the land of Egypt’” (Ex. 32:8).*
- [C] If that verse is cited as evidence, then one should not be liable unless he also worships and sacrifices to the idol and offers up incense to it, as well as making the prohibited statement.
- [D] Said R. Yosé, “[In mentioning these other actions, apart from the statement, ‘These are your gods,’] the intent of Scripture was merely to record the whole of Israel’s degradation before the calf.”
- [E] “And they have bowed down to it” – not to the Most High.
- [F] “And they have sacrificed to it” – not to the Most High.
- [G] “And they have said to it,” – not to the Most High.
- [H] *In the end, then, what is [the evidence that this verse of Scripture indicates that merely saying, “You are my god” is culpable without a confirming deed?*
- [I] Here an act of speech is mentioned, and an act of speech is mentioned in the case of the one who merely incites the people to idolatry.
- [J] Just as an act of speech stated with reference to one who incites the people to idolatry is treated as a concrete deed [and so culpable], so an act of speech noted here likewise is treated as a concrete deed [and culpable].
- [II:3 A]** It is written, “If there is found a man or woman who does what is evil in the sight of the Lord and has gone and served other gods and worshipped them, *and* the sun or the moon or any of the host of heaven which I have forbidden” (Deut. 17:2-3).
- [B] Said R. Zeira, “‘... the sun,’ is not written here, but rather, ‘... *and* the sun’ What we have therefore is not a generalization followed by a particularization, but rather a sequence of encompassing clauses. [So the meaning is not that we have a general rule limited by the example following, hence, as suggested above, including bowing down but excluding other actions. What we have is an encompassing clause, meaning that all modes of worship are subject to a prohibition. That is,

whether or not one does an act of worship appropriate to a given idol, he will be liable.]”

- [C] *R. Abba bar Zimna objected before R. Zeira: “And lo, it is written, ‘These you may eat of all that are in the waters. Everything in the waters that has fins and scales, you may eat. And anything in the seas or rivers that has not fins and scales is an abomination to you’ (Lev. 11:9-10). In this context, too, shall we say that we have not a generalization followed by an exemplification in the particular of what is general, but rather an encompassing clause [as above]? [The meaning, if we lay emphasis on the presence of the word, and, would be to encompass.]”*
- [D] “But because *and* is written [at Deut. 17:3ff., I encompass diverse acts of worship, whether appropriate or otherwise, as culpable]. [But in the argument that we have, an encompassing clause is not operable and invalid.]”
- [E] *Said R. Yohanan b. Maré, “Then in any place in which I find an and, am I to wipe it out?”*
- [F] Said R. Samuel bar Abudema, “I might have said, ‘What is in the oceans [and does not have fins and scales] indeed is forbidden, but what is in ponds and barrels [lacking fins and scales will be permitted.’ Scripture accordingly says, ‘And everything which is in water,’ [without regard to the sort of water,] which serves to encompass [any kind of water]. [The meaning then is that any kind of fish, wherever it flourishes, must have fins and scales to be edible by Israelites.]”

[II:4 A] R. Samuel bar Nahmani in the name of R. Hoshaiyah: “[The culpability of] one who says to an idol, ‘You are my god,’ is subject to a dispute between Rabbi and sages. [That is, whether or not such a person is obligated to bring an offering has yet to be worked out.]”

[B] If one has bowed down to it, what is the law?

[C] R. Yohanan said, “All concur in the case of one who bows concretely bending over that he is liable [In this

[D] [If so, then why is saying something also not a deed, for what is the difference between raising and lowering one’s body and raising and lowering one’s lips? Is this too not a deed?]

[E] R. Yohanan said, “It is subject to a dispute [whether there is such an analogy to be drawn as is stated at D].”

[F] R. Simeon b. Laqish said, “It is subject to a dispute [whether bowing down itself is a deed and culpable].”

[G] *Said R. Zeira, “The following verse of Scripture supports the view of R. Simeon b. Laqish: ‘You shall have one law for him who does anything unwittingly, for him who is native among*

[H] *Israel and for a stranger who sojourns with them’ (Num. 19:29). [This indicates that we require a concrete deed, and bowing down does not constitute a concrete deed.]*

[I] “I thus know only that something which is a concrete deed is culpable. Hugging and bowing down, which are not concrete deed – whence shall we derive proof [that they are liable?”

7:10

[A] He who gives of his seed [child] to Molech [M. 7:4D] [Lev. 20:2] is liable only when he will both have given him to Molech and have passed him through fire.

[B] [If] he gave him to Molech but did not pass him through fire.

[C] passed him through fire but did not give him to Molech,

[D] he is not liable –

[E] until he will both have given him to Molech and have passed him through fire.

[F] He who has a familiar spirit [M. 7:4D4] [Lev. 20:27] – this is a ventriloquist, who speaks from his armpits;

[G] and he who is a soothsayer [M. 7:4D5] – this is one whose [spirit] speaks through his mouth –

[H] lo, these are put to death by stoning.

[I] And the one who makes inquiry of them is subject to a warning [Lev. 19:31, Deut. 18:10-11].

[I:1 A] Whence in Scripture do we find a warning against giving one of one’s children to Molech?”

[B] “You shall not give any of your children to devote them by fire to Molech, and so profane the name of your God” (Lev. 18:21).

[C] Whence in Scripture do we find that extirpation applies?

[D] “[I myself will set my face against that man, and] will cut him off from among his people, because he has given one of his children to Molech” (Lev. 20:3).

- [E] [Whence in Scripture do we find that] the [court-administered] punishment [is through stoning]?
- [F] “Any man of the people of Israel, or of the strangers that sojourn in Israel, who gives any of his children to Molech shall be put to death; the people of the land shall stone him with stones” (Lev. 20:2).
- [I:2 A] “And any of your children you shall not give” –
- [B] Is it possible to suppose that if **one gave him to Molech but did not pass him through fire [M. San. 7:10B]**, he should be liable?
- [C] Scripture says, “... give to pass them through fire” [thus specifying both stages].
- [D] Is it possible to suppose that if one gave them and passed them by fire not to Molech [but to some other god], he should be liable?
- [E] Scripture says, “And any of your children you shall not give to devote them by fire to Molech” [in particular].
- [F] Is it possible to suppose that if one gave them and passed them to Molech, but not by fire, he should be liable?
- [G] Scripture states, “There shall not be found among you anyone who makes his son or his daughter pass through the fire” (Deut. 18: 10).
- [H] “Passing through” stated in both [Lev. 20:3 and Deut. 18:10] serves to establish an analogy between the two passages.
- [I] Just as “passing through” stated below refers specifically to doing so through fire, so passing through stated here refers specifically to one who does so through fire.
- [J] You turn out therefore to state the rule as follows: One is liable only if he gives his son over and passes him through fire *to* .Molech.
- [I:3 A] R. Nissah in the name of R. Eleazar: “Under no circumstances is one liable unless he hands him over to priests, and they take him and pass him through.”
- [B] If he passed him through in his normal way of walking [by foot], what is the law? [Is this the usual way with Molech?]
- [C] *It was taught [that one drew him through, as follows:]*
- [D] **One would draw him along and so pass him through.**
- [E] **And he is liable only when he will have passed him through fire in the usual way.**

[F] [If] he passed him through fire by foot, he is exempt.

[G] [And he is liable, moreover, only on account of those who are his natural children [T. San. 10:4].

[H] He who passes his father, mother, or sister through fire [for Molech] is exempt.

[I] He who passes himself through is exempt.

[J] R. Eleazar b. R. Simeon declares him liable.

[K] All the same in doing so for Molech and for any other idol: one is liable.

[L] And R. Eleazar b. R. Simeon says, “He is liable only on account of Molech alone” [T. San. 10:5].

[M] Said R. Yohanan, “*The Scriptural basis for the ruling of R. Eleazar b. R. Simeon is from the following verse: ‘There shall not be found among you (BK),’ (Deut. 18:10) – in regard to your body, there should not be found any who passes to Molech [thus one is liable for himself].*”

[N] “And I will cut him off from among his people” (Lev. 20:3 [this statement serves] to encompass other forms of idolatry, [which also are subject to the penalty] of extirpation.

[O] And how do we find in Scripture the appropriate penalty?

[P] “He who gives any of his children to Molech shall be put *to* death” (Lev. 20:2).

[Q] And this law applies in the case of one who himself passed the child through the fire, not with his foot. He transgresses because he has passed him through, he is liable.

[R] Truly, if he dragged him through [25c] and so passed him through, he is liable [as above].

[S] What is the meaning of that which R. Eleazar b. R. Simeon said, “If he passed him through with his foot, he is exempt”?

[T] That is a case in which he passed him through by jumping from one side of the fire to the other.

[I:4 A] *R. Bun bar Hiyya raised the following question before R. Zeira: “If one handed over the son but did not cause him to pass through [but an*

agent did so], *we have a parallel in the dispute between Hezekiah and R. Yohanan, for they differ as follows:*

- [B] “If one slaughtered the beast but did not sell it [in the case of a thief who stole a beast, in line with Ex. 21:37 = Ex. 22:1],
- [C] “R. Hezekiah said, ‘He is liable.’
- [D] “R. Yohanan said, ‘He is exempt.’ [That is, do we not have a parallel? In the cited case, one stole the beast but handed it over to an agent to slaughter it. Hezekiah holds the thief liable for the actions of the agent, and Yohanan maintains that he is exempt. Likewise, if one handed over the son to a third party to pass him through fire, if one holds that in the case of slaughter by another, one is liable, so here too he would be liable, and so with the contrary position.]”
- [I:5 A] R. Ba, R. Hiyya in the name of R. Yohanan: “Note the language the Torah has taught you.
- [B] “‘Molech’ refers to anyone whom you treat as a king over you, even a chip of wood or a pebble.”
- [C] “And I shall cut off that man from the midst of his people” serves to encompass every form of idolatry under the penalty of extirpation. [Passing one’s children in fire is an act of idolatry, even not before Molech.]
- [D] R. Nisa in the name of R. Eleazar, “It serves to encompass other forms of idolatry, so far as devoting one’s sons and daughters is concerned.
- [E] “*For thus has it been taught:*
- [F] “All the same are Molech and all other idols; whether one has served an idol with his sons and daughters or whether one has served the idol through his fathers and mothers, he is liable.”
- [G] Said R. Zeira, “That is so when it is not normally worshipped in such a way.
- [H] “But if that is the normal mode of worship of such an idol, one is exempt [if he passes his mother or his father through the fire, since liability on that count is imposed only if one passes his son or his daughter, as the Torah itself has made explicit].”
- [I] Said R. Hela, “Even if the normal mode of service is in that way, one will be liable – [indeed,] on two counts [for Molech’s manner of service and for its own as well].”

- [J] *The following Tannaitic teaching supports the position of R. Hela:*
- [K] [Said R. Simeon], “Molech was subsumed in the general rule against worshipping idols, and why was it treated as an exceptional case?”
- [L] “To impose a more lenient qualification in that regard, that one should be liable only on account of handing over and passing through his own children [but not if he passes his parents through the fire, for example].”
- [M] *[As to R. Eleazar b. R. Simeon’s statement that one is liable only for the service of Molech alone, in the stated context,] said R. Tanhum bar Jeremiah, “The statement of R. Eleazar b. R. Simeon accords with the theory of R. Simeon his father.*
- [N] “For thus did R. Simeon state, ‘Molech was subsumed in the general rule against worshipping idols, and why was it treated as an exceptional case? To impose a more lenient qualification in that regard, that one should be liable only on account of handing over and passing through his own children [but not if he passes his parents through the fire, for example].’
- [O] “So did R. Eleazar b. R. Simeon state, ‘It was subsumed in the general rule against worshipping idols, and why was it treated as an exceptional case? To impose a more lenient qualification in that regard, that one should be liable only on account of handing over and passing through his own children [as above].’”
- [I:6 A] Said R. Tanhum bar Yudan, “Even though R. Eleazar b. R. Simeon said, ‘If one sacrificed, offered incense, and made a libation offering, in a single spell of inadvertence, he is liable on only one count,’ still he concurs that, if one has worshipped an idol in the correct way in which it is worshipped, in the way in which the Most High is worshipped, for example, through an act of worshipful prostration, he is liable on each count.”
- [B] How do we know that if one has worshipped an idol in the correct way in which it is worshipped, in the way in which the Most High is worshipped, and also through

an act of worshipful prostration, that he is liable on each count?

[C] R. Samuel in the name of R. Zeira, ““So they shall no more slay sacrifices for satyrs, after whom they play the harlot”” (Lev. 17:7).

[D] *He said to him, “You have come to a verse applicable to Holy Things.”*

[E] R. Yasa in the name of R. Yohanan said, “If one has sacrificed to an idol a blemished lamb, he is liable.”

[F] *On what basis does he rule as he does?*

[G] It is in accord with that which R. Hela said, “[‘You shall hew down the graven images of their gods, and destroy their name out of that place.] You shall not do so to the Lord your God’ (Deut. 12:3). Whatever you may not do for the Lord your God, and since you may not slaughter a blemished beast to the Lord, that would then constitute an act of service to an idol.”

[I:7 A] *Said R. Pinhas in the presence of R. Yosé in the name of R. Hisda, “If its correct mode of service was through sons and daughters, and one worshipped it through [passing through] fathers and mothers, he is liable on two counts.”*

[B] *And R. Zeira was happy to hear this statement.*

[C] *He considered saying that in accord with the theory of R. Hela his master was this statement made, and according to the view of R. Eleazar b. R. Simeon was this statement made.*

[D] *[Pinhas] said to him, “And what do you have in your hand [to please you]? And this statement was made according to the view of the rabbis. [Hisda’s saying is in the context of the rabbis’ view that one is liable even in regard to doing so for other idols than Molech. One is liable on two counts: one because one serves it by passing through fire, and the other because we encompass other idols than Molech. Eleazar b. R. Simeon holds there is no liability at all.]”*

[E] *He said to him, “For this purpose was it required at all? [That is self-evident that rabbis hold the view you have attributed to them. If what you said pertains to rabbis’ view, it is no contribution.]”*

- [I:8 A] Whence in Scripture do we derive a warning against a medium?
- [B] “Do not turn to mediums or wizards; do not seek them out, to be defiled by them” (Lev. 19:31).
- [C] Whence in Scripture do we derive that the penalty is extirpation?
- [D] “If a person turns to mediums and wizards, playing the harlot after them, I will set my face against that person, and will cut him off from among his people” (Lev. 20:6).
- [E] Whence in Scripture do we derive the mode of punishment?
- [F] “And a man or a woman who is a medium or a wizard shall be put to death; they shall be stoned with stones, their blood shall be upon them” (Lev. 20:27).
- [G] *Then why do we not learn, “one who is a soothsayer” [in the list of those subject to extirpation at M. Ker. 1:1]?*
- [H] R. Hezekiah in the name of R. Simeon, “It is because all of them are covered under the generalization of a single negative commandment: ‘Do not turn to mediums or wizards.’”
- [I] R. Yasa in the name of R. Simeon b. Laqish: “It is because it is subject to a negative commandment which is derived from an affirmatively stated religious requirement. [For ‘do not turn’ addresses mediums, so wizard (= soothsayer) is not subject to a negative formulation.]”
- [J] *Said R. Zeira before R. Yasa, “Thus not a single authority comes to teach the medium among those to be listed in tractate Keritot except for you? [That is, this reason at I is worthless.”Do not turn” addresses soothsaying too.]”*
- [K] *He said to him, “Just as the Scripture treats the matter, so the Mishnah treats the matter, [that is, in both cases, they are deemed alternatives]. [One cannot be guilty of both.]”*

[II:1 A] **He who has a medium – this is one who has a Python which speaks from his armpits; and he who is a soothsayer – this is one whose spirit speaks through his mouth – lo, these are put to death by stoning, and the one who makes inquiry of them is subject to a warning [M. San. 7:10G-I].**

- [B] “... or a necromancer” (Deut. 18:11)
- [C] *There is a Tannaite authority who teaches “This is one who asks questions of a skull.”*

- [D] *There is a Tannaite authority who teaches* “This is one who asks questions of the penis [of a corpse] [raising the corpse thereby].”
- [E] **What is the difference between one who asks questions of the skull and one who raises the dead by the penis? [Cf. T. San. 10:7.] For in the case of one who asks questions of the skull, [the deceased] goes up in the normal way, he goes up on the Sabbath, and an ordinary person brings up a king [to ask questions of him].**
- [F] **But the one who brings up the deceased through the penis does not bring him up in his normal way, does not bring him up on the Sabbath, and an ordinary person does not call up a king.**
- [G] *Said R. Huna, “Scripture supports the position of the one who says that a medium is one who brings up the deceased through his penis.*
- [H] *“What is the Scriptural basis?*
- [I] *“And he said, ‘Divine for me by a spirit, and bring up for me whomever I shall name to you’” (1 Sam. 28:8).*
- [J] *What do you derive from this verse?*
- [K] *Said R. Mana, “On this basis, we may prove that the woman knew a great many things.”*
- [L] *What is the proof [of G-I]?*
- [M] *“Your voice shall come from the ground like the voice of a ghost, and your speech shall whisper out of the dust” (Is. 29:4).*

[II:2 A] *The opinion of rabbis supports the view of R. Yasa, for R. Yasa said in the name of rabbis: “It is because they offer incense to shades.”*

- [B] R. Hela in the name of R. Yasa, “It is because all of them are subsumed in a single deed [that the two are not numbered separately at M. Ker. 1:1].”

7:11

- [A] He who profanes the Sabbath [M. 7:4E] – in regard to a matter, on account of the deliberate doing of which they are liable to extirpation, and on account of the inadvertent doing of which they are liable to a sin-offering.
- [B] He who curses his father and his mother [M. 7:4F] is liable only when he will have cursed them by the divine Name.

[C] [If] he cursed them with a euphemism,

[D] R. Meir declares him liable.

[E] And sages declare him exempt.

[F] He who has sexual relations with a betrothed maiden [M. 7:4G] [Deut. 22:23-4] is liable only if she is a virgin maiden, betrothed, while she is yet in her father's house.

[G] [If] two different men had sexual relations with her, the first one is put to death by stoning, and the second by strangulation. [The second party, B. has not had intercourse with a virgin (M. 11:1). The maiden is between twelve years and one day and twelve years six months and one day old.]

[I:1 A] Whence do we derive a warning against profaning the Sabbath?

[B] "You shall not do any work on it" (Ex. 20:10).

[C] Whence do we derive that the penalty of extirpation applies?

[D] "Whoever does any work on it – that soul shall be cut off from among his people" (Ex. 31:14).

[E] Whence do we derive a [court-administered] punishment?

[F] "Everyone who profanes it shall be put to death" (Ex. 31:14).

[G] [Now, inclusive of violating the Sabbath,] there should be thirty-seven occasions for extirpation [and not thirty-six] taught in the Torah [at M. Ker. 1:1].

[H] Said R. Yosé b. R. Bun, "The reason is that if one has performed all of the actions deliberately, knowing that it is the

[I] [And is there a case of violations of the law] deliberately knowing that it was a form of labor which is prohibited? One is then liable on each count. [That is, there is only the possibility of a single liability.]

[II:1 A] Whence do we find a warning against cursing one's father and mother?

[B] "Every one of you shall revere his mother and his father" (Lev. 19:3).

[C] Whence do we derive both the [court-administered] penalty and extirpation?

[D] "Whoever curses his father or his mother shall be put to death" (Ex. 21:17), [so the death penalty].

[E] And it says, “For whoever shall do any of these abominations, the persons that do them shall be cut off from among their people” (Lev. 18:29), [so extirpation].

[III:1 A] He who has sexual relations with a betrothed maiden –

[B] R. Yasa in the name of R. Yohanan, R. Hiyya in the name of R. Eleazar, [maintained, “In insisting that it is a maiden, the Mishnah expresses the opinion] of R. Meir.

[C] *“But so far as rabbis are concerned, even if she is a minor [less than three years and one day], one is liable.”*

[D] *What is the Scriptural basis of the position of R. Meir?*

[E] The word “maiden” is spelled without its full complement of letters [which is taken to mean that Scripture wishes to exclude a category of young girls, namely, those less than the specified age].

[F] *And how do rabbis interpret the same deficient spelling of the word for “maiden”?*

[G] R. Abbahu in the name of R. Simeon b. Laqish: “The word for maiden’ is fully spelled out one time in the passage, and it imparts its meaning on the entire passage, meaning that the maiden spoken of therein must be of the requisite age.”

[H] *Objected R. Meir to rabbis*, “Lo, he who brings forth an evil name – lo, only ‘maiden’ in not fully spelled out form is written in that connection, and yet she is invariably deemed to be an adult!

[I] “The reason is that [if this girl is found guilty, she is put to death by stoning], but a minor is not put to death by stoning.”

[J] *How do rabbis deal with this passage?*

[K] Said R. Abin, “Interpret the passage [in which ‘maiden’ is not fully spelled out] to speak of a case in which the man had sexual relations through the anus.” [That is, the husband who brings forth slander against the bride is liable, even if he had sexual relations in an unnatural manner.] [That is, the particular spelling introduces a distinct consideration into the law.]”

[III:2 A] R. Jacob bar Abba raised the question before Rab: “He who has sexual relations with a betrothed minor – what is the law?”

- [B] He said to him, “He is put to death through stoning [as he would if she were an adult virgin, just as rabbis hold].”
- [C] He who has sexual relations with a pubescent girl – what is the law [from rabbis’ viewpoint]? [Is the penalty the same?]”
- [D] He said to him, “I read in the Bible: ‘a maiden’ and not a pubescent girl,” [and the penalty is not stoning but strangulation]. [He replied,] “They read [Scripture also to mean] ‘maiden’ and not a minor [as rabbis hold].”
- [E] “*And do you not agree with me that the man is subject to a fine: [‘Then the man who lay with her shall give to the father of the young woman fifty shekels of silver, and she shall be his wife’ (Deut. 22:29)]?’* [Rab points out that the rabbis’ position is supported by the view that even if the man has sexual relations with a minor, he still is liable to the fine. This would then support the view of rabbis as against Meir.]
- [F] He said to him, “‘... because he has violated her’ (Deut. 22:29) – this serves to encompass even a minor girl within the law of the fine.
- [G] “And read, ‘... because he has violated her’ to encompass a pubescent girl to be under the law of the fine.”
- [H] *Said Rab, “Even though R. Jacob bar Abba won over me in the discussion of the law, in fact the final decision is this: ‘He who has sexual relations with a minor is put to death through stoning, but she is exempt from punishment.’”*
- [I] *R. Abin in the name of R. Samuel, “And why did he not interpret the matter along the lines of the following [to prove that he who has intercourse with a minor is stoned to death] –*
- [J] ““[But if in the open country a man meets a young woman who is betrothed, and the man seizes her and lies with her,] then only the man who lay with her shall die. [But to the young woman you shall do nothing; in the young woman there is no offense punishable by death, for this case is like that of a man attacking and murdering his neighbor; because he came upon her in the open country, and though the betrothed young woman cried for help there was no one to rescue her]’ (Deut. 22:25-27).
- [K] “Now do we not know that ‘in the young woman there is no offense punishable by death’?

[L] “And why does Scripture tell us, ‘But to the young woman you shall do nothing; in the young woman there is no offense punishable by death’?”

[M] “But on the basis of this needless statement, we conclude the following:

[N] “He who has sexual relations with a minor is punished by stoning, and she is exempt from all punishment.”

7:12

[A] **He who beguiles others to idolatry [M. 7:4H] – this [refers to] an ordinary fellow who beguiles some other ordinary fellow.**

[B] **[If] he said to him, “There is a god in such a place, who eats thus, drinks thus, does good in one way, and harm in another” –**

[C] **against all those who are liable to the death penalty in the Torah they do not hide witnesses [for the purposes of entrapment] except for this one.**

[D] **[If] he spoke [in such a way] to two, and they serve as witnesses against him,**

[E] **they bring him to court and stone him.**

[F] **[If] he spoke [in such a way] to [only] one person, [the latter then] says to him, “I have some friends who will want the same thing.”**

[G] **If he was clever and not prepared to speak in [the friends’] presence,**

[H] **they hide witnesses on the other side of the partition,**

[I] **and he says to him, “Tell me what you were saying to me now that we are by ourselves.”**

[J] **And the other party says to him [what he had said], and then this party says, “Now how are we going to abandon our God who is in Heaven and go and worship sticks and stones?”**

[K] **If he repents, well and good.**

[L] **But if he said, “This is what we are obligated to do, and this is what is good for us to do,”**

[M] **those who stand on the other side of the partition bring him to court and stone him.**

[N] [He who beguiles others is] one who says, “I am going to worship,” “I shall make an offering,” “I shall offer incense,” “I shall go and offer incense,” “Let’s go and offer incense,” “I shall make a libation,” “I shall go and make a libation,” “Let’s go and make a libation,” “I shall bow down,” “I shall go and bow down,” “Let’s go and bow down.”

[O] **He who leads [a whole town astray] [M. 10:4H] is one who says, “Let’s go and perform an act of service to an idol.”**

[I:1 A] [When M. 7:12A refers to an ordinary fellow, does it mean to say,] “Lo, a sage is not [subject to the law]?”

[B] [The meaning is this:] Since the person incites someone to idolatry, this is no sage.

[C] Since one is incited to idolatry, this is no sage.

[I:2 A] **How do they get testimony against him?**

[B] **They conceal against him two witnesses [Tosefta: disciples of sages], [who are put] in an inside room, and he sits [25d] in an outside room.**

[C] **And they light a candle near him, so that they can see him.**

[D] **And they listen to what he says.**

[E] **And so did they to to Ben Stada [Sutra] in Lydda.**

[F] **They appointed against him two disciples of sages, and in consequence of what they heard and saw], they stoned him [T. San. 10:11].**

[I:2 A] [In the light of M. Yeb. 16:6: **They permit a woman to marry again on the evidence of an echo that her husband has died,**] do you say this [that it is necessary to light a lamp so that the witnesses should see him while they hear him]. [It should be sufficient merely to hear him.]

[B] It is different in the present case [of M. Yeb. 16:6], because he has said, “I” [That is, the man is heard to speak of himself, so it is not necessary to identify him further.]

[C] And if he said, also here, “I”? [That is, let the inciter also identify himself.]

[D] It is so that he will not practice deception [and flee].

[E] And let him practice deception [and flee]?

[F] It is so that he will not go and entice himself and entice others with him [so he must be caught].

- [I:3 A] He who entices others speaks in elevated language, and he who beguiles [a whole town] speaks in earthy language.
- [B] If the one who entices spoke in earthy language, he falls into the category of one who beguiles [a whole town].
- [C] And if one who beguiles [a whole town] spoke in elevated language, he falls into the category of one who entices [an individual].
- [D] The one who entices speaks in the Holy Language, while the one who beguiles [a whole town] speaks in ordinary language.
- [E] If the one who entices spoke in ordinary language, he falls into the category of one who beguiles.
- [F] And if one who beguiles speaks in the Holy Language, he falls into the category of one who entices.

7:13

- [A] **The sorcerer [M. 7:4I] – he who does a deed is liable,**
- [B] **but not the one who merely creates an illusion.**
- [C] **R. Aqiba says in the name of R. Joshua, “Two may gather cucumbers. One gatherer may be exempt, and one gatherer may be liable.**
- [D] **“[Likewise:] He who does a deed is liable, but he who merely creates an illusion is exempt.”**
- [I:1 A] “You shall not permit a sorceress to live” (Ex. 22:18).
- [B] All the same are a sorcerer and a sorceress [that is, both are to be put to death].
- [C] But [in referring to a sorceress] the Torah has taught you how things really are, for the vast majority who practice sorcery are women.
- [I:2 A] Said R. Eleazar, “A sorcerer is subject to the death penalty through stoning.”
- [B] *What is the Scriptural basis for the opinion of R. Eleazar?*
- [C] Here it is written, “You shall not permit a sorceress to live” (Ex. 22:18), and further it is stated, “[Take heed that you do not go up into the mountain or touch the border of it; whoever touches the mountain shall be put to death; no hand shall touch him, but he shall be stoned or shot;] whether beast or man, he shall not live” (Ex. 19:12-13).

[D] Just as the language, “He shall not live,” stated in the latter passage means that the malefactor is put to death by stoning, so the language, “... shall not live,” stated in the former passage means that the malefactor is put to death by stoning.

[E] *And what is the Scriptural basis for the view of rabbis [who call for decapitation]?*

[F] Here it is stated, “You shall not permit a sorceress to live” (Ex. 22:18), and further it is stated, “You shall save alive nothing that breathes” (Deut. 20:16).

[G] Just as the language, “You shall save alive nothing that breathes” in the latter context means death by the sword, so the language, “You shall not permit to live,” in the former context means death by the sword.

[H] Said R. Aqiba, “I shall then settle the matter. It is better to derive the appropriate lesson from the language, ‘You shall not permit to live,’ for another usage of that same language, but let not the variant formulation, ‘He shall not live,’ [used at Ex. 19:13] prove the matter [since it does not apply, as does the usage which is precisely the same in both contexts]. [Hence rabbis are to be favored.]”

[I] *What is the Scriptural basis for the position of R. Judah?*

[J] Here it is stated, “You shall not permit a sorceress to live” (Ex. 22:18), and later on it is stated, “Whoever lies with a beast shall be put to death” (Ex. 22:19).

[K] Just as the death penalty executed against the beast is through stoning, so here too stoning is the preferred mode of execution.

[I:3 A] *When R. Eleazar, R. Joshua, and R. Aqiba went in to bathe in the baths of Tiberias, a min saw them. He said what he said, and the arched chamber in the bath [where idolatrous statues were put up] held them fast, [so that they could not move].*

[B] *Said R. Eleazar to R. Joshua, “Now Joshua b. Haninah, see what you can do.”*

[C] *When that min tried to leave, R. Joshua said what he said, and the doorway of the bath seized and held the min firm, so that whoever went in had to give him a knock [to push by], and whoever went out had to give him a knock [to push by].*

- [D] *He said to them, “Undo whatever you have done [to let me go] .”*
- [E] *They said to him, “Release us, and we shall release you.”*
- [F] *They released one another.*
- [G] *Once they got outside, said R. Joshua to that min, “Lo, is that all you know?” (PM).*
- [H] *He said, “Let’s go down to the sea.”*
- [I] *When they got down to the sea, that min said whatever it was that he said, and the sea split open.*
- [J] *He said to them, “Now is this not what Moses, your rabbi, did at the sea?”*
- [K] *They said to him, “Do you not concede to us that Moses, our rabbi, walked through it?”*
- [L] *He said to them, “Yes.”*
- [M] *They said to him, “Then walk through it.”*
- [N] *He walked through it.*
- [O] *R. Joshua instructed the ruler of the sea, who swallowed him up.*
- [I:4 A]** *When R. Eliezer, R. Joshua, and Rabban Gamaliel went up to Rome, they came to a certain place and found children making little piles [of dirt]. They said, “Children of the land of Israel do this sort of thing, and they say, ‘This is heave offering,’ and ‘That is tithe.’ It’s likely that there are Jews here.”*
- [B] *They came into one place and were received there.*
- [C] *When they sat down to eat, [they noticed] that each dish which they brought in to them would first be brought into a small room, and then would be brought to them, and they wondered whether they might be eating sacrifices offered to the dead. [That is, before the food was brought to them, it was brought into a small chamber, in which, they suspected, sacrifices were taken from each dish and offered to an idol.]*
- [D] *They said to [the host], “What is your purpose, in the fact that, as to every dish which you bring before us, if you do not bring it first into a small room, you do not bring it in to us?”*

- [E] *He said to them, "I have a very old father, and he has made a decree for himself that he will never go out of that small room until he will see the sages of Israel."*
- [F] *They said to him, "Go and tell him, 'Come out here to them, for they are here.'"*
- [G] *He came out to them.*
- [H] *They said to him, "Why do you do this?"*
- [I] *He said to them, "Pray for my son, for he has not produced a child."*
- [J] *Said R. Eliezer to R. Joshua, Now, Joshua b. Hananiah, let's see what you will do."*
- [K] *He said to him "Bring me flax seeds," and they brought him flax seeds.*
- [L] *He appeared to sow the seed on the table; he appeared to scatter the seed; he appeared to bring the seed up; he appeared to take hold of it, until he drew up a woman, holding on to her tresses.*
- [M] *He said to her, "Release whatever magic you have done to this man."*
- [N] *She said to him, "I am not going to release my spell."*
- [O] *He said to her, "If you don't do it, I shall publicize your magical secrets."*
- [P] *She said to him, "I cannot do it, for the magical materials have been cast into the sea."*
- [Q] *Joshua made a decree that the sea release the magical materials, and they came up.*
- [R] *They prayed for the host, and he had the merit of producing a son, who would become R. Judah b. Batera.*
- [S] *They said, "If we came up here only for the purpose of producing that righteous man, it would have been enough for us."*
- [T] *Said R. Joshua b. Hananiah, "I can take cucumbers and pumpkins and turn them into rams and hosts of rams and they will produce still more."*
- [I:5 A] *Said R. Yannai, "I was going along the road in Sepphoris, and I saw a min, who took a pebble and threw it up into the sky, and it came down and was turned into a calf."*

- [B] And did not R. Eleazar say in the name of R. Yosé bar Zimra, ‘ If everyone in the world got together, they could not create a single mosquito and put breath into it.’
- [C] *But we must say that that min did not take a pebble and throw it up into the air, so when it came down it was turned into a calf.*
- [D] *But he ordered his servant to steal a calf from the herd and bring it to him.*
- [I:6 A] *Said R. Hinena b. R. Hananiah, “I was walking in the turf [?] of Sepphoris, and I saw a min take a skull and throw it up into the air, and when it came down, it had turned into a calf.*
- [B] “And I came and I told father, and he said to me, ‘If you actually ate of the calf meat, it really happened, and if not, it was a mere illusion.’”
- [I:7 A] **Said R. Joshua, “Three hundred laws did R. Eliezer expound concerning the verse, ‘You shall not allow a witch to live’ (Ex. 22:18),**
- [B] **“and of all of them I have heard only two things:**
- [C] **“Two may gather cucumbers. One gatherer may be exempt, and one gatherer may be liable. He who does a deed is liable, but he who merely creates an illusion is exempt”** [T. San. 11:5].
- [D] Said R. Derosa, “They were nine hundred pericopae: three hundred leading to a decision of guilt, three hundred leading to a decision of innocence, and three hundred leading to a decision of guilt which was innocence. [That is, one is prohibited but not punished if he should do the deed.]”

YERUSHALMI SANHEDRIN

CHAPTER EIGHT

8:1

[A] **A rebellious and incorrigible son [M. 7:4J] –**

[B] **at what point [does a child] become liable to be declared a rebellious and incorrigible son?**

[C] **From the point at which he will produce two pubic hairs, until the ‘beard’ is full –**

[D] **(that is the lower [pubic], not the upper [facial, beard], but the sages used euphemisms).**

[E] **As it is said, “If a man has a son” (Deut. 21:18) – (1) a son, not a daughter; (2) a son, not an adult man.**

[F] **And a minor is exempt, since he has not yet entered the scope of the commandments.**

[I:1 A] R. Zeira, R. Abbahu, R. Yosé b. Haninah in the name of R. Simeon b. Laqish: “It is written, ‘If a man willfully attacks another to kill him treacherously’ (Ex. 21:14) –

[B] “From what point is he treated as a man?”

[C] “From the point at which he may act willfully.

[D] “From what point does he act willfully?”

[E] “When the crest of the genitals begins to flatten.

[F] “A comparison: When the seed is cooking inside, the pot grows black outside.”

[G] *Said R. Zeira, “R. Shila bar Bina taught, ‘If a man has a son’ (Deut. 21:18) –not when the son is himself a father.*

[H] “Once the boy can have sexual relations with a woman and make her pregnant, he is in the status of a father and not of a son.

[I] “The Torah thus has said, ‘A son and not a father.’”

[J] *This saying accords with that which R. Yasa said in the name of R. Sabbetai, “The entire period during which a boy is eligible to be declared a rebellious and incorrigible son is not more than six months alone.”*

[I:2 A] *Said R. Yasa, “All these rules are not [merely] reasonable, for the opposite is the case.”*

[B] *It was taught [along these same lines]: You should know that that is the case [that the law runs contrary to reason].*

[C] *For whom was it more likely to declare liable, a son or a daughter? You admit that it is the daughter.*

[D] *Yet the Torah has declared the daughter to be exempt, but has declared the son to be liable.*

[E] *Who was the more likely to be declared liable, the minor or the adult?*

[F] *You must say that it is the adult.*

[G] *Yet the Torah has declared the adult to be exempt and has made the minor liable.*

[H] *Who was the more likely to be declared liable: he who steals from others, or he who steals from his father and his mother?*

[I] *You must say that it is he who steals from others.*

[J] *Yet the Torah has declared exempt the one who steals from others, and has declared liable him who steals from his father and his mother.*

[K] *This teaches you that all these rules derive solely from the decree of the King [and not from reason].*

8:2

[A] At what point is he liable?

[B] Once he has eaten a tartemar of meat and drunk a half-log of Italian wine.

[C] R. Yosé says, “A mina of meat and a log of wine.”

[D] [If] he ate in an association formed for a religious duty.

[E] [if] he ate on the occasion of the intercalation of the month,

[F] [if] in Jerusalem he ate food in the status of second tithing,

- [G] [if] he ate carrion and terefah-meat, forbidden things or creeping things,
- [H] [if] he ate untithed produce, first tithe, the heave-offering of which had not been removed, second tithe or consecrated food which had not been redeemed [by money],
- [I] [if] he ate something which fulfilled a religious duty or whereby he committed a transgression,
- [J] [if] he ate any sort of food except meat, drank any sort of liquid except wine –
- [K] he is not declared a rebellious and incorrigible son –
- [L] unless he eats meat and drinks wine,
- [M] since it is said, “A glutton and a drunkard” (Deut. 21:20).
- [N] And even though there is no clear proof for the proposition, there is at least a hint for it,
- [O] for it is said, “Do not be among the wine-drinkers, among gluttonous meat-eaters” (Prov. 23:20).
- [I:1 A] Said R. Yosé, “A tartemar is a half-litra.”
- [I:2 A] He is not liable unless he eats meat lightly roasted.
- [B] If one eats it raw, he is a dog.
- [C] If he eats it cooked, he is a man.
- [D] If he ate the cartilages forming the ear, what is the law?
- [E] If he ate the soft veins, what is the law [for in both cases they will harden]?
- [F] R. Yohanan said, “They are counted for it [as meat of the paschal lamb, and it is meat for fulfilling the obligation].”
- [F] R. Simeon b. Laqish said, “They are not counted for it. [It is not meat.]”
- [G] *R. Jacob bar Aha in the name of R. Zeira: “R. Yohanan and R. Simeon b. Laqish differ,” as we have learned there:*
- [H] **In the case of these, their skin is in the status of their flesh** [M Hul. 9:2A]. [Now for what purpose is the skin deemed equivalent to meat?]
- [I] Said R. Yohanan, “As to this flesh, they have made mention of it solely to impose a prohibition on it and to declare it unclean,

but as to inflicting a flogging for eating it, they did not impose such a flogging [because it ultimately hardens].”

[J] R. Simeon b. Laqish said, “Rabbi has taught a complete and perfect Mishnah: whether for purposes of prohibiting it or for a flogging or for purposes of declaring it unclean.”

[K] *The theory attributed to R. Simeon b. Laqish has been reversed.*

[L] *There he treated it as meat [even though it ultimately hardens], and here he has not treated it as meat [since he says it is not meat, G].*

[M] Said R. Judah b. bar Pazzi, “There the case is different, because it is skin, and [only] in the end will it get hard.”

[N] *All the more so then has the opinion assigned to R. Simeon b. Laqish proved reversed: Now if there, in which case it will end up getting hard, he has treated it as meat, here, in which it is not going to end up hard, all the more so should he treat it as meat!*

[O] *Said R. Abbahu, “The Scriptural basis for the position of R. Simeon b. Laqish is as follows: ‘They shall eat the flesh’ (Ex. 12:8) – not the sinews.”*

[II:1 A] **If he ate in an association formed for a religious duty, if he ate on the occasion of the intercalation of the month, if he ate food in the status of second tithe in Jerusalem [M. San. 8:2F] –**

[B] “And though they chastise him [26b], he will not give heed to them” (Deut. 21:18) – this excludes this one [described in the cited passage of Mishnah], who assuredly does heed the voice of his Father who is in heaven.”

[II:2 A] Said R. Yohanan, “If your name is mentioned for service on the council, let the Jordan be your border.”

[B] Said R. Yohanan, “People appeal to the government to be rid of the duty of serving on the council.”

[C] Said R. Yohanan, “People may lend on interest to an association formed for a religious duty and for sanctifying the new moon.”

[II:3 A] *R. Yohanan would go up to the synagogue in the morning, and he would gather crumbs and eat them, and he said, “Let my lot be with*

him who sanctifies the month here evenings [because they have such a fine meal].”

[III:1 A] If he are carrion and terefah meat, forbidden things or creeping things [M. San. 8:2G] –

[B] “And though they chastise him, he will not give heed to them” –

[C] this excludes this one [described in the cited passage], for even the voice of his Father in heaven does he not heed.

8:3

[A] [If] he stole something belonging to his father but ate it in his father’s domain,

[B] or something belonging to others but ate it in the domain of those others,

[C] or something belonging to others but ate it in his father’s domain,

[D] he is not declared a rebellious and incorrigible son –

[E] until he steals something of his father’s and eats it in the domain of others.

[F] R. Yosé b. Judah says, “...until he steals something belonging to his father and his mother.”

[I:1 A] Whence do we locate the first warning against stealing [kidnapping]?

[B] “You shall not steal” (Ex. 20:15).

[C] Whence do we locate the second warning against stealing [property]?

[D] “You [pl.] shall not steal” (Lev. 19:11).

[E] “You shall not steal” for spite [returning the object later on].

[F] “You shall not steal” planning then to pay double compensation or fourfold or fivefold damages.

[G] Ben Bag Bag says, “You shall not steal from the thief [even] what belongs to you, so that you will not appear to be a thief.”

[I:2 A] [The following is repeated at M. 11:2:] R. Ba, R. Yohanan in the name of R. Hoshaiah: “[The accused] son is liable only if he will steal money [to buy meat for his gluttony].”

[B] R. Zeira in the name of R. Hoshaiah: “He is liable only if he will waste money.”

[C] What do we mean by “wasting money”?

[D] If it is a case in which he says to the butcher, “Here are five and give me meat worth three,” he is a mere idiot.

[E] “Here are three and give me [meat worth] five,” he is an ordinary person.

[F] *But thus do we interpret the matter:* “Here are five, and give me meat worth five”; [in this case, having failed to effect a bargain, he has wasted money].

[I:3 A] What is the definition of a thief, and what is a robber?

[B] Said R. Hela, “[If] one stole before witnesses, he is a thief, and if he did so before the owner, he is a robber [so the criterion is the presence of the owner, which turns a thief into a robber].”

[C] *R. Zeira raised the question:* “If so, even if he intended to commit a robbery against the owner, this one is not a robber [if the deed is not done before others]. [That is to say, by Hela’s definition, the presence of the witness or the owner is decisive, and without committing the theft in the presence of the witness or the owner, one is no robber.]”

[D] *Then what is meant by a robber in the view of R. Zeira?*

[E] R. Samuel bar Sostetra in the name of R. Abbahu: “Only if one steals an object in the presence of ten men.

[F] “The principal source dealing with the matter is as follows: ‘The Egyptian had a spear in his hand, but Benaiah went down to him with a staff and robbed the spear out of the Egyptian’s hand’ (2 Sam. 23:21) [in front of many people].”

8:4

[A] [If] his father wanted [to put him to judgement as a rebellious and incorrigible son] but his mother did not want to do so,

[B] [if] his father did not want and his mother did want [to put him to judgment],

[C] he is not declared a rebellious and incorrigible son –

[D] until both of them want [to put him to judgment].

[E] R. Judah says, “If his mother was unworthy of his father, he is not declared to be a rebellious and incorrigible son.”

[I:1 A] Said R. Yohanan [in regard to M. 8:4E], “And even if his mother was not worthy of his father, [he may be declared incorrigible].”

[I:2 A] [With regard to M. 8:3E:] For is not everything which belongs to his mother in fact within the domain of his father?

[B] *Said R. Yosé b. R. Bun, “Interpret the rule to speak of a case in which the mother took a pot [belonging to her] and prepared meat from an ox [belonging to the husband], and so the son stole meat from the two of them.”*

8:5

[A] [If] one of them was maimed in the hand, lame, dumb, blind, or deaf,

[B] he is not declared a rebellious and incorrigible son,

[C] since it is said, “Then his father and his mother will lay hold of him” (Deut. 21:20) – so they are not maimed in their hands;

[D] “and bring them out” – so they are not lame;

[E] “and they shall say” – so they are not dumb;

[F] “This is our son” – so they are not blind;

[G] “He will not obey our voice” – so they are not deaf.

[H] They warn him before three judges and flog him.

[I] [If] he went and misbehaved again, he is judged before twenty-three judges.

[J] He is stoned only if there will be present the first three judges, since it is said, “This, our son” – this one who was flogged before you.

[I:1 A] Just as you interpret the verse pertaining to the parents, so you must interpret the matter to apply also to the elders of the court [who likewise must be unblemished in the specified ways].

[B] This is in line with the following [interpretation of Deut. 21:2]: “Then your elders and your judges shall come forth and they shall wash their hands and shall say, ‘Our hands did not shed this blood, neither did our eyes see it shed’”]:

[C] “They shall come forth” – thus excluding the lame.

[D] “And they shall say” – thus excluding the dumb.

[E] “Our hands have not shed this blood” – thus excluding those maimed in the hand.

[F] “And our eyes did not see” – thus excluding the blind.

[G] Scripture thereby teaches us that, just as the elders of the court must be whole in righteousness, so they must be whole in their limbs.

- [II:1 A] Said R. Yohanan [with reference to M. 8:5J], “If one of the first three judges who judged the boy should die, [the boy] is not stoned to death.”
- [B] *Now is this not precisely what the Mishnah states: “He is stoned only if there will be present the first three judges.”*
- [C] Said R. Hoshaiyah, “[Yohanan’s saying] is so that you should not treat the second case [in which the son should steal] as if it were the first, [so that if he should then go and repeat the deed, he should be stoned]. [Yohanan thus points out that, if one of the judges of the original trial, at which the son was flogged, should die, then that entire process is null. Then, if the son should do the act a second time, that is not treated as if it were the first violation. And if there should be a further violation, he will not be stoned.] *That is the reason that the Mishnah’s amplification is required.*”

8:6

- [A] [If] he fled before his trial was over, and afterward [while he was a fugitive,] the lower “beard” became full, he is exempt.
- [B] If after his trial was done he fled, and afterward the lower beard became full, he is liable.
- [I:1 A] Said R. Josiah, “Zeira told me in the name of the men of Jerusalem, ‘There are three whom, if [the injured parties] seek to forgive, they may forgive, and these are they:
- [B] “A wife accused of adultery, a rebellious and incorrigible son, and an elder who rebels against the decision of a court.”
- [C] *And in regard to the wife accused of adultery, is this not clearly stated in the Mishnah itself, [when it says that] if the husband does not wish to administer the bitter water to her, [she is let go]?*
- [D] *One might have supposed that the rule applied only prior to the writing of the scroll [with the divine name]. What the cited saying comes to state is that even after the scroll is written out, [the husband still may refrain from administering the bitter water to his wife].*
- [E] Now that is so before the scroll is blotted out. But once it has been blotted out, it is not in such a case that the husband any longer has the power to forgive.
- [F] *In regard to the rebellious and incorrigible son, is this not clearly stated in the Mishnah itself, [when it says:] If his father wanted*

but his mother did not, if his father did not want and his mother did [to put him on trial], he is not declared a rebellious and incorrigible son [M. San. 8:4A-C]?

[G] *One might have supposed that this rule applied only prior to the son's coming to court. What the cited saying comes to state is that even after the son has come to court, [the trial still may be canceled].*

[H] Now that is so before the court process is completed. But once the court process has been completed, it is not in such a case [that the trial is then canceled].

[I] *As to the rebellious elder: That is to say that one may decide not to put him to death.*

[J] But as to returning him to his town, they would not return him to his town.

[K] [Continuing Josiah's statement, A-B above:] "Now when I came to R. Judah b. Beterah in Nisibis [and told him the saying cited at B], on two of them he agreed with me, but on one of them he did not agree with me.

[L] "[Specifically] concerning the rebellious elder he did not agree with me.

[M] "This was so as not to create dissension in Israel."

[I:2 A] [The citation of the law of the wife accused of adultery provokes insertion of further materials relevant to that topic. Under discussion now is **M. Sot. 4:2GI: If their husbands died before the wives drank the bitter water – the House of Shammai say, "They receive their marriage-settlement but do not undergo the ordeal of drinking the bitter water."** And the House of Hillel say, "They do not undergo the ordeal of drinking the bitter water and do not receive the marriage settlement.'] *What is the reason behind the position of the House of Shammai [who allow the woman to collect her marriage settlement]?*

[B] [She may claim,] "Bring me my husband, and I shall drink the water [and so prove my innocence]. [The fault is then not mine.]"

[C] *What is the reason behind the position of the House of Hillel [who will not permit the woman to collect]?*

- [D] Since there is no husband here to administer the water to her, the Torah puts her back in the status of one subject to doubt, and she is subject therefore to a double doubt [since, further, we do not know whether or not she should collect her marriage settlement].
- [E] And the matter of doubt affecting her stands by itself, [that is, by reason of doubt she may not collect money].
- [F] *There we have learned: She who impairs her marriage settlement [by admitting that she has received part, but not all, of the funds which are due it] collects the remainder only through an oath [M. Ket. 9:7A, 9:8A,, M. Shebu. 7:7].*
- [G] *It was taught: That rule applies to the one who impairs the marriage settlement, but not to the one who claims less [in her marriage settlement than is imputed to the document, e.g., saying it was worth only one hundred zuz, when the other party claimed to have paid two hundred]. [In such a case, the wife collects the settlement of one hundred without taking an oath] [cf. T. Ket. 9:4].*
- [H] She who claims less [than the full value of her marriage contract collects it without an oath:] How so?
- [I] If her marriage settlement was for two hundred zuz, and she says, “It was only a *maneh* [a hundred zuz],” she collects it without taking an oath.
- [J] What then is the difference between one who impairs and one who diminishes her marriage contract?
- [K] Said R. Haninah, “In the case of one who impairs the settlement, there has been give and take in-between times. [Since the woman admits to having received part of the settlement, we have a case in which there is partial admission of the claim, so there are grounds for an oath.]
- [L] “In the case of one who claims less, there has been no give and take in-between times.”
- [M] *R. Jeremiah proposed: “Just as you rule there [in connection with oaths], ‘If a single witness gives testimony in her regard that the marriage settlement has been collected, she may then*

collect the contract only by taking an oath' [M. Ket. 9:7B, M. Shebu. 7:7], so here too: 'If a single witness gives testimony in her connection that the sum of the marriage contract is less [than contemplated, in which case her admission of the fact is null], she may collect her marriage settlement only by taking an oath.' [The matters are parallel, since, in both instances, the presence of a single witness suffices to deny the wife the claim that she might be demand a more substantial sum, and so is believed when she claims less than is within her power.]”

[N] Said R. Yosé, “[The cases are different]. When a single witness testifies that the marriage settlement has been collected, he does not contradict the testimony of two witnesses [so he may be believed]. But when he testifies that the amount of the marriage settlement is less, he contradicts two witnesses, [namely, those listed in the marriage settlement’s document, who have signed their names to the document and so testified that the amount of money covered therein is what is represented by the document].”

[O] *It was taught: She who collects her marriage settlement not in the husband’s presence collects only by taking an oath [M. Ket. 9:7, M. Shebu. 7:7D].*

[P] But do they exact payment from a person in his absence?

[Q] Said R. Jeremiah, “Interpret the rule to apply to a document in which the interest payments are eating up [the man’s property, in which case it is to his advantage to pay off.”

[R] Now will a court exact payment for interest?

[S] Interpret the rule to apply to a case in which a gentile serves as pledge, [and he can collect interest from the Israelite].

[T] *Has it not been taught: An heir, the father of whom has impaired his bond, may collect*

without taking an oath. In this case the power of the heir is stronger than the power of the father [T. Shebu. 6:5F], for the father collects only by taking an oath.

[U] Said R. Eleazar, “But [the heir] does take the oath applying to an heir [in any event]: **‘We swear that father gave us no instructions in this matter], father said nothing to us about it, and we did not find among his bonds evidence that this bond had been paid off’ [M. Shebu. 7:7F].** This means, does it not, that if a bond *were* found, it would be assumed to have been paid off [on which account one must take an oath that, ‘I have not found’].” [The relevance of this item will now be clarified.]

[V] *R. Hoshaiah raised the question: “Does the Mishnah [just now cited] then follow the opinion of the House of Shammai, for the House of Shammai say, ‘She collects her marriage contract and does not drink the bitter water’?*” [The basic reasoning of the House of Shammai is that the wife enjoys the presumption of having collected her settlement and so of owning the property she now claims as her settlement. The heirs of the deceased must then prove that that is not the case, if they wish to retrieve the property from her. This they cannot do. Here, too, if the bond is in hand, it is assumed to have been collected, and that is why the heir must swear that it is not in existence at all, so ‘we did not find’].”

[W] *Said R. Yosé, “[The cases are not really comparable]. The reason of the House of Shammai [is that the wife may claim,] ‘Bring me my husband, and I shall drink the water [and prove my innocence].’ But here, in law and logic, even the father should not have been required to take an oath at all. But sages ordained in this case that the father should take an oath. So for the father such an oath has been ordained. But for the son, no such oath has been*

ordained. [That is, if the bond has been impaired, there must be an oath from the father.] Since the father has died, the position of the son is defined through the requirement of the law of the Torah, [and not the law as sages have revised it]. [So the son then may collect without an oath.]”

[X] If the father was obligated in court to take an oath and then died, his son may not collect what is owing, for, if that is not the case, then shall we end up saying that a man may leave to his son the requirement to take an oath? [That is absurd.]

[Y] *Said R. Ba*, “*Thus is the matter to be stated [applying to the case before us]:* If the father impaired his bond in court and then died, [the son] may not collect.”

[Z] [*Rejecting this thesis,*] *R. Hisda raised the question:* “Because this one has gone two steps [to court], should the other one lose out?”

[AA] “Had he impaired the bond outside of court, you rule that the son may collect the bond. Because he has impaired it in court, do you then rule that he may not collect it? [The rule that the obligation to take an oath is not handed on as an inheritance applies only when the oath is imposed by law. But in the case of an impaired bond, the father himself is subject to an oath only by sages’ ordinance, not by Torah law, and there is no reason here to invoke the notion that an oath is not handed on as an inheritance. The heir collects by the usual oath taken by heirs, as specified at U, above.]”

8:7

[A] A rebellious and incorrigible son is tried on account of [what he may] end up to be.

[B] Let him die while yet innocent, and let him not die when he is guilty.

- [C] For when the evil folk die, it is a benefit to them and a benefit to the world.
- [D] But [when the] righteous folk [die], it is bad for them and bad for the world.
- [E] Wine and sleep for the wicked are a benefit for them and a benefit for the world.
- [F] But for the righteous, they are bad for them and bad for the world.
- [G] Dispersion for the evil is a benefit for them and a benefit for the world.
- [H] But for the righteous, it is bad for them and bad for the world.
- [I] Gathering together for the evil is bad for them and bad for the world.
- [J] But for the righteous, it is a benefit for them and a benefit for the world.
- [K] Tranquility for the evil is bad for them and bad for the world.
- [L] But for the righteous, it is a benefit for them and a benefit for the world.
- [I:1 A] The Holy One, blessed be he, foresaw that in the end this one will use up the property of his father and the property of his mother,
- [B] and he will then set himself at the crossroads and bother, and finally kill, people.
- [C] So in the end he will forget his learning in the Torah.
- [D] [26c] So the Torah has said, “Let him die while yet innocent, and let him not die when he is guilty, for when the evil folk die, it is a benefit to them and a benefit to the world, but when the righteous folk die, it is bad for them and bad for the world”[M. 8:7B-D]
- [II:1 A] Wine and sleep for the wicked are a benefit for them. and a benefit for the world. But for the righteous, they are bad for them and bad for the world [M. 8:7E].
- [B] Said R. Abbahu, “That is so only in the case when there is a lot of drinking of wine and [then] sleep.”
- [C] Said R. Jonathan, “[The righteous] sleep a little at a time, so that their minds may be serene.”

8:8

- [A] He who breaks in [Ex. 22:1] is judged on account of what he may end up to be.

[B] [If] he broke in and broke a jug, if blood-guilt applies to him, he is liable.

[C] If blood-guilt does not apply, he is exempt.

- [I:1 A]** *It was taught:* R. Ishmael says, “This is one of three verses used in the Torah in the sense of a parable:
- [B] “‘When men quarrel and one strikes the other and the man does not die but keeps his bed, then, if the man rises again and walks abroad with his staff, he that struck him shall be clear’ (Ex. 21:1-19).
- [C] “‘If a thief is found breaking in, and is struck so that he dies, there shall be no blood-guilt for him’ (Ex. 22:2).
- [D] “‘But if the sun has risen upon him, there shall be blood-guilt for him’ (Ex. 22:3).
- [E] “Now does the sun rise on him alone? And does it not rise upon everyone in the world?
- [F] “But just as sunshine is special in that it is at peace with the entire world, so, as long as you know that you are at peace with the intruder, whether by day or by night, he who kills him is put to death.”
- [G] There are times that he comes to steal, and there are times that he comes to kill.
- [H] Thus must you state matters therefore: If he comes solely to steal, and this is a matter of certainty, and he is killed, then the one who kills him is put to death.
- [I] There are times that he comes to kill, in which case he is to be killed.
- [J] On this basis [that in doubt, Ex. 22:2, one kills the intruder] you must reason in the matter of danger to life in general, and so you must say the rule:
- [K] Idolatry is distinctive in that it imparts uncleanness to the land, involves a profanation of Name, drives the Presence of God out of the world, and in its case they set aside every sort of doubt,
- [L] all the more so in the case of a matter involving danger to life, that they ignore every doubt [and act decisively].
- [I:2 A]** It is written, “If in breaking in a thief is found, and is struck so that he dies, there shall be no blood-guilt for him” (Ex. 22:2).
- [B] *R. Hiyya taught:* “When he is breaking in, he is not subject to blood-guilt. If he is smitten outside of a break-in? he is subject to blood-guilt.

[That is, once he has left the house, if the householder kills him, he is subject to blood-guilt.]”

[C] *R. Simeon b. Yohai taught, “[Even if he is smitten] outside of the break-in, [the householder] is not subject to blood-guilt; [if the owner kills the thief, the owner is exempt from penalty], because a person’s property is as valuable to him as his life. If he sees him going along and wants to take his money from him and goes and kills him, [the victim is exempt from blood-guilt].”*

[I:3 A] R. Huna said, “If he took the purse and turns to leave and goes along, and the victim goes and kills him, the one who kills him is not put to death.”

[B] What is the Scriptural basis for the statement of R. Huna?

[C] “Lest the avenger of blood in hot anger pursue the manslayer” (Deut. 19:6) [and the householder is angry about the theft].

[D] *Rab said, “Whoever comes against me shall I kill, except for Hananiah b. Shila, because I know that he comes only to take my property from me [but would not harm me otherwise].”*

[E] *Said R. Isaac, “Since his heart was so bold to do such a thing to him, this is not someone of the sort of Hananiah b. Shila [anyhow].”*

8:9

[A] **And these are those who are to be saved [from doing evil] even at the cost of their lives:**

[B] **he who pursues after his fellow in order to kill him –**

[C] **after a male, or after a betrothed girl;**

[D] **but he who pursues a beast, he who profanes the Sabbath, he who does an act of service to an idol – they do not save them even at the cost of their lives.**

[I:1 A] **He who pursues after his fellow to kill him [M. 8:9B] whether at home or in the field – they save him at the cost of his life.**

[B] **All the same are he who pursues his fellow to kill him and all the other prohibited relationships which are listed in the Torah – they save [the one who pursues them] at the cost of his life.**

[C] **But if it was a widow pursued by a high priest, or a divorcée or a woman who had performed the rite of removing the shoe pursued**

by an ordinary priest, or a mamzeret girl or a Nethinah girl pursued by an Israelite, or an Israelite girl pursued by a Nethin or a mamzer, they do not save him at the cost of his life.

[D] If the deed already was done, they do not save him at the cost of his life.

[E] If there are present people able to save [the prospective victim], they do not save him at the cost of his life.

[F] R. Judah says, “If she herself had said, ‘Let him be,’ they do not save him at the cost of his life,

[G] “even though [by] leaving him, he gets involved with a capital crime” [T. San. 11:11].

[I:2 A] *The following proposition is self-evident:* A murderer who [after the act of murder] broke utensils or did bodily injury is liable to pay restitution [because the culpability for murder and that for property damage are not simultaneous] [cf. M. 8:8 C].

[B] But if he broke a utensil before he reached the city [that is, when the man was being pursued while he was escaping to the city],

[C] R. Zeira and R. Hoshaiiah –

[D] *one of them said*, “He must pay compensation.”

[E] *And the other one said*, “He does not pay compensation.”

[I:3 A] A pursuer who became one of the pursued [if one was pursuing his fellow to kill him, and the pursued caught the pursuer and began to run after him] what is the law as to saving the pursuer [who was the pursued] at the cost of the life of the one who had been pursued? [Since the one now being pursued originally was the pursuer, one cannot intervene and save the one who is now in pursuit at the cost of his own life. Or perhaps we maintain that the original pursuer never intended to murder the other party – now in pursuit – and consequently the present pursuer in fact is in danger of committing murder and must be saved at the cost of his own life.]

[B] A stronger party who turned out to be the weaker party – what is the law as to saving the [originally] stronger party at the cost of the life of the [then] weaker party [just as at A]?

[C] *R. Jeremiah responded:* “Now have we not learned the following: **The woman who is in hard labor – they chop up the child in her womb and they remove it limb by limb, because her life takes**

precedence over his life. If its greater part has gone forth, they do not touch him, for they do not set aside one life on account of another life [M. Oh. 7:6]. [This would indicate that they certainly do not save the [originally] stronger party at the cost of the life of the [then] weaker party.]”

[D] *R. Yosé b. R. Bun in the name of R. Hisda: “[The case cited regarding childbirth is] different from the one before us, for it is not known who will cause the death of whom [the mother, the child]. [Here we know who is the aggressor.]”*

[II:1 A] **[...he who does an act of service to an idol – they do not save them even at the cost of their lives:]** *It was taught:* R. Eleazar b. R. Simeon says, “He who is going to worship an idol – they save him at the cost of his life [vs. M. 8:9D(3)].

[B] “For if on account of the honor owing to mortal man they save him at the cost of his life, is it not a matter a for on that they should save him on account of what is owing to the Eternal?”

YERUSHALMI SANHEDRIN

CHAPTER NINE

9:1

[A] **And these are those who are put to death through burning:**

[B] **he who has sexual relations with both a woman and her daughter [Lev. 18:17, 20:14], and a priest's daughter who committed adultery [Lev. 21:9].**

[C] **In the same category as a woman and her daughter are [the following]: his daughter, his daughter's daughter, his son's daughter, his wife's daughter, the daughter of her daughter, the daughter of her son, his mother-in-law, the mother of his mother-in-law, and the mother of his father-in-law.**

[I:1 A] *There we have learned: They marry in regard to the kinswomen of a woman whom one has raped or seduced [M. Yeb. 11:1].*

[B] *This is the meaning of the Mishnah pericope: They marry one related to one whom one has raped or seduced.*

[C] [Thus, if] one has raped a woman, he is permitted to marry her mother.

[D] [If] one has seduced a woman, he is permitted to marry her daughter.

[E] He who rapes or seduces a married woman is liable.

[F] Said R. Yohanan, "The law taught here applies to a union contracted via marriage. [That is to say, [if] one has married a woman and afterward raped her mother, he is liable.]"[And if] one has married a woman and afterward seduced her daughter [by another marriage], he is liable."

[I:2 A] Said R. Eleazar, "Sumkhos and R. Yohanan b. Nuri said the same thing.

[B] *"For we have learned there: If he slaughtered a beast and its granddaughter and afterward slaughtered its daughter, he incurs*

forty stripes. Sumkhos says in the name of R. Meir, ‘He incurs eighty stripes’ [M. Hul. 5:3P].

- [C] *“There we have learned: R. Yohanan b. Nuri says, ‘He who has sexual relations with his mother-in-law is liable on her account because of the prohibition against having sexual relations with (1) his mother-in-law, and (2) the mother of his mother-in-law, and (3) the mother of his father-in-law.’ They said to him, ‘All three in fact fall into a single prohibition’ [M. Ker. 3:6D]. [In Sumkhos’s view, a single warning and a single negative commandment suffice to impose liability on two counts. In Yohanan b. Nuri’s, under the stated condition, in which the woman stands in multiple relationships to the man, the man is culpable on all counts of all relationships. So both say the same thing, that is, that for a single deed, one may bear multiple liabilities.]”*
- [D] R. Judah bar Pazzi in the name of R. Yohanan: “Sumkhos agrees in the first instance [in which it is stated: If one slaughtered a cow and afterward its two offspring, he incurs eighty stripes. If he slaughtered the two offspring and then slaughtered it, he incurs forty (M. Hul. 5:3M)]. [In that case the violation is on a single count. Now why does Sumkhos not differ in the first case?]”
- [E] *In fact, there is a teaching which states, “The matter indeed is still subject to dispute.” [So he does differ on both counts.]*
- [F] *What is the reasoning behind the position of R. Yohanan b. Nuri [cited above]? [For in the case of the mother-in-law, we have a woman in the following situation: the man had been married to his mother-in-law’s daughter’s daughter and her son’s daughter, so she is his mother-in-law’s mother and his father-in-law’s mother. But all of these relationships are in a single person, so why should he maintain that there are multiple counts of liability?]*
- [G] Just as a woman and her daughter and the daughter of her daughter are subject to two distinct negative commandments, so a woman, the daughter of her son, and the daughter of her daughter, are subject to two negative commandments.
- [H] *What is the reasoning behind the position of rabbis [who maintain that all are under a single count]?*
- [I] Just as the daughter of her son and the daughter of her daughter are covered by a single negative commandment, so a woman, the daughter of her daughter, and the daughter of her son are all covered by a single negative commandment.

- [I:3 A] It is written, “You shall not uncover the nakedness of a woman and of her daughter, and you shall not take her son’s daughter or her daughter’s daughter to uncover her nakedness; they are your near kinswomen; it is wickedness” (Lev. 18:17). [“Taking” is understood to refer to marrying.]
- [B] And it is written, “If a man takes a wife and her mother also, it is wickedness; they shall be burned with fire, both he and they, that there may be no wickedness among you” (Lev. 20:14).
- [C] Now in the rest of these passages, “lying with” is written, while here, “taking” is the language used.
- [D] This is to teach you that he is not liable for the latter until the former is taken by him; [so only if he is married to the one is there liability for the other].
- [E] Or perhaps it is that he is not liable on her account unless it is through an actual marriage [and not merely through rape or seduction without actual marriage]. [That is, if he is married to the one, then he is liable on the count of the other. The alternative view is that he must be married to them both for liability to be incurred on account of either one.]
- [F] This latter possibility is null, for we have learned that the sanctification effected by marriage does not apply in the case of prohibited consanguineous unions.
- [G] For has it not been written, “A man shall not take his father’s wife, nor shall he uncover her who is his father’s” (Deut. 22:30)? This would indicate that the prohibition applies only to marriage, but that one who merely seduces or rapes his father’s wife should not be culpable, since the language, “take,” suggests marriage.]
- [H] The Scripture comes to inform you that the son was permitted with regard to this woman before she was married to his father [If the father merely had seduced her, the son could have married her.]
- [I] And is it not written, “The man who lies with his brother’s wife, it is impurity; he has uncovered his brother’s nakedness” (Lev. 20:21)?
- [J] What does this verse come to inform you?
- [K] It is that he was at one point permitted to marry this woman, before she was [actually] married to his brother [as at H].

- [L] And know that this is so, for lo, in Levirate marriage she becomes permitted to him [which indicates that only so long as the woman is taken as a wife by the brother is he prohibited to marry her].
- [M] And is it not written, “And you shall not take a woman as a rival wife to her sister, uncovering her nakedness while her sister is yet alive” (Lev. 18:18)?
- [N] This verse in Scripture comes to inform you that he was permitted to marry her before he had married her sister.
- [O] And you should know that that is so, for after the death of her sister [he may marry her].
- [P] And is it not written, “If a man takes his sister, a daughter of his father or a daughter of his mother, and sees her nakedness, and she sees his nakedness, it is a shameful thing (hesed), and they shall be cut off in the sight of the children of their people; he has uncovered his sister’s nakedness, he shall bear his iniquity” (Lev. 20:17)? [Does this apply solely to marriage, but that rape would then not be subject to the present prohibition.]
- [Q] [The purpose of the reference to “taking” in the sense of marriage is for the purpose of a lesson to be learned, namely,] so that you should not say that Cain married his sister, Abel married his sister, [so marrying sisters is all right]. Thus I have done a kindness with the early generations, through whom the world would be built up, [but that does not apply later on].
- [R] “I have said, The world will be built up on the basis of mercy (hesed)” (Ps. 89:3).
- [S] And is it not written, “A widow, or one divorced, or a woman who has been defiled, or a harlot, these he shall not marry” (Lev. 21:14)? [Here too shall we say that rape or seduction are not culpable within the present count?]
- [T] The cited verse comes to teach you that if a priest sanctified such a woman as his wife, the act of sanctification is effective.
- [I:4 A] *Rab Huna said, “Up to this point we have dealt with the daughter of his daughter as to marriage.*
- [B] “What about the daughter of his daughter as to rape? [That is, we have shown that there is liability for marrying a woman and her daughter. But what about raping the woman and her daughter?]”

[C] It is written, “You shall not uncover the nakedness of your son’s daughter or of your daughter’s daughter, for their nakedness is your own nakedness” (Lev. 18:10).

[D] *Now how shall we interpret that statement?*

[E] If it makes reference to [prohibiting] marriage, lo, that matter already has been stated [in the prohibition against marrying a woman and her daughter (Lev. 18:17)].

[F] So if it does not apply to marriage, treat the statement as referring to rape.

[G] *Up to now we have dealt with the daughter of his daughter.*

[H] How shall we demonstrate that the same law applies to his daughter?

[I] Rab said, “If a man is warned against marrying the daughter of his daughter, is it not an argument *a fortiori* to apply the same rule to his own daughter?”

[J] “If on account of marrying the daughter of his daughter, he will suffer the penalty of extirpation, is it not an argument *a fortiori* that that penalty should apply if he marries his daughter?”

[K] And from the viewpoint of R. Ishmael, who says that we derive a warning from an argument *a fortiori*, but we do not derive [Scriptural warrant for] a punishment applicable to a felon from an argument *a fortiori*, how do we prove this same proposition?

[L] *The following is available: Hezekiah taught, “‘And the daughter of a priestly man, if she profanes herself by playing the harlot, profanes her father; she shall be burned with fire’ (Lev. 21:9).*

[M] “Why does Scripture say, ‘A priestly man’?”

[N] “It is to encompass him who has sexual relations with his daughter [even in a case of rape], to indicate that he is subject to the death penalty through burning.”

[I:5 A] *R. Huna derived all of them [mother’s mother, father’s mother] from the following verse: “You shall not uncover the nakedness of a woman and of her daughter they are your near kinswomen; it is wickedness” (Lev. 18:17).*

[B] And it is written, “If a man takes a wife and her mother also, it is wickedness; they shall be burned with fire, both he and they, that there may be no wickedness among you” (Lev. 20:14).

- [C] “Wickedness” is stated in both verses, so establishing grounds for an exegesis by analogy.
- [D] Just as three generations below [=grandchildren] are encompassed, so three generations above [=grandparents] are encompassed.
- [E] Just as below [in the case of a man and daughter], there is the violation of a negative commandment, so above [in the case of a man with the mother], there is the violation of a negative commandment.
- [F] Just as below [in the case of the generations following] the prohibited relationship is via marriage, so above [in the prior generations] what is prohibited is marriage.
- [G] Just as below [in the case of the coming generations], the penalty is execution by burning, so above [in the case of marriage with the prior generations], the form of execution is burning.
- [H] Just as below [in the case of the later generations], the law treats the daughter of the male as equivalent to the daughter of the female, so above [in the prior generations], the law treats the mother of the male as the mother of the female.

[I] And [how about interpreting the matter] in accord with R. Meir?
 For R. Meir said, “An analogy [serves only to apply the law] to the place from which [the analogy to begin with] derives,” how do we know that the third generation later [that is, the daughter’s daughter] is prohibited by a negative commandment?

[J] *And in accord with the rabbis, who hold that* an analogy is in accord with that which is stated therein, the third generation above [that is, the mother’s mother], how do we know that the man is put to death by burning?

[K] And whether from the viewpoint of rabbis or from that of R. Meir, as to the third generation below, how do we know that it is subject to a negative commandment?

[L] Said R. Yosé, “Since it is written, ‘Wickedness’ ‘wickedness,’ it is as if all of them are now present [subject to a single rule].”

[I:6 A] [*Reverting to I:4.N,*] said R. Yosé b. R. Bun, “[*We do not derive a warning from the logical argument either*]. Rather, there is a verse of Scripture which supplies a warning, as follows: ‘Do not profane your daughter by making her a harlot’” (Lev. 19:29).

- [I:7 A] *They raised the question before R. Abbahu, “He who had sexual relations with a woman, and she produced a daughter, and he went and had sexual relations with her and she produced a daughter, and he went and had sexual relations with her [that is, his granddaughter, in sequence], – [in this third case, that is, of relations with the granddaughter,] is he liable on her account on these counts: having sexual relations with a woman, her daughter, and her granddaughter? [In the sexual relations with the granddaughter, is he liable for having relations with a woman and her daughter, and also on the count of the granddaughter?]”*
- [B] *He said to them, “‘They are your near kinswomen; it is wickedness’ (Lev. 18:17). All of them produce liability on the count of wickedness. [So he is liable on a single count, that of wickedness, and not on several distinct counts.]”*
- [C] [Following PM, we now introduce the materials moved from above, following VI.A:] *R. Haggai asked before R. Yosé, “Why do I require this verse? Do we read, ‘Your daughter you should not uncover,’ ‘the daughter of your daughter you should not uncover’? [Scripture does not specify these as distinct counts. No other is needed.]”*
- [D] *He said to him, “And let Scripture state, ‘The nakedness of a woman and the daughter of her daughter you should not uncover,’ and then we should argue, ‘Your daughter you should not uncover, your daughter’s daughter you should not uncover,’ so in this case we have two rules in a negative formulation covered by a single statement that the penalty is extirpation, and the two negatively formulated rules are both covered by the penalty of extirpation.”*
- [E] *What is the Scriptural basis for this position?*
- [F] [27a] *“This shall be my holy anointing oil throughout your generations. It shall not be poured upon the bodies of ordinary men, and you shall make no other like it in composition; it is holy.... Whoever compounds any like it or whoever puts any of it on an outsider shall be cut off from his people” (Ex. 30:31-33).*
- [G] *Thus you have two negatively formulated rules, with a single statement of extirpation.*
- [H] *The two negative rules share the stated penalty of extirpation [which then applies to both of them] [cf. Y. San. 7:5].*
- [I:8 A] [Referring back to M. Yeb. 11:1: **They marry the kinswomen of a woman whom one has raped or seduced. R. Judah prohibits in the**

case of one raped by his father or seduced by his father. So that prohibition applies not only when the father has actually married or betrothed the woman. We now ask why Judah rejects the proof texts adduced above for the contrary view.] *What is the Scriptural basis behind the position of R. Judah?*

- [B] “A man shall not take the wife of his father and shall not uncover the garment of his father” (Deut. 22:30).
- [C] This [“garment”] refers to a woman whom his father has raped.
- [D] *How do rabbis interpret the reference to “garment”?*
- [E] *There [in Babylonia] they say [that “garment” of the Scripture accords with the position of rabbis, but] we do not know whether this report is accurate.*
- [F] [The cited report is as follows:] “Garment” – this refers to a woman who is subject to the father [in a Levirate connection], [and the meaning is that one may not have sexual relations with a woman who is awaiting Levirate marriage with his father].
- [G] But that is not so: Is one not liable on her account on the count of her being his father’s wife? [The stated passage need not indicate that that liability is by reason of her being subject to the father, for in any event it is established that a candidate for Levirate marriage is tantamount to being the father’s wife. So why does it make reference to “garment”?]
- [H] Said R. Hela, “It is for the purpose of effecting a warning, namely, if they warned him on the count of her being his father’s wife, he is flogged, and if it was on the count of ‘garment’ [meaning one raped by the father], he also is flogged.”
- [I] [Judah’s position is not what it appeared to be.] [In fact,] R. Judah concurs in the matter of flogging. R. Judah concurs in the matter of an offering. [He holds that one indeed is prohibited from marrying a woman the father has raped. But the text cited above does not prove that position. It merely sustains it.]
- [J] R. Judah concurs in the case of all other women that they have been raped, that in such a case the man will be exempt [from punishment if he marries such a woman].
- [K] R. Judah concurs that if he has betrothed such a woman, the betrothal is valid. [That is, if one has betrothed a woman the father has raped, the betrothal is valid.]

- [L] *R. Haggai raised the question before R. Yosé, “What is the law as to the offspring of such a marriage’s being deemed a mamzer in the view of R. Judah?”* [This question is raised in ignorance of the antecedent concessions of Judah.]
- [M] He said to him, “‘He whose testicles are crushed or whose male member is cut off shall not enter the assembly of the Lord’ (Deut. 23:1), immediately follows (Deut. 22:30): ‘A man shall not take his father’s wife nor shall he uncover her who is his father’s’ Then follows (Deut. 23:2): ‘No mamzer shall enter the assembly of the Lord.’] Thus the discourse is deliberately cut off [to indicate that if he marries a woman raped by his father, the offspring of such a marriage is not a mamzer].”
- [N] [He replied,] “If so, let the construction of the verses serve to cut off the matter in regard to the father’s wife [and so indicate that if he marries his father’s wife and produces offspring, they too are not deemed *mamzerim*.”
- [O] “That is not possible, for the matter of the father’s wife is part of the general prohibition against all consanguineous marriages, and it was singled out from the general rule to indicate that violation of the prohibition in the case of *all* forms of consanguineous marriage produces a *mamzer*.”
- [P] “By the same argument, let the one raped by the father be treated as a special case in order to provide the rule governing all matters of rape [and to indicate that one may not marry the woman raped by his brother and various male relatives, besides the father].”
- [Q] “The matter of the wife of the father was part of the generality of the prohibition of consanguineous marriages, and it was singled out from the generality to teach the rule that in the case of violating any of the prohibitions against consanguineous marriage, the offspring will be a *mamzer*.”
- [R] “*But do you have the possibility in the present matter, dealing with the woman raped by the other, to maintain that such a woman was part of the generality but was singled out to teach concerning all women raped by a male relative, that they are prohibited?*”
- [S] “Then let the wife of the father be treated as a special case to teach concerning a woman that was raped by the father [that

she indeed is prohibited, even though the father has not married her].”

[T] He said to him, “Now if she is the wife of the father, she cannot be deemed a woman raped by the father, and if she was merely raped by the father, she cannot be deemed a wife of the father, [so that argument is simply not possible].”

9:2

[A] And these are those who are put to death through decapitation:

[B] the murderer, and the townsfolk of an apostate town.

[C] A murderer who hit his neighbor with a stone or a piece of iron [Ex. 21:18],

[D] or who pushed him under water or into fire, and [the other party] cannot get out of there and so perished,

[E] is liable.

[F] [If] he pushed him into the water or into the fire, and he can get out of there but [nonetheless] he died, he is exempt.

[G] [If] he sicked a dog on him, or sicked a snake on him, he is exempt.

[H] [If] he made a snake bite him,

[I] R. Judah declares him liable.

[J] And sages declare him exempt.

- [I:1 A]** It is written, “But if he struck him down with a stone in the hand, by which a man may die, so that he died, he is a murderer; the murderer shall be put to death” (Num. 35:17).
- [B]** “Or if he struck him down with a weapon of wood in the hand, by which a man may die, and he died, he is a murderer; the murderer shall be put to death” (Num. 35:18).
- [C]** Now when Scripture treats a weapon of iron [at Num. 35:16], it does not say either “by which a man may die” or “by which a man may not die.” [So in this case we do not take account of the size of the weapon at all.]
- [D]** Even if it is a small chip of metal [one is liable], *for it can cut through the gullet and kill the man.*
- [E]** [But in the case of an object of wood or stone, the rule applies] when the stone is sufficiently sizable to kill the man, or the wood is sufficiently sizable to kill the man.

- [I:2 A]** If one pushed a man in front of a horse, or if he pushed him in front of an arrow, or if he pushed him in front of a spear,
- [B] if he put him out in the cold, if he gave him polluted water to drink,
- [C] if he removed the roof covering from over him so that it rained on him,
- [D] and in one of these ways he died,
- [E] if he directed a watercourse over him and the water came along and drowned him, [all of these constitute acts of murder].
- [II:1 A]** *What is the reasoning behind the position of R. Judah [M. San. 9:2K-L]?*
- [B] It is because of the venom which is between the snake's fangs.
- [C] *What is the reasoning of the rabbis?*
- [D] The venom is to be found at the fangs only when he rears back and spits it, [so it is the snake, not the man, that ejects the venom, and the man is only indirectly responsible].

9:3

- [A] He who hits his fellow, whether with a stone or with his fist,**
- [B] and they diagnosed him as likely to die,**
- [C] but he got better than he was,**
- [D] and afterward he got worse and he died**
- [E] he is liable.**
- [F] R. Nehemiah says, "He is exempt,**
- [G] "for there is a basis to the matter [of thinking that he did not die from the original injury]."**
- [I:1 A]** *Thus the Mishnah pericope [should read at M. 9:3F-G]:*
- [B] "R. Nehemiah declares exempt,
- [C] "and sages declare liable, for there is a basis to the matter [of thinking that he did die from the original injury, since, after all, there was a diagnosis to that effect].
- [D] "[The reason the rabbis hold him liable] is that two estimates [of the victim's condition, the one at the outset, the one at the end after which he died] are of greater weight than one [in the middle, at which he appeared to have gotten somewhat better]."

[E] R. Nehemiah says, “The estimate of the man’s condition in the middle is greater than the one fore or aft.”

[I:2 A] *What is the Scriptural basis for R. Nehemiah’s opinion?*

[B] “[When men quarrel and one strikes the other with a stone or with his fist and the man does not die but keeps his bed,] then if the man rises again and walks abroad with his staff, he that struck him shall be clear” (Ex. 21:1-19).

[C] Now would it have entered your mind that this one should be walking about in the marketplace while the other is put to death on his account? [Obviously not, and so the purpose of Scripture’s statement is as follows:] Even though the victim should die after he was originally examined and diagnosed as dying, the other party is exempt [should the man’s condition improve in the meantime].

[D] *What is the Scriptural basis for rabbis’ opinion?*

[E] “And the man does not die but keeps his bed” –

[F] Now do we not know that “if he does not die but keep his bed” – [why does Scripture specify both his not dying and also his going to bed]?

[G] It is to speak of a case in which they did not make prognosis that he would die. [That is, Scripture is to be interpreted to mean, “if he does not die,” that is, they did not reach a prognosis that he would die, but that he would not die.]

[H] *In this case it is written*, “Then if the man rises again and walks abroad with his staff, then the one who struck him shall be clear” (Ex. 21:19).

[I] [This then means that] lo, if then he does not get up, the one who struck him is liable.

[J] Rather, the case is one in which the prognosis was made that he would die.

[K] If then they reached the prognosis that he would die, *in such a case it is written*, “Only he shall pay for the loss of his time, and shall have him thoroughly healed” (Ex. 21:19). [That is, if he was not expected to die, the one who hit him nonetheless must pay the costs of his recovery.]

[L] [But why should that be the case? There has been no prognosis that healing would be required.] R. Hela in the name of R. Simeon b. Laqish: “It is Scripture’s own innovation, saying that he must pay the costs of his recovery [despite the absence of a prognosis to that effect].”

[M] R. Abbahu in the name of R. Yosé b. Haninah: “It was an erroneous prognosis. [That is, one must pay financial compensation because retrospectively we see that the original prognosis was an error. Then the physicians thought the man would die. So, retrospectively, we reinterpret the prognosis and say that it was that .the one who hit the man would have to pay financial compensation.]”

[N] *What is the practical difference between these two positions [the one maintaining that the Scripture has made a decree that one must pay, the other maintaining that the point is that the original prognosis was erroneous, and so the aggressor must pay]?*

[O] It would be a case in which **he got better than he was, and then he got worse, and died –**

[P] he is liable.

[Q] R. Nehemiah declares him exempt, for there is a basis to the matter of thinking that he did not die from the original injury.

[R] *The one who said that* the reason is that it is Scripture’s innovative decree that the aggressor pay for recovery maintains that if he paid funds for recovery, he has paid them over.

[S] [His problem is .his:] If he did not pay them out, what is the law as to his paying them out?

[T] *The one who said that* the original prognosis was in error maintains that if the aggressor did not pay over the funds for recovery [before the victim in fact died], they do not say to him to pay that money over.

[U] [His problem is this:] If he did pay out the money, what is the law as to the [victim's] accepting the funds?

[V] *There is a Tannaite pericope which supports the position of this party, and there is one which supports the position of that party.*

[W] *The Mishnah paragraph that supports the position of R. Yosé bar Haninah [B] is as follows:*

[X] If they reached the prognosis that he would die, but the man lived, at what point do they pay him the costs of his recovery? From the moment at which he began to improve. [That is, the man got better and then got worse and died. At what point do we say that they have to pay out the costs of his medical treatment? It is from the time that he got better. But if he did not pay out the funds until the time that he got worse, he does not have to pay out at all.] [It follows that it is not Scripture's decree, but because] the original prognosis was in error.

[Y] *For if you say it is Scripture's decree that he pay, he should pay from the very outset.*

[Z] *The Tannaite pericope which supports the position of R. Simeon b. Laqish [A] is as follows:*

[AA] If they reached the prognosis that he would live, and he died, at what point does he pay out the funds? From the moment at which he got worse. [That is to say, even though he paid out nothing earlier, he pays from the time that the man got worse. The reason is not that the original prognosis had been in error, because if that were the case we should require payment at the opposite time. For once the man got worse, there should be no payment, since, it is clear, the original prognosis was in error. Thus the reason for the payment is that it is Scripture's decree, and the aggressor has to pay under all

circumstances – this by Scriptural decree – even if the man got worse.]

[BB] *Said R. Yosé, “[Rejecting the proof in favor of R. Simeon b. Laqish,] There is no consideration here of paying [merely] when the man starts failing. But he has to pay from the beginning of the transaction.*

[CC] *“That is to say that it is Scripture’s own decree that the man must pay.*

[DD] *“And if you say it was originally a false prognosis, one must then pay the man’s cost until he actually dies.”*

- [I:3 A] If one hit him on his hand, and it was smashed and the physician said, “If I cut off his hand, he will live,” what is the law as to his having to pay compensation for the cost of the hand? [Is he liable, for having hit him, or exempt, for not having intended to injure the hand?]
- [B] *Let us derive the answer to that question from the following:*
- [C] “When men strive together [and hurt a woman with child, so that there is a miscarriage, and yet no harm follows, the one who hurt her shall be fined]” (Ex. 21:22).
- [D] “When men quarrel [and one strikes the other with a stone and the man does not die]” (Ex. 21:18).
- [E] “Striving together” and “quarreling” are one and the same thing. Why does Scripture then use the language, “When men strive together” and “When men quarrel”?
- [F] But it is to apply the law covering the one who deliberately does bodily injury upon the one who does not deliberately do so, and to apply the law covering the one who does not deliberately do so upon the one who does deliberately do so. [That is, at Ex. 21:18, one man deliberately injures the other, while at Ex. 21:22, the two men do not deliberately injure the pregnant woman. Accordingly, A, one has to pay compensation.]
- [G] *It is easy to see why it was necessary to explicitly apply the law governing the one who deliberately does bodily injury to the one who does not deliberately do so.*

- [H] But as to applying the law for the one who does not deliberately do bodily injury on the one who does deliberately do so, [why was this made explicit]?
- [I] For if for not deliberately doing bodily injury, one is liable, is it not an argument a *fortiori* that the one who deliberately does bodily injury should also be liable!
- [J] But thus is the purpose of Scripture in so stating the law:
- [K] *If one hit the other on his hand and it was smashed, if the physician said, "If one cuts off his hand, he will live,"* what is the law as to paying compensation for the hand?
- [L] Just as that which you have stated there, "It is a decree of Scripture that one must pay compensation for the hand," here likewise it is a decree of Scripture that one must pay compensation for the hand.
- [I:4 A] R. Isaac raised the question: "If they reached a prognosis that he would live, but he died, – surely it is natural for the living to die. [Why should he pay healing?]
- [B] "Since it is written, 'Only he that shall pay for the loss of his time, and shall have him thoroughly healed' (Ex. 21:19), the law is that he is liable to compensate him for lost time and for medical care."
- [C] R. Isaac raised the question, "If they reached a prognosis that he would die, but he lived – it is surely not usual for the dead to live [so there was a miracle]. Why should he pay healing?]
- [D] "Since it is written, 'Only he shall pay for the loss of his time, and shall have him thoroughly healed' (Ex. 21:19), the law is that he is liable to pay compensation for lost time and for medical care."

9:4

- [A] **[If] he intended to kill a beast and killed a man,**
- [B] **a gentile and killed an Israelite,**
- [C] **an untimely birth and killed an offspring that was viable,**
- [D] **he is exempt.**
- [E] **[If] he intended to hit him on his loins with a blow that was not sufficient to kill him when it struck his loins, but it went and hit his heart, and there was sufficient force in that blow to kill him when it struck his heart, and he died,**
- [F] **he is exempt.**

[G] [If] he intended to hit him on his heart, and there was in that blow sufficient force to kill when it struck his heart, and it went and hit him on his loins, and there was not sufficient force in that blow to kill him when it struck his loins, but he died,

[H] he is exempt.

[I] [If] he intended to hit a large person, and there was not sufficient force in that blow to kill a large person, but it went and hit a small person, and there was sufficient force in that blow to kill a small person, and he died,

[J] he is exempt.

[K] [If] he intended to hit a small person, and there was in that blow sufficient force to kill a small person, and it went and struck the large person, and there was not sufficient force in that blow to kill the large person, but he died,

[L] he is exempt.

[M] But: [if] he intended to hit him on his loins, and there was sufficient force in the blow to kill him when it struck his loins, and it went and hit him on his heart and he died,

[N] he is liable.

[O] [If] he intended to hit a large person, and there was in that blow sufficient force to kill the large person, and it went and hit a small person and he died,

[P] he is liable.

[Q] R. Simeon says, “Even if he intended to kill this party, and he actually killed some other party, he is exempt.”

[I:1 A] Hezekiah raised the question: “If one threw a stone, and it was sufficient to kill, and it killed one person, and [also] broke the pots of someone else –

[B] “[in this case, what is the law]? [Do we say that] in this case Scripture made the decree [that one is exempt from paying compensation, if he is liable to the death penalty, only when the compensation is owing to the same person whom one has murdered? But if one owes compensation to one party and has murdered another in the same action, he still will owe compensation for the one and pay the death penalty on account of the other].

[C] “[Or do we say that] in this case [in which the death penalty is on one person’s account, the compensation on another’s,] Scripture made no such decree?”

[D] Hezekiah raised the question: “If one threw a stone, and it was not sufficient in size to kill someone, but it killed this one, and it also broke the pots belonging to another –

[E] “[as above,] do we say that in this case Scripture made the decree [that one is exempt, as stated], but in that case, Scripture did not make such a decree?”

[II:1 A] [With reference to M. 9:4Q, Simeon’s statement,] *said R. Simeon, “Members of the household of Rabbi taught as follows: Even if he intended to kill this party, and he actually killed some other party, he is exempt” [as at M. 9:4Q].*

[B] *And the view of the members of Rabbi’s household accords with that which R. Nathan said, for it was taught in the name of R. Nathan, “If one was standing at the side of a group of people [27b] and said, ‘One of them I plan to kill,’ even if he intended to kill this party, and he actually killed some other party, he is exempt.”*

9:5

[A] **A murderer who was confused with others – all of them are exempt.**

[B] **R. Judah says, “They put them [all] in prison.”**

[C] **All those who are liable to death who were confused with one another are judged [to be punished] by the more lenient mode of execution.**

[D] **[If] those to be stoned were confused with those to be burned –**

[E] **R. Simeon says, “They are to be judged [to be executed] by stoning, for burning is the more severe of the two modes of execution.”**

[F] **And sages say, “They are adjudged [to be executed] by burning, for stoning is the more severe mode of execution of the two.”**

[G] **Said to them R. Simeon, “If burning were not the more severe, it would not have been assigned to the daughter of a priest who committed adultery.”**

[H] **They said to him, “If stoning were not the more severe of the two, it would not have been assigned to the blasphemer and to the one who performs an act of service for idolatry.”**

[I] **Those who are to be decapitated who were confused with those who are to be strangled –**

[J] **R. Simeon says, “They are killed with the sword.”**

[K] **And sages say, “They are killed by strangling.”**

[I:1 A] *Said R. Yohanan, “The Mishnah [at M. 9:5A speaks of a case in which] a murderer was mixed up with blameless people.”*

- [B] *R. Simeon b. Laqish said, “The Mishnah [at M. 9:5A] speaks of a case in which a person accused of murder whose trial was not finished was confused with a murderer who had been convicted. [That accounts for Judah’s view, M. 9:5B, J.]”*
- [C] *Samuel said, “The Mishnah speaks of a case in which an ox sentenced to be stoned was confused with other oxen.”*
- [D] *If the Mishnah speaks of a case in which an ox sentenced to be stoned was confused with other oxen, in such a case do we say, **They put them all in prison?***
- [I:2 A] R. Simeon says, “Burning is a more severe mode of execution than stoning.”
- [B] And rabbis say, “Stoning is a more severe mode of execution than burning” [M. 9:5E-F].
- [C] R. Simeon says, “Strangulation is a more severe mode of execution than decapitation.”
- [D] And rabbis say, “Decapitation is a more severe mode of execution than strangulation” [M. 9:5K].

9:6

- [A] **He who is declared liable to be put to death through two different modes of execution at the hands of a court is judged [to be executed] by the more severe.**
- [B] **[if] he committed a transgression which is subject to the death penalty on two separate counts, he is judged on account of the more severe.**
- [C] **R. Yosé says, “He is judged by the penalty which first applies to what he has done.”**
- [D] **He who was flogged [and did the same deed] and was flogged again –**
- [E] **[if he did it yet a third time] the court puts him in prison and feeds him barley until his belly explodes.**
- [F] **He who kills a someone not before witnesses they put him in prison and feed him the bread of adversity and the water of affliction (Is. 30:20).**
- [I:1 A] *There we have learned that it has been taught: R. Yosé says, “He is judged by the penalty which first applies to what he has done [M. 9:6C].*
- [B] **“How so?**

- [C] **“He who has sexual relations with his mother-in-law, and she was married,**
- [D] **“tor] she was his mother-in-law and she got married – ‘**
- [E] **“he is put to death through burning.**
- [F] **“[If] she had been married and afterward became his mother-in-law, he is put to death through strangulation” [T. San. 12:5].**
- [I:2 A] [With reference to M. Ker. 3:6C: **R. Yohanan b. Nuri says, “He who has sexual relations with his mother-in-law may be liable on her account because of the prohibition against having sexual relations with his mother-in-law, and the mother of his mother-in-law, and the mother of his father-in-law,**] if one is both his mother-in-law and his daughter-in-law, in Yosé’s view, *would he be liable on both counts?* [That is, if a man marries a woman’s daughter, and his son marries the woman herself, so the mother of the daughter is both mother-in-law – by reason of the man’s wife, the daughter – and also daughter-in-law – by reason of the man’s son’s wife, the mother, will the man be liable on both counts for having sexual relations with that woman? Now we have a concrete example of the problem.]
- [B] *What would be a concrete illustration?*
- [C] *A man married a woman, and the daughter of the brother of his wife, [= the daughter of the son of his mother-in-law], and the daughter of the sister of his wife [thus the daughter of the daughter of his mother-in-law].*
- [D] Then, when he has sexual relations with the old woman [his mother-in-law], he is liable on her account for having sexual relations with his mother-in-law [the mother of his mother-in-law and the mother of his father-in-law].
- [E] Now [reverting to A,] as to his mother-in-law being also his daughter-in-law at one and the same time, what did R. Yosé say in such a case? [Did R. Yosé say that it is in particular in the case of a married woman to which the prohibition against having sexual relations with his mother-in-law applies, but as to his daughter-in-law, subject to a more severe mode of execution, namely, stoning, he concurs that the prohibition of his mother-in-law applies, and he would be subject to stoning?]
- [F] That is, where there is a more severe mode of punishment in a less strict case, what did R. Yosé say?

- [G] If there are two prohibitions applicable at the same time, what did R. Yosé say? [Is the more severe mode of execution applicable here?] [The question is not answered.]
- [H] *They say: Just as the question is raised in regard to R. Yosé, so the question is to be raised in regard to R. Ishmael.*
- [I] *For it has been taught in the name of R. Ishmael: “If a woman was widowed and divorced, rendered profane, acted as a prostitute, and afterward, [a high priest] had sexual relations, he is liable on all counts.*
- [J] “If she acted as a prostitute, was profaned, divorced, widowed, and afterward he had sexual relations, he is liable on only one count.” [A + I: the high priest is liable for her being a widow, first, then, an added prohibition, her being a divorcée, and so on down. At J she was prohibited at the outset, so was never eligible on the other counts.]
- [K] Now, if she was widowed and divorced at the same time, how does R. Ishmael rule in such a case?
- [L] As to a more strict prohibition and a less strict one, what does R. Ishmael say in such a case?
- [M] In the case of two prohibitions applicable at the same time, how does R. Ishmael rule in such a case? [The question again is not answered.]
- [II:1 A]** Rab said, “The Mishnah [at M. 9:6F] speaks of a case in which the witnesses against the man were inside.”
- [B] R. Yosé b. Hanina said, “It speaks of a case in which the man is not able to accept the warning.”

9:7

- [A] He who stole a sacred vessel [of the cult (Num. 4:7)], and he who curses using the name of an idol, and he who has sexual relations with an Aramaean woman –**
- [B] zealots beat him up [on the spot (Num. 25:8, 11)].**
- [C] A priest who performed the rite in a state of uncleanness –**
- [D] his brothers, the priests, do not bring him to court.**
- [E] But the young priests take him outside the courtyard and break his head with clubs.**
- [F] A non-priest who served in the Temple –**
- [G] R. Aqiba says, “[He is put to death] by strangling [Num. 18:7].”**

[H] **And sages say, “[He is put to death] at the hands of Heaven.”**

[I:1 A] **A sacred vessel [M. 9:7A] is a flagon.**

[B] R. Judah said, “It is a utensil belonging to the Temple, as you read: ‘... and the flagons for the drink offering’” (Num. 4:7).

[II:1 A] **He who curses using the name of an idol**, for example, these Nabataeans, who curse, “May the charm slay you, your master, your provider.”

[III:1 A] **He who has sexual relations with an Aramaean woman –**

[B] *R. Ishmael taught*, “This is one who marries a gentile woman and produces children.

[C] “He thereby brings up from her enemies of the Omnipresent.”

[D] It is written, “When Phinehas the son of Eleazar, son of Aaron the priest, saw” (Num. 25:7).

[E] What did he see?

[F] He saw the incident and he remembered the law: **He who has sexual relations with an Aramaean woman – zealots beat him up.**

[G] *It was taught*: This is not with the approval of sages.

[H] Is it possible that Phinehas acted without the approval of sages?

[I] Said R. Judah bar Pazzi, “They wanted to declare him excommunicated, were it not that the Holy Spirit rested upon him and stated, ‘And it shall be to him, and to his descendants after him, the covenant of a perpetual priesthood, because he was jealous for his God, and made atonement for the people of Israel’” (Num. 25:13).

[IV:1 A] *What is the Scriptural basis for the opinion of rabbis [R. Aqiba at M. 9:7H]?*

[B] It is said here [in regard to a false prophet], “He will surely die” (Deut. 13:5).

[C] And it is said in another context, “Everyone who comes near to the tabernacle of the Lord shall die” (Num. 17:13). [Derive the rule governing an ordinary person from Num. 17:13, not from Deut. 13:5, which speaks of a prophet.]

- [D] *What is the Scriptural basis for the position of rabbis?*
- [E] Here it is said, “He will surely die,” and in another context it is said, “The stranger who comes near shall be put to death” (Num. 18:7).
- [F] It is better that the language, “he will die,” should impute meaning to the same usage, namely, “he shall die,” but let not, “he shall die,” impart meaning to the language, “shall be put to death.”

YERUSHALMI SANHEDRIN

CHAPTER TEN

10:1

[A] All Israelites have a share in the world to come,

[B] as it is said, “Your people also shall be all righteous, they shall inherit the land forever; the branch of my planting, the work of my hands, that I may be glorified” (Is. 60:21).

[C] And these are the ones who have no portion in the world to come:

[D] He who says, the resurrection of the dead is a teaching which does not derive from the Torah, and the Torah does not come from Heaven; and an Epicurean.

[E] R. Aqiba says, “Also: He who reads in heretical books,

[F] “and he who whispers over a wound and says, ‘I will put none of the diseases upon you which I have put on the Egyptians, for I am the Lord who heals you’ (Ex. 15:26).”

[G] Abba Saul says, “Also: He who pronounces the divine Name as it is spelled out.”

[I:1 A] They added to the list of those [who have no portion in the world to come (M. San. 10:1)]:

[B] he who breaks the yoke, violates the covenant, deals arrogantly with the Torah, pronounces the Divine Name as it is spelled out [M. 10:1G] –

[C] they have no portion in the world to come [T. San. 12:9].

[D] “He who breaks the yoke” – this is he who says, “There is a Torah, but I do not bear it [on me].”

[E] “He who violates the covenant” is he who extends the foreskin [to hide the mark of circumcision].

[F] “He who deals arrogantly with the Torah” is he who says, “The Torah does not come from Heaven.”

[G] *Now have you not already learned this item: “... and the Torah does nor come from Heaven” [M. San. 10:1D(2)]?*

[H] *R. Haninah of Antonia (‘ntwny) taught before R. Mana, “This is one who violates the rules of the Torah in public,*

[I] *“for example, Jehoiakim son of Josiah, king of Judah, and his followers.”*

[I:2 A] As to idolatry and fornication,

[B] R. Jonah and R. Yosah –

[C] One of them said, “These are among the lesser violations of the law [which are punished in this world only].”

[D] The other of them said, “They are among the greater violations of the law [which are punished in the world to come].” [This is clarified shortly.]

[E] *How shall we interpret this matter?*

[F] If it concerns repentance, nothing stands before those who repent.

[G] *But this is how we must interpret the matter:* concerning one who did not repent and died through extirpation.

[H] If the greater part of his record consisted of honorable deeds, and the smaller part, transgressions, they exact punishment from him [in this world, as at C].

[I] If the smaller part of the transgressions which he has done are of the lesser character, [he is punished] in this world so as to pay him his full and complete reward in the world to come.

[J] If the greater part of his record consisted of transgressions and the lesser part of honorable deeds, they pay him off with the reward of the religious deeds which he has done entirely in this world, so as to exact punishment from him in a whole and complete way in the world to come.

[K] If the greater part of his record consisted of honorable deeds, he will inherit the Garden of Eden. If the greater part consisted of transgressions, he will inherit Gehenna.

[L] [If the record] was evenly balanced –

[M] Said R. Yosé b. Haninah, “‘... forgives sins,’ is not written here, but rather, ‘... forgives [a] sin’ (Num 14:18). That is to

say, the Holy One, blessed be he, tears up one bond [recorded] among the transgressions, so that the honorable deeds then will outweigh the others.”

[N] Said R. Eleazar, “‘And that to thee, O Lord, belongs steadfast love. For thou dost requite a man according to his work’ (Ps. 62:13). ‘His deed’ is not written here, but ‘*like his deed*’ – if he has none, you give him one of yours.”

[O] *That is the view of R. Eleazar.* R. Eleazar said, “[The Lord passed before him, and proclaimed, The Lord, the Lord, a God merciful and gracious, slow to anger,] and abounding in steadfast love [and faithfulness]’ (Ex. 34:6). He tips the scale in favor of mercy.”

[P] *R. Jeremiah said R. Samuel bar R. Isaac asked about the following:* “‘Righteousness guards him whose way is upright, but sin overthrows the wicked’ (Prov. 3:6). ‘Misfortune pursues sinners, but prosperity rewards the righteous’ (Prov. 13:21). ‘Toward the scorner he is scornful, but to the humble he shows favor’ (Prov. 3:34). ‘He will guard the feet of his faithful ones; but the wicked shall be cut off in darkness; [for not by might shall a man prevail]’ (1 Sam. 2:9). ‘The wise will inherit honor, but fools get disgrace’ (Prov. 3:35).

[Q] “*Now do they build a fence and lock the doors? And thus indeed is the way, that they do build a fence and lock the doors, [as we shall now see that God makes it possible for the righteous to do righteous deeds and confirms the wicked in their way too].*”

[R] R. Jeremiah in the name of R. Samuel bar R. Isaac: “‘[If] a man keeps himself from transgression once, twice, and three times, from that time forth, the Holy One, blessed be he, keeps him from it.’”

[S] *What is the Scriptural basis for this statement?*

[T] “‘Behold, God does all these things, twice, three times, with a man’” (Job 33:29).

[U] *Said R. Zeira, “And that is on condition that the man not revert [to his evil deeds].”*

[V] *What is the Scriptural basis for this statement?*

[W] “‘A threefold cord is never broken’ is not written, but rather:

[X] “[And though a man might prevail against one who is alone, two will withstand him.] A three fold cord is not quickly broken” (Qoh. 4:12).

[Y] For if one lays stress on it, indeed it will snap.

[Z] R. Huna in the name of R. Abbahu: “The Holy One, blessed be he — before him there is no forgetting, as it were.

[AA] “But — as it were — in behalf of Israel he turns absentminded.”

[BB] *What is the Scriptural basis for this statement?*

[CC] “[Who is a God like thee,] pardoning iniquity [and passing over transgression for the remnant of his inheritance]?” (Mic. 7:1 8).

[DD] And so did David say, “Thou didst forgive the iniquity of thy people; thou didst pardon all their sin” (Ps. 85:2).

- [I:3 A] **R. Mattia b. Heresh raised the question in session before R. Eleazar b. Azariah, saying to him, “Have you heard the four distinctions among kinds of atonement which R. Ishmael expounded?”**
- [B] **He said to him, “They are three, outside of repentance.”**
- [C] **One verse in Scripture says, “Return, O faithless children, [says the Lord; for I am your master; I will take you, one from a city and two from a family, and I will bring you to Zion]” (Jer. 3:14).**
- [D] **And another verse in Scripture says, “For on this day shall atonement be made for you, to cleanse you; [from all your sins you shall be clean before the Lord]” (Lev. 16:30).**
- [E] **And one verse in Scripture says, “Then I will punish their transgression with the rod and their iniquity with scourges” (Ps. 89:33).**
- [F] **And another verse in Scripture says, “[The Lord of hosts has revealed himself in my ears:] ‘Surely this iniquity will not be forgiven you till you die,’ [says the Lord God of Hosts]” (Is. 22:14).**

- [G] [Supply: R. Ishmael says,] **“There are four kinds of atonement.**
- [H] **“[If] one has violated a positive commandment but repented, he hardly moves from his place before the Holy One, blessed be he, forgives him.**
- [I] **“And in this case it is said, ‘Return backsliding children. I will heal your backsliding’ (Jer. 3:22) [T. Yoma 4:6].**
- [J] **“[If] he has violated a negative commandment but repented, repentance suspends the punishment, and the Day of Atonement effects atonement.**
- [K] **“And in this case it is said, ‘For that day will effect atonement for you’ (Lev. 16:30) [T. Yoma 4:7].**
- [L] **“[If] he has deliberately violated [a rule for which the punishment is] extirpation or death at the hands of an earthly court, but repented, repentance and the Day of Atonement atone for half [of the punishment], and suffering on other days of the year wipes away the other half.**
- [M] **“And in this case it says, ‘Then will I visit their transgression with a rod’ (Ps. 89:3)).**
- [N] **“But he through whom the Name of Heaven is profaned deliberately (but who repented) – repentance does not have power to suspend [the punishment], nor the Day of Atonement to atone.**
- [O] **“But repentance and the Day of Atonement atone for a third, suffering atones for a third, and death wipes away the sin [27d], with suffering.**
- [P] **“And in this case it is said, ‘Surely this iniquity shall not be purged from you until you die’” (Is. 22:14) [T. Yoma 4:8].**
- [Q] **“Thus we learn that death wipes away sin.”**
- [R] Said R. Yohanan, **“This is the opinion of R. Eleazar b. Azariah, R. Ishmael, and R. Aqiba.**
- [S] **“But in the view of sages, the scapegoat effects atonement.”**
- [T] **How does it effect atonement?**
- [U] R. Zeira said, **“Step by step.”**
- [V] R. Haninah said, **“At the end [only].”**

[W] *What is the difference between these two views?*

[X] If one died suddenly.

[Y] *In the opinion of R. Zeira, the scapegoat already has effected atonement for him.*

[Z] *In the opinion of R. Haninah, the scapegoat has not effected atonement for him.*

[AA] *Said R. Hanina, “A Tannaitic teaching supports the position of R. Zeira.”*

[BB] R. Eleazar b. R. Simeon says, “A strict rule applies to the goat which does not apply to the Day of Atonement,

[CC] “and to the Day of Atonement which does not apply to the goat:

[DD] “for the Day of Atonement effects atonement [even if] no goat [is offered].

[EE] “But the goat effects atonement only along with the Day of Atonement [T. Yoma 4:16].

[FF] “A more strict rule applies to the goat:

[GG] “For the goat[’s sacrifice takes effect] immediately,

[HH] “but the Day of Atonement [takes effect only] at dusk” [T. Yoma 4:17].

[II] *Said R. Huna, “I was sitting before R. Jeremiah, and he said, ‘Interpret the saying to apply to a case in which they intended to bring yet another goat but did not bring it.’”*

[JJ] *Said R. Yosah b. Yosah, “But does the Holy One, blessed be he, not see what is to happen? Let the goat then effect atonement forthwith.”*

[I:4 A] It is written, “Because he has despised the word of the Lord, [and has broken his commandment, that person shall be utterly cut off; his iniquity shall be upon him]” (Num. 15:31).

[B] I know that this applies only when he despised the teaching of Torah [entirely].

[C] How do I know that [this applies] if he denied even a single word of Scripture, a single verse of Targum, a single argument *a fortiori*?

- [D] Scripture says, “[Because he has despised the word of the Lord,] and has broken his commandment, [that person shall be utterly cut off; his iniquity shall be upon him]” (Num. 15:31).
- [E] As to a single verse of Scripture: “[The sons of Lotan were Hori and Heman;] and Lotan’s sister was Timna” (Gen. 36:22).
- [F] As to a single verse of Targum: “Laban called it Jegarsahadutha: [but Jacob called it Galeed]” (Gen. 31:47).
- [G] As to a single argument *a fortiori*: “If Cain is avenged sevenfold, [truly Lamech seventy-sevenfold]” (Gen. 4:24).
- [H] Another interpretation: “For he has despised the word of the Lord” (Num. 15:31) – this refers to one who makes mention of teachings of Torah in a filthy place.

[I] *This teaching is illustrated in the following: R. Ila and the associates were sitting before an inn at evening [so not realizing where they were]. They said, “What is the law as to expressing a teaching of Torah?”*

[J] They said, “Now, since if it were day, we should see what is before us, but under these conditions, it is forbidden.”

[I:5 A] Bar Kappara said, “Ahaz and all of the evil kings of Israel have no portion in the world to come.”

[B] *What is the Scriptural basis for this statement?*

[C] “[All of them are hot as an oven, and they devour their rulers.] All their kings have fallen; and none of them calls upon me” (Hos. 7:7).

[D] *They objected to him,* “And lo, he is numbered in the era of the kings:

[E] “[The vision of Isaiah the son of Amoz, which he saw concerning Judah and Jerusalem] in the days of Uzziah, Jotham, Ahaz and Hezekiah, kings of Judah” (Is. 1:1).

[F] He said to them, “Because he was subject to shame.”

[G] *What sort of shame applied to him?*

[H] R. Aha in the name of R. Eleazar, R. Yosé in the name of R. Joshua b. Levi: “You find that when the prophet came to indict him, he fled to an unclean place and hid his face in an unclean place, as if to say that the Presence of God does not dwell in an unclean place.”

- [I] *This is in line with that which is written:* “And the Lord said to Isaiah, ‘Go forth to meet Ahaz, you and Shear-jashub your son, at the end of the conduit of the upper pool on the highway to the Fuller’s Field’” (Is. 7:3).
- [J] Do not read “The Fuller’s (KWBS) Field” but “The Field of the one who hides (KWBS) his face,” for he hid his face and fled from him.
- [K] Lo, how is this so?
- [L] When the prophet came to indict him, he fled to an unclean place and hid his face in an unclean place.
- [M] R. Judah says, “It was because he was punished through the suffering of his first-born son.”
- [N] *What is the Scriptural basis for this statement?*
- [O] “And Zichri, a mighty man of Ephraim, slew [Maaseiah the king’s son and Azrikam the commander of the palace and Elkanah the next in authority to the king]” (2 Chron. 28:7).
- [P] R. Hoshaiiah the Elder said, “It was because his father [Jotham b. Uzziah] was a righteous man.”
- [Q] As to Manassah, was his father not a righteous man?
- [R] Manassah’s father was a righteous man, but his son was evil.
- [S] And Hezekiah – his father was an evil man, and his son was evil.
- [T] For Hezekiah says, “‘Lo, it was for my welfare that I had great bitterness; [but thou hast held back my life from the pit of destruction, for thou hast cast all my sins behind my back]’” (Is. 38:17).
- [U] “It was bitter for me on the count of my predecessor, Ahaz, and it was bitter for me on the count of my successor, Manassah.”
- [V] As to Ahaz, his father was a righteous man and his son was a righteous man.
- [W] *This is in line with the following verse of Scripture:*
- [X] “Be assured, an evil man will not go unpunished, but those who are righteous will be delivered” (Prov. 11:21).

[Y] “He who is righteous” is not written, but rather, “Those who are righteous will be delivered.”

[Z] “He who is located between two righteous men [Jotham and Hezekiah] will be delivered.”

[AA] Another interpretation as to, “Be assured, an evil man will not go unpunished.”

[BB] Said R. Phineas, “This refers to him who does a righteous deed and wants to take the reward for it right away.”

[CC] Said R. Simon, “It is like a man who says, ‘Here is the sack, here is the *sela*, here is the *seah* measure – get up and measure out [wheat].’”

[DD] And you should know that that is the case, for lo, the fathers of the world, if they had wanted to take the reward for the commandments which they did in this world – how would the merit of their deeds have remained for their children after them?

[EE] *That is the meaning of that which Moses said to Israel*, “Then I will remember my covenant with Jacob, [and I will remember my covenant with Isaac and my covenant with Abraham, and I will remember the land]” (Lev. 26:42).

[I:6 A] How long did the merit of the patriarchs endure [to protect Israel]?

[B] R. Tanhuma said in the name of R. Hiyya the Elder, Bar Nahman stated in the name of R. Berekiah, R. Helbo in the name of R. Ba bar Zabeda: “Down to Joahaz.”

[C] “But the Lord was gracious to them and had compassion on them, [because of his covenant with Abraham, Isaac, and Jacob, and would not destroy them; nor has he cast them from his presence] until now” (2 Kings 13:23).

[D] “Up to that time the merit of the patriarchs endured.”

[E] Samuel said, “Down to Hosea.”

[F] “Now I will uncover her lewdness in the sight of her lovers, and no man shall rescue her out of my hand” (Hos. 2:12).

[G] “Now ‘man’ can refer only to Abraham, as you say, ‘Now then restore the man’s wife; for he is a prophet, [and he will pray for you, and you

shall live. But if you do not restore her, know that you will surely die, you, and all that are yours]' (Gen. 20:7) .

- [H] “And ‘man’ can refer only to Isaac, as you say, ‘[Rebekah said to the servant,] “Who is the man yonder, walking in the field to meet us?” [The servant said, “It is my master.” So she took her veil and covered herself” (Gen. 24:65).
- [I] “And ‘man’ can refer only to Jacob, as you say, ‘[When the boys grew up, Esau was a skilful hunter, a man of the field,] while Jacob was a quiet man, [dwelling in tents]’” (Gen. 25:27).
- [J] R. Joshua b. Levi said, “It was down to Elijah.”
- [K] “And at the time of the offering of the oblation, Elijah the prophet came near and said, ‘O Lord, God of Abraham, Isaac, and Israel, let it be known this day that thou art God in Israel, and that I am thy servant, [and that I have done all these things at thy word]’” (1 Kings 18:36).
- [L] R. Yudan said, “It was down to Hezekiah.”
- [M] “Of the increase of his government and of peace there will be no end, [upon the throne of David, and over his kingdom, to establish it, and to uphold it with justice and with righteousness from this time forth and for evermore. The zeal of the Lord of hosts will do this]” (Is. 9:6).
- [N] Said R. Aha, “The merit of the patriarchs endures forever [to protect Israel].”
- [O] “For the Lord your God is a merciful God; [he will not fail you or destroy you or forget the covenant with your fathers which he swore to them]” (Deut. 4:31).
- [P] This teaches that the covenant is made with the tribes.
- [Q] R. Yudan bar Hanan in the name of R. Berekiah: “Said the Holy One, blessed be he, to Israel, “My children, if you see the merit of the patriarchs declining, and the merit of the matriarchs growing feeble, go and cleave unto the trait of steadfast love.”
- [R] *What is the Scriptural basis for this statement?*
- [S] “For the mountains may depart and the hills be removed, [but my steadfast love shall not depart from you, and my covenant of peace shall not be removed, says the Lord, who has compassion on you]” (Is. 54:10).
- [T] “For the mountains may depart” – this refers to the merit of the patriarchs.

[U] “And the hills be removed” – this refers to the merit of the matriarchs.

[V] Henceforth: “But my steadfast love shall not depart from you, and my covenant of peace shall not be removed, says the Lord, who has compassion on you.”

[II:1 A] An Epicurean [M. San. 10:1D(3)]:

[B] R. Yohanan and R. Eleazar –

[C] *One said*, “It is a priest who said, ‘Now is *that* a scribe?!’”

[D] *The other said*, “It is a priest who said, ‘Now are *those* rabbis?!’”

[E] R. Eleazar and R. Samuel bar Nahman –

[F] *One said*, “It [unbelief] is comparable to a pile of stones. Once one of them shifts, all of them tumble down.”

[G] *And the other said*, “It is comparable to a storehouse full of straw. Even though you take out all of the straw which is in the storehouse, there still is straw which eventually will weaken the walls.”

[II:2 A] Rab said, “Korach was very rich. [The location of] Pharaoh’s treasures was revealed to him, between Migdol and the sea.” [This item breaks off here.]

[B] Rab said, “Korach was an Epicurean. What did he do? He went and made a prayer shawl which was entirely purple [although the law is that only the fringe was to be purple].”

[C] He went to Moses, saying to him, “Moses, our rabbi: A prayer shawl which is entirely purple, what is the law as to its being liable to show fringes?”

[D] He said to him, “It is liable, for it is written, ‘You shall make yourself tassels [on the four corners of your cloak with which you cover yourself]’” (Deut. 22:12).

[E] [Korach continued,] “A house which is entirely filled with holy books, what is the law as to its being liable for a *mezuzah* [containing sacred scripture, on the doorpost]?”

[F] He said to him, “It is liable for a *mezuzah*, for it is written, ‘And you shall write them on the doorposts of your house [and upon your gates]’” (Deut. 6:9).

- [G] He said to him, “A bright spot the size of a bean – what is the law [as to whether it is a sign of uncleanness in line with Lev. 13:2ff.]?”
- [H] He said to him, “It is a sign of uncleanness.”
- [I] “And if it spread over the whole of the man’s body?”
- [J] He said to him, “It is a sign of cleanness.”
- [K] [28a] At that moment Korach said, “The Torah does not come from Heaven, Moses is no prophet, and Aaron is not a high priest.”
- [L] Then did Moses say, “Lord of all worlds, if from creation the earth was formed with a mouth, well and good, and if not, then make it now!
- [M] “‘But if the Lord creates [something new, and the ground opens its mouth, and swallows them up, with all that belongs to them, and they go down alive to Sheol, then you shall know that these men have despised the Lord]’ (Num. 16:30).”
- [II:3 A]** Said R. Simeon b. Laqish, “Three denied their prophetic gift on account of the baseness [with which they were treated].
- [B] “And these are they: Moses, Elijah, and Micha.”
- [C] Moses said, “If these men die the common death of all men, [or if they are visited by the fate of all men, then the Lord has not sent me]” (Num. 16:29).
- [D] Elijah said, “Answer me, O Lord, answer me, [that this people may know that thou, O Lord, art God, and that thou hast turned their hearts back]” (1 Kings 18:37).
- [E] Micah said, “[And Micaiah said,] ‘If you return in peace, the Lord has not spoken by me.’ [And he said, ‘Hear, all you peoples!’]” (1 Kings 22:28).
- [F] “So they and all that belonged to them went down alive into Sheol; [and the earth closed over them, and they perished from the midst of the assembly]” (Num. 16:33).
- [G] R. Berekiah in the name of R. Helbo: “Even the mention of their names flew off the pages of the record books [of bonds and documents] containing them.”
- [H] Said R. Yosé bar Haninah, “Even a needle belonging to them which had been lent to an Israelite by them was swallowed up with them,

[I] “as it is written, ‘So they and all that belonged to them went down alive into Sheol’” (Num. 16:33).

[J] And who prayed in their behalf?

[K] R. Samuel bar Nahman said, “Moses prayed in their behalf: ‘Let Reuben live and not die, [nor let his men be few]’” (Deut. 33:6).

[L] R. Joshua b. Levi said, “Hannah prayed in their behalf.”

[M] *That indeed is the view of R. Joshua b. Levi, for R. Joshua b. Levi said in the name of R. Yosé, “So did the band of Korach sink and fall, until Hannah went and prayed for them.*

[N] “She said, ‘The Lord kills and brings to life; he brings down to Sheol and raises up’” (1 Sam. 2:6).

[III:1 A] R. Aqiba says, “Also: He who reads in heretical books” [M. San. 10:1E].

[B] These are, for example, the books of Ben Sira and the books of Ben Laanah.

[C] But as to the books of Homer and all books written henceforward – he who reads in them is tantamount to one who [merely] reads a letter.

[D] *What is the Scriptural basis for that statement?*

[E] “My son beware of anything beyond these. [Of making many books there is no end, and much study is weariness of the flesh]” (Qoh. 12:12).

[F] They are permitted for speculation, they are not permitted for serious work.

[G] “The sayings of the wise are like goads, [and like nails firmly fixed are the collected sayings which are given by one Shepherd]” (Qoh. 12:11).

[H] R. Huna said, “Like lovely pearls.”

[I] *There they call a pearl “dirah.”*

[J] “Like goads” (KDRBNWT).

[K] That is, like this ball for little girls (KDR BNWT).

[L] Just as this ball falls from hand to hand, but in the end comes out in yet some other hand, **so did Moses receive Torah from Sinai and hand it on to Joshua, Joshua to elders, elders to prophets, and prophets handed it on to the men of the Great Assembly** [M. Abot. 1:1].

[M] Another interpretation: “Like goads” – the same object bears three names, staff, goad, and lead.

[N] Staff (*marde’a*), because it shows the way for a cow.

[O] Goad – because it imparts knowledge to a cow.

[P] Lead – for it leads the cow to plough so as to give life to its owner.

[Q] Said R. Hama bar Haninah, “Now if for a cow a man makes a goad, for his impulse to do evil, which leads him from the life of this world and from the life of the world to come, how much the more so [should he make a goad]!”

[R] “[The sayings of the wise are like goads,] and like nails firmly fixed [are the collected sayings which are given by one Shepherd]” (Qoh. 12:11).

[S] Now why did he not say, “And like nails permanently knocked in,” and “like trees firmly fixed”?

[T] They chose [to compare] them to iron, and [also] praised them as the [pole] which is planted firmly.

[U] Another matter: “And like nails firmly fixed” – Now just as in the case of a nail, if you fix it firmly, then, even if fire should come and take the nail away from its place, the place in which it had been located still is to be discerned,

[V] so against whomever the sages have stretched forth their hands [for the purpose of excommunication], even though they went and drew him near again, in the end he will take what is his from their hands [and will ultimately be punished].

[W] Another matter: “Like nails firmly fixed” – nails is written not with an S but with an S [sin]. This represents an allusion to the twenty-four nails used in a sandal, and so too to the twenty-four cohorts’ watches of the Temple.

[X] And how many nails may there be in a sandal for a person to be permitted to go about in it on the Sabbath without thereby violating the law of M. Shab. 6:2, **a man may not go out with a nail-studded sandal**]?

[Y] R. Yohanan said, "Five, for the five books of the Torah."

[Z] Hanina said, "Seven [your bars shall be iron and bronze] and as your days so shall your strength be' (Dt. 33:25)."

[AA] Aha expounded in the name of R. Haninah, "nine."

[BB] Rabbi would put eleven on this one and thirteen on the other, that is, the number of priestly cohorts.

[CC] Yosé b. Haninah said, "The shoemaker's pegging is not counted as one of the nails."

[DD] *Ba Bar Zabeda raised the question before R. Zeira: "What is the law as to putting all of them on one shoe?"*

[EE] *He said to him, "It is permitted."*

[FF] He said to him, "What is the law as to putting all of them on one sandal?"

[GG] He said to him, "It is permitted."

[HH] *It was taught: They do not scrape off sandals and old shoes, but they do anoint them and wash them off to make them fit for wear on the Sabbath."*

[II] Qerispai in the name of R. Yohanan, a disciple of R. Hiyya the Elder says, "The former authorities would say, 'They do scrape them off,' and the latter authorities would say, 'They do not scrape them off.'"

[JJ] *They asked Rabbi, who said to them, "They do not scrape them off."*

[KK] *Said R. Zeira, "Rabbi was one of the earlier authorities, yet he said that they do not scrape*

them off. Thus is to be discounted one of the disciples of R. Hiyya the Elder.”

[LL] *Hiyya bar Ashi said, “We would be accustomed to sit before Rab and anoint and rinse off our shoes but we did not scrape them.”*”

[MM] *It was taught, A person should not put on new shoes or sandals unless he walked about in them while it was still day prior to the Sabbath.*

[NN] *And how much should he have walked about in them?*

[OO] *The members of the household of Bar Qappara say, “From the school house of bar Qappara to the school house of R. Hoshaiiah.”*

[PP] *The men of Sepphoris say, “From the synagogue of the Babylonians to the courtyard of R. Hama bar Haninah.”*

[QQ] *The men of Tiberias say, “From the great school to the shop of R. Hoshaiiah.”*

[RR] *It was taught: A person should not anoint shoes and new sandals on the Sabbath. A person should not anoint his foot with oil while it is in a shoe, or his foot when it is in a sandal. But he may anoint his foot with oil and then put it into a shoe or his foot with oil and put it into a sandal. A man may anoint his body with oil and roll about on new leather on the Sabbath and need not scruple on that account. But he should not put oil on a marble table in order to roll about on it. Rabban Simeon b. Gamaliel permits doing so [T. Shab. 16:14].*

[SS] *Another interpretation: “And like nails firmly fixed” – when teachings of the Torah go forth in a proper way from the*

mouth of the one who presents them, they are a pleasure to the ones who hear them, like nails firmly fixed.

[TT] And when they go forth in a garbled way, they are as bitter to the ones who hear them as nails.

[III:2 A] **“Collected sayings”** – the reference to “collections” refers only to the Sanhedrin,

[B] *as you say*, “And the Lord said to Moses, collect for me seventy men of the elders of Israel whom you know to be the elders of the people and officers over them and bring them to the tent of meeting and let them take their stand there with you” (Num. 11:16).

[C] Another interpretation: “Collected sayings” – sayings which are stated at an assembly.

[D] Said R. Simeon b. Laqish, “If someone should tell me that [there are traditions concerning] the Book of Chronicles in Babylonia, lo, I should make the trip and bring [them] back from there. And now, if all of our rabbis should gather together, they will be unable to bring them back from there [because they are so numerous and weighty].”

[E] “Given by one shepherd” –

[F] Said the Holy One, blessed be he, “If you hear a teaching from an Israelite minor, and it gave pleasure to you, let it not be in your sight as if one has heard it from a minor, but as if one has heard it from an adult,

[G] “and let it not be as if one has heard it from an adult, but as if one has heard it from a sage,

[H] “and let it not be as if one has heard it from a sage, but as if one has heard it from a prophet,

[I] “and let it not be as if one has heard it from a prophet, but as if one has heard it from the shepherd,

[J] “and there is as a shepherd only Moses, in line with the following passage: ‘Then he remembered the days of old, of Moses his servant. Where is he who brought out of the sea the shepherds of his flock? Where is he who put in the midst of them his holy Spirit?’ (Is. 63:11).

[K] “It is not as if one has heard it from the shepherd but as if one has heard it from the Almighty.”

[L] “Given by one Shepherd” – and there is only One who is the Holy One, blessed be he, in line with that which you read in Scripture: “Hear, O Israel: the Lord our God is one Lord” (Deut. 6:4).

[IV:1 A] He who whispers over a wound and says, ‘I will put none of the diseases upon you which [28b] I have put on the Egyptians; for I am the Lord who heals you’ (Ex. 15:26).

[B] Rab said, “But this [statement is prohibited] only if the one who says it then spits.”

[C] R. Joshua b. Levi said, “Even if one has said, ‘When a man has on the skin of his body a swelling or an eruption or a spot, and it turns into a leprous disease on the skin of his body’ (Lev. 13:2), and then has spat – he has no portion in the world to come.”

[V:1 A] Abba Saul says, “Also: he who pronounces the divine Name as it is spelled out” [M. San. 10:1G].

[B] R. Mana said, “For example, the Cutheans, who take an oath thereby.”

[C] R. Jacob bar Aha said, “It is written YH[WH] and pronounced AD[onai].”

10:2

[A] Three kings and four ordinary folk have no portion in the world to come.

[B] Three kings: Jeroboam, Ahab, and Manasseh.

[C] R. Judah says, “Manasseh has a portion in the world to come,

[D] “since it is said, ‘And he prayed to him and he was entreated of him and heard his supplication and brought him again to Jerusalem into his kingdom’ (2 Chr. 33:13).”

[E] They said to him, “To his kingdom he brought him back, but to the life of the world to come he did not bring him back.”

[F] Four ordinary folk: Balaam, Doeg, Ahitophel, and Gehazi.

[I:1 A] And all of [the three kings] invented new kinds of transgression.

[B] Now what did Jeroboam do?

[C] It was because he made two golden calves.

- [D] And is it not so that the Israelites had made any number of golden calves [so what was new about this]?
- [E] *R. Simeon b. Yohai taught*, “Thirteen golden calves did the Israelites make, and there was one which was common property for all of them.”
- [F] *What is the Scriptural basis for this statement?*
- [G] “[And he received the gold at their hand, and fashioned it with a graving tool, and made a molten calf; and they said,] ‘These are your gods, O Israel, [who brought you up out of the land of Egypt]’” (Ex. 32:4).
- [H] Lo, they were for the twelve tribes.
- [I] “[Even when they had made for themselves a molten calf and said,] ‘This is your God [who brought you up out of Egypt,’ and had committed great blasphemies]” (Neh. 9:18).
- [J] [The reference to “this is your god”] indicates the one which was common property for all.

[II:1 A] Now what did Ahab do?

- [B] It is written, “And as if it had been a light thing for him to walk in the sins of Jeroboam the son of Nebat, [he took for wife Jezebel the daughter of Ethbaal king of the Sidonians, and went and served Baal, and worshipped him]” (1 Kings 16:31).
- [C] And is it not so that the minor peccadilloes of Ahab are like the major crimes of Jeroboam?
- [D] So why was Jeroboam listed first of all?
- [E] It is because he is the one who began first the process of the ruin [of Israel].
- [F] What did Ahab do?
- [G] *He would adorn himself every day and get up before Hiel, commander of his army [1 Kings 16:34], and he would say to him, “How much am I worth today?” And he would say to him, “Thus and so.” Then he would take the amount [that he was said to be worth] and set it apart for an idol.*
- [H] *That is in line with the following:*

[I] [Ahab said to Elijah, “Have you found me, O my enemy?” He answered, “I have found you,] because you have sold yourself to do what is evil in the sight of the Lord” (1 Kings 21:20).

[J] *For six months R. Levi would interpret the following verse of Scripture in a negative sense:*

[K] “There was none who sold himself to do what was evil in the sight of the Lord like Ahab, [whom Jezebel his wife incited]” (1 Kings 21:25).

[L] *Then [Ahab] came to him by night and said to him, “What made you take this view, and how have I sinned in your sight? You take account of the beginning of the verse, but you ignore the end of it: ‘whom Jezebel his wife incited’!”*

[M] *So for six months Levi went and interpreted the matter in a positive way, “There was none who sold himself to do what was evil in the sight of the Lord like Ahab, whom Jezebel his wife incited” (1 Kings 21:25).*

- [II:2 A] **It is written, “In his days Hiel of Bethel built Jericho; he laid its foundation at the cost of Abiram his firstborn, and set up its gates at the cost of his youngest son, Segub, [according to the word of the Lord, which he spoke by Joshua the son of Nun]” (1 Kings 16:34).**
- [B] **Hiel came from Jehoshaphat. Jericho is in the territory of Benjamin.**
- [C] **But they assign more credit to the one who is creditable, and they assign more blame to the one who is blameworthy.**
- [D] **And that is in line with the following: “He laid its foundation at the cost of Abiram, his firstborn, and set up its gates at the cost of his youngest son, Segub.”**
- [E] **Now in the case of Abiram, the firstborn, he had none whence to learn, but in the case of Segub, the youngest son, that evil man surely had whence to learn.**
- [F] **[They did as they did] because they wanted to make money, so the curse fell upon them, and they [the walls and gates] went and trembled, in line with the following verse: “[In his days Hiel of Bethel built Jericho; he laid its foundation at the cost of Abiram his firstborn, and set up its gates at the cost of his youngest son,**

Segub,] according to the word of the Lord, which he spoke by Joshua the son of Nun” (1 Kings 16:34). [T. San. 14:7-9].

- [II:3 A] It is written, “Now Elijah the Tishbite, of Tishbe in Gilead, said to Ahab, ‘As the Lord the God of Israel lives, before whom I stand, there shall be neither dew nor rain these years, except by my word’” (1 Kings 1)
- [B] Now what has one thing to do with the other [that the matter of Hiel is joined to the matter of the drought]?
- [C] *But the Holy One, blessed be he, said to Elijah, “This Hiel is a great man. Go and see him [because his sons have died].”*
- [D] *He said to him, “I am not going to see him.”*
- [E] *He said to him, “Why?”*
- [F] *He said to him, “For if I go and they say things which will outrage you, I shall not be able to bear it.”*
- [G] *He said to him, “Then if they say things which outrage me, then whatever you decree against them I shall carry out.”*
- [H] *He came and found them occupied with the following verse: “Joshua laid an oath upon them at that time, saying, ‘Cursed before the Lord be the man that rises up and rebuilds this city, Jericho. At the cost of his firstborn shall he lay its foundation, and at the cost of his youngest son shall he set up its gates’” (Josh. 6:26).*
- [I] *He said, “Blessed be the God of the righteous, for he carries out the words of righteous men.”*
- [J] Now Ahab was there. Ahab said to him, “Now who is greater than whom – Moses or Joshua?”
- [K] They said to him, “Moses.”
- [L] He said to him, “In the Torah of Moses it is written, ‘Take heed lest your heart be deceived, and you turn aside and serve other gods and worship them’ (Deut. 11:16).
- [M] *“Now what is written thereafter? ‘And he will be angry with you and shut up the heaven that there be no rain’ (Deut. 11:16f.).*
- [N] *“Now I have not left a single idol in the world, which I have not worshipped. And yet every sort of good and consolation which there are in the world have come in my generation.*

- [O] *“Thus what Moses taught has not come about, while what Joshua taught did come about [in the death of the two sons].”*
- [P] Elijah then said to him, “As the Lord God of Israel lives, before whom I stand, there shall not be dew or rain these years, but according to my word” (1 Kings 17:1).
- [Q] When he heard this, he began to cry.
- [R] *That is in line with the following verse of Scripture:* “And when Ahab heard those words, he rent his clothes, and put sackcloth upon his flesh, and lay in sackcloth, and went about dejectedly” (1 Kings 21:27).
- [S] How long did he afflict himself? It was in periods of three hours. [That is to say,] if he was accustomed to eat at three hours, he ate at six. If it was at six, he ate at nine.
- [T] “And he went about dejectedly”?
- [U] What is the meaning of “dejectedly”?
- [V] R. Joshua b. Levi said, “That he went about barefooted.”
- [M] It is written, “And the word of the Lord came to Elijah the Tishbite, saying, ‘Have you seen how Ahab has humbled himself before me, [I will not bring the evil in his days; but in his son’s days I will bring the evil upon his house]’” (1 Kings 21:28-29).
- [X] Said the Holy One, blessed be he, to Elijah, “Now see the good lot which I have given in my world. If a man sins before me in much but repents, I accept him back.”
- [Y] *This is in line with the following verse of Scripture:* “Have you seen how Ahab has humbled himself before me” (1 Kings 21:28).
- [Z] Do you see how Ahab has repented?
- [AA] “Because he has humbled himself before me, ‘I shall not bring the evil in his days; but in his son’s days, I will bring the evil upon his house’” (1 Kings 21:29).
- [II:4 A]** Now what did Ahaz do?
- [B] It was because he built a throne in the courtyard of the Temple.
- [C] *This is in line with the following verse of Scripture:* “And on the eighth day of the month they came to the vestibule of the Lord” (2 Chron. 29:17, cited following PM).

- [D] R. Honiah in the name of R. Eleazar: “Why is he called ‘Ahaz’ [seize]?”
- [E] “Because he seized the synagogues and schools.”
- [F] To what is Ahaz to be compared?
- [G] To a king who had a son, who handed him over to a governor. He wanted to kill him. He said, “If I kill him, I shall be declared liable to death. But lo, I’ll take his wet-nurse from him, and he’ll die on his own.”
- [H] So did Ahaz say, “If there are no lambs, there will be no sheep; if there are no sheep, there will be no flock; if there is no flock, there will be no shepherd; if there is no shepherd, there will be no world, if there is no world – as it were...”
- [I] So did Ahaz reckon, saying, “If there are no children, there will be no adults; if there are no adults, there will be no sages; if there are no sages, there will be no prophets; if there are no prophets, there will be no Holy Spirit; if there is no Holy Spirit, there will be no synagogues or schoolhouses – as it were. In that case, as it were, the Holy One, blessed be he, will not let his Presence rest upon Israel.”
- [J] *R. Jacob bar Abayye in the name of R. Aha brings proof of the same proposition from the following verse of Scripture: “I will wait for the Lord, who is hiding his face from the house of Jacob, and I will hope in him” (Is. 8:17).*
- [K] There was never a more difficult hour for the world than that hour at which the Holy One, blessed be he, said to Moses, “And I will surely hide my face in that day [on account of all the evil which they have done, because they have turned to other gods]” (Deut. 31:18).
- [L] At that hour: “I will wait for the Lord,” for thus did he say to him at Sinai, “[And when many evils and troubles have come upon them, this song shall comfort them as a witness,] for it will live unforgotten in the months of their descendants; [for I know the purposes which they are already forming, before I have brought them into the land that I swore to give]” (Deut. 31:21).
- [M] And to what end?
- [N] “Behold, I and the children whom the Lord has given me [are the signs and the portents in Israel from the Lord of hosts, who dwells on Mount Sinai]” (Is. 8:18).

[O] Now were they really his children? And were they not his disciples?

[P] But it teaches that they were as precious to him as his children, so he called them, “My children.”

[III:1 A] Now what did Manasseh do?

[B] It is written, “In those days Hezekiah became sick and was at the point of death. [And Isaiah the prophet and son of Amoz came to him, and said to him, ‘Thus says the Lord: Set your house in order; for you shall die, you shall not recover]’” (Is. 38:1).

[C] “For [28c] you shall die, and you shall not recover” –

[D] “You shall die” in this world, “And you shall not recover” in the world to come.

[E] He said to him, “Why?”

[F] *He said to him, “Because you did not want to raise up children.”*

[G] *He said to him, “And why did you not want to raise up children?”*

[H] *He said to him, “Because I saw that I would produce an evil son. On that account, I did not want to raise up children.”*

[I] *He said to him, “Take my daughter. Perhaps on my account and on your account she will produce a good man.”*

[J] *Even so, only a bad person came forth.*

[K] *That is in ‘.line with the following verse of Scripture: “The knaveries of the knave are evil; [he devises wicked devices to ruin the poor with lying words, even when the plea of the needy is right]” (Is. 32:7).*

[L] *He said to him, “I am not going to listen to you. I am going to follow only that which my elder said to me, ‘If you see bad dreams or bad visions, seek three things and you will be saved, and these are they: prayer, charity, and repentance.’”*

[M] And three of them are to be derived from a single verse of Scripture:

[N] “If my people who are called by my name humble themselves, and pray and seek my face, and turn from their wicked ways, then I will hear from heaven, and will forgive their sin and heal their land” (2 Chron. 7:14).

[O] “Pray” – this refers to prayer.

[P] “And seek my face” – this refers to charity,

[Q] as you say, “As for me, I shall behold thy face in righteousness; when I awake, I shall be satisfied with beholding thy form” (Ps. 17:15).

[R] “And turn from their wicked ways” – this refers to repentance.

[S] Now if they do these things, what is written concerning them?

[T] “Then I will hear from heaven and will forgive their sin and heal their land.”

[U] Forthwith, “And he turned,” as it is written, “Then Hezekiah turned his face to the wall, and prayed to the Lord” (Is. 38:2).

[V] To which wall did he turn?

[W] R. Joshua b. Levi, “It was to the wall of Rahab that he turned: ‘[Then she let them down by a rope through the window,] for her house was built into the city wall, so that she dwelt in the wall’” (Josh. 2:15).

[X] He said to him, “Lord of all worlds, Rahab saved two souls for you, and see how many souls you saved for her!”

[Y] *That is in line with the following verse which is written:* “So the young men who had been spies went in, and brought out Rahab, and her father and mother and brothers and all who belonged to her; and they brought all her kindred, and set them outside the camp of Israel” (Josh. 6:23).

[Z] R. Simeon b. Yohai taught, “Even if there were in her families two hundred men, who went and married into two hundred families, all the two hundred families were saved on her account.

[AA] “Now my forefathers, who brought near to you all these proselytes, how much the more so should you give me back my

[BB] R. Samuel b. Nahman said, “He looked toward the wall of the Shunamite: ‘Let us make a small roof chamber with walls, and put there for him a bed, a table, a chair, and a lamp, [so that whenever he comes to us, he can go in there]’” (2 Kings 4:10).

[CC] He said to him, “Lord of all worlds, the Shunamite made a single wall for Elisha, and you saved the life of her son. My forefathers, who made all this glory for you – how much the more so that you should give me back my life?”

- [DD] R. Hinnena bar Papa said, “It was to the walls of the Temple that he turned.”
- [EE] “By setting their threshold against my threshold and their doorpost against my doorpost, with only a wall between me and them. [They have defiled my holy name by their abominations which they have committed, so I have consumed them in my anger]” (Ez. 43:8).
- [FF] “They were great men and could not go up and pray whenever at any time, and they would pray in their houses. The Holy One, blessed be he, credited it to them as if they had prayed in the house of the sanctuary. Now my fathers, who gave such glory to you – how much the more so that you should give me back my life.”
- [GG] And rabbis say, “It was to the walls of his heart that he turned.
- [HH] ““My anguish, my anguish! I writhe in pain! Oh, the walls of my heart! My heart is beating wildly; I cannot keep silent; for I hear the sound of the trumpet, the alarm of war” (Jer. 4:19).
- [II] He said before him, “Lord of all worlds, I have gone over the two hundred and forty-eight limbs that you have given me, and I have not found that I ever angered you in any one of them. How much the more so, then, that my life should be given back to me?”
- [JJ] It is written, “Then the word of the Lord came to Isaiah: ‘Go and say to Hezekiah, Thus says the Lord, the God of David your father: I have heard your prayer, I have seen your tears, behold I will add fifteen years to your life’” (Is. 38:4-5).
- [KK] Isaiah said to him, “Thus I’ve already told him, and how thus do I say to him?”
- [LL] “*He is a man occupied with great affairs, and he will not believe me.*”
- [MM] *God said to him, “He is a very humble man, and he will believe you. And not only so, but as yet the rumor has not gone forth in the city.”*
- [NN] “And before Isaiah had gone out of the middle court, the word of the Lord came to him” (2 Kgs. 20:4).
- [OO] *When Manasseh arose, he pursued Isaiah, wanting to kill him. Isaiah fled from him. He escaped to a cedar, which swallowed him up, except for the show fringes of his cloak, which revealed where he was.*

[PP] *They came and told him. He said to them, “Go and cut the cedar down.” They cut the cedar down, and blood showed [indicating that Isaiah had been sawed also.]*

[QQ] “And also for the innocent blood that he had shed; for he filled Jerusalem with innocent blood, and the Lord would not pardon” (2 Kgs. 24:4).

[RR] It is on this basis that he has no portion in the world to come.

[III:2 A] [Against the view of Judah, **R. Judah says, “Manasseh has a portion in the world to come,**] lo, it is written, “Surely this came upon Judah at the command of the Lord, to remove him out of his sight, for the sins of Manasseh, according to all that he had done” (2 Kgs. 24:3) –

[B] shall we say that this was before he repented, so that he did inherit the world to come after all?

[C] “On account of all the wratch whereby Manasseh had caused him to be warthful” –

[D] shall we say that this was before he repented?

[E] And lo, it is written, “And he did not humble himself before the Lord, as Manasseh his father had humbled himself, but this Amon incurred guilt more and more” (2 Chr. 33:23).

[F] He did not add to the sins, he made up entirely new and unprecedented ones.

[G] And is it not written, “Moreover Manasseh shed very much innocent blood, till he had filled Jerusalem from one end to another, besides the sin that he made Judah to sin so that they did what was evil in the sight of the Lord” (2 Kgs. 21:16).

[H] Now is it possible for human beings to fill up the whole of Jerusalem with innocent blood from one end to the other?

[I] But he killed Isaiah, who was equal to Moses, as it is written concerning him, “With him I speak mouth to mouth, clearly and not in dark speech, and he beholds the form of the Lord. Why then were you not afraid to speak against my servant Moses?” (Num. 12:8).

[J] And it is written, “The Lord spoke to Manasseh and his people, but they gave no heed. Therefore the Lord brought upon them the commanders of the army of the king of Assyria, who took

Manasseh with hooks and bound him with fetters of bronze and brought him to Babylon” (2 Chr. 33:10-11).

[K] What is “with hooks”?

[L] They took him with handcuffs.

[M] Said R. Levi, “They made him a mule of bronze, and they put him in it, and they made a fire under it. When he began to feel pain, he left no a single idol in the world on the name of which he did not call.

[N] “When he realized that it did him no good, he said, ‘I remember that my father would read to me this verse in the synagogue: “When you are in tribulation, and all these things come upon you in the latter days, you will return to the Lord your God and obey his voice, for the Lord your God is a merciful God; he will not fail you or destroy you or forget the covenant with your fathers which he swore to them”’ (Deut. 4:31).

[O] “Lo, I shall call upon him. If he answers me, well and good, and if not, lo, all ways are the same [and no good].”

[P] Now all the ministering angels went and closed the windows, so that the prayer of Manasseh should not reach upward to the Holy One, blessed be he.

[Q] The ministering angels were saying before the Holy One, blessed be he, “Lord of the world, a man who worshipped idols and put up an image in the Temple – are you going to accept him back as a penitent?”

[R] He said to them, “If I do not accept him back as a penitent, lo, I shall lock the door before all penitents.”

[S] What did the Holy One, blessed be he, do? He made an opening [through the heavens] under his throne of glory and listened to his supplication.

[T] *That is in line with the following verse of Scripture:* “He prayed to him, and God received his entreaty (‘TR) and heard his supplication and brought him again [to Jerusalem into his kingdom]. [Then Manasseh knew that the Lord was God]” (2 Chron. 33:13).

[U] Said R. Eleazar b. R. Simeon, “In Arabia that they call ‘breaking through (HTRTH) ‘supplication’ (‘TRTH).”

[V] “And they brought him again to Jerusalem into his kingdom” (2 Chron. 33:13).

[W] With what did they bring him back?

[X] Samuel bar Buna in the name of R. Aha: “They brought him back with the wind.”

[Y] *This is in line with that which you say*, “He brings back the wind.”

[Z] “And Manasseh knew that the Lord [28d] was God” (2 Chron. 33:13).

[AA] At that moment Manasseh said, “There is justice and there is a judge.”

[IV:1 A] Now what did the evil Balaam do [to warrant losing his portion in the world to come]?

[B] It was because he gave advice to Balak son of Zippor on how to cause Israel’s downfall by the sword.

[C] He said to him, “The God of this nation hates fornication. So put up your daughters for fornication, and you will rule over them.”

[D] *He said to him, “And will [the Moabites] listen to me [when I tell them to turn their daughters into whores]?”*

[E] *He said to him, “Put up your own daughter first, and they will see and then accept what you say to them.”*

[F] *That is in line with the following verse of Scripture:* “[And the name of the Midianite woman who was slain was Cozbi the daughter of Zur,] who was the head of the people of a father’s house in Midian” (Num. 25:15).

[G] What did they do? They built for themselves temples from Beth HaJeshimmon to the Snowy Mountain, and they set in them women selling various kinds of sweets. They put the old lady outside, and the young girl inside.

[H] Now the Israelites would then eat and drink, and one of them would go out to walk in the marketplace, and he would buy something from a stall-keeper. The old lady then would sell him the thing for whatever it was worth, and the young girl would say, “Come on in and take it for still less.” So it was on the first day, the second day, and the third day. And then, she would say to him, “From now on, you belong here. Come on in and choose whatever you like.”

- [I] When he came in, [he found there] a flagon of wine, Ammonite wine, which is very strong. And it serves as an aphrodisiac to the body, and its scent was enticing. (Now up to this time the wine of gentiles had not been prohibited for Israelite use by reason of its being libation wine.)
- [J] Now the girl would say to him, “Do you want to drink a cup of wine,” and he would reply to her, “Yes.” So she gave him a cup of wine, and he drank it.
- [K] When he drank it, the wine would burn in him like the Venom of a snake. Then he would say to her, “Surrender yourself [sexually] to me.” She would say to him, “Do you want me to ‘surrender’ myself to you?” And he would say “Yes.” Then she took out an image of Peor from her bosom, and she said to him, “Bow down to this, and I’ll surrender myself to you.” And he would say to her, “Now am I going to bow down to an idol?” And she would say to him, “You don’t really bow down to it, but you expose yourself to it.”

[L] *This is in line with that which sages have said*, “He who exposes himself to Baal Peor – this is the appropriate manner of worshipping it; and he who tosses a stone at Merkolis this is the appropriate manner of worshipping it.”

**THE FOLLOWING REPEATS
THE FOREGOING WITH SLIGHT VARIATIONS:**

- [M] [When he came in, he found] there a flagon full of wine, Ammonite wine, which is very strong. And it serves as an aphrodisiac to incite the body to passion, and its scent was enticing. (Now up to this time the wine of gentiles had not been prohibited for Israelite use by reason of its being libation wine.) Now the ,girl would say to him, “Do you want to drink a cup of wine,” and he would reply to her, “Yes.” So she gave him a cup of wine, and he drank it. When he drank it, the wine would burn in him like the venom of a snake. Then he would say to her, “Surrender yourself to me.”
- [N] And she would say to him, “Separate yourself from the Torah of Moses, and I shall ‘surrender’ myself to you.”
- [O] *That is in line with the following verse of Scripture:* “[Like grapes in the wilderness, I found Israel. Like the first fruits on the fig tree, in its first season, I saw your fathers.] But they came to Baal Peor, and consecrated themselves to

Baal, and became detestable like the thing they loved” (Hos. 9:10).

[P] They became detested until they became detestable to their Father who is in Heaven.

[Q] Said R. Eleazar, “Just as this nail – one cannot separate it from the door without a piece of wood, so it is not possible to separate from Peor without [the loss of] souls.”

[IV:2 A] M'SH B: Subetah from Ulam hired out his ass to a gentile woman, [to take her] to bow down to Peor. When they got to Peor's house, she said to him, “Wait for me here, while I go in and worship to Peor.” She she came out, he said to her, “Wait for me here, until I go in and do just what you did.” What did he do? He went in and took a shit, and he wiped his ass on the nose of Peor. Everyone present praised him, and said to him, “No one ever did it the way this one did it!”

[B] M'SH B: Menahem of Gypta Arye was moving jugs. The chief of Peor came to him by night. What did he do? He took the spit and stood up against him, and [the chief] fled from him. He came to him the next night. Menahem said to him, “How are you going to curse me? You are afraid of me!” And he said to him, “I'm not going to curse you anymore.”

[C] M'SH B: An officer came from overseas to bow down to Peor. He said to them, “Bring me an ox, a ram, a sheep, to worship Peor.” They said to him, “You don't have to go to all that trouble. All you have to do is expose yourself to it.” What did he do? He called up his troops, who beat them and broke their skulls with staves, and he said to them, “Woe for you and for this big ‘mistake’ of yours!”

[IV:3 A] It is written: “And the Lord was angry at Israel, and the Lord said to Moses, ‘Take all the chiefs of the people, and hang them in the sun before the Lord, [that the fierce anger of the Lord may turn away from Israel]’” (Num. 25:4).

[B] He said to him, “Appoint their heads as judges over them, and let them put the sinners to death toward the sun.”

[C] *This is in line with the following verse of Scripture:* “And Moses said to the judges of Israel, ‘Everyone of you slay his men who have yoked themselves to Baal Peor’” (Num. 25:5).

[D] And how many are the judges of Israel? They are 78,600 [calculation as follows:]

- [E] Heads of thousands are six hundred.
- [F] Heads of hundreds are six thousand.
- [G] Heads of troops of fifty are twelve thousand.
- [H] Heads of troops of ten are sixty thousand.
- [I] It thus turns out that the judges of Israel [heads of all units] are 78,600.
- [J] *He said to them, "Each one of you kill two."* So 157,200 turned out to be put to death.
- [K] "And behold, one of the people of Israel came and brought a Midianite woman to his family, in the sight of Moses [and in the sight of the whole congregation of the people of Israel, while they were weeping at the door of the tent of meeting]" (Num. 25:6).
- [L] What is the meaning of, "In the sight of Moses"?
- [M] *It was like someone who says, "Here – right in your eye!"*
- [N] He said [to Moses] "Is your Zipporah not Midianite, and are not her feet cloven? [Is she not clean for you, fit to be your wife?] This one [Zipporah] is clean but that one [my woman] is unclean?!"
- [O] Now Phineas was there. He said, "Is there no man here who will kill him even at the expense of his life?"
- [P] "Where are the lions?"
- [Q] "Judah is a lion's whelp; [from the prey, my son, you have gone up. He stooped down, he couched as a lion, and as a lioness who dares to rouse him?]" (Gen. 49:9).
- [R] "[And of Dan he said,] 'Dan is a lion's whelp, [that leaps forth from Bashan]'" (Deut. 33:22).
- [S] "Benjamin is a ravenous wolf, [in the morning devouring the prey, and at even dividing the spoil]" (Gen. 49:27).
- [T] When he [Phineas] saw that no Israelite did a thing, forthwith, Phineas stood up from his Sanhedrin seat and took a spear in his hand and put the iron head of it under his fascia. He leaned on the wood [of the spear so concealing its purpose] until he reached his door. When he came to his door, [the occupant] said to him, "Whence and whither, Phineas?"
- [U] He said to them, "Do you not agree with me that the tribe of Levi is near the tribe of Simeon under all circumstances?"

[V] They said to him, “Leave him [me] alone. Maybe the separatists [Hebrew: Perushaim, a.k.a., Pharisees] have permitted this matter [after all]!”

[M] When he got in, the Holy One, blessed be he, did six miracles.

[X] The first miracle: It is the usual way [after intercourse] to separate from one another, but the angel of the Lord kept them stuck together.

[Y] The second miracle: He aimed the spear directly into the belly of the woman, so that the man’s penis would stick out of her belly.

[Z] *And this was on account of the nitpickers, so that they should not go around saying, “He too shouldered his way in and did what came naturally.”*

[AA] The third miracle: The angel sealed their lips, so that they could not cry out.

[BB] The fourth miracle: They did not slip off the spear but remained in place. [Phineas lifted them up on the spear.]

[CC] The fifth miracle: The angel raised the lintel [so that he could carry the two of them on the spear], so that both of them could go out on his shoulders.

[DD] The sixth miracle: When he went out and saw the plague [29a] afflicting the people, what did he do? He threw them down to the ground and stood and prayed.

[EE] *This is in line with the following verse of Scripture: “Then Phinehas stood up and interposed, and the plague was stayed” (Ps. 106:30).*

[FF] Now when the Israelites came to take vengeance against Midian, they found Balaam ben Beor there.

[GG] Now what had he come to do?

[HH] He had come to collect his salary for the twenty-four thousand Israelites who had died in Shittim on his account.

[II] *Phineas said to him, “You did not do what you said, and you also did not do Balak’s bidding.*

[JJ] *“You did not do what you said, for He said to you, ‘You shall not go with the messengers of Balak,’ but you went along with them.*

[KK] “And you did not do what Balak said, for he said to you, ‘Go and curse Israel,’ but you blessed them.

[LL] “So, for my part, I’m not going to withhold your salary!”

[MM] *That is in line with that which is written in Scripture:* “Balaam also, the son of Beor, the soothsayer, the people of Israel killed with the sword among the rest of their slain” (Josh. 13:22).

[NN] What is the meaning of “among the rest of their slain”?

[OO] That he was equal to all the other slain put together.

[PP] Another interpretation: “Among the rest of their slain” – Just as their slain no longer have substance, so he was of no substance.

[QQ] Another interpretation: “Among the rest of their slain” – for he hovered [in the air] over their slain, and Phineas showed him the [priestly] frontlet, and he fell down [to earth].

[RR] Another interpretation: “Among the rest of their slain” – this teaches that the Israelites paid him his salary in full and did not hold it back.

[V:1 A] Doeg was a great man in learning of Torah.

[B] The Israelites came and asked David, “In regard to the showbread, what is the law as to its overriding the restrictions of the Sabbath?”

[C] He said to them, “Arranging it overrides the restrictions of the Sabbath, but kneading the dough and cutting it out do not override the restrictions of the Sabbath.”

[D] Now Doeg was there, and he said, “Who is this one who comes to teach in my presence?”

[E] They told him, “It is David, son of Jesse.”

[F] Forthwith, he went and gave advice to Saul, king of Israel, to kill Nob, the city of the priests.

[G] *This is in line with the following statement of Scripture:* “And the king said to the guard who stood about him, ‘Turn and kill the priests of the Lord; because their hand is also with David, [and

they knew that he had fled, and did not disclose it to me.]’ [But the servants of the king would not put forth their hand to fall upon the priests of the Lord]” (1 Sam. 22:17). Who were they.

[H] Said R. Samuel bar R. Isaac, “They were Abner and Amasa.”

[I] *They said to him, “Now do you have any claim against us except for this belt and this cloak? Lo, they are thrown down before you!”*

[J] “[And the king said to the guard who stood about him, ‘Turn and kill the priests of the Lord; because their hand is also with David, and they knew that he had fled, and did not disclose it to me.’] But the servants of the king would not put forth their hands to fall upon the priests of the Lord” (1 Sam. 22:17).

[K] “And the king said to Doeg”

[L] Said R. Judah bar Pazzi, “It is written, ‘to Du-eg’ (DWYYG).”

[M] He said to him, “You are trapped like a fish, you have done a great thing.

[N] “[Then the king said to Doeg], ‘You turn and fall upon the priests.’ And Doeg the Edomite turned and fell upon the priests, [and he killed that day eighty-five persons who wore the linen ephod]” (1 Sam. 22:18).

[O] *Now did not R. Hiyya teach, “They do not appoint two high priests at the same time”?* [How could there be many?]

[P] But this teaches that all of them were worthy of the high priests.

[Q] How was he [shown to be ultimately] set apart?

[R] R. Haninah and R. Joshua b. Levi –

[S] One of them said, “Fire burst forth from the house of the Holy of Holies and licked round about him.”

[T] And the other one said, “His old students got together with him, and they were studying, but he forgot [his learning].

[U] “[This fulfills the verse which says, ‘He swallows down riches and vomits them up again; God casts them out of his belly’ (Job 20:25). [That was a sign of his excommunication; and the students killed him.]”

[VI:1 A] Ahithophel was a man mighty in Torah learning.

- [B] It is written, “David again gathered all the chosen men of Israel, thirty thousand. [And David arose and went with all the people who were with him to bring up from there the ark of the Lord]” (2 Sam. 6:1-2).
- [C] R. Berekiah in the name of R. Abba bar Kahana: “Ninety thousand elders did David appoint on a single day, but he did not appoint Ahithophel among them.”
- [D] *This is in line with that which is written in Scripture: “David again gathered all the chosen men of Israel, thirty thousand.” That is, “And he added” means “thirty.” And “again” means “thirty.” The Scripture explicitly speaks of thirty. Lo, there are then ninety in all.*
- [E] You find that when David came to bear the ark of the covenant of the Lord, he did not bear it in accord with the Torah:
- [F] “And they carried the Ark of God on a new cart, [and brought it out of the house of Abinadab which was on the hill; and Uzzah and Ahio, the sons of Abinadab, were driving the new cart]” (2 Sam. 6:3). [That is, the Torah requires that the priests carry it, but they carried it in a cart instead.]
- [G] *Now the ark carried the priests on high, but let them fall down; the ark carried the priests on high, but let them fall down to the ground.*
- [H] *David sent and brought Ahithophel. He said to him, “Will you not tell me what is with this ark, which raises the priests up high and casts them down to the ground, raises the priests on high and casts them down to the ground?”*
- [I] *He said to him, “Send and ask those wise men whom you appointed!”*
- [J] *Said David, “One who knows how to make the ark stop and does not do so in the end is going to be put to death through strangulation.”*
- [K] *He said to him, “Make a sacrifice before [the ark], and it will stop.”*
- [L] *This is in line with the following verse which is written in Scripture: “And when those who bore the ark of the Lord had gone six paces, he sacrificed an ox and a fatling” (2 Sam. 6:13).*
- [M] R. Haninah and R. Mana –
- [N] One of them said, “At every step an ox and a fatling, and at the end, seven oxen and seven rams.”
- [O] And the other said, “At every step seven oxen and seven rams, and at the end, an ox and a fatling.”

- [P] Said the Holy One, blessed be he, to Ahithophel, “A *teaching which children say every day in the school you did not report to him!*”
- [Q] “‘But to the sons of Kohath he gave none, because they were charged with the care of the holy things which had to be carried on the shoulder’ (Num. 7:9).
- [R] “*And this [to sacrifice] you told him!*”
- [S] And so you find that when David came to dig the foundations of the Temple, *he dug fifteen hundred cubits and did not reach the nethermost void. In the end he found one clay pot, and he wanted to remove it.*
- [T] *It said to him, “You cannot do so.”*
- [U] *He said to it, “Why not?”*
- [V] *It said to him, “For here I am the cover over the great deep.”*
- [M] *He said to it, “And how long have you been here?”*
- [X] *It said to him, “From the time that I heard the voice of the All-Merciful at Sinai: ‘I am the Lord your God, [who brought you out of the land of Egypt, out of the house of bondage]’ (Ex. 20:2), the earth shook and trembled.*
- [Y] “*And I am set here to seal the great deep.”*
- [Z] *Even so, [David] did not listen to it.*
- [AA] *When he removed the clay pot, the great deep surged upward to flood the world.*
- [BB] *And Ahithophel was standing there. He said, “Thus will David be strangled [in the flood] and I shall become king.”*
- [CC] *Said David, “He who is a sage, knowing how to stop up the matter, and does not stop it, will in the end be put to death through strangulation.”*
- [DD] *[Ahithophel] said what he said and stopped up [the flood]..*
- [EE] David began to say a Psalm, “A song of ascents. [In my distress I cry to the Lord, that he may answer me]” (Ps. 120:1).
- [FF] “A song of ascents” (ma’alot) is a song for a hundred (meah) ascents (olot).
- [GG] At every hundred cubits he would say a psalm.
- [HH] Even so, in the end [Ahithophel] was strangled to death.

[II] *Said R. Yosé, “This is in line with what the proverb says: A person has to scruple about a curse of a great master, even if it was for nought.”*

[JJ] R. Jeremiah in the name of R. Samuel bar Isaac, “A scroll which Samuel handed over to David did Ahithophel recite by means of the Holy Spirit.”

[KK] *What did Ahithophel do?*

[LL] *When someone came to him for advice, he would say to him, “Go and do thus and so, and if you don’t believe me, then go and ask the Urim and Thummim.”*

[MM] *And the man would go and ask and find out that indeed that was how matters were.*

[NN] *This is in line with that which is written in Scripture: “Now in those days the counsel which Ahithophel gave was as if one consulted [the oracle of God; so was the counsel of Ahithophel esteemed, both by David and by Absalom]” (2 Sam. 16:23).*

[OO] You read “Man”; it is not written thus, for the Scripture could not call him a [mere] man.

[PP] How was he set apart?

[QQ] “When Ahithophel saw that his counsel was not followed, he saddled his ass [and went off home to his own city]. [And he set his house in order, and hanged himself; and he died, and was buried in the tomb of his father]” (2 Sam. 17:23).

[RR] Three things did Ahithophel command his sons, saying to them:

[SS] “Do not rebel against the royal house of David, *for we shall find that the Holy One, blessed be he, shows favor to them even in public.*

[TT] “And do not have business [29b] dealings with someone on whom the hour smiles.

[UU] “And if the day of Pentecost is bright, sow the best quality of wheat.”

[VV] *But they did not know whether it meant “bright” in dew or “bright” in dry heat.*

[VII:1 A] Gehazi was a man powerful in learning of Torah.

- [B] But he had three bad traits: niggardliness, womanizing, and denying the resurrection of the dead.
- [C] Niggardliness: *When Elisha was sitting in his learning session, Gehazi would be in session at the door, and his disciples looked to him, and they said, "Gehazi did not enter, so shall we enter?"*
- [D] *So [Elisha] would be repeating his traditions, but no one derived any benefits from them.*
- [E] Once [Gehazi] was separated, what is written there?
- [F] "Now the sons of the prophets said to Elisha, 'See, [the place where we dwell under your charge is too small for us]'" (2 Kings 6:1).
- [G] *"It cannot contain the crowd of disciples who are there."*
- [H] And he was licentious: for lo, the Shunamite said to her husband, "[And she said to her husband,] 'Behold now, I perceive that this is a holy man of God, who is continuously passing our way'" (2 Kings 4:9).
- [I] Said R. Jonah, "He was a holy man – but his disciple was no saint."
- [J] Said R. Abin, "The fact was that [Elisha] never in his life laid eyes on her."
- [K] And rabbis of Caesarea say, "The reason was that he-never produced a drop of semen on his garments in his entire life."
- [L] *The serving girl of R. Samuel bar R. Isaac said, "I would wash the clothing of my master. In my whole life I never saw any sort of bad thing on the garments of my master."*
- [M] It is written, "[And when she came to the mountain to the man of God, she caught hold of his feet.] And Gehazi came to thrust her away. [But the man of God said, 'Let her alone, for she is in bitter distress; and the Lord has hidden it from me, and has not told me]'" (2 Kings 4:27).
- [N] What is the meaning of "to thrust her away"?
- [O] Said R. Yosé b. Hanina, "He put his hand on the cleavage between her breasts."
- [P] Nor did he believe in the resurrection of the dead:

- [Q] You find that when Elisha came to resurrect the son of the Shunamite, he said to him, “[He said to Gehazi,] ‘Gird up your loins, and take my staff in your hand, and go. If you meet anyone, do not salute him; and if anyone salutes you, do not reply; [and lay my staff on the face of the child]’” (2 Kings 4:29).
- [R] But he did not do so. Rather, when someone met him, he said to him, “Whence and whither, Gehazi?”
- [S] *And he said to him, “I am going to raise the dead.”*
- [T] *And he said to him, “There is none who raises the dead except for the Holy One, blessed be he, as it is written in Scripture concerning him, ‘The Lord kills and brings to life; he brings down to Sheol and raises up’” (1 Sam. 2:6).*
- [U] *He went his way and did nothing whatsoever.*
- [V] *He returned to [Elisha], who said to him, “I know that if he was asleep, he would not be awakened through you [because you did not carry out my instructions].”*
- [W] You find that when Naaman the general of the army of the king of Aram came to Elisha, he came to him on his horse and with his chariot [2 Kings 5:9].
- [X] Said R. Yohanan, “‘With his *horse*’ [singular] is written.”
- [Y] He wanted to give to him gold and silver, robes and garments, precious jewels and pearls, but he would not accept them from him.
- [Z] *This is in line with the following verse of Scripture: “[But he said, ‘As the Lord lives, whom I serve, I will receive none.’] And he urged him to take it, but he refused” (2 Kings 5:16).*
- [AA] Gehazi came along and said, “[Gehazi, the servant of Elisha the man of God, said, ‘See, my master has spared Naaman the Syrian, in not accepting from his hand what he brought.] As the Lord lives, I will run after him, and get something from him”” (2 Kings 5:20).
- [BB] For “something (M’WMH)” “blemish” (MWMH) is written.
- [CC] *He went and found him and took what he took and put it in his upper room.*
- [DD] He came to Elisha who said to him, “Whence and whither, Gehazi?”

[EE] “You have refused to give the reward which is owing to the righteous.”

[FF] He said to him, “[He went in, and stood before his master, and Elisha said to him, ‘Where have you been, Gehazi?’ And he said,] ‘Your servant went nowhere’” (2 Kings 5:25).

[GG] And he said to him, “Did I not go with you in spirit when the man turned from his chariot to meet you? Was it a time to accept money and garments, olive orchards and vineyards, sheep and oxen, menservants and maidservants?” (2 Kings 5:26).

[HH] “Therefore the leprosy of Naaman shall cleave to you and to your descendants forever. So he went out from his presence a leper, as white as snow” (2 Kings 5:27).

[II] And it is written in Scripture: “Now there were four men who were lepers at the entrance to the gate; [and they said to one another, ‘Why do we sit here till we die?’]” (2 Kings 7:3).

[JJ] Who were they?

[KK] R. Judah in the name of Rab: “They were Gehazi and his three sons.”

[LL] It is written, “Now Elisha came to Damascus. Benhadad the king of Syria was sick; [and when it was told him, ‘The man of God has come here,’ the king said to Hazael, ‘Take a present with you and meet the man of God, and inquire of the Lord through him, saying, “Shall I recover from this sickness?”]” (2 Kings 8:7-8).

[MM] *Why did [Elisha] go there? He wanted to do something there. He went, hoping to bring Gehazi back. He found him a certified [leper].*

[NN] On this basis we learn that they push away [a sinner] with the left hand, but draw him near with the right hand.

[OO] R. Yohanan said, “‘The sojourner has not lodged in the street; I have opened my doors to the wayfarer’ (Job 31:32). On the basis of this verse [we learn] that they push away with the left hand and draw near with the right.”

[PP] And this is not as did Elisha, who drove away Gehazi with both hands.

[QQ] There were two ailments which Elisha suffered: one from normal causes, the other in regard to his driving away Gehazi.

- [VII:2 A] R. Hananiah and R. Joshua b. Levi: “When they voted and decided, **Three kings and four ordinary folk have no portion in the world to come [M. San. 10:2A]**, an echo came forth and said, ‘Will he then make requital to suit you, because you reject it? For you must choose and not I; therefore declare what you know’ (Job 34:33).
- [B] “They proposed to include Solomon with them.
- [C] “David came along and prostrated himself before them,
- [D] “and there is he who says that a fire went forth from the house of the Holy of Holies and licked round about them.
- [E] “Hadar-Ila was learned in praying and fasting. When Solomon was counted with them, [Hadar-Ila] prayed but was not answered.”
- [F] Those who interpret signs said, “All of them have a portion in the world to come.”
- [G] *What is the Scriptural basis for this position?*
- [H] “Gilead is mine; Manasseh is mine; Ephraim is my helmet; Judah is my scepter. Moab is my washbasin; upon Edom I cast my shoe; over Philistia I shout in triumph [HTRW”Y]” (Ps. 60:7-8).
- [I] “Gilead is mine; – this refers to Ahab, king of Israel, who fell on the heights of Gilead.
- [J] “Manasseh is mine” means what it says.
- [K] “Ephraim is my helmet” – this is Jeroboam ben Nabat of Ephraim.
- [L] “Judah is my scepter” refers to Ahithophel.
- [M] “Moab is my washbasin” – this refers to Gehazi.
- [N] “Upon Edom I cast my shoe” – this refers to Doeg the Edomite.
- [O] The Israelites said before the Holy One, blessed be he, “Lord of all worlds, what shall we do when David, king of Israel, is cursing them?”
- [P] “Men of blood and treachery shall not live out half their days” (Ps. 55:23).

- [Q] He said to them, “It is my task to make them friends (RY’YM) again with one another:
- [R] “‘Over Philistia I shout in triumph’ (Ps. 108:9).
- [S] “‘Over Philistia I shout in triumph’ (Ps. 60:8).
- [T] “It is my task to seek out for them good deeds, to make them friends once more with one another.”

10:3

- [A] **The generation of the flood has no share in the world to come,**
- [B] **and they shall not stand in the judgment,**
- [C] **since it is written, “My spirit shall not judge with man forever” (Gen. 6:3)**
- [D] **neither judgment nor spirit.**
- [E] **The generation of the dispersion has no share in the world to come,**
- [F] **since it is said, “So the Lord scattered them abroad from there upon the face of the whole earth” (Gen. 11:8).**
- [G] **“So the Lord scattered them abroad” – in this world,**
- [H] **“and the Lord scattered them from there” – in the world to come.**
- [I] **The men of Sodom have no portion in the world to come,**
- [J] **since it is said, “Now the men of Sodom were wicked and sinners against the Lord exceedingly” (Gen. 13:13)**
- [K] **“Wicked” – in this world,**
- [L] **“And sinners” – in the world to come.**
- [M] **But they will stand in judgment.**
- [N] **R. Nehemiah says, “Both these and those will not stand in judgment,**
- [O] **‘for it is said, ‘Therefore the wicked shall not stand in judgment [108A], nor sinners in the congregation of the righteous’ (Ps. 1:5)**
- [P] **‘Therefore the wicked shall not stand in judgment’ – this refers to the generation of the flood.**
- [Q] **‘Nor sinners in the congregation of the righteous’ – this refers to the men of Sodom.”**
- [R] **They said to him, “They will not stand in the congregation of the righteous, but they will stand in the congregation of the sinners.”**
- [S] **The spies have no portion in the world to come,**

- [T] as it is said, “Even those men who brought up an evil report of the land died by the plague before the Lord” (Num. 14:37)
- [U] “Died” – in this world.
- [V] “By the plague” – in the world to come.
- [I:1 A] [The generation of the flood (M. San. 10:3A)] will not live in the world to come.
- [B] What is the Scriptural basis for this statement?
- [C] “He blotted out every living thing that was on the face of the ground [man and animals and creeping things and birds of the air; they were blotted out of the earth]” (Gen. 7:23).
- [D] “[He blotted out every living thing that was on the face of the ground, man and animals and creeping things and birds of the air;] they were blotted out of the earth” (Gen. 7:23).
- [E] “And he blotted out every living thing” – in this world.
- [F] “And they were blotted out of the earth” – in the world to come [T. San. 13:6].
- [I:2 A] *It was taught:* R. Nehemiah says, “It is implied by the following verse of Scripture: ‘[Then the Lord said,] “My spirit shall not abide in man for ever, [for he is flesh, but his days shall be a hundred and twenty years]”’” (Gen. 6:3).
- [B] R. Judah says, “My spirit will not abide with him, for I shall not place my spirit on them when I place my spirit on mankind.”
- [C] R. Simeon says, “My spirit will not abide with them, for I shall not put my spirit in them when I pay the reward which is coming to the righteous.”
- [D] Others say, “My spirit will not abide with them, for I shall not bring back their souls to their cases [bodies].”
- [E] R. Joshua b. Levi said, “Their destruction by scalding water was final [so there is no resurrection for them].”
- [F] What is the Scriptural basis for this statement?
- [G] “In time of heat they disappear; when it is hot they vanish from their place” (Job 6:17).
- [H] What is the meaning of “when it is hot”?
- [I] “When they are scalded.”

[J] Said R. Yohanan, “Every single drop which the Holy One, blessed be he, brought down on them, did he boil in Gehenna, and then he brought it down on them.”

[K] This is in line with the following verse of Scripture:

[L] “When it is hot they vanish from their place” (Job 6:17).

[M] Judah b. R. Hezekiah and Rabbi say, “The Holy One, blessed be he, judges the wicked in Gehenna for twelve months. At the outset he puts a hook into them, and then he hangs them in fire, and they say, ‘Woe, woe!’ Then he hangs them into snow, and they say, ‘Oh, oh!’”

[N] ‘What is the Scriptural basis for this statement?’

[O] “He drew me up from the desolate pit, out of the miry bog, and set my feet upon a rock, making my steps secure” (Ps. 40:3).

[P] What is the meaning of “the miry bog (HYWN)”?

[Q] A place in which they say, “Oh (HWY)!”

[R] And let them receive their punishment [29c] and then receive a portion in the world to come?

[S] [That is not possible,] in line with the following verse of Scripture: “[A wise son hears his father’s instruction,] but a scoffer does not listen to rebuke” (Prov. 13:1).

[II:1 A] The men of Sodom have no portion in the world to come (M. San. 10:3I),

[B] and they will not live in the world to come.

[C] What is the Scriptural basis for that statement?

[D] “Now the men of Sodom were wicked, great sinners against the Lord” (Gen. 13:13).

[E] “Wicked and sinners” – in this world.

[F] “Against the Lord exceedingly” – in the world to come.

[G] Another interpretation: “Evil” – to one another.

[H] “And sinning” – in fornication.

[I] “Against the Lord” – in idolatry.

[J] “Exceedingly” – in murder [T. San. 13:8].

10:4

[A] “The generation of the wilderness has no portion in the world to come and will not stand in judgment,

[B] “for it is written, ‘In this wilderness they shall be consumed and there they shall die’ (Num. 14:35), “The words of R. Aqiba.

[C] R. Eliezer says, “Concerning them it says, ‘Gather my saints together to me, those that have made a covenant with me by sacrifice’ (Ps. 50:5).”

[D] “The party of Korah is not destined to rise up,

[E] “for it is written, ‘And the earth closed upon them’ – in this world.

[F] ““And they perished from among the assembly’ – in the world to come,” the words of R. Aqiba.

[G] And R. Eliezer says, “Concerning them it says, ‘The Lord kills and resurrects, brings down to Sheol and brings up again’ (1 Sam. 2:6).”

[I:1 A] “The generation of the wilderness has no portion in the world to come and will not live in the world to come,

[B] “as it is said, ‘In this wilderness they shall be consumed, and there they shall die.’

[C] ““They shall be consumed’ – in this world.

[D] ““And there they will die’ – in the world to come.

[E] “And so it says, ‘Therefore I swore in my anger that they should not enter my rest’” (Ps. 95:11), the words of R. Aqiba.

[F] R. Eliezer says, “Concerning them it is said, ‘Gather my saints together to me, those that have made a covenant with me by sacrifice’” (Ps. 50:5) [T. San. 13:10].

[G] R. Joshua says, ““I have sworn an oath and confirmed it’ (Ps. 119:106).

[H] Hananiah nephew of R. Joshua says, “It is written, ‘Therefore I swore in my anger’ (Ps. 95:11)

[I] “In my anger did I swear, but I retract it” [T. San. 13:11].

[J] *It was taught*, R. Simeon b. Menassia says, “Concerning them does Scripture state, ‘Gather to me my faithful ones, who made a covenant with me by sacrifice!’ (Ps. 50:5).

[K] “‘My faithful ones’ – who acted faithfully with me.

[L] “‘Who have made a covenant with me’ – who are cut in my behalf.

[M] “‘With me by sacrifice’ – who exalted me and are sacrificed in my name”

[N] *It was taught*: R. Joshua b. Qorha says, “Concerning these generations, Scripture states, ‘And then the ransomed of the Lord shall return, [and come singing to Zion]’” (Is. 35:10) [T. San. 13:12].

[O] Rabbi says, “Both these and those do have a portion in the world to come.”

[P] *What is the Scriptural basis for this viewpoint?*

[Q] “And in that day a great trumpet will be blown, and those who were lost in the land of Assyria [and those who were driven out to the land of Egypt will come and worship the Lord on the holy mountain at Jerusalem]” (Is. 27:13).

[R] “In the land of Assyria” – these are the ten tribes.

[S] “And those who were driven out to the land of Egypt” – this is the generation of the wilderness.

[T] These and those “will come and worship the Lord on the holy mountain at Jerusalem.”

[II:1 A] **The party of Korach has no portion in the world to come and will not live in the world to come.**

[B] **What is the Scriptural basis for this view?**

[C] “[So they and all that belonged to them went down alive into Sheol;] and the earth closed over them, and they perished from the midst of the assembly” (Num. 16:33).

[D] “The earth closed over them ‘ – in this world.

[E] “And they perished from the midst of the assembly” – in the world to come [M. San. 10:1D-F].

- [F] *It was taught:* **R. Judah b. Batera** says, “[The contrary view] is to be derived from the implication of the following verse:
- [G] “I have gone astray like a lost sheep; seek thy servant [and do not forget thy commandments]’ (Ps. 119:176).
- [H] “Just as the lost object which is mentioned later on in the end is going to be searched for, so the lost object which is stated herein is destined to be searched for” [T. San. 13:9].
- [I] Who will pray for them?
- [J] **R. Samuel bar Nahman** said, “Moses will pray for them.”
- [K] “Let Reuben live, and not die, [nor let his men be few]” (Deut. 33:6).
- [L] **R. Joshua b. Levi** said, “Halmah will pray for them.”
- [M] This is the view of **R. Joshua b. Levi**, for **R. Joshua b. Levi** said, “Thus did the party of Korach sink ever downward, until Harmah went and prayed for them and said, ‘The Lord kills and brings to life; he brings down to Sheol and raises up’” (I Sam. 2:6).

10:5

- [A] “The ten tribes are not destined to return,
- [B] “since it is said, ‘And he cast them into another land, as on this day’ (Deut. 29:28). Just as the day passes and does not return, so they have gone their way and will not return,” the words of **R. Aqiba**.
- [C] **R. Eliezer** says, “Just as this day is dark and then grows light, so the ten tribes for whom it now is dark – thus in the future it is destined to grow light for them.”
- [I:1 A] “The ten tribes have no portion in the world to come and will not live in the world to come, since it is said, ‘And he cast them into another land, as on this day’ (Deut. 29:28). Just as the day passes and does not return, so they have gone their way and will not return.” the words of **R. Aqiba** [M. San. 10:5A-B].
- [B] **R. Simeon b. Judah of Kefar Akko** says in the name of **R. Simeon**, “[Scripture said, ‘As at this day’]
- [C] “if their deeds remain as they are this day, they will [not] return, and if not, they will (not) return” [T. San. 13:12].

- [I:2 A] R. Hezekiah, R. Abbahu in the name of R. Eleazar, “If the righteous proselytes come to the world to come, Antolinus will come at the head of all of them.”
- [B] *There are those who maintain that Antolinus did not convert, and there are those who maintain that Antolinus did convert.*
- [C] *What implication do you derive from that statement?*
- [D] They saw him going out in a damaged shoe on the Day of Atonement.
- [E] So you derive from that fact that even those who fear heaven go out in such wise.
- [F] *There are those who maintain that Antolinus did not convert, and there are those who maintain that Antolinus did convert.*
- [G] *Antolinus came to Rabbi. He said to him, “Do you foresee that I shall eat from Leviathan in the world to come?”*
- [H] He said to him, “Yes.”
- [I] *He said to him, “Now you did not let me eat from the Passover lamb in this world, and yet will you give me Leviathan’s flesh to eat in the coming world?”*
- [J] *He said to him, “And what can we do for you? Concerning the Passover lamb it is written, [And when a stranger shall sojourn with you and would keep the passover to the Lord, let all his males be circumcised, then he shall come near and keep it; he shall be as a native of the land.] But no uncircumcised person shall eat of it” (Ex. 12:48).*
- [K] *That is to say, Antolinus did not convert.*
- [L] *When he heard this, he went and converted. He came to Rabbi, saying to him, “Now look at the mark of my circumcision!”*
- [M] *He said to him, “In my whole life I never looked at mine! Am I supposed to look at yours!”*
- [N] *That is to say that Antolinus did convert.*
- [O] Now why was he called, “Our Holy Rabbi”? Because in his entire life he never looked at the mark of circumcision on his penis.

[P] And why is Nahum called, “The Most Holy Man”? Because he never in his entire life looked at the face of a coin [on which a human figure was incised].

[Q] *Antolinus came to Rabbi. He said to him, “Pray for me.”*

[R] *He said to him, “May He protect you from cold, as it is written, ‘[He casts forth ice like morsels,] who can stand before his cold?’” (Ps. 147:17).*

[S] *He said to him, “Rabbi, this prayer is not much. If you cover yourself, lo, the cold goes away.”*

[T] *He said to him, “May he spare you from the hot winds which blow through the world.”*

[U] *He said to him, “Now that is a fitting prayer. May your prayer be heard,*

[V] *“for it is written, ‘[Its rising is from the end of the heavens, and its circuit to the end of them.] And there is nothing hid from its heat’” (Ps. 19:7).*

[I:3 A] R. Yohanan said, “The party of Yohanan b. Korach has no portion in the world to come.”

[B] *What is the Scriptural basis for this view?*

[C] “They have dealt faithlessly with the Lord; for they have borne alien children. Now the new moon shall devour them with their fields” (Hos. 5:7).

[I:4 A] R. Eleazar and R. Judah –

[B] One said, “They did not go into exile until they had become uncircumcised.”

[C] And the other said, “They did not go into exile until they had become *mamzerim*.”

[D] *The one who said, “Uncircumcised,” refers the verse to circumcision and practice of religious duties, and the one who said, “mamzerim” refers the verse to the doings of their fathers [which caused the calamity].*

[E] Said R. Yohanan, “Israel did not go into exile until it had turned into twenty-four parties of heretics.”

[F] *What is the Scriptural basis for that statement?*

- [G] “[And he said to me,] ‘Son of man, I send you to the people of Israel, to a nation of rebels, who have rebelled against me; [and I heard him speaking to me]’” (Ez. 2:3).
- [H] “To a nation which rebels” is not written here but, rather, “to rebellious nations which have rebelled against me.”
- [I] They and their fathers have transgressed against me until this very day.
- [J] R. Berekiah and R. Helbo in the name of R. Samuel bar Nahman: “The Israelites went into three different lands of exile, one beyond the Sambatyon River, one to Daphne at Antioch, and one on which the cloud descended, and which the cloud covered.”
- [K] Just as they went into three different exiles, so the tribe of Reuben, Gad, and the half tribe of Manasseh went into three different exiles.
- [L] What is the Scriptural basis for that statement?
- [M] “You have gone the way of your sister; therefore I will give her cup into your hand” (Ez. 23:31).
- [N] And when they come back, they will come back from all three exiles.
- [O] What is the Scriptural basis for that statement?
- [P] “Saying to the prisoners, ‘Come forth’ to those who appear in darkness, ‘Appear.’ They shall feed along the ways, on all bare heights shall be their pasture” (Is. 9:9).
- [Q] “Saying to the prisoners, ‘Come forth’” – this refers to those who went into exile on the other side of the Sambatyon River.
- [R] “To those who appear in darkness, ‘Appear’” – these are those on whom the cloud descended and whom it covered.
- [S] “They shall feed along the ways, on all the bare heights shall be their pastures” – these are those who went into exile in Daphne at Antioch.

10:6

- [A] **The townsfolk of an apostate town have no portion in the world to come,**

[B] as it is said, “Certain base fellows [sons of Belial] have gone out from the midst of thee and have drawn away the inhabitants of their city” (Deut. 13:14).

[C] And they are not put to death unless those who misled the [town] come from that same town and from that same tribe,

[D] and unless the majority is misled,

[E] and unless men did the misleading.

[F] [If] women or children misled them,

[G] of if a minority of the town was misled,

[H] or if those who misled the town came from outside of it,

[I] lo, they are treated as individuals [and not as a whole town],

[J] and they [thus] require [testimony against them] by two witnesses, and a statement of warning, for each and every one of them.

[K] This rule is more strict for individuals than for the community:

[L] for individuals are out to death by stoning.

[M] Therefore their property is saved.

[N] But the community is put to death by the sword,

[O] Therefore their property is lost.

[I:1 A] “A town” (Deut. 13:14) – not a village.

[B] “A town” – not a city.

[C] “And that is to say there should be from five to ten [men],” the words of R. Meir.

[D] R. Judah says, “From a hundred to as much as the majority of the whole tribe.”

[I:2 A] Two who misled two [that is, those who misled the apostate city are two in number; in this case, they misled only two, while the others in the town were misled by outsiders] –

[B] those two who misled two – what is the law as to applying to them the rule governing those who misled [or] the rule governing those who are misled? [Are those who misled the town treated as guilty and culpable by stoning? Or are they deemed part of the ones who are misled, others being involved? They misled only two people, and along with the rest are subject to the law of punishment through decapitation.]

[C] If there were in the apostate town proselytes and resident aliens – what is the law as to their completing the number to make the required a majority?

[D] If there were in the town vivaria for wild beasts and birds [29d] and fish –

[E] a bird flying above the town by more than ten cubits –

[F] what is the law [governing their falling into the category of the possessions to be put to death?

[I:3 A] R. Simeon says, “The mode of execution through burning is more severe than the mode of execution through stoning.”

[B] And rabbis say, “The mode of execution through stoning is more severe than the mode of execution through burning.”

[C] R. Simeon says, “The mode of execution through strangulation is more severe than the mode of execution through decapitation.”

[D] And rabbis say, “The mode of execution through decapitation is more severe than the mode of execution through strangulation.”

10:7

[A] **“And you shall surely smite the inhabitants of the city with the edge of the sword” (Deut. 13:15)**

[B] **Ass-drivers, camel-drivers, and people passing from place to place – lo these have the power to save it,**

[C] **as, it is said, “Destroying it utterly and all that is therein and the cattle thereof, with the edge of the sword” (Deut. 13:17)**

[D] **On this basis they said, The property of righteous folk which happens to be located in it is lost. But that which is outside of it is saved.**

[E] **And as to that of evil folk, whether it is in the town or outside of it, lo, it is list.**

[I:1 A] R. Simeon says, **“‘Its cattle,’ – excluding firstlings and tithes of cattle in it.**

[B] **“‘And its spoil’ – excluding money which has been consecrated, and money which has taken on the status of second tithe in it” [T. San. 14:5].**

[C] *R. Yosé b. Haninah raised the question:* “The hair [wigs] belonging to the righteous women which are in the town – what is the law? [Is this

deemed in the status of the property of the righteous, which is lost, or in the status of their clothing which is saved, in line with M. 10:7D?]

[D] *Let us derive the rule from the following: R. Simeon says, “‘Its cattle’ – excluding firstlings and tithes of cattle in it. And its spoil’ – excluding money which has been consecrated and money which has taken on the status of second tithes in it.”* [Similarly, the wigs of righteous women are not in the same status as ordinary property, just as firstlings are not in the same status as ordinary cattle.]

[I:2 A] As to the consecrated beasts located in an apostate city –

[B] R. Yohanan says, “The laws of sacrilege do not apply to them.”

[C] And R. Simeon b. Laqish said, “The laws of sacrilege do apply to them.”

[D] *R. Yohanan raised the following objection to R. Simeon b. Laqish: “In your opinion, in holding that the laws of sacrilege do apply to them, we should also speak of six animals consecrated as sin offerings which are left to die, rather than merely five [as we find at M. Tem. 4:1, since these beasts too will retain the status of consecration and are left to die].”*

[E] He said to him, “But in fact even an animal consecrated as a whole offering in the apostate city is left to die.”

[F] R. Hela in the name of R. Simeon b. Laqish: “The laws of sacrilege apply to them, because the animals are in the status of beasts declared consecrated by an apostate to idolatry, [and the laws of sacrilege do apply to such beasts, since the apostate retains the power of sanctification inherent in the Israelite].”

[G] [And why should they be left to die?] Let them be offered on the altar.

[H] [This is not done, by reason of] the following verse: “The sacrifice of the wicked is an abomination” (Prov. 21:27).

[I] *Said R. Uqba, “Also in the following do they differ:*

[J] “‘An ox which is going forth to be stoned when the witnesses against it are proved to be perjurers’ –

[K] “R. Yohanan said, ‘Whoever seizes possession of it first wins out.’

[L] “And R. Simeon b. Laqish said, ‘It is a case of the owner’s having given up ownership by reason of despair [but having done so only] in error and the owner retains ownership.’

[M] “And so in the case of a slave being taken forth to be executed, when the witnesses against him are proved to be perjurers,

[N] “R. Yohanan said, ‘He acquires ownership of himself.’

[O] “And R. Simeon b. Laqish said, ‘It is a case of the owner’s having given up ownership by reason of despair, [but having done so] only in error [so the original owner retains possession].’”

10:8

[A] [As it is said,] “And you shall gather all the spoil of it into the midst of the wide place thereof” (Deut. 13:17).

[B] If it has no wide place, they make a wide place for it.

[C] [If] its wide place is outside of it, they bring it inside.

[D] “And you will burn with fire the city and all the spoil thereof, (ever whit, unto the Lord your God)” (Deut. 13:17).

[E] “The spoil thereof” – but not the spoil which belongs to heaven.

[F] On this basis they have said:

[G] Things which have been consecrated which are in it are to be redeemed; heave-offering left therein is allowed to rot; second tithe and sacred scrolls are hidden away.

[H] “Ever whit unto the Lord your God”

[I] Said R. Simeon, “Said the Holy One, blessed be he: ‘If you enter into judgment in the case of an apostate city, I give credit to you as if you had offered a whole burnt-offering before me.’”

[J] “And it shall be a heap forever, it shall not be built again”

[K] “It should not be made even into vegetable-patches or orchards,” the words of R. Yosé the Galilean.

[L] R. Aqiba says, “‘It shall not be built again’ – as it was it may not be rebuilt, but it may be made into vegetable patches and orchards.”

[M] “And there shall cleave nought of the devoted things to your hand [that the Lord may turn from the fierceness of his anger and show you mercy and have compassion upon you and multiply you]” (Deut. 13:18)

[N] for so long as evil people are in the world, fierce anger is in the world.

[O] When the evil people have perished from the world, fierce anger departs from the world.

[I:1 A] Said R. Simeon, “This [disposition of the property of the righteous, M. 10:7D] yields an argument *a fortiori*’.

[B] “Now if regarding property, which has no knowledge of either good or evil, because it caused righteous people to make their dwelling with evil ones, the Torah has said that [such property] is to be burned –

[C] “he who has the intention of misleading his fellow and actually does mislead him from the good way to the evil way – how much the more so [will he be punished]!”

[D] Said R. Eleazar, “Proof for that proposition is found in the case of Lot, who dwelled in Sodom only on account of his property.

[E] “He too got out with his skin.”

[F] That is in line with the following verse of Scripture:

[G] “Make haste, escape there” (Gen. 19:22).

[H] It is enough for you that you escape with your life.

[I] It is written, “In his days did Hiel the Bethelite build Jericho” (1 Kings 16:34).

[J] And did not Hiel belong to Jehoshaphat, and Jericho to the district of Benjamin?

[K] [And why was the matter blamed on Ahab?]

[L] It teaches that they hang guilt on one who already is guilty [T. San. 14:7].

[M] [And so it says,] “With the loss of Abiram his firstborn, he laid the foundation thereof, and with the loss of Segub his youngest son he set up the gates thereof” (1 Kings 16:34).

[N] In the instance of Abiram, he had no [example] from which to learn.

[O] But in the case of Segub, that wicked man had [an example] from which to learn!

[P] They wanted to increase their money.

- [Q] Why? Because a curse had affected them and their funds simply continued to decline.**
- [R] This supports Scripture, which says, “According to the word of the Lord, which he spoke by the hand of Joshua the son of Nun, ‘Every whit unto the Lord your God. And there shall cleave nought of the devoted thing to your hand” (1 Kings 16:34) [T. San. 14:9].**
- [S] It was taught: R. Simeon b. Eleazar says, “That Jericho] he did not build, but he built another one. And when it was built, you are permitted to live in it. For it is said, ‘And the sons of the prophets which in Jericho drew near to Elisha” (2 Kings 2:5) [T. San. 14:10].**
- [T] R. Yosé and R. Joshua b. Qorha say, “Why does Scripture say, [‘Cursed is the man before the Lord who will rise and] build this city, Jericho’ (Josh. 6:26)?**
- [U] “Now don’t we know that it is called Jericho?”**
- [V] “[But the meaning is that] one may not rebuild it and call it by the name of some other town, and that one may not build some other town and call it Jericho” [T. San. 14:6].**
- [W] And so it says, “You shall never return (SWB) that way again” (Deut. 17:16).**
- [X] For the purposes of making a permanent settlement (YSYBH) you may not return, but you may return to do business, to engage in commerce and to conquer the land.**

YERUSHALMI SANHEDRIN

CHAPTER ELEVEN

11:1

[A] These are the ones who are to be strangled:

[B] he who hits his father and his mother [Ex. 21:15]; he who steals an Israelite [Ex. 21:16, Deut. 24:7]; an elder who defies the decision of a court, a false prophet, a prophet who prophesies in the name of an idol;

[C] He who has sexual relations with a married woman, those who bear false witness against a priest's daughter and against one who has sexual relations with her.

[D] He who hits his father and his mother is liable only if he will make a lasting bruise on them.

[E] This rule is more strict in the case of the one who curses than the one who hits them.

[F] For the one who curses them after they have died is liable.

[G] But the one who hits them after they have died is exempt.

[I:1 A] Whence in the Torah do we find a warning against hitting one's father and one's mother?

[B] "Forty stripes may be given him, but not more; [lest if one should go on to beat him with more stripes than these, your brother be degraded in your sight]" (Deut. 25:3).

[C] Now if one who is commanded to flog is commanded not to flog [more than is permitted], he who is not commanded to flog at all [e.g., a court does not assign the son to flog the father] – is it not an argument a fortiori that he indeed should be commanded not to flog [under any circumstances at all]? [That is, he should not hit his father or his mother.]

[II:1 A] **[He is liable] only if he makes a lasting bruise on them:**

[B] What sort of bruise is under discussion?

- [C] [Is it a] bruise [which is culpable under the law of the] Sabbath, or [is it] a bruise [which is culpable under the law of damages]?
- [D] If you say that it is a bruise which is culpable under the laws of the Sabbath, then even if he did not lose [a limb by reason of the son's flogging, the son is liable].
- [E] But if you say that it is a bruise which is culpable under the laws of torts and damages, then [the son is not liable] unless [the parent] actually loses [a limb].

11:2

[A] He who steals an Israelite [B2] is liable only when he will have brought him into his own domain.

[B] R. Judah says, "Only if he will have brought him into his own domain and will have made use of him,

[C] "as it is said, 'And if he deal with him as a slave or sell him' (Deut. 24:7)."

[D] He who steals his son –

[E] R. Ishmael, son of R. Yohanan b. Beroqah, declares him liable.

[F] And sages declare him exempt.

[G] [If] he stole someone who was half slave and half free –

[H] R. Judah declares him liable.

[I] And sages declare him exempt.

[I:1 A] Whence do we locate the first warning against stealing [that is, kidnapping]?

[B] "You shall not steal" (Ex. 20:15).

[C] Whence do we locate the second warning against stealing [that is, property]?

[D] "You shall not steal" (Lev. 19:11).

[E] "You shall not steal" for spite [returning the object later on].

[F] "You shall not steal" planning then to pay double compensation or fourfold or fivefold damages.

[G] Ben Bag Bag says, "You shall not steal from the thief even what belongs to you, so that you will not appear to be a thief."

[I:2 A] R. Ba, R. Yohanan in the name of R. Hoshaiyah: "[The accused] son is liable only if he will steal money [to buy meat for his gluttony]."

[B] R. Zeira in the name of R. Hoshaiyah: “He is liable only if he will waste money.”

[C] What do we mean by “wasting money”?

[D] If it is a case in which he says to the butcher, “Here are five and give me meat worth three,” he is a mere idiot.

[E] “Here are three and give me [meat worth] five,” he is an ordinary person.

[F] *But thus do we interpret the matter:* “Here are five, and give me meat worth five”; [in this case, having failed to effect a bargain, he has wasted money].

[I:3 A] What is the definition of a thief, and what is a robber?

[B] Said R. Hela, “[If] one stole before witnesses, he is a thief, and if he did so before the owner, he is a robber [so the criterion is the presence of the owner, which turns a thief into a robber].”

[C] *R. Zeira raised the question:* “If so, even if he intended to commit a robbery against the owner, this one is not a robber [if the deed is not done before others]. [That is to say, by Hela’s definition, the presence of the witness or the owner is decisive, and without committing the theft in the presence of the witness or the owner, one is no robber.]”

[D] *Then what is meant by a robber in the view of R. Zeira?*

[E] R. Samuel bar Sostetra in the name of R. Abbahu: “Only if one steals an object in the presence of ten men.

[F] “The principal source dealing with the matter is as follows: ‘The Egyptian had a spear in his hand, but Benaiah went down to him with a staff and robbed the spear out of the Egyptian’s hand’ (2 Sam. 23:21) [in front of many people].”

[II:1 A] **[R. Ishmael, son of R. Yohanan b. Beroqah, declares him liable. And sages declare him exempt:]** What is the scriptural basis for the position of R. Ishmael b. R. Yohanan b. Beroqah?

[B] “If a man is found stealing one of his brethren of the people of Israel” (Dt. 24:7) – even his son falls into the category of the people of Israel.

[C] What is the scriptural basis of rabbis?

[D] “Of his brethren” – excluding his own son.

[III:1 A] [If he stole someone who was half slave and half free – R. Judah declares him liable. And sages declare him exempt:] What is the scriptural basis for the position of R. Judah?

[B] “Of his brethren” – even if he is only partly a brother.

[C] What is the scriptural basis of rabbis?

[D] “Of his brethren” – only if he is entirely one of his brethren [and the slave is only partially so].

11:3

[A] An elder who defies the decision of a court [M. 10:1B]

[B] as it is said, “If there arise a matter too hard for you in judgment, between blood and blood, between plea and plea” (Deut. 17:8) – -

[C] there were three courts there.

[D] One was in session at the door gate of the Temple mount, one was in session at the gate of the courtyard, and one was in session in the hewn-stone chamber.

[E] They come to the one which is at the gate of the Temple mount and say, “Thus I have explained the matter, and thus my colleagues have explained the matter.

[F] “Thus I have ruled in the matter, and thus my colleagues have ruled.”

[G] If they had heard a ruling, they told it to them, and if not, they come along to that court which was at the gate of the courtyard.

[H] And he says, “Thus I have explained the matter, and thus my colleagues have explained the matter.

[I] “Thus I have ruled in the matter [lit.: taught], and thus my colleagues have ruled.”

[J] If they had heard a ruling, they told it to them, and if not, these and those come along to the high court which was in the hewn-stone chamber,

[K] from which Torah goes forth to all Israel,

[L] as it is said, “From that place which the Lord shall choose” (Deut. 17:12).

[M] [If] he went back to his town and again ruled just as he had ruled before, he is exempt.

[N] But if he instructed [others] to do it in that way, he is liable,

[O] as it is said, “And the man who does presumptuously” (Deut. 17:12).

- [P] He is liable only if he will give instructions to people actually to carry out the deed [in accord with the now-rejected view].
- [Q] A disciple of a sage who gave instruction to carry out the deed [wrongly] is exempt.
- [R] It turns out that the strict ruling concerning him [that he cannot give decisions] also is a lenient ruling concerning him [that he is not punished if he does give decisions].
- [I:1 A] ["In any case arises requiring decision between one kind of homicide and another, one kind of legal right and another, or one kind of assault and another, any case within your towns which is too difficult for you, then you shall arise and go up to the place which the Lord your God will choose" (Deut. 17:8).] It is written, "If any case arises which is too difficult for you to judge" (Deut. 17:8) – this indicates that the Scripture speaks of the most distinguished [and senior] member of the court.
- [B] "... for you" – this refers to one who is able to advise on intercalation of the year and the declaration of the new moon.
- [C] "A matter" – this refers to a master of lore.
- [D] ["A case requiring decision between] one kind of blood [homicide] and another, [one kind of legal right and another, or one kind of assault and another]" (Deut. 17:8). "One kind of blood and another" – [this is] the difference between the blood of menstruation and hymeneal blood, or between the blood of menstruation and the blood indicating the presence of *zibah* or *sara'at*.
- [E] "Between one kind of legal right and another" [refers to the difference] between trials for property cases and trials for capital cases.
- [F] "Between one kind of legal right and another" refers to cases in which the death penalty is executed through stoning, burning, decapitation, or strangulation.
- [G] "Between one kind of affliction of disease (*nega'*) [assault] and another" – this refers to knowing the difference between a *mesora'* who is to be shut up for further inspection, and a *mesora'* who is certified as unclean.
- [H] "Between one kind of affliction and another" [further refers to the difference] between afflictions which affect man and those which affect clothing or houses.
- [I] "Cases of disputes within your gates" – this refers to cases involving the administration of bitter water to a wife accused of adultery, the

breaking of the neck of a heifer [in the case of a homicide in which the murderer cannot be found], and the declaring of a *mesora*’ to be clean.

- [J] “... disputes” – these refer to cases involving valuations, goods declared *herem*, beasts declared substitutes for sacrifices [and so themselves consecrated], and objects declared consecrated.
- [K] [“Then you shall arise and go up to the place which the Lord your God will choose” (Deut. 17:8).] “You will arise” – from your court.
- [L] “And you will go up” – this refers to the ascent to Jerusalem.
- [M] Another interpretation: “You will go up” – on the basis of this statement we derive proof that the chosen house [the Temple] is to be built only at the highest point in the world.
- [N] What is the Scriptural basis for that statement?
- [O] “And I myself will plant it upon a high and lofty mountain; on the mountain height of Israel will I plant; it, that it may bring forth boughs and bear fruit” (Ez. 17:22-23).
- [P] “And you will come” – this encompasses also a court in Yavneh.
- [I:2 A] R. Zeira says, **“In the case of a rebellious elder who gave instructions to carry out [his erroneous ruling]: if he actually carried out what he said, he is liable.**
- [B] **“But if he gave instruction and did not actually carry out what he said, he is exempt.**
- [C] **“If he gave instruction on the condition of not doing what he said, he is exempt.**
- [D] **“If he gave instruction on condition of actually doing what he said, even if then he did not do it, he is liable” [T. San. 14:12].**
- [E] Said R. Hela, *“R. Ishmael taught similarly: ‘... and the man who does’ not that he will do it.”*
- [F] R. Huna said, “If [a sage] was teaching a law, and afterward a case came to him in that regard, they do the deed [which he taught was to be done].
- [G] “If the case came to him before he taught that law, then if his decision affects only others, they may follow his decision, but if his decision affects his own case, they may not follow his decision” (PM).

- [I:3 A] **R. Simeon b. Manassia says, “Beauty, power, wisdom, riches, long life, glory, and children – for the righteous are a benefit to them and a benefit to the world.”**
- [B] **What is the Scriptural basis for this statement?**
- [C] **“Old age is a crown of glory. It is gained in a righteous life” (Prov. 16:31).**
- [D] **“Children’s children are the crown of old men” (Prov. 17:6).**
- [E] **“The glory of young men is their strength, but the beauty of old men is they gray hair” (Prov. 20:29).**
- [F] **And it says: “Before his elders is honor” (Is. 24:23).**
- [G] **It was taught: R. Simeon b. Gamaliel says, “These are the seven virtues which sages have listed for the righteous, and all of them have been realized in Rabbi and his sons” [T. San. 11:8]**
- [H] **R. Yohanan says, “All the seven virtues which sages have listed for the righteous have been realized in Rabbi. Which Rabbi? It is Judah the Patriarch.”**
- [I] **R. Abbahu said, “It is R. Yudan the Patriarch; he is ‘Our Rabbi.’”**

11:4

- [A] **A more strict rule applies to the teachings of scribes than to the teachings of Torah.**
- [B] **He who, in order to transgress the teachings of the Torah, rules, “There is no requirement to wear phylacteries,” is exempt.**
- [C] **[But if,] in order to add to what the scribes have taught, [he said,] “There are five partitions [in the phylactery, instead of four], he is liable.**
- [D] **“They put him to death not in the court in his own town or in the court which is in Yabneh, but they bring him up to the high court in Jerusalem.**
- [E] **“And they keep him until the festival, and they put him to death on the festival,**
- [F] **“as it is said, ‘And all the people shall hear and fear and no more do presumptuously’ (Deut. 17:13),” the words of R. Aqiba.**
- [G] **R. Judah says, “They do not delay the judgment of this one, but they put him to death at once.**

[H] “And they write messages and send them with messengers to every place:

[I] ‘Mr. So-and-so, son of Mr. So-and-so, has been declared liable to the death penalty by the court.’”

[I:1 A] Associates in the name of R. Yohanan: “The teachings of scribes are more beloved than teachings of Torah and are as precious as teachings of Torah: ‘Your kiss is like good wine’ [that is, the kiss of the sages is like the good wine of the Torah].”

[B] Simeon bar Ba in the name of R. Yohanan: “The teachings of scribes are more beloved than teachings of Torah and are more precious than teachings of Torah: ‘For your love is better than wine’” (Song 1:2).

[C] R. Ba bar Kohen in the name of R. Judah bar Pazzi: “You should know that the teachings of scribes are more beloved than the teachings of Torah.

[D] “For lo, R. Tarfon [at M. Ber. 1:1], had he not recited the *Shema* at all, would have violated only an affirmatively stated commandment of the law. But because he transgressed the teaching of the House of Hillel [in the category of a teaching of scribes], he suffered liability to death,

[E] “on the count: ‘A serpent will bite him who breaks through a wall’” (Eccles. 10:8).

[F] *R. Ishmael taught*, “Teachings of Torah are subject to prohibition and are subject to remission, are subject to lenient rulings and are subject to [30b] stringent rulings.

[G] “But teachings of scribes are solely and completely subject to stringent rulings.

[H] “*You should know that this is so, for lo, we have learned there: He who rules. There is no requirement to wear phylacteries in order to transgress the teachings of the Torah, is exempt. But if he said, ‘There are five partitions in the phylactery, instead of four, ‘ in order to add to what the scribes have taught, he is liable’* [M. San. 11:4B-C].

[I] Said R. Hinena son of R. Ada in the name of R. Tanhum bar Hiyya: “More stringent are the teachings of elders than the teachings of prophets, for it is written, ‘Do not preach’ – thus they preach’ (Mic. 2:6). And it is said, ‘If a man should go about and utter wind and lies, saying, ‘I will preach to you of wine and strong drink,’ he would be the preacher for his people’” (Mic. 2:11).

[J] A prophet and an elder – to what are they comparable? To a king who sent two senators of his to a certain province. Concerning one of them he wrote, “If he does not show you my seal and signet, do not believe him.” But concerning the other one, he wrote, “Even though he does not show you my seal and signet, believe him.”

[K] So in the case of a prophet, he has had to write, “If a prophet arises among you and gives you a sign or a wonder” (Deut. 13:1).

[L] But here [with regard to an elder]: “... according to the instructions which they give you” (Deut. 17:11) [without a sign or a wonder].

- [I:2 A]** The Torah has made the rule that in phylacteries there are four boxes containing four paragraphs of Scripture. [If] he declared that there must be five boxes containing four paragraphs of Scripture, he is liable.
- [B] R. Ba, R. Yohanan, in the name of R. Hoshaiyah: “He is liable only if he will give instruction in a matter in which the fundamental law is Scriptural, while the interpretation derives from sages,
- [C] “for example, a law dealing with carrion or a creeping thing, the fundamental law of which derives from the Torah, but the interpretation for which [e.g., requisite volume for culpability] derives from scribes.”
- [D] Said R. Zeira, “Under no circumstances is he liable until he will deny and give instruction in a matter in which the fundamental law is Scriptural, while the interpretation derives from sages,
- [E] “for example, a law dealing with carrion or a creeping thing, the fundamental law of which derives from the Torah, but the interpretation for which derives from scribes.
- [F] “But that is so [only] when he diminishes and adds, in a matter in which he adds, he diminishes. [That is to say, liability is incurred only if the rebellious sage diminishes or adds to what the scribes have stated in regard to a law of the Torah. Thus, as II.A, if he adds to the number of boxes in the phylactery, he may also diminish the essentials of the law itself. So at issue is not merely differing, but differing within the range of established law, that is, rearranging the established law in some detail]” (PM).

[G] *[With regard to R. Yohanan's citing a saying in Hoshaiiah's name,] the face of R. Hoshaiiah brightened [because Yohanan had cited him].*

[H] [Yohanan] said to him, "When you are needed, it is pleasure for you. When you are not needed, others have outdone you."

[I] *Thirteen years, [nonetheless, did Yohanan] come before his master, [Hoshaiiah], even though he did not require his instruction.*

[J] R. Samuel in the name of R. Zeira, "If it were only this, it was enough for him. But in fact he greeted his master day by day.

[K] "For whoever greets his master is as if he greets the Indwelling Presence of God."

[L] *R. Berekiah responded [to Zeira's statement about adding or diminishing], "And lo, we have learned: **The requisite space of the bright spot is not less than a four-sided Cilician split bean squared. The space of the split bean is nine lentils. The space of a lentil is four hairs. It comes out that they are thirty-six hairs arranged in a square** [M. Neg. 6:11]. [Now if the rebellious elder said that the spot need not be squared, but if it covers the relevant area, the person is unclean; even though the spot is not squared, he ends up adding to the measurement at the length and diminishing it at the width. This is a case of someone's diminishing the law by adding to it, as in the case of phylacteries.]"*

[M] *Said R. Abba Mari, "He who said such a thing [indeed would be within the law, for there is such an opinion stated within the tradition]." There are two paragraphs of Scripture in the mezuzah [and if one added yet another pericope, the mezuzah will be invalid. So the one who adds diminishes]."*

[N] He said to him, "The same law applies to the phylacteries [II.A] and to the mezuzah."

[O] *R. Hamnuna responded: "And lo, it is taught with regard to the show fringes that they are to be four strands, each of four strings. If one made them three strands of four strings [would we not have a case of one's diminishing by adding]?"*

[P] He said to him, "Here we have a case in which one diminished but did not add."

[Q] *R. Haggai responded before R. Yosé, "And lo, it is taught: **[The flour for the loaves of the thank offering was brought***

from five seahs by the Jerusalem measure, which are six by the wilderness measure, equivalent to two ephahs, twenty tenths of an ephah, ten tenths of an ephah for what was to be leavened. and ten for what was to be unleavened. Ten for what was to be leavened – a tenth of an ephah for a loaf. And ten for what was to be unleavened. And in the unleavened part are three kinds: loaves, wafers, and oil-soaked cakes. They turn out to be] three and a third tenths of an ephah for each kind, three loaves for each tenth [M. Men. 7:1A-G]. [Now if the rebellious elder gave instruction to divide equally, instead of putting half into the oil-soaked cakes as is scribes' instruction, that is,] a third for the oil-soaked, a third for the loaves, and a third for the wafers, [do we not have a case to illustrate F]?"

[R] He said to him, "He [thereby] diminishes oil from the oil-soaked cakes and adds it to the loaves and to the wafers, [and this does illustrate F, above]."

11:5

[A] A false prophet [M. 10:1B],

[B] one who prophesies concerning something which he has not actually heard or concerning something which was not actually said to him,

[C] is put to death by man.

[D] But he who holds back his prophesy, he who disregards the words of another prophet, or the prophet who transgresses his word words

[E] is put to death by heaven,

[F] as it is said, "I will require it of him" (Deut. 18:19).

[I:1 A] He who prophesies concerning something which he has not actually heard [M. 11:4B] is such as Zedekiah ben Chenaanah [I Kings 22:11], and one who states something which was not actually said to him is such as Hananiah b. Azor [T. San. 14:14].

[B] R. Joshua b. Levi said, "Hananiah b. Azor was a true prophet.

[C] "But he suffered a period of an intermission of his prophetic gifts, during which his gift of prophesy was null, and he heard what Jeremiah prophesied in the upper market.

[D] "So he went down and he prophesied in the lower market" [T. San. 14:14].

- [E] *Hananiah b. Azor said, “The entire end of the matter is not so, but, ‘When seventy years are completed for Babylon, I will visit you, and I will fulfill to you my promise and bring you back to this place’ (Jer. 29:10).”*
- [F] Now [he calculated] the entire life span of Manasseh was only fifty-five years. Deduct from them the twenty years during which the Heavenly court does not inflict punishment or extirpation, and the two years of Ammon, and the thirty-one years of Josiah.”
- [G] *Thus you have that which is written, “In that same year, at the beginning of the reign of Zedekiah king of Judah, in the fifth month of the fourth year, Hananiah the son of Azor, the prophet from Gibeon, spoke to me in the house of the Lord, in the presence of the priests and all the people, saying, ‘Thus says the Lord of hosts, the God of Israel: I have broken the yoke of the king of Babylon. Within two years I will bring back to this place all the vessels of the Lord’s house which Nebuchadnezzar king of Babylon took away from this place and carried to Babylon’” (Jer. 28:1-3).*
- [H] Said to him Jeremiah, “You say, ‘In two years I shall bring back,’ but I say to you that Nebuchadnezzar is going to come and take the rest of the people now here to Babylonia: ‘They shall be carried to Babylon and remain there until the day when I give attention to them’” (Jer. 27:22).
- [I] He said to him, “Give some sort of sign to confirm what you
- [J] He said to him, “I prophesy doom, and I cannot give a sign to confirm what I say, for the Holy One, blessed be he, may form a plan to bring evil, but then reverse it.
- [K] “But you prophesy well, so you give a sign.”
- [L] He replied, “No! You’re the one who has to bring a sign.”
- [M] He said to him, “If so, lo, I shall give a sign and a wonder through that very person himself [namely, you].”
- [N] In that year he died: “Therefore thus says the lord: ‘Behold, I will remove you from the face of the earth. This very year you shall die, because you have uttered rebellion against the Lord.’ In that same year, in the seventh month, the prophet Hananiah died” (Jer. 28:17).
- [O] It was another year, and so now do you say so?
- [P] But this teaches that he died on the eve of the New Year.

[Q] And he commanded his sons and his household to conceal the matter, so that they should remove his corpse after the New Year, just so as to falsify the prophesy of Jeremiah.

[II:1 A] But he who holds back his prophesy [M. 11:5D] – such as Jonah son of Amittai [T. San. 14:14].

[B] Said R. Jonah, “He was a true prophet.

[C] “You find that when the Holy One, blessed be he, said to him, ‘Arise, go to Nineveh, the great city, and cry out against it; for their wickedness has come up before me’ (Jonah 1:2),

[D] “Jonah said, ‘I know that these gentiles are nigh unto repentance, and lo, I shall go and prophesy against them, and they shall repent, and the Holy One, blessed be he, consequently will come and inflict punishment on [those who hate] Israel [meaning, on Israel itself].

[E] “‘So what should I do? [I have no choice but to] flee.’

[F] “‘But Jonah rose to flee to Tarshish from the presence of the Lord. He went down to Joppa and found a ship going to Tarshish; so he paid the fare, and went on board, to go with them to Tarshish, away from the presence of the Lord’” (Jonah 1:3).

[III:1 A] He who disregards the words of another prophet like Iddo, the seer [T. San. 14:15].

[B] Said R. Samuel bar R. Isaac, “This is Amaziah, the priest of Beth El.”

[C] Said R. Yosé, “There was confusion there [lit.: smashed eggs], and who was he [who convinced Iddo to return]? It was Jonathan b. Gershom b. Moses.

[D] “You find that when David came and found that he was worshipping an idol, he said to him, ‘You are the grandson of that righteous man, and yet do you worship an idol?’

[E] “He said to him, ‘I have a tradition from my father’s father: “Sell yourself to the service of strange [gods], but do not depend on other people.”’

[F] “He said to him, ‘Heaven forfend! He never said such a thing to you.

[G] “But what he really said was, ‘Sell yourself for a kind of service which is alien to you, but do not depend on other people.’

[H] “When David realized that he loved money, he appointed him superintendent of the treasury of the Temple.”

- [I] *That is in line with the following verse in Scripture: “And Shebuel the son of Gershom, son of Moses, was chief officer in charge of the treasuries” (1 Chron. 26:24).*
- [J] It was Shebuel, who returned (*shab*) to God (*el*) with all his might, who was chief officer in charge of the treasurers, for he appointed him superintendent of the treasury of the Temple.
- [K] Associates raised the question before R. Samuel bar Nahman:
“Can it be that a priest [such as Jonathan b. Gershom] to an idol lived such a long time?”
- [L] He said to them, “Because he was niggardly in the service of his idol.”
- [M] *And in what way was he niggardly in the service of his idol?*
- [N] *When someone brought him [30c] an ox, a sheep, or a lamb, for the idol, and said, “Appease the idol for me,”*
- [O] *Jonathan would say to him, “Why?”*
- [P] *“Now does this thing do you any good? He does not eat or drink, he can do neither good nor bad.”*
- [Q] *So the other would say to him, “What should I do?”*
- [R] *And he would say to him, “Go and bring a little dish of flour, and ten eggs in it, and I’ll go and appease it for you.”*
- [S] *When the other went away, he would eat the whole lot.*
- [T] One empty-head came, and he told him [what just now has been reported].
- [U] He said to him, “If it’s good for nothing, why do you do what you do here?”
- [V] He said to him, “It’s to make a living.”
- [W] They replied to R. Samuel bar Nahman, “And lo, it is written, ‘And the Danites set up the graven image for themselves; and Jonathan b. Gershom b. Moses, and his sons were priests to the tribe of the Danites until the day of the captivity of the land. So they set up Micah’s graven image which he made, as long as the house of God was at Shiloh’” (Judges 18:30-31).

[X] He said to them, “When David died and Solomon took over, then he changed all of his councillors, and this one went back to his evil ways.”

[IV:1 A] And a prophet who transgresses his own words – this is exemplified by the associate of Micah [T. San. 14:15]:

[B] *This is in accord with the following verse of Scripture:* “Now there dwelt an old prophet in Bethel. And his sons came and told him all that the man of God had done that day in Bethel; the words also which he had spoken to the king, they told to their father. And their father said to them, ‘Which way did he go?’ And his sons showed him the way which the man of God who came from Judah had gone. And he said to his sons, ‘Saddle the ass for me.’ So they saddled the ass for him and he mounted it. And he went after the man of God and found him sitting under an oak; and he said to him, ‘Are you the man of God who came from Judah?’ And he said, ‘I am.’ Then he said to him, ‘Come home with me and eat bread.’ And he said, ‘I may not return with you, or go in with you; neither will I eat bread nor drink water with you in this place; for it was said to me by the word of the Lord, ‘You shall neither eat bread nor drink water there, nor return by the way that you came.’ And he said to him, ‘I also am a prophet as you are, and an angel spoke to me by the word of the Lord, saying, Bring him back with you into your house that he may eat bread and drink water.’ But he lied to him. So he went back with him and ate bread in his house and drank water.”

[C] What is the meaning of “he lied to him”? He deceived him.

[D] “And as they sat at the table, the word of the Lord came to the prophet who had brought him back, and he cried to the man of God who came from Judah, ‘Thus says the Lord, because you have disobeyed the word of the Lord and have not kept the commandment which the Lord your God commanded you, but have come back, and have eaten bread and drunk water in the place of which he said to you, Eat no bread and drink no water; your body shall not come to the tomb of your fathers’” (1 Kings 13:22).

[E] “The prophet who was brought back” is not written here, but rather, “The prophet who brought him back” [thus the statement was made to the old prophet at Bethel, who had lied].

[F] Now this matter produces the following argument *a fortiori*:

[G] Now if one who fed bread to his fellow under false pretenses had the honor of having the word of God addressed in particular to him, he who feeds his fellow bread in truth all the more so!

- [H] It is written, “And a certain man of the sons of the prophets said to his fellow at the command of the Lord, ‘Strike me, I pray.’ But the man refused to strike him. Then he said to him, ‘Because you have not obeyed the voice of the Lord, behold, as soon as you have gone from me, a lion shall kill you.’ And as soon as he had departed from him, a lion met him and killed him. Then he found another man and said, ‘Strike me, I pray.’ And the man struck him, smiting and wounding him. And the prophet departed, and waited for the king by the way, disguising himself with a bandage over his eyes. And as the king passed, he cried to the king and said, ‘Your servant went out into the midst of the battle; and behold, a soldier turned and brought a man to me, and said, Keep this man; if by any means he be missing, your life shall be for his life, or else you shall pay a talent of silver. And as your servant was busy here and there, he was gone.’ The king of Israel said to him, ‘So shall your judgment be; you yourself decided it.’ Then he made haste to take the bandage away from his eyes; and the king of Israel recognized him as one of the prophets. And he said to him, ‘Thus says the Lord, because you have let go out of your hand the man whom I had devoted to destruction, therefore your life shall go for his life, and your people for his people.’ And the king of Israel went to his house resentful and sullen and came to Samaria” (1 Kings 20:35-43).
- [I] It is written, “And the man of God said and he said,” two times. Why two times?
- [J] But in the first time he spoke to him, he said to him, “Should Ben Hadad, king of Aram, fall into your hand, have no pity on him and do not spare him.”
- [K] And in the second he said to him, “Because you have let go out of your hand the man whom I had devoted to destruction
- [L] And how many traps and nets did I prepare for him before I handed him over to you, and you sent him forth and he got away in peace!
- [M] Therefore: “Your life shall go for his life, and your people for his people.”
- [N] You find that when Israel went forth to war, of them all only Ahab, king of Israel, alone was the one who died.
- [O] *That is in line with the following:*
- [P] “But a certain man drew his bow at a venture and struck the king of Israel between the scale armor and the breast plate, and he said to the driver of his chariot, ‘Turn about and carry me out of the battle, for I am wounded’” (1 Kings 22:34).

[Q] And how shall I interpret the statement, “And your people instead of his people”?

[R] R. Yohanan in the name of R. Simeon b. Yohai: “That single drop of blood which flowed from that righteous man [the prophet of 1 Kings 20:35ff.] effected atonement for all Israel.”

11:6

[A] **He who prophesies in the name of an idol [M. 10:1B5], and says, “Thus did such-and-such an idol say to me,”**

[B] **even though he got the law right, declaring unclean that which in fact is unclean, and declaring clean that which in fact is clean.**

[C] **He who has sexual relations with a married woman [M. 10:1C1]**

[D] **as soon as she has entered the domain of the husband in marriage, even though she has not had sexual relations with him**

[E] **he who has sexual relations with her – lo, this one is put to death by strangling.**

[F] **And those who bear false witness against a priest’s daughter and against one who has sexual relations with her [M. 10:1C2,3] –**

[G] **for all those who bear false witness first suffer that same mode of execution,**

[H] **except for those who bear false witness against a priest’s daughter and her lover.**

[I:1 A] Said R. Yosé b. Hananiah, “All were subject to the single commandment, ‘You shall not bear false witness against your neighbor’ (Ex. 20:16).

[B] “Now the one who prophesies in the name of an idol [thus bearing false witness] was singled out [and condemned to death].”

[C] Whether he gave a sign or did a wonder, whether it had to do with idolatry or any of the other commandments [do not listen to him].

[I:2 A] [Read:] **He who prophesies to uproot something which is taught in the Torah is liable. R. Simeon says, “If he prophesied to nullify part and to keep part, he is exempt.” But if he prophesied in the name of idolatry, even if he confirms it today and nullifies it tomorrow, he is liable [T. San.14:13].** Now with regard to idolatry, whether the prophet intended to uproot the whole principle or whether he did not intend to uproot the whole,

[B] in the view of R. Simeon, they strangle him to death.

- [C] In the opinion of sages, they stone him.
- [D] But with regard to [his preaching against] all the other commandments, if he did not intend to uproot the whole principle, in the view of sages, they stone him.
- [E] In the view of R. Simeon, they exempt him.
- [F] And as to the prophet who began to prophesy, if he gave a sign or did a wonder, they listen to him, and if he did not do so, they do not pay attention to him.
- [G] As to two prophets who prophesied simultaneously,
- [H] or two prophets who prophesied in the same town –
- [I] R. Isaac and R. Hoshaiiah –
- [J] *one said*, “He has to give a sign or do a wonder.”
- [K] *The other stated*, “He does not have to give a sign or do a wonder.”
- [L] *The one who said that he has to do so objected to the one who said he does not have to do so*, “And lo, it is written, ‘And Hezekiah said to Isaiah, What shall be the sign that the Lord will heal me, and that I shall go up to the house of the Lord on the third day?’” (2 Kings 20:8).
- [M] *He said to him*, “*That is a special case, because at issue was the resurrection of the dead.*”
- [N] ““After two days he will revive us; on the third day he will raise us up, that we may live before him”” (Hos. 6:2).

- [II:1 A]** [Referring to M. 11:6D], said R. Judah b. Pazzi, “Is not the determining factor the marriage canopy? It was not only to the marriage canopy, but even [if she came] to a house in which a marriage canopy was set up, [she is subject to the law of M. 1 1:6C-E].”
- [B] *The following construction is required (in order to make the reception of the bride in the triclinium a legal consummation of marriage), a triclinium and a marriage chamber, and that chamber communicating with the triclinium.*
- [C] *In what regard was the rule stated?*
- [D] R. Yohanan said, “It was for the husband to inherit her.”

[E] R. Simeon b. Laqish said, “It was in regard to his power over the annulment of her vows.”

[F] Said R. Zeira, “Even though R. Simeon b. Laqish said that it was for the annulment of her vows, he concedes that the husband does not nullify her vows until she will actually enter the marriage canopy.”

[G] *Said R. Huna, “The following verse of Scripture supports the view of R. Simeon b. Laqish: ‘For she has wrought folly in Israel by playing the harlot in her father’s house’” (Deut. 22:21).*

[H] This then excludes the case in which the agents of the father handed the girl over to the agents of the husband:

[I] in such a case [if she commits adultery], she will not be punished by stoning, but rather by strangulation [since she is no longer in her father’s domain].

[II:2 A] All perjurers and illicit lovers go and suffer the form of death which they had brought on their victim. Under what circumstances? When they are in the same status as the victim so as to be subject to that same mode of execution: if the death penalty attached to the crime is stoning, the accused is stoned, and the witnesses are stoned; if it was to be burning, the victim is put to death by burning, and they are burned.

[B] But here he is subject to the death penalty through burning, while the perjurers are killed through strangulation [T. San. 14:17].

CHAPTER TWELVE

THE STRUCTURE OF YERUSHALMI SANHEDRIN

Whether or not the Talmud of the Land of Israel is carefully organized in large-scale, recurrent structures and guided by a program that we may call systematic forms the principal question addressed by an academic commentary. The preceding chapters therefore have pointed toward the presentation set forth here. By “structure” I mean, a clearly-articulated pattern that governs the location of fully-spelled out statements. By “system,” I mean, a well-crafted and coherent set of ideas that explain the social order of the community addressed by the writers of a document, a social philosophy, a theory of the way of life, world view, and character of the social entity formed by a given social group. I see a collective, anonymous, and political document, such as the one before us, as a statement to, and about, the way in which people should organize their lives and govern their actions. At issue then in any document such as the remarkable one before us is simple: does this piece of writing present information or a program, facts to whom it may concern, or a philosophically and aesthetically cogent statement about how things should be? The connection between structure and system is plain to see. From the way in which people consistently frame their thoughts, we move to the world that, in saying things in one way rather than in some other, they wish to imagine. Modes of formulating thought adumbrate modes of imagining the world in which people wish to live, to which they address these thoughts.

If the document exhibits structure and sets forth a system, then it is accessible to questions of rationality. We may ask about the statement that its framers or compilers wished to make by putting the document together as they did. But if we discern no structure and perceive no systematic inquiry or governing points of analysis, then all we find here is inert and miscellaneous information, facts but no propositions, arguments, viewpoints. Now as a matter of fact the Talmud of the Land of Israel commonly finds itself represented as lacking organization and exhibiting a certain episodic and notional character. That view moreover characterizes the reading and representation of the document by learned and

experienced scholars, who have devoted their entire lives to Talmud study and exegesis. It must follow that upon the advocate of the contrary view – the one implicit in the representation of the document for academic analysis – rests the burden of proof. I set forth the allegation that the Talmud of the Land of Israel exhibits a structure and follows a system and therefore exhibits a commonly-intelligible rationality. The claim to write an academic commentary explicitly states that proposition. For the tractate before us, I have therefore to adduce evidence and argument.

I maintain that through the normal procedures of reasoned analysis we may discern in the tractate a well-crafted structure. I hold that the structure made manifest, we may further identify the purpose and perspective, the governing system of thought and argument, of those who collected and arranged the tractate's composites and put them together in the way in which we now have them. By "structure" I mean, how is a document organized? and by "system," what do the compilers of the document propose to accomplish in producing this complete, organized piece of writing? The answers to both questions derive from a simple outline of the tractate as a whole, underscoring the types of compositions and composites of which it is comprised. Such an outline tells us what is principal and what subordinate, and how each unit – composition formed into composites, composites formed into a complete statement – holds together and also fits with other units, fore and aft. The purpose of the outline then is to identify the character of each component of the whole, and to specify its purpose or statement. The former information permits us to describe the document's structure, the latter, its system.

While the idea of simply outlining a Talmud-tractate beginning to end may seem obvious, I have never made such an outline before, nor has anyone else. (I have provided complete outlines for the Mishnah and for the Tosefta in relationship to the Mishnah, and, not always in outline form, for the Midrash-compilations of late antiquity as well) Yet, as we shall now see, the character of the outline dictates all further analytical initiatives. Specifically, when we follow the layout of the whole, we readily see the principles of organization that govern. These same guidelines on organizing discourse point also to the character of what is organized: complete units of thought, with a beginning, middle, and end, often made up of smaller, equally complete units of thought. The former we know as composites, the latter as compositions.

Identifying and classifying the components of the tractate – the composites, the compositions of which they are made up – we see clearly how the document coheres: the plan and program worked out from beginning to end. When we define that plan and program, we identify the facts of a pattern that permit us to say in a specific and concrete way precisely what the compilers of the tractate intended to accomplish. The structure realizes the system, the program of analysis

and thought that takes the form of the presentation we have before us. From what people do, meaning, the way in which they formulate their ideas and organized them into cogent statements, we discern what they proposed to do, meaning, the intellectual goals that they set for themselves.

These goals – the received document they wished to examine, the questions that they brought to that document – realized in the layout and construction of their writing, dictate the points of uniformity and persistence that throughout come to the surface. How people lay out their ideas guides us into what they wished to find out and set forth in their writing, and that constitutes the system that defined the work they set out to accomplish. We move from how people speak to the system that the mode of discourse means to express, in the theory that modes of speech or writing convey modes of thought and inquiry.

We move from the act of thought and its written result backward to the theory of thinking, which is, by definition, an act of social consequence. We therefore turn to the matter of intention that provokes reflection and produces a system of inquiry. That statement does not mean to imply I begin with the premise of order, which sustains the thesis of a prior system that defines the order. To the contrary, the possibility of forming a coherent outline out of the data we have examined defines the first test of whether or not the document exhibits a structure and realizes a system. So everything depends upon the possibility of outlining the writing, from which all else flows. If we can see the order and demonstrate that the allegation of order rests on ample evidence, then we may proceed to describe the structure that gives expression to the order, and the system that the structure sustains.

The present work undertakes the exegesis of exegesis, for the Yerushalmi, like its counterpart in the one of Babylonia, is laid out as a commentary to the Mishnah. That obvious fact defined the character of my academic commentary, since we have already faced the reality that our tractate is something other than a commentary, though it surely encompasses one. The problems that captured my attention derived from the deeper question of how people make connections and draw conclusions. To ask about how people make connections means that we identify a problem – otherwise we should not have to ask – and what precipitated the problem here has been how a composition or a composite fits into its context, when the context is defined by the tasks of Mishnah-commentary, and the composition or composite clearly does not comment on the Mishnah-passage that is subjected to comment.

The experience of analyzing the document with the question of cogency and coherence in mind therefore yields a simple recognition. Viewed whole, the tractate contains no gibberish but only completed units of thought, sentences formed into intelligible thought and self-contained in that we require no further information to understand those sentences, beginning to end. The tractate

organizes these statements as commentary to the Mishnah. But large tracts of the writing do not comment on the Mishnah in the way in which other, still larger tracts do. Then how the former fit together with the latter frames the single most urgent question of structure and system that I can identify.

Since we have already examined enormous composites that find their cogency in an other than exegetical program, alongside composites that hold together by appeal to a common, prior, coherent statement – the Mishnah-sentences at hand – what justifies my insistence that an outline of the document, resting on the premise that we deal with a Mishnah-commentary, govern all further description? To begin with, the very possibility of outlining this tractate derives from the simple fact that the framers have given to their document the form of a commentary to the Mishnah. It is in the structure of the Mishnah-tractate that they locate everything together that they wished to compile. We know that is the fact because the Mishnah-tractate defines the order of topics and the sequence of problems.

Relationships to the Mishnah are readily discerned; a paragraph stands at the head of a unit of thought; even without the full citation of the paragraph, we should find our way back to the Mishnah because at the head of numerous compositions, laid out in sequence one to the next, clauses of the Mishnah-paragraph are cited in so many words or alluded to in an unmistakable way. So without printing the entire Mishnah-paragraph at the head, we should know that the received code formed the fundamental structure because so many compositions cite and gloss sentences of the Mishnah-paragraph and are set forth in sequence dictated by the order of sentences of said Mishnah-paragraph. Internal evidence alone suffices, then, to demonstrate that the structure of the tractate rests upon the Mishnah-tractate cited and discussed here. Not only so, but the sentences of the Mishnah-paragraphs of our tractate are discussed in no other place in the entire Talmud of the Land of Israel in the sequence and systematic exegetical framework in which they are set forth here; elsewhere we may find bits or pieces, but only here, the entirety of the tractate.

That statement requires one qualification, and that further leads us to the analytical task of our outline. While the entire Mishnah-tractate of treated here is cited in the Talmud of the Land of Israel, the framers of the Talmud of the Land of Israel by no means find themselves required to say something about every word, every sentence, every paragraph. On the contrary, they discuss only what they choose to discuss, and glide without comment by large stretches of the tractate. A process of selectivity, which requires description and analysis, has told the compilers of the Talmud of the Land of Israel's composites and the authors of its compositions (This statement requires refinement. I do not know that all available compositions have been reproduced, and that the work of authors of compositions of Mishnah-exegesis intended for a talmud is fully exposed in the document as we

have it. That is not only something we cannot demonstrate – we do not have compositions that were not used, only the ones that were – but something that we must regard as unlikely on the face of matters. All we may say is positive: the character of the compositions that address Mishnah-exegesis tells us about the concerns of the writers of those compositions, but we cannot claim to outline all of their concerns, on the one side, or to explain why they chose not to work on other Mishnah-sentences besides the ones treated here. But as to the program of the compositors, that is another matter: from the choices that they made (out of a corpus we cannot begin to imagine or invent for ourselves) we may describe with great accuracy the kinds of materials they wished to include and the shape and structure they set forth out of those materials. We know what they did, and that permits us to investigate why they did what they did. What we cannot know is what they did not do, or why they chose not to do what they did not do. People familiar with the character of speculation and criticism in Talmudic studies will understand why I have to spell out these rather commonplace observations. I lay out an argument based on evidence, not on the silences of evidence, or on the absence of evidence – that alone.) what demands attention, and what does not. Our outline has therefore to signal not only what passage of the Mishnah-tractate is discussed, but also what is not discussed, and we require a general theory to explain the principles of selection (“making connections, drawing conclusions” meaning, to begin with, making selections). For that purpose, in the outline, I reproduce the entirety of a Mishnah-paragraph that stands at the head of a Talmudic composite, and I underscore those sentences that are addressed, so highlighting also those that are not.

It follows that the same evidence that justifies identifying the Mishnah-tractate as the structure (therefore also the foundation of the system) of Yerushalmi-tractate before us also presents puzzles for considerable reflection. The exegesis of Mishnah-exegesis is only one of these. Another concerns the purpose of introducing into the document enormous compositions and composites that clearly hold together around a shared topic or proposition, e.g., my appendix on one theme or another, my elaborate footnote providing information that is not required but merely useful, and the like. My earlier characterization of composites as appendices and footnotes signalled the fact that the framers of the document chose a not-entirely satisfactory way of setting out the materials they wished to include here, for large components of the tractate do not contribute to Mishnah-exegesis in any way at all. If these intrusions of other-than-exegetical compositions were proportionately modest, or of topical composites negligible in size, we might dismiss them as appendages, not structural components that bear much of the weight of the edifice as a whole. Indeed, the language that I chose for identifying and defining these composites – footnotes, appendices, and the like – bore the implication that what is not Mishnah-commentary also is extrinsic to the Talmud of the Land of Israel’s structure and system.

But that language served only for the occasion. In fact, the outline before us will show that the compositions are large and ambitious, the composites formidable and defining. Any description of the tractate's structure that dismisses as mere accretions or intrusions so large a proportion of the whole misleads. Any notion that "footnotes" and "appendices" impede exposition and disrupt thought, contribute extraneous information or form tacked-on appendages – any such notion begs the question: then why fill up so much space with such purposeless information? The right way is to ask whether the document's topical composites play a role in the re-presentation of the Mishnah-tractate by the compilers of the Talmud of the Land of Israel. We have therefore to test two hypotheses:

1. the topical composites ("appendices," "footnotes") do belong and serve the compilers' purpose

or

2. the topical composites do not participate in the re-presentation of the Mishnah-tractate by Yerushalmi and do not belong because they add nothing and change nothing.

The two hypotheses may be tested against the evidence framed in response to a single question: is this topical composite necessary? The answer to that question lies in our asking, what happens to the reading of the Mishnah-tractate in light of the topical composites that would not happen were we to read the same tractate without them? The outline that follows systematically raises that question, with results specified in due course. It suffices here to state the simple result of our reading of the tractate, start to finish: the question of structure, therefore also that of system, rests upon the position we identify for that massive component of the tractate that comprises not Mishnah-commentary but free-standing compositions and composites of compositions formed for a purpose other than Mishnah-commentary.

The principal rubrics are given in small caps. The outline takes as its principal rubrics two large-scale organizing principles.

The first is the divisions of the Mishnah-tractate to which the Talmud of the Land of Israel-tractate serves as a commentary. That simple fact validates the claim that the tractate exhibits a fully-articulated structure. But the outline must also underscore that the Mishnah-tractate provides both more and less than the paramount outline of the Talmud of the Land of Israel-tractate. It is more because sentences in the Mishnah-tractate are not analyzed at all. These untreated Mishnah-sentences are given in bold face lower case caps, like the rest of the Mishnah, but then are specified by underlining and enclosure in square brackets.

Second, it is less because the structure of the tractate accommodates large composites that address topics not defined by the Mishnah-tractate. That brings us

to the second of the two large-scale modes of holding together both sustained analytical exercises and also large sets of compositions formed into cogent composites. These are treated also as major units and are indicated by Roman numerals, alongside the Mishnah-paragraphs themselves; they are also signified in small caps. But the principal rubrics that do not focus on Mishnah-commentary but on free-standing topics or propositions or problems are not given in boldface type. Consequently, for the purposes of a coherent outline we have to identify as autonomous entries in our outline those important composites that treat themes or topics not contributed by the Mishnah-tractate.

I. YERUSHALMI SANHEDRIN 1:1

[A] PROPERTY CASES [ARE DECIDED] BY THREE [JUDGES]:

- 1. I:1:** And whence shall we produce evidence from Scripture [for the factual statement of M. 1:1A]? ‘And these things shall be for a statute and ordinance’ (Num. 35:29) – On the basis of this verse I draw the conclusion that [the reference to both statute and ordinance bears this meaning:] careful cross-examination of witnesses is required not only for capital cases but also for property ones. And then how do we know that property cases require three judges [and not twenty-three, as in the case of capital cases]? ‘The owner of the house shall come near to the judges’ (Ex. 22:8) – thus encompassing one judge. ‘The case of both parties shall come before the judges’ (Ex. 22:9) – thus encompassing a second judge. ‘He whom the judges shall condemn shall pay’ (Ex. 22:9-10), here is yet a third,” the words of R. Josiah.

[B] THOSE CONCERNING THEFT AND DAMAGES, BEFORE THREE: (3) [CASES INVOLVING] COMPENSATION FOR FULL-DAMAGES, HALF-DAMAGES [EX. 21:35], TWOFOLD RESTITUTION [EX. 22:3], FOURFOLD AND FIVEFOLD RESTITUTION [EX. 21:37], BY THREE:

- 1. II:1:** Are not theft and damages [M. 1:1B] the same thing? The following is available: R. Simeon b. Yohai taught, “‘And these are the ordinances which you shall set before them’ (Ex. 21:1). Now [the purpose of the authority of who has treated property cases disjunctively, and not as a single group,] is to interpret the meaning of Scripture. [First come property cases, as at Ex. 21:2, buying a Hebrew slave, then come cases of theft and damages, damages at Ex. 21:12ff. and theft at Ex. 22:1ff.]”
- 2. II:2:** It was taught: Forty years before the destruction of the Temple the right to judge capital cases was withdrawn, and it was in the days

of Simeon b. Shatah that the right to judge property cases was withdrawn.

3. **II:3:** Samuel said, “Two who rendered a decision – their decision stands, but they are called a presumptuous court.” R. Yohanan and R. Simeon b. Laqish – both of them teach: “Even if two reached a decision, their decision does not stand.”
4. **II:4:** There we have learned: [If] one [person who was not an expert] judged a case, declaring the liable person to be free of liability, declaring the person free of liability to be liable, declaring what is clean to be unclean, declaring what is unclean to be clean, what he has done is done. But he pays restitution from his own funds [M. Bekh. 4:4F]. R. Ba in the name of R. Abbahu: “This applies when the parties to the dispute said to him, ‘Lo, you are acceptable to us like two judges.’”
5. **II:5:** R. Ba and R. Benjamin b. Yaphet had a case in the court of R. Isaac, and the decision went in favor of R. Benjamin. R. Ba came and wanted to cause trouble with R. Ammi [because R. Isaac had decided the case all by himself]. [R. Ammi] instructed him that an expert who sat down and gave a decision – his decision is valid. R. Abbahu would go into session all by himself, as a judge in the synagogue at the gate of Caesarea. His disciples said to him, “And has not Rabbi taught us, ‘Do not judge all by yourself?’” He said to them, “Since [people] see that I sit as a judge all by myself and [nonetheless] come to me, it is as if they accepted me [as a single judge to decide] their [case].” And thus also has it been taught: “Under what circumstances [may one not judge all by himself]? When [the litigants] did not accept [the individual as sole judge] for their [case]. But if they did accept [the individual as sole judge] for their [case], it is proper even for an individual to judge all by himself.”
6. **II:6:** A man deliberately rendered a priest [cultically] unclean. The case came before R. Isaac, and he ordered the man to provide unconsecrated food for the priest to eat [since he could not eat cheaper food, in the status of heave offering, which he normally ate, by reason of his cultic uncleanness]. [The disciples] supposed that [the man] might deduct the cost of food in the status of heave offering from the penalty, [since the priest would have paid that lesser cost in any event]. [This would constitute a mediated agreement, which accounts for what follows.]

7. **II:7:** Said R. Joshua b. Qorha, “[How do we know that] if one was sitting before a judge and knew something for the case of the poor man and something against the case of the rich man, you are not free to keep silent? Scripture says, ‘You shall not be afraid before man, for judgment is God’s’ (Deut. 1:17). Do not hold back what you have to say because of man” [T. San. 1:8].
8. **II:8:** The judges should know Whom they judge, and before Whom they judge, and Who it is Who judges with them. And the witnesses should know about Whom they give testimony, and before Whom they give testimony, and with Whom they give testimony, and Who it is Who is a witness with them. It is He who spoke and brought the world into being, since it is said, “Then both the men between whom the controversy is shall stand before the Lord” (Deut. 19:17).
- [C] (4) “CASES INVOLVING HIM WHO RAPES [DEUT. 32:28-29], HIM WHO SEDUCES [EX. 22:15-16], AND HIM WHO BRINGS FORTH AN EVIL NAME (DEUT. 22:19), BY THREE,” THE WORDS OF R. MEIR. AND SAGES SAY, “HE WHO BRINGS FORTH AN EVIL NAME IS [TRIED] BEFORE TWENTY-THREE, FOR THERE MAY BE A CAPITAL CASE.”
1. **III:1:** [B] R. Mana said, “The dispute concerns a betrothed maiden. [If she is found guilty,] R. Meir says, ‘She loses the right to collect her marriage settlement on the decision of a court of three judges, and she is put to death by stoning on the decision of a court of twenty-three.’ And sages say, ‘in the same court in which she is condemned to death by stoning, there she is sentenced to the loss of the right to collect her marriage settlement.’ But as to one who brings forth an evil name, all parties concur that in the same court in which perjurers are sentenced to death by stoning, there the husband is condemned to be flogged and to pay a hundred selas. [So the Mishnah rule refers not to the court which will try the man, but to the one which will try the woman. The husband’s trial is both separate and later. First comes that of the woman, and her trial court is what is subject to discussion. Meir surely could not refer to a case of seduction, in which case the woman is on trial for her life.]”

II. YERUSHALMI SANHEDRIN 1:2

- [A] [CASES INVOLVING THE PENALTY OF] FLOGGING [DEUT. 25:2-3] ARE BEFORE THREE. IN THE NAME OF R. ISHMAEL THEY SAID, “BEFORE TWENTY-THREE.”

1. **I:1:** R. Abbahu raised the question [with regard to the view of Ishmael that cases involving flogging are to be before not three judges but twenty-three, M. 1:2B], whether [the reason of Ishmael] might be that cases involving the penalty of flogging are before twenty-three judges, since there are occasions on which the convicted party may die from the flogging.

[B] **(6) [THE DECISION TO] INTERCALATE THE MONTH IS BEFORE THREE; (7) “[THE DECISION TO] INTERCALATE THE YEAR IS BEFORE THREE,” THE WORDS OF R. MEIR. RABBAN SIMEON B. GAMALIEL SAYS, “WITH THREE DO THEY BEGIN, WITH FIVE [MORE] THEY DEBATE THE MATTER, AND THEY REACH A FINAL DECISION WITH SEVEN [MORE] [JUDGES]. BUT IF THEY REACHED A DECISION [TO INTERCALATE THE YEAR] WITH THREE JUDGES, [THE YEAR IS] INTERCALATED.”**

1. **II:1:** Bar Qappara derived [the Scriptural basis] for all of the [number of judges required to intercalate the year, in Simeon b. Gamaliel’s opinion, M. 1:2E-F], from the following: ‘May the Lord bless you and keep you’ (Num. 6:24) – on this basis, we learn that they begin the process of intercalating the month with a court of three judges. ‘The Lord make his face to shine upon you and be gracious to you’ (Num. 6:25) – on this basis, we learn that they discuss the matter among five judges. ‘The Lord lift up his countenance upon you and give you peace’ (Num. 6:26) – on this basis, we learn that they complete the transaction with seven judges.” R. Joshua b. Levi derived [the Scriptural basis] for all of the [number of judges required to intercalate the year, in Simeon b. Gamaliel’s opinion, M. 1:2E-F], from the following: ‘And the captain of the guard took the three keepers of the threshold,’ (2 Kings 25:18) – on this basis, we learn that they begin with three judges. ‘And five men of the king’s council,’ (2 Kings 25:19) on this basis, we learn that they discuss the matter with five. ‘And the captain of the guard took seven men of the king’s council’ (Jer. 52:24-25) – on this basis, we learn that they complete the transaction with seven judges.”
2. **II:2:** [When the month is intercalated on the thirty-first day,] in fact there is no intercalation of the month [there being no proclamation to that effect, but merely] the sanctification of the new month.
3. **II:3:** Samuel said, “The sanctification of the new month takes place in an assembly of no fewer than ten.” Associates [of the court, that is, apprentice judges] – what is the law as to their being counted for the sanctification of the new month?

4. **II:4:** It was taught: A Sanhedrin which witnessed someone commit a murder – there is a Tannaite authority who teaches: Two serve as witnesses and give testimony before the remainder [of the court]. There is a Tannaite authority who teaches: All of them are witnesses and give testimony before [a court made up of] others. R. Judah bar Pazzi in the name of R. Zeira: “Just as they differ in this case, so they differ in regard to witnessing the new moon [if the entire court witnessed the new moon].” [The reason that the latter authority rejects having the court serve as judges is that] one party may stand up [and give testimony] and take his seat, and another may do the same [so that the court in fact serves as both witness and judge]. But the present case [of witnessing the new moon] is different, for in any event a witness cannot serve as a judge.
5. **II:5:** R. Simeon b. Yohai taught, “‘And you will sanctify the fiftieth year’ (Lev. 25:10). Years do you sanctify, and not months.” And have we not learned [in the following Mishnah]: The head of the court declares, “It is sanctified”? (M. R.H. 2:7A). What is the meaning of “it is sanctified”? It is confirmed [without the court’s declaration]. It was taught: “For the sanctification of the month, they begin with the senior member of the court” [= T. San. 7:2]. Said R. Hiyya bar Ada, “The Mishnah itself has said the same: ‘The head of the court declares, ‘It is sanctified.’”
6. **II:6:** It was taught: For the intercalation of the year, they begin [with the opinion of] the one sitting on the side. Said R. Zebida, “But that household below [the patriarchate] is not accustomed to do so.” Now has [that household] not heard that which R. Hiyya bar Mareh, R. Jonah, R. Ba bar Hiyya in the name of R. Yohanan, have said: “For the intercalation of the month they begin from the senior judge. For the intercalation of the year, they begin from the side”? R. Jacob bar Aha, R. Yosa in the name of R. Yohanan: “For purposes of intercalation, they follow the order in which judges were appointed [to the court]. For purposes of [study in] the meetinghouse, they follow the order of those who are better able [to teach the law].”
7. **II:7:** [R. Eliezer b. Sadoq says, “If the moon did not appear at its proper time, they need not declare it sanctified, since Heaven already has sanctified it” (M. R.H. 2:7)]. R. Ba bar Zabeda in the name of Rab: “The reason for the opinion of R. Eliezer b. R. Sadoq is [that] when the court above sees that the court below sanctify the month, they too sanctify it.” R. Eliezer in the name of R. Hanina: M’SH B: Twenty-four villages’ [representatives], from the domain of Rabbi, came together to intercalate the year in Lud. The evil eye entered them, and

all of them died on a single occasion. From that time they removed the intercalation of the year from Judah and permanently established the rite in Galilee. They considered removing even the declaration [of the intercalation, from Judea to Galilee]. Said to them R. Simon, “Shall we then not leave in the land of Judea even a memorial [to the rite]? And lo, we find that they declared the year to be sanctified in Baal at [in Judea].”

- 8. II:8:** On account of three signs do they intercalate the year, be cause of the [premature state of] the grain, because of the [condition of the] produce of the tree[s], and because of the lateness of the spring] equinox. On account of two of these they will intercalate the year, but on account of only one of them they will not intercalate the year. But if they declared the year to be intercalated, lo, this is deemed intercalated. If the premature state of the grain was one of them, they would rejoice. R. Simeon b. Gamaliel says, “Also on account of the [lateness of the spring] equinox” [T. San. 2:2]. On account of [evidence of conditions in] three regions do they intercalate the year: Judea, TransJordan, and Galilee. On account of [evidence produced in] two of them they intercalate the year, but on account of [evidence deriving from only] one of them they do not intercalate the year. But if they declared the year to be intercalated, lo, this is [Y.: not] deemed intercalated. And if the land of Judea was one of the two regions, they would rejoice, because of the first fruits of grain which would [have to] come from there [for the altar] [T. San. 2:3]. They do not intercalate the year by reason of cold or rain, and if they did intercalate the year on such an account, lo, it is not intercalated. They do not intercalate the year because [the season of the] kids, lambs, or pigeons has not yet come, or because of the condition of the sucking lamb. But in the case of all of them, they regard it as a support [for intercalating] the year. But if they declared the year to be intercalated [on the basis of their condition], lo, this is deemed intercalated [T. San. 2:4]. R. Yannai says in the name of R. [Simeon b.] Gamaliel who said [in Aramaic], “The pigeons are tender and the spring lambs thin, “and it is proper in my view [and in that of my colleagues], so I have added thirty days to this year” [T. San. 2:5].
- 9. II:9:** They do not intercalate the year prior to the New Year, and if they did so, the year is not deemed intercalated. But if it is a matter of urgency [e.g., because people fear they will not be able to do so later], they do intercalate the year immediately after New Year. Nonetheless, intercalated is only the month of Adar [T. San. 2:7]. Rabbi says, “Nisan has never been intercalated [that is, the new moon of Nisan has never been designated on the thirty-first day of Adar].”

- 10. II:10:** [If the court] declared the month to be sanctified before its proper time or after its intercalation, is it possible that the month should be deemed sanctified? Scripture states, “[The appointed feasts of the Lord] which [you shall proclaim as holy convocations, my appointed feasts, are these]” (Lev. 23:2). That is, these are my appointed feasts, these others are not my appointed feasts. [So if one has sanctified the new month] prior to its proper time, on the twenty-ninth day, or after its intercalation, on the thirty-second day of the month, [it is not sanctified].
- 11. II:11:** They intercalate the year only in Judah, and if they intercalated it [in Galilee], lo, it is deemed to have been intercalated. Hananiah of Ono gave testimony [before Rabban Gamaliel] that if they cannot intercalate the year in Judah, they intercalate the year in Galilee, and it is deemed to have been intercalated [T. San. 2:13].
- 12. II:12:** Jeremiah intercalated the year abroad. Ezekiel intercalated the year abroad. Baruch b. Neriah intercalated the year abroad. Hananiah, nephew of R. Joshua, intercalated the year abroad. Rabbi sent him three letters with R. Isaac and R. Nathan. In one he wrote, “To his holiness, Hananiah.” And in one he wrote, “The lambs that you have left behind have become rams.” And in one he wrote, “If you do not accept our authority, go out to the thorny wilderness, and there you be the slaughterer [of the sacrifice], with Nehunyon, the sprinkler [of blood upon the altar].” He read the first and did obeisance, the second and did likewise. But when he read the third, he wanted to disgrace the messengers.
- 13. II:13:** R. Hoshaiah, when he would receive testimony [concerning the new moon] would do so very graciously. He would say to them, “You must realize how important is the testimony which you provide, how great a sum of money for rental of houses depends on your evidence.”

[C] (8) “THE LAYING OF HANDS [ON A COMMUNITY SACRIFICE] BY ELDERS AND THE BREAKING OF THE HEIFER’S NECK [DEUT. 21:1-9] ARE DONE BY THREE JUDGES,” THE WORDS OF R. SIMEON. R. JUDAH SAYS, “BY FIVE.”

- 1. III:1:** “The laying of hands [on a community sacrifice] by elders and the breaking of the heifer’s neck are done by three judges,” the words of R. Simeon. R. Judah says, “By five” [M. San. 1:2G-H]. What is the Scriptural basis for the opinion of R. Simeon? [Scripture specifies,] “And [the elders] shall lay on hands.” (Lev. 4:15). So there are two [elders], and since there cannot be a court with an even number of judges, they add to their number one more, lo, three. What is the

Scriptural basis for the position of R. Judah? “And (they) shall lay hands.” – two. “The elders.” – two. There cannot be a court with an even number of judges, so they add one more to their number, lo, five in all. Now with reference to the heifer whose neck is broken, what is the Scriptural basis for the position of R. Judah? [“Then your elders and your judges shall come forth.” (Deut. 21:2).] “Your elders” are two, and “your judges” are two, and there cannot be a court with an even number of judges, so they add one more to their number, lo, five in all. And what is the Scriptural basis for the position of R. Simeon? “Your elders and your judges” are two, and there cannot be a court with an even number of judges, so they add to their number yet one more, lo, three.

2. **III:2:** They went and paid honor to “this house” [the patriarchate]. They made the rule, “A court which made an appointment without the knowledge and consent of the patriarch – the act of appointment is null. “And a patriarch who made an appointment without the knowledge and consent of the court – his appointment is valid.” They reverted and made the rule that the court should make an appointment only with the knowledge and consent of the patriarch, and that the patriarch should make an appointment only with the knowledge and consent of the court.

[D] (9) THE RITE OF REMOVAL OF THE SHOE [BREAKING THE LEVIRATE BOND] (DEUT. 25:7-9) AND THE EXERCISE OF THE RIGHT OF REFUSAL ARE DONE BEFORE THREE JUDGES.

1. **IV:1:** [With regard to M. 1:2I,] it was taught: At first they would write a deed of halisah: In session of Mr. So-and-so and Mr. Such-and-such, Mrs. So-and-so, daughter of Mr. So-and-so, carried out the rite of halisah with Mr. So-and-so, son of Mr. So-and-so, in our presence. She came before us, removed his sandal from his right foot, spat before him a drop of spit which could be seen by us on the ground, and stated, “Thus will it be done to the man who does not build the house of his brother” (Deut. 25:9) [= T. Yeb. 12:15]. [With regard to M. 1:2I,] it was taught: At first they would write a document of the exercise of the right of refusal: In the presence of Mr. So-and-so and Mr. Such-and-such, Mrs. So-and-so, daughter of Mr. So-and-so, effected the right of refusal of Mr. So-and-so, son of Mr. So-and-so. In our presence [she stated], “I do not want him. I will not stay with him. I do not want to be married to him” [= T. Yeb. 13:1].

[E] (10) [THE EVALUATION OF] FRUIT OF FOURTH-YEAR PLANTINGS [WHICH IS TO BE REDEEMED [(LEV. 19:23-25)] AND OF SECOND TITHE (DEUT. 14:22-26) WHOSE VALUE IS NOT KNOWN IS DONE BEFORE THREE JUDGES. (11)

ASSESSMENT OF THE VALUE, [FOR PURPOSES OF REDEMPTION,] OF THINGS WHICH HAVE BEEN CONSECRATED IS DONE BEFORE THREE JUDGES.

- 1. V:1:** [With regard to M. San. 1:2J, K,] said R. Yohanan: “A consecrated item which one had redeemed for more than its true value – lo, this is redeemed. But produce in the status of second tithe which one has redeemed for more than its true value – lo, this is not redeemed.”

[F] (12) [PROPERTY PLEDGED AS SECURITY FOR] VOWS OF VALUATION, IN THE CASE OF MOVABLES, IS EVALUATED BY THREE [JUDGES]. R. JUDAH SAYS, “ONE OF THEM MUST BE A PRIEST.” AND [EVALUATION OF PROPERTY PLEDGED AS SECURITY FOR VOWS FOR VALUATION] IN THE CASE OF REAL ESTATE IS DONE BY NINE AND A PRIEST. AND SO FOR [THE VALUATION-VOW COVERING] MEN.

- 1. VI:1:** [Assessment of the value for purposes of redemption] of things which have been consecrated is done before three judges (M. San. 1:3K). [Property pledged as security, for vows of valuation, in the case of movables. is evaluated by three judges and in the case of real estate it is done by nine and a priest (M. San. 1:2L-N). Note also M. Meg. 1:3J-K: And in the case of assessing the value for redemption of dedicated immovable property, the assessment is made by nine and a priest; in the case of the valuation vow of man, the law is the same.] This rule [that we require for immovable property nine and a priest] applies when one has consecrated his field itself. But if one has said, “The value of my field is incumbent upon me,” what is the law? [Do we invoke the analogy of the law covering valuations of movables, on the basis of his dedicating funds? Or do we deem the language to encumber actual real estate which must be assessed?]
- 2. VI:2:** It was taught: Slaves, bonds, and movables are not subject to a deed of inspection [issued by a court announcing the sale of these items in order to attract bidders and so discover an exact market value for such items. Such a deed is issued to provide advance notice of the forthcoming auction, thirty days for property accruing to orphans, sixty days for property accruing to the sanctuary. But no such deed is announced in the stated types of property]. R. Judah b. Pazzi said, “It is an announcement.”

[G] (1) CASES INVOLVING THE DEATH PENALTY ARE JUDGED BEFORE TWENTY-THREE JUDGES. (2) THE BEAST WHO COMMITS OR IS SUBJECTED TO AN ACT OF SEXUAL RELATIONS WITH A HUMAN BEING IS JUDGED BY TWENTY-THREE, SINCE IT IS SAID, “AND YOU WILL KILL THE WOMAN AND THE BEAST” (LEV. 20:16). AND IT SAYS, “AND THE BEAST YOU WILL SLAY” (LEV. 20:15). (3) AN OX WHICH IS TO BE STONED IS JUDGED BY TWENTY-THREE, SINCE IT IS SAID, “AND THE

OX WILL BE STONED, AND ALSO ITS MASTER WILL BE PUT TO DEATH” (EX. 21:29). JUST AS [THE CASE OF THE MASTER], LEADING TO THE DEATH-PENALTY, [IS ADJUDGED], SO IS THE [CASE OF] THE OX, [LEADING TO] THE DEATH-PENALTY. THE WOLF, LION, BEAR, PANTHER, LEOPARD, AND SNAKE A CAPITAL CASE AFFECTING THEM IS JUDGED BY TWENTY-THREE. R. ELIEZER SAYS, “WHOEVER KILLS THEM FIRST ACQUIRES MERIT.” R. AQIBA SAYS, “THEIR CAPITAL CASE IS JUDGED BY TWENTY THREE.”

1. VII:1: R. Abbahu asked, “As to an ox which is to be stoned, in accord with the opinion of R. Meir [who assesses with a court of three judges penalties involving fines], should the monetary fine be imposed by a court of three judges, but a decision as to stoning by a court of twenty-three judges?” Said to him R. Yosé b. R. Bun, “A case of an ox on trial for stoning is wholly a case involving monetary damages. But it is Scripture’s decree that the ox should be stoned.”

III. YERUSHALMI SANHEDRIN 1:3

[A] (1) THEY JUDGE A TRIBE, A FALSE PROPHET [DEUT. 18:20], AND A HIGH PRIEST, ONLY ON THE INSTRUCTIONS OF A COURT OF SEVENTY-ONE MEMBERS.

1. I:1: One should take note of the following: two individuals [namely, the false prophet and the high priest] are not judged [by an ordinary court]. Is it not an argument *a fortiori* that an entire tribe [should not be judged by an ordinary court, but only by one of seventy-one members]? Said R. Mattenaiah, “The Mishnah pericope refers to the patriarch of a tribe [and not a whole tribe, for that is an obvious fact]. [The point is that the patriarch of a tribe is judged only by a Sanhedrin with seventy-one members.]”
2. I:2: Said R. Zira, “‘Presumptuously’ [‘The man who acts presumptuously, by not obeying the priest shall die’ (Deut. 17:12)] is stated in one context, and ‘presumptuously’ [‘But the prophet who presumes to speak a word in my name which I have not commanded him to speak, the prophet has spoken it presumptuously.’ (Deut. 18:20, 22)] is stated in another context. Just as in the reference to presumptuousness in the latter passage Scripture speaks of a false prophet, so in the reference to presumptuousness in the former passage, Scripture speaks of a false prophet.”

[B] (2) THEY BRING FORTH [THE ARMY] TO WAGE A WAR FOUGHT BY CHOICE ONLY ON THE INSTRUCTIONS OF A COURT OF SEVENTY-ONE. (3) THEY MAKE ADDITIONS

TO THE CITY [OF JERUSALEM] AND TO THE COURTYARDS [OF THE TEMPLE]
ONLY ON THE INSTRUCTIONS OF A COURT OF SEVENTY-ONE.

1. **II:1:** They bring forth the army to wage an optional war only on the instructions of a court of seventy-one [M. San. 1:4B]. [They make additions to the city only on the instruction of a court of seventy-one [M. San. 1:3C].] [The following serves M Sheb. 2:2F: They add to the city and courtyards only on the instructions of the king and prophet, the Urim and Thummim, and the Sanhedrin of seventy-one members, with two thank offerings and singing. The court goes along with the two than. offerings behind them, and all the Israelites after them. The one offered inside is eaten, and the one offered outside is burned. And any area which is not treated wholly in this way (with the proper rites) – he who enters that area – they are not liable on that account.] R. Judah says, “At the outset [of designating the holy ground of Jerusalem], ‘So David went up at Gad’s word’ (2 Sam. 24:19) – thus the king and prophet [of M. Sheb. 2:2]. “‘Then Solomon began to build the house of the Lord in Jerusalem on Mount Moriah, where the Lord had appeared [to David his father]’ (2 Chron. 3:1:3) – thus the Urim and Thummim. “‘To David, his father’ – this refers to the Sanhedrin. “‘Ask your father, and he will show you your elders, and they will tell you’ (Deut. 32:7) [this refers to consecrating the new territory] with song. “‘And after them went Hoshaiiah and half of the princes of Judah’ (Neh. 12:32) [this refers to the requirement of bringing] thank offerings.” “And I appointed two great companies which gave thanks and went in procession. One went to the right upon the wall to the Dung Gate” (Neh. 12:31).
2. **II:2:** Said R. Abbahu, “R. Yohanan and R. Simeon b. Laqish differed. One said, ‘First they build, then they consecrate.’ The other said, ‘First they consecrate, then they build.’”
3. **II:3:** [If] they wished to add to the courtyards, with what [offerings] do they [commemorate] the additions? With two loaves of [leavened] bread. And do they consecrate [Temple space] on a festival day? [Where will they get leavened bread?] But: it is done with the show bread [after it is removed from the altar]. And do they consecrate on the Sabbath [when that bread is put out]? But: it is done by night. But do they consecrate by night? Said R. Yosé b. R. Bun, “[They consecrate] with a meal offering which is baked in the oven [which may be eaten in the courtyard].”
4. **II:4:** Abba Saul says, “There were two valleys in Jerusalem, a lower one and an upper one. “The lower one was sanctified with all these

procedures, but the upper one was not sanctified. “And when the Exiles came up, without a king, without Urim, without Thummim, in the lower one, which had been consecrated completely, the people of the land would eat Lesser Holy Things and second tithe, and associates would eat Lesser Holy Things but not second tithe. “And in the upper one, which had not been consecrated completely, the people of the land would eat Lesser Holy Things and not second tithe, while the associates [would eat] neither Lesser Holy Things nor second tithe. “And on what account did they not sanctify it? Because it was a weak point in Jerusalem, and it was easily conquered” [T. San. 3:4].

[C] (4) THEY SET UP SANHEDRINS FOR THE TRIBES ONLY ON THE INSTRUCTIONS OF A COURT OF SEVENTY-ONE.

- 1. III:1:** Scripture says, “[You shall appoint judges and officers in all your towns which the Lord your God gives you, according] to your tribes; and they shall judge the people” (Deut. 16:18).

[D] (5) THEY DECLARE A CITY TO BE “AN APOSTATE CITY” [DEUT. 13:12FF.] ONLY ON THE INSTRUCTIONS OF A COURT OF SEVENTY-ONE. AND THEY DO NOT DECLARE A CITY TO BE “AN APOSTATE CITY” ON THE FRONTIER, [NOR DO THEY DECLARE] THREE [IN ONE LOCALE] TO BE APOSTATE CITIES, BUT THEY DO SO IN THE CASE OF ONE OR TWO.

- 1. IV:1:** Yohanan in the name of R. Hoshaiiah: “There are three authorities [who differ in this regard]. “One said, ‘One they do declare to be apostate, two they do not declare to be apostate’ (cf. M. San. 1:3F-H). “Another said, ‘Those that are contiguous they declare apostate cities, those that are scattered about they do not declare apostate cities.’ “And the third said, ‘Those that are scattered they do not declare apostate cities at all, lest gentiles break in and enter the Land of Israel.’” And there is he who proposes to state, “Lest the enemy break in and it will come to depopulation.”

IV. YERUSHALMI SANHEDRIN 1:4

[A] THE GREAT SANHEDRIN WAS [MADE UP] OF SEVENTY-ONE MEMBERS, AND THE SMALL ONE WAS TWENTY-THREE. AND HOW DO WE KNOW THAT THE GREAT SANHEDRIN WAS TO HAVE SEVENTY-ONE MEMBERS? SINCE IT IS SAID, “GATHER TO ME SEVENTY MEN OF THE ELDERS OF ISRAEL” (NM. 11:16).

- 1. I:1:** Ba, R. Yosa in the name of R. Yohanan: “Here it is stated, ‘Congregation’ (Num. 35:24, 25), and there it is stated, ‘How long

shall I bear with this evil congregation' (Num. 14:27). just as 'congregation' referred to at the latter point is made up of ten individuals, so 'congregation' referred to at the former likewise is made up of ten individuals." Said R. Simon, "Here it is written, 'within,' ["And I shall be sanctified within the people of Israel" (Lev. 22:32),] and there it is written, 'within,' ["Thus the sons of Israel came to buy among ('within') the others who came." (Gen. 42:5)]. Just as 'within' stated in the latter context refers to ten, so 'within' stated in the former refers to ten."

[B] AND HOW DO WE KNOW THAT WE SHOULD ADD THREE MORE? FROM THE IMPLICATION OF THAT WHICH IS SAID, "YOU SHALL NOT FOLLOW AFTER THE MANY TO DO EVIL" (Ex: 23:20), I DERIVE THE INFERENCE THAT I SHOULD BE WITH THEM TO DO GOOD. IF SO, WHY IS IT SAID, "AFTER THE MANY TO DO EVIL"? YOUR VERDICT OF ACQUITTAL IS NOT EQUIVALENT TO YOUR VERDICT OF GUILT. YOUR VERDICT OF ACQUITTAL MAY BE ON THE VOTE OF A MAJORITY OF ONE, BUT YOUR VOTE FOR GUILT MUST BE BY A MAJORITY OF TWO. SINCE THERE CANNOT BE A COURT OF AN EVEN NUMBER OF MEMBERS [TWENTY-TWO], THEY ADD YET ANOTHER — THUS TWENTY-THREE. AND HOW MANY RESIDENTS MUST THERE BE IN A TOWN SO THAT IT MAY BE SUITABLE FOR A SANHEDRIN? ONE HUNDRED-TWENTY.

- 1. II:1:** And how do we know that we should add three more, etc. [M. San. 1:4K]: It was taught: Said Rabban R. Simeon b. Gamaliel, "At first only priests, Levites, or Israelites suitable for marriage into the priesthood would sign as witnesses on the marriage contracts of women." Said R. Yosé, "At first there were dissensions in Israel only in the court of seventy in the hewn-stone chamber [in Jerusalem]. "And there were other courts of twenty-three in the various towns of the Land of Israel, and there were other courts of three judges each in Jerusalem, one on the Temple mount, and one on the Rampart. "[If] someone needed to know what the law is, he would go to the court in his town. ("[If] there was no court in his town, he would go to the court in the town nearest his.) "If they had heard the law, they told him. If not, he and the most distinguished member of that court would come on to the court which was nearest to his town. "If they had heard the law, they told them. And if not, they and the most distinguished member of that group would come to the court which was on the Temple mount. "If they had heard, they told them, and if not, these and those would go to the high court which was on the Rampart. "If they had heard, they told them, and if not, these and those would go to the high court which was in the hewn-stone chamber." For from there Torah spreads forth over all Israel, as it is said, "Then you shall do according to what they declare to you from that place which the Lord

will choose” (Deut. 17:10). “The court which was in the hewn-stone chamber, even though it consists of seventy-one members, may not fall below twenty-three. “[If] one of them had to go out, he looks around to see whether there would be twenty-three left [after he departs]. If there would be twenty-three left he goes out, and if not, he does not go out – “unless there would be twenty-three left. “And there they remained in session from the time of the daily whole offering of the morning until the time of the daily whole offering at twilight. “On Sabbaths and on festivals they came only to the study house which was on the Temple mount. “[If] a question was brought before them, if they had heard the answer, they told them. “If not, they stand for a vote. “[If] those who declare innocent turn out to form the majority, they declared the man innocent. [If] those who declare guilty form the majority, they declared the man guilty. “[If] those who declare unclean turn out to form the majority, they declared the matter unclean. [If] those who declare the matter clean form the majority, they declared the matter clean. “From there did the law go forth and circulate in Israel. “From the time that the disciples of Shammai and Hillel who had not served their masters so much as was necessary become numerous, dissensions became many in Israel. “And from there they send for and examine everyone who is wise, prudent, fearful of sin, and good of repute, in whom people found pleasure. (“They make him a judge in his town.) “Once he has been made a judge in his town, they promote him and seat him on the Rampart’s court, and from there they promote him and seat him in the court of the hewn-stone chamber.”

2. **II:2:** The Sanhedrin was arranged like the half of a round threshing floor so that all might see one another. [M. San. 4:3A]: Said R. Eleazar b. R. Sadoq, “When Rabban Gamaliel sat in session in Yavneh, my father and his brother were at his right hand, and elders were at his left hand.” (And why does one sit at the right hand of an elder?) Because of the honor due an elder [T. San. 8:1].
3. **II:3:** And how many are the judges of Israel? They are 78,600 [calculated as follows]: Heads of thousands are six hundred. Heads of hundreds are SLY thousand. Heads of troops of fifty are twelve thousand. Heads of troops of ten are sixty thousand. It thus turns out that the judges of Israel [heads of all units] are seventy-eight thousand six hundred.

[C] **R. NEHEMIAH SAYS, “TWO HUNDRED AND THIRTY, EQUIVALENT IN NUMBER TO THE CHIEFS OF GROUPS OF TEN [EX. 18:21].”**

1. **III:1:** What is the reason of R. Nehemiah [who says, “Two hundred and them, equivalent in number to the heads of groups of ten”] [M. San. 1:4S]. It is so that there should be in the town a court of twenty-three judges [one out of ten male residents]: those who are on trial, the witnesses against them, witnesses capable of proving that the witnesses are perjurers, witnesses capable of proving that those witnesses themselves are perjurers, the chief of the court, their scribes, and a beadle. And what is the reason of rabbis [who say that the town should have a minimum of one hundred twenty male residents]? It is so that there should be twelve sanhedrins for the twelve tribes.

[C] **SINCE MOSES WAS IN ADDITION TO THEM, [LO, THERE WERE SEVENTY ONE.] R. JUDAH SAYS, “IT IS SEVENTY.” AND HOW DO WE KNOW THAT A SMALL ONE IS TWENTY-THREE? SINCE IT IS SAID, “THE CONGREGATION SHALL JUDGE, AND THE CONGREGATION SHALL DELIVER” (NUM. 35: 24, 25) – ONE CONGREGATION JUDGES, AND ONE CONGREGATION SAVES – THUS THERE ARE TWENTY. AND HOW DO WE KNOW THAT A CONGREGATION IS TEN? SINCE IT IS SAID, “HOW LONG SHALL I BEAR WITH THIS EVIL CONGREGATION [OF THE TEN SPIES]” (NUM. 14:27) – EXCLUDING JOSHUA AND CALEB:**

1. **IV:1:** Moses carried out a wise arrangement when the Holy One, blessed be He, said to him, “Number all the first-born males of the people of Israel, from a month old and upward, taking their number by names. And you shall take the Levites for me... instead of all the firstborn among the people of Israel.... And all the firstborn males were twenty-two thousand two hundred and seventy-three.... And for the redemption of the two hundred and seventy-three of the firstborn of the people of Israel, over and above the number of the male Levites, you shall take five *shekels* apiece” (Num. 3:4-47, *pass.*). He reflected, “Who will accept upon himself the burden of handing over five *shekels* a head?” What did he do? He took twenty-two thousand slips and wrote on them, “Son of Levi.” And on two hundred seventy-three he wrote, “Five *shekels*.” He put them into an urn. He said to the people, “Come and take your slips.” To whoever turned up in his hand, “Son of Levi,” he would say, “A son of Levi already has redeemed you.” And to whoever turned up in his hand, “Five *shekels*,” he would say, “What can I do for you? It is from Heaven.”
2. **IV:2:** Antonius the Hegemon engaged in polemics with Rabban Yohanan ben Zakkai: “Either your teacher Moses was an embezzler or he was inexpert in keeping accounts, for it is written, [The silver of those of the community who were recorded came to one hundred talents and seventeen hundred seventy-five sheqels by the sanctuary weight] a half-sheqel a head [half a sheqel by the sanctuary weight, for

each one who was entered in the records]’ (Ex. 38:25-26). Now if you reckon the centenarius as one hundred libras, Moses misappropriated one-sixth [of the silver], and if you reckon the centenarius at sixty libras, as is normal, he misappropriated one half.” [The regular talent was sixty minas, or fifteen hundred sheqels, or three thousand half-sheqels. Thus, the approximately six hundred thousand half-sheqels is equal to two hundred talents. But Scripture states that approximately one hundred talents were reported. Therefore half the silver was not reported. At one hundred minas to the talent, the misappropriation would have amounted to one-sixth of the silver, since at that rate a talent was equal to twenty-five hundred sheqels, five thousand half-sheqels. Thus $100 \times 5,000 = 500,000$, which leaves the silver collected for 100,000 people unreported. For the population, see Ex. 38:26]. Rabban Yohanan ben Zakkai replied, “Moses our teacher was a trustworthy treasurer and expert in keeping accounts. And,” he continued, “is it not written, ‘And the copper from the wave offering was seventy talents and twenty-four hundred sheqels’ (Ex. 38:29)? Observe that these twenty-four hundred sheqels amount to ninety-six libras. [One libra is twenty-five sheqels], and yet Scripture did not convert them into libras [which would have been convenient].” [This is taken as proof that these libras did not have the usual weight of twenty-five sheqels each, but twice that weight, which was the standard of the sanctuary. Otherwise they would have been converted. Now if the sanctuary weight was indeed twice the regular standards, Moses misappropriated nothing whatsoever.]

V. YERUSHALMI SANHEDRIN 2:1

[A] A HIGH PRIEST JUDGES, AND [OTHERS] JUDGE HIM; GIVES TESTIMONY, AND [OTHERS] GIVE TESTIMONY ABOUT HIM; PERFORMS THE RITE OF REMOVING THE SHOE [DEUT. 25:7-9], AND [OTHERS] PERFORM THE RITE OF REMOVING THE SHOE WITH HIS WIFE. [OTHERS] ENTER LEVIRATE MARRIAGE WITH HIS WIFE, BUT HE DOES NOT ENTER INTO LEVIRATE MARRIAGE, BECAUSE HE IS PROHIBITED TO MARRY A WIDOW. [IF] HE SUFFERS A DEATH [IN HIS FAMILY], HE DOES NOT FOLLOW THE BIER. “BUT WHEN [THE BEARERS OF THE BIER] ARE NOT VISIBLE, HE IS VISIBLE; WHEN THEY ARE VISIBLE, HE IS NOT. “AND HE GOES WITH THEM TO THE CITY GATE,” THE WORDS OF R. MEIR. R. JUDAH SAYS, “HE NEVER LEAVES THE SANCTUARY, “SINCE IT SAYS, ‘NOR SHALL HE GO OUT OF THE SANCTUARY’ (LEV. 21:12).”

1. I:1: It is understandable that he judges others. But as to others judging him, [is it appropriate to his station?] Let him appoint a mandatory.

2. **I:2:** Property cases involving [a high priest] – in how large a court is the trial conducted? With a court of twenty-three judges. Let us demonstrate that fact from the following: A king does not sit in the sanhedrin, nor do a king and a high priest join in the court session for intercalation [T. San. 2:15]. [In this regard,] R. Haninah and R. Mana – one of them said, “The king does not take a seat on the Sanhedrin, on account of suspicion [of influencing the other judges]. “Nor does he take a seat in a session for intercalation, because of suspicion [that it is in the government’s interest to intercalate the year]. “And a king and a high priest do not take a seat for intercalation, for it is not appropriate to the station of the king [or the high priest] to take a seat with seven judges.” Now look here: If it is not appropriate to his station to take a seat with seven judges, is it not an argument a fortiori that he should not [be judged] by three? That is why one must say, Property cases involving him are tried in a court of twenty-three.
3. **I:3:** Said R. Eleazar, “A high priest who sinned – they administer lashes to him, but they do not remove him from his high office.” R. Haninah Ketobah, R. Aha in the name of R. Simeon b. Laqish: “An anointed priest who sinned – they administer lashes to him [by the judgment of a court of three judges]. If you rule that it is by the decision of a court of twenty-three judges [that the lashes are administered], it turns out that his ascension [to high office] is descent [to public humiliation, since if he sins he is publicly humiliated by a sizable court].”
4. **I:4:** R. Simeon b. Laqish said, “A ruler who sinned – they administer lashes to him by the decision of a court of three judges.” What is the law as to restoring him to office? Said R. Haggai, “By Moses! If we put him back into office, he will kill us!”
5. **I:5:** [The reference to tearing above in M. Hor. 3:3A is at issue: high priest rears his garment [on the death of a close relative] below [at the bottom hem]. and an ordinary one, above [at the hem of his garment nearest his shoulder].] R. Eleazar in the name of Kahana: “‘Above’ means above the binding [therefore separating the binding], and ‘below’ means below the binding [therefore not separating the binding].” R. Yohanan said. “‘Below’ means what it says, literally [near the ground].”
6. **I:6:** The high priest makes an offering while he is in the status of one who has yet to bury a close relative, but he does not eat [the priestly portion],” the words of R. Meir (M. Hor. 3:3B; T. Zeb. 11:3). R. Judah says, “That entire day.” R. Simeon says, “He completes all the act of

sacrifice which is his responsibility and then he goes along [and leaves the altar].” The difference between the view of R. Meir and R. Simeon is one point, [specifically: in Simeon’s view, when the priest hears the news, while he is performing the rite, that a close relative has died, he completes the entire rite for which he is responsible. But if he has not begun the rite, he should not do so. And after he has completed the rite, he should not begin another. In Meir’s view, he may carry on an act of service, without condition.] The difference between the view of R. Judah and R. Simeon is one point, [specifically: in Judah’s view, the priest makes offerings that entire day, while in Simeon’s, once he has completed the rite in which he is involved, he leaves the altar.]

VI. YERUSHALMI SANHEDRIN 2:2

[A] AND WHEN HE GIVES COMFORT TO OTHERS THE ACCEPTED PRACTICE IS FOR ALL THE PEOPLE TO PASS ONE AFTER ANOTHER, AND THE APPOINTED [PREFECT OF THE PRIESTS] STANDS BETWEEN HIM AND THE PEOPLE. AND WHEN HE RECEIVES CONSOLATION FROM OTHERS, ALL THE PEOPLE SAY TO HIM, “LET US BE YOUR ATONEMENT.” AND HE SAYS TO THEM, “MAY YOU BE BLESSED BY HEAVEN.” AND WHEN THEY PROVIDE HIM WITH THE FUNERAL MEAL, ALL THE PEOPLE SIT ON THE GROUND, WHILE HE SITS ON A STOOL.

- 1. I:1:** [The statement at M. San. 2:2G] implies: A stool is not subject to the law of mourners’ overturning the bed.
- 2. I:2:** It was taught: They do not bring out the deceased [for burial] at a time near the hour of reciting the Shema. unless they did so an hour earlier or an hour later, so that people may recite the Shema and say the Prayer.
- 3. I:3:** It was taught: R. Judah says, “If there is only a single row [of mourners], those who are standing as a gesture of respect are liable [to say the Shema], and those who are standing as a gesture of mourning are exempt [from the obligation to say the Shema]. If they proceed to the eulogy, those who see the face [of the mourners] are exempt [from having to say the Shema,] and those who do not see their face are liable [T. Ber. 2:11]. Note that which we have learned: When he gives comfort to others. the accepted practice is for all the people to pass after one another, and the appointed [prefect of the priests] stands between him and the people [T. San. 3:3A-B].

VII. YERUSHALMI SANHEDRIN 2:3

[A] **THE KING DOES NOT JUDGE:**

- I:1:** [The king] does not judge [M. San. 2:3]. And has it not been written: “[So David reigned over all Israel;] and David administered justice and equity to all his people” (2 Sam. 8:15). And yet do you say [that the king does not judge]?

[B] **AND [OTHERS] DO NOT JUDGE HIM; DOES NOT GIVE TESTIMONY, AND [OTHERS] DO NOT GIVE TESTIMONY ABOUT HIM; DOES NOT PERFORM THE RITE OF REMOVING THE SHOE, AND OTHERS DO NOT PERFORM THE RITE OF REMOVING THE SHOE WITH HIS WIFE; DOES NOT ENTER INTO LEVIRATE MARRIAGE, NOR [DO HIS BROTHER] ENTER LEVIRATE MARRIAGE WITH HIS WIFE:**

- II:1:** This is in line with the verse [in the Psalm of David], “From thee [alone] let my vindication come!” (Ps. 17:2).

[C] **R. JUDAH SAYS, “IF HE WANTED TO PERFORM THE RITE OF REMOVING THE SHOE OR TO ENTER INTO LEVIRATE MARRIAGE, HIS MEMORY IS A BLESSING.” THEY SAID TO HIM, “THEY PAY NO ATTENTION TO HIM [IF HE EXPRESSED THE WISH TO DO SO].”**

- III:1:** They said to him, “If you rule in this way, you turn out to diminish the honor owing to the king.”

[D] **[OTHERS] DO NOT MARRY HIS WIDOW.**

- IV:1:** This is by reason of that which is said: “So [David’s concubines] were shut up until the day of their death, living as if in widowhood” (2 Sam. 20:3).

[E] **R. JUDAH SAYS, “A KING MAY MARRY THE WIDOW OF A KING. FOR SO WE FIND IN THE CASE OF DAVID, THAT HE MARRIED THE WIDOW OF SAUL, FOR IT IS SAID, ‘AND I GAVE YOU YOUR MASTER’S HOUSE AND YOUR MASTER’S WIVES INTO YOUR EMBRACE’ (II SAM. 12:8).”**

- V:1:** This refers to Rispah, Abigail, and Bath Sheba.
- V:2:** [The reference to Abigail, 1 Sam. 25, calls to mind Nabal and his origins:] Hezron had three sons, as it is written, “The sons of Hezron that were born to him: Yerahmeel, Ram, and Kelubai” (1 Chron. 2:9)
- V:3:** “David heard in the wilderness that Nabal was shearing [his sheep. So David sent ten young men; and David said to the young men,

‘Go up to Carmel, and go to Nabal, and greet him in my name]. And thus shall you salute the living one: ‘Peace be to you, [and peace be to your house, and peace be to all that you have]’ (1 Sam. 25:46).

VIII. YERUSHALMI SANHEDRIN 2:4

[A] [If] [THE KING] SUFFERS A DEATH IN HIS FAMILY, HE DOES NOT LEAVE THE GATE OF HIS PALACE. R. JUDAH SAYS, “IF HE WANTS TO GO OUT AFTER THE BIER, HE GOES OUT, “FOR THUS WE FIND IN THE CASE OF DAVID, THAT HE WENT OUT AFTER THE BIER OF ABNER, “SINCE IT IS SAID, ‘AND KING DAVID FOLLOWED THE BIER’ (2 SAM. 3:31).” THEY SAID TO HIM, “THIS ACTION WAS ONLY TO APPEASE THE PEOPLE.” AND WHEN THEY PROVIDE HIM WITH THE FUNERAL MEAL, ALL THE PEOPLE SIT ON THE GROUND, WHILE HE SITS ON A COUCH.

1. I:1: Does [M. San. 2:4F] indicate that a couch is subject to the rule of overturning as a sign of mourning? The king is not subject to the rule of overturning the bed [and therefore the passage does not prove the case, one way or the other].
2. I:2: There is a Tannaite authority who teaches that the women go first [in the mourning procession], and the men after them. And there is a Tannaite authority who teaches that the men go first, and the women afterward.
3. I:3: “And David returned [to bless his household. But Michal the daughter of Saul came out to meet David, and said, ‘How the king of Israel honored himself today, uncovering himself today before the eyes of his servants’ maids, as one of the vulgar fellows shamelessly uncovers himself!.]” (2 Sam. 6:20). What is the meaning of “one of the vulgar fellows”? Said R. Ba bar Kahana, “The most vulgar of them all – this is a dancer!”

IX. YERUSHALMI SANHEDRIN 2:5

[A] [THE KING] CALLS OUT [THE ARMY TO WAGE] A WAR FOUGHT BY CHOICE ON THE INSTRUCTIONS OF A COURT OF SEVENTY-ONE.

1. I:1: [The rule of M. San. 2:5A is in line with] that which is written, “At his word they shall go out, and at his word they shall come in, [both he and all the people of Israel with him, the whole congregation]” (Num. 27:21).

[B] HE [MAY EXERCISE THE RIGHT TO] OPEN A ROAD FOR HIMSELF, AND [OTHERS] MAY NOT STOP HIM. THE ROYAL ROAD HAS NO REQUIRED MEASURE. ALL THE PEOPLE PLUNDER AND LAY BEFORE HIM [WHAT THEY HAVE GRABBED], AND HE TAKES THE FIRST PORTION.

1. **II:1:** This is in line with that which is written, “And the people drove those cattle before him, and said, ‘This is David’s spoil’” (1 Sam. 30:20).
2. **II:2:** “He was with David at Pas-dammim, [when the Philistines were gathered there for battle. There was a plot of ground full of barley, and the men fled from the Philistines. But he took his stand in the midst of the plot and defended it, and slew the Philistines; and the Lord saved them by a great victory]” (1 Chron. 11:13-14). [Note also 2 Sam. 23:11f.: “And next to him was Shammah, the son of Agee the Hararite. The Philistines gathered together at Lehi, where there was a plot of ground full of lentils; and the men fled from the Philistines. But he took his stand in the midst of the plot and defended it, and slew the Philistines; and the Lord wrought a great victory.”] R. Yohanan said, “It was a field as red as blood [so the place-name is taken literally].” And R. Samuel said, “[It was so called] for from that place the penalties ceased [as will be explained below].” [To understand the following, we must refer to 2 Sam. 23:15-16: “And David longed and said, ‘O that someone would give me water to drink from the well of Bethlehem which is by the gate!’ And the three mighty men broke through the host of the Philistines and drew water out of the well of Bethlehem that was by the gate.” Now “water” here is understood to mean “learning,” “gate” the rabbinical court, and David is thus understood to require instruction. At issue is the battlefield in which the Philistines had hidden themselves, that is, as at Pasdammim. What troubled David now is at issue.] David found it quite obvious that he might destroy the field of grain and pay its cost (DMYM). Could it be obvious to him that he might destroy the field and not pay its cost [to its Israelite owners]? [It is not permissible to rescue oneself by destroying someone else’s property, unless one pays compensation. So that cannot be at issue at all.] [If he did have to pay, as he realized, then what he wanted to know “at the gate” was] which of them to destroy, and for which of the two to pay compensation [since he did not wish to destroy both fields such as, at G, Samuel posits were there]. The one of lentils is food for man, and the one of barley is food for beast. The one of lentils is not liable, when turned into flour, for a dough offering, and the one of barley is liable, when turned into flour, for dough offering. As to lentils, the *omer* is not taken therefrom; as to barley the *omer* is taken therefrom. [So these are the three choices

before David, and since there were two fields, he wanted to know which to burn and for which to pay compensation.]

3. **II:3:** It is written, “And David said longingly, ‘O that some one would give me water to drink from the well of Bethlehem [which is by the gate’]” (1 Chron. 11:17). R. Hiyya bar Ba said, “He required a teaching of law.” “Then the three mighty men broke through [the camp of the Philistines]” (1 Chron. 11:18). Why three? Because the law is not decisively laid down by fewer than three. “But David would not drink of it; [he poured it out to the Lord. and said, ‘Far be it from me before my God that I should do this. Shall I drink the lifeblood of these men? For at the risk of their lives they brought it’]” (1 Chron. 11:18-19). David did not want the law to be laid down in his own name. “He poured it out to the Lord” – establishing [the decision] as [an unattributed] teaching for the generations [so that the law should be authoritative and so be cited anonymously].

X. YERUSHALMI SANHEDRIN 2:6

- [A] “**HE SHOULD NOT MULTIPLY WIVES TO HIMSELF**” (**DEUT. 17:17**) – ONLY EIGHTEEN. **R JUDAH SAYS, “HE MAY HAVE AS MANY AS HE WANTS, SO LONG AS THEY DO NOT ENTICE HIM [TO ABANDON THE LORD (DEUT. 7:4)].” R. SIMEON SAYS, “EVEN IF THERE IS ONLY ONE WHO ENTICES HIM [TO ABANDON THE LORD] – LO, THIS ONE SHOULD NOT MARRY HER.” IF SO, WHY IS IT SAID, “HE SHOULD NOT MULTIPLY WIVES TO HIMSELF”? EVEN THOUGH THEY SHOULD BE LIKE ABIGAIL [1 SAM. 25:3].**
1. **I:1:** R. Kahana: “The limitation to eighteen wives is by reason of the following: ‘And the sixth, Ithream, of Eglah, David’s wife. These were born to David in Hebron (2 Sam. 3:5) – and what is stated further on? ‘I would add to you as much more’ (2 Sam. 12:8). [This indicates that there would be yet two more groups of six wives, eighteen in all].”
- [B] “**HE SHOULD NOT MULTIPLY HORSES TO HIMSELF**” (**DEUT. 17:16**) – ONLY ENOUGH FOR HIS CHARIOT.
1. **II:1:** This is in line with the following: “And David hamstringed all the chariot horses, but left enough for a hundred chariots” (2 Sam. 8:4).
- [C] “**NEITHER SHALL HE GREATLY MULTIPLY TO HIMSELF SILVER AND GOLD**” (**DEUT. 17:16**) – ONLY ENOUGH TO PAY HIS ARMY.
1. **III:1:** R. Joshua b. Levi said, “But that provides solely for the wages for a given year alone [and not wages for several consecutive years].”

2. **III:2:** Said R. Aha, Said Solomon, ‘I said of laughter, it is mad (Qoh 2:2). Three things the attribute of justice ridiculed, and I profaned: “‘He should not multiply wives to himself’ (Deut. 17:17). “And it is written, ‘Now King Solomon loved many foreign women’ (1 Kings 11:1).” [This pericope resumes below, I.] R. Simeon b. Yohai said, “He loved them literally, that is, he fornicated with them.” Hananiah, nephew of R. Joshua, says, “[He actually married them and violated the precept,] ‘You shall not marry with them’ (Deut. 7:3).” R. Yosé says, “It was to draw them to the teachings of Torah and to bring them under the wings of the Indwelling Presence of God.”

[D] **“AND HE WRITES OUT A SCROLL OF THE TORAH FOR HIMSELF” (DEUT. 17:17)**

1. **IV:1:** And he writes for himself a scroll of the Torah (Deut. 17:18) – for his own use, that he not have to make use of the one of his fathers, but rather of his own [T. San. 4:7]. And they correct his scroll by comparing it to the scroll of the Temple courtyard, on the authority of the Sanhedrin of seventy-one members.

[E] **WHEN HE GOES TO WAR, HE TAKES IT OUT WITH HIM; WHEN HE COMES BACK, HE BRINGS IT BACK WITH HIM; WHEN HE IS IN SESSION IN COURT, IT IS WITH HIM; WHEN HE IS RECLINING, IT IS BEFORE HIM, AS IT IS SAID, “AND IT SHALL BE WITH HIM, AND HE SHALL READ IN IT ALL THE DAYS OF HIS LIFE” (DEUT. 17:19).**

1. **V:1:** When he goes forth to war, it goes with him, as it is said, “And it shall be with him, and he shall read in it all the days of his life” (Deut. 17:19) [Cf. M. San. 2:6I-J]. Lo, it is a matter of an argument *a fortiori*: Now if a king of Israel, who is taken up with the needs of Israel, is told, “And he shall read in it all the days of his life,” an ordinary person, how much the more so [must he read in the Torah all the days of his life]. Along these same lines, concerning Joshua it is written, “This book of the law shall not depart out of your mouth, but you shall meditate on it day and night” Joshua 1:8). Lo, it is a matter of an argument *a fortiori*: Now if Joshua, who is taken up with the needs of Israel, is told, “You shall meditate in it day and night,” an ordinary person, how much more so [must he meditate in the Torah all the days of his life] [T. San. 4:8-9].

[F] **[OTHERS MAY] NOT RIDE ON HIS HORSE, SIT ON HIS THRONE, HANDLE HIS SCEPTER.**

1. **VI:1:** And when he does, all of them are to be burned in the presence of his corpse, as it is said, “You shall die in peace. And as spices were burned for your fathers, the former kings, who were here before you, so men shall burn spices for you and lament for you” (Jer. 34:5).

[G] AND [OTHERS MAY] NOT WATCH HIM WHILE HE IS GETTING A HAIRCUT, OR WHILE HE IS NUDE, OR IN THE BATH-HOUSE, SINCE IT IS SAID, “YOU SHALL SURELY SET HIM AS KING OVER YOU” (DEUT. 17:15) – THAT REVERENCE FOR HIM WILL BE UPON YOU.

1. VII:1: This is in line with the following verse” “Your eyes will see the king in his beauty” (Is. 33:17).
2. VII:2: Hanina went up to R. Yudan the Patriarch. He came out to greet him dressed in his undershirt. He said to him, “Go and put on your woolen cloak, on the grounds of ‘Your eyes will see the king in his beauty’ (Is. 33:17).” Yohanan went up to call on R. Yudan the Patriarch. He came out to receive him wearing a shirt made of cotton. He said to him, “Go and put on your woolen cloak, on the grounds of ‘Your eyes will see the king in his beauty’ (Is. 33:17).”
3. VII:3: Yosé Meoni interpreted the following verse in the synagogue in Tiberias: “‘Hear this, Priests’ (Hos. 5:1) – why do you not labor in the Torah? Have not the twenty-four priestly gifts been given to you?” “They said to him, ‘Nothing at all has been given to us.’ ‘And give heed, O House of Israel!’ (Hos. 5:1). “‘Why do you not give the priests the twenty-four gifts concerning which you have been commanded at Sinai?’ “They said to him, ‘The king takes them all.’ “‘Hearken, O house of the king! For the judgment pertains to you’ (Hos. 5:1). “To you have I said, ‘And this shall be the priests’ due from the people, from those offering a sacrifice: they shall give to the priest the shoulder, the two cheeks, and the stomach’ (Deut. 18:3). “I am going to take my seat with them in court and to make a decision concerning them and blot them [the kings] out of the world.” R. Yudan the Patriarch heard [about this attack on the rulers] and was angry. [Yosé] feared and fled.
4. VII:4: Hezekiah was going along the way. A Samaritan met him. He said to him, “Rabbi, are you the rabbi of the Jews?” He said to him, “Yes.” He said to him, “Note what is written, ‘You will surely set a king over you’ (Deut. 17:15). “It is not written ‘I shall set,’ but ‘You shall set,’ for you yourself set him over you.”

XI. YERUSHALMI SANHEDRIN 3:1

[A] PROPERTY-CASES ARE [DECIDED BY] THREE [JUDGES] [M. 1:1A]. THIS LITIGANT CHOOSES ONE [JUDGE], AND THAT LITIGANT CHOOSES ONE JUDGE, AND THEN

THE TWO OF THE [LITIGANTS] CHOOSE ONE MORE,” THE WORDS OF R. MEIR. AND SAGES SAY, “THE TWO JUDGES CHOOSE ONE MORE.”

1. **I:1:** The basic theory,] said R. Zira, is that, since the litigant chooses the judge, he takes for granted that his choice will seek out cause in his own behalf. What is the reasoning of R. Meir [who maintains that the third judge is chosen with the knowledge and consent of the litigants]? It is so that the third (lit., three) of them will be chosen with the concurrence [of the litigants]. What is the reasoning of rabbis [who do not require the knowledge and consent of the litigants]? [One party will say to the other,] “You have not got the power to choose and seat the one of your choice. Rather, you and I will choose and seat one of our choice.” [Thus there can be no end to the matter.]

XII. YERUSHALMI SANHEDRIN 3:2

[A] “THIS PARTY HAS THE RIGHT TO INVALIDATE THE JUDGE CHOSEN BY THAT ONE, AND THAT PARTY HAS THE RIGHT TO INVALIDATE THE JUDGE CHOSEN BY THIS ONE,” THE WORDS OF R. MEIR. AND SAGES SAY, “UNDER WHAT CIRCUMSTANCES? “WHEN HE BRINGS EVIDENCE ABOUT THEM, THAT THEY ARE RELATIVES OR OTHERWISE INVALID. “BUT IF THEY ARE VALID [JUDGES] OR COURT-CERTIFIED EXPERTS, HE HAS NOT GOT THE POWER TO INVALIDATE THEM.”

1. **I:1:** Thus the Mishnah teaches that this one may invalidate the judge chosen by the other. Lo, [he then may not invalidate] the judge he himself has chosen [even though he has reason to retract]. R. Simeon b. Laqish said, “R. Meir’s rule applies to court archives in Syria [made up of amateurs]. But lo, to courts set up in accord with the law of the Torah [made up of experts], [what he has said does] not [apply]. [The archive courts are made up of unqualified people, not experts. If they are experts, then Meir concurs that there can be no disqualification. Thus he agrees with M. 3:2B-D.]” R. Yohanan said, “Even in the case of courts set up in accord with the law of the Torah [and made up of experts, Meir maintains the same position]. [Thus he differs from M. 3:2B-D.]”
 - a. **I:2:** Thus do they say: Two men had a case in Antioch. One of them said to his fellow, “That which R. Yohanan will rule [in this case] do I accept for myself.” R. Yohanan heard and ruled: “He does not have the power to compel his antagonist [to go to Tiberias for the trial]. But [the court in Antioch] will hear the claims of both

parties there. Then if there is need, they may write up the particulars of the case and send the case to the rabbis.”

3. **I:3:** [With regard to the statement of Meir, M. 3:2A,] may this one continue to invalidate the judges whom the other brings? Said R. Zira, “The rule has been taught with reference to a supererogatory court [made up of amateurs].”

XIII. YERUSHALMI SANHEDRIN 3:3

[A] **“THIS PARTY INVALIDATES THE WITNESSES BROUGHT BY THAT ONE, AND THAT PARTY INVALIDATES THE WITNESSES BROUGHT BY THIS ONE,” THE WORDS OF R. MEIR. AND SAGES SAY, “UNDER WHAT CIRCUMSTANCES?” WHAT HE BRINGS EVIDENCE ABOUT THEM, THAT THEY ARE RELATIVES OR OTHERWISE INVALID. “BUT IF THEY ARE VALID [TO SERVE AS WITNESSES], HE HAS NOT GOT THE POWER TO INVALIDATE THEM.”**

1. **I:1:** R. Simeon b. Laqish said, “Thus the Mishnah [concerning Meir, M. 3:3A] teaches: ‘His witness’ [one of those brought by the antagonist]. Lo, two of his witnesses [one may not invalidate]. R. Yohanan said, “Even the two witnesses he has brought [may the antagonist invalidate].”
2. **I:2:** [With reference to the following passage of T. San. 6:3K-P: And how many do they add? Step by step, two at a time. [When] they add to the judges, [if] they rule, “He is innocent,” he is innocent. If they rule, “He is guilty,” he is guilty. [If] one says, “He is innocent,” and one says, “I don’t know,” they add to the judges, for up to that point the court has been evenly divided. [If] one says, “He is liable,” and one says, “He is innocent,” and one says, “I don’t have an opinion,” they add to the judges, for up to now they have added only one judge at a time (T. San. 6:3K-P). Under all circumstances they continue adding judges until the court process has been completed (T. San. 6:4A),] said Raba bar Buna in the name of Rab, “[They add to the court only when one ruled for one party, one for the other, and one declined to rule. When they added the same situation pertained. But if to begin with two have ruled for one party and one for the other, and when they added to the court, one ruled for one party and one declined to rule, there now are three judges who hold a single position. Consequently,] when three [concur], it is the completion of the trial, [and a decision has been reached].”

XIV. YERUSHALMI SANHEDRIN 3:4

[A] “IF ONE LITIGANT SAID TO THE OTHER, ‘I ACCEPT MY FATHER AS RELIABLE,’ ‘I ACCEPT YOUR FATHER AS RELIABLE,’ ‘I ACCEPT AS RELIABLE THREE HERDSMEN [TO SERVE AS JUDGES],’” R. MEIR SAYS, “HE HAS THE POWER TO RETRACT.” AND SAGES SAY, “HE HAS NOT GOT THE POWER TO RETRACT.” [IF] ONE OWED AN OATH TO HIS FELLOW, AND HIS FELLOW SAID, “[INSTEAD OF AN OATH], TAKE A VOW TO ME BY THE LIFE OF YOUR HEAD,” R. MEIR SAYS, “HE HAS THE POWER TO RETRACT.” AND SAGES SAY, “HE HAS NOT GOT THE POWER TO RETRACT.”

1. **I:1:** [If] one said to him, “Your father is acceptable to me” [and if] he accepted [his father as witness or judge] before two individuals, he has the power to retract. If he did so before three, he does not have the power to retract [in the opinion of sages, for the three constitute a court].
2. **I:2:** Samuel said, “[The dispute of the Mishnah pericope] applies in a case in which one has not taken the disputed object from one party and given it to the other. But if one has taken it from one party and given it to the other, the one who made the statement no longer has the power to retract, [for the transaction has been completed in the transfer of the disputed object, and the winning party has effected possession of the object]. [Even Meir now must concur that there can be no further retraction.]” Both R. Yohanan and R. Simeon b. Laqish said, “Even if [the court] has taken [the disputed object] from this party and given it to that party, [in Meir’s view] he can retract.”
3. **I:3:** [WM’SH B: Someone owed his fellow an oath in court and] vowed to him by the life of a certain object, and [the person to whom the oath was owed] accepted it [T. San. 6:5M}the latter can retract. [The vow is null.]
4. **I:4:** [“The argument of Meir and sages applies,]” said R. Hiyya bar Ba, “in a case in which [the plaintiff] said to [the defendant], ‘Let your father say to me, And I have no claim against you.’ But if [the defendant] said to [the plaintiff], ‘Let your father say, And I accept upon me,’ it is a mere pretext which he gave since he wanted [the father] to concur with [the defendant]. [That is, the claimant says, ‘If your father says that matters are thus-and-so, then I have no further claim against you. But if the defendant said to him, ‘Let your father say that matters are such-and-so, as you have stated,’ this is of no weight at

all. The defendant merely hoped the father would support his case, not the son's case; the statement of the defendant then has no bearing.]”

XV. YERUSHALMI SANHEDRIN 3:5

**[A] AND THESE ARE THOSE WHO ARE INVALID [TO SERVE AS WITNESSES OR JUDGES]:
HE WHO PLAYS DICE:**

- 1. I:1:** this refers to one who plays with blocks of wood. All the same are one who plays with blocks of wood, and one who plays with nutshells or pomegranate shells – under no circumstances do they accept the testimony of such a person.

[B] HE WHO LOANS MONEY ON INTEREST:

- 1. II:1:** do they not accept [as a witness] unless he tears up bonds of indebtedness owing to him, and [undertakes] to carry out a complete reformation.

[C] THOSE WHO RACE PIGEONS:

- 1. III:1:** this refers to one who trains pigeons. All the same are the one who trains pigeons and the one who trains any other sort of domesticated beast, wild beast, or bird – under no circumstances do they accept the testimony of such a person unless he undertakes to break his stages (or rinse) and to carry out a complete reformation.

[D] AND THOSE WHO DO BUSINESS IN THE PRODUCE OF THE SEVENTH YEAR.

- 1. IV:1:** Those who do business in the produce of the Seventh Year [M. San. 3:5B] – this is a merchant in the produce of the Seventh Year. What is such a merchant? This is one who sits idle during the other six years of the septennate. Once the Seventh Year comes, he begins to do business in produce of the Seventh Year. Under no circumstances do they accept such a person until another year of release arrives, and one may test him and find that he has reformed himself completely. It was taught: R. Yosé [says], “Two septennates.” R. Nehemiah says, “It must be a reform through property, not merely a reform through what he has said. “How so? “[He must say,] ‘These two hundred denars I collected from the sale of produce of transgression.’ Then [he must] hand them out to the poor” [T. San. 5:2].
- 2. IV:2:** They added to the list of those named-above shepherds, thugs, robbers, and anyone with a shady reputation in financial matters. Their

testimony is null. Said R. Abbahu, “This applies to shepherds of small cattle [but not large ones].” R. Huna said, “Who taught that pigeon racers [are unacceptable as witnesses]?” It is R. Eliezer, as it has been taught, pigeon racers are invalid as witnesses [M. Ed. 2:7]. Said R. Mana in the presence of R. Yosé, “And further, is this teaching in respect to Sanhedrin also in accord [only] with R. Eliezer?” He said to him, “It is the opinion of all parties, in the present matter [of oaths].”

[E] SAID R. SIMEON, “IN THE BEGINNING THEY CALLED THEM, ‘THOSE WHO GATHER SEVENTH YEAR PRODUCE.’ WHEN OPPRESSORS BECAME MANY [WHO COLLECTED TAXES IN THE SEVENTH YEAR], THEY REVERTED TO CALL THEM, ‘THOSE WHO DO BUSINESS IN THE PRODUCE OF THE SEVENTH YEAR.’” SAID R. JUDAH, “UNDER WHAT CIRCUMSTANCES? WHEN [THE AFORE-NAMED (B)] HAVE ONLY THAT AS THEIR PROFESSION. BUT IF THEY HAVE A PROFESSION OTHER THAN THAT, THEY ARE VALID [TO SERVE AS WITNESSES OR JUDGES].”

1. V:1: What would be a concrete example [of Judah’s position]? It is one who sits idle during the other six years of the septennate. Once the Seventh Year comes, he stretches out his hands and legs and does business in produce of the Seventh Year [T. San. 5:2K]. [But] if he has yet another profession, he is valid, and [only] if not is he invalid. But if he carried out his own profession through all the years of the septennate, and once the Seventh Year arrives, he then stretches out his hands and does business in produce of the Seventh Year, even though such a person has no other profession [in the Seventh Year itself], he [too] is valid.
2. V:2: R. Judah in the name of Rab: “The law is in accord with R. Judah.”

XVI. YERUSHALMI SANHEDRIN 3:6

[A] AND THESE ARE RELATIVES [PROHIBITED FROM SERVING AS ONE’S WITNESSES OR JUDGES]: (1) ONE’S FATHER, (2) BROTHER, (3) FATHER’S BROTHER, (4) MOTHER’S BROTHER, (5) SISTER’S HUSBAND, (6) FATHER’S SISTER’S HUSBAND, (7) MOTHER’S SISTER’S HUSBAND, (8) MOTHER’S HUSBAND, (9) FATHER-IN-LAW, AND (10) WIFE’S SISTER’S HUSBAND — THEY, THEIR SONS, AND THEIR SONS-IN-LAW; BUT THE STEP-SON ONLY [BUT NOT THE STEP-SON’S OFFSPRING]. SAID R. YOSÉ, “THIS IS THE VERSION OF R. AQIBA. BUT THE EARLIER VERSION [IS AS FOLLOWS]: “HIS UNCLE, THE SON OF HIS UNCLE [LEV. 25:49] AND ANYONE WHO STANDS TO INHERIT HIM.” AND ANYONE WHO IS RELATED TO HIM AT THAT TIME,

1. **I:1:** Since we have learned that his brother [is deemed invalid as a relative], what need is there to teach, “The brother of his father”? It is to indicate that [included as relatives are] the son and son-in-law of the son-in-law of his father’s brother. Since we have learned that the brother of his father [is deemed invalid as a relative], what need is there to teach, “The brother of his mother”? It is to indicate that [included as relatives are] the son and the son-in-law of the son-in-law of his mother’s brother. Since we have learned that the husband of his sister [is deemed invalid as a relative], what need is there to teach, “The husband of his father’s sister”? It is to indicate that [included as relatives are] the son and the son-in-law of the son-in-law of the husband of his father’s sister. Since we have learned that the husband of his father’s sister [is deemed invalid as a relative], what need is there to teach, “The husband of his mother’s sister”? It is to indicate that [included as relatives are] the son and the son-in-law of the son-in-law of the husband of his mother’s sister.
2. **I:2:** But we have learned, The stepson only [M. San. 3:6C]. [This would exclude the stepson’s wife, who may testify.] Rab said, “If the son-in-law of his mother-in-law is forbidden, the husband and his stepdaughter all the more so [are forbidden].”
3. **I:3:** As to the wife’s sister’s husband [of M. 3:6A(10)], there is a Tannaite authority who teaches that his sons and sons-in-law also are prohibited to serve as witnesses. There is a Tannaite authority who teaches that his sons and sons-in-law are permitted to serve as witnesses.
4. **I:4:** Rab went out to look over a property for R. Hiyya the Elder. He passed through a certain place and found R. Yohanan in session and raised the following question: We have learned, The stepson only. What is the law as to the wife of the stepson? [Is she valid to testify, in light of Mishnah’s statement?] What is the law as to the husband of one’s stepdaughter? Do we maintain that a woman is in the status of her husband, and a husband is in the status of his wife? [In this case the wife of the stepson or husband of the stepdaughter also is prohibited from testifying.] And the matter was settled that, indeed, the wife of his stepson is in the status of his stepson, [or] the husband is in the status of the wife [and what is excluded by Mishnah’s language is the sons and sons-in-law of the stepson].”
5. **I:5:** R. Hisda raised the question: “What is the law concerning the third generation’s being permitted to testify in respect to the wife of the first generation? As to Moses, what is the law as to his being

permitted to testify concerning the wife of Phineas [his grandson] [and, further, do we invoke the rule that the wife is in the status of the husband in the third generation as in the first]?” R. Simeon b. Laqish said, “They accept the testimony of the second and third generation when it is out of necessity.” R. Yohanan said, “Even if there is ample [testimony, that of the named parties also is acceptable].”

[B] [If] ONE WAS A RELATIVE BUT CEASED TO BE RELATED, LO, THAT PERSON IS VALID. R. JUDAH SAYS, “EVEN IF HIS DAUGHTER DIED, IF HE HAS SONS FROM HER, LO, [THE SON-IN-LAW] IS DEEMED A RELATIVE.

- 1. I:1:** This is in line with the following case: The wife’s sister’s husband of R. Huna had a suit against a certain person. [The former wife’s sister’s husband of Huna] said, “Whatever R. Huna says I accept [as valid evidence in this case].” R. Huna heard and said the same. [That is, he maintained the same position, that he was then valid to testify for his former wife’s sister’s husband.] For I know that just as they said that that rule applies to the earlier generation [e.g., if one’s daughter had died.] so it applies to the later generation [e.g., if the wife’s sister’s husband becomes free to testify in behalf of his former wife’s sister’s brother.”

XVII. YERUSHALMI SANHEDRIN 3:7

[A] “ONE KNOWN TO BE A FRIEND AND ONE KNOWN TO BE AN ENEMY – “ONE KNOWN TO BE A FRIEND – THIS IS THE ONE WHO SERVED AS HIS GROOMSMAN; “ONE KNOWN TO BE AN ENEMY – THIS IS ONE WHO HAS NOT SPOKEN WITH HIM FOR THREE DAYS BY REASON OF OUTRAGE.” THEY SAID TO [JUDAH], “ISRAELITES ARE NOT SUSPECT FOR SUCH A FACTOR.”

- 1. I:1:** R. Tablai, R. Abina in the name of Rab: “[The law covering the groomsman applies not only on the day of the wedding, but also] throughout the seven days of the wedding celebration. [For that period the groomsman may not testify. But thereafter he may do so.]”

XVIII. YERUSHALMI SANHEDRIN 3:8

[A] HOW DO THEY TEST THE WITNESSES? THEY BRING THEM INTO THE ROOM AND ADMONISH THEM. THEN THEY TAKE EVERYONE OUT AND KEEP BACK THE MOST IMPORTANT OF THE GROUP. AND THEY SAY TO HIM, “EXPLAIN: HOW DO YOU KNOW THAT THIS ONE OWES MONEY TO THAT ONE.” IF HE SAID, “HE TOLD

ME, 'I OWE HIM,' 'SO-AND-SO TOLD ME THAT HE OWES HIM,'" HE HAS SAID NOTHING WHATSOEVER, UNLESS HE SAYS, "IN OUR PRESENCE HE ADMITTED TO HIM THAT HE OWES HIM TWO HUNDRED ZUZ."

- 1.** **I:1:** [With regard to M. San. 3:8E, F,] R. Yosé in the name of R. Yohanan: "If [the defendant] clearly intended to hand on solid testimony [as to his guilt, not merely a remark made casually], then the testimony to that effect given by witnesses indeed is valid."
- 2.** **I:2:** How do they carry out a judgment? The judges seat themselves, and the litigants remain standing before them. Whoever brings claim against his fellow is the one who opens the proceedings [T. San. 6:3], as it is said, "Whoever has a complaint, let him go to them [Aaron and Hur, as judges]" (Ex. 24:14).
- 3.** **I:3:** R. Huna, when he would see witnesses using identical language, would undertake a strict examination. And when he did so, it turned out that he was right [that there had been a prior rehearsal on what the witnesses were to say].
- 4.** **I:4:** R. Abbahu in the name of R. Yohanan: "He who hides his witnesses behind a wall [to entrap another party] has not accomplished anything."

XIX. YERUSHALMI SANHEDRIN 3:9

[A] AND AFTERWARD THEY BRING IN THE SECOND AND TEST HIM IN THE SAME WAY. IF THEIR TESTIMONY CHECKS OUT, THEY DISCUSS THE MATTER. [IF] TWO [JUDGES] SAY, "HE IS INNOCENT," AND ONE SAYS, "HE IS GUILTY," HE IS INNOCENT. [IF] TWO SAY, "HE IS GUILTY," AND ONE SAYS, "HE IS INNOCENT," HE IS GUILTY. [IF] ONE SAYS, "HE IS INNOCENT," AND ONE SAYS, "HE IS GUILTY," – OR EVEN IF TWO DECLARE HIM INNOCENT AND TWO DECLARE HIM GUILTY – BUT ONE OF THEM SAYS, "I DON'T KNOW," THEY HAVE TO ADD JUDGES:

- 1.** **I:1:** The smallest number of goats (Lev. 16:5: "Two male goats for a sin offering") is two. Why then does Scripture specify "two"? To indicate that the two of them should be equivalent to one another. The smallest number of lambs (Lev. 14:10) is two. Why then does Scripture specify "two"? To indicate that the two of them should be equivalent to one another. The smallest number of birds is two. Why then does Scripture specify "two" ["two living clean birds" (Lev. 14:4)]? To indicate that the two of them should be equivalent to one

another. The smallest number of trumpets (Num. 10:2) is two. Why then does Scripture specify “two”? To indicate that the two of them should be equivalent to one another. [The foregoing is relevant because of the following:] R. Haggai objected to R. Yasa, “And is it not written, ‘If a malicious witness raises against any man to accuse him of wrongdoing, then both parties to the dispute shall appear before the Lord’ (Deut. 19:16-17)? ‘Shall we now say: ‘The smallest number of men is two’? Why then does Scripture specify, ‘the two parties’? Is it to say that both of them must be equivalent to one another? But has it not been written [to the contrary, indicating that they need not be equivalent to one another], ‘You shall not pervert the justice due to the sojourner or to the fatherless’ (Deut. 24:17)? Lo, a sojourner may enter into a case with one who is not a sojourner, an orphan enters into a case with one who is not an orphan. “If so, why has it been written, ‘two’? “It is a superfluous word, left available for drawing an analogy therefrom or for constructing an argument on the foundation of similarities. “[This argument, specifically, is as follows:] Here is it stated, ‘two,’ and below it says, ‘Now two men remained in the camp, one named Eldad, and the other named Medad, and the spirit rested upon them’ (Num. 11:26). “Just as in the cited passage the reference is to men, not women, so here [with regard to testimony] the meaning is to permit [two] men, but not women or children [to testify]. “Thus we have learned that a woman does not judge or give testimony in court.”

- 2.** **I:2:** It is written, “The fathers shall not be put to death for the children” (Deut. 24:16). And has it not also been stated, “Every man shall be put to death for his own sin” (Dt. 24:16)? Why does Scripture then state, “The fathers shall not be put to death for the children” (Dt. 24:16)? The fathers shall not be put to death by the testimony of the children, and the children shall not be put to death by the testimony of the fathers. How then do we know further that witnesses may not be related to the litigants, and how do we know that witnesses may not be related to one another [M. 3:6]? Take note that, if they should be declared to be conspiring witnesses, is it not by their own testimony that they are put to death [in which case relatives turn out to testify against one another, which is not permitted]? And how do we know that witnesses may not be related to the judges? Take note that if one of the witnesses is declared a conspiratorial witness, is he put to death before his fellow also is so declared: [Of course not.] If you say so, will he not be put to death by his testimony? [That is, judges will turn out to inflict the death penalty on their own relatives.] And how do we know that the judges may not be related to one another? The Torah has declared that one should be put to death on the testimony of witnesses,

and one should be put to death at the decision of judges. Just as witnesses may not be related to one another, so judges may not be related to one another. I know that these rules apply only to fathers and children. How do I know that they apply to other relationships? Said R. Zeira, “‘And children’ – the use of the ‘and’ serves to encompass other relatives.”

- 3. I:3:** [The law governing an oath of testimony applies to men and not to women, to those who are not related and not to those who are related,] to those who are suitable to bear witness, and not to those who are not suitable to bear witness [M. Sheb. 4:1A]. This is in line with that which is said, “If he does not speak, he shall bear his iniquity” (Lev. 5:1). [This applies to] him who gives evidence, so that his fellow will have to pay out money. It thus excludes one who is unfit to give testimony, for even if he does tell what he knows, his fellow is not going to have to pay out money. Before a court [and not before a court:] This excludes the case of a single witness [without a corroborating witness], in a case in which they said to him, “Lo, you are acceptable for us as two witnesses.” Is it possible to suppose that, in the stated case, such a one should be liable [to the oath of testimony]? Scripture has stated, “whether he has seen or come to know the matter, yet does not speak” (Lev. 5:5) – this refers to one who is suitable to give testimony valid by the law of the Torah, excluding a lone witness, who is not valid to give testimony by the law of the Torah. And not before a court: “If he does not speak, he shall bear his iniquity” (Lev. 5:5) – [the oath thus applies to] the one who reports what he has seen and [his fellow] pays what he owes, excluding a case outside of a court, in which even if one reports what he knows, his fellow is not going to have to pay out compensation. And how do we know that the law applies to two witnesses? Scripture says, “And he a witness,” lo, here are two witnesses.
- 4. I:4:** The evidence of witnesses is not combined [so that we have the testimony of two witnesses] unless the two of them saw the incident simultaneously – R. Joshua b. Qorha says, “Even if they saw it sequentially.” R. Jeremiah in the name of Rab: “Sages concede to R. Joshua b. Qorha in the matter of witnesses to the claim of one to be the firstborn, and in the case of witnesses to the claim of one to have established rights of ownership through usucaption, [that successive, not simultaneous, witness, is acceptable].”

 - a. I:5:** [In regard to Joshua b. Qorha’s view, I:4C, that the evidence of witnesses is combined even if they saw the matter to which they testify only sequentially, note the following:] They accept the

testimony of witnesses only when they come at the same time and testify in the same proceeding. R. Nathan Says, “They accept the testimony of the first, and when the second comes, they accept his testimony as well.”

5. **I:6:** R. Hisda raised the question, “What is the law as to accepting the testimony of witnesses not in the presence of a litigant?” R. Yosé in the name of R. Shabbetai: “They accept the testimony of witnesses not in the presence of a litigant, and they issue a court decree. If thereafter he comes and objects, his objections may be sustained. [That is, the court then hears his contrary evidence and may act on it.]”

XX. YERUSHALMI SANHEDRIN 3:10

[A] [WHEN] THEY HAVE COMPLETED THE MATTER, THEY BRING THEM BACK IN. THE CHIEF JUDGE SAYS, “MR. SO-AND-SO, YOU ARE INNOCENT,” “MR. SO-AND-SO, YOU ARE GUILTY.” NOW HOW DO WE KNOW THAT WHEN ONE OF THE JUDGES LEAVE [THE COURT], HE MAY NOT SAY, “I THINK HE IS INNOCENT, BUT MY COLLEAGUES THINK HE IS GUILTY, SO WHAT CAN I DO? FOR MY COLLEAGUES HAVE THE VOTES!” CONCERNING SUCH A PERSON, IT IS SAID, “YOU SHALL NOT GO UP AND DOWN AS A TALEBEARER AMONG YOUR PEOPLE” (LEV. 19:16). AND IT IS SAID, “HE WHO GOES ABOUT AS A TALEBEARER AND REVEALS SECRETS, [BUT HE THAT IS FAITHFUL CONCEALS THE MATTER]” (PROV. 11:13).

1. **I:1:** Said R. Yohanan, “They force a judge who has taken the position that the accused is guilty to sign the decree of innocence with them, [if that is the position of the majority].” R. Simeon b. Laqish said, “The judge who deems the accused to be guilty writes, ‘Guilty,’ and the judge who deems the accused to be innocent writes, ‘Innocent.’”

XXI. YERUSHALMI SANHEDRIN 3:11

[A] SO LONG AS [A LITIGANT] BRINGS PROOF, HE MAY REVERSE THE RULING. [IF] THEY HAD SAID TO HIM, “ALL THE EVIDENCE WHICH YOU HAVE, BRING BETWEEN THIS DATE AND THIRTY DAYS FROM NOW,” [IF] HE FOUND EVIDENCE DURING THE THIRTY-DAY-PERIOD, HE MAY REVERSE THE RULING. [IF HE FOUND EVIDENCE] AFTER THE THIRTY-DAY-PERIOD, HE MAY NOT REVERSE THE RULING. SAID RABBAN SIMEON B. GAMALIEL, “WHAT SHOULD THIS PARTY DO, WHO COULD NOT FIND THE EVIDENCE DURING THE THIRTY-DAY-PERIOD, BUT FOUND IT AFTER THIRTY DAYS?”

- I:1:** Said R. Oshaiah, “[As to the comparison of this rule, dealing with a case in which the judges are in doubt as to their decision and are willing to consider further evidence, with the situation prevailing when one of the judges cannot make up his mind, in which case they add to the court, we may ask why they do not add to the court here as well.] There [where they add to the court, it is because] it is possible for them to add judges in pairs, but here it is not possible to add more judges [since the full complement has been reached]. [Consequently further evidence is admissible.]” R. Yohanan and R. Laqish both teach that even here it is possible to add to the court. [for they hold that the point of adding judges is not the need of the available judges for more decisive evidence, as Oshaiah thinks. It is that the judges differ as to the legal principles. Here the sole doubt is as to the evidence, not as to the legal principles.]

XXII. YERUSHALMI SANHEDRIN 3:12

[A] [IF] THEY HAD SAID TO HIM, “BRING WITNESSES,” AND HE SAID, “I DON’T HAVE WITNESSES,” [IF] THEY HAD SAID, “BRING PROOF,” AND HE SAID, “I DON’T HAVE PROOF” AND AFTER A TIME HE BROUGHT PROOF, OR HE FOUND WITNESSES — THIS IS OF NO WEIGHT WHATSOEVER. SAID RABBAN SIMEON B. GAMALIEL, “WHAT SHOULD THIS PARTY DO, WHO DID NOT EVEN KNOW THAT HE HAD WITNESSES ON HIS SIDE BUT FOUND WITNESSES? OR WHO DID NOT EVEN KNOW THAT HE HAD PROOF, BUT WHO FOUND PROOF?” [IF] THEY HAD SAID TO HIM, “BRING WITNESSES,” AND HE SAID, “I HAVE NO WITNESSES,” “BRING PROOF,” AND HE SAID, “I HAVE NO PROOF,” [IF] HE SAW THAT HE WOULD BE DECLARED LIABLE IN COURT AND SAID, “LET MR. SO-AND-SO AND MR. SUCH-AND-SUCH [NOW] COME ALONG AND GIVE EVIDENCE IN MY BEHALF,” OR IF [ON THE SPOT] HE BROUGHT PROOF OUT OF HIS POCKET — LO, THIS IS OF NO WEIGHT WHATSOEVER

- I:1:** Yohanan in the name of R. Hoshaiiah [said, “There are] three masters [who differ on the interpretation of this rule]. One said, ‘At any time at which one brings proof, he may reverse the decision.’ One said, ‘If he brought contrary evidence in thirty days, he may reverse the decision. If he did so after thirty days, he cannot do so.’ And one said, ‘Under no circumstances can he overturn the judgment, unless he brings proof that he had no knowledge at all [at the time of the trial, that this further evidence in his behalf was available].’”
- I:2:** R. Levi had a case with a litigant in a matter of houses, and they came to court before R. Eleazar. After the trial was over, he brought

evidence. [Eleazar] asked R. Yohanan, who said to him, “So long as he brings proof, he may reverse the decision.”

- I:3:** As to the court’s validation [of a document in which the signature of the witnesses and judges are not recognized], what is the law as to requiring court action? [That is, do we have to validate all the signatures on a bond before a court, or perhaps, since the bond itself has been validated, it is not necessary to revalidate all the signatures.]

XXIII. YERUSHALMI SANHEDRIN 4:1

[A] THE SAME [LAWS] APPLY TO PROPERTY CASES AND CAPITAL CASES WITH RESPECT TO EXAMINATION AND INTERROGATION [OF WITNESSES], AS IT IS SAID, “YOU WILL HAVE ONE LAW” (LEV. 24:22). WHAT IS THE DIFFERENCE BETWEEN PROPERTY CASES AND CAPITAL CASES? PROPERTY CASES [ARE TRIED] BY THREE [JUDGES], AND CAPITAL CASES BY TWENTY-THREE. IN PROPERTY CASES THEY BEGIN [ARGUMENT] WITH THE CASE EITHER FOR ACQUITTAL OR FOR CONVICTION, WHILE IN CAPITAL CASES THEY BEGIN ONLY WITH THE CASE FOR ACQUITTAL, AND NOT WITH THE CASE FOR CONVICTION.

- I:1:** Said R. Yohanan, “In order to protect an Israelite’s assets, they say [to a witness in a property case], ‘How do you know that this one owes to that one?’” [This explains why witnesses are cross-examined in property cases.]
- I:2:** Zeira bar Hinena in the name of R. Haninah, and R. Judah: one said, “‘Then you shall inquire and make search and ask diligently’ (Deut. 13:14). [That is why there must be a careful cross-examination.]” And the other said, “‘Justice, justice will you pursue’ (Deut. 16:20). [That is why there need not be so careful a cross-examination, so long as justice is done.]”
- I:3:** How do they begin the argument with the case for acquittal? [Judges] say, “Is it possible that this man killed someone?” Said R. Yosé, “If so, [the court itself will disrupt the case. For] one of the witnesses may say that he has arguments in favor of acquittal, and his fellow will come along and support him, in which case the testimony is amply supported. If you say so, does it come out that you impose guilt on the judges themselves [for disrupting the case]?”
- I:4:** Said R. Yohanan, “Whoever does not know how to argue through one hundred arguments that a dead creeping thing is clean and that it is unclean has not got the right to begin the argument for acquittal at all.”

XXIV. YERUSHALMI SANHEDRIN 4:2

[A] IN PROPERTY CASES THEY DECIDE BY A MAJORITY OF ONE, WHETHER FOR ACQUITTAL OR FOR CONVICTION, WHILE IN CAPITAL CASES THEY DECIDE BY A MAJORITY OF ONE FOR ACQUITTAL, BUT ONLY WITH A MAJORITY OF TWO [JUDGES] FOR CONVICTION.

1. **I:1:** Said R. Yannai, “If the Torah were handed down cut-and-dried [so that there were no possibility for disagreement in reasoning about the law and no need to make up one’s mind], [the world] would not have a leg to stand on.”

XXV. YERUSHALMI SANHEDRIN 4:3

[A] IN PROPERTY CASES THEY REVERSE THE DECISION WHETHER IN FAVOR OF ACQUITTAL OR IN FAVOR OF CONVICTION, WHILE IN CAPITAL CASES THEY REVERSE THE DECISION SO AS TO FAVOR ACQUITTAL, BUT THEY DO NOT REVERSE THE DECISION SO AS TO FAVOR CONVICTION.

1. **I:1:** Lo, if one went forth from court having been declared innocent, and they found reasons for finding him guilty, might I suppose that they should bring him back into court? Scripture says, “One who has been found righteous you must not put to death” (Ex. 23:7). Lo, if he went forth from court having been declared guilty, and they found grounds for finding him innocent, might I suppose that they should *not* bring him back into court? Scripture says, “Do not slay the innocent” (Ex. 23:7). “Is it possible that if he should turn out to be righteous in your court, he also will be righteous in my court?” Scripture says, “For I will not acquit the wicked [even if you do]” (Ex. 23:7).
2. **I:2:** Said R. Isaac, “R. Yosé said to me, ‘[Under certain circumstances], there is no difference [between the two kinds of decisions]. For if he was declared innocent by a [gross] error, they indeed do bring him back to court.’”

XXVI. YERUSHALMI SANHEDRIN 4:4

[A] IN PROPERTY CASES ALL [JUDGES AND EVEN DISCIPLES] ARGUE EITHER FOR ACQUITTAL OR CONVICTION. IN CAPITAL CASES ALL ARGUE FOR ACQUITTAL, BUT ALL DO NOT ARGUE FOR CONVICTION. IN PROPERTY CASES ONE WHO ARGUES FOR CONVICTION MAY ARGUE FOR ACQUITTAL, AND ONE WHO ARGUES FOR ACQUITTAL MAY ALSO ARGUE FOR CONVICTION. IN CAPITAL CASES THE ONE WHO ARGUES FOR CONVICTION MAY ARGUE FOR ACQUITTAL, BUT THE ONE WHO ARGUES FOR ACQUITTAL HAS NOT GOT THE POWER TO RETRACT AND TO ARGUE FOR CONVICTION.

1. I:1: Rabbi said, “[But the rule that people may not switch sides applies] only in a case in which what is now lacking is [merely the reading of the verdict,] saying ‘So-and-so, You are innocent,’ or ‘you are guilty.’ But if they lacked yet the full working out of the arguments in the case, it is not in such a case [that a judge is forbidden from switching sides].”

XXVII. YERUSHALMI SANHEDRIN 4:5

[A] IN PROPERTY CASES THEY TRY THE CASE BY DAY AND COMPLETE IT BY NIGHT. IN CAPITAL CASES THEY TRY THE CASE BY DAY AND COMPLETE IT [THE FOLLOWING] DAY.

1. I:1: What is the source of this rule [that the completion of a property case may take place after dark]? “And let them judge the people at all times” (Ex. 18:22). And is it [possible to interpret the verse only] with reference to that which already has taken place, [that is, to assume that the verse speaks of completing the trial and giving the decision after dark on the same day on which the trial has taken place]? [Perhaps it speaks of commencing a trial, not completing the court process.]

XXVIII. YERUSHALMI SANHEDRIN 4:6

[A] IN PROPERTY CASES THEY COME TO A FINAL DECISION ON THE SAME DAY [AS THE TRIAL ITSELF], WHETHER IT IS FOR ACQUITTAL OR CONVICTION.

1. I:1: It was taught: A witness does not give an argument either for acquittal or for conviction [cf. M. San. 5:4C] [T. 9:4C]. How do we know it? As it is said, “And [one witness will not [suffice to] give

testimony [to put the accused] to death” (Num. 35:30). And how do we know that he may not give arguments either for acquittal or conviction? Scripture says, “And [he] will not [suffice to] give testimony [to put the accused] to death” (Num. 35:30).

[B] IN CAPITAL CASES THEY COME TO A FINAL DECISION FOR ACQUITTAL ON THE SAME DAY, BUT ON THE FOLLOWING DAY FOR CONVICTION. (THEREFORE THEY DO NOT JUDGE [CAPITAL CASES] EITHER ON THE EVE OF THE SABBATH OR ON THE EVE OF A FESTIVAL.)

- 1. II:1:** And how do we know [M. San. 4:6C] that we require two consecutive days [for the completion of a capital trial]? R. Hezekiah, R. Ahi in the name of R. Abbahu: “It is forbidden to undertake a trial for a property case on a Friday.”

XXIX. YERUSHALMI SANHEDRIN 4:7

[A] IN CASES INVOLVING QUESTIONS OF UNCLEANNES AND CLEANNESS THEY BEGIN [VOTING] FROM THE ELDEST. IN CAPITAL CASES THEY BEGIN FROM THE SIDE [WITH THE YOUNGEST].

- 1. I:1:** Rabbi says, “‘Do not answer in a suit (RYB)’ (Ex. 23:2) – It is written, RB [meaning, Rab:] One should not answer after the master but before him [so that, in capital cases, the younger judges will be able to exercise independent judgment only if they speak before the master has given his opinion].” R. Yosé b. Haninah said, “‘Do not answer in a suit’ – RB is written, meaning, One should not answer before the master but only after him [in monetary cases].”
- 2. I:2:** Hilqiah in the name of R. Simon: “R. Yohanan and R. Simeon b. Laqish differed. “One said, ‘Our conduct of trials is like their conduct of trials.’ “And the other said, ‘Our conduct of trials is not like their conduct of trials.’” The one who said, “Our conduct of trials is like their conduct of trials,” has no problems. But the one who said, “Our conduct of trials is not like their conduct of trials,” [must interpret the meaning of] the following verse: “Then Judah said to his brothers, [‘What profit is it if we slay our brother and conceal his blood?']” (Gen. 37:26). [Thus Judah spoke first, even though he was not the oldest brother. This was before the Torah was given, so in what is deemed a capital case, it is merely a matter of reason that they do not begin from the eldest.] “Then Memucan said in the presence of the king and the princes.” (Est. 1:16). [Here too Memucan spoke first in the trial of Vashti. Thus in biblical times they did begin in capital cases

with the youngest – Memucan being the last mentioned – and it is indeed a matter of reason to do so. Now if one says that in biblical times the law was different from what it became, how are these verses to be explained? For they indicate that the practice was the same, and that is because it is reasonable and obvious.] [The person who holds that the way we conduct trials is not like the way they conducted trials explains these verses as follows:] They saw the correctness of the opinion of Judah, they saw the correctness of the opinion of Memucan.

3. **I:3:** And how do we know that in capital cases they begin from the side [with the youngest]? Samuel the Elder taught before R. Aha: “‘And David said to his men, “Every man gird on his sword!” [David also girded on his sword]’ (1 Sam. 25:13). And afterward they went into session concerning Nabal. [David came last in the discussion.]”

[B] **ALL ARE VALID TO ENGAGE IN THE JUDGMENT OF PROPERTY CASES, BUT ALL ARE NOT VALID TO ENGAGE IN THE JUDGMENT OF CAPITAL CASES, EXCEPT FOR PRIESTS, LEVITES, AND ISRAELITES WHO ARE SUITABLE TO MARRY INTO THE PRIESTHOOD.**

1. **II:1:** R. Judah says, “Even mamzerim.”
2. **II:2:** It is written, “You shall not be partial to a poor man in *his* suit” (Ex. 23:6) [so a majority of two is required]. In his suit you do not show partiality, but you show partiality in the case of an ox [who may be convicted by a majority of only one vote]. R. Abbahu in the name of R. Yohanan, “But that is so only in regard to the differences between property cases and capital cases. [The ox is tried by twenty-three judges, but in all other ways it is a property case.]”
3. **II:3:** And how many are the [differences between capital and property procedures]? We have learned, They are nine [such as are listed in the present pericopae of the Mishnah]. R. Hiyya taught, “They are eleven.”

XXX. YERUSHALMI SANHEDRIN 4:8

[A] **THE SANHEDRIN WAS [ARRANGED IN THE SHAPE OF A HALF OF A ROUND THRESHING-FLOOR [THAT IS, AS AN AMPHITHEATER], SO THAT [THE JUDGES] SHOULD SEE ONE ANOTHER, AND TWO JUDGES’ CLERKS STAND BEFORE THEM, ONE AT THE RIGHT AND ONE AT THE LEFT. AND THEY WRITE DOWN THE ARGUMENTS OF THOSE WHO VOTE TO ACQUIT AND OF THOSE WHO VOTE TO CONVICT. R. JUDAH SAYS, “THREE: ONE WRITES THE OPINION OF THOSE WHO VOTE TO ACQUIT, ONE WRITES THE OPINION OF THOSE WHO VOTE TO CONVICT,**

AND THE THIRD WRITES THE OPINIONS BOTH OF THOSE WHO VOTE TO ACQUIT AND OF THOSE WHO VOTE TO CONVICT.”

- I:1:** R. Ba bar Yasa in the name of R. Yohanan: “Here ‘Congregation’ is stated, and there ‘Congregation’ is stated” (Num. 35:24, 14:27) [proving that a court has twenty-three members].” Rab introduced this [same proof text in the context of the present] Mishnah pericope [to explain M. 4:8H-L, that is, adding to the court when there was need].

[B] AND THREE ROWS OF DISCIPLES OF SAGES SIT BEFORE THEM. EACH AND EVERY ONE KNOWS HIS PLACE. **[IF]** THEY FOUND NEED TO ORDAIN **[A DISCIPLE TO SERVE ON THE COURT]**, THEY ORDAINED ONE WHO WAS SITTING IN THE FIRST ROW. **[THEN]** ONE WHO WAS SITTING IN THE SECOND ROW JOINS THE FIRST ROW, AND ONE WHO WAS SITTING IN THE THIRD ROW MOVES UP TO THE SECOND ROW. AND THEY SELECT FOR THEMSELVES SOMEONE ELSE FROM THE CROWD AND SET HIM IN THE THIRD ROW. **[THE NEW DISCIPLE]** DID NOT TAKE A SEAT IN THE PLACE OF THE FIRST PARTY **[WHO HAD NOW JOINED IN THE COURT]** BUT IN THE PLACE THAT WAS APPROPRIATE FOR HIM **[AT THE END OF THE THIRD ROW]**.

- II:1:** The Mishnah has stated, “Be a tail to lions, and not a head of foxes” [M Abot 3:15]. The proverb says, “Be a head of foxes, not a tail to lions.” For we have learned, “If they found need to ordain a disciple to serve on the court. they ordained one who was sitting in the first row” [M. San. 4:8H-I].

XXXI. YERUSHALMI SANHEDRIN 4:10

[A] HOW DO THEY ADMONISH WITNESSES IN CAPITAL CASES? THEY WOULD BRING THEM IN AND ADMONISH THEM **[AS FOLLOWS]:** “**PERHAPS IT IS YOUR INTENTION TO GIVE TESTIMONY ON THE BASIS OF SUPPOSITION, HEARSAY, OR OF WHAT ONE WITNESS HAS TOLD ANOTHER; “[OR YOU MAY BE THINKING], ‘WE HEARD IT FROM A RELIABLE PERSON’”** “**OR, YOU MAY NOT KNOW THAT IN THE END WE ARE GOING TO INTERROGATE YOU WITH APPROPRIATE TESTS OF INTERROGATION AND EXAMINATION. “YOU SHOULD KNOW THAT THE LAWS GOVERNING A TRIAL FOR PROPERTY CASES ARE DIFFERENT FROM THE LAWS GOVERNING A TRIAL FOR CAPITAL CASES. “IN THE CASE OF A TRIAL FOR PROPERTY-CASES, A PERSON PAYS MONEY AND ACHIEVES ATONEMENT FOR HIMSELF. IN CAPITAL CASES [THE ACCUSED’S] BLOOD AND THE BLOOD OF ALL THOSE WHO WERE DESTINED TO BE BORN FROM HIM [WHO WAS WRONGFULLY CONVICTED] ARE HELD AGAINST HIM [WHO TESTIFIES FALSELY] TO THE END OF TIME. “FOR SO WE FIND IN THE CASE OF CAIN WHO SLEW HIS BROTHER, AS IT IS SAID, ‘THE BLOODS OF YOUR BROTHER CRY’ (GEN. 4:10). “IT DOES NOT**

SAY, ‘THE BLOOD OF YOUR BROTHER,’ BUT, ‘THE BLOODS OF YOUR BROTHER’ — HIS BLOOD AND THE BLOOD OF ALL THOSE WHO WERE DESTINED TO BE BORN FROM HIM.” ANOTHER MATTER: ‘THE BLOODS OF YOUR BROTHER’ — FOR HIS BLOOD WAS SPATTERED ON TREES AND STONES. THEREFORE MAN WAS CREATED ALONE, TO TEACH YOU THAT WHOEVER DESTROYS A SINGLE ISRAELITE SOUL IS DEEMED BY SCRIPTURE AS IF HE HAD DESTROYED A WHOLE WORLD. AND WHOEVER SAVES A SINGLE ISRAELITE SOUL IS DEEMED BY SCRIPTURE AS IF HE HAD SAVED A WHOLE WORLD. AND IT WAS ALSO FOR THE SAKE OF PEACE AMONG PEOPLE, SO THAT SOMEONE SHOULD NOT SAY TO HIS FELLOW, “MY FATHER IS GREATER THAN YOUR FATHER.” AND IT WAS ALSO ON ACCOUNT OF THE MINIM, SO THAT THE MINIM SHOULD NOT SAY, “THERE ARE MANY DOMAINS IN HEAVEN.” AND TO PORTRAY THE GRANDEUR OF THE HOLY ONE, BLESSED BE HE. FOR A PERSON MINTS MANY COINS WITH A SINGLE SEAL, AND THEY ARE ALL ALIKE ONE ANOTHER, BUT THE KING OF KINGS OF KINGS, THE HOLY ONE, BLESSED BE HE, MINTED ALL HUMAN BEINGS WITH THAT SEAL OF HIS WITH WHICH HE MADE THE FIRST PERSON, YET NOT ONE OF THEM IS LIKE ANYONE ELSE. THEREFORE EVERYONE IS OBLIGATED TO MAINTAIN, “ON MY ACCOUNT THE WORLD WAS CREATED.”

1. **I:1:** What is considered “supposition” [M. San. 4:9B]? So that [the witnesses] should not say, “We saw him running after his fellow, with a sword in his hand. [The victim] ran in front of him into a ruin, and then the other went after him into the ruin. We went in after them and found the victim slain [on the floor]. We saw him leaving with a knife in the hand [of the murderer], dripping blood.” [Y. omits:] Now lest you say, “If not, then who killed him?” {you must be admonished that this is not valid evidence}. Said Simeon b. Shatah, “May I [not] see consolation, if I did not see someone run after his fellow, [with a sword in his hand,] and [the pursued man] went before him into a ruin, and the [pursuer] ran in after him, and then I came in right after him, and found [the victim] slain, and this one was leaving with a knife in the hand of the murderer, dripping blood, and I said to him, ‘[You evil person! Who killed this one?]’ May I [not] see consolation [if I did not see him (run in here)]. [Either] you killed him [or I did!] But what can I do to you? For your blood is not handed over to me. [For lo, the Torah has said, ‘At the testimony of two witnesses, or at the testimony of three witnesses, shall he who is on trial for his life be put to death’ (Deut. 17:6).] “‘But He who knows the thoughts of man will exact punishment from that man.’ “He did not move from the spot before a snake bit him, and he died” [T. San. 8:3]. A man was created one and alone, because of [proud] families, so that families should not quarrel with one another. For if now, that they come from one father, they quarrel with one another, if they were from two, how much more

so! [Cf. M. 4:5L]. [And why was he created one and alone in the world?] So that the righteous should not say, “We are the sons of the righteous one,” and so that the evil ones should not say, “We are the sons of the evil one.” [Because of the thieves and robbers. And if now, that he was created one and alone, people steal and rob, had there been two, how much the more so!] [T. San. 8:4]. Another matter: Why was he created one and alone? To portray the grandeur of the king of the kings of kings. blessed be he [M. San. 4:9N]. For with a single seal he created all seals and not one is like the other [Tosefta: from a single seal all those many (diverse) seals have come forth], as it is said, “It is changed as clay under the seal, and all these things stand forth as in a garment” Job 38:14 [M. 4:9N, T. San 8:5]. And on what account are faces not like one another? [Talmud: On account of imposters,] so no one should jump into his neighbor’s field or jump in bed with his neighbor’s wife, [Talmud omits: as it is said, “And from the wicked their light is withheld and the strong arm is broken” (Job. 38:15).] It was taught: R. Meir says, “The omnipresent has varied people in three aspects: appearance, intelligence, and voice – “appearance and intelligence, because of robbers and thieves, and voice, because of the possibilities of licentiousness” [T. San. 8:6]. R. Isaac said, “Even dates and wheat are unlike one another.” The [first] man was created on the eve of the Sabbath so that he might immediately take up the doing of a religious duty [T. San. 8:8D]. Another matter: Why was he created last? [So that he might enter the banquet at once with everything ready for him.] They have made a parable: To what is the matter comparable? To a king who built a palace and dedicated it and prepared meal and [only] afterward invited the guests. [And so Scripture says,] “The wisest of women has built her house” (Prov. 9:1). This refers to the Holy One, blessed be he, who built his world [in seven days] by wisdom, as it is said, “The Lord through wisdom founded the world” (Prov. 3:19). “She has hewn out her seven pillars” (Prov. 9:1) – these are the seven days of creation. “She has killed her beasts and mixed her wine” (Prov. 9:2 these are the oceans, rivers, deserts, and all the other things which the world needs. [And afterward: “She has sent forth her maidens, she cries on the high places of the city], ‘Who is simple – let him turn in hither, [and he who is void of understanding]’ (Prov. 9:4) – these refer to Adam and Eve [T. San. 8:9].

[B] NOW PERHAPS YOU [WITNESSES] WOULD LIKE NOW TO SAY, “WHAT BUSINESS HAVE WE GOT WITH THIS TROUBLE?” BUT IT ALREADY HAS BEEN WRITTEN, “HE BEING A WITNESS, WHETHER HE HAS SEEN OR KNOWN, IF HE DOES NOT SPEAK IT, THEN HE SHALL BEAR HIS INIQUITY” (LEV. 5:1). AND PERHAPS YOU MIGHT WANT TO CLAIM, “WHAT BUSINESS IS IT OF OURS TO CONVICT THIS

MAN OF A CAPITAL CRIME?” BUT HAS IT NOT ALREADY BEEN SAID, “WHEN THE WICKED PERISH THERE IS REJOICING” (PROV. 11:10).

- 1.** **II:1:** It is written, “And about sunset a cry went through the army” (1 Kings 22:36). What is this cry (HRYNH)? Lo, it is a song (HRY RYNH), [as it is said, “When the wicked perish, there is a song” (Prov. 11:10). But, on the contrary, it also is said, “That they should praise (PM) as they went out before the army [and say, ‘Give thanks unto the Lord, for his mercy endures for ever’]” (2 Chron. 20:21). [Omitting the words, “for he is good,”] is to teach you that even the downfall of the wicked is no joy before the Omnipresent.

XXXII. YERUSHALMI SANHEDRIN 5:1

[A] **THEY INTERROGATED [THE WITNESS] WITH SEVEN POINTS OF INTERROGATION: (1) IN WHAT SEPTENNATE? (2) IN WHAT YEAR? (3) IN WHAT MONTH? (4) ON WHAT DAY OF THE MONTH? (5) ON WHAT DAY [OF THE WEEK]? (6) AT WHAT TIME? (7) IN WHAT PLACE? R. YOSÉ SAYS, “(1) ON WHAT DAY? (2) AT WHAT TIME? (3) IN WHAT PLACE? (4) DO YOU KNOW HIM:**

- 1.** **I:1:** We do not learn in the Mishnah pericope [that they ask concerning] which Jubilee? But the Jubilee is uncommon [coming only once in fifty years, and if someone committed an act of murder in one Jubilee, it would be unlikely that the witnesses would wait fifty years to testify]. [But] there is also a tradition which teaches: R. Simeon b. Yohai says, “Also. ‘In which Jubilee?’” And we may explain this inquiry to apply in a year in which one Jubilee is beginning and another ending.
- 2.** **I:2:** How do we know that there are to be seven points of interrogation? Samuel the Elder taught before R. Aha: “‘Then you shall inquire [1], and make search [2], and ask [3] diligently [4], and behold [5], if it be true [6] and certain [7] [that such an abominable thing has been done.]’ (Deut. 13:14). [The seven words in the verse thus signify seven points of interrogation.]” He said to him, “You should not continue counting words in the same verse [or you will have an eighth, namely, thing]. “Rather: ‘Then you shall inquire, and make search, and ask diligently’ (Deut. 13:14) [yielding four]; and ‘and it is told you and you hear it, then you shall inquire diligently’ (Deut. 17:4), [yielding three more, both in the case of idolatry]. “The use of ‘diligently’ in both instances serves to establish an analogy between them and to permit invoking each usage in all contexts: hearing, asking, inquiring, and making a search.”

3. **I:3:** [Do the interrogators also ask,] “Do you know whether he was an idolater or an Israelite?”

[B] DID YOU WARN HIM [OF THE CONSEQUENCES OF HIS DEED]?”

1. **II:1:** And how do we know [that the Torah requires] an act of warning [of the consequences of the deed]? Samuel bar Nahman in the name of R. Jonathan: “‘If a man takes his sister, a daughter of his father or a daughter of his mother, and sees her nakedness, and she sees his nakedness, it is a shameful thing’ (Lev. 20:17). [The reference to “seeing” indicates that the matter depends upon the prior act of others’ seeing the man in action and warning him of the consequent death penalty.]”
2. **II:2:** [Yet another answer to the question of the biblical basis for the requirement of a warning is as follows:] It was taught: R. Simeon b. Yohai says, “‘On the evidence of two witnesses or of three witnesses he that is to die (lit., the dead one) shall be put to death’ (Deut. 17:6). “Now can a ‘dead one’ die? [Of course not. So the reference is to the one engaged in the act of murder, and it is] to inform him by what form of the death penalty he will be put to death [if he should engage in the contemplated action, and that is the meaning of ‘warning.’”
3. **II:3:** It was taught: R. Judah b. R. Ilai says, “‘But if a man willfully attacks another to kill him knowledgeably’ (Ex. 21:14 that the witness must make him knowledgeable about what mode of the death penalty [he will suffer, should he engage in the contemplated action].” If the form of death for the crime about to be committed was a severe one, and the witnesses gave warning of a form of the death penalty which was a lenient one, the accused has the right to claim that, had he known that the form of death for the proposed crime was so severe, he would never have done such a thing. [That is self-evident.] [But what is the law if] the form of death was a lenient one, and they warned him that the form of death was a more severe one? In the theory of R. Judah b. R. Ilai, who maintains that the witnesses must make the man knowledgeable about what form of death he will suffer if he commits the contemplated action, [the man cannot claim what he may say in the contrary situation]. [He knows about the death penalty and commits the deed. He has no further defense in this aspect.] [If] they warn him and he was silent, or if they warn him and he nods his head, even though he says, “I know” – he is exempt – unless he will say, “I know it, and it is with that very stipulation that I am doing what I am doing!” [T. San. 11:2]. [If] they saw him killing somebody, and said to him, “You should know that that man is subject to the [divine]

covenant, and it is said, ‘Whoever sheds the blood of man by man shall his blood be shed’ (Gen. 9:6 even though he said, “I know it” – he is exempt, unless he says, “I know, and it is with that very stipulation that I am doing what I am doing!” [T. San. 11:4]. [If] they saw him profaning the Sabbath, [and] said to him, “You should know that it is the Sabbath today, and Scripture says, ‘Those who profane it will certainly die’ (Ex. 31:14)” – even though he said, “I know” – he is exempt, unless he says, “I know, and it is with that very stipulation that I am doing what I am doing!” [T. San. 11:3].

4. **II:4:** R. Hiyya bar Gamda asked, “One who gathers wood – on what count is he liable [for violating the Sabbath]? Is it because he plucks up the wood, or is it on the count of harvesting?” R. Hiyya bar Gamda asked, “One who gathers wood – by what form of capital punishment is he put to death? It is by stoning. [That they found out from Heaven. So how could they have warned him?]”

[C] **[IN CASE OF] ONE WHO WORSHIPS AN IDOL: WHOM DID HE WORSHIP, AND WITH WHAT DID HE WORSHIP [THE IDOL]?**

1. **I:1:** “Whom did he worship,” Peor or Mercury? “And with what did he carry out the act of worship?” Was it with the act of worship paid to such an idol? Or was it with the act of worship normally paid to the Most High?

XXXIII. YERUSHALMI SANHEDRIN 5:2

[A] **THE MORE THEY EXPAND THE INTERROGATION, THE MORE IS ONE TO BE PRAISED. THE PRECEDENT IS AS FOLLOWS: BEN ZAKKAI EXAMINED A WITNESS AS TO THE CHARACTER OF THE STALKS OF FIGS [UNDER WHICH THE INCIDENT TOOK PLACE]. WHAT IS THE DIFFERENCE BETWEEN INTERROGATION [ABOUT THE DATE, TIME, AND PLACE] AND EXAMINATION [ABOUT THE CIRCUMSTANCES]? IN THE CASE OF INTERROGATION, [IF] ONE WITNESS SAYS, “I DON’T KNOW THE ANSWER,” THE TESTIMONY OF THE WITNESS IS NULL. [IN THE CASE OF] EXAMINATION, [IF] ONE OF THE WITNESSES SAYS, “I DON’T KNOW,” OR EVEN IF BOTH OF THEM SAY, “WE DON’T KNOW,” THEIR TESTIMONY NONETHELESS STANDS. ALL THE SAME ARE INTERROGATION AND EXAMINATION: WHEN [THE WITNESSES] CONTRADICT ONE ANOTHER, THEIR TESTIMONY IS NULL.**

1. **I:1:** [With regard to a violation of the Sabbath, Yohanan ben Zakkai interrogated the witnesses who testified that one had gathered dates:] “With what did he collect them?” “With their stems he collected them.” “With what did he eat them?” “With their pits did he eat them.”

2. **I:2:** There we learned: He concerning whom two groups of witnesses gave testimony – these testified that he took a vow to be a Nazir for two spells. and those testify that he took a vow to be a Nazir for five spells – The House of Shammai say, “The testimony is at variance, and no Naziriteship applies here at all.” And the House of Hillel say, “In the sum of five are two spells, so let him serve out two spells of Naziriteship” [M. Naz. 3:7]. Rab said, “As to a general number [the Houses] are in disagreement, [that is, as to whether he has taken the Nazirite vow at all]. But as to a specific number, all parties agree that (the testimony is at variance). [Following the versions of Y. Yeb. 5 5, Naz. 3:7: the sum of five includes two, as at M. R. Yohanan said, “As to spelling out the number of vows there is a difference of opinion, but as to a general number all parties concur that (within the general principle of five spells of Naziriteship there are two upon which all parties concur). [Following the parallels: the testimony is at variance.]”

XXXIV. YERUSHALMI SANHEDRIN 5:3

- [A] [If] ONE [OF THE WITNESSES] SAYS, “IT WAS ON THE SECOND OF THE MONTH,” AND ONE OF THE WITNESSES SAYS, “IT WAS ON THE THIRD OF THE MONTH,” THEIR TESTIMONY STANDS, FOR ONE OF THEM MAY KNOW ABOUT THE INTERCALATION OF THE MONTH, AND THE OTHER ONE MAY NOT KNOW ABOUT THE INTERCALATION OF THE MONTH. [If] ONE OF THEM SAYS, “ON THE THIRD,” AND ONE OF THEM SAYS, “ON THE FIFTH,” THEIR TESTIMONY IS NULL. [If] ONE OF THEM SAYS, “AT TWO,” AND ONE OF THEM SAYS, “AT THREE,” THEIR TESTIMONY STANDS. [If] ONE OF THEM SAYS, “AT THREE,” AND ONE OF THEM SAYS, “AT FIVE,” THEIR TESTIMONY IS NULL. **R. JUDAH SAYS, “IT STANDS.”** [If] ONE OF THEM SAYS, “AT FIVE,” AND ONE OF THEM SAYS, “AT SEVEN,” THEIR TESTIMONY IS NULL. **FOR AT FIVE THE SUN IS AT THE EAST, AND AT SEVEN THE SUN IS AT THE WEST.**

1. **I:1:** To what extent [do we attribute an error to one’s not having known that the month was intercalated (M. San. 5:3B)]? R. Yasa in the name of R. Yohanan: “Up to the greater part of the month.”
- a. **I:2:** [The following discussion takes for granted knowledge of M. Pes. 1:4: R. Meir says, “They eat leaven throughout the fifth hour on the fourteenth of Nisan (the eve of Passover), and they burn it at the beginning of the sixth hour.” And R. Judah says, “They eat leaven through the fourth hour, keep it in suspense throughout the fifth hour, and burn it at the beginning of the sixth hour. [Now what is the issue between the two?] R. Meir says, “From the sixth hour and beyond [leaven is prohibited] by reason of [the scribes’]

decree [but not the law of the Torah].” R. Judah says, “[The prohibition of leaven] from the sixth hour onward is by reason of the authority of the Torah. [That is why they may eat leaven only up to the end of the fourth hour, to make sure the Torah law is not violated.]”

XXXV. YERUSHALMI SANHEDRIN 5:4

[A] AND AFTERWARD THEY BRING IN THE SECOND WITNESS AND EXAMINE HIM. IF THEIR STATEMENTS CHECK OUT, THEY BEGIN THE ARGUMENT IN FAVOR OF ACQUITTAL. [IF] ONE OF THE WITNESSES SAID, “I HAVE SOMETHING TO SAY IN FAVOR OF ACQUITTAL,” OR [IF] ONE OF THE DISCIPLES SAID, “I HAVE SOMETHING TO SAY IN FAVOR OF CONVICTION,” THEY SHUT HIM UP. [IF] ONE OF THE DISCIPLES SAID, “I HAVE SOMETHING TO SAY IN FAVOR OF ACQUITTAL,” THEY PROMOTE HIM AND SEAT HIM AMONG THE [JUDGES], AND HE DID NOT GO DOWN FROM THAT POSITION THAT ENTIRE DAY. IF THERE IS SUBSTANCE IN WHAT HE SAYS, THEY PAY ATTENTION TO HIM. AND EVEN IF [THE ACCUSED] SAID, “I HAVE SOMETHING TO SAY IN MY OWN BEHALF,” THEY PAY ATTENTION TO HIM, SO LONG AS THERE IS SUBSTANCE IN WHAT HE HAS TO SAY.

1. **I:1:** It is taught: [If] they found him innocent, they sent him away. If not, they postpone judging him until the next day [M. San. 5:5A]. They come together in pairs and would not eat very much or drink wine that entire day, and they would discuss the matter all that night [M. San. 5:5B]. And the next day they would get up and come [to court] [M. 5:5C]. The court officers call on each one, “Judge] So-and-so and Judge] Such-and-such.” [If Judge So-and-so answers,] “I held him guilty, and now I hold him guilty,” “I held him innocent, and now I hold him innocent,” “I held him guilty, and now I hold him innocent,” they accept that statement [cf. M. 5:5D]. “I held him innocent, and now I hold him guilty” [Tosefta: they do not accept that statement] [cf. M. 5:5F]. (“I held him guilty, and now I hold him innocent” – they accept that statement [cf. MN. 5:5F].) (“I held him guilty, and now I hold him guilty” [cf. M. 5:5E] – they said to him, “Explain your opinion first.” k is taught: [If] one of those who had held him innocent made a mistake in his opinion, the scribes of the court remind him [M. 5:5G]. If one of those who hold the accused guilty erred, the scribes of the judges do not remind him. But they say to him, “Explain your opinion afresh” [T. San. 9:1].
 - a. **I:2:** Said R. La, “On what account do they write down the words of the one who argues in favor of innocence? It is because of the one

who argues in favor of guilt, lest [the former] become confused [and lose track of the reasons in favor of acquittal].” Thus if he confuses something, the scribes remind him, “This is what you said, this is not what you said.” If so, the case should require two days [of hearings] [to make provision for fresh argument, as at B]. It will turn out that the case will grow stale, [and the accused will be subjected to unnecessary distress by the delay in the trial]. R. Yosé b. R. Bun said, [The scribes write down what is said in favor of innocence not on account of the one who argues in favor of guilt, but] because of the one who argues in favor of innocence [himself, to preserve the fresh arguments he has supplied].

XXXVI. YERUSHALMI SANHEDRIN 5:5

[A] IF THEY FOUND HIM INNOCENT, THEY SENT HIM AWAY. IF NOT, THEY POSTPONE JUDGING HIM TILL THE NEXT DAY. THEY WOULD GO OFF IN PAIRS AND WOULD NOT EAT VERY MUCH OR DRINK WINE THAT ENTIRE DAY, AND THEY WOULD DISCUSS THE MATTER ALL THAT NIGHT. AND THE NEXT DAY THEY WOULD GET UP AND COME TO COURT. THE ONE WHO FAVORS ACQUITTAL SAYS, “I DECLARED HIM INNOCENT [YESTERDAY], AND I STAND MY GROUND AND DECLARE HIM INNOCENT TODAY.” AND THE ONE WHO DECLARES HIM GUILTY SAYS, “I DECLARED HIM GUILTY [YESTERDAY] AND I STAND MY GROUND AND DECLARE HIM GUILTY TODAY.” THE ONE WHO ARGUES IN FAVOR OF GUILT MAY [NOW] ARGUE IN FAVOR OF ACQUITTAL, BUT THE ONE WHO ARGUES IN FAVOR OF INNOCENCE MAY NOT NOW GO AND ARGUE IN FAVOR OF GUILT. [IF] THEY MADE AN ERROR IN SOME MATTER, THE TWO JUDGES’ CLERKS REMIND THEM [OF WHAT HAD BEEN SAID]. IF THEY NOW FOUND HIM INNOCENT, THEY SENT HIM OFF. AND IF NOT, THEY ARISE FOR A VOTE. [IF] TWELVE VOTE FOR ACQUITTAL AND ELEVEN VOTE FOR CONVICTION, HE IS ACQUITTED. [IF] TWELVE VOTE FOR CONVICTION AND ELEVEN VOTE FOR ACQUITTAL, AND EVEN IF ELEVEN VOTE FOR ACQUITTAL AND ELEVEN VOTE FOR CONVICTION, BUT ONE SAYS, “I HAVE NO OPINION,” AND EVEN IF TWENTY-TWO VOTE FOR ACQUITTAL OR VOTE FOR CONVICTION, BUT ONE SAYS, “I HAVE NO OPINION, THEY ADD TO THE NUMBER OF THE JUDGES. HOW MANY DO THEY ADD? TWO BY TWO, UNTIL THERE ARE SEVENTY-ONE.

- 1. I:1:** [If one of the disciples said, “I have an argument to offer in favor of acquittal,” they receive him in a friendly way, and promote him and seat him among the (judges) (M. San. 5:4D, T. San. 9:3). If the accused said, “I have something to say in behalf of my own innocence,” they pay attention to him (M. 5:4F). If he said, “I have something to say in favor of my own conviction,” they emphatically shut him up. A witness does not give an argument either for acquittal

or for conviction (M. 5:4C). R. Yosé b. R. Judah says, “He may argue in favor of acquittal, but he may not argue in favor of conviction” (T. San. 9:4.) [In connection with this passage,] it was taught: [In regard to the view of Yosé b. R. Judah that a witness may argue in favor of acquittal,] If one of the witnesses said, “I have an argument for acquittal,” and his fellow came along and supported his argument, which of these do they appoint [to the court, as they do with disciples]?

- 2.** **I:2:** It was taught: In what regard do they add judges to the court? It is so that, if two of the first judges declare the accused to be innocent, and one of the second pair concurs that he is innocent, the decision may be reached by three judges [out of the five now on the court]. [The one who declares he has no opinion is treated as if he is not present. That is the case even if one of the two additional judges also declares that he has no opinion.] R. La said, “[If one of the two additional judges also says he has no opinion, that is not acceptable,] since it appears that the decision ultimately has been reached with four judges. They do not reach a decision in the case with only three judges. [So they have to add two more judges (PM).]”

[B] **[IF]** THIRTY-SIX VOTE FOR ACQUITTAL AND THIRTY-FIVE VOTE FOR CONVICTION, HE IS ACQUITTED. **[IF]** THIRTY SIX VOTE FOR CONVICTION AND THIRTY-FIVE VOTE FOR ACQUITTAL, THEY DEBATE THE MATTER, UNTIL ONE OF THOSE WHO VOTES FOR CONVICTION ACCEPTS THE ARGUMENTS OF THOSE WHO VOTE FOR ACQUITTAL.

- 1.** **II:1:** [how do we decide the case and resolve it finally]? R. Yohanan said, “The accused is dismissed as innocent.” R. Simeon b. Laqish said, “He is guilty.”

XXXVII. YERUSHALMI SANHEDRIN 6:1

[A] **[WHEN]** THE TRIAL IS OVER, **[AND THE FELON IS CONVICTED]**, THEY TAKE HIM OUT TO STONE HIM. THE PLACE OF STONING WAS WELL OUTSIDE THE COURT, AS IT IS SAID, “BRING FORTH HIM WHO CURSED [TO A PLACE OUTSIDE THE CAMP]” (LEV. 24:14). ONE PERSON STANDS AT THE DOOR OF THE COURTHOUSE, WITH FLAGS IN HIS HAND, AND A HORSEMAN IS SOME DISTANCE FROM HIM, SO THAT HE IS ABLE TO SEE HIM. **[IF]** ONE [OF THE JUDGES] SAID, “I HAVE SOMETHING TO SAY IN FAVOR OF ACQUITTAL,” THE ONE [AT THE DOOR] WAVES THE FLAGS, AND THE HORSEMAN RACES OFF AND STOPS [THE EXECUTION].

- 1. I:1:** The Mishnah pericope accords with either Rabbi or sages in regard to the provision to be made in the case of a town populated by gentiles [when it states that the one who is stoned must be taken outside the court, including one who has committed idolatry]. [They stone him in the place in which he performed the act of worship. But if it was a gentile town, they stone him at the door of the Israelite court.] For it has been taught: “[If there is found among you a man or woman who has gone and served other gods then you shall bring forth to] your gates [that man or woman and you shall stone that man or woman to death with stones]” Rabbi says, “‘Your gates’ (Deut. 17:5) means in the gate of the city in which the man has been found. “You say so. But perhaps it refers only to the gate by which he was judged [that is, in which the court was in session]? “Here it is stated, ‘In your gates,’ and elsewhere it is stated, ‘In your gates’: ‘If there is found among you in one of your gates a man or a woman who does what is evil in the sight of the Lord and has gone and served other gods and worshipped them then you shall bring forth to your gates that man or woman and you shall stone’ (Deut. 17:2ff.). “Just as ‘your gates’ stated above [where the crime has been committed] speaks of the gate of the city in which the act of worship took place, so ‘your gates’ mentioned below (Deut. 17:5) refers to the gates of the city where the act has taken place.” And rabbis say, “‘In your gates’ refers to the gate at which the person is judged. “You say so. But perhaps it refers only to the gate at which the person was located when the act was done? “Here ‘your gates’ is said, and later on, it is stated, ‘Then you shall bring forth to your gates [that man or woman who has done this evil thing, and you shall stone that man or woman to death with stones]’ (Deut. 17:5). “Just as ‘gates’ stated later refers to the gate at which the man or woman was judged, so ‘gates’ which is stated here refers to the gate at which he is judged.”

[B] AND EVEN IF [THE CONVICTED PARTY] SAYS, “I HAVE SOMETHING TO SAY IN FAVOR OF MY OWN ACQUITTAL,” THEY BRING HIM BACK, EVEN FOUR OR FIVE TIMES, SO LONG AS THERE IS SUBSTANCE IN WHAT HE HAS TO SAY.

- 1. II:1:** [With regard to M. 6:1E-G,] said R. Yohanan, “At the beginning, whether there is or is not substance in what the accused says, they pay attention to him. Later on, if there is substance in what he says, they pay attention to him, and if not, they do not pay attention to him” [T. San. 9:4].

XXXVIII. YERUSHALMI SANHEDRIN 6:2

[A] [IF] THEY THEN FOUND HIM INNOCENT, THEY DISMISS HIM, AND IF NOT, HE GOES OUT TO BE STONED. AND A HERALD GOES BEFORE HIM, CRYING OUT, “MR. SO-AND-SO, SON OF MR. SO-AND-SO, IS GOING OUT TO BE STONED BECAUSE HE COMMITTED SUCH-AND-SUCH A TRANSGRESSION, AND MR. SO-AND-SO AND MR. SO-AND-SO ARE THE WITNESSES AGAINST HIM. NOW ANYONE WHO KNOWS GROUNDS FOR ACQUITTAL – LET HIM COME AND SPEAK IN HIS BEHALF!”

1. **I:1:** It was taught: An ox which was going forth to be stoned, and the witnesses against it turned out to be perjurers – R. Yohanan said, “Whoever grabbed the ox first has acquired possession of it [since it is ownerless].” R. Simeon b. Laqish said, “It is a case in which it has been declared ownerless in error, [and it remains the property of the original owner].” And so in the case of a slave who was going forth to be stoned, and its owner declared him to be consecrated [to the Temple] – R. Yohanan said, “[If he then was found to be innocent,] he has acquired ownership of himself.” R. Simeon b. Laqish said, “It is a case in which the owner has in error given up ownership out of despair, [and that is not a valid act on the part of the owner, who then retains possession of the slave].”

XXXIX. YERUSHALMI SANHEDRIN 6:3

[A] [WHEN] HE WAS TEN CUBITS FROM THE PLACE OF STONING, THEY SAY TO HIM, “CONFESS,” FOR IT IS USUAL FOR THOSE ABOUT TO BE PUT TO DEATH TO CONFESS. FOR WHOEVER CONFESSES HAS A SHARE IN THE WORLD TO COME. FOR SO WE FIND CONCERNING ACHAN, TO WHOM JOSHUA SAID, “MY SON, I PRAY YOU, GIVE GLORY TO THE LORD, THE GOD OF ISRAEL, AND CONFESS TO HIM, [AND TELL ME NOW WHAT YOU HAVE DONE; HIDE IT NOT FROM ME.] AND ACHAN ANSWERED JOSHUA AND SAID, TRULY HAVE I SINNED AGAINST THE LORD, THE GOD OF ISRAEL, AND THUS AND THUS I HAVE DONE” (JOSH. 7:19). AND HOW DO WE KNOW THAT HIS CONFESSION ACHIEVED ATONEMENT FOR HIM? FOR IT IS SAID, “AND JOSHUA SAID, WHY HAVE YOU TROUBLED US? THE LORD WILL TROUBLE YOU THIS DAY” (JOSH. 7:25) – THIS DAY YOU WILL BE TROUBLED, BUT YOU WILL NOT BE TROUBLED IN THE WORLD TO COME.

1. **I:1:** You find that: when Achan committed sacrilege, Joshua began to attempt to appease the Holy One, blessed be he, saying to him, “Lord of the world, ‘Tell me who this man is who committed sacrilege.’” He said to him, “I am not going to inform on any creature, and not only so, but if I did so, I should turn out to commit an act of slander. But go

and arrange the Israelites in their tribes, and cast lots on them. Forthwith, I shall produce him.”

2. **I:2:** And how do we know that his confession achieved atonement for him [M. San. 6:3C]? As it is said, “The sons of Zerah: Zimri, Ethan, Heman, Calcol, and Dara, five in all; the sons of Carmi: Achar, the troubler of Israel, who transgressed in the matter of the devoted thing; and Ethan’s son was Azariah” (1 Chron. 2:6-7).

[B] **AND IF HE DOES NOT KNOW HOW TO CONFESS, THEY SAY TO HIM, “SAY AS FOLLOWS: ‘LET MY DEATH BE ATONEMENT FOR ALL OF MY TRANSGRESSIONS.’” R. JUDAH SAYS, “IF HE KNEW THAT HE HAD BEEN SUBJECTED TO PERJURY, HE SAYS, ‘LET MY DEATH BY ATONEMENT FOR ALL MY SINS, EXCEPT FOR THIS PARTICULAR SIN [OF WHICH I HAVE BEEN CONVICTED BY FALSE TESTIMONY]!’” THEY SAID TO HIM, “IF SO, THEN EVERYONE IS GOING TO SAY THAT, SO AS TO CLEAR HIMSELF.”**

1. **II:1:** M’SH B: A person was going out to be put to death. They said to him, “Say, ‘May my death be atonement for all my sins.’” He said, “May my death be atonement for all my sins, except for this particular sin, if I actually committed it, let it not be forgiven to me, and let the court of Israel be innocent. [But I did not commit it, and they, not I, are guilty.]” Now when the matter came to sages, their eyes ran with tears. They gave thought to bringing him back. But if so there is no end to the matter. “But lo, his blood is on the neck of the witnesses” [T. San. 9:5].
2. **II:2:** Said R. Judah b. Tabbari, “May I [not] see consolation if I did not put a false witness to death, for they would say that the false witness is not put to death until the accused is put to death, as it is said, ‘A soul for a soul’ (Ex. 21:23).” Said to him Simeon b. Shatah, “May I not see consolation if it is not attributed to you as if you have shed innocent blood, [for behold, the Torah has said, ‘At the testimony of two or three witnesses the accused will be put to death’ (Deut. 17:6). Just as there must be two witnesses, so also the two false witnesses cannot be punished unless both of them are punished.” At that moment he undertook not to teach except upon the authority of Simeon b. Shatah [cf. T. San. 6:6].

XL. YERUSHALMI SANHEDRIN 6:4

[A] **[WHEN] HE WAS FOUR CUBITS FROM THE PLACE OF STONING, THEY REMOVE HIS CLOTHES. IN THE CASE OF A MAN, THEY COVER HIM UP IN FRONT, AND IN THE**

CASE OF A WOMAN, THEY COVER HER UP IN FRONT AND BEHIND,” THE WORDS OF R. JUDAH. AND SAGES SAY, “A MAN IS STONED NAKED, BUT A WOMAN IS NOT STONED NAKED.”

- I:1:** The opinions imputed to R. Judah are contradictory. There [M. Sot. 1:5] he has said, “If her hair is beautiful, one did not loosen it,” and he here says this [that the woman is stoned naked, so he is not of one mind about allowing a prurient situation]. Here in any event the woman is going to die. But there [with regard to the accused wife] if she is found to be clean [and not an adulteress], the young priests will lust for her. The opinion imputed to rabbis is confused. There they say, “The man is stoned naked, but the woman is not stoned naked,” and here [M. Sot. 1:5] they say this [that the woman’s hair is loosed]. Thus: “And you will love your neighbor as yourself” (Lev. 19:18) – means, choose for your neighbor [who is convicted and sentenced to death] an easy mode of execution [so the woman is not needlessly ashamed].

XLI. YERUSHALMI SANHEDRIN 6:5

[A] THE PLACE OF STONING WAS TWICE THE HEIGHT OF A MAN. ONE OF THE WITNESSES WOULD PUSH HIM OVER FROM THE HIPS, SO [HARD] THAT HE TURNED UPWARD [IN HIS FALL]. HE TURNED HIM OVER ON HIS HIPS AGAIN [TO SEE WHETHER HE HAD DIED]. [IF] HE HAD DIED THEREBY, THAT SUFFICED. IF NOT, THE SECOND [WITNESS] WOULD TAKE A STONE AND PUT IT ON HIS HEART. [IF] HE DIED THEREBY, IT SUFFICED. AND IF NOT, STONING HIM IS [THE DUTY] OF ALL ISRAELITES, AS IT IS SAID, “THE HAND OF THE WITNESSES SHALL BE FIRST UPON HIM TO PUT HIM TO DEATH, AND AFTERWARD THE HAND OF ALL THE PEOPLE” (DEUT. 17:7).

- I:1:** It was taught: And the height of the one who falls – lo, three [T. San. 9:6]. Lo, you say, “The height of the one who is falling, lo, three.” But in the case of the pit which causes injury, you say, “Up to ten handbreadths”? [Just as a pit to be reckoned as causing death must be ten handbreadths deep, so must all others be of the same height (M. B. Q. 5:5). Why so much more of a height in this case?] The distance required to do damage is not the same for the one who falls knowingly and the one who falls unknowingly.
- I:2:** R. Jonathan b. Hali, R. Abudimi son of the daughter of R. Tabi in the name of R. Josiah: “Those who throw an ox down with full force [in the slaughterhouse] – in such a case, there is no consideration of

the possibility of shattering the limbs, [and the animal is validly slaughtered].”

3. **I:3:** And how do we know that [a felon] requires stoning?

XLII. YERUSHALMI SANHEDRIN 6:6

[A] “ALL THOSE WHO ARE STONED ARE HUNG ON A TREE [AFTERWARD],” THE WORDS OF R. ELIEZER. AND SAGES SAY, “ONLY THE BLASPHEMER AND THE ONE WHO WORSHIPS AN IDOL ARE HUNG.” “AS TO A MAN, THEY HANG HIM FACING THE PEOPLE, AND AS TO A WOMAN, HER FACE IS TOWARD THE TREE,” THE WORDS OF R. ELIEZER. AND SAGES SAY, “THE MAN IS HUNG, BUT THE WOMAN IS NOT HUNG.”

1. **I:1:** What is the reasoning of R. Eliezer [who holds that all who are stoned are afterward hung on a tree]? Now just as the blasphemer, who is stoned, is hung (Deut. 21:23), so I encompass all others who are stoned, that they too are to be hung. What is the reasoning of rabbis? Just as the blasphemer, because he struck out at the fundamental principle, is hung, so I encompass all those who have struck out at the fundamental principle, that they too should be hung.

[B] SAID TO THEM R. ELIEZER, “AND DID NOT SIMEON B. SHETAH HANG WOMEN IN ASHKELON?” THEY SAID TO HIM, “HE HUNG EIGHTY WOMEN, AND THEY DO NOT JUDGE EVEN TWO ON A SINGLE DAY.”

1. **II:1:** [With reference to Simeon b. Shatah, M. San. 6:6E,] there is a Tannaite authority who teaches that Judah b. Tabbai was patriarch, and there is a Tannaite authority who teaches that Simeon b. Shatah was patriarch.

XLIII. YERUSHALMI SANHEDRIN 6:7

[A] HOW DO THEY HANG HIM? THEY DRIVE A POST INTO THE GROUND, AND A BEAM JUTS OUT FROM IT, AND THEY TIE TOGETHER HIS TWO HANDS, AND THUS DO THEY HANG HIM. R. YOSÉ SAYS, “THE POST LEANS AGAINST A WALL, AND THEN ONE SUSPENDS HIM THE WAY BUTCHERS DO IT.” AND THEY UNTIE HIM FORTHWITH. AND IF HE IS LEFT OVERNIGHT, ONE TRANSGRESSES A NEGATIVE COMMANDMENT ON HIS ACCOUNT, AS IT IS SAID, “HIS BODY SHALL NOT REMAIN ALL NIGHT ON THE TREE, BUT YOU WILL SURELY BURY HIM ON THE SAME DAY, FOR HE WHO IS HANGED IS A CURSE AGAINST GOD” (DEUT. 21:23). THAT IS TO SAY, ON WHAT ACCOUNT HAS THIS ONE BEEN HUNG?

BECAUSE HE CURSED THE NAME, SO THE NAME OF HEAVEN TURNED OUT TO BE PROFANED.

- 1.** **I:1:** It was taught: R. Eliezer b. Jacob says, “The rule governing the one who disgraces the divine name is more strict than the one covering the one who blasphemes, and the rule governing the one who blasphemes is more strict than the one who disgraces the divine name. In regard to the one who blasphemes, it is written, ‘His body shall not remain all night on the tree,’ while in regard to the one who disgraces the divine name it is written, ‘Then Rizpah, the daughter of Aiah, took sackcloth, and spread it for herself on the rock, from the beginning of harvest until rain fell upon them from the heavens [thus leaving out the bones of Saul and Jonathan]’ (2 Sam. 21:10). [So a more strict rule covers the bones of the blasphemer.] This teaches that they were hung from the sixteenth of Nisan until the seventh of Marheshvan.”
 - a.** **I:2:** [The cited verse, 2 Sam. 21:10, is in the context of the complaint of the Gibeonites to David, because Saul had put them to death, despite the oath to spare them taken in the time of Joshua. Consequently, a repertoire of materials on the Gibeonites follows.] It is written, “But Joshua made them that day hewers of wood and drawers of water for the congregation and for the altar of the Lord” (Josh. 9:27).

XLIV. YERUSHALMI SANHEDRIN 6:8

- [A]** SAID R. MEIR, “WHEN A PERSON IS DISTRESSED, WHAT WORDS DOES THE PRESENCE OF GOD SAY? AS IT WERE: ‘MY HEAD IS IN PAIN, MY ARM IS IN PAIN’.
- [B]** “IF THUS IS THE OMNIPRESENT DISTRESSED ON ACCOUNT OF THE BLOOD OF THE WICKED WHEN IT IS SHED, HOW MUCH THE MORE SO ON ACCOUNT OF THE BLOOD OF THE RIGHTEOUS!”
- 1.** **I:1:** We have learned, “[My head is too heavy....]” [qlynv] And there are Tannaite authorities who teach the tradition in the language, “It is too heavy for me” [q]’ny; a slight variation in language, not in meaning.]
 - 2.** **I:2:** R. Meir is not in accord with the Mishnah (6:7F) which [interprets “a curse against God” of Deut. 21:23 as referring to a blasphemer and that, therefore,] if the blasphemer [is left overnight on the tree] one transgresses a negative commandment. [R. Meir must be in

disagreement with this, since he interprets ‘ a curse’ of Deut. 21:23 to mean “It is too heavy for me.”]

XLV. YERUSHALMI SANHEDRIN 6:9

[A] AND NOT THIS ONLY, HAVE [SAGES] SAID, BUT WHOEVER ALLOWS HIS DECEASED TO STAY UNBURIED OVERNIGHT TRANSGRESSES A NEGATIVE COMMANDMENT. BUT [IF] ONE KEPT [A CORPSE] OVERNIGHT FOR ITS OWN HONOR, [E.G.,] TO BRING A BIER FOR IT AND SHROUDS, HE DOES NOT TRANSGRESS ON ITS ACCOUNT. AND THEY DID NOT BURY [THE FELON] IN THE BURIAL GROUNDS OF HIS ANCESTORS. BUT THERE WERE TWO GRAVEYARDS MADE READY FOR THE USE OF THE COURT, ONE FOR THOSE WHO WERE BEHEADED OR STRANGLED, AND ONE FOR THOSE WHO WERE STONED OR BURNED.

- 1. I:1:** It was taught: He who moves a bier from place to place is not subject to [the rite of mourning required when] one gathers bones [of an ancestor for secondary burial]. [Merely moving the bier is not part of the reburial process. So new fresh rites of mourning are not required, e.g., for that day only.]
- 2. I:2:** What constitutes the act of gathering bones [for secondary burial]?
- 3. I:3:** It was taught, Merely hearing about the secondary collection and burial of the bones of an ancestor does not impose [upon a relative] the obligation of mourning on that day.
- 4. I:4:** Nichomachi taught before R. Zeira, “There is no lower limit [to the number of bones which must be collected in a case of] the gathering of bones [for secondary burial, so that even if only a few bones have been collected, the rites of mourning are invoked].” R. Mani instructed R. La of Kapra to make a tear in his garments and to go into mourning, in line with the view of R. Aha. but not to undergo cultic uncleanness [if he was a priest, that is, he is not to become unclean to collect his father’s bones], in accord with the view of R. Yosé.

XLVI. YERUSHALMI SANHEDRIN 6:10

[A] WHEN THE FLESH HAD ROTTED, THEY [THEY DO] COLLECT THE BONES AND BURY THEM IN THEIR APPROPRIATE PLACE:

- I:1:** It was taught: At first they would collect the bones and bury them in mounds [as in a pauper's grave]. When the flesh had putrefied, they would collect the bones and bury them in cedar chests. On that day the mourner would engage in the rite of mourning. The next day he would rejoice, saying that his ancestors would free him from the rigors of judgment.

[B] YERUSHALMI SANHEDRIN 6:9D: AND THEY DID NOT GO INTO MOURNING. BUT THEY OBSERVE A PRIVATE GRIEF, FOR GRIEF IS ONLY IN THE HEART:

- II:1:** Not only so [with regard to M. 6:9D, there were two graveyards, one for those beheaded or strangled, the other for those stoned or burned], but they would bury them by themselves the ones stoned with the ones burned to death, the ones beheaded with the ones strangled.

[C] AND THE RELATIVES [OF THE FELON] COME AND INQUIRE AFTER THE WELFARE OF THE JUDGES AND OF THE WITNESS. AS IF TO SAY, "WE HAVE NOTHING AGAINST YOU, FOR YOU JUDGED HONESTLY." AND THEY DID NOT GO INTO MOURNING. BUT THEY OBSERVE A PRIVATE GRIEF, FOR GRIEF IS ONLY IN THE HEART:

- III:1:** Abbahu was bereaved. One of his children had passed away from him. R. Jonah and R. Yasi went up [to comfort him]. When they called on him, out of reverence for him, they did not express to him a word of Torah. He said to them, "May the rabbis express a word of Torah?" They said to him, "Let our master teach us." He said to them, "Now if in regard to the government below, in which there is no reliability, [but only] lying, deceit, favoritism, and bribe-taking – which is here today and gone tomorrow – if concerning that government, it is said, And the relatives of [he felon come and inquire after [he welfare of the judges and of the witnesses, as if to say, 'We have nothing against you, for you judged honestly,' "in regard to the government above, in which there is reliability, no lying, deceit, favoritism, or bribe taking – and which endures forever and for all eternity – all the more so are we obligated to accept upon ourselves the just decree [of that heavenly government]." And it says, "That the Lord may show you mercy, and have compassion on you." (Deut. 13:17).

XLVII. YERUSHALMI SANHEDRIN 7:1

[A] FOUR MODES OF EXECUTION WERE ASSIGNED TO THE COURT, [LISTED IN ORDER OF SEVERITY]: (1) STONING, (2) BURNING, (3) DECAPITATION, AND (4)

STRANGULATION. **R. SIMEON SAYS, “(2) BURNING, (1) STONING, (4) STRANGULATION, AND (3) DECAPITATION” [M. 9:3]. THIS [PROCEDURE CONSIDERED IN CHAPTER SIX,] IS [HOW] THE RELIGIOUS REQUIREMENT OF STONING [IS CARRIED OUT].**

- 1. I:1:** But to the civil regime was given over only death by the sword alone [T. San. 9:10B1. How do we know that stoning [is a mode of execution]? “And you shall stone that man or woman to death with stones” (Deut. 17:5). Burning? As it is said, “[If a man takes a wife and her mother also, it is wickedness;] they shall be burned with fire, both he and they” (Lev. 20:14). Decapitation? Here it is said, “he will be punished.” (Ex. 21:20), and there it is said, “And I shall bring a punishing sword upon you, that shall execute punishment.” (Lev. 26:25). Just as punishment stated in the latter verse involves use of the sword, so punishment stated in the former one involves use of the sword. As to strangling, it is not found [in Scripture].
- 2. I:2:** R. Simeon says, “Burning is more severe than stoning,” and sages teach that stoning is more severe than burning. R. Simeon says, “Strangulation is more severe than decapitation,” and rabbis teach that decapitation is more severe than strangling [M. San. 7:1B, C].
- 3. I:3:** R. Abbahu in the name of R. Yosé b. Haninah: “In any case in which [a woman who has committed adultery is put to death in a way] more lenient than her father would be put to death [for incest with his daughter, that is, in the case of an Israelite’s daughter, who is married and commits adultery], her punishment is burning, then [in the case of a priest’s daughter], her punishment is the same as that of her father, which is burning; and [if she should commit incest] with her father-in-law, the punishment is execution through stoning.” And the daughter of any priest, if she profanes herself by playing the harlot,] profanes her father; she shall be burned with fire” (Lev. 21:9).
- 4. I:4:** All perjurers and illicit lovers go and suffer the form of death which they had brought on their victim; if it was for stoning, they are stoned; if it was for burning, they were burned. Under what circumstances? When they are in the same status as the victim, so as to be subject to that same mode of execution:] if the death penalty attached to the crime is stoning, the accused is stoned, and the witnesses are stoned; if it was to burning, the victim is burned, and they are burned; if it was to be strangulation, the victim is strangled, they are burned, but she is stranded. But here [M.. 11:6H], he is subject to the death penalty through burning, while the perjurers are killed through strangulation [T. San. 14:17].

5. **I:5:** Abbahu in the name of R. Yosé b. Haninah, Rabbis point to the following argument [that strangulation is more severe:] The men of the town which is to be destroyed for collective idolatry originally were in the generality of idolaters, and so were to be subject to stoning [as at Deut. 13:9-10: “You shall kill him you shall stone him to death with stones.”] But they were made an exception and subjected to a more lenient form of the death penalty, which is burning [Deut. 13:16: “You shall gather all its spoil and burn the city and all its spoil.”]. It is not sufficient for you that you treat them as an exception and impose judgment in accord with the easiest of forms of the death penalty, which is burning. But you should then treat the inhabitants as still more of an exception and subject them to the easiest form of the death penalty, which is strangulation. R. Simeon points to the following argument: A false prophet in fact should subject to the general rule governing all idolaters, that is, to be put to death with burning. He was treated as an exception and subjected to the death penalty through the most lenient of modes of death penalty, through stoning. It should not be sufficient for you that you treat him as an exception and impose upon him the death penalty through stoning. But you should treat him as still more of an exception and impose upon them the most lenient of the death penalties, which is decapitation.

XLVIII. YERUSHALMI SANHEDRIN 7:2

[A] **THE RELIGIOUS REQUIREMENT OF BURNING [IS CARRIED OUT AS FOLLOWS]:** THEY WOULD BURY HIM UP TO HIS ARMPITS IN MANURE, AND PUT A TOWEL OF HARD MATERIAL INSIDE ONE OF SOFT MATERIAL, AND WRAP IT AROUND HIS NECK. **THIS [WITNESS] PULLS IT TO HIM FROM ONE SIDE, AND THAT WITNESS PULLS IT TO HIM AT THE OTHER SIDE, UNTIL HE OPENS UP HIS MOUTH. AND ONE KINDLES A WICK AND THROWS IT INTO HIS MOUTH, AND IT GOES DOWN INTO HIS BOWELS AND BURNS HIS INTESTINES. R. JUDAH SAYS, “ALSO THIS ONE: IF HE DIED AT THEIR HANDS [THROUGH STRANGULATION], THEY WILL NOT HAVE CARRIED OUT THE RELIGIOUS REQUIREMENT OF BURNING [IN THE PROPER MANNER]. “BUT: THEY OPEN HIS MOUTH WITH TONGS, AGAINST HIS WILL, KINDLE A WICK, AND THROW IT INTO HIS MOUTH, AND IT GOES DOWN INTO HIS BOWELS AND BURNS HIS INTESTINES.”**

1. **I:1:** And [why not] put a towel of hard material [around his neck] all by itself [instead of wrapping it in soft cloth]? They say: So that the man may not die [when the towel is tightened to force his mouth open]. For so we find that when Hezekiah stopped up the outlet of the

water of Upper Gihon, he did so with soft materials [so as to absorb the water].

2. **I:2:** Said R. Qerispai in the name of R. Yohanan, “The Mishnah [at M. 7:2C, regarding the wick] speaks of a wick of tin.”
3. **I:3:** It is taught: Forty years before the Temple was destroyed, the right to judge capital cases was taken away from Israelite courts. In the time of R. Simeon b. Shatah, the right to judge property cases was taken away from Israelite courts. Said R. Simeon b. Yohai, “Blessed is the All Merciful, for I am not sufficiently wise to make such decisions [in any event].”

- [B] SAID R. ELEAZAR B. SADOQ, “THERE WAS THE CASE OF A PRIEST WHO COMMITTED ADULTERY. “AND THEY PUT BUNDLES OF TWIGS AROUND HER AND BURNED HER.” THEY SAID TO HIM, “IT WAS BECAUSE THE COURT OF THAT TIME WAS NOT EXPERT [IN THE LAW].”**
1. **II:1:** Said R. Eleazar b. Sadoq, “I was a child and riding on my father’s shoulders, and I saw a priest’s daughter who had committed adultery, and they put bundles of twigs around her and burned her [M. 7:2H]. They said to him, “You were a child, and children don’t give testimony” [T. San. 9:11].

XLIX. YERUSHALMI SANHEDRIN 7:3

- [A] THE RELIGIOUS REQUIREMENT OF DECAPITATION [IS CARRIED OUT AS FOLLOWS]:**
THEY WOULD CUT OFF HIS HEAD WITH A SWORD, JUST AS THE GOVERNMENT DOES. R. JUDAH SAYS, “THIS IS DISGUSTING. “BUT THEY PUT HIS HEAD ON A BLOCK AND CHOP IT OFF WITH AN AX.” THEY SAID TO HIM, “THERE IS NO FORM OF DEATH MORE DISGUSTING THAN THIS ONE.”
1. **I:1:** R. Judah concedes that there is no more disgusting form of execution than this one. Nonetheless, the Torah has said, “You shall not walk in their statutes” (Lev. 18:3) [in consequence of which one must do the killing in a way opposite that of M. 7:3B-C].
 2. **I:2:** Said R. Yohanan, “And thus is it too taught: ‘The murderer shall be put to death’ (Num. 35:17) – with that which he put the victim to death. Is it possible that, if he put him to death with a sword, the murderer should be put to death with a sword, or if with a staff, with a staff? It is stated here, ‘...here he will be punished’ (Ex. 21:20), and there it is said, ‘And I shall bring a punishing sword upon you, that

shall execute punishment' (Lev. 26:25). Just as punishment stated in the latter context involves use of the sword, so punishment stated in the former one involves use of the sword [only]. Is it possible that one should remove [the head] from between the shoulders? Here it is stated, 'And you will wipe out evil from your midst' (Deut. 17:7), and later on it is stated, 'You will wipe out innocent blood from your midst' (Deut. 21:9). We thus have reference to both removal and to breaking the neck. Just as removal stated below involves a blow at the base of the neck, so too a blow at the base of the neck is required here. Just as breaking the neck stated later involves actually severing the head from the neck, so here too it involves severing the head from the neck."

L. YERUSHALMI SANHEDRIN 7:4

[A] THE RELIGIOUS REQUIREMENT OF STRANGULATION [IS CARRIED OUT AS FOLLOWS:]

THEY WOULD BURY HIM IN MANURE UP TO HIS ARMPITS, AND PUT A TOWEL OF HARD MATERIAL INSIDE ONE OF SOFT MATERIAL, AND WRAP IT AROUND HIS NECK. THIS [WITNESS] PULLS IT TO HIM FROM ONE SIDE, AND THAT WITNESS PULLS IT TO HIM AT THE OTHER SIDE, UNTIL HE PERISHES.

- 1. I:1:** As to Strangling, it is not found in Scripture. "You may state matters as follows As to any reference without further specification to the death penalty which is required in the Torah, you are not permitted to draw it out, to impose a severe mode of execution, but only to impose a lenient mode of execution, and sages have designated strangulation as the execution," the words of R. Josiah. Said to him R. Jonathan, "It is not because it is a more lenient mode of execution, but it is stated without further specification, and in the case of any form of the death penalty that is stated without further specification, you are not permitted to impose a more severe mode of execution but only a more lenient mode of execution."
- 2. I:2:** Thus do you describe the mode of strangulation: This [witness] pulls it to him from one side, and that witness pulls it to him at the other side, until he perishes.

LI. YERUSHALMI SANHEDRIN 7:5

[A] THESE ARE [THE FELONS] WHO ARE PUT TO DEATH BY STONING: HE WHO HAS SEXUAL RELATIONS WITH HIS MOTHER, WITH THE WIFE OF HIS FATHER, WITH

HIS DAUGHTER-IN-LAW, WITH A MALE, AND WITH A COW; AND THE WOMEN WHO BRINGS AN OX ON TOP OF HERSELF; AND HE WHO BLASPHEMES, HE WHO PERFORMS AN ACT OF WORSHIP FOR AN IDOL, HE WHO GIVES OF HIS SEED TO MOLECH, HE WHO IS A FAMILIAR SPIRIT, AND HE WHO IS A SOOTHSAYER; HE WHO PROFANES THE SABBATH, HE WHO CURSES HIS FATHER OR HIS MOTHER. HE WHO HAS SEXUAL RELATIONS WITH A BETROTHED MAIDEN, HE WHO BEGUILS [ENTICES A WHOLE TOWN TO IDOLATRY], A SORCERER, AND A STUBBORN AND INCORRIGIBLE SON.

- 1.** **I:1:** [The materials which follow are relevant to M. Ker. 1:1, which is as follows: Thirty-six transgressions subject to extirpation are in the Torah: He who has sexual relations with his mother, his father's wife, and his daughter-in-law; he who has sexual relations with a male or a beast, and the woman who has sexual relations with a beast he who blasphemes, he who performs an act of blasphemous worship, he who gives his seed to Molech. he who has a familiar spirit, he who profanes the Sabbath] Now it was necessary to specify [that there are thirty-six such transgressions] to indicate that if one carried all of them out in a single spell of inadvertence, he is liable on each and every count. But if one carried them out in two spells of inadvertence, [what is the law]? For even if one had intercourse with a [forbidden] woman and went and did so a second time, [in two spells of inadvertence,] he is liable for each act of sexual relations.
- 2.** **I:2:** Bun bar Hiyya said, "R. Ishmael taught as follows: "You shall not practice augury or witchcraft' (Lev. 19:26). "Now are not augury and witchcraft subject to the same general prohibition [of magic]? They have been treated as distinct [and requiring specification] so as to make distinctions therein, [and so to indicate that one is punishable on each count]." [In a case where [the general rule] is stated with the punishment of extirpation and a specific instance [is also stated with the punishment of] extirpation, in the view of R. Yohanan, we deal with a generalization followed by a specification [so that whatever is stated in the specification limits what is implied by the generalization, a conception which will now be spelled out. This conception is spelled out as follows:] For R. Abbahu stated in the name of R. Yohanan: "For whoever shall do any of these abominations, the persons that do them shall be cut off from among their people' (Lev. 18:29) [with reference to the prohibited sexual unions, e.g., son and mother or stepmother]. "Now was the man's sister not within the general principle [by which consanguineous marriages are prohibited]? [And why was the union of brother and sister specified, at Lev. 18:9?] It was treated as a specific item in order to effect a differentiation among the various categories of prohibited unions contained within the

generalization [and so to indicate that one is punishable on each count]. [This then indicates that if one has violated the entire range of rules against consanguineous marriages in a single spell of inadvertence, he is liable on each count.]”

3. **I:3:** Where we have a general rule stated affirmatively, and a specific instance of the rule expressed negatively [how do we interpret the matter, and for what purpose]? In the opinion of R. Eleazar, you have a case of a general rule followed by a specific explication of the general rule [which limits the general rule], [as illustrated in the following dispute]: R. Eleazar says, “People receive a flogging on the count of ploughing in the Sabbatical Year.” R. Yohanan said, “People receive a flogging on the count of ploughing in the Sabbatical Year.”
4. **I:4:** R. Zeira, R. Hiyya bar Ashi in the name of Kahana: “He who plants in the Sabbatical Year is liable on the count of sowing.” R. Zeira says, “He who prunes is equivalent to him who sows.” If one sowed and pruned on the Sabbath – In the opinion of Kahana, he is liable on two counts [that is, for planting, and pruning is a distinct act of labor from sowing]. In the opinion of R. Zeira, he is liable on only one count.

LII. YERUSHALMI SANHEDRIN 7:6

[A] HE WHO HAS SEXUAL RELATIONS WITH HIS MOTHER IS LIABLE ON HER ACCOUNT BECAUSE OF HER BEING HIS MOTHER AND BECAUSE OF HER BEING HIS FATHER’S WIFE [LEV. 18:6-7, 20:11]. R. JUDAH SAYS, “HE IS LIABLE ONLY ON ACCOUNT OF HER BEING HIS MOTHER ALONE.” HE WHO HAS SEXUAL RELATIONS WITH HIS FATHER’S WIFE IS LIABLE ON HER ACCOUNT BECAUSE OF HER BEING HIS FATHER’S WIFE AND BECAUSE OF HER BEING A MARRIED WOMAN, WHETHER THIS IS IN THE LIFETIME OF HIS FATHER OR AFTER THE DEATH OF HIS FATHER, WHETHER SHE IS ONLY BETROTHED OR ALREADY MARRIED [TO THE FATHER]. HE WHO HAS SEXUAL RELATIONS WITH HIS DAUGHTER-IN-LAW IS LIABLE ON HER ACCOUNT BECAUSE OF HER BEING HIS DAUGHTER-IN-LAW AND BECAUSE OF HER BEING ANOTHER MAN’S WIFE, WHETHER THIS IS IN THE LIFETIME OF HIS SON OR AFTER THE DEATH OF HIS SON (LEV. 20:12), WHETHER SHE IS ONLY BETROTHED OR ALREADY MARRIED [TO THE SON].

1. **I:1:** Whence in Scripture do we derive a warning against having sexual relations with one’s mother? “You shall not uncover the nakedness of your mother” (Lev. 18:7). Whence in Scripture do we derive that the penalty is extirpation? “For whoever shall do any of these

abominations – the persons that do them shall be cut off from among their people” (Lev. 18:29). Whence in Scripture do we derive a warning against having sexual relations with one’s father’s wife? “You shall not uncover the nakedness of your father’s wife” (Lev. 18:8). Whence in Scripture do we derive that the penalty is extirpation? “For whoever shall do any of these abominations.” (Lev. 18:29). Whence in Scripture do we derive a [court-administered] penalty? “The man who lies with his father’s wife has uncovered his father’s nakedness; both of them shall be put to death, their blood is upon them” (Lev. 20:11). Whence in Scripture do we derive a warning against having sexual relations with one’s daughter-in-law? “You shall not uncover the nakedness of your daughter-in-law” (Lev. 18:15). Whence in Scripture do we derive that the penalty is extirpation? “For whoever shall do any of these abominations – the persons that do them shall be cut off from among their people” (Lev. 18:29). Whence in Scripture do we derive a [court-administered] penalty? “If a man lies with his daughter-in-law, both of them shall be put to death; they have committed incest, their blood is upon them” (Lev. 20:12).

2. **I:2:** [The consideration that one is liable on two counts, expressed at M. San. 7:6A, C, F] is stated here, and it also is stated in tractate Keritot [in connection with the obligation to bring a sin offering for inadvertently committing such an act]. It makes sense to state matters in that way in tractate Keritot, for one may bring a sin offering and go and bring yet another sin offering. But in the context of Sanhedrin [which deals with the death penalty], do you have the option of stating that one is stoned and goes and is stoned yet a second time?!
3. **I:3:** There we have learned the following: R. Judah says, “If his mother was not a suitable wife to his father [by reason of a genealogical impairment], he is liable on only one count [for the marriage is null by reason of said impairment].” Lo, if she was a suitable wife for his father, he is liable on two counts [contrary to M. 7:6B]! R. Abbahu in the name of R. Yohanan: “There is no difference [from Judah’s viewpoint] whether his mother was a suitable wife to his father or not. He is liable on only one count.”
4. **I:4:** “You shall not uncover the nakedness of your father’s wife” (Lev. 18:8). Scripture speaks of the father’s wife. “the nakedness of your mother” (Lev. 18:7) – this is the mother married to his father. What about his mother not married to his father? [That is, if the father has raped a woman, how do we know that the son may not marry her?] “She is your mother, you shall not uncover her nakedness” (Lev. 18:7).

5. **I:5:** R. Jeremiah raised the question: “He who has sexual relations with his mother – what is the law as to his being liable on the count [in addition] of having relations with a married woman?” Now look here: If someone else had sexual relations with her, he would be liable on the count of having relations with a married? In the Case of her son, is it not a R. Yosé objected, “No, indeed! An outsider – lo, he is liable on the count of having sexual relations with her son is not [specified in Mishnah] liable on the count of having sexual relations with a married woman [but with his father’s wife].”

LIII. YERUSHALMI SANHEDRIN 7:7

[A] HE WHO HAS SEXUAL RELATIONS WITH A MALE [LEV. 20:13, 15-16], OR A COW, AND THE WOMAN WHO BRINGS AN OX ON TOP OF HERSELF. IF THE HUMAN BEING HAS COMMITTED A SIN, WHAT SIN HAS THE BEAST COMMITTED?

1. **I:1:** Whence do we derive a [Scriptural] warning against having sexual relations with a male? “You shall not lie with a male as with a woman; it is an abomination” (Lev. 18:22). How do we derive [from Scripture] that the penalty is extirpation? “For whoever shall do any of these abomination, the persons that do them shall be cut off from among their people” (Lev. 18:29). How do we derive a [court-administered] penalty [for such a deed]? “If a man lies with a male as with a woman, both of them have committed an abomination; they shall be put to death, their blood is upon them” (Lev. 20:13). You derive the penalty that “their blood is upon them” from the statement that “their blood is upon them” [stated with regard to the one who turns to mediums and wizards]. [Just as stoning applies to the latter, so it applies to those under discussion here.] Whence in the Torah do we derive warning against having sexual relations with a beast? “And you shall not lie with any beast and defile yourself with it” (Lev. 18:23). The penalty of extirpation – whence do we derive it? “For whoever shall do any of these abominations, the persons that do them shall be cut off from among their people” (Lev. 18:29). A [court-administered] penalty – whence do we derive it? “If a man lies with a beast, he shall be put to death; and you shall kill the beast. [If a woman approaches any beast and lies with it, you shall kill the woman and the beast; they shall be put to death, their blood is upon them]” (Lev. 20:15-16). You derive the penalty that [their blood is upon them] from the statement that “their blood is upon them.”

a. I:2: It was taught: In the case of sexual relations between males, the law has not treated the minor as equivalent to an adult [so if the one upon whom the act is committed is younger than three years and one day old, it is null]. In the case of a beast, the law has treated the minor as equivalent to the fully grown beast.

2. **I:3:** Reverting to the proof texts of I:1,] R. Bun bar Hiyya raised the question of R. Zeira, “Why did R. Ishmael and R. Aqiba make distinctions in regard to sexual relations with a male and with a beast, while in regard to all other forms of illicit sexual relations they made no such distinctions, [but derived the law from a single set of verses]? [So in the present instances we do not maintain that the one who has sexual relations and the one upon whom the sexual act is committed are subject to a single general rule, such as applies to all other cases of sexual misdeed.]” He said to him, “[The reason is] that in regard to all other forms of illicit sexual relations there is a general and inclusive reference to ‘anyone near of kin’ (Lev. 18:6) [which is taken to be a general and encompassing rule], while in the present cases there is no such reference to ‘anyone.’ [The reference, ‘None of you shall approach anyone near of kin to him to uncover nakedness’ does not cover the acts under discussion, and that is why distinct proofs are required for the items under discussion.]”

3. **I:4:** Whence do we derive from Scripture a warning that a woman should not have sexual relations with a beast? “Neither shall any woman give herself to a beast to lie with it; it is perversion” (Lev. 18:23). Whence do we derive from Scripture the punishment of extirpation? “For whoever shall do any of these abominations, the persons that do them shall be cut off from among their people” (Lev. 18:29). Whence do we derive a [court-administered] punishment? “If a woman approaches any beast and lies with it, you shall kill the woman and the beast; they shall be put to death, their blood is upon them” (Lev. 20:16). You derive the penalty of death from the penalty of death, the mode of execution through stoning from the mode of execution through stoning specified elsewhere, and “their blood is upon them” from “their blood is upon them”

[B] **BUT BECAUSE A HUMAN BEING HAS OFFENDED THROUGH IT, THEREFORE THE SCRIPTURE HAS SAID, “LET IT BE STONED.” ANOTHER MATTER: SO THAT THE BEAST SHOULD NOT AMBLE THROUGH THE MARKET PLACE, WITH PEOPLE SAYING, “THIS IS THE ONE ON ACCOUNT OF WHICH MR. SO-AND-SO GOT HIMSELF STONED.”**

- 1.** **II:1:** [With reference to M. 7:7C-D,] R. Ba bar Mamel raised the question: “Take note. If a man had sexual relations with a beast in a spell of inadvertence, lo, the beast is stoned on the man’s account, but the man is exempt from stoning, [and this indicates that the principal consideration in this matter is M. 7:7D’s reasoning, namely, avoiding unnecessary embarrassment to the man].” R. Simeon raised the question: “Take note. If a man ploughed with a beast on the Sabbath, lo, he is stoned to death on account of the beast, but the beast is exempt [in consequence of which the principal consideration in this matter is M. 7:7C’s reasoning].”

LIV. YERUSHALMI SANHEDRIN 7:8

[A] HE WHO BLASPHEMES [M. 7:4D] [LEV. 24:10] IS LIABLE ONLY WHEN HE HAS FULLY PRONOUNCED THE DIVINE NAME. SAID R. JOSHUA B. QORHA, “ON EVERY DAY OF A TRIAL THEY EXAMINE THE WITNESSES WITH A SUBSTITUTED NAME, [SUCH AS], ‘MAY YOSÉ SMITE YOSÉ.’” [ONCE] THE TRIAL IS OVER, THEY WOULD NOT PUT HIM TO DEATH [ON THE BASIS OF EVIDENCE GIVEN] WITH THE SUBSTITUTED EUPHEMISM, BUT THEY CLEAR THE COURT AND ASK THE MOST IMPORTANT OF THE WITNESSES:

- 1.** **I:1:** Whence in Scripture do we find a warning against blaspheming? “You shall not revile God [nor curse a ruler of your people]” (Ex. 22:28). Whence in Scripture do we find that the penalty is extirpation? “Whoever curses his God shall bear his sin. [He who blasphemes the name of the Lord shall be put to death; all the congregation shall stone him; the sojourner as well as the native, when he blasphemes the Name, shall be put to death]” (Lev. 24: 15-16). Whence do we find a [court-administered] penalty? “He who blasphemes the name of the Lord shall be put to death.” And how are these same propositions adduced in accord with the exegetical methods of R. Ishmael? For R. Ishmael said, “The Scripture speaks of the judges [who are not to be cursed or blasphemed]. “If Scripture warns against cursing the judges, is it not an argument a *fortiori* that there should be a warning against cursing God with euphemisms. “If for cursing God with euphemisms one suffers the penalty of extirpation, if one does so with the fully expressed Name of God, is it not an argument a *fortiori* [that the penalty should be extirpation]?”
- 2.** **I:2:** There are Tannaim who teach that there is a warning and extirpation because of cursing God with euphemisms, and for cursing with the fully expressed Name of God one is subject to the death

penalty. And there are Tannaim who teach that, on account of cursing with euphemisms, one is subject to a warning, and for cursing with the fully expressed name of God, one is subject to the death penalty and extirpation.

- 3. I:3:** [Since Joshua b. Qorha says that they make use of a substituted name, M. 7:8B,] R. Jeremiah in the name of R. Samuel bar R. Isaac [said], “That is to say that they judge a case on the basis of doubt.”

[B] SAYING TO HIM, ‘SAY, WHAT EXACTLY DID YOU HEAR [IN DETAIL]?’ ‘AND HE SAYS WHAT HE HEARD. ‘

- 1. II:1:** [With reference to M. 7:8C, “Say what exactly did you hear in detail”]. Do they say to him, “Curse God”? But: “That name which I said in your presence, that is the one which he cursed, and with that one did he curse.”

[C] AND THE JUDGES STAND ON THEIR FEET AND TEAR THEIR CLOTHING, AND NEVER SEW THEM BACK UP. ‘AND THE SECOND WITNESS SAYS, ‘ALSO I [HEARD] WHAT HE HEARD.’ ‘AND THE THIRD WITNESS SAYS, ‘ALSO I [HEARD] WHAT HE HEARD.’”

- 1. III:1:** [With reference to M. 7:8E, the judges stand on their feet,] R. Simeon b. Laqish said, “On the basis of this rule, we learn that judges who have accepted testimony stand, for their decision now is final.” You derive from the Mishnah pericope six rules: You derive from it that rule which R. Samuel bar R. Isaac stated. And you derive from it that rule which R. Simeon b. Laqish has stated. And you derive from it: He who hears from one who hears [a profanation of God’s name] is liable to tear his garments. And you derive from this pericope of Mishnah the rule that if a witness gave his testimony, the second, corroborating witness, may say, “Also I testify as does he,” and the third says, “Also I testify as does he.” And you derive from this pericope of the Mishnah the rule that this is one of the tears which they do not sew up. And you derive from the Mishnah pericope the rule that since they knew in the first place that it would be the fully expressed divine name, one has to tear his garments [when he hears it expressed].
- 2. III:2:** What is the law as to tearing one’s garment because he has heard the name of God cursed by a Gentile?
- 3. III:3:** What is the law as to tearing one’s garments in this time?
- 4. III:4:** What is the law as to tearing one’s garments at this time upon hearing God cursed through euphemisms?

LV. YERUSHALMI SANHEDRIN 7:9

[A] [HE WHO PERFORMS AN ACT OF WORSHIP FOR AN IDOL [M. 7:4D] – ALL THE SAME ARE THE ONE WHO PERFORMS AN ACT OF SERVICE, WHO [ACTUALLY] SACRIFICES, WHO OFFERS UP INCENSE, WHO POURS OUT A LIBATION OFFERING, WHO BOWS DOWN, AND THE ONE WHO ACCEPTS IT UPON HIMSELF AS A GOD, SAYING TO IT, “YOU ARE MY GOD.” BUT THE ONE WHO HUGS, IT, KISSES IT, POLISHES IT, SWEEPS IT, AND WASHES IT, ANOINTS IT, PUTS CLOTHING ON IT, AND PUTS SHOWS ON IT, [MERELY] TRANSGRESSES A NEGATIVE COMMANDMENT [Ex. 20:5]. HE WHO TAKES A VOW IN ITS NAME, AND HE WHO CARRIES OUT A VOW MADE IN ITS NAME TRANSGRESS A NEGATIVE COMMANDMENT [Ex. 23:13]

1. **I:1:** Whence in Scripture do we find a warning against worshipping idols? “You shall not make for yourself a graven image; you shall not bow down to them or serve them” (Ex. 20:45). Whence do we derive that the penalty is extirpation? “But the person who does anything with a high hand reviles the Lord, and that person shall be cut off.” (Num. 15:30).

[B] HE WHO UNCOVERS HIMSELF TO BAAL PEOR [IS STONED, FOR] THIS IS HOW ONE PERFORMS AN ACT OF SERVICE TO IT. HE WHO TOSSES A PEBBLE AT MERKOLIS [HERMES] [IS STONED, FOR] THIS IS HOW ONE PERFORMS AN ACT OF SERVICE TO IT.

1. **II:1:** [With reference to M. 7:9G, H, liability for a normal act of service,] when R. Samuel said in the name of R. Zeira, “‘So they shall no more slay their sacrifices for satyrs, after whom they play the harlot’ (Lev. 17:7). ‘[This indicates that one is liable even for an act of worship of an idol which is not normal,]’ he said to him, ‘You have come to a verse applicable to Holy Things and not applicable to the purpose for which you have cited it. [So proof for Mishnah’s view is not in that verse.]’” R. Yasa in the name of R. Yohanan: “[If] one has sacrificed to an idol a blemished lamb, he is liable.”
2. **II:2:** How do we know from Scripture that he who says to it, “You are my god,” [is culpable]?
3. **II:3:** It is written, “If there is found a man or woman who does what is evil in the sight of the Lord and has gone and served other gods and worshipped them, *and* the sun or the moon or any of the host of heaven which I have forbidden” (Deut. 17:2-3). Said R. Zeira, “‘the sun,’ is not written here, but rather, ‘*and* the sun’ What we have therefore is not a generalization followed by a particularization, but rather a

sequence of encompassing clauses. [So the meaning is not that we have a general rule limited by the example following, hence, as suggested above, including bowing down but excluding other actions. What we have is an encompassing clause, meaning that all modes of worship are subject to a prohibition. That is, whether or not one does an act of worship appropriate to a given idol, he will be liable.]”

4. **II:4:** Samuel bar Nahmani in the name of R. Hoshaiiah: “[The culpability of] one who says to an idol, ‘You are my god,’ is subject to a dispute between Rabbi and sages. [That is, whether or not such a person is obligated to bring an offering has yet to be worked out.]” If one has bowed down to it, what is the law? R. Yohanan said, “All concur in the case of one who bows concretely bending over that he is liable [In this [If so, then why is saying something also not a deed, for what is the difference between raising and lowering one’s body and raising and lowering one’s lips? Is this too not a deed?] R. Yohanan said, “It is subject to a dispute [whether there is such an analogy to be drawn as is stated at D].” R. Simeon b. Laqish said, “It is subject to a dispute [whether bowing down itself is a deed and culpable].”

LVI. YERUSHALMI SANHEDRIN 7:10

[A] **HE WHO GIVES OF HIS SEED [CHILD] TO MOLECH [M. 7:4D] [LEV. 20:2] IS LIABLE ONLY WHEN HE WILL BOTH HAVE GIVEN HIM TO MOLECH AND HAVE PASSED HIM THROUGH FIRE. [IF] HE GAVE HIM TO MOLECH BUT DID NOT PASS HIM THROUGH FIRE. PASSED HIM THROUGH FIRE BUT DID NOT GIVE HIM TO MOLECH, HE IS NOT LIABLE – UNTIL HE WILL BOTH HAVE GIVEN HIM TO MOLECH AND HAVE PASSED HIM THROUGH FIRE.**

1. **I:1:** Whence in Scripture do we find a warning against giving one of one’s children to Molech? “You shall not give any of your children to devote them by fire to Molech, and so profane the name of your God” (Lev. 18:21). Whence in Scripture do we find that extirpation applies? “[I myself will set my face against that man, and] will cut him off from among his people, because he has given one of his children to Molech” (Lev. 20:3). [Whence in Scripture do we find that] the [court-administered] punishment [is through stoning]? “Any man of the people of Israel, or of the strangers that sojourn in Israel, who gives any of his children to Molech shall be put to death; the people of the land shall stone him with stones” (Lev. 20:2).
2. **I:2:** “And any of your children you shall not give.” – Is it possible to suppose that if one gave him to Molech but did not pass him through

fire [M. San. 7:10B], should he be liable? Scripture says, “give to pass them through fire.” [thus specifying both stages]. Is it possible to suppose that if one gave them and passed them by fire not to Molech [but to some other god], he should be liable? Scripture says, “And any of your children you shall not give to devote them by fire to Molech” [in particular]. Is it possible to suppose that if one gave them and passed them to Molech, but not by fire, he should be liable? Scripture states, “There shall not be found among you anyone who makes his son or his daughter pass through the fire” (Deut. 18: 10).

3. **I:3:** R. Nissah in the name of R. Eleazar: “Under no circumstances is one liable unless he hands him over to priests, and they take him and pass him through.” If he passed him through in his normal way of walking [by foot], what is the law? [Is this the usual way with Molech?]
4. **I:4:** Bun bar Hiyya raised the following question before R. Zeira: “If one handed over the son but did not cause him to pass through [but an agent did so], we have a parallel in the dispute between Hezekiah and R. Yohanan, for they differ as follows: “If one slaughtered the beast but did not sell it [in the case of a thief who stole a beast, in line with Ex. 21:37 = Ex. 22:1], “R. Hezekiah said, ‘He is liable.’ “R. Yohanan said, ‘He is exempt.’ [That is, do we not have a parallel? In the cited case, one stole the beast but handed it over to an agent to slaughter it. Hezekiah holds the thief liable for the actions of the agent, and Yohanan maintains that he is exempt. Likewise, if one handed over the son to a third party to pass him through fire, if one holds that in the case of slaughter by another, one is liable, so here too he would be liable, and so with the contrary position.]”
5. **I:5:** Ba, R. Hiyya in the name of R. Yohanan: “Note the language the Torah has taught you. “‘Molech’ refers to anyone whom you treat as a king over you, even a chip of wood or a pebble.” “And I shall cut off that man from the midst of his people” serves to encompass every form of idolatry under the penalty of extirpation. [Passing one’s children in fire is an act of idolatry, even not before Molech.] R. Nisa in the name of R. Eleazar, “It serves to encompass other forms of idolatry, so far as devoting one’s sons and daughters is concerned.
 - a. **I:6:** Said R. Tanhum bar Yudan, “Even though R. Eleazar b. R. Simeon said, ‘If one sacrificed, offered incense, and made a libation offering, in a single spell of inadvertence, he is liable on only one count,’ still he concurs that, if one has worshipped an idol in the correct way in which it is worshipped, in the way in which

the Most High is worshipped, for example, through an act of worshipful prostration, he is liable on each count.”

6. **I:7:** Said R. Pinhas in the presence of R. Yosé in the name of R. Hisda, “If its correct mode of service was through sons and daughters, and one worshipped it through [passing through] fathers and mothers, he is liable on two counts.”
7. **I:8:** Whence in Scripture do we derive a warning against a medium? “Do not turn to mediums or wizards; do not seek them out, to be defiled by them” (Lev. 19:31). Whence in Scripture do we derive that the penalty is extirpation? “If a person turns to mediums and wizards, playing the harlot after them, I will set my face against that person, and will cut him off from among his people” (Lev. 20:6). Whence in Scripture do we derive the mode of punishment? “And a man or a woman who is a medium or a wizard shall be put to death; they shall be stoned with stones, their blood shall be upon them” (Lev. 20:27).

[B] HE WHO HAS A FAMILIAR SPIRIT [M. 7:4D4] [LEV. 20:27] – THIS IS A VENTRILOQUIST, WHO SPEAKS FROM HIS ARMPITS; AND HE WHO IS A SOOTHSAYER [M. 7:4D5] – THIS IS ONE WHOSE [SPIRIT] SPEAKS THROUGH HIS MOUTH – LO, THESE ARE PUT TO DEATH BY STONING. AND THE ONE WHO MAKES INQUIRY OF THEM IS SUBJECT TO A WARNING [LEV. 19:31, DEUT. 18:10-11].

1. **II:1:** “or a necromancer” (Deut. 18:11): There is a Tannaite authority who teaches “This is one who asks questions of a skull.” There is a Tannaite authority who teaches “This is one who asks questions of the penis [of a corpse] [raising the corpse thereby].”
2. **II:2:** The opinion of rabbis supports the view of R. Yasa, for R. Yasa said in the name of rabbis: “It is because they offer incense to shades.”

LVII. YERUSHALMI SANHEDRIN 7:11

[A] HE WHO PROFANES THE SABBATH [M. 7:4E] – IN REGARD TO A MATTER, ON ACCOUNT OF THE DELIBERATE DOING OF WHICH THEY ARE LIABLE TO EXTIRPATION, AND ON ACCOUNT OF THE INADVERTENT DOING OF WHICH THEY ARE LIABLE TO A SIN-OFFERING.

1. **I:1:** Whence do we derive a warning against profaning the Sabbath? “You shall not do any work on it” (Ex. 20:10). Whence do we derive that the penalty of extirpation applies? “Whoever does any work on it

– that soul shall be cut off from among his people” (Ex. 31:14).
Whence do we derive a [court-administered] punishment? “Everyone who profanes it shall be put to death” (Ex. 31:14).

[B] HE WHO CURSES HIS FATHER AND HIS MOTHER [M. 7:4F] IS LIABLE ONLY WHEN HE WILL HAVE CURSED THEM BY THE DIVINE NAME. [IF] HE CURSED THEM WITH A EUPHEMISM, R. MEIR DECLARES HIM LIABLE. AND SAGES DECLARE HIM EXEMPT.

- 1. II:1:** Whence do we find a warning against cursing one’s father and mother? “Every one of you shall revere his mother and his father” (Lev. 19:3). Whence do we derive both the [court-administered] penalty and extirpation? “Whoever curses his father or his mother shall be put to death” (Ex. 21:17), [so the death penalty]. And it says, “For whoever shall do any of these abominations, the persons that do them shall be cut off from among their people” (Lev. 18:29), [so extirpation].

[C] HE WHO HAS SEXUAL RELATIONS WITH A BETROTHED MAIDEN [M. 7:4G] [DEUT. 22:23-4] IS LIABLE ONLY IF SHE IS A VIRGIN MAIDEN, BETROTHED, WHILE SHE IS YET IN HER FATHER’S HOUSE. [IF] TWO DIFFERENT MEN HAD SEXUAL RELATIONS WITH HER, THE FIRST ONE IS PUT TO DEATH BY STONING, AND THE SECOND BY STRANGULATION. [THE SECOND PARTY, B. HAS NOT HAD INTERCOURSE WITH A VIRGIN (M. 11:1). THE MAIDEN IS BETWEEN TWELVE YEARS AND ONE DAY AND TWELVE YEARS SIX MONTHS AND ONE DAY OLD.]

- 1. III:1:** R. Yasa in the name of R. Yohanan, R. Hiyya in the name of R. Eleazar, [maintained, “In insisting that it is a maiden, the Mishnah expresses the opinion] of R. Meir. But so far as rabbis are concerned, even if she is a minor [less than three years and one day], one is liable.”
- 2. III:2:** R. Jacob bar Abba raised the question before Rab: “He who has sexual relations with a betrothed minor – what is the law?” He said to him, “He is put to death through stoning [as he would if she were an adult virgin, just as rabbis hold]. “He who has sexual relations with a pubescent girl – what is the law [from rabbis’ viewpoint]? [Is the penalty the same?]”

LVIII. YERUSHALMI SANHEDRIN 7:12

[A] HE WHO BEGUILDES OTHERS TO IDOLATRY [M. 7:4H] – THIS [REFERS TO] AN ORDINARY FELLOW WHO BEGUILDES SOME OTHER ORDINARY FELLOW. [IF] HE

SAID TO HIM, “THERE IS A GOD IN SUCH A PLACE, WHO EATS THUS, DRINKS THUS, DOES GOOD IN ONE WAY, AND HARM IN ANOTHER” — AGAINST ALL THOSE WHO ARE LIABLE TO THE DEATH PENALTY IN THE TORAH THEY DO NOT HIDE WITNESSES [FOR THE PURPOSES OF ENTRAPMENT] EXCEPT FOR THIS ONE. [IF] HE SPOKE [IN SUCH A WAY] TO TWO, AND THEY SERVE AS WITNESSES AGAINST HIM, THEY BRING HIM TO COURT AND STONE HIM. [IF] HE SPOKE [IN SUCH A WAY] TO [ONLY] ONE PERSON, [THE LATTER THEN] SAYS TO HIM, “I HAVE SOME FRIENDS WHO WILL WANT THE SAME THING.” IF HE WAS CLEVER AND NOT PREPARED TO SPEAK IN [THE FRIENDS’] PRESENCE, THEY HIDE WITNESSES ON THE OTHER SIDE OF THE PARTITION, AND HE SAYS TO HIM, “TELL ME WHAT YOU WERE SAYING TO ME NOW THAT WE ARE BY OURSELVES.” AND THE OTHER PARTY SAYS TO HIM [WHAT HE HAD SAID], AND THEN THIS PARTY SAYS, “NOW HOW ARE WE GOING TO ABANDON OUR GOD WHO IS IN HEAVEN AND GO AND WORSHIP STICKS AND STONES?” IF HE REPENTS, WELL AND GOOD. BUT IF HE SAID, “THIS IS WHAT WE ARE OBLIGATED TO DO, AND THIS IS WHAT IS GOOD FOR US TO DO,” THOSE WHO STAND ON THE OTHER SIDE OF THE PARTITION BRING HIM TO COURT AND STONE HIM. [HE WHO BEGUILDES OTHERS IS] ONE WHO SAYS, “I AM GOING TO WORSHIP,” “I SHALL MAKE AN OFFERING,” “I SHALL OFFER INCENSE,” “I SHALL GO AND OFFER INCENSE,” “LET’S GO AND OFFER INCENSE,” “I SHALL MAKE A LIBATION,” “I SHALL GO AND MAKE A LIBATION,” “LET’S GO AND MAKE A LIBATION,” “I SHALL BOW DOWN,” “I SHALL GO AND BOW DOWN,” “LET’S GO AND BOW DOWN.” HE WHO LEADS [A WHOLE TOWN ASTRAY] [M. 10:4H] IS ONE WHO SAYS, “LET’S GO AND PERFORM AN ACT OF SERVICE TO AN IDOL.”

1. **I:1:** [When M. 7:12A refers to an ordinary fellow, does it mean to say,] “Lo, a sage is not [subject to the law]?” [The meaning is this:] Since the person incites someone to idolatry, this is no sage. Since one is incited to idolatry, this is no sage.
2. **I:2:** [In the light of M. Yeb. 16:6: They permit a woman to marry again on the evidence of an echo that her husband has died,] do you say this [that it is necessary to light a lamp so that the witnesses should see him while they hear him]. [It should be sufficient merely to hear him.] It is different in the present case [of M. Yeb. 16:61, because he has said, “I.” [That is, the man is heard to speak of himself, so it is not necessary to identify him further.] And if he said, also here, “I”? [That is, let the inciter also identify himself. It is so that he will not practice deception [and flee].
3. **I:3:** He who entices others speaks in elevated language, and he who beguiles [a whole town] speaks in earthy language. If the one who entices spoke in earthy language, he falls into the category of one who

beguiles [a whole town]. And if one who beguiles [a whole town] spoke in elevated language, he falls into the category of one who entices [an individual].

LIX. YERUSHALMI SANHEDRIN 7:13

- [A] **THE SORCERER [M. 7:4I] – HE WHO DOES A DEED IS LIABLE, BUT NOT THE ONE WHO MERELY CREATES AN ILLUSION. R. AQIBA SAYS IN THE NAME OF R. JOSHUA, “TWO MAY GATHER CUCUMBERS. ONE GATHERER MAY BE EXEMPT, AND ONE GATHERER MAY BE LIABLE. “[LIKewise:] HE WHO DOES A DEED IS LIABLE, BUT HE WHO MERELY CREATES AN ILLUSION IS EXEMPT.”**
1. **I:1:** “You shall not permit a sorceress to live” (Ex. 22:18). All the same are a sorcerer and a sorceress [that is, both are to be put to death]. But [in referring to a sorceress] the Torah has taught you how things really are, for the vast majority who practice sorcery are women.
 2. **I:2:** Said R. Eleazar, “A sorcerer is subject to the death penalty through stoning.”
 3. **I:3:** When R. Eleazar, R. Joshua, and R. Aqiba went in to bathe in the baths of Tiberias, a *min* saw them. He said what he said, and the arched chamber in the bath [where idolatrous statues were put up] held them fast, [so that they could not move]. Said R. Eleazar to R. Joshua, “Now Joshua b. Haninah, see what you can do.” When that *min* tried to leave, R. Joshua said what he said, and the doorway of the bath seized and held the *min* firm, so that whoever went in had to give him a knock [to push by], and whoever went out had to give him a knock [to push by]. He said to them, “Undo whatever you have done [to let me go].”
 4. **I:4:** When R. Eliezer, R. Joshua, and Rabban Gamaliel went up to Rome, they came to a certain place and found children making little piles [of dirt]. They said, “Children of the land of Israel make this sort of thing, and they say, ‘This is heave offering,’ and ‘That is tithe.’ It’s likely that there are Jews here.” They came into one place and were received there. When they sat down to eat, [they noticed] that each dish which they brought in to them would first be brought into a small room, and then would be brought to them, and they wondered whether they might be eating sacrifices offered to the dead. [That is, before the food was brought to them, it was brought into a small chamber, in which, they suspected, sacrifices were taken from each dish and offered to an idol.] They said to [the host], “What is your purpose, in

the fact that, as to every dish which you bring before us, if you do not bring it first into a small room, you do not bring it in to us?” He said to them, “I have a very old father, and he has made a decree for himself that he will never go out of that small room until he will see the sages of Israel.” They said to him, “Go and tell him, ‘Come out here to them, for they are here.’” He came out to them. They said to him, “Why do you do this?” He said to them, “Pray for my son, for he has not produced a child.” Said R. Eliezer to R. Joshua, Now, Joshua b. Hananiah, let’s see what you will do.” He said to him “Bring me flax seeds,” and they brought him flax seeds. He appeared to sow the seed on the table; he appeared to scatter the seed; he appeared to bring the seed up; he appeared to take hold of it, until he drew up a woman, holding on to her tresses. He said to her, “Release whatever magic you have done to this man.” She said to him, “I am not going to release my spell.” He said to her, “If you don’t do it, I shall publicize your magical secrets.” She said to him, “I cannot do it, for the magical materials have been cast into the sea.” Joshua made a decree that the sea release the magical materials, and they came up. They prayed for the host, and he had the merit of producing a son, who would become R. Judah b. Batera. They said, “If we came up here only for the purpose of producing that righteous man, it would have been enough for us.”

5. **I:5:** Said R. Yannai, “I was going along the road in Sepphoris, and I saw a min, who took a pebble and threw it up into the sky, and it came down and was turned into a calf.”
6. **I:6:** Said R. Hinena b. R. Hananiah, “I was walking in the turf [?] of Sepphoris, and I saw a min take a skull and throw it up into the air, and when it came down, it had turned into a calf. And I came and I told father, and he said to me, ‘If you actually ate of the calf meat, it really happened, and if not, it was a mere illusion. “
7. **I:7:** Said R. Joshua, “Three hundred laws did R. Eliezer expound concerning the verse, ‘You shall not allow a witch to live’ (Ex. 22:18), “and of all of them I have heard only two things: “Two may gather cucumbers. One gatherer may be exempt, and one gatherer may be liable. He who does a deed is liable, but he who merely creates an illusion is exempt” [T. San. 11:5].

LX. YERUSHALMI SANHEDRIN 8:1

[A] A REBELLIOUS AND INCORRIGIBLE SON [M. 7:4J] — AT WHAT POINT [DOES A CHILD] BECOME LIABLE TO BE DECLARED A REBELLIOUS AND INCORRIGIBLE

SON? FROM THE POINT AT WHICH HE WILL PRODUCE TWO PUBIC HAIRS, UNTIL THE 'BEARD' IS FULL — (THAT IS THE LOWER [PUBIC], NOT THE UPPER [FACIAL, BEARD], BUT THE SAGES USED EUPHEMISMS). AS IT IS SAID, "IF A MAN HAS A SON" (DEUT. 21:18) — (1) A SON, NOT A DAUGHTER; (2) A SON, NOT AN ADULT MAN. AND A MINOR IS EXEMPT, SINCE HE HAS NOT YET ENTERED THE SCOPE OF THE COMMANDMENTS.

1. **I:1:** R. Zeira, R. Abbahu, R. Yosé b. Haninah in the name of R. Simeon b. Laqish: "It is written, 'If a man willfully attacks another to kill him treacherously' (Ex. 21:14) — "From what point is he treated as a man? "From the point at which he may act willfully. "From what point does he act willfully? "When the crest of the genitals begins to flatten. "A comparison: When the seed is cooking inside, the pot grows black outside."
2. **I:2:** Said R. Yasa, "All these rules are not [merely] reasonable, for the opposite is the case." It was taught [along these same lines]: You should know that that is the case [that the law runs contrary to reason]. For whom was it more likely to declare liable, a son or a daughter? You admit that it is the daughter. Yet the Torah has declared the daughter to be exempt, but has declared the son to be liable. Who was the more likely to be declared liable, the minor or the adult? You must say that it is the adult. Yet the Torah has declared the adult to be exempt and has made the minor liable. Who was the more likely to be declared liable: he who steals from others, or he who steals from his father and his mother? You must say that it is he who steals from others. Yet the Torah has declared exempt the one who steals from others, and has declared liable him who steals from his father and his mother. This teaches you that all these rules derive solely from the decree of the King [and not from reason].

LXI. YERUSHALMI SANHEDRIN 8:2

[A] AT WHAT POINT IS HE LIABLE? ONCE HE HAS EATEN A TARTEMAR OF MEAT AND DRUNK A HALF-LOG OF ITALIAN WINE. R. YOSÉ SAYS, "A MINA OF MEAT AND A LOG OF WINE."

1. **I:1:** Said R. Yosé, "A tartemar is a half-litra."
2. **I:2:** He is not liable unless he eats meat lightly roasted. If one eats it raw, he is a dog. If he eats it cooked, he is a man. If he ate the cartilages forming the ear, what is the law? If he ate the soft veins, what is the law [for in both cases they will harden]?

[B] [IF] HE ATE IN AN ASSOCIATION FORMED FOR A RELIGIOUS DUTY. [IF] HE ATE ON THE OCCASION OF THE INTERCALATION OF THE MONTH, [IF] IN JERUSALEM HE ATE FOOD IN THE STATUS OF SECOND TITHE,

- 1. II:1:** “And though they chastise him, he will not give heed to them” (Deut. 21:18) – this excludes this one [described in the cited passage of Mishnah], who assuredly does heed the voice of his Father who is in heaven.”
- 2. II:2:** Said R. Yohanan, “If your name is mentioned for service on the council, let the Jordan be your border.” Said R. Yohanan, “People appeal to the government to be rid of the duty of serving on the council.” Said R. Yohanan, “People may lend on interest to an association formed for a religious duty and for sanctifying the new moon.”
- 3. II:3:** R. Yohanan would go up to the synagogue in the morning, and he would gather crumbs and eat them, and he said, “Let my lot be with him who sanctifies the month here evenings [because they have such a fine meal].”

[C] [IF] HE ATE CARRION AND TEREFAH-MEAT, FORBIDDEN THINGS OR CREEPING THINGS, [IF] HE ATE UNTITHED PRODUCE, FIRST TITHE, THE HEAVE-OFFERING OF WHICH HAD NOT BEEN REMOVED, SECOND TITHE OR CONSECRATED FOOD WHICH HAD NOT BEEN REDEEMED [BY MONEY], [IF] HE ATE SOMETHING WHICH FULFILLED A RELIGIOUS DUTY OR WHEREBY HE COMMITTED A TRANSGRESSION, [IF] HE ATE ANY SORT OF FOOD EXCEPT MEAT, DRANK ANY SORT OF LIQUID EXCEPT WINE – HE IS NOT DECLARED A REBELLIOUS AND INCORRIGIBLE SON – UNLESS HE EATS MEAT AND DRINKS WINE, SINCE IT IS SAID, “A GLUTTON AND A DRUNKARD” (DEUT. 21:20). AND EVEN THOUGH THERE IS NO CLEAR PROOF FOR THE PROPOSITION, THERE IS AT LEAST A HINT FOR IT, FOR IT IS SAID, “DO NOT BE AMONG THE WINE-DRINKERS, AMONG GLUTTONOUS MEAT-EATERS” (PROV. 23:20).

- 1. III:1:** “And though they chastise him, he will not give heed to them” – this excludes this one [described in the cited passage], for even the voice of his Father in heaven does he not heed.

LXII. YERUSHALMI SANHEDRIN 8:3

[A] [IF] HE STOLE SOMETHING BELONGING TO HIS FATHER BUT ATE IT IN HIS FATHER’S DOMAIN, OR SOMETHING BELONGING TO OTHERS BUT ATE IT IN THE DOMAIN OF THOSE OTHERS, OR SOMETHING BELONGING TO OTHERS BUT ATE IT IN HIS

FATHER'S DOMAIN, HE IS NOT DECLARED A REBELLIOUS AND INCORRIGIBLE SON — UNTIL HE STEALS SOMETHING OF HIS FATHER'S AND EATS IT IN THE DOMAIN OF OTHERS. **R. YOSÉ B. JUDAH SAYS, "...UNTIL HE STEALS SOMETHING BELONGING TO HIS FATHER AND HIS MOTHER."**

1. **I:1:** Whence do we locate the first warning against stealing [kidnapping]? "You shall not steal" (Ex. 20:15). Whence do we locate the second warning against stealing [property]? "You [pl.] shall not steal" (Lev. 19:11). "You shall not steal" for spite [returning the object later on]. "You shall not steal" planning then to pay double compensation or fourfold or fivefold damages. Ben Bag Bag says, "You shall not steal from the thief [even] what belongs to you, so that you will not appear to be a thief."
2. **I:2:** R. Ba, R. Yohanan in the name of R. Hoshaiyah: "[The accused] son is liable only if he will steal money [to buy meat for his gluttony]." R. Zeira in the name of R. Hoshaiyah: "He is liable only if he will waste money."
3. **I:3:** What is the definition of a thief, and what is a robber?

LXIII. YERUSHALMI SANHEDRIN 8:4

[A] [If] HIS FATHER WANTED [TO PUT HIM TO JUDGEMENT AS A REBELLIOUS AND INCORRIGIBLE SON] BUT HIS MOTHER DID NOT WANT TO DO SO, [IF] HIS FATHER DID NOT WANT AND HIS MOTHER DID WANT [TO PUT HIM TO JUDGMENT], HE IS NOT DECLARED A REBELLIOUS AND INCORRIGIBLE SON — UNTIL BOTH OF THEM WANT [TO PUT HIM TO JUDGMENT]. R. JUDAH SAYS, "IF HIS MOTHER WAS UNWORTHY OF HIS FATHER, HE IS NOT DECLARED TO BE A REBELLIOUS AND INCORRIGIBLE SON."

1. **I:1:** Said R. Yohanan [in regard to M. 8:4E], "And even if his mother was not worthy of his father, [he may be declared incorrigible]."
2. **I:2:** [With regard to M. 8:3F:] For is not everything which belongs to his mother in fact within the domain of his father?

LXIV. YERUSHALMI SANHEDRIN 8:5

[A] [If] ONE OF THEM WAS MAIMED IN THE HAND, LAME, DUMB, BLIND, OR DEAF, HE IS NOT DECLARED A REBELLIOUS AND INCORRIGIBLE SON, SINCE IT IS SAID, "THEN HIS FATHER AND HIS MOTHER WILL LAY HOLD OF HIM" (DEUT. 21:20)

– SO THEY ARE NOT MAIMED IN THEIR HANDS; “AND BRING THEM OUT” – SO THEY ARE NOT LAME; “AND THEY SHALL SAY” – SO THEY ARE NOT DUMB; “THIS IS OUR SON” – SO THEY ARE NOT BLIND; “HE WILL NOT OBEY OUR VOICE” – SO THEY ARE NOT DEAF. THEY WARN HIM BEFORE THREE JUDGES AND FLOG HIM. [IF] HE WENT AND MISBEHAVED AGAIN, HE IS JUDGED BEFORE TWENTY-THREE JUDGES.

- I:1:** Just as you interpret the verse pertaining to the parents, so you must interpret the matter to apply also to the elders of the court [who likewise must be unblemished in the specified ways]. This is in line with the following [interpretation of Deut. 21:2]: “Then your elders and your judges shall come forth and they shall wash their hands and shall say, ‘Our hands did not shed this blood, neither did our eyes see it shed’”: “They shall come forth” – thus excluding the lame. “And they shall say” – thus excluding the dumb. “Our hands have not shed this blood” – thus excluding those maimed in the hand. “And our eyes did not see” – thus excluding the blind. Scripture thereby teaches us that, just as the elders of the court must be whole in righteousness, so they must be whole in their limbs.

[B] HE IS STONED ONLY IF THERE WILL BE PRESENT THE FIRST THREE JUDGES, SINCE IT IS SAID, “THIS, OUR SON” – THIS ONE WHO WAS FLOGGED BEFORE YOU.

- II:1:** Said R. Yohanan [with reference to M. 8:5J], “If one of the first three judges who judged the boy should die, [the boy] is not stoned to death.”

LXV. YERUSHALMI SANHEDRIN 8:6

[A] [IF] HE FLED BEFORE HIS TRIAL WAS OVER, AND AFTERWARD [WHILE HE WAS A FUGITIVE,] THE LOWER “BEARD” BECAME FULL, HE IS EXEMPT. IF AFTER HIS TRIAL WAS DONE HE FLED, AND AFTERWARD THE LOWER BEARD BECAME FULL, HE IS LIABLE.

- I:1:** Said R. Josiah, “Zeira told me in the name of the men of Jerusalem, ‘There are three whom, if [the injured parties] seek to forgive, they may forgive, and these are they: A wife accused of adultery, a rebellious and incorrigible son, and an elder who rebels against the decision of a court.’”
 - I:2:** [The citation of the law of the wife accused of adultery provokes insertion of further materials relevant to that topic. Under discussion now is M. Sot. 4:2GI: If their husbands died before the

wives drank the bitter water – the House of Shammai say, “They receive their marriage-settlement but do not undergo the ordeal of drinking the bitter water.” And the House of Hillel say, “They do not undergo the ordeal of drinking the bitter water and do not receive the marriage settlement.’] What is the reason behind the position of the House of Shammai [who allow the woman to collect her marriage settlement]? [She may claim,] “Bring me my husband, and I shall drink the water [and so prove my innocence]. [The fault is then not mine.]” What is the reason behind the position of the House of Hillel [who will not permit the woman to collect]? Since there is no husband here to administer the water to her, the Torah puts her back in the status of one subject to doubt, and she is subject therefore to a double doubt [since, further, we do not know whether or not she should collect her marriage settlement].

LXVI. YERUSHALMI SANHEDRIN 8:7

[A] A REBELLIOUS AND INCORRIGIBLE SON IS TRIED ON ACCOUNT OF [WHAT HE MAY] END UP TO BE. LET HIM DIE WHILE YET INNOCENT, AND LET HIM NOT DIE WHEN HE IS GUILTY. FOR WHEN THE EVIL FOLK DIE, IT IS A BENEFIT TO THEM AND A BENEFIT TO THE WORLD. BUT [WHEN THE] RIGHTEOUS FOLK [DIE], IT IS BAD FOR THEM AND BAD FOR THE WORLD.

- 1. I:1:** The Holy One, blessed be he, foresaw that in the end this one will use up the property of his father and the property of his mother, and he will then set himself at the crossroads and bother, and finally kill, people. So in the end he will forget his learning in the Torah. So the Torah has said, “Let him die while yet innocent, and let him not die when he is guilty, for when the evil folk die, it is a benefit to them and a benefit to the world, but when the righteous folk die, it is bad for them and bad for the world”[M. 8:7B-D]

[B] WINE AND SLEEP FOR THE WICKED ARE A BENEFIT FOR THEM AND A BENEFIT FOR THE WORLD. BUT FOR THE RIGHTEOUS, THEY ARE BAD FOR THEM AND BAD FOR THE WORLD. DISPERSION FOR THE EVIL IS A BENEFIT FOR THEM AND A BENEFIT FOR THE WORLD. BUT FOR THE RIGHTEOUS, IT IS BAD FOR THEM AND BAD FOR THE WORLD. GATHERING TOGETHER FOR THE EVIL IS BAD FOR THEM AND BAD FOR THE WORLD. BUT FOR THE RIGHTEOUS, IT IS A BENEFIT FOR THEM AND A BENEFIT FOR THE WORLD. TRANQUILITY FOR THE EVIL IS BAD FOR THEM AND BAD FOR THE WORLD. BUT FOR THE RIGHTEOUS, IT IS A BENEFIT FOR THEM AND A BENEFIT FOR THE WORLD.

1. **II:1:** Said R. Abbahu, “That is so only in *the* case when there is a lot of drinking of wine and [then] sleep.” Said R. Jonathan, “[The righteous] sleep a little at a time, so that their minds may be serene.”

LXVII. YERUSHALMI SANHEDRIN 8:8

[A] HE WHO BREAKS IN [EX. 22:1] IS JUDGED ON ACCOUNT OF WHAT HE MAY END UP TO BE. [IF] HE BROKE IN AND BROKE A JUG, IF BLOOD-GUILT APPLIES TO HIM, HE IS LIABLE. IF BLOOD-GUILT DOES NOT APPLY, HE IS EXEMPT.

1. **I:1:** It was taught: R. Ishmael says, “This is one of three verses used in the Torah in the sense of a parable: “When men quarrel and one strikes the other and the man does not die but keeps his bed, then, if the man rises again and walks abroad with his staff, he that struck him shall be clear’ (Ex. 21:1-19). “If a thief is found breaking in, and is struck so that he dies, there shall be no blood-guilt for him’ (Ex. 22:2). “But if the sun has risen upon him, there shall be blood-guilt for him’ (Ex. 22:3). “Now does the sun rise on him alone? And does it not rise upon everyone in the world? “But just as sunshine is special in that it is at peace with the entire world, so, as long as you know that you are at peace with the intruder, whether by day or by night, he who kills him is put to death.” There are times that he comes to steal, and there are times that he comes to kill. Thus must you state matters therefore: If he comes solely to steal, and this is a matter of certainty, and he is killed, then the one who kills him is put to death. There are times that he comes to kill, in which case he is to be killed. On this basis [that in doubt, Ex. 22:2, one kills the intruder] you must reason in the matter of danger to life in general, and so you must say the rule: Idolatry is distinctive in that it imparts uncleanness to the land, involves a profanation of Name, drives the Presence of God out of the world, and in its case they set aside every sort of doubt, all the more so in the case of a matter involving danger to life, that they ignore every doubt [and act decisively].
2. **I:2:** It is written, “If in breaking in a thief is found, and is struck so that he dies, there shall be no blood-guilt for him” (Ex. 22:2). R. Hiyya taught: “When he is breaking in, he is not subject to blood-guilt. If he is smitten outside of a break-in? he is subject to blood-guilt. [That is, once he has left the house, if the householder kills him, he is subject to blood-guilt.]”

3. **I:3:** R. Huna said, “If he took the purse and turns to leave and goes along, and the victim goes and kills him, the one who kills him is not put to death.”

LXVIII. YERUSHALMI SANHEDRIN 8:9

[A] **AND THESE ARE THOSE WHO ARE TO BE SAVED [FROM DOING EVIL] EVEN AT THE COST OF THEIR LIVES: HE WHO PURSUES AFTER HIS FELLOW IN ORDER TO KILL HIM – AFTER A MALE, OR AFTER A BETROTHED GIRL; BUT HE WHO PURSUES A BEAST, HE WHO PROFANES THE SABBATH,**

1. **I:1:** He who pursues after his fellow to kill him [M. 8:9B] whether at home or in the field – they save him at the cost of his life. All the same are he who pursues his fellow to kill him and all the other prohibited relationships which are listed in the Torah – they save [the one who pursues them] at the cost of his life. But if it was a widow pursued by a high priest, or a divorcée or a woman who had performed the rite of removing the shoe pursued by an ordinary priest, or a mamzeret girl or a Nethinah girl pursued by an Israelite, or an Israelite girl pursued by a Nethin or a mamzer, they do not save him at the cost of his life. If the deed already was done, they do not save him at the cost of his life. If there are present people able to save [the prospective victim], they do not save him at the cost of his life. R. Judah says, “If she herself had said, ‘Let him be,’ they do not save him at the cost of his life, “even though [by] leaving him, he gets involved with a capital crime” [T. San. 11:11].
2. **I:2:** The following proposition is self-evident: A murderer who [after the act of murder] broke utensils or did bodily injury is liable to pay restitution [because the culpability for murder and that for property damage are not simultaneous] [cf. M.. 8:8 C]. But if he broke a utensil before he reached the city [that is, when the man was being pursued while he was escaping to the city], R. Zeira and R. Hoshaiah – one of them said, “He must pay compensation.” And the other one said, “He does not pay compensation.”
3. **I:3:** A pursuer who became one of the pursued [if one was pursuing his fellow to kill him, and the pursued caught the pursuer and began to run after him] what is the law as to saving the pursuer [who was the pursued] at the cost of the life of the one who had been pursued? [Since the one now being pursued originally was the pursuer, one cannot intervene and save the one who is now in pursuit at the cost of his own life. Or perhaps we maintain that the original pursuer never

intended to murder the other party – now in pursuit – and consequently the present pursuer in fact is in danger of committing murder and must be saved at the cost of his own life.] A stronger party who turned out to be the weaker party – what is the law as to saving the [originally] stronger party at the cost of the life of the [then] weaker party [just as at A]?

[B] HE WHO DOES AN ACT OF SERVICE TO AN IDOL – THEY DO NOT SAVE THEM EVEN AT THE COST OF THEIR LIVES.

- 1. II:1:** It was taught: R. Eleazar b. R. Simeon says, “He who is going to worship an idol – they save him at the cost of his life [vs. M. 8:9D(3)]. For if on account of the honor owing to mortal man they save him at the cost of his life, is it not a matter a for on that they should save him on account of what is owing to the Eternal?”

LXIX. YERUSHALMI SANHEDRIN 9:1

[A] AND THESE ARE THOSE WHO ARE PUT TO DEATH THROUGH BURNING.

[B] HE WHO HAS SEXUAL RELATIONS WITH BOTH A WOMAN AND HER DAUGHTER [LEV. 18:17, 20:14], AND A PRIEST’S DAUGHTER WHO COMMITTED ADULTERY [LEV. 21:9].

[C] IN THE SAME CATEGORY AS A WOMAN AND HER DAUGHTER ARE [THE FOLLOWING]: HIS DAUGHTER, HIS DAUGHTER’S DAUGHTER, HIS SON’S DAUGHTER, HIS WIFE’S DAUGHTER, THE DAUGHTER OF HER DAUGHTER, THE DAUGHTER OF HER SON, HIS MOTHER-IN-LAW, THE MOTHER OF HIS MOTHER-IN-LAW, AND THE MOTHER OF HIS FATHER-IN-LAW.

- 1. I:1:** There we have learned: They marry in regard to the kinswomen of a woman whom one has raped or seduced [M. Yeb. 11:1]. This is the meaning of the Mishnah pericope: They marry one related to one whom one has raped or seduced. [Thus, if] one has raped a woman, he is permitted to marry her mother. [If] one has seduced a woman, he is permitted to marry her daughter. He who rapes or seduces a married woman is liable.
- 2. I:2:** Said R. Eleazar, “Sumkhos and R. Yohanan b. Nuri said the same thing. “For we have learned there: If he slaughtered a beast and its granddaughter and afterward slaughtered its daughter, he incurs forty stripes. Sumkhos says in the name of R. Meir, ‘He incurs eighty stripes’ [M. Hul. 5:3P]. “There we have learned: R. Yohanan b. Nuri says, ‘He who has sexual relations with his mother-in-law is liable on

her account because of the prohibition against having sexual relations with (1) his mother-in-law, and (2) the mother of his mother-in-law, and (3) the mother of his father-in-law.’ They said to him, ‘All three in fact fall into a single prohibition’ [M. Ker. 3:6D]. [In Sumkhos’s view, a single warning and a single negative commandment suffice to impose liability on two counts. In Yohanan b. Nuri’s, under the stated condition, in which the woman stands in multiple relationships to the man, the man is culpable on all counts of all relationships. So both say the same thing, that is, that for a single deed, one may bear multiple liabilities.]”

- 3.** **I:3:** It is written, “You shall not uncover the nakedness of a woman and of her daughter, and you shall not take her son’s daughter or her daughter’s daughter to uncover her nakedness; they are your near kinswomen; it is wickedness” (Lev. 18:17). [“Taking” is understood to refer to marrying.] And it is written, “If a man takes a wife and her mother also, it is wickedness; they shall be burned with fire, both he and they, that there may be no wickedness among you” (Lev. 20:14). Now in the rest of these passages, “lying with” is written, while here, “taking” is the language used. This is to teach you that he is not liable for the latter until the former is taken by him; [so only if he is married to the one is there liability for the other].
- a.** I:4: Rab Huna said, “Up to this point we have dealt with the daughter of his daughter as to marriage. “What about the daughter of his daughter as to rape? [That is, we have shown that there is liability for marrying a woman and her daughter. But what about raping the woman and her daughter?]” It is written, “You shall not uncover the nakedness of your son’s daughter or of your daughter’s daughter, for their nakedness is your own nakedness” (Lev. 18:10). Now how shall we interpret that statement? If it makes reference to [prohibiting] marriage, lo, that matter already has been stated [in the prohibition against marrying a woman and her daughter (Lev. 18:17)]. So if it does not apply to marriage, treat the statement as referring to rape.
- b.** I:5: Huna derived all of them [mother’s mother, father’s mother] from the following verse: “You shall not uncover the nakedness of a woman and of her daughter they are your near kinswomen; it is wickedness” (Lev. 18:17). And it is written, “If a man takes a wife and her mother also, it is wickedness; they shall be burned with fire, both he and they, that there may be no wickedness among you” (Lev. 20:14). “Wickedness” is stated in both verses, so establishing Foundations for an exegesis by analogy. Just as three

generations below [grandchildren] are encompassed, so three generations above [grandparents] are encompassed. Just as below [in the case of a man and daughter], there is the violation of a negative commandment, so above [in the case of a man with the mother], there is the violation of a negative commandment. Just as below [in the case of the generations following] the prohibited relationship is via marriage, so above [in the prior generations] what is prohibited is marriage. Just as below [in the case of the coming generations], the penalty is execution by burning, so above [in the case of marriage with the prior generations], the form of execution is burning. Just as below [in the case of the later generations], the law treats the daughter of the male as equivalent to the daughter of the female, so above [in the prior generations], the law treats the mother of the male as the mother of the female.

- i. I:6: [Reverting to I:4.N,] said R. Yosé b. R. Bun, “[We do not derive a warning from the logical argument either]. Rather, there is a verse of Scripture which supplies a warning, as follows: ‘Do not profane your daughter by making her a harlot’” (Lev. 19:29).

4. **I:7:** They raised the question before R. Abbahu, “He who had sexual relations with a woman, and she produced a daughter, and he went and had sexual relations with her and she produced a daughter, and he went and had sexual relations with her [that is, his granddaughter, in sequence], – [in this third case, that is, of relations with the granddaughter,] is he liable on her account on these counts: having sexual relations with a woman, her daughter, and her granddaughter? [In the sexual relations with the granddaughter, is he liable for having relations with a woman and her daughter, and also on the count of the granddaughter?]” He said to them, “‘They are your near kinswomen; it is wickedness’ (Lev. 18:17). All of them produce liability on the count of wickedness. [So he is liable on a single count, that of wickedness, and not on several distinct counts.]”
5. **I:8:** [Referring back to M. Yeb. 11:1: They marry the kinswomen of a woman whom one has raped or seduced. R. Judah prohibits in the case of one raped by his father or seduced by his father. *So* that prohibition applies not only when the father has actually married or betrothed the woman. We now ask why Judah rejects the proof texts adduced above for the contrary view.] What is the Scriptural basis behind the position of R. Judah?

LXX. YERUSHALMI SANHEDRIN 9:2

[A] AND THESE ARE THOSE WHO ARE PUT TO DEATH THROUGH DECAPITATION: THE MURDERER, AND THE TOWNSFOLK OF AN APOSTATE TOWN. A MURDERER WHO HIT HIS NEIGHBOR WITH A STONE OR A PIECE OF IRON [Ex. 21:18], OR WHO PUSHED HIM UNDER WATER OR INTO FIRE, AND [THE OTHER PARTY] CANNOT GET OUT OF THERE AND SO PERISHED, IS LIABLE. [IF] HE PUSHED HIM INTO THE WATER OR INTO THE FIRE, AND HE CAN GET OUT OF THERE BUT [NONETHELESS] HE DIED, HE IS EXEMPT. [IF] HE SICKED A DOG ON HIM, OR SICKED A SNAKE ON HIM, HE IS EXEMPT.

1. **I:1:** It is written, “But if he struck him down with a stone in the hand, by which a man may die, so that he died, he is a murderer; the murderer shall be put to death” (Num. 35:17). “Or if he struck him down with a weapon of wood in the hand, by which a man may die, and he died, he is a murderer; the murderer shall be put to death” (Num. 35:18). Now when Scripture treats a weapon of iron [at Num. 35:16], it does not say either “by which a man may die” or “by which a man may not die.” [So in this case we do not take account of the size of the weapon at all.] Even if it is a small chip of metal [one is liable], for it can cut through the gullet and kill the man. [But in the case of an object of wood or stone, the rule applies] when the stone is sufficiently sizable to kill the man, or the wood is sufficiently sizable to kill the man.
2. **I:2:** If one pushed a man in front of a horse, or if he pushed him in front of an arrow, or if he pushed him in front of a spear, if he put him out in the cold, if he gave him polluted water to drink, if he removed the roof covering from over him so that it rained on him, and in one of these ways he died, if he directed a watercourse over him and the water came along and drowned him, [all of these constitute acts of murder].

[B] [IF] HE MADE A SNAKE BITE HIM, R. JUDAH DECLARES HIM LIABLE. AND SAGES DECLARE HIM EXEMPT.

1. **II:1:** What is the reasoning behind the position of R. Judah [M. San. 9:2K-L]? It is because of the venom which is between the snake’s fangs.

LXXI. YERUSHALMI SANHEDRIN 9:3

[A] **HE WHO HITS HIS FELLOW, WHETHER WITH A STONE OR WITH HIS FIST, AND THEY DIAGNOSED HIM AS LIKELY TO DIE, BUT HE GOT BETTER THAN HE WAS, AND AFTERWARD HE GOT WORSE AND HE DIED HE IS LIABLE. R. NEHEMIAH SAYS, “HE IS EXEMPT, “FOR THERE IS A BASIS TO THE MATTER [OF THINKING THAT HE DID NOT DIE FROM THE ORIGINAL INJURY].”**

1. **I:1:** Thus the Mishnah pericope [should read at M. 9:3F-G]: “R. Nehemiah declares exempt, and sages declare liable, for there is a basis to the matter [of thinking that he did die from the original injury, since, after all, there was a diagnosis to that effect]. “[The reason the rabbis hold him liable] is that two estimates [of the victim’s condition, the one at the outset, the one at the end after which he died] are of greater weight than one [in the middle, at which he appeared to have gotten somewhat better].” R. Nehemiah says, “The estimate of the man’s condition in the middle is greater than the one fore or aft.”
 - a. **I:2:** What is the Scriptural basis for R. Nehemiah’s opinion?
“[When men quarrel and one strikes the other with a stone or with his fist and the man does not die but keeps his bed,] then if the man rises again and walks abroad with his staff, he that struck him shall be clear” (Ex. 21:1-19). Now would it have entered your mind that this one should be walking about in the marketplace while the other is put to death on his account? [Obviously not, and so the purpose of Scripture’s statement is as follows:] Even though the victim should die after he was originally examined and diagnosed as dying, the other party is exempt [should the man’s condition improve in the meantime].
2. **I:3:** If one hit him on his hand, and it was smashed and the physician said, “If I cut off his hand, he will live,” what is the law as to his having to pay compensation for the cost of the hand? [Is he liable, for having hit him, or exempt, for not having intended to injure the hand?]
3. **I:4:** R. Isaac raised the question: “If they reached a prognosis that he would live, but he died, – surely it is natural for the living to die. [Why should he pay healing?] Since it is written, ‘Only he that shall pay for the loss of his time, and shall have him thoroughly healed’ (Ex. 21:19), the law is that he is liable to compensate him for lost time and for medical care.”

LXXII. YERUSHALMI SANHEDRIN 9:4

[A] [If] HE INTENDED TO KILL A BEAST AND KILLED A MAN, A GENTILE AND KILLED AN ISRAELITE, AN UNTIMELY BIRTH AND KILLED AN OFFSPRING THAT WAS VIABLE, HE IS EXEMPT. [If] HE INTENDED TO HIT HIM ON HIS LOINS WITH A BLOW THAT WAS NOT SUFFICIENT TO KILL HIM WHEN IT STRUCK HIS LOINS, BUT IT WENT AND HIT HIS HEART, AND THERE WAS SUFFICIENT FORCE IN THAT BLOW TO KILL HIM WHEN IT STRUCK HIS HEART, AND HE DIED, HE IS EXEMPT. [If] HE INTENDED TO HIT HIM ON HIS HEART, AND THERE WAS IN THAT BLOW SUFFICIENT FORCE TO KILL WHEN IT STRUCK HIS HEART, AND IT WENT AND HIT HIM ON HIS LOINS, AND THERE WAS NOT SUFFICIENT FORCE IN THAT BLOW TO KILL HIM WHEN IT STRUCK HIS LOINS, BUT HE DIED, HE IS EXEMPT. [If] HE INTENDED TO HIT A LARGE PERSON, AND THERE WAS NOT SUFFICIENT FORCE IN THAT BLOW TO KILL A LARGE PERSON, BUT IT WENT AND HIT A SMALL PERSON, AND THERE WAS SUFFICIENT FORCE IN THAT BLOW TO KILL A SMALL PERSON, AND HE DIED, HE IS EXEMPT. [If] HE INTENDED TO HIT A SMALL PERSON, AND THERE WAS IN THAT BLOW SUFFICIENT FORCE TO KILL A SMALL PERSON, AND IT WENT AND STRUCK THE LARGE PERSON, AND THERE WAS NOT SUFFICIENT FORCE IN THAT BLOW TO KILL THE LARGE PERSON, BUT HE DIED, HE IS EXEMPT. BUT: [If] HE INTENDED TO HIT HIM ON HIS LOINS, AND THERE WAS SUFFICIENT FORCE IN THE BLOW TO KILL HIM WHEN IT STRUCK HIS LOINS, AND IT WENT AND HIT HIM ON HIS HEART AND HE DIED, HE IS LIABLE. [If] HE INTENDED TO HIT A LARGE PERSON, AND THERE WAS IN THAT BLOW SUFFICIENT FORCE TO KILL THE LARGE PERSON, AND IT WENT AND HIT A SMALL PERSON AND HE DIED, HE IS LIABLE. R. SIMEON SAYS, “EVEN IF HE INTENDED TO KILL THIS PARTY, AND HE ACTUALLY KILLED SOME OTHER PARTY, HE IS EXEMPT.”

1. I:1: Hezekiah raised the question: “If one threw a stone, and it was sufficient to kill, and it killed one person, and [also] broke the pots of someone else – [in this case, what is the law]? [Do we say that] in this case Scripture made the decree [that one is exempt from paying compensation, if he is liable to the death penalty, only when the compensation is owing to the same person whom one has murdered? But if one owes compensation to one party and has murdered another in the same action, he still will owe compensation for the one and pay the death penalty on account of the other]. [Or do we say that] in this case [in which the death penalty is on one person’s account, the compensation on another’s,] Scripture made no such decree?”
2. I:2: [With reference to M. 9:4Q, Simeon’s statement,] said R. Simeon, “Members of the household of Rabbi taught as follows: Even if he

intended to kill this party, and he actually killed some other party, he is exempt” [as at M. 9:4Q].

LXXIII. YERUSHALMI SANHEDRIN 9:5

[A] **A MURDERER WHO WAS CONFUSED WITH OTHERS — ALL OF THEM ARE EXEMPT.**
R. JUDAH SAYS, “THEY PUT THEM [ALL] IN PRISON.” ALL THOSE WHO ARE LIABLE TO DEATH WHO WERE CONFUSED WITH ONE ANOTHER ARE JUDGED [TO BE PUNISHED] BY THE MORE LENIENT MODE OF EXECUTION. [IF] THOSE TO BE STONED WERE CONFUSED WITH THOSE TO BE BURNED — R. SIMEON SAYS, “THEY ARE TO BE JUDGED [TO BE EXECUTED] BY STONING, FOR BURNING IS THE MORE SEVERE OF THE TWO MODES OF EXECUTION.” AND SAGES SAY, “THEY ARE ADJUDGED [TO BE EXECUTED] BY BURNING, FOR STONING IS THE MORE SEVERE MODE OF EXECUTION OF THE TWO.” SAID TO THEM R. SIMEON, “IF BURNING WERE NOT THE MORE SEVERE, IT WOULD NOT HAVE BEEN ASSIGNED TO THE DAUGHTER OF A PRIEST WHO COMMITTED ADULTERY.” THEY SAID TO HIM, “IF STONING WERE NOT THE MORE SEVERE OF THE TWO, IT WOULD NOT HAVE BEEN ASSIGNED TO THE BLASPHEMER AND TO THE ONE WHO PERFORMS AN ACT OF SERVICE FOR IDOLATRY.” THOSE WHO ARE TO BE DECAPITATED WHO WERE CONFUSED WITH THOSE WHO ARE TO BE STRANGLER — R. SIMEON SAYS, “THEY ARE KILLED WITH THE SWORD.” AND SAGES SAY, “THEY ARE KILLED BY STRANGLING.”

1. **I:1:** Said R. Yohanan, “The Mishnah [at M. 9:5A speaks of a case in which] a murderer was mixed up with blameless people.” R. Simeon b. Laqish said, “The Mishnah [at M. 9:5A] speaks of a case in which a person accused of murder whose trial was not finished was confused with a murderer who had been convicted. [That accounts for Judah’s view, M. 9:5B, J.]” Samuel said, “The Mishnah speaks of a case in which an ox sentenced to be stoned was confused with other oxen.”
2. **I:2:** R. Simeon says, “Burning is a more severe mode of execution than stoning.” And rabbis say, “Stoning is a more severe mode of execution than burning” [M. 9:5E-F]. R. Simeon says, “Strangulation is a more severe mode of execution than decapitation.” And rabbis say, “Decapitation is a more severe mode of execution than strangulation.”

LXXIV. YERUSHALMI SANHEDRIN 9:6

[A] **HE WHO IS DECLARED LIABLE TO BE PUT TO DEATH THROUGH TWO DIFFERENT MODES OF EXECUTION AT THE HANDS OF A COURT IS JUDGED [TO BE**

EXECUTED] BY THE MORE SEVERE. [IF] HE COMMITTED A TRANSGRESSION WHICH IS SUBJECT TO THE DEATH PENALTY ON TWO SEPARATE COUNTS, HE IS JUDGED ON ACCOUNT OF THE MORE SEVERE. **R. YOSÉ SAYS, “HE IS JUDGED BY THE PENALTY WHICH FIRST APPLIES TO WHAT HE HAS DONE.”** HE WHO WAS FLOGGED [AND DID THE SAME DEED] AND WAS FLOGGED AGAIN — [IF HE DID IT YET A THIRD TIME] THE COURT PUTS HIM IN PRISON AND FEEDS HIM BARLEY UNTIL HIS BELLY EXPLODES.

1. I:1: There we have learned: R. Yosé says, “He is judged by the penalty which first applies to what he has done [M. 9:6C]. “How so? “He who has sexual relations with his mother-in-law, and she was married, “tor] she was his mother-in-law and she got married — ‘ “he is put to death through burning. “[If] she had been married and afterward became his mother-in-law, he is put to death through strangulation” [T. San. 12:5].

2. I:2: With reference to M. Ker. 3:6C: R. Yohanan b. Nuri says, “He who has sexual relations with his mother-in-law may be liable on her account because of the prohibition against having sexual relations with his mother-in-law, and the mother of his mother-in-law, and the mother of his father-in-law,] if one is both his mother-in-law and his daughter-in-law, in Yosé’s view, would he be liable on both counts? [That is, if a man marries a woman’s daughter, and his son marries the woman herself, so the mother of the daughter is both mother-in-law — by reason of the man’s wife, the daughter — and also daughter-in-law — by reason of the man’s son’s wife, the mother, will the man be liable on both counts for having sexual relations with that woman?

[B] HE WHO KILLS A SOMEONE NOT BEFORE WITNESSES THEY PUT HIM IN PRISON AND FEED HIM THE BREAD OF ADVERSITY AND THE WATER OF AFFLICTION (Is. 30:20).

1. II:1: Rab said, “The Mishnah [at M. 9:6F] speaks of a case in which the witnesses against the man were inside.”

LXXV. YERUSHALMI SANHEDRIN 9:7

[A] HE WHO STOLE A SACRED VESSEL [OF THE CULT (NUM. 4:7)]:

1. I:1: A sacred vessel [M. 9:7A] is a flagon. R. Judah said, “It is a utensil belonging to the Temple, as you read: ‘... and the flagons for the drink offering’” (Num. 4:7).

[B] AND HE WHO CURSES USING THE NAME OF AN IDOL”:

1. **II:1:** for example, these Nabataeans, who curse, “May the charm slay you, your master, your provider.”

[C] **AND HE WHO HAS SEXUAL RELATIONS WITH AN ARAMAEAN WOMAN – ZEALOTS BEAT HIM UP [ON THE SPOT (NUM. 25:8, 11)]. A PRIEST WHO PERFORMED THE RITE IN A STATE OF UNCLEANNESS – HIS BROTHERS, THE PRIESTS, DO NOT BRING HIM TO COURT. BUT THE YOUNG PRIESTS TAKE HIM OUTSIDE THE COURTYARD AND BREAK HIS HEAD WITH CLUBS.**

1. **III:1:** R. Ishmael taught, “This is one who marries a gentile woman and produces children. “He thereby brings up from her enemies of the Omnipresent.” It is written, “When Phinehas the son of Eleazar, son of Aaron the priest, saw” (Num. 25:7). What did he see? He saw the incident and he remembered the law: He who has sexual relations with an Aramaean woman – zealots beat him up.

[D] **A NON-PRIEST WHO SERVED IN THE TEMPLE – R. AQIBA SAYS, “[HE IS PUT TO DEATH] BY STRANGLING [NUM. 18:7].” AND SAGES SAY, “[HE IS PUT TO DEATH] AT THE HANDS OF HEAVEN.”**

1. **IV:1:** What is the Scriptural basis for the opinion of rabbis (R. Aqiba) [at M. 9:7H]? What is the Scriptural basis for the position of R. Aqiba?

LXXVI. YERUSHALMI SANHEDRIN 10:1

[A] **ALL ISRAELITES HAVE A SHARE IN THE WORLD TO COME, AS IT IS SAID, “YOUR PEOPLE ALSO SHALL BE ALL RIGHTEOUS, THEY SHALL INHERIT THE LAND FOREVER; THE BRANCH OF MY PLANTING, THE WORK OF MY HANDS, THAT I MAY BE GLORIFIED” (Is. 60:21). AND THESE ARE THE ONES WHO HAVE NO PORTION IN THE WORLD TO COME: HE WHO SAYS, THE RESURRECTION OF THE DEAD IS A TEACHING WHICH DOES NOT DERIVE FROM THE TORAH, AND THE TORAH DOES NOT COME FROM HEAVEN:**

1. **I:1:** They added to the list of those [who have no portion in the world to come (M. San. 10:1)]: he who breaks the yoke, violates the covenant, deals arrogantly with the Torah, pronounces the Divine Name as it is spelled out (M. 10:1G) they have no portion in the world to come [T. San. 12:9].
2. **I:2:** As to idolatry and fornication, R. Jonah and R. Yosah – One of them said, “These are among the lesser violations of the law [which are punished in this world only].” The other of them said, “They are

among the greater violations of the law [which are punished in the world to come].”

- 3.** **I:3:** R. Mattia b. Heresh raised the question in session before R. Eleazar b. Azariah, saying to him, “Have you heard the four distinctions among kinds of atonement which R. Ishmael expounded?” He said to him, “They are three, outside of repentance.” One verse in Scripture says, “Return, O faithless children, [says the Lord; for I am your master; I will take you, one from a city and two from a family, and I will bring you to Zion]” (Jer. 3:14). And another verse in Scripture says, “For on this day shall atonement be made for you, to cleanse you; [from all your sins you shall be clean before the Lord]” (Lev. 16:30). And one verse in Scripture says, “Then I will punish their transgression with the rod and their iniquity with scourges” (Ps. 89:33). And another verse in Scripture says, “[The Lord of hosts has revealed himself in my ears:] ‘Surely this iniquity will not be forgiven you till you die,’ [says the Lord God of Hosts]” (Is. 22:14).
- 4.** **I:4:** It is written, “Because he has despised the word of the Lord, [and has broken his commandment, that person shall be utterly cut off; his iniquity shall be upon him]” (Num. 15:31). I know that this applies only when he despised the teaching of Torah [entirely]. How do I know that [this applies] if he denied even a single word of Scripture, a single verse of Targum, a single argument *a fortiori*? Scripture says, “[Because he has despised the word of the Lord,] and has broken his commandment, [that person shall be utterly cut off; his iniquity shall be upon him]” (Num. 15:31).
- 5.** **I:5:** Bar Kappara said, “Ahaz and all of the evil kings of Israel have no portion in the world to come.” What is the Scriptural basis for this statement? “[All of them are hot as an oven, and they devour their rulers.] All their kings have fallen; and none of them calls upon me” (Hos. 7:7). They objected to him, “And lo, he is numbered in the era of the kings: “[The vision of Isaiah the son of Amoz, which he saw concerning Judah and Jerusalem] in the days of Uzziah, Jotham, Ahaz and Hezekiah, kings of Judah”” (Is. 1:1). He said to them, “Because he was subject to shame.”
- 6.** **I:6:** How long did the merit of the patriarchs endure [to protect Israel]? R. Tanhuma said in the name of R. Hiyya the Great, Bar Nahman stated in the name of R. Berekiah, R. Helbo in the name of R. Ba bar Zabeda: “Down to Joahaz.” “But the Lord was gracious to them and had compassion on them, [because of his covenant with Abraham, Isaac, and Jacob, and would not destroy them; nor has he cast them

from his presence] until now” (2 Kings 13:23). “Up to that time the merit of the patriarchs endured.” Samuel said, “Down to Hosea.” “Now I will uncover her lewdness in the sight of her lovers, and no man shall rescue her out of my hand” (Hos. 2:12). “Now ‘man’ can refer only to Abraham, as you say, ‘Now then restore the man’s wife; for he is a prophet, [and he will pray for you, and you shall live. But if you do not restore her, know that you will surely die, you, and all that are yours]’ (Gen. 20:7). “And ‘man’ can refer only to Isaac, as you say, ‘[Rebekah said to the servant,] “Who is the man yonder, walking in the field to meet us?” [The servant said, “It is my master.” So she took her veil and covered herself” (Gen. 24:65). “And ‘man’ can refer only to Jacob, as you say, ‘[When the boys grew up, Esau was a skilful hunter, a man of the field,] while Jacob was a quiet man, [dwelling in tents]’” (Gen. 25:27). R. Joshua b. Levi said, “It was down to Elijah.” “And at the time of the offering of the oblation, Elijah the prophet came near and said, ‘O Lord, God of Abraham, Isaac, and Israel, let it be known this day that thou art God in Israel, and that I am thy servant, [and that I have done all these things at thy word]’” (1 Kings 18:36). R. Yudan said, “It was down to Hezekiah.” “Of the increase of his government and of peace there will be no end, [upon the throne of David, and over his kingdom, to establish it, and to uphold it with justice and with righteousness from this time forth and for evermore. The zeal of the Lord of hosts will do this]” (Is. 9:6). Said R. Aha, “The merit of the patriarchs endures forever [to protect Israel].”

[B] AND AN EPICUREAN:

1. **II:1:** Yohanan and R. Eleazar – One said, “It is a priest who said, ‘Now is *that* a scribe?!’” The other said, “It is a priest who said, ‘Now are *those* rabbis?!’” R. Eleazar and R. Samuel bar Nahman – One said, “It [unbelief] is comparable to a pile of stones. Once one of them shifts, all of them tumble down.” And the other said, “It is comparable to a storehouse full of straw. Even though you take out all of the straw which is in the storehouse, there still is straw which eventually will weaken the walls.”
2. **II:2:** Rab said, “Korach was very rich. [The location of] Pharaoh’s treasures was revealed to him, between Migdol and the sea.” Rab said, “Korach was an Epicurean. What did he do? He went and made a prayer shawl which was entirely purple [although the law is that only the fringe was to be purple].”
3. **II:3:** Said R. Simeon b. Laqish, “Three denied their prophetic gift on account of the baseness [with which they were treated]. “And these are

they: Moses, Elijah, and Micha.” Moses said, “If these men die the common death of all men, [or if they are visited by the fate of all men, then the Lord has not sent me]” (Num. 16:29). Elijah said, “Answer me, O Lord, answer me, [that this people may know that thou, O Lord, art God, and that thou hast turned their hearts back]” (1 Kings 18:37). Micah said, “[And Micaiah said,] ‘If you return in peace, the Lord has not spoken by me.’ [And he said, ‘Hear, all you peoples!’]” (1 Kings 22:28). “So they and all that belonged to them went down alive into Sheol; [and the earth closed over them, and they perished from the midst of the assembly]” (Num. 16:33).

[C] **R. AQIBA SAYS, “ALSO: HE WHO READS IN HERETICAL BOOKS:”**

- 1. III:1:** These are, for example, the books of Ben Sira and the books of Ben Laanah. But as to the books of Homer and all books written henceforward – he who reads in them is tantamount to one who [merely] reads a letter.
- 2. III:2:** “Collected sayings” – the reference to “collections” refers only to the Sanhedrin, as you say, “And the Lord said to Moses, collect for me seventy men of the elders of Israel whom you know to be the elders of the people and officers over them and bring them to the tent of meeting and let them take their stand there with you” (Num. 11:16). Another interpretation: “Collected sayings” – sayings which are stated at an assembly.

[D] **AND HE WHO WHISPERS OVER A WOUND AND SAYS, ‘I WILL PUT NONE OF THE DISEASES UPON YOU WHICH I HAVE PUT ON THE EGYPTIANS, FOR I AM THE LORD WHO HEALS YOU’ (EX. 15:26).”**

- 1. IV:1:** Rab said, “But this [statement is prohibited] only if the one who says it then spits.” R. Joshua b. Levi said, “Even if one has said, ‘When a man has on the skin of his body a swelling or an eruption or a spot, and it turns into a leprous disease on the skin of his body’ (Lev. 13:2), and then has spat – he has no portion in the world to come.”

[E] **ABBA SAUL SAYS, “ALSO: HE WHO PRONOUNCES THE DIVINE NAME AS IT IS SPELLED OUT.”**

- 1. V:1:** R. Mana said, “For example, the Cutheans, who take an oath thereby.” R. Jacob bar Aha said, “It is written YH[WH] and pronounced AD[onai].”

LXXVII. YERUSHALMI SANHEDRIN 10:2

[A] **THREE KINGS AND FOUR ORDINARY FOLK HAVE NO PORTION IN THE WORLD TO COME. THREE KINGS: JEROBOAM:**

1. **I:1:** And all of [the three kings] invented new kinds of transgression. Now what did Jeroboam do? It was because he made two golden calves.

[B] **AHAB:**

1. **II:1:** Now what did Ahab do? It is written, “And as if it had been a light thing for him to walk in the sins of Jeroboam the son of Nebat, [he took for wife Jezebel the daughter of Ethbaal king of the Sidonians, and went and served Baal, and worshipped him]” (1 Kings 16:31). And is it not so that the minor peccadilloes of Ahab are like the major crimes of Jeroboam? So why was Jeroboam listed first of all? It is because he is the one who began first the process of the ruin [of Israel]. What did Ahab do? He would adorn himself every day and get up before Hiel, commander of his army (1 Kings 16:34), and he would say to him, “How much am I worth today?” And he would say to him, “Thus and so.” Then he would take the amount [that he was said to be worth] and set it apart for an idol.
2. **II:2:** It is written, “In his days Hiel of Bethel built Jericho; he laid its foundation at the cost of Abiram his firstborn, and set up its gates at the cost of his youngest son, Segub, [according to the word of the Lord, which he spoke by Joshua the son of Nun]” (1 Kings 16:34). Hiel came from Jehoshaphat. Jericho is in the territory of Benjamin. But they assign more credit to the one who is creditable, and they assign more blame to the one who is blameworthy. And that is in line with the following: “He laid its foundation at the cost of Abiram, his firstborn, and set up its gates at the cost of his youngest son, Segub.” Now in the case of Abiram, the firstborn, he had none whence to learn, but in the case of Segub, the youngest son, that evil man surely had whence to learn. [They did as they did] because they wanted to make money, so the curse fell upon them, and they [the walls and gates] went and trembled, in line with the following verse: “[In his days Hiel of Bethel built Jericho; he laid its foundation at the cost of Abiram his firstborn, and set up its gates at the cost of his youngest son, Segub,] according to the word of the Lord, which he spoke by Joshua the son of Nun” (1 Kings 16:34). [T. San. 14:7-9].
3. **II:3:** It is written, “Now Elijah the Tishbite, of Tishbe in Gilead, said to Ahab, ‘As the Lord the God of Israel lives, before whom I stand,

there shall be neither dew nor rain these years, except by my word” (1 Kings 1) Now what has one thing to do with the other [that the matter of Hiel is joined to the matter of the drought]? But the Holy One, blessed be he, said to Elijah, “This Hiel is a great man. Go and see him [because his sons have died].” He said to him, “I am not going to see him.” He said to him, “Why?” He said to him, “For if I go and they say things which will outrage you, I shall not be able to bear it.” He said to him, “Then if they say things which outrage me, then whatever you decree against them I shall carry out.” He came and found them occupied with the following verse: “Joshua laid an oath upon them at that time, saying, ‘Cursed before the Lord be the man that rises up and rebuilds this city, Jericho. At the cost of his firstborn shall he lay its foundation, and at the cost of his youngest son shall he set up its gates’” (Josh. 6:26). He said, “Blessed be the God of the righteous, for he carries out the words of righteous men.” Now Ahab was there. Ahab said to him, “Now who is greater than whom – Moses or Joshua?” They said to him, “Moses.” He said to him, “In the Torah of Moses it is written, ‘Take heed lest your heart be deceived, and you turn aside and serve other gods and worship them’ (Deut. 11:16). ‘Now what is written thereafter? ‘And he will be angry with you and shut up the heaven that there be no rain’ (Deut. 11:16f.). ‘Now I have not left a single idol in the world, which I have not worshipped. And yet every sort of good and consolation which there are in the world have come in my generation. ‘Thus what Moses taught has not come about, while what Joshua taught did come about [in the death of the two sons].’”

- 4. II:4:** Now what did Ahaz do? It was because he built a throne in the courtyard of the Temple. This is in line with the following verse of Scripture: “And on the eighth day of the month they came to the vestibule of the Lord” (2 Chron. 29:17, cited following PM). R. Honiah in the name of R. Eleazar: “Why is he called ‘Ahaz’ [seize]?” “Because he seized the synagogues and schools.” To what is Ahaz to be compared? To a king who had a son, who handed him over to a governor. He wanted to kill him. He said, “If I kill him, I shall be declared liable to death. But lo, I’ll take his wet-nurse from him, and he’ll die on his own.” So did Ahaz say, “If there are no lambs, there will be no sheep; if there are no sheep, there will be no flock; if there is no flock, there will be no shepherd; if there is no shepherd, there will be no world, if there is no world – as it were....” So did Ahaz reckon, saying, “If there are no children, there will be no adults; if there are no adults, there will be no sages; if there are no sages, there will be no prophets; if there are no prophets, there will be no Holy Spirit; if there

is no Holy Spirit, there will be no synagogues or schoolhouses – as it were. In that case, as it were, the Holy One, blessed be he, will not let his Presence rest upon Israel.”

[C] **AND MANASSEH. R. JUDAH SAYS, “MANASSEH HAS A PORTION IN THE WORLD TO COME, SINCE IT IS SAID, ‘AND HE PRAYED TO HIM AND HE WAS ENTREATED OF HIM AND HEARD HIS SUPPLICATION AND BROUGHT HIM AGAIN TO JERUSALEM INTO HIS KINGDOM’ (2 CHR. 33:13).” THEY SAID TO HIM, “TO HIS KINGDOM HE BROUGHT HIM BACK, BUT TO THE LIFE OF THE WORLD TO COME HE DID NOT BRING HIM BACK.”**

- 1. III:1:** Now what did Manasseh do? It is written, “In those days Hezekiah became sick and was at the point of death. [And Isaiah the prophet and son of Amoz came to him, and said to him, ‘Thus says the Lord: Set your house in order; for you shall die, you shall not recover.]” (Is. 38:1). “For you shall die, and you shall not recover” – “You shall die” in this world, “And you shall not recover” in the world to come. He said to him, “Why?” He said to him, “Because you did not want to raise up children.” He said to him, “And why did you not want to raise up children?” He said to him, “Because I saw that I would produce an evil son. On that account, I did not want to raise up children.” He said to him, “Take my daughter. Perhaps on my account and on your account she will produce a good man.” Even so, only a bad person came forth. That is in line with the following verse of Scripture: “The knaveries of the knave are evil; [he devises wicked devices to ruin the poor with lying words, even when the plea of the needy is right]” (Is. 32:7). He said to him, “I am not going to listen to you. I am going to follow only that which my elder said to me, ‘If you see bad dreams or bad visions, seek three things and you will be saved, and these are they: prayer, charity, and repentance.’”
- 2. III:2:** [Against the view of Judah, R. Judah says, “Manasseh has a portion in the world to come,] lo, it is written, “Surely this came upon Judah at the command of the Lord, to remove him out of his sight, for the sins of Manasseh, according to all that he had done” (2 Kgs. 24:3) – shall we say that this was before he repented, so that he did inherit the world to come after all? “On account of all the wratch whereby Manasseh had caused him to be wrathful” – shall we say that this was before he repented? And lo, it is written, “And he did not humble himself before the Lord, as Manasseh his father had humbled himself, but this Amon incurred guilt more and more” (2 Chr. 33:23). He did not add to the sins, he made up entirely new and unprecedented ones. And is it not written, “Moreover Manasseh shed very much innocent blood, tell he had filled Jerusalem from one end to another, besides the

sin that he made Judah to sin so that they did what was evil in the sight of the Lord” (2 Kgs. 21:16). Now is it possible for human beings to fill up the whole of Jerusalem with innocent blood from one end to the other? But he killed Isaiah, who was equal to Moses, as it is written concerning him, “With him I speak mouth to mouth, clearly and not in dark speech, and he beholds the form of the Lord. Why then were you not afraid to speak against my servant Moses?” (Num. 12:8).

[D] **FOUR ORDINARY FOLK: BALAAM:**

1. **IV:1:** Now what did the evil Balaam do [to warrant losing his portion in the world to come]? It was because he gave advice to Balak son of Zippor on how to cause Israel’s downfall by the sword. He said to him, “The God of this nation hates fornication. So put up your daughters for fornication, and you will rule over them.” He said to him, “And will [the Moabites] listen to me [when I tell them to turn their daughters into whores]?” He said to him, “Put up your own daughter first, and they will see and then accept what you say to them.” That is in line with the following verse of Scripture: “[And the name of the Midianite woman who was slain was Cozbi the daughter of Zur,] who was the head of the people of a father’s house in Midian” (Num. 25:15). What did they do? They built for themselves temples from Beth HaJeshimmon to the Snowy Mountain, and they set in them women selling various kinds of sweets. They put the old lady outside, and the young girl inside. Now the Israelites would then eat and drink, and one of them would go out to walk in the marketplace, and he would buy something from a stall-keeper. The old lady then would sell him the thing for whatever it was worth, and the young girl would say, “Come on in and take it for still less.” So it was on the first day, the second day, and the third day. And then, she would say to him, “From now on, you belong here. Come on in and choose whatever you like.” When he came in, [he found there] a flagon of wine, Ammonite wine, which is very strong. And it serves as an aphrodisiac to the body, and its scent was enticing. (Now up to this time the wine of gentiles had not been prohibited for Israelite use by reason of its being libation wine.) Now the girl would say to him, “Do you want to drink a cup of wine,” and he would reply to her, “Yes.” So she gave him a cup of wine, and he drank it. When he drank it, the wine would burn in him like the Venom of a snake. Then he would say to her, “Surrender yourself [sexually] to me.” She would say to him, “Do you want me to ‘surrender’ myself to you?” And he would say “Yes.” Then she took out an image of Peor from her bosom, and she said to him, “Bow down to this, and I’ll surrender myself to you.” And he would say to her, “Now am I going

to bow down to an idol?” And she would say to him, “You don’t really bow down to it, but you expose yourself to it.”

2. **IV:2: M'SH B:** Subetah from Ulam hired out his ass to a gentile woman, [to take her] to bow down to Peor. When they got to Peor’s house, she said to him, “Wait for me here, while I go in and worship to Peor.” She she came out, he said to her, “Wait for me here, until I go in and do just what you did.” What did he do? He went in and took a shit, and he wiped his ass on the nose of Peor. Everyone present praised him, and said to him, “No one ever did it the way this one did it!”
M'SH B: Menahem of Gypta Arye was moving jugs. The chief of Peor came to him by night. What did he do? He took the spit and stood up against him, and [the chief] fled from him. He came to him the next night. Menahem said to him, “How are you going to curse me? You are afraid of me!” And he said to him, “I’m not going to curse you anymore.”
M'SH B: An officer came from overseas to bow down to Peor. He said to them, “Bring me an ox, a ram, a sheep, to worship Peor.” They said to him, “You don’t have to go to all that trouble. All you have to do is expose yourself to it.” What did he do? He called up his troops, who beat them and broke their skulls with staves, and he said to them, “Woe for you and for this big ‘mistake’ of yours!”
3. **IV:3:** It is written: “And the Lord was angry at Israel, and the Lord said to Moses, ‘Take all the chiefs of the people, and hang them in the sun before the Lord, [that the fierce anger of the Lord may turn away from Israel]’” (Num. 25:4). He said to him, “Appoint their heads as judges over them, and let them put the sinners to death toward the sun.”

[E] DOEG:

1. **V:1:** Doeg was a great man in learning of Torah. The Israelites came and asked David, “In regard to the showbread, what is the law as to its overriding the restrictions of the Sabbath?” He said to them, “Arranging it overrides the restrictions of the Sabbath, but kneading the dough and cutting it out do not override the restrictions of the Sabbath.” Now Doeg was there, and he said, “Who is this one who comes to teach in my presence?” They told him, “It is David, son of Jesse.” Forthwith, he went and gave advice to Saul, king of Israel, to kill Nob, the city of the priests.

[F] AHITOPHEL:

1. **VI:1:** Ahithophel was a man mighty in Torah learning. It is written, “David again gathered all the chosen men of Israel, thirty thousand.

[And David arose and went with all the people who were with him to bring up from there the ark of the Lord]” (2 Sam. 6:1-2). R. Berekiah in the name of R. Abba bar Kahana: “Ninety thousand elders did David appoint on a single day, but he did not appoint Ahithophel among them.” You find that when David came to bear the ark of the covenant of the Lord, he did not bear it in accord with the Torah: “And they carried the Ark of God on a new cart, [and brought it out of the house of Abinadab which was on the hill; and Uzzah and Ahio, the sons of Abinadab, were driving the new cart]” (2 Sam. 6:3). [That is, the Torah requires that the priests carry it, but they carried it in a cart instead.] Now the ark carried the priests on high, but let them fall down; the ark carried the priests on high, but let them fall down to the ground. David sent and brought Ahithophel. He said to him, “Will you not tell me what is with this ark, which raises the priests up high and casts them down to the ground, raises the priests on high and casts them down to the ground?” He said to him, “Send and ask those wise men whom you appointed!” Said David, “One who knows how to make the ark stop and does not do so in the end is going to be put to death through strangulation.” He said to him, “Make a sacrifice before [the ark], and it will stop.” This is in line with the following verse which is written in Scripture: “And when those who bore the ark of the Lord had gone six paces, he sacrificed an ox and a fatling” (2 Sam. 6:13).

[G] AND GEHAZI.

1. **VII:1:** Gehazi was a man powerful in learning of Torah. But he had three bad traits: niggardliness, womanizing, and denying the resurrection of the dead. Niggardliness: When Elisha was sitting in his learning session, Gehazi would be in session at the door, and his disciples looked to him, and they said, “Gehazi did not enter, so shall we enter?” So [Elisha] would be repeating his traditions, but no one derived any benefits from them. Once [Gehazi] was separated, what is written there? “Now the sons of the prophets said to Elisha, ‘See, [the place where we dwell under your charge is too small for us]’” (2 Kings 6:1). “It cannot contain the crowd of disciples who are there.” And he was licentious: for lo, the Shunamite said to her husband, “[And she said to her husband,] ‘Behold now, I perceive that this is a holy man of God, who is continuously passing our way’” (2 Kings 4:9).
2. **VII:2:** Hananiah and R. Joshua b. Levi: “When they voted and decided, Three kings and four ordinary folk have no portion in the world to come [M. San. 10:2A], an echo came forth and said, ‘Will he then make requital to suit you, because you reject it? For you must

choose and not I; therefore declare what you know' (Job 34:33). "They proposed to include Solomon with them. "David came along and prostrated himself before them, "and there is he who says that a fire went forth from the house of the Holy of Holies and licked round about them. "Hadar-Ila was learned in praying and fasting. When Solomon was counted with them, [Hadar-Ila] prayed but was not answered." Those who interpret signs said, "All of them have a portion in the world to come."

LXXVIII. YERUSHALMI SANHEDRIN 10:3

[A] **THE GENERATION OF THE FLOOD HAS NO SHARE IN THE WORLD TO COME, AND THEY SHALL NOT STAND IN THE JUDGMENT, SINCE IT IS WRITTEN, "MY SPIRIT SHALL NOT JUDGE WITH MAN FOREVER" (GEN. 6:3) NEITHER JUDGMENT NOR SPIRIT. THE GENERATION OF THE DISPERSION HAS NO SHARE IN THE WORLD TO COME, SINCE IT IS SAID, "SO THE LORD SCATTERED THEM ABROAD FROM THERE UPON THE FACE OF THE WHOLE EARTH" (GEN. 11:8). "SO THE LORD SCATTERED THEM ABROAD" – IN THIS WORLD, "AND THE LORD SCATTERED THEM FROM THERE" – IN THE WORLD TO COME.**

- 1.** **I:1:** [The generation of the flood (M. San. 10:3A)] will not live in the world to come. What is the Scriptural basis for this statement? "He blotted out every living thing that was on the face of the ground [man and animals and creeping things and birds of the air; they were blotted out of the earth]" (Gen. 7:23). "[He blotted out every living thing that was on the face of the ground, man and animals and creeping things and birds of the air;] they were blotted out of the earth" (Gen. 7:23). "And he blotted out every living thing" – in this world. "And they were blotted out of the earth" – in the world to come [T. San. 13:6].
- 2.** **I:2:** It was taught: R. Nehemiah says, "It is implied by the following verse of Scripture: '[Then the Lord said,] "My spirit shall not abide in man for ever, [for he is flesh, but his days shall be a hundred and twenty years]"'" (Gen. 6:3). R. Judah says, "My spirit will not abide with him, for I shall not place my spirit on them when I place my spirit on mankind." R. Simeon says, "My spirit will not abide with them, for I shall not put my spirit in them when I pay the reward which is coming to the righteous." Others say, "My spirit will not abide with them, for I shall not bring back their souls to their cases [bodies]."

[B] **THE MEN OF SODOM HAVE NO PORTION IN THE WORLD TO COME, SINCE IT IS SAID, "NOW THE MEN OF SODOM WERE WICKED AND SINNERS AGAINST THE LORD EXCEEDINGLY" (GEN. 13:13) "WICKED" – IN THIS WORLD, "AND SINNERS"**

– IN THE WORLD TO COME. **BUT THEY WILL STAND IN JUDGMENT. R.** NEHEMIAH SAYS, “**BOTH THESE AND THOSE WILL NOT STAND IN JUDGMENT, ‘FOR IT IS SAID, ‘THEREFORE THE WICKED SHALL NOT STAND IN JUDGMENT [108A], NOR SINNERS IN THE CONGREGATION OF THE RIGHTEOUS’ (Ps. 1:5) ‘THEREFORE THE WICKED SHALL NOT STAND IN JUDGMENT’ – THIS REFERS TO THE GENERATION OF THE FLOOD. ‘NOR SINNERS IN THE CONGREGATION OF THE RIGHTEOUS’ – THIS REFERS TO THE MEN OF SODOM.’**” THEY SAID TO HIM, “**THEY WILL NOT STAND IN THE CONGREGATION OF THE RIGHTEOUS, BUT THEY WILL STAND IN THE CONGREGATION OF THE SINNERS.**” THE SPIES HAVE NO PORTION IN THE WORLD TO COME, AS IT IS SAID, “**EVEN THOSE MEN WHO BROUGHT UP AN EVIL REPORT OF THE LAND DIED BY THE PLAGUE BEFORE THE LORD**” (NUM. 14:37) “**DIED**” – IN THIS WORLD. “**BY THE PLAGUE**” – IN THE WORLD TO COME.

1. **II:1:** The men of Sodom have no portion in the world to come (M. San. 10:3I), and they will not live in the world to come. What is the Scriptural basis for that statement? “Now the men of Sodom were wicked, great sinners against the Lord” (Gen. 13:13). “Wicked and sinners” – in this world. “Against the Lord exceedingly” – in the world to come. Another interpretation: “Evil” – to one another. “And sinning” – in fornication. “Against the Lord” – in idolatry. “Exceedingly” – in murder [T. San. 13:8].

LXXIX. YERUSHALMI SANHEDRIN 10:4

[A] “**THE GENERATION OF THE WILDERNESS HAS NO PORTION IN THE WORLD TO COME AND WILL NOT STAND IN JUDGMENT, ‘FOR IT IS WRITTEN, ‘IN THIS WILDERNESS THEY SHALL BE CONSUMED AND THERE THEY SHALL DIE’ (NUM. 14:35), ‘THE WORDS OF R. AQIBA. R. ELIEZER SAYS, ‘CONCERNING THEM IT SAYS, ‘GATHER MY SAINTS TOGETHER TO ME, THOSE THAT HAVE MADE A COVENANT WITH ME BY SACRIFICE’ (Ps. 50:5).’**”

1. **I:1:** “The generation of the wilderness has no portion in the world to come and will not live in the world to come, “as it is said, ‘In this wilderness they shall be consumed, and there they shall die.’ “‘They shall be consumed’ – in this world. “‘And there they will die’ – in the world to come. “And so it says, ‘Therefore I swore in my anger that they should not enter my rest’” (Ps. 95:11), the words of R. Aqiba. R. Eliezer says, “Concerning them it is said, ‘Gather my saints together to me, those that have made a covenant with me by sacrifice’” (Ps. 50:5) [T. San. 13:10]. R. Joshua says, “‘I have sworn an oath and confirmed it’ (Ps. 1 19:106). Hananiah nephew of R. Joshua says, “It is written, ‘Therefore I swore in my anger’ (Ps. 95:11) “In my anger did I swear,

but I retract it” [T. San. 13:11]. *It was taught*, R. Simeon b. Menassia says, “Concerning them does Scripture state, ‘Gather to me my faithful ones, who made a covenant with me by sacrifice!’ (Ps. 50:5). “‘My faithful ones’ – who acted faithfully with me. “‘Who have made a covenant with me’ – who are cut in my behalf. “‘With me by sacrifice’ – who exalted me and are sacrificed in my name” It was taught: R. Joshua b. Qorha says, “Concerning these generations, Scripture states, ‘And then the ransomed of the Lord shall return, [and come singing to Zion]’” (Is. 35:10) [T. San. 13:12].

[B] “**THE PARTY OF KORAH IS NOT DESTINED TO RISE UP, “FOR IT IS WRITTEN, ‘AND THE EARTH CLOSED UPON THEM’ – IN THIS WORLD. “AND THEY PERISHED FROM AMONG THE ASSEMBLY’ – IN THE WORLD TO COME,” THE WORDS OF R. AQIBA. AND R. ELIEZER SAYS, “CONCERNING THEM IT SAYS, ‘THE LORD KILLS AND RESURRECTS, BRINGS DOWN TO SHEOL AND BRINGS UP AGAIN’ (1 SAM. 2:6).”**

1. **II:1:** The party of Korach has no portion in the world to come and will not live in the world to come. What is the Scriptural basis for this view? “[So they and all that belonged to them went down alive into Sheol;] and the earth closed over them, and they perished from the midst of the assembly” (Num. 16:33). “The earth closed over them – in this world.” And they perished from the midst of the assembly” – in the world to come [M. San. 10:1D-F]. It was taught: R. Judah b. Batera says, “[The contrary view] is to be derived from the implication of the following verse: “I have gone astray like a lost sheep; seek thy servant [and do not forget thy commandments]’ (Ps. 119:176). “Just as the lost object which is mentioned later on in the end is going to be searched for, so the lost object which is stated herein is destined to be searched for” [T. San. 13:9].

LXXX. YERUSHALMI SANHEDRIN 10:5

[A] “**THE TEN TRIBES ARE NOT DESTINED TO RETURN, “SINCE IT IS SAID, ‘AND HE CAST THEM INTO ANOTHER LAND, AS ON THIS DAY’ (DEUT. 29:28). JUST AS THE DAY PASSES AND DOES NOT RETURN, SO THEY HAVE GONE THEIR WAY AND WILL NOT RETURN,” THE WORDS OF R. AQIBA. R. ELIEZER SAYS, “JUST AS THIS DAY IS DARK AND THEN GROWS LIGHT, SO THE TEN TRIBES FOR WHOM IT NOW IS DARK – THUS IN THE FUTURE IT IS DESTINED TO GROW LIGHT FOR THEM.”**

1. **I:1:** “The ten tribes have no portion in the world to come and will not live in the world to come, since it is said, ‘And he cast them into

another land, as on this day' (Deut. 29:28). Just as the day passes and does not return, so they have gone their way and will not return." The words of R. Aqiba [M. San. 10:5A-B]. R. Simeon b. Judah of Kefar Akko says in the name of R. Simeon, "[Scripture said, 'As at this day'] "if their deeds remain as they are this day, they will [not] return, and if not, they will (not) return" [T. San. 13:12].

2. **I:2:** R. Hezekiah, R. Abbahu in the name of R. Eleazar, "If the righteous proselytes come to the world to come, Antolinus will come at the head of all of them."
3. **I:3:** R. Yohanan said, "The party of Yohanan b. Korach has no portion in the world to come."
4. **I:4:** Eleazar and R. Judah – One said, "They did not go into exile until they had become uncircumcised." And the other said, "They did not go into exile until they had become mamzerim." Said R. Yohanan, "Israel did not go into exile until it had turned into twenty-four parties of heretics." R. Berekiah and R. Helbo in the name of R. Samuel bar Nahman: "The Israelites went into three different lands of exile, one beyond the Sambatyon River, one to Daphne at Antioch, and one on which the cloud descended, and which the cloud covered."

LXXXI. YERUSHALMI SANHEDRIN 10:6

[A] THE TOWNSFOLK OF AN APOSTATE TOWN HAVE NO PORTION IN THE WORLD TO COME, AS IT IS SAID, "CERTAIN BASE FELLOWS [SONS OF BELIAL] HAVE GONE OUT FROM THE MIDST OF THEE AND HAVE DRAWN AWAY THE INHABITANTS OF THEIR CITY" (DEUT. 13:14). AND THEY ARE NOT PUT TO DEATH UNLESS THOSE WHO MISLED THE [TOWN] COME FROM THAT SAME TOWN AND FROM THAT SAME TRIBE, AND UNLESS THE MAJORITY IS MISLED, AND UNLESS MEN DID THE MISLEADING. [IF] WOMEN OR CHILDREN MISLED THEM, OF IF A MINORITY OF THE TOWN WAS MISLED, OR IF THOSE WHO MISLED THE TOWN CAME FROM OUTSIDE OF IT, LO, THEY ARE TREATED AS INDIVIDUALS [AND NOT AS A WHOLE TOWN], AND THEY [THUS] REQUIRE [TESTIMONY AGAINST THEM] BY TWO WITNESSES, AND A STATEMENT OF WARNING, FOR EACH AND EVERY ONE OF THEM. THIS RULE IS MORE STRICT FOR INDIVIDUALS THAN FOR THE COMMUNITY: FOR INDIVIDUALS ARE OUT TO DEATH BY STONING. THEREFORE THEIR PROPERTY IS SAVED. BUT THE COMMUNITY IS PUT TO DEATH BY THE SWORD, THEREFORE THEIR PROPERTY IS LOST.

1. **I:1:** "A town" (Deut. 13:14) – not a village. "A town" – not a city. "And that is to say there should be from five to ten [men]," the words

of R. Meir. R. Judah says, “From a hundred to as much as the majority of the whole tribe.”

2. **I:2:** Two who misled two [that is, those who misled the apostate city are two in number; in this case, they misled only two, while the others in the town were misled by outsiders] – those two who misled two – what is the law as to applying to them the rule governing those who misled [or] the rule governing those who are misled? [Are those who misled the town treated as guilty and culpable by stoning? Or are they deemed part of the ones who are misled, others being involved? They misled only two people, and along with the rest are subject to the law of punishment through decapitation.]
3. **I:3:** Simeon says, “The mode of execution through burning is more severe than the mode of execution through stoning.” And rabbis say, “The mode of execution through stoning is more severe than the mode of execution through burning.” R. Simeon says, “The mode of execution through strangulation is more severe than the mode of execution through decapitation.” And rabbis say, “The mode of execution through decapitation is more severe than the mode of execution through strangulation.”

LXXXII. YERUSHALMI SANHEDRIN 10:7

[A] “AND YOU SHALL SURELY SMITE THE INHABITANTS OF THE CITY WITH THE EDGE OF THE SWORD” (DEUT. 13:15) ASS-DRIVERS, CAMEL-DRIVERS, AND PEOPLE PASSING FROM PLACE TO PLACE – LO THESE HAVE THE POWER TO SAVE IT, AS, IT IS SAID, “DESTROYING IT UTTERLY AND ALL THAT IS THEREIN AND THE CATTLE THEREOF, WITH THE EDGE OF THE SWORD” (DEUT. 13:17) ON THIS BASIS THEY SAID, THE PROPERTY OF RIGHTEOUS FOLK WHICH HAPPENS TO BE LOCATED IN IT IS LOST. BUT THAT WHICH IS OUTSIDE OF IT IS SAVED. AND AS TO THAT OF EVIL FOLK, WHETHER IT IS IN THE TOWN OR OUTSIDE OF IT, LO, IT IS LOST.

1. **I:1:** R. Simeon says, “‘Its cattle,’ – excluding firstlings and tithe of cattle in it. ‘And its spoil’ – excluding money which has been consecrated, and money which has taken on the status of second tithe in it” [T. San. 14:5].
2. **I:2:** As to the consecrated beasts located in an apostate city – R. Yohanan says, “The laws of sacrilege do not apply to them.” And R. Simeon b. Laqish said, “The laws of sacrilege do apply to them.”

LXXXIII. YERUSHALMI SANHEDRIN 10:8

[A] [AS IT IS SAID,] “AND YOU SHALL GATHER ALL THE SPOIL OF IT INTO THE MIDST OF THE WIDE PLACE THEREOF” (DEUT. 13:17). IF IT HAS NO WIDE PLACE, THEY MAKE A WIDE PLACE FOR IT. [IF] ITS WIDE PLACE IS OUTSIDE OF IT, THEY BRING IT INSIDE. “AND YOU WILL BURN WITH FIRE THE CITY AND ALL THE SPOIL THEREOF, (EVER WHIT, UNTO THE LORD YOUR GOD)” (DEUT. 13:17). “THE SPOIL THEREOF” – BUT NOT THE SPOIL WHICH BELONGS TO HEAVEN. ON THIS BASIS THEY HAVE SAID: THINGS WHICH HAVE BEEN CONSECRATED WHICH ARE IN IT ARE TO BE REDEEMED; HEAVE-OFFERING LEFT THEREIN IS ALLOWED TO ROT; SECOND TITHE AND SACRED SCROLLS ARE HIDDEN AWAY. “EVER WHIT UNTO THE LORD YOUR GOD” SAID R. SIMEON, “SAID THE HOLY ONE, BLESSED BE HE: ‘IF YOU ENTER INTO JUDGMENT IN THE CASE OF AN APOSTATE CITY, I GIVE CREDIT TO YOU AS IF YOU HAD OFFERED A WHOLE BURNT-OFFERING BEFORE ME.’” “AND IT SHALL BE A HEAP FOREVER, IT SHALL NOT BE BUILT AGAIN” “IT SHOULD NOT BE MADE EVEN INTO VEGETABLE-PATCHES OR ORCHARDS,” THE WORDS OF R. YOSÉ THE GALILEAN. R. AQIBA SAYS, “‘IT SHALL NOT BE BUILT AGAIN’ – AS IT WAS IT MAY NOT BE REBUILT, BUT IT MAY BE MADE INTO VEGETABLE PATCHES AND ORCHARDS.” “AND THERE SHALL CLEAVE NOUGHT OF THE DEVOTED THINGS TO YOUR HAND [THAT THE LORD MAY TURN FROM THE FIERCENESS OF HIS ANGER AND SHOW YOU MERCY AND HAVE COMPASSION UPON YOU AND MULTIPLY YOU]” (DEUT. 13:18) FOR SO LONG AS EVIL PEOPLE ARE IN THE WORLD, FIERCE ANGER IS IN THE WORLD. WHEN THE EVIL PEOPLE HAVE PERISHED FROM THE WORLD, FIERCE ANGER DEPARTS FROM THE WORLD.

1. I:1: Said R. Simeon, “This [disposition of the property of the righteous, M. 10:7D] yields an argument a *fortiori*: Now if regarding property, which has no knowledge of either good or evil, because it caused righteous people to make their dwelling with evil ones, the Torah has said that [such property] is to be burned – “he who has the intention of misleading his fellow and actually does mislead him from the good way to the evil way – how much the more so [will he be punished]!” Said R. Eleazar, “Proof for that proposition is found in the case of Lot, who dwelled in Sodom only on account of his property. “He too got out with his skin.” That is in line with the following verse of Scripture: “Make haste, escape there” (Gen. 19:22). It is enough for you that you escape with your life.

LXXXIV. YERUSHALMI SANHEDRIN 11:1

[A] **THESE ARE THE ONES WHO ARE TO BE STRANGLLED: HE WHO HITS HIS FATHER AND HIS MOTHER [Ex. 21:15]; HE WHO STEALS AN ISRAELITE [Ex. 21:16, DEUT. 24:7]; AN ELDER WHO DEFIES THE DECISION OF A COURT, A FALSE PROPHET, A PROPHET WHO PROPHECIES IN THE NAME OF AN IDOL; HE WHO HAS SEXUAL RELATIONS WITH A MARRIED WOMAN, THOSE WHO BEAR FALSE WITNESS AGAINST A PRIEST'S DAUGHTER AND AGAINST ONE WHO HAS SEXUAL RELATIONS WITH HER.**

1. **I:1:** Whence in the Torah do we find a warning against hitting one's father and one's mother? "Forty stripes may be given him, but not more; [lest if one should go on to beat him with more stripes than these, your brother be degraded in your sight]" (Deut. 25:3). Now if one who is commanded to flog is commanded not to flog [more than is permitted], he who is not commanded to flog at all [e.g., a court does not assign the son to flog the father] – is it not an argument a fortiori that he indeed should be commanded not to flog [under any circumstances at all]? [That is, he should not hit his father or his mother.]

[B] **HE WHO HITS HIS FATHER AND HIS MOTHER IS LIABLE ONLY IF HE WILL MAKE A LASTING BRUISE ON THEM. THIS RULE IS MORE STRICT IN THE CASE OF THE ONE WHO CURSES THAN THE ONE WHO HITS THEM. FOR THE ONE WHO CURSES THEM AFTER THEY HAVE DIED IS LIABLE. BUT THE ONE WHO HITS THEM AFTER THEY HAVE DIED IS EXEMPT.**

1. **II:1:** What sort of bruise is under discussion?

LXXXV. YERUSHALMI SANHEDRIN 11:2

[A] **HE WHO STEALS AN ISRAELITE [B2] IS LIABLE ONLY WHEN HE WILL HAVE BROUGHT HIM INTO HIS OWN DOMAIN. R. JUDAH SAYS, "ONLY IF HE WILL HAVE BROUGHT HIM INTO HIS OWN DOMAIN AND WILL HAVE MADE USE OF HIM, "AS IT IS SAID, 'AND IF HE DEAL WITH HIM AS A SLAVE OR SELL HIM' (DEUT. 24:7)."**

1. **I:1:** Whence do we locate the first warning against stealing [that is, kidnapping]? "You shall not steal" (Ex. 20:15). Whence do we locate the second warning against stealing [that is, property]? "You shall not steal" (Lev. 19:11). "You shall not steal" for spite [returning the object later on]. "You shall not steal" planning then to pay double compensation or fourfold or fivefold damages. Ben Bag Bag says,

“You shall not steal from the thief even what belongs to you, so that you will not appear to be a thief.”

1. **I:2:** Ba, R. Yohanan in the name of R. Hoshaiiah: “[The accused] son is liable only if he will steal money [to buy meat for his gluttony].” R. Zeira in the name of R. Hoshaiiah: “He is liable only if he will waste money.”

1. **I:3:** What is the definition of a thief, and what is a robber?

[B] **HE WHO STEALS HIS SON – R. ISHMAEL, SON OF R. YOHANAN B. BEROQAH, DECLARES HIM LIABLE. AND SAGES DECLARE HIM EXEMPT.**

1. **II:1:** What is the scriptural basis for the position of R. Ishmael b. R. Yohanan b. Beroqah? “If a man is found stealing one of his brethren of the people of Israel” (Dt. 24:7) – even his son falls into the category of the people of Israel. What is the scriptural basis of rabbis? “Of his brethren” – excluding his own son.

[C] [If] **HE STOLE SOMEONE WHO WAS HALF SLAVE AND HALF FREE – R. JUDAH DECLARES HIM LIABLE. AND SAGES DECLARE HIM EXEMPT.**

1. **III:1:** What is the scriptural basis for the position of R. Judah? “Of his brethren” – even if he is only partly a brother. What is the scriptural basis of rabbis? “Of his brethren” – only if he is entirely one of his brethren [and the slave is only partially so].

LXXXVI. YERUSHALMI SANHEDRIN 11:3

[A] **AN ELDER WHO DEFIES THE DECISION OF A COURT [M. 10:1B] AS IT IS SAID, “IF THERE ARISE A MATTER TOO HARD FOR YOU IN JUDGMENT, BETWEEN BLOOD AND BLOOD, BETWEEN PLEA AND PLEA” (DEUT. 17:8) – THERE WERE THREE COURTS THERE. ONE WAS IN SESSION AT THE DOOR GATE OF THE TEMPLE MOUNT, ONE WAS IN SESSION AT THE GATE OF THE COURTYARD, AND ONE WAS IN SESSION IN THE HEWN-STONE CHAMBER. THEY COME TO THE ONE WHICH IS AT THE GATE OF THE TEMPLE MOUNT AND SAY, “THUS I HAVE EXPLAINED THE MATTER, AND THUS MY COLLEAGUES HAVE EXPLAINED THE MATTER. “THUS I HAVE RULED IN THE MATTER, AND THUS MY COLLEAGUES HAVE RULED.” IF THEY HAD HEARD A RULING, THEY TOLD IT TO THEM, AND IF NOT, THEY COME ALONG TO THAT COURT WHICH WAS AT THE GATE OF THE COURTYARD. AND HE SAYS, “THUS I HAVE EXPLAINED THE MATTER, AND THUS MY COLLEAGUES HAVE EXPLAINED THE MATTER. “THUS I HAVE RULED IN THE MATTER [LIT.: TAUGHT], AND THUS MY COLLEAGUES HAVE RULED.” IF THEY HAD HEARD A RULING, THEY TOLD IT TO THEM, AND IF NOT, THESE AND THOSE COME ALONG**

TO THE HIGH COURT WHICH WAS IN THE HEWN-STONE CHAMBER, FROM WHICH TORAH GOES FORTH TO ALL ISRAEL, AS IT IS SAID, “FROM THAT PLACE WHICH THE LORD SHALL CHOOSE” (DEUT. 17:12). [IF] HE WENT BACK TO HIS TOWN AND AGAIN RULED JUST AS HE HAD RULED BEFORE, HE IS EXEMPT. BUT IF HE INSTRUCTED [OTHERS] TO DO IT IN THAT WAY, HE IS LIABLE, AS IT IS SAID, “AND THE MAN WHO DOES PRESUMPTUOUSLY” (DEUT. 17:12). HE IS LIABLE ONLY IF HE WILL GIVE INSTRUCTIONS TO PEOPLE ACTUALLY TO CARRY OUT THE DEED [IN ACCORD WITH THE NOW-REJECTED VIEW]. A DISCIPLE OF A SAGE WHO GAVE INSTRUCTION TO CARRY OUT THE DEED [WRONGLY] IS EXEMPT. IT TURNS OUT THAT THE STRICT RULING CONCERNING HIM [THAT HE CANNOT GIVE DECISIONS] ALSO IS A LENIENT RULING CONCERNING HIM [THAT HE IS NOT PUNISHED IF HE DOES GIVE DECISIONS].

1. **I:1:** [“In any case arises requiring decision between one kind of homicide and another, one kind of legal right and another, or one kind of assault and another, any case within your towns which is too difficult for you, then you shall arise and go up to the place which the Lord your God will choose” (Deut. 17:8).] It is written, “If any case arises which is too difficult for you to judge” (Deut. 17:8) – this indicates that the Scripture speaks of the most distinguished [and senior] member of the court. “... for you” – this refers to one who is able to advise on intercalation of the year and the declaration of the new moon. “A matter” – this refers to a master of lore. [“A case requiring decision between] one kind of blood [homicide] and another, [one kind of legal right and another, or one kind of assault and another]” (Deut. 17:8). “One kind of blood and another” – [this is] the difference between the blood of menstruation and hymeneal blood, or between the blood of menstruation and the blood indicating the presence of *zibah* or, *sara’at*. “Between one kind of legal right and another” [refers to the difference] between trials for property cases and trials for capital cases. “Between one kind of legal right and another” refers to cases in which the death penalty is executed through stoning, burning, decapitation, or strangulation. “Between one kind of affliction of disease (*nega’*) [assault] and another” – this refers to knowing the difference between a *mesora’* who is to be shut up for further inspection, and a *mesora’* who is certified as unclean. “Between one kind of affliction and another” [further refers to the difference] between afflictions which affect man and those which affect clothing or houses. “Cases of disputes within your gates” – this refers to cases involving the administration of bitter water to a wife accused of adultery, the breaking of the neck of a heifer [in the case of a homicide in which the murderer cannot be found], and the declaring of a *mesora’* to be clean. “...disputes” – these refer to cases involving

valuations, goods declared *herem*, beasts declared substitutes for sacrifices [and so themselves consecrated], and objects declared consecrated. [“Then you shall arise and go up to the place which the Lord your God will choose” (Deut. 17:8).] “You will arise” – from your court. “And you will go up” – this refers to the ascent to Jerusalem.

2. **I:2:** Zeira says, “In the case of a rebellious elder who gave instructions to carry out [his erroneous ruling]: if he actually carried out what he said, he is liable. “But if he gave instruction and did not actually carry out what he said, he is exempt. “If he gave instruction on the condition of not doing what he said, he is exempt. “If he gave instruction on condition of actually doing what he said, even if then he did not do it, he is liable” [T. San. 14:12].
3. **I:3:** Simeon b. Manassia says, “Beauty, power, wisdom, riches, long life, glory, and children – for the righteous are a benefit to them and a benefit to the world.” What is the Scriptural basis for this statement? “Old age is a crown of glory. It is gained in a righteous life” (Prov. 16:31). “Children’s children are the crown of old men” (Prov. 17:6). “The glory of young men is their strength, but the beauty of old men is they gray hair” (Prov. 20:29). And it says: “Before his elders is honor” (Is. 24:23). It was taught: R. Simeon b. Gamaliel says, “These are the seven virtues which sages have listed for the righteous, and all of them have been realized in Rabbi and his sons” [T. San. 11:8]

LXXXVII. YERUSHALMI SANHEDRIN 11:4

[A] **A MORE STRICT RULE APPLIES TO THE TEACHINGS OF SCRIBES THAN TO THE TEACHINGS OF TORAH. HE WHO, IN ORDER TO TRANSGRESS THE TEACHINGS OF THE TORAH, RULES, “THERE IS NO REQUIREMENT TO WEAR PHYLACTERIES,” IS EXEMPT. [BUT IF,] IN ORDER TO ADD TO WHAT THE SCRIBES HAVE TAUGHT, [HE SAID,] “THERE ARE FIVE PARTITIONS [IN THE PHYLACTERY, INSTEAD OF FOUR], HE IS LIABLE. “THEY PUT HIM TO DEATH NOT IN THE COURT IN HIS OWN TOWN OR IN THE COURT WHICH IS IN YABNEH, BUT THEY BRING HIM UP TO THE HIGH COURT IN JERUSALEM. “AND THEY KEEP HIM UNTIL THE FESTIVAL, AND THEY PUT HIM TO DEATH ON THE FESTIVAL, “AS IT IS SAID, ‘AND ALL THE PEOPLE SHALL HEAR AND FEAR AND NO MORE DO PRESUMPTUOUSLY’ (DEUT. 17:13),” THE WORDS OF R. AQIBA. R. JUDAH SAYS, “THEY DO NOT DELAY THE JUDGMENT OF THIS ONE, BUT THEY PUT HIM TO DEATH AT ONCE. “AND THEY WRITE MESSAGES AND SEND THEM WITH MESSENGERS TO EVERY PLACE: ‘MR. SO-AND-SO, SON OF MR. SO-AND-SO, HAS BEEN DECLARED LIABLE TO THE DEATH PENALTY BY THE COURT.”**

1. **I:1:** Associates in the name of R. Yohanan: “The teachings of scribes are more beloved than teachings of Torah and are as precious as teachings of Torah: ‘Your kiss is like good wine’ [that is, the kiss of the sages is like the good wine of the Torah].” Simeon bar Ba in the name of R. Yohanan: “The teachings of scribes are more beloved than teachings of Torah and are more precious than teachings of Torah: ‘For your love is better than wine’” (Song 1:2). R. Ba bar Kohen in the name of R. Judah bar Pazzi: “You should know that the teachings of scribes are more beloved than the teachings of Torah. “For lo, R. Tarfon [at M. Ber. 1:1], had he not recited the *Shema* at all, would have violated only an affirmatively stated commandment of the law. But because he transgressed the teaching of the House of Hillel [in the category of a teaching of scribes], he suffered liability to death, “on the count: ‘A serpent will bite him who breaks through a wall’” (Eccles. 10:8).
2. **I:2:** The Torah has made the rule that in phylacteries there are four boxes containing four pericopae. [If] he declared that there must be five boxes containing four pericopae, he is liable. R. Ba, R. Yohanan, in the name of R. Hoshaiyah: “He is liable only if he will give instruction in a matter in which the fundamental law is Scriptural, while the interpretation derives from sages, “for example, a law dealing with carrion or a creeping thing, the fundamental law of which derives from the Torah, but the interpretation for which [e.g., requisite volume for culpability] derives from scribes.” Said R. Zeira, “Under no circumstances is he liable until he will deny and give instruction in a matter in which the fundamental law is Scriptural, while the interpretation derives from sages, “for example, a law dealing with carrion or a creeping thing, the fundamental law of which derives from the Torah, but the interpretation for which derives from scribes. “But that is so [only] when he diminishes and adds, in a matter in which he adds, he diminishes. [That is to say, liability is incurred only if the rebellious sage diminishes or adds to what the scribes have stated in regard to a law of the Torah. Thus, if he adds to the number of boxes in the phylactery, he may also diminish the essentials of the law itself. So at issue is not merely differing, but differing within the range of established law, that is, rearranging the established law in some detail].”

LXXXVIII. YERUSHALMI SANHEDRIN 11:5

[A] A FALSE PROPHET [M.10:1B], ONE WHO PROPHESES CONCERNING SOMETHING WHICH HE HAS NOT ACTUALLY HEARD OR CONCERNING SOMETHING WHICH WAS NOT ACTUALLY SAID TO HIM, IS PUT TO DEATH BY MAN.

1. **I:1:** He who prophesies concerning something which he has not actually heard [M. 11:4B] is such as Zedekiah ben Chenaanah [I Kings 22:11], and one who states something which was not actually said to him is such as Hananiah b. Azor [T. San. 14:14]. R. Joshua b. Levi said, “Hananiah b. Azor was a true prophet. “But he suffered a period of an intermission of his prophetic gifts, during which his gift of prophesy was null, and he heard what Jeremiah prophesied in the upper market. “So he went down and he prophesied in the lower market” [T. San. 14:14].

[B] BUT HE WHO HOLDS BACK HIS PROPHECY:

1. **II:1:** But he who holds back his prophesy [M. 11:5D] – such as Jonah son of Amittai [T. San. 14:14]. Said R. Jonah, “He was a true prophet. “You find that when the Holy One, blessed be he, said to him, ‘Arise, go to Nineveh, the great city, and cry out against it; for their wickedness has come up before me’ (Jonah 1:2), “Jonah said, ‘I know that these gentiles are nigh unto repentance, and lo, I shall go and prophesy against them, and they shall repent, and the Holy One, blessed be he, consequently will come and inflict punishment on [those who hate] Israel [meaning, on Israel itself]. ““So what should I do? [I have no choice but to] flee.’ ““But Jonah rose to flee to Tarshish from the presence of the Lord. He went down to Joppa and found a ship going to Tarshish; so he paid the fare, and went on board, to go with them to Tarshish, away from the presence of the Lord”” (Jonah 1:3).

[C] HE WHO DISREGARDS THE WORDS OF ANOTHER PROPHET:

1. **III:1:** He who disregards the words of another prophet like Iddo, the seer [T. San. 14:15]. Said R. Samuel bar R. Isaac, “This is Amaziah, the priest of Beth El.” Said R. Yosé, “There was confusion there [lit.: smashed eggs], and who was he [who convinced Iddo to return]? It was Jonathan b. Gershom b. Moses. “You find that when David came and found that he was worshipping an idol, he said to him, ‘You are the grandson of that righteous man, and yet do you worship an idol?’ “He said to him, ‘I have a tradition from my father’s father: “Sell yourself to the service of strange [gods], but do not depend on other people.”” “He said to him, ‘Heaven forbid! He never said such a thing to you. “But what he really said was, ‘Sell yourself for a kind of

service which is alien to you, but do not depend on other people.’
“When David realized that he loved money, he appointed him
superintendent of the treasury of the Temple.”

**[D] OR THE PROPHET WHO TRANSGRESSES HIS OWN WORDS IS PUT TO DEATH BY
HEAVEN, AS IT IS SAID, “I WILL REQUIRE IT OF HIM” (DEUT. 18;19).**

- 1. IV:1:** And a prophet who transgresses his own words – this is exemplified by the associate of Micah [T. San. 14:15]: This is in accord with the following verse of Scripture: “Now there dwelt an old prophet in Bethel. And his sons came and told him all that the man of God had done that day in Bethel; the words also which he had spoken to the king, they told to their father. And their father said to them, ‘Which way did he go?’ And his sons showed him the way which the man of God who came from Judah had gone. And he said to his sons, ‘Saddle the ass for me.’ So they saddled the ass for him and he mounted it. And he went after the man of God and found him sitting under an oak; and he said to him, ‘Are you the man of God who came from Judah?’ And he said, ‘I am.’ Then he said to him, ‘Come home with me and eat bread.’ And he said, ‘I may not return with you, or go in with you; neither will I eat bread nor drink water with you in this place; for it was said to me by the word of the Lord, ‘You shall neither eat bread nor drink water there, nor return by the way that you came.’ And he said to him, ‘I also am a prophet as you are, and an angel spoke to me by the word of the Lord, saying, Bring him back with you into your house that he may eat bread and drink water.’ But he lied to him. So he went back with him and ate bread in his house and drank water.”

LXXXIX. YERUSHALMI SANHEDRIN 11:6

[A] HE WHO PROPHESES IN THE NAME OF AN IDOL [M.10:1B5], AND SAYS, “THUS DID SUCH-AND-SUCH AN IDOL SAY TO ME,” EVEN THOUGH HE GOT THE LAW RIGHT, DECLARING UNCLEAN THAT WHICH IN FACT IS UNCLEAN, AND DECLARING CLEAN THAT WHICH IN FACT IS CLEAN:

- 1. I:1:** Said R. Yosé b. Hananiah, “All were subject to the single commandment, ‘You shall not bear false witness against your neighbor’ (Ex. 20:16). Now the one who prophesies in the name of an idol [thus bearing false witness] was singled out [and condemned to death].”
- 2. I:2:** He who prophesies to uproot something which is taught in the Torah is liable. R. Simeon says, “If he prophesied to nullify part and to

keep part, he is exempt.” But if he prophesied in the name of idolatry, even if he confirms it today and nullifies it tomorrow, he is liable [T. San. 14:13]. Now with regard to idolatry, whether the prophet intended to uproot the whole principle or whether he did not intend to uproot the whole, in the view of R. Simeon, they strangle him to death. In the opinion of sages, they stone him. But with regard to [his preaching against] all the other commandments, if he did not intend to uproot the whole principle, in the view of sages, they stone him. In the view of R. Simeon, they exempt him. And as to the prophet who began to prophesy, if he gave a sign or did a wonder, they listen to him, and if he did not do so, they do not pay attention to him.

[B] HE WHO HAS SEXUAL RELATIONS WITH A MARRIED WOMAN [M.10:1C1] AS SOON AS SHE HAS ENTERED THE DOMAIN OF THE HUSBAND IN MARRIAGE, EVEN THOUGH SHE HAS NOT HAD SEXUAL RELATIONS WITH HIM HE WHO HAS SEXUAL RELATIONS WITH HER – LO, THIS ONE IS PUT TO DEATH BY STRANGLING. AND THOSE WHO BEAR FALSE WITNESS AGAINST A PRIEST’S DAUGHTER AND AGAINST ONE WHO HAS SEXUAL RELATIONS WITH HER [M. 10:1C2, 3] – FOR ALL THOSE WHO BEAR FALSE WITNESS FIRST SUFFER THAT SAME MODE OF EXECUTION, EXCEPT FOR THOSE WHO BEAR FALSE WITNESS AGAINST A PRIEST’S DAUGHTER AND HER LOVER.

1. **II:1:** [Referring to M. 11:6D], said R. Judah b. Pazzi, “Is not the determining factor the marriage canopy? It was not only to the marriage canopy, but even [if she came] to a house in which a marriage canopy was set up, [she is subject to the law of M. 1 1:6C-E].” The following construction is required (in order to make the reception of the bride in the triclinium a legal consummation of marriage), a triclinium and a marriage chamber, and that chamber communicating with the triclinium.
2. **II:2:** All perjurers and illicit lovers go and suffer the form of death which they had brought on their victim. Under what circumstances? When they are in the same status as the victim so as to be subject to that same mode of execution: if the death penalty attached to the crime is stoning, the accused is stoned, and the witnesses are stoned; if it was to be burning, the victim is put to death by burning, and they are burned. But here he is subject to the death penalty through burning, while the perjurers are killed through strangulation [T. San. 14:17].

TRACTATE

MAKKOT

The penalties other than capital are set forth in tractate *Makkot*, covering perjury (with variable penalties), banishment, and flogging. While Scripture supplies many facts, the Mishnah, with the Talmuds, organizes and lays matters out in its own way. Where the Written Torah does not provide information that sages deem logical and necessary, they make things up for themselves. Where verses of Scripture play a role in the halakhic statement of matters, they are cited in context. For *Makkot*, the only verse that is critical pertains to tractate *Makkot*'s presentation of the penalties for perjury, Deut 19:15–21, and for flogging, Deut 23:1–3.

- I. Penalties for perjury
- II. The penalty of exile (banishment)
 - A. Those who are sent into exile
 - B. The cities of exile
- III. The penalty of flogging
 - A. Those who are flogged
 - B. The conduct of the flogging

YERUSHALMI MAKKOT

CHAPTER ONE

1:1

[A] How are witnesses treated [punished] as perjurers?

[B] [If they had said,] “We testify concerning Mr. So-and-so, that he is the son of a divorcée,” or, “... the son of a woman who has performed the rite of removing the shoe,” [and had been proved perjurers],

[C] they do not say, “Let this one be declared the son of a divorcée,” or, “Let him be declared the son of a woman who has performed the rite of removing the shoe.”

[D] But he is flogged [on account of perjury] with forty stripes.

[E] É “We testify concerning Mr. So-and-so, that he is liable to exile,”

[F] they do not say, “Let this one go into exile in his stead.”

[G] But he is flogged with forty stripes.

[H] [If they had said,] “We testify concerning Mr. So-and-so, that he has divorced his wife and not paid off her marriage settlement,” –

[I] (and is it not so that whether it is today or tomorrow, he certainly is going to pay off her marriage settlement –)

[J] they make an estimate of how much a man will be willing to pay [now] for the ownership of her marriage settlement,

[K] on the condition that, if she should be widowed or divorced, [he will take it over], but if she should die, her husband will inherit her [estate, including said marriage settlement].

[I:1 A] [The statement that follows explains M. 1:2/I-L, which states, [If witnesses said,] “We testify concerning Mr. So-and-so, that he is liable to receive flogging in the measure of forty stripes,” and they turn out to be perjurers – “they are smitten eighty times, both on the count of, ‘You shall not bear false witness against your neighbor’ (Ex. 20:16), and on the count of, ‘You shall do to him as he had conspired to do’” (Deut. 19:19), the words of R. Meir. And

sages say, “**They are flogged only forty stripes**”], Said R. Yosé b. Haninah, “All were subject to the general statement, ‘You shall not bear false witness against your neighbor’ (Ex. 20:16). The perjured witness then was treated as a special case: ‘And you shall do to him as he had conspired to do’ (Deut. 19:19).

[B] “In the case of one in whom you are able to carry out, ‘And you shall do to him as he had conspired to do,’ you carry out, ‘You shall not bear false witness’ [punishing on both counts].

[C] “And in the case of the one upon whom you cannot carry out, ‘And you shall do to him as he had conspired to do,’ you shall carry out, ‘You shall not bear false false witness against your neighbor.’ [That is to say, in the case in which one is flogged on the count of ‘doing to him as he had conspired to do,’ Meir maintains, one flogs him also on the count of ‘not bearing false witness.’ But if there is no flogging on the one count, there is no flogging on the other.]”

[D] Another matter: “And you shall do to him” – and not to his descendants. [This explains M. 1:1C, for that judgment would affect his descendants’ standing as well.]

[E] R. Joshua b. Levi said, “‘And you shall do to him ...’ – two matters are handed over to a court. You take hold of only one of them, except for a matter which is in the hands of Heaven. [On this count, the court does not both exact a financial penalty and also impose a flogging, as at M. 1:2, below.]”

[I:1 A] It is written, “He shall not profane his children among his people [by not marrying a virgin]” (Lev. 21:15).

[B] I know only that this applies to his seed, which he profanes.

[C] The woman herself [who is made profane through having sexual relations with him] – how do we know [that that is the case]?

[D] It is a matter of an argument *a fortiori*:

[E] Now if his seed, which has itself not done any transgression, lo, it is deemed profane,

[F] the woman herself, who has done a transgression – is it not logical that she should be deemed profane?

[G] He himself will prove [that this argument is invalid]. For he has done a transgression and is not profaned.

- [H] No, if you have stated that fact in regard to the man, who is never in any event subject to being profaned,
- [I] will you say the same of the woman, who indeed is profaned under all circumstances?
- [J] Since she is profaned under all other circumstances, it is logical that she should be profaned [in the present case].
- [K] And if you should wish to propose:
- [L] [Scripture should have written,] “He should not profane [in the Qal construction, YHWL].” When it wrote, “He should not profane [in the Pi’el construction, YHLL],” it refers even to one who was valid and has been profaned [that is, a woman (= C)] .
- [M] [With reference to M. 1:1C,] Bar Pedaiah says, “He who profanes is not subject to being profaned [so he profanes his seed, not himself. [So then how can one – the witness – who did not profane, although he wanted to, be profaned].”

[I:3 A] Witnesses who were proven to be perjurers –

- [B] R. Yohanan said, “ ‘False,’ ‘false’ [that is, the word occurs twice in context (either Ex. 20:16 and Deut. 19:18 or twice in the latter verse) involving distinct liabilities].”
- [C] Witnesses who were proved perjurers, and who again lied [in a property aspect of the same case] –
- [D] R. Yohanan said, “‘False,’ ‘false’ [and are flogged and also pay compensation.”
- [E] R. Eleazar said, “‘Evil,’ ‘evil.’
- [F] “‘Evil’ is stated with reference to those who are liable to the death penalty (Num 35:31), and evil’ is mentioned in the matter of those liable to flogging (Deut. 75:2).
- [G] “Just as ‘evil’ which is stated in reference to those liable to the death penalty indicates that a financial compensation is not exacted in the case of a death penalty,
- [H] “so the word, ‘evil,’ stated with reference to those who are liable to flogging indicates that there is no monetary compensation exacted in the case of flogging [cf. M. 1:2H].”

[I:4 A] Bar Pedaiah said, “ ‘If anyone kills his neighbor unintentionally ...,] he may flee [to one of these cities and save his life]’ (Deut. 19:45).

[B] “He will flee, but those who perjure themselves against him may not flee.”

[II:1 A] And they do not pay the whole value of the woman’s marriage settlement but they pay the value of making use of such a marriage settlement.

[B] How so?

[C] One says, **How much is a man willing to pay now for the right to the marriage settlement of this one, on condition that, if she should die during the lifetime of her husband, [the husband] will inherit it [M. 1:I J-K],** but if her husband should die in her lifetime, the purchaser then would inherit the value of the marriage contract.

[D] In accord with such an estimate, does he pay for the value of the marriage settlement [cf. T. Mak. 1:6].

1:2

[A] [If they had said,] **“We testify concerning Mr. So-and-so, that he owes his fellow a thousand zuz, on condition that he will pay him in thirty days,”**

[B] **and the accused says, “... in the next ten years,”**

[C] **they make an estimate of how much a man is willing to pay for the use of a thousand zuz, whether he pays them in thirty days or in ten years.**

[D] [If they had said,] **“We testify concerning Mr. So-and-so, that he owes his fellow two hundred zuz,”**

[E] **and they turn out to be perjurers –**

[F] **“they are flogged, and they pay up,**

[G] **“[and this is on two distinct counts,] for the count which brings flogging on them is not the count which brings on them the penalty of restitution,”** the words of R. Meir.

[H] **And sages say, “Whoever pays restitution is not flogged.”**

[I] [If they had said,] **“We testify concerning Mr. So-and-so, that he is liable to receive flogging in the measure of forty stripes,”**

[J] **and they turn out to be perjurers –**

[K] **“they are smitten eighty times, on the count of, ‘You shall not bear false witness against your neighbor’ (Ex. 20:13), and on the count of ‘You shall do to him as he had conspired to do’ (Dt. 19:19),”** the words of R. Meir.

[L] **And sages say, “They are flogged only forty stripes.”**

[M] **They divide up [among the perjurers] a penalty for making restitution, but they do not divide up the penalty of flogging.**

[N] **How so?**

[O] **[If] they gave testimony about someone that he owes his fellow two hundred zuz, and they turned out to be perjurers, they divide [the two hundred zuz] among them [and make restitution of that amount].**

[P] **But if they gave testimony about him that he is liable to receiving flogging in the measure of forty stripes, and they turned out to be perjurers, each one is flogged forty times.**

[I:1 A] R. Ba bar Mamal, R. Amram, R. Mattenah in the name of Rab: “He who lends funds to his fellow on condition that [the lender] not lay claim [for return of capital, but the borrower will pay whenever it suits him] – the Sabbatical year releases [the debt].” [The point is that Scripture states one should not exact a debt of his neighbor (Deut. 15:2f.). Now a loan on these terms cannot be said to be “exacted,” that is, it is not an oppressive debt. Hence one may suppose that the remission of the Sabbatical year does not apply to such a loan. But Rab says, that is not the case. The issue then will be debts not collectible at the point at which the Sabbatical year comes into effect, and whether they are or are not remitted, since they are not to be “exacted” in the stated sense.]

[B] *And lo, we have learned: **He who slaughtered a cow and divided it [among buyers on the first day of the [eighth year, and the month was intercalated [so that that day turned out to be at the end of the seventh, that is. the Sabbatical, year – the debt [incurred by the buyers who bought the meat] is annulled. But if not, it is not null [M. Shebi. 10:2].***

[C] And R. Eleazar said, “That is the view of R. Judah [who in M. Shebi. 10:1 treats credit extended from the seller to the buyer as a loan and therefore liable to annulment in the Sabbatical year].”

[D] And is the debt ever subject to collection on the New Year?! [Of course not! Therefore this instance of M. Shebi. 10:2 is similar to a case of extended credit [here the seller cannot demand payment at any time.]

[E] *This view accords with that which R. Ba said in the name of R. Zeira: “[The position of M. Shebi. 10:2 is not in accord with the theory of Judah, C. Rather. Mishnah’s reasoning is in accord with the following*

logic:] Since it is a case in which the debt is subject to claim [at any time], it is as if the seller has faith in the buyer. Since he has faith? it is as if he can pay off the debt. Now in this case (M. Shebi. 10:2), since the case is one in which the purchaser can have paid the money and has not done so, the first purchase [in a sequence of several] is deemed tantamount to a debt [in consequence of which the debt is collectible, the Seventh Year is effective, and the debt is remitted]. [That is the case even though, in fact, it is the New Year, and on the festival funds will not be paid out. So this explains why the debt is deemed in existence, and, consequently, subject to remission.]”

- [F] R. Yosé b. R. Bun in the name of Rab: “He who lends funds to his fellow on condition that the Sabbatical year not remit the debt – the Sabbatical year *does* remit the debt. [That is, if the debt runs for ten years prior to collection, the advent of the Sabbatical year does not cancel the debt. Rab’s view, then, is that such a clause is null, and the Sabbatical year does nullify the debt.]”
- [G] *And lo, we have learned the following pericope of Mishnah: ... they make an estimate of how much a man is willing to pay for the use of a thousand “zuz, “ whether he pays them m the next thirty days or in ten years [M. 1:2C].* [It follows that if the debt is for ten years, the funds in fact will never be paid back, for the intervening Sabbatical year will nullify the debt. The force of the testimony would have been to cause the loss of the whole capital, not merely the use thereof. Consequently, in line with Rab’s view, we must wonder what purpose the stated estimate is to serve.]
- [H] For can ten years pass without a Sabbatical year?
- [I] [*In explanation of this problem,] R. Huna said, “R. Nahman and R. Sheshet differed on the matter.*
- [J] “*One said, ‘It is a case in which one has made a loan against a pledge [in which case the effects of the Sabbatical year are null]. ‘*
- [K] “*The other said, ‘It is a case in which one has made a loan on the security of a prozbul [with the same consequences].”*
- [I:2 A] *It was taught: “Thirty days – one does not come.”*
- [B] What is the meaning of this statement: “Thirty days – one does not come”?
- [C] Samuel said, “[The meaning is:] ‘He who lends funds to his fellow without specification on the length of the term has not got the right to lay claim on him within the first thirty days of the loan..”

[D] *R. Judah entered and stated*, “The Scriptural basis for this position is as follows: ‘The seventh year, the year of release, *is near*’ (Deut. 15 :9) .

[E] “Now is not the seventh year the same as the year of release?”

[F] “So why does Scripture specify, as it does, ‘The seventh year, the year of release, *is near*’?”

[G] “It is so that you should not say, ‘Throughout the thirty days of the loan [made on unspecified terms], one has not got the power to collect it. After the thirty days have passed, it will be subject to the release of debts so that one cannot collect the debt.’ On this account it was necessary to specify, ‘The seventh year’ and ‘the year of release’ ‘*is near*,’ [that is, to indicate that when there is an unspecified term it is for thirty days].”

[H] [Now if that is the purpose imputed to the cited verse, how shall we deal with the following problem:] For did not R. Ba bar Mamal, R. Amram, R. Mattenah in the name of Rab say: “He who lends money to his fellow on condition that he will not lay claim on him, [nonetheless] the Sabbatical year remits that debt? [Now if this took place within thirty days of the advent of the Sabbatical year, it is as if the loan was made on condition that the lender has made the condition of not laying claim on the borrower. For through the thirty-day period he cannot lay claim, and afterward the Sabbatical year comes.]”

[I] *The following teaching is available [to account for Rab’s position:] R. Ishmael taught*, “ ‘The seventh year, the year of release, *is near* – Now is not the seventh year the same as the year of release? So why does Scripture specify, as it does, ‘The seventh year, the year of release, *is near*’?”

[J] “It is so that [a farmer] will not say, ‘All six years [prior to the Sabbatical year,] one’s vineyard is available, his field is available, [to support him]. Now at the end of six years, funds owing to him are remitted, so that he may not collect them! [If so, how is he supposed to survive?]”

[K] “On that account it is necessary to say, ‘The seventh year, the year of release, *is near* [in reply to this complaint]. [And there is no other lesson to be derived from the cited verse, which simply addresses the stated complaint and yields no further laws.]”

1:3

[A] Witnesses are declared to be perjurers only if they themselves will be incriminated.

[B] How so?

[C] [If they said, “We testify concerning Mr. So-and-so, that he hued someone,”

[D] [and] they said to them, “How can you give any testimony, for lo, this one who is supposed to have been killed, or that one who is supposed to have killed, was with us on that very day and in that very place”

[E] they are not declared perjurers.

[F] But if they said to them, “How can you give testimony, and lo, you yourselves were with us on that very day in that very place”

[G] lo, these are declared perjurers,

[H] and they are put to death on the basis of the testimony [of the incriminating pair of witnesses].

[I] [If others came and gave false testimony against them,

[J] and still others came and gave false testimony against them,

[K] even a hundred –

[L] all of them are put to death.

[M] R. Judah says, “This is a conspiracy, [to confuse the judges] and the only ones to be put to death are those of the first group alone.

[I:1 A] [In regard to Judah’s view, M. 1:3M, that the first group is put to death,] R. Ba bar Mamal said, “But [that the first group also is put to death, while the others are not] applies in a case in which the first pair of witnesses has already been executed. But if they have not been executed, in such a case we do not apply that rule that we have learned, ‘**And the only ones to be put to death are those of the first group alone.**’[M. 1:3M].

[I:2 A] [*In regard to sages’ view, that all of them are put to death,*] R. Bun bar Hiyya raised the following question before R. Zeira: “[If] they were standing and giving testimony against the accused that he had killed someone in Lud, and others came and said to them, ‘How can you give evidence, for lo, you were with us on the fifteenth in Caesarea,’ and yet others came to those and said to them, ‘How can you give testimony, for lo, you were with us on the fifteenth day of the month in Sepphoris –

- [B] “the one who is accused of murder is not put to death.
- [C] “For it may be that the witnesses are perjurers.
- [D] “And the witnesses are not put to death.
- [E] “For [the essence of] what they said may indeed have been the truth.”

1:4

- [A] **Perjured witnesses [in a capital case] are put to death only at the conclusion of the trial.**
- [B] **Now lo, the Sadducees say, “Only when the accused has actually been put to death, since it is said, ‘A life for a life.’”(Deut. 19:21).**
- [C] **Sages said to them, “And has it not also been said, ‘and you will do to him as he had planned to do to his fellow,’ (Deut. 19:19)? And lo, his fellow is still alive!**
- [D] **“If so, why has it been said. ‘a life for a life ‘?**
- [E] **“For one might suppose that from that very moment at which [the judges] have received their testimony [which is proved to be perjury, they should be put to death.**
- [F] **“Scripture says. ‘A life for a life – lo. they are put to death only at the conclusion of the trial.”**

[I:1 A] [I translate the text as given at Y. B.Q. 7:3.] [The present discussion pertains to M. B.Q. 7:3, which is as follows: **If one was convicted of theft on the evidence of two witnesses, and was convicted of having slaughtered or sold the beast on the basis of the testimony of two other witnesses, and these and those turn out to be false witnesses, the first pair of witnesses pays twofold restitution, and the second pair of witnesses pays threefold restitution. If the latter pair of witnesses turn out to be false witnesses, he pays twofold restitution, and they pay threefold restitution. If one of the latter pair of witnesses turns out to be false, the evidence of the second one is null. If one of the first pair of witnesses turns out to be false, the entire testimony is null, for if there is no culpable act of stealing, there also is no culpable act of slaughtering or selling.**] Said R. Zeira, “That is to say, A witness proved to be a perjurer is deemed to have given invalid testimony in court only at the point at which the witness himself is proved to be invalid. [That is to say, if the witness is shown to be a perjurer, from that point onward he is invalid. Then, retrospectively, all the testimony he gave even before the point at which he was proved to be perjured also is deemed null. The invalidation is personal.]”

[B] Interpret the matter to deal with a case of the witnesses giving warning. [The witness must state, “I warned him not to do so and so.” Now Zeira deals with the matter of warning and testimony, in the following terms. We have a case in which the act of theft took place on one day, the act of slaughter or sale on another day. Now even though these actions took place at different times, Mishnah does not take account of such differences. The witnesses give evidence in a single act of testimony, even though they speak of different times or days on which the several culpable deeds took place. Consequently, they will have to pay full compensation, should they be proved to be perjurers, e.g., in the matter of slaughter or sale. The proof of perjury thus is deemed to cover the entire testimony, and that is Zeira’s observation. From the moment at which the testimony is invalidated, whatever is said thereafter is deemed null as well. Consequently, if the witnesses are shown to be perjurers as regards the theft of the beast, their testimony as regards its slaughter or sale is to begin with of no effect. They will not be assessed damages in that regard. At the point at which they gave evidence about slaughter or sale, the witnesses no longer were valid witnesses at all.]

[C] *And so it has been taught: Said R. Yosé, “Under what circumstances? That is so in the case of two acts of testimony, and in the case of two acts of warning [as explained above]. [That is to say, a witness is deemed to be invalid from the moment at which he was proved invalid, and whatever he says about the case is null and of no effect.] But if it is a single act of testimony [as in the case of Zeira’s discussion here], then testimony part of which is invalidated is entirely null [with the consequence that Zeira’s position is effective, as explained] [T. B.Q. 7:23].*

[D] What is the meaning of the statement about nullifying part of a statement in evidence serving to invalidate the entire statement?

[E] If the witnesses were standing and testifying against a man that on the tenth of Nisan he had stolen an ox on the first of Nisan, [and] on the tenth of Nisan he had slaughtered or sold it, [and] on the fifteenth of Nisan they were shown to be perjurers, all the testimony which they had given in regard to the man’s actions from the tenth of Nisan to the fifteenth of Nisan retroactively is deemed null and void. [Since the witnesses testified all at once on these several actions, the entire testimony is deemed null, even though the witnesses spoke of what had been done on different days. It will follow that the witnesses do not pay compensation for their false testimony as to theft, let alone for their false testimony as to

slaughter or sale. Once they were proved perjurers, nothing they said is deemed to have had consequences at all.]

[F] Said R. Ba bar Mamal, “Interpret the statement to apply to a case in which the witnesses were testifying against the accused all at one time. Yosé’s view is that, if the witnesses can be shown to have been in some other place at the time at which they allege one of the acts of felony to have been committed, then their allegations with regard to the rest of those acts are null. For they will have been shown to have been elsewhere at the time, on a given day, on which one of the deeds was done, and whatever they say about the other deeds will then be null as well.]

[G] “And there is no further implication to be drawn from that fact. [All parties concur that, as to evidence concerning what happened beyond that point at which the perjurers are shown to have given false evidence, all such evidence is null. As to what they have said about events prior to the act about which they are shown to have been incapable of giving testimony, however, no inference is to be drawn whatsoever from the stated ruling. Nullification of part of the testimony effectively invalidates the whole of it.]”

[H] *And thus it has been taught that the first set of witnesses is the same as the last, as in the following:*

[I] **one held a field in usucaption in the presence of two for one year, in the presence of two in the second year, and in the presence of two in the third year, lo, these constitute three distinct acts of testimony, and they count as a single act of witness when the evidence is proved false (M. B.B. 3:4GH). If the testimony [31b] of the first group proved false, lo, one has in his possession [valid evidence about] two years. If the second group proved false, lo, he has in his possession [valid evidence about] one year. If the third group proved false, he has nothing whatever in hand. If the first group and the last group are the same, and they turn out to be false witnesses, if the testimony which turned out to be false concerned the first year, he has nothing at all in hand. If it concerned the second year, lo, he has valid evidence about] one year in hand. If it concerned the third year, lo, he has valid evidence about two years in hand [T. B.B. 2:9]. [The point of the cited case at T. B.B. 2:9 is that even though the testimony on the first year of usucaption was false, when there is further testimony about later years, that is valid. Thus evidence given concerning events from the point at which the**

evidence in the case is proved fraudulent and onward is unacceptable. But evidence given concerning what has happened prior to the point at which the testimony is null *still is* valid. Consequently, while the man may not have testimony affecting the second year, he still has evidence regarding the first year. It follows that the whole of the testimony is not nullified retroactively, but only part of it. This brings us to the Talmud's response, as follows.

[J] How [can we accept the statement of R. Ba bar Mamal above] that “the testimony was given at one time and that no further implication can be drawn from that fact” [and his support for the statement from T. B.B. 2:9]?

[K] The support is dissimilar to his case for [Tosefta] treats only a case in which there were several acts of testimony, [that is, in which there were many acts of giving evidence]. [Each act of testimony governs a single year and is deemed distinct from the others. One can, after all, testify to events of one year and not of some other. The three properly validated years of usucaption then are joined together. It follows that evidence will be acceptable for one year, not nullified by evidence governing some other, later year of the cycle. But evidence as to theft and slaughter or sale concerns a single continuous process.]

[L] [Following PM, I now translate the version at Y. B.Q. 7:3:] [Now with reference to the statement at M. B.Q. 7:3 concerning conviction of theft on the basis of the evidence of two witnesses, and conviction of having slaughtered on the basis of the evidence of two other witnesses,] up to now we have dealt with a case in which the witnesses concerning theft and those concerning slaughter came simultaneously.

[M] But if the witnesses concerning theft came and [the judges] did not accept their testimony [for some technical flaw], and afterward witnesses concerning slaughter came along, [and the court] said to them, “You should know that witnesses concerning theft have already come to court, but [the judges] have not accepted them, and it is solely on your account that we shall now accept their testimony as well”

—

[N] then, if the witnesses concerning slaughter turn out to be perjurers, they pay compensation also in behalf of the

witnesses to the matter of theft [for their evidence alone is what has had the effect of imposing liability on the accused *both* for the theft and for the slaughter].

[O] R. Hezekiah did not state matters in that way.

[P] Rather as follows [did he describe the issue]:

[Q] “Up to now we have dealt with a case in which the witnesses to the theft and the witnesses to the slaughter came simultaneously.

[R] “But if the witnesses to the slaughter came, and [the court] did not accept their [testimony], and then the witnesses to the theft came,

[S] “and [the judge] said to them, ‘You should know that witnesses to slaughter have come along, but we did not accept their [testimony], and it is solely on your account that we now accept their testimony as well,’

[T] “then if the witnesses to the theft turned out to be perjurers they must pay in behalf of the witnesses to the slaughter as perjurers, but three do not have the power to prove that two are perjurers.

[U] How do I know that that applies even to a hundred?

[V] Scripture says, “Witnesses.” [It follows then the Scripture must refer to “two or three” in the context of each matter, since one could not have derived the one from the other.]

1:5

[A] “At the mouth of two witnesses or three witnesses shall he that is to die be put to death” (Dt. 17:6).

[B] If the testimony is confirmed with two witnesses, why has the Scripture specified three?

[C] But: [the purpose is] to draw an analogy between three and two.

[D] Just as three witnesses prove two witnesses to be false, also two witnesses may prove three witnesses to be false.

[E] And how do we know that [two witnesses may prove false] even a hundred?

[F] Scripture says, “Witnesses.”

- [G] R. Simeon says, “Just as two” are put to death only if both of them are proved to be perjurers, also three witnesses are put to death only if all three of them are proved to be perjurers.
- [H] “And how do we know that this applies even to a hundred?”
- [I] “Scripture says, ‘Witnesses.’”
- [J] R. Aqiba says, “The mention of the third [witness] is only to impose upon him a strict rule and to treat the rule concerning him as the same as that applying to the other two.
- [K] “And if Scripture has imposed a punishment on someone who gets involved with those who commit a transgression, precisely equivalent to that which is imposed on those who themselves commit the transgression,
- [L] “how much the more so will [Heaven] pay a just reward to the one who gets involved with those who do a religious duty, precisely equivalent to that which is paid to those who themselves actually do the religious duty”
- [M] Just as, in the case of two [witnesses], if one of them turns out to be a relative or otherwise invalid, the testimony of both of them is null,
- [N] so in the case of three, [if] one of them turns out to be a relative or otherwise invalid, the testimony of all three of them is null.
- [O] How do we know that the same rule applies even in the case of a hundred?
- [P] Scripture says, Witnesses.
- [Q] Said R. Yosé, “Under what circumstances? In the case of trials for capital crimes.
- [R] But in the case of trials in property litigations, the testimony may be confirmed with the remaining [valid witnesses].”
- [S] Rabbi says, “All the same is the rule governing property cases and capital cases.”
- [T] This is the rule when [both witnesses] warned the transgressor.
- [U] But if they had not joined in warning the transgressor, what should two brothers do who saw someone commit homicide?
- [I:1 A] [Scripture refers to the requirement that two or three witnesses give testimony so as to impose the death penalty, Dt. 17:6. But Scripture also states, “Only on the evidence of two witnesses or of three witnesses shall a charge be sustained” (Dt. 19:15). The former deals with capital cases, the latter with property cases. Since both refer to two or three witnesses, we now explain the duplication, as follows:] Scripture is required to refer both to property cases and also to capital

cases. For if Scripture had spoken only of property cases but not of capital cases, I might have said, “In the case of property cases, which are of lesser weight, three witnesses have the power to prove two to be perjurers, but two may not prove to be perjurers.

[B] “How do I know that that is so even of a hundred?”

[C] “Scripture states, ‘Witnesses.’”

[D] Now if reference had been made to capital cases but not to property cases, I might have said, “In capital cases, which are weightier, two witnesses have the power to prove that three are perjurers, but three do not have the power to prove that two are perjurers.

[E] “How do I know that that applies even to a hundred?”

[F] “Scripture states, ‘Witnesses.’ [It follows that then Scripture must refer to ‘two or three’ in the context of each entry, since one could not have been derived from the other].”

1:6

[A] [If] there were two seeing the incident from one window, and two seeing it from another window,

[B] and one warning [the transgressor] in the middle,

[C] when part of one group see part of another, lo, these constitute a single body of testimony [subject to the rules given above].

[D] But if not, lo, these constitute two distinct bodies of testimony.

[E] Therefore, if one of them turns out to be perjured, he [the transgressor] and those two witnesses are put to death, but the other group of witnesses is exempt.

[I:1 A] *Said R. Jeremiah, “Note the explanation of what we have learned: If two saw the incident from one window, and two saw it from another window, and one warns the transgressor in the middle, when part of one group sees part of another, lo, these constitute a single body of testimony. But if not, lo these constitute two distinct bodies of testimony.*

[B] “Lo, if they were three [witnesses]?”

[C] “The rule does not apply to such a case. [That is, the matter does not depend on the one in the middle. If he sees both witnesses but they do not see one another, they do not form a single group.]”

[D] *Said R. Yosé, “We have learned, ‘As to three – three are not subject to the same law.’ [If there were three and the one in the*

middle saw them all, in such a case they do not constitute disjointed groups, as at M. 1:6D.]”

[I:2 A] *We have learned here what we have not learned in the entire tractate of Sanhedrin:*

[B] **He and those two witnesses are put to death, but the other group of witnesses [whose testimony is accepted] is exempt [M. 1:6E].**

1:7

[A] **R. Yosé b. R. Judah says, “Under no circumstances is one put to death unless both witnesses against him have given warning to him,**

[B] **“as it is said, ‘At the testimony of two witnesses.’ (Deut. 17:6).**

[C] **.Another interpretation:**

[D] **“At the mouth of two witnesses” [directly – that the Sanhedrin should not listen to the testimony through the intervention of a translator.**

[I:1 A] *R. Hoshaiiah taught, “The following verse is stated with reference to two groups of witnesses, ‘If a malicious witness rises against any man to accuse him of wrongdoing ...’ (Deut. 19: 16).*

[B] [“Witness”] – this is a perjured witness.

[C] “To accuse him” – and not the testimony which he gives. [Now we have an allusion to the second group of witnesses, who testify against the accused that he cannot have given the evidence he gave, because he was somewhere else at the time of the event he describes.]

[I:2 A] As to perjured witnesses, what is the law in respect to their having to be given appropriate warning [prior to their giving testimony? If then, they ignore the warning against giving false witness, they are punished.]

[B] R. Isaac bar Tablai in the name of R. Eleazar: “Perjured witnesses do not have to be given warning.”

[C] *Said R. Abbahu, “Do they then not scruple? [That is, do we assume they would not respond to warning, so that we maintain a warning is not required in their case?]”*

[D] *Said R. Jacob bar Dassai, “There indeed are many such cruel people, who see their fellows taken out for execution and know evidence to free them but say nothing.”*

- [I:3 A] If one has written over his property to two people at one time, and the witnesses to the will are valid for one and invalid for the relatives of the other –
- [B] *R. Hila said, “R. Yohanan and R. Simeon b. Laqish differed on this matter.*
- [C] *“One of them said, ‘Since they are invalid for this party, they are invalid for that.’*
- [D] *“The other said, ‘They are valid for the one and invalid for the other.’”*
- [E] R. Mana did not specify [which party held which opinion, but repeated the tradition in the form just now stated].
- [F] By contrast, R. Abun made explicit [which party held which opinion].
- [G] “R. Yohanan said, ‘Since they are invalid for this party, they are invalid for that party.’
- [H] “R. Simeon b. Laqish said, ‘They are valid for this party and invalid for that party..’
- [I] *Said R. Eleazar, “The following Tannaitic tradition supports the position of R. Yohanan:*
- [J] **“Just as, in the case of two [witnesses], if one of them turns out to be a relative or otherwise invalid, the testimony of both of them is null, so in the case of three, if one of them turns out to be a relative or otherwise invalid, the testimony of all three of them is null. How do we know that the same rule applies even in the case of a hundred? Scripture says, ‘Witnesses.’” [M. 1:5P].**
- [K] *R. Jacob bar Aha: R. Haninah, the associate of the rabbis, and the rabbis differ:*
- [L] *One said, “R. Eleazar stated matters correctly.”*
- [M] *The other said, “R. Eleazar did not state matters correctly.”*
- [N] *The one who said, “ ‘R. Eleazar stated matters correctly,’ holds that the testimony is treated as a single act of giving evidence and subject to a single warning, with the result that we invoke the rule, ‘Any act of testimony, part of which is nullified, is wholly null’].”*

[O] *The one who said that* R. Eleazar did not state matters correctly maintains that they are treated like two distinct pairs of witnesses, who are then suitable in one case and invalid in another.

1:8

[A] **He whose trial ended and who fled and was brought back before the same court –**

[B] **they do not reverse the judgment concerning him [and retry him].**

[C] **In any situation in which two get up and say, “We testify concerning Mr. So-and-so that his trial ended in the court of such-and-such, with Mr. So-and-o and Mr. So-and-so as the witnesses against him,”**

[D] **lo, this one is put to death.**

[E] **[Trial before] a Sanhedrin applies both in the Land and abroad.**

[F] **A Sanhedrin which imposes the death penalty once in seven years is called murderous.**

[G] **R. Eleazar b. Azariah says, “Once in seventy years.”**

[H] **R. Tarfon and R. Aqiba say, “If we were on a Sanhedrin, no one would ever be put to death.”**

[I] **Rabban Simeon b. Gamaliel says, “So they would multiply the number of murderers in Israel.”**

[I:1 A] **[Trial before a] Sanhedrin applies both in the Land and abroad [M. 1:8E],**

[B] as it is written, “And these things shall be for a statute and ordinance to you throughout your generations in all your dwellings” (Num. 35:29).

[C] And why does Scripture say, “You shall appoint judges and officers in all your towns [which the Lord your God gives you]” (Deut. 16:18). – In the towns of the Land of Israel.

[D] The meaning is that in the towns of Israel they set up judges in every town, but abroad they do so only by districts.

[E] *It was taught:* R. Dosetai b. R. Yannai says, “It is a religious requirement for each tribe to judge its own tribe, as it is said, ‘You shall appoint *judges* and officers in all your towns which the Lord your God gives you, according to your tribes.’”(Deut. 16:18).

[I:2 A] *Rabban Simeon b. Gamaliel taught*, “Those declared liable to the death penalty who fled from the Land abroad – they put them to death forthwith [upon recapture].

[B] “If they fled from abroad to the Land, they do not put them to death forthwith, but they undertake a trial *de novo*.”

YERUSHALMI MAKKOT

CHAPTER TWO

2:1

[A] [31C] These are the ones who go into exile:

[B] he who kills someone accidentally.

[C] [If] he was rolling [the roof] with a roller, and it fell down on someone and killed him,

[D] [if] he was letting down a jar [from the roof] and it fell on [a man] and killed him,

[E] [if] one was climbing down a ladder and fell down on someone and killed him –

[F] lo, this person goes into exile.

[G] But: if he was pulling up a roller, and it fell on [a man] and killed him,

[H] [if] he was drawing up a jar, and the rope broke, and [the jar] fell on a man and killed him,

[I] M he was climbing up a ladder and fell on a man and killed him,

[J] lo, this one does not go into exile.

[K] This is the governing principle: whatever happens en route downward – the person goes into exile.

[L] [And whatever happens] nor en route downward – the person does not go into exile.

[I:1 A] In the cases of M. 2:1C, D,] R. Judah declares [the man] exempt unless he lets the whole rope go.

[B] R. Simeon declares exempt unless he undoes the entire windlass.

[C] *What R. Simeon said* in regard to the breaking of the rope [accords with the view of rabbis]. [If the rope of the roller broke, even though part of it remained in the man's hand, he goes into exile. It is not necessary to let the entire rope fall from his hand.]

[D] *What R. Judah said* in regard to the releasing of the windlass [is in accord with the view of Rabbi, M. 2:2, that one is liable only if the entire rope – in this case, windlass – will be released from his hand].

[I:2 A] *R. Jeremiah raised the question before R. Abbahu:* “If one was drawing up the roller to himself, and the other party put his head out the window, and the roller hit him [and he died], [what is the law]? [Since this is en route upward (M. 2:1L), perhaps he does not have to go into exile. Or since he was in the process of plastering, it is as if it is en route downward.]”

[B] He said to him, “Going up is the same as coming down [in this case]. [That is, bringing the roller up in this case is tantamount to letting it down, and he goes into exile.]”

[C] *R. Jeremiah raised the question before R. Abbahu,* “If one was drawing the roller up and a child put out his hand and the roller crushed it [what is the law]?”

[D] *He said to him,* “*Why are you bothering yourself?* Going up is the same as coming down [in the present case, as I just said to you].

2:2

[A] [If] the iron flew from the heft and killed someone,

[B] Rabbi says, “He does not go into exile.”

[C].and sages say, “He goes into exile.”

[D] [If] it flew from the wood which is being split,

[E] Rabbi says, “He goes into exile.”

[F] And sages say, “He does not go into exile.”

[I:1 A] What is the Scriptural basis for the position of Rabbi [at M. 2:2D-E]?

[B] Here it is stated, “... [and the head] slips [from the handle and strikes his neighbor so that he dies ...]” (Deut. 19:5).

[C] And later on, the same verb root is used: “[... for your olives] shall drop off...” (Deut. 28:40).

[D] Just as the verb root used later means “dropping off,” so here it means “dropping off.”

[E] What is the Scriptural basis for the position of the rabbis [at M. 2:2F]?

[F] Here the verb root “slipping” is used.

[G] And later on elsewhere we have the following: "... and clears away many nations before you." (Deut. 7:1).

[H] Just as the verb root, clearing away, refers to an [active] blow there, so here too it speaks of an [active] blow [by an object which strikes something, e.g., the ax, not chips of wood].

2:3

[A] **He who throws a stone into the public domain and committed homicide – lo, this one goes into exile.**

[B] **R. Eliezer b. Jacob says, "If after the stone left the man's hand. the other party stuck out his head and took [the stone on the head], lo, this one is exempt."**

[I:1 A] *R. Eliezer b. Jacob taught, "' [As when a man goes into the forest with his neighbor to cut wood, and his hand swings the axe to cut down a tree, and the head slips from the handle and] finds [his neighbor so that he dies]' (Deut. 19:5).*

[B] "that is to say that the other be available to him at the time at which he kills him [thus excluding the one who makes himself available by his own action]."

[I:2 A] And he has every right to throw a stone in the public way, [so why should he be guilty at all]?

[B] Said R. Yosé b. R. Bun, "Interpret the matter to apply to a case in which his wall was unsteady [and the man was tearing it down. He had no right to do so in the public way.]"

2:4

[A] **[If] he threw the stone into his own courtyard and killed him,**

[B] **if the victim had every right to go into there, [the other party] goes into exile.**

[C] **And if not, he does not go into exile,**

[D] **as it is said, "As when a man goes into the forest with his neighbor" (Dt. 19:5) –**

[E] **just as the forest is a domain in which both the victim and the one who inflicted injury have every right to enter,**

[F] **so the courtyard belonging to the householder is excluded [from reference], since the victim had no right to go there.**

[G] **Abba Saul says, “Just as cutting wood is optional, so are excluded [from punishment those who do their duty, e.g.:] the father who hits his son, the master who strikes his disciple, and the court official [who committed homicide in the doing of their duty].”**

[I:1 A] Said R. Yannai, “A butcher who was chopping meat, and who smote [someone], whether above or below, goes into exile. [That is, whether swinging the chopper above, backward, or below, downward and forward.]”

[B] *And this statement accords with that which R. Huna said, “A butcher who is chopping meat and smote someone in front of him, downward, goes into exile.*

[C] “If it was on an upward stroke [in front of him], he does not go into exile.

[D] “If it was to the rear, on an upward stroke, he goes into exile.

[E] “If it was [to the rear] on a downward stroke, he does not go into exile.”

[I:2 A] *Said R. Isaac, “Every sort of case accords with its own context.*

[B] “If one sat on a bed by day, and it is not usual for a baby to be put on the bed by day, he goes into exile.

[C] “If he sat on the bed by night, and it is usual for the child to be put into bed at night, he does not go into exile [for he should have expected that, at night, the baby would be in the bed].

[D] “If he sat down on the crib, by day, and it is usual for the baby to be put into the crib by day, he does not go into exile.

[E] “If he did so by night, and it is not usual for the baby to be put into the crib by night, he goes into exile.”

[I:3 A] Said R. Yosé b. Haninah, “[If] one was standing and chopping wood in his own courtyard, and a worker came in [with permission to collect his salary,

[B] “and a chip of wood flew and injured him,

[C] “[the householder] is liable.

[D] “And if [the worker] should die, [the householder does not go into exile [but is tried].”

[E] *And did not R. Hiyya teach, “He is exempt”?*

- [F] *There is no argument between them.*
- [G] *That which R. Yosé said applies to a case in which he saw him [and did not take appropriate precautions].*
- [H] *And that which R. Hiyya said applies to a case in which he did not see him at all.*
- [I] If it is a case in which he did not see him, since he said to him, “Come in,” he should be liable in any event.
- [J] *And did not R. Hiyya teach, “He is exempt”?*
- [K] Since he said to him, “Come in,” the worker has the duty of taking precautions for himself.
- [L] *And there is he who wishes to say, “Since he said to him, ‘Come in,’ it is like a courtyard belonging to partners.”*
- [M] [For] R. Hiyya in the name of R. Yohanan said, “Joint holders acquire possession from one another in a courtyard, and they are liable to one another on account of injuries done to one another.”
- [N] And did not Rab say, “It is as if the man fills up the entire [31d] public way.”
- [O] And does this one fill up the entire public way!? [Why cannot the injured party guard himself properly?]
- [P] He said, “Since it is usual for him to go about in the courtyard, he [the one who caused the damage] is like one who occupies the entire courtyard [and so is liable].”

2:5

- [A] The father goes into exile because of [the death of] the son.**
- [B] And the son goes into exile because of the [the death of] father.**
- [C] All go into exile because of [the death of] an Israelite.**
- [D] And an Israelite goes into exile on their account,**
- [E] except on account of [the death of] a resident alien.**
- [F] A resident alien goes into exile only on account of [the death of] another resident alien.**
- [G] “A blind person [guilty of manslaughter] does not go into exile,” the words of R. Judah.**
- [H] R. Meir says, “He goes into exile.”**

- [I] One who bears enmity [for his victim] does not go into exile.
- [J] R. Yosé b. R. Judah says, “One who bears enmity [for his victim] is put to death,
- [K] “for he is in the status of one who is an attested danger.”
- [L] R. Simeon says, “There is one who bears enmity [for the victim] who goes into exile, and there is one who bears enmity who does not go into exile.
- [M] “This is the governing principle : In any case in which one has the power to say, ‘He killed knowingly,’ he does not go into exile.
- [N] “And if he has the power to say, ‘He did not kill knowingly,’ lo, this one goes into exile.”
- [I:1 A] Said R. Zeira, *R. Shila bar Buna taught*, “Since it is said, ‘The avenger of the blood shall himself put the murderer to death’ (Num. 35:19), lo, he who killed his son – his other son is not appointed avenger of the blood to kill his father.
- [B] “But if a brother killed a brother, another brother is appointed avenger of the blood to kill his brother.”
- [C] *R. Eliezer b. Jacob taught*, “Since it is said, ‘The avenger of the blood shall himself put the murderer to death,’ lo, he who smote his son – his other son is appointed avenger of the blood to put his father to death.
- [D]”But in the case of a brother who killed his brother, his other brother is not appointed avenger of the blood to put his brother to death.”
- [E] And how do we know that even if he said that he cannot find him right off, [he must go in search of him]?
- [F] Scripture said, “When he meets him, he shall put him to death” (Num. 35:19).
- [II:1 A] *Said R. Ba*, “Who ought that a blind person [does not go into exile]?”
- [B] “It is R. Judah.
- [C] “For R. Judah declares him exempt from all of the religious requirements which are stated in the Torah.
- [D] “*For we have learned there: ‘Whoever has never in his life seen the lights “of heaven” should not recite the Shema’ (M. Meg. 4:6). Lo, if he saw them, he does recite it.*”

- [II:2 A] And both of them interpret the same verse [at M. 2:5G-H, **A blind person [guilty of manslaughter] does not go into exile,**” the words of R. Judah. R. Meir says, “**He goes into exile:**”].
- [B] “[Or if he used a stone, by which a man may die, and] without seeing him [cast it upon him so that he died]” (Num. 35:23) –
- [C] R. Meir says, “The reference to ‘not seeing him’ is meant to encompass a blind person.”
- [D] R. Judah says, “It is meant to exclude a blind person.”
- [E] *The opinions assigned to R. Judah are reversed.*
- [F] *There he has said that it serves as an exclusion [at M. 2:5G], and here [at M. Meg. 4:6] he states that it serves to encompass [one who once had sight and lost it].*
- [G] Said R. Haninah, son of R. Hillel, “*The Mishnah speaks of a case in which one is sitting in a house wholly without light, [and has nothing to do with blindness].*”
- [H] Thus do we say, “He who is sitting in a house without light should not recite the Shema”?! [Obviously not!]
- [I] But here, the phrase “without seeing” serves to encompass the blind person [as stated].
- [J] *How do rabbis [=Judah] interpret the language “without seeing”?*
- [K] It is to encompass him who smites someone by night.

2:6

- [A] **Whither do they go into exile?**
- [B] **To the cities of refuge –**
- [C] **to three which are in Transjordan, and to three which are in the Land of Canaan,**
- [D] **as it is said, “You shall set aside three cities beyond Jordan, and three cities you shall set aside in the Land of Canaan” (Num. 35:14).**
- [E] **Before the three in the Land of Israel had been selected [Josh. 20:7], the three which were on the other side of the Jordan [also] did not afford refuge,**
- [F] **as it is said, “They shall be for you six cities of refuge” –**

- [G] [they do not afford refuge] until all six of them afford refuge at the same time.
- [H] And [direct] roads [were prepared] from one to the other,
- [I] as it is said, “And you shall prepare the way, and divide the borders of your land” (Deut. 19:3).
- [J] And they hand over to him two disciples of sages, lest [the avenger of the blood] should kill him en route.
- [K] They will speak to [the avenger of the blood].
- [L] R. Meir says, “Also he [the manslayerer] may speak to [the avenger of the blood],
- [M] “as it is said, ‘This is the word of the manslayer.’” (Deut. 19:4).
- [N] R. Yosé b. R. Judah says, “To begin with, both the one who kills by accident and the one who kills maliciously go first to the cities of refuge.
- [O] “Then the court sends and brings [the murderer] back from there.
- [P] “He who is found guilty of death in court they executed.
- [Q] “And he who is not found guilty of death they set free.
- [R] “He who is found guilty of a crime requiring exile they returned to his place,
- [S] “as it is said. ‘And the community shall send him back to his city of refuge.’” (Num. 35:25).
- [T] All the same are [the deaths of the high priest who is anointed with anointing oil, the one who is consecrated by being clothed in many garments, and the one who has passed from his anointment as high priest – [upon the death of one of these] they bring back the murderer [from the city of refuge, his term having ended].
- [U] R. Judah says, “Also [on the occasion of the death of a priest anointed for war does one bring back the murderer.”
- [V] Therefore the mothers of the priests provide food and clothing for those [who are in the cities of refuge,] so that they will not pray that their sons will die.
- [W] [If] after one’s trial has ended [with the sentence of exile], a high priest died, lo, this one does not go into exile.
- [X] [If it was before the trial had ended that the high priest died and another was appointed in his stead, and afterward his trial came to an end,
- [Y] he comes back only at the death of the next high priest.
- [Z] [If] one’s trial ended at a time at which there was no high priest,

- [AA] he who kills a high priest,
[BB] and a high priest who committed involuntary manslaughter –
[CC] [none of these leaves there forever.
[DD] And one does not leave [the city of refuge] either for giving testimony having to do with a religious duty, or to give testimony having to do with property, or to give testimony having to do with a capital crime.
[EE] And even if the Israelites need him.
[FF] and even if he is a general of the Israelite army of the quality of Joab b. Zeruiah,
[GG] he may not leave there ever,
[HH] as it is said. “Whither he has fled” (Num. 35:25)
[II] there will be his dwelling, there will be his death, there will be his burial.
[JJ] Just as the town affords refuge, so the Sabbath limit of the town affords refuge.
[KK] The manslayer who went beyond the limit, and whom the avenger of the blood found –
[LL] R. Yosé the Galilean said. “It is a religious duty in the hand of the avenger of the blood [to kill the manslayer], and it is an option available to any one else [to do so as well].”
[MM] R. Aqiba says, “It is an option available to the avenger of the blood, and anyone else bears no liability [if he does so].”
[NN] I tree standing in the Sabbath limit, with its branches extending outside of the Sabbath limit –
[OO] or standing outside of the Sabbath limit, with its branches extending within the Sabbath limit –
[PP] everything follows the location of the branches.
[QQ] [If] one has committed manslaughter in that very town, he goes into exile from one neighborhood to another.
[RR] And a Levite goes into exile from one town to another.
[SS] Delete: Similarly,] A manslayer who went into exile into a city of refuge, whom the townsfolk wanted to honor must inform them. “I am a manslayer.”
[TT] [If] they said to him, “Even so,” he may accept [the honor] from them.
[UU] as it is said. “This is the word of the manslayer” Deut 19.

- [I:1 A] Three cities [of refuge] did Moses set aside in Transjordan,**
- [B] and when they came to the Land, they set aside three more.**
- [C] [But even so,] neither these nor those afford protection until they had conquered and divided up [the Land] [M. 2:6E].**
- [D] Once they had conquered and divided up the Land, and so had become liable to the tithes and to the laws of the Seventh Year,**
- [E] both these and those commenced to afford protection [to the manslayerer] [M. 2:6G] [T. Mak. 3:1].**
- [F] Three cities did they Joshua] set aside in the Land of Israel,**
- [G] and they corresponded to the three which Moses had designated on this side of the Jordan, like two rows of vines in vineyard.**
- [H] Hebron in Judah corresponded to Boser in the wilderness; Shekhem in the mountains of Ephraim corresponded to Ramot Gilead; Qadesh in Galilee corresponded to Golan in Bashan.**
- [I] Before they had set aside Shekhem in the Mountains of Ephraim, it did not afford protection.**
- [J] They set aside Qiriat Yearim in its stead, until they had conquered Shekhem.**
- [K] Before they had set aside Qadesh in Galilee, it did not afford protection.**
- [L] So they set aside Gamla in its stead, until they had conquered Shekhem [T. Mak. 3:2].**
- [M] And you will divide” (Deut 19:3) – that they be divided into three parts.**
- [N] So that from Hebron to the south is the same distance as from Hebron to Shekhem, and from Hebron to Shekhem is the same distance as from Shekhem to Qadesh [T. Mak. 3:3].**
- [O] If one of them fell down, they build it up in the same location.**
- [P] And how do we know that they may build it up even in some other location? Scripture says, “Six cities of refuge” (Num. 25:13) –**
- [Q] that they should be lined up and should afford protection just as do the &t ones [T. Mak. 3:4].**

- [R] As to these three cities, they do not make them into large cities nor into small towns, but mid-sized cities.
- [S] They build them only at a market town.
- [T] If there is no market town there, they build one.
- [U] They build them only in a place in which there is adequate water.
- [V] [If] they do not have adequate water, they bring water to them.
- [M] And they build them only in a populated area. [If] the population went down, they bring others and settle them in their place.
- [X] If their residents went down in numbers, they add to them priests, Levites, and Israelites [T. Mak. 3:8].
- [Y] “They do not make [in the cities] olive presses or wine presses,” the words of R. Nehemiah.
- [Z] And sages permit.
- [AA] And they do not weave ropes in them,
- [BB] and they do not make glass utensils in them,
- [CC] so as not to provide many occasions for the avenger of the blood to go there [T. Mak. 3:9].
- [I:2 A] *R. Yohanan sent to the rabbis over there [in Babylonia]: “Two things you say in the name of Rab and they are not so.*
- [B] “You say in Rab’s name: ‘A beautiful captive woman – permitted in her case is only the first act of sexual relations.’
- [C] “But I say that it is neither the first nor any later act of sexual relations that is permitted, except after all the required preparations have been carried out,
- [D] “as specified as follows: ‘[When you go forth to war against your enemies, and the Lord your God gives them into your hands, and you take them captives, and see among the captives a beautiful woman, and you have desire for her and would take her for yourself as wife, then you shall bring her home to your house, and she shall shave her head and pare her nails. And she shall put off her captive’s garb, and shall remain in your house and bewail her father and her mother a full month] and after that you may go in to her, [and be her husband, and she shall be your wife]’ (Deut. 21:1-13).
- [E] “That is, after the specified deeds.

- [F] “*And you say in the name of Rab: ‘Joab imagined that the horns of the altar would afford protection to him, but only the roof of the high place at Shiloh affords protection, while that of the Eternal House does not afford protection.’*”
- [G] “And I say that the altar does not afford protection, nor does its roof afford protection, nor even does that of Shiloh afford protection, nor does the Eternal House afford protection.
- [H] “Only the six cities of refuge alone afford protection.”
- [I] Now is it possible that Joab, concerning whom it is written, “A Tahchemonite, chief of the three” (2 Sam. 23:8), should have made an error in such a matter?
- [J] Said R. Tanhuma, “He had fled to the Sanhedrin.”
- [K] *This is in line with that which you learn:*
- [L] As to those put to death by a court, their property goes to their heirs, while as to those put to death by the state, their property goes to the state.
- [M] Consequently Joab thought, “It is better that I should be put to death in court, so that my children may inherit my estate, and let me not be put to death by the king, who then would inherit my property.”
- [N] When Solomon heard this, he said, “Do I really need his money?!”
- [O] Forthwith: “[Do as he has said and strike him down and bury him; and thus] take away [from me and from my father’s house the guilt for] the blood [which Joab shed] without cause” (1 Kings 2:31).
- [P] The blood had been shed without cause, but his money was not taken away without cause.
- [Q] “Then Benaiah the son of Jehoiada went up, and struck him down and killed him; and he was buried in his own house in the wilderness” (1 Kings 2:34).
- [R] Now was his house really in the wilderness?
- [S] But this is stated to let you know that when Joab died, who had been general of the Israelite army, Israel was turned into a wilderness.
- [T] [He had enriched the community.] If you say that he would take spoil and with it build for the Israelites public baths and watering places, it is a matter of praise.

[U] If you say that he would take spoil and support sages and their disciples, it is the greatest praise of all.

[V] Now how do we know that the great Sanhedrin was located near the altar [on account of which Joab was said to be near the altar]?

[W] It is written, “And you shall no go up by steps to my altar” (Ex. 20:26).

[X] And thereafter it is stated, “Now these are the ordinances which you shall set before them” (Ex. 21:1).

[I:3 A] *It was taught:* R. Eliezer b. Jacob says, “Refuge ..., ‘Refuge...,’ is stated [two times] at the crossroads,

[B] “so that the manslayer may see that which is written and know in which direction to go.”

[C] Said R. Abun, “There was a sign shaped like a hand, showing them the way.”

[I:4 A] Said R. Phineas: “‘ Good and upright [is the Lord; therefore he instructs sinners in the way]’ (Ps. 25:8).

[B] “Why is he good? Because he is upright.

[C] “And why is he upright? Because he is good.

[D] “‘Therefore he instructs sinners in the way – that is, he teaches them the way to repentance.’”

[E] They asked wisdom, “As to a sinner, what is his punishment?”

[F] She said to them, “Evil pursues the evil” (Prov. 13:21).

[G] They asked prophecy, “As to a sinner, what is his punishment?”

[H] She said to them, “The soul that sins shall die” (Ez. 18:20).

[I] They asked the Holy One, blessed be he, “As to a sinner, what is his punishment?”

[J] He said to them, “Let the sinner repent, and his sin will be forgiven for him.”

[K] This is in line with the following verse of Scripture: “Therefore he instructs sinners in the way” (Ps. 25:8).

[L] “He shows the sinners the way to repentance.”

- [II:1 A]** It is written, “Like a sparrow in its flitting, like a swallow in its flying, a curse that is causeless does not alight” (Prov. 26:2).
- [B] Can you say so [that is, M. 2:6V]? [For the prayer will do no harm, in line with A.]
- [C] Interpret the statement to apply to a case in which it was the right time [for such a prayer].
- [D] This is in line with that which R. Yosé b. Halafta said, “There are times for prayer.
- [E] “Said R. David before the Holy One, blessed be he, ‘Lord of all worlds, when I pray before you, may it be an acceptable time, as it is written, ‘But as for me, my prayer is to thee, O Lord. At an acceptable time, O God, in the abundance of thy steadfast love answer me.’” (Ps. 69:13).
- [III:1 A]** R. Samuel bar Nahman in the name of R. Jonathan, “At every point at which ‘speaking’ is mentioned, there is a new point there made by Scripture.”
- [B] And is it not written, “And God spoke ...”?
- [C] This is in line with what the exegesis which the sages provided [the passage is not completed].
- [D] What is the meaning of, “Then the Lord said to Joshua, ‘Say to the people of Israel, Appoint the cities of refuge ... and give him a place, and he shall remain with them.’” (Joshua 20:1)?
- [E] The rabbis of Caesarea in the name of R. Shiloh: “If he was a disciple of a sage, they organize a meetinghouse for him.”
- [III:2 A]** Three cities [of refuge] did Moses set aside [32a] in Transjordan, and when they came into the Land, they set aside three more.
- [B] And in the time to come, they will set aside three more in each case, thus there are 15, “and yet three more”, (Deut. 19:9)10, nine, as it is said, “Three ... three ... three ...,” lo, nine.
- [C] Abba Saul says, “Three for the three, lo, six, and another three, lo, nine, for the three, thus twelve” [T. Mak. 3:10].
- [D] R. Nehorai says, “‘ Three ...,’ ‘three...,’ ‘three ...,’ – lo, nine. ‘And more – lo, twelve. ‘In addition to the three ...,’ lo, fifteen.’”
- [E] It is written, “And the cities which you give shall be your six cities of refuge” (Num. 35:13).

[E:] The meaning is that all six of them should afford protection simultaneously [cf. M. 2:6E].

[G] *And you say thus?*

[III:3 A] [M. 2:6T, treating priests consecrated in different ways as equivalent:] *And this is in accord with that which R. Samuel said in the name of R. Aha: “In five ways the latter Temple was less than the former temple, as it is written, ‘Go up to the hills and bring wood and build the house, that I may take pleasure in it and that I may appear in my glory, says the Lord’ (Haggai 1:8).*

[B] “‘And I shall appear in my glory’ is written, lacking the expected he, referring to the five ways in which the latter temple was less than the former temple.

[C] “And these are they:

[D] “Fire, ark, Urim and Thummim, anointing oil, and Holy Spirit.”

[III:4 A] Said Abbaye, “A disciple of a sage has to make himself known.

[B] “How so?

[C] “*A man who knew one tractate, and he who went to a place and they paid him honor as if he knew two tractates has to tell them, ‘I know only one tractate.’”*

[D] R. Huna said, “He says so in a pleasant manner and with the right hand open to accept repayment.”

[III:5 A] *What is the Scriptural basis for the position of R. Yosé [at M. 2:6LL]?*

[B] “Lest the avenger of blood in hot anger pursue the manslayer and overtake him” (Deut. 19:6) [which indicates it is his religious duty to do so].

[III:6 A] Said R. Abbahu, “And the manslayer returns when the third of the three dies [if the second dies as did the first]” [cf. M. 2:6Y].

[III:7 A] Said R. Abbahu, “If they need him for something [M. 2:6DD], they send and bring him back from there. [So Mishnah’s rule is narrowly construed.]”

[B] *Said R. Yosé, “The Mishnah does not say so. **But even if the Israelites need him, and even if he is a general of the Israelite army of the quality of Joab b. Zeruah, he may not leave there ever, as it is said, ‘Whither he has fled ...’ (Num. 35:25) [M. 2:6EE-HH].***

2:7

[A] “[Refugee manslayers] paid Levites a rental,” the words of R. Judah.

[B] R. Meir says, “They did not pay them a rental.”

[C] “And [the manslayer] returns to the office which he had held before,” the words of R. Meir.

[D] R. Judah says, “He did not return to the office which he had held before.”

[I:1 A] [As to the rights of possession accruing to the Levites in the cities of refuge,] *it was taught*: R. Judah says, “They were given [to the Levites] for division [as their permanent possession in the Land].”

[B] R. Yosé says, “They were given for dwelling [but not as a permanent possession and inheritance].”

[C] *The view of R. Yosé [at Y. M.S. 5:5] is in accord with the opinion of R. Meir, and that of R. Judah is consistent with what he has already said [at M. 2:7A].*

[D] *For we have learned, “They pay Levites a rental,” the words of R. Judah. R. Meir says, “They do not pay them a rental.”*

[I:2 A] Raba in the name of R. Judah, R. Zeira in the name of Mar Uqba: “[M. Erub. 5:4:] **They measure only with a rope fifty cubits long** [in order to establish the Sabbath boundaries of a town].”

[B] R. Zira in the name of R. Hisda says, “They do not measure by level distance [between two places separated by mountains, but include the mountain in ground measure] [for the purpose of adding to the Sabbath limits of a town] either in the towns of the Levites [to determine its borders] or in the location of a heifer whose neck is broken [to determine which city is closer].”

[C] *And this view accords with the opinion of him who said, “A thousand cubits constitute the outskirts of a village, and two thousand, the Sabbath limit” [M. Sot. 5:3]. [That is, for the cities of refuge no measure by level distance was taken, but for the establishment of the Sabbath limit, they did survey by level distance.]*

[D] *But in accord with the one [Eleazar b. R. Yosé the Galilean] who said, “A thousand are the outskirts, and two thousand encompass the fields and vineyards of a town” [M. Sot. 5:3], did they not derive the rule for the Sabbath limit from the boundaries of the towns of the Levites? [That is, we know the*

Sabbath limit's measurement from that specified for the cities of refuge. Thus from this viewpoint would it follow that] if for the main point of interest they do not make a survey by level distance, for the secondary point of interest, will they make a survey by level distance [that is, for the Sabbath limit]? [Obviously not! So the authority of B is C, not D.]

- [I:3 A]** And how do we know from Scripture that they do not bury the dead in the Levites' towns?
- [B] R. Abbahu in the name of R. Yosé bar Haninah: “The cities shall be theirs to dwell in, and their pasture lands shall be for their cattle and for their livestock and for all their beasts’ (Num. 35:3).
- [C] “For that which is alive have the pasture lands been given over, and not for burial of the dead.”

YERUSHALMI MAKKOT

CHAPTER THREE

3:1

[A] These are the ones who are flogged:

[B] He who has sexual relations with (1) his sister, (2) the sister of his father, (3) the sister of his mother, (4) the sister of his wife, (5) the wife of his brother, (6) the wife of the brother of his father,

[C] (7) a menstruating woman,

[D] (8) a widow in the case of a high priest, (9) a divorcée or a woman who has performed the rite of removing the shoe with an ordinary priest, (10) a mamzer girl and a (11) Netin girl with an Israelite, (12) an Israelite girl with a Netin or with a mamzer

[E] As to a widow and a divorcée, [priests] are liable in her case on two counts.

[F] In the case of a divorcée and a woman who has performed the rite of removing the shoe, [a priest] is liable in her case on only one count alone.

3:2

[A] [Also subject to flogging are]: (1) an unclean person who ate food in the status of Holy Things: (2) he who enters the Temple unclean,

[B] (3) he who eats forbidden fat, blood, remnant of a sacrifice left overnight, meat of a sacrifice rendered invalid by the improper intention of the officiating priest, or unclean [sacrificial meat];

[C] (4) he who slaughters an animal and offers it up outside of the Temple;

[D] (5) he who eats leaven on Passover;

[E] (6) and he who eats or who does an act of labor on the Day of Atonement;

[F] (7) he who prepares anointing oil like the anointing oil of the Temple, (8) he who prepares incense like the incense of the Temple, or (9) he who anoints himself with anointing oil;

[G] (10) he who eats carrion or terefah meat, forbidden things, or creeping things.

[H] [If] one ate (1) food from which tithes had not been removed at all, (2) first tithe from which heave offering had not been removed, (3) second tithe or consecrated food which had not been redeemed, (he is liable to flogging).

[I] How much food which had not been tithed at all does one eat so as to be liable?

[J] R. Simeon says, "Any amount at all."

[K] And sages say, "An olive's bulk."

[L] Said to them R. Simeon, "Do you not agree with me in the case of one who eats an ant, however small, that he is liable?"

[M] They said to him, "It is because that is how it has been created."

[N] He said to them, "Also a single grain of wheat is precisely in the form in which it has been created."

3:3

[A] [Also subject to flogging are]: (1) he who eats first fruits over which one has not made the required declaration;

[B] (2) Most Holy Things outside the Temple veils, (3) Lesser Holy Things or second tithe outside the wall [of Jerusalem].

[C] He who breaks the bone of a Passover offering which is in a state of cleanness – lo, this one is flogged with forty stripes.

[D] But he who leaves over meat of a clean Passover offering or who breaks the bone in the case of an unclean one is not flogged with forty stripes.

3:4

[A] He who removes the dam with the offspring –

[B] R. Judah says, "He is flogged, and he does not have to send the dam away."

[C] And sages say, "He sends the dam away, and he is not flogged."

[D] This is the governing principle: In the case of any negative commandment which involves doing a positive deed, one is not liable.

3:5

- [A] (1) He who makes a baldness on his head [Dt. 14:1], (2) he who rounds the corners of his head and (3) mars the corners of his beard [Lev. 19:27], (4) or he who makes a single cutting for the dead [Lev. 19:28] is liable.
- [B] [If] he made a single cutting on account of five different corpses,
[C] or five cuttings on account of one corpse,
[D] he is liable for each and every one of them.
- [E] For [cutting off the hair of] the head, he is liable on two counts, one for each side of the head.
- [F] For cutting off the beard, he is liable on two counts for one side, two counts for the other side, and one count for the lower part.
- [G] R. Eliezer says, “If he removed all of it at once, he is liable only on one count.”
- [H] And he is liable only if he will remove it with a razor.
- [I] R. Eliezer says, “Even if he removed it with pincers or with an adze, he is liable.”

3:6

- [A] He who tattoos his skin –
[B] [If] he made a mark but did not tattoo it in,
[C] tattooed it in but did not make a mark,
[D] he is not liable –
[E] unless he makes a mark and tattoos with ink or with eye paint or with anything which lasts.
- [F] R. Simeon b. Judah says in the name of R. Simeon, “He is liable only if he will write the name [of a god],
[G] “as it is written, ‘Nor will you tattoo any marks on you, I am the Lord’ (Lev. 19:28).”

3:7

- [A] A Nazirite who was drinking wine all day long is liable on only one count,
[B] [If] they said to him, “Don’t drink, don’t drink!” yet he continued to drink,
[C] he is liable on each count.

3:8

- [A] [If a Nazirite] was contracting corpse uncleanness all day long, he is liable on only one count.
- [B] [If] they said to him, “Do not contract corpse uncleanness! Do not contract corpse uncleanness!” yet he continued to contract corpse uncleanness,
- [C] he is liable on each count.
- [D] [If] he was shaving himself all day long, he is liable on only one count.
- [E] [If] they said to him, “Don’t shave! don’t shave!” yet he continued to shave,
- [F] he is liable on each count.
- [G] If someone was wearing a garment of diverse kinds (Lev. 19:19, Dt. 22:11) all day long, he is liable on only one count.
- [H] [If] they said to him, “Don’t put it on! don’t put it on!” yet he took it off and then put it on, he is liable on each count.

3:9

- [A] There is one who ploughs a single furrow and is liable on eight counts of violating a negative commandment: [specifically, it is] he who (1) ploughs with an ox and an ass [Dt. 22:10], which are [2, 3] both Holy Things, in the case of (4) [ploughing] Mixed Seeds in a vineyard [Dt. 22:9], (5) in the Seventh Year [Lev. 25:4], (6) on a festival [Lev. 23:7] and who was both a (7) priest [Lev. 21:1] and (8) a Nazirite [Num. 6:6] [ploughing] in a graveyard.
- [B] Hananiah b. Hakhinai says, “Also: He is [ploughing while] wearing a garment of diverse kinds” [Lev. 19:19, Dt. 22:11].
- [C] They said to him, “This is not within the same class.”
- [D] He said to them, “Also the Nazir [B8] is not within the same class [as the other transgressions].”

3:10

- [A] How many times do they flog him?
- [B] Forty stripes less one,
- [C] as it is said, “By number, forty” (Dt. 25:2,3) – a number near [but less than] forty.
- [D] R. Judah says, “He is flogged a full forty times,”
- [E] And where does the additional one fall?

[F] Between the shoulders.

3:11

[A] They make an estimate of his capacity to take the flogging [without being irreparably injured or killed] only by a number divisible by three.

[B] [If] they estimated him as able to take forty, [if] he then received part of the flogging, and they said that he cannot take all forty, he is exempt.

[C] [If] they estimated him as able to take eighteen, [and] once he has received the flogging [of eighteen], they said that he can take all forty, he [still] is exempt from the rest.

[D] [If] he committed a transgression on which he is liable on two counts of violating negative commandments, and they make a single estimate [of what he can take, covering both sets],

[E] he is flogged and exempt [from the other].

[F] And if not, he is flogged and allowed to heal, and then goes and is flogged again.

3:12

[A] How do they flog him?

[B] One ties his two hands on either side of a pillar,

[C] and the minister of the community grabs his clothing –

[D] if it is torn, it is torn, and if it is ripped to pieces, it is ripped to pieces

–

[E] until he bares his chest.

[F] A stone is set down behind him, on which the minister of the community stands.

[G] And a strap of cowhide is in his hand, doubled and redoubled, with two straps that rise and fall [fastened] to it.

3:13

[A] Its handle is a handbreadth long and a handbreadth wide,

[B] and its end must reach to his belly button.

[C] And he hits him with a third of the stripes in front and two-thirds behind.

[D] And he does not hit [the victim] while he is either standing or sitting, but bending low,

[E] as it is said, “And the judge will cause him to lie down” (Dt. 25:2).

[F] And he who hits him hits with one hand, with all his might.

3:14

[A] And a reader reads: “If You will not observe to do ... the Lord will have your stripes pronounced, and the stripes of your seed” (Dt. 28:58ff.) (and he goes back to the beginning of the passage). “And you will observe the words of this covenant” (Dt. 29:9), and he finishes with, “But he is full of compassion and forgave their iniquity” (Ps. 78:38), and he goes back to the beginning of the passage.

[B] And if the victim dies under the hand of the one who does the flogging, the latter is exempt from punishment.

[C] [But if] he added even a single stripe and the victim died, lo, this one goes into exile on his account,

[D] If the victim dirtied himself, whether with excrement or urine, he is exempt [from further blows].

[E] R. Judah says, “In the case of man, with excrement; and in the case of a woman, with urine.”

3:15

[A] “All those who are liable to extirpation who have been flogged are exempt from their liability to extirpation,

[B] “as it is said, ‘And your brother seem vile to you’ (Dt. 25:3) –

[C] “once he has been flogged, lo, he is tantamount to your brother,” the words of R. Hananiah b. Gamaliel.

[D] Said R. Hananiah b. Gamaliel, “Now if one who does a single transgression – [Heaven] takes his soul on that account, “he who performs a single religious duty– how much the more so that his soul will be saved for [handed over to] him on that account!”

[E] R. Simeon says, “From its own passage we may learn that,

[F] “for it is written, ‘Even the souls that do them shall be cut off’ (Lev. 18:29).

[G] “And it is said, ‘Which if a man do he shall live by them’ (Lev. 18:4).

[H] “Lo, whoever sits and does no transgression – they give him a reward like that which goes to one who [goes and] does a religious duty.”

[I] R. Simeon b. Rabbi says, “Lo, it says, ‘Only be sure that you do not eat the blood, for the blood is the life’ (Dt. 12:23).

- [J] “Now if blood, which the soul of man despises – he who keeps away from it receives a reward,
- [K] “robbery and fornication, which the soul of a man desires and after which he lusts – he who keeps away from them how much the more will attain merit –
- [L] “for him, and for his descendants, and for the descendants of his descendants, to the end of all generations!”

3:16

- [A] R. Hananiah b. Aqashia says, “The Holy One, blessed be he, wanted to give merit to Israel.
- [B] “Therefore he gave them abundant Torah and numerous commandments,
- [C] “as it is said, ‘It pleased the Lord for his righteousness’ sake to magnify the Torah and give honor to it’ (Is. 42:21).”

CHAPTER FOUR

THE STRUCTURE OF YERUSHALMI MAKKOT

Whether or not the Talmud of the Land of Israel is carefully organized in large-scale, recurrent structures and guided by a program that we may call systematic forms the principal question addressed by an academic commentary. The preceding chapters therefore have pointed toward the presentation set forth here. By “structure” I mean, a clearly-articulated pattern that governs the location of fully-spelled out statements. By “system,” I mean, a well-crafted and coherent set of ideas that explain the social order of the community addressed by the writers of a document, a social philosophy, a theory of the way of life, world view, and character of the social entity formed by a given social group. I see a collective, anonymous, and political document, such as the one before us, as a statement to, and about, the way in which people should organize their lives and govern their actions. At issue then in any document such as the remarkable one before us is simple: does this piece of writing present information or a program, facts to whom it may concern, or a philosophically and aesthetically cogent statement about how things should be? The connection between structure and system is plain to see. From the way in which people consistently frame their thoughts, we move to the world that, in saying things in one way rather than in some other, they wish to imagine. Modes of formulating thought adumbrate modes of imagining the world in which people wish to live, to which they address these thoughts.

If the document exhibits structure and sets forth a system, then it is accessible to questions of rationality. We may ask about the statement that its framers or compilers wished to make by putting the document together as they did. But if we discern no structure and perceive no systematic inquiry or governing points of analysis, then all we find here is inert and miscellaneous information, facts but no propositions, arguments, viewpoints. Now as a matter of fact the Talmud of the Land of Israel commonly finds itself represented as lacking organization and exhibiting a certain episodic and notional character. That view moreover characterizes the reading and representation of the document by learned and

experienced scholars, who have devoted their entire lives to Talmud study and exegesis. It must follow that upon the advocate of the contrary view - the one implicit in the representation of the document for academic analysis - rests the burden of proof. I set forth the allegation that the Talmud of the Land of Israel exhibits a structure and follows a system and therefore exhibits a commonly-intelligible rationality. The claim to write an academic commentary explicitly states that proposition. For the tractate before us, I have therefore to adduce evidence and argument.

I maintain that through the normal procedures of reasoned analysis we may discern in the tractate a well-crafted structure. I hold that the structure made manifest, we may further identify the purpose and perspective, the governing system of thought and argument, of those who collected and arranged the tractate's composites and put them together in the way in which we now have them. By "structure" I mean, how is a document organized? and by "system," what do the compilers of the document propose to accomplish in producing this complete, organized piece of writing? The answers to both questions derive from a simple outline of the tractate as a whole, underscoring the types of compositions and composites of which it is comprised. Such an outline tells us what is principal and what subordinate, and how each unit - composition formed into composites, composites formed into a complete statement - holds together and also fits with other units, fore and aft. The purpose of the outline then is to identify the character of each component of the whole, and to specify its purpose or statement. The former information permits us to describe the document's structure, the latter, its system.

While the idea of simply outlining a Talmud-tractate beginning to end may seem obvious, I have never made such an outline before, nor has anyone else. (I have provided complete outlines for the Mishnah and for the Tosefta in relationship to the Mishnah, and, not always in outline form, for the Midrash-compilations of late antiquity as well) Yet, as we shall now see, the character of the outline dictates all further analytical initiatives. Specifically, when we follow the layout of the whole, we readily see the principles of organization that govern. These same guidelines on organizing discourse point also to the character of what is organized: complete units of thought, with a beginning, middle, and end, often made up of smaller, equally complete units of thought. The former we know as composites, the latter as compositions.

Identifying and classifying the components of the tractate - the composites, the compositions of which they are made up - we see clearly how the document coheres: the plan and program worked out from beginning to end. When we define that plan and program, we identify the facts of a pattern that permit us to say in a specific and concrete way precisely what the compilers of the tractate intended to accomplish. The structure realizes the system, the program of analysis

and thought that takes the form of the presentation we have before us. From what people do, meaning, the way in which they formulate their ideas and organized them into cogent statements, we discern what they proposed to do, meaning, the intellectual goals that they set for themselves.

These goals - the received document they wished to examine, the questions that they brought to that document - realized in the layout and construction of their writing, dictate the points of uniformity and persistence that throughout come to the surface. How people lay out their ideas guides us into what they wished to find out and set forth in their writing, and that constitutes the system that defined the work they set out to accomplish. We move from how people speak to the system that the mode of discourse means to express, in the theory that modes of speech or writing convey modes of thought and inquiry.

We move from the act of thought and its written result backward to the theory of thinking, which is, by definition, an act of social consequence. We therefore turn to the matter of intention that provokes reflection and produces a system of inquiry. That statement does not mean to imply I begin with the premise of order, which sustains the thesis of a prior system that defines the order. To the contrary, the possibility of forming a coherent outline out of the data we have examined defines the first test of whether or not the document exhibits a structure and realizes a system. So everything depends upon the possibility of outlining the writing, from which all else flows. If we can see the order and demonstrate that the allegation of order rests on ample evidence, then we may proceed to describe the structure that gives expression to the order, and the system that the structure sustains.

The present work undertakes the exegesis of exegesis, for the Yerushalmi, like its counterpart in the one of Babylonia, is laid out as a commentary to the Mishnah. That obvious fact defined the character of my academic commentary, since we have already faced the reality that our tractate is something other than a commentary, though it surely encompasses one. The problems that captured my attention derived from the deeper question of how people make connections and draw conclusions. To ask about how people make connections means that we identify a problem - otherwise we should not have to ask - and what precipitated the problem here has been how a composition or a composite fits into its context, when the context is defined by the tasks of Mishnah-commentary, and the composition or composite clearly does not comment on the Mishnah-passage that is subjected to comment.

The experience of analyzing the document with the question of cogency and coherence in mind therefore yields a simple recognition. Viewed whole, the tractate contains no gibberish but only completed units of thought, sentences formed into intelligible thought and self-contained in that we require no further information to understand those sentences, beginning to end. The tractate

organizes these statements as commentary to the Mishnah. But large tracts of the writing do not comment on the Mishnah in the way in which other, still larger tracts do. Then how the former fit together with the latter frames the single most urgent question of structure and system that I can identify.

Since we have already examined enormous composites that find their cogency in an other than exegetical program, alongside composites that hold together by appeal to a common, prior, coherent statement - the Mishnah-sentences at hand - what justifies my insistence that an outline of the document, resting on the premise that we deal with a Mishnah-commentary, govern all further description? To begin with, the very possibility of outlining this tractate derives from the simple fact that the framers have given to their document the form of a commentary to the Mishnah. It is in the structure of the Mishnah-tractate that they locate everything together that they wished to compile. We know that is the fact because the Mishnah-tractate defines the order of topics and the sequence of problems.

Relationships to the Mishnah are readily discerned; a paragraph stands at the head of a unit of thought; even without the full citation of the paragraph, we should find our way back to the Mishnah because at the head of numerous compositions, laid out in sequence one to the next, clauses of the Mishnah-paragraph are cited in so many words or alluded to in an unmistakable way. So without printing the entire Mishnah-paragraph at the head, we should know that the received code formed the fundamental structure because so many compositions cite and gloss sentences of the Mishnah-paragraph and are set forth in sequence dictated by the order of sentences of said Mishnah-paragraph. Internal evidence alone suffices, then, to demonstrate that the structure of the tractate rests upon the Mishnah-tractate cited and discussed here. Not only so, but the sentences of the Mishnah-paragraphs of our tractate are discussed in no other place in the entire Talmud of the Land of Israel in the sequence and systematic exegetical framework in which they are set forth here; elsewhere we may find bits or pieces, but only here, the entirety of the tractate.

That statement requires one qualification, and that further leads us to the analytical task of our outline. While the entire Mishnah-tractate of treated here is cited in the Talmud of the Land of Israel, the framers of the Talmud of the Land of Israel by no means find themselves required to say something about every word, every sentence, every paragraph. On the contrary, they discuss only what they choose to discuss, and glide without comment by large stretches of the tractate. A process of selectivity, which requires description and analysis, has told the compilers of the Talmud of the Land of Israel's composites and the authors of its compositions (This statement requires refinement. I do not know that all available compositions have been reproduced, and that the work of authors of compositions of Mishnah-exegesis intended for a talmud is fully exposed in the document as we

have it. That is not only something we cannot demonstrate - we do not have compositions that were not used, only the ones that were - but something that we must regard as unlikely on the face of matters. All we may say is positive: the character of the compositions that address Mishnah-exegesis tells us about the concerns of the writers of those compositions, but we cannot claim to outline all of their concerns, on the one side, or to explain why they chose not to work on other Mishnah-sentences besides the ones treated here. But as to the program of the compositors, that is another matter: from the choices that they made (out of a corpus we cannot begin to imagine or invent for ourselves) we may describe with great accuracy the kinds of materials they wished to include and the shape and structure they set forth out of those materials. We know what they did, and that permits us to investigate why they did what they did. What we cannot know is what they did not do, or why they chose not to do what they did not do. People familiar with the character of speculation and criticism in Talmudic studies will understand why I have to spell out these rather commonplace observations. I lay out an argument based on evidence, not on the silences of evidence, or on the absence of evidence - that alone.) what demands attention, and what does not. Our outline has therefore to signal not only what passage of the Mishnah-tractate is discussed, but also what is not discussed, and we require a general theory to explain the principles of selection (“making connections, drawing conclusions” meaning, to begin with, making selections). For that purpose, in the outline, I reproduce the entirety of a Mishnah-paragraph that stands at the head of a Talmudic composite, and I underscore those sentences that are addressed, so highlighting also those that are not.

It follows that the same evidence that justifies identifying the Mishnah-tractate as the structure (therefore also the foundation of the system) of Yerushalmi-tractate before us also presents puzzles for considerable reflection. The exegesis of Mishnah-exegesis is only one of these. Another concerns the purpose of introducing into the document enormous compositions and composites that clearly hold together around a shared topic or proposition, e.g., my appendix on one theme or another, my elaborate footnote providing information that is not required but merely useful, and the like. My earlier characterization of composites as appendices and footnotes signalled the fact that the framers of the document chose a not-entirely satisfactory way of setting out the materials they wished to include here, for large components of the tractate do not contribute to Mishnah-exegesis in any way at all. If these intrusions of other-than-exegetical compositions were proportionately modest, or of topical composites negligible in size, we might dismiss them as appendages, not structural components that bear much of the weight of the edifice as a whole. Indeed, the language that I chose for identifying and defining these composites - footnotes, appendices, and the like - bore the implication that what is not Mishnah-commentary also is extrinsic to the Talmud of the Land of Israel's structure and system.

But that language served only for the occasion. In fact, the outline before us will show that the compositions are large and ambitious, the composites formidable and defining. Any description of the tractate's structure that dismisses as mere accretions or intrusions so large a proportion of the whole misleads. Any notion that "footnotes" and "appendices" impede exposition and disrupt thought, contribute extraneous information or form tacked-on appendages - any such notion begs the question: then why fill up so much space with such purposeless information? The right way is to ask whether the document's topical composites play a role in the re-presentation of the Mishnah-tractate by the compilers of the Talmud of the Land of Israel. We have therefore to test two hypotheses:

1. the topical composites ("appendices," "footnotes") do belong and serve the compilers' purpose

or

2. the topical composites do not participate in the re-presentation of the Mishnah-tractate by Yerushalmi and do not belong because they add nothing and change nothing.

The two hypotheses may be tested against the evidence framed in response to a single question: is this topical composite necessary? The answer to that question lies in our asking, what happens to the reading of the Mishnah-tractate in light of the topical composites that would not happen were we to read the same tractate without them? The outline that follows systematically raises that question, with results specified in due course. It suffices here to state the simple result of our reading of the tractate, start to finish: the question of structure, therefore also that of system, rests upon the position we identify for that massive component of the tractate that comprises not Mishnah-commentary but free-standing compositions and composites of compositions formed for a purpose other than Mishnah-commentary.

The principal rubrics are given in small caps. The outline takes as its principal rubrics two large-scale organizing principles.

The first is the divisions of the Mishnah-tractate to which the Talmud of the Land of Israel-tractate serves as a commentary. That simple fact validates the claim that the tractate exhibits a fully-articulated structure. But the outline must also underscore that the Mishnah-tractate provides both more and less than the paramount outline of the Talmud of the Land of Israel-tractate. It is more because sentences in the Mishnah-tractate are not analyzed at all. These untreated Mishnah-sentences are given in bold face lower case caps, like the rest of the Mishnah, but then are specified by underlining and enclosure in square brackets.

Second, it is less because the structure of the tractate accommodates large composites that address topics not defined by the Mishnah-tractate. That brings us

to the second of the two large-scale modes of holding together both sustained analytical exercises and also large sets of compositions formed into cogent composites. These are treated also as major units and are indicated by Roman numerals, alongside the Mishnah-paragraphs themselves; they are also signified in small caps. But the principal rubrics that do not focus on Mishnah-commentary but on free-standing topics or propositions or problems are not given in boldface type. Consequently, for the purposes of a coherent outline we have to identify as autonomous entries in our outline those important composites that treat themes or topics not contributed by the Mishnah-tractate.

I. YERUSHALMI MAKKOT 1:1

[A] HOW ARE WITNESSES TREATED [PUNISHED] AS PERJURERS? [IF THEY HAD SAID, “WE TESTIFY CONCERNING MR. SO-AND-SO, THAT HE IS THE SON OF A DIVORCÉE,” OR, “...THE SON OF A WOMAN WHO HAS PERFORMED THE RITE OF REMOVING THE SHOE,” [AND HAD BEEN PROVED PERJURERS], THEY DO NOT SAY, “LET THIS ONE BE DECLARED THE SON OF A DIVORCÉE,” OR, “LET HIM BE DECLARED THE SON OF A WOMAN WHO HAS PERFORMED THE RITE OF REMOVING THE SHOE.” BUT HE IS FLOGGED [ON ACCOUNT OF PERJURY] WITH FORTY STRIPES. “WE TESTIFY CONCERNING MR. SO-AND-SO, THAT HE IS LIABLE TO EXILE,” THEY DO NOT SAY, “LET THIS ONE GO INTO EXILE IN HIS STEAD.” BUT HE IS FLOGGED WITH FORTY STRIPES.

- 1. I:1:** [The statement that follows explains M. 1:2/I-L, which states, [If witnesses said,] “We testify concerning Mr. So-and-so, that he is liable to receive flogging in the measure of forty stripes,” and they turn out to be perjurers – “they are smitten eighty times, both on the count of, ‘You shall not bear false witness against your neighbor’ (Ex. 20:16), and on the count of, ‘You shall do to him as he had conspired to do’” (Deut. 19:19), the words of R. Meir. And sages say, “They are flogged only forty stripes”, Said R. Yosé b. Haninah, “All were subject to the general statement, ‘You shall not bear false witness against your neighbor’ (Ex. 20:16). The perjured witness then was treated as a special case: ‘And you shall do to him as he had conspired to do’ (Deut. 19:19). In the case of one in whom you are able to carry out, ‘And you shall do to him as he had conspired to do,’ you carry out, ‘You shall not bear false witness’ [punishing on both counts]. And in the case of the one upon whom you cannot carry out, ‘And you shall do to him as he had conspired to do,’ you shall carry out, ‘You shall not bear false witness against your neighbor.’ [That is to say, in the case in which one is flogged on the count of ‘doing to him as he had conspired to do,’ Meir maintains, one flogs him also on the count

of ‘not bearing false witness.’ But if there is no flogging on the one count, there is no flogging on the other.]”

- 2.** **I:2:** It is written, “He shall not profane his children among his people [by not marrying a virgin]” (Lev. 21:15). I know only that this applies to his seed, which he profanes. The woman herself [who is made profane through having sexual relations with him] – how do we know [that that is the case]? It is a matter of an argument *a fortiori*: Now if his seed, which has itself not done any transgression, is, it is deemed profane, the woman herself, who has done a transgression – is it not logical that she should be deemed profane? He himself will prove [that this argument is invalid]. For he has done a transgression and is not profaned. No, if you have stated that fact in regard to the man, who is never in any event subject to being profaned, will you say the same of the woman, who indeed is profaned under all circumstances? Since she is profaned under all other circumstances, it is logical that she should be profaned [in the present case]. And if you should wish to propose: [Scripture should have written,] “He should not profane [in the Qal construction, YHWL].” When it wrote, “He should not profane [in the Pi’el construction, YHLL],” it refers even to one who was valid and has been profaned [that is, a woman (= C)]. [With reference to M. 1:1C,] Bar Pedaiyah says, “He who profanes is not subject to being profaned [so he profanes his seed, not himself. [So then how can one – the witness – who did not profane, although he wanted to, be profaned].”
- 3.** **I:3:** Witnesses who were proven to be perjurers – R. Yohanan said, “‘False,’ ‘false’ [that is, the word occurs twice in context (either Ex. 20:16 and Deut. 19:18 or twice in the latter verse) involving distinct liabilities].” Witnesses who were proved perjurers, and who again lied [in a property aspect of the same case] – R. Yohanan said, “‘False,’ ‘false’ [and are flogged and also pay compensation.” R. Eleazar said, “‘Evil,’ ‘evil..’ ‘Evil’ is stated with reference to those who are liable to the death penalty (Num 35:31), and evil’ is mentioned in the matter of those liable to flogging (Deut. 75:2).” Just as ‘evil’ which is stated in reference to those liable to the death penalty indicates that a financial compensation is not exacted in the case of a death penalty, “so the word, ‘evil,’ stated with reference to those who are liable to flogging indicates that there is no monetary compensation exacted in the case of flogging [cf. M. 1:2H].”
- 4.** **I:4:** Bar Pedaiyah said, “‘If anyone kills his neighbor unintentionally....] he may flee [to one of these cities and save his

life]’ (Deut. 19:45). He will flee, but those who perjure themselves against him may not flee.”

[B] [IF THEY HAD SAID,] “WE TESTIFY CONCERNING MR. SO-AND-SO, THAT HE HAS DIVORCED HIS WIFE AND NOT PAID OFF HER MARRIAGE SETTLEMENT,” – (AND IS IT NOT SO THAT WHETHER IT IS TODAY OR TOMORROW, HE CERTAINLY IS GOING TO PAY OFF HER MARRIAGE SETTLEMENT –) THEY MAKE AN ESTIMATE OF HOW MUCH A MAN WILL BE WILLING TO PAY [NOW] FOR THE OWNERSHIP OF HER MARRIAGE SETTLEMENT, ON THE CONDITION THAT, IF SHE SHOULD BE WIDOWED OR DIVORCED, [HE WILL TAKE IT OVER], BUT IF SHE SHOULD DIE, HER HUSBAND WILL INHERIT HER [ESTATE, INCLUDING SAID MARRIAGE SETTLEMENT].

- 1. II:1:** And they do not pay the whole value of the woman’s marriage settlement but they pay the value of making use of such a marriage settlement.

II. YERUSHALMI MAKKOT 1:2

[A] [IF THEY HAD SAID,] “WE TESTIFY CONCERNING MR. SO-AND-SO, THAT HE OWES HIS FELLOW A THOUSAND ZUZ, ON CONDITION THAT HE WILL PAY HIM IN THIRTY DAYS,” AND THE ACCUSED SAYS, “... IN THE NEXT TEN YEARS,” THEY MAKE AN ESTIMATE OF HOW MUCH A MAN IS WILLING TO PAY FOR THE USE OF A THOUSAND ZUZ, WHETHER HE PAYS THEM IN THIRTY DAYS OR IN TEN YEARS. [IF THEY HAD SAID,] “WE TESTIFY CONCERNING MR. SO-AND-SO, THAT HE OWES HIS FELLOW TWO HUNDRED ZUZ,” AND THEY TURN OUT TO BE PERJURERS – “THEY ARE FLOGGED, AND THEY PAY UP, “[AND THIS IS ON TWO DISTINCT COUNTS,] FOR THE COUNT WHICH BRINGS FLOGGING ON THEM IS NOT THE COUNT WHICH BRINGS ON THEM THE PENALTY OF RESTITUTION,” THE WORDS OF R. MEIR. AND SAGES SAY, “WHOEVER PAYS RESTITUTION IS NOT FLOGGED.” [IF THEY HAD SAID,] “WE TESTIFY CONCERNING MR. SO-AND-SO, THAT HE IS LIABLE TO RECEIVE FLOGGING IN THE MEASURE OF FORTY STRIPES,” AND THEY TURN OUT TO BE PERJURERS – “THEY ARE SMITTEN EIGHTY TIMES, ON THE COUNT OF, ‘YOU SHALL NOT BEAR FALSE WITNESS AGAINST YOUR NEIGHBOR’ (EX. 20:13), AND ON THE COUNT OF ‘YOU SHALL DO TO HIM AS HE HAD CONSPIRED TO DO’ (DT. 19:19),” THE WORDS OF R. MEIR. AND SAGES SAY, “THEY ARE FLOGGED ONLY FORTY STRIPES.” THEY DIVIDE UP [AMONG THE PERJURERS] A PENALTY FOR MAKING RESTITUTION, BUT THEY DO NOT DIVIDE UP THE PENALTY OF FLOGGING. How so? [IF] THEY GAVE TESTIMONY ABOUT SOMEONE THAT HE OWES HIS FELLOW TWO HUNDRED ZUZ, AND THEY TURNED OUT TO BE PERJURERS, THEY DIVIDE [THE TWO HUNDRED ZUZ] AMONG THEM [AND MAKE RESTITUTION OF THAT AMOUNT].

BUT IF THEY GAVE TESTIMONY ABOUT HIM THAT HE IS LIABLE TO RECEIVING FLOGGING IN THE MEASURE OF FORTY STRIPES, AND THEY TURNED OUT TO BE PERJURERS, EACH ONE IS FLOGGED FORTY TIMES.

- 1. I:1:** Ba bar Mamal, R. Amram, R.. Mattenah in the name of Rab: “He who lends funds to his fellow on condition that [the lender] not lay claim [for return of capital, but the borrower will pay whenever it suits him] – the Sabbatical year releases [the debt].” [The point is that Scripture states one should not exact a debt of his neighbor (Deut. 15:2f.). Now a loan on these terms cannot be said to be “exacted,” that is, it is not an oppressive debt. Hence one may suppose that the remission of the Sabbatical year does not apply to such a loan. But Rab says, that is not the case. The issue then will be debts not collectible at the point at which the Sabbatical year comes into effect, and whether they are or are not remitted, since they are not to be “exacted” in the stated sense.] And lo, we have learned: He who slaughtered a cow and divided it [among buyers on the first day of the [eighth year, and the month was intercalated [so that that day turned out to be at the end of the seventh, that is. the Sabbatical, year – the debt [incurred by the buyers who bought the meat] is annulled. But if not, it is not null [M. Shebi. 10:2]. And R. Eleazar said, “That is the view of R. Judah [who in M. Shebi. 10:1 treats credit extended from the seller to the buyer as a loan and therefore liable to annulment in the Sabbatical year].” And is the debt ever subject to collection on the New Year?! [Of course not! Therefore this instance of M. Shebi. 10:2 is similar to a case of extended credit [here the seller cannot demand payment at any time.] This view accords with that which R. Ba said in the name of R. Zeira: “[The position of M. Shebi. 10:2 is not in accord with the theory of Judah, C. Rather..Mishnah’s reasoning is in accord with the following logic:] Since it is a case in which the debt is subject to claim [at any time], it is as if the seller has faith in the buyer. Since he has faith? it is as if he can pay off the debt. Now in this case (M. Shebi. 10:2), since the case is one in which the purchaser can have paid the money and has not done so, the first purchase [in a sequence of several] is deemed tantamount to a debt [in consequence of which the debt is collectible, the Seventh Year is effective, and the debt is remitted]. [That is the case even though, in fact, it is the New Year, and on the festival funds will not be paid out. So this explains why the debt is deemed in existence, and, consequently, subject to remission.]” R. Yosé b. R. Bun in the name of Rab: “He who lends funds to his fellow on condition that the Sabbatical year not remit the debt – the Sabbatical year does remit the debt. [That is, if the debt runs for ten years prior to collection, the advent of the Sabbatical year does not cancel the debt.

Rab's view, then, is that such a clause is null, and the Sabbatical year does nullify the debt.]” And lo, we have learned the following pericope of Mishnah:... they make an estimate of how much a man is willing to pay for the use of a thousand “zuz,” whether he pays them in the next thirty days or in ten years [M. 1:2C]. [It follows that if the debt is for ten years, the funds in fact will never be paid back, for the intervening Sabbatical year will nullify the debt. The force of the testimony would have been to cause the loss of the whole capital, not merely the use thereof. Consequently, in line with Rab's view, we must wonder what purpose the stated estimate is to serve.] For can ten years pass without a Sabbatical year?

2. **I:2:** It was taught: “Thirty days – one does not come.” What is the meaning of this statement: “Thirty days – one does not come”? Samuel said, “[The meaning is:] ‘He who lends funds to his fellow without specification on the length of the term has not got the right to lay claim on him within the first thirty days of the loan..’”

III. YERUSHALMI MAKKOT 1:3

[A] WITNESSES ARE DECLARED TO BE PERJURERS ONLY IF THEY THEMSELVES WILL BE INCRIMINATED. HOW SO? [IF THEY SAID, “WE TESTIFY CONCERNING MR. SO-AND-SO, THAT HE HUED SOMEONE,” [AND] THEY SAID TO THEM, “HOW CAN YOU GIVE ANY TESTIMONY, FOR LO, THIS ONE WHO IS SUPPOSED TO HAVE BEEN KILLED, OR THAT ONE WHO IS SUPPOSED TO HAVE KILLED, WAS WITH US ON THAT VERY DAY AND IN THAT VERY PLACE” THEY ARE NOT DECLARED PERJURERS. BUT IF THEY SAID TO THEM, “HOW CAN YOU GIVE TESTIMONY, AND LO, YOU YOURSELVES WERE WITH US ON THAT VERY DAY IN THAT VERY PLACE” LO, THESE ARE DECLARED PERJURERS, AND THEY ARE PUT TO DEATH ON THE BASIS OF THE TESTIMONY [OF THE INCRIMINATING PAIR OF WITNESSES]. [IF OTHERS CAME AND GAVE FALSE TESTIMONY AGAINST THEM, AND STILL OTHERS CAME AND GAVE FALSE TESTIMONY AGAINST THEM, EVEN A HUNDRED – ALL OF THEM ARE PUT TO DEATH. R. JUDAH SAYS, “THIS IS A CONSPIRACY, [TO CONFUSE THE JUDGES] AND THE ONLY ONES TO BE PUT TO DEATH ARE THOSE OF THE FIRST GROUP ALONE.

1. **I:1:** [In regard to Judah's view, M. 1:3M, that the first group is put to death,] R. Ba bar Mamal said, “But [that the first group also is put to death, while the others are not] applies in a case in which the first pair of witnesses has already been executed. But if they have not been executed, in such a case we do not apply that rule that we have learned,

‘And the only ones to be put to death are those of the first group alone.’ [M. 1:3M].

2. **I:2:** [In regard to sages’ view, that all of them are put to death,] R. Bun bar Hiyya raised the following question before R. Zeira: “[If] they were standing and giving testimony against the accused that he had killed someone in Lud, and others came and said to them, ‘How can you give evidence, for lo, you were with us on the fifteenth in Caesarea,’ and yet others came to those and said to them, ‘How can you give testimony, for lo, you were with us on the fifteenth day of the month in Sepphoris – the one who is accused of murder is not put to death. For it may be that the witnesses are perjurers. And the witnesses are not put to death. For [the essence of] what they said may indeed have been the truth.”

IV. YERUSHALMI MAKKOT 1:4

[A] **PERJURED WITNESSES [IN A CAPITAL CASE] ARE PUT TO DEATH ONLY AT THE CONCLUSION OF THE TRIAL. NOW LO, THE SADDUCEES SAY, “ONLY WHEN THE ACCUSED HAS ACTUALLY BEEN PUT TO DEATH, SINCE IT IS SAID, ‘A LIFE FOR A LIFE.’” (DEUT. 19:21). SAGES SAID TO THEM, “AND HAS IT NOT ALSO BEEN SAID, ‘AND YOU WILL DO TO HIM AS HE HAD PLANNED TO DO TO HIS FELLOW’, DEUT. 19:19)? AND LO. HIS FELLOW IS STILL ALIVE! “IF SO, WHY HAS IT BEEN SAID. ‘A LIFE FOR A LIFE’? “FOR ONE MIGHT SUPPOSE THAT FROM THAT VERY MOMENT AT WHICH [THE JUDGES] HAVE RECEIVED THEIR TESTIMONY [WHICH IS PROVED TO BE PERJURY, THEY SHOULD BE PUT TO DEATH. “SCRIPTURE SAYS. ‘A LIFE FOR A LIFE – LO. THEY ARE PUT TO DEATH ONLY AT THE CONCLUSION OF THE TRIAL.”**

1. **I:1:** [The present discussion pertains to M. B.Q. 7:3, which is as follows: If one was convicted of theft on the evidence of two witnesses, and was convicted of having slaughtered or sold the beast on the basis of the testimony of two other witnesses, and these and those turn out to be false witnesses, the first pair of witnesses pays twofold restitution, and the second pair of witnesses pays threefold restitution. If the latter pair of witnesses turn out to be false witnesses, he pays twofold restitution, and they pay threefold restitution. If one of the latter pair of witnesses turns out to be false, the evidence of the second one is null. If one of the first pair of witnesses turns out to be false, the entire testimony is null, for if there is no culpable act of stealing, there also is no culpable act of slaughtering or selling.] Said R. Zeira, “That is to say, A witness proved to be a perjurer is deemed to have given invalid testimony in court only at the point at which the

witness himself is proved to be invalid. [That is to say, if the witness is shown to be a perjurer, from that point onward he is invalid. Then, retrospectively, all the testimony he gave even before the point at which he was proved to be perjured also is deemed null. The invalidation is personal.]” Interpret the matter to deal with a case of the witnesses giving warning. [The witness must state, “I warned him not to do so and so.” Now Zeira deals with the matter of warning and testimony, in the following terms. We have a case in which the act of theft took place on one day, the act of slaughter or sale on another day. Now even though these actions took place at different times, Mishnah does not take account of such differences. The witnesses give evidence in a single act of testimony, even though they speak of different times or days on which the several culpable deeds took place. Consequently, they will have to pay full compensation, should they be proved to be perjurers, e.g., in the matter of slaughter or sale. The proof of perjury thus is deemed to cover the entire testimony, and that is Zeira’s observation. From the moment at which the testimony is invalidated, whatever is said thereafter is deemed null as well. Consequently, if the witnesses are shown to be perjurers as regards the theft of the beast, their testimony as regards its slaughter or sale is to begin with of no effect. They will not be assessed damages in that regard. At the point at which they gave evidence about slaughter or sale, the witnesses no longer were valid witnesses at all.] And so it has been taught: Said R. Yosé, “Under what circumstances? That is so in the case of two acts of testimony, and in the case of two acts of warning [as explained above]. [That is to say, a witness is deemed to be invalid from the moment at which he was proved invalid, and whatever he says about the case is null and of no effect.] But if it is a single act of testimony [as in the case of Zeira’s discussion here], then testimony part of which is invalidated is entirely null [with the consequence that Zeira’s position is effective, as explained] [T. B.Q. 7:23]. What is the meaning of the statement about nullifying part of a statement in evidence serving to invalidate the entire statement? If the witnesses were standing and testifying against a man that on the tenth of Nisan he had stolen an ox on the first of Nisan, [and] on the tenth of Nisan he had slaughtered or sold it, [and] on the fifteenth of Nisan they were shown to be perjurers, all the testimony which they had given in regard to the man’s actions from the tenth of Nisan to the fifteenth of Nisan retroactively is deemed null and void. [Since the witnesses testified all at once on these several actions, the entire testimony is deemed null, even though the witnesses spoke of what had been done on different days. It will follow that the witnesses do not pay compensation for their false testimony as to theft, let alone for their false testimony as to slaughter

or sale. Once they were proved perjurers, nothing they said is deemed to have had consequences at all.] Said R. Ba bar Mamal, “Interpret the statement to apply to a case in which the witnesses were testifying against the accused all at one time. Yosé’s view is that, if the witnesses can be shown to have been in some other place at the time at which they allege one of the acts of felony to have been committed, then their allegations with regard to the rest of those acts are null. For they will have been shown to have been elsewhere at the time, on a given day, on which one of the deeds was done, and whatever they say about the other deeds will then be null as well.] “And there is no further implication to be drawn from that fact. [All parties concur that, as to evidence concerning what happened beyond that point at which the perjurers are shown to have given false evidence, all such evidence is null. As to what they have said about events prior to the act about which they are shown to have been incapable of giving testimony, however, no inference is to be drawn whatsoever from the stated ruling. Nullification of part of the testimony effectively invalidates the whole of it].”

V. YERUSHALMI MAKKOT 1:5

[A] **“AT THE MOUTH OF TWO WITNESSES OR THREE WITNESSES SHALL HE THAT IS TO DIE BE PUT TO DEATH” (Dt. 17:6). IF THE TESTIMONY IS CONFIRMED WITH TWO WITNESSES, WHY HAS THE SCRIPTURE SPECIFIED THREE? BUT: [THE PURPOSE IS] TO DRAW AN ANALOGY BETWEEN THREE AND TWO. JUST AS THREE WITNESSES PROVE TWO WITNESSES TO BE FALSE, ALSO TWO WITNESSES MAY PROVE THREE WITNESSES TO BE FALSE. AND HOW DO WE KNOW THAT [TWO WITNESSES MAY PROVE FALSE] EVEN A HUNDRED? SCRIPTURE SAYS, “WITNESSES.” R. SIMEON SAYS, “JUST AS TWO” ARE PUT TO DEATH ONLY IF BOTH OF THEM ARE PROVED TO BE PERJURERS, ALSO THREE WITNESSES ARE PUT TO DEATH ONLY IF ALL THREE OF THEM ARE PROVED TO BE PERJURERS.” AND HOW DO WE KNOW THAT THIS APPLIES EVEN TO A HUNDRED? “SCRIPTURE SAYS, ‘WITNESSES.’” R. AQIBA SAYS, “THE MENTION OF THE THIRD [WITNESS] IS ONLY TO IMPOSE UPON HIM A STRICT RULE AND TO TREAT THE RULE CONCERNING HIM AS THE SAME AS THAT APPLYING TO THE OTHER TWO.” AND IF SCRIPTURE HAS IMPOSED A PUNISHMENT ON SOMEONE WHO GETS INVOLVED WITH THOSE WHO COMMIT A TRANSGRESSION, PRECISELY EQUIVALENT TO THAT WHICH IS IMPOSED ON THOSE WHO THEMSELVES COMMIT THE TRANSGRESSION, “HOW MUCH THE MORE SO WILL [HEAVEN] PAY A JUST REWARD TO THE ONE WHO GETS INVOLVED WITH THOSE WHO DO A RELIGIOUS DUTY, PRECISELY EQUIVALENT TO THAT WHICH IS PAID TO THOSE WHO THEMSELVES ACTUALLY DO THE RELIGIOUS DUTY” JUST AS, IN THE CASE OF**

TWO [WITNESSES], IF ONE OF THEM TURNS OUT TO BE A RELATIVE OR OTHERWISE INVALID, THE TESTIMONY OF BOTH OF THEM IS NULL, SO IN THE CASE OF THREE, [IF] ONE OF THEM TURNS OUT TO BE A RELATIVE OR OTHERWISE INVALID, THE TESTIMONY OF ALL THREE OF THEM IS NULL. HOW DO WE KNOW THAT THE SAME RULE APPLIES EVEN IN THE CASE OF A HUNDRED? SCRIPTURE SAYS, WITNESSES. SAID R. YOSÉ, “UNDER WHAT CIRCUMSTANCES? IN THE CASE OF TRIALS FOR CAPITAL CRIMES. BUT IN THE CASE OF TRIALS IN PROPERTY LITIGATIONS, THE TESTIMONY MAY BE CONFIRMED WITH THE REMAINING [VALID WITNESSES].” RABBI SAYS, “ALL THE SAME IS THE RULE GOVERNING PROPERTY CASES AND CAPITAL CASES.” THIS IS THE RULE WHEN [BOTH WITNESSES] WARNED THE TRANSGRESSOR. BUT IF THEY HAD NOT JOINED IN WARNING THE TRANSGRESSOR, WHAT SHOULD TWO BROTHERS DO WHO SAW SOMEONE COMMIT HOMICIDE?

1. **I:1:** [Scripture refers to the requirement that two or three witnesses give testimony so as to impose the death penalty, Dt. 17:6. But Scripture also states, “Only on the evidence of two witnesses or of three witnesses shall a charge be sustained” (Dt. 19:15). The former deals with capital cases, the latter with property cases. Since both refer to two or three witnesses, we now explain the duplication, as follows:] Scripture is required to refer both to property cases and also to capital cases. For if Scripture had spoken only of property cases but not of capital cases, I might have said, “In the case of property cases, which are of lesser weight, three witnesses have the power to prove two to be perjurers, but two may not prove to be perjurers. “How do I know that that is so even of a hundred? “Scripture states, ‘Witnesses.’” Now if reference had been made to capital cases but not to property cases, I might have said, “In capital cases, which are weightier, two witnesses have the power to prove that three are perjurers, but three do not have the power to prove that two are perjurers. “How do I know that that applies even to a hundred? “Scripture states, ‘Witnesses.’ [It follows that then Scripture must refer to ‘two or three’ in the context of each entry, since one could not have been derived from the other].”

VI. YERUSHALMI MAKKOT 1:6

- [A] [IF TWO SAW THE INCIDENT FROM ONE WINDOW, AND TWO SAW IT FROM ANOTHER WINDOW, AND ONE WARNS [THE TRANSGRESSOR] IN THE MIDDLE, WHEN PART OF ONE GROUP SEE PART OF ANOTHER, LO, THESE CONSTITUTE A SINGLE BODY OF TESTIMONY [SUBJECT TO THE RULES GIVEN ABOVE]. BUT IF NOT, LO, THESE CONSTITUTE TWO DISTINCT BODIES OF TESTIMONY.

- I:1:** Said R. Jeremiah, “Note the explanation of what we have learned: If two saw the incident from one window, and two saw it from another window, and one warns the transgressor in the middle, when part of one group sees part of another, lo, these constitute a single body of testimony. But if not, lo these constitute two distinct bodies of testimony. Lo, if they were *three* [witnesses]? The rule does not apply to such a case. [That is, the matter does not depend on the one in the middle. If he sees both witnesses but they do not see one another, they do not form a single group.]”

[B] THEREFORE, IF ONE OF THEM TURNS OUT TO BE PERJURED, HE [THE TRANSGRESSOR] AND THOSE TWO WITNESSES ARE PUT TO DEATH, BUT THE OTHER GROUP OF WITNESSES IS EXEMPT.

- II:1:** We have learned here what we have not learned in the entire tractate of Sanhedrin: He and those two witnesses are put to death, but the other group of witnesses [whose testimony is accepted] is exempt [M. 1:6E].

VII. YERUSHALMI MAKKOT 1:7

[A] R. YOSÉ B. R. JUDAH SAYS, “UNDER NO CIRCUMSTANCES IS ONE PUT TO DEATH UNLESS BOTH WITNESSES AGAINST HIM HAVE GIVEN WARNING TO HIM, “AS IT IS SAID, ‘AT THE TESTIMONY OF TWO WITNESSES’ (Dt. 17:6).” ANOTHER MATTER: “AT THE MOUTH OF TWO WITNESSES” [DIRECTLY] – THAT A SANHEDRIN SHOULD NOT LISTEN TO THE TESTIMONY THROUGH THE INTERVENTION OF A TRANSLATOR.

- I:1:** R. Hoshaiiah taught, “The following verse is stated with reference to two groups of witnesses, ‘If a malicious witness rises against any man to accuse him of wrongdoing...’ (Deut. 19: 16). [“Witness”] – this is a perjured witness. “To accuse him” – and not the testimony which he gives. [Now we have an allusion to the second group of witnesses, who testify against the accused that he cannot have given the evidence he gave, because he was somewhere else at the time of the event he describes.]
- I:2:** As to perjured witnesses, what is the law in respect to their having to be given appropriate warning [prior to their giving testimony? If then, they ignore the warning against giving false witness, they are punished.] R. Isaac bar Tablai in the name of R. Eleazar: “Perjured witnesses do not have to be given warning.”

3. **I:3:** If one has written over his property to two people at one time, and the witnesses to the will are valid for one and invalid for the relatives of the other – R. Hila said, “R. Yohanan and R. Simeon b. Laqish differed on this matter.” One of them said, ‘Since they are invalid for this party, they are invalid for that.’ The other said, ‘They are valid for the one and invalid for the other.’”

VIII. YERUSHALMI MAKKOT 1:8

[A] **HE WHOSE TRIAL ENDED AND WHO FLED AND WAS BROUGHT BACK BEFORE THE SAME COURT – THEY DO NOT REVERSE THE JUDGMENT CONCERNING HIM [AND RETRY HIM]. IN ANY SITUATION IN WHICH TWO GET UP AND SAY, “WE TESTIFY CONCERNING MR. SO-AND-SO THAT HIS TRIAL ENDED IN THE COURT OF SUCH-AND-SUCH, WITH MR. SO-AND-SO AND MR. SO-AND-SO AS THE WITNESSES AGAINST HIM,” LO, THIS ONE IS PUT TO DEATH. [TRIAL BEFORE] A SANHEDRIN APPLIES BOTH IN THE LAND AND ABROAD. A SANHEDRIN WHICH IMPOSES THE DEATH PENALTY ONCE IN SEVEN YEARS IS CALLED MURDEROUS. R. ELEAZAR B. AZARIAH SAYS, “ONCE IN SEVENTY YEARS.” R. TARFON AND R. AQIBA SAY, “IF WE WERE ON A SANHEDRIN, NO ONE WOULD EVER BE PUT TO DEATH.” RABBAN SIMEON B. GAMALIEL SAYS, “SO THEY WOULD MULTIPLY THE NUMBER OF MURDERERS IN ISRAEL.”**

1. **I:1:** [Trial before a] Sanhedrin applies both in the Land and abroad [M. 1:8E], as it is written, “And these things shall be for a statute and ordinance to you throughout your generations in all your dwellings” (Num. 35:29). And why does Scripture say, “You shall appoint judges and officers in all your towns [which the Lord your God gives you]” (Deut. 16:18). – In the towns of the Land of Israel. The meaning is that in the towns of Israel they set up judges in every town, but abroad they do so only by districts.
2. **I:2:** Rabban Simeon b. Gamaliel taught, “Those declared liable to the death penalty who fled from the Land abroad – they put them to death forthwith [upon recapture]. If they fled from abroad to the Land, they do not put them to death forthwith, but they undertake a trial de novo.”

IX YERUSHALMI MAKKOT 2:1

[A] **[31C] THESE ARE THE ONES WHO GO INTO EXILE: HE WHO KILLS SOMEONE ACCIDENTALLY. [IF] HE WAS ROLLING [THE ROOF] WITH A ROLLER, AND IT FELL DOWN ON SOMEONE AND KILLED HIM, [IF] HE WAS LETTING DOWN A JAR**

[FROM THE ROOF] AND IT FELL ON [A MAN] AND KILLED HIM, [IF] ONE WAS CLIMBING DOWN A LADDER AND FELL DOWN ON SOMEONE AND KILLED HIM — LO, THIS PERSON GOES INTO EXILE. **BUT:** IF HE WAS PULLING UP A ROLLER, AND IT FELL ON [A MAN] AND KILLED HIM, [IF] HE WAS DRAWING UP A JAR, AND THE ROPE BROKE, AND [THE JAR] FELL ON A MAN AND KILLED HIM, **M** HE WAS CLIMBING UP A LADDER AND FELL ON A MAN AND KILLED HIM, LO, THIS ONE DOES NOT GO INTO EXILE. **THIS IS THE GOVERNING PRINCIPLE: WHATEVER HAPPENS EN ROUTE DOWNWARD — THE PERSON GOES INTO EXILE. [AND WHATEVER HAPPENS] NOR EN ROUTE DOWNWARD — THE PERSON DOES NOT GO INTO EXILE.**

1. **I:1:** [In the cases of M. 2:1C, D,] R. Judah declares [the man] exempt unless he lets the whole rope go. R. Simeon declares exempt unless he undoes the entire windlass.
2. **I:2:** R. Jeremiah raised the question before R. Abbahu: “If one was drawing up the roller to himself, and the other party put his head out the window, and the roller hit him [and he died], [what is the law]? [Since this is en route upward (M. 2:1L), perhaps he does not have to go into exile. Or since he was in the process of plastering, it is as if it is en route downward.]”

X. YERUSHALMI MAKKOT 2:2

[A] [If] THE IRON FLEW FROM THE HEFT AND KILLED SOMEONE, **RABBI SAYS, “HE DOES NOT GO INTO EXILE.”** AND SAGES SAY, **“HE GOES INTO EXILE.”** [If] IT FLEW FROM THE WOOD WHICH IS BEING SPLIT, **RABBI SAYS, “HE GOES INTO EXILE.”** AND SAGES SAY, **“HE DOES NOT GO INTO EXILE.”**

1. **I:1:** What is the Scriptural basis for the position of Rabbi [at M. 2:2D-E]? Here it is stated, “... [and the head] slips [from the handle and strikes his neighbor so that he dies...]” (Deut. 19:5). And later on, the same verb root is used: “[... for your olives] shall drop off...” (Deut. 28:40). Just as the verb root used later means “dropping off,” so here it means “dropping off.” What is the Scriptural basis for the position of the rabbis [at M. 2:2F]? Here the verb root “slipping” is used. And later on elsewhere we have the following: “... and clears away many nations before you.” (Deut. 7:1). Just as the verb root, clearing away, refers to an [active] blow there, so here too it speaks of an [active] blow [by an object which strikes something, e.g., the ax, not chips of wood].

XI. YERUSHALMI MAKKOT 2:3

[A] **HE WHO THROWS A STONE INTO THE PUBLIC DOMAIN AND COMMITTED HOMICIDE – LO, THIS ONE GOES INTO EXILE. R. ELIEZER B. JACOB SAYS, “IF AFTER THE STONE LEFT THE MAN’S HAND. THE OTHER PARTY STUCK OUT HIS HEAD AND TOOK [THE STONE ON THE HEAD], LO. THIS ONE IS EXEMPT.”**

1. **I:1:** R. Eliezer b. Jacob taught, “ [As when a man goes into the forest with his neighbor to cut wood, and his hand swings the axe to cut down a tree, and the head slips from the handle and] finds [his neighbor so that he dies]’ (Deut. 19:5) – that is to say that the other be available to him at the time at which he kills him [thus excluding the one who makes himself available by his own action].”
2. **I:2:** And he has every right to throw a stone in the public way, [so why should he be guilty at all]?

XII. YERUSHALMI MAKKOT 2:4

[A] **HE WHO THROWS A STONE INTO THE PUBLIC DOMAIN AND SO COMMITTED MANSLAUGHTER – LO, THIS ONE GOES INTO EXILE. R. ELIEZER B. JACOB SAYS, “IF AFTER THE STONE LEFT THE MAN’S HAND, THE OTHER PARTY STUCK OUT HIS HEAD AND TOOK [THE STONE ON THE HEAD], LO, THIS ONE IS EXEMPT.” [IF] HE THREW THE STONE INTO HIS OWN COURTYARD AND KILLED HIM, IF THE VICTIM HAD EVERY RIGHT TO GO INTO THERE, [THE OTHER PARTY] GOES INTO EXILE. AND IF NOT, HE DOES NOT GO INTO EXILE, AS IT IS SAID, “AS WHEN A MAN GOES INTO THE FOREST WITH HIS NEIGHBOR” (Dt. 19:5) – JUST AS THE FOREST IS A DOMAIN IN WHICH BOTH THE VICTIM AND THE ONE WHO INFLICTED INJURY HAVE EVERY RIGHT TO ENTER, SO THE COURTYARD BELONGING TO THE HOUSEHOLDER IS EXCLUDED [FROM REFERENCE], SINCE THE VICTIM HAD NO RIGHT TO GO THERE. ABBA SAUL SAYS, “JUST AS CUTTING WOOD IS OPTIONAL, SO ARE EXCLUDED [FROM PUNISHMENT THOSE WHO DO THEIR DUTY, E.G.:] THE FATHER WHO HITS HIS SON, THE MASTER WHO STRIKES HIS DISCIPLE, AND THE COURT OFFICIAL [WHO COMMITTED HOMICIDE IN THE DOING OF THEIR DUTY].”**

1. **I:1:** Said R. Yannai, “A butcher who was chopping meat, and who smote [someone], whether above or below, goes into exile. [That is, whether swinging the chopper above, backward, or below, downward and forward.]”

2. **I:2:** Said R. Isaac, “Every sort of case accords with its own context. “If one sat on a bed by day, and it is not usual for a baby to be put on the bed by day, he goes into exile. “If he sat on the bed by night, and it is usual for the child to be put into bed at night, he does not go into exile [for he should have expected that, at night, the baby would be in the bed]. “If he sat down on the crib, by day, and it is usual for the baby to be put into the crib by day, he does not go into exile. “If he did so by night, and it is not usual for the baby to be put into the crib by night, he goes into exile.”
3. **I:3:** Said R. Yosé b. Haninah, “[If] one was standing and chopping wood in his own courtyard, and a worker came in [with permission to collect his salary, “and a chip of wood flew and injured him, “[the householder] is liable. “And if [the worker] should die, [the householder does not go into exile [but is tried].”

XIII. YERUSHALMI MAKKOT 2:5

[A] THE FATHER GOES INTO EXILE BECAUSE OF [THE DEATH OF] THE SON. AND THE SON GOES INTO EXILE BECAUSE OF THE [THE DEATH OF] FATHER. ALL GO INTO EXILE BECAUSE OF [THE DEATH OF] AN ISRAELITE. AND AN ISRAELITE GOES INTO EXILE ON THEIR ACCOUNT, EXCEPT ON ACCOUNT OF [THE DEATH OF] A RESIDENT ALIEN. A RESIDENT ALIEN GOES INTO EXILE ONLY ON ACCOUNT OF [THE DEATH OF] ANOTHER RESIDENT ALIEN.”

1. **I:1:** Said R. Zeira, *R. Shila bar Buna taught*, “Since it is said, ‘The avenger of the blood shall himself put the murderer to death’ (Num. 35:19), lo, he who killed his son – his other son is not appointed avenger of the blood to kill his father. “But if a brother killed a brother, another brother is appointed avenger of the blood to kill his brother.” R. Eliezer b. Jacob taught, “Since it is said, ‘The avenger of the blood shall himself put the murderer to death,’ lo, he who smote his son – his other son is appointed avenger of the blood to put his father to death. “But in the case of a brother who killed his brother, his other brother is not appointed avenger of the blood to put his brother to death.”

[B] A BLIND PERSON [GUILTY OF MANSLAUGHTER] DOES NOT GO INTO EXILE,” THE WORDS OF R. JUDAH. R. MEIR SAYS, “HE GOES INTO EXILE.” ONE WHO BEARS ENMITY [FOR HIS VICTIM] DOES NOT GO INTO EXILE. R. YOSÉ B. R. JUDAH SAYS, “ONE WHO BEARS ENMITY [FOR HIS VICTIM] IS PUT TO DEATH, “FOR HE IS IN THE STATUS OF ONE WHO IS AN ATTESTED DANGER.” R. SIMEON SAYS, “THERE IS ONE WHO BEARS ENMITY [FOR THE VICTIM] WHO GOES INTO

EXILE, AND THERE IS ONE WHO BEARS ENMITY WHO DOES NOT GO INTO EXILE.” THIS IS THE GOVERNING PRINCIPLE : IN ANY CASE IN WHICH ONE HAS THE POWER TO SAY, ‘HE KILLED KNOWINGLY,’ HE DOES NOT GO INTO EXILE.” AND IF HE HAS THE POWER TO SAY, ‘HE DID NOT KILL KNOWINGLY,’ LO, THIS ONE GOES INTO EXILE.”

1. **II:1:** Said R. Ba, “Who ought that a blind person [does not go into exile]? It is R. Judah. For R. Judah declares him exempt from all of the religious requirements which are stated in the Torah. *For we have learned there:* ‘Whoever has never in his life seen the lights “of heaven” should not recite the Shema’ (M. Meg. 4:6). Lo, if he saw them, he does recite it.”
2. **II:2:** And both of them interpret the same verse [at M. 2:5G-H, A blind person [guilty of manslaughter] does not go into exile,” the words of R. Judah. R. Meir says, “He goes into exile.”]. “[Or if he used a stone, by which a man may die, and] without seeing him [cast it upon him so that he died]” (Num. 35:23) – R. Meir says, “The reference to ‘not seeing him’ is meant to encompass a blind person.” R. Judah says, “It is meant to exclude a blind person.”

XIV. YERUSHALMI MAKKOT 2:6

[A] **WHITHER DO THEY GO INTO EXILE? TO THE CITIES OF REFUGE – TO THREE WHICH ARE IN TRANSJORDAN, AND TO THREE WHICH ARE IN THE LAND OF CANAAN, AS IT IS SAID, “YOU SHALL SET ASIDE THREE CITIES BEYOND JORDAN, AND THREE CITIES YOU SHALL SET ASIDE IN THE LAND OF CANAAN” (NUM. 35:14). BEFORE THE THREE IN THE LAND OF ISRAEL HAD BEEN SELECTED [JOSH. 20:7], THE THREE WHICH WERE ON THE OTHER SIDE OF THE JORDAN [ALSO] DID NOT AFFORD REFUGE, AS IT IS SAID, “THEY SHALL BE FOR YOU SIX CITIES OF REFUGE” – [THEY DO NOT AFFORD REFUGE] UNTIL ALL SIX OF THEM AFFORD REFUGE AT THE SAME TIME. AND [DIRECT] ROADS [WERE PREPARED] FROM ONE TO THE OTHER, AS IT IS SAID, “AND YOU SHALL PREPARE THE WAY, AND DIVIDE THE BORDERS OF YOUR LAND” (DEUT. 19:3). AND THEY HAND OVER TO HIM TWO DISCIPLES OF SAGES, LEST [THE AVENGER OF THE BLOOD] SHOULD KILL HIM EN ROUTE. THEY WILL SPEAK TO [THE AVENGER OF THE BLOOD]. R. MEIR SAYS, “ALSO HE [THE MANSLAUGHTERER] MAY SPEAK TO [THE AVENGER OF THE BLOOD], “AS IT IS SAID, “THIS IS THE WORD OF THE MANSLAYER.” (DEUT. 19:4). R. YOSÉ B. R. JUDAH SAYS, “TO BEGIN WITH, BOTH THE ONE WHO KILLS BY ACCIDENT AND THE ONE WHO KILLS MALICIOUSLY GO FIRST TO THE CITIES OF REFUGE.” THEN THE COURT SENDS AND BRINGS [THE MURDERER] BACK FROM THERE. “HE WHO IS FOUND GUILTY**

OF DEATH IN COURT THEY EXECUTED.” AND HE WHO IS NOT FOUND GUILTY OF DEATH THEY SET FREE. “HE WHO IS FOUND GUILTY OF A CRIME REQUIRING EXILE THEY RETURNED TO HIS PLACE, “AS IT IS SAID. ‘AND THE COMMUNITY SHALL SEND HIM BACK TO HIS CITY OF REFUGE.’” (NUM. 35:25). ALL THE SAME ARE [THE DEATHS OF THE HIGH PRIEST WHO IS ANOINTED WITH ANOINTING OIL, THE ONE WHO IS CONSECRATED BY BEING CLOTHED IN MANY GARMENTS, AND THE ONE WHO HAS PASSED FROM HIS ANOINTMENT AS HIGH PRIEST – [UPON THE DEATH OF ONE OF THESE] THEY BRING BACK THE MURDERER [FROM THE CITY OF REFUGE, HIS TERM HAVING ENDED]. R. JUDAH SAYS, “ALSO [ON THE OCCASION OF THE DEATH OF “A PRIEST ANOINTED FOR WAR DOES ONE BRING BACK THE MURDERER.”

1. **I:1:** Three cities [of refuge] did Moses set aside in Transjordan, and when they came to the Land, they set aside three more. [But even so,] neither these nor those afford protection until they had conquered and divided up [the Land] [M. 2:6E]. Once they had conquered and divided up the Land, and so had become liable to the tithes and to the laws of the Seventh Year, both these and those commenced to afford protection [to the manslayer] [M. 2:6G] [T. Mak. 3:1]. Three cities did they [Joshua] set aside in the Land of Israel, and they corresponded to the three which Moses had designated on this side of the Jordan, like two rows of vines in vineyard. Hebron in Judah corresponded to Boser in the wilderness; Shekhem in the mountains of Ephraim corresponded to Ramot Gilead; Qadesh in Galilee corresponded to Golan in Bashan. Before they had set aside Shekhem in the Mountains of Ephraim, it did not afford protection. They set aside Qiriat Yearim in its stead, until they had conquered Shekhem. Before they had set aside Qadesh in Galilee, it did not afford protection. So they set aside Gamla in its stead, until they had conquered Shekhem [T. Mak. 3:2]. And you will divide” (Deut 19:3) – that they be divided into three parts. So that from Hebron to the south is the same distance as from Hebron to Shekhem, and from Hebron to Shekhem is the same distance as from Shekhem to Qadesh [T. Mak. 3:3]. If one of them fell down, they build it up in the same location. And how do we know that they may build it up even in some other location? Scripture says, “Six cities of refuge” (Num. 25:13) – that they should be lined up and should afford protection just as do the &t ones [T. Mak. 3:4]. As to these three cities, they do not make them into large cities nor into small towns, but mid-sized cities. They build them only at a market town. If there is no market town there, they build one. They build them only in a place in which there is adequate water. [If] they do not have adequate water, they bring water to them. And they build them only in a populated area. [If] the population went

down, they bring others and settle them in their place. If their residents went down in numbers, they add to them priests, Levites, and Israelites [T. Mak. 3:8]. “They do not make [in the cities] olive presses or wine presses,” the words of R. Nehemiah. And sages permit. And they do not weave ropes in them, and they do not make glass utensils in them, so as not to provide many occasions for the avenger of the blood to go there [T. Mak. 3:9].

- 2.** **I:2:** Yohanan sent to the rabbis over there [in Babylonia]: “Two things you say in the name of Rab and they are not so. “You say in Rab’s name: ‘A beautiful captive woman – permitted in her case is only the first act of sexual relations.’ “But I say that it is neither the first nor any later act of sexual relations that is permitted, except after all the required preparations have been carried out, “as specified as follows: ‘[When you go forth to war against your enemies, and the Lord your God gives them into your hands, and you take them captives, and see among the captives a beautiful woman, and you have desire for her and would take her for yourself as wife, then you shall bring her home to your house, and she shall shave her head and pare her nails. And she shall put off her captive’s garb, and shall remain in your house and bewail her father and her mother a full month] and after that you may go in to her, [and be her husband, and she shall be your wife]’ (Deut. 21:1-13). “That is, after the specified deeds. “And you say in the name of Rab: ‘Joab imagined that the horns of the altar would afford protection to him, but only the roof of the high place at Shiloh affords protection, while that of the Eternal House does not afford protection.’ “And I say that the altar does not afford protection, nor does its roof afford protection, nor even does that of Shiloh afford protection, nor does the Eternal House afford protection. “Only the six cities of refuge alone afford protection.”

- 3.** **I:3:** It was taught: R. Eliezer b. Jacob says, “Refuge...,’ ‘Refuge...,’ is stated [two times] at the crossroads, so that the manslayer may see that which is written and know in which direction to go.”

- a.** **I:4:** Said R. Phineas: “‘ Good and upright [is the Lord; therefore he instructs sinners in the way]’ (Ps. 25:8). Why is he good? Because he is upright. And why is he upright? Because he is good. ‘ Therefore he instructs sinners in the way – that is, he teaches them the way to repentance.”

[B] **THEREFORE THE MOTHERS OF THE PRIESTS PROVIDE FOOD AND CLOTHING FOR THOSE [WHO ARE IN THE CITIES OF REFUGE,] SO THAT THEY WILL NOT PRAY THAT THEIR SONS WILL DIE. [IF] AFTER ONE’S TRIAL HAS ENDED [WITH THE**

SENTENCE OF EXILE], A HIGH PRIEST DIED, LO, THIS ONE DOES NOT GO INTO EXILE. [IF IT WAS BEFORE THE TRIAL HAD ENDED THAT THE HIGH PRIEST DIED AND ANOTHER WAS APPOINTED IN HIS STEAD, AND AFTERWARD HIS TRIAL CAME TO AN END, HE COMES BACK ONLY AT THE DEATH OF THE NEXT HIGH PRIEST. [IF] ONE'S TRIAL ENDED AT A TIME AT WHICH THERE WAS NO HIGH PRIEST, HE WHO KILLS A HIGH PRIEST, AND A HIGH PRIEST WHO COMMITTED INVOLUNTARY MANSLAUGHTER — [NONE OF THESE LEAVES THERE FOREVER. AND ONE DOES NOT LEAVE [THE CITY OF REFUGE] EITHER FOR GIVING TESTIMONY HAVING TO DO WITH A RELIGIOUS DUTY. OR TO GIVE TESTIMONY HAVING TO DO WITH PROPERTY, OR TO GIVE TESTIMONY HAVING TO DO WITH A CAPITAL CRIME. AND EVEN IF THE ISRAELITES NEED HIM. AND EVEN IF HE IS A GENERAL OF THE ISRAELITE ARMY OF THE QUALITY OF JOAB B. ZERUIAH, HE MAY NOT LEAVE THERE EVER, AS IT IS SAID."WHITHER HE HAS FLED" (NUM. 35:25). THERE WILL BE HIS DWELLING, THERE WILL BE HIS DEATH, THERE WILL BE HIS BURIAL. JUST AS THE TOWN AFFORDS REFUGE, SO THE SABBATH LIMIT OF THE TOWN AFFORDS REFUGE. MANSLAYER WHO WENT BEYOND THE LIMIT, AND WHOM THE AVENGER OF THE BLOOD FOUND — R. YOSÉ THE GALILEAN SAID. "IT IS A RELIGIOUS DUTY IN THE HAND OF THE AVENGER OF THE BLOOD [TO KILL THE MANSLAUGHTERER], AND IT IS AN OPTION AVAILABLE TO ANY ONE ELSE [TO DO SO AS WELL]." R. AQIBA SAYS, "IT IS AN OPTION AVAILABLE TO THE AVENGER OF THE BLOOD, AND ANYONE ELSE BEARS NO LIABILITY [IF HE DOES SO]." A TREE STANDING M THE SABBATH LIMIT, WITH ITS BRANCHES EXTENDING OUTSIDE OF THE SABBATH LIMIT — OR STANDING OUTSIDE OF THE SABBATH LIMIT, WITH ITS BRANCHES EXTENDING WITHIN THE SABBATH LIMIT — EVERYTHING FOLLOWS THE LOCATION OF THE BRANCHES. [IF] ONE HAS COMMITTED MANSAYER IN THAT VERY TOWN. HE GOES INTO EXILE FROM ONE NEIGHBORHOOD TO ANOTHER. AND A LEVITE GOES INTO EXILE FROM ONE TOWN TO ANOTHER. DELETE: SIMILARLY,] A MANSLAYER WHO WENT INTO EXILE INTO A CITY OF REFUGE. WHOM THE TOWNSFOLK WANTED TO HONOR. MUST INFORM THEM. "I AM A MANSLAYER." [IF] THE SAID TO HIM EVEN SO," HE MAY ACCEPT [THE HONOR] FROM THEM.

1. **II:1:** It is written, "Like a sparrow in its flitting, like a swallow in its flying, a curse that is causeless does not alight" (Prov. 26:2). Can you say so [that is, M. 2:6V]? [For the prayer will do no harm, in line with A.]

[C] AS IT IS SAID."THIS IS THE WORD OF THE MANSLAYER:"

1. **III:1:** Samuel bar Nahman in the name of R. Jonathan, "At every point at which 'speaking' is mentioned, there is a new point there made by Scripture." And is it not written, "And God spoke..."? This is in line with what the exegesis which the sages provided [the passage is not completed]. What is the meaning of, "Then the Lord said to Joshua,

‘Say to the people of Israel, Appoint the cities of refuge... and give him a place, and he shall remain with them.’ (Joshua 20:1)? The rabbis of Caesarea in the name of R. Shiloh: “If he was a disciple of a sage, they organize a meetinghouse for him.”

2. **III:2:** Three cities [of refuge] did Moses set aside in Transjordan, and when they came into the Land, they set aside three more. And in the time to come, they will set aside three more in each case, thus there are 15, “*and yet three more*”, (Deut. 19:9)10, nine, as it is said, “Three... three... three...,” lo, nine. Abba Saul says, “Three for the three, lo, six, and another three, lo, nine, for the three, thus twelve” [T. Mak. 3:10]. R. Nehorai says, “‘Three...,’ ‘three...,’ ‘three...,’ – lo, nine. ‘And more – lo, twelve. ‘In addition to the three...,’ lo, fifteen.’” It is written, “And the cities which you give shall be your six cities of refuge” (Num. 35:13).] The meaning is that all six of them should afford protection simultaneously [cf. M. 2:6E].
3. **III:3:** [M. 2:6T, treating priests consecrated in different ways as equivalent:] And this is in accord with that which R. Samuel said in the name of R. Aha: “In five ways the latter Temple was less than the former temple, as it is written, ‘Go up to the hills and bring wood and build the house, that I may take pleasure in it and that I may appear in my glory, says the Lord’ (Haggai 1:8).
4. **III:4:** Said Abbaye, “A disciple of a sage has to make himself known. How so? A man who knew one tractate, and he who went to a place and they paid him honor as if he knew two tractates has to tell them, ‘I know only one tractate.’” R. Huna said, “He says so in a pleasant manner and with the right hand open to accept repayment.”
5. **III:5:** What is the Scriptural basis for the position of R. Yosé [at M. 2:6LL]?
6. **III:6:** Said R. Abbahu, “And the manslayer returns when the third of the three dies [if the second dies as did the first]” [cf. M. 2:6Y].
7. **III:7:** Said R. Abbahu, “If they need him for something [M. 2:6DD], they send and bring him back from there. [So Mishnah’s rule is narrowly construed.]”

XV. YERUSHALMI MAKKOT 2:7

[A] “[REFUGEE MANSLAYERS] PAID LEVITES A RENTAL,” THE WORDS OF R. JUDAH. R. MEIR SAYS, “THEY DID NOT PAY THEM A RENTAL.” AND [THE MANSLAYER] RETURNS TO THE OFFICE WHICH HE HAD HELD BEFORE, “THE WORDS OF R. MEIR. R. JUDAH SAYS, “HE DID NOT RETURN TO THE OFFICE WHICH HE HAD HELD BEFORE.”

1. **I:1:** [As to the rights of possession accruing to the Levites in the cities of refuge,] it was taught: R. Judah says, “They were given [to the Levites] for division [as their permanent possession in the Land].” R. Yosé says, “They were given for dwelling [but not as a permanent possession and inheritance].”
2. **I:2:** Raba in the name of R. Judah, R. Zeira in the name of Mar Uqba: “[M. Erub. 5:4:] They measure only with a rope fifty cubits long [in order to establish the Sabbath boundaries of a town].”
3. **I:3:** And how do we know from Scripture that they do not bury the dead in the Levites’ towns?

XVI. YERUSHALMI MAKKOT 3:1

[A] THESE ARE THE ONES WHO ARE FLOGGED: HE WHO HAS SEXUAL RELATIONS WITH (1) HIS SISTER, (2) THE SISTER OF HIS FATHER, (3) THE SISTER OF HIS MOTHER, (4) THE SISTER OF HIS WIFE, (5) THE WIFE OF HIS BROTHER, (6) THE WIFE OF THE BROTHER OF HIS FATHER, (7) A MENSTRUATING WOMAN, (8) A WIDOW IN THE CASE OF A HIGH PRIEST, (9) A DIVORCÉE OR A WOMAN WHO HAS PERFORMED THE RITE OF REMOVING THE SHOE WITH AN ORDINARY PRIEST, (10) A MAMZER GIRL AND A (11) NETIN GIRL WITH AN ISRAELITE, (12) AN ISRAELITE GIRL WITH A NETIN OR WITH A MAMZER AS TO A WIDOW AND A DIVORCÉE, [PRIESTS] ARE LIABLE IN HER CASE ON TWO COUNTS. IN THE CASE OF A DIVORCÉE AND A WOMAN WHO HAS PERFORMED THE RITE OF REMOVING THE SHOE, [A PRIEST] IS LIABLE IN HER CASE ON ONLY ONE COUNT ALONE.

XVII. YERUSHALMI MAKKOT 3:2

[A] [ALSO SUBJECT TO FLOGGING ARE]: (1) AN UNCLEAN PERSON WHO ATE FOOD IN THE STATUS OF HOLY THINGS: (2) HE WHO ENTERS THE TEMPLE UNCLEAN,

(3) HE WHO EATS FORBIDDEN FAT, BLOOD, REMNANT OF A SACRIFICE LEFT OVERNIGHT, MEAT OF A SACRIFICE RENDERED INVALID BY THE IMPROPER INTENTION OF THE OFFICIATING PRIEST, OR UNCLEAN [SACRIFICIAL MEAT]; (4) HE WHO SLAUGHTERS AN ANIMAL AND OFFERS IT UP OUTSIDE OF THE TEMPLE; (5) HE WHO EATS LEAVEN ON PASSOVER; (6) AND HE WHO EATS OR WHO DOES AN ACT OF LABOR ON THE DAY OF ATONEMENT; (7) HE WHO PREPARES ANOINTING OIL LIKE THE ANOINTING OIL OF THE TEMPLE, (8) HE WHO PREPARES INCENSE LIKE THE INCENSE OF THE TEMPLE, OR (9) HE WHO ANOINTS HIMSELF WITH ANOINTING OIL; (10) HE WHO EATS CARRION OR TEREFAH MEAT, FORBIDDEN THINGS, OR CREEPING THINGS. [IF] ONE ATE (1) FOOD FROM WHICH TITHES HAD NOT BEEN REMOVED AT ALL, (2) FIRST TITHE FROM WHICH HEAVE OFFERING HAD NOT BEEN REMOVED, (3) SECOND TITHE OR CONSECRATED FOOD WHICH HAD NOT BEEN REDEEMED, (HE IS LIABLE TO FLOGGING]. HOW MUCH FOOD WHICH HAD NOT BEEN TITHED AT ALL DOES ONE EAT SO AS TO BE LIABLE? R. SIMEON SAYS, “ANY AMOUNT AT ALL.” AND SAGES SAY, “AN OLIVE’S BULK.” SAID TO THEM R. SIMEON, “DO YOU NOT AGREE WITH ME IN THE CASE OF ONE WHO EATS AN ANT, HOWEVER SMALL, THAT HE IS LIABLE?” THEY SAID TO HIM, “IT IS BECAUSE THAT IS HOW IT HAS BEEN CREATED.” HE SAID TO THEM, “ALSO A SINGLE GRAIN OF WHEAT IS PRECISELY IN THE FORM IN WHICH IT HAS BEEN CREATED.”

XVIII. YERUSHALMI MAKKOT 3:3

[A] [ALSO SUBJECT TO FLOGGING ARE]: (1) HE WHO EATS FIRST FRUITS OVER WHICH ONE HAS NOT MADE THE REQUIRED DECLARATION; (2) MOST HOLY THINGS OUTSIDE THE TEMPLE VEILS, (3) LESSER HOLY THINGS OR SECOND TITHE OUTSIDE THE WALL [OF JERUSALEM]. HE WHO BREAKS THE BONE OF A PASSOVER OFFERING WHICH IS IN A STATE OF CLEANNES — LO, THIS ONE IS FLOGGED WITH FORTY STRIPES. BUT HE WHO LEAVES OVER MEAT OF A CLEAN PASSOVER OFFERING OR WHO BREAKS THE BONE IN THE CASE OF AN UNCLEAN ONE IS NOT FLOGGED WITH FORTY STRIPES.

XIX. YERUSHALMI MAKKOT 3:4

[A] HE WHO REMOVES THE DAM WITH THE OFFSPRING — R. JUDAH SAYS, “HE IS FLOGGED, AND HE DOES NOT HAVE TO SEND THE DAM AWAY.” AND SAGES SAY, “HE SENDS THE DAM AWAY, AND HE IS NOT FLOGGED.” THIS IS THE GOVERNING PRINCIPLE, IN THE CASE OF ANY NEGATIVE COMMANDMENT WHICH INVOLVES DOING A POSITIVE DEED, ONE IS NOT LIABLE.

XX. YERUSHALMI MAKKOT 3:5

[A] (1) HE WHO MAKES A BALDNESS ON HIS HEAD [Dt. 14:1], (2) HE WHO ROUNDS THE CORNERS OF HIS HEAD AND (3) MARS THE CORNERS OF HIS BEARD [LEV. 19:27], (4) OR HE WHO MAKES A SINGLE CUTTING FOR THE DEAD [LEV. 19:28] IS LIABLE. [IF] HE MADE A SINGLE CUTTING ON ACCOUNT OF FIVE DIFFERENT CORPSES, OR FIVE CUTTINGS ON ACCOUNT OF ONE CORPSE, HE IS LIABLE FOR EACH AND EVERY ONE OF THEM. FOR [CUTTING OFF THE HAIR OF] THE HEAD, HE IS LIABLE ON TWO COUNTS, ONE FOR EACH SIDE OF THE HEAD. FOR CUTTING OFF THE BEARD, HE IS LIABLE ON TWO COUNTS FOR ONE SIDE, TWO COUNTS FOR THE OTHER SIDE, AND ONE COUNT FOR THE LOWER PART. R. ELIEZER SAYS, “IF HE REMOVED ALL OF IT AT ONCE, HE IS LIABLE ONLY ON ONE COUNT.” AND HE IS LIABLE ONLY IF HE WILL REMOVE IT WITH A RAZOR. R. ELIEZER SAYS, “EVEN IF HE REMOVED IT WITH PINCERS OR WITH AN ADZE, HE IS LIABLE.”

XXI. YERUSHALMI MAKKOT 3:6

[A] HE WHO TATTOOS HIS SKIN – [IF] HE MADE A MARK BUT DID NOT TATTOO IT IN, TATTOOED IT IN BUT DID NOT MAKE A MARK, HE IS NOT LIABLE – UNLESS HE MAKES A MARK AND TATTOOS WITH INK OR WITH EYE PAINT OR WITH ANYTHING WHICH LASTS. R. SIMEON B. JUDAH SAYS IN THE NAME OF R. SIMEON, “HE IS LIABLE ONLY IF HE WILL WRITE THE NAME [OF A GOD], “AS IT IS WRITTEN, NOR WILL YOU TATTOO ANY MARKS ON YOU, I AM THE LORD (LEV. 19:28).”

XXII. YERUSHALMI MAKKOT 3:7

[A] A NAZIRITE WHO WAS DRINKING WINE ALL DAY LONG IS LIABLE ON ONLY ONE COUNT, [IF] THEY SAID TO HIM, “DON’T DRINK, DON’T DRINK!” YET HE CONTINUED TO DRINK, HE IS LIABLE ON EACH COUNT.

XXIII. YERUSHALMI MAKKOT 3:8

[A] [IF A NAZIRITE] WAS CONTRACTING CORPSE UNCLEANNESS ALL DAY LONG, HE IS LIABLE ON ONLY ONE COUNT. [IF] THEY SAID TO HIM, “DO NOT CONTRACT CORPSE UNCLEANNESS! DO NOT CONTRACT CORPSE UNCLEANNESS!” YET HE

CONTINUED TO CONTRACT CORPSE UNCLEANNESS, HE IS LIABLE ON EACH COUNT. [IF] HE WAS SHAVING HIMSELF ALL DAY LONG, HE IS LIABLE ON ONLY ONE COUNT. [IF] THEY SAID TO HIM, “DON’T SHAVE! DON’T SHAVE!” YET HE CONTINUED TO SHAVE, HE IS LIABLE ON EACH COUNT. IF SOMEONE WAS WEARING A GARMENT OF DIVERSE KINDS (LEV. 19:19, DT. 22:11) ALL DAY LONG, HE IS LIABLE ON ONLY ONE COUNT. [IF] THEY SAID TO HIM, “DON’T PUT IT ON! DON’T PUT IT ON!” YET HE TOOK IT OFF AND THEN PUT IT ON, HE IS LIABLE ON EACH COUNT.

XXIV. YERUSHALMI MAKKOT 3:9

[A] THERE IS ONE WHO PLOUGHS A SINGLE FURROW AND IS LIABLE ON EIGHT COUNTS OF VIOLATING A NEGATIVE COMMANDMENT: [SPECIFICALLY, IT IS] HE WHO (1) PLOUGHS WITH AN OX AND AN ASS [DT. 22:10], WHICH ARE [2, 3] BOTH HOLY THINGS, IN THE CASE OF (4) [PLOUGHING] MIXED SEEDS IN A VINEYARD [DT. 22:9], (5) IN THE SEVENTH YEAR [LEV. 25:4], (6) ON A FESTIVAL [LEV. 23:7) AND WHO WAS BOTH A (7) PRIEST [LEV. 21:1] AND (8) A NAZIRITE [NUM. 6:6] [PLOUGHING] IN A GRAVEYARD. HANANIAH B. HAKHINAI SAYS, “ALSO: HE IS [PLOUGHING WHILE] WEARING A GARMENT OF DIVERSE KINDS” [LEV. 19:19, DT. 22:11]. THEY SAID TO HIM, “THIS IS NOT WITHIN THE SAME CLASS.” HE SAID TO THEM, “ALSO THE NAZIR [B8] IS NOT WITHIN THE SAME CLASS [AS THE OTHER TRANSGRESSIONS].”

XXV. YERUSHALMI MAKKOT 3:10

[A] HOW MANY TIMES DO THEY FLOG HIM? FORTY STRIPES LESS ONE, AS IT IS SAID, BY NUMBER, FORTY (DT. 25:2,3) – A NUMBER NEAR [BUT LESS THAN] FORTY. R. JUDAH SAYS, “HE IS FLOGGED A FULL FORTY TIMES,” AND WHERE DOES THE ADDITIONAL ONE FALL? BETWEEN THE SHOULDERS.

XXVI. YERUSHALMI MAKKOT 3:11

[A] THEY MAKE AN ESTIMATE OF HIS CAPACITY TO TAKE THE FLOGGING [WITHOUT BEING IRREPARABLY INJURED OR KILLED] ONLY BY A NUMBER DIVISIBLE BY THREE. [IF] THEY ESTIMATED HIM AS ABLE TO TAKE FORTY, [IF] HE THEN RECEIVED PART OF THE FLOGGING, AND THEY SAID THAT HE CANNOT TAKE ALL FORTY, HE IS EXEMPT. [IF] THEY ESTIMATED HIM AS ABLE TO TAKE EIGHTEEN, [AND] ONCE HE HAS RECEIVED THE FLOGGING [OF EIGHTEEN], THEY SAID THAT HE CAN TAKE ALL FORTY, HE [STILL] IS EXEMPT FROM THE REST. [IF] HE

COMMITTED A TRANSGRESSION ON WHICH HE IS LIABLE ON TWO COUNTS OF VIOLATING NEGATIVE COMMANDMENTS, AND THEY MAKE A SINGLE ESTIMATE [OF WHAT HE CAN TAKE, COVERING BOTH SETS], HE IS FLOGGED AND EXEMPT [FROM THE OTHER]. AND IF NOT, HE IS FLOGGED AND ALLOWED TO HEAL, AND THEN GOES AND IS FLOGGED AGAIN.

XXVII. YERUSHALMI MAKKOT 3:12

[A] **HOW DO THEY FLOG HIM? ONE TIES HIS TWO HANDS ON EITHER SIDE OF A PILLAR, AND THE MINISTER OF THE COMMUNITY GRABS HIS CLOTHING – IF IT IS TORN, IT IS TORN, AND IF IT IS RIPPED TO PIECES, IT IS RIPPED TO PIECES – UNTIL HE BARES HIS CHEST. A STONE IS SET DOWN BEHIND HIM, ON WHICH THE MINISTER OF THE COMMUNITY STANDS. AND A STRAP OF COWHIDE IS IN HIS HAND, DOUBLED AND REDOUBLED, WITH TWO STRAPS THAT RISE AND FALL [FASTENED] TO IT.**

XXVIII. YERUSHALMI MAKKOT 3:13

[A] **ITS HANDLE IS A HANDBREADTH LONG AND A HANDBREADTH WIDE, AND ITS END MUST REACH TO HIS BELLY BUTTON. AND HE HITS HIM WITH A THIRD OF THE STRIPES IN FRONT AND TWO-THIRDS BEHIND. AND HE DOES NOT HIT [THE VICTIM] WHILE HE IS EITHER STANDING OR SITTING, BUT BENDING LOW, AS IT IS SAID, AND THE JUDGE WILL CAUSE HIM TO LIE DOWN (Dt. 25:2). AND HE WHO HITS HIM HITS WITH ONE HAND, WITH ALL HIS MIGHT.**

XXIX. YERUSHALMI MAKKOT 3:14

[A] **AND A READER READS: IF YOU WILL NOT OBSERVE TO DO... THE LORD WILL HAVE YOUR STRIPES PRONOUNCED, AND THE STRIPES OF YOUR SEED (Dt. 28:58FF.) (AND HE GOES BACK TO THE BEGINNING OF THE PASSAGE). AND YOU WILL OBSERVE THE WORDS OF THIS COVENANT (Dt. 29:9), AND HE FINISHES WITH, BUT HE IS FULL OF COMPASSION AND FORGAVE THEIR INIQUITY (Ps. 78:38), AND HE GOES BACK TO THE BEGINNING OF THE PASSAGE. AND IF THE VICTIM DIES UNDER THE HAND OF THE ONE WHO DOES THE FLOGGING, THE LATTER IS EXEMPT FROM PUNISHMENT. [BUT IF] HE ADDED EVEN A SINGLE STRIPE AND THE VICTIM DIED, LO, THIS ONE GOES INTO EXILE ON HIS ACCOUNT, IF THE VICTIM DIRTIED HIMSELF, WHETHER WITH EXCREMENT OR URINE, HE IS EXEMPT [FROM FURTHER BLOWS]. R. JUDAH SAYS, “IN THE CASE OF MAN, WITH EXCREMENT; AND IN THE CASE OF A WOMAN, WITH URINE.”**

XXX. YERUSHALMI MAKKOT 3:15

[A] “ALL THOSE WHO ARE LIABLE TO EXTIRPATION WHO HAVE BEEN FLOGGED ARE EXEMPT FROM THEIR LIABILITY TO EXTIRPATION, “AS IT IS SAID, AND YOUR BROTHER SEEM VILE TO YOU (Dt. 25:3) – “ONCE HE HAS BEEN FLOGGED, LO, HE IS TANTAMOUNT TO YOUR BROTHER,” THE WORDS OF R. HANANIAH B. GAMALIEL. SAID R. HANANIAH B. GAMALIEL, “NOW IF ONE WHO DOES A SINGLE TRANSGRESSION – [HEAVEN] TAKES HIS SOUL ON THAT ACCOUNT, “HE WHO PERFORMS A SINGLE RELIGIOUS DUTY— HOW MUCH THE MORE SO THAT HIS SOUL WILL BE SAVED FOR [HANDED OVER TO] HIM ON THAT ACCOUNT!” R. SIMEON SAYS, “FROM ITS OWN PASSAGE WE MAY LEARN THAT, “FOR IT IS WRITTEN, EVEN THE SOULS THAT DO THEM SHALL BE CUT OFF (LEV. 18:29).” AND IT IS SAID, WHICH ‘F A MAN DO HE SHALL LIVE BY THEM (LEV. 18:4).’ LO, WHOEVER SITS AND DOES NO TRANSGRESSION – THEY GIVE HIM A REWARD LIKE THAT WHICH GOES TO ONE WHO [GOES AND] DOES A RELIGIOUS DUTY.” R. SIMEON B. RABBI SAYS, “LO, IT SAYS, ONLY BE SURE THAT YOU DO NOT EAT THE BLOOD, FOR THE BLOOD IS THE LIFE (Dt. 12:23).” NOW IF BLOOD, WHICH THE SOUL OF MAN DESPISES – HE WHO KEEPS AWAY FROM IT RECEIVES A REWARD, “ROBBERY AND FORNICATION, WHICH THE SOUL OF A MAN DESIRES AND AFTER WHICH HE LUSTS – HE WHO KEEPS AWAY FROM THEM HOW MUCH THE MORE WILL ATTAIN MERIT – “FOR HIM, AND FOR HIS DESCENDANTS, AND FOR THE DESCENDANTS OF HIS DESCENDANTS, TO THE END OF ALL GENERATIONS!”

XXXI. YERUSHALMI MAKKOT 3:16

[A] R. HANANIAH B. AQASHIA SAYS, “THE HOLY ONE, BLESSED BE HE, WANTED TO GIVE MERIT TO ISRAEL. THEREFORE HE GAVE THEM ABUNDANT TORAH AND NUMEROUS COMMANDMENTS, AS IT IS SAID, ‘IT PLEASSED THE LORD FOR HIS RIGHTEOUSNESS’ SAKE TO MAGNIFY THE TORAH AND GIVE HONOR TO IT’ (Is. 42:21).”

TRACTATE

SHEBUOT

The halakhah of *Shebuot* covers two distinct topics, imparting uncleanness to the sanctuary and its holy things and oaths. They are joined by reason of the Torah's formulation of matters; the focus there is on common penalties for diverse sins or crimes. Like *Keritot*, *Shebuot* sets forth penalties effected through sacrificial offerings, now the guilt-offering required at Lev 5–6. The tractate therefore finds its place within the halakhah's presentation of *Sanhedrin–Makkot*, *Horayot* and *Keritot* on penalties for crimes or sins. A principal occasion for a guilt-offering is the violation of an oath or transgression against a bailment. Leviticus 5:1–6 sets forth the oath of testimony, the case of one in the cult who touches what is unclean, and the rash oath: all bring a guilt-offering. Leviticus 6:1–7 proceeds to bailments in which a false oath has been taken. The themes then are (1) oaths of adjuration, (2) imparting uncleanness to the Temple and its Holy Things, (3) the rash oath, and (4) the false claim in connection with bailments. In the exposition of the topic, uncleanness could have come at the beginning or the end, so as not to interrupt the orderly presentation of the matter of primary concerns, oaths. As it happens, uncleanness comes first, then the shank focuses upon a single, coherent account of oaths. The order of the presentation then follows Scripture's plan.

If the sages wished to make the statement that man's word is comparable to God's and that, for man as for God, words form the media of sanctification, they could find no more suitable occasion for doing so than in their discussion of the oath. And if, further, they wanted to say, God is everywhere present, a sentient being who pays close attention to everyone all the time, to what people say, not only to what they do, and, especially, to what they say upon the invocation of God's presence in particular—if that is what they wanted to say, then *Shebuot* provides not just the ideal occasion but the only really appropriate one. That is for two reasons. First, the oath by definition calls God to witness the transaction; the person who takes the oath invokes God's name and calls upon God to confirm his allegation. Thus the consequence of asking God to join in one's claims and to certify them, the conviction that God is everywhere, all the time, when he is called upon, form the foundation of all else. Second, the oath represents a purely verbal transaction, not ordinarily confirmed by concrete action, and not commonly subjected to the supervision of all parties. It is the transaction that in the end depends upon the integrity of the person who makes the statement in God's name,

e.g., “By an oath, I shall not eat,” for who is going to keep watch to see that the man does not eat?

I. The uncleanness of the cult and its holy things and the guilt offering

A. General introduction

B. Uncleanness and the cult

II. Oaths

A. Oaths in general

B. The rash oath, the vain oath

C. The oath of testimony

D. The oath of bailment

E. The oath imposed by judges (y. *Sheb.* 6:1–7:8)

F. Oaths and bailments (y. *Sheb.* 8:1–6)

YERUSHALMI SHEBUOT

CHAPTER ONE

1:1

- [A] Oaths are of two sorts, which yield four subdivisions [on account of each of which one may be liable on one distinct count].
- [B] Awareness of [having sinned through] uncleanness is of two sorts, which yield four subdivisions [on account of each of which one may be liable on one distinct count].
- [C] Transportation [of objects from one domain to the other] on the Sabbath is of two sorts, which yield four subdivisions [on account of each of which one may be liable on one distinct count].
- [D] The symptoms of the presence of the skin disease [*negaim*] are of two sorts, which yield four subdivisions [on account of each of which one may be liable on one distinct count].

[I:1 A] [In reference to M. 1:1C, which refers to transporting an object from private to public domain, and has in mind a person standing outside and extending an object inside, that is, from public to private domain, and vice versa, thus “two,” and which then adds two (thus two – four) for a person standing inside and extending an object out into public domain, so two contexts capable of subdivision into four – the question now is raised as follows:] [Is the meaning of **Transportation [of objects from one domain to the other] on the Sabbath is of two sorts, which yield four subdivisions [on account of each of which one may be liable on one distinct count]** [meant] to impose liability, and is the meaning of **Transportation [of objects from one domain to the other] on the Sabbath is of two sorts, which yield four subdivisions [on account of each of which one may be liable on one distinct count]** meant to declare exemption from punishment?

- [B] [Or is the meaning, **Transportation [of objects from one domain to the other] on the Sabbath is of two sorts, which yield four subdivisions [on account of each of which one may be liable on one distinct count]** to exempt from punishment? [That is, we have noted

in the Mishnah that there are two categories that are four within private domain, and two that are four in public domain. The two are to impose liability on taking an object out of private domain and bringing the object into private domain, so that if a single individual does the entire act, he then bears liability on two counts. Or are there four possibilities under each category, liability and exemption therefrom?]

- [C] *Let us infer the answer from the following [use of the same language]:*
- [D] **Oaths are of two sorts, which yield four subdivisions [on account of each of which one may be liable on one distinct count].** [And, as Yosé says at E, all refer to the imposition of liability, hence B is preferable, rather than A. At Y. Shab. 1:1H now follows.]’
- [E] *Said R. Yosé, “The Mishnah itself has stated thus: **Oaths are of two sorts, which yield four subdivisions [on account of each of which one may be liable on one distinct count]***
- [F] “Is it not [solely] to impose liability?”
- [G] “*And similarly, therefore: **Transportation [of objects from one domain to the other] on the Sabbath is of two sorts, which yield four subdivisions** solely serves to impose liability [under four counts].*”
- [H] *Said R. Ba, “There [with reference to oaths], all of [the stated categories] are [indeed] meant to impose liability. But here [with regard to transportation of objects from one domain to the other on the Sabbath], we come to repeat the tradition [that there are occasions for both] liability and exemption from liability.”*
- [I] [If that is so, then within the same pericope we have two different linguistic usages for exactly the same words.] *So is that to say, “Four to impart liability, and four to exempt from liability” [in the case of oaths, but two and two in the case of the Sabbath]? [Hence, the advocated interpretation of the passage imposes different meanings on exactly the same words.]i*
- [J] *And has it not been taught, “The doors of the sanctuary are two which are four”? [And it had four doors. two inside and two outside, so M. Middot 4:1]. Now do [we have the occasion] to state [that the attempted division between] imposing liability and exempting from liability [applies in the usage of such language? Obviously not! Similarly, when one finds the sort of language, twoÉfourÉ, it is not appropriate to attempt to impose diverse meanings on simple language.*

There is a single consistent meaning to be imposed on the cited language.]

- [I:2 A] [At M. Shab. 1:1, we find an illustration of the rule under discussion through a sequence of cases, in which a beggar stand sin public domain and a householder in private domain, with an exchange of food by means of a begging bowl. In this sequence of examples, we have eight transactions, four points of liability, tow in which the beggar is liable, two in which the householder is liable; there are then eight transactions that do not produce liability, four involving the beggar, four involving the householder. The text is as follows: **[Acts of transporting objects from one domain to another [which violate] the Sabbath (1) are two, which [indeed] are four [for one who is] inside, (2) and two which are four [for one who is] outside. How so? [If on the Sabbath] the beggar stands outside and the householder inside, [and] the beggar stuck his hand inside and put [a beggar's bowl] into the hand of the householder, or if he took [something] from inside it and brought it out, the beggar is liable, the householder is exempt. [If] the householder stuck his hand outside and put [something] into the hand of the beggar, or if he took [something] from it and brought it inside, the householder is liable, and the beggar is exempt. [If] the beggar stuck his hand inside, and the householder took [something] from it, or if [the householder] put something in it and he [the beggar] removed it – both of them are exempt. [If] the householder put his hand outside and the beggar took [something] from it, or if [the beggar] put something into it and [the householder] brought it back inside, both of them are exempt.** Now in this context of explaining M. Shab. 1:1, the Talmud asks the following question:] *Should we not then repeat the tradition in such wise that there are twelve transactions, in which a party is exempt from liability, and not “four that are eight”?*
- [B] [That is not a consideration, for the purpose is different, namely:] *we have to with the purpose of teaching* only a transaction involving exemption from liability in the context of one involving liability. [At issue here are only cases of correspondence, one of liability and one of exemption along the same type of case, but with diametrically opposed conditions and consequences.]
- [C] [*In the same context of the exposition of M. Shab. 1:1,*] said R. Hiyya bar Adda, “*Why is it that the language of the Mishnah is, ‘exempt from liability,’ that we repeat here? [Should the appropriate word choice not be,] ‘it is permitted?’ [The appropriate language should be, ‘exempt and permitted,’ there is*

no consideration of a prohibition, hence of exemption from penalty at all.]”

[D] [In that same context,] said R. Yosé, “The poor man and the rich man are one and the same, but the sages enumerated them as two to differentiate taking out from bringing in.”

[E] [Not at all!, for the following reason:] Bringing an object into private domain and taking it out of private domain are two separate transactions, but sages have enumerated them as a single transaction to indicate that they are not to be differentiated. Transporting an object on the Sabbath from one domain to another – does not the act of bringing an object into private domain fall within the principle operative in taking an object from one domain to another? Does not bringing an object into a domain fall within that same principle?

[F] *And furthermore [there is evidence that taking an object out and bringing it in from one domain to another should be deemed one and the same], for R. Yasa in the name of R. Yohanan said, “If one has brought half a dried fig into private domain and carried half a dried fig out from private domain to public domain, he is liable [since the two acts are totally equivalent to one another and are deemed to join together to form the whole of the requisite act of transporting, in volume, the whole of a dried fig, so a complete act of transporting an object of requisite volume thus has been carried out and the person who has done the act is liable]. [So Yosé’s thesis is false.]*

[I:3 A] And how do we know that transporting an object out from one domain to another domain is deemed to be an act of labor [which is prohibited on the Sabbath]?

[B] R. Samuel in the name of R. Yohanan: ““So Moses gave command, and word was proclaimed throughout the camp, “Let neither man nor woman do anything more for the offering for the sanctuary. So the people were restrained from bringing” (Ex. 36:6). The people thus refrained from taking objects out from their houses and from handing them over to the temple treasurers [who were standing in the public domain] or from taking something out of their hands and bringing it into the temple treasury.”

[C] *R. Hezekiah in the name of R. Aha derived the same law from the following:* “[Thus says the Lord: ‘Take heed for the sake of your lives, and do not bear a burden on the Sabbath day or bring in by the gates of

Jerusalem]. And do not carry a burden out of your houses on the Sabbath or do any work[, but keep the Sabbath day holy]' (Jer. 17:21-22).”

[II:1 A] [With reference to M. 1:1A-D, **Oaths are of two sorts, which yield four subdivisions [on account of each of which one may be liable on one distinct count]** R. Mana stated [what is about to be cited] without specifying any authority, [while] R. Abin [stated what follows] in the name of R. Yohanan: “[*Thus*] we have learned a Mishnah tradition of two general rules that actually are not parallel to one another. **Oaths are of two sorts, which yield four subdivisions [on account of each of which one may be liable on one distinct count]** [in consequence of which] one brings four offerings [if he violates any of the four sorts of oaths]. But **Awareness of [having sinned through] uncleanness is of two sorts, which yield four subdivisions [on account of each of which one may be liable on one distinct count]** produces a situation in which] one brings [only] two offerings [and not four, if one should violate the law].” [In point of fact, we cannot find a Tannaite authority who will maintain both rules. The reason, to begin with the former, is that the two sorts, yielding four subdivisions of oaths, involve one in the past and one in the future, e.g., “I take an oath that I did not eatÉ,” “... that I shall not eat....” There are four possibilities of liability for an offering should one violate either sort of oath. Now, M. Shebu. 3:1, it is Aqiba who maintains that one is liable under such circumstances. The sages in context maintain that an oath involving what will happen in the future is *not* liable when violated. It follows that M. Shebu. 1:1A follows the view of Aqiba. At M. Shebu. 3:5F, by contrast, Ishmael says one is liable only for violation of an oath stated concerning what happens in the future, not in the past. So he will stand against M. 1:1A. But at M. Shebu. 2:5 we shall see that only Ishmael can concur with M. Shebu. 1:1B, a fact that will be explained in context. Aqiba quite explicitly cannot concur that. in the case of M. 1:1B, there will be four offerings. He would maintain there can be liability on only two counts. It follows that we have two generalizations, side by side, deriving from quite separate and distinct authorities, Aqiba in the case of M. 1:1A, Ishmael in the case of M. 1:1B.]

[B] *R. Eleazar in the name of R. Abin: “Interpret [the Mishnah pericope to represent the views of two] separate [authorities, the rule on oaths following Aqiba, the one on uncleanness in the sanctuary, following Ishmael, as follows:]*

- [C] **“Oaths are of two sorts, which yield four subdivisions** is the view of R. Aqiba.
- [D] **“Awareness of having sinned through imparting uncleanness to the temple or the Holy Things belonging to the temple is of two sorts which yield four subdivisions** is the view of R. Ishmael.”
- [E] *R. Haggai asked in session before R. Yosé, “And why am I forced to declare the latter statement [F] to follow the view [only] of R. Ishmael? It can be shown to express the view even of R. Aqiba. There is the consideration of both awareness and a spell of inadvertence [hence two] in the matter of the imparting of uncleanness to the sanctuary, and there is the consideration of both awareness and a spell of inadvertence [hence two more] in the matter of the imparting of uncleanness to the Holy Things [belonging to the sanctuary, hence two more, four in all]. [So: ‘Awareness of having sinned’ indeed is of two sorts, yielding in all four subdivisions.]”*
- [F] *He said to him, “Who indeed holds the position that there is a distinct consideration of unawareness involving uncleanness and unawareness involving the sanctuary [that is, one is unaware that he is unclean, and also unaware that he is in the sanctuary, thus liable on two distinct counts] – is it not R. Ishmael? But we require that a teaching be formulated to accord with the position of R. Aqiba [so that we can demonstrate that the whole of M. Shebu. 1:1 follows consistently the view of a single Tannaite authority, hence, in context, Aqiba]!”*
- [G] There are cases in which there appears to be unawareness that one is unclean, and unawareness that one is in the temple, and yet one may be liable only on one count.
- [H] *What would be a practical instance of this view?*
- [I] [If] one was made unclean, and he realized it, and then the matter of his being unclean passed from mind, and the man entered the temple and went out, and [only] then he realized that he had been unclean [and if] the matter of his being in the sanctuary passed from mind, and he entered the sanctuary and went forth and then he realized he had been in the temple, lo, we have a case here of unawareness of one’s being unclean, and unawareness of one’s being in the temple, and yet one is liable only on a single count [for it was a single spell of unawareness].
- [J] Now there are cases [furthermore] in which there may be a number of spells of full knowledge and a number of spells of unawareness, and one [even then] may be liable on only a single count. *How so?*

[If] one was made unclean and knew it, and the matter of his having been made unclean passed from mind, [and] while he was still unaware of the uncleanness, the matter of the sanctuary [and the prohibition of being unclean there] passed from mind, and he went into the sanctuary and went out, and then he realized what had happened, [and] then he [in error] said, “On the count of this uncleanness people are not liable for an offering,” and he became unclean, and knew it, but the matter of his being unclean passed from mind, and while he was unaware of the matter of the uncleanness, the matter of the sanctuary passed from mind, and he went into the sanctuary and went out – even if this happened any number of times, but only at the end did he become fully knowledgeable on all counts – lo, this is a case in which one may have a number of cases of full awareness and a number of cases of total unawareness, and one may be liable on only a single count.

- [III:1 A] The symptoms of the presence of the skin disease [*negaim*] are of two sorts, which yield four subdivisions [on account of each of which one may be liable on one distinct count:**
- [B] Said R. Yosé, “Joshua, son of R. Aqiba, asked R. Aqiba, saying to him, ‘Why have they said, “Symptoms of plagues are two, which yield four subdivisions”?’”**
- [C] “He said to him, ‘If not, what should they say?’”**
- [D] [Joshua answered,] “Let them say, ‘[Any shade of white] from [one like that of] the skin of an egg and brighter is unclean.””**
- [E] [The continuation of this passage below, at H, indicates we must include the following:] “He said to him, ‘[They used the cited language to teach that they join together [so that if there is on the skin a diversity of shades of white of the stated brightness, then the pieces of skin join together to form the requisite measure of discolored skin for the man to be declared unclean with sara’at].’”**
- [F] “He said to him, ‘Let them say, “[A shade of white] brighter than the skin of an egg is unclean, and [pieces of skin of diverse shades of such brightness] join together with one another.””**
- [G] “He said to him, ‘To teach you that if one is not an expert in them and in their names, he should not examine nega’s”” [T. Neg. 1:1]. [As noted above (E), the continuation of the passage necessitates presenting here the Tosefta’s version, and not the one in the Talmud, which omits F and jumps from D to G.]**

- [H] And how do we know that [pieces of skin of different shades, under the stated condition (D-E),] do join together [to form a patch of discolored skin of ample volume to impose uncleanness of *sara'at*]?
- [I] Said R. Mana, “The sages counted them as two and counted them as four. [Using the language of M. 1:1D thus indicates:] Just as two [the rising and the bright spot] join together, so do all four [diverse shades – that is, the two secondary to rising and bright spot, respectively] join together [so the diverse secondary shades of white are deemed continuous].”
- [J] R. Eleazar in the name of R. Abin: “If a shade [of white] not of the same sort as some other shade [that is, two secondary shades] joins together with that other shade [= the rising, the bright spot, which are two distinct types of diseases], is it not an argument *a fortiori* that a [shade of white] of one kind will join together with another [shade of white] of that same sort?”
- [K] [To prove these same propositions, that the shades of white do join together,] said R. Yosé b. R. Bun, “[‘As to a man, when there is on the skin of his body a swelling or an eruption or a spot’ (Lev. 13:2).] ‘When there *are*’ is not written, here, but rather, ‘When there is....’ The use of the singular signifies that [white shades] do join together [to form a single phenomenon].”
- [L] [To prove the same propositions] *Hezekiah taught*, “‘and it turns into leprous diseases on the skin of his body’ (Lev. 13:2) is not written, but rather, ‘a leprous disease....’ The use of the singular signifies that [diverse shades of white] do join together [to form a single phenomenon].”
- [M] [In answering the question of C, Aqiba] said to him, “Then let them say, ‘A shade of skin of a white brighter than the skin of an egg is unclean, and [pieces of skin of diverse shades of such brightness] join together with one another,’ and let them not say, The symptoms of the presence of the skin disease [*negaim*] are of two sorts, which yield four subdivisions.
- [N] He said to him, “Phrasing matters as they do [at M. 1:1D] teaches that one is not brighter than the other.” [So ‘four’ serves the purpose of indicating that a white of the shade of lime is deemed to join to a bright spot, even though the bright spot is two shades brighter than that plaster-shade. Reference thus is made to M. Neg. 1:1: The shades of white that indicate that a spot on the skin is the mark of the skin disease are two, which are four: (1) A bright spot is as bright-white as snow.

And secondary to it is [a shade as white] as the lime of the Temple. (3) “And the swelling is [as white] as the skin of an egg. And secondary to it is [a shade as white] as white wool,” the words of R. Meir. And sages say, “(1) The swelling is [as white] as white wool. (2) Secondary to it is [a shade as white] as the skin of an egg”].

[O] And why not let this one be brighter than the other? [That is, why not maintain that patches of skin of diverse shades of white do not join together unless the shades of white are in the exact order, and two shades of white two shades apart from one another will not join together, e.g., a white shade such as that of the skin of an egg with the bright-white of snow will not join together.]

[P] If you take such a position, you will turn out to rule that a dim shade of white is unclean, but a shade of white still dimmer than that also is unclean. [The white of the dullness of the skin of an egg then will be deemed unclean; that is, a shade two shades less than the white of a bright spot will join together with a bright spot’s sort of white to impose uncleanness.] [And you cannot take such a position, for] the Torah has stated, “[And the priest shall examine him again on the seventh day,] and if the diseased spot is dim” (Lev. 13:6). The dim [shade of white indicates that the spot is] unclean, but a shade of white] dimmer than that shade is clean [and not unclean at all, so the position proposed is impossible. This is expressed at Sifra Negaim 2:5G as follows: “It grew dim” (Lev. 13:6) – dimmer within its color range [relatively], and not dimmer than the four shades (specified in the Mishnah, absolutely)].

[Q] *And [this view that the relationship of the shades of white must follow that specified at M. Neg. 1:1, that is, a primary shade and its secondary derivative, as specified above] is in accord with that which R. Haninah said, “[One may compare this fixed order of relationship among the shades, so that one does not skip a step or compare a secondary white of one primary order to a secondary white of the other primary order] to the relationship of two kings or two hyparchs. The realm of this king may be larger than the realm of that, or the hyparchy of this one may be larger than the hyparchy of that. But the hyparchy of one is not going to be larger than the realm of another one. [Similarly, lime-white follows after the bright-white, and egg-white follows*

after the white of the rising, each in its own organizing category.]”

[R] Samuel said, “[It is to be compared] to two kings and their two ambassadors. The realm of one is greater than the realm of the other, so the embassy of one is greater than the embassy of the other, and the embassy of the one is surely not going to be greater than the realm of the other.”

[S] R. Haninah in the name of R. Aha bar Ahva: “[It is to be compared to] a king and his general, or to the argapat [a high Iranian official] and the exilarch [a high Jewish official, but, obviously, of lesser rank].”

[T] Said R. Eleazar b. R. Yosé before R. Yosé, “The [following] Tannaite formulation has stated that one is not above the other:

[U] “If a swelling is dimmer than its own dimmest shade, it is clean. This indicates that there is a secondary shade [that is, Scripture’s ‘swelling or eruption,’ so the eruption is a secondary white to the white of a swelling]. [If] a bright spot which is dimmer than the white of a bright spot is unclean, [then] by an argument *a fortiori* there should be a secondary shade of white applicable in its case. [The eruption is secondary in color to the bright spot, and the color of the eruption is secondary to that of the swelling, so Sifra Negaim 1:4, quoted below. Pené Moshe explains as follows: A white of the shade of an eggshell is dimmer than the eruption, and a white yet dimmer than that is clean, since it is dimmer than all four of the shades. Yet there is a secondary shade applicable in that case. Now the bright spot dimmer than the dimmest of that category is unclean – two shades below the bright spot’s whiteness. All the more so there should be a shade of white that is secondary and yet unclean, and that, of course, is lime.]”

[V] *He said to him, “Note what one [must then] say, ‘[If] it has a secondary shade, will it not all the more so have a tertiary shade!’”*

[W] *And on what basis do you rule that a bright spot that is dimmer than the bright spot applicable to it is unclean?*

This in fact is a rising. The [white of] a rising figures as equivalent to the white of an eggshell.

[X] [“A swelling, or an eruption, or a spot” (Lev. 13:2): ‘A swelling’ – this is a swelling. ‘A spot – this is a spot. ‘An eruption’ – this is secondary in color to the bright spot. ‘And its shade is deep’ (Lev. 13:3) – the color of the eruption is secondary to that of the swelling [Sifra Negaim 1:5].

[Y] What is the meaning of the word “swelling”? It means prominent like the shades of the shadow, which are higher than the appearance of the sun. What is the meaning of the word “deep”? Deep as the shades of the sun, which are deeper than the shadow. What is the meaning of the word “eruption”? Secondary, as it is said, “Put me, I pray you, in one of the priest’s places” (1 Sam. 2:36) [Sifra Negaim 1:4].

[Z] Said R. Eleazar, “This passage represents the opinions of R. Ishmael and R. Aqiba. But in the opinion of the sages, the rising [= the swelling] and the bright spot are one and the same. The eruption is secondary to both of them.”

[AA] *The Mishnah itself has made the same statement:* if the white of an eruption turned as white as that of a rising or if the white of a rising grew bright [the same rule applies, since the eruption and the rising are of the same shade of white (cf. M. Neg. 7:2)].

1:2

[A] **In any case in which there is awareness of uncleanness at the outset and awareness [of uncleanness] at the end but unawareness in the meantime – lo, this one is subject to bringing an offering of variable value.**

[B] **[If] there is awareness [of uncleanness] at the outset but no apprehension [of uncleanness] at the end, a goat which [yields blood to be sprinkled] within [in the Holy of Holies], and the Day of Atonement suspend [the punishment],**

[C] **until it will be made known to the person, so that he may bring an offering of variable value.**

- [I:1 A] Now how do we know [that we deal with a case of awareness at the outset and at the end [of the process of contaminating the sanctuary and its Holy Things], but unawareness in the meantime?
- [B] Scripture states, “and it is hidden from him ‘ two times. [Lev. 5:2: “Or if any one touches an unclean thingÉand it is hidden from him, and he has become unclean – he shall be guilty.” (Lev. 5:3: “Or if he touches human uncleanness Éand it is hidden from him, when he comes to know it he shall be guilty”)] From this one must infer that [the man had] awareness at the outset and at the end, and a spell of unawareness in-between.
- [C] The foregoing is the view of R. Aqiba.
- [D] [But as to] R. Ishmael [who rejects this view of the cited verses], R. Ishmael is in accord with the view of Rabbi.
- [E] For Rabbi [Judah the Patriarch] said, ““and it is hidden from him,’ implies that [at the outset] he knows [that he was unclean], but became unaware [of that fact].” [So there must be awareness at the outset, but need be none at the end.]
- [F] And yet, [it is written,] “And when he comes to know it,” so lo, there are two periods of awareness [as Aqiba has claimed, and not only one, at the outset, as Ishmael and Rabbi maintain].
- [G] [Yet, as we shall see, Ishmael interprets the reference to two states of knowledge to mean that one is liable for being unaware of his being unclean, and one also is liable for being unaware of being in the sanctuary, and so, on a single act, may be liable on two distinct counts. So Ishmael has no difficulty interpreting the cited verses. What requires explanation, therefore, is the raising of the question to begin with. Responding to that question, the Talmud says:] Lo, R. Ishmael is in accord with the position of Rabbi, and Rabbi is in accord with the position of R. Ishmael. [Ishmael concurs that reference to one’s knowing means there must be a spell of awareness at the outset, just as Rabbi says. Rabbi concurs with Ishmael’s view that the two references to “knowledge” take account of knowledge of two distinct facts, uncleanness and being in the sanctuary, respectively.]
- [H] And yet [you may claim that the interpretation of the verses] even is in accord with R. Aqiba. For awareness or unawareness applies to uncleanness specifically in regard to the sanctuary, [and] awareness or unawareness applies to uncleanness specifically in regard to the Holy Things. [Aqiba regards the two – uncleanness and being in the sanctuary – as identical.]

- [I] *Now there also are those who wish to prove the stated proposition [of M. 1:2 as Aqiba reads it] on the basis of the following:*
- [J] “when he comes to know it, he shallÉbe guilty” (Lev. 5:4).
- [K] Now has it not already been stated, “And he has become unclean. he shall be guilty” (Lev. 5:3)?
- [L] So [if the latter reference to guilt] does not apply to the matter of awareness at the outset [which is already indicated in a prior verse], then apply the [reference to being guilty to the matter of awareness at the end.
- [M] [On this claim, that there can even be a question of guilt if at the end the man is unaware of having been unclean in the sanctuary,] *R. Bun raised the question, “If the man did not become aware at the end [that he had been unclean in the sanctuary], then how is he going to bring an offering?”*
- [N] [Reversing what is said, the Talmud replies:] [If the reference to guilt] does not apply to the matter of awareness at the end, then apply [the reference to being guilty] to the matter of awareness at the outset. [Hence Aqiba’s position, that the person must have known at the beginning that he was unclean, forgotten it, then remembered it, is validated by the scriptural language.]
- [O] *They replied, “Lo, it is written, ‘If any one of the common people sins unwittingly in doing any one of the things which the Lord has commanded not to be done, and is guilty, when the sin which he has committed is made known to him he shall bring’ (Lev. 4:27)[, and this verse clearly refers to knowledge of the sinful action only at the end of the process]. [Here too is it possible to be stated,] ‘If the reference to a sin-offering does not apply to the matter of awareness at the outset,⁹ then apply the reference to the matter of awareness at the end’?* [Obviously, not, for Scripture itself is explicit.]”
- [P] [As to the scriptural reference to the requirement to bring a sin-offering once one knows that he has sinned,] apply that statement to the case of those who are liable for guilt-offerings required as a matter of certainty [for guilty actions the party knows have been committed], who have delayed bringing those offerings until after the Day of Atonement. [The verse then indicates that they] bring the offerings owed by them even after the Day of Atonement. But those who [before the Day of

Atonement] were liable to suspensive guilt-offerings [who are not subject to the statement of Lev. 4:27] then are exempt from the requirement to bring those suspensive guilt-offerings, if, in the meantime, between the guilty action and the time of bringing the offering, the Day of Atonement has intervened[, for the Day of Atonement effects forgiveness for those who are liable to a suspensive guilt-offering].

[Q] [To prove this point,] Scripture states, “when the sin which he has committed is made known to him he shall bring” (Lev. 4:27) – even after the day of Atonement.

- [I:2 A] How do we know that [Scripture, in speaking of a sacrifice of variable value for uncleanness] refers only to one’s imparting uncleanness to the sanctuary and its Holy Things?
- [B] Scripture has warned against and declared a punishment on account of uncleanness [in connection with the sanctuary and its Holy Things] and also imposed a liability for an offering on account of uncleanness [in that same connection].
- [C] Just as [the verses of Scripture that] impose punishment and provide for a warning refer to imparting uncleanness to the sanctuary and its Holy Things, also, when [the Scripture] imposed liability for an offering [of variable value], it was on account of imparting uncleanness to the sanctuary and its Holy Things.
- [D] R. Eliezer b. Jacob says, “Since Scripture has stated [that, in the confession to be recited over first fruits, the farmer must say,] ‘I have not eaten of the tithe while I was mourning, or removed any of it while I was unclean’ (Deut. 26:14), is it possible to maintain that an Israelite who has eaten tithe while having the sums of a mourner or while unclean must bring an offering [as is the case specified at Lev. 5:2ff]?”
- [E] “Scripture states, ‘When a man is guilty in any of these’ (Lev. 5:5).
- [F] “There are some of these on account of which one is liable for an offering of variable value, and there are some of these on account of which one is going to be exempt.”
- [G] [Testing the stated proposition against the matter of heave-offering, which must be preserved in a state of cleanness, but violation of which, as a matter of fact, does not impose the offering of variable value of which Lev. 5:2ff speaks, the Talmud asks:] I shall then exclude [from the rule of Lev. 5:2ff and its offering] the tithe, violation of which does not impose the penalty of death.

- [H] But I shall then not exclude [from the provisions of Lev. 5:2ff] heave-offering, which indeed is subject to the death penalty, as it is said, “They shall therefore keep my charge, lest they bear sin for it and die thereby when they profane it” (Lev. 22:9).
- [I] [In answer to this objection,] Scripture states, “When a man is guilty in any of these” (Lev. 5:5). [The meaning is,] “There are some of these, on account of which one is liable, and there are some of these, on account of which one is not going to be liable.”
- [J] Or perhaps one might argue, “Just as below, the law refers to heave-offering, so here it refers to heave-offering.”
- [I:3 A]** And have you not derived evidence from the matter of idolatry [that one brings an offering only for a matter the deliberate commission of which brings the penalty of extirpation, excluding only the matter of heave-offering, which is a sin punishable by death, as follows:] For the law concerning idolatry applies to all transgressions that are specified in the Torah. That is to say, just as the sin of idolatry is distinctive in that people are liable to extirpation for committing it deliberately and to a sin-offering for committing it inadvertently [33a], so we exclude only violation of the status of heave-offering, which is subject solely to the death penalty. [The point of this question is that, just as in the case of idolatry, we require awareness of having sinned only at the end of the process, so in the matter under discussion, that is, imparting uncleanness to the sanctuary and its Holy Things, we should speak solely of awareness that one was unclean at the end of the process, and not of awareness at the outset.]
- [B] *Said R. Haninah before R. Mana*, “And [if] you derive evidence from the law governing idolatry, then let one derive evidence from the law governing idolatry that, in all matters, [we speak] of only one [point at which one is fully] aware [of what has happened, just as we saw it at A].
- [C] He said to him, “Violation of the prohibition of idolatry is punishable by the bringing of an offering of fixed value, while violation through uncleanness of the sanctuary and its Holy Things is punishable through the bringing of an offering of variable value. We cannot derive the law governing an action punishable by bringing an offering of fixed value from the law governing a sin punishable by bringing an offering of variable value, nor the reverse.”
- [I:4 A]** *Now why do you say that* Scripture speaks [at Lev 5:2ff] of imputing uncleanness to Holy Things?

- [B] Here it is said, “Or if any one touches an unclean thing, whether the carcass of an unclean beast” (Lev. 5:2).
- [C] And there it is said, “or a carcass of unclean cattle, or a carcass of unclean swarming things” (Lev. 7:21).
- [D] Just as the reference [of Lev. 22:3ff] to an unclean animal is to not imparting uncleanness to Holy Things, so the reference here [Lev. 5:22] to an unclean animal is to not imparting uncleanness to Holy Things.
- [E] [Thus far I have succeeded in proving] only that the offering of variable value applies to imparting uncleanness to the Holy Things. How do I know that it also applies to imparting uncleanness to the sanctuary?
- [F] Scripture says, “while he has an uncleanness” (Lev. 22:3).
- [G] *Now why do you say that* Scripture speaks of an unclean person who has eaten [Holy Things in a state of] cleanness, and not of a clean person who has eaten Holy Things that were in a state of uncleanness?
- [H] Scripture says, “while he has an uncleanness,” meaning, [Scripture speaks] of uncleanness of the person, and not of the uncleanness of the meat [that the person has eaten].
- [I] Rabbi says, “[the person who touches any such shall be unclean until the evening, and shall not eat of the Holy Things unless he has bathed his body in water. When the sun is down he shall be clean, and] afterward he may eat [of the Holy Things]’ (Lev. 22:7) – so the matter depends upon the uncleanness of the meat [of the Holy Things].”
- [J] A proof for the same proposition is given as follows:] R. Hiyya says, “In regard to Holy Things, the language of the plural is used, while with regard to uncleanness, the language of the singular is used “while he has an uncleanness” (Lev. 22:3)]. How then shall I make sense of both usages? “while he has an uncleanness” refers to the uncleanness of the person, not to the uncleanness of the meat [of the Holy Things].”
- [K] R. Meir says, “[The rule governing the preservation of the cleanness of the cult at Lev. 22:3ff] speaks solely of one whose uncleanness leaves him, thus excluding meat [of Holy Things], the uncleanness of which does not ever depart.”
- [II:1 A]** [With reference to M. 1:2B C, the goat and the Day of Atonement suspend the punishment until the man knows what he has done, but

then he brings an offering of variable value:] if so, what good did the Day of Atonement do for the man [if he still has to bring an offering]?

[B] Said R. Yosé b. R. Bun, “The Day of Atonement serves for him as a suspensive guilt-offering. [That is to say,] if the man should die before the Day of Atonement, [the Day of Atonement] bears his sin. But if he dies after the Day of Atonement, [through the Day of Atonement] he already has achieved expiation.”

[II:2 A] “Thus he shall make atonement for the holy place, because of the uncleanness of the people of Israel [and because of their transgressions, all their sins]” (Lev. 16:16) –

[B] included in this matter [of making atonement for the uncleanness of the Israelites] are three sorts of uncleanness.

[C] Uncleanness of idolatry, as it is said, “[because he has given one of his children to Molech,] defiling my sanctuary” (Lev. 20:3).

[D] Fornication, as it is said, “[But you shall keep my statutes^É] and do none of these abominations, [(for all of these abominations the men of the land did, who were here before you, so that the land became defiled)]” (Lev. 18:16-

[E] Murder, as it is said, “and you shall not thus pollute the land [in which you live; for blood pollutes the land]” (Num. 35:33).

[F] “Is it possible to suppose that for all these kinds of uncleanness this goat effects expiation?

[G] “Scripture says, ‘because of some of the uncleanness’ and not because of all of the uncleannesses.

[H] “Just as Scripture has made a distinction between uncleanness imparted to the sanctuary and its Holy Things, so here too we should make distinctions only with regard to uncleanness pertaining to the sanctuary and its Holy Things,” the words of R. Judah.

[I] R. Simeon says, “The very passage to which reference is made settles the matter, for it is said, ‘And he shall make atonement for the holy place, because of the uncleanness of the people of Israel’ (Lev. 16:16) any sort of uncleanness that pertains to the holy place [vs. F-H].

[J] Is it possible to suppose that on account of uncleanness imparted to the sanctuary and its Holy Things this goat effects expiation [instead of the offering of variable value mentioned at Lev. S]?

[K] Scripture says, “because of their transgressions” (Lev. 16:16).

[L] These are acts of rebellion [done deliberately, and not unaware, unlike those of Lev. 5].

[M] And so it says, “The king of Moab has rebelled against me” (2 Kings 3:7).

1:3

[A] [If] there is no apprehension [of uncleanness] at the outset but there is apprehension [of uncleanness] at the end,

[B] a goat which [yields blood to be sprinkled] without [on the outer altar], and the Day of Atonement effect atonement,

[C] as it is said, “Beside the sin offering of atonement” (Num. 29:11).

[D] For that which this [goat, prepared inside] makes atonement, the other [the goat prepared outside] makes atonement.

[E] Just as the goat prepared inside makes atonement only for something for which there is certain knowledge, so that which is prepared outside effects atonement only for something for which there is certain knowledge.

[I:1 A] [Asking about the fact that the power of expiation attributed to the inner altar differs from that attributed to the outer altar, the Talmud asks,] *Why do you say that* the [blood sprinkled on the] inner altar [has the power to] suspend [punishment], while [blood sprinkled on] the outer altar [has the power to effect atonement, or the [blood sprinkled on] the outer altar [has the power to] suspend [punishment]. and [blood sprinkled on] the inner altar [has the power to] effect atonement?

[B] [Why should it not be the case that] both this and that will suspend, or both this and that have the power to effect atonement [each with reference to those acts for which blood is sprinkled upon it]?

[C] *What is there [to be said in this regard]?*

[D] *Said R. Jacob bar Aha, “I knew that there was something [that] R. Simeon b. Laqish replied in the presence of R. Yohanan, and he replied to him by making distinctions among modes of effecting atonement, but I am not entirely sure of just what he said to him.”*

[E] *Said to him R. Zira, “Perhaps this is what [you heard], namely, a distinction concerning an unclean person who ate clean [Holy Things], or perhaps a clean person who ate unclean [Holy Things].*

- [F] “[And in this context, we cite the familiar exegesis, as follows:] Scripture has said, ‘while he has an uncleanness,’ (Lev. 22:3), meaning, [Scripture speaks] of uncleanness of the person, and not of the uncleanness of that [which the person has eaten].”
- [G] [But that does not answer the question raised at A-B:] both this and that will suspend, or both this and that have the power to effect atonement [each with reference to those acts for which blood is sprinkled upon it].
- [H] *What is there [to be said in this regard]?* [We shall now prove that there is a category of sin that is not covered by a single medium of atonement, that is, blood sprinkled on the altar or the Day of Atonement, but that is covered only as the Mishnah has specified, that is, by a disjunctive process of atonement in which blood sprinkled on the outer altar effects atonement along with the advent of the Day of Atonement. The proof begins with a catalogue of those sins covered by the scapegoat.]
- [I] “[And Aaron shall lay both his hands upon the head of the live goat] and confess over him [all the iniquities of the people of Israel, and all their transgressions, all their sins]” (Lev. 16:21)?
- [J] “Iniquities” – these are the acts deliberately done.
- [K] “Transgressions” – these are acts of rebellion.
- [L] “Sins” – these are acts done inadvertently.
- [M] “[The goat] shall bear [all their iniquities upon him to a solitary land]” Lev. 16:22) – he shall effect atonement [cf. Pené.Moshe].
- [N] Said R. Ammi in the name of R. Simeon b. Laqish, “‘The goat shall bear all their iniquities’ (Lev. 16:22) – [Scripture] has laid emphasis upon acts deliberately done, and neglected acts done inadvertently, to teach the following: The important trait of acts deliberately done is that no liability for an offering attaches to them, encompassing, then, acts of inadvertence that likewise are not subject to liability for an offering.”
- [O] And how have [the discussants] reached this point? [Why is it important to point out that the goat that is sent forth atones for those inadvertent actions that are not subject to an offering?]
- [P] R. Ila in the name of R. Yasa, “[The point is to make reference to those sins that are kept] in a state of suspense [so that no offering is required now, but an offering may be required in the future. For

such as these, the goat makes atonement, just as is stated at M. 1:2C].”

[Q] And [why not then declare that] kept in suspension also is [the requirement to bring an offering that applies to] those who eat abominations and creeping things [who inadvertently have become liable to flogging, and not for a sin-offering]?

[R] R. Samuel in the name of R. Zira: “‘When a man or woman commits any of the sins that men commit by breaking faith with the Lord, and that person is guilty, he shall confess his] sin [which he has committed]” (Num. 5:6-7). [The reference to both confession and] sin [in the context of Lev. 16 and Num. 5 is meant to prove the following:] Just as the reference to ‘sin’ stated below [at Num. 5:6-7] refers to a case in which there is liability for an offering, so the reference to ‘sin’ that is made in the context of the confession refers to a case in which there is a liability for a sin-offering. This then excludes acts done deliberately, which are not subject to an offering at all [but to extirpation].”

[S] [Yet in all this discussion, the Talmud] has omitted all reference to the matter of the goat that is prepared inside and the Day of Atonement’s suspending punishment. [The fact that there is a point of differentiation now has to be dealt with. Just as the goat deals with part, but not the whole, of a sin, so the altar deals with part, but not the whole, of a sin, and a complete process of expiation is not worked out through one medium of atonement, but only through both.]

[T] Then what is left over [for the atoning power of the outer altar]?

[U] [It is the sin of imparting uncleanness to the sanctuary and its Holy Things] in which case there was no awareness at the outset, but there was awareness at the end [as specified at M. 1:3A]. [Now the person was unaware of being unclean (“at the outset”). But he becomes aware, at the end, of having contaminated the sanctuary. The goat that is offered in the additional offering on the Day of Atonement, the blood of which is tossed on the outer altar, effects atonement.. [For this goat to make atonement, there must be at least one moment – “at the end” – when one is sure a sin of the specified type has been committed.]

1:4

- [A] And for that [uncleanness] for which there is no awareness [of uncleanness] either at the beginning or at the end,
- [B] “the goats offered on festivals and the goats offered on new months effect atonement,” the words of R. Judah.
- [C] R. Simeon says, “The goats offered on festivals effect atonement but not the goats offered on new months.
- [D] “And for what do the goats offered on new months effect atonement? For a clean person who ate something unclean.”
- [E] R. Meir says, “The atoning effects of all goats are the same: for imparting uncleanness to the sanctuary and its Holy Things.”
- [F] R. Simeon did say, “The goats offered on the new months effect atonement for a clean person who has eaten something unclean.
- [G] “And those of the festivals effect atonement for a case in which there is no awareness [of uncleanness] either at the beginning or at the end [of the sequence of events].
- [H] “And those of the Day of Atonement effect atonement for a case in which there is no awareness [of uncleanness] at the beginning but there is apprehension [of uncleanness] at the end” [= M. 1:3].
- [I] They said to him, “What is the law as to offering up this one [set aside for the Day of Atonement] on the occasion of the other [the new month]?”
- [J] He said to them, “Let them be offered up.”
- [K] They said to him, “Since their power of effecting atonement is not the same, how may one be offered on the occasion suitable for the other?”
- [L] He said to them, “All of them are offered up to effect atonement for imparting uncleanness to the sanctuary and its Holy Things.”
- [I:1 A] R. Eleazar in the name of R. Hoshaiyah: “*The scriptural basis for the position of R. Judah* is as follows: ‘Also one male goat for a sin-offering to the Lord’ (Num. 28:15, in context of the offerings of the beginnings of the months for a sin about which only the Lord knows *this* goat effects atonement.”
- [B] I thus have information concerning the goat offered on the beginning of the new month. How do I know that that same rule applies to the goats offered on the occasion of festivals?

[C] Said R. Zira, “‘Also a goat’ – the use of the word also adds *to* the first matter under discussion [this other one, namely, the *goats* offered on the festivals].”

[I:2 A] R. Zeira and R. Eleazar in the name of R. Hoshaiyah, R. Jacob bar Aha in the name of R. Yohanan: “[Why have you not eaten the sin-offering in the place of the sanctuary, since it is a thing most holy, and] has been given to you that you may bear the iniquity of the congregation, to make atonement for them before the Lord?” (Lev. 10:17).

[B] “*How shall we interpret this statement?* If it makes reference to the goat of Nahshon, it effects atonement for this tribe alone. If it makes reference to the goat of the Day of Atonement, there is no parallel to it in time to come [and reference is made in the stated discussion to a rule governing all time, not merely the moment at hand]. *So we interpret the matter to speak* solely of the goat offered at the beginning of the months.”

[C] *And what is the upshot of the matter?*

[D] In this context reference is made to the bearing of sin, and in the later context reference is made to the bearing of sin, as follows: “[The frontlet] shall be upon Aaron’s forehead, and Aaron shall take upon himself any guilt incurred in the holy offering [that the people of Israel hallow as their holy gifts]” (Ex. 28:38).

[E] Just as, in the latter context, the sin under discussion is the sin pertaining to those things that are offered and not to the sins of those who make the offering, so here, the sin under discussion is that sin pertaining to the things that are offered, and not to the sin of those who make the offering.

[F] *Why do you maintain that* under discussion is [the sin of] a clean person who has eaten something unclean?

[G] *Should we not maintain that* equally under discussion is an unclean person who has eaten something that is clean [so that at issue is the sin of the community, which was unclean at the time of eating something that was clean. and for that sin too the goat effects atonement]?

[H] Said R. Yosé b. R. Bun, “R. Judah takes issue with the theory of R. Meir [that the atoning effects of all goats are the same], and R. Simeon takes issue with the theory of R. Judah [who maintains that the atoning effects of two sorts of goats are the same, namely, those offered on festivals and those offered at

the new months].” [For both, a single goat- offering can atone for only one kind of contamination, a clean person who ate something unclean.]

[I] Yohanan [explaining Simeon’s position] concurs in the case of the goat that is prepared on the inner altar, that it does not effect atonement, but rather suspends punishment [in a case in which there is awareness at the outset alone].

[J] *And his view accords with the following exegesis of R. Jonah in the name of R. Zeira: “[And Aaron shall present the goat on which the lot fell for the Lord] and offer it as a sin-offering’ (Lev. 16:9) – it is set up as a means of suspending punishment that will not change [and thus shall not effect atonement for other purposes].”* [It serves solely to suspend punishment when one is aware at the outset but not at the end that he was unclean.]

[I:3 A] [‘The goats offered on the festivals and the goats offered on the new months effect atonement.’ the words of R. Judah.

[B] R. Simeon says. “The goats offered on the festivals effect atonement. but not the goats of the new months.”

[C] And R. Simeon concedes in the case of] a goat that is not offered on a festival that it may be offered on the new month. [If] it is not offered on the new month, it may be offered [Tosefta: on the Day of Atonement. (If) it is not offered on the Day of Atonement,] it may be offered on the next festival. For to begin with the offerings in the name of the community are consecrated only so as to be offered upon the outer altar [cf. M. 1:41L, T. Shebu. 1:1E-J].

[D] And has not the Day of Atonement already effected atonement?

[E] Said R. Mana, “Since it is written, ‘[Three times a year all _ your males shall appear before the Lord:] at the feast of unleavened bread, at the feast of weeks, and at the feast of booths’ (Deut. 16:16) – it is as if all three of them effect a single atonement.”

[F] Said R. Bun, “Since all three of them effect atonement for imparting uncleanness to the sanctuary and its Holy Things, it is as if all three of them effect a single mode of atonement.”

[I:4 A] R. Jacob bar Aha in the name of R. Yasa, “He who passes before the ark [to lead the prayers] of the festival day of the New Year does not have to make mention of the fact that it also is the beginning of the month.”

[B] *Said R. Aha bar Papa, “And it has been taught so: **He who passes before the ark on the festival day of the New Year at the service of the dawn, the House of Shammai say, ‘He says a prayer of eight blessings.’ And the House of Hillel say, ‘Of seven.’ In the case of the Additional Service, the House of Shammai say, ‘He says a prayer of ten blessings.’ And the House of Hillel say, ‘A Prayer consisting of nine’ [T. Ber. 3:13].***

[C] And let him say eleven [if one really has to note that it also is the beginning of the month]!

[D] *Said R. Yosé, “Now they are in dispute concerning a matter that requires a blessing by itself. But here, [as to the new month], even on an ordinary day, one makes mention of all of them together [without saying a single blessing]. And let him make mention of it in the service covering the sacrificial offerings of the day.”*

[E] *R. Yosé raised the question: “But there is this problem: the two goats of the New Year are offered on account of the fact that the New Year also is the beginning of the month. And yet do you [A] say that one does not have to make mention of the new month [on the very occasion for which they are offered]?”*

[F] *Said R. Yosé b. R. Bun, “And has not R. Ba bar Mamel properly raised this question?”*

[G] *“For so has it been taught:*

[H] **“[R. Simeon did say, ‘Thirty-two goats are offered for the community every year, thirty-one [prepared with blood tossed on the] outer [altar] that are eaten and one [prepared with blood tossed on the] inner [altar] that is not eaten; and the goat that is sent forth. [These are as follows:] twelve for the twelve months of the year, seven on Passover, eight on the Festival, two on the Day of Atonement, one on the New Year, two on Pentecost – one on account of the bread- offering and one on account of the day,] and two goats of the new month. Now [if] the first one effects atonement, for what does the second one effect atonement? For any uncleanness that takes effect between one and the other’ [T. Shebu. 1 :2A-F].**

[I] *“And does this view not accord with the position of R. Simeon, for R. Simeon distinguishes among the acts of effecting atonement.*

[J] “But this one and that one are offered on account of its being the New Year.”

[K]] *Said [33B] R. Ambari, “One cannot maintain that position, for it is written [in connection with the offerings of the New Year], ‘besides the burnt offering of the new moon and its cereal offering’ (Num. 29:6). [So the second goat is for the new month.] And furthermore, it is taught, ‘There are twelve [goats] for the twelve beginnings of the months of the year.’” [So Yosé’s question stands.]*

[L] *A son of Abbayye passed before the ark, and did not make mention of the fact that it also was the beginning of the month, and people praised him.*

[M] *R. Hoshaiah raised the question [with regard to H: The second goat effects atonement for uncleanness after the first was offered]: “Consider the following: What if they slaughtered both of them at one time? In such a case do you have the possibility of deeming the latter to cover an uncleanness that took place between it and the former.”*

[N] *Said R. Bun, “If the Israelites were entirely suitable [and had no uncleanness for which to atone], is it possible to maintain that they do not bring the required goats that the Torah has required of them? [Obviously they do. So.u is no question.]”*

[I:5 A] *Said R. Yohanan, “The opinion of the sages imposes distinctions, but the opinion of R. Simeon does not impose distinctions.”*

[B] *[If you hold that] the opinion of the sages imposes distinctions, then can you say, “What is the law that applies if they are offered one with the other” [= M. 1:4/L]?*

[C] *In accord with his own theory did they answer him [M. 1:4/I-K]: “But in accord with your theory, in which you maintain that they do not make distinctions among the various goats, what is the law that applies if they are offered one with the other?”*

[D] *Said R. Yosé, “[Simeon’s answer is as follows:] For the offerings of the community are established only through designation’ [at the outset, and do not then serve other than that original purpose].”*

[E] *Said R. Yudan, “And so it is taught: [For the sake of six things is (he animal offering sacrificed –) for the sake of the animal offering –*

[F] “for that offering that is offered under its proper designation. It is holy from the very first moment [just as Yosé has said, E].”

1:5

[A] **R. Simeon b. Judah says in his name, “Goats offered up on the new months effect atonement for a clean person who has eaten something unclean [= M. 1:4D].**

[B] **“Added to them are those of the festivals, which effect atonement for a clean person who has eaten something unclean, and for the case in which there is no apprehension [of uncleanness] either at the beginning or at the end [= M. 1:4C].”**

[C] **“Added to them are those of the Day of Atonement, which effect atonement for a clean person who has eaten something unclean, for a case in which there is no apprehension [of uncleanness] either at the beginning or at the end, and for a case in which there is no apprehension [of uncleanness] at the beginning but in which there is an apprehension [of uncleanness] at the end [= M. 1:3].”**

[D] **They said to him, “What is the law as to offering up this one on the occasion of the other?”**

[E] **He said to them, “Yes.”**

[F] **They said to him, “If so, let those [set aside for use on] the Day of Atonement be offered up on the new months.**

[G] **“But how are those of the new months going to be offered on the Day of Atonement, to effect atonement which does not apply to them [an unclean person who ate something clean or went into the sanctuary]?”**

[H] **He said to them, “All of them are offered up to effect atonement for imparting uncleanness to the sanctuary and its Holy Things.”**

[I:1 A] *Said R. Yosé the Southerner before R. Yonah: “Thus was it necessary [for the sages, F] to teach [that is, just the opposite, namely]: ‘If so, let the goats set aside for the new months be offered on the Day of Atonement, for they raise [something] in the ladder of holiness, but do not lower [something, downward along] the ladder of holiness. But the goats set aside for the Day of Atonement should not be offered on the new month, for they do not lower [some thing along the ladder of] holiness[, so this is a better way to phrase M. 1:5F-G].”*

- [B] *R. Eleazar in the name of R. Bun provided for the matter a different interpretation [supplying the following question to the sages of M. 1:5F-G]: “If so, let the goats set aside for the Day of Atonement be offered on the new months, for they effect atonement both for that atonement for which they are designated, and also the atonement effected by goats set aside for the new months. “But let the goats set aside for the new months not be offered on the Day of Atonement, for they effect only that atonement for which they are set aside alone [but not the atonement pertaining to the Day of Atonement].’ [This argument would then have made M. 1:5H an impossible reply.]*
- [C] “[The following analogy expresses Eleazar’s argument:] ‘Now if someone had eaten forbidden fat [five times] in the volume of five olive’s bulks [and so is liable on five counts], but set aside [in expiation only] four offerings, thinking that they were five – is it possible that he has effected atonement? [Obviously not.]
- [D] “[But] if someone had eaten forbidden fat in the volume of four olive’s bulks and set aside five animals for offerings, thinking that they were four – is it not an argument a **fortiori** [that he has indeed effected atonement?’ Likewise, the goats that serve for the Day of Atonement all the more so will effect atonement, but those of the new months are not going to effect atonement if offered on the Day of Atonement, in line with M. 1:5G].”
- [I:2 A] **And so R. Simeon did say, “Thirty-two goats are offered for the community every year, thirty-one [prepared with blood tossed on the] outer [altar] that are eaten and one [prepared with blood tossed on the] inner [altar] that is not eaten; ant the goat that is sent forth. [These are as follows:]’s twelve for the twelve months of the year, seven on Passover, eight on the Festival, two on the Day of Atonement, one on the New Year, two on Pentecost – one on account of the bread-offering and one on account of the day; and the two goats of the new month” [T. Shebu. 1:2A-E].**
- [B] When Moses heard this, he said, “If so, if someone should be in doubt about the possibility of his having sinned, he must bring all of these offerings!”
- [C] R. Tanhuma in the name of R. Simeon b. Laqish: “When the Holy One said to Moses [in the instructions about the scape goat], ‘And he shall make confession on it’ [so that it really is not necessary to bring all of these many offerings after all, since the scapegoat will bear all of them and make atonement for them], he began to recite the following psalm:

‘A psalm for the thank-offering’ (Ps. 100:1) on account of [the statement], ‘He shall make confession on it.’”

1:6

[A] And for a deliberate act of imparting uncleanness to the sanctuary and its Holy Things, a goat [whose blood is sprinkled] inside and the Day of Atonement effect atonement.

[B] And for all other transgressions which are in the Torah –

[C] the minor or serious, deliberate or inadvertent, those done knowingly or done unknowingly, violating a positive or a negative commandment, those punishable by extirpation and those punishable by death at the hands of a court,

[D] the goat which is sent away [Lev. 16:21] effects atonement.

[I:1 A] *As to that which you have said [about the goat prepared inside and the Day of Atonement] effecting atonement for deliberately [imparting uncleanness to the sanctuary and its Holy Things], [the same sequence of sacrifice and the Day of Atonement] also suspends punishment for such actions that were done inadvertently.*

[B] Are not minor sins subject to a positive and a negative commandment,⁶ and are not serious ones subject to extirpation or death at the hands of a court[, so why does C specify these as distinct categories]?

[C] *Said R. Judah, “Thus is the meaning of the Mishnah-pericope: the minor or the serious, whether done deliberately or done inadvertently, and the ones done inadvertently, whether one became aware of them and whether one did not become aware of them.”*

[D] Which ones then are the minor transgressions? They are those in violation of positive or negative commandments.

[E] And which ones are the serious transgressions? They are those on account of which one becomes liable to extirpation or to the death penalty at the hands of a court.

[F] Just as the goat that is prepared [with its blood being sprinkled on the] inner [altar] effects atonement for transgressions done deliberately, and effects suspension of punishment for sins done inadvertently, so the goat that is sent forth does the same [suspending punishment, but when the person becomes aware of what he has done, he must bring an offering].

[G] *That statement poses no problems in the case of sins about which one is not aware [so the goat covers the required offering].*

[H] *But as to a sin about which one is informed [so that one knows that he is liable for an offering], is that the case also?*

[I] *And has it not been taught: And how do we know that **those who owe sin-offerings and unconditional guilt-offerings for whom the Day of Atonement has passed [without their making said offerings; are liable for bringing the offerings after the Day of Atonement [But] those who owe suspensive guilt-offerings are exempt (M. Ker. 6:4)? [So an offering is still required in the former case.]***

[J] *Said R. Bun Bar Hiyya, “[The meaning of the Mishnah pericope is as follows:] Whether one is aware of them or is not aware of them[, in cases of doubt one is exempted by the passage of the Day of Atonement. But that is not the case if one knew for sure that he was liable for an offering].”*

[I:2 A] *And has not the Day of Atonement already effected atonement[, so why should there be a matter of suspending punishment at all]?*

[B] *R. Simeon in the name of Levi of Subayya: “The Mishnah speaks of a case in which one engages in an act of rebellion on the Day of Atonement itself. [Such a one does not believe that the Day of Atonement effects atonement. In the case of such a person the scapegoat does not effect complete atonement. But the scapegoat does suspend the punishment even for such a person.]”*

[C] *And why does [Simeon] not say that it speaks of a case in which one was not aware [of what he had done] on the Day of Atonement?*

[D] *This is what he wished to say: “Even if one was not aware of the deed on the Day of Atonement, the Day of Atonement effects atonement.”*

[I:3 A] *As to violation of a positive commandment, [the Day of Atonement effects atonement] even if the person did not repent.*

[B] *As to violation of a negative commandment –*

[C] *R. Samuel in the name of R. Zira: “[The Day of Atonement effects atonement] only if the person repented [of violating the negative commandment].”*

[D] *[Following Pené Moshe:] He who states, “The burnt offering does not effect atonement,” “The burnt offering does not effect atonement for me” – the burnt offering effects atonement for him. [If he said,] “I*

do not want [the burnt offering] to effect atonement for me,” it does not effect atonement for him against his will.

[E] [If he said,] “The Day of Atonement does not effect atonement,” the Day of Atonement effects atonement. [If he said,] “I do not want it to effect atonement for me: it effects atonement for him against his will.

[F] As to an offering, whether he said, “I do not believe that this offering effects atonement” or, “that it effects atonement for me,” or if he said, “I know it does effect atonement, but I do not want it to effect atonement for me,” in all of these cases, it does not effect atonement against his will.

[G] *Said R. Haninah b. R. Hillel, “Is it not logical that the rule should be just the opposite? [In the case of an offering, whatever the man said, he did indeed bring an offering. But as to the Day of Atonement, if he said that he did not want it to effect atonement for him, it should not effect atonement for him.]”*

[H] Does someone say to a king, “You are not a king”? [Surely not. So whatever the man says, the Day of Atonement does effect atonement.]

[I:4 A] The burnt offering effects atonement for the murmurings of one’s heart.

[B] *What is the scriptural basis for that statement?*

[C] “What is in your mind shall never happen” (Ezek. 20:32).

[D] Said R. Levi, “The burnt offering effects atonement for what is in your mind, and so Job states, ‘It may be that my sons have sinned and cursed God in their hearts’ [so Job offered burnt offerings for his children] (Job 1:5). This indicates that the burnt offering effects atonement for the murmurings of the heart.”

[I:5 A] Rabbi says, “For all transgressions that are listed in the Torah the Day of Atonement effects atonement, except for the one who totally breaks the yoke [of Heaven] off of him, who removes the signs of the covenant, or who behaves presumptuously against the Torah.

[B] “For if such a person does repent, then atonement is effected for him, but if not, it is not effected for him.”

[C] *R. Zebida said R. Yosa raised the question: “Does Rabbi truly maintain that [except for the specified cases] the Day of Atonement [otherwise] effects atonement without [the sinner’s] repenting.”*

[D] R. Asian came, R. Jonah, R. Ba, R. Hiyya in the name of R. Yohanan: “[Rabbi admits that] the Day of Atonement does not effect atonement without an act of repentance, and thus” one’s death washes away sin without an act of repentance.” [So these authorities affirm A-B.]

[E] *And so it has been taught:* The day of one’s death is tantamount to an act of repentance.

[F] *Who taught that statement? It was Rabbi.*

[G] *Is this in line with that which we have learned there:*

[H] Death and the Day of Atonement effect atonement [only] with an act of repentance?

[I] *That teaching is not in accord with the position of Rabbi.*

[I:6 A] **R. Mattiah b. Heresh asked R. Eleazar b. Azariah, “Have you heard of the four types of atonement that R. Ishmael used to expound?”**

[B] **He said to him, “They are three, besides [the requirement of] an act of repentance.”**

[C] **[These are the three types:] One Scripture says, “Return, O faithless children, says the Lord” (Jer. 3:14). And yet another verse of Scripture says, “For on this day shall atonement be made for you, to cleanse you; from all your sins you shall be clean before the Lord” (Lev. 16:30). [So one verse recommends repentance, and the other grants absolution unconditionally.]**

[D] **And one verse of Scripture says, “Then I will punish their transgression with the rod and their iniquity with scourges” (Ps. 89:32). And yet another verse of Scripture says, “Surely this iniquity will not be forgiven you till you die, says the Lord Lord of Hosts” (Is. 22:14).**

[E] **Now how are these verses to be reconciled[, which speak of punishment and forgiveness on the one side, and the impossibility of atonement except through death on the other]?**

[F] **[If] one has violated a positive commandment but repented, he does not even leave the place before he is [wholly] forgiven. Concerning such a person the verse of Scripture says, “Return, O faithless children.”**

[G] **[If] one has violated a negative commandment and repented forthwith, the act of repentance suspends the punishment, and the**

Day of Atonement effects atonement for him. In such a case the Scripture states, “For on this day shall atonement be made for you.”

[H] **[If] one has violated a commandment involving extirpation or the death penalty inflicted by a court, and has done so deliberately, repentance and the Day of Atonement effect atonement in part, and suffering effects atonement in part. Concerning such a person, the verse of Scripture states, “Then I will punish their transgression with the rod, and their iniquity with scourges.”**

[I] **But as to him through whose action the Name of Heaven has been disgraced, repentance has not got the power to suspend punishment, nor does the Day of Atonement have the power to effect atonement, nor does suffering have the power to wipe away the guilt. But repentance and the Day of Atonement suspend the punishment, along with suffering, the man’s death wipes away the sin. Concerning such a person does Scripture make the statement: “Surely this iniquity will not be forgiven you till you die”?**

[J] **Thus we have learned the fact that death wipes away [guilt and sin] [cf. T. Yoma 1:8].**

[K] Said Rabbi, “This represents the opinion of R. Eleazar b. Azariah, R. Ishmael, and R. Aqiba. But the sages [33c] say, 19 “The goat that is sent away effects atonement [unconditionally, without repentance].”

[L] Now if there is no goat, the Day of Atonement effects atonement. Then how [when] does it effect atonement?

[M] R. Zira said, “In any amount whatsoever [= immediately].”

[N] R. Haninah says, “At the end.”

[O] *What is the difference between their two views?*

[P] If one has died forthwith.

[Q] *In the opinion of R. Zira, [death] has effected atonement forthwith.*

[R] *In the opinion of R. Haninah, [death] has not effected atonement.*

[S] *Said R. Zira, “And a Mishnah reading supports the view of R. Haninah: A strict rule applies to the goat which does not apply to the Day of Atonement, and to the Day of Atonement which does not apply to the goat. The Day of Atonement effects atonement without a goat, but the goat does not effect atonement without the Day of Atonement.*

But the goat effects Atonement forthwith, while the Day of Atonement effects atonement only on the day itself [T. Yoma 4:17].

- [T] *Said R. Huna when in session before R. Jeremiah, “And the master may interpret the teaching to apply to a case in which they intended to bring another goat but did not actually bring it.”*
- [U] *Said R. Yosé, “And does not the Holy One, blessed be he, perceive what is about to come into being, and it effects atonement forthwith?”*
- [V] *R. Jeremiah said R. Samuel bar R. Isaac raised the question: “Righteousness guards him whose way is upright, but sin overthrows the wicked’ (Prov. 13:6). “‘Toward the scorners he is scornful, but to the humble he shows favor’ (Prov. 3:34). Now is it possible that they build up the fence and lock the gates [so that the Holy One helps the sinner to sin]? Is it thus, that they build up the fence and lock the gate?”*
- [W] *But this did R. Jeremiah in the name of R. Samuel bar R. Isaac [say], “[If] a man keeps himself from transgression one time, then a second and a third time, the Holy One, blessed be he, keeps him, as it is said, ‘Behold, God does all these things twice, three times, with a man, to bring back his soul from the Pit, that he may see the light of life’ (Job 33:29).”*
- [X] *Said R. Zira, “And that is on condition that the man not go back upon himself [and repeat what he has done]: ‘A threefold cord is not quickly broken forever’ (Qoh. 4:12) is not written, but rather, ‘A threefold cord is not quickly broken.’ But if you apply pressure to it, it will snap.”*
- [Y] *R. Huna in the name of R. Abbahu: “The Holy One, blessed be he – before him there [truly] is no such thing as forgetting. But it is as if, on account of Israel, he becomes forgetful, for it is said, ‘Who is a God like thee, pardoning iniquity, and passing over transgression, for the remnant of his inheritance?’ (Mic. 7:18). “And it is written, David said, ‘You did forgive the iniquity of your people’ (Ps. 85:2).”*

1:7

- [A] [It effects atonement] all the same, for Israelites, priests and the anointed priest.
- [B] What is the difference between Israelites, priests, and the anointed priest?
- [C] But: The blood of the bullock effects atonement for priests for imparting uncleanness to the sanctuary and its Holy Things.
- [D] R. Simeon says, “Just as the blood of the goat which is [sprinkled] inside effects atonement for Israelites,
- [E] “so the blood of the bullock effects atonement for priests.
- [F] “Just as the confession said over the goat which is sent forth effects atonement for Israelites,
- [G] “so the confession said over the bullock effects atonement for priests.”
- [I:1 A] *Now [with reference to Simeon’s statement, M. 1:7D-G], we do not learn [any rule] pertaining to the anointed priest. And why do we not learn [any rule] pertaining to the anointed priest?*
- [B] *If you maintain that we interpret [Simeon’s] saying with reference to a matter in which there is no liability for an offering, then it is well that we do not learn a rule pertaining to the anointed priest. [In this case we speak of deliberate contamination of the sanctuary and its Holy Things. Just as the goat prepared inside effects atonement for Israelites, so the blood of the bullock effects atonement for the priests. The goat prepared inside suspends punishment in respect to a matter involving an obligation to bring an offering, that is, a case in which there is awareness at the outset that one is unclean but none at the end. Simeon then does not speak of such a case. Why not? Because the blood of the bullock does not effect atonement in such a case for the priests in particular, but for all Israelites, including the priests. Simeon in any event maintains that the anointed priest is not going to be liable for an offering of variable value for imparting uncleanness to the sanctuary and its Holy Things. So the anointed priest has no place in the matter.]*
- [C] *But if you maintain that [Simeon makes reference] to a matter in which there indeed is an obligation for an offering, why should we learn no teaching concerning the anointed priest? [For he would belong among the other priests, to whom reference is made by Simeon at E.]*
- [D] *[Indeed] there is available a teaching that makes explicit reference to an anointed priest [in Simeon’s statement].*

[E] [D] *refers to a matter in which* there is no obligation for a sacrifice [= B, and only for that purpose does the blood of the bullock effect atonement, namely, for priests. The cited teaching, D, then speaks of a matter for which the goat prepared inside effects a suspension of punishment].

[F] *Said R. Yosé b. R. Bun, “And even if you maintain that* the passage speaks of a matter in which there indeed is an obligation for an offering [– in which case why is there no mention of the anointed priest? – the answer is that when Simeon says, as at D-E, just as the blood of the goat sprinkled inside effects atonement for Israelites, so that of the bullock effects atonement for priests], [he treats] it as tantamount to a deed [of imparting uncleanness to the sanctuary and its Holy Things] done deliberately[, in which case the bullock by itself does not effect atonement, but does so only in conjunction with the Day of Atonement itself].

[G] *This is as you say in the case of* a transgression done deliberately, that it requires the atonement [of a blood- rite] and the atonement of the Day of Atonement, so here too, what is required is both atonement [through the blood of the beast] and the atonement effected by the Day of Atonement. [But the anointed priest relies solely on his bullock (Lev. 16:6), and does not require further atonement.]

[I:2 A] “[But the goat on which the lot fell for Azazel] shall be presented alive [before the Lord to make atonement over it, that it may be sent away into the wilderness to Azazel]” Lev. 16:10?. This teaches that it is destined to die [later on]. [If it dies, it must be replaced.]

[B] How long must it be kept alive?

[C] “Until: ‘And when he has made an end of atoning for the holy place’ (Lev. 16:20) [that is, after the confession (Lev. 16:21)]”; the words of R. Judah.

[D] R. Simeon says, “Until the time of the confession.”

[E] *In the view of R. Judah.* the confession is essential to the rite.

[F] *In the view of R. Simeon,* the confession is not essential to the rite.

[G] *What is the practical difference between the two opinions?*

[H] [A case in which] one slaughtered [the goat] without making the confession.

- [I] *In the opinion of R. Judah*, one has to bring yet another bullock [Lev. 16:11ff].
- [J] *In the opinion of R. Simeon*, it is not necessary to bring yet another bullock.
- [K] Further, with regard to the goat that is sent away, there is the same dispute.
- [L] [If] the sent it forth without first reciting a confession over it,
- [M] *in the opinion of R. Judah*, it is necessary to bring yet another goat.
- [N] *In the opinion of R. Simeon*, it is not necessary to bring yet another goat.
- [O] [If the priest] made the confession, then slaughtered the beast, but the blood was spilled out –
- [P] *do you maintain that* it is [not only] necessary to bring another bullock [but] that it is [also] necessary to make the confession a second time, or has [the priest] carried out his obligation through the original confession?
- [Q] Also with regard to the goat that is sent forth, is it so, that one has to cast lots a second time, or is it sufficient to carry out one's obligation by the confession and the casting of lots done in connection with the first goat?
[These questions are not answered.]

YERUSHALMI SHEBUOT

CHAPTER TWO

2:1

[A] Awareness of uncleanness is of two sorts, which yield four subdivisions [=M. 1:1B].

[B] (1) [If] one was made unclean and knew about it, then the uncleanness left his mind, but he knew [that the food he had eaten was] Holy Things,

[C] (2) the fact that the food he had eaten was Holy Things left his mind, but he knew about [his having contracted] uncleanness,

[D] (3) both this and that left his mind, but he ate Holy Things without knowing it and after he ate them, he realized it –

[E] lo, this one is liable to bring an offering of variable value.

[F] (1) [If] he was made unclean and knew about it, and the uncleanness left his mind, but he remembered that he was in the sanctuary;

[G] (2) the fact that he was in the sanctuary left his mind, but he remembered that he was unclean,

[H] (3) both this and that left his mind, and he entered the sanctuary without realizing it, and then when he had left the sanctuary, he realized it –

[I] lo, this one is liable to bring an offering of variable value.

[I:1 A] *R. Jeremiah raised the question: “It is obvious that in regard to the ultimate moment of awareness, [we require a knowledge of certainty] for the person to know that he is liable for bringing an offering.*

[B] “But is that same requirement [that the knowledge be certain and beyond doubt] applicable at the original moment of awareness[, e.g., that the person knew for sure that he was originally unclean]? [Or is this clear and certain knowledge not required for the situation prevailing at the outset?]”

[C] *Let us derive the answer to this question from the following:*

- [D] **Two paths – one of them unclean, and one clean – one walked in one of them [not knowing which, and he may or may not have become unclean], and then entered the sanctuary and went out, and was sprinkled and sprinkled a second time and immersed [so attaining a state of cleanness], and then he walked in the second [of the two paths] and entered the sanctuary – he is liable [even though he is not entirely sure that he was made unclean on entering the temple at either time he entered it] [T. Toh. 6:7].**
- [E] Now does the man know for certain that he is liable for bringing an offering? [Obviously not, for as we noted, at each point the man was not sure that he was unclean. Consequently, the answer to Jeremiah's question, B, is negative.]
- [F] *Said R. Simeon b. Laqish, "The cited passage expresses the opinion of R. [33D] Ishmael, for R. Ishmael said that one is liable for unawareness of being unclean and for unawareness of being in the sanctuary [even in a case of doubt, so Jeremiah's question is not answered by the cited case after all. The case expresses the opinion of only Ishmael. Simeon b. Laqish will be seen to identify with this view]."*
- [G] *Said R. Bun b. Hiyya "[If it were not for Simeon b. Laqish's statement,] we should have theorized that the passage speaks of a case in which it is completely clear to the man that he was unclean, and then the awareness of uncleanness was lost on the man, and entered the sanctuary. But if one was [merely] in doubt whether he was unclean or clean, and he became unaware of the status of the sanctuary, and he then entered the sanctuary, he would not have been liable[, for knowledge in this case is insufficient to impose a liability for a sin-offering. In the stated case the man is not at all sure that he was unclean. The rule that he is liable applies only in a case in which he knew for sure that he had been unclean at the outset].*
- [H] *"But now, on the basis of that which R. Simeon b. Laqish said, in assigning the teaching to R. Ishmael, we see that R. Ishmael's opinion is that one is liable on account of unawareness of being unclean and also unawareness of being in the sanctuary. It follows that, even if one is in doubt whether he is unclean or clean, and the matter of the sanctuary was lost to his sight, and he entered the sanctuary, he indeed will be liable[, so the extent of doubt as to whether or not the man is truly obligated to bring a sin-offering may be considerable, and he will still have to bring the stated offering]."*

[I] Said R. Yohanan, “The cited case expresses the opinion of all parties[, not Ishmael’s alone]. And the reason that the man is liable in the case of doubt such as described in the case is that a matter of doubt as to one’s awareness is treated as a matter of certain knowledge.”

[J] Now if, when one does not know whether he is unclean or clean, you maintain that that uncertainty is treated as if it were certain knowledge, when he knows that he certainly is unclean, but does not know whether on that account people will be liable for an offering, is it not an argument *a fortiori* that that too should be deemed certain knowledge [that one indeed will be liable for an offering]?

[K] [*The following question is possible only with regard to the position of R. Simeon b. Laqish, since, as just explained, J precludes raising the question in regard to the position of R. Yohanan.*] Within the theory of R. Simeon b. Laqish, [if] one was made unclean, and the matter became doubtful to the person [so that he was not clear that he was liable for an offering on account of having been unclean], what is the law as to treating this matter of doubt as tantamount to one of unawareness, so that he *should* be liable for an offering? [Do we maintain that, so far as Simeon b. Laqish is concerned, in such a case we do not deem the knowledge to be one of certainty at the outset so as to impose liability for unawareness occurring later on? This question is not answered.]

[L] *This party follows his reasoning, and that party follows his reasoning, for they have a dispute in the following matter:*

[M] [If] one ate five olive’s bulks of forbidden fat, and [in the course of eating them] he fell into doubt; as to the status of each one in succession, and then, at the end, he became certain of the prohibited status of them all[, does he bring five sin-offerings, or do we treat it as a single spell of unawareness]?

[N] R. Simeon b. Laqish said, “Knowledge of the doubt applicable to each one imposes on the man who ate them obligation for a sin-offering [for each piece of fat, one by one, since the fact that there is doubt about the status of each piece of fat distinguishes that piece of fat

from the others and so, when the man becomes certain about the prohibited status of all of them, it turns out that he has engaged in five distinct acts of eating, and so is liable on each count]. [We thus treat doubt as tantamount to knowledge as regards certainty.]”

[O] R. Yohanan said, “Knowledge of the doubt applicable to each one does not impose on the man who ate them obligation for a sin-offering” [as explained above].

[P] R. Yosé b. R. Bun in the name of R. Samuel: “R. Simeon b. Laqish [C] concedes in the case of an anointed priest that knowledge of doubt does not impose the obligation for a sin offering.

[Q] “For it is said, ‘The guilt-offering is like the sin-offering’ (Lev. 7:7) – in the case of one who brings a suspensive guilt-offering [in case of doubt about whether or not he has sinned], knowledge of doubt applicable to the case imposes the obligation to bring a sin-offering [for each such action]. In the case of one who does not bring a suspensive guilt-offering, knowledge of doubt applicable to the case does not impose the obligation to bring a sin-offering [count by count]. [This then excludes the anointed priest, who is not obligated to bring a suspensive guilt-offering for imparting uncleanness to the sanctuary and its Holy Things at all.]”

[R] *The opinions attributed to R. Simeon b. Laqish are contradictory. There he has maintained that knowledge of a matter of doubt imposes the obligation to bring a sin-offering [on the count of the action covered by the doubt, as distinct from other actions within the same spell of unawareness], while he here has said that knowledge of doubt does not impose the obligation to bring a sin-offering [on the specific count subject to doubt]. [For here he has claimed that the cited teaching is in accord with R. Ishmael, so, assuming he concurs, he does not maintain that a matter of doubt about the facts is deemed tantamount to certain knowledge.]*

[S] There the fact that the man is liable for a guilt-offering imposes the obligation to be liable in each matter of doubt for a suspensive guilt-offering. *But in the present case, what have you got to say?* [In the case of imparting uncleanness to the sanctuary and its Holy Things, no suspensive guilt-offering applies. For the suspensive guilt-offering applies to a matter, the deliberate commission of which is punishable by extirpation, and the inadvertent commission of which is punishable by a sin-offering of fixed value. But the sin of imparting uncleanness to the sanctuary and its Holy Things is punishable by an offering of variable value. So, in fact, there is no applicable case.]

[T] *The opinions attributed to R. Yohanan are contradictory. There he has maintained that if part of a sin has been atoned for, the whole of the sin has been atoned for, and here he has said this'* [That is to say, in a case in which one ate three pieces of forbidden fat but thought there were only two and set aside a sin-offering for those two, Yohanan maintains that if part of the sin has been atoned for, the whole of it has been atoned for by the same animal. Simeon b. Laqish takes the contrary position. Yet in the case of the five pieces of fat, he maintains that knowledge of the doubt does not impose an obligation for each one, but we follow the fact that at the end the man knew what had happened, and that covers all of them.]

[U] R. Yohanan has stated that opinion only with regard to knowledge coming at the end of the sequence of actions, in which there is no liability for an offering. [The cases are not parallel. Yohanan's opinion is not that the doubt is deemed tantamount to certain knowledge. In his view doubt is null. His reasoning is that the awareness at the end is not awareness at all. In the case of the five

olive's bulks, when at the end the man became aware of what had happened, this was certain knowledge as to all of them. This then is the knowledge that imposes on the man the obligation to make an offering, and it is sound knowledge, which one follows. But knowledge that is subject to doubt has no bearing at all.]

- [I:2 A] Said R. Yohanan, "Even a matter of doubt affecting the public domain is resolved as clean, but they do not permit one [who has been subjected to such a matter of doubt] to prepare (clean things)."
- [B] *And have we not learned the following: **Any matter of doubt [which is regarded as] clean for heave offering is [regarded as] clean for the purification rite. Any matter of a suspended [decision] in respect to heave offering – in regard to the purification water rite, it [the water] is poured out [M. Par. 11:2A-B].***
- [C] There thus is no suspended decision with regard to the purification rite. Something is either assuredly unclean or assuredly clean. [The contradiction comes at the end. Yohanan says we do not permit the one to prepare clean things in such a matter of doubt, while here there is no room for such a gray area, but matters are either unclean or clean.]
- [D] *Said R. Zira, "The Mishnah [which treats what is subject to doubt as in fact clean] deals with a matter that is not involved with the sacrifice of the red cow itself, while that which R. Yohanan has said applies to a matter that involves the sacrificial beast itself, [and therefore a stricter rule is imposed]."*
- [E] All [including Yohanan, A] concur that if one has transgressed and actually prepared things requiring cleanness, that the result is deemed to be clean. [Yohanan thus would concur that if the person disobeyed orders in the case in which he was told not to prepare things requiring cleanness, the result is still deemed clean.]
- [F] *[If so, then] the opinions attributed to R. Yohanan are confused. For there he maintains that if one has transgressed and prepared things requiring cleanness, the result is deemed unclean, while here he has said that if one has transgressed and prepared things requiring cleanness, the result is clean.*
- [G] [There is no contradiction.] Here [with regard to the Nazirite, below, in which the result is deemed unclean], we deal with a case involving private domain, while there [E,] [where the

result is deemed to be clean], we deal with a case involving public domain.

[H] And even if you should rule that both cases involve public domain [we have not a contradiction between two opinions of a single authority, Yohanan, but rather a dispute between Yohanan and Simeon b. Laqish].

[I:3 A] *The opinions attributed to R. Simeon b. Laqish are confused, the opinions attributed to R. Yohanan are confused. For they dispute as follows:*

[B] A Nazirite who suffered uncleanness by reason of the uncleanness emitted by a grave in the deep [which is a form of uncleanness subject to doubt] –

[C] R. Simeon b. Laqish said, “On account of such uncleanness, the Nazirite need not shave [as having been made unclean. He is deemed to remain clean].”

[D] R. Yohanan said, “The Nazirite must shave off his hair [and is deemed to have been made unclean by the uncleanness emitted by a grave in the deep, even though this uncleanness is solely by reason of doubt].” [Simeon b. Laqish takes a strict position in a matter of doubt of uncleanness when he holds that if there is a matter of doubt whether one is unclean or clean, he is liable if there is a spell of unawareness as to the sanctuary, so Bun bar Hiyya said above (I.G-H). Here he takes a lenient position in the same matter. There, despite vast doubt, the offering is required. Here, with a doubt, the Nazirite is deemed clean.]

[I:4 A] And lo, R. Yohanan said that it is because a matter of doubtful knowledge [uncertainty] is deemed tantamount to knowledge as of certainty.

[B] And that is the case even if the first matter of doubt has to do with the contamination of a dead creeping thing and the second a corpse;

[C] the first as to what has happened before someone has converted to Judaism and the second afterward;

[D] the first matter of doubt as to the case before the person has produced two pubic hairs [and so become liable as an adult], and the second afterward. [In all these cases, even if one does not know the source of uncleanness or the circumstance thereof, in Yohanan’s view the uncertainty is null, and we treat the obligation as firm.]

- [I:5 A] [If] one was made unclean by a corpse and knew about it, by a dead creeping thing and did not know about it, we do not take account of the uncleanness deriving from a minor source of uncleanness in a case in which there is uncleanness deriving from a major source of uncleanness. [Thus if when unaware of the corpse-uncleanness the man went into the sanctuary, he is liable on the count of the corpse-uncleanness, and we do not take account of the other at all.]
- [B] [If] one was made unclean by a corpse and did not know it, by a dead creeping thing and did not know it, [and he entered the temple,] and afterward he became aware of the uncleanness deriving from the dead creeping thing, and still later he became aware of the uncleanness deriving from the corpse, [what is the law]?
- [C] Since the man became aware of the uncleanness deriving from the dead creeping thing, do we treat the case as one in which there is an uncleanness deriving from a minor source of uncleanness in a circumstance in which there is an uncleanness deriving from a major source[, as at A, so we follow the uncleanness deriving from the dead creeping thing and impose an offering on that count]? Or because [the former uncleanness] preceded the uncleanness involving the corpse, should it be set aside on account of the uncleanness deriving from the dead creeping thing and knowledge thereof, so we do not have a case of uncleanness deriving from a minor source in a context of uncleanness deriving from a major source? [The question is not answered.]
- [D] [If] one was made unclean by a corpse and knew it, by a dead creeping thing and did not know it, [and in a spell of unawareness] entered the temple while unaware of the uncleanness imposed by the corpse, he is liable. [If] he entered the temple during the spell of unawareness of the uncleanness imposed by the dead creeping thing, he is exempt [as at A].
- [E] [If] one went down to immerse on account of uncleanness deriving from a major source of uncleanness, and there was joined to the former uncleanness [at the same time] uncleanness deriving from a minor source, the uncleanness deriving from a minor source of uncleanness goes to his credit.
- [F] *Now what is the meaning of this last clause?*
- [G] It is that if he immersed and then went into the sanctuary, he is exempt, [so the immersion covered all uncleanness affecting the man, whether deriving from a serious or a minor source of uncleanness].

[H] [If] one has gone down to an immersion pool on account of uncleanness deriving from a minor source of uncleanness, and joined to that uncleanness was uncleanness deriving from a major source of uncleanness, the major source of uncleanness has not gone to his credit.

[I] *Now to what does this last clause make reference?*

[J] It means that if he immersed and then entered the sanctuary, he is liable [since the intent in immersion covered only the minor source of uncleanness].

[K] Lo, [if he immersed on account of] uncleanness deriving from a major source of uncleanness, and joined to it was uncleanness deriving from another source of uncleanness, would that not be the case? [That is, the immersion would not suffice, as at H.]

[L] Lo, if he immersed on account of uncleanness deriving from a minor source of uncleanness, and joined to it was uncleanness deriving from another minor source of uncleanness, would that not be the case [as at K]?

[M] [If] one has gone down to an immersion pool to immerse on account of uncleanness deriving from a major source of uncleanness, and joined to that uncleanness was uncleanness deriving from the man's being overshadowed by lattice-work and foliage [which also overshadowed a corpse, so the uncleanness here is as a matter of doubt, not certainty],

[N] *since R. Yohanan has said in the name of R. Yannai, "All of them are a matter of uncleanness deriving from the Torah [thus certain uncleanness] with regard to heave-offering [which is to be burned as assured] unclean,"* is it as if the man has become unclean because of a major source of uncleanness [such as that which effects heave-offering]? Or, since a Nazirite would not have to cut off his hair as having been made unclean by corpse-uncleanness on account of the uncleanness imparted by overshadowing of lattice-work and foliage [thus we are not dealing with a major source of uncleanness, so far as the Nazirite is concerned], is it as if the man has become unclean by reason of a minor source of uncleanness? [The question is not answered.]

[O] If an androgyne [neither male nor female] saw a drop of white [which, for a male, would indicate that he was unclean as a Zab] and entered the temple, he is exempt

[since we are not sure whether he is a male and a Zab, or a female and not unclean at all]. [So too with red flux.]

[P] If he saw a drop of red blood and white at one and the same time and entered the sanctuary, he is liable. [For here there are no grounds for doubt. If it was red, he is liable since he may be a woman, and if it was white, he is liable since he may be a man. Since the two drops appeared simultaneously, on one count or another, he must be unclean.]

[Q] *But there are Tannaim who repeat the tradition and declare the person to be clean.*

[R] Said R. Yohanan, “It is R. Simeon, *for it has been taught:*

[S] **“Two paths – one of them clean, and one unclean – one walked in one of them, and then entered the sanctuary and went out, and was sprinkled, and sprinkled a second time, and immersed, and then he walked in the second, and entered the sanctuary – he is liable. R. Simeon declares that he is exempt in this case. R. Simeon b. Judah declares him exempt in the case of all of them, in the name of R. Simeon”** [cf. T. Toh. 6:7A].

[T] *Now we can grant the case of the androgyne. with regard to the white flux, you treat him as a woman [so he is clean], and with regard to the red, you treat him as a man [so he is clean].*

[U]’] *But here, is there not a certain presence of uncleanness [since both fluxes appeared simultaneously]?*

[V] Said R. Samuel bar Susarti, “Interpret the case to be one in which he forgot [walking on] the first [road]” [as Yosé now explains].

[W] *R. Yosé raised the question: “How shall we interpret the case [of S]? If it is a case in which one forgot, then under all circumstances it is a single path. If it is a case in which he went again and forgot, then it is a case of two distinct paths.”* [If the person never realized that he had walked on the first road before he walked on the second, and then he

recalled that he had earlier walked on the first, then we deem the whole to fall within a single spell of unawareness, and consequently, it is a single path. He is surely unclean. One of the paths, after all, was unclean. Then why should the man ever be deemed exempt from an offering? If he went on the first path, and when he went on the second, forgot about the first, then we have two distinct paths, and the issue then is whether or not partial knowledge is deemed tantamount to complete knowledge. Simeon b. Judah-Simeon maintain that that is not the case.]

[X] Said R. Yosé b. R. Bun, “The saying of R. Simeon [in the case of the androgyne] is in accord with the position of R. Eliezer *in regard to the position of Hezekiah* [M. 1:5, below]. *For thus did R. Eliezer say there*, ‘It is on a condition that he knew whether it was uncleanness deriving from a dead creeping thing that had imparted the uncleanness, or whether it was on account of a corpse.’

[Y] “*Thus too does R. Simeon say here*, ‘It is on condition that he knew whether it was with red flux that he was made unclean or white.’ [That is, liability depends on exact knowledge of the cause.]”

[Z] *Now that answer is satisfactory there*, because he maintained that a matter of doubt as to knowledge is deemed tantamount to certain knowledge. *But here*, since he saw white and red flux at one and the same time, it surely is a matter of total certainty [that he is unclean]. So why should he not be liable, if this is the condition? The condition has been met.]

[I:6 A] *R. Hisda raised the question*, “If one entered the sanctuary under the assumption that it was merely a synagogue, what is the law? [Since this man knew there is a sanctuary, he should be deemed aware at the outset.]”

[B] Said R. Yosé, “Thus do we say, If one knew that there is uncleanness in the world, but one did not know that one is liable on its account for an offering, is it not a case of an argument *a fortiori* that this should be deemed knowledge as of a certainty? *But we interpret the case to involve one for whom it is a matter of certainty that he was unclean,*

but who was unaware that it was the sanctuary, and who entered the sanctuary. [This is ‘knowledge at the outset.’] But here [too] it is a matter of certainty to the man that it was the sanctuary, but he became unaware of the matter of his own uncleanness, and entered the sanctuary. [But in the case of A, the man never knew there was a sanctuary, so there is no knowledge at the outset.]”

[I:7 A] *R. Yosé raised the question: “If one ate half an olive’s bulk of forbidden fat in the knowledge that it was holy, but [was] unaware of uncleanness [affecting himself], and then he ate half an olive’s bulk of fat in full knowledge of the uncleanness affecting himself but [was] unaware of the fact that the fat was holy [and so forbidden to him] – with regard to these several spells of uncleanness, what is the law as to their being deemed to join together [to form the requisite spell covering the volume of forbidden fat sufficient to impose liability for an offering, that is, an olive’s bulk eaten wholly under the knowledge that one should not do it, either by reason of uncleanness or by reason of the sanctity of the sanctuary]?” [The question is not answered.]*

2:2

[A] All the same are he who enters the courtyard and he who enters the addition to the courtyard.

[B] For [the latter is in the same classification as the former, since] they add to the city, and courtyards only on the instructions of the king and prophet, the Urim and Thummim, and the sanhedrin of seventy-one members, with two thank offerings and singing.

[C] The court goes along with the two thank offerings behind them, and all the Israelites after them.

[D] The one offered inside is eaten, and the one offered outside is burned.

[E] And any area which is not treated wholly in this way [with the proper rites] –

[F] he who enters that area – they are not liable on its account.

[I:1 A] R. Judah says, “At the outset [in purchasing the ground for the temple]: ‘And David went up at God’s word, as the Lord had commanded’ (2 Sam. 24:19) thus [we know that the authority of] king and prophet [must be included in the decision].

[B] “‘Then Solomon began to build the house of the Lord in Jerusalem on Mount Moriah, where the Lord had appeared to David his father’ (2 Chr. 3:1) – these [references to an appearance of the Lord thus show that included in the decision are] the Urim and Thummim.

- [C] “‘To David his father’ – this refers to the Sanhedrin.
- [D] “‘Ask your father, and he will show you; your elders, and they will tell you’ (Deut. 32:7) [thus we know that] singing [is required].
- [E] “‘And after them went Hoshaiah and half of the princes of Judah’ (Neh. 12:32) [bearing] thanks-offerings.”
- [F] [“Then I brought up the princes of Judah upon the wall,] and appointed two great companies which gave thanks and went in procession. One went to the right upon the wall to the Dung Gate” (Neh. 12:31).] Said R. Samuel b. Yudan, “Should it not be written, MHLKWT (‘journeys’), not THLWKWT (‘processions’)? But the former bears the meaning of doing so on their own [34A], while the latter means that they were taken by another, who bore them.”

2:3

- [A] (1) **[If] he was made unclean in the courtyard, and the uncleanness left his mind, but he remembered the sanctuary –**
- [B] (2) **[if] the sanctuary left his mind, but he remembered the uncleanness,**
- [C] (3) **[if] this and that left his mind, and he prostrated himself or remained there for an interval sufficient for prostrating himself,**
- [D] **[if] he went out by the longer way, he is liable.**
- [E] **[If he went out] by the shorter way, he is exempt.**
- [F] **This is a positive commandment regarding the sanctuary on account of which [a court] is not liable [to a sin offering].**
- [I:1 A] R. Hezekiah, R. Ammi in the name of R. Eleazar: “One Scripture states, ‘Whoever touches a dead person and does not cleanse himself, defiles the tabernacle of the Lord’ (Num. 19:13). And yet another Scripture states, ‘But the man who is unclean and does not cleanse himself, that person shall be cut off from the midst of the assembly, since he has defiled the sanctuary of the Lord’ (Num. 19:20). Now [why should the same matter be repeated]?”
- [B] “To differentiate between the one who is made unclean inside and the one who is made unclean outside [of the sanctuary].
- [C] “As to the one who is made unclean outside, [he is not liable for imparting uncleanness to the sanctuary and its Holy Things] until he pokes his head and the greater part of his body into the sanctuary.

- [D] “As to the one who is made unclean inside, [he is not liable for imparting uncleanness to the sanctuary and its Holy Things] until he remains in the sanctuary for an interval sufficient for prostration.”
- [E] [If] one was made unclean inside [the court] and went further into [the sanctuary, into the inner precincts, what is the law? Do we apply the measure of C or of D]?
- [F] *Let us derive the rule from the following [statement at M. 2:3C]: **If he prostrated himself or remained there for an interval sufficient for prostrating himself***
- [G] Now if he has remained therein, is it not like one who pokes his head and the greater part of his body inside, and yet you say, ‘until he remains for an interval sufficient for prostrating himself ‘?
- [H] *Here too* [the requisite measure is] the interval sufficient for prostrating himself.
- [I:2 A] *What would be a practical case* [in which one has become unclean inside the courtyard and does not go out, or goes further into the temple precincts]? For which one [of the infractions of the cultic taboos] is he liable, for the first[, that is, because he was made unclean inside the temple], or for the latter [that he has not gone out forthwith or has even progressed further into the temple precincts]?
- [B] *The associates say*, “For the former.”
- [C] Said to them R. Yosé, “One says to the man, ‘Get out!’ and yet you say, ‘For the former’? [That is, the principal concern is to get the man out of the temple, so the liability surely derives from his not getting out quickly enough.]
- [D] “*But we must interpret the matter* to apply to the latter concern, [that is, the liability is for not leaving the temple forthwith].”
- [E] *There we have learned: **They brought the ladle and fire-pan out to him [he took the fire pan in his right hand and the ladle in his left He then walked through the sanctuary: until he came to the space between the two veils that separate the Holy Place from the Most Holy Place [M. Yoma 5:1A, E-F) [It further is taught in this connection: If he brought them in one by one he has effected atonement, but he transgresses by reason of having made one extra act of transporting an object inside. In this regard, the following question now is raised:]***

[F] For which one of these actions is he liable? On account of the former, or on account of the latter?

[G] *The associates say, “On account of the latter.”*

[H] Said to them R. Yosé, “One says to him, ‘Bring [in the ladle and fire-pan,] so the first act of bringing in is the principal one], and yet you say, ‘For the latter.’”

[I] “*But we must interpret the matter to apply to the former [of the two bringings-in].*”

[II:1 A] The interval sufficient for prostrating oneself [M. 2:3C] is the [time it takes to walk] ten cubits.

[B] *What would be a practical illustration [of that measurement of the shorter and the longer way out to which reference is made at M. 2:3D, E]?*

[C] If the longer way was twenty cubits and the shorter ten, *if the man then began to walk out and went five cubits by the longer way, if he should go in one direction five cubits, or in the other direction fifteen cubits [he is liable. That is, the liability is determined by the excess distance over what he already has walked].*

[D] Said R. Yosé, “Under no circumstances is one liable [in the stated case] unless the longer way out is twenty cubits greater than the shorter way out.”

[E] *What would be a practical illustration of that view?*

[F] *If the longer way out is thirty cubits, and the shorter ten, and he had already gone five cubits, if he should go in this route for five cubits, and if he should go by the other for twenty- five, [he is liable].*

[II:2 A] How long is the time needed for prostrating oneself?

[B] R. Simon in the name of R. Joshua b. Levi, “It is the interval required for greeting one’s fellow.”

[C] Abba bar Huna in the name of R. Yohanan: “It is the time required for a disciple to greet his master, ‘Peace be unto you, my Lord.’”

2:4

[A] And what is a positive commandment concerning the menstruating woman, on account of which [a court] is liable?

[B] [If] he was having sexual relations with a clean woman, and she said, “I have become unclean ,”

[C] [even if] he separated forthwith, he is liable,

[D] for the going out is just as much a pleasure for him as the going in.

[I:1 A] [The reason that they do not bring a suspensive guilt- offering on account of violation of a positive or negative commandment concerning the sanctuary, M. Hor. 2:5B,] Kahana said, is that it is not possible that there will have been knowledge at the outset and at the end [of violation of the laws of uncleanness of the sanctuary], with an interval on inattention in the middle. [So there is no solid moment of doubt on account of which a suspensive guilt-offering would be required.]

[B] Responded R. Samuel bar Abdimi in session before R. Mana, “And let it be so [that a guilt-offering is required] in the case of those who give an erroneous instruction[, so causing uncleanness in the sanctuary and its Holy Things].”

[C] He said to him, “We require [the reason that] those who enter [the sanctuary in a state of uncleanness themselves do not bring a suspensive guilt-offering (M. Hor. 2:5B)], and now are you bringing us the case of those who give erroneous instruction [about the uncleanness of the sanctuary and its Holy Things]?!”

[D] *What is the upshot of the matter?*

[E] Said R. Samuel bar R. Isaac, “[‘If any one sins unwittingly in any one of] the commandments [which the Lord has commanded not to be done,’ (Lev. 4:2)]. [‘If any one sins, doing any one of the] commandments [which the Lord has commanded not to be done, though he does not know it, yet he is guilty and shall bear his iniquity’ (Lev. 5:17)].

[F] “Just as ‘commandments’ stated below involves an offering the value of which is fixed, so ‘commandments’ stated here involves an offering the value of which is fixed[, thus excluding the possibility of a suspensive guilt-offering, which is of variable, not fixed, value. The offering of variable value is called for at Leviticus chapter 5 for contamination of the sanctuary].”

2:5

[A] R. Eliezer says, “A creeping thing^Éand it be hidden from him [Lev. 5:2] –

[B] **“One is liable if the creeping thing goes out of mind, but he is not liable if the fact that he was in the sanctuary goes out of mind.”**

[C] **R. Aqiba says, “And it be hidden from him and he be unclean –**

[D] **“On account of the uncleanness’s passing out of mind he is liable, but he is not liable on account of the sanctuary’s passing out of mind.”**

[E] **R. Ishmael says, ““Shall be hiddenÉ’ [Lev. 5:2]É’shall be hiddenÉ’[Lev. 5:3], two times:**

[F] **“to impose liability for the uncleanness’s passing out of mind, and for the sanctuary’s passing out of mind.”**

[I:1 A] Hezekiah said, “There is a dispute between [Aqiba and Eliezer] as to whether or not one must know by which particular source of uncleanness one has been contaminated. [Eliezer insists that the person know how he was made unclean, e.g., by the creeping thing.]”

[B] And R. Yohanan said, “At issue between them is [only] the exegesis of Scripture.”

[C] *There are Tannaim who teach that one is liable for unawareness of uncleanness [in general] and not for unawareness of being in the sanctuary, and there are Tannaim who teach that for unawareness of having been made unclean by a dead creeping thing one is liable, and not on account of unawareness of being in the sanctuary[, thus using the language of B, D].*

[D] *The opinions attributed to R. Eliezer are confused. There he has said [at M. Ker. 4:2] that one is liable even if he does not know specifically what sort of uncleanness has contaminated him, and here [A, in Hezekiah’s view,] he has said that he must know [the specific source of uncleanness before he is liable].*

[E] *There it is said, “[And he shall bring his guilt-offering to the Lord] for the sin which he has committed” (Lev. 5:5) [one is guilty] only if he knows the particular sin for which he is liable.*

[F] *But here [it is said], “and he has become unclean” (Lev. 5:2) under any circumstances [and it is not decisive that the man know the particular source of uncleanness].*

[G] *The opinions attributed to R. Joshua are confused.*

[H] *There he has said, “and he is unclean,” meaning, unless he knows by what he has been made unclean [he is not liable].*

[I] *And he here has said, “for the sin which he has committed” – under any circumstances [he is liable, without specific knowledge*

of the particular circumstances].” [The assumption is that Joshua concurs with Aqiba.]

[J] Said R. Hinena, “And is it not written with regard to uncleanness, [‘Or if he touches an human uncleanness, of whatever sort the uncleanness may be with which one becomes unclean’ (Lev. 5:3), which clearly indicates that one must know the sort of uncleanness he has contracted]?”

[K] *And how does R. Eliezer interpret the matter?*

[L] It is meant to exclude one who is occupied [with a permissible matter and a prohibited one comes to hand, e.g., not at his own volition. But if one who was involved with prohibited fat or with prohibited relationships, even though he did not deliberately do so, he is liable, for he has derived benefit from that which was prohibited (Pené Moshe)].

YERUSHALMI SHEBUOT

CHAPTER THREE

3:1

[A] Oaths are of two sorts, which yield four subdivisions [M. 1:1A]:

[B] “I swear I shall eat,” and (2) “I shall not eat,”

[C] “Éthat I ate,” and (4) “Éthat I didn’t eat.”

[D] “[If one said], ‘I swear I won’t eat,’ and he ate anything [in any volume] whatsoever, he is liable,” the words of R. Aqiba.

[E] They said to R. Aqiba, “Where have we found that someone who eats anything in any negligible volume is liable, that this one should be deemed liable?”

[F] Said to them R. Aqiba, “And where have we found that one who merely speaks has to bring an offering?”

[I:1 A] *It is in order* [to deem an oath, which, if violated, requires bringing an offering, in the case of one who says,] “I swear I shall eat,” or “I shall not eat.”

[B] But as to an oath, “that I ate,” or “that I didn’t eat,” *how shall we interpret such a thing?*

[C] If it is known that the man had eaten, and he took an oath that he had not eaten, this is nothing other than a false oath, [in which case there is no offering, since it is a deliberate lie].

[D] And if the man thought that he had eaten and took an oath that he had not eaten [following Pené Moshe, supply:] if so, it is not an inadvertent violation of an oath, but the man [has not violated the oath] under constraint.

[E] R. Ba bar R. Judah in the name of Rab [said], “[If] the man has acted inadvertently, he may be subject to an offering, and if he has acted deliberately, he [also] may be subject to an offering. [If the man acted inadvertently, in that he did not realize that one will be liable for an offering, it is a case of inadvertence, and if he knew that violation of

the oath would impose liability for an offering, he has acted deliberately.]

- [F] “[But in respect to the oath itself, if the man claimed,] ‘I was thinking that no oath applied,’ [or that] it is permitted[, in such a case, if the man did not realize that there was a prohibition against taking a false oath, or if he thought that, despite the oath, he was permitted to do what he had sworn not to do, there will be no requirement for an offering, since the man has acted under constraint].
- [G] “But [we find a relevant case when] the man has deliberately violated the oath itself, [e.g., he knew he had eaten prohibited fat but took an oath that he had not done so,] but he erred with regard to the associated offering [thinking that no offering was required]. [This then is an example of an oath concerning that which has happened in the past, in which, because of inadvertence, there will be an obligation for an offering.]”
- [H] For did not R. Abbahu in the name of R. Yohanan [state the same, as follows:] “If a man has deliberately eaten prohibited fat, but was inadvertently unaware that an offering was required on that account, they warn him and flog him [for violating the law] and he must bring an offering[, for in such a case we do concede that the man has acted inadvertently and so must bring an offering. The parallel then is that the man has deliberately violated the oath, but was inadvertently unaware about having to bring an offering. He is flogged on the former count, but brings an offering on the latter count].”
- [I] *One cannot say so*, [for what R. Yohanan has said does not apply]. For R. La has said [below, M. 2:5,] in the name of R. Eleazar, “So did R. Ishmael reply to R. Aqiba: ‘We do find a matter on account of the deliberate violation of which one is liable on the count of a false oath, and on account of the unaware parson’s violation of which one is liable on the count of a vain oath.’ [Ishmael maintains that one is liable only for an oath regarding a future event, not regarding what has happened in the past. In Ishmael’s view the parallel drawn by Yohanan is not valid, for we cannot find a case in which there are both flogging and liability for an offering with regard to a single matter.] Now [if what Yohanan has said really applied, then] *Aqiba should have answered him as follows*: We do find a matter on account of the deliberate violation of which one is liable on the count of making a false oath, and also must bring an offering[, namely, the case offered by Yohanan. Since Aqiba says no such thing, it clearly does not solve the problem before us. For, as we know, only Aqiba stands behind the present rule].”

- [J] *But thus must we interpret the matter:* [The oath applicable to what has happened in the past may be illustrated by a case in which] it was clear to the man that he had eaten [forbidden fat], and he took an oath [that he had not done so], but it turned out that, in fact, he had not done so. [In such a case, an offering is required, because the oath was violated, but not deliberately.]
- [K] Is this not a case [like that given above] in which one maintains that this is no oath at all [and the man therefore has acted under constraint and is not liable for an offering? Why do we not deem this yet another example in which the man maintains that he had supposed that no oath applies? This then is not a false oath. The man imagines that he took a true, not a false, oath. In line with Rab's statement earlier (E G), in such a case one is not liable for an offering at all].
- [L] [No, the cases are not parallel.] There we deal with the case of a man who says that this is no oath at all. But here we have a man who knows that it is an oath, but who errs on account of some other consideration[, namely, the fact that he is wrong about what he has eaten]. [In the case to which Rab makes reference, the man knows nothing of the prohibition against taking a false oath. In the present case the man knows full well the requirement to swear truly. He has made an honest error concerning that about which the oath was taken. This is a case of unawareness involving an oath, so the man is liable.]
- [I:2 A] [With regard to the dispute of Aqiba and the sages,] *how shall we interpret the case under dispute?*
- [B] If the man says, "By an oath, I shall eat a quantity of food in accord with the definition of the Torah [of what such a quantity is]," then surely R. Aqiba must concede [that the requisite volume specified in the Torah applies, or the man is not liable].
- [C] And if the man has taken an oath, "By an oath, I shall not taste [any food at all]," then surely the rabbis must concede [that he is liable if he eats anything at all, however slight the volume, even though this is less, e.g., than an olive's bulk of food and so a negligible quantity]. [Following Pené Moshe, we delete:] But when we interpret the issue of "any amount at all," interpret the matter in accord with R. Aqiba who maintains that "any amount at all" constitutes an act of eating.]
- [D] *What is [a case that expresses] the difference between the positions of the two parties?*

[E] [If a man took an oath,] “By an oath! I shall eat this loaf of bread,” and he ate all of it but some minor amount, *in the opinion of R. Aqiba*, he is liable [for violating the terms of his oath, not having eaten all of it].

[F] *In the opinion of the rabbis*, he is except [from an offering for violating his oath]. [Now the question of A-D has been answered.]

[G] [If one took an oath,] “That I shall not eat this loaf of bread ‘ and he ate it, except for some small part, *in accord with the opinion of R. Aqiba*, he is exempt.

[H] *In the opinion of the rabbis* he is liable.

[I] Also in the case of a useless oath the law is the same:

[J] “By an oath! if my wife will derive benefit from me if I eat this loaf of bread,” and he ate all of it except some small amount,

[K] *in accord with the view of R. Aqiba*, his wife is prohibited [from deriving benefit from him].

[L] *In accord with the opinion of the rabbis*, his wife is permitted.

[M] “That I shall not eat this loaf of bread” and he ate it, except for some small amount –

[N] *in the opinion of R. Aqiba*, his wife is permitted to him.

[O] *In the case of the rabbis*, his wife is prohibited.

[P] Also in the case of property, the dispute applies:

[Q] “By an oath covering my property [– as with the wife, if the oath is violated, the man may not derive benefit from his property –], if I eat this loaf of bread” and he ate it all except for some small bit –

[R] *in accord with the opinion of R. Aqiba*, his property is forbidden [for his use or benefit].

[S] *In accord with the opinion of the rabbis*, his property is permitted.

[T] “That I shall not eat this loaf of bread ‘ and he ate it all except for some small part,

[U] *in accord with the opinion of R. Aqiba*, his property is permitted to him.

[V] *In accord with the opinion of the rabbis, his property is prohibited to him.*

- [II:1 A] [With regard to M. 3:1F:] And lo, one who blasphemes brings an offering, [so how can Aqiba argue, as he does at M. 3:1F, that one who merely speaks is not going to bring an offering? A blasphemer merely speaks, and yet he does have to bring an offering].
- [B] *The associates say in the name of R. Simeon b. Laqish, “In accord with his own theory did they reply to him.*
- [C] “That is to say, ‘In accord with your theory, in which you maintain that a blasphemer does not commit a concrete deed, where do we find a case of someone who merely speaks and in consequence has to bring an offering, so that this one should merely say something and so have to bring an offering?’”
- [D] *R. Ba of Qartegenaah raised the question: “The opinions attributed to R. Simeon b. Laqish are confused.*
- [E] *“There he has said, ‘In the view of R. Aqiba, the one who blasphemes does not actually do a deed,’ while he here has said that the blasphemer actually does a deed in the opinion of R. Aqiba.”*
- [F] *R. La in the name of R. Simeon b. Laqish [responded], “What we have are two Tannaite authorities stating different tradition in the name of R. Aqiba. One of them says that he holds that the blasphemer is not guilty of actually committing a deed, and the other says that in accord with the view of R. Aqiba a blasphemer does commit an actual deed.”*

3:2

- [A] **“I swear that I won’t eat,” and he ate and drank – he is liable on only one count.**
- [B] **“I swear that I won’t eat and drink,” and he ate and drank – he is liable on two counts.**
- [I:1 A] [On the basis of M. 3:2A, it appears that] drinking is subsumed under eating, but eating is not subsumed under drinking.
- [B] *R. Jonah derived the two of them from the following: ““Therefore I have said to the people of Israel, No person among you shall eat blood’ (Lev 17:12). Now how shall we interpret the passage? If it speaks of blood that has congealed, has it not been taught **Blood that has congealed is neither food nor drink** [T. Toh. 2:5E]? But thus must*

we interpret the matter: [The blood is] just as it is [that is, liquid], and yet the Torah has referred to consuming it as is, as 'eating.' Consequently, eating encompasses drinking."

[B] *[One may then] interpret the Mishnah passage as following the view of R. Aqiba, for R. Aqiba has said, "[Eating] any amount at all is an act of eating [just as is stated at M. 3:1, above]."*

[C] *And has it not been taught **He who mashes forbidden fat and swallowed it, he who coagulates blood and ate it, if it is of the volume of an olive's bulk, he is liable** [T. Ker. 2:19A-C]?*

[D] *Now what does R. Jonah do with the cited passage, [for it does not deem consuming blood that is not coagulated to be an act of eating? Coagulated blood, moreover, is deemed food, contrary to the passage cited by Jonah above]. [That is, coagulated blood is not food so far as T. Toh. is concerned] to impart cleanness as a food, and to impart uncleanness as a liquid.*

[E] *R. Jonah went and interpreted the Mishnah as follows: "'And you shall spend the money for whatever you desire, oxen, sheep, wine or strong drink' i Deut. 14:26). [Thus eating any of these is called eating, including wine.]*

[F] *"Now how shall we interpret the passage? If it refers to eating wine that has merely imparted a flavor to a cooked dish, and does that sort of flavor not spoil the cooked dish [and consequently it could not be the subject of the cited verse].*

[G] *"But thus we must interpret the passage 'In any form what ever' – and the All-merciful has referred to [consuming wine in any form whatsoever] as an act of eating."*

[H] *The rabbis of Caesarea say. "Interpret the passage [of Scripture] to refer to ['eating wine in] a dish of figs or carobs ripened through caprification (prepared with wine) or to a rice dish [prepared with wine]. For whatever [in a dish] is secondary to the food is deemed to be tantamount to the food [and thus eaten, not drunk, in this context]. [Consequently, Deut 14:26 does not demonstrate that drinking invariably is subsumed under eating]"*

[I] *R. Yosé derived proof of the proposition [that drinking is subsumed under eating] from [the language of the Mishnah itself, as follows:] "[If one said,] 'I swear that I shall not eat [or drink]; but he drank he is liable on only one count."*

- [J] *The associates said before R. Yosé, “And what does it say at the end? I swear that I won’t drink and he ate and drank – [it should then say:] he is liable on only one count [and not on two counts, as.M. 3:2B in fact states]. [If drinking were subsumed under eating then why should he be liable on two counts?]”*
- [K] Said to them R. Yosé, “Now if someone had said, ‘I swear that I shall not eat this loaf of bread,’ and then went and said, ‘I swear that I shall not eat this other loaf of bread,’ and he ate both of them – is it possible that he should not be liable for both? [Obviously he is liable for both, because he has taken oaths regarding each. Likewise in the case of the Mishnah, the man has taken an oath regarding eating and an oath regarding drinking, both of them stated explicitly In such a case it is obvious that the man will be liable on two distinct counts as the Mishnah says. But that has no bearing on the stated proposition that in general, drinking is subsumed under eating, as.M. 3:2A makes clear]”
- [L] *R. Haninah in the name of R. Pinhas derived the same proposition [that drinking is subsumed under eating] from the following passage: I swear I won’t eat, and he ate food that is not suitable for eating or drank liquids that are not suitable for drinking – he is exempt [M. Shebu. 3:4A-C].*
- [M] “Lo by implication, we must note, if he *had* eaten food that was suitable for eating or drink that was suitable for drinking, he would be liable. [This indicates that drinking is subsumed under eating.]”
- [N] *R. Ba derives the same proposition from the following: “‘If one has eaten and drunk in a single spell of unawareness, he is liable for only one count.’ That is the case when one has said, ‘I swear that I shall not eat and drink’ [and it would then indicate that drinking is subsumed under eating].”*
- [O] *And in accord with the view of Rabbi, who said “[The passage states:] ‘I swear that I shall not eat’” [What can we say about the same proposition]? [The adduced proof will not accord with Rabbi’s version of the passage. since he includes an explicit reference to drinking.]*
- [P] *R. Hanina derives proof of the proposition from the following: “I have not eaten of the tithe while I was mourning’ (Deut. 26:1) – but I have drunk! [Obviously not. It must follow that drinking is subsumed under eating.]”*
- [Q] Up to now we have dealt with a case in which one has said, “That I shall not eat, but he drank. If he said, “That I shall not drink. but he

drank and ate” [is he liable? Clearly not]. This indicates that drinking is subsumed under eating. but eating is not subsumed under drinking.

3:3

[A] **“I swear I won’t eat,” –**

[B] **and he ate a piece of bread made of wheat, a piece of bread made of barley, and a piece of bread made of spelt, he is liable on one count only.**

[C] **“I swear that I won’t eat a piece of bread made of wheat, a piece of bread made of barley, and a piece of bread made of spelt,” and he ate –**

[D] **he is liable on each and every count.**

[E] **“I swear I won’t eat,” –**

[F] **and he ate a piece of bread made of wheat, a piece of bread made of barley, and a piece of bread made of spelt, he is liable on one count only.**

[G] **“I swear that I won’t eat a piece of bread made of wheat, a piece of bread made of barley, and a piece of bread made of spelt,” and he ate –**

[H] **he is liable on each and every count.**

- [I:1 A] [If one said,] “I swear that I shall not eat a piece of bread,” and he wrapped the bread in reeds or grape-leaves and ate it. he is liable on only one count [that is. that still is an act of eating the bread even though the bread was wrapped in undesirable things].
- [B] [If he said,] “I take an oath that I shall not eat a piece of bread, grape pits. grape husks and he wrapped the bread up in grape pits and grape husks, he is liable on each count [for the oath referred to all three, and even though he ate them altogether, it still counts as three separate items].
- [C] And if he was a Nazirite, he is liable on three counts [As a Nazirite he is liable for a sin-offering on the counts of consuming grape pits or husks.]
- [I:2 A] [With reference to the Mishnah lemma, **“I swear that I won’t eat,” but he ate carrion and *terefah*-meat, abominations and creeping things – he is liable.(M. Shebu 3:4D)**] R. Yohanan said, “That is the case when he has encompassed [suitable and unsuitable foods in a single oath”. But if he specified each one individually, then such oaths certainly do not apply to matters that are subjects to a prohibition[,

since one cannot take an oath to violate the Torah, and consequently, one will not be liable.]”

- [B] R Simeon b. Laqish said. “Even when one has encompassed suitable and unsuitable foods in a single oath oaths certainly do not apply to matters that are subject to a prohibition[, so one is not liable].”

3:4

[A] “I swear I won’t eat,” and he ate food which is not suitable for eating,
[B] or drank liquids which are not suitable for drinking –
[C] he is exempt.

[D] “I swear that I won’t eat,” but he ate carrion and *terefah*-meat, abominations and creeping things – he is liable.

[E] R. Simeon declares him exempt.

[F] [If] he said, “Qonam be benefit that I give to my wife, if I ate anything today”

[G] and he had eaten carrion, *terefah*-meat, abominations and creeping things –

[H] lo, his wife is prohibited [to give benefit to him].

[I:1 A] *In this case [M. 3:1D-E] does R. Simeon declare the man exempt [who has eaten unsuitable food in violation of his oath]?*

[B] [*Indeed so*] *R. Simeon is consistent with his opinion expressed elsewhere, as we have learned: **How much food that has not been tithed at all does one eat so as to be liable on that account. R. Simeon says, “Any amount at all.” And the sages say, “An olive’s bulk.” Said to them R. Simeon, “Do you not agree with me in the case of one who eats an ant, lo – however small, that he is liable?” They said to him, “It is because that is whole, just as it has been created.” He said to them, “Also a single grain of wheat is precisely in the condition in which it too has been created [M. Mak. 3:2/I-N].*** [What follows takes for granted that the question within the supposition of Simeon b. Laqish, above, that oaths do not apply to what already is prohibited. even when the prohibited item is encompassed within permitted ones. The point of the cited case is this: Simeon maintains that there is no minimum volume of food of the prohibited kind, i.e., from which tithes have not been removed. A person is liable for however small an amount he eats. Now the underlying theory is that all Israelites are subject to an oath to keep the Torah. Tithing food is part of the oath. Consequently, from Simeon’s position, the oath applies (as Aqiba has said) to whatever negligible

amount of food one may eat So the prior oath is applicable. In that case the oath about not eating carrion and the like also takes precedence because it is applicable prior to the taking of the oath about not eating at all. It follows that the oath about not eating at all is not valid. So by eating carrion and the like, the person has not violated that oath. The reason, as is clear, is that he violates a prior, valid oath.]

[C] *In the theory of R. Yohanan [who holds that one is liable when he eats together forbidden and permitted things, thus M. 3:3,] why does R Simeon declare the man exempt, [for there is a valid oath]?*

[D] *Said R Zeirah, “R Simeon is consistent with a theory expressed in another connection [in which he holds that if one treats together forbidden and permitted things, he is exempt], for it has been taught in the name of R. Simeon: “You shall afflict yourselves [in fasting on the Day of Atonement],’ (Lev 16:31) – by reason of that which is permitted to you, and not by reason of that is prohibited to you.’ [So if one ate carrion or terefah-meat on the Day of Atonement, he is exempt on the count of eating on the holy day.]” [Even if the prohibition includes permitted foods, it does not extend to prohibited ones].”*

[E] *R. Ba bar Mamel raised the question: “In the opinion of R. Yohanan, who has said that in the case of one who treats together in a single oath both prohibited and permitted foods, the oaths apply [also] on the prohibited foods [so that if someone ate prohibited foods subject to such an oath, he is liable,] the Mishnah tradition [cited in a moment] should read, “I swear I won’t eat, and he ate [without adding, food that is not suitable for eating].” [Reference here is to **M. Ker. 3:4: There is he who carries out a single act of eating and is liable on that account for four sin-offerings and one guilt-offering: an unclean lay-person who ate forbidden fat, which was remnant of Holy Things, on the Day of Atonement.** We should count five, not four, violations. Why? Because the oath against doing so will be deemed valid by R. Yohanan, since the oath applies to prohibited as well as permitted things]*

[F] *Said R. Zira, “So long as R. Ba bar Memel was alive, we found no answer to his question But now that he has died, we have found a suitable reply:*

[G] *“Now what would be a case [in which five such violations would be involved]?*

[H] *“[If you wish to maintain that, through an oath. a person adds an additional prohibition beyond those already counted, then it cannot*

be merely ‘that I shall not eat, as Ba bar Mamel proposed Why not? Because of the problem of finding an appropriate case For] if we deal with a case in which someone says, ‘I swear that I shall not eat meat any day of the year,’ [in this case the person can only refer to] Passover [when it is required to eat meat for on all other days, there is no prohibition against eating meat. If merely saying ‘I shall not eat’ without further specification is insufficient, for the person can only wish to add a prohibition to himself in regard to days on which it is prohibited to eat, then the same is said here. So phrasing matters so as to be relevant to Passover provides no solution to the problem].

[I] “[If you wish to maintain that, through an oath, a person adds an additional prohibition, it cannot be merely, ‘that I shall not eat’] for these ten days [of penitence, from New Year through the Day of Atonement], for the Day of Atonement is included therein [on which it is prohibited to eat an how, so the additional oath is null for that occasion].

[J] “[You surely cannot maintain that that is the case,] for he thereby applies an oath to something already prohibited [by taking an oath concerning something already subject to an oath and so already prohibited] [One is not permitted to take an oath to prohibit what already is prohibited. So, as explained just now, the oath regarding not eating on the Day of Atonement is null and is not to be counted as a fifth count by which one has violated the law by eating the forbidden fat on the Day of Atonement.]”

[K] *Said R. Yosé, “You may derive [the besought case] from the following:* [Since we have said that an oath is not valid if it refers to the ten days of penitence. with the Day of Atonement included therein but not explicitly so, it follows that when one includes what is prohibited along with what is permitted, the oath is null. So it follows that if one has taken an oath to eat carrion, the oath surely is invalid It follows, then, that] if there were before a man a number of pieces of slaughtered meat and one of carrion, each of the bulk of an olive [and so of sufficient volume to impose liability], and one said, ‘I swear I shall eat these ten olive’s bulks of meat; since he is exempt from punishment for violating the oath [which is null] involving carrion, he also is exempt from punishment for eating the other pieces of meat.” [What we have done is to reverse the implications of the foregoing discussion and so to invalidate the oath even in regard to the matters to which, we

should have thought, it actually applied. There is no valid oath at all in this case.]

[L] [*Returning to the answer to Memel's question,*] *R. Bun bar Hiyya raised the question: "And why should he not say, 'I swear that I shall not eat meat slaughtered by Mr. So-and-so' [, so we can find yet a fifth count for the liability to be augmented thereby]?"*

[M] Is there no prohibited fat? [There already is a prohibition covering the meat, so adding this oath will make no difference.]

[N] "In the case of one who slaughters deers" [that is, one has taken an oath not to eat meat of a wild beast slaughtered by so and-so, and there is no consideration, then, of the prohibited fat of the altar. Since the oath applies to Mr. So-and-so's slaughtered wild beasts, it extends to the domesticated beasts]."

[O] And is there no prohibition against the sciatic nerve [which would apply to the deer]? [Obviously there is, so adding this oath will make no difference.]

[P] "In the case of one who slaughters fowl [in which there is no consideration of the sciatic nerve]?"

[Q] And is there no prohibition against the blood [as above]?

[R] *R. Hinena raised the question, "And why did he not say, 'I swear that I shall not eat anything prepared by Mr.. So-and-so,' without further specification [and then ate food prepared by him, and this is a valid oath, so, it follows, there are five counts of liability for the single action]?"*

[S] It is in accord with the view of R. Simeon [who does not concur that a prohibition may be included within an oath, as explained above].

[T] *If it is in accord with the view of R. Simeon, then we should [find the five cases that we seek] by reference to the Day of Atonement, for it has been taught by R. Simeon, "'You will afflict yourselves [in fasting on the Day of Atonement],' (Lev. 16:3) – by reason of that which is permitted to you, and not by reason of that which is prohibited from you."* [So no oath covering what is prohibited will be valid, as we said earlier, and therefore we cannot maintain that the fifth case we seek can be found by shaping matters around Simeon's view.]

[U] But [the reason that we do not teach that the prohibition effected by an oath applies when one treats both permitted and already prohibited matters as subsumed under the same oath is that at issue is solely what is subject to a liability for a sin-offering of] fixed value. [What then is excluded is violation of a rash oath, which is subject to the liability for an offering of] variable value.

[V] *They objected.* “Lo, there is the matter of imparting uncleanness to the sanctuary and its Holy Things, which is subject to an offering of variable value[, and yet M. Ker. explicitly refers to an unclean person]!”

[W] *The Tannaite authority of this teaching intended to teach only concerning matters involving liability to extirpation, and those who violate oaths are not subject to the penalty of extirpation at all*

[X] *They objected,* “Lo, there is the matter of sacrilege[, for M Ker. explicitly refers to a non-priest eating Holy Things], which is not subject to the penalty of extirpation!”

[Y] *The Tannaite authority of this teaching intended to teach only concerning matters that ultimately are subject to permission after they have been subject to prohibition[. which excludes reference to oaths, which can be released by a sage].*

[I:2 A] [Referring to M. Ker. 3:1, **R.Meir says, “If it was the Sabbath. and he took it; out from one domain to another in his mouth. he is liable on yet another count. They said to him, “That is not of the same sort of transgression of which he has liable heretofore since it is not caused by eating,**] may one not say that the consideration of the principal and generative categories of prohibited labor then does not apply to the Day of Atonement?

[B] [No, that is not the case.] If someone had done all the types of prohibited labor in a single spell of inadvertence, he would be liable for only a single count because of violating the lot of them. [Meir’s position (A) does not make provision for the man’s taking the object from private to public domain on the Day of Atonement itself. Since he refers explicitly to the Sabbath, the implications that the

matter of the prohibited types of labor do not apply to the Day of Atonement are clear. That possibility is rejected by saying that we deal with a single span of inadvertence covering all possible acts. The differentiation among the acts of labor applies specifically to the Sabbath.]

[C] And if someone did all of the actions, each one by itself, is it possible that he will not be liable for each such action by itself? [Certainly, if that were the case on the Day of Atonement, he would be liable for each act by itself. Meir's intent in referring to the Sabbath is to say that the man would be liable on one count by reason of the Day of Atonement, and on yet another count by reason of the Sabbath itself. Certainly the prohibition of transporting an object from private to public domain does apply on the Day of Atonement.]

- [I:3 A]** *In accord with the opinion of R Yohanan, who said, "If someone took an oath, 'I swear that I shall not eat unleavened bread,' he is prohibited from eating unleavened bread even on the night of Passover."*
- [B] If he said, "That I shall not eat unleavened bread on the night of Passover," he is to be flogged, and he must eat unleavened bread. [By contrast to A, we have a vain oath, which is invalid.]
- [C] If he said, "that I shall not sit in the shade," he is prohibited from sitting in the shade of a Sukkah on the festival.
- [D] If he said, "that I shall not sit in the shade of a Sukkah [On the festival]," he is flogged, and he must sit in the shade of a Sukkah.
- [II:1 A]** [Referring to M. 3:4F,] it is not the end of the matter that he makes such a statement without further specification, but even if he spells it out [he is liable].
- [B] And it is not the end of the matter that he treats matters within a general category, but even if he states them in detail [he is liable].
- [C] And it is not the end of the matter that what he swears applies in the future, but even if what he says applies to what has happened in the past, he is still liable.
- [D] And it is not the end of the matter that he is liable in the view of rabbis, but that is the case even within the view of R. Aqiba., who specifies no minimum quantities].

[E] And it is not the end of the matter that he is liable on account of eating carrion and terefah-meat, but even if he should eat dirt, he will be liable.

3:5

[A] **It is all the same [whether the oath pertains to] things which belong to himself, things which belong to others, things which are of substance, and things which are not of substance.**

[B] **How so?**

[C] [If] he said, **“I swear that I shall give [this] to Mr. So-and-so,” “Éthat I shall not giveÉ” “Éthat I gaveÉ” “Éthat I did not giveÉ”**

[D] **“Éthat I shall go to sleep,” “Éthat I shall not go to sleep,” “Éthat I slept,” “Éthat I didn’t sleep,”**

[E] **“Éthat I’ll throw a stone into the sea,” “Éthat I won’t throwÉ” “Éthat I threw É” “Éthat I didn’t throwÉ”**

[F] **R. Ishmael says, “He is liable only concerning what happens in the future [which he states in the form of an oath],**

[G] **“for it is said, ‘To do evil or to do good’ (Lev. 5:4).”**

[H] **Said to him R. Aqiba, “If so, I know only about oaths which involve doing evil or doing good. How do we know that the rule concerning oaths involves statements which are not about doing evil or doing good?”**

[I] **He said to him, “From an extension supplied by Scripture.”**

[J] **He said to him, “If Scripture has encompassed these matters, Scripture also has encompassed those matters [governing what has happened in the past].”**

[I:1 A] [As to one who took an oath, “I swear that I gave something to someone,” (M. 3:5E), the purpose of taking such an oath] is to supply a pretext to one’s fellow [to show him that he has actually given the object over, so that the other will then] admit to him [that he has it and agree to return it].

[B] R. Ba in the name of Samuel: “If someone has taken an oath that Mr. So-and-so has given a *maneh* to Mr. So-and-so, and it turns out that he had not given him anything, [it is null and there is no penalty:] since he cannot take an oath that Mr. So-and-so will give a *maneh* to Mr. So-and-so in the future, it follows that he also cannot take an oath concerning what has happened in the past.”

[C] *R. Yosé objected*, “And lo, there is the matter of tefillin, concerning which there is no possibility of taking an oath as to what will happen

in the future [e.g., ‘I swear that I shall not put on tefillin, but there most certainly is the possibility of taking an oath as to what has happened in the past [e.g., ‘I swear that I did put on tefillin’]” [cf. M. 3:8L-M].

[D] He said to him, “Tefillin are not comparable, for they derive from a different source. [The possibility of taking an oath as to what happened in the past derives from a proof-text that does not relate to tefillin. ‘To do evil or to do good’ refers, explicitly, to a matter of choice. Tefillin are not a matter of choice but a requirement of the Torah and so are not encompassed by the stated proof-text, but that an oath affects them derives from another proof-text entirely. This is now spelled out.]

[E] “‘To do evil or to do good’ (Lev. 5:4) – just as doing good [in context] is a matter of free choice, so doing evil is a matter of free choice, thus excluding [from the possibility of oaths covering that which will have happened in the past] a matter of a prohibition or a matter subject to permission [i.e., a positive commandment].”

[I:2 A] “[Or if any one utters with his lips a rash oath to do evil or to do good,] any sort of rash oath [that men swear]” (Lev. 5:4) – thus excluding a minor [whose oaths are null and not subject to punishment].

[B] “A man,” thus excluding someone who acts under compulsion [i.e., whose rash oaths are null].

[C] “[Or if any one utters with his lips a rash oath to do evil or to do good] and it is hidden from him” (Lev. 5:4) – excluding one who deliberately violates the oath [who is not going to expiate the sin through the offering of variable value].

[D] “And it is hidden from him ‘ – [that is, the fact that he is subject to] an oath [is hidden from him].

[E] Or perhaps the meaning is that the object [concerning which he took the oath] is hidden from the man? [That is to say, one took an oath not to eat a piece of bread made of wheat, and he stuck his hand into the basket and took a loaf of wheat but he thought it was made of barley, and he ate the loaf. Now he is aware of the oath, but not of the character of the object]

[F] Scripture says, “any sort of rash oath that men swear, and it is hidden from him,” thus meaning that one is liable in the case in which he inadvertently becomes unaware of the oath, but he is not liable in a case in which he becomes unaware [of the location or character] of the object concerning which the oath is taken.

- [G] And add the unawareness of the character of the object to the unawareness of the oath, and let him be liable for that too?
- [H] For there is no difference between such a case [of dual liability] and the case of liability for both unawareness of one's being unclean and unawareness of one's being in the sanctuary. So let one be liable on two counts [here too].
- [I] *This then would be in accord with the position of R. Ishmael, who said that one is liable on account of unawareness of being unclean and also on account of being unaware that he is in the sanctuary.*
- [J] There is it written: 'Or if any one touches an unclean thing^É, and it is hidden from him, and he has become unclean, he shall be guilty' (Lev. 5:2), and also, 'Or if he touches human uncleanness^É, and it is hidden from him, when he comes to know it he shall be guilty' (Lev. 5:3). Thus there are two references to unawareness[, covering both uncleanness and the sanction].
- [K] But here it is written only, "and it be hidden from him." This covers one matter only[, the oath, not the object].
- [I:3 A]** Is it possible that if one takes an oath to do evil to others, he might be liable [for violating that oath and not committing evil with regard to other people]?
- [B] Scripture says, "To do evil or to do good." Just as doing good refers to a matter of choice, so doing evil refers to a matter over which one has a choice.
- [C] I shall then exclude the matter of one's taking an oath to do evil to others[, that such a one is exempt from liability if he fails to carry out his oath].
- [D] *This applies to one who takes an oath not to give food to his fellow, but then sees him suffering and gives him food. [He is not liable for violating his oath.]*
- [I:4 A]** *How does R. Ishmael interpret,* "Or if any one utters with his lips a rash oath to do evil or to do good, any sort of rash oath that men swear" (Lev. 5:4)?
- [B] [This is how he reads the verse] "If anyone utters with his lips a rash oath" is a general rule.
- [C] "To do evil or to do good" is a qualifying clause[, so limiting the foregoing].

- [D] When we have a general rule followed by such a qualifying clause, then encompassed within the general rule is only that which is specified in the following qualifying clause.
- [E] And does it not follow that within the qualificatory specification are contained only matters that involve doing evil or doing good?
- [F] But could one not interpret the matter differently, as follows:
- [G] “To do evil or to do good” is a qualifying phrase, and “any sort of rash oath that men swear” is a general rule [following the qualifying phrase].
- [H] Thus we have a qualifying phrase and a general rule, in which case everything may be encompassed by the following general rule [which expands the limits originally set by the qualifying phrase].
- [I] Scripture has thus encompassed those matters governing what has happened in the past.
- [J] *But, in truth, thus is the matter to be read:*
- [K] “Or if anyone utters with his lips a rash oath” is a general statement.
- [L] “To do evil or to do good” then is a qualificatory clause.
- [M] “Any sort of rash oath that men swear” is yet another general statement.
- [N] So what we have is a general statement, a qualificatory clause, and yet another general statement.
- [O] [If we have a general statement, a qualificatory clause, and yet another general statement,] then the general statements are limited to apply only to matters analogous to what we have in the qualificatory language.
- [P] Just as in the qualificatory language it is made explicit that we deal with matters involving evil or good, so subject to the matter of oaths will only be matters involving evil or good.
- [Q] [If that is the case on the stated exegetical grounds, then:] **How do we know that the rule concerning oaths involves statements which are not about doing evil or doing good?”**
- [R] **He said to him, “From an extension supplied by Scripture.”**

[S] **He said to him, “If Scripture has encompassed these matters, Scripture also has encompassed those matters [governing what has happened in the past].”**

[T] [Delete:] One cannot say so, for R. Hila in the name of R. Eleazar said, “Thus R. Ishmael answered R. Aqiba. ‘We find matters on account of the deliberate violation of which people are liable on the count of taking a false oath, and on account of the inadvertent violation of which, people are liable on the count of violating a rash oath.’ And he answered him, ‘We find a matter on account of the deliberate violation of which one *is* liable on the count of a false oath, and in such a case, does one bring an offering?’” (cf. M. 3:1)

[U] *[Aqiba] said to [Ishmael], “Do you know about matters that are not either doing evil or doing good, and are not written down? [And is there no comparison between doing evil and doing good that is stated by the Scripture? Even though these are not matters that are made explicit in Scripture, they are parallel to the doing evil or doing good of which Scripture speaks, because they are matters that will take place in the future.]”*

[V] *[Ishmael] said to [Aqiba], “Even though I do not know of matters that do not involve doing evil or doing good, if they are not in fact written down, are they not subject to doing evil or doing good? [They do bear a resemblance in that they deal with the future.] But lo, as to oaths concerning what has happened in the past, there is no proof that to what has happened in the past oaths apply at all.”*

3:6

[A] **[If] he took an oath to nullify a commandment, but he did not nullify it, he is exempt [from penalty for violating the oath].**

[B] **[And if he took an oath to] carry out [a commandment] and did not carry it out, he is exempt.**

[C] **It is logical that he should be liable, in accord with the words of R. Judah b. Betera.**

[D] **Said R. Judah b. Betera, “Now if concerning matters of free choice, about which one has not been subjected to an oath at Mount Sinai, lo, one is liable on that account [if he swore to do a deed but did not do it] –**

[E] **“matters concerning a religious duty, about which one has been subjected to an oath at Mount Sinai – is it not logical that one should be liable on its account?”**

[F] They said to him, “No. If you have stated the rule in regard to an oath concerning a matter of free choice, in which a ‘no’ is treated as no different from a ‘yes,’ will you say the same concerning an oath involving a religious duty, in which a ‘no’ is assuredly not treated as no different from a ‘yes’!”

[G] “For if one has taken an oath to nullify [a religious duty] but did not nullify the religious duty, he is exempt.”

[I:1 A] *Said R. Mani, “Thus should the Mishnah read [at B]: ‘He is liable [not: ‘in accord with’] the words of R Judah b. Beterah.”*

[I:2 A] What does R. Judah b. Beterah say about a rule covering the other prohibited matters e.g., “I take an oath that I shall eat carrion,” but the man did not then eat it? [34D] He is exempt.

[B] Then [if] one said, ‘I swear that I shall not eat [carrion], and he ate it, *if we then say that he is liable, then they shall reply to him as follows:* “No. If you have stated the rule in regard to an oath concerning a matter of free choice, in which a ‘no’ is treated as no different from a ‘yes,’ will you say the same concerning an oath involving a religious duty, in which a ‘no’ is assuredly not treated as no different from a ‘yes’!”

[I:3 A] Where do we find a warning concerning an oath covering a matter of free choice [to take place in the future]?

[B] Said R. Yosé b. R. Bun, “‘When a man vows a vow to the Lord, or swears an oath to bind himself by a pledge, he shall not treat his word as profane; [he shall do according to all that proceeds out of his mouth]’ (Num. 30:2) – one should not [in the future] treat his words as unconsecrated.”

3:7

[A] “I swear that I won’t eat this loaf of bread,” “I swear that I won’t eat it,” “I swear that I won’t eat it” –

[B] and he ate it –

[C] he is liable on only one count.

[D] This is a rash oath (Lev. 5:4).

[E] On account of deliberately [taking a rash oath] one is liable to flogging, and on account of inadvertently [taking a rash oath] he is liable to bring an offering of variable value.

[I:1 A] [If someone said], “I swear that I shall eat this loaf of bread today,” and the day passed, but then he ate it –

[B] R. Yohanan and R. Simeon b. Laqish – both of them say, “He is exempt [from flogging for deliberate failure].”

[C] *The reason for the position of one authority is not the same as the reason for the ruling of the other.*

[D] *The reason for the ruling of R. Yohanan is on the grounds that the case is one in which there can be no appropriate warning [about what the man is about to do, that is, violate the law, because the warning can come only too late, when the day has already passed].*

[E] *The reason for the ruling, in R. Simeon b. Laqish’s view, is that [by not eating] the man is thereby violating a negative rule that does not involve an actual concrete deed.*

[F] *What is the practical difference between the positions of the two authorities?*

[G] A case in which he burned the bread and threw it into the sea.

[H] *If you say that the reason is on the count that the man is not in a position to receive a warning, the man will be exempt [on the same grounds in the present case].*

[I] *But if you say that the reason is that the matter involves a negative commandment in which there is no concrete deed, here we do have a concrete deed [namely, throwing the bread into the sea].*

[I:2 A] *[Referring to M. 3:7A] R. Pinhas raised the question: “If the man turned out to be constitutionally weak [so he cannot eat it all in one day, what is the law]?”*

[B] Since in the future the man has not got the power to do what he has said, so in the past he does not have the power to do what he has said[, so the oath is null].

[C] [Abimi] said to him, “He is liable on only one count[, for the latter oaths were added onto the original one].”

[D] [Haifa] said to him, “He is liable for each one.

[E] “Now if someone had said, ‘I swear that I shall eat five loaves of bread,’ but he ate only four of them, is it possible that he is not exempt? [He is exempt, for he did not eat the five. If he then said the same of the t-our, it is a new oath.]”

- [I:3 A] R. Yosé raised the question: “If someone has said, ‘By an oath, by an oath, by an oath [regarding several loaves], I shall not eat’ and then he ate – what is the law? [Do we have three distinct oaths here?]”
- [B] *R. Yosé b. R. Bun: “Let us derive the answer to the question from the following rule: ‘I swear that I won’t eat this loaf of bread, I swear that I won’t eat it, I swear that I won’t eat it’ – and he ate it – he is liable on only one count [M. 3:7A].*
- [C] “The reason is that he made explicit mention of ‘this’ loaf. But if he had not made explicit mention of ‘this’ loaf [so that the oath applied only to that one piece of bread], then he would have been liable for each such statement.”
- [D] *Abimi, brother of Haifa, said, “I have studied in practice the law of vows, I have studied in practice the law of oaths.”*
- [E] *Haifa wanted to examine him [to see what he had learned]:*
- [F] “[If] there were before someone five loaves of bread, and he said, ‘I swear that I shall [not] eat this loaf,’ and then he went and said, ‘These two loaves of bread,’ and then he went and said, “These three loaves of bread,’ and then he went and said, ‘These four loaves of bread,’ and then he went and said, ‘These five loaves of bread,’ and he then ate the first loaf of bread – [what is the law]?”
- [G] [Abimi] said to him, “He is liable on each count [for violating each oath, since each involved another loaf of bread].”
- [H] [Abimi’s brother] said to him, “He is liable on only one count: since he has made use of the word ‘oath,’ he has caused the loaf of bread from that point forward to have the status of carrion, and [the others are included therein, so] he is as one who makes an oath [regarding the other loaves of bread] concerning that which already is prohibited, and oaths do not apply to matters that are already subject to a prohibition.”
- [I] *Haifa went and examined him yet once more:*
- [J] “If there were before a man five loaves of bread, and he said, ‘I vow that I shall eat these five loaves of bread,’ and then he went and said, ‘these four loaves of bread,’ and then he went and said, ‘these three loaves of bread,’ and then he went and said, ‘these two loaves of bread,’ and then he went and said, ‘that I shall [not] eat all of them,’ [what is the law]?”
- [K] He said to him, “He is liable on each count. If someone had said, ‘I swear that I shall eat five loaves of bread’ but ate only four of them, is

it possible that he is not exempt? [He is exempt, for he did not eat the five; if he then said the same of the four, that is a new oath.]”

[L] *Said R. Yosé, “It is reasonable that the law is in accord with the opinion of the brother of Haifa in the latter case, but in accord with Haifa in the former case. [when the man took the original oath and referred to these five loaves, he had in mind to make an oath governing each of the loaves individually, at the outset, and consequently the later oaths were added onto the original one, as Abimi maintains. So in the latter case he is liable only for one oath. Haifa is right in the former case, for the man did not intend in the latter oaths to include the first loaf of bread. If he ate the first, he is liable only for that one, and not for violating the oaths governing the rest.]”*

3:8

[A] **As to a vain oath, they are liable for deliberately [taking a vain oath] to flogging, and for inadvertently [doing so], they are exempt.**

[B] **What is the definition of a vain oath?**

[C] **[If] one has taken an oath to differ from what is well known to people.**

[D] **If he said (1) concerning a pillar of stone that it is made of gold,**

[E] **(2) concerning a man that he is a woman,**

[F] **(3) concerning a woman that she is a man –**

[G] **[if] one has taken an oath concerning something which is impossible**

–

[H] **(1) “Éif I did not see a camel flying in the airÉ.,”**

[I] **(2) “Éif I did not see a snake as thick as the beam of an olive pressÉ”**

[J] **[if] he said to witnesses, “Come and bear witness of me,”**

[K] **[and they said to him,] “We swear that we shall not bear witness for you,”**

[L] **[if] he took an oath to nullify a commandment –**

[M] **(1) not to build a sukkah, (2) not to take lulab and (3) not to put on phylacteries –**

[N] **this is a vain oath,**

[O] **on account of the deliberate making of which one is liable for flogging, and on account of the inadvertent making of which one is exempt [from all punishment].**

[I:1 A] *There we have learned: [Vows of exaggeration: If one said, “Qonam] if I did not see walking on this road as many as went out of Egypt” [M. Ned. 3:2A-B].*

- [B] Surely it is possible that on that road [over a period of time] as many people did indeed pass as had gone out of Egypt?
- [C] *But thus do we interpret the language of the vow: to apply to a single sighting.*
- [D] *For lo, when Diocletian went down there, with him went down no fewer than one hundred twenty myriads.*
- [E] *So thus do we interpret the language of the vow: in a single sighting.*

[II:1 A] If I did not see a snake as thick as the beam of an olive press [M. 3:8H]:

- [B] *And lo, the snake belonging to Emperor Shapur [was so large as to be able to] swallow camels and to swallow wagons. When they wanted to kill it, they brought camels' hides and filled them with straw and put burning coals into them, and the snake swallowed them and perished.*
- [C] *Said R. Judah bar Pazzi, "I have seen the skin of a snake as big as eight intercolumniations."*
- [D] *Said R. Samuel bar Jacob, "I saw the skin of a snake of such a size as to be worthy to serve as a kingly gift. [Consequently, this should not be regarded as a vain oath, for there can have been snakes of such a size.]"*
- [E] Samuel said, "[The Mishnah speaks of a vow referring to] a square [snake]."
- [F] But if the Mishnah spoke of a square snake, *then it should have been so phrased as to include even a small one [and not only a huge one].*
- [G] Said R. Yudan, father of R. Mattanaiah, "That is indeed so.
- [H] *"But it is the normal manner of the Mishnah to make reference only to a remarkable thing. For thus have we learned in the Mishnah: if I did not see a camel flying in the air [M. 3:8H].*
- [I] *"It could as well have taught, 'A mouse flying in the air.'"*
- [J] *It was taught: Rabban Simeon b. Gamaliel says, "Nothing is square in its natural condition [as it was created]."*
- [K] *Objected R. Berekiah, "And have we not learned the following Mishnah tradition: **The requisite space of the bright spot is not less than a Cilician split bean squared. The space of the***

split bean is nine lentils. The space of a lentil is four hairs. It turns out that there are thirty-six hairs arranged in a square” [M. Neg. 6:1]?

[L] *Said R. Yosena, “The very essence of the cited periscope states that it is not squared [by nature], and why is it taught that it is squared? That it turns out to be a square [in that, like a beam, its width and length should be of the same measure].”*

[M] And lo, there is the mint that is shaped like a square while you say that there is nothing shaped like a square?

[N] It is full of knots.

[O] Elephant’s berry [which is quadrangular]?

[P] It is round on the bottom.

[Q] *There are some who wish to claim, Rabban Simeon b. Gamaliel spoke only about animals [creatures].*

[R] *And so has it been taught: There are square shaped-foods, but not square-shaped animals [creatures].*

[III:1 A] [If he said to witnesses, “Come and bear witness for me,” and they said to him,] “We swear that we do not have any testimony [to bear witness for you],”

[B] they are flogged on the count of violating an oath of testimony.

[C] **If they said. we swear that we shall not bear witness for you, lo. they are flogged by reason of a rash oath [M. 3:8K].**

[III:2 A] “[You shall not utter] a false [report]” (Ex. 23:1) and “[You shall not] lie [to one another]” (Lev. 19:11) were said in a single act of speech. They were spoken in a way in which the ear cannot hear nor the mouth speak.

[B] “Everyone who profanes it shall be put to death” (Ex. 31:14), and [by contrast] “On the Sabbath day two male lambs a year old without blemish” (Num. 28:9) were spoken in a single act of speech.

[C] “You shall not wear a mingled stuff, wool and linen together” (Deut. 22:11) and “You shall make yourself tassels on the four corners of your cloak with which to cover yourself” (Deut. 22:12) were spoken in a single act of speech.

[D] “You shall not uncover the nakedness of your brother’s wife” (Lev. 18:16) and [by contrast] “Her husband’s brother shall go in to her and take her as his wife” (Deut. 25:5) were stated in a single act of speech.

[E] “The inheritance of the people of Israel shall not be transferred from one tribe to another”(Num. 36:7) and “and every daughter who possesses an inheritance” (Num. 36:8) were stated in a single act of speech.

[F] [In all these cases] that which was spoken was such that the mouth cannot speak or the ear hear, and so does the Psalmist himself state: “Once did God speak, two things did I hear” (Ps. 62:11)

[G] And it further says, “‘Is not my word like fire,’ says the Lord, ‘and like a hammer which breaks the rock in pieces’” (Jer. 23 :29).

[III:3 A] A vain oath is an oath to differ from what is well known to people, a false oath is an oath to change [falsehood into truth or vice versa, where facts are not well known].

[B] R. Jacob bar Aha in the name of R. Yohanan: “Anything that is known to two – this is a false oath.

[C] “If it is known to three, this is a vain oath.”

[D] R. La in the name of R. Eleazar: “Even if it is known to two, and yet one more on the other side of the world knows the same matter, it is a vain oath.”

[E] *What is the practical difference between these two opinions?*

[F] If one has taken an oath to differ from what is well known before two, and they threw the object [of which he spoke] into the sea, and then gave him warning on the count of taking a vain oath –

[G] *in the opinion of R. Yohanan*, he is not to be flogged [since this is not a rash oath, since somewhere else the facts are known].

[H] *In the opinion of R. Eleazar*, he is to be flogged.

[I] If they gave him due warning on the count of taking a false oath,

[J] *in the opinion of R. Eleazar*, he is to be flogged [since it is a vain oath].

[K] *In the opinion of R. Yohanan*, he is not to be flogged.

[L] R. Ba in the name of R. Judah: “Even if he expressed a vain oath about a pearl [e.g., that he had seen a pearl as large as an egg,]” that would be a vain oath.”

[M] *And what is the meaning of “even” [for this is a fine example]?*

[N] *But rather “for example” [if one took an oath about a pearl].*

[III:4 A] *It was taught: Just as vows of exaggeration are not binding, so oaths of exaggeration are not binding [T. Ned. 2:1H].*

[B] *And has it not been taught, “Oaths of exaggeration are binding”?*

[C] R. Jeremiah in the name of R. Pedat: “In the case in which the oaths are binding, it is an instance in which the people who took the oath stand by what they said, and in the case of the oath that is invalid, it is an instance in which the people who took the oath did not stand by the oath. [In the former the people claim to be serious, so the oath is binding.]”

[D] *And even if you say that both statements speak of cases in which the people who took the oath stand by the oath,*

[E] *in the one case [where the oath is binding] it is an instance in which the man has invoked the oath upon his property, saying, “An oath bearing on my property is incumbent on me [that I shall not make use of my property if the oath is not true].”*

[F] *In such a case his property is prohibited [if the oath is invalid].*

[G] *But as to flogging, he is not flogged.*

[H] *Just as vows of incitement [M. Ned. 3:1] are not binding, so oaths of incitement are not binding.*

[I] *But further, if it is a case in which he invokes the oath over his property, saying, “An oath governing my property is incumbent on me,” his property is prohibited [if the oath is invalid].*

[J] *But as to flogging, he is not flogged.*

[III:5 A] *Hezekiah said, “He who took an oath concerning two things” to the effect that they are indeed two things’ has taken a vain oath and is on that account to be flogged.”*

[B] *R. Menahem in the name of R. Simeon b. Laqish, “One who saw rain falling and said, ‘Lord, let much rain fall’ is flogged on the count of having taken a vain oath.”*

[C] *R. Honiah, R. Jacob bar Bun in the name of R. Samuel b. bar Nahman, “There were twenty-four councils in the South, and all of them were wiped out by reason of vain oath-taking concerning that which was true, as it was written, ‘On account of vanity have I smitten your children’ (Jer. 2:30).”*

3:9

[A] **“I swear that I shall eat this loaf of bread,” “I swear that I shall not eat it,” –**

[B] **the first statement is a rash oath, and the second is a vain oath.**

[C] **[If] he ate it, he has violated a vain oath.**

[D] **[If] he did not eat it, he has violated a rash oath.**

[I:1 A] **“I swear that I shall eat this loaf of bread,” “I swear that I shall not eat it,”** I swear that I won t eat it – and he ate it – he is liable on only one count. [One oath is not added onto another. so where there is one valid oath, a second is null.]

[B] This is the sort of matter that, in the case of vows, is binding, and, in the case of oaths, is not binding [for M. Ned. 2:3A, **there can be a vow within a vow, but no oath within an oath**].

[C] [Add: There is the sort of matter that, in the case of oaths is binding, and in the case of vows is not binding]

[D] *It accords with the following Mishnah pericope: **It is all the same [whether the oath pertains to] things which belong to himself, things which belong to others, things which are of substance, and things which are not of substance** [For vows are binding only concerning what belongs to oneself and also to matters of substance.]*

[I:2 A] [And] *R. Ba in the name of Samuel [said], “If someone has taken an oath that Mr. So-and-so has given a maneh to Mr. So-and-so, and it turns out that he had not given him anything, is null, and there is no penalty,] since he cannot take an oath that Mr. So-and-so [a third party] will give a maneh to Mr. So-and-so in the future, it follows that he also cannot make an oath concerning what has happened in the past.”*

[B] *Now this statement of Samuel’s is contradicted by two cases, [namely, a contrary tradition to Samuel’s view is to be found a two points.*

[First, the one about a second party's having given *maneh* to a third party; second, the one about eating or not eating. In both instances the contrary view is that a stricter rule applies to the past case than to the future one, in that the oath is valid for the past but not for the future – contrary to Samuel's view. This is now spelled out.]

[C] **A stricter rule applies to the past than to the future [T. 2:4/I], for he who says, "I swear that I shall eat this loaf of bread," "I swear that I shall not eat it,"** I swear that I won't eat it – and he ate it – he is liable on only one count. [But if he said,] "I did not eat it," "I did not eat it," he is liable on each count.

[I:3 A] **"I swear that I shall eat this loaf of bread," "I swear that I shall not eat it,"** –

[B] **the first statement is a rash oath, and the second is a vain oath.**

[C] How do they treat such a case [in which a man has taken these contradictory oaths, one of which he must violate]?

[D] They instruct him to eat [the loaf].

[E] It is better to transgress a vain oath and not to transgress a rash oath.

[F] "I swear that I shall not eat this loaf of bread," "I swear that I shall eat it" – the first is a rash oath, the second a vain oath.

[G] How do they treat such a case?

[H] They instruct him not to eat it.

[I] It is better to transgress a vain oath by itself, and not to transgress both a vain oath and a rash oath.

[J] "I swear that I shall eat this loaf of bread today," "I swear that I shall not eat it today," and he ate it –

[K] R. Yohanan said, "He has carried out the first oath and nullified the second."

[L] R. Simeon b. Laqish said, "He has nullified the first and not carried out the second."

[M] "I swear that I shall not eat this loaf of bread today," "I swear that I shall eat it today," and he ate it –

[N] R. Yohanan said, "He has nullified the first oath and carried out the second."

[O] R. Simeon b. Laqish said, “He has nullified the first oath and as to the second, they instruct him to carry it out with another loaf of bread.”

[P] “I swear that I shall eat this loaf today,” “I swear that I shall eat it today,” and he ate it –

[Q] R. Yohanan said, “He has carried out both oaths.”

[R] And R. Simeon b. Laqish said, “He has carried out the first, and as to the second, they instruct him to carry it out with an other loaf of bread.”

[S] “I swear that I shall not eat this loaf of bread,” “I swear that I shall not eat it today.” and he ate it –

[T] *in the view of R. Yohanan*, he is liable on only one count.

[U] *In the view of R. Simeon b. Laqish*, is he liable on two counts?

[V] [No.] Even R. Simeon b. Laqish will concede that he [has repeated himself] because he merely [wishes to] keep himself away from prohibited matters[, and that is why he repeated the oath, but only one count is at hand].

3:10

[A] [The law governing] a rash oath applies (1) to men and women, (2) to those who are not related and to those who are related, (3) to those who are suitable [to bear witness] and to those who are invalid [to bear witness],

[B] (4) before a court and not before a court.

[C] (5) [But it must be stated] by a man out of his own mouth.

[D] And they are liable for deliberately taking such an oath to flogging, and for inadvertently taking such an oath to an offering of variable value.

[E] [The law governing] a vain oath applies (1) to men and women, (2) to those who are not related and to those who are related, (3) to those who are suitable [to bear witness] and to those who are not suitable [to bear witness],

[F] (4) before a court and not before a court.

[G] (5) [But it must be stated] by a man out of his own mouth.

[H] And they are liable for deliberately taking such an oath to flogging, and for inadvertently taking such an oath, one is exempt [from all punishment].

[I] All the same are this oath and that oath:

[J] he who was subjected to an oath by others is liable.

[K] How so?

[L] [If] one said, “I did not eat today, and I did not put on phylacteries today,”

[M] [and his friend said,] “I impose an oath on you [that that is so],”

[N] and he said, “Amen,”

[O] he is liable.

[I:1 A] “[If] any one [sins in that he hears a public adjuration to testify, whether he has seen or come to know the matter, yet does not speak, he shall bear his iniquity” (Lev. 5:1). “[If] any one [sins and commits a breach of faith against the Lord by deceiving his neighbor in a matter of deposit or securityÉor has found what was lost and lied about it, swearing falsely]” (Lev. 6:2-3). [The use of “anyone” serves to link the law governing both an oath of testimony and an oath of bailment.]

[B] Just as the use of “any one” stated with reference to an oath of testimony means that the one who has an oath imposed upon him by others is treated as equivalent to the one who imposes an oath upon himself, so in regard to the oath of bailment, the one who has an oath imposed upon him by others is treated as equivalent to the one who imposes an oath upon himself [and in either case, if the oath is false, whether imposed by others or imposed by himself, the person is liable, as at M. 3:10/I-O].

[I:2 A] [With regard to the penalty of flogging for violating a false oath even though it is a negative commandment not containing an actual deed,] this is the general rule: [Violation of] any negative commandment that includes an actual deed entails the penalty of flogging, and [violation of] any negative commandment that does not contain a concrete deed does not entail the penalty of flogging. except for [1] one who substitutes a beast for one already consecrated [saying “This beast. previously unconsecrated, is in the place of that one, already consecrated”] (Lev. 27:10); [2] the one who imposes an oath on himself; and [3] the one who curses his fellow by the Holy Name of God.

- [B] *R. Abbahu in the name of R. Yohanan: “The one who effects a substitution does not belong on this list, for the one who effects a substitution does so by word of mouth and also concrete deed.”*
- [C] The one who takes an oath [and violates it] – how do we know [that such a one is flogged]?
- [D] R. Yohanan in the name of R. Yannai: “[You shall not take the name of the Lord your God in vain;] for the Lord will not hold him guiltless who takes his name in Vain’ (Ex. 20:7). The judges hold him guiltless [through flogging].”
- [E] He who curses his fellow by the Holy Name of God – how do we know [that such a one is flogged]?
- [F] R. Simeon b. Laqish in the name of R. Hoshaiiah: “that you may fear this glorious and awful name, the Lord your God’ (Deut. 28:58).”
- [G] If one has taken a false oath, *in the opinion of R. Simeon b. Laqish* [who has cited the verse above], from this very passage [just now cited, we derive proof that one is punished].
- [H] For since one has taken an oath falsely, this is not suitable awe [for God’s name].
- [I] If one has cursed his fellow with the Holy Name of God, *in the opinion of R. Yohanan*, how do we know [that he is flogged]?
- [J] For since one has cursed [with the divine name], this is hardly a form of awe.
- [K] *What is the practical difference between the positions of the two authorities just now cited?*
- [L] If one has both taken a false oath and also cursed his fellow with the Holy Name of God:
- [M] *In the opinion of R. Yohanan*, he is liable on two counts.
- [N] *In the opinion of R. Simeon b. Laqish*, he is liable on only one count [since for this authority the same verse serves to invoke punishment for both actions].

YERUSHALMI SHEBUOT

CHAPTER FOUR

4:1

[A] [The law governing] an oath of testimony (Lev. 5:1) applies (1) to men and not to women, (2) to those who are not related and not to those who are related, (3) to those who are suitable [to bear witness] and not to those who are not suitable [to bear witness],

[B] and it applies only to those who are suitable to bear witness,

[C] before a court and not before a court,

[D] [and it must be stated] by a man out of his own mouth.

[E] “[If it was imposed] out of the mouths of others, they are liable only when they will have denied [their knowledge in court],” the words of R. Meir.

[F] And sages say, “Whether it is from one’s own mouth or from the mouths of others, they are liable only when they will have denied [their knowledge] in court.”

[G] They are liable if they deliberately took a [false] oath or took a [false] oath in error along with deliberately denying their testimony.

[H] But they are not liable if they inadvertently denied [their testimony].

[I] And for what are they liable on account of deliberate violation?

[J] An offering of variable value.

- [1:1 A] The smallest number of goats [Lev. 16:5: “two male goats for a sin-offering”] is two. Why then does Scripture specify two? To indicate that the two of them should be equivalent to one another.
- [B] The smallest number of lambs [Lev. 14:10] is two. Why then does Scripture specify two? To indicate that the two of them should be equivalent to one another.
- [C] The smallest number of birds is two. Why then does Scripture specify two [“two living clean birds,” Lev. 14:4]? To indicate that the two of them should be equivalent to one another.

- [D] The smallest number of trumpets is two. Why then does Scripture specify two? To indicate that the two of them should be equivalent to one another.
- [E] *R. Haggai objected to R. Yasa*, “And is it not written, ‘If a malicious witness rises against any man to accuse him of wrongdoing, then both parties to the dispute shall appear before the Lord’ (Deut. 19:16-17)?
- [F] “Shall we now say: ‘The smallest number of men is two’? Why then does Scripture specify, ‘the two parties’? To say that both of them must be equivalent to one another? But has it not been written [to the contrary, indicating that they need not be equivalent to one another], ‘You shall not pervert the justice due to the sojourner or to the fatherless’ (Deut. 21:17)? Lo, a sojourner may enter into a case with one who is not a sojourner, an orphan enters into a case with one who is not an orphan.
- [G] “If so, why has it been written, two?”
- [H] “It is a superfluous word, left available for drawing an analogy therefrom or for constructing an argument on the foundation of similarities.
- [I] “[This argument, specifically, is as follows:] Here is it stated, two, and below it says, ‘Now two men remained in the camp, one named Eldad, and the other named .Medad, and the spirit rested upon them’ (Num. 11:26).
- [J] “Just as in the cited passage the reference is to men; not women, so here [with regard to testimony] the meaning is to permit [two] men, not women or children [to testify].
- [K] “Thus we have learned that a woman does not judge or give testimony in court.”
- [L] *R. Yosé b. R. Bun* in the name of *R. Joseph*: “Here two is said, and elsewhere two is said.
- [M] “Just as elsewhere, the meaning is that by the evidence of two witnesses a case is decided, so here, on the basis of two witnesses a case is decided.
- [N] “If so, why does Scripture specify two?”
- [O] “The meaning is that one may not stand while the other is sitting, one may not state his case as is fitting, while the other is told, ‘Cut it short.’”

[P] Said R. Judah, "I heard that if the judge wanted to have one of the two of them sit down, he may do 50."

[Q] R. Ishmael says, "They say to him, 'Dress just as the other party is dressed, or give him garments equivalent to yours.'"

[R] Said R. Ba in the name of R. Huna, "The witnesses have to stand when they give testimony, since it is said, 'And the two parties to the dispute shall stand before the Lord' (Deut. 19: 17)."

[S] R. Jeremiah in the name of R. Abbahu: "Also those who are subject to trial must stand when they receive the judgment pertaining to them, since it said, 'Then both parties to the dispute shall appear before the Lord' (Deut. 19:17)."

- [I:2 A]** It is written, "The fathers shall not be put to death for the children" (Deut. 24:16).
- [B] And has it not also been stated, "Every man shall be put to death for his own sin" (Deut. 24:16)?
- [C] Why does Scripture then state, "The fathers shall not be put to death for the children"?
- [D] The fathers shall not be put to death by the testimony of the children, and the children shall not be put to death by the testimony of the fathers.
- [E] How then do we know [further] that witnesses may not be related to the accused, and how do we know that witnesses may not be related to one another?
- [F] Take note that, if they should be declared to be conspiring witnesses, is it not by their own testimony that they are put to death, [in which case relatives turn out to testify against one another, which is not permitted]?
- [G] And how do we know that witnesses may not be related to the judges?
- [H] Take note that if one of the witnesses is declared a conspiratorial witness, is he not put to death before his fellow also is so declared? If you say so, will he not be put to death by his testimony? [That is, the judges will turn out to inflict the death penalty on their own relatives.]
- [I] And how do we know that the judges may not be related to one another?

- [J] The Torah has declared that one should be put to death on the testimony of witnesses, and one should be put to death at the decision of judges. Just as witnesses may not be related to one another, so judges may not be related to one another.
- [K] I know that [these rules apply] only to fathers and children. How do I know that they apply to other relationships?
- [L] Said R. Zeira, “and children” – the use of “and” serves to encompass other relatives.
- [M] This explanation is suitable for R. Aqiba [who deems the use of the word “and” to bear meaning as indicated]. How is the question to be answered within the exegetical techniques associated with the name of R. Ishmael?
- [N] *R. Ishmael teaches*, “‘Then the congregation shall judgeÉthen the congregation shall rescue’ (Num. 35:24, 25). [This rule teaches that the congregation] may not be made up of relatives either of the one who has administered the blow or the one who has received it.”
- [O] Said R. Yosé, “If you say so [K], you turn out to rule that a court may be made up of avengers of the blood.
- [P] “On this basis we learn that the judges may not be related to the accused.”
- [Q] And how do we know that the witnesses may not be related to the accused?
- [R] The Torah has said that one should administer the death penalty on the testimony of witnesses, and one should administer the death penalty on the testimony of judges. Just as the judges may not be related to the accused, so the witnesses may not be related to the accused.
- [S] And how do we know that the witnesses may not be related to one another?
- [T] Take note that if one of the witnesses is declared a conspiratorial witness, is he not put to death before his fellow as also is so declared?
- [U] And how do we know that witnesses may not be related to the judges?

[V] Take note that, if they should be declared to be conspiring witnesses, would it not be through their testimony that they [the witnesses] are put to death?

[I:3 A] **[The law governing] an oath of testimony (Lev. 5:1) applies (1) to men and not to women, (2) to those who are not related and not to those who are related, (3) to those who are suitable [to bear witness] and not to those who are not suitable [to bear witness]:** how do we know it?

[B] This is in line with that which is said. “If he does not speak, he shall bear his iniquity” (Lev. 5:1).

[C] [This applies to] him who gives evidence, so that his fellow will have to pay out money. It thus excludes one who is unfit to give testimony, for even if he does tell what he knows, his fellow is not going to have to pay out money.

[D] **Before a court:** This excludes the case of a single witness [without a corroborating witness], in a case in which they said to him, “Lo, you are acceptable to us as two witnesses.”

[E] Is it possible to suppose that, in the stated case, such a one should be liable [to the oath of testimony]?

[F] Scripture has stated, “whether he has seen or come to know the matter, yet does not speak” (Lev. 5:1) – this refers to one who is suitable to give testimony valid by the law of the Torah, excluding a lone witness, who is not valid to give testimony by the law of the Torah.

[G] **.and not before a court:** “If he does not speak, he shall bear his iniquity” (Lev. 5:1) – [the oath thus applies to] the one who reports what he has seen and pays what he owes, excluding a case outside of a court, in which even if one reports what he knows, his fellow is not going to have to pay out compensation.

[H] And how do we know that the law applies to two witnesses? Scripture says, “And heÉa witness,” lo, here are two witnesses.

[I] And in accord with R. Ishmael?

[J] It is that he has said, “In any case in which it is written in the Torah, ‘Witness.’ without further explanation, lo, under discussion in fact are two witnesses [35c], unless Scripture informs you explicitly that it means to speak of only a single witness. *Thus we have found R. Ishmael [holds] that two witnesses are liable.*

- [K] As to a single witness [who swears he has no knowledge], what is the law as to declaring him liable for taking a rash oath?
- [L] Is it possible to say so? Since it is possible to join another witness to his testimony and to impose on him [both of them] liability for an oath of testimony, how can you [ever] impose upon him liability for a rash oath.
- [M] [Along these same lines,] what is the law as to imposing liability upon a relative for a rash oath [since he cannot testify in court]?
- [N] [*Is the answer to this question*] in line with the following, which R. Ba bar Samuel stated, “[If one said,] ‘I swear that Mr. So-and-so has given a money to Mr. So-and-so,’ and it turns out that he never gave him the money[, he is exempt from liability, for the oath was invalid], since he has not got the power to speak about the future [in an oath], he also has not got the power to speak about what has happened in the past”? [So the answer to M is negative, since the relative cannot govern matters in the future.]
- [O] Or [*is the answer to the question raised in line with the following*]?
- [P] If one said to him, “Where is my ox,” and he said to him, “I do not know what you’re talking about,” and the case was that the ox had died or broken its leg or been lost, “I impose an oath on you,” and the other said. “Amen,” – the latter is exempt [from punishment for having taken a false oath].
- [Q] Rab said, “He is exempt by reason of taking a false oath of bailment but he is liable by reason of taking a rash oath.” [Likewise the answer to M is affirmative.]
- [R] Said R. Yohanan, “Since it is a religious duty to appease him, he is not liable on the count of having taken a rash oath.”
- [S] [*In the view of Rab*, is it not a religious duty to appease his fellow? One appeases him by telling the truth, but he does not appease him through a lie.
- [T] [Concurring that where there is no oath of testimony, there still is a rash oath, which has been violated and

must be expiated,] *R. Ishmael taught*, “‘he shall bear his iniquity’ (Lev. 5:1) [by bringing] an offering.”

[U] How do we know that [the denial nonetheless must take place] before a court [even in the case of a relative or someone else who is not suitable for testimony in court]?

[V] We derive the matter from “telling.”

[W] [That is to say,] just as “telling” in context (Lev. 5:1) involves doing so in court, so telling” mentioned in connection with the rebellious elder (Deut. 17:9) encompasses doing so in court. [The items should be Deut. 17:9, then Lev. 5:1.]

[I:4 A] *As to the following*, the evidence of witnesses is not combined [so that we have the testimony of two witnesses] unless the two of them saw the incident simultaneously –

[B] *R. Joshua b. Qorha* says, “Even if they saw it sequentially.”

[C] *R. Jeremiah* in the name of *Rab*: “The sages concede to *R. Joshua b. Qorha* in the matter of witnesses to the claim of one to be the first-born, and in the case of witnesses to the claim of one to have established rights of ownership through usucaption [that successive, not simultaneous, witness, is acceptable].”

[D] *R. Ba* in the name of *R. Jeremiah*: “Also in the case of testimony as to the presence of the signs [of puberty] the fact is the same.”

[E] *This is indeed self-evident*. [If] one says, “I saw two hairs in his private parts,” and the other said, “I saw two hairs on his body” [the two statements are acceptable as joined testimony that the person is now mature].

[F] [If] one says, “I saw a single hair on his private parts,” and one says, “I saw a single hair on his belly and nothing more” – is it not so that all the more so we deem a hair on his private parts and one on his body [to constitute the required two pubic hairs so that the person is now deemed mature]?

[G] [If] two say, “We saw a single hair on his private parts,” and two say, “We saw a single hair on his belly” –

[H] *R. Yosé b. R. Bun* and *R. Hoshaiah bar R. Shimi* – one said, “He is unfit [not yet mature].” and the other said, “He is fit.”

[I] *The one who said that he is unfit* deems the testimony to be equivalent to that of one who testifies concerning the appearance of only part of the required sign [of maturity]. *The one who said he is valid* [maintains,] “I say that [there were two, but one of them] may have fallen out.”

[J] [If] one party says, “I saw two hairs on his private parts,” and one says. “I saw two hairs on his belly,”

[K] R. Ba said, “In the opinion of all parties, he is now valid, [since there is sure evidence that there are the requisite two pubic hairs.]”

[L] Said R. Haggai, “In the opinion of all parties he is invalid.”

[M] R. Yosé says, “The matter is [still] subject to dispute.”

[N] R. Yudan said, “The matter is [still] subject to dispute.”

[O] *Said R. Yosé to R. Haggai, “Lo, R. Yudan ruled in accord with my view of the matter.”*

[P] *He said to him, “Now since I differ from his master, all the more so do I disagree with him!”*

[Q] Said R. Mana, “R. Haggai’s ruling is quite sound. For if we have a bond that bears four seals, and one party gives testimony concerning two of them, while another gives testimony concerning two of them, and someone calls at the value of the bond, is the bond of any value whatsoever? [Hardly!] For does not each seal require the validation of two witnesses? Here too each sign [of maturity] requires the validation of two witnesses.”

[R] *R. Hinena derived the same fact from the case of* [attesting to full use and enjoyment of a property] throughout the years of usucaption [to which testimony-: must be brought. That is, if one wishes to establish the claim of title through usucaption, he must bring evidence that he has held and used the property for a given number of years]. Now if one witness testified that he had enjoyed usucaption for the first, second, and third years, and one witness testified that he had enjoyed usucaption for the fourth, fifth, and sixth years. is it possible that such [joined] testimony is worth a thing? Is it not so that each year of usucaption must be attested by two witnesses? Here too each sign [of maturity] requires the validation of two witnesses.”

4:2

[A] **An oath of testimony – how so?**

[B] **[If] one said to two people, “Come and testify about me,”**

[C] **[and they replied,] “We swear that we don’t know any testimony about you” –**

[D] **for if they said to him, “We don’t know any testimony concerning you,” [and he said to them], “I impose an oath upon you,” and they said to him, “Amen,” –**

[E] **lo, these are liable [if they did have testimony to present and thus swore falsely].**

[F] **[If] one imposed an oath on them five times outside of court, and then they came to court and confessed [that they did have testimony to offer, which they now are willing to offer], they are exempt.**

[G] **[If] they denied [that they had testimony to offer, and turned out to have violated their oaths], they are liable on each and every count.**

[H] **[If] he imposed an oath on them five times before the court and they denied [having testimony, and then turned out to have sworn falsely], they are liable on only one count.**

[I] **Said R. Simeon, “What is the reason? Because [in court] they do not have the power to retract and to confess.”**

[I:1 A] “**[If] any one [sins in what he hears a public adjuration to testify, and though he is a witnessÉdoes not speak]” (Lev. 5:1). “[If] any one [sins and commits a breach of faithÉby deceiving his neighbor in a matter of deposit or security]” (Lev. 6:2).**

[B] Just as [with reference to the oath of bailment] the oath is taken on one’s own initiative [“I swear”], so with reference to the oath of testimony, the oath may be taken on one’s own initiative [as at M. 4:2C].

[C] Just as with reference to the oath of testimony, the oath may be administered by others [“Do you swearÉ?” “Amen”], so with reference to the oath of bailment the oath may be administered by others [as at M. 1:2D, thus in accord with the sages of M. 4:1].

[D] R. Meir [at M. 4:1] provides an exegesis based on an analogy drawn from the very same context. Just as an oath taken on one’s own initiative noted later on [in regard to an oath of bailment] takes place outside of court. so an oath taken on one’s own initiative in the present context [of an oath of testimony] also applies outside of court.

- [E] And the rabbis [vis ^ vis Meir] provide an exegesis based on applying what is relevant in one context to yet another context. Just as an oath imposed by others noted below [in an oath of testimony] is in court, so that administered at the initiative of others in the present context takes place [only] in court.
- [I:2 A] *R. Jeremiah raised the question:* “[If] a relative takes an oath on his own initiative in the case of an oath of testimony [in which instance he is not suitable to give testimony at all], what is the law as to his being liable?”
- [B] *Shall we derive the answer to this question from the following:* Since the rule regarding an oath taken on one’s own initiative is derived not from the oath of testimony but from the oath of bailment [Lev. 6:2-3], just as in the case of a false oath of bailment, relatives are liable, so in the present case, relatives are liable [in the case of a false oath].
- [C] Said R. Yosé, “Is the rule governing relatives in the present context [an oath of testimony] derived from the other context [an oath of bailment]?! [Surely not.]”
- [I:3 A] *R. Yudan Qapodeqayya [the Cappodocian] raised the question:* “[If] one imposed an oath on a man five times, at his own initiative [‘I swear that’] in court, is it possible that he is not liable for each such oath? [That is, in reference to Meir’s opinion, who holds that an oath taken on one’s own does not have to be taken in court to be culpable, do we treat as comparable the cases of an oath outside, and an oath inside, the court? At issue then is M. 4:2F from Meir’s perspective.]”
- [B] *Said R. Yosé, “And is it not a rule explicitly stated by the Mishnah [that one indeed is liable on only one count]? Said R. Simeon, ‘What is the reason? Because [in court] they do not have the power to retract and to confess.’* But in the present case, since they do have the power to retract and to confess, they should be liable on each count [individually]. [That is, the man has accepted an oath with “Amen” five times in court. Just as in the case of an oath of bailment, he would be liable on each count, so in the case of an oath of testimony, he is liable on each count (cf. Pené Moshe).]”
- [I:4 A] *R. Jeremiah raised the question:* “If one imposed an oath upon himself five times, and then others imposed an oath on him five times [and he said ‘Amen’ each time], what is the law? [In the former instance, the plaintiff has not laid claim to the bailment. The oath takes place outside of court. In the latter instance, in court an oath is imposed on the man five times. Clearly, in the latter instance, there is only a single

count of liability, for the man denies in court only one time. The question is the law applying in the former instance.]”

- [B] Since R. Meir treated an oath taken on one’s own initiative [“I swear”] as tantamount to an oath taken in court[, in this case there is only liability on one count].
- [C] [Hence the operative question is different. It is,] What is the law as to imposing the requirement to bring an offering [of variable value] and to impose liability at the outset, that is, without prior claim [on the part of a plaintiff for the man to take the oath]? [Pené Moshe: The issue is whether the demand for taking an oath in court is such as to affect the prior oaths, taken outside of the court. If so, then the prior oaths are treated as oaths taken on demand, in which case, each is liable for an offering.]
- [D] *It is in accord with the following: If one was looking for witness – “Why are you coming after us? We swear that we know no testimony concerning you” [T. 2:11A-B, C: They are exempt until he will lay claim on them].* Is it possible that they should be liable? Scripture states, “If any one sins in that he hears a public adjuration to testify and though he is a witness, he does not speak” (Lev. 5:i).
- [E] The one who has heard a public adjuration to testify is liable, thus excluding these [of E], who have heard no public adjuration to testify. [This indicates that any oath in which there is no claim is null. Even though the latter oaths, in court, were taken under a claim, the first ones were not, and they are null. The sole liability is for the oaths taken in court.]
- [I:5 A] [Since Scripture specifies, Lev. 6:1-2, that the oath of bailment applies to movables and not to real estate, and since, we know, the rule for the oath of bailment provides the law for the rule for the oath of testimony, we now raise the following question:] As to an oath taken at one’s own initiative in the case of real estate, what is the law governing one’s being liable [for a false oath]?
- [B] [And along these same lines:] An oath taken at one’s own initiative in the case of liability to fines[, again, a type of transaction excluded by the instances of Lev. 6:2] – what is the law as to one’s being held liable [for a false oath]?
- [C] [And likewise:] An oath taken at one’s own initiative [“I swear” rather than others’ phrasing the oath and the person’s merely saying, “Amen”] – what is the law as to one’s being liable for an offering of variable value [which is specified at Lev. 5:1 for one who refrains

from giving evidence, thus answering, “Amen,” to the oath phrased by others, but which does not make provision for the present case at all? Perhaps the penalties specified at Lev. 6:1ff. for a guilt-offering, not for an offering of variable value, will pertain]. [These questions are not answered.]

- [I:6 A]** R. Ba, R. Judah in the name of Rab: “In the case of inadvertent violation of the oath, one is liable for an offering. In the case of deliberately doing so, one is liable for an offering [cf. M. 4:1G-J].
- [B] “But [if] someone said, ‘I supposed that this sort of oath was not permitted’ [in such a case, one is not liable for inadvertently violating such an oath] [M. 4:1H].”
- [C] [Explaining that rule,] *Hezekiah taught*: “In any place in the Torah in which it is stated, ‘He has sinned,’ without further specification [as in the oath of bailment, ‘in any of all the things which men do and sin therein’ (Lev. 6:3)], you must treat the deed done deliberately as equivalent to one done inadvertently, unless the Scripture will explicitly inform you that it is indeed done inadvertently [so that a sin done deliberately will be liable for an offering, unless Scripture specifies otherwise].” [This explains the rule of M. 4:1H.]

4:3

- [A] [If] both of them denied at the same time [that they had testimony], both of them are liable.**
- [B] [If they made their denials] one after the other, the first is liable, but the second is exempt.**
- [C] [If] one denied and one confessed, the one who denies is liable.**
- [D] [If] there were two groups of witnesses, [and] the first group denied [having testimony) and then the second group denied,**
- [E] both of them are liable –**
- [F] because the testimony in any event can be confirmed by the testimony of either one of them.**
- [I:1 A]** [If, after someone laid claim on witnesses to give testimony in his behalf, but before the witnesses have been subjected to an oath, the witnesses declared that they planned in court, under oath, to deny having evidence, so, in advance] the witnesses set aside the offering [that would soon be required of them] and said, “Lo, we are going to deny in court [that we have testimony to offer in this case,] [what is the law]?”

- [B] *It is in accord with that which has been taught by R. Hiyya. “His offering to the Lord shall be according to his vow as a Nazirite’ (Num. 6:21). The meaning is that his vow to be a Nazirite is to come before [the designation of] his offering, and that the [designation of] his offering should not come before his taking of the Nazirite vow. [Here too the designation of the animal as an offering for violating a vow not yet taken is null.]”*
- [C] [If the prospective witnesses] have taken an oath outside of court [and not yet denied that they had evidence and so violated the oath], and separated an animal for the offering [which will be required when they do violate the oath], and stated, “Lo, we are going to deny [the oath] in court” – *how do you treat such a case?*
- [D] Is this a case in which one has committed his sin before he has designated an offering for its expiation [since an oath outside of court is valid], or, since the point of liability occurs only in court, is it once more a case in which the animal offering for expiating the sin has been set aside before the sin has been committed [as at C]? [The question is not answered.]

[II:1 A] *Thus does the Mishnah periscope state: [If] one denied and one confessed, the one who denies is liable:*

- [B] *Said R. Yosé, “The rule of the Mishnah applies to a case in which the second witness confesses while the first one is still speaking his piece, for if the first should retract [before the second has spoken,] they will accept his testimony. In that case the second witness becomes the first. [That is, both witnesses at first denied that they had testimony. The second then retracted, while the first was still making his denial. The reason the first then is liable is that he still has the chance to retract. In that case, the testimony of the first is in hand. Then the second testimony is what is outstanding, so the second witness now has the same status as the first.]”*
- [C] If there were ten witnesses [in a single group], and they denied one after the other in sequence –
- [D] *there are Tannaim who repeat the tradition thus: “The first one is liable, and the rest of them are exempt.”*
- [E] *And there are Tannaim who teach the tradition thus: “The last one is exempt, but the rest of them are liable.” [The principles behind both positions are set out forthwith.]*

[F] *The one who maintains that the first one is liable and all the rest of them are exempt takes the position of the one who maintains that testimony, part of which is null, is wholly invalid [so only the first one has been in a position of giving evidence at all. Once he has denied, the others can do nothing anyhow, so they are not liable for an offering].*

[G] *The one who maintains that the last one is exempt but all the rest of them are liable maintains the view that the testimony may be validated by the remaining, valid witnesses. [So, if one witness in a group turns out to be invalid, the testimony of the group as a whole is unaffected. The evidence the others would have given would have been valid, so their denial is effective and they must bring an offering. The final witness, on the other hand, was all by himself, and a single witness can do nothing. So his denial was ineffective, and he does not bring an offering.]*

[H] *Said R. Yosé, “The Mishnah periscope itself has said the same thing[, namely, that once the first party has denied having evidence to give, all of the testimony to be supplied by a given group of witnesses is null, and therefore only the first one will be liable as having taken a false oath of testimony. For lo, the Mishnah states:] [If] there were two groups of witnesses, [and] the first group denied [having testimony) and then the second group denied, both of them are liable – because the testimony in any event can be confirmed by the testimony of either one of them.*

[I] “The Mishnah periscope has stated that that is the case only when there are two groups of witnesses. Lo, if it is only a single group, then we have a case in which, if evidence is partially nullified, then the whole testimony is invalidated.”

4:4

[A] “I impose an oath on you that you come and testify about me, that in the hand of Mr. So-and-so there are a bailment, a loan, stolen goods, and lost property of mine,”

[B] “We swear that we do not know any testimony concerning you” –

[C] they are liable on only one count,

[D] “We swear that we know nothing about your having in Mr. So-and-so’s hand a bailment, a loan, stolen goods, and lost property,”

[E] they are liable on each and every count.

[F] “I impose an oath on you that you come and testify about me that I have a bailment in the hand of Mr. So-and-so: wheat, barley, and spelt,”

[G] “We swear that we know no testimony about you” –

[H] they are liable on only one count.

[I] “We swear that we know no testimony about you, that you have a bailment in the hand of Mr. So-and-so wheat, barley, and spelt”

[J] they are liable on each and every count.

[I:1 A] How do we know that [an oath of testimony] applies solely where there is a monetary claim?

[B] Said R. Eliezer, “Here, ‘orÉ’ ‘orÉ’ is stated [Lev. 5:1: ‘or sawÉor knew’], and with regard to a bailment, ‘orÉ’ ‘orÉ’ is stated [Lev. 6:2: ‘in a deposit or pledge or robbery’]. just as the use of ‘or’ with regard to a bailment alludes solely to a case in which there is a monetary claim, so the use of ‘or’ in the context of the oath of testimony signifies that the oath is valid only in the case of a monetary claim.”

[C] The use of “or” in the context of the murderer will prove the contrary, for in that case discourse does not deal with a monetary claim [Num. 35: 18:21: “or if he smote him with a weapon of woodÉor hurled at himÉor in enmity smote him”].

[D] [That is hardly pertinent. For] we draw evidence from the use of the word “or” in a context in which there is an [35D] oath for discovering the law governing another context in which there is an oath, but let not the use of “or” in the setting of the murderer be adduced in evidence, for in that context there is no reference to an oath.

[E] The use of “or” with reference to the wife accused of adultery will then prove the contrary [Num. 5:14: “or if the spirit of jealousyÉ,” “or when the spirit of jealousyÉ”], for in that case there indeed is an oath, yet the Scripture does not speak of a monetary claim.

[F] [That is hardly pertinent. For] we draw evidence from the use of the word “or” in a context in which there is an oath and in which there is no allusion to the priesthood from the use of the word “or” in equivalent cases such as these, but let not the use of “or” with regard to the wife accused of adultery be adduced in evidence, for in that context the priest also plays a role.

[G] The use of the word “or” with regard to the rash oath [Lev. 5:4: “Or if any one utters with his lips a rash oath to do evil or to do good”] will prove the case, for in that context there is no monetary claim.

- [H] [That is hardly pertinent. For] we draw evidence from cases in which the law has treated deliberate violation as equivalent to inadvertent violation, from the use of the word “or” in contexts of an equivalent character. And let not the use of the word “or” in the context of a rash oath prove the case, in which the law has not treated deliberate violation as equivalent to inadvertent violation.
- [I] R. Aqiba says, “[‘And it shall be, when he shall be guilty in one of these things’ (Lev. 5:5)] – there are some of these in which one will be liable, and some of these in which one will be exempt from liability [for violating his oath]. In a matter in which there is a monetary claim, one is liable [for violating an oath of testimony], and in a matter in which there is no monetary claim, one is exempt.”
- [J] R. Simeon says, “One is liable here [in an oath of testimony for violating the oath], and one is liable there in the case of a bailment [for violating the oath]. Just as in the case of a bailment the law speaks solely of a case in which there is a monetary claim, so here the law speaks solely of a case in which there is a monetary claim.”

4:5

- [A] **“I impose an oath on you that you come and testify about me that I have in the hand of Mr. So-and-so a claim for damages, half-damages, twofold restitution, fourfold and fivefold restitution,**
- [B] **“and that Mr. So-and-so raped my daughter,” “seduced my daughter,”**
- [C] **“and that my son hit me,” “that my friend injured me,” and “that he set fire to my grain on the Day of Atonement” –**
- [D] **lo, these are liable [on any of these counts].**
- [I:1 A] *It was taught:* **R. Yosé says, “Why does Scripture say, ‘He being a witness, whether he has seen or known’ (Lev. 5:1)?**
- [B] **“I speak solely of testimony that can be confirmed on the basis of knowledge without actual witnessing [of the act], or of witnessing of the act without knowledge of what has actually happened.”**
- [C] **A case of knowledge of what has happened without actually seeing the transaction is one of money.**
- [D] **What would be a concrete instance?**
- [E] **“Give me two hundred zuz which I have in your possession!” – “You don’t have such funds in my possession!” – “Did I not count out for you exactly that sum of money in the presence of Mr.**

So-and-so and Mr. Such-and-such?” “Let them so state and I shall pay you!” – this is evidence based on what people have seen without knowing the meaning of what they have seen [T. 2:5H-I].

[F] [This is a case in which the witnesses] come and say, “Yes, he did admit to him that he owed the money, but if he stole it we do not know, or if he lent it to him we do not know.”

[G] And what is a case of evidence based on knowledge without one’s directly seeing the incident in a case of monetary claim?

[H] “Give me the two hundred zuz which I have in your possession!” “You don’t have two hundred zuz in my possession!” “Did you not admit to me in the presence of Mr. So-and-so and Mr. Such-and-such?” “Let them say so and I’ll pay it out to you!” – this is evidence based on what people know without their having seen [the incident itself] [T. 2:5J-K].

[I] They come and say, “Yes, there was a *maneh*, but we do not know whether it was stolen or borrowed.”

[J] “Give me the fine owing to my daughter which you have” and he says, “In my entire life I have never become liable for a fine,” and the witnesses testify that he indeed was liable for paying such a fine: “But we do not know whether it was the fine owing to the claimant’s daughter or if it was a fine owing to some other woman”

–

[K] “You have raped or seduced my daughter,” and he says, “I have never raped or seduced a woman in my whole life,” and the witnesses give evidence that he had raped a woman: “But we do not know whether it was the plaintiff’s wife or some other woman”

– [he is liable for a false oath].

[I:2 A] “You have killed my ox,” “You have cut down my plants” and the accused says, “I don’t know [whether or not I did it],” he is liable [cf. T. Sanh. 6:1A-C].

[B] “You told me to kill it,” or “to cut down the plants” – they follow the status of the generality of plants.

[C] What is the meaning of this phrase, “They follow the status of the generality of plants”?

[D] *Said R. Haggai, “If the ox was wont to gore, he could well have told him to kill it. If his plants were weeds, he could well have given such instructions.”*

[E] Said R. Yudan, “They do not accept such a claim in a matter pertaining to property. That is, despite the fact that he can claim, ‘You said to me to kill or to cut down,’ even though he had said to him, ‘I did not kill it,’ ‘I did not cut them down,’ he is exempt, [and the potential claim is not sufficient to render them liable for making a lesser claim].”

4:6

[A] **“I impose an oath on you that you come and testify about me that I am a priest,” “that I am a Levite,” “that I am not the son of a divorcée,” “that I am not the son of a woman who has performed the rite of removing the shoe,”**

[B] **“that Mr. So-and-so is a priest,” “that Mr. So-and-so is a Levite,” “that he is not the son of a divorcée,” that “he is not the son of a woman who has performed the rite of removing the shoe,”**

[C] **“that Mr. So-and-so raped his daughter,” “seduced his daughter,” “that my son injured me,” “that my friend injured me,” “that someone set fire to my grain on the Sabbath” –**

[D] **lo, these are exempt.**

[I:1 A] [In connection with an oath of testimony, it is said, “If anyone [sins]” (Lev. 5:1), and in connection with an oath of bailment it is said, “If] anyone [sins]” (Lev. 6:1).

[B] The purpose of using the same language is to establish grounds for a proof by analogy from one case to the other:

[C] just as “When anyone sins” in the case of a bailment speaks of a case in which there is a monetary claim actually within the claimant’s domain [thus excluding M. 4:6A-B], so, “When anyone sins” in the case of an oath of testimony speaks of a case in which there is a monetary claim actually within the claimant’s domain.

[II:1 A] *Does this statement [at M. 4:6D] not stand at variance with the position of R. Simeon b. Laqish, who said [that in a case in which one claimed that on the Sabbath someone set fire to his grain, the person who has done so is not liable for a monetary payment, since he also is liable to flogging for violating the Sabbath, hence] there is no question of monetary compensation in a case in which there is flogging?*

[B] Interpret the matter to accord with the position of R. Meir, who has maintained that there will be monetary compensation even in a case in which one is flogged.

[C] Nonetheless, the defendant has not taken money from the plaintiff.

[D] *Since this party is obligated to give him money and did not hand it over, it is as if he has caused him a monetary loss, with the consequence that the oath taken in context applies*].

4:7

[A] “I impose an oath on you that you come and testify about me that Mr. So-and-so promised to give me two hundred zuz and has not given it” –

[B] lo, [if, despite taking the oath, they fail to testify,] these are exempt,

[C] for they are liable only in the case of a monetary claim which is equivalent to a bailment.

[D] “I impose an oath on you that when you have evidence to give in my behalf, you come and testify about me” –

[E] lo, [if, despite taking the oath, they fail to testify,] these are exempt,

[F] for the oath has come before the matter about which testimony is to be given.

[G] [If] one has gotten up in the synagogue and said, “I impose an oath on you that if you know any evidence concerning me, you come and give testimony about me” –

[H] lo, [if, despite taking the oath, they fail to testify,] these are exempt,

[I] unless he address himself to [some] of them in particular.

[I:1 A] R. Yosé, R. Jacob bar Zabedi, R. Abbahu in the name of R. Yohanan [ruled], “[If] one has promised to give a gift to his fellow and then sought to retract, he has the right to retract” [in consequence of which the rule at M. 4:6A follows].”

[B] *R. Jacob bar Zabedi raised the question before R. Abbahu: “But is such an action not a case in which one’s yes is a no, and for righteousness, [the Torah requires] that one’s yes be a yes!”*”

[C] [He replied,] “When he said his yes, it was a yes of righteousness. [He subsequently changed his mind, and this is not subject to legal action.]”

[II:1 A] [With regard to M. 4:7G-I, a case in which one addressed an oath to a group of people in general,] why [is the oath not binding]?

[B] Is it because [the man] does not know which [two of those present have] testimony to give in his behalf], or because he does not specifically intend [to apply the oath to] those [two in particular]?

[C] *What practical difference does it make?*

[D] It would be a case in which he laid hands on those present two by two.

[E] *If you maintain* [that the rule that the oath is not binding is] because the man does not know which [of the people present can bear testimony in his behalf] –

[F] in this case does he know? [Obviously not, for if he did, he would hardly lay hands on all the others.]

[G] *It must follow that the case involves* the man's not knowing upon which two people he intends to impose the oath[, but if he should lay hands on two people and impose an oath on them, the oath is valid, and that is the case even though the man does not know for sure that they in fact have testimony to offer on his behalf].

4:8

[A] [If] he said to two people, “I impose an oath on you, Mr. So-and-so and Mr. So-and-so, that if you know evidence concerning me, you come and testify about me” –

[B] “We swear that we know no evidence about you”

[C] but they do have evidence concerning him, consisting of what they have heard from a witness,

[D] or one of them is a relative or otherwise invalid to testify –

[E] lo, these are exempt.

[I:1 A] *R. Mana [said]. “It follows from the final clause, ‘or [if] one of them is a relative or otherwise invalid to testify, that if one of them was not a relative or otherwise invalid to testify, they will be liable [for taking an oath of testimony that is false].*

[B] “And does the plaintiff know [that they do have testimony to give]? [Clearly he does not, since M. 4:8A is explicit,] *so the reason [at M. 4:7, that a generalized oath is null,] is only that the plaintiff does not direct the oath to those particular witnesses.”*

[C] *R. Yosé [said], “It follows from the former clause, ‘because the oath came before the evidence,’ that, had the oath not come before the evidence they would have been liable.*

[D] “Does the plaintiff know [that they do have testimony to give]? [Clearly not, for the same reason as at B.] *So the reason [at M. 4:7, as above,] is only that the plaintiff does not direct the oath to those particular witnesses.”*

4:9

- [A] [If] he had sent through his slave [to impose the oath on the witnesses],
- [B] or if the defendant had said to them, “I impose an oath on you, that if you know testimony concerning him, you come and give evidence concerning him,”
- [C] they are exempt,
- [D] unless they hear [the oath] from the mouth of the plaintiff.

- [I:1 A] Said R. Eleazar, “Why does Scripture say, ‘[If any one sins in that he hears a public adjuration to testify and though he is a witnessÉ] yet he does not speak, he shall bear his iniquity’ (Lev. 5:1)?
- [B] “Is it not that [he must hear the oath] from the mouth of the plaintiff [only]?”
- [C] *The way in which the Mishnah phrases the rule [“unless they hear the oath from the mouth of the plaintiff”] is necessary for a full account of the law, and the way in which R. Eleazar phrases the rule [“he must hear the oath from the plaintiff (only)”] is necessary for a full account of the law.*
- [D] *Had we learned the way in which the rule is phrased by the Mishnah, and not learned the way in which R. Eleazar phrases it, we might have ruled that had the prospective witnesses heard the oath from the mouth of the claimant, but had they not heard it from the mouth of the defendant, they would have been liable. [That is, the principal concern would be the complaint, not the source of the complaint, and the defendant might also administer such an oath.] That is why there is need for the way in which R. Eleazar phrases the rule [that the oath must originate with the plaintiff only].*
- [E] *Had we learned the way in which the rule is phrased by R. Eleazar and not learned the way in which the Mishnah phrases it, we might have ruled that had the prospective witnesses heard the oath from the defendant and then taken the oath to the plaintiff, they would have been liable. [That is, had the witnesses heard the claim from the defendant, but then taken an oath to the plaintiff, they would be liable. That is not the case.]*
- [F] *That is why the formulation of the Mishnah and that of R. Eleazar are required, to indicate that the oath is valid solely when it is administered by the claimant and the oath is taken to the claimant [, that is, both conditions are necessary].*

4:10

- [A] (1) “I impose an oath on you,” (2) “I command you,” (3) “I bind you,” – lo, these are liable.
- [B] [If he used the language,] “By heaven and earth,” lo, these are exempt.
- [C] (1) “By [the name of] Alef-dalet [Adonai]” or (2) “Yud-he [Yahweh],” (3) “By the Almighty,” (4) “By Hosts,” (5) “By him who is merciful and gracious,” (6) “By him who is long-suffering and abundant in mercy,” or by any other euphemism –
- [D] lo, these are liable.
- [E] “He who curses making use of any one of these is liable,” the words of R. Meir.
- [F] And sages exempt.
- [G] “He who curses his father or his mother with any one of them is liable,” the words of R. Meir.
- [H] And sages exempt.
- [I] He who curses himself and his friend with any one of them transgresses a negative commandment.
- [J] [If he said,] (1) “May God smite you,” (2) “So may God smite you,” this is [language for] an adjuration [conforming to] which is written in the Torah (Lev. 5:1).
- [K] (3) “May he not smite you,” (4) “may he bless you,” (5) “may he do good to you” –
- [L] R. Meir declares liable [for a false oath taken with such a formula].
- [M] And sages exempt.
- [I:1 A] [If one said,] “I impose an oath on you,” without further specification, [the oath is valid, and the one on whom it is imposed, should he swear falsely,] is liable.
- [B] [If he said,] “I bind you,” “I chain you” – they are liable.
- [I:2 A] *R. Yohanan in the name of R. Yannai: “Thus does the Mishnah teach.”*
- [B] *And there are those who say, R. Abbahu in the name of R. Yohanan: “Thus does the Mishnah teach: He who curses making use of any one of these is liable,” the words of R. Meir. And [supply:] R. Judah [instead of sages] exempt.*
- [C] *R. Meir is consistent with his opinions expressed elsewhere, and R. Judah is consistent with his opinions expressed elsewhere, for we have*

learned there : **He who curses his father and his mother is liable only when he will have cursed them by the divine Name. [If] he cursed them with a euphemism, R. Meir declares him liable. And sages declare him exempt [M. San. 7:11].**

[II:1 A] He who curses himself and his friend with any one of them transgresses a negative commandment:

[B] What is the law as to his being flogged?

[C] The associates said, “He is not flogged.”

[D] Said to them R. Yosé, “Why? Is it because it is a negative commandment in which there is no actual deed? But lo, he who effects an act of substitution [prohibited at Lev. 27:10] and he who takes a false oath are guilty of violating a negative commandment in which no concrete deed is involved [and yet they are flogged].”

[E] R. Yosa in the name of R. Yohanan: “It is the view of R. Meir who said in his name, ‘It is a case of a negative statement that yields an affirmative one.’”

[F] “[For example:] May he not smite you if you do come and testify in my behalf” [is a negative formulation of the oath, but it yields a positive one:] If you do not come and testify in my behalf, then may he smite you.”

[III:1 A] [I know] only that the law applies to these statements [of M. 4:10J], which are accompanied by an oath. How do I know that there is a penalty for a statement [along the lines of M. 4:10J] in which there is no oath?

[B] In the case of a statement accompanied by an oath, Scripture states, “If any one sins in that he hears the sound of a public adjuration to testify” (Lev. 5:1

[C] “one hears a public adjuration,”

[D] “one hears a sound.”

[E] [The purpose of this repetitive formulation is] to indicate that a statement not accompanied by a public adjuration is equivalent to one that is accompanied by a public adjuration.

[F] Lo, is then an adjuration not accompanied by an oath not [covered by the law at all]?

[G] R. Yosa in the name of R. Yohanan: “There is no difference between a public adjuration without an oath and an oath without a public adjuration[, but the same law governs both].”

YERUSHALMI SHEBUOT

CHAPTER FIVE

5:1

[A] An oath concerning a bailment (Lev. 6:2ff.) applies to men and to women, to relatives and to strangers, to people suitable to give testimony and to people not suitable to give testimony,

[B] before a court and not before a court,

[C] from one's own mouth.

[D] "But as to one from the mouth of others,

[E] "he is liable only when he will deny [the claim] in court," the words of R. Meir.

[F] And sages say, "Whether it is from his own mouth or from the mouth of others, once he has denied him, he is liable."

[G] [If one took a false oath,] one is liable if he deliberately took a [false] oath, or [if he took one] in error, while deliberately [denying] bailment.

[H] But one is not liable [if he] inadvertently [took a false oath in regard to a bailment].

[I] And for what are they liable on account of deliberate violation?

[J] A guilt offering which is worth [two] shekels of silver (Lev. 5:15).

[I:1 A] *The rule has been taught concerning* [liability for] an oath from one's own mouth with regard to an oath of testimony. What is the law [in a case of an oath from one's own mouth] as to being liable in the case of a public adjuration?

[B] As to an oath of bailment, what is the law as to one's being liable in respect to a public adjuration [as is the case in an oath of testimony]? [Thus the issue concerns both applying to the rule stated at Lev. 6:1ff., with regard to an oath of bailment the matter of the oath of testimony of Lev. 5:1ff., and vice versa. With regard to the oath of bailment, there is no reference at all to a public adjuration, such as is stated explicitly respect to the oath of testimony.]

[C] Said R. Yosé, “Since it is written, ‘[If] any one [sins in that hears a public adjuration to testify and though he is a witness: yet does not speak’] (Lev. 5:1), and ‘[If] any one [sins and commits a breach of faith against the Lord by deceiving his neighbor in a matter of deposit or security]’ (Lev. 6:1), [the common formulation serves to indicate that] just as all details apply in one sort of oath, so all of them apply in the other [as at M. 4:10].”

[D] Said R. Mana, “A public adjuration in court, [which, by definition, is phrased by others and accepted by the one subject to the oath,] is subject to dispute between R. Meir and the sages: [in the case of a bailment, just as at M. 4:2]. [Meir maintains that an oath taken on one’s own initiative takes place on in court for both the oath of testimony and the oath of bailment. The sages derive the lesson from one context for another The oath of testimony is administered by others not only in court, but also outside of court, just as is the case for the oath of bailment, in which denial in any locale suffices.]”

[I:2 A] [“If any one sins and commits a breach of faith against the Lord by deceiving his neighbor in a matter of deposit or security, or through robbery, or if he has oppressed his neighbor or has found what was lost and lied about it, swearing falsely – in any of all the things which men do and sin therein, when one has sinned and become guilty, he shall restore what he took b robbery” (Lev. 6:1-4)]. “And he has denied his neighbor” by acquitting himself through a confession. [That is to say, he has taken an oath. Had he confessed that he had the bailment, he would have had to pay up. Now through this oath he has escaped the liability. Through the oath he has acquitted himself of admitting that he had the bailment and of paying up. In such a case, if he has sworn falsely and confesses, he is liable (Pené Moshe).]

[B] “Through an oath,” excluding a case in which one has denied having the bailment when confronted by one of two partners to the ownership of the bailment. [That is, if the man has denied under oath taken to one of the partners, he does not have to bring an offering for the false oath. He can give the one his share when he hands over the share of the other to whom there has been no false oath. So here there is no liability for an offering.]

[C] This further excludes one who denies money in a case in which the debt is secured through witnesses and a bond[, in which case the denial is null, and hence neither will be an obligation to bring a guilt-offering].

[D] Said R. Yosé, “*That is to say*, in a case in which two people borrowed money from one, even though it is not written in a bond that they are responsible and pledges for one another, nonetheless they indeed are responsible and pledges for one another [so the lender can lay claim on either party for the entire amount of the debt]. [Just as in the case of a bailment, the bailee may claim that he is liable only to the two, and not to one alone, so here there is a debt accruing against two lenders, not against one alone.] *But they do not apply the law in such a fashion.*”

[E] Two parties who left a bailment simultaneously, and one of them wished to take his share – they pay no heed to him.

[F] [For if you rule otherwise, then the law must treat the bailee] as one who has denied having the share of one party, and so he will be liable on that count.

[G] [If] one party left a bailment with two [bailees], [if] this [bailee] denied [having the bailment], this one is liable. [If] the other bailiff denied [having the bailment], the other one is liable. [The reason for the reversal is that each bailee bears responsibility, on his own, for the whole of the bailment.]

[H] [But that cannot be so, for if] one has left a bailment with [two bailees] worth a perutah, does it not turn out that [one of them, liable for half], must bring an offering covering denial of a bailment worth a half-perutah? [This is an objection to the foregoing statement, since a half-perutah is null.]

[I] Now is this not similar to a case in which one has taken an oath, then the next, then the third [party, all of them lying] – does [each one] not bring an offering covering a denial of only a half-perutah in value?

[J] [No, the cases are different.] In this latter case, each oath [when it is taken] applies to a bailment worth at least a perutah. But here the oath, when it is taken, does not apply to a bailment worth a perutah.

[I:3 A] [Referring to the statement above, excluding from penalty an oath taken in denial in the case of a debt secured through witnesses and a bond,] *R. La, R. Yohanan, and R. Simeon b. Laqish – all three of them say* [that one who denies owing a debt secured by

witnesses and a bond still will be liable for the false oath]. If there were no witnesses, it would be parallel to the case of one who has acquitted himself through a confession. [If then he confessed to having lied about the bailment or debt, it would be a valid denial, and he would not have to pay the money or hand over the bailment.]

[B] Now why should this be the case [since there are witnesses]? [It is not as if the man has acquitted himself merely by his denial under oath. The fact that there are witnesses would mean he would have to pay, despite the oath. Hence the oath ought to be null.]

[C] Because it is commonplace for witnesses to drop dead[, and the oath in the end may succeed in saying the man from having to pay back the money or hand over the bailment].

[D] But a bond is not apt to disappear [and still there is evidence for the debt, despite the man's oath, which therefore is null].

[E] [So the operative reasoning of the named sages is] only that because witnesses may well forget their testimony[, we deem the denial under oath to be valid, hence subject to punishment, while in the case in which there is a bond, we will regard the oath as null and not culpable].

[F] *There we have learned:* **““Where is my ox?” He said to him, “It got lost” – “I impose an oath on you” – and he said, “Amen” – and witnesses testify against him that he had eaten it – he pays him compensation for the principal. If he conceded on his own, he pays compensation for the principal, the added fifth, and a guilt offering [M. Shebu. 8:3F-L]** [as specified at Lev. 6:5]. [Now who should the man be culpable for the false oath? It is because the oath was valid, even in a case in which there were witnesses. Thus we invoke the principle that the witnesses may forget their testimony.]

[G] [The only other explanation is that] *the Mishnah speaks of a case in which* the plaintiff does not know that there are witnesses [who can confirm his claim. On that basis

the oath would have been valid, and the bailee culpable for a false oath].

[H] [Still, now that you maintain that witnesses may forget their testimony,] *one may tell you that* the case is one in which the claimant knows that there are witnesses[, but since he does not know whether or not they remember the case, he still accepts the oath as valid. That is who it is culpable].

[I] *Said R. Yosé, “And the Mishnah itself has made the same point entirely clear, as follows: [If] there were two groups of witnesses, [and] the first group denied [having testimony] and then the second group denied, both of them are liable – because the testimony in any event can be confirmed by the testimony of either one of them [M. 4:3D-F]. There is no problem as to why the first group should be liable. But why should the second be liable? Is it not because witnesses may well forget their testimony [and it follows that the testimony of the second group is just as critical to the case as that of the first group]?”*

- [I:4 A] “[Or he has found what was lost and] lied about it” (Lev. 6:3) – [about it, (falsely claiming that he did not find anything belonging to the other party, but not lied to him [saying, “Indeed I found a lost object, but I did not know that it belongs to you so that I have to return it to you.” If he should take an oath in such wise, he is exempt from liability for having taken a false oath of bailment. His basic claim, after all, is not to his advantage, since he may not be able to keep the lost object in any event.]
- [B] Ben Azzai says, “There are three types of cases involving lost objects.
- [C] “There is a case in which one knows about a lost object and about the one who has found it;
- [D] “one knows about the object itself but not about the one who found it;
- [E] “one knows neither about the object nor about the one who has found it.” [That is, one imposes an oath on the witnesses as to their having seen the lost object in the hand of the one who found it, and he denies and says he did not find it. The possible cases then are that the oath covers the witnesses’ knowledge that the object has been found and that so-and-so has found it, or that the object has been found but that the witnesses do not know that so-and-so has found it, or that the

witnesses know that the witnesses have found something but they do not know what object has been found.]

[F] R. Honiah in the name of R. Jeremiah: “In all three cases, [the one who takes a false oath] is exempt. [That is, if there is only one witness involved, there is no possibility of the witness’s imposing a monetary loss. Even if he knows that Mr. So-and-so has found something, and he also knows that he has found the very object that is subject to the claim, still, his testimony is not adequate, since he is only one witness, to force the other party to hand over the object.]”

[G] *R. Jacob bar Aha in the name of R. Yosé: “That is not so. [One cannot interpret the matter in such wise, as involving only one witness, to explain why there is no liability here.]”*

[H] *R. Yosé raised the question: “And why should there [not] be exemption from liability here?”*

[I] *Said R. Mana, “[This is the reason. You cannot maintain that there is only a single witness in the present case, because if you do,] you do not have three cases in which a lost object is subjected to an oath, namely, a case in which one knows about the object and about the one who has found it; about the object but not about the one who has found it, not about the object and not about the one who has found it. [You in fact cannot find a case that would allow for three such incidents in which one would be exempt.]”*

[J] *But we must interpret the matter to apply to a case in which the witnesses know both the object and the one who has found it. [Now if we have only one witness, he is going to be exempt. If the witness knew neither the object nor the finder, he has told the truth under oath, and there is no need to declare him exempt from a sacrifice. He obviously is exempt.]*

[K] *We must interpret the passage, rather, to refer to a case in which one denies knowing about the object and its finder. [The witness denies knowing about the object and the one who found it. He did not wish to testify that he knows the people. This is a lie, and, when he confesses, he still is exempt from penalty for a false oath, because he would not in any case have been the cause of the defendant’s having to pay over the money.]*

[L] What about a case in which he knows about the one who found the object but not about the object, or about the object and not about the one who found it? [In these cases, if we have two witnesses, the witnesses’ testimony does have effect and is valid; therefore, if a

false oath has been taken, he will be culpable. In these cases too, therefore, we must postulate that we deal with a single witness.]

[M] *So the Mishnah is to be interpreted as dealing with a case in which there is knowledge both of the lost object's having been found and of the identity of those who have found it.*

5:2

[A] **An oath concerning a bailment – how so?**

[B] **He said to him, “Give me my bailment which I have in your hand”**

[C] **“I swear that you have nothing in my hand” –**

[D] **or if he said to him, “You have nothing in my hand,” “I impose an oath on you”, and he said, “Amen”**

[E] **lo, this one is liable.**

[F] **[If] he imposed an oath on him five times, whether this is before a court or not before a court, and the other party denied it,**

[G] **he is liable for each count.**

[H] **Said R. Simeon, “What is the reason? Because [on each count] he has the power to retract and to confess [that he does have the bailment and will now return it].**

[I:1 A] “If any one [sins in that he hears a public adjuration to testify, and though he is a witnessÉdoes not speak],” (Lev. 5:1). “[If] any one [sins and commits a breach of faithÉby deceiving his neighbor in a matter of deposit or security]” (Lev. 6:1).

[B] Just as [with reference to the oath of bailment] the oath is taken on one's own initiative [“I swear”], so with reference to the oath of testimony, the oath may be taken on one's own initiative [as at M. 5:2C].

[C] Just as with reference to the oath of testimony, the oath may be administered by others [“Do you swear” “Amen”], so with reference to the oath of bailment the oath may be administered by others [as at M. 5:2D, thus in accord with the sages of M. 5:1].

[D] R. Meir [at M. 5:1] provides an exegesis based on an analogy drawn from the very same context. Just as an oath taken on one's own initiative noted later on [in regard to an oath of bailment] takes place outside of court, so an oath taken on one's own initiative in the present context [of an oath of testimony] also applies outside of court.

- [E] *And the rabbis [vis-a-vis Meir] provide an exegesis based on applying what is relevant in one context to that context only. Just as an oath imposed by others [in an oath of testimony] is in court, so that administered at the initiative of others in the present context takes place [only] in court.*
- [I:2 A] *R. Jeremiah raised the question: “[If] a relative takes an oath on others’ initiative in the case of an oath of bailment[, in which instance he is entirely suitable to give testimony], what is the law as to his being exempt?”*
- [B] *We shall derive the answer to this question from the following:*
- [C] *Since the rule regarding an oath taken on others’ initiative is derived not from the oath of bailment but from the oath of testimony, relatives are exempt, so in the present case, relatives are exempt [in the case of a false oath of bailment].*
- [D] *Said R. Yosé, “Is the rule governing relatives in the present context [an oath of bailment] derived from the other context [an oath of testimony]!? [Surely not.]”*
- [I:3 A] *R. Yudan Qapodeqayya [the Cappodocian] raised the question: “[If] one imposed an oath on a man five times, at others’ initiative [‘Do you swear that’] outside of court, is it possible that he is liable not for each such oath but only for one?”*
- [B] *Said R. Yosé, “And is it not a rule stated explicitly by the Mishnah [that one indeed is liable on only one count]? **Said R. Simeon, ‘What is the reason? Because [in court] they do not have the power to retract and to confess’ [M. 5:2I].** But in the present case, since they do have the power to retract and to confess, they should be liable on each count [individually]. [That is, the man has accepted an oath with “Amen” five times in court. Just as in the case of an oath of bailment, he would be liable on each count, so in the case of an oath of testimony, he is liable on each count.]”*
- [I:4 A] *R. Jeremiah raised the question: “If one imposed an oath upon himself five times[, and then others imposed an oath on him five times (and he said “Amen” each time) what is the law? In the former instance, the plaintiff has not laid claim to the bailment. The oath takes place outside of court. In the latter instance, in court an oath is imposed on the man five times. Clearly, in the latter instance, there is only a single count of liability, for the man issues a denial in court only one time. The question is the law applying in the former instance.]”*

- [B] *Since R. Meir treated* an oath taken on one's own initiative ["I swear"] as tantamount to an oath taken in court[, in this case there is only liability on one count]. [Hence the operative question is different. It is,] What is the law as to imposing the requirement to bring an offering [of variable value] and to impose liability at the outset, that is, without a prior claim [on the part of a plaintiff for the man to take the oath]? [Pené Moshe: The issue is whether the demand for taking the oath is such as to affect the prior oaths, taken outside of court. If so, then the prior oaths are treated as oaths taken on demand, in which case, each is liable for an offering.]
- [C] *It is in accord with the following: If one was looks for witnesses – “Why are you coming after us? We swear that we know no testimony concerning you” – each pays the principal, an added fifth, and brings an offering worth two sela, which is not the case in an oath of testimony [T. 4:1J].*
- [I:5 A] [Since Scripture specifies (Lev. 6:1-2) that the oath of bailment applies to movables and not to real estate, and since, we know, the rule for the oath of bailment provides the law for the rule for the oath of testimony, we now raise the following question:] As to an oath taken at others' initiative [= M. 5:2D] in the case of real estate, what is the law governing one's being exempt [for a false oath]?
- [B] [And along these same lines:] An oath taken at one's own initiative in the case of liability to fines [again, a type of transaction excluded by the instances of Lev. 6:2]what is the law as to one's being held liable [for a false oath]?
- [C] [And likewise:] An oath taken at one's own initiative ["I swear," rather than others' phrasing the oath and the person merely saying "Amen" what is the law as to one's being held liable for a guilt-offering worth two shekels? [These questions are not answered.]

5:3

- [A] [If] **five people laid claim on him and said to him, “Give us the bailment which we have in your hand” –**
- [B] **“I swear that you have nothing in my hand” –**
- [C] **he is liable on only one count.**
- [D] **“I swear that you have nothing in my hand, nor you, nor you” –**
- [E] **he is liable on each and every count.**
- [F] **R. Eliezer says, “[This is so] only if he states the oath at the end.”**

[G] R. Simeon says, “[This is so] only if he will state an oath for each and every [claim].”

[I:1 A] [R. Simeon says, “One is liable here, in the case of an oath of testimony, and one is liable there in the case of an oath of bailment. Just as in the case of a bailment the law speaks solely of a case in which there is a monetary claim, so in the case of an oath of testimony the law speaks solely of a case in which there is a monetary claim. No, if you have stated the rule in the case of an oath of testimony, in which case the law has not treated the one who takes an oath as equivalent to the one to whom an oath is administered (from Meir’s viewpoint at M. 5:1),] is it possible that also in the case of an oath of bailment the law has not treated one who takes an oath as equivalent to the one to whom an oath is administered [as at M. 5:2D]?”

[B] Said R. Eleazar, “Also in the case of an oath of bailment the one who takes an oath is deemed equivalent to the one to whom an oath is administered. [The rule applying to the oath of testimony pertains to all aspects of an oath of bailment.]”

[II:1 A] R. Eliezer says, “[This is so] only if he states the oath at the end:”

[B] Said R. Yohanan, “The opinion of R. Eliezer is that that is so only if he states the oath both at the beginning and at the end of his statement. [That is, it must be said also at the end of the declaration.] As to the opinion of rabbis, if the man made mention of an oath at the outset of his declaration and did not mention it at the end, or if he made mention of it at the end and did not make mention of it at the outset, he will in any case be liable on each and every count.

[C] “*In the opinion of rabbis* he brings an offering on each count, *in the opinion of R. Eliezer* he brings a single offering.

[D] “If one has made mention of the oath at both the outset and at the end, *so far as rabbis are concerned*, who suffice with a single oath, the man has taken a double oath and so he must bring two offerings for each and every item on the list, *while in the opinion of R. Eleazar*, he presents a single offering for each item of the whole lot.”

[E] If one has mentioned the language of the oath at the outset and did not make mention of it at the end, what is the law as to the oath’s applying to the items in the middle [from Eliezer’s viewpoint? Since Eliezer wants the oath to be mentioned at both the beginning and the end of the process, how do we rule if the oath is mentioned at the outset but not at the end? Thus the man says, “I swear that you and you and you have

nothing in my possession.” Do we suppose that Eliezer maintains that if the oath is not mentioned at the end, there is no valid oath at all?]

[F] *Now look here!* If the man made mention of the oath at the outset and at the end, is it possible that he mentioned it in regard to those items in the middle? Surely not! Yet you rule that when the oath is mentioned at the start and at the end it applies to the middle. The same is so here.

[II:2 A] *R. Yudan Qapodeqayya raised the question:* “[If one said,] ‘I swear that you do not have wheat, barley, and spelt in my possession’ – what is the law?”

[B] Since this is a case in which it is as if he made mention of an oath at the outset and at the end, because the oath applies to each one of the named items, so[, should it be a false oath], the man will be liable on only one count. [That is, Eliezer’s position in regard to M. 5:4 will be the same as that here. If one has not made mention of the oath at the end, but said, “I swear” at the beginning, Yudan asks whether we say that, since the man has specified the several claims within the same oath, the one oath applies to all of them, so that we treat the matter as if he mentioned the oath at the beginning and the end. Or do we maintain that since the oath depends on each specified item, we have to treat them as each subject to an individual oath? But, we note, he has not specified such an individual oath for each item. So he will be liable for only a single valid oath, namely, the one at the outset (Pené Moshe). The answer, as is clear, is that the oath is valid for only one item. The fact that an oath is in effect has not been made specific for each item.]

[C] [If one said,] “You do not have in my possession wheat, barley, and spelt – I so swear,” is this a case in which it is as if he has made mention of the oath at both the outset and the end of the declaration?

[D] Since the oath depends upon each item in succession, he is liable for only one item on the list [namely, that one specified along with the language of the oath].

[E] Is the rule not so also with regard to a rash oath?

[F] That is, if one says, “I swear that I shall not eat, that I shall not eat, by an oath” –

[G] *in the opinion of the rabbis*, he brings an offering for violating each of the stated oaths.

[H] *In the opinion of R. Eleazar*, does he bring a single offering for each item?

[I] [No. In the present case,] even R. Eleazar concedes that [he repeats the oath] only as if he strengthens his resolve to avoid what is prohibited.

[J] [*This result*] is not [*possible in a case in which the man took an oath as to*] what has happened in the past:

[K] “I swear that I did not eat,” “That I did not eat I swear” –

[L] *in the opinion of the rabbis*, he brings two offerings for each such statement. [For these are deemed two distinct oaths, and he is liable for keeping each one. When he took each oath, he thereby lied. The sages do not require that the man make mention of the language of an oath at the start and finish of each statement. Since here he has mentioned an oath twice, he is liable for two oaths.]

[M] *In the opinion of R. Eleazar*, he brings a single offering on account of each oath [but not, of course, two].

[II:3 A] *R. Abbahu, R. Jeremiah raised the question:* “If one said, ‘I swear concerning wheat that you have no wheat in my hand,’ what is the law? [That is, since we deal with a case in which the man has made mention of wheat twice, do we treat the statement as if he has taken two oaths, so that he should then be liable for each? Or perhaps, since he speaks solely of wheat, we have one oath.]”

[B] *Let us derive the law from the following:* [If one has laid claim for single type of grain that he had left as a bailment, but there had been a number of bailments, located in different places, if the bailee had said,] “not in this place, and not in that place,” he is liable [for each such oath, even though all the oaths deal with a single type of grain. Here too even though it is a single sort of grain, he will be liable for each oath].

[C] Said R. Yosé, “[There is no evidence to be drawn from the parallel case you have adduced. For there we speak of bailments located in] a number of places, and these they have treated as if they involved diverse types of grain. Had he said, ‘Not in that place and not in this place,’ it would have been a valid parallel. [That is, had the man spoken of the same place in two distinct oaths, then the case would have been parallel to the present one. Then by way of parallel, when speaking of a single supply of grain, he also would be liable. But when there is a matter of two distant places then there is no parallel at all.]”

- [II:4 A]** *R. Haggai raised the question: “[If one said,] ‘By ten oaths you have nothing at all in my possession,’ – what is the law?” [That is, the man thus took ten oaths concerning the same item. Is he liable for each, or for only one? There is the principle that after each oath he has the power to retract and deny the oath, so each applies. But that would not apply here, in which he has treated the ten oaths u a single statement. So perhaps the statement is treated as a single oath. The question is not answered.]*
- [B] *R. Yosé raised the question: “[If one said,] ‘By an oath! By an oath! You have nothing in my possession’ – what is the law?” [Do we have two oaths?]*
- [C] *Said R. Yosé, “Let us derive the law from the following: ‘I swear that I shall not eat this loaf of bread! I swear that I shall not eat it! and he ate it – he is liable on one count. The reason here is that he made explicit mention of ‘this loaf of bread.’ Lo, if he had not referred specifically in the several oaths to a single loaf of bread, this one, he would then have been held liable for violating each such oath.”*
- [II:5 A]** [With reference to M. 5:3G,] the same is so of a rash oath.

- [B] [If someone said,] “I swear that I shall eat carrion, a piece of bread made from wheat, a piÇe of bread made from barley, and a piÇe of bread made from spelt,” since he is exempt on the count of the oath to eat carrion, [which is null,] he is also exempt on the count of the other oaths. [That is, so far as Simeon is concerned (M. 5:3G), one must make mention of each oath individually; the man is liable only if he explicitly refers to each item with the language of “oath.” Since in this case the language of oath has applied solely to carrion, and that oath is null, all the other oaths are null as well]

5:4

- [A] **“Give me my bailment, loan, stolen goods, and lost property [Lev. 6:2] which I have in your hand” –**
- [B] **”I swear you have nothing in my hand” –**
- [C] **he is liable on only one count.**
- [D] **“I swear that you do not have in my hand a bailment, loan, stolen goods, or lost property” –**
- [E] **he is liable for each and every count.**
- [F] **“Give me the grain, barley, and spelt, which I have in your hand” –**
- [G] **“I swear you have nothing in my hand” –**

[H] he is liable on only one count.

[I] “I swear that you have not got in my hand wheat, barley, or spelt” –
[J] he is liable for each and every count.

[K] R. Meir says, “Even if he had said, ‘Wheat, barley, and spelt’ [Ex. 9:31-32] he is liable on each and every count.”

- [I:1 A] Said R. Yohanan, “In accord with the view of R. Simeon [who said (M. 5:3G) that one is liable on each count only if he states an oath in connection with each claim,] if it should turn out that the bailee does not have the wheat [that is claimed] in his possession, he is exempt on all the other counts [at M. 5:4I, because the oath was valid only for wheat, since the language of an oath applied only to that item].”
- [B] Said R. Ba, “Even R. Judah concedes that point [for, while he stands with the authority of M. 5:3 who disagrees with Simeon, still, in this instance, he will concur. The opposition to Simeon will maintain that only if the bailee rejects each claim individually and turns out to have lied on each item is there an oath valid for each one. In the present instance the first item is truthful, that is, the bailee does not have wheat. The oath applied to that item, and there is no liability regarding the other items].”
- [C] [If] it should turn out that the bailee does not have wheat, what is the law [from Simeon’s viewpoint] as to the oath’s applying to the other items?
- [D] *The Associates say*, “The oath does not apply [since the man took the oath specifically with reference to wheat, which is the item to which the language of the oath referred].”
- [E] R. Zira said, “It applies [to the other items].”
- [F] *Said R. Jacob bar Aha*, “A *Mishnah pericope* [*baraita*] supports the view expressed by the Associates:
- [G] “A woman who said, ‘Lo, I am a Nazirite,’ and her girlfriend heard and said, ‘And I,’ and then the husband of the first heard the matter and nullified the oath – the first is freed of her oath, but the second is bound by it.” [R. Simeon says,] “If the second woman said, ‘But my intent was solely to be like her,’ [since the first woman is not bound by the oath,] the second is also not bound by it.
- [H] “Now this is because the second woman said, ‘My intent was solely to be like her.’ But if she had not said, ‘to be like her,’ then the second would have been bound, even while the first was not

bound. [So this would indicate that, so far as Simeon is concerned, the oath applies to other items, even though it does not apply to the first item named, just as the Nazirite oath applies to the second woman when it does not apply to the first.’ This is now spelled out.]

[I] “Now in that case [involving the Nazirite vow], in which instance the very principle of an oath does not pertain [namely, to the second woman], you rule that the Nazirite vow applies, here, in which the very principle of an oath does pertain [namely, to the other items besides wheat], is it not an argument a fortiori that the oath should apply [also to those items concerning which it is not explicitly specified]?”

[J] *Now as to that which R. Yohanan has said, namely,* “In accord with the view of R. Simeon, if it should turn out that the bailee does not have the what in his possession, he is exempt on all other counts,” this is a case in which one intends to appease his fellow and so states explicitly, “Let barley be like wheat! Let spelt be like wheat!” [Thus, just as the man is exempt on the count of wheat, he will be exempt on the count of barley or spelt.]

[I:2 A] *It is self-evident in the matter* [of the woman who said, “I intended only to be like her,”] that if the husband of the first woman did not nullify the oath right away, so that the oath applied for a time, and if the woman during that time violated the oath, the first woman will be flogged [cf. M. Naz. 4:3]. But what is the law pertaining to the second woman? [That is, if the second woman should violate the oath before the time that the husband of the first woman nullifies it, is the second woman flogged as well? Or perhaps since the husband of the first woman ultimately did nullify the oath, the second woman retrospectively is freed of the oath and not flogged for violating it.]

[B] Said R. Yosé, “Since this one [the first woman] is flogged [under the stated conditions], so the other one [the second] will be flogged [for exactly the same reason, since she shares the status of the first].”

[C] Said R. Yudan, “And it is a condition imposed by the court [even where it is not made explicit in a given case] that the second woman [in such a case as is before us] is deemed to have the status of the one who has said, ‘Lo, I am a Nazirite

at the end of thirty days.’ [So the vow docs not apply. When the husband nullifies the vow of the first woman, the one applying to the second is nullified, and it has never, in fact, applied. Consequently, the second woman has never violated a valid oath. She should not be flogged.]”

[D] [No, this answer is not possible. For] *R. Simeon is consistent with his opinion expressed elsewhere, for he has stated that the matter depends upon whether or not the funds already have been collected. [At M. Ket. 4:1, Simeon postpones the point at which the father of a girl effects acquisition of funds coming to him on account of the daughter until he actually takes possession of the funds. Should he die before that point, the daughter collects the funds. In the present case the matter depends upon what is stated at the outset. Once the woman has said, “I too,” the oath applies, so long as the husband has not nullified it for the first woman. Consequently Yosé’s position is valid, and Yudan’s is not.]*

[II:1 A] Said R. Yohanan [with regard to M. 5:4F: **“Give me wheat and barley and spelt which I have in your hand,”** which we attribute to Judah], “In the opinion of R. Yudan, you may have a case in which the several items are treated together, so that one is liable for a single offering [in the case of a violated oath of bailment], while you may have a case in which they are treated individually, so that one is liable for three offerings.” [The important difference, as we shall see, is in the use of *and*. If someone says, wheat and barley and spelt, then we have liability on three separate counts. If the man said, “Wheat, barley, spelt,” then the three are treated as one. That this is the underlying point becomes clear later in the discussion. It is Judah who deems the use of *and* to differentiate among items on a list, and the absence of *and* to prevent their differentiation.]

[B] *What would be a concrete illustration of this statement?*

[C] [If the oath covers] a *perutah*’s worth of wheat, barley, and spelt, they are deemed joined together, so as to impose the penalty of bringing a single offering. [If] they are spelled out individually, then there will be a requirement to bring three offerings.

[D] If the oath covers a third of a *perutah*’s worth of wheat, barley, and spelt, what is the law as to their joining together [to form the requisite value of grain for the oath to register, in which case the person who took the false oath of bailment, when he

confesses, will be liable? He would not be liable for taking a false oath covering a bailment worth less than a *perutah*].

[E] *Now look here!* [Why should they not be deemed to join together.] If the man had in his possession a number of different types of grain, worth in all a *perutah*, even in such a case they may be deemed either joined together or specified item by item [and in any event the whole is deemed sufficient to impose upon him the requirement to bring an offering].

[F] *In what regard are they deemed to join together?*

[G] To impose upon him the obligation to bring an offering [should the oath of bailment be a lie].

[H] If one had four types of grain, two of them adding up to the value of a *perutah*, and two of them added up to the value of two *perutahs*, even in such a case they may be deemed either to fall under a general statement or to be subjected to specific oaths, one by one [as above]. [It depends on whether or not the items in the oath are listed with *and* joining them.]

[II:2 A] For R. Yohanan has said in the name of R. Yannai, “[With regard to the rule, **Five who wrote jointly in one [and the same] bill of divorce [bearing a single date]: “Mr. So-and-so divorces Mrs. Such-and-such,” “Mr. So-and-so divorces Mrs. Such-and-such,” [..., and so on, five times], and there are witnesses below D all of them are valid. And let it be given over to each one. [If] the formula was written [anew in full] for each of them, and there are witnesses below D that with which the names of the witnesses are read is valid [M. Git. 9:5D-K]** to this pericope, the following is added: If one of them has written,] ‘*And I* inquire after the welfare of Mr. So-and-so,’ [we] assume [that the witnesses] have signed [the document covering] everything [that is in it, because of the use of the word *and*. If on the other hand, it is written,] ‘I inquire after the welfare of Mr. So-and-so,’ [the witness] has signed [the document] only with regard to this last statement. [Consequently, the inclusion of the *and* is crucial. In the absence of the use of *and*, the witness has signed the document only to testify that the person who sent it intended] to ask after the welfare of Mr. So-and-so [and the witnesses do not ha-e in mind the rest of the document. to which they do not bear witness at all].”

[B] R. Simeon b. Laqish said, “[Even if it is written at the end of the document,] ‘I inquire after the welfare of Mr. So-and-so’ [without

and], [nonetheless] we assume [that the witnesses at the end] have signed the document to bear witness to everything written in it.”

[C] [Now in the stated document,] what is a case [in which one] has covered all [of the women at once]?

[D] R. Yohanan said, “Mr. So-and-so divorces Mrs. So-and-so, and Mr. Such-and-such, Mrs. Such-and-such.”

[E] [In the stated document,] what is a case [in which one] has covered all [of the women at once]?

[F] R Simeon b. Laqish said, “We, Mr. So-and-so, and Mr. So and-so, divorce our wives, from such and such a place.”

[G] Said R. Zira, “R. Yohanan [surely] concedes that if the document makes mention of the divorce of each woman individually, that one has to give a copy, suitably witnessed [36c], to each woman [That is. if the document says, ‘Mr. So-and-so divorces Mrs. Such-and-such, and Mr.. So-and-so, and Mr. Such-and-such divorces Mrs. Such-and- such,’ each party must receive a copy of the document with the necessary legal language and suitably witnessed. Yohanan maintains that the use of *and* serves to generalize only in a case in which the scribe writes, Mr. So-and-so divorces Mrs. So-and- so, without repeating the language, *divorces*]”

[H] *The full extent of the position of R. Yohanan [, that so long as the matter of divorce is not made explicit for each woman, we have a general statement covering all of them altogether,] is to be seen in the following: [If] he said, “Qonam be what I enjoy from any one of you”* **Ḍ** [if] his vow with reference to any one of them was declared not binding, the vow with reference to all of them was declared not binding. [If he said, “Qonam] be what I enjoy from this one and from that one,” [if] the vow pertaining to the first was declared not binding, all of them are no longer subject to the vow. [If] the vow pertaining to the last one of them was declared not binding, the last one is permitted [to give benefit to the man] but the rest of them are prohibited. [If the vow] was declared not binding for one in the middle, from him and onward, it is not binding, but from him and backward, it is binding. [If he said,] “Let what I enjoy of this one’s be qorban, and of that one’s be qorban, “ they require an opening [absolution] for each and every one of them [M. Ned. 9:7B-H]. [Each vow is deemed distinct. Had the man not

stated, *qorban*, in each instance, it would have been deemed a single vow and then required only one act of loosening of the vow.]

[I] *Said R. Yosé, “The following passage of the Mishnah-passage supports the position of R. Yohanan: Two [with identical names] who sent [to their wives, also bearing identical names] two writs of divorce [which were] identical, and which were mixed up Ð they give both of them to this one and both of them to that one. Therefore if one of them was lost, lo, the second one is null. Five who wrote jointly in one [and the same] bill of divorce [bearing a single date]: “Mr. So-and-so divorces Mrs. Such-and-such,” “Mr. So-and-so divorces Mrs. Such-and-such,” [..., and so on, five times], and there are witnesses below Ð all of them are valid. And let it be given over to each one. [If] the formula was written [anew in full] for each of them, and there are witnesses below Ð that with which the names of the witnesses are read is valid [M. Git. 9:5].*

[J] [With regard to the following statement] “If five people laid claim on a man all together, it is a collective case and the man is liable for only one offering. But if they did so individually, he would be liable on account of each oath,” the words of R. Meir. R. Judah says, “If he said, ‘I swear that I have nothing of yours, *and* not of yours, *and* not of yours,’ he is liable on the count of each oath for he has made use of the *and*, which distinguishes one oath from the next and makes all of them distinct.] Samuel said, “A case treated as individual by R. Meir [so that the man is liable on the count of each vow] is treated as collective by R. Judah [so that the man is liable for one offering covering the whole of the series of vows.] [For Meir deems the absence of the conjunction to differentiate the vows, and Judah deems the presence of the conjunction to differentiate the vows.] And a case treated as individual by R. Judah is treated as collective by R. Meir [for precisely the same reason].”

[K] *R. Samuel in the name of R. Zira: “The statement of the rabbis [Yohanan, above] confirms the view that that case treated as individual by R. Meir is not the case*

treated as collective by R. Judah. [So Zira differs from Samuel, and, as we see, it is specifically with regard to Judah's position:

[L] “For R. Yohanan said in the name of R. Yannai [authorities who concur with Judah], [‘If one of them has written,] ‘And I inquire after the welfare of Mr. So-and-so,’ [we] assume [that the witnesses] have signed [the document covering] everything that is in it, [because of the use of the word *and*. If on the other hand, it is written,] ‘I inquire after the welfare of Mr. So-and-so,’ [the witnesses] have signed [the document] only with regard to this last statement. Now if you maintain that that case treated as distinct by R. Meir is treated as collective by R. Judah, then [if] one had said, ‘[Without *and*] I inquire after the welfare of Mr. So-and-so,’ we assume that the witness has signed the document covering everything that is in it.”

[M] Said R. Yosé, “*The present periscope of the Mishnah in fact indicates that a case treated as individual by R. Judah is not treated as collective by R. Meir, for we have learned: R. Meir says, “Even if he had said, ‘Wheat, barley, and spelt’ [Ex. 9:31-32] he is liable on each and every count.”* [It is Judah who deems the use of *and* to be disjunctive, and here Meir regards the repetition of *and* to indicate that we have a distinct you for each item.] *And a person does not make use of the phrase even if, unless he concurs with that which has been previously stated.* [It follows that Meir deems the use of *and* to be disjunctive, just as does Judah, and he concurs with Judah. This is against the view of Samuel.]”

[N] Said R. Hinena, “*In the opinion of R. Meir, whether the man had said, Wheat and barley and spelt [in general],’ or whether he had said, ‘A grain of wheat, a grain of barley, a grain of spelt,’ we may have either a case in which everything specified forms a single collective, or a case in which each item is deemed distinct from the others [depending on whether or not the conjunction has been used].*

[O] “Likewise: *in the opinion of R. Judah, If one has specified, ‘Wheat, barley, and spelt; we may have a*

collective, or we may have distinct vows. If the man had said, 'Wheat, barley, spelt,' it is a collective statement without further specification [in which case there is liability for only a single offering if the vow should prove false]."

5:5

[A] "You raped and seduced my daughter" –

[B] and he says, "I did not rape and I did not seduce"

[C] "I impose an oath on you" –

[D] and he said, "Amen" –

[E] he is liable.

[F] R. Simeon declares him exempt,

[G] "since he does not pay a fine on the basis of his own testimony."

[H] They said to him, "Even though he does not pay a fine on the basis of his own testimony,

[I] "he does pay for humiliation and damages on the basis of his own testimony."

- [I:1 A] R. Zira, R. Yasa in the name of R. Yohanan: "In the opinion of R. Simeon, [in general] the principal claim is for the fine [from which M. 5:5G follows]. In the opinion of the sages, that is not so. [But the principal claim is for recompense for humiliation and bodily injury, and these do not represent a fine.]"
- [B] R. Ila said, "The opinion of R. Simeon applies in a case in which the plaintiff lays claim for the fine, compensation for humiliation, and recompense for damages, and the opinion of the sages applies in a case in which the plaintiff lays claim for compensation for humiliation and bodily damages and also for a fine. [So there is essentially no disagreement between Simeon and the sages, and the opinion of each applies to a distinct case.]"
- [C] The rabbis maintain, "The opinion of R. Simeon applies in a case in which the plaintiff lays claim for one thing, and the opinion of the sages applies in a case in which the plaintiff lays claim for three things. [That is, if the plaintiff lays claim without specifying the claim, saying, 'Give me what you owe me,' then the claim is for the fine. The sages hold that the claim is specific, naming the three separate items. And the rest follows.]"

- [D] *R. Zira raised the question before R. Yasa [of A]: “Did you hear this opinion of R. Yohanan [that Simeon and the sages differ] stated explicitly, or did you infer it from other things that he said?”*
- [E] *Said R. Yosé, “[The reason that R. Zira raised this question is that] he concurs with the position of the rabbis [of C.] [Since the law accords with the Mishnah’s sages, the interpretation of the matter is important.]*
- [F] *Said R. Mana, “And even if he concurs with the view of R. Ila [B] [who maintains that one party who has the claim places the fine at the outset, the other at the end, there still is no dispute between Simeon and the sages].”*
- [G] [R. Yosé replied,] “The opinion of R. Simeon applies to a case in which the plaintiff laid claim for one matter only. [In that case, the oath was taken with the fine in mind, and there is no liability for the false oath.] But in a case in which the plaintiff laid claim for three things[, Simeon will concur that monetary compensation for humiliation and bodily damages is at issue, and hence the man has denied under oath a monetary claim, so is liable for the oath].”

[I:2 A] [“If any one sins and commits a breach of faith against the Lord by deceiving his neighbor in a matter of deposit or security, or through robbery, or if he has oppressed his neighbor or has found what was lost and lied about it, swearing falsely – in any of all the things which men do and sin therein” (Lev. 6:2-3).] I know only [that this sort of oath applies to] matters on account of which one pays compensation for the principal.

- [B] How do I know that the same law applies to oaths involving payment of double damages, or four or five times the value of the stolen ox or sheep [Ex. 22:1], or of damages for one who rapes or seduces or defames a woman?
- [C] Scripture says, “Swearing falsely in any of all the things.”
- [D] Now is not the compensation for defamation of a woman not a matter of a fine? [How then do we make sense of B, which treats the matter as a monetary claim?]
- [E] Said R. Jeremiah, “R. Simeon is the authority for this statement, who deems payment of the compensation to depend upon whether or not the funds have been collected. [In Simeon’s view, until that point it is a fine, not deemed monetary compensation. So far as the sages of M. Ket. 4:2 are concerned, once the case comes to court, the money

subject to litigation is deemed to have the status of a loan owed by the defendant; it is a monetary claim that the defendant has opposed by taking the oath. In the present instance in which the case has come to court, Simeon deems the compensation for defamation a fine, but the rabbis consider it to have the status of such a monetary claim, that is, subject to a false oath.]”

5:6

[A] “You stole my ox” –

[B] and he says, “I did not steal it” –

[C] “I impose an oath on you,” –

[D] and he said, “Amen” –

[E] he is liable.

[F] “I stole it, but I did not slaughter it, and I did not sell it” –

[G] “I impose an oath on you” –

[H] and he said, “Amen” –

[I] he is exempt.

[J] “Your ox killed my ox” –

[K] and he said, “It did not kill” –

[L] and he says, “I impose an oath on you” –

[M] and he said, “Amen” –

[N] he is liable.

[O] “Your ox killed my slave” –

[P] and he says, “It did not kill” –

[Q] “I impose an oath on you” –

[R] and he said, “Amen,” –

[S] he is exempt.

[T] [If] he said to him, “You injured me and made a wound on me,”

[U] and he said, “I did not injure you and I did not make a mark on you,”

[V] “I impose an oath on you” –

[W] and he said, “Amen” –

[X] he is liable.

[Y] [If] his slave said to him, “You knocked out my tooth and you blinded my eye,”

[Z] and he said, “I did not knock out your tooth or blind your eye,”

[AA] and he said to him, “I impose an oath on you,” –

[BB] and he said to him, “Amen” –

[CC] he is exempt.

[DD] This is the governing principle: Whoever pays compensation on the basis of his own testimony is liable.

[EE] And whoever does not pay compensation on the basis of his own testimony is exempt [in the case of these oaths].

[I:1 A] R. Isaac raised the question: “What is the law as to the defendant’s paying up the value [as distinct from the fine of thirty shekels] of the slave [killed by the man’s ox] on the basis of his own testimony? [That is, while one does not pay a fine on the basis of his own testimony, does he pay the value of the slave, for that is not regarded as a fine?]”

[B] *Now what information does he require?*

[C] [What he is asking is whether] the whole of the thirty shekels is deemed the fine, or whether the fine is imposed in addition to the value of the slave. [That is, is the fine all the man pays, or does he pay the value of the slave and also pay the fine of thirty shekels?]

[D] *If you maintain that* the whole of what is paid is the thirty shekels, thus a fine, then he will not pay [on the basis of his own testimony].

[E] *If you say that anything* paid beyond the value of the slave is the fine, then he does pay [up to the value of the slave]. [That is to say, he pays the value of the slave, and, in addition, thirty shekels, and his latter fee is the fine.]

[F] *There we have learned:* “Your ox killed my slave” – and he says, “It did not kill” – “I impose an oath on you” – and he said, “Amen,” – he is exempt [should the oath prove false]. [Thus the denial under oath did not involve a monetary claim but rather a fine alone, so the whole of the thirty shekels constitutes a fine.]

[G] *Said R. Haggai before R. Yosé,* “Interpret the Mishnah rule to speak of a case in which [the ox] killed a slave who was afflicted with boils [who was worth nothing, in which case whatever was paid over was a fine, there being no value to the slave over and above it].”

[H] *He said to him,* “Now note that which follows: [If the claim is,] ‘Your ox has killed my son!’ and he says, ‘It did not kill him!’ ‘I impose an oath on you!’ ‘Amen’ – he is liable. Now if you interpret the opening case to deal with a slave afflicted by boils, then shall we interpret this one to apply to one afflicted by boils, so that the man may be free [in this case too, there being no monetary claim]? *You cannot*

do so, for we have learned [M. B.Q. 4:5], ‘If one killed a free man, he pays his value [not merely a fine].’”

[I] *Said R. Ezra before R. Mana, “Interpret the case in accord with the one who said the following: ‘If a ransom is laid on him [whose ox kills a man], then he shall give for the redemption of his life [whatever is laid upon him]’ (Ex. 21:30) – [‘his life’ refers to] the life of the party responsible for the injury[, namely, the life of the owner of the ox. This is without regard to the value of the victim. [Hence we can understand why the individual is liable even when the victim was afflicted with boils.]”*

[J] He said to him, “If you hold that [the passage] ‘then he shall give for the redemption of his life’ – [refers to] the life of the party responsible for the injury, then the whole sum is a fine! [This is so because he does not pay the amount he damaged. If so, why would such a person be liable for a sacrifice for taking a false oath? A false oath applies only to monetary claims and not fines. Hence L is wrong. H must be in accord with the position that the ransom is based upon the life of the injured party who in this case is not afflicted with boils. Similarly, the slave in the Mishnah, cited in F, was not afflicted with boils.”]

[I:2 A] [As to one who confesses in a case in which he took an oath to avoid paying a fine,] what is the law as to [the judges’] saying to him, “Carry out your obligation to Heaven.” [That is, even if by law he is exempt from paying, he bears an obligation to Heaven to pay.]

[B] *Let us learn the answer to that question from the following:*

[C] M’S H B: Rabban Gamaliel knocked out the tooth of Tabi, his slave. He came before R. Joshua. He said to him, “As to Tabi, my slave, I have found an excuse to free him.”

[D] He said, “You do not have the power to do so, for fines apply only in a case in which there are witnesses who testify in court. [But here there is none, so there are no grounds for freeing Tabi.]”

[E] Now in this case, note that they did not say to him to carry out his obligation to Heaven [and free the slave anyhow].

[F] *R. Gamaliel b. R. Ilai raised the question before R. Mana, “Does Rabban Gamaliel maintain the rule in accord with him who said that it is permitted to free him?”*

[G] He said to him, “The very essence of the case says that it is prohibited to free one’s slave, for if that were not the case, he would have freed

him in the first place [without the cause of having knocked out his tooth and without going to court for approval].”

YERUSHALMI SHEBUOT

CHAPTER SIX

6:1

[A] The oath imposed by judges [is required if] the claim is [at least] two pieces of silver, and the concession [on the part of the defendant is that he owes] at least a penny's [perutah's]worth.

[B] But if the concession is not of the same kind as the claim, [the defendant] is exempt [from having to take the oath].

[C] How so?

[D] "Two pieces of silver I have in your hand" –

[E] "You have in my hand only a perutah" –

[F] he is exempt [from having to take the oath].

[G] "Two pieces of silver and a perutah I have in your hand" –

[H] "You have in my hand only a perutah" –

[I] he is liable.

[J] "A maneh I have in your hand" –

[K] "You have nothing at all in my hand" –

[L] he is exempt [from having to take the oath].

[M] "I have a maneh in your hand" –

[N] "You have nothing in my hand except for fifty denars" –

[O] he is liable.

[P] "A maneh belonging to my father you have in your hand"

[Q] "He has nothing in my hand but fifty denars" – he is exempt [from having to take the oath],

[R] for he is in the status of one who returns lost property

[I:1 A] [The minimum] claim [subject to judicial procedure] –

[B] the House of Shammai say, "It is a silver coin [a sixth of a denar]."

[C] The House of Hillel say, "It is two silver coins [a third of a denar]."

- [D] *The opinions assigned to the House of Shammai are confused. There* [in regard to the minimum coin suitable for effecting an act of sanctification of a woman to a given suitor], the House of Shammai require a silver denar, and here they require a minimum of a silver coin.
- [E] *The opinions attributed to the House of Hillel are confused. There they* declare a minimum coin suitable for effecting an act of sanctification of a woman to a given suitor to be a silver perutah, here two silver coins.
- [F] R. Jacob bar Aha in the name of R. Haninah [maintaining that there is a particular reason for the rule noted at D, while the House of Shammai in general are consistent with B, said:] “The House of Shammai state the rule on the basis of what is required at the outset for the transfer by sale of a Hebrew slave girl. Just as the transfer by sale of a Hebrew slave girl at the outset is for a denar, so in the case of effecting her sanctification to a particular man, it must be a denar. The House of Hillel derive the pertinent rule [in that special case] from the law pertaining at the end of the same transaction. Just as at the end of the transaction, in releasing the slave girl, the minimum sum is a perutah, also in the case of effecting her sanctification to a particular man, it must be a perutah.” [The source of these facts will now be specified.]
- [G] *Now what is the scriptural basis for the opinion of the House of Shammai [that the transaction requires a minimum transfer of a denar]?*
- [H] “She shall go out for nothing, without payment of silver [money]” (Ex. 21:11). Now do we not know that there is no money payment? So why does Scripture specify money (“silver”)? It is on this basis that we learn that the Hebrew slave girl is sold for more than a piece of silver, and how much do we mean when we speak of more than a piece of silver? A denar.
- [I] Or perhaps we should interpret “silver” stated in this context to refer to a perutah, and more than such a silver coin will be two perutahs?
- [J] The smallest silver coin mentioned in the Torah is a silver coin [ma’ah].
- [K] So let the required payment be a silver coin? [How do you know that she is sold for more than that sum, for a denar in particular?]

- [L] R. Abin in the name of R. Yuda bar Pazzi: “[The reason is] that if she should seek to work off the redemption cost and so diminish it, she works it off at the rate of a silver coin a year and then goes forth. [For a *denar* is divisible and permits the transaction, there being six silver coins per *denar*.]”
- [M] But why should she not work it off at the rate of a *perutah* a year?
- [N] Said R. Abin.”Now take note, for if she should propose to work [a silver coin] off from the beginning of the sixth year of service, just as at the beginning of the sixth year of service the sum required to work off her value is a *perutah*, so in the case of sanctifying her for a particular man, the required minimum sum will be a *perutah* – [which is impossible].
- [O] “But at the outset of her period of working off what she owes the master a *perutah* is involved, and at the end of the process [when there is no more money to be paid, must the minimum remaining sum to accommodate the scriptural requirement be] a *perutah*? [So it must be a denar.]”
- [P] *What is the basis for the position taken by the House of Hillel, which is that just as the final outstanding sum to be worked off [as Scripture maintains] is for a perutah, so you know that the minimum sum for effecting her sanctification to a given man also will be a perutah?*
- [Q] Now take note that if at the end of her period of service, there should remain [of the price originally paid for her] the amount of a perutah, is it possible to maintain that she does not chop off that amount and go forth free [as Scripture says]? [Obviously not. She does do just that.] Consequently, just as the final sum to be worked off is in the amount of a *perutah*, so the smallest sum suitable for effecting sanctification to a given man is a *perutah*.
- [R] *[Since the House of Hillel require two silver coins,] the opinions assigned to the House of Hillel are confused.*
- [S] “If a man delivers to his neighbor [silver coins or goods to keep, and it is stolen out of the man’s house, then if the thief is found, he shall pay double. If the thief is not found, the owner of the house shall approach the judges, to demonstrate whether or not he has put his hand to his neighbor’s goods]” (Ex. 22:7-8).
- [T] [Now why does Scripture make explicit reference to silver? If it is to indicate that a court need not trouble with a claim for

less than a *perutah*, it is stated elsewhere: “and thereby become guilty” (Lev. 6:7) – thus excluding a claim of less than a *perutah*.

[U] On the basis [of Ex. 22:7] we find evidence that more than a silver coin is involved, and how much might that be? Two silver coins.

[V] Now perhaps the use of the phrase “silver coin” is meant to refer to a *perutah*, and more than a single silver coin then will be two *perutahs*.

[W] [Scripture’s] smallest silver coin is a *ma’ah* [silver coin, as at U].

[X] Then why do we not understand Scripture to refer to a [single] silver coin?

[Y] “Or goods” – just as the smallest plural of “goods” is two objects, so the smallest referent of “silver coin” must be two coins.

[Z] *How do the House of Shammai interpret the same usage, namely, “or goods”?*

[AA] *It is in accord with the following: R. Nathan taught, “‘Or goods’ is meant to encompass a clay utensil.” [And the purpose is not to indicate that two coins are involved.]*

[I:2 A] Samuel said, “If one laid claim on the bailee for two needles, and the bailee admitted having one [and took an oath regarding the other, thereafter confessing that he had lied], he is liable.”

[B] Said R. Hinena, “That rule applies when the needles are worth *two perutahs*, so that the claim applies to an object worth one *perutah*, and the admission likewise concerns an objection worth one *perutah*.”

[C] *This statement of Samuel accords with the position of the House of Shammai [for Samuel does not require the utensils to be worth two coins]. [The House of Hillel deem the analogy between money and utensils to indicate that the utensils, for their part, also must be worth two silver coins. This is now spelled out.] For the House of Shammai do not derive the rule governing silver coins from the*

statement regarding utensils. The House of Hillel, for their part, derive the rule governing silver coins from the usage of a plural for utensils, namely: just as utensils are two, so the silver coins must be at least two. Likewise, just as “silver coins” means two silver coins, also in the case of utensils we require a value of at least two silver coins.

- [I:3 A] R. Ba, R. Judah in the name of Samuel: “In any case in which two witnesses impose upon a defendant liability in a monetary case, a single witness [testifying that he owes funds to the claimant] is sufficient to impose upon the defendant the requirement to take an oath [should he deny the claim].”
- [B] [There surely are exceptions to A. For instance:] And lo, two witnesses impose upon him the requirement to pay in the case of a real estate claim [and if so, we must say that in a real estate case, the testimony of only a single witness suffices to impose upon the man the requirement to take an oath. This is manifestly absurd].
- [C] A claim in a real estate case is different, for oaths to begin with do not apply in a real estate case.
- [D] And lo, the testimony of two witnesses is required to impose the liability to pay out a fine [and here too, shall we say that a single witness suffices to impose the requirement of taking an oath]?
- [E] [That too is absurd, for, of course, oaths do not apply in claims of fines [to begin with].
- [F] And lo, two witnesses impose liability upon the man in a case involving the claim for a *perutah*, for *thus it has been taught: The oath imposed by judges [is required if] the claim is [at least] two pieces of silver, and the concession [on the part of the defendant is that he owes] at least a penny’s [perutah’s]worth.* [So how can one say that in all cases in which two impose a monetary claim, a single witness suffices to impose an oath? Here we have two who impose a monetary claim even for a *perutah*, and so a single witness cannot impose liability for an oath in the case in which the claim is for a *perutah*.]
- [G] *The cited Mishnah periscope speaks of a case in which the man states the oath on his own, while what R. Samuel said applies in a case in which others impose the requirement to take the oath. [For in the Mishnah’s case, there is in fact no witness at all, but the man has confessed to part of the claim and denied part of the claim, as the*

Mishnah makes explicit. In Samuel's case we deal with a situation in which someone has given testimony and so imposed upon the defendant the obligation to take an oath. In such a case even a *perutah* suffices for taking an oath, and not two pieces of silver.]

[H] *R. Hisda and his associates differ, since the Mishnah refers to an oath imposed by judges, meaning any oath imposed by judges.*

There is therefore no difference between an oath that comes about by the man's own admission and an oath imposed by others. Under all circumstances he is liable only if the claim and the admission deal with property worth two pieces of silver.

- [I:4 A] R. Yohanan said, "He who lays claim against his fellow for having stolen [a bailment] – the defendant is liable [for taking an oath] only if he concedes [the claim] in part."
- [B] *But all of [Yohanan's] colleagues differ from him [on this point, maintaining that at issue is a loan, not a bailment].*
- [C] *How do all his colleagues interpret the passage, "[For every breach of trust, whether it is for ox, for ass, for sheep, for clothing, or for any kind of lost thing, of which one says,] 'This is it,' the case of both parties shall come before the judges" [Ex. 22:9]? [This passage would seem to support Yohanan's view. Stating, "this is it" in Yohanan's view indicates that the defendant in a bailment has conceded part of the claim, but not the whole of it. It is incumbent on the colleagues to interpret the verse in some other way.]*
- [D] The verse refers to a monetary claim[, not a bailment].
- [E] If the verse refers to a monetary claimant, then why should there be double indemnity if the thief is found [Ex. 22:7: "If a man delivers to his neighbor money or goods to keep then if the thief is found he shall pay double to his neighbor"]?
- [F] Indeed there is a matter of confusion in the periscope before us: ["This is it" indeed belongs not in its present location but to the passage, "If a man borrows anything of his neighbor" (Ex. 22:1), that is, it involves a monetary claim and not a bailment, as the colleagues maintain].
- [G] Said R. Zira, "[In connection with the requirement of M. 6:1A] one is liable [to the judges' oath] only if the sum subjected to rejection of the claim constitutes a value of two pieces of silver over and above that which the defendant concedes[, so M. 6:1A refers to the situation prevailing after the rejection of the claim, not to what is subject to claim. Thus the claim must be two silver coins

and a *perutah*, or more]. [This statement is irrelevant in context but, joined to H, serves M. 6:1A-B. H, we now see, is essential to the present context.]

[H] [When the Mishnah pericope states, **But if the concession is not of the same kind as the claim, [the defendant] is exempt [from having to take the oath]**, the Mishnah] accords with the position of the colleagues of R. Yohanan. [For when the Mishnah rule requires that the concession be of the same category as what is claimed, it depends upon the statement of Scripture that the party state, “This is it.” That is, that verse is the source of the stated rule. Now that view is in accord with the colleagues of Yohanan, who maintain that the order of sentences in the periscope is confused.]

[II:1 A] **A maneh I have in your hand” – “You have nothing at all in my hand” – he is exempt [from having to take the oath]:**

[B] [Now why should the Mishnah report such an obvious fact? For after all. even if one had said.] “I have a number [of manehs] in your hand” – “You have nothing at all in my hand” – he would be exempt [from the oath]. [In this case the defendant denies the whole claim, and, in line with M. 6:1A, there is no liability for an oath without a partial concession.]

[C] But thus [is the true meaning of the passage:] “I have a maneh in your hand” – “You have only a perutah in my hand” – he is liable [for the oath]. [Since the concession is for a perutah, the liability for an oath applies. The point now is that even though the concession is vastly less than the claim, still, the concession is sufficient to impose the requirement of an oath.]

[III:1 A] [As to the following: **“I have a maneh in your hand” – “You have nothing in my hand except fifty denars” – he is liable: both Rab and R. Yohanan state, “That rule applies in a case in which he lent him the money in the presence of witnesses. [In such a case the defendant cannot claim that he did not borrow anything at all.]**

[B] “But if he lent him the money not in the presence of the witnesses, *the defendant can claim, ‘You indeed lent me money, but I returned half of it to you.’* [In this case, the defendant could have rejected the entire claim. Instead he has conceded part of it. He takes an oath for the rest.]”

[C] [Rejecting this view and the argument on which it is based,] R. Yudan said, “One may not state such an argument in a monetary claim based upon ‘since.’ That is, [the claim,] *since the defendant has the power to*

say to him, “You did not lend me anything at all,” then he may lay claim to state, ‘You lent me money, but I returned half of it to you.’ [This mode of reasoning is not possible in the present type of case.]”

- [D] *The Mishnah periscope stands at variance with the view of R. Yohanan* [that if one made the loan without witnesses, the defendant can claim more than he has claimed, and so is subject to the stated oath. The view that the Mishnah law speaks of a case in which the loan took place before witnesses is contrary to the following statement]: **“I have a maneh in your hand” – before witnesses he said to him, “Yes” – On the next day he said to him, “Give it to me” – “I already gave it to you” – he is exempt [from having to take the oath].”** **You don’t have anything in my hand” – he is liable [to pay] [M. 6:2].** [In this case there are witnesses. Yet when the man said, “you have nothing in my hand,” he is liable. Therefore a loan has taken place before witnesses, and he cannot make the claim that Yohanan and Rab said he could make, with the consequences thereof.]

[III:2 A] Assi said, “He who lends money to his fellow should collect it from him only in the presence of witnesses.”

- [B] *Said R. Abin, “The meaning of what Assi has said is this:* He who lends money to his fellow in the presence of witnesses – the borrower should pay it back to him only the presence of witnesses.”

- [C] *The Mishnah statement that follows is at variance with the rule laid down by Assi:* **“I have a maneh in your hand” – before witnesses he said to him, “Yes” – On the next day he said to him, “Give it to me” – “I already gave it to you” – he is exempt [from having to take the oath].”** **You don’t have anything in my hand” – he is liable [to pay] [M. 6:2]** [for in this case there have been witnesses present for the concession, yet the man is exempt].

6:2

- [A] **“I have a maneh in your hand” –**
[B] **before witnesses he said to him, “Yes” –**
[C] **On the next day he said to him, “Give it to me” –**
[D] **“I already gave it to you” –**
[E] **he is exempt [from having to take the oath].**
[F] **“You don’t have anything in my hand” –**
[G] **he is liable [to pay].**

[H] “I have a maneh in your hand,”

[I] and he said to him, “Yes,” –

[J] “Don’t give it to me except before witnesses” –

[K] On the next day, he said to him, “Give it to me” –

[L] “I already gave it to you” –

[M] he is liable [to pay],

[N] because he has to hand it over to him before witnesses.

- [I:1 A] Said R. Bun, “People ordinarily lend to their fellows without the presence of witnesses but claim [to be paid] in the presence of witnesses [thus in the manner in which the opening lines imply]:
- [B] “‘You have a money of mine in your possession!’ He said to him, ‘Yes.’ ‘Do not hand it over [37a] to me except before Mr. So-and-so and Mr. Such-and-such.’ On the next day, he said to him, ‘Give it to me.’ ‘I gave it to you.’ He is liable for an oath, for he has to hand it back before witnesses.
- [C] “Now take note that he said to him, “But I handed it back to you before witnesses “ [So why is he liable?]
- [D] *Bar Qappara taught [in this regard]*, “It had to be in the presence of the specified persons. Take note that he said to him, ‘In the presence of Mr. So-and-so and Mr. Such-and-such.’”
- [E] R. Ba, R. Hamnuna, R. Ada bar Ahba in the name of Rab: “A case came before Rabbi, and he ruled, ‘Let Mr. So-and-so and Mr. Such-and-such come [and give testimony, if the money has truly been paid. If not it is owing and must be handed back].’”
- [I:2 A] [One holds a piece of real estate, and another questions his ownership and claims to be true owner of the property. The present occupant claims that the other party sold the land to him and that he has held it for the years sufficient to establish ownership through usucaption. In such a case,] lo, this one comes with a title established by a writ as well as the claim of usucaption –
- [B] Rabbi says, “Let the case be decided on the basis of the writ of ownership.”
- [C] R. Simeon b. Gamaliel says, “[If the judge prefers,] let the case be decided on the basis of proof of usucaption.”

[D] R. Zeira in the name of R. Jeremiah: “A case came before R. Judah [the Patriarch] [who ruled]: in accord with the position of Rabban Simeon b. Gamaliel.”

[E] *R. Jeremiah raised the question before R. Zeira*, “Now the opinions attributed to Rabbi are confused! *There he has said*, ‘Let the case be decided on the basis of the writ of ownership,’ *while here* [in the cited case, he has ruled that the case is to be decided on the basis of the proof of usucaption]. Shall we say that the case came before him before he retracted [and at which point he concurred with the view of Simeon b. Gamaliel, and that later on he took up the view that the writ of ownership would be decisive]?”

[F] *And even if you say that it was after he had retracted [and so rejected the view of Simeon b. Gamaliel]*, Rabbi sought only to find out the truth of the case.

[G] **He who enjoys the usufruct of a field by reason of a deed, and it turns out that his deed is invalid – lo, this does not constitute a valid securing of title through usucaption [T. B.B. 2:2D-F].**

[H] R. Jeremiah said, “[This ruling is subject to] the dispute [of R. Judah the Patriarch and Rabban Simeon b. Gamaliel. The defendant has witnesses to his usucaption. So far as Rabbi is concerned, if the writ is invalid, the usucaption too is null].”

[I] R. Samuel, R. Zira, R. Jacob bar Aha in the name of R. Abina: “It is the opinion of all parties.”

[J] [This view is explained as follows:] Said R. Yosé, “There we have a case in which the defendant came both with a deed and proof of usucaption, while here [at T. B.B.2:2] we have a case in which the man came solely with a deed [that proved invalid].”

[K] R. Yudan said, “There he came with two groups of witnesses[, one to the validity of the deed, the other to the fact of usucaption]. [Simeon b. Gamaliel maintains that if the writ is invalid, the usucaption still can be established.] But here we have a case in which the plaintiff denies his own evidence. [That is, the man himself has been proved not to credit his own proofs, e.g., in the present case, before the usucaption was complete, the man himself claimed to have a deed, and then the deed turned out to be invalid.]”

- [I:3 A] *R. Merinus served as a pledge for someone who borrowed money from his daughter-in-law. The case [of the daughter-in-law's claim] came before R. Hama, father of Bar Qappara, and R. Hoshaiah. After he confessed in court [that he had served as a pledge for the debt and was obligated to pay it,] he said, "but I already paid it."*
- [B] *They asked R. Hiyya the Elder. He went and asked Rabbi. Rabbi replied, "He who is obligated to pay a debt by court action does not have the power [to claim that he had already paid it]."*
- [C] *What is the meaning of the phrase, "Does not have the power"?*
- [D] *R. Abbahu in the name of R. Yohanan, "If it is a case in which a person pays on his own initiative, he is believed to claim, 'I already gave.' But if it is on the instruction of others, he does not have the power to make such a claim."*
- [E] *R. Bun bar Kahana said."Also in the matter of oaths the rule is the same."*
- [F] *What is the meaning of the statement, "Also in the case of oaths, the rule is the same"?*
- [G] *R. Abbahu in the name of R. Yohanan [said], "If the defendant takes an oath on his own initiative, he is believed when he says, 'I have taken an oath.'" But if it is an oath imposed by others, he does not have the power to claim, 'I already took the oath' [but must take it again]."*

6:3

- [A] **"I have a litra of gold in your hand" –**
- [B] **"You have in my hand only a litra of silver" –**
- [C] **he is exempt [from having to take the oath].**
- [D] **"A denar of gold I have in your hand" –**
- [E] **"You have in my hand only a denar of silver, a terisit, a pondion, and a perutah," –**
- [F] **he is liable,**
- [G] **for all of them are kinds of a single coinage.**
- [I:1 A] **[If a person declared,] "Eight golden [coins having the status of second tithe] do I have in my pocket," but eight gold denars turn up – lo these have the status of second tithe.**
- [B] **[If he said,] "Fifty selas" and two hundred denars turn up –**

- [C] **Or: “Two hundred denars” and fifty selas turn up –**
- [D] **lo, these coins are not consecrated [since they do not conform to the man’s description of the coins set aside as second tithe].**
- [E] **“Eight golden denars do I have in my pocket,” and they turned out to be fifty selas,**
- [F] **Or: “Two hundred denars” and they turned out to be fifty selas,**
- [G] **lo, these [coins] have the status of second tithe [T. Ma. 5:5-6].** [In the former case (A), people refer to gold denars simply as gold, when the man referred to “gold” of second tithe and coins turned up as gold denars, these are second tithe, for to these did he refer. But the usage does not carry through to the other matters (B-D). At E we have equivalent value in other coins. (See T. Ma. 5:5-6 and compare the readings.)]
- [I:2 A] **“Denars of gold I have in your hand” –**
- [B] **“You have in my hand only a silver denar, a terisit; and a pondion” –**
- [C] **he is exempt [cf. M. 6:2D-E, T. 5:8].**
- [D] **“A denar of gold I have in your hand” –**
- [E] **“You have in my hand only a denar of silver, a terisit, a pondion, and a perutah,” –**
- [F] **he is liable.**
- [G] *Said R. Jacob bar Abina, “In the former case, we would explain that the difference between a reference to a denar of gold and denars of gold, to spell out why the man is exempt in the former case but liable in the latter,] is that a denar of gold do people make up out of small change. [That is, when the man claimed a gold denar, the other items were in mind, and the admission covers part of what is claimed.]*
- [H] [In the case in which the claim is for] golden denars, they are not made up out of small change. [That is, one does not usually add up small change to make up several golden denars.]
- [I] Had he said, “Golden denars of gold,” it would have been well.
- [J] *Indeed, we find a tradition that teaches, “[If the claim is for] a golden denar of gold, he is exempt [since the concession now will not be of the same variety as the claim]. [In this case, the concession refers solely to gold, and the small change will not*

come under consideration. But if he had not specified that he had solely gold in mind, there is no difference between a claim of denars and one of a denar, and one would be liable under all circumstances in which the concession involved having small change.]

6:4

- [A] “I have a kor of grain in your hand” –
[B] “You have in my hand only a letekh of pulse” –
[C] he is exempt [from having to take the oath].
[D] “A kor of produce I have in your hand” –
[E] You have in my hand only a letekh of pulse” –
[F] he is liable,
[G] For pulse falls into the category of produce.
[H] [If] he claimed wheat and the other admitted to having barley, he is exempt [from having to take the oath].
[I] And Rabban Gamaliel declares him liable.
[J] He who claims jars of oil from his fellow, and the other confessed to having flagons –
[K] Admon says, “Since he has confessed to him part of the claim in the same kind, he should take an oath to him.”
[L] And sages say, “This confession is not of the same kind as that which is subject to claim.”
[M] Said Rabban Gamaliel, “I prefer the opinion of Admon.”
[N] [If] one laid claim against him for utensils and real estate, and the other party conceded the claim for utensils but denied the claim for real estate,
[O] or conceded the claim for real estate and denied the claim for utensils,
[P] he is exempt [from having to take the oath].
[Q] [If] he conceded part of the real estate, he is exempt [from having to take the oath].
[R] [If] he conceded part of the utensils, he is liable [to take an oath].
[S] For property for which there is no security imposes the requirement of an oath in regard to property for which there is security.

[I:1 A] [Following the version at Y. Ket. 13:4 (Pené Moshe):] *The Mishnah speaks of a case in which the plaintiff laid claim for wheat, and the defendant conceded that he had barley. But if he laid claim for two*

varieties, and the concession was for one of them, all parties agree that the defendant is liable to an oath.

- [B] R. Ammi in the name of R. Yohanan: “The Mishnah speaks of a case in which the plaintiff laid claim for wheat, and the defendant conceded that he had barley. But if he laid claim for two varieties, and the defendant conceded one of them, all parties agree that the defendant is exempt.” [So Ammi-Yohanan differ from the preceding view and maintain that there is a dispute even here.]
- [C] *Said R. Abbahu, “In regard to this statement of R. Ammi, what shall we make of that which we have learned: **And Rabban Gamaliel declares him liable?** [So how can Ammi-Yohanan maintain that all parties in the stated case declare the defendant exempt?”*
- [D] [No, that is no objection. For the purpose is] to tell you precisely how stringent is the position of Rabban Gamaliel and to what extent he will impose liability. [For even in the case outlined at ,M. 6:4I, Gamaliel imposes liability.]
- [E] R. Hiyya in the name of R. Yohanan: “It is not the end of the matter that in a case in which one laid claim for wheat and the defendant conceded barley [that Gamaliel declares the bailee liable]. But even if the defendant had laid claim for two different varieties and the defendant conceded only one of them, the sages [for their part go to the extreme of declaring the bailee] exempt.”
- [F] R. Simeon b. Laqish said, “Let not the matter be so. For it is a case in which the plaintiff laid claim for wheat, and the defendant conceded barley. But if the plaintiff laid claim for two varieties, and the defendant conceded one of them, all parties maintain that the defendant is liable.” [So Yohanan and Simeon b. Laqish take opposed views.]
- [G] *Rab maintains this view, which has been stated by R. Simeon b. Laqish, [as the following precedent indicates]: A certain man went for a plea before Rab. His claim against his fellow was for wheat, barley, and spelt. Rab said to him, “Hold off the case until all of the claims that the plaintiff wishes to make have mounted against you, and at the end, take an oath covering all of them.” [Thus the defendant conceded only one of the items, and Rab had him take an oath for all of them. So if one laid claim for many varieties and the defendant conceded one of them, he has to take an oath.]*
- [H] Said R. Abbahu, “Thus does R. Simeon b. Laqish reply to R. Yohanan: ‘In accord with your opinion, in which you maintain that if the plaintiff

laid claim to two varieties and the defendant conceded one of them, all the sages maintain that he is exempt from an oath, *have we not learned*, **If one has laid claim against the defendant for utensils and real estate. and he conceded in the case of utensils but denied in the case of real estate, or he has conceded in the case of real estate but denied in the case of utensils'** [M. 6:4N-O]. If it is a case of conceding one sort of utensils and denying another sort, he is liable. If it is a case of conceding utensils but denying real estate, is it not an argument *a fortiori*?" [That is to say, since Yohanan maintains that even if the claim is for two varieties and the concession is for one of them, the rabbis exempt the man from an oath, the cited teaching poses a problem. The Mishnah, we note, at M. 6:4S, holds that denial or concession in the case of real estate does not carry in its wake the requirement to take an oath. Now a case of utensils of one sort which the defendant concedes, while utensils of another sort which the defendant denies, is parallel to a case of concession of utensils and denial of real estate. If the defendant concedes the one, he is liable for the other. This is a problem for Yohanan. Why? Because Yohanan maintains that, if the claim is for two varieties and the concession is for one of them, the man should be *exempt*. But the law is that he is liable, thus M. 6:4R. If you do not grant that point, there will be a problem on the grounds of the stated argument *a fortiori*, and this is what Yohanan must note.]

[I] He said to him, "[The purpose of the Mishnah rule is] to impose upon him the requirement of an oath. [That is, the truth is that even in a case of a concession of utensils and a denial of utensils, the man should be exempt from the requirement of taking an oath. The purpose of the Mishnah's framer in stating M. 6:4R is to allow for the provision of S, namely concession of part of the claim on utensils yields the requirement of taking an oath for all the utensils, and the oath then extends to the claim for real estate:] **For property for which there is no security imposes in its wake the requirement of an oath in regard to property for which there is security.**"

[J] *And even with regard to the position of R. Simeon b. Laqish, the dispute [between Admon and the sages poses] no [problems,] as we have learned: He who claims jars of oil from his fellow, and the other confessed to having flagons – Admon says, "Since he has confessed to him part of the claim in the same kind, he should take an oath to him." And sages say, "This confession is not of the same kind as that which is subject to claim."* [That is to say, Simeon b. Laqish has said that if one claimed two varieties and the other conceded one of them, in the view of the rabbis, he is liable to an oath.

That position can be harmonized with the statement just now cited, as we shall now see.] *Now how shall we interpret the case just now cited?* If the plaintiff has laid claim for jars and oil, all parties must concede that within the concession is an element of what is claimed. If he laid claim for jars, and the bailee conceded [only] that he had oil, all parties will concur that there is no element of concession of what is claimed in what is conceded[, and on this account, the sages must maintain that the confession is not of the same kind as that which is subject to the claim, even though, in general, that is their position, as Simeon b. Laqish has maintained].

[K] R. Zira and R. Abbahu in the name of Samuel, “It is a case in which he laid claim for jars and for oil. This party maintains that the claim is for jars that are filled, and that party says that the claim is for jars that are empty, [so at issue is the interpretation of the cited language. If the claim is for filled jars and the concession is for oil or for the jars, the concession covers part of the claim. Admon then maintains that the claim is for filled jars of oil. The concession is for part, and he has to take an oath].”

[L] As to the view that it is for jars without oil, [there are no problems in interpreting the position of the sages].

[M] But how can there be a claim for oil without jars? [In this case why should he have mentioned the jars at all?]

[N] *R. Eleazar in the name of R. Abin: “His intention is to express the measure of oil in such a way: [‘Such-and-such measures of oil belonging to me are in your possession,’ and in fact there is no claim on jars at all. When the defendant conceded having jars but no oil, he thus has not conceded any part of what is claimed].”*

[O] [Now why should there be an argument? Let the authorities] ask him about the matter [of his claim]!

[P] *In this case we have a matter in which the man laid claim and then was struck dumb*[, so he cannot clarify further].

[Q] *Thus does the Mishnah state: **If he conceded part of the claim for real estate, he is exempt. If he conceded part of the claim for utensils, he is liable** [M. 6:4Q-R].*

6:5

[A] **They do not take an oath in the case of a claim made by a deaf – mute, an idiot, or a minor.**

[B] And they do not impose an oath upon a minor.

[C] But an oath is imposed in the case of a claim against [the property of] a minor,

[D] and against property which has been consecrated.

- [I:1 A]** It is written, “If a man delivers to his neighbor [money or goods to keep]” (Ex. 22:7) – excluding a minor.
- [B] This statement covers a case in which it was as a minor that one deposited goods with him and as a minor that he laid claim against him.
- [C] But if he was a minor when he gave over the goods, and then laid claim for the property when he was an adult, [what is the proof]?
- [D] Scripture states, “his neighbor” – meaning that the law applies only when the situation prevailing at the time of the bailment and that prevailing at the time of the claim are the same.
- [E] *Said R. Ba bar Memel, “This statement does not accord with R. Yohanan, who said [in the matter expressed below, that in a case in which one has found] a lost object, [but] claims, [when] the owner [comes to recover it, that the object has been] stolen, [the bailee] must take [an oath in support of his claim]. [Such a claim would be expressed as follows:] ‘Where is the object that I have lost?’ ‘It has been stolen.’ [In this situation, Yohanan maintains that the finder must take an oath. Now here too why should the minor not take an oath once he reaches maturity. For even though the act of a minor’s handing over the object for bailment is null, still, let the object be deemed one that the man has found and that now is claimed by the original owner. From Yohanan’s position, therefore, the bailee should be subject to an oath.]”*
- [F] Said R. Ba, “[Yohanan’s position may accord with the foregoing proof. The reason is that] you may interpret the case to be one in which the bailee said to the child, ‘While you are still a minor, lay your claim against me [for the return of your object], so that I may be free of the obligation to take an oath to you.’”
- [I:2 A]** [If a man delivers to his neighbor an ass or an ox or a sheep or any beast to keep, and it dies or is hurt or is driven away, without any one seeing it,] an oath by the Lord shall be between them both [to see whether he has not Eneighbor’s property]” (Ex. 22:10-11). [This statement excludes] an heir [from having to take an oath, since the assumption is that both claimants are at hand].

[B] R. Ila in the name of R. Yasa, “[The proof-text cited above (A) speaks of a case involving] the heirs [of the bailee]. [That is to say,] ‘between the two of them’ [the requirement to take an oath] does not ever move from between the two of them. [If the original bailee owed an oath, the oath then does not devolve upon his heirs.]”

[I:3 A] If the one who imposes the oath does so falsely, in the end the punishment will come forth against him. If the one who takes the oath does so falsely, in the end the punishment will come forth against him.

[B] *What is the scriptural basis for the view [that the consequence of a false oath falls upon the one who is subject to the oath, and will not pass to his heirs]?*

[C] As it is said, “I will send it forth, says the Lord of hosts, and it shall enter the house of the thief, and the house of him who swears falsely by my name; and it shall abide in his house and consume it, both timber and stones” (Zech. 5:4).

[D] Said R. Samuel bar Nahman, “Angels of destruction [alluded to by Zechariah] do not have joints [so they cannot sit or lie down].”

[E] *What is the scriptural basis for that statement?*

[F] “The Lord said to Satan, ‘Whence have you come?’ Satan answered the Lord, ‘From going to and fro on the earth, and from walking up and down on it’” (Job 1:7). [Thus Satan could not sit or lie down.]

[G] Yet here: “and it shall abide in his house and consume it, both timber and stones”?

[H] Come and take note that things which fire cannot burn, a false oath can consume.

[I] R. Yonah said, “This is on account of lying.”

[J] R. Yosé says, “It also is on account of the truth. [Even if someone takes an oath believing that it is truthful, if the oath turns out not to be truthful, he is punished.]”

[K] *Haggai expounded in accord with this statement of R. Yosé. There was a case concerning a woman who went to cut out her dough with her girlfriend. Now in her kerchief two denars were tied up. They fell down and were cut into the dough of the girlfriend. Afterward she remembered the two denars. She went and sought them in her own house but did not find them. She returned to her girlfriend and said to her, “Give me the two denars that fell and ended up somewhere in your house.” The other said, “I know*

nothing about it.” “If [this woman (I)] knows a thing about them, may she bury her son.” And she ended up burying him. When they came in from the graveyard, she heard a voice saying, “If that woman had known where the two coins were, she would not [37b] have buried her son.” [She went and took the oath against “If that woman knows where they were, may she bury her son.” Then another son of hers did she bury. When they came in to comfort her, they cut open a round loaf of bread and found the two denars baked inside the round loaf of bread.

[L] *That is the meaning of the saying, “Whether one is righteous or guilty, do not get involved with an oath.”*

6:6

[A] And what are matters on account of which an oath is not imposed?

[B] [claims involving] slaves, bonds, real estate, and consecrated property.

[C] To these also do not apply the rules of twofold restitution or fourfold or fivefold restitution.

[D] [In the case of these] an unpaid bailiff is not subjected to an oath.

[E] [In the case of these] a paid bailiff does not pay compensation.

[F] R. Simeon says, “On account of Holy Things which one is liable to replace [should they be lost or stolen], an oath is imposed, and on account of those which one is not liable to replace, an oath is not imposed.”

[G] R. Meir says, “There are things which are tantamount to being in the ground but still are not deemed to be immovable property in the classification of real property.”

[H] And sages do not concur with his view.

[I] How so?

[J] “Ten fruit-laden vines I handed over to you” –

[K] and the other says, “They were only five” –

[L] R. Meir imposes an oath.

[M] And sages say, “Whatever is attached to the ground is classified as real property.”

[I:1 A] [If] one transgressed and actually did take an oath [involving matters listed in the present pericope, when he should not have done so, what is the consequence should the oath be false and the person so confess?]

[B] R. Yohanan said, “He is obligated to bring an offering on account of the [taking of a rash] oath.”

[C] R. Eleazar says, “He does not do so.”

[D] Said R. Abin bar Hiyya, “Thus does R. Yohanan reply to R. Eleazar: ‘[If a person who is suspected of taking false oaths, and who therefore should not be subjected to an oath, actually should take an oath, he is liable on account of a rash oath. Likewise, if a close relative, who does not take an oath of testimony, should do so, he is liable on the same count. Now if in the case of an oath of testimony, in which case one has not denied a monetary claim under oath, but only a claim apt to produce a monetary obligation, one is so liable, if one who is suspect in oaths should take an oath covering something directly involving money, such as a bailment, all the more so should such a person be liable on the count of taking a rash oath. This is the gist of the argument that now follows.] ‘No, [Yohanan says to Eleazar, your position is false. For] if you maintain [your view] in the case of an oath of testimony, [that one is punished, as explained just above, for taking a rash oath,] which does apply to slaves, bonds, and real estate, will you state the same in the case of an oath of bailment, which does not apply to claims involving slaves, bonds, or real estate? [So what is proved to this point is that a stricter rule applies to an oath of testimony than to an oath of bailment. Will you then state the same rule regarding an oath of bailment?] Yet [Yohanan continues] is not an oath of testimony administered by the court?! Now does a court administer an oath of testimony to one suspected of violating oaths? [Obviously not! It must then follow that we deal with a case] in which [such a person himself] transgressed and went and took an oath. [In such a case he is punished for the rash oath and] has to bring an offering [which so supports the view of Yohanan above]. So too here, if one has transgressed and taken an oath [where the court required none], he must bring an offering [under the stated conditions].’”

[I:2 A] *Now there are those who wish to prove [the basic proposition of M. 6:6A-B] as follows:*

[B] “[If a man delivers to his neighbor] an ass or an ox or a sheep [or any beast to keep, and it dies or is hurt or is driven away, without any one’s seeing it, an oath by the Lord shall be between them” (Ex. 22:10-11).

[C] [Now the ass, ox, and sheep] are distinguished in that they are subject to the provisions of paid bailment, being driven away, or dying [as stated by the cited verse]. I therefore exclude [from the provisions of an oath] real estate.

[D] But, on these same grounds, I cannot exclude [oaths involving] _slaves[, who, after all, may perish].

- [E] [Still,] just as these are particular, in that they are subject also to a fine [– double payment, exacted from the thief, thus Ex. 22:9 –], so slaves are excluded [from being subjects of an oath] who do not produce a fine [to be exacted from a malefactor in their regard].
- [F] Then I shall exclude [from provisions of oath-taking] slaves. But I shall not exclude bonds, which are subject to fines[, for one who rips up bonds belonging to his fellow must pay a fine].
- [G] No, what the cited items have in common is that they are subject to a claim of fraud [e.g., redress in a case of overreaching], which excludes bonds not subject to such a claim.
- [H] In this context they have stated, “He who sells bonds to a perfume maker – the latter may lay a claim of overreaching [should the bonds, sold as a raw material, prove overpriced].”
- [I] R. Ishmael interpreted the verse [“Or if any one utters with his lips a rash oath to do evil or to do good, any sort of rash oath must men swear” (Lev. 5:4)] as follows:
- [J] “‘Or if anyone utters with his lips an oath’ is a generalization.
- [K] “‘To do evil or to do good’ is a particularization.
- [L] “‘Any sort of rash oath that men swear’ once more presents a generalization.
- [M] “Thus we have a generalization, then a particularization, then a generalization.
- [N] “The result is that one may apply the stated rule only to matters that fall within the particularization.
- [O] “Just as the particularization speaks of [1] monetary claims, [2] issued in one’s own behalf, [3] issued in court, [4] matters with monetary value, and [5] the price of which is fixed, [6] which are movables, [7] exempt from extrinsic forms of punishment, and [8] fines[, so oaths, in general, apply to matters exhibiting the listed traits, which we shall now specify].
- [P] “‘Limited to a monetary claim,’ excluding one who says to his fellow, ‘Hand over the two hundred zuz that you promised me but have not yet given to me.’ [The defendant may simply retract.]
- [Q] “[2] ‘In one’s own behalf’ – [that is, the plaintiff has a part in the transaction, e.g., by effecting a bailment] excluding a case in which

the claim is that one says to his fellow, ‘You have cursed me, you have humiliated me,’ in which the latter is exempt [from an oath].

[R] “[3] ‘And issued in court [to the plaintiff]’ – excluding a case in which one says, ‘You have raped or seduced the daughter of Mr. So-and-so.’”

[S] “[4] ‘And which has a monetary value’ – excluding bonds [which themselves are intrinsically valueless].

[T] “[5] ‘And which has a fixed price’ – excluding slaves.

[U]] “[6] ‘And which are movables’ – excluding claims involving real estate.

[V] “[7] ‘And exempt from extrinsic forms of punishment’ – excluding one who said, ‘You have set fire to my grain on the Sabbath,’ in which case the defendant is exempt [from an oath, because he is liable to extrinsic punishment for having violated the Sabbath. Thus the punishment is extrinsic to the monetary claim].

[W] “‘And exempt from fines’ – excluding a case involving double payment or fourfold or fivefold payment, which constitute fines.”

[I:3 A] He who rips up bonds belonging to his fellow without the latter’s knowledge and consent –

[B] R. Hananiah and R. Mana, one said, “He is liable,” and the other said, “He is exempt.”

[C] *The one who said, “He is liable,” maintains that* it is on the grounds of imposing a fine [for the person’s causing a monetary loss to his fellow].

[D] *And the one who said, “He is exempt,”* [sees the defendant as one] having the status of him who [merely] shuts up the mouths of witnesses available to his fellow’s [litigation, e.g., witnesses who can testify to a loan, should the borrower deny it].

[E] *A widow held on to bonds [as surety for her collection of her marriage settlement].* [The law is that she may collect what is coming to her out of movables belonging to the estate only if she retained possession of the movables while the husband was alive. The widow is believed, then, if she should claim to have held on to the movables while the husband was alive. This is by an oath. But if she held on to bonds of evidence, e.g., of a debt, she has to bring proof that she held those bonds while the husband was yet alive. These are not of the same order as other sorts of movables.] *Such*

bonds have the status of a man who shut up the mouths of potential witnesses, so that they will not give testimony. [The loss he causes is too generalized to be subject to court action.]

[F] *Said R. Ammi, “Those [lenders] who write [in their bonds], ‘on condition that I have the right to collect what is owing to me from movables’ on such a basis may not collect from the estate of the deceased.”*

[G] *Said R. Mana, “If he wrote it and explicitly set such a condition, even though a court will not give permission to do so, he indeed does collect from the estate.”*

[II:1 A] R. Simeon says, “All the same are Most Holy Things and Lesser Holy Things: those that a person is liable to replace do I deem subject to the scriptural rule, ‘And he deny his fellow’s claim’ and those that one is not liable to make up I deem to be subject to that rule, ‘the Lord did he deny’ [and not his fellow] [M. 6:6F]

[B] R. Huna said, “All the same are Holy Things that are valid and Holy Things that are not valid: those that one is liable to make up, even though they belong to the Lord, do I deem subject to the scriptural rule, ‘And he deny his fellow’s claim,’ as in the case of a bailment; and those that one is not liable to make up, I deem subject to the stated rule: ‘the Lord did he deny,’ and not, ‘His fellow did he deny.’” [Huna explains Simeon’s position. In the latter instance, in which there is no human “fellow” but one denies “the Lord,” no oath is taken. But in the former instance the oath applies even to “Holy Things that are not valid.”]

6:7

[A] They are forced to take an oath only in a matter involving a claim which specifies a concrete measure, weight, or number.

[B] How so?

[C] “A room full of goods I gave you,” “A wallet full of money I gave to you,”

[D] and this one says, “I don’t know – but whatever you left is what you can take” –

[E] he is exempt [from having to take the oath].

[F] This one says, “[I gave you a heap of produce] as high as the projection,” and that one says, “It was only as high as the window,”

[G] he is liable [to take an oath for denying the bailment].

- [I:1 A] Said R. Hanina, “A large candelabrum,” and this one concedes, “A small candelabrum” – the latter is liable to take an oath.”
- [B] *Yet it is taught, They are forced to take an oath only in a matter involving a claim which specifies a concrete measure, weight, or number*, [and the defendant has not conceded having an object of the same measure as what is claimed].
- [C] Said R. Ba bar Memel: “Interpret the Mishnah rule to speak of a candelabrum that comes in parts [so that it can be dismantled, and a large candelabrum may be reconstructed into a small one. Consequently, in conceding a small one, the defendant admitted to part of the claim for the large one].”
- [D] This one says, “A large belt,” and that one concedes, “A small belt” –
- [E] *R. Hiyya taught [something in such a case], but they are not certain what he taught.*
- [F] *If you say that he taught that [the bailee is] liable [for an oath], then the Mishnah rule stands at variance, for it is taught, They are forced to take an oath only in a matter involving a claim which specifies a concrete measure, weight, or number.*
- [G] *If you say that the bailee is exempt, [another] Mishnah rule stands at variance, for it has been taught, [If] he had two slaves, one big and one little, or two fields, one big and one little – the purchaser says, “I bought the big one,” and the other one says, “I don’t know” – [the purchaser] has acquired the big [slave]. The seller says, “I sold the little one,” and the other says, “I don’t know” – [the latter] has a claim only on the little one, This one says, “The big one,” and that one says, “The little one”- let the seller take an oath that it was the little one which he had sold. This one says, “I don’t know” and that one says, “I don’t know” – let them divide up [the difference] [M. B.M. 8:4G-T].*

6:8

- [A] **He who lends money to his fellow on the strength of a pledge, and the pledge got lost –**
- [B] **[The creditor] said to him, “I lent you a sela on the strength of it, but it was worth only a shekel, “**
- [C] **and [the debtor] says to him, “Not so. But you lent me a sela on the strength of it, and it was worth a sela” –**

[D] he is exempt [from having to take the oath].

[E] “A sela I lent you on the strength of it, and it was worth a shekel, “

[F] and the other says, “Not so. But a sela you lent to me on the strength of it, and it was worth three denars” –

[G] he is liable.

[H] “A sela you lent to me on the strength of it, and it was worth two,”

[I] and the other says, “Not so. But I lent you a sela on the strength of it, and it was worth a sela” –

[J] he is exempt [from having to take the oath].

[K] “A sela you lent me on the strength of it, and it was worth two,”

[L] and the other says, “Not so, but a sela I lent to you on the strength of it, and it was worth five denars” –

[M] he is liable.

[N] And upon whom is the oath imposed?

[O] Upon him with whom the bailment was left,

[P] lest this one take an oath, and the other one then produce the bailment.

[I:1 A] Said R. Yohanan, “The lender is believed to state, ‘Up to the value of the pledge did I lend to you,’ [so that even if the pledge is not lost, the lender may lay claim to up to the value of the pledge].”

[B] *The Mishnah law holds that the borrower as well is believed [in like manner and may simply surrender the pledge], as we have learned:*

[The creditor] said to him, “I lent you a sela on the strength of it, but it was worth only a shekel, “

[C] and [the debtor] says to him, “Not so. But you lent me a sela on the strength of it, and it was worth a sela” –

[D] he is exempt [from having to take the oath]. [Thus where the lender claims more than the worth of the pledge, the borrower is believed to claim that the pledge was equivalent in value to the loan and does not have to pay the extra funds that the lender has claimed.]

[E] *A man laid claim upon his fellow in the market. He said to him, “Two denars of mine are in your possession, and your pledge is worth two denars.” The other said to him, “One denar is what I am required to hand over to you but the pledge of mine is worth two denars [as you yourself have now admitted].” The case came before the judges of Nehardea. They ruled, “Since all parties concur that the pledge is*

worth two denars, the other party [the lender] has to bring evidence in his own behalf [as to the amount of the loan].”

[F] Now did [the judge who made this decision] not hear that which R. Yohanan stated, “A lender is believed [to claim that the amount of the loan was] equivalent to the value of the pledge”?

[G] *A man laid claim upon his fellow in the market and removed his scarf and said, “This scarf will not leave my hand until you give me what you have of mine in your possession.” The aggrieved party came before Samuel. He said [to the lender], “Give him back his scarf, and then go to court with him.”*

[H] *Now does Samuel concur with the position of the judges of Nehardea [as against Yohanan’s view (E)]?*

[I] [The necessary reply is:] There [in the case judged by the judges of Nehardea], possession of the pledge was confirmed in the hand of the lender, while in the present case possession of the pledge was hardly to be confirmed in the hand of the lender [who had grabbed it by force]. [So in the former case, the lender is believed in his claim as to the value of the loan and the pledge, but here the lender has simply grabbed the pledge by force.]

[II:1 A] [As to M. 6:8N-P,] Samuel said, “The requirement to take an oath does not pass away from the two of them [in the case of M. 6:8B-G]. If the lender takes the oath, lo, this one takes the oath and collects what is owing to him. And if the borrower takes the oath, the borrower regains the pledge from the lender.”

[B] [Now if you lay matters out in this way,] then indeed **And upon whom is the oath imposed? Upon him with whom the bailment was left, lest this one take an oath, and the other one then produce the bailment**

[C] [To which clause of the stated case does that statement apply?] *Rab and R. Simeon b. Laqish rule that it applies to the former case: “A sela you lent to me on the strength of it, and it was worth two,” and the other says, “Not so. But I lent you a sela on the strength of it, and it was worth a sela” – he is exempt [from having to take the oath].*

[II:2 A] [If one party says,] “You lent me a *sela* on the strength of it,” [then] the other party says, “I don’t know!” [what is the law?]

[B] *R. Ba, R. Huna in the name of Rab: “[The judge says to the borrower,] ‘You don’t know, but he knows.’ [Since the lender concedes that it was worth more than the loan but does not know how much more, he cannot take an oath and must pay up the difference.]”*

[C] *R. Joshua Diyoma raised the question before R. Jonah, “There you rule, ‘You do not know, and he knows’ [so the latter collects without having to take an oath]. Yet here, do you rule in this way? [That is, in a case in which one says, ‘You have a maneh of mine in your possession,’ and the other party says, ‘I don’t know,’ the lender is exempt from the requirement of taking an oath entirely. How do you explain the difference]”*

[D][He replied,] “There there is the requirement of taking an oath[, that is, in the case of a pledge, an oath is required, and since he cannot take the oath — not knowing the facts — he must pay]. But here there is no requirement for taking an oath at all[, that is, where there is a claim for a *maneh*, the borrower says, ‘I do not know,’ there is no requirement for an oath at all, and the lender is free of having to take an oath].”

YERUSHALMI SHEBUOT

CHAPTER SEVEN

7:1

[A] All those who are subjected to oaths [that are required] in the Torah take [said] oaths and do not pay [the claim against them].

[B] And who are they who take an oath and collect [what they claim is owing to them]?

[C] (1) a hired hand, (2) the victim of a theft, (3) the victim of a beating, (4) he whose contrary litigant is not trusted [even if he takes] an oath, (5) and a shopkeeper concerning [what is written in] his account book.

[D] A hired hand [C] – how so?

[E] [If] he said to him, “Give me my wage, which you have in your hand”

–

[F] he says to him, “I already gave it to you,” –

[G] and this one says, “I never got it” –

[H] he takes an oath and collects [what he claims].

[I] R. Judah says, “[That is so] only if there is a concession of part of the claim.

[J] “How so?

[K] “If he said to him, ‘Give me my salary of fifty denars which I have in your hand,’

[L] “and the other party says, ‘You already received a gold denar [half of what is owing to you].’”

[I:1 A] [“If a man delivers to his neighbor an ass or an ox or a sheep or any beast to keep, and it dies or is hurt or is driven away, without any one seeing it, an oath by the Lord shall be between them both to see whether he has not put his hand to his neighbor’s property; and the owner shall accept the oath, and he [the bailee] shall not make restitution” (Ex. 22:10-11).] Now since it is said, “an oath by the Lord shall be between them both,” do we not know that if the bailee does

not take an oath, he will have to pay restitution? So why does Scripture say, “and the owner will accept the oath, and [the bailee] shall not make restitution?”

- [B] [It is to stress that] since the owner has accepted the oath, the bailee is exempt from having to make restitution. [That is to say, the oath provided by the Torah is taken by the defendant to free himself from having to pay, and it is not taken by the claimant to collect what he claims.]
- [C] *R. Haggai raised the question before R. Yosé*, “Now why do I have to explain the matter in accord with R. Meir [whose position will be spelled out presently (D!)]? Even in accord with the rabbis [the rule is to be derived].
- [D] “Did not R. Assi say in the name of R. Yohanan: ‘The opinion of R. Meir is that from a negative statement one may construct an affirmative statement [as at A]? [Yet we may make the same point, as follows:]
- [E] “‘And the owner shall accept the oath, and [the bailee] shall not make restitution.’ Lo, if he does not take an oath, he then must pay. [Thus, as at M. 7:1A: Those who take oaths do not have to pay. Scripture’s language makes this point without reference to Meir’s view.]
- [F] [A further problem with A is this:] *R. Hiyya taught*, “An unpaid bailee and a paid bailee may impose the condition that they will have the status of a borrower. [He interprets the verse, ‘An oath by the Lord shall be between the two of them’ to apply in a case in which such a condition has not been imposed. If such a condition has been imposed, then the bailee of either type need not take an oath at all. So the verse serves a different purpose from that specified by A.]”

[G] [There is no problem in the claim that we interpret the passage solely in terms of Meir’s view, for] R. Haninah said, “All concur with regard to the language used by Scripture that from a negative statement we do infer an affirmative one.

[H] “*The point at issue is the language of ordinary people.*”

- [II:1 A]** [With regard to the oath taken by the hired hand,] said R. Abin, “Because the householder has many things on his mind, the sages made the enactment in the case of a hired hand that he takes an oath in order to collect his salary.

- [B] “And along these same lines, they made the remedy for the householder, that if the time for collecting the salary has passed, the hired hand may then not take an oath and collect his salary.”
- [C] *R. Hiyya taught*, “If there are witnesses that the hired hand had made a claim, then even after a year the hired hand may take an oath and collect his salary.”
- [D] Said R. Yosé, “He has only that day alone [for the collection of his salary].”
- [E] *R. Jonah said*, “*R. Yosé b. R. Haninah and R. Simeon b. Laqish differed in the following matter:*”
- [F] *One said*, “[If] one laid claim for his salary on a given day, he has only that day [on which to impose the oath]. If he did so by night, he has only that night.”
- [G] *And the other said*, “That rule applies [even on a given day only] when the hired hand laid claim and the employer said, ‘I already gave it to you.’ But if he said to him, ‘I shall give it to you,’ then the assumption is that he has given the money [and does not violate his promise. The hired hand then does not take an oath to collect his salary, unless the employer denies. If then the hired hand says, ‘You still have not paid me,’ then the householder takes an oath and is exempt from paying the salary. So the rabbis’ remedy applies only in a limited context.]”
- [H] *How we do not know which one said this, and which one said that.*
- [I] *On the basis of that which R. Hama bar Uqbah said in the name of R. Simeon b. Laqish*, “If one has laid claim for his salary by day, one has only that day [to impose the oath and collect it], and if he did so by night, he has only that night,” *it must follow that it is R. Yosé bar Haninah who said*, “That rule applies [even on a given day] only when the hired hand laid claim and the employer said, ‘I already gave it to you.’ But if he said to him, ‘I shall give it to you,’ then the assumption is that he has given the money.”

[II:2 A] Said R. Mana, “There are times in which the employee lays claim for his salary only after a while, and yet the case is treated as if the claim came during its proper time [so an oath is imposed, and the worker collects the funds].”

[B] “What would be such a case?”

[C] “If the worker laid claim on the employer for his salary, and the employer replied to him, ‘Did I not tell you that from that day on which you laid claim on me, at the proper time, I already gave you the money?’

[D] “That day [on which the worker lays claim] is treated as if it was yesterday that he had originally laid claim, and one gives the worker another period of time [a day] in which to impose the oath.”

[II:3 A] [If the householder claims that] he paid him his salary in advance, *in such a case* the worker takes an oath and collects his salary.

[B] [If the hired hand] had a pledge belonging to the employer in his possession, *in such a case* the hired hand collects his salary without taking the oath.

[C] What if the hired hand was a slave? [Does the householder take the oath instead, since a court will not administer the oath to a slave?]

[D] Now will a court give an oath to a slave!

[E] [If the employee] was suspect [of violating oaths]?

[F] Now will a court give an oath to one suspect of violating oaths?

[G] If both parties were suspect [of violating oaths], *there is a dispute between R. Meir and R. Yosé:*

[H] “[If] both of them were suspect [in the matters just now listed], the oath returns to its normal place [and is taken by the one against whom the claim is made],” the words of R. Yosé. R. Meir says, “Let them divide up [the claim at issue]” [M. 7:4E-F].

[I] *It is self-evident that* if the householder should die, the hired hand takes the oath to his heirs.

[J] But even if the hired hand should then die, do the heirs of the hired hand take an oath to the heirs of the householder?

[K] Now did the sages make provision for this oath only for the hired hand himself? [Because the householder may have been preoccupied with his affairs, the oath devolves upon the employee.]

[L] But did the sages make a similar provision for his heirs?!
[No.]

[II:4 A] [With regard to the statement earlier that if the hired hand laid claim in the proper time, he has a right to take an oath and collect his salary that entire day but not beyond that time,] said R. Eleazar, “When the hired hand laid claim before witnesses, [and the employer did not pay at that time,] *the employer later on may [not] say, ‘I already paid you your salary.’* [If the claim is before witnesses, the householder cannot make such a claim later on.]”

[B] Said R. Yohanan, “Now does one not lay the claim in a monetary price, ‘SinceÉ’? [That is] ‘Since he has the power to say to him, “I never hired you to begin with,” he surely has the power to make the claim, “I hired you but I already paid your salary”?’ [So even if he laid claim before witnesses, what difference does it make? The employer has the claim that he never hired the man. So he is believed if he admits he hired him, but claims already to have paid him. Witnesses to the claim of the salary have no bearing. The employer can claim that he paid the salary in private.]”

[C] *The following Mishnah teaching contradicts the position of R. Eleazar:*

[D] **Under what circumstances? When he said to him, “I already paid your salary,” while [the worker] says, “He did not pay it to me.” But if he said to him, “You hired me,” and the other says, “I never hired you,” “I promised you a sela,” and the other says, “You promised me two” – he who lays claim against his fellow bears the burden of proof it [T. 6:1G-K].**

[E] *The question posed to the view of R. Eleazar by the foregoing is as follows:*

[F] [How can this be] a case in which one party claims, “In the presence of witnesses you hired me,” and the other party says, “I never hired you”? [Clearly, no witnesses are present to this transaction. So the householder *is* believed on the basis of his power to claim, “Since....”]

[G] *R. Ba Qartegena raised the question:* “If the employer claimed, ‘You worked for me for one day, and I paid you for that day,’ and the hired hand says, ‘I worked for you for two days, and you paid me nothing,’

[H] “*it is clear that, as to the first day, the worker collects his salary without taking an oath [since the householder concedes that the worker indeed did work for him that day. That is, it is*

the employer himself who opened the case by conceding that the worker had worked for that day].

[I] “*As to the second day there is the dispute between R. Yohanan and R. Eleazar.*” [So far as Eleazar is concerned, even if there are not witnesses that the householder had hired the worker, the householder is not believed to say, “SinceÉ,” and here there are no witnesses. So the worker takes an oath and collects the salary. In Yohanan’s view the householder is believed in general, on the stated grounds. The householder is believed as to the second day and takes an oath and does not pay. The same thinking goes into the following case:]

[J] “I agreed to pay you one *sela*, and I gave it to you,”

[K] and the other says, “Two *selas* did you agree to pay me, and you have given me nothing” –

[L] [*As above,*] *it is self-evident that he collects the first sela without taking an oath. As to the second one, we have a dispute between R. Yohanan and R. Eleazar* [just as we saw above, and for the same reasons].

[II:5 A] R. Huna said, “[In a case in which one claimed his ox, and the other denied it and took an oath,] if when he took the oath, he brought witnesses who claimed to have seen the ox standing in the crib of the bailee, the bailee already has stolen the ox and acquired it by means of the oath that he took, and since he took the oath, he need not pay for the ox.”

[B] *The following Mishnah teaching takes a different position from R. Huna:*

[C] **“Where is my ox?” He said to him, “It got lost” – “I impose an oath on you” – and he said, “Amen” – and witnesses testify against him that he had eaten it – he pays him compensation for the principal. If he conceded on his own, he pays compensation for the principal, the added fifth, and a guilt offering [M. 8:3F-L].** [Now why does the oath not acquire the ox for the dishonest bailee?]

[D] *The Mishnah speaks of a case in which the man ate the ox, and afterward he took the oath about it, while R. Huna’s teaching concerns a case in which the man took the oath, and afterward he ate the ox [so in the latter case, he ate what was already his].*

[III:1 A] [Under discussion in the following is M. 7:6: **[If] one said to the storekeeper, “Give me produce for a denar,” and he gave it to him**

– he said to him, “Give me the denar,” – he said to him, “I already gave it to you, and you put it in the till” – let the householder take an oath. If he gave him a denar and said to him, “Give me produce” – he said to him, “I already gave it to you and you brought it home” – let the storekeeper take an oath. R.Judah says, “Whoever has the produce in hand – his hand is on top.” What is important, as we shall now see, is that Judah does not require a concession in part. Consequently, there is a point of disharmony between his opinion here and M. 7:1D-L. It is to that matter that we now turn.] *The opinions assigned to R. Judah are contradictory.*

[B] [At M. 7:1/I, Judah says that the defendant must concede part of the claim. The remedy afforded the hired hand applies only in a case in which an oath in fact would be devolving upon the householder, e.g., one who has conceded part of the claim. Now in such a case, if the householder were to take such an oath, he would be rid of the claim. The sages have transferred that oath, assigning it to the hired hand, so that he takes the oath and collects the money owing to him. But, Judah maintains, if there is a total denial, in which the householder claims to have paid the whole salary, there is no salary oath devolving upon the householder (“This is it” does not pertain). So the rabbis for their part have not provided a remedy for the employee in taking the oath. Now, in general, Judah will maintain that even if there is no oath devolving upon one of the parties in the case, the man takes an oath and collects what he claims. So at M. 7:6, so far as Judah is concerned, the householder, in possession, takes the oath and collects the produce thus:] There, even if it is not known to us to which party to assign the produce, that is, we do not know who is to take the oath, the claimant takes an oath. In the case of disputed produce, there is no concession of part of the claim. Nonetheless, Judah has the householder take the oath and collect the produce]. But here, unless there is a concession in part, there is no oath [as at M. 7:1/I-L].

[C] There, because there is no parallel situation to one in which there is an oath to be taken on the basis of Torah law, even if there is no clear knowledge [of the person to whom the produce belongs, for the produce is piled up in the public street, Judah cannot require a concession. For who will concede what to whom? Judah treats the produce as if it is in the hand of the householder, and he takes the oath and collects the produce, without a prior concession on the part of the storekeeper]. But here, because there is a parallel situation to one in which the Torah imposes an oath [since Torah law would require the householder to take the oath, the rabbis have taken that oath and

assigned it to the employee]. [That is, only if there is a partial concession of what is claimed, just as in Torah law (“This is it”).]

- [III:2 A]** What is the law as to adding an oath required by reason of Torah law in addition to an oath required as a remedy provided by the sages? [That is, if someone is liable to take an oath by reason of a remedy provided by the rabbis, may one add to that a claim that draws in its wake the requirement to take an oath on the authority of the Torah?]
- [B] *Let us find the answer from the following:*
- [C] They superimpose an oath by reason of Torah law on an oath by reason of Torah law, an oath by reason of a remedy created by the rabbis on an oath by reason of a remedy, an oath by reason of Torah law on an oath by reason of a remedy, an oath by reason of a remedy on an oath by reason of Torah law.
- [D] [That is not relevant.] There, [with regard to an oath by reason of Torah law,] this one takes an oath and does not have to pay,] for an oath by reason of Torah law has the sole effect of allowing a person not to pay. Similar is the case with an oath created as a remedy imposed on another such oath, in which case both parties take an oath, and one party collects]. But in this case, how shall we say that they superimpose an oath by reason of Torah law on an oath formed as a remedy or vice versa? For this one takes an oath and collects, and that one takes an oath and does not pay. [So the two sorts are not parallel to one another, and therefore we do not superimpose one kind upon the other.]

7:2

- [A] The victim of a theft – how so?**
- [B] [If people] were giving testimony against a person that he had gone into his house to exact a pledge without permission,**
- [C] and [the victim of the theft] says, “You took my utensils,” –**
- [D] and the other party says, “I never took them” –**
- [E] lo, this one takes an oath and collects [what he claims].**
- [F] R. Judah says, “[That is so] only if there will be a concession of part of the claim.**
- [G] “How so?**
- [H] “He said to him, ‘Two utensils of mine did you take,’**
- [I] “and the other party says, ‘I took only one of them.’”**

- [I:1 A] **Into his house [M. 7:2B]**, not into his courtyard [and no claim can be entertained against the accused involving utensils in the courtyard].
- [B] **To exact a pledge [M. 7:2B]** and not for any other purpose.
- [C] Said R. Isaac, “And the rule applies only if there are witnesses [who saw the man carry out utensils under his cloak].”
- [I:2 A] [If] two people went into the house to exact a pledge [what is the rule? That is, does the householder have the right to take an oath?]
- [B] [*The answer is*] *in line with the following*: [If] someone, having been beaten up, got out of the hands of the two people [who did it, such a claim is not possible].
- [C] But both of the men [in the present case] may be in a position to exact a pledge[, while in the case of B, one person, and not both, is apt to have inflicted the beating. Consequently, the answer to A is affirmative].
- [D] *How why do you [make a distinction between the two cases]? [If witnesses] saw both men beating on the man with sticks [the victim surely can lay claim against both of them]. [Like wise, in the present case, if witnesses see two leaving the house carrying utensils, the victim of the theft can take an oath covering each of them.]*
- [I:3 A] If witnesses saw [a person] throwing pebbles, and there utensils were turned up broken, the victim collects damage without taking an oath.
- [B] What is the law as to the householder’s claim for objects that are beyond his means [and so unlikely to be his?]
- [C] *The answer, [that a claim may be made,] is in accord with that which R. Yohanan said, “A man makes himself rich in the marketplace but is impoverished at home, or is rich at home but pretends to be impoverished in the marketplace.”*
- [D] [This is in line with the following verse:] “One man pretends to be rich, yet has nothing; another pretends to be poor, yet has great wealth” (Prov. 13:7).
- [E] *R. Ba refers to a case [as follows:] The sharecropper [of land belonging to] Bar Ziza deposited with a certain man a litra of gold. Both Bar Ziza and his sharecropper died. The case came before R. Ishmael b. R. Yosé[, since both estates claimed the money]. He said, “Who does not know that whatever belonged to the sharecropper of Bar Ziza in fact belonged to Bar Ziza? Let the property be given to the estate of Bar Ziza.”*

- [F] *Bar Ziza's children came [forward]. [Ishmael] ruled, "Let half of the bailment be handed over immediately to the adults, and [the other half be held for the minors and] given to them when they reach maturity." Thereafter R. Ishmael b. R. Yosé died.*
- [G] *The case then came before R. Hiyya the Elder. He ruled, "From the fact [that the sharecropper seemed poor] nothing is to be inferred [in line with B-D]. There are people who do not show off. Let the bailment be handed over to the children of the sharecropper."*
- [H] *The bailee informed Hiyya that half of the bailment already had been handed over to the children of Bar Ziza.*
- [I] He said to him, "What you have handed over at the instruction of the court has been validly handed over, and what you now hand over at the instruction of the court likewise do you validly hand over."
- [J] *What is the law as to the estate of the sharecropper's laying claim on the estate of Bar Ziza to hand over what [the adult sons] had received?*
- [K] *They have the power to reply to them, "What has been done on the instructions of a court has been validly done."*
- [L] *What is the law as to the minor children of Bar Ziza's saying to the grown-ups, "Let us share in half of what you have"?*
- [M] *The adults can say to them, "It is a chance-find that has come our way [and we owe you nothing]."*
- [N] *[Along these same lines] said R. Isaac, "There is no claim against the adults on the part of the minors. But it is as if a gift has been given to the adults [as has just been stated]."*

7:3

- [A] **The victim of a beating – how so?**
- [B] **[If people] were giving testimony against a person that [the plaintiff] had gone into his [the defendant's] hand whole and come forth injured,**
- [C] **and he said, "You beat me up," –**
- [D] **and he says, "I never beat you up" –**
- [E] **lo, this one takes an oath and collects [compensation].**
- [F] **R. Judah says, "[That is so] only if there will be a concession of part of the claim.**

[G] “How so?

[H] “If he said to him, ‘You made two wounds on me,’

[I] “and the other party said, ‘I made only one on you.’”

[I:1 A] R. Judah would call such a case a lover’s quarrel.

[B] So long as they are friends with one another, lo, they take an oath and collect what is owing.

[C] But if one of them was bitten in a place in which one cannot bite himself, he collects compensation without taking an oath.

[D] [If] after a while, this one says, “You beat me up” and that one says, “I never beat you up” –

[E] lo, this one is equivalent to all other claims [and evidence is required (T. 6:2)].

7:4

[A] He whose contrary litigant is not trusted [even if he takes] an oath [M. 7:1 C4] – how so?

[B] All the same are an oath regarding testimony, an oath regarding a bailment, and even a rash oath –

[C] [if] one of the litigants was a dice player, gave out loans on usury, [was] a pigeon racer, or a dealer in Seventh-Year produce [M. San. 3:3],

[D] the other litigant takes an oath and collects [his claim].

[E] “[If] both of them were suspect [in the matters just now listed], the oath returns to its normal place [and is taken by the one against whom the claim is made],” the words of R. Yosé.

[F] R. Meir says, “Let them divide up [the claim at issue].”

[I:1 A] Who are those invalid for testimony [M. San. 3:5A]? He who plays dice. [M. San. 3:3B]:

[B] [the Tosefta’s version:] this refers to one who plays with blocks of wood.

[C] All the same are one who plays with blocks of wood; ant one who plays with nutshells or pomegranate shells –

[D] under no circumstances do they accept the testimony of such a person unless he undertakes to break his blocks of wood and to carry out a complete reformation.

- [E] **One who lends on interest do they not accept [as a witness] unless he tears up bonds of indebtedness owing to him, and [undertakes] to carry out a complete reformation.**
- [F] **Those who race pigeons –**
- [G] **this refers to one who trains pigeons.**
- [H] **All the same are the one who trains pigeons and the one who trains any other sort of domesticated beast, wild beast, or bird –**
- [I] **under no circumstances do they accept the testimony of such a person unless he undertakes to break those things that disqualify him and to carry out a complete reformation.**
- [J] **Those who do business in the produce of the Seventh Year – this is a merchant in the produce of the Seventh Year.**
- [K] **What is such a merchant? This is one who sits idle during the other six years of the septennate. Once the Seventh Year comes, he begins to do business in produce of the Seventh Year.**
- [L] **Under no circumstances do they accept such a person until another year of release arrives, and one may test him and find that he has reformed himself completely.**
- [M] *It was taught:* **R. Yosé [says], “Two septennates.”**
- [N] **R. Nehemiah says, “It must be a reform through property, not merely a reform through what he has said.**
- [O] **“How so?**
- [P] **“[He must say,] ‘These two hundred denars I collected from the sale of produce of transgression.’ Then [he must] hand them out to the poor” [T. San. 5:2].**
- [Q] **They added to the list of those named above shepherds, thugs, robbers, and anyone with a shady reputation in financial matters. Their testimony is null.**
- [R] **Said R. Abbahu, “This applies to shepherds of small cattle [but not large ones].”**
- [S] *R. Huna said, “Who taught that pigeon-racers [are unacceptable as witnesses]? It is R. Eliezer, as it has been taught, Pigeon-racers are invalid as witnesses [M. Ed. 2:7].”*

- [T] Said R. Mana in the presence of R. Yosé, “And further, is this teaching in respect to Sanhedrin also in accord [only] with R. Eliezer?”
- [U]] He said to him, “It is the opinion of all parties, in the present matter [of oaths].”
- [V] Said R. Yosé [continuing T-U], “We knew that such a one was invalid to serve as a witness in a monetary case. Concerning what did he come to give testimony? But just as he is invalid to give testimony in a monetary case, so he is invalid to give testimony in a capital case.
- [W] “And witnesses to the appearance of the new moon have the status of witnesses to capital cases.”
- [X] *For we have learned there:*
- [Y] In the case of any sort of testimony that a woman is not valid to give, also they are not valid to give.
- [Z] *Who taught this rule? It is the rabbis [since Eliezer cannot concur, for S leaves no room for the Talmud’s exception].*
- [AA] *Now do the rabbis accord with R. Eliezer? Do they teach in accord with his opinion and differ from him?*
- [BB] *R. Huna said, in the name of R. Jonah: “The entire passage is in accord with the opinion of R. Eliezer [who concurs that those listed at M. 7:4C may testify in matters about which women may testify].”*
- [CC] *The disputes of these [Eliezer and the rabbis] are parallel to the disputes of those [Yosé and Meir, as it has been taught:*
- [DD] “A witness [shown to have conspired against another party and so to have] perjured [himself] is invalid for giving evidence in every matter covered by the Torah,” the words of R. Meir.**
- [EE] Said R. Yosé, “Under what circumstances? When such a person has been perjured in a capital case.**
- [FF] “But if he was perjured in a case involving a monetary claim, he is invalid only for the purpose of giving that particular testimony alone” [T. Mak. 1:11].**

[GG] Now the opinion of R. Yosé is in accord with that of the rabbis, and the opinion of R. Meir is in accord with that of R. Eliezer.

[II:1 A] One who is suspect of violating oaths – at what point do they accept [his oath once more]? When he comes to court and states, “I am suspect” [when called upon to take an oath].

[B] *Now how shall we explain that statement?*

[C] If it is a case in which he is liable to provide an oath to his fellow [and at that point announces that he is suspect in regard to oaths] – [38a] does the court hand over an oath to one who is suspect?

[D] *But thus must we interpret the matter:* It is a case in which he goes to a court that does not know the man at all, and he says to the judges, “That man [I] is suspect [in regard to oaths].”

[E] *We also [find an appropriate situation in which he] stands in a place [in which he is known and] owes an oath [to the other,] but forgives the other party [and declines to have the other party take the oath but rather pays what is claimed. Such would constitute a complete expression of repentance].*

[II:2 A] [As to R. Yosé’s statement, “If both of them are suspect, the oath returns to its normal place” (M. 7:4E),] *R. Hoshaiah said in the presence of R. Ammi in the name of the rabbis over there, “The oath returns to Sinai. [That is, it is as if there is no testimony in this case at all, and the court takes no action. The plaintiff has to bring his own proof.]”*

[B] R. Yohanan in the name of R. Yannai, “The oath returns to the owner, [that is, to the one who is obligated to take it in accord with the Torah law, and that is the defendant if he has conceded part of the claim].”

[C] *He who maintains that the oath returns to Sinai maintains that it is as if there is no testimony in hand. So he who proposes to collect from his fellow has to bring proof of his claim.*

[D] *The one who said the oath returns to the owner [the defendant] holds that [the plaintiff says,] “Since that man [you] is suspect and cannot take an oath to me, so go and pay me [what you owe me].”*

7:5

[A] A storekeeper concerning [what is written in his] account book [M. 7:1 C5] – how so?

[B] It is not that he may say to him, “It is written in my account book that you owe me two hundred zuz.”

[C] But [if the householder] said to him, “Give my son two seahs of wheat,” [or] “Give my worker change for a sela,”

[D] and he says, “I already gave it to him,” –

[E] and they say, “We never got it” –

[F] [the storekeeper] takes an oath and collects what is owing to him, and [the workers] take an oath and collect what they claim from the householder.

[G] Said Ben Nannos, “How so?”

[H] “But [either] these or those then are taking a vain oath!

[I] “Rather, [the storekeeper] collects what is owing to him without taking an oath at all, and [the workers] collect what they claim [not to have received] without taking an oath.”

[I:1 A].A storekeeper concerning what is written in his account book:–

[B] and not what is sold on terms have they stated the rule.

[C] For one may claim, “You have written [the debt] in this page, it has been erased from that page.”

[D] [With reference to M. 7:5F,] Rabbi says, “I say that they take an oath only in the presence of one another, [for they then will not lie] on account of shame” [T. 6:4A-H].

[II:1 A] This statement that you have made [M. 7:5H, that both parties take an oath and collect from the householder] applies in a case in which the householder has not deposited [funds with the storekeeper in behalf of the workers]. But if the householder has deposited funds for the workers with the storekeeper, then the householder owes nothing at all. [Then the workers have a claim only against the storekeeper.]

[B] *This is in line with [a case] that R. Judah bar Shalom [reported]:*

[C] *[A householder made arrangements] for shoulder-bearers with the storekeeper. They came to [court to] collect what he had not given to them.*

[D] *The workers' case came to R. Shimi [to collect their salary, since the storekeeper had given them nothing. He ruled,] "If the shoulder-bearers had been told by the storekeeper, 'You have already received [your wages from me, and I have paid you,] that would] not have been the end of the matter. For both parties would have been able to collect [from the householder. The storekeeper thus would never ha-e been in a position to lose out, even if the workers had contradicted him. Now why should the storekeeper lose out now?]* But now [that he concedes to you that he has not paid you up to now, since he has accepted the task of paying the workers, let them collect [from him, for they have no claim against the householder]."

7:6

[A] [If] one said to the storekeeper, "Give me produce for a denar,"

[B] and he gave it to him –

[C] he said to him, "Give me the denar, " –

[D] he said to him, "I already gave it to you, and you put it in the till" –

[E] let the householder take an oath.

[F] If he gave him a denar and said to him, "Give me produce" –

[G] he said to him, "I already gave it to you and you brought it home" –

[H] let the storekeeper take an oath.

[I] R. Judah says, "Whoever has the produce in hand – his hand is on top."

[J] [If] he said to the money changer, "Give me small coins for a denar,"

[K] and he gave them to him –

[L] he said to him, "Give me the denar" –

[M] he said to him, "I already gave it to you, and you put it in the till" –

[N] let the householder take an oath.

[O] If he gave him a denar and said to him, "Give me small change,"

[P] he said to him, "I already gave them to you, and you tossed them into your wallet,"

[Q] let the money changer take an oath.

[R] R. Judah says, "It is not customary for a money changer to hand over even an issar before he collects his denar!"

[I:1 A] R. Haninah said, "The matter is subject to dispute [as follows]:"

- [B] Said R. Judah, “Under what circumstances [does the rule of M. 7:6F-H apply]?”
- [C] “When the basket [of produce] was lying between the two of them. But if it left the control of one of them,
- [D] [“he who lays claims against his fellow bears the burden of proof” [T. 6:4Q-S]. [That is, Hanina explains Judah’s position as follows. Judah maintains that under all circumstances the householder takes an oath and keeps the produce. The rabbis recognize a difference when neither party has possession of the produce. Hanina thus wishes to point out that when R. Judah says, “I, under what circumstances,” he expresses a difference of opinion. Judah thus explains the sort of case in which there is a dispute. But if the produce falls into the hand of one party, then D follows.]

[I:2 A] A dispute applies [further, to M. 7:6/O-R]. As to what [Judah says, at M. 7:6R], that rule applies in the case of a traveling merchant [who is unknown]. But in the case of a [familiar] townsman, it is quite customary for him to hand over an *issar* before he collects his denar.

7:7

- [A] Just as they have said [M. Ket. 9:7], (1) A woman who impairs her marriage settlement collects only by taking an oath,
- [B] [and] (2) [if] a single witness testifies that it has been collected, she collects it only by taking an oath;
- [C] [and] (3) she collects from indentured property and from property belonging to the estate only by taking an oath;
- [D] [and] (4) she who collects her marriage settlement not in her husband’s presence collects it only by taking an oath,
- [E] so (5) heirs of an estate collect [debts owing to the deceased] only through an oath:
- [F]”(1) We swear that father gave us no instructions [in this matter], (2) father said nothing to us about it, and (3) we did not find among his bonds evidence that this bond had been paid off.”
- [G] R. Yohanah b. Beroqah says, “Even if the son was born after the death of the father, lo, this one must take an oath before he collects [what is owing to the estate].”
- [H] Said Rabban Simeon b. Gamaliel, “If there are witnesses that the father had stated when he was dying, ‘This bond has not yet been paid off,’ [the son] may collect [the debt] without taking an oath.”

- [I:1 A] Said R. Zira, “In all of these cases, an oath having the status of one deriving from the Torah has fallen away,’ [in that the oaths required here are not of the standing of a Torah oath, but an oath imposed by the sages as a remedy. For we do not maintain that the husband, in agreeing that part has been paid, concedes part of the claim. That is not the case].
- [B] “And [note, by way of proof,] the marriage settlement owing to a woman – is it not assumed to be within her power to collect it? [And she has not collected it, in accord with her own statement. Now she takes an oath and collects it. But in a Torah oath one takes an oath and does not pay, while here the woman takes an oath and collects. This is an example therefore of the oath created by the sages as a remedy.]
- [C] “But [the sages have treated it] as if she will collect it at some point in the future.
- [D] “And this is a case in which he claims that her marriage settlement, specified in a writ covering two hundred zuz, has been collected, and she says that only a hundred have been collected thus far, without her having taken an oath. [She collects only by taking an oath.]”
- [I:2 A] *There we have learned: She who impairs her marriage contract: How so? [If] her marriage contract was worth a thousand zuz, and he said to her, “You have collected your marriage contract,” but she says, “I have received only a maneh [a hundred zuz],” she collects [the remainder] only through an oath [M. Ket. 9:8A-C].*
- [B] *It was taught: She who impairs, but not she who claims less [than is coming to her]. [Cf. T. Ket. 9:4A. That is, she declares that the original settlement was less than the amount recorded in the original document, but that is what she now claims. The husband says he has paid it all. She receives payment without an oath.]*
- [C] *R. Hisda raised the question, “It is because he went two steps. Because one impaired it in court, do you maintain that she does not collect?” [This is out of context and appears at M. San. 8:6. It is explained there.]*
- [I:3 A] R. Yohanan in the name of R. Yannai, “A court does not exact payment from an estate belonging to minors unless it is on account of interest [owing on a bond, paid by the estate,] which is eating up the estate.”
- [B] R. Nathan says, “Also [if the estate owes] the marriage settlement of a wife[, the court will exact payment from the estate, as at M. 7:7C].”

- [C] Said R. Mana, “This is because [of the woman’s need for] maintenance[, which she collects from the estate until the contract is paid off.]”
- [D] *Said R. Mattenaiah, “Who takes account of the need for maintaining the woman [and wishes to free the estate from that requirement]? It is R. Simeon, for R. Simeon says, ‘The matter depends upon [the writ’s being deemed] collected. [That is, if the woman merely claims payment, she loses her right to maintenance. Simeon thus wishes to remove her as a burden on the estate.]’*
- [E] *What is [the thinking of the rabbis, who are not so concerned with the matter of the woman’s collecting maintenance from the estate until the marriage settlement is paid off]?*
- [F] It is because of [keeping the woman] attractive, so that men will want to marry her [on account of the uncollected marriage settlement that is due her. So this provision is for the welfare of the widow].
- [G] R. Nathan says, “Also matters of theft and torts [do they collect from the estate of belonging to the deceased and passing to his orphans].”
- [H] *Said R. Yosé, “We too have learned both of these statements.*
- [I] *“As to paying out of the proceeds of the estate compensation for a theft committed by the deceased, it is from the following:*
- [J] “If it was a [bailment] that the deceased was liable to make up, the estate is liable to pay for it.
- [K] *“As to torts from the following:*
- [L] “They exact payment from the estate of minor orphans only from real estate of the poorest quality.
- [M] *“Thus is the meaning of the Mishnah: ‘They exact payment from the estate of orphaned minors for the payment of torts done by the deceased only from the real estate of poorest quality.’”*
- [N] *And has it not been taught:*
- [O] The son stands in the place of the deceased father [in payment of the father’s debts; so that,] as to torts, they

assess damages in land of the highest quality; to pay off a debt, they assess real estate of middling quality; as to paving off the marriage settlement owing to a woman, they assess real estate in land of the poorest quality?

[P] Said R. Yosé b. R. Bun, “Interpret the matter as representing the opinion of all parties. In this case we deal with an adult heir; in the other [LM], a minor heir.”

[I:4 A] *Here you say, **They do not take an oath in the case of a claim made by a deaf-mute, an idiot, or a minor [M. 6:4A], and there you say, But an oath is imposed in the case of a claim against [the property of] a minor, and against property which has been consecrated [M. 6:4A]!***

[B] The latter speaks of a claim against the property of a minor[, the former, of a claim issued by a minor. In the former case, the minor is not permitted to take an oath so as to collect what he claims; in the latter, the adult plaintiff must take an oath so as to collect his claim.]

[II:1 A] And do they collect [a debt when the debtor is] absent? [This would apply in general, but is relevant to M. 7:7D.]

[B] R. Jeremiah said, “Interpret the law to apply to a case in which interest is eating up [the property of the absentee].”

[C] And does a court collect a debt involving interest?

[D] Interpret the rule to apply to a case in which it is a gentile who serves as the guarantor [of the loan. The gentile now-seeks the borrower and demands interest when the debt is not paid, since it will devolve upon the gentile to pay it].

[E] *Liksa [Alexander] said before R. Mana, “We do things in a much better way than you do.*

[F] *“We write out a decision [in court for the claimant]. If [the defendant] comes [and brings evidence in his own behalf], well and good. And if not, we assign the property [to the plaintiff even in the defendant’s absence].”*

[G] *He said to him, “We too do the same thing. We announce (the pending decision) for thirty days. If [the defendant] comes to court, well and good, and if not, we assign his property [to the plaintiff, even in the defendant’s absence].”*

[H] *He said to him, “Take note of the possibility that the defendant may be in some distant corner [and so unaware of the court’s proclamation].”*

[I] *He said to him, “We send three summonses, one after thirty days, the next thirty days thereafter, and the third thirty days thereafter.” If [the defendant] comes to court, well and good, and if not, we assign his property [to the plaintiff, even in the defendant’s absence].”*

[J] Said R. Hanina, “That is the case if he came to court and received a judgment and then fled. *But if he did not come to court, they do not come to a decision, but make proclamation [for all parties concur that the proclamation comes prior to all court action].”*

[II:2 A] *It turns out that Hanan and R. Simeon have said the same thing. [M. Ket. 13:1E, Hanan says, “Let her take an oath at the end, but let her not take an oath at the outset [that is, she takes an oath when she claims her marriage contract after her husband’s death, or after he returns, that she has not held back any property of her husband].” That is, she takes an oath when she claims her marriage settlement after her husband’s death, or after he returns, that she has not held back any property belonging to her husband. And likewise R. Simeon says, “Let the wife take an oath only at the end, and there is no difference whether the claim is for maintenance or to collect her marriage settlement.”]*

[B] *So just as you say that the law follows Hanan, so here the law is in accord with R. Simeon.*

[III:1 A] [With regard to **so heirs of an estate collect [debts owing to the deceased] only through an oath,**] Rab said, “If the borrower died, the lender takes an oath to his estate [so as to collect the debt.] And even if the lender died, the heirs of the lender take an oath to the borrower. But if the borrower died first, and then the lender died, the lender already has incurred the liability to take an oath to the heirs of the borrower, and [since] a man does not leave the opportunity to take an oath to his heirs[, there is no oath here]. [That is, if the heirs of the lender wish to collect from the borrower, they take an oath to the lender in the face of his claim to have paid the father. But if the borrower died first, so that the lender already owes the oath, and then the borrower died, the lender’s heirs cannot collect from the borrower’s heirs, since they cannot take the required oath.]”

[B] *R. Yohanan heard and said, “Will this one eat and rejoice [on someone else’s money]?! [The heirs of the lender can take an oath on their own.]”*

[III:2 A] [Following the version of M. B.M. 1:8,]: R. Jeremiah in the name of Rab: “A codicil that turned up in the hand of the lender and in the

writing of the lender is invalid. For I say, ‘The lender was making notes on his bonds.’”

[B] Lo, if it turns up in the possession of some other party, is it valid?

[C] R. Isaac bar Nahman in the name of Samuel, “A codicil is valid only if it turns up, [even] on a document held by the lender, in the handwriting of the borrower.

[D] *“For it has been taught, We swear that father gave us no instructions [in this matter], (2) father said nothing to us about it, and (3) we did not find among his bonds evidence that this bond had been paid off.”*

[E] Lo, if it was found, it is evidence that it had been paid off [wholly or in part, if the borrower has written the codicil].

[F] *What is the meaning?*

[G] Said R. Yosé b. R. Bun, “Interpret the case to be one in which, for example, we deal with a will[, for a man does not commonly impair the validity of his will. So if such a codicil should be found, it is apt to be truthful].”

7:8

[A] And these [must] take an oath even when there is no claim [laid against them]:

[B] (1) partners, (2) tenants, (3) guardians, (4) a woman who manages her household, and (5) a manager of a common legacy (“son of the household”).

[C] [If] he said to him, “What is your claim against me?”

[D] “I want you to take an oath to me” –

[E] he is liable.

[F] [Once] the partners have divided up the property, or the tenant farmers, then one cannot impose an oath upon the other.

[G] [If the requirement to take] an oath happened to come upon him from some other source [cause],

[H] they impose upon him an oath covering the entire [enterprise].

[I] The advent of the Sabbatical Year releases the requirement to take an oath.

[I:1 A] *Said R. Yosé, “This statement [of the Mishnah, that one imposes an oath on the cited parties even by reason of doubt, applies in a case in which one does business without an accounting. But if one does*

business with an accounting, *it is not to such a case [that the rule applies].*”

[B] And as to the manager of a common legacy [who normally would proceed with an accounting], in the present case it is one who does business without an accounting.

[I:2 A] [As to the statement of Yosé, Y. B.M. 3:1, “The Torah has imposed an oath on the bailee not to apply a stricter, but a more lenient, rule to him,”] *R. Zeira is in accord with that statement of R. Yosé [as the following case indicates]:*

[B] *A man came to court before R. Zeira, who imposed on him an oath by reason of a claim of two denars. [Not wanting to take the oath, the defendant] said to him, “Are there not two denars that I owe you? Lo, they are cast to you.” [At that point, the plaintiff added to his claim, saying,] “And this, and that, and the other thing [you also owe me]!” Said R. Zeira [to the defendant], “Either pay him everything he claims of you or take an oath to him covering the entire matter [as at M. 7:8G-H].”*

[II:1 A] To what extent do they superimpose [fresh claims on an oath (M. 7:8G-H) once one is obligated to take an oath for a given claim]?

[B] Said R. Yohanan, “Up to the point [at which the plaintiff says,] ‘You are my servant[, and I own you completely].’” [That is, the plaintiff may require the defendant to take an oath that the defendant is not the slave of the plaintiff.]

[C] [But that is surely absurd. For] take note of the possibility that the defendant was a priest [and the claim was that he was] a Hebrew slave? [How would such a claim be possible?] Is there such a thing as a Hebrew slave in these times?

[III:1 A] [As to the statement that the advent of the Sabbatical Year releases the requirement to take an oath [M. 7:8I] in regard to an oath between partners or guardians.] said R. Samuel bar R. Isaac, “[It is a case in which even in the Sabbatical Year the man] continued to serve as guardian [so that the Sabbatical Year passed while the man was guardian or partner]. [Even in such a case the Seventh Year releases the obligation to take an oath. It cannot then be thought that the Seventh Year does so only when the obligation to take the oath is in place prior to the advent of the Seventh Year. Even if the obligation is not completed by that point, the Seventh Year} still serves, as M. 7:8I states.]

- [B] “For if you do not rule in such a way, then we shall have to rule that, in the case of a guardian, the Seventh Year does not nullify the requirement of taking an oath [under the conditions explained at A].
- [C] “[Scripture refers to a householder: ‘If the thief is not found, the owner of the house shall come near to the judges,’ (Ex. 22:8), and the guardian is an owner. Likewise with reference to the Sabbatical Year, reference is made to an owner: ‘Every owner of a debt shall release what he has lent to his neighbor’ (Deut. 15:2).] Just as the ‘owner’ referred to in the matter of the Sabbatical Year must release [what is coming to him], so the ‘owner’ referred to in the matter of the oath must release [the oaths coming to him].” [That is proof of A.]
- [D] [No, that is not so. The meaning is quite different, namely:] Matters that fall into the category of “what he has lent to his neighbor” (Deut. 15:2) the Sabbatical Year releases, and it releases an oath pertaining thereunto; and matters that do not fall under the category of “what he has lent” the Sabbatical Year does not release. neither such a matter, nor an oath pertaining to such a matter.
- [E] So we must say that any matter that the Sabbatical Year serves to release, the Sabbatical Year also releases an oath pertaining thereunto. and any matter that the Sabbatical Year does not serve to release, the Sabbatical Year does not release either that matter or an oath pertaining thereunto. [So the position announced at A is false.]

YERUSHALMI SHEBUOT

CHAPTER EIGHT

8:1

- [A] There are four kinds of guardians: (1) an unpaid bailiff, (2) a borrower, (3) a paid bailiff, and (4) a renter.
- [B] (1) An unpaid bailiff takes an oath under all circumstances.
- [C] (2) A borrower pays compensation for damages in all circumstances.
- [D] (3) A paid bailiff and (4) a renter take an oath on account of a beast which is lamed, driven off, taken for ransom, or deceased, but they pay compensation for what is lost or stolen.
- [I:1 A] Said R. Yohanan, “**There are four kinds of guardians.** and they become liable [for keeping the bailment] only through actually making formal acquisition [of that which is left with them].”
- [B] R. Jacob bar Aha in the name of R. Eleazar: “Also with regard to theft [on the part of the bailee of the bailment, they become liable only through actually making formal acquisition].”
- [C] *Said R. Yosé b. R. Bun, “And the Tannaite authority too has made the same statement: **He who takes over a field from his fellow [to till it and share the crop, but who fails to do so – once his fellow has acquired a right to the field, then they make an estimate of what the field was expected to produce, as against what it actually did produce (cf. T. B.M. 9:12). Thus only after the tenant-farmer has effected possession of the field does he become liable].”***
- [D] R. Hananiah said R. Bun [said], “Also in a case of robbery they become liable only through actually making formal acquisition.”
- [E] *R. Hananiah in the name of R. Pinhas: “The Mishnah itself has made the same statement: **[If the thief] was dragging [a sheep or ox] out [of the owner’s domain], but it died in the domain of the owner, he is exempt. [If] he lifted it up or removed it from the domain of the owner and then it died, he is liable. [If] he handed it over for (1) the firstborn-offering at the birth of his son, or (2) to a creditor, to***

(3) an unpaid bailee, or (4) to a borrower, or (5) to a paid bailee, or (6) to a renter, and [one of these] was dragging it away, and it died in the domain of the owner, he is exempt. [If] he raised it up or removed it from the domain of the owner and then it died, he is liable [M. B.Q. 7:6A-L].

[F] **If one has raised it up in the domain of the owner**, it is as if it has gone forth from the whole of the domain of the owner. **If one was dragging the beast and taking it out [of the domain of the owner]**, it is deemed [within the domain of the owner] until it has entirely left the domain of the owner.

[G] [Answering the question of whether acquisition is effected when the beast is dragged outside of the owner's property or only when it has reached the thief's property,] R. Abbahu in the name of R. Yohanan [said], "[It is acquired only] when it is standing in the crib [of the thief]. [So the act of acquisition is completed only when the thief has gotten the beast home.]"

[H] *R. Bun bar Hiyya raised the question:* "If [we deem acquisition to be complete only] when the beast is standing in the crib [of the thief], then even if he did not drag the beast [the acquisition should be effected when the beast reaches the stated location]. [When, then, should the Mishnah rule have specified the act of drawing or dragging the beast? Even if the thief had found the beast in the public domain and taken it home, it should be acquired when it is in the proper place.]

[I] "*But we must interpret the Mishnah to speak of a case in which the beast was found standing in public domain*[, in which case merely dragging the beast constitutes an act of acquisition]."

[J] [With reference to the following dispute of the Houses of Shammai and Hillel, the question will be raised whether] *R. Bun bar Hiyya accords with the theory of the House of Shammai*, "**He suffers a disadvantage, whether the value rises or falls.**" The House of Hillel say, "[**He restores the bailment**] as it was at the moment at which he took it out [to use it for his own purposes]" [The dispute is as follows: **He who makes improper use of a bailment – The House of Shammai say, "He suffers a disadvantage, whether the value rises or falls." The House of Hillel say, "[He restores the bailment] as it was at the moment at which he took it out [to use it for his own purposes]."** R. Aqiba says, "[**He restores it as it was**] at the moment at which it was

claimed.” He who expresses [in the presence of witnesses] the intention of making use of a bailment – the House of Shammai say, “He is liable [for any damage done to the bailment, as if he had made use of it].” And the House of Hillel say, “He is liable [for damages incurred] only when he will actually make use of the bailment, “since it is said, ‘If he has not put his hand to his neighbor’s property’ (Ex. 22:7)” [M. B.M. 3:9]]. *Now how do we interpret the case at issue?* If [it is] when the animal is standing in public domain [and the man has already drawn the beast there], and the man has given thought to stealing the beast, and then the beast died under the spell of that intention, all parties concur that the man is liable [for having drawn the beast]. If it is before the man has actually drawn the beast, all parties must concur that he is exempt. *Thus we must conclude that* it is when the beast is standing at the man’s own crib[, so that the man has drawn the beast from the public domain and set it up in his own barn]. [The House of Shammai maintain that when the man says, “Lo, I plan to steal the animal,” while it is at his crib, he has acquired the beast and so is subject to responsibility for whatever may befall the beast.] Thus it would appear that the opinion of R. Bun bar Hiyya is in accord with the view of the House of Shammai[, for Bun maintains that, when the thief sets the beast before his own crib, we do not require an act of drawing the beast from the domain of the owner; drawing it even from public domain suffices to acquire the beast].

[K] [In order to differentiate the position he holds from that of the House of Shammai, Bun bar Hiyya will now differentiate the cases under discussion.] R. Bun said, “There [in the case of the Houses’ dispute] we deal with a case in which one acquires the beast without the knowledge of the owner. [In that case there is a dispute, since the House of Hillel maintain that drawing the beast from public domain does not suffice to impose liability on the man who does so, merely because of the statement he has made.] But here in a case in which [one has handed the beast over, e.g., for a payment for the firstborn, the beast] is acquired [by the priest] with the knowledge and consent of the owner[, in which case even if the man draws the beast only from the public domain and sets it up at his crib. he has acquired possession of it]. [So the act of acquisition is effective even when the beast is drawn from the public domain without Bun’s concurring with the basic position of the House of Shammai.]

- [I:2 A]** It is written [in Scripture], “If a man delivers to his neighbor money or goods to keep” (Ex. 22:7) – to keep, and not to tear, to keep and not to discard. to keep, and not to give away as a gift. in all of which cases the liability of a bailee does apply if one hands over a bailment to tear, discard. or give away, one need not take an oath as to its disposition. If it is to distribute to the poor there are no specific claimants to whom an oath is to be taken anyhow].
- [B] Said R. Yosé, “And that rule applies in a case in which he gave instructions to give the bailment away as a gift to anyone he wishes. But if he said to give it to a specific person since guarding that object is incumbent on the bailee it is as if it is a particular person who has a claim on the man.”
- [C] *It has been taught:* “...and it is stolen out of the man’s house” – not from on top of his roof [so that if the beast is stolen from a location other than the man’s house the bailee has not acquired possession of the beast, and if the thief is found he pays the double value of the beast not to the bailee, but to the owner of the beast].
- [D] *Said R. Eleazar.* “*That which you have said* applies to a roof that is not surrounded by a parapet. But in the case of a roof surrounded by a parapet it is tantamount to the man’s house.”
- [E] *It has been taught:* “And it is stolen out of the man’s house” – and not out of the house of a borrower. [Should the thief be found and be required to pay double value of the beast, it is not to the borrower but to the owner. The borrower in no way acquires the beast.]
- [F] [Now the point of this exercise. in respect to our pericope, emerges. as follows:] Shall I further say. and it is stolen out of the man’s house – and not out of the house of a paid bailee or of a renter?
- [G] [No, that is not the case.] since. because these are responsible for guarding the bailment, it is as if it belongs to them [and therefore they are deemed to have acquired the beast for the present purpose]
- [I:3 A]** Now you may state, there are three sections: the first pericope refers to an unpaid bailee, the second to a paid one and a renter, and the third to a borrower. [That is, Ex. 22:7-9, 10-12, and 14ff. refer to different sorts of bailee. Ex. 22:7-9, “If a man delivers to his neighbor money or goods to keep” refers to an unpaid bailee. Ex. 22:11-12, “If a man delivers an ass or an ox or a sheep, and it dies or is hurt or is driven away, an oath by the Lord shall be between them” refers to a paid bailee. And, finally, Ex. 22:14ff., “If a man borrows anything of his

neighbor and it is hurt or dies,Éhe shall make full restitution ‘ refers to a borrower.]

- [B] The borrower, because he enjoyed full benefit, pays full restitution (Ex. 22:14).
- [C] A paid bailee and a renter. since they enjoyed partial benefit and provide partial benefit, take an oath tor part and pay partial restitution.
- [D] An unpaid bailee, who derives no benefit whatsoever. takes an oath and departs (Ex. 22:7-9!).
- [E] What is the oath administered to him? It is, “Éthat I did not transgress.”
- [F] If there were others who knew that he had not transgressed, *what is the law?* [The man claims that the beast as stolen or lost. and witnesses give testimony to that same effect. Thus he does not have to take an oath that he did not transgress. Can the owner impose the oath that he never even thought of doing so before the beast was lost?]
- [G] *Let us derive the law from the following [parallel]:*
- [H] Lo. if the thief is found, but he has nothing with which to pay, what is the law as to the owner of the beast’s saying to the bailee you come and take an oath to me that you did not even consider stealing the beast”? *Let us derive the law from the following:* “If the thief is not found” Ex. 22:8’ [the bailee takes an oath]. Lo, if the thief is found [the bailee] is exempt from any oath[, e.g., such as has just now been proposed]. [.and that ruling likewise applies to the question raised earlier].
- [I] [We turn now to the law of the paid bailee and prove that he is liable should the beast be stolen or lost.] It is written, “If a man delivers to his neighbor an ass, ox, or sheep, or any beast to keep, and it dies or is hurt or is driven away without anyone’s seeing it, an oath by the Lord shall be between them both [to see whether he has not put his hand to his neighbor’s property; and the owner shall accept the oath and he shall not make restitution]. [But if it is stolen from him, he shall make restitution to its owner. If it is torn by beasts, let him bring it as evidence; he shall not make restitution for what has been torn” (Ex. 22:12-13).]
- [J] As to a theft: “If it is stolen from him...”
- [K] As to its being lost: and if – with the addition of the conjunction meant to encompass a case in which the beast is lost.

- [L] *Up to this point we have interpreted the Scripture in accord with the view of R. Aqiba. But what about the view of R. Ishmael?*
- [M] *R. Ishmael taught, “Now if in the case of a theft, which is nigh unto being something that has happened under constraint, you rule that one pays in the case of the loss of the beast, which is not nigh unto being something that has happened under constraint, is it not an argument a fortiori [that one should have to pay]?”*
- [N] With reference to the borrower [Ex. 22:14-15, which refer to the beast’s being hurt or dying,] there is solely reference to the animal’s being injured. How do we know that the same rule applies if the animal is lost or stolen?
- [O] It is a matter of logic.
- [P] Now if a paid bailee and a renter, who do not pay in the case of injury or death [38c], pay in the case of theft or loss, a borrower, who does pay in the case of injury or death, all the more so should pay in the case of loss or theft.
- [Q] *And in connection with this teaching, it has been taught, Lo, this is an argument a fortiori to which there is no possible reply.*
- [R] And how do we know that the same applies if the beast is driven away?
- [S] In this context it is stated. ‘... or injured or it dies,” and in yet another contest. namely, in the case of a paid bailee, “it dies or is injured.”
- [T] Just as in that other context the beast which is driven away is included in the same category, so in the present instance the beast which is driven away is in the same category.
- [U] *Up to now we have interpreted matters in accord with R. Aqiba. What about R. Ishmael’s view?*
- [V] R. Ishmael concurs with the position of R. Nathan.
- [W] R. Nathan says, “‘Éor’ is introduced to encompass the case in which the beast is driven away.”
- [X] And how shall we explain the matter in accord with R. Meir. He said, “It is an exegesis based upon common linguistic traits, which is limited by the rule of the *locus classicus* of the proof. Just as in the latter context an oath is

imposed in the case of what happens under constraint. so here an oath is imposed in the case of what happens under constraint.”

[Y] [R. Meir holds that R. Aqiba] also interprets the matter like R. Nathan. for R. Nathan says, “‘or dies’ is stated to encompass the case of a beast that is driven away.”

[Z] *R. Yudan raised the question:* “If one has laid claim that the beast was stolen under constraint. saying to the owner, ‘Armed robbers came and took it,’ what is the law as to one’s having to pay double the value of the beast in the case of constraint? [That is. the paid bailee claims the beast was stolen under constraint. He has taken an oath to free himself from double payment, thus Ex. 22:9. Does he have to pay if the oath is false?]”

[AA] *Said R. Yosé,* “[*Certainly not.*] *For if it were so, we should have to teach in the following tradition that there are occasions in which even the paid bailee and renter have to pay double damages, as it has been taught:* We find no case in which a paid bailee and a renter have to pay double damages in a case of a claim of an accident under constraint. [Now if the man had to pay, in line with Yudan’s question, this statement could not have been made.]”

[CC] And [furthermore.] *it has been taught in this connection:* This exegesis [, proving that a borrower has to pay in the case of a theft or loss of the beast on the basis of the fact that a paid bailee has to pay] is an argument a fortiori that is not subject to a contradiction.

[DD] And in this regard, R. Hanina pointed out, “If you say otherwise, you turn out to claim that this is an argument a fortiori that is subject to contradiction. *For one might then contradict the proposed argument a fortiori as follows:* Now we find in the case of the paid bailee and the renter that he does pay double damages. But will you say the same rule in the case of the borrower, who does not pay double damages under any circumstances? *Thus it has been taught in this regard,* ‘Lo, this is an argument a fortiori that is not subject to contradiction.’ [That is, if we were to maintain that the paid bailee and borrower paid double damages, we

could reply to the argument a fortiori that you cannot say the same of the borrower, who under no circumstances must pay double damages.]"

- [I:4 A] ["If the owner was with it, he shall not make restitution" (Ex. 22:15).] You state, "If the owner was with it, he shall not make restitution." What is the law as to the bailee's having to take an oath [that he has not done injury to the beast]? [For if he had done so, he would have had to make restitution, even though the owner was present. We know that in the case of the unpaid bailee, an oath frees the man even from liable for having done injury
- [B] R. Zira said, "He does take an oath [that he did not do injury to the beast]."
- [C] *R. Haninah and R. La both say, "He does not take an oath."*
- [D] *The following statement of a Tannaite formulation supports the position of R. Haninah and R. La [that if in the presence of the owner one does injury, he is exempt from an oath]:*
- [E] In the case of a beast that is lamed, driven off, or deceased, the paid bailee and renter are exempt, and in the case of one who borrows the beast, if the accidents took place in the presence of the owner, he is exempt. If it took place not in the presence of the owner, he is liable. In the case of the beast's being lost or stolen, on account of which the paid bailee and the renter are liable, is it not an argument *a fortiori* that, in the case of one who borrows the beast, if the accident takes place in the presence of the owner, the borrower should be exempt, while if it takes place not in the presence of the owner, he should be liable?
- [F] *In the view of one who says that it is self-evident that he takes an oath, does he have to make restitution [at all]? [Now we have just seen that we have had to construct an argument a fortiori to prove that in the case of the theft or loss of the beast one is liable on that account when the owner is not present, even where the guardian has not transgressed in any way. It thus is implied that in any case in which the accident takes place in the presence of the owner, one is exempt, while in the absence of the owner, one is liable. Since we have shown that, in the case of the bailee's act of transgression in the presence of the owner, he is liable, surely in his absence he will be liable. It follows then that when the owner is absent, one surely will be liable in such cases. One is exempt when the owner is present only when the bailee has done no wrong. So the reason that we must prove through the argument a fortiori that one is liable when the owner is absent in a case of loss or*

theft of the beast is the underlying assumption. That is, when one has committed a transgression in the presence of the owner, he will be exempt. Now in accord with the two cited authorities, such a proof is necessary regarding a case where there is no act of transgression leading to theft or loss of the beast when the owner is absent.]

- [G] *R. Hanina in the name of R. Yudan finds support for R. Zira's position [that an oath is required even when the accident takes place in the presence of the owner] in the following Tannaite formulation:*
- [H] A borrower, to whom the Torah applied a strict rule, when the owner is present, is exempt. When the owner is not present, he is liable. A paid bailee, to whom the Torah applied a lenient rule, all the more so should be exempt when the owner is present, and liable when the owner is absent. [That is, the borrower has to pay restitution in the case of injury, ransom, or death. But if these events take place in the presence of the owner, he is exempt. The paid bailee, who is under a more lenient rule in that he is exempt in the stated instances, all the more so should be liable for theft or loss only when the owner is absent. But if the owner is present, he surely should be exempt.]
- [I] [Now we note that the foregoing statement has omitted reference to the unpaid bailee. He deems that sort of bailee to be subject to the same rule as the borrower. The somewhat complex argument that follows rests upon this assumption.] *Now if you say that this proof is required to prove that an oath [is not required when one has committed a transgression in the presence of the owner,] the stated proof should make explicit reference to the paid bailee and renter. [For the authority of the teaching deems the renter to have the same status as the unpaid bailee. Since he has made reference only to the paid bailee, it is inferred that the obligation of the renter applies only when one has committed a transgression in the absence of the owner, just as is the case with the unpaid bailee; if the whole point of the proof were to demonstrate that one is exempt from the obligation to take an oath, why has the renter not been included? For the same argument a fortiori can be built on the foundation of the status of the renter, showing that if the incident takes place in the presence of the owner, he is exempt even when he has omitted a transgression. So no oath would be subject to proof.] It follows that the argument a fortiori serves only to prove the exemption from the requirement of making restitution [if the owner is present]. [The underlying assumption is that if one commits a transgression in the presence of the owner, he is liable. It follows that the exemption applying to the one who borrows the beast, when the accident takes place in the presence of the owner, is brought about*

solely by taking an oath that the borrower has not committed a transgression. The omission of the renter is because the argument a fortiori does not apply to him. For in his case even if he did not commit a transgression, even if the owner is absent, he does not have to make restitution; if he committed a transgression, even in the presence of the owner, he is liable. So under all circumstances, as Zira maintains, he must make an oath that he did not commit a transgression, whether in the presence or in the absence of the owner.]

[J] *Now there is a difficulty for the position of R. Zira* [who maintains that under all circumstances, when the bailee has committed a transgression, even when the owner is present, he is liable to an oath. He would thus maintain that that is so in the case of a borrower. [The following expresses Zira's viewpoint:] [Zira says,] "A borrower, if the owner is present, takes an oath. If the owner is not present, he makes restitution. A paid bailee, if the owner is present, takes an oath. If the owner is not present, he makes restitution." An unpaid bailee, whether the owner is or is not present, takes an oath. [A paid bailee, if the owner is present, takes an oath that he did not commit a transgression].] *Now can you say so?* As to matters for which a borrower makes restitution, a paid bailee takes an oath. [In the cases of injury, ransom, and death, when the owner is absent, it is logical that the paid bailee, subject to a less strict rule, should take an oath on such accounts.] As to matters on account of which a paid bailee takes an oath, the unpaid bailee should be exempt. [In the matters of injury, ransom, and death, when the owner is absent, it is logical that the unpaid bailee, who is subject to a less strict rule, should be exempt, and that without taking an oath at all! (vs. K.)] In the case of matters on account of which the paid bailee makes restitution, the unpaid bailee should take an oath[, that is, theft or loss, in the absence of the owner]. [It is logical that the unpaid bailee should take an oath on that account.] [Now the problem of Zira's position is spelled out:] Now you teach [in the Tannaite formulation in accord with R. Zira that in a case of transgression] in the presence of the owner, [one is liable, and that is so even in the case of] an unpaid bailee[, who then has to take an oath that he has not transgressed]. [Then the unpaid bailee has the status of a paid bailee in this matter. For the paid bailee also has to take an oath that he has not transgressed, even when the owner has been present in the case of the accident. So how can we teach in the present Tannaite formulation that the unpaid bailee is subject to a less strict rule, when that clearly is not the case!]

[K] *And there are those who wish to raise the question* [in yet a further connection]: *Now you wish to teach* both in the case of the unpaid

bailee and in the case of a paid bailee, whether or not the owner is present [that the law is as stated]. [That is, when there has been an act of transgression in the presence of the owner, the law covering these types of bailee is that which covers the borrower. So the question is how in the case of the unpaid bailee and the paid bailee, whether or not the owner is present, we can impose the same rule. Yet in both instances Zira holds one must take an oath.]

[L] Said R. Abin, ‘ [The authority of the Tannaite formulation that accords with R. Zira, and also R. Zira, derive their position from the verse:] ‘For every sort of transgression [‘breach of trust’ that covers the unpaid bailee]. [The meaning is that under all circumstances in which there has been a transgression, even in a case in which the master is present, one is liable for an oath. Since that is the case for the unpaid bailee, who is subject to a lenient rule, it also is the case for the other sorts of bailees. All of them then are liable in the case of transgression, even in the presence of the owner, and exempt themselves from having to make restitution solely through taking an oath that they have not committed a transgression.]”

[M] [Objecting to this proof deriving from Scripture,] R. Mana said, “[We cannot impose the same rule on all sorts of bailees, for] we do not find that the Torah has treated as equivalent a case of theft or loss involving a borrower. [When the owner is present in a case of injury, ransom, or death, one is exempt from restitution or an oath; when the owner is not present, one is liable. So the Torah does distinguish one situation for another. It is, after all, on the basis of the argument *a fortiori* built on the foundation of the borrower that we have derived the law covering the paid bailee.] Therefore should we treat as [merely] equivalent the unpaid bailee and the paid bailee, in the case of injury, being driven off, or death? [Yet you have claimed that even in the case of the unpaid bailee and the paid bailee, and even in the case of injury, ransom, and death, all are deemed equivalent, under all circumstances, when there has been an act of transgression, so that in an accident, even in the presence of the owner, one is liable to take an oath. The upshot is that the unpaid bailee is liable when there has been a transgression solely when the owner is absent, and likewise the paid bailee is liable in a case of theft or loss when the master is absent, and so on.]”

[N] [Now if you further object that the proof adduced by Abin yet stands, as against Mana’s statement, in fact, that proof text serves a quite different purpose from the present one. Namely, if you say,] “What of the proof text [cited above]?” it is to serve the purpose of

the House of Shammai, [who maintain,] “For every sort of transgression” [means that one is liable if he only has given thought to doing the deed, even not actually to doing it].

[O] And as to the House of Hillel [in regard to the same verse], how do they interpret the proof text adduced by the House of Shammai, “For every sort of transgression”?

[P] *They interpret the verse to apply to a case in which one has committed a breach of trust through an agent [and not on his own action]. [That is, even if one tells a third party to commit the deed, he is liable for the consequences, and that is the meaning of the encompassing language of the cited verse.]*

[I:5 A] [With reference to the following pericope of the Mishnah: **[If] he tipped over the jug and took a quarter-log of liquid from it, and it broke – he pays only the value of the quarter-log he has actually removed. But if he raised it up [so making acquisition of it], and took a quarter-log of liquid from it and it broke, he pays the value of the whole jug [M. B.M. 3:9I-L], R. Yosé bar Haninah raised the question:** “[Raising the issue of the meaning of ‘putting one’s hand to one’s neighbor’s goods’ (Ex. 22:8), specifically, asking whether one is liable only when he causes loss, or whether, merely by laying hands on the bailment, one becomes liable,] what is the meaning of the Tannaite authority’s statement, ‘He takes’? [It should only be a case of liability if] he [actually] took [wine]. [That is, is the intent to M. 3:9 to say that one *has* taken wine? Or perhaps the law is that if one raises up the jug in order to take wine, one will be liable, on the grounds that ‘putting one’s hand’ need not involve loss to the neighbor. So at issue is whether the framer of the pericope means actually having taken wine (thus in the past tense) with the implication that ‘putting one’s hand’ must involve loss, if the bailee is to be liable.]”

[B] [In fact, the question is not pertinent in the present context,] *for has not R. Hoshaiah taught, “If the jar broke and the wine turned, one pays the entire value of the keg”?* Now is it not clear that the reason that the keg’s wine turned was not because the man has spoiled it? [That is, because the man removed the quarter-log of wine, he spoiled the whole jug. Wine spoils when the jug is only partly full. Consequently, as far as Hoshaiah is concerned, if the wine turned in consequence of the man’s taking only a quarter-log of wine, he is responsible for the whole thing. The issue of no actual loss is irrelevant.]

[C] R. Samuel, R. Abbahu in the name of R. Eleazar: “The ‘putting one’s hand’ that is stated with regard to an unpaid bailee involves liability only if one will actually cause loss.”

[D] R. Samuel raised the question before R. Abbahu, “What is the meaning of this saying, [‘one is not liable unless he actually causes loss’]?”

[E] “Is it when the man actually takes the jug and causes loss in so doing [that he is liable]? Or, even if the man did not cause the loss [but the loss happens on its own on account of taking the jug, is he also liable]?”

[F] *He said to him, “Is this not the question raised by R. Yosé bar Haninah, ‘Is it, “He will take,” or “He actually took”?’ If you say, ‘He will take,’ then even if the man did not actually cause the loss, he will be liable. If you say, ‘He took,’ [the man is not liable until the loss actually takes place the reason of the man’s direct action]. If you say, ‘He will take,’ then whether the bailee put it back in its original place or put it back somewhere else, he is exempt. If you say, ‘He took,’ then if he put it back in its original place, he is exempt. If he put it back in some other place, he is liable.”*

[I:6 A] R. Abbahu in the name of R. Yosé, “Guarding a bailment is stated with regard to an unpaid bailee, guarding also is stated with regard to a paid bailee. But the requirement of ‘guarding’ stated with regard to the unpaid bailee is not similar to that of the ‘guarding’ stated with regard to the paid bailee.

[B] “As to the act of guarding stated with respect to the unpaid bailee, if the bailee guarded the object in a manner wholly adequate to what is normally required, he is exempt [if something happens to it].

[C] “But the sort of guarding stated with respect to the paid bailee is such that they assess the matter only in regard to the physical capacity of the guardian. [The guard has to keep the bailment with his full capacities, since he accepts a salary.]

[D] “Therefore they assess the man. If he was suitable for the required guardianship [and carried out the labor to the best of his ability, he is exempt [should an accident occur]. If not, he is liable. [That is, if he did not do as much as he might have, he will be liable.]

[E] “But they do not say, ‘If someone else had been there, he might have saved the beast, so if he saved the beast, he is exempt, and if he did not save the beast, he is liable.’”

- [I:7 A] R. Eleazar in the name of R. Hoshaiyah: “‘Putting one’s hand’ is stated with reference to a paid bailee, and ‘putting one’s hand’ is stated with reference to an unpaid bailee, and the ‘putting of one’s hand’ stated with respect to an unpaid bailee is not similar to the ‘putting of one’s hand’ stated with reference to a paid bailee.
- [B] “‘The putting of one’s hand’ stated with reference to the unpaid bailee is such that one is not liable until he actually draws [the beast and so effects acquisition]. The ‘putting of one’s hand’ stated with reference to a paid bailee is such that once one has laid his staff or his cloak on the beast, [he has acquired it and so] is liable [for what happens to it and for misappropriating it].”
- [C] R. Yosé bar Nehorai heard this statement and he said, “I do not accept this statement at all. [For that is not Hoshaiyah’s opinion.] But the two forms of guardianship are identical to one another. One is liable only when he will have drawn [the beast to himself and so have acquired it].”
- [D] *R. Ammi in the name of R. Eleazar [said], “And so did R. Hoshaiyah teach [as we shall now see]:*
- [E] “If ‘putting forth one’s hand’ had not been stated with regard to the unpaid bailee, it would not have been necessary [to state the rule]. I should have derived the rule from an argument *a fortiori* based upon the law governing the paid bailee.
- [F] “Now if the paid bailee, on whom the Torah has applied a stricter rule, is liable only when he will have drawn the beast, an unpaid bailee, to whom the Torah has applied a more lenient rule – is it not logical that he too should be liable only when he actually draws the beast?
- [G] “In what regard is ‘putting forth of hand’ stated? It is stated with respect to an unpaid bailee. For it is not necessary to state a strict rule for the paid bailee, since in his regard, if he has merely placed the staff or cloak on the beast, he is liable.”
- [H] R. Yosé says, “If you say so, you turn out to derive a rule for that element of the argument which presents the basic law and so to apply a stricter rule to the lesser of the two parts of the argument *a fortiori*.
- [I] “For one may reply to you, ‘Now if a paid bailee, to whom the Torah applied a stricter rule, is liable only when he has drawn the animal, an unpaid bailee, to whom the Torah has applied a less

strict rule, even if he has actually drawn the beast, should be wholly exempt!

[J] “But thus should matters be phrased: If ‘putting forth of one’s hand’ stated with respect to a paid bailee had not been made explicit, it would not have been necessary. For I should have derived the same rule from the case of the unpaid bailee.

[K] “Now if an unpaid bailee, to whom the Torah has applied a less strict rule, is liable only when he draws the animal, a paid bailee, to whom the Torah has applied a stricter rule, when he has drawn the animal, is liable.

[L] “In what regard then is the ‘putting forth of one’s hand’ stated? It is stated with respect to a paid bailee. And it is not necessary to state a strict rule in his regard. As soon, therefore, as he has laid his staff or cloak on the beast, he is liable.”

8:2

[A] [If] one said to an unpaid bailiff, “Where is my ox?”

[B] (1) he said to him, “It died,” but in fact it had been lamed, driven off, stolen, or lost,

[C] (2) “It was lamed,” but in fact it had died, or been driven off, stolen, or lost,

[D] (3) “It was driven off,” but in fact it had died, been lamed, stolen or lost,

[E] (4) “It was stolen,” but in fact it had died, or been lamed, driven off, or lost,

[F] (5) “It was lost, “but in fact it had died, been lamed, driven off, or stolen,

[G] “I impose an oath on you,”

[H] and he said, “Amen” – he is exempt.

[I:1 A] Rab said, “He is exempt on grounds of having taken a false oath of bailment [for there was no money-claim against him in any event, since an unpaid bailee is not liable in the stated cases]. But he is liable on the count of having taken a rash oath. [That is, he did take a rash oath, and it was false.]”

[B] R. Yohanan said, ‘Since it is a religious duty [for the bailee] to ease the mind of the bailor, [for, after all, the bailee is responsible for the other party’s loss of capital,] he is not liable on the count of having taken a rash oath.’”

[C] *In Rab's opinion*, then, is it not a religious duty to ease the mind of the bailor?

[D] One's duty is to ease his mind by stating what is true, not what is false.

[E] *R. Yohanan raised the question*: "As to the oath imposed on a wife accused of infidelity, what is the law as to their being liable on the count of taking a rash oath? [For example, if the woman really did commit adultery, but her merit held the consequent punishment in suspense, so that she did not die as anticipated, is she then liable on the count of the rash oath?]"

[F] *How shall we interpret this matter?* [What sort of case is possible] If it is a case in which the woman committed the transgression in error [e.g., not realizing that the man was not her husband,] or took the oath [in error], we then do not deal with a woman accused of infidelity at all!

[G] and if it is a case in which the woman deliberately committed the transgression or took a false oath, there is no issue of an offering, which does not apply in a case of deliberate transgression anyhow].

[H] *The opinion of Rab accords with the view of R. Aqiba and not with that of R. Ishmael*[. for it is only Aqiba who maintains that a rash oath may concern that which has happened in the past, and Rab speaks of what has happened in the past].

[I] [*The question raised by Yohanan*] *accords with the view of R. Meir* [who maintains that the oath administered to the accused wife pertains as much to what happens in the future as in the past]:

[J] For R. Meir said, "[The woman states,] 'Amen' [to the oath,] 'Amen that I shall not become unclean [in the future].'" [Thus the question accords also with Ishmael, who deems the rash oath to pertain solely to what will happen. Of still more importance, we now have a case of an oath administered to a wife accused of infidelity. When she takes the oath, it is with full knowledge of what she is doing, but thereafter the matter escapes her attention. So we have an inadvertent violation of an oath covering what will happen in the future.]

[K] *Nonetheless, you have in hand a difficult matter[, for Yohanan has phrased his question (E) in line with a minority view, namely, Meir's].*

8:3

[A] “Where is my ox?”

[B] (1) and the bailiff said to him, “I have no idea what you’re talking about”
– but in fact it had died or been lamed or driven off or stolen or lost
–

[C] “I impose an oath on you,”

[D] and he said to him, “Amen” –

[E] he is exempt.

[F] (2) “Where is my ox?”

[G] He said to him, “It got lost” –

[H] “I impose an oath on you” –

[I] and he said, “Amen” –

[J] and witnesses testify against him that he had eaten it –

[K] he pays him compensation for the principal.

[L] If he conceded on his own, he pays compensation for the principal, the added fifth, and a guilt offering.

[M] (3) “Where is my ox?”

[N] he said to him, “It was stolen”

[O] “I impose an oath on you”

[P] he said, “Amen” –

[Q] and witnesses testify against him that he had stolen it –

[R] he pays twofold compensation.

[S] [If] he confessed on his own, he pays the principal, an added fifth, and a guilt offering [but not twofold compensation (M. 5:4)].

[T] (4) He said to someone in the market, “Where is my ox which you stole?”

[U] and he says, “I never stole it,”

[V] but witnesses testify against him that he had stolen it –

[W] he pays twofold restitution.

[X] [If] he had slaughtered and sold it, he pays fourfold or fivefold restitution.

[Y] [If] he saw witnesses [to what he had done] coming along and said, “I stole it, but I never slaughtered or sold it,”

[Z] he pays only the principal.”

- [I:1 A]** Said R. Yohanan, “*And it has been taught likewise*” [that when the claim is that the beast had been lost, the bailee does not pay double damages but only when the claim is that the beast has been stolen is there a liability for double damages, and that is the case when the bailee has taken an oath]:
- [B]** **If one laid claim that the beast was lost and the bailee took an oath to that effect, but then confessed [otherwise], whether this was before witnesses came or after witnesses came, [the bailee] pays restitution of the principal, the added fifth, and a guilt offering [as at Lev. 6:5ff]. [Double damages do not apply in the case of this claim on the part of the bailee.]**
- [C]** **But if he laid claim that the beast had been stolen and took an oath to him, but then confessed [otherwise], [if this confession was] before witnesses came along, he makes restitution of principal, an added fifth, and a guilt-offering. [He has confessed in the case of a fine, and is therefore exempt.] If it was after the witnesses came along [that he confessed, he pays double damages [now being liable to the fine,] and a guilt- offering.**
- [D]** **“And the added fifth is included in the double damages that are coming to the plaintiff,” the words of R. Jacob [T. B.Q. 8:8G-J].**
- [E]** They said to R. Jacob, “Now where do we find a guilt-offering without [in addition a penalty of] an added fifth?” [That is, Jacob has maintained that the added fifth is covered by the double damages. That then would be the case, even where the double damages do not suffice to reach the added fifth, for instance, if the double damages concern a theft worth four zuz, thus eight in all. The added fifth is only a zuz, covered, in Jacob’s opinion, within the additional four zuz that the guilty party paid as the double damages. It turns out that there is no real added fifth at all. So the man brings a guilt-offering without an added fifth in fines paid to the victim.]
- [F]** He said to them, “[My rule applies to a case in which the double damages cover the added fifth]. If one took an oath, then did so a second and yet a third time, [you will have a sequence of added fifths covering a single principal, so that the added fifths are of the same amount as the double damages,] and that then would be a case of a guilt-offering without an added fifth].”
- [G]** And the sages[, differing from R. Jacob in principle and maintaining that there is no added fifth in a case in which one went and took an

oath,] say, “An added fifth applies to the principal. An added fifth does not apply to oaths[, so we do not count up the number of oaths and calculate an added fifth for each count].”

[H] Another matter: “[When one has sinned and become guilty, he shall restore what he took by robbery, or what he got by oppression, or the deposit which was committed to him, or the lost thing which he found, or anything about which he has sworn falsely;] he shall restore it in full and shall add a fifth to it [and give it to him to whom it belongs, on the day of his guilt- offerings” (Lev. 6:4-5) [meaning that we may have a number of added fifths applicable to a single principal, as Jacob maintains. Still they will differ from Jacob, maintaining that an added fifth does not apply when one pays double damages].

[I] Said R. Zira, “*And it was taught likewise* [in accord with the sages who differ from Jacob and hold that an added fifth does not apply in a case of double damages]:

[J] “If one claimed the beast was lost and [before] he took an oath to him separated his ram [as a guilt-offering, that is, before he confessed, he set apart the ram that he would require after he confessed, the animal is deemed to be validly consecrated]. For, [since] even if he had confessed after witnesses came along, it would have been deemed consecrated, here too the beast is deemed consecrated. [In a case in which one claims the beast was lost, there is no difference whether the witnesses came before or after the confession. In either case, one brings the guilt-offering on account of the false oath.]

[K] “If one claimed that the beast had been stolen, and took an oath on him, and set aside an offering [to cover the false oath], since if he had confessed to the false oath after the witnesses came along the beast would not have been deemed consecrated, so here too he has not consecrated the beast. [The sages hold that, when the witnesses give their testimony, the man will be liable to a double indemnity, and he when is not liable for bringing an added fifth and a guilt-offering. Likewise in the present case, we take account of the possibility that witnesses may come along before the man confesses the fraud. Consequently, designating the beast may come to nought, and we deem the designation null.]”

[L] But in the view of R. Jacob, [in this second case,] the man has effectively consecrated the beast, since as far as Jacob is concerned, one brings a guilt-offering even when he is liable to the double indemnity].

- [I:2 A] [Maintaining that the claim of a bailee renders the bailee subject to the same penalties to which a perpetrator of the deed alleged by the bailee to have taken place would be liable,] R. Yohanan said, “He who claims to his fellow [that the bailment was] stolen [and proves to have sworn falsely] pays restitution of a double indemnity just as if he himself had stolen the beast]. If he claimed that the beast had been slaughtered and sold, he pays fourfold or fivefold damages.”
- [B] *There [in Babylonia, in concurrence with this statement], they have said, “He pays fourfold or fivefold damages.”*
- [C] *R. Pedat in the name of R. Hoshaiah said, “Now does that which they taught support R. Yohanan?”*
- [D] **“Where is my ox?” He said to him, “It got lost” – “I impose an oath on you” – and he said, “Amen” – and witnesses testify against him that he had eaten it – he pays him compensation for the principal. If he conceded on his own, he pays compensation for the principal, the added fifth, and a guilt offering [M. 8:3F-L].** [If the man claimed it was stolen, took an oath, and had to pay compensation, he pays twofold compensation. Now, as we see in the Mishnah, that is the case, even though, in fact, he had eaten the beast.] Now is it possible to eat the beast without slaughtering it [and yet, while the man had slaughtered the beast, he does not pay fourfold or fivefold compensation! This would then contradict Yohanan’s view.]”
- [E] Said R. Haggai, “Interpret the Mishnah law to speak of a case in which a third party slaughtered the beast[, in which case the bailee in no way bears responsibility for the act of slaughter, hence for fourfold or fivefold damages].”
- [F] *And from which [passage do we] state [that there really is a difficulty in the reasoning of R. Yohanan]? It is from the following: He said to someone in the market, “Where is my ox which you stole?” and he says, “I never stole it,” but witnesses testify against him that he had stolen it – he pays twofold restitution [M. 8:3T-W]. “I impose an oath on you” – he said, “Amen.” He is liable [if he is guilty of stealing and killing the beast, to fourfold damages] because he addressed someone in the market place. But if he had said the same to someone of the types of bailee, the latter would be exempt. [That is, the Mishnah addresses a case in which someone not a bailee (the actual thief) falsely claims he did not steal and kill and sell the beast. In that case, he is subject to fourfold or fivefold damages. Here we deal with the thief himself. But if it was a bailee. the bailee pays only double damages, not*

fourfold or fivefold damages. Thus one who claims the beast has been stolen and slaughtered does not acquire the status of the thief who does that sort of action, contrary to Yohanan's claim].

[G] *The Mishnah speaks of a case in which the man ate the beast and afterward took an oath while the view of R. Yohanan reflects a case in which one took the oath [that acquired the beast for the thief] and afterward ate the beast [and that accounts for the differing rules]. [The owner – the thief – does not pay fourfold or fivefold damages. But if one ate the beast and afterward took the oath, not being owner of the beast, he indeed will be subject to fourfold or fivefold damages.]*

[I:3 A] Said R. Yohanan, 'In the case of a lost object – he who claims to his fellow that [he has found the object but that] it was stolen, he is liable [to pay double indemnity]. [Such a claim would be expressed as follows:] Where is the object that I have lost?' 'It has been stolen.'"

[B] Said R. Yohanan, "He who claims to his fellow [who has lost an object] that [the defendant has found the object but that] it was stolen, is liable [to pay double indemnity] only after he has taken an oath [and then witnesses prove that he had lied]."

[C] *What is the scriptural basis for this opinion?*

[D] Here a "putting forth of hand" is stated [with reference to Ex. 22:7-8: "If a man delivers to his neighbor money or goods to keep, and it is stolen out of the man's house, then, if the thief is found, he shall pay double. If the thief is not found, the owner of the house shall come near to the judges, to show whether or not he has put his hand to his neighbor's goods]."

[E] And there a "putting forth of hand" is stated [with reference to Ex. 22:10-11, an unpaid bailee: "If a man delivers to his neighbor an ass or an ox or a sheep to keep, and it dies or is hurt or is driven away, without anyone seeing it, an oath by the Lord shall be between them both to see whether he has not put his hand to his neighbor's property]."

[F] Just as the "putting forth of hand" is stated in the latter instance only after the taking of the oath, so the "putting forth of hand" stated in the former instance applies only after the taking of the oath. [Thus, the sequence is the oath, then the proof that the oath is false and that the man is liable. But if the witnesses come prior to the oath, the man is not liable. Essentially, this is another way of applying the principle that the oath acquires the object for the man,

and if the man has not acquired the object, e.g., taking the oath. he is not liable to the penalties for having stolen it.]

[G] Said R. Yohanan, “If one has claimed [in his defense] that the object was lost, and afterward he claimed that it was stolen, he is exempt [should witnesses prove that he had stolen the object]. [The second oath is null and the defendant does not pay double damages. Once he took the first oath, he is quit of the owner and owes no further oath. The second oath is not effective to impose the liability to double indemnity.]”

[H] [Pursuing this line of thought,] *R. Yohanan raised the question:* As to the oath taken that the object has been stolen, what is the law as to one’s being liable on the count of having taken a rash oath? [Even though the oath is null, for the reasons stated, is the oath nonetheless subject to penalty on the quite separate count specified here?]”

[I] *The opinions assigned to R. Yohanan are confused. There he has said that if the defendant claimed that the object had been lost, and he took an oath on that account, and afterward he claimed that the object had been stolen [and took a second oath], he is exempt [on the second oath]. and here he has said this.* [That is, how can he raise such a question at all? Clearly, since the man is exempt from the oath of bailment, who should he not be liable in that regard on the count of a rash oath? There is no other liability to obviate the effect of the rash oath. So what is the question Yohanan has raised?] *There it is self-evident to him. and here does he require further information? [There it is self-evident that the man is not liable on the count of the oath of bailment, and here is he in doubt.]*

[J] *[No, that is not the case.] What caused him doubt did he clarify and settle. [That is, after raising the question, it became clear to him that the second oath is punishable on the count of being a rash oath.]*

[I:4 A] R. Hiyya bar Joseph said.”He who presents to his fellow the claim [that the bailment was] stolen is not liable [for double damages] unless he denies the claim in court [and takes an oath there]. [But an oath outside of court is null].”

[B] *Now how shall we interpret this statement?*

[C] If it already is established [by a court] that he is liable to his fellow for an oath, even if he takes the oath outside of court, he must be

liable [should it be a false oath. since it is a court oath in any event].

[D] *But thus we must interpret the case, namely, involving a man who sees people coming to impose an oath on him, so he intervenes and adopts the oath for himself [and in such a case, the oath is null so far as the liability for double damages is concerned].*

- [I:5 A] R. Hiyya in the name of R. Yohanan: “[One who takes an oath that the beast was stolen is liable for double payment when witnesses come thereafter and testify that they saw the beast] standing at the crib of the man.”
- [B] *R. Zira raised the question:”Precisely what is stated thereby? Is it [that the double indemnity applies] when [the beast] is standing [at the man’s crib]? Or is it that [the penalty applies even when it is standing [at the man’s crib]? [Do the witnesses report that they have not seen the man lay a hand on the beast, but they saw the beast standing at his crib? Then, if they had seen him lay a hand on the beast he already will have acquired the beast which then belongs to the man. In this case, he will not be subject to the double indemnity. Or perhaps, even if it is standing at his crib, and all the more so, if the man has laid a hand on the beast, he is liable for the double indemnity.]*
- [C] *“Now if you say, When they testify that the animal is standing at his crib,’ then matters are in good order. But if you say, ‘Even if it is standing,’ then the opinions attributed to R. Yohanan are confused.”* [If the point is that the beast is standing at the crib, and only in such a case is the man liable for the double indemnity. but if he had laid a hand on the beast, he would be exempt from double indemnity, then there is no problem. For Yohanan consistently maintains that when the man took the original oath, he has acquired the beast. So he is not subject to double indemnity, as a thief by reason of the latter oath. Then the same concept applies here, namely, that the animal is in his own domain now. But if we say, “even if it is standing,” [then Yohanan holds inconsistent opinions, as we shall now see:]
- [D] “For there R Yohanan said. ‘If one claimed that the beast was lost and took an oath to the other and then separated an animal, and afterward he claimed that the beast was lost by accident, he is exempt [from double indemnity] ‘ [That is to say by taking the original oath, the man already is subject to liability He then does not become liable for the double indemnity by taking the second oath which he took when he changed his plea]. And here do you say this [that *even* if it is standing at the man’s crib, and all the more so if he put a hand on the beast, he

is liable for double indemnity]? [Why should that be the case, when he laid hand on the beast, he acquired the beast, as R. Yohanan says with regard to the original oath So why should he suffer the double indemnity?]

[E] Said R La, “The case above is different from the present one [Yohanan’s reason is not that the first oath has effected acquisition of the beast He has a different reason, namely, through confessing] through this oath, he has carried out his obligation [to the owner] [The owner has no claim on him once he has confessed to taking a false oath Consequently, he is not liable for double indemnity for the claim met by the second oath But if he actually laid a hand on the beast it is quite a different case. in which under all circumstances he is liable for double indemnity].”

[I:6 A] [*The associates*] raised a question concerning the position of R Zira, [who maintains that in a case in which one claimed the beast was lost took an oath, then went and claimed the beast was stolen, and took yet another oath, the accused is exempt from double indemnity because he has acquired the beast by reason of having taken the first of the two oaths; and who further maintains that the same conception applies if the man laid a hand on the beast namely, the man is exempt since he thereby acquires the beast. Now, in regard to this position the question is raised as follows]: **“Where is my ox?” he said to him, “It was stolen” “I impose an oath on you” he said, “Amen” – and witnesses testify against him that he had stolen it – he pays twofold compensation. [If] he confessed on his own, he pays the principal, an added fifth, and a guilt offering [but not twofold compensation] [M. 8:3M-S].** [If, further, he had slaughtered the beast and sold the meat, he would pay fourfold or fivefold damages. Yohanan maintains this position.] Now why should the man be liable for fourfold or fivefold damages under the stated conditions?] For here, since the man has drawn the beast and so acquired title to it, when he claimed that the beast as lost and took an oath to that effect, henceforward, when he claims the beast was stolen, he should be exempt. [That is, Zira treats laying a hand on the beast as tantamount to claiming that the beast was lost and taking an oath. In both cases the man has acquired the beast. Henceforward it is as if he then claims that it was stolen. In such a case, so far as Yohanan is now represented, the man is exempt from double payments, and obviously from fourfold or fivefold payments should he slaughter the beast and sell the meat.]

[B] [There is no contradiction, if we] interpret the rule to apply to a case in which one took an oath but only afterward slaughtered the beast, [in

which case one will not be liable, having acquired the animal]. But if he slaughtered the beast and then took the oath, he has not acquired the animal as his own, and hence he is liable for the twofold or other damages].

[C] *The disciples of R. Hiyya bar Luliani stated*, “Interpret the case to apply to a situation in which the man slaughtered the beast while it was crouching [so that he did not draw the beast and thereby acquire it prior to the moment at which he slaughtered it].”

[II:1 A] [With regard to M. 8:3Y-Z, **[If he saw witnesses [to what he had done] coming along and said, “I stole it, but I never slaughtered or sold it,” he pays only the principal,**] is it possible to find a case in which one slaughtered the beast without selling the meat? [Can he have slaughtered the beast without having stolen it?]

[B] It is framed in accord with Sumkhos, who said, “Even though there has not been an act of theft, there still may be a culpable act of slaughter and sale.”

[C] Samuel said, “[It can well accord with rabbis, who maintain that there is no culpable act of slaughter without a prior act of theft; but in this case] the witnesses to the act of theft did not come along; but witnesses to the act of slaughter did come along. He was then still liable [and in such a case, even if he confesses, he has not effected confession of a fine, since there is no act of slaughter without an act of theft].”

[D] R Simeon b Laqish said, “If he saw witnesses to the theft coming along and he said I stole the animal,’ since his confession is nothing, he remains liable. [If] he saw witnesses to the act of slaughter coming along, and he then said. ‘I indeed slaughtered the animal,’ since his confession is substantive he is exempt. [That is, the original confession about having stolen the beast is now valid for he did not see witnesses to the act of theft. and he did confess. Thus he has confessed to the act of theft; that is a valid confession. He is exempt from the double indemnity Since he does not have to pay that he also must be exempt from having to pay fourfold or fivefold damages]”

[II:2 A] *R. Zira asked*, “If one saw witnesses to the fact that he had raped the daughter coming along, and said, ‘I did rape her,’ what is the law? [Do we deem this a valid confession or not? If it is valid, there is no fine for the rape, but there are damages to be paid.]”

[B] [We have two answers, the first as follows:] Said R Haninah The Mishnah is in accord with R Simeon, who said, “The principal matter

subject to the father's claim is a fine He has the status of one whose confession is null, and so he is liable."

- [C] And the rabbis say, "The principal matter subject to claim is not a fine He therefore has the status of one whose confession is quite valid, and so he is exempt" [That is, Simeon maintains that the thing the father really wishes to collect is the fine on account of his daughter's rape. We then do not regard the confession as valid For the man did not become liable for anything when he confessed He merely conceded the fine when witnesses were coming along. He had not himself incurred an obligation by his confession, so he is liable. and his confession is null, contrary to M. 8:3Y-Z. The sages maintain that the principal demand of the father is not the fine but the compensation for humiliation and injury. When the man confessed, it was a valid confession. since through the confession he actually became liable for a financial payment to the father of the daughter So, since this is a valid confession, when it comes to the matter of the fine it also is valid. One who confesses to a fine is exempt. Consequently, as far as the rabbis are concerned, in line with M. 8:3Y-Z, the man does not owe the fine by reason of the present confession.]

8:4

- [A] He said to a borrower [M. 8:1A2], "Where is my ox?"
- [B] (1) He said to him, "It died," but in fact it had been lamed or driven away, stolen, or lost –
- [C] (2) "It was lamed," but in fact it had died or been driven off or stolen or lost –
- [D] (3) "It was driven off," but it had died or been lamed or stolen or lost –
- [E] (4) "It was stolen," and in fact it had died or been lamed or driven off or lost –
- [F] (5) "R was lost," and in fact it had died or been lamed, driven off, or stolen –
- [G] "I impose an oath on you"
- [H] and he said, "Amen" –
- [I] he is exempt.
- [J] "Where is my ox? " –
- [K] He said to him, "I have no idea what you're talking about" –
- [L] and it had in fact died or been lamed or driven off or stolen or lost –
- [M] "I impose an oath on you"

[N] and he said, “Amen” –

[O] he is liable.

[P] If he said to a paid bailee or a renter [M. 8:1A3,4], “Where is my ox?”

[Q] (1) he said to him, “It died,” but in fact it had been lamed or driven off –

[R] (2) “It has been lamed,” but in fact it had died or been driven off –

[S] (3) “It has been driven off,” and in fact it had died or been lamed –

[T] (4) “It has been stolen,” and in fact it had been lost –

[U] (5) “It has been lost,” and in fact it had been stolen –

[V] “I impose an oath on you,” –

[W] and he said, “Amen” –

[X] he is exempt.

[Y] “It died or was lamed or driven off,” and in fact, it had been stolen or lost –

[Z] “I impose an oath on you,”

[AA] and he said, “Amen” –

[BB] he is liable.

[CC] “It was lost or was stolen,” but in fact it had died or been lamed or been driven off –

[DD] “I impose an oath on you,”

[EE] and he said, “Amen” –

[FF] he is exempt.

[GG] This is the governing principle: Whoever [by lying] changes [his claim] from one sort of liability to another sort of liability, from one count of exemption to another count of exemption, or from a count of exemption to a reason for liability, is exempt.

[HH] [If he changed his claim, by lying] from grounds for liability to a reason for exemption [from having to make restitution], he is liable.

[II] This is the governing principle: Whoever [falsely] takes an oath so as to lighten the burden on himself is liable.

[JJ] Whoever takes an oath so as to make more weighty the burden on himself is exempt.

[I:1 A] *It was taught:* [If the man took an oath that had the effect] neither of imposing a stricter rule nor of imposing a less strict one, he is liable.

[Thus. if the person's oath removed one sort of liability and imposed some other, he is liable.]

[B] *Said Rabbi, "A Tannaite formulation of the rule has said so: [If] one said to a borrower, or a paid bailee, 'Where is my ox?' He said to him, 'I do not know.' [I impose an oath on you.] 'Amen!'* And afterward he confessed that he had eaten the beast – he is liable. [In this case the plea of the defendant shifted the burden from one sort of liability to some other. Nonetheless, he is liable.]”

[I:2 A] What is the law as to his saying to him, “Come and take an oath to me that you did not give thought to stealing the animal”? [The question applies to a case in which there is a claim that requires the bailee to pay monetary compensation. Can the plaintiff impose an oath of the present character?]

[B] But in any event does the defendant not have to pay monetary compensation? [So why should such an oath be imposed at all by the plaintiff?]

[C] [The point of the question is somewhat different.] *What is the law as to the plaintiff's saying to him, "Even though you give me such-and-such compensation, I really want what is mine, which you [still] have"?* [This question is not answered.]

CHAPTER NINE

THE STRUCTURE OF YERUSHALMI SHEBUOT

Whether or not the Talmud of the Land of Israel is carefully organized in large-scale, recurrent structures and guided by a program that we may call systematic forms the principal question addressed by an academic commentary. The preceding chapters therefore have pointed toward the presentation set forth here. By “structure” I mean, a clearly-articulated pattern that governs the location of fully-spelled out statements. By “system,” I mean, a well-crafted and coherent set of ideas that explain the social order of the community addressed by the writers of a document, a social philosophy, a theory of the way of life, world view, and character of the social entity formed by a given social group. I see a collective, anonymous, and political document, such as the one before us, as a statement to, and about, the way in which people should organize their lives and govern their actions. At issue then in any document such as the remarkable one before us is simple: does this piece of writing present information or a program, facts to whom it may concern, or a philosophically and aesthetically cogent statement about how things should be? The connection between structure and system is plain to see. From the way in which people consistently frame their thoughts, we move to the world that, in saying things in one way rather than in some other, they wish to imagine. Modes of formulating thought adumbrate modes of imagining the world in which people wish to live, to which they address these thoughts.

If the document exhibits structure and sets forth a system, then it is accessible to questions of rationality. We may ask about the statement that its framers or compilers wished to make by putting the document together as they did. But if we discern no structure and perceive no systematic inquiry or governing points of analysis, then all we find here is inert and miscellaneous information, facts but no propositions, arguments, viewpoints. Now as a matter of fact the Talmud of the Land of Israel commonly finds itself represented as lacking organization and exhibiting a certain episodic and notional character. That view moreover characterizes the reading and representation of the document by learned and experienced scholars, who have devoted their entire lives to Talmud study and

exegesis. It must follow that upon the advocate of the contrary view – the one implicit in the representation of the document for academic analysis – rests the burden of proof. I set forth the allegation that the Talmud of the Land of Israel exhibits a structure and follows a system and therefore exhibits a commonly-intelligible rationality. The claim to write an academic commentary explicitly states that proposition. For the tractate before us, I have therefore to adduce evidence and argument.

I maintain that through the normal procedures of reasoned analysis we may discern in the tractate a well-crafted structure. I hold that the structure made manifest, we may further identify the purpose and perspective, the governing system of thought and argument, of those who collected and arranged the tractate's composites and put them together in the way in which we now have them. By "structure" I mean, how is a document organized? and by "system," what do the compilers of the document propose to accomplish in producing this complete, organized piece of writing? The answers to both questions derive from a simple outline of the tractate as a whole, underscoring the types of compositions and composites of which it is comprised. Such an outline tells us what is principal and what subordinate, and how each unit – composition formed into composites, composites formed into a complete statement – holds together and also fits with other units, fore and aft. The purpose of the outline then is to identify the character of each component of the whole, and to specify its purpose or statement. The former information permits us to describe the document's structure, the latter, its system.

While the idea of simply outlining a Talmud-tractate beginning to end may seem obvious, I have never made such an outline before, nor has anyone else. (I have provided complete outlines for the Mishnah and for the Tosefta in relationship to the Mishnah, and, not always in outline form, for the Midrash-compilations of late antiquity as well) Yet, as we shall now see, the character of the outline dictates all further analytical initiatives. Specifically, when we follow the layout of the whole, we readily see the principles of organization that govern. These same guidelines on organizing discourse point also to the character of what is organized: complete units of thought, with a beginning, middle, and end, often made up of smaller, equally complete units of thought. The former we know as composites, the latter as compositions.

Identifying and classifying the components of the tractate – the composites, the compositions of which they are made up – we see clearly how the document coheres: the plan and program worked out from beginning to end. When we define that plan and program, we identify the facts of a pattern that permit us to say in a specific and concrete way precisely what the compilers of the tractate intended to accomplish. The structure realizes the system, the program of analysis and thought that takes the form of the presentation we have before us. From what

people do, meaning, the way in which they formulate their ideas and organized them into cogent statements, we discern what they proposed to do, meaning, the intellectual goals that they set for themselves.

These goals – the received document they wished to examine, the questions that they brought to that document – realized in the layout and construction of their writing, dictate the points of uniformity and persistence that throughout come to the surface. How people lay out their ideas guides us into what they wished to find out and set forth in their writing, and that constitutes the system that defined the work they set out to accomplish. We move from how people speak to the system that the mode of discourse means to express, in the theory that modes of speech or writing convey modes of thought and inquiry.

We move from the act of thought and its written result backward to the theory of thinking, which is, by definition, an act of social consequence. We therefore turn to the matter of intention that provokes reflection and produces a system of inquiry. That statement does not mean to imply I begin with the premise of order, which sustains the thesis of a prior system that defines the order. To the contrary, the possibility of forming a coherent outline out of the data we have examined defines the first test of whether or not the document exhibits a structure and realizes a system. So everything depends upon the possibility of outlining the writing, from which all else flows. If we can see the order and demonstrate that the allegation of order rests on ample evidence, then we may proceed to describe the structure that gives expression to the order, and the system that the structure sustains.

The present work undertakes the exegesis of exegesis, for the Yerushalmi, like its counterpart in the one of Babylonia, is laid out as a commentary to the Mishnah. That obvious fact defined the character of my academic commentary, since we have already faced the reality that our tractate is something other than a commentary, though it surely encompasses one. The problems that captured my attention derived from the deeper question of how people make connections and draw conclusions. To ask about how people make connections means that we identify a problem – otherwise we should not have to ask – and what precipitated the problem here has been how a composition or a composite fits into its context, when the context is defined by the tasks of Mishnah-commentary, and the composition or composite clearly does not comment on the Mishnah-passage that is subjected to comment.

The experience of analyzing the document with the question of cogency and coherence in mind therefore yields a simple recognition. Viewed whole, the tractate contains no gibberish but only completed units of thought, sentences formed into intelligible thought and self-contained in that we require no further information to understand those sentences, beginning to end. The tractate organizes these statements as commentary to the Mishnah. But large tracts of the

writing do not comment on the Mishnah in the way in which other, still larger tracts do. Then how the former fit together with the latter frames the single most urgent question of structure and system that I can identify.

Since we have already examined enormous composites that find their cogency in an other than exegetical program, alongside composites that hold together by appeal to a common, prior, coherent statement – the Mishnah-sentences at hand – what justifies my insistence that an outline of the document, resting on the premise that we deal with a Mishnah-commentary, govern all further description? To begin with, the very possibility of outlining this tractate derives from the simple fact that the framers have given to their document the form of a commentary to the Mishnah. It is in the structure of the Mishnah-tractate that they locate everything together that they wished to compile. We know that is the fact because the Mishnah-tractate defines the order of topics and the sequence of problems.

Relationships to the Mishnah are readily discerned; a paragraph stands at the head of a unit of thought; even without the full citation of the paragraph, we should find our way back to the Mishnah because at the head of numerous compositions, laid out in sequence one to the next, clauses of the Mishnah-paragraph are cited in so many words or alluded to in an unmistakable way. So without printing the entire Mishnah-paragraph at the head, we should know that the received code formed the fundamental structure because so many compositions cite and gloss sentences of the Mishnah-paragraph and are set forth in sequence dictated by the order of sentences of said Mishnah-paragraph. Internal evidence alone suffices, then, to demonstrate that the structure of the tractate rests upon the Mishnah-tractate cited and discussed here. Not only so, but the sentences of the Mishnah-paragraphs of our tractate are discussed in no other place in the entire Talmud of the Land of Israel in the sequence and systematic exegetical framework in which they are set forth here; elsewhere we may find bits or pieces, but only here, the entirety of the tractate.

That statement requires one qualification, and that further leads us to the analytical task of our outline. While the entire Mishnah-tractate of treated here is cited in the Talmud of the Land of Israel, the framers of the Talmud of the Land of Israel by no means find themselves required to say something about every word, every sentence, every paragraph. On the contrary, they discuss only what they choose to discuss, and glide without comment by large stretches of the tractate. A process of selectivity, which requires description and analysis, has told the compilers of the Talmud of the Land of Israel's composites and the authors of its compositions (This statement requires refinement. I do not know that all available compositions have been reproduced, and that the work of authors of compositions of Mishnah-exegesis intended for a talmud is fully exposed in the document as we have it. That is not only something we cannot demonstrate – we do not have

compositions that were not used, only the ones that were – but something that we must regard as unlikely on the face of matters. All we may say is positive: the character of the compositions that address Mishnah-exegesis tells us about the concerns of the writers of those compositions, but we cannot claim to outline all of their concerns, on the one side, or to explain why they chose not to work on other Mishnah-sentences besides the ones treated here. But as to the program of the compositors, that is another matter: from the choices that they made (out of a corpus we cannot begin to imagine or invent for ourselves) we may describe with great accuracy the kinds of materials they wished to include and the shape and structure they set forth out of those materials. We know what they did, and that permits us to investigate why they did what they did. What we cannot know is what they did not do, or why they chose not to do what they did not do. People familiar with the character of speculation and criticism in Talmudic studies will understand why I have to spell out these rather commonplace observations. I lay out an argument based on evidence, not on the silences of evidence, or on the absence of evidence – that alone.) what demands attention, and what does not. Our outline has therefore to signal not only what passage of the Mishnah-tractate is discussed, but also what is not discussed, and we require a general theory to explain the principles of selection (“making connections, drawing conclusions” meaning, to begin with, making selections). For that purpose, in the outline, I reproduce the entirety of a Mishnah-paragraph that stands at the head of a Talmudic composite, and I underscore those sentences that are addressed, so highlighting also those that are not.

It follows that the same evidence that justifies identifying the Mishnah-tractate as the structure (therefore also the foundation of the system) of Yerushalmi-tractate before us also presents puzzles for considerable reflection. The exegesis of Mishnah-exegesis is only one of these. Another concerns the purpose of introducing into the document enormous compositions and composites that clearly hold together around a shared topic or proposition, e.g., my appendix on one theme or another, my elaborate footnote providing information that is not required but merely useful, and the like. My earlier characterization of composites as appendices and footnotes signalled the fact that the framers of the document chose a not-entirely satisfactory way of setting out the materials they wished to include here, for large components of the tractate do not contribute to Mishnah-exegesis in any way at all. If these intrusions of other-than-exegetical compositions were proportionately modest, or of topical composites negligible in size, we might dismiss them as appendages, not structural components that bear much of the weight of the edifice as a whole. Indeed, the language that I chose for identifying and defining these composites – footnotes, appendices, and the like – bore the implication that what is not Mishnah-commentary also is extrinsic to the Talmud of the Land of Israel’s structure and system.

But that language served only for the occasion. In fact, the outline before us will show that the compositions are large and ambitious, the composites formidable and defining. Any description of the tractate's structure that dismisses as mere accretions or intrusions so large a proportion of the whole misleads. Any notion that "footnotes" and "appendices" impede exposition and disrupt thought, contribute extraneous information or form tacked-on appendages – any such notion begs the question: then why fill up so much space with such purposeless information? The right way is to ask whether the document's topical composites play a role in the re-presentation of the Mishnah-tractate by the compilers of the Talmud of the Land of Israel. We have therefore to test two hypotheses:

1. the topical composites ("appendices," "footnotes") do belong and serve the compilers' purpose

or

2. the topical composites do not participate in the re-presentation of the Mishnah-tractate by Yerushalmi and do not belong because they add nothing and change nothing.

The two hypotheses may be tested against the evidence framed in response to a single question: is this topical composite necessary? The answer to that question lies in our asking, what happens to the reading of the Mishnah-tractate in light of the topical composites that would not happen were we to read the same tractate without them? The outline that follows systematically raises that question, with results specified in due course. It suffices here to state the simple result of our reading of the tractate, start to finish: the question of structure, therefore also that of system, rests upon the position we identify for that massive component of the tractate that comprises not Mishnah-commentary but free-standing compositions and composites of compositions formed for a purpose other than Mishnah-commentary.

The principal rubrics are given in small caps. The outline takes as its principal rubrics two large-scale organizing principles.

The first is the divisions of the Mishnah-tractate to which the Talmud of the Land of Israel-tractate serves as a commentary. That simple fact validates the claim that the tractate exhibits a fully-articulated structure. But the outline must also underscore that the Mishnah-tractate provides both more and less than the paramount outline of the Talmud of the Land of Israel-tractate. It is more because sentences in the Mishnah-tractate are not analyzed at all. These untreated Mishnah-sentences are given in bold face lower case caps, like the rest of the Mishnah, but then are specified by underlining and enclosure in square brackets.

Second, it is less because the structure of the tractate accommodates large composites that address topics not defined by the Mishnah-tractate. That brings us

to the second of the two large-scale modes of holding together both sustained analytical exercises and also large sets of compositions formed into cogent composites. These are treated also as major units and are indicated by Roman numerals, alongside the Mishnah-paragraphs themselves; they are also signified in small caps. But the principal rubrics that do not focus on Mishnah-commentary but on free-standing topics or propositions or problems are not given in boldface type. Consequently, for the purposes of a coherent outline we have to identify as autonomous entries in our outline those important composites that treat themes or topics not contributed by the Mishnah-tractate.

I. YERUSHALMI SHEBUOT 1:1

[A] TRANSPORTATION [OF OBJECTS FROM ONE DOMAIN TO THE OTHER] ON THE SABBATH IS OF TWO SORTS, WHICH YIELD FOUR SUBDIVISIONS [ON ACCOUNT OF EACH OF WHICH ONE MAY BE LIABLE ON ONE DISTINCT COUNT].

- 1. I:1:** [In reference to M. 1:1C, which refers to transporting an object from private to public domain, and has in mind a person standing outside and extending an object inside, that is, from public to private domain, and vice versa, thus “two,” and which then adds two (thus two – four) for a person standing inside and extending an object out into public domain, so two contexts capable of subdivision into four – the question now is raised as follows:] [Is the meaning of Transportation [of objects from one domain to the other] on the Sabbath is of two sorts, which yield four subdivisions [on account of each of which one may be liable on one distinct count] [meant] to impose liability, and is the meaning of Transportation [of objects from one domain to the other] on the Sabbath is of two sorts, which yield four subdivisions [on account of each of which one may be liable on one distinct count] meant to declare exemption from punishment? [Or is the meaning, Transportation [of objects from one domain to the other] on the Sabbath is of two sorts, which yield four subdivisions [on account of each of which one may be liable on one distinct count] to exempt from punishment? [That is, we have noted in the Mishnah that there are two categories that are four within private domain, and two that are four in public domain. The two are to impose liability on taking an object out of private domain and bringing the object into private domain, so that if a single individual does the entire act, he then bears liability on two counts. Or are there four possibilities under each category, liability and exemption therefrom?]

2. I:2: [At M. Shab. 1:1, we find an illustration of the rule under discussion through a sequence of cases, in which a beggar stand in public domain and a householder in private domain, with an exchange of food by means of a begging bowl. In this sequence of examples, we have eight transactions, four points of liability, two in which the beggar is liable, two in which the householder is liable; there are then eight transactions that do not produce liability, four involving the beggar, four involving the householder. The text is as follows: [Acts of] transporting objects from one domain to another [which violate] the Sabbath (1) are two, which [indeed] are four [for one who is] inside, (2) and two which are four [for one who is] outside. How so? [If on the Sabbath] the beggar stands outside and the householder inside, [and] the beggar stuck his hand inside and put [a beggar's bowl] into the hand of the householder, or if he took [something] from inside it and brought it out, the beggar is liable, the householder is exempt. [If] the householder stuck his hand outside and put [something] into the hand of the beggar, or if he took [something] from it and brought it inside, the householder is liable, and the beggar is exempt. [If] the beggar stuck his hand inside, and the householder took [something] from it, or if [the householder] put something in it and he [the beggar] removed it – both of them are exempt. [If] the householder put his hand outside and the beggar took [something] from it, or if [the beggar] put something into it and [the householder] brought it back inside, both of them are exempt. Now in this context of explaining M. Shab. 1:1, the Talmud asks the following question:] Should we not then repeat the tradition in such wise that there are twelve transactions, in which a party is exempt from liability, and not “four that are eight”?

3. I:3: And how do we know that transporting an object out from one domain to another domain is deemed to be an act of labor [which is prohibited on the Sabbath]? R. Samuel in the name of R. Yohanan: ““So Moses gave command, and word was proclaimed throughout the camp, “Let neither man nor woman do anything more for the offering for the sanctuary. So the people were restrained from bringing”” (Ex. 36:6). The people thus refrained from taking objects out from their houses and from handing them over to the temple treasurers [who were standing in the public domain] or from taking something out of their hands and bringing it into the temple treasury.”

[B] OATHS ARE OF TWO SORTS, WHICH YIELD FOUR SUBDIVISIONS [ON ACCOUNT OF EACH OF WHICH ONE MAY BE LIABLE ON ONE DISTINCT COUNT]. AWARENESS OF [HAVING SINNED THROUGH] UNCLEANNESS IS OF TWO SORTS, WHICH YIELD

FOUR SUBDIVISIONS [ON ACCOUNT OF EACH OF WHICH ONE MAY BE LIABLE ON ONE DISTINCT COUNT].

1. **II:1:** [With reference to M. 1:1A-D, Oaths are of two sorts, which yield four subdivisions [on account of each of which one may be liable on one distinct count] R. Mana stated [what is about to be cited] without specifying any authority, [while] R. Abin [stated what follows] in the name of R. Yohanan: “[Thus] we have learned a Mishnah tradition of two general rules that actually are not parallel to one another. Oaths are of two sorts, which yield four subdivisions [on account of each of which one may be liable on one distinct count] [in consequence of which] one brings four offerings [if he violates any of the four sorts of oaths]. But Awareness of [having sinned through] uncleanness is of two sorts, which yield four subdivisions [on account of each of which one may be liable on one distinct count produces a situation in which] one brings [only] two offerings [and not four, if one should violate the law].” [In point of fact, we cannot find a Tannaite authority who will maintain both rules. The reason, to begin with the former, is that the two sorts, yielding four subdivisions of oaths, involve one in the past and one in the future, e.g., “I take an oath that I did not eat É,” “Éthat I shall not eat...” There are four possibilities of liability for an offering should one violate either sort of oath. Now, M. Shebu. 3:1, it is Aqiba who maintains that one is liable under such circumstances. The sages in context maintain that an oath involving what will happen in the future is not liable when violated. It follows that M. Shebu. 1:1A follows the view of Aqiba. At M. Shebu. 3:5F, by contrast, Ishmael says one is liable only for violation of an oath stated concerning what happens in the future, not in the past. So he will stand against M. 1:1A. But at M. Shebu. 2:5 we shall see that only Ishmael can concur with M. Shebu. 1:1B, a fact that will be explained in context. Aqiba quite explicitly cannot concur that. in the case of M. 1:1B, there will be four offerings. He would maintain there can be liability on only two counts. It follows that we have two generalizations, side by side, deriving from quite separate and distinct authorities, Aqiba in the case of. M. 1:1A, Ishmael in the case of M. 1:1B.]

[C] **THE SYMPTOMS OF THE PRESENCE OF THE SKIN DISEASE [NEGAIM] ARE OF TWO SORTS, WHICH YIELD FOUR SUBDIVISIONS [ON ACCOUNT OF EACH OF WHICH ONE MAY BE LIABLE ON ONE DISTINCT COUNT].**

1. **III:1:** The symptoms of the presence of the skin disease [*negaim*] are of two sorts, which yield four subdivisions [on account of each of which one may be liable on one distinct count: Said R. Yosé, “Joshua,

son of R. Aqiba, asked R. Aqiba, saying to him, ‘Why have they said, “Symptoms of plagues are two, which yield four subdivisions”?’ “He said to him, ‘If not, what should they say?’” [Joshua answered,] “Let them say, ‘[Any shade of white] from [one like that of] the skin of an egg and brighter is unclean.’” [The continuation of this passage below, at H, indicates we must include the following:]S “He said to him, ‘[They used the cited language to teach that they join together [so that if there is on the skin a diversity of shades of white of the stated brightness, then the pieces of skin join together to form the requisite measure of discolored skin for the man to be declared unclean with sara’at].’ “He said to him, ‘Let them say, “[A shade of white] brighter than the skin of an egg is unclean, and [pieces of skin of diverse shades of such brightness] join together with one another.”’ “He said to him, ‘To teach you that if one is not an expert in them and in their names, he should not examine nega’s.’” [T. Neg. 1:1].

II. YERUSHALMI SHEBUOT 1:2

[A] IN ANY CASE IN WHICH THERE IS AWARENESS OF UNCLEANNESS AT THE OUTSET AND AWARENESS [OF UNCLEANNESS] AT THE END BUT UNAWARENESS IN THE MEANTIME — LO, THIS ONE IS SUBJECT TO BRINGING AN OFFERING OF VARIABLE VALUE.

1. **I:1:** Now how do we know [that we deal with a case of awareness at the outset and at the end [of the process of contaminating the sanctuary and its Holy Things], but unawareness in the meantime? Scripture states, “and it is hidden from him” two times. [Lev. 5:2: “Or if any one touches an unclean thingÉand it is hidden from him, and he has become unclean, he shall be guilty.” [Lev. 5:3: “Or if he touches human uncleannessÉand it is hidden from him, when he comes to know it he shall be guilty”] From this one must infer that [the man had] awareness at the outset and at the end, and a spell of unawareness in-between. The foregoing is the view of R. Aqiba. [But as to] R. Ishmael [who rejects this view of the cited verses], R. Ishmael is in accord with the view of Rabbi. For Rabbi [Judah the Patriarch] said, “‘and it is hidden from him,’ implies that [at the outset] he knows [that he was unclean], but became unaware [of that fact].” [So there must be awareness at the outset, but need be none at the end.]
2. **I:2:** How do we know that [Scripture, in speaking of a sacrifice of variable value for uncleanness] refers only to one’s imparting uncleanness to the sanctuary and its Holy Things? Scripture has

warned against and declared a punishment on account of uncleanness [in connection with the sanctuary and its Holy Things] and also imposed a liability for an offering on account of uncleanness [in that same connection]. Just as [the verses of Scripture that] impose punishment and provide for a warning refer to imparting uncleanness to the sanctuary and its Holy Things, also, when [the Scripture] imposed liability for an offering [of variable value], it was on account of imparting uncleanness to the sanctuary and its Holy Things. R. Eliezer b. Jacob says, “Since Scripture has stated [that, in the confession to be recited over first fruits, the farmer must say,] ‘I have not eaten of the tithe while I was mourning, or removed any of it while I was unclean’ (Deut. 26:14), is it possible to maintain that an Israelite who has eaten tithe while having the sums of a mourner or while unclean must bring an offering [as is the case specified at Lev. 5:2ff]? “Scripture states, ‘When a man is guilty in any of these’ (Lev. 5:5). “There are some of these on account of which one is liable for an offering of variable value, and there are some of these on account of which one is going to be exempt.”

- 3. I:3:** And have you not derived evidence from the matter of idolatry [that one brings an offering only for a matter the deliberate commission of which brings the penalty of extirpation, excluding only the matter of heave-offering, which is a sin punishable by death, as follows:] For the law concerning idolatry applies to all transgressions that are specified in the Torah. That is to say, just as the sin of idolatry is distinctive in that people are liable to extirpation for committing it deliberately and to a sin-offering for committing it inadvertently, so we exclude only violation of the status of heave-offering, which is subject solely to the death penalty. [The point of this question is that, just as in the case of idolatry, we require awareness of having sinned only at the end of the process, so in the matter under discussion, that is, imparting uncleanness to the sanctuary and its Holy Things, we should speak solely of awareness that one was unclean at the end of the process, and not of awareness at the outset.]
- 4. I:4:** Now why do you say that Scripture speaks [at Lev 5:2ff] of imputing uncleanness to Holy Things? Here it is said, “Or if any one touches an unclean thing, whether the carcass of an unclean beast” (Lev. 5:2). And there it is said, “or a carcass of unclean cattle, or a carcass of unclean swarming things” (Lev. 7:21). Just as the reference [of Lev. 22:3ff] to an unclean animal is to not imparting uncleanness to Holy Things, so the reference here [Lev. 5:22] to an unclean animal is to not imparting uncleanness to Holy Things. [Thus far I have succeeded in proving] only that the offering of variable value

applies to imparting uncleanness to the Holy Things. How do I know that it also applies to imparting uncleanness to the sanctuary? Scripture says, “while he has an uncleanness” (Lev. 22:3). Now why do you say that Scripture speaks of an unclean person who has eaten [Holy Things in a state of] cleanness, and not of a clean person who has eaten Holy Things that were in a state of uncleanness? Scripture says, “while he has an uncleanness,” meaning, [Scripture speaks] of uncleanness of the person, and not of the uncleanness of the meat [that the person has eaten]. Rabbi says, “[the person who touches any such shall be unclean until the evening, and shall not eat of the Holy Things unless he has bathed his body in water. When the sun is down he shall be clean, and] afterward he may eat [of the Holy Things]’ (Lev. 22:7) – so the matter depends upon the uncleanness of the meat [of the Holy Things].”

[B] [If] THERE IS AWARENESS [OF UNCLEANNESS] AT THE OUTSET BUT NO APPREHENSION [OF UNCLEANNESS] AT THE END, A GOAT WHICH [YIELDS BLOOD TO BE SPRINKLED] WITHIN [IN THE HOLY OF HOLIES], AND THE DAY OF ATONEMENT SUSPEND [THE PUNISHMENT], UNTIL IT WILL BE MADE KNOWN TO THE PERSON, SO THAT HE MAY BRING AN OFFERING OF VARIABLE VALUE.

1. **II:1:** [With reference to M. 1:2B C, the goat and the Day of Atonement suspend the punishment until the man knows what he has done, but then he brings an offering of variable value:] if so, what good did the Day of Atonement do for the man [if he still has to bring an offering]?
2. **II:2:** “Thus he shall make atonement for the holy place, because of the uncleanness of the people of Israel [and because of their transgressions, all their sins]” (Lev. 16:16) – included in this matter [of making atonement for the uncleanness of the Israelites] are three sorts of uncleanness. Uncleanness of idolatry, as it is said, “[because he has given one of his children to Molech,] defiling my sanctuary” (Lev. 20:3). Fornication, as it is said, “[But you shall keep my statutes...] and do none of these abominations, [(for all of these abominations the men of the land did, who were here before you, so that the land became defiled)]” (Lev. 18:16-). Murder, as it is said, “and you shall not thus pollute the land [in which you live; for blood pollutes the land]” (Num. 35:33). “Is it possible to suppose that for all these kinds of uncleanness this goat effects expiation? “Scripture says, ‘because of some of the uncleanness’ and not because of all of the uncleannesses. “Just as Scripture has made a distinction between uncleanness imparted to the sanctuary and its Holy Things, so here too we should make distinctions only with regard to uncleanness

pertaining to the sanctuary and its Holy Things,” the words of R. Judah.

III. YERUSHALMI SHEBUOT 1:3

[A] [If] THERE IS NO APPREHENSION [OF UNCLEANNESS] AT THE OUTSET BUT THERE IS APPREHENSION [OF UNCLEANNESS] AT THE END, A GOAT WHICH [YIELDS BLOOD TO BE SPRINKLED] WITHOUT [ON THE OUTER ALTAR], AND THE DAY OF ATONEMENT EFFECT ATONEMENT, AS IT IS SAID, “BESIDE THE SIN OFFERING OF ATONEMENT” (NUM. 29:11). FOR THAT WHICH THIS [GOAT, PREPARED INSIDE] MAKES ATONEMENT, THE OTHER [THE GOAT PREPARED OUTSIDE] MAKES ATONEMENT. JUST AS THE GOAT PREPARED INSIDE MAKES ATONEMENT ONLY FOR SOMETHING FOR WHICH THERE IS CERTAIN KNOWLEDGE, SO THAT WHICH IS PREPARED OUTSIDE EFFECTS ATONEMENT ONLY FOR SOMETHING FOR WHICH THERE IS CERTAIN KNOWLEDGE.

1. I:1: [Asking about the fact that the power of expiation attributed to the inner altar differs from that attributed to the outer altar, the Talmud asks,] *Why do you say that* the [blood sprinkled on the] inner altar [has the power to] suspend [punishment], while [blood sprinkled on] the outer altar [has the power to effect atonement, or the [blood sprinkled on] the outer altar [has the power to] suspend [punishment]. and [blood sprinkled on] the inner altar [has the power to] effect atonement? [Why should it not be the case that] both this and that will suspend, or both this and that have the power to effect atonement [each with reference to those acts for which blood is sprinkled upon it]?

IV. YERUSHALMI SHEBUOT 1:4

[A] AND FOR THAT [UNCLEANNESS] FOR WHICH THERE IS NO AWARENESS [OF UNCLEANNESS] EITHER AT THE BEGINNING OR AT THE END, “THE GOATS OFFERED ON FESTIVALS AND THE GOATS OFFERED ON NEW MONTHS EFFECT ATONEMENT,” THE WORDS OF R. JUDAH. R. SIMEON SAYS, “THE GOATS OFFERED ON FESTIVALS EFFECT ATONEMENT BUT NOT THE GOATS OFFERED ON NEW MONTHS. “AND FOR WHAT DO THE GOATS OFFERED ON NEW MONTHS EFFECT ATONEMENT? FOR A CLEAN PERSON WHO ATE SOMETHING UNCLEAN.” R. MEIR SAYS, “THE ATONING EFFECTS OF ALL GOATS ARE THE SAME: FOR IMPARTING UNCLEANNESS TO THE SANCTUARY AND ITS HOLY THINGS.” R. SIMEON DID SAY, “THE GOATS OFFERED ON THE NEW MONTHS EFFECT ATONEMENT FOR A CLEAN PERSON WHO HAS EATEN SOMETHING UNCLEAN. AND THOSE OF THE FESTIVALS EFFECT ATONEMENT FOR A CASE IN WHICH THERE IS

NO AWARENESS [OF UNCLEANNESS] EITHER AT THE BEGINNING OR AT THE END [OF THE SEQUENCE OF EVENTS]. AND THOSE OF THE DAY OF ATONEMENT EFFECT ATONEMENT FOR A CASE IN WHICH THERE IS NO AWARENESS [OF UNCLEANNESS] AT THE BEGINNING BUT THERE IS APPREHENSION [OF UNCLEANNESS] AT THE END.” THEY SAID TO HIM, “WHAT IS THE LAW AS TO OFFERING UP THIS ONE [SET ASIDE FOR THE DAY OF ATONEMENT] ON THE OCCASION OF THE OTHER [THE NEW MONTH]?” HE SAID TO THEM, “LET THEM BE OFFERED UP.” THEY SAID TO HIM, “SINCE THEIR POWER OF EFFECTING ATONEMENT IS NOT THE SAME, HOW MAY ONE BE OFFERED ON THE OCCASION SUITABLE FOR THE OTHER?” HE SAID TO THEM, “ALL OF THEM ARE OFFERED UP TO EFFECT ATONEMENT FOR IMPARTING UNCLEANNESS TO THE SANCTUARY AND ITS HOLY THINGS.”

1. **I:1:** R. Eleazar in the name of R. Hoshaiah: “The scriptural basis for the position of R. Judah is as follows: ‘Also one male goat for a sin-offering to the Lord’ (Num. 28:15, in context of the offerings of the beginnings of the months for a sin about which only the Lord knows this goat effects atonement.”
2. **I:2:** R. Zeira and R. Eleazar in the name of R. Hoshaiah, R. Jacob bar Aha in the name of R. Yohanan: “[Why have you not eaten the sin-offering in the place of the sanctuary, since it is a thing most holy, and] has been given to you that you may bear the iniquity of the congregation, to make atonement for them before the Lord?” (Lev. 10:17). How shall we interpret this statement? If it makes reference to the goat of Nahshon, it effects atonement for this tribe alone. If it makes reference to the goat of the Day of Atonement, there is no parallel to it in time to come [and reference is made in the stated discussion to a rule governing all time, not merely the moment at hand]. So we interpret the matter to speak solely of the goat offered at the beginning of the months.” And what is the upshot of the matter? In this context reference is made to the bearing of sin, and in the later context reference is made to the bearing of sin, as follows: “[The frontlet] shall be upon Aaron’s forehead, and Aaron shall take upon himself any guilt incurred in the holy offering [that the people of Israel hallow as their holy gifts]” (Ex. 28:38). Just as, in the latter context, the sin under discussion is the sin pertaining to those things that are offered and not to the sins of those who make the offering, so here, the sin under discussion is that sin pertaining to the things that are offered, and not to the sin of those who make the offering.
3. **I:3:** “The goats offered on the festivals and the goats offered on the new months effect atonement.” the words of R. Judah. R. Simeon says. “The goats offered on the festivals effect atonement. but not the goats

of the new months.” And R. Simeon concedes in the case of] a goat that is not offered on a festival that it may be offered on the new month. [If] it is not offered on the new month, it may be offered [Tosefta: on the Day of Atonement. (If) it is not offered on the Day of Atonement,] it may be offered on the next festival. For to begin with the offerings in the name of the community are consecrated only so as to be offered upon the outer altar [cf. M. 1:41L, T. Shebu. 1:1E-J].

4. **I:4:** R. Jacob bar Aha in the name of R. Yasa, “He who passes before the ark [to lead the prayers] of the festival day of the New Year does not have to make mention of the fact that it also is the beginning of the month.”
5. **I:5:** Said R. Yohanan, “The opinion of the sages imposes distinctions, but the opinion of R. Simeon does not impose distinctions.”

V. YERUSHALMI SHEBUOT 1:5

[A] **R. SIMEON B. JUDAH SAYS IN HIS NAME, “GOATS OFFERED UP ON THE NEW MONTHS EFFECT ATONEMENT FOR A CLEAN PERSON WHO HAS EATEN SOMETHING UNCLEAN. “ADDED TO THEM ARE THOSE OF THE FESTIVALS, WHICH EFFECT ATONEMENT FOR A CLEAN PERSON WHO HAS EATEN SOMETHING UNCLEAN, AND FOR THE CASE IN WHICH THERE IS NO APPREHENSION [OF UNCLEANNESS] EITHER AT THE BEGINNING OR AT THE END.” “ADDED TO THEM ARE THOSE OF THE DAY OF ATONEMENT, WHICH EFFECT ATONEMENT FOR A CLEAN PERSON WHO HAS EATEN SOMETHING UNCLEAN, FOR A CASE IN WHICH THERE IS NO APPREHENSION [OF UNCLEANNESS] EITHER AT THE BEGINNING OR AT THE END, AND FOR A CASE IN WHICH THERE IS NO APPREHENSION [OF UNCLEANNESS] AT THE BEGINNING BUT IN WHICH THERE IS AN APPREHENSION [OF UNCLEANNESS] AT THE END.” THEY SAID TO HIM, “WHAT IS THE LAW AS TO OFFERING UP THIS ONE ON THE OCCASION OF THE OTHER?” HE SAID TO THEM, “YES.” THEY SAID TO HIM, “IF SO, LET THOSE [SET ASIDE FOR USE ON] THE DAY OF ATONEMENT BE OFFERED UP ON THE NEW MONTHS. “BUT HOW ARE THOSE OF THE NEW MONTHS GOING TO BE OFFERED ON THE DAY OF ATONEMENT, TO EFFECT ATONEMENT WHICH DOES NOT APPLY TO THEM [AN UNCLEAN PERSON WHO ATE SOMETHING CLEAN OR WENT INTO THE SANCTUARY]?” HE SAID TO THEM, “ALL OF THEM ARE OFFERED UP TO EFFECT ATONEMENT FOR IMPARTING UNCLEANNESS TO THE SANCTUARY AND ITS HOLY THINGS.”**

1. **I:1:** Said R. Yosé the Southerner before R. Jonah: “Thus was it necessary [for the sages, F] to teach [that is, just the opposite, namely]: ‘If so, let the goats set aside for the new months be offered on the Day

of Atonement, for they raise [something] in the ladder of holiness, but do not lower [something, downward along] the ladder of holiness. “‘But the goats set aside for the Day of Atonement should not be offered on the new month, for they do not lower [some thing along the ladder of] holiness[, so this is a better way to phrase M. 1:5F-G].” R. Eleazar in the name of R. Bun provided for the matter a different interpretation [supplying the following question to the sages of M. 1:5F-G]: “‘If so, let the goats set aside for the Day of Atonement be offered on the new months, for they effect atonement both for that atonement for which they are designated, and also the atonement effected by goats set aside for the new months. “‘But let the goats set aside for the new months not be offered on the Day of Atonement, for they effect only that atonement for which they are set aside alone [but not the atonement pertaining to the Day of Atonement].’ [This argument would then have made M. 1:5H an impossible reply.]”

2. **I:2:** And so R. Simeon did say, “Thirty-two goats are offered for the community every year, thirty-one [prepared with blood tossed on the] outer [altar] that are eaten and one [prepared with blood tossed on the] inner [altar] that is not eaten; and the goat that is sent forth. [These are as follows:]’s twelve for the twelve months of the year, seven on Passover, eight on the Festival, two on the Day of Atonement, one on the New Year, two on Pentecost – one on account of the bread-offering and one on account of the day; and the two goats of the new month” [T. Shebu. 1:2A-E].

VI. YERUSHALMI SHEBUOT 1:6

[A] AND FOR A DELIBERATE ACT OF IMPARTING UNCLEANNESS TO THE SANCTUARY AND ITS HOLY THINGS, A GOAT [WHOSE BLOOD IS SPRINKLED] INSIDE AND THE DAY OF ATONEMENT EFFECT ATONEMENT. AND FOR ALL OTHER TRANSGRESSIONS WHICH ARE IN THE TORAH – THE MINOR OR SERIOUS, DELIBERATE OR INADVERTENT, THOSE DONE KNOWINGLY OR DONE UNKNOWINGLY, VIOLATING A POSITIVE OR A NEGATIVE COMMANDMENT, THOSE PUNISHABLE BY EXTIRPATION AND THOSE PUNISHABLE BY DEATH AT THE HANDS OF A COURT, THE GOAT WHICH IS SENT AWAY [LEV. 16:21] EFFECTS ATONEMENT.

1. **I:1:** As to that which you have said [about the goat prepared inside and the Day of Atonement] effecting atonement for deliberately [imparting uncleanness to the sanctuary and its Holy Things], [the same sequence of sacrifice and the Day of Atonement] also suspends punishment for

such actions that were done inadvertently. Are not minor sins subject to a positive and a negative commandment,” and are not serious ones subject to extirpation or death at the hands of a court[, so why does C specify these as distinct categories]? Said R. Judah, “Thus is the meaning of the Mishnah-pericope: the minor or the serious, whether done deliberately or done inadvertently, and the ones done inadvertently, whether one became aware of them and whether one did not become aware of them.”

2. **I:2:** And has not the Day of Atonement already effected atonement[, so why should there be a matter of suspending punishment at all]? R. Simeon in the name of Levi of Subayya: “The Mishnah speaks of a case in which one engages in an act of rebellion on the Day of Atonement itself. [Such a one does not believe that the Day of Atonement effects atonement. In the case of such a person the scapegoat does not effect complete atonement. But the scapegoat does suspend the punishment even for such a person.]”
3. **I:3:** As to violation of a positive commandment, [the Day of Atonement effects atonement] even if the person did not repent. As to violation of a negative commandment – R. Samuel in the name of R. Zira: “[The Day of Atonement effects atonement] only if the person repented [of violating the negative commandment].”
4. **I:4:** The burnt offering effects atonement for the murmurings of one’s heart.
5. **I:5:** Rabbi says, “For all transgressions that are listed in the Torah the Day of Atonement effects atonement, except for the one who totally breaks the yoke [of Heaven] off of him, who removes the signs of the covenant, or who behaves presumptuously against the Torah. For if such a person does repent, then atonement is effected for him, but if not, it is not effected for him.”
6. **I:6:** R. Matiah b. Heresh asked R. Eleazar b. Azariah, “Have you heard of the four types of atonement that R. Ishmael used to expound?” He said to him, “They are three, besides [the requirement of] an act of repentance.” [These are the three types:] One Scripture says, “Return., O faithless children, says the Lord” (Jer. 3:14). And yet another verse of Scripture says, “For on this day shall atonement be made for you, to cleanse you; from all your sins you shall be clean before the Lord” (Lev. 16:30). [So one verse recommends repentance, and the other grants absolution unconditionally.] And one verse of Scripture says, “Then I will punish their transgression with the rod and their

iniquity with scourges” (Ps. 89:32). And yet another verse of Scripture says, “Surely this iniquity will not be forgiven you till you die, says the Lord Lord of Hosts” (Is. 22:14). Now how are these verses to be reconciled[, which speak of punishment and forgiveness on the one side, and the impossibility of atonement except through death on the other]? [If] one has violated a positive commandment but repented, he does not even leave the place before he is [wholly] forgiven. Concerning such a person the verse of Scripture says, “Return, O faithless children.” [If] one has violated a negative commandment and repented forthwith, the act of repentance suspends the punishment, and the Day of Atonement effects atonement for him. In such a case the Scripture states, “For on this day shall atonement be made for you.” [If] one has violated a commandment involving extirpation or the death penalty inflicted by a court, and has done so deliberately, repentance and the Day of Atonement effect atonement in part, and suffering effects atonement in part. Concerning such a person, the verse of Scripture states, “Then I will punish their transgression with the rod, and their iniquity with scourges.” But as to him through whose action the Name of Heaven has been disgraced, repentance has not got the power to suspend punishment, nor does the Day of Atonement have the power to effect atonement, nor does suffering have the power to wipe away the guilt. But repentance and the Day of Atonement suspend the punishment, along with suffering, the man’s death wipes away the sin. Concerning such a person does Scripture make the statement: “Surely this iniquity will not be forgiven you till you die”? Thus we have learned the fact that death wipes away [guilt and sin] [cf. T. Yoma 1:8].

VII. YERUSHALMI SHEBUOT 1:7

[A] [IT EFFECTS ATONEMENT] ALL THE SAME, FOR ISRAELITES, PRIESTS AND THE ANOINTED PRIEST. WHAT IS THE DIFFERENCE BETWEEN ISRAELITES, PRIESTS, AND THE ANOINTED PRIEST? BUT: THE BLOOD OF THE BULLOCK EFFECTS ATONEMENT FOR PRIESTS FOR IMPARTING UNCLEANNESS TO THE SANCTUARY AND ITS HOLY THINGS. R. SIMEON SAYS, “JUST AS THE BLOOD OF THE GOAT WHICH IS [SPRINKLED] INSIDE EFFECTS ATONEMENT FOR ISRAELITES, SO THE BLOOD OF THE BULLOCK EFFECTS ATONEMENT FOR PRIESTS. JUST AS THE CONFESSION SAID OVER THE GOAT WHICH IS SENT FORTH EFFECTS ATONEMENT FOR ISRAELITES, SO THE CONFESSION SAID OVER THE BULLOCK EFFECTS ATONEMENT FOR PRIESTS.”

1. **I:1:** Now [with reference to Simeon’s statement, M. 1:7D-G], we do not learn [any rule] pertaining to the anointed priest. And why do we not learn [any rule] pertaining to the anointed priest? If you maintain that we interpret [Simeon’s] saying with reference to a matter in which there is no liability for an offering, then it is well that we do not learn a rule pertaining to the anointed priest. [In this case we speak of deliberate contamination of the sanctuary and its Holy Things. Just as the goat prepared inside effects atonement for Israelites, so the blood of the bullock effects atonement for the priests. The goat prepared inside suspends punishment in respect to a matter involving an obligation to bring an offering, that is, a case in which there is awareness at the outset that one is unclean but none at the end. Simeon then does not speak of such a case. Why not? Because the blood of the bullock does not effect atonement in such a case for the priests in particular, but for all Israelites, including the priests. Simeon in any event maintains that the anointed priest is not going to be liable for an offering of variable value for imparting uncleanness to the sanctuary and its Holy Things. So the anointed priest has no place in the matter.] But if you maintain that [Simeon makes reference] to a matter in which there indeed is an obligation for an offering, why should we learn no teaching concerning the anointed priest? [For he would belong among the other priests, to whom reference is made by Simeon at E.]
2. **I:2:** “[But the goat on which the lot fell for Azazel] shall be presented alive [before the Lord to make atonement over it, that it may be sent away into the wilderness to Azazel]” Lev. 16:10?. This teaches that it is destined to die [later on]. [If it dies, it must be replaced.] How long must it be kept alive?

VIII. YERUSHALMI SHEBUOT 2:1

- [A] AWARENESS OF UNCLEANNESS IS OF TWO SORTS, WHICH YIELD FOUR SUBDIVISIONS [=M. 1:1B]. (1) [If] ONE WAS MADE UNCLEAN AND KNEW ABOUT IT, THEN THE UNCLEANNESS LEFT HIS MIND, BUT HE KNEW [THAT THE FOOD HE HAD EATEN WAS] **HOLY THINGS**, (2) THE FACT THAT THE FOOD HE HAD EATEN WAS **HOLY THINGS** LEFT HIS MIND, BUT HE KNEW ABOUT [HIS HAVING CONTRACTED] UNCLEANNESS, (3) BOTH THIS AND THAT LEFT HIS MIND, BUT HE ATE **HOLY THINGS** WITHOUT KNOWING IT AND AFTER HE ATE THEM, HE REALIZED IT — LO, THIS ONE IS LIABLE TO BRING AN OFFERING OF VARIABLE VALUE. (1) [If] HE WAS MADE UNCLEAN AND KNEW ABOUT IT, AND THE UNCLEANNESS LEFT HIS MIND, BUT HE REMEMBERED THAT HE WAS IN THE SANCTUARY; (2) THE FACT THAT HE WAS IN THE SANCTUARY LEFT HIS MIND,

BUT HE REMEMBERED THAT HE WAS UNCLEAN, (3) BOTH THIS AND THAT LEFT HIS MIND, AND HE ENTERED THE SANCTUARY WITHOUT REALIZING IT, AND THEN WHEN HE HAD LEFT THE SANCTUARY, HE REALIZED IT — LO, THIS ONE IS LIABLE TO BRING AN OFFERING OF VARIABLE VALUE.

- 1.** **I:1:** R. Jeremiah raised the question: “It is obvious that in regard to the ultimate moment of awareness, [we require a knowledge of certainty] for the person to know that he is liable for bringing an offering. But is that same requirement [that the knowledge be certain and beyond doubt] applicable at the original moment of awareness[, e.g., that the person knew for sure that he was originally unclean]? [Or is this clear and certain knowledge not required for the situation prevailing at the outset?]”
 - a.** I:2: Said R. Yohanan, “Even a matter of doubt affecting the public domain is resolved as clean, but they do not permit one [who has been subjected to such a matter of doubt] to prepare (clean things).”
 - b.** I:3: The opinions attributed to R. Simeon b. Laqish are confused, the opinions attributed to R. Yohanan are confused. For they dispute as follows:
 - c.** I:4: And lo, R. Yohanan said that it is because a matter of doubtful knowledge [uncertainty] is deemed tantamount to knowledge as of certainty.
- 2.** **I:5:** [If] one was made unclean by a corpse and knew about it, by a dead creeping thing and did not know about it, we do not take account of the uncleanness deriving from a minor source of uncleanness in a case in which there is uncleanness deriving from a major source of uncleanness. [Thus if when unaware of the corpse-uncleanness the man went into the sanctuary, he is liable on the count of the corpse-uncleanness, and we do not take account of the other at all.] [If] one was made unclean by a corpse and did not know it, by a dead creeping thing and did not know it, [and he entered the temple,] and afterward he became aware of the uncleanness deriving from the dead creeping thing, and still later he became aware of the uncleanness deriving from the corpse, [what is the law]?
- 3.** **I:6:** Hisda raised the question, “If one entered the sanctuary under the assumption that it was merely a synagogue, what is the law? [Since this man knew there is a sanctuary, he should be deemed aware at the outset.]” Said R. Yosé, “Thus do we say, If one knew that there is uncleanness in the world, but one did not know that one is liable on its

account for an offering, is it not a case of an argument a fortiori that this should be deemed knowledge as of a certainty? But we interpret the case to involve one for whom it is a matter of certainty that he was unclean, but who was unaware that it was the sanctuary, and who entered the sanctuary. [This is ‘knowledge at the outset.’] But here [too] it is a matter of certainty to the man that it was the sanctuary, but he became unaware of the matter of his own uncleanness, and entered the sanctuary. [But in the case of A, the man never knew there was a sanctuary, so there is no knowledge at the outset.]”

4. **I:7:** R. Yosé raised the question: “If one ate half an olive’s bulk of forbidden fat in the knowledge that it was holy, but [was] unaware of uncleanness [affecting himself], and then he ate half an olive’s bulk of fat in full knowledge of the uncleanness affecting himself but [was] unaware of the fact that the fat was holy [and so forbidden to him] – with regard to these several spells of uncleanness, what is the law as to their being deemed to join together [to form the requisite spell covering the volume of forbidden fat sufficient to impose liability for an offering, that is, an olive’s bulk eaten wholly under the knowledge that one should not do it, either by reason of uncleanness or by reason of the sanctity of the sanctuary]?” [The question is not answered.]

IX. YERUSHALMI SHEBUOT 2:2

[A] **ALL THE SAME ARE HE WHO ENTERS THE COURTYARD AND HE WHO ENTERS THE ADDITION TO THE COURTYARD. FOR [THE LATTER IS IN THE SAME CLASSIFICATION AS THE FORMER, SINCE] THEY ADD TO THE CITY, AND COURTYARDS ONLY ON THE INSTRUCTIONS OF THE KING AND PROPHET, THE URIM AND THUMMIM, AND THE SANHEDRIN OF SEVENTY-ONE MEMBERS, WITH TWO THANK OFFERINGS AND SINGING. THE COURT GOES ALONG WITH THE TWO THANK OFFERINGS BEHIND THEM, AND ALL THE ISRAELITES AFTER THEM. THE ONE OFFERED INSIDE IS EATEN, AND THE ONE OFFERED OUTSIDE IS BURNED. AND ANY AREA WHICH IS NOT TREATED WHOLLY IN THIS WAY [WITH THE PROPER RITES] – HE WHO ENTERS THAT AREA – THEY ARE NOT LIABLE ON ITS ACCOUNT.**

1. **I:1:** R. Judah says, “At the outset [in purchasing the ground for the temple]: ‘And David went up at God’s word, as the Lord had commanded’ (2 Sam. 24:19) thus [we know that the authority of] king and prophet [must be included in the decision]. ‘Then Solomon began to build the house of the Lord in Jerusalem on Mount Moriah, where the Lord had appeared to David his father’ (2 Chr. 3:1) – these

[references to an appearance of the Lord thus show that included in the decision are] the Urim and Thummim. ‘To David his father’ – this refers to the Sanhedrin. ‘Ask your father, and he will show you; your elders, and they will tell you’ (Deut. 32:7) [thus we know that] singing [is required]. ‘And after them went Hoshaiah and half of the princes of Judah’ (Neh. 12:32) [bearing] thanks-offerings.”

X. YERUSHALMI SHEBUOT 2:3

[A] (1) [IF] HE WAS MADE UNCLEAN IN THE COURTYARD, AND THE UNCLEANNESS LEFT HIS MIND, BUT HE REMEMBERED THE SANCTUARY – (2) [IF] THE SANCTUARY LEFT HIS MIND, BUT HE REMEMBERED THE UNCLEANNESS, (3) [IF] THIS AND THAT LEFT HIS MIND, AND HE PROSTRATED HIMSELF:

1. **I:1:** R. Hezekiah, R. Ammi in the name of R. Eleazar: “One Scripture states, ‘Whoever touches a dead person and does not cleanse himself, defiles the tabernacle of the Lord’ (Num. 19:13). And yet another Scripture states, ‘But the man who is unclean and does not cleanse himself, that person shall be cut off from the midst of the assembly, since he has defiled the sanctuary of the Lord’ (Num. 19:20). Now [why should the same matter be repeated]? To differentiate between the one who is made unclean inside and the one who is made unclean outside [of the sanctuary]. As to the one who is made unclean outside, [he is not liable for imparting uncleanness to the sanctuary and its Holy Things] until he pokes his head and the greater part of his body into the sanctuary. As to the one who is made unclean inside, [he is not liable for imparting uncleanness to the sanctuary and its Holy Things] until he remains in the sanctuary for an interval sufficient for prostration.”
2. **I:2:** What would be a practical case [in which one has become unclean inside the courtyard and does not go out, or goes further into the temple precincts]? For which one [of the infractions of the cultic taboos] is he liable, for the first[, that is, because he was made unclean inside the temple], or for the latter [that he has not gone out forthwith or has even progressed further into the temple precincts]?

[B] OR REMAINED THERE FOR AN INTERVAL SUFFICIENT FOR PROSTRATING HIMSELF, [IF] HE WENT OUT BY THE LONGER WAY, HE IS LIABLE. [IF HE WENT OUT] BY THE SHORTER WAY, HE IS EXEMPT. THIS IS A POSITIVE COMMANDMENT REGARDING THE SANCTUARY ON ACCOUNT OF WHICH [A COURT] IS NOT LIABLE [TO A SIN OFFERING]:

1. **II:1:** The interval sufficient for prostrating oneself [M. 2:3C] is the [time it takes to walk] ten cubits. What would be a practical illustration [of that measurement of the shorter and the longer way out to which reference is made at M. 2:3D, E]?
2. **II:2:** How long is the time needed for prostrating oneself?

XI. YERUSHALMI SHEBUOT 2:4

- [A] **AND WHAT IS A POSITIVE COMMANDMENT CONCERNING THE MENSTRUATING WOMAN, ON ACCOUNT OF WHICH [A COURT] IS LIABLE? [IF] HE WAS HAVING SEXUAL RELATIONS WITH A CLEAN WOMAN, AND SHE SAID, “I HAVE BECOME UNCLEAN,” [EVEN IF] HE SEPARATED FORTHWITH, HE IS LIABLE, FOR THE GOING OUT IS JUST AS MUCH A PLEASURE FOR HIM AS THE GOING IN.**
1. **I:1:** [The reason that they do not bring a suspensive guilt-offering on account of violation of a positive or negative commandment concerning the sanctuary, M. Hor. 2:5B,] Kahana said, is that it is not possible that there will have been knowledge at the outset and at the end [of violation of the laws of uncleanness of the sanctuary], with an interval on inattention in the middle. [So there is no solid moment of doubt on account of which a suspensive guilt-offering would be required.]

XII. YERUSHALMI SHEBUOT 2:5

- [A] **R. ELIEZER SAYS, “A CREEPING THING... AND IT BE HIDDEN FROM HIM [LEV. 5:2] – “ONE IS LIABLE IF THE CREEPING THING GOES OUT OF MIND, BUT HE IS NOT LIABLE IF THE FACT THAT HE WAS IN THE SANCTUARY GOES OUT OF MIND.” R. AQIBA SAYS, “AND IT BE HIDDEN FROM HIM AND HE BE UNCLEAN – “ON ACCOUNT OF THE UNCLEANNESS’S PASSING OUT OF MIND HE IS LIABLE, BUT HE IS NOT LIABLE ON ACCOUNT OF THE SANCTUARY’S PASSING OUT OF MIND.” R. ISHMAEL SAYS, “SHALL BE HIDDENÉ’ [LEV. 5:2]É ‘SHALL BE HIDDENÉ’ [LEV. 5:3], TWO TIMES: “TO IMPOSE LIABILITY FOR THE UNCLEANNESS’S PASSING OUT OF MIND, AND FOR THE SANCTUARY’S PASSING OUT OF MIND.”**
1. **I:1:** Hezekiah said, “There is a dispute between [Aqiba and Eliezer] as to whether or not one must know by which particular source of uncleanness one has been contaminated. [Eliezer insists that the person know how he was made unclean, e.g., by the creeping thing.]” And R.

Yohanan said, “At issue between them is [only] the exegesis of Scripture.”

XIII. YERUSHALMI SHEBUOT 3:1

[A] **OATHS ARE OF TWO SORTS, WHICH YIELD FOUR SUBDIVISIONS** – “**I SWEAR I SHALL EAT,**” AND (2) “**...I SHALL NOT EAT,**” “**...THAT I ATE,**” AND (4) “**... THAT I DIDN’T EAT.**” “[**IF ONE SAID,** ‘**I SWEAR I WON’T EAT,**’ AND HE ATE ANYTHING [IN ANY VOLUME] WHATSOEVER, HE IS LIABLE,” THE WORDS OF **R. AQIBA. THEY SAID TO R. AQIBA,** “**WHERE HAVE WE FOUND THAT SOMEONE WHO EATS ANYTHING IN ANY NEGLIGIBLE VOLUME IS LIABLE, THAT THIS ONE SHOULD BE DEEMED LIABLE?**”

1. **I:1:** It is in order [to deem an oath, which, if violated, requires bringing an offering, in the case of one who says,] “I swear I shall eat,” or “I shall not eat.” But as to an oath, “that I ate,” or “that I didn’t eat,” how shall we interpret such a thing? If it is known that the man had eaten, and he took an oath that he had not eaten, this is nothing other than a false oath[, in which case there is no offering, since it is a deliberate lie]. And if the man thought that he had eaten and took an oath that he had not eaten [following Pené Moshe, supply:] if so, it is not an inadvertent violation of an oath, but the man [has not violated the oath] under constraint.
2. **I:2:** [With regard to the dispute of Aqiba and the sages,] how shall we interpret the case under dispute? If the man says, “By an oath, I shall eat a quantity of food in accord with the definition of the Torah [of what such a quantity is],” then surely R. Aqiba must concede [that the requisite volume specified in the Torah applies, or the man is not liable]. And if the man has taken an oath, “By an oath, I shall not taste [any food at all],” then surely the rabbis must concede [that he is liable if he eats anything at all, however slight the volume, even though this is less, e.g., than an olive’s bulk of food and so a negligible quantity]. What is [a case that expresses] the difference between the positions of the two parties?

[B] **SAID TO THEM R. AQIBA,** “**AND WHERE HAVE WE FOUND THAT ONE WHO MERELY SPEAKS HAS TO BRING AN OFFERING?**”

1. **II:1:** [With regard to M. 3:1F:] And lo, one who blasphemes brings an offering[, so how can Aqiba argue, as he does at M. 3:1F, that one who merely speaks is not going to bring an offering? A blasphemer merely speaks, and yet he does have to bring an offering].

XIV. YERUSHALMI SHEBUOT 3:2

[A] “**I SWEAR THAT I WON’T EAT,**” AND HE ATE AND DRANK — HE IS LIABLE ON ONLY ONE COUNT. “**I SWEAR THAT I WON’T EAT AND DRINK,**” AND HE ATE AND DRANK — HE IS LIABLE ON TWO COUNTS.

1. **I:1:** [On the basis of M. 3:2A, it appears that] drinking is subsumed under eating, but eating is not subsumed under drinking. R. Jonah derived the two of them from the following: “‘Therefore I have said to the people of Israel, No person among you shall eat blood’ (Lev 17:12). Now how shall we interpret the passage? If it speaks of blood that has congealed, has it not been taught Blood that has congealed is neither food nor drink [T. Toh. 2:5E]? But thus must we interpret the matter: [The blood is] just as it is [that is, liquid], and yet the Torah has referred to consuming it as is, as ‘eating.’ Consequently, eating encompasses drinking.” R. Yosé derived proof of the proposition [that drinking is subsumed under eating] from [the language of the Mishnah itself, as follows:] “[If one said,] ‘I swear that I shall not eat [or drink]; but he drank he is liable on only one count.’”

XV. YERUSHALMI SHEBUOT 3:3

[A] “**I SWEAR I WON’T EAT,**” — AND HE ATE A PIECE OF BREAD MADE OF WHEAT, A PIECE OF BREAD MADE OF BARLEY, AND A PIECE OF BREAD MADE OF SPELT, HE IS LIABLE ON ONE COUNT ONLY. “**I SWEAR THAT I WON’T EAT A PIECE OF BREAD MADE OF WHEAT, A PIECE OF BREAD MADE OF BARLEY, AND A PIECE OF BREAD MADE OF SPELT,**” AND HE ATE — HE IS LIABLE ON EACH AND EVERY COUNT. “**I SWEAR I WON’T EAT,**” — AND HE ATE A PIECE OF BREAD MADE OF WHEAT, A PIECE OF BREAD MADE OF BARLEY, AND A PIECE OF BREAD MADE OF SPELT, HE IS LIABLE ON ONE COUNT ONLY. “**I SWEAR THAT I WON’T EAT A PIECE OF BREAD MADE OF WHEAT, A PIECE OF BREAD MADE OF BARLEY, AND A PIECE OF BREAD MADE OF SPELT,**” AND HE ATE — HE IS LIABLE ON EACH AND EVERY COUNT.

1. **I:1:** [If one said,] “I swear that I shall not eat a piece of bread,” and he wrapped the bread in reeds or grape-leaves and ate it. he is liable on only one count [that is. that still is an act of eating the bread even though the bread was wrapped in undesirable things]. [If he said,] “I take an oath that I shall not eat a piece of bread, grape pits. grape husks and he wrapped the bread up in grape pits and grape husks, he is liable

on each count [for the oath referred to all three, and even though he ate them altogether, it still counts as three separate items].

2. **I:2:** [With reference to the Mishnah lemma, “I swear that I won’t eat,” but he ate carrion and *terefah*-meat, abominations and creeping things – he is liable.(M. Shebu 3:4D)] R. Yohanan said, “That is the case when he has encompassed [suitable and unsuitable foods in a single oath”. But if he specified each one individually, then such oaths certainly do not apply to matters that are subjects to a prohibition[, since one cannot take an oath to violate the Torah, and consequently, one will not be liable.]” R Simeon b. Laqish said. “Even when one has encompassed suitable and unsuitable foods in a single oath oaths certainly do not apply to matters that are subject to a prohibition[, so one is not liable]”

XVI. YERUSHALMI SHEBUOT 3:4

[A] **“I SWEAR I WON’T EAT,” AND HE ATE FOOD WHICH IS NOT SUITABLE FOR EATING, OR DRANK LIQUIDS WHICH ARE NOT SUITABLE FOR DRINKING – HE IS EXEMPT. “I SWEAR THAT I WON’T EAT,” BUT HE ATE CARRION AND TEREFAH-MEAT, ABOMINATIONS AND CREEPING THINGS – HE IS LIABLE. R. SIMEON DECLARES HIM EXEMPT.**

1. **I:1:** In this case [M. 3:1D-E] does R. Simeon declare the man exempt [who has eaten unsuitable food in violation of his oath]? [Indeed so] R. Simeon is consistent with his opinion expressed elsewhere, as we have learned: How much food that has not been tithed at all does one eat so as to be liable on that account. R. Simeon says, “Any amount at all.”. And the sages say, “An olive’s bulk.” Said to them R. Simeon, “Do you not agree with me in the case of one who eats an ant, lo – however small, that he is liable?” They said to him, “It is because that is whole, just as it has been created.” He said to them, “Also a single grain of wheat is precisely in the condition in which it too has been created [M. Mak. 3:2/I-N].
- a. **I:2:** [Referring to M. Ker. 3:1, R.Meir says, “If it was the Sabbath. and he took it; out from one domain to another in his mouth. he is liable on yet another count. They said to him, “That is not of the same sort of transgression of which he has liable heretofore since it is not caused by eating,] may one not say that the consideration of the principal and generative categories of prohibited labor then does not apply to the Day of Atonement?

2. **I:3:** In accord with the opinion of R Yohanan, who said, “If someone took an oath, ‘I swear that I shall not eat unleavened bread,’ he is prohibited from eating unleavened bread even on the night of Passover.” If he said, “That I shall not eat unleavened bread on the night of Passover,” he is to be flogged, and he must eat unleavened bread. [By contrast to A, we have a vain oath, which is invalid.] If he said, “that I shall not sit in the shade,” he is prohibited from sitting in the shade of a Sukkah on the festival. If he said, “that I shall not sit in the shade of a Sukkah [On the festival],” he is flogged, and he must sit in the shade of a Sukkah.

[B] [IF] HE SAID, “QONAM BE BENEFIT THAT I GIVE TO MY WIFE, IF I ATE ANYTHING TODAY” AND HE HAD EATEN CARRION, *TEREFAH*-MEAT, ABOMINATIONS AND CREEPING THINGS — LO, HIS WIFE IS PROHIBITED [TO GIVE BENEFIT TO HIM].

1. **II:1:** [Referring to M. 3:4F,] it is not the end of the matter that he makes such a statement without further specification, but even if he spells it out [he is liable]. And it is not the end of the matter that he treats matters within a general category, but even if he states them in detail [he is liable]. And it is not the end of the matter that what he swears applies in the future, but even if what he says applies to what has happened in the past, he is still liable. And it is not the end of the matter that he is liable in the view of rabbis, but that is the case even within the view of R. Aqiba., who specifies no minimum quantities]. And it is not the end of the matter that he is liable on account of eating carrion and terefah-meat, but even if he should eat dirt, he will be liable.

XVII. YERUSHALMI SHEBUOT 3:5

[A] IT IS ALL THE SAME [WHETHER THE OATH PERTAINS TO] THINGS WHICH BELONG TO HIMSELF, THINGS WHICH BELONG TO OTHERS, THINGS WHICH ARE OF SUBSTANCE, AND THINGS WHICH ARE NOT OF SUBSTANCE. HOW SO? [IF] HE SAID, “I SWEAR THAT I SHALL GIVE [THIS] TO MR. SO-AND-SO,” “...THAT I SHALL NOT GIVE...,” “...THAT I GAVE...,” “...THAT I DID NOT GIVE...,” “...THAT I SHALL GO TO SLEEP,” “...THAT I SHALL NOT GO TO SLEEP,” “... THAT I SLEPT,” “...THAT I DIDN’T SLEEP,” “...THAT I’LL THROW A STONE INTO THE SEA,” “...THAT I WON’T THROW...,” “...THAT I THREW...” “ÉTHAT I DIDN’T THROW...,” R. ISHMAEL SAYS, “HE IS LIABLE ONLY CONCERNING WHAT HAPPENS IN THE FUTURE [WHICH HE STATES IN THE FORM OF AN OATH], “FOR IT IS SAID, ‘TO DO EVIL OR TO DO GOOD’ (LEV. 5:4).” SAID TO HIM R. AQIBA, “IF SO, I KNOW ONLY ABOUT OATHS WHICH INVOLVE

DOING EVIL OR DOING GOOD. HOW DO WE KNOW THAT THE RULE CONCERNING OATHS INVOLVES STATEMENTS WHICH ARE NOT ABOUT DOING EVIL OR DOING GOOD?" HE SAID TO HIM, "FROM AN EXTENSION SUPPLIED BY SCRIPTURE." HE SAID TO HIM, "IF SCRIPTURE HAS ENCOMPASSED THESE MATTERS, SCRIPTURE ALSO HAS ENCOMPASSED THOSE MATTERS [GOVERNING WHAT HAS HAPPENED IN THE PAST]."

1. **I:1:** [As to one who took an oath, "I swear that I gave something to someone," (M. 3:5E), the purpose of taking such an oath] is to supply a pretext to one's fellow [to show him that he has actually given the object over, so that the other will then] admit to him [that he has it and agree to return it]. R. Ba in the name of Samuel: "If someone has taken an oath that Mr. So-and-so has given a *maneh* to Mr. So-and-so, and it turns out that he had not given him anything, [it is null and there is no penalty;] since he cannot take an oath that Mr. So-and-so will give a *maneh* to Mr. So-and-so in the future, it follows that he also cannot take an oath concerning what has happened in the past."
2. **I:2:** "[Or if any one utters with his lips a rash oath to do evil or to do good,] any sort of rash oath [that men swear]" (Lev. 5:4) – thus excluding a minor [whose oaths are null and not subject to punishment]. "A man," thus excluding someone who acts under compulsion [i.e., whose rash oaths are null]. "[Or if any one utters with his lips a rash oath to do evil or to do good] and it is hidden from him" (Lev. 5:4) – excluding one who deliberately violates the oath [who is not going to expiate the sin through the offering of variable value]. "And it is hidden from him" – [that is, the fact that he is subject to] an oath [is hidden from him].
3. **I:3:** Is it possible that if one takes an oath to do evil to others, he might be liable [for violating that oath and not committing evil with regard to other people]? Scripture says, "To do evil or to do good." Just as doing good refers to a matter of choice, so doing evil refers to a matter over which one has a choice. I shall then exclude the matter of one's taking an oath to do evil to others[, that such a one is exempt from liability if he fails to carry out his oath]. This applies to one who takes an oath not to give food to his fellow, but then sees him suffering and gives him food. [He is not liable for violating his oath.]
4. **I:4:** How does R. Ishmael interpret, "Or if any one utters with his lips a rash oath to do evil or to do good, any sort of rash oath that men swear" (Lev. 5:4)?

XVIII. YERUSHALMI SHEBUOT 3:6

[A] [If] HE TOOK AN OATH TO NULLIFY A COMMANDMENT, BUT HE DID NOT NULLIFY IT, HE IS EXEMPT [FROM PENALTY FOR VIOLATING THE OATH]. [AND IF HE TOOK AN OATH TO] CARRY OUT [A COMMANDMENT] AND DID NOT CARRY IT OUT, HE IS EXEMPT. IT IS LOGICAL THAT HE SHOULD BE LIABLE, IN ACCORD WITH THE WORDS OF R. JUDAH B. BETERA. SAID R. JUDAH B. BETERA, “NOW IF CONCERNING MATTERS OF FREE CHOICE, ABOUT WHICH ONE HAS NOT BEEN SUBJECTED TO AN OATH AT MOUNT SINAI, LO, ONE IS LIABLE ON THAT ACCOUNT [IF HE SWORE TO DO A DEED BUT DID NOT DO IT] – “MATTERS CONCERNING A RELIGIOUS DUTY, ABOUT WHICH ONE HAS BEEN SUBJECTED TO AN OATH AT MOUNT SINAI – IS IT NOT LOGICAL THAT ONE SHOULD BE LIABLE ON ITS ACCOUNT?” THEY SAID TO HIM, “NO. IF YOU HAVE STATED THE RULE IN REGARD TO AN OATH CONCERNING A MATTER OF FREE CHOICE, IN WHICH A ‘NO’ IS TREATED AS NO DIFFERENT FROM A ‘YES,’ WILL YOU SAY THE SAME CONCERNING AN OATH INVOLVING A RELIGIOUS DUTY, IN WHICH A ‘NO’ IS ASSUREDLY NOT TREATED AS NO DIFFERENT FROM A ‘YES’!” “FOR IF ONE HAS TAKEN AN OATH TO NULLIFY [A RELIGIOUS DUTY] BUT DID NOT NULLIFY THE RELIGIOUS DUTY, HE IS EXEMPT.”

1. I:1: Said R. Mani, “Thus should the Mishnah read [at B]: ‘He is liable [not: ‘in accord with’] the words of R Judah b. Beterah.
2. I:2: What does R. Judah b. Beterah say about a rule covering the other prohibited matters e.g., “I take an oath that I shall eat carrion,” but the man did not then eat it? [34D] He is exempt.
3. I:3: Where do we find a warning concerning an oath covering a matter of free choice [to take place in the future]?

XIX. YERUSHALMI SHEBUOT 3:7

[A] “I SWEAR THAT I WON’T EAT THIS LOAF OF BREAD,” “I SWEAR THAT I WON’T EAT IT,” “I SWEAR THAT I WON’T EAT IT” – AND HE ATE IT – HE IS LIABLE ON ONLY ONE COUNT. THIS IS A RASH OATH (LEV. 5:4). ON ACCOUNT OF DELIBERATELY [TAKING A RASH OATH] ONE IS LIABLE TO FLOGGING, AND ON ACCOUNT OF INADVERTENTLY [TAKING A RASH OATH] HE IS LIABLE TO BRING AN OFFERING OF VARIABLE VALUE.

1. I:1: [If someone said], “I swear that I shall eat this loaf of bread today,” and the day passed, but then he ate it – R. Yohanan and R.

Simeon b. Laqish – both of them say, “He is exempt [from flogging for deliberate failure].”

2. **I:2:** [Referring to M. 3:7A] R. Pinhas raised the question: “If the man turned out to be constitutionally weak [so he cannot eat it all in one day, what is the law]?”
3. **I:3:** R. Yosé raised the question: “If someone has said, ‘By an oath, by an oath, by an oath [regarding several loaves], I shall not eat’ and then he ate – what is the law? [Do we have three distinct oaths here?]”

XX. YERUSHALMI SHEBUOT 3:8

[A] AS TO A VAIN OATH, THEY ARE LIABLE FOR DELIBERATELY [TAKING A VAIN OATH] TO FLOGGING, AND FOR INADVERTENTLY [DOING SO], THEY ARE EXEMPT.

WHAT IS THE DEFINITION OF A VAIN OATH? [IF] ONE HAS TAKEN AN OATH TO DIFFER FROM WHAT IS WELL KNOWN TO PEOPLE. IF HE SAID (1) CONCERNING A PILLAR OF STONE THAT IT IS MADE OF GOLD, (2) CONCERNING A MAN THAT HE IS A WOMAN, (3) CONCERNING A WOMAN THAT SHE IS A MAN – [IF] ONE HAS TAKEN AN OATH CONCERNING SOMETHING WHICH IS IMPOSSIBLE – (1) “...IF I DID NOT SEE A CAMEL FLYING IN THE AIR:”

1. **I:1:** There we have learned: [Vows of exaggeration: If one said, “Qonam] if I did not see walking on this road as many as went out of Egypt” [M. Ned. 3:2A-B]. Surely it is possible that on that road [over a period of time] as many people did indeed pass as had gone out of Egypt?

[B] “...IF I DID NOT SEE A SNAKE AS THICK AS THE BEAM OF AN OLIVE PRESS...,” [IF] HE SAID TO WITNESSES, “COME AND BEAR WITNESS OF ME,” [AND THEY SAID TO HIM,]

1. **II:1:** And lo, the snake belonging to Emperor Shapur [was so large as to be able to] swallow camels and to swallow wagons. When they wanted to kill it, they brought camels’ hides and filled them with straw and put burning coals into them, and the snake swallowed them and perished.

[C] “WE SWEAR THAT WE SHALL NOT BEAR WITNESS FOR YOU,” [IF] HE TOOK AN OATH TO NULLIFY A COMMANDMENT – (1) NOT TO BUILD A *SUKKAH*, (2) NOT TO TAKE *LULAB* AND (3) NOT TO PUT ON PHYLACTERIES – THIS IS A VAIN OATH, ON ACCOUNT OF THE DELIBERATE MAKING OF WHICH ONE IS LIABLE FOR FLOGGING, AND ON ACCOUNT OF THE INADVERTENT MAKING OF WHICH ONE IS EXEMPT [FROM ALL PUNISHMENT].

1. **III:1:** [If he said to witnesses, “Come and bear witness for me,” and they said to him,] “We swear that we do not have any testimony [to bear witness for you],” they are flogged on the count of violating an oath of testimony. If they said. we swear that we shall not bear witness for you, lo. they are flogged by reason of a rash oath [M. 3:8K].
2. **III:2:** “[You shall not utter] a false [report]” (Ex. 23:1) and “[You shall not] lie [to one another]” (Lev. 19:11) were said in a single act of speech. They were spoken in a way in which the ear cannot hear nor the mouth speak.
3. **III:3:** A vain oath is an oath to differ from what is well known to people, a false oath is an oath to change [falsehood into truth or vice versa, where facts are not well known]. R. Jacob bar Aha in the name of R. Yohanan: “Anything that is known to two – this is a false oath. If it is known to three, this is a vain oath.”
4. **III:4:** It was taught: Just as vows of exaggeration are not binding, so oaths of exaggeration are not binding [T. Ned. 2:1H]. And has it not been taught, “Oaths of exaggeration are binding”?
5. **III:5:** Hezekiah said, “He who took an oath concerning two things’ to the effect that they are indeed two things’ has taken a vain oath and is on that account to be flogged.”

XXI. YERUSHALMI SHEBUOT 3:9

[A] **“I SWEAR THAT I SHALL EAT THIS LOAF OF BREAD,” “I SWEAR THAT I SHALL NOT EAT IT,”** – THE FIRST STATEMENT IS A RASH OATH, AND THE SECOND IS A VAIN OATH. **[IF] HE ATE IT, HE HAS VIOLATED A VAIN OATH. [IF] HE DID NOT EAT IT, HE HAS VIOLATED A RASH OATH.**

1. **I:1:** “I swear that I shall eat this loaf of bread,” “I swear that I shall not eat it,” I swear that I won t eat it – and he ate it – he is liable on only one count. [One oath is not added onto another. so where there is one valid oath, a second is null.] This is the sort of matter that, in the case of vows, is binding, and, in the case of oaths, is not binding [for M. Ned. 2:3A, there can be a vow within a vow, but no oath within an oath].
2. **I:2:** [And] R. Ba in the name of Samuel [said], “If someone has taken an oath that Mr. So-and-so has given a maneh to Mr. So-and-so, and it turns out that he had not given him anything, is null, and there is no

penalty,] since he cannot take an oath that Mr. So-and-so [a third party] will give a maneh to Mr. So-and-so in the future, it follows that he also cannot make an oath concerning what has happened in the past”

3. **I:3:** How do they treat such a case [in which a man has taken these contradictory oaths, one of which he must violate]? They instruct him to eat [the loaf]. It is better to transgress a vain oath and not to transgress a rash oath.

XXII. YERUSHALMI SHEBUOT 3:10

[A] [THE LAW GOVERNING] A RASH OATH APPLIES (1) TO MEN AND WOMEN, (2) TO THOSE WHO ARE NOT RELATED AND TO THOSE WHO ARE RELATED, (3) TO THOSE WHO ARE SUITABLE [TO BEAR WITNESS] AND TO THOSE WHO ARE INVALID [TO BEAR WITNESS], (4) BEFORE A COURT AND NOT BEFORE A COURT. (5) [BUT IT MUST BE STATED] BY A MAN OUT OF HIS OWN MOUTH. AND THEY ARE LIABLE FOR DELIBERATELY TAKING SUCH AN OATH TO FLOGGING, AND FOR INADVERTENTLY TAKING SUCH AN OATH TO AN OFFERING OF VARIABLE VALUE. [THE LAW GOVERNING] A VAIN OATH APPLIES (1) TO MEN AND WOMEN, (2) TO THOSE WHO ARE NOT RELATED AND TO THOSE WHO ARE RELATED, (3) TO THOSE WHO ARE SUITABLE [TO BEAR WITNESS] AND TO THOSE WHO ARE NOT SUITABLE [TO BEAR WITNESS], (4) BEFORE A COURT AND NOT BEFORE A COURT. (5) [BUT IT MUST BE STATED] BY A MAN OUT OF HIS OWN MOUTH. AND THEY ARE LIABLE FOR DELIBERATELY TAKING SUCH AN OATH TO FLOGGING, AND FOR INADVERTENTLY TAKING SUCH AN OATH, ONE IS EXEMPT [FROM ALL PUNISHMENT]. ALL THE SAME ARE THIS OATH AND THAT OATH: HE WHO WAS SUBJECTED TO AN OATH BY OTHERS IS LIABLE. HOW SO? [IF] ONE SAID, “I DID NOT EAT TODAY, AND I DID NOT PUT ON PHYLACTERIES TODAY,” [AND HIS FRIEND SAID,] “I IMPOSE AN OATH ON YOU [THAT THAT IS SO],” AND HE SAID, “AMEN,” HE IS LIABLE.

1. **I:1:** “[If] any one [sins in that he hears a public adjuration to testify, whether he has seen or come to know the matter, yet does not speak, he shall bear his iniquity” (Lev. 5:1). “[If] any one [sins and commits a breach of faith against the Lord by deceiving his neighbor in a matter of deposit or securityÉor has found what was lost and lied about it, swearing falsely]” (Lev. 6:2-3). [The use of “anyone” serves to link the law governing both an oath of testimony and an oath of bailment.] Just as the use of “any one” stated with reference to an oath of testimony means that the one who has an oath imposed upon him by others is treated as equivalent to the one who imposes an oath upon

himself, so in regard to the oath of bailment, the one who has an oath imposed upon him by others is treated as equivalent to the one who imposes an oath upon himself [and in either case, if the oath is false, whether imposed by others or imposed by himself, the person is liable, as at M. 3:10/I-O].

- 2.** **I:2:** [With regard to the penalty of flogging for violating a false oath even though it is a negative commandment not containing an actual deed,] this is the general rule: [Violation of] any negative commandment that includes an actual deed entails the penalty of flogging, and [violation of] any negative commandment that does not contain a concrete deed does not entail the penalty of flogging. except for [1] one who substitutes a beast for one already consecrated [saying “This beast. previously unconsecrated, is in the place of that one, already consecrated”] (Lev. 27:10); [2] the one who imposes an oath on himself; and [3] the one who curses his fellow by the Holy Name of God.

XXIV. YERUSHALMI SHEBUOT 4:1

[A] [THE LAW GOVERNING] AN OATH OF TESTIMONY (LEV. 5:1) APPLIES (1) TO MEN AND NOT TO WOMEN, (2) TO THOSE WHO ARE NOT RELATED AND NOT TO THOSE WHO ARE RELATED, (3) TO THOSE WHO ARE SUITABLE [TO BEAR WITNESS] AND NOT TO THOSE WHO ARE NOT SUITABLE [TO BEAR WITNESS], AND IT APPLIES ONLY TO THOSE WHO ARE SUITABLE TO BEAR WITNESS, BEFORE A COURT AND NOT BEFORE A COURT, [AND IT MUST BE STATED] BY A MAN OUT OF HIS OWN MOUTH. “[IF IT WAS IMPOSED] OUT OF THE MOUTHS OF OTHERS, THEY ARE LIABLE ONLY WHEN THEY WILL HAVE DENIED [THEIR KNOWLEDGE IN COURT],” THE WORDS OF R. MEIR. AND SAGES SAY, “WHETHER IT IS FROM ONE’S OWN MOUTH OR FROM THE MOUTHS OF OTHERS, THEY ARE LIABLE ONLY WHEN THEY WILL HAVE DENIED [THEIR KNOWLEDGE] IN COURT.” THEY ARE LIABLE IF THEY DELIBERATELY TOOK A [FALSE] OATH OR TOOK A [FALSE] OATH IN ERROR ALONG WITH DELIBERATELY DENYING THEIR TESTIMONY. BUT THEY ARE NOT LIABLE IF THEY INADVERTENTLY DENIED [THEIR TESTIMONY]. AND FOR WHAT ARE THEY LIABLE ON ACCOUNT OF DELIBERATE VIOLATION? AN OFFERING OF VARIABLE VALUE.

- 1.** **I:1:** The smallest number of goats [Lev. 16:5: “two male goats for a sin-offering”] is two. Why then does Scripture specify two? To indicate that the two of them should be equivalent to one another. The smallest number of lambs [Lev. 14:10] is two. Why then does Scripture specify two? To indicate that the two of them should be

equivalent to one another. The smallest number of birds is two. Why then does Scripture specify two [“two living clean birds,” Lev. 14:4]? To indicate that the two of them should be equivalent to one another. The smallest number of trumpets is two. Why then does Scripture specify two? To indicate that the two of them should be equivalent to one another. R. Haggai objected to R. Yasa, “And is it not written, ‘If a malicious witness rises against any man to accuse him of wrongdoing, then both parties to the dispute shall appear before the Lord’ (Deut. 19:16-17)? “Shall we now say: ‘The smallest number of men is two’? Why then does Scripture specify, ‘the two parties’? To say that both of them must be equivalent to one another? But has it not been written [to the contrary, indicating that they need not be equivalent to one another], ‘You shall not pervert the justice due to the sojourner or to the fatherless’ (Deut. 21:17)? Lo, a sojourner may enter into a case with one who is not a sojourner, an orphan enters into a case with one who is not an orphan. “If so, why has it been written, two? “It is a superfluous word, left available for drawing an analogy therefrom or for constructing an argument on the foundation of similarities. “[This argument, specifically, is as follows:] Here is it stated, two, and below it says, ‘Now two men remained in the camp, one named Eldad, and the other named Medad, and the spirit rested upon them’ (Num. 11:26). “Just as in the cited passage the reference is to men; not women, so here [with regard to testimony] the meaning is to permit [two] men, not women or children [to testify]. “Thus we have learned that a woman does not judge or give testimony in court.”

- 2. I:2:** It is written, “The fathers shall not be put to death for the children” (Deut. 24:16). And has it not also been stated, “Every man shall be put to death for his own sin” (Deut. 24:16)? Why does Scripture then state, “The fathers shall not be put to death for the children”? The fathers shall not be put to death by the testimony of the children, and the children shall not be put to death by the testimony of the fathers. How then do we know [further] that witnesses may not be related to the accused, and how do we know that witnesses may not be related to one another? Take note that, if they should be declared to be conspiring witnesses, is it not by their own testimony that they are put to death, [in which case relatives turn out to testify against one another, which is not permitted]? And how do we know that witnesses may not be related to the judges? Take note that if one of the witnesses is declared a conspiratorial witness, is he not put to death before his fellow also is so declared? If you say so, will he not be put to death by his testimony? [That is, the judges will turn out to inflict the death penalty on their own relatives.] And how do we know that the judges

may not be related to one another? The Torah has declared that one should be put to death on the testimony of witnesses, and one should be put to death at the decision of judges. Just as witnesses may not be related to one another, so judges may not be related to one another.

- 3. I:3:** [The law governing] an oath of testimony (Lev. 5:1) applies (1) to men and not to women, (2) to those who are not related and not to those who are related, (3) to those who are suitable [to bear witness] and not to those who are not suitable [to bear witness]: how do we know it? This is in line with that which is said. “If he does not speak, he shall bear his iniquity” (Lev. 5:1). [This applies to] him who gives evidence, so that his fellow will have to pay out money. It thus excludes one who is unfit to give testimony, for even if he does tell what he knows, his fellow is not going to have to pay out money. Before a court [and not before a court]: This excludes the case of a single witness [without a corroborating witness], in a case in which they said to him, “Lo, you are acceptable to us as two witnesses.” Is it possible to suppose that, in the stated case, such a one should be liable [to the oath of testimony]? Scripture has stated, “whether he has seen or come to know the matter, yet does not speak” (Lev. 5:1) – this refers to one who is suitable to give testimony valid by the law of the Torah, excluding a lone witness, who is not valid to give testimony by the law of the Torah, and not before a court: “If he does not speak, he shall bear his iniquity” (Lev. 5:1) – [the oath thus applies to] the one who reports that he has seen and pays what he owes, excluding a case outside of a court, in which even if one reports what he knows, his fellow is not going to have to pay out compensation. And how do we know that the law applies to two witnesses? Scripture says, “And heÉa witness,” lo, here are two witnesses.
- 4. I:4:** As to the following, the evidence of witnesses is not combined [so that we have the testimony of two witnesses] unless the two of them saw the incident simultaneously – R. Joshua b. Qorha says, “Even if they saw it sequentially.” R. Jeremiah in the name of Rab: “The sages concede to R. Joshua b. Qorha in the matter of witnesses to the claim of one to be the first-born. and in the case of witnesses to the claim of one to have established rights of ownership through usucaption [that successive. not simultaneous, witness, is acceptable].” R. Ba in the name of R. Jeremiah: “Also in the case of testimony as to the presence of the signs [of puberty] the fact is the same.”

XXV. YERUSHALMI SHEBUOT 4:2

[A] AN OATH OF TESTIMONY – HOW SO? [IF] ONE SAID TO TWO PEOPLE, “COME AND TESTIFY ABOUT ME,” [AND THEY REPLIED,] “WE SWEAR THAT WE DON’T KNOW ANY TESTIMONY ABOUT YOU” – FOR IF THEY SAID TO HIM, “WE DON’T KNOW ANY TESTIMONY CONCERNING YOU,” [AND HE SAID TO THEM], “I IMPOSE AN OATH UPON YOU,” AND THEY SAID TO HIM, “AMEN,” – LO, THESE ARE LIABLE [IF THEY DID HAVE TESTIMONY TO PRESENT AND THUS SWORE FALSELY]. [IF] ONE IMPOSED AN OATH ON THEM FIVE TIMES OUTSIDE OF COURT, AND THEN THEY CAME TO COURT AND CONFESSED [THAT THEY DID HAVE TESTIMONY TO OFFER, WHICH THEY NOW ARE WILLING TO OFFER], THEY ARE EXEMPT. [IF] THEY DENIED [THAT THEY HAD TESTIMONY TO OFFER, AND TURNED OUT TO HAVE VIOLATED THEIR OATHS], THEY ARE LIABLE ON EACH AND EVERY COUNT. [IF] HE IMPOSED AN OATH ON THEM FIVE TIMES BEFORE THE COURT AND THEY DENIED [HAVING TESTIMONY, AND THEN TURNED OUT TO HAVE SWORN FALSELY], THEY ARE LIABLE ON ONLY ONE COUNT. SAID R. SIMEON, “WHAT IS THE REASON? BECAUSE [IN COURT] THEY DO NOT HAVE THE POWER TO RETRACT AND TO CONFESS.”

1. **I:1:** “[If] any one [sins in what he hears a public adjuration to testify, and though he is a witnessÉdoes not speak]” (Lev. 5:1). “[If] any one [sins and commits a breach of faithÉby deceiving his neighbor in a matter of deposit or security]” (Lev. 6:2). Just as [with reference to the oath of bailment] the oath is taken on one’s own initiative [“I swear”], so with reference to the oath of testimony, the oath may be taken on one’s own initiative [as at M. 4:2C]. Just as with reference to the oath of testimony, the oath may be administered by others [“Do you swearÉ?” “Amen”], so with reference to the oath of bailment the oath may be administered by others [as at M. 1:2D, thus in accord with the sages of M. 4:1].
2. **I:2:** R. Jeremiah raised the question: “[If] a relative takes an oath on his own initiative in the case of an oath of testimony [in which instance he is not suitable to give testimony at all], what is the law as to his being liable?”
3. **I:3:** R. Yudan Qapodeqayya [the Cappodocian] raised the question: “[If] one imposed an oath on a man five times, at his own initiative [‘I swear that’] in court, is it possible that he is not liable for each such oath? [That is, in reference to Meir’s opinion, who holds that an oath taken on one’s own does not have to be taken in court to be culpable,

do we treat as comparable the cases of an oath outside, and an oath inside, the court? At issue then is M. 4:2F from Meir's perspective.]”

4. **I:4:** R. Jeremiah raised the question: “If one imposed an oath upon himself five times, and then others imposed an oath on him five times [and he said ‘Amen’ each time], what is the law? [In the former instance, the plaintiff has not laid claim to the bailment. The oath takes place outside of court. In the latter instance, in court an oath is imposed on the man five times. Clearly, in the latter instance, there is only a single count of liability, for the man denies in court only one time. The question is the law applying in the former instance.]” Since R. Meir treated an oath taken on one’s own initiative [“I swear”] as tantamount to an oath taken in court[, in this case there is only liability on one count].
5. **I:5:** [Since Scripture specifies, Lev. 6:1-2, that the oath of bailment applies to movables and not to real estate, and since, we know, the rule for the oath of bailment provides the law for the rule for the oath of testimony, we now raise the following question:] As to an oath taken at one’s own initiative in the case of real estate, what is the law governing one’s being liable [for a false oath]?
6. **I:6:** R. Ba, R. Judah in the name of Rab: “In the case of inadvertent violation of the oath, one is liable for an offering. In the case of deliberately doing so, one is liable for an offering [cf. M. 4:1G-J]. But [if] someone said, ‘I supposed that this sort of oath was not permitted’ [in such a case, one is not liable for inadvertently violating such an oath] [M. 4:1H].”

XXVI. YERUSHALMI SHEBUOT 4:3

[A] [If] BOTH OF THEM DENIED AT THE SAME TIME [THAT THEY HAD TESTIMONY], BOTH OF THEM ARE LIABLE. [If THEY MADE THEIR DENIALS] ONE AFTER THE OTHER, THE FIRST IS LIABLE, BUT THE SECOND IS EXEMPT.

1. **I:1:** [If, after someone laid claim on witnesses to give testimony in his behalf, but before the witnesses have been subjected to an oath, the witnesses declared that they planned in court, under oath, to deny having evidence, so, in advance] the witnesses set aside the offering [that would soon be required of them] and said, “Lo, we are going to deny in court [that we have testimony to offer in this case,” [what is the law]?

[B] [If] ONE DENIED AND ONE CONFESSED, THE ONE WHO DENIES IS LIABLE. [If] THERE WERE TWO GROUPS OF WITNESSES, [AND] THE FIRST GROUP DENIED [HAVING TESTIMONY) AND THEN THE SECOND GROUP DENIED, BOTH OF THEM ARE LIABLE — BECAUSE THE TESTIMONY IN ANY EVENT CAN BE CONFIRMED BY THE TESTIMONY OF EITHER ONE OF THEM:

- 1. II:1:** Thus does the Mishnah pericope state: [If] one denied and one confessed, the one who denies is liable: Said R. Yosé, “The rule of the Mishnah applies to a case in which the second witness confesses while the first one is still speaking his piece, for if the first should retract [before the second has spoken,] they will accept his testimony. In that case the second witness becomes the first. [That is, both witnesses at first denied that they had testimony. The second then retracted, while the first was still making his denial. The reason the first then is liable is that he still has the chance to retract. In that case, the testimony of the first is in hand. Then the second testimony is what is outstanding, so the second witness now has the same status as the first.]”

XXVII. YERUSHALMI SHEBUOT 4:4

[A] “I IMPOSE AN OATH ON YOU THAT YOU COME AND TESTIFY ABOUT ME, THAT IN THE HAND OF MR. SO-AND-SO THERE ARE A BAILMENT, A LOAN, STOLEN GOODS, AND LOST PROPERTY OF MINE,” “WE SWEAR THAT WE DO NOT KNOW ANY TESTIMONY CONCERNING YOU” — THEY ARE LIABLE ON ONLY ONE COUNT, “WE SWEAR THAT WE KNOW NOTHING ABOUT YOUR HAVING IN MR. SO-AND-SO’S HAND A BAILMENT, A LOAN, STOLEN GOODS, AND LOST PROPERTY,” THEY ARE LIABLE ON EACH AND EVERY COUNT. “I IMPOSE AN OATH ON YOU THAT YOU COME AND TESTIFY ABOUT ME THAT I HAVE A BAILMENT IN THE HAND OF MR. SO-AND-SO: WHEAT, BARLEY, AND SPELT,” “WE SWEAR THAT WE KNOW NO TESTIMONY ABOUT YOU” — THEY ARE LIABLE ON ONLY ONE COUNT. “WE SWEAR THAT WE KNOW NO TESTIMONY ABOUT YOU, THAT YOU HAVE A BAILMENT IN THE HAND OF MR. SO-AND-SO WHEAT, BARLEY, AND SPELT” THEY ARE LIABLE ON EACH AND EVERY COUNT.

- 1. I:1:** How do we know that [an oath of testimony] applies solely where there is a monetary claim? Said R. Eliezer, “Here, ‘orÉ’ ‘orÉ’ is stated [Lev. 5:1: ‘or sawÉor knew’], and with regard to a bailment, ‘orÉ’ ‘orÉ’ is stated [Lev. 6:2: ‘in a deposit or pledge or robbery’]. just as the use of ‘or’ with regard to a bailment alludes solely to a case in which there is a monetary claim, so the use of ‘or’ in the context of the oath of testimony signifies that the oath is valid only in the case of a monetary claim.” The use of “or” in the context of the murderer will

prove the contrary, for in that case discourse does not deal with a monetary claim [Num. 35: 18:21: “or if he smote him with a weapon of woodÉor hurled at himÉor in enmity smote him”]. [That is hardly pertinent. For] we draw evidence from the use of the word “or” in a context in which there is an [35D] oath for discovering the law governing another context in which there is an oath, but let not the use of “or” in the setting of the murderer be adduced in evidence, for in that context there is no reference to an oath. The use of “or” with reference to the wife accused of adultery will then prove the contrary [Num. 5:14: “or if the spirit of jealousyÉ,” “or when the spirit of jealousyÉ”], for in that case there indeed is an oath, yet the Scripture does not speak of a monetary claim. [That is hardly pertinent. For] we draw evidence from the use of the word “or” in a context in which there is an oath and in which there is no allusion to the priesthood from the use of the word “or” in equivalent cases such as these, but let not the use of “or” with regard to the wife accused of adultery be adduced in evidence, for in that context the priest also plays a role. The use of the word “or” with regard to the rash oath [Lev. 5:4: “Or if any one utters with his lips a rash oath to do evil or to do good”] will prove the case, for in that context there is no monetary claim. [That is hardly pertinent. For] we draw evidence from cases in which the law has treated deliberate violation as equivalent to inadvertent violation, from the use of the word “or” in contexts of an equivalent character. And let not the use of the word “or” in the context of a rash oath prove the case, in which the law has not treated deliberate violation as equivalent to inadvertent violation.

XXVIII. YERUSHALMI SHEBUOT 4:5

[A] “**I** IMPOSE AN OATH ON YOU THAT YOU COME AND TESTIFY ABOUT ME THAT **I** HAVE IN THE HAND OF **MR. SO-AND-SO** A CLAIM FOR DAMAGES, HALF-DAMAGES, TWOFOLD RESTITUTION, FOURFOLD AND FIVEFOLD RESTITUTION, “AND THAT **MR. SO-AND-SO** RAPED MY DAUGHTER,” “SEDUCED MY DAUGHTER,” “AND THAT MY SON HIT ME,” “THAT MY FRIEND INJURED ME,” AND “THAT HE SET FIRE TO MY GRAIN ON THE **DAY OF ATONEMENT**” – **LO**, THESE ARE LIABLE [ON ANY OF THESE COUNTS].

1. **I:1:** It was taught: R. Yosé says, “Why does Scripture say, ‘He being a witness, whether he has seen or known’ (Lev. 5:1)? ‘I speak solely of testimony that can be confirmed on the basis of knowledge without actual witnessing [of the act], or of witnessing of the act without knowledge of what has actually happened.’” A case of knowledge of

what has happened without actually seeing the transaction is one of money. What would be a concrete instance? “Give me two hundred zuz which I have in your possession!” – “You don’t have such funds in my possession!” – “Did I not count out for you exactly that sum of money in the presence of Mr. So-and-so and Mr. Such-and-such?” “Let them so state and I shall pay you!” – this is evidence based on what people have seen without knowing the meaning of what they have seen [T. 2:5H-I]. [This is a case in which the witnesses] come and say, “Yes, he did admit to him that he owed the money, but if he stole it we do not know, or if he lent it to him we do not know.” And what is a case of evidence based on knowledge without one’s directly seeing the incident in a case of monetary claim? “Give me the two hundred zuz which I have in your possession!” “You don’t have two hundred zuz in my possession!” “Did you not admit to me in the presence of Mr. So-and-so and Mr. Such-and-such?” “Let them say so and I’ll pay it out to you!” – this is evidence based on what people know without their having seen [the incident itself] [T. 2:5J-K].

2. **I:2:** “You have killed my ox,” “You have cut down my plants” and the accused says, “I don’t know [whether or not I did it],” he is liable [cf. T. Sanh. 6:1A-C]. “You told me to kill it,” or “to cut down the plants” – they follow the status of the generality of plants.

XXIX. YERUSHALMI SHEBUOT 4:6

[A] “**I IMPOSE AN OATH ON YOU THAT YOU COME AND TESTIFY ABOUT ME THAT I AM A PRIEST,**” “**THAT I AM A LEVITE,**” “**THAT I AM NOT THE SON OF A DIVORCÉE,**” “**THAT I AM NOT THE SON OF A WOMAN WHO HAS PERFORMED THE RITE OF REMOVING THE SHOE,**” “**THAT MR. SO-AND-SO IS A PRIEST,**” “**THAT MR. SO-AND-SO IS A LEVITE,**” “**THAT HE IS NOT THE SON OF A DIVORCÉE,**” THAT “**HE IS NOT THE SON OF A WOMAN WHO HAS PERFORMED THE RITE OF REMOVING THE SHOE,**” “**THAT MR. SO-AND-SO RAPED HIS DAUGHTER,**” “**SEDUCED HIS DAUGHTER,**” “**THAT MY SON INJURED ME,**” “**THAT MY FRIEND INJURED ME,**” “**THAT SOMEONE SET FIRE TO MY GRAIN ON THE SABBATH**” –

1. **I:1:** [In connection with an oath of testimony, it is said, “If anyone [sins]” (Lev. 5:1), and in connection with an oath of bailment it is said, “If] anyone [sins]” (Lev. 6:1). The purpose of using the same language is to establish grounds for a proof by analogy from one case to the other: just as “When anyone sins” in the case of a bailment speaks of a case in which there is a monetary claim actually within the claimant’s domain [thus excluding M. 4:6A-B], so, “When anyone sins” in the

case of an oath of testimony speaks of a case in which there is a monetary claim actually within the claimant's domain.

[B] LO, THESE ARE EXEMPT:

- 1.** **II:1:** Does this statement [at M. 4:6D] not stand at variance with the position of R. Simeon b. Laqish, who said [that in a case in which one claimed that on the Sabbath someone set fire to his grain, the person who has done so is not liable for a monetary payment, since he also is liable to flogging for violating the Sabbath, hence] there is no question of monetary compensation in a case in which there is flogging?

XXX. YERUSHALMI SHEBUOT 4:7

[A] “**I** IMPOSE AN OATH ON YOU THAT YOU COME AND TESTIFY ABOUT ME THAT **MR. SO-AND-SO** PROMISED TO GIVE ME TWO HUNDRED ZUZ AND HAS NOT GIVEN IT” – LO, [IF, DESPITE TAKING THE OATH, THEY FAIL TO TESTIFY,] THESE ARE EXEMPT, FOR THEY ARE LIABLE ONLY IN THE CASE OF A MONETARY CLAIM WHICH IS EQUIVALENT TO A BAILMENT. “**I** IMPOSE AN OATH ON YOU THAT WHEN YOU HAVE EVIDENCE TO GIVE IN MY BEHALF, YOU COME AND TESTIFY ABOUT ME” – LO, [IF, DESPITE TAKING THE OATH, THEY FAIL TO TESTIFY,] THESE ARE EXEMPT, FOR THE OATH HAS COME BEFORE THE MATTER ABOUT WHICH TESTIMONY IS TO BE GIVEN.

- 1.** **I:1:** R. Yosé, R. Jacob bar Zabedi, R. Abbahu in the name of R. Yohanan [ruled], “[If] one has promised to give a gift to his fellow and then sought to retract, he has the right to retract” [in consequence of which the rule at M. 4:6A follows].”

[B] [If] ONE HAS GOTTEN UP IN THE SYNAGOGUE AND SAID, “**I** IMPOSE AN OATH ON YOU THAT IF YOU KNOW ANY EVIDENCE CONCERNING ME, YOU COME AND GIVE TESTIMONY ABOUT ME” – LO, [IF, DESPITE TAKING THE OATH, THEY FAIL TO TESTIFY,] THESE ARE EXEMPT, UNLESS HE ADDRESS HIMSELF TO [SOME] OF THEM IN PARTICULAR.

- 1.** **II:1:** [With regard to M. 4:7G-I, a case in which one addressed an oath to a group of people in general,] why [is the oath not binding]?

XXXI. YERUSHALMI SHEBUOT 4:8

[A] [If] HE SAID TO TWO PEOPLE, “**I** IMPOSE AN OATH ON YOU, **MR. SO-AND-SO** AND **MR. SO-AND-SO**, THAT IF YOU KNOW EVIDENCE CONCERNING ME, YOU COME

AND TESTIFY ABOUT ME” – “WE SWEAR THAT WE KNOW NO EVIDENCE ABOUT YOU” BUT THEY DO HAVE EVIDENCE CONCERNING HIM, CONSISTING OF WHAT THEY HAVE HEARD FROM A WITNESS, OR ONE OF THEM IS A RELATIVE OR OTHERWISE INVALID TO TESTIFY – LO, THESE ARE EXEMPT.

1. **I:1:** R. Mana [said]. “It follows from the final clause. ‘or [if] one of them is a relative or otherwise invalid to testify that if one of them was not a relative or otherwise invalid to testify, they will be liable [for taking an oath of testimony that is false]. And does the plaintiff know [that they do have testimony to give]? [Clearly he does not, since M. 4:8A is explicit,] so the reason [at M. 4:7, that a generalized oath is null,] is only that the plaintiff does not direct the oath to those particular witnesses.”

XXXII. YERUSHALMI SHEBUOT 4:9

[A] [IF] HE HAD SENT THROUGH HIS SLAVE [TO IMPOSE THE OATH ON THE WITNESSES], OR IF THE DEFENDANT HAD SAID TO THEM, “I IMPOSE AN OATH ON YOU, THAT IF YOU KNOW TESTIMONY CONCERNING HIM, YOU COME AND GIVE EVIDENCE CONCERNING HIM,” THEY ARE EXEMPT, UNLESS THEY HEAR [THE OATH] FROM THE MOUTH OF THE PLAINTIFF.

1. **I:1:** Said R. Eleazar, “Why does Scripture say, ‘[If any one sins in that he hears a public adjuration to testify and though he is a witnessÉ yet he does not speak, he shall bear his iniquity’ (Lev. 5:1)? Is it not that [he must hear the oath] from the mouth of the plaintiff [only]?”

XXXIII. YERUSHALMI SHEBUOT 4:10

[A] (1) “I IMPOSE AN OATH ON YOU,” (2) “I COMMAND YOU,” (3) “I BIND YOU,” – LO, THESE ARE LIABLE. [IF HE USED THE LANGUAGE,] “BY HEAVEN AND EARTH,” LO, THESE ARE EXEMPT. (1) “BY [THE NAME OF] ALEF-DALET [ADONAI]” OR (2) “YUD-HE [YAHWEH],” (3) “BY THE ALMIGHTY,” (4) “BY HOSTS,” (5) “BY HIM WHO IS MERCIFUL AND GRACIOUS,” (6) “BY HIM WHO IS LONG-SUFFERING AND ABUNDANT IN MERCY,” OR BY ANY OTHER EUPHEMISM – LO, THESE ARE LIABLE. “HE WHO CURSES MAKING USE OF ANY ONE OF THESE IS LIABLE,” THE WORDS OF R. MEIR. AND SAGES EXEMPT. “HE WHO CURSES HIS FATHER OR HIS MOTHER WITH ANY ONE OF THEM IS LIABLE,” THE WORDS OF R. MEIR. AND SAGES EXEMPT.

1. **I:1:** [If one said,] “I impose an oath on you,” without further specification, [the oath is valid, and the one on whom it is imposed, should he swear falsely,] is liable. [If he said,] “I bind you,” “I chain you” – they are liable.
2. **I:2:** R. Yohanan in the name of R. Yannai: “Thus does the Mishnah teach.” And there are those who say, R. Abbahu in the name of R. Yohanan: “Thus does the Mishnah teach: He who curses making use of any one of these is liable,” the words of R. Meir. And [supply:] R. Judah [instead of sages] exempt.

[B] HE WHO CURSES HIMSELF AND HIS FRIEND WITH ANY ONE OF THEM TRANSGRESSES A NEGATIVE COMMANDMENT.

1. **II:1:** What is the law as to his being flogged?

[C] [IF HE SAID,] (1) “MAY GOD SMITE YOU,” (2) “SO MAY GOD SMITE YOU,” THIS IS [LANGUAGE FOR] AN ADJURATION [CONFORMING TO] WHICH IS WRITTEN IN THE TORAH (LEV. 5:1). (3) “MAY HE NOT SMITE YOU,” (4) “MAY HE BLESS YOU,” (5) “MAY HE DO GOOD TO YOU” – R. MEIR DECLARES LIABLE [FOR A FALSE OATH TAKEN WITH SUCH A FORMULA]. AND SAGES EXEMPT.

1. **III:1:** [I know] only that the law applies to these statements [of M. 4:10J], which are accompanied by an oath. How do I know that there is a penalty for a statement [along the lines of M. 4:10J] in which there is no oath?

XXXIV. YERUSHALMI SHEBUOT 5:1

[A] AN OATH CONCERNING A BAILMENT (LEV. 6:2FF.) APPLIES TO MEN AND TO WOMEN, TO RELATIVES AND TO STRANGERS, TO PEOPLE SUITABLE TO GIVE TESTIMONY AND TO PEOPLE NOT SUITABLE TO GIVE TESTIMONY, BEFORE A COURT AND NOT BEFORE A COURT, FROM ONE’S OWN MOUTH. “BUT AS TO ONE FROM THE MOUTH OF OTHERS, “HE IS LIABLE ONLY WHEN HE WILL DENY [THE CLAIM] IN COURT,” THE WORDS OF R. MEIR. AND SAGES SAY, “WHETHER IT IS FROM HIS OWN MOUTH OR FROM THE MOUTH OF OTHERS, ONCE HE HAS DENIED HIM, HE IS LIABLE.” [IF ONE TOOK A FALSE OATH,] ONE IS LIABLE IF HE DELIBERATELY TOOK A [FALSE] OATH, OR [IF HE TOOK ONE] IN ERROR, WHILE DELIBERATELY [DENYING] BAILMENT. BUT ONE IS NOT LIABLE [IF HE] INADVERTENTLY [TOOK A FALSE OATH IN REGARD TO A BAILMENT]. AND FOR WHAT ARE THEY LIABLE ON ACCOUNT OF DELIBERATE VIOLATION? A GUILT OFFERING WHICH IS WORTH [TWO] SHEKELS OF SILVER (LEV. 5:15).

1. **I:1:** The rule has been taught concerning [liability for] an oath from one's own mouth with regard to an oath of testimony. What is the law [in a case of an oath from one's own mouth] as to being liable in the case of a public adjuration? As to an oath of bailment, what is the law as to one's being liable in respect to a public adjuration [as is the case in an oath of testimony]? [Thus the issue concerns both applying to the rule stated at Lev. 6:1ff., with regard to an oath of bailment the matter of the oath of testimony of Lev. 5:1ff., and vice versa. With regard to the oath of bailment, there is no reference at all to a public adjuration, such as is stated explicitly respect to the oath of testimony.]
2. **I:2:** ["If any one sins and commits a breach of faith against the Lord by deceiving his neighbor in a matter of deposit or security, or through robbery, or if he has oppressed his neighbor or has found what was lost and lied about it, swearing falsely – in any of all the things which men do and sin therein, when one has sinned and become guilty, he shall restore what he took by robbery" (Lev. 6:1-4)]. "And he has denied his neighbor" by acquitting himself through a confession. [That is to say, he has taken an oath. Had he confessed that he had the bailment, he would have had to pay up. Now through this oath he has escaped the liability. Through the oath he has acquitted himself of admitting that he had the bailment and of paying up. In such a case, if he has sworn falsely and confesses, he is liable.] "Through an oath," excluding a case in which one has denied having the bailment when confronted by one of two partners to the ownership of the bailment. [That is, if the man has denied under oath taken to one of the partners, he does not have to bring an offering for the false oath. He can give the one his share when he hands over the share of the other to whom there has been no false oath. So here there is no liability for an offering.]
 - a. **I:3:** [Referring to the statement above, excluding from penalty an oath taken in denial in the case of a debt secured through witnesses and a bond,] R. La, R. Yohanán, and R. Simeon b. Laqish – all three of them say [that one who denies owing a debt secured by witnesses and a bond still will be liable for the false oath]. If there were no witnesses, it would be parallel to the case of one who has acquitted himself through a confession. [If then he confessed to having lied about the bailment or debt, it would be a valid denial, and he would not have to pay the money or hand over the bailment.]
3. **I:4:** ["Or he has found what was lost and] lied about it" (Lev. 6:3) – [about it, (falsely claiming that he did not find anything belonging to the other party, but not lied to him [saying, "Indeed I found a lost

object, but I did not know that it belongs to you so that I have to return it to you.” If he should take an oath in such wise, he is exempt from liability for having taken a false oath of bailment. His basic claim, after all, is not to his advantage, since he may not be able to keep the lost object in any event.] Ben Azzai says, “There are three types of cases involving lost objects. There is a case in which one knows about a lost object and about the one who has found it; one knows about the object itself but not about the one who found it; one knows neither about the object nor about the one who has found it.” [That is, one imposes an oath on the witnesses as to their having seen the lost object in the hand of the one who found it, and he denies and says he did not find it. The possible cases then are that the oath covers the witnesses’ knowledge that the object has been found and that so-and-so has found it, or that the object has been found but that the witnesses do not know that so-and-so has found it, or that the witnesses know that the witnesses have found something but they do not know what object has been found.]

XXXV. YERUSHALMI SHEBUOT 5:2

[A] AN OATH CONCERNING A BAILMENT — HOW SO? HE SAID TO HIM, “GIVE ME MY BAILMENT WHICH I HAVE IN YOUR HAND” “I SWEAR THAT YOU HAVE NOTHING IN MY HAND” — OR IF HE SAID TO HIM, “YOU HAVE NOTHING IN MY HAND,” “I IMPOSE AN OATH ON YOU”, AND HE SAID, “AMEN” LO, THIS ONE IS LIABLE. [IF] HE IMPOSED AN OATH ON HIM FIVE TIMES, WHETHER THIS IS BEFORE A COURT OR NOT BEFORE A COURT, AND THE OTHER PARTY DENIED IT, HE IS LIABLE FOR EACH COUNT. SAID R. SIMEON, “WHAT IS THE REASON? BECAUSE [ON EACH COUNT] HE HAS THE POWER TO RETRACT AND TO CONFESS [THAT HE DOES HAVE THE BAILMENT AND WILL NOW RETURN IT].

1. **I:1:** “If any one [sins in that he hears a public adjuration to testify, and though he is a witnessÉdoes not speak],” (Lev. 5:1). “[If] any one [sins and commits a breach of faithÉby deceiving his neighbor in a matter of deposit or security]” (Lev. 6:1). Just as [with reference to the oath of bailment] the oath is taken on one’s own initiative [“I swear”], so with reference to the oath of testimony, the oath may be taken on one’s own initiative [as at M. 5:2C]. Just as with reference to the oath of testimony, the oath may be administered by others [“Do you swear” “Amen”], so with reference to the oath of bailment the oath may be administered by others [as at M. 5:2D, thus in accord with the sages of M. 5:1].

2. **I:2:** R. Jeremiah raised the question: “[If] a relative takes an oath on others’ initiative in the case of an oath of bailment[, in which instance he is entirely suitable to give testimony], what is the law as to his being exempt?”
3. **I:3:** R. Yudan Qapodeqayya [the Cappodocian] raised the question: “[If] one imposed an oath on a man five times, at others’ initiative [‘Do you swear that’] outside of court, is it possible that he is liable not for each such oath but only for one?”
4. **I:4:** R. Jeremiah raised the question: “If one imposed an oath upon himself five times[, and then others imposed an oath on him five times (and he said “Amen” each time) what is the law? In the former instance, the plaintiff has not laid claim to the bailment. The oath takes place outside of court. In the latter instance, in court an oath is imposed on the man five times. Clearly, in the latter instance, there is only a single count of liability, for the man issues a denial in court only one time. The question is the law applying in the former instance].”
5. **I:5:** [Since Scripture specifies (Lev. 6:1-2) that the oath of bailment applies to movables and not to real estate, and since, we know, the rule for the oath of bailment provides the law for the rule for the oath of testimony, we now raise the following question:] As to an oath taken at others’ initiative [= M. 5:2D] in the case of real estate, what is the law governing one’s being exempt [for a false oath]? [And along these same lines:] An oath taken at one’s own initiative in the case of liability to fines [again, a type of transaction excluded by the instances of Lev. 6:2] what is the law as to one’s being held liable [for a false oath]? [And likewise:] An oath taken at one’s own initiative [“I swear,” rather than others’ phrasing the oath and the person merely saying “Amen” what is the law as to one’s being held liable for a guilt-offering worth two shekels? [These questions are not answered.]

XXXVI. YERUSHALMI SHEBUOT 5:3

[A] [If] FIVE PEOPLE LAID CLAIM ON HIM AND SAID TO HIM, “GIVE US THE BAILMENT WHICH WE HAVE IN YOUR HAND” – “I SWEAR THAT YOU HAVE NOTHING IN MY HAND” – HE IS LIABLE ON ONLY ONE COUNT. “I SWEAR THAT YOU HAVE NOTHING IN MY HAND, NOR YOU, NOR YOU” – HE IS LIABLE ON EACH AND EVERY COUNT.

1. **I:1:** [R. Simeon says, “One is liable here, in the case of an oath of testimony, and one is liable there in the case of an oath of bailment.

Just as in the case of a bailment the law speaks solely of a case in which there is a monetary claim, so in the case of an oath of testimony the law speaks solely of a case in which there is a monetary claim. No, if you have stated the rule in the case of an oath of testimony, in which case the law has not treated the one who takes an oath as equivalent to the one to whom an oath is administered (from Meir's viewpoint at M. 5:1),] is it possible that also in the case of an oath of bailment the law has not treated one who takes an oath as equivalent to the one to whom an oath is administered [as at M. 5:2D]?

- [B] **R. ELIEZER SAYS, “[THIS IS SO] ONLY IF HE STATES THE OATH AT THE END.” R. SIMEON SAYS, “[THIS IS SO] ONLY IF HE WILL STATE AN OATH FOR EACH AND EVERY [CLAIM]:”**
1. **II:1:** Said R. Yohanan, “The opinion of R. Eliezer is that that is so only if he states the oath both at the beginning and at the end of his statement. [That is, it must be said also at the end of the declaration.] As to the opinion of rabbis, if the man made mention of an oath at the outset of his declaration and did not mention it at the end, or if he made mention of it at the end and did not make mention of it at the outset, he will in any case be liable on each and every count. In the opinion of rabbis he brings and offering on each count, in the opinion of R. Eliezer he brings a single offering. If one has made mention of the oath at both the outset and at the end, so far as rabbis are concerned, who suffice with a single oath, the man has taken a double oath and so he must bring two offerings for each and every item on the list, while in the opinion of R. Eleazar, he presents a single offering for each item of the whole lot.”
 2. **II:2:** R. Yudan Qapodeqayya raised the question: “[If one said,] ‘I swear that you do not have wheat, barley, and spelt in my possession’ – what is the law?”
 3. **II:3:** R. Abbahu, R. Jeremiah raised the question: “If one said, ‘I swear concerning wheat that you have no wheat in my hand,’ what is the law? [That is, since we deal with a case in which the man has made mention of wheat twice, do we treat the statement as if he has taken two oaths, so that he should then be liable for each? Or perhaps, since he speaks solely of wheat, we have one oath.]”
 4. **II:4:** R. Haggai raised the question: “[If one said,] ‘By ten oaths you have nothing at all in my possession,’ – what is the law?” [That is, the man thus took ten oaths concerning the same item. Is he liable for each, or for only one? There is the principle that after each oath he has the power to retract and deny the oath, so each applies. But that would

not apply here, in which he has treated the ten oaths as a single statement. So perhaps the statement is treated as a single oath. The question is not answered.]

5. **II:5:** [With reference to M. 5:3G,] the same is so of a rash oath. [If someone said,] “I swear that I shall eat carrion, a piece of bread made from wheat, a piÇe of bread made from barley, and a piÇe of bread made from spelt,” since he is exempt on the count of the oath to eat carrion, [which is null,] he is also exempt on the count of the other oaths. [That is, so far as Simeon is concerned (M. S:3G), one must make mention of each oath individually; the man is liable only if he explicitly refers to each item with the language of “oath.” Since in this case the language of oath has applied solely to carrion, and that oath is null, all the other oaths are null as well]

XXXVII. YERUSHALMI SHEBUOT 5:4

[A] “GIVE ME MY BAILMENT, LOAN, STOLEN GOODS, AND LOST PROPERTY [LEV. 6:2] WHICH I HAVE IN YOUR HAND” – “I SWEAR YOU HAVE NOTHING IN MY HAND” – HE IS LIABLE ON ONLY ONE COUNT. “I SWEAR THAT YOU DO NOT HAVE IN MY HAND A BAILMENT, LOAN, STOLEN GOODS, OR LOST PROPERTY” – HE IS LIABLE FOR EACH AND EVERY COUNT.

1. **I:1:** Said R. Yohanan, “In accord with the view of R. Simeon [who said (M. 5:3G) that one is liable on each count only if he states an oath in connection with each claim,] if it should turn out that the bailee does not have the wheat [that is claimed] in his possession, he is exempt on all the other counts [at M. 5:4I, because the oath was valid only for wheat, since the language of an oath applied only to that item].” Said R. Ba, “Even R. Judah concedes that point [for, while he stands with the authority of M. 5:3 who disagrees with Simeon, still, in this instance, he will concur. The opposition to Simeon will maintain that only if the bailee rejects each claim individually and turns out to have lied on each item is there an oath valid for each one. In the present instance the first item is truthful, that is, the bailee does not have wheat. The oath applied to that item, and there is no liability regarding the other items].”

a. I:2: Gloss of a detail of the foregoing.

[B] “GIVE ME THE GRAIN, BARLEY, AND SPELT, WHICH I HAVE IN YOUR HAND” – “I SWEAR YOU HAVE NOTHING IN MY HAND” – HE IS LIABLE ON ONLY ONE COUNT. “I SWEAR THAT YOU HAVE NOT GOT IN MY HAND WHEAT, BARLEY, OR SPELT” – HE IS LIABLE FOR EACH AND EVERY COUNT. **R. MEIR SAYS, “EVEN**

IF HE HAD SAID, ‘WHEAT, BARLEY, AND SPELT’ [EX. 9:31-32] HE IS LIABLE ON EACH AND EVERY COUNT.”

1. **II:1:** Said R. Yohanan [with regard to M. 5:4F: “Give me wheat and barley and spelt which I have in your hand,” etc., which we attribute to Judah], “In the opinion of R. Yudan, you may have a case in which the several items are treated together, so that one is liable for a single offering [in the case of a violated oath of bailment], while you may have a case in which they are treated individually, so that one is liable for three offerings.” [The important difference, as we shall see, is in the use of *and*. If someone says, wheat and barley and spelt, then we have liability on three separate counts. If the man said, “Wheat, barley, spelt,” then the three are treated as one. That this is the underlying point becomes clear later in the discussion. It is Judah who deems the use of *and* to differentiate among items on a list, and the absence of *and* to prevent their
- a. **II:2:** For R. Yohanan has said in the name of R. Yannai, “[With regard to the rule, Five who wrote jointly in one [and the same] bill of divorce [bearing a single date]: “Mr. So-and-so divorces Mrs. Such-and-such,” “Mr. So-and-so divorces Mrs. Such-and-such,” [..., and so on, five times], and there are witnesses below D all of them are valid. And let it be given over to each one. [If] the formula was written [anew in full] for each of them, and there are witnesses below D that with which the names of the witnesses are read is valid [M. Git. 9:5D-K] to this pericope, the following is added: If one of them has written,] ‘And I inquire after the welfare of Mr. So-and-so,’ [we] assume [that the witnesses] have signed [the document covering] everything [that is in it, because of the use of the word *and*. If on the other hand, it is written,] ‘I inquire after the welfare of Mr. So-and-so,’ [the witness] has signed [the document] only with regard to this last statement. [Consequently, the inclusion of the *and* is crucial. In the absence of the use of *and*, the witness has signed the document only to testify that the person who sent it intended] to ask after the welfare of Mr. So-and-so [and the witnesses do not ha-e in mind the rest of the document. to which they do not bear witness at all].”

XXXVIII. YERUSHALMI SHEBUOT 5:5

[A] “YOU RAPED AND SEDUCED MY DAUGHTER” – AND HE SAYS, “I DID NOT RAPE AND I DID NOT SEDUCE” “I IMPOSE AN OATH ON YOU” – AND HE SAID, “AMEN” – HE IS LIABLE. R. SIMEON DECLARES HIM EXEMPT, “SINCE HE

DOES NOT PAY A FINE ON THE BASIS OF HIS OWN TESTIMONY.” THEY SAID TO HIM, “EVEN THOUGH HE DOES NOT PAY A FINE ON THE BASIS OF HIS OWN TESTIMONY, “HE DOES PAY FOR HUMILIATION AND DAMAGES ON THE BASIS OF HIS OWN TESTIMONY.”

1. **I:1:** R. Zira, R. Yasa in the name of R. Yohanan: “In the opinion of R. Simeon, [in general] the principal claim is for the fine [from which M. 5:5G follows]. In the opinion of the sages, that is not so. [But the principal claim is for recompense for humiliation and bodily injury, and these do not represent a fine.]” R. Ila said, “The opinion of R. Simeon applies in a case in which the plaintiff lays claim for the fine, compensation for humiliation, and recompense for damages, and the opinion of the sages applies in a case in which the plaintiff lays claim for compensation for humiliation and bodily damages and also for a fine. [So there is essentially no disagreement between Simeon and the sages, and the opinion of each applies to a distinct case.]” The rabbis maintain, “The opinion of R. Simeon applies in a case in which the plaintiff lays claim for one thing, and the opinion of the sages applies in a case in which the plaintiff lays claim for three things. [That is, if the plaintiff lays claim without specifying the claim, saying, ‘Give me what you owe me,’ then the claim is for the fine. The sages hold that the claim is specific, naming the three separate items. And the rest follows.]”
2. **I:2:** “If any one sins and commits a breach of faith against the Lord by deceiving his neighbor in a matter of deposit or security, or through robbery, or if he has oppressed his neighbor or has found what was lost and lied about it, swearing falsely – in any of all the things which men do and sin therein” (Lev. 2:3).] I know only [that this sort of oath applies to] matters on account of which one pays compensation for the principal. How do I know that the same law applies to oaths involving payment of double damages, or four or five times the value of the stolen ox or sheep [Ex. 22:1], or of damages for one who rapes or seduces or defames a woman? Scripture says, “Swearing falsely in any of all the things.”

XXXIX. YERUSHALMI SHEBUOT 5:6

[A] “YOU STOLE MY OX” – AND HE SAYS, “I DID NOT STEAL IT” – “I IMPOSE AN OATH ON YOU,” – AND HE SAID, “AMEN” – HE IS LIABLE. “I STOLE IT, BUT I DID NOT SLAUGHTER IT, AND I DID NOT SELL IT” – “I IMPOSE AN OATH ON YOU” – AND HE SAID, “AMEN” – HE IS EXEMPT. “YOUR OX KILLED MY OX” – AND HE SAID, “IT DID NOT KILL” – AND HE SAYS, “I

IMPOSE AN OATH ON YOU” – AND HE SAID, “AMEN” – HE IS LIABLE. “YOUR OX KILLED MY SLAVE” – AND HE SAYS, “IT DID NOT KILL” – “I IMPOSE AN OATH ON YOU” – AND HE SAID, “AMEN,” – HE IS EXEMPT. [IF HE SAID TO HIM, “YOU INJURED ME AND MADE A WOUND ON ME,” AND HE SAID, “I DID NOT INJURE YOU AND I DID NOT MAKE A MARK ON YOU,” “I IMPOSE AN OATH ON YOU” – AND HE SAID, “AMEN” – HE IS LIABLE. [IF HIS SLAVE SAID TO HIM, “YOU KNOCKED OUT MY TOOTH AND YOU BLINDED MY EYE,” AND HE SAID, “I DID NOT KNOCK OUT YOUR TOOTH OR BLIND YOUR EYE,” AND HE SAID TO HIM, “I IMPOSE AN OATH ON YOU,” – AND HE SAID TO HIM, “AMEN” – HE IS EXEMPT. THIS IS THE GOVERNING PRINCIPLE: WHOEVER PAYS COMPENSATION ON THE BASIS OF HIS OWN TESTIMONY IS LIABLE. AND WHOEVER DOES NOT PAY COMPENSATION ON THE BASIS OF HIS OWN TESTIMONY IS EXEMPT [IN THE CASE OF THESE OATHS].

1. **I:1:** R. Isaac raised the question: “What is the law as to the defendant’s paying up the value [as distinct from the fine of thirty shekels] of the slave [killed by the man’s ox] on the basis of his own testimony? [That is, while one does not pay a fine on the basis of his own testimony, does he pay the value of the slave, for that is not regarded as a fine?]”
2. **I:2:** [As to one who confesses in a case in which he took an oath to avoid paying a fine,] what is the law as to [the judges’] saying to him, “Carry out your obligation to Heaven.” [That is, even if by law he is exempt from paying, he bears an obligation to Heaven to pay.]

XL. YERUSHALMI SHEBUOT 6:1

[A] **THE OATH IMPOSED BY JUDGES [IS REQUIRED IF] THE CLAIM IS [AT LEAST] TWO PIECES OF SILVER, AND THE CONCESSION [ON THE PART OF THE DEFENDANT IS THAT HE OWES] AT LEAST A PENNY’S [PERUTAH’S]WORTH. BUT IF THE CONCESSION IS NOT OF THE SAME KIND AS THE CLAIM, [THE DEFENDANT] IS EXEMPT [FROM HAVING TO TAKE THE OATH]. HOW SO? “TWO PIECES OF SILVER I HAVE IN YOUR HAND” – “YOU HAVE IN MY HAND ONLY A PERUTAH” – HE IS EXEMPT [FROM HAVING TO TAKE THE OATH]. “TWO PIECES OF SILVER AND A PERUTAH I HAVE IN YOUR HAND” – “YOU HAVE IN MY HAND ONLY A PERUTAH” – HE IS LIABLE.**

1. **I:1:** [The minimum] claim [subject to judicial procedure] – the House of Shammai say, “It is a silver coin [a sixth of a denar].” The House of Hillel say, “It is two silver coins [a third of a denar].”

a. I:2: Samuel said, “If one laid claim on the bailee for two needles, and the bailee admitted having one [and took an oath regarding the other, thereafter confessing that he had lied], he is liable.”

2. I:3: R. Ba, R. Judah in the name of Samuel: “In any case in which two witnesses impose upon a defendant liability in a monetary case, a single witness [testifying that he owes funds to the claimant] is sufficient to impose upon the defendant the requirement to take an oath [should he deny the claim].”

3. I:4: R. Yohanan said, “He who lays claim against his fellow for having stolen [a bailment] – the defendant is liable [for taking an oath] only if he concedes [the claim] in part.”

[B] “A MANEH I HAVE IN YOUR HAND” – “YOU HAVE NOTHING AT ALL IN MY HAND” – HE IS EXEMPT [FROM HAVING TO TAKE THE OATH].

1. II:1: [Now why should the Mishnah report such an obvious fact? For after all, even if one had said.] “I have a number [of manehs] in your hand” – “You have nothing at all in my hand” – he would be exempt [from the oath]. [In this case the defendant denies the whole claim, and, in line with M. 6:1A, there is no liability for an oath without a partial concession.] But thus [is the true meaning of the passage:] “I have a maneh in your hand” – “You have only a perutah in my hand” – he is liable [for the oath]. [Since the concession is for a perutah, the liability for an oath applies. The point now is that even though the concession is vastly less than the claim, still, the concession is sufficient to impose the requirement of an oath.]

[C] “I HAVE A MANEH IN YOUR HAND” – “YOU HAVE NOTHING IN MY HAND EXCEPT FIFTY DENARS” – HE IS LIABLE. “A MANEH BELONGING TO MY FATHER YOU HAVE IN YOUR HAND” “HE HAS NOTHING IN MY HAND BUT FIFTY DENARS” – HE IS EXEMPT [FROM HAVING TO TAKE THE OATH], FOR HE IS IN THE STATUS OF ONE WHO RETURNS LOST PROPERTY

1. III:1: [As to the following: “I have a maneh in your hand” – “You have nothing in my hand except fifty denars” – he is liable: both Rab and R. Yohanan state, “That rule applies in a case in which he lent him the money in the presence of witnesses. [In such a case the defendant cannot claim that he did not borrow anything at all.] But if he lent him the money not in the presence of the witnesses, the defendant can claim, ‘You indeed lent me money, but I returned half of it to you.’ [In this case, the defendant could have rejected the entire claim. Instead he has conceded part of it. He takes an oath for the rest.]”

2. **III:2:** Assi said, “He who lends money to his fellow should collect it from him only in the presence of witnesses.”

XLI. YERUSHALMI SHEBUOT 6:2

[A] **“I HAVE A MANEH IN YOUR HAND”** – BEFORE WITNESSES HE SAID TO HIM, **“YES”** – ON THE NEXT DAY HE SAID TO HIM, **“GIVE IT TO ME”** – **“I ALREADY GAVE IT TO YOU”** – HE IS EXEMPT [FROM HAVING TO TAKE THE OATH]. **“YOU DON’T HAVE ANYTHING IN MY HAND”** – HE IS LIABLE [TO PAY]. **“I HAVE A MANEH IN YOUR HAND,”** AND HE SAID TO HIM, **“YES,”** – **“DON’T GIVE IT TO ME EXCEPT BEFORE WITNESSES”** – ON THE NEXT DAY, HE SAID TO HIM, **“GIVE IT TO ME”** – **“I ALREADY GAVE IT TO YOU”** – HE IS LIABLE [TO PAY], BECAUSE HE HAS TO HAND IT OVER TO HIM BEFORE WITNESSES.

1. **I:1:** Said R. Bun, “People ordinarily lend to their fellows without the presence of witnesses but claim [to be paid] in the presence of witnesses [thus in the manner in which the opening lines imply]: ‘You have a money of mine in your possession!’ He said to him, ‘Yes.’ ‘Do not hand it over to me except before Mr. So-and-so and Mr. Such-and-such.’ On the next day, he said to him, ‘Give it to me.’ ‘I gave it to you.’ He is liable for an oath, for he has to hand it back before witnesses.” Now take note that he said to him, “But I handed it back to you before witnesses” [So why is he liable?]
2. **I:2:** [One holds a piece of real estate, and another questions his ownership and claims to be true owner of the property. The present occupant claims that the other party sold the land to him and that he has held it for the years sufficient to establish ownership through usucaption. In such a case,] lo, this one comes with a title established by a writ as well as the claim of usucaption – Rabbi says, “Let the case be decided on the basis of the writ of ownership.” R. Simeon b. Gamaliel says, “[If the judge prefers,] let the case be decided on the basis of proof of usucaption.”
3. **I:3:** R. Merinus served as a pledge for someone who borrowed money from his daughter-in-law. The case [of the daughter-in-law’s claim] came before R. Hama, father of Bar Qappara, and R. Hoshaiah. After he confessed in court [that he had served as a pledge for the debt and was obligated to pay it,] he said, “but I already paid it.”

XLII. YERUSHALMI SHEBUOT 6:3

[A] **“I HAVE A LITRA OF GOLD IN YOUR HAND”** – **“YOU HAVE IN MY HAND ONLY A LITRA OF SILVER”** – HE IS EXEMPT [FROM HAVING TO TAKE THE OATH]. **“A DENAR OF GOLD I HAVE IN YOUR HAND”** – **“YOU HAVE IN MY HAND ONLY A DENAR OF SILVER, A TERISIT, A PONDION, AND A PERUTAH,”** – HE IS LIABLE, FOR ALL OF THEM ARE KINDS OF A SINGLE COINAGE.

1. **I:1:** [If a person declared,] “Eight golden [coins having the status of second tithe] do I have in my pocket,” but eight gold denars turn up – lo these have the status of second tithe. [If he said,] “Fifty selas” and two hundred denars turn up – Or: “Two hundred denars” and fifty selas turn up – lo, these coins are not consecrated [since they do not conform to the man’s description of the coins set aside as second tithe]. “Eight golden denars do I have in my pocket,” and they turned out to be fifty selas, Or: “Two hundred denars” and they turned out to be fifty selas, lo, these [coins] have the status of second tithe [T. Ma. 5:5-6].
2. **I:2:** “Denars of gold I have in your hand” – “You have in my hand only a silver denar, a terisit; and a pondion” – he is exempt [cf. M. 6:2D-E, T. 5:8]. “A denar of gold I have in your hand” – “You have in my hand only a denar of silver, a terisit, a pondion, and a perutah,” – he is liable.

XLIII. YERUSHALMI SHEBUOT 6:4

[A] **“I HAVE A KOR OF GRAIN IN YOUR HAND”** – **“YOU HAVE IN MY HAND ONLY A LETEKH OF PULSE”** – HE IS EXEMPT [FROM HAVING TO TAKE THE OATH]. **“A KOR OF PRODUCE I HAVE IN YOUR HAND”** – **YOU HAVE IN MY HAND ONLY A LETEKH OF PULSE”** – HE IS LIABLE, FOR PULSE FALLS INTO THE CATEGORY OF PRODUCE. [IF] HE CLAIMED WHEAT AND THE OTHER ADMITTED TO HAVING BARLEY, HE IS EXEMPT [FROM HAVING TO TAKE THE OATH]. AND RABBAN GAMALIEL DECLARES HIM LIABLE. HE WHO CLAIMS JARS OF OIL FROM HIS FELLOW, AND THE OTHER CONFESSED TO HAVING FLAGONS – ADMON SAYS, **“SINCE HE HAS CONFESSED TO HIM PART OF THE CLAIM IN THE SAME KIND, HE SHOULD TAKE AN OATH TO HIM.”** AND SAGES SAY, **“THIS CONFESSION IS NOT OF THE SAME KIND AS THAT WHICH IS SUBJECT TO CLAIM.”** SAID RABBAN GAMALIEL, **“I PREFER THE OPINION OF ADMON.”** [IF] ONE LAID CLAIM AGAINST HIM FOR UTENSILS AND REAL ESTATE, AND THE OTHER PARTY

CONCEDED THE CLAIM FOR UTENSILS BUT DENIED THE CLAIM FOR REAL ESTATE, OR CONCEDED THE CLAIM FOR REAL ESTATE AND DENIED THE CLAIM FOR UTENSILS, HE IS EXEMPT [FROM HAVING TO TAKE THE OATH]. [IF] HE CONCEDED PART OF THE REAL ESTATE, HE IS EXEMPT [FROM HAVING TO TAKE THE OATH]. [IF] HE CONCEDED PART OF THE UTENSILS, HE IS LIABLE [TO TAKE AN OATH]. FOR PROPERTY FOR WHICH THERE IS NO SECURITY IMPOSES THE REQUIREMENT OF AN OATH IN REGARD TO PROPERTY FOR WHICH THERE IS SECURITY.

1. **I:1:** The Mishnah speaks of a case in which the plaintiff laid claim for wheat, and the defendant conceded that he had barley. But if he laid claim for two varieties, and the concession was for one of them, all parties agree that the defendant is liable to an oath. R. Ammi in the name of R. Yohanan: “The Mishnah speaks of a case in which the plaintiff laid claim for wheat, and the defendant conceded that he had barley. But if he laid claim for two varieties, and the defendant conceded one of them, all parties agree that the defendant is exempt.” [So Ammi-Yohanan differ from the preceding view and maintain that there is a dispute even here.]

XLIV. YERUSHALMI SHEBUOT 6:5

[A] **THEY DO NOT TAKE AN OATH IN THE CASE OF A CLAIM MADE BY A DEAF-MUTE, AN IDIOT, OR A MINOR. AND THEY DO NOT IMPOSE AN OATH UPON A MINOR. BUT AN OATH IS IMPOSED IN THE CASE OF A CLAIM AGAINST [THE PROPERTY OF] A MINOR, AND AGAINST PROPERTY WHICH HAS BEEN CONSECRATED:**

1. **I:1:** It is written, “If a man delivers to his neighbor [money or goods to keep]” (Ex. 22:7) – excluding a minor. This statement covers a case in which it was as a minor that one deposited goods with him and as a minor that he laid claim against him. But if he was a minor when he gave over the goods, and then laid claim for the property when he was an adult, [what is the proof]? Scripture states, “his neighbor” – meaning that the law applies only when the situation prevailing at the time of the bailment and that prevailing at the time of the claim are the same.
2. **I:2:** [If a man delivers to his neighbor an ass or an ox or a sheep or any beast to keep, and it dies or is hurt or is driven away, without any one seeing it,] an oath by the Lord shall be between them both [to see whether he has not neighbor’s property]” (Ex. 22:10-11). [This statement excludes] an heir [from having to take an oath, since the assumption is that both claimants are at hand].

3. **I:3:** If the one who imposes the oath does so falsely, in the end the punishment will come forth against him. If the one who takes the oath does so falsely, in the end the punishment will come forth against him.

XLV. YERUSHALMI SHEBUOT 6:6

[A] AND WHAT ARE MATTERS ON ACCOUNT OF WHICH AN OATH IS NOT IMPOSED? [CLAIMS INVOLVING] SLAVES, BONDS, REAL ESTATE, AND CONSECRATED PROPERTY. TO THESE ALSO DO NOT APPLY THE RULES OF TWOFOLD RESTITUTION OR FOURFOLD OR FIVEFOLD RESTITUTION. [IN THE CASE OF THESE] AN UNPAID BAILIFF IS NOT SUBJECTED TO AN OATH. [IN THE CASE OF THESE] A PAID BAILIFF DOES NOT PAY COMPENSATION.

1. **I:1:** [If] one transgressed and actually did take an oath [involving matters listed in the present pericope, when he should not have done so, what is the consequence should the oath be false and the person so confess?] R. Yohanan said, “He is obligated to bring an offering on account of the [taking of a rash] oath.” R. Eleazar says, “He does not do so.”
2. **I:2:** Now there are those who wish to prove [the basic proposition of M. 6:6A-B] as follows: “[If a man delivers to his neighbor] an ass or an ox or a sheep [or any beast to keep, and it dies or is hurt or is driven away, without any one’s seeing it, an oath by the Lord shall be between them” (Ex. 22:10-11). [Now the ass, ox, and sheep] are distinguished in that they are subject to the provisions of paid bailment, being driven away, or dying [as stated by the cited verse]. I therefore exclude [from the provisions of an oath] real estate. But, on these same grounds, I cannot exclude [oaths involving] slaves[, who, after all, may perish]. [Still,] just as these are particular, in that they are subject also to a fine [– double payment, exacted from the thief, thus Ex. 22:9 –], so slaves are excluded [from being subjects of an oath] who do not produce a fine [to be exacted from a malefactor in their regard]. Then I shall exclude [from provisions of oath-taking] slaves. But I shall not exclude bonds, which are subject to fines[, for one who rips up bonds belonging to his fellow must pay a fine]. No, what the cited items have in common is that they are subject to a claim of fraud [e.g., redress in a case of overreaching], which excludes bonds not subject to such a claim. In this context they have stated, “He who sells bonds to a perfume maker – the latter may lay a claim of overreaching [should the bonds, sold as a raw material, prove overpriced].”

- a. I:3: He who rips up bonds belonging to his fellow without the latter's knowledge and consent – R. Hananiah and R. Mana, one said, "He is liable," and the other said, "He is exempt."

[B] **R. SIMEON SAYS, "ON ACCOUNT OF HOLY THINGS WHICH ONE IS LIABLE TO REPLACE [SHOULD THEY BE LOST OR STOLEN], AN OATH IS IMPOSED, AND ON ACCOUNT OF THOSE WHICH ONE IS NOT LIABLE TO REPLACE, AN OATH IS NOT IMPOSED." R. MEIR SAYS, "THERE ARE THINGS WHICH ARE TANTAMOUNT TO BEING IN THE GROUND BUT STILL ARE NOT DEEMED TO BE IMMOVABLE PROPERTY IN THE CLASSIFICATION OF REAL PROPERTY." AND SAGES DO NOT CONCUR WITH HIS VIEW. HOW SO? "TEN FRUIT-LADEN VINES I HANDED OVER TO YOU" – AND THE OTHER SAYS, "THEY WERE ONLY FIVE" – R. MEIR IMPOSES AN OATH. AND SAGES SAY, "WHATEVER IS ATTACHED TO THE GROUND IS CLASSIFIED AS REAL PROPERTY."**

1. **II:1:** R. Simeon says, "All the same are Most Holy Things and Lesser Holy Things: those that a person is liable to replace do I deem subject to the scriptural rule, 'And he deny his fellow's claim' and those that one is not liable to make up I deem to be subject to that rule, 'the Lord did he deny' [and not his fellow] [M. 6:6F]

XLVI. YERUSHALMI SHEBUOT 6:7

[A] **THEY ARE FORCED TO TAKE AN OATH ONLY IN A MATTER INVOLVING A CLAIM WHICH SPECIFIES A CONCRETE MEASURE, WEIGHT, OR NUMBER. HOW SO? "A ROOM FULL OF GOODS I GAVE YOU," "A WALLET FULL OF MONEY I GAVE TO YOU," AND THIS ONE SAYS, "I DON'T KNOW – BUT WHATEVER YOU LEFT IS WHAT YOU CAN TAKE" – HE IS EXEMPT [FROM HAVING TO TAKE THE OATH]. THIS ONE SAYS, "[I GAVE YOU A HEAP OF PRODUCE] AS HIGH AS THE PROJECTION," AND THAT ONE SAYS, "IT WAS ONLY AS HIGH AS THE WINDOW," HE IS LIABLE [TO TAKE AN OATH FOR DENYING THE BAILMENT].**

1. **I:1:** Said R. Hanina, "A large candelabrum," and this one concedes, "A small candelabrum" – the latter is liable to take an oath."

XLVII. YERUSHALMI SHEBUOT 6:8

[A] **HE WHO LENDS MONEY TO HIS FELLOW ON THE STRENGTH OF A PLEDGE, AND THE PLEDGE GOT LOST – [THE CREDITOR] SAID TO HIM, "I LENT YOU A SELA ON THE STRENGTH OF IT, BUT IT WAS WORTH ONLY A SHEKEL," AND [THE DEBTOR] SAYS TO HIM, "NOT SO. BUT YOU LENT ME A SELA ON THE STRENGTH OF IT,**

AND IT WAS WORTH A SELA” – HE IS EXEMPT [FROM HAVING TO TAKE THE OATH]. “A SELA I LENT YOU ON THE STRENGTH OF IT, AND IT WAS WORTH A SHEKEL,” AND THE OTHER SAYS, “NOT SO. BUT A SELA YOU LENT TO ME ON THE STRENGTH OF IT, AND IT WAS WORTH THREE DENARS” – HE IS LIABLE. “A SELA YOU LENT TO ME ON THE STRENGTH OF IT, AND IT WAS WORTH TWO,” AND THE OTHER SAYS, “NOT SO. BUT I LENT YOU A SELA ON THE STRENGTH OF IT, AND IT WAS WORTH A SELA” – HE IS EXEMPT [FROM HAVING TO TAKE THE OATH]. “A SELA YOU LENT ME ON THE STRENGTH OF IT, AND IT WAS WORTH TWO,” AND THE OTHER SAYS, “NOT SO, BUT A SELA I LENT TO YOU ON THE STRENGTH OF IT, AND IT WAS WORTH FIVE DENARS” – HE IS LIABLE.

1. **I:1:** Said R. Yohanan, “The lender is believed to state, ‘Up to the value of the pledge did I lend to you,’ [so that even if the pledge is not lost, the lender may lay claim to up to the value of the pledge].” The Mishnah law holds that the borrower as well is believed [in like manner and may simply surrender the pledge].

[B] AND UPON WHOM IS THE OATH IMPOSED? UPON HIM WITH WHOM THE BAILMENT WAS LEFT, LEST THIS ONE TAKE AN OATH, AND THE OTHER ONE THEN PRODUCE THE BAILMENT.

1. **II:1:** [As to M. 6:8N-P,] Samuel said, “The requirement to take an oath does not pass away from the two of them [in the case of M. 6:8B-G]. If the lender takes the oath, lo, this one takes the oath and collects what is owing to him. And if the borrower takes the oath, the borrower regains the pledge from the lender.”
2. **II:2:** [If one party says,] “You lent me a *selā* on the strength of it,” [then] the other party says, “I don’t know!” [what is the law?]

XLVIII. YERUSHALMI SHEBUOT 7:1

[A] ALL THOSE WHO ARE SUBJECTED TO OATHS [THAT ARE REQUIRED] IN THE TORAH TAKE [SAID] OATHS AND DO NOT PAY [THE CLAIM AGAINST THEM]. AND WHO ARE THEY WHO TAKE AN OATH AND COLLECT [WHAT THEY CLAIM IS OWING TO THEM]?

1. **I:1:** “If a man delivers to his neighbor an ass or an ox or a sheep or any beast to keep, and it dies or is hurt or is driven away, without any one seeing it, an oath by the Lord shall be between them both to see whether he has not put his hand to his neighbor’s property; and the owner shall accept the oath, and he [the bailee] shall not make restitution” (Ex. 22:10-11.) Now since it is said, “an oath by the Lord

shall be between them both,” do we not know that if the bailee does not take an oath, he will have to pay restitution? So why does Scripture say, “and the owner will accept the oath, and [the bailee] shall not make restitution?” [It is to stress that] since the owner has accepted the oath, the bailee is exempt from having to make restitution. [That is to say, the oath provided by the Torah is taken by the defendant to free himself from having to pay, and it is not taken by the claimant to collect what he claims.]

[B] (1) A HIRED HAND, (2) THE VICTIM OF A THEFT, (3) THE VICTIM OF A BEATING, (4) HE WHOSE CONTRARY LITIGANT IS NOT TRUSTED [EVEN IF HE TAKES] AN OATH, (5) AND A SHOPKEEPER CONCERNING [WHAT IS WRITTEN IN] HIS ACCOUNT BOOK. A HIRED HAND – HOW SO? [IF] HE SAID TO HIM, “GIVE ME MY WAGE, WHICH YOU HAVE IN YOUR HAND” – HE SAYS TO HIM, “I ALREADY GAVE IT TO YOU,” – AND THIS ONE SAYS, “I NEVER GOT IT” – HE TAKES AN OATH AND COLLECTS [WHAT HE CLAIMS].

- 1. II:1:** [With regard to the oath taken by the hired hand,] said R. Abin, “Because the householder has many things on his mind, the sages made the enactment in the case of a hired hand that he takes an oath in order to collect his salary. “And along these same lines, they made the remedy for the householder, that if the time for collecting the salary has passed, the hired hand may then not take an oath and collect his salary.” R. Hiyya taught, “If there are witnesses that the hired hand had made a claim, then even after a year the hired hand may take an oath and collect his salary.” Said R. Yosé, “He has only that day alone [for the collection of his salary].”
- 2. II:2:** Said R. Mana, “There are times in which the employee lays claim for his salary only after a while, and yet the case is treated as if the claim came during its proper time [so an oath is imposed, and the worker collects the funds].”
- 3. II:3:** [If the householder claims that] he paid him his salary in advance, in such a case the worker takes an oath and collects his salary. [If the hired hand] had a pledge belonging to the employer in his possession, in such a case the hired hand collects his salary without taking the oath. What if the hired hand was a slave? [Does the householder take the oath instead, since a court will not administer the oath to a slave?]
- 4. II:4:** [With regard to the statement earlier that if the hired hand laid claim in the proper time, he has a right to take an oath and collect his salary that entire day but not beyond that time,] said R. Eleazar, “When the hired hand laid claim before witnesses, [and the employer did not

pay at that time,] the employer later on may [not] say, ‘I already paid you your salary.’ [If the claim is before witnesses, the householder cannot make such a claim later on.]”

5. **II:5:** R. Huna said, “[In a case in which one claimed his ox, and the other denied it and took an oath,] if when he took the oath, he brought witnesses who claimed to have seen the ox standing in the crib of the bailee, the bailee already has stolen the ox and acquired it by means of the oath that he took, and since he took the oath, he need not pay for the ox.”

[C] **R. JUDAH SAYS, “[THAT IS SO] ONLY IF THERE IS A CONCESSION OF PART OF THE CLAIM.” HOW SO? “IF HE SAID TO HIM, ‘GIVE ME MY SALARY OF FIFTY DENARS WHICH I HAVE IN YOUR HAND,’ “AND THE OTHER PARTY SAYS, ‘YOU ALREADY RECEIVED A GOLD DENAR [HALF OF WHAT IS OWING TO YOU].”**”

1. **III:1:** [Under discussion in the following is M. 7:6: [If] one said to the storekeeper, “Give me produce for a denar,” and he gave it to him – he said to him, “Give me the denar,” – he said to him, “I already gave it to you, and you put it in the till” – let the householder take an oath. If he gave him a denar and said to him, “Give me produce” – he said to him, “I already gave it to you and you brought it home” – let the storekeeper take an oath. R. Judah says, “Whoever has the produce in hand – his hand is on top.” What is important, as we shall now see, is that Judah does not require a concession in part. Consequently, there is a point of disharmony between his opinion here and M. 7:1D-L. It is to that matter that we now turn.] The opinions assigned to R. Judah are contradictory. [At M. 7:1/I, Judah says that the defendant must concede part of the claim. The remedy afforded the hired hand applies only in a case in which an oath in fact would be devolving upon the householder, e.g., one who has conceded part of the claim. Now in such a case, if the householder were to take such an oath, he would be rid of the claim. The sages have transferred that oath, assigning it to the hired hand, so that he takes the oath and collects the money owing to him. But, Judah maintains, if there is a total denial, in which the householder claims to have paid the whole salary, there is no salary oath devolving upon the householder (“This is it” does not pertain). So the rabbis for their part have not provided a remedy for the employee in taking the oath. Now, in general, Judah will maintain that even if there is no oath devolving upon one of the parties in the case, the man takes an oath and collects what he claims. So at M. 7:6, so far as Judah is concerned, the householder, in possession, takes the oath and collects the produce thus:] There, even if it is not known to us to which party to assign the produce, that is, we do not know who is to

take the oath, the claimant takes an oath. In the case of disputed produce, there is no concession of part of the claim. Nonetheless, Judah has the householder take the oath and collect the produce]. But here, unless there is a concession in part, there is no oath [as at M. 7:1/I-L].

2. **III:2:** What is the law as to adding an oath required by reason of Torah law in addition to an oath required as a remedy provided by the sages? [That is, if someone is liable to take an oath by reason of a remedy provided by the rabbis, may one add to that a claim that draws in its wake the requirement to take an oath on the authority of the Torah?]

XLIX. YERUSHALMI SHEBUOT 7:2

[A] **THE VICTIM OF A THEFT – HOW SO? [IF PEOPLE] WERE GIVING TESTIMONY AGAINST A PERSON THAT HE HAD GONE INTO HIS HOUSE TO EXACT A PLEDGE WITHOUT PERMISSION, AND [THE VICTIM OF THE THEFT] SAYS, “YOU TOOK MY UTENSILS,” – AND THE OTHER PARTY SAYS, “I NEVER TOOK THEM” – LO, THIS ONE TAKES AN OATH AND COLLECTS [WHAT HE CLAIMS]. R. JUDAH SAYS, “[THAT IS SO] ONLY IF THERE WILL BE A CONCESSION OF PART OF THE CLAIM. “HOW SO? “HE SAID TO HIM, ‘TWO UTENSILS OF MINE DID YOU TAKE,’ AND THE OTHER PARTY SAYS, ‘I TOOK ONLY ONE OF THEM.’”**

1. **I:1:** Into his house [M. 7:2B], not into his courtyard [and no claim can be entertained against the accused involving utensils in the courtyard]. To exact a pledge [M. 7:2B] and not for any other purpose.
2. **I:2:** [If] two people went into the house to exact a pledge [what is the rule? That is, does the householder have the right to take an oath?]
3. **I:3:** If witnesses saw [a person] throwing pebbles, and there utensils were turned up broken, the victim collects damage without taking an oath. What is the law as to the householder’s claim for objects that are beyond his means [and so unlikely to be his]?

L. YERUSHALMI SHEBUOT 7:3

[A] **THE VICTIM OF A BEATING – HOW SO? [IF PEOPLE] WERE GIVING TESTIMONY AGAINST A PERSON THAT [THE PLAINTIFF] HAD GONE INTO HIS [THE DEFENDANT’S] HAND WHOLE AND COME FORTH INJURED, AND HE SAID, “YOU BEAT ME UP,” – AND HE SAYS, “I NEVER BEAT YOU UP” – LO, THIS ONE**

TAKES AN OATH AND COLLECTS [COMPENSATION]. R. JUDAH SAYS, “[THAT IS SO] ONLY IF THERE WILL BE A CONCESSION OF PART OF THE CLAIM. “HOW SO? “IF HE SAID TO HIM, ‘YOU MADE TWO WOUNDS ON ME,’ “AND THE OTHER PARTY SAID, ‘I MADE ONLY ONE ON YOU.’”

1. **I:1:** Judah would call such a case a lover’s quarrel. So long as they are friends with one another, lo, they take an oath and collect what is owing. But if one of them was bitten in a place in which one cannot bite himself, he collects compensation without taking an oath. [If] after a while, this one says, “You beat me up” and that one says, “I never beat you up” – lo, this one is equivalent to all other claims [and evidence is required (T. 6:2)].

LI. YERUSHALMI SHEBUOT 7:4

[A] **HE WHOSE CONTRARY LITIGANT IS NOT TRUSTED [EVEN IF HE TAKES] AN OATH – HOW SO? ALL THE SAME ARE AN OATH REGARDING TESTIMONY, AN OATH REGARDING A BAILMENT, AND EVEN A RASH OATH – [IF] ONE OF THE LITIGANTS WAS A DICE PLAYER, GAVE OUT LOANS ON USURY, [WAS] A PIGEON RACER, OR A DEALER IN SEVENTH-YEAR PRODUCE [M. SAN. 3:3], THE OTHER LITIGANT TAKES AN OATH AND COLLECTS [HIS CLAIM].**

1. **I:1:** Who are those invalid for testimony [M. San. 3:5A]? He who plays dice. [M. San. 3:3B]: [the Tosefta’s version:] this refers to one who plays with blocks of wood. All the same are one who plays with blocks of wood and one who plays with nutshells or pomegranate shells – under no circumstances do they accept the testimony of such a person unless he undertakes to break his blocks of wood and to carry out a complete reformation. One who lends on interest do they not accept [as a witness] unless he tears up bonds of indebtedness owing to him, and [undertakes] to carry out a complete reformation. Those who race pigeons – this refers to one who trains pigeons. All the same are the one who trains pigeons and the one who trains any other sort of domesticated beast, wild beast, or bird – under no circumstances do they accept the testimony of such a person unless he undertakes to break those things that disqualify him and to carry out a complete reformation. Those who do business in the produce of the Seventh Year – this is a merchant in the produce of the Seventh Year. What is such a merchant? This is one who sits idle during the other six years of the septennate. Once the Seventh Year comes, he begins to do business in produce of the Seventh Year. Under no circumstances do they accept such a person until another year of release arrives, and one may

test him and find that he has reformed himself completely. (It was taught: R. Yosé [says], “Two septennates.” R. Nehemiah says, “It must be a reform through property, not merely a reform through what he has said. “How so? “[He must say,] ‘These two hundred denars I collected from the sale of produce of transgression.’ Then [he must] hand them out to the poor” [T. San. 5:2].

[B] “**[IF] BOTH OF THEM WERE SUSPECT [IN THE MATTERS JUST NOW LISTED], THE OATH RETURNS TO ITS NORMAL PLACE [AND IS TAKEN BY THE ONE AGAINST WHOM THE CLAIM IS MADE],” THE WORDS OF R. YOSÉ. R. MEIR SAYS, “LET THEM DIVIDE UP [THE CLAIM AT ISSUE].”**

- 1.** **II:1:** One who is suspect of violating oaths – at what point do they accept [his oath once more]? When he comes to court and states, “I am suspect” [when called upon to take an oath].
- 2.** **II:2:** [As to R. Yosé’s statement, “If both of them are suspect, the oath returns to its normal place” (M. 7:4E),] R. Hoshaiiah said in the presence of R. Ammi in the name of the rabbis over there, “The oath returns to Sinai. [That is, it is as if there is no testimony in this case at all, and the court takes no action. The plaintiff has to bring his own proof.]” R. Yohanan in the name of R. Yannai, “The oath returns to the owner, [that is, to the one who is obligated to take it in accord with the Torah law, and that is the defendant if he has conceded part of the claim].”

LII. YERUSHALMI SHEBUOT 7:5

[A] **A STOREKEEPER CONCERNING [WHAT IS WRITTEN IN HIS] ACCOUNT BOOK – HOW SO? IT IS NOT THAT HE MAY SAY TO HIM, “IT IS WRITTEN IN MY ACCOUNT BOOK THAT YOU OWE ME TWO HUNDRED ZUZ.” BUT [IF THE HOUSEHOLDER] SAID TO HIM, “GIVE MY SON TWO SEAHS OF WHEAT,” [OR] “GIVE MY WORKER CHANGE FOR A SELA,” AND HE SAYS, “I ALREADY GAVE IT TO HIM,” – AND THEY SAY, “WE NEVER GOT IT” – [THE STOREKEEPER] TAKES AN OATH AND COLLECTS WHAT IS OWING TO HIM, AND [THE WORKERS] TAKE AN OATH AND COLLECT WHAT THEY CLAIM FROM THE HOUSEHOLDER. SAID BEN NANNOS, “HOW SO?**

- 1.** **I:1:** A storekeeper concerning what is written in his account book:– and not what is sold on terms have they stated the rule. For one may claim, “You have written [the debt] in this page, it has been erased from that page.” With reference to M. 7:5F,] Rabbi says, “I say that

they take an oath only in the presence of one another, [for they then will not lie] on account of shame” [T. 6:4A-H].

[B] “**BUT [EITHER] THESE OR THOSE THEN ARE TAKING A VAIN OATH! “RATHER, [THE STOREKEEPER] COLLECTS WHAT IS OWING TO HIM WITHOUT TAKING AN OATH AT ALL, AND [THE WORKERS] COLLECT WHAT THEY CLAIM [NOT TO HAVE RECEIVED] WITHOUT TAKING AN OATH.”**

- 1.** **II:1:** This statement that you have made [M. 7:5H, that both parties take an oath and collect from the householder] applies in a case in which the householder has not deposited [funds with the storekeeper in behalf of the workers]. But if the householder has deposited funds for the workers with the storekeeper, then the householder owes nothing at all. [Then the workers have a claim only against the storekeeper.]

LIII. YERUSHALMI SHEBUOT 7:6

[A] **[IF] ONE SAID TO THE STOREKEEPER, “GIVE ME PRODUCE FOR A DENAR,” AND HE GAVE IT TO HIM – HE SAID TO HIM, “GIVE ME THE DENAR,” – HE SAID TO HIM, “I ALREADY GAVE IT TO YOU, AND YOU PUT IT IN THE TILL” – LET THE HOUSEHOLDER TAKE AN OATH. IF HE GAVE HIM A DENAR AND SAID TO HIM, “GIVE ME PRODUCE” – HE SAID TO HIM, “I ALREADY GAVE IT TO YOU AND YOU BROUGHT IT HOME” – LET THE STOREKEEPER TAKE AN OATH. R. JUDAH SAYS, “WHOEVER HAS THE PRODUCE IN HAND – HIS HAND IS ON TOP.” [IF] HE SAID TO THE MONEY CHANGER, “GIVE ME SMALL COINS FOR A DENAR,” AND HE GAVE THEM TO HIM – HE SAID TO HIM, “GIVE ME THE DENAR” – HE SAID TO HIM, “I ALREADY GAVE IT TO YOU, AND YOU PUT IT IN THE TILL” – LET THE HOUSEHOLDER TAKE AN OATH. IF HE GAVE HIM A DENAR AND SAID TO HIM, “GIVE ME SMALL CHANGE,” HE SAID TO HIM, “I ALREADY GAVE THEM TO YOU, AND YOU TOSSED THEM INTO YOUR WALLET,”**

- 1.** **I:1:** R. Haninah said, “The matter is subject to dispute [as follows]:” Said R. Judah, “Under what circumstances [does the rule of M. 7:6F-H apply]? “When the basket [of produce] was lying between the two of them. But if it left the control of one of them, [“he who lays claims against his fellow bears the burden of proof” [T. 6:4Q-S].

[B] **LET THE MONEY CHANGER TAKE AN OATH. R. JUDAH SAYS, “IT IS NOT CUSTOMARY FOR A MONEY CHANGER TO HAND OVER EVEN AN ISSAR BEFORE HE COLLECTS HIS DENAR!”**

- 1.** **II:1:** A dispute applies [further, to M. 7:6/O-R]. As to what [Judah says, at M. 7:6R], that rule applies in the case of a traveling merchant

[who is unknown]. But in the case of a [familiar] townsman, it is quite customary for him to hand over an issar before he collects his denar.

LIV. YERUSHALMI SHEBUOT 7:7

[A] JUST AS THEY HAVE SAID: (1) A WOMAN WHO IMPAIRS HER MARRIAGE SETTLEMENT COLLECTS ONLY BY TAKING AN OATH, [AND] (2) [IF] A SINGLE WITNESS TESTIFIES THAT IT HAS BEEN COLLECTED, SHE COLLECTS IT ONLY BY TAKING AN OATH; [AND] (3) SHE COLLECTS FROM INDENTURED PROPERTY AND FROM PROPERTY BELONGING TO THE ESTATE ONLY BY TAKING AN OATH;

- 1. I:1:** Said R. Zira, “In all of these cases, an oath having the status of one deriving from the Torah has fallen away,’ [in that the oaths required here are not of the standing of a Torah oath, but an oath imposed by the sages as a remedy. For we do not maintain that the husband, in agreeing that part has been paid, concedes part of the claim. That is not the case].”
- 2. I:2:** There we have learned: She who impairs her marriage contract: How so? [If] her marriage contract was worth a thousand zuz, and he said to her, “You have collected your marriage contract,” but she says, “I have received only a maneh [a hundred zuz],” she collects [the remainder] only through an oath [M. Ket. 9:8A-C]. It was taught: She who impairs, but not she who claims less [than is coming to her]. [Cf. T. Ket. 9:4A. That is, she declares that the original settlement was less than the amount recorded in the original document, but that is what she now claims. The husband says he has paid it all. She receives payment without an oath.] R. Hisda raised the question, “It is because he went two steps. Because one impaired it in court, do you maintain that she does not collect?” [This is out of context and appears at M. San. 8:6. It is explained there.]
- 3. I:3:** R. Yohanan in the name of R. Yannai, “A court does not exact payment from an estate belonging to minors unless it is on account of interest [owing on a bond, paid by the estate,] which is eating up the estate.” R. Nathan says, “Also [if the estate owes] the marriage settlement of a wife[, the court will exact payment from the estate, as at M. 7:7C].”
- 4. I:4:** Here you say, They do not take an oath in the case of a claim made by a deaf-mute, an idiot, or a minor [M. 6:4A], and there you say, But an oath is imposed in the case of a claim against [the property of] a minor, and against property which has been consecrated [M. 6:4A]!

[B] [AND] (4) SHE WHO COLLECTS HER MARRIAGE SETTLEMENT NOT IN HER HUSBAND'S PRESENCE COLLECTS IT ONLY BY TAKING AN OATH

- 1. II:1:** And do they collect [a debt when the debtor is] absent? [This would apply in general, but is relevant to. M. 7:7D.]
- 2. II:2:** It turns out that Hanan and R. Simeon have said the same thing. [M. Ket. 13:1E, Hanan says, "Let her take an oath at the end, but let her not take an oath at the outset [that is, she takes an oath when she claims her marriage contract after her husband's death, or after he returns, that she has not held back any property of her husband]." That is, she takes an oath when she claims her marriage settlement after her husband's death, or after he returns, that she has not held back any property belonging to her husband. And likewise R. Simeon says, "Let the wife take an oath only at the end, and there is no difference whether the claim is for maintenance or to collect her marriage settlement."]

[C] SO (5) HEIRS OF AN ESTATE COLLECT [DEBTS OWING TO THE DECEASED] ONLY THROUGH AN OATH: "(1) WE SWEAR THAT FATHER GAVE US NO INSTRUCTIONS [IN THIS MATTER], (2) FATHER SAID NOTHING TO US ABOUT IT, AND (3) WE DID NOT FIND AMONG HIS BONDS EVIDENCE THAT THIS BOND HAD BEEN PAID OFF." R. YOCHANAN B. BEROQAH SAYS, "EVEN IF THE SON WAS BORN AFTER THE DEATH OF THE FATHER, LO, THIS ONE MUST TAKE AN OATH BEFORE HE COLLECTS [WHAT IS OWING TO THE ESTATE]." SAID RABBAN SIMEON B. GAMALIEL, "IF THERE ARE WITNESSES THAT THE FATHER HAD STATED WHEN HE WAS DYING, 'THIS BOND HAS NOT YET BEEN PAID OFF,' [THE SON] MAY COLLECT [THE DEBT] WITHOUT TAKING AN OATH."

- 1. III:1:** [With regard to so heirs of an estate collect [debts owing to the deceased] only through an oath,] Rab said, "If the borrower died, the lender takes an oath to his estate [so as to collect the debt.] And even if the lender died, the heirs of the lender take an oath to the borrower. But if the borrower died first, and then the lender died, the lender already has incurred the liability to take an oath to the heirs of the borrower, and [since] a man does not leave the opportunity to take an oath to his heirs[, there is no oath here]. [That is, if the heirs of the lender wish to collect from the borrower, they take an oath to the lender in the face of his claim to have paid the father. But if the borrower died first, so that the lender already owes the oath, and then the borrower died, the lender's heirs cannot collect from the borrower's heirs, since they cannot take the required oath.]"
- 2. III:2:** R. Jeremiah in the name of Rab: "A codicil that turned up in the hand of the lender and in the writing of the lender is invalid. For I say,

“The lender was making notes on his bonds.”” Lo, if it turns up in the possession of some other party, is it valid?

LV. YERUSHALMI SHEBUOT 7:8

[A] AND THESE [MUST] TAKE AN OATH EVEN WHEN THERE IS NO CLAIM [LAID AGAINST THEM]: (1) PARTNERS, (2) TENANTS, (3) GUARDIANS, (4) A WOMAN WHO MANAGES HER HOUSEHOLD, AND (5) A MANAGER OF A COMMON LEGACY (“SON OF THE HOUSEHOLD”). [IF] HE SAID TO HIM, “WHAT IS YOUR CLAIM AGAINST ME?” “I WANT YOU TO TAKE AN OATH TO ME” – HE IS LIABLE. [ONCE] THE PARTNERS HAVE DIVIDED UP THE PROPERTY, OR THE TENANT FARMERS, THEN ONE CANNOT IMPOSE AN OATH UPON THE OTHER.

1. I:1: Said R. Yosé, “This statement [of the Mishnah, that one imposes an oath on the cited parties even by reason of doubt, applies in a case in which one does business without an accounting. But if one does business with an accounting, it is not to such a case [that the rule applies].”

a. I:2: [As to the statement of Yosé, Y. B.M. 3:1, “The Torah has imposed an oath on the bailee not to apply a stricter, but a more lenient, rule to him,”] R. Zeira is in accord with that statement of R. Yosé [as the following case indicates]:

[B] [IF THE REQUIREMENT TO TAKE] AN OATH HAPPENED TO COME UPON HIM FROM SOME OTHER SOURCE [CAUSE], THEY IMPOSE UPON HIM AN OATH COVERING THE ENTIRE [ENTERPRISE].

1. II:1: To what extent do they superimpose [fresh claims on an oath (M. 7:8G-H) once one is obligated to take an oath for a given claim]?

[C] THE ADVENT OF THE SABBATICAL YEAR RELEASES THE REQUIREMENT TO TAKE AN OATH.

1. III:1: [As to the statement that the advent of the Sabbatical Year releases the requirement to take an oath [M. 7:8I] in regard to an oath between partners or guardians,] said R. Samuel bar R. Isaac, “[It is a case in which even in the Sabbatical Year the man] continued to serve as guardian [so that the Sabbatical Year passed while the man was guardian or partner]. [Even in such a case the Seventh Year releases the obligation to take an oath. It cannot then be thought that the Seventh Year does so only when the obligation to take the oath is in place prior to the advent of the Seventh Year. Even if the obligation is

not completed by that point the Seventh Year still serves, as M. 7:8I states.

LVI. YERUSHALMI SHEBUOT 8:1

- [A] **THERE ARE FOUR KINDS OF GUARDIANS: (1) AN UNPAID BAILIFF, (2) A BORROWER, (3) A PAID BAILIFF, AND (4) A RENTER. (1) AN UNPAID BAILIFF TAKES AN OATH UNDER ALL CIRCUMSTANCES. (2) A BORROWER PAYS COMPENSATION FOR DAMAGES IN ALL CIRCUMSTANCES. (3) A PAID BAILIFF AND (4) A RENTER TAKE AN OATH ON ACCOUNT OF A BEAST WHICH IS LAMED, DRIVEN OFF, TAKEN FOR RANSOM, OR DECEASED, BUT THEY PAY COMPENSATION FOR WHAT IS LOST OR STOLEN.**
- 1.** **I:1:** Said R. Yohanan, “There are four kinds of guardians. and they become liable [for keeping the bailment] only through actually making formal acquisition [of that which is left with them].” R. Jacob bar Aha in the name of R. Eleazar: “Also with regard to theft [on the part of the bailee of the bailment, they become liable only through actually making formal acquisition].”
 - 2.** **I:2:** It is written [in Scripture], “If a man delivers to his neighbor money or goods to keep” (Ex. 22:7) – to keep, and not to tear, to keep and not to discard. to keep, and not to give away as a gift. in all of which cases the liability of a bailee does apply if one hands over a bailment to tear, discard. or give away, one need not take an oath as to its disposition. If it is to distribute to the poor there are no specific claimants to whom an oath is to be taken anyhow].
 - 3.** **I:3:** Now you may state, there are three sections: the first pericope refers to an unpaid bailee, the second to a paid one and a renter, and the third to a borrower. [That is, Ex. 22:7-9, 10-12, and 14ff. refer to different sorts of bailee. Ex. 22:7-9, “If a man delivers to his neighbor money or goods to keep” refers to an unpaid bailee. Ex. 22:11-12, “If a man delivers an ass or an ox or a sheep, and it dies or is hurt or is driven away, an oath by the Lord shall be between them” refers to a paid bailee. And, finally, Ex. 22:14ff., “If a man borrows anything of his neighbor and it is hurt or dies, he shall make full restitution ‘ refers to a borrower.] The borrower, because he enjoyed full benefit, pays full restitution (Ex. 22:14). A paid bailee and a renter. since they enjoyed partial benefit and provide partial benefit, take an oath for part and pay partial restitution. An unpaid bailee, who derives no benefit whatsoever. takes an oath and departs (Ex. 22:7-9).

4. **I:4:** [“If the owner was with it, he shall not make restitution” (Ex. 22:15).] You state, “If the owner was with it, he shall not make restitution.” What is the law as to the bailee’s having to take an oath [that he has not done injury to the beast]? [For if he had done so, he would have had to make restitution, even though the owner was present. We know that in the case of the unpaid bailee, an oath frees the man even from liable for having done injury R. Zira said, “He does take an oath [that he did not do injury to the beast].” R. Haninah and R. La both say, “He does not take an oath.”]
5. **I:5:** [With reference to the following pericope of the Mishnah: [If] he tipped over the jug and took a quarter-*log* of liquid from it, and it broke – he pays only the value of the quarter-*log* he has actually removed. But if he raised it up [so making acquisition of it], and took a quarter-*log* of liquid from it and it broke, he pays the value of the whole jug [M. B.M. 3:9I-L], R. *Yosé bar Haninah raised the question:* “[Raising the issue of the meaning of ‘putting one’s hand to one’s neighbor’s goods’ (Ex. 22:8), specifically, asking whether one is liable only when he causes loss, or whether, merely by laying hands on the bailment, one becomes liable,] what is the meaning of the Tannaite authority’s statement, ‘He takes’? [It should only be a case of liability if] he [actually] took [wine]. [That is, is the intent to M. 3:9 to say that one *has* taken wine? Or perhaps the law is that if one raises up the jug in order to take wine, one will be liable, on the grounds that ‘putting one’s hand’ need not involve loss to the neighbor. So at issue is whether the framer of the pericope means actually having taken wine (thus in the past tense) with the implication that ‘putting one’s hand’ must involve loss, if the bailee is to be liable.]”]
6. **I:6:** R. Abbahu in the name of R. *Yosé*, “Guarding a bailment is stated with regard to an unpaid bailee, guarding also is stated with regard to a paid bailee. But the requirement of ‘guarding’ stated with regard to the unpaid bailee is not similar to that of the ‘guarding’ stated with regard to the paid bailee. As to the act of guarding stated with respect to the unpaid bailee, if the bailee guarded the object in a manner wholly adequate to what is normally required, he is exempt [if something happens to it]. But the sort of guarding stated with respect to the paid bailee is such that they assess the matter only in regard to the physical capacity of the guardian. [The guard has to keep the bailment with his full capacities, since he accepts a salary.] Therefore they assess the man. If he was suitable for the required guardianship [and carried out the labor to the best of his ability, he is exempt [should an accident occur]. If not, he is liable. [That is, if he did not do as much as he might have, he will be liable.] But they do not say, ‘If someone else

had been there, he might have saved the beast, so if he saved the beast, he is exempt, and if he did not save the beast, he is liable.’

7. **I:7:** R. Eleazar in the name of R. Hoshaiyah: “‘Putting one’s hand’ is stated with reference to a paid bailee, and ‘putting one’s hand’ is stated with reference to an unpaid bailee, and the ‘putting of one’s hand’ stated with respect to an unpaid bailee is not similar to the ‘putting of one’s hand’ stated with reference to a paid bailee. ‘The putting of one’s hand’ stated with reference to the unpaid bailee is such that one is not liable until he actually draws [the beast and so effects acquisition]. The ‘putting of one’s hand’ stated with reference to a paid bailee is such that once one has laid his staff or his cloak on the beast, [he has acquired it and so] is liable [for what happens to it and for misappropriating it].”

LVII. YERUSHALMI SHEBUOT 8:2

[A] [IF] ONE SAID TO AN UNPAID BAILIFF, “WHERE IS MY OX?” (1) HE SAID TO HIM, “IT DIED,” BUT IN FACT IT HAD BEEN LAMED, DRIVEN OFF, STOLEN, OR LOST, (2) “IT WAS LAMED,” BUT IN FACT IT HAD DIED, OR BEEN DRIVEN OFF, STOLEN, OR LOST, (3) “IT WAS DRIVEN OFF,” BUT IN FACT IT HAD DIED, BEEN LAMED, STOLEN OR LOST, (4) “IT WAS STOLEN,” BUT IN FACT IT HAD DIED, OR BEEN LAMED, DRIVEN OFF, OR LOST, (5) “IT WAS LOST, “BUT IN FACT IT HAD DIED, BEEN LAMED, DRIVEN OFF, OR STOLEN, “I IMPOSE AN OATH ON YOU,” AND HE SAID, “AMEN” – HE IS EXEMPT:

1. **I:1:** Rab said, “He is exempt on grounds of having taken a false oath of bailment [for there was no money-claim against him in any event, since an unpaid bailee is not liable in the stated cases]. But he is liable on the count of having taken a rash oath. [That is, he did take a rash oath, and it was false.]” R. Yohanan said, ‘Since it is a religious duty [for the bailee] to ease the mind of the bailor, [for, after all, the bailee is responsible for the other party’s loss of capital,] he is not liable on the count of having taken a rash oath.’”

LVIII. YERUSHALMI SHEBUOT 8:3

[A] “WHERE IS MY OX?” AND THE BAILIFF SAID TO HIM, “I HAVE NO IDEA WHAT YOU’RE TALKING ABOUT” – BUT IN FACT IT HAD DIED OR BEEN LAMED OR DRIVEN OFF OR STOLEN OR LOST – “I IMPOSE AN OATH ON YOU,” AND HE SAID TO HIM, “AMEN” – HE IS EXEMPT. (2) “WHERE IS MY OX?” HE SAID

TO HIM, “IT GOT LOST” – “I IMPOSE AN OATH ON YOU” – AND HE SAID, “AMEN” – AND WITNESSES TESTIFY AGAINST HIM THAT HE HAD EATEN IT – HE PAYS HIM COMPENSATION FOR THE PRINCIPAL. IF HE CONCEDED ON HIS OWN, HE PAYS COMPENSATION FOR THE PRINCIPAL, THE ADDED FIFTH, AND A GUILT OFFERING. (3) “WHERE IS MY OX?” HE SAID TO HIM, “IT WAS STOLEN” “I IMPOSE AN OATH ON YOU” HE SAID, “AMEN” – AND WITNESSES TESTIFY AGAINST HIM THAT HE HAD STOLEN IT – HE PAYS TWOFOLD COMPENSATION. [IF] HE CONFESSED ON HIS OWN, HE PAYS THE PRINCIPAL, AN ADDED FIFTH, AND A GUILT OFFERING [BUT NOT TWOFOLD COMPENSATION (M. 5:4)]. (4) HE SAID TO SOMEONE IN THE MARKET, “WHERE IS MY OX WHICH YOU STOLE?” AND HE SAYS, “I NEVER STOLE IT,” BUT WITNESSES TESTIFY AGAINST HIM THAT HE HAD STOLEN IT – HE PAYS TWOFOLD RESTITUTION. [IF] HE HAD SLAUGHTERED AND SOLD IT, HE PAYS FOURFOLD OR FIVEFOLD RESTITUTION.

1. **I:1:** Said R. Yohanan, “And it has been taught likewise” [that when the claim is that the beast had been lost, the bailee does not pay double damages but only when the claim is that the beast has been stolen is there a liability for double damages, and that is the case when the bailee has taken an oath]: If one laid claim that the beast was lost and the bailee took an oath to that effect, but then confessed [otherwise], whether this was before witnesses came or after witnesses came, [the bailee] pays restitution of the principal, the added fifth, and a guilt offering [as at Lev. 6:5ff]. [Double damages do not apply in the case of this claim on the part of the bailee.] But if he laid claim that the beast had been stolen and took an oath to him, but then confessed [otherwise], [if this confession was] before witnesses came along, he makes restitution of principal, an added fifth, and a guilt-offering. [He has confessed in the case of a fine, and is therefore exempt.] If it was after the witnesses came along [that he confessed], he pays double damages [now being liable to the fine,] and a guilt-offering. And the added fifth is included in the double damages that are coming to the plaintiff,” the words of R. Jacob [T. B.Q. 8:8G-J].
2. **I:2:** [Maintaining that the claim of a bailee renders the bailee subject to the same penalties to which a perpetrator of the deed alleged by the bailee to have taken place would be liable,] R. Yohanan said, “He who claims to his fellow [that the bailment was] stolen [and proves to have sworn falsely] pays restitution of a double indemnity just as if he himself had stolen the beast]. If he claimed that the beast had been slaughtered and sold, he pays fourfold or fivefold damages.”
3. **I:3:** Said R. Yohanan, ‘In the case of a lost object – he who claims to his fellow that [he has found the object but that] it was stolen, he is

liable [to pay double indemnity]. [Such a claim_ would be expressed as follows:] Where is the object that I have lost?' 'It has been stolen.'" Said R. Yohanan, "He who claims to his fellow [who has lost an object] that [the defendant has found the object but that] it was stolen, is liable [to pay double indemnity] only after he has taken an oath [and then witnesses prove that he had lied]." Said R. Yohanan, "If one has claimed [in his defense] that the object was lost, and afterward he claimed that it was stolen, he is exempt [should witnesses prove that he had stolen the object]. [The second oath is null and the defendant does not pay double damages. Once he took the first oath, he is quit of the owner and owes no further oath. The second oath is not effective to impose the liability to double indemnity.]"

4. **I:4:** R. Hiyya bar Joseph said. "He who presents to his fellow the claim [that the bailment was] stolen is not liable [for double damages] unless he denies the claim in court [and takes an oath there]. [But an oath outside of court is null]."
5. **I:5:** R. Hiyya in the name of R. Yohanan: "[One who takes an oath that the beast was stolen is liable for double payment then witnesses come thereafter and testify that they saw the beast] standing at the crib of the man."
6. **I:6:** [The associates] raised a question concerning the position of R. Zira, [who maintains that in a case in which one claimed the beast was lost took an oath, then went and claimed the beast was stolen, and took yet another oath, the accused is exempt from double indemnity because he has acquired the beast by reason of having taken the first of the two oaths; and who further maintains that the same conception applies if the man laid a hand on the beast namely, the man is exempt since he thereby acquires the beast. Now, in regard to this position the question is raised as follows]: "Where is my ox?" he said to him, "It was stolen" "I impose an oath on you" he said, "Amen" – and witnesses testify against him that he had stolen it – he pays twofold compensation. [If he confessed on his own, he pays the principal, an added fifth, and a guilt offering [but not twofold compensation] [M. 8:3M-S]. [If, further, he had slaughtered the beast and sold the meat, he would pay fourfold or fivefold damages. Yohanan maintains this position.] Now why should the man be liable for fourfold or fivefold damages under the stated conditions?] For here, since the man has drawn the beast and so acquired title to it, when he claimed that the beast as lost and took an oath to that effect, henceforward, when he claims the beast was stolen, he should be exempt. [That is, Zira treats laying a hand on the beast as tantamount to claiming that the beast was lost and taking an

oath. In both cases the man has acquired the beast. Henceforward it is as if he then claims that it was stolen. In such a case, so far as Yohanan is now represented, the man is exempt from double payments, and obviously from fourfold or fivefold payments should he slaughter the beast and sell the meat.]

[B] [If] HE SAW WITNESSES [TO WHAT HE HAD DONE] COMING ALONG AND SAID, “I STOLE IT, BUT I NEVER SLAUGHTERED OR SOLD IT,” HE PAYS ONLY THE PRINCIPAL.”

1. **II:1:** [With regard to M. 8:3Y-Z, [If] he saw witnesses [to what he had done] coming along and said, “I stole it, but I never slaughtered or sold it,” he pays only the principal,] is it possible to find a case in which one slaughtered the beast without selling the meat? [Can he have slaughtered the beast without having stolen it?]
2. **II:2:** R. Zira asked, “If one saw witnesses to the fact that he had raped the daughter coming along, and said, ‘I did rape her,’ what is the law? [Do we deem this a valid confession or not? If it is valid, there is no fine for the rape, but there are damages to be paid.]”

LIX. YERUSHALMI SHEBUOT 8:4

[A] HE SAID TO A BORROWER, “WHERE IS MY OX?” (1) HE SAID TO HIM, “IT DIED,” BUT IN FACT IT HAD BEEN LAMED OR DRIVEN AWAY, STOLEN, OR LOST – (2) “IT WAS LAMED,” BUT IN FACT IT HAD DIED OR BEEN DRIVEN OFF OR STOLEN OR LOST – (3) “IT WAS DRIVEN OFF,” BUT IT HAD DIED OR BEEN LAMED OR STOLEN OR LOST – (4) “IT WAS STOLEN,” AND IN FACT IT HAD DIED OR BEEN LAMED OR DRIVEN OFF OR LOST – (5) “R WAS LOST,” AND IN FACT IT HAD DIED OR BEEN LAMED, DRIVEN OFF, OR STOLEN – “I IMPOSE AN OATH ON YOU” AND HE SAID, “AMEN” – HE IS EXEMPT. “WHERE IS MY OX?” – HE SAID TO HIM, “I HAVE NO IDEA WHAT YOU’RE TALKING ABOUT” – AND IT HAD IN FACT DIED OR BEEN LAMED OR DRIVEN OFF OR STOLEN OR LOST – “I IMPOSE AN OATH ON YOU” AND HE SAID, “AMEN” – HE IS LIABLE. IF HE SAID TO A PAID BAILEE OR A RENTER [M. 8:1A3,4], “WHERE IS MY OX?” (1) HE SAID TO HIM, “IT DIED,” BUT IN FACT IT HAD BEEN LAMED OR DRIVEN OFF – (2) “IT HAS BEEN LAMED,” BUT IN FACT IT HAD DIED OR BEEN DRIVEN OFF – (3) “IT HAS BEEN DRIVEN OFF,” AND IN FACT IT HAD DIED OR BEEN LAMED – (4) “IT HAS BEEN STOLEN,” AND IN FACT IT HAD BEEN LOST – (5) “IT HAS BEEN LOST,” AND IN FACT IT HAD BEEN STOLEN – “I IMPOSE AN OATH ON YOU,” – AND HE SAID, “AMEN” – HE IS EXEMPT. “IT DIED OR WAS LAMED OR DRIVEN OFF,” AND IN FACT, IT HAD BEEN STOLEN OR LOST – “I IMPOSE AN OATH ON YOU,” AND HE SAID, “AMEN” – HE IS

LIABLE. “IT WAS LOST OR WAS STOLEN,” BUT IN FACT IT HAD DIED OR BEEN LAMED OR BEEN DRIVEN OFF — “I IMPOSE AN OATH ON YOU,” AND HE SAID, “AMEN” — HE IS EXEMPT. THIS IS THE GOVERNING PRINCIPLE: WHOEVER [BY LYING] CHANGES [HIS CLAIM] FROM ONE SORT OF LIABILITY TO ANOTHER SORT OF LIABILITY, FROM ONE COUNT OF EXEMPTION TO ANOTHER COUNT OF EXEMPTION, OR FROM A COUNT OF EXEMPTION TO A REASON FOR LIABILITY, IS EXEMPT. [IF HE CHANGED HIS CLAIM, BY LYING] FROM GROUNDS FOR LIABILITY TO A REASON FOR EXEMPTION [FROM HAVING TO MAKE RESTITUTION], HE IS LIABLE. THIS IS THE GOVERNING PRINCIPLE: WHOEVER [FALSELY] TAKES AN OATH SO AS TO LIGHTEN THE BURDEN ON HIMSELF IS LIABLE. WHOEVER TAKES AN OATH SO AS TO MAKE MORE WEIGHTY THE BURDEN ON HIMSELF IS EXEMPT.

1. **I:1:** It was taught: [If the man took an oath that had the effect] neither of imposing a stricter rule nor of imposing a less strict one, he is liable. [Thus. if the person’s oath removed one sort of liability and imposed some other, he is liable.]
2. **I:2:** What is the law as to his saying to him, “Come and take an oath to me that you did not give thought to stealing the animal”? [The question applies to a case in which there is a claim that requires the bailee to pay monetary compensation. Can the plaintiff impose an oath of the present character?]

TRACTATE

ABODAH ZARAH

The world in which Israel is situated forms an undifferentiated realm of idolatry, and the halakhah of *Abodah Zarah* (“alien worship”) takes as its task the negotiation between Israelites and the pagan world in which they live. The question is, how are Israelites to conduct themselves in accord with the Torah so that at no point and in no way do they give support to idolatry and so betray the one and only God, he who made himself known in the Torah. In its basic exposition of the theme of idolatry, the halakhah rests squarely on the foundations of Scripture, supplying rules and regulations that carry out the fundamental Scriptural commandments about destroying idols and everything that has to do with idolatry. But the halakhah so formulates matters as to transform the entire topic of idolatry into an essay on Israel’s relationships with the Gentiles, who are idolaters by definition. Here too, the halakhah addresses the condition of individuals, the ordinary life of common folk, rather than concentrating on the situation of all Israel, viewed as a collective entity. The halakhah therefore tends to find its problem in the condition of the private person and in the interiorities of his life in the Israelite community. Scripture is clear that Israel is to obliterate all mention of idols (Exod 23:13) and not bow down to Gentiles’ gods nor serve them, but overthrow them and break them into pieces, “You shall break down their altars and dash in pieces their pillars and hew down their Asherim and burn their graven images with fire” (Exod 23:24). Israelites are commanded along these same lines in Deut 7:5, 25–26; 12:2–3.

But the halakhah speaks to a world that is not so simple. The Land belongs to Israel, but Gentiles live there too—and run things. And Israel no longer forms a coherent collectivity but a realm made up of individuals, with their distinctive and particular interests. The halakhah commences its treatment of the same subject with the opposite premise: Gentiles live side by side (whether or not in the Land of Israel) with Israelites, and Israelites have to sort out the complex problems of co-existence with idolatry. Furthermore, that co-existence involves not whole communities, the People, Israel, and the peoples, whoever they may be, but rather, individuals, this Israelite living side by side with that Gentile.

Specifically, the halakhah deals first with commercial relationships, second, with matters pertaining to idols, and finally to the particular prohibition of wine, a

portion of which has served as a libation to an idol. The whole is regularized and ordered. There are relationships with Gentiles that are absolutely prohibited, particularly occasions of idol-worship. As we shall see, the halakhah recognizes that these are major commercial events. When it comes to commerce with idolaters Israelites may not sell or in any way benefit from certain things, may sell but may not utilize certain other things, and may sell and utilize yet other things. Here, we see immediately, the complex and systematic mode of thought that governs the law's treatment of the topic vastly transcends the rather simple conception that animates Scripture's discussion of the same matter. There are these unstated premises within the halakhah: (1) what a gentile is not likely to use for the worship of an idol is not prohibited; (2) what may serve not as part of an idol but as an appurtenance thereto is prohibited for Israelite use but permitted for Israelite commerce; (3) what serves idolatry is prohibited for use and for benefit. The Gentiles are assumed routinely to practice bestiality, murder, and fornication. Further negative stereotypes concerning idolaters occur.

I. Commercial relationships with Gentiles

- A. Festivals and fairs
- B. Objects prohibited even in commerce
- C. Objects prohibited For use but permitted in commerce

II. Idols

- A. General principles
- B. The *asherah*
- C. The *merkolis*
- D. Nullifying an idol

III. Libation wine

YERUSHALMI ABODAH ZARAH

CHAPTER ONE

1:1

[A] [39a] Before the festivals of gentiles for three days it is forbidden to do business with them,

[B] [1] to lend anything to them or to borrow anything from them,

[C] [2] to lend money to them or to borrow money from them,

[D] [3] to repay them or to be repaid by them.

[E] R. Judah says, “They accept repayment from them, because it is distressing to him.”

[F] They said to him, “Even though it is distressing to him now, he will be happy about it later.”

[G] R. Ishmael says, “Three days before them and three days after them it is prohibited.”

[H] And the sages say, “Before their festivals it is prohibited, but after their festivals it is permitted.”

[I:1 A] *R. Hama bar Uqbah derived scriptural support for all of those [statements about the interval of three days during which it is prohibited to do business with gentiles prior to a festival of theirs] from the following verse: “[Come to Bethel and transgress; to Gilgal and multiply transgression;] bring your sacrifices every morning, your tithes on the third day” (Amos 4:4).*

[B] *Said to him R. Yosé, “If so, then even in the exilic communities [the rule should be the same].*

[C] *“Yet it has been taught in a Tannaitic tradition: ‘Nahum the Mede says, “One day in the exilic communities [before their festival] it is prohibited [to do business with gentiles, and not the three days specified by M. A.Z. 1:1, which apply only to the Holy Land]”’ [T. A.Z. 1:1A].”*

[D] *Why so?*

[E] *There* [in Babylonia] they looked into the matter and found out that [the pagans] prepare their requirements [for celebrating a festival] in only a single day, so they forbade business dealings with them for a single day. *But here* [in the Holy Land] they looked into the matter and found out that they prepare their requirements [for celebrating a festival] in a full three days, so they forbade business dealings with them for a full three days.

[F] *How then does R. Yosé interpret the cited verse of Scripture*, “Bring your sacrifices every morning [etc.]”?

[G] Concerning the reign of Jeroboam does Scripture speak.

[H] Once Jeroboam took up the reign over Israel, he began to entice Israel [toward idolatry], saying to them, “Come and let us practice idolatrous worship. Idolatry is permissive.”

[I] *That is the meaning of the following verse of Scripture*: “[Because Syria with Ephraim and the son of Remaliah has devised evil against you, saying,] ‘Let us go up against Judah and terrify it, and let us conquer it for ourselves and set up the son of Tabeel as king in the midst of it’” (Is. 7:5-6).

[J] Said R. Abba, “We have searched through the whole of Scripture and have found no instance in which his name was Tabeel. But [the meaning is] that he does good for those who serve him.”

[K] The Torah has said, “I chose him [the tribe of Levi] out of all the tribes of Israel to be my priest, to go up to my altar, to burn incense, to wear an ephod before me (1 Sam. 2:28).”

[L] And idolatry says, “[He also made houses on high places,] and appointed priests from the fringe element [MQSWT] of the people[, who were not of the Levites] (1 Kings 12:31).”

[M] Said Rabbi, “Not from the thorns [QWSYM] that were among the people, but from the refuse [PSWLT] that was among the people.”

[N] The Torah has said, “You shall not let the fat of my feast remain until the morning” (Ex. 23:18).

[O] But idolatry has said, “Bring your sacrifices every morning” (Amos 4:4).

- [P] The Torah has said, “[When you offer a sacrifice of peace-offerings to the Lord, you shall offer it so that you may be accepted]. It shall be eaten the same day you offer it, or on the morrow[; and anything left over until the third day shall be burned with fire]” (Lev. 19:5-6). [Q] And idolatry has said, “... your tithes on the third day” (Amos 4:4).
- [Q] The Torah has said, “You shall not offer the blood of my sacrifice with leavened bread” (Ex. 23:18).
- [R] And idolatry has said, “Offer a sacrifice of thanksgiving of that which is leavened” (Amos 4:5).
- [S] The Torah has said, “When you make a vow to the Lord, your God, you shall not be slack to pay for it[; for the Lord your God will surely require it of you, and it would be a sin in you. But if you refrain from vowing, it shall be no sin in you. You shall be careful to perform what has passed your lips, for you have voluntarily vowed to the Lord your God what you have promised with your mouth]” (Deut. 23:21-23).
- [T]] And idolatry has said, “And proclaim freewill offerings, publish them” (Amos 4:5).
- [U] Said R. Yudan, father of R. Mattanaiah, “The intention of [a verse of] Scripture [such as is cited below] was only to make mention of the evil traits of [39b] Israel. ‘On the day of our king [when Jeroboam was made king] the princes became sick with the heat of wine; he stretched out his hand with mockers’ (Hosea 7:5).
- [V] “On the day on which Jeroboam began to reign over Israel, *all Israel came to him at dusk, saying to him, ‘Rise up and worship idolatry.’*”
- [W] “*He said to them, ‘It is already dusk. I am partly drunk and partly sober, and the whole people is drunk. But if you want, go and come back in the morning.’*”
- [X] “*This is the meaning of the following Scripture, ‘For like an oven their hearts burn with intrigue; all night their anger smolders[; in the morning it blazes like a flaming fire]’ (Hosea 7:6).’*”
- [Y] ““All night their anger smolders.’”
- [Z] ““In the morning it blazes like a flaming fire.’”

[AA] *“In the morning they came to him. Thus did he say to them, ‘I know full well what you want, but I’m afraid of your sanhedrin, lest it come and kill me.’”*

[BB] *“They said to him, ‘We shall kill them.’”*

[CC] *“That is the meaning of the following verse: ‘All of them are hot as an oven. And they devour their rulers’ (Hos. 7:7).”*

[DD] *[Concurring with this view,] R. Levi said, “They slew them. Thus do you read in Scripture [to prove that ‘the princes became sick’ (HHL) means ‘the princes killed’ (HLL)], ‘If anyone is found slain [HLL] (Deut. 21:1).”*

[EE] Rabbi does not [concur. He maintains that] they removed them from their positions of power [but did not kill them].

[FF] *“On the day of our king the princes became sick with the heat of wine” (Hosea 7:5) – it was the day on which the princes became sick.*

[GG] What made them sick? It was the heat of the wine, for they were thirsting for wine.

[HH] *“He stretched out his hand with the mockers.” –*

[II] *When he would see an honorable man, he would set up against him two mockers, who would say to him, “Now what generation do you think is the most cherished of all generations?”*

[JJ] He would answer them, *“It was the generation of the wilderness [which received the Torah].”*

[KK] *They would say to him, “Now did they themselves not worship an idol?”*

[LL] *And he would answer them, “Now do you think that, because they were cherished, they were not punished for their deed?”*

[MM] *And they would say to him, “Shut up! The king wants to do exactly the same thing. Not only so, but [the generation of the wilderness] only made one [calf], while [the king] wants to make two.”*

[NN] *“[So the king took counsel and made two calves of gold] and he set up one in Bethel, and the other he put in Dan (1 Kings 12:29).”*

[OO] The arrogance of Jeroboam is what condemned him decisively [or: certified him as a leper].

[PP] Said R. Yosé bar Jacob, “It was at the conclusion of a sabbatical year that Jeroboam began to rule over Israel. That is the meaning of the following verse: ‘[And Moses commanded them.] At the end of every seven years, at the set time of the year of release, at the feast of booths, when all Israel comes to appear before the Lord your God at the place which he will choose, you shall read this law before all Israel in their hearing’ (Deut. 31:10-11).

[QQ] “[Jeroboam] said, ‘I shall be called upon to read [the Torah, as Scripture requires]. If I get up and read first, they will say to me, ‘The king of the place [in which the gathering takes place, namely, Jerusalem] comes first.’ And if I read second, it is disrespectful to me. And if I do not read at all, it is a humiliation for me. And, finally, if I let the people go up, they will abandon me and go over to the side of Rehoboam the son of Solomon.’

[RR] “That is the meaning of the following verse of Scripture: ‘[And Jeroboam said in his heart, “Now the kingdom will turn back to the house of David;] if this people go up to offer sacrifices in the house of the Lord at Jerusalem, then the heart of this people will turn again to their Lord, to Rehoboam, king of Judah, and they will kill me and return to Rehoboam, king of Judah”’ (1 Kings 12:27-28).

[SS] “What then did he do? ‘He made two calves of gold’ (1 Kings 12:28), and he inscribed on their heart, ‘... lest they kill you’ [as counsel to his successors].

[TT] “He said, ‘Let every king who succeeds me look upon them.’”

[UU] Said R. Huna, “[The wicked go astray from the womb, they err from their birth speaking lies. They have venom like the venom of a serpent, like the deaf adder that stops its ear, so that it does not hear the voice of charmers] or of the cunning caster of spells’ (Ps. 58:5). Over whoever was associated with him

[Jeroboam] he [Jeroboam] cast a spell [in the sin of the bull-calves].”

[VV] Said R. Huna, “[Hearken, O house of the king! For the judgment pertains to you; for you have been a snare at Mizpah, and a net spread upon Tabor.] And they have made deep the pit of Shittim[, but I will chastise all of them]’ (Hos. 5:1-2). For [Jeroboam] deepened the sin. He said, ‘Whoever explains [the meaning of what has been inscribed on the bull-calves] I shall kill.’”

[WW] Said R. Abin bar Kahana, “Also in regard to the Sabbaths and the festivals we find that Jeroboam invented them on his own. That is the meaning of the following verse: ‘And Jeroboam appointed a feast on the fifteenth day of the eighth month like the feast that was in Judah, and he offered sacrifices upon the altar[; so he did in Bethel, sacrificing to the calves that he had made]’ (1 Kings 12:32).

[XX] “Thus he did in Bethel, having sacrifices made in a month that he made up on his own. This is as you read in Scripture, ‘In addition to the Sabbaths of the Lord’ (Lev. 23:23). [So Jeroboam confused the people by establishing his own calendar for Bethel, keeping the people from pilgrimages to Jerusalem in such a way.]”

[I:2 A] [If] one transgressed [the rule against doing business with gentiles three days before a pagan festival] and did business with one [of them], it is permitted [to derive benefit from the proceeds].

[B] R. Jacob bar Aha, R. Yosé in the name of R. Yohanan: “And [that is the rule for proceeds gained] even on the day of the pagan festival itself.”

[C] *And there is a Tannaitic tradition to the same effect:* Under what circumstances? In the case of a gentile whom the Israelite does not know [is it prohibited to do business prior to a festival]. In the case of a gentile whom [the Israelite] knows, it is permitted, because it is merely as if he flatters them.

[D] *It was taught in a Tannaitic teaching:* [If one] entered a town and found the people celebrating, he celebrates with them, because it is only as if he flatters them.

- [E] *A certain quaestor honored Yudan the patriarch with a chest filled with dinars [in celebration of his festival]. [Yudan] took one of them and sent back the rest.*
- [F] He asked R. Simeon b. Laqish [whether it was permitted to derive benefit from the dinar he had accepted, since it was given to him in celebration of a pagan festival].
- [G] He said to him, “Send any benefit derived from that coin[, that is, whatever you buy with it] to the Dead Sea[, for it is prohibited to benefit from the coin].”
- [H] Now lo, you have a case in which this is post facto [as in the rule of A, above], and lo, you have a case in which this derives from someone whom the Israelite knows [as in the rule of C, above]. And yet has R. Simeon b. Laqish given instructions to send any benefit derived from that coin to the Dead Sea!
- [I] Said R. Abbahu, “And I too – did not Rabban Gamaliel son of Rabbi inquire of me about the law governing going to a fair [in celebration of a pagan god], and I prohibited him from going?”
- [J] *And has it not been taught in a Tannaitic tradition: **They go to a [gentiles’] fair and purchase from them boy-slaves and girl slaves [T. A.Z. 1:8C: “because he is as one who rescues these from their power”]?***
- [K] R. Simeon b. Laqish said, “It is not the end of the matter [that one is permitted to go in order to purchase] Israelite slaves, but [it is permitted to go in order to purchase] even gentile [slaves], because in doing so one brings them under the wings of the Presence.”
- [L] *What is then [the explanation of why Simeon ben Laqish prohibited Yudan from making use of the coin the gentile gave him in honor of the pagan festival]?*
- [M] Rabban Gamaliel [at the time of his inquiry] was a young man, and R. Abbahu wanted to set a fence about him [that he should not become accustomed to participating in pagan festivals].
- [N] But R. Yudan the patriarch was an adult.
- [O] Still, R. Simeon b. Laqish [for his part also] wished to set a limit to the matter.

[II:1 A] It is easy [to understand why sages have prohibited] lending anything to them [M. 1:1B]. But [why should it be forbidden] to borrow something from them?

[B] It is because [the borrower] then owes [the lender] gratitude[, which pleases the lender].

[C] It is easy to understand why sages have prohibited lending money to them. But [why should it be forbidden] to borrow money from them?

[D] It is because [the borrower] then owes [the lender] gratitude.

[E] It is easy to understand why [it should be prohibited] to pay them back a debt one owes. But [why should it be forbidden] to accept repayment for a debt owed by them?

[F] So that the idolator should not have occasion to say [that his idol] has assisted him [in paying back his debts, and the Israelite should thus be in the position of causing the idolator to feel gratitude to the idol].

[G] R. Ba bar Tablai in the name of Rab: “If it was an unsecured loan, it is permitted [to accept repayment for it on the occasion of a pagan festival].”

[H] *And it has thus been taught in a Tannaitic teaching:* An unsecured loan is witnessed solely by witnesses [orally]. A secured loan is one for which there is a bond of indebtedness.

[I] Even a loan secured by a bond is one which is insecure, for it is not at every moment that a man has the good fortune to collect what is owing to him.

[J] *What then is [the definition of an unsecured loan]?*

[K] An unsecured loan is one for which there is no security, and a secured loan is one which is covered by security [a pledge]. [The former may be collected on a pagan festival, the latter may not.]

[L] *There is an extant Tannaitic tradition within the former definition:* An unsecured loan is before witnesses[, not with a bond]. A secured loan is with a bond.

[II:2 A] *There we have learned:* [A woman may prepare her wedding adornments on the intermediate days of a festival.] R. Judah says, “She should not use lime, since this makes her ugly” [M. M.Q. 1:7F-G] [and this prohibition applies even though later on the woman will be beautified, for on the festival itself it is disfiguring. So on the occasion of the festival we do not take account of later advantage].

[B] R. Haninah and R. Mana – one said, “Concerning lime that the woman removes on the festival itself do the sages dispute, but concerning lime that she removes after the festival [there is no dispute], for it is

forbidden [on the festival to make use of lime that imparts its benefit only afterward].”

[C] The other said, “Concerning lime that the woman removes after the festival itself do the sages dispute, but concerning lime that she removes on the festival [there is no dispute], for it is permitted.”

[D] *Now we do not know which one said this and which one said that.*

[E] *Now [let us infer the position of each] from that which R. Haninah, R. Yosé in the name of R. Yohanan said: “R. Judah is consistent with his established position, as R. Judah has said in that case, ‘Disfiguring for a moment is disfiguring [and is prohibited], so did he say in the present case that **what is painful for a moment is painful [at the moment, even though he will be happy about it later, thus M. A.Z. 1:1E, F].**”*

[F] [In the light of R. Haninah’s observation about the position of R. Judah, then, we may infer] that it is he who said, “Concerning lime that the woman removes on the festival itself do the sages dispute, but concerning lime that she removes after the festival [there is no dispute], for it is forbidden.” [For Judah will prohibit the lime removed during the festival, since it is disfiguring at *that* time, and this is without regard to the fact that later on – even on the festival itself – the woman will be glad she had put the lime on her skin.]

[II:3 A] Israelite workmen who were working with a gentile at the time of their festival; in the case of [their doing so] in an Israelite’s household, it is prohibited [to work on the occasion of the festival] [Tosefta; permitted]. In the case of [doing so] in a gentile’s household, it is permitted [Tosefta: prohibited].

[B] **R. Simeon b. Eleazar says, “[Tosefta: If he was hired by the day, whether working in the household of an Israelite or working in the household of a gentile, it is prohibited. If he was hired as a contractor, working in the household of an Israelite is permitted. Working in the household of a gentile is prohibited.]” [The continuation of the discussion below indicates that the Tosefta’s text is taken for granted by the Talmud, even though it is not cited in the printed text.]**

[C] **“Under what circumstances? In the case of working on what is plucked [Tosefta: as yet unplucked]. But as to working on what is not yet plucked [Tosefta: plucked], it is prohibited.**

[D] **“And in another town, one way or the other, it is permitted” [T. A.Z. 1:3B-I].**

[E] What is the meaning of “one way or the other” [just now stated at D]?

[F] [It is permitted in another town for the Israelite to work for the gentile on the occasion of the festival] whether the crops are plucked or not yet plucked, whether as a day laborer or as a contractor [as at B].

[G] Said Rabbi, “No. Whether the crop is plucked or not yet plucked, [it is permitted] only on the condition that [the Israelite works] as a contractor [but not as a day laborer, in which circumstance he is paid for work done on the pagan festival and his salary is thus part of the remuneration deriving from idolatry].” [So Rabbi differs from Simeon b. Eleazar.]

[H] R. Simeon bar Borsenah in the name of R. Adda: “In regard to rules for the Sabbath, for mourning, and for the governance of idolatry, the law is in accord with the rulings of R. Simeon b. Eleazar.”

[III:1 A] **[R. Ishmael says, “Three days before them and three days after them it is prohibited for Israelites to do business with gentiles”] [M. A.Z. 1:1G].** *Associates state the reasoning of R. Ishmael. It is because of the [continuing celebration of] the meal associated with the festival [so, as the eating and carousing continue, Israelites should have no part of the matter, even after the festival day itself].*

[B] Said R. Ba, “Since [the pagan] knows that it is prohibited for you to do business with him, it diminishes the celebration of his festival” [and that is the basis of Ishmael’s reasoning that even after the festival one may not do business, for even on the festival the pagan will be concerned that later on he will be deprived of the benefit of Israelite trade].”

[C] *What is the practical difference between the two [explanations of R. Ishmael’s position]?*

[D] Selling [to a gentile even prior to the festival] things that do not last.

[E] *In accord with the position of associates, it is prohibited to do so, and in accord with the position of R. Ba it is permitted to do so, [for in the former case, the fact that the articles will not last is immaterial, whereas in Ba’s reasoning it is crucial. Associates will*

regard selling things that do not last as contributory to the pleasure of the festival, while Ba will not regard that as critical issue.]

- [F] *Said R. Yudan, "A verse of Scripture supports the position stated by associates: 'Now on the twenty-fourth day of this month [Tishri, after Sukkot] the people of Israel were assembled with fasting and in sackcloth and with earth upon their heads. [And the Israelites separated themselves from all foreigners and stood and confessed their sins]' (Neh. 9:1-2).*
- [G] "Now why is it not said that they did so on the twenty-third [since Sukkot ends on the twenty-second]? It was because of the [continuing celebration of] the meal of the festival [of Sukkot, which the people observed prior to that day. So the day after the festival ended was deemed a continuation of the celebration of the festival, and on this account the day of sackcloth and mourning was postponed until the twenty-fourth. The same reasoning applies to gentile festivals].
- [H] *"Now if you should propose that [they postponed the fast] be cause the twenty-third was the Sabbath [and not because of the aftereffects of the festival, as I claim], you in fact cannot do so. [For the twenty-third of Tishri cannot fall on the Sabbath, for, if it should,] you will then find the great fast [the Day of Atonement] coinciding with a Sunday[, and we do not observe two Sabbaths – the regular Sabbath and the Day of Atonement – in succession. If then the court observes that the Day of Atonement will coincide with a Sunday, they add a day to the prior month of Elul so that the Day of Atonement will fall on a Monday. So it cannot be because of the Sabbath, and the stated reason is the only valid explanation."]*
- [I] *Now what difference does that make [and why should the Day of Atonement not fall on a Sunday]?!]*
- [J] *And did not R. Honiah make light of someone who transferred [the Day of Atonement] from its anticipated time [on a Sunday]?*
- [K] *Said R. Yohanan bar Madayya [39c], "I calculated the matter, and it in fact was not on the Sabbath [that is, the twenty-third of Tishri in the time of Ezra did not coincide with the Sabbath, and the reason of associates is valid]."*

1:2

[A] These are the festivals of gentiles:

[B] [1] Kalends, [2] Saturnalia, [3] Kratesis [the commemoration of the empire],

[C] and [4] the emperor's anniversary, [5] his birthday,

[D] "and [6] the day of his death," the words of R. Meir.

[E] And sages say, "In any case of death rites in which there is a burning, there is idolatry, and in which there is no burning, there is no idolatry."

[I:1 A] Rab said, "Their testimonies [spelling the word for festivals at M. 1:2A with an 'ayin]."

[B] And Samuel said, "Their calamity [with an 'alef]."

[C] He who claims that the word is spelled with an 'ayin [as "their testimonies,"] draws evidence from the following verse: "Let them bring their witnesses to justify them" (Is. 43:9).

[D] And he who claims that the word is spelled with an 'alef, as "their festivals," draws evidence from the following verse: "For the day of their calamity ('YDM) is at hand" (Deut. 32:35).

[E] Rab said, "They add a piece ['BR] to a town [in connection with the Sabbath limits]."

[F] Samuel said, "They augment from within ['BR]."

[G] The one who said, "They add" understands the law to mean that they augment the city with a limb ['BR].

[H] The one who said, "They augment from within ['BR] compares the matter to a pregnant woman [M'WBRT]."

[I] Rab said [in reference to the Mishnah pericope, **They say a blessing over a flame only once they make use of (or: derive pleasure) from its light**], "They derive pleasure [Y'WTW] [M. Ber. 8:6]."

[J] And Samuel said, "They make use [Y'WTW]."

[K] The one who maintains that the correct reading is with an 'alef derives evidence from the following verse: "Only on this condition will we consent (N'WT) to you" (Gen. 34:15).

[L] The one who maintains that the correct reading is with an ‘ayin cites the following verse: “That I may know how to sustain [‘WT] with a word him who is weary” (Is. 50:4).

[I:2 A] Rab said, “Kalends did the first man institute.

[B] “When he saw that the nights were getting longer, he said, ‘Woe is me. Perhaps him concerning whom it is written, “He shall bruise your head, and you shall bruise his heel” (Gen. 3:15) – perhaps he is going to come and bite me.’

[C] “‘Even the darkness is not dark to thee, [the night is bright as the day; for darkness is as light with thee]’ (Ps. 139:12).

[D] “When [the first man] saw that the days were growing longer, he said, ‘Kalendes – Kalondeo! Praise be to God!’”

[E] *Now this view is in accord with the position of the one who said that it was in Tishri [in the autumn] that the world was created [so that Adam saw the nights growing longer, but did not know that, after 21 December, the days would again begin to grow longer].*

[F] *But in accord with the opinion of the one who maintained that in Nisan the world was created, Adam already knew [that it was normal for the days to grow shorter in the fall, longer in the spring, so there was no need to fear, and this account of the origin of Kalends then is not credible].*

[G] *Said R. Yosé b. R. Bun, “Who is of the opinion that it was on the New Year [of Tishri] that the world was created? It is Rab, for it has been taught in the verses associated with the sounding of the shofar [on the New Year] of the school of Rab [that the world was created on the New Year, as follows]: ‘This day is the beginning of your works [of creation], a memorial to the first day [of creation].’ It follows that the world was created on the New Year.” [It follows that Rab is consistent in assigning the origin of Kalends to the time when the world was created in the autumn, and Adam’s fear upon observing that the days were growing shorter and his joy upon noting that they were again growing longer.]*

[H] R. Yohanan did not hold that same opinion, but [maintained] that [there is a different origin for Kalends, as follows:] the kingdom of Egypt and the kingdom of Rome were at war with one another. They declared, “Now how long are we going to kill one another in battle? Come and let us make a rule that whichever kingdom will say to its chief general, ‘Fall on your sword [and kill yourself],’ and [whose general] will listen to that command – [that kingdom] will seize the power [over both of

us] first.’ [Now] *the Egyptian [general] did not hearken to them. The [general] of the Romans was a certain old man. Now his name was Januarius. He had twelve sons. They said to him, ‘Now if you will hearken unto us [and fall on your sword], we shall make your sons dukes, hyparchs, and generals.’ So he hearkened to them [and fell on his sword and he died]. Thus then did his sons cry out for him, ‘Kalendes Januarius!’ From the day following and onward, they mourned for him, ‘The black day!’*”

[I] *Said R. Yudan of En-Todros “Whoever sows lentils on that day – they will not flourish.”*

[I:3 A] Rab said, “[Doing business with gentiles three days before] Kalends is forbidden in the case of all [gentiles].”

[B] R. Yohanan said, “It is forbidden only [to do business] with those who worship on that day.”

[C] [Supply: Rab said,] “Saturnalia is forbidden in the case of all [gentiles].”

[D] R. Yohanan said, “With reference to both Kalends and Saturnalia, it is forbidden only [to do business] with those who worship on that day.”

[E] *Associates asked whether the wives of those who worship are deemed equivalent to those who worship [so that one may not do business with the wives, even if the women themselves do not observe the holy day].*

[F] *R. Abbahu asked about the status of [a place named] Taqsis in Caesarea.*

[G] Since there are many Samaritans, it is deemed to be tantamount to a place of the worship of idolatry.

[H] But as to Taqsis in the town of Duqsis it is necessary to make inquiry.

[I] *R. Bibi sent R. Zeira to buy him a small web at the fair of Saturnalia of Beishan. He came to R. Yosé [to find out whether this was permitted]. He considered giving him instruction in accord with the position of R. Joshua b. Levi [that it was] permitted to do so, but he gave him instruction in accord with the opinion of R. Yohanan [that it was] forbidden.*

[I:4 A] [Supply: **Kalends**] – Rab said, “Kalends comes eight days before the winter solstice, and Saturnalia is eight days afterward.”

[B] Said R. Yohanan, “Peroqto is the beginning of the season.”

[C] R. Ba in the name of Rab: “There are three festival seasons in Babylonia, and three festal seasons in Media. The three festal seasons in Babylonia are Mahuri, Kanauni, and Banauta. The three festal seasons in Media are Nausardi, Tiriasqi, and Mahirkana.”

[D] R. Huna in the name of R Nahman b. Jacob: “Nauros [new year] is on the second of Adar in Persia, on the twentieth of Adar in Media.”

[E] Saturnalia means “hidden hatred” [*Sina’ ah temunah*]: [The Lord] hates, takes vengeance, and punishes.

[F] This is in accord with the following verse: “Now Esau hated Jacob” (Gen. 27:41).

[G] *Said R. Isaac b. R. Eleazar, “In Rome they call it Esau’s Saturnalia.”*

[H] Kratesis: It is the day on which the Romans seized power.

[I] *Now has this opinion already been assigned [to Kalends, by Yohanan who said that the day on which Rome seized power is Kalends, not Kratesis]?*

[J] *Said R. Yosé b. R. Bun, “It [celebrates] the second time [that Rome seized power].”*

[K] *Said R. Levi, “It is the day on which Solomon intermarried with the family of Pharaoh Neccho, king of Egypt. On that day Michael came down and thrust a reed into the sea, and pulled up muddy alluvium, and this was turned into a huge pot, and this was the great city of Rome. On the day on which Jeroboam set up the two golden calves, Remus and Romulus came and built two huts in the city of Rome. On the day on which Elijah disappeared, a king was appointed in Rome: “There was no king in Edom, a deputy was king” (1 Kings 22:17).*

[L] *The emperor’s anniversary: “On the third day, which was Pharaoh’s birthday, he made a feast for all his servants” (Gen. 40:20).*

[M] *His birthday and the day of his death: To this point [the Mishnah pericope refers] to public [celebrations]. From this point forward it refers to individual [celebrations, which also are forbidden when accompanied by idolatrous rites].*

[N] *Now it has been written, “You shall die in peace. And as spices were burned for your fathers, the former kings who*

were before you, so men shall burn spices for you and lament for you” (Jer. 34:5).

[O] *And thus does the Mishnah teach: In the case of any death rites in which there are incense and burning, there is idolatry, and in which there are no incense and burning, there is no idolatry [cf. M. 1:2D].*

1:3

[A] [1] **On the day on which [a gentile] shaves off his beard and lock of hair, [2] on the day on which he came up safely from an ocean voyage, [3] on the day on which he got out of prison,**

[B] **and a gentile who made a banquet for his son –**

[C] **it is prohibited for only that day, and in regard to that individual alone [to enter into business relationships of any sort, as listed at M. 1:1].**

[I:1 A] [Is the stated prohibition of business dealings with an individual gentile on the specified occasions applicable] to that day alone, or [does it apply] to that day from one year to the next?

[B] [*The solution to the problem is clear,*] *for it has not been taught:* “The day on which he shaves off his beard and the day on which his son shaves off his beard – it is forbidden [and that cannot be deemed an annual festival, for two distinct days are subject to discussion, and if it were annual, both would be celebrated on the same day].

[C] But you may interpret the cited tradition to mean that both of them shaved on the same day [so the foregoing interpretation does not solve the problem].

[D] *And has it not been taught:* [The days of] his banquet and the banquet of his son are forbidden [with the same consequences as are spelled out at B]?

[E] *But you may interpret the cited tradition to mean that* both of them shaved at one time when they got married.

[F] *And has it not been taught:* his birthday and the birthday of his son are forbidden? Now do you have the possibility of claiming that both of them were born simultaneously?

[G] *You may interpret the cited tradition to mean that* [the father] did not suffice [to celebrate his birthday] on the specified day before a son was born to him, so he celebrated [both birthdays] at one time.

[I:2 A] *It has been taught in a Tannaitic teaching: One should not send [to his fellow] jugs of wine that already have been sold to a storekeeper, for this is as if to impose upon him an empty claim in opening many jugs as if to honor a guest, in fact there is no loss]. One should not pressure his fellow to come as his guest when he does not want to do so. He should not overwhelm his fellow with gifts knowing that he will not accept them [T. B.Q. 7:8].*

[B] What is the meaning of the use of “gifts” [instead of “presents,” that is, TQRWBT instead of MTNWT]?

[C] [It is the sort of invitation extended after the fact, when there is no space for more guests, when the pretended host says,] “*Wash, sit in the corner over there*” [when in fact there is no room].

[D] *And in Jerusalem [there was the custom of] turning the buckle from the right to the left shoulder [as an indication that there was no more space properly to receive guests].*

[I:3 A] *It has been taught in a Tannaitic teaching: A city in which Israelites and gentiles live – if the gentiles contribute to the charity collectors, they collect the funds from them and from Israelites, and they provide support for the poor of the gentiles just as they do for the poor of Israelites. They visit the sick of the gentiles just as they do for the sick of Israelites. They comfort the mourners of gentile deceased just as they do for the mourners of Israelite deceased. They bury the dead of gentiles just as they do for the dead of Israelites. They bring in the utensils of gentiles and the utensils of Israelites [all] on account of peace [T. Git. 3:13-14 (not verbatim)].*

[B] The [Israelite] folk of Girda asked R. Ammi, “As to the day on which gentiles make a feast, what is the law [about doing business with them]?”

[C] *He considered permitting it to them on the grounds of maintaining peace [in relationships, in line with A].*

[D] *Said to him R. Ba, “And did not R. Hiyya teach: ‘The day of a banquet of gentiles it is forbidden [to do business with them]’?”*

[E] Said R. Ammi, “Were it not for R. Ba, we should have ended up permitting their idolatrous practices. So blessed is the Omnipresent who has kept us distant from them!”

1:4

[A] A city in which there is an idol –

[B] [in the area] outside of it it is permitted [to do business].

[C] [If] an idol was outside of it, [in the area] inside it is permitted.

[D] What is the rule as to going to that place?

[E] When the road is set aside for going to that place only, it is prohibited.

[F] But if one is able to take that same road to some other place, it is permitted.

[G] A town in which there is an idol,

[H] and there were in it shops that were adorned and shops that were not adorned –

[I] this was a case in Beth Shean, and sages ruled, “Those that are adorned are prohibited. but those that are not adorned are permitted.”

[I:1 A] [A city in which there is an idol:] lo, [if the idol is] inside of [the city], it is forbidden [to do business in that city].

[B] Now is it merely because there is a single statue in the city that it should be forbidden to do business in that city?

[C] R. Simeon b. Laqish said, “It was in connection with a market-day that they have taught this rule.”

[D] And what is the difference between the rule [applying when the idol is] inside of the [city] and [when the idol is] outside of it [if we speak of a market-day]?

[E] [When the idol is] inside of [the city], it is a case in which the [idol] derives benefit from the imposts [levied on the business done at the fair, and so it is] forbidden. [But when the idol is] outside [of the city], it is permitted [to do business] because [the temple of idolatry] does not derive benefit from the imposts [levied in connection with the fair].

[F] And if [the idol] was outside of it [but still] derived benefit from the imposts [levied on account of the fair], also [doing business when the idol is] outside of it is forbidden.

[II:1 A] *Now has it not been taught: “They go to a fair and purchase from there boy-slaves and girl-slaves and cattle [T. A.Z. 1:8C]?”*

[B] R. Simeon b. Laqish said, “It is not the end of the matter that they may purchase Israelite slaves, but even gentile slaves [one may purchase at

a fair held in honor of idolatry], for one brings them under the wings of the Presence.” [So M. 1:4 prohibits what this tradition would encourage.]

[C] *Now has it not been taught:* “If one has purchased from there a suit of clothing, it is to be burned; a beast, it is to be hobbled; coins – they are to be taken to the Salt Sea”?

[D] *Now one may explain* burning a suit of clothes, tossing coins into the Salt Sea, or hobbling a beast.

[E] *But has it not been taught:* **They go to a fair and purchase from there boy-slaves and girl-slaves and cattle?**

[F] R. Simeon b. Laqish said, “It is not the end of the matter that they may purchase Israelite slaves, but even gentile slaves [one may purchase at a fair held in honor of idolatry], for one brings them under the wings of [39d] Heaven.”

[G] One should interpret this opinion to apply to one Israelite [who purchases] from another Israelite[, in which case there is no celebration of the pagan festival and no contradiction with our Mishnah pericope].

[H] *But has it not been taught:* He who sells his slave to gentiles – the proceeds are prohibited? [Now, where did this Israelite get the slave? That is, if it was from a gentile, how did the first Israelite sell the slave to the gentile, who then sold it to another Israelite? For it is forbidden for the first Israelite to sell his slave to the gentile.]

[I] Here too one should interpret the case to speak of an Israelite purchasing from another Israelite.

[II:2 A] An Israelite who is on his way to a fair – they purchase [goods] from him, because it is as one who saves [property] from [gentiles’] possession. But when he is on his way back, it is forbidden to do so, for whatever he has in hand has been given to him on account of idolatry. And in the case of gentiles, one way or the other, whether they are going to the fair or whether they are coming back from the fair, it is permitted [to do business with them] [cf. T. A.Z. 1:15].

[B] R. Ba son of R. Hiyya bar Ba in the name of R. Yohanan: “If [the gentile was] the innkeeper, it is permitted [to buy from him].”

[C] R. Zeira asked, “Is the rule that in the case of a fair it is forbidden to do business with a gentile, but in the case of a gentile innkeeper [PWNDQ] it is permitted to do so? [That makes no sense.] Is it possible that R. Yohanan laid down such a rule in connection with trading in goods [PRGMTY’]?”

[D] R. Ba son of R. Hiyya bar Ba in the name of R. Yohanan: “If it was the case of an innkeeper, it is permitted [to do business] in connection with trading in goods.”

[E] Said R. Yohanan, R. Abbahu in the name of R. Yohanan: “If one has exchanged a beast for an idol, [the beast] is prohibited. [The supposition is that the meaning of the case is as follows: If a gentile exchanged a beast for an idol, the beast is prohibited for Israelite use.]”

[F] R. Hisda asked, “If [the gentile] had bowed down to the beast itself, it would not have been forbidden[, for a beast is not forbidden for an ordinary Israelite’s use merely because a gentile has worshiped it]. Now because the beast has been exchanged for an idol, will the beast then be forbidden? [This is incommensurate to the case.] *Perhaps* [R. Yohanan stated the rule] in the case of a business agreement that came into force before the holding of festival[, in which case the beast is forbidden for a specified period and not for all time, as we had originally thought].”

[G] R. Zeira, R. Abbahu in the name of R. Yohanan: “If one has traded a beast for an idol, it is forbidden in the case of a business deal that was entered into before a fair.”

[H] Said R. Abbahu, “It is forbidden to make up a band of [Israelite] traders in connection with a fair.”

[I] *And there is a Tannaitic tradition to the same effect: [A person should not do business with a gentile on the day of his festival] nor on such an occasion should one talk frivolously, nor should one ask after his welfare in a situation that is taken into account. But if one happened to come across him in a routine way, he asks how he is with all due respect [T. A.Z. 1:2].*

[II:3 A] R. Hiyya bar Vava sent someone to buy him a sandal at the fair in Tyre.

[B] Said to him R. Jacob bar Aha, “Now are you among those who buy things at a fair?”

- [C] He said to him, “Now have you never in your life purchased pressed olives?”
- [D] He said to him, “But that is different, for R. Yohanan said, ‘They have not prohibited [buying at a fair] something that is necessary to sustain life.’”
- [E] *R. Simeon b. Yohanan sent and asked R. Simeon b. Yosedeq, “Have you ever looked into the character of the fair held at Tyre?”*
- [F] *He replied, “Yes, and [if] you give me two litras of pepper for my stock, I’ll answer your question[.]”*
- [G] *So [instead, he personally] went up [to the fair at Tyre] and found written there, “I, Diocletian the emperor, have founded the fair of Tyre for the fortune of Archeleus, my brother, for eight days” [so the fair was indeed for the sake of idolatry].*
- [H] R. Isaac bar Nahman asked R. Haninah about the character of the fair at Gaza.
- [I] He said to him, “Now have you ever gone to the fair at Tyre? And did you see an Israelite and a gentile as partners in a single pot, without scrupling that the gentile has stirred the pot[, and Israelites may not eat food cooked by gentiles]?”
- [J] *Now had he asked him a question of one sort, and the other had replied to him in this way?*
- [K] *But the reason was that, since R. Haninah would never say a word that he had not heard in his life [from his teacher], on that account, while the one asked him one thing, he replied with another.*
- [L] Came R. Yosé b. R. Bun, Abba bar Hana in the name of R. Yohanan: “They prohibited a fair only in the case of one of the character of that at Botnah.”
- [M] *And it has been taught along these same lines in a Tannaitic tradition: There are three fairs, the fair at Gaza, the fair at Acre, and the fair at Botnah, and the most debased of the lot of them is the fair at Botnah.*
- [N] What is the law as to going there?
- [O] If one were a wayfarer, it is prohibited to do so, but if he were a resident of that town, it is permitted to do so.

[P] A caravan is permitted to do so, for it is surely the normal way of a caravan to travel hither and yon.

[III:1 A] [And there were in in shops that were adorned and shops that were not adorned (M. 1:4H)]. – With what are they adorned?

[B] R. Yohanan said, “With myrtle.”

[C] R. Simeon b. Laqish said, “With any sort of decorative leaves.”

[D] *In accord with the opinion of R. Yohanan*, all [such shops adorned with myrtle] are prohibited.

[E] *In accord with the opinion of R. Simeon B. Laqish*, prohibited are only the shops bearing additional decorations[; since it was routine to decorate the shops anyhow, only the ones with additional wreaths may not be patronized].

[F] What would be a practical illustration of such a case?

[G] If the storekeeper was accustomed to put out five baskets [of produce], and he put out ten [on a given day], if you say that he put out the extra ones as a decoration on account of the feast day of the idol, it is prohibited to patronize the shop. If you say that he did so merely for displaying his wares for sale, it is permitted to patronize the shop.

1:5

[A] These are things [that it is] forbidden to sell to gentiles:

[B] [1] fir-cones, [2] white figs [3] and their stalks, [4] frankincense, and [5] a white cock.

[C] R. Judah says, “It is permitted to sell him a white cock among other cocks.

[D] “And when it is all by itself, one cuts off its spur and sells it to him,

[E] “for [idolators] do not offer to an idol one that is lacking [a spur].”

[F] And as to everything else, [if] they are left without specification [as to their proposed use], it is permitted, but [if] they are specified [for use for idolatry], it is prohibited.

[G] R. Meir says, “Also fine dates, Hasab and Nicolaus dates is it prohibited to sell to gentiles.”

[I:1 A] Simeon bar Ba in the name of R. Yohanan: “White figs on their stalks, fir cones with their attachments.”

[B] **Frankincense:** *It has been taught in a Tannaitic tradition: If it was a bundle, it is permitted [to sell to gentiles]. And how much is a bundle? R. Judah b. Beterah says, “A bundle of frankincense is no less than five varieties” [T. A.Z. 1:21A-C].*

[C] If [the customer] was a priest, it is forbidden to sell to him [, since he will certainly use the frankincense for idolatry]. [If he is] a physician, it is permitted. [If he is] a wholesale merchant, it is permitted. [If he is] a merchant suspect of idolatrous practices, it is forbidden.

[I:2 A] *We repeat in the Mishnah pericope [the version]: A white cock.*

[B] *R. Hiyya repeated [for his version of] the Mishnah pericope: cock of any sort.*

[C] *The present version of the Mishnah [specifying a white cock] requires also the version of R. Hiyya, and the version of R. E;Hiyya requires also the [present] version of the Mishnah.*

[D] *[Why both?] If we repeated [the present version of the Mishnah], and we did not repeat the version of R. Hiyya, we should have reached the conclusion that the sages state the rule only in regard to a white cock, but as to any sort of cock other than that, even if this was all by itself [M. 1:SD], it is permitted. Thus there was need for the Mishnah version of R. Hiyya.*

[E] *Now if one repeated the version of R. Hiyya, and we did not repeat the version before us in the Mishnah, we should have ruled that the rule applies only in the case of an unspecified cock [requested by the purchaser], but [if the purchaser requested] a white cock, then even if this was all by itself, it would be prohibited [to sell such a cock].*

[F] *Thus there was need for the Mishnah version as it is repeated before us, and there also was need for the Mishnah version as it is repeated by R. Hiyya.*

[G] *[Now we deal with a different reading of matters, rejecting the foregoing:] Said R. Bun bar Hiyya, “[In Hiyya’s view, if a gentile said, ‘Who has] a cock to sell,’ one may sell him a white cock, [so Hiyya differs from, and does not merely complement, the version of the Mishnah pericope].”*

[H] *[Now if the gentile should say, “Who has] a white cock to sell,” we then rule that if the white cock is by itself, it is forbidden, but if part of a flock of cocks, it is permitted to sell it to him. [This clearly is the position of the Mishnah pericope, so there is no*

dispute at all, merely complementary traditions, as argued at D-E (Pené Moshe).]

[I:3 A] *R. Bun bar Hiyya raised the following question: “[If] one saw a flock of cocks pecking at a dung heap, and there was a white cock among them, and [a gentile] said, ‘To whom do these belong?’ [what is the rule]?*

[B] “Do we rule that it is as if he completed [the sentence, ‘To whom does the white cock belong?’ in which case it is as if he wanted only that one, and it is then forbidden to sell him the lot, or do we rule that, since he did not make explicit his interest in the white cock, one may sell him the whole lot?” The question is not answered].

[C] [If the cock] was lacking a spur naturally, does one rule that one lacking by nature do the pagans offer for idolatry [or not]?

[D] “And when you offer blind animals in sacrifice [is that no evil? And when you offer those that are lame or sick, is that no evil?” (Malachi 1:8)

[E] *Thus does [Scripture] state that they do offer to idolatry one that is [naturally] lacking a spur.*

[II:1 A] **R. Meir says, “Also fine dates, Hasab and Nicolaus dates it is prohibited to sell to gentiles” [M. 1:5G]:**

[B] R. Hama bar ‘Uqbah said, “[He refers to] caryota [dates].”

[C] R. Eleazar b. R. Yosé said, “It is a species [in its own right], and its name is Hasada.”

[D] [If] one transgressed and sold [these kinds of dates, what is the rule as to the disposition of the proceeds]?

[E] *The rule is in accord with that which R. Eleazar said [below, at M. 1:7], “If one transgressed and built [a building with them, for use as a basilica], [the proceeds nonetheless are] permitted, and so here too, [if] one transgressed and sold [them the prohibited kinds of dates, the proceeds are] permitted.”*

1:6

[A] **In a place in which they are accustomed to sell small cattle to gentiles, they sell them.**

[B] **In a place in which they are accustomed not to sell [small cattle] to them, they do not sell them.**

[C] **And in every locale they do not sell them large cattle, calves, or foals, whether whole or lame.**

[D] **R. Judah permits in the case of lame ones.**

[E] **And Ben Beterah permits in the case of horses.**

[I:1 A] [Now since the Mishnah pericope states that it is permitted to sell small cattle to gentiles, does it follow that] it is permitted to raise them [to begin with in the Holy Land]?

[B] Said R. Ba, “[The Mishnah speaks of raising small cattle in a place such as] Mehir, which is sixteen mil by sixteen mil[, a wilderness area in the Holy Land in which it is permitted to do so] .

[I:2 A] *They proposed to rule: He who stated that it is permitted to sell them maintains that it is permitted to set them aside, and he who stated that it is prohibited to sell them maintains that it is prohibited also to set them aside [in corrals of gentiles, cf. M. 2:1A].*

[B] *R. Jonah, R. Eliezer in the name of Rab: “And even in accord with the one who maintained that it is permitted to sell them, it still is forbidden to set them aside.”*

[C] What then is the difference [in the opinion of that party] between selling them and setting them aside?

[D] When one actually sells the beast to a gentile, it becomes tantamount to a beast belonging to a gentile. But when he sets it aside for a gentile, it remains tantamount to a beast belonging to an Israelite and [the gentile] is suspect [concerning such a beast, on the count of bestiality].

[II:1 A] **In a place in which they are not accustomed to sell [small cattle] to them, they do not sell them [M. A.Z. 1:6B].**

[B] What is the reason [for this rule]? Because one thereby removes the small cattle [from the category of obligation to the rule requiring that the first] fleece [be given to the priest].

[C] But take note of the case in which it was a goat [so there is no fleece] .

[D] [Then the reason is] that one removes [the beast from the obligation to give] the firstborn [to the priest].

[E] But take note of the case in which it was a male.

[F] [The reason then is] that one removes the beast from the obligation to give [to the priest] the gifts [of the cheeks and maw when it is slaughtered].

[G] If that is the operative reasoning, then one should not sell wheat to a gentile, because one removes it from the obligation of giving the dough-offering [of bread made from the wheat to the priest]; one should not sell wine and oil to a gentile, because one removes them from the very obligation of there being a blessing [before they are consumed].

[III:1 A] And in every locale they do not sell them large cattle [calves. or foals, whether whole or lame] (M. 1:6C) .

[B] What is the reason for this ruling? Because in the case of a large beast there is the possibility [that the gentile will work the beast on the Sabbath and so impose on the Israelite, who retains responsibility,] the liability for a sin-offering.

[C] But in the case of a small beast, there is no possibility of incurring liability for a sin-offering [for the stated reason does not apply] .

[D] But does [the gentile] not milk or shear [the small beast]?

[E] One should say: in the case of a small beast, the liability falls upon the beast, but in the case of the large beast, it falls upon the one who works it[, and the gentile's deeds with the beast are the Israelite's responsibility].

[F] Still, once the Israelite sells the beast to the gentile, does the beast not become tantamount to the beast of a gentile [so that the Israelite no longer has to scruple about what the gentile does with the beast on the Sabbath? So what concern is there that the Israelite incur liability for a sin-offering?]

[G] *R. Ammi, the Babylonian, in the name of the rabbis there [(in Babylonia) states the reason]:* “Sometimes [the Israelite] sells [the beast] to a gentile in order to try the beast out, and the gentile may then return the beast after three days, so it turns out that the gentile performs a prohibited act of labor [on the Sabbath] with a beast belonging to an Israelite.”

[H] If that is the operative ruling, then if it is for a test, it should be prohibited, but if it is not for a test, it should be permitted.

[I] The one [has been prohibited] because of the other.

[III:2 A] [If] one transgressed [the law in a locale in which it is prohibited to sell such beasts to gentiles] and sold [such a beast to a gentile], do they impose a fine upon him [so depriving the Israelite of the use of the proceeds]?

- [B] Just as the sages impose such a penalty on the Israelite in the case of the violation of a law [e.g., deliberately blemishing a firstling so that the priest has no claim to it], so they impose a penalty on him for the violation of a custom [operative in a given locale].
- [C] And how do we know that they impose such a penalty upon a person for violating [what is merely] a local custom?
- [D] *[There is this precedent.] A certain person sold a camel to an Aramaean. The case came before R. Simeon b. Laqish, who imposed a penalty on him of twice the proceeds, so that [the Israelite] would go after the [Aramaean purchaser] and recover the camel.*
- [E] *Said R. Yosé b. R. Bun, “[Simeon b. Laqish] imposed the fine on the middleman [40a], [and not on the Israelite who had sold the beast to the middleman], and they used to insult [the child of the middleman], “A son of the Aramaeans’ agent!”*
- [F] [In imposing such a fine, even though, in law, the man was exempt from such a fine,] R. Simeon b. Laqish was in accord with R. Judah.
- [G] *For it has been taught in a Tannaitic tradition in the name of R. Judah:*
- [H] **R. Judah says, “He who receives a beast from a gentile and it produced a firstling estimates its value and gives half of its value to the priest. If he handed one over to him under contract, lo, this one estimates it, and hands over the entire price to a priest.” And sages say, “Since the finger of a gentile is mixed up in the matter, it is free of the law of the firstling [and there is no obligation to give the priest anything].”** [So it follows that Judah is willing to impose a penalty for entering an illicit agreement with the gentile, even in such a case in which, so far as the law is concerned, there is no obligation at all (cf. T. Bekh. 2:1G-I).]
- [I] *[It is not that Simeon b. Laqish merely is in agreement with the basic position of Judah.] R. Simeon b. Laqish goes further than the position of R. Judah. The ruling of R. Judah is made because of violation of the laws of the firstling [which derive from the Torah], while the ruling of R. Simeon b. Laqish is made because of violation of the laws against raising small cattle [which do not derive from the Torah; nonetheless, even for violation of such minor matters, Simeon b. Laqish is willing to impose a drastic fine for violation of those laws].*

[IV:1 A] R. Judah permits in the case of lame ones [M. 1:6D].

[B] R. Judah ruled only in regard to a lame beast that is not subject to healing [so it will not be used for labor on the Sabbath].

[C] They said to him, “Now is it not so that the gentile may bring a male to her, and the male will crouch over her, and she will give birth [so why may we permit the sale of a lame beast]?”

[D] He said to them, “But I for my part have made such a ruling only in the case of a male horse which is not subject to healing.”

[E] They said to him “Now is it not so that the gentile may then bring a female to him, and the male will crouch over her, and the female will give birth? [So how can you permit even in this case, for the embryo will be born and will be worked on the Sabbath?] “

[F] *R. Abin in the name of the rabbis from there [Babylonia]:* “That is to say that it is prohibited to make available for sale [to gentiles] the embryo [of an unborn beast].”

[G] *There we have learned [M. Bekh. 1:1]:* **He who purchases the unborn offspring of the ass of a gentile, and he who sells it [to him (even though one is not permitted to do so), and he who is a partner with him; and either he who receives asses from him under contract to rear them and share in the profit, or he who delivers asses to him under contract to rear them and share in the profit – [the fetus, when born] is exempt from the law of the firstling.**

[H] *R. Haggai asked before R. Yosé,* “Now has it not been stated that it is prohibited to set before them for sale any sort of embryos? [So such a transaction is null.]”

[I] *He said to him,* “*R. Abin in the name of rabbis from over there already has made that same point before you:* ‘That is to say that it is prohibited to make available for sale to gentiles the embryo [of an unborn beast].’”

[V:1 A] Ben Beterah permits in the case of horses [M. 1:6E].

[B] Ben Beterah has stated this rule only in connection with a male horse, who will kill its owner in battle.

[C] And some say that the ruling applies to a male horse, which runs after females [and so is dangerous].

- [D] And some say that the ruling applies to a male horse, which stands still when it urinates [and is not reliable].
- [E] What is the difference among the several rulings adduced in explanation of the position of Ben Beterah?
- [F] A castrated horse.
- [G] *The one who maintains that Ben Beterah speaks of a horse that runs after females will hold that this one will not run after females*[, so one may now sell it to a gentile].
- [H] *And the one who maintains that Ben Beterah's ruling applies to a horse that stands still when it urinates, this one also will stand still when it urinates.*
- [I] [In explanation of the blanket prohibition of sages,] R. Tanhum bar Hiyya [said], "When it gets old, one harnesses it to the millstones[, so the Israelite will bear responsibility for the beast's laboring on the Sabbath]."
- [J] R. Yosé b. R. Bun in the name of R. Huna: "Ben Beterah and R. Nathan – both of them have laid down the same ruling [that a living creature bears its own weight, so one is not responsible for its movements on the Sabbath. Ben Beterah will not be concerned at the movements of the beast on the Sabbath, on which account he permits the sale of the beast. Nathan does not regard moving a beast from one domain to another on the Sabbath as culpable. Both concur, therefore, that the living beast bears its own weight. The contrary view assigns that rule solely to a human being]. *Thus it has been taught:*
- [K] "If one has brought out [on the Sabbath, from private to public domain] a domesticated beast, wild beast, or fowl, whether living or dead, he is liable.
- [L] "Rabbi Nathan says, '[If the beast was brought across one domain to another when it was] dead, [the one who did so] is liable. [But if it was] alive, he is exempt.'" [So Nathan maintains that a living beast, like a living person, is deemed to carry its own weight, and one is not liable for leading such a beast from one domain to another, any more than one is liable for carrying a living person who is able to transport himself.]
- [M] And the rabbis maintain that the one who does so is liable for a sin-offering.

[N] *Now do they reply to him in line with his mode of reasoning? Thus did they answer him: “In accord with your reasoning, we maintain that it is [prohibited to sell a horse to a gentile] because of the requirement to preserve the beast’s Sabbath rest [and so harnessing the beast to a millstone must be prevented, and on this account, there will be liability for a sin-offering, when the horse gets old and is harnessed for work, even on the Sabbath. From our position there is a liability for a sin-offering on the quite distinct count specified by us, namely, the beast’s movements across the line from private to public domain]. Thus I too claim that when the beast gets old, they will harness him to the millstones.”*

[V:2 A] **Rabbi says, “I say that it is prohibited [to sell horses to gentiles (M. 1:6E)].**

[B] **“First, because one may not sell them weapons of war [and a horse is a weapon of war].**

[C] **“Second, because one may not sell them a large beast [M. 1:6C; T. A.Z. 2:3I-K].”**

[D] *And so it has been taught in a Tannaitic teaching:*

[E] [Selling] a large wild beast is tantamount to [selling] a small domesticated beast.

[F] *And who has repeated this tradition? Rabbi[, who maintains that the same reasons that prohibit selling the domesticated beast apply to a large wild beast. Therefore it is forbidden to sell to a gentile a wild beast just as it is prohibited to sell a large domesticated beast].*

[G] But so far as the sages are concerned?

[H] R. Bisna, R. Hanan bar Ba in the name of Rab: “A large wild beast is tantamount [only] to a large domesticated beast [and the rule depends upon the local practice, as specified in the Mishnah pericope].”

1:7

[A] **They do not sell them [1] bears, [2] lions, or [3] anything that is a public danger.**

[B] **They do not build with them [1] a basilica. [2] scaffold. [3] stadium, or [4] judges tribunal .**

[C] But they build with them [5] public bathhouses or [6] private ones.

[D] [Once] they reach the vaulting on which they set up an idol, it is forbidden [to help build any longer].

[I:1 A] [Since the Mishnah specifies that Israelites may not sell to gentiles anything that is a danger to the public,] lo, [it follows that it is] permitted to sell them anything that is not a danger to the public.

[B] *The Mishnah [is in accord with the opinion of the one who will permit accommodation of that which is not a public danger,] who taught in the following Tannaitic tradition:*

[C] He who witnesses [the performances of] sorcerers and enchanters, or of a moqion, mopion, molion, milarin, miliaria, sagirlon, sagilaria [various sorts of clowns and buffoons]lo, this is prohibited [only] on the count of not sitting in the seat of the scornful, as it is said, “Happy is the one who has not walked in the counsel of the wicked Énor sat in the seat of the scornful, [but his delight is in the Torah of the Lord]” (Ps. 1:1-2) [T. A.Z. 2:5].

[D] And all of these sorts of performances bring a person to neglect learning of the Torah, as it is said, “Ébut his delight is in the Torah of the Lord.”

[E] “He who goes up into the theater – it is prohibited on the count of idolatry,” the words of R. Meir.

[F] And sages say, “[If one goes up] when they are ‘manuring’ [engaging in idolatrous worship through orgies], it is forbidden on the count of idolatry. But if not, it is still forbidden on the count of not sitting in the seat of the scornful, [but on that count] alone.”

[G] He who goes up into an amphitheater, if it is on account of the service of the state’s requirements, lo, this is permitted. But if he takes account [of what is happening therein], lo, this is forbidden.

[H] He who sits in a stadium, lo, this one [witnessing the fight of gladiators] is guilty of bloodshed.

[I] R. Nathan permits on two counts, first, because the Israelite cries out in favor of saving the life [of the loser], and because he may give evidence in behalf of the wife [whose husband is killed in the struggle], so that she may remarry [T. A.Z. 2:7].

[I:2 A] [If] one has transgressed [and helped a gentile] build [a basilica and the like, as to the disposition of the proceeds]:

[B] R. Eleazar said, “It is permitted [to make use of the proceeds] .”

[C] *Said R. Mana, “This ruling is hardly reasonable, that we should not prohibit [benefit from the salary]. For [the gentile] designates each vaulting [for use for setting up an idol, so it is as if the Israelite has assisted in setting up the pedestal for an idol, no matter what part of the work he actually does].”*

1:8

[A] **They do not sell them produce as yet unplucked.**

[B] **But one may sell it once it has been harvested.**

[C] **R. Judah says, “One may sell it to him with the stipulation that he will harvest it.”**

[I:1 A] *R. Bun bar Hiyya raised the question, “[In regard to Judah’s stipulation that the gentile will harvest the crop, in which case it is permitted to sell him a crop which has not been harvested,] is there also a dispute with regard to [the sale to a gentile] of a large beast? [Will he take the same position, namely, that] one may sell to a gentile a large beast on condition that he slaughter it[, and not use it for labor on the Sabbath]?”*

[B] *Indeed we find a Tannaitic teaching to that effect: R. Judah says, “One sells [to a gentile a large beast] on condition that he slaughter it.”*

1:9

[A] **“They do not rent [to gentiles] houses in the land of Israel,**

[B] **“and, it goes without saying, fields.**

[C] **“But in Syria they rent them houses, but not fields.**

[D] **“And abroad they sell them houses and rent them fields,” the words of R. Meir.**

[E] **R. Yosé says, “Even in the land of Israel they rent them houses[, but not fields];**

[F] **“in Syria they sell them houses and rent them fields,**

[G] **“and abroad they sell them both the one and the other.”**

[I:1 A] *R. Zeira in the name of R. Yosé ben Haninah, R. Abba, R. Hiyya in the name of R. Yohanan:*

[B] **““You will show no mercy to them [THNM]’ (Deut 7:2). – you will show them no grace.**

- [C] “‘You will show no mercy to them.’ – you will give them no unrequited gift [MTNT HNM].
- [D] “‘You will show no mercy to them.’ – you will give them no place to settle [MQWM HN. YH] in the Holy Land.”
- [E] *Now has it not been taught in a Tannaitic teaching: R. Yosé says, “Even in the Land of Israel they rent them houses”?*
- [F] As to a house, it is uncommon to profit from it, while it is quite common to profit from a field.
- [G] R. Yosé b. R. Bun gave instructions that it is forbidden to rent them a burial place in the land of Israel, on the count of not giving them a place to settle in the Holy Land.
- [H] “‘You will show no mercy to them.’ – You will give them no unrequited gift.
- [I] *Now has it not been taught in a Tannaitic tradition [that Gamaliel gave such a gift]:*
- [J] **M’S H B: Rabban Gamaliel was going along the road [from Akko to Kezib]. He found a loaf of cheap bread on the road. He said to Tabi, his slave, “Take the loaf.”**
- [K] **He saw a gentile coming toward him. He said to him, “Mabgai, Take this loaf of bread.”**
- [L] **Ilai ran after [Mabgai] and said to him, “What is your name?”**
- [M] **He said to him, “Mabgai.”**
- [N] **“And where do you come from?”**
- [O] **“From one of the [nearby] station-keeper’s villages.”**
- [P] **“Now did Rabban Gamaliel ever in your whole life meet you?”**
- [Q] **He said to him, “No.”**
- [R] **[On the basis of this event we learn that] Rabban Gamaliel divined by the Holy Spirit.**
- [S] **And from what he said we learn three things.**
- [T] **We learn that the leaven of a gentile is permitted immediately after Passover [cf. M. Pes. 2:2].**
- [U] **And they do not pass by food [but pick it up].**

[V] And they follow the status of the majority of those who travel the roads [in a given place, in this instance, gentiles] [T Pes. 2:15].

[W] R. Jacob bar Zabedai in the name of R. Abbahu: “That rule [about not walking past food, but stopping and picking it up] was valid in the past, but now they do pass by foodstuffs because of the possibility of witchcraft.”

[X] When he was leaving Kezib, someone came along and besought from him [absolution of] his vow. He said to the one who was with him, “Have we drunk so much as a quarter-log of Italian wine?”

[Y] He said to him, “Yes.” He said to the one who asked the question, “Walk along with us until the effect of our wine has worn off.”

[Z] Once they got to the Ladder of Tyre, he got off his ass and wrapped himself in his cloak and sat down and declared his vow to be absolved.

[AA] From these statements of his we learn that a quarter-log of wine causes drunkenness;

[BB] that traveling wears down the effects of wine;

[CC] that they do not grant absolution from vows or give decisions when they are drunk;

[DD] and that they do not absolve vows either while riding on an ass or while walking or while standing, but only sitting down and wrapped in a cloak [T. Pes. 2:16].

[EE] Said R. Yohanán, “Thus he opened the discourse for him: ‘There is one whose rash words are like sword thrusts [but the tongue of the wise brings healing]’ (Prov. 12:18).

[FF] “This may be compared to one who has taken a vow not to eat bread. Woe to him if he eats, woe to him if he does not eat. If he eats, he violates his vow. If he does not eat, he sins against his soul. What should he do? Let him go to sages and beseech absolution from his vow, as it is written, ‘But the tongue of the wise brings healing.’”

[I:2 A] “You will show no mercy to them.” – You will show them no grace.

[B] *Now has it not been taught:* M'SH B: Rabban Gamaliel was strolling about the temple mount, and he noticed a certain

gentile woman and said a blessing over her [because of her beauty].

[C] Now was it Rabban Gamaliel's usual habit to stare at pretty women?

[D] But it was a crooked path [so that he could not avoid seeing her], like a narrow alley, in which he looked at her. [This was] not for his own enjoyment, but nonetheless he said a blessing over her.

[E] Now is it not so that R. Zeira in the name of R. [40b] Yosé ben Hanina, R. Ba R. Hiyya in the name of R. Yohanan said: "'You will show no mercy to them.' – you will show them no grace."

[F] What did he say?

[G] He did not say "Abaskantah! [May no harm befall you!]" He said only, "Blessed is he in whose world are such beautiful creatures."

[H] For thus even if one saw only an ass that is pretty, a camel that is pretty, or a horse that is pretty, one says, "Blessed is he who has such beautiful creatures in his world."

[I:3 A] R. Simeon, R. Abbahu in the name of R. Yosé bar Hanina, "An Israelite hairdresser should not dress the hair of a gentile woman, on the count of 'You will show them no grace.'

[B] "And an Israelite should not serve as a best man for a gentile, on the count of 'You shall not intermarry with them' (Deut. 7:3)."

[C] *R. Isaac bar Goptah asked in session before R. Mana, "[If] it is forbidden to go to a gentile's banquet party, is it not an argument a fortiori that it should be forbidden to serve as his best man?"*

[D] He said to him, "The purpose is to apply a negative commandment to those who serve as best men for gentiles."

[I:4 A] R. Simon had some vine growths [in his fields] in the Royal Mountains. He asked R. Yohanan [about whether it is permitted to rent the plants to a gentile]. He replied, "Let them lie uncultivated, but never rent them out to a gentile."

[B] He asked R. Joshua [b. Levi] about the law governing renting them out to a gentile, and R. Joshua permitted him to rent them out in a place in which Israelites are not commonly located, for example, in Syria.

[C] Now what is the law as to Syria itself?

[D] *We may infer it from the following teaching:*

[E] *R. Haggai went down to Hamas. Members of the household of Ashtor came and asked him, "Since Israelites are not numerous in that place, and we rent out land to gentiles, what is the law as to our having to separate tithes in their behalf [from the produce produced by them]?"*

[F] He sent and asked R. Zeira. R. Zeira asked R. Ami. He said to him, "Rabbi, what is the law as to their having to separate tithes?"

[G] He said to him, "It is not necessary to separate tithes in their behalf."

[H] *From whom do you derive the ruling that it is permitted to rent the land to him? It is in accord with R. Yosé.*

[I] *And further, from the following teaching, which R. Haninah son of R. Abbahu said in the name of R. Abbahu, "A case came before father, and he sent and asked R. Hiyya, R. Yasa, and R. Ami, and they gave instruction to him [to permit] renting fields to them, in accord with the opinion of R. Yosé" [M. A.Z. 1:9F]. Now as to the rule governing setting aside tithes, it is not required to set aside tithes in their behalf.*

1:10

[A] **Even in the situation concerning which they have ruled [that they may] rent,**

[B] **it is not for use as a residence that they ruled that it is permitted, because he brings an idol into it,**

[C] **as it is said, "You shall not bring an abomination into your house" (Deut. 7:26).**

[D] **And in no place may one rent him a bathhouse, since it would be called by his [the Israelite's] name [and its use on the Sabbath will be attributed to the Israelite].**

[I:1 A] Lo, in a place in which it is customary to sell [houses to a gentile, e.g., abroad, in accord with the view of Meir, in Syria, in accord with the view of Yosé], one sells him even a residence, or rents him even a residence.

[B] R. Aha, R. Tanhum bar Hiyya in the name of R. Eleazer b. R. Yosé, “And even a small stall, for example, like the tannery in Sidon.

[C] “It is [thus] not the end of the matter that one may rent out the entire house but even a single room.”

[II:1 A] [R. Judah says “If there are] two courtyards, one within the other, the inner courtyard is subject to the law [of tithes and renders liable to tithes produce brought within it], and the outer courtyard is exempt from the law” [M. Ma. 3:5G-I].

[B] If it was a single courtyard and divided into two and made into one [what is the law? This question is not answered].

[III:1 A] [In the light of M. 1:10D,] R. Abin in the name of the rabbis over there: “That is to say, a field that is situated by the road is it prohibited to rent out to gentiles, because it bears the name of an Israelite, and [gentiles] will work the field on the Sabbath or on festivals.”

YERUSHALMI ABODAH ZARAH

CHAPTER TWO

2:1

- [A] They do not leave cattle in gentiles' inns,
- [B] because they are suspect in regard to bestiality.
- [C] And a woman should not be alone with them,
- [D] because they are suspect in regard to fornication.
- [E] And a man should not be alone with them,
- [F] because they are suspect in regard to bloodshed.
- [G] An Israelite girl should not serve as a midwife to a gentile woman,
- [H] because she serves to bring forth a child for the service of idolatry.
- [I] But a gentile woman may serve as a midwife to an Israelite girl.
- [J] An Israelite girl should not give suck to the child of a gentile woman.
- [K] But a gentile woman may give suck to the child of an Israelite girl,
- [L] when it is by permission.

- [I:1 A] [40c] [Since, at M. Par. 2:1C-D, Eliezer declares that a red heifer for burning for ashes for purification water may not be purchased from gentiles, while the sages permit doing so, and since the present pericope assumes gentiles routinely practice bestiality,] R. Zeira, R. Abbahu in the name of R. Yosé b. R. Haninah, R. Ba, R. Jonah [declare]: “Interpret the Mishnah to accord with the position of R. Eliezer.
- [B] “For R. Eliezer said, [The red heifer for burning for ashes for purification water] is not to be purchased from gentiles.”
- [C] *R. Jonah raised the following inquiry: “Now why do we not interpret the Mishnah pericope to represent the opinion of all parties [and not merely Eliezer, for a distinction is possible here which is not operative at M. Par. 2:1].*

- [D] “This then would accord with the position outlined by R. Eleazar in the name of Rab: ‘And even in accord with the opinion of him who said that it is permitted to sell them [beasts], it is still prohibited to house them [with gentiles, or to designate them as the property of gentiles].’”
- [E] [If furthermore] one has violated the law and done so [purchased the beast], it is in accord with the opinion of all authorities [that it then is permitted to make use of the beast, and we do not take account of the possibility that the gentile has committed an act of bestiality with the beast].
- [F] [Now that we have raised the issue of whether we distinguish between the state prevailing at the outset and that which governs once an act has been permitted (*post facto*), we may find evidence that we do indeed make such a distinction, in line with that which] R. Jeremiah said, “Let us infer the answer from the following:
- [G] “**The woman who was taken prisoner by gentiles – [if it was for an offense concerning property, she is permitted to return to her husband]**” [M. Ket. 2:9A-B]. [Now since at M. 2:1C-D the rule is that a woman should not be alone with gentiles, and since, if she should be alone with them, under the stated circumstance we say she may return to her husband, it follows that the Mishnah rule applies to the situation prevailing at the outset. But if, *post facto*, such a deed should be done, we do not rule stringently, but we permit the woman to go back to her husband under the stated circumstance. We thus make a distinction between the rule pertinent at the outset and that applying *post facto*. Likewise in the case of the beast: all parties can agree that, to begin with a beast should not be designated for gentile use, Eliezer as much as the sages. But they then can disagree on whether, if the beast *was so* designated, it may be used for the red heifer. It follows that Eliezer can accept the rule of M. A.Z. 2:1A-B].”
- [H] Said R. Yosé, “There is a distinction to be made between the case of the woman[, who after the fact may be permitted to re turn to her husband, and the beast subject to bestiality]. For a woman will usually cry out [when she is raped, and the gentile will hesitate to rape her, lest the woman lose all value for ransom].”
- [I] But take note of this: what if the woman was a deaf-mute? [She still may return to her husband, so H is invalid!]
- [J] For her [too] it would be usual to give signs of protest.

[K] *What is there left to say [to the one who wishes to make the distinction between a rule applying prior to a deed and that applying once the deed has been done? For the proposed distinction now cannot be shown valid through the evidence concerning a parallel case]. One indeed must interpret the Mishnah rule as the opinion of R. Eliezer [and not of the sages vis-a-vis Eliezer]. **For R. Eliezer says. “[The red heifer] may not be purchased from gentiles.”***

[L] *[The disciples] wished to propose [that the present rule may accord with Eliezer and sages, because at issue in connection with the red heifer is another consideration entirely, so there is no reason to assume sages vis-[^]-vis Eliezer will not have agreed in the present instance].*

[M] *Now the disagreement between R. Eliezer and the sages in connection with the red heifer is concerning [whether we apply in that instance] a stricter rule [than we apply in other aspects of the law, because the rules governing the red heifer in general are far more strict than those applying to animals for other sacrifices]; [they constitute a] distinction applicable to the red heifer. [So the sages and Eliezer differ solely in regard to the red heifer.]*

[N] *From that verse adduced in evidence by the rabbis to counter R. Eliezer’s position, which is, “All the flocks of Kedar shall be gathered to you, the rams of Nebaioth shall minister to you; they shall come up with acceptance on my altar, and I will glorify my glorious house,” (Is. 60:7) [meaning that, so far as the sages are concerned, all sorts of beasts are acceptable,] *one must conclude that also with regard to all sorts of [offerings, and not only the animal for use as the red heifer], did R. Eliezer differ [from sages.]**

[O] *[In regard to the citation of the verse in Isaiah, referring to the age to come, R. Hoshaiiah raised the question: “Do people draw evidence from a saying concerning that which will come about in the future in a matter of [practice pertaining] in matters applying in the past [when the temple stood]?”*

[P] *[In this same regard,] R. Abin raised the question: “Do people draw evidence from a saying concerning an age in which the impulse to do evil shall be null in a matter of [practice pertaining in] an age in which the impulse to do evil is yet powerful?”*

[Q] *[In explanation of his position, regarding the interpretation of Eliezer’s position in the light of Is. 60:7, Hoshaiiah will now attempt to indicate that Eliezer too can accord with the cited*

verse.] R. Hoshaiah said, “And [why] do we not interpret the matter as the opinion of all parties? For [the cited verse is to be read] in accord with that which R. Huna stated in the name of Rab: ‘And they weighed out as my wages thirty sheqels of silver’ (Zech. 11:12) – these are the thirty commandments that the children of Noah are destined to accept upon themselves[, and all the more so will the children of Noah no longer practice bestiality, a position Eliezer also will accept].”

[R] But the rabbis state [in interpreting the cited verse]: “These [thirty pieces of silver, to which Zechariah makes reference,] are the thirty righteous men, without whom the world cannot endure.”

[S] For R. Nahman said in the name of R. Mana, “The world cannot endure without thirty righteous men, of the sort of Abraham, our father.

[T] “And what is the scriptural evidence for that statement? ‘And Abraham will surely be’ (Gen. 18:18) [HYH YHYH]. Now the numerical value of the letters for the word, *will be* [YHYH] is thirty [Y = 10, H = 5].”

[U] [On the subject of these thirty righteous men, it is to be said:] There are times when the majority of them are in Babylonia and the minority of them are in the land of Israel. There are times when the majority of them are in the land of Israel and the minority of them are in Babylonia. It is a good sign for the world at the time when the majority of them are in the land.

[V] [On the subject of the commandments pertinent to the children of Noah, it is to be said:] R. Hiyya bar Luliani in the name of R. Hoshaiah: “All of the commandments[, not just thirty,] are the children of Noah destined to accept upon themselves.

[W] “What is the scriptural evidence for that statement? ‘Yes, at that time I will change the speech of the peoples to a pure speech [that all of them may call on the name of the Lord and serve him with one accord]’ (Zeph. 3:9).

[X] “But in the end they are destined to retract. And what is the scriptural evidence for that statement? ‘[The rulers take counsel together against the Lord

and his anointed, saying,] Let us burst their bonds asunder, and cast their cords from us' (Ps. 2:2). This refers to the commandment of wearing phylacteries. This refers to the commandment of wearing show-fringes [on one's garment]."

- [I:2 A] *R. Isaac and R. Ammi were in session. They raised the question, "And lo, it is written, 'They sacrificed to the Lord on that day, from the spoil [which they had brought]' (2 Chron. 15:11). [Now this verse shows that the people did not distinguish among the beasts, or scruple as to which animal may have been a victim of bestiality. This would represent an objection to the position of Eliezer at M. Par. 2:1, that we do take account of the prior treatment of the beast.]"*
- [B] *Now we have interpreted this verse [in a different way, as will be seen in a moment, from the discussion involving Eliezer], but we do not know whether it was the associates who interpreted the verse or whether it was R. Ammi who interpreted the verse [in the following manner].*
- [C] it was from the spoil that they had in their hand at the outset that they made offerings [and not from that which came from gentiles, so there was no reason to scruple about bestiality].
- [D] Now has it not been written, "And the men of Beth-Shemesh offered burnt offerings and sacrificed sacrifices on that day to the Lord" (1 Sam. 6:15). [Now what they sacrificed were] the cows [sent out by the lords of the Philistines to bring the ark of the Lord back to Israel, and this would be evidence against the position of Eliezer that we take account of the possibility that gentiles have committed an act of bestiality with the animals. Clearly, in this case, the men of Beth-Shemesh did not scruple on that account.]
- [E] Now do we learn the law from what was done by the lords of the Philistines?! [In fact this was a special case, involving a miracle.]
- [F] And was it not this which R. Abbahu said in the name of R. Yosé bar Haninah, "And even cows did they offer up: 'They offered the cows as a burnt offering to the Lord'" (1 Sam. 6: 14).
- [G] And has it not been written [as evidence that Israelites sacrifice beasts belonging to gentiles, without scruple as to a prior act of bestiality committed with such beasts]: "Saul said 'They have brought them from the Amalekites'" (1 Sam. 15:15).
- [H] The law is not to be learned from the deeds of Saul.

- [I] And this is in line with that which R. Simeon b. Laqish said: “Saul was ‘a block of a sycamore tree’ [utterly barren of thought, ignorant].”
- [J] And has it not been written, “[And Araunah said, ‘Why has my lord, the king, come to his servant?’ David said, ‘To buy the threshing floor of you, in order to build an altar....’ Then Araunah said to David, ‘Let my lord, the king, take and offer up what seems good....’] So David bought the threshing floor [and the oxen for fifty shekels of silver]” (2 Sam. 24:21-24). [This would prove that David offered up animals purchased from a gentile.]
- [K] He bought [the threshing floor and the animals], but he did not [actually] offer up [the animals].
- [L] Now is it not written [in that same context], “And Araunah said to the king, ‘The Lord your God accept you’” (2 Sam. 24:23) [which would indicate that the animals indeed were sacrificed]?
- [M] [The meaning is,] May he accept your prayer.
- [N] “Neither shall you offer as the bread of your God any such animals gotten from a foreigner. [Since there is a blemish in them, because of their mutilation, they will not be accepted for you]” (Lev. 22:25).
- [O] “Of any such animals [as are specified at Lev. 22:17ff., e.g., an animal whose testicles are bruised or crushed or torn], you shall not make an offering, but you may purchase beasts [from gentiles] without blemish and offer them [in line with the sages *vis-à-vis* Eliezer].
- [P] And how does R. Eliezer interpret this same verse? “You purchase [a beast] with money and offer it up” [that is, a gentile may contribute funds for an offering].
- [Q] *And yet has it not been taught above, it is not in accord with R. Eliezer [that one may purchase a beast from a gentile]!*
- [I:3 A] They do not leave cattle in gentiles’ inns [M. 2:1A], even male cattle with men, and female cattle with women[, because a male may bring a male beast over him, and a female may do the same with a female beast], and it goes without saying, males with women, and females with men [T. A.Z. 3:2A-D].**
- [B] **Male cattle with men** – *on what grounds do you scruple?*
- [C] His girlfriend may come and not find him and will then engage in sexual relations with [the beast].
- [D] **Female cattle with women** – *on what grounds do you scruple?*

[E] Her lover may come and not find her and will then have sexual relations with the female beast instead.

[F] R. Haggai in the name of R. Zeira: “It is not the end of the matter [that one may not leave] a beast belonging to an Israelite with a gentile. But even a beast belonging to a gentile with one belonging to an Israelite one may not leave along with one belonging to another gentile friend of his, so as not to provide him with the occasion for transgression.”

[G] If that is the case, then even [if] one has hired a gentile’s beast, it is really not proper to return and leave it with him, so as not to provide him with the occasion for transgression.

[H] [No, that is no consideration, for a gentile] is suspect of having sexual relations with the beast belonging to his neighbor, but he is not suspect of having sexual relations with a beast of his own, for, since he knows that if he has sexual relations with the beast, he renders the beast barren, he will refrain from having sexual relations with it.

[I:4 A] But they leave cattle in Samaritans’ inns [even male cattle with women and female cattle with men and female cattle with women. And they hand over cattle to Samaritans’ shepherds, and they hand over a child to him to teach him reading [T. A.Z. 3:1].

[B] It follows from this statement that Samaritans are not suspect with regard to violating the law against fornication.

[C] *And it has been taught in a Tannaitic tradition to the same effect:*

[D] A woman may remain alone with two men [M. Qid. 4:12A], even if both of them are Samaritans, even if both of them are slaves, even if one of them is a Samaritan and one a slave[, except for a minor. For she is shameless about having sexual relations in his presence [T. Qid, 5:9]. As to his sister and his sister-in-law and all those women in a prohibited relationship to him who are listed in the Torah, they should not be alone with him except before two witnesses [T. Qid. 5:10].

[I:5 A] *It has been taught in a Tannaitic tradition: They do not sell them either a sword or the paraphernalia for a sword, and they do not polish a sword for them [T. A.Z. 2:4A-B].*

[B] Interpret this rule to apply to a city which is made up wholly of gentiles.

[II:1 A] [And a woman should not be alone with them, because they are suspect in regard to fornication:] And do not women fall within the category of those who are murdered [as is said with reference to a man, because they are suspect in regard to bloodshed]?

[B] Said R. Ammi, “Interpret the Mishnah rule to apply to a case of a strong woman [who is not afraid of people, because she can defend herself].”

[C] Said R. Abin, “And you may even propose [a quite different reason that a woman need not be concerned about bloodshed]: A woman can hide her status and claim, ‘I am a gentile,’ but a man cannot hide his status and claim, ‘I am a gentile.’”

[D] *It has been taught in a Tannaitic tradition:*

[E] [When] an Israelite goes along with a gentile, he puts him at his right hand[, and he does not put him at his left hand].

[F] R. Ishmael son of R. Yosé [b. R. Yohanan b. Beroqah] says, “[And he goes] with a sword in his right hand, with a staff in his left hand.”

[G] [If] there are two going up on an ascent or going down on a ramp, the Israelite goes up ahead, and the gentile behind. And he may not bow before him, lest he break his skull. And he should leave a good distance for him.

[H] [If] they asked him, “Where are you going,” he indicates to him a way other than the one he has in mind, just as Jacob said to Esau, “Let my lord pass on before his servant Éuntil I come to my lord in Seir. But Jacob journeyed to Succoth” (Gen. 33:14, 17) [T. A.Z. 3:4F-M].

[I] Said R. Huna, “We do not find that Jacob our patriarch [actually] went to Seir.”

[J] Said R. Yudan son of Rab, “He was destined to go there.”

[K] He said to him, ““Saviors shall go up to Mount Zion to rule Mount Esau; and the kingdom shall be the Lord’s” (Obadiah 1:21).

[III:1 A] An Israelite girl should not serve as a midwife to a gentile woman, because she serves to bring forth a child for the service of idolatry.

[B] **But a gentile woman may serve as a midwife to an Israelite girl.**

[C] *And it has been taught in a Tannaitic source to the same effect:*

[D] **She serves as a midwife on the outside [with others watching her], but not inside [all by herself. She should not put her hand inside [the womb], so that she may not crush the fetus in her womb. And she should not give her a cup of bitters to drink [T. A.Z. 3:4C].**

[E] [If a gentile woman] was expert [however], let her come [and serve as a midwife].

[F] *This is in accord with that which R. Jacob bar Aha said in the name of R. Yohanan, “If [a gentile] was deemed an expert physician, it is permitted [to accept healing from him].”*

[G] Here too, if the woman was an expert, it is permitted [to accept her ministrations].

[IV:1 A] **An Israelite girl should nor give suck to the child of a gentile woman [M. A.Z. 2:1J] because she gives him life.**

[B] Said R. Yosé, “Along these same lines the rule is that it is forbidden to teach him a craft [since that gives him a livelihood].”

[C] *This is [illustrated by the story] that there were two families of craftsmen in Giro, one glass cutters, the other sauce makers. The glass cutters did not teach their craft to gentiles, and they flourished. The sauce makers did teach their craft to gentiles, and they became barren.*

[V:1 A] **But a gentile woman may give suck to the child of an Israelite girl [M.A.Z. 2:1K].**

[B] This is in accord with the following verse of Scripture: “Kings shall be your foster fathers, and their queens your nursing mothers” (Is. 49:23).

[C] *It has been taught in a Tannaitic tradition: A baby may continue sucking from a gentile woman or from an unclean beast, and they bring him milk from any source without scruple as to uncleanness.*

2:2

[A] **They accept from them healing for property,**

[B] **but not healing for a person.**

[C] **“And they do not allow them to cut hair under any circumstances,” the words of R. Meir.**

[D] **And sages say, “In the public domain it is permitted,**

[E] **“but not if they are alone.”**

- [I:1 A] [40d] R. Jacob bar Zabedi in the name of R. Abbahu: “**Healing for property** refers to [using a veterinarian for healing of his] beast, **healing for a person** refers to [using a physician for healing for] his own body.”
- [B] R. Ba in the name of R. Judah: “If he was one who had inflamed a wound [with the medicine he prescribed for it, rather than healing the wound], then [for all time] it is prohibited [to make use of his services].”
- [C] *That ruling is illustrated in the following: R. Ammi went up with R. Yudan the patriarch to the hot springs of Gerar. He injured his finger and put on it a plaster [which he got from a gentile physician]. He saw that [the wound] began to sink and deepen [relative to the surrounding flesh]. So he removed [the plaster].*
- [D] *Now did he not take account of that which R. Jacob bar Aha said in the name of R. Yohanan: “If he was an experienced physician, it is permitted [to rely on his advice]”?*
- [E] And are the two cases not parallel?
- [F] [Surely they are.] *There*, if he was one who had inflamed a wound, it will be prohibited [to make use of his services], *while here*, if he was one who had inflamed a wound, will it [nonetheless] be permitted [to make use of his services]? [Obviously not.]
- [I:2 A] *What is the rule as to accepting bluing [for the eyes] from [gentiles]?*
- [B] *Rab said, “Whoever wants to go blind may go blind [by accepting eye-bluing from gentiles. But there is no issue of danger to life].”*
- [C] *Levi said, “Whoever wants to die will die[, and so, to avoid danger to life, one may not accept eye-bluing from gentiles].”*
- [D] *Rab did not practice eye-bluing [so he did not know the dangers involved, and hence minimized the possibility of poisoning through the eyes].*
- [E] *Levi practiced eye-bluing[, so he realized the dangers and hence prohibited using gentiles for the practice].*
- [F] *Said R. Ba, “Now lo, we see them tasting the bluing [that they put in the eyes, and that shows that there is no poison in the bluing].”*
- [G] *I should say that he tastes the bluing in order to see whether it is good. When it is not good, he keeps it and applies it [and so blinds the Israelite or poisons him].*

[H] An opium drink [prepared by a gentile] is dangerous.

[I] Theriak [a drug against snake-bite] –

[J] R. Simon said, “It is forbidden [to accept from gentiles].”

[K] R. Yohanan said, “It is permitted.”

[I:3 A] Associates in the name of R. Ba bar Zabeda: “Any [wound] that is located from the lips and inward do they heal on the Sabbath [since such a wound involves danger to life].”

[B] *R. Zeira objected, “Lo, we have learned in the Mishnah: **He who is suffering from his teeth [nonetheless, on the Sabbath] may not suck vinegar through them [M. Shab. 14:4].** Now are not the teeth interior to the lips? [So why is it not permitted to apply healing on the Sabbath?]”*

[C] R. Zeira did not rule as has been stated, but R. Zeira in the name of R. Abba bar Zabeda “Whatever [wound] is located from the throat and inward do they heal on the Sabbath[, since such a wound involves danger to life].”

[D] R. Zeira, R. Ba bar Zutra, R. Haninah in the name of Rabbi: “They raise up the bone of the head on the Sabbath.”

[E] R. Hiyya bar Madayya, R. Jonah, R. Zeira, R. Ba bar Zutra, R. Haninah in the name of Rabbi: “They remove swollen glands of the throat on the Sabbath.”

[F] R. Abbahu in the name of R. Yohanan: “An eye that became inflamed do they treat on the Sabbath.”

[G] *There [in Babylonia] they say in the name of R. Yohanan, “[Injuries] to hands and feet are a danger [to life].”*

[H] *R. Abbahu in the name of R. Yohanan: “Reddening [of a wound] is a danger [to life, and must be treated on the Sabbath].”*

[I] Said R. Abin, “They remove the stinger of a scorpion on the Sabbath.”

[J] *Rab said, “Wine may be placed outside of the eyes [on the Sabbath], but may not be placed inside of the eyes.”*

[K] Samuel said, “It is prohibited to put tasteless spit into the eye on the Sabbath.”

[L] *From this case you learn the rule as to treating scabs [of the eye].*

- [M] Rabbis of Caesarea say this: “[A wound] in the shape of a frog is a danger [to life].”
- [N] R. Hezekiah said in the name of rabbis of Caesarea, “A wound from a spider’s bite is a danger [to life and should be treated on the Sabbath].”
- [O] R. Samuel bar R. Isaac: “A burn is a danger [to life and should be treated on the Sabbath].”
- [P] Said R. Jeremiah, “On the Passover they apply to it leavened [food, for healing, even though ordinarily one may not utilize leavened food on Passover].”
- [Q] [If such leaven] should be absorbed, it is permitted [on Passover, as stated above].
- [R] *Said R. Yosé, “The Mishnah itself has made the same point: **[On the Sabbath one may handle] a sewing needle to take out a thorn [M. Shab. 17:2G].** Now if you do not concur, then you must explain the difference between removing a thorn and removing pus.”*
- [S] As to an eye that grew dim, they asked R. Jeremiah. He said to them, “Lo, R. Ba is before you.”
- [T] They asked R. Ba and he permitted them [to apply healing in such a case]. [Jeremiah] said to them, “Also I permit [applying healing in such a case].”
- [U] *R. Abbahu in the name of R. Yohanan: “Scurvy is a danger to life [and may be healed on the Sabbath].”*
- [V] *R. Yohanan had [scurvy], and he was receiving treatment from [the daughter of] Domitian in Tiberias. On Friday he went to her. He said to her, “Do I need to be treated tomorrow [on the Sabbath]?”*
- [W] *She said to him, “No. But if you should need something, put on seeds of date palms (and some say, seeds of Nicolaos dates), split in half and roasted, and pounded together with barley husks and a child’s dried excrement, and apply that mixture. But do not reveal to anyone [this potion which I have prescribed for you].”*
- [X] *The next day he went up and expounded [this very prescription] in the study house. She heard about it and*

choked on a bone (and some say, she converted to Judaism).

[Y] *From this story you learn three lessons:*

[Z] You learn that scurvy is a danger [to life and may be treated on the Sabbath].

[AA] You learn that any wound that is located from the lips and within do they heal on the Sabbath..

[BB] You learn that which R. Jacob bar Aha said in the name of R. Yohanan: “If [a gentile] was an experienced physician, it is permitted [to accept healing from him or her].”

[CC] *R. Joshua b. Levi had colic. R. Haninah and R. Jonathan instructed him to grind cress on the Sabbath and put old wine in it and drink it, so that he not be in danger [as to his life].*

[DD] *[Joshua b. Levi] had a grandson, who swallowed [something dangerous]. Someone came along and whispered over him [and the child was healed]. When he [the magician] went out, [Joshua] said to him, “What did you say over him?”*

[EE] *He said to him such and such a word.*

[FF] *He said to him, “What will be [the child’s fate]! If he had died but had not heard [these words], it would have been [better] for him.”*

[GG] [But why should the healing have worked?] It was as an error done by a ruler.

[HH] R. Jacob in the name of R. Yohanan: “With all sorts of things do they effect healing, except for an idol, fornication, or committing murder.”

[II] *R. Pinhas raised the question, “Certainly the law applies when he said to him, ‘Bring me leaves from an idol,’ and he brought them to him. But if he said to him, ‘Bring me leaves,’ without further specification, and he brought them from an idol [what is the rule]?”*

[JJ] *Let us infer the answer to the question from this:*

[KK] *R. Aha had chills and fever. [They brought him] a medicinal drink prepared from the phallus of Dionysian revelers. But he would not drink it. They brought it to R. Jonah, and he did drink it. Said R. Mana, “Now if R. Jonah, the patriarch, had known what it was, he would never have drunk it.”*

[LL] Said R. Huna, “That is to say, ‘They do not accept healing from something that derives from an act of fornication.’”

[MM] *For it has been taught on Tannaite authority: The Sabbath has been removed from the category [of that which may not be violated, even at the cost of death, since, as we have seen, many sorts of healings may be administered on the Sabbath in order to save life]. But a betrothed girl has not been removed from the category [of that which may not be violated at the cost of death. So one must die but not violate a betrothed girl].*

[NN] The Sabbath has been removed from the category – it is not as regards accepting healing [on that day], and, similarly, a betrothed girl has not been removed from the category – is it not as regards bringing about healing [in order to save a life]? [That surely is the case. One may not save a life by violating a betrothed girl].

[OO] And it is not the end of the matter that [if the ailing person said to one,] “Bring me a married woman [so that I may have sexual relations with her and so be healed,]” that one may not do so], but even if [the ailing person said it was only] to hear the voice [of a married woman, one may not permit him to hear the woman’s voice].

[PP] *This teaching accords with the following:*

[QQ] *In the days of R. Eleazar, a man so loved a woman that he was in danger of dying [from unconsummated desire]. They came and asked R. Eleazar, “What is the law governing her ‘passing before him’ so that he may live?”*

[RR] He answered them, “Let him die but [let matters not be done] in such a way.”

[SS] *“What is the law as to his merely hearing her voice, so that he may live?”*

[TT] “Let him die, but [let matters not be done] in such a way.”

[UU] *Now what was the character of this girl [who was to be kept away from the man pining for her]?*

[VV] R. Jacob bar Idi and R. Isaac bar Nahman — one maintained that she was a married woman, and the other maintained that she was unmarried.

[WW] *Now so far as the opinion of the one who maintained that she was a married woman, there are no problems. But as to the one who maintained that she was unmarried[, why should she not have married the man]?*

[XX] Now, lo, Bar Koha Nigra so loved a woman in the days of R. Eleazar, that he was in danger of dying [from unconsummated desire]. [Read: And R. Eleazar permitted him to marry her.]

[YY] In the former case it was with a married woman, in the latter with an unmarried woman.

[ZZ] Now even if you maintain that both cases deal with an unmarried woman [delete: or in both cases we deal with a married woman], interpret the case to apply to one who formed a desire for the woman while she was still married [in which case even after the divorce he may not marry her].

[AAA] *There are some who would explain [the rabbi’s prohibiting the man to marry the unmarried woman] because she was a woman of high station, and she would not have accepted the judgment of [the rabbi to*

marry the love-stricken suitor], so whatever [the suitor] might do would be done subject to the prohibition of the rabbi. On that account he did not permit [the marriage].

- [I:4 A] “The [Mishnah pericope cited below],” said R. Haninah, “means that one may not attain healing through bloodshed.
- [B] “*For we have learned in the following Mishnah passage:*
- [C] “**[The woman who is in hard labor – they chop up the child in her womb and remove it limb by limb, because her life takes precedence over its life.] [If] the greater part [of the child] had gone forth, they do not touch it, for they do not set aside one life on account of another life [M. Oh. 7:6].**
- [D] “*We take account of the possibility that he might die, and they do not set aside one life on account of another life.*”
- [E] It is not the end of the matter that [if] someone said to a person, “Kill so-and-so,” [he should not do so, even to save the life of the other,] but even if he said, “Do violence to so-and so,” [one should not do so.] [Now this stated rule applies in the case of] one gentile against another, or a gentile against an Israelite [in which case, the perpetrator is liable]. But in the case of an Israelite against a gentile, [the perpetrator] is exempt.
- [F] *R. Hisda raised the question:* “What is the law as to saving an adult at the sacrifice of the life of a child?”
- [G] *Responded R. Jeremiah,* “*And has it not been taught in the Mishnah: [If] its greater part has gone forth, they do not touch it, for they do not set aside one life on account of another life!*”
- [H] *[Still, that evidence may not be probative, for] R. Yosé bar R. Bun in the name of R. Levi:* “*That case is different, for it is not known who will be responsible for the death of whom.*”
- [I] M’SH B: A snake bit Eleazar b. Dama. He came to Jacob of Kefar Sama for healing. Said to [Ben Dama] R. Ishmael, “You have no right to do so, Ben Dama.”
- [J] He said to him, “I shall bring proof that it is permitted for him to heal me.”
- [K] But he did not suffice to bring proof before he dropped dead.

[L] Said to him R. Ishmael, “Happy are you, [41a] 0 Ben Dama, for you left this world in peace and did not break through the fence of the sages, and so in dying you have carried out that which has been said: ‘A serpent will bite him who breaks through a wall’” [Qoh. 10:8].

[M] And did not a snake already bite him?

[N] But a snake will not bite him in the age to come.

[O] *And what did he have to say [in reply to the prohibition to go to Jacob]?*

[P] “You shall therefore keep my statutes and my ordinances, by doing which a man shall live” (Lev. 18:5).

[I:5 A] He who gives a haircut to a gentile clips until he reaches the forelock. Once he reaches the forelock, lo, this one removes his hands [and does not cut it off] [T. A.Z. 3:6A].

[B] [An Israelite] who is getting a haircut from a gentile watches him in the mirror. [If it is] from a Samaritan, he does not watch in the mirror [T. A.Z. 3:5A-B].

[C] They permitted the household of Rabbi [Tosefta: Rabban Gamaliel] to look [at themselves in the mirror], because they are subject to the government [T. A.Z. 3:5C-D].

[D] Three matters did they permit to the household of Rabbi [which ordinarily are prohibited to Israelites]:

[E] [1] They may look at themselves in a mirror.

[F] [2] They may get a haircut in the gentile manner.

[G] [3] And they may teach Greek to their children, because they are subject to the government.

[H] *A certain person [who was destined to] convert [to Judaism] was a barber and also an astrologer. Now he saw through his astrological learning that Jews were going to shed his blood [and he assumed that this meant Jews would kill him, though the vision referred to the rite of circumcision that would take place] upon his conversion. Consequently, when a Jew would want to get a haircut from him, he would kill him.*

[I] How many did he kill? R. Eleazar bar Yosé said, “Eighty.”
R. Yosé b. R. Bun said, “Three hundred.”

[J] But in the end, [the Jews] prayed for him, and he returned to his former ways.

[K] *It has been taught in a Tannaite source:* A gentile who sells scrolls, phylacteries, and *mezuzot* – they do not purchase [such objects] from him [cf. M. Git. 4:6].

[L] *And has it not been taught:* M'SH B: A gentile in Sidon was selling scrolls, phylacteries, and *mezuzot*. The case came before sages, who ruled, “It is permitted to purchase from him.”

[M] R. Samuel bar Nathan in the name of R. Hama bar Hanina: “It was [the case of a] proselyte who returned to his former ways [Pené Moshe: out of fear of gentiles. But he knew that the objects had to be prepared for their own purpose, and he prepared them correctly].”

2:3

[A] **These things belonging to gentiles are prohibited, and the prohibition affecting them extends to deriving any benefit from them at all:**

[B] (1) wine, (2) vinegar of gentiles which to begin with was wine, (3) Hadrianic earthenware, and (4) hides pierced at the heart.

[C] Rabban Simeon B. Gamaliel says, “When the tear in the hide is round, it is prohibited. [If it is] straight, it is permitted.”

[D] “Meat which is being brought in to an idol is permitted.

[E] “But that which comes out is prohibited,

[F] “because it is like *sacrifices of the dead* (Ps. 106:28),” the words of R. Aqiba.

[G] With those who are going to an idolatrous pilgrimage – it is prohibited to do business.

[H] With those that are coming back it is permitted.

[I:1 A] R. Isaac bar Nahman in the name of R. Joshua b. Levi would say, “[If wine was] sweet, bitter, or strong, the [prohibition of wine that has been left] uncovered does not [apply, because that prohibition is based on the possibility that a snake has drunk from the open keg and imparted its venom to the wine in the keg, and snakes will not drink from these three sorts of wine].”

[B] R. Simon in the name of R. Joshua b. Levi [said], “Strong, bitter, and sweet wine is not subject [to prohibition on the count of wine that has been left] uncovered or [to prohibition on the count of wine that has

been used] for idolatrous purposes[, because gentiles will not use wine of such character for libations].”

- [C] R. Simon explains the character of these three types of wine: “Strong is spiced wine, bitter is absinthiatum, and what is sweet? It is boiled wine.”
- [D] R. Joshua b. Zeidel possessed boiled wine that had been set aside [for a time] in the domain of a gentile. He asked R. Yannai b. R. Ishmael [whether or not he might make use of this wine, since it was boiled and so, in line with Simon’s view of Joshua b. Levi’s opinion, not likely to have been utilized for a libation].
- [E] He said to him, “Thus did R. Simeon b. Laqish say: ‘Sweet wine is not subject [to prohibition on the count of wine that has been left] uncovered or [to prohibition on the count of wine which has been used] for idolatrous purposes.’” [The status of boiled wine would appear, then, to be different, since it is omitted from the cited list, and so boiled wine would be prohibited under the stated circumstances.]
- [F] *R. Yannai b. R. Ishmael fell sick. R. Zira, R. Joshua, R. Bun bar Kahana, and R. Hananiah, associates of the rabbis, went up to visit him. They found R. Joshua bar Zeidel sitting there. They said, “Lo, here is the master of the tradition, and here also is the master about whom the story is told [that is, here are both Yannai and Joshua b. Zeidel]. Let us then phrase the question [once again].”*
- [G] He [Yannai] said to them, “Thus did R. Simeon b. Laqish say: ‘Sweet wine is not subject [to prohibition on the count of wine that has been left] uncovered or [to prohibition on the count of wine that has been used] for idolatrous purposes.’”
- [H] *He said to him, “Perhaps the saying of R. Simeon b. Laqish [serves merely to state] thus and so [that is, what is reasonable but not an applied law].”*
- [I] [Yannai] said to them, “It was for a concrete precedent, and they relied [for a practical ruling] on it.”
- [J] *After they left, R. Ila [met] R. Bun bar Kahana. He said to him, “If it were not that you prefer traditions [in the name of Amoraic authorities, you might have taken note of an earlier Tannaitic ruling, for] is it not a Mishnah tradition?”*
- [K] “[For] R. Hiyya taught, ‘As to boiled wine belonging to a gentile, why is it prohibited? It is because, to begin with, it was wine [and useful for a libation, even though its character now has changed].”

[L] *R. Yosé said, “The Mishnah itself has [explicitly] said the same: [Prohibited are] wine and vinegar that to begin with was wine” [M. A.Z. 2:3B].*

[M] *R. Ammi had guests. He said to them, “If it were not that my boiled wine had been left uncovered, I should have been able to give you something to drink.”*

[N] *Said to him R. Bibi, “Bring it along, and we shall drink it [since, if it was left uncovered, being boiled wine, it is not prohibited anyhow].”*

[O] *He said, “Someone who wants to die – let him go and die in his own house [and not in my house]!”*

[P] *Bar Yudenah had spiced wine [that had been left] uncovered. He asked rabbis, and they declared it prohibited. Now did not R. Isaac bar Nahman say in the name of R. Joshua b. Levi, “[If wine was] sweet, bitter, or strong, the [prohibition of wine that has been left] uncovered does not [apply? And spiced wine falls within the stated rule]”*

[Q] *Rabbis of Caesarea in the name of R. Judah bar Titus [interpreted the rule governing spiced wine to apply to a heavily spiced wine, in which] one pounded one [spice] into three parts [so that the wine was thickened by the pulverized spices. The wine was not really spiced.]*

[R] *They asked in session before R. Abbahu, “Boiled wine that was left uncovered – what is the law?”*

[S] *He said to them, “[Concerning the same problem in connection with] Qanna wine [a very sweet sort] did I have to ask R. Yohanan, and do you now ask me about this kind?”*

[T] *They asked R. Isaac, and he declared it prohibited to them. At that point R. Abbahu recalled that R. Yohanan [also] had ruled that it was prohibited.*

[U] *The water tank of Bar Netizah was left uncovered. He asked R. Bar bar Mamal [whether or not he might still make use of the contents]. He said to him, “If [someone] was going in and coming in, it is permitted [on grounds that a person would frighten away a snake].”*

[V] R. Jacob bar Aha, R. Ammi in the name of R. Eleazar. “If [someone] was sleeping [in the room, the contents of the vat are] permitted.”

[W] R. Haninah, R. Joshua b. Levi – one said, “[If someone was sleeping [in the room, the contents of the vat are] permitted.” And one said, “[If someone was] sleeping [in the room, the contents of the vat are] prohibited.”

[X] *It is reasonable to suppose that it is R. Haninah who said, “[If someone] was sleeping [in the room,] the [contents of the vat are] permitted,” because in all instances, R. Eleazar relied upon the rulings of R. Haninah, and R. Eleazar said that if someone was sleeping in the room, the contents of the vat are permitted,*

[Y] *R. Yosé b. Saul told the story of the following case: There was an incident involving a certain woman, who loved to perform the religious commandments [such as feeding the hungry], while her husband hated to perform them. Now a poor man came along, so she gave him food, and he ate. When she sensed that her husband was coming back, she took the poor man away and hid him in the attic. She set food before her husband, and he ate and then fell asleep. A snake came along and supped from the same dish. When her husband woke up from his sleep, he wanted to eat. The man in the attic began to chatter [so warning the husband not to eat the food].*

[Z] Now does the law not state, “If someone was sleeping [in the same room as the food], [the food] is permitted”? [So why should the man have refrained from eating the food anyhow?]

[AA] *[The serpent] was wrapped around [the bowl, so there was every reason to believe that the serpent had eaten some of the food].*

[BB] And is not [the wife] prohibited [to the husband] by reason of having been alone [with the poor man]? “Because they are adulteresses,

and blood is upon their hands” (Ez. 23:45) [— meaning if she is guilty of the one, she will be guilty of the other]. Because [the poor man] was not suspect in regard to shedding blood [as he would have been had he permitted the husband to eat the poisoned food], so he was not suspect in regard to fornication.

[CC] M’SH B: Now there was a certain pious man, who [nonetheless] ridiculed [the rules governing leaving liquids] uncovered. [Because he drank polluted liquid,] he was smitten with a fever. People saw him sitting and expounding [the law] on the Day of Atonement with a flask of water in his hand [on account of his fever.].

[DD] M’SH B: A butcher in Sepphoris fed Israelites carrion and terefah-meat. One time at the eve of the Day of Atonement toward dusk he drank a great deal of wine and got drunk. He climbed up to the roof of his house and fell down and died. Dogs began licking at his blood.

[EE] *They came and asked R. Haninah, “What is the law as to carrying in his corpse [out of the public domain] on account of [the dogs]?”*

[FF] He said to them, “It is written, ‘You shall be men consecrated to me; therefore you shall not eat any flesh that is torn by beasts in the field] you shall cast it to the dogs’ (Ex. 22:31). This man stole from the dogs and fed Israelites carrion and terefah-meat. Leave him be. [The dogs] are eating what belongs to them anyhow.”

[GG] *A man had an open keg. On the eve of the Great Fast [the Day of Atonement] he went, planning to empty out [the contents of the keg]. His friend said to him, “I shall come and drink what is in the keg.”*

- [HH] *He said to him, "It has been left uncovered."*
- [II] *He said to him, "The Master of the Day will preserve [me, since it is a religious duty to eat and drink on the eve of the Day of Atonement]."*
- [JJ] *He did not give thought to drinking [all] the wine in the keg. He had tasted only a little bit when he grew weak [because of the poison in the wine].*
- [KK] R. Jeremiah in the name of R. Hiyya bar Ba: "All poisons cause sores. But the poison of a snake kills."
- [LL] R. Hiyya said, "They do not accept questions concerning liquids that have been left uncovered."
- [MM] *R. Jeremiah asked R. Zeira a question [concerning liquids that had been left uncovered].*
- [NN] *Now does the master of the tradition ask a question concerning that same tradition [which is attributed to him]?*
- [OO] *He was dozing off [and did not pay attention].*
- [PP] *R. Zeira was sitting and eating in the evening. The lamp went out. He put out his hand on the lamp and kindled a light and found an adder as thin as a hair wrapped around the lamp. He said to it, "Wicked one! I should never have been careful to watch out for you."*
- [QQ] *Said R. Ammi, "We have to scruple concerning things about which people in general are scrupulous. Thus: It is forbidden to put small coins into your mouth, bread under your arm [because of the perspiration], a cooked dish under*

a bed, to stick a knife into an etrog, or a knife into a radish.”

[RR] *Said R. Yosé b. R. Bun, “Any form of sweat that exudes from a person is a poison, except for the sweat of the face.”*

[SS] *Said R. Yannai, “[If people want to endanger themselves for some small benefit, say to them,] ‘If he plucks [gains anything], he plucks a piece of coal, if he loses, he loses a pearl [his life, thus risking his life for a trifle].”*

[TT] *As to R. Jonathan, when someone would ask him a question [involving a liquid left uncovered], he would reply to him, “Am I a pledge for your life [if you want to risk it]?”*

[UU] *Said R. [41b] Simeon b. Laqish [to someone who asked about drinking that which had been left uncovered], “If you sold yourself to Lyddians [who eat human flesh, for which they pay a high price], you would then sell yourself for a good price. But here [are you ready to sell yourself] for a paltry sum!”*

[I:2 A] *R. Assi, R. Yohanan in the name of Ben Beterah: “Libation wine that fell into a winepress – one may sell the whole of [the contents of the press] to a gentile, [deriving benefit from the entire proceeds] except for the value of the libation wine that is in [the press].”*

[B] *R. Assi in the name of R. Yohanan: “Ordinary wine belonging to a gentile is forbidden but does not impart uncleanness [as does libation wine].*

[C] *“[If an Israelite] deposited [wine] with [a gentile], it is prohibited for consumption, but permitted [so far as the Israelite’s] deriving benefit [from the sale of the wine].”*

- [D] *R. Zeira asked in session before R. Yasa, “What is the law governing the case in which [the gentile] sets aside a given corner for that wine [in the house of a gentile]?”*
- [E] [He said to him, “In this case that one may derive benefit from the wine, even though he may not drink it himself,] if he deposited the wine with a gentile.”
- [F] R. Abbahu came [and taught a ruling] in the name of R. Yohanán:
- [G] “There are three types of wine [so far as the prohibition of gentiles’ wine on the count of libation to idolatry is concerned]:
- [H] “[There is wine] that [an Israelite] assuredly saw a gentile offer up as a libation to an idol. This sort of wine imparts uncleanness of a severe sort, like a dead creeping thing.
- [I] “[There is] ordinary wine [of a gentile]. It is prohibited [for Israelite use or benefit]. But it does not impart uncleanness.
- [J] “[If an Israelite] deposited [wine] with [a gentile], sealed by a single seal, it is prohibited for drinking, but permitted for [other sorts of] gain [e.g., sale].”
- [K] *Said R. Jeremiah before R. Zeira, “Notice then what he has said. He has said [that the stated rule applies] only in the case in which a seal [has been used to protect the keg of wine]. Lo, [if he should leave the wine] without a seal, it is prohibited both as to drinking and as to other forms of benefit.”*
- [L] *R. Eleazar gave instruction: “It is in the case of [the gentile’s] setting aside [a particular corner for the location of an Israelite’s keg of wine that it is permitted to derive benefit from that keg of wine, but not in a case in which the Israelite deposits the keg of wine with a gentile without placing on it any sort of seal]. And R. Zeira was [merely] examining that tradition.”*

[I:3 A] *There we repeat the following tradition: [He who leaves his tithed produce] in the keeping of a gentile – the produce is deemed to be] like [the gentile’s] produce. R. Simeon says, “It is deemed to be demai” [M. Dem. 3:4G-I].*

- [B] *R. Hananiah asked before R. Mani, “Is the meaning of ‘the produce is deemed to be like the gentile’s produce’ to be taken literally and [so Simeon’s opponent’s] reasoning is that they are in fact free of tithes entirely? But what of totally untithed produce deriving from some*

other source [that one deposited with a gentile]? [Shall we then say that that sort of totally untithed produce, deposited with a gentile, also will be wholly exempt from tithing?]

[C] He said to him, “And that is so for all that is in [the keeping of a gentile, whatever its status. It is deemed free of the obligation to tithing].”

[D] *But it was not of any value at all that R. Haninah raised questions concerning this tradition[, for we rule that only if one deposited unconsecrated food that had been suitably tithed do we rule the produce deposited with a gentile is deemed free of the requirement to tithe].*

[I:4 A] [If an Israelite] deposited [his keg of wine] with a [gentile] when the keg was sealed [but not in a specified and designated corner of the gentile’s house] –

[B] Hananiah and R. Mana – one said [the wine] is forbidden, and one said [the wine is] permitted.

[C] *Concerning what do they differ?* It is concerning deriving benefit [from the wine], but so far as drinking the wine [all parties of course concur] that that is prohibited.

[D] Rab said, “When protected by only a single seal, milk, meat, wine, and blue wool [in a gentile’s domain] are prohibited. Asafetida, fish sauce, bread, and cheese are permitted. A piece of fish on which is no seal [is forbidden].”

[E] *Said R. Yudan, “The reasoning of Rab [is this:]* Whatever may be prohibited by reason of its own traits will be prohibited if protected by only a single seal. [Whatever is prohibited] only because it is mixed [with other objects] is permitted when protected by only a single seal. [For instance, cheese is prohibited because it may contain unclean milk.]”

[I:5 A] R. Jacob bar Aha, R. Simeon bar Ba, R. Eleazar in the name of R. Haninah, R. Ba, R. Hiyya in the name of R. Yohanan, R. Zeira in the name of R. Joshua b. Levi: “Everything is permitted [that has been in a gentile’s domain so long as it is protected by even] a single seal, except for wine and a Hadrianic pot.”

[B] R. Zeira in the name of R. Jeremiah, “The law is in accord with the position of R. Meir *in the following Tannaitic tradition:* ‘A Hadrianic pot is prohibited, and the prohibition concerning it extends even to deriving benefit from proceeds received in selling it,’ the words of R.

Meir. And the sages say, “The prohibition concerning it does not extend even to deriving benefit from proceeds received in selling it.”

[C] *R. Jeremiah asked before R. Zeira, “As to a garment [made from yarn dyed with shells of fruit subject to the orlah-taboo, which prohibits deriving benefit from fruit of a tree during the first three years of its growth] – what is the law [as to using such a garment to support a bed, e.g., to place the garment underneath the leg of a bed]?”*

[D] *And [R. Zeira] took umbrage and refused to accept [the case as parallel to the one involving Meir and the sages].*

[E] *He said to him, “Even in accord with the view of the one who ruled in that case that it is permitted, in this case he will maintain that it is forbidden [to derive benefit from the sale of a Hadrianic pot]. For there [in the case of the Hadrianic pot], the prohibition affecting the pot is not readily discerned [since the wine is absorbed in the clay]. But here it is readily discerned [that the man has dyed the yarn].”*

[F] What is the law as to setting such a pot under a bed and supporting the leg of a bed with it?

[G] R. Eleazar said it is permitted to do so, and R. Yohanan said it is prohibited to do so.

[II:1 A] Hides pierced at the heart:

[B] R. Jeremiah in the name of Rab: “The law is in accord with the position of Rabban Simeon b. Gamaliel.”

[II:2 A] How does one make such a hide?

[B] He tears the hide while the animal is yet alive and takes out the heart for an idol.

[C] How does he know [that the hole was made while the animal was yet alive]?

[D] R. Huna said, “If someone tears at the hide while the animal is still alive, the hole rebounds and becomes rounded. [If he should do so] after the animal is slaughtered, [the tear will be] elongated.”

[E] Said R. Yosé, “And you should infer from this ruling [that, by doing a deed for idolatrous purposes, the man has prohibited Israelite use of the hide], that if one slaughtered [only] one organ of the animal[, he has prohibited the beast for Israelite use], even

though you have in general maintained that something that is alive may not be prohibited by reason of idolatry, here it is forbidden.”

[III:1 A] “Meat which is being brought in to an idol is permitted:

[B] R. Ba, R. Hiyya in the name of R. Yohanan said, “This ruling is stated to exclude the position of R. Eliezer.

[C] “For R. Eliezer says, ‘The [mere] intention of a gentile [to make use of meat] for idolatry [is sufficient to prohibit Israeli use of that meat].’” [We see that that position is not valid.]

[IV:1 A] But that which comes out is prohibited:

[B] R. Abina in the name of R. Jeremiah, “This is the case if one has brought the meat further in than the bars [enclosures into the sanctum], but if he did not bring it within the bars, also that which comes out is permitted.”

[C] That is the rule in the case of a temple that has bars.

[D] But in the case of a temple that does not have bars, the entire building is deemed equivalent to bars. [The whole is an inner sanctum.]

[V:1 A] With those who are going to an idolatrous pilgrimage – it is prohibited to do business. With those that are coming back it is permitted.

[B] R. Hiyya in the name of R. Yohanan, “It is a case of a *TWRYBS* [a pedestal for a mountain]: They bring a large idol to a small idol.”

[C] *Some read [in the Mishnah] the word TRPWT [rather than TWRBWT].*

[D] *The one who reads the word TRPWT derives it from terapim, and the one who reads it TRBWT derives it from TWRYBS [pedestal for a mountain].*

[V:2 A] But those that are coming back – they are permitted:

[B] R. Abina in the name of R. Jeremiah, “This is the rule in a case in which, when they are coming back, they are not as they were when they went [in large groups]. But if, when they were coming back, they are as they were when they went, they too are prohibited.”

2:4

[A] “Skins of gentiles and their jars, with Israelite wine collected in them

–

[B] “they are prohibited, and the prohibition affecting them extends to deriving benefit from them at all,” the words of R. Meir.

[C] And sages say, “The prohibition affecting them does not extend to deriving benefit from them.”

[I:1 A] Skins belonging to gentiles, that are scraped, lo, these are permitted.

[B] Those that [are sealed or] covered with pitch, lo, these are prohibited.

[C] [If] a gentile works it and pitches it, while an Israelite supervises him,

[D] [an Israelite] may collect wine or oil in it without scruple [T. 4:10E-F].

[E] And [should one not] scruple to [take account of the] possibility that [the gentile] has made a libation [while working the skin]?

[F] Said R. Ba, “It is not common [for a gentile] to make a libation of something that is repulsive.”

[G] If so, then even if an Israelite is not supervising him [it should be permitted to make use of the hides worked by a gentile].

[H] I reply, [We take account of the] possibility [that] the gentile has exchanged [the hides on which he was working, not subject to a libation, for hides on which he was not then working, which are subject to a libation].

[I] And jars belonging to gentiles –

[J] new ones are permitted, even though they are covered with pitch.

[K] Old ones are forbidden, even though they are not covered with pitch.

[L] Now lo, here you say that the [jars] that are pitched are permitted [J], while earlier you ruled that the [skins] that are pitched are prohibited [B].

[M] Said R. Abbahu, “I observed their [gentiles’] pitching of jars, and they do not put into them any sort of vinegar when they pitch them[, and that is why the rule of I-J permits such jars.]

[N] R. Jacob bar Aha in the name of rabbis: “Wine that is prohibited for [Israelites’] drinking but permitted for [sale for their] benefit, [which] was put into jars – the jars [thereafter] enter the status of the wine. [The consequence is that if] one emptied the jars and put other wine into the same jars, the [new] wine in the jars enters the status of the jars. [If one then again] emptied [out that wine] and put in yet another wine, the wine [now put into the jars] is prohibited, but the jars [now become] permitted.”

[II:1 A] And why [at M. 2:4C do the sages say that wine collected in skins of gentiles is] prohibited for drinking, yet permitted for other sorts of benefit?

[B] Since R. Meir said, “**It is prohibited for drinking, and the prohibition extends to deriving benefit from them at all**” [M. A.Z. 2:4B], it was deemed sufficient to take one step only in the direction of liberalization, so permitting deriving benefit, while granting Meir’s strict rule as to drinking the wine].

[II:2 A] Said R. Ba, “When R. Aqiba went to Sepphoris, they came and asked him, ‘Jars belonging to gentiles – in what manner are they to be cleansed [of their uncleanness]?’

[B] “He said, ‘On the basis of this I taught concerning [those jars]: Now if when they are not pitched at all, you teach that they are permitted, when they have been pitched, but when the pitch has been scaled off, is it not an argument a *fortiori* [that they should be deemed clean and permitted for Israelite use, since the pitch is now no longer present]. And when I came to my colleagues, they said, ‘[That is no argument, for] because of the pitch [the pots] absorb [the wine that has been put into them, so scaling is not enough].’”

[II:3 A] [If] a gentile has collected water in [jars], an Israelite [who wishes to make use of the same jars] puts water into them and then goes and puts wine into them and need not scruple.

[B] [If] a gentile collected brine or fish-brine in them, an Israelite may then put wine into those same jars.

- [C] [If] a gentile collected wine in them, an Israelite may put into them brine or fish-brine and then go and put wine into them, and he need not scruple.
- [D] *R. Yohanan went out to receive R. Yudan the Patriarch in Acre. They came and asked him, “As to jars, what is the mode of cultically cleaning them?”*
- [E] He said, “On the basis of [the aforesaid rule], I taught them: Now if, when a gentile has gathered into them brine or fish brine, an Israelite may put wine in them...” [The sentence is not completed. The authorities now cited will propose ways in which one may complete this account of Yohanan’s reasoning.]
- [F] R. Yasa in the name of R. Yohanan: “... if one puts them into the fire, is it not an argument *a fortiori* [that they should be cleaned in such a manner]?”
- [G] R. Hiyya in the name of R. Yohanan, “... if one scales off their pitch, is it not an argument *a fortiori* [that that should be the proper way to clean them]?”
- [H] [*But will the jars*] stand up [*in the fire*]?
- [I] [*If they stand up, they stand up*] [*and if not, they will be useless anyhow*].
- [J] Jars [belonging to a gentile] that are not pitched –
- [K] R. Assi said, “They are forbidden.”
- [L] R. Ammi said, “They are permitted.”
- [M] *R. Jacob b. Aha said, “R. Assi [in ruling that they are prohibited] raises the question, ‘Can we rule that a sherd does not absorb [wine]? Lo, we see that it does absorb wine. That is why they will be forbidden.’”*
- [N] *R. Ba said, “R. Sheshet asked, ‘Do we maintain that the chamber pot does not absorb [urine]? [It certainly does absorb urine.]”*
- [O] R. Jacob bar Aha, R. Simeon bar Aha in the name of R. Haninah: “Jugs belonging to gentiles [that one wishes to use for Israelite purposes] – one fills them with water [and leaves it in them] for three days of twenty-four hours each.”

[P] *R. Jacob bar Aha said, “R. Assi raised the question: [41c] ‘Do we actually do so?’”*

[Q] *R. Yosé of Milhayya brought a case before R. Mana. He said to him, “Is this post facto [that someone already has put wine into the jugs after leaving them filled with water for three days]?”*

[R] [Supply: He said to him, “Yes.”]

[S] He said to him, “[If so,] it is permitted.”

[T] “But if it had been at the outset [and the deed had not yet been done]?”

[U] He said to him, “[Under such circumstances, it is] forbidden.”

[V] *R. Jeremiah went to Gobelannah. He gave instructions concerning certain large cups, [that, in order to clean them] one fills them with water [and leaves it standing in them] for three days of twenty-four hours each.*

[W] *A skin of an Aramaean split open, and an Israelite saved [the wine] in his. The case came before rabbis [concerning the further use of the Israelite’s skin]. They ruled, “One fills it with water [and leaves it standing therein] for three days of twenty four hours each.”*

[X] *R. Yasa went to Tyre. He saw them putting pitch into small skins, and Israelites were buying them. He said to them, “Who permitted you to do this?” They went and asked R. Isaac and R. Mani, who declared the practice to be forbidden.*

2:5

[A] **“Grape pits and grape skins belonging to gentiles are prohibited, and the prohibition affecting them extends to deriving any benefit from them at all,”** the words of R. Meir.

[B] **And sages say, “[If] they are moist, they are forbidden. If they are dry, they are permitted.”**

[I:1 A] [Interpreting the position of sages, M. 2:5B,] R. Sheshet in the name of Rab: **“If they are moist, they are forbidden** even for deriving benefit from them. **If they are dry, they are permitted** even for eating.”

[I:2 A] *Now do we not learn in the Mishnah: [Wine] does nor become libation wine until it descends into the vat,* [so why should the moist grape pits and skins belonging to gentiles be prohibited at all]?

[B] *R. Ba in the name of R. Judah: “The Mishnah speaks of a case in which [a gentile] dips [the wine] out of the vat [after the grapes have been trodden].”*

[I:3 A] *There we have learned in the Mishnah: **And so with new olive peat. But with old [olive peat], [the oven is] clean. And if it is known that liquids exude from them even after three years, it is made unclean [M. Kel. 9:5E-H].***

[B] **What is new peat? That which is within twelve months of its preparation. And old? After it is twelve months old [T. B.Q. 6:18].**

2:6

[A] **“Fish brine and Bithynian cheese belonging to gentiles are prohibited, and the prohibition of them extends to deriving any benefit from them at all,”** the words of R. Meir.

[B] **And sages say, “The prohibition of them does not extend to deriving benefit from them.”**

[I:1 A] [As to putting] wine [having the status of heave-offering, which must be consumed and not permitted to go to waste] into fish brine, Rabbi permits doing so.

[B] R. Eleazar b. R. Simeon prohibits doing so [cf. M. Ter. 11:1].

[C] Therefore if one has transgressed and put wine [having the status of heave-offering into fish brine],

[D] Rabbi declares [the mixture] prohibited to non-priests, [because the wine imparts flavor to the fish brine].

[E] R. Eleazar b. R. Simeon permits [the mixture] to non-priests[, because the wine is destroyed by the fish brine and so is null, not in existence].

[F] *R. Mana bar Tanhum asked, “In accord with the opinion of the one who permits [a mixture of wine having the status of heave-offering and fish brine] to non-priests, then why is fish brine belonging to a gentile prohibited? [Surely in principle, as at E, the wine is deemed null.]”*

[G] R. Jeremiah in the name of R. Hiyya bar Ba: “It is on account of [the prohibition of] food cooked by gentiles.”

- [H] *And has it not been taught: [Brine made by] an expert – lo, this is permitted. That which is not made by an expert is prohibited [T. A.Z. 4:11U].*
- [I] **If it is made by an expert, it is permitted** – is this not [only] when it has not been cooked? Similarly, then, brine not made by an expert is prohibited, even though it has [not] been cooked.
- [J] *Now what [is the reason that fish brine is prohibited]? [The reason is that wine is put in] to remove the smell, so on account of idolatry [a libation made with that wine, fish brine is forbidden].*
- [K] [On account of that small benefit enjoyed by idolatry, *the rule*] *has stated that* the enjoyment imparted to idolatry causes the prohibition of the fish brine. And yet the enjoyment involved in the consumption of heave-offering [by a non-priest is so slight that] it is permitted. [So strict is the law against idolatry that a negligible volume of wine is taken into account.]
- [L] Said R. Yohanan bar Madayya, “In accord with the opinion of the one who rules [H] that if the fish brine is made by an expert, it is permitted – that is the case only if the Israelite purchaser knows the gentile.”
- [M] And R. Yohanan and R. Eleazar – one of them ruled, “[The rule that one may not boil wine having the status of heave-offering] is because one diminishes it from its original volume [M. Ter. 11:1F-I],” and the other ruled, “[The reason is that] one diminishes it[s value] so far as those who will drink it are concerned[, since boiled wine is less desirable].”
- [N] *Now they did not know which authority stated this reason, and which one that.*
- [O] *But from that which R. Yohanan said, “The opinion attributed to R. Judah has been confused,” while R. Eleazar said, “It has not been confused,” for there we speak of a priest, and here we speak of the owner, we must conclude that it is R. Yohanan who has ruled, “The reason for the prohibition is that one diminishes it so far as those who will drink it are concerned [and the operative consideration is the ultimate consumer of the wine and his interest, which will suffer if the wine should be boiled, since he then will receive a less desirable kind of wine for his drinking].” [Cf. Y. Ter. chapter 2.]*

2:7

[A] Said R. Judah, “R. Ishmael asked R. Joshua as they were going along the road.

[B] “He said to him, ‘On what account did they prohibit cheese made by gentiles?’

[C] “He said to him, ‘Because they curdle it with rennet from carrion.’

[D] “He said to him, ‘And is not the rennet from a whole-offering subject to a more stringent rule than rennet from carrion, and yet they have said, ‘A priest who is not squeamish sucks it out raw?’

[E] (But they did not concur with him and ruled, “It is not available for [the priest’s] benefit, while it also is not subject to the laws of sacrilege.”)

[F] “He went and said to him, ‘Because they curdle it with rennet of salves sacrificed to idols.’

[G] “He said to him, ‘If so, then why have they not also extended the prohibition affecting it to the matter of deriving benefit from it?’

[H] “He moved him on to another subject.

[I] “He said to him, ‘Ishmael, my brother, How do you read the verse: “For your [masculine] love is better than wine, or, Your [feminine] love is better than wine” (Song 1:2)?’

[J] “He said to him, ““For your [feminine] love is better than wine.””

[K] “He said to him, ‘The matter is not so. For its neighbor teaches concerning it, “Your [masculine] ointments have a goodly fragrance” (Song 1:3).’”

[I:1 A] [With reference to Meir’s view that fish brine and Bithynian cheese belonging to gentiles are prohibited even as to deriving benefit,] R. Jacob bar Aha, R. Simeon bar Ba in the name of R. Joshua b. Levi [stated], “It is because of the calves that are slaughtered there for the sake of idolatry], and the rennet deriving from those calves is used for making cheese, and, because of that tiny amount, Meir prohibits even deriving benefit from the cheese (as at M. A.Z. 2:7F)].”

[B] Hearing this ruling, R. Yohanan stated, “Well has Rabbi [Meir] taught us. For so is the rule, that he who slaughters a beast for idolatry – even the excrement of such a beast is prohibited [for Israelite use or benefit].”

[C] *R. Yohanan raised the question:* “[If] one found a ring in [a beast slaughtered for idolatry, may an Israelite enjoy the use and benefit of that ring]?”

[D] Said R. Yosé, “A ring is distinct [from the beast, and so is permitted], while excrement is part of the very body of the beast [and so is prohibited].”

[I:2 A] R. Hiyya bar Ba in the name of R. Yohanan: “At first they ruled, ‘They do not curdle [milk] with rennet from carrion [even of an Israelite] or with rennet deriving from gentile [preparation, since it is part of its body].’ They reverted to rule, ‘They curdle milk with rennet from carrion, but they do not curdle cheese with rennet deriving from gentile [preparation, for the rennet has the status of excrement].’”

[B] *R. Ba bar Zabeda, R. Samuel bar R. Isaac raised the question:* “Is this to exclude the opinion of R. Eliezer, for R. Eliezer says, ‘The intention of a gentile is [invariably] for idolatry’? [At M. 2:3 we reject Eliezer’s position and here appear to affirm it.]”

[C] *R. Assi came and taught in the name of R. Yohanan,* “In the beginning they would rule, ‘They curdle milk with the rennet of carrion, but not with rennet prepared by a gentile.’

[D] **“They reverted to rule, ‘They curdle milk whether with the rennet of carrion or with the rennet produced by a gentile [T. Hul. 8:12B].’** [This answers B: The rule is contrary to Eliezer’s position.]”

[E] *The language of the Mishnah supports the position of R. Hiyya bar Ba [who sees the carrion and the gentile’s item as distinct]:* [**The milk] in the stomach [of a beast slaughtered by a gentile [which is carrion] and that [in the stomach] of carrion – lo, this is prohibited [T. Hul. 8:5].**

[F] This [cited teaching] is in accord with the first Mishnah: **A terefah-beast that sucked from a valid one – milk in its stomach is permitted.**

[G] This is in accord with the latter version of the Mishnah: **A valid beast that sucked from a terefah-beast – milk in its stomach is prohibited [M. Hul. 8:5E].**

[H] *Even if the House of Shammai concur with the House of Hillel in regard to the version of the latter Mishnah, still, an egg grown by the body [of the chicken itself], while milk in the stomach derives from another source [than the body of the beast].*

[I] *And this ruling is in accord with that which R. Yosé b. R. Bun said in the name of R. Yohanan:* “M’S H B: Wolves tore up more than three hundred sheep belonging to the son of R. Judah b. Shammai.

Now the case came before sages, who permitted the stomachs of the sheep to be used for rennet [even though they were carrion].

[J] “They said, ‘An egg is grown within the body of the chicken itself, while milk in the stomach derives from another source than the body of the beast, [so the cases are different].’”

[I:3 A] Associates in the name of R. Yohanan: “The words of scribes are more beloved than the words of Torah and more cherished than words of Torah: ‘For your palate is like the best wine’ (Song of Sol. 7:9).”

[B] Simeon bar Ba in the name of R. Yohanan, “The words of scribes are more beloved than the words of Torah and more cherished than words of Torah: ‘For your love is better than wine’ (Song of Sol. 1:2).”

[C] R. Ba bar Kohen in the name of Bar Pazzi: “You should know that the words of scribes are more beloved than the words of Torah. For lo, as to R. Tarfon [, to whom M. Ber. 1:3 refers as follows: **Said R. Tarfon, “I was coming along the road [in the evening] and reclined to recite the Shema as required by the House of Shammai. And [in doing so], I placed myself in danger of [being attacked by] bandits.”** They said to him, “**You are yourself responsible [for what might have befallen you], for you violated the words of the House of Hillel**” [M. Ber. 1:3G-H], had he [merely] not recited the *Shema*, he would have violated only a positive commandment [of the Torah, to recite the *Shema* morning and night]. But because he transgressed the words of the House of Hillel, he turned out to be liable for the death penalty. This was by reason of the following verse: ‘A serpent will bite him who breaks through a wall’ (Qoh. 10:8).”

[D] R. Ishmael repeated the following: “The words of Torah are subject to prohibition, and they are subject to remission; they are subject to lenient rulings, and they are subject to strict rulings. But words of scribes all are subject only to strict interpretation, *for we have learned there: A more strict rule applies to the teachings of scribes than to the teachings of Torah. He who rules, “There is no requirement to wear phylacteries,” in order to transgress the teachings of the Torah, is exempt. [But if he said,] “There are five partitions [in the phylactery, instead of four],” in order to add to what the scribes have taught, he is liable [M. San. 11:3].*

[E] R. Haninah in the name of R. Idi in the name of R. Tanhum b. R. Hiyya: “More stringent are the words of the elders than the words of the prophets. For it is written, ‘Do not preach’ – thus they preach – one should not preach of such things

((Micah 2:6). And it is written, ‘[If a man should go about and utter wind and lies, saying,] “I will preach to you of wine and strong drink,” he would be the preacher for this people!’” (Micah 2:11).

[F] “A prophet and an elder – to what are they comparable? To a king who sent two senators of his to a certain province. Concerning one of them he wrote, ‘If he does not show you my seal and signet, do not believe him.’ But concerning the other one he wrote, ‘Even though he does not show you my seal and signet, believe him.’ So in the case of the prophet, he has had to write, ‘If a prophet arises among you ... and gives you a sign or a wonder’ (Deut. 13:1). But here [with regard to an elder:] ‘According to the instructions which they give you’ (Deut. 17:11) [without a sign or a wonder].”

- [I:4 A] R. Jacob bar Aha, R. Simeon bar Ba in the name of R. Joshua b. Levi [stated]: “It is because of the calves that are slaughtered there for the sake of idolatry[, and the rennet deriving from those calves is used for making cheese, as above].”
- [B] Hearing this ruling, R. Yohanan stated, “Well has Rabbi [Meir] taught us. For so is the rule, that he who slaughters a beast for idolatry – even the excrement of such a beast is prohibited [for Israelite use or benefit].”
- [C] R. Yohanan raised the question: “[If] one found a ring in [a beast slaughtered for idolatry, may an Israelite enjoy the use and benefit of that ring]?”
- [D] Said R. Yosé, “A ring is distinct [from the beast, and so is permitted,] while excrement is part of the very body of the beast [and so is prohibited].”
- [II:1 A] What is the meaning of **sucks it out** [M. A.Z. 2:7D]?
- [B] It means, “Quaff.”
- [C] R. Simeon b. Laqish said, “[The reason that the Mishnah rule that when one sucks it out, he does not derive benefit and does not commit an act of sacrilege is that] it is comparable to drinking from a dirty cup, *for thus the law states*, ‘He who drinks [what belongs to the cult] from a dirty cup does not derive benefit and does not therefore commit an act of sacrilege[, since there is no complete enjoyment out of the act.’ Still, the act is forbidden].”
- [D] And why did he not reveal this reason to him [M. 2:7H]?

[E] Said R. Yohanan: “It was because in the near future they declared it forbidden, and, furthermore, R. Ishmael was a minor[, too young to know the reasons that lie behind the laws of the Torah].”

[III:1 A] [**He moved him on to another subject. “He said to him, ‘Ishmael, my brother, How do you read the verse: “For your [masculine] love is better than wine, or, Your [feminine] love is better than wine” (Song 1:2)?” “He said to him, ““For your [feminine] love is better than wine.”” “He said to him, ‘The matter is not so. For its neighbor teaches concerning it, “Your [masculine] ointments have a goodly fragrance” (Song 1:3).”**]. *R. Honiah said R. Hama bar Uqba asked*, “If it was his intent to put him off with words, he should have moved him on to the five puzzles that are in the Torah [in which it is possible to interpret a matter in two equally valid ways]. And these are they:

- [B] “‘Lifted up’ (Gen. 4:7:). ‘If you do well[, good,] but you must bear the sin if you do not well.’ Or, ‘If you do well, there will be a lifting up of face, and if you do not do well, sin crouches at the door.’
- [C] “‘Cursed’ (Gen. 49:6, 7:). ‘And in their self-will they houghed oxen. Cursed be their anger, for it was fierce.’ Or, ‘And in their self-will they houghed the cursed oxen. Their anger was fierce.’
- [D] [41d] “‘Tomorrow’ (Ex. 17:9:). ‘Go out and fight with Amalek tomorrow. I will stand on the top of the hill.’ Or, ‘Tomorrow I will stand on the hill....’
- [E] “‘Like almond blossoms’ (Ex. 25:33:). ‘Three cups, make like almond blossoms in one branch, a knop and a flower.’ Or, ‘Three cups, like almond blossoms ... a knop and a flower.’
- [F] “‘Rise up’ (Deut. 31:16:). ‘Behold you are about to sleep with your fathers, and this people will rise up.’ Or, ‘Behold, you are about to sleep with your fathers, and will rise up. This people will go astray....’”
- [G] R. Tanhuma added the following: “The sons of Jacob came from the field, when they heard of it.” Or, “When they heard of it, the men were indignant and very angry” (Gen. 34:7).
- [H] Said Rabbi, “No. There are matters on account of which one smacks his lips. *This is in line with that which is said*, ‘Oh that he would kiss me with the kisses of his mouth’ (Song of Sol. 1:2).”
- [I] Said R. Isaac, “‘And me did the Lord command at that time’ (Deut. 4:14: *and me*, thus:) Things were said to me that also were said to

you, but things were said to me that were said only to me [and not to you].”

[J] R. Simeon b. Halafta, R. Haggai in the name of R. Samuel bar Nahman: “The lambs will provide your clothing, and the goats the price of a field; there will be enough goats’ milk for your food’ (Prov. 27:26-27). KBSYM is written [as if with a *shin*, meaning, hide [withhold], instead of *lambs*, thus:] How so? When the disciples are young, withhold the words of Torah from them. [You cannot reveal the secrets of the Torah to the young.] But after they grow up and become like goats, reveal to them the [real] secrets of the Torah.”

[K] *This teaching supports that which R. Simeon b. Yohai repeated:* “These are the laws that you will set [TSYM] before them’ (Ex. 21:1). Just as this treasure [SYMH] is not revealed to everyone, so you have no right to devote yourself [to the exposition of] words of Torah except before suitable people.”

2:8

[A] **And what are things of gentiles which are prohibited, but the prohibition of which does not extend to deriving benefit from them?**

[B] **(1) milk drawn by a gentile without an Israelite’s watching him; (2) their bread; and (3) their oil –**

[C] **(Rabbi and his court permitted their oil) –**

[D] **(4) stewed and pickled [vegetables] into which it is customary to put wine and vinegar; (5) minced fish; (6) brine without kilkit fish floating in it; (7) hileq fish, (8) drops of asafoetida, and (9) sal-conditum –**

[E] **lo, these are prohibited, but the prohibition affecting them does not extend to deriving benefit from them.**

[I:1 A] As to milk produced by a gentile[‘s cow] – why is it prohibited?

[B] R. Ba bar R. Judah, R. Simon in the name of R. Joshua b. Levi: “As to milk produced by a gentile[‘s cow] – why is it prohibited? Because of its having been left exposed[, for gentiles are not punctilious about covering up liquids and preventing them from suffering contamination].”

[C] And [why not] let [the Israelite] curdle [the milk, and if there is snake venom, it will be skimmed off]?

[D] Said R. Samuel bar R. Isaac, “[Still, this will have to be prohibited] because of the poison located in the cracks [of the cheese].”

[E] *And so it is taught in a Tannaitic tradition:* “There are three kinds of venom, one that floats, one that sinks, and one that [remains on the top of liquids] like a net-like film” [and the kind that sinks is that to which reference is made at D].

[F] *Workers were farming in a field. A pitcher of water was left uncovered. They drank from it, but did not die. Then they went and drank again from the water, and they died.*

[G] Now I say that it was because of venom that had sunk to the bottom [and that they did not drink the first time around].

[H] *In the time of R. Jeremiah the water tank of the great school was left uncovered. They drank once and did not die, then went and did it again and died.*

[I] Now I say that it was because of venom that had sunk to the bottom.

[J] *So has it been taught in a Tannaitic teaching:* A watermelon that was pierced, and from which ten people ate, and so too, a jug of wine that was left uncovered, and from which ten people drank – it is forbidden to eat or drink after them.

[K] Now I say that it is because of venom that has sunk to the bottom [that it is prohibited to do so].

[L] Said R. Jeremiah, “Milk produced by a gentile[‘s cow] – why is it forbidden? Because of the mixture [of milk from] an unclean beast [together with that produced by a clean beast, since the gentile need not scruple about such considerations].”

[M] *And so it has been taught in a Tannaitic tradition:*
An Israelite may sit at the other side of his corral, and a gentile may milk the cows and bring the milk to him, and he need not scruple [T. 4:11P] [so the issue of protecting the milk from contamination is not critical].

- [II:1 A] **Their bread:** R. Jacob bar Aha in the name of R. Jonathan: “The law [permitting gentile bread for Israelite benefit, but not consumption] was an irregular measure [passed in an emergency, but contrary to the real law].”
- [B] For thus do I maintain: “In a place in which bread prepared by Israelites is readily available, it is logical that bread produced by gentiles should be forbidden. But they acted irregularly and permitted it.”
- [C] Or [perhaps the matter should be phrased in this way]: “In a place in which bread prepared by Israelites is not readily available, it is logical that bread produced by gentiles should be permitted. But they acted irregularly and prohibited it.”
- [D] [Now the issue is which of these two versions in explanation of A is sound.] Said R. Mana, “And does irregular legislation apply to a matter of prohibition? [Clearly, the issue of an irregular decision should not apply in a matter of prohibition, since that language is irrelevant. One may simply say that the authorities made a stringent decision.] And is not bread tantamount to that which a gentile has cooked? [Surely, therefore, it is the version of B, not the version of C, that is sound.]”
- [E] Thus do we therefore state the matter: “In a place in which food is prepared by Israelites, it is logical that food produced by gentiles [should be forbidden. But they acted irregularly and] permitted it”!?! [Clearly this is not the way to state the matter, since, expressed as a matter of prepared food in general, the matter leads to the absurd statement just now made.]
- [F] But thus is the proper version: “In a place in which Israelite bread is not readily available, it was logical [nonetheless] that bread prepared by gentiles should be forbidden. But they acted irregularly and permitted it, because it is a matter of the preservation of life.”
- [G] Rabbis of Caesarea in the name of R. Jacob bar Aha: “[Even] in accord with the position of him who permits [using bread prepared by gentiles], this is on the condition that [it is purchased] from a baker [and not from a householder].”
- [H] But they do not practice the law in such wise [but permit even home-baked bread].

[III:1 A] [Éstewed and pickled [vegetables] into which it is customary to put wine and vinegar]: *They said before R. Hiyya the Elder, “R. Simeon b. Yohai taught, ‘You shall purchase food from them for money, that*

you may eat; and you shall also buy water of them for money, that you may drink' (Deut. 2:6). [Now the statement by Moses explicitly permits Israelites to purchase and drink water from gentiles, and by analogy, we reason as follows:] Just as water is something that does not change from its natural state, so anything that is not changed from its natural state [may be purchased from gentiles and consumed by Israelites].”

- [B] *They objected, “Lo, their [gentiles’] liverwort, [pressed] apricots, pickled [vegetables], parched corn, and [boiled] water [cf. T. 4:11H] are permitted”* [and these are all prepared and not in their natural state].
- [C] *All of them pose no difficulties*, for they can be soaked and made to return to their original state.
- [D] [But that clearly is not the case of] parched corn, [so] why [is that not forbidden, if whatever is cooked by gentiles in fact is prohibited by the law of the Torah cited at A]?
- [E] R. Yosé b. R. Bun in the name of Rab: “[The reason that food cooked by gentiles is prohibited is a decree made by rabbis, and not by the Torah.] Any food that is eaten as is, raw, is not subject to the prohibition against eating food cooked by gentiles.
- [F] “[But any food that is usually eaten] with bread is subject to the prohibition against eating food cooked by gentiles.”
- [G] How then does R. Hiyya the Elder interpret the verse, “You shall purchase food from them for money, that you may eat; and you shall also buy water of them for money, that you may drink” (Deut. 2:6)?
- [H] With food you shall purchase [Esau, that is, Rome, finding favor by providing food to him]. Once you have fed him, break him. If he is hard on you, purchase [his good will] with food. And if [that does] not [work], give him ample funds.
- [I] *They say that thus did R. Jonathan do: When a gentile of high standing came to town, he would send him [gifts]. If then a case of an orphan or a widow would come up, [in advocating their case] he would then find favor [with the ruler].*

[IV:1 A] [**Their oil:**] Who forbade their oil? B. Judah said, “Daniel forbade it: ‘And Daniel resolved [that he would not defile himself with the king’s rich food or with the wine which he drank]’ (Dan. 1:8).”

- [B] Who permitted it? **Rabbi and his court [permitted their oil].**

- [C] In three settings R. Judah the patriarch is referred to as “our rabbi,” in the context of [rules covering] writs of divorce, oil, and producing an abortion in the shape of a sandal[, in all of which Rabbi and his court took a lenient position].
- [D] *In consequence they referred to his court as the court that permitted oil [made by gentiles].*
- [E] Any court that gave a lenient ruling in three matters is called a *permissive court*.
- [F] Said R. Yudan, “Rabbi’s court differed from him in the matter of the writ of divorce.” [In this case a man said, “Lo, this is your writ of divorce if I do not come back within twelve months” and died in that period. The man did not specify that the writ was valid from that moment, so it was as if a writ of divorce after death, so M. 7:8. T. 5:9C states, “Our rabbis instructed her to remarry,” and this, we know, refers to Rabbi.]
- [G] What is the law as to the woman’s being permitted to remarry [forthwith on the strength of the writ of divorce under the stated circumstances]?
- [H] R. Haggai said, “She is permitted to remarry.”
- [I] R. Yosé said, “She is forbidden to remarry.”
- [J] [As to Daniel’s prohibition of the oil made by gentiles, why did that prohibition find acceptance?]
- [K] R. Aha, R. Tanhum bar Hiyya in the name of R. Haninah, and some say it in the name of R. Joshua b. Levi: “Because they were going up to the Royal Mountain and being put to death on this account.”
- [L] *Isaac bar Samuel bar Marta went down to Nisibis. He found Simlai, the Southerner, sitting and expounding: “**Rabbi and his court permitted oil [prepared by gentiles].**”*
- [M] *He said [the rule before] Samuel, [who thereupon] ate [oil prepared by gentiles]. [He did the same before] Rab, [who] did not accept the rule for himself or eat [such oil]. He said to him, “Samuel ate. If you do not do the same, I shall decree concerning you that you are a ‘rebellious elder.’”*
- [N] [Rab] replied to him, “When I was still there [in the Land], I know that Simlai, the Southerner, rejected [the prohibition against oil, so I do not trust this report of his].”

[O] [Samuel] said to him, “Did [Simlai] say this in his own name? Did he not say it in the name of R. Judah the patriarch?” Samuel nagged him about the matter until he too ate oil prepared by gentiles.

[P] R. Yohanan raised the question: “And have we not learned in the Mishnah [M. Ed. 1:5C]: **For a court has not got the power to nullify the opinion of another court unless it is greater than it in wisdom and in numbers.**”

[Q] “Now how is it possible that Rabbi and his court should [nullify the ruling and so] permit what Daniel and his colleagues had prohibited?”

[R] R. Yohanan is consistent with his opinion expressed elsewhere [in denying that it was Rabbi and his court who permitted the oil, and in affirming that it was permitted on other grounds entirely].

[S] For R. Yohanan said, “I have received it as a tradition from R. Eleazar b. R. Sadoq that any decree a court should issue, and which the majority of the community should not accept upon itself, is no decree. [What in fact happened was that] they looked into the matter and found out in the case of the decree against oil [prepared by gentiles] that the majority of the community had not accepted [the decree, and so they nullified the rule on those grounds, and not on the grounds of Rabbi’s decision].”

[IV:2 A] An egg roasted by [gentiles] –

[B] Bar Qappara permitted.

[C] Hezekiah prohibited.

[D] *Now the foregoing dispute concerns* an egg that a gentile deliberately roasted. What about one that was not deliberately roasted by a gentile [but that happened, through his action, to be roasted]?

[E] *Let us infer the rule from the following:* M’S H 5: A fire [set by a gentile] broke out in a reed thicket and in a date grove, and there were locusts there, which got roasted. The case then came before R. Mana, who prohibited [Israelites from eating the locusts, because they had been roasted by a gentile, even though it was not the gentile’s deliberate action that had led to the locusts’ being roasted].

[F] Said R. Abbahu, “[But that is hardly probative. The reason that the locusts were prohibited was not that a gentile had originally set the fire but] because of the mixture of unclean locusts [with the clean ones, with the consequence that Israelites could not consume the acceptable ones because of the presence of unclean ones].”

[G] *Said R. Yosé b. R. Bun, “But this was one of the strict rulings imposed by Rab” [in the circumstance to be explained now].*

[H] *Rab went down to that place [Babylonia], He saw that they followed lenient rulings, so he imposed strict rulings on them. [Here are two examples.]*

[I] *A man was walking in the market place and tasting a piece of meat. A diata-bird flew down and snatched it up from his hand. [As the bird flew off, the meat] fell down [beneath the bird]. [The man] went [and] wanted to take it [and eat it].*

[J] *Rab said to him, “It is forbidden to you. For I say it was carrying a piece of carrion meat, and it fell down, and then the bird swiped this piece of yours in its stead. [So the piece of meat you found is the carrion which the bird had been carrying, and that is why you may not eat the meat.]”*

[K] *A man went and wanted to wash off in the river meat hanging on a crosspiece. The meat came out of his grip and floated away. He went and planned to get it back.*

[L] *Rab said to him, “It is forbidden to you. For I say the piece you had was swept off by the river, which brought in its stead a piece of carrion.”*

[IV:3 A] What is the law governing [Israelite consumption of] their [gentiles’] lupines?

[B] [42a] Rabbi prohibits.

[C] Geniba permits.

[D] Said Rabbi, “I am an elder, and he is an elder. I intend to prohibit them, and he intends to permit them.”

[E] R. Mana bar Tanhum went to Tyre and permitted [Israelites to make use of] lupines prepared by [gentiles].

[F] *R. Hiyya bar Ba went to Tyre and found that R. Mana bar Tanhum had permitted lupines prepared by [gentiles]. He went to Yohanan. [Yohanan] said to him, “What sort of case came to your hand?”*

[G] He said to him, “I found that R. Mana bar Tanhum had permitted [Israelites to eat] lupines prepared by [gentiles].”

[H] [Yohanan] said to [Hiyya], “And did you punish him [by declaring him to be excommunicated]?”

[I] He said to him, “He is a great man, for [so wise is he that] he knows how to sweeten [the water of the] Mediterranean sea.”

[J] He said to him, “It is not so, my son. He merely knows how to take the measure of the water. For when the water praises God who created it, [the water] turns sweet. [So his knowledge is not so impressive.]”

[K] Said R. Isaac bar Eleazar, “[Nonetheless,] he came intending to discredit him and ended up praising him.”

[L] Said R. Yosé b. R. Bun, “It is a great piece of knowledge. R. Zakkai of Alexandria knows that wisdom.”

[M] *He said, “If I wanted, I could have gone and learned it from him.”*

[IV:4 A] Dumplings prepared by them – what is the law?

[B] *Let us infer the rule from the following:*

[C] *R. Ammi went up with R. Yudan the patriarch to the hot springs of Gedar and permitted [Israelites to eat] dumplings [prepared by] them.*

[D] *R. Ba bar Memel raised the question: “Then what is the difference between dumplings [which Israelites may eat] and lupines [which Rabbi prohibited]?”*

[E] Said R. Yosé, “Dumplings are not subject to cooking over a fire [since they are made by pouring on hot water, and hot water prepared by a gentile is permitted for Israelite use], while lupines are subject to cooking over a fire.”

[F] Fish hash is not subject to the prohibition of cooking by gentiles, but [nonetheless, even though it is not cooked], by means [of that sort of hash] they carry out the obligation of setting out cooked food [for continuing to cook on a festival day].

[G] R. Ba in the name of R. Ahi: “A hash of small fish preserved in salt is not subject to the prohibition of cooking by gentiles, but by means [of that sort of hash] they carry out the obligation of setting out cooked food [for continuing to cook on a festival day].”

[H] R. Yosé b. R. Bun in the name of R. Huna: “Any sort of food that is eaten raw, as is, is not subject to the prohibition of cooking by gentiles, but by means [of that sort of food] they carry out the obligation of setting out cooked food [as above].”

2:9

[A] **These are things which [to begin with] are permitted for [Israelite] consumption.**

[B] **(1) milk which a gentile drew, with an Israelite watching him;**

[C] **(2) honey;**

[D] **(3) grape clusters, (even though they drip with moisture, they are not subject to the rule of imparting susceptibility to uncleanness as liquid);**

[E] **(4) pickled vegetables into which it is not customary to put wine or vinegar; (5) unminced fish; (6) brine containing fish; (7) a [whole] leaf of asafoetida, and (8) pickled olive cakes.**

[F] **R. Yosé says, “Those which are sodden are prohibited.”**

[G] **Locusts which come from [the shopkeeper’s] basket are forbidden.**

[H] **Those which come from the stock [of his shop] are permitted.**

[I] **And so is the rule for heave-offering.**

[I:1 A] *Said R. Eleazar, “[It follows from the teaching] that you have given [that it is permitted to consume] food in which it is not customary to put wine or vinegar, [that] lo, [if] it is entirely clear that [a gentile indeed] has put [wine or vinegar into food, that food] is forbidden, even for Israelite benefit [e.g., through sale to a gentile].”*

[B] R. Jacob bar Ah. a, R. Hiyya in the name of R. Yohanan: “[In the case of] an Israelite and a gentile who share [in the] cooking [of food], the Israelite sets [the pot onto the fire], and the gentile stirs the pot.”

[C] Who [tastes the food in the pot and] puts it back [so that it will cook further]?

[D] *It is reasonable to suppose that* the Israelite [tastes the food in the pot and] puts it back [so that it will cook further].

[E] Said R. Benjamin bar Leoai, “And that rule [requiring the Israelite to put the food back into the pot for further cooking] applies [even in the case of food that is only] a third cooked.”

[F] *R. Yosé raised the question:* “[Now] if when the food is only a third cooked, why should an Israelite be the one to

return it to the pot? Even a gentile [should be permitted] to return [the scarcely cooked food to the pot].”

[I:2 A] What is **hileq-fish**?

[B] Rab said, “It is *sultanit-fish* [a kind of anchovy].”

[C] Said R. Yohanan, “Hileq-fish is the same as minced fish.”

[D] R. Zeira, Kahana bar Tahelipa, Hanan bar Ba in the name of Rab: “Laheluheta-fish is forbidden because of the mixture [therein] of unclean fish.”

[E] *R. Ba in the name of R. Judah: “That which you have stated applies to that sort of fish caught in a pool in which the water is not running, but as to that sort of fish caught in a running stream, the clean fish [in any case] does not swim along with unclean fish.”*

[F] And lo, the Sea of Tiberias is an example of running waters [and yet unclean and clean fish are caught together]!

[I:3 A] [As to minced fish, which, prepared by a gentile, Israelites may not eat (M. 2:8D),] said R. Yosé b. R. Bun, “But [that prohibition applies] specifically when the fish is chopped up[, and the body of the fish is not discerned at all].”

[B] *Said Samuel, “As to mud-fish [to determine whether or not it has scales and so is permitted for Israelite consumption], one puts it into its shell. If it produces brine, it is permitted, and if not, it is prohibited[, since the moisture indicates the presence of scales].”*

[C] What is pickled fish in which the [shape of the fish] can be recognized? Any in which the head and backbone are present.

[D] R. Eleazar in the name of R. Haninah: M’SH B: “A fishing vessel belonging to the household of Rabbi had more than three hundred kegs [of fish]. Rabbi inspected all of them. He found only one in which the heads and backbones [of the fish] were visible [in which case this sort of fish, prepared by a gentile, was permitted for Israelite use, and on the strength of that single keg], he permitted the whole lot of them [to be sold to, and eaten by, Israelites].”

[E] R. Jacob bar Aha said R. Assi raised the question concerning [this story]: “It is reasonable that only that particular keg should have been permitted, and all the rest of the kegs should have been forbidden. But I say, through some accident the kegs were upset.”

- [F] R. Haggai asked R. Ba bar Zabeda [about such a case]. He said to him, “A matter of considerable [value] is not going to be prohibited [so as to cause substantial damages solely by reason of doubt].”
- [G] R. Jacob bar Zabedi and R. Isaac raised the question: “Now [if by reason of the pretext that, in a case of doubt, one will permit the food so that a considerable loss will not be incurred, then what about the case, at Y. Git. 1:1, in which] documents [were found] in which obviously gentile names such as Lucas were inscribed [as the witnesses? Now what is the difference between this case before us, in which, on account of some pretext, you permit the food whose status is in doubt, and the case involving bonds of indebtedness, in which case the law is that testimony is required to validate the signatures of the witnesses bearing gentile names and so possibly not valid witnesses at all?] [If] you invoke a mere pretext [in the present case], then [surely you should invoke] a mere pretext [e.g., the Israelite court is not likely to permit gentiles to sign the bonds, and hence, even though the names are gentile, the bonds belong to Israelites] in this other case.” [The question is not answered.]
- [H] *Ulla Shikepa taught before R. Dosa*: “Unclean fish are viviparous, and clean fish eject eggs.”
- [I] [*Ulla*] *further taught before him*, “Fish entrails and roe are to be eaten only on the advice of an expert.”
- [J] He said to him, “Retract one [of these two teachings, which contradict one another, since, in the light of I, an unclean fish also may lay eggs].”
- [K] *He wanted to retract [one of the two statements]*.
- [L] Said to him R. Zeira, “Do not retract. [When the unclean fish] come out, they are completed [and emerge from eggs within the womb].”
- [M] R. Ba in the name of R. Judah: “If [the seller] says to you, ‘I personally salted them,’ he is to be believed [that the fish is clean and acceptable for Israelite consumption].”
- [N] *Nathan bar Ba said before Samuel*, “I know how to tell the difference between the roe of unclean fish and the roe of clean fish. The roe of unclean fish are round, and the roe of clean fish are elongated.”

[O] *He showed him [the roe of] a salpita-fish[, which is clean].*
He said to him, “Now what is the law pertaining to this sort of fish?”

[P] He said to him, “It is unclean.”

[Q] He said to him, “It does not bother me so much that you have declared a clean one to be unclean, but in the end you are going to declare an unclean one to be clean.”

[R] *It has been taught in a Tannaitic tradition: **Fish entrails and roe are to be purchased only on the advice of an expert. Purple dye is to be purchased only on the advice of an expert. Bithynian cheese is to be purchased only on the advice of an expert. Wine in Syria is to be purchased only on the advice of an expert. Meat bearing no mark is to be purchased only on the advice of an expert. But any of these may be eaten in the home of one who is not an expert, and one need not scruple on that account [cf. T. A.Z. 4:13].***

[S] R. Aha, R. Tanhum in the name of R. Joshua b. Levi: “[If someone] sent asafoetida [as a gift], he is believed [to testify that the leaves have not been cut up by a knife belonging to a gentile].”

[T] R. Jacob bar Aha, R. Jacob bar Idi in the name of R. Joshua b. Levi: “[If one] sent purple dye, he is believed [to testify that this is valid dye for its purpose].”

[U] *The child of Levi Sanbarayya would sell produce [in the assumption that it had been tithed, because his father was reliable about tithing].*

[V] R. Jacob bar Aha, in the name of R. Yasa, “The slave belonging to a reliable Israelite himself is tantamount to a reliable person.”

[W] *Germana, the slave of R. Yudan the patriarch, had purple dye [for sale].*

[X] R. Yassa in the name of R. Yohanan: “The slave belonging to a reliable Israelite himself is tantamount to a reliable person[, so it is

permitted to purchase this purple dye from Germana].”

[I:4 A] Sal conditum:

[B] *There are Tannaitic tradition teachers who teach, “Black is forbidden and white is permitted.”*

[C] *There are Tannaitic tradition teachers who teach, “White is permitted and black is forbidden.”*

[D] *The one who says that the black kind is forbidden [maintain that the salt is prepared by] putting into it a black dead creeping thing [which is not to be eaten by Israelites].*

[E] *The one who says that the white kind is forbidden [maintain that the salt is prepared by] putting into it a white dead creeping thing.*

[F] R. Hanania b. Gamaliel said in the name of R. Judah b. Gamaliel, “Both this kind and that kind are prohibited.”

[G] *Said R. Hanania, “[The reason is that] we had a neighbor [who prepared this kind of salt] by putting pig fat into it.”*

[I:5 A] [Pickled olive cakes]: All the same are the objects referred to by the following words: **Those for overhanging boughs and protruding growths; for loose lattice work and vibrating slats; for mouldings and rims; for cups and mugs; a place for placing cups and a place for leaving pieces [of food (M. Kel. 22:1)];** for pickled olive cakes and circles of pressed olives.

[I:6 A] Those that are sodden are forbidden:

[B] R. Hiyya in the name of R. Yohanan said, “[This refers to] a certain kind of olives into which they put vinegar so as to extract the pit.”

YERUSHALMI ABODAH ZARAH

CHAPTER THREE

3:1

- [A] “All images are prohibited,
[B] “because they are worshipped once a year,” the words of R. Meir.
[C] And sages say, “Prohibited is only one that has in its hand a staff, bird, or sphere.”
[D] Rabban Simeon b. Gamaliel says, “Any which has anything at all in its hand.”
- [I.1 A] *If the idols are worshipped once a year, then how come rabbis permit?*
- [B] Said R. Hiyya bar Ba, “[The reason all images are prohibited] is that in the great city of Rome they are worshiped twice in a septennate.”
- [C] If that is the operative reasoning, then in a locale in which they are worshiped they should be forbidden, while in a locale in which they are not worshiped they should be permitted [for Israelite commerce].
- [D] Said R. Yosé, “Once they are prohibited in a single locale, the prohibition applies in every locale.”
- [E] *How shall we explain [the dispute between Meir and the sages]?*
- [F] [Here is the problem:] If it is a matter of certainty that [statues are] of kings [and hence made for worship], then all will have to concur that they are forbidden.
- [G] If it is a matter of certainty [that the statues are] of local authorities [and hence not for worship], then all will have to concur that they are [made merely for decoration and hence] permitted.
- [H] *But thus we must interpret the dispute:* in the case of a statue lacking all specification [as to its clear-cut purpose].
- [I] R. Meir says, “When they lack all specification, they are of kings.”

- [J] And rabbis maintain, “When they lack all specification, they are of local rulers.”
- [K] Asyan the carpenter in the name of R. Yohanan: “As to icons, why are they prohibited?”
- [L] “Because the [idolators] offer up incense before them when they set them up.”
- [M] Said R. Yohanan, “It is permitted to look upon them when they come down.
- [N] “What is the scriptural basis for that ruling? ‘You will look upon the destruction of the wicked’ (Ps. 37:34).”
- [O] One has written: He who strolls below portraits or icons – they do not gaze upon them on the Sabbath, and not only so, but also on a weekday they do not gaze upon icons.
- [P] *What is the scriptural basis for that rule?* “Do not turn to idols” (Lev. 19:4) – do not [42c] turn to them who make them[, thus, to those portrayed as icons].
- [Q] R. Judah says, “[The meaning of the verse is], ‘Do not turn to gaze upon them’ literally [not merely upon the icons of those who make them, but on the idols themselves].”
- [R] *When R. Nahum bar Simai died, they covered up the icons with mats. They said, “Just as he did not set eyes upon them when he was alive, so let his eyes not set upon them after death.”*
- [S] *Now [do the dead] know a thing?*
- [T] Said R. Simeon b. Levi, “We have nothing in common with the truly righteous except the power of speech [which both we and they lose upon death. But their other powers remain, so a man so holy as Nahum bar Simai will see them, if they can be seen].”
- [U] Said R. Zeira, “The deceased hears words of praise for himself as if in a dream.”
- [V] Said R. Asyan, “The deceased hears words of praise for himself as if in a dream.”
- [W] And why was he called “Nahum, the most holy”?
Because he never gazed upon the face of a coin in

his entire life [to avoid seeing the idol inscribed thereon].

[X] And why was he called “our holy rabbi”? Because he never laid eyes upon the mark of his circumcision in his entire life.

[I:2 A] *When R. Aha died, a star appeared at noon.*

[B] *When R. Hanan died, the statues bowed low.*

[C] *When R. Yohanan died, the icons bowed down.*

[D] *They said that [this was to indicate] there were no icons like him [so beautiful as Yohanan himself].*

[E] *When R. Hanina of Bet Hauran died, the Sea of Tiberias split open.*

[F] *They said that [this was to commemorate the miracle that took place] when he went up to intercalate the year, and the sea split open before him.*

[G] *When R. Hoshaiah died, the palm of Tiberias fell down.*

[H] *When R. Isaac b. Eliasheb died, seventy [infirm] thresholds of houses in Galilee were shaken down.*

[I] *They said that [this was to commemorate the fact that] they [were shaky and] had depended on his merit [for the miracle that permitted them to continue to stand].*

[J] *When R. Samuel bar R. Isaac died, cedars of the land of Israel were uprooted.*

[K] *They said that [this was to take note of the fact that] he would take a branch [of-a cedar] and [dance, so] praising a bride [at her wedding, and thereby giving happiness to the bride].*

[L] *The rabbis would ridicule them [for lowering himself by doing so]. Said to them R. Zeira, “Leave him be. Does the old man not know what he is doing?”*

[M] *When he died, a flame came forth from heaven and intervened between his bier and the congregation. For three hours there were voices and thunderings in the world: "Come and see what a sprig of cedar has done for this old man!"*

[N] *[Further] an echo came forth and said, "Woe that Samuel b. R. R. Isaac has died, the doer of merciful deeds."*

[O] *When R. Yasa bar Halputa died, the gutters ran with blood in Laodicea.*

[P] *They said [that the reason was] that he had given his life for the rite of circumcision.*

[Q] *When R. Abbahu died, the pillars of Caesarea wept.*

[R] *The [gentiles] said [that the reason was] that [the pillars] were celebrating. The Israelites said to them, "And do those who are distant [such as yourselves] know why those who are near [we ourselves] are raising a cry?"*

[S] *When R. Abbahu lay dying, they brought before him thirteen lamps kindled with balsam wood. He said to them, "For whom are all these?"*

[T] *They said to him, "They are for you."*

[U] *He said to them, "And are all these for Abbahu? 'I have labored in vain, I have spent my strength for nothing and vanity; yet surely my right is with the Lord, and my recompense with my God' (Is. 49:4). The Holy One, blessed be he, in this world shows the righteous the reward that is coming to them, so that when their soul is satisfied, they may go into their sleep. It may be compared to a king who made a banquet, and on a cloth he made a design of all of the foods to be served at the banquet. When the guests entered, they saw them, and their*

souls were sated, so they went into a deep sleep.”

[V] *Zabedai bar Levai and R. Yosé bar Piteres and R. Joshua b. Levi respectively cited [one of the following] three verses when they were dying:*

[W] One of them said, “Therefore let every one who is godly offer prayer to thee” (Ps. 32:6).

[X] And one of them said, “But let all who take refuge in thee rejoice, let them ever sing for joy” (Ps. 5:11).

[Y] And one of them said, “O how abundant is thy goodness, which thou has laid up for those who fear thee and wrought for those who take refuge in thee” (Ps. 31:19).

[Z] R. Jacob bar Idi in the name of R. Joshua b. Levi: M’SH S: Elders went into the upper room in the house of Geddaya in Jericho. An echo went forth and said to them, ‘There are among you two who are worthy of receiving the Holy Spirit, and Hillel the Elder is one of them.’ They gazed upon Samuel the Small.

[AA] “SWB: Elders went into the upper room in [a house in] Yabneh, and an echo went forth and said to them, ‘There are among you two who are worthy of receiving the Holy Spirit, and Samuel the Small is one of them.’ They gazed upon R. Eliezer. And they were overjoyed that their own [prior] opinion agreed with the opinion of the Holy Spirit.”

[BB] *One of the members of the patriarchate died, and the [burial] cave folded over*

[and received the bier], so endangering the lives [of those who had come to bury him]. R. Yosé went up and took leave [of the deceased], saying, “Happy is a man who has left this world in peace.”

[CC] *When R. Yasa died, the castle of Tiberias collapsed, and members of the patriarchate were rejoicing. R. Zeira said to them, “There is no similarity [between this case and the miracle described at BB]. The peoples’ lives were endangered, here no one’s life was endangered. In that case, no pagan worship was removed, while here, an idol was uprooted [so, consequently, the event described in BB was not a miracle, while the event described here was a miracle and a sign of divine favor].”*

[DD] **R. Jacob bar Idi in the name of R. Joshua b. Levi:**
“When Rabban Yohanan ben Zakkai lay dying, he said, ‘Clear out the house [of objects that will receive] uncleanness [when I die, leaving my corpse under the roof of this house], and prepare a throne for Hezekiah, king of Judah.’”

[EE] “R. Eliezer, his disciple, when he lay dying, said, ‘Clear out the house [of objects that will receive] uncleanness [when I die],

**and prepare a throne for
Rabban Yohanan ben
Zakkai.”**

**[FF] And there are those who say,
“Just as his master had
seen [Hezekiah in a vision],
so too did he see [the same
vision].”**

**[GG] One of the members of the
household of R. Pazzi did
the members of the
patriarchate seek to
[engage for] marriage [into
the family of the
patriarchate], but he did
not wish [to enter the
marriage]. He said, “They
should not so degrade me
[by such a marriage
proposal].”**

**[HH] When he lay dying, he said,
“Clear out the house [of
objects that will receive]
uncleanness [when I die],
and prepare a throne for
Jehoshaphat, king of
Judah.”**

**[II] They said, “Let this one come,
who ran after glory, in the
aftermath of that one, who
fled from glory.”**

**[II:1 A] And the sages say, “Prohibited is only one that has in its hand a
staff; bird or sphere” [M. A. Z. 3:1 C]:**

**[B] A staff – for [what is intended is that] it rules the world with [a
staff].**

**[C] A bird – “My hand was found like a nest the wealth of the
peoples” (Is. 10:14).**

[D] A sphere – for the world is shaped like a sphere.

[E] *Said R. Jonah, “When Alexander of Macedon wanted, he could wing upward, and he would go up. He traveled upward until he saw the world as a sphere, and the sea as a dish. That is why they represent the world as a sphere in the hand [of an idol].”*

[F] So let them depict a dish in [the idol’s] hand too?

[G] [The idol] does not rule over the ocean.

[H] But the Holy One, blessed be he, rules over sea and land, saving [those who are in need] at sea and saving [those in need] on dry land.

[I] R. Zeira son of R. Abbahu expounded the following verse in the presence of R. Eleazar: “‘Happy is he whose help is the God of Jacob, whose hope is in the Lord his God’ (Ps. 146:5).

[J] “Now what is written immediately thereafter? ‘Who made heaven and earth, the sea and all that is in them’ (Ps. 146:6).

[K] “Now what has one thing got to do with the other?”

[L] “But a mortal king has a patron [to whom he is subservient]. In this hyparchy he does not [truly] rule. Is it possible that he [really] rules in some other? And if you would claim that there is the cosmocrator [who rules the world], he rules only on dry land, but not on the sea. But the Holy One, blessed be he, is not so. He is ruler by sea and ruler by land.

[M] “And not only so, but if there is a sword hanging over the neck of a man, the Holy One blessed be he saves him.

[N] “That is the meaning of what Moses said: ‘He delivered me from the sword of Pharaoh’ (Ex. 18:4). What is written here is, ‘from the sword’ – meaning: even if a sword is hanging over above one’s neck, the Holy One, blessed be he, saves him from him.”

[II:2 A] They added [to the list of items stated by the sages] a sword, crown, ring[, image, or snake] [T. A.Z. 5:1B].

[B] A sword – with which [the idol] kills.

[C] A crown – with which [an idol] is crowned.

[D] A ring – with which [an idol] seals [its decrees].

[E] A ring on which there is an idol is prohibited [Tosefta: permitted] for use as a seal. R. Judah says, “If the seal was incised, it is

prohibited for use as a seal, because an image is made thereby. If it projects, it is permitted to make a seal with it” [T. A.Z. 5:2F-G].

[F] **R. Haninah b. Gamaliel says, “The members of father’s establishment would use a seal on which there were figures.”**

[G] **R. Eleazar b. R. Simeon says, “Any sort of figure would have been found in Jerusalem, except for the figure of a man alone” [T. A.Z. 5:2N-O].**

[III:1 A] **Rabban Simeon b. Gamaliel says, “Any which has anything at all in its hand:”**

[B] But this is on condition that it be something that is a matter of honor [respectable to hold].

[C] A thorn, a wooden prick, or shears are matters of common use [and so will not fall into the category of objects indicating the idol is honored].

[D] Paper and quill are matters of honor.

[E] As to an inkstand, [The item is in doubt and] requires [investigation].

3:2

[A] **He who finds the sherds of images – lo, these are permitted.**

[B] **[If] one found [a fragment] shaped like a hand or a foot, lo, these are prohibited,**

[C] **because objects similar to them are worshipped.**

[I:1 A] R. Yosé in the name of R. Yohanan: “[The reason that sherds are permitted is] that most of them come from Delphic tables[, which are decorated with images, and there is no reason to suppose they have been worshiped as idols].”

[B] If that is the case, then even the image of a hand or a foot [should be permitted].

[C] These are different **because objects similar to them are worshipped.**

[D] [Adducing evidence that hands or feet are worshiped, the Talmud cites Scripture:] It is written, “The men of Babylon made Succoth-benoth” [meaning] a chicken and its eggs.

[E] “The men of Cuth worshiped Nergal” (2 Kings 17:30 Jacob’s foot and Joseph’s foot [which they worshiped].

[F] ([Laban said to Jacob,] “If you will allow me to say so, I have learned by divination [42d] that the Lord has blessed me because of you” [Gen. 30:27].)

[G] “And the Lord blessed the Egyptian’s house for Joseph’s sake” (Gen. 39:5). [So their relics too were worshiped.]

[H] “The men of Hamath worshiped Ashima” (2 Kings 17:30) – a lamb, as it is said, ““And the priest shall make atonement for him with the ram of the guilt-offering [*asham*]” (Lev. 5:16).

[I] “And the Avvites worshiped Nibhaz and Tartak” (2 Kings 17:31). The former was a dog, and the latter an ass.

[J] “And the Sepharvites burned their children in the fire to Adrammelech and Anammelech, to gods of Sepharvaim” (2 Kings 17:31) – [this refers to] a peacock and a pheasant.

[I:2 A] An idol that was [found] smashed –

[B] R. Yohanan said, “[The sherds are] forbidden.”

[C] R. Simeon b. Laqish said, “[The sherds are] permitted.”

[D] *Now how shall we interpret this dispute?* If at some point in the future the sherds are going to be restored to their former, whole condition, in the opinion of all parties [they must be] forbidden .

[E] And if at some point in the future the sherds are not going to be restored to their former, whole condition, in the opinion of all parties [they must be] permitted.

[F] *But thus we interpret the dispute*, [to deal with a case in which the disposition of the sherds is left] unspecified.

[G] R. Yohanan said, “Sherds, the disposition of which is left] unspecified are equivalent to sherds that are destined to be restored to their former, whole condition.”

[H] R. Simeon b. Laqish said, “[Sherds, the disposition of which is left] unspecified, are equivalent to sherds that are not destined to be restored to their former, whole condition.”

[I] (Said R. Yudan, father of R. Mattanaiah, “If they were left in their original place, they are equivalent to sherds that are destined to be restored to their original condition.”)

[J] *R. Simeon b. Laqish objected to R. Yohanan*, “And lo, it is written, “This is why the priests of Dagon and all who enter the

house of Dagon do not tread on the threshold of Dagon in Ashdod to this day' (1 Sam. 5:5) [which would indicate that it is not customary to restore the sherds to their former, whole condition].”

[K] He said to him, “This teaches that they behaved [with greater respect] for the threshold than they did for Dagon himself.”

[L] R. Jeremiah in the name of R. Hiyya bar Ba said, “The nations of the world made a single threshold, but Israel made a great many thresholds. The scriptural proof for this statement is as follows: ‘On that day I will punish every one who leaps over the threshold’ (Zeph. 1:9).”

[I:3 A] He who comes across an idol –

[B] Rab said, “He shatters it limb by limb, and it is thereby nullified.”

[C] Samuel said, “It is never subject to nullification [and its pieces are always prohibited for Israelites].”

[II:1 A] **[If one found a fragment of a hand or a foot [M. A.Z. 3:2B.]) –**

[E] R. Abin in the name of R. Simeon: “That rule applies to a case in which there is no pedestal with them, but if there is a pedestal with them, I claim that the hand or foot come from the sherds [of the statue, and one who says that a broken idol is permitted will permit an Israelite to derive benefit from these sherds, while the one who rules that a broken idol is never permitted will not do so].”

3:3

[A] He who finds utensils upon which is the figure of the sun, moon, or dragon, should bring them to the Salt Sea.

[B] Rabban Simeon b. Gamaliel says, “Those that are found on objects of value are prohibited, but those that are found on objects of no worth are permitted.”

[C] R. Yosé says, “One breaks them into pieces and throws the powder to the wind or drops them into the sea.”

[D] They said to him, “Also: they may be made into manure, as it is said, ‘And there will cleave nothing of a devoted thing to your hand’ (Dt. 13:18).”

[I:1 A] They repeated [the rule of M. 3:3A] only in the case of utensils **upon which is the figure of the sun, moon.** Lo, [if the representations] of

any other heavenly bodies [should be found on utensils, the stated rule does] not [apply].

[B] They repeated [that same rule] only in the case of **utensils upon which is the figure of a dragon**. Lo, [if the representations] of any other serpents [should be found on utensils, the stated rule does] not [apply].

[C] What is a dragon? It is any from the neck of which fringes come forth. *And so it has been taught*: R. Simeon b. Azzai says, “What is a dragon? It is any from the neck of which fringes come forth.”

[D] [A utensil bearing the image of one the neck of which is] smooth is permitted.

[E] He who finds [a utensil bearing] a dragon made in the shape of a reptile – [the utensil] is forbidden.

[F] [He who finds a utensil bearing] a reptile made in the shape of a dragon removes the [part of the utensil in the shape of] a reptile, and tosses out the [part of the utensil marked with the figure of a] dragon.

[G] Samuel said, “[If] the cup forms the pedestal for a dragon, it is prohibited. And [if] the dragon forms the pedestal for a cup, it is permitted.”

[H] R. Ba in the name of Rab: “The sherds of a dragon – lo, these are permitted. [If there was] a whole dragon that was shattered – lo, [the sherds] are prohibited.”

[I] But the sherds [referred to above] to begin with came from a whole [dragon, did they not]?

[J] R. Hezekiah in the name of Rab: “Thus [the situation under discussion is one in which] one saw [idolators] prostrating themselves before a whole dragon, which then was shattered. [In this case the sherds are] prohibited [for Israelite use or benefit] .”

[I:2 A] *Now how shall we interpret the matter [of M. 3:3B]? If it is a matter of certainty that [the sherds] were worshiped, then even those that are found on objects of no worth must be forbidden. And if it is a matter of certainty that they have not been subjected to worship, then even those that are found on objects of value should be permitted.*

[B] *Then we must interpret the rule to apply to an object in which the matter is unspecified [as to whether or not the object has been subject to veneration].*

[C] Said R. Qerispai: “Cups are objects of no worth.

[D] *“For R. Hiyya bar Ba had metal cups on which was incised the silhouette of Rome. He went and asked R. Yohanan [whether or not he might keep these cups], who said to him, ‘Since water flows over [the silhouette of Rome], it is an object of no worth, and this ladle, since you dip it into water, is a matter of no worth.’”*

[E] *In the days of R. Yohanan [Israelites] began to paint on the walls, and [the sages] did not stop them.*

[I:3 A] **R. Yosé [who rules that one breaks them into pieces and throws the powder into the wind or drops them into the sea] objected to the rabbis [who said the objects may be pulverized and made into manure], “And is it not written: ‘Then I took the sinful thing, the call which you had made, and burned it with fire and crushed it, grinding it very small until it was as fine as dust, and I threw the dust of it into the brook that descended out of the mountain’ (Deut. 9:21). [This would indicate that the object must be broken into pieces and thrown into the sea or into the river.]”**

[B] They said to him, “This verse [does not indicate how idols in general must be discarded, but serves to] teach that Moses planned to test them just as they test wives accused of adultery: ‘And he took the call which they had made and burnt it with fire and ground it to powder and scattered it upon the water and made the people of Israel drink it’ (Ex. 32:20).

[C] “And has it not been written, ‘He also removed Maacah his mother from being queen mother because she had an abominable image made for Asherah; and Asa cut down her image and burned it at the brook Kidron’ (1 Kings 15:13). [But he did not pulverize it, so it can have been used for manure.]”

[D] He said to them, “Is there any proof from that verse? ‘Asa cut down her image, crushed it, and burned it at the brook Kidron’ (2 Chr. 15:16). [This explicitly states that Asa did pulverize the idol.]”

[E] He said to them, “‘And he broke in pieces the bronze serpent that Moses had made, for until those days the people of Israel had burned incense to it’ (2 Kings 18:4). [This was an idol, and it had to be pulverized, and clearly could not be used for manure.]”

[F] [They said to him,] “Now was the serpent an idol? And did not Moses himself make it? But it teaches that the Israelites strayed

after it [as if it were an idol], so that Hezekiah came along and removed it.”

- [G] **One verse of Scripture states, “And the Philistines left their idols there, and David and his men carried them away” (2 Sam. 5:21).**
- [H] **And yet another verse of Scripture states, “And they left their gods there, and David gave command, and they were burned” (1 Chr. 14:12) [T. A.Z. 3:19].**
- [I] [This conflict in the account of the disposition of the idols is dealt with by] R. Yosé bar Halputa and the rabbis. R. Yosé bar Halputa says, “As to what was of metal: ‘And David and his men carried them away.’ And as to what was of wood: ‘And David gave command, and they were burned.’”
- [J] And the rabbis say, “What Itti the Githite nullified [since he was a gentile and so had the power to nullify the power of an idol]: ‘And David and his men carried them away.’ And what Itti the Githite did not nullify: ‘And David gave command, and they were burned.’”
- [K] Now how does R. Yosé ben Halputa interpret the passage, “And David and his men carried them away” [seeing that Israelites cannot derive benefit from idols]? They took them as small chips [once they had been nullified and no longer had the status of idols].

3:4

- [A] **Peroqelos b. Pelosepos [“Pericles the Philosopher”] asked Rabban Gamaliel in Akko, when he was washing in Aphrodite’s bathhouse, saying to him, “It is written in your Torah, ‘And there shall cleave nothing of the devoted thing to your hand’ (Deut. 13:18). How come you’re taking a bath in Aphrodite’s bathhouse?”**
- [B] **He said to him, “They do not give answers in a bathhouse.”**
- [C] **When he went out, he said to him, “I never came into her domain. She came into mine. They don’t say, ‘Let’s make a bathhouse as an ornament for Aphrodite.’ But they say, ‘Let’s make Aphrodite as an ornament for the bathhouse.’**
- [D] **“Another matter: If someone gave you a lot of money, you would never walk into your temple of idolatry naked or suffering a flux, nor would you urinate in its presence.**
- [E] **“Yet this thing is standing right at the head of the gutter and everybody urinates right in front of her.**

[F] **“It is said only, ‘...their gods’ (Deut. 12:3) – that which one treats as a god is prohibited, but that which one treats not as a god is permitted.”**

[I:1 A] *How shall we interpret [the discourse with the nonbeliever]? If he asked him a question about the laws of the bathhouse, then [even in the bathhouse] he should have answered him [since, as we shall see, B, it surely is permissible to answer a question about the laws of the bathhouse when one is in the bathhouse]. And if it was not about the laws of the bathhouse, he should not have answered him at all.*

[B] For R. Jacob bar Idi said in the name of R. Joshua b. Levi, “It is permissible to ask questions about the laws of the bathhouse in the bathhouse itself, laws of the privy in the privy itself.”

[C] *[A relevant precedent is] as follows: R. Simeon b. Eleazar went up to bathe with R. Meir [on the Sabbath in the hot springs of Tiberias]. He said to him, “What is the law as to our rinsing off?”*

[D] He said to him, “It is forbidden.”

[E] “What is the law as to our wiping ourselves off?”

[F] He said to him, “It is forbidden.” [This proves that one may reply to questions pertaining to the laws of the bathhouse when in the bathhouse.]

[G] But [to the contrary] did not Samuel ask Rab, “What is the law as to answering, ‘Amen,’ in a filthy place [e.g., such as a privy]?”

[H] He said to him, “It is forbidden. *And, furthermore, it is forbidden for me to say to you, ‘Forbidden’!*” [This proves, to the contrary, that one may not engage in such a discussion in that location.]

[I] *It is found taught [in a Tannaitic tradition]:* They do raise questions about the laws of the bathhouse in the bathhouse, and about the laws of the privy in the privy. [So the law necessitates answering.]

[J] Said Yudan, father of R. Mattanaiah, “[It is quite so that] concerning the laws of the bathhouse did [the nonbeliever] ask [Gamaliel]. But it is not customary to give answers in a bath house.”

[K] Said R. Samuel bar Abedimi, “Indeed concerning the laws of the bathhouse did he ask him, but the steam of the bathhouse is bad for the teeth. [Consequently, he did not want to engage in

discussion until he got outside, so as to avoid having to open his mouth.]”

- [I:2 A]** Associates, R. Hama bar Yosé in the name of R. Hoshaiyah, R. Zeira in the name of R. Joshua b. Levi: “[Gamaliel] gave the nonbeliever an answer merely meant to put him off [but not a serious reply].
- [B] “For if [he really wanted to give a serious reply], the nonbeliever should have answered him by reference to the incident of Baal Peor, the worship of which was only through flashing [self-exposure, and there is no more disgraceful deed, and yet this was deemed a mode of worship]. [So Gamaliel’s reply about not urinating before the idol is of no account, and the entire argument adds up to nothing.]
- [C] *What is the upshot of the matter [since there really is a problem facing Gamaliel]?*
- [D] That which one fears as a god is prohibited, but that which one treats not as a god is permitted.**

3:5

- [A] Gentiles who worship hills and valleys –**
- [B] these [hills or valleys] are permitted, but what is on them is forbidden [for Israelite use],**
- [C] as it is said, “You shall not covet the silver or gold that is upon them not take it.”**
- [D] R. Yosé says, “Their gods are on the mountains, and the mountains are not their gods. Their gods are in the valleys, and the valleys are not their gods.”**
- [E] On what account is an *asherah* prohibited? Because it has been subject to manual labor, and whatever has been subject to manual labor is prohibited.**
- [F] Said R. Aqiba, “I shall explain and interpret the matter before you:**
- [G] “In any place in which you find a high mountain, a lofty hill, or a green tree, you may take for granted that there is an idol there.”**
- [I:1 A]** R. Zeira, R. Yasa, R. Yosé bar Hanina in the name of R. Hoshaiyah: “One Scripture states, ‘You shall not covet the silver and gold that is upon them, nor take it for yourself’ (Deut. 7:25). And yet another verse of Scripture says, ‘And you have seen their detestable things, their idols of wood and stone, of silver and gold which were among them.’ Now if [it says] ‘upon them,’ then why does it say ‘among them,’ and if it says ‘among them,’ why does it say ‘upon them’?”

[B] “Just as ‘upon them’ refers to something that is set aside as an ornament for them, so that which is ‘with them’ [which is for bidden] is anything that is set aside as an ornament for them.”

[C] R. Yohanan in the name of R. Yannai: “Anything that is located within the hangings [in the sanctum] of the temple have they declared forbidden, for example, [even something that is not set aside as an ornament for the idol itself such as] money chests.”

[D] *Said R. Yasa, “We have a mnemonic [to remember that there: a dispute between A-B and C,] and it is this: R. Hoshaiah disputes the position of R. Yannai.”*

[E] *But that is not so. Indeed the one position supports the other, as follows:*

[F] Just as that which is “upon them,” something that is set aside as an ornament for them, [is forbidden,] so that which is “with them,” something that is set aside as an ornament for them, is forbidden. This then excludes money chests [if located outside of the veils of the sanctum].

[G] R. Ba in the name of R. Judah: “And even water and salt [pertaining to an idol will be forbidden] – salt for rubbing down the idol, and water to rinse it.”

[H] And as to this “even” it should be: *for example* [of what is set aside as an ornament], water and salt.

[I:2 A] [The following discussion assumes knowledge of M. Kil. 7:4, which is as follows: **He who trellises his vine over the grain of his neighbor, lo, (by violating the law against mixing grain in a vineyard) this one has sanctified (the grain underneath the vines) and is liable. R. Yosé and R. Simeon say, “A man does not sanctify something that is not his own.”** It is established elsewhere that the former position belongs to Judah and Meir.] As to [a beast] that has been worshiped [by a man] –

[B] *there are Tannaim who repeat, “Whether it belongs to the man [who worshiped it] or whether it belongs to his fellow, [that beast] is prohibited.”*

[C] *And there are Tannaim who repeat, “[If it belongs] to the man [who worshiped it], it is prohibited, but if it belongs to his fellow, it is permitted.”*

- [D] *The one who rules that*, whether or not the beast belongs to the man [who committed idolatry] or to his fellow, it is prohibited, is R. Judah. And the one who rules that if it belongs to the man [who worshiped it], it is prohibited, but if it belongs to his fellow, it is permitted, is R. Yosé and R. Simeon. [The reference, as noted, is to M. Kil. 7:4, and the basis for this conclusion is self-evident.]
- [E] R. Yosé in the name of [43a] R. Ila, “In point of fact, it is the position of all parties [including Yosé and Simeon]. *This is in accord with that which the law states*, ‘As to a living creature, even though [if it is worshiped by a third party] it is not forbidden to an ordinary person, it is forbidden to the Most High.’” [Thus even Yosé and Simeon concur that the beast that has been worshiped is forbidden, A, whether it belongs to the one who has committed the act of idolatry with the beast or whether it belongs to another party. But then the owner, if it is not the idolator, has the use of the creature for other purposes – so Yosé and Simeon.]
- [F] *And similarly*, as to something [you worship] that does not belong to you, even though it is not forbidden to an ordinary person, it is forbidden to the Most High.
- [G] R. Bun bar Hiyya said, “Even fine flour [that one has used for idolatrous purposes] – that which belongs to the man [who committed the act of idolatry] is forbidden, but that which belongs to his fellow is permitted [for ordinary use].” [This rule applies even to inanimate objects.]
- [H] *Is this in accord with the opinion of the one who ruled*, Whether it belongs to himself or to his fellow, it is forbidden? [The point is that] the argument does not pertain to something that is inanimate[, for all parties concede that someone cannot sanctify what is not his].
- [I] *Or perhaps R. Bun bar Hiyya comes to tell you that the Mishnah addresses the case of an animate creature*, [on which all parties agree,] [and] concerning what do [the authorities] differ [if not] concerning an inanimate object?
- [J] No, lo, [if] an animate object is prohibited [under the stated circumstances], will an inanimate object not all the more so be forbidden! [So I’s version is not possible.]
- [K] [But the real meaning of G is this:] The point is that you should *not* say, Just as you have ruled there, an animate object, even though it is not forbidden to an ordinary person, is

forbidden to the Most High, similarly [you should not maintain that] an inanimate object not your own [that you have worshiped], even though it is not forbidden to an ordinary person, is forbidden to the Most High[, for that is not the case of an inanimate object in the view of Bun bar Hiyya].

- [I:3 A] [If a gentile] prostrated himself in worship before an egg –
- [B] Hezekiah said, “He has not prohibited it [for Israelite use or benefit].”
- [C] Yohanan said, “He has prohibited it.”
- [D] Said R. Zeirah, “Concerning an [actual] egg do they dispute.”
- [E] *Associates say, “Concerning boulders in a valley [and not an actual egg] do they dispute.”*
- [F] *Said R. Huna, “And Scripture itself supports the position held by associates: ‘Among the smooth stones of the valley is your portion; they, they are your lot’ (Is. 57:6)”.*
- [G] *The extremely lenient position of Hezekiah is on the basis of this statement: **On what account is an asherah prohibited? Because it has been subject to manual labor, and whatever has been subject to manual labor is prohibited.*** [Now the stones of a valley have not been worked by man, so the stones or the egg will not be prohibited, in line with B.]
- [H] All agree in the case of wheat [that a gentile has worshiped,] that it is prohibited[, for it is subject to manual labor].
- [I] For R. Haninah bar Yasa in the name of R. Judah: “The roots of wheat extend into the earth by fifty cubits; the roots of a young fig extend into a rock.”
- [J] What is the scriptural proof for that statement? “I the Lord am its keeper; every moment I water it” (Is. 27:3).
- [K] *It was taught by a Tannaitic tradition: R. Simeon b. Eleazar says, “This verse teaches that the earth drinks [the rains] only as far as its upper layer goes.”*
- [L] If so, what should the roots of a carob or a sycamore do?
- [M] Said R. Haninah, “Once every thirty days the great deep rises up and waters them.”
- [I:4 A] An egg belonging to an idol that hatched and produced a chick –

- [B] R. Haggai in the name of R. Josiah: “Kahana and Hezekiah dispute about this matter.
- [C] “Kahana said, ‘It is permitted.’
- [D] “And Hezekiah said, ‘It is forbidden.’”
- [E] *Now a question to be addressed to the position of Hezekiah is this:* How is it possible that an egg belonging to an idol should hatch and produce a chick?
- [F] *For how shall we interpret the case?* If it is a case in which one has beaten out of shape the face of the idol [and so nullified it], there is no question of a chick [for the egg will have been destroyed with the idol].
- [G] If it is a case in which one brought the egg inside of the hangings [into the sanctum as an offering to the idol], do [we] *go and see* whether one has bowed down to it! [That is irrelevant in light of M. A.Z. 3:5E. Hezekiah on that count has not forbidden it.]
- [H] But it is because one has brought it within the hangings that [Hezekiah] has forbidden it.
- [I] Said R. Yudan father of R. Mattenaiah: “Interpret the dispute to concern a case in which one has rolled the egg in toward the altar [in which case the condition of M. A.Z. 3:5E – an act of manual labor – has been met].

[I:5 A] A nut subject to the *orlah* taboo [that is, deriving from a tree subject to the taboo-against using the fruit of a tree in the first three years of its growth] that one planted,

[B] and so too: an egg subject to a vow of sanctification that hatched and produced a chick –

[C] R. Yasa: “Kahana and R. Yohanan disputed about this matter.

[D] “Kahana said, ‘It is forbidden.’

[E] “And R. Yohanan said, ‘It is permitted.’”

[F] Said R. Zeira before R. Yasa, “And has not R. Yohanan said, ‘It is permitted,’ [but] even he [requires that] one redeem it at [its value at] the time that he planted it.”

[G] There came R. Hananiah, R. Yonah, R. Eleazar in the name of Kahana: “One redeems it at [its value at] the time at which he planted it.”

[H] R. Hananiah in the name of R. Pinhas said, “The matter must be corrected as follows:

[I] “Kahana said, ‘It is forbidden, and one redeems it as is.’

[J] “R. Yohanan said, ‘It is permitted, and one redeems it at [its value at] the time that he planted it.’”

[II:1 A] Said R. Aqiba, “I shall explain and interpret the matter before you: In any place in which you find a high mountain, a lofty hill, or a green tree, you may take for granted that there is an idol there.”

[B] [In reference to the language Aqiba uses, ‘WBYN, translated, “explain and interpret,”] *we repeat the tradition*, ‘WBYN.

[C] *But there are Tannaim who repeat the tradition as* “‘WBYL before you,” that is, “I shall discuss before you.”

[D] *He who said [that it is correct to read]* ‘WBYN means, “Let us understand the subject.”

[E] *And one who said*, “‘WBYL” means, “Let us discuss the subject.”

[F] *R. Boreqai taught before R. Mana*, “This verse [Deut. 7:28] teaches that the Canaanites did not leave a single mountain or valley on which they did not perform an act of idolatrous service.”

[G] *Now have we not reasoned and ruled*, Something that is animate, even though it is not forbidden to an ordinary person, is forbidden to the Most High?

[H] [If so, how did they know] where the Chosen House [of the temple] was to be built?

[I] It was in accord with the instruction of the prophet: “So David went up at Gad’s word, which he had spoken in the name of the Lord” (1 Chr. 21:19).

3:6

[A] He [the wall of] whose house was adjacent to [and also served as the wall of the temple of] an idol, and [whose house] fell down –

[B] it is forbidden to rebuild it.

[C] What should he then do?

[D] He pulls back within four cubits inside his own property and then rebuilds his house.

- [E] [If there was a wall belonging] both to him and to [the temple of an] idol, it is judged to be divided half and half.
- [F] The stones, wood, and mortar deriving from it impart uncleanness in the status of a dead creeping thing, for it is said, “You will utterly detest it” (Deut. 7:26).
- [G] R. ‘Aqiba says, “In the status of a menstruant[‘s uncleanness], as it is said, ‘You shall cast them away as a menstrual thing; you shall say unto it, Get you hence (Isa. 30:22).
- [H] “Just as a menstruating woman imparts uncleanness to one who carries her [or objects that she carries], so also an idol imparts uncleanness to one who carries it.”
- [I:1 A] “Abomination” is written in connection with the menstruating woman, “abomination is written in connection with dead creeping things, and “abomination” is written in connection with an idol.
- [B] In connection with the menstruating woman: “... for whoever shall do any of these abominations – [the persons] that do them shall be cut off ...” (Lev. 18:29). [Lev. 18:19 explicitly includes under the stated curse one who has sexual relations with a menstruating woman.]
- [C] In connection with dead creeping things: “You shall not eat any abominable thing” (Deut. 14:3).
- [D] In connection with idolatry: “And you shall not bring an abominable thing into your house and become accursed like it; you shall utterly detest and abhor it; for it is an accursed thing” (Deut. 7:26).
- [E] But I do not know to which matter an analogy is to be drawn.
- [F] R. Aqiba said, “It is to be compared to the abomination stated with reference to the menstruating woman:
- [G] **“Just as a menstruating woman imparts uncleanness to the one who carries her, so an idol imparts uncleanness to the one who comes it.”**
- [H] Or perhaps: Just as a menstruating woman imparts uncleanness [by the pressure of her weight when she is seated] on top of a large stone [to objects located beneath said stone], so an idol imparts uncleanness when located on top of a large stone [and not in direct contact with objects underneath the stone].
- [I] R. Zeriqa in the name of R. Haninah, *and there is he who holds he said it in the name of R. Hisda*, “R. Aqiba concurs with the sages that an idol does not impart uncleanness to [what is beneath] a large stone.”

- [J] And the rabbis state [that an idol is analogous] to the “abomination” stated with regard to dead creeping things.
- [K] Just as a dead creeping thing imparts uncleanness to the one who merely shifts its position [without bearing its weight], so the idol imparts uncleanness to the one who merely shifts its position.
- [L] Or perhaps should we argue: Just as a dead creeping thing imparts uncleanness when it is merely of the size of a lentil, so an idol should impart uncleanness when a sherd of it is so small as a lentil?
- [M] [That possibility is rejected in the following proof.] R. Zeira, R. Isaac bar Nahman, R. Eleazar, R. Abbahu in the name of R. Yohanan: “‘Then they attached themselves to the Baal of Peor, and ate sacrifices offered to the dead’ (Ps. 106:28). Just as a corpse imparts uncleanness through a piece of corpse matter the size of an olive’s bulk, so an idol will impart uncleanness when its sherd is the size of an olive’s bulk.”
- [N] Or perhaps [the verse of M should be interpreted to mean]: Just as a corpse imparts uncleanness once one has brought in [under the roof of a house so small a part of the corpse as] the tips of its fingers, might one say, “Also an idol should impart uncleanness when one has brought [under the roof of a house so small a part of the idol as] the tips of its fingers”?
- [O] The word “tear down” [NTYSH] is used both with reference to an idol and with reference to a house afflicted with plague [“You shall tear down their altars” (Deut. 12:3), “And he shall break down the house, its stones and timber and all the plaster of the house” (Lev. 14:45).]
- [P] [So one may] learn [the following rule] from the matter of the house afflicted with plague:
- [Q] Just as in the case of a house afflicted with plague, once one has poked in his head and the greater part of his body, [he h. become unclean], so in the case of an idol, once one has poked in its head and the greater part of its body[, it imparts uncleanness to objects under the roof of the house].
- [I:2 A]** Said R. Haninah, “That is to say that the uncleanness impute to an idol is not clear[ly derived from the Torah]. For if that were not so, would one compare it to a lesser [source of uncleanness], and not compare it to a more severe [source of uncleanness]?”

[B] Said R. Mana, “It is clear [that the source of uncleanness to which the idol is comparable is the Torah, even though the analogy is drawn to both a minor and a major source of uncleanness].

[C] “Now why does one compare it to a corpse and to a dead creeping thing? To derive evidence therefrom for the minor [forms] that apply to [both these sources of uncleanness]. [Th. is, the purpose is to impose on the idol the small volume sufficient to impart uncleanness that applies in the case of a corpse an olive’s bulk, and to compare the idol to the dead creeping thing in that the idol will not impart uncleanness to the one who carries it.]”

[D] *This [comparison to the corpse] is in line with the following:* [The minimum volume to impart uncleanness, an olive’s bulk, applies] to an idol that is broken, but in the case of an unbroken idol, whatever size it is[, it imparts uncleanness].

[E] This is in line with that which R. Yosé b. R. Bun said, R. Hama bar Gurion in the name of Rab: “[There was an idol] in the shape of the head of a penis, and there was one in the shape of a bean.”

[F] Now what is the scriptural basis [for this statement about the kind of idol just now described in the shape of a penis]? “And they made as their god the master of the mark of circumcision [Baal berith]” (Judges 8;33). [This indicates that there can be an idol in the stated shape.]

[I:3 A] *What is the scriptural basis of R. Aqiba[’s position, comparing the idol to a menstruating woman as to uncleanness]?* “You shall [utterly detest and] abhor it” (Deut. 7:26) – like menstrual uncleanness.

[B] *What is the scriptural basis of the rabbis?* “You shall utterly detest [and abhor it]” (Deut. 7:26) – like a dead creeping thing.

[C] How do the rabbis interpret the language adduced in evidence by R. Aqiba? [“Abhor it” means] treat it like excrement or carrion. [Supply: And how does R. Aqiba interpret the language adduced in evidence by the rabbis? “Detest it” means deface it.]

[D] And how do the rabbis provide scriptural proof that one must deface an idol?

[E] R. Samuel, R. Abbahu in the name of R. Eleazar: “[They cite this verse: ‘Then you will defile your silver-covered graven images and your gold-plated molten images. You will scatter them as unclean things;] you will say to them, ‘Begone!’ (Is. 30:22).”

[F] **The one whom they call “Face of God” [Israelites must call] “Face of Dog.” “Spring of the well” do they call “Spring of the thorn” [KWS, QWS]. “Fortune” [GDDY] do they call “Heap” (GLW’) [T. A.Z. 6:4C-D].**

[G] *R. Tanhuma asked in the name of R. Huna, “It is written, ‘[Joshua sent men from Jericho to] Ai, which is near Bethaven, east of [MQDM] Bethel’ (Joshua 7:2). Formerly [MQDM] they called it Beth El (house of God), but now they call it Beth-aven (house of falsehood).”*

[H] *It was taught in the name of R. Eleazar, “[If a person] did not want to call it by [an honorable name such as ‘omdah, then let people call it ‘amidah (‘piss-pot’)].”*

[I] *And they call urine-soaked dung an ‘amidah [as above].*

[J] *Now how do the rabbis interpret the verse in Isaiah, “You will say to them ...”?*

[K] *R. Yosé b. R. Abun, R. Huna in the name of R. Joseph: “How do we know that one does not say to a person, ‘Get out,’ before he pokes in his head and the greater part of his body [where he is not wanted]? [From the verse in Isaiah just now cited.]” [That is, they interpret the verse in a quite different context .]*

[I:4 A] *There is a version of the Mishnah tradition that states, “An idol is like a menstruating woman [as to uncleanness], and the appurtenances of an idol [also] are like a menstruating woman.*

[B] *And there is a contradictory version of the Mishnah tradition that states, “An idol is like a menstruating woman [as to uncleanness] but its appurtenances are like a dead creeping thing [as to uncleanness].”*

[C] *For the one [43b] who maintains, “An idol is like a menstruating woman and the appurtenances of an idol are like a menstruating woman,” [the verse adduced in evidence by Aqiba] poses no problems [in comparing the idol to a menstruating woman (Is. 30:22)].*

[D] *But the one who says, “An idol is like a menstruating woman, but the appurtenances of an idol are like a dead creeping thing” – the very essence of the cited verse refers as a menstrual thing only to the appurtenances of the idol [e.g., the gold plating! [So the verse adduced in evidence contradicts this view of the status of the appurtenances.]*

- [E] Interpret the verse to refer to that which is hammered into the body [of the idol itself].
- [F] For R. Jacob of Kefar Hanan said, “Interpret the statement to apply to a case in which one prostrates himself to the ephod [of an idol], as it is said, ‘And Gideon made an ephod [of the golden pieces given to him by the people] ...; and all Israel played the harlot after it there’ (Judges 8:27).”
- [G] *The Mishnah [in regard to Aqiba’s position] follows the opinion of the one who rules, “An idol is like a menstruating woman [as to uncleanness], but its appurtenances are like a menstruating woman, for thus have we repeated the pericope: **The stones, wood, and mortar deriving from [the wall belonging to a temple] Impart uncleanness in the status of a dead creeping thing [M. A..Z. 3:6F].** [And this differs from M. A.Z. 3:6G-H, so Aqiba will not concur.]*
- [H] Interpret the statement to apply to a case of one’s prostrating himself in worship to the house itself [and not merely to what is in it]. [For even though the house is attached to the ground, and so not subject to prohibition, it was originally not so, and was only attached later on.]
- [I] *This is in line with that which R. Ba, R. Huna in the name of Rab [stated]: “He who prostrates himself in worship to a house has prohibited [Israelite use or benefit from that house].”*
- [J] R. Zeira, R. Abbahu in the name of R. Yohanan “He who sanctifies a house – the laws of sacrilege do apply to it.”
- [K] *And the one who said, “The laws of sacrilege do apply to it” [maintains that] the one who has worshiped it has rendered it forbidden for Israelite use or benefit.*
- [L] *R. Haggai objected before R. Yosé, “And lo, the Mishnah takes a position at variance with that of Rab: **The trough which is [hewn] in the rock – (1) they do not draw with it, (2) they do not mix with it, (3) they do not sprinkle from it, (4) it does not require a tightly sealed stopper, and (5) it does not render an immersion pool unfit. [If] it was a [movable] utensil, and one [then] joined it with plaster [to the ground] – (1) they do draw with it, (2) they do mix with it, (3) they do sprinkle from it, (4) it does require a tightly sealed stopper, and (5) it renders unfit in the case of the immersion pool [M. Par. 3:5A-D].** Now the reason that the*

utensil is regarded as a utensil [in the second half of the rule and so] invalidates an immersion pool [if drawn water is poured from it into an immersion pool lacking the requisite volume of fit water] is that one has hewn it out and afterward attached it to the bedrock. Lo, if one attached it to the bedrock and afterward hewed out a container, what would be the rule governing the object?”

[M] Interpret the matter in line with the view of R. Yohanan: “Hewing stones is the completion of the act of manufacturing them [and at that point they are appurtenances of idolatry, even before being made part of the house].”

- [II:1 A]** *Now does this statement [of M. A.Z. 3:6F] not stand at variance with that which R. Simeon b. Laqish said, “An idol that was broken is permitted”?*
- [B] *And we have had the theory:* If in the future one plans to put the sherds back together, all parties concur that it is forbidden. [But here we do not know what will be done with the sherds.]
- [C] Interpret the matter to apply to a case in which one has prostrated himself in worship to each stone, and afterward put them all together. [Thus each stone was forbidden as an idol before the idol itself was made. When the idol broke, the sherds remained prohibited.]
- [D] *Does this same rule not stand at variance with the position of R. Yohanan, for R. Yohanan said, “An idol that was shattered is forbidden”?*
- [E] *And we had the theory:* “If one is not going in the future to put the sherds back together to their former, whole condition, then all parties should concur that [the sherds of the shattered idol are] permitted. [But here we do not know what will be done with the sherds.]
- [F] Interpret the rule to apply to a case in which one has prostrated himself in worship to a root and afterward planted it in the ground.
- [II:2 A]** Levi said, “One who prostrates himself to a house has forbidden it. But if he did so to a cave, he has not prohibited it.”
- [B] What is the difference between a house and a cave?
- [C] Said R. Haninah b. R. Hillel, “A house had a time in which it was distinct from the ground, but a cave never had a time at which it was distinct from the ground.”

- [II:3 A] *R. Yohanan interpreted the Mishnah [M. A.Z. 3:6A: **He whose house was adjacent to a temple**] to speak of a case of a convert [to Judaism] and a gentile who shared in the inheritance of their gentile father. [The gentile took a house containing an idol, the Israelite took the house next door, which had none.]*
- [B] Now why did he not interpret the Mishnah to speak of a case in which the temple containing the idol was brought and placed next to the house of the Israelite?
- [C] [*The reason Yohanan did not imagine so simple a case is that*] it was taught: A temple containing an idol was next to a house and afterward it was removed [since the wall fell down] – it is permitted [for the Israelite to use the wall's materials].
- [D] But a convert [to Judaism] and a gentile who shared in the inheritance of the estate of their gentile father [and the wall fell down] – [the use by the Israelite of the wall's materials] is forbidden.
- [E] *It was taught:* A temple containing an idol was next to a house and afterward it was removed – [use of the other house] is permitted.
- [F] But if the Israelite came along and set his house up against the wall of the temple to an idol, the entire house is deemed to be for the sake of the idol [and is prohibited for Israelite use or benefit].
- [G] *Said R. Yosé, “The Mishnah itself speaks of exactly that sort of case, when it states, **If there was a wall belonging both to him and to the temple of an idol, it is judged to be divided half and half** “ [M. A.Z. 3:6E].*

3:7

- [A] **There are three sorts of houses [so far as use as a shrine for idolatry is concerned]:**
- [B] (1) **a house which was built to begin with for the purposes of idolatry – lo, this is prohibited.**
- [C] (2) **[If] one stuccoed and decorated it for idolatry and renovated it, one removes the renovations.**
- [D] (3) **[If] one brought an idol into it and took it out – lo, this is permitted.**
- [I:1 A] *Rab and R. Yohanan – both of them say “The Mishnah pericope speaks of the situation prevailing when the Israelites entered the land [in which case there were houses built to begin with for idolatry, and these were forbidden, as at M. A.Z. 3:7B. Both authorities wish to*

explain why the Mishnah does not merely state, ‘He who prostrates himself in worship to a house has forbidden it,’ rather than the Mishnah’s specification of building the house for idolatrous purposes].”

- [B] Now in accord with the position of Rab, who said, “He who prostrates himself in worship to a house has prohibited [the house for Israelite use or benefit],” *it is a suitable explanation to explain the Mishnah to refer to the period at which the Israelites entered the land.*
- [C] *But in accord with the position of R. Yohanan, who said, “He who declares a house to be sanctified – the laws of sacrilege do not apply to it” [because the house to begin with is not truly sanctified, since it is attached to the ground, how is the Mishnah’s rule to be interpreted]?*
- [D] [Yohanan] may interpret the passage to refer to one who prostrates himself in worship to a house. [Now this is different from a house built to begin with for idolatrous purposes.]
- [E] [This then is the point of the Mishnah in Yohanan’s view:] He who prostrates himself in worship to a house – there is the possibility of nullifying the effects of his action. [But what was already subject to idolatry] when the Israelites entered the land is not subject to the possibility of nullifying the effects of idolatrous worship.
- [F] What should one do [in the case of a house originally built for idolatry]? One must take apart the doorposts, and it is then permitted.

[II:1 A] [With regard to M. A.Z. 3:7C] R. Ila in the name of R. Eleazar: “And this rule applies to the case of one who has brought an idol into the house.”

- [B] [*If that is the case, then*] *so far as the view of R. Eleazar is concerned, there are two categories of house [M. A.Z. 3:7C and D are the same].*
- [C] *And yet we have learned in the Mishnah, **There are three sorts of houses.***
- [D] In the one case [M. 3:7D] the idol was brought in for the interim, in the other [M. 3:7C] it was brought in permanently.

3:8

[A] **There are three sorts of stones:**

[B] (1) **a stone which one hewed to begin with for a pedestal – lo, this is forbidden.**

- [C] (2) **If one plastered it and adorned it for an idol and did something new to it, one may remove that which he made that is new and use the stone.**
- [D] [3] **If he set up an idol on an existing stone and then took it off, lo, this is permitted.**
- [I:1 A] R. Ba in the name of Rab: “On the basis of [this law of the Mishnah we infer that] slags that are smelted for use in idolatry are prohibited forthwith.”
- [B] R. Jeremiah in the name of R. Eleazar: “On the basis of [this law of the Mishnah we infer that] he who smelts metal for a cup for idolatry – it is forbidden forthwith.”
- [C] R. Hila in the name of R. Eleazar, “And that is the case if one has then set up an idol on top of it.”
- [I:2 A] *The opinions imputed to Rab are confused. There he has said “On the basis [of this law of the Mishnah we infer that] he who smelts metal for a cup for idolatry – it is forbidden forthwith.”*
- [B] *And here has he said this [statement]?*
- [C] *Interpret the passage in the manner of the following Mishnah law which we have learned there: **An idol belonging to a gentile is prohibited forthwith [when it is made]. And one belonging to an Israelite is prohibited only after it will have been worshipped [M. 4:4A-B].***
- [D] Now is it so that the argument concerns an idol? Perhaps it refers to its appurtenances.
- [E] R. Simeon in the name of R. Eleazar: “Also with regard to the appurtenances of an idol is there a dispute.”
- [F] R. Hila in the name of R. Eleazar, “And that is the case if one has then set up an idol on top of it.”
- [G] *In regard to the opinion of R. Eleazar, there will be two types of stones!*
- [H] And lo, we have learned, **Three stones?**
- [I] In the one case we speak of what is temporary, in the other, of what is permanent.

3:9

[A]. **There are three kinds of *asherahs*:**

[B] (1) **A tree which one planted to begin with for idolatry – lo, this is prohibited.**

[C] (2) **[If] he chopped it and trimmed it for idolatry, and it sprouted afresh, he may remove that which sprouted afresh.**

[D] (3) **[If] he set up an idol under it and then annulled it, lo, this is permitted.**

[I:1 A] R. Ammi in the name of R. Simeon b. Laqish said, “If one incised markings in it [gashed the sides of the tree], it is not subject to nullification.”

[B] [This point is obvious.] But it is needed to make the point, “Even if he removed the gashes [the tree is still prohibited].”

[I:2 A] *It was taught in a Tannaitic teaching:* If one grafted [something onto the tree], for the sake of an *asherah*, he removes that which he grafted onto the tree.

[B] Said R. Yannai, “And that rule applies to the case in which one has grafted on something for idolatry.”

[I:3 A] R. Hila in the name of R. Simeon b. Laqish: “And the law applies in a case in which one set up an idol under the tree.”

[B] *The theory of R. Simeon b. Laqish appears to be confused.*

[C] *There R Ammi said [in his name], “If one incised markings on it, it is not subject to nullification” And we reasoned and ruled that, even if one has then removed the gashes [it is not nullified as an idol].*

[D] *Yet here he has said this[, that if there is no idol under the tree, the tree is not prohibited]!*

[E] The rule is more strict in the case of incisions on the tree.

[I:4 A] *It was taught,* “If one has grafted onto the tree [a branch for an *asherah*], one removes what he has grafted onto the tree.”

[B] Said R. Hila in the name of R. Eleazar, “And that is the case one has set up an idol underneath the tree.”

[C] *In respect to the thesis of R. Eleazar, there are two sorts of asherah-trees, and yet we have learned, **There are three kinds asherahs [M. A.Z. 3:9C-D, vs. A].***

[D] In the one case we speak of an *asherah* that is temporary, in the other, permanent.

3:10

[A] What is an *asherah*? Any tree under which is located an idol.

[B] R. Simeon says, “Any [tree] which people worship.”

[C] M[’]SH: In Sidon there was a tree which people worshipped, and they found a pile of stones underneath it.

[D] Said to them R. Simeon, “Investigate the character of this pile of stones.”

[E] They did investigate it and found an image on it.

[F] He said to them, “Since they are worshipping the image [and not the tree], let us permit them to make use of the tree [itself].”

[I:1 A] Said R. Hisda, “In respect to a tree that is lacking in specification are the authorities [of M. A.Z. 3:10A, B] in dispute.”

[B] [*Explaining Hisda’s point, we proceed:*] Now how shall we interpret the matter?

[C] If it is a matter of certainty that they are worshipping the image and the tree, then all parties concur that [the tree] is forbidden.

[D] And if it is a matter of certainty that they are worshiping the image and not worshipping the tree, then all parties must concur that [the tree] is permitted.

[E] *But thus we must interpret the matter*, in a case lacking in all specification [as Hisda said].

[F] R. Simeon says, “In the case of those trees that are not specified, they are worshipping the image and the tree.”

[G] And the rabbis say, “In the case of those trees left without specification, they are worshipping the image, and they are not worshipping the tree.”

[H] *But there is a question [to be raised against this interpretation of the matter]*.

[I] [If so,] is it possible that R. Simeon differs from the sages and yet makes a concrete decision in accord with their view [for, at M. 3:10F, he distinguishes worship of the image from use of the tree, and this is a case of a tree left without specification, as at F, G? So the present view is that Simeon rules at M. A.Z. 3:10F, in practice, in accord with sages, G. That then is the question announced at H3;-

3:11

[A] One should not sit in [an *asherah*'s] shade, but if he sat in its shade, he is clean.

[B] And he should not pass underneath it, but if he passed underneath it, he is unclean.

[C] If it was overshadowing public domain, taking away property from public use, and one passed beneath it, he is clean.

[D] And they sow seeds underneath it in the rainy season, but not in the dry season.

[E] But as to lettuce, neither in the dry season nor in the rainy season [may one plant it there].

[F] R. Yosé says, “Also: [under an *asherah* one may] not [plant] vegetables in the rainy season,

[G] “because the foliage drops on them and serves as manure for them.”

[I:1 A] *There [in Babylonia] they say in the name of R. Hisda, “The shade [of an asherah] is forbidden, but the shadow cast by its shade is permitted.”*

[B] What is the shadow cast by its shade, and what is its shade?

[C] *There they said, “Any space that, if the tree should fall down, [its branches] would reach – this is [the area of its] shade.*

[D] And any space that, if the tree should fall down, [its branches] would not reach – this is [the area of the] shadow of its shade.

[E] On what account is the shadow [of an *asherah-tree*] prohibited?

[F] Because it is subject [to the prohibition of deriving] benefit [from an object of idolatry].

[G] [If that is the criterion, then] lo, the grave is prohibited for benefit, yet its shadow is permitted.

[H] Lo, there is the temple pile, [the shadow of which] is prohibited for benefit. And yet Rabban Yohanan b. Zakkai would sit and teach in the shadow of the temple pile [so it is merely to begin with that the prohibition applies (Pené Moshe)].

[I] *So the reason cannot be that [the shade of an asherah] is prohibited because of a prohibition of deriving benefit therefrom [for these cases do not run parallel].*

[J] R. Abin in the name of the rabbis from over there [in Babylonia]: “That is to say that the uncleanness of corpses is not clear[ly based on the rules of the Torah], for if that were not the case, then [how could we rule that] a grave that was over shadowing the public domain and beneath which one passed – he is clean [M. A.Z. 3:11C]! [So the decree concerning uncleanness derives from rabbinical and not scriptural authority.]”

[I:2 A] *Gamaliel Zuga was walking along, leaning on the shoulder of R. Simeon b. Laqish. They came across an image.*

[B] *He said to him, “What is the law as to passing before it?”*

[C] *He said to him, “Pass before it, but close [your] eyes.”*

[D] *R. Isaac was walking along, leaning on the shoulder of R. Yohanan. They came across an idol before the council building.*

[E] *He said to him, “What is the law as to passing before it?”*

[F] *He said to him, “Pass before it, but close [your] eyes.”*

[G] *R. Jacob bar Idi was walking along, leaning upon R. Joshua b. Levi. They came across a procession in which an idol was carried. He said to him, “Nahum, the most holy man, passed before this idol, and will you not pass by it? Pass before it but close your eyes.”*

[II:1 A] *Does this statement [M. A.Z. 3:11G: the foliage manures the crop] not stand at variance with the position of R. Yohanan, for R. Yohanan said, “An idol that was shattered remains prohibited.” Now did we not reason and rule, “If one was not going to restore it to its original, whole condition, all parties concur that it is permitted. [So why should we care about the foliage at all?]*

[B] Interpret the rule to speak of an idol belonging to an Israelite.

[C] *Does [43c] this then not stand at variance with the position assigned to Rab [at M. A.Z. 3:14], “[If he trimmed the asherah] for its own good, it is forbidden, but its chips are permitted,” [so once more why are we concerned about the chips]?*

[D] Once again interpret the rule to apply to an idol belonging to an Israelite.

[E] On what account does everyone want to keep away from [an idol belonging to an Israelite]?

[F] Because [an idol belonging to an Israelite] is bad even when disfigured.

3:12

[A] [If] one has taken pieces of wood from [an *asherah*], they are prohibited for benefit.

[B] [If] he lit a fire in the oven with them, if it is a new oven, it is to be overturned. If it is an old oven, it must be allowed to cool down.

[C] [If] he baked a loaf of bread in [the oven heated by the wood of an *asherah*], it is prohibited for benefit.

[D] [If] the loaf of bread was mixed up with other loaves of bread, all of them are prohibited as to benefit.

[E] R. Eliezer says, “Let him take the [funds received for the sale as a] benefit [from the tree] to the Salt Sea.”

[F] They said to him, “There is no form of redemption for an idol.”

[I:1 A] Said R. Hisda, “It is in the case of a piece of wood, the purpose of which is unspecified, that they differ [at M. A.Z. 3:12D-F].”

[B] *How shall we interpret the dispute?*

[C] If it is intended to burn it up, all parties concur that it is permitted.

[D] If it is to create smoke [and incense], all parties agree that it is prohibited.

[E] *But thus must we interpret the rule:* to deal with one that is not specified [of its purpose].

3:13

[A] [If] one took a piece of wood for a shuttle, it is forbidden for benefit.

[B] [If] he wove a garment with the shuttle, the garment is forbidden for benefit.

[C] [If] it was mixed up with other garments, and other garments with still others, all of them are forbidden for benefit.

[D] R. Eliezer says, “Let him take the funds derived from the benefit to the Salt Sea.”

[E] They said to him, “There is no redemption price for a matter of idolatry.”

[I:1 A] *Said R. Haggai, “When I got off the boat, I found R. Jacob bar Aha sitting and raising the question, ‘If one took wood for a shuttle it is*

forbidden for benefit. If he wove a garment with the shuttle, the garment is forbidden for benefit' [M. 3:13A-B].

- [B] “*And [Jacob added] have we not learned: ‘Let him sell the whole of it to a gentile, except for the value of the libation wine that is in it [which value he may not enjoy. But the rest is permitted].’*”
- [C] *Said R. Jacob bar Aha, “Haggai raised the question, and Haggai interpreted the law: What is the difference between the two cases? There it is not common for people to purchase [wine] from a gentile, but here it is common for people to purchase clothing from a gentile, [so we impose a strict rule, to take account of the possibility that a gentile will purchase the garment and resell it to an unsuspecting Israelite, who will be guilty of deriving benefit from the part of the cloth woven with an object belonging to an idol].”*

3:14

[A] How does one desecrate [an *asherah*]?

[B] [If] one trimmed it or pruned it, took from it a branch or twig, even a leaf – lo, this constitutes desecration.

[C] [If] one has trimmed it for the good of [the tree], it remains forbidden.

[D] [If he trimmed it] not for the good of the tree, it is permitted.

- [I:1 A] Rab said [with reference to M. A.Z. 3:14D], “If [the trimming] was for the need of the man, both the tree and the chips are permitted.
- [B] “If it is done for the sake of the tree, the tree is forbidden, but the chips are permitted.”
- [C] Samuel said, “If it is done for the need of the tree, both the tree and the chips are forbidden.
- [D] “If it was done for the convenience of the man, the tree is forbidden, but the chips are permitted.”
- [E] R. Yohanan said, “If it was done for the need of the tree, it is prohibited, but the chips are permitted.”

YERUSHALMI ABODAH ZARAH

CHAPTER FOUR

4:1

[A] R. Ishmael says, “Three stones, one beside the other, beside a Merkolis statue, are forbidden.

[B] “Two, however, are permitted.”

[C] And sages say, “Those which appear to belong to it are forbidden, and those which do not appear to belong to it as permitted.”

[I:1 A] *Said R. Ammi, “The reason of R. Ishmael is that [when there are three stones beside a statue of a Merkolis, they signify] a large Merkolis alongside a small Merkolis [and not because we take account of the possibility that the three stones have fallen from the idol itself, as is the reasoning of the sages, M. A.Z. 4:1C-D].”*

[B] *And the rabbis say [that the reason is that the nearby stones appear to serve as] the feet of Merkolis [which have fallen from the idol but are an integral part of it].*

[C] And [up to] how long a distance [from the idol will rocks be deemed] the feet of Merkolis?

[D] *R. Ba in the name of the rabbis from over there [Babylonia]: “[Those found within] fifty cubits [distance from the idol].”*

[E] The law governing the proper construction of Merkolis is this: two stones, one beside the other, with yet a third situated on top [of both of them].

[F] [If an Israelite] put on the second stone [thus not completing the idol, and also slaughtered a beast before the incomplete idol, and the beast was the dam of an offspring that had been slaughtered on that day, or the offspring of a dam that had been slaughtered on that day, so that there are two transgressions in view, one, building an idol, the other, slaughtering a dam and its offspring on the same day], and they had warned [the

Israelite] concerning violation of the law against slaughtering the dam and its offspring on the same day, [the Israelite] is given a flogging [on the count of violating the prohibition against slaughtering the dam and its offspring on the same day], but on the count of idolatry he is not stoned to death. [On this the authorities cited below concur. Their dispute is now to be spelled out.]

[G] [If an Israelite] set the third stone [on the pile, so completing the idol], *then we come to a dispute of R. Yohanan and R. Simeon b. Laqish. For thus do they argue:*

[H] He who slaughters a dam and its offspring for the sake of idolatry –

[I] R. Yohanan said, “If [others] gave warning to the man [43d] on the count of not slaughtering a dam and its offspring on the same day, he is given a flogging. If they gave warning on the count of idolatry, he is stoned to death [and not flogged].”

[J] R. Simeon b. Laqish said, “Even if [others] should give him warning on the count of not slaughtering the dam and offspring on the same day, he is not given a flogging, since, if they warned him on the count of idolatry, he would be stoned to death.”

[I:2 A] What then is [the definition of stones set up as] a Merkolis?

[B] It is any object [set up to serve as] a protective measure at the sea or by the wayside.

[C] The law [for serving a Merkolis is carried out] through tossing [a stone onto the pile].

[D] [If a gentile] prostrated himself in worship before such a statue, what is the law [since this is not the normal mode of worship]?

[E] Said R. Yosé, “The very essence of its being deemed a Merkolis is only through a gesture of respect such as prostration[, so even though that is not the normal mode of worship, it indeed is effective].”

[F] “[You shall make for yourselves no idols and erect no graven image or pillar, and] you shall not set up a figured stone in your land to bow down to them” (Lev. 26:1).

- [G] Is it possible to rule that one should not set two stones side by side and place his basket on top of them [so forming something like a Merkolis statue]?
- [H] Scripture states, "... to bow down to them."
- [I] To it you may not bow down, but you may place your basket on it [since this is no sign of respect].
- [J] "To it" you may not prostrate yourself, but you may prostrate yourself on the stones of the house of the sanctuary.
- [K] *Rab instructed the household of R. Aha, R. Ammi instructed the members of his household, "When you go out to a public fast, do not prostrate yourselves in your normal way [of doing so at home, because in the public place there is a mosaic floor]."*
- [L] *R. Yonah lay down on his left side. R. Ahai lay down on his left side.*
- [M] *Said R. Samuel, "I personally saw R. Abbahu lying down in his normal manner."*
- [N] *Said R. Yosé, "I raised this question before R. Abbahu, [phrasing it as follows:] Is it not written, 'You shall not set up a figured stone in your land to bow down to them'?"*
- [O] [He replied,] "Interpret the matter to prohibit establishing a permanent location [for prostration, outside of the temple]."
- [P] "And is it not written, 'When David came to the summit, where he would prostrate himself to God' (2 Sam. 15:32) [this being the summit of the Mount of Olives, and this would indicate that this was a place where prostration usually took place, and it was not the temple mount]?"
- [Q] "But this was a prostration that was not on the earth [and such is not subject to the prohibition of which the Scripture speaks]."
- [R] "And is there a prostration that is not on the earth?"
- [S] "[Yes, as it is written:] '[When all the children of Israel saw the fire come down ... upon the temple,] they bowed down [but did not prostrate] with their faces to the earth on the pavement ...' (2 Chr. 7:3)."

[T] [The following is added in connection with the interpretation of M. Shebu. 2:3, which states, **If one has made unclean in the temple courtyard, and [unwittingly] he prostrated himself, or remained therefore an interval sufficient for prostrating himself, if he then went out by the longer way, he is liable.**] The duration of tarrying then is to be specified. It is the time taken to recite the verse, “And all the children of Israel looked on, when the fire came down, and the glory of the Lord was upon the house; and they bowed themselves with their faces to the ground upon the pavement, and prostrated themselves, and gave thanks to the Lord” (2 Chr. 7:3). To this stated interval [the time taken to recite the verse], R. Abbahu added, “For he is good, for his mercy endures forever.”

[U] [To this interval] R. Mana added to “For he is good, for his mercy endures forever” [the further words] “upon Israel.”

[V] *R. Yohanan said to R. Hiyya bar Ba, the Babylonian, “Two rulings came up from your midst[, which we have accepted]:*

[W] “The total prostration spreading out of hands and feet, on the fast day;

[X] “and the custom of using the willow branch on the seventh day of the festival of Tabernacles.”

[Y] The rabbis of Caesarea say, “Also [the rules as to which day one may and which day one may not] let blood.”

[Z] [And this ruling about total prostration on a fast day that came up from Babylonia] is in accord with that which R. Ammi, the Babylonian, stated in the name of the rabbis of that locale, “They permitted prostration only at a public fast, and this is on condition that one did so lying on the side.”

[AA] *R. Yannai, Zeira in the name of his father:* “Whoever is not so worthy as Joshua, to whom, if he should fall on his face, God will say,

‘Arise’ (Joshua 7:10), should not fall on his face.

[BB] “But this is excepting an individual [worshipping] apart from the congregation.”

- [II:1 A] **And the sages say, “Those that appear to belong to it are forbidden, and those that do not appear to belong to it are permitted”**[M. 4:1C-D].
- [B] **Those that appear to belong to it** [are forbidden as part of] its body, and **those that do not appear to belong [to it are not forbidden as they are]** not part of its body.
- [C] **Those that appear to belong to it are forbidden** – does this rule not stand at variance with the position of R. Simeon b. Laqish?
- [D] For R. Simeon b. Laqish said, “An idol that was broken – [the sherds] are permitted.”
- [E] *Now did we not reason and say*, “If one was going to put them together whole, then in the view of all parties, [the sherds are] forbidden? [Now here, since the stones are near the idol, they evidently are going to be reassembled and reconstituted as the idol was to begin with.]
- [F] *And does it not also stand at variance with the position of R. Yohanan?*
- [G] For R. Yohanan said, “An idol that was broken – [the sherds] are forbidden.”
- [H] *Now did we not reason and say*, If one was not going to put them together again, then in the view of all parties [the sherds are] permitted?
- [I] [In this same connection] R. Yudan father of R. Mattenaiah said, “If the sherds were lying in their place, it is as if one plans to restore them to their original whole condition. And these stones are in their place.” [Now these stones are permitted, even though they are in essentially their own place, M. A.Z. 4:1D].
- [II:2 A] R. Ba in the name of Rab: “*Sometimes one may infer that the sherds of an idol are not subject to nullification [and always are forbidden], and sometimes you may infer that the appurtenances of an idol are not subject to nullification [and eternally forbidden].*”

- [B] *He who states the rule in regard to the appurtenances [that they are always prohibited] the more so will deem the idol itself [to be perpetually prohibited].*
- [C] *But the one who states that the sherds of an idol are perpetually prohibited – lo, the appurtenances are not [always going to be subject to prohibition of Israelite use or benefit].*
- [D] R. Samuel, R. Abbahu in the name of Rab: “Stones of a Merkolis that were scattered are never subject to nullification at any time, on the count of having been part of an idol.”
- [E] R. Yohanan heard this statement and said, “Well did Rabbi teach us, for thus it is the rule: ‘He who prostrates himself to an idol made up of an offering of food – [the produce] never can be nullified [from its status as part of an idol]’”
- [F] How then does one nullify it?
- [G] R. Hiyya bar Ada said, “By spitting [at it].”
- [H] *And has it not R. Hiyya taught, “Stones of a Merkolis that were scattered are never subject to nullification at any time”?* [So how do F-G apply?]
- [I] Said R. Pinhas, “In the one case, [in which the stones were] tossed toward the idol, [there can be no nullification, because the stones themselves constitute offerings to the god]. In the other case, in which the stones were not tossed toward the idol, [there can be nullification, because the stones themselves do not constitute offerings to the god but are merely sherds thereof].”
- [J] *This is in accord with the following: R. Simeon, son of Rabbi, had a Merkolis [built by gentiles] in a forest belonging to him. A station guardsman came to him and said to him, “Since I have heard that the ruler of the city wants to pass by here to morrow [I have to remove the stones from the road].”*
- [K] *He said to him, “By your life! You should remove these stones from them.”*
- [L] *After he had removed them, he went and wanted to take them [for himself].*
- [M] [Simeon] said to him, “They belong to me.”

[N] *R. Hiyya bar Vava heard and commented, “Now that man’s mother has a real son!”*

[O] *Now did not R. Hiyya the Elder teach this tradition [that an idol that has been nullified is available for Israelite use]?*

[P] *But when R. Hiyya the Elder heard this story, he fortified the law and established it as the norm. [And the deed was praiseworthy because Simeon had made the distinction between stones that had been tossed at the idol, which were permanently prohibited as an offering, and stones of the Merkolis itself, which were permitted once they had been nullified by gentile action.]*

4:2

[A] [If] one found on its head coins, clothing, or utensils, lo, these are permitted.

[B] [If one found] bunches of grapes, garlands of corn, jugs of wine or oil, or fine flour,

[C] or anything the like of which is offered on the altar –

[D] it is forbidden.

[I:1 A] Said R. Jonathan, “Bunches of grapes are not the end of the matter, but even bunches of roses [will be forbidden as something left as an offering on the altar].”

[B] Said R. Yosé, “A Merkolis with coins on its head is not the end of the matter [of what is permitted], but even if, in the case of an idol not surrounded by a veil, one found inside of the idol clothing or utensils, lo, these are permitted.”

4:3

[A] An idol which had a garden or a bathhouse –

[B] They derive benefit from them [when it is] not to the advantage [of the temple],

[C] but they do not derive benefit from them [when it is] to the advantage [of the temple].

[D] If it belonged both to the idol and to outsiders, they derive benefit from them whether or not it is to the advantage [of the temple].

[I:1 A] *Thus is the meaning of the Mishnah passage:* When it is to the advantage of the priests, when it is not to the advantage of the priests [of the temple of idolatry].

[I:2 A] **As to bagpipes belonging to an idol, it is forbidden to sell them [Tosefta: to make a lamentation with them]. If they were rented from the state, even though they were made for use of an idol, it is permitted to make lamentation using them. Shops belonging to an idol's [temple] it is prohibited to rent space in them. But if they provided a rental for the state, even though they were built for the use of an idol[’s temple], it is permitted to rent them. Charity collectors for a temple of idolatry – it is prohibited to give anything to them. But if they provided funds to the state, even though they are working for the welfare of an idol – it is permitted to give a contribution to them [as at M. A.Z. 4:3D].**

[B] *Now the Mishnah also has stated the same rule:* **If it belonged both to the idol and to outsiders, they derive benefit from them whether or not it is to the advantage [of the temple] [M. A.Z. 4:3D].**

4:4

[A] **An idol belonging to a gentile is prohibited forthwith [when it is made].**

[B] **And one belonging to an Israelite is prohibited only after it will have been worshipped.**

[C] **A gentile has the power to nullify an idol belonging either to himself or his fellow gentile.**

[D] **But an Israelite has not got the power to nullify an idol belonging to a gentile.**

[E] **He who nullifies an idol has nullified its appurtenances.**

[F] **[If] he nullified [only] its appurtenances, its appurtenances are permitted, but the idol itself [remains] prohibited.**

[I:1 A] *R. Simeon b. Laqish said, “The Mishnah [M. A.Z. 4:4A] refers to a case of a gentile craftsman who manufactures [idols] for sale in the market place, for once he has completed the idol, it is a matter of certainty that he has prostrated himself in worship to it.”*

[B] [Since the Mishnah has stipulated, at M. 4:4B, that an idol made by an Israelite is prohibited only after it has been worshiped, the Mishnah author appears to take for granted that the idol in general is not worshiped forthwith upon the completion of its manufacture. That is what prompts] *R. Yosé to ask, “If it [really] is a matter of certainty that*

he has prostrated himself to it, *then is it not in such a case that we have learned in the Mishnah: **An idol belonging to a gentile is prohibited forthwith, and one belonging to an Israelite is prohibited only after it will have been worshipped?***”

[C] R. Hila in the name of R. Simeon b. Laqish: “He who hews [stone for] a statue for idolatry, even though you have ruled ‘The earth is not prohibited [by reason of idolatry, so what is yet attached to the earth is not subject to prohibition on account of serving for an idol],’ nonetheless they pronounce a warning to him [against his actions] for each act of hewing stone. When [the idol] is [then] detached [from the ground, once it is fully sculpted], he is to be given a flogging.”

[D] Said R. Yosé, “From the stated rule, you may infer the following: He who makes a statue for an idol [e.g., for decorating a beast, which is an idol], even though you have ruled, ‘Something that is animate is not prohibited [so the beast is not prohibited],’ they nonetheless pronounce a warning to him [against his actions] for each blow with the hammer. When the idol is completed, he is given a flogging.”

[I:2 A] **An idol belonging to a gentile is prohibited forthwith [M. A.Z. 4:4A].** Therefore it is subject to nullification.

[B] **And one belonging to an Israelite is prohibited only after it will have been worshipped [M. A.Z. 4:4B].** Therefore it is not subject to nullification.

[C] *Said R. Zeira, “There is no ‘therefore’ applicable here. But [one should state the rule], ‘It is not subject to nullification,’ or, ‘It is subject to nullification.’”*

[I:3 A] **An idol belonging to a gentile is prohibited forthwith, in line with the following verse of Scripture:** “You shall surely destroy [all the places where the nations whom you shall dispossess served their gods]” (Deut. 12:2) – forthwith.

[B] **And one belonging to an Israelite is prohibited only after it will have been worshipped,** in line with the following verse of Scripture: “Cursed be the man who makes a graven or molten image, an abomination to the Lord, a thing made by the hands of a craftsman, and sets it up in secret” (Deut. 27:15) – when he will set it up.

[C] *There are those who reverse the matter:*

[D] **An idol belonging to an Israelite is prohibited forthwith**, as it is written, “Cursed be the man who makes a graven or molten image.”

[E] **And one belonging to a gentile is prohibited only after it will have been worshiped**, as it is written, “You shall surely destroy all the places where the nations whom you shall dispossess served their gods.”

[F] *R. Isaac bar Nahman in the name of Samuel derived that same view [that an idol belonging to a gentile is prohibited only after it will have been worshiped] from the following: If one has inherited [the idol] when it [already] is deemed a god, “in fire will you burn it,” and if not: “whom the nations whom you shall dispossess ... their gods.” [“You shall tear down their altars and dash in pieces their pillars and burn their Asherim with fire ...”] (Deut. 12:2-3). [That is, if you have inherited the idol at a point at which it has already been served as a god, you must burn the idol. But if not, then those not already worshiped which you inherit are yours and may be sold, with the profits for Israelite benefit.]*

[II:1 A] [With reference to the following passage of the Mishnah: **A gentile has the power to nullify an idol belonging either to himself or his fellow, but an Israelite has not got the power to nullify an idol belonging to a gentile,**] *R. Yohanan in the name of R. Yannai derived that view from the following verse of Scripture: “You shall not covet the silver or the gold that is on them or take it for yourselves” (Deut. 7:25). “You may not covet and take [that gold], but other may covet [the gold], and then you may take it.”*

[B] *R. Yohanan said to Bar Derosai, “Go, break all the idols that are in the public baths [of Tiberias],” and he went and broke all of them except for one.*

[C] And why so?

[D] Said R. Yosé b. R. Bun, “Because a certain Israelite was suspected of going and offering incense on that one[, and an idol worshiped by an Israelite is not subject to nullification at all].”

[E] *R. Hiyya bar Ashi in the name of Rab: “Rabbi was sitting and repeating to R. [44a] Simeon, his son, the following tradition: ‘A gentile has the power to nullify an idol belonging either to himself or to his fellow[, but an Israelite has not got the power to nullify an idol belonging to a gentile] [M. A.Z. 4:4C-D].’*

[F] *“He said to him, ‘While you are still in your youth, I repeated the tradition [to you] as follows a gentile has the power to nullify an idol belonging either to himself or to an Israelite.’*

[G] *“He said to him, ‘No, my son: An idol that an Israelite has worshiped is never subject to nullification!’”*

[H] *And there is a Tannaitic teaching along these same lines:*

[I] R. Simeon b. Menassia says, “An idol that an Israelite has worshiped is never subject to nullification.”

[J] *Rab taught the tradition in the name of this Tannaite authority who adduced in evidence the following Scripture: “Cursed be the man who makes a graven or molten image, [an abomination to the Lord, a thing made by the hands of a craftsman, and sets it up in secret]” (Deut. 27:15) – [cursed be he] forever.*

[K] *Bar Qappara found a ring bearing an image. An Aramaean shepherd boy was running after him, wanting to pick it up. [Bar Qappara] pressed the boy despite it [nullify it through disrespect]. He told him to spit on it [and so nullify its status as an idol], but the boy would not agree to do so. He urged him then to piss on it, but he would not agree to do so.*

[L] *This [story] is in line with the rule: **A gentile has the power to nullify an idol belonging either to himself or to his fellow** [even if] this is under coercion.*

[M] And this applies only in the case of [a gentile] who knows the character of the idol belonging to him [as in the story of K].

[N] The law states: An idol that an Israelite has worshiped is never subject to nullification.

[O] But why not let it be treated as an idol the worshipers of which have abandoned [in peacetime] [M. A.Z. 4:6], and let it be nullified on that count?

[P] Said R. Zeira, -”Over any [idol] that, on its own, may be subject to nullification, does an Israelite have the power to nullify, and over any idol that, on its own, may not be subject to nullification, does an Israelite not have the power of nullification.”

[II:2 A] Rab said, “A pedestal [from which the idol is removed still] is not subject to nullification.”

[B] Lo, if [gentiles] nullified it, it indeed is null [as an idol. So it is regarded as an idol].

[C] *The opinions attributed to Rab are confused.*

[D] There [at M. 3:8 we said, “On this basis, ‘He who smelts ore and pours a metal cup for the purposes of idolatry – it is forbidden forthwith.’ [So the appurtenance, the cup, is forbidden forthwith. Then the pedestal is an appurtenance.] *And here he has said this [that the pedestal is deemed an idol itself]?”*

[E] In the one case, it is an instance in which the idolator has offered incense [to the pedestal], and in the other case it is an instance in which he has not offered incense [to the cup].

[F] *And even if you rule, “Both statements refer to cases in which the idolator offered up incense,” nonetheless Rab is consistent,* for Rab has said, “On this basis: If one has smelted ore and poured a metal cup for idolatry, the cup is prohibited forthwith.”

[G] Rab said, “A pedestal is never subject to nullification.” Lo, its appurtenances [by contrast] will be subject to nullification.

[H] *The opinions attributed to Rab are confused.*

[I] In the one case, R. Sheshet said in the name of Rab, “[In regard to the rule of M. A.Z. 4:6C-D: **Pedestals set up for kings, lo, these are permitted, since they set images up on them only at the time kings pass by,**] this rule applies to a case in which the kings went their way by a different route.”

[J] *And yet where has he said this?*

[K] In the one case, it is an instance in which the idolator has offered incense, and in the other case it is an instance in which he has not offered incense.

[L] *And even if you rule, “Both statements refer to cases in which the idolator offered up incense,” nonetheless, Rab is consistent,* for Rab has said, “On this basis: If one has smelted ore and poured a

metal cup for idolatry, the cup is prohibited forthwith.”

- [II:3 A] Said R. Yohanan, “When Scripture speaks of a statue, it refers to any sort of thing, even an individual rock. An altar is any that has numerous stones [brought together].”
- [B] Hezekiah said, “A statue – once one has damaged it, he has nullified it. An altar requires [for nullification that one] damage each stone [used to constitute the object].”
- [C] *A Mishnah teaching of Hezekiah himself contradicts this ruling of his:* “If you have torn down an altar, leave it; if you have broken a statue, leave it. [Thus no further action against the individual stones is required.]”
- [D] R. Zeira, R. Isaac bar Nahman in the name of R. Hoshaiyah, R. Hiyya R. Ba, R. Eleazar in the name of R. Hoshaiyah: “[Therefore by this the guilt of Jacob will be expiated, and this will be the full fruit of the removal of his sin]: when he makes all the stones of the altars like chalkstones crushed to pieces[, no Asherim or incense altars will remain standing]’ (Is. 27:9). Pursue them until you wipe out their sperm from the world.”
- [E] *But here:* “If you have [merely] torn down an altar, leave it; if you have broken a statue, leave it”?
- [II:4 A] It is written, “You shall make for yourselves no idols and erect no graven image or pillar, and you shall not set up a figured stone in your land, to bow down to them” (Lev. 26:1).
- [B] Is not the act of making them equivalent to setting them up? [So why shift word choices?]
- [C] Said R. Hila, “Making them is at the beginning of the prohibited act. Setting them up applies to any case in which the idol falls. One should not restore it to its original upright position.”
- [D] It is written, “You shall tear down their altars, and dash in pieces their pillars, and burn their Asherim with fire” (Deut. 12:3).
- [E] Now how do we know that the law stated here [breaking an altar] applies to the case described in the other setting [dashing pillars in pieces], and that what is stated in the other setting applies in the present case?

[F] Said R. Bun bar Hiyya, “Each rule surely applies to the case of the other: either break, or chop down, or tear down, in every case [of idolatry].”

4:5

[A] **How does one nullify it?**

[B] **[If] he has cut off the tip of its ear, the tip of its nose, the tip of its finger,**

[C] **[if] he battered it, even though he did not break off [any part of] it,**

[D] **he has nullified it.**

[E] **[If] he spit in its face, urinated in front of it, scraped it, threw shit at it, lo, this does not constitute an act of nullification.**

[F] **[If] he sold it or gave it as a pledge on a loan –**

[G] **Rabbi says, “He has nullified it.”**

[H] **And sages say, “He has not nullified it.”**

[I:1 A] Said R. Zeira, “This rule you have stated [M. A.Z. 4:6A-B, that if one has sold it, there is a dispute] applies when one has sold it in times of peace. But if one has sold it by reason of wrath [against the idol, e.g., for not performing], then it is deemed by all parties to have been nullified.”

[B] “And when they are hungry, they will be enraged and will curse their king [and their God and turn their faces upward; and they will look to the earth, but behold, distress and darkness, the gloom of anguish; and they will be thrust into thick darkness]” (Is. 8:21-22).

[II:1 A] Zeora bar Hinenah in the name of R. Hananiah, “When one has sold it on account of need is the case under dispute [M. 4:5F-H].

[B] “But if one has sold it to one who will worship it, then all parties concur that this does *not* constitute a valid act of nullification.”

[C] R. Jeremiah in the name of Rab: “If one has sold it to those who will worship it, then the parties to the dispute disagree.

[D] “But if one has sold it by reason of need, all parties concur that this is a valid act of nullification.”

[E] R. Jacob bar Aha in the name of R. Yohanan: “All parties concur.”

[F] R. Hila in the name of R. Simeon b. Laqish: “It is subject to dispute.”

[G] And R. Haninah is in accord with R. Yohanan, and R. Jeremiah is in accord with R. Simeon b. Laqish.

[H] What is the upshot of the matter?

[I] If one has sold the idol by reason of need, the parties to the dispute differ.

[J] But if one has sold it to those who worship it, all parties concur that this does not constitute a valid act of nullification.

4:6

[A] An idol, the worshippers of which have abandoned it in time of peace, is permitted.

[B] [If they abandoned it] in time of war, it is forbidden.

[C] Idol pedestals set up for kings – lo, these are permitted,

[D] since they set [images up on them only] at the time kings go by.

[I:1 A] *It was taught*[, There are idols that gentiles left behind, expecting to return], in the war of Joshua, [and such idols are] prohibited, while [there are idols that gentiles left behind, not expecting to return,] in the wars of Joshua, and [such idols are] permitted.

[B] Similarly, [there are idols that gentiles left behind] in the wars of David, [and these they did not expect to recover, so these are] permitted. [There are, further, idols that gentiles left behind] in the wars of David, [and these they did expect to recover, so such an idol would be] prohibited.

[C] [An idol left behind] in the war of Joshua[, which would be] forbidden [is referred to in the following verse of] Scripture: “[In the cities of those peoples that the Lord your God gives you for an inheritance, you shall save alive nothing that breathes,] but you shall utterly destroy them” (Deut. 20:16). [These idols were never finally abandoned. Their owners were killed.]

[D] [Those left behind] in the war of Joshua would be permitted, for the people left them behind for a moment [expecting to return, and since the people have had a chance to return and get them and have not done so, they are permitted].

[E] [There are those left behind] in the wars of David, which are permitted, [for example,] the sort that Itti the Gittite would nullify.

[F] And there are those left behind in the wars of David, which are forbidden [because they were abandoned] forever, [because the people could not get back to retrieve them].

4:7

[A] They asked sages in Rome, “If [God] is not in favor of idolatry why does he not wipe it away?”

[B] They said to them, “If people worshipped something of which the world had no need, he certainly would wipe it away.

[C] “But lo, people worship the sun, moon, stars, and planets.

[D] “Now do you think he is going to wipe out his world because of idiots?

[E] They said to them, “If so, let him destroy something of which the world has no need, and leave something which the world needs!”

[F] They said to them, “Then we should strengthen the hands of those who worship these [which would not be destroyed], for then they would say, ‘Now you know full well that they are gods, for lo, they were not wiped out!’”

[I:1 A] [Tosefta’s version:] Philosophers asked sages in Rome, “[If] [God] is not in favor of idolatry, why does he not wipe it away?”

[B] They said to them, “[If] people worshipped something of which the world had no need, he certainly would wipe it away. But lo, people worship the sun, moon, and stars. Now do you think he is going to wipe out his world because of idiots? [M. 4:7A-D].

[C] “But let the world be in accord with its accustomed way, and the idiots who behave ruinously will ultimately come and give a full account of themselves.

[D] “Another matter: [If] one has stolen a seah of seeds for planting and gone and planted them in the ground, it is a matter of justice that they should not sprout. But let the world be in accord with its accustomed way, and the idiots who behave ruinously will ultimately come and give a full account of themselves.

[E] “Another matter: [If] one has had sexual relations with a married woman, it is a matter of justice that she should not give birth. “But let the world be in accord with its accustomed way, and the idiots who behave ruinously will ultimately come and give a full account of themselves” [T. A.Z. 6:7A-F].

[I:2 A] *Said R. Zeira, “If it were written, ‘Those who worship them are like them,’ there would be a problem. Are those who worship the sun like*

the sun, those who worship the moon like the moon?! But this is what is written: ‘Those who *make* them are like them; so are all who trust in them’ (Ps. 115:8).”

- [B] Said R. Mana, “If it were written, ‘Those who worship them are like them,’ it would pose no problem whatsoever. For it also is written, ‘Then the moon will be confounded, and the sun ashamed’ (Is. 24:23).”
- [C] R. Nahman in the name of R. Mana, “Idolatry is destined in the end to come and spit in the face of those that worship idols, and it will bring them to shame and cause them to be nullified from the world.”
- [D] Now what is the scriptural basis for that statement?
- [E] “All the worshipers of images will be put to shame, who make their boast in worthless idols” (Ps. 97:7).
- [F] R. Nahman in the name of R. Mana, “Idolatry is destined in time to come and to bow down before the Holy One, blessed be He, and then be nullified from the world.”
- [G] What is the scriptural basis for that statement?
- [H] “[All worshipers of images will be put to shameÉ;] all gods bow down before him” (Ps. 97:7).

4:8

- [A] **They purchase from gentiles [the contents of] a wine press which has already been trodden out,**
- [B] **even though [the gentile] takes [the grapes] in hand and puts them on the heap [“apple”],**
- [C] **for it is not made into wine used for libations until it drips down into the vat.**
- [D] **[And if wine has] dripped into the vat, what is in the cistern is prohibited,**
- [E] **while the rest is permitted.**
- [I:1 A] *R. Hanan taught* [in connection with the rule that one may purchase contents of a winepress that has already been trodden out], “And that [lenient ruling] applies to a case in which an Israelite has not removed his eyes [from the press during the treading]. But if [an Israelite] has removed his eyes from it, *it was not in such a case [that permission was granted to purchase the dregs of the winepress from the gentile].*”
- [B] *[Is the law to be treated as strict] to such an extent?*

[C] [Such a strict ruling as A's applies to] a case in which the gentile was taking wine and grapes together and putting them on the "apple." [Here there is wine to be protected from being used for a libation.]

[D] [If] he was putting [onto the "apple"] these by themselves and those by themselves [what is the law? Do we maintain that since the gentile was picking grapes out of the wine, the wine is treated as if it is by itself and is deemed libation wine?]

[E] Even as to what is left in the depressions of the vat –

[F] that which is under the grape clusters is permitted[, since it is not distinct from the grapes].

[G] That which is on the sides is forbidden[, since it is separate and distinct from the pulp] [cf. T. A.Z. 7:5D-E].

[H] R. Yosé b. R. Bun in the name of R. Yohanan: "[The wine in the depressions under the grape clusters] itself is forbidden[, for once the clusters are removed, this wine too remains separate from the pulp]."

[I:2 A] A winepress that a gentile stopped up [filling in the cracks] –

[B] [if he stopped up the vat from] the inside, [the wine] is forbidden, [and if he stopped up the vat] from the outside, it is permitted.

[C] [The basis for this distinction is that] it is not possible that there was not there a single moist drop [of wine in one of the cracks], which the gentile will touch and offer as a libation, thus rendering into libation wine whatever thereafter flows into the cistern.

[I:3 A] R. Huna in the name of Rab: "The jet [of wine flowing from the press] has the status of [the wine that already is in] the cistern. [That is, if a gentile touched the wine in the vat, it is as if he touched wine in the jet, and the wine is deemed libation wine.]"

[B] *R. Zeira raised the question*, "In every other place you do not treat that which flows as connected [to that from which the flow comes], but here do you treat that which flows as connected to the spout from which it flows? [This then contradicts M. Toh. 8:9]."

[C] *R. Huna considered* [ruling that if] the vat was deemed to be prohibited as libation wine, the jet [of wine flowing into the vat likewise] was deemed to be prohibited as libation wine. [The order of the above three entries should be C, opening the discourse, A,

illustrating what Huna has just said, and then, at B, Zeira raising the question about this egregious position.]

[D] R. Ba did not rule thus, but rather [he maintained]: “[If] the wine in the vat has been turned into libation wine, wine flowing into the vat from the spout has not been turned into libation wine. But if wine in the spout was turned into libation wine, what is in the vat also has been turned into libation wine.”

[E] *What then is the meaning of that which R. Huna said in the name of Rab:* “The spout has the same status as the vat[, so wine in the one has the same status as wine in the other]?”

[F] *The thinking of R. Huna is this:* “Just as wine in the vat may be turned into libation wine [in line with M. 4:8C], so wine in the spout may be turned into libation wine.”

[I:4 A] *There they say in the name of Rab,* “The very touch of a gentile turns wine into libation wine [without his stirring the wine at all].”

[B] R. Nahman b. Jacob said, “But that is on condition that he stirs the wine a bit.”

[C] *An Aramaean fell into a vat of wine. The case came before R. Huna. He ruled,* “They press down on him [so that he may not move about and stir the wine] until they can cause the wine in the vat to flow out.”

[D] *Said R. Hanina* “[But did we not see that] he spread his hand out [in a gesture of making a libation]?”

[E] *He said,* “Bring wicker baskets and strain out the wine that is under [44b] his hands [keeping it separate from the rest].”

[I:5 A] *Simeon bar Hiyya was teaching Hiyya bar Rab:* “A gentile – from what age does he [have the power to] make wine into libation wine?”

[B] He said to him, “From the age at which he knows the meaning of idolatry [and so carries out his obligation to do so, that is, at a young age].”

[C] *R. Josiah produced the relevant chapter [of law, the one before us,] saying to him,* “That which you have said applies to a case in which **one purchases from gentiles the contents of a winepress that has already been trodden out**, but as to a gentile himself, once he is one day old [his very touch has the power to] turn wine into libation wine.”

- [I:6 A] As to a gentile, what is the law covering his turning wine into libation wine through [the action of his] mouth [alone], [that is, merely drinking the wine, in which case he has no mind to make a libation]?
- [B] R. Ada in the name of R. Eleazar, “A gentile does not turn wine into libation wine through the action of his mouth alone.”
- [C] R. Jeremiah in the name of R. Abbahu: “A gentile turns wine into libation wine through the action of his mouth alone.”
- [D] *And so it has been taught in a Tannaitic tradition: A market inspector who tasted what was in a cup and then poured it back into the jug or who stuck in his siphon, and a drop in any measure at all flowed back from it into the jug – it is forbidden [T. A.Z. 7:6D-E].*
- [E] *In the view of R. Ada in the name of R. Eleazar:* “[That ruling applies to a case] in which the gentile put the wine back into the jug,” [for his merely tasting it does not make it libation wine].
- [F] *In the view of R. Jeremiah in the name of R. Abbahu,* “[That rule applies] even in the case in which an Israelite put the wine back into the jug,” [for once the gentile has merely tasted the wine, it becomes libation wine].

4:9

- [A] [Israelites] tread a wine press with a gentile [in the gentile’s vat].
- [B] but they do not gather grapes with him.
- [C] An Israelite who prepares [his wine] in a state of uncleanness –
- [D] they do not trample or cut grapes with him.
- [E] But they do take jars with him to the wine press, and they bring them with him from the wine press.
- [I:1 A] “[The rule that Israelites may tread a winepress with a gentile applies in a case in which,]” said R. Jonah, “[gentile] grape-treaders had already thoroughly trampled the grapes, warp and woof. But [if gentile] grape-treaders had not already trampled the grapes thoroughly, warp and woof, it is not in such a case [that it is permitted to tread a winepress with a gentile, since, as noted, in such a case, the Israelite joins in contaminating the produce of the Holy Land].”
- [B] *R. Yosé raised the question,* “If the law applies only in a case in which gentile grape-treaders had already thoroughly treaded out the vat, warp and woof, then even in accord with the first Mishnah [such an act should be prohibited to Israelites]:

- [C] **“At first they ruled, They do not gather grapes with a gentile [vs. M. A.Z. 4:9A], and they do not press grapes with an Israelite who prepares his wine in a state of uncleanness [M. A.Z. 4:9C-D]; they do press grapes with a gentile’ [M. A.Z. 4:9A; cf. T. A.Z. 7:1A-B].**
- [D] **“They reverted to rule, ‘They do not press grapes with a gentile [vs. M. A.Z. 4:9A] and they do not press grapes with an Israelite who does the work in a state of uncleanness’ [= M. A.Z. 4:9C].**
- [E] **“But they gather grapes with a gentile. And they assist him until he passes out of sight. Once he has passed out of sight, he may to be sure turn the wine into libation wine [but Israelites do not bear responsibility for that fact]” [T. A.Z. 7:1C].**

[F] *What is the reason for the ruling given by R. Jonah[, who maintained that the permission to tread grapes applies only at the end of the pressing of the grapes and not before? For from his viewpoint one could have taught that they may not press grapes with a gentile, meaning at the outset of the pressing. To be sure, one may not impart uncleanness to produce having an unconsecrated status. How is it possible to maintain that one may not cut grapes but may tread them? Why not simply say one may not tread them at all, for the reason that applies at the end is equally valid for the contrary decision at the outset]?*

[G] [The reason is] that the grapes have already been made unclean by reason of their having been made susceptible to uncleanness at the point at which the grapes were picked [and so, once the grapes are susceptible, the gentile has made them unclean, and there is no further reason for an Israelite to refrain from working with the gentile on the grapes. The uncleanness derives from the harvesting of the grapes, and, as is clear, there is no reason for taking further protective measures at the stage of treading out the grapes, since they now are unclean anyhow].

[H] *And what is the reason for the ruling given by R. Yosé, [who does not deem the Mishnah law to refer solely to the point at which the grapes have already been trodden out]?*

[I] His reason is that [the grapes in fact] were clean [as a matter of] the law of the Torah, and you [the rabbis] are the one[s] who declared them to be susceptible to uncleanness to begin with. [For the fact that grapes when cut are made susceptible to uncleanness is a decree of scribes, not a rule of the Torah. Consequently, the prohibition must apply not only at the end of the process of treading out the grapes, but throughout the prior processes as well.]

[J] *An argument for the position of R. Yosé [that it is prohibited to impart uncleanness to produce from which heave offering has not yet been removed] derives from that which R. Yosé said in the name of R. Hila [in reference to M. Hal. 3:2]: “In point of law, a person should be able to declare his produce from which heave-offering has not yet been removed to be exempt from liability to heave-offering as a matter of Torah law.*

[K] “[And the basis for this statement is as follows:] It is written, ‘And from it you shall give the Lord’s offering to Aaron the priest’ (Num. 18:28).

[L] “The law has treated giving the heave-offering to Aaron the priest as a matter dependent upon the priesthood of the priest himself.

[M] “Now here, since you cannot hand over the produce to Aaron the priest in full justice to his priesthood [because there is a matter of doubt affecting the dough of M. Hal. 3:2], you are permitted to impart uncleanness to the produce that has not yet had its heave-offering taken out of it. [This then supports the position of Yosé, who has given as his reason for the rule that one may not tread grapes with an Israelite who does not observe the cleanness laws the fact that one may not impart uncleanness to the produce of the land.]”

4:10

[A] **A baker who prepares bread in a state of uncleanness –**

[B] **they do not knead or cut out dough with him.**

[C] **But they may take bread with him to the dealer.**

[I:1 A] *And on this law [M. 4:10B] it has been taught: They do not stir grain in water, or mix with him.*

[I:2 A] Said R. Hila, “[With reference to M. Sheb. 5:9:] **A woman may lend a sifter, sieve, handmill, or oven to her neighbor who is suspected of transgressing the seventh year la-l, but she may not winnow or grind grain with her. The wife of a fellow [who keeps cultic purity] may lend a sifter or sieve to the wife of an ‘am ha’ares [who does not] and may winnow, grind, or sift grain with her.** In the case [in which one is permitted to winnow, grind, or sift grain with someone who will not preserve the cultic purity of the food], we deal with unconsecrated food, and in the case [in which one is not permitted to do so, as at M. 4:10A-B] we deal with food having the status of heave-

offering. [So unconsecrated food need not be kept cultically clean, and food having the status of heave-offering must be kept clean.]”

- [B] *Now [the Mishnah refers explicitly to] a baker. Can you claim that a baker deals in grain having the status of heave offering?*
- [C] *The associates state, “Here [where one may not deal with some one who does not observe the rules of cultic purity for ordinary food], we deal with grain that has been wet down [and so is susceptible to uncleanness], and there [where one may deal with someone who does not observe those same rules], we deal with grain that has not been wet down [and so is not susceptible to become unclean anyhow].”*
- [D] *Now has it not been taught [in the context of M. Sheb. 5:9, in which it is permitted to work with a person not careful about cultic cleanness of food], **But when she pours water over the flour, she may not draw near to her, since one may not help those who commit transgression.** [It follows that the associates’ point of differentiation is false, since the right to deal with someone who does not and someone who does keep the law in both instances involves insusceptible food.]*
- [E] *R. Hiyya and R. Ammi [in discussing the statement at M. Sheb. 5:9, **One may help gentiles working in the fields in the seventh year, bur nor Israelites, and one may greet gentiles in the interests of peace**], one said, “[One may say to the gentile], ‘Plough well, and I shall purchase it from you after the year of release.’” And one said, “[One may say to the gentile], ‘Do well.’”*
- [F] *In the view of the one who said, “[One may say to the gentile], ‘Plough well, and I shall purchase it from you after the year of release’ what is the law as to asking after their welfare? One says, ‘Be well.’”*
- [G] *And in the view of the one who said, “[One may say to the gentile only] ‘Be well’ – in what language do they ask after the welfare of an Israelite? One says, ‘Peace be unto you.’”*
- [H] *One time R. Hanina bar Papa and R. Samuel bar Nahman passed by someone who was ploughing in the seventh year.*
- [I] *R. Samuel bar Nahman said to him, “Be well.”*
- [J] *Said to him R. Haninah bar Papa, “And did not Rabbi teach us, ‘while those who pass by do not say, “The blessing of the Lord be upon you!” (Ps. 129:8) – [this verse means] that it is prohibited to say to those who plough in the seventh year, ‘Be well.’”*

[K] He said to him, “To cite Scripture you know full well, but to explain the meaning of Scripture you do not know at all. For have they not said: ‘Those who pass by’ – these are the nations of idolatry, who pass from the world, for they did not say to Israel, ‘May the blessing of the Lord be upon you.’”

[L] “And what do the Israelites reply to them? ‘We bless you in the name of the Lord!’ (Ps. 129:8).

[M] “For the Israelites say to them, ‘It is not enough for you that all good things and consolation come into the world on our account, and yet you do not say to us, ‘Come and take for yourselves some small part of the blessings.’”

[N] “‘Not only so, but you impose upon us taxes and excises, head-taxes and corvées.’”

[I:3 A] *R. Ammi gave instructions:* “To remove the bread from the oven with him [who prepares bread in a state of cultic uncleanness] is prohibited.

[B] “*And similarly*, to sprinkle [water] on the dough with him is prohibited.”

4:11

[A] **A gentile who is found standing beside a cistern of wine –**

[B] **if he had a lien on the vat, it is prohibited.**

[C] **[If] he had no lien on it, it is permitted.**

[D] **[If] he fell into the vat and climbed out,**

[E] **or (2) [if gentiles] measured it with a reed –**

[F] **or (3) [if] he flicked out a hornet with a reed,**

[G] **or [if] (4) he patted down the froth on the mouth of a jar –**

[H] **in regard to each of these there was a case,**

[I] **and [sages] ruled, “Let it be sold.”**

[J] **And R. Simeon permits [Israelites even to make use of it].**

[K] **[If] (5) he took a jar and threw it in a fit of temper into the vat –**

[L] **this was a case,**

[M] **and they declared it valid.**

[I:1 A] *R. Sheshet in the name of Rab:* “And this rule applies in a cast in which [the gentile] had a lien on that particular vat [in which case it is prohibited, M. A.Z. 4:11A-B]. But if he had no lien on that particular vat [it is permitted], for it is the manner of lien-holders to stand over

the winepress or threshing floor [of the borrower, to see how the debtor is doing in general, so that they can make certain of retrieving what has been lent; but the lender will not touch the wine not subject to a lien in particular].”

[B] *They contemplated ruling*, “He who said, ‘And this rule applies in a case in which [the gentile] had a lien on that particular vat [means one that stands] within the man’s grasp.’”

[C] “*And the one who ruled*, ‘This rule applies even in a case in which he did not have a lien on that particular vat,’ will extend the rule even to a vat that lies outside of the man’s grasp.”

[D] Now did not R. Ba in the name of R. Sheshet say, “Just as they applied the measure of ‘the grasp of the hands’ [so far as one can reach] in cases involving food to be preserved in cultic cleanness, so they laid down that same measure of ‘grasp’ [as far as one can reach] in cases involving wine possibly used for a libation.”

[E] *But thus is the upshot of the matter: The one who said*, “And this rule applies in a case in which one had a lien on that particular vat” [refers to one] within his grasp, *and the one who said*, “Even in a case in which he did not have a lien on that particular vat [the wine is deemed libation wine, refers to one] even beyond the man’s reach [outside his immediate grasp].”

[II:1 A] **[And R. Simeon permits Israelites even to make use of it] [M. A.Z. 4:11J]**. R. Abin in the name of R. Samuel: “The law is in accord with the opinion of R. Simeon.”

[B] R. Abin in the name of Samuel, “May I be atonement for R. Simeon: Either permit the wine for drinking, or prohibit it even for benefit.”

[C] Said R. Jeremiah in the name of R. Abbahu, “There was a case and in respect even to drinking the wine they ruled in accord with the position of R. Simeon.”

[III:1 A] [In reference to M. A.Z. 4:11K] R. Samuel in the name of R. Abbahu, “A gentile does not impart the status of libation wine through merely throwing.”

[B] A gentile – what is the law as to imparting the status of libation wine through an action done when he is angry?

[C] *Let us derive the law from the following:*

[D] *An Aramean has kegs in a storage house, and an Israelite came along and poured wine into them. The Aramean came along and*

brought his yoke and raised up the jugs in his anger and emptied them into the vat.

[E] *Now the case came before the rabbis, who ruled, “A gentile does not impart the status of libation wine through an action done in anger.”*

[III:2 A] R. Jeremiah in the name of R. Hiyya bar Ba, “This [wine,] which a gentile stirs into hot water, is prohibited [since it can have been used for a libation], but the wine that he mixes into cold water is permitted.

[B] “May a bad thing happen to me, if I have ever actually done so!”

[C] *R. Yasa went to Tyre. He saw the Israelites drinking wine mixed with hot water, and an Aramean waiter was mixing the wine for them.*

[D] *He said to them, “Who in the world permitted you to do things in such a way?!”*

4:12

[A] **He who in a condition of cleanness prepares the wine belonging to a gentile, and leaves it in his domain,**

[B] **in a house which is open to the public domain,**

[C] **in a town in which there are both gentiles and Israelites – [the wine] is permitted.**

[D] **[If it is] in a town in which all the residents are gentiles, [the wine] is prohibited,**

[E] **unless he sets up a guard.**

[F] **And the guard need not sit there and watch [the room all the time].**

[G] **Even though he comes in and goes out, [the wine] is permitted.**

[H] **R. Simeon b. Eleazar says, “Whatever [was in] the domain of a gentile is subject to the same law [that a watchman is required whether or not the shop was open to the public domain, and whether or not the town was half-Israelite].”**

[I] **He who prepares the wine of a gentile in a condition of cleanness and leaves it in his domain,**

[J] **and the latter wrote for [the Israelite a receipt, saying], “I received its price from you” – it is permitted.**

[K] **But if an Israelite wants then to remove the wine, and [the gentile] would not let him do so unless he paid the price of the wine –**

[L] **this was a case in Bet Shean, and sages declared [the wine] forbidden.**

- [I:1 A] R. Abbahu in the name of R. Yosé b. R. Haninah: “It is not the end of the matter that there be an open door [at M. 4:12B], but even if there is an open window, of a measurement of four by four by a height of ten cubits[, under the stated circumstances there must be a guard].”
- [B] But this is on condition that it be roofed over and closed off.
- [C] [Following Pené Moshe] [If] one had a [tree] growing [from which it was possible to see who entered and left a room, what is the law]?
- [D] *Let us rule:* [If it is possible to] see [an Israelite] going up and coming down on it, [the wine] is permitted, and if not it is forbidden[, since in the former case the gentiles will know that the wine is periodically inspected].
- [I:2 A] R. Ba in the name of R. Judah: “*The Mishnah speaks of a city that has gates and a latch [so that only access is limited].*”
- [B] “*In such a case it has been taught: ‘guard – even though he comes only at intervals.’*”
- [I:3 A] *It has been taught: A market to which an Israelite and a gentile bring wine, even though the guards are gentiles, even though the jars are open, [the wine in them] is permitted [T. 7:10A-B],*
- [B] because that is not the way in which they make libations.
- [I:4 A] R. Hila in the name of R. Yannai: “He who purchases [a property for storing wine] has the same status as he who rents out [space in a gentile’s house for the storage of wine].”
- [B] *And it has been taught in a Tannaitic tradition to the same effect:*
- [C] **All the same are he who purchases and he who rents a place in the domain of a gentile [for the storage of wine].**
- [D] **When the wine belongs to an Israelite, and the Israelite lives in the house, the wine is permitted.**
- [E] **But that is the case when the Israelite has a lock and a seal [for the kegs of wine].**
- [F] **Now when the wine belongs to a gentile, but an Israelite lives there [in the house, keeping watch on the wine, the wine still is] permitted.**
- [G] **And that is the case when the Israelite has a lock and a seal for the kegs of wine [cf. T. A.Z. 7:9A].**

[H] But if the Israelite does not dwell in the house [where the wine is stored, the wine is] prohibited.

[I] And that is the case even though he has a lock and a seal on the kegs of wine.

[II:1 A] R. Yelé in the name of R. Yannai: “They took issue with R. Simeon b. Eleazar [M. A.Z. 4:12H].

[B] *“It is not concerning this matter that the disagreement was expressed, but it was concerning the one that comes at the end: **He who prepares the wine of a gentile in a condition of cleanness and leaves it in his domain [etc., M. A.Z. 4:12I].*** [In this case, all types of gentile domain are subject to a single rule.

[C] “This wine is of the sort on which a gentile has a lien, so he will feel free to touch it. In such a case the distinctions of the sages — M. 4:12A] — apply, and Simeon b. Eleazar invokes a single rule.]”

YERUSHALMI ABODAH ZARAH

CHAPTER FIVE

5:1

[A] A [gentile] who hires an [Israelite] worker to work with him in the preparation of libation wine –

[B] [the Israelite's] salary is forbidden.

[C] [If] he hired him to do some other kind of work,

[D] even though he said to him, “Move a jar of libation wine from one place to another,”

[E] his salary is permitted.

[I:1 A] [Now why, at M. 5:1A-B, should the Israelite's salary be forbidden to him?] Does [the gentile] not pay him his salary [for his labor]?

[B] R. Abbahu in the name of R. Yohanán: “[It is] a fine that [the sages] have imposed upon him.”

[C] [But we have a ruling that in principle shows there is no such fine.] *It has been taught: Ass-drivers, porters, and all those who labor in connection with farming in the seventh year – their salary [may be in produce of] the seventh year [T. Sheb. 6:26].* [The meaning is that they may accept payment out of produce of the seventh year. This then would appear to contradict the view that a fine is imposed in the present instance in which laborers work on a matter, like produce of the seventh year, forbidden to Israelites.]

[D] *Said R. Zeira, “[The reason that in connection with labor in the seventh year the laborers may be paid as specified is that] the Mishnah [= Tosefta] speaks of a case in which [the laborers were working on] produce that was permitted [and not subject to the prohibitions of the seventh year at all, hence the two cases are to be differentiated from one another].”*

[E] [What follows takes for granted knowledge of M. Sheb. 8:4: “If one said to a laborer in the seventh year, ‘Here is an issar for you. Harvest

vegetables for me today,' the payment is permitted. But if he said, 'In return for the issar, harvest vegetables for me today,' the payment is forbidden. If a man bought from a baker a loaf worth a pundion, and said, 'When I have collected vegetables from the field, I shall bring them to you,' this is permitted. But if he bought it from him with no condition, he may not pay him with proceeds received for produce of the seventh year, since one may not pay a debt with proceeds received for the sale of produce of the seventh year." Elsewhere Judah and Nehemiah prohibit the transaction with the baker, for the same reason as is given at the end.] *Now [let us take up] that which R. Yohanan instructed the members of the house of Yannai, that they should not accept as their salary wine [having the status of produce of the seventh year] but rather coins. [It was] along the lines of the position of Judah and Nehemiah, [thus not utilizing the produce in payment of a debt] that he instructed them[, but the law follows the anonymous authority who permits this procedure, and hence there remains no contradiction between the two Mishnah rules, for, as said earlier, the right to use the legitimate produce of the seventh year paid as a salary is acceptable, while that same right does not extend to wine subject to the prohibition of libation wine].*

[F] [Rejecting this interpretation of the case of T. Sheb. 6:26,] *said R. Yelé, "The cited Mishnah passage refers to produce produced in transgression of the law of the seventh year [and yet permits the laborers to accept their wage, and the reason that the law here is different in principle simply is] in accord with that which R. Abbahu said in the name of R. Yohanan, 'As to libation wine['s not being a source of a salary to a laborer who has worked on it, the reason is that] it is a fine that [the sages] have imposed on him.'"*

[I:2 A] [If the gentile employer employed the Israelite to] carry with a jug [of legitimate liquid, also] a jug [of wine used as libation,] as to his salary, one imposes a fine upon [the Israelite] to the extent [of the salary paid for carrying] a jug [of libation wine] [thus Pené Moshe in line with M. 5:1A-B].

[B] [If the gentile employer] paid [the Israelite's salary for carrying libation wine] in real estate[, the use of the property is prohibited to the Israelite].

[C] In every other context you have ruled that real estate is not subject to prohibition, but here it is subject to prohibition.

[D] [If the gentile employer] paid him [for work in libation wine] in a beast for his salary[, the use of the beast is prohibited to the Israelite].

[E] In every other context you have ruled that an animate creature [such as a beast] is not subject to prohibition, but here it is subject to prohibition.

[F] [If the gentile employer] paid him any [sort of object for work in libation wine] for his salary, is [the use of the whole of] any [sort of object prohibited], or does the prohibition extend only to that which is received as a salary [for working on libation wine] only? [This question receives no answer.]

[G] [If an Israelite] was working [for a gentile on libation wine] only in exchange for the pleasure [of doing the latter a favor, e.g., in hope for some future favor in return], you exact a pledge in recompense from the property of [the Israelite] to the amount [he would have received] for his salary [had he been paid in money].

[I:3 A] [If an Israelite] was working [for a gentile] for half of the day on that which was prohibited [that is, on libation wine], and for half a day on that which was permitted [any other sort of produce, may he keep half of his salary]?

[B] [The answer to this question is adduced from the following:] [If] one was selling unconsecrated food as well as food having the status of second tithe in a single sale, whichever part [the purchaser] wishes he treats as unconsecrated food, and whichever part he wishes he treats as produce having the status of second tithe.

[C] Here likewise [we rule that the salary for half a day is forbidden, and the salary for the other half is permitted, and that is the case, even though the employer who owed the salary paid the entire sum at one time].

[D] *Let us [further] infer the law [about splitting up a single salary into fees for diverse acts] from the following:*

[E] He who hires a worker to bring wine to a sick person – if [the worker] brought to him, [the employer] is liable for paying him, and if not, [the employer] is not liable for paying him. But if he said to him, “Wine for a sick person [is to be brought] from such and such a place,” or “an apple for a sick person [is to be brought] from such and such a place,” [and the worker went to that place to retrieve the produce], whether [the worker then] brought [the produce to the sick person] or

whether he did not, [the employer] is liable for paying [the worker]. [He pays him the] salary for his trip. [Thus there is a salary to be paid for the trouble of making the trip, even though the agent did not in fact carry out what was expected of him. The reasoning in the mind of the one who adduces this rule is that the salary paid for that part of the labor which is permitted is available for the benefit of the laborer, even though the other part of the salary is not. The important fact adduced from this case, then, is that one does make distinctions among parts of a salary, e.g., part of it covers bringing the produce to the sick person, and that part is not paid, but part of it is paid for making the trip, and that part is paid. Here too we make distinctions among parts of the labor performed by the Israelite for the gentile, and that segment of the labor in legitimate crops does produce a salary that the Israelite laborer may utilize.]

[I:4 A] *R. Jeremiah raised the question: “[If the gentile] hired [an Israelite] to destroy jugs containing libation wine[, even in such a case is his salary prohibited]?”*

[B] Even in such a case his salary is prohibited.

[C] Assi said, “The proceeds received by a gentile for the sale of libation wine are prohibited.” [This is in line with the fact that the proceeds received by a gentile for the sale of an idol, in the opinion of Yohanan, which follows, are prohibited.]

[D] The proceeds received by a gentile for the sale of an idol –

[E] R. Jonathan said, “[The proceeds] are permitted [for Israelite benefit] .”

[F] R. Yohanan said, “[The proceeds] are forbidden [to Israelites for any purpose whatsoever].”

[G] *The Tannaite teaching may be cited as evidence in support of the position of this party, and the Mishnah teaching may be cited as evidence in support of the position of that party.*

[H] *The Mishnah teaching may be cited as evidence in support of the position of R. Yohanan:*

[I] A gentile who owed money to an Israelite may not say to him, “Wait until I sell libation wine ... ,” “... until I sell my idol ... ,” “and I shall then pay you.” For I maintain: Perhaps he may exchange [the funds received for the wine or idol for those set aside to be paid over to the Israelite, and an Israelite may not benefit from such funds].

- [J] *The Mishnah teaching may be cited as evidence in support of the position of R. Jonathan:*
- [K] A gentile who owed money to an Israelite – lo this one may sell libation wine and [then] pay the Israelite, or may sell an idol and pay the Israelite, [and that is] despite appearances.
- [L] [44d] All [in any event] concur in the case of that which is exchanged for an idol or for libation wine, that [that which is given in exchange] is forbidden [for Israelite use or benefit].
- [M] But what about what is exchanged [given] for what is received in exchange?
- [N] *Said R. Haninah, “It is a matter of dispute between R. Ishmael and the rabbis.”*
- [O] R. Ishmael b. R. Yosé said, “[The object received in exchange for what is received in exchange for an idol or libation wine] is prohibited.”
- [P] And the rabbis say, “It is permitted.”

[Q] *R. Eleazar bar Hoshaiah: “The scriptural basis for the position of the rabbis is as follows: ‘[And you shall not bring an abominable thing into your house] and become accursed like it; [you shall utterly detest and abhor it, for it is an accursed thing]’ (Deut. 7:26). “Whatever you can preserve from it – lo, this is like it [and prohibited]. [That is, what is exchanged for it, but not what is exchanged for what is exchanged for it.]”*

[R] *What is the basis [for Ishmael b. R. Yosé’s position]?*

[S] Said R. Yosé b. R. Bun, “‘like it,’ ‘like it’ is stated two times, in line with the following: ‘None of the devoted things shall cleave to your hand ...’ (Deut. 13:17).” [This then excludes even what is received in exchange for an idol or for libation wine.]

5:2

- [A] **He who hires an ass to bring libation wine on it –**
 [B] **its fee is forbidden.**
 [C] **[If] he hired it to ride on it,**
 [D] **even though the gentile [also] put a flagon [of libation wine] on it,**

[E] its fee is permitted.

[I:1 A] To what extent [is it permitted, in the case of M. 5:2 C-E, to add a flagon of libation wine to other things that a gentile has put on an ass driven by an Israelite driver, so that the Israelite nonetheless may retain his salary and not deem the salary the result of labor in connection with libation wine]?

[B] To such an extent that the ass-driver will not object [to the excess burden].

5:3

[A] Libation wine which fell on grapes –

[B] one may rinse them off, and they are permitted.

[C] But if [the grapes] were split, they are prohibited.

[D] [If] it fell on figs or dates, if there is sufficient [libation wine absorbed] to impart a flavor [to them], they are forbidden.

[E] There was the case of Boethus b. Zonen, who brought dried figs by ship, and a jar of libation wine broke open and dripped on them, and he asked sages, who permitted [the figs, once they had been rinsed].

[F] This is the governing principle: anything which bestows benefit through imparting a flavor is forbidden, and anything which does not bestow benefit through imparting a flavor is permitted –

[G] for example, vinegar [from libation wine] which falls on crushed beans.

[I:1 A] The Mishnah's law treats a case in which the berries were not forcibly detached from the stalk [in which case there is no point of entry for the wine].

[B] But if the berries were forcibly detached from the stalk, the berries are treated as equivalent to split ones [and forbidden].

[C] *How then do you treat such a case?*

[D] Do you deem it as equivalent to a mixture of one wine with another wine, or as a mixture of wine in a cooked dish?

[E] *If you treat such a case* as equivalent to a mixture of wine in a cooked dish, then all parties will concur that the mixture is prohibited.

[F] *But if you treat* the mixture as a mixture of one wine in an other wine, then there is a dispute between R. Meir and the sages. [The

sages will permit, if the wine spoils the taste of the grapes, in line with M. 5:3F; under all circumstances Meir will prohibit.]

- [I:2 A] Said R. Yohanan, “[In a case such as at M. 5:3G, in which vinegar from libation wine fell on crushed beans, the beans are permitted] in the case of hot crushed beans; but in the case of cold ones the mixture is prohibited.
- [B] “For so it is the way of Sepphoris people to prepare beans in that way, and they call it cress-dish [made by pouring vinegar into cold split beans and then warming them; this improves the beans].”
- [C] If they were warm and one cooled them off [what is the law? Do we rule that the bean-mush is prohibited when the vinegar fell into beans that to begin with were cold? Or do we maintain that even if the beans had been cooked and then allowed to cool off, once the vinegar having the status of libation wine has fallen into them, the beans are prohibited]?
- [D] [It is obvious that we deal with beans that are cold and have not been heated up at all. In such a case the vinegar improves them. But if they had been heated and then cooled off, the vinegar does not improve them, and the mixture is permitted.] For if you do not take this position, then even in the case of vinegar’s falling onto warm beans the mixture should be forbidden, since it is usual for the beans to cool off, at which point they will benefit from the vinegar!
- [E] *This is in line with that which is taught:*
- [F] **“All the same is that which bestows benefit through imparting a flavor and that which does damage through imparting a flavor – both are forbidden,”** the words of R. Meir.
- [G] **All the sages say, “If it is to the advantage [of the food], it is forbidden, but if it is damaging [to the food], it is permitted [T. Ter. 8:9].**
- [H] [Citing Y. Or. 2:5 and M. Ter. 10:2, Pené Moshe now supplies the following:] Said R. Simeon b. Laqish, “In what case do they differ? In a case in which [the prohibited substance] improved the character of the food and afterward damaged it, but if it damaged it and afterward improved it, even R. Meir will concur [that it is permitted].” R. Yohanan said, “There is no difference. Damaging or improving are equivalent to one another, as are improving then damaging. In all cases there is a dispute.” [Thus, Pené Moshe goes on, R. Simeon b. Laqish maintains that R. Meir differs not in a case in which there is damage from beginning to end; here he will concur that the mixture is

permitted. He differs where there is improvement at the outset, even though there is detriment caused at the end of the process. In such a case he declares the mixture forbidden. The criterion is what happens at the outset of the process of mixing, and if the improvement comes then, then the mixture is forbidden. In Yohanan's view, Meir more consistently will differ at whatever point the forbidden substance improves the mixture. Following Pené Moshe's version of the text, we proceed to the following, which carries forward G:] *For we have learned Barley [having the status of heave-offering] that fell into a vat of water – even though the barley polluted the water – the water is permitted [M. Ter. 10:].*

[I] *[Now does Meir concur in his case or does he differ?] Now what is the status of this Mishnah rule?*

[J] R. Yohanan said, "It is subject to dispute. [Meir will prohibit the water.]"

[K] R. Simeon b. Laqish said, "It is the opinion of all parties."

[L] *R. Yosé b. R. Bun said, "We have a tradition along these same lines. In accord with the view of R. Yohanan, it is subject to dispute, and in accord with the view of R. Simeon b. Laqish, it is the opinion of all parties."* [In this case the water at the outset pollutes the water. There is no improvement therein. Yohanan maintains that Meir differs in this case as well, and there is no distinguishing the point at which the improvement comes, beginning or end, or the point at which the damage is done, beginning or end. Yohanan assigns to Meir a totally consistent view. Simeon b. Laqish then makes the distinctions introduced above and assigns them to Meir as much as to the sages.]

5:4

[A] **A gentile who with an Israelite was moving jars of wine from place to place –**

[B] **if [the wine] was assumed to be watched, it is permitted.**

[C] **If [the Israelite] informed him that he was going away [the wine is prohibited if he was gone] for a time sufficient to bore a hole [in a jug of wine] and stop it up and [for the clay] to dry.**

[D] **Rabban Simeon b. Gamaliel says, "Time sufficient to open [the jar] and stop it up and for the clay to dry."**

[I:1 A] Said R. Samuel, “M’S^H B: A gentile with an Israelite was moving jugs of wine from one place to another. *The case came before R. Abbahu* who declared the wine prohibited.”

[B] *They say that the case involved open jars of wine.*

[C] Said R. Zeriqan, “It is not the end of the matter that [the rule applies to jugs that are] filled up, but even if they lack [some wine, so it is hard to get at the wine, they will be prohibited,] for [the gentile is suspected of] putting the jug down, touching the wine with his hand, and putting the cork back on the wine.”

[II:1 A] *Do you maintain that the ruling of Rabban Simeon b. Gamaliel is to produce a lenient ruling? That is not the case, but it is to produce a strict ruling.*

[B] *For the time sufficient to bore a hole and stop it up and for the clay to dry, specified by the rabbis, is less than time sufficient to open the jar and stop it up and for the clay to dry.*

[II:2 A] R. Judah bar Pazzi in the name of R. Ammi: “A roasted egg prepared by Samaritans, lo, this is permitted.”

[B] R. Jacob bar Aha in the name of R. Eleazar: “Cooked foods prepared by Samaritans, lo, these are permitted.”

[C] *This rule you have given applies to a dish in which it is not usual to put wine or vinegar.*

[D] Lo, [if] it is a matter of complete certainty that he put in wine or vinegar, it is prohibited, even for deriving benefit [e.g., sale by an Israelite].

[E] *This is in line with the following teaching:*

[F] At first they would rule, The wine of Zigidor [or: Ogedor, in Samaria] – why is it prohibited? Because of Kefar Pagash.

[G] And that of Borgeta [, why is it forbidden]? Because of the town of Soriqah.

[H] And that of ‘Ein Kushit? Because of Kefar Shalem.

[I] They reverted to rule as follows: If the jug of wine is uncorked, then in every location the wine is forbidden.

[J] If the jug of wine is sealed, in every place it is permitted.

[K] If the jug is pierced and then resealed, lo, this is tantamount to its having been left sealed.

[L] R. Isaac ben Haqolah said, “Lo, this is equivalent to one that had been left open.”

[M] *Said R. Haninah, “I can substantiate both rulings.*

[N] *“If there was on it a high price, it has not been opened.*

[O] *“And if not, it has been opened.”*

[P] *This [prohibition of Samaritan food and wine] is in accord with the following teaching involving R. Simeon b. Eleazar:*

[Q] *He went to a certain town inhabited by Samaritans. A scribe came to him. He said to him, “Bring me a sealed jug of wine.”*

[R] *[The scribe] said to him, “Lo, there is spring before you. Drink that.” [Thus he was hinting not to drink the wine.]*

[S] *[Simeon] pressed him further, and he said to him, “Lo, there is a spring before you. Drink.”*

[T] *[The scribe] saw him pressing him further, so he said to him, “Are you not master of your own desires? Lo, there is a spring before you, drink. But if you are not master of your own desires, then: ‘[When you sit down to eat with a ruler, observe carefully what is before you;] and put a knife to your throat if you are a man given to appetite’ (Prov. 23:1).”*

[U] *[Thus the story proved that by that time] the Samaritans had already been ruined [and ceased to be reliable in observing the law] .*

[V] *R. Ishmael b. R. Yosé went to the town of Neapolis [Nablus]. Samaritans came to him. He said to him, “I see that you do not bow down to that mountain itself, but rather to idols that are buried under it, as it is written, ‘[So they gave to Jacob all the foreign gods that they had, and the rings that were in their ears;] and Jacob hid them under the oak which was near Shechem’ (Gen. 35:4).”*

[W] *He heard rumors that they were saying, “Let us get up earlier and take care of those thorns,” and he knew that they planned to kill him. So he got up early and fled.*

[X] R. Aha went to Emmaus, and he ate their dumplings.

[Y] R. Jeremiah ate leavened bread prepared by them.

[Z] R. Hezekiah ate their locusts prepared by them.

[AA] R. Abbahu prohibited Israelite use of wine prepared by them.

[BB] This was on the basis of instruction deriving from R. Hiyya, R. Assi, R. Ammi, who went up to the Royal Mountain and saw a gentile who was suspect by reason of having utilized their wine. *They came back and told [Abbahu]. He said to them, "And [this is] not because of a rumor [but because of the fact of what you have seen]."*

[CC] *And there is he who proposes to state the reason [that the wine of Samaritans was prohibited for the following]: On a certain eve of the Sabbath, wine was not to be found in the entire town of Samartiqi. At the end of the Sabbath they found that the whole city was full of wine, which gentiles had brought, and which the Samaritans had purchased from them.*

[DD] *And there are those who wish to explain the reason as follows:*

[EE] *When Diocletian the king came up here, he issued a decree, saying, "Every nation must offer a libation, except for the Jews." So the Samaritans made a libation. [That is why the] sages prohibited their wine.*

[FF] *And there are those who wish to explain the prohibition on the following basis:*

[GG] *They have a kind of dove to which they offer libations[, so they really are idolators].*

[HH] Samaritans in Caesarea asked R. Abbahu, "Your fathers would make ample use of things that we have prepared. Now why do you not make use of things that we have prepared?"

[II] He said to him, “Your fathers did not ruin themselves, but you have ruined yourselves through your deeds!”

[JJ] *There we have learned:*

[KK] The land of Israel is clean, and its immersion pools are clean [that is, not assumed to be filled with drawn water and so assumed to be valid for purification] [M. Miq. 8:1A].

[LL] Samaritan territory is clean, and its immersion pools, dwellings, and paths are assumed to be clean [T. Miq. 7:1].

[MM] It is assumed that they select a path for themselves only if it is known to be clean [and free of corpse matter].

[NN] And its immersion pools are assumed to be clean [filled with valid, not drawn, water]:

[OO] *R. Eleazar b. R. Yosé, “It follows from what you have said that one must place credence in what they say, that the pools are not filled with drawn water. But lo, as to the full measure of forty seahs, they are not assumed to be filled [to that requisite volume].*

[PP] “For the Samaritans interpret the relevant verse as follows: ‘Nevertheless a spring or a cistern holding water shall be clean’ (Lev. 11:36) .

[QQ] “[Their exegesis is this:] The reference to a spring or a cistern is for the following purpose: Just as a spring effects purification, whatever the volume of its waters, so a cistern effects purification, whatever the volume of its waters [even if it contains less than the forty seahs of water that has not been drawn, such as is required by Israelite law].”

[RR] *They asked R. Abbahu, “What is the law as to eating dumplings prepared by Samaritans?”*

[SS] He said to them, “Would that we could impose a prohibition even on water drawn by them!”

[TT] R. Jacob bar Aha in the name of R. Haninah: “As to the Samaritans of Caesarea, it is permitted to lend them money at interest[, for they are not regarded as Israelites at all].”

[UU] *R. Yosé raised the question, “On that basis, then, one should not scruple about dough-offering separated from bread prepared by them [since this will be deemed no different from bread prepared by gentiles, which is not subject to the requirement of separating dough-offering for a priest], and yet we see that rabbis do scruple about separating dough-offering from dough prepared by Samaritans.”*

5:5

[A] He who leaves his wine on a wagon or in a boat and went along by a shortcut, entered into a town and bathed – it is permitted.

[B] But if he informed [others] that he was going away,

[C] [the wine is prohibited if he was gone] for a time sufficient to bore a hole and sop it up and for the clay to dry.

[D] Rabban Simeon b. Gamaliel says, “Time sufficient to open [the jar] and stop it up and for the clay to dry.”

[I:1 A] Said R. Haninah, M'SH B: [There was] a wagon belonging to the household of Rabbi from which the Israelite driver went away by more than four *mil*.

[B] *The case came before the rabbis, who declared the wine to be acceptable to Israelites.*

[C] *They say that [this was because] it took place on a road near Sidon, and the whole of it was filled with Israelites.*

[D] *Said R. Haninah, “There are times in which one sees hedges of thorns and thinks that they are people, and on that account [the gentile] is cautious [and will not make a libation and that accounts for B].”*

5:6

[A] **He who leaves a gentile in a store,**

[B] **even though he is going out and coming in all the time –**

[C] **it is permitted.**

[D] **But if he informed him that he was going away,**

[E] **[the wine is prohibited if he was gone] for a time sufficient to bore a hole and stop it up and for the clay to dry.**

[F] **Rabban Simeon b. Gamaliel says, “Time sufficient to open [the jar] and stop it up and for the clay to dry.”**

[I:1 A] And this ruling is in accord [even] with the view of R. Meir.

[B] For R. Meir said, “[**The wife of a haber who left the wife of an ‘am ha’ares grinding grain in her house – if the sound of the millstones ceased, the house is unclean. If the millstones did not cease, unclean is only the space up to the place to which she can reach out her hand and touch. If she left two women,] one way or the other [whether or not the grinding ceased], the house is unclean[, for one grinds, and the other snoops about],” the words of R. Meir [M. Toh. 7:4].**

[C] R. Hama in the name of R. Yosé bar Haninah: “In the case of a courtyard that is divided up or partitioned,

[D] “in the matter of foods requiring preparing in conditions of cleanness, such foods will be deemed unclean.

[E] “But in respect to the issue of wine having been used for a libation, the wine is deemed clean.”

[F] And lo, R. Meir imposes a strict ruling in the case of foods requiring preparation in conditions of cleanness [M. Toh. 7:4], but imposes a lenient ruling in the case of libation wine [as above] .

[G] Also the rabbis impose a strict ruling in the case of food requiring preparation in conditions of cleanness, and impose a lenient ruling in the case of wine suspected of having been used for a libation.

5:7

[A] [If an Israelite] was eating with [a gentile] at the same time, and he put a flagon [of wine] on the table and a flagon on a side table, and he left it and went out –

[B] what is on the table is forbidden.

[C] But what is on the side table is permitted.

[D] And if he had said to him, “You mix and drink [wine],” even that which is on the side table is forbidden.

[E] Jars which are open are forbidden.

[F] And those which are sealed [are forbidden if he was gone] for a time sufficient to bore a hole and stop it up and for the clay to dry.

[I:1 A] *They proposed ruling that* what is on the table is forbidden [M. A.Z. 5:7B] if it is within the space which a person can reach.

[B] And what is on the table is permitted if it is outside [45a] of the gentile’s reach [M. A.Z. 5:7C].

[C] For did not R. Ba say in the name of R. Sheshet, “Just as they imposed the criterion of what lies within one’s grasp in the case of foods requiring preparation in conditions of cleanness, so they imposed that same criterion in the case of wine suspected of having been used for a libation”?

[D] *And that certainly is the rule:*

[E] The one who ruled that what is on the table is forbidden [maintains that that is the case concerning food] within the gentile’s grasp and what is on the side table is permitted, on condition that this lies outside of the person’s grasp.

5:8

[A] A band of gentile [raiders] which entered a town in peacetime –

[B] open jars are forbidden, closed ones, permitted.

[C] [If it was] wartime, these and those are permitted.

[D] because there is no time for making a libation.

[I:1 A] [If] it was a time of persecution of Israelites, all [jars, open and sealed,] are prohibited, for it is not possible that there is a single Israelite who has refrained from performing an act of idolatrous worship under constraint.

[B] *And this is in line with that rule which states: An idol that an Israelite has worshiped is never nullified [from its status as an idol].*

[C] Said R. Yosé, “And you may infer from that statement [in addition] that an idol that an Israelite has worshiped under constraint also is never subject to nullification.”

[I:2 A] [In reference to the statement, **If it was wartime, these and those are permitted,**] R. Yohanan said, “There is none here that is forbidden, but all are permitted [even if one left a keg sealed and found it opened].”

[B] Said R. Zeira, “*There are here [in the case of wartime] also those that are forbidden, for [do you think that] if a gentile turns up the keg he is going to inform the Israelite, and if he does not turn up the keg he will not inform him? For the Israelite is not going to thank him [one way or the other, for it is wartime. Consequently, we have to scruple that a jug left sealed and found opened has been opened by a gentile and used in part for a libation].*”

[I:3 A] R. Ammi in the name of R. Yohanan: “In time of peace there is a band of gentile raiders, and in time of war there is such a band[, and the issue of war or peace refers to the character of the band, not to the character of the times].”

[B] *A snake was running after a [gentile], who fell [in his flight] into [a keg of wine]. The case came before the rabbis, and they declared the wine valid, saying, “[The snake] had not time to spit venom [into the keg].”*

5:9

[A] **Israelite craftsmen, to whom a gentile sent a jar of libation wine as their salary, are permitted to say to him, “Give us its value.”**

[B] **But if it has already entered their possession, it is prohibited.**

[I:1 A] But would the proceeds of the keg of libation wine not be prohibited under the prohibition of libation wine?

[B] It was taught [by] Bar Qappara: “It is a case in which what was sent was for barter [for their labor, not the equivalent, in wine, of a specified sum. The wine was not subject to a valuation in specie, and, since they had not made acquisition of it, it is not a case of selling him the wine in exchange for money, but their specifying a different mode of payment for their work].”

5:10

[A] He who sells his wine to a gentile [and] agreed on a price before he had measured it out –

[B] proceeds paid for it are permitted.

[C] [If] he had measured it out before he had fixed its price, proceeds paid for it are prohibited.

[D] [If] he took the funnel and measured it out into the flask of the gentile and then went and measured wine into the flask of an Israelite,

[E] if there remained [in the funnel] a drop of wine [from what had been poured into the gentile's flask, then what is in the Israelite's flask] is forbidden.

[F] He who pours [wine] from one utensil to another –

[G] that from which is emptied [the wine] is permitted.

[H] But that into which he emptied [the wine] is forbidden.

[I:1 A] *R. Ba, R. Huna in the name of Rab: "He who draws a skin of wine from his fellow [without having agreed on a price for it with him], and the skin was torn so that the wine poured out – the man does not owe him for it [because he had not made an agreement for its price, and therefore the purchaser had not come to a decision to acquire the skin, and the skin of wine did not yet stand in the domain of the prospective purchaser]."*

[B] *Said R. Yosé b. R. Bun, "Therefore it was necessary to teach [this obvious rule, A, to indicate that,] even if the prospective purchaser should raise the skin up to his own stall, [he is not liable should the skin break,] for his intention in doing so was only so that other people should make acquisition of the skin. [But it still has not fallen into his domain. Until a price has been agreed upon, the skin does not belong to the prospective purchaser (just as is indicated at M. A.Z. 5:10A-B).]"*

[C] What is the law regarding the skin of wine having [automatically] been acquired by him at the lowest price [prevailing in the market at that time, even though there has been no agreement on any price at all? Do we say that, if he could have gotten the wine for the lowest prevailing price, he would have accepted it for that price? Or do we say that, since the skin of wine has not yet entered the prospective purchaser's domain, he is exempt of all liability for the wine]?

[D] *Said R. Haggai before R. Yosé, “The Mishnah itself has laid down the law that it is not [presumptively] acquired by the prospective purchaser for the lowest prevailing price.*

[E] *“For we have learned there: **He who sells his wine to a gentile [and] agreed on a price before he had measured it out – proceeds paid for it are permitted. If he had measured it out before he had agreed on its price, proceeds paid for it are prohibited [M. A.Z. 5:10B-C].***

[F] *“Now if you maintain that one should regard the wine as acquired by the prospective purchaser at the lowest prevailing price, then even a case in which he measured it out before he agreed upon a price should be treated as equivalent to a case in which he had agreed to a price before he had measured out the wine, [so that even in the case of C] the proceeds should be permitted. [For what difference will it make whether or not a price has been agreed upon if we maintain that there is a putative price, the lowest prevailing price in the market, which the prospective purchaser is assumed to be willing to accept under all conditions?]”*

[II:1 A] What is a **drop of wine** [of M. A.Z. 5:10E]?

[B] It is that in the dregs, as you read in Scripture, “tracked with blood” (Hos. 6:8).

[III:1 A] *It is self-evident [in the rule of M. A.Z. 5:10F-H] that an Israelite is holding on to the funnel and the gentile is pouring the skin of wine, so the opinion of all authorities is that the wine is forbidden.*

[B] [If] a gentile is holding the funnel and an Israelite is pouring the wine –

[C] R. Assi declares [the wine] prohibited.

[D] And R. Ammi declares it permitted [since the gentile plays no part in pouring the wine].

[E] [If] a gentile is holding on to the mouth of the skin, but an Israelite is pouring the wine –

[F] R. Jeremiah in the name of R. Zeira, “This is a matter subject to dispute.”

[G] *R. Mana raised the question before R. Yosé, “What sort of dispute?”*

[H] He said to him, “It is a dispute between R. Assi and R. Ammi [just as above at C-D].”

- [I] If an Israelite is holding onto the skin, and a gentile is pouring the wine,
- [J] *they gave thought to ruling that*, in the opinion of all parties, the wine is permitted.
- [K] R. Samuel: “The very essence of the case is such as to rule that the wine is forbidden.
- [L] “For sometimes an Israelite will stretch out his hands, and it will turn out that the entire act of pouring out is on account of the action of the gentile.
- [M] “And this one who is guiding the flow from above to below – is he not subject to the consideration of pouring out from one utensil to another [in which case, that into which he emptied the wine is forbidden, as at M. A.Z. 5:10H]?” [If wine belonging to a gentile remains in the funnel, M. 5:10D-G, then that drop of wine is assumed to have been poured into the Israelite’s flask. F-H go over a parallel case. The wine remaining in the upper jar, which is in an Israelite’s hand, is permitted. That which is in the lower jar, held by a gentile, is prohibited.]

5:11

- [A] **Libation wine is forbidden and imparts a prohibition [to wine with which it is mixed] in any measure at all.**
- [B] [If it is] wine [poured] into wine, or [libation] water [poured] into water, in any quantity whatever [it is forbidden].
- [C] [If it is] wine [poured] into water or water [poured] into wine, [it is forbidden] if it imparts flavor.
- [D] **This is the governing principle: [If it is] one species [poured] into its own species [B], [it is forbidden] in any measure at all.**
- [E] [If it is] not [poured] into its own species [C], it is forbidden if it imparts flavor.
- [I:1 A] *Hezekiah said, “This rule that you have stated [that if it is wine poured into water, or water poured into wine, it is forbidden if it imparts flavor (M. A.Z. 5:11C)], applies in a locale in which water is sold by measure. But in a locale in which water is not sold by measure, it is subject to the law pertaining to wine mixed with wine[, for in the latter case water is as valuable as wine].”*

[B] Hezekiah said, “A cup of wine that one mixed with wine that was prohibited and with wine that was permitted,

[C] “[if] that which was prohibited fell in at the end, it is prohibited.

[D] “[If] that which was permitted fell in at the end, it is permitted.”

[E] *Said R. Samuel, “This teaching is that of R. Eliezer, for [in the following case: **If common leaven and heave-offering leaven fell into dough, and neither sufficed by itself, but together they leavened the dough**], R. Eliezer says, “I should decide [whether the utensil was clean or unclean] by which of them came last.” [But the sages say, “By which came first”] [M. Or. 2:11. Hezekiah, C-D follows what came last.]*

[F] *Said R. Jeremiah, “A stricter rule applies in the case of wine that has served for a libation. [Hezekiah does not necessarily accord with Eliezer.]”*

[G] *R. Yosé raised the question, “If a stricter rule applies in the case of wine that has served for a libation, then even if that wine which was permitted fell in last, it should be prohibited [entirely].”*

[H] *R. Assi in the name of R. Yohanan [differing from Hezekiah, B-D]: “A cup that one mixed from wine that was prohibited and from wine that was permitted – you regard the wine that was permitted as if it were not present.*

[I] *“And that which was prohibited – if it imparts flavor to the whole, the mixture is prohibited, and if not, it is permitted. [Thus we invoke the principle of M. A.Z. 5:11E.]”*

[J] *Said R. Hoshaiiah, “And that rule applies in the case in which the wine that was permitted fell in at the end. [In this case we do not invoke the principle of M. 5:11B, D.]”*

[K] *R. Ammi in the name of R. Yohanan, “There is no real difference between the case in which the prohibited wine fell in at the outset and the permitted wine at the end, and one in which the permitted wine fell in at the outset, and the prohibited wine at the end.*

[L] *“Even if this is a case of water mixed with wine, and even if the mixture was fully stirred with permitted wine,*

[M] *“in any event you regard the permitted wine as if it were not present and, as to the prohibited wine, if it imparts a flavor, the mixture is forbidden, and if not, it is permitted.”*

[N] *Said R. Zira, “As to what has been stated above, and as to all that we have learned [about R. Yohanán’s thinking] – what would be a concrete case?”*

[O] R. Yosé b. R. Bun, R. Abbahu in the name of R. Yohanán: “A flask of libation wine that fell into a jug of water, and afterward [the jug with the wine] fell into a cistern of water – you regard the permitted liquid as if it were not present, and, as to the forbidden liquid, if it is sufficient to impart a flavor, the whole is forbidden, and if not, it is permitted.”

[I:2 A] [With regard to the Mishnah pericope of M. Orl. 2:11, cited above,] to this point we deal with a case in which one sort of leaven fell after the other. But what if the two fell at the same time?

[B] *Let us learn the answer to that question from the following:*

[C] **Leaven belonging to Samaritans – at what point is it permitted after Passover? That belonging to householders is permitted following three weeks of use in baking. And that belonging to bakers in little villages is permitted three days thereafter. And that belonging to bakers in large towns is permitted once [they have had an opportunity to prepare dough for] three [uses of their large] ovens. R. Simeon b. Eleazar says, “When they stated the rule concerning that belonging to householders, ‘Following three weeks of use in baking’ – if he was a householder, or was marrying off his son, and made use of his oven three times in succession, then it is permitted forthwith. And when they stated the rule concerning that belonging to bakers, ‘In little villages, three days thereafter,’ if he found the need and made use of his oven three times in succession, even on the very first day after Passover, it is permitted” [T. Pes. 2:1].**

[D] *It was taught: R. Simeon says, “Also when they stated the rule concerning that belonging to bakers in large towns, ‘Once they have made use of their ovens three times’ – nonetheless, it is prohibited for three days. For at dawn he would get the leaven for the whole of the rest of that day” [T. Pes. 2:2A-C] .*

[E] That second piece of dough – has it not been leavened with leaven that was prohibited and with that which was permitted? [So the sages now concur with Eliezer that there is a prohibition when the two kinds of leaven work together.]

[F] *R. Jeremiah said in the name of R. Simeon b. Laqish, “Who taught that Samaritan dough [is prohibited]? R. Eliezer.”*

[G] *Said R. Yosé to R. Haninah of Antonia, “I recall that you and R. Jeremiah in the name of R. Simeon b. Laqish were both teaching, ‘Who taught that the leaven of Samaritans is prohibited? It is R. Eliezer.’*

[H] *“But R. Hila in the name of R. Simeon b. Laqish taught, ‘[The sages] went down [and adopted the prohibition of] leaven belonging to Samaritans, in accord with R. Eliezer.’ [So the cited pericope accords with the sages, not solely with Eliezer.]”*

[I] *And furthermore, one must note the following, which R. Haninah bar R. Abbahu said: “Father had a case. He sent and asked R. Hiyya and R. Ammi and R. Assi, and they instructed him to rule in accord with R. Eliezer [that leaven belonging to Samaritans is prohibited immediately after Passover].”*

[J] *Now what follows from that? Do people give instruction on the basis of the opinion of an individual [as against the sages as a group]? [Obviously not!]*

[K] No, it was because [the sages] went down [and reached the depths of the issue in their analysis, and so] adopted the prohibition of] leaven belonging to Samaritans, in accord with the opinion of R. Eliezer.

[L] *Said R. Mana before R. Yosé, “Just as you ruled there, ‘The law is in accord with the opinion of R. Eliezer,’ so you should rule [45b] here, ‘The law is in accord with R. Eliezer.’”*

[M] He said to him, “And [in fact] for the entire law that applies in this case [the law is in accord with him].”

5:12

[A] These are forbidden and impose a prohibition in any measure at all:

[B] (1) libation wine, (2) an idol, (3) hides with a hole at the heart, (4) an ox which is to be stoned, (5) a heifer, the neck of which is to be broken, (6) birds belonging to a *mesora*', (7) the hair cut off a Nazir (Num. 6:18), (8) the [unredeemed] firstborn of an ass (Ex. 13:13), (9) meat in milk, (10) the goat which is to be sent forth, (11) unconsecrated beasts which have been slaughtered in the Temple courtyard –

[C] lo, these are forbidden and impose a prohibition in any measure at all.

[I:1 A] **Libation wine, an idol, and hides with a hole at the heart** [are prohibited] on the count of the following verse of Scripture: “None of the devoted things shall cleave to your hand” (Deut. 13:17).

[B] **An ox that is condemned to be stoned** [is prohibited] from what is implied by the verse “the ox shall be stoned[, and its flesh shall not be eaten]” (Ex. 21:28).

[C] Does one not know that [the meat] is not to be eaten [for it is carrion]?

[D] So why does Scripture state, “It shall not be eaten”?

[E] On this basis, [we must rule] that the corpse of the ox is prohibited also as to benefit.

[F] **As to the heifer, the neck of which is to be broken?** It is on the basis of the recurrence of the word “there” in the following two verses: “and they shall break the heifer’s neck there in the valley” (Deut. 21:4); “And [she] was buried there” (Num. 20:1).

[G] Just as “there” in the latter context [referring to a corpse] means that there is a prohibition against deriving benefit [from things pertaining to the corpse], so “there” in the present context means that there is a prohibition against deriving benefit [from things deriving from the heifer whose neck is to be broken] .

[H] **As to the birds to be offered by a mesora’ [prohibited when slaughtered]?** “Of all clean birds you may eat” (Deut. 14:11 this refers to the bird that is set free. “But

these are they of which you shall not eat” (Deut. 14:12) – this refers to the bird that is slaughtered.

[I] Or perhaps matters are just the opposite [and the slaughtered one is permitted]?

[J] R. Yohanan in the name of R. Ishmael: “The Torah does not impose a prohibition against benefit [as well as against eating] upon something that is alive.”

[K] **And the hair of a Nazirite?** “And he shall take the hair from his consecrated head and put it on the fire which is under the sacrifice of the peace offering” (Num. 6:18).

[L] **The firstling of an ass?** The breaking of the neck is written in that connection, [“Every firstling of an ass you shall redeem with a lamb, or if you will not redeem it, you will break its neck” (Ex. 13:13)], and the breaking of a neck is written in connection with the heifer [Deut. 21:4, cited above]. Just as in the latter connection, one must bury the heifer, and it is prohibited as to the benefit, so in this connection one must bury the firstling, and it is prohibited as to benefit.

[M] **Meat in milk?** *It has been taught:* “You shall not seethe a kid in its mother’s milk” is stated three times (Ex. 23:19, 34:26, Deut. 14:21). One is meant to prohibit eating it, one is to prohibit deriving benefit from it, and one is to prohibit cooking.

[N] **And as to unconsecrated beasts that have been slaughtered in the temple courtyard**

–

[O] R. Yohanan in the name of R. Ishmael: “The Torah has decreed, ‘Slaughter what belongs to me in an area that belongs to me, and what belongs to you in an area that belongs to you. Just as what of mine is slaughtered in an area that belongs to you is prohibited, so what of yours is slaughtered in an area belonging to me [is prohibited].’”

[P] [If so, should not one who does so be] subject to the penalty of extirpation?

[Q] And did not R. Ishmael state, “They may learn a rule from an argument a *fortiori*, but they do not inflict a punishment on the basis of an argument a *fortiori*?” [So P’s proposal is rejected.]

[I:2 A] *And why do we not learn that carrion belongs to this same list?*

[B] *Said R. Yosé b. R. Bun, “The Tannaitic tradition repeats only matters that are prohibited as to benefit. But carrion is permitted as to benefit.”*

[C] *They objected, “Lo, there is leaven on Passover [that is prohibited as to benefit, and which is not listed].”*

[D] *Leaven on Passover is subject to extirpation, but violation of these does not produce the penalty of [*

[I:3 A] *R. Yosé in the name of R. Hanina raised the question, “Matters that are prohibited for enjoyment – what is the rule as to their being deemed null when joined [with small bits of permitted matter]?”*

[B] *And have we not learned on the list of the Mishnah: **an ox that is condemned to be stoned**, [so how can the huge volume of prohibited meat ever be nullified in a volume of permitted]?*

[C] *Apply the rule of the Mishnah to a case in which we deal with small bits of such an ox.*

[D] *And have we not learned on the Mishnah’s list, **“The birds to be offered by a mesora”**?*

[E] *Interpret the law of the Mishnah to speak of a bird among a larger group of birds [among which it is indistinguishable].*

[F] *And have we not learned in the Mishnah’s list, **The hair of a Nazirite**?*

[G] *Can you now claim that we deal with a case parallel to “a bird among birds”?*

[H] *When you come to [the following passage in] tractate Orlah [you will find the answer to A, as indicated below].*

[I] *R. Jacob objected before R. Yosé, “Have we not learned: **He who heaves into a garment one sit’s length of wool from a firstling – the garment must be burned. If he put into a sack a Nazirite’s hair or***

hair from the first born of an ass, the sack must be burned [M. Orl. 3:3]. [So the answer to A is negative.]”

[J] *He said to him, “If you had given this answer [when we were dealing with Orlah], it would have been fine.”*

5:13

[A] **Libation wine that fell into a vat –**

[B] **the whole of [the vat] is forbidden for benefit.**

[C] **Rabban Simeon b. Gamaliel says, “Let the whole of it be sold to a gentile, except for the value of that of libation wine which is in it.”**

[I:1 A] R. Yosé, R. Yohanan in the name of Ben Beterah: **“Libation wine that fell into a vat –** let the whole of it be sold to a gentile, except for the value of the libation wine [that is in the vat].”

[II:1 A] R. Samuel bar Nathan in the name of R. Hama: “The law is in accord with the opinion of Rabban Simeon b. Gamaliel.”

[B] *Said R. Yasa, “One of the rabbis went out of the meeting house. He stated, ‘R. Yohanan and R. Simeon b. Laqish differed from one another.*

[C] *“One of them said, “The law is in accord with the opinion of Rabban Simeon b. Gamaliel,’ and one of them said, “The law is not in accord with the position of Rabban Simeon b. Gamaliel.””*

[II:2 A] But Rabban Simeon b. Gamaliel concurs in the case of [libation] wine mixed into a cooked dish, that the dish is prohibited [since the wine improves the dish].

[B] R. Bun in the name of Rab: “The sages concur with Rabban Simeon b. Gamaliel in the case of a jug of [libation] wine situated among other jugs, [which someone had in hand, that he is permitted to] sell the whole of the set of jugs to a gentile, [receiving in exchange all of the proceeds] except for the proceeds of the [jug of] libation wine that is in the lot[, for the suitable wine is not mixed with the prohibited wine, so one can distinguish one from the other].”

[C] *Said R. Zira before R. Ammi, “If you had not made this statement, we should not have known that that is the case.*

[D] *“Had you said only, ‘The sages concur with Rabban Simeon b. Gamaliel,’ or had you said only, ‘Rabban Simeon b. Gamaliel concurs with the sages,’ [we should not have had access to either statement].”*

[E] *Said R. Yudan, "R. Zira knew full well that matters are thus, but he pretended to be a person who heard something for the first time in order to raise questions about it [for the sake of discussion]."*

5:14

[A] **A stone wine press which a gentile covered with pitch –**

[B] **one scours it, and it is clean.**

[C] **And one of wood –**

[D] **Rabbi says, "Let him scour it."**

[E] **And sages say, "Let him scale off the pitch."**

[F] **And one of earthenware –**

[G] **even though one has scaled off the pitch, lo, this is forbidden.**

[I:1 A] *[The opening clause of the] Mishnah [M. 5:14A-B] is in accord with the view of Rabbi.*

[B] **As to one of wood, Rabbi says, "Let him dry it off." And the sages say, "Let him scale off the pitch."**

[C] **And as to one of earthenware[, even though one has scaled off the pitch, lo, this is forbidden –** this is not in accord with the view of Rabbi.

[D] *For it has been taught:*

[E] **A vat, ladle, and siphon of gentiles [made of earthenware] –**

[F] **Rabbi permits [Israelites to use them].**

[G] **And the sages prohibit.**

[H] **But Rabbi concedes in the case of jars that they are prohibited [T. A.Z. 8:1A].**

[I] *On what account are these forbidden and those permitted?*

[J] *Into these one puts wine, and into the others one does not put wine.*

[K] *R. Yosé in the name of R. Yohanan, "The law is in accord with Rabbi."*

[L] *As to utensils made of papyrus that a gentile has covered with pitch –*

[M] *there is a dispute between Rabbi and the sages [since these are equivalent to wooden utensils].*

[N] R. Yosé b. R. Bun in the name of Samuel: “The law is in accord with the view of Rabbi.”

[I:2 A] *There is a dispute between Rabbi and sages, for it has been taught: “[If] one’s wine vats [and olive presses] were [culturally] unclean and one wanted to clean them –*

[B] the boards and the two posts supporting the beams of the press and the troughs does he dry, and they are clean.

[C] The cylinders of twigs and of hemp [he must dry].

[D] As to those of bast and of reeds, he must leave them unused.

[E] [And how long does he leave them unused?] Twelve months.

[F] Rabban Simeon b. Gamaliel says, “From one wine vintage to the next, or from one pressing season of olives to the next.”

[G] It was taught: Said Rabban Simeon b. Gamaliel, “If he wants immediately to purify them, he places them for a whole season in a river whose waters flow or under the spout whose waters flow.”

[H] And just as you dry them for cleanness, so you dry off wine used for idolatrous purposes [T. A.Z. 8:3].

[I] And how long is “a whole season” [G]?

[J] R. Yosé in the name of R. Yohanan says, “Half a day and half a night.”

[K] *It was taught:* R. Hiyya says, “A day or a night.”

[L] *Now does he differ?*

[M] No. In one case, the day and night are of equal length, and in the other, the day and night are not of equal length.

5:15

[A] He who purchases utensils [for use with food] from a gentile –

[B] that which is usually immersed one must immerse.

[C] That which is usually scalded one must scald.

[D] That which is usually heated to a white-hot flame one must heat to a white-hot flame.

[E] A spit or gridiron one must heat to a white-hot flame.

[F] A knife one must polish, and it is clean.

[I:1 A] He who purchases utensils from a gentile –

[B] in the case of things that one knows [have not been used] for preparing food, for instance, cups – one rinses them [in cold water] and they are clean.

[C] But as to pitchers and water kettles, one scalds them in boiling water.

[D] And in the case of all of them that have been used, even if one has not immersed, scalded, polished, or heated them to white heat, lo, these are clean [cf. T. A.Z. 8:2].

[E] *It was taught:* R. Hoshaiah [said], “One has to immerse [cups or other utensils for food].”

[F] *This is in line with the following:*

[G] *R. Ammi went up with R. Yudan the Patriarch to the hot springs of Gedar.*

[H] *They borrowed silver from certain gentile money-lenders [to make the silver into utensils].*

[I] They asked R. Jeremiah [whether even the silver had to be immersed]. He instructed them to immerse the coins, for they had come forth from the uncleanness pertaining to a gentile and had entered the sanctification pertaining to an Israelite.

[J] When [R. Jeremiah] went out to give instruction, they went out and heard R. Jacob b. Aha, Simeon bar Ba in the name of R. Yohanan: “The teaching of the Mishnah [M. A.Z. 5:15] applies only to one who purchases [such objects,] but he who borrows [such objects] – it is permitted [without such a process of purification].”

[K] If so, then even in the case of utensils [one should say the same as J states and apply Yohanan’s view to M. 5:15’s cases].

[L] R. Hoshaiah would purchase utensils and immerse them [but not borrowed ones].

[I:2 A] *There you say* [at M. Zeb. 11:7F(5), in regard to a spit and a grill, that to clean those used for a sin-offering,] one puts them into scalding water [to clean them], and they are clean, *and here you say* one must heat them to a white-hot flame [M. 5:15]. [Why is a more stringent procedure required here than at M. Zeb. 11:7?]

[B] A stricter rule applies to objects that gentiles have scalded.

[I:3 A] As to a knife, one sticks it into the ground three times and that suffices.

[B] R. Ba in the name of R. Judah: “That rule which you have stated applies to a small knife.

[C] “But in the case of a large knife, one has to heat it to a white heat, and the heating up must be such that sparks fly from the knife.”

CHAPTER SIX

THE STRUCTURE OF YERUSHALMI ABODAH ZARAH

Whether or not the Talmud of the Land of Israel is carefully organized in large-scale, recurrent structures and guided by a program that we may call systematic forms the principal question addressed by an academic commentary. The preceding chapters therefore have pointed toward the presentation set forth here. By “structure” I mean, a clearly-articulated pattern that governs the location of fully-spelled out statements. By “system,” I mean, a well-crafted and coherent set of ideas that explain the social order of the community addressed by the writers of a document, a social philosophy, a theory of the way of life, world view, and character of the social entity formed by a given social group. I see a collective, anonymous, and political document, such as the one before us, as a statement to, and about, the way in which people should organize their lives and govern their actions. At issue then in any document such as the remarkable one before us is simple: does this piece of writing present information or a program, facts to whom it may concern, or a philosophically and aesthetically cogent statement about how things should be? The connection between structure and system is plain to see. From the way in which people consistently frame their thoughts, we move to the world that, in saying things in one way rather than in some other, they wish to imagine. Modes of formulating thought adumbrate modes of imagining the world in which people wish to live, to which they address these thoughts.

If the document exhibits structure and sets forth a system, then it is accessible to questions of rationality. We may ask about the statement that its framers or compilers wished to make by putting the document together as they did. But if we discern no structure and perceive no systematic inquiry or governing points of analysis, then all we find here is inert and miscellaneous information, facts but no propositions, arguments, viewpoints. Now as a matter of fact the Talmud of the Land of Israel commonly finds itself represented as lacking organization and exhibiting a certain episodic and notional character. That view moreover characterizes the reading and representation of the document by learned and

experienced scholars, who have devoted their entire lives to Talmud study and exegesis. It must follow that upon the advocate of the contrary view – the one implicit in the representation of the document for academic analysis – rests the burden of proof. I set forth the allegation that the Talmud of the Land of Israel exhibits a structure and follows a system and therefore exhibits a commonly-intelligible rationality. The claim to write an academic commentary explicitly states that proposition. For the tractate before us, I have therefore to adduce evidence and argument.

I maintain that through the normal procedures of reasoned analysis we may discern in the tractate a well-crafted structure. I hold that the structure made manifest, we may further identify the purpose and perspective, the governing system of thought and argument, of those who collected and arranged the tractate's composites and put them together in the way in which we now have them. By "structure" I mean, how is a document organized? and by "system," what do the compilers of the document propose to accomplish in producing this complete, organized piece of writing? The answers to both questions derive from a simple outline of the tractate as a whole, underscoring the types of compositions and composites of which it is comprised. Such an outline tells us what is principal and what subordinate, and how each unit – composition formed into composites, composites formed into a complete statement – holds together and also fits with other units, fore and aft. The purpose of the outline then is to identify the character of each component of the whole, and to specify its purpose or statement. The former information permits us to describe the document's structure, the latter, its system.

While the idea of simply outlining a Talmud-tractate beginning to end may seem obvious, I have never made such an outline before, nor has anyone else. (I have provided complete outlines for the Mishnah and for the Tosefta in relationship to the Mishnah, and, not always in outline form, for the Midrash-compilations of late antiquity as well.) Yet, as we shall now see, the character of the outline dictates all further analytical initiatives. Specifically, when we follow the layout of the whole, we readily see the principles of organization that govern. These same guidelines on organizing discourse point also to the character of what is organized: complete units of thought, with a beginning, middle, and end, often made up of smaller, equally complete units of thought. The former we know as composites, the latter as compositions.

Identifying and classifying the components of the tractate – the composites, the compositions of which they are made up – we see clearly how the document coheres: the plan and program worked out from beginning to end. When we define that plan and program, we identify the facts of a pattern that permit us to say in a specific and concrete way precisely what the compilers of the tractate intended to accomplish. The structure realizes the system, the program of analysis and thought that takes the form of the presentation we have before us. From what

people do, meaning, the way in which they formulate their ideas and organized them into cogent statements, we discern what they proposed to do, meaning, the intellectual goals that they set for themselves.

These goals – the received document they wished to examine, the questions that they brought to that document – realized in the layout and construction of their writing, dictate the points of uniformity and persistence that throughout come to the surface. How people lay out their ideas guides us into what they wished to find out and set forth in their writing, and that constitutes the system that defined the work they set out to accomplish. We move from how people speak to the system that the mode of discourse means to express, in the theory that modes of speech or writing convey modes of thought and inquiry.

We move from the act of thought and its written result backward to the theory of thinking, which is, by definition, an act of social consequence. We therefore turn to the matter of intention that provokes reflection and produces a system of inquiry. That statement does not mean to imply I begin with the premise of order, which sustains the thesis of a prior system that defines the order. To the contrary, the possibility of forming a coherent outline out of the data we have examined defines the first test of whether or not the document exhibits a structure and realizes a system. So everything depends upon the possibility of outlining the writing, from which all else flows. If we can see the order and demonstrate that the allegation of order rests on ample evidence, then we may proceed to describe the structure that gives expression to the order, and the system that the structure sustains.

The present work undertakes the exegesis of exegesis, for the Yerushalmi, like its counterpart in the one of Babylonia, is laid out as a commentary to the Mishnah. That obvious fact defined the character of my academic commentary, since we have already faced the reality that our tractate is something other than a commentary, though it surely encompasses one. The problems that captured my attention derived from the deeper question of how people make connections and draw conclusions. To ask about how people make connections means that we identify a problem – otherwise we should not have to ask – and what precipitated the problem here has been how a composition or a composite fits into its context, when the context is defined by the tasks of Mishnah-commentary, and the composition or composite clearly does not comment on the Mishnah-passage that is subjected to comment.

The experience of analyzing the document with the question of cogency and coherence in mind therefore yields a simple recognition. Viewed whole, the tractate contains no gibberish but only completed units of thought, sentences formed into intelligible thought and self-contained in that we require no further information to understand those sentences, beginning to end. The tractate organizes these statements as commentary to the Mishnah. But large tracts of the

writing do not comment on the Mishnah in the way in which other, still larger tracts do. Then how the former fit together with the latter frames the single most urgent question of structure and system that I can identify.

Since we have already examined enormous composites that find their cogency in an other than exegetical program, alongside composites that hold together by appeal to a common, prior, coherent statement – the Mishnah-sentences at hand – what justifies my insistence that an outline of the document, resting on the premise that we deal with a Mishnah-commentary, govern all further description? To begin with, the very possibility of outlining this tractate derives from the simple fact that the framers have given to their document the form of a commentary to the Mishnah. It is in the structure of the Mishnah-tractate that they locate everything together that they wished to compile. We know that is the fact because the Mishnah-tractate defines the order of topics and the sequence of problems.

Relationships to the Mishnah are readily discerned; a paragraph stands at the head of a unit of thought; even without the full citation of the paragraph, we should find our way back to the Mishnah because at the head of numerous compositions, laid out in sequence one to the next, clauses of the Mishnah-paragraph are cited in so many words or alluded to in an unmistakable way. So without printing the entire Mishnah-paragraph at the head, we should know that the received code formed the fundamental structure because so many compositions cite and gloss sentences of the Mishnah-paragraph and are set forth in sequence dictated by the order of sentences of said Mishnah-paragraph. Internal evidence alone suffices, then, to demonstrate that the structure of the tractate rests upon the Mishnah-tractate cited and discussed here. Not only so, but the sentences of the Mishnah-paragraphs of our tractate are discussed in no other place in the entire Talmud of the Land of Israel in the sequence and systematic exegetical framework in which they are set forth here; elsewhere we may find bits or pieces, but only here, the entirety of the tractate.

That statement requires one qualification, and that further leads us to the analytical task of our outline. While the entire Mishnah-tractate of treated here is cited in the Talmud of the Land of Israel, the framers of the Talmud of the Land of Israel by no means find themselves required to say something about every word, every sentence, every paragraph. On the contrary, they discuss only what they choose to discuss, and glide without comment by large stretches of the tractate. A process of selectivity, which requires description and analysis, has told the compilers of the Talmud of the Land of Israel's composites and the authors of its compositions (This statement requires refinement. I do not know that all available compositions have been reproduced, and that the work of authors of compositions of Mishnah-exegesis intended for a talmud is fully exposed in the document as we have it. That is not only something we cannot demonstrate – we do not have compositions that were not used, only the ones that were – but something that we must regard as unlikely on the face of matters. All we may say is positive: the

character of the compositions that address Mishnah-exegesis tells us about the concerns of the writers of those compositions, but we cannot claim to outline all of their concerns, on the one side, or to explain why they chose not to work on other Mishnah-sentences besides the ones treated here. But as to the program of the compositors, that is another matter: from the choices that they made (out of a corpus we cannot begin to imagine or invent for ourselves) we may describe with great accuracy the kinds of materials they wished to include and the shape and structure they set forth out of those materials. We know what they did, and that permits us to investigate why they did what they did. What we cannot know is what they did not do, or why they chose not to do what they did not do. People familiar with the character of speculation and criticism in Talmudic studies will understand why I have to spell out these rather commonplace observations. I lay out an argument based on evidence, not on the silences of evidence, or on the absence of evidence – that alone.) what demands attention, and what does not. Our outline has therefore to signal not only what passage of the Mishnah-tractate is discussed, but also what is not discussed, and we require a general theory to explain the principles of selection (“making connections, drawing conclusions” meaning, to begin with, making selections). For that purpose, in the outline, I reproduce the entirety of a Mishnah-paragraph that stands at the head of a Talmudic composite, and I underscore those sentences that are addressed, so highlighting also those that are not.

It follows that the same evidence that justifies identifying the Mishnah-tractate as the structure (therefore also the foundation of the system) of Yerushalmi-tractate before us also presents puzzles for considerable reflection. The exegesis of Mishnah-exegesis is only one of these. Another concerns the purpose of introducing into the document enormous compositions and composites that clearly hold together around a shared topic or proposition, e.g., my appendix on one theme or another, my elaborate footnote providing information that is not required but merely useful, and the like. My earlier characterization of composites as appendices and footnotes signalled the fact that the framers of the document chose a not-entirely satisfactory way of setting out the materials they wished to include here, for large components of the tractate do not contribute to Mishnah-exegesis in any way at all. If these intrusions of other-than-exegetical compositions were proportionately modest, or of topical composites negligible in size, we might dismiss them as appendages, not structural components that bear much of the weight of the edifice as a whole. Indeed, the language that I chose for identifying and defining these composites – footnotes, appendices, and the like – bore the implication that what is not Mishnah-commentary also is extrinsic to the Talmud of the Land of Israel’s structure and system.

But that language served only for the occasion. In fact, the outline before us will show that the compositions are large and ambitious, the composites formidable and defining. Any description of the tractate’s structure that dismisses as mere accretions or intrusions so large a proportion of the whole misleads. Any notion that “footnotes” and “appendices” impede exposition and disrupt thought, contribute extraneous information or form tacked-on appendages – any such notion begs the question: then why fill up so much space with such purposeless

information? The right way is to ask whether the document's topical composites play a role in the re-presentation of the Mishnah-tractate by the compilers of the Talmud of the Land of Israel. We have therefore to test two hypotheses:

1. the topical composites (“appendices,” “footnotes”) do belong and serve the compilers' purpose

or

2. the topical composites do not participate in the re-presentation of the Mishnah-tractate by Yerushalmi and do not belong because they add nothing and change nothing.

The two hypotheses may be tested against the evidence framed in response to a single question: is this topical composite necessary? The answer to that question lies in our asking, what happens to the reading of the Mishnah-tractate in light of the topical composites that would not happen were we to read the same tractate without them? The outline that follows systematically raises that question, with results specified in due course. It suffices here to state the simple result of our reading of the tractate, start to finish: the question of structure, therefore also that of system, rests upon the position we identify for that massive component of the tractate that comprises not Mishnah-commentary but free-standing compositions and composites of compositions formed for a purpose other than Mishnah-commentary.

The principal rubrics are given in small caps. The outline takes as its principal rubrics two large-scale organizing principles.

The first is the divisions of the Mishnah-tractate to which the Talmud of the Land of Israel-tractate serves as a commentary. That simple fact validates the claim that the tractate exhibits a fully-articulated structure. But the outline must also underscore that the Mishnah-tractate provides both more and less than the paramount outline of the Talmud of the Land of Israel-tractate. It is more because sentences in the Mishnah-tractate are not analyzed at all. These untreated Mishnah-sentences are given in bold face lower case caps, like the rest of the Mishnah, but then are specified by underlining and enclosure in square brackets.

Second, it is less because the structure of the tractate accommodates large composites that address topics not defined by the Mishnah-tractate. That brings us to the second of the two large-scale modes of holding together both sustained analytical exercises and also large sets of compositions formed into cogent composites. These are treated also as major units and are indicated by Roman numerals, alongside the Mishnah-paragraphs themselves; they are also signified in small caps. But the principal rubrics that do not focus on Mishnah-commentary but on free-standing topics or propositions or problems are not given in boldface type. Consequently, for the purposes of a coherent outline we have to identify as

autonomous entries in our outline those important composites that treat themes or topics not contributed by the Mishnah-tractate.

I. YERUSHALMI ABODAH ZARAH 1:1

[A] BEFORE THE FESTIVALS OF GENTILES FOR THREE DAYS IT IS FORBIDDEN TO DO BUSINESS WITH THEM:

1. **I:1:** R. Hama bar Uqabah derived scriptural support for all of those [statements about the interval of three days during which it is prohibited to do business with gentiles prior to a festival of theirs] from the following verse: “[Come to Bethel and transgress; to Gilgal and multiply transgression;] bring your sacrifices every morning, your tithes on the third day” (Amos 4:4). Said to him R. Yosé, “If so, then even in the exilic communities [the rule should be the same]. Yet it has been taught in a Tannaitic tradition: ‘Nahum the Mede says, “One day in the exilic communities [before their festival] it is prohibited [to do business with gentiles, and not the three days specified by M. A.Z. 1:1, which apply only to the Holy Land]”’ [T. A.Z. 1:1A].”
2. **I:2:** [If] one transgressed [the rule against doing business with gentiles three days before a pagan festival] and did business with one [of them], it is permitted [to derive benefit from the proceeds]. R. Jacob bar Aha, R. Yosé in the name of R. Yohanan: “And [that is the rule for proceeds gained] even on the day of the pagan festival itself.” And there is a Tannaitic tradition to the same effect: Under what circumstances? In the case of a gentile whom the Israelite does not know [is it prohibited to do business prior to a festival]. In the case of a gentile whom [the Israelite] knows, it is permitted, because it is as if he flatters them.

[B] [1] TO LEND ANYTHING TO THEM OR TO BORROW ANYTHING FROM THEM: [2] TO LEND MONEY TO THEM OR TO BORROW MONEY FROM THEM, [3] TO REPAY THEM OR TO BE REPAID BY THEM. R. JUDAH SAYS, “THEY ACCEPT REPAYMENT FROM THEM, BECAUSE IT IS DISTRESSING TO HIM.” THEY SAID TO HIM, ‘EVEN THOUGH IT IS DISTRESSING TO HIM NOW, HE WILL BE HAPPY ABOUT IT LATER.’”

1. **II:1:** It is easy [to understand why sages have prohibited] lending anything to them [M. 1:1B]. But [why should it be forbidden] to borrow something from them? It is because [the borrower] then owes [the lender] gratitude[, which pleases the lender]. It is easy to understand why sages have prohibited lending money to them. But

[why should it be forbidden] to borrow money from them? It is because [the borrower] then owes [the lender] gratitude. It is easy to understand why [it should be prohibited] to pay them back a debt one owes. But [why should it be forbidden] to accept repayment for a debt owed by them? So that the idolator should not have occasion to say [that his idol] has assisted him [in paying back his debts, and the Israelite should thus be in the position of causing the idolator to feel gratitude to the idol].

2. **II:2:** There we have learned: [A woman may prepare her wedding adornments on the intermediate days of a festival.] R. Judah says, “She should not use lime, since this makes her ugly” [M. M.Q. 1:7F-G] [and this prohibition applies even though later on the woman will be beautified, for on the festival itself it is disfiguring. So on the occasion of the festival we do not take account of later advantage].
3. **II:3:** Israelite workmen who were working with a gentile at the time of their festival; in the case of [their doing so] in an Israelite’s household, it is prohibited [to work on the occasion of the festival] [Tosefta; permitted]. In the case of [doing so] in a gentile’s household, it is permitted [Tosefta: prohibited]. R. Simeon b. Eleazar says, “[Tosefta: If he was hired by the day, whether working in the household of an Israelite or working in the household of a gentile, it is prohibited. If he was hired as a contractor, working in the household of an Israelite is permitted. Working in the household of a gentile is prohibited.]” [The continuation of the discussion below indicates that the Tosefta’s text is taken for granted by the Talmud, even though it is not cited in the printed text.] “Under what circumstances? In the case of working on what is plucked [Tosefta: as yet unplucked]. But as to working on what is not yet plucked [Tosefta: plucked], it is prohibited. “And in another town, one way or the other, it is permitted” [T. A.Z. 1:3B-I].

[C] **R. ISHMAEL SAYS, “THREE DAYS BEFORE THEM AND THREE DAYS AFTER THEM IT IS PROHIBITED.” AND THE SAGES SAY, “BEFORE THEIR FESTIVALS IT IS PROHIBITED, BUT AFTER THEIR FESTIVALS IT IS PERMITTED.”**

1. **III:1:** Associates state the reasoning of R. Ishmael. It is because of the [continuing celebration of] the meal associated with the festival [so, as the eating and carousing continue, Israelites should have no part of the matter, even after the festival day itself]. Said R. Ba, “Since [the pagan] knows that it is prohibited for you to do business with him, it diminishes the celebration of his festival” [and that is the basis of Ishmael’s reasoning that even after the festival one may not do

business, for even on the festival the pagan will be concerned that later on he will be deprived of the benefit of Israelite trade].”

II. YERUSHALMI ABODAH ZARAH 1:2

- [A] THESE ARE THE FESTIVALS OF GENTILES: **KALENDS**, [2] **SATURNALIA**, [3] **KRATESIS** [THE COMMEMORATION OF THE EMPIRE], AND [4] THE EMPEROR’S ANNIVERSARY, [5] HIS BIRTHDAY, “AND [6] THE DAY OF HIS DEATH,” THE WORDS OF **R. MEIR**. AND SAGES SAY, “IN ANY CASE OF DEATH RITES IN WHICH THERE IS A BURNING, THERE IS IDOLATRY, AND IN WHICH THERE IS NO BURNING, THERE IS NO IDOLATRY.”
- 1.** **I:1:** Rab said, “Their testimonies [spelling the word for festivals at M. 1:2A with an ‘ayin].” And Samuel said, “Their calamity [with an ‘alef].” He who claims that the word is spelled with an ‘ayin [as “their testimonies,”] draws evidence from the following verse: “Let them bring their witnesses to justify them” (Is. 43:9). And he who claims that the word is spelled with an ‘alef, as “their festivals,” draws evidence from the following verse: “For the day of their calamity (‘YDM) is at hand” (Deut. 32:35).
 - 2.** **I:2:** Rab said, “Kalends did the first man institute. “When he saw that the nights were getting longer, he said, ‘Woe is me. Perhaps him concerning whom it is written, “He shall bruise your head, and you shall bruise his heel” (Gen. 3:15) – perhaps he is going to come and bite me.’ “Even the darkness is not dark to thee, [the night is bright as the day; for darkness is as light with thee]” (Ps. 139:12). “When [the first man] saw that the days were growing longer, he said, ‘Kalendes – Kalondeo! Praise be to God!””
 - 3.** **I:3:** Rab said, “[Doing business with gentiles three days before] Kalends is forbidden in the case of all [gentiles].” R. Yohanan said, “It is forbidden only [to do business] with those who worship on that day.” [Supply: Rab said,] “Saturnalia is forbidden in the case of all [gentiles].” R. Yohanan said, “With reference to both Kalends and Saturnalia, it is forbidden only [to do business] with those who worship on that day.”
 - 4.** **I:4:** [Kalends] – Rab said, “Kalends comes eight days before the winter solstice, and Saturnalia is eight days afterward.” Said R. Yohanan, “Peroqto is the beginning of the season.” R. Ba in the name of Rab: “There are three festival seasons in Babylonia, and three festal seasons in Media. The three festal seasons in Babylonia are Mahuri,

Kanauni, and Banauta. The three festal seasons in Media are Nausardi, Tirasqi, and Mahirkana.”

III. YERUSHALMI ABODAH ZARAH 1:3

[A] ON THE DAY ON WHICH [A GENTILE] SHAVES OFF HIS BEARD AND LOCK OF HAIR, [2] ON THE DAY ON WHICH HE CAME UP SAFELY FROM AN OCEAN VOYAGE, [3] ON THE DAY ON WHICH HE GOT OUT OF PRISON, AND A GENTILE WHO MADE A BANQUET FOR HIS SON – IT IS PROHIBITED FOR ONLY THAT DAY, AND IN REGARD TO THAT INDIVIDUAL ALONE [TO ENTER INTO BUSINESS RELATIONSHIPS OF ANY SORT, AS LISTED AT M. 1:1].

1. **I:1:** [Is the stated prohibition of business dealings with an individual gentile on the specified occasions applicable] to that day alone, or [does it apply] to that day from one year to the next?
2. **I:2:** It has been taught in a Tannaitic teaching: One should not send [to his fellow] jugs of wine that already have been sold to a storekeeper, for this is as if to impose upon him an empty claim in opening many jugs as if to honor a guest, in fact there is no loss]. One should not pressure his fellow to come as his guest when he does not want to do so. He should not overwhelm his fellow with gifts knowing that he will not accept them [T. B.Q. 7:8].
3. **I:3:** It has been taught in a Tannaitic teaching: A city in which Israelites and gentiles live – if the gentiles contribute to the charity collectors, they collect the funds from them and from Israelites, and they provide support for the poor of the gentiles just as they do for the poor of Israelites. They visit the sick of the gentiles just as they do for the sick of Israelites. They comfort the mourners of gentile deceased just as they do for the mourners of Israelite deceased. They bury the dead of gentiles just as they do for the dead of Israelites. They bring in the utensils of gentiles and the utensils of Israelites{all] on account of peace [T. Git. 3:13-14 (not verbatim)].

IV. YERUSHALMI ABODAH ZARAH 1:4

[A] A CITY IN WHICH THERE IS AN IDOL – [IN THE AREA] OUTSIDE OF IT IT IS PERMITTED [TO DO BUSINESS]. [IF] AN IDOL WAS OUTSIDE OF IT, [IN THE AREA] INSIDE IT IS PERMITTED.

1. **I:1:** [A city in which there is an idol:] lo, [if the idol is] inside of [the city], it is forbidden [to do business in that city]. Now is it merely because there is a single statue in the city that it should be forbidden to do business in that city?

[B] WHAT IS THE RULE AS TO GOING TO THAT PLACE? WHEN THE ROAD IS SET ASIDE FOR GOING TO THAT PLACE ONLY, IT IS PROHIBITED. BUT IF ONE IS ABLE TO TAKE THAT SAME ROAD TO SOME OTHER PLACE, IT IS PERMITTED.

1. **II:1:** Now has it not been taught: “They go to a fair and purchase from there boy-slaves and girl-slaves and cattle [T. A.Z. 1:8C]? R. Simeon b. Laqish said, “It is not the end of the matter that they may purchase Israelite slaves, but even gentile slaves [one may purchase at a fair held in honor of idolatry], for one brings them under the wings of the Presence.” [So M. 1:4 prohibits what this tradition would encourage.]
2. **II:2:** An Israelite who is on his way to a fair – they purchase [goods] from him, because it is as one who saves [property] from [gentiles’] possession. But when he is on his way back, it is forbidden to do so, for whatever he has in hand has been given to him on account of idolatry. And in the case of gentiles, one way or the other, whether they are going to the fair or whether they are coming back from the fair, it is permitted [to do business with them] [cf. T. A.Z. 1:15].
3. **II:3:** Hiyya bar Vava sent someone to buy him a sandal at the fair in Tyre. Said to him R. Jacob bar Aha, “Now are you among those who buy things at a fair?” He said to him, “Now have you never in your life purchased pressed olives?” He said to him, “But that is different, for R. Yohanan said, ‘They have not prohibited [buying at a fair] something that is necessary to sustain life.’”

[C] A TOWN IN WHICH THERE IS AN IDOL, AND THERE WERE IN IT SHOPS THAT WERE ADORNED AND SHOPS THAT WERE NOT ADORNED – THIS WAS A CASE IN BETH SHEAN, AND SAGES RULED, “THOSE THAT ARE ADORNED ARE PROHIBITED. BUT THOSE THAT ARE NOT ADORNED ARE PERMITTED:”

1. **III:1:** With what are they adorned?

V. YERUSHALMI ABODAH ZARAH 1:5

[A] [A] THESE ARE THINGS [THAT IT IS] FORBIDDEN TO SELL TO GENTILES: FIR-CONES, [2] WHITE FIGS [3] AND THEIR STALKS, [4] FRANKINCENSE, AND [5] A WHITE COCK. R. JUDAH SAYS, “IT IS PERMITTED TO SELL HIM A WHITE COCK AMONG

OTHER COCKS. “AND WHEN IT IS ALL BY ITSELF, ONE CUTS OFF ITS SPUR AND SELLS IT TO HIM, “FOR [IDOLATORS] DO NOT OFFER TO AN IDOL ONE THAT IS LACKING [A SPUR].” AND AS TO EVERYTHING ELSE, [IF] THEY ARE LEFT WITHOUT SPECIFICATION [AS TO THEIR PROPOSED USE], IT IS PERMITTED, BUT [IF] THEY ARE SPECIFIED [FOR USE FOR IDOLATRY], IT IS PROHIBITED.

1. **I:1:** Simeon bar Ba in the name of R. Yohanan: “White figs on their stalks, fir cones with their attachments.” Frankincense: It has been taught in a Tannaitic tradition: If it was a bundle, it is permitted [to sell to gentiles]. And how much is a bundle? R. Judah b. Beterah says, “A bundle of frankincense is no less than five varieties” [T. A.Z. 1:21A-C]. If [the customer] was a priest, it is forbidden to sell to him [, since he will certainly use the frankincense for idolatry]. [If he is] a physician, it is permitted. [If he is] a wholesale merchant, it is permitted. [If he is] a merchant suspect of idolatrous practices, it is forbidden.
2. **I:2:** We repeat in the Mishnah pericope [the version]: A white cock. R. Hiyya repeated [for his version of] the Mishnah pericope: cock of any sort. The present version of the Mishnah [specifying a white cock] requires also the version of R. Hiyya, and the version of R. E;Hiyya requires also the [present] version of the Mishnah.
3. **I:3:** R. Bun bar Hiyya raised the following question: “[If] one saw a flock of cocks pecking at a dung heap, and there was a white cock among them, and [a gentile] said, ‘To whom do these belong?’ [what is the rule]? Do we rule that it is as if he completed [the sentence, ‘To whom does the white cock belong?’ in which case it is as if he wanted only that one, and it is then forbidden to sell him the lot, or do we rule that, since he did not make explicit his interest in the white cock, one may sell him the whole lot?’ The question is not answered]. [If the cock] was lacking a spur naturally, does one rule that one lacking by nature do the pagans offer for idolatry [or not]?

[B] **R. MEIR SAYS, “ALSO FINE DATES, HASAB AND NICOLAUS DATES IS IT PROHIBITED TO SELL TO GENTILES.”**

1. **II:1:** R. Hama bar ‘Uqbah said, “[He refers to] caryota [dates].” R. Eleazar b. R. Yosé said, “It is a species [in its own right], and its name is Hasada.” [If] one transgressed and sold [these kinds of dates, what is the rule as to the disposition of the proceeds]?

VI. YERUSHALMI ABODAH ZARAH 1:6

[A] IN A PLACE IN WHICH THEY ARE ACCUSTOMED TO SELL SMALL CATTLE TO GENTILES, THEY SELL THEM.

1. **I:1:** [Now since the Mishnah pericope states that it is permitted to sell small cattle to gentiles, does it follow that] it is permitted to raise them [to begin with in the Holy Land]?
2. **I:2:** They proposed to rule: He who stated that it is permitted to sell them maintains that it is permitted to set them aside, and he who stated that it is prohibited to sell them maintains that it is prohibited also to set them aside [in corrals of gentiles, cf. M. 2:1A].

[B] IN A PLACE IN WHICH THEY ARE ACCUSTOMED NOT TO SELL [SMALL CATTLE] TO THEM, THEY DO NOT SELL THEM.

1. **II:1:** What is the reason [for this rule]? Because one thereby removes the small cattle [from the category of obligation to the rule requiring that the first] fleece [be given to the priest].

[C] AND IN EVERY LOCALE THEY DO NOT SELL THEM LARGE CATTLE, CALVES, OR FOALS, WHETHER WHOLE OR LAME.

1. **III:1:** What is the reason for this ruling? Because in the case of a large beast there is the possibility [that the gentile will work the beast on the Sabbath and so impose on the Israelite, who retains responsibility,] the liability for a sin-offering.
2. **III:2:** [If] one transgressed [the law in a locale in which it is prohibited to sell such beasts to gentiles] and sold [such a beast to a gentile], do they impose a fine upon him [so depriving the Israelite of the use of the proceeds]? Just as the sages impose such a penalty on the Israelite in the case of the violation of a law [e.g., deliberately blemishing a firstling so that the priest has no claim to it], so they impose a penalty on him for the violation of a custom [operative in a given locale].]

[D] R. JUDAH PERMITS IN THE CASE OF LAME ONES.

1. **IV:1:** R. Judah ruled only in regard to a lame beast that is not subject to healing [so it will not be used for labor on the Sabbath].

[E] AND BEN BETERAH PERMITS IN THE CASE OF HORSES.

1. **V:1:** Ben Beterah has stated this rule only in connection with a male horse, who will kill its owner in battle.
2. **V:2:** Rabbi says, “I say that it is prohibited [to sell horses to gentiles (M. 1:6E)]. “First, because one may not sell them weapons of war [and a horse is a weapon of war]. “Second, because one may not sell them a large beast [M. 1:6C; T. A.Z. 2:3I-K].”

VII. YERUSHALMI ABODAH ZARAH 1:7

[A] THEY DO NOT SELL THEM BEARS, LIONS, OR ANYTHING THAT IS A PUBLIC DANGER. THEY DO NOT BUILD WITH THEM A BASILICA. SCAFFOLD. STADIUM, OR [4] JUDGES TRIBUNAL. BUT THEY BUILD WITH THEM PUBLIC BATHHOUSES OR PRIVATE ONES. [ONCE] THEY REACH THE VAULTING ON WHICH THEY SET UP AN IDOL, IT IS FORBIDDEN [TO HELP BUILD ANY LONGER]:

1. **I:1:** [Since the Mishnah specifies that Israelites may not sell to gentiles anything that is a danger to the public,] lo, [it follows that it is] permitted to sell them anything that is not a danger to the public.
2. **I:2:** [If] one has transgressed [and helped a gentile] build [a basilica and the like, as to the disposition of the proceeds]: R. Eleazar said, “It is permitted [to make use of the proceeds].” Said R. Mana, “This ruling is hardly reasonable, that we should not prohibit [benefit from the salary]. For [the gentile] designates each vaulting [for use for setting up an idol, so it is as if the Israelite has assisted in setting up the pedestal for an idol, no matter what part of the work he actually does].”

VIII. YERUSHALMI ABODAH ZARAH 1:8

[A] THEY DO NOT SELL THEM PRODUCE AS YET UNPLUCKED. BUT ONE MAY SELL IT ONCE IT HAS BEEN HARVESTED. R. JUDAH SAYS, “ONE MAY SELL IT TO HIM WITH THE STIPULATION THAT HE WILL HARVEST IT.”

1. **I:1:** R. Bun bar Hiyya raised the question, “[In regard to Judah’s stipulation that the gentile will harvest the crop, in which case it is permitted to sell him a crop which has not been harvested,] is there also a dispute with regard to [the sale to a gentile] of a large beast? [Will he take the same position, namely, that] one may sell to a gentile a large beast on condition that he slaughter it[, and not use it for labor on the Sabbath]?”

IX. YERUSHALMI ABODAH ZARAH 1:9

[A] “THEY DO NOT RENT [TO GENTILES] HOUSES IN THE LAND OF ISRAEL, AND, IT GOES WITHOUT SAYING, FIELDS. BUT IN SYRIA THEY RENT THEM HOUSES, BUT NOT FIELDS. AND ABROAD THEY SELL THEM HOUSES AND RENT THEM FIELDS,” THE WORDS OF R. MEIR. R. YOSÉ SAYS, “EVEN IN THE LAND OF ISRAEL THEY RENT THEM HOUSES[, BUT NOT FIELDS]; IN SYRIA THEY SELL THEM HOUSES AND RENT THEM FIELDS, AND ABROAD THEY SELL THEM BOTH THE ONE AND THE OTHER.”

1. **I:1:** R. Zeira in the name of R. Yosé ben Haninah, R. Abba, R. Hiyya in the name of R. Yohanan: “‘You will show no mercy to them [THNM]’ (Deut 7:2). – You will show them no grace. ‘You will show no mercy to them.’ – You will give them no unrequited gift [MTNT HNM]. ‘You will show no mercy to them.’ – You will give them no place to settle [MQWM HN. YH] in the Holy Land.”
 - a. I:2: “‘You will show no mercy to them.’ – you will show them no grace.
 - b. I:3: R. Simeon, R. Abbahu in the name of R. Yosé bar Hanina, “An Israelite hairdresser should not dress the hair of a gentile woman, on the count of ‘You will show them no grace.’”
2. **I:4:** R. Simon had some vine growths [in his fields] in the Royal Mountains. He asked R. Yohanan [about whether it is permitted to rent the plants to a gentile]. He replied, “Let them lie uncultivated, but never rent them out to a gentile.”

X. YERUSHALMI ABODAH ZARAH 1:10

[A] EVEN IN THE SITUATION CONCERNING WHICH THEY HAVE RULED [THAT THEY MAY] RENT,

1. **I:1:** Lo, in a place in which it is customary to sell [houses to a gentile, e.g., abroad, in accord with the view of Meir, in Syria, in accord with the view of Yosé], one sells him even a residence, or rents him even a residence.

[B] IT IS NOT FOR USE AS A RESIDENCE THAT THEY RULED THAT IT IS PERMITTED, BECAUSE HE BRINGS AN IDOL INTO IT, AS IT IS SAID, “YOU SHALL NOT BRING AN ABOMINATION INTO YOUR HOUSE” (DEUT. 7:26).

- 1.** **II:1:** [R. Judah says “If there are] two courtyards, one within the other, the inner courtyard is subject to the law [of tithes and renders liable to tithes produce brought within it], and the outer courtyard is exempt from the law” [M. Ma. 3:5G-I]. If it was a single courtyard and divided into two and made into one [what is the law? This question is not answered].

[C] **AND IN NO PLACE MAY ONE RENT HIM A BATHHOUSE, SINCE IT WOULD BE CALLED BY HIS [THE ISRAELITE’S] NAME [AND ITS USE ON THE SABBATH WILL BE ATTRIBUTED TO THE ISRAELITE].**

- 1.** **III:1:** [In the light of M. 1:10D,] R. Abin in the name of the rabbis over there: “That is to say, a field that is situated by the road is it prohibited to rent out to gentiles, because it bears the name of an Israelite, and [gentiles] will work the field on the Sabbath or on festivals.”

XI. YERUSHALMI ABODAH ZARAH 2:1

[A] **THEY DO NOT LEAVE CATTLE IN GENTILES’ INNS, BECAUSE THEY ARE SUSPECT IN REGARD TO BESTIALITY:**

- 1.** **I:1:** [Since, at M. Par. 2:1C-D, Eliezer declares that a red heifer for burning for ashes for purification water may not be purchased from gentiles, while the sages permit doing so, and since the present pericope assumes gentiles routinely practice bestiality,] R. Zeira, R. Abbahu in the name of R. Yosé b. R. Haninah, R. Ba, R. Jonah [declare]: “Interpret the Mishnah to accord with the position of R. Eliezer. For R. Eliezer said, [The red heifer for burning for ashes for purification water] is not to be purchased from gentiles.” R. Jonah raised the following inquiry: “Now why do we not interpret the Mishnah pericope to represent the opinion of all parties [and not merely Eliezer, for a distinction is possible here which is not operative at M. Par. 2:1]. This then would accord with the position outlined by R. Eleazar in the name of Rab: ‘And even in accord with the opinion of him who said that it is permitted to sell them [beasts], it is still prohibited to house them [with gentiles, or to designate them as the property of gentiles].’”
 - a.** **I:2:** R. Isaac and R. Ammi were in session. They raised the question, “And lo, it is written, ‘They sacrificed to the Lord on that day, from the spoil [which they had brought]’ (2 Chron. 15:11). [Now this verse shows that the people did not distinguish among

the beasts, or scruple as to which animal may have been a victim of bestiality. This would represent an objection to the position of Eliezer at M. Par. 2:1, that we do take account of the prior treatment of the beast.]”

2. **I:3:** They do not leave cattle in gentiles’ inns [M. 2:1A], even male cattle with men, and female cattle with women[, because a male may bring a male beast over him, and a female may do the same with a female beast], and it goes without saying, males with women, and females with men [T. A.Z. 3:2A-D].
3. **I:4:** But they leave cattle in Samaritans’ inns [even male cattle with women and female cattle with men and female cattle with women. And they hand over cattle to Samaritans’ shepherds, and they hand over a child to him to teach him reading [T. A.Z. 3:1].
4. **I:5:** It has been taught in a Tannaitic tradition: They do not sell them either a sword or the paraphernalia for a sword, and they do not polish a sword for them [T. A.Z. 2:4A-B].

[B] AND A WOMAN SHOULD NOT BE ALONE WITH THEM, BECAUSE THEY ARE SUSPECT IN REGARD TO FORNICATION. AND A MAN SHOULD NOT BE ALONE WITH THEM, BECAUSE THEY ARE SUSPECT IN REGARD TO BLOODSHED:

1. **II:1:** And do not women fall within the category of those who are murdered [as is said with reference to a man, because they are suspect in regard to bloodshed]? Said R. Ammi, “Interpret the Mishnah rule to apply to a case of a strong woman [who is not afraid of people, because she can defend herself].” Said R. Abin, “And you may even propose [a quite different reason that a woman need not be concerned about bloodshed]: A woman can hide her status and claim, ‘I am a gentile,’ but a man cannot hide his status and claim, ‘I am a gentile.’”

[C] AN ISRAELITE GIRL SHOULD NOT SERVE AS A MIDWIFE TO A GENTILE WOMAN, BECAUSE SHE SERVES TO BRING FORTH A CHILD FOR THE SERVICE OF IDOLATRY. BUT A GENTILE WOMAN MAY SERVE AS A MIDWIFE TO AN ISRAELITE GIRL:

1. **III:1:** And it has been taught in a Tannaitic source to the same effect: She serves as a midwife on the outside [with others watching her], but not inside [all by herself. She should not put her hand inside [the womb], so that she may not crush the fetus in her womb. And she should not give her a cup of bitters to drink [T. A.Z. 3:4C].

[D] AN ISRAELITE GIRL SHOULD NOT GIVE SUCK TO THE CHILD OF A GENTILE WOMAN:

1. **IV:1:** Said R. Yosé, “Along these same lines the rule is that it is forbidden to teach him a craft [since that gives him a livelihood].”

[E] **BUT A GENTILE WOMAN MAY GIVE SUCK TO THE CHILD OF AN ISRAELITE GIRL, WHEN IT IS BY PERMISSION:**

1. **V:1:** This is in accord with the following verse of Scripture: “Kings shall be your foster fathers, and their queens your nursing mothers” (Is. 49:23).

XII. YERUSHALMI ABODAH ZARAH 2:2

[A] **THEY ACCEPT FROM THEM HEALING FOR PROPERTY, BUT NOT HEALING FOR A PERSON. “AND THEY DO NOT ALLOW THEM TO CUT HAIR UNDER ANY CIRCUMSTANCES,” THE WORDS OF R. MEIR. AND SAGES SAY, “IN THE PUBLIC DOMAIN IT IS PERMITTED, BUT NOT IF THEY ARE ALONE.”**

1. **I:1:** R. Jacob bar Zabedi in the name of R. Abbahu: “Healing for property refers to [using a veterinarian for healing of his] beast, healing for a person refers to [using a physician for healing for] his own body.
2. **I:2:** What is the rule as to accepting bluing [for the eyes] from [gentiles]?
 - a. **I:3:** Associates in the name of R. Ba bar Zabeda: “Any [wound] that is located from the lips and inward do they heal on the Sabbath [since such a wound involves danger to life].”
3. **I:4:** “The [Mishnah pericope cited below],” said R. Haninah, “means that one may not attain healing through bloodshed. For we have learned in the following Mishnah passage: [The woman who is in hard labor – they chop up the child in her womb and remove it limb by limb, because her life takes precedence over its life.] [If] the greater part [of the child] had gone forth, they do not touch it, for they do not set aside one life on account of another life [M. Oh. 7:6]. They take account of the possibility that he might die, and they do not set aside one life on account of another life.”
4. **I:5:** He who gives a haircut to a gentile clips until he reaches the forelock. Once he reaches the forelock, lo, this one removes his hands [and does not cut it off] [T. A.Z. 3:6A]. [An Israelite] who is getting a haircut from a gentile watches him in the mirror. [If it is] from a Samaritan, he does not watch in the mirror [T. A.Z. 3:5A-B]. They

permitted the household of Rabbi [Tosefta: Rabban Gamaliel] to look [at themselves in the mirror], because they are subject to the government [T. A.Z. 3:5C-D].

XIII. YERUSHALMI ABODAH ZARAH 2:3

[A] THESE THINGS BELONGING TO GENTILES ARE PROHIBITED, AND THE PROHIBITION AFFECTING THEM EXTENDS TO DERIVING ANY BENEFIT FROM THEM AT ALL: (1) WINE, (2) VINEGAR OF GENTILES WHICH TO BEGIN WITH WAS WINE, (3) HADRIANIC EARTHENWARE:

- 1. I:1:** R. Isaac bar Nahman in the name of R. Joshua b. Levi would say, “[If wine was] sweet, bitter, or strong, the [prohibition of wine that has been left] uncovered does not [apply, because that prohibition is based on the possibility that a snake has drunk from the open keg and imparted its venom to the wine in the keg, and snakes will not drink from these three sorts of wine].” R. Simon in the name of R. Joshua b. Levi [said], “Strong, bitter, and sweet wine is not subject [to prohibition on the count of wine that has been left] uncovered or [to prohibition on the count of wine that has been used] for idolatrous purposes[, because gentiles will not use wine of such character for libations].”
- 2. I:2:** R. Assi, R. Yohanan in the name of Ben Beterah: “Libation wine that fell into a winepress – one may sell the whole of [the contents of the press] to a gentile, [deriving benefit from the entire proceeds] except for the value of the libation wine that is in [the press].” R. Assi in the name of R. Yohanan: “Ordinary wine belonging to a gentile is forbidden but does not impart uncleanness [as does libation wine]. [If an Israelite] deposited [wine] with [a gentile], it is prohibited for consumption, but permitted [so far as the Israelite’s] deriving benefit [from the sale of the wine].”
- 3. I:3:** There we repeat the following tradition: [He who leaves his tithed produce] in the keeping of a gentile – the produce is deemed to be] like [the gentile’s] produce. R. Simeon says, “It is deemed to be demai” [M. Dem. 3:4G-I]. R. Hananiah asked before R. Mani, “Is the meaning of ‘the produce is deemed to be like the gentile’s produce’ to be taken literally and [so Simeon’s opponent’s] reasoning is that they are in fact free of tithes entirely? But what of totally untithed produce deriving from some other source [that one deposited with a gentile]? [Shall we then say that that sort of totally untithed produce, deposited with a gentile, also will be wholly exempt from tithing?]”

4. **I:4:** [If an Israelite] deposited [his keg of wine] with a [gentile] when the keg was sealed [but not in a specified and designated corner of the gentile's house] – Hananiah and R. Mana – one said [the wine] is forbidden, and one said [the wine is] permitted.
5. **I:5:** R. Jacob bar Aha, R. Simeon bar Ba, R. Eleazar in the name of R. Haninah, R. Ba, R. Hiyya in the name of R. Yohanan, R. Zeira in the name of R. Joshua b. Levi: “Everything is permitted [that has been in a gentile's domain so long as it is protected by even] a single seal, except for wine and a Hadrianic pot.”

[B] AND (4) HIDES PIERCED AT THE HEART. RABBAN SIMEON B. GAMALIEL SAYS, “WHEN THE TEAR IN THE HIDE IS ROUND, IT IS PROHIBITED. [IF IT IS] STRAIGHT, IT IS PERMITTED:”

1. **II:1:** R. Jeremiah in the name of Rab: “The law is in accord with the position of Rabban Simeon b. Gamaliel.”
2. **II:2:** How does one make such a hide?

[C] “MEAT WHICH IS BEING BROUGHT IN TO AN IDOL IS PERMITTED.

1. **III:1:** R. Ba, R. Hiyya in the name of R. Yohanan said, “This ruling is stated to exclude the position of R. Eliezer. For R. Eliezer says, ‘The [mere] intention of a gentile [to make use of meat] for idolatry [is sufficient to prohibit Israeli use of that meat].’” [We see that that position is not valid]

[D] BUT THAT WHICH COMES OUT IS PROHIBITED, “BECAUSE IT IS LIKE SACRIFICES OF THE DEAD (PS. 106:28),” THE WORDS OF R. AQIBA:

1. **IV:1:** R. Abina in the name of R. Jeremiah, “This is the case if one has brought the meat further in than the bars [enclosures into the sanctum], but if he did not bring it within the bars, also that which comes out is permitted.”

[D] WITH THOSE WHO ARE GOING TO AN IDOLATROUS PILGRIMAGE – IT IS PROHIBITED TO DO BUSINESS. WITH THOSE THAT ARE COMING BACK IT IS PERMITTED.

1. **V:1:** R. Hiyya in the name of R. Yohanan, “It is a case of a TWRYBS [a pedestal for a mountain]: They bring a large idol to a small idol.”
2. **V:2:** But those that are coming back – they are permitted: R. Abina in the name of R. Jeremiah, “This is the rule in a case in which, when they are coming back, they are not as they were when they went [in

large groups]. But if, when they were coming back, they are as they were when they went, they too are prohibited.”

XIV. YERUSHALMI ABODAH ZARAH 2:4

[A] “**SKINS OF GENTILES AND THEIR JARS, WITH ISRAELITE WINE COLLECTED IN THEM – “THEY ARE PROHIBITED, AND THE PROHIBITION AFFECTING THEM EXTENDS TO DERIVING BENEFIT FROM THEM AT ALL,”** THE WORDS OF **R. MEIR.**

1. **I:1:** Skins belonging to gentiles, that are scraped, lo, these are permitted. Those that [are sealed or] covered with pitch, lo, these are prohibited. [If] a gentile works it and pitches it, while an Israelite supervises him, [an Israelite] may collect wine or oil in it without scruple [T. 4:10E-F].

[B] **AND SAGES SAY, “THE PROHIBITION AFFECTING THEM DOES NOT EXTEND TO DERIVING BENEFIT FROM THEM.”**

1. **II:1:** And why [at M. 2:4C do the sages say that wine collected in skins of gentiles is] prohibited for drinking, yet permitted for other sorts of benefit?
2. **II:2:** Said R. Ba, “When R. Aqiba went to Sepphoris, they came and asked him, ‘Jars belonging to gentiles – in what manner are they to be cleansed [of their uncleanness]?’”
3. **II:3:** [If] a gentile has collected water in [jars], an Israelite [who wishes to make use of the same jars] puts water into them and then goes and puts wine into them and need not scruple. [If] a gentile collected brine or fish-brine in them, an Israelite may then put wine into those same jars. [If] a gentile collected wine in them, an Israelite may put into them brine or fish-brine and then go and put wine into them, and he need not scruple.

XV. YERUSHALMI ABODAH ZARAH 2:5

[A] “**GRAPE PITS AND GRAPE SKINS BELONGING TO GENTILES ARE PROHIBITED, AND THE PROHIBITION AFFECTING THEM EXTENDS TO DERIVING ANY BENEFIT FROM THEM AT ALL,”** THE WORDS OF **R. MEIR.** **AND SAGES SAY, “[IF] THEY ARE MOIST, THEY ARE FORBIDDEN. IF THEY ARE DRY, THEY ARE PERMITTED.”**

1. **I:1:** [Interpreting the position of sages, M. 2:5B,] R. Sheshet in the name of Rab: “If they are moist, they are forbidden even for deriving benefit from them. If they are dry, they are permitted even for eating.”
2. **I:2:** Now do we not learn in the Mishnah: [Wine] does not become libation wine until it descends into the vat, [so why should the moist grape pits and skins belonging to gentiles be prohibited at all]?
3. **I:3:** There we have learned in the Mishnah: And so with new olive peat. But with old [olive peat], [the oven is] clean. And if it is known that liquids exude from them even after three years, it is made unclean [M. Kel. 9:5E-H]. What is new peat? That which is within twelve months of its preparation. And old? After it is twelve months old [T. B.Q. 6:18].

XVI. YERUSHALMI ABODAH ZARAH 2:6

[A] “**FISH BRINE AND BITHYNIAN CHEESE BELONGING TO GENTILES ARE PROHIBITED, AND THE PROHIBITION OF THEM EXTENDS TO DERIVING ANY BENEFIT FROM THEM AT ALL,**” THE WORDS OF **R. MEIR**. AND SAGES SAY, “**THE PROHIBITION OF THEM DOES NOT EXTEND TO DERIVING BENEFIT FROM THEM.**”

1. **I:1:** [As to putting] wine [having the status of heave-offering, which must be consumed and not permitted to go to waste] into fish brine, Rabbi permits doing so. R. Eleazar b. R. Simeon prohibits doing so [cf. M. Ter. 11:1]. Therefore if one has transgressed and put wine [having the status of heave-offering into fish brine], Rabbi declares [the mixture] prohibited to non-priests, [because the wine imparts flavor to the fish brine]. R. Eleazar b. R. Simeon permits [the mixture] to non-priests[, because the wine is destroyed by the fish brine and so is null, not in existence].

XVII. YERUSHALMI ABODAH ZARAH 2:7

[A] SAID **R. JUDAH**, “**R. ISHMAEL ASKED R. JOSHUA AS THEY WERE GOING ALONG THE ROAD. ‘HE SAID TO HIM, ‘ON WHAT ACCOUNT DID THEY PROHIBIT CHEESE MADE BY GENTILES?’ ‘HE SAID TO HIM, ‘BECAUSE THEY CURDLE IT WITH RENNET FROM CARRION.’ ‘HE SAID TO HIM, ‘AND IS NOT THE RENNET FROM A WHOLE-OFFERING SUBJECT TO A MORE STRINGENT RULE THAN RENNET FROM CARRION,**

1. **I:1:** [With reference to Meir's view that fish brine and Bithynian cheese belonging to gentiles are prohibited even as to deriving benefit,] R. Jacob bar Aha, R. Simeon bar Ba in the name of R. Joshua b. Levi [stated], "It is because of the calves that are slaughtered there for the sake of idolatry], and the rennet deriving from those calves is used for making cheese, and, because of that tiny amount, Meir prohibits even deriving benefit from the cheese (as at M. A.Z. 2:7F)]."
2. **I:2:** R. Hiyya bar Ba in the name of R. Yohanan: "At first they ruled, 'They do not curdle [milk] with rennet from carrion [even of an Israelite] or with rennet deriving from gentile [preparation, since it is part of its body].' They reverted to rule, 'They curdle milk with rennet from carrion, but they do not curdle cheese with rennet deriving from gentile [preparation, for the rennet has the status of excrement].'"
3. **I:3:** Associates in the name of R. Yohanan: "The words of scribes are more beloved than the words of Torah and more cherished than words of Torah: 'For your palate is like the best wine' (Song of Sol. 7:9)."
Simeon bar Ba in the name of R. Yohanan, "The words of scribes are more beloved than the words of Torah and more cherished than words of Torah: 'For your love is better than wine' (Song of Sol. 1:2)."
4. **I:4:** R. Jacob bar Aha, R. Simeon bar Ba in the name of R. Joshua b. Levi [stated]: "It is because of the calves that are slaughtered there for the sake of idolatry[, and the rennet deriving from those calves is used for making cheese, as above]."

[B] **É**AND YET THEY HAVE SAID, 'A PRIEST WHO IS NOT SQUEAMISH SUCKS IT OUT RAW?' (BUT THEY DID NOT CONCUR WITH HIM AND RULED, "IT IS NOT AVAILABLE FOR [THE PRIEST'S] BENEFIT, WHILE IT ALSO IS NOT SUBJECT TO THE LAWS OF SACRILEGE.") "HE WENT AND SAID TO HIM, 'BECAUSE THEY CURDLE IT WITH RENNET OF SALVES SACRIFICED TO IDOLS.' "HE SAID TO HIM, 'IF SO, THEN WHY HAVE THEY NOT ALSO EXTENDED THE PROHIBITION AFFECTING IT TO THE MATTER OF DERIVING BENEFIT FROM IT?'"

1. **II:1:** What is the meaning of sucks it out [M. A.Z. 2:7D]?

[C] "HE MOVED HIM ON TO ANOTHER SUBJECT. "HE SAID TO HIM, 'ISHMAEL, MY BROTHER, HOW DO YOU READ THE VERSE: "FOR YOUR [MASCULINE] LOVE IS BETTER THAN WINE, OR, YOUR [FEMININE] LOVE IS BETTER THAN WINE" (SONG 1:2)?" "HE SAID TO HIM, "FOR YOUR [FEMININE] LOVE IS BETTER THAN WINE.'" "HE SAID TO HIM, 'THE MATTER IS NOT SO. FOR ITS NEIGHBOR TEACHES CONCERNING IT, "YOUR [MASCULINE] OINTMENTS HAVE A GOODLY FRAGRANCE" (SONG 1:3).'"

- 1.** **III:1:** R. Honiah said R. Hama bar Uqba asked, “If it was his intent to put him off with words, he should have moved him on to the five puzzles that are in the Torah [in which it is possible to interpret a matter in two equally valid ways].”

XVIII. YERUSHALMI ABODAH ZARAH 2:8

- [A] AND WHAT ARE THINGS OF GENTILES WHICH ARE PROHIBITED, BUT THE PROHIBITION OF WHICH DOES NOT EXTEND TO DERIVING BENEFIT FROM THEM?**
- (1) MILK DRAWN BY A GENTILE WITHOUT AN ISRAELITE’S WATCHING HIM;**
- 1.** **I:1:** As to milk produced by a gentile[’s cow] – why is it prohibited?
- [B] (2) THEIR BREAD;**
- 1.** **II:1:** Their bread: R. Jacob bar Aha in the name of R. Jonathan: “The law [permitting gentile bread for Israelite benefit, but not consumption] was an Irregular measure [passed in an emergency, but contrary to the real law].”
- [C] (4) STEWED AND PICKLED [VEGETABLES] INTO WHICH IT IS CUSTOMARY TO PUT WINE AND VINEGAR; (5) MINCED FISH; (6) BRINE WITHOUT KILKIT FISH FLOATING IN IT; (7) HILEQ FISH, (8) DROPS OF ASAFOETIDA, AND (9) SAL-CONDITUM – LO, THESE ARE PROHIBITED, BUT THE PROHIBITION AFFECTING THEM DOES NOT EXTEND TO DERIVING BENEFIT FROM THEM:**
- 1.** **III:1:** [Éstewed and pickled vegetables into which it is customary to put wine and vinegar]: They said before R. Hiyya the Elder, “R. Simeon b. Yohai taught, ‘You shall purchase food from them for money, that you may eat; and you shall also buy water of them for money, that you may drink’ (Deut. 2:6). [Now the statement by Moses explicitly permits Israelites to purchase and drink water from gentiles, and by analogy, we reason as follows:] Just as water is something that does not change from its natural state, so anything that is not changed from its natural state [may be purchased from gentiles and consumed by Israelites].”
- [D] AND (3) THEIR OIL – (RABBI AND HIS COURT PERMITTED THEIR OIL) –**
- 1.** **IV:1:** [Their oil:] Who forbade their oil? B. Judah said, “Daniel forbade it: ‘And Daniel resolved [that he would not defile himself with the king’s rich food or with the wine which he drank]’ (Dan. 1:8).” Who permitted it? Rabbi and his court [permitted their oil].

2. **IV:2:** An egg roasted by [gentiles] – Bar Qappara permitted. Hezekiah prohibited.
3. **IV:3:** What is the law governing [Israelite consumption of] their [gentiles’] lupines?
4. **IV:4:** Dumpling prepared by them – what is the law?

XIX. YERUSHALMI ABODAH ZARAH 2:9

[A] THESE ARE THINGS WHICH [TO BEGIN WITH] ARE PERMITTED FOR [ISRAELITE] CONSUMPTION. (1) MILK WHICH A GENTILE DREW, WITH AN ISRAELITE WATCHING HIM; (2) HONEY; (3) GRAPE CLUSTERS, (EVEN THOUGH THEY DRIP WITH MOISTURE, THEY ARE NOT SUBJECT TO THE RULE OF IMPARTING SUSCEPTIBILITY TO UNCLEANNESS AS LIQUID); (4) PICKLED VEGETABLES INTO WHICH IT IS NOT CUSTOMARY TO PUT WINE OR VINEGAR; (5) UNMINCED FISH; (6) BRINE CONTAINING FISH; (7) A [WHOLE] LEAF OF ASAFOETIDA, AND (8) PICKLED OLIVE CAKES. R. YOSÉ SAYS, “THOSE WHICH ARE SODDEN ARE PROHIBITED.” LOCUSTS WHICH COME FROM [THE SHOPKEEPER’S] BASKET ARE FORBIDDEN. THOSE WHICH COME FROM THE STOCK [OF HIS SHOP] ARE PERMITTED. AND SO IS THE RULE FOR HEAVE-OFFERING:

1. **I:1:** Said R. Eleazar, “[It follows from the teaching] that you have given [that it is permitted to consume] food in which it is not customary to put wine or vinegar, [that] lo, [if] it is entirely clear that [a gentile indeed] has put [wine or vinegar into food, that food] is forbidden, even for Israelite benefit [e.g., through sale to a gentile].”
2. **I:2:** What is hileq-fish?
3. **I:3:** [As to minced fish, which, prepared by a gentile, Israelites may not eat (M. 2:8D,) said R. Yosé b. R. Bun, “But [that prohibition applies] specifically when the fish is chopped up[, and the body of the fish is not discerned at all].”
4. **I:4:** There are Tannaitic tradition teachers who teach, “Black is forbidden and white is permitted.” There are Tannaitic tradition teachers who teach, “White is permitted and black is forbidden.”
5. **I:5:** [Pickled olive cakes]: All the same are the objects referred to by the following words: Those for overhanging boughs and protruding growths; for loose lattice work and vibrating slats; for mouldings and rims; for cups and mugs; a place for placing cups and a place for

leaving pieces [of food (M. Kel. 22:1)]; for pickled olive cakes and circles of pressed olives.

6. **I:6:** Those that are sodden are forbidden: R. Hiyya in the name of R. Yohanan said, “[This refers to] a certain kind of olives into which they put vinegar so as to extract the pit.”

XX. YERUSHALMI ABODAH ZARAH 3:1

**[A] “ALL IMAGES ARE PROHIBITED, BECAUSE THEY ARE WORSHIPPED ONCE A YEAR,”
THE WORDS OF R. MEIR.**

1. **I:1:** If the idols are worshipped once a year, then how come rabbis permit?

a. I:2: Secondary gloss of a detail of the foregoing.

**[B] AND SAGES SAY, “PROHIBITED IS ONLY ONE WHICH HAS IN ITS HAND A STAFF,
BIRD, OR SPHERE.”**

1. **II:1:** A staff – for [what is intended is that] it rules the world with [a staff]. A bird – “My hand was found like a nest the wealth of the peoples” (Is. 10:14). A sphere – for the world is shaped like a sphere.

2. **II:2:** They added [to the list of items stated by the sages] a sword, crown, ring[, image, or snake] [T. A.Z. 5:1B]. A sword – with which [the idol] kills. A crown – with which [an idol] is crowned. A ring – with which [an idol] seals [its decrees]. A ring on which there is an idol is prohibited [Tosefta: permitted] for use as a seal. R. Judah says, “If the seal was incised, it is prohibited for use as a seal, because an image is made thereby. If it projects, it is permitted to make a seal with it” [T. A.Z. 5:2F-G]. R. Haninah b. Gamaliel says, “The members of father’s establishment would use a seal on which there were figures.” R. Eleazar b. R. Simeon says, “Any sort of figure would have been found in Jerusalem, except for the figure of a man alone” [T. A.Z. 5:2N-O].

**[C] RABBAN SIMEON B. GAMALIEL SAYS, “ANY WHICH HAS ANYTHING AT ALL IN ITS
HAND.”**

1. **III:1:** But this is on condition that it be something that is a matter of honor [respectable to hold].

XXI. YERUSHALMI ABODAH ZARAH 3:2

[A] **HE WHO FINDS THE SHERDS OF IMAGES – LO, THESE ARE PERMITTED.**

1. **I:1:** R. Yosé in the name of R. Yohanan: “[The reason that sherds are permitted is] that most of them come from Delphic tables[, which are decorated with images, and there is no reason to suppose they have been worshiped as idols].”
2. **I:2:** An idol that was [found] smashed – R. Yohanan said, “[The sherds are] forbidden.” R. Simeon b. Laqish said, “[The sherds are] permitted.”
3. **I:3:** He who comes across an idol – Rab said, “He shatters it limb by limb, and it is thereby nullified.” Samuel said, “It is never subject to nullification [and its pieces are always prohibited for Israelites].”

[B] **[IF] ONE FOUND [A FRAGMENT] SHAPED LIKE A HAND OR A FOOT, LO, THESE ARE PROHIBITED, BECAUSE OBJECTS SIMILAR TO THEM ARE WORSHIPPED:**

1. **II:1:** R. Abin in the name of R. Simeon: “That rule applies to a case in which there is no pedestal with them, but if there is a pedestal with them, I claim that the hand or foot come from the sherds [of the statue, and one who says that a broken idol is permitted will permit an Israelite to derive benefit from these sherds, while the one who rules that a broken idol is never permitted will not do so].”

XXII. YERUSHALMI ABODAH ZARAH 3:3

[A] **HE WHO FINDS UTENSILS UPON WHICH IS THE FIGURE OF THE SUN, MOON, OR DRAGON, SHOULD BRING THEM TO THE SALT SEA. RABBAN SIMEON B. GAMALIEL SAYS, “THOSE THAT ARE FOUND ON OBJECTS OF VALUE ARE PROHIBITED, BUT THOSE THAT ARE FOUND ON OBJECTS OF NO WORTH ARE PERMITTED.” R. YOSÉ SAYS, “ONE BREAKS THEM INTO PIECES AND THROWS THE POWDER TO THE WIND OR DROPS THEM INTO THE SEA.” THEY SAID TO HIM, “ALSO: THEY MAY BE MADE INTO MANURE, AS IT IS SAID, ‘AND THERE WILL CLEAVE NOTHING OF A DEVOTED THING TO YOUR HAND’ (Dt. 13:18).”**

1. **I:1:** They repeated [the rule of M. 3:3A] only in the case of utensils upon which is the figure of the sun, moon. Lo, [if the representations] of any other heavenly bodies [should be found on utensils, the stated rule does] not [apply]. They repeated [that same rule] only in the case

of utensils upon which is the figure of Éa dragon. Lo, [if the representations] of any other serpents [should be found on utensils, the stated rule does] not [apply].

2. **I:2:** Now how shall we interpret the matter [of M. 3:3B]? If it is a matter of certainty that [the sherds] were worshiped, then even those that are found on objects of no worth must be forbidden. And if it is a matter of certainty that they have not been subjected to worship, then even those that are found on objects of value should be permitted.
3. **I:3:** R. Yosé [who rules that one breaks them into pieces and throws the powder into the wind or drops them into the sea] objected to the rabbis [who said the objects may be pulverized and made into manure], “And is it not written: ‘Then I took the sinful thing, the call which you had made, and burned it with fire and crushed it, grinding it very small until it was as fine as dust, and I threw the dust of it into the brook that descended out of the mountain’ (Deut. 9:21). [This would indicate that the object must be broken into pieces and thrown into the sea or into the river.]” They said to him, “This verse [does not indicate how idols in general must be discarded, but serves to] teach that Moses planned to test them just as they test wives accused of adultery: ‘And he took the call which they had made and burnt it with fire and ground it to powder and scattered it upon the water and made the people of Israel drink it’ (Ex. 32:20). “And has it not been written, ‘He also removed Maacah his mother from being queen mother because she had an abominable image made for Asherah; and Asa cut down her image and burned it at the brook Kidron’ (1 Kings 15:13). [But he did not pulverize it, so it can have been used for manure.]” He said to them, “Is there any proof from that verse? ‘Asa cut down her image, crushed it, and burned it at the brook Kidron’ (2 Chr. 15:16). [This explicitly states that Asa did pulverize the idol.]” He said to them, ““And he broke in pieces the bronze serpent that Moses had made, for until those days the people of Israel had burned incense to it’ (2 Kings 18:4). [This was an idol, and it had to be pulverized, and clearly could not be used for manure.]” [They said to him,] “Now was the serpent an idol? And did not Moses himself make it? But it teaches that the Israelites strayed after it [as if it were an idol], so that Hezekiah came along and removed it.” One verse of Scripture states, “And the Philistines left their idols there, and David and his men carried them away” (2 Sam. 5:21). And yet another verse of Scripture states, “And they left their gods there, and David gave command, and they were burned” (1 Chr. 14:12) [T. A.Z. 3:19].

XXIII. YERUSHALMI ABODAH ZARAH 3:4

[A] PEROQELOS B. PELOSEPOS [“PERICLES THE PHILOSOPHER”] ASKED RABBAN GAMALIEL IN AKKO, WHEN HE WAS WASHING IN APHRODITE’S BATHHOUSE, SAYING TO HIM, “IT IS WRITTEN IN YOUR TORAH, ‘AND THERE SHALL CLEAVE NOTHING OF THE DEVOTED THING TO YOUR HAND’ (DEUT. 13:18). HOW COME YOU’RE TAKING A BATH IN APHRODITE’S BATHHOUSE?” HE SAID TO HIM, “THEY DO NOT GIVE ANSWERS IN A BATHHOUSE.” WHEN HE WENT OUT, HE SAID TO HIM, “I NEVER CAME INTO HER DOMAIN. SHE CAME INTO MINE. THEY DON’T SAY, ‘LET’S MAKE A BATHHOUSE AS AN ORNAMENT FOR APHRODITE.’ BUT THEY SAY, ‘LET’S MAKE APHRODITE AS AN ORNAMENT FOR THE BATHHOUSE.’ “ANOTHER MATTER: IF SOMEONE GAVE YOU A LOT OF MONEY, YOU WOULD NEVER WALK INTO YOUR TEMPLE OF IDOLATRY NAKED OR SUFFERING A FLUX, NOR WOULD YOU URINATE IN ITS PRESENCE. “YET THIS THING IS STANDING RIGHT AT THE HEAD OF THE GUTTER AND EVERYBODY URINATES RIGHT IN FRONT OF HER. “IT IS SAID ONLY, ‘...THEIR GODS’ (DEUT. 12:3) – THAT WHICH ONE TREATS AS A GOD IS PROHIBITED, BUT THAT WHICH ONE TREATS NOT AS A GOD IS PERMITTED.”

1. **I:1:** How shall we interpret [the discourse with the nonbeliever]? If he asked him a question about the laws of the bathhouse, then [even in the bathhouse] he should have answered him [since it surely is permissible to answer a question about the laws of the bathhouse when one is in the bathhouse]. And if it was not about the laws of the bathhouse, he should not have answered him at all.
2. **I:2:** Associates, R. Hama bar Yosé in the name of R. Hoshaiyah, R. Zeira in the name of R. Joshua b. Levi: “[Gamaliel] gave the nonbeliever an answer merely meant to put him off [but not a serious reply]. For if [he really wanted to give a serious reply], the nonbeliever should have answered him by reference to the incident of Baal Peor, the worship of which was only through self-exposure [“flashing”], [and there is no more disgraceful deed, and yet this was deemed a mode of worship]. [So Gamaliel’s reply about not urinating before the idol is of no account, and the entire argument adds up to nothing.]

XXIV. YERUSHALMI ABODAH ZARAH 3:5

[A] GENTILES WHO WORSHIP HILLS AND VALLEYS – THESE [HILLS OR VALLEYS] ARE PERMITTED, BUT WHAT IS ON THEM IS FORBIDDEN [FOR ISRAELITE USE], AS IT

IS SAID, “YOU SHALL NOT COVET THE SILVER OR GOLD THAT IS UPON THEM NOT TAKE IT.” R. YOSÉ SAYS, “THEIR GODS ARE ON THE MOUNTAINS, AND THE MOUNTAINS ARE NOT THEIR GODS. THEIR GODS ARE IN THE VALLEYS, AND THE VALLEYS ARE NOT THEIR GODS.” ON WHAT ACCOUNT IS AN ASHERAH PROHIBITED? BECAUSE IT HAS BEEN SUBJECT TO MANUAL LABOR, AND WHATEVER HAS BEEN SUBJECT TO MANUAL LABOR IS PROHIBITED.

1. **I:1:** R. Zeira, R. Yasa, R. Yosé bar Hanina in the name of R. Hoshaiah: “One Scripture states, ‘You shall not covet the silver and gold that is upon them, nor take it for yourself’ (Deut. 7:25). And yet another verse of Scripture says, ‘And you have seen their detestable things, their idols of wood and stone, of silver and gold which were among them.’ Now if [it says] ‘upon them,’ then why does it say ‘among them,’ and if it says ‘among them,’ why does it say ‘upon them’? Just as ‘upon them’ refers to something that is set aside as an ornament for them, so that which is ‘with them’ [which is for bidden] is anything that is set aside as an ornament for them.”
2. **I:2:** [The following discussion assumes knowledge of M. Kil. 7:4, which is as follows: He who trellises his vine over the grain of his neighbor, lo, (by violating the law against mixing grain in a vineyard) this one has sanctified (the grain underneath the vines) and is liable. R. Yosé and R. Simeon say, “A man does not sanctify something that is not his own.” It is established elsewhere that the former position belongs to Judah and Meir.] As to [a beast] that has been worshiped [by a man] – there are Tannaim who repeat, “Whether it belongs to the man [who worshiped it] or whether it belongs to his fellow, [that beast] is prohibited.” And there are Tannaim who repeat, “[If it belongs] to the man [who worshiped it], it is prohibited, but if it belongs to his fellow, it is permitted.”
3. **I:3:** [If a gentile] prostrated himself in worship before an egg – Hezekiah said, “He has not prohibited it [for Israelite use or benefit].” Yohanan said, “He has prohibited it.”
4. **I:4:** An egg belonging to an idol that hatched and produced a chick – R. Haggai in the name of R. Josiah: “Kahana and Hezekiah dispute about this matter. Kahana said, ‘It is permitted.’ And Hezekiah said, ‘It is forbidden.’”
 - a. **I:5:** A nut subject to the *orlah* taboo [that is, deriving from a tree subject to the taboo-against using the fruit of a tree in the first three years of its growth] that one planted, and so too: an egg subject to a vow of sanctification that hatched and produced a chick – R. Yasa: “Kahana and R. Yohanan disputed about this matter.

“Kahana said, ‘It is forbidden.’ “And R. Yohanan said, ‘It is permitted.’”

[B] SAID R. AQIBA, “I SHALL EXPLAIN AND INTERPRET THE MATTER BEFORE YOU: IN ANY PLACE IN WHICH YOU FIND A HIGH MOUNTAIN, A LOFTY HILL, OR A GREEN TREE, YOU MAY TAKE FOR GRANTED THAT THERE IS AN IDOL THERE.”

- 1. II:1:** [In reference to the language Aqiba uses, ‘WBYN, translated, “explain and interpret,”] we repeat the tradition, ‘WBYN. But there are Tannaim who repeat the tradition as “‘WBYL be fore you,” that is, “I shall discuss before you.”

XXV. YERUSHALMI ABODAH ZARAH 3:6

[A] HE [THE WALL OF] WHOSE HOUSE WAS ADJACENT TO [AND ALSO SERVED AS THE WALL OF THE TEMPLE OF] AN IDOL, AND [WHOSE HOUSE] FELL DOWN – IT IS FORBIDDEN TO REBUILD IT. WHAT SHOULD HE THEN DO? HE PULLS BACK WITHIN FOUR CUBITS INSIDE HIS OWN PROPERTY AND THEN REBUILDS HIS HOUSE. [IF THERE WAS A WALL BELONGING] BOTH TO HIM AND TO [THE TEMPLE OF AN] IDOL, IT IS JUDGED TO BE DIVIDED HALF AND HALF.

- 1. I:1:** “Abomination” is written in connection with the menstruating woman, “abomination is written in connection with dead creeping things, and “abomination” is written in connection with an idol. In connection with the menstruating woman: “... for whoever shall do any of these abominations – [the persons] that do them shall be cut off...” (Lev. 18:29). [Lev. 18:19 explicitly includes under the stated curse one who has sexual relations with a menstruating woman.] In connection with dead creeping things: “You shall not eat any abominable thing” (Deut. 14:3). In connection with idolatry: “And you shall not bring an abominable thing into your house and become accursed like it; you shall utterly detest and abhor it; for it is an accursed thing” (Deut. 7:26). But I do not know to which matter an analogy is to be drawn.
- 2. I:2:** Said R. Haninah, “That is to say that the uncleanness impute to an idol is not clear[ly derived from the Torah]. For if that were not so, would one compare it to a lesser [source of uncleanness], and not compare it to a more severe [source of uncleanness]?”
- 3. I:3:** What is the scriptural basis of R. Aqiba[‘s position, comparing the idol to a menstruating woman as to uncleanness]? “You shall [utterly detest and] abhor it” (Deut. 7:26) – like menstrual uncleanness. What

is the scriptural basis of the rabbis? “You shall utterly detest [and abhor it]” (Deut. 7:26) – like a dead creeping thing.

- I:4:** There is a version of the Mishnah tradition that states, “An idol is like a menstruating woman [as to uncleanness], and the appurtenances of an idol [also] are like a menstruating woman. And there is a contradictory version of the Mishnah tradition that states, “An idol is like a menstruating woman [as to uncleanness] but its appurtenances are like a dead creeping thing [as to uncleanness].”

[B] THE STONES, WOOD, AND MORTAR DERIVING FROM IT IMPART UNCLEANNESS IN THE STATUS OF A DEAD CREEPING THING, FOR IT IS SAID, “YOU WILL UTTERLY DETEST IT” (DEUT. 7:26). R. ‘AQIBA SAYS, “IN THE STATUS OF A MENSTRUANT[’S UNCLEANNESS], AS IT IS SAID, “YOU SHALL CAST THEM AWAY AS A MENSTRUAL THING; YOU SHALL SAY UNTO IT, GET YOU HENCE (ISA. 30:22). “JUST AS A MENSTRUATING WOMAN IMPARTS UNCLEANNESS TO ONE WHO CARRIES HER [OR OBJECTS THAT SHE CARRIES], SO ALSO AN IDOL IMPARTS UNCLEANNESS TO ONE WHO CARRIES IT.”

- 1. II:1:** Now does this statement [of M. A.Z. 3:6F] not stand at variance with that which R. Simeon b. Laqish said, “An idol that was broken is permitted”? Does this same rule not stand at variance with the position of R. Yohanan, for R. Yohanan said, “An idol that was shattered is forbidden”?
- 2. II:2:** Levi said, “One who prostrates himself to a house has forbidden it. But if he did so to a cave, he has not prohibited it.”
- 3. II:3:** R. Yohanan interpreted the Mishnah [M. A.Z. 3:6A: He whose house was adjacent to a temple] to speak of a case of a convert [to Judaism] and a gentile who shared in the inheritance of their gentile father. [The gentile took a house containing an idol, the Israelite took the house next door, which had none.]

XXVI. YERUSHALMI ABODAH ZARAH 3:7

[A] THERE ARE THREE SORTS OF HOUSES [SO FAR AS USE AS A SHRINE FOR IDOLATRY IS CONCERNED]: (1) A HOUSE WHICH WAS BUILT TO BEGIN WITH FOR THE PURPOSES OF IDOLATRY – LO, THIS IS PROHIBITED:

- 1. I:1:** Rab and R. Yohanan – both of them say “The Mishnah pericope speaks of the situation prevailing when the Israelites entered the land [in which case there were houses built to begin with for idolatry, and

these were forbidden, as at M. A.Z. 3:7B. Both authorities wish to explain why the Mishnah does not merely state, ‘He who prostrates himself in worship to a house has forbidden it,’ rather than the Mishnah’s specification of building the house for idolatrous purposes].”

[B] [If] ONE STUCCOED AND DECORATED IT FOR IDOLATRY AND RENOVATED IT, ONE REMOVES THE RENOVATIONS. (3) [If] ONE BROUGHT AN IDOL INTO IT AND TOOK IT OUT – LO, THIS IS PERMITTED

- 1. II:1:** [With regard to M. A.Z. 3:7C] R. Ila in the name of R. Eleazar: “And this rule applies to the case of one who has brought an idol into the house.”

XXVII. YERUSHALMI ABODAH ZARAH 3:8

[A] THERE ARE THREE SORTS OF STONES: (1) A STONE WHICH ONE HEWED TO BEGIN WITH FOR A PEDESTAL – LO, THIS IS FORBIDDEN. (2) If ONE PLASTERED IT AND ADORNED IT FOR AN IDOL AND DID SOMETHING NEW TO IT, ONE MAY REMOVE THAT WHICH HE MADE THAT IS NEW AND USE THE STONE. [3] If HE SET UP AN IDOL ON AN EXISTING STONE AND THEN TOOK IT OFF, LO, THIS IS PERMITTED.

- 1. I:1:** R. Ba in the name of Rab: “On the basis of [this law of the Mishnah we infer that] slags that are smelted for use in idolatry are prohibited forthwith.”
- 2. I:2:** The opinions imputed to Rab are confused. There he has said “On the basis [of this law of the Mishnah we infer that] he who smelts metal for a cup for idolatry – it is forbidden forthwith.” And here has he said this [statement]?

XXVIII. YERUSHALMI ABODAH ZARAH 3:9

[A]. THERE ARE THREE KINDS OF ASHERAHS: (1) A TREE WHICH ONE PLANTED TO BEGIN WITH FOR IDOLATRY – LO, THIS IS PROHIBITED. (2) [If] HE CHOPPED IT AND TRIMMED IT FOR IDOLATRY, AND IT SPROUTED AFRESH, HE MAY REMOVE THAT WHICH SPROUTED AFRESH. (3) [If] HE SET UP AN IDOL UNDER IT AND THEN ANNULLED IT, LO, THIS IS PERMITTED.

1. **I:1:** R. Ammi in the name of R. Simeon b. Laqish said, “If one incised markings in it [gashed the sides of the tree], it is not subject to nullification.”
2. **I:2:** It was taught in a Tannaitic teaching: If one grafted [something onto the tree], for the sake of an *asherah*, he removes that which he grafted onto the tree.
3. **I:3:** R. Hila in the name of R. Simeon b. Laqish: “And the law applies in a case in which one set up an idol under the tree.”
4. **I:4:** It was taught, “If one has grafted onto the tree [a branch for an *asherah*], one removes what he has grafted onto the tree.”

XXIX. YERUSHALMI ABODAH ZARAH 3:10

[A] **WHAT IS AN ASHERAH? ANY TREE UNDER WHICH IS LOCATED AN IDOL. R. SIMEON SAYS, “ANY [TREE] WHICH PEOPLE WORSHIP.” M’SH: IN SIDON THERE WAS A TREE WHICH PEOPLE WORSHIPPED, AND THEY FOUND A PILE OF STONES UNDERNEATH IT. SAID TO THEM R. SIMEON, “INVESTIGATE THE CHARACTER OF THIS PILE OF STONES.” THEY DID INVESTIGATE IT AND FOUND AN IMAGE ON IT. HE SAID TO THEM, “SINCE THEY ARE WORSHIPPING THE IMAGE [AND NOT THE TREE], LET US PERMIT THEM TO MAKE USE OF THE TREE [ITSELF].”**

1. **I:1:** Said R. Hisda, “In respect to a tree that is lacking in specification are the authorities [of M. A.Z. 3:10A, B] in dispute.”

XXX. YERUSHALMI ABODAH ZARAH 3:11

[A] **ONE SHOULD NOT SIT IN [AN ASHERAH’S] SHADE, BUT IF HE SAT IN ITS SHADE, HE IS CLEAN. AND HE SHOULD NOT PASS UNDERNEATH IT, BUT IF HE PASSED UNDERNEATH IT, HE IS UNCLEAN. IF IT WAS OVERSHADOWING PUBLIC DOMAIN, TAKING AWAY PROPERTY FROM PUBLIC USE, AND ONE PASSED BENEATH IT, HE IS CLEAN. AND THEY SOW SEEDS UNDERNEATH IT IN THE RAINY SEASON, BUT NOT IN THE DRY SEASON. BUT AS TO LETTUCE, NEITHER IN THE DRY SEASON NOR IN THE RAINY SEASON [MAY ONE PLANT IT THERE].**

1. **I:1:** There [in Babylonia] they say in the name of R. Hisda, “The shade [of an *asherah*] is forbidden, but the shadow cast by its shade is permitted.” That is the shadow cast by its shade, and what is its shade? There they said, “Any space that, if the tree should fall down, [its

branches] would reach – this is [the area of its] shade. And any space that, if the tree should fall down, [its branches] would not reach – this is [the area of the] shadow of its shade.

2. **I:2:** Gamaliel Zuga was walking along, leaning on the shoulder of R. Simeon b. Laqish. They came across an image. He said to him, “What is the law as to passing before it?” He said to him, “Pass before it, but close [your] eyes.”

[B] **R. YOSÉ SAYS, “ALSO: [UNDER AN ASHERAH ONE MAY] NOT [PLANT] VEGETABLES IN THE RAINY SEASON, BECAUSE THE FOLIAGE DROPS ON THEM AND SERVES AS MANURE FOR THEM.”**

1. **II:1:** Does this statement [M. A.Z. 3:11G: the foliage manures the crop] not stand at variance with the position of R. Yohanan, for R. Yohanan said, “An idol that was shattered remains prohibited.” Now did we not reason and rule, “If one was not going to restore it to its original, whole condition, all parties concur that it is permitted. [So why should we care about the foliage at all?]

XXXI. YERUSHALMI ABODAH ZARAH 3:12

[A] **[IF] ONE HAS TAKEN PIECES OF WOOD FROM [AN ASHERAH], THEY ARE PROHIBITED FOR BENEFIT. [IF] HE LIT A FIRE IN THE OVEN WITH THEM, IF IT IS A NEW OVEN, IT IS TO BE OVERTURNED. IF IT IS AN OLD OVEN, IT MUST BE ALLOWED TO COOL DOWN. [IF] HE BAKED A LOAF OF BREAD IN [THE OVEN HEATED BY THE WOOD OF AN ASHERAH], IT IS PROHIBITED FOR BENEFIT. [IF] THE LOAF OF BREAD WAS MIXED UP WITH OTHER LOAVES OF BREAD, ALL OF THEM ARE PROHIBITED AS TO BENEFIT. R. ELIEZER SAYS, “LET HIM TAKE THE [FUNDS RECEIVED FOR THE SALE AS A] BENEFIT [FROM THE TREE] TO THE SALT SEA.” THEY SAID TO HIM, “THERE IS NO FORM OF REDEMPTION FOR AN IDOL.”**

1. **I:1:** Said R. Hisda, “It is in the case of a piece of wood, the purpose of which is unspecified, that they differ [at M. A.Z. 3:12D-F].”

XXXII. YERUSHALMI ABODAH ZARAH 3:13

[A] **[IF] ONE TOOK A PIECE OF WOOD FOR A SHUTTLE, IT IS FORBIDDEN FOR BENEFIT. [IF] HE WOVE A GARMENT WITH THE SHUTTLE, THE GARMENT IS FORBIDDEN FOR BENEFIT. [IF] IT WAS MIXED UP WITH OTHER GARMENTS, AND OTHER GARMENTS WITH STILL OTHERS, ALL OF THEM ARE FORBIDDEN FOR BENEFIT. R. ELIEZER SAYS, “LET HIM TAKE THE FUNDS DERIVED FROM THE BENEFIT TO**

THE SALT SEA.” THEY SAID TO HIM, “THERE IS NO REDEMPTION PRICE FOR A MATTER OF IDOLATRY.”

- I:1:** Said R. Haggai, “When I got off the boat, I found R. Jacob bar Aha sitting and raising-the question, ‘If one took wood for a shuttle it is forbidden for benefit. If he wove a garment with the shuttle, the garment is forbidden for benefit’ [M. 3:13A-B]. “And [Jacob added] have we not learned: ‘Let him sell the whole of it to a gentile, except for the value of the libation wine that is in it [which value he may not enjoy. But the rest is permitted].”

XXXIII. YERUSHALMI ABODAH ZARAH 3:14

[A] **HOW DOES ONE DESECRATE [AN ASHERAH]? [IF] ONE TRIMMED IT OR PRUNED IT, TOOK FROM IT A BRANCH OR TWIG, EVEN A LEAF — LO, THIS CONSTITUTES DESECRATION. [IF] ONE HAS TRIMMED IT FOR THE GOOD OF [THE TREE], IT REMAINS FORBIDDEN. [IF HE TRIMMED IT] NOT FOR THE GOOD OF THE TREE, IT IS PERMITTED.**

- I:1:** Rab said [with reference to M. A.Z. 3:14D], “If [the trimming] was for the need of the man, both the tree and the chips are permitted. If it is done for the sake of the tree, the tree is forbidden, but the chips are permitted.” Samuel said, “If it is done for the need of the tree, both the tree and the chips are forbidden. If it was done for the convenience of the man, the tree is forbidden, but the chips are permitted.” R. Yohanan said, “If it was-done for the need of the tree, it is prohibited, but the chips are permitted.”

XXXIV. YERUSHALMI ABODAH ZARAH 4:1

[A] **R. ISHMAEL SAYS, “THREE STONES, ONE BESIDE THE OTHER, BESIDE A MERKOLIS STATUE, ARE FORBIDDEN. TWO, HOWEVER, ARE PERMITTED.”**

- I:1:** Said R. Ammi, “The reason of R. Ishmael is that [when there are three stones beside a statue of a Merkolis, they signify] a large Merkolis alongside a small Merkolis [and not because we take account of the possibility that the three stones have fallen from the idol itself, as is the reasoning of the sages, M. A.Z. 4:1C-D].” And the rabbis say [that the reason is that the nearby stones appear to serve as] the feet of Merkolis [which have fallen from the idol but are an integral part of it].

2. **I:2:** What then is [the definition of stones set up as] a Merkolis?

[B] **AND SAGES SAY, “THOSE WHICH APPEAR TO BELONG TO IT ARE FORBIDDEN, AND THOSE WHICH DO NOT APPEAR TO BELONG TO IT AS PERMITTED.”**

1. **II:1:** Those that appear to belong to it [are forbidden as part of] its body, and those that do not appear to belong [to it are not forbidden as they are] not part of its body. Those that appear to belong to it are forbidden – does this rule not stand at variance with the position of R. Simeon b. Laqish? For R. Simeon b. Laqish said, “An idol that was broken – [the sherds] are permitted.”

2. **II:2:** Ba in the name of Rab: “Sometimes one may infer that the sherds of an idol are not subject to nullification [and always are forbidden], and sometimes you may infer that the appurtenances of an idol are not subject to nullification [and eternally forbidden].” He who states the rule in regard to the appurtenances [that they are always prohibited] the more so will deem the idol itself [to be perpetually prohibited]. But the one who states that the sherds of an idol are perpetually prohibited – lo, the appurtenances are not [always going to be subject to prohibition of Israelite use or benefit].

XXXV. YERUSHALMI ABODAH ZARAH 4:2

[A] **[IF] ONE FOUND ON ITS HEAD COINS, CLOTHING, OR UTENSILS, LO, THESE ARE PERMITTED. [IF ONE FOUND] BUNCHES OF GRAPES, GARLANDS OF CORN, JUGS OF WINE OR OIL, OR FINE FLOUR, OR ANYTHING THE LIKE OF WHICH IS OFFERED ON THE ALTAR – IT IS FORBIDDEN.**

1. **I:1:** Said R. Jonathan, “Bunches of grapes are not the end of the matter, but even bunches of roses [will be forbidden as something left as an offering on the altar].”

XXXVI. YERUSHALMI ABODAH ZARAH 4:3

[A] **AN IDOL WHICH HAD A GARDEN OR A BATHHOUSE – THEY DERIVE BENEFIT FROM THEM [WHEN IT IS] NOT TO THE ADVANTAGE [OF THE TEMPLE], BUT THEY DO NOT DERIVE BENEFIT FROM THEM [WHEN IT IS] TO THE ADVANTAGE [OF THE TEMPLE]. IF IT BELONGED BOTH TO THE IDOL AND TO OUTSIDERS, THEY DERIVE BENEFIT FROM THEM WHETHER OR NOT IT IS TO THE ADVANTAGE [OF THE TEMPLE].**

1. **I:1:** Thus is the meaning of the Mishnah passage: When it is to the advantage of the priests, when it is not to the advantage of the priests [of the temple of idolatry].
2. **I:2:** As to bagpipes belonging to an idol, it is forbidden to sell them [Tosefta: to make a lamentation with them]. If they were rented from the state, even though they were made for use of an idol, it is permitted to make lamentation using them. Shops belonging to an idol's [temple] it is prohibited to rent space in them. But if they provided a rental for the state, even though they were built for the use of an idol [temple], it is permitted to rent them. Charity collectors for a temple of idolatry – it is prohibited to give anything to them. But if they provided funds to the state, even though they are working for the welfare of an idol – it is permitted to give a contribution to them [as at M. A.Z. 4:3D].

XXXVII. YERUSHALMI ABODAH ZARAH 4:4

[A] AN IDOL BELONGING TO A GENTILE IS PROHIBITED FORTHWITH [WHEN IT IS MADE]. AND ONE BELONGING TO AN ISRAELITE IS PROHIBITED ONLY AFTER IT WILL HAVE BEEN WORSHIPPED.

1. **I:1:** R. Simeon b. Laqish said, “The Mishnah [M. A.Z. 4:4A] refers to a case of a gentile craftsman who manufactures [idols] for sale in the market place, for once he has completed the idol, it is a matter of certainty that he has prostrated himself in worship to it.”
2. **I:2:** An idol belonging to a gentile is prohibited forthwith [M. A.Z. 4:4A]. Therefore it is subject to nullification. And one belonging to an Israelite is prohibited only after it will have been worshiped [M. A.Z. 4:4B]. Therefore it is not subject to nullification.
3. **I:3:** An idol belonging to a gentile is prohibited forthwith, in line with the following verse of Scripture: “You shall surely destroy [all the places where the nations whom you shall dispossess served their gods]” (Deut. 12:2) – forthwith. And one belonging to an Israelite is prohibited only after it will have been worshiped, in line with the following verse of Scripture: “Cursed be the man who makes a graven or molten image, an abomination to the Lord, a thing made by the hands of a craftsman, and sets it up in secret” (Deut. 27:15) – when he will set it up.

[B] A GENTILE HAS THE POWER TO NULLIFY AN IDOL BELONGING EITHER TO HIMSELF OR HIS FELLOW GENTILE. BUT AN ISRAELITE HAS NOT GOT THE POWER TO NULLIFY AN IDOL BELONGING TO A GENTILE. HE WHO NULLIFIES AN IDOL HAS NULLIFIED ITS APPURTENANCES. [IF] HE NULLIFIED [ONLY] ITS APPURTENANCES, ITS APPURTENANCES ARE PERMITTED, BUT THE IDOL ITSELF [REMAINS] PROHIBITED.

- 1. II:1:** [With reference to the following passage of the Mishnah: A gentile has the power to nullify an idol belonging either to himself or his fellow, but an Israelite has not got the power to nullify an idol belonging to a gentile,] R. Yohanan in the name of R. Yannai derived that view from the following verse of Scripture: “You shall not covet the silver or the gold that is on them or take it for yourselves” (Deut. 7:25). “You may not covet and take [that gold], but other may covet [the gold], and then you may take it.”
- 2. II:2:** Rab said, “A pedestal [from which the idol is removed still] is not subject to nullification.”
- 3. II:3:** Said R. Yohanan, “When Scripture speaks of a statue, it refers to any sort of thing, even an individual rock. An altar is any that has numerous stones [brought together].” Hezekiah said, “A statue – once one has damaged it, he has nullified it. An altar requires [for nullification that one] damage each stone [used to constitute the object].”
- 4. II:4:** It is written, “You shall make for yourselves no idols and erect no graven image or pillar, and you shall not set up a figured stone in your land, to bow down to them” (Lev. 26:1). Is not the act of making them equivalent to setting them up? [So why shift word choices?]

XXXVIII. YERUSHALMI ABODAH ZARAH 4:5

[A] HOW DOES ONE NULLIFY IT? [IF] HE HAS CUT OFF THE TIP OF ITS EAR, THE TIP OF ITS NOSE, THE TIP OF ITS FINGER, [IF] HE BATTERED IT, EVEN THOUGH HE DID NOT BREAK OFF [ANY PART OF] IT, HE HAS NULLIFIED IT. [IF] HE SPIT IN ITS FACE, URINATED IN FRONT OF IT, SCRAPED IT, THREW SHIT AT IT, LO, THIS DOES NOT CONSTITUTE AN ACT OF NULLIFICATION.

- 1. I:1:** Said R. Zeira, “This rule you have stated [M. A.Z. 4:6A-B, below], that if one has sold it, there is a dispute] applies when one has sold it in times of peace. But if one has sold it by reason of wrath

[against the idol, e.g., for not performing], then it is deemed by all parties to have been nullified.”

[B] [If] HE SOLD IT OR GAVE IT AS A PLEDGE ON A LOAN – RABBI SAYS, “HE HAS NULLIFIED IT.” AND SAGES SAY, “HE HAS NOT NULLIFIED IT.”

- 1. II:1:** Zeora bar Hinenah in the name of R. Hananiah, “When one has sold it on account of need is the case under dispute [M. 4:5F-H]. But if one has sold it to one who will worship it, then all parties concur that this does not constitute a valid act of nullification.” R. Jeremiah in the name of Rab: “If one has sold it to those who will worship it, then the parties to the dispute disagree. But if one has sold it by reason of need, all parties concur that this is a valid act of nullification.”

XXXIX. YERUSHALMI ABODAH ZARAH 4:6

[A] AN IDOL, THE WORSHIPPERS OF WHICH HAVE ABANDONED IT IN TIME OF PEACE, IS PERMITTED. [If THEY ABANDONED IT] IN TIME OF WAR, IT IS FORBIDDEN. IDOL PEDESTALS SET UP FOR KINGS – LO, THESE ARE PERMITTED, SINCE THEY SET [IMAGES UP ON THEM ONLY] AT THE TIME KINGS GO BY.

- 1. I:1:** It was taught[, There are idols that gentiles left behind, expecting to return], in the war of Joshua, [and such idols are] prohibited, while [there are idols that gentiles left behind, not expecting to return,] in the wars of Joshua, and [such idols are] permitted. Similarly, [there are idols that gentiles left behind] in the wars of David, [and these they did not expect to recover, so these are] permitted. [There are, further, idols that gentiles left behind] in the wars of David, [and these they did expect to recover, so such an idol would be] prohibited.

XL. YERUSHALMI ABODAH ZARAH 4:7

[A] THEY ASKED SAGES IN ROME, “If [God] IS NOT IN FAVOR OF IDOLATRY WHY DOES HE NOT WIPE IT AWAY?” THEY SAID TO THEM, “If PEOPLE WORSHIPPED SOMETHING OF WHICH THE WORLD HAD NO NEED, HE CERTAINLY WOULD WIPE IT AWAY. “BUT LO, PEOPLE WORSHIP THE SUN, MOON, STARS, AND PLANETS. “NOW DO YOU THINK HE IS GOING TO WIPE OUT HIS WORLD BECAUSE OF IDIOTS? THEY SAID TO THEM, “If SO, LET HIM DESTROY SOMETHING OF WHICH THE WORLD HAS NO NEED, AND LEAVE SOMETHING WHICH THE WORLD NEEDS!” THEY SAID TO THEM, “THEN WE SHOULD STRENGTHEN THE HANDS OF THOSE WHO WORSHIP THESE [WHICH WOULD NOT BE DESTROYED], FOR THEN

THEY WOULD SAY, ‘NOW YOU KNOW FULL WELL THAT THEY ARE GODS, FOR LO, THEY WERE NOT WIPED OUT!’”

1. **I:1** [Tosefta’s version:] Philosophers asked sages in Rome, “[If] [God] is not in favor of idolatry, why does he not wipe it away?” They said to them, “[If] people worshipped something of which the world had no need, he certainly would wipe it away. But lo, people worship the sun, moon, and stars. Now do you think he is going to wipe out his world because of idiots? [M. 4:7A-D]. “But let the world be in accord with its accustomed way, and the idiots who behave ruinously will ultimately come and give a full account of themselves. “Another matter: [If] one has stolen a seah of seeds for planting and gone and planted them in the ground, it is a matter of justice that they should not sprout. But let the world be in accord with its accustomed way, and the idiots who behave ruinously will ultimately come and give a full account of themselves. “Another matter: [If] one has had sexual relations with a married woman, it is a matter of justice that she should not give birth. “But let the world be in accord with its accustomed way, and the idiots who behave ruinously will ultimately come and give a full account of themselves” [T. A.Z. 6:7A-F].
2. **I:2:** Said R. Zeira, “If it were written, ‘Those who worship them are like them,’ there would be a problem. Are those who worship the sun like the sun, those who worship the moon like the moon?! But this is what is written: ‘Those who *make* them are like them; so are all who trust in them’ (Ps. 115:8).”

XLI. YERUSHALMI ABODAH ZARAH 4:8

[A] THEY PURCHASE FROM GENTILES [THE CONTENTS OF] A WINE PRESS WHICH HAS ALREADY BEEN TRODDEN OUT, EVEN THOUGH [THE GENTILE] TAKES [THE GRAPES] IN HAND AND PUTS THEM ON THE HEAP [“APPLE”], FOR IT IS NOT MADE INTO WINE USED FOR LIBATIONS UNTIL IT DRIPS DOWN INTO THE VAT. [AND IF WINE HAS] DRIPPED INTO THE VAT, WHAT IS IN THE CISTERN IS PROHIBITED, WHILE THE REST IS PERMITTED.

1. **I:1:** R. Hanan taught [in connection with the rule that one may purchase contents of a winepress that has already been trodden out], “And that [lenient ruling] applies to a case in which an Israelite has not removed his eyes [from the press during the treading]. But if [an Israelite] has removed his eyes from it, it was not in such a case [that permission was granted to purchase the dregs of the winepress from the gentile].”

2. **I:2:** A winepress that a gentile stopped up [filling in the cracks] – [if he stopped up the vat from] the inside, [the wine] is forbidden, [and if he stopped up the vat] from the outside, it is permitted.
3. **I:3:** R. Huna in the name of Rab: “The jet [of wine flowing from the press] has the status of [the wine that already is in] the cistern. [That is, if a gentile touched the wine in the vat, it is as if he touched wine in the jet, and the wine is deemed libation wine.]” R. Zeira raised the question, “In every other place you do not treat that which flows as connected [to that from which the flow comes], but here do you treat that which flows as connected to the spout from which it flows? [This then contradicts M. Toh. 8:9.]”
4. **I:4:** There they say in the name of Rab, “The very touch of a gentile turns wine into libation wine [without his stirring the wine at all.]” R. Nahman b. Jacob said, “But that is on condition that he stirs the wine a bit.”
5. **I:5:** Simeon bar Hiyya was teaching Hiyya bar Rab: “A gentile – from what age does he [have the power to] make wine into libation wine?” He said to him, “From the age at which he knows the meaning of idolatry [and so carries out his obligation to do so, that is, at a young age].”
6. **I:6:** As to a gentile, what is the law covering his turning wine into libation wine through [the action of his] mouth [alone], [that is, merely drinking the wine, in which case he has no mind to make a libation]? R. Ada in the name of R. Eleazar, “A gentile does not turn wine into libation wine through the action of his mouth alone.”

XLII. YERUSHALMI ABODAH ZARAH 4:9

[A] [ISRAELITES] TREAD A WINE PRESS WITH A GENTILE [IN THE GENTILE’S VAT]. BUT THEY DO NOT GATHER GRAPES WITH HIM. AN ISRAELITE WHO PREPARES [HIS WINE] IN A STATE OF UNCLEANNES – THEY DO NOT TRAMPLE OR CUT GRAPES WITH HIM. BUT THEY DO TAKE JARS WITH HIM TO THE WINE PRESS, AND THEY BRING THEM WITH HIM FROM THE WINE PRESS.

1. **I:1:** “[The rule that Israelites may tread a winepress with a gentile applies in a case in which,]” said R. Jonah, “[gentile] grape-treaders had already thoroughly trampled the grapes, warp and woof. But [if gentile] grape-treaders had not already trampled the grapes thoroughly, warp and woof, it is not in such a case [that it is permitted to tread a

winepress with a gentile, since, as noted, in such a case, the Israelite joins in contaminating the produce of the Holy Land].”

XLIII. YERUSHALMI ABODAH ZARAH 4:10

[A] A BAKER WHO PREPARES BREAD IN A STATE OF UNCLEANNES — THEY DO NOT KNEAD OR CUT OUT DOUGH WITH HIM. BUT THEY MAY TAKE BREAD WITH HIM TO THE DEALER.

- 1. I:1:** And on this law [M. 4:10B] it has been taught: They do not stir grain in water, or mix with him.
- 2. I:2:** Said R. Hila, “[With reference to M. Sheb. 5:9:] A woman may lend a sifter, sieve, handmill, or oven to her neighbor who is suspected of transgressing the seventh year la-1, but she may not winnow or grind grain with her. The wife of a fellow [who keeps cultic purity] may lend a sifter or sieve to the wife of an ‘am ha’ares [who does not] and may winnow, grind, or sift grain with her]. In the case [in which one is *permitted* to winnow, grind, or sift grain with someone who will not preserve the cultic purity of the food], we deal with unconsecrated food, and in the case [in which one is *not* permitted to do so, as at M. 4:10A-B] we deal with food having the status of heave-offering. [So unconsecrated food need not be kept cultically clean, and food having the status of heave-offering must be kept clean.]”
- 3. I:3:** R. Ammi gave instructions: “To remove the bread from the oven with him [who prepares bread in a state of cultic uncleanness] is prohibited. And similarly, to sprinkle [water] on the dough with him is prohibited.”

XLIV. YERUSHALMI ABODAH ZARAH 4:11

[A] A GENTILE WHO IS FOUND STANDING BESIDE A CISTERN OF WINE — IF HE HAD A LIEN ON THE VAT, IT IS PROHIBITED. [IF] HE HAD NO LIEN ON IT, IT IS PERMITTED. [IF] HE FELL INTO THE VAT AND CLIMBED OUT, OR (2) [IF GENTILES] MEASURED IT WITH A REED — OR (3) [IF] HE FLICKED OUT A HORNET WITH A REED, OR [IF] (4) HE PATTED DOWN THE FROTH ON THE MOUTH OF A JAR — IN REGARD TO EACH OF THESE THERE WAS A CASE, AND [SAGES] RULED, “LET IT BE SOLD.”

- I:1:** R. Sheshet in the name of Rab: “And this rule applies in a cast in which [the gentile] had a lien on that particular vat [in which case it is prohibited, M. A.Z. 4:11A-B]. But if he had no lien on that particular vat [it is permitted], for it is the manner of lien-holders to stand over the winepress or threshing floor [of the borrower, to see how the debtor is doing in general, so that they can make certain of retrieving what has been lent; but the lender will not touch the wine not subject to a lien in particular].”

[B] AND R. SIMEON PERMITS [ISRAELITES EVEN TO MAKE USE OF IT].

- II:1:** R. Abin in the name of R. Samuel: “The law is in accord with the opinion of R.. Simeon.”

[C] [IF] (5) HE TOOK A JAR AND THREW IT IN A FIT OF TEMPER INTO THE VAT – THIS WAS A CASE, AND THEY DECLARED IT VALID.

- III:1:** [In reference to M. A.Z. 4:11K] R. Samuel in the name of R. Abbahu, “A gentile does not impart the status of libation wine through merely throwing.” A gentile – what is the law as to imparting the status of libation wine through an action done when he is angry?
- III:2:** R. Jeremiah in the name of R. Hiyya bar Ba, “This [wine,] which a gentile stirs into hot water, is prohibited [since it can have been used for a libation], but the wine that he mixes into cold water is permitted. May a bad thing happen to me, if I have ever actually done so!”

XLV. YERUSHALMI ABODAH ZARAH 4:12

[A] HE WHO IN A CONDITION OF CLEANNES PREPARES THE WINE BELONGING TO A GENTILE, AND LEAVES IT IN HIS DOMAIN, IN A HOUSE WHICH IS OPEN TO THE PUBLIC DOMAIN, IN A TOWN IN WHICH THERE ARE BOTH GENTILES AND ISRAELITES – [THE WINE] IS PERMITTED. [IF IT IS] IN A TOWN IN WHICH ALL THE RESIDENTS ARE GENTILES, [THE WINE] IS PROHIBITED, UNLESS HE SETS UP A GUARD. AND THE GUARD NEED NOT SIT THERE AND WATCH [THE ROOM ALL THE TIME]. EVEN THOUGH HE COMES IN AND GOES OUT, [THE WINE] IS PERMITTED

- I:1:** R. Abbahu in the name of R. Yosé b. R. Haninah: “It is not the end of the matter that there be an open door [at M. 4:12B], but even if there is an open window, of a measurement of four by four by a height of ten cubits[, under the stated circumstances there must be a guard].”

2. **I:2:** R. Ba in the name of R. Judah: “The Mishnah speaks of a city that has gates and a latch [so that only access is limited]. In such a case it has been taught, guard – even though he comes only at intervals.”
3. **I:3:** It has been taught: A market to which an Israelite and a gentile bring wine, even though the guards are gentiles, even though the jars are open {the wine in them} is permitted [T. 7:10A-B], because that is not the way in which they make libations.
4. **I:4:** R. Hila in the name of R. Yannai: “He who purchases [a property for storing wine] has the same status as he who rents out [space in a gentile’s house for the storage of wine].”

[B] R. SIMEON B. ELEAZAR SAYS, “WHATEVER [WAS IN] THE DOMAIN OF A GENTILE IS SUBJECT TO THE SAME LAW [THAT A WATCHMAN IS REQUIRED WHETHER OR NOT THE SHOP WAS OPEN TO THE PUBLIC DOMAIN, AND WHETHER OR NOT THE TOWN WAS HALF-ISRAELITE.]” HE WHO PREPARES THE WINE OF A GENTILE IN A CONDITION OF CLEANNES AND LEAVES IT IN HIS DOMAIN, AND THE LATTER WROTE FOR [THE ISRAELITE A RECEIPT, SAYING], “I RECEIVED ITS PRICE FROM YOU” – IT IS PERMITTED. BUT IF AN ISRAELITE WANTS THEN TO REMOVE THE WINE, AND [THE GENTILE] WOULD NOT LET HIM DO SO UNLESS HE PAID THE PRICE OF THE WINE – THIS WAS A CASE IN BET SHEAN, AND SAGES DECLARED [THE WINE] FORBIDDEN.

1. **II:1:** Yelé in the name of R. Yannai: “They took issue with R. Simeon b. Eleazar [M. A.Z. 4:12H]. It is not concerning this matter that the disagreement was expressed, but it was concerning the one that comes at the end: He who prepares the wine of a gentile in a condition of cleanness and leaves it in his domain [etc., M. A.Z. 4:12I]. [In this case, all types of gentile domain are subject to a single rule. This wine is of the sort on which a gentile has a lien, so he will feel free to touch it. In such a case the distinctions of the sages – M. 4:12A] – apply, and Simeon b. Eleazar invokes a single rule.]”

XLVI. YERUSHALMI ABODAH ZARAH 5:1

[A] A [GENTILE] WHO HIRES AN [ISRAELITE] WORKER TO WORK WITH HIM IN THE PREPARATION OF LIBATION WINE – [THE ISRAELITE’S] SALARY IS FORBIDDEN. [IF] HE HIRED HIM TO DO SOME OTHER KIND OF WORK, EVEN THOUGH HE SAID TO HIM, “MOVE A JAR OF LIBATION WINE FROM ONE PLACE TO ANOTHER,” HIS SALARY IS PERMITTED.

1. **I:1:** [Now why, at M. 5:1A-B, should the Israelite's salary be forbidden to him?] Does [the gentile] not pay him his salary [for his labor]?
2. **I:2:** If the gentile employer employed the Israelite to] carry with a jug [of legitimate liquid, also] a jug [of wine used as libation,] as to his salary, one imposes a fine upon [the Israelite] to the extent [of the salary paid for carrying] a jug [of libation wine] [thus Pené Moshe in line with M. 5:1A-B]. [If the gentile employer] paid [the Israelite's salary for carrying libation wine] in real estate[, the use of the property is prohibited to the Israelite]. In every other context you have ruled that real estate is not subject to prohibition, but here it is subject to prohibition. [If the gentile employer] paid him [for work in libation wine] in a beast for his salary[, the use of the beast is prohibited to the Israelite]. In every other context you have ruled that an animate creature [such as a beast] is not subject to prohibition, but here it is subject to prohibition.
3. **I:3:** [If an Israelite] was working [for a gentile] for half of the day on that which was prohibited [that is, on libation wine], and for half a day on that which was permitted [any other sort of produce, may he keep half of his salary]?
4. **I:4:** R. Jeremiah raised the question: “[If the gentile] hired [an Israelite] to destroy jugs containing libation wine[, even in such a case is his salary prohibited]?”

XLVII. YERUSHALMI ABODAH ZARAH 5:2

[A] HE WHO HIRES AN ASS TO BRING LIBATION WINE ON IT — ITS FEE IS FORBIDDEN. [IF] HE HIRED IT TO RIDE ON IT, EVEN THOUGH THE GENTILE [ALSO] PUT A FLAGON [OF LIBATION WINE] ON IT, ITS FEE IS PERMITTED.

1. **I:1:** To what extent [is it permitted, in the case of M. 5:2 C-E, to add a flagon of libation wine to other things that a gentile has put on an ass driven by an Israelite driver, so that the Israelite nonetheless may retain his salary and not deem the salary the result of labor in connection with libation wine]?

XLVIII. YERUSHALMI ABODAH ZARAH 5:3

[A] **LIBATION WINE WHICH FELL ON GRAPES — ONE MAY RINSE THEM OFF, AND THEY ARE PERMITTED. BUT IF [THE GRAPES] WERE SPLIT, THEY ARE PROHIBITED. [IF] IT FELL ON FIGS OR DATES, IF THERE IS SUFFICIENT [LIBATION WINE ABSORBED] TO IMPART A FLAVOR [TO THEM], THEY ARE FORBIDDEN. THERE WAS THE CASE OF BOETHUS B. ZONEN, WHO BROUGHT DRIED FIGS BY SHIP, AND A JAR OF LIBATION WINE BROKE OPEN AND DRIPPED ON THEM, AND HE ASKED SAGES, WHO PERMITTED [THE FIGS, ONCE THEY HAD BEEN RINSED]. THIS IS THE GOVERNING PRINCIPLE: ANYTHING WHICH BESTOWS BENEFIT THROUGH IMPARTING A FLAVOR IS FORBIDDEN, AND ANYTHING WHICH DOES NOT BESTOW BENEFIT THROUGH IMPARTING A FLAVOR IS PERMITTED — FOR EXAMPLE, VINEGAR [FROM LIBATION WINE] WHICH FALLS ON CRUSHED BEANS.**

1. **I:1:** The Mishnah's law treats a case in which the berries were not forcibly detached from the stalk [in which case there is no point of entry for the wine]. But if the berries were forcibly detached from the stalk, the berries are treated as equivalent to split ones [and forbidden].
2. **I:2:** Said R. Yohanan, "[In a case such as at M. 5:3G, in which vinegar from libation wine fell on crushed beans, the beans are permitted] in the case of hot crushed beans; but in the case of cold ones the mixture is prohibited. For so it is the way of Sepphoris people to prepare beans in that way, and they call it cress-dish [made by pouring vinegar into cold split beans and then warming them; this improves the beans]."

XLIX. YERUSHALMI ABODAH ZARAH 5:4

[A] **A GENTILE WHO WITH AN ISRAELITE WAS MOVING JARS OF WINE FROM PLACE TO PLACE — IF [THE WINE] WAS ASSUMED TO BE WATCHED, IT IS PERMITTED. IF [THE ISRAELITE] INFORMED HIM THAT HE WAS GOING AWAY [THE WINE IS PROHIBITED IF HE WAS GONE] FOR A TIME SUFFICIENT TO BORE A HOLE [IN A JUG OF WINE] AND STOP IT UP AND [FOR THE CLAY] TO DRY.**

1. **I:1:** Said R. Samuel, "M'SH B: A gentile with an Israelite was moving jugs of wine from one place to another. The case came before R. Abbahu who declared the wine prohibited."

[B] **RABBAN SIMEON B. GAMALIEL SAYS, "TIME SUFFICIENT TO OPEN [THE JAR] AND STOP IT UP AND FOR THE CLAY TO DRY."**

1. **II:1:** Do you maintain that the ruling of Rabban Simeon b. Gamaliel is to produce a lenient ruling? That is not the case, but it is to produce a strict ruling.
2. **II:2:** R. Judah bar Pazzi in the name of R. Ammi: “A roasted egg prepared by Samaritans, lo, this is permitted.” R. Jacob bar Aha in the name of R. Eleazar: “Cooked foods prepared by Samaritans, lo, these are permitted.” This rule you have given applies to a dish in which it is not usual to put wine or vinegar. Lo, [if] it is a matter of complete certainty that he put in wine or vinegar, it is prohibited, even for deriving benefit [e.g., sale by an Israelite].

L. YERUSHALMI ABODAH ZARAH 5:5

[A] **HE WHO LEAVES HIS WINE ON A WAGON OR IN A BOAT AND WENT ALONG BY A SHORTCUT, ENTERED INTO A TOWN AND BATHED — IT IS PERMITTED. BUT IF HE INFORMED [OTHERS] THAT HE WAS GOING AWAY, [THE WINE IS PROHIBITED IF HE WAS GONE] FOR A TIME SUFFICIENT TO BORE A HOLE AND SOP IT UP AND FOR THE CLAY TO DRY. RABBAN SIMEON B. GAMALIEL SAYS, “TIME SUFFICIENT TO OPEN [THE JAR] AND STOP IT UP AND FOR THE CLAY TO DRY.”**

1. **I:1:** Said R. Haninah, M'SH B: [There was] a wagon belonging to the household of Rabbi from which the Israelite driver went away by more than four *mil*. The case came before the rabbis, who declared the wine to be acceptable to Israelites.

LI. YERUSHALMI ABODAH ZARAH 5:6

[A] **HE WHO LEAVES A GENTILE IN A STORE, EVEN THOUGH HE IS GOING OUT AND COMING IN ALL THE TIME — IT IS PERMITTED. BUT IF HE INFORMED HIM THAT HE WAS GOING AWAY, [THE WINE IS PROHIBITED IF HE WAS GONE] FOR A TIME SUFFICIENT TO BORE A HOLE AND STOP IT UP AND FOR THE CLAY TO DRY. RABBAN SIMEON B. GAMALIEL SAYS, “TIME SUFFICIENT TO OPEN [THE JAR] AND STOP IT UP AND FOR THE CLAY TO DRY.”**

1. **I:1:** And this ruling is in accord [even] with the view of R. Meir. For R. Meir said, “[The wife of a haber who left the wife of an ‘am ha’ares grinding grain in her house — if the sound of the millstones ceased, the house is unclean. If the millstones did not cease, unclean is only the space up to the place to which she can reach out her hand and touch. If she left two women,] one way or the other [whether or not the

grinding ceased], the house is unclean[, for one grinds, and the other snoops about],” the words of R. Meir [M. Toh. 7:4].

LII. YERUSHALMI ABODAH ZARAH 5:7

[A] [IF AN ISRAELITE] WAS EATING WITH [A GENTILE] AT THE SAME TIME, AND HE PUT A FLAGON [OF WINE] ON THE TABLE AND A FLAGON ON A SIDE TABLE, AND HE LEFT IT AND WENT OUT — WHAT IS ON THE TABLE IS FORBIDDEN. BUT WHAT IS ON THE SIDE TABLE IS PERMITTED. AND IF HE HAD SAID TO HIM, “YOU MIX AND DRINK [WINE],” EVEN THAT WHICH IS ON THE SIDE TABLE IS FORBIDDEN. JARS WHICH ARE OPEN ARE FORBIDDEN. AND THOSE WHICH ARE SEALED [ARE FORBIDDEN IF HE WAS GONE] FOR A TIME SUFFICIENT TO BORE A HOLE AND STOP IT UP AND FOR THE CLAY TO DRY.

- 1. I:1:** They proposed ruling that what is on the table is forbidden [M. A.Z. 5:7B] if it is within the space which a person can reach. And what is on the table is permitted if it is outside of the gentile’s reach [M. A.Z. 5:7C].

LIII. YERUSHALMI ABODAH ZARAH 5:8

[A] A BAND OF GENTILE [RAIDERS] WHICH ENTERED A TOWN IN PEACETIME — OPEN JARS ARE FORBIDDEN, CLOSED ONES, PERMITTED. [IF IT WAS] WARTIME, THESE AND THOSE ARE PERMITTED. BECAUSE THERE IS NO TIME FOR MAKING A LIBATION.

- 1. I:1:** [If] it was a time of persecution of Israelites, all [jars, open and sealed,] are prohibited, for it is not possible that there is a single Israelite who has refrained from performing an act of idolatrous worship under constraint.
- 2. I:2:** [In reference to the statement, If it was wartime, these and those are permitted,] R. Yohanan said, “There is none here that is forbidden, but all are permitted [even if one left a keg sealed and found it opened].”
- 3. I:3:** R. Ammi in the name of R. Yohanan: “In time of peace there is a band of gentile raiders, and in time of war there is such a band[, and the issue of war or peace refers to the character of the band, not to the character of the times].”

LIV. YERUSHALMI ABODAH ZARAH 5:9

[A] ISRAELITE CRAFTSMEN, TO WHOM A GENTILE SENT A JAR OF LIBATION WINE AS THEIR SALARY, ARE PERMITTED TO SAY TO HIM, “GIVE US ITS VALUE.” BUT IF IT HAS ALREADY ENTERED THEIR POSSESSION, IT IS PROHIBITED.

1. I:1: But would the proceeds of the keg of libation wine not be prohibited under the prohibition of libation wine?

LV. YERUSHALMI ABODAH ZARAH 5:10

[A] HE WHO SELLS HIS WINE TO A GENTILE [AND] AGREED ON A PRICE BEFORE HE HAD MEASURED IT OUT — PROCEEDS PAID FOR IT ARE PERMITTED. [IF] HE HAD MEASURED IT OUT BEFORE HE HAD FIXED ITS PRICE, PROCEEDS PAID FOR IT ARE PROHIBITED. [IF] HE TOOK THE FUNNEL AND MEASURED IT OUT INTO THE FLASK OF THE GENTILE AND THEN WENT AND MEASURED WINE INTO THE FLASK OF AN ISRAELITE:

1. I:1: R. Ba, R. Huna in the name of Rab: “He who draws a skin of wine from his fellow [without having agreed on a price for it with him], and the skin was torn so that the wine poured out — the man does not owe him for it [because he had not made an agreement for its price, and therefore the purchaser had not come to a decision to acquire the skin, and the skin of wine did not yet stand in the domain of the prospective purchaser].”

[B] IF THERE REMAINED [IN THE FUNNEL] A DROP OF WINE [FROM WHAT HAD BEEN Poured INTO THE GENTILE’S FLASK:

1. II:1: What is a drop of wine [of M. A.Z. 5:10E]?

[C] THEN WHAT IS IN THE ISRAELITE’S FLASK] IS FORBIDDEN. HE WHO POURS [WINE] FROM ONE UTENSIL TO ANOTHER — THAT FROM WHICH IS EMPTIED [THE WINE] IS PERMITTED. BUT THAT INTO WHICH HE EMPTIED [THE WINE] IS FORBIDDEN.

1. III:1: It is self-evident [in the rule of M. A.Z. 5:10F-H] that an Israelite is holding on to the funnel and the gentile is pouring the skin of wine, so the opinion of all authorities is that the wine is forbidden. [If] a gentile is holding the funnel and an Israelite is pouring the wine — R. Assi declares [the wine] prohibited. And R. Ammi declares it permitted [since the gentile plays no part in pouring the wine].

LVI. YERUSHALMI ABODAH ZARAH 5:11

[A] **LIBATION WINE IS FORBIDDEN AND IMPARTS A PROHIBITION [TO WINE WITH WHICH IT IS MIXED] IN ANY MEASURE AT ALL. [IF IT IS] WINE [POURED] INTO WINE, OR [LIBATION] WATER [POURED] INTO WATER, IN ANY QUANTITY WHATEVER [IT IS FORBIDDEN]. [IF IT IS] WINE [POURED] INTO WATER OR WATER [POURED] INTO WINE, [IT IS FORBIDDEN] IF IT IMPARTS FLAVOR. THIS IS THE GOVERNING PRINCIPLE: [IF IT IS] ONE SPECIES [POURED] INTO ITS OWN SPECIES, [IT IS FORBIDDEN] IN ANY MEASURE AT ALL. [If it is] not [poured] into its own species, it is forbidden if it imparts flavor.**

1. **I:1:** Hezekiah said, “This rule that you have stated [that if it is wine poured into water, or water poured into wine, it is forbidden if it imparts flavor (M. A.Z. 5:11C)], applies in a locale in which water is sold by measure. But in a locale in which water is not sold by measure, it is subject to the law pertaining to wine mixed with wine[, for in the latter case water is as valuable as wine].” Hezekiah said, “A cup of wine that one mixed with wine that was prohibited and with wine that was permitted, [if] that which was prohibited fell in at the end, it is prohibited. [If] that which was permitted fell in at the end, it is permitted.”

a. I:2: Elaboration of a case introduced in a secondary expansion of the foregoing.

LVII. YERUSHALMI ABODAH ZARAH 5:12

[A] **THESE ARE FORBIDDEN AND IMPOSE A PROHIBITION IN ANY MEASURE AT ALL: (1) LIBATION WINE, (2) AN IDOL, (3) HIDES WITH A HOLE AT THE HEART, (4) AN OX WHICH IS TO BE STONED, (5) A HEIFER, THE NECK OF WHICH IS TO BE BROKEN, (6) BIRDS BELONGING TO A *MESORA*, (7) THE HAIR CUT OFF A NAZIR (NUM. 6:18), (8) THE [UNREDEEMED] FIRSTBORN OF AN ASS (EX. 13:13), (9) MEAT IN MILK, (10) THE GOAT WHICH IS TO BE SENT FORTH, (11) UNCONSECRATED BEASTS WHICH HAVE BEEN SLAUGHTERED IN THE TEMPLE COURTYARD – LO, THESE ARE FORBIDDEN AND IMPOSE A PROHIBITION IN ANY MEASURE AT ALL.**

1. **I:1:** Libation wine, an idol, and hides with a hole at the heart [are prohibited] on the count of the following verse of Scripture: “None of the devoted things shall cleave to your hand” (Deut. 13:17). An ox that is condemned to be stoned [is prohibited] from what is implied by

the verse “the ox shall be stoned[, and its flesh shall not be eaten]” (Ex. 21:28). Does one not know that [the meat] is not to be eaten [for it is carrion]? So why does Scripture state, “It shall not be eaten”? On this basis, [we must rule] that the corpse of the ox is prohibited also as to benefit.

2. **I:2:** And why do we not learn that carrion belongs to this same list?
3. **I:3:** R. Yosé in the name of R. Hanina raised the question, “Matters that are prohibited for enjoyment – what is the rule as to their being deemed null when joined [with small bits of permitted matter]?”

LVIII. YERUSHALMI ABODAH ZARAH 5:13

[A] LIBATION WINE THAT FELL INTO A VAT – THE WHOLE OF [THE VAT] IS FORBIDDEN FOR BENEFIT.

1. **I:1:** R. Yosé, R. Yohanan in the name of Ben Beterah: “Libation wine that fell into a vat – let the whole of it be sold to a gentile, except for the value of the libation wine [that is in the vat].” R. Samuel bar Nathan in the name of R. Hama: “The law is in accord with the opinion of Rabban Simeon b. Gamaliel.”

[B] RABBAN SIMEON B. GAMALIEL SAYS, “LET THE WHOLE OF IT BE SOLD TO A GENTILE, EXCEPT FOR THE VALUE OF THAT OF LIBATION WINE WHICH IS IN IT.”

1. **II:1:** R. Samuel bar Nathan in the name of R. Hama: “The law is in accord with the opinion of Rabban Simeon b. Gamaliel.”
2. **II:2:** But Rabban Simeon b. Gamaliel concurs in the case of [libation] wine mixed into a cooked dish, that the dish is prohibited [since the wine improves the dish].

LIX. YERUSHALMI ABODAH ZARAH 5:14

[A] A STONE WINE PRESS WHICH A GENTILE COVERED WITH PITCHÊÐ ONE SCOURS IT, AND IT IS CLEAN. AND ONE OF WOOD – RABBI SAYS, “LET HIM SCOUR IT.” AND SAGES SAY, “LET HIM SCALE OFF THE PITCH.” AND ONE OF EARTHENWARE – EVEN THOUGH ONE HAS SCALED OFF THE PITCH, LO, THIS IS FORBIDDEN.

1. **I:1:** [The opening clause of the] Mishnah [M. 5:14A-B] is in accord with the view of Rabbi. As to one of wood, Rabbi says, “Let him dry it off.” And the sages say, “Let him scale off the pitch.” And as to one of earthenware[, even though one has scaled off the pitch, lo, this is forbidden – this is not in accord with the view of Rabbi. For it has been taught: A vat, ladle, and siphon of gentiles [made of earthenware] – Rabbi permits [Israelites to use them]. And the sages prohibit. But Rabbi concedes in the case of jars that they are prohibited [T. A.Z. 8:1A].

2. **I:2:** It has been taught: “[If] one’s wine vats [and olive presses] were [cultically] unclean and one wanted to clean them – the boards and the two posts supporting the beams of the press and the troughs does he dry, and they are clean. The cylinders of twigs and of hemp [he must dry]. As to those of bast and of reeds, he must leave them unused. [And how long does he leave them unused?] Twelve months. Rabban Simeon b. Gamaliel says, “From one wine vintage to the next, or from one pressing season of olives to the next.” It was taught: Said Rabban Simeon b. Gamaliel, “If he wants immediately to purify them, he places them for a whole season in a river whose waters flow or under the spout whose waters flow.” And just as you dry them for cleanness, so you dry off wine used for idolatrous purposes [T. A.Z. 8:3].

LX. YERUSHALMI ABODAH ZARAH 5:15

[A] HE WHO PURCHASES UTENSILS [FOR USE WITH FOOD] FROM A GENTILE – THAT WHICH IS USUALLY IMMERSSED ONE MUST IMMERSE. THAT WHICH IS USUALLY SCALDED ONE MUST SCALD. THAT WHICH IS USUALLY HEATED TO A WHITE-HOT FLAME ONE MUST HEAT TO A WHITE-HOT FLAME. A SPIT OR GRIDIRON ONE MUST HEAT TO A WHITE-HOT FLAME. A KNIFE ONE MUST POLISH, AND IT IS CLEAN.

1. **I:1:** He who purchases utensils from a gentile – in the case of things that one knows [have not been used] for preparing food, for instance, cups – one rinses them [in cold water] and they are clean. But as to pitchers and water kettles, one scalds them in boiling water. And in the case of all of them that have been used, even if one has not immersed, scalded, polished, or heated them to white heat, lo, these are clean [cf. T. A.Z. 8:2].

2. **I:2:** There you say [at M. Zeb. 11:7F(5), in regard to a spit and a grill, that to clean those used for a sin-offering,] one puts them into scalding water [to clean them], and they are clean, and here you say one must heat them to a white-hot flame [M. 5:15]. [Why is a more stringent procedure required here than at M. Zeb. 11:7?]
3. **I:3:** As to a knife, one sticks it into the ground three times and that suffices.

TRACTATE

HORAYOT

Horayot deals with collective sin and its atonement. Here we deal with erroneous decisions made by instruments of government, as distinct from individuals or self-constituted collectivities (the town that goes astray through idolatry). Scripture makes provision for collective expiation of guilt incurred on account of collective action effected through public institutions of government or instruction. The Torah refers to a sin committed in error. A court instructs the community to do something that should not be done, thus the erroneous instruction to which the halakhah pertains. Leviticus 5:1–5, 13:21, 22:26, and Num 15:22–26, deal with that situation. Cultic penalties for official instruction—that of the anointed priest—in error and the consequent sin are specified at Lev 4:1–5. Now we deal with the entire congregation’s doing so (Lev 4:13–21), move on to the error of the ruler (Lev 4:22–26), and finally, at Num 15:22–29, to the unwitting sin of the entire community (the deliberate sin of the entire community, in the case of idolatry, already having been taken up elsewhere).

Whether it is the ruler, the high priest, or the people, all are subject to the sanction invoked by the erroneous ruling of the court, which has caused this unwitting sin. Interstitial issues—did the court and the public act together, did the court issue the ruling while the public carried it out, and the like—are addressed in the Mishnah’s contribution to the halakhah. The court, the ruler, and the high priest embody the community at large, the body of political institutions that, each in its own realm, bears responsibility for the whole. This tripartite division of political power dictates the organization of the halakhic exposition before us. As usual, the center of interest is divided between the crime and its penalty. In the present instance of inadvertent crime penalized by a particular offering, the careful specification of which sort of beast matches which condition of inadvertent sin demands close attention. Sages clearly deciphered the code of animal offerings, understanding why a given situation demanded a particular type of beast.

- I. The offering brought because of an erroneous decision by a court
- II. The offering brought by the high priest who has unwittingly done what is contrary to the commandments of the Torah. The ruler
- III. The individual. The anointed priest. The community

YERUSHALMI HORAYOT

CHAPTER ONE

1:1

- [A] [If] the court gave a decision to transgress any of all of the commandments that are stated in the Torah,
- [B] and an individual went and acted in accord with their instructions, [so transgressing] inadvertently,
- [C] (1) whether they carried out what they said and he carried out what they said right along with them,
- [D] (2) or whether they carried out what they said and he carried out what they said after they did,
- [E] (3) whether they did not carry out what they said, but he carried out what they said –
- [F] he is exempt,
- [G] since he relied on the court.
- [H] [If] the court gave a decision, and one of them knew that they had erred,
- [I] or a disciple who is worthy to give instruction,
- [J] and he [who knew of the error] went and carried out what they said,
- [K] (1) whether they carried out what they said and he carried out what they said right along with them,
- [L] (2) whether they carried out what they said and he carried out what they said after they did,
- [M] (3) whether they did not carry out what they said, but he carried out what they said -
- [N] lo, this one is liable,
- [O] since he [who knew the law] did not in point of fact rely upon the court.
- [P] This is the governing principle:

[Q] **He who relies on himself is liable, and he who relies on the court is exempt.**

[I:1 A] [If] any one sins unwittingly in any of the things which the Lord has commanded not to be done, and does any one of them *J*” (Lev. 4:2). “If anyone sins: “. *J* one sins” “. *J* in doing” “. *J* will sin” - lo, these [three] constitute exclusionary phrases.

[B] [One of the afore-listed exclusionary phrases serves to exclude from punishment the one who relies on the court, so that] **he who relies on himself is liable, but he who relies on the court is exempt.**

[C] *In every context you maintain that* one exclusionary phrase following another serves to encompass [within the frame of the law a category that otherwise would be omitted from it]. *But here you maintain that* an exclusionary clause followed by another exclusionary clause serves to exclude [from the rule someone who otherwise would be included under it.

[D] Said R. Mattenaiah, “It is different [in the present case] for here is written an exclusionary clause after a [second] exclusionary clause after yet a [third] exclusionary clause.”

[I:2 A] [The initial discussion in this unit deals with the position of Joshua at M. Ter. 8:1, which is as follows: **(1) The wife (of a priest) who was eating heave offering, (and) they came and told her. “Your husband has died.’ or ‘Your husband) has divorced you’ - such that the woman no longer has the right to eat heave offering”;** (2) and so (in the case of a slave of a priest who was eating heave offering, and they came and told him, “Your master has died,” or. ‘He sold you to an Israelite,” or “He gave you to an Israelite as a gift.” Or, “He has made you a free man (in any of which cases, the slave no longer can eat heave offering); (3) and so in the case of a priest who was eating heave offering and it became known that he is the son of a divorcee or of a *halusah* (a woman who has undergone the right of removing the shoe and is in the status of a divorcee) and therefore cannot eat heave offering - R. Eliezer declares all of these individuals) liable to the principal and (added) fifth (of the heave offering they unintentionally had eaten as non-priests) But R. Joshua exempts.] R. Haggai asked the associates, “How do we know that one who eats [a sort of food he should not eat, e.g., an ordinary person who ate heave offering] with the permission [of the court] is exempt [from punishment, as in our Mishnah’s law]? What is the difference [in Joshua’s view] between a case in which

someone thought that the food was unconsecrated, but it turned out to have the status of heave-offering, in which case he is liable, and a case in which someone assumed that he was a priest, and he turned out to be an Israelite, in which instance he is exempt?”

- [B] *They said to him, “[The difference derives] from [the law concerning] the instructions of a court, [for if the court declared the man permitted to do so, then he is not liable, while if the error was his own, he is liable].” [Joshua will regard the case at M. Ter. 8:1 as analogous to one in which a person has received incorrect instruction from a court.]*
- [C] [What now follows assumes knowledge of M. Pes. 6:5, which states: **An animal designated as a Passover offering that one slaughtered under an improper designation on the Sabbath that coincides with the fourteenth of Nisan - one is liable on that account for a sin offering. And as to animals designated for any other animal offering that one slaughtered for the sake of Passover-sacrifice, if they are not appropriate to be offered as a Passover-sacrifice, one is liable. But if they are appropriate (e.g, male lambs, and so suitable to serve as a Passover-sacrifice - R. Eliezer declares liable for a sin offering, and R. Joshua declares him exempt.]** *He said to them, “I have yet another question requiring [your attention]. What is the difference between a case in which one [slaughtered a beast because he] assumed that it was an ordinary day, while it turned out to be the Sabbath, in which case the person is liable [for violating the Sabbath], and a case in which [on the Sabbath that coincided with the fourteenth of Nisan, when the Passover offering was to be slaughtered] one [carried out an act of slaughter] assuming that it was an animal set aside as a Passover offering, but the sacrifice turned out to have the status of a peace-offering, in which case the person is exempt [from penalty, in the view of Joshua]?”*
- [D] They said to him, “The difference is that in the latter case he carried out the act of slaughter by permission. [That is, the man assumed it was permitted to slaughter the beast as a Passover-offering, and an inadvertent error in doing a commandment is not culpable.]”
- [E] He said to them, “Yet another question do I need to raise: What is the difference between a case in which someone assumed that an act was permitted but it turned out to be forbidden, in which case one is exempt [as at M. 1:1], and a case in which one assumed that something was forbidden fat [and he ate the fat], but it turned out to be permitted fat, in which instance the person is liable?”

[F] [Now in this case] they did not answer him at all.

[G] *He said to them, “I shall tell you how we know [the basis for the difference]: ‘[If any one of the common people sins unwittingly in doing any one of the things which the Lord has commanded not to be done and is guilty] when the sin which he has committed is made known to him, he shall bring J’”* [Lev. 4:27]. [So Scripture specifies the fact of the matter. In this case, the one who sins unwittingly has no reason to recognize the sin and bring an offering (Pené Moshe).]

[H] R Yosé entered [the discussion]. They said to him, “Something is difficult for us.”

[I] He said to them, “And why don’t you respond to him on the basis of the following verse: ‘When the sin that he has committed is made known to him, then he shall offer J’?”

[I] [45d] They said “First came Haggai, and then came another Haggai!”

[J] *In regard to the position of R. Ishmael [spelled out below], who does not utilize the cited Scriptures for the case of those who are liable to bring sin offerings and unconditional guilt offerings for a verified offense, for whom the Day of Atonement passed [without bringing the required offerings they owed] there are no problems [in the position utilizing Lev. 4:27 as just now outlined].*

[K] *But in regard to the position of R. Aqiba, who utilizes the stated verses to refer to those who are liable to sin offerings or to unconditional guilt offerings for whom the Day of Atonement passed [indicating that they retain liability to bring the offerings, there is a problem].*

[L] *[The foregoing passage, A-B, refers to] that which has been taught in Tannaitic tradition:*

[M] How do we know that those who are liable to sin offerings or to unconditional guilt offerings, for whom the Day of Atonement passed [without their bringing the offerings they owed], remain liable to bring these same offerings after the Day of Atonement, [though in regard to] suspensive guilt offerings for an unverified offense, they are exempt [if they did not bring the

offerings they owed and the Day of Atonement already has taken place]?

[N] Scripture says, “./ when the sin that he has committed is made known to him, then he shall bring [an offering]” - even after the Day of Atonement.

[O] *Note the following:* “If anyone sins” “./ one sins” “./ in doing” “./ will sin” - lo, these three constitute exclusionary phrases. He who relies on himself is liable, but he who relies on the court is exempt.

[P] They are liable only for something that was fully known to them but then became hidden from them.

[Q] *And what is the Scriptural evidence?*

[R] “And [if] a matter was hidden from knowledge of the entire congregation” (Lev. 4:13) - it was a matter that had been known to them but then was hidden from them.

[S] *Now in accord with the position of R. Ishmael, who says,* “And it was hidden from him” - implying that he knew about it and he knew, lo, there are two stages of knowing.

[T] *So far as the position of R. Aqiba goes, who says,* ““And it was hidden from him’ / ‘and it was hidden from him,’” two times - implying that knowledge came to him at the outset and knowledge came to him at the end, but in the interim it was hidden from him,

[U] Scripture says, “And the matter was hidden” - it was a matter that had been revealed to them, but was subsequently hidden from them.

[I:3 A] And [the judges of the court that gave false instruction] are liable only if they give instruction to nullify part [of the law] and to carry out part of the law [cf. M. 1:3, below].

[B] Samuel said, “And [the law applies in a case in which they taught that it is permitted [to do something that in fact is prohibited]. But if they gave instructions [merely] that someone is exempt [from penalty for doing a sin], *it is not in such a case that the law applies.*”

[C] They are liable only if the instruction comes from the Hewn Stone chamber.

[D] *Said R. Yohanan, “The scriptural evidence of the reason for this Tannaitic teaching is as follows: “[‘Then you shall do according to what they declare to you] from that place which the Lord will choose’ (Deut. 17:11).”*

[E] *Said R. Mana bar Tanhum, “[If] a hundred judges entered the court [decision], they are not liable unless all of them [inadvertently] gave [the same erroneous] instruction.”*

[F] *In that regard said R. Zeira, “And the law applies only if all of them give [false] instruction on the same grounds, [unanimously taking the same position for the same reason].”*

[G] [Delete:] How now?

[II:1 A] If an individual went and carried out the law in accord with their opinion inadvertently [erring in accord with their opinion] [M. 1:1B]

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[B] Now does the issue of deliberate sin apply [that the Mishnah must specify the sin as inadvertent]?

[C] It is a matter of inadvertence on the part of an individual in a context of instruction of a court. [But if there is no court instruction, the inadvertent sin of an individual, of course, is culpable.]

[III:1 A] *R. Immi in the name of R. Simeon b. Laqish: “The Mishnah speaks [at M. 1:1I] of a [disciple in a case in which] someone of the caliber of Simeon b. Azzai is sitting before them.”*

[B] *Now how are we going to interpret the [claim that the disciple is of Ben Azzai’s caliber]? If we are dealing with someone who knows the entire Torah but does not know that particular matter [in which the court made an error], this is not someone of the caliber of Simeon b. Azzai. And if it is the case of someone who knows that matter in particular but does not know the entire Torah, he is like Simeon b. Azzai so far as that particular matter is concerned, [so it is deliberate, not inadvertent].*

[C] *But thus should we interpret the matter: it deals with someone who knows the entire Torah, and that someone [furthermore] knows that particular matter [in which the court made its erroneous decision. But he errs in holding the opinion that the Torah taught, “Follow them,*

follow them,” [that is, follow the majority, even where the majority errs].

[D] [Now if it is a case in which someone made the error of maintaining that the Torah has said, “Follow them, follow them”], this [too] is no Simeon b. Azzai!

[E] *It is in line with the following teaching:* Is it possible that, if people should say to you that right is left and left is right, you should listen to them? Scripture says, “To go to the right hand or the left,” meaning that [one follows the majority only if] they declare to you that [what actually is] the right is right, and the left, left.”

[III:2 A] *What is then [the correct interpretation of the Mishnah]?*

[B] R. Yosé in the name of R. Hila: “In every setting one who does a sin in error is exempt from punishment, and one who commits it deliberately is liable. But here, even one who commits it deliberately [also] is exempt, because he relied on the court.”

[C] *The associates in the name of Samuel:* “*The Mishnah deals with a case in which an individual [M. 1:1B] completes the majority of the community. But each individual who performed the act wrongly by himself is exempt [from a sacrifice by reason of his inadvertence].*”

[D] Said R. Yohanan, “Even if each individual committed the act by himself, each one must bring a ram and a goat, [so he is not exempt, as C has said].”

[E] *Now that ruling poses a difficulty to the opinion enunciated by Samuel. Does it not turn out that each individual effects atonement for himself with two sin-offerings?*

[F] R. Zeira in the name of Samuel: “The status of an individual depends [on the circumstance]. If the majority of the court ate [that which was prohibited, they bring] a sin-offering [as specified in Lev. 4:13]. But if a minority of the court did so [and thus is not liable to a collective offering], then [there being no communal expiation] the individual brings [an offering].”

[G] [That is to say:] In the case of any false instruction in which a court [collectively] brings a bullock, an individual need not offer a lamb and a goat. [And in the case of any improper instruction in which the court collectively does not offer a bullock, an individual does offer a lamb and a goat.]

[H] *R. Yohanan interpreted the cited passage to apply to a case in which a court gave instructions to remove a basic principle of the Torah. Since the court brings a bullock, an individual does not have to bring a sheep and a she-goat. If the court gave instruction to nullify part of the teaching of the Torah and to carry out part of it, since the court does not have to bring a bullock, the individual does have to bring a sheep and a goat.*

[I] *Samuel interpreted the Mishnah, “I still maintain that if a minority of the community inadvertently did a sin, they are liable. For a court does not bring a bullock on their account. Scripture says, ‘People of the land’ (Lev. 4:27) - even the whole of it, even the larger part of it. [But not a minority.]”*

[J] *R. Yohanan interpreted the Mishnah: “I still maintain, a minority of the community who inadvertently sinned not under the instructions of the court is liable, for in the case of false instruction a court does not bring a bullock.”*

[K] Samuel said, “Truly they bring a sheep and a goat [as individuals].”

[L] R. Yohanan said, “They do not bring a sheep and a goat [as individuals].”

[M] *So far as the position of Samuel is concerned, this is no problem, for he derives one liability from another. [That is to say, he regards the minority of the community as liable in the case of an inadvertent sin, for the court does not bring an offering on their account.]*

[N] *But for the position of R. Yohanan, there is a problem, for does he derive the liability in a case in which one is exempt? [For the court does not bring an offering for the individual’s inadvertent sin. In Yohanan’s view the court is entirely exempt from culpability.]*

[O] *The Mishnah is at variance with the position of Samuel: “‘Or when his sin which he sinned is known to him, then he will bring [an offering]’ - thus excluding one who is an apostate to idolatry.”*

[P] *The Mishnah is at variance with the position of Samuel: “[If anyone sins] / one sins / in doing / will sin - lo these three constitute exclusionary phrases. **He***

who relies on himself is liable, but he who relies on the court is exempt.”

[Q] *This indeed does take issue with the position of Samuel, and the position of Samuel has no visible means of support.*

1:2

[A] **[If] the court gave a decision and realized that it had erred and retracted**

[B] **whether they brought their atonement offering or did not bring their atonement offering,**

[C] **and an individual did in accord with their instruction**

[D] **R. Simeon declares him exempt.**

[E] **And R. Eliezer says, “It is subject to doubt.”**

[F] **What is the doubt?**

[G] **[If] the person had stayed home, he is liable.**

[H] **[If] he had gone overseas, he is exempt.**

[I] **Said R. Aqiba, “I concede in this case that he is nigh unto being exempt from liability.”**

[J] **Said to him Ben Azzai, “What is the difference between this one and one who stays home?”**

[K] **“For the one who stays home had the possibility of hearing [that the court had erred and retracted], but this one did not have the possibility of hearing [what had happened].”**

[I:1 A] [What follows relates to M. 1:1I and repeats the prior discussion:] *R. Immi in the name of R. Simeon b. Laqish: “The Mishnah [at speaks of [a disciple in a case in which] someone of the caliber of Simeon b. Azzai was sitting before them.”*

[B] *Now how shall we interpret [this statement]? [If in argument] he had disproved their [the majority’s] position, then their improper instruction is null. And if they had disproved his [position], then this instruction is null.*

[C] *But this matter is to be interpreted as follows: This party remained firm in his reply [to the arguments of the other], and the other party remained firm in their reply [to his arguments]. Their instruction so far as he is concerned [still] is no instruction, for they did not disprove his*

position. But so far as other people are concerned, [their] instruction is valid, because [for his part] he did not disprove [their position].

[D] *Does this judgment not stand at variance with the position of R. Mana bar Tanhum? For R. Mana bar Tanhum said, “[If] a hundred [judges] entered the court, [the false instruction is not in force] until all of them present [that same false instruction].”*

[E] [The reason that this judgment does not stand at variance with that statement of Mana is that we speak of a case in which] he [who differed] in fact did not enter [the court to begin with or participate in the debate].

[F] Now if [the fact that the dissident judge] did not enter the case [constitutes a negative factor in assessing the effect of the decision], you might as well interpret the case in accord with the position of Rabbi.

[G] For Rabbi said, “No judge[‘s position constitutes a disruptive factor in issuing false instructions] except for the senior judge of a court alone.”

[H] Now R. Mana bar Tanhum has said, “[If] a hundred judges entered the court, [the false instruction is not in force] until all of them will present [that same false instruction].”

[I] Does the reversal require the same unanimous decision, or is the majority of the group sufficient [to effect retraction as specified at M. 1:2A]?

[J] *It should be obvious to you that a majority of the group suffices.*

[K] Now what sort of majority do you have in mind? Is it the majority of those who originally gave the instruction [or] the majority of those remaining [at the point at which the reversal comes under discussion]?

[L] *[In the context of] what concrete [case do you raise the question]?*

[M] [If] a hundred entered [the court and made a decision], and then ten of them died, if you rule that we require the majority of those who originally gave the instruction, then we require fifty-one, while if you rule

that we require a majority of those remaining, we require only forty-six.

- [I:2 A] [If] one set aside an animal to serve as his sin-offering, [but then] was struck dumb, went insane, or apostatized, or a court instructed [that it] is permitted to eat forbidden fat [in all of which instances there no longer is an obligation to offer the animal which had been designated as a sin-offering]
- [B] R. Yohanan said, “[The requirement that] he [offer a] sin offering is set aside [no matter what happens later on, e.g., if the man regained his speech or senses, returned to Judaism, or learned that the court had corrected its instruction].”
- [C] R. Simeon b. Laqish said, “The requirement that he offer a sin offering is not set aside [and the obligation is to be carried out later on, when it is possible or appropriate to do so].”
- [D] *R. Yosé b. R. Bun and R. Aha [said]: “The tradition is to be reversed, [so that Yohanan takes the position assigned to Simeon b. Laqish, and vice versa].”*
- [E] *[This is so that] the statement assigned to R. Yohanan will not turn out to be at variance with another matter attributed to him.*
- [F] For R. Simeon bar Ba in the name of R. Yohanan: “They sprinkle a cup of blood on his account [namely, one who is dying] from the blood of his sin offering and from the blood of his guilt offering.” [Thus Yohanan says that in the case of a dying man, the sin offering is to be carried out, and there is no reason for him to take a contrary position here.]
- [G] *The rabbis of Caesarea say [concerning] R. Hiyya [and R.] Ammi, [that the former] reverses [the attributions] and the other said, “Thus the tradition [is to be repeated as valid, just as we have received it above].”*
- [H] *The one who maintains that the traditions are to be reversed is not subject to the objection [that Yohanan is shown to contradict himself].*
- [I] *In accord with the party who holds that the requirement to bring the sin offering has not been set aside - who is going to accept the animal from him [and sacrifice it, seeing that the court has given instructions that there has been no sin committed in the first place]?*

[J] [Indeed, that is correct.] Let the man wait for the time that the court will reverse itself [retracting its erroneous decision and so declaring a sin to have been committed and permitting acceptance of the offering]! [Now that answer is clearly absurd, so a different solution must be found.]

[K] But [interpret the Mishnah to speak of a case in which] it was a priest [who had sinned, so] he carried out the sacrifice [in his own behalf and offered the beast and effected atonement.

[L] [Or another way in which the animal may be required and ultimately offered would be a case in which the dissenting disciple] was [of the caliber of] Simeon b. Azzai.

[M] [*Nonetheless,*] *who is going to accept the animal from him [and sacrifice it, as above at I]?*

[N] *Let the man wait for the time that the court will reverse itself, in accord with the view of him who holds that the obligation to bring a sin-offering has not been set aside.*

[I:3 A] The effects produced by an erroneous instruction are tantamount to the original erroneous instruction [so that if the man ate forbidden fat, and afterward a court declared the forbidden fat permitted, the man is not obligated to bring a sin-offering. The court's bullock suffices, and the later instruction is effective even for what the man did earlier]. An erroneous instruction [yielding an improper act along] with [the result of another such erroneous instruction] - what is the law as to the two deeds being deemed to join together to constitute a single action?

[B] *What sort of case [do you have in mind]?*

[C] [For example,] if [not by court error] the community ate forbidden fat and each individual set aside his offering [on that account], [and then the court ruled that it is permitted to eat forbidden fat], if you rule that the result of an improper instruction is deemed tantamount to the original instruction, [46a] the court is liable. If you say that the results of an improper instruction are not deemed tantamount to the result of the original instruction, the court is exempt.

[D] *Now it is clear to you that the results of an improper instruction are tantamount to an improper instruction, [thus the court's action is valid retroactively, and its sacrifice covers the individual who earlier did what the court later declared to be valid].*

- [E] [That question is obvious. The real problem is] whether an improper instruction is deemed to join together with another improper instruction.
- [F] *What sort of case [do you have in mind]?*
- [G] [If[the court gave instruction that the fat covering the kidney on the right is permitted, and the one on the left, which has a covering, is permitted, and then the court retracted and reversed the ruling -
- [H] a majority ate on the occasion of the first instruction, and a majority ate on the occasion of the second instruction -
- [I] now if you rule that the two distinct acts of instruction join together, they are liable for a single [bullock], but if you say that the two acts of instruction do not join together, they are liable for two bullocks, [covering the two distinct acts of false instruction to the community, for which the court bears full responsibility].

[J] [If we have] two improper instructions dealing with a single act of transgression, what is the law as to their joining together [to be deemed a single act of improper instruction, because both dealt with the same transgression]?

[K] *What is the sort of case [you have in mind]?*

[L] [If] the majority of the court ate and slaughtered [the animal that was a sacrifice, outside of the court of the Temple], *in accord with the opinion of R. Meir*, they are liable for a single [bullock for eating a sacrifice and killing it outside the Temple], *and in accord with the opinion of R. Simeon*, they are liable for two [bullocks].

[M] If a minority ate in the first instance and a minority ate in the second,

[N] *in accord with the opinion of R. Meir*, they are liable, *and in accord with the opinion of R. Simeon*, they are exempt.

[I:4 A] Said R. Zeira, “And if there is an interval between [the action and the court’s retraction]” -

[B] R. Meir said, “They give a person an interval [of sufficient time] so he may hear [of the court’s reversal of its improper ruling and so avoid following the court in its error]. [So the liability is not immediate.]”

[C] And R. Simeon says, “They assign an interval sufficient for one to clarify the ruling, [so he is not automatically exempt, but only if he acts while he has time to clarify the court’s error].”

[D] *And there is a Tannaite teaching along these same lines:*

[E] [If] a court gave an improper instruction in the Upper Market and an individual was in the Lower Market, [or] if the court was in the house and the individual was in the upper room, the individual remains exempt [if he follows the improper teaching of the court and does not know about their retraction of that teaching, for whatever he may do in accord with the original, improper teaching,] during an interval long enough for him to hear in a concrete way [that the court has retracted].

[II:1 A] So far as the view of R. Aqiba is concerned, the matter is still subject to the doubt [of M. 1:2E].

[B] Said R. Bun bar Hiyya, “That doubt derives from a case in which the individual was located between two borders, between borders of the land of Israel and those of foreign territory. [Even if the person is not yet actually abroad, he is not likely to know the court’s decision.]”

[C] R. Ammi in the name of R. Simeon b Laqish, “In matters of instruction [in which an individual is abroad and has no opportunity to hear that a court has retracted its original view], they follow the status of an individual in accord with his dwelling in the land of Israel.

[D] “In matters of doubt involving uncleanness [if the majority is unclean, the uncleanness is null], they follow the status of the majority of those who enter into the Temple courtyard.”

[E] Now do they assess matters into terms of the status of each group [of those who come on the eve of Passover to sacrifice their lambs in the courtyard], or do they take account only of the status of the first group to enter the courtyard?

[F] Said R. Yosé b. R. Bun, “While the group is outside, they take account of their own status.”

[G] R. Joshua b. Levi: “For bringing an appearance-offering they follow the status of those [all the way] from the entrance of Hamath to the River of Egypt [so that if a majority is unclean, the uncleanness is null].”

[H] *R. Tanhuma in the name of R. Huna, “The Scriptural foundation for the statement of R. Joshua b. Levi is as follows: ‘So Solomon held the feast at that time, and all Israel with him, a great assembly, from the entrance of Hamath to the Brook of Egypt’ (1 Kings 8:65). [These boundaries thus signify ‘all Israel’s’ location.]”*

1:3

[A] [If] a court gave a decision to uproot the whole principle [of the Torah] -

[B] [for example,] (1) [if] they said, “[The prohibition against having intercourse with] a menstruating woman is not in the Torah [Lev. 15:19].”

[C] (2) “[The prohibition of labor on] the Sabbath is not in the Torah.”

[D] (3) “[The prohibition against] idolatry is not in the Torah.”

[E] Lo, these are exempt [from the requirement of Lev. 4:14].

[F] [If] they gave instruction to nullify part and to carry out part [of a rule of the Torah], lo, they are liable.

[G] How so?

[H] (1) [If] they said, “The principle of prohibition of sexual relationships with a menstruating woman indeed is in the Torah, but he who has sexual relations with a woman awaiting day against day is exempt.”

[I] (2) “The principle of not working on the Sabbath is in the Torah, but he who takes out something from private domain to public domain is exempt.”

[J] (3) “The principle of not worshipping idols is in the Torah but he who bows down [to an idol] is exempt.” -

[K] lo, these are liable,

[L] since it is said, “If something be hidden” (Lev. 4:13) - something and not everything.

[I:1 A] R. Hezekiah said, “‘Some thing’ [Lev. 4:13] and not the whole thing [MDBR, KL DBR].”

[B] Said R. Hila, “[And they do one of any of the commandments] - part of commandments [MMSWT], and not whole commandments [KL MSWT].”

[C] And is it written thus?

[D] *It is in accord with what R. Ammi said in the name of R. Yohanan, “They take away a letter from one word of the text and add it to another and thus interpret the entire pericope to the end [in this case, removing the M from MKL MSWT and reading KL MMSWT].”*

[E] R. Hananiah in the name of R. Jeremiah: “[And that is the case] even in the middle of a word, thus: ‘And you shall put oil upon it / it is a cereal offering’ [Lev. 2:15], meaning to encompass all meal offerings, [which require a] putting on of oil.”

[II:1 A] Now [in the cases of F-K], do you not [really] turn out to uproot the whole principle of the Torah [by giving the instructions specified by the Mishnah-passage]?

[B] In the case of [the prohibition of sexual relations (M. I :3H)] with a woman awaiting day against day [who has had a flow on two days, but is now counting days with no flow, to establish her status as wholly clean], [the Mishnah refers to] a case in which [the court] ruled, “The night is permitted [for sexual relations], but the day is prohibited [that is, since Scripture refers to clean days, if the blood appears by day, the night is permitted].”

[C] And do you not turn out [at M. 1:31] to uproot the whole principle of [on the Sabbath not] stretching something forth [that is to say, of not standing in private domain and reaching out with an object in one’s hand and stretching that object into public domain]?

[D] Samuel bar Abba said, “It is a case in which [the court] ruled that it is permitted [to stretch something forth] by a cubit, but not by two cubits.”

[E] And [at M. 1:3J] do you not turn out to uproot the entire principle of [the prohibition of] bowing down?

[F] [The reference is to a case] in which [the court] ruled that it is permitted to bow down but prohibited to prostrate oneself [to an idol].

[G] And [at M. 1:3I] do you not turn out to uproot the entire principle of transporting an object across the line from one domain to another?

[H] Said Samuel bar R. Isaac, “It is a case in which [the court] ruled that it is permitted [on the Sabbath to transport across the line between private and public domain] a single dried fig, but it is prohibited [to transport] two dried figs.”

[I] *And the stated ruling [H] is in accord with the opinion of the one who said that bringing something in [from public to private domain] and taking something out [from private to public domain] are subject to a single rule.*

[J] *But in accord with the opinion of the one who said that bringing something in [from public domain to private domain] and taking something out [from private to public domain] are subject to two distinct rules, would the court not turn out to be uprooting a whole principle of the Torah concerning bringing something in [in making the ruling specified at H]?*

[II:2 A] Said R. Yosé, “It is not that [the court] gave instructions that it is permitted to eat prohibited fat. The court knew that [in fact] it is prohibited to eat forbidden fat. But [they thought] that the Torah had given the power to a court to give teaching [on which fat is forbidden and which is permitted, when in fact all is forbidden].”

[B] *R. Bun bar Hiyya asked, “[But this too would be uprooting an entire principle of the Torah, for if the court rules about] an olive’s bulk [of one sort of fat] on one day [that it is permitted], and about two olive’s bulks [of another sort of fat] on another day [that it too is permitted, when both sorts are prohibited, ultimately all sorts of forbidden fat will be permitted, in which case you have nothing other than an uprooting of an entire principle of the Torah, contrary to the position of Yosé].”*

[C] *What would be a practical case?*

[D] It is [like] a case of a prophet who incites [the people to violate the Torah, who is liable only when he incites the people to uproot a whole principle of the Torah, but if he incites them to violate part but to keep part, he is exempt]. Might one think that, in such a case, if [a false prophet] should say to you, “Do not put on *tefillin* today, but put them on tomorrow,” you should pay attention to [such a prophet]? Scripture says, “To follow them” (Deut. 13:6) - in all respects, and not only in some respects. Lo, you have here a case of uprooting a principle of the Torah for that entire day, and do you claim that in this instance you do not have a case of uprooting an entire principle of the Torah? Here you do indeed have a case of uprooting an entire principle of the Torah!

[E] *R. Mana heard this saying in the context of what Samuel bar Abba said [at II.D], and [he applied the same conception,] stating, “[If] it is in a case in which [the court] ruled that it is*

permitted [to hold something out] by a cubit but not by two cubits, lo, you have a case of uprooting a principle [of the Torah] for that entire [first] cubit [which has been declared permitted]. So will you say there is not an uprooting of an entire principle of the Torah? Here there is indeed an uprooting of an entire principle of the Torah!”

1:4

[A] (1) [If] the court gave a decision, and one of the members of the court realized that they had erred and said to them, “You are in error,”

[B] or (2) if the head of the court was not there,

[C] or (3) if one of them was a proselyte, a mamzer, a Netin, or an elder who did not have children -

[D] lo, these are exempt [from a public offering under the provisions of Lev. 4:14],

[E] since “Congregation” is said here [Lev. 4:13], and “Congregation” is said later on [Num. 15:24].

[F] Just as “congregation” later on applies only in the case in which all of them are suitable for making a decision,

[G] so “congregation” stated here refers to a case in which all of them are suitable for making a decision.

[I:1 A] *The Mishnah-pericope follows the view of Rabbi [cited at M. 1:4B], for Rabbi says, “No judge’s position constitutes a disruptive factor in issuing false instruction] except for the senior judge of a court alone.”*

[B] It is written, “Then if it was done unwittingly, without the sight of the congregation, all the congregation shall offer one young bull” (Num. 15:24) - without the sight of the one who is the eyes of the congregation [= the head of the court].

[II:1 A] It is written, “[And the Lord said to Moses, Gather for me seventy men of the elders of Israel / and bring them to the tent of meeting,] and let them take their stand there with you” (Num. 11:16).

[B] Just as you personally are no proselyte, mamzer, or Netin [M. 1:4C], so they are not to be proselytes, mamzers, or Netins, net alone] slaves.

[C] *[It is] easy* [enough to understand the need to include reference to a proselyte]. But does a court [ever] appoint *mamzers* [to its membership, that specification must be made that if a *mamzer* is a member of the court, the court’s erroneous instruction is null]?

[D] R. Huna said, “[The Mishnah refers to a case] in which the court transgressed and did appoint mamzers.”

[E] *R. Hananiah and R. Mana: One said*, “[The Mishnah refers to a case in which there was a *mamzer* on the court,] and he was counted among the seventy.” *The other said*, “[The Mishnah refers to a case in which there was a mamzer on the court,] but he was not counted among the seventy.”

[F] *The one who said*, “The mamzer was not counted among the seventy” finds no difficulty with the reference of the Mishnah. [There normally would be no *mamzer* on the court, just as we have said above, but Huna is right.]

[G] *The one who said*, “The mamzer was counted among the seventy” [will maintain] that he is in fact not counted among the seventy. But since he was not worthy of giving instruction, he was deemed nothing more than a stone. [And the Mishnah maintains that, if he was merely present, then even after the fact his presence nullifies the instruction.]

1:5

[A] **[If] the court gave an incorrect decision inadvertently, and the entire community followed their instruction [and did the thing in error] inadvertently,**

[B] **they bring a bullock,**

[C] **[If the court gave an incorrect decision] deliberately, but the community, following their instruction, did the thing in error] inadvertently,**

[D] **they bring a lamb or a goat (Lev. 4:32, 27).**

[E] **[If the court gave incorrect instruction] inadvertently, and [the community followed their instruction and did the thing in error] deliberately, lo, these are exempt [under the provisions of Lev. 4:4].**

[I:1 A] *This [Mishnah-pericope] does not stand at variance with the position of R. Simeon b. Laqish [at M. 1:2].*

[B] *For R. Ammi said in the name of R. Simeon b. Laqish, “The Mishnah [speaks at M. 1:5C of a court on which] someone of the caliber of Simeon b. Azzai sits, in which case [with access to such learning], they*

acted deliberately and [the people] acted inadvertently [in accepting wrongful instruction].” [This is the case of M. 1:5C-D.]

- [C] And how can there be deliberation in the case of inadvertence with regard to an individual who acts at the instruction of a court? [That is, M. 1:5C has the individual bring an offering. So far as Simeon b. Laqish is concerned at M. 1:1, if the court has an authority of Ben Azzai’s caliber, it has acted deliberately, and an individual does not have to bring an offering.]
- [D] Associates in the name of R. Simeon b. Laqish: “[This refers to a case] in which the majority of the community did not accept the ruling of the court [and acted inadvertently, so the individual is liable, for he is not able to claim to have relied on the court].”
- [E] R. Zeira in the name of R. Simeon b. Laqish: “This refers to a case in which they resisted their instruction [but carried it out], [and so have not unthinkingly relied on the court].”
- [F] *What is the difference between them?*
- [G] If they accepted their authority but then went and resisted it -
- [H] *in the opinion of associates*, since they resisted, they are exempt.
- [I] *In the opinion of R. Zeira*, since they accepted their authority in the first place, lo, these [individuals] are liable.

1:6

- [A] “[If] the court made an [erroneous] decision, and the entire community, or the greater part of the community, carried out their decision, they bring a bullock.
- [B] “In the case of idolatry, they bring a bullock and a goat,” the words of R. Meir.
- [C] R. Judah says, “Twelve tribes bring twelve bullocks.
- [D] “And in the case of idolatry, they bring twelve bullocks and twelve goats.”
- [E] R. Simeon says, “Thirteen bullocks, and in the case of idolatry, thirteen bullocks and thirteen goats:
- [F] “a bullock and a goat for each and every tribe, and [in addition] a bullock and a goat for the court.”

- [I:1 A] [The following relates to **M. Pes. 7:6: If the congregation was made unclean, or the greater part of it, or if the priests were unclean, while the congregation remained clean, the Passover offering is prepared in a state of uncleanness. If a minority of the congregation was made unclean, those who remain clean keep the first Passover, and those who are unclean, the second.**] *What Tannaitic authority taught that we require the majority [of the entire Israelite community, not just the majority of a given tribe, to invoke the stated law]? It is R. Meir.*
- [B] *For it has been taught in a Tannaitic tradition: Half of all of the tribes [without regard to tribal divisions] is equivalent to half of each of the [six] tribes, on condition that a majority [of the whole Israelite community carries out the instruction of the court, in which case the court brings a bullock].*
- [C] R. Judah says, “[The congregation may consist of] half of each tribe, on condition that there be the majority of the entire group of tribes [that is, seven,] [even if it does not add up to the majority of the Israelite population].
- [D] “A single tribe may [furthermore] draw in its wake all the tribes [if it is so numerous that half of the community has committed the sin, even if all are members of the same tribe].”
- [E] R. Meir says, “All of the tribes [together] are called a congregation.”
- [F] R. Judah says, “Each [individual] tribe is called a congregation.”
- [G] *And R. Simeon follows the view of R. Judah.* As R. Judah said, “Each tribe is called a congregation,” so R. Simeon says, “Each tribe is called a congregation.”
- [H] What difference is there, then, between their positions?
- [I] This matter of [a single tribe’s] drawing in its wake [all of the community (D)].
- [J] R. Judah says, “A single tribe may draw in its wake all the other tribes.”
- [K] R. Simeon says, “A single tribe may not draw in its wake all the other tribes.”

[L] And he agrees that the instruction must come forth from the Hewn Stone Chamber [for the stated bullock-offering, covering the sin of the entire community, to be called for].

[M] Said R. Yosé, “The reason is that it is said, ‘From that place which the Lord will choose’ (Deut. 17:8).”

[N] *R. Abun in the name of R. Benjamin bar Levi: “There is a Scripture that supports the position of the one [Judah, Simeon] who says, ‘Each tribe is called a congregation.’*

[O] For it is written, ‘A nation and a congregation of nations will come from you’ (Gen. 35:11).

[P] “And yet [at the time that that statement was made], Benjamin had not yet been born. [So the reference to a coming *congregation* applied to a single tribe.]”

[Q] Said R. Hiyya bar Ba, “Just as they disagree in the present setting, so they disagree about uncleanness,

[R] *“as it has been taught in a Tannaitic teaching:*

[S] **‘If half of the community was clean, and half unclean, the clean ones observe the first Passover [offering], and the unclean ones observe the second’ [T. Pes. 6:2C-D].”**

[T] R. Judah [better: Simeon] says, “The clean ones do it by themselves, and the unclean ones do it by themselves.”

[U] They said to him, “The Passover is not done in halves, but [46b] either all of them do it in a state of uncleanness, or all of them do it in a state of cleanness.”

[V] *Who is the Tannaite authority who made that statement to him?*

[W] *It is in accord with the position of R. Judah.*

[X] *For it was taught in a Tannaitic tradition:*

[Y] **If one of the loaves was made unclean. or one of the rows [of incense-dishes], R. Judah says, “Both of [the loaves or rows] are to go forth to the place where burning is done. For the offering of the community is not divided.” And sages say, “The unclean one remains in its state of uncleanness, but**

the clean one may be eaten by the priests” [M. Men. 2:2].

[Z] *R. Yosé bar Bun in the name of R. Yohanan said, “Who was it who made that statement [of E] to him [Simeon, at D]? It was sages, who are in accord with the thesis of R. Judah.”*

1:7

[A] “[If] the court gave an [erroneous] decision, and seven tribes, or the greater part of seven tribes, carried out their decision,

[B] “they bring a bullock.

[C] “In the case of idolatry, they bring a bullock and a goat,” the words of R. Meir.

[D] R. Judah says, “Seven tribes which committed a sin bring seven bullocks.

[E] “And the other tribes, who committed no sin, bring a bullock in their behalf,

[F] “for even those who did not sin bring an offering on account of the sinners.”

[G] R. Simeon says, “Eight bullocks, and in the case of idolatry, eight bullocks and eight goats:

[H] “a bullock and a goat for each and every tribe, and a bullock and a goat for the court.”

[I:1 A] *It was taught in a Tannaitic tradition: R. Simeon b Eleazar says in his name [of Meir], “[If] six tribes sinned, and they constitute the majority [of all Israel], or seven, even though they are not the majority, lo, they are liable” [T. Hor. 1:7].*

[B] Said R. Eleazar, “[Simeon b. Eleazar] has said only six, which constitute a majority [come under consideration]. Then, if there are five tribes, even though they constitute a majority, lo, [the court] is exempt [from bringing a bullock].”

[C] *Said R. Yosé b. R. Bun, “The Tannaitic teaching has made the same judgment: Half of the tribes, on condition that [they constitute a majority of the population.]”*

[D] *And, [is it] similarly [the rule that we require] half of the population, on condition that it is the majority of the tribes?*

[E] *R. Yosé b. R. Bun* said, “This same question occurs with regard to the high priest [concerning whether, like] the instruction of the high court, the instruction of an ordinary court [also is deemed to fall under the rule of false instruction in the present regard; cf. M. 2:1].”

1:8

[A] “[If] the court of one of the tribes gave an [erroneous] decision, and that tribe [only] carried out their decision,

[B] “that tribe is liable, and all the other tribes are exempt,” the words of *R. Judah*.

[C] And sages say, “They are liable only by reason of an [erroneous] decision made by the high court alone,

[D] “as it is said, ‘And if the whole congregation of Israel shall err (Lev. 4:13) - and not the congregation of that tribe [alone].”

[I:1 A] [When there is an obligation to bring a bullock, or, in the case of idolatry, a bullock and a goat, as *Meir*, *Judah*, and *Simeon* have maintained at M. 1:6, who bears the obligation to supply the animal for the sacrifice?] *R. Meir* says, “It is the obligation of the court [to supply the animal for the sacrifice].”

[B] *R. Judah* says, “It is the obligation of the community [to supply the animal for the sacrifice.”

[C] Said *R. Simeon*, “It is both the obligation of the court and the obligation of the community [to supply the animal for the sacrifice].”

[D] *What is the Scriptural foundation for the position taken by R. Meir?*

[E] It is stated here [in the setting of inadvertent commission of sins, Lev. 4:13], “from the sight,” and it is stated later on [in the setting of inadvertent idolatry, Num. 15:24], “from the sight.” Just as the reference to, “from the sight” stated later on speaks of the obligation of the court to bring the animals, so here too the court [is obligated].

[F] *What is the reason [founded in Scripture] for the position taken by R. Judah?*

[G] It is stated here (Lev. 4:13), “from the sight,” and it is stated later on (Num. 15:24), “from the sight.” Just as the reference to “from the sight” stated later on speaks of the obligation of the

community, so the reference to ‘from the sight’ in the former of the two passages speaks of the obligation of the community [to bring animals].

[H] *What is the reason [founded in Scripture] for the position taken by R. Simeon?*

[I] It is stated here (Lev. 4:13), “from the sight,” and it is stated later on (Num. 15:24), “from the sight.” Just as the reference to “from the sight” stated later on means that the court [is obligated to bring the sacrifice], so the reference to “from the sight” stated here means that the court [is obligated to bring the sacrifice]. And just as “from the sight” stated later on means that the community is obligated to bring the sacrifice, so “from the sight” stated here means that the community [is obligated to bring the sacrifice].

[I:2 A] *The one who maintains that it is the obligation of the court [will hold] that the court [supplies the animal, for there is no alternative].*

[B] *But in view of the one who maintains that it is an obligation of the community, who will be expected actually to supply [the funds for purchase of the sacrifice]?*

[C] *[The answer is available in the following,] for it is taught: “**The ox that is offered on account of the community’s inadvertent transgression of any and all commandments and the goats offered in atonement for idolatry to begin with are purchased from a collection made for that purpose,**” the words of R. Meir.*

[D] **R. Judah says, “They derive from funds of the levy of sheqels collected at the sheqel-chamber” [T. Sheq. 2:6].**

[I:3 A] *In the view of the one [Meir] who maintains that it is the obligation of the court, the court will lay hands on the sacrificial beasts.*

[B] *But in the view of the one who maintains that it is an obligation of the community, who will lay hands on the sacrificial beasts?*

[C] *[The answer is available in the following,] for it was taught in a Tannaitic tradition: Three representatives of each tribe, with the head of the court supervising them, lay hands on the head of the bullock.*

[I:4 A] “[And the elders of the congregation shall lay] their hands upon the head of the bullock” (Lev. 4:15)[the hands of] each and every one of them.

- [B] “Their hands on the head of the bullock” - “the bullock requires a laying on of hands, and the goats brought on account of idolatry do not require a laying on of hands,” the words of R. Judah.
- [C] R. Simeon says, “[The cited verse means that] the bullock requires a laying on of hands by the elders. The goats brought on account of idolatry do not require the laying on of hands by the elders.”
- [D] For R. Simeon says, “Any sin-offering brought in behalf of the community, the blood of which is taken inside [to the inner altar], requires a laying on of hands [inclusive of the goats brought on account of idolatry].”
- [E] They reply to R. Judah [who maintains that the goats brought on account of idolatry do not require a laying on of hands], “And it is not written, ‘Then the he-goats for the sin-offering were brought to the king and the assembly, and they laid their hands upon them’ (2 Chron. 29:23)? [So this verse would indicate that there is a laying on of hands for the goats brought on account of idolatry, contrary to Judah’s view.]”
- [F] R. Hiyya in the name of R. Yohanan: “It was an instruction required for the occasion [and not meant to provide a precedent for routine practice in the cult].”
- [I:5 A]** *R. Yohanan raised the question:* “A congregation, one member of which dropped dead - what is the law as to bringing a sin-offering in his behalf [as part of the community obligated to make such an offering]? [Do we scruple concerning the animal set aside in his behalf?]
- [B] *They answered him,* “And it is not written, ‘At that time those who had come from captivity, [the returned exiles, offered burnt offerings to the God of Israel, twelve bulls for all Israel, ninety-six rams, seventy-seven lambs, and as a sin-offering twelve he-goats; all this was a burnt offering to the Lord (Ez. 8:35)]’?”
- [C] (“It obviously is not possible that a sin-offering was a burnt offering. Therefore we must derive the lesson that, just as a burnt offering is not eaten, so a sin-offering is not eaten.”)
- [D] R. Judah says, “It was on account of idolatry that they brought them, [so the goats indeed are offered in behalf of those who have died before the sin-offering was completed].”

- [E] R. Hezekiah, R. Jeremiah, R. Hiyya in the name of R. Yohanan: “It was an instruction required for the occasion.”
- [I:6 A] R. Jeremiah taught likewise [with regard to Simeon’s saying] that the bullock requires a laying on of hands, but the goats brought on account of idolatry do not require the laying on of hands by the elders. But by whom [are hands then laid on]?
- [B] *R. Jeremiah gave thought to ruling that it was by Aaron and his sons [= the priests].*
- [C] *Said to him R. Yosé, “And has it not been taught as Tannaitic teaching of R. Hiyya: ‘And he will lay on hands’ [is not stated, but] ‘And they will lay on hands’ (Lev. 4:15) - to encompass the goats brought on account of idolatry [where no laying on of hands is specified] within the rule of laying on of hands? - but not the laying on of hands by elders.”*
- [D] R. Yosé derived the rule in the following manner: “For it is written, ‘He shall present the live goat, and Aaron shall lay both his hands upon the head of the live goat and confess over him all the iniquities of the people of Israel’ (Lev. 16:20-21)]. Thus the living goat requires the laying on of hands by Aaron. The goats brought on account of idolatry do not require the laying on of hands by Aaron.
- [E] “And so it is written, ‘He shall present the live goat, and Aaron shall lay both his hands upon the head of the live goat’ (Lev. 16:20-21). Thus the living goat requires the laying on of hands by Aaron, and the goats brought on account of idolatry do not require the laying on of hands by Aaron.”
- [F] *And how does R. Jeremiah deal with the cited verse [which appears to yield an exegesis contrary to his position that Aaron and his sons do lay hands on the goats brought on account of idolatry]?*
- [G] He interprets [the matter that the laying on of hands in the case of the goat offerings brought on account of idolatry is by] an ordinary priest, [not by a high priest, like Aaron].
- [I:7 A] R. Zeira in the name of R. Hamnuna [in the following is] in accord with the position of R. Meir.
- [B] *We have learned in a Tannaitic teaching as follows: [If] the court gave an erroneous instruction, and the congregation carried out the*

instruction, [if] then a member of the court died, [the court] is exempt [from bringing an offering]. If one of the members of the community died, [the court] remains liable to bring an offering. [For, following Meir, the obligation rests on the court, not the community. If a member of the court dies, then we have a situation parallel to a case in which one of the partners in a sin-offering dies. The offering is no longer made.]

[C] [At this point the reader should reverse the order of the Talmud's materials, consulting the *baraita* below, on which Meir comments, then Meir's comment that follows:] Said to them R. Meir, "Now if the bullock renders others exempt, should it not all the more so render the court itself exempt?"

[D] They said to him, "It well serves to exempt others, who have that on which to depend [as Scripture says], but let it not exempt the court itself, which has nothing on which to depend."

[E] *R. Zeira in the name of R. Hisdai*: "We have learned there, 'If the court gave an erroneous instruction and [the people] carried it out (and they knew).' [So the instruction depends on the court, and the deed on the people. Now C and D follow.]

[F] "What is the meaning of 'gave an instruction'? They erred.

[G] "What is the meaning of 'gave an instruction'? They erred inadvertently.

[H] "What is the meaning of 'gave an instruction?' One might say that they should be liable. Scripture therefore says 'And the sin becomes known' (Lev. 4:14, 28) - and not that the sinners should be informed [without knowing just what sin they have committed. So if they do not know what sin the court has caused, they are exempt]."

[I] [To understand the following, we must have in hand two Mishnah-pericopes. First is **M. Ker. 3:2B: If one ate forbidden fat and blood and remnant and refuse of an offering in a single spell of inadvertence, he is liable for each one of them.** The point is that there is a liability on the distinct count for each bit of forbidden food. Second is **M. Ker. 4:2G-H, M-N: If forbidden fat and remnant are before him, and a person ate one of them but is not certain which one of them he ate. R. Eliezer declares him liable to a sin-offering, and R. Joshua exempts him.** Now we are told that the court

must be informed that they have sinned by giving false instruction, and they also must know what sin they have caused. To that position, the Talmud now asks:] Now do you want [concrete knowledge of] the forbidden fat's having been eaten? What difference does it make whether they ate forbidden fat or remnant, since on either count they are guilty, as specified at M. Ker. 3:2! Why should the court be exempt?]

[J] [*The reply is that the position under discussion*] is in accord with the teaching of R. Joshua [at M. Ker. 4:2G-N].

[K] [What we have is a case] in which the court gave instruction, but then lost sight of what instruction they had given, whether it dealt with an erroneous teaching concerning] idolatry or [an error regarding] any of the other commandments.

[L] But if it had concerned idolatry, [then would the sin be expiated] with a bullock, and if it had to do with other commandments, would it have to be expiated with a goat? [What difference would it make, so that the court is exempt from an offering anyhow?]

[M] What we have here is a matter of doubt concerning whether a bullock or a goat is required. And since there is a possibility of changing an offering [for a beast which is not required], and since we do not know what sin has been committed by the court in this case, the court is exempt.

YERUSHALMI HORAYOT

CHAPTER TWO

2:1

[A] [If] an anointed [high] priest made a decision for himself [in violation of any of the commandments of the Torah], doing so inadvertently, and carrying out [his decision] inadvertently,

[B] he brings a bullock (Lev. 4:3).

[C] [If] he [made an erroneous decision] inadvertently, and deliberately carried it out,

[D] deliberately [made an erroneous decision] and inadvertently carried it out,

[E] he is exempt.

[F] For an [erroneous] decision of an anointed [high] priest for himself is tantamount to an [erroneous] decision of a court for the entire community.

[I:1 A] [“If any one sins unwittingly in any of the things which the Lord has commanded not to be done and does any one of them, if it is the anointed priest who sins, thus bringing guilt on the people, then let him offer for the sin which he has committed a young bull” (Lev. 4:2-3).] “Anyone É,” “if it is the high-priest É,” – lo, [the Scripture would seem to imply that] the high priest is tantamount to an individual [and not, vs. M. 2:1F, to an embodiment of the community and thus not subject to a bullock-offering].

[B] [In this case, Scripture’s purpose is to say:] Just as an individual, if he ate [something prohibited] at the instruction of a court is exempt, so this one [subject to court authority], if he ate something at the instruction of the court, is exempt.

[C] Just as an individual, if he ate [something prohibited] without the instruction of a court is liable, so this one, if he ate something not at the instruction of a court, is liable.

- [D] [To encounter that possible interpretation] Scripture states, “Thus bringing guilt on the people,” [meaning] lo, [the high anointed priest’s] guilt is tantamount to the guilt of the entire people [just as M. 2:1F states].
- [E] Just as the people are not guilty unless they gave instruction [Lev. 4:13], so this one is not guilty unless he gave instruction.
- [F] *There is a Tannaitic tradition that interprets* [the matter with reference to] the people [and] the court:
- [G] Just as [if] the people gave instruction and other people did [what the people] said, [the people] are liable, so this one, [if] he gave [erroneous] instruction and others did [what he said], should be liable.
- [H] [It is to encounter that possible interpretation that] Scripture states, “[If it is the high priest] who sins,” [meaning] for the sin that this one himself committed he brings [a bullock], but he does not have to bring a bullock on account of what other people do [inadvertently sinning because of his instruction].
- [I] *There is a Tannaitic tradition that interprets* [the matter with reference to] the people [and] the community:
- [J] Just as in the case of the people, if others gave erroneous instruction and they [inadvertently] committed a sin, they are liable, so in the case of this one, [if] others gave erroneous instruction and he carried it out [and so sinned], he should be liable.
- [K] [To counter that possible, wrong interpretation,] Scripture states, “[If it is the high priest] who sins,” [meaning] for the sin that this one committed, he brings [a bullock], but he does not have to bring a bullock on account of what other people do [inadvertently sinning because of their instruction].
- [I:2 A]** R. Jacob in the name of R. Eleazar: “[The rule stated by the Scripture and Mishnah, treating the anointed priest as equivalent to the people or court] applies in a case of an anointed priest who knows how to participate in the give and take of the law.
- [B] *“For if that is not the case, then shall we have to say, ‘And do idiots give instruction?’”*
- [I:3 A]** An anointed high priest who ate [forbidden food] at the instruction of a court [thus inadvertently sinning] is exempt.

- [B] [If he did so] at the instruction of another anointed high priest [and inadvertently sinned], he is liable.
- [C] [If he did so] at the instruction of a court, he is exempt [from bringing a bullock, but covered by the bullock they will bring], because the instruction of others as compared to the instruction of [a court] is null.
- [D] [If he did so] at the instruction of another anointed high priest, he is liable.
- [E] But that is the case [only if the anointed high priest himself] gave out exactly the same instructions [as he did, at which point we invoke the stated law].

2:2

- [A] [If] he made an [erroneous] decision by himself and carried it out by himself,**
- [B] he effects atonement for himself by himself.**
- [C] [If] he made [an erroneous] decision with the community and carried it out with the community,**
- [D] he effects atonement for himself with the community.**
- [E] For a court is not liable until it will give an erroneous decision to nullify part and to carry out part [of the teachings of the Torah], and so is the rule for an anointed [high priest] [M. 1:3].**
- [F] And [they] are not [liable] in the case of idolatry [subject to an erroneous decision] unless they give a decision to nullify in part and to sustain in part [the requirements of the Torah] [M. 1:3].**

[I:1 A] [If] a court gave [erroneous] instruction [concerning part of a commandment, e.g., declaring that some forbidden fat in fact is permitted], and [the anointed priest] gave instruction after them [concerning another part of the same commandment, e.g., declaring that other forbidden fat in fact is permitted, so in consequence nullifying the entire commandment concerning forbidden fat], and reversed [their decision, so what he permitted they forbade and vice versa], *it is self-evident that* the matter so far as he is concerned is turned into a case of uprooting a fundamental principle of the Torah [and, because he has permitted what they forbade, while what they permitted remains so, the ruling is null and not subject to a bullock-offering, as stated at M. 2:2E].

- [B] But if he gave [erroneous] instruction first [e.g., declaring that some forbidden fat in fact is permitted], and they [the court] only afterward gave instruction, and reversed his decision [and so completed the

matter, for the court confirmed what he permitted and permitted what he forbade, so now declaring all forbidden fat to be permitted, then covering the entire commandment against eating forbidden fat, do we rule that] even in this instance, so far as he is concerned, the matter is turned into a case of uprooting a fundamental principle of the Torah [so that he has to bring a bullock]?

[C] [Or do we maintain that] since he gave instructions first and [his instruction] was set aside, his instruction is tantamount to their [the court's] instruction, and the matter is therefore not turned into a case of uprooting a fundamental principle of the Torah? [The matter is left unresolved.]

[I:2 A] [If] the court gave instruction, and he gave instruction after them [and he carried out the deed, so that the issue is whether in fact he has carried out his own instructions or the instructions of the court], *it is self-evident* that he has eaten [the forbidden fat] on account of the instructions of the court [and so is exempt from bringing a bullock, being covered by theirs].

[B] [But if] he ate [forbidden fat] after the court had retracted their original ruling [and so he did so solely on the basis of his own original erroneous instruction], he is liable.

[C] *Said R. Yosé, "Now does not the Mishnah make the same statement on its own: **If he made an erroneous decision by himself and carried it out by himself, he effects atonement for himself by himself** [M. 2:2A-B].*

[D] "That is because he made an erroneous decision by himself and carried it out by himself.

[E] "**But if he made an erroneous decision with the community and carried it out with the community, he effects atonement for himself with the community** [M. 2:2C-D], it is because he made an erroneous decision with the community and carried it out with the community.

[F] "But if he gave instruction by himself, he effects atonement by himself." [The cited case of B is not covered by the statement of the Mishnah because B speaks of a case in which the court retracted, and it has to be dealt with separately from the Mishnah. The version here is faulty in not linking E-F to the antecedent materials, but what has to be stated is obvious.]

2:3

[A] They are liable only on account of something's being hidden (Lev. 4:13) along with an act [of transgression] which is performed inadvertently,

[B] and so in the case of the anointed [high priest].

[C] And [they are] not [liable] in the case of idolatry except in the case of something's being hidden along with an act [of transgression] which is performed inadvertently.

[I:1 A] *R. Zeira in the name of R. Jeremiah: "Does this Mishnah state the view of R. Meir [who maintains that the bullock is the obligation of the court, as may be claimed to be the implication of the pericope], or is it a teaching distinct from R. Meir's, [so we should not assume the implication is that the bullock is the obligation of the court]?"*

[B] Said R. Yosé, "It is R. Meir, *who said [that] it is the obligation of the court.*"

[C] Said R. Mana, "It is in accord with R. Meir [in the teaching that now follows]."

[D] *It has been taught there:* [If] the court gave an erroneous decision and the community carried out the decision [as at M. 2:3A], [if] one of the members of the court died, they are exempt [from bringing the bullock]. [If] one of the members of the community died, they remain liable to bring the bullock. [It follows that the obligation for the sin offering pertains to the court, not to the community.]

[E] Said R. Meir to them [to Simeon], "Now if the bullock renders others exempt, should it not all the more so render the court itself exempt [so it must follow that the community is not liable to the bullock, and only the court is liable]?"

[F] They said to him, "It well serves to exempt others, who have that on which to depend, but let it not exempt the court itself, which has nothing on which to depend."

[II:1 A] [With regard to M. 2:3C,] *R. Jeremiah asked in session before R. Zeira, "What [is the reason that M. 2:3C omits reference to the case of the anointed high priest, as at A-B? The issue is whether the omission is in accord with the position of Judah the Patriarch, who maintains that the rule about inadvertently giving out false instruction does not apply to the anointed high priest. In the case of idolatry, in Rabbi's view, the matter need not be "hidden" from the anointed high priest.*

That is to say, if there is an inadvertent commission of the sin of idolatry, without erroneous instruction, liability to the offering is incurred. The rule of C simply does not apply to the high priest, which is why there is no allusion at C to the matter stated at M. 2:3A-B].

- [B] “[If it is] in accord with the view of Rabbi, the anointed priest is [delete: not] subject to culpability for transgression [of idolatry] performed inadvertently [without prior, erroneous instruction].
- [C] “[If it is] in accord with the view of the rabbis, it is subject to the consideration of **something’s being hidden** [that is to say, prior erroneous instruction].”
- [D] Said R. Huna, “In regard to the position of the rabbis it is required [to state matters as the Mishnah does], so that you will not maintain that the Mishnah follows the view of Rabbi in the following dispute:
- [E] “As regards the anointed high priest in a case of inadvertent instruction regarding idolatry –
- [F] “Rabbi said, ‘[If there is only] inadvertent carrying out of the deed [without the high priest’s instruction as well], there [nonetheless] is a requirement of a bullock.’
- [G] “And rabbis said, ‘It also is a matter of **something’s being hidden** [that is, inadvertent error in instruction as well as in action is required if the high priest is to be liable to the bullock, just as in the case of the other commandments, subject to the rule of M. 2:3A-B].”
- [H] *He [R. Huna] said to him [R. Jeremiah], “Now what is the problem? Is it because we do not find in the Mishnah a clear reference to the anointed priest [at M. 2:3C]? Now, lo, in the earlier pericope, there also is no clear reference to the anointed priest in the Mishnah, and yet the anointed priest is included under the [earlier] rule. Here, too, even though there is no clear reference in the Mishnah to the anointed priest, the anointed priest is included under the rule.”*

2:4

- [A] **The court is liable only if they will give an erroneous decision in a matter, the deliberate commission of which is punishable by extirpation, and the inadvertent commission of which is punishable by a sin offering,**
- [B] **and so in the case of the anointed [high priest],**

[C] and [they are] not [liable] in the case of idolatry, except in the case in which they gave instruction in a matter the deliberate commission of which is punishable by extirpation, and the inadvertent commission of which is punishable by a sin offering.

[I:1 A] “[If anyone sins unwittingly in any of] the things which the Lord has commanded [not to be done]” (Lev. 4:2)

[B] I might have said, Also those who eat abominations and creeping things are included in consideration [so that even if a court gave instruction concerning one of the commandments, the deliberate commission of which is *not* punishable by extirpation, the court would be liable for the bullock].

[C] Here [“And the thing is hidden] from the eyes [of the assembly”] is stated, and [with regard to idolatry, Num. 15:24.] later on, “.Éfrom the eyesÉ” is stated. Just as “from the eyes” stated later refers to a matter, the deliberate commission of which is punishable by extirpation and the inadvertent commission of which is punishable by a sin-offering, so the reference to “from the eyes” in the present context means to refer to a matter, the deliberate commission of which is punishable by extirpation and the inadvertent commission of which is punishable by a sin-offering.

[D] Or perhaps just as “from the eyes” mentioned later refers to a matter that is subject to the death penalty inflicted by the court [if there are witnesses and admonition], so “from the eyes” stated here refers to a matter that is subject to the death penalty administered by the court?

[E] [The following is to be deleted: Said R. Yosé bar Hanina, “In the context in which all of the prohibited relationships are listed and stated to be subject to extirpation, e.g., a marriage between close relatives, the father’s wife explicitly listed (though it did not have to be), to give evidence concerning the mamzer.” In place of the above, the following is to be supplied. Num. 15:24ff., assumed to deal with idolatry, is clear that the penalty is the sacrifice of the bullock. The penalty of death is specified for idolatry, but not in this context. That is the meaning of the following statement, following the text given by Pené Moshe and demanded by C:]

[F] Said R. Yosé b. R. Hanina, “In the context in which idolatry is discussed, dealing with those who are liable to extirpation, the sole penalty therein specified concerns extirpation. The matter of the death penalty derives from another place [in Scripture].”

- [I:2 A] Rabbi says, “‘LYHÉ ‘LYHÉ: Here it is said, ‘[If the whole congregation of Israel commits a sin unwittingly and the thing is hidden from the eyes of the assemblyÉ, when the sin] which (‘LYH) [they have committed becomes knownÉ]’ (Lev. 4:13-14), and there it is said ‘[And you shall not take a woman as a rival wife to her sister, uncovering her nakedness] while (‘LYH) [her sister is yet alive]’ (Lev. 18:18).
- [B] “Just as ‘LHY which is stated later on [Lev. 18:18] refers to a matter, the deliberate commission of which is punishable by extirpation and the inadvertent commission of which is punishable by a sin-offering, so ‘LYH stated here [Lev. 4:13-14] refers to a matter, the deliberate commission of which is punishable by extirpation and the inadvertent commission of which is punishable by a sin-offering.”
- [C] Now why did Rabbi not accomplish the same exegetical purpose by deriving the desired lesson from the congruence of “from the sight É,” “from the sightÉ”?
- [D] Said R. Yosé, “Now if Rabbi should have accomplished the desired exegesis through reference to ‘from the sight É,’ ‘from the sight É,’ he might have drawn the conclusion that, just as ‘from the sight stated later on [with reference to idolatry, Num. 15:24] refers to a matter that may be subject to punishment of the death penalty administered by the human court [I.D], so ‘from the sightÉ’ referred so here [Lev. 4:13-14] speaks of a matter that is subject to punishment inflicted by a human court. It was on this account that Rabbi did not accomplish the desired exegesis by reference to the confluence of “from the sight...,’ ‘from the sight...”
- [E] *But nonetheless, in the end, will Rabbi not have to resort to the exegesis based upon the confluence of ‘from the eyes É,’ ‘from the eyesÉ’?*
- [F] *For if he does not [do so], how will he know the law concerning the individual, the prince, and the anointed priest? Is it not from the confluence of “from the sight É,” “from the sightÉ”?*
- [G] *And if he does not do so, how will he know that the erroneous instruction of a high court [is comparable to the erroneous decision of] an ordinary court? Is it not from the confluence of “from the sight....,” “from the sight ...”?*
- [H] *Said R. Hananiah in session before R. Mana, “[The fact that the bullock offering is not required] unless [the court] gives an erroneous decision to nullify part of the law and to affirm part*

of the law – is that not derived by exegesis from the confluence of ‘from the sight É,’ ‘from the sightÉ’?

[I] “*And [if you do] not [maintain that] same position, how does [Rabbi] know that the erroneous instruction given by an ordinary court [is punishable by the bullock-offering]? Is it not from the confluence of ‘from the sight’ ‘from the sight’?*”

[J] [*Therefore,*] *said R. Hananiah in session before R. Mana, “But in the end, will Rabbi not have to resort to the exegesis based on the confluence of ‘from the eyes ...,’ ‘from the eyes....’?”*

[K] *He said to him, “Now just what do you demand of Rabbi?*

[L] “*Rabbi is consistent with his position held elsewhere, for Rabbi said, ‘The anointed priest is subject to the rule only of an act of transgression which is performed inadvertently’ [M. 2:3A-B].*

[M] ““*And the matter of deliberate instruction in error of a sin along with inadvertent commission of that sin is written not with reference to an individual [such as the anointed priest] but only with reference to a court.*”

[I:3 A] “[*And the anointed priest shall take some of the blood of the bull and bring] it [to the tent of meeting]” (Lev. 4:5). The explicit reference to it [that is, to the blood of the bull] serves as an exclusionary clause, to exclude his offering for the violation of the special commandment [idolatry], indicating that the blood should not enter inside [and be tossed on the gold altar].*

[B] *Is this teaching not in accord with the position of Rabbi?*

[C] *For Rabbi [46d] said, “The anointed priest is culpable in the case of a deed done inadvertently.”*

[D] *And it is not in accord with the position of rabbis, who maintain that the anointed priest [also] is subject to the bullock-offering in the case of **something’s being hidden** [that is, giving an erroneous decision].*

[E] *Said R. Huna, “It is required also for the position of the rabbis, so that you may not rule, ‘Since he is subject to extirpation, let the blood of his offering enter into the inner sanctuary.’*

[F] “*On this account it was necessary to state explicitly, It, excluding his offering for violating the special commandment [of idolatry], to specify that in such a case, the blood of his offering should not be taken inside.*”

2:5

- [A] They are not liable on account of [a decision inadvertently violating] a positive commandment or a negative commandment concerning the sanctuary.
- [B] And they do not bring a suspensive guilt offering on account of [violation of] a positive commandment or a negative commandment concerning the sanctuary.
- [C] But they are liable for [violating] a positive commandment or a negative commandment involving a menstruating woman.
- [D] And they do bring a suspensive guilt offering on account of [violation of] a positive commandment or a negative commandment concerning a menstruating woman.
- [E] What is a positive commandment concerning a menstruating woman?
To keep separate from a menstruating woman.
- [F] And what is a negative commandment? Not to have sexual relations with a menstruating woman.
- [I:1 A] [The reason that they do not bring a guilt-offering for an unverified offense on account of violation of a positive or negative commandment concerning the sanctuary, M. 2:5B,] Kahana said, [is that] it is not possible that there will have been knowledge at the outset and at the end [of violation of the laws of cleanness of the sanctuary], with an interval of inattention in the middle. [So there is no solid moment of doubt, on account of which a guilt-offering for an unverified offense would be required.]
- [B] *Responded R. Samuel bar Abdimi in session before R. Mana, “And let it be so [that a guilt-offering is required] in the case of those who give an erroneous instruction, [so causing uncleanness for the sanctuary and its Holy Things].”*
- [C] *He said to him, “We require [the reason that] those who enter [the sanctuary in a state of uncleanness themselves do not bring a suspensive guilt-offering = M. 2:5B], and now are you bringing us the case of those who give erroneous instruction [about the uncleanness of the sanctuary and its Holy Things]?”*
- [D] *What is the upshot of the matter?*
- [E] Said R. Samuel bar R. Isaac, “[‘If any one sins unwittingly in any of] the commandments [which the Lord has commanded not to be done,]’ (Lev. 4:2)É [‘If any one sins, doing any one of the] commandments [which the Lord has commanded not to be done,

though he does not know it, yet he is guilty and shall bear his iniquity' (Lev. 5:17)].

[F] "Just as 'commandments' stated below involves an offering the value of which is fixed, so 'commandments' stated here involves an offering the value of which is fixed [excluding the possibility of a suspensive guilt-offering, which is of variable, not fixed, value. The offering of variable value is called for at Leviticus 5 for contamination of the sanctuary].

[II:1 A] [And what is a negative commandment? Not to have sexual relations with a menstruating woman.:] And are they not liable on account of [violation of] any positive commandment that is in the Torah [and not only for the menstrual taboo, M. 2:5F]?

[B] *Said R. Mattenaiah, "We come to repeat the tradition only with regard to matters similar to one another."*

[C] *What would be an exemplary case [in which uncleanness of the sanctuary and of menstrual taboo would be comparable]?*

[D] [If] someone entered the sanctuary while unclean, he is liable.

[E] [If] he was clean when he entered and [while in the Temple] was made unclean, if he then came along [outside] through the longer route, he is liable. [If he exited] through the shorter route, he is exempt.

[F] *And along these same lines*, if one was having sexual relations with an unclean woman, he is unclean.

[G] [If] he was having sexual relations with one who was clean, and she said to him, "I have just become unclean," if he then exited through the longer route, he is liable.

[H] If he exited through the shorter route, he is exempt.

[I] What is his shorter route?

[J] That he [refrained from withdrawing until] he became limp.

[II:2 A] What is a positive commandment concerning a menstruating woman [M. 2:5E]?

[B] Said R. Abin, "'Thus you shall keep the people of Israel separate from their uncleanness [lest they die in their uncleanness by defiling my tabernacle that is in their midst]' (Lev. 15:31)."

- [C] R. Yohanan sent to ask R. Simeon b. R. Yosé bar Laqonia, “Where do we find a warning [against violating the law] for the one who has sexual relations with an unclean woman?”
- [D] *And he wanted to throw a heap of stones at him! He said, “Something which every child can tell you in school any day of the week is what you’re asking me! [The relevant verse is,] ‘You shall not approach a woman to uncover her nakedness while she is in her menstrual uncleanness’ !”*
- [E] *He said to him, “But that is not what I needed to know. This is what I needed:*
- [F] “If one was having sexual relations with one who was unclean, he is liable. If he was having sexual relations with one who was clean, and she said to him, ‘I have become unclean,’ if he then withdrew forthwith, what is the law as to his being liable?”
- [G] He said to him, “Both you and I need to know the answer to that question. Let’s go out and learn it.”
- [H] *They went out and heard the voice of a repeater of traditions who was teaching the following tradition in the name of Hezekiah:*
- [I] “‘And if any man lies with her, [and her impurity is on him, he shall be unclean seven days]’ (Lev. 15:24).
- [J] “I know only that he who has sexual relations with an unclean woman is liable. If one was having sexual relations with a clean woman, and she said to him, ‘I just became unclean,’ if he separated forthwith, what is the law as to his being liable?
- [K] “Scripture says, ‘And her impurity is on him’ – and even if he separated from her, her uncleanness is on him.”
- [L] What should he do?
- [M] R. Hoshaiah, R. Judah in the name of Samuel, “[Let him not withdraw until] he grows limp.”
- [N] [If he] did not grow limp?
- [O] Said R. Yosé, “I recite concerning him the scriptural verse, ‘Do not draw near,’ meaning, ‘Do not withdraw’ [until he may do so without deriving sexual enjoyment].”
- [P] Drawing near is the same as withdrawing?

[Q] R. Huna in the name of R. Abba, “Indeed, so, in accord with the following verse: ‘Éwho say, Keep to yourself, do not keep near me, for I am set apart from you’ (Is. 65:5).”

[R] Said R. Zeira, “Let him regard the sword as if it is cutting into his flesh and his whole body with it[, and he will cool off.”

[S] R. Zeira, R. Tanhuma in the name of R. Huna, “Let him dig his fingers into the wall, and he will cool off.”

[II:3 A] It is written [concerning Joseph before Potiphar’s wife], “Yet his bow remained unmoved” (Gen. 49:24).

[B] R. Samuel bar Nahman: “The bow became tense and returned [and turned limp].”

[C] Said R. Abun, “His semen became diffused and spit forth from his finger nails.”

[D] “His arms were made agile” (Gen. 49:24).

[E] R. Huna in the name of R. Mattenaiah, “He closed his eyes and saw the visage of [Jacob,] our father. Forthwith he cooled off.”

[F] “By the hands of the Mighty One of Jacob” (Gen. 49:24).

[G] Said R. Abin, “Even the visage of Rachel did he see: ‘By the name of the Shepherd, the Rock of Israel’ (Gen. 49:24).”

2:6

[A] **They are not liable [because of inadvertent violation of the law] (1) concerning hearing the voice of adjuration [Lev. 5:11, (2) a rash oath [Lev. 5:4], (3) or imparting uncleanness to the sanctuary and to its holy things [Lev. 5:3] –**

[B] **“and the ruler follows suit,” the words of R. Yosé the Galilean.**

[C] **R. Aqiba says, “The ruler is liable in the case of all of them,**

[D] **“except in the case of hearing the voice of adjuration.**

[E] **“For the king does not judge and others do not judge him,**

[F] **“does not give testimony, and others do not give testimony concerning him” [= M. San. 2:2].**

[I:1 A] *Said R. Yohanan, “The scriptural basis for the position of R. Yosé the Galilean [excluding the ruler from liability to the offering of variable*

value required by the rules of Lev. 5:1ff. is to be found at Lev. 5:7): 'But if he cannot afford a lamb' (Lev. 5:7). [Scripture speaks] of one who can fall into poverty, thus excluding the anointed priest [better: ruler] who cannot fall into poverty."

[B] R. Simeon b. Laqish said, "[Proof for the same proposition derives from a different verse, namely, Lev. 5:5], 'When a man is guilty in any of these....' One who is liable to all of them is liable to some of them, and one who is not liable to all of them is not liable to some of them. [The king will not be poor, so is excluded.]"

[C] R. Isaac asked, "If so, he should not be subject to becoming unclean through sara'at, for he is not suitable to fall into poverty [cf. Lev. 14:21: 'But if he is poor and cannot afford so much']. And so is the rule for poverty, and so for the most poverty-stricken."

[D] *R. Hoshaiah* asked, "If so, a woman should not be liable for entering the sanctuary [in a state of uncleanness, for she is not liable to the voice of adjuration, not being able to testify, so she is not subject to all the rules]!"

[E] But does not a woman bring an offering?! [Obviously she does if she contaminates the sanctuary.]

[F] *R. Yosé in the name of R. Yohanan*, "The basis for the ruling of *R. Aqiba* [who excludes the anointed priest] is as follows:

[G] "This is the portion of Aaron and of his sons [from the offerings made by fire to the Lord]' (Lev. 7:35) – This he brings, and he does not bring any other tenth of an *ephah* [as specified at Lev. 5:7]."

[H] *R. Zeira* asked in session before *R. Yasa*, "And does he not bring a freewill offering?"

[I] He said to him, "Of course. An offering brought as an obligation he will not bring. A freewill offering he most certainly will bring."

[I:2 A] *And what the Mishnah itself teaches* [which is relevant to M. 2:6D is]: A king does not give testimony, and others do not give testimony concerning him [M. San. 2:2, so he will not be subject to the oath or an offering for violating it].

2:7

- [A] In the case of all the commandments in the Torah, on account of which they are liable for deliberate violation to extirpation, and on account of inadvertent violation to a sin offering,
- [B] an individual brings a female lamb or a female goat [Lev. 4:28, 32]
- [C] a ruler brings a male goat [Lev. 4:23],
- [D] and an anointed [high priest] and a court bring a bullock [M. 1:5, 2:1].
- [E] But in the case of idolatry, the individual, ruler, and anointed [high priest] bring a female goat [Num. 15:27].
- [F] And the court brings a bullock and a goat [M. 1:5],
- [G] a bullock for a whole offering and a goat for a sin offering.
- [H] As to a suspensive guilt offering, an individual and a ruler may become liable,
- [I] but the anointed [high priest] and court do not become liable.
- [J] As to an unconditional guilt offering, an individual, a ruler, and an anointed [high priest] may become liable, but a court is exempt.
- [K] On account of hearing the voice of adjuration, a rash oath, and imparting uncleanness to the sanctuary and its Holy Things, a court is exempt, but an individual, a ruler, and an anointed [high priest] are liable.
- [L] “But a high priest is not liable for imparting uncleanness to the sanctuary and its Holy Things,” the words of R. Simeon.
- [M] And what do they bring? An offering of variable value.
- [N] R. Eliezer says, “The ruler brings a goat offering.”
- [I:1 A] “[If] anyone [sins doing any one of the things which the Lord has commanded not to be done, though he does not know it, yet he is guilty]” (Lev. 5:17). [The reference to] anyone [is meant to encompass] the ruler[, that he is liable to a suspensive guilt-offering under the stated circumstance, as at M. 2:7H].
- [B] And let [the law] also encompass the anointed priest?
- [C] “[And the priest shall make atonement for him] for the error which he committed unwittingly [and he shall be forgiven]” (Lev. 5:18). One who is subject to the rule of unwitting commission of a sin is subject to the suspensive guilt-offering, excluding the anointed priest, who is not subject to a bullock-offering in the case of unwitting commission of a sin [M. 2:7I].

[D] And in accord with Rabbi, who maintained that an anointed priest indeed is subject to bringing a bullock for unwitting commission of a sin, [one may state matters as well]: He who is liable [to a bullock-offering for unwitting commission of a sin] under all circumstances [falls under the stated rule], excluding the anointed priest, who is not subject [to a bullock] for unwitting commission of a sin under all circumstances.

[E] “[If] anyone [commits a breach of faith and sins unwittingly in any of the holy things of the Lord, he shall bring as a guilt offering to the Lord a ram without blemish out of the flockÉ it is a guilt offering]” (Lev. 5:15) – to encompass both the ruler and the anointed priest.

[F] Here [at A] you state that [“anyone”] is meant to include the ruler, while there [at E] you maintain that it is meant to encompass the anointed priest [as well]?

[G] [The rule for] the sin-offering is comparable [to the rule for] the guilt-offering.

[H] Just as the sin-offering effects expiation and effects forgiveness, so the guilt-offering effects both expiation and forgiveness.

[I] Thus excluded is the suspensive guilt-offering, which effects expiation but leaves over [the attainment of forgiveness], [since a sin-offering may yet be required].

[J] [That is to say, one subject to a sin-offering may be subject to a guilt-offering of an unconditional character. The two are wholly comparable. The reason is that there is no further offering to be required. But the one subject to a suspensive guilt-offering may yet have to bring a sin-offering. So there is no link to be drawn to the suspensive guilt-offering, A-B. The anointed priest is excluded, because he is not subject to it, as at H-I.]

[II:1 A] *Thus one must repeat the Mishnah-pericope [at L, K]:*

[B] “But **the high priest is not liable for imparting uncleanness to the sanctuary,^v and its Holy Things,**” the words of all authorities.

[C] “And the ruler [is not liable] on account of hearing the voice of adjuration,” the words of R. Simeon.

[D] [Explaining why all parties concur at B,] said R. Yohanan, “Neither shall [the high priest] go out of the sanctuary or profane the sanctuary

of his God' (Lev. 21:12) – if he should go out [and become unclean], he has not profaned [the sanctuary of his God, anyhow].”

[E] *R. Asiyan, R. Yonah, R. Bun bar Kahana, raise the following question:* “And lo, it is written, ‘A widow, divorcee, woman who has been defiled, or a harlot – these he shall not marry [but he shall take to wife a virgin of his own people that he may not profane his children among his people]’ (Lev. 21:14 lo, [by the same reasoning we should conclude] if he should take such a woman as his wife, he does not profane [his children]! [This is clearly absurd.]”

[F] *So why [is the high priest not liable for the contamination of the sanctuary and its Holy Things]?*

[G] Said Hezekiah, “‘But the man who is unclean and does not cleanse himself,] that person shall be cut off from the midst of the assembly, [since he has defiled the sanctuary of the Lord]’ (Num. 19:20).

[H] “[The verse thus refers] to one whose offering [of atonement] is the same as that of the community [in general], excluding the anointed priest, whose offering [of expiation] is not the same as that brought by the congregation[, for he brings a bullock, while ordinary folk bring a lamb or goat].”

[I] *They answered [this attempted proof]:* “Now lo, there is the ruler, and his offering is not the same as that of the community[, for he too brings a bullock, yet he is subject to the rule against imparting uncleanness to the sanctuary and its Holy Things, while the high priest is not subject to that rule]!”

[J] But the offering of the ruler is equivalent to that of the community on the Day of Atonement.

[K] And lo, there are the brethren of the high priest, the other priests[, whose offering is different from that of the community, so they too should not be subject to penalty for imparting uncleanness to the sanctuary and its Holy Things]?

[L] Theirs is not the same as his on the Day of Atonement.

[M] But their offering is the same as his on the other days of the year.

[II:2 A] Said R. Yudan bar Shalom, “The [offerings of ruler and community] are the same in that blood of their offerings [in both cases] is put on the outer altar” [which explains M. 2:7H-I].

- [II:3 A] Said R. Yohanan, “R. Eliezer gave his ruling only in the regard to the matters of extirpation. [That is, Eliezer has the ruler bring a he-goat only in the case of his imparting uncleanness to the sanctuary and its Holy Things, for this is a case in which, in the case of deliberate transgression, there is the penalty of extirpation, and in the case of inadvertent transgression, a sin offering of fixed value. The law is the same in this case as in others of the same character of transgression.]”
- [B] *R. Hoshaiiah raised the question:* “If so, let [Eliezer have] him make atonement even with an offering of fixed value [at M. 2:7E, with a he-goat, as is the offering in other matters involving extirpation].”
- [C] *Said R. Yonah,* “*Was R. Hoshaiiah offering the theory that the ruler was removed from liability in regard to the entire pericope? No, [R. Eliezer] treated him as equivalent to an ordinary person who was rich [and so excluded from the rule governing a poverty-stricken person, that is, from the offering of variable value. This then would remove the ruler from the law of M. 2:7L].*”
- [D] *Said R. Mana,* “*If R. Eliezer treated him as equivalent to an ordinary person who was rich [and so excluded him from the rule governing a poverty-stricken person, as above], then even on account of hearing the voice of adjuration, and a rash oath he should have excluded him [and the dispute of M. 2:7M-N should occur at M. 2:7E].*
- [E] “*For it was taught,* ‘R. Eliezer and sages did not differ concerning penalties for hearing the voice of adjuration and a rash oath, that he brings not a he-goat but a she-goat.’ Concerning what did they differ? Concerning imparting uncleanness to the sanctuary and its Holy Things [alone].
- [F] “And in this case, R. Eliezer says, ‘Since he is subject to extirpation, is that why he brings not a he-goat but a she-goat?’”
- [G] *They answered [R. Eliezer],* “Lo, there is the anointed priest in the setting of idolatry, and lo, he brings not a he-goat but a she-goat. [Why should he not bring a bullock? It is simply Scripture’s decree, and we cannot compare one rule with another.]”

YERUSHALMI HORAYOT

CHAPTER THREE

3:1

[A] An anointed [high] priest who sinned and afterward passed from his office as anointed high priest,

[B] and so too, a ruler who sinned and afterward passed from his position of greatness –

[C] the anointed [high] priest brings a bullock,

[D] and the patriarch brings a goat [M. 2:6].

[E] An anointed [high] priest who passed from his office as anointed high priest and then sinned,

[F] and so a ruler who passed from his position of greatness and then sinned –

[G] a high priest brings a bullock.

[H] But a ruler is like any ordinary person.

[I:1 A] Said R. Eleazar, “A high priest who sinned— they administer lashes to him, but they do not remove him from his high office.”

[B] Said R. Mana, “It is written, ‘For the consecration of the anointing oil of his God is upon him: I am the Lord’ (Lev. 21:12).

[C] “That is as if to say: ‘Just as I [stand firm] in my high office, so Aaron [stands firm] in his high office.’”

[D] Said R. Abun, “‘He shall be holy to you [for I the Lord who sanctify you am holy]’ (Lev. 21:8).

[E] “That is as if to say: ‘Just as I [stand firm] in my consecration, so Aaron [stands firm] in his consecration.’”

[E] R. Haninah Ketobah, R. Aha in the name of R. Simeon b. Laqish: “An anointed priest who sinned – they administer lashes to him by the judgment of a court of three judges.

- [F] *“If you rule that it is by the decision of a court of twenty-three judges [that the lashes are administered], it turns out that his ascension [to high office] is descent [to public humiliation, since if he sins, he is publicly humiliated by a sizable court].”*
- [G] R. Simeon b. Laqish said, *“A ruler who sinned – they administer lashes to him by the decision of a court of three judges.”*
- [H] What is the law as to restoring him to office?
- [I] *Said R. Haggai, “By Moses! If we put him back into office, he will kill us!”*
- [J] R. Judah the Patriarch heard this ruling [of Simeon b. Laqish’s] and was outraged. *He sent a troop of Goths to arrest R. Simeon b. Laqish. [R. Simeon b. Laqish] fled to the Tower, and some say, it was to Kefar Hittayya.*
- [K] *The next day R. Yohanan went up to the meeting house, and R. Judah the Patriarch went up to the meeting house. He said to him, “Why does my master not state a teaching of Torah?”*
- [L] *[Yohanan] began to clap with one hand [only].*
- [M] *[Judah the Patriarch] said to him, “Now do people clap with only one hand?”*
- [N] *He said to him, “No, nor is Ben Laqish here [and just as one cannot clap with one hand only, so I cannot teach Torah if my colleague, Simeon b. Laqish, is absent].”*
- [O] *[Judah] said to him, “Then where is he hidden?”*
- [P] *He said to him, “In the Tower.”*
- [Q] *He said to him, “You and I shall go out to greet him.”*
- [R] R. Yohanan sent word to R. Simeon b. Laqish, *“Get a teaching of Torah ready, because the patriarch is coming over to see you.”*
- [S] *[Simeon b. Laqish] came forth to receive them and said, “The example that you [Judah] set is to be compared to the paradigm of your Creator. For when the All-Merciful came forth to redeem Israel from Egypt, he did not send a messenger or an angel, but the Holy One, blessed be he, himself came forth, as it is said, ‘For I will pass through the land of Egypt that night’ (Ex. 12:12) – and not only so, but he and his entire retinue.*

[T] “[What other people on earth is like thy people Israel, whom God went to redeem to be his people (2 Sam. 7:23).] ‘Whom God went’ [sing.] is not written here, but ‘Whom God went’ [plural – meaning, he and all his retinue].”

[U] [*Judah the Patriarch*] said to him, “Now why in the world did you see fit to teach this particular statement [that a ruler who sinned is subject to lashes]?”

[V] *He said to him, “Now did you really think that because I was afraid of you, I would hold back the teaching of the All-Merciful?* [And lo, citing 1 Sam. 2:23F.,] R. Samuel b. R. Isaac said, ‘[Why do you do such things? For I hear of your evil dealings from all the people.] No, my sons, it is no good report that I hear the people of the Lord spreading abroad. [If a man sins against a man, God will mediate for him; but if a man sins against the Lord, who can intercede for him? But they would not listen to the voice of their father, for it was the will of the Lord to slay them’ (1 Sam. 2:23-25).] [When] the people of the Lord spread about [an evil report about a man], they remove him [even though he is the patriarch].”

3:2

[A] [If] they sinned before they were appointed, and then they were appointed,

[B] [when expiating the action committed prior to elevation to office,] lo, they are in the status of any ordinary person.

[C] R. Simeon says, “If [their sin] became known to them before they were appointed, they are liable.

[D] “But if it was after they were appointed, they are exempt.”

[E] (1) And who is a ruler? This is the king, as it is said, And does any one of all the things which the Lord his God has commanded not to be done (Lev. 4:22) –

[F] a ruler who has none above him except the Lord his God.

[G] (2) Who is the anointed [high priest]? It is the one who is anointed with the anointing oil, not the one who is dedicated by many garments.

[H] There is no difference between the high priest who is anointed with anointing oil, and the one who is dedicated with many garments, except for [the latter’s obligation to bring] the bullock which is brought because of the [violation] of any of the commandments.

[I] **There is no difference between a [high] priest presently in service and a priest [who served] in the past except for the [bringing of] the bullock of the Day of Atonement and the tenth of an ephah.**

[J] (1) **This one and that one are equivalent in regard to the service on the Day of Atonement.**

[K] (2) **And they are commanded concerning [marrying] a virgin. And they are forbidden to [marry] a widow.**

[L](3) **And they are not to contract corpse uncleanness on account of the death of their close relatives.**

[M] (4) **Nor do they mess up their hair.**

[N] (5) **Nor do they tear their clothes [on the occasion of a death in the family].**

[O] (6) **And [on account of their death] they bring back a manslayer.**

[I:1 A] *Associates state the reason of R. Simeon [that if the sin becomes known after appointment, the priest or ruler is exempt from having to bring a sin-offering], because the rise to a position of power effects atonement for sin.*

[B] Said R. Yosé, “[The reason of R. Simeon is] that a man’s [obligation to bring an offering on the occasion of] the sin and on that of knowledge of the sin are not equivalent to each other, [for when he sinned, he was an ordinary person, and liable for a she-lamb or she-goat, but the knowledge coming after appointment means that the sin is atoned for by a different sort of animal sacrifice. If the man had now committed the sin, the one appointed ruler would have to bring a he-goat and the anointed priest would have to bring a bullock].”

[C] *Now what is the practical difference between the two explanations just now given?*

[D] *The difference is whether R. Simeon differs also concerning] the opening unit of the chapter:*

[E] **An anointed priest who sinned and afterward passed from his office as anointed priest, and so a ruler who sinned and afterward passed from his position of greatness – the anointed priest brings a bullock, and the ruler brings a goat [M. 3:1A-D].** [If the criterion is that reaching a position of greatness atones for sin, that does not apply, and Simeon will not differ. If the criterion is Yosé’s, then Simeon will differ also at M. 3:1.]

- [F] [If] the sin of the man was subject to doubt before he was appointed to high office, and afterward it became known that he indeed had committed the sin, *in accord with the view of the one who holds that* the rise to a position of high office effects atonement, just as it effects atonement in the case of a sin that one knows certainly has been committed, so it effects atonement in the case of a sin that is subject to doubt.
- [G] *In accord with the view of the one who holds that* [Simeon's reason is] that the man's [obligation to bring an offering on the occasion of] the sin and on that of knowledge of the sin are not equivalent to each other, here too the obligation to bring an offering on the occasion of the sin and the obligation to bring an offering at the moment of the knowledge of the sin are not equivalent to each other, [so the same consideration applies].
- [H] [If the high priest and ruler] sinned before they were appointed [and also sinned] after they were appointed [and then] they left their high office [and sinned yet a third time],
- [I] *the one who maintains the position that* the rise to a position of power effects atonement for sin [will hold] that the position of high office has effected atonement for the first of the two sins, but the man is liable for a sin-offering on account of the second and the third.
- [J] *The one who maintains that* [the man's obligation to bring an offering on the occasion of] the sin and on that of knowledge of the sin are not equivalent to each other[, will maintain the same position].
- [K] [A further point of difference may be shown in a case in which] they sinned in regard to hearing the voice of adjuration, a rash oath, or imparting uncleanness to the Sanctuary and its Holy Things.
- [L] *The one who maintains the position that* the rise to a position of greatness is the operative factor will rule here that even in this case rise to a position of power effects atonement. [*The one who holds that* the criterion is the difference in sacrifices required in the differing circumstances here will hold that the man now owes the offerings, since the same sacrificial animal is required both of an ordinary person and of the holder of high office.]
- [M] Said R. Mattenaiah, "Under no circumstances does rise to high office effect atonement for sin, unless [the fact that the person has attained the high office] is made known to the person

[himself so that it may not be subject to doubt whether the sin took place before he was appointed or afterward].”

- [I:2 A] [If a person] ate half an olive’s bulk [of forbidden fat] before he was appointed to high office and half an olive’s bulk afterward [thus completing the minimum volume of an olive’s bulk to become culpable], even in a single spell of inadvertence, he is exempt [from obligation to bring an offering. The half-olive’s bulk eaten while the person was an ordinary man does not join together with the half-olive’s bulk he ate after he rose to high office, since the offering required for the commission of such a sin differs in accord with the change in the person’s status].
- [B] [If it is] a matter of doubt whether a person ate a half-olive’s bulk [of forbidden fat] before he was appointed to high office, and it is a matter of doubt whether he ate a half-olive’s bulk [of forbidden fat] after he was appointed to high office, he brings a suspensive guilt-offering.
- [C] Now do we really find a case in which a principal matter does not produce liability [for an offering, so that if we knew for sure that the man had done the deed as described above, he would be exempt, as at A], while when the matter is subject to doubt, he is liable?
- [D] *Do we find no such case?* [To the contrary:] If one [in a single spell of inadvertence] ate two olive’s bulks of fat [and we do not know whether the pieces were forbidden or permitted fat], and you found out for certain [that the fat was the forbidden kind], the status of the second piece of fat remains subject to doubt [since we have no solid evidence that it too was forbidden fat].
- [E] [In this case the man’s original obligation to bring a suspensive guilt-offering – an obligation that applies when we do not know about the status of either piece of fat – remains in place, on account of the second piece of fat. So here is an example in which a matter subject to doubt continues to impose liability. If later on the man discovers that the second piece of fat also was forbidden, he has to bring another offering. He then does not effect atonement through the offering that he had set aside on account of the first piece of fat.]
- [F] [*Now it was on this case that*] R. Jacob, the Southerner, asked in the presence of R. Yosé; “[Now why should he not carry out his obligation through a single offering?] What do you want? [For] the fat that he ate he has effected atonement. [Since he ate both pieces of fat in a single spell of inadvertence, the offering he brought on account of the first piece should cover all the fat he ate.]”

[G] [Then] said R. Yosé, “[The fact that he ate both pieces of fat in a single spell of inadvertence makes no difference.] In regard to any matter that subjects a person [47b] to bring a suspensive guilt-offering, certain knowledge of a matter formerly subject to doubt imposes on the man the firm obligation to bring a sin-offering. [These are two distinct pieces of fat. If the matter subject to doubt is resolved, a sin-offering is required, and this is the case even for the second piece of fat.]”

[H] Thus we have found a case in which an actual matter does not produce liability for an offering, while when the matter is subject to doubt, there indeed is liability for an offering. [If the man had certain knowledge that both pieces of fat, eaten in a single spell of inadvertence, were forbidden, he would have brought a single sin-offering, covering both. But since the status of the second piece is subject to doubt, it is separated from the first and imposes liability for an offering on its own.]

[I] So here is a case in which the principal matter does not produce liability for an offering, while when the matter is subject to doubt, there indeed is liability for an offering.

- [I:3 A]** [If a man] ate an olive’s bulk of forbidden fat before he was appointed to high office, and an olive’s bulk of forbidden fat after he was appointed to high office, in a single spell of inadvertence, he is liable only for a single [sin-offering, in line with
- [B] [If] it is a matter of doubt whether he ate an olive’s bulk before he was appointed, and a matter of doubt whether he ate an olive’s bulk after he was appointed, in a single spell of inadvertence, he is liable for only a single suspensive guilt-offering.
- [C] [If he did so] in two distinct spells of inadvertence, he is liable for two suspensive guilt-offerings.
- [D] [If] one ate three olive’s bulks of forbidden fat, but thought that they were two, [that is, he became aware that two pieces were forbidden,] and he separated an animal for a sin-offering [and then discovered that the third piece of fat also was forbidden],
- [E] *in accord with the position of R. Yohanan, [he has atoned,] for R. Yohanan maintains, “If one has effected atonement for part of a sin, he has effected atonement for the whole of it [so there is no need for another sacrifice].”*

[F] R. Simeon b. Laqish said, “If one has effected atonement for part of a sin, he has not effected atonement for the whole of it.”

[G] [If] one has eaten five olive’s bulks [of fat, in a single spell of inadvertence], and he was informed about a matter of doubt concerning each one of them [individually], and afterward he was informed as a matter of certainty, after eating them all, [that they were forbidden fat],

[H] R. Simeon b. Laqish said, “Mere knowledge of doubt imposes on him an obligation to bring a sin-offering. [The fact that a matter of doubt has arisen concerning each piece of fat, in sequence, divides the several acts of eating. Thus the man is liable to five sin-offerings when he discovers that he has eaten five pieces of forbidden fat. ‘Doubt divides the deed,’ so to speak.]”

[I] R. Yohanan said, “Mere knowledge of doubt does not impose on him an obligation to bring a sin-offering.”

[J] R. Yosé b. R. Bun in the name of R. Samuel b. R. Isaac: “R. Simeon b. Laqish concedes in the case of an anointed priest, that mere knowledge of doubt does not impose on him an obligation to bring a sin-offering. [Doubt does not divide the deed.]”

[K] *Now what is the scriptural basis for this position?* [It is found in the following verse:] “The guilt offering is like the sin offering[; there is one law for them]” (Lev. 7:7).

[L] In the case of that deed for which one brings a suspensive guilt-offering [in a case of doubt], knowledge that what had been subject to doubt in fact was a sin imposes the obligation to bring a sin-offering, and in the case of that deed for which one does not bring a suspensive guilt-offering [in a case of doubt], knowledge that what had been subject to doubt in fact was a sin does not impose the obligation to bring a sin-offering. [In the case of the sequence of actions, broken by doubt, the man has to bring a suspensive guilt-offering for each piece of fat. He likewise has to bring a sin-offering for each one, when he learns that each piece of fat was, in fact, forbidden.]

[M] *The position attributed to R. Simeon b. Laqish has been switched about.* There [in the present instance], he maintains that mere knowledge of doubt [clarification of what had been in doubt] imposes an obligation to bring a sin-offering[, for the imposition of doubt breaks up a single,

continuing act of sinfulness into its components, each one subject to doubt on its own, as we have just seen]. But here [in connection with M. Shebu. 2:5], Simeon b. Laqish does not maintain that mere knowledge of doubt imposes said obligation], that is, the position that knowledge subject to doubt is tantamount to certain knowledge, so that it has the effect of distinguishing among elements of a single sinful action; doubt does not break up a single continuing act of sinfulness into its components].

[N] There [in the present case] the reason of Simeon b. Laqish [is that] the fact that he has to bring a suspensive guilt-offering establishes the obligation [if what was subject to doubt becomes certain knowledge that the man has sinned, he must bring a sin-offering, since the requirement to bring a suspensive guilt-offering is transformed into the requirement to bring a sin-offering when one finds out he has sinned]. *But here [in regard to M. Shebu. 2:5], what choice do you have?* [The suspensive guilt-offering does not apply to imparting uncleanness to the sanctuary and its Holy Things, which is the case discussed here, for it is an offering of variable value, and we have already demonstrated that an offering of variable value is not brought in that regard. It must follow that there is sound reason to distinguish Simeon b. Laqish's two positions.]

[O] *The position imputed to R. Yohanan appears to be switched about.* There [here] he has said that if part of a sin has been subject to atonement, the whole of it has been expiated, while he here has said the opposite. [The supposition is that Yohanan's reasoning is as follows. At the outset the man thought he had eaten two pieces of fat, but he was in doubt as to the third. Then, when he found out later on that he had eaten a third, we do not take account of what at the end he learned as a matter of certainty. We maintain that, since at the outset he was subject to doubt about the third, the sin-offering that he has offered assuming that he had eaten two pieces in some measure covers the third. But in the case that will now be cited, where we have five olive's bulks, he takes the position that clarification of what had been subject to doubt does *not* impose the obligation to bring a sin-offering. We follow the situation that prevails at the end, at which

position the man had certain knowledge concerning all five pieces of fat.]

[P] R. Yohanan made the statement only concerning the clarification that came at the end of the process, on which occasion there is no offering at all. [Yohanan's stated position applies to the case in which there is no offering, because part of the sin already has been expiated at that point at which the man made his offering for the two pieces of fat he ate at the outset. Yohanan's reasoning is not that clarification of what had been subject to doubt in regard to the third piece of fat constitutes a valid clarification. In his view clarification of the doubt is null. Now in the case of five pieces of fat, since the matter of doubt and its clarification does not serve to divide the act and to impose the requirement in the case of each of the five pieces for a suspensive guilt-offering in the case of doubt, and a sin-offering when the doubt is clarified, the act of clarification that comes at the end covers the entire case. The prior actions are deemed a single protracted case, and the clarification at the end thus covers all of them. That is why a single sacrifice suffices.]

[Q] All concur that if the animal designated at the outset is yet available, it is set aside. [Yohanan maintains that it is not necessary to bring another offering on account of the third olive's bulk of forbidden fat, unless the man already has effected atonement for that which was clarified at the outset. Here he maintains that, if part of the sin has been expiated, the whole of it, subject to a single spell of inadvertence, has been covered. But if the animal has not been offered, he concedes that after the matter of the third olive's bulk of forbidden fat has been clarified, the man must separate another sin-offering to effect atonement for all three pieces. The one set aside at the outset is dismissed.]

[R] What should he do with [the first animal designated as a sin-offering and now set aside]?

[S] R. Yosé said, "It is held in anticipation of atonement. [It is put out to pasture until it is disfigured and sold, and with the proceeds one brings another animal for use for atonement.]"

[T] Said R. Zeira, “In the case of any beast that is not fitting [for use for atonement], neither the beast nor the money received for the sale of the beast may be used. It is put to death forthwith is a beast set aside for a sin-offering, the owner of which has attained atonement through use of another beast and no longer requires this one. Since a sin-offering must be made for a particular sinful act, it cannot be used to cover some other sinful act.”

- [I:4 A] [If] one has eaten five olive’s bulks [of fat, before being appointed to office], and a matter of doubt concerning each one of the pieces of fat became known to the man once he had been appointed to office, and after he had left office [the matter of doubt was resolved into] certainty [that indeed the fat had been forbidden fat
- [B] *in accord with the thesis of R. Simeon b. Laqish*, he is exempt [from having to bring an offering], [for he maintains that a matter of doubt as to the status of what one has eaten is tantamount to knowledge that one has eaten forbidden fat. That is, doubt about what one has done distinguishes each act of eating from the others and imposes the requirement of bringing a suspensive guilt-offering when there is doubt, and a sin-offering when the doubt is clarified. So what was subject to doubt before the man reached high office is clarified after he has reached high office. So far as Simeon is concerned, the man is exempt. The offering required at the point of the sin and the offering required at the point of the clarification that the sin has been committed are not the same offering.]
- [C] *In accord with the thesis of R. Yohanan*, he is liable [to bring an offering, for we follow the man’s status only when the matter is fully clarified. We do not take account of the status earlier. A matter of doubt is not deemed equivalent to a matter of clarification of doubt. The prevailing situation at the end is determinative. Now when the man is informed, after he has left office, that he had sinned earlier, he is an ordinary person. So the prevailing condition at the time of the sin (he was an ordinary person) and the prevailing condition at the time of the clarification (*after* he has left office) are the same. There is no reason that the man should not bring an offering. It is the same sort of beast in both cases].
- [D] Now did R. Simeon b. Laqish rule to exempt the man and not to impose liability on him? [Did Simeon b. Laqish take the position that a matter of doubt has the same effect as certain knowledge so that the person would be *exempt* from an offering? Was his intention not solely so that we could impose liability for an offering on him? Even though

the man has not got certain knowledge of what he has done at the moment between eating each piece of forbidden fat, but only knows of the possibility that he has sinned, still here we impose the requirement of five sin-offerings. True, the doubt suffices to divide the protracted act of sinfulness into its component parts. But when the result of making such a distinction is to free the man from having to bring a sin-offering, as in the case of the attempted interpretation of the Mishnah-pericope, he would not take such a position. So this reading of Simeon b. Laqish's position on the Mishnah-pericope, in interpretation of the Mishnah's Simeon's rule, is false.]

- [E] *But thus the matter should be interpreted [to see how Simeon b. Laqish would interpret the position outlined in the Mishnah-pericope]:*
- [F] [If] one ate five pieces of fat the size of an olive's bulk, and then the doubt concerning the status of this fat was made known to the man before he was appointed to high office, and [the man received] certainty about the forbidden status of the fat after he was appointed to high office,
- [G] *in accord with the position of R. Simeon b. Laqish, who maintains that knowledge of the doubt concerning what he has done [divides the sequence of actions into their components and so] imposes on the man the obligation to bring a sin-offering, the man is liable [for five sin-offerings]. [Just as Simeon b. Laqish imposes a strict ruling in the case of the matter of doubt's dividing the action into its components, so he imposes a strict ruling in the case involving the Mishnah's R. Simeon where the man ate the forbidden fat before he was appointed to high office, and the matter of doubt was brought to his attention before his appointment, and after he was appointed the certainty that he had sinned became known. Here we maintain that a matter of doubt and a matter of certain knowledge have that same effect of dividing the sinful action into its components. So we have a case in which the offering required at the moment of sin and the offering required at the moment of clarification that sin has been committed are one and the same sort.]*
- [H] *In accord with the position of R. Yohanan, who maintains that knowledge of the doubt concerning what the man has done [does not impose distinctions among the several actions in eating the forbidden fat and so] imposes the obligation to bring a sin-offering, he is exempt. [Recognition of the possibility of doubt is not tantamount to certain knowledge that one has sinned. We follow the status of the man at the end of the process only. The man knew that he had sinned only after he was appointed to high office. The offering required for the sin is*

different from the one required at the moment that the sin became known. The man is exempt, in Yohanan's view of the Mishnah's R. Simeon.]

[I] All concur that if the animal designated at the outset is yet available, it is set aside.

[J] What should he do with [the first animal, designated as a sin-offering and now set aside]?

[K] R. Yosé said, "It is held in suspense for atonement. [It is set out to pasture until it is disfigured and then it is sold, and with the proceeds one brings another animal for use for atonement]."

[L] Said R. Zeira, "In the case of any beast that is not fitting [for use for atonement], neither the beast nor the money received for the sale of the beast may be used. It is put to death forthwith [for the reasons stated at T]."

- [I:5 A] [If] someone ate a half-olive's bulk of [forbidden] fat before he was appointed to high office, a half-olive's bulk of fat after he was appointed, and a half-olive's bulk of fat after he left office, [in a single spell of inadvertence, what is the law]?
- [B] Since the obligation to bring an offering [other than that brought for the first and third pieces] has applied in the meanwhile, do they [first and third] join together [so that an offering covering the two half-olive bulks of prohibited fat is required]? [The middle piece of fat does not join together with the first piece the man ate, when he was an ordinary person. All parties Will concur on this point. But if he ate yet a third half-olive's bulk, then we have a problem. Do the two halves eaten while the man was an ordinary person join together? Or perhaps, since the half-olive's bulk eaten in the middle, while the man is in power, does not join together either with the first or with the third, it constitutes an interruption. The answer is as given at the outset: the first and third do join together to form the requisite bulk of forbidden fat to impose the obligation to bring a sin-offering.]
- [C] *Let us infer the correct rule from the following case:*
- [D] [If] there were three pieces of fat before a man, and he ate the first, and did not know that it was prohibited fat, [then he ate the] second during the same spell of inadvertence as had pertained to the first, but he then discovered concerning the first [that it was forbidden fat], but he was then not informed as to the status of the second, [and then he ate] the third piece of fat during the spell of inadvertence governing the second

piece of fat, and afterward he was informed about the condition of all of them [that all three were prohibited fat] –

- [E] R. Yohanan said, “He is liable on account of the first and second, but exempt on account of the third. [Since he learned of the inadvertent sin of the first during the spell of inadvertence covering the second, he is liable on account of the first by itself. There is no connection to the second. Knowledge concerning the first sin separates the protracted act of sinning, and the second is a sin unto itself, even though it was originally committed in a single spell of inadvertence with the first. The same is to be said of the second in regard to the third. But since the third piece of fat was eaten during that same period of inadvertence governing the second, it is deemed part of the sin committed when the man ate the second piece of fat. Consequently there is no further requirement to bring a sin-offering covering the third piece of fat that the man inadvertently ate.]”
- [F] Said R. Yosé, “As to the second, the matter depends on the man’s own opinion. If he wanted, the matter of the second is atoned for along with the first, and if he wanted, the matter of the second is atoned for along with the third [piece of fat that the man ate. The second piece of fat belongs with the first, having been subject to the same spell of inadvertence. Still, it may be assigned to the third, for the same reason. Consequently, the man may bring two offerings, one governing the first, one governing the third, and the matter of the second is assigned to expiation achieved by one or the other of the two offerings. But of course the first and the third pieces of fat are totally unrelated, since they were not eaten within a single span of inadvertence].”
- [G] *The associates compare the matter to* [a case of one’s having eaten] four half-olive’s bulks of forbidden fat. If one is smart, he brings a single offering for all [four, that is, two complete minimum volumes], and if not, he brings two offerings[, one for each set of two half-olive’s bulks]. *What would be a concrete instance [of being stupid]?* He brings one offering for the first and second, and another offering for the third and fourth. [But if he is smart], he should bring one offering for the two in the middle, [and] he then is exempt from having to bring an offering for the first and for the fourth half-olive’s bulks [which are distinct and too small to matter].
- [H] *R. Yosé compares the matter* to a case of eating whole olive’s bulks of forbidden fat[, each one of requisite volume to impose liability]. If he was smart, he brings two offerings, and if not, he brings three offerings. *What would be a concrete instance?* He brings one offering for the first and for the second, and one for the third and fourth. If he

should bring a single offering for the two in the middle, however, then he is liable for an animal-sacrifice as a sin-offering on account of the first piece of forbidden fat that he ate, by itself, and he also is liable for a separate animal-offering as a sin-offering for the fourth, by itself. [In Yosé's view the second animal belongs with the first, the fourth with the third, because there has been a single spell of inadvertence covering each pair. Consequently, if he decides to atone for numbers 1 and 2 together, he will suffice with two beasts, whereas if he decides to atone for numbers 2 and 3 together, he will have to bring three, one for number 1, one for number 4, and one for numbers 2-3. So the man has a choice, and will do well to make it as indicated.]

[I] R. Isaac asked, "Is the rule also the same when it comes to [joining together the intervals required for] eating half-loaves of bread?" [We maintain that if one eats one olive's bulk of forbidden fat within the spell of inadvertence governing the one before it, the second is deemed to join together with the first to be subject to a single offering. Do we hold the same rule to apply to eating a sequence of half-loaves of bread? That is to say, the specified interval for a spell of inadvertence to apply is the time required to eat a half-loaf of bread. Isaac's question now is whether one such spell joins together with the distinct spells of time sufficient to eat a half-loaf, to form a very long, single, and protracted period of a single sin. So what Isaac wishes to know is whether a spell of inadvertence can run longer than the time it takes to eat a half-loaf.]

[J] *Said R. Yosé, "This entire matter of the question of R. Isaac is worthless!* Now does the matter depend upon the interval for eating a half-loaf of bread at all? [That is, if we should conceive that the matter of an interval is measured by the joining together of the stated interval, then the interval – eating a half-loaf of bread – is meaningless. It suffices merely to specify a single spell of inadvertence, however long that spell may take. But in point of fact the two half-olive's bulks of forbidden fat join together if they are eaten within a single spell of inadvertence, which can be no longer, under any circumstances, than the time required for eating a half-loaf of bread. The entire conception stated by Isaac thus is based on a false conception. Yosé proceeds along these same lines as follows:]

[K] "Now if the man had eaten a half-olive's bulk of forbidden fat during one interval of time sufficient for eating a half-loaf of bread, and another half-olive's bulk of forbidden fat during another

interval sufficient for eating a half-loaf of bread, what difference would it make?

[L] “If he ate a number of olive’s bulks of forbidden fat and a number of half-loaves of bread in a single spell of inadvertence, he is liable for only a single sin-offering.”

[M] [What follows depends upon a dispute involving R. Yosé, parallel to the one we have just now considered. The materials not given in the Talmud’s present unit are as follows: If on the Sabbath one has taken out a half of a dried fig from private to public domain and went back and took out another half of a fig, in a single spell of inadvertence, he is liable, since the volume necessary to impose liability for carrying an object from one domain to the other is a whole dried fig. But if he did so in two distinct spells of inadvertence, he is exempt. R. Yosé says, “If he did so in a single spell of inadvertence in the case of a single domain, he is liable. If he did so in a single spell of inadvertence but in regard to two different domains, or if he did so in two spells of inadvertence in regard to a single domain, he is exempt.” So R. Yosé compares the matter of domains to the matter of eating a half-loaf of bread. If he ate a half-olive’s bulk of forbidden fat in the interval of time sufficient for eating a half-loaf of bread, and another half-olive’s bulk in another such interval, is he going to be liable? Yosé maintains that two distinct domains do not join together with each other, even if the person has taken out the requisite volume from the two of them, respectively, during a single spell of inadvertence. Likewise, the two pieces of fat should not join together. It is in this context that the following is stated:] *The rabbis of Caesarea say, “Instead of comparing the matter to the eating of forbidden fat, let us compare it to the matter of the Sabbath.*

[N] “[If] one has woven a single thread into one garment, and a single thread into some other garment, does this matter? [Certainly not. Liability for weaving on the Sabbath depends on weaving two threads. But it is only in a single garment that that measure applies. Threads woven into two different garments are not deemed to join together to impose the liability for a sin-offering.] If one has woven a number of threads into a number of garments in a single spell of inadvertence [moreover], he is liable for only a single sin-offering.”

[O] [This case now permits us to return to the matter left off above (A), concerning eating a half-olive’s bulk of fat before being

appointed to high office, half while in office, and half after leaving office in a single spell of inadvertence. This brings us to the dispute of Yohanan and Yosé (E).] Now here is a case in which there is liability for an offering in the interval between the two other acts of sinfulness, and you rule that they do indeed join together, [so long as the spell of inadvertence is not broken. Similarly, the half-olive's bulk the man ate before he was appointed and the one he ate after he left office, in which case the same offering will be required of both incidents, do indeed join together, and are not split up by the imposition of a sin-offering for what he has done in the meantime.]

[P] Said R. Abun, "There you have a case of the obligation to bring a single kind of offering, while here there is a requirement of a different sort of offering. [The cases are not parallel. Granted, there is an obligation to bring an offering. But the offering is the same for what he did in the interval, and for what he did before and afterward. Here there is a different offering for an ordinary person and for one in office.]"

- [I:6 A] [If] one ate an olive's bulk of forbidden fat before he was appointed to office, and an olive's bulk of forbidden fat after he was appointed to office, and a third olive's bulk of forbidden fat after he left office [all in a single span of inadvertence],
- [B] *in the opinion of Associates, who maintain that* the rise to high office effects atonement, his rise to high office effects atonement on account of the first piece of fat he ate, but he remains liable on account of the second and the third pieces of fat he ate.
- [C] *In the opinion of R. Yosé, who maintains that* [the reason for Simeon's opinion at M. is that] the offering required at the time that he sinned and the one required at the time that he gained knowledge of having sinned [and so became liable for the offering] are not one and the same sort of animal, he is liable for the sin-offering to cover the first piece of fat he ate, and so too is he liable for a sin-offering on account of the second piece of fat he ate, but he is exempt from a sin-offering on account of the third piece of fat he ate.
- [D] [If] he ate an olive's bulk of forbidden fat, but it is a matter of doubt whether he did so before he was appointed to high office, or after he was appointed to high office,
- [E] or if it is a matter of doubt whether one did so before he converted to Judaism or after he had converted to Judaism,

[F] or if it is a matter of doubt whether he did so before he produced two pubic hairs [and so became liable for his sins], or after he had produced two pubic hairs,

[G] he brings a suspensive guilt-offering.

[H] [If] he ate prohibited fat but it was a matter of doubt whether it was an olive's bulk, and it is not known whether he ate it on the Day of Atonement or whether he did so before the Day of Atonement,

[I] in a matter of doubt involving atonement, [the Day of Atonement is assumed to have] effected atonement for him.

[J] [If it is a matter of doubt] whether he ate it on the Day of Atonement or whether he ate it after the Day of Atonement,

[K] the Associates rule, "In a matter of doubt involving atonement, [even part of the Day of Atonement is assumed to have] effected atonement for him."

[L] Said R. Mattanaiah, "Under no circumstances in a matter of doubt involving atonement [is the Day of Atonement assumed to have] effected atonement, except in a case involving diverse kinds of blood [and we do not know the status of the blood a woman has produced]."

[M] *The following Tannaite pericope supports the position of the Associates:*

[N] In the case of the Sabbath that coincided with the Day of Atonement, if one has performed an act of labor at twilight [and does not know whether the act was performed on the Sabbath that coincided with the Day of Atonement, or whether it was performed on the prior day, which was not a holy day at all] [T. Ker. 2:16A].

[O] Now [from the viewpoint of Associates] how do you want to decide on the matter? [If] it was the Day of Atonement, that [part of the day that remained] effected atonement for him, and if it was an ordinary day, it was permitted to do the act of labor in any event [so the position of Associates, that in a matter of doubt involving atonement, the Day of Atonement is assumed to effect atonement, is valid in this case].

[P] *And lo, it is taught*, “*Éand he ate*” [that is, the case before us involves a doubt concerning whether it was an olive’s bulk, and a doubt concerning when the man ate the fat to begin with].

[Q] Said R. Yosé b. R. Bun, “[The dispute of Associates and Mattanaiah concerns] eating permitted food, [but doing so at twilight].” [Mattanaiah’s position is that the Day of Atonement does not effect atonement for a matter of doubt concerning what the man has eaten; the twilight under discussion is the one at the end of the Day of Atonement. The Day of Atonement effects atonement only for a matter subject to doubt involving diverse kinds of blood, on account of doubts concerning which the man has to achieve atonement for an event that took place prior to the Day of Atonement. Sages maintain that the man is exempt from a suspensive guilt-offering, because if the event took place on the Day of Atonement, the remaining part of the Day of Atonement has effected atonement, and if it was afterward, then there is no reason to atone at all.]

[I:7 A] [If] one has eaten five olive’s bulks of forbidden fat [in a single spell of inadvertence], and one was informed of a doubt concerning their character before he was appointed to high office, and then he was appointed to high office and thereafter learned that he certainly had eaten forbidden fat,

[B] *in accord with the opinion of R. Simeon b. Laqish*, he is liable.

[C] *In accord with the opinion of R. Yohanan*, he is exempt.

[D] Now did R. Simeon b. Laqish rule to exempt the man and not to impose liability on him?

[E] *But thus the matter should be interpreted:*

[F] If one ate five pieces of fat the size of an olive’s bulk, and the doubt concerning the status of this fat was made known to the man [47C] after he was appointed to high office, and [the man received information creating] certainty about the forbidden status of the fat after he had left his high office –

[G] *in accord with the opinion of R. Simeon b. Laqish, who maintains that* if one has achieved atonement for part of a sin, he has not achieved atonement for the whole of it, the man is exempt.

[H] *In accord with the opinion of R. Yohanan, who maintains that if a man has attained atonement for part of a sin, he has attained atonement for the whole of it, he is liable.*

[I] All concur that if the animal designated to atone for the first sin is yet available, that it is set aside.

[J] What should one do with [the first animal, designated as a sin-offering, now set aside]?

[K] R. Yosé said, “It is held in suspense for atonement. [It is put out to pasture until it is disfigured and sold, and with the proceeds one brings another animal for use for atonement.]”

[L] Said R. Zeira, “In the case of any beast that is not fitting [for use for atonement], neither the beast nor the money received for the sale of the beast may be used. It is put to death forthwith.”

[M] R. Yohanan concurs that, if the beast set aside for expiation of the first sin is available, it is put aside.

[N] What should one do with it?

[O] R. Yosé said, “It is held in suspense for atonement.”

[P] [Said R. Zeira, “In the case of any beast that is not fitting for use for atonement, neither the beast nor the money received for the beast may be used. It is put to death forthwith.”]

[I:8 A] *On the following account, R. Yosé b. R. Bun raised a question.*

[B] [If] one ate five olive’s bulks of forbidden fat [not knowing that it was forbidden], and he learned the true character of the first piece of fat he had eaten, and he designated an offering,

[C] [and he learned the character of] the second [piece of fat he had eaten], and he designated an offering,

[D] [and he learned the character of] the third [piece of fat he had eaten], and he designated an offering,

[E] [and he learned the character of] the fourth [piece of fat he had eaten], and he designated an offering,

[F] [and he learned the character of] the fifth [piece of fat he had eaten], and he designated an offering,

- [G] R. Yohanan said, “He achieves expiation for himself through the first animal [that he set aside and offered], for it comes before the act of eating of all of the other pieces of fat.
- [H] “And as to the disposition of the other animals, they are to fall to use for a freewill offering.”
- [I] R. Simeon b. Laqish said, “He achieves atonement for himself through the last animal that he has set aside, for it is in regard to the end of eating of all the pieces of fat.
- [J] “And the other animals he has set aside are to be put away.”
- [K] R. Hisda and R. Hamnuna, –
- [L] R. Hisda takes up the position of R. Yohanan, and R. Hamnuna takes the position of R. Simeon b. Laqish.
- [M] *R. Hisda objected to R. Hamnuna, “And lo, the Mishnah supports your position and is at variance with my position:*
- [N] **“Just as if one ate forbidden fat and again ate forbidden fat in a single spell of inadvertence, he is liable for only a single sin-offering, so in connection with a situation of uncertainty involving [two bits of forbidden fat], he is liable to bring only a single guilt-offering. If there was a clarification in the meantime, just as he brings a single sin-offering for each and every transgression, so he brings a suspensive guilt-offering for each and every [possible transgression] [M. Ker. 4:2].**
- [O] *“Now if the Mishnah-pericope had spoken only of a single guilt-offering, it would have been well [for my position. But here the Mishnah-pericope is explicit that Hamnuna’s and Simeon b. Laqish’s position is valid].”*
- [P] Said R. Hinena [in response to the position of Hisda and Yohanan that a case of doubt does not divide a deed into its constituent parts], “Even so, the rule applies even for the cases before and after the interval in the middle. And so you find stated in Scripture, ‘.Éwhen a ruler sins’ (Lev. 1:22) [– and not if a ruler commits a sin, as is the usage in other parts of the same pericope. This shift in the language of Scripture, from *if* the entire community shall sin, or *if* the anointed priest, and the like, indicates a shift in the law].”
- [I:9 A] [“When (‘SR) a ruler sins”.] Said Rabban Yohanan ben Zakkai, “Happy (‘SRY) is he whose ruler brings a sin-offering.”

- [B] For [the ruler's] sin committed inadvertently he brings [a sin-offering].
- [C] How much the more so will he bring an offering for the sin he commits deliberately!
- [D] If one's ruler brings a sin-offering, how much the more will an ordinary person [do so].
- [E] ["When] a ruler [sins"']. Might one suppose that Scripture refers to a ruler of one of the tribes, like Nahshon?
- [F] Scripture [here] states, ".Édoing unwittingly any one of the things which the Lord his God has commanded not to be done" (Lev. 4:22). And elsewhere it states, ".Éso that [the king on the throne, who writes a copy of the Torah for himself may learn to fear the Lord his God" (Deut. 17:19).
- [G] The use of "his God" in both contexts serves to establish the meaning through analogy. Just as in the latter context, the reference is to a ruler who is subject to no one but God, so in the former context, the reference is to a ruler who is subject to no one but God [cf. M. 3:2E-F].
- [H] "[There is a vanity that takes place on earth,] that there are ('SR) righteous men to whom it happens according to the deeds of the wicked, and there are wicked men to whom it happens according to the deeds of the righteous" (Qoh. 8:14). Happy (SRY) are "the righteous, to whom it happens according to the deeds of the wicked" in this world [so they enjoy the world to come], and woe to the wicked "to whom it happens according to the deeds of the righteous" in this world [so they get what is coming to them in the next world].
- [I] As to the king of Israel and the king of Judah, the two of them are equals. This one is no greater than that, nor is that one greater than this one.
- [J] Now what is the scriptural basis for the preceding statement? It is to be found at the following: "Now the king of Israel and Jehoshaphat the king of Judah were sitting on their thrones, arrayed in their robes, at the threshing floor at the entrance of the gate of Samaria" (1 Kings 22:10) [not on the floor but] at the threshing floor, as if [at an equal plane] on the threshing floor.
- [K] Said R. Yosé b. R. Bun, "And that is so, in particular, until the time of Jehu son of Nimshi [from which time they were not regarded as legitimate]. What is the scriptural basis? "[And the Lord said to Jehu, 'Because you have done well in carrying out what is right in my eyes

and have done to the house of Ahab according to all that was in my heart,] your sons of the fourth generation shall sit on the throne of Israel” (2 Kings 10:20). But from that time onward, they seized [the throne] by thuggery.”

[II:1 A] Who is the anointed priest? It is the one who is anointed with the anointing oil, not the one who is dedicated by many garments [M. 3:2G]:

- [B] Said R. Huna, “For all those six months during which David was on the run from Absalom, it was through a she-goat that he would attain atonement for himself, like any ordinary person.”
- [C] *It was taught in a Tannaitic tradition:* R. Judah b. R. Ilai says, “As to the anointing oil that Moses prepared on the mountain, miracles were done with it from beginning to end.
- [D] “For at the beginning it was only twelve *logs*, as it is said, ‘And a *hin* [= twelve *logs*] of olive oil’ (Ex. 30:24).
- [E] “If it was merely to anoint the logs of wood, there would not have been enough. How much the more so [would this small volume be lacking], since the fire fed on it, the kettle fed on it, the wood fed on it. From it the tabernacle and all its utensils were anointed, ‘the altar and all its utensils, the candelabrum and all its utensils, the laver and its base’ (Ex. 30:27). From it were anointed Aaron the high priest and his sons all seventy days of consecration. From it were anointed high priests and kings.”
- [F] A king at the outset requires anointing. A king who is son of a king does not require anointing,
- [G] for it is said, [“And the Lord said to him,] Arise, anoint him, for this is he” (1 Sam. 16:12) – this one requires anointing, but his descendants do not require anointing.
- [H] But a high priest, son of a high priest, even in the tenth generation, requires anointing.
- [I] “And yet all of [that original oil, used for so many purposes] remains for the age to come, as it is said, ‘This shall be my holy anointing oil throughout your generations’ (Ex. 30:31).
- [J] They anoint kings only by a spring, as it is said, “Éand cause Solomon my son to ride on my own mule and bring him down to Gihon, and let Zadok the priest and Nathan the prophet there anoint him king of Israel” (1 Kings 1:33-34).

[K] They anoint kings only on account of strife.

[L] On what account was Solomon anointed? Because of the strife raised by Adonijah, and Joash, because of Athaliah, and Jehu, because of Joram.

[M] Now has it not been written as follows: “Arise, anoint him, for this is he,” meaning, this one requires anointing, but the kings of Israel do not require anointing?

[N] And did not Josiah hide it away?

[O] It was said that they were anointed by balsam oil.

[P] Joahaz [was anointed] on account of Jehoiakim his brother, who was two years older than he.

[Q] They anoint kings only from a horn. Saul and Jehu, who were anointed from a cruse, had a transient reign. David and Solomon, who were anointed from a horn, had an enduring reign.

[R] They do not anoint priests as kings.

[S] R. Judah of Ein-Todros: “This is on account of the verse that states, ‘The scepter shall not depart from Judah’ (Gen. 49:10).”

[T] Said R. Hiyya b. Ba, “[That he may not turn aside from the commandment É,] so that he may continue long in his kingdom, he and his children, in Israel’ (Deut. 17:20). What is written thereafter? ‘The Levitical priests, that is, all the tribe of Levi, shall have no portion or inheritance with Israel’ (Deut. 18: 1).”

[U] And is it not written, “The sons of Josiah, Johanan the first born” (I Chron. 3:) – is the first-born to rule?

[V] And is it not written, “The second Jehoiakim, the third Zedekiah, the fourth Shallum”? Zedekiah was third for the throne, and fourth in order of birth.

[W] He was called Zedekiah, because he accepted the righteousness of the harsh decree.

[X] Shallum was so called for in his time the household of David fulfilled its time.

[Y] His name was not really Shallum, nor was it Zedekiah, but it was Mattaniah,

[Z] as it is written, “And the king of Babylonia made Mattenaiah, Jehoiachin’s uncle, king in his stead, and changed his name to Zedekiah” (2 Kings 24:17).

[AA] The priest was consecrated with anointing oil in the former [first] building [of the Temple], and was dedicated by many garments in the [time of] the latter building.

[BB] And this view is in accord with that which R. Ina said in the name of R. Aha, “In five respects was the latter building of the sanctuary less than the former building of the sanctuary.”

[CC] What is the scriptural basis for this statement? “Go up to the hills and bring wood and build the house, that I may take pleasure in it and that I may appear in my glory, says the Lord” (Hag. 1:7).

[DD] These are the five things in which the latter house of the sanctuary was less than the former one, and these are they: fire, ark, Urim, Thummim, and holy anointing oil [none of which was available in the Second Temple].”

[II:2 A] *It has been taught in Tannaitic tradition: An anointed priest brings a bullock [in the case of issuing an erroneous decision], but a high priest consecrated by many garments does not bring a bullock [under the stated circumstances] [= M. 3:2G] [cf. T. Hor. 2:3].*

[B] *And this teaching is not in accord with R. Meir [cf. T. Hor. 3:1B: “But the one who is dedicated by many garments has to bring a bullock if he inadvertently gives an erroneous decision,” the words of R. Meir].*

[C] *What is the scriptural basis for R. Meir’s position? Scripture stated, “[If it is the] anointed [priest who sins]” (Lev. 4:3.. Now why [in addition to anointed] does Scripture also state “priest”? It is to encompass the priest [who is not anointed but dedicated by] many garments.*

[D] *What is the scriptural basis for the position of the rabbis [who hold that the law applies only to an anointed priest]? Scripture states “anointed.” Is it possible that the law applies to the king [who also is anointed]? [To prevent that false conclusion, Scripture must state] “priest” as well. [Add: Is it possible that the law applies to the priest dedicated by many garments? Scripture says “anointed.”]*

[E] *Now here you* [who hold the position of the rabbis] interpret the passage to exclude the priest dedicated by many garments, *but there you interpret the passage* to make provision for the priest dedicated by many garments [who must bring the tenth ephah of fine flour specified at Lev. 6:10].

[F] Said R. Hila, “Each exegesis serves its purpose [and is therefore required and in order].

[G] “Now if ‘anointed’ had been stated, but ‘priest’ had not been stated, I should have concluded that on account of an inadvertent, erroneous ruling he brings a bullock, but on account of an inadvertent deed [of sin] he brings a he-goat. So there was need to make an explicit reference to the priest.

[H] “And if it had said ‘priest’ but had not said ‘anointed,’ I should have reached the false conclusion that this passage refers to the king.

[I] “If you should state, ‘But the pericope concerning the king indeed has been spelled out [at Lev. 4:22-26],’ I should then say to you, it was necessary to refer explicitly to the priest.

[J] “Now if it had referred to ‘priest’ but not to ‘anointed,’ I should have concluded, For an erroneous instruction [47d] he brings a bullock, but for an erroneous deed [of sin] he brings a he-goat. Thus there was need to refer explicitly to anointed, and there was need to refer explicitly to priest.”

[III:1 A] Said R. Yohanan, “[If an anointed priest] left office and then brought the tenth of an ephah of fine flour he was owing, it is valid” [M. 3:2I-J].

[B] **They arrange another priest to take his place lest a cause of invalidation [of the high priest who is to officiate on the Day of Atonement] should occur [M. Yoma 1:1B-C].**

[C] Now do they designate another priest along with him?

[D] *Said R. Haggai, “By Moses! If they designate another priest alongside, he may kill him.”*

[E] “[This is the offering which Aaron and his sons shall offer to the Lord on the day when he is anointed: A tenth of an ephah of fine flour as a regular cereal offering.... The priest from among Aaron’s sons who is anointed to succeed] him [shall offer it to the

LordÉ]” (Lev. 6:21-22) – one do they anoint, and they do not anoint two[, so the substitute is not anointed at all].

- [F] R. Yohanan said, “On account of hatred did this one pass from office, and that one served in his place.
- [G] “As to the former, all of the sanctity of the high priesthood pertains to him. The second [substitute] in no way is valid either to serve as high priest or to serve as an ordinary priest.”
- [H] Said R. Yohanan, “If he [the first] passed from office and [nonetheless] performed an act of sacrificial service [on the Day of Atonement], his act of sacrificial service is invalid.”
- [I] The act of sacrificial service of which one [is under discussion by Yohanan]?
- [J] *Let us infer the answer to that question from the following:*
- [K] (M’SH B) Ben Elem of Sepphoris: The high priest was affected by a seminal emission on the Day of Atonement [which rendered him invalid for service], and Ben Elem entered and served in his place.
- [L] He came out and said to the king, “The bullock and ram that are offered this day – from whose animals are they offered, mine or the high priest’s?”
- [M] Now the king knew full well what he was really asking[, which was to stay in office and provide the animals himself. He said to him, “It is not enough for you that you served for one moment before Him who spoke and brought the world into being.”
- [N] Then Ben Elem understood that he had been separated from the high priesthood.
- [O] M’SH B: Simeon b. Qimhit went out to take a walk with a king on the eve of the Day of Atonement at twilight, and a spurt of spit [from the king’s mouth] splattered on [the priest’s] garment and so rendered him unclean. Judah his brother went in and served in his stead. On that day, their mother [Qimhit] had the pleasure of seeing two sons in the office of the high priest.
- [P] Seven sons did Qimhit have, and all of them served in the high priesthood. They sent and said to Qimhit, “Now what kinds of good deeds [did you do to merit such glory]?”
- [Q] She replied to them, “May [a terrible thing] happen to me, if [even] the beams of my house ever once gazed upon the hair of my

head or the thread of my chemise in my entire life [because of my modesty].”

[R] They said, “All meal is fine, but the meal of Qimhit is the finest of fine flour.”

[S] They recited in her regard the following verse: “The princess is decked in her chamber with gold-woven robes” (Ps. 45:13).

[III:2 A] Is it possible that the priest anointed for war should not bring the tenth of an ephah from his own property?

[B] [Yes, it certainly is, for] Scripture says, “[The priest who is appointed from among Aaron’s] sons, who is anointed to succeed him, [shall offer it to the Lord]” (Lev. 6:22).

[C] The one who has a son ready to succeed him shall bring the tenth of an ephah, and the one who has no son ready to succeed him does not bring a tenth of an ephah.

[D] And how do we know in regard to the anointed for war that his son is not standing ready to succeed him?

[E] Scripture says, “The son who is priest in his place shall wear them seven days when he comes into the tent of meeting to minister in the holy place” (Ex. 29:30) – as to the one who comes into the tent of meeting for service in the holy place, his son is ready to succeed him, and, as to the one who does not come into the tent of meeting for service in the sanctuary, his son does not succeed him.

[F] And how do we know that [a priest anointed for war] may be designated for service as high priest?

[G] “And Phineas son of Eleazar was the ruler over them in time past; the Lord was with him” (1 Chron. 9:20) [and he served as both anointed for war and high priest].

[H] (*When R. Yosé wanted to speak critically to R. Eleazar b. R. Yosé, he would say to him, “‘He used to be with him.’ In the time of Zimri he opposed [evil], and in the time of the concubine of Gibeah, he did not oppose [evil].”*)

[I] And how do you know that [the anointed for war] would serve in eight garments?

[J] R. Ba bar Hiyya in the name of R. Yohanan: “The holy garments of Aaron shall be for his sons after him, to be anointed in them and

ordained in them' (Ex. 29:29). What does Scripture mean in saying 'after him'? They shall follow him in order of high position."

[K] And how do we know that [the anointed for war] receives inquiries while wearing the eight garments [e.g., before the battle]?

[L] R. Jeremiah, R. Immi in the name of R. Yohanan: "'The holy garments of Aaron shall be for his sons after him.' Why does Scripture say 'after him'? In succession to sanctification that is after him."

[M] And how many garments does he wear when he performs an act of sacrificial service?

[N] *R. Hoshaiiah introduced the Mishnah-tradition of Bar Qappara of the South and taught the following as a Tannaitic tradition: "He does not serve in the four garments of an ordinary priest or in the eight of a high priest."*

[O] Said R. Ba, "In logic the law should have been that he performs his act of service wearing four garments. And why does he not serve [in four]? So that people should not say, 'You know, we saw an ordinary priest who sometimes served in the eight garments of the high priest!'"

[P] Said R. Jonah, "But does he not carry out the act of service at the inner altar [where people will not see him anyhow]?"

[Q] But does he not receive inquiries outside [where people will see him]?

[R] So people will [not] err by assuming that what he wore outside he also wore inside.

[S] For did not R. Tarfon, the rabbi of all Israel, err in mistaking the shofar-sounding of the community for the shofar-sounding on the occasion of an offering?

[T] For it is written, "And the sons of Aaron, the priests, shall blow the trumpets" (Num.. 10:8)

[U] "when they are unblemished, and not if they bear blemishes," the words of R. Aqiba.

[V] Said to him R. Tarfon."May I bury my sons, if I personally did not see Simeon, my mother's brother, who was lame in one of his legs, and yet he was standing in the courtyard with his trumpet in his hand, and he was sounding it!"

- [W] Said to him R. Aqiba, “Now is it possible that you saw him only at the time of the communal sounding of the trumpet?”
- [X] “But I was stating the rule as it applies in the time of an offering [at which point the priests who blow the trumpet must be unblemished].”
- [Y] Said to him R. Tarfon, “May I bury my sons if you have [not] erred, either to the right hand or to the left. I was the one who heard the tradition but could not explain it. But you explained the tradition and made it match the tradition [of what was actually done]. Lo, whoever leaves you leaves his own life.”
- [Z] “And the priest who is anointed [and consecrated as priest in his father’s place] shall make atonement[, wearing the holy linen garments]” (Lev. 16:32).
- [AA] Why does Scripture say so?
- [BB] For the entire pericope is stated with regard to Aaron. I know only that the Scripture thus speaks of a priest anointed with anointing oil. How do I know that the priest dedicated by many garments [also carries on the same rite]? Scripture for that reason finds it necessary to specify “.Éconsecrated as priest in his father’s place....”
- [CC] And how do I know that the law applies to another who may be appointed [who was not the son of the preceding high priest]?
- [DD] Scripture states, “And the priest shall make atonement.
- [EE] With what is he [who was not the son] appointed?
- [FF] The rabbis of Caesarea in the name of R. Hiyya bar Joseph, “By a word of mouth [with no other rite but verbal appointment].”
- [GG] *Said R. Zeira, “Thus does the tradition state, that they appoint elders by word of mouth.”*
- [HH] *Said R. Hiyya bar Ada, “The Mishnah tradition itself has made the same point, when [at M. Ed. 2:7 sages say to ‘Aqabiah b.*

Mehallel,] **‘Retract [merely verbally] four teachings of yours, and we shall [verbally] make you head of the court of Israel.’”**

[IV:1 A] Now he [who marries only a virgin, Lev. 21:14] is neither king nor Nazir [cf. M. 3:2K].

[B] And when Scripture says “he,” it is to encompass also the priest anointed for war [who marries only a virgin].

[C] “He shall take to wife a virgin of his own people” (Lev. 21:14).

[D] This excludes a mature girl, in whom the signs of the virginity have disappeared.

[E] R. Eleazar and R. Simeon declare valid [a priest’s marrying] a mature girl.

[F] R. Isaac asked [with regard to M. Ter. 8:1: **“If a priest was standing and sacrificing at the altar, and it became known that he was the son of a divorcee or of a woman who had performed the rite of removing the shoe (Deut. 25:10), R. Eliezer says, ‘All the offerings he had offered on the altar are invalid.’ R. Joshua declares them valid”**]: “Is the rule the same for other matters?”

[G] [Yes. Thus if he is doing another sort of rite, he completes it, e.g.,] he takes a handful of meal offering and burns it up; he collects the blood and tosses it; he burns the cow and sprinkles [the ashes of the cow mixed with water].

[H] R. Jacob bar Idi in the name of R. Isaac: “They treated the case as a purification offering [a red cow] that had been stolen, but about which people in general did not know. [This is deemed an acceptable offering.]”

[I] Thus has it been said, “He takes a handful and burns it up; he receives the blood and he sprinkles it on the altar; he burns [the red cow] and sprinkles [the ashes and water].”

[J] R. Berekiah, R. Jacob bar Idi, R. Isaac asked, “If he was standing and making an offering at the altar, and it became known that he was the son of a divorcee or the son of a woman who had undergone the rite of removing the shoe [and thus was equivalent to a divorcee], what does one do? [That is, if such a person was performing a rite, and turned out during the rite to

be found not valid, and then died, do we deem the death to be that of a valid high priest, such that a murderer in a city of refuge is permitted to return home? Since the rite is deemed valid, do we then conclude that, for other purposes, the priest's status was valid for a time, including the purpose of allowing the murderer to leave the city of refuge?]

[K] “[Do we rule that] if he dies, the murderer returns from the place of refuge to his home?”

[L] “Or should [the murderer] be treated as one whose trial was completed and sentence laid down while there was no high priest at all, and let him not go forth from his place of refuge forever?” [The question is not answered.]

3:3

[A] A high priest [on the death of a close relative] tears his garment below, and an ordinary one, above.

[B] A high priest makes an offering while he is in the status of one who has yet to bury his dead, but he may not eat [the priestly portion].

[C] And an ordinary priest neither makes the offering nor eats [the priestly portion]

[I:1 A] [The reference to tearing above in M. 3:3A is at issue.] R. Eleazar in the name of Kahana: “‘Above’ means above the binding, and ‘below’ means below the binding.”

[B] R. Yohanan said, “‘Below’ means what it says, literally [near the ground].”

[C] *R. Yohanan went up to visit R. Hanina. When he was yet on the road, he heard that he had died. He sent word and said to send to him his best Sabbath garments, and he went and tore them [on account of this news]. [Thus he holds that one tears a garment at the demise of someone who is not a close relative.]*

[D] *R. Yohanan differs from R. Yudan in two matters. [First, that he maintains one has to tear the garment as a sign of mourning for any master who has died, not merely for the one from whom one learned most; second, that one does the tear above the binding.]*

[E] *The teaching of R. Eleazar in the name of Kahana is in accord with R. Judah [who does not distinguish among relationships to the deceased].*

[F] *And if he is in accord with R. Judah, [the high priest] should not perform the act of tearing at all except for his father and his mother.*

[G] *It is in accord with the view of R. Meir, for it has been taught in a Tannaitic teaching:*

[H] *“For no dead does one undo the binding, except for his father and his mother,” the words of R. Meir.*

[I] *R. Judah says, “Any tear that does not separate the binding, lo, this is a worthless act of tearing.”*

[J] *What is the rule [for the high priest]?*

[K] *It is a more strict ruling in the case of the high priest, that he should not undo the binding [but he rips through the fabric].*

[II:1 A] **“A high priest makes an offering while he has the status of one who has yet to bury a close relative, but he does not eat [the priestly portion].” the words of R. Meir [M. Hor. 3:3B; T. Zeb. 11:3].**

[B] **R. Judah says, “That entire day.”**

[C] **R. Simeon says, [48a] “He completes all the acts of sacrifice that are his responsibility and then he goes along [and leaves the altar].”**

[D] *The difference between the view of R. Meir and R. Simeon is one point[, specifically: in Simeon’s view, when the priest hears the news while he is performing the rite, that a close relative has died, he completes the entire rite for which he is responsible. But if he has not begun the rite, he should not do so. And after he has completed the rite, he should not begin another. In Meir’s view, he may carry on an act of service, without condition.]*

[E] *The difference between the view of R. Judah and R. Simeon is one point[, specifically: in Judah’s view, the priest makes offerings that entire day, while in Simeon’s, once he has completed the rite in which he is involved, he leaves the altar].*

[F] *The difference between the views of R. Meir and R. Judah is [whether or not the priest who has not yet buried his close relative] enters [the Temple at all. Meir maintains that if he has not gone out of the sanctuary, he is permitted to make an offering. But if he has gone out, he does not enter the sanctuary. Judah maintains that that entire day the priest is permitted even to enter the sanctuary and to undertake offerings].*

[G] *R. Jacob bar Disai [says, “Whether or not the priest at the altar] interrupts [his act of service] is what is at issue between [Meir and Simeon].”*

[H] R. Meir says, “[If when the priest heard the news,] he was inside, he would go out [of the sanctuary]. [If] he was outside [the sanctuary], he would [not] go back in.”

[I] R. Judah says, “[If when he heard the news, the priest] was inside, he would go in [and, for the entire day on which he heard, carry out an act of service, as is his right], but if he was outside, he would not go in [to perform an act of service].”

[J] R. Simeon says, “He completes all the act of service that is his responsibility and then he goes along.”

[II:2 A] R. Yosé b. R. Bun in the name of R. Huna: “The following Mishnah saying [belongs] to R. Simeon: “And from the sanctuary he will not go forth’ (Lev. 21:12) – with [the bearers of the bier] he does not go forth, but he does go forth after them.**”**

[B] **“When [the bearers of the bier] are not visible, he is visible, when they are visible, he is not. And he goes with them to the city gate,” the words of R. Meir.**

[C] **R. Judah says, “He never leaves the sanctuary, since it says, ‘Nor shall he go out of the sanctuary’ (Lev. 21:12)” [M. San. 2: 1G-J].**

[D] If he did go out, he should not come back.

[II:3 A] R. Abbahu in the name of R. Eleazar: “The word ‘mourning’ applies only to the corpse alone, as it is written, ‘And her gates shall lament and mourn’ (Is. 3:26).”

[B] *Hiyya bar Abba replied, “And is it not written, ‘The fishermen shall mourn and lament’ (Is. 19:8)?”*

[C] *Said R. Hanina, “[So does] the Mishnah [teach, that] the consideration of uncleanness by reason of mourning applies only on account of the corpse [and not on account of hearing of the death. The day of the*

death, along with the night, imposes the status of the one who has yet to bury his close relative].”

[D] *It has been taught in a Tannaitic tradition: At what point does the status of the one who has yet to bury his close relative apply?*

[E] “It applies from the moment of death to the moment of burial,” the words of Rabbi.

[F] And sages say, “It applies for that entire day [on which the deceased dies].”

[G] *You may then discern both a lenient and a strict side to the ruling of Rabbi, and a lenient and a strict side to the ruling of rabbis.*

[H] *What is the difference between their two positions [for strict and lenient rulings]?*

[I] If one dies and is buried at the proper time –

[J] *in accord with the position of the rabbis* the mourner [in such a case] is subject to prohibitions applying to mourning for that entire day. *In accord with the position of Rabbi* the mourner is subject to prohibitions only in the period of the day down to that hour [of burial] alone.

[K] If one dies and is buried three days later –

[L] *in accord with the opinion of rabbis*, the prohibitions applying to the mourner are valid throughout that entire day [but not for the next two].

[M] *In accord with the position of Rabbi*, the prohibitions applying to the mourners pertain for all three days.

[N] *R. Abba came [to teach] in the name of R. Yohanan, [and] R. Hisda – both of them teach: “Rabbi concurs with sages [in the case of 01 that the prohibition applies only to that day alone.” [The dispute concerns only M-N.]*

[O] *That is in accord with the following teaching on Tannaitic authority:*

[P] Rabbi says, “You should know that the status of mourning by the authority of the Torah does not apply to the night, for lo, they have said, ‘A mourner may immerse and eat his Passover-offering in the evening [of the fifteenth of Nisan, having suffered a bereavement on the fourteenth].’”

[Q] And lo, they have said that the laws of mourning do apply by the authority of the Torah!

[R] R. Yosé b. R. Bun in the name of R. Huna, “You may solve the contradiction by referring [Rabbi’s ruling, M] to the case in which the [death was at dawn and] burial took place in the last rays of sunlight [and Rabbi holds that to that following night the status of mourning does not apply by the authority of the Torah].”

3:4

[A] [When the priest faces a choice on tending to two or more animals that have been designated as offerings, then:] Whatever is offered more regularly than its fellow takes precedence over its fellow, and whatever is more holy than its fellow takes precedence over its fellow.

[B] [If] a bullock of an anointed priest and a bullock of the congregation [M. 1:5] are standing [awaiting sacrifice] –

[C] the bullock of the anointed [high priest] takes precedence over the bullock of the congregation in all rites pertaining to it.

[D] The man takes precedence over the woman in the matter of the saving of life and in the matter of returning lost property [M. B.M. 2:11].

[E] But a woman takes precedence over a man in the matter of [providing] clothing and redemption from captivity.

[F] When both of them are standing in danger of defilement, the man takes precedence over the woman.

[I:1 A] **[The reason of M. 3:4B-C is] that the anointed [high priest] effects atonement, while for the congregation, it is required that atonement be effected.**

[B] **It is best that that which effects atonement should take precedence over that for which atonement must be effected,**

[C] **as it is said, “And it will atone for him, for his house, and for all the congregation of Israel” (Lev. 16:17) [T. Hor. 2:4D-E].**

[D] As to the freewill offering of the anointed priest and the freewill offering of the ruler, the freewill offering of the anointed priest takes precedence.

[E] As to the freewill offering of the community and the freewill offering of the ruler, the freewill offering of the ruler takes precedence.

- [F] As to the freewill offering of the anointed priest and the freewill offering of the community, which one takes precedence?
- [G] *Let us infer the rule from the following:* As to the freewill offering of the anointed priest and the goats brought on account of idolatry that are standing [and awaiting sacrifice], the goats brought on account of idolatry take precedence, because their blood is taken inside [and tossed on the inner altar].
- [H] This statement has ruled only that [the operative criterion is that] their blood is taken inside. Lo, [in the absence of that consideration] *the rule should be that* [if] the freewill offering of the anointed priest and the freewill offering of the community [are awaiting preparation], the freewill offering of the anointed priest takes precedence.
- [I] [If] there was the bullock brought on account of idolatry, the goats that are brought with it, and another sin-offering, the bullock takes precedence over the goats, the goats take precedence over the other sin-offering, and the other sin-offering takes precedence over the bullock.
- [J] *What would be a case [illustrative of the foregoing rule]?*
- [K] Said R. Yosé, “Since the goat is second in time to the bullock [which is mentioned first in Scripture], it is like one over which the bullock has taken precedence.”
- [L] And another sin-offering takes precedence over the bullock.
- [M] A bullock brought on account of idolatry takes precedence over the goat that is brought with it, because it is mentioned first in Scripture [Num. 15 :24].
- [N] *R. Samuel, brother of R. Berekiah, asked, “On the basis of the same reasoning, the one brought on account of the new moon should take precedence over the goat that is brought with it, because [Scripture mentioned it] first [Num. 29:11, 15].”*
- [O] *Said R. Ba, “My lord, you cannot [interpret matters thus. For the spelling of ‘sin-offering’ at the specified verse is] lacking [since it is written HTT, not T T, and this is taken to mean that it does not enjoy precedence, despite its position in the relevant verses of Scripture. That is, one cannot draw an analogy from this HTT to other references to HT T].*

[P] “‘And also one male goat for a sin-offering to the Lord [on the occasion of the new moon]; it shall be offered besides the continual burnt-offering and its drink-offering’ (Num. 28:15), Scripture has set it next to the continual offering. [This indicates that the specified offering follows the continual offering, before the bullocks of the additional offering.]”

[II:1 A] As to the offering of a man and the offering of a woman, the offering of a man takes precedence [cf. M. 3:4D].

[B] *That rule which has been stated applies to a case in which the two [offerings] are of equivalent character.*

[C] But if this one [belonging to a woman] was a bullock and that one [belonging to a man], a lamb, in such a case [the woman’s will take precedence].

[D] *That is in accord with that which R. Pinhas said in the name of R. Hoshaiiah:* “And if a slave brings a bullock, while his master brings a he-goat, the bullock of the slave takes precedence to that of his master.

[E] *“For we have learned the Tannaite tradition:*

[F] **“If the bullock of the anointed priest and the bullock of the congregation are standing [and awaiting preparation], the bullock of the anointed priest takes precedence over the bullock of the congregation for all aspects of its preparation.”** [M. 3:4B]. [In this case the animals are alike. But if they were not alike, the rule is different.]

[II:2 A] M’S H B: R. Eliezer, R. Joshua, and R. Aqiba went up to Holat Antokhiya in a connection with collecting funds for sages.

[B] *Now there was a certain man there, by the name of Abba Judah. He would fulfill the commandment [of supporting the sages] in a liberal spirit. One time he lost all his money, and he saw our rabbis and despaired [of helping them]. He went home, and his face was filled with suffering.*

[C] His wife said to him, “Why is your face filled with suffering?”

[D] He said to her, “Our rabbis are here, and I simply do not know what I can do for them.”

- [E] His wife, who was even more righteous than he, said to him, “You have a single field left. Go and sell half of it and give the proceeds to them.”
- [F] He went and did just that. He came to our rabbis, and he gave them the proceeds.
- [G] Our rabbis prayed in his behalf. They said to him, “Abba Judah, may the Holy One, blessed be He, make up all the things you lack.”
- [H] When they went their way, he went down to plough the half-field that remained in his possession. Now while he was ploughing in the half-field that remained to him, his cow fell and broke a leg. He went down to bring her up, and the Holy One, blessed be He, opened his eyes, and he found a jewel. He said, “It was for my own good that my cow broke its leg.”
- [I] Now when our rabbis returned, they asked about him. They said, “How are things with Abba Judah?”
- [J] People replied, “Who can [even] gaze upon the face of Abba Judah – Abba Judah of the oxen! Abba Judah of the camels! Abba Judah of the asses!” So Abba Judah had returned to his former wealth.
- [K] Now he came to our rabbis and asked after their welfare.
- [L] They said to him, “How is Abba Judah doing?”
- [M] He said to them, “Your prayer in my behalf has yielded fruit and more fruit.” They said to him, “Even though to begin with other people gave more than you did, you were the one whom we wrote down at the top of the register.”
- [N] They took and seated him with themselves, and they pronounced upon him the following scriptural verse: “A man’s gift makes room for him and brings him before great men” (Prov. 18: 16).
- [O] *R. Hiyya bar Ba solicited a pledge in support of the house of learning of Tiberias. Now there was there one of the household of Silni, and he pledged a liter of gold. R. Hiyya the Elder took him and seated him next to himself and pronounced concerning him the following scriptural verse: “A man’s gift makes room for him and brings him before great men.”*
- [P] *Simeon b. Laqish went up to Bosrah. Now there was there a head of a band of “deceivers.” It was not that the man was actually a deceiver, but he would practice deceit in regard to [generous practice of] commandments. When he saw how much the*

community had pledged, he pledged to accept on himself [a pledge in the same amount]. R. Simeon b. Laqish took him and seated him next to himself and he pronounced him the following scriptural verse: “A man’s gift makes room for him and brings him before great men.”

[II:3 A] The man takes precedence over the woman.

[B] Now that is the rule **if one had this one to save and that one to save, this one to clothe and that one to clothe [M. Hor. 3:4D, E]**. [That is, when all things are equal, the man takes precedence in the one instance, the one in the other.]

[C] Lo, if one had this one to restore to life and that one to clothe, [what is the rule]?

[D] *Let us infer the rule from that which R. Joshua b. Levi said in the name of R. Antigonos: “[If there is a choice of] providing a garment for the wife of an associate, and saving the life of an ordinary person, the garment for the wife of the associate takes precedence over saving the life of the ordinary person, on account of the honor owing to the associate.”*

[E] Now the rule has been stated only with regard to providing a garment for the wife of an associate in the lifetime of the associate. But if it was a case of saving this one [48b] and clothing that one, saving the live takes precedence.

[F] [If one has the choice of retrieving] that which he has lost and that which his father has lost, his own takes precedence. [If he has a choice of retrieving] that which he has lost and that which his master has lost, his own takes precedence. [If he has a choice of retrieving] that which his father has lost and that which his master has lost, that of his master takes precedence [over that of his father]. For his father has brought him into this world, but his master, who taught him wisdom, has brought him into the life of the world to come [M. B.M. 2:11A-H].

[G] [Now under discussion is] his master who taught him the Mishnah, not his master who taught him Scripture.

[H] Now if his father was the equal of his master, his father takes precedence.

[I] What is the difference favoring [the father]?

[J] “It is a case in which,” said R. Yosé b. R. Bun, “half of his learning came from this one, and half of his learning came from that one[, so the father’s having brought him into the world now registers].”

[K] [If it is a choice of retrieving] that which his father, from whom he had acquired half of his learning, has lost, and that which his mother, whom his father has divorced, has lost, who takes precedence?

[L] Is it the father who takes precedence?

[M] Or [do we give the father precedence] only when the whole of the man’s learning has derived from the father?

[N] [If there is a choice of retrieving] that which his master has lost, from whom the man has derived half of his learning, and the object that his mother, the divorced wife of his father, has lost, which one takes precedence?

[O] Is it his master who takes precedence, or [do we say that that is the case] only when all of his learning has come from the master?

[P] [If it is a choice of retrieving] that which he *has* lost, that *which* his mother *has* lost, that which his father has lost, and that which his master has lost, that which he has lost takes precedence over that which his father has lost, that which his father has lost takes precedence over that which his mother has lost, and that which his mother has lost takes precedence over that which his master has lost.

[Q] *Now is this teaching not made explicit in the Mishnah:*

[R] The man takes precedence over the woman in the matter of the saving of life and in the matter of returning lost property [M. B.M. 2:11 = M. Hor. 3:4D]?

[S] They had in mind to rule that that is the case when his master is not present at all. So this teaching comes along to tell you that the rule applies even when his master is present.

[T] He, his mother, his master, his father are standing in captivity [and awaiting ransom]:

[U] he takes precedence over his mother, and his mother over his master, and his master takes precedence over his father. [So ransoming] his mother takes precedence

over all other people [T. Hor. 2:5A]. Now does not the Mishnah say this explicitly: A woman takes precedence over a man in the matter of providing clothing and redemption from captivity [M. Hor. 3:4E]?

[V] *One might consider ruling that the Mishnah speaks of a case in which his master is not present. So the Mishnah comes to tell you that that is the rule even if his master is present.*

[W] **Who is one's master?**

[X] **“He is the one who has taught him wisdom [and not the master who has taught him a trade].**

[Y] **“He is anyone who started him off first,” the words of R. Meir.**

[Z] **R. Judah says, “He is anyone from whom he has gained the greater part of his learning.”**

[AA] **R. Yosé says, “He is anyone who has enlightened his eyes in his repetition of traditions” [T. Hor. 2:5G-H].**

[BB] R. Abbahu came [and taught] in the name of R. Yohanan: “The law is in accord with the position of the one who says, ‘It is anyone from whom he has gained the greater part of his learning.’”

[CC] (Now why did he not simply interpret the Mishnah-pericope by saying “The law is in accord with R. Judah”?)

[DD] [*Because there are*] *repeaters of traditions who will get confused and switch [matters about].*)

[EE] R. Eliezer would make a tear in mourning on the demise of someone who had simply opened his education at the outset [but was not his principal teacher (= Z)].

[FF] Samuel removed his phylacteries on the news of the demise of one who had enlightened his eyes in his learning of the Mishnah [= BB].

[GG] And what is the case of one's “enlightening his eyes in his learning of the Mishnah”?

[HH] Said R. Yosé b. R. Bun, “It is one who taught merely so brief a passage as the following: **[The two keys] — one goes down into the lock as far as its armpit, and one opens the door forthwith [M. Tam. 3:6E].**”

[II] (Now what is the meaning of **One goes down into the lock as far as its armpit**? That it would go down for a cubit before it would open the door.)

[JJ] *R. Hananiah was walking, leaning on the shoulder of R. Hiyya bar Ba in Sepphoris. He saw all the people running. He asked him, “Why do all the people run?”*

[KK] *He said to him, “It is because R. Yohanan is in session and expounding Torah in the schoolhouse of R. Benaiah, and all the people are running to hear what he has to say.”*

[LL] *He said to him, “Blessed be the All-Merciful, who has shown me the fruits of my labor while I am still alive.”*

[MM] *For all of the Aggadah had he [Hananiah] laid forth before him [Yohanan], except for Proverbs and Ecclesiastes.*

[III:1 A] When both of them are standing in danger of [sexual] defilement, the man takes precedence over the woman:

[B] Why is this the rule?

[C] Because the woman is accustomed to such treatment, but the man is not accustomed to such treatment.

[III:2 A] M'SH B: R. Joshua went to Rome. They told him about a child from Jerusalem who was ruddy, with beautiful eyes and a handsome face, and his locks were curled, and he was in danger of being put to shame. R. Joshua went to examine him. When he came to the door, [standing outside] he recited this verse: “Who gave up Jacob to the power of his enemies?”

- [B] That child answered and said, “Was it not the Lord against whom we have sinned, in whose ways they would not walk, and whose law they would not obey’ (Is. 42:24)?”
- [C] At that instant R. Joshua’s eyes filled with tears, and he said, “I call the heaven and the earth to testify against me, that I shall not move from this spot until I shall have redeemed this child!”
- [D] He redeemed him for a huge sum of money and sent him to the land of Israel.
- [E] And concerning him [Ishmael] Scripture has said, “The precious sons of Zion, worth their weight in fine gold, how they are reckoned as earthen pots, the work of a potter’s hands” (Lam. 4:2) [T. Hor. 2:5L].

3:5

- [A] A priest takes precedence over a Levite, a Levite over an Israelite, an Israelite over a mamzer [a person whose parents may not legally ever marry, e.g., brother and sister], a mamzer over a Netin [a descendant of the cast of Temple servants], a Netin over a proselyte, a proselyte over a freed slave.
- [B] Under what circumstances?
- [C] When all of them are equivalent.
- [D] But if the mamzer was a disciple of a sage and a high priest was an am haares [in context: ignorant of the Torah], the mamzer who is a disciple of a sage takes precedence over a high priest who is an am haares.
- [I:1 A] A sage takes precedence over a king; a king takes precedence over a high priest; a high priest takes precedence over a prophet; a prophet takes precedence over a priest anointed for war; a priest anointed for war takes precedence over the head of a priestly watch; the head of a priestly watch takes precedence over the head of a household [of priests]; the head of a household of priests takes precedence over the superintendent of the cashiers; the superintendent of the cashiers takes precedence over the Temple treasurer; the Temple treasurer takes precedence over an ordinary priest; an ordinary [T. Hor. 2:10F-H]. A priest takes precedence over a Levite; a Levite takes precedence over an Israelite; an Israelite takes precedence over a mamzer; a mamzer takes precedence over a Netin; a Netin takes precedence over a proselyte; a proselyte takes precedence over a freed slave. Under what circumstances? When all of them are equivalent. But if the

mamzer was a disciple of a sage, and a high priest was an ignoramus, the mamzer who is the disciple of a sage takes precedence over a high priest who is an ignoramus.

[B] A sage takes precedence over a king.

[C] [For if a sage dies, we have none who is like him.

[D] [If] a king dies, any Israelite is suitable to mount the throne [T. 2:8].

[E] Said R. Yohanan, “All those forty days that Moses served on the mountain, he studied *the Torah* but forgot it. In the end it was given to him as a gift. All this why? So as to bring the stupid students back to their studies [when they become discouraged].”

[F] *When R. Simon bar Zebid died, R. Hili went up to take leave of him: ““Surely there is a mine for silver, and a place for gold which they refine. Iron is taken out of the earth, and copper is smelted from the oreÉ (Job 28:1-2).’ These, if they are lost, can be replaced. But a disciple of a sage who dies – who will bring someone to take his place?*

[G] ““But where shall wisdom be found? And where is the place of understanding? Man does not know the way to it, and it is not found in the land of the living (Job 28:12-13).”

[H] Said R. Levi, “If the brothers of Joseph, because they found something, their hearts failed them, as it is written, ‘At this their hearts failed them’ (Gen. 42:28), we, who have lost R. Simeon bar Zebid, how much the more so!”

[I:2 A] A king takes precedence over a high priest,

[B] as it is said, “[And the king said to them,] ‘Take with you the servants of your lord, and cause Solomon my son to ride on my own mule, and bring him down to Gihon.’”

[C] And the high priest takes precedence over the prophet, as it is said, “And let Zadok the priest and Nathan the prophet there anoint him king over Israel (1 Kings 1:33-34).”

[D] [David] gave precedence to Zadok over Nathan [T. Hor. 2:9A-D].

[E] R. Jonah in the name of R. Hama bar Hanina: “A prophet [quietly] folds his hands and feet and sits himself down before a high priest.”

[F] What is the scriptural basis for this notion?

- [G] **[Scripture] says, “Hear now, O Joshua the high priest, you and your friends who sit before you, for they are men of good omen (Zech. 3:8).”**
- [H] **Is it possible that he speaks of ordinary men?**
- [I] **Scripture says, “For they are men of good omen,”**
- [J] **and omen refers only to prophecy, as it is said, “And he gives you a sign or an omen (Deut. 13:2)” [T. Hor. 2:9G-H]. [This proves that the prophet sits humbly before a high priest.]**
- [K] **[A high priest anointed with oil takes precedence over one dedicated through many garments.]**
- [L] **A prophet takes precedence over the high priest anointed for battle,**
- [M] **and the high priest anointed for battle takes precedence over the prefect,**
- [N] **and the prefect takes precedence over the head of the weekly course [of the priests, who take care of the cult in a given week],**
- [O] **and the head of the priestly course takes precedence over the superintendent of the cashiers,**
- [P] **and the superintendent of the cashiers takes precedence over the treasurer.**
- [Q] **And the treasurer takes precedence over an ordinary priest.**
- [R] **And an ordinary priest takes precedence over a Levite [T. Hor. 2:10A-I].**
- [S] **A priest takes precedence over a Levite.**
- [T] **A Levite takes precedence over an Israelite [M. Hor. 3:5A].**
- [U] **Said R. Abun, “It is for the time of the singing on the platform that they taught this passage [in which case the Levite is superior to the Israelite].”**
- [V] **Said R. Abun, “[If awaiting conversion to Judaism] there are a proselyte and an apostate to idolatry, the apostate takes precedence, because of a precedent.”**
- [W] **Is not a Levite the same as an Israelite [so why specify precedence]?**

[X] **On what account does everybody exert himself to marry a woman who is a proselyte, and everyone does not exert himself to marry a freed slave-girl?**

[Y] **Because a woman who has become a proselyte is assumed to have guarded herself [sexually],**

[Z] **while a freed slave-girl has the status of one who has been freely available [T. Hor. 2:11].**

[AA] Why does everybody run after a rat [to kill it]?

[BB] Because it is a pest for people.

[CC] Said R Yohanan “Do not trust a slave for sixteen generations: ‘But in the seventh month Ishmael the son of Nethaniah, son of Elishama, of the royal family, came with ten men and attacked and killed Gedaliah and the Jews and the Chaldeans who were with him at Mizpah’ (2 Kings 25:25).”

[I:3 A] R. Joshua b. Levi said, “[If there] are a head [not a sage] and an elder [a sage], the elder takes precedence. For there is no head if there is no elder.”

[B] *What is the scriptural evidence for this position?*

[C] “You stand this day all of you before the Lord your God: the heads of your tribes, your elders, and your officers, all the men of Israel (Deut. 29:10).”

[D] And it is written, “Then Joshua gathered all the tribes of Israel to Shechem, and summoned the elders, the heads, the judges, and the officers of Israel (Joshua 24:1).”

[E] Thus Moses gave precedence to the heads over the elders, while Joshua gave precedence to the elders over the heads.

[F] Moses, because all of them were his disciples, gave precedence to the heads over the elders. Joshua, because all of them were not his disciples, gave precedence to the elders [who were sages] over the heads [who were not sages].

[G] Moses, because he did not then have need of their help in [48c] conquering the land, gave precedence to the heads over the elders. Joshua, because he then needed them for conquering the land, gave precedence to the elders over the heads.

[H] Moses, because he was not fatigued by the study of the Torah [having divine help], gave precedence to the heads over the elders.

Joshua, because he was fatigued by study of the Torah, gave precedence to the elders over the heads.

[I] R. Joshua of Sikhnin in the name of R. Levi: “Moses, because he foresaw through the Holy Spirit that the Israelites were destined to be imprisoned by the [gentile] kingdoms, and their heads would be standing over them [to deal with the gentiles], gave precedence to the heads over the elders.”

[I:4 A] *It was taught in Tannaitic tradition:* The arranger [of the Mishnah traditions] takes precedence over the one capable of analyzing them.

[B] R. Samuel brother of R. Berehiah asked, “Even such as R. Ammi?”

[C] *He said to him, “How can you ask about R. Ammi? He has a first-class analytical mind.”*

[D] This is what has been said: The Mishnah takes precedence over Scripture.

[E] *And the following supports this position:*

[F] *For R. Simeon b. Yohai taught, “He who takes up studies in Scripture – it is a good quality that is no good quality.”*

[G] *Rabbis treat Scripture as equivalent to the Mishnah.*

[H] R. Samuel bar Nahman said, “The Mishnah takes precedence over the Talmud.”

[I] *What is the Scriptural basis for that opinion?*

[J] Get wisdom [Mishnah], get insight [Talmud]” (Prov. 4:5).

[K] R. Yohanan said, “The Talmud takes precedence over the Mishnah.”

[L] *What is the scriptural basis for this opinion?*

[M] “To get wisdom is better than gold, to get understanding is to be chosen rather than silver” (Prov. 16:16).

[N] *How does R. Yohanan interpret the scriptural basis for the position of R. Samuel bar Nahman? Water [silver/Talmud] is cheap, wine [gold/Mishnah] is costly. Still, it is possible for the world to live without wine, but it is not possible for the world to live without water.*

[O] *And how does R. Samuel bar Nahman interpret the scriptural basis of R. Yohanan’s position?*

[P] Salt is cheap, and pepper is dear. It is possible for the world to live without pepper, but it is not possible for the world to live without salt.

[Q] One should always pursue the Mishnah more than the Talmud.

[R] That is to say, “What you say (that the study of the Mishnah is preferable) refers to the time before Rabbi had embodied and abridged most of the Mishnah-traditions in his edition, but since then, run at all times after the Talmud.”

[S] R. Samuel b. R. Yosé b. R. Bun explained the following verse: “‘A rich man is wise in his own eyes, but a poor man who has understanding will find him out’ (Prov. 28:).

[T] “‘A rich man is wise in his own eyes’ – this refers to the one who is a master of the Talmud.

[U] “‘But a poor man who has understanding will find him out’ – this refers to a master of aggadah.

[V] “[It is to be compared] to two who entered a city. In the hand of this one are bars of gold, and in the hand of that one is chump change. This one who has in hand bars of gold does not get to spend it and sustain himself, while that one who has chump change gets to spend it and sustains himself.”

[W] R. Adda interpreted the following verse: “‘A just balance and scales are the Lord’s; all the weights in the bag are his work’ (Prov. 16: 11).

[X] “‘A balance’ – this refers to Scripture.

[Y] “‘Scales’ refers to the Mishnah.

[Z] “‘Just’ refers to the Talmud.

[AA] “‘Are the Lord’s’ refers to the Supplement [Tosefta].

[BB] “‘All the weights in the bag are his work’ – all of them take their reward from one bag.”

[CC] *R. Abba bar Kahana went to a certain place. He found R. Levi in session and interpreting the*

following verse: “A man to whom God gives wealth, possession, and honor, so that he lacks nothing of all that he desires, yet God does not give him power to enjoy them, but a stranger enjoys them’ (Qoh. 6:2).

[DD] “‘Wealth’ — this refers to Scripture.

[EE] “‘Possessions’ — these are laws.

[FF] “‘Honor’ — this is the Supplement.

[GG] “‘So that he lacks nothing at all that he desires’ — these are the great collections of the Mishnah, for instance, the Mishnah of R. Huna, and the Mishnah of R. Hoshaiah, and the Mishnah of Bar Qappara.

[HH] “‘Yet God does not give him power to enjoy them’ — this refers to a master of aggadah who never gets to declare something prohibited or to declare something permitted, to declare something unclean or to declare it clean.

[II] “‘But a stranger enjoys them’ — this refers to a master of the Talmud.”

[JJ] *R. Abba bar Kahana got up and kissed him on his head [and] said,* “You have had the merit of saying [a teaching] while standing up [as a disciple]. May you have the merit of saying something while in session down [as a master].”

[KK] If they want to appoint elders, whence do they appoint them? From Tiberias or from the south?

[LL] Said R. Simon, “‘Judah will go up [from the South]’ (Judges 1:2), [so judges should come from the South, Lydda].”

[MM] *Said to him R. Mana,* “*That which you cited applies to going up to war [as in context]. But as to appointing them: ‘The man next to him who saw the king’s face and sat first in the kingdom (Esther 1:14).’ [Those who see (RW’Y) are the worthy ones (R’WY). Hence nearby authorities, from Tiberias, take precedence.]”*

[NN] R. Jacob bar Idi in the name of R. Joshua b. Levi: M'SH W: "Elders entered the second-story room in the house of Gediyya in Jericho, and an echo issued forth and said to them, 'There are among you two who are worthy to receive the Holy Spirit, and Hillel the Elder is one of them.' They then gazed upon Samuel the Small."

[OO] "Once again the elders entered the second-story room in Yabneh, and an echo issued forth and said to them, 'There are among you two who are worthy to receive the Holy Spirit, and Samuel the Small is one of them.' And they all gazed upon Eliezer b. Hyrcanus.

[PP] "And they were delighted that their opinion proved to be the same as that of the Holy Spirit."

[QQ] *Members of the household of Bar Pazzi and members of Bar Hoshaiiah would go up and greet the patriarch every day. And the members of the house of Bar Hoshaiiah went in first [before those of the house of Bar Pazzi].*

[RR] *The house of Bar Pazzi went and intermarried with the house of the patriarch. Then they wanted to go in first [to greet the patriarch, before the ones who had traditionally done so first]. So they appealed the matter of R. Immi.*

[SS] [He said to them,] "'And you shall erect the tabernacle according to its judgment' (Ex. 26:30: According to the plan for it that has been shown you on the mountain). Now is there such a thing as 'judgment' for pieces of wood? But this beam has gotten the merit of being placed at the north, so let it be placed at the north; the other had the merit of

being placed at the south, let it be placed at the south.”

[TT] *Two families in Sepphoris, Balvati and Pagani, would go up and greet the patriarch every day. And the Balvati family would go in first and come out first. The Pagani family went and attained merit in learning. They came and sought the right to enter first. The question was brought to R. Simeon b. Levi. R. Simeon b. Levi asked R. Yohanan. R. Yohanan went and gave a talk in the schoolhouse of R. Benaiah: “But if the mamzer was a disciple of a sage and a high priest was an ignoramus, the mamzer who is a disciple of a sage takes precedence over a high priest who is an ignoramus” [M. Hor. 3:5].*

[I:5 A] *Now they considered interpreting the Mishnah passage to refer to the matter of redemption [in the case they were taken captive], or to providing food or to giving garments [as are specified]. But to status in the session it should not apply, [so in a session of the school the mamzer is not given priority even if he is learned].*

[B] Said R. Abun, “It also applies to status in the session of the court.”

[C] *And what is the scriptural basis for this opinion?*

[D] **It is in the following verse: “Happy is the man who finds wisdom, and the man who gets understanding, for the gain from it is better than gain from silver, and its profit better than gold. She is more precious than jewels” (Prov. 3:13-15).**

[E] **And [wisdom] is more precious even than this [priest] who enters the Holy of Holies [cf. T. Hor. 2:10P-R].**

CHAPTER FOUR

THE STRUCTURE OF YERUSHALMI HORAYOT

Whether or not the Talmud of the Land of Israel is carefully organized in large-scale, recurrent structures and guided by a program that we may call systematic forms the principal question addressed by an academic commentary. The preceding chapters therefore have pointed toward the presentation set forth here. By “structure” I mean, a clearly-articulated pattern that governs the location of fully-spelled out statements. By “system,” I mean, a well-crafted and coherent set of ideas that explain the social order of the community addressed by the writers of a document, a social philosophy, a theory of the way of life, world view, and character of the social entity formed by a given social group. I see a collective, anonymous, and political document, such as the one before us, as a statement to, and about, the way in which people should organize their lives and govern their actions. At issue then in any document such as the remarkable one before us is simple: does this piece of writing present information or a program, facts to whom it may concern, or a philosophically and aesthetically cogent statement about how things should be? The connection between structure and system is plain to see. From the way in which people consistently frame their thoughts, we move to the world that, in saying things in one way rather than in some other, they wish to imagine. Modes of formulating thought adumbrate modes of imagining the world in which people wish to live, to which they address these thoughts.

If the document exhibits structure and sets forth a system, then it is accessible to questions of rationality. We may ask about the statement that its framers or compilers wished to make by putting the document together as they did. But if we discern no structure and perceive no systematic inquiry or governing points of analysis, then all we find here is inert and miscellaneous information, facts but no propositions, arguments, viewpoints. Now as a matter of fact the Talmud of the Land of Israel commonly finds itself represented as lacking organization and exhibiting a certain episodic and notional character. That view moreover characterizes the reading and representation of the document by learned and experienced scholars, who have devoted their entire lives to Talmud study and

exegesis. It must follow that upon the advocate of the contrary view – the one implicit in the representation of the document for academic analysis – rests the burden of proof. I set forth the allegation that the Talmud of the Land of Israel exhibits a structure and follows a system and therefore exhibits a commonly-intelligible rationality. The claim to write an academic commentary explicitly states that proposition. For the tractate before us, I have therefore to adduce evidence and argument.

I maintain that through the normal procedures of reasoned analysis we may discern in the tractate a well-crafted structure. I hold that the structure made manifest, we may further identify the purpose and perspective, the governing system of thought and argument, of those who collected and arranged the tractate's composites and put them together in the way in which we now have them. By "structure" I mean, how is a document organized? and by "system," what do the compilers of the document propose to accomplish in producing this complete, organized piece of writing? The answers to both questions derive from a simple outline of the tractate as a whole, underscoring the types of compositions and composites of which it is comprised. Such an outline tells us what is principal and what subordinate, and how each unit – composition formed into composites, composites formed into a complete statement – holds together and also fits with other units, fore and aft. The purpose of the outline then is to identify the character of each component of the whole, and to specify its purpose or statement. The former information permits us to describe the document's structure, the latter, its system.

While the idea of simply outlining a Talmud-tractate beginning to end may seem obvious, I have never made such an outline before, nor has anyone else. (I have provided complete outlines for the Mishnah and for the Tosefta in relationship to the Mishnah, and, not always in outline form, for the Midrash-compilations of late antiquity as well) Yet, as we shall now see, the character of the outline dictates all further analytical initiatives. Specifically, when we follow the layout of the whole, we readily see the principles of organization that govern. These same guidelines on organizing discourse point also to the character of what is organized: complete units of thought, with a beginning, middle, and end, often made up of smaller, equally complete units of thought. The former we know as composites, the latter as compositions.

Identifying and classifying the components of the tractate – the composites, the compositions of which they are made up – we see clearly how the document coheres: the plan and program worked out from beginning to end. When we define that plan and program, we identify the facts of a pattern that permit us to say in a specific and concrete way precisely what the compilers of the tractate intended to accomplish. The structure realizes the system, the program of analysis and thought that takes the form of the presentation we have before us. From what

people do, meaning, the way in which they formulate their ideas and organized them into cogent statements, we discern what they proposed to do, meaning, the intellectual goals that they set for themselves.

These goals – the received document they wished to examine, the questions that they brought to that document – realized in the layout and construction of their writing, dictate the points of uniformity and persistence that throughout come to the surface. How people lay out their ideas guides us into what they wished to find out and set forth in their writing, and that constitutes the system that defined the work they set out to accomplish. We move from how people speak to the system that the mode of discourse means to express, in the theory that modes of speech or writing convey modes of thought and inquiry.

We move from the act of thought and its written result backward to the theory of thinking, which is, by definition, an act of social consequence. We therefore turn to the matter of intention that provokes reflection and produces a system of inquiry. That statement does not mean to imply I begin with the premise of order, which sustains the thesis of a prior system that defines the order. To the contrary, the possibility of forming a coherent outline out of the data we have examined defines the first test of whether or not the document exhibits a structure and realizes a system. So everything depends upon the possibility of outlining the writing, from which all else flows. If we can see the order and demonstrate that the allegation of order rests on ample evidence, then we may proceed to describe the structure that gives expression to the order, and the system that the structure sustains.

The present work undertakes the exegesis of exegesis, for the Yerushalmi, like its counterpart in the one of Babylonia, is laid out as a commentary to the Mishnah. That obvious fact defined the character of my academic commentary, since we have already faced the reality that our tractate is something other than a commentary, though it surely encompasses one. The problems that captured my attention derived from the deeper question of how people make connections and draw conclusions. To ask about how people make connections means that we identify a problem – otherwise we should not have to ask – and what precipitated the problem here has been how a composition or a composite fits into its context, when the context is defined by the tasks of Mishnah-commentary, and the composition or composite clearly does not comment on the Mishnah-passage that is subjected to comment.

The experience of analyzing the document with the question of cogency and coherence in mind therefore yields a simple recognition. Viewed whole, the tractate contains no gibberish but only completed units of thought, sentences formed into intelligible thought and self-contained in that we require no further information to understand those sentences, beginning to end. The tractate organizes these statements as commentary to the Mishnah. But large tracts of the

writing do not comment on the Mishnah in the way in which other, still larger tracts do. Then how the former fit together with the latter frames the single most urgent question of structure and system that I can identify.

Since we have already examined enormous composites that find their cogency in an other than exegetical program, alongside composites that hold together by appeal to a common, prior, coherent statement – the Mishnah-sentences at hand – what justifies my insistence that an outline of the document, resting on the premise that we deal with a Mishnah-commentary, govern all further description? To begin with, the very possibility of outlining this tractate derives from the simple fact that the framers have given to their document the form of a commentary to the Mishnah. It is in the structure of the Mishnah-tractate that they locate everything together that they wished to compile. We know that is the fact because the Mishnah-tractate defines the order of topics and the sequence of problems.

Relationships to the Mishnah are readily discerned; a paragraph stands at the head of a unit of thought; even without the full citation of the paragraph, we should find our way back to the Mishnah because at the head of numerous compositions, laid out in sequence one to the next, clauses of the Mishnah-paragraph are cited in so many words or alluded to in an unmistakable way. So without printing the entire Mishnah-paragraph at the head, we should know that the received code formed the fundamental structure because so many compositions cite and gloss sentences of the Mishnah-paragraph and are set forth in sequence dictated by the order of sentences of said Mishnah-paragraph. Internal evidence alone suffices, then, to demonstrate that the structure of the tractate rests upon the Mishnah-tractate cited and discussed here. Not only so, but the sentences of the Mishnah-paragraphs of our tractate are discussed in no other place in the entire Talmud of the Land of Israel in the sequence and systematic exegetical framework in which they are set forth here; elsewhere we may find bits or pieces, but only here, the entirety of the tractate.

That statement requires one qualification, and that further leads us to the analytical task of our outline. While the entire Mishnah-tractate of treated here is cited in the Talmud of the Land of Israel, the framers of the Talmud of the Land of Israel by no means find themselves required to say something about every word, every sentence, every paragraph. On the contrary, they discuss only what they choose to discuss, and glide without comment by large stretches of the tractate. A process of selectivity, which requires description and analysis, has told the compilers of the Talmud of the Land of Israel's composites and the authors of its compositions (This statement requires refinement. I do not know that all available compositions have been reproduced, and that the work of authors of compositions of Mishnah-exegesis intended for a talmud is fully exposed in the document as we have it. That is not only something we cannot demonstrate – we do not have

compositions that were not used, only the ones that were – but something that we must regard as unlikely on the face of matters. All we may say is positive: the character of the compositions that address Mishnah-exegesis tells us about the concerns of the writers of those compositions, but we cannot claim to outline all of their concerns, on the one side, or to explain why they chose not to work on other Mishnah-sentences besides the ones treated here. But as to the program of the compositors, that is another matter: from the choices that they made (out of a corpus we cannot begin to imagine or invent for ourselves) we may describe with great accuracy the kinds of materials they wished to include and the shape and structure they set forth out of those materials. We know what they did, and that permits us to investigate why they did what they did. What we cannot know is what they did not do, or why they chose not to do what they did not do. People familiar with the character of speculation and criticism in Talmudic studies will understand why I have to spell out these rather commonplace observations. I lay out an argument based on evidence, not on the silences of evidence, or on the absence of evidence – that alone.) what demands attention, and what does not. Our outline has therefore to signal not only what passage of the Mishnah-tractate is discussed, but also what is not discussed, and we require a general theory to explain the principles of selection (“making connections, drawing conclusions” meaning, to begin with, making selections). For that purpose, in the outline, I reproduce the entirety of a Mishnah-paragraph that stands at the head of a Talmudic composite, and I underscore those sentences that are addressed, so highlighting also those that are not.

It follows that the same evidence that justifies identifying the Mishnah-tractate as the structure (therefore also the foundation of the system) of Yerushalmi-tractate before us also presents puzzles for considerable reflection. The exegesis of Mishnah-exegesis is only one of these. Another concerns the purpose of introducing into the document enormous compositions and composites that clearly hold together around a shared topic or proposition, e.g., my appendix on one theme or another, my elaborate footnote providing information that is not required but merely useful, and the like. My earlier characterization of composites as appendices and footnotes signalled the fact that the framers of the document chose a not-entirely satisfactory way of setting out the materials they wished to include here, for large components of the tractate do not contribute to Mishnah-exegesis in any way at all. If these intrusions of other-than-exegetical compositions were proportionately modest, or of topical composites negligible in size, we might dismiss them as appendages, not structural components that bear much of the weight of the edifice as a whole. Indeed, the language that I chose for identifying and defining these composites – footnotes, appendices, and the like – bore the implication that what is not Mishnah-commentary also is extrinsic to the Talmud of the Land of Israel’s structure and system.

But that language served only for the occasion. In fact, the outline before us will show that the compositions are large and ambitious, the composites formidable and defining. Any description of the tractate's structure that dismisses as mere accretions or intrusions so large a proportion of the whole misleads. Any notion that "footnotes" and "appendices" impede exposition and disrupt thought, contribute extraneous information or form tacked-on appendages – any such notion begs the question: then why fill up so much space with such purposeless information? The right way is to ask whether the document's topical composites play a role in the re-presentation of the Mishnah-tractate by the compilers of the Talmud of the Land of Israel. We have therefore to test two hypotheses:

1. the topical composites ("appendices," "footnotes") do belong and serve the compilers' purpose

or

2. the topical composites do not participate in the re-presentation of the Mishnah-tractate by Yerushalmi and do not belong because they add nothing and change nothing.

The two hypotheses may be tested against the evidence framed in response to a single question: is this topical composite necessary? The answer to that question lies in our asking, what happens to the reading of the Mishnah-tractate in light of the topical composites that would not happen were we to read the same tractate without them? The outline that follows systematically raises that question, with results specified in due course. It suffices here to state the simple result of our reading of the tractate, start to finish: the question of structure, therefore also that of system, rests upon the position we identify for that massive component of the tractate that comprises not Mishnah-commentary but free-standing compositions and composites of compositions formed for a purpose other than Mishnah-commentary.

The principal rubrics are given in small caps. The outline takes as its principal rubrics two large-scale organizing principles.

The first is the divisions of the Mishnah-tractate to which the Talmud of the Land of Israel-tractate serves as a commentary. That simple fact validates the claim that the tractate exhibits a fully-articulated structure. But the outline must also underscore that the Mishnah-tractate provides both more and less than the paramount outline of the Talmud of the Land of Israel-tractate. It is more because sentences in the Mishnah-tractate are not analyzed at all. These untreated Mishnah-sentences are given in bold face lower case caps, like the rest of the Mishnah, but then are specified by underlining and enclosure in square brackets.

Second, it is less because the structure of the tractate accommodates large composites that address topics not defined by the Mishnah-tractate. That brings us

to the second of the two large-scale modes of holding together both sustained analytical exercises and also large sets of compositions formed into cogent composites. These are treated also as major units and are indicated by Roman numerals, alongside the Mishnah-paragraphs themselves; they are also signified in small caps. But the principal rubrics that do not focus on Mishnah-commentary but on free-standing topics or propositions or problems are not given in boldface type. Consequently, for the purposes of a coherent outline we have to identify as autonomous entries in our outline those important composites that treat themes or topics not contributed by the Mishnah-tractate.

I. YERUSHALMI HORAYOT 1:1

[A] [If] THE COURT GAVE A DECISION TO TRANSGRESS ANY OR ALL OF THE COMMANDMENTS WHICH ARE STATED IN THE TORAH:

1. **I:1:** [If] any one sins unwittingly in any of the things which the Lord has commanded not to be done, and does any one of them^É (Lev. 4:2). “If anyone sins: “.Éone sins” “.Éin doing” “.Éwill sin” – lo, these [three] constitute exclusionary phrases.[One of the afore-listed exclusionary phrases serves to exclude from punishment the one who relies on the court, so that] he who relies on himself is liable, but he who relies on the court is exempt.
2. **I:2:** [The initial discussion is this unit deals with the position of Joshua at M. Ter. 8:1, which is as follows: (1) The wife (of a priest) who was eating heave offering, (and) they came and told her. “Your husband has died. ‘ or ‘Your husband) has divorced you’ – such that the woman no longer has the right to eat heave offering”; (2) and so (in the case of a slave of a priest who was eating heave offering, and they came and told him, “Your master has died,” or. ‘He sold you to an Israelite,” or “He gave you to an Israelite as a gift.” or. “He has made you a free man (in any of which cases, the slave no longer can eat heave offering); (3) and so in the case of a priest who was eating heave offering and it became known that he is the son of a divorcee or of a halusah (a woman who has undergone the right of removing the shoe and is in the status of a divorcee) and therefore cannot eat heave offering – R. Eliezer declares all of these individuals) liable to the principal and (added) fifth (of the heave offering they unintentionally had eaten as non-priests) But R. Joshua exempts.] R. Haggai asked the associates, “How do we know that one who eats [a sort of food he should not eat, e.g., an ordinary person who ate heave offering] with the permission [of the court] is exempt [from punishment, as in our

Mishnah's law]? What is the difference [in Joshua's view] between a case in which someone thought that the food was unconsecrated, but it turned out to have the status of heave-offering, in which case he is liable, and a case in which someone assumed that he was a priest, and he turned out to be an Israelite, in which instance he is exempt?" He said to them, "Yet another question do I need to raise: What is the difference between a case in which someone assumed that an act was permitted but it turned out to be forbidden, in which case one is exempt [as at M. 1:1], and a case in which one assumed that something was forbidden fat [and he ate the fat], but it turned out to be permitted fat, in which instance the person is liable?"

- 3. I:3:** And [the judges of the court that gave false instruction] are liable only if they give instruction to nullify part [of the law] and to carry out part of the law [cf. M. 1:3, below]. Samuel said, "And [the law applies in a case in which they taught that it is permitted [to do something that in fact is prohibited]. But if they gave instructions [merely] that someone is exempt [from penalty for doing a sin], it is not in such a case that the law applies." They are liable only if the instruction comes from the Hewn Stone chamber. Said R. Mana bar Tanhum, "[If] a hundred judges entered the court [decision], they are not liable unless all of them [inadvertently] gave [the same erroneous] instruction."

[B] AND AN INDIVIDUAL WENT AND ACTED IN ACCORD WITH THEIR INSTRUCTIONS, [SO TRANSGRESSING] INADVERTENTLY, (1) WHETHER THEY CARRIED OUT WHAT THEY SAID AND HE CARRIED OUT WHAT THEY SAID RIGHT ALONG WITH THEM, (2) OR WHETHER THEY CARRIED OUT WHAT THEY SAID AND HE CARRIED OUT WHAT THEY SAID AFTER THEY DID, (3) WHETHER THEY DID NOT CARRY OUT WHAT THEY SAID, BUT HE CARRIED OUT WHAT THEY SAID — HE IS EXEMPT, SINCE HE RELIED ON THE COURT. [IF] THE COURT GAVE A DECISION, AND ONE OF THEM KNEW THAT THEY HAD ERRED:

- 1. II:1:** Now does the issue of deliberate sin apply [that the Mishnah must specify the sin as inadvertent]?

[C] OR A DISCIPLE WHO IS WORTHY TO GIVE INSTRUCTION, AND HE [WHO KNEW OF THE ERROR] WENT AND CARRIED OUT WHAT THEY SAID, (1) WHETHER THEY CARRIED OUT WHAT THEY SAID AND HE CARRIED OUT WHAT THEY SAID RIGHT ALONG WITH THEM, (2) WHETHER THEY CARRIED OUT WHAT THEY SAID AND HE CARRIED OUT WHAT THEY SAID AFTER THEY DID, (3) WHETHER THEY DID NOT CARRY OUT WHAT THEY SAID, BUT HE CARRIED OUT WHAT THEY SAID — LO, THIS ONE IS LIABLE, SINCE HE [WHO KNEW THE LAW] DID NOT IN POINT OF FACT RELY UPON THE COURT. THIS IS THE GOVERNING PRINCIPLE: HE WHO RELIES ON HIMSELF IS LIABLE, AND HE WHO RELIES ON THE COURT IS EXEMPT.

1. **III:1:** R. Immi in the name of R. Simeon b. Laqish: “The Mishnah speaks [at M. 1:1I] of a [disciple in a case in which] someone of the caliber of Simeon b. Azzai is sitting before them.”
2. **III:2:** What is then [the correct interpretation of the Mishnah]? R. Yosé in the name of R. Hila: “In every setting one who does a sin in error is exempt from punishment, and one who commits it deliberately is liable. But here, even one who commits it deliberately [also] is exempt, because he relied on the court.” The associates in the name of Samuel: “The Mishnah deals with a case in which an individual [M. 1:1B] completes the majority of the community. But each individual who performed the act wrongly by himself is exempt [from a sacrifice by reason of his inadvertence].” Said R. Yohanan, “Even if each individual committed the act by himself, each one must bring a ram and a goat, [so he is not exempt].”

II. YERUSHALMI HORAYOT 1:2

[A] [If] THE COURT GAVE A DECISION AND REALIZED THAT IT HAD ERRED AND RETRACTED WHETHER THEY BROUGHT THEIR ATONEMENT OFFERING OR DID NOT BRING THEIR ATONEMENT OFFERING, AND AN INDIVIDUAL DID IN ACCORD WITH THEIR INSTRUCTION R. SIMEON DECLARES HIM EXEMPT. AND R. ELIEZER SAYS, “IT IS SUBJECT TO DOUBT.” WHAT IS THE DOUBT? [If] THE PERSON HAD STAYED HOME, HE IS LIABLE. [If] HE HAD GONE OVERSEAS, HE IS EXEMPT.

1. **I:1:** [What follows relates to M. 1:1I and repeats the prior discussion:] R. Immi in the name of R. Simeon b. Laqish: “The Mishnah [at speaks of [a disciple in a case in which] someone of the caliber of Simeon b. Azzai was sitting before them.”
2. **I:2:** [If] one set aside an animal to serve as his sin-offering, [but then] was struck dumb, went insane, or apostatized, or a court instructed [that it] is permitted to eat forbidden fat [in all of which instances there no longer is an obligation to offer the animal which had been designated as a sin-offering] R. Yohanan said, “[The requirement that] he [offer a] sin offering is set aside [no matter what happens later on, e.g., if the man regained his speech or senses, returned to Judaism, or learned that the court had corrected its instruction].” R. Simeon b. Laqish said, “The requirement that he offer a sin offering is not set aside [and the obligation is to be carried out later on, when it is possible or appropriate to do so].”

3. **I:3:** The effects produced by an erroneous instruction are tantamount to the original erroneous instruction [so that if the man ate forbidden fat, and afterward a court declared the forbidden fat permitted, the man is not obligated to bring a sin-offering. The court's bullock suffices, and the later instruction is effective even for what the man did earlier]. An erroneous instruction [yielding an improper act along] with [the result of another such erroneous instruction] what is the law as to the two deeds being deemed to join together to constitute a single action?
4. **I:4:** Said R. Zeira, "And if there is an interval between [the action and the court's retraction]" – R. Meir said, "They give a person an interval [of sufficient time] so he may hear [of the court's reversal of its improper ruling and so avoid following the court in its error]. [So the liability is not immediate.]" And R. Simeon says, "They assign an interval sufficient for one to clarify the ruling, [so he is not automatically exempt, but only if he acts while he has time to clarify the court's error]."

[B] SAID R. AQIBA, "I CONCEDE IN THIS CASE THAT HE IS NIGH UNTO BEING EXEMPT FROM LIABILITY." SAID TO HIM BEN AZZAI, "WHAT IS THE DIFFERENCE BETWEEN THIS ONE AND ONE WHO STAYS HOME? FOR THE ONE WHO STAYS HOME HAD THE POSSIBILITY OF HEARING [THAT THE COURT HAD ERRED AND RETRACTED], BUT THIS ONE DID NOT HAVE THE POSSIBILITY OF HEARING [WHAT HAD HAPPENED]."

1. **II:1:** So far as the view of R. Aqiba is concerned, the matter is still subject to the doubt [of M. 1:2E].

III. YERUSHALMI HORAYOT 1:3

[A] [If] A COURT GAVE A DECISION TO UPROOT THE WHOLE PRINCIPLE [OF THE TORAH] – [FOR EXAMPLE,] (1) [IF] THEY SAID, "[THE PROHIBITION AGAINST HAVING INTERCOURSE WITH] A MENSTRUATING WOMAN IS NOT IN THE TORAH [LEV. 15:19]." (2) "[THE PROHIBITION OF LABOR ON] THE SABBATH IS NOT IN THE TORAH." (3) "[THE PROHIBITION AGAINST] IDOLATRY IS NOT IN THE TORAH." LO, THESE ARE EXEMPT [FROM THE REQUIREMENT OF LEV. 4:141.

1. **I:1:** R. Hezekiah said, "'Some thing' [Lev. 4:13] and not the whole thing [MDBR, KL DBR]." Said R. Hila, "[And they do one of any of the commandments] – part of commandments [MMSWT], and not whole commandments [KL MSWT]."

[B] [If] THEY GAVE INSTRUCTION TO NULLIFY PART AND TO CARRY OUT PART [OF A RULE OF THE TORAH], LO, THEY ARE LIABLE. HOW SO? (1) [If] THEY SAID, ‘THE PRINCIPLE OF PROHIBITION OF SEXUAL RELATIONSHIPS WITH A MENSTRUATING WOMAN INDEED IS IN THE TORAH, BUT HE WHO HAS SEXUAL RELATIONS WITH A WOMAN AWAITING DAY AGAINST DAY IS EXEMPT.’ (2) ‘THE PRINCIPLE OF NOT WORKING ON THE SABBATH IS IN THE TORAH, BUT HE WHO TAKES OUT SOMETHING FROM PRIVATE DOMAIN TO PUBLIC DOMAIN IS EXEMPT.’ (3) ‘THE PRINCIPLE OF NOT WORSHIPPING IDOLS IS IN THE TORAH BUT HE WHO BOWS DOWN [TO AN IDOL] IS EXEMPT.’ – LO, THESE ARE LIABLE, SINCE IT IS SAID, ‘IF SOMETHING BE HIDDEN’ (LEV. 4:13) – SOMETHING AND NOT EVERYTHING.

- 1. II:1:** Now [in the cases of F-K], do you not [really] turn out to uproot the whole principle of the Torah [by giving the instructions specified by the Mishnah-passage]? In the case of [the prohibition of sexual relations (M. I :3H)] with a woman awaiting day against day [who has had a flow on two days, but is now counting days with no flow, to establish her status as wholly clean], [the Mishnah refers to] a case in which [the court] ruled, “The night is permitted [for sexual relations], but the day is prohibited [that is, since Scripture refers to clean *days*, if the blood appears by day, the night is permitted].” And do you not turn out [at M. 1:31] to uproot the whole principle of [on the Sabbath not] stretching something forth [that is to say, of not standing in private domain and reaching out with an object in one’s hand and stretching that object into public domain]? Samuel bar Abba said, “It is a case in which [the court] ruled that it is permitted [to stretch something forth] by a cubit, but not by two cubits.” And [at M. 1:3J] do you not turn out to uproot the entire principle of [the prohibition of] bowing down? [The reference is to a case] in which [the court] ruled that it is permitted to bow down but prohibited to prostrate oneself [to an idol]. And [at M. 1:3I] do you not turn out to uproot the entire principle of transporting an object across the line from one domain to another?
- 2. II:2:** Said R. Yosé, “It is not that [the court] gave instructions that it is permitted to eat prohibited fat. The court knew that [in fact] it is prohibited to eat forbidden fat. But [they thought] that the Torah had given the power to a court to give teaching [on which fat is forbidden and which is permitted, when in fact all is forbidden].”

IV. YERUSHALMI HORAYOT 1:4

[A] (1) [If] THE COURT GAVE A DECISION, AND ONE OF THE MEMBERS OF THE COURT REALIZED THAT THEY HAD ERRED AND SAID TO THEM, “YOU ARE IN ERROR,” OR (2) IF THE HEAD OF THE COURT WAS NOT THERE:

1. I:1: The Mishnah-pericope follows the view of Rabbi [cited at M. 1:4B], for Rabbi says, “No judge[’s position constitutes a disruptive factor in issuing false instruction] except for the senior judge of a court alone.”

[B] OR (3) IF ONE OF THEM WAS A PROSELYTE, A MAMZER, A NETIN, OR AN ELDER WHO DID NOT HAVE CHILDREN – LO, THESE ARE EXEMPT [FROM A PUBLIC OFFERING UNDER THE PROVISIONS OF LEV. 4:14], SINCE “CONGREGATION” IS SAID HERE [LEV. 4:13], AND “CONGREGATION” IS SAID LATER ON [NUM. 15:24]. JUST AS “CONGREGATION” LATER ON APPLIES ONLY IN THE CASE IN WHICH ALL OF THEM ARE SUITABLE FOR MAKING A DECISION, SO “CONGREGATION” STATED HERE REFERS TO A CASE IN WHICH ALL OF THEM ARE SUITABLE FOR MAKING A DECISION.

1. II:1: It is written, “[And the Lord said to Moses, Gather for me seventy men of the elders of IsraelÉ and bring them to the tent of meeting,] and let them take their stand there with you” (Num. 11:16). Just as you personally are no proselyte, mamzer, or Netin [M. 1:4C], so they are not to be proselytes, mamzers, or Netins, net alone] slaves.

V. YERUSHALMI HORAYOT 1:5

[A] [If] THE COURT GAVE AN INCORRECT DECISION INADVERTENTLY, AND THE ENTIRE COMMUNITY FOLLOWED THEIR INSTRUCTION [AND DID THE THING IN ERROR] INADVERTENTLY, THEY BRING A BULLOCK, [If THE COURT GAVE AN INCORRECT DECISION] DELIBERATELY, BUT THE COMMUNITY, FOLLOWING THEIR INSTRUCTION, DID THE THING IN ERROR] INADVERTENTLY, THEY BRING A LAMB OR A GOAT (LEV. 4:32, 27). [If THE COURT GAVE INCORRECT INSTRUCTION] INADVERTENTLY, AND [THE COMMUNITY FOLLOWED THEIR INSTRUCTION AND DID THE THING IN ERROR] DELIBERATELY, LO, THESE ARE EXEMPT [UNDER THE PROVISIONS OF LEV. 4:4].

1. I:1: This [Mishnah-pericope] does not stand at variance with the position of R. Simeon b. Laqish [at M. 1:2]. For R. Ammi said in the name of R. Simeon b. Laqish, “The Mishnah [speaks at M. 1:SC of a

court on which] someone of the caliber of Simeon b. Azzai sits, in which case [with access to such learning], they acted deliberately and [the people] acted inadvertently [in accepting wrongful instruction].” [This is the case of M. 1:5C-D.]

VI. YERUSHALMI HORAYOT 1:6

[A] “[IF] THE COURT MADE AN [ERRONEOUS] DECISION, AND THE ENTIRE COMMUNITY, OR THE GREATER PART OF THE COMMUNITY, CARRIED OUT THEIR DECISION, THEY BRING A BULLOCK. “IN THE CASE OF IDOLATRY, THEY BRING A BULLOCK AND A GOAT,” THE WORDS OF R. MEIR. R. JUDAH SAYS, “TWELVE TRIBES BRING TWELVE BULLOCKS. “AND IN THE CASE OF IDOLATRY, THEY BRING TWELVE BULLOCKS AND TWELVE GOATS.” R. SIMEON SAYS, “THIRTEEN BULLOCKS, AND IN THE CASE OF IDOLATRY, THIRTEEN BULLOCKS AND THIRTEEN GOATS: “A BULLOCK AND A GOAT FOR EACH AND EVERY TRIBE, AND [IN ADDITION] A BULLOCK AND A GOAT FOR THE COURT.”

1. **I:1:** [The following relates to M. Pes. 7:6: If the congregation was made unclean, or the greater part of it, or if the priests were unclean, while the congregation remained clean, the Passover offering is prepared in a state of uncleanness. If a minority of the congregation was made unclean, those who remain clean keep the first Passover, and those who are unclean, the second.] What Tannaitic authority taught that we require the majority [of the entire Israelite community, not just the majority of a given tribe, to invoke the stated law]? It is R. Meir.

VII. YERUSHALMI HORAYOT 1:7

[A] “[IF] THE COURT GAVE AN [ERRONEOUS] DECISION, AND SEVEN TRIBES, OR THE GREATER PART OF SEVEN TRIBES, CARRIED OUT THEIR DECISION, “THEY BRING A BULLOCK. “IN THE CASE OF IDOLATRY, THEY BRING A BULLOCK AND A GOAT,” THE WORDS OF R. MEIR. R. JUDAH SAYS, “SEVEN TRIBES WHICH COMMITTED A SIN BRING SEVEN BULLOCKS. “AND THE OTHER TRIBES, WHO COMMITTED NO SIN, BRING A BULLOCK IN THEIR BEHALF, “FOR EVEN THOSE WHO DID NOT SIN BRING AN OFFERING ON ACCOUNT OF THE SINNERS.” R. SIMEON SAYS, “EIGHT BULLOCKS, AND IN THE CASE OF IDOLATRY, EIGHT BULLOCKS AND EIGHT GOATS: “A BULLOCK AND A GOAT FOR EACH AND EVERY TRIBE, AND A BULLOCK AND A GOAT FOR THE COURT.”

1. **I:1:** It was taught in a Tannaitic tradition: R. Simeon b Eleazar says in his name [of Meir], “[If] six tribes sinned, and they constitute the

majority [of all Israel], or seven, even though they are not the majority, lo, they are liable” [T. Hor. 1:7].

VIII. YERUSHALMI HORAYOT 1:8

[A] “[IF] THE COURT OF ONE OF THE TRIBES GAVE AN [ERRONEOUS] DECISION, AND THAT TRIBE [ONLY] CARRIED OUT THEIR DECISION, THAT TRIBE IS LIABLE, AND ALL THE OTHER TRIBES ARE EXEMPT,” THE WORDS OF R. JUDAH. AND SAGES SAY, “THEY ARE LIABLE ONLY BY REASON OF AN [ERRONEOUS] DECISION MADE BY THE HIGH COURT ALONE, AS IT IS SAID, ‘AND IF THE WHOLE CONGREGATION OF ISRAEL SHALL ERR (LEV. 4:13) – AND NOT THE CONGREGATION OF THAT TRIBE [ALONE].”

1. **I:1:** [When there is an obligation to bring a bullock, or, in the case of idolatry, a bullock and a goat, as Meir, Judah, and Simeon have maintained at M. 1:6, who bears the obligation to supply the animal for the sacrifice?] R. Meir says, “It is the obligation of the court [to supply the animal for the sacrifice].” R. Judah says, “It is the obligation of the community [to supply the animal for the sacrifice.” Said R. Simeon, “It is both the obligation of the court and the obligation of the community [to supply the animal for the sacrifice].”
2. **I:2:** The one who maintains that it is the obligation of the court [will hold] that the court [supplies the animal, for there is no alternative]. But in view of the one who maintains that it is an obligation of the community, who will be expected actually to supply [the funds for purchase of the sacrifice]?
3. **I:3:** In the view of the one [Meir] who maintains that it is the obligation of the court, the court will lay hands on the sacrificial beasts. But in the view of the one who maintains that it is an obligation of the community, who will lay hands on the sacrificial beasts?
4. **I:4:** [And the elders of the congregation shall lay] their hands upon the head of the bullock” (Lev. 4:15) [the hands of] each and every one of them. “Their hands on the head of the bullock” – “the bullock requires a laying on of hands, and the goats brought on account of idolatry do not require a laying on of hands,” the words of R. Judah. R. Simeon says, “[The cited verse means that] the bullock requires a laying on of hands by the elders. The goats brought on account of idolatry do not require the laying on of hands by the elders.” For R. Simeon says, “Any sin-offering brought in behalf of the community,

the blood of which is taken inside [to the inner altar], requires a laying on of hands [inclusive of the goats brought on account of idolatry].”

5. **I:5:** R. Yohanan raised the question: “A congregation, one member of which dropped dead – what is the law as to bringing a sin-offering in his behalf [as part of the community obligated to make such an offering]? [Do we scruple concerning the animal set aside in his behalf?]”
6. **I:6:** R. Jeremiah taught likewise [with regard to Simeon’s saying] that the bullock requires a laying on of hands, but the goats brought on account of idolatry do not require the laying on of hands by the elders. But by whom [are hands then laid on]? R. Jeremiah gave thought to ruling that it was by Aaron and his sons [= the priests]. Said to him R. Yosé, “And has it not been taught as Tannaitic teaching of R. Hiyya: ‘And he will lay on hands’ [is not stated, but] ‘And they will lay on hands’ (Lev. 4:15) – to encompass the goats brought on account of idolatry [where no laying on of hands is specified] within the rule of laying on of hands?” – but the laying on of hands by elders.
7. **I:7:** R. Zeira in the name of R. Hamnuna [in the following is] in accord with the position of R. Meir. We have learned in a Tannaitic teaching as follows: [If] the court gave an erroneous instruction, and the congregation carried out the instruction, [if] then a member of the court died, [the court] is exempt [from bringing an offering]. If one of the members of the community died, [the court] remains liable to bring an offering. [For, following Meir, the obligation rests on the court, not the community. If a member of the court dies, then we have a situation parallel to a case in which one of the partners in a sin-offering dies. The offering is no longer made.]

IX. YERUSHALMI HORAYOT 2:1

- [A] [If] AN ANOINTED [HIGH] PRIEST MADE A DECISION FOR HIMSELF [IN VIOLATION OF ANY OF THE COMMANDMENTS OF THE TORAH], DOING SO INADVERTENTLY, AND CARRYING OUT [HIS DECISION] INADVERTENTLY, HE BRINGS A BULLOCK (LEV. 4:3). [If] HE [MADE AN ERRONEOUS DECISION] INADVERTENTLY, AND DELIBERATELY CARRIED IT OUT, DELIBERATELY [MADE AN ERRONEOUS DECISION] AND INADVERTENTLY CARRIED IT OUT, HE IS EXEMPT. FOR AN [ERRONEOUS] DECISION OF AN ANOINTED [HIGH] PRIEST FOR HIMSELF IS TANTAMOUNT TO AN [ERRONEOUS] DECISION OF A COURT FOR THE ENTIRE COMMUNITY.

1. **I:1:** “If any one sins unwittingly in any of the things which the Lord has commanded not to be done and does any one of them, if it is the anointed priest who sins, thus bringing guilt on the people, then let him offer for the sin which he has committed a young bull” (Lev. 4:2-3).] “Anyone É,” “if it is the high-priestÉ,” – lo, [the Scripture would seem to imply that] the high priest is tantamount to an individual [and not, vs. M. 2:1F, to an embodiment of the community and thus not subject to a bullock-offering]. [In this case, Scripture’s purpose is to say:] Just as an individual, if he ate [something prohibited] at the instruction of a court is exempt, so this one [subject to court authority], if he ate something at the instruction of the court, is exempt. Just as an individual, if he ate [something prohibited] without the instruction of a court is liable, so this one, if he ate something not at the instruction of a court, is liable.= [To encounter that possible interpretation] Scripture states, “Thus bringing guilt on the people,” [meaning] lo, [the high anointed priest’s] guilt is tantamount to the guilt of the entire people [just as M. 2:1F states].
2. **I:2:** R. Jacob in the name of R. Eleazar: “[The rule stated by the Scripture and Mishnah, treating the anointed priest as equivalent to the people or court] applies in a case of an anointed priest who knows how to participate in the give and take of the law.”
3. **I:3:** An anointed high priest who ate [forbidden food] at the instruction of a court [thus inadvertently sinning] is exempt. [If he did so] at the instruction of another anointed high priest [and inadvertently sinned], he is liable. [If he did so] at the instruction of a court, he is exempt [from bringing a bullock, but covered by the bullock they will bring], because the instruction of others as compared to the instruction of [a court] is null. [If he did so] at the instruction of another anointed high priest, he is liable.

X. YERUSHALMI HORAYOT 2:2

[A] [If] HE MADE AN [ERRONEOUS] DECISION BY HIMSELF AND CARRIED IT OUT BY HIMSELF, HE EFFECTS ATONEMENT FOR HIMSELF BY HIMSELF. [If] HE MADE [AN ERRONEOUS] DECISION WITH THE COMMUNITY AND CARRIED IT OUT WITH THE COMMUNITY, HE EFFECTS ATONEMENT FOR HIMSELF WITH THE COMMUNITY. FOR A COURT IS NOT LIABLE UNTIL IT WILL GIVE AN ERRONEOUS DECISION TO NULLIFY PART AND TO CARRY OUT PART [OF THE TEACHINGS OF THE TORAH], AND SO IS THE RULE FOR AN ANOINTED [HIGH PRIEST] [M. 1:3]. AND [THEY] ARE NOT [LIABLE] IN THE CASE OF IDOLATRY [SUBJECT TO AN

ERRONEOUS DECISION] UNLESS THEY GIVE A DECISION TO NULLIFY IN PART AND TO SUSTAIN IN PART [THE REQUIREMENTS OF THE TORAH] [M. 1:3].

- 1.** **I:1:** [If] a court gave [erroneous] instruction [concerning part of a commandment, e.g., declaring that some forbidden fat in fact is permitted], and [the anointed priest] gave instruction after them [concerning another part of the same commandment, e.g., declaring that other forbidden fat in fact is permitted, so in consequence nullifying the entire commandment concerning forbidden fat], and reversed [their decision, so what he permitted they forbade and vice versa], it is self-evident that the matter so far as he is concerned is turned into a case of uprooting a fundamental principle of the Torah [and, because he has permitted what they forbade, while what they permitted remains so, the ruling is null and not subject to a bullock-offering, as stated at M. 2:2E].
- 2.** **I:2:** [If] the court gave instruction, and he gave instruction after them [and he carried out the deed, so that the issue is whether in fact he has carried out his own instructions or the instructions of the court], it is self-evident that he has eaten [the forbidden fat] on account of the instructions of the court [and so is exempt from bringing a bullock, being covered by theirs]. [But if] he ate [forbidden fat] after the court had retracted their original ruling [and so he did so solely on the basis of his own original erroneous instruction], he is liable.

XI. YERUSHALMI HORAYOT 2:3

[A] THEY ARE LIABLE ONLY ON ACCOUNT OF SOMETHING'S BEING HIDDEN (LEV. 4:13) ALONG WITH AN ACT [OF TRANSGRESSION] WHICH IS PERFORMED INADVERTENTLY, AND SO IN THE CASE OF THE ANOINTED [HIGH PRIEST].

- 1.** **I:1:** R. Zeira in the name of R. Jeremiah: "Does this Mishnah state the view of R. Meir [who maintains that the bullock is the obligation of the court, as may be claimed to be the implication of the pericope], or is it a teaching distinct from R. Meir's[, so we should not assume the implication is that the bullock is the obligation of the court]?"

[B] AND [THEY ARE] NOT [LIABLE] IN THE CASE OF IDOLATRY EXCEPT IN THE CASE OF SOMETHING'S BEING HIDDEN ALONG WITH AN ACT [OF TRANSGRESSION] WHICH IS PERFORMED INADVERTENTLY.

- 1.** **II:1:** [With regard to M. 2:3C,] R. Jeremiah asked in session before R. Zeira, "What [is the reason that M. 2:3C omits reference to the case of

the anointed high priest, as at A-B? The issue is whether the omission is in accord with the position of Judah the Patriarch, who maintains that the rule about inadvertently giving out false instruction does not apply to the anointed high priest. In the case of idolatry, in Rabbi's view, the matter need not be "hidden" from the anointed high priest. That is to say, if there is an inadvertent commission of the sin of idolatry, without erroneous instruction, liability to the offering is incurred. The rule of C simply does not apply to the high priest, which is why there is no allusion at C to the matter stated at M. 2:3A-B). [If it is] in accord with the view of Rabbi, the anointed priest is [delete: not] subject to culpability for transgression [of idolatry] performed inadvertently [without prior, erroneous instruction]. [If it is] in accord with the view of the rabbis, it is subject to the consideration of *something's being hidden* [that is to say, prior erroneous instruction]."

XII. YERUSHALMI HORAYOT 2:4

[A] THE COURT IS LIABLE ONLY IF THEY WILL GIVE AN ERRONEOUS DECISION IN A MATTER, THE DELIBERATE COMMISSION OF WHICH IS PUNISHABLE BY EXTIRPATION, AND THE INADVERTENT COMMISSION OF WHICH IS PUNISHABLE BY A SIN OFFERING, AND SO IN THE CASE OF THE ANOINTED [HIGH PRIEST], AND [THEY ARE] NOT [LIABLE] IN THE CASE OF IDOLATRY, EXCEPT IN THE CASE IN WHICH THEY GAVE INSTRUCTION IN A MATTER THE DELIBERATE COMMISSION OF WHICH IS PUNISHABLE BY EXTIRPATION, AND THE INADVERTENT COMMISSION OF WHICH IS PUNISHABLE BY A SIN OFFERING.

1. I:1: "[If anyone sins unwittingly in any of] the things which the Lord has commanded [not to be done]" (Lev. 4:2) I might have said, Also those who eat abominations and creeping things are included in consideration [so that even if a court gave instruction concerning one of the commandments, the deliberate commission of which is *not* punishable by extirpation, the court would be liable for the bullock]. Here ["And the thing is hidden] from the eyes [of the assembly]" is stated, and [with regard to idolatry, Num. 15:24.] later on, ".Éfrom the eyesÉ," is stated. Just as "from the eyes" stated later refers to a matter, the deliberate commission of which is punishable by extirpation and the inadvertent commission of which is punishable by a sin-offering, so the reference to "from the eyes" in the present context means to refer to a matter, the deliberate commission of which is punishable by extirpation and the inadvertent commission of which is punishable by a sin-offering. Or perhaps just as "from the eyes" mentioned later refers to a matter that is subject to the death penalty inflicted by the

court [if there are witnesses and admonition], so “from the eyes” stated here refers to a matter that is subject to the death penalty administered by the court?

2. **I:2:** Rabbi says, “LYHÉ, LYHÉ,: Here it is said, ‘[If the whole congregation of Israel commits a sin unwittingly and the thing is hidden from the eyes of the assemblyÉ, when the sin] which (‘LYH) [they have committed becomes knownÉ]’ (Lev. 4:13-14), and there it is said ‘[And you shall not take a woman as a rival wife to her sister, uncovering her nakedness] while (‘LYH) [her sister is yet alive]’ (Lev. 18:18). Just as ‘LHY which is stated later on [Lev. 18:18] refers to a matter, the deliberate commission of which is punishable by extirpation and the inadvertent commission of which is punishable by a sin-offering, so ‘LYH stated here [Lev. 4:13-14] refers to a matter, the deliberate commission of which is punishable by extirpation and the inadvertent commission of which is punishable by a sin-offering.”
3. **I:3:** “[And the anointed priest shall take some of the blood of the bull and bring] it [to the tent of meeting]” (Lev. 4:5). The explicit reference to it [that is, to the blood of the bull] serves as an exclusionary clause, to exclude his offering for the violation of the special commandment [idolatry], indicating that the blood should not enter inside [and be tossed on the gold altar].

XIII. YERUSHALMI HORAYOT 2:5

[A] THEY ARE NOT LIABLE ON ACCOUNT OF [A DECISION INADVERTENTLY VIOLATING] A POSITIVE COMMANDMENT OR A NEGATIVE COMMANDMENT CONCERNING THE SANCTUARY. AND THEY DO NOT BRING A SUSPENSIVE GUILT OFFERING ON ACCOUNT OF [VIOLATION OF] A POSITIVE COMMANDMENT OR A NEGATIVE COMMANDMENT CONCERNING THE SANCTUARY. BUT THEY ARE LIABLE FOR [VIOLATING] A POSITIVE COMMANDMENT OR A NEGATIVE COMMANDMENT INVOLVING A MENSTRUATING WOMAN. AND THEY DO BRING A SUSPENSIVE GUILT OFFERING ON ACCOUNT OF [VIOLATION OF]

1. **I:1:** [The reason that they do not bring a guilt-offering for an unverified offense on account of violation of a positive or negative commandment concerning the sanctuary, M. 2:5B.] Kahana said, [is that] it is not possible that there will have been knowledge at the outset and at the end [of violation of the laws of cleanness of the sanctuary], with an interval of inattention in the middle. [So there is no solid moment of doubt, on account of which a guilt-offering for an unverified offense would be required.]

[B] A POSITIVE COMMANDMENT OR A NEGATIVE COMMANDMENT CONCERNING A MENSTRUATING WOMAN. **WHAT IS A POSITIVE COMMANDMENT CONCERNING A MENSTRUATING WOMAN? TO KEEP SEPARATE FROM A MENSTRUATING WOMAN. AND WHAT IS A NEGATIVE COMMANDMENT? NOT TO HAVE SEXUAL RELATIONS WITH A MENSTRUATING WOMAN.**

- 1.** **II:1:** And are they not liable on account of [violation of] any positive commandment that is in the Torah [and not only for the menstrual taboo, M. 2:5F]?
- 2.** **II:2:** Said R. Abin, “‘Thus you shall keep the people of Israel separate from their uncleanness [lest they die in their uncleanness by defiling my tabernacle that is in their midst]’ (Lev. 15:31).”
 - a.** **II:3:** It is written [concerning Joseph before Potiphar’s wife], “Yet his bow remained unmoved” (Gen. 49:24). R. Samuel bar Nahman: “The bow became tense and returned [and turned limp].” Said R. Abun, “His semen became diffused and spit forth from his finger nails.”

XIV. YERUSHALMI HORAYOT 2:6

[A] **THEY ARE NOT LIABLE [BECAUSE OF INADVERTENT VIOLATION OF THE LAW] (1) CONCERNING HEARING THE VOICE OF ADJURATION [LEV. 5:11, (2) A RASH OATH [LEV. 5:4], (3) OR IMPARTING UNCLEANNESS TO THE SANCTUARY AND TO ITS HOLY THINGS [LEV. 5:3] – “AND THE RULER FOLLOWS SUIT,” THE WORDS OF R. YOSÉ THE GALILEAN. R. AQIBA SAYS, “THE RULER IS LIABLE IN THE CASE OF ALL OF THEM, “EXCEPT IN THE CASE OF HEARING THE VOICE OF ADJURATION. “FOR THE KING DOES NOT JUDGE AND OTHERS DO NOT JUDGE HIM, “DOES NOT GIVE TESTIMONY, AND OTHERS DO NOT GIVE TESTIMONY CONCERNING HIM” [= M. SAN. 2:2].**

- 1.** **I:1:** Said R. Yohanan, “The scriptural basis for the position of R. Yosé the Galilean [excluding the ruler from liability to the offering of variable value required by the rules of Lev. 5:1ff. is to be found at Lev. 5:7]: ‘But if he cannot afford a lamb’ (Lev. 5:7). [Scripture speaks] of one who can fall into poverty, thus excluding the anointed priest [better: ruler] who cannot fall into poverty.” Simeon b. Levi said, “[Proof for the same proposition derives from a different verse, namely, Lev. 5:5], ‘When a man is guilty in any of these....’ One who is liable to all of them is liable to some of them, and one who is not liable to all of them is not liable to some of them. [The king will not be poor, so is excluded.]”

2. **I:2:** And what the Mishnah itself teaches [which is relevant to M. 2:6D is]: A king does not give testimony, and others do not give testimony concerning him [M. San. 2:2, so he will not be subject to the oath or an offering for violating it].

XV. YERUSHALMI HORAYOT 2:7

[A] **IN THE CASE OF ALL THE COMMANDMENTS IN THE TORAH, ON ACCOUNT OF WHICH THEY ARE LIABLE FOR DELIBERATE VIOLATION TO EXTIRPATION, AND ON ACCOUNT OF INADVERTENT VIOLATION TO A SIN OFFERING, AN INDIVIDUAL BRINGS A FEMALE LAMB OR A FEMALE GOAT [LEV. 4:28, 32] A RULER BRINGS A MALE GOAT [LEV. 4:23], AND AN ANOINTED [HIGH PRIEST] AND A COURT BRING A BULLOCK [M. 1:5, 2:1]. BUT IN THE CASE OF IDOLATRY, THE INDIVIDUAL, RULER, AND ANOINTED [HIGH PRIEST] BRING A FEMALE GOAT [NUM. 15:27]. AND THE COURT BRINGS A BULLOCK AND A GOAT [M. 1:5], A BULLOCK FOR A WHOLE OFFERING AND A GOAT FOR A SIN OFFERING. AS TO A SUSPENSIVE GUILT OFFERING, AN INDIVIDUAL AND A RULER MAY BECOME LIABLE, BUT THE ANOINTED [HIGH PRIEST] AND COURT DO NOT BECOME LIABLE. AS TO AN UNCONDITIONAL GUILT OFFERING, AN INDIVIDUAL, A RULER, AND AN ANOINTED [HIGH PRIEST] MAY BECOME LIABLE, BUT A COURT IS EXEMPT. ON ACCOUNT OF HEARING THE VOICE OF ADJURATION, A RASH OATH, AND IMPARTING UNCLEANNESS TO THE SANCTUARY AND ITS HOLY THINGS, A COURT IS EXEMPT, BUT AN INDIVIDUAL, A RULER, AND AN ANOINTED [HIGH PRIEST] ARE LIABLE:**

1. **I:1:** “[If] anyone [sins doing any one of the things which the Lord has commanded not to be done, though he does not know it, yet he is guilty]” (Lev. 5:17). [The reference to] anyone [is meant to encompass] the ruler[, that he is liable to a suspensive guilt-offering under the stated circumstance, as at M. 2:7H]. And let [the law] also encompass the anointed priest? “[And the priest shall make atonement for him] for the error which he committed unwittingly [and he shall be forgiven]” (Lev. 5:18). One who is subject to the rule of unwitting commission of a sin is subject to the suspensive guilt-offering, excluding the anointed priest, who is not subject to a bullock-offering in the case of unwitting commission of a sin [M. 2:7I].

[B] **“BUT A HIGH PRIEST IS NOT LIABLE FOR IMPARTING UNCLEANNESS TO THE SANCTUARY AND ITS HOLY THINGS,” THE WORDS OF R. SIMEON. AND WHAT DO THEY BRING? AN OFFERING OF VARIABLE VALUE. R. ELIEZER SAYS, “THE RULER BRINGS A GOAT OFFERING.”**

1. **II:1:** Thus one must repeat the Mishnah-pericope [at L, K]: “But the high priest is not liable for imparting uncleanness to the sanctuary, and its Holy Things” the words of all authorities. “And the ruler [is not liable] on account of hearing the voice of adjuration,” the words of R. Simeon.
2. **II:2:** Said R. Yudan bar Shalom, “The [offerings of ruler and community] are the same in that blood of their offerings [in both cases] is put on the outer altar” [which explains M. 2:7H-I].
3. **II:3:** Said R. Yohanan, “R. Eliezer gave his ruling only in the regard to the matters of extirpation. [That is, Eliezer has the ruler bring a he-goat only in the case of his imparting uncleanness to the sanctuary and its Holy Things, for this is a case in which, in the case of deliberate transgression, there is the penalty of extirpation, and in the case of inadvertent transgression, a sin offering of fixed value. The law is the same in this case as in others of the same character of transgression.]”

XVI. YERUSHALMI HORAYOT 3:1

[A] AN ANOINTED [HIGH] PRIEST WHO SINNED AND AFTERWARD PASSED FROM HIS OFFICE AS ANOINTED HIGH PRIEST, AND SO A RULER WHO SINNED AND AFTERWARD PASSED FROM HIS POSITION OF GREATNESS — THE ANOINTED [HIGH] PRIEST BRINGS A BULLOCK, AND THE PATRIARCH BRINGS A GOAT [M. 2:6]. AN ANOINTED [HIGH] PRIEST WHO PASSED FROM HIS OFFICE AS ANOINTED HIGH PRIEST AND THEN SINNED, AND SO A RULER WHO PASSED FROM HIS POSITION OF GREATNESS AND THEN SINNED — A HIGH PRIEST BRINGS A BULLOCK. BUT A RULER IS LIKE ANY ORDINARY PERSON:

1. **I:1:** Said R. Eleazar, “A high priest who sinned— they administer lashes to him, but they do not remove him from his high office.” Said R. Mana, “It is written, ‘For the consecration of the anointing oil of his God is upon him: I am the Lord’ (Lev. 21:12). “That is as if to say: ‘Just as I [stand firm] in my high office, so Aaron [stands firm] in his high office.’” Said R. Abun, “‘He shall be holy to you [for I the Lord who sanctify you am holy]’ (Lev. 21:8). [E] “That is as if to say: ‘Just as I [stand firm] in my consecration, so Aaron [stands firm] in his consecration.’”

XVII. YERUSHALMI HORAYOT 3:2

[A] [If] THEY SINNED BEFORE THEY WERE APPOINTED, AND THEN THEY WERE APPOINTED, [WHEN EXPIATING THE ACTION COMMITTED PRIOR TO ELEVATION TO OFFICE,] LO, THEY ARE IN THE STATUS OF ANY ORDINARY PERSON. **R.** SIMEON SAYS, “If [THEIR SIN] BECAME KNOWN TO THEM BEFORE THEY WERE APPOINTED, THEY ARE LIABLE. “BUT IF IT WAS AFTER THEY WERE APPOINTED, THEY ARE EXEMPT.” (1) AND WHO IS A RULER? THIS IS THE KING, AS IT IS SAID, AND DOES ANY ONE OF ALL THE THINGS WHICH THE LORD HIS GOD HAS COMMANDED NOT TO BE DONE (LEV. 4:22) – A RULER WHO HAS NONE ABOVE HIM EXCEPT THE LORD HIS GOD.

1. **I:1:** Associates state the reason of R. Simeon [that if the sin becomes known after appointment, the priest or ruler is exempt from having to bring a sin-offering], because the rise to a position of power effects atonement for sin.
2. **I:2:** [If a person] ate half an olive’s bulk [of forbidden fat] before he was appointed to high office and half an olive’s bulk afterward [thus completing the minimum volume of an olive’s bulk to become culpable], even in a single spell of inadvertence, he is exempt [from obligation to bring an offering. The half-olive’s bulk eaten while the person was an ordinary man does not join together with the half-olive’s bulk he ate after he rose to high office, since the offering required for the commission of such a sin differs in accord with the change in the person’s status]. [If it is] a matter of doubt whether a person ate a half-olive’s bulk [of forbidden fat] before he was appointed to high office, and it is a matter of doubt whether he ate a half-olive’s bulk [of forbidden fat] after he was appointed to high office, he brings a suspensive guilt-offering.
3. **I:3:** [If a man] ate an olive’s bulk of forbidden fat before he was appointed to high office, and an olive’s bulk of forbidden fat after he was appointed to high office, in a single spell of inadvertence, he is liable only for a single [sin-offering, in line with [If] it is a matter of doubt whether he ate an olive’s bulk before he was appointed, and a matter of doubt whether he ate an olive’s bulk after he was appointed, in a single spell of inadvertence, he is liable for only a single suspensive guilt-offering. [If he did so] in two distinct spells of inadvertence, he is liable for two suspensive guilt-offerings. [If] one ate three olive’s bulks of forbidden fat, but thought that they were two, [that is, he became aware that two pieces were forbidden,] and he

separated an animal for a sin-offering [and then discovered that the third piece of fat also was forbidden], in accord with the position of R. Yohanan, [he has atoned,] for R. Yohanan maintains, “If one has effected atonement for part of a sin, he has effected atonement for the whole of it [so there is no need for another sacrifice].” R. Simeon b. Laqish said, “If one has effected atonement for part of a sin, he has not effected atonement for the whole of it.”

- 4.** **I:4:** [If] one has eaten five olive’s bulks [of fat, before being appointed to office], and a matter of doubt concerning each one of the pieces of fat became known to the man once he had been appointed to office, and after he had left office [the matter of doubt was resolved into] certainty [that indeed the fat had been forbidden fat in accord with the thesis of R. Simeon b. Laqish, he is exempt [from having to bring an offering], [for he maintains that a matter of doubt as to the status of what one has eaten is tantamount to knowledge that one has eaten forbidden fat. That is, doubt about what one has done distinguishes each act of eating from the others and imposes the requirement of bringing a suspensive guilt-offering when there is doubt, and a sin-offering when the doubt is clarified. So what was subject to doubt before the man reached high office is clarified after he has reached high office. So far as Simeon is concerned, the man is exempt. The offering required at the point of the sin and the offering required at the point of the clarification that the sin has been committed are not the same offering.] In accord with the thesis of R. Yohanan, he is liable [to bring an offering, for we follow the man’s status only when the matter is fully clarified. We do not take account of the status earlier. A matter of doubt is not deemed equivalent to a matter of clarification of doubt. The prevailing situation at the end is determinative. Now when the man is informed, after he has left office, that he had sinned earlier, he is an ordinary person. So the prevailing condition at the time of the sin (he was an ordinary person) and the prevailing condition at the time of the clarification (*after* he has left office) are the same. There is no reason that the man should not bring an offering. It is the same sort of beast in both cases].
- 5.** **I:5:** [If] someone ate a half-olive’s bulk of [forbidden] fat before he was appointed to high office, a half-olive’s bulk of fat after he was appointed, and a half-olive’s bulk of fat after he left office, [in a single spell of inadvertence, what is the law]? Since the obligation to bring an offering [other than that brought for the first and third pieces] has applied in the meanwhile, do they [first and third] join together [so that an offering covering the two half-olive bulks of prohibited fat is required]? [The middle piece of fat does not join together with the first

piece the man ate, when he was an ordinary person. All parties Will concur on this point. But if he ate yet a third half-olive's bulk, then we have a problem. Do the two halves eaten while the man was an ordinary person join together? Or perhaps, since the half-olive's bulk eaten in the middle, while the man is in power, does not join together either with the first or with the third, it constitutes an interruption. The answer is as given at the outset: the first and third do join together to form the requisite bulk of forbidden fat to impose the obligation to bring a sin-offering.]

6. **I:6:** [If] one ate an olive's bulk of forbidden &t before he was appointed to office, and an olive's bulk of forbidden fat after he was appointed to office, and a third olive's bulk of forbidden fat after he left office [all in a single span of inadvertence], in the opinion of Associates, who maintain that the rise to high office effects atonement, his rise to high office effects atonement on account of the first piece of fat he ate, but he remains liable on account of the second and the third pieces of fat he ate. In the opinion of R. Yosé, who maintains that [the reason for Simeon's opinion at M. is that] the offering required at the time that he sinned and the one required at the time that he gained knowledge of having sinned [and so became liable for the offering] are not one and the same sort of animal, he is liable for the sin-offering to cover the first piece of fat he ate, and so too is he liable for a sin-offering on account of the second piece of fat he ate, but he is exempt from a sin-offering on account of the third piece of fat he ate.
7. **I:7:** [If] one has eaten five olive's bulks of forbidden fat [in a single spell of inadvertence], and one was informed of a doubt concerning their character before he was appointed to high office, and then he was appointed to high office and thereafter learned that he certainly had eaten forbidden fat, in accord with the opinion of R. Simeon b. Laqish, he is liable. In accord with the opinion of R. Yohanan, he is exempt.
8. **I:8:** On the following account, R. Yosé b. R. Bun raised a question. [If] one ate five olive's bulks of forbidden fat [not knowing that it was forbidden], and he learned the true character of the first piece of fat he had eaten, and he designated an offering, [and he learned the character of] the second [piece of fat he had eaten], and he designated an offering, [and he learned the character of] the third [piece of fat he had eaten], and he designated an offering, [and he learned the character of] the fourth [piece of fat he had eaten], and he designated an offering, [and he learned the character of] the fifth [piece of fat he had eaten], and he designated an offering, R. Yohanan said, "He achieves expiation for himself through the first animal [that he set aside and

offered], for it comes before the act of eating of all of the other pieces of fat. “And as to the disposition of the other animals, they are to fall to use for a freewill offering.” R. Simeon b. Laqish said, “He achieves atonement for himself through the last animal that he has set aside, for it is in regard to the end of eating of all the pieces of fat. “And the other animals he has set aside are to be put away.”

9. **I:9:** [“When (‘SR) a ruler sins”.] Said Rabban Yohanan ben Zakkai, “Happy (‘SRY) is he whose ruler brings a sin-offering.” For [the ruler’s] sin committed inadvertently he brings [a sin-offering]. How much the more so will he bring an offering for the sin he commits deliberately! If one’s ruler brings a sin-offering, how much the more will an ordinary person [do so]. [“When] a ruler [sins”]. Might one suppose that Scripture refers to a ruler of one of the tribes, like Nahshon? Scripture [here] states, “.Édoing unwittingly any one of the things which the Lord his God has commanded not to be done” (Lev. 4:22). And elsewhere it states, “.Éso that [the king on the throne, who writes a copy of the Torah for himself may learn to fear the Lord his God” (Deut. 17:19).

[B] WHO IS THE ANOINTED [HIGH PRIEST]? IT IS THE ONE WHO IS ANOINTED WITH THE ANOINTING OIL, NOT THE ONE WHO IS DEDICATED BY MANY GARMENTS. THERE IS NO DIFFERENCE BETWEEN THE HIGH PRIEST WHO IS ANOINTED WITH ANOINTING OIL, AND THE ONE WHO IS DEDICATED WITH MANY GARMENTS, EXCEPT FOR [THE LATTER’S OBLIGATION TO BRING] THE BULLOCK WHICH IS BROUGHT BECAUSE OF THE [VIOLATION] OF ANY OF THE COMMANDMENTS.

1. **II:1:** Who is the anointed priest? It is the one who is anointed with the anointing oil, not the one who is dedicated by many garments [M. 3:2G]. Said R. Huna, “For all those six months during which David was on the run from Absalom, it was through a she-goat that he would attain atonement for himself, like any ordinary person.”
2. **II:2:** It has been taught in Tannaitic tradition [cf. T. Hor. 2:3]: An anointed priest brings a bullock [in the case of issuing an erroneous decision], but a high priest consecrated by many garments does not bring a bullock [under the stated circumstances] [= M. 3:2G]. And this teaching is not in accord with R. Meir [cf. T. Hor. 3:1B: “But the one who is dedicated by many garments has to bring a bullock if he inadvertently gives an erroneous decision,” the words of R. Meir].

[C] THERE IS NO DIFFERENCE BETWEEN A [HIGH] PRIEST PRESENTLY IN SERVICE AND A PRIEST [WHO SERVED] IN THE PAST EXCEPT FOR THE [BRINGING OF] THE BULLOCK OF THE DAY OF ATONEMENT AND THE TENTH OF AN EPHAH. (1)

THIS ONE AND THAT ONE ARE EQUIVALENT IN REGARD TO THE SERVICE ON THE DAY OF ATONEMENT.

- 1. III:1:** Said R. Yohanan, “[If an anointed priest] left office and then brought the tenth of an ephah of fine flour he was owing, it is valid” [M. 3:2I-J]. They arrange another priest to take his place lest a cause of invalidation [of the high priest who is to officiate on the Day of Atonement] should occur [M. Yoma 1:1B-C].
- 2. III:2:** Is it possible that the priest anointed for war should not bring the tenth of an ephah from his own property? Scripture says, “[The priest who is appointed from among Aaron’s] sons, who is anointed to succeed him, [shall offer it to the Lord]” (Lev. 6:22). The one who has a son ready to succeed him shall bring the tenth of an ephah, and the one who has no son ready to succeed him does not bring a tenth of an ephah. And how do we know in regard to the anointed for war that his son is not standing ready to succeed him? Scripture says, “The son who is priest in his place shall wear them seven days when he comes into the tent of meeting to minister in the holy place” (Ex. 29:30) – as to the one who comes into the tent of meeting for service in the holy place, his son is ready to succeed him, and, as to the one who does not come into the tent of meeting for service in the sanctuary, his son does not succeed him.

[D] AND THEY ARE COMMANDED CONCERNING [MARRYING] A VIRGIN. AND THEY ARE FORBIDDEN TO [MARRY] A WIDOW. (3) AND THEY ARE NOT TO CONTRACT CORPSE UNCLEANNES ON ACCOUNT OF THE DEATH OF THEIR CLOSE RELATIVES. (4) NOR DO THEY MESS UP THEIR HAIR. (5) NOR DO THEY TEAR THEIR CLOTHES [ON THE OCCASION OF A DEATH IN THE FAMILY]. (6) AND [ON ACCOUNT OF THEIR DEATH] THEY BRING BACK A MANSLAYER.

- 1. IV:1:** Now he [who marries only a virgin, Lev. 21:14] is neither king nor Nazir [cf. M. 3:2K]. And when Scripture says “he,” it is to encompass also the priest anointed for war [who marries only a virgin]. “He shall take to wife a virgin of his own people” (Lev. 21:14). This excludes a mature girl, in whom the signs of the virginity have disappeared. R. Eleazar and R. Simeon declare valid [a priest’s marrying] a mature girl.

XVIII. YERUSHALMI HORAYOT 3:3

[A] A HIGH PRIEST [ON THE DEATH OF A CLOSE RELATIVE] TEARS HIS GARMENT BELOW, AND AN ORDINARY ONE, ABOVE.

1. **I:1:** R. Eleazar in the name of Kahana: “‘Above’ means above the binding, and ‘below’ means below the binding.” R. Yohanan said, “‘Below’ means what it says, literally [near the ground].”

[B] A HIGH PRIEST MAKES AN OFFERING WHILE HE IS IN THE STATUS OF ONE WHO HAS YET TO BURY HIS DEAD, BUT HE MAY NOT EAT [THE PRIESTLY PORTION]. AND AN ORDINARY PRIEST NEITHER MAKES THE OFFERING NOR EATS [THE PRIESTLY PORTION]

1. **II:1:** “A high priest makes an offering while he has the status of one who has yet to bury a close relative, but he does not eat [the priestly portion].” the words of R. Meir [M. Hor. 3:3B; T. Zeb. 11:3]. R. Judah says, “That entire day.” R. Simeon says, “He completes all the acts of sacrifice that are his responsibility and then he goes along [and leaves the altar].”
2. **II:2:** R. Yosé b. R. Bun in the name of R. Huna: “The following Mishnah saying [belongs] to R. Simeon: “‘And from the sanctuary he will not go forth’ (Lev. 21:12) – with [the bearers of the bier] he does not go forth, but he does go forth after them.” “When [the bearers of the bier] are not visible, he is visible, when they are visible, he is not. And he goes with them to the city gate,” the words of R. Meir. R. Judah says, “He never leaves the sanctuary, since it says, ‘Nor shall he go out of the sanctuary’ (Lev. 21:12)” [M. San. 2: 1G-J].
3. **II:3:** Said R. Hanina, “[So does] the Mishnah [teach, that] the consideration of uncleanness by reason of mourning applies only on account of the corpse [and not on account of hearing of the death. The day of the death, along with the night, imposes the status of the one who has yet to bury his close relative].”

XIX. YERUSHALMI HORAYOT 3:4

[A] [WHEN THE PRIEST FACES A CHOICE ON TENDING TO TWO OR MORE ANIMALS THAT HAVE BEEN DESIGNATED AS OFFERINGS, THEN:] WHATEVER IS OFFERED MORE REGULARLY THAN ITS FELLOW TAKES PRECEDENCE OVER ITS FELLOW, AND WHATEVER IS MORE HOLY THAN ITS FELLOW TAKES PRECEDENCE OVER ITS FELLOW. [IF] A BULLOCK OF AN ANOINTED PRIEST AND A BULLOCK OF THE CONGREGATION [M. 1:5] ARE STANDING [AWAITING SACRIFICE] – THE BULLOCK OF THE ANOINTED [HIGH PRIEST] TAKES PRECEDENCE OVER THE BULLOCK OF THE CONGREGATION IN ALL RITES PERTAINING TO IT.

- I:1:** [The reason of M. 3:4B-C is] that the anointed [high priest] effects atonement, while for the congregation, it is required that atonement be effected. It is best that that which effects atonement should take precedence over that for which atonement must be effected, as it is said, “And it will atone for him, for his house, and for all the congregation of Israel” (Lev. 16:17) [T. Hor. 2:4D-E]. As to the freewill offering of the anointed priest and the freewill offering of the ruler, the freewill offering of the anointed priest takes precedence. As to the freewill offering of the community and the freewill offering of the ruler, the freewill offering of the ruler takes precedence. As to the freewill offering of the anointed priest and the freewill offering of the community, which one takes precedence?

[B] THE MAN TAKES PRECEDENCE OVER THE WOMAN IN THE MATTER OF THE SAVING OF LIFE AND IN THE MATTER OF RETURNING LOST PROPERTY [M. B.M. 2:111. BUT A WOMAN TAKES PRECEDENCE OVER A MAN IN THE MATTER OF [PROVIDING] CLOTHING AND REDEMPTION FROM CAPTIVITY.

- II:1:** As to the offering of a man and the offering of a woman, the offering of a man takes precedence [cf. M. 3:4D].
- II:2:** M'SH B: R. Eliezer, R. Joshua, and R. Aqiba went up to Holat Antokhiya in a connection with collecting funds for sages. Now there was a certain man there, by the name of Abba Judah. He would fulfill the commandment [of supporting the sages] in a liberal spirit. One time he lost all his money, and he saw our rabbis and despaired [of helping them]. He went home, and his face was filled with suffering. His wife said to him, “Why is your face filled with suffering?” He said to her, “Our rabbis are here, and I simply do not know what I can do for them.” His wife, who was even more righteous than he, said to him, “You have a single field left. Go and sell half of it and give the proceeds to them.”
- II:3:** The man takes precedence over the woman. Now that is the rule if one had this one to save and that one to save, this one to clothe and that one to clothe [M. Hor. 3:4D, E]. [That is, when all things are equal, the man takes precedence in the one instance, the one in the other.] Lo, if one had this one to restore to life and that one to clothe, [what is the rule]?

[C] WHEN BOTH OF THEM ARE STANDING IN DANGER OF DEFILEMENT, THE MAN TAKES PRECEDENCE OVER THE WOMAN.

- III:1:** Why is this the rule? Because the woman is accustomed to such treatment, but the man is not accustomed to such treatment.

2. **III:2: M'SH B: R.** Joshua went to Rome. They told him about a child from Jerusalem who was ruddy, with beautiful eyes and a handsome face, and his locks were curled, and he was in danger of being put to shame. R. Joshua went to examine him. When he came to the door, [standing outside] he recited this verse: "Who gave up Jacob to the power of his enemies?" That child answered and said, "'Was it not the Lord against whom we have sinned, in whose ways they would not walk, and whose law they would not obey' (Is. 42:24)?" At that instant R. Joshua's eyes filled with tears, and he said, "I call the heaven and the earth to testify against me, that I shall not move from this spot until I shall have redeemed this child!" He redeemed him for a huge sum of money and sent him to the land of Israel. And concerning him [Ishmael] Scripture has said, "The precious sons of Zion, worth their weight in fine gold, how they are reckoned as earthen pots, the work of a potter's hands" (Lam. 4:2) [T. Hor. 2:5L].

XX. YERUSHALMI HORAYOT 3:5

[A] A PRIEST TAKES PRECEDENCE OVER A LEVITE, A LEVITE OVER AN ISRAELITE, AN ISRAELITE OVER A MAMZER [A PERSON WHOSE PARENTS MAY NOT LEGALLY EVER MARRY, E.G., BROTHER AND SISTER], A MAMZER OVER A NETIN [A DESCENDANT OF THE CAST OF TEMPLE SERVANTS], A NETIN OVER A PROSELYTE, A PROSELYTE OVER A FREED SLAVE. UNDER WHAT CIRCUMSTANCES? WHEN ALL OF THEM ARE EQUIVALENT. BUT IF THE MAMZER WAS A DISCIPLE OF A SAGE AND A HIGH PRIEST WAS AN AM HAARES [IN CONTEXT: IGNORANT OF THE TORAH], THE MAMZER WHO IS A DISCIPLE OF A SAGE TAKES PRECEDENCE OVER A HIGH PRIEST WHO IS AN AM HAARES.

1. **I:1:** A sage takes precedence over a king; a king takes precedence over a high priest; a high priest takes precedence over a prophet; a prophet takes precedence over a priest anointed for war; a priest anointed for war takes precedence over the head of a priestly watch; the head of a priestly watch takes precedence over the head of a household [of priests]; the head of a household of priests takes precedence over the superintendent of the cashiers; the superintendent of the cashiers takes precedence over the Temple treasurer; the Temple treasurer takes precedence over an ordinary priest; an ordinary [T. Hor. 2:10F-H]. A priest takes precedence over a Levite; a Levite takes precedence over an Israelite; an Israelite takes precedence over a mamzer; a mamzer takes precedence over a Netin; a Netin takes precedence over a proselyte; a proselyte takes precedence over a freed slave. Under what circumstances? When all of them are equivalent. But if the mamzer

was a disciple of a sage, and a high priest was an ignoramus, the mamzer who is the disciple of a sage takes precedence over a high priest who is an ignoramus [M. Hor. 3:5A-D]. A sage takes precedence over a king. [For if a sage dies, we have none who is like him. [If] a king dies, any Israelite is suitable to mount the throne [T. 2:8].

2. **I:2:** A king takes precedence over a high priest, as it is said, “[And the king said to them,] ‘Take with you the servants of your lord, and cause Solomon my son to ride on my own mule, and bring him down to Gihon.’” And the high priest takes precedence over the prophet, as it is said, “And let Zadok the priest and Nathan the prophet there anoint him king over Israel (1 Kings 1:33-34).” [David] gave precedence to Zadok over Nathan [T. Hor. 2:9A-D]. R. Jonah in the name of R. Hama bar Hanina: “A prophet [quietly] folds his hands and feet and sits himself down before a high priest.” /S] What is the scriptural basis for this notion? [Scripture] says, “Hear now, O Joshua the high priest, you and your friends who sit before you, for they are men of good omen (Zech. 3:8).” Is it possible that he speaks of ordinary men? Scripture says, “For they are men of good omen,” and omen refers only to prophecy, as it is said, “And he gives you a sign or an omen (Deut. 13:2)” [T. Hor. 2:9G-H]. [This proves that the prophet sits humbly before a high priest.] [A high priest anointed with oil takes precedence over one dedicated through many garments.] A prophet takes precedence over the high priest anointed for battle, and the high priest anointed for battle takes precedence over the prefect, and the prefect takes precedence over the head of the weekly course [of the priests, who take care of the cult in a given week], and the head of the priestly course takes precedence over the superintendent of the cashiers, and the superintendent of the cashiers takes precedence over the treasurer. And the treasurer takes precedence over an ordinary priest. And an ordinary priest takes precedence over a Levite [T. Hor. 2:10A-I]. A priest takes precedence over a Levite. A Levite takes precedence over an Israelite [M. Hor. 3:5A].
3. **I:3:** R. Joshua b. Levi said, “[If there] are a head [not a sage] and an elder [a sage], the elder takes precedence. For there is no head if there is no elder.”
4. **I:4:** It was taught in Tannaitic tradition: The arranger [of the Mishnah traditions] takes precedence over the one capable of analyzing them.
5. **I:5:** Now they considered interpreting the Mishnah passage to refer to the matter of redemption [in the case they were taken

captive], or to providing food or to giving garments [as are specified]. But to status in the session it should not apply, [so in a session of the school the mamzer is not given priority even if he is learned].

TRACTATE

NIDDAH

Ordinary sexual activities form the one area of the halakhah of cultic cleanness and uncleanness laid out at Lev 11–15 that Scripture itself declares in so many words to pertain to the household, not only the Temple cult. In concrete terms, Scripture is explicit that sexual relations may not take place during the menstrual period: “And if a man lies with her, her impurity is communicated to him; he shall be unclean seven days, and any bedding on which he lies shall become unclean” (Lev 15:24).

When it comes to menstrual uncleanness the main problem comes at the start of the woman’s period. In the clean or *zibah*-days (when any blood that is excreted is classified as flux and not menstrual blood, *zob*), the woman may have sexual relations without scruple; as soon as the menstrual cycle commences, a single drop of blood marks the change in her status to that of a menstruant. Then how do we deal with cases of unclarity as to the exact point at which the period has begun, with special reference to the status of the man who is engaged in sexual relations with the woman at that moment? It is that interstitial period that defines the topic of the halakhah of *Niddah*. The Yerushalmi tractate on *Niddah* is truncated and serves only the opening chapters of the Mishnah.

I. Retroactive contamination

II. Unclean excretions

- A. Unclean blood
- B. The status of abortions as to uncleanness
- C. Samaritan, Sadducee, and Gentile women
- D. Status of blood produced in labor
- E. Status of blood produced in the *zibah*-period
- F. Status of blood produced in a caesarean section
- G. Point at which unclean fluid imparts uncleanness

III. Rules applicable at various ages

IV. Doubts in connection with unclean excretions

- A. Bloodstains and other matters subject to doubt
- B. Blood of menstruating woman, flesh of a corpse

- C.** Doubts about creeping things, bloodstains
 - D.** Bloodstains doubtfully-unclean blood] of Israelites, Gentiles, and Samaritans
 - E.** Doubts about bloodstains and drops of blood
 - F.** The fixed period
- V.** Concluding miscellanies
- A.** Girl married before puberty: status of blood
 - B.** Doubts about cleanness re failure to examine
 - C.** Uncleanness of the *zab*, the menstruating woman
 - D.** Status of a woman in the period of purifying after childbirth
 - E.** She who sees blood on the eleventh day of the *zibah* period

YERUSHALMI NIDDAH

CHAPTER ONE

1:1

[A] [48d] Shammai says, “[For] all women it is sufficient [to reckon menstrual uncleanness from] their time [of discovering a flow].”

[B] Hillel says, “[They are deemed unclean retroactively from [the time of] an examination [at which the flow of menstrual blood was discovered] to the [last] examination [made beforehand, at which no flow of menstrual blood was discovered],

[C] “even for many days.”

[D] And sages rule not in accord with the opinion of this one nor in accord with the opinion of that one but:

[E] [the woman is held to have been unclean only] during [the preceding] twenty-four hours [when] this lessens the period [of uncleanness demarcated by the span] from examination to examination.

[F] [And she is held to have been unclean only] during the period from [one] examination to [the preceding] examination [when] this lessens the period of twenty-four hours [of retroactive uncleanness].

[G] Any woman who has a fixed period – sufficient for her is her fixed period [in which case there is no retroactive uncleanness at all].

[H] .And she who makes use of test-rags – lo, this [form of examination] is equivalent to an examination [and so marks the point before which the woman is assumed to have been clean],

[I] which lessens either the period of twenty-four hours of retroactive contamination] or the period from examination to examination.

[I:1 A] *What is the meaning of the phrase, “It is sufficient [to reckon menstrual uncleanness from] their time [of discovering a flow]”?*

[B] [Such women] do not retroactively impart uncleanness to food subject to the laws of cleanness.

- [II:1 A] And sages rule not in accord with the opinion of this one nor in accord with the opinion of that one.**
- [B] Not in accord with the opinion of Shammai, who placed no limit to his view of the matter [in entirely dismissing the possibility of retroactive uncleanness.
- [C] Nor in accord with the opinion of Hillel, who took an extreme position.
- [III:1 A] But [the woman is held to have been unclean only] during [the preceding] twenty-four hours [when] this lessens the period [of uncleanness demarcated by the span] from examination to examination, and [she is held to have been unclean only during the period from [one] examination to [the preceding] examination [when] this lessens the period of twenty-four hours of retroactive uncleanness].**
- [B] **How does a period of twenty-four hours diminish the period from one examination to the next examination?**
- [C] [If] a woman examined herself on Monday [finding no evidence of the advent of her menstrual period], and produced menstrual blood on Thursday, the [retroactive] contamination applies only back to the hour, on Wednesday, twenty-four hours [before the time at which, on Thursday, the woman discovered the menstrual blood].
- [D] **How does the period from one examination to the next examination diminish the period of twenty-four hours?**
- [E] [If] a woman examined herself in the morning [finding no evidence of the advent of her menstrual period], and produced menstrual blood at dusk, the [retroactive] contamination applies only back to the morning [and not for the antecedent twenty-four hours].
- [III:2 A] *There have we learned the Tannaitic teaching: A dead creeping thing that was found in an alleyway imparts uncleanness retroactively [M. Nid. 7:2].***
- [B] *R. Ammi asked [whether] the cited passage of the Mishnah might not be contrary to the position of Shammai.*
- [C] *Said R. Yosé, “If it is not in accord with the position of Shammai [who rejects the possibility of retroactive contamination entirely], then [the cited passage of the Mishnah also] is not even in accord with the position of Hillel.*

[D] “For does Hillel not concur in the case of an alleyway that is [daily] swept out, and through which a water-course runs, that it is deemed clean [retroactively, in case a dead creeping thing is found therein]?”

[E] *Shammai maintains this:* In the case of a woman, because she customarily examines herself when she urinates, sages have treated her as comparable to an alleyway that is swept out from day to day and through which a water-course runs, so that it is deemed clean [under normal conditions, until proven otherwise].

[III:3 A] *Up to now* [we have assumed that we deal with a case] in which a woman examined herself and found herself wholly dry.

[B] [But what is the law] if a woman examined herself and found blood that [in fact] is clean [and not a source of uncleanness at all]

[C] R. Ammi in the name of Rab, R. Ba in the name of R. Judah: “[If a woman examined herself and found clean [blood], she is [in any case] prohibited from having sexual relations until the source [of her blood] is [entirely] dried up.”

[D] R. Tobi said in the name of R. Abbahu, “She is prohibited from having sexual relations for twenty-four hours.”

[E] *Said R. Jacob bar Aha when he came up here [to the land of Israel], “I heard from all the rabbis that she is permitted to have sexual relations forthwith [and need not wait for twenty-four hours].”*

[F] *They contemplated ruling:*

[G] *The party who rules that she is permitted to have sexual relations [maintains that it is comparable to a case in which] an examination serves to limit the period of contamination established by the presumptive uncleanness during the antecedent twenty-four hours.*

[H] *The party who rules that she is prohibited from having sexual relations [maintains that it is] not [comparable to a case in which] an examination serves to limit the period of retroactive contamination during the preceding twenty-four hours.*

[I] *But [in fact] even in accord with the party who holds that she is prohibited from having sexual relations, [it is comparable] to an examination, which indeed serves to limit the contamination to the preceding twenty-four hours.*

[J] Then why is the woman prohibited from having sexual relations?

[K] Because since she becomes accustomed [to having sexual relations] at a time of a flow of clean blood, she also may become accustomed to have sexual relations during a flow of unclean blood.

[III:4 A] [If a woman examined herself and found blood the status of which is subject to doubt, *it is self-evident that* this [examination] does not function as does an examination to impose a limit on the retroactive uncleanness during the antecedent twenty-four hours.

[B] But as to the status of the blood itself: What is the rule as to its imparting uncleanness as a matter of doubt?

[C] *We may infer the rule from the following teaching:*

[D] **One whose sex is unknown and an androgyne who produced a drop of blood – sufficient for them [to impart uncleanness to objects they have touched] is their time [of actually having discovered the blood; we do not impose uncleanness, by reason of doubt as to their status as women, on objects they have touched from the last examination, or for the preceding twenty-four hours] [T. Nid. 1:3A].**

[E] *Now what do you wish to infer from this passage?*

[F] Said R. Yosé, “One whose sex is unknown and an androgyne are cases of doubt [as to whether they are women or men], and the matter of imputing retroactive contamination during the antecedent twenty-four hours is a case of [doing so by reason of] doubt. Now [we do not impute uncleanness by adding] one matter of doubt to yet another matter of doubt.

[G] “Here too her producing a drop of blood is a case of doubt [as to the status of the blood], and imputing uncleanness for the antecedent twenty-four hours is by reason of doubt. Now [we do not impute uncleanness by adding] one matter of doubt to yet another matter of doubt.”

[III:5 A] Huna bar Hiyya said, “The imputation of retroactive uncleanness for a period of twenty-four hours of which they have spoken applies in a case of [food in the status of Holy Things, but not in a case of [ordinary] food [merely] subject to the laws of cleanness.”

[B] *Responded R. Hisda, “And [do we] not [have] the following Tannaitic teaching (TNY): M’SH B: A young girl in ‘Aitalu [whose time had come to produce menstrual blood] missed three periods and did not produce blood, and afterward she produced blood. And the case came before sages, and they ruled, ‘Sufficient for her is her time [of actually observing a flow, but there is no retroactive uncleanness imputed to objects she touched beforehand]’ [T. Nid. 1:9J].*

[C] “Now are there Holy Things in ‘Aitalu? [Obviously not.]

[D] “Now [in this case] we are dealing with a situation in which the food was prepared in accord with the cleanness-rules applying to the cleanness of Holy Things, and not in accord with the cleanness-rules applying to ordinary food.”

[E] Now [if you go so far as that,] you may as well interpret the case as one in which the food was prepared in accord with the rules applying to purification-water, for the rules of cleanness required for purification-water are still more stringent than those applying to Holy Things.

[III:6 A] *It has been taught:* In a case of retroactive contamination for a period of twenty-four hours [49a] of which the sages have spoken, they suspend [the status of food prepared in a state of cleanness], but they do not burn it.

[B] *And R. Zeira looked into (HDY) the matter, and found it taught:*

[C] **She who produces a bloodstain imparts uncleanness retroactively. And to what does she impart uncleanness? Food, drink, and things used for lying and sitting. And she is in disarray [as to setting her fixed period], and retroactively imparts uncleanness to the one who has intercourse with her [T. Nid. 9:6].**

[D] **She who produces blood imparts uncleanness [to objects that she touched] retroactively. And to what does she impart uncleanness? Food, drink, and objects used for lying and sitting. But she is not in disarray [as to setting her fixed period], and she does not impart uncleanness retroactively to one who has had intercourse with her.**

[E] **R. ‘Aqiba says, “She does retroactively impart uncleanness to the one who has intercourse with her.”**

[F] **And in the case of this one [who produced a bloodstain] and that one [who produced blood], they suspend [the status of food she has**

touched], but they do not burn [as definitely unclean food she has touched] [T. Nid. 9:6, 9:5]. [This settles the question of A.]

- [III:7 A] *There they say:* the contamination effected for the preceding twenty-four hours, of which they spoke, is such that an object on which such a woman has lain is unclean, as is an object that she has touched.
- [B] One who has had sexual relations with her [during this period of doubt] has the status of one who has had sexual relations with [an actually] menstruating woman.
- [C] But he is not deemed to impart uncleanness through merely shifting an object, so he does not impart uncleanness to a clay utensil.
- [D] *It is found taught,* He does impart uncleanness to a clay utensil through shifting it.
- [III:8 A] In a case of retroactive contamination during the preceding twenty-four hours of which they have spoken: As to that which such a woman touches in the public domain [in which case a doubt normally is resolved as clean] – what is the law?
- [B] *We shall infer the answer from the following case:*
- [C] A woman who is pregnant and a nursing mother [are assumed to be] clean for their husbands, and so a woman who has a fixed time.
- [D] And all other women are deemed to be clean for having sexual relations, but impart uncleanness to things that they touch [in a period of twenty-four hours retroactive upon an appearance of blood]. [This answers A.]
- [E] *Thus one must rule that* things that she touches in the public domain are deemed certainly unclean [even in a case of doubt, just as at D].
- [III:9 A] *R. Yudan asked about a case in which* a woman examined her shift at dawn and found it clean, at dusk and found a bloodstain on it.
- [B] *It is obvious that* her shift is unclean only from the moment at which she last had examined it.
- [C] But what is the status of the woman herself? Is she deemed unclean for the preceding twenty-four hours?
- [D] Now in fact, do you not declare the woman herself unclean only on account of her shift? But her shift is unclean only from the moment at which she examined it. So will the woman herself be deemed unclean for the whole of the preceding twenty-four hours? [Obviously not!]

[IV:1 A] And she who makes use of test-rags – lo, this [form of examination] is equivalent to an examination [and so marks the point before which the woman is assumed to have been clean].

[B] *What would be a concrete case?*

[C] [If] a woman examined herself at dawn [finding no blood], and had sexual relations toward noon, making use of a test rag, and then produced blood at dusk – unclean [are only those objects that she touched] retroactively to the time of her having had sexual relations [but not earlier].

[D] Levi said, “Concerning the test rag used after having sexual relations [*the Mishnah*] speaks, but the test-rag used before having sexual relations is swept clean by her vagina, so it does not effect a good examination.”

[E] *R. Abun in the name of R. Zeira [said], “The Mishnah speaks of a test rag used before sexual relations, but as to the test rag used after sexual relations, it is discolored on account of semen.”*

1:2

[A] What [is the case in which] her [having a] fixed period suffices for her [as at M. Nid. 1:1A, G]?

[B] [If she was sitting on a couch and occupied with the preparation of food subject to the laws of cleanness,

[C] [and] she got up and saw a spot of blood [where she had been sitting],

[D] she is deemed to be unclean.

[E] But all the food [that she had been preparing up to that moment] is deemed to be clean.

[F] [Thus] even though they have ruled that she imparts uncleanness [to objects she has touched] over the preceding twenty-four hours, [because she has a fixed period] she counts [her time of uncleanness. hence of having imparted uncleanness to food with which she has just had contact] only from the very moment at which she discovered [the drop of blood].

[G] R. Eliezer says, “For [only] four sorts of women, sufficient is their fixed time [for having a period without retroactive contamination]: a virgin, a pregnant woman, a nursing mother, and an old lady.”

[H] Said R. Joshua. “[For that tradition] I heard only [that the rule applies to] a virgin.”

[I] But the law is in accord with the opinion of R. Eliezer.

[I:1 A] Said R. Joshua, “I heard only [that the rule applies to a virgin.]”

[B] *But the law is in accord with the opinion of R. Eliezer.*

[I:2 A] Said to him R. Eliezer, “They do not say to him who has not seen the new moon to come and give testimony, but to him who has seen it does one say to come and give testimony.

[B] “You have not heard, but I have heard.” [T. Nid. 1:5C].

[C] So long as R. Eliezer was alive, the law was in accord with R Joshua. Once R. Eliezer had died, Joshua made the rule accord with the position of R. Eliezer.

[D] *Now how shall we interpret this matter?*

[E] If it is a case in which R. Eliezer had heard the tradition from a single authority, while R. Joshua had heard it from two, whether [Eliezer was alive or dead, the law should be in accord with R. Joshua. [On the other hand,] if it is in a case in which R. Joshua had heard it from a single authority, while R. Eliezer had heard it from two authorities, whether [Eliezer was alive or dead, the law should be in accord with R. Eliezer].

[F] *This accords with that teaching which we have learned in a Tannaitic saying:*

[G] [If] one says, “I have heard from two authorities,” and two say,

[H] We have heard the tradition from a single authority,” greater is the probative value of the tradition stated by the one who had heard from two authorities than that of the two who had heard from a single authority.

[I] *But thus should we interpret the matter:* [It was] a case in which both are equal. This one had heard from a single authority, and that one had heard from a single authority, for] this one had heard from two authorities, and that one had heard from two authorities.

[J] While [Eliezer] was alive, [Joshua] did not concur in his opinion. After [Eliezer] had died, [Joshua] did concur in [Eliezer’s] opinion.

[I:3 A] *Now what did [Joshua] perceive [after Eliezer’s death] to give the ruling as he did?*

[B] *It was in accord with the following Tannaitic teaching:*

[C] **“As to the four sorts of women [M. Nid. 1:2F] concerning whom sages have ruled that their fixed period suffices [so that we do not impute uncleanness for the antecedent twenty-four hours, or up to the last examination at which the woman found herself to be clean]”**their bloodstain [also] imparts uncleanness retroactively,”except for the case of the girl whose time for having a period has not yet come.”For such a girl does not produce bloodstains [anyhow],” the words of R. Meir.And sages say, **“As to the four sorts of women concerning whom sages have ruled that their fixed period suffices, their bloodstain does impart uncleanness retroactively.”**And as to a girl whose time for having a period actually has come, a bloodstain produced by her is tantamount to a drop of blood produced by her’ [T. Nid. 3:1].

[D] Just as, in the case of a drop of blood produced by her, sufficient for her is her fixed period [so that she does not impart uncleanness retroactively], so in the case of a bloodstain produced by her, sufficient for her is her fixed period.

[E] Said R. Yannai, “It is because it is common for her to produce excretions.”

[F] Now [reverting to A] if in the case of this one, who regularly produces excretions, you have ruled that it is sufficient for her to be deemed unclean from the time of her fixed period, these, who do not commonly produce excretions, all the more so should be subject to that same rule.

[G] It is on the basis of this reasoning that [Joshua ultimately] accepted the opinion of [Eliezer].

1:3

[A] **Who is a virgin [among the four women who fall into the category of those for whom the time of first seeing blood suffices, without scruple as to prior contamination by reason of doubt?**

[B] **Any girl who has never in her life produced a drop of [menstrual] blood,**

[C] **even though she is married.**

[D] **A pregnant woman?**

[E] **From the moment at which the fetus is known to be present [three months].**

[F] A nursing mother?

[G] Up to the time at which she will wean her child.

[H] [If she handed [the child over to a wet-nurse, weaned [the child], or [the child died,

[I] R. Meir says, “She imparts uncleanness [to objects she has touched] during the twenty-four hours [preceding the point at which she discovered the menstrual blood].”

[J] And sages say, “Sufficient for her is [contamination] from the time [at which she discovered the drop of blood, and there is no question of retroactive contamination].”

[I:1 A] *Thus is the teaching of the Mishnah: Any girl who has not seen menstrual blood in her life, and even though she is married.*

[B] They [thus spoke of a virgin as to blood[, that is, a girl who had never menstruated], not a virgin as to the hymen.

[C] There are cases in which a girl is a virgin as to blood and not virgin as to the hymen. There are cases in which she is a virgin as to the hymen but is not a virgin as to blood.

[D] [A girl is] a virgin as to the hymen when she produced a drop of blood and afterward was married.

[E] [She is a] virgin as to blood when she was married and afterward produced a drop of blood.

[I:2 A] *It was taught in a Tannaitic saying:*

[B] **There are three kinds of virgins: a virgin woman, a virgin sycamore, and virgin soil. A virgin woman is any woman who has never been laid. A virgin sycamore is any that has never been chopped down. Virgin soil is any that has never been worked. Rabban Simeon b. Gamaliel says, “It is any in which there is not a single sherd” [T. Sheb. 3:14H, 15].**

[I:3 A] [The law (M. Nid. 1:3B) that a girl who has not produced a drop of blood does not impart retroactive uncleanness even when she does produce a drop] applies even if she was married, even if she became pregnant, even if she gives suck [to her baby], and even if she excretes blood for all seven days for a male or all fourteen days [of clean blood] for a female.

[B] And does she have a divining tool in hand [to know whether it will be a male or a female]?

[C] When [the child] is a male, it is for seven days, and when it is a female, it is for fourteen days [after birth, that the stated rule applies].

[I:4 A] And that is the rule [only] when she has ceased to produce blood of purifying [that is not menstrual blood and thus is not unclean. But she has not yet produced a drop of menstrual blood].

[B] *That is in accord with the following Tannaitic teaching:*

[C] **[A girl] ceased to produce blood of purifying and yielded no more blood, but afterward she produced a drop of blood –**

[D] **and the case came before the sages, who ruled, “Sufficient for her is her time [of actually producing a drop of blood, and there is no question of retroactive contamination]” [cf. T. Nid. 1:12D].**

[E] *Now in the view of Rab, who maintains that* [the source of blood of purifying and the source of menstrual blood] are one and the same, but the Torah has declared [that single source] to be clean [during the days of purifying], *this ruling is wholly in order* [since it maintains that there must be a clear division between blood of purifying and menstrual blood, marked by a space of time in which there is no excretion at all. Hence sages approve such a case, because the blood of purifying came to an end before the other sort of blood began. Thus all are from a single source].

[F] *In the view of R. Yannai, who maintains that* it is a single source [for both types of blood], but [the character of the blood] changes [at the period after birth], *it also is satisfactory.*

[G] *But so far as Levi is concerned, who maintains that* they are two distinct sources of blood, even if the blood of purifying had not [yet] come to an end, [we should nonetheless invoke the principle of sufficiency of the moment at which the blood actually appears [without scruple as to prior contamination, since, as we see, in his view the two kinds of blood are unrelated and derive from two distinct sources in the woman’s body].

[H] *Said R. Mana, “The reason of Levi [for concurring in the cited ruling differs from the reason of Rab and Yannai for accepting the same ruling. It is that once she becomes accustomed [to having sexual relations during a time at which she is producing] clean blood, she may just as well get used to having sexual relations during a time at which she produces unclean blood.” [Thus requiring a bloodless interval is for a reason other than that imputed by Rab and Yannai. cf. 1:1 VI.F.]*

[I] *Said R. Yosé b. R. Bun, “Levi can solve the problem on the basis of yet another Tannaitic teaching, which we have learned:*

[J] “R. Yosé says, ‘A pregnant woman and a nursing mother who passed three periods [without producing menstrual blood] – sufficient for them is their time [of actually producing blood, to contaminate objects they may touch. There is no question of retroactive contamination].’

[K] *“And we have a Tannaitic comment on this same teaching:*

[L] *““The time of her pregnancy and the time of her nursing join together and add up to the three periods [in which the period is missed. That is to say, if the woman missed one period while pregnant, and two while nursing, they are deemed to be three].’*

[M] *“Thus [this authority] maintains that they are a single source. [The cited teaching thus takes for granted that the different sorts of blood derive from a single source. Levi can then answer, in Yosé b. R. Bun’s view, that the authority behind the cited teaching holds that they are a single source, while he follows an authority who does not concur in that view, but who holds that the blood comes from two distinct sources.]”*

[I:5 A] When is the presence of the fetus recognized?

[B] Sumkhos says in the name of R. Meir, “In three months.

[C] “Even though there is no clear proof of that proposition, there is at least an indication of it: ‘And it came to pass at the end of three months’ (Gen. 38:24)” [T. Nid. 1:7A-C].

[D] Said R. Yudan, “And even if she is pregnant only with air: ‘We were with child, we writhed, we have as it were brought forth wind’ (Is. 26:18) [cf. T. Nid. 1:7E].

[E] ““You conceive chaff, you bring forth stubble’ (Is. 33:11).”

[I:6 A] R Zeira, R. Ba bar Zutra, R. Haninah in the name of R. Hiyya the Elder: “Even if [the fetus is discernible] in the greater part of the first month, and for the greater part of the last month [if the middle [month] is complete[, we deem the three months’ rule to apply – that is, after only sixty-two days].”

[B] Assi says, “Ninety days, complete.”

[C] And Samuel says, “They and their intercalated days [that is, three months, whether they are ninety days or even more than ninety days,

by reason of adding additional days through late sightings of the moon].”

- [D] *A case [of paternity] came before the rabbis over there [in the east], and they did not know whether [the conception of the child had taken place] within the thirteen days assigned to the first month, or the seventeen days assigned to the second one, or seventeen of the first and thirteen of the latter, with five complete [months] in the middle. [In this paternity case, the woman lost her husband and remarried soon thereafter. In this case, the woman gave birth in six complete solar months, but seven lunar months, after the death of the first husband and the remarriage. There were then five complete months, and the status of days in the first and last months – that is, seven in all – is unclear, with the possibility of thirteen days of the first month and seventeen of the final one, or vice versa, contributing to the six full months.]*
- [E] They considered imputing genealogical invalidity to the fetus, by reason of mamzerut. [That is, the mother’s status was not such that she was free to remarry when she did, so the child may have been born of a married woman and a man other than the husband.]
- [F] *Said to them R. Nahman bar Jacob, “A similar case came before Abba bar Ba, and he declared the fetus to be valid” [thus deeming the greater part of a month tantamount to a whole month.]*
- [G] *Now did Abba bar Ba take issue with Samuel, who was his son [who wants complete months]?*
- [H] Said R. Ba, “There is a distinction to be drawn between [49b] perceiving the presence of the fetus and the actual birth.
- [I] Recognizing the presence of the fetus is a matter of complete months as Samuel has said].
- [J] “But [when we consider assigning the paternity of the child, once it is] born, we deal with abbreviated months.”
- [K] *There we have learned in a Tannaitic tradition:*
- [L] **How long is protracted labor [for a woman in protracted labor who produces a drop of blood is deemed to be a menstruant and not a Zabah]? R. Meir says, “Even forty or fifty days.” R. Judah says, “Sufficient for her is her ninth month.” R. Yosé and R. Simeon say, “Hard labor continues no longer than for two weeks” [M. Nid. 4:5].**

- [M] R. Yosé in the name of R. Ba: “That is to say that a woman counts [reaching of term to give] birth in abbreviated months, *for has it not been taught* ‘thirty days’ [and not a whole month, inclusive of the intercalated days?”
- [N] R. Yosé b. R. Bun in the name of Samuel: “That is to say that a woman [counts the giving of birth in] complete months, as we have learned, ‘Sufficient for her is her [complete] month [inclusive of the intercalated days].’”
- [O] *R. Yudan inquired*, “In the end, does [the rule apply] only if she actually gives birth?”
- [P] No, even if she aborted [the rule applies].
- [Q] *Said R. Mana*, “*I heard in the name of Samuel*, ‘There is no difference [in the time required] for recognizing the presence of the fetus and for [completing term and] giving birth.’ *But I do not know from whom I heard that teaching.*”
- [R] Said R. Ba, son of a priest, before R. Yosé, “R. Jeremiah stated that tradition.”
- [S] Said R. Hezekiah to him, “R. Jeremiah did not state that teaching.”
- [T] *Now R. Yosé scrupled about accepting [what Mana had said]*. He said, “If Joshua, who was so close to Moses, would not have said thus, but do you [lit.: he] say thus [in a case in which the source of the teaching in Samuel’s name is not certain]!”
- [U] *He retracted and said*, “*To be sure, he may have said it, but it was said as someone who has heard a ruling but is having difficulties with it.*”
- [V] And Abba bar Ba [indeed] did differ from Samuel, his son.
- [W] R. Berekhiah in the name of Samuel: “A woman gives birth only on the 271st, 272nd, 273rd, or 274th day of her pregnancy [thus requiring nine complete months].”
- [X] *Said to him R. Mana*, “*Whence did my master hear this saying?*”
- [Y] *Said to him*, “*From R. Ba.*”
- [Z] *There is then confusion in the attributed opinions of R. Ba. There he said*, “There is a distinction between [measuring months for] recognizing the presence of the fetus and

[reaching term for actually] giving birth. *But here he said thus.*”

[AA] R. Ba bar Zutra in the name of Samuel: “Whatever is subject to HRBH (= 212),¹⁰ it is subject to ‘RBH (208) [that is, seven months].”

[I:7 A] *R. Hiyya bar Ashi was in session before Rab. He observed that he was preoccupied.*

[B] *He said to him, “Why so?”*

[C] *He said to him, “My ass is pregnant and is coming to term, and I wanted to cover her so that she should not be chilled.”*

[D] *He said to him, “When did the male mount her?”*

[E] *He said to him, “On such and such a day, and I reckoned from there.”*

[F] *He said to him, “If so, she will require waiting a few more days.”*

[G] *And so is it taught in a Tannaitic teaching: [The ass] who gives birth in less than term does not give birth in less than the days of the moon [354], and the one who gives birth beyond term does not give birth in more than the days of the sun [365 days].*

[H] *A teaching of R. Joshua is at issue with this saying [of Rab’s, that there is little variation in term], for R. Joshua b. Levi said, “Cows belonging to Antoninus were to be impregnated.*

[I] *“And the servants of the court of Rabbi had oxen mount. Some of them gave birth now, and some of them gave birth later on [so there was much variation].”*

[J] *Here we speak of the case of an unclean beast and there we speak of the case of a clean beast [which produces variation in the term of pregnancy].*

[K] *And is it not written, “Do you know when the mountain goats bring forth? Do you observe the calving of the hinds? Can you number the months that they fulfill? And do you know the time when they bring forth, when they crouch, bring forth their offspring, and are delivered of their young?” (Job 39:1-3) [This indicates that there is a fixed term even for clean beasts.]*

[L] *He said to him, “A clean wild beast is just like an unclean domesticated beast [in giving birth between 354 and 365 days after impregnation].”*

1:4

- [A] **Who is an old woman?**
- [B] **Any woman who has missed three periods near the time of menopause.**
- [C] **R. Eleazar says, “Any woman [not only an old one who has missed three periods – sufficient for her is her time [of actually discovering blood, without scruple as to retroactive contamination].”**
- [D] **R. Yosé says, “[Only] a pregnant woman and nursing mother who have missed three periods – sufficient for them is their time.”**
- [I:1 A] R. Meir says, “On account of [the need of producing] milk, blood ceases” [= D].
- [B] R. Yosé says, “On account of pain [of giving birth], blood ceases” [= D].
- [C] You turn out to rule in both a lenient and a strict way in accord with the opinion of R. Meir, [and] in both a lenient and a strict way in accord with the opinion of R. Yosé.
- [D] A lenient ruling in accord with the opinion of R. Meir is as follows: If the infant went on nursing for four or five years, [L: it is forbidden], sufficient [for the nursing mother] is her time [of finding the blood, for that entire interval].
- [E] And a strict ruling: If [the mother] gave her child over to a wet-nurse, weaned him, or he died, [blood discovered by her at the outset of her period means that she] imparts uncleanness [by reason of doubt] for the antecedent period of twenty-four hours.
- [F] And a lenient ruling in accord with the opinion of R. Yosé is as follows: If [the mother] gave her child over to a wet-nurse or weaned him or he died, [nonetheless] sufficient for her is her time [of finding blood].
- [G] A strict ruling: If he went on nursing for four or five years, it is forbidden [to deem sufficient the moment of discovering the flow of blood] beyond the first twenty-four months.
- [H] Now in regard to R. Meir’s ruling that [the woman] imparts uncleanness for the antecedent period of twenty-four hours [under the stated circumstances] – what is the rule? Does it take effect forthwith, or is it only once the infant will cease to suck and be unable to go back to the teat? [Do we invoke the rule of twenty-

four hours' antecedent contamination forthwith upon weaning, so that once the woman sees a drop of blood, she imparts antecedent contamination, or does the matter depend upon the condition of the infant?]

[I] *We may infer the ruling from the following:*

[J] **“An infant continues to suckle all twenty-four months. From that point onward, he is like one who sucks [from] an abomination,”** the words of R. Eliezer.

[K] **And R. Joshua says, “The infant continues to suck even for four or five years and he is permitted [to do so]. If he separated from the teat they do not return him to it”** [T. Nid. 2:3I-J].

[L] How long [a time is deemed to mark the child's actually separating from the teat and giving up nursing, so that the child then is prohibited from returning to nursing]?

[M] R. Jacob b. R. Aha, R. Hiyya in the name of R. Yohanan: “After twenty-four hours.”

[N] R. Hezekiah, R. Abbahu in the name of R. Simeon b. Laqish: “No longer than three days, reckoned from the moment of the last feeding.” [So, in regard to G, it depends on the status of the infant.]

[O] Under what circumstances? In a case in which he gave up the teat while in a state of good health. But if he did so while in a state of illness, they do bring him back to the teat forthwith.

[P] [Now this rule applies, moreover] in the case of an infant who is in no danger [by reason of sickness], but in the case of an infant whose life is endangered [by sickness], forthwith do they return him to the teat even after some time as soon as [the need is recognized].

[I:2 A] An old lady:

[B] What is the definition of an old lady?

[C] R. Simeon b. Laqish said, “Any woman who does not protest when they call her ‘Madam.’”

[D] Does the matter then depend on the woman's own [private] opinion?

[E] Said R. Abin, “Any who is appropriately called ‘Madam.’”

[F] *It was taught in a Tannaitic teaching:* People are not to call slaves “Mister So-and-so” or “Madam So-and-so.”

[G] The staff of Rabban Gamaliel’s house did refer to male and female slaves of the household as “Mister Tabi,” and “Madam Tabitha.”

- [I:3 A] *R. Hoshaiiah taught (TNY):* “[If a woman] gave birth and then converted [to Judaism], she is not subject to the rule of producing blood of purifying [and all blood produced after birth, for seven or fourteen days, is deemed unclean].”
- [B] Said R. Yosé, “And is that a suitable [teaching? It is self-evident and hardly requires articulation.] If R. Hoshaiiah had not taught it, it would have been [logically] required [anyhow].”
- [C] “Since such a woman [while a gentile] does not produce unclean blood, she also is not going to produce clean blood.” [So we learn that after conversion, she will produce unclean blood in the stated circumstance.]
- [D] *It has been taught:* “**A convert, a captive, or a slave-girl, who was redeemed, converted, or freed, has to wait for three months [before marrying, lest she be pregnant beforehand],**” the words of **R. Judah.**
- [E] **R. Yosé says, “They need not wait for three months” [T. Yeb. 6:6N-O].**
- [F] And as to the matter of menstrual blood?
- [G] R. Judah says, “She is subject to the rule of the sufficiency of the time [at which the blood is found, thus is deemed to have a fixed period from the time of her prior status, and she then does not impart retroactive uncleanness for twenty-four hours].”
- [H] R. Yosé says, “She imparts uncleanness for the antecedent twenty-four hours. [The period fixed beforehand now is null.]”
- [I] Said Rabbi, “The opinion of R. Yosé appears appropriate in the case of menstrual blood[, so there is no fixed period], and the opinion of R. Judah in the matter of a possible pregnancy[, and they must wait three months].”
- [J] R. Hiyya in the name of R. Yohanan: “The law is in accord with the opinion of R. Yosé.”

[K] *R. Ba, son of a priest, raised the question in session with R. Yosé, “Do we not rule as follows: ‘In a case of dispute between R. Judah and R. Yosé, the law is not in accord with the opinion of R. Yosé’?*

[L] *“But since Rabbi said, ‘The opinion of R. Yosé appears appropriate,’ [in this dispute we do follow the opinion of R. Yosé].”*

[M] Now has not R. Ba in the name of R. Zeirah stated, “In every case in which Rabbi ruled, ‘The opinion [of so-and-so] appears appropriate,’ the dispute remains moot, except for the case of the circle of pressed figs, in which this party concurs with that party, and that party concurs with this party?” [The reference is to T. Ter. 5:11.]

[N] Said R. Yosé the Elder in session before R. Hanina son of R. Abbahu, “And [does the law follow R. Yosé] even if it is certain that [the women] indeed had sexual relations [immediately prior to their change in status, so there are solid grounds for supposing they should wait three months to see whether they have become pregnant]?”

[O] He said to him, “And do not gentile women ordinarily have sexual relations? [But, nonetheless, these women do not have to wait three months, for they are assumed to take prophylactic measures.]”

[II:1 A] **R. Eliezer says, “Any woman [not only an old one] who has missed three periods – sufficient for her is her time [of actually discovering blood, without scruple as to retroactive contamination].”**

[B] *[Now it was taught in a] Tannaitic [tradition] on the [foregoing passage of the Mishnah]:*

[C] They said to him, “Sages have listed only the old lady.”

[D] *Now has it not been taught in a Tannaitic tradition:*

[E] Said R. Eleazar, **“M’S H B: A young girl in ‘Aitalu whose time had come to produce a flow of menstrual blood missed three periods, and afterward she produced menstrual blood. The case came before sages. They ruled, ‘[She is subject to the rule that] sufficient for her is her tune.’”**

[F] They said to him, “You then were a minor, and a minor is not competent to give testimony.”

[G] On one occasion Rabbi gave instructions in accord with the opinion of R. Eleazar [Eliezer], and he was distressed about it.

[H] Said R. Mana in session before R. Yosé, “When he gave instructions in accord with the lenient rulings of R. Meir and in accord with the lenient rulings of R. Yosé, he was not distressed. So here should he have been distressed?”

[I] He said to him, “In that case [of Yosé and Meir], we are dealing with the opinions of individuals. So one may take the position to join his opinion with that of R. Meir and his master, as against that of R. Yosé, or join his opinion with that of R. Yosé and his master, as against that of R. Meir. But do you have the possibility of ruling in this case, ‘Let him join his opinion with that of R. Eleazar and his master over that of sages’ [who are, after all, the majority]”?

[J] “And moreover, it has been taught in a Tannaitic teaching, **They said to him, It was an interim ruling and not meant as established law**” [T. Nid. 1:9K].

[III:1 A] **R. Yosé [49c] says, “A pregnant woman and nursing mother who have missed three periods – sufficient for them is their**

[B] *And [it has been taught in a] Tannaitic [teaching] on the [foregoing] station of the Mishnah:*

[C] The period in which the woman is pregnant and the period in which she is nursing join together to establish the three missed

[D] *For [Yosé] is of the opinion that [the blood derives from] a single source.*

1:5

[A] In what case did they lay down the ruling, “Sufficient for her is her time of first discovering the drop of menstrual blood, so that there is no prior contamination”?

[B] In the case of [a virgin’s, a pregnant woman’s, a nursing mother’s, or an old lady’s first producing a drop of blood after missing the period in the latter three instances].

- [C] **But in the instance of the second [or later] producing of a drop of blood, [the blood] imparts uncleanness for the antecedent period of twenty-four hours [by reason of doubt as to when it first occurred].**
- [D] **But if [the woman] produced the first drop of blood by reason of constraint [that is, through an abnormal cause], then even in the case of the second drop of blood, [we invoke the rule of sufficiency of the time [of finding the blood for demarcating the commencement of the woman 's contaminating power].**
- [I:1 A] Samuel said, “This teaching [of A] applies only to a virgin and an old lady. But as to a pregnant woman and a nursing mother, they assign to her the entire period of her pregnancy or the entire period of her nursing [respectively, for the blood ceases, and what does flow is inconsequential, so there is no retroactive contamination at all].”
- [B] *Rab and R. Yohanan – both of them say, “All the same are the virgin, the old lady, the pregnant woman, and the nursing mother [= B].”*
- [C] *Said R. Zeira, “The opinion of Rab and R. Yohanan accords with the position of R. Haninah, and all of them differ from the position of Samuel.”*
- [D] For R. Eleazar said in the name of R. Haninah, “On one occasion Rabbi gave instruction in accord with the lenient rulings of R. Meir and in accord with the lenient rulings of R. Yosé.”
- [E] *What was the nature of the case?*
- [F] [If] the fetus was noticeable, and then [the woman] produced a drop of blood –
- [G] R. Meir says, “She is subject to the rule of the sufficiency of her time [of actually discovering the blood].”
- [H] R. Yosé says, “She imparts uncleanness retroactively for twenty-four hours.”
- [I] [If] she produced many drops of blood, then missed three periods, and afterward produced a drop of blood,
- [J] R. Meir says, “She imparts uncleanness retroactively for twenty-four hours.”
- [K] R. Yosé says, “She is subject to the rule of the sufficiency of her time [of actually discovering blood].”

[L] Now if you say that they assign to her the entire period of her pregnancy or the entire period of her nursing, what need do I have for the lenient ruling of R. Yosé? *The teaching of R. Meir [in such a case] produces a still more lenient ruling than does that of R. Yosé.* [For so far as Meir is concerned, if we read his view in the light of Samuel's opinion (A), the nursing mother and the pregnant woman enjoy the stated leniency throughout the period of nursing or pregnancy. The issue, then, is that Meir deems this drop of blood (I) as a second one. Yosé regards the cessation of the period as consequential.]

[M] *Said R. Mana before R. Yosé, "Or perhaps we should assign [Rabbi's ruling] to the case of the milk [dealt with above, in which Meir and Yosé dispute about whether the woman who hands over her son to a wet-nurse retains the stated leniency. At issue then is whether the matter depends upon the status of the woman's milk or on the status of the child]."*

[N] *He said to him, "The matter was explicitly stated in regard to the present issue."*

[I:2 A] *Up to this point [in the discussion], we have dealt with a girl who has reached the time to produce menstrual blood.*

[B] As to a girl who has not yet reached her time for producing menstrual blood, but produced a number of drops of blood, the first time this happens, she is subject to the rule of the sufficiency of the time [of discovering the blood, so that there is no retroactive contamination]. At the second appearance of blood, we similarly invoke the rule of the sufficiency of the time of discovering the blood. And so too at the third appearance of blood. But thenceforward, she imparts uncleanness for the antecedent twenty-four hours [until she establishes a regular period for herself.

[C] R. Jeremiah in the name of Rab: "The third appearance of blood itself imparts uncleanness for the antecedent twenty-four hours."

[I:3 A] **An old lady who missed three periods sufficient for her is her time [of discovering the blood] [If] she went and again missed three periods, and afterward produced a drop of blood, sufficient for her is her time. This is the case if she has not established an accurate count for a fixed time, for instance, if she diminished or added to it. But if she had accurately counted her period, she would have established a fixed time [and would then be subject to the rule governing all other women] [T. Nid. 1:11].**

- [B] *R. Yudan asked:* “[If she produced a first drop of blood and a second, and then missed three periods and produced no blood, but then produced a drop of blood, [do we treat this] as a protracted period, so that she imparts uncleanness for the antecedent twenty-four hours, or [do we regard it] as a break in her periods, so that she should be subject to the rule of sufficiency [of the time at which the blood actually is discovered]?”
- [C] Said to him R. Yosé, “If at the time at which you treat [the woman] as a jug full of liquid[, when she is producing drops of blood], you invoke for her the rule of the sufficiency of the time of the actual appearance of blood [so that there is no retroactive contamination], in this case, in which she is in no way to be treated as a jug full of liquid[, since she has missed three periods, is it not an argument a fortiori [that we should invoke the same lenient rule]?”
- [D] He said to him, “But if so, even if she were to produce a single drop of blood, she should not impart uncleanness during the antecedent twenty-four hours, unless she in fact had produced three periods after a cessation of her period.”
- [E] He said to him, “It is comparable to a protracted period.”
- [I:4 A]** How long is her menstrual cycle?
- [B] They assign to her a medium period.
- [C] R. Simeon b. Laqish in the name of R. Yudan, the Patriarch: “They assign to her a medium period, that is, thirty days.”
- [D] Then let them assign to her a fixed period?
- [E] Since she has not clarified her period through a regular blood-flow, she is not deemed to have a fixed period.
- [F] And what is the rule as to her producing bloodstains?
- [G] Hezekiah said, “Since you have treated her as a jug full of liquid, she most certainly is subject to the rule of bloodstains [for she does produce menstrual blood].”
- [H] Samuel said, “Even if the entire sheet were full of drops of blood, she does not produce bloodstains [until a regular period is established].”
- [I] R. Yohanan in the name of R. Yannai, “Even if she had produced blood a hundred times, she is not subject to the rule of bloodstains.”

- [I:5 A]** Until what time [does the law of the Mishnah apply to a virgin]?
- [B] Until she reaches puberty. And what is puberty? When she produces two pubic hairs.
- [C] R. Ba, R. Hiyya, R. Yohanan in the name of R. Simeon b. Yosedeq, “Her spit [liquid produced during the antecedent time before her blood flowed] is deemed clean. What she steps or sits on is deemed clean. What she touches in public domain is deemed clean.”
- [D] *They theorized that the foregoing ruling applies to retroactive contamination [effected in the various ways and fluids of C. That is, since this girl is not subject to the expectation of producing blood, even though she now has produced blood twice in two periods, we do not invoke the rule of retroactive contamination in the specified circumstances].*

1:6

- [A]** Even though they have said, “Sufficient for [the woman who has a fixed period] is her time [of actually discovering a flow of menstrual blood, so that there is no question of retroactive contamination],” nonetheless such a woman must keep on inspecting herself,
- [B]** except in the case of an [already menstruating woman];
- [C]** and a woman who is sitting out “the blood of her purifying” after having given birth [for all blood produced by such a woman is deemed clean].
- [D]** And [even though a woman has a fixed period. she is to [literally: and she who ...] makes use of test rags,
- [E]** except for a woman who is sitting out “the blood of her purifying” [after having given birth],
- [F]** and a virgin,
- [G]** whose blood is clean.
- [H]** And twice a day must the woman [who has a fixed period] examine herself: morning and dusk;
- [I]** and [also] when she is preparing to have sexual relations.
- [J]** Yet a further examination beyond these [is required of women of the priestly caste, when they are preparing to eat food having the status of heave-offering [for which cultic purity must be attained].

[K] R. Judah says, “Also when they cease eating food having the status of heave-offering [to make sure that what is left over retains the status of cultic cleanness]. “

[I:1 A] *Does the Mishnah mean to refer to a menstruating woman [who is unclean anyhow and surely should not require an examination]?*

[B] [The reference is to a woman the time of whose period has come but] who has not yet ceased to be in a state of cleanness [for the blood has not flowed, so she therefore has to examine herself to determine when her actual flow begins].

[C] *Does the Mishnah mean to refer to her who makes use of test-rags?*

[D] [The meaning is that] she must make use of test-rags .

[E] **And a virgin, whose blood is clean.**

[F] *The reference of the Mishnah is to a girl who has not yet reached the time of menstruation, who got married [M. Nid. 10:1A].*

[G] [What follows is a comment on a later passage of this same pericope, that is, M. Nid. 10:1, which is as follows: **If she produced menstrual blood before marriage while still in her father’s house and then got married, the House of Shammai say, “They give her [only] the coition of obligation [and blood produced on that account is assumed to be unclean as menstrual blood.” The House of Hillel say, “All the night is hers.”** Samuel’s comment then is on the saying of the House of Hillel.] Samuel said, “The night and following day constitute a complete cycle, and part of the cycle is tantamount to the whole of it [so the House of Hillel mean to allow not only the night but also the following day as free of taint of menstrual blood].”

[II:1 A] **[And a virgin, whose blood is clean].** [If, then] she ceased to produce blood [because of sexual relations, but] afterward produced blood, [this latter blood is deemed] unclean.

[B] [If after the first act of intercourse] the color of her blood changed, [this latter How of blood is deemed] unclean.

[C] Said R. Zeira, “That is so if the color of the blood did not change because of the sexual activity. But if it changed because of the sexual activity, it is deemed clean.”

[D] *Said R. Yosé, “And the Mishnah itself has stated that same rule, for it has said, ‘And a virgin, whose blood is clean.’”*

[E] *Now the rule has been stated, “If [the color of the blood] changed on account of sexual activity, it is clean.” And if you should rule, “If it changed on account of sexual activity, it should be deemed unclean, and let her make use of a test-rag,” is it possible that the color of the blood should change on account of sexual activity and the blood be deemed unclean? [Surely not.]*

[III:1 A] And twice a day must the woman [who has a fixed period] examine herself: [morning and dusk].

[B] Said R. Yosé b. R. Bun, “These two examinations are the counterpart to the two times that the day changes [from dark to light, from light to dark].”

[III:2 A] [The introductory passage for what follows at C must be borrowed from B. Nid. 60b: Bar Pada said, “Whenever her husband is liable to a sin-offering, that is, where menstrual blood has been found immediately after intercourse, foods requiring cultic cleanness belonging to her [also] are unclean; where the husband is liable to a suspensive guilt-offering, when blood is discovered after enough time for the woman to get out of bed and wash, so that it is not certain that she was menstruating during intercourse, foods requiring cultic cleanness belonging to her are in a suspended state of uncleanness; where the husband is exempt, foods requiring cultic cleanness belonging to her are clean.” R. Hoshaiyah ruled, “Even where the husband is actually liable for a sin-offering, foods requiring cultic cleanness are deemed to be in a state of suspension.”] R. Eleazar in the name of R. Hoshaiyah: “Whenever sages have ruled that her husband is liable for an offering, as to her part, foods requiring cultic cleanness belonging to her are deemed unclean. [If her husband is exempt from an offering, for her part foods requiring cultic cleanness belonging to her are clean. [If her husband is subject to an offering by reason of doubt, for her part foods requiring cultic cleanness are deemed to be in a state of suspension.”]

[B] [The saying that follows assumes and questions the ruling that, even when the husband is liable for a sin-offering for having had sexual relations with a menstruating woman, the foods requiring cultic cleanness are kept in a state of suspension. We thus take for granted that there was blood in the vagina, but not outside it.] *R. Samuel bar Rab Isaac asked, “This is [to be compared to a case of] an old man [the penis] and a child [the blood] who were walking in a reception room. [For this reason the husband is unclean, while the food is deemed not unclean. The penis has had contact with blood, the food has not.] Now is it not certain that the elder [the penis] passes first*

[and so the husband is surely unclean? But we cannot be certain that the blood also has passed.] And if the child [the blood] comes, it also passes through. [So why is there not certainty that, if the husband is certainly unclean and liable for an offering, the food also should be unclean?]"

[C] R. Abun in the name of R. Yudan: "I say that, in that case, there was an act of sexual intercourse that closed off [the passage to the blood, so that the blood remained inside and did not exude to affect the food, and, in that case, there is no reason to deem the food to be unclean].

[D] "But here [*in regard to the clean food*], if the blood had been present, what would have stopped it from coming out? [So we thus assume it did not come out.]"

[E] *The following Mishnah passage differs from the position of R. Hoshaiah* [A]: "**If she was sitting on a couch and occupied with the preparation of food subject to the laws of cleanness, and she got up and saw a spot of blood [where she had been sitting], she is deemed to be unclean, but all the food [she had been preparing] is deemed to be clean**" [M. Nid. 1:2B-D]. [Hoshaiah says the status of the food is held in suspense, while the Mishnah-pericope declares it to be clean.]

[F] *The following Mishnah passage differs from the position of Bar Pedaiah* [who declares the food to be unclean if the husband is liable for an offering by reason of having had sexual relations with a menstruating woman]. **R. Judah says, "Also when they cease eating food having the status of heave offering"** – with regard to what matter? Is it not in reference to a case in which, if the woman produced a drop of blood, she will so retroactively have imparted uncleanness to the food? [But here the husband will *not* be liable for a sin-offering, and, it must follow, Bar Pedaiah cannot accord with the stated rule of the Mishnah's R. Judah.]

[G] *Said R. Ezra before R. Mana*, "Interpret the passage to refer to a woman who is not [yet] subject to a fixed period."

[H] *He said to him, "Thus did R. Yosé say, 'In each case in the present matter, we speak about a woman who does have a fixed period.'"*

[I] *Said R. Yosé b. R. Bun, "The Mishnah passage should then be divided.* Up to this point [A-J], the Mishnah speaks of a woman who is subject to a fixed period. But from this point [of R. Judah's saying (K)] and beyond, [the Mishnah speaks] of a woman who is not subject to a fixed period."

[J] *Even if you rule that the Mishnah should not be so divided, we may still interpret the passage as referring to a woman who has a fixed period. And what Bar Pedaiah does in this passage [is to concur with] those who differ from R. Judah.*

YERUSHALMI NIDDAH

CHAPTER TWO

2:1

[A] [49d] Any hand that makes many examinations

[B] in the case of women is to be praised,

[C] and in the case of men is to be chopped off.

[D] A woman who is a deaf-mute, imbecile, blind, or mentally unbalanced

—

[E] if women of sound senses are available, they take care of them, so such a woman may eat food having the status of heave-offering [which requires protection from uncleanness].

[F] It is the way of Israelite women to make use of test-rags, one for him and one for her.

[G] The pious women get vet a third ready, to attend to the ‘house’ [to examine themselves before, as well as after, intercourse].

[I:1 A] *This is the Mishnah passage’s meaning: whoever puts his finger in his eye a lot brings out a lot of tears* [and likewise the consideration of M. Nid. 2:1C is masturbation].

[B] [In the case of men the hand is to be chopped off: R. Tarfon says, “It is to be chopped off while lying on his navel.”

[C] They said to him, “Lo, his belly will be split open.”

[D] He said to them, “That’s exactly what I meant.

[E] “Death is better for him than life!” [T. Nid. 2:8B-D]

[F] *The associates say*, “R. Tarfon curses him with a curse that touches his very body.”

[G] Said R. Yosé, “[Rabbi Tarfon’s intent] is only to explain that it is prohibited to feel around below the navel.”

[H] *This teaching [A-B] that you have presented applies to the matter of masturbation. But as to examining oneself for signs of zibah-flow [that is, semen-flow not at the time of an erect penis, Lev. 15:1ff], whoever examines himself more than his fellow is more to be praised than his fellow.*

[I] Pious women [M. Nid. 2:1G] would examine themselves on account of each jug [of wine having the status of heave-offering] and each loaf [having the status of heave-offering].

[J] M'SH B: Tabitha, the serving-girl in the household of Rabban Gamaliel, was carrying wine for drinks. She inspected herself [before lifting up] each jug of wine.

[K] She said to [Rabban Gamaliel], "My lord, I have noted a bloodstain [on my garment]."

[L] Then Rabban Gamaliel was disturbed [at the possibility that all the wine had been made unclean].

[M] She said to him, "But I was inspecting myself [before lifting up] each jug of wine, and I became unclean only on the occasion [of lifting up] this jug alone."

[II:1 A] They said in the name of R. Yannai, "The blind woman [does] not [belong] here [at M. Md. 2:1D, for she can inspect herself by touch]."

[B] *And there are those that said in the name of R. Haninah, "The blind woman [does] not [belong] here."*

[C] *And there are those that said R. Ila, R. Yosé b. Hanina in the name of the house of R. Yannai [said], "The blind woman [does] not [belong] here."*

[II:2 A] Said R. Yannai, "Also are the first [woman listed earlier, at M. Nid. 1:6H-K] called pious, *for we have learned in the cited Mishnah-pericope that they are **required to examine themselves**, and will you declare [them to be especially pious]?"*

[B] Said R. Ila, "[The fact that they are called pious for doing merely what is in fact required of them] is to let you know that whoever carries out the teachings of sages is called pious."

[II:3 A] R. Jeremiah in the name of Rab: "[If] a woman examined her [vagina] with a hand that had not been inspected [and that might have contained blood originating other than in the vagina], or if she set herself down in a filthy place [from which she might have picked up a drop of blood, she nonetheless is deemed unclean and may not attribute the

blood to other than the vagina], because the body is presumed to have been inspected[, so whatever is found comes from a source of bodily uncleanness].”

- [B] *Said R. Zeira, “The Mishnah itself has said exactly the same thing: **If [a drop of blood] is found on the man’s [rag], [the husband and wife are unclean and liable for a sacrifice [M. Nid. 2:2A].** Is it not because [of the prevailing assumption that] the body is presumed to have been inspected[, so blood that is found is menstrual]?”*
- [C] *Said R. Haninah, “Interpret the cited Mishnah to speak of a case in which the man had inspected this body in advance and had found no blood, so the cited passage does not indicate the presence of the stated presupposition at all].”*
- [D] *Then R. Zeira angrily exclaimed, “And does a man usually do such a thing, [that is, examine himself to see whether there is blood on his penis]?”*

[E] *R. Zeira in the name of R. Jeremiah: “[If a drop of blood is found on a sheet,] a drop up to the size of a bean is attributed [to a dead louse, and is not deemed a sign of uncleanness. This is contrary to the view of Jeremiah in Rab’s name]. If it is larger than that size, a woman has to find a reason [for the presence of the bloodstain,] other than her having menstruated; and if she can find no such reason, then she is deemed unclean].”*

[F] *They say that R. Jeremiah retracted his opinion. They say that when he heard what the rabbis [below, had to say, he retracted his opinion. [That is, in the stated case, the woman is unclean not by reason of a bloodstain, but by reason of having produced menstrual blood.]*

[II:4 A] *Rabbi [Judah the Patriarch] praised R. Hama, the father of R. Hoshaiiah, in the presence of R. Ishmael, the son of R. Yosé.*

[B] *R. Hama father of R. Hoshaiiah asked in session before R. Ishmael b. R. Yosé, “If a woman examined herself with a hand that had not been inspected, or if she sat herself down in a filthy place[, what is the law]?”*

[C] *He said to him, “In accord with whose opinion do you ask me this question? Is it in accord with the opinion of the master [R. Yosé, the teacher of Judah the Patriarch], or in accord with the opinion of the disciple [Judah the Patriarch himself]?”*

[D] [Ishmael] said to him, “Father [Yosé] said it is deemed to have the status of a bloodstain, while Rabbi [the disciple of Yosé] says it is deemed tantamount to a drop of menstrual blood [so the woman is unclean, not merely in a state of doubt as to her status].”

[E] [Ishmael] said to [Rabbi], “*Is this the one you were praising?*”

[F] Said R. Zeirah, “*It is easier for someone to heed the reasoning of his master [Rabbi in the dispute that follows].*”

[G] If a woman examined herself and put [the rag] in a box made of glass [and found blood] –

[H] R. Hiyya says, “It is deemed a bloodstain.”

[I] And Rabbi [Judah the Patriarch] says, “It is tantamount to a drop of menstrual blood.”

[J] R. Hiyya replied to Rabbi, “And do you not allow her to find some excuse [for the drop of blood, e.g., blaming it on some source of blood other than menstrual blood]?”

[K] Said R. Bun bar Hiyya, “*The reasoning of Rabbi is that it is usual for boxes to be inspected and cleaned of dead creeping things. But it is not usual for them to be inspected on account of lice.*

[L] “If it is up to the size of a bean, she may attribute the blood to a louse. But if it is larger than that dimension, what can she claim to be the source of the bloodstain anyhow?”

2:2

[A] **[If blood] is found on [the husband’s] test-rag, they are unclean, so liable for an offering [for having had sexual relations during the wife’s period].**

[B] **[If] it is found on hers –**

[C] **[if the discovery takes place] forthwith, they are unclean and so liable for an offering.**

[D] **[If blood] is found on hers after a while, they are unclean on account of doubt [as to the possibility that indeed the blood originated in menstruation], but they are exempt from an offering.**

[I:1 A] *It was taught in a Tannaitic tradition on this Mishnah-pericope:*

- [B] Whether it is forthwith or not forthwith, **[if blood] is found on his [test-rag] [delete: forthwith], they are unclean.**
- [C] [The consideration of] immediate discovery, they did say, applies to the matter of drying off [the sexual parts after having sexual relations], and it does not apply to making the inspection, [which may even take place later on, not forthwith].
- [D] R. Huna said, “That interval of an immediate inspection is] sufficient so that the wife may dry off the mouth of the ‘utensil’ on the outside, but not what is in the inner chambers or in the cracks.”
- [[I:2 A] *They asked in session before R. Nahman bar Jacob, “What is the law as to [the wife’s] being required to make an inspection [not merely drying off] during the interval specified for immediate inspection?”*
- [B] Said R. Ba, “If you rule that [the wife] should be required to make an inspection during the interval specified for immediate drying off, you nullify the entire concept of such an interval.”
- [C] Said R. Yosé b. R. Bun, “If you rule that [the wife] should be required to make an inspection during the specified interval, would this not be equivalent to an inspection that serves to diminish the period of twenty-four hours? [That is, would there not be a conflict, in that the inspection during the stated interval would replace the inspection of which M. Nid. 1:1 has spoken?] *And we have learned in the Mishnah, **An inspection limits the uncleanness for the antecedent twenty-four hours.***”
- [I:3 A] Said R. Yosé b. R. Bun, “**It may be compared to a servant and a witness who were standing at the threshold of the court. Once the servant goes out, the witness enters in**” [T. Nid. 3:5M-P].
- [B] This is the interval that is deemed “immediate [inspection].”
- [[II:1 A] **And they are exempt from a sacrifice.**
- [B] While they are exempt from a sin-offering, they are liable to a guilt-offering for an unverified offense [by reason of doubt, and not wholly exempt, as the Mishnah’s phrasing would suggest].

2:3

- [A] **What is meant by “after a while” [M. Nid 2:2D]?**
- [B] **Sufficient time for the woman to get out of bed and wash off her “face” [sexual organs].**

[C] And [if a drop of blood should appear] after [the stated interval], she imparts uncleanness [by reason of doubt] to objects she has touched for the antecedent twenty-four hours.

[D] But she does not impart uncleanness to her lover.

[E] R. ‘Aqiba says, “She does impart uncleanness to her lover.”

[F] But sages concur with R. ‘Aqiba in the case of a woman who produces a bloodstain that she does impart uncleanness to her lover.

[I:1 A] Said R. Yosé b. R. Bun, “What is the meaning of **after a while** [M. Nid. 2:3A]? It can only be, ‘After after-a-while.’”

[B] And what is this interval?

[C] It is sufficient time for the woman to put out her hand and take the test-rag from under the pillow.

[D] But after ‘after-a-while’ [if she should make the inspection and discover a drop of blood], her lover [nonetheless] is deemed clean.

[I:2 A] R. Eleazar in the name of Rab, “The theory of sages accords with the view of R. Meir [who says at T. Nid. 3:1: ‘**All women concerning whom saps have said, Their time suffices [for them to impart uncleanness, and there is no retroactive uncleanness]their bloodstain does cause them to impart uncleanness retroactively....**’].”

[B] R. Yohanan said, “This is the view of those very same sages [50a] [who differ from Meir on the bloodstain as to retroactive uncleanness but maintain it imparts uncleanness once it is found].”

[C] *Why so?* [*Perhaps we do deal with Meir, as A has said*].

[D] *Associates in the name of R. Yohanan:* “*Let us derive this teaching of rabbis from the position of R. ‘Aqiba [with whom sages of M. 2:3F concur], in accord with that which R. ‘Aqiba said, ‘She imparts uncleanness to her lover, but is not in disarray as to the reckoning of her period.’ Thus do rabbis rule: “She imparts uncleanness to her lover and is not in disarray as to the reckoning of her period.”*”

2:4

[A] **All women are assumed to be clean for their husbands [even without examination, until the time for their period has come].**

[B] **Those [husbands] who come home from a trip – their wives are assumed to be clean for them.**

- [C] **The House of Shammai say, “A woman requires two test-rags for each act of intercourse [one before. one afterward].**
- [D] **“Or she should have intercourse by a light [to allow Immediate examination of the single test-rag used after intercourse].”**
- [E] **And the House of Hillel say, “She may suffice with two test-rags for the entire night [one before the sequence, one after the sequence of numerous successive acts of sexual relations].”**
- [I:1 A] Abba bar Jeremiah, a priest, in the name of Samuel: “Any woman who has not got a fixed period is forbidden to have sexual relations without an examination [prior to the act].”
- [B] *Now have we not learned in the Mishnah-pericope, **All women are assumed to be clean for their husbands?***
- [C] Interpret [Samuel’s statement] to refer to a case in which the husbands have come home from a trip [at which point an examination is called for in Samuel’s view].
- [D] *But have we not learned in the Mishnah-pericope: **Those [husbands] who come home from a trip – their wives are assumed to be clean for them?***
- [E] Said R. Bun bar Hiyya, “Interpret [the saying of Samuel to refer to a case in which the husband] came and found her awake [so she has to examine herself, while the Mishnah refers to a case of finding the wife asleep, in which case he will not bother her to examine herself].”
- [F] *And has it not been taught, “Whether he found her awake or whether he found her asleep [she is deemed clean]”?*
- [G] Said R. Ba, “Interpret [the Mishnah’s rule, that the woman is assumed to be clean, to apply to a case in which] he left the wife at a time at which she was assumed to be clean [and if she had a period, one simply reckons with the time of the fixed period. If there is no fixed period, as Samuel says, an examination nonetheless is necessary].”
- [I:2 A] And [if the husband calculates periods while away] how long a menstrual cycle do they assign to her?
- [B] R. Simeon b. Laqish said, “They assign her an average cycle, thirty days.”
- [C] R. Yohanan said, “I repeat the tradition [as follows]: Even [if the husband returns] after three years, it is permitted [to have intercourse, should the period not have begun], so long as the wife does have a

fixed period. [So the rule applies without regard to the length of the period, so long as a period is calculated.]”

- [D] Said R. Abbahu, “And [we assume] this law applies to one who has refrained [from having sexual relations] for seven days after [the end of the wife’s] period.
- [E] “And one may not say she has not [in addition] immersed herself. [We assume she has done so.]”
- [F] Said R. Hanina, “That is to say that it is forbidden for a woman to remain in her condition of uncleanness [after the specified interval of her period, that is, to remain without immersing herself and so reentering a state of cleanness].”
- [G] *Samuel bar Abba asked*, “[Does the statement of Yohanan (C) apply] even in the case in which a woman gave birth to a healthy child? [That is, do we take for granted that the woman has completed her process of purification prior to the husband’s return?]”
- [H] Said R. Yosé, “Thus do we say the rule even if the woman has become unclean! [Obviously not. So Yosé rejects C.] But if the woman did give birth, the supposition that she is clean is nullified. So too here: since she has become unclean, the supposition that she is clean is nullified.”

[II:1 A] The House of Shammai say, “A woman requires two rest-rags for each act of intercourse, or she should have intercourse by a light.”

- [B] *But has it not been taught*: “He who has sexual relations by a light – lo, that is disgusting”?
- [C] *Thus does the Mishnah-passage teach*: Let her have sexual relations and [then] examine herself by a light.

[II:2 A] R. Zeira, R. Hiyya bar Ashi in the name of Rab: “If a woman had sexual relations using a test rag [and the rag is lost], she is prohibited from having sexual relations [any more, until another test-rag is provided].”

- [B] Said R. Zeira “When there is evidence that it is available, it is permitted [to continue to have relations], and when there is no evidence that it is available, lo, is it not an argument a fortiori [that we should assume that she is clean, contrary to the foregoing teaching]!”
- [C] Said R. Yosé, “[On the contrary], in the case [described in the Mishnah-pericope], you can depend on [the test-rag, that is, the next

day you can examine it, and therefore you may rely on it and assume the woman clean, since there will be ample evidence in due course to test that assumption]. But in the case in which the rag is lost you will not be able to rely on it[, she is prohibited from having sexual relations without an examination, such as the Mishnah has required].”

2:5

[A] Sages have employed a metaphor in regard to women:

[B] the inner room, front hall, and second-story room [upstairs].

[C] Blood in the room is unclean [as menstrual blood].

[D] [If] it is found in the front hall, a matter of doubt concerning * is ruled to be unclean, since it is assumed to have come from the fountain [uterus].

[I:1 A] *So does the Mishnah-pericope teach: Blood in the inner room is unclean* [as menstrual blood]. And blood in the upstairs room is clean.

[B] R. Judah in the name of Samuel: “The room is further in than the front hall, and the upstairs room is located on top of the room, half-way over the front hall. And the door of the upstairs room opens into the front hall.”

[I:2 A] *R. Nahman b. R. Isaac proposed to R. Huna, “The Mishnah-pericope [at D] refers to blood that is found from the door of the upper room and inside [and so comes from the uterus].”*

[B] He said to him, “If it is found from the door of the upstairs room and inward, it is a matter of certainty [that the blood is unclean]. *But thus do we interpret the Mishnah [D]*, to apply to a case in which [blood] is found from the door of the upstairs room and outward.”

[C] *The opinions of rabbis are at variance [with Huna], for R. Yohanan said, “There are three that are subject to doubt, but that [sages] have treated as a matter of certainty [of uncleanness], and these are they: [1] She who aborts a cut-off hand or a cut-off foot, and [2] [she who aborts] a mass of veins and blood, and [3] blood that is found in the front hall [M. 2:5D].”*

[D] *Now how shall we interpret [the matter of (3) to apply to] the case in which the blood is found from the door of the upstairs room and inward? It is a matter of certainty [that this is unclean blood and not of doubt, as Yohanan has claimed].*

[E] *But thus must we interpret the matter: When it is found from the door of the upstairs room and outward, [it is a matter of doubt, = Huna].*

[F] *R. Abba, son of R. Pappi, exclaimed in session before R. Yosé, “We have learned many more matters of doubt than you teach in this matter!”*

[G] *He said to him, “That R. Yohanan had said [applies only to] cases involving [doubt and cleanness of] women.”*

2:6

[A] **Five [colors of] blood are unclean in a woman:**

[B] **red, black, [blood of a] bright crocus color, [blood] like water mixed with earth, and [blood] like wine mixed with water.**

[C] **The House of Shammai say “Also :blood the color of water in which fenugreek has been soaked, and blood the color of gravy from roast meat.”**

[D] **The House of Hillel declare [these two] clean [since they are not red].**

[E] **[Blood that is] yellow –**

[F] **‘Aqabya b. Mehallel declares unclean.**

[G] **And sages declare clean.**

[H] **Said R. Meir, “If it does not impart uncleanness by reason of being a bloodstain, it is unclean as a liquid [that has exuded from a menstruating woman, like her urine or spit].”**

[I] **R. Yosé says, “Neither thus nor so.”**

[I:1 A] *Rab and R. Yohanan – both of them say, “There are four kinds of blood [and not five].*

[B] *“[Black colored blood does not count because it] is red that has faded and turned black.”*

[C] *Said Samuel, “Black [colored blood] may derive from any one of them.”*

[I:2 A] *Whence do we derive evidence that there are five varieties of unclean blood specified by the Torah?*

[B] *Said R. Joshua b. Levi: “‘And she has uncovered the fountain of her bloods’ (Lev. 20:18) [=two], ‘And she will be clean from the source of her bloods’ [= two], a discharge of blood from her body (Lev. 15:19) [= one, thus five].”*

[C] *And lo: “And if a woman has a discharge of blood” (Lev. 15:25) this blood [too] should be part of that number.*

- [D] [It is blood from those other sources,] but it came upon her during the zibah-days and turned into a *zibah-flow* [not reckoned with those listed at M. Nid 2:6A-B].
- [I:3 A] And how do we know that there is unclean blood, and there is clean blood, [so not all blood is unclean, but only the five which are listed]?
- [B] R. Hama bar Joseph in the name of R. Hoshaiyah: “It is written, ‘If any case arises requiring a decision É’ (Deut. 17:8). Now ‘between blood and (W) blood’ is not written, but of one kind of blood from (L) another.
- [C] “On this basis there is proof that there is blood that is unclean, and blood that is clean.”
- [II:1 A] **The House of Shammai say, “Also: blood the color of water in which fenugreek has been soaked, and blood the color of gravy from roast meat.”**
- [B] Lo, there are then seven [colors of blood that are unclean in a woman].
- [C] [The two enumerated by the House of Shammai are] like blood mixed with earth.
- [III:1 A] R. Yosé in the name of Rab, the associates in the name of R. Yohanan: “R. Meir [M. 2:6H] declared [blood] unclean only in a case to which ‘Aqabya[‘s opinion applied, that is, yellow blood].”
- [B] Then let it impart uncleanness as does blood the color of water in which fenugreek has been soaked, and blood the color of gravy from roast meat, to which the House of Shammai[‘s opinion applied].
- [C] [The House of Shammai] say, “They are like water mixed with earth [and blood like wine mixed with water].”
- [D] Clean blood [of such an appearance as is specified by the House of Shammai] imparts susceptibility to uncleanness. Unclean blood does not impart susceptibility to uncleanness [to dry produce on which it falls]. [So the issue raised at B does not apply, and Meir refers only to ‘Aqabya’s view, as A has said.]

2:7

- [A] **What is the red color [to which reference has been made at M. Nid. 2:6A]?**
- [B] **It is [a red] like that of blood flowing from a wound.**
- [C] **Black?**

[D] Like ink sediment.

[E] [If the blood] is lighter than this, it is clean.

[F] And bright crocus color?

GI Like the brightest [shade of crocus] that there is.

[H] And the color of earthy water?

[I] [Like a color produced when] over dirt from the valley of Beth Kerem water is run.

[J] [A color like] water mixed with wine?

[K] Two parts water to one part wine,

[L] [using] wine of Sharon.

- [I:1 A] R. Jacob bar Aha, R. ‘Ulla of Caesarea in the name of R. Hanina, R. Ba in the name of R. Simeon b. Menassia: “[It is *red*] **like blood flowing from a wound** [M 2:7B] that has faded more than once [repeatedly].”
- [B] *Said R. Jacob bar Sosai in session before R. Yosé, “And the Mishnah-pericope itself has said the same thing: **Red like blood flowing from [an already existing] wound** [hence a wound that has received more than a single blow].”*
- [C] *R. Isaac bar Nahman and R. Abudama of Haifa were in session. Someone came along [bearing a bleeding wound]. Said R. Isaac bar Nah.man to R. Abudama, “That [color] is close to [the color or red] that comes from menstrual blood.”*
- [D] *That [is the point of this observation]? Does he differ [from Simeon b. Menassia]?*
- [E] [No. The point of the observation is that] if [the blood had] faded yet again, [the blood would have been like menstrual blood [in color].
- [II:1 A] **Black like ink sediment.**
- [B] What does one do [to compare the color of the blood with the specified shade of black]?
- [C] R. Ba in the name of R. Judah: “One takes ink sediment and puts it on white skin [near the wound].”
- [D] R. Yosé b. R. Bun said, “[Even] on spotty skin.”
- [E] R. Zeira in the name of our rabbis: “[The shade of] black is like that of a raven. [If it is] black as a grape, [or] black as pitch, it is clean.”

- [F] Associates in the name of R. Yohanan: “[If it is] black as ink, it is clean [blood].”
- [G] R. Ammi in the name of R. Yohanan: “[If it is as black as] imported aromatic leaves, it is unclean.”
- [H] *R. Zeira asked in session before R. Ammi, “Are all of these [different shades] applied in practice?”*
- [I] He said to him, “Yes.”
- [J] *R. Simeon b. Laqish said, “In the case of all of them, [if the shade of black] is lighter than the specified [shades], [the blood] is clean. [If it is] deeper than they, [the blood is] Unclean” [cf. M. 2:7E].*
- [K] *R. Yohanan said, “In the case of all of [the colors listed in M. 2:7], [if the shade of black is] lighter than the specified shades, [the blood] is clean. [If it is] deeper than they, [the blood also is] clean, except in the case of black.”*
- [L] *The Mishnah-pericope supports the position of R. Yohanan, for we have learned [in the cited pericope]: **Black? Like ink sediment. [If] it is lighter than this, it is clean.** Lo, if it is deeper than this, [it is] unclean. [We give such a ruling] only in the case of a black shade. But lo, in the case of all of the others, even though the shade is deeper [than the ones specified in the Mishnah], the [blood] is clean.*
- [M] *[In] the town of R. Judah [the law followed the opinion of] R. Simeon b. Laqish, [even though] R. Judah was in accord with the opinion of R. Yohanan [L].*
- [N] *Bar Qappara repeated [the tradition] and sustained the opinion of R. Simeon b. Laqish, but he did not carry out the law in practice in accord with him [but in accord with the position of R. Yohanan].*
- [O] [A servant] of R. Hanina made a mixture [of the specified elements] for Bar Qappara.
- [P] He said to him, “What [is the law that applies to a blood of a shade] such as this?”
- [Q] He said to him, “Unclean.”
- [R] *It grew lighter.*
- [S] He said to him, “Clean [= J].”

[T] *He said to him, "May peace come on a man who erred in what he said but did not err in what he saw."*

[U] *They contemplated ruling, "The one who rules that it is clean does so in a case in which it is clear. The one who rules that it is unclean does so in a case in which it is turbid."*

[V] *Let us then infer the law from the following case, concerning a woman of the household of Rabbi, who produced black blood.*

[W] *The case came before R. Jacob bar Zabedi and before R. Isaac bar Tablai. They contemplated declaring her unclean.*

[X] Said to them R. Helbo, "Thus said [50b] R. Huna in the name of Rab: '[If] it is a dull black color, it is clean. [If it is a] bright one, it is unclean.'"

[Y] *[Thus the Mishnah-pericope has referred] only to black. Lo, all of [the rest of them], even if they are clear, are clean [= K].*

[III:1 A] Bright crocus color? Like the brightest shade of crocus that there is.

[B] [Like a leaf] that is wet, not dry.

[C] On top, not on the bottom.

[D] As one examines it in the shade, and not as one examines it in sunlight [T. Nid. 3:11F-G].

[E] *R. Abbahu brought [for comparison] to the session of R. Eleazar various sorts of blood contained in [blood-letters'] vessels.*

[F] He said to him, "The color has already dimmed."

[G] *R. Jacob bar Zabedi brought before R. Abbahu blood of a goat in the case of red blood, and blood of fish in the case of black.*

[H] He said to him, "The color has already dimmed."

[IV:1 A] And the color of earthy water? Like a color produced when over dirt from the valley of Beth Kerem water is run.

[B] R. Haninah and R. Jonathan – both of them say, “[The flow of water must be equivalent to] running water over a strip of cloth [that is, in substantial volume].”

[V:1 A] A color like wine mixed with water? [Two parts water to one part wine, using wine of Sharon:

[B] Abba bar Hanah in the name of R. Yohanan: “A cup of mixed wine as it appears from the outside.”

[C] *They contemplated ruling: “Like Tiberian [glass] cups.”*

[D] *[But] said R. Abudama of Sepphoris in session before R. Mana, “Like a flat bowl that does not cast a shadow onto its own sides.”*

[V:2 A] Samuel said, “Whoever does not know how to discern clean blood should not take upon himself to examine unclean blood.”

[B] Rab said, “[One should do so] only if he is an expert in them and in their names.”

[C] *A teaching of R. Yohanan makes the same point: “I am able to discern all shades of clean blood and all shades of unclean blood. If a shade of blood is clean as red blood, it may be unclean among those shades of blood matching water mixed with earth. Whoever does not know that fact does not know how to discern [the differences among shades of blood].”*

[D] *And furthermore we [infer the same viewpoint] from the following teaching: [As to dirt that is like the color of blood: they examine the mixture when it is turbid, and they do not examine it when it is clear. If] the mixture becomes clear, they do not go and make it turbid [a second time, for there is no limit to the mixture of water and dirt [T. Nid. 3:11M].*

[E] R. Hanina would make them turbid again.

[F] *They said before R. Yohanan, “R. Haninah made [the water and dirt] turbid again, and you did not make them turbid again?”*

[G] *He said to them, “R. Hanina drank old wine, R. Yohanan did not drink old wine. [The former was experienced, the latter not experienced.]”*

[H] *R. Hanina [indeed] drank the best vintage wine,*

[I] *[for,] said R. Hoshaiah, “Since R. Haninah’s eye had been nourished on many cases, even turbid mixtures did he not declare invalid.”*

- [J] R. Shemi in the name of R. Aha, “R. Haninah would make an estimate [of the required color of dirt and water] based on a clump of dirt [without actually mixing it, because of his exceptional experience in judging such cases].”
- [K] *R. Abun, R. Shemi in the name of R. Aha, “Since we know that R. Haninah is suitable, shall we therefore rely on his judgment?”*
- [L] *R. Haninah was living in Sepphoris, and cases would come before him. And two times cases went forth [from his court]. Now R. Yohanan and R. Simeon b. Laqish were living there. But he did not add them to his court.*
- [M] *They said, “That old man is wise, and his knife is sharp.”*
- [N] *One time he joined them [to his court].*
- [O] *They said, “Why does Rabbi [after ignoring us so long] pay attention to us today?”*
- [P] He said to them, “May [something bad] come upon me, if it is not so that every case that I bring forth from my court I do judge in accord with a law that I learned from my teacher as a valid law, as many times as there are hairs on my head [and if in addition I did not see my teacher apply these laws] in practice at least three times. And on that account I rely on my own teaching. *But this particular case did not come before my teacher as a matter of law or practical decision more than two times. On that account I have joined you with me to make the decision.*”
- [Q] *R. Isaac bar Nahman learned from R. Eleazar to recognize clean blood.*
- [R] And lo, did he not learn] unclean blood?
- [S] And did not R. Isaac bar Nahman say to R. Abudama of Haifa, “The wound on this one is nearly like that of menstrual blood”?
- [T] *But whoever learned this from him would also learn that from him.*
- [U] *Isaac bar Jonathan and Rab [Huna] were sitting in session. A woman came and asked them [about the condition of her blood].*

[V] *Said to her R. Isaac bu Jonathan, "I have seen a dimmer [color] than that."*

[W] *Said to him R. Huna, "Thus said Rab: 'In accord with the case before you must you give judgment.'"*

[X] *Said R. Jacob bar Aha in the name of R. Simeon b. Abba, "How many basketfuls of cases would come before R. Haninah and for whatever came before him did he give a decision."*

[V:3 A] What is the law as to inspecting bloodstains by night?

- [B] Rabbi examined one of them by night and declared it unclean. *He decided to leave it for the morning.* He examined it by day and declared it clean.
- [C] He said, "Great are the teachings of sages, who ruled that [judges] are not to examine bloodstains by night."
- [D] *He decided to leave it for the night.* He examined it by night and declared it clean.
- [E] He said, "But it is not I who made an error, but [the bloodstain] grew dim."

[V:4 A] [If a woman] saw a [drop of blood] on the bolster, what is the law as to her being deemed a credible witness to report, "I saw a drop of blood of this sort" or "... of that sort"?

- [B] R. Ba in the name of R. Judah, R. Helbo, R. Hiyya in the name of R. Yohanan, "[If] she saw [a drop of blood] on the bolster, she is deemed a credible witness to report, 'I saw a drop of blood of this sort' or '... of that sort.'"
- [C] *And so it was taught in a Tannaitic teaching:* She is deemed a credible witness.
- [D] Is it possible to maintain that the examination of a bloodstain is equivalent to examinations of nega'-spots [so that a woman may testify to a priest what she has seen]?
- [E] Scripture says, "And it will be brought to Aaron, the priest, or to one of his sons, the priests (Lev. 13:2)" [So the nega'-spot must itself be brought for inspection to a priest, and a description of it will not suffice].

YERUSHALMI NIDDAH

CHAPTERS THREE AND FOUR

3:1

[A] [50c] **She who aborts a shapeless object, if there is blood with it, is unclean, and if not, she is clean.**

[B] **R. Judah says, “One way or the other, she is unclean.”**

[I:1 A] [The position of the sages of A, who make the matter depend on the presence of blood, is because] *the rabbis maintain that* it is the source [uterus] that produces the shapeless object [so the woman is clean so far as having given birth, and so if she produces blood, it is menstrual blood, and she is unclean as a menstruant. When there is no blood, there of course is no reason to declare her unclean].

[B] R. Judah says, “It is blood that has congealed and been turned into a shapeless object.”

[C] Said R. Yohanan, “R. Judah declares unclean only in a case in which there are four sorts of blood [in the shapeless object].”

[D] R. Jacob b. Aha, R. Simeon bar Ba in the name of R. Yosé, son of Nehorai: “The law is in accord with the opinion of R. Judah.”

[E] R. Eleazar heard [this statement] and said, “I do not accept the authority of that judgment.”

[F] Samuel said, “The law is in accord with the position of R. Judah.”

[G] *Said R. Zeirah, “It is not that he stated that the law is in accord with R. Judah, but he noted that rabbis are accustomed to follow the law in accord with R. Judah.”*

[H] R. Yohanan in the name of R. Simeon b. Yohai, **“One cuts it open, and if blood is found inside it collected together, she is unclean, but if not, she is clean” [T. Nid. 4:1A-B].**

[I] *R. Eliezer b. Jacob taught as a Tannaitic tradition and took issue with R. Simeon b. Yohai: “When a woman has a*

discharge of blood that is her regular discharge from her body she shall be in her impurity seven days]' (Lev. 15:19 – [in her body, blood signifies menstrual uncleanness, but] not in an abortion or in a shapeless object.”

3:2

[A] She who produces [an abortion] like a rind, like a hair, like dust, like red flies –

[B] let her put them into water.

[C] If they dissolve [into blood], she is unclean [as a menstruant], and if not she is clean.

[D] She who produces [an abortion] like fish, locusts, insects, and creeping things –

[E] if there is blood with them, she is unclean.

[F] And if not, she is clean.

[G] “She who produces [an abortion] like a beast, wild animal, or bird, whether unclean or clean,

[H] “if it is male, she should sit out [the days of uncleanness and cleanness required] for a male. And if female, she should sit out [the days of uncleanness and cleanness required] for a female.

[I] “And if [the sex of the abortion] is not known,

[J] “she should sit [out the days of uncleanness and cleanness] for a male and for a female,” the words of R. Meir.

[K] And sages say, “Anything which does not bear [some aspect] of the human form is not deemed a foetus.”

[I:1 A] R. Haninah in the name of R. Simeon b. Laqish: “She should put them [M. 3:2A] into warm water.”

[B] *And have we not learned in the Mishnah [M. 3:2B]: She who aborts something like fish, locusts, insects, or creeping things, if there is blood with them, is unclean. And if not, she is clean.* Now let her put them into warm water [until they dissolve, and if then there is blood, she should be unclean, just as is stated at M. 3:2A].

[C] *[We must] apply the rule applying in the one case to the other, and the rule applying in the other case to the one.*

[D] *We apply the rule applying in the one [M. 3:2A] to the other [M. 3:2B]: If they dissolve, she is unclean, and if not, she is clean.*

[E] *And the rule applying in the other [M. 3:2B] to the one [M. 3:2A]:* If there is blood with them, she is unclean, and if not she is clean. And she should put them into warm water.

[F] *There [M. Nid. 7:1] we have learned in the Mishnah:* **[The blood of the menstruating woman and the flesh of a corpse impart uncleanness when they are wet, and impart uncleanness when they are dry. But the Zab's flux, phlegm, spit, and the creeping thing, carrion, and semen impart uncleanness when wet but do not impart uncleanness when dry. If they can be soaked and return to their former bulk, they impart uncleanness when wet and when dry.]** And how long are they to be soaked? In lukewarm water, for twenty-four hours.

[G] **Judah b. Naqosa says, "It must be in lukewarm water for twenty-four hours"** [T. Nid. 6:11E].

[H] What does one do? He puts it on the ashes or puts hot water into it in any amount whatsoever.

[I:2 A] She who aborts dry blood –

[B] R. Eleazar says, "She is unclean."

[C] R. Yosé b. Hanina *said*, "She is clean."

[D] *The following teaching of the Mishnah is at variance with the view of R. Yosé b. Haninah:* **The blood of the menstruating woman and the flesh of a corpse impart uncleanness when they are wet and impart uncleanness when they are dry.** [Yet Yosé says dry blood is clean.]

[E] Interpret [the Mishnah to refer to a case] in which the blood had been wet and then dried up.

[F] *The following teaching of the Mishnah is at variance with the view of R. Eleazar:* **She who aborts something like a rind, hair, dust, or red flies, should put them into water. If they dissolve, they are unclean** [and not, as Eleazar says, invariably unclean, e.g., in the case of dry blood].

[G] Interpret [the Mishnah's view that if the thing does not dissolve, it is clean] since [if it does not dissolve] it is because it is a creature [unto itself, and it is not blood at all].

[H] *Said R. Zeira, "And even if you reply [that on the list is] dirt – dirt also [can constitute] a distinct creature [through parthenogenesis]."*

[I] *Said R. Ba, “And even if you say it is sandy matter of dirt, a woman may abort [such too].”*

[J] So you may interpret the Mishnah [to refer to a case of cleanness] because [it constitutes] a creature unto itself [just as G has said].

[K] *The following Tannaite passage is at variance with the position of R. Yosé b. Haninah.*

[L] **M’S H B: A woman aborted red scabs, and the case came before sages, who sent and called physicians. They told [the sages], “She has a wound inside [and therefore produces from its crust abortions like red rinds. She thus should put them in water].”**

[M] **SWB M’S H B: A woman aborted red hairs, and the case came before sages, who sent and called physicians. They said to [the sages], “She has a wart inside [therefore she produces abortions of red hairs]” [T. Nid. 4:4].**

[N] [Now the reason that the woman is deemed clean is that] she has a wart inside or a wound inside. Lo, if she had had no wart or wound inside[, she would have been unclean and here we have dry blood, which Hanina would have deemed to be clean. Sages would have regarded it as unclean except under the stated conditions.] [*These two cases*] *indeed are at variance with [Yosé b. Haninah], and there is no way of supporting his position.*

[II:1 A] Said R. Yohanan, “The delivery in this present context is exactly like all other deliveries that are referred to in the Torah. Just as in the case of all deliveries referred to in the Torah, [we deem the delivery to have taken place] only once the head of the greater part of the body will have come forth, so in this case [M. 3:2D], [we regard the delivery to have taken place] only once the head and the greater part of the body will have come forth.”

[B] R. Simeon b. Laqish said, “This particular delivery is different from all the other deliveries mentioned in the Torah. In the case of all other deliveries mentioned in the Torah, [the delivery is deemed to have taken place only] when the head and the greater part of the body [will have come forth]. But in this case, [the delivery is deemed to have taken place] once a sufficient [part of the abortion] has come forth to provide evidence for discerning the appearance [of the abortion, that it indeed has human form, in line with M. 3:2D].”

[C] *So what is the difference between [Yohanan and Simeon b. Laqish]?*

[D] *[If the abortion] went forth chopped up or cut up.*

[E] *In accord with the opinion of R. Yohanan, once the head and the greater part of the body has come forth [we deem the delivery to have taken place].*

[F] *In accord with the opinion of Simeon b. Laqish, once a sufficient [part of the thing] has come forth to provide evidence for discerning the appearance [of the abortion, that it indeed has human form, we deem the delivery to have taken place].*

[III:1 A] ["She who aborts something in the shape of a domestic beast, wild animal, or bird, whether unclean or clean, if it is male, should sit out the days of purifying of a male; if it is female, she should sit out the days of purifying for a female. If] it is not known [whether it is male or female], she should sit out the days of purifying for a male and a female," the words of R. Meir. And sages say, "Whatever does not bear the form of a human being is not deemed fetus."

[B] *In all those cases concerning which we have learned in the Mishnah that a woman must sit out the days of purifying for both a male and a female, [women] have fourteen days of uncleanness [for the female] and twenty-six clean ones [= 337]. [That is to say], they assign to her the more stringent rule applying to the male [the lower number of clean days] and the more stringent rule applying to the female [the higher number of unclean days].*

[C] *Now this rule that you state applies to sexual relations [that she is assigned only those clean days of a male that remain after we subtract the unclean days]. But as to matters requiring cleanness, let her observe the rules applying to the female [that is to say, the entire period of clean days given after a female birth].*

[III:2 A] Said R. Hanina son of R. Abbahu, "The reason of R. Meir is that Scripture refers to these other things with the word form just as in the case of man: 'Then the Lord God formed man of dust from the ground' (Gen. 2:7)."

[B] *R. Ammi asked, "Now the word form [indeed] is written concerning domesticated cattle: 'So out of the ground the Lord God formed every beast of the field and every bird of the air' (Gen. 2:19). But lo, it is written, 'For lo, he who forms the mountains and creates the wind [and*

declares to man what is his thought, who makes the morning darkness and treads on the heights of the earth – the Lord, the God of hosts, is his name]’ (Amos 4:13). On the basis of this verse [by the reasoning just now spelled out], if a woman aborted something in the shape of a mountain, she should be unclean.”

- [C] There is a difference in regard to having given birth, for the word form is not written concerning the [mountains] from the outset of the creation of the world.
- [D] R. Yosa in the name of R. Yohanan, “[The reason of R. Meir for including beasts and the like] is that they watch out before themselves, just like man [having two eyes].”
- [E] Abba bar Hannah in the name of R. Yohanan: “Because they walk forward, like man.”
- [F] *Replied R. Bun bar Hiyya, “And have we not learned: That [beast] the eye of which is round like that of a man [M. Bekh. 6:8H] is a blemish[ed beast] [so Meir cannot possibly concur that the reason beasts come under consideration is that their eyes are like those of man, since in a beast such a trait is deemed a blemish].”*
- [G] *Said R. Yosé, “Now do we learn in the Mishnah [cited just now, listing blemishes in beasts] that they look out before them, or that they go along forward [like man]? What is the point of this similarity to the eye of man? The eyeball of man is round, the eyeball of a beast is long.”*
- [H] Said R. Yosé the son of R. Bun, “In man the white of the eye is more than the dark, and in a domesticated beast, the dark is more than the white.”
- [I] *R. Haggai said, R. Hananiah, associates of rabbis raised the question with regard to that which R. Meir has taught [that if a woman aborted something in the shape of a bird, she should sit out the appropriate number of days of purifying]: If a woman produced an abortion in the shape of a raven, and [10], the raven flies away and is sitting at the top of a palm tree, [if then the husband’s brother dies without his wife’s having given birth to a child], does one say [to the raven, which is then surviving brother-in-law of the widow], ‘Come and enter into the ceremony of removing the shoe [of Deut. 25:10ff.] or enter into levirate marriage’?”*

- [J] *Said to him R. Mana, “While you are raising such a question with regard to the opinion of R. Meir, you might as well raise the same question of the rabbis [who deem human features adequate].”*
- [K] *For R. Yosa said in the name of R. Yohanan, “[If the abortion is] wholly in the shape of man, but its face is like that of a domesticated beast, it is not deemed to be a viable fetus. But [if it is] wholly in the shape of a domesticated beast, but its face is that of a man, it is a viable fetus.*
- [L] “[If it is] wholly in the shape of a man, but the face is in the shape of a beast, and it is standing and reading in the Torah, they say to him, ‘Come and get yourself slaughtered.’ [If it is] wholly in the shape of a beast but its face is in the shape of a man’s, standing and ploughing in a field, do they say to it, ‘Come and carry out the ceremony of removing a shoe, or enter into levirate marriage!’ “
- [M] And R. Yosa in the name of R. Yohanan said, “The end of the matter is not that all of the specified traits are present. But even if [only] one of the specified traits is present [it is deemed a viable fetus in the definition of sages at M. 3:2D].”
- [N] And what are the specified traits [that signify human form]?
The forehead, eyebrows, eyes, ears, cheek, nose, beard, and dimples.
- [O] And R. Yosa in the name of R. Yohanan said, “The end of the matter is not that all of the specified traits must be present. But even if one of the specified traits is present, [it is deemed a viable fetus, as stated above].”
- [P] R. Ba, R. Jeremiah in the name of Rab: “The opinion of R. [Meir] is preferable in a case in which the entire face is like that of a man, and the opinion of sages is valid when even only one of the traits is present.”
- [Q] And the opinion of R. Simeon b. Yohai applies even when there is only the [human] visage.
- [R] *R. Pinhas asked, “Perhaps the theory attributed to R. Simeon b. Yohai is confused. There he says, [**Why does Scripture say, camel, camel (Lev. 11:4, Deut. 19:7) – two times? To encompass a camel born of a cow, which is equivalent to one born of a camel.] And if its head***

and the greater part of its body are similar to those of its dam, it is permitted for eating” [T. Bekh. 1:9A].

[S] *“But here he says this [so he seems to invoke conflicting criteria]!”*

[T] *Here he speaks of man, there he speaks of cattle.*

[III:3 A] *Said R. Ba, “R. Hiyya the Elder went to the South. R. Hama, father of R. Hoshaiyah, and Bar Qappara asked him, ‘[If the abortion looks] wholly like man, but its face is that of a beast, what is the law?’*

[B] *“He came and asked Rabbi. He said to him, ‘Go and write to them, ‘It is not a viable fetus.’ [For we require the face to be like that of a man.]” [= M. 3:2D].*

[C] *Said R. Jeremiah, “Zuga went out [to the South]. R. Hama, father of R. Hoshaiyah, and Bar Qappara asked him, ‘If the fetus’s two eyes are covered over [not discernible], what is the law?’ [D] “He came and asked Rabbi.*

[D] *“He said to him, ‘Go and write to them, ‘It is not a viable fetus.’”*

[E] [50d] *Said R. Yosé b. R. Bun, “Rabbi is consistent in his opinion. For Rabbi said, ‘[It is not a viable fetus] unless the entire face is similar to that of a man.’”*

[F] [If] its face is mashed, what is the law?

[G] *R. Yosa said, “R. Yohanan and R. Simeon b. Laqish differ on this matter. R. Yohanan said, ‘It is not a viable fetus.’ R. Simeon b. Laqish said, ‘It is a viable fetus.’”*

[H] *Said R. Zeira, “It is not that R. Yohanan said it is no viable fetus in any regard. It is not a viable fetus such as to require the mother to sit out the [33, 66] days of purifying. But it is a viable fetus to require the mother to sit out the days of uncleanness by reason of childbearing [7,14].”*

[I] *R. Yohanan said in the name of R. Yannai, “And [if] its thigh is unformed, it is not a viable fetus.”*

[J] *R. Yohanan in the name of R. Yosé b. R. Joshua: “[If] its navel is unformed, it is not a viable fetus.”*

[K] *R. Yohanan in the name of R. Zakkai: “[If] its apertures are not open, it is not a viable fetus.”*

[L] R. Zeira in the name of Giddul: “[If] the skull is unformed it is not a viable fetus.”

3:3

[A] **She who aborts a sac filled with water, filled with blood, filled with dry matter [i.e., matter of various colors], does not take into consideration the possibility that this is a valid birth.**

[B] **But if [a limb] had formed, let her sit [out the days of uncleanness and cleanness] for both male and female.**

[I:1 A] *It was taught in a Tannaitic tradition (TNY):*

[B] [If the sac was aborted,] filled with water, she is unclean by reason of having given birth. [If it was] filled with blood, she is unclean as a menstruant. [If it was] filled with flesh, she is unclean as a menstruant.

[C] *And lo, we have learned: **She who aborts a sac filled with water, filled with blood, filled with dry matter, does not take into consideration that this is a valid birth.***

[D] *R Bibi in the name of R. Simeon b. Laqish: “The Mishnah-pericope refers to a case in which the liquid is clear. The Tannaite baraita refers to a case in which the liquid is turbid [so there is the possibility of a fetus that has dissolved].”*

[E] R. Simon in the name of R. Joshua b. Levi: “And even if it was clear[, the *baraita*’s rule applies], for a sac appears only in the case of man[, and the Mishnah and *baraita* differ on this matter].”

[F] *Now this is the meaning of that which is written: “When I made clouds its garment, and thick darkness its swaddling band” Job 38:9). “Its garment” refers to the sac. “And thick darkness its swaddling band” refers to the abortion.*

[I:2 A] A sac, the appearance of which was disfigured – what is the law?

[B] R. Yohanan said, “It is a viable fetus.”

[C] R. Simeon b. Laqish said, “It is not a viable fetus, [and the woman is not unclean].”

[D] *R. Simeon b. Laqish objected before R. Yohanan, “What is the difference between this case and the case of a corpse that rotted, so that the backbone is no longer discernible [which is deemed no longer a source of uncleanness? In both instances there is no issue of uncleanness].”*

[E] He said to him, “In that case [of the corpse], it was right that it should be deemed *not* a source of uncleanness even if the backbone were there to be discerned. But why did they declare it unclean? In order to protect the honor [of the corpse, to keep people from misusing it]. But in the present case, it indeed does constitute a viable fetus.”

[II:1 A] **What is the formed limb of which they have spoken [at M. 3:3B]?**

[B] **It is any, at the beginning of the creation of which looks me a rashon-locust [T. Nid. 4:10E].**

[C] **They do not examine [the fetus, to determine whether it is male or female] with water, because the water is hard and distorts its shape. But they do so with oil, because it is soft and makes it clear. And they examine it only in the sun [T. Nid. 3:11].**

[D] *It is taught in a Tannaitic teaching:* Abba Saul says, “Man is formed from the navel and spreads out [in] his growth in all directions.”

[E] *It is taught in a Tannaitic teaching:* **Its two eyes are me two drippings of a fly. The two nostrils are like two drippings of a fly. The opening of its mouth is me a hair. They discern its two hands me two drippings of a fly. Its navel is like a dripping of a fly. Its body is me a dripping of a fly. And if it is a female, her sexual organ is me the longitudinal split of a barky grain [T. Nid. 4:10].**

[F] *And it was taught in a Tannaitic teaching:* R. Jonathan says, “They recognize that its two arms are like two threads of crimson, and the rest of its limbs are like attached pieces of unformed matter. And it does not yet have a span of hands and feet. And concerning it is stated explicitly in the received tradition: ‘Thy eyes beheld my unformed substance; in thy book were written every one of them the days that were formed for me when as yet there was none of them’ (Ps. 139:16).”

[II:2 A] R. Judah asked Samuel, “Since I am a sage, am I well able to examine the traits of sac?”

[B] He said to him, “The head of the one who is head of you [that is, your teacher, Samuel himself] is scalded in boiling water, and will you not be burned even by lukewarm water?”

[C] R. Hiyya in the name of R. Yohanan: “These women who say that [if the placenta is] like a female slug, it is a male fetus, and if it is like a male slug, it is a female fetus, we do not rely on their knowledge.”

[D] R. Jacob bar Zabedi, R. Abbahu in the name of R. Yohanan: “A woman is permitted to testify, ‘I have given birth,’ or ‘I have not given birth.’ But she is not permitted to testify, ‘It is masculine,’ or ‘It is feminine.’”

3:4

[A] **She who aborts [an abortion shaped like] a sandal or a placenta – [B] let her sit [out the days of uncleanness and cleanness] for both male and female.**

[C] [If] there is a placenta in a house, the house is unclean.

[D] **Not that the placenta is the child, but because there is no placenta which does not contain part of the child.**

[E] **R. Simeon says, “The child was mashed before it [the afterbirth] came out.”**

[I:1 A] R. Ba in the name of R. Judah: “A sandal [occurs] only when a [second], live [fetus] has pressed on it. But [the fetus] does not go forth alive but dead.”

[II:1 A] What follows depends upon **M. Ker. 1:3A, D: There are women who bring a sin-offering after childbirth and it is eaten by the priests... She who aborts a sandal or an afterbirth...** The position of R. Ba in the name of R. Judah is that there is a second fetus. There should then be an obligation for a sin-offering for this other fetus, as well as for the sandal-abortion, so two sin-offerings. It is to this problem that R. Bun bar Hiyya’s saying is directed. To the Mishnah-lemma, **There is no placenta that does not have part of the fetus**, replied R. Bun bar Hiyya, “*And lo, we have learned in the Mishnah: She who aborts [something shaped like a sandal or a placenta should set out [the days of uncleanness and purifying] for both a male and a female. So you do have a [whole] fetus!*”

[B] *Said R. Huna, explaining [the passage] before R. Jeremiah, “Interpret the Mishnah to refer to a case in which the fetus emerged from the side [in a Caesarean birth], while the sandal emerged from the vagina, [or] the fetus emerged during the days [of purifying] and the sandal afterward; [or] the fetus before [the woman] converted, and the sandal afterward. [There is no obligation for an offering if the birth does not take place through the vagina, if it takes place in the days of purifying, or if the woman was not an Israelite. Consequently, in these three cases there is only a single offering, such as is assumed at M. Ker. 1:3.]”*

[C] Even if you say, both came from the womb, [or] both came after conversion, you may interpret the Mishnah to refer to a case in which the fetus came forth first, so the woman set aside an animal for an offering on its account. She did not have time to bring [and offer] it before the sandal came forth. So the first offering was postponed, and she turned out to bring an offering on account of the sandal.

[II:2 A] What is the sandal of which they have spoken? **It is any that is like a sandal, a fish in the sea. Rabban Simeon b. Gamaliel says, “It is any that is like the tongue of an ox.”**

[B] **Our rabbis voted concerning this issue, stating, “[It is not deemed unclean] unless it bears human form” [T. Nid. 4:7D].**

[II:3 A] Who are “our rabbis” [of II:2B]? They are R. Judah the Patriarch and his court.

[B] In three places R. Judah the Patriarch is referred to as “our rabbis”: in regard to [1] divorce, [2] oil, and [3] sandal.

[C] [3] *The matter of “sandal” is this one to which we have just now attended.*

[D] [2] *The matter of oil is the following, which we have learned in a Tannaitic tradition:*

[E] **Rabbi and his court permitted oil [prepared by gentiles] [M. A.Z. 2:6C].**

[F] [1] *As to writs of divorce, the matter is covered in the following, which we have learned there in a Tannaitic tradition:*

[G] **[If the husband says,] “This is your writ of divorce, to take effect when I die,” “This is your writ of divorce [if I die] from illness,” “This is your writ of divorce [to take effect] after I die,” he has said nothing [and the writ is invalid] [M. Git. 7:3A-D].**

[H] **And our rabbis declared, “Lo, this is a valid writ of divorce” [cf. T. Git. 5:3A].**

[I] Who are “our rabbis”? They are R. Judah the Patriarch and his court.

[J] And they called it a permissive court. For any court that takes a lenient position in three matters is called a permissive court.

[K] Said R. Yudan, “His court differed from him in the matter of the [validation of] writs of divorce.”

[II:4 A] R. Yannai cried out [in reference to II.2B]: “You have declared the fetus to be clean, [by saying that only if there is a human form is the fetus a source of uncleanness].”

[B] R. Simeon in the name of R. Joshua b. Levi: “It is a ruling based on the testimony of R. Honiah of Beth Hauran.”

[C] [*And that accords with*] *the following*: R. Zeira: “If it is based on the testimony of R. Honiah of Beth Hauran, [then it was] R. Haninah [who] cried out, ‘You have declared the fetus to be clean.’”

[II:5 A] **What is the placenta of which they have spoken? It is any that is like a thread of the warp, and its head is like a lupine.**

[B] **Rabban Simeon b. Gamaliel says, “It is any that is like the craw of a hen, and its head is me a stomach.**

[C] **“And it is hollow like a trumpet. And a placenta is at least a handbreadth” [T. Nid. 4:9].**

[II:6 A] R. Judah sent to R. Eleazar, asking [with reference to M. 3:4A], “As to a placenta part of which came out on one day, part on the next – [what is the law? From what point do they reckon the days of uncleanness and the days of purifying?]”

[B] He said to him, “If it is for the reckoning of the status of blood on the days of purifying, one reckons from the first of the two days. If it is for reckoning of the status of the blood on the days on which the blood is unclean, one counts from the second day.”

[C] *Said R. Mattenaiah, “That ruling you have given [in a case of doubt, taking the more severe of the possibilities] applies in a case in which a fetus did not emerge with [the placenta]. But if a fetus emerged with the placenta, whether it is for the purpose of counting the days of purifying or for the purpose of reckoning the days in which the blood is unclean, one counts only from that moment at which the fetus actually emerged.”*

[D] *R. Yosé b. Saul asked in session before Rabbi, “What is the law as to attributing the presence of a placenta to something that is not a fetus at all, [e.g., something in other than human*

[E] He said to him, “They do not attribute the presence of placenta to something that is not a fetus at all.”

[F] “What if [the placenta] went forth attached to [the fetus]?”

[G] He said to him, “They do not teach a rule concerning a case that is impossible.’

[H] *R. Hanin taught as a Tannaitic tradition [in the name] of Samuel*, “They do not attribute the presence of placenta to something that is not a fetus at all. [If] it went forth attached to it, they do attribute [the placenta] to that to which it is attached.”

[I] *Samuel asked the disciple of Rab*, “What is the law as to attributing a placenta to a fetus produced in a miscarriage [without taking account of the presence of another fetus]?”

[J] *They said to him*, “They attribute a placenta to the viable fetus, and [likewise] they attribute the placenta to a fetus produced in a miscarriage.”

[K] *Now Samuel praised them, for they stated the law in accord with the theory of R. Bun [who held the same position]*.

[L] [51a] *R. Hanin taught as a Tannaitic tradition [in the name] of Samuel*: “They attribute a placenta to a viable fetus, but they do not attribute the placenta to a fetus produced in a miscarriage, because it does not separate from [the fetus] before the fetus is fully formed. [If it was from this unformed fetus, it would be attached. So we take account of the possibility of yet another fetus, to which the placenta was attached.]”

[M] *R. Zeira in the name of rabbis*: “Now if you say, ‘They attribute the placenta to a fetus, for a woman does not become pregnant and then become pregnant a second time [within the same term, so there is no possibility other than to assign the fetus to the placenta in hand], [or] they cannot attribute [the placenta] to a fetus resulting from a miscarriage, for a woman does not abort and go and abort again,’ then I shall say that the woman was pregnant with twins, and the placenta of the first dissolved in the placenta of the second. [So we do not attribute the placenta to the fetus in hand.]”

[N] *R. Zeira, R. Judah in the name of Rab*: “They attribute the placenta to the fetus within three days [of the birth of the fetus], for one fetus does not delay [in appearing] for more than three days after its fellow. [So if the

placenta appears after three days of the earlier birth, we attribute the fresh placenta to a different fetus.]”

[O] *Said R. Zeira, “Whoever holds the one position holds the other, and they who differ in the one case differ also in the other case.”*

[P] *Said R. Ba, “Interpret the teaching of R. Judah in Rab’s name as follows: ‘Assign the ruling that they attribute the placenta to the fetus to a case in which the placenta came out within three days of the birth of the fetus, which emerged first of all. And attribute the teaching that the fetus does not delay to emerge more than three days after its fellow to a case in which the sandal came out first [in which case we take account of a second fetus].’”*

[Q] *Said R. Mana, “Well spoken! That which is full of life [the fetus] emerges first of all [while the placenta comes out only later on].”*

[R] *Said R. Yosé b. R. Bun, “Once it is open for the larger [the fetus], it is open for the smaller [placenta]. If it is open only for the smaller, it will not be open for the larger[, so in this latter case we take account of a second fetus].”*

[S] *Said R. Yohanan, “[That we take account of corpse-matter in the placenta] follows the view of R. Simeon, for R. Simeon says, ‘The fetus dissolved before it came out.’”*

[T] *Said R. Yohanan, “R. Simeon concedes that [the fetus] brings the days of the mother’s delivery to an end[, so she then is unclean].”*

[U] *If so, the house should be unclean [and at M. 3:4D Simeon does not deem the house unclean!].*

[V] *Said R. Bun bar Hiyya, “Interpret the Mishnah to apply to a case in which it came forth crushed[, so there is not sufficient corpse-matter to produce uncleanness].”*

[W] *Said R. Simeon to sages, “Do you not agree with me that if **one brings the bowl***

[containing the placenta] from the inner room to the outer one, that [the inner room now] is clean?"

[X] They said to him, "k is because it is mashed" [T. Nid. 4:13D].

[Y] He said to them, "Also in this case it is as if it were mashed."

[II:7 A] As to utensils that were located there at the moment at which [the fetus and placenta] emerged, what is the law?

[B] *Let us infer the rule from the following, which we have learned in a Tannaitic tradition in the following:*

[C] **R. Eliezer b. Jacob says, "A large beast that discharged a clot of blood – lo, this [clot] is to be buried, and [the beast now] is exempt from the law of a firstling [having produced an abortion]" [M. Bekh. 3:1S].**

[D] *And a Tannaitic tradition has been laid down in connection with this statement: **But it does not impart uncleanness to the one who carries it [T. Bekh. 2:13B].***

[F] Said R. Yohanan, "R. Simeon and R. Eliezer b. Jacob – both of them maintain the same position, [and this now answers the question you have raised]: Utensils that were there at the time at which the placenta came forth are clean."

3:5

[A] **She who produces a tumtom [an offspring without discernible sexual characteristics] or an androgyne [an offspring with the traits of both sexes] –**

[B] **let her sit [out the days of uncleanness and cleanness] for both male and female.**

[C] **[If she bore twins,] a tumtom and a male child, an androgyne and a male child –**

[D] **let her sit [out the days of uncleanness] for both male and female.**

[E] **[If she bore] a tumtom and a female, an androgyne and a female –**

[F] **– let her sit [out the days of uncleanness] for a female only.**

[G] **[If] it emerged in pieces or feet foremost – once the greater part of it has gone forth, lo, it is as if it were fully born.**

[H] [If] it came forth in the normal way, [it is not deemed born] until the greater part of its head has come forth.

[I] And what is the greater part of its head?

[J] Once its forehead has come forth.

[K] She who aborts and what it is is not known [masculine or feminine]

—

[L] let her sit [out the days of uncleanness and cleanness] for both male and female.

[M] [If] it is not known whether or not it was a human foetus,

[N] let her sit [out the days of uncleanness and cleanness] for a male and for female and also for menstruation.

[O] She who miscarries on the fortieth day does not take account of the possibility that it is a human foetus.

[P] [If this takes place] on the forty-first day [after intercourse], however, [she does take account of that possibility, and so] let her sit [out the days of uncleanness] for a male, for a female, and for menstruation.

[Q] R. Ishmael says, “[If it takes place] on the forty-first day, let her sit [out the days of uncleanness] for the male and for menstruation.

[R] “If it takes place on the eighty-first day, let her sit [out the days of uncleanness] for male, for female, and for menstruation,

[S] “for the male is completed on the fortieth day, and the female on the eighty first.”

[T] And sages say, “All the same is the process of the formation of the male and female – both are completed on the forty-first day.”

[I:1 A] *In all cases concerning which we have learned in the Mishnah, Let her sit out the days of uncleanness and purifying for a male and a female, [there will be] fourteen unclean days [those for a female], and then twenty-six clean days [thirty-three for a male, less seven unclean days for the male, on which all blood that is excreted is deemed to be clean].*

[B] [So] they assign to [the mother] the strict rules pertaining to the male and the strict rules pertaining to the female.

[C] *Now this rule that you have given applies to sexual relations. But as to food requiring preparation in conditions of cleanness, let her sit out [the days of uncleanness and of purifying] applying to a female [alone].*

- [II:1 A] **[If she aborts] a tumtom and a male, an androgyne and a male she sits out [the days of uncleanness and purifying] for both male and female.** And they take account of the possibility that she has produced a male.
- [B] **[If she aborts] a tumtom and a female, or an androgyne and a female, she sits out the days of uncleanness and purifying for a female alone.** And they do not take account of the possibility that she has produced a male.
- [C] This is the further rule: if she gave birth to a male and then a female, or to a female and then a male, let her sit out the days of uncleanness and purifying for a female, [for in whatever order the births took place, we impose the longer of the two periods].
- [II:2 A] A chopped up fetus, the head of which emerged – what is the rule?
- [B] *R. Yosa said, “R. Yohanan and R. Eleazar differed on this matter.*
- [C] “R. Yohanan said, ‘Its head is equivalent to the greater part of its body,’ [so, in line with M. 3:5D, it is deemed fully born].
- [D] “R. Eleazar said, ‘Its head is deemed equivalent [merely] to one of its limbs.’”
- [E] *The cited Mishnah-pericope takes issue with the position of R. Yohanan: “[If] it emerged in pieces or feet first, once the greater part of the body has gone forth, lo, this is deemed fully born[. so we require the greater part of the body when it emerges chopped up].”*
- [F] Interpret the Mishnah-pericope to refer to a case in which [following Pené Moshe], it came out feet first [but if it came out head first, that suffices].
- [G] *The cited Mishnah-pericope takes issue with the position of R. Eleazar: [If] it emerged in the normal way, [it is deemed fully born] when the greater part of the head has emerged [so the head is not merely equivalent to a limb, and this without regard to the condition of the fetus]. Thus has it stated that the head is of no consequence?*
- [H] Interpret the Mishnah-lemma to refer to a case in which it emerged [Pené Moshe:] head first.
- [I] R. Jonathan and R. Simeon b. Laqish: R. Jonathan accords with the view of R. Yohanan, R. Simeon b. Laqish accords with the view of R. Eleazar.

[J] *R. Zeira [in defining the greater part of the head] showed the associates the forehead and skull.*

- [II:3 A] *One of the members of the household of Gamaliel, son of Rabbi Leani, asked in session before R. Mana, “Since you say [that a chopped up fetus that is fully born] is a fetus, [is it not so that] the child born thereafter is not deemed first-born for the purposes of inheritance or for [giving to] the priest [the redemption money for the first-born, there now being no obligation whatsoever]?”*
- [B] He said to him, “Interpret the Mishnah to apply to a case in which [the fetus was born] dead [so that the one born .thereafter remains first-born for purposes of inheritance].”
- [II:4 A] R. Isaac bar Nahman in the name of R. Eleazar: “In the case of fowl, the criterion for the head is the greater part of the head.”
- [B] R. Zeira in the name of Samuel, “The gullet of fowl is measured by the greater part of it.”
- [C] A case came before R. Yosé in the case of [a bird], the [gullet] of which was perforated by the breadth of a pin.
- [D] [He said,] “And do we not know what constitutes the greater part thereof?”

4:1

- [A] **[51b] Samaritan women are deemed menstruants from their cradle.**
- [B] **And Samaritans convey uncleanness to a couch beneath as to a cover above,**
- [C] **because [by the Israelite method of reckoning the period of menstrual uncleanness] they have intercourse with menstruating women,**
- [D] **and continue unclean for any sort of blood [not differentiating unclean from clean].**
- [E] **But those [who have contact] with them are not liable for entering the sanctuary and do not burn heave offering on their account,**
- [F] **because the uncleanness affecting them is a matter of doubt.**
- [I:1 A] Menstrual blood stinks. Hymeneal blood does not stink.
- [B] Menstrual blood is red. Hymeneal blood is not red.
- [C] Menstrual blood derives from the uterus. Hymeneal blood does not derive from the uterus, but from the side.

4:2

- [A] When Sadducean women are accustomed to follow in the way of their fathers, lo, they are like Samaritan women.
- [B] [If] they left [those ways] to walk in the ways of Israel, lo, they are like Israel.
- [C] R. Yosé says, “They always are like Israel, until they leave to walk in the ways of their fathers.”

4:3

- [A] The blood of a gentile woman,
- [B] and the blood of purifying of a woman with *sara'at* [the skin ailment of Lev. 13] –
- [C] the House of Shammai declare clean.
- [D] And the House of Hillel say, “It is in the classification of her spit and urine [which convey uncleanness when wet but not when dried up].”
- [E] The blood of a woman who has not immersed after childbirth –
- [F] The House of Shammai say, “It is like her spit and her urine [which convey uncleanness when wet but not when dried up].”
- [G] And the House of Hillel say, “It imparts uncleanness wet and dry.”
- [H] And they agree concerning a woman who has given birth while in the status of one who has a flux, that it [her spit and her urine] conveys uncleanness whether wet or dry.

4:4

- [A] A woman in labor is deemed to be a menstruant.
- [B] [If] a woman was in hard travail for three days during the eleven days,
- [C] and [if] she enjoyed a respite for twenty-four hours and [then] gave birth
- [D] “lo, this one is one who has given birth as a Zabah [while in the status of one who has a flux] ,” the words of R. Eliezer.
- [E] R. Joshua says, “A night and a day, like the eve of the Sabbath and its day.”
- [F] For she has had relief from the pain and not from the blood.

4:5

- [A] And how long is her protracted labor?

[B] R. Meir says, “Even forty or fifty days.”

[C] R. Judah says, “Sufficient for her is her [ninth] month.”

[D] R. Yosé and R. Simeon say, “Hard labor continues no longer than for two weeks.”

4:6

[A] She who is in protracted labor during the eighty days [of cleanness] after the birth of a female –

[B] any blood which she sees is clean,

[C] until the child emerges.

[D] And R. Eliezer declares [it] unclean.

[E] They said to R. Eliezer, “Now in a situation in which the law is stringent, in the case of blood which appears during a period of respite, the law rules leniently in the matter of blood produced by hard labor,

[F] “in a situation in which the law ruled leniently [to begin with], concerning blood which is produced during a period of respite, is it not logical that we should rule leniently in connection with blood produced through hard labor?”

[G] He said to them, “It is sufficient if the inferred law is as strict as that from which it is inferred.

[H] “In what respect has the law ruled leniently for her? In respect to the uncleanness of her flux. But she is unclean in respect to the uncleanness of a menstruant.”

4:7

[A] All the eleven days that follow the seven days of menstruation] a woman is in the assumption of being clean.

[B] [If] she sat down and did not examine herself

[C] accidentally,

[D] under constraint,

[E] [or if] willfully she did not examine herself,

[F] she is clean.

[G] [Once] the time of her period has come and she has not examined herself, lo, this one is deemed unclean.

[H] R. Meir says, “If she was in hiding and the time of her period came and she did not examine herself, lo, this one is deemed clean,

[I] “because fright suspends the blood.”

**[J] But during the [seven clean] days [that must be counted by the] man
or woman that has a flux,**

**[K] or [the one day of cleanness to be counted] by her that awaits day
against day –**

[L] [during that time,] lo, these are in the assumption of being unclean.

CHAPTER FOUR

THE STRUCTURE OF YERUSHALMI NIDDAH

Whether or not the Talmud of the Land of Israel is carefully organized in large-scale, recurrent structures and guided by a program that we may call systematic forms the principal question addressed by an academic commentary. The preceding chapters therefore have pointed toward the presentation set forth here. By “structure” I mean, a clearly-articulated pattern that governs the location of fully-spelled out statements. By “system,” I mean, a well-crafted and coherent set of ideas that explain the social order of the community addressed by the writers of a document, a social philosophy, a theory of the way of life, world view, and character of the social entity formed by a given social group. I see a collective, anonymous, and political document, such as the one before us, as a statement to, and about, the way in which people should organize their lives and govern their actions. At issue then in any document such as the remarkable one before us is simple: does this piece of writing present information or a program, facts to whom it may concern, or a philosophically and aesthetically cogent statement about how things should be? The connection between structure and system is plain to see. From the way in which people consistently frame their thoughts, we move to the world that, in saying things in one way rather than in some other, they wish to imagine. Modes of formulating thought adumbrate modes of imagining the world in which people wish to live, to which they address these thoughts.

If the document exhibits structure and sets forth a system, then it is accessible to questions of rationality. We may ask about the statement that its framers or compilers wished to make by putting the document together as they did. But if we discern no structure and perceive no systematic inquiry or governing points of analysis, then all we find here is inert and miscellaneous information, facts but no propositions, arguments, viewpoints. Now as a matter of fact the Talmud of the Land of Israel commonly finds itself represented as lacking organization and exhibiting a certain episodic and notional character. That view moreover characterizes the reading and representation of the document by learned and experienced scholars, who have devoted their entire lives to Talmud study and

exegesis. It must follow that upon the advocate of the contrary view – the one implicit in the representation of the document for academic analysis – rests the burden of proof. I set forth the allegation that the Talmud of the Land of Israel exhibits a structure and follows a system and therefore exhibits a commonly-intelligible rationality. The claim to write an academic commentary explicitly states that proposition. For the tractate before us, I have therefore to adduce evidence and argument.

I maintain that through the normal procedures of reasoned analysis we may discern in the tractate a well-crafted structure. I hold that the structure made manifest, we may further identify the purpose and perspective, the governing system of thought and argument, of those who collected and arranged the tractate's composites and put them together in the way in which we now have them. By "structure" I mean, how is a document organized? and by "system," what do the compilers of the document propose to accomplish in producing this complete, organized piece of writing? The answers to both questions derive from a simple outline of the tractate as a whole, underscoring the types of compositions and composites of which it is comprised. Such an outline tells us what is principal and what subordinate, and how each unit – composition formed into composites, composites formed into a complete statement – holds together and also fits with other units, fore and aft. The purpose of the outline then is to identify the character of each component of the whole, and to specify its purpose or statement. The former information permits us to describe the document's structure, the latter, its system.

While the idea of simply outlining a Talmud-tractate beginning to end may seem obvious, I have never made such an outline before, nor has anyone else. (I have provided complete outlines for the Mishnah and for the Tosefta in relationship to the Mishnah, and, not always in outline form, for the Midrash-compilations of late antiquity as well) Yet, as we shall now see, the character of the outline dictates all further analytical initiatives. Specifically, when we follow the layout of the whole, we readily see the principles of organization that govern. These same guidelines on organizing discourse point also to the character of what is organized: complete units of thought, with a beginning, middle, and end, often made up of smaller, equally complete units of thought. The former we know as composites, the latter as compositions.

Identifying and classifying the components of the tractate – the composites, the compositions of which they are made up – we see clearly how the document coheres: the plan and program worked out from beginning to end. When we define that plan and program, we identify the facts of a pattern that permit us to say in a specific and concrete way precisely what the compilers of the tractate intended to accomplish. The structure realizes the system, the program of analysis and thought that takes the form of the presentation we have before us. From what

people do, meaning, the way in which they formulate their ideas and organized them into cogent statements, we discern what they proposed to do, meaning, the intellectual goals that they set for themselves.

These goals – the received document they wished to examine, the questions that they brought to that document – realized in the layout and construction of their writing, dictate the points of uniformity and persistence that throughout come to the surface. How people lay out their ideas guides us into what they wished to find out and set forth in their writing, and that constitutes the system that defined the work they set out to accomplish. We move from how people speak to the system that the mode of discourse means to express, in the theory that modes of speech or writing convey modes of thought and inquiry.

We move from the act of thought and its written result backward to the theory of thinking, which is, by definition, an act of social consequence. We therefore turn to the matter of intention that provokes reflection and produces a system of inquiry. That statement does not mean to imply I begin with the premise of order, which sustains the thesis of a prior system that defines the order. To the contrary, the possibility of forming a coherent outline out of the data we have examined defines the first test of whether or not the document exhibits a structure and realizes a system. So everything depends upon the possibility of outlining the writing, from which all else flows. If we can see the order and demonstrate that the allegation of order rests on ample evidence, then we may proceed to describe the structure that gives expression to the order, and the system that the structure sustains.

The present work undertakes the exegesis of exegesis, for the Yerushalmi, like its counterpart in the one of Babylonia, is laid out as a commentary to the Mishnah. That obvious fact defined the character of my academic commentary, since we have already faced the reality that our tractate is something other than a commentary, though it surely encompasses one. The problems that captured my attention derived from the deeper question of how people make connections and draw conclusions. To ask about how people make connections means that we identify a problem – otherwise we should not have to ask – and what precipitated the problem here has been how a composition or a composite fits into its context, when the context is defined by the tasks of Mishnah-commentary, and the composition or composite clearly does not comment on the Mishnah-passage that is subjected to comment.

The experience of analyzing the document with the question of cogency and coherence in mind therefore yields a simple recognition. Viewed whole, the tractate contains no gibberish but only completed units of thought, sentences formed into intelligible thought and self-contained in that we require no further information to understand those sentences, beginning to end. The tractate organizes these statements as commentary to the Mishnah. But large tracts of the

writing do not comment on the Mishnah in the way in which other, still larger tracts do. Then how the former fit together with the latter frames the single most urgent question of structure and system that I can identify.

Since we have already examined enormous composites that find their cogency in an other than exegetical program, alongside composites that hold together by appeal to a common, prior, coherent statement – the Mishnah-sentences at hand – what justifies my insistence that an outline of the document, resting on the premise that we deal with a Mishnah-commentary, govern all further description? To begin with, the very possibility of outlining this tractate derives from the simple fact that the framers have given to their document the form of a commentary to the Mishnah. It is in the structure of the Mishnah-tractate that they locate everything together that they wished to compile. We know that is the fact because the Mishnah-tractate defines the order of topics and the sequence of problems.

Relationships to the Mishnah are readily discerned; a paragraph stands at the head of a unit of thought; even without the full citation of the paragraph, we should find our way back to the Mishnah because at the head of numerous compositions, laid out in sequence one to the next, clauses of the Mishnah-paragraph are cited in so many words or alluded to in an unmistakable way. So without printing the entire Mishnah-paragraph at the head, we should know that the received code formed the fundamental structure because so many compositions cite and gloss sentences of the Mishnah-paragraph and are set forth in sequence dictated by the order of sentences of said Mishnah-paragraph. Internal evidence alone suffices, then, to demonstrate that the structure of the tractate rests upon the Mishnah-tractate cited and discussed here. Not only so, but the sentences of the Mishnah-paragraphs of our tractate are discussed in no other place in the entire Talmud of the Land of Israel in the sequence and systematic exegetical framework in which they are set forth here; elsewhere we may find bits or pieces, but only here, the entirety of the tractate.

That statement requires one qualification, and that further leads us to the analytical task of our outline. While the entire Mishnah-tractate of treated here is cited in the Talmud of the Land of Israel, the framers of the Talmud of the Land of Israel by no means find themselves required to say something about every word, every sentence, every paragraph. On the contrary, they discuss only what they choose to discuss, and glide without comment by large stretches of the tractate. A process of selectivity, which requires description and analysis, has told the compilers of the Talmud of the Land of Israel's composites and the authors of its compositions (This statement requires refinement. I do not know that all available compositions have been reproduced, and that the work of authors of compositions of Mishnah-exegesis intended for a talmud is fully exposed in the document as we have it. That is not only something we cannot demonstrate – we do not have

compositions that were not used, only the ones that were – but something that we must regard as unlikely on the face of matters. All we may say is positive: the character of the compositions that address Mishnah-exegesis tells us about the concerns of the writers of those compositions, but we cannot claim to outline all of their concerns, on the one side, or to explain why they chose not to work on other Mishnah-sentences besides the ones treated here. But as to the program of the compositors, that is another matter: from the choices that they made (out of a corpus we cannot begin to imagine or invent for ourselves) we may describe with great accuracy the kinds of materials they wished to include and the shape and structure they set forth out of those materials. We know what they did, and that permits us to investigate why they did what they did. What we cannot know is what they did not do, or why they chose not to do what they did not do. People familiar with the character of speculation and criticism in Talmudic studies will understand why I have to spell out these rather commonplace observations. I lay out an argument based on evidence, not on the silences of evidence, or on the absence of evidence – that alone.) what demands attention, and what does not. Our outline has therefore to signal not only what passage of the Mishnah-tractate is discussed, but also what is not discussed, and we require a general theory to explain the principles of selection (“making connections, drawing conclusions” meaning, to begin with, making selections). For that purpose, in the outline, I reproduce the entirety of a Mishnah-paragraph that stands at the head of a Talmudic composite, and I underscore those sentences that are addressed, so highlighting also those that are not.

It follows that the same evidence that justifies identifying the Mishnah-tractate as the structure (therefore also the foundation of the system) of Yerushalmi-tractate before us also presents puzzles for considerable reflection. The exegesis of Mishnah-exegesis is only one of these. Another concerns the purpose of introducing into the document enormous compositions and composites that clearly hold together around a shared topic or proposition, e.g., my appendix on one theme or another, my elaborate footnote providing information that is not required but merely useful, and the like. My earlier characterization of composites as appendices and footnotes signalled the fact that the framers of the document chose a not-entirely satisfactory way of setting out the materials they wished to include here, for large components of the tractate do not contribute to Mishnah-exegesis in any way at all. If these intrusions of other-than-exegetical compositions were proportionately modest, or of topical composites negligible in size, we might dismiss them as appendages, not structural components that bear much of the weight of the edifice as a whole. Indeed, the language that I chose for identifying and defining these composites – footnotes, appendices, and the like – bore the implication that what is not Mishnah-commentary also is extrinsic to the Talmud of the Land of Israel’s structure and system.

But that language served only for the occasion. In fact, the outline before us will show that the compositions are large and ambitious, the composites formidable and defining. Any description of the tractate's structure that dismisses as mere accretions or intrusions so large a proportion of the whole misleads. Any notion that "footnotes" and "appendices" impede exposition and disrupt thought, contribute extraneous information or form tacked-on appendages – any such notion begs the question: then why fill up so much space with such purposeless information? The right way is to ask whether the document's topical composites play a role in the re-presentation of the Mishnah-tractate by the compilers of the Talmud of the Land of Israel. We have therefore to test two hypotheses:

1. the topical composites ("appendices," "footnotes") do belong and serve the compilers' purpose

or

2. the topical composites do not participate in the re-presentation of the Mishnah-tractate by Yerushalmi and do not belong because they add nothing and change nothing.

The two hypotheses may be tested against the evidence framed in response to a single question: is this topical composite necessary? The answer to that question lies in our asking, what happens to the reading of the Mishnah-tractate in light of the topical composites that would not happen were we to read the same tractate without them? The outline that follows systematically raises that question, with results specified in due course. It suffices here to state the simple result of our reading of the tractate, start to finish: the question of structure, therefore also that of system, rests upon the position we identify for that massive component of the tractate that comprises not Mishnah-commentary but free-standing compositions and composites of compositions formed for a purpose other than Mishnah-commentary.

The principal rubrics are given in small caps. The outline takes as its principal rubrics two large-scale organizing principles.

The first is the divisions of the Mishnah-tractate to which the Talmud of the Land of Israel-tractate serves as a commentary. That simple fact validates the claim that the tractate exhibits a fully-articulated structure. But the outline must also underscore that the Mishnah-tractate provides both more and less than the paramount outline of the Talmud of the Land of Israel-tractate. It is more because sentences in the Mishnah-tractate are not analyzed at all. These untreated Mishnah-sentences are given in bold face lower case caps, like the rest of the Mishnah, but then are specified by underlining and enclosure in square brackets.

Second, it is less because the structure of the tractate accommodates large composites that address topics not defined by the Mishnah-tractate. That brings us

to the second of the two large-scale modes of holding together both sustained analytical exercises and also large sets of compositions formed into cogent composites. These are treated also as major units and are indicated by Roman numerals, alongside the Mishnah-paragraphs themselves; they are also signified in small caps. But the principal rubrics that do not focus on Mishnah-commentary but on free-standing topics or propositions or problems are not given in boldface type. Consequently, for the purposes of a coherent outline we have to identify as autonomous entries in our outline those important composites that treat themes or topics not contributed by the Mishnah-tractate.

I. YERUSHALMI NIDDAH 1:1

- [A] SHAMMAI SAYS, “[FOR] ALL WOMEN IT IS SUFFICIENT [TO RECKON MENSTRUAL UNCLEANNESS FROM] THEIR TIME [OF DISCOVERING A FLOW].” HILLEL SAYS, “[THEY ARE DEEMED UNCLEAN RETROACTIVELY FROM [THE TIME OF] AN EXAMINATION [AT WHICH THE FLOW OF MENSTRUAL BLOOD WAS DISCOVERED] TO THE [LAST] EXAMINATION [MADE BEFOREHAND, AT WHICH NO FLOW OF MENSTRUAL BLOOD WAS DISCOVERED], “EVEN FOR MANY DAYS.”
1. **I:1:** What is the meaning of the phrase, “It is sufficient [to reckon menstrual uncleanness from] their time [of discovering a flow]”? [Such women] do not retroactively impart uncleanness to food subject to the laws of cleanness.
- [B] AND SAGES RULE NOT IN ACCORD WITH THE OPINION OF THIS ONE NOR IN ACCORD WITH THE OPINION OF THAT ONE
1. **II:1:** Not in accord with the opinion of Shammai, who placed no limit to his view of the matter [in entirely dismissing the possibility of retroactive uncleanness. Nor in accord with the opinion of Hillel, who took an extreme position.
- [C] BUT: [THE WOMAN IS HELD TO HAVE BEEN UNCLEAN ONLY] DURING [THE PRECEDING] TWENTY-FOUR HOURS [WHEN] THIS LESSENS THE PERIOD [OF UNCLEANNESS DEMARCATED BY THE SPAN] FROM EXAMINATION TO EXAMINATION. [AND SHE IS HELD TO HAVE BEEN UNCLEAN ONLY] DURING THE PERIOD FROM [ONE] EXAMINATION TO [THE PRECEDING] EXAMINATION [WHEN] THIS LESSENS THE PERIOD OF TWENTY-FOUR HOURS [OF RETROACTIVE UNCLEANNESS]. ANY WOMAN WHO HAS A FIXED PERIOD — SUFFICIENT FOR HER IS HER FIXED PERIOD [IN WHICH CASE THERE IS NO RETROACTIVE UNCLEANNESS AT ALL].

1. **III:1:** How does a period of twenty-four hours diminish the period from one examination to the next examination? [If] a woman examined herself on Monday [finding no evidence of the advent of her menstrual period], and produced menstrual blood on Thursday, the [retroactive] contamination applies only back to the hour, on Wednesday, twenty-four hours [before the time at which, on Thursday, the woman discovered the menstrual blood]. How does the period from one examination to the next examination diminish the period of twenty-four hours? [If] a woman examined herself in the morning [finding no evidence of the advent of her menstrual period], and produced menstrual blood at dusk, the [retroactive] contamination applies only back to the morning [and not for the antecedent twenty-four hours].
2. **III:2:** There have we learned the Tannaitic teaching: A dead creeping thing that was found in an alleyway imparts uncleanness retroactively [M. Nid. 7:2]. R. Ammi asked [whether] the cited passage of the Mishnah might not be contrary to the position of Shammai. Said R. Yosé, “If it is not in accord with the position of Shammai [who rejects the possibility of retroactive contamination entirely], then [the cited passage of the Mishnah also] is not even in accord with the position of Hillel. For does Hillel not concur in the case of an alleyway that is [daily] swept out, and through which a water-course runs, that it is deemed clean [retroactively, in case a dead creeping thing is found therein]?”
3. **III:3:** *Up to now* [we have assumed that we deal with a case] in which a woman examined herself and found herself wholly dry. [But what is the law] if a woman examined herself and found blood that [in fact] is clean [and not a source of uncleanness at all]
4. **III:4:** [If a woman examined herself and found blood the status of which is subject to doubt, it is self-evident that this [examination] does not function as does an examination to impose a limit on the retroactive uncleanness during the antecedent twenty-four hours. But as to the status of the blood itself: What is the rule as to its imparting uncleanness as a matter of doubt?
5. **III:5:** Huna bar Hiyya said, “The imputation of retroactive uncleanness for a period of twenty-four hours of which they have spoken applies in a case of [food in the status of Holy Things, but not in a case of [ordinary] food [merely] subject to the laws of cleanness.”

6. III:6: It has been taught: In a case of retroactive contamination for a period of twenty-four hours of which the sages have spoken, they suspend [the status of food prepared in a state of cleanness], but they do not burn it. And R. Ze'ira looked into (HDY) the matter, and found it taught: She who produces a bloodstain imparts uncleanness retroactively. And to what does she impart uncleanness? Food, drink, and things used for lying and sitting. And she is in disarray [as to setting her fixed period], and retroactively imparts uncleanness to the one who has intercourse with her [T. Nid. 9:6]. She who produces blood imparts uncleanness [to objects that she touched] retroactively. And to what does she impart uncleanness? Food, drink, and objects used for lying and sitting. But she is not in disarray [as to setting her fixed period], and she does not impart uncleanness retroactively to one who has had intercourse with her. R. 'Aqiba says, "She does retroactively impart uncleanness to the one who has intercourse with her." And in the case of this one [who produced a bloodstain] and that one [who produced blood], they suspend [the status of food she has touched], but they do not burn [as definitely unclean food she has touched] [T. Nid. 9:6, 9:5].

7. III:7: There they say: the contamination effected for the preceding twenty-four hours, of which they spoke, is such that an object on which such a woman has lain is unclean, as is an object that she has touched. One who has had sexual relations with her [during this period of doubt] has the status of one who has had sexual relations with [an actually] menstruating woman. But he is not deemed to impart uncleanness through merely shifting an object, so he does not impart uncleanness to a clay utensil.

8. III:8: In a case of retroactive contamination during the preceding twenty-four hours of which they have spoken: As to that which such a woman touches in the public domain [in which case a doubt normally is resolved as clean] – what is the law?

9. III:9: R. Yudan asked about a case in which a woman examined her shift at dawn and found it clean, at dusk and found a bloodstain on it. It is obvious that her shift is unclean only from the moment at which she last had examined it. But what is the status of the woman herself? Is she deemed unclean for the preceding twenty-four hours?

[D] AND SHE WHO MAKES USE OF TEST-RAGS – LO, THIS [FORM OF EXAMINATION] IS EQUIVALENT TO AN EXAMINATION [AND SO MARKS THE POINT BEFORE WHICH THE WOMAN IS ASSUMED TO HAVE BEEN CLEAN], WHICH LESSENS EITHER THE

PERIOD OF TWENTY-FOUR HOURS OF RETROACTIVE CONTAMINATION] OR THE PERIOD FROM EXAMINATION TO EXAMINATION.

1. **IV:1:** What would be a concrete case?

II. YERUSHALMI NIDDAH 1:2

[A] **WHAT [IS THE CASE IN WHICH] HER [HAVING A] FIXED PERIOD SUFFICES FOR HER? [IF SHE WAS SITTING ON A COUCH AND OCCUPIED WITH THE PREPARATION OF FOOD SUBJECT TO THE LAWS OF CLEANNES, [AND] SHE GOT UP AND SAW A SPOT OF BLOOD [WHERE SHE HAD BEEN SITTING], SHE IS DEEMED TO BE UNCLEAN. BUT ALL THE FOOD [THAT SHE HAD BEEN PREPARING UP TO THAT MOMENT] IS DEEMED TO BE CLEAN. [THUS] EVEN THOUGH THEY HAVE RULED THAT SHE IMPARTS UNCLEANNES [TO OBJECTS SHE HAS TOUCHED] OVER THE PRECEDING TWENTY-FOUR HOURS, [BECAUSE SHE HAS A FIXED PERIOD] SHE COUNTS [HER TIME OF UNCLEANNES. HENCE OF HAVING IMPARTED UNCLEANNES TO FOOD WITH WHICH SHE HAS JUST HAD CONTACT] ONLY FROM THE VERY MOMENT AT WHICH SHE DISCOVERED [THE DROP OF BLOOD]. R. ELEAZAR SAYS, “FOR [ONLY] FOUR SORTS OF WOMEN, SUFFICIENT IS THEIR FIXED TIME [FOR HAVING A PERIOD WITHOUT RETROACTIVE CONTAMINATION]: A VIRGIN, A PREGNANT WOMAN, A NURSING MOTHER, AND AN OLD LADY.” SAID R. JOSHUA. “[FOR THAT TRADITION] I HEARD ONLY [THAT THE RULE APPLIES TO] A VIRGIN.” BUT THE LAW IS IN ACCORD WITH THE OPINION OF R. ELIEZER.**

1. **I:1:** Said R. Joshua, “I heard only [that the rule applies to a virgin.]” But the law is in accord with the opinion of R. Eliezer.
2. **I:2:** Said to him R. Eliezer, “They do not say to him who has not seen the new moon to come and give testimony, but to him who has seen it does one say to come and give testimony. You have not heard, but I have heard.” [T. Nid. 1:5C]. So long as R. Eliezer was alive, the law was in accord with R. Joshua. Once R. Eliezer had died, Joshua made the rule accord with the position of R. Eliezer.
3. **I:3:** Now what did [Joshua] perceive [after Eliezer’s death] to give the ruling as he did? It was in accord with the following Tannaitic teaching: “As to the four sorts of women [M. Nid. 1:2F] concerning whom sages have ruled that their fixed period suffices [so that we do not impute uncleanness for the antecedent twenty-four hours, or up to the last examination at which the woman found herself to be clean] “their bloodstain [also] imparts uncleanness retroactively,” except for the case of the girl whose time for having a period has not yet come.

“For such a girl does not produce bloodstains [anyhow],” the words of R. Meir. And sages say, “As to the four sorts of women concerning whom sages have ruled that their fixed period suffices, their bloodstain does impart uncleanness retroactively.” And as to a girl whose time for having a period actually has come, a bloodstain produced by her is tantamount to a drop of blood produced by her’ [T. Nid. 3:1].

III. YERUSHALMI NIDDAH 1:3

[A] WHO IS A VIRGIN [AMONG THE FOUR WOMEN WHO FALL INTO THE CATEGORY OF THOSE FOR WHOM THE TIME OF FIRST SEEING BLOOD SUFFICES, WITHOUT SCRUPLE AS TO PRIOR CONTAMINATION BY REASON OF DOUBT? ANY GIRL WHO HAS NEVER IN HER LIFE PRODUCED A DROP OF [MENSTRUAL] BLOOD, EVEN THOUGH SHE IS MARRIED. A PREGNANT WOMAN? FROM THE MOMENT AT WHICH THE FETUS IS KNOWN TO BE PRESENT [THREE MONTHS]. A NURSING MOTHER? UP TO THE TIME AT WHICH SHE WILL WEAN HER CHILD. [IF SHE HANDED [THE CHILD OVER TO A WET-NURSE, WEANED [THE CHILD], OR [THE CHILD DIED, R. MEIR SAYS, “SHE IMPARTS UNCLEANNESS [TO OBJECTS SHE HAS TOUCHED] DURING THE TWENTY-FOUR HOURS [PRECEDING THE POINT AT WHICH SHE DISCOVERED THE MENSTRUAL BLOOD].” AND SAGES SAY, “SUFFICIENT FOR HER IS [CONTAMINATION] FROM THE TIME [AT WHICH SHE DISCOVERED THE DROP OF BLOOD, AND THERE IS NO QUESTION OF RETROACTIVE CONTAMINATION].”

1. **I:1:** Thus is the teaching of the Mishnah: Any girl who has not seen menstrual blood in her life, and even though she is married. They [thus spoke of a virgin as to blood[, that is, a girl who had never menstruated], not a virgin as to the hymen. There are cases in which a girl is a virgin as to blood and not virgin as to the hymen. There are cases in which she is a virgin as to the hymen but is not a virgin as to blood. [A girl is] a virgin as to the hymen when she produced a drop of blood and afterward was married. [She is a] virgin as to blood when she was married and afterward produced a drop of blood.
2. **I:2:** It was taught in a Tannaitic saying: There are three kinds of virgins: a virgin woman, a virgin sycamore, and virgin soil. A virgin woman is any woman who has never been laid. A virgin sycamore is any that has never been chopped down. Virgin soil is any that has never been worked. Rabban Simeon b. Gamaliel says, “It is any in which there is not a single sherd” [T. Sheb. 3:14H, 15].
3. **I:3:** [The law (M. Nid. 1:3B) that a girl who has not produced a drop of blood does not impart retroactive uncleanness even when she does

produce a drop] applies even if she was married, even if she became pregnant, even if she gives suck [to her baby], and even if she excretes blood for all seven days for a male or all fourteen days [of clean blood] for a female.

4. **I:4:** And that is the rule [only] when she has ceased to produce blood of purifying [that is not menstrual blood and thus is not unclean. But she has not yet produced a drop of menstrual blood]. That is in accord with the following Tannaitic teaching: [A girl] ceased to produce blood of purifying and yielded no more blood, but afterward she produced a drop of blood – and the case came before the sages, who ruled, “Sufficient for her is her time [of actually producing a drop of blood, and there is no question of retroactive contamination]” [cf. T. Nid. 1:12D].
5. **I:5:** When is the presence of the fetus recognized? Sumkhos says in the name of R. Meir, “In three months. “Even though there is no clear proof of that proposition, there is at least an indication of it: ‘And it came to pass at the end of three months’ (Gen. 38:24)” [T. Nid. 1:7A-C]. Said R. Yudan, “And even if she is pregnant only with air: ‘We were with child, we writhed, we have as it were brought forth wind’ (Is. 26:18) [cf. T. Nid. 1:7E]. “‘You conceive chaff, you bring forth stubble’ (Is. 33:11).”
6. **I:6:** R Zeira, R. Ba bar Zutra, R. Haninah in the name of R. Hiyya the Great: “Even if [the fetus is discernible] in the greater part of the first month, and for the greater part of the last month [if the middle [month] is complete[, we deem the three months’ rule to apply – that is, after only sixty-two days].” Assi says, “Ninety days, complete.” And Samuel says, “They and their intercalated days [that is, three months, whether they are ninety days or even more than ninety days, by reason of adding additional days through late sightings of the moon].”
7. **I:7:** R. Hiyya bar Ashi was in session before Rab. He observed that he was preoccupied. He said to him, “Why so?” He said to him, “My ass is pregnant and is coming to term, and I wanted to cover her so that she should not be chilled.” He said to him, “When did the male mount her?” He said to him, “On such and such a day, and I reckoned from there.” He said to him, “If so, she will require [waiting a few more days.”

IV. YERUSHALMI NIDDAH 1:4

[A] WHO IS AN OLD WOMAN? ANY WOMAN WHO HAS MISSED THREE PERIODS NEAR THE TIME OF MENOPAUSE:

1. **I:1:** R. Meir says, “On account of [the need of producing] milk, blood ceases” [= D]. R. Yosé says, “On account of pain [of giving birth], blood ceases” [= D].
2. **I:2:** What is the definition of an old lady? R. Simeon b. Laqish said, “Any woman who does not protest when they call her ‘Madam.’” Does the matter then depend on the woman’s own [private] opinion? Said R. Abin, “Any who is appropriately called ‘Madam.’”
3. **I:3:** R. Hoshaiiah taught (TNY): “[If a woman] gave birth and then converted [to Judaism], she is not subject to the rule of producing blood of purifying [and all blood produced after birth, for seven or fourteen days, is deemed unclean].” Said R. Yosé, “And is that a suitable [teaching? It is self-evident and hardly requires articulation.] If R. Hoshaiiah had not taught it, it would have been [logically] required [anyhow]. “Since such a woman [while a gentile] does not produce unclean blood, she also is not going to produce clean blood.” [So we learn that after conversion, she will produce unclean blood in the stated circumstance.] It has been taught: “A convert, a captive, or a slave-girl, who was redeemed, converted, or freed, has to wait for three months [before marrying, lest she be pregnant beforehand],” the words of R. Judah. R. Yosé says, “They need not wait for three months” [T. Yeb. 6:6N-O].

[B] R. ELEAZAR SAYS, “ANY WOMAN [NOT ONLY AN OLD ONE WHO HAS MISSED THREE PERIODS – SUFFICIENT FOR HER IS HER TIME [OF ACTUALLY DISCOVERING BLOOD, WITHOUT SCRUPLE AS TO RETROACTIVE CONTAMINATION]:”

1. **II:1:** R. Eliezer says, “Any woman [not only an old one] who has missed three periods – sufficient for her is her time [of actually discovering blood, without scruple as to retroactive contamination].” [Now it was taught in a] Tannaitic [tradition] on the [foregoing passage of the Mishnah]: They said to him, “Sages have listed only the old lady.” Now has it not been taught in a Tannaitic tradition: Said R. Eleazar, “M’SH B: A young girl in ‘Aitalu whose time had come to produce a flow of menstrual blood missed three periods, and afterward she produced menstrual blood. The case came before sages. They ruled, [She is subject to the rule that] sufficient for

her is her tune.” They said to him, “You then were a minor, and a minor is not competent to give testimony.” On one occasion Rabbi gave instructions in accord with the opinion of R. Eleazar [Eliezer], and he was distressed about it. Said R. Mana in session before R. Yosé, “When he gave instructions in accord with the lenient rulings of R. Meir and in accord with the lenient rulings of R. Yosé, he was not distressed. So here should he have been distressed?” He said to him, “In that case [of Yosé and Meir], we are dealing with the opinions of individuals. So one may take the position to join his opinion with that of R. Meir and his master, as against that of R. Yosé, or join his opinion with that of R. Yosé and his master, as against that of R. Meir. But do you have the possibility of ruling in this case, ‘Let him join his opinion with that of R. Eleazar and his master over that of sages’ [who are, after all, the majority]”? And moreover, it has been taught in a Tannaitic teaching, They said to him, It was an interim ruling and not meant as established law” [T. Nid. 1:9K].

[C] **R. YOSÉ SAYS, “[ONLY] A PREGNANT WOMAN AND NURSING MOTHER WHO HAVE MISSED THREE PERIODS — SUFFICIENT FOR THEM IS THEIR TIME.”**

1. **III:1:** And [it has been taught in a] Tannaitic [teaching] on the [foregoing station of the Mishnah]: The period in which the woman is pregnant and the period in which she is nursing join together to establish the three missed For [Yosé] is of the opinion that [the blood derives from] a single source.

V. YERUSHALMI NIDDAH 1:5

[A] **IN WHAT CASE DID THEY LAY DOWN THE RULING, “SUFFICIENT FOR HER IS HER TIME OF FIRST DISCOVERING THE DROP OF MENSTRUAL BLOOD, SO THAT THERE IS NO PRIOR CONTAMINATION]”? IN THE CASE OF [A VIRGIN’S, A PREGNANT WOMAN’S, A NURSING MOTHER’S, OR AN OLD LADY’S FIRST PRODUCING A DROP OF BLOOD AFTER MISSING THE PERIOD IN THE LATTER THREE INSTANCES]. BUT IN THE INSTANCE OF THE SECOND [OR LATER] PRODUCING OF A DROP OF BLOOD, [THE BLOOD] IMPARTS UNCLEANNESS FOR THE ANTECEDENT PERIOD OF TWENTY-FOUR HOURS [BY REASON OF DOUBT AS TO WHEN IT FIRST OCCURRED]. BUT IF [THE WOMAN] PRODUCED THE FIRST DROP OF BLOOD BY REASON OF CONSTRAINT [THAT IS, THROUGH AN ABNORMAL CAUSE], THEN EVEN IN THE CASE OF THE SECOND DROP OF BLOOD, [WE INVOKE THE RULE OF SUFFICIENCY OF THE TIME [OF FINDING THE BLOOD FOR DEMARCATING THE COMMENCEMENT OF THE WOMAN’S CONTAMINATING POWER].**

1. **I:1:** Samuel said, “This teaching applies only to a virgin and an old lady. But as to a pregnant woman and a nursing mother, they assign to her the entire period of her pregnancy or the entire period of her nursing [respectively, for the blood ceases, and what does flow is inconsequential, so there is no retroactive contamination at all].” Rab and R. Yohanan – both of them say, “All the same are the virgin, the old lady, the pregnant woman, and the nursing mother.”
2. **I:2:** Up to this point [in the discussion], we have dealt with a girl who has reached the time to produce menstrual blood. As to a girl who has not yet reached her time for producing menstrual blood, but produced a number of drops of blood, the first time this happens, she is subject to the rule of the sufficiency of the time [of discovering the blood, so that there is no retroactive contamination]. At the second appearance of blood, we similarly invoke the rule of the sufficiency of the time of discovering the blood. And so too at the third appearance of blood. But thenceforward, she imparts uncleanness for the antecedent twenty-four hours [until she establishes a regular period for herself. R. Jeremiah in the name of Rab: “The third appearance of blood itself imparts uncleanness for the antecedent twenty-four hours.”
3. **I:3:** An old lady who missed three periods sufficient for her is her time [of discovering the blood] [If] she went and again missed three periods, and afterward produced a drop of blood, sufficient for her is her time. This is the case if she has not established an accurate count for a fixed time, for instance, if she diminished or added to it. But if she had accurately counted her period, she would have established a fixed time [and would then be subject to the rule governing all other women] [T. Nid. 1:11].
4. **I:4:** How long is her menstrual cycle? They assign to her a medium period. R. Simeon b. Laqish in the name of R. Yudan, the Patriarch: “They assign to her a medium period, that is, thirty days.”
5. **I:5:** Until what time [does the law of the Mishnah apply to a virgin]? Until she reaches puberty. And what is puberty? When she produces two pubic hairs.

VI. YERUSHALMI NIDDAH 1:6

[A] EVEN THOUGH THEY HAVE SAID, “SUFFICIENT FOR [THE WOMAN WHO HAS A FIXED PERIOD] IS HER TIME [OF ACTUALLY DISCOVERING A FLOW OF MENSTRUAL BLOOD, SO THAT THERE IS NO QUESTION OF RETROACTIVE CONTAMINATION],”

NONETHELESS SUCH A WOMAN MUST KEEP ON INSPECTING HERSELF, EXCEPT IN THE CASE OF AN [ALREADY MENSTRUATING WOMAN; AND A WOMAN WHO IS SITTING OUT “THE BLOOD OF HER PURIFYING” AFTER HAVING GIVEN BIRTH [FOR ALL BLOOD PRODUCED BY SUCH A WOMAN IS DEEMED CLEAN]. AND [EVEN THOUGH A WOMAN HAS A FIXED PERIOD. SHE IS TO MAKE USE OF TEST RAGS, EXCEPT FOR A WOMAN WHO IS SITTING OUT “THE BLOOD OF HER PURIFYING” [AFTER HAVING GIVEN BIRTH]:

1. **I:1:** Does the Mishnah mean to refer to a menstruating woman [who is unclean anyhow and surely should not require an examination]? [The reference is to a woman the time of whose period has come but] who has not yet ceased to be in a state of cleanness [for the blood has not flowed, so she therefore has to examine herself to determine when her actual flow begins]. Does the Mishnah mean to refer to her who makes use of test-rags? [The meaning is that] she must make use of test-rags. And a virgin, whose blood is clean. The reference of the Mishnah is to a girl who has not yet reached the time of menstruation, who got married [M. Nid. 10:1A].

[B] AND A VIRGIN, WHOSE BLOOD IS CLEAN:

1. **II:1:** [And a virgin, whose blood is clean]. [If, then] she ceased to produce blood [because of sexual relations, but] afterward produced blood, [this latter blood is deemed] unclean. [If after the first act of intercourse] the color of her blood changed, [this latter How of blood is deemed] unclean. Said R. Zeira, “That is so if the color of the blood did not change because of the sexual activity. But if it changed because of the sexual activity, it is deemed clean.”

[C] AND TWICE A DAY MUST THE WOMAN [WHO HAS A FIXED PERIOD] EXAMINE HERSELF: MORNING AND DUSK; AND [ALSO] WHEN SHE IS PREPARING TO HAVE SEXUAL RELATIONS. YET A FURTHER EXAMINATION BEYOND THESE [IS REQUIRED OF WOMEN OF THE PRIESTLY CASTE, WHEN THEY ARE PREPARING TO EAT FOOD HAVING THE STATUS OF HEAVE-OFFERING [FOR WHICH CULTIC PURITY MUST BE ATTAINED]. R. JUDAH SAYS, “ALSO WHEN THEY CEASE EATING FOOD HAVING THE STATUS OF HEAVE-OFFERING [TO MAKE SURE THAT WHAT IS LEFT OVER RETAINS THE STATUS OF CULTIC CLEANNES].”

1. **III:1:** Said R. Yosé b. R. Bun, “These two examinations are the counterpart to the two times that the day changes [from dark to light, from light to dark].”
2. **III:2:** [The introductory passage for what follows at C must be borrowed from B. Nid. 60b: Bar Pada said, “Whenever her husband is liable to a sin-offering, that is, where menstrual blood has been found

immediately after intercourse, foods requiring cultic cleanness belonging to her [also] are unclean; where the husband is liable to a suspensive guilt-offering, when blood is discovered after enough time for the woman to get out of bed and wash, so that it is not certain that she was menstruating during intercourse, foods requiring cultic cleanness belonging to her are in a suspended state of uncleanness; where the husband is exempt, foods requiring cultic cleanness belonging to her are clean.” R. Hoshaiiah ruled, “Even where the husband is actually liable for a sin-offering, foods requiring cultic cleanness are deemed to be in a state of suspension.”] R. Eleazar in the name of R. Hoshaiiah: “Whenever sages have ruled that her husband is liable for an offering, as to her part, foods requiring cultic cleanness belonging to her are deemed unclean. [If her husband is exempt from an offering, for her part foods requiring cultic cleanness belonging to her are clean. [If her husband is subject to an offering by reason of doubt, for her part foods requiring cultic cleanness are deemed to be in a state of suspension.” [The saying that follows assumes and questions the ruling that, even when the husband is liable for a sin-offering for having had sexual relations with a menstruating woman, the foods requiring cultic cleanness are kept in a state of suspension. We thus take for granted that there was blood in the vagina, but not outside it.] R. Samuel bar Rab Isaac asked, “This is [to be compared to a case of] an old man [the penis] and a child [the blood] who were walking in a reception room. [For this reason the husband is unclean, while the food is deemed not unclean. The penis has had contact with blood, the food has not.] Now is it not certain that the elder [the penis] passes first [and so the husband is surely unclean? But we cannot be certain that the blood also has passed.] And if the child [the blood] comes, it also passes through. [So why is there not certainty that, if the husband is certainly unclean and liable for an offering, the food also should be unclean?]]”

VII. YERUSHALMI NIDDAH 2:1

[A] ANY HAND THAT MAKES MANY EXAMINATIONS IN THE CASE OF WOMEN IS TO BE PRAISED, AND IN THE CASE OF MEN IS TO BE CHOPPED OFF. A WOMAN WHO IS A DEAF-MUTE, IMBECILE ‘HOUSE’ [TO EXAMINE THEMSELVES BEFORE, AS WELL AS AFTER, INTERCOURSE].

1. **I:1:** This is the Mishnah passage’s meaning: whoever puts his finger in his eye a lot brings out a lot of tears [and likewise the consideration of M. Nid. 2:1C is masturbation]. [In the case of men the hand is to be

chopped off: R. Tarfon says, “It is to be chopped off while lying on his navel.” They said to him, “Lo, his belly will be split open.” He said to them, “That’s exactly what I meant. “Death is better for him than life!” [T. Nid. 2:8B-D]

[B] BLIND, OR MENTALLY UNBALANCED — IF WOMEN OF SOUND SENSES ARE AVAILABLE, THEY TAKE CARE OF THEM, SO SUCH A WOMAN MAY EAT FOOD HAVING THE STATUS OF HEAVE-OFFERING [WHICH REQUIRES PROTECTION FROM UNCLEANNES]. IT IS THE WAY OF ISRAELITE WOMEN TO MAKE USE OF TEST-RAGS, ONE FOR HIM AND ONE FOR HER. THE PIOUS WOMEN GET VET A THIRD READY, TO ATTEND TO THE HOUSE.

1. **II:1:** They said in the name of R. Yannai, “The blind woman [does] not [belong] here [at M. Md. 2:1D, for she can inspect herself by touch].” And one said in the name of R. Haninah, “The blind woman [does] not [belong] here.” [And said] R. Ila, R. Yosé b. Hanina in the name of the house of R. Yannai, “The blind woman [does] not [belong] here.”
2. **II:2:** Said R. Yannai, “Also the first [woman listed earlier, at M. Nid. 1:6H-K] is called pious. We have learned in the cited Mishnah-pericope that they are *required* to examine themselves, and will you declare [them to be especially pious]?”
3. **II:3:** R. Jeremiah in the name of Rab: “[If] a woman examined her [vagina] with a hand that had not been inspected [and that might have contained blood originating other than in the vagina], or if she set herself down in a filthy place [from which she might have picked up a drop of blood, she nonetheless is deemed unclean and may not attribute the blood to other than the vagina], because the body is presumed to have been inspected[, so whatever is found comes from a source of bodily uncleanness].”
 - a. I:4: Rabbi [Judah the Patriarch] praised R. Hama, the father of R. Hoshaiiah, in the presence of R. Ishmael, the son of R. Yosé. R. Hama father of R. Hoshaiiah asked in session before R. Ishmael b. R. Yosé, “If a woman examined herself with a hand that had not been inspected, or if she sat herself down in a filthy place[, what is the law]?” He said to him, “In accord with whose opinion do you ask me this question? Is it in accord with the opinion of the master [R. Yosé, the teacher of Judah the Patriarch], or in accord with the opinion of the disciple [Judah the Patriarch himself]?”

VIII. YERUSHALMI NIDDAH 2:2

[A] [IF BLOOD] IS FOUND ON [THE HUSBAND'S] TEST-RAG, THEY ARE UNCLEAN, SO LIABLE FOR AN OFFERING [FOR HAVING HAD SEXUAL RELATIONS DURING THE WIFE'S PERIOD]. [IF] IT IS FOUND ON HERS — [IF THE DISCOVERY TAKES PLACE] FORTHWITH, THEY ARE UNCLEAN AND SO LIABLE FOR AN OFFERING. [IF BLOOD] IS FOUND ON HERS AFTER A WHILE, THEY ARE UNCLEAN ON ACCOUNT OF DOUBT [AS TO THE POSSIBILITY THAT INDEED THE BLOOD ORIGINATED IN MENSTRUATION]:

1. **I:1:** It was taught in a Tannaitic tradition on this Mishnah-pericope: Whether it is forthwith or not forthwith, [if blood] is found on his [test-rag] [delete: forthwith], they are unclean. [The consideration of] immediate discovery, they did say, applies to the matter of drying off [the sexual parts after having sexual relations], and it does not apply to making the inspection, [which may even take place later on, not forthwith].
2. **I:2:** They asked in session before R. Nahman bar Jacob, “What is the law as to [the wife's] being required to make an inspection [not merely drying off] during the interval specified for immediate inspection?” Said R. Ba, “If you rule that [the wife] should be required to make an inspection during the interval specified for immediate drying off, you nullify the entire concept of such an interval.” Said R. Yosé b. R. Bun, “If you rule that [the wife] should be required to make an inspection during the specified interval, would this not be equivalent to an inspection that serves to diminish the period of twenty-four hours? [That is, would there not be a conflict, in that the inspection during the stated interval would replace the inspection of which M. Nid. 1:1 has spoken?] And we have learned in the Mishnah, An inspection limits the uncleanness for the antecedent twenty-four hours.”
3. **I:3:** Said R. Yosé b. R. Bun, “It may be compared to a servant and a witness who were standing at the threshold of the court. Once the servant goes out, the witness enters in” [T. Nid. 3:5M-P].

[B] BUT THEY ARE EXEMPT FROM AN OFFERING.

1. **II:1:** While they are exempt from a sin-offering, they are liable to a guilt-offering for an unverified offense [by reason of doubt, and not wholly exempt, as the Mishnah's phrasing would suggest].

IX. YERUSHALMI NIDDAH 2:3

[A] WHAT IS MEANT BY “AFTER A WHILE”? SUFFICIENT TIME FOR THE WOMAN TO GET OUT OF BED AND WASH OFF HER “FACE” [SEXUAL ORGANS]. AND [IF A DROP OF BLOOD SHOULD APPEAR] AFTER [THE STATED INTERVAL], SHE IMPARTS UNCLEANNESS [BY REASON OF DOUBT] TO OBJECTS SHE HAS TOUCHED FOR THE ANTECEDENT TWENTY-FOUR HOURS. BUT SHE DOES NOT IMPART UNCLEANNESS TO HER LOVER. R. ‘AQIBA SAYS, “SHE DOES IMPART UNCLEANNESS TO HER LOVER.” BUT SAGES CONCUR WITH R. ‘AQIBA IN THE CASE OF A WOMAN WHO PRODUCES A BLOODSTAIN THAT SHE DOES IMPART UNCLEANNESS TO HER LOVER.

1. I:1: Said R. Yosé b. R. Bun, “What is the meaning of after a while [M. Nid. 2:3A]? It can only be, ‘After after-a-while.’” And what is this interval? It is sufficient time for the woman to put out her hand and take the test-rag from under the pillow.
2. I:2: R. Eleazar in the name of Rab, “The theory of sages accords with the view of R. Meir [who says at T. Nid. 3:1: ‘All women concerning whom saps have said, Their time suffices [for them to impart uncleanness, and there is no retroactive uncleanness] their bloodstain does cause them to impart uncleanness retroactively....’].” R. Yohanan said, “This is the view of those very same sages [who differ from Meir on the bloodstain as to retroactive uncleanness but maintain it imparts uncleanness once it is found].”

X. YERUSHALMI NIDDAH 2:4

[A] ALL WOMEN ARE ASSUMED TO BE CLEAN FOR THEIR HUSBANDS [EVEN WITHOUT EXAMINATION, UNTIL THE TIME FOR THEIR PERIOD HAS COME]. THOSE [HUSBANDS] WHO COME HOME FROM A TRIP — THEIR WIVES ARE ASSUMED TO BE CLEAN FOR THEM.

1. I:1: Abba bar Jeremiah, a priest, in the name of Samuel: “Any woman who has not got a fixed period is forbidden to have sexual relations without an examination [prior to the act].” Now have we not learned in the Mishnah-pericope, All women are assumed to be clean for their husbands? Interpret [Samuel’s statement] to refer to a case in which the husbands have come home from a trip [at which point an examination is called for in Samuel’s view].

2. **I:2:** And [if the husband calculates periods while away] how long a menstrual cycle do they assign to her? R. Simeon b. Laqish said, “They assign her an average cycle, thirty days.” R. Yohanan said, “I repeat the tradition [as follows]: Even [if the husband returns] after three years, it is permitted [to have intercourse, should the period not have begun], so long as the wife does have a fixed period. [So the rule applies without regard to the length of the period, so long as a period is calculated.]”

[B] **THE HOUSE OF SHAMMAI SAY, “A WOMAN REQUIRES TWO TEST-RAGS FOR EACH ACT OF INTERCOURSE [ONE BEFORE. ONE AFTERWARD]. OR SHE SHOULD HAVE INTERCOURSE BY A LIGHT [TO ALLOW IMMEDIATE EXAMINATION OF THE SINGLE TEST-RAG USED AFTER INTERCOURSE].” AND THE HOUSE OF HILLEL SAY, “SHE MAY SUFFICE WITH TWO TEST-RAGS FOR THE ENTIRE NIGHT [ONE BEFORE THE SEQUENCE, ONE AFTER THE SEQUENCE OF NUMEROUS SUCCESSIVE ACTS OF SEXUAL RELATIONS]”**

1. **II:1:** But has it not been taught: “He who has sexual relations by a light – lo, that is disgusting”? Thus does the Mishnah-passage teach: Let her have sexual relations and [then] examine herself by a light.
2. **II:2:** R. Zeira, R. Hiyya bar Ashi in the name of Rab: “If a woman had sexual relations using a test rag [and the rag is lost], she is prohibited from having sexual relations [any more, until another test-rag is provided].”

XI. YERUSHALMI NIDDAH 2:5

[A] **SAGES HAVE EMPLOYED A METAPHOR IN REGARD TO WOMEN: THE INNER ROOM, FRONT HALL, AND SECOND-STORY ROOM [UPSTAIRS]. BLOOD IN THE ROOM IS UNCLEAR [AS MENSTRUAL BLOOD]. [IF] IT IS FOUND IN THE FRONT HALL, A MATTER OF DOUBT CONCERNING * IS RULED TO BE UNCLEAR, SINCE IT IS ASSUMED TO HAVE COME FROM THE FOUNTAIN [UTERUS].**

1. **I:1:** So does the Mishnah-pericope teach: Blood in the inner room is unclean [as menstrual blood]. And blood in the upstairs room is clean.
2. **I:2:** R. Nahman b. R. Isaac proposed to R. Huna, “The Mishnah-pericope [at D] refers to blood that is found from the door of the upper room and inside [and so comes from the uterus].” He said to him, “If it is found from the door of the upstairs room and inward, it is a matter of certainty [that the blood is unclean]. But thus do we interpret the

Mishnah [D], to apply to a case in which [blood] is found from the door of the upstairs room and outward.”

XII. YERUSHALMI NIDDAH 2:6

- [A] **FIVE [COLORS OF] BLOOD ARE UNCLEAN IN A WOMAN: RED, BLACK, [BLOOD OF A] BRIGHT CROCUS COLOR, [BLOOD] LIKE WATER MIXED WITH EARTH, AND [BLOOD] LIKE WINE MIXED WITH WATER.**
- 1. I:1:** Rab and R. Yohanan – both of them say, “There are four kinds of blood [and not five]. [Black colored blood does not count because it] is red that has faded and turned black.” Said Samuel, “Black [colored blood] may derive from any one of them.”
 - 2. I:2:** Whence do we derive evidence that there are five varieties of unclean blood specified by the Torah? Said R. Joshua b. Levi: “‘And she has uncovered the fountain of her bloods’ (Lev. 20:18) [= two], ‘And she will be clean from the source of her bloods’ [= two], a discharge of blood from her body (Lev. 15:19) [= one, thus five].”
 - 3. I:3:** And how do we know that there is unclean blood, and there is clean blood[, so not all blood is unclean, but only the five that are listed]? R. Hama bar Joseph in the name of R. Hoshaiah: “It is written, ‘If any case arises requiring a decision’ (Deut. 17:8). Now ‘between blood and (W) blood’ is not written, but of one kind of blood from (L) another. On this basis there is proof that there is blood that is unclean, and blood that is clean.”
- [B] **THE HOUSE OF SHAMMAI SAY “ALSO :BLOOD THE COLOR OF WATER IN WHICH FENUGREEK HAS BEEN SOAKED, AND BLOOD THE COLOR OF GRAVY FROM ROAST MEAT.” THE HOUSE OF HILLEL DECLARE [THESE TWO] CLEAN [SINCE THEY ARE NOT RED]. [BLOOD THAT IS] YELLOW – ‘AQABYA B. MEHALLEL DECLARES UNCLEAN. AND SAGES DECLARE CLEAN.**
- 1. II:1:** Lo, there are then seven [colors of blood that are unclean in a woman].
- [C] **SAID R. MEIR, “IF IT DOES NOT IMPART UNCLEANNESS BY REASON OF BEING A BLOODSTAIN, IT IS UNCLEAN AS A LIQUID [THAT HAS EXUDED FROM A MENSTRUATING WOMAN, LIKE HER URINE OR SPIT].” R. YOSÉ SAYS, “NEITHER THUS NOR SO:”**

- 1. III:1:** R. Yosé in the name of Rab, the associates in the name of R. Yohanan: “R. Meir [M. 2:6H] declared [blood] unclean only in a case to which ‘Aqabya[‘s opinion applied, that is, yellow blood].”

XIII. YERUSHALMI NIDDAH 2:7

- [A] WHAT IS THE RED COLOR [TO WHICH REFERENCE HAS BEEN MADE AT M. NID. 2:6A]? IT IS [A RED] LIKE THAT OF BLOOD FLOWING FROM A WOUND.**
- 1. I:1:** R. Jacob bar Aha, R. ‘Ulla of Caesarea in the name of R. Hanina, R. Ba in the name of R. Simeon b. Menassia: “[It is red] like blood flowing from a wound [M 2:7B] that has faded more than once [repeatedly].”
- [B] BLACK? LIKE INK SEDIMENT. [IF THE BLOOD] IS LIGHTER THAN THIS, IT IS CLEAN.**
- 1. II:1:** What does one do [to compare the color of the blood with the specified shade of black]? R. Ba in the name of R. Judah: “One takes ink sediment and puts it on white skin [near the wound].” R. Yosé b. R. Bun said, “[Even] on spotty skin.” R. Zeira in the name of our rabbis: “[The shade of] black is like that of a raven. [If it is] black as a grape, [or] black as pitch, it is clean.” Associates in the name of R. Yohanan: “[If it is] black as ink, it is clean [blood].” R. Ammi in the name of R. Yohanan: “[If it is as black as] imported aromatic leaves, it is unclean.”
- [C] AND BRIGHT CROCUS COLOR? LIKE THE BRIGHTEST [SHADE OF CROCUS] THAT THERE IS.**
- 1. III:1:** Bright crocus color? Like the brightest shade of crocus that there is. [Like a leaf] that is wet, not dry. On top, not on the bottom. As one examines it in the shade, and not as one examines it in sunlight [T. Nid. 3:11F-G].
- [D] AND THE COLOR OF EARTHY WATER? [LIKE A COLOR PRODUCED WHEN] OVER DIRT FROM THE VALLEY OF BETH KEREM WATER IS RUN.**
- 1. IV:1:** R. Haninah and R. Jonathan – both of them say, “[The flow of water must be equivalent to] running water over a strip of cloth [that is, in substantial volume].”
- [E] [A COLOR LIKE] WATER MIXED WITH WINE? TWO PARTS WATER TO ONE PART WINE, [USING] WINE OF SHARON:**

1. **V:1:** Abba bar Hanah in the name of R. Yohanan: “A cup of mixed wine as it appears from the outside.”
2. **V:2:** Samuel said, “Whoever does not know how to discern clean blood should not take upon himself to examine unclean blood.” Rab said, “[One should do so] only if he is an expert in them and in their names.” A teaching of R. Yohanan makes the same point: “I am able to discern all shades of clean blood and all shades of unclean blood. If a shade of blood is clean as red blood, it may be unclean among those shades of blood matching water mixed with earth. Whoever does not know that fact does not know how to discern [the differences among shades of blood].”
3. **V:3:** What is the law as to inspecting bloodstains by night?
4. **V:4:** If a woman] saw a [drop of blood] on the bolster, what is the law as to her being deemed a credible witness to report, “I saw a drop of blood of this sort” or “... of that sort”? R. Ba in the name of R. Judah, R. Helbo, R. Hiyya in the name of R. Yohanan, “[If] she saw [a drop of blood] on the bolster, she is deemed a credible witness to report, ‘I saw a drop of blood of this sort’ or ‘... of that sort.’”

XIV. YERUSHALMI NIDDAH 3:1

[A] SHE WHO ABORTS A SHAPELESS OBJECT, IF THERE IS BLOOD WITH IT, IS UNCLEAR, AND IF NOT, SHE IS CLEAN. R. JUDAH SAYS, “ONE WAY OR THE OTHER, SHE IS UNCLEAR.”

1. **I:1:** [The position of the sages of A, who make the matter depend on the presence of blood, is because] the rabbis maintain that it is the source [uterus] that produces the shapeless object [so the woman is clean so far as having given birth, and so if she produces blood, it is menstrual blood, and she is unclean as a menstruant. When there is no blood, there of course is no reason to declare her unclean]. R. Judah says, “It is blood that has congealed and been turned into a shapeless object.”

XV. YERUSHALMI NIDDAH 3:2

- [A] SHE WHO PRODUCES [AN ABORTION] LIKE A RIND, LIKE A HAIR, LIKE DUST, LIKE RED FLIES — LET HER PUT THEM INTO WATER. IF THEY DISSOLVE [INTO BLOOD], SHE IS UNCLEAN [AS A MENSTRUANT], AND IF NOT SHE IS CLEAN.
1. **I:1:** Haninah in the name of R. Simeon b. Laqish: “She should put them [M. 3:2A] into warm water.” And have we not learned in the Mishnah [M. 3:2B]: She who aborts something like fish, locusts, insects, or creeping things, if there is blood with them, is unclean. And if not, she is clean. Now let her put them into warm water [until they dissolve, and if then there is blood, she should be unclean, just as is stated at M. 3:2A]. [We must] apply the rule applying in the one case to the other, and the rule applying in the other case to the one.
 2. **I:2:** She who aborts dry blood — R. Eleazar says, “She is unclean.” R. Yosé b. Hanina *said*, “She is clean.”
- [B] SHE WHO PRODUCES [AN ABORTION] LIKE FISH, LOCUSTS, INSECTS, AND CREEPING THINGS — IF THERE IS BLOOD WITH THEM, SHE IS UNCLEAN. AND IF NOT, SHE IS CLEAN.
1. **II:1:** Said R. Yohanan, “The delivery in this present context is exactly like all other deliveries that are referred to in the Torah. Just as in the case of all deliveries referred to in the Torah, [we deem the delivery to have taken place] only once the head of the greater part of the body will have come forth, so in this case [M. 3:2D], [we regard the delivery to have taken place] only once the head and the greater part of the body will have come forth.” R. Simeon b. Laqish said, “This particular delivery is different from all the other deliveries mentioned in the Torah. In the case of all other deliveries mentioned in the Torah, [the delivery is deemed to have taken place only] when the head and the greater part of the body [will have come forth]. But in this case, [the delivery is deemed to have taken place] once a sufficient [part of the abortion] has come forth to provide evidence for discerning the appearance [of the abortion, that it indeed has human form, in line with M. 3:2D].”
- [C] “SHE WHO PRODUCES [AN ABORTION] LIKE A BEAST, WILD ANIMAL, OR BIRD, WHETHER UNCLEAN OR CLEAN, IF IT IS MALE, SHE SHOULD SIT OUT [THE DAYS OF UNCLEANNESS AND CLEANNES REQUIRED] FOR A MALE. AND IF FEMALE, SHE SHOULD SIT OUT [THE DAYS OF UNCLEANNESS AND CLEANNES REQUIRED] FOR A FEMALE. AND IF [THE SEX OF THE ABORTION] IS NOT KNOWN, SHE

SHOULD SIT [OUT THE DAYS OF UNCLEANNESS AND CLEANNES] FOR A MALE AND FOR A FEMALE,” THE WORDS OF R. MEIR. AND SAGES SAY, “ANYTHING WHICH DOES NOT BEAR [SOME ASPECT] OF THE HUMAN FORM IS NOT DEEMED A FOETUS.”

- 1.** **III:1:** In all those cases concerning which we have learned in the Mishnah that a woman must sit out the days of purifying for both a male and a female, [women] have fourteen days of uncleanness [for the female] and twenty-six clean ones [= 337]. [That is to say], they assign to her the more stringent rule applying to the male [the lower number of clean days] and the more stringent rule applying to the female [the higher number of unclean days]. Now this rule that you state applies to sexual relations [that she is assigned only those clean days of a male that remain after we subtract the unclean days]. But as to matters requiring cleanness, let her observe the rules applying to the female [that is to say, the entire period of clean days given after a female birth].
- 2.** **III:2:** Said R. Hanina son of R. Abbahu, “The reason of R. Meir is that Scripture refers to these other things with the word form just as in the case of man: ‘Then the Lord God formed man of dust from the ground’ (Gen. 2:7).” R. Yosa in the name of R. Yohanan, “[The reason of R. Meir for including beasts and the like] is that they watch out before themselves, just like man [having two eyes].”
- 3.** **III:3:** Said R. Ba, “R. Hiyya the Elder went to the South. R. Hama, father of R. Hoshaiyah, and Bar Qappara asked him, ‘[If the abortion looks] wholly like man, but its face is that of a beast, what is the law?’ He came and asked Rabbi. He said to him, ‘Go and write to them, ‘It is not a viable fetus.’ [For we require the face to be like that of a man.]” [= M. 3:2D]. Said R. Jeremiah, “Zuga went out [to the South]. R. Hama, father of R. Hoshaiyah, and Bar Qappara asked him, ‘If the fetus’s two eyes are covered over [not discernible], what is the law?’ [D] “He came and asked Rabbi. He said to him, ‘Go and write to them, ‘It is not a viable fetus.’”

XVI. YERUSHALMI NIDDAH 3:3

[A] SHE WHO ABORTS A SAC FILLED WITH WATER, FILLED WITH BLOOD, FILLED WITH DRY MATTER [I.E., MATTER OF VARIOUS COLORS], DOES NOT TAKE INTO CONSIDERATION THE POSSIBILITY THAT THIS IS A VALID BIRTH.

1. **I:1:** It was taught in a Tannaitic tradition (TNY): [If the sac was aborted,] filled with water, she is unclean by reason of having given birth. [If it was] filled with blood, she is unclean as a menstruant. [If it was] filled with flesh, she is unclean as a menstruant.]
2. **I:2:** A sac, the appearance of which was disfigured – what is the law? R. Yohanan said, “It is a viable fetus.” R. Simeon b. Laqish said, “It is not a viable fetus, [and the woman is not unclean].”

[B] BUT IF [A LIMB] HAD FORMED, LET HER SIT [OUT THE DAYS OF UNCLEANNESS AND CLEANNESS] FOR BOTH MALE AND FEMALE.

1. **II:1:** What is the formed limb of which they have spoken [at M. 3:3B]? It is any, at the beginning of the creation of which looks me a rashon-locust [T. Nid. 4:10E]. They do not examine [the fetus, to determine whether it is male or female] with water, because the water is hard and distorts its shape. But they do so with oil, because it is soft and makes it clear. And they examine it only in the sun [T. Nid. 3:11].
2. **II:2:** R. Judah asked Samuel, “Since I am a sage, am I well able to examine the traits of sac?” He said to him, “The head of the one who is head of you [that is, your teacher, Samuel himself] is scalded in boiling water, and will you not be burned even by lukewarm water?”

XVII. YERUSHALMI NIDDAH 3:4

[A] SHE WHO ABORTS [AN ABORTION SHAPED LIKE] A SANDAL OR A PLACENTA – LET HER SIT [OUT THE DAYS OF UNCLEANNESS AND CLEANNESS] FOR BOTH MALE AND FEMALE. [IF] THERE IS A PLACENTA IN A HOUSE, THE HOUSE IS UNCLEAN. NOT THAT THE PLACENTA IS THE CHILD,

1. **I:1:** R. Ba in the name of R. Judah: “A sandal [occurs] only when a [second], live [fetus] has pressed on it. But [the fetus] does not go forth alive but dead.”

[B] BUT BECAUSE THERE IS NO PLACENTA WHICH DOES NOT CONTAIN PART OF THE CHILD. R. SIMEON SAYS, “THE CHILD WAS MASHED BEFORE IT [THE AFTERBIRTH] CAME OUT.”

1. **II:1:** [What follows depends upon M. Ker. 1:3A, D: There are women who bring a sin-offering after childbirth and it is eaten by the priests.... She who aborts a sandal or an afterbirth.... The position of R. Ba in the name of R. Judah is that there is a second fetus. There should then be an obligation for a sin-offering for this other fetus, as well as for the

sandal-abortion, so two sin-offerings. It is to this problem that R. Bun bar Hiyya's saying is directed. To the Mishnah-lemma, There is no placenta that does not have part of the fetus], replied R. Bun bar Hiyya, "And lo, we have learned in the Mishnah: She who aborts [something shaped like a sandal or a placenta should set out [the days of uncleanness and purifying] for both a male and a female. So you do have a [whole] fetus!"

2. **II:2:** What is the sandal of which they have spoken? It is any that is like a sandal, a fish in the sea. Rabban Simeon b. Gamaliel says, "It is any that is like the tongue of an ox." Our rabbis voted concerning this issue, stating, "[It is not deemed unclean] unless it bears human form" [T. Nid. 4:7D].
 - a. II:3: Who are "our rabbis" [of II:2B]? They are R. Judah the Patriarch and his court.
 - b. II:4: R. Yannai cried out [in reference to II.2B]: "You have declared the fetus to be clean[, by saying that only if there is a human form is the fetus a source of uncleanness]."
3. **II:5:** What is the placenta of which they have spoken? It is any that is like a thread of the warp, and its head is like a lupine. Rabban Simeon b. Gamaliel says, "It is any that is like the craw of a hen, and its head is me a stomach. And it is hollow like a trumpet. And a placenta is at least a handbreadth" [T. Nid. 4:9].
4. **II:6:** R. Judah sent to R. Eleazar, asking [with reference to M. 3:4A], "As to a placenta part of which came out on one day, part on the next – [what is the law? From what point do they reckon the days of uncleanness and the days of purifying?]" He said to him, "If it is for the reckoning of the status of blood on the days of purifying, one reckons from the first of the two days. If it is for reckoning of the status of the blood on the days on which the blood is unclean, one counts from the second day."
5. **II:7:** As to utensils that were located there at the moment at which [the fetus and placenta] emerged, what is the law? Let us infer the rule from the following, which we have learned in a Tannaitic tradition: R. Eliezer b. Jacob says, "A large beast that discharged a clot of blood – lo, this [clot] is to be buried, and [the beast now] is exempt from the law of a firstling [having produced an abortion]" [M. Bekh. 3:1S].

XVIII. YERUSHALMI NIDDAH 3:5

- [A] SHE WHO PRODUCES A TUMTOM [AN OFFSPRING WITHOUT DISCERNIBLE SEXUAL CHARACTERISTICS] OR AN ANDROGYNE [AN OFFSPRING WITH THE TRAITS OF BOTH SEXES] — LET HER SIT [OUT THE DAYS OF UNCLEANNESS AND CLEANNESS] FOR BOTH MALE AND FEMALE.
1. **I:1:** In all cases concerning which we have learned in the Mishnah, Let her sit out the days of uncleanness and purifying for a male and a female, [there will be] fourteen unclean days [those for a female], and then twenty-six clean days [thirty-three for a male, less seven unclean days for the male, on which all blood that is excreted is deemed to be clean]. [So] they assign to [the mother] the strict rules pertaining to the male and the strict rules pertaining to the female.
- [B] [IF SHE BORE TWINS,] A TUMTOM AND A MALE CHILD, AN ANDROGYNE AND A MALE CHILD — LET HER SIT [OUT THE DAYS OF UNCLEANNESS] FOR BOTH MALE AND FEMALE. [IF SHE BORE] A TUMTOM AND A FEMALE, AN ANDROGYNE AND A FEMALE — LET HER SIT [OUT THE DAYS OF UNCLEANNESS] FOR A FEMALE ONLY. [IF] IT EMERGED IN PIECES OR FEET FOREMOST — ONCE THE GREATER PART OF IT HAS GONE FORTH, LO, IT IS AS IF IT WERE FULLY BORN. [IF] IT CAME FORTH IN THE NORMAL WAY, [IT IS NOT DEEMED BORN] UNTIL THE GREATER PART OF ITS HEAD HAS COME FORTH. AND WHAT IS THE GREATER PART OF ITS HEAD? ONCE ITS FOREHEAD HAS COME FORTH. SHE WHO ABORTS AND WHAT IT IS IS NOT KNOWN [MASCULINE OR FEMININE] — LET HER SIT [OUT THE DAYS OF UNCLEANNESS AND CLEANNESS] FOR BOTH MALE AND FEMALE. [IF] IT IS NOT KNOWN WHETHER OR NOT IT WAS A HUMAN FOETUS, LET HER SIT [OUT THE DAYS OF UNCLEANNESS AND CLEANNESS] FOR A MALE AND FOR FEMALE AND ALSO FOR MENSTRUATION. SHE WHO MISCARRIES ON THE FORTIETH DAY DOES NOT TAKE ACCOUNT OF THE POSSIBILITY THAT IT IS A HUMAN FOETUS. [IF THIS TAKES PLACE] ON THE FORTY-FIRST DAY [AFTER INTERCOURSE], HOWEVER, [SHE DOES TAKE ACCOUNT OF THAT POSSIBILITY, AND SO] LET HER SIT [OUT THE DAYS OF UNCLEANNESS] FOR A MALE, FOR A FEMALE, AND FOR MENSTRUATION. **R. ISHMAEL SAYS,** “[IF IT TAKES PLACE] ON THE FORTY-FIRST DAY, LET HER SIT [OUT THE DAYS OF UNCLEANNESS] FOR THE MALE AND FOR MENSTRUATION. IF IT TAKES PLACE ON THE EIGHTY-FIRST DAY, LET HER SIT [OUT THE DAYS OF UNCLEANNESS] FOR MALE, FOR FEMALE, AND FOR MENSTRUATION, FOR THE MALE IS COMPLETED ON THE FORTIETH DAY, AND THE FEMALE ON THE EIGHTY FIRST.” AND SAGES SAY, “ALL THE SAME IS THE PROCESS OF THE FORMATION OF THE MALE AND FEMALE — BOTH ARE COMPLETED ON THE FORTY-FIRST DAY.”

1. **II:1:** [If she aborts] a tumtom and a male, an androgyne and a male she sits out [the days of uncleanness and purifying] for both male and female. And they take account of the possibility that she has produced a male. [If she aborts] a tumtom and a female, or an androgyne and a female, she sits out the days of uncleanness and purifying for a female alone. And they do not take account of the possibility that she has produced a male.
2. **II:2:** A chopped up fetus, the head of which emerged – what is the rule? R. Yosa said, “R. Yohanan and R. Eleazar differed on this matter. R. Yohanan said, ‘Its head is equivalent to the greater part of its body,’ [so, in line with M. 3:5D, it is deemed fully born]. R. Eleazar said, ‘Its head is deemed equivalent [merely] to one of its limbs.’”
3. **II:3:** One of the members of the household of Gamaliel, son of Rabbi Leani, asked in session before R. Mana, “Since you say [that a chopped up fetus that is fully born] is a fetus, [is it not so that] the child born thereafter is not deemed first-born for the purposes of inheritance or for [giving to] the priest [the redemption money for the first-born, there now being no obligation whatsoever]?”
4. **II:4:** R. Isaac bar Nahman in the name of R. Eleazar: “In the case of fowl, the criterion for the head is the greater part of the head.” R. Zeira in the name of Samuel, “The gullet of fowl is measured by the greater part of it.”

XIX. YERUSHALMI NIDDAH 4:1

[A] SAMARITAN WOMEN ARE DEEMED MENSTRUANTS FROM THEIR CRADLE. AND SAMARITANS CONVEY UNCLEANNESS TO A COUCH BENEATH AS TO A COVER ABOVE, BECAUSE [BY THE ISRAELITE METHOD OF RECKONING THE PERIOD OF MENSTRUAL UNCLEANNESS] THEY HAVE INTERCOURSE WITH MENSTRUATING WOMEN, AND CONTINUE UNCLEAN FOR ANY SORT OF BLOOD [NOT DIFFERENTIATING UNCLEAN FROM CLEAN]. BUT THOSE [WHO HAVE CONTACT] WITH THEM ARE NOT LIABLE FOR ENTERING THE SANCTUARY AND DO NOT BURN HEAVE OFFERING ON THEIR ACCOUNT, BECAUSE THE UNCLEANNESS AFFECTING THEM IS A MATTER OF DOUBT.

1. **I:1:** Menstrual blood stinks. Hymeneal blood does not stink. Menstrual blood is red. Hymeneal blood is not red. Menstrual blood derives from the uterus. Hymeneal blood does not derive from the uterus, but from the side.

XX. YERUSHALMI NIDDAH 4:2

[A] WHEN SADDUCEAN WOMEN ARE ACCUSTOMED TO FOLLOW IN THE WAY OF THEIR FATHERS, LO, THEY ARE LIKE SAMARITAN WOMEN. [IF] THEY LEFT [THOSE WAYS] TO WALK IN THE WAYS OF ISRAEL, LO, THEY ARE LIKE ISRAEL. R. YOSÉ SAYS, “THEY ALWAYS ARE LIKE ISRAEL, UNTIL THEY LEAVE TO WALK IN THE WAYS OF THEIR FATHERS.”

XXI. YERUSHALMI NIDDAH 4:3

[A] THE BLOOD OF A GENTILE WOMAN, AND THE BLOOD OF PURIFYING OF A WOMAN WITH SARA'AT [THE SKIN AILMENT OF LEV. 13] – THE HOUSE OF SHAMMAI DECLARE CLEAN. AND THE HOUSE OF HILLEL SAY, “IT IS IN THE CLASSIFICATION OF HER SPIT AND URINE [WHICH CONVEY UNCLEANNESS WHEN WET BUT NOT WHEN DRIED UP].” THE BLOOD OF A WOMAN WHO HAS NOT IMMERSERED AFTER CHILDBIRTH – THE HOUSE OF SHAMMAI SAY, “IT IS LIKE HER SPIT AND HER URINE [WHICH CONVEY UNCLEANNESS WHEN WET BUT NOT WHEN DRIED UP].” AND THE HOUSE OF HILLEL SAY, “IT IMPARTS UNCLEANNESS WET AND DRY.” AND THEY AGREE CONCERNING A WOMAN WHO HAS GIVEN BIRTH WHILE IN THE STATUS OF ONE WHO HAS A FLUX, THAT IT [HER SPIT AND HER URINE] CONVEYS UNCLEANNESS WHETHER WET OR DRY.

XXII. YERUSHALMI NIDDAH 4:4

[A] A WOMAN IN LABOR IS DEEMED TO BE A MENSTRUANT. [IF] A WOMAN WAS IN HARD TRAVAIL FOR THREE DAYS DURING THE ELEVEN DAYS, AND [IF] SHE ENJOYED A RESPITE FOR TWENTY-FOUR HOURS AND [THEN] GAVE BIRTH “LO, THIS ONE IS ONE WHO HAS GIVEN BIRTH AS A ZABAH [WHILE IN THE STATUS OF ONE WHO HAS A FLUX],” THE WORDS OF R. ELIEZER. R. JOSHUA SAYS, “A NIGHT AND A DAY, LIKE THE EVE OF THE SABBATH AND ITS DAY.” FOR SHE HAS HAD RELIEF FROM THE PAIN AND NOT FROM THE BLOOD.

XXIII. YERUSHALMI NIDDAH 4:5

[A] AND HOW LONG IS HER PROTRACTED LABOR? R. MEIR SAYS, “EVEN FORTY OR FIFTY DAYS.” R. JUDAH SAYS, “SUFFICIENT FOR HER IS HER [NINTH] MONTH.”

R. YOSÉ AND R. SIMEON SAY, “HARD LABOR CONTINUES NO LONGER THAN FOR TWO WEEKS.”

XXIV. YERUSHALMI NIDDAH 4:6

[A] SHE WHO IS IN PROTRACTED LABOR DURING THE EIGHTY DAYS [OF CLEANNES] AFTER THE BIRTH OF A FEMALE — ANY BLOOD WHICH SHE SEES IS CLEAN, UNTIL THE CHILD EMERGES. AND R. ELIEZER DECLARES [IT] UNCLEAN. THEY SAID TO R. ELIEZER, “NOW IN A SITUATION IN WHICH THE LAW IS STRINGENT, IN THE CASE OF BLOOD WHICH APPEARS DURING A PERIOD OF RESPITE, THE LAW RULES LENIENTLY IN THE MATTER OF BLOOD PRODUCED BY HARD LABOR, “IN A SITUATION IN WHICH THE LAW RULED LENIENTLY [TO BEGIN WITH], CONCERNING BLOOD WHICH IS PRODUCED DURING A PERIOD OF RESPITE, IS IT NOT LOGICAL THAT WE SHOULD RULE LENIENTLY IN CONNECTION WITH BLOOD PRODUCED THROUGH HARD LABOR?” HE SAID TO THEM, “IT IS SUFFICIENT IF THE INFERRED LAW IS AS STRICT AS THAT FROM WHICH IT IS INFERRED. “IN WHAT RESPECT HAS THE LAW RULED LENIENTLY FOR HER? IN RESPECT TO THE UNCLEANNESS OF HER FLUX. BUT SHE IS UNCLEAN IN RESPECT TO THE UNCLEANNESS OF A MENSTRUANT.

XXV. YERUSHALMI NIDDAH 4:7

[A] ALL THE ELEVEN DAYS THAT FOLLOW THE SEVEN DAYS OF MENSTRUATION] A WOMAN IS IN THE ASSUMPTION OF BEING CLEAN. [IF] SHE SAT DOWN AND DID NOT EXAMINE HERSELF ACCIDENTALLY, UNDER CONSTRAINT, [OR IF] WILLFULLY SHE DID NOT EXAMINE HERSELF, SHE IS CLEAN. [ONCE] THE TIME OF HER PERIOD HAS COME AND SHE HAS NOT EXAMINED HERSELF, LO, THIS ONE IS DEEMED UNCLEAN. R. MEIR SAYS, “IF SHE WAS IN HIDING AND THE TIME OF HER PERIOD CAME AND SHE DID NOT EXAMINE HERSELF, LO, THIS ONE IS DEEMED CLEAN, “BECAUSE FRIGHT SUSPENDS THE BLOOD.” BUT DURING THE [SEVEN CLEAN] DAYS [THAT MUST BE COUNTED BY THE] MAN OR WOMAN THAT HAS A FLUX, OR [THE ONE DAY OF CLEANNES TO BE COUNTED] BY HER THAT AWAITS DAY AGAINST DAY — [DURING THAT TIME,] LO, THESE ARE IN THE ASSUMPTION OF BEING UNCLEAN.